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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, December 6, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Seek ye first the kingdom of God and his righteousness; and all these things shall be added unto you.—Matthew 6: 33.

Our Heavenly Father, who giveth to all life and breath and all things, we thank Thee for this moment of prayer when we lift our hearts unto Thee. Always art Thou with us and we pray that Thou wilt help us now to be aware of Thy presence.

When the days are dreary, comfort us. When the demands are excessive, hold us steady. When the pressures increase, let Thy peace calm our souls. When the burdens are overwhelming, be Thou our refuge and our strength. When the hours are long and our duties almost too much for us, give us the spirit to think clearly, to speak wisely, and to act courageously for the highest good of our beloved country.

Give us the will to do Thy will and to seek first Thy kingdom of righteousness and peace that only good may come to us, to our people, and to our world. Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 760]

Alexander
Ambro
Andrews, N.C.
Armstrong
Badillo
Beilenson
Boggs
Bolling
Broyhill
Burton, John
Burton, Phillip
Byron
Cavanaugh
Chappell
Chisholm
Clay
Conyers
Cornwell
Crane
Cunningham
Danielson
Dent
Derwinski
Dingell
Downey
Erlenborn
Ertel
Evans, Ga.
Fithian
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Gammage
Gaydos
Giaimo
Glickman
Goldwater
Gonzalez
Hall
Hanley
Harkin
Harsha
Hawkins
Heckler
Hillis
Hollenbeck
Holtzman
Jeffords
Jones, Tenn.
Kelley
Koch
Krueger
Leach
Lent
Lundine
McCloskey
McDonald
Marriott
Mathis
Meeds
Mikulski
Milford
Mitchell, N.Y.
Moss
Patterson
Pattison
Pepper
Pickle
Poage
Pritchard
Quayle
Quie
Quillen
Railsback
Rinaldo
Roe
Roncalio
Rosenthal
Ruppe
Russo
Sawyer
Sebelius
Seiberling
Shipley
Steers
Stockman
Symms
Teague
Traxler
Udall
Ullman
Waxman
Weaver
Whalen
Whitley
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wylie
Young, Alaska

The SPEAKER pro tempore (Mr. WAGGONNER). On this rollcall 331 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of the clerks announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9418) entitled "An act to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act and for other purposes."

DISPENSING WITH CALL OF CONSENT CALENDAR TODAY

Mr. McKAY. Mr. Speaker, I ask unanimous consent to dispense with the call of the Consent Calendar today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

There being no objection, the Clerk read the bill, as follows:

H.R. 1405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jennet Juanita Miller (also known as Jennet Juanita Flowers) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

There being no objection, the Clerk read the bill, as follows:

H.R. 1777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Cathy Gee Yuen shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Cathy Gee Yuen, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

There being no objection, the Clerk read the bill, as follows:

H.R. 1787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Paz A. Norona shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, the Attorney General is authorized and directed to cancel any outstanding orders and warrants of deportation, warrants of arrest, and bond, which may have issued in the case of Paz A. Norona. From and after the date of the enactment of this Act, the said Paz A. Norona shall not again be subject to deportation by reason of the same facts upon which such deportation proceedings were commenced or any such warrants and orders have issued.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HILDEGARD G. BLAKELEY

The Clerk called the bill (H.R. 1450) for the relief of Hildegard G. Blakeley.

There being no objection, the Clerk read the bill, as follows:

H.R. 1450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Hildegard G. Blakeley shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Hildegard G. Blakeley, the widow of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of that Act shall not be applicable in this case.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

M. SGT. GEORGE C. LEE, USAF

The Clerk called the bill (H.R. 8481) for the relief of Master Sergeant George C. Lee, United States Air Force.

There being no objection, the Clerk read the bill, as follows:

H.R. 8481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Master Sergeant George C. Lee, United States Air Force (FR468-28-3659), of Brandon, Florida, is relieved of liability to the United States in the amount of $5,310, representing expenses incurred at the Army Landstuhl Hospital dur- the period from September 21, 1967, through January 17, 1968, for the medical treatment of a child, then the niece of the said Master Sergeant George C. Lee (now his adopted daughter). A hospital administrator advised the said Master Sergeant George C. Lee that he would have no liability for such expenses. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Master Sergeant George C. Lee, the sum of any amounts received or withheld from him with respect to the indebtedness to the United States specified in the first section of this Act.

(b) No part of the amount appropriated in subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN T. KNIGHT

The Clerk called the bill (H.R. 9071) to confer jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight.

There being no objection, the Clerk read the bill, as follows:

H.R. 9071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statute of limitations, pertaining to suits against the United States, or any lapse of time, or bars of laches jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment upon any claim of John T. Knight, of New Orleans, Louisiana, arising out of his claim against the United States for disability retirement pay for a disability allegedly incurred or aggravated while serving in the Armed Forces of the United States.

SEC. 2. Suit upon that claim may be instituted at any time within one year after the date of the enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided in this Act, proceedings for the determination of that claim and review and payment of any judgment or judgments on that claim shall be had in the same manner as in the case of claims over which that court has jurisdiction under section 1491 of title 28 of the United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARLES M. METOTT

The Clerk called the bill (H.R. 6760) for the relief of Charles M. Metott.

There being no objection, the Clerk read the bill, as follows:

H.R. 6760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 71a (1) of title 31, United States Code, the Comptroller General is hereby authorized and directed to pay the sum of $1,227.17 to Charles M. Metott, of Williamstown, New York. This sum shall be in full final settlement of all his claims against the United States based upon his right to certain death gratuity benefits and back pay and allowances as a result of the death of his brother, Gerald P. Metott, while serving in the United States Marine Corps in Vietnam on November 6, 1965. There is appropriated out any money in the Treasury not otherwise appropriated the sum of $1,227.14 for payment of said claim.

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DORIS MAURI COONRAD

The Clerk called the bill (H.R. 5466) for the relief of Doris Mauri Coonrad.

There being no objection, the Clerk read the bill, as follows:

H.R. 5466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitation in section 2733(b)(1) of title 10, United States Code, the claim of Doris Mauri Coonrad of Woodside, California, against the United States for injuries she sustained in an accident of February 27, 1968, in Monrovia, Liberia, involving a motor vehicle driven by her and a motor vehicle owned by the United States Army and driven by a member of the 72nd Army Engineers Mapping Unit of the United States Army, shall be considered to be a timely claim for purposes of section 2733 of title 10, United States Code, if such claim is presented in writing not later than one hundred and eighty days after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARLES P. BAILEY

The Clerk called the bill (H.R. 8212) for the relief of Charles P. Bailey.

There being no objection, the Clerk read the bill, as follows:

H.R. 8212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby directed to redetermine the liability for tax (including interest, penalties, and other amounts) of Charles P. Bailey, of North Palm Beach, Florida, for the taxable year 1962. In such redetermination, the determination of whether or not the said Charles P. Bailey is relieved of liability under section 6013(e) of the Internal Revenue Code of 1954 shall be made without regard to any period of limitations and without regard to res judicata, or any similar rule of law. Any overpayment to tax by the said Charles P. Bailey for his taxable year 1962 resulting from the redetermination made under this Act shall be refunded to him.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 8212, a bill for the relief of C. P. Bailey, for a redetermination of his tax liability for taxable year 1962, and for refund of taxes which he was required to pay the Federal Government as a result of the embezzlement of substantial sums of money by his wife and her brother.

Although C. P. Bailey had no knowledge that his wife was embezzling some $41,000 from the bank where she worked, nor did he receive any benefit from the money whatsoever, the IRS held him liable for the embezzled amount as income, and assessed taxes and penalties against him.

As a direct result of Mr. Bailey's case, the Congress in 1971 passed the "Innocent Spouse Act" to provide an exception in embezzlement cases such as this, where one spouse is unaware that a substantial amount of money is omitted from a joint income tax return and that spouse establishes that he or she had no knowledge of the embezzlement nor benefited from the embezzled income. The Treasury Department decided that Mr. Bailey was ineligible for relief since his case had already been determined by the courts.

Thus, I introduced a private bill for his relief in the 93d Congress, which was passed by the House but there was not sufficient time for the Senate to act on the measure before adjournment. Again in the 94th Congress I introduced a bill for the relief of Mr. Bailey. In lieu of this private bill, we decided to add language to the Tax Reform Act of 1976 to grant relief to those innocent spouses like Mr. Bailey, who were assessed and penalized before the Innocent Spouse Act was passed.

Now, the Internal Revenue Service has determined that this provision is too broad and relief should not be granted to all innocent spouses who were penalized before 1971, as all of them may not have the clearly discernible merits of the C. P. Bailey case. However, in a letter to Senator LONG and myself, the IRS specifically states that it would be appropriate to grant relief to Mr. Bailey through private legislation.

As a matter of equity it is imperative that we grant relief to the individual whose tax assessment and penalties were so unfair that it moved Congress to enact the Innocent Spouse Act. On behalf of Mr. Bailey and myself, I would again like to thank all of you.

The letters follow:

U.S. SENATE,
Washington, D.C., July 18, 1977.

Hon. PAUL G. ROGERS,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ROGERS: In response to your request on behalf of Mr. Charles P. Bailey, enclosed is a copy of the report I received from the Internal Revenue Service.

I believe you will find this communication self-explanatory.

It was a pleasure to be of assistance to you in this matter.

With every good wish, I am

Sincerely yours,

RUSSELL LONG.

INTERNAL REVENUE SERVICE,
Washington, D.C., June 30, 1977.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our careful consideration of a request from Congressman Paul G. Rogers concerning Mr. Charles P. Bailey.

Mr. Bailey's Federal income tax problem began in 1962, when his wife embezzled approximately $40,000 which was not reported as income on their 1962 joint Federal income tax return. The Tax Court held that the embezzled funds were taxable income to the Baileys and that Mr. Bailey was liable for the additional tax plus penalties and interest. The Fifth Circuit affirmed the Tax Court decision.

In 1971 Congress enacted Code section 6013 (a) to provide relief for certain "innocent spouses". This relief provision is not applicable to Mr. Bailey because of the adverse, final Court decisions. Since 1973 several private bills for the relief of Mr. Bailey have been introduced, although none has been passed by the Congress. However, in 1976 section 2114 of the Tax Reform Act of 1976 ("Act") was enacted to provide relief "solely to a taxpayer to whom the application of the provisions of section 6013(e) . . . is prevented by operation of res judicata". Congressman Rogers has inquired concerning the unwillingness of the Internal Revenue Service to grant Mr. Bailey relief under Act section 2114.

In our opinion relief cannot be granted Mr. Bailey under Act section 2114 for two reasons. First, Act section 2114 does not expressly provide relief to a taxpayer, such as Mr. Bailey, whose claim for refund is barred by the period of limitations. Second, Mr. Bailey and the Internal Revenue Service executed an offer in compromise which conclusively settled all questions relating to the tax liability of Mr. Bailey and closed the 1962 tax year so that neither the Service nor Mr. Bailey may reopen the case.

It is our understanding that the Congressional Staff working on the legislation had no knowledge of the fact that the offer in compromise had been accepted and also, of course, that a partial payment had been made. When Treasury made its last bill report to the Congress it did not disclose the fact that the offer and compromise had been accepted. While this failure of communication was, of course, inadvertent it no doubt accounts for failure to draft the legislation in a manner which would have covered the Bailey case.

It should also be noted that Act section 2114 is a general relief provision, which is not limited in application only to Mr. Bailey. If the Service were to interpret the section to override the statute of limitations issue, we estimate that at least 500 court cases closed by trial and settlement between 1961 and 1971 may be reopened. The consistent application of Act section 2114 to these other cases would be costly and administratively burdensome.

We recognize that the Congress specifically discussed the problem of Mr. Bailey in its deliberations on Act section 2114. However, the specific language of the section and the circumstances of his case prevent the Service from affording Mr. Bailey relief. Nevertheless, we believe that the circumstances do provide sufficient justification to grant Mr. Bailey relief under a private bill. It is our understanding that the Department of the Treasury will no longer oppose such relief. In fact the Service and Treasury have agreed that language the same as that contained in H.R. 2562, 94th Congress would, if enacted, afford relief to Mr. Bailey.

If we may be of further assistance in this matter, we will be happy to assist you.

Sincerely,

(Signed) JEROME KURTZ,
Commissioner.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

GRANTING THE STATUS OF PERMANENT RESIDENCE TO CERTAIN ALIENS

The Clerk called the joint resolution (H.J. Res. 489) granting the status of permanent residence to certain aliens.

There being no objection, the Clerk read the joint resolution, as follows:

H.J. Res. 489

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of each alien hereinafter named, in whose case deportation has been suspended by the Attorney General in accordance with the provisions of section 244(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1254(c)), the Attorney General is authorized and directed to cancel deportation proceedings and, in accordance with the provisions of section 244(d) of said Act (8 U.S.C. 1254 (d)), to record the alien's lawful admission for permanent residence:

A-1975504, Abrams, Samuel S.
A-5145324, Alcala-Salcedo, Apolinario.
A-4129913, Araujo, Mario Freitas.
A-1473222, Asencio-Placencio, Pedro.
A-6815221, Bader, Louis William.
A-1472909, Baglieri, George.
A-4324674, Barrera-Cabrera, Jesus.
A-13388850, Berger, Harry.
A-3212791, Candanoza-Leza, Rogelio.
A-6499744, Cartier, Paul August.
A-9687873, Chan, Chuen.
A-18495868, Chan, Yuen Hing.
A-14585059, Chin, Goan You.
A-2894457, Chin, Huey.
A-17140325, Chin, Kay Ming.
A-17949342, Chin, Lean.
A-8812001, Ching, Tsing.
A-13756892, Chu, Nee Chong.
A-9799248, Chung, So.
A-8427555, Cooremans-Cruz, Eugenio Juan.
A-7138470, Cuervo, Ester.
A-2569196, DeBravo, Cenovia Mesa.
A-5271262, DeLuna-Segovia, Jose.
A-12613969, Don, Hing Lew.
A-8106820, Eha, Elmar.
A-14325565, Eng, Kung Doo.
A-5069505, Fat, Tong Li.
A-14677835, Fong, Mun Quong.
A-13069928, Fong, Shue Kee.
A-6816735, Funk, Thomas Fredrik.
A-4164588, Gonzalez-Magana, Luis.
A-10712348, Gonzalez-Urena, Ramon.
A-1864768, Herrera-Marquez, Aurelio.
A-14218274, Hom, Wai Kwong.
A-13692164, Hong, Yeu Koon.
A-11397847, Huey, Hung Quon.
A-4316706, Ioanides, Gabriel Constantinos.
A-4858345, Kalogres, Atanasios.
A-2843283, Klingbeil, Bernard Michael.
A-7216780 Kowal, John (Jan).
A-12372117, Kowk, Kee Dong.
A-9836945, Lai, Sung Wong.
A-14006061, Lee, Dom Min.
A-5227719, Lee, High Suey.
A-14231050, Lee, Paul H.
A-12027264, Liu, Lai Chih.
A-13705340 Loo, Lung Sang.
A-3601059, Lopez, Francisco Rodriguez.
A-1999784, Louie, Fung Leung.
A-5121888, Lum, Mee.
A-13550905, Lum, Ting Kam.
A-18496866, Lum, Wah Gum.
A-14605579, Ma, Yin Kay.
A-1880149, Marcus, Harry Aaron.
A-10475692, Martinez-Figueroa, Samuel.
A-5987386, Martinez-Venegas, Pedro.
A-13282197, Moy, Huey Nai.
A-3937093, Nicholas, Gus.
A-5433208, Papuzynski, Walter John.
A-8487289, Pascual, Vicente.
A-2737095, Pinon-Granados, Remedios.
A-11598081, Pung, Wone.
A-3253579, Riccioli, Paoli or Paul.
A-17878251, Rodriguez, Jose Roman.
A-3135441, Rojas-Gutierrez, Eleodoro.
A-3173420, Rojo-Estrada, Ramon.
A-3254358, Romero, Fortunato.
A-14219771, Russo, Maria Isaura.
A-13518212, Smeriga, John.
A-8333086, Sotelo-Garcia, Ignacio.
A-3854398, Spiegel, Max.
A-1050706, Tahir, Ahmed.
A-2628682, Tercero-Flores, Manuel.
A-8486988, Terrazas-Barrio, Efren.
A-5633712, Valencia-Sanchez, Enrique.
A-17185939, Wong, Harry.
A-4679692, Wong, Quong.
A-11414479, Woo, Moon Fee.
A-3626010, Woo, Poy Tom.
A-9764182, Yim, Chee.
A-9702536, Ying, Ah Sing.
A-6079487, Yip, Har.
A-14196929, Yuen, Chung Ng.
A-11673403, Bakierowska, Kazimiera.
A-4993823, Bally, George Ally.
A-14059539, Borstelj, Giovanni.
S-6303002, Campos-Murillo, Leopold.
A-13511092, Chan, Yang Yoke.
A-6060332, Chang, Kwang Ah.
A-4715670, Gagliano, Giuseppe.
A-11977348, Gee, Tip Thlew.
A-3549268, Greklek, William.
A-4912022, Jones, Mary N.
A-11404825, Lai, Huey Koon.
A-5853388, Pankowski, Bernard.
A-15704486, Plata-Montalvo, Carlos Marques de la.
A-2672062, Turansky, Yankel Benjamin.
A-12653501, Yee, Wing.
A-10917887, Zolkos, Antoni.

With the following committee amendment:

On page 5, at the end of the joint resolution, add the following names:

A-11673403, Bakierowska, Kazimiera
A-4993823, Bally, George Ally
A-14059539, Borstelj, Giovanni
A-6303002, Campos-Murillo, Leopold
A-13511092, Chan, Yang Yoke
A-6060332, Chang, Kwang Ah
A-4715670, Gagliano, Giuseppe
A-11977348, Gee, Tip Thlew
A-3549268, Greklek, William
A-4912022, Jones, Mary N.
A-11404825, Lai, Huey Koon
A-5853388, Pankowski, Bernard
A-15704486, Plata-Montalvo, Carlos Marques de la
A-2672062, Turansky, Yankel Benjamin
A-12653501, Yee, Wing
A-10917887, Zolkos, Antoni

AMENDMENTS OFFERED BY MR. EILBERG TO THE COMMITTEE AMENDMENT

Mr. EILBERG. Mr. Speaker, I offer amendments to the committee amendment.

The Clerk read as follows:

Amendments offered by Mr. Eilberg to the committee amendment: On page 5, line 11, strike out the number "A-14059539" and substitute the number "A-15059539".

On page 5, line 12, strike out the number "S-6303002" and substitute the number "A-6303002".

On page 5, line 14, after the name "Chang," strike out the names "Kwang Ah." and substitute the names "Ah Kwang."

The amendments to the committee amendment were agreed to.

The committee amendment, as amended, was agreed to.

AMENDMENTS OFFERED BY MR. EILBERG

Mr. EILBERG. Mr. Speaker, I offer two additional amendments.

The Clerk read as follows:

Amendments offered by Mr. Eilberg: On page 2, line 13, after the name "Chin," strike out the name "Goan" and substitute the name "Goon".

On page 4, line 3, after the name "Ma," strike out the name "Yin" and substitute the name "Yiu".

The amendments were agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARK CHARLES MIEIR AND LIANE MARIA MIEIR

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3313) for the relief of Mark Charles Mieir and Liane Maria Mieir, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Mark Charles Mieir and Liane Maria Mieir shall be held and considered to be the natural-born alien son and alien daughter, respectively, of Mr. and Mrs. Charles Mieir, citizens of the United States.

The Clerk read the House amendment to the Senate amendment, as follows:

At the end of the Senate amendment, strike out "United States." and insert in lieu thereof the following: "United States: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

TO REFER H.R. 1429 TO THE CHIEF COMMISSIONER OF THE U.S. COURT OF CLAIMS

Mr. MICHEL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 116) to refer H.R. 1429 to the Chief Commissioner of the United States Court of Claims.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 116

Resolved, That H.R. 1429 entitled "A bill for the relief of Cecilia L. P. Thieman", together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims and the Chief Commissioner shall proceed with the same in accordance with sections 1492 and 2509 of title 28, United States Code and report thereon to the House at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TO ASSURE QUALITY HEALTH CARE FOR POPULATIONS LOCATED IN RURAL AREAS

Mr. BEDELL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means be discharged from further consideration of the concurrent resolution (H. Con. Res. 432) to assure quality health care for populations located in rural areas, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. CARTER. Mr. Speaker, reserving the right to object, and I shall not object, I support the concurrent resolution. It is very necessary and I believe that it is a good resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 432

Whereas the Notice of Proposed Rulemaking regarding National Guidelines for Health Planning filed by the Secretary of Health, Education, and Welfare on September 23, 1977 (42 F. R. 48502–48505), has generated great public concern that the guidelines may impose unrealistic performance requirements upon small, rural hospitals;

Whereas many small rural hospitals provide local communities with medical care of a kind and a quality that are not readily available at less accessible metropolitan hospitals; and

Whereas quality health care at a reasonable cost for populations in rural areas is a priority of the Federal Government: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the national health planning guidelines should include sufficient flexibility to allow a health systems agency to recognize special characteristics in rural areas and, on the basis of those special characteristics, to establish a health systems plan that varies from the national guidelines, in order to provide necessary health care services to rural residents.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Iowa (Mr. BEDELL) for 1 hour.

Mr. BEDELL. Mr. Speaker, I yield myself such time as I may consume.

On September 23, 1977, the Department of Health, Education, and Welfare published some proposals for national health planning in the Federal Register. As currently drafted, only a few of the hospitals in my district could meet these standards, and it is my understanding that many hospitals in other areas of the country are in a similar position. This fact has caused grave grassroots concern that many community hospitals, which are unable to meet these guidelines in the future, will actually be forced to close down.

I share this concern, and I agree that the proposed guidelines are unrealistic for many communities. For example, the guidelines propose, among other things, a bed occupancy rate of at least 80 percent for all short-term hospitals in a community; at least 500 deliveries annually in any obstetrical unit in a community of less than 100,000 persons; and less than 4 short-term hospital beds per 1,000 persons in a community. These standards clearly do not conform to the realities of life in rural America, and, in my view, are contrary to our Nation's effort—as stated in the guidelines themselves—to provide equal access to quality health care at a reasonable cost for populations in rural areas.

In addition, I do not feel that these proposed guidelines adhere to the original intent of Congress. The objective of the National Health Planning and Resources Act of 1974 (Public Law 93–641), which these guidelines are supposed to implement, was to permit localities to devise their own health plans to meet their own special needs. The proposed HEW guidelines for health planning have reversed this situation by forcing localities to make their plans on the basis of a national standard. I, for one, think that we should stick with the original intent of Congress which was to allow local health systems agencies to develop health plans which are tailored to the particular needs of their communities.

Finally, Mr. Speaker, we are told that one of the purposes of these guidelines is to help control escalating health care costs. While I support this objective, I think that the basic issue at stake here cannot be restricted to cost considerations alone. It involves the ability of our health care system to provide access to high quality medical care for all Americans, including the residents of rural America. In my view, it is the responsibility of the Congress to insure that such guidelines do not impair this vital function of our health care system.

Even HEW officials have acknowledged that some revisions in their proposed hospital guidelines are necessary. However, it is important to note that they have given no assurance as to what those revisions will be. In light of this fact, I think that it is imperative that we reassure our constituents that the Congress will not allow the closing of small community hospitals which are so important to our society. I thus urge the House to send a message to HEW by passing House Concurrent Resolution 432 and making it clear to all that it is not the intent of Congress that the proposed HEW guidelines for health planning be used to close small community hospitals.

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Speaker, I am in sympathy with the request of the gentleman from Iowa (Mr. BEDELL) concerning the proposed concurrent resolution. I believe that it should be agreed to, but I would like to comment, in passing, that the same flexibility in the handling of these guidelines should eventually be extended to the urban areas and metropolitan areas. For instance, in the district I represent, there is a move on the part of the local HSA to take the existing hospitals and demolish them and not to replace them, doing so in the name of these guidelines. This is an instance of an urban hospital being maintained in a certain area, particularly an existing hospital, so that people do not have to cross town, and it is a big town, and there are no other hospitals available, and this represents an injury to the economic viability of the community.

It is an injury to the economic climate of the community, as well as being a detriment to the health care of the individuals, so I am in support of the gentleman from Iowa, and I wanted to introduce those remarks into the RECORD.

Mr. BEDELL. I appreciate the gentleman's remarks. Certainly this is a step toward trying to see that we continue to maintain those community hospitals, which have been built many times at great sacrifice and expense to the people therein, and which are of complete and tremendous importance to those communities in furnishing necessary health care services.

Mr. PRESSLER. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from South Dakota.

Mr. PRESSLER. I thank the gentleman for yielding.

I want to commend the gentleman from Iowa. I strongly support rural hospitals. In South Dakota they are needed, and I think this resolution will reassure our rural hospitals and those they serve that service cutbacks will not be mandated. Let us remember that what is workable for New York City's giant hospitals does not apply to South Dakota's 20- or 30-bed hospitals.

Mr. BEDELL. I thank the gentleman for his remarks.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

My understanding is that there is nothing before us to object to if we have already given unanimous consent, and the gentleman is now in debate on the bill.

Mr. BEDELL. That is correct.

Mr. KAZEN. I would commend the gentleman for his resolution. I would have liked to have seen different language in this resolution, for instance in the first whereas clause, at the end of that clause after the words "rural hospitals," which may force their closing, because this is what the people are worried about on these guidelines. These guidelines may force the closing of hospitals, so we want to be able to send a message downtown that it is the sense of the Congress that these guidelines do not close rural hospitals. Will the gentleman agree with me?

Mr. BEDELL. I appreciate the gentleman's bringing it up, because that is, indeed, the interest therein, and I want to thank the gentleman from Texas and the many other colleagues of his from Texas, for the help they have given in this particular matter.

Mr. KAZEN. I would hope that the discretion would lie with the health granting agencies locally to set the guidelines, because a lot of these hospitals cost local people a lot of money, and once we go out and vote bonds and build these hospitals, we come up with guidelines that say we can no longer use these hospitals, and that is not what this Congress intends to do. So I congratulate the gentleman for his resolution, and I hope that the HEW will never set up any guidelines that will force the closing of any hospitals in this country.

Mr. BEDELL. I want again to thank the gentleman and thank the entire delegation from Texas.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Kentucky.

Mr. PERKINS. Let me thank the distinguished gentleman from Iowa for yielding. I certainly wish to compliment the gentleman from Iowa offering the resolution. It is a deserving resolution, and it should be approved.

Mr. YOUNG of Texas. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Texas.

Mr. YOUNG of Texas, Mr. Speaker, I thank the gentleman from Iowa for yielding at this time. I too, want to commend him on the efforts that he is making and the objectives that I know he has in mind in defending the hospital health care services that have been extended to the rural areas in this country.

In the 20 years I have been a Member of the Congress, the Congress and the Nation have funded well in excess of $200 billion to bring adequate health care to the Nation, particularly in the rural areas. What I fear here is some more gobbledygook, bureaucratic talk with a little shell game thrown in here that is going to result in a lot of appeasing and a lot of appeasement talk on the part of the Department of HEW that will ultimately result in a drastic curtailment, if not closure, of much of the health care services that have been and are being extended to our rural areas.

I would respectfully bring to the gentleman's attention that it is the intention of the House that not only involved here are the hospitals themselves, which are in themselves of great need in the rural areas, but also something that is distinguishable from the urban areas, and that is that we have a great deal of difficulty in getting doctors in the rural areas.

In many instances, without the hospitals we certainly would not have the doctors.

Without going further, I would say to the gentleman from Iowa that I have joined in his interest in this matter and I have introduced a resolution of my own directing the Committee on Interstate and Foreign Commerce to conduct an investigation of these health care guidelines. The parliamentary situation created by that resolution is simply this: that it will be backing up what the gentleman from Iowa is trying to do, and if we do not get results from his efforts, then it is my purpose to ask that my resolution, which goes to the Rules Committee on which I happen to serve, be given a full examination of its own, and we will have the Secretary and others down there to explain why, after all this funding with Federal money, they are about to take important health care services away from our rural areas.

I thank the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman from Texas, and I thank him for all the support he has given, and he certainly makes the good point that these hospitals are important to the rural areas.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Speaker, I compliment the gentleman for presenting this House Concurrent Resolution 432. These rules, if they were allowed to take effect, would have a devastating effect on rural health care in rural America.

I compliment the gentleman from Florida (Mr. ROGERS), who serves on the Interstate and Foreign Commerce Committee, for planning to hold hearings shortly after the first of the year. I thank the gentleman from making that commitment to me and to the Congress.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 432 which expresses the sense of Congress that HEW not include in their national health planning guidelines provisions that would promote the closing of small rural hospitals. While I have expressed myself in far greater length on this matter in a statement to HEW which was published in the RECORD of November 18, I would like to restate that the proposed guidelines, in my opinion, not only divert attention from the contributions to high health care costs made by the Federal Government, but they are based upon erroneous notions of rural hospital economics.

While there is no question that the cost of health care in this country has skyrocketed in the past decade, the HEW guidelines are more likely to threaten current levels of health care, particularly in rural America, than they are to do anything substantial to reduce levels of health care costs. The impact of the regulations will not only be felt through reduced levels of emergency care (the 45-minute maximum transportation time is likely to be of small comfort to rural Minnesotans unfortunate enough to be stricken during winter conditions), but also through reduced incentives for persons to obtain proper amounts of preventive medical care.

As a cosponsor of this resolution, I strongly urge its passage, at the same time that I regret its necessity. The HEW guidelines represent a sharp retreat from what I would have supposed have been some of the most basic political lessons of the past decade: the counterproductiveness of so many Federal regulatory efforts, and the difficulties of imposing uniform, inflexible Federal standards in as diverse and expansive country as the United States.

As I also noted in a discussion with the distinguished chairman of the Health and Environment Subcommittee of the House Interstate and Foreign Commerce Committee (Mr. ROGERS) on October 17, it is particularly ironic that HEW should be proposing these guidelines at the same time that Congress is working on legislation, the Rural Health Clinic Services Act Amendments, designed to facilitate the delivery of health care services to rural America.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I certainly concur with the gentleman from Iowa and compliment him for presenting this resolution and making us able to provide medical care for our citizenry.

It is alarming to me to have health planners in HEW to attempt to cut down or curtail the hospital costs and for doing so by providing no hospitalization. Certainly in my district we would not be able to have hospitals under the guidelines and, sure, it would cost us less to have health and hospital care because we would not be able to get it.

The gentleman has done a great service to the citizenry of this country.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I did not object to the gentleman's resolution because I think it simply restates what the current law is and the intent of the subcommittee and this Congress was in passing the law. There is no authority in the law to close any hospital or any facility, but there is authority in the law to plan for the future, and I do not know any Members of the Congress who would not want that done properly.

The guidelines are simply to be helpful in bringing about that planning. They are not to be standards that cannot be varied from, but they are goals to be reached.

Now there are 240,000 beds in America that are not occupied in any one day. There are 240,000. Experts tell us the cost of maintaining those is almost $30,000 a year—$30,000 a year per bed. It is estimated that of the 240,000, 100,000 really are excess. They are just not used.

We are saying as we plan future health facilities, look at that. If we have got too many beds, we should not go out and build a lot of beds.

But let us have what is needed, and that is part of the purpose; so what the planning is doing is to be reasonable and the planning judgment is with local people, not with HEW. The guidelines are simply there to help guide them as to what ought to be a reasonable relationship, for instance, 4 beds per 1,000 people. In the State of Washington they are already down to 3.4 beds per 1,000 people, if the information that was distributed about guidelines, and I think it is part of HEW's fault the way the guidelines were discussed, did give the impression that they were just going to be ironclad rules, it was in error.

We have had discussions with the Secretary and the Department of HEW, so I think the resolution is very fair. I have no objection to this resolution. It does restate the law. It does restate the intention of the Congress and I think it is helpful to allow Members to know that. I have no objection to the resolution.

Mr. BEDELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I think what the gentleman from Florida has said is absolutely correct and it confirms the letter that was sent to those of us who were concerned about this by Mr. Califano this last week. But the point must be made again and again for those who do not come from rural areas that the HEW has exhibited a tendency to ignore the problems of rural hospitals. These guidelines are the best example of bureaucratic stupidity that I have ever seen. If these guidelines had been followed, vast areas in the Rocky Mountains and in the high plains would have been left without obstetrical wards in their hospitals, and people would have to drive 3 or 4 or 5 hours to go have a baby. That is the kind of bureaucratic regulation those people have come up with. They have got to be made to understand they cannot propose absurd recommendations with impunity. We should not have to react to ridiculous propositions such as this latest outrage.

I suggest HEW be a little more responsive to the people of the country that they are supposed to be regulating and stop creating these kinds of stupid guidelines. These proposals resulted in thousands and thousands of pieces of mail inundating our offices and in mass meetings out in our small communities. One community had a mass meeting and obtained 12,000 signatures on a petition in a period of 2 days after these guidelines came out. This is an example of what the bureaucracy of HEW is doing and how willing they are to ignore the wishes of the people.

I congratulate the gentleman for this resolution. I would hope the Members of this body who come from city areas can realize what kind of bureaucratic regulations we in the rural areas are receiving.

Mr. BEDELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BLOUIN).

Mr. BLOUIN. Mr. Speaker, let me commend the gentleman for the gentleman's leadership in this area. I think this resolution is very well timed.

I share the concern over the pending regulations, not in the sense that hospitals will be closed as a result of them, but that future plans for some of those hospitals will be stifled directly by failure to comply with the regulations. I think that is the effect these goals can have. A hospital that would not be in compliance, to my understanding, would not be eligible for Federal assistance for expansion or additions within that hospital complex.

The effect that would have on the ability of a rural hospital to attract future medical talent would be devastating and the effect that would have on the availability of quality health care, which I think is an entitlement in this Nation, would also be devastating.

I think the goals are unrealistic as they apply to a rural area; 500 births at a hospital is just an incredibly stupid goal to have for a small rural hospital that may not have that many married couples in that community.

We are not talking about just, as has been pointed out, a problem of HEW ignoring rural areas, but having resounding ignorance toward the problems of rural areas, and that is much worse.

I think it is that ignorance that we are trying to treat in this kind of resolution.

I would ask the gentleman to make this entire debate, as soon as the vote is over, a part of the open record of HEW, as the response of this House formally to those regulations.

Mr. Speaker, I commend the gentleman.

Mr. BEDELL. I thank the gentleman.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and join my colleagues in commending the gentleman from Iowa (Mr. BEDELL) for bringing this important issue to the floor of the House at such an appropriate time, when so many hospitals are confronted with the results of this improvident HEW regulation. It is the tail wagging the dog, with fiats coming down from Washington imposing unrealistic planning on our rural areas prohibiting them from providing vital health services.

In the Hudson Valley of New York State, several of our hospitals are confronted with the adverse effects of HEW's regulation, which will result in the closing of their obstetrical services, some of which have newly constructed units that had been recently approved by the State health planning agency.

House Concurrent Resolution 432, which expresses the sense of the Congress regarding the proposed HEW rulemaking concerning national guidelines for health planning, seeks to assure equal access to quality health care for populations located in rural areas, and urges the Secretary of HEW to omit, from the emerging guidelines, any recommendations which would result in the closing of any small rural hospital or hospital service providing primary care to a local community.

Many of my colleagues representing rural areas are acutely aware of the crisis confronting the quality of health care in our rural areas. Adequate health care is a right, not a privilege, of all Americans, regardless of economic status or geographic location. Health care in America today is, unfortunately and tragically, becoming a luxury, available only to those who can afford to pay the astronomical costs incurred for hospital stays and for doctor visits. Our rural constituents, are faced with an added burden. Oftentimes, even if they can afford to pay the high cost of health care, the availability of health services is restricted, if not nonexistent. In many instances, the rural hospitals are the only available providers of health care. The new trend in health planning, emphasizing maximum utilization of existing facilities, is penalizing our rural hospitals; which, although they are the only providers of services, cannot meet the occupancy criteria set by the Federal and State health planning agencies. What is needed is a revision in the thinking of our planners when it comes to our rural hospitals; we cannot apply the same rigorous occupancy standards to our rural hospitals as we do to the hospitals and health facilities of our heavily populated areas.

In my own area, particularly in Orange County, N.Y., some of our hospital administrators, personnel, and patients are confronted with mandatory closing of hospital maternity wards, and perhaps eventually the closing of the hospitals themselves, because these health facilities are not meeting the impractical, arbitrary occupancy criteria handed down by the HEW officials in Washington.

It is obvious that our rural areas are not being viewed in a proper light. There is no comparison between hospitals in heavily populated areas and those in our rural areas; our rural constituents being forced to travel miles and miles to the next nearest hospital to obtain services which were once offered in their hometown hospitals. Nor can they understand HEW's rationale for closing these hospitals and terminating vital services when such services are being adequately offered by the primary providers in their areas.

A case in point is the recent decision handed down by the Hudson Valley Health Systems Agency (HVSA) recommending the closure of maternity units in two hospitals in Orange County because the number of births in the last several years had diminished, bringing the births in these hospitals below the guideline figures set by HEW. The HVSA's decision did not take into account the inaccessability of other area hospitals designated as alternate hospitals after the recommended closures were announced, nor did it recognize any necessity to take into account any consumer opinions in making its decision. eliminating the freedom of choice for consumers in obtaining quality health care. HVSA's recommendation will force many expectant mothers to travel long distances on treacherous, dangerous roads, in the winter months in order to deliver their children. These hospitals, Doctors Sunnyside, in Port Jervis, and St. Anthony's in Warwick, have provided quality maternity and obstetric services for many years to the residents of rural Orange County, N.Y. While I commend HEW for its efforts to cut costs and to stress the urgency for quality medical services, my constituents and I question the method that has been proposed to attain that end.

Through a concerted effort on the part of my constituents, hospital administrators, and concerned citizens, we were able to overturn the decisions handed down by both the obstetrical task force of the Hudson Valley HSA and the entire Hudson Valley HSA. The decision now rests with the New York State Hospital Review and Planning Council which will be meeting in mid-December to determine the fate of these obstetrical services. I understand that the council has agreed in one case (St. Anthony's Hospital) to keep these services in operation for a 1-year period while it studies this issue more carefully. We are grateful for this lead time, but we would like to see this situation made unnecessary by a wise and careful consideration of rural hospital services as separate and unique, not to be lumped together with all other hospitals in national planning guidelines.

Hospital administrators have expressed their deep concern with the "arbitrary" characteristics of national health planning. Thousands of my constituents, at the grassroots level, who are inconvenienced and distressed by the elimination of vital health services, have expressed their chagrin clearly, and with little hesitation. Permit me to share with my colleagues excerpts from a letter I received from one of my constituents, Lillian Cordero, who sums up the frustration and feeling of hopelessness that consumers and patients experience when they hear that their closest health facilities are slated for closing:

> Today, when the emphasis on our Health Care system is consumer-oriented, and (is) one which reflects consumer input—certainly (this) is not manifested in a proposal that deletes any consumer involvement, and which, in fact, denies the Consumer the right to determine where this service . . . is offered. . . . Should the consumer be inconvenienced and forced to travel a distance which far exceeds where the present facility offers the services he needs? . . . I say, let the citizens of the communities utilizing St. Anthony's Hospital Obstetrical Services have the options to determine their priorities. It should be the People's Choice that determine the Final Decision. Therefore, I protest the methodology and the rationale that you (The Federal Government) have proposed to discontinue a most valuable and needed service.

Accordingly, Mr. Speaker, I urge my colleagues to favorably consider Mr. Bedell's resolution, to help adopt realistic and realizable guidelines for our rural hospitals. Hopefully, we will convince HEW to be more practical in the future planning of our health services.

Mr. BEDELL. I thank the gentleman from New York.

Mr. AMMERMAN. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Pennsylvania.

Mr. AMMERMAN. Mr. Speaker, I wish to commend the gentleman in the well for his leadership in bringing this resolution before the House. I urge all my colleagues to support it.

Mr. BEDELL. Mr. Speaker, I do not want to shut off debate, but I think it would be well to have a rollcall so that Members could indicate their concern. We are short on time in the House. Everyone has an opportunity to revise and extend his or her remarks. I am not going to turn down an opportunity to talk with people, but I have had a request that if the remarks go on, we avoid the rollcall.

At least in my opinion, it would be beneficial to let HEW know the attitude of the Members of the House, and I would plead with the Members to enter their remarks in the Record.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I agree that we should cut down debate now. The only problem is, the gentleman's very important resolution does not apply to urban areas. There are a lot of small urban hospitals that really feel that this guideline is unrealistic also.

I am going to support this resolution, but I just want to say publicly that I think there are a lot of urban hospitals that face the same kinds of problems that the rural areas do.

Mr. BEDELL. I am glad the gentlewoman made that point. I think it is a point that should be made, and I certainly think that we need to concern ourselves—each other—with the problems of urban as well as rural areas.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, in line with what the gentlewoman just mentioned, those hospitals in SMSA's of 100,000 or more must have 2,000 deliveries a year to continue. Of the 21 hospitals in Kentucky, only 6 would comply.

In rural areas, out of 71 hospitals, only 16 comply. So, I think the gentleman's resolution is timely, and I am happy to support it. A rural hospital by the HEW guidelines would be required to have 500 deliveries in order to maintain a maternity ward and delivery room.

Mr. Speaker, I am pleased to join as a sponsor of this concurrent resolution regarding the special characteristics of rural areas which should be allowed consideration under the national health planning guidelines.

And I commend my distinguished colleague, Mr. Bedell, for his leadership in bringing this matter to the floor of the House.

I, too, have been deeply concerned about HEW's proposed national health planning guidelines ever since their publication this fall in the Federal Register.

During our Health Subcommittee's oversight hearings on the guidelines this October I expressed great concern about both the process by which these standards were developed by HEW—which violated certain statutory requirements—and the inflexibility of the proposed health resource standards.

I am grateful for the many, many letters I have received from Kentuckians and citizens from other States who have pointed out the problems with these guidelines and the potentially detrimental impact of these standards on the health care resources of their areas.

It is clear to me that many of the proposed standards are too rigid to allow for consideration of the unique characteristics and legitimate health delivery needs of many communities across the country.

For example, consider the proposed obstetrical services standards in light of Kentucky's situation based on 1976 figures.

Of the 21 hospitals doing deliveries in the large standard metropolitan statistical areas in 1976—only 6 performed more than 2,000 deliveries. Thus only 6 out of 21 hospitals would meet the proposed standard for large SMSA's.

Of the 70 Kentucky hospitals which are outside the large SMSA's only 16 did more than 500 deliveries last year. Thus only 16 out of 70 hospitals would meet the non-SMSA standard.

While it can be argued that many of these hospitals might qualify for the travel-time exemption provided by the guidelines—it is clear that these statistics show how unrealistic the proposed obstetrical standards are.

Even urban areas may have difficulty meeting some of the guidelines.

For example, I have been informed that the University of Kentucky's Medical Center in Lexington cannot meet the proposed standards for cardiac catheterization units. Those standards are a minimum of 300 procedures annually for adult units—and a minimum of 150 procedures for a children's unit.

That is in a teaching hospital in a major metropolitan area!

In addition to my conern about the content of the guidelines—I am distressed that the thrust of these standards represents a significant departure from congressional intent.

As an author of Public Law 93–641—I recall that we designed the law to assure the integrity of local initiative and local responsibility for determining health care needs.

Such community-based efforts were to be the keystone of effective health planning.

I continue to support that philosophy and I continue to support the original goals of the health planning legislation.

Moreover, I believe that we do need national goals and guidelines to serve as models for local planners to make judgments about excess capacity and unnecessary equipment.

However, the guidelines should be just that—planning models which set forth the direction in which the Nation should head to provide equal access to quality health care—not mandatory controls imposed from the top—down—with virtually no room for variation based on local needs.

Finally, I have been distressed with the guidelines' emphasis on cost-containment—without a comparable appreciation of the need to assure access to quality health care for all our people.

While I share the concern to contain health care costs—and to allocate limited health dollars where they are most needed—I submit that we must not lose sight of the human side of the health care equation.

The goals of responsible cost-containment and equal access to health care must go hand in hand if we are to achieve and maintain an equitable health care delivery system.

Therefore, Mr. Speaker, I am pleased to join as a sponsor of this concurrent resolution which addresses many of the concerns I have mentioned.

First. This resolution recognizes the need for sufficient flexibility in the health planning guidelines. When such revisions in the guidelines are made—then the diversity of our health care system can be appropriately considered in the health planning process.

Second. This resolution reaffirms the legitimacy and importance of the local planning process and the community's responsibility to respond to local needs. Thus the resolution provides that the guidelines should allow a health systems agency to develop a plan which varies from the national guidelines in order to provide necessary health care services to rural residents.

Finally, this resolution calls attention to the special needs of rural residents which deserve full and fair consideration under any program.

Mr. Speaker, I trust that the Department of HEW will give careful consideration to this resolution and I look forward to reviewing the revised guidelines.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield very briefly to the gentleman from South Dakota.

Mr. ABDNOR. I thank the gentleman for yielding to me.

Mr. Speaker, I too want to commend the gentleman for what he is doing. I just want to add one other thought here. It was said that the alternative to closing down one of these rural hospitals may be a 3- or 4-hour trip down the road. At this time of year, it might be an all-day trip, and one that is impossible to make.

There is a great need for the 20- to 25-bed hospitals in rural areas. To expect them to try to meet the kind of regulations proposed is utterly ridiculous.

Again, I commend the gentleman.

Mr. BEDELL. I thank the gentleman.

Mr. THONE. Mr. Speaker, I rise to express my opposition to the proposed HEW guidelines for health planning.

As the Nebraska Medical Association pointed out in their statement to HEW, the intent of Public Law 93-641 "was to provide a framework for health planning for the orderly provision of health services and facilities on a regional and State level which encouraged efficiency, provided adequate access for all citizens, avoided duplication and contained cost."

This is a laudable goal, to be sure.

In my State of Nebraska—as well as in many other States where the population is spread out over vast geographic areas—the delivery of quality health care is a difficult challenge, but one that Nebraska has been working diligently to meet. In Nebraska the strategy has been to provide quality health care to Nebraska citizens as close to their places of residence as possible and to provide specialized services in the larger centers consistent with the demonstrated needs in each region.

We face a constant shortage of health professionals in Nebraska. Physicians are trained—as they should be—to utilize the latest in equipment and technology. If those facilities are not available in rural areas, the shortage of health professionals will grow consistently worse.

Guideline No. 1, on beds per thousand, will make it virtually impossible for many hospitals in rural America to continue to serve those areas. When hospitals close in rural areas, those areas generally lose their only physician, leaving the community with no health care at all.

Of the 104 hospitals in Nebraska, 87 have 100 beds or less, and only 6 outside of Lincoln and Omaha have more than 100 beds. Ordering a reduction in the number of beds in many of our hospitals will result in increased cost to meet the expenses of operating the hospital or, more likely, will result in the closing of the hospital entirely. As well, there is no reason to believe that simply reducing the number of available beds in a very small hospital will improve the quality of care.

The guidelines having to do with "delivery productivity" are simply unrealistic. There is only one hospital in Nebraska which has 2,000 or more deliveries a year and only five nonmetropolitan hospitals which have 500 or more deliveries per year. Is the Department of Health, Education, and Welfare suggesting that women in rural America should abandon the idea of childbirth, or that they should plan ahead so they have time to drive a distance that could be as high as 270 miles when it is time for them to deliver?

None of Nebraska's four hospitals with facilities to perform open heart surgery performed more than 200 procedures in 1976. Therefore, none of our hospitals would qualify, under these guidelines. The quality of care has been outstanding, though.

Mr. Speaker, it appears that the message from HEW is clear. If you live in a densely populated area, you are entitled to quality health care. However, if you have chosen a life in rural America, then you take your chances.

Rural America is, quite frankly, a little tired of paying first-class taxes and receiving second-class treatment. People in rural Nebraska are as entitled to quality health care as are people in Washington, D.C. or New York City, and I feel it is imperative that the Department of Health, Education, and Welfare take steps to recognize the fact that the quality of life in America should not be dependent on whether or not you choose life in a small town or on a farm rather than life in a big city.

Adopting regulations that would put quality health care out of reach of all of rural America is unconscionable, and I urge the Congress to reject any such proposal.

Mr. GRASSLEY. Mr. Speaker, the gentleman from Iowa (Mr. BEDELL) is to be commended for pushing this resolution and the resultant message to HEW to the floor.

That message is that the rural hospitals of America should not be closed by the HEW recently promulgated rules.

But, the resolution is of more significance than just the issue of keeping smalltown hospitals open. The resolution ought to serve as a general reminder to Members of Congress and bureaucrats in Washington that this country is so vast geographically and so heterogeneous in its population to be placed in one big mold formed in Washington, D.C.

The problems facing this Nation will never successfully be solved by such expansive policymaking.

In this case rules and regulations written to cover metropolitan hospitals cannot be equitably applied to the rural areas of America.

Let what I predict will be a lopsided vote in favor of this resolution be a reminder to all that all matters in America cannot be covered by one set of rules.

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman from Iowa for yielding to me and thank him for his work on this important problem. I am shocked that HEW would propose regulations to restrict or prohibit some smaller hospitals from performing certain services.

At a time when hospital costs are already soaring, it makes little sense to me to make it more difficult for hospitals to provide needed services just because they are performed in smaller hospitals or in rural areas. HEW must be given this notice that this House does object and will not stand still for this proposal.

Mr. STANGELAND. Mr. Speaker, I rise today in support of this resolution which places the House of Representatives on record as supporting the continuation of the operation of small community hospitals.

The Department of HEW recently published proposed guidelines for health planning purposes. The guidelines mandate several standards that a local Health Systems Agency must follow in preparing a health plan for its region. Although HEW allowed that modifications to these guidelines may be necessary to accommodate the particular needs of small, rural communities, no specific exemptions or exceptions were outlined.

It is imperative that we make our position known now and that we take all action necessary to assure that our small hospitals are protected, especially in view of the following fact. Although HEW has indicated that it has no means of enforcing the guidelines, this is less than accurate. After the effective date of the final guidelines, when a hospital wants to purchase needed equipment, the HSA could disapprove the purchase on the basis that the expenditure was not in compliance with HEW guidelines. If the hospital chose to purchase the equipment anyway, then HEW could withhold depreciation reimbursements, which come from medicare-medicaid funds, for that piece of equipment. Thus, no means of enforcement quickly becomes a very effective means of controlling expenditures and dictating to our hospitals.

Our resolution is simple and forthright and totally in keeping with the stated intention of the Department of HEW. It states that:

> It is the sense of Congress that the National Health Planning Guidelines should include sufficient flexibility to allow a Health Systems Agency to recognize special characteristics in rural areas and, on the basis of those special characteristics, to establish a health systems plan that varies from the national guidelines, in order to provide necessary health care services to rural residents.

This statement of position does not interfere with the implementation of health planning legislation, but it does state, and at the appropriate time, the Congress' intention to assure the continued delivery of necessary health care to our rural citizens. I think it is important that we go on record at this time since the hand that controls the purse usually exercises more than gentle persuasion. If reimbursement funds can be withheld, we had best confront the possibility and do everything that we can to avoid such a situation.

Mrs. SMITH of Nebraska. Mr. Speaker, I would like to state my support for the resolution now before us which recognizes the special characteristics of health care in our Nation's rural areas.

The National Guidelines for Health Planning as published in the Federal Register of September 23, 1977, are insensitive to the circumstances and conditions under which small rural hospitals must operate. They impose unrealistic requirements on local health planning agencies and place an intolerable burden on those who would be required to comply. They must be altered.

One of the failings of wide-sweeping, all-encompassing, inflexible regulations promulgated by the Federal Government is that there is no consideration given for the diversity of culture, population distribution, and geography in the United States. This resolution recognizes these differences in our country and urges the Federal Government to write regulations flexible enough to give rural health planners the capability to provide the best possible health care services for rural residents.

Mr. Speaker, my congressional district is primarily rural in nature. It encompasses about three-fourths of the land area of the State of Nebraska and has no urban center larger than about 60,000 people. There are many elements of the rules proposed by the Department of Health, Education, and Welfare that do not meet the needs of this rural area.

An example of the problems that the new guidelines would create for the rural areas is in the section on hospital bed population ratio.

The Greater Nebraska Health Systems Agency includes my entire congressional district and other portions of the State. It reports that it has a hospital bed-population ration of 5.19 beds for every 1,000 people. According to the proposed HEW guidelines, a 4.0 average bed per 1,000 ration will be expected. Even the 5.1 ratio, however, is inadequate to provide necessary services for persons living in rural areas. Medically underserved areas such as my congressional district are so vast that additional facilities are needed just to make hospital services geographically accessible to the spare population. There are 90,000 square miles in my district, for instance.

To give an example of the medical situation there, a person can travel 258 miles over Nebraska highways, passing through 14 towns and 8 counties, without visiting a town or county with a doctor's services. These are eight adjoining counties along the same stretch of highway. There are 16 counties out of the 61 in my district without a doctor, another 5 counties only have 1 doctor and 11 counties have only 2 doctors.

Another reason more hospital beds are needed is that a higher percentage of elderly live in rural areas. A total of 15.3 percent of all the people in rural Nebraska are considered elderly as compared to 10 percent nationally. This creates a greater demand on rural hospital services. These considerations also undermine the need for the 80-percent occupancy requirement outlined in the HEW guidelines. There must be beds available for the elderly when they are needed.

A total of 64 of the 67 hospitals in the greater Nebraska area had occupancy levels of less than 80 percent in 1976. This occupancy rate which was lower than that proposed in the regulations occurred because rural hospitals are small. The average size hospital in the great Nebraska area is 43 beds. These smaller hospitals can operate at a lower occupancy level and still be efficient.

The proposed guidelines pertaining to obstetrical services also call for "at least 500 deliveries annually in lower populated areas except in the case of a unit serving an area where normal traveltime exceeds 45 minutes." This is unacceptable for at least two reasons: With the great number of elderly living in rural areas, hospitals there cannot be expected to have numerous deliveries of babies; and even though the Greater Nebraska Health Systems Agency estimates that only 7 percent of the population travels in excess of 30 miles to a hospital, the area is subject to severe weather conditions throughout the year. These conditions greatly affect accessibility to the hospitals.

Mr. Speaker, only 5 of the 67 hospitals in the Greater Nebraska area had more than 500 deliveries in 1976. It is impossible for me to believe that 500 deliveries per year is a reasonable standard for rural hospitals.

These are just a few of the reasons that I believe the proposed guidelines for health planning are unreasonable for rural areas. There must be some consideration given to the unique situations found in places like my congressional district.

The resolution we are now considering expresses the sense of the Congress that these regulations be rewritten to reflect rural needs. I believe it is an action we must take to restore fairness to the health planning process.

I strongly urge all of my colleagues—those who represent urban districts as well as rural—to vote in favor of this resolution and help prevent rural America from being discriminated against once more.

GENERAL LEAVE

Mr. BEDELL. Mr. Speaker, I do not want to cut off debate, but there is a great deal to discuss in the House today.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the House Concurrent Resolution 432.

The **SPEAKER** pro tempore (Mr. NEDZI). Is there objection to the request of the gentleman from Iowa?

There was no objection.

The **SPEAKER** pro tempore. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The **SPEAKER** pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BLOUIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 0, not voting 77, as follows:

[Roll No. 761]

YEAS—357

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg

Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hannaford
Hansen
Harrington
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Martin
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pursell
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ryan
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Winn
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—77

Badillo
Beilenson
Bolling
Brown, Mich.
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Crane
Cunningham
Danielson
Dent
Downey
Duncan, Tenn.
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Gammage
Giaimo
Goldwater
Hall
Hanley
Harkin
Hawkins
Hillis
Hollenbeck
Jeffords
Kelly
Koch
Krueger
Leach
Lent
Lundine
McCloskey
McDonald
Marriott
Mathis
Meeds
Mikulski
Milford
Mitchell, N.Y.
Moss
Patterson
Pattison
Pepper
Pritchard
Quayle
Quie
Quillen
Railsback
Roncalio
Rosenthal
Ruppe
Russo
Sawyer
Sebelius
Skubitz
Stockman
Symms
Teague
Traxler
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wylie
Young, Alaska

The Clerk announced the following pairs:

Mr. Weaver with Mr. Symms.
Mr. Dent with Mr. Ford of Tennessee.
Mr. Ford of Michigan with Mr. Brown of Michigan.
Mr. Giaimo with Mr. Conyers.
Mr. Hawkins with Mr. Lent.
Mr. Pepper with Mr. Marriott.
Mr. Wirth with Mr. Clay.
Mr. Charles H. Wilson of California with Mr. Kelly.
Mr. Traxler with Mr. Broyhill.
Mr. Russo with Mr. Leach.
Mr. Waxman with Mr. Jeffords.
Mr. Hanley with Mr. Hillis.
Mr. Hall with Mr. Crane.
Mr. Teague with Mr. Erlenborn.
Mr. Rosenthal with Mr. Young of Alaska.
Mr. Koch with Mr. Cunningham.
Mr. Badillo with Mr. Quie.
Mr. Krueger with Mr. Wylie.
Mr. Meeds with Mr. Goldwater.
Mr. Moss with Mr. Quayle.
Mr. Pattison of New York with Mr. Hollenbeck.
Mr. Fithian with Mr. Pritchard.
Mr. Ertel with Mr. Evans of Georgia.
Mr. Downey with Mr. Forsythe.
Mr. Danielson with Mr. Patterson of California.
Mr. Cornwell with Mr. Mitchell of New York.
Ms. Chisholm with Mr. Milford.
Mr. John Burton with Mr. McCloskey.
Mr. Beilenson with Ms. Mikulski.
Mr. Harkin with Mr. Charles Wilson of Texas.
Mr. Phillip Burton with Mr. Stockman.
Mr. Lundine with Mr. Whalen.
Mr. Roncalio with Mr. Ruppe.
Mr. Mathis with Mr. Bob Wilson.
Mr. McDonald with Mr. Railsback.
Mr. Gammage with Mr. Skubitz.
Mr. Sebelius with Mr. Quillen.
Mr. Duncan of Tennessee with Mr. Sawyer.

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMENDING SECRETARY OF LABOR FOR DECISION TO ABOLISH ABOUT 1,100 OSHA REGULATIONS

(Mr. KREBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREBS. Mr. Speaker, I think it is appropriate, in light of the vote that we just took indicating our dissatisfaction, to put it mildly, with a rather asinine regulation promulgated by the Department of Health, Education, and Welfare, to take this opportunity to commend the Secretary of Labor for his leadership in announcing over the weekend that he is going to do away with approximately 1,100 regulations involving OSHA enforcement.

The Secretary of Labor has thus stood by his commitment to get away from nitpicking in the policing of OSHA regulations; I think the American public, as well as this House, has made it very clear that it sympathizes with this approach and that it wants OSHA regulations to be imposed only for the protection of the American worker rather than for the harassment of employers throughout this country.

THE DANGER OF A SLOW-GROWTH ECONOMIC COURSE

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I have become increasingly concerned that this country has embarked on a slow-growth economic course—perhaps a no-growth course—for the coming years. I am afraid that we have done so unwittingly, unaware that the sum of a multitude of discrete actions constitutes a radical reversal of our historic high-growth pattern. I am also afraid that once this course is set, then we will be "locked in," so to speak, and each successive year will see us levy a higher tribute on the shrinking growth part of our economy so we can pay the bill for the swelling nongrowth part of our economy. After all, that is what has happened in Great Britain, in Sweden, and in India, to name some other countries chronically afflicted with this problem, and I for one no longer believe people who say "it cannot happen here."

I think it is happening here, but I also think that it is at a reversible early stage and it still can be turned around before it reaches the lethal stage where, as in Sweden, taxes equal about 70 percent of GNP, inflation runs at over 15 percent, and economic growth is minus 7 percent.

But, and make no mistake, we are starting down that path and each further step we take will serve to drain more of the vitality from our economy and more of the liberty from our lives. Look at these disturbing trend lines:

In 1976, the Federal income tax took 11 cents of every dollar of taxable personal income; in 1978, it will take 13 cents; and in 1981, unless changed, it will take 16 cents.

From 1954 to 1976, personal income taxes plus social security taxes took a little more than 14 cents of every dollar of taxable personal income; by 1981, assuming no change in tax law and the passage of the House social security bill, the same combination of taxes will take 21 cents.

Rapidly growing personal tax burdens inevitably hinder economic growth because they stifle social growth by dampening the will to work, to invest, and to save. We had better start thinking about who pays the price of stifled social growth and whether we wish to exact that price, for it is obvious to me that in other nongrowth countries everyone pays the price.

PERSONAL EXPLANATION

(Mr. KASTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTEN. Mr. Speaker, due to previous commitments in Wisconsin, I was absent from last week's sessions of the House. I wish to state for the record, therefore, how I would have voted had I been present for the rollcall votes that occurred during my absence.

"Yea" on the conference report to accompany H.R. 7, the Career Education Act.

"Yea" on House Resolution 749, the motion to disapprove of Reorganization Plan No. 2.

"Nay" on the motion to recede and accept the Senate compromise language on the Hyde antiabortion amendment to the Labor-HEW appropriations bill. I have previously been "paired" in opposition to the motion.

"Nay" on the motion to recommit the conference report on the supplemental appropriations bill with instructions to increase the Amtrak appropriation to $18 million.

"Nay" on the amendment to increase the Amtrak appropriation to $18 million.

"Yea" on the motion to order the previous question on the recommittal motion.

"Yea" on the motion to instruct conferees on the social security reform bill to insist on language providing for the liberalization and eventual repeal of the outside earnings limitation.

"Nay" on the motion to order the previous question on the motion to instruct conferees.

"Yea" on House Resolution 915 authorizing funds for the investigation of Korean-American relations being conducted by the Subcommittee on International Organizations.

OSHA PROGRAM

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, today's announcement that the Department of Labor has finally acceded to our requests to end unnecessary and unrealistic regulations under the OSHA program comes as good news.

I welcome Secretary Marshall's announcement which will be a step toward minimizing the harassment, redtape and nitpicking that have characterized the OSHA program to date and commend Assistant Secretary Eula Bingham for her work in this effort.

Many of us have been pressing the agency to take the action it has agreed to do and, in my judgment, this decision is welcome and helpful.

I remain concerned that it will take as long as 5 months to remove these regulations even after the decision has been made, but we welcome this strong evidence of cooperation and conciliation.

FURTHER CONTINUING APPROPRIATIONS, 1978

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 917 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 917

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(1)(6) of rule XI to the contrary notwithstanding, to consider the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, in the House. During such consideration it shall be in order, any rule of the House to the contrary notwithstanding for the Member calling up H.J. Res. 662 to offer an amendment printed in the Congressional Record by Representative Mahon.

The SPEAKER pro tempore (Mr. Nedzi). The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 917 provides for the consideration of House Joint Resolution 662 making further continuing appropriations for the fiscal year 1978. House Joint Resolution specifically provides funds for the District of Columbia on a continuing basis through September 30, 1978.

This continuing resolution is almost identical to a resolution adopted by the House on November 3, 1977, extending funding through November 30, 1977. The only differences are the date and a provision allowing the rate of operations for the disaster loan fund of the Small Business Administration contained in the act to be the rate as passed by the Senate.

The rule also contains a waiver of clause 2(L)(6) of rule XI or the 3-day rule. This waiver is something of a moot point now since the House was not able to take up the resolution last week as had been anticipated.

In addition, the rule makes in order an amendment printed in the Congressional Record by Mr. Mahon. All points of order are waived against the amendment. Mr. Mahon had such an amendment printed in yesterday's Record—December 5, 1977—on page 38345. The amendment provides for funding in the continuing resolution for the Departments of Labor and HEW at the rate contained in the conference report on H.R. 7555.

Mr. Mahon also stated on page 38339 of yesterday's Record that he plans to yield to Mr. Michel for an amendment to his amendment concerning language on the abortion issue.

Mr. Speaker, I will not go into the details of the continuing resolution or the amendments which may be offered to it as I am sure my colleagues from the Committee on Appropriations can explain this legislation quite fully.

I urge my colleagues to adopt House Resolution 917 so that we may proceed to the consideration of House Joint Resolution 662, authorizing continuing appropriations for fiscal year 1978.

Before I conclude, Mr. Speaker, I would like to take this opportunity to vigorously urge my colleagues to examine the issues. We have been battling over some issues here for a number of months. I understand and recognize the controversial nature of the issues at stake, but in the final analysis I think we have all through the years understood that one of the basic arts of good political maneuvering is the art of compromise. I do not mean the compromise of principles, but I mean a compromise with the methods to obtain the goals that I think are common to all of us. So I simply want to take this opportunity, Mr. Speaker, as I say, to urge that we proceed to conclude the business of this Congress this week in the hope that we may adjourn sine die and get out of here, and then get back, hopefully renewed, in January to take care of some of the other problems that face our country.

With that I urge the adoption of this resolution, and I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. LOTT. Mr. Speaker, this rule makes in order the consideration in the House of House Joint Resolution 622, a measure making further continuing appropriations for the District of Columbia for fiscal year 1978. Clause 2(l)(6) of rule XI, the 3-day rule, is waived. The rule also permits the Member calling up House Joint Resolution 622 to offer, during its consideration, an amendment printed in the Congressional Record by Representative Mahon. The amendment may be offered notwithstanding any rule of the House to the contrary.

The Members will recall that the last continuing resolution for the District of Columbia has an expiration date of November 30, 1977. Since the final conference action still has not been concluded on the appropriation bill for fiscal year 1978, House Joint Resolution 662 is necessary to continue the programs contained in the legislation until the conference report is approved.

The joint resolution extends the funding levels of the last continuing resolution through September 30, 1978, or until the bill is enacted. When questioned as to the rationale for the new expiration date, the Chairman of the Appropriations

Committee responded that he thought a House-Senate compromise could be worked out by February 28 of next year, which, of course, would preempt the continuing resolution.

The second part of the rule will allow an amendment to be offered to the District of Columbia continuing resolution to include a continuing resolution for the Labor-HEW appropriation, if no agreement is reached by the conferees on this bill. At the time this request was made of the Rules Committee it was not known whether this would be necessary, but the Appropriations Committee wanted to have the option just in case. The funding level for Labor-HEW will be at the conference rate, which is the same as now permitted under the current continuing resolution.

On December 5 a statement was delivered by the chairman of the Appropriations Committee, and I am advised that the chairman does plan to offer the Labor-HEW amendment. It is my further understanding that he will yield to the gentleman from Illinois (Mr. MICHEL) for an amendment concerning the abortion issue at the proper time. That amendment language was printed in the December 5 CONGRESSIONAL RECORD. It is similar to that which the House voted on last week with the following exceptions:

First, it adds the word "forced" immediately preceding "rape or incest",

Second, it adds the word "promptly" when referring to reporting the incident to a law enforcement agency, and

Third, it strikes out "or its equivalent" immediately after "public health service".

Mr. Speaker, no opposition was expressed to the rule in the Rules Committee, although there is some concern for the September 30, 1978, expiration date. Perhaps that can be elaborated upon later.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Is it possible to have a better explanation of why we have to have this continuing resolution by extending the time to September of 1978? Does anybody want to explain that?

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Texas, the chairman of the committee.

Mr. MAHON. I thank the gentleman for yielding.

We are seeking to provide a vehicle for the settlement of the abortion issue for the fiscal year 1978 which ends on September 30, 1978. So this is our problem, to try to get this matter resolved for this session of Congress and for the current fiscal year.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding.

I appreciate that the chairman is anxious to settle the abortion issue, but why is it necessary, if our understanding is that we will probably have this issue resolved by February or March, to have the continuing resolution run clear until September?

Mr. MAHON. If the gentleman will yield, because the fiscal year runs until September 30, and we have not been able to resolve this issue. We are hoping that this will resolve the issue and that the Members of the House and the other body will go along with this proposal for the end of this fiscal year.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman.

Mr. ROUSSELOT. I do not really see why we need such a large "cushion" of time that is until September, 1978. I thought we were close to resolution. Why do we need so much extra time?

Mr. MAHON. If the gentleman will yield, we have been trying for 5 months to come to some resolution, and this is a resolution which we are hoping will be agreed to.

We are continuing the HEW appropriation level at the level agreed to in the conference, so this will resolve not only the continuing resolution but will resolve also the controversy over the amendment to the Labor-HEW appropriation bill.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding and our distinguished chairman for explaining.

I think it is an awfully big cushion of time and is unneeded. We are making a mockery of the "so-called" continuation process.

Mr. LOTT. Mr. Speaker, I have no further request for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. HOLTZMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 21, not voting 82, as follows:

[Roll No. 762]

YEAS—331

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
D Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
English
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Fountain
Fowler
Frenzel
Frey
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hannaford
Hansen
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Holland
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Martin
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pursell
Rahall
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rostenkowski
Rousselot
Rudd
Runnels
Ryan
Santini
Sarasin
Satterfield
Scheuer
Schulze
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Walsh
Wampler
White
Whitehurst
Whitley
Whitten
Wiggins
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—21

Bauman
Bingham
Burke, Calif.
Dellums
Edwards, Okla.
Fascell
Holtzman
Lujan
Luken
Maguire
Miller, Calif.
Moffett
Richmond
Rose
Roybal
Schroeder
Seiberling
Stark
Steiger
Volkmer
Weiss

NOT VOTING—82

Badillo
Beilenson
Bolling
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Crane
Cunningham
Danielson
Dent
Dornan
Downey
Edwards, Calif.
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Gammage
Giaimo
Goldwater
Hall
Hanley
Harkin
Harrington
Hawkins
Hillis
Hollenbeck
Jeffords
Kelly
Koch
Krueger
Leach
Lehman
Lent
Lundine
McCloskey
McDonald
McFall
Marriott
Mathis
Meeds
Mikulski
Mikva
Milford
Mitchell, N.Y.
Moss
Patterson
Pattison
Pepper
Pritchard
Quayle
Quie
Quillen
Railsback
Roncalio
Rosenthal
Ruppe
Russo
Sawyer
Sebelius
Stockman
Symms
Teague
Traxler
Waggonner
Watkins
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Young, Alaska

The Clerk announced the following pairs:

Mr. Weaver with Mr. Symms.

Mr. Teague with Mr. McDonald.

Mr. Dent with Mr. Waggonner.

Mr. Beilenson with Mr. Broyhill.

Mr. Phillip Burton with Mr. Crane.

Mr. Cornwell with Mr. Dornan.

Mr. Harrington with Mr. Edwards of California.

Ms. Chisholm with Mr. Erlenborn.

Mr. Moss with Mr. McFall.

Mr. Charles H. Wilson of California with Mr. Mitchell of New York.

Mr. Hawkins with Mr. Cunningham.

Mr. Lundine with Mr. McCloskey.

Mr. John L. Burton with Mr. Charles Wilson of Texas.

Mr. Wirth with Mr. Meeds.

Mr. Hanley with Mr. Traxler.

Mr. Hall with Mr. Ruppe.

Mr. Conyers with Mr. Railsback.

Mr. Waxman with Mr. Lent.

Mr. Mathis with Mr. Bob Wilson.

Mr. Patterson of California with Mr. Stockman.

Mr. Krueger with Mr. Quillen.

Mr. Clay with Mr. Whalen.

Mr. Koch with Mr. Quie.

Mr. Mikva with Mr. Pritchard.

Mr. Badillo with Mr. Sebelius.

Ms. Mikulski with Mr. Hollenbeck.

Mr. Russo with Mr. Watkins.

Mr. Rosenthal with Mr. Kelly.

Mr. Milford with Mr. Sawyer.

Mr. Roncalio with Mr. Hillis.

Mr. Pattison of New York with Mr. Leach.

Mr. Pepper with Mr. Marriott.

Mr. Lehman with Mr. Harkin.

Mr. Downey with Mr. Forsythe.

Mr. Fithian with Mr. Goldwater.

Mr. Ford of Tennessee with Mr. Quayle.

Mr. Gammage with Mr. Fraser.

Mr. Giaimo with Mr. Danielson.

Mr. Ertel with Mr. Ford of Michigan.

Mr. Evans of Georgia with Mr. Young of Alaska.

Mr. ROSE changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, pursuant to the rule just adopted by the House, I call up the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes.

The Clerk read the joint resolution, as follows:

H.J. Res. 662

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1978, namely:

Sec. 101. Such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1977, and for which appropriations, funds, or other authority would be available in the District of Columbia Appropriations Act, 1978 (H.R. 9005) as passed the House of Representatives or the Senate, but at a rate of operations not in excess of the current rate: *Provided,* That the Advisory Neighborhood Commissions shall be continued at an annual rate of not to exceed $500,000: *Provided further,* That the rate of operations for the Disaster Loan Fund of the Small Business Administration contained in said Act shall be the rate as passed the Senate.

Sec. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) September 30, 1978, whichever first occurs.

Sec. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Sec. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Sec. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

Sec. 107. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

The SPEAKER pro tempore. The gentleman from Texas (Mr. Mahon) is recognized for 1 hour.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume and, Mr. Speaker, during the consideration of House Joint Resolution 662, I shall yield only for the purposes of debate, and not for amendment unless I specifically so indicate.

Mr. Speaker, on November 29, 1 week ago today, the Committee on Appropriations reported House Joint Resolution 662, a further continuing resolution for the District of Columbia for the fiscal year 1978. On that same day the Rules Committee filed the rule just adopted by the House.

Mr. Speaker, it is most important that Members understand what the situation is today and what is planned insofar as the consideration of this resolution.

This resolution—House Joint Resolution 662—as reported by the Appropriations Committee provides further continuing authority for the District of Columbia until September 30, 1978 or until the regular appropriation bill is signed into law, whichever first occurs. Spending authority for the District of Columbia expired at midnight last Wednesday, and in view of the fact that a D.C. conference agreement is not in sight, it is essential that further continuing authority be provided.

It is also essential to provide for the operations of the Departments of Labor and Health, Education, and Welfare and the other agencies which would be funded under H.R. 7555, which is the Labor-HEW bill for fiscal 1978. It is therefore my intention to proceed in the following manner.

First, under the provisions of the rule under which this District of Columbia continuing resolution is being considered, I will offer an amendment to provide continuing authority for the Departments of Labor and Health, Education, and Welfare. This amendment which appears on page 38345 of the Record of yesterday, December 5, reads as follows:

> Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1978 (H R. 7555), at a rate of operations, and to the extent and in the manner, provided for in such Act as modified by the House of Representatives on August 2, 1977, notwithstanding the provisions of Sec. 106 of this joint resolution.

My amendment, as indicated, would continue programs under H.R. 7555 at the conference level. The language of the amendment is identical to the provision which was contained in the law applicable to the month of November.

Second, immediately after I offer my amendment, I will yield to the gentleman from Illinois (Mr. Michel), the ranking minority member of the Labor-HEW Subcommittee and the ranking minority conferee on that appropriation bill for an amendment on the abortion issue. The text of the amendment which will be offered by the gentleman from Illinois is as follows:

> Provided that none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of forced rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.
>
> Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures nec-

essary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

The language is similar to that which the House voted on last week but it adds the words "forced" and "promptly" and deletes the phrase "or its equivalent".

Mr. Speaker, everyone knows how difficult and controversial this issue has been, but it is high time for the Congress to resolve the matter. Other important issues are at stake involving the many Labor-HEW programs, and I would point out, Mr. Speaker, that the payroll for the Department of Labor was to be certified today. Tomorrow the payroll for the Department of Health, Education, and Welfare is to be certified. Obviously tens of thousands of people and their dependents are confronted with the distinct possibility of a short pay check and maybe payless pay days.

We are hopeful that this language will be acceptable to a majority of the House and that it can be reluctantly accepted by the other body in a spirit of compromise. But I must state, Mr. Speaker, that there is no agreement with the other body that this language will indeed be agreed to.

Mr. Speaker, I have an amendment at the desk.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. MAHON. I yield for a question.

Mr. BAUMAN. Mr. Speaker, this inquiry is regarding the District of Columbia continuing appropriation.

Am I correct in the understanding conveyed to me by the staff of the Committee on Appropriations that by passage of this continuing resolution dealing with the District of Columbia we can be assured there are no funds contained in it for building of the so-called civic center? Am I correct in that statement?

Mr. MAHON. Yes; for the District of Columbia there are no funds provided for the so-called civic center. That matter has to be resolved between the subcommittee chaired by the gentleman from Kentucky (Mr. NATCHER) and the subcommittee on the other side of the Capitol.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

AMENDMENT OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAHON: On page 2, after line 9, insert the following:

Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1978 (H.R. 7555), at a rate of operations, and to the extent and in the manner, provided for in such Act as modified by the House of Representatives on August 2, 1977, notwithstanding the provisions of section 106 of this joint resolution.

AMENDMENT OFFERED BY MR. MICHEL TO THE AMENDMENT OFFERED BY MR. MAHON

Mr. MICHEL. Mr. Speaker, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL to the amendment offered by Mr. MAHON: At the end of the amendment of the gentleman from Texas strike the period, insert a semicolon, and add the following: "*Provided*, That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of forced rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

"Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced."

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MICHEL) is recognized for 1 hour.

Mr. MICHEL. Mr. Speaker, I yield 30 minutes to the gentleman from Texas (Mr. MAHON), the chairman of our committee, pending which I yield myself such time as I may consume.

Mr. Speaker, the scenario that is being played out here is known to all.

While I was out of town, the distinguished chairman of the committee yesterday took the floor during our perfunctory session and laid out, which is recorded on the first page of yesterday's RECORD, exactly what was expected to happen today. I do not think there is any need to review the 3 or 4 months of conferences, meetings, votes up and down, and all the maneuvering which has brought us to this point.

It all boils down to getting agreement between the House's and the Senate's position on the issue of publicly funded abortions. All the line items and figures which total over $60 billion in the Labor-HEW appropriation bill have been agreed to. We have adopted that portion of the conference report.

The only remaining thing is the language about publicly funded abortions. We have progressed from the extreme positions of the Senate language with no prohibition and the original Hyde language. We have tried all kinds of phrases and words, exhausting the resources of the dictionary in an effort to get together.

Mr. Speaker, this just has to be the last effort on my part to get some agreement for this fiscal year.

With the addition of the words "forced" and "promptly" and the elimination of the words "or its equivalent" in the rape and incest sentence of the Senate language, this amendment makes a move back toward the House position from that language that was narrowly defeated last week.

Let me go very carefully through the language of this amendment. It has five sections in it. The first section the gentleman from Illinois (Mr. HYDE) can embrace lock, stock, and barrel:

None of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Now let me skip the next two sections and go to the bottom two:

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced.

I believe that the gentleman from Illinois (Mr. HYDE) can also accept those two sections. Our point of difference is in the middle, the two middle sections. Let me take the third one first:

. . . or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

We have argued this language extensively in the House-Senate conference, I do not know how many times. The other body wanted to put "mental health" in here, and it wanted wide open language. But the House conferees insisted on "physical health" and we have achieved that. And then we got down to whether or not it is permanent physical health, or is it severe or is it grave? The gentleman from Illinois (Mr. HYDE) and the gentleman from Maryland (Mr. BAUMAN) and others, would like to have it "permanent." I would like to have "permanent." But we were faced with the question "what do you get in place of the word permanent that will be acceptable to the other side in an effort to end this stalemate? The answer was the words "severe and long-lasting physical health damage."

Then we end up with the section having to do with rape and incest. Here I think there has to be a little bit of movement on the part of some of the Members, in the direction presented in this section:

. . . or except for such medical procedures necessary for the victims of forced rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service.

Remember a week ago, when we debated similar language, what we were talking about with respect to "or its equivalent." This phrase was too murky because we did not know clearly what it meant.

We are now talking only about a law enforcement agency or a public health service.

The folks who promulgate the rules and regulations downtown know exactly what we are talking about when we say a law enforcement agency or a public health service. And I think we ought to concede to those who objected to the use of "or its equivalent," because really no one knows what "its equivalent" is.

Now I did not write all of this language. No one individual wrote the language that now takes the form in what is called the Michel amendment. All I have done is add "forced" and add "promptly" and delete the three words "or its equivalent," as a means of trying to get an agreement. And I do not expect even with this tightening that our dear friend, the gentleman from Illinois (Mr. HYDE), the gentleman from Maryland (Mr. BAUMAN) or the gentleman from Pennsylvania (Mr. FLOOD) the distinguished chairman of our subcommittee, would find this be acceptable to them. But some other Members have got to give a little. I suspect there are a few, who have just as much objection as I do about the public funding of abortion but I happen to think that some abortions short of abortion on demand are all right. I have a real problem when it comes to public funding of abortions for social convenience as distinguished from private funding. But I realize we have got to give a little, and that is why we are offering the amendment.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I would like to go over some of the provisions of this and perhaps clarify some language, because I think the Members here realize that this is a very serious matter and we should understand exactly what we are doing when we do it or do not do it. I would first direct the gentleman's attention to the first language which provides that no funds shall be provided to perform abortions. Then we go to the next, and we use there instead of the word "abortions" the term "medical procedures" for victims of incest or forced rape. By changing it and saying "medical procedures," we are not including abortions then; is that correct?

Mr. MICHEL. Excuse me?

Mr. VOLKMER. I will repeat the question. In the first sentence or the first phrase the word "abortion" is used providing that none of the funds be used except where the life of the mother would be endangered.

Then we say "or except for such medical procedures * * *" and there we use the term "medical procedures"; we do not use the word "abortion"; and, therefore, the word "abortion" is not included in "medical procedures"; is that correct?

Mr. MICHEL. That is correct.

Mr. VOLKMER. I would then like to direct the gentleman to the second phrase where we say "except in those instances where severe and long-lasting physical health damage * * *" We do not use the word "abortion" nor do we use the words "medical procedures." Since the last phrase pertained only to medical procedures, would this phrase, this new language, pertain only to medical procedures, this exception?

Mr. MICHEL. Yes.

Mr. VOLKMER. And those medical procedures do not include abortions?

Mr. MICHEL. That is correct.

Mr. VOLKMER. All right. Then the last question that I have is, does the gentleman feel that—and perhaps he does—this is basically the proper way to do it, or are we really voting here to provide tax funds or not provide tax funds? Is that the issue basically?

Mr. MICHEL. That is my particular problem. I recognize that we are going to have in here certain exceptions even though we have attempted to tightly draw up our language. We would expect that those who promulgate the rules and regulations downtown would follow the legislative history rather closely in making sure that we have not opened up floodgates here.

The reason for using the additional word "force" is to make it quite clear that we do not intend to have wholesale abortions for those under the age of consent who live in States with statutory rape laws.

Mr. VOLKMER. Is it the gentleman's intention in presenting this amendment to the House that the words "medical procedures" as used in here, and where reference obviously is made to them, does not include the word "abortion"; is that correct?

Mr. MICHEL. Yes.

Mr. VOLKMER. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. MICHEL. I will be happy to yield to the gentleman.

Mr. BAUMAN. I thank the gentleman for yielding.

The gentleman's language contains the phrase "severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term." The question I have is whether or not the gentleman means to describe by that language a pre-existing and verifiable physical condition, or would it be a condition that might occur in the future in a doctor's opinion if the pregnancy were allowed to go to term? Is it something that has to be pre-existing or existing at the time, and the doctor would have to assess that and so certify?

Mr. MICHEL. I know that we talked about specifically using those words. We get into a question of semantics. If those words are really too strong for the other body, then it seems to me we need not use those words specifically in our language. But that is my understanding of what is meant when I use "severe and long-lasting" as a condition that was pre-existing at the time of pregnancy. I just do not think that there is by any stretch of the imagination a situation where we can say that "having developed a series of migraine headaches, et cetera," is going to automatically qualify people for an abortion. This provision is not intended to be a loophole to permit abortion on demand.

Mr. BAUMAN. The interpretation that the gentleman places on this language is that the doctor could not say in his opinion some condition might result because of the pregnancy being allowed to continue and, therefore, an abortion would be in order?

Mr. MICHEL. That would surely run counter to this gentleman's understanding of what we have been talking about here and what should be the form of the rules and regulations promulgated by HEW.

Mr. BAUMAN. I thank the gentleman.

Mr. GARY A. MYERS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

I ask this question on behalf of my colleague, the gentleman from Pennsylvania (Mr. GOODLING) who wanted it clearly understood as to the interpretation surrounding "prompt reporting." His concern was: Does the term "reported promptly" also mean promptly treated?

Mr. MICHEL. Yes. At least in this gentleman's mind it certainly does, and of course that prompt treatment is pretty much available today almost any place in the country. But "prompt" leaves itself open to a number of days. But let us face it. Pregnancy is a fact which cannot obviously be known until the raped victim has missed her first period. So it seems to me that "prompt" embraces a period that is at least in the 30-day range and still would be acceptable as prompt treatment and prompt reporting.

Mr. GARY A. MYERS. But the treatment would be regarded in the same time frame as reporting.

Mr. MICHEL. That is how I interpret what we intend by this language.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to my friend, the gentleman from California (Mr. MILLER)

Mr. MILLER of California. In regard to the language "forced rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service," could the gentleman outline for me what he expects the procedure to be, because as the gentleman's remarks said, the attempt is to stay away from wholesale abortions under the guise that one would admit that she had been raped, I would be interested in what the burden of proof would be in that reporting procedure in order to become eligible to have one's abortion taken care of.

Mr. MICHEL. I would assume that the rules and regulations promulgated by the HEW lawyers will be finely drawn. I cannot say I could include them all if I were to begin to list them. I am concerned that by virtue of making such a list, inference might be made downtown that this is only what I perceive them to be. But I think the fact that when we talk about promptly reporting to a law enforcement agency, something that is not easy to do for the victim of rape, HEW will know we want a tightly administered provision enforced.

Mr. MILLER of California. If the gentleman would continue to yield, let me ask him what happens to the young lady if the law enforcement agency says: "We do not believe you." Is that considered a reporting in this?

Mr. MICHEL. It is a reporting in my opinion if she promptly reported. And then I would expect that there would be some exchange or confirming of interrogation that would take place. But, at least it would be a publicly reported incident.

Mr. MILLER of California. So if this young lady who may be a victim of incest, if she went to the police department and reported she was a victim of incest, that would be a report whether or not the agency believed her?

Mr. MICHEL. Yes.

Mr. MILLER of California. She would not have to prove it? She would not have to bring in her father? She would not have to bring in her uncle?

Mr. MICHEL. I do not think we could make that kind of requirement.

Mr. MILLER of California. Let me ask the gentleman this. My concern is again how restrictive it can be, because it would appear from the language that if the committee is set and the House is set, by introducing the word "force" to stopping, as the gentleman said again, the wholesale abortions, my concern is that people are going to say: "How do we know this was a forcible rape? How do we know that this was a statutory rape? How do we know you did not consent to it?"

We know from records what happens in many police departments. What about the privacy for that young girl? There is a place where Mr. BIAGGI used to work, Fort Apache, where a young woman was gang raped and was told if she told it she would be killed, and that is what happened. Does that go into the newspapers? Is it a report if it is published? What if it is not taken down? What if the police sergeant fails to make a record of it?

Mr. MICHEL. I am not requiring anything beyond reporting to a law enforcement agency or public health service. I am not saying over and above that, that this must be duly reported in the newspaper. Of course not.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to continue this discussion. As I read the amendment of the gentleman, I do not find any requirement in it that the young lady herself makes that report. I just find it needs to be reported, which to me, and tell me if this is right or not, it could be reported by anyone. It could be reported by a private family planning agency. It could be reported by a father, mother, sister, brother, friend, or anyone else, as I read the amendment; is that correct, first?

Mr. MICHEL. Well, there is a significant stigma, no matter who reports it. If a raped victim is singled out by name and address, and I do not care who reports it, there has to be some stigma attached to that.

Mr. VOLKMER. The language says only reported; it does not say by whom.

Mr. MICHEL. No, it does not.

Mr. VOLKMER. It could be anyone.

Mr. MICHEL. The Department of HEW may want to tie this down by rules, that could be done.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield further, what is the intention of the gentleman, as a proponent and sponsor of the amendment; what is the gentleman's intention in that regard?

Mr. MICHEL. I would not be one to force that particular victim as an individual to report. I think it would be more credible or reasonable to believe if that individual did it; but there may be some extenuating circumstances where it would be impossible. For example, in an aggravated case where they were hospitalized and could not do it personally some other responsible person could report. I would certainly take the mother or father's reporting as sufficient.

Mr. VOLKMER. What the gentleman is saying, the gentleman is going to leave it up to the guideline, the rule, and regulation writers, to make that decision and the gentleman is unwilling at this time to make that decision.

Mr. MICHEL. I have found many times it is just about impossible to draw everything up on this floor of the House, even as legislators are doing on the appropriations bill. I think that, frankly, ought to be decided on legislation written in a proper legislative committee.

Mr. VOLKMER. Mr. Speaker, I would like to ask one more question, if the gentleman will yield for one further question.

Mr. MICHEL. I yield.

Mr. VOLKMER. That is, what is a public health service? What does the gentleman mean by a public health service? Does that include family planning centers and others that could be referred to?

Mr. MICHEL. In my judgment, it is every public health center that is funded to any degree by Federal funds.

Mr. VOLKMER. To any degree by Federal funds?

Mr. MICHEL. Yes.

Mr. VOLKMER. What about State and local funds?

Mr. MICHEL. I am talking about federally funded centers. The gentleman and I well know that in Cook County or Peoria County today they are taking care of situations that we are prohibiting here, but they feel a need locally to do it and if there are no Federal funds, I have no voice in it. I am not about to eliminate or restrict what they are doing.

Mr. VOLKMER. But the receivers of the report can only be public health services that are partially or fully funded by the Federal Government?

Mr. MICHEL. Yes, sir.

Mr. VOLKMER. They could not receive a report from a Government agency if it is completely funded by funds coming from a taxpaying agency; is that correct?

The SPEAKER pro tempore. The gentleman from Illinois has consumed 20 minutes.

Mr. MICHEL. Mr. Speaker, I yield myself 2 additional minutes.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, is it not true that most of these questions on reporting are totally irrelevant? What is going to happen, the girl or woman is going to go to her doctor. He is going to determine if she is a medicaid patient and if so his question is going to be, Will I be reimbursed? If it is in a State which reimburses, there is no question. If this occurs in a State where the State will not reimburse unless the Federal Government will pay, the doctor's question will be, Have you reported this? If so, to whom? Was the reporting prompt enough to qualify? And if she has not reported it, the doctor will have to report it if he wants to be paid.

Most of the questions that have been raised are attempts to find a reason to justify a preconceived position. HEW will have regulations to define what is "prompt" and under which conditions the doctor must call a health agency or law enforcement agency to find out whether it was reported. Most of these questions are just attempts to find an excuse to oppose the amendment and fog the issues.

Mr. MICHEL. Mr. Speaker, I dislike taking all the time, because I feel an obligation to yield to some of those that are not, frankly, in agreement with my position.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, in response to the question of the gentleman from Missouri, the language is explicit. It has to be reported promptly and that does not mean it can be done 3 or 4 or 5 weeks later and reported and thus qualify for a medicaid abortion.

It has to be reported promptly, and that is exactly the language Senator HELMS offered in the other body that was rejected.

Mr. MICHEL. I thank the gentleman for his very valuable contribution.

Mr. Speaker, at this juncture I will yield 2 minutes to the getleman from Illinois (Mr. HYDE), who obviously will not agree totally with what I have had to say here, but hopefully would have a mollifying view today from those previous periods when he has had some very pointed things to say about this issue.

Mr. HYDE. I thank the gentleman. I daresay the minority whip is echoing the sentiments of my dwindling circle of friends in what he has just said.

I must say that this is compromise language that is being put before us, but it is language that I cannot support because, when we get down to it, it is trading a life for a health condition. That is what it is. The long and short of it is, whatever is serious, whatever is long lasting, is up to the doctor to decide. It can be a migraine headache or it could be varicose veins; it could be any condition that, in the doctor's medical judgment, is serious and would be long lasting.

So, the trade is in what lawyers say, a "gross inadequacy of consideration." It is a life for a health condition. If the trade were life for life, or a condition that endangers the mother's life, which is the original amendment, then I could accept it, but since it is a trade of a life for a condition of health, however serious, it is not critical, it is not going to endanger the life of the mother, but is a serious health condition, it seems to me that the trade is unequal.

Let me simply say also that this is not an effort to impose somebody's religious beliefs on other people, which is the thrust of the editorial from the Miami Herald that was recently put in the RECORD, any more than those clergy that marched at Selma were trying to impose their religious belief in fighting for civil rights or any more than Jefferson when he wrote, "All men are created equal and are endowed by their Creator with certain unalienable rights" was an effort by him to impose his religious beliefs on anyone.

So, this is simply an effort to protect

the innocently inconvenient prenatal life from being considered socially expendable.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding to me, and join in his comments and sentiments. I do not think the gentleman's circle of friends has dwindled a bit. I think ultimately he has borne himself with dignity and handled himself at all times with poise.

Mr. HYDE. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I urge a vote against the Michel amendment, with all due deference to the gentleman from Illinois, who has tried very hard throughout these many months to reach some sort of agreement, which has been very difficult to do.

But, the language now before us is opposed by all of the right to life groups; the National Right to Life Committee; the Ad Hoc Committee for Life; the March for Life; the thouands of people who will be here on the Capitol steps in just a few weeks once again to protest abortion. I dare say the amendment may well be opposed by Members of the other body. I refer Members to the debate in the other body which occurred on October 27, page 35522 of the RECORD. They can read at their leisure where almost identical language was offered and defeated by an overwhelming majority. I suspect the same thing may happen again.

So that, having voted nine times on this issue, it seems to me that we ought again to stand firm and let the other body realize that if certain payrolls and programs are not to be honored, the squarely placed blame is on their backs.

The language of the Hyde amendment, which is now the law of the land, has been upheld by the Supreme Court of the United States, and has been in effect and is still in effect. It is the language both bodies supported last year, and I think it is supported by a majority of the American people. I hope you will not now change your votes at this crucial hour. I hope we will vote once again, as we did the last time and on eight other occasions, to support an amendment that is reasonable and will preserve human life. That is what the whole argument is and has been about.

Mr. MAHON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. FLOOD), the chairman of the subcommittee.

Mr. FLOOD. Mr. Speaker, let us be certain that everyone knows what is going on here today. I think that everybody has a pretty good idea, by seeing the names and hearing what was said. The most recent Senate amendment on the use of Federal funds for abortions was rejected by the House on November 29. That was just last week. The vote was 183 to 205. That vote was on an amendment to the Labor-HEW appropriation bill. That is where we were last week.

The amendment now offered by my colleague, the gentleman from Illinois, applies to the continuing resolution. Nobody is mad about the continuing resolution, as such. Basically, I think that any new language on abortion should not be in here. The matter of appropriation for the funds for abortions should continue as a part of the Labor-HEW appropriation bill, and not be raised on the continuing resolution.

This continuing resolution as amended by the gentleman from Texas extends the necessary authority to meet Government payrolls. There would be no problem there. Nobody need worry about that. It would also allow the programs in the Labor-HEW bill to be supported at the levels agreed to by the Congress for fiscal year 1978. What is the matter with that? The language on the use of funds for abortions would be language agreed to by the House and the Senate last year and which has been in effect for the first 2 months of this year. I see no problem. That is what the amendment offered by the gentleman from Texas does. I support that.

But I cannot support this amendment offered by my friend, the gentleman from Illinois. I have the greatest respect for him. We sit together year after year after year. His amendment is an improvement, shall I say, upon the Senate amendment. My problem with his amendment is that it is still basically the Senate language we voted down nine times, with a change in inflection more than anything else. The amended language is less ambiguous, but it is still ambiguous to many Members here.

After debating the issue of funding for abortions for the past many months, I do not think that the House should agree on language which means nine different things to nine different people and which could destroy the whole intent of the House. It is just shading the language.

The amended language would allow the victim of rape or incest to report to a "public health service." That is a quotation. What in the world is that? Most Members know of an organization called the U.S. Public Health Service. Is that what is meant by this amendment? I cannot find out. Or does it mean that one could have a conversation with the public health nurse next door?

What about reporting to an abortion clinic in a neighborhood health center? One could not get an agreement on that. It may mean something else. Is that what is meant by public health service? The language of this amendment is wide open to interpretation. It could mean anything you want it to mean. That may be the idea. We went through this twice last week. It still includes that Senate language, "or except in those instances where severe and long-lasting physical health damage would result."

That same language is back again. This language was rejected because it is subject to a variety of interpretations. It is a loophole in restricting the use of Federal funds for abortions.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. FLOOD) has expired.

Mr. MAHON. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, as I say, this language could be interpreted in many ways—varicose veins, stomach ulcers, bursitis. Sure, those are long-lasting health problems. But what in the world makes us think they alone could justify an abortion?

All through this long debate over the funding for abortions I have been trying day and night to uphold the position of the House. The House has made a number of compromises from its original position. We have compromised from the strict ban on the use of funds for abortions which is the position we first took; we have made several compromises.

The House has consistently rejected other amendments that were offered under the guise of compromise. We would not accept those.

The amendment that is now before us appears to be a compromise but, in my view, it is loosely constructed. It is wide open, and it would be subject to any kind of interpretation anyone wants to give it. It is not acceptable to me.

Mr. Speaker, again I urge the Members to defeat the Michel amendment.

Mr. MAHON. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I am afraid that what is going to happen here today is that two opposites are going to coalesce. From what I gather, the Hyde supporters on one side—at least a number of them—and a number of Members who oppose the Hyde amendment on the other side are both intending to vote no. I would like to say a word to both sides.

The Senate has now voted some 16 times very clearly against the Hyde amendment—most of the time by a margin of about 2 to 1, as the gentleman from Illinois (Mr. MICHEL) has indicated.

I will repeat now what I said 2 weeks ago: that there is no way the Hyde supporters in this House can turn a minority into a majority in the Senate just by wishing. And to the Hyde opponents I would say the same thing: There is no way they can turn a minority into a majority by wishing.

It is true that the language proposed by the gentleman from Illinois (Mr. MICHEL) today is not as flexible as the language we considered here last week. I voted for the language last week, but we lost. We would lose again on the language, and no wishing can change that.

It is true that this language does not make an exception for teenage pregnancies. In conference committee I voted to exempt young women, those younger than 16; that failed. I voted to exempt those younger than 15; that failed. I voted to exempt those younger than 14; that failed. I voted to exempt those younger than 13; that failed. We lost, and we have to recognize that.

To those Members who are opponents of the Hyde amendment and who say there is no real difference between the Hyde amendment and this language, I simply want to make two points. It is true that the exemptions are very narrow. But they are real.

To those Members who want to remain consistent in opposition to the Hyde amendment—and they may want to do that for a lot of reasons—let me say that if they want to remain consistent and that consistency means more to them than giving a woman who has kidney disease an opportunity to have the medical procedure she needs, and if maintaining a consistent position means more to them than providing an exception for a woman who is forcibly raped, then they should go ahead and vote against the Michel amendment.

But if Members on both sides really want to do something to bring this issue to a conclusion, even though they may not be totally satisfied with the language, they should vote for the amendment. It may not be the right conclusion. I do not know that it is, but it is a reasonable conclusion, and I commend the gentleman from Illinois (Mr. Michel) for offering the language. I know how bothered the gentleman has been by this issue.

Mr. Speaker, I urge the Members to vote for the amendment.

Mr. MAHON. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. Bonker).

Mr. BONKER. Mr. Speaker, after working almost a week full time on this issue, meeting with countless Members of this body, I am convinced the language that is before us is as close as we can come to a compromise.

What the gentleman from Illinois (Mr. Michel) has proposed offers improvements in several ways over the language that we voted on last week:

First of all, we have a better definition of rape. We have been fluctuating on a definitional problem more than anything else.

On the one hand, if we do not qualify "rape," then it means an automatic eligibility for many people regardless of the circumstances. However, if we allow "force" to go in and do not provide a further explanation, then we subject many victims to the humiliating experience of going down to a law enforcement agency and reporting this information, pressing charges, and going through an embarrassing process of court hearings. I do not think anyone wants to subject people to that sort of thing.

Mr. Speaker, what the gentleman from Illinois (Mr. Michel) has proposed is, I think, ideal; and that is that we use the words "forced rape," but we allow an alternative for the victim so that she can go down to a public health agency and report the information. That information is confidential, but it has to be reported promptly.

Mr. Speaker, that is the key in this language, that the fact of pregnancy has to be previously established before the person qualifies for any Government-sponsored abortion.

Finally, we have stricken from the earlier language the words "or its equivalent"; and that means that only those health agencies that have been designated by the Secretary as qualifying would be involved.

Mr. Speaker, I think it is important for those who argue that the proposed language on rape is too liberal to realize that Secretary Califano has issued the following ruling on the treatment of rape victims under the existing section 209—the Hyde language—which does not even mention rape: Here is what it says:

> Treatment for rape or incest is . . . limited for these purposes to prompt treatment before the fact of pregnancy is established.

That is in the existing regulations, but there has been no outcry against this. No statements have rung from the rafters in this Chamber about how terrible a loophole this is. But now, when we wish to clarify a little further, tighten the language just a bit, one side argues that we are opening the floodgates.

We are much closer to compromise than we realize. We cannot argue, then, on the basis of emotionalism or symbolic phrases. This is as close as we are going to come to a compromise, and I urge those Members who have been voting with the gentleman from Illinois (Mr. Hyde) to accept this language as being airtight and is the only opportunity we will have to resolve this issue before the end of the year.

Mr. Speaker, the conferees which gave us the existing section 209 stated in the conference report:

> Nor is it the intent of the Conferees to prohibit medical procedures necessary for the . . . treatment of rape or incest victims.

That has been accepted, evidently, by both bodies. So why the outcry now from those who oppose abortions when we try to add a little more legislative intent on their side?

What has been proposed by our colleague from Illinois is that we make clear that victims of rape means victims of forced rape, and that such rape should be reported. How can this be construed as "nullifying" the Hyde amendment? There is nothing here that tells Secretary Califano to modify his ruling on when treatment must occur. It merely adds a requirement about the reporting of rape and clarifies the definition of rape.

It is clear that the House will not accept the language on rape which does not contain some clarifying language. We have tried once to add a reporting requirement, but to make that reporting requirement reasonable through establishing that reports could be made to an agency other than a law enforcement agency. That was not enough. So we now take the next step in adding further restrictions.

Now, I believe it is clear that the Senate and many in the House may find this language objectionable because it is too restrictive. But we must all realize that rejection of this language will open up the entire issue again and prolong the search for a compromise. If we adopt this language we have at least further narrowed the issues which divide us, and that is essential. Nothing is to be gained by either side, by either body, from going back to ground zero. Indeed much is to be lost. That is as much the issue today as the substance of the amendment. I strongly urge adoption of the Michel amendment.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Speaker and Members of the House, I ask for a vote against this language today not because of consistency, but because we ought not to continue to participate in a procedure whereby we sit in this Chamber and set a purlieu for young women to go through before they can have control of their own body.

Mr. Speaker, I no longer want to participate in that sort of thing, and I doubt that many other Members want to participate in it any longer.

I think we have to fully understand what we are doing here. We are telling people, "If you are forcibly raped, you come under an exemption in the law."

Mr. Speaker, we know that there are women who have carried around with them for 20 to 30 years the fact that they were victims of incest or of rape, and today they cannot admit it, 25 years later. However, if they do not admit it, then they have to take to term the fetus because she cannot go down and admit promptly that she was the victim of rape or incest.

That is the loophole, Mr. Speaker. I do not think that is a loophole. I think it is a disgrace that we would sit here and suggest that we are going to control the body and the mind of a woman in making what ought to be a very private decision. It will no longer be private.

They will no longer be able to avail themselves of the protection of this law against a desk sergeant who says, "I don't believe it. Prove it, lady." She will have no protection if the rapist happens to be a member of her family or somebody who has theatened to kill her, because she must make the report promptly.

If that is what you want, then vote for this, I will not.

Mr. FRASER. Mr. Speaker, I hope that we can end the impasse over the Hyde amendment. I have opposed any version of the Hyde approach because it sets a different standard of health care for the poor. However, I have repeatedly voted for the Senate positions this summer and fall because they would hurt fewer people than the House versions. I vote for the Michel amendment only because of the risk that if it is defeated we will end up with the original Hyde amendment which I oppose.

What we are voting on today is the Senate language the House defeated on November 29 modified to require victims of forced rape or incest to report promptly to a law enforcement agency or public health service. The phrase "or its equivalent," which would allow rape and incest victims to report to human service agencies other than public health services and law enforcement agencies, would be deleted.

These changes are not minor. They are punitive and harsh additions to an already harsh and discriminatory measure. The phrase "forced rape or incest" excludes statutory rape victims—minors under the age of consent—from receiving abortions. The deletion of the phrase "or its equivalent" means that rape and incest victims may report only to law enforcement agencies or public health services for medical treatment. The phrases "reported promptly" and "public health service" will be defined very narrowly, as we are assured by the last sentence of the proposed language: "The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced." Hence, we will ask a woman—or a child—whose person has been forcibly violated to report that violation to an institution that may seem particularly cold and impersonal at the time, in order to receive medical treatment. And what evidence will be necessary to prove that forced rape occurred?

We are beginning to humanize some public agencies that have in the past humiliated rape victims. The Michel language undermines those advances.

We are beginning to face the problem of incest. It has been largely unreported because incest victims feel guilt that keeps them silent for years or a lifetime. Now we would expect a 12-year-old child raped by her father to promptly walk in and document that attack to a police officer in order to receive an abortion.

Of course, the most punishing aspect of this amendment is its effect on poor women. Middle-class women who get pregnant are not punished. They make personal choices whether to bear a child or terminate a pregnancy. Poor women no longer have that choice, under this amendment.

Women, it seems, bear the responsibility for avoiding pregnancy. They must be punished if they do not. Yet avoiding pregnancy is not always possible; some contraceptives are ineffective and others entail risks, some minor, some major.

Avoiding pregnancy is even more difficult for victims. A new Center for Disease Control study not yet released shows that about 2.5 percent of rape victims do become pregnant.

At this time I would like to insert in the RECORD a letter I recently received from a law enforcement official who has much experience working with victims of rape and incest:

> OCTOBER 7, 1977.
>
> Congressman FRASER,
> *Rayburn House Office Building,*
> *Washington, D.C.*
>
> DEAR CONGRESSMAN FRASER: It has come to my attention that there has been considerable debate regarding recent abortion issues. As a police officer and member of the Ramsey County Child Abuse Team, the Minnesota Advisory Council on Child Abuse, the Minnesota Advisory Council on Battered Women, and the Executive Council of the Minnesota Program for Victims of Sexual Assault, I have become increasingly concerned about the question of abortion eligibility for victims of sexual assault and incest.
>
> Although there has been greater awareness of the problems with which the rape victim must deal, the prevalence of incest is just beginning to emerge. Statistics are inadequate because most cases are classified as Criminal Sexual Conduct rather than incest. During the past week, our department has investigated eight incest complaints, all involving long-term offenses of several years. In one of these cases, three daughters, ages 13, 12, and 10 years, were sexually molested by their father, the oldest of which is now pregnant by her father. This family receives public assistance and is financially unable to pay for an abortion, which is desired by the child.
>
> It is easy in dealing with statistics and abstract arguments to lose track of those victims who are suffering the consequences of someone else's actions. I hope the reality of those people out there will be considered in this issue.
>
> If we can provide specific information to clarify this concern, please do not hesitate to contact me.
>
> Sincerely,
>
> ——— ———.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been sitting here in the Chamber wondering if the Members were listening to the debate and wondering whether or not the debate has any important impact on the way Members vote and I have decided that the Members are listening to the debate this afternoon on this important issue. I hope that they have been convinced that we have come as near as we possibly can to a resolution of this problem in regard to abortion.

It has been said by some that our public school children these days cannot read and, apparently, some of them cannot, but all of us can read, and we should not let our preconceived ideas prevent our reading what we are talking about here this afternoon. Let us not consider that we should be controlled by emotion. Let us be controlled by the realities of the situation. We have got to trust somebody with the administration of this legislation. We cannot enforce the law but we have written the language in such a way that it seems to me most of us should be able to accept it. Read it with me.

> That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; . . .

The gentleman from Illinois (Mr. HYDE) accepts that, where the life of the mother is in danger.

Who is going to tell if the life of the mother is endangered? A doctor. Do we have any faith in the integrity of the doctors of the nation? We have two in this body. All right, if the doctors will be honest, and most of them, I would assume, are, what is wrong with that provision? All right, let us go to the next provision:

> Or except for such medical procedures necessary for the victims of forced rape. . . .

It is not bad enough to have a forced rape and not have any opportunity to recover from the ordeal?

> . . . or except for such medical procedures necessary for the victims of forced rape or incest, when such rape or incest has been reported promptly. . . .

What is wrong with that? What constituent could compain of that?

> . . . when such rape or incest has been reported promptly to a law enforcement agency or public health service; . . .

What is a law enforcement agency or a public health service?

I would think that the Department of HEW through its cabinet officer would be able to have followed the history of this matter and be able to provide the rules, initiate and promulgate the rules which would handle that situation.

And then, here again,

> . . . or except in those instances where severe and long-lasting physical health damage—

Not mental, but physical health damage——

> . . . severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

Do we tell the poor woman that she cannot have an abortion when her doctor has said to her that if this pregnancy is carried to term she will have severe and long-lasting physical health damage, or do we help her?

I would hope that we would vote for the Michel amendment. If we do not, then we revert back to the Hyde amendment and go back to the Senate and the merry-go-round starts in motion again and we will be here debating this issue time and time again between now and Christmas.

There will be the bleakest holiday unless somebody gives a bit. I am asking the House to give a bit. The House has made very few compromises with respect to this matter in the past. So here we are tightening this thing up and making it more appropriate from the standpoint of the House. I would urge the Members to support the Michel amendment and provide, as it does provide, that the Secretary of HEW will establish and vigorously enforce regulations to carry this out. It seems to me it is an honest effort, that right-thinking people should be able to agree upon. This is an unwanted responsibility on my part. My problem is as chairman of the Committee on Appropriations and as a Member of this respectable body I just feel we ought to be able to do our job and not just set our feet in concrete and refuse to work out a compromise. I urge the Members to support the Michel amendment. Certainly it is a better alternative than the Hyde amendment from the standpoint of many Members of the House.

Mr. Speaker, how much time have I used?

The SPEAKER pro tempore. The gentleman has 10 minutes remaining.

Mr. MAHON. Has the gentleman from Illinois any further requests for time?

Mr. MICHEL. Yes, I do, but I was not prepared to yield further except to commend my Chairman for the comments he has made.

I think the gentleman from Wisconsin put his finger on another problem if the feeling is very prevalent as expressed by our friend, the gentleman from California (Mr. MILLER). I must confess that I can fully appreciate and understand his frustration in not having his way, and I by no means have gotten my way either—far from it. I would just hope that as we are winding this thing up that we are now not going to turn around and have defections the other way. We would then be exactly back where we started with no continuing resolution. It would be very 30 days that we would have to go through this charade. I just think it would be horrible if we did not bring it together now finally and resolve it. Let us face it, there are so many Members hard in concrete that there can only be a handful on either side who can shift their position, but that is assuming that we could hold the ranks that previously had supported a bit more liberal position a week ago.

Mr. MAHON. I would like to say that I commend the gentleman from Illinois for bringing this strengthened language before the House in order that we may undertake to resolve this matter.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

I would like to ask the gentleman in the well, does the distinguished gentleman in the well have any indication at all that the Senate will be agreeable to this language?

Mr. MAHON. I have the indication from some Members of the Senate that they would be agreeable. I have an indication from other Members of the Senate that this would not be agreeable, that it goes too far, that it is not acceptable, that the forced rape language is too strong. But I am hoping that, in view of the pressures under which all of us are now operating, the other body would accept what we have done. We have gone a long way in an effort to compromise this issue.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I think it has not been pointed out here and it is in direct response to the question just asked, that at one time the conferees had agreed on almost this identical language relating to Federal reimbursement for treatment of victims of rape. I am talking about the House and Senate conferees. We then left the question of rape and when the Senate voted, this agreed upon language was not presented to the Senate and then to the House. The fact of the matter is the gentleman from Pennsylvania himself proposed the language. It was accepted by the Senate conferees, and then we moved on to other questions, so as far as rape is concerned, this language is as close as the conferees felt it was possible to come to agreement on.

Mr. MICHEL. May I just make one comment on another thought that occurred to me. I can understand the gentleman from California (Mr. Miller) having expressed himself and having to vote that way. But those others Members who might have been similarly persuaded but have not said so, I hope they refrain from switching, because if my amendment is defeated, you will have last year's language.

I do not know how we can make it any more clear and plain that this is the best we can get after all these 4 months of arguing.

Mr. MAHON. If the gentleman will yield, it is not only the best we can get; it is a somewhat reasonable proposal, it seems to me, to the people who will come to grips with the real world.

Mr. MICHEL. I thank the gentleman.

Mr. MAHON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Wright), the majority leader of the House of Representatives.

Mr. WRIGHT. Mr. Speaker, I want to express my gratitude to those Members on both sides of the aisle who have earnestly endeavored to work out this impasse and come to some language that this Congress could enact. I do not know whether this language under consideration represents such a compromise or not.

I hope that it does, because if it does not—if we do not enact this language today, or something very similar—extremely serious consequences will follow.

A very substantial part of the essential activities of the Government will be totally paralyzed.

As of last Wednesday night at midnight all appropriations expired for all the programs carried on through the Department of Health, Education, and Welfare and those carried on through the Department of Labor.

The other body has made it clear that it is not going to accept a continuing resolution without some modifying language in it.

It may sound very heroic for some Members to be able to sit here and say: "I did not yield one inch. I stood by my convictions."

It is equally heroic for those on the other side, and for those in the Senate to say: "I did not yield one inch. I stood on my convictions."

But so long as that obtains on both sides, there is no possibility of legislation. Unless we break this impasse, please understand what is going to happen. Members should be prepared to assume responsibility for the results of what we do here today.

Unless we break this impasse this week, 145,000 faithful employees of the Government will have a payless payday between now and Christmas.

Not only those employees of the Federal Government but also an additional 600,000 local and State employees whose salaries are funded through these programs will have payless paydays between now and Christmas.

But let me emphasize that it is not just for these public employees that I am making this plea.

For instance, some 475,000 Head Start students will have no money to fund their continuing education.

Eleven million aid-to-dependent-children recipients will be out of money between now and Christmas.

Are Members prepared to assume the responsibility for that?

Some 2 million SSI beneficiaries will be adversely affected.

Ten thousand hospitals will not receive Federal funds because there are no moneys for grants any more. It has run out. It is gone.

Five million recipients of title I elementary and secondary school education will likewise be adversely affected.

Four hundred and thirty-five thousand daily meals for older citizens will be terminated between now and Christmas. Do you want to assume responsibility for that?

Two million students receiving scholarship aid—basic oportunity grants for the most needy students—will go out the window unless we as a legislative body can resolve this controversy.

The money for 1.8 million recipients of rehabilitation services, and 450,000 black lung beneficiaries, has run out.

These figures came today from Secretary Califano. I called and asked him for them. There simply is no more money for grants.

If you want to sit intractably and inflexibly and insist that you have not yielded one inch from your convictions, if those in the Senate sit intractably and inflexibly and insist that they have not yielded one inch from their convictions, well, then, the legislative process will simply break down. The institution of the Congress will fail in its responsibility.

Mr. Speaker, let me finish and then I will be delighted to yield to the distinguished gentleman from Pennsylvania (Mr. Flood).

Then the institution of Congress can be subject to public ridicule and if that happens—if that happens, let me assure you that the public is not going to be impressed by our argument that it is the Senate's fault, nor will the public believe the Senate's argument that it was our fault. The blame will be upon us all. The rain will fall equally on the just and the unjust. Every Member of the Congress will suffer and the institution of Congress will suffer.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. MAHON. Mr. Speaker, I yield 5 additional minutes to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, I yield to my friend, the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Speaker, my friend is very gracious. I am sure I do not misunderstand the gentleman. I know, there is no doubt that the gentleman understands me. Let us be very clear. We understand that the gentleman from Texas (Mr. Mahon) introduced the amendment. That amendment was then amended by the gentleman from Illinois (Mr. Michel). However you could defeat the Michel amendment and vote for the Mahon amendment. If you vote for the Mahon amendment, none of these terrible things will happen, at least as far as the House is concerned. If you vote for the Mahon amendment, you should have none of the troubles mentioned by the distinguished majority leader.

Mr. WRIGHT. Well, I understand what the distinguished gentleman is saying. The gentleman is saying, do what we have been doing and send it back to the Senate and wash our hands of it. I will say to the gentleman, we have been doing that for 5 months.

Mr. FLOOD. Mr. Speaker, I am trying to speak to the House. I ask the House to vote for the Mahon amendment and the other situation on abortion we will endeavor to deal with.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, in conference with the other body and in conference with some of the members of the subcommittee, headed by the gentleman from Pennsylvania (Mr. FLOOD), it was agreed that we would handle the amendment in such a way that the ranking minority member of the Committee on Appropriations for HEW would offer that amendment. I am entirely and completely and totally in support of the amendment as the best agreement and compromise that can be achieved on the subject.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman.

I want to say on behalf of the gentleman from Pennsylvania that the gentleman is one of the most eloquent and one of the most compassionate Members of this House. Last year we had these very same programs in jeopardy by a Presidential veto. I sat spellbound and listened as the gentleman from Pennsylvania extolled the absolute necessity for each of these programs.

Nurses, hospitals, schoolchildren, old folks—all these programs were in jeopardy—and I followed the gentleman. I followed the gentlemen from Pennsylvania to the brink, and over the brink to victory. An overwhelming majority of us in this House followed the gentleman from Pennsylvania; and we overrode the veto because we wanted more money for each of these programs.

Now, all of these programs right now are again gravely threatened. I plead with the gentleman from Pennsylvania to have the same compassion, the same understanding heart, and the same eloquence that he demonstrated last year in defense of the continuation of these programs.

Recipients of the aid-to-dependent-children program; black lung beneficiaries; old people who are not going to be fed; all these for whom the money has run out, are jeopardized.

It is not going to avail us much, either, to argue endlessly about whose fault it is. In the mind of the public, it is going to be the fault of this Congress for its failure to produce legislation.

When that happens, it is not going to make any difference whether we say it was the Senate's fault, or whether they say it was our fault. Each of us has a responsibility to try to work it out, and the only way I see that we can work it out now is to vote for this amendment.

If you do not, be prepared to face the responsibility and to accept the responsibility upon your shoulders for having voted to let these programs die.

Thank you, Mr. Speaker.

Ms. HOLTZMAN. Mr. Speaker, although, in order to reach a compromise, I have in the past reluctantly agreed to restrict the right of poor women to safe medical abortions, I today oppose the Michel amendment which would limit abortions for rape victims to situations where the rape was "forced" and reported "promptly" to a law enforcement agency or public health service.

Compromise should mean flexibility on both sides, and so far it has not. In an attempt to reach an accommodation, prochoice advocates have changed their position four times this year alone. Opponents have done so only once. A further concession of the magnitude involved in this amendment would be capitulation rather than compromise.

The amendment's most objectionable provision limits federally funded abortions for rape victims to cases where the rape was "forced." This would exclude statutory rape and raises questions of what evidence the victim must provide before she is entitled to an abortion.

The requirement that rape be "reported promptly" is also unreasonable. It ignores the fact that many rapes are never reported—because of fear publicity, because of shame, because of fear of reprisals, because the process is humiliating. It is unrealistic to require that all poor women overcome such feelings "promptly" or effectively forfeit their right to an abortion.

Mr. MICHEL. Mr. Speaker, I move the previous question on the amendments and the joint resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL) to the amendment offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 170, nays 200, not voting 64, as follows:

[Roll No. 763]

YEAS—170

Addabbo
Akaka
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashley
Aspin
AuCoin
Baucus
Bedell
Bennett
Bingham
Blanchard
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burlison, Mo.
Butler
Cleveland
Cohen
Collins, Ill.
Conable
Corman
Coughlin
Daniel, R. W.
Davis
Derrick
Dickinson
Dicks
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
Edgar
Edwards, Ala.
Fdwards, Calif.
Evans, Colo.
Evans, Del.
Fascell
Fenwick
Findley
Fisher
Flippo
Flowers
Foley
Fountain
Fowler
Fraser
Frenzel
Fuqua
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Gudger
Hamilton
Hammerschmidt
Hannaford
Harrington
Harris
Hefner
Heftel
Holland
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Kostmayer
Krebs
Leach
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, Md.
McCormack
McFall
McHugh
McKinney
Maguire
Mahon
Mann
Martin
Metcalfe
Meyner
Michel
Mikva
Mineta
Moffett
Mollohan
Moorhead, Pa.
Neal
Nix
Obey
Panetta
Pattison
Pease
Pepper
Pettis
Pickle
Pike
Poage
Preyer
Price
Pursell
Rangel
Reuss
Richmond
Rogers
Rose
Roybal
Runnels
Ryan
Santini
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Sisk
Slack
Smith, Iowa
Spellman
Steed
Steers
Stokes
Studds
Teague
Thompson
Thornton
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Walgren
Whitehurst
Whitley
Wiggins
Wilson, Tex.
Wolff
Wright
Yates

NAYS—200

Abdnor
Ambro
Ammerman
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bevill
Biaggi
Blouin
Boggs
Boland
Bonior
Breaux
Broomfield
Brown, Ohio
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Coleman
Collins, Tex.
Conte
Corcoran
Cornell
Cotter
D'Amours
Daniel, Dan
de la Garza
Delaney
Dellums
Derwinski
Devine
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Eilberg
Emery
English
Evans, Ind.
Fary
Fish
Flood
Florio
Flynt
Frey
Gaydos
Gephardt
Gibbons
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hansen
Harsha
Heckler
Hightower
Holt
Holtzman
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Kasten
Kazen
Kemp
Kildee
Kindness
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Livingston
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McClory
McDade
McDonald
McEwen
McKay
Madigan
Markey
Marks
Marlenee
Mazzoli
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Patten
Perkins
Pressler
Rahall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rooney
Rostenkowski
Rousselot
Rudd
Satterfield
Schulze
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steiger
Stratton
Stump
Taylor
Thone
Traxler
Treen
Vander Jagt
Vento
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
Weiss
White
Whitten
Winn
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—64

Badillo
Beilenson
Bolling
Broyhill
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Crane
Cunningham
Danielson
Dent
Downey
Eckhardt
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Gammage
Goldwater
Hall
Hanley
Harkin
Hawkins
Hillis
Hollenbeck
Kelly
Koch
Krueger
Lent
Lundine
McCloskey
Marriott
Mathis
Mattox
Meeds
Mikulski
Milford
Moss
Patterson
Pritchard
Quayle
Quie
Quillen
Railsback
Roncalio
Rosenthal
Ruppe
Russo
Sawyer
Sebelius
Stockman
Symms

Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Beilenson for, with Mr. Koch against.

Mrs. Chisholm for, with Mr. Russo against.

Mr. Krueger for, with Mr. Gammage against.

Mr. Mattox for, with Mr. Hall against.

Mr. Downey for, with Mr. Ford of Tennessee against.

Mr. Ford of Michigan for, with Mr. Hanley against.

Mr. Conyers for, with Mr. Ertel against.

Mr. Forsythe for, with Mr. Mathis against.

Mr. Waxman for, with Mr. Erlenborn against.

Mr. Lundine for, with Mr. Lent against.

Mr. Cornwell for, with Mr. Sawyer against.

Ms. Mikulski for, with Mr. Kelly against.

Mr. Patterson of California for, with Mr. Marriott against.

Mr. Badillo for, with Mr. Pritchard against.

Mr. Clay for, with Mr. Quayle against.

Mr. Danielson for, with Mr. Quie against.

Mr. Eckhardt for, with Mr. Young of Alaska against.

Mr. Moss for, with Mr. Symms against.

Mr. Meeds for, with Mr. Whalen against.

Mr. Hawkins for, with Mr. Fithian against.

Mr. Rosenthal for, with Mr. Hillis against.

Mr. Charles H. Wilson of California for, with Mr. Sebelius against.

Mr. Weaver for, with Mr. Crane against.

Mr. Wirth for, with Mr. Quillen against.

Mr. Bolling for, with Mr. Ruppe against.

Mr. Harkin for, with Mr. Goldwater against.

Until further notice:

Mr. Milford with Mr. Bob Wilson.

Mr. Broyhill with Mr. Phillip Burton.

Mr. McCloskey with Mr. Evans of Georgia.

Mr. Hollenbeck with Mr. Dent.

Mr. Railsback with Mr. Roncalio.

Messrs. PATTEN, ROBERTS, GOODLING, and RISENHOOVER changed their vote from "yea" to "nay."

Mr. RICHMOND and Mr. PURSELL changed their vote from "nay" to "yea."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. MAHON).

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 9375 MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1978

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 1, 1977.)

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the statement of the managers be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) is recognized for 30 minutes, and the gentleman from Michigan (Mr. CEDERBERG) is recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, we have before us today a conference report on the $7.6 billion supplemental appropriations bill. With the exception of additional funds added for AMTRAK as instructed by the House, this is the same bill that was in the House last Wednesday, November 30. I covered the highlights of the bill on that day and I will not repeat them here.

When the bill was before the House last week, a motion by the gentleman from Massachusetts (Mr. CONTE) as amended by the gentleman from Tennessee (Mr. GORE) to recommit the bill to conference was agreed to with instructions to the conferees. These instructions were to increase the funds for AMTRAK from the $8 million originally agreed to by the House-Senate conferees to the $18 million originally approved in the Senate bill.

The conferees met again on December 1 and carried out those instructions in consultation with the Senate. The conference agreement provides $18 million in funds to AMTRAK.

Mr. Speaker, we ought to be very careful in making appropriations to the National Railroad Passenger Corporation. We should insist there be good business discipline in the operation of our Nation's passenger lines. We must get a handle on this very complex transportation problem before it becomes completely out of control. We shouldn't commit millions upon millions to maintain unprofitable and unused rail transport just for the sake of keeping the trains running. The public expects efficiency and improved productivity from its railroad industry and AMTRAK should make that its first priority.

There will be considerable debate on both the B–1 rescission and on the $200 million for the winter fuel bills program.

The Senate added the rescission of B–1 production and the SRAM missile to the bill and the conferees agreed to these actions. We have come a long way in rejecting B–1 production and have had several hotly contested votes in the House on this matter. Each time the House has voted to eliminate B–1 bomber production, and these rescissions are just a further expression of that intent. At the appropriate time I shall offer motions to concur with the Senate in approving these rescissions.

The Senate bill contained $200,000,000 for the payment of winter fuel bills under the Community Services Administration. The Congress has never received a formal budget request for this item, and the House did not include any funds in the bill for this purpose. During the conference, the House conferees voted 7 to 2 against providing these funds. Therefore, at the appropriate time, I shall offer a motion to the House to insist on our disagreement with the Senate amendment which appropriates these funds.

Finally, Mr. Speaker, this bill contains $80,000,000 for the Clinch River breeder reactor. Since that amount was in both House and Senate bills, that subject is not before us today and there will not be a separate motion on the breeder.

Mr. Speaker, the supplemental now totals $7,599,898,000; which is $307,526,000 under the budget estimates, $417,296,000 over the House bill and $290,348,000 under the Senate bill.

At this point, I offer a summary table showing the agreement reached at the further conference compared with the budget estimates and the action on the bill by the House and Senate.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—SUPPLEMENTAL APPROPRIATIONS BILL, 1978

Chapter	Subcommittee summary	New budget authority				Conference compared with—		
		Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Fiscal year 1978 estimate	House bill	Senate bill
I	Agriculture—Rural Development:							
	New budget (obligational) authority	4,145,000	34,145,000	101,157,000	102,745,000	+98,600,000	+68,600,000	+1,588,000
	(Insured loans)			(100,000,000)				(−100,000,000)
	(Liquidation of contract authority)			(36,600,000)	(36,600,000)	(+36,600,000)	(+36,600,000)	
II	Housing and Urban Development—Independent Agencies:							
	New Budget (obligational) authority	4,625,000,000	4,630,500,000	4,779,947,000	4,638,047,000	+13,047,000	+7,547,000	−141,900,000
III	Interior and Related Agencies:							
	New budget (obligational) authority	1,303,792,000	466,363,000	757,249,000	746,813,000	−556,979,000	+280,450,000	−10,436,000
IV	Labor and Health, Education, and Welfare:							
	New budget (obligational) authority	110,337,000	29,070,000	345,689,000	150,689,000	+40,352,000	+121,619,000	−195,000,000
	Appropriations	95,337,000	14,070,000	330,689,000	135,689,000	+40,352,000	+121,619,000	−195,000,000
	Authority to spend debt receipts	15,000,000	15,000,000	15,000,000	15,000,000			

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—SUPPLEMENTAL APPROPRIATIONS BILL, 1978—Continued

		New budget authority				Conference compared with—		
Chapter	Subcommittee summary	Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Fiscal year 1978 estimate	House bill	Senate bill
V	Public Works:							
	New budget (obligational) authority		121,000,000	104,450,000	106,450,000	+106,450,000	−14,550,000	+2,000,000
	(By transfer)			(875,000)	(875,000)	(+875,000)	(+875,000)	
VI	State, Justice, Commerce, and the Judiciary:							
	New budget (obligational) authority	1,408,850,000	1,407,000,000	1,407,500,000	1,407,000,000	−1,850,000		−500,000
	(By transfer)	(2,668,000)	(2,668,000)	(2,668,000)	(2,668,000)			
VII	Treasury, Postal Service and General Government:							
	New budget (obligational) authority		54,000	54,000	54,000	+54,000		
	(Increase in limitations)		(48,913,000)	(34,130,000)	(48,913,000)	(+48,913,000)		(+14,783,000)
VIII	Defense:							
	New budget (obligational) authority	449,000,000	494,470,000	369,900,000	423,800,000	−25,200,000	−70,670,000	+53,900,000
	Rescission of prior year budget authority	(−463,400,000)		(−463,400,000)	(−463,400,000)		(−463,400,000)	
IX	Transportation:							
	New budget (obligational) authority			18,000,000	18,000,000	+18,000,000	+18,000,000	
X	Foreign Operations:							
	New budget (obligational) authority	6,300,000		6,300,000	6,300,000		+6,300,000	
	Grand total:							
	New budget (obligational) authority	7,907,424,000	7,182,602,000	7,890,246,000	7,599,898,000	−307,526,000	+417,296,000	−290,348,000
	Appropriations	7,892,424,000	7,167,602,000	7,875,246,000	7,584,898,000	−307,526,000	+417,296,000	−290,348,000
	Authority to spend debt receipts	15,000,000	15,000,000	15,000,000	15,000,000			
	Rescission of prior year budget authority	(−463,400,000)		(−463,400,000)	(−463,400,000)		(−463,400,000)	
	(Insured loans)			(100,000,000)				(−100,000,000)
	(By transfer)	(2,668,000)	(2,668,000)	(3,543,000)	(3,543,000)	(+875,000)	(+875,000)	
	(Increase in limitations)		(48,913,000)	(34,130,000)	(48,913,000)	(+48,913,000)		(+14,783,000)
	(Liquidation of contract authority)			(36,600,000)	(36,600,000)	(+36,600,000)	+36,600,000	

Mr. Speaker, I yield such time as he may require to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. I thank the chairman.

Mr. Speaker, on November 30, 1977, on page 38141 of the CONGRESSIONAL RECORD I explained to the Congress the items having to do with agriculture in this conference report. At that time I also discussed a bill which had been introduced, which would compare the price received by those engaged in agriculture to that received by industry and labor.

Mr. Speaker, my friend, the gentleman from North Dakota (Mr. ANDREWS), the ranking member of our Appropriations Subcommittee for Agriculture, Rural Development, and Related Agencies, has joined in urging passage of a bill I introduced on October 17 on behalf of our subcommittee—H.R. 9608—which would amend the Agriculture Act of 1977, Public Law 95–113, by providing that both the target and loan provisions of the act be increased periodically to reflect the cost of living increases granted to individuals in the public and private sector or to reflect increases in the minimum wage.

The bill would further authorize the Secretary of Agriculture to utilize section 3 funds (30 percent of import duties) to maintain both adequate supplies and prices for perishable commodities; that section 32 purchases shall be used to maintain a price for perishable commodities that reflects cost-of-living increases granted to individuals in the public and private sector or increases in the minimum wage and further that all laws in conflict with these recommendations be modified as needed.

The effect of our bill would be to tie farm target prices and loans to actions by the Congress or by contract with wage rates received by labor, and prices charged by manufacturers, the net effect of which would leave the farmer or those engaged in agriculture pulling with industry and labor as against having to take issue with them in efforts to keep a proper balance.

Mr. Speaker, our subcommittee spends months each year in reviewing the overall agriculture budget request for the Department of Agriculture and in getting funds through Congress, and we feel the bill makes sense, would be in words which labor and industry and the consumer would understand, and would maintain a proper balance between the three—agriculture, industry, and labor.

Such a balance is absolutely necessary because history shows that if either of the three fails, it pulls down the other two.

Mr. Speaker, the provisions of our bill have been discussed with Secretary of Agriculture Bergland and he has assured us it will have his immediate attention.

Mr. Speaker, our approach would justify the Secretary, under existing law, to increase now both the target price and the loan rate in line with recent congressional action on increasing the minimum wage and in line with increased prices charged by industry.

For the future, again, our bill would maintain the balance essential to a sound economy, would help to maintain a prosperous nation, a nation of plenty instead of scarcity and would cause the three major elements—agriculture, industry, and labor—to operate in accord instead of clashing in a contest as each segment attempted to get a larger share of the consumer dollar by law, leaving less for the other two.

Mr. Speaker, we are hopeful the President and the Secretary of Agriculture will recommend this change to existing law. If not, we shall urge the legislative committee and the Congress to approve these changes.

Since this Congress and this calendar year are soon coming to an end, we would like to call to the attention of the House, H.R. 9608, which reads as follows:

> A bill to protect the economy of the United States; domestic agriculture, labor, and industry, by the maintenance of farm income and purchasing power
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, the loan rates and target prices for 1977 through 1981 set forth in the Food and Agriculture Act of 1977 (Public Law 95–113) for wheat, feed grains, upland cotton, rice, peanuts, soybeans, and sugar shall be increased periodically to reflect costs of living increases granted to individuals in the public and private sector or to reflect increases in the minimum wage.
>
> The Secretary of Agriculture is also hereby authorized and directed to utilize section 32 funds to maintain both adequate supplies and prices for perishable agricultural commodities. Section 32 purchases shall be used to maintain a price for perishable commodities that reflects costs of living increases granted to individuals in the public and private sector or increases in the minimum wage. All laws in conflict are hereby modified to conform to this provision.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, chapter II of the 1978 supplemental conference agreement includes an appropriation of $4.5 billion to the Environmental Protection Agency for construction of sewage treatment facilities. At the time the conferees reached agreement on this item, no agreement had been reached on the water authorization bill (H.R. 3199). Lacking such an agreement, the Appropriations Committees adopted a distribution formula based on the 1976 "needs" survey and 1975 population estimates.

About 1 week after the conference on the supplemental appropriations bill was concluded, agreement was reached on the water authorization bill. At the proper time I shall offer a motion to substitute the authorization formula for the appropriation formula.

The bill also includes $44,200,000 for important EPA energy related research and development; $85,000,000 for abatement and control, including $69,000,000 for the section 208 areawide planning grants program and $16,000,000 for the toxic pollutants effluent guidelines program; $5,000,000 for new veterans' State extended care facilities; and $3,847,000 to continue development of a new medical school at Martinsburg, W. Va.

The conferees agreed to delay funding of a new veterans' hospital in Portland, Oreg., until the Veterans' Administration and the committee have had an opportunity to thoroughly digest and review the House committee's report conducted by the surveys and investigations staff. When the review has been completed, a recommendation to fund the new Portland VA Hospital will be made.

Thank you, Mr. Speaker.

Mr. MAHON. I yield such time as he may consume to the gentleman from California (Mr. McFALL), the chairman of the subcommittee handling this legislation.

Mr. McFALL. Mr. Speaker, pursuant to the instructions in the motion to recommit adopted by the House last week, the conference report before us today provides a total of $18 million in supplemental appropriations for Amtrak. I voted against the motion to recommit and I feel that the House's acceptance of the motion was most unwise. However, as I stated last week, I believe it is very important that the Department of Transportation undertake a comprehensive analysis of Amtrak's current route structure. This is provided for in the conference report.

Amtrak has been operating for nearly 7 years now and has cost the American taxpayer $3.4 billion. The Department's study should address the underlying reasons why the taxpayer must contribute nearly 70 percent of the cost of an Amtrak train while the users only pay 30 percent. Is it because the equipment and service are poor? Are there enough external benefits from energy conservation and environmental enhancement to justify this substantial public subsidy? Are there no other modes of transportation serving communities in sparsely populated areas of our Nation? I am hopeful that after the Department closely analyzes these issues and recommends a rational route structure for Amtrak, my colleagues, who spoke so favorably about this study, will see fit to support its recommendations.

Mr. Speaker, the Amtrak Improvement Act of 1975 provided for the Amtrak Board of Directors to make route and service decisions based on a set of economic, social, and environmental criteria. The conference agreement does not change the requirement to use the route and service criteria in making decisions nor does it suspend the implementation of the criteria.

Mr. CEDERBERG. Mr. Speaker, as far as the minority is concerned, we debated this before, prior to the motion to recommit, so we do not want to take any time but want to get into the substance of the amendments.

Mr. Speaker, I reserve the balance of my time.

Mr. FLOOD. Mr. Speaker, the Labor-HEW chapter of this supplemental appropriations bill as agreed to by the conferees provides appropriations totaling $150,689,000. This amount is $40,352,000 more than requested by the President, $5,000,000 more than provided by the Senate, and $121,419,000 above the amounts allowed by the House. The substantial increase over the House bill is due primarily to the funds provided for the Indochinese refugee assistance program which had not been authorized when the House acted, but for which $71.7 million had been requested by the President.

These amounts are exclusive of the Community Services Administration for which the Senate bill includes $200,000,000 for the emergency fuel assistance program. This item was reported in disagreement and will have to be resolved by the entire House and Senate.

I will now summarize the agreements reached by the conferees on the Labor-HEW items.

The Senate added language to the bill earmarking funds specifically for 82 new positions for the Department of Labor. Although the House conferees had no objection to the additional jobs, we felt it was unnecessary to include bill language to accomplish this. We agreed to include language in the joint explanatory statement for this purpose.

Another Senate amendment involved a technical matter affecting loan and loan guarantee funds for hospital construction. The Senate added language which extends the availability of funds appropriated in earlier years so that approved construction projects can be completed. These projects are already under way. No new funds are involved. The House conferees agreed to this extended availability.

With respect to construction of "model intercultural" facilities at Georgetown University in Washington, D.C. and Tufts University in Boston, the House provided $9.1 million for construction grants, $7.2 million in construction loans, and $2.9 million from unobligated balances in prior year appropriations for academic graduate facilities. The Senate had deleted these funds. The conferees agreed to only reduce the grant amount from $9.1 million to $5 million and to accept the House position on the balance of funding. The House conferees were convinced that this would provide sufficient funds to complete both of these centers which may then serve as models for similar programs across the country.

The conferees agreed with the Senate on funding for assistance to Indochinese refugees. The House had not acted on this item because the authorizing legislation had not then been enacted. Since the extension of the program has now been signed by the President, the House conferees agreed with the Senate on the amount of $124,000,000. These funds will continue both the reimbursement to States for welfare costs for refugees and $10,000,000 for special educational projects. Fiscal year 1978 is the first year of a 4-year phase-out provided for under the new legislation for this program.

The conferees also agreed to $1,719,000 included by the Senate for the settlement of legal claims arising between HEW and the State of Washington because of the transfer of the Tacoma Indian Hospital. This is a unique case and we believe this appropriation will produce a fair settlement of a claim which could have resulted in protracted legal costs to the Government.

Finally as mentioned earlier, there is one item which the conferees could not resolve and which is reported in disagreement. This is amendment No. 29—the emergency fuel assistance program. The House had not included funds for it. Most of the House conferees objected to this program. I want to make it clear that I do not agree with the majority of the House conferees on this item. I intend to support the Senate position when the motion is offered on amendment 29 after the adoption of the conference report.

Mr. DICKS. Mr. Speaker, I rise in support of the Senate amendment to the supplemental appropriation concerning the access of Tacoma, Wash., to the Interstate Highway System. Tacoma is the largest city in my district. It is the only city of its size in the Nation without an entrance or an exit to an interstate highway. A spur connecting Tacoma's central business district and the Port of Tacoma to Interstate 5 has been proposed. Interstate 5 is the major north-south highway between Canada and Mexico and connects Tacoma with Seattle and Portland. An application to add the Tacoma spur to the Interstate System has been accepted by the Department of Transportation. The need to construct the spur is apparent and the project meets the revised criteria for additions to the interstate that have been prepared by the Department of Transportation.

The Tacoma spur is unique among projects currently proposed for inclusion in the Interstate System. The spur not only provides access to the center of a city, but also provides access to the only deepwater port on the west coast. This port plays a vital role in the country's timber industry and in our vital role in the country's timber industry and in our growing trade with China and the Soviet Union. The port has also played a significant role in the construction of the Alaska pipeline. Failure to construct the Tacoma spur will hinder international trade, worsen the energy crisis, and raise the price of timber. The repercussions will affect not only the declining economy in Tacoma, but also the economy of the entire Nation. Construction of the Tacoma spur will avoid further deterioration of an economy that has a tremendous potential.

As a member of the House Appropriations Committee, I am well aware of the need to spend Federal dollars at the same time and place as other public and private investors. Piggy-backing increases the total impact on an economy. Money spent on the Tacoma spur will be in addition to funds provided by the city, county, port, and State for new business, industrial, and residential development. Additional capital is being actively sought and block grant money is being used to create jobs. Construction of the Tacoma spur will not only improve the national economy, it will increase the Nation's return on its investment dollar. I urge you to support the Senate's request.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: Page 2, after line 11, insert:

Agricultural Marketing Service

MARKETING SERVICES

For an additional amount to implement the Government-Wide Food Quality Assurance Program, $3,708,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

Agricultural Marketing Service

MARKETING SERVICES

For an additional amount for the "Agricultural Marketing Service, Marketing Services", $2,000,000.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 2, after line 15, insert:

Federal Crop Insurance Corporation

SUBSCRIPTION TO CAPITAL STOCK

To enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation, as provided in section 504 of the Federal Crop Insurance Act (7 U.S.C. 1504), $30,000,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 2, after line 14, insert:

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

For an additional amount to carry out the Agricultural Conservation Program, $36,600,000, to incur obligations for the period ending September 30, 1978, and to liquidate such obligations for soil and water conserving practices in major drought or flood damage areas as designated by the President or the Secretary of Agriculture: *Provided*, That not to exceed 5 per centum of the amount herein may be withheld with the approval of the State committee and allotted to the Soil Conservation Service for services of its technicians in the designated drought or flood damaged areas.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disageement to the amendment of the Senate numbered 5 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 3, line 23, strike out all after "with" over to and including "Representatives" in line 2 on page 4 and insert: "the table on page 15 of Senate Report Numbered 95-564 in the absence of final congressional action on H.R. 3199 by November 15, 1977".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "the table on page 15 of the Senate Report Numbered 95-564".

Mr. MAHON. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. Boland).

AMENDMENT OFFERED BY MR. BOLAND TO THE MOTION OFFERED BY MR. MAHON

Mr. BOLAND. Mr. Speaker, I offer an amendment to the motion.

The Clerk read as follows:

Amendment offered by Mr. Boland to the motion offered by Mr. Mahon: In lieu of the matter proposed to be inserted by the motion, insert the following: "table 3 of committee print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives".

The Speaker pro tempore. The gentleman from Massachusetts (Mr. Boland) is recognized.

Mr. BOLAND. Mr. Speaker, I understand that the conference report on the amendments to the Federal Water Pollution Control Act will be filed today. That conference report will contain authorizations for waste water treatment plant construction grants from 1978 through 1982. The basis for the funding under this program is contained in table 3 of the committee print numbered 95-30 of the Committee on Public Works and Transportation. This table displays the allotment formula for construction grant funds, for municipal waste treatment facilities. Under these circumstances, it is appropriate that this formula should be used in the allocation of funds for the sewage treatment construction grant program funded in this supplemental appropriations bill.

The purpose of my amendment is simply to substitute the authorization formula for the formula agreed to in the supplemental appropriations bill.

Mr. Speaker, I will insert at this point a table showing the distribution of the $4.5 billion by State:

Alabama	$57,789,000
Alaska	19,057,500
Arizona	34,906,500
Arkansas	33,808,500
California	357,804,000
Colorado	41,341,500
Connecticut	49,824,000
Delaware	17,982,000
District of Columbia	14,368,500
Florida	172,647,000
Georgia	87,381,000
Hawaii	35,676,000
Idaho	22,284,000
Illinois	233,743,500
Indiana	124,551,000
Iowa	58,288,500
Kansas	39,613,500
Kentucky	65,781,000
Louisana	56,812,500
Maine	33,727,500
Maryland	124,996,500
Massachusetts	132,939,000
Michigan	185,877,000
Minnesota	84,109,500
Mississippi	43,470,000
Missouri	112,306,500
Montana	15,624,000
Nebraska	24,772,500
Nevada	18,621,000
New Hampshire	39,645,000
New Jersey	160,717,500
New Mexico	17,185,500
New York	477,940,500
North Carolina	89,136,000
North Dakota	13,981,500
Ohio	290,947,500
Oklahoma	41,755,500
Oregon	58,383,000
Pennsylvania	196,272,000
Rhode Island	23,634,000
South Carolina	52,947,000
South Dakota	16,798,500
Tennessee	69,687,000
Texas	196,353,000
Utah	20,056,500
Vermont	17,302,500
Virginia	88,209,000
Washington	79,596,000
West Virginia	80,563,500
Wisconsin	87,763,500
Wyoming	13,513,500
American Samoa	2,772,000
Guam	3,348,000
Puerto Rico	52,803,000
Trust Territory of Pacific Islands	6,885,000
Virgin Islands	1,701,000
Total	4,500,000,000

Mr. Speaker, I yield to the distinguished gentleman from California (Mr. Johnson), the chairman of the authorization Committee on Public Works and Transportation.

Mr. JOHNSON of California. Mr. Speaker, as chairman of the Committee on Public Works and Transportation and as one of the managers on the part of the House on the conference on the Federal Water Pollution Control Act amendment, I deeply appreciate the cooperation of the Appropriations Committee and in particular the assistance of the full committee, the gentleman from Texas (Mr. Mahon) chairman of the key subcommittee, the gentleman from Massachusetts (Mr. Boland) and the ranking minority member thereof, Mr. Cederberg of Michigan, in the assistance they have provided the conferees by their acceptance of the amendment offered by Mr. Boland which will for the next 5 years of the construction grant phase of the water pollution program provide for a uniform allocation formula to all of the States. This construction program is one of the key phases of the pollution program and the formula was worked out very carefully by the conferees. It is an equitable one and will provide for proper funding throughout the various States.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Boland) to the motion offered by the gentleman from Texas (Mr. Mahon).

The amendment to the motion was agreed to.

The motion, as amended, was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 5, after line 3, insert:

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For an additional amount for travel, from funds previously appropriated for the Consumer Information Center, $5,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 5, line 18, after "1980" insert ": *Provided*, That all unobligated balances from prior appropriations made available for carrying out 38 U.S.C. 644 and 5031-5037 shall also be available for purposes authorized by Public Law 95-62".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 7, line 13, after "positions" insert ": *Provided further*, That section 201(b) of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445) is amended to delete the roman numeral "IV" in the first sentence and substitute the roman numeral "V" in lieu thereof".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: Page 7, line 20, strike out "$8,054,000" and insert "$7,224,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$8,374,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 10, after line 22, insert:

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

OPERATING EXPENSES—FOSSIL FUELS

For an additional amount for "Operating expenses—fossil fuels", $5,000,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement

The Clerk read as follows:

Senate amendment No. 23: Page 11, after line 1, insert:

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $276,344,000, of which $253,110,000 shall become available only upon enactment of authorizing legislation as follows: (1) for conservation grants for schools and health care facilities $200,000,000; for conservation grants for local government buildings, $25,000,000; for grants for financial assistance to utility regulatory commissions, $6,630,000; for solar heating and cooling installations in Federal buildings, $20,000,000; to remain available for obligation until September 30, 1979; and (2) for administration of grants for school and health care facilities, local government buildings, and utility rate reform, $1,480,000: *Provided*, That of the total amount of this appropriation not to exceed $6,000,000 shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94-163: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $62,000,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $273,194,000, of which $253,110,000 shall become available only upon enactment of authorizing legislation as follows: (1) for conservation grants for schools and health care facilities $200,000,000; for conservation grants for local government buildings, $25,000,000; for grants for financial assistance to utility regulatory commissions, $6,630,000; for solar heating and cooling installations in Federal buildings, $20,000,000; to remain available for obligation until September 30, 1979; and (2) for administration of grants for schools and health care facilities, local government buildings, and utility rate reform, $1,480,000: *Provided*, That of the total amount of this appropriation not to exceed $6,000,000 shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94-163: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $62,000,000.

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25: Page 12, after line 18, insert:

HEALTH RESOURCES ADMINISTRATION

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

Of the loan principal allotted under title VI of the Public Health Service Act for fiscal year 1973 which remained unobligated on September 30, 1976, not to exceed $2,000,000 shall be available to honor commitments made by the Secretary prior to October 1, 1976, to make or guarantee loans under such title VI.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 13, after line 2, insert:

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For an additional amount for "General Departmental Management", $1,719,000 for compensating the State of Washington for losses it incurs in vacating and turning over to the United States the land and all improvements thereon which was formerly the site of the Tacoma Indian Hospital in Tacoma, Washington.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 29: Page 14, after line 5, insert:

RELATED AGENCIES

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services program", $200,000,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House insist on its disagreement to the amendment of the Senate numbered 29.

PREFERENTIAL MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. ADDABBO moves that the House recede and concur in the Senate amendment 29.

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) is recognized for 30 minutes.

Mr. MAHON. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. ADDABBO) at this time.

Mr. ADDABBO. Mr. Speaker, if my motion is agreed to then the Senate amendment including $200 million for aid to needy to pay fuel bills for the Community Services Administration is intended to, and will provide emergency assistance to low-income persons this winter, many of whom are senior citizens.

Through the continuation of this special crisis intervention program (SCIP), Congress will sustain its efforts to assist low-income Americans to pay fuel bills which they are simply unable to afford.

It is not a luxury to heat one's home—it is a necessity as essential as food or clothing. Congress has not hesitated in the past, and should not now hesitate to assist our low-income citizens obtain the necessities of life, of which they are deprived through no fault of their own. The energy crisis is real and all crises require sacrifice and the expenditure of resources to overcome. Can our low-income people be expected to suffer a sacrifice which they do not have the resources to fight? Instead of viewing $200 million as a mere expenditure—a debit on our national balance sheet—let us look to the consequences, of nonaction, of doing nothing to help these disadvantaged individuals.

I, for one, would not want to be responsible for such consequences. I would not want to face my needy constituents and merely offer sympathy for their plight, and be at a loss to explain why this body, to which the people elected me, has failed to respond to their needs. I could not explain to them why we subsidize big business and yet fail to subsidize the needy in their struggle for the necessities of life.

Last year, the SCIP program received a $200 million appropriation from the Congress, yet this assistance did not reach the local level until the summer, although nearly 2 million needy individuals were certified for SCIP payments and the States obligated 80 percent of their available allocations. In short, the program had limited success because the assistance came too late.

In addition, last year, there was a legal prohibition for using SCIP for program administration, which resulted in an administrative delay. But this deficiency will also be cured by the passage of today's supplemental, which does not contain any similar prohibition.

Let me describe how this winter's program will operate: $200 million will be appropriated to the Community Services Administration for use through the coming winter. The funds will not flow automatically to the States according to a set formula, as did last spring's appropriation. Rather they will be used to provide assistance to eligible persons faced with a specific emergency situation. The discretion to determine the circumstances which constitute an emergency is vested in the Administrator of CSA, after consultation with the Secretary of the Department of Energy.

The approach—of treating emergencies rather than simply providing assistance to all who qualify—was selected because we are putting this program on line and ready to operate before the winter begins. This broad authority will allow this program to be used to meet the variety of energy-related problems that are likely to arise this winter. The Administrator is urged to take into account such factors as temperatures, fuel costs, and unemployment. However, these are merely guidelines and do not offer specific thresholds or criteria for determining an emergency.

The Administrator must carefully monitor the situation within each State. She must take into account requests made by State and local officials. She must determine the existence of emergencies not only when they occur, but I encourage her to develop techniques to identify such emergencies before they occur.

It must be remembered that this $200 million supplemental is a stopgap measure only. The administration has proposed a permanent solution in September, but that measure is pending in the Congress and is not likely to be enacted before the severity of this winter is upon us. Therefore, the need for this temporary measure becomes all the more apparent.

The President supports this measure. It is supported by the National Governors Association, the National Council of Senior Citizens, the AFL–CIO, the Consumer Federation of America, and the League of Cities, I urge that my colleagues not fail in meeting the legitimate interests of their needy constituents. I urge you to meet this crisis for our disadvantaged citizens who do not have the means to fight this crisis alone.

I urge the House to accept the Senate provisions.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Speaker, I notice that in my colleague's remarks concerning the earlier legislation, one of the drawbacks was described as having a limitation on the administrative costs. I wondered whether there was any administrative costs limitation in this amendment offered by my colleague, and, if so, what it is.

Mr. ADDABBO. There is no limitation on administrative costs in this amendment.

Mrs. FENWICK. So that all of the money could be used, or a large portion, for administrative costs?

Mr. ADDABBO. It could, but it would be very unlikely, because CSA, which already has the appropriation for its department throughout the year, will be operating this program.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

Mr. Speaker, if I might be permitted to respond to the gentlewoman from New Jersey, we do have the figures here from the various States, all of the States, on what their administrative costs were last year, and I think the gentlewoman and my colleagues will be impressed with the small amount that was spent on administrative costs.

For example, in Florida they spent over $1.5 million, and they did that with $100,000 in administrative costs. In Tennessee, they spent $3.5 million, with $10,000 administrative costs.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. ADDABBO) has expired.

Mr. MAHON. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York (Mr. ADDABBO).

Mr. MOFFETT. Mr. Speaker, will the gentleman yield further?

Mr. ADDABBO. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I would just like to add, if I might, that it was a situation, as the gentlewoman knows, where we voted on this in the midst of a crisis, so to speak, on March 16. The bill was not signed until May.

The CSA did a fairly good job, I think, in trying to figure out what the various State bureaucracies were, and those State bureaucracies got cranked up. We are not going to have to go through that this time, so the administrative costs will be lower.

Mrs. FENWICK. Mr. Speaker, the administrative costs, as I understand it, were limited, and that may account for the modest cost my colleague has been describing.

I understand that the last time some of this fuel went to the Virgin Islands and some of it went to Hawaii. I am sure that is not premeditated in this particular legislation.

Let me ask the gentleman, is that guarded against?

Mr. ADDABBO. Mr. Speaker, I can tell the gentlewoman that such funds for emergency fuel costs will be corrected to reflect need and not State allocations and an effort will be made to put the program in place with proper guidelines before the crisis occurs. In this way CSA can set the criteria and can work out the emergency measures and set all the guidelines so that this program will not be abused.

Mr. COTTER. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Connecticut.

Mr. COTTER. Mr. Speaker, I applaud the gentleman from New York (Mr. ADDABBO) for taking the initiative and the lead in this area. This is very necessary in my own State of Connecticut where there are some 20,000 homes affected. There are some 27,000 homes which will be affected this winter by a shortage of fuel.

Mr. Speaker, I rise in support of the special crisis intervention program.

This $200 million program is designed to help the poor and the near poor pay their high heating bills when a crisis exists. We all know what this program meant to thousands of families last winter. In my own State, Connecticut, over 54,000 people in 20,000 homes were assisted by this program.

Mr. Speaker, I want to inform my colleagues that this Government effort in Connecticut was supplemented by private philanthropy through "Operation Fuel," which raised $300,000 to assist poor Connecticut families. This program was directed by Mike Dorsey and both Mike and Ned Coll, Governor Grasso's special assistant, have been very helpful in securing congressional support for the special crisis intervention program.

I know that some Members who supported the program last year said that they were doing it because it was a "one shot deal." However, I believe that the situation confronting poorer Americans requires an extension of this program. The Community Services Administration estimates that over 1,892,163 individuals face having their gas, electricity, or home heating oil shut off. The Carter administration recognized this need and proposed a more permanent program on September 21, but we do not have time to go through the long authorization process, since the winter is already here.

Therefore, I urge my colleagues to support the Addabbo motion to accept the Senate position on amendment 29.

Temperatures this year are expected to be 15 percent below normal throughout the United States.

Prices for natural gas, electricity, and home heating oil are skyrocketing. Heating oil is up 25 percent and natural gas over 62 percent. People in Connecticut are facing a winter fuel bill of between $800 and $1,000. This amount of money for the poor and the working poor presents an insurmountable obstacle.

I want to tell my colleagues that this money is already budgeted in the congressional budget resolution. The Carter administration supports this needed program, and many interest groups support it. It is vitally needed and should be supported. I urge a favorable vote on this program.

At this point, Mr. Speaker, I would like to insert in the Record several of the letters that were sent to our colleagues to urge their support, an analysis and supporting data from Governor Grasso's Washington office, the letter of approval from OMB, and an article and editorial that appeared in the Hartford Courant.

The letters follow:

House of Representatives,
Washington, D.C., November 30, 1977.

Dear Colleague: When the House considers the Conference Report on H.R. 9375, the Supplemental Appropriations Act, today or tomorrow, we hope that you will support the appropriation for a "Special Crisis Intervention Program" this year. Since the conference committee reported in disagreement on funding for the program, a motion will be made to recede and concur with the Senate language approving this appropriation.

This Spring, $160 million was allocated through the "Special Crisis Intervention Program" to help pay the fuel bills of almost a million and a half lower income families across the country who had difficulty meeting the cost of heating their homes during last year's winter crisis. We are heading for a similar crisis again this year with the continued escalation of fuel prices and the forecast of severe winter conditions adding up to what may be a very grim picture for the poor and near-poor in America.

The program approved by Congress this past Spring was a retroactive one, administered by the Community Services Administration, which especially benefitted individuals and families living on fixed incomes whose fuel bills nearly doubled in some cases during last year's unusually severe winter months. This time Congress would be acting before the onset of winter, and funds would not be committed on a state-by-state basis until an "emergency" situation develops. The Director of the Community Services Administration would be given the discretion to determine, in consultation with the Secretary of the Department of Energy, what constitutes such an "emergency" by considering factors like degree days, fuel costs, and unemployment. Once again, a maximum of $250 would be allotted to families and individuals with outstanding fuel oil, natural gas, and electricity accounts for home heating.

The Crisis Intervention Program has been widely labelled as a Northeastern project, but it must be emphasized that the program assists people in all regions throughout the country and not just the Northern states. For the winter of 1977 the regional breakdown of funding for the program, as listed below, demonstrates that the crisis facing the poorest members of our society extends beyond the boundaries of the Northeast.

Region, States included, and funds obligated:

1. Conn., Maine, Mass., N.H., R.I., Vt	$15,515,000
2. N.J., N.Y., P.R., V.I	22,390,000
3. Del., D.C., Md., Pa., Va., W. Va	24,148,352
4. Ala., Fla., Geo., Ky., Miss., N.C., S.C., Tenn	17,625,667
5. Ill., Ind., Mich., Ohio, Wisc	55,325,098
6. Ark., La., N.M., Okla., Texas	8,980,799
7. Iowa, Kan., Mo., Neb	11,604,000
8. Colo., Mont., N.D., S.D., Utah, Wyo	4,447,420
9. Ariz., Calif., Hawaii, Nev	857,228
10. Alaska, Idaho, Oreg., Wash	1,237,362

We urge our fellow Members to support the new appropriation for the Crisis Intervention Program that would do much to relieve the burdens that the working poor, the unemployed, and the elderly will face if they have no financial assistance during what may prove to be another long, cold winter.

Very Truly Yours,

Hon. William R. Cotter, Hon. James H. Quillen, Hon. Joel Pritchard, Hon. Christopher J. Dodd, Hon. John Brademas, Hon. Dan Rostenkowski, Hon. John H. Dent, Hon. Ray Thornton, Hon. Romano L. Mazzoli, Hon. William C. Wampler, Hon. Ted Risenhoover, Hon. Daniel J. Flood, Hon. Barbara Mikulski, Hon. Claude Pepper, Hon. Philip E. Ruppe, Hon. James C. Corman, Hon. Joseph P. Addabbo, Hon. Ken Holland, Hon. Carroll Hubbard, Jr.

Executive Office of the President, Office of Management and Budget,
Washington, D.C., October 27, 1977.

Honorable Warren G. Magnuson,
Chairman, Subcommittee on Labor and Health, Education and Welfare, Senate Committee on Appropriations, Washington, D.C.

Dear Senator Magnuson: I am writing to express my concern regarding the ability of the Federal Government to act quickly and effectively in response to the emergency energy needs that arise this coming winter.

We understand that the Senate Committee on Appropriations has under consideration the addition of $200 million to the Supplemental Appropriations bill for fiscal year 1978 to aid those seriously affected by potential energy emergencies this winter. The Administration strongly supports efforts to assure that needy American households do not suffer severe distress from extraordinary energy costs, and we believe that the proposal under consideration by the Committee can responsibly provide that assurance if that proposal contains certain essential provisions.

Last winter's severe weather pointed up the shortcomings of the present Emergency Assistance program of the Department of Health, Education, and Welfare and caused the Congress to add special funding for the Community Services Administration to aid those seriously affected. Unfortunately, the special assistance tended not to be targeted narrowly enough on those areas most in need since it was distributed as a formula grant, was diverted into activities that were not of an immediate crisis character (such as weatherization), and often was available to pay fuel bills well after the height of the emergency had passed.

The Administration's recent Emergency Assistance proposal, transmitted to the Congress in September, would correct the present law's deficiencies.

Because the Administration's bill has not yet progressed in the Congress, and other legislation is not likely to be enacted before possible energy emergencies may occur, we believe an interim contingency program is advisable.

Under the CSA authority previously used, contingency funding under the conditions noted below would provide a stop-gap basis for aiding people severely affected financially by an energy emergency:

No funds should be used for weatherization activities—these services can be provided by existing programs and funds.

The use of these funds should be contingent on the actual declaration of emergency by some authority, i.e., the Director of CSA after consultation with the Secretary of Energy. Funds should not simply be distributed to States and localities for whatever use they see fit. The money should instead be carefully targeted on those seriously affected by an energy emergency if one occurs.

Funds should only be expended as necessary, and should revert to the Treasury if not used.

The funds provided should be available for use in the Administration's proposed Emergency Assistance program when and if it is enacted.

If the amount to be made available for assistance to households to meet energy emergencies is obligated according to the above conditions, I believe it will effectively meet any energy emergencies which may occur this winter.

Sincerely,

James T. McIntyre, Jr.,
Acting Director.

Analysis by Governor Grasso's Office
Special Crisis Intervention Program

The Special Crisis Intervention Program was implemented last year by Congress in order to meet the crisis imposed due to the inability of so many Americans to meet their fuel bills. The Community Services Administration directed the program, providing funds to the states which then disbursed them through various social service and non-profit agencies. The program met with considerable success last year with 81.1 percent of the appropriated $200 million spent on fuel assistance. In Connecticut, a total of $3,020,000 was disbursed to 20,100 households enabling over 54,000 individuals to pay their heating bills and avoid having their heat shut off. In New York, over 17 million dollars was disbursed assisting over 168,200 individuals. In New Jersey 5,080,000 were distributed to 101,000 individuals. The funds unspent under last year's program went to grants for home insulation. Under the old program the eligibility of the individual was determined by income level, inability to pay bills which would result in the termination of fuel deliveries, and proof that up until the point of application that the individuals had been paying their bills. The program was greatly aided last year by voluntary "moratoriums" by the fuel companies. This provided that no individual who was eligible for assistance under the program would be shut off.

The program was delivered to Congress last year as a temporary program. This qualification is a stumbling block to passage of the measure this year. The bill itself was not passed until March 16, 1977. The Community Services Administration did not have the specific details of the measure available until June at which point Governors were informed as to how to apply for assistance. The actual money appropriated to each state was not available until late July/early August. Thus the fuel companies received money for bills outstanding from January and February in August. The fuel companies are reluctant at this point to extend credit to those who are facing shut-offs this winter. Some families in Connecticut and Massachusetts are now facing shut-offs because they could not afford to pay cash for the initial oil delivery and because their credit ratings dropped last year due to the inability to pay bills.

The Carter Administration has recommended to the Congress a permanent program to be administered by the Department of Health, Education and Welfare. The bill would expand an existing program under Title IV of the Social Security Act, by including those who are now eligible for assistance through the SCIP program. However, the Administration's proposal was not submitted to Congress until September 21, 1977 and Congress will not have the time to review it before the Spring.

According to meteorologists from both the public and private sectors, the temperature this winter will be 15 percent below normal. "Six pipelines reported that if the winter is ten percent colder than normal, they expect severe shortfalls in natural gas supplies." * In addition to expected shortfalls, the price of natural gas, home heating oil and electricity can be expected to rise. In Connecticut alone within a five year period from 1972–1977 the price of natural gas rose 51 percent, the price of electricity increased 61 percent and the price of home heating oil increased 142 percent. On the national scene in the period from January 1975 to July 1977 natural gas prices increased 62.1 percent. The following chart reflects prices of home heating oil by region for the period from January 1975 to July 1977.

Residential heating oil prices by region[1]

Region	January 1975	June 1977	Percent increase
New England	40.2	47.1	17.2
Mid-Atlantic	38.9	46.4	19.3
Southeast	36.5	45.7	25.2
East North Central	33.2	44.7	34.6
East South Central	34.7	44.0	26.8
West North Central	34.0	43.3	27.4
West South Central	[2] NA	41.2	[3] 17.7
Mountain	37.5	45.8	22.2
West Coast	38.0	46.8	23.2

[1] Thirty-month period from January 1975 to June 1977, cents per gallon, including tax.

[2] NA—Not available.

[3] Percent increase based on a 18 month period from January 1976–June 1977.

Sources: January through December 1975—Form CLC–92 "No. 2 Heating Oil Monthly Price Adjustment Report"; January 1976 forward—FEA Form P112–M–1 "No. 2 Heating Oil Supply/Monitoring Report."

Average retail prices for natural gas sold to residential customers for heating use

[Cents per thousand cubic feet]

	1975	1976	1977
January	141.2	171.4	213.8
February	144.7	175.2	217.0
March	146.1	177.0	219.9
April	150.6	178.4	223.7
May	153.7	180.8	227.0
June	155.7	183.2	227.3
July	154.7	184.5	229.9
August	155.4	185.8	-----
September	158.4	191.2	-----
October	160.6	195.0	-----
November	166.2	198.3	-----
December	170.2	208.3	-----
Average	154.9	185.8	222.7

Increase from January 1975 to June 1977 is 62.1 percent.

ESTIMATES OF GAS SHUT-OFFS FOR WINTER 1977–78 PREPARED BY THE COMMUNITY SERVICES ADMINISTRATION

Region/State, Number of Affected Households, and Sources

NEW ENGLAND

Connecticut, 27,000, SEOO,* Gas Co.

Maine, 2,000, SEOO,** SCIP records.

Massachusetts, 60,000, SEOO, State Energy Office.

New Hampshire, 2,400, SEOO, Gas Co.

Rhode Island, 12,000, SEOO, Gas Co.

Vermont, 8,300, SEOO, State Energy Office.

MID-ATLANTIC

New York, 366,000, New York State Public Utilities Commission, New York City Housing Development Association.

New Jersey, 38,000, New Jersey Department of Community Affairs/Division of Human Resources.

Pennsylvania, 60,000, SEOO, State Protection Office, State Energy Office.

EAST NORTH CENTRAL

Ohio, 47,815, Ohio Welfare Department, SEOO.

Indiana, 14,300, Indiana Energy Office, SEOO.

Illinois, 55,000, Illinois Division of Energy.

Michigan, 598,563, SEOO, Department of Social Services.

*SEOO—State Economic Opportunity Office.

**SCIP—Special Crisis Intervention Program.

Wisconsin, 40,000, Wisconsin Department of Health & Social Services, SEOO.

WEST NORTH CENTRAL

Minnesota, 4,000, Northern States Power Co., North Central Public Service Co., People's Natural Gas Co.

Iowa, 3,200, SEOO.

Kansas, 2,800, Public Services Commission.

Missouri, 35,000.

Nebraska, 2,300, Omaha Utilities, SEOO.

North Dakota, 5,000, Montana/Dakota Utilities Association.

South Dakota, 300, Montana/Dakota Utilities Association.

SOUTH ATLANTIC

Delaware, 800, SEOO, Utilities Co.

Maryland, 1,300, SEOO. Utilities Co.

District of Columbia, 2,000, Office of Emergency Preparedness.

Virginia, 13,000, SEOO, State Corporation Commission Gas Co.

West Virginia, 4,900, SEOO. State Energy Office, Utilities Co.

North Carolina, 1,500, SEOO, 35 CAA's.

South Carolina, 8,000, State Energy Office Public Utilities Commission, SEOO, 17 CAA's.

Georgia, 15,000, Atlanta Gas Light Co., Gas Light Co. of Columbia, SEOO.

Florida, 20,000, West Florida Gas Co., State Emergency Office LP Gas Association, SEOO.

EAST SOUTH CENTRAL

Kentucky, 12,265, Columbia Gas Co., SEOO, Delta Gas Co., 21 CAA's.

Tennessee, N/A, N/A.

Alabama, 21,000, Alabama Gas Co., SEOO.

Mississippi, 8,400, Entex Corp., Mississippi Virginia Gas Co., SEOO.

WEST SOUTH CENTRAL

Arkansas, 6,372, Arkansas-Western, Arkansas-Louisiana Gas Co., HDC, SEOO.

Louisiana, 28,685, Gleico, HDC, SEOO, Louisiana Power and Light Co.

Oklahoma, 15,000, Oklahoma Gas & Electric Co., Oklahoma Natural Gas, HDC, SEOO.

Texas, 34,606, Lone Star Gas, CAPs Southern Union Gas, SEOO.

MOUNTAIN

Montana, 4,800, Montana/Dakota Utilities Association.

Idaho, 4,980, CSA grantees.

Wyoming, 2,000, SEOO.

Colorado, 1,600, SEOO.

New Mexico, 14,918, Southern Union Gas.

Arizona, 21,000, Department of Economic Security, SEOO.

Utah, 6,313, State Social Services.

Nevada, 3,000, Sierra Pacific & SW Nevada Gas Co., SEOO.

PACIFIC

California, 240,000, Department of Housing and Community Development.

Oregon, 7,597, CSA.

Washington, 6,159, CSA.

Alaska, 1,200, Alaska Gas Service.

Hawaii, does not use natural gas for heating.

United States total: 1,892,163.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 29, 1977.

DEAR COLLEAGUE: We are writing to ask for your support of the "Special Crisis Intervention Program", which will soon be considered when the House takes up the Conference Report on the Supplemental Appropriations Act, H.R. 9375. As was the case last year, the program would appropriate $200 million to assist low income families in paying their rapidly escalating fuel bills.

The Special Crisis Intervention Program was instituted in the Spring of 1977 to deal with last winter's energy crisis. Over $160 million was distributed by the Community Services Administration (CSA) across the country, aiding one million families who were unable to pay their costly heating bills. This appropriation also helped to assure the survival of many small independent fuel dealers who were nearly forced out of business due to the non-payment of customer accounts.

Last year's enactment of the Special Crisis Intervention Program was intended for one year only. However, despite the diligent efforts of the Senate Governmental Affairs Committee, Administration assurances to replace the emergency funding with a permanent program within the Department of Health, Education and Welfare never came to fruition. The result is that the nation's heating oil consumers face the burdens of another long, cold winter with no means of financial assistance available.

Fortunately, the proposed extension of the Special Crisis Intervention Program will have the benefit of a prospective approach to home heating problems (as opposed to last year's retrospective attempts to assist consumers) and thus will not commit the funds until an "emergency situation" develops. The determination that an emergency exists will be left to the discretion of the

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*Page 18. The Status of the Nation's Preparedness for the Winter of 1977–1978, prepared by the Subcommittee on Intergovernmental Relations.

Director of CSA who will, after consultation with the Secretary of the Department of Energy, "consider such factors as differences from normal temperatures, differences between local and national weather indicators, unemployment and fuel costs", as set out in the Senate committee report (95–564). Furthermore, in issuing financial relief to adversely affected states and localities the Director of CAS "shall design allocation criteria containing . . . safeguards" to prevent abuse of the program.

It must be emphasized that the program assists all regions throughout the country, not just the northern states. For the winter of 1977, for example, the regional breakdown of funding was as follows:

Region, States included, and funds obligated

1	Conn., Maine, Mass., N.H., R.I., Vt	$15,515,000
2	N.J., N.Y., P.R., V.I	22,390,000
3	Del., D.C., Md., Pa., Va., W. Va	24,148,352
4	Ala., Fla., Geo., Ky., Miss., N.C., S.C., Tenn	17,625,667
5	Ill., Ind., Mich., Ohio, Wisc	55,325,098
6	Ark., La., N.M., Okla., Texas	8,980,799
7	Iowa, Kan., Mo., Neb	11,604,000
8	Colo., Mont., N.D., S.D., Utah, Wyo	4,447,420
9	Ariz., Calif., Hawaii, Nev	857,228
10	Alaska, Idaho, Oreg., Wash	1,237,362

When the Supplemental Appropriations Conference Report is considered in the near future, the House will be asked to accept the Senate language recommending that a $200 million Crisis Intervention Program be funded again this year. The new program would take effect during the winter and be utilized by the Community Services Administration only when there is a demonstrated energy emergency. The maximum limit of $250 per household would be contained and unobligated funds will be returned to the Treasury.

The Administration, the National Council of Senior Citizens, the National League of Cities, the AFL–CIO, the Energy Policy Task Force of the Consumer Federation of America, the National Governors Association, and the Conference of Mayors have declared their support for the program in view of the critical energy needs which will be experienced by needy families during this coming winter.

We would like to urge our colleagues to support the continued funding of the Special Crisis Intervention Program when the Conference Report for H.R. 9375 is brought before the House.

Sincerely,

Joseph P. Addabbo, Alvin Baldus, Edward P. Boland, William M. Brodhead, James C. Cleveland, John Conyers, Jr., John H. Dent, Christopher J. Dodd, Robert W. Edgar, James J. Florio, William F. Goodling, Michael J. Harrington, James J. Howard, Robert W. Kastenmeier, Peter H. Kostmayer, Joseph A. Le Fante, Edward R. Madigan, Marc L. Marks, Ralph H. Metcalfe, Anthony Toby Moffett, Michael O. Myers, David R. Obey, Henry S. Reuss, Fred B. Rooney, Fernand J. St Germain, Gerry E. Studds, Douglas Walgren.

Joseph S. Ammerman, Edward P. Beard, David E. Bonior, Charles J. Carney, William S. Cohen, William R. Cotter, Charles C. Diggs, Jr., Robert F. Drinan, Hamilton Fish, Jr., William D. Ford, Tennyson Guyer, Elwood Hillis, Henry J. Hyde, Dale E. Kildee, Delbert L. Latta, Thomas A. Luken, Andrew Maguire, Joseph R. McDade, Donald J. Mitchell, Ronald M. Mottl, Richard Nolan, Richard L. Ottinger, Matthew J. Rinaldo, Benjamin S. Rosenthal, Ronald A. Sarasin, Frank Thompson, Jr., Charles W. Whalen, Jr.

Frank Annunzio, Mario Biaggi, John Brademas, Bob Carr, Robert J. Cornell, Norman E. D'Amours, Thomas J. Downey, Joseph D. Early, Daniel J. Flood, Donald M. Fraser, James M. Hanley, Frank Horton, James M. Jeffords, Edward I. Koch, Raymond F. Lederer, Stanley N. Lundine, Edward J. Markey, Stewart B. McKinney, Joseph Moakley, Austin J. Murphy, James L. Oberstar, Melvin Price, Peter W. Rodino, Jr., Phillip E. Ruppe, George E. Shipley, Bob Traxler.

[From the Hartford (Conn.) Courant, Nov. 20, 1977]

ON BEING LEFT OUT IN THE COLD

(By Joel Lang)

A hard freeze has yet to come to Connecticut this fall and already the telephones are ringing in many of the 16 regional fuel banks where poor people go for help when the heat goes off.

But the cash drawers in the fuel banks are as empty as some of the callers' oil tanks. Fuel bank sponsors say only federal money or an abnormally mild winter will avert a crisis of cold for thousands of families who earn too much to qualify for welfare and too little to keep up with heating bills.

The executive committee of Operation Fuel, the umbrella organization created by the state and private groups in last winter's heating emergency to distribute money to fuel banks, last week voted to release $20,000 to be shared by the banks. That sum—which the committee admits its a pittance—is all, except for a few dollars in private donations, the money now available in Connecticut for emergency fuel aid.

The state Department of Community Affairs expects this week to begin the paperwork necessary to distribute another $127,000 to the fuel banks, but that won't be available to spend for another two or three weeks.

Also this week, the state legislature's Regulations Review Committee is expected to approve a plan to provide $1 million in emergency utility bills aid for persons receiving state welfare. A supplemental program for $500,000 more in aid will be reviewed later.

That combined $1.65 million becomes insignificant when compared with the nearly $3.5 million spent to help Connecticut residents pay last winter's fuel bills and the $14 million that Michael Dorsey, chairman of the Operation Fuel executive committee, estimates might be needed this winter.

How much actually will be needed depends on how cold the winter is and how high fuel prices climb. Long range forecasts call for colder than normal weather, although not as cold as last winter's deep freeze. Natural gas prices are expected to rise and the price of home heating oil probably will exceed 50 cents a gallon before spring arrives.

Dorsey and other fuel bank sponsors are pinning most of their hopes for the winter on a $200 million appropriation bill in Congress that would provide fuel aid to the states in an emergency. The bill's fate, however, is as uncertain as the weather—and the connection is not just rhetorical.

When Dorsey and Edward T. "Ned" Coll, the Revitalization Corps director who acts as unofficial chief of staff for Operation Fuel, led a delegation to Washington last Thursday to lobby for the bill, they were half hoping to arrive in a blizzard.

"The hardest problem . . . is trying to make people aware that there will be a crisis, that it will be cold this winter," said Coll before he left.

He and Dorsey say most of Connecticut's congressional delegation have pushed diligently for the $200 million appropriation, but face opposition from some Southerners who view the bill as a handout to the North and object to making emergency aid a regular payment. Congress approved $200 million in fuel aid last winter—with the understanding it was a one-time expense.

In addition, the bill has been separated from the $7 billion supplemental appropriations bill to which it was attached as a rider and now must survive votes in the House and the Senate on its own, says Jeffrey Leichtman, an assistant to Rep. Toby Moffett, D–6th District.

Leichtman believes the bill probably will not be voted on until after Congress acts on various segments of the Carter administration's energy program sometime early in December.

The bill would provide aid only in emergencies determined by the weather and states' economies. Connecticut got about $3 million last year and could get more or less this year, if the bill is passed.

If Congress provides no money, Dorsey and Coll think the state probably will have to reactivate Operation Fuel which last winter received $158,000 in private donations. The $20,000 sent to fuel banks last week came from $90,000 received last summer as part of Northeast Utilities settlement of a court challenge to its rate structure.

The remaining $70,000 will be used to staff Operation Fuel, if necessary, or will be sent to the fuel banks. Last year's toll free Operation Fuel telephone number remains connected, but no one answers it.

Coll says emergency fuel aid is needed most to help the working poor, the unemployed and the elderly. Persons receiving welfare can turn to the state Social Services Department for help. But the working poor qualify for no special aid.

Their budgets prove too tight to pay for the extra fuel burned during a winter cold snap, says Coll. The problem will be aggravated this year because some fuel oil dealers themselves are in financial trouble and cannot afford to let bills slide. More and more often dealers are demanding cash on delivery from customers with outstanding bills.

Though the fuel banks' clients commonly heat with oil, others use natural gas, electricity and even coal or wood. Connecticut Natural Gas will use the same discretion it used last year before shutting off service for delinquent accounts: termination notices are issued after 60 days and service will not be ended in extremely cold weather.

Northeast Utilities, which provides electricity and gas, is undecided about resuming the moratorium it declared last winter on service disconnections.

A week ago, during the first extended stretch of chilly fall weather, the Greater Hartford Emergency Fuel Bank received nearly 100 calls for help from persons with unpaid utility bills or who needed oil deliveries. They were told to wait.

Ralph Davis, director of energy for the Community Renewal Team which operates the bank, says fuel has become so expensive almost every day produces an emergency.

"If people are in trouble at the beginning of the fuel season, where are they going to be by the end of December or January?" Davis asks.

He insists people not only need financial help, but also need lessons in how to manage on a tight budget and to be prudent enough to check their fuel supply regularly so the tank doesn't run dry at night or on a weekend when deliveries are difficult to arrange, and sometimes more expensive.

Davis also hopes for a special kind of donation: the fuel bank needs to find a pump capable of emptying oil tanks.

Several times, the bank has had to turn down gifts of actual oil from homeowners who moved or switched to another type of heating system.

SUPPORT HEATING FUEL SUBSIDY

Connecticut's elected representatives to Congress should be unanimous in their support when the House votes today or tomorrow on a $200 million stand-by emergency fuel subsidy program to help low-income households pay heating bills in the event of a severe winter.

That Congressman Robert Giaimo of the 3rd District failed to give his unqualified co-sponsorship to the measure is incredible. New Haven was one of the cities that had great need for the funds raised last year by private and public agencies.

Mr. Giaimo has influence on conserative Democrats who look to him for leadership. The House has 77 co-sponsors of the proposal, a coalition of Northeast and Midwest legislators. But when the Senate-House conference committee met on the bill, the Senators accepted it while the House members rejected it 7–2.

Th funding is particularly important here because of the price of fuel oil. Senior citizens, the working poor and the unemployed—whose numbers have increased suddenly in recent weeks because of several massive layoffs—cannot afford the price. They must pay the oilman when the fuel is delivered or shortly thereafter.

The Governor's information bureau reports that it recently received 100 calls for help in a week's time. Some families cannot afford the first tankful of oil and have been without heat.

In Connecticut the mechanics of fund distribution are in place providing an avenue of aid that was the nation's most efficient last winter.

Last year, after a much-delayed start, the federal government appropriated $3 million for the state.

But the need was estimated at close to $15 million. This year's proposed bill would not earmark a specific amount but base distribution on three factors: weather, unemployment and fuel costs. If this state's combination of factors warrants it, more money would be available.

The obstacles to passage of the preliminary approval of the bill have been the attitude of lawmakers from southern states who think their constituents do not need help, and the fear that fuel aid might be the first phase of a new welfare program. The southern states, however, received $40 million last year when an aid program was hastily thrown together. The contingency clause based on factors of need cancels out the second fear.

But unless all of Connecticut's legislators stick together who could expect Sunbelt lawmakers to believe there is need?

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to take this time to respond to the gentleman from New York (Mr. ADDABBO), who has offered the preferential motion. I wish to speak in opposition to that preferential motion and in support of the motion offered by the chairman of the committee to insist on our disagreement.

Last spring, when we were asked to approve the initial emergency fuel subsidy allocation, we were told in no uncertain terms that it was a one-shot appropriation only, proposed solely because of the severity of last winter.

In the words of the chairman of the Labor-HEW Appropriations Subcommittee (Mr. FLOOD), "There is no intention here to start a new program that will go on year after year. Not at all. This is a one-shot, one-time appropriation to deal with the effects of a very bad winter that we have just been through."

The chairman of the Budget Committee (Mr. GIAIMO) gave us similar assurances:

> It is temporary in nature. It is not permanent legislation. It is not designed, as I am told, to start us down this road before we have full congressional study, but it is temporary.

What are we to assume was the meaning of those assurances last spring, when we are now faced with a move to continue this program? Were we being sold a bill of goods? Were the sponsors of the program willing to promise anything, simply to achieve its adoption? I must say that things are reaching a sorry state in this body if we can no longer rely in good faith on the promises and assurances made on this floor.

The chairman of the Budget Committee said we should have "A full congressional study" before going in the direction of a permanent program. Well, we have not had 1 day of hearings here in the House on this issue. Time certainly is not a factor, because we have had over 7 months since the spring supplemental cleared Congress. There has been plenty of time to have held hearings and enacted authorizing legislation making this a permanent program, if that was the desire. But it was not done.

We hear statements to the effect that this appropriation is in line with the administration's wishes—that it will tide us over until the administration's proposal can be enacted. Well, the administration did submit a proposal in September, but to this date it has not been introduced in bill form. There are 435 Members in this body, but not even one thinks enough of the idea to agree to sponsor the bill.

This can only lead me to believe that no great sentiment exists for making fuel subsidies a continuing program, and I submit that there is thus no justification for going through the back door and in effect make the program permanent through the appropriations process when there has been an unwillingness to do so through the regular legislative process.

Too many unanswered questions exist for us to rush through a program of the potential magnitude of this one without any House hearings. Let me just go through some of the questions:

First. How did the program we funded last spring operate? What types of people received funds? Were they people whose fuel was cut off or just people with high outstanding bills? Was any step taken to consider the effort they had made to pay their own bills? Were people reimbursed for bills they had already paid? Were any payments made for air-conditioning bills? Was the conservation effort on the part of the recipients in any way taken into consideration?

Second. If the need for assistance was so great, why was some $40 million of the $200 million we allocated left unspent, despite an extension of the deadline? Last spring we were told the demand was so great that if only we would make the funds available there would be no problem in fully disbursing them. Yet the figures tell us that some of the coldest States spent the least. For instance, South Dakota was able to obligate only 15 percent of its allotment. For North Dakota, the figure was 30 percent, Montana—16 percent, Vermont—50 percent, Wyoming—19 percent, Ohio—68 percent, and Indiana—70 percent.

These figures appear to belie the real need factor, and this is reinforced by the solicitation efforts made in many areas.

For instance, in my home town of Peoria, the local community ACTION Agency ran a big quarter page newspaper ad announcing the availability of funds to pay fuel bills and urging people to apply. Here in the District of Columbia, application forms were mailed out to all D.C. addresses. These forms, incidentally, asked the race of the applicant, and I cannot help but wonder how that enters the picture as a criteria for eligibility. The form also suggested payment could be used as a credit toward future fuel costs, which leads one to wonder whether people in D.C. are receiving payments for air-conditioning their homes.

The point is that if such advertising and solicitation efforts are necessary to obtain applicants, the need certainly is not so great that the Federal Government must enter the picture with a special program.

Third. What will the impact be if we announce the availability of funds to pay fuel bills prior to the winter heating season? Will people be less diligent in paying their bills if they know there may be a subsidy? Will they be less inclined to conserve energy if they know fuel costs would not be as great? How many people will be eligible for assistance, all told? Will they all apply, if they receive advance word, and if so, what criteria will be used to pick and choose between the eligibles?

Fourth. According to the Senate report, the Director of the Community Services Administration will be given virtually carte blanche authority to design and operate the program. She is to determine what constitutes an emergency, how the funds are to be allocated among recipients, who is to administer the program, how it is to be administered, and the amount of funds which can be used for administration. We are in effect giving her a blank check and allowing her to take it from there. I think that is an abdication of our responsibility. I thought we had gotten beyond the stage where we simply give the executive branch free reign to do as it pleases.

How is the Director of CSA likely to use her authority? Well, we know from her testimony before the Senate that she favors raising the eligibility lid from 125 percent of poverty to 150 percent. How many more people will that make eligible?

She favors more broadly defining the program "to include other areas not directly related to utility costs." How far afield will she be going in this regard, and what kind of pressure will she be creating to provide even greater funding?

She favors a program of several years duration. Will she be developing the program in such a way that it will be, for practical purposes, impossible for us not to fund it in future years?

It is because we have so many outstanding questions such as these that I believe it imperative we go through the regular legislative hearing and drafting process. It would be a total dereliction of our responsibility for us to enact a program of this magnitude without any hearings and then give a blank check to the executive branch to administer it.

We have in the regular appropriation bill some $65 million which can be used for crisis intervention in cases of real emergencies. Such funds had been used for this purpose before we enacted the $200 million program last spring. This will give us time to more thoroughly consider what we should or should not be doing in this field and the specifics of how to do it. We have a supplemental appropriation bill early next year, and if the proper authorizing legislation has been adopted, we can always make additional funds available at that time.

So I urge that we vote to insist on our disagreement with the Senate amendment on this issue.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I think the gentleman from Illinois (Mr. Michel) is certainly correct in asking these questions. I think it is good that he has framed most of his questions in the way he did.

I would say to the gentleman that we can raise questions, and we do on this floor, about a number of programs which attempt to deal with human misery. I do not want to sound overdramatic, but we know that there is human misery and deprivation out there. There are people who suffer through no fault of their own. We have a list of cutoffs of gas, for example. I do not happen to come from an area where there are large residential gas users, but in States like New York 366,000 have been cut off. In Michigan there have been 600,000 cutoffs. Those are people who did not pay their bills or tried to avoid payment and so forth; but we are also dealing here and asking our colleagues to try to take a look at a program which really attempts to deal with human misery.

The gentleman raises questions about the way the money is spent. Let me assure the gentleman that a number of these questions have been asked, whether before the Subcommittee on Energy and Power or before the Subcommittee on Oversight, or before the Ad Hoc Committee on Energy. Many of us have been asked such questions as was Grace Alvarez, of the Community Services Administration. There were members from Northeast States and very cold States like that from which the gentleman from Illinois (Mr. Michel) comes. They said they would not vote for the program last year because of the way in which it was constructed.

Earlier it was said that they had to rush this thing through last year. We passed it on March 16. It was signed in May.

When we really look at the number of States served and we look beyond that to see how that money was used, they did not do too badly. They did, in fact, get to this question of misery.

Mr. Speaker, I am in total agreement with the gentleman that we should not pass wasteful programs, but this is so improved that it goes to the question of need, which is a response to the gentlewoman's question earlier.

Mr. Speaker, I think the gentleman also raises questions about whether we can give more assurance that there is going to be some administrative accountability. Since the States have to show need, there has to be an energy emergency proved in that State. I am not saying that there is not going to be a possible problem in the sense that the gentleman can come back next year after we approve this program and say, "Look at the problems we have with this program."

Certainly we have had problems with the food stamp program and other programs. That does not mean that we should not attempt to act.

Mr. Speaker, there is nothing in the current energy bill, as the gentleman knows, that will do anything about the immediate crisis this winter. We are seeking to have this program improved and approved in the toughest possible form so that it gets to the question of human misery. I know the gentleman is concerned about that problem. Knowing the gentleman as I do, I cannot believe that he would want these people not to be filling their oil tanks and not to have gas delivered to their homes and being without heat during the winter.

Mr. MICHEL. Mr. Speaker, let me respond by saying that we have in the regular appropriation bill $65 million which can be used for crisis intervention in cases of real emergency, and such funds have been used for the same purpose for which we passed the bill containing the $200 million last year.

It just seems to me that, particularly in view of the gentleman's own interest in new energy legislation, and what the gentleman has been purported to have been saying, that this is not the proper forum in which to really devise this type of program. Whether we should have a permanent, long range one, or some sort of a subsidy for people's fuel bills, I do not know. But to do it in a supplemental money bill, is wrong and we ought not to do it.

This is particularly so since the need has not yet been demonstrated for this winter as was demonstrated for the last winter. To do it beforehand is just like putting the cart before the horse.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, I listened to the gentleman from Connecticut make his statement as to the basis of need for this program, and I can only say that the way this program was administered in the State of Maryland. In the city of Baltimore the local government officials, when this program was thrust upon them with very few if any guidelines from Washington, simply set up tables in the 5th Regimental Armory in the city and opened their doors to any people who came in from the street. They paid out millions of dollars to them until the money ran out. There was no attempt made to ascertain whether they needed the money, whether they came up to the armory in a new Cadillac, they simply passed out the money, according to a number of articles in the papers. They reported that it was just a great big ripoff. Some of the people saying, "They didn't ask me to give any proof of need or anything." That was the way this program operated in one of the great cities of our Nation.

Mr. CEDERBERG. Mr. Speaker, if the gentleman will yield, I would like to associate myself with the remarks made by the gentleman from Illinois (Mr. Michel). Where we appropriated millions of dollars, and some of that money was sent out to the Virgin Islands, and we all know it is not very cold down there, or at least so they tell me, and to Hawaii, and to Puerto Rico, all in all it indicates to me that what we ought to do is wait until we see what kind of a winter we are going to have.

Let me add that I am not opposed to helping people out, but I believe what we ought to do is to hold the proper hearings on this problem.

Further, what is wrong with the States themselves putting up a little of their own money?

I have to confess that my Governor called me and indicated to me his concern, and we did get a substantial amount of money. I have constituents who are involved, as does everyone else. But I believe that we should decide whether an emergency exists in the State. The States ought to be able to pick up some of the tab. What is wrong with the State of New York, or the State of Michigan, or the State of Connecticut coming up with some of this money? My State has some financial problems and probably yours does also, but certainly there is nothing wrong with them matching the moneys instead of the Federal Government adding to its $60 billion deficit at the Federal level.

So, why go into a program such as this when we do not even know whether we are going to have any substantial need as we did last winter?

I do not want the record to indicate that I am not concerned about people who have a legitimate need getting some help, but I do not think it is a 100-percent Federal responsibility. I think the gentleman's State and my State have some responsibility too. But I do not see any of them coming forward and saying we will match you on a 50-50 basis, or something like that. That is what we ought to do in this kind of a situation.

We had assurances last year, when we had the bad winter, that this was simply a one-shot deal, and there would be no more.

The winter has not started yet, and it may be a very bad winter, but I do not understand why we should jump into this thing now. We are going to have to have another supplemental bill early next year, and if there should be a bad winter this coming year then I think we may want to go ahead and be of some help.

Mr. MICHEL. We in Illinois are in the same position. Both of our States are capitalized 100 percent on what our allocation has been, but both the gentleman's State and my State will contribute 1½ to 2 times in Federal revenues what we get in return. We have a need in our home States to meet, and we can get a much better dollar return by keeping our dollars home rather than sending it down here first, only to see it siphoned off to areas where there is no justifiable need.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

I fully agree. New York State is in the same position as Illinois. We are paying more into the Federal Treasury than we are receiving. But we are not talking about States; we are talking about people. We are talking about a possible emergency program before the emergency.

Mr. MICHEL. Yes, but all of the things that I am reading about, with the gas available today as distinguished from last year and the kind of reserves being built up by the power companies today, there will not be that kind of shortage.

Mr. ADDABBO. If the gentleman will yield further, on this amendment if the $200 million is set aside, we will then set up guidelines. We will not be working after the fact when everyone will be voting, because there is an emergency. We can set the guidelines now. Further, if these moneys are not used, different from last year's moneys which could be used for other programs, if the funds are not used for this program, they revert back to the Treasury. They cannot be used for any other program.

Mr. MICHEL. Yes, I have heard that story before. All we need is the availability of money, and there will be all of these kinds of bureaucrats just anxious, as the gentleman from Maryland (Mr. BAUMAN) pointed out, to see how quickly they can shovel it out and make hay in some local community by that process. I cannot conceive of how the gentleman thinks this is going to conserve on energy or gas supplies, when one knows ahead of time that he is going to be able to get it picked up free from the Federal Government.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

I might just observe that if we want to minimize the amount of difficulty in a program, surely that is most likely to be accomplished where we do act in advance and set up specific criteria for what constitutes an emergency. It is only when we act in haste, as we had to last year, that the difficulties were maximized. This is the way to minimize them.

I might say the gentleman from Maryland recited the sorry spectacle that apparently occurred in his State as these funds were distributed, but in New Jersey, my State, it was done with considerable care, and New Jersey was cited as one of the best States in the country for the way their program was administered. We only actually gave families an average of a fourth or a fifth of what they requested, because we handled the funds carefully. But whether it was badly or well handled last year, this bill is carefully drawn so that the funds are retained, as the gentleman who sponsored the proposal pointed out, and they are not permitted to be dispersed by the States according to their own whims. That is a tremendous improvement.

I am sure that the gentleman knows full well that people have died in their homes when they have not been able to heat their homes. Fuel is cut off at times when people are not able to defend themselves.

Mr. MICHEL. I remember the story that was ballyhooed of the elderly lady in Pittsburgh who wrapped herself all up in carpets and newspapers and was found dead or dying, and they attributed it to the fact that the power company had cut off her fuel supply. In fact, when the facts were known, she had some $292,000 in the bank, or something like that. But the inference was that because we were so insensitive to the public need here by failing to vote out millions of dollars to subsidize people's fuel bills, this poor lady died. That is nonsense.

Mr. MAGUIRE. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. The gentleman will, I am sure, recognize that that lady, if her account is correct, and I am sure it is, had other kinds of difficulties for which she needed help. But the fact remains many senior citizens and other persons not wealthy have had to face escalated fuel bills that have outrun their capacity to pay them. When those people do not pay their bills, the companies will on occasion cut off the fuel, and sometimes it is done at a moment when it cannot afford to be done if people in that residence are going to continue to live. It is that simple.

I think we desperately need this program for those people, and we cannot do it well after the fact. Either those people are dead, or it is because we cannot administer the program well. So let us do it in advance, and let us do it carefully.

Mr. MICHEL. I do not think we can do anything carefully in attempting to legislate in an appropriation bill, just as we are still wrestling with the problem of abortion on a continuing resolution. We have got to have thorough hearings before an appropriate authorizing committee so Members can ask these probing kinds of questions. We need to have a shot at this through authorizing legislation on the floor of this House, and be able to have something to say to the bureaucrats downtown who are going to administer what we conceive the program to do and the guidelines that ought to be followed.

We have not had that. We have simply had to trust that those downtown would administer this thing properly, and I think in many cases it has been badly administered.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, do I understand the gentleman correctly, that the guidelines as to the disbursement would be left to the bureaucracy?

Mr. MICHEL. Yes; we obviously have not had a chance to develop any standards through authorizing legislation.

Mr. REGULA. As I understood the program last year, the money would go only to those who had not paid their bills, that those who had paid their bills would not receive the benefit.

Mr. MICHEL. Yes, and there is somewhat of a lack of uniformity with respect to that provision.

Mr. REGULA. The gentleman mentioned in his remarks that there would have to be an emergency to trigger these funds. Is there anything that defines what an emergency is?

Mr. MICHEL. No.

Mr. REGULA. So we are just supplying money and leaving it to chance.

Mr. MICHEL. Leaving it to chance.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, in response to the question of the gentleman from Ohio, the gentleman from Illinois responded that last year those persons who had paid their bills and still fell in the same economic classification were not entitled to reimbursement. As I understand we specifically provided in a measure that people who had paid their bills would be entitled to some credit since they paid their fuel bills by having had to sacrifice medical or other necessities and we felt it was an unfair practice to withhold from those who had paid their bills benefits that were given to those who had not paid their bills, that we would give them the same benefits since they fell into the same economic categories and they should be treated equally.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, that is also my understanding of the case and the report I have included these provisions, that those who had paid their fuel bills although at great economic sacrifice would receive benefits. The gentleman from Illinois has been very kind in yielding time and I appreciate it. The gentleman talked about the $65 million currently there. Is that not true that it is there for weatherization activities and cannot be used for this programs?

Mr. MICHEL. My understanding is that for crisis intervention they can use these funds and have in the past.

Mr. MOFFETT. My understanding is that funds from this program one could use for weatherization, but the reverse is not true.

Mr. MICHEL. That is not true. The funds can be used interchangeably, for weatherization or crisis intervention. It all falls under the same open-ended authorizing authority. Some 20 percent of the weatherization funds were used for crisis intervention, or fuel subsidies in other words, before we appropriated the $200 million last spring.

Mr. MOFFETT. The $65 million that is there is for weatherization activities. One improvement we have made this year is to say, no, if you do not show there is a need you do not get the money, but if you do show the need you must use the money for fuel bills and not for weatherization purposes.

I thank the gentleman for yielding.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, there was some element in the representation by the gentleman from Ohio that this definition of what constitutes an emergency is left up in the air, but it is my understanding there is a rather substantive difference between this proposal and the proposal of last year which left it to the State's individuals to determine what it was that would trigger off the ability to make these payments.

This proposal provides for the State weather people to define the emergency, and of course they will determine it with hearings and input before the fact as opposed to last year where there were no such hearings and each State was left to its own definition, which may have contributed to the abuses the gentleman from Maryland mentioned before.

Is my understanding correct that the determination will be made by the appropriate State officials after appropriate hearings?

Mr. MICHEL. Will the gentleman tell me from where he is reading?

Mr. FLORIO. It was from a letter.

Mr. MICHEL. In other words, apparently it is the Director of Community Services Administration, following consultation with the Secretary of Energy, who shall determine what constitutes an emergency.

Mr. FLORIO. That is correct.

Mr. MICHEL. We did not have any voice in that, did we, and we will not have. I submit we should put first things first. We ought to make a determination in this House legislatively and through an authorizing committee before blindly appropriating again for what was originally represented to us by very responsible people on this floor, the gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Connecticut (Mr. GIAIMO), as a temporary and not a permanent program.

I am not about to come back the second year and say, it is permanent, when it was temporary, until I am afforded the hearings that every one of us are entitled to have to justify appropriating another $200 million.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I would like to comment on the earlier remarks of my colleague from New Jersey. I do agree you must have a plan and that the only virtue of this is that it seems to have thought about something ahead of time; but on the other hand, with 7 months, how is it possible that nobody thought of it until we come to the floor? How is it possible there were no hearings? How is it possible there is no administrative limit so that the administrative expenses would not get out of hand?

Mr. MICHEL. Mr. Speaker, let me tell the gentlewoman, as I indicated in my initial remarks, that the administration submitted a proposal in September, but to this date it has not been introduced in bill form. There are 435 Members in this House and I do not know of one on the majority side yet that introduced a bill to implement the administration's program. That is the answer. The point is that it is one of those ill-conceived, ill-thought out programs that has changed signals two or three times and has not yet got in bill form. I do not know why we should appropriate the money before we know what it is going for.

Maybe somebody slipped one in the hopper last night that we do not know about, and if so, again that would be a flimflam operation.

Mr. MAGUIRE. Mr. Speaker will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, in response to the gentlewoman's comment, and perhaps we could yield also to the sponsor of the amendment; but I simply want to say in response to the gentlewoman that it is the same always when this or any other legislative body does not fully meet its commitments and its responsibilities on a time schedule that we would all like to see; but the fact of the matter remains that we have 1.8 million families in this country who will have their gas shut off unless we act today, if the Community Services Administration estimate is correct.

Mrs. FENWICK. Mr. Speaker, if the gentleman will yield further, I am not worried about the schedule. That does not bother me one bit. What I mind very much is that we are presented on the floor with undigested material. We are left to vote for the 1.8 million people. We are left to either vote against 1.8 million people, or else we do not give a darn about the people's money. That is what worries me. We act as though we do not think $200 million was anything, no limit on the administration for anything. This is the problem we are faced with when this is presented to the floor in this way.

Mr. SARASIN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Speaker, with the winter of 1977–78 rapidly approaching we are once again considering a most important measure, the emergency crisis intervention program. This emergency assistance program was established in March by a substantial margin, and it is essential we approve this continued funding in advance of what may prove to be another severe winter.

The cost of heating oil has more than doubled since 1973, and the problem of continually rising utility rates has now reached the point where poor people are faced with paying as much as one-quarter of the frequently inadequate incomes for those essentials which many of us take for granted.

Last year, nearly 1 million families were unable to meet heating bills on time, and some of these bills are still outstanding, with more high fuels bills to come. In fact, in New England, many of last year's bills are still unpaid, and the prospect for poor families and elderly individuals receiving adequate fuel supplies this winter is bleak. The real tragedy for these families and individuals is that they are often the most conservative of energy consumers, yet they find that the small amount of gas and oil they do use is more and more difficult to afford, and the possibility of being cut-off becoming ever more real.

This year, the Senate has included in the supplemental appropriations bill, language which recommends that a $200 million crisis intervention program be funded again. This means we will be able to provide up to $250 per household for heating costs when an "emergency situation", determined by the Director of the Community Services Administration, in consultation with the Secretary of the Department of Energy, develops.

While agreement on the severity of the approaching winter is elusive, the prospect of a milder winter is little comfort to poor and elderly people whose purchasing power is limited, and, where energy needs are concerned, declining.

I would like to strongly urge my colleagues to lend their full support to this vital measure, and hope we will recognize the need to face the problem this year with understanding and foresight.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, it is true there is no legislation pending. The administration did send up a message; in fact, are we going to let the needy of this Nation suffer because we have not placed a bill in the hopper. Right now facing this Nation is an expected extreme winter; why act after the fact?

Mr. MICHEL. It surely demonstrates that the people on the other side of the aisle have not been overly enthusiastic about the program. We are still looking for someone to introduce a piece of legislation to enact the administration's permanent program. To come up with one haphazardly through the administrative process is wrong. I do not think the gentleman's arguments are valid. They may be good for home consumption in Hartford or New York and a few other places; but I think the House will support the gentleman from Texas and support that position and we will rest our case on that.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks at this point in the RECORD in connection with the matter now before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FRENZEL. Mr. Speaker, the "emergency" $200 million for utility bills for some people is an unwarranted expense of the taxpayers' money.

The money in many jurisdictions goes not necessarily to the needy, but rather to the first people to apply for it. It is a welfare supplement that is not uniformly based on need, and therefore it is just another extra expenditure.

We could just as well make payments for medical expenses, housing, food, or any other necessary purpose. This particular need is no stronger, and there is no special emergency, other than the compulsive enthusiasm of the House leadership to give away the taxpayers' money in random fashion.

Mr. HANNAFORD. Mr. Speaker, I rise in opposition to the motion offered by the gentleman from New York. The Senate provision to add $200 million for the Community Services Administration program for emergency fuel cost assistance is one that is unnecessary at this time. If this provision is approved, we will be appropriating funds by speculation—speculation that the Nation will be experiencing an extraordinarily cold winter. As I understand it, experts have stated that we will not be facing conditions similar to those during the winter of 1977.

Any move to institute this program as an ongoing function should be preceded by appropriate oversight hearings, by a thorough evaluation of the program conducted during the winter of 1977, and by a careful analysis of the formula to determine State allocations for such funds. At this time, we have insufficient information on which to go forward with the proposed $200 million appropriation. And, with a Federal budget deficit of $14.7 billion during the first month of fiscal year 1978—a deficit which exceeds the deficit for the same period in the previous year—I believe that it would be wise to reconsider funding for this program.

Mr. Speaker, it is never good policy to legislate hastily. In this instance, we can best act responsibly and with accountability by rejecting the additional $200 million for the Community Services Administration.

Mr. LUKEN. Mr. Speaker, I rise in support of the amendment which would allow for the operation of a special crisis intervention program to assist families with meeting the cost of their ever-escalating fuel bills.

I must point out that this program will not come into operation until an emergency situation warrants such action. Last year the Congress approved such a program retrospectively. This year, by acting before the crisis is upon us, we can be more assured of an efficient, well-planned, distribution of funds should the need arise.

Last year over $13,000,000 of the allocated funds for this program went to the State of Ohio, assisting over 30,000 households and 50,000 individuals. Last year, many Ohio residents were faced with a situation of either paying their fuel bills or their food bills. It should not be an either/or situation.

The high cost of fuel is a problem which is escalating in proportion. I am certainly not in favor of Federal assistance programs for every household item which is a victim of inflation. But I do not believe that it is excessive, or unwise, to offer some assistance, to those people who are forced to live on a fixed income, in payment of their fuel costs. I do not believe it is excessive to offer some relief to those who dread the oncoming winter due to the fact that they will not be able to meet the cost of that winter on an already strained budget.

This is not a handout. It is simply an offer to defray, if the situation warrants such action, the cost of excessive fuel bills for those, who because of limited incomes, find it increasingly difficult to get by in the winter months.

I might also add Mr. Speaker, that this is not a program only for the Northeast and Midwest States. The program which Congress approved last spring provided assistance to all regions of the country.

High cost for fuel is a universal problem facing this country. I do not think we should turn away from it. I urge my colleagues to concur with the Senate on this issue.

Mr. ANDERSON of Illinois. Mr. Speaker, I urge the House to recede from its disagreement with the other body and to concur in the extension of funding for the special crisis intervention program.

As a member of the Ad Hoc Committee on Energy, I have been observing firsthand the difficulties in constructing an effective, rational, and balanced national energy policy. Despite the enormity of that challenge, millions of Americans—the disadvantaged, the elderly, those on fixed incomes—face an even more immediate, more personal, and more perplexing task, the payment of ever-escalating fuel bills. While some here in this House consider the prospects for fashioning a national energy policy discouraging, it is even more discouraging for a family to face the prospect of no heat in their home because of their inability to pay their fuel bill.

Today, we have the opportunity to act with compassion, with foresight, and with discretion in funding the special crisis intervention program to help thousands of Americans keep their homes warm this winter should the need exist.

During this decade, the costs of basic goods and services have jumped alarmingly. Food, shelter, and health costs have risen at a rate greater than the corresponding capacity for millions of Americans to meet those costs. Increasingly, we are being shaken out of our slumber only to realize that the era of low fuel prices to which we were accustomed has ended dramatically. Yet, for most of us, these prices are just an irritant requiring us to perform some sleight of hand with our household budgets. For too many low-income Americans, that budgetary margin is nonexistent, and they are less able to find additional financial resources to meet these basic fuel costs. We must recognize this harsh and cold fact of life and act compassionately to provide them with some margin of safety.

The House also will exhibit some foresight in approving this funding. Too often, Congress is criticized for failing to head off a crisis and for merely reacting in the wake of one. Certainly, last winter's severe weather caught us off guard. By the time we were able to respond to the needs of Americans who were saddled with crushing energy bills, the winter was over. Additionally, when the program finally became operative, many State legislatures had adjourned or recessed and many Governors were hamstrung by the lack of legislative approval to implement the program and distribute the funds. In contrast, the proposal before us will establish the machinery to provide such assistance should the winter prove severe.

Finally, we are moving with discretion. In our hasty consideration of this issue last winter, we appropriated funding with little knowledge of how it would be or should have been best applied. This proposal, on the other hand, prohibits indiscriminate action. The funds would be released only should a genuine weather emergency occur, and then again, that funding would be directed only to those areas where conditions warrant such assistance. Thus, we are not promising carte blanche fuel assistance; rather, we are providing advance funding for a contingency program should the need arise. The taxpayers would approve of such fiscal caution.

Mr. Speaker, I understand some of the criticisms my colleagues have made about this program. I myself have some notable reservations. First, last March, we prohibited the utilization of any of these funds for administrative purposes. This made program implementation difficult for most of the Nation's Governors. To its credit, the Senate proposal would permit the utilization of a portion of these moneys for administrative funding but only on a limited and controlled basis.

Second, several States had little need for the allocation they received because their winters were mild, but still, the formula awarded them with more assistance than they could use. To prevent that situation from occurring again, the proposal before us would channel funds only to those areas where severe weather, economic conditions, and energy availability and cost combine to create a genuine crisis for low-income Americans and the elderly.

Thus, the other body's proposal treats many of the shortcomings in the previous program's operation. Yet, all my concerns have not been eliminated by the improvements made by the Senate.

As you may remember, when we voted on the appropriation for fiscal year 1977 on March 16, the gentleman from Maine (Mr. COHEN) and I made it clear that the Community Services Administration and the governors were to provide assistance to two categories of individuals: Category A, those who could not pay their energy bills; and category B, those who paid their bills only after undertaking significant personal sacrifices to do so.

I have been less than happy with CSA's assurances that this mandate was being carried out. In some cases, State agencies lacked the authority to make certain payment arrangements for category B. Yet, in other cases, especially in one New England State, it appears a conscious decision was made not to fund category B and to deprive thousands of people, particularly the elderly, of Federal assistance they were meant to receive.

I understand fully that CSA had to gear up quickly to oversee the program's administration. Nevertheless, I am chagrined that it failed to monitor fully and in timely fashion Congress mandate to fund both categories.

This leads me to another point. The Senate report shifts the responsibility for arranging the delivery of services from the governors to CSA. Having had experience with the prior program, our governors should be included in program development. I would hope, therefore, that the Director of CSA, should an emergency be declared, will consult with the governors in those States prior to designating the vehicle for service delivery.

Last, Mr. Speaker, although I support this appropriation, I regret that the House again is considering this initiative without the benefit of substantive hearings. I sympathize with my colleagues who raised this as an issue. Yet, I also sympathize with those Americans who potentially may lose their heat this winter. Because this program is contingency-based and because it cannot operate beyond this winter without specific legislative approval, I will endorse it. Yet, in the coming months, the appropriate committees of the Congress necessarily must investigate the alternative strategies for emergency fuel assistance.

In the meantime, I urge approval of this funding. It is but a bandaid solution to the more fundamental problem of energy costs and supplies. Still, Americans should not freeze in the short run while Congress works its legislative alchemy over the long haul.

Mr. FLOOD. Mr. Speaker, I rise in support of the $200 million added by the Senate for a crisis intervention program to assist low-income people who might be in danger of having their fuel cut off in the middle of winter.

This money would only be used on a contingency basis when there is a clear and demonstrated energy emergency. This money will not be given out to every State in the Union whether they need it or not.

The Director of the Community Services Administration, Mrs. Olivarez, in conjunction with the Secretary of Energy Mr. Schlesinger, will decide what constitutes an emergency and allocate the funds accordingly.

So the money would go only to those areas of the country that have a true emergency need. As the Members know, that is a change from last time when the funds were allocated on a formula basis to every State.

If the money is not needed, it will revert to the Treasury and not be spent. It is simply a contingency fund. It is there if it is needed; if it is not needed it would not be spent.

Further, the Senate committee report directs that no funds may be committed after May 1, 1978. So the money will not be available indefinitely.

The Senate report also directs that no payment on behalf of a single household may exceed $250.

This program is no boondoggle. This is to help the poorest of the poor. If they get in a bind with extraordinarily high fuel bills, many have no place to turn besides the Federal Government.

The administration clearly supports this program—no doubt about that. The Acting Director of the Office of Management and Budget wrote a 2-page letter to Senator Magnuson in support of this program. You can be sure that, if the Director of OMB is supporting this, the President also supports it. The Director of OMB is not known to be a wildeyed radical when it comes to spending money.

I will quote one sentence from his letter:

> The Administration strongly supports efforts to assure that needy American households do not suffer severe distress from extraordinary energy costs, and we believe that the proposal under consideration by the Committee can responsibly provide that assurance if that proposal contains certain essential provisions.

The Senate then proceeded to meet the concerns expressed in the Director's letter by limiting the scope of the program in its committee report.

So the administration clearly supports this $200 million, and I am simply agreeing with the administration.

The administration recently submitted proposed legislation to amend the current public assistance law to expand the present emergency assistance program to enable States to take care of hardships created by fuel shutoffs. But until that legislation is enacted, this is the only vehicle available to us to assist these needy people.

I do not think anybody intends to keep doing this year after year. The administration intends to make this part of the public assistance program. That would certainly be my preference.

The funds that we have made available to CSA for home weatherization activities are needed to insulate and patch up the homes of poor people. They should not be diverted to crisis intervention.

The weatherization program is a separate program, and it should remain that way.

I do not believe that Congress should wait for a crisis before we take action. We should exercise some foresight and act now. If the money is not needed, it will not be spent.

This program is to help the poorest of the poor who have no place else to turn.

I urge you to be compassionate and vote for this $200 million to help poor people avert fuel shutoffs.

Mr. PEPPER. Mr. Speaker, I am pleased to rise in support of the motion offered by the distinguished gentleman from New York (Mr. Addabbo), which would have the effect of retaining the $200 million in emergency fuel assistance contained in the Senate version of H.R. 9375.

It is self-evident that I am not a member of the Northeast-Midwest Caucus, Mr. Speaker. When temperatures dip below idyllic levels in Miami, Fla., it is front-page news.

However, I also have the honor of serving as chairman of the Select Committee on Aging, which concerns itself with the welfare of more than 22 million Americans over the age of 65. Hundreds of thousands of elderly persons in all areas of the country—even some in some parts of Florida—shivered through last winter's recordbreaking cold snaps and snow accumulation.

The situation for the coming winter is only slightly less bleak. A recent survey by the Institute of Gerontology at the University of Michigan predicted that one elderly person in every five will be forced to choose this winter between eating and paying utility bills. One out of five.

What is being proposed today is not a solution to that problem, or even to the problem of emergency fuel aid for low-income people. It is a stop-gap measure, designed to help get poor Americans of all ages through the ravages of the next few months. A more suitable permanent program will have to be devised between the Congress and the administration over the next year, but the proposed $200 million emergency appropriation is the only device at hand for us to use.

It is patterned, as most of my colleagues know, after the fiscal year 1977 program, which distributed a similar amount of money to States for energy and fuel assistance activities.

I believe, Mr. Speaker, we should keep the following points in mind as we consider the pending motion:

First. Having the funds already available will permit the Federal Government to respond to urgent needs in a matter of days, rather than in the weeks or months that were required last year.

Second. The money would become available only in an energy emergency. If predictions of a milder winter this year are well founded, much of this money may go unspent.

Third. The Carter administration, through the Office of Managment and Budget, supports the proposal.

Fourth. National aging organizations, including the National Council of Senior Citizens and the Natonal Council on the Aging have endorsed the proposal.

Our committee's hearings this year into Federal disaster assistance efforts spotlighted a number of gaps as those programs relate to the elderly. One of the most flagrant shortcomings related to the delay in providing assistance. Let us act prudently today and add this potential weapon to our arsenal against winter weather disasters, rather than waiting to respond in a crisis situation.

I believe the Addabbo motion to accept the Senate's emergency fuel provision deserves your vote, and I urge its approval.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of the motion to recede and concur to Senate amendment No. 29 which will provide $200 million in crisis intervention funds to help poor families pay the extraordinarily high costs of home heating should the coming winter result in an "emergency" situation such as occurred last year.

Last spring, my colleagues will recall, the Congress passed a similar measure, which was administered retroactively by the Community Services Administration on behalf of approximately 1.5 million elderly, handicapped, unemployed and otherwise deprived individuals. This year, the Congress has had the foresight to take the initiative and to consider appropriating these funds so as to make them available as they are needed rather than after the fact.

My colleague, Congressman ADDABBO, who is offering this motion, reminds us of the elderly couple who froze to death in Syracuse last winter. Must we wait for another such tragedy to occur before we respond to what is cleary our responsibility?

I urge my colleagues to join in support of the special crisis intervention program as part of the conference report on H.R. 9375.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I would like to address myself to the issue which is before us now, the crisis intervention program and the inability of so many Americans to meet their fuel bills today.

We have been laboring many months in order to produce an energy program which encourages production and conservation while at the same time is equitable to all segments of society. We have been wrestling with these problems for a long time, but the final form of this program has yet to be resolved. Whatever the outcome though, one thing is certain—the price for fuels will rise, and continue to rise, for quite some time.

Since 1975 the average retail price for natural gas used for residential heating has risen over 62 percent. In the same time period home heating oil has risen an average of 24 percent. This is not a regional phenomenon, it is nationwide, and consumers throughout the country are feeling its impact.

But I am especially worried about that group of people who now most bear this hardship. These are the people who have to sacrifice food or clothing in order to purchase heating oil, and many times must go without, because they are not receiving Federal assistance nor are they able to afford skyrocketing fuel costs.

It is for the working poor, the marginally poor, those on fixed incomes that this program is targeted. These are the same people who would be laid off when industrial gas supplies are curtailed.

This program would guarantee that these families need not have to endure a bitter cold winter without fuel assistance. The Community Services Administration estimates that 1.8 million families will have their gas shut off if help is not provided immediately.

Mr. Speaker, we have here an opportunity to prevent a situation which unfairly places the burden of energy production and conservation on families who at the most consume only a subsistance amount of fuel. I, therefore, strongly urge my colleagues to support a program which would effectively correct this inequity.

This proposal has been revised from last year to assure the effective use of funds on a contingency basis only where there is a clear and demonstrated energy emergency. Payments will now be made on a prospective basis and not after the height of the crisis has passed. Oil companies will be assured of prompt payments while many families will not have to endure dangerous fuel cutoffs.

This program is a temporary measure and every effort should be made to assure that by next winter we are prepared to assist the poor and their heating problems with an equitable and permanent program. Until then, this is their only protection from the hardships of a cold winter.

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Speaker, I rise in support of the motion to include an appropriation for a "Special Crisis Intervention Program" in the Supplemental Appropriations Act, H.R. 9375. The program would provide $200 million to aid lower income families and individuals in paying their costly fuel bills this winter.

Once again we are facing the prospect of a severe winter during a time when utility, gas, and fuel oil prices continue to escalate. Last year the extreme temperatures and prohibitive price of home heating oil proved to be too much of a burden for the unemployed, working poor, and the elderly who found that they lacked the necessary funds to heat their homes properly.

This spring Congress appropriated $200 million for a "Special Crisis Intervention Program" to retroactively assist nearly 1 million households that were unable to meet their heating bills on time. Over 2½ million individuals all across the country were allotted a maximum of $250 to pay their outstanding accounts. Although the program was passed as a temporary measure to object to its reinstatement on the grounds that it was supposed to be for one-time-only, would be to deny the energy crisis that we are now facing.

There is a crucial need to continue the program for this winter. Temperatures across the country are predicted by meteriologists from both the public and private sectors to be 15 percent below normal this year. Two weeks ago, temperatures in the North Central area of the country were 25 degrees below normal. Fuel prices have been increasing steadily, and in the past 30 months the price of home heating oil has risen 22.2 percent while the price of natural gas increased 62.1 percent according to estimates by the Community Services Administration. In New England alone, the price of home heating oil will jump from 47 cents to over 50 cents per gallon, this year.

Much emphasis has been placed on the fact that the Northeastern States have been lobbying very strongly for passage of funding for this program, but the crisis facing the poorest members of our society extends beyond the boundaries of the Northeast. It is estimated by the Community Services Administration that almost 2 million households nationwide are presently in danger of having their gas supplies terminated, and only 17 percent of those people now anticipating shutoffs are located in the Northeastern portion of the United States. All 435 Members of Congress received a letter from my office that was cosigned by 18 of my fellow Congressmen, most of whom are from Southern and Western States, in support of the fuel assistance program.

Much of the criticism of the Community Services Administration's handling of the program this spring was directed toward the allocation of money on a State-by-State basis. The result of this policy was that some money went to "warm-weather" States where much of the funds were not spent. This year money will not be allocated to every State but is to be used on a contingency basis only in cases of emergency. The Director of the Community Services Administration would be given the discretion to determine, along with the Secretary of the Department of Energy, what constitutes such an "emergency" by considering factors like degree days, fuel costs, and unemployment. Any unobligated funds will be returned to the Treasury.

Most importantly, this time Congress will be acting before the onset of winter to insure that special crisis intervention program funds will be available during the coldest months of the year. By acting now, Congress can prevent the needless suffering that would be caused by a lack of financial assistance available to the poor and near-poor in our country during a time when temperatures are falling and fuel prices are rising at an equally rapid rate.

Decisive action by Congress on the special crisis intervention program could prevent the tragic consequences of leaving millions of poor and aged people without the means to pay for essential heating fuel. Each Member's vote will determine not only the fate of funding for this program but also the fate of people across the country who have found their diminishing purchasing power cannot possibly keep pace with the soaring prices of fuel.

Mr. MAGUIRE. Mr. Speaker, if I have any remaining time, I ask unanimous consent to yield the remainder of my time to the majority whip, the gentleman from Indiana (Mr. BRADEMAS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. MAHON. Mr. Speaker, what time is remaining?

The SPEAKER pro tempore. Ten seconds.

There was no objection.

Mr. MAHON. Mr. Speaker, I yield 3 minutes and 10 seconds to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I take this time to put some questions to one of the sponsors of the amendment, the gentleman from Connecticut (Mr. MOFFETT).

I would ask him, in view of the fact that there seems to be a good deal of concern on the part of many Members in this Chamber that the $200 million for the emergency fuel assistance program is really a measure to help the working poor, elderly on fixed incomes, and the unemployed, of certain regions of this country, to pay their home heating bills, if he has any information to refute the cries of regionalism?

Mr. MOFFETT. If the gentleman will yield, we have seen from the figures here that States such as Virginia have received over $3 million, and has used every penny. Alabama has received almost $2.5 million. Florida has recieved $1.5 million, and they have used this money. That does not mean that there has not been abuses, but the kinds of abuses that have been alleged here, I think, are relatively minor when we compare it to the number of people helped around the country. It just is one part.

Mr. BRADEMAS. Further, last year sponsors of this bill said that it would be a one-time program. Now, the gentleman is back for money again. Can he document the need again this year for the money, and what is the picture for the future?

Mr. MOFFETT. The gentleman from Illinois (Mr. MICHEL) raised this question several times about the one-time period, and how we thought it would be so. I do not think any of us realize—this is not just one Member's opinion, but I think many Members who have been out and around can vouch for the fact that indeed there is a great deal of misery genuinely on the part of people who fall in this income category.

The fact of the matter is that the President is developing a permanent program as part of another HEW program. They simply have not gotten there yet, and we have to do this immediately.

Mr. BRADEMAS. Further, if the $200 million were not appropriated for the emergency fuel assistance program, what implications would there be for small, independent fuel retailers across the country?

Mr. MOFFETT. From everything we have been able to gather from the Ad Hoc Committee on Energy and the conference committee, I conclude that on the basis of the future small fuel oil dealers and gas dealers will have tremendous problems.

They would be so great that they can, in so many cases, be an occasional problem. They must make their money to continue their business.

Mr. BRADEMAS. Are there any provisions, I would say to the gentleman, in the National Energy Act to help people who are in desperate need of help?

Mr. MOFFETT. There are no provisions to help people this winter at all, nor are there any provisions of this kind for the future.

Mr. BRADEMAS. Finally, I would say to the gentleman, can he tell us the view of the distinguished Speaker of the House on this particular amendment?

Mr. MOFFETT. I expect to be yielded some time by the distinguished chairman of the Committee on Appropriations. At that time I will read a letter, a portion of a letter, which shows that the Speaker is solidly behind this program, not, I might add, simply because he is from New England, but because he has also seen the national need.

Mr. BRADEMAS. I appreciate the comments of the gentleman from Connecticut.

Mr. Speaker, I know that in fiscal year 1977 the special crisis intervention program provided very valuable assistance to constituents in my own congressional district.

Although the special crisis intervention program last winter met the needs of many thousands of low income and elderly people to supplement their extraordinarily high fuel bills, that program was seen to have been too broadly based.

I am gratified that the program now proposed for this winter would be targeted to fuel assistance payments and then only in areas declared to be emergency areas by the Community Services Administration in consultation with the Department of Energy.

The program would thus be in place in time to meet emergency needs for additional fuel payments during any emergency that arises this winter rather than after the fact as was the case with the program last year.

Mr. Speaker, I am also gratified that the administration, through James T. McIntyre, Jr., Acting Director of the Office of Management and Budget, has given its full and complete support to this amendment offered by Mr. ADDABBO, and I ask unanimous consent to insert at this point in the RECORD the text of a letter from Mr. McIntyre to the Honorable WARREN G. MAGNUSON, the distinguished chairman of the Subcommittee on Labor and Health, Education, and Welfare of the Senate Committee on Appropriations.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 27, 1977.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor and Health, Education, and Welfare, Senate Committee on Appropriations, Dirksen Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to you to express my concern regarding the ability of the Federal Government to act quickly and effectively in response to the emergency energy needs that arise this coming winter.

We understand that the Senate Committee on Appropriations has under consideration the addition of $200 million to the Supplemental Appropriations bill for fiscal year 1978 to aid those seriously affected by potential energy emergencies this winter. The Administration strongly supports efforts to assure that needy American households do not suffer severe distress from extraordinary energy costs, and we believe that the proposal under consideration by the Committee can responsibly provide that assurance if that proposal contains certain essential provisions.

Last winter's severe weather pointed up the shortcomings of the present Emergency Assistance program of the Department of Health, Education, and Welfare and caused the Congress to add special funding for the Community Services Administration to aid those seriously affected. Unfortunately, the special assistance tended not to be targeted narrowly enough on those areas most in need since it was distributed as a formula grant, was diverted into activities that were not of an immediate crisis character (such as weatherization), and often was available to pay fuel bills well after the height of the emergency had passed.

The Administration's recent Emergency Assistance proposal, transmitted to the Congress in September, would correct the present law's deficiencies.

Because the Administration's bill has not yet progressed in the Congress, and other legislation is not likely to be enacted before possible energy emergencies may occur, we believe an interim contingency program is advisable.

Under the CSA authority previously used, contingency funding under the conditions noted below would provide a stop-gap basis for aiding people severely affected financially by an energy emergency:

No funds should be used for weatherization activities—these services can be provided by existing programs and funds.

The use of these funds should be contingent on the actual declaration of emergency by some authority, i.e., the Director of CSA after consultation with the Secretary of Energy. Funds should not simply be distributed to States and localities for whatever use they see fit. The money should instead be carefully targeted on those seriously affected by an energy emergency if one occurs.

Funds should only be expended as necessary, and should revert to the Treasury if not used.

The funds provided should be available for use in the Administration's proposed Emergency Assistance program when and if it is enacted.

If the amount to be made available for assistance to households to meet energy emergencies is obligated according to the above-conditions, I believe it will effectively meet any energy emergencies which may occur this winter.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Acting Director.

Mr. Speaker, I should also point out that the second budget resolution for fiscal year 1978 included room for this program under the energy function 300.

Mr. Speaker, the forecasts are for an extremely difficult winter in the Midwest region of the country and I anticipate and concur in the judgment of the administration that this program will be necessary.

I hope the amendment will be strongly supported on both sides of the aisle.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, I think that we have come a long way in trying to answer some of the questions which were legitimately posed by some people on the other side. Let us just hope that we do not exaggerate on either side. I think the example of the lady in Pittsburgh can be found in any Federal program. Hopefully, there is not a great number. Let us not allege that it is typical of this program. It certainly is not typical in Connecticut, New York, Pennsylvania, or any other State. That type of example should not be used to categorize this program. By the same token, we should not exaggerate and tell people who are on the borderline or who are against this program that there are going to be dying people by the tens of thousands if we do not enact it. The fact of the matter is that there might be some people who will die, some people who will be ill, and there will be some people making that choice, as they do in poverty, between food and energy. But in an era of less government, less Federal interference, do we still have the ability to respond to an emergency? This program is based on need. It is not a revenue sharing program, as it was last year. I think we have answered the questions of the gentlewoman concerning the administrative costs. The reason we had to be careful on administrative costs last year was because there was an allotment to the States. This year they have to show a need in advance. As my colleague said, the fuel banks in States are working marvelously. It is one of the best Federal investments of Federal dollars.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, could we establish this as part of the legislative record, that the Community Services Administration is charged with the responsibility of seeing to it that the administrative costs, or any grants in any State, do not exceed a very, very small proportion of that money which will be allotted to them, 5 percent, 10 percent? Would the gentleman agree that some such prudent guide could be given?

The SPEAKER pro tempore. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

Mr. MAHON. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I have given a great deal of thought to this program. I supported it last year because of the unusual winter we had. I supported a provision for it in the Budget Committee. But here, where I must determine for myself as one Member of Congress, I have to tell the Members that I cannot support this program. Never in all my years in Congress have I received so much persuasion and pressure from various groups back home: newspaper editorialists in favor of the program, citizen groups in favor of the program, religious groups in favor of the program, and people in our State government in favor of the program.

So, therefore, with all that kind of pressure and persuasive power, I really searched my soul and my conscience to try to find the right thing to do.

The right thing to do, in my opinion, is to not start a new Federal program when we have all we can do to fund existing programs.

I know there is suffering. I have a record during my 19 years in the Congress of concerning myself with the needs of poor people and of people with hardships. I know there is suffering, but I also know that the Federal Government cannot do everything at the same time that it is planning to cut taxes.

We cannot extend benefits and cut taxes constantly and ever expect to get out of this morass in which we find ourselves economically as a Nation. There are some things that the Federal Government must do, and there are things that the State and local governments must do. And, yes, there are things that non-Government groups must do. I suspect and feel that the provision of heat in the wintertime is something that could be done by those groups, and that our Federal moneys could be better spent in other areas than providing heat.

I would much prefer to see this money spent to help people get medicines. I would much prefer to see this money spent to help people get dentures and eyeglasses and many of the health services they need and do not get.

Be that as it may, what have we done here? Last year we passed an emergency bill to provide fuel assistance because we had a disaster in the land. That was a disaster resulting from the coldest winter we have had in, I believe, 50 years.

We have passed all kinds of bills providing programs to deal with disasters and emergencies. We have dealt with other kinds of disasters—floods, drought, hurricanes, and, yes, cold winters like the one we had last year. We have responded as a humane Federal Government, as we do in the case of all emergencies and disasters. We responded, and we enacted an emergency program.

But now, before the winter has even begun, we are being asked to take this emergency program and convert it into an annual entitlement program.

There may be another emergency this winter. We do not know yet what the weather will be. But I submit that if we have another winter like the one we had last year, we can then consider this on its merits as an emergency program. Let us not change this program from an emergency program into a regular entitlement program.

It also happens that we are raising social security taxes, and we are having a struggle doing that. If we ever get an energy program, there are going to be massive tax increases in that bill, particularly in the area of fuel and energy. It may well be that we are going to have to develop and devise a system under the new energy legislation of helping the poor people in some fashion to pay their fuel bills, particularly in view of the fact that we are going to have higher energy costs. There is legislation in the works sent up by the President which addresses itself to that problem.

We should address ourselves to this entire problem of energy costs and how they relate to poor people. We can do that if we do it in the proper way. Let us study the basic problem of increased energy costs in a deliberative fashion, but let us not be stampeded into doing it here today in this appropriation bill on the basis that we are faced with another emergency when we do not know yet whether there will be one. We cannot put aside funds for emergencies before they begin, much as we would like to do that.

Lastly, Mr. Speaker, we are running a deficit close to $60 billion. We are going to be reducing taxes. Mark my words, we will be in here within a couple of months with a massive tax reduction program.

We have all we can do to fund existing programs, as we well know, if we just look at the social security program. And yet here we are setting out to start a new program.

Where will it end? What will be next? This provides $200 million for fuel. Will we have $200 million for air-conditioning next summer? Will we have the necessary moneys for other needy purposes?

These are really needy purposes, but I submit that the States can carry part of this burden. This is a burden that I would like to see left with the States and with the local governments and with private agencies.

We in the Federal Government can well use this $200 million for those purposes which are truly Federal in nature and which will benefit our people, those whom we are trying to benefit, in a much better way than will this program.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Connecticut.

Mr. MOFFETT. First of all, I would say to the gentleman that it is truly Federal in nature when we raise the price of energy, as we have done.

Mr. GIAIMO. I think I have stressed that point already.

Mr. MOFFETT. We need not debate why we have those high energy costs or why there have been termination of services and what our policy will be on such things.

The point is, there was an emergency last year; and yes, there is an emergency this year whether the winter is mild or severe. We have an emergency, and the gentleman knows that.

Mr. GIAIMO. I do not concede that there will be an emergency this winter. There may well be one, but there is not one now.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we cannot go on forever expanding old programs and creating new programs and cutting taxes if we want to survive fiscally. It is bad for the poor and the rich, everybody.

Of course, we all know that if one starts a temporary program, there are those who will undertake to perpetuate it forever.

Last year some of the Members said, "Pass this bill providing fuel funds. This is a temporary matter, and it will not be continued."

However, here we are being asked to provide $200 million this year. Next year it may be $300 million in order to help people pay fuel bills.

Mr. Speaker, I think it is most regrettable that at a time when we are providing vast sums to take care of the poor wherever we can, we should be called upon to provide this $200 million.

There is already $65 million left over in this program from the regular Labor/HEW appropriation bill, which is available; and there are other funds available.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I thank the gentleman for yielding.

Do I understand that there is money available today, left over from last year's program, and that there is money available in the fiscal 1978 appropriations for emergency use if an emergency should develop between now and, let us say, the end of next January?

Mr. MAHON. This is the information that I have. There is about a $100 million-plus carryover from this year and last year. There is about $40 million left over from the $20 million appropriated in the spring supplemental and about $65 million in the current HEW bill which has been held up.

The point is that if an emergency develops, there are funds to partially take care of the situation.

Of course, everybody has problems. Grocery costs are high. Rents are high. Fuel bills are high. The Federal Government, with its dire deficits and tremendous level of public debt, is not able to go on spending forever and ever without some restraint.

It seems to me that it would be irresponsible for us to vote for this additional $200 million at this time and under these circumstances.

Mr. McCORMACK. Mr. Speaker, if the gentleman will yield further, I want to thank the chairman for making this clear.

I am certain all Members want to be certain that no person actually in dire circumstances as a result of cold weather or inability to pay for fuel is harmed. However, we will be back in session in January, and we will have an opportunity to enact emergency legislation then, if it is needed. In the meantime, existing funds will cover any contingency. I support the chairman in his opposition to the preferential motion.

Mr. MAHON. Mr. Speaker, I appreciate the gentleman's statement.

Another thing we can say is that if people's fuel bills are higher and they are in difficulty, then there is a possibility of their food stamps being increased thereby making additional funds available for fuel bills. We are doing all we can to prevent undue hardship.

I hope that what the gentleman from Connecticut (Mr. GIAIMO), the chairman of the Committee on the Budget, has said in connection with this matter and what the gentleman from Illinois (Mr. MICHEL) has said in connection with this program will be taken into account. This is a very poorly set up program. It has not been finalized. It is most ill-advised to provide this $200 million.

Mr. Speaker, I trust that the motion offered by the gentleman from New York (Mr. ADDABBO) will be voted down, and presently I shall move the previous question on it.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my chairman's yielding.

Our understanding, then, can be very clear that in voting down this motion, we are not providing that this emergency fund that was set up last year will be totally unfunded, are we? There are, in fact, as we learned in the Committee on the Budget, unobligated funds that have not been spent from this fund; is that not correct?

Mr. MAHON. The gentleman is correct.

Mr. ROUSSELOT. Therefore, the argument that we are somehow putting the poor and the hungry out in the cold is just not true.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield very briefly to the author of the preferential motion, the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I thank the chairman, the gentleman from Texas (Mr. MAHON) for yielding to me. I would ask the gentleman, is it not true that those funds cannot be used for this purpose? None of the States will release those funds? That is the reason we are asking for the program before the fact, so that the funds can be used for this purpose, if not, they will revert back to the Treasury. They must be used for an emergency fuel program only. We cannot retrieve any part of last year's emergency funds of the $200 million. That is the reason we are requesting these funds. These funds will have different guidelines. If they are not used for the purposes delineated then they will revert back to the Treasury and they must be committed no later than May 1, 1978.

Mr. MAHON. Mr. Speaker, if it is true that funds are available then we should not appropriate further funds especially since the program has not been thought out. Further there is no budget request from the President for this $200 million.

I would urge the Members of the House to vote down the preferential motion offered by the gentleman from New York (Mr. ADDABBO) so that we can save this $200 million, and vote with the gentleman from Connecticut (Mr. GIAIMO).

Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from New York (Mr. ADDABBO).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ADDABBO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 182, nays 181, not voting 72, as follows:

[Roll No. 764]

YEAS—182

Addabbo
Allen
Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Byron
Caputo
Carney
Carter
Cavanaugh
Cleveland
Cohen
Collins, Ill.
Conte
Cornell
Cotter
D'Amours
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Eilberg
Emery
Evans, Ind.
Fary
Fascell
Fish
Flood
Florio
Fraser
Gaydos
Gephardt
Gilman
Gonzalez
Goodling
Gore
Guyer
Hamilton
Hanley
Harrington
Harris
Heckler
Hollenbeck
Holtzman
Horton
Hubbard
Hughes
Hyde
Jeffords
Johnson, Calif.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kildee
Kostmayer
LaFalce
Le Fante
Leach
Lederer
Lloyd, Tenn.
Lujan
Luken
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marks
Mazzoli
Metcalfe
Meyner
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
O'Neill
Oakar
Oberstar
Obey
Ottinger
Patten
Pattison
Pease
Pepper
Perkins
Pressler
Preyer
Pursell
Rahall
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rooney
Rose
Rostenkowski
Roybal
Sarasin
Scheuer
Seiberling
Sharp
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Stokes
Stratton
Studds
Thompson
Traxler
Tsongas
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Weiss
Wolff
Wydler
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—181

Abdnor
Akaka
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Bonker
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Carr
Cederberg
Chappell
Clawson, Del
Cochran
Coleman
Collins, Tex.
Conable
Corcoran
Corman
Coughlin
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dicks
Dornan
Duncan, Oreg.
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Evans, Colo.
Evans, Del.
Fenwick
Findley
Fisher
Flippo
Flowers
Flynt
Foley
Fountain
Fowler
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Ginn
Glickman
Gradison
Grassley
Gudger
Hagedorn
Hammerschmidt
Hannaford
Hansen
Harsha
Hefner
Heftel
Hightower
Holland
Holt
Huckaby
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kasten
Kemp
Ketchum
Keys
Kindness
Krebs
Lagomarsino
Latta
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Long, La.
Long, Md.
Lott
McClory
McCormack
McDonald
McFall

McKay
Mahon
Mann
Marlenee
Martin
Michel
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Gary
Myers, John
Nedzi
Nichols
O'Brien
Panetta
Pettis
Pickle
Pike
Poage
Price
Regula
Rhodes
Roberts
Robinson
Rogers
Rousselot
Rudd
Runnels
Ryan
Santini
Satterfield
Schroeder
Schulze
Shipley
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Nebr.
Spence
Snyder
Steiger
Stump
Taylor
Teague
Thone
Thornton
Treen
Trible
Ullman
Van Deerlin
Waggonner
Watkins
White
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wylie
Young, Fla.
Young, Tex.

NOT VOTING—72

Badillo
Beilenson
Blanchard
Bolling
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clausen, Don H.
Clay
Conyers
Cornwell
Crane
Cunningham
Danielson
Dent
Downey
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Gammage
Goldwater
Hall
Harkin
Hawkins
Hillis
Howard
Kelly
Koch
Krueger
Lent
Lundine
McCloskey
Madigan
Marriott
Mathis
Mattox
Meeds
Mikulski
Milford
Moss
Murphy, N.Y.
Patterson
Pritchard
Quayle
Quie
Quillen
Railsback
Roncalio
Rosenthal
Ruppe
Russo
Sawyer
Sebelius
Steers
Stockman
Symms
Tucker
Waxman
Weaver
Whalen
Whitehurst
Wilson, Bob
Wilson, C. H.
Wirth
Wright
Yates
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Gammage for, with Mr. Kelly against.

Ms. Chisholm for, with Mr. McCloskey against.

Mr. Ford of Michigan for, with Mr. Sebelius against.

Mr. Young of Alaska for, with Mr. Symms against.

Mr. Waxman for, with Mr. Marriott against.

Mr. Koch for, with Mr. Goldwater against.

Mr. Ford of Tennessee for, with Mr. Crane against.

Ms. Mikulski for, with Mr. Hall against.

Until further notice:

Mr. Badillo with Mr. Dent.

Mr. Clay with Mr. Railsback.

Mr. Yates with Mr. Broyhill.

Mr. Beilenson with Mr. Forsythe.

Mr. Downey with Mr. Madigan.

Mr. Conyers with Mr. Cunningham.

Mr. Tucker with Mr. Mattox.

Mr. Phillip Burton with Mr. Hillis.

Mr. Milford with Mr. Quayle.

Mr. Rosenthal with Mr. Ruppe.

Mr. Moss with Mr. Whalen.

Mr. Hawkins with Mr. Quie.

Mr. John Burton with Mr. Erlenborn.

Mr. Ertel with Mr. Stockman.

Mr. Cornwell with Mr. Mathis.

Mr. Harkin with Mr. Lent.

Mr. Danielson with Mr. Quillen.

Mr. Wright with Mr. Steers.

Mr. Evans of Georgia with Mr. Wirth.

Mr. Fithian with Mr. Murphy of New York.

Mr. Howard with Mr. Whitehurst.

Mr. Krueger with Mr. Patterson of California.

Mr. Lundine with Mr. Pritchard.

Mr. Charles H. Wilson of California with Mr. Bob Wilson.

Mr. Weaver with Mr. Meeds.

Mr. Russo with Mr. Sawyer.

Mr. Roncalio with Mr. Blanchard.

Mrs. COLLINS of Illinois, Messrs. WALKER and ABDNOR changed their vóte from "nay" to "yea."

Messrs. ULLMAN, FINDLEY, KREBS, BROWN of Michigan, FOLEY, DICKS, and ABDNOR changed their vote from "yea" to "nay."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 14, line 17, strike out "Project; and of which not to exceed $17,000,000 is" and insert "Project.".

Not to exceed $17,000,000 of the funds appropriated for "Operating expenses" in the Public Works for Water and Power Development and Energy Research Appropriation Acts for fiscal year 1976 (Public Law 94–180) and 1977 (Public Law 94–355).

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

Mr. BURGENER. Mr. Speaker, will the gentleman yield for a question on amendment 31?

Mr. MAHON. I yield for the purposes of debate only.

Mr. BURGENER. Mr. Speaker, if the chairman would be kind enough to yield to the gentleman from Alabama (Mr. BEVILL), I would like to ask him a question, if I may.

Mr. BEVILL. Mr. Speaker, will the chairman yield?

Mr. MAHON. Yes, I yield to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. I thank the chairman for yielding.

Mr. BURGENER. Mr. Speaker, this matter of the $17 million for the move for the new Department of Energy was considered in our subcommittee. The House worked its will. We provided new money. It is my understanding the Senate bill included language to reprogram existing funds for the move. The conferees agreed with the Senate position. So my question to the chairman is: From what source will the money come, and will it jeopardize any program we acted on earlier?

Mr. BEVILL. There is $50 million left from the 1977 appropriation that was not used by ERDA. This money would have been used and was appropriated for the purpose of paying the TVA for its power bill to Oak Ridge, Tenn., at the uranium enrichment plant located there. But due to the very cold winter, TVA could not furnish this power to Oak Ridge and the money was never spent. The money was appropriated to remain available until expended. The $50 million is still there and available for reprograming.

Mr. BURGENER. I thank the gentleman for that explanation.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. Mr. Speaker, the gentleman from Texas (Mr. MAHON) has the floor.

Mr. MAHON. Mr. Speaker, I yield such time as he may require to the gentleman from Alabama (Mr. BEVILL).

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr BEVILL. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Speaker, I am confused, because this money was appropriated to ERDA originally to purchase power from TVA, and TVA was unable to supply the power to ERDA.

Did not ERDA have to buy the power from someone else, then, in order to enrich the fuel?

Mr. BEVILL. The power was not available. This was because of the unusual weather last winter. The power was not available. Oak Ridge had to do without for this particular operation.

Mr. JOHN T. MYERS. Then ERDA did not enrich as much fuel last year as they had anticipated they could?

Mr. BEVILL. This is correct, because they did not have the power.

Mr. JOHN T. MYERS. Mr. Speaker, I have one more question.

Then this limitation now limits it to just $17 million. Can they spend more than $17 million from those unallocated funds or unspent funds for this move?

Mr. BEVILL. In order to spend the balance of $33 million, as the gentleman knows, they would have to come back before the four committees in Congress, and it would take the agreement of the four committees in order for them to do so.

Mr. JOHN T. MYERS. In other words, this limitation is $17 million, and anything that might be required from DOE above that, they would have to come back and reprogram?

Mr. BEVILL. That is correct.

Mr. JOHN T. MYERS. This was the original program that DOE wanted. They wanted to reprogram lands for the move?

Mr. BEVILL. This is correct. And if they want to spend more than $17 million they would have to come back to the Senate Appropriations Committee, the House Appropriations Committee, and then the two authorization committees in order to reprogram it.

Mr. JOHN T. MYERS. I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 15, after line 7, insert:

ALASKA HYDROELECTRIC POWER DEVELOPMENT FUND

For the purpose of carrying out the provisions of section 203 of the Water Resources Development Act of 1976 (Public Law 94–587), $5,450,000, to remain available until expended: *Provided*, That no part of this appropriation or any other amount in this fund shall be available to guarantee any obligations in excess of the amount appropriated herein.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 16, after line 6 insert:

UPPER COLORADO RIVER STORAGE PROJECT
(TRANSFER OF FUNDS)

For an additional amount for "Upper Colorado River Storage Project", for construction of recreational and fish and wildlife facilities authorized by section 8 of the Act of April 11, 1956, as amended, $875,000, to be derived by transfer from "Construction and Rehabilitation".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 18, after line 1, insert:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

SALARIES AND EXPENSES

Not to exceed $20,250 of the funds appropriated under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$15,000"

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 43: Page 20, after line 10, insert: Appropriations provided under this heading in the Department of Defense Appropriation Act, 1977, are rescinded in the amount of $462,000,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein.

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) and the gentleman from Michigan (Mr. CEDERBERG) will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I call the attention of the House to the fact that this is the issue of a rescission of the B–1 bomber. I understand that several Members would like to have a few minutes to speak on the issue.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield for a question?

Mr. MAHON. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, on page 15 of the conference report, in the lower part of the page there is a heading, "Other Procurement, Navy."

The conferees agreed with the Senate position that AN/SSQ–7 sonobuoys could be procured by the Navy through its "Other Procurement, Navy" program, if the initial testing results and the potential savings justify such a purchase.

The conferees also stated, however, that payment for such a purchase should be made from "Research and Development" appropriations, if such funds are available.

Is it the intent of the conferees that the Navy have the option of using either appropriation category? In other words, can the Navy decide to use available "Other Procurement, Navy" funds if there are no "Research and Development" funds available?

Mr. MAHON. Mr. Speaker, with regard to the question which has been raised by my friend, the gentleman from Massachusetts (Mr. BURKE), as to the sonobuoy program, the conference report language would permit the program to proceed if the Navy feels that the testing is sufficiently complete that procurement should proceed. The program can be funded under the usual programing procedure. The conference report states that only research and development funds should be used prior to approval for service use.

Mr. BURKE of Massachusetts. Mr. Speaker, I thank the chairman of the committee.

Mr. MAHON. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Speaker, I thank the committee chairman for yielding this time to me.

Mr. Speaker, most of us know what the issue is here; but I would like to point out two or three matters in clarification.

First of all, when this supplemental appropriation bill passed the House, it was totally silent with reference to moneys for the B–1. This bill went to the Senate, and the Senate put a nongermane amendment on the bill. That nongermane amendment is the subject of the controversy now before us.

The amendment does not affect one dollar in this particular bill, but it goes back to that which we did more than a year ago in another appropriation bill, in which we included money for the completion of the research and development program on the B–1.

I rise in opposition to the motion offered by the gentleman from Texas (Mr. MAHON). I would state that from my standpoint, what we ought to do here today is to retain the moneys for the research and development in this program on which we agreed more than a year ago, and that we should not accept this nongermane amendment.

Mr. Speaker, if we take the action proposed by the chairman of this committee, we will take out some $462 million and then go out and spend another $750 million in canceling contracts. For a total of $990 million—moneys which have already been appropriated—we can obtain aircrafts five and six and complete this vital research program.

Some of the most important research yet to be done is assigned to these airplanes 5 and 6.

Mr. Speaker, I urge the Members to vote "no" on this motion.

Let me say one further thing quickly. We have been asked to substitute for the manned penetrating bomber the cruise missile. Nobody supports the cruise missile more than I do, but our representatives at SALT have already agreed, before they got to SALT, to limit the range of the cruise missile to 1,500 miles. When we limit the range of the cruise missile to 1,500 miles, we make absolutely essential a manned penetrating bomber.

Most of us know that the Soviets can throw a barrier 800 to 1,200 miles beyond its territorial limits. If we take that amount off the 1,500 miles for penetration, we make the effective or efficient penetration less than 700 miles.

Therefore, if we want a balanced and viable strategic program; if we want to leave this line open; if we want to leave an option open for the President of the United States in the SALT talks; if we want to leave open an option for us to have a manned penetrator from which to launch the cruise missile; then we will vote "no" on this motion.

Mr. Speaker, I ask that the Members vote down this motion to recede and concur.

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Florida (Mr. CHAPPELL).

Mr. Speaker, I rise today in opposition to Mr. MAHON'S motion to recede and concur in the Senate amendment to rescind $463.4 million appropriated for the continuation of the B–1 bomber program.

It is obvious that we in Congress have been contradicting ourselves on the B–1 issue. We cannot rescind funds for the B–1 program, and at the same time, believe that an updated strategic manned penetrator can be produced in the future.

We must all realize that the information obtained from the B–1 research and development program is important to the development of many future U.S. military aircraft. The refinements incorporated into B–1 bombers 5 and 6 are vital to updating our aircraft technology.

We realize, too, the uncertainties surrounding the cruise missile program. We simply do not know the capabilities of this weaponry, nor do we know what limits will be placed on its capabilities through SALT negotiations. Continuation of the B-1 program would provide for the needed technical base in the event that alternative systems, such as the cruise missile, run into difficulty.

Furthermore, the SALT negotiations are not going smoothly. Everyday we read in the newspapers that the negotiations are not sound for the United States. We should not further jeopardize our position in the SALT talks by discontinuing the B-1 program. Also, the Soviet Union has relied heavily on the Backfire bomber in the SALT negotiations. the B-1, even in the event of necessity. force to this Soviet manned penetrator.

Finally, we must recognize that we have made a promise to the American people to provide ample national defense systems. Without the B-1, this promise is impossible to keep.

Therefore, if we vote today to rescind funds for the B-1 bomber program, we will be making a serious mistake. To concur in the Senate amendment would make it virtually impossible to produce the B-1, even in the event of necessity.

We in Congress should not make this mistake. We cannot afford to jeopardize our defense efforts and our SALT talk efforts. A vote against the B-1 would create an even larger breach of trust between the Congress and the American people.

I urge you to consider these and other arguments in favor of the B-1, and to vote against Mr. MAHON's motion to recede and concur in the Senate amendment.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague for yielding. It is my understanding that the House accepts the position of the Senate, it will really cost more to cancel this program out because in canceling out we also lose out on the amounts of research and development money already spent. Is that not right?

Mr. CHAPPELL. It will cost $750 million just to cancel it, and for a little over $975 million we can finish up the program and get the airplane. Therefore, it is ridiculous, in my view, for us to cancel out this program or a good portion of it just before we complete it. Also, the cruise missile has not yet been proven. We are just in the beginning stages of proving it.

Mr. CEDERBERG. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Speaker, we have been hearing from various of our colleagues that the B-1 is dead. Then I ask, if it is dead, what are we doing here talking about it again?

The B-1 is nothing more than dormant. It is dormant because DOD refused to go along with what this House said it should do almost a year ago when the appropriation was made to go through with the R. & D. on the B-1.

Mr. Speaker, how are things different as compared to the last time we voted on this issue? Why revive the B-1 from dormancy?

Mr. Speaker, I will tell the Members why: because it is in our best national interests to do so.

Since then, Mr. Speaker, a great deal of additional information has become available. No. 1, we found out that the Russian Backfire bomber exists in substantially greater numbers and has a longer range than what had been originally predicted for it. Therefore, it is a threat to us, both as far as the Navy and the Air Force are concerned.

We have reiterated our triad concept, and we still maintain that we want a manned penetrating bomber.

Yet, what do we have as a substitute for the B-1? We have the FB-111A, a stretched out, worn model of an airplane that has been in the inventory for a number of years with B-1 components in terms of engines and avionics.

Again, why should we revive it? Because the SALT talks are in trouble. Have we not just in the last few days seen our own negotiators are in disagreement with regard to the SALT talks? They cannot agree among themselves as to which way we are going. Consequently, how can we expect to be considered in a favorable position in terms of the SALT talks?

Again, why revive the B-1's dormancy? Because of the mounting uncertainty with respect to our military aircraft policy in the future, as reflected by what the DOD and the Navy are doing. They cannot decide now whether they are going to build the F-18, on which we had so much debate last year, or whether to go back to the A-7 and build it with two engines.

So, even they do not know which direction they are going with regard to armament that might be added in the future.

Why should we revive it from dormancy? As the gentleman from Florida (Mr. CHAPPELL) says, because it makes good sense fiscally speaking. It is going to cost us $745 million, based on one estimate, if we simply phase out the B-1 and we do not get anything more for the money we have put in it. If we complete planes Nos. 5 and 6 it will cost $965 million, or $220 million more. Which would you rather have, a mountain of paper and a couple of warehouses of spare parts, or two additional airplanes, the best manned penetrating bombers in the world today that we can use to complete the research and development on our program that we have been working on for so long?

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, I wonder if the gentleman will tell us the status of development of the cruise missile?

Mr. ROBINSON. As far the cruise missile is concerned, it has never been any place but on paper. It is not flying. We do not know what it can do except what the technology of the art says it can do. Further, it is placed on the table on the SALT negotiations in a very questionable situation.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield further for one more question?

Mr. ROBINSON. I yield further to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, will the gentleman agree that more than half of the triad, and the responsibility of the third leg of the triad now rests on the manned penetrating bomber?

Mr. ROBINSON. I certainly would agree that we have to have a delivery platform so that we can get the cruise missile close enough so that it can penetrate to the heart of what might be enemy territory, and all that we have now to do that are the B-52's that cannot do the job, the huge, slow flying big radar profiles of wide-bodied jets. Or we can go for the FB-111H which is also an airplane already in inventory to which they would have to add many refinements before it could be used—and then could not compare with the B-1.

The best penetrating bomber in the world today is the B-1. It has proven itself in every test it has been flown through. This is our last chance to provide the option of a manned penetrating bomber that can get the job done and make sure that when we go to the SALT talks we have the best argument that can be made in the best manned penetrating bomber that can be built.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CEDERBERG. Mr. Speaker, I yield 1 additional minute to the gentleman from Virginia.

Mr. ROBINSON. Mr. Speaker, I thank the gentleman for yielding me the additional time.

Mr. CEDERBERG. Mr. Speaker, I want to associate myself with the remarks made by the gentleman from Virginia (Mr. ROBINSON). I would ask the gentleman to tell us how much we have already spent, total, on the B-1? Is it $3 billion?

Mr. ROBINSON. Three billion dollars, of course, is the generally accepted figure of what we have already put into it and none of which we will recover if we phase out the program.

Mr. CEDERBERG. We can complete the research and development and bombers Nos. 5 and 6 for how much?

Mr. ROBINSON. We can phase out the program for $745 million, or finish the research and development program by building planes Nos. 5 and 6 for $965 million, which means an extra cost of $220 million, to give us the best bomber that man has ever built.

Mr. CEDERBERG. Mr. Speaker, I think it would be most unfortunate for the House to take the position we should not go ahead and finish planes Nos. 5 and 6 and complete the research and development on this manned bomber. Everyone recognizes, and certainly the Air Force recognizes, the necessity for a manned bomber. The mere idea of reviving the FB111-H is a clear indication that this type is needed.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. CEDERBERG. I yield 2 additional minutes to the gentleman from Virginia (Mr. ROBINSON).

Mr. Speaker, there is, indeed, a need

for this manned bomber. For us to scrap everything we have done, and your $3 billion plus down the drain with nothing to show for it just does not make much sense to me. I cannot understand why we should not go ahead and complete the financing and then we can make the other decision as to how much further we want to go down the road. I happen to think the whole B–1 cancellation has been a mistake from the beginning. We should not have cancelled it. The President should not have cancelled it. We were ready to go into production on the finest manned bomber in the world that is essential for the security of this country, and now we take this kind of a position.

So, Mr. Speaker, I just want to thank the gentleman and to say that I believe he has made a very fine statement and I want to associate myself with it.

Mr. ROBINSON. Mr. Speaker, the only way to maintain a viable triad concept is by voting no on the motion which is before the House.

Mr. Speaker, I thank the gentleman from Michigan (Mr. CEDERBERG) for his supporting remarks.

Mr. SCHULZE. Mr. Speaker, we in the House are about to cast a very important vote, one which may effect our national security posture well into the future. That vote, of course, is whether or not to continue the production of the fifth and sixth B–1 bombers.

Over the past several months, we have been bombarded with all the pros and cons of the B–1. But while these arguments have been very eloquently and persuasively put forth by persons with much more expertise than myself, I would like to offer some of my own observations on this issue.

It has recently been reported that the Defense Department has begun a major review of the Nation's overall strategic doctrine. The focus of this study, as I understand it, will be whether the concept of the triad defense system is viable today and whether it will continue to be so in the future.

As my colleagues know, the triad concept states that the United States will maintain three independent, but interdependent, strategic nuclear forces. Those forces are the land-based intercontinental ballistic missiles, the submarine-launched ballistic missiles, and the heavy, manned bomber.

Mr. Speaker, I realize that there is no hard and fast rule which dictates that a triad of forces must exist. Some experts suggest that the strategic force, like a man, can stand on two feet and still hold its own. Others have argued that four legs or five or six, would be infinitely better and would offer our military planners greater flexibility.

No one can really determine for sure what kind of force or combination of forces will offer the most security for the citizens of this Nation as we approach the 21st century. It is my hope that this new Pentagon study will attempt to give us a better insight into the future requirements of our defense strategy.

Yet, I feel uneasy about this new study. Certainly, many will argue that this type of study is long overdue. But, I question the real motivation behind the administration's desire to conduct such a reassessment.

Preliminary reports from the Pentagon indicate that the fiscal year 1979 defense budget will be approximately $130 billion. This will be an extremely difficult lump to swallow by an administration which made campaign promises to cut the size of the defense budget.

These campaign promises are precisely the reason for my uneasiness over the strategic review. If we analyze the items which require the largest expenditures, I am sure it will be seen that aside from personnel costs, the most expensive weapons systems are our strategic weapons—the Minuteman III, the MX missile, and the Trident submarine. I would honestly hope, that the real effort behind the Pentagon study of strategic concepts is to improve our force posture and not to find ways to cut the defense budget by eliminating legs of the triad or by scrapping the concept altogether.

Mr. Speaker, the United States is truly at a crossroads with respect to national defense. The facts bear this out.

Experts have warned us that our Minuteman missile force is becoming increasingly vulnerable to ever-improving Soviet first-strike capabilities. But the replacement for the Minuteman, the MX missile, is years away from production and will be extremely costly.

The second leg of the present triad, the submarine-launched ballistic missile has run into problems. Recently, it was reported that delivery of the first of our Trident submarines will be delayed until 1981 and that this ship has already experienced a $400 million cost overrun.

The third leg of the triad, the manned bomber, is about to have the lid of its coffin nailed even tighter if this measure to cut off funds for the fifth and sixth bombers is accepted.

In the light of this new Pentagon study, and the many questions unanswered about the future of our total strategic posture, I urge my colleagues to seriously consider the implications of the step they are about to take.

Not too long ago, during the vote on the social security financing bill, the distinguished gentleman from Virginia (Mr. FISHER) offered an amendment to exclude Federal employees from social security until a full-scale study could be made of the feasibility of a merger of the Federal retirement system and the social security system. Most House Members believed that it was better to wait for the results of the study than to make that decision now and then hope that study would support their action.

Now, we are again faced with the same dilemma. Is it too much to ask that we keep our bomber production option open a little longer until we see the recommendations of the Pentagon review? Or for that matter, until we see the provisions of the SALT II accords now being negotiated? I submit that since the national security of our Nation and its citizens will be affected by what we are about to do, a little more time and a lot more thought can do no one any harm.

If we deny funds for these fifth and sixth B–1 bombers, we may be seriously limiting our strategic options for the immediate future. Would it not be ironic if, after the strategic study was completed, the conclusions of that study indicated that our actions today were premature?

Mr. MAHON. I yield 4 minutes to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, what brings us here this afternoon is not the revival of the B–1. What brings us here this afternoon is the fact that in the 1978 appropriation the Congress, both House and Senate, agreed to do away with the production funds for the B–1. In 1977 we had appropriated $1 billion to build three B–1 production planes. We have already developed three planes and an additional plane is under construction in R. & D. There was $1 billion to build three production planes, however, we have stopped production by our action in 1978. The Congress has stopped production. So what we are asking today is to save $462 million. What is being asked by the opponents is to build two planes for $1 billion—$500 million a plane.

Just 15 minutes ago we were worrying about setting aside $200 million to take care of people, but now we are being asked to waste $500 million a plane—$1 billion for two planes which are useless.

It was testified to by Mr. Hello, president of North American, the division that developed the B–1, that all the R. & D. can be done by planes 1, 2, 3, and 4. We have appropriated, and there is available, almost a half billion dollars to continue the R. & D. in fiscal year 1978. All we are asking today is to rescind the 1977 funds for three production planes. There is no need for them. The Air Force—everyone—agrees that we cannot fight a war with six B–1's.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Texas.

Mr. MAHON. I thank the gentleman for yielding.

It would not be 6 B–1's. There are four B–1's that are R. & D. models, so there would be only two production B–1's.

Mr. ADDABBO. We would end up with two production B–1's, and the gentleman is correct we cannot fight a war with two production B–1's. So we are asking to save $462 million. The $611 million that will be used to cancel production is not all wasted. We are buying material and parts that can be used on the four planes that we do have in R. & D. We are not killing the B–1 program. Altogether, we are fulfilling the President's promise to continue R. & D., because we do have, as I said before, appropriated, and it is available, close to a half billion dollars for the R. & D. program.

So today we are being asked to end the production line, continue with the R. & D. but end the production line—save—save $492 million. Save that money for the taxpayers. Use that money in other defense programs. Proceed ahead with the R. & D., and with buying better, more cost-effective weaponry. If in the future we find that the plane is cost effective and it can be used, then we can proceed. But to build two B-1 planes at this time, after we have canceled all production in 1978, at a cost of $500 million each, or $1 billion, that is a complete waste—a complete waste of the taxpayers' money.

Mr. ROBINSON. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Virginia.

Mr. ROBINSON. Mr. Speaker, the gentleman in his remarks indicated there was some value in the parts remaining as spare parts. May I ask him what good they would be if we do not have the planes in the first place? If we do not build the planes, what good would the parts be?

Mr. ADDABBO. We are building some planes for research and development and the spare parts could be used for those planes.

Mr. CEDERBERG. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, one of the great Democratic Speakers of this House, John McCormack, used to end his speeches on defense with the words: "If I err, let me err on the side of strength."

Please consider that excellent statement today December 6, 1977.

I have at the leadership desk here petitions which were signed last Friday by 3,400 aerospace workers at Rockwell International. I called in to my district that Friday morning and asked for such a petition. It simply states: "We are on the job. The B-1 production line is open."

There are 7,000 workers who will be fired by Christmas including those 3,400 signers if we do not build planes No. 5 and No. 6. Rockwell's B-1 is not a public works project. And Rockwell, of course, is a free enterprise corporation with stockholders to whom it must answer. Those workers will have to be fired by Christmas if you vote yes on this rescission and you can understand how difficult that will be at this time of the year particularly. So I can assure you I am proud to say I have yet to have one Rockwell B-1 worker say to me: "Save my job." They still today to the last man or woman talk about our Nation's strength and the defense of this country. Of course, they do not want to be fired at Christmastime or at any other time, but they are more interested in what they are building for the defense of our civilization. Do not treat their lives lightly.

But I must give my fellow Members concrete reasons why we should complete aircraft Nos. 5 and 6 other than just saving California aerospace. B-1's Nos. 5 and 6 are totally different research aircraft than the first four B-1's. They are not hand-molded prototypes loaded with test instrumentation. They are production aircraft designed to work out weapons delivery problems. No. 5 is the first aircraft in the history of aviation to be electronically hardened against EMP. The electromagnetic pulse phenomenon was discovered during the Bikini and Eniwitok nuclear tests where, thousands of miles away from the explosions, commercial aircraft had all of their navigation equipment fail.

This problem was considered during the design of 5 and 6 together with other secret problems which were declassified only this last summer. For example, "Operation Trestle." I have seen at Kirtland AFB this two-thirds completed, massive, wooden, railroad-type trestle upon which the Air Force plans to place aircraft No. 5 to find out the effects of radiation on ECM navigation and bombing electronic systems.

The second advanced B-1, No. 6, has great commercial application possibilities for business jets and the airlines. It utilizes composite materials that are stronger than aluminum. Only titanium is stronger than the exotic materials which are being prepared for these two planes.

The R. & D. reasons for 5 and 6 go on and on. And we are not talking about $462 million.

We are talking about $220 million. That low figure for two B-1's would be a research bonanza. It would be getting these airplanes at less cost per plane than if we had gone into full production of 244 B-1's.

I do not know if we will ever turn around the Senate or this President on full or partial production, but what we are talking about now is research and development, and keeping open the capacity for B-1 production while the SALT II talks have our Nation and our President up against the wall. The Soviet Union is continuing to make its SS-18, and the other SS series of massive, heavy megaton, city-killing, silo-killing weapons, and I see no reason to preemptively concede anything to the U.S.S.R. by closing down production on the best aircraft ever made, crippling our Triad, and firing 7,000 of the world's best defense workers. What is President Carter's defense philosophy, speak softly and carry a broken stick?

I ask my colleagues, if you are unsure in making this decision, if you think you might err in either direction, then I say err on the side of strength.

Vote no on this rescission demand of the other body.

I yield back the balance of my time.

Mr. MAHON. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, in the conference report on H.R. 9375, supplemental appropriations for fiscal year 1978, which is now before us, amendment 43 is reported in technical disagreement. The Senate amendment proposes deappropriation of $462,000,000 of the $1,073,000,000 appropriated in fiscal year 1977 for production of B-1 aircraft Nos. 5 and 6. A rescission of these funds was proposed by the President on July 19, 1977. The House Appropriations Committee refused the rescission. No House action was necessary. Today's motion is the Senate answer to the refusal of the House to approve the rescission. We had hoped the House conferees would insist on sustaining the action of the House committee. Instead, the conferees approved the Senate action. This cutback in funds would delete uncommitted funds for B-1 aircraft which are advanced R. & D. models, and allow for termination costs. With this cutback, B-1 aircraft production would be terminated after fabrication of aircraft No. 4, the last of the research and development aircraft already in production. These are not the advanced, more sophisticated models.

The advanced R. & D. aircraft, Nos. 5 and 6, which the conferees propose to eliminate would provide the final information needed for the production of the complete combat model B-1 aircraft. With this information we could go immediately into production should world conditions require it. To stop the research and development programs without completing Nos. 5 and 6 would leave us far short of the information goals established; would mean crippling delays during a world emergency. Included in the new R. & D. programs are advanced electronics equipment, weapons systems, vital electromagnetic tests, and tests of the effect of nuclear blasts from an aggressor force on the skin and systems of the B-1 aircraft.

Now let me clarify some of the statements which have been made on this subject. It has been said the B-1 production program has stopped, and it thus serves no useful purpose to spend more R. & D. money. That is simply not the case. North American Rockwell tells me that there are 2,000 active employees in their Los Angeles plant still working on the B-1 and that there are 5,000 subcontractor workers still producing parts for the B-1's in production.

If the fiscal year 1977 money remains available, the number of workers in the Los Angeles plant will be increased by 1,000. The total number of employees will be 8,000. If the funds are rescinded, the total number of workers in all categories will drop immediately to 2,000. That means 6,000 jobs are dependent upon House action on this ill-advised Senate amendment, 6,000 more to be on unemployment compensaton. There are few jobs available in the aircraft industry.

Aside from the employment picture, to stop work now on the B-1 without completing the R. & D. program means it will be necessary to gear up again and complete the R. & D. program if at some time in the future it is decided that the B-1 is essential. Plane No. 4 is about 75 percent completed. Planes 5 and 6 are 25-percent completed. If funds for the completion of the R. & D. program are approved now, the aircraft will not be completed until calendar years 1979 and 1980. I am saying approval of the rescission now before us means a 2-year delay in completion of the R. & D. program. Research and development are essential before full-scale procurement could be undertaken. A delay of this magnitude on an essential military program could be fatal to this country.

We have spent or obligated $3.7 billion on the B-1. To stop now without spending another $462 million would mean that you are washing down the drain much of the money expended and much of the work already done on this aircraft. I do not want to be a party to throwing away that much progress and that much money. The B-1 is still the best option open to this Nation for a manned penetrating bomber. The Department of Defense position remains that a manned penetrating bomber is a necessary requirement. It is in the national interest to have at least the capability to vote "no" on the amendment.

A "Dear Colleague" letter says that the "Senate Appropriations Committee voted unanimously to rescind the $462 million." The letter never mentions that the House Appropriations Committee voted 34 to 21 against this rescission because we had not been given the full story on the direction the administration is taking on the B–1, the FB–111H, the cruise missile, SALT negotiations, and defense spending in general.

The Congress has gone full circle on funding the B–1 bomber. America's defense needs have not changed. One military expert after another has stated that America needs a manned penetrating bomber. We do not have a modern bomber to fill that requirement. The B–1, the most advanced bomber in the world, was developed to cope with the sophisticated defense problems of the 1980's and subsequent years. The President does not favor the B–1. He made a campaign commitment against it. Whether or not he had all the facts that he needed for his decision in continuing to oppose the B–1 is debatable. We know that the Joint Chiefs of Staff urged a continuation of the B–1 program, until the day it was rejected by the President.

The Russians have a Backfire bomber which is more modern than any other now in production. They are building an impressive bomber fleet while we continue to rely on the aging B–52. The effectiveness of the B–52, which is distinctly limited in modern warfare, will be further curtailed if concessions are made to the Russians on range of cruise missiles in the forthcoming SALT talks.

We know the B–1 is expensive—the most expensive aircraft in the world. I believe the American people want a strong America, with defenses that are adequate for our country's protection and that of the free world. The defense requirements of our country have been hotly debated. No doubt should remain that America's military strength is slipping far below that of the Russians. I believe there is no question but that our citizens are very much aware of this situation and they are becoming increasingly concerned about it.

Today I urge this body to provide the funds for continuing the B–1 R. & D. program. We in Congress have an obligation to provide this insurance for our national defense. A vote for this cut is another step toward the second-best defense. Just remember the following facts:

The Department of Defense position remains that a manned penetrating bomber is a hard requirement.

The B–1 could be a vital bargaining chip in the SALT negotiations.

In the very near future the B–52 will not do the job asked of a manned bomber.

DOD witnesses have all testified that the B–1 program has been sound and successful by any standard.

The B–1 is the best option open to this Nation for a manned penetrating bomber.

It would be well to remember that the original Senate version of the supplemental appropriations bill for Defense contained a provision to fund a study of the role of manned penetrating bombers in our Nation's strategic forces after the aging B–52's are retired. This study was deleted in conference. Eventually the Defense Establishment is going to have to come to grips with this problem. The data today indicates that we may not have enough information to determine whether we can rely on the cruise missile to do the job formerly given to the bomber. This being the case, we must take action which will leave the option open. The money which the supplemental would delete is insurance for an option which most certainly will be needed.

There are many serious questions which revolve around the B–1 issue. The distinguished chairman of the House Armed Services Committee, MEL PRICE, has gone so far as to contact the President. I should like to quote from that communication:

> Mr. President: I am writing to express my deep concern over recent administration decisions which, in my judgment, could seriously impair the strategic defense posture of the United States.
>
> As you can appreciate, I personally found it difficult to accept your recommendation of June 30, 1977, to terminate production of the B–1 aircraft. As a long-term member of the Armed Services Committee I have observed the United States' effort over the past 16 years to build a follow-on to the B–52 strategic bomber. I have listened to many Defense witnesses, military and civilian, restate over the years the need for an advanced manned strategic aircraft. To this very day, the Department of Defense still believes in the firm requirement for a manned penetrating bomber through the 1980's and beyond and is at present exploring such options as the FB–111H to replace the B–52.
>
> The Committee on Armed Services has heard Department of Defense witnesses and other experts and reviewed Department of Defense reports, past and present, to consider not only additional funds requested for the cruise missile in connection with the cancellation of the B–1, but to examine the general state of our strategic Triad as well.
>
> Regrettably, Mr. President, I must inform you that to date the presentations before our committee have demonstrated a lack of adequate correlation between the stated requirements and the changes that will be made to our strategic posture by recent Administration decisions.
>
> MELVIN PRICE,
> *September 15, 1977.*

Finally, listen to the results of three recent surveys done by colleagues which included questions concerning defense. BENJAMIN GILMAN recently surveyed the 26th District of New York. When asked about defense spending, 72 percent of his constituents replied that they felt it should be maintained at current levels or increased; only 29 percent felt it should be decreased. On the B–1 in particular, 54 percent support funding, while 46 percent do not. In a survey which JOHN ASHBROOK made of the 17th District of Ohio, 54 percent of those responding felt that defense spending should be increased; only 5 percent indicated that defense spending should be reduced. Another survey, recently completed in Connecticut's Fourth District by our colleague STEWART MCKINNEY, indicated that 38.4 percent of his constituents feel that defense spending needs to be increased while 18.3 percent feel it should be reduced. Given the opportunity to survey their districts during this recent congressional break, many of us have found that this feeling of concern for the direction our defense planning is taking pervades this Nation.

The B–1 is needed to help insure the survival of our country. We are confronted with an ominous and a mounting superiority in Russian military power. Opponents of the B–1 amendment tell us that we already possess the capability to kill everybody everywhere behind enemy lines at least once, maybe twice. They do not stress the fact that historically it has been American policy not to strike the first blow. If an enemy can kill off much of the American populace and most of our military capability with a single blow, there would be little point in retaliating with what is left. It could mean capitulation. That is an ugly thought but it is basic. That is what the enemy is counting on. America is playing out the second-best poker hand to its inevitable conclusion. We ask today that you give our country a better chance to avoid a crippling first strike against us. Let us not be architects of disaster. Acquiring the B–1 aircraft will be a signal to Russia and to our allies that we are not sleeping while Russia arms.

Mr. CEDERBERG. Mr. Speaker, I yield 3 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I rise in opposition to the motion to recede and concur in the Senate language deleting all funds for B–1 research.

As many of my colleagues know, I am one of only 21 Republicans who have opposed full production-line funding of the B–1 bomber. I have taken this position in the past, and still stick to this position, because, based on the information I have now, the cruise missile appears to offer a more effective strategic defense capability at a lower cost to the taxpayer than does the B–1.

But, Mr. Speaker, I want to emphasize the phrase "based on the information I have now." I cannot, and neither can anyone else in this body, foreclose the possibility that facts may change in the not-too-distant future.

For instance, we do not know what provisions a SALT agreement might contain, or even if there will be a SALT agreement at all.

We do not know if the cruise missile will perform up to its alleged capacity.

We do not know what type of defense the Soviets might come up with in the future against either the cruise missile or the manned bomber.

And we do not know what capabilities the Soviets have or will have to knock out our ballistic missile silos, and thus negate completely one leg of the three-legged triad defense. I might add, Mr. Speaker, that a New York Times article of December 4, 1977, expressed concern over this very situation and indicated that Secretary of Defense Brown was considering a "hair-trigger" response—that is, fire the missile before the Soviet attack reaches us—as an answer to that threat. Given the fact that our early warning systems have previously mistaken Canadian geese for Soviet ICBM's, I submit that this kind of "hair-trigger" response is the scariest tactic I have yet heard in the strategic arms debate.

In short, we simply do not know what will happen to the strategic balance of power in the next several years. For that reason, I would like to have on the shelf ready to go the most up-to-date technology available in case the situation changes.

If this Congress is to err, let it err on the side of freedom. If we appropriate this money, and history finds at some future date that it wasn't needed, then we will have lost some money. But if we do not appropriate this amount for continued research, and it turns out the B-1 was needed, then there may be no history

Mr. CEDERBERG. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker and Members, you have heard all the arguments about the B-1 bomber up and down the Hill. I listened with great interest just a few weeks ago to the distinguished chairman of the Appropriations Committee stand in this well and tell us how many dollars of appropriations he has supported for the defense of this country, and it was commendable. But, I also heard the chairman tell me and tell you that if you think the next war is not going to be fought with pushbuttons, that we are all crazy. Well, I do not believe anything could be further from the truth. God help us if that is indeed a prediction that may come true.

I listened to my friend, Mr. ADDABBO, say, "Well, this is just on the pad. We are just going to keep this warm, and if we need it, we can jump right in and get it."

I ask you, ladies and gentlemen, where are we going to get the employees, the technicians, who have spent all the years developing the technology to build the world's greatest intercontinental bomber?

I will not go into the cruise missile. I think it is fine, and I support the cruise missile, but it is no substitute for the B-1 bomber. With the SALT talks approaching, we do not know what agreements are going to be made, but let me tell you this: I have stood in this House for the last 5 years and watched this House vote billions and billions and billions of dollars to spread weaponry all over this world. We have become the greatest arms merchant and giveaway specialists in the world, yet we are worried about spending approximately a billion dollars more for our own defense.

Cannot you remember that we have spent almost $3 billion supporting Ethiopia, and what did that get us? I do not think there is anyone in this House who would vote a dime for Ethiopia today. How much have we given that murderer, Idi Amin? We have spent our time and effort and treasure in arming almost all of Central Africa rather than helping them develop technology for communications and education and health, choosing instead to teach them the ways of war.

You were willing to spend those dollars, and you are not willing to spend a billion dollars on the defense of your own country. You ought to be ashamed.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Speaker, I am not coming down here to the well of the House to tell the Members what my position is. They already know that. And I am not going to regale the Members with the idea that I am an expert in the area of aircraft weaponry and that the Members must all listen to me. I have a good background, and it is my considered opinion that this weapons system is the one that we do indeed need, and we need it now. We have heard all of the facts and figures from my colleagues who have spoken in favor, and I happen to concur with each and every one of them. Their points are well made. I would ask the Members to think about it. I am not under the erroneous impression that most of the Members, if not all of them, have not already made up their minds about it, but if they have not, I would ask them to think about this: I think it is the right weapons system. I would remind my colleagues that it was never an option of the cruise missile or the B-1, and whoever said that was in error.

I would like to make one other point. They said the line is closed, there is no point in opening it.

The line is not closed. The people who built No. 4 will be the people who build 5 and 6. They are there. Let us not close that capability. Remember, it is not $1 billion we are talking about. It is $220 million. If we do not put this into effect, we must spend $750 million to close the line down. I think the economics demand that we go forward. Most importantly, it does give us maneuvering room. It gives us the option of time so that we can indeed say that the cruise missile is indeed the absolute right way and the only way to go.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. McFALL. I thank the gentleman for yielding.

Mr. Speaker. I think the gentleman has made a very fine statement. I join him in opposing this recission. I do not think we ought to throw away these two planes just for $220 million.

Mr. LLOYD of California. I thank the gentleman for his remarks.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

If we were to vote "yes" on this and reject these last two airplanes, would we then in fact save the $220 million, given the unemployment situation?

Mr. LLOYD of California. Not really. We would lose the $750 million.

Mr. CEDERBERG. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, I, like my good friend and colleague, the gentleman from California (Mr. LLOYD), and others, do not pretend to stand here and present anything terribly new, but perhaps to remind the Members of some of the things that have gone on in this vastly important issue that is before us, the B-1 bomber. It has many facets to it, the decision we are to make today. The option, of course, that has been well gone into. It is not a public works project, on the one hand, but it has merit to it so far as our economy is concerned.

Two, the money aspect. The $750 million that we will spend if we do absolutely nothing, we will have nothing to show for it. On the other hand, $900 million will be spent if we spend it for spare parts.

Three, the political ramifications. The political ramification we have before us is simply this: When this House, when this Congress, put in the ability to rescind, with the Impoundment Funds Act that was directed against a previous President, there was at that time created a specter which would hold itself over this House for some time to come. If we vote for this rescission today we will abdicate the responsibility of a legislative body by saying to the President of the United States, of whatever party, "Go ahead, if you do not like what the Congress has done, if you do not like what the previous Presidents have done, what the defense establishment has done, go ahead and rescind it and we will follow along like lame dogs behind you."

But the fourth aspect concerns me most deeply, and that is the strategic aspect. We have a broken three-legged Triad, and it contains the submarine-launched ballistic missile. We are building that missile. The other day in the press that leg of the Triad was criticized as taking too long to build, having been stretched out, and that there are cost overruns. We are building massive facilities to house this thing in the State of Washington. We are building up around that Member's district to house the folk who will be working on that. Now we are saying that it is costing too much and it is taking too long. Will the decision next year be to rescind the Triad and the Trident?

The second leg, the ground-siloed ballistic missile, the Minuteman-II, the Minuteman-III, and the Trident—will those be rescinded one of these days, because even those sites are not hardened sufficiently to protect us in the face of the newly claimed accuracy of the Soviet ICBM?

That leaves us with the third leg of the triad, the B-52.

I visited the Boeing plant last week, and the people there are hardly the producers of the B-1 bomber. They have nothing to gain by this except perhaps strategic safety by the production of the B-1. They produce one of the leading candidates for our cruise missile, the Alcan, and they say that the cruise missile is not perfected. They say that the B-1 is a must. They say we should not be messing around with destroying the

R. & D. and the production line of the B–1.

This is a competitor of the folks who bring us the B–1 bomber.

I hope the Members will consider these matters, because our Trident program and the submarine-launched ballistic program are in trouble. The ground-based ballistic missile program is also in trouble because of our inability to harden the sites.

Mr. Speaker, let us at least continue with the one item that we have ready to put in production. That is the B–1.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I rise to ask the Members to continue the B–1 program to build planes Nos. 5 and 6.

I stand here and speak to the Members because of my concern for this program. Because of this concern, I went to Edwards Air Force Base during Thanksgiving for 2 days to review the B–1. After returning, I wrote to our President and Commander in Chief and expressed my concern.

I know there is not much new substance or perhaps not many new facts to relate, but I would like to point out one thing that is new. It is new with me, and it may be new with the Members.

If we do not have the B–1 bomber, we will have to rely on the slow, cumbersome B–52. The B–52 is twice as slow as the B–1. The B–52 can be tracked by radar a lot quicker, and it can be intercepted by fighters more quickly. The enemy fighters can move in a lot quicker against the B–52.

The B–52's would have to release much earlier the cruise missiles, which have not actually been perfected and whose reliability has not been proven. They are not yet proven with a moving launch pad such as the B–52.

The fact that I discovered, the one I would like to share with the Members, is this: With our enemy being able to intercept the B–52 probably within 1,200 to 1,500 miles from its target, and with the B–52 having to release the cruise missiles that can travel at 350 knots, that means our President and our Commander in Chief will have to make his decision 4 hours earlier to release the cruise missiles in order that those missiles may be able to get to the target. He would have to make the decision to release those cruise missiles 4 hours before they would be able to reach their target.

These missiles are unmanned, and they cannot be recalled.

President Truman in World War II had the option of recalling those bombers in the last few moments, but here our Commander in Chief would have the responsibility of making his final decision 4 hours before the cruise missiles could reach their target. With the sophistication of the radar that we have on board and will soon develop, we may be able to detect every move of the enemy. If we should find that the enemy is willing to withdraw or negotiate during that 4-hour period, it would be a disaster and a tremendous tragedy since our Commander in Chief would not be able to recall the cruise missiles. I ask we continue the B–1 bomber to give us the strongest national defense and the national security of our country.

Mr. CEDERBERG. Mr. Speaker, may I inquire, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CEDERBERG) has 7 minutes remaining, and the gentleman from Texas (Mr. MAHON) has 12 minutes remaining.

Mr. CEDERBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker and Members of the House, the Subcommittee on Research and Development has followed the B–1 manned penetrating bomber from its very inception. Of course, an overwhelming majority of the members of the Subcommittee on Research and Development have always been in favor of the B–1 bomber and also favor the continuation of the building of airplanes 5 and 6.

This issue, Mr. Speaker has bothered me considerably. I called in the staff of the Subcommittee on Research and Development on the issue of planes 5 and 6 because I did not want to throw good money after bad. After a full explanation of the issue in the light of the Presidential cancellation of the production program and all subsequent developments, I came to the conclusion that it is in the best interest of the Nation to build planes 5 and 6. Five and 6 are much more important than the retention of research and development money, if we do desire to retain the B–1 as a viable option.

Mr. Speaker, the administration has expressed an interest in maintaining the option of a manned penetrating bomber, and we cannot do it with R. & D. money alone. The building of planes 5 and 6 is the only way to get the EMP technology that we need so vitally.

Very little money will be saved by the cancellation of 5 and 6 because of the costs we will have to bear because of contract cancellation. Mr. Speaker, I urge the Members of the House to vote for the continuation of airplanes 5 and 6.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I think it is quite interesting that we have here the chairman of the Subcommittee on Research and Development of the House Committee on Armed Services who indicates that the overwhelming number of members on his committee feel that we ought to go ahead with this research and development and with airplanes 5 and 6.

We probably ought to remind the House again what happened in the Committee on Appropriations.

The SPEAKER pro tempore. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

Mr. CEDERBERG. Mr. Speaker, I yield 2 additional minutes to the gentleman from Missouri.

Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Michigan.

Mr. CEDERBERG. To continue, Mr. Speaker, we had the Subcommittee on Defense of the House Committee on Appropriations go into this matter fully. What did we do? We turned down the rescission, so then we had to go to the full Committee on Appropriations of the House. After a very strong debate and a careful and, I thought, one of the best debates that we had had in a long time, the full Committee on Appropriations turned down the rescission.

Mr. Speaker, that ought to carry a little weight, I would think. The Committee on Armed Services and the Committee on Appropriations, those committees having responsibility for this matter, decided that we should not rescind it. That is what happened.

Then, of course, the administration, bent on the idea that they were going to rescind it, went over to the other body and used the vehicle of the supplemental appropriation to take out the 1977 money. This is the 1978 supplemental.

Mr. Speaker, what has happened? I think everyone understands what has happened, but the people who have the responsibility in this House and who have lived with it all the time came to the conclusion that it was not in the best interests of the country to agree with this rescission because of the fact that it will save practically no money.

Mr. ICHORD. Mr. Speaker, I would say to the gentleman from Michigan (Mr. CEDERBERG) that the administration itself has acknowledged the need for maintaining the option of a manned penetrator with its position on the FB–111A and with its position on research and development; but the important money is in airplanes 5 and 6, not in development. Personally, that is what I would like to see.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, I would also point out to the ranking minority member of the full Committee on Appropriations that the Subcommittee on Defense of the Committe on Appropriations heard all the testimony.

The SPEAKER pro tempore. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

Mr. CEDERBERG. Mr. Speaker, I yield 2 additional minutes to the gentleman from Missouri.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield further?

Mr. ICHORD. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, both the chairman of the full committee, the gentleman from Texas (Mr. MAHON), and the ranking minority member, the gentleman from Alabama (Mr. EDWARDS), agreed that airplanes 5 and 6 not be built. Moreover, we do not save only $200 million. The rescission here is for $400 million-plus. That is what we are saving, plus the fact that we had appropriated $1 billion for airplanes 5, 6, and 7. Now we are being asked to build only 5 and 6 for that same $1 billion.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I can understand the position of the chairman of the full committee. I understand the position of the administration downtown, too.

The gentleman from Texas (Mr. MAHON) has always been, up until lately—and I understand the reason—a supporter of the B-1. The gentleman from Alabama (Mr. EDWARDS) supported the B-1 as well.

I have to admit that the gentleman from New York (Mr. ADDABBO) has never supported the B-1.

However, let me just say this: I recall when the President made his decision as to what he was going to do with the B-1. Last year, in the fall, he said it was an easy decision. He said, "We do not need the B-1." But when the time came to make the real decision, he said, "This is one of the most difficult decisions I have ever had to make."

It is understandable, having to make that decision. I happen to believe that it was a bad decision, bad for the long range defense of this country. It is not going to save the taxpayers really anything. We are going to have a manned bomber, do not forget, they are going to stretch the FB111-H, or they will do something. And for us, for the money involved here, to deny us the opportunity to go ahead with the research and development and complete planes numbers 5 and 6 I think is a very serious mistake financially and a very serious mistake as far as the defense of our country is concerned.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Texas (Mr. MAHON) for yielding to me.

Mr. Speaker, I have risen today to differ with my chairman. I am here to tell you why. During the recess I had the opportunity to go to Omaha to visit the SAC headquarters. I found our Air Force personnel there to be well trained, to possess high morale and they are provided with superb plans and they have the best technology. I am convinced, as I stand here before you today that our Air Force is ready, is willing and is almost able to carry out its mission but the equipment of our Air Force is wearing out. The B-52 is 25 years old and must be replaced. The gentleman from Delaware said a moment ago something that I think every Member of this body should be advised of, he said that the cruise missile promises to be a less expensive alternative than the manned bomber. But there is no assurance that we can replace the manned bomber with a cruise missile. There is no confidence that the cruise missile can be either relied upon to do the job to carry out the mission of the Air Force.

I ask the men and women of this body that, while the cruise missile is in the development stage, let us not gamble on defense, let us not play politics with national security. Let us continue the research and development that is necessary to produce a manned bomber should the cruise missile fail to produce the results that are desired.

Mr. ALEXANDER. Mr. Speaker, for more than a decade we have lived with the painful consciousness of the probability of armed conflict in the Middle East and of its all too likely worldwide consequences. The strong and actively hostile reactions to the good faith efforts of the leaders of Egypt and Israel to move closer to a peaceful solution to the Arab-Israeli dispute can only serve as a depressing reminder of the explosiveness of that tense situation.

We have only to consider the armed civil and guerrilla wars that have been tearing at the fabric of the African nations of Ethiopia, Rhodesia, and South Africa during the past year to find deadly reminders of the effect of failure to reach peaceful resolution of strife between peoples and nations.

Within our own Western Hemisphere we are not free of dangerous tension between and within nations. It is here, with the Panama Canal Zone controversy, that our own Nation is most directly involved in a dispute filled with a nerve-straining situation loaded with potential for armed conflict.

Peace-loving nations are trying to promote peaceful solutions in turbulent regions such as those I have listed. Russia is promoting tension, confrontation, and conflict.

Many thoughtful and knowledgeable men and women outside our Government are deeply concerned about what these conflicts signal for the future of our world.

Two of the most eminent of these, Will and Ariel Durant, talked to a reporter about their conviction that the world is in danger of a social decline and pagan license. The Durants have spent more than 60 years studying, writing, and thinking about the causes and implications of the rise and fall of civilizations.

During the news interview Will Durant said:

> I believe that life depends upon an adjustment of order and liberty, a mutual collaboration between them, and any emphasis on one or the other is destructive.

Consideration of the demands that would be made on our national security system by the uncontrolled spread of the cancer of a war springing up in any one or more of these troubled spots is sobering indeed. We must continually examine whether we as leaders of our Government are making the right and necessary decisions to insure that our national defense system is powerful enough to force the enemies of peace and freedom to draw back from the temptation to help spread the wildfire of armed conflict.

That is what this debate today over the development of a long-range, manned, penetrating bomber is about. The world tension that is draining the vitality and determination of ourselves and our neighbors is a threat to the peace, security, and freedom of our Nation and world.

We, Americans, being a freedom-loving nation, must have courage enough not to drop our guard. As much as we would like to, and need to, strengthen our domestic programs to help people help themselves, we simply cannot afford to siphon off the dollars urgently needed for national defense.

During the debate on the need to provide our Nation with a modern, long-range, manned, penetrating bomber we have heard a great deal about the cost of such weapons system. Sure it would be expensive. All weapon systems are too expensive. But, the price of defeat through national weakness is far, far higher.

I hate war, but I love freedom and liberty enough to fight for them. I would far rather the battle be fought by spending dollars to buy my country a defense system strong enough to put its enemies' concentration, permanently, on finding ways to achieve a lasting and just peace.

That is why I intend to continue to oppose proposals that allow our enemies the luxury of concentrating on offensive weapons while they chuckle gleefully at our shortsighted preoccupation with expensive, highly vulnerable, nonreuseable weapons systems that are, as yet, largely a paper dream. The cruise missile is such a weapon. The modern, long-range manned, penetrating bomber replacement for the B-52 is a flying reality.

I have spent much time and study on the question of whether the relatively inflexible cruise missile is an appropriate and adequate substitute for a modern manned penetrating bomber. It is my conviction that it is not.

I am convinced that the President's action in, and the Congress support of, discontinuing funding for the B-1-manned penetrating bomber after 1978 is a catastrophic mistake that may well be paid for in human lives and loss of American freedom. I intend to oppose this latest proposal to further cut back our long-range manned, penetrating bomber program and undermine our ability to make the needed modernization of our ability to defend our right to existence as a free nation.

We have heard and read many discussions of why we need a manned, penetrating bomber and what such a defense system can do. One of the best of these, I believe, is contained in a response I have just received to my recent letter to Gen. Russell E. Dougherty, who retired in October as commander in chief of the U.S. Air Force's Strategic Air Command. The following is taken from that letter:

> . . . if deterrence of attempted coercion, intimidation, or direct attack on the sovereignty of the United States (and those allies we choose to associate with our vital national interests) is to remain the basic tenet of our national security policy, U.S. authorities must continue to have the assurance of a panoply of relevant and diversified military capabilities that can support them in any and all actions necessary to preserve that sovereignty . . . no matter what the circumstances of confrontation.
>
> A hardened, long-range, manned penetrating bomber offers a uniquely capable and dependable strategic delivery system that spreads itself reliably and capably across the broadest possible spectrum of those required military capabilities. When completely mod-

> ernized and manned with skilled, ingenious military crews, such a penetrating bomber offers the United States an overall flexibility of choice and application that is unmatched by any other weapons system. . . ."
>
> * * * * *
>
> We know what we can do with a manned delivery system. With a modernized, manned, penetrating delivery system in our mix of major strategic weapons systems, we can be confident of our ability to continue to provide our National Authorities assurance of a viable deterrent posture, under all circumstances of threat or attack. Without it, I do not think we can be confident that we can provide such assurances in the future. . . .

Among the assets of a long-range, manned, penetrating bomber are these, which General Dougherty noted in his reply to my letter. It can:

> Carry a larger number of weapons (conventional or nuclear) than any other strategic delivery system—to any fixed targets, anywhere, under a wide variety of circumstances.
>
> Achieve unequalled accuracies in long-range delivery under all circumstances; and, through self-contained sensors, offers our only long-range capability against mobile or imprecisely located targets.
>
> Provide a highly visible deterrent force, one that can be used as a recognizable expression of national determination and resolve in either preplanned or ad hoc contingency situations.
>
> Accommodate (or readily be adapted to) the delivery of multiple types of conventional and nuclear weapons—highly accurate gravity delivered, standoff-launched cruise, ballistic, semi-ballistic or defensive weapons—in large quantities, for multiple or selective delivery.
>
> Through designed growth characteristics, adapt rapidly in tactics and/or avionics to negate or avoid unanticipated defenses and other threats.
>
> Drive an enemy requirement for extensive diversion of his resources to defensive (vice offensive) systems—but still can be designed with the flexibility to penetrate those defenses if penetration is required for assurance.
>
> Provide us the most effective and economical way to redress the already serious (and worsening) imbalance in deliverable megatonnage vis-a-vis the Soviet Union.
>
> Provide a simultaneous capability for long-range, real (or near real) time strike assessment deep within enemy territory with the flexibility of striking alternate planned targets or withholding unnecessary attacks and retaining weapons.
>
> Be launched as a visible expression of active deterrence, yet be recalled without expenditure of ordnance, even after launch, should the deterrent objectives be achieved.
>
> Provide our nation an assured capability to extract severe penalties on an enemy society, regardless of any unexpected degradation or blunting of our SLBM, ICBM or, in time, our cruise missile forces; thus providing insurance against unexpected defenses or failure of any aspect of our strategic ballistic or cruise missile systems.
>
> Be used repeatedly. Depending on the nature of conflict, substantial recovery can be anticipated—thus enabling remaining and reuse for any required strategic purpose in subsequent warfighting or war terminating activities.
>
> Exploit superior U.S. technology and capability; for we can build, maintain and operate a flexible, modern delivery system of this type better than any potential adversary.
>
> Be applied across the spectrum of military capabilities—and is uniquely useful for an infinite number of lesser contingency missions; without loss of ultimate capability as a major delivery system for large nuclear payloads.
>
> Survive blunting attacks and reliably be protected from destruction on the ground through tried, proven launch procedures of Strategic Air Command adapted to reasonable expectations of our modern detection and warning systems.

The issue before us today is literally whether we are willing to get our priorities straight and do the best we are capable of doing in defense of our national security, or whether we are willing to take a sugar pill, put on blinders, cross our fingers and hope our enemies will be transformed into good little boys and girls who will not take our open invitation to foreign aggression.

I am not willing to depend on hope when we can do more to help ourselves. I believe a long-range, manned, penetrating bomber is essential to our national security and will continue to support efforts to provide our Nation with such a weapon.

B-1 RESEARCH AND DEVELOPMENT AIRCRAFT NOS. 5 AND 6

Aircraft Nos. 5 and 6 represent an essential link in the B-1 development cycle. These aircraft have always been planned as an integral part of the test program for the purpose of verification testing of design changes identified to date; cost reduction improvements; as well as validating operational requirements.

Verification of cost reduction structural changes—

Flutter checks verify simplified one-piece wing design and composite horizontal stabilizer.

Vibration checks validate forward fuselage structure which incorporates a redesigned crew compartment and reconfigured equipment bays.

Verification of operational requirements—

Validate weapon accuracy at various speeds and altitudes and additional drops to provide statistical base.

Verify aircraft/weapon environment over full aircraft range of performance.

Verify weapon accuracy performance in degraded avionics modes as well as primary modes.

Demonstrate aircraft electromagnetics pulse (EMP)—

Only aircraft designed to withstand EMP effects. Without EMP protection aircraft can be rendered useless in nuclear environment.

Conduct full scale trestle test of aircraft to validate "designed in" EMP capability.

Demonstrate current technology to survive EMP events (applicable to many weapons and weapon systems).

Support advanced weapons/munitions—

Provides aircraft-avionics validation with new weapons including cruise missiles (ALCM, TALCM, ASALM, others).

Provides validation of technology for expendable countermeasures against a wide range of threats.

Advanced materials evaluation—

Evaluate the performance of composite structural elements in a flight environment (strength, stiffness, durability).

Evaluate the weight (and cost) benefits realized by new fabrication technologies (diffusion bonding and super plastic forming).

Verification of cost reduction system changes—

Validate integration of 11 subsystems which have been redesigned to improve producibility and reduce costs.

Verify performance of these redesigned systems.

B-1 PROGRAM STATUS

1. On Thursday, November 10, 1977, aircraft No. 3 flew its 53d mission for 6 hours and 36 minutes. While flying over the Western Test Range over the Pacific Ocean near Vandenberg Air Force Base, Calif., a short-range attack missile (SRAM) was successfully launched from the aircraft at 1,000 feet altitude at a speed of 0.85 Mach.

2. A flight summary of the three aircraft is as follows:

Aircraft No. 1 has flown 288 hours and 25 minutes during 56 missions.

Aircraft No. 2 has flown 170 hours and 46 minutes during 35 missions.

Aircraft No. 3 has flown 352 hours and 34 minutes during 53 missions.

Total time: 811 hours and 50 minutes.

Total missions: 144.

Total supersonic time: 25 hours and 26 minutes.

3. Aircraft No. 4 is approximately 65 percent complete. It is tentatively planned to fly in February 1979. The aircraft will serve as the defensive avionics test bed. The manufacturing work is being accomplished at Air Force plant 42 located at Palmdale, Calif.

4. On November 10, 1977, the full-up escape system sled test was successfully run at 150 knots at Holloman Air Force Base, N. Mex. This was the first in a series of tests of all four crew station ejection seats to be conducted at Holloman through the summer of 1978. The test was designed to check the sequencing, divergence, and safety implications of the seats. The ejection seats are advanced concept ejection seats (ACES) produced by McDonnell Douglas. Aircraft No. 4 will have the seats installed after the testing has been completed.

5. Fatigue testing on the aft fuselage test article being conducted at Rockwell's Structural Test Laboratory in El Segundo, Calif., is nearing completion. Now that the test article has been tested to three lifetimes of simulated service, additional loads will be applied to the test article until it fails. The purpose of this final test will be to gather additional information on crack propagation and material toughness. A lengthy teardown and inspection will follow after the test article completes the test.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my able colleague, the gentleman from Arkansas (Mr. ALEXANDER) in his last words said "Let us continue the research and development on the B-1."

That is what we are doing. In our regular bill for the current fiscal year we provided for $442 million to carry on additional B-1 research and development. The Air Force never did ask for more than four research and development planes. They have been provided for. We built three, and we are building the fourth one. That is all the Air Force or anybody else I know of ever asked for the R. & D. planes. Now it is proposed that we go from the R. & D. aircraft into the production models that would be used in combat. We do not need additional money for research and development. These R. & D. planes would not be of any value in combat. The problem here is do we want to finance a fleet of two B–1 bombers? That would seem utterly and completely absurd. So we have here a very interesting question to present and to consider. Yes, many of us have been for the B–1 in the past. As long as it was tenable and made sense to be for the B–1, we were for it, but months ago the fiscal year 1978 production funds for the B–1 were denied by Congress. The money was not appropriated. There is no B–1 production money in the current appropriation bill, the bill for fiscal year 1978.

The question is do we want to pour down the drain $462 million in fiscal year 1977 B–1 production money? It is just that simple. We provided $200 million a short time ago this afternoon to pay fuel bills. Now we are confronted with how we shall vote on this issue.

I have moved that we agree with the Senate on the following language, which is amendment 43: Appropriations provided under this heading in the Department of Defense Appropriation Act, 1977—as appropriated last year—are recinded in the amount of $462 million.

The President has asked us to let him save $462 million. It is just that simple. The Congress has voted to terminate the production of the B–1 for fiscal year 1978, and the President has asked us to let him save $462 million of fiscal year 1977 B–1 production money. Do we want to pour it down the drain, or do we want to save the money? It is just that simple. It seems to me that regardless of what one's position was in the past, which is like the gentleman from Alabama (Mr. EDWARDS) and the gentleman from Texas (Mr. MAHON)—they supported the B–1 as long as it was sensible and tenable to support it. But now Mr. EDWARDS and Mr. MAHON, the ranking minority and ranking majority members of the subcommittee, wrote to its members and said, Please save the $462 million. It makes no point to fritter away this money. So the gentleman from Alabama (Mr. EDWARDS) joins me in this appeal to the members.

Again, I say we are not rescinding R. & D. money. We are just rescinding production money for two planes, money that would provide only a fleet of two planes. This just boggles the mind that we would be willing, in the face of tremendously increasing costs, rising taxes, and increasing deficits, and all the problems that we have, to spend money for just two planes. There is no assembly line for B–1 production models. There was an assembly line for the R. & D. models. I will read to the Members here the latest word as of today from the Air Force:

POINT PAPER ON B-1 PRODUCTION PROGRAM

B–1 aircraft 1, 2, and 3 were produced with R.D.T. & E. funds and R.D.T. & E. employees using development tooling. This "soft" tooling would not be used in a production environment.

B–1 aircraft 4 is being produced in a similar manner with the exception of the forward fuselage. This part of the aircraft was redesigned for aircraft 4 and is being built on production tooling.

B–1 aircraft 5 and 6 were to be built on production tooling and some of the fiscal year 1977 procurement funds would have been used to purchase that tooling. In view of the elimination of funding for the 1978 B–1 aircraft buy, this tooling will not be purchased.

Aircraft 5 and 6, if bought, will be produced in the same way as aircraft 4.

On June 30, 1977, there were about 19,500 individuals employed at the four prime B–1 contractors—Rockwell, Boeing, General Electric, and AIL. Of these people about 7,900 were working on the production program—lot I aircraft 5, 6, 7 and long lead for lot II—and about 11,600 on the R.D.T. & E. program. At the end of November 1977, only about 9,500 individuals were employed at the prime contractors on the B–1. Approximately 550 of these were production program employees. The remaining 8,950 were engaged in the R.D.T. & E. program, which includes the manufacture and mate of aircraft 4, the development and integration of the defensive avionics, and the engines for aircraft 4.

Thus, while a large number of people are still working on the B–1, the people who were building up the "production line" capability have essentially been let go.

So some 550 production employees would lose their jobs, or presently will lose their jobs, because of the cancellation of B–1 production in fiscal year 1977.

It would seem to me that we should save this $462 million. We should go ahead with the B–1 research and development. We should support the Senate position. I do not think the Senate is going to modify its position with respect to this important matter. So I just really hope that the House will not refuse to agree to save $462 million as requested by the President.

I hope Members will realize, regardless of their previous position, that at one time it was logical to support the B–1, but today it is absolutely illogical to support the B–1 except for R. & D.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Speaker, what I am trying to do is to get these figures straight in my mind. On the one hand I am informed that the cancellation of these contracts is going to cost the Federal Government something in the neighborhood of five or six or seven hundred millions of dollars.

Mr. MAHON. Or maybe $300 million in termination charges, something like that.

Mr. ALLEN. And that if we carry out the program and get the two additional planes it would cost $900-and-some million or $220 million more than we are going to have to spend anyhow in order to cancel out the contract.

Mr. MAHON. The contractor wants to keep his employees engaged as well as he can as he undertakes to get other contracts on this and other types of programs. We can understand the contractors and the people who represent the contractors. I am not complaining about them.

The gentleman wants me to get the figures straight. Here are the figures. On page 20 of the bill today we have provided that appropriations made available under this heading in the bill for Department of Defense Appropriation Act are rescinded in the amount of $462 million. That is what we are going to save, regardless of how much these additional production model planes cost, whether it is $200 million or $300 million. That is somewhat beside the point. The point is, we are voting on whether or not to rescind and deny the expenditure of $462 million.

Mr. ALLEN. Mr. Speaker, by doing that, are we going to subject the Federal Government to penalties for canceling the contracts in excess of that amount?

Mr. MAHON. There are always penalties for cancellations and there are funds available for cancellations.

Mr. ALLEN. Does that amount to more than $400 million?

Mr. MAHON. The termination charges will be about $300 million, and another $300 million have been expended. But do we want to save the $462 million or do we not want to do it? It seems to me we have no reasonable alternative other than to do it.

Of course, I do not want to play down the bomber program.

The bomber is more specifically a clean-up weapon. The great wave of the future, as I said before, is with our ICBM's, including the ship-launched ICBM's, and the cruise missiles. As we work through this difficult period, we do not know exactly where we are coming out, but at this time let us save the $462 million.

Mr. Speaker, I would like to say that the Air Force has not budgeted for R. & D. funds other than for the four B–1's and we have got $442 million in the 1978 bill to provide for the B–1 R. & D. program.

Now the gentlemen from California (Mr. KETCHUM) had indicated earlier that when we debated the B–1 issue last October 20, I had said something about the next war being a pushbutton war. I would like to insert in the RECORD at this point my actual remarks at that time because I do not feel that I was quoted accurately:

> I have pretty good credentials when it comes to being for a strong defense. For 28 years I have piloted through the House more than $2 trillion in funds for our national defense, and the success of that effort speaks for itself.
>
> I do not see now why the emphasis is all being put on looking at national defense through a little knothole as though the bomber was everything that was going to save us from war or win the war if war should come. Are people thinking about the past—World War II—when the bomber was the primary weapon? Does not everybody in this House know that the primary weapon of the future is the intercontinental ballistic missile? Do we not know that if war comes there will be an exchange of intercontinental ballistic missiles? Do we not know that those

missiles that we have that will be launched from submarines will be able to destroy the Soviet Union several times over?

Do we not know that the only purpose of a bomber is to do the cleanup job? And after the atomic exchange, we could probably do the cleanup job in an ox cart.

We are not relying upon the B–1 bomber or the F–111 or any other aircraft as a primary strategic weapon of this Nation. It is true that the Cruise missile is the wave of the future. Developments have come about recently that make it the wave of the future, that make it a weapon that if launched from hundreds of miles away, hundreds of Cruise missiles could destroy the Soviet Union if it had not already been destroyed by ICBM's and ship-launched ballistic missiles. So it seems to me we should not bury our head in the sand and ignore the facts of life. Remember, that the only purpose of the B–1 bomber is as a cleanup weapon, and there will not be much to clean up if that war comes. So that, it seems to me, is the major thing that we need to be considering at this time.

Mr. FRENZEL. Mr. Speaker, I supported deletion of the $462 million earmarked for construction of prototypes five and six of the now defunct B–1 bomber program.

While I am sympathetic to the argument of those who maintain that we should keep this program going until the results of the SALT II negotiations are announced, and voted that way myself, the fact remains that Congress has voted to terminate all B–1 production funds and this decision is not about to be reversed.

Both the chairman and ranking minority member of the Appropriations Committee who were supporters of the B–1 program have assured us that these two additional planes are not needed to complete the testing program. Under the circumstances these funds should be reprogramed to fulfill other defense requirements.

While my vote is in support of the administration's position, it should be pointed out that the President deserves no gold medals for his handling of the supersonic bomber issue. We have been subjected to a welter of conflicting and contradictory statements which has led me to doubt whether the administration really knows if a supersonic bomber will be needed.

The signals are not reassuring. First we are told that deployment of cruise missiles will eliminate the need for the B–1. Now we are told that the administration supports funds to evaluate the F–111H supersonic bomber which today is no more than a gleam in a defense contractor's eye. If we need a manned bomber, it should be the best, the B–1, not some jury-rigged substitute.

The administration's proposals to restrict severely the numbers and range of air launched cruise missiles coupled with recent reports of deep divisions within the ranks of our SALT negotiating team are further cause for concern.

To build or not to build two more B–1 prototypes is not the crucial issue. The fundamental concerns continues to be whether or not the emerging SALT II agreement will allow us to maintain an adequate defense capability without a supersonic bomber.

On this issue, the signals from the White House are very confusing. The President has a duty to come forward and clearly state his position. Instead of leadership we have had obfuscation.

Mr. MAHON. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ADDABBO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 166, nays 191, answered "present" 3, not voting 74, as follows:

[Roll No. 765]

YEAS—166

Addabbo
Ambro
Ammerman
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Benjamin
Bingham
Blouin
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Burton, John
Caputo
Carney
Carr
Cavanaugh
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
D'Amours
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Flippo
Florio
Flowers
Foley
Fowler
Fraser
Frenzel
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gore
Hamilton
Hanley
Harrington
Harris
Heckler
Hefner
Heftel
Hightower
Holtzman
Horton
Howard
Hughes
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Leach
Lehman
Long, La.
McCormack
McHugh
McKinney
Maguire
Mahon
Markey
Marks
Mazzoli
Metcalfe
Meyner
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Pattison
Pease
Perkins
Pike
Pressler
Preyer
Pursell
Rangel
Reuss
Richmond
Rodino
Rogers
Rooney
Rose
Rostenkowski
Santini
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Solarz
Spellman
St Germain
Staggers
Stark
Steers
Stokes
Studds
Thompson
Traxler
Tsongas
Udall
Ullman
Vanik
Vento
Volkmer
Walgren
Weiss
Young, Tex.

NAYS—191

Abdnor
Akaka
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Biaggi
Boggs
Bowen
Breaux
Breckinridge
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clawson, Del
Cleveland
Cochran
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Okla.
Emery
English
Evans, Del.
Findley
Fish
Flood
Flynt
Fountain
Frey
Fuqua
Gilman
Gonzalez
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hammerschmidt
Hannaford
Hansen
Harsha
Holland
Hollenbeck
Holt
Hubbard
Huckaby
Hyde
Ichord
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leggett
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Luken
McClory
McDade
McDonald
McEwen
McFall
McKay
Madigan
Mann
Marlenee
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Gary
Myers, John
Natcher
O'Brien
Oakar
Patten
Pepper
Pettis
Pickle
Poage
Price
Rahall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rousselot
Roybal
Rudd
Runnels
Satterfield
Schulze
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Taylor
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitley
Whitten
Wiggins
Winn
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—3

Dicks
Ryan
Van Deerlin

NOT VOTING—74

Badillo
Beilenson
Blanchard
Bolling
Broyhill
Burton, Phillip
Chisholm
Clausen, Don H.
Clay
Conyers
Cornwell
Crane
Cunningham
Danielson
Dent
Downey
Edwards, Ala.
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Gammage
Goldwater
Hall
Harkin
Hawkins
Hillis
Kelly
Koch
Krueger
Lederer
Lent
Lundine
McCloskey
Marriott
Mathis
Mattox
Meeds
Mikulski
Milford
Moss
Murphy, N.Y.
Myers, Michael
Nichols
Patterson
Pritchard
Quayle
Quie
Quillen
Railsback
Roncalio
Rosenthal
Ruppe
Russo
Sawyer
Sebelius
Symms
Trible
Tucker
Waxman
Weaver
Whalen
Whitehurst
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Van Deerlin for, with Mr. Nichols against.

Mr. Ryan for, with Mr. Patterson of California against.

Mr. Edwards of Alabama for, with Mr. Dicks against.

Mr. Koch for, with Mr. Charles H. Wilson of California against.

Mr. Mattox for, with Mr. Wright against.

Mr. Blanchard for, with Mr. Gammage against.

Mr. Waxman for, with Mr. Krueger against.

Mr. Tucker for, with Mr. Danielson against.

Ms. Mikulski for, with Mr. Hall against.

Mr. Lundine for, with Mr. Hawkins against.
Mr. Whalen for, with Mr. Don H. Clausen against.
Mr. Clay for, with Mr. Bob Wilson against.
Ms. Chisholm for, with Mr. Young of Alaska against.
Mr. Downey for, with Mr. Hillis against.
Mr. Russo for, with Mr. Marriott against.
Mr. Yates for, with Mr. Kelly against.
Mr. Beilenson for, with Mr. Erlenborn against.
Mr. Badillo for, with Mr. Goldwater against.
Mr. Conyers for, with Mr. Trible against.
Mr. Ford of Michigan for, with Mr. Whitehurst against.
Mr. Murphy of New York for, with Mr. Symms against.
Mr. Cornwell for, with Mr. Quayle against.
Mr. Ford of Tennessee for, with Mr. Sebelius against.
Mr. Meeds for, with Mr. Crane against.
Mr. Rosenthal for, with Mr. Lent against.
Mr. Harkin for, with Mr. Quillen against.
Mr. Weaver for, with Mr. Sawyer against.
Mr. Wolff for, with Mr. Cunningham against.
Mr. Moss for, with Mr. Quie against.
Mr. Fithian for, with Mr. Ruppe against.

Until further notice:

Mr. Phillip Burton with Mr. Broyhill.
Mr. Railsback with Mr. Evans of Georgia.
Mr. Pritchard with Mr. Lederer.
Mr. Forsythe with Mr. Mathis.
Mr. Roncalio with Mr. Michael O. Myers.
Mr. McCloskey with Mr. Charles Wilson of Texas.

Messrs. COLEMAN, MOLLOHAN, and DICKS changed their vote from "yea" to "nay."

Mr. GINN changed his vote from "nay" to "yea."

Mr. VAN DEERLIN. Mr. Speaker, I have a live pair with the gentleman from Alabama (Mr. NICHOLS). If he were present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

Mr. RYAN. Mr. Speaker, I have a live pair with the gentleman from California (Mr. PATTERSON). If he were present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

Mr. VAN DEERLIN and Mr. RYAN changed their vote from "yea" to "present."

Mr. DICKS. Mr. Speaker, I have a live pair with the gentleman from Alabama (Mr. EDWARDS). If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. DICKS changed his vote from "nay" to "present."

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House insist on its disagreement to Senate Amendment No. 43.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 44: Page 20, after line 17, insert: Appropriations provided under this heading in the Department of Defense Appropriation Act, 1977, are rescinded in the amount of $1,400,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 24, after line 1 insert: SEC. 205. Effective October 1, 1977, section 106(a)(8) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j (a)(8)), is amended by inserting "Deputy Chief Guide," after "Chief Guide,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

Mr. MAHON. Mr. Speaker, inasmuch as amendments Nos. 49 through 51 relate solely to housekeeping operations of the other body in which, by practice, the House concurs without intervention, I ask unanimous consent that Senate amendments Nos. 49 through 51 be considered as read, printed in the RECORD, and that they be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the next three Senate amendments in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 24, after line 1, insert:

SEC. 206. Effective October 1, 1977, section 111 of the Legislative Branch Appropriation Act, 1978, is amended—

(1) by striking out "an amount equal to three times the amount referred to in section 105(e)(1) of such Act, as amended and modified" in subsection (a) and inserting in lieu thereof "$149,286"; and

(2) by striking out "the amount referred to in section 105(e)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified," each place it appears in subsection (b) and inserting in lieu thereof "$49,762".

Senate Amendment No. 50: Page 16, after line 18, insert:

SEC. 207. Section 114 of the Legislative Branch Appropriation Act, 1978, is amended by striking out "each of which is in the office of a Senator and the pay for which is disbursed by the Secretary of the Senate" and inserting in lieu thereof "the pay for each of which is disbursed by the Secretary of the Senate out of an appropriation under the heading 'SALARIES, OFFICERS AND EMPLOYEES'.".

Senate Amendment No. 51: Page 16, after line 18, insert:

SEC. 208. Effective August 5, 1977, the last sentence of section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58 (e)) is amended by inserting after "Office of the" the following: "President pro tempore, Deputy President pro tempore,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendments of the Senate numbered 49 through 51 inclusive and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 25, line 3, insert:

SEC. 209. (a) The Secretary of Transportation shall, not later than 60 days after the date of enactment of this Act, designate on the National System of Interstate and Defense Highways, in accordance with the provisions of sections 103(e)(1) and (f) of title 23 of the United States Code, routes or portions thereof equal in total mileage (or as near thereto as practicable) to the total mileage withdrawn prior to such date from such System pursuant to section 103(e)(4) of such title 23 and not redesignated on such System.

(b) On and after the date of enactment of this Act the Secretary shall so designate on such System, in accordance with the provisions of sections 103(e)(1) and (f) of title 23 of the United States Code, routes or portions thereof equal in total mileage (or as near thereto as practicable) to mileage withdrawn from such System pursuant to such section 103(e)(4) not later than 60 days after such withdrawal.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 209. The Secretary of Transportation shall, not later than 60 days after the date of enactment of this Act, designate as a route on the National System of Interstate and Defense Highways, from mileage withdrawn from such System before the date of enactment of this Act under authority of 23 U.S.C. 103(e), and which is available for such a designation, 1.5 miles in the State of Washington for a connection with Interstate Route 5 and the City of Tacoma, Washington.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 53: Page 25, line 19, insert:

SEC. 210. Any export license referred to in Section 11 of Public Law 95–92 which is issued initially on or before September 30, 1978 may from time to time thereafter be renewed, reissued or modified (or in the event of lapse of such license, replacement licenses may be issued), provided that any such renewal, reissuance or modification (or any such replacement license) does not change significantly any such license as initially issued.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report and the amendments reported in disagreement on the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, and that I may include extraneous material and certain tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING TOMORROW

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I yield to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, it was my purpose to inquire of the distinguished acting majority leader as to the program for the rest of the week.

Mr. BRADEMAS. If the gentleman from Maryland (Mr. BAUMAN) will yield, Mr. Speaker, I would say to the distinguished minority leader that tomorrow we shall vote on the conference report on H.R. 9418, the Public Health Service Act amendment, capitation grants for third-year medical students.

Next, we shall take up the conference report on H.R. 6666, the Legal Services Corporation Amendments Act of 1977.

S. 1340, the Energy Research and Development Administration Authorization Act of 1978.

Possibly, in the event that the other body has acted on the continuing resolution on the appropriations for the Departments of Labor-HEW, we will consider that measure.

Mr. RHODES. Mr. Speaker, if the gentleman will yield still further, could the distinguished acting majority leader tell the House as to about how long we should expect to be in session tomorrow? Will there be any time set for adjournment tomorrow?

Mr. BRADEMAS. Not so far as I am aware of, I may say to the minority leader.

Mr. RHODES. Will the vote on the continuing resolution probably be the last vote that we will have?

Mr. BRADEMAS. Not necessarily. Rather it is likely to be scheduled as soon as it comes over from the other body.

Mr. RHODES. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I wonder if the gentleman can tell us, as a courtesy to the Members, whether we can expect pro forma sessions will continue the rest of the month or whether further legislation is going to be scheduled before Christmas? Also whether there is any truth to the rumors that we will remain in session through the end of this month, and they will be continued the first week of January, instead of having any recess at all.

Mr. BRADEMAS. Will the gentleman yield?

Mr. BAUMAN. I certainly do yield to the gentleman.

Mr. BRADEMAS. Mr. Speaker, I know of no plan on the part of the leadership to schedule any other legislation other than the ones that I have just listed.

Mr. BAUMAN. So there will be no further legislation scheduled after Thursday if we complete the continuing resolution?

Mr. BRADEMAS. There is, of course, still the energy bill which is in conference but, as the gentleman knows, it is not possible to say with any assurance whether the conferees will come to agreement on that issue. Then there is also the social security financing which as the gentleman knows is in conference, and it is not possible to say with assurances when the conferees will come to agreement on that bill, and in the event the conferees were to agree on both of those bills in a timely fashion it would be possible for us to vote on them.

Mr. BAUMAN. Further reserving the right to object, assuming that both of those are unlikely to come up by the remainder of this year is there a plan to have some recess between the sessions?

Mr. BRADEMAS. It is not possible to answer the gentleman's question with the degree of certainty that the majority whip would himself like to be able to give the gentleman. We will have, I hope, a better idea tomorrow after we have seen how the other body disposes the Labor-HEW appropriations bill.

Mr. BAUMAN. I thank the gentleman.

Mr. RHODES. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield further to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, would it be the purpose of the majority to have a pro forma session on Thursday and then go over until Monday noon?

Mr. BRADEMAS. Yes, I think this would be the present arrangement of the leadership on this side.

Mr. RHODES. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 3199, WATER POLLUTION CONTROL ACT AMENDMENTS OF 1977

Mr. JOHNSON of California submitted the following conference report and statement on the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes:

CONFERENCE REPORT (H. REPT NO. 95–830)

The committee of conference of the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Clean Water Act of 1977".

SHORT TITLE

SEC. 2. Section 518 of the Federal Water Pollution Control Act is amended to read as follows:

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act' (commonly referred to as the Clean Water Act).".

AUTHORIZATION APPROVAL

SEC. 3. Funds appropriated before the date of enactment of this Act for expenditure during the fiscal year ending June 30, 1976, the transition quarter ending September 30, 1976, and the fiscal year ending September 30, 1977, under authority of the Federal Water Pollution Control Act, are hereby authorized for those purposes for which appropriated.

AUTHORIZATION EXTENSION

SEC. 4. (a) Section 104(u)(2) of the Federal Water Pollution Control Act is amended by striking out "1975" and inserting in lieu thereof "1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, and $3,000,000 for fiscal year 1980.".

(b) Section 104(u)(3) of the Federal Water Pollution Control Act is amended by striking out ""1975" and inserting in lieu thereof "1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,500,000 for fiscal year 1980,".

(c) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980;".

(d) Section 112(c) of the Federal Water Pollution Control Act is amended by inserting "$6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, and $7,000,000 for the fiscal year ending September 30, 1980," immediately after "June 30, 1975,".

(e) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980.".

(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu thereof "$150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, and $60,000,000 for fiscal year 1980".

(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975," and inserting in lieu thereof "$350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, and $150,000,000 for the fiscal year ending September 30, 1980.".

STATE JURISDICTION

SEC. 5. (a) Section 101 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(g) It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.".

(b) Section 102 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(d) The Administrator, after consultation with the States, and River Basin Commissions established under the Water Resources Planning Act, shall submit a report to Congress on or before July 1, 1978, which analyzes the relationship between programs under this Act, and the programs by which State and Federal agencies allocate quantities of water. Such report shall include recommendations concerning the policy in section 101(g) of the Act to improve coordination of efforts to reduce and eliminate pollution in concert with programs for managing water resources.".

ESTUARINE STUDY

SEC. 6. Section 104(n)(3) of the Federal Water Pollution Control Act is amended by striking out "any three year period" and inserting in lieu thereof "any six-year period".

CLEARINGHOUSE FOR ALTERNATIVE TREATMENT INFORMATION

SEC. 7. Section 104(q) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following:

"(2) The Administrator shall establish, either within the Environmental Protection Agency, or through contract with an appropriate public or private non-profit organization, a national clearinghouse which shall (A) receive reports and information resulting from research, demonstrations, and other projects funded under this Act related to paragraph (1) of this subsection and to subsection (e)(2) of section 105; (B) coordinate and disseminate such reports and information for use by Federal and State agencies, municipalities, institutions, and persons in developing new and improved methods pursuant to this subsection; and (C) provide for the collection and dissemination of reports and information relevant to this subsection from other Federal and State agencies, institutions, universities, and persons.".

ASSISTANCE FOR RESEARCH AND DEMONSTRATION PROJECTS

SEC. 8. Section 105 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(i) The Administrator is authorized to make grants to a municipality to assist in the costs of operating and maintaining a project which received a grant under this section, section 104, or section 113 of this Act prior to the date of enactment of this subsection so as to reduce the operation and maintenance costs borne by the recipients of services from such project to costs comparable to those for projects assisted under title II of this Act.".

ASSISTANCE FOR RECYCLE, REUSE, AND LAND TREATMENT PROJECTS

SEC. 9. Section 105 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(j) The Administrator is authorized to make a grant to any grantee who received an increased grant pursuant to section 202(a)(2) of this Act. Such grant may pay up to 100 per centum of the costs of technical evaluation of the operation of the treatment works, costs of training of persons (other than employees of the grantee), and costs of disseminating technical information on the operation of the treatment works.".

TRAINING GRANTS

SEC. 10. (a) Section 109(b)(3) of the Federal Water Pollution Control Act is amended by striking "$250,000" and inserting in lieu thereof "$500,000".

(b) Section 109(b) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(4) The Administrator may exempt a grant under this section from any requirement under section 204(a)(3) of this Act. Any grantee who received a grant under this section prior to enactment of the Clean Water Act of 1977 shall be eligible to have its grant increased by funds made available under such Act.".

(c) Section 109(b)(1) of the Federal Water Pollution Control Act is amended by inserting before the period the following: "and for the costs of other State treatment works operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material".

(d) Section 109(b)(1) of the Federal Water Pollution Control Act is amended by striking out "construction of a treatment works" and inserting in lieu thereof: "construction of treatment works".

(e) Section 109(b)(2) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "In any case where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each such State.".

RURAL VILLAGE STUDY

SEC. 11. (a) Section 113 of the Federal Water Pollution Control Act is amended by adding new subsections (e), (f), and (g) as follows:

"(e) The Administrator is authorized to coordinate with the Secretary of the Department of Health, Education, and Welfare, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, and the heads of any other departments or agencies he may deem appropriate to conduct a joint study with representatives of the State of Alaska and the appropriate Native organizations (as defined in Public Law 92–203) to develop a comprehensive program for achieving adequate sanitation services in Alaska villages. This study shall be coordinated with the programs and projects authorized by sections 104(q) and 105(e)(2) of this Act. The Administrator shall submit a report of the results of the study, together with appropriate supporting data and such recommendations as he deems desirable, to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives not later than December 31, 1979. The Administrator shall also submit recommended administrative actions, procedures, and any proposed legislation necessary to implement the recommendations of the study no later than June 30, 1980.

"(f) The Administrator is authorized to provide technical, financial and management assistance for operation and maintenance of the demonstration projects constructed under this section, until such time as the recommendations of subsection (e) are implemented.

"(g) For the purpose of this section, the term 'village' shall mean an incorporated or unincorporated community with a population of ten to six hundred people living within a two-mile radius. The term 'sanitation services' shall mean water supply, sewage disposal, solid waste disposal and other services necessary to maintain generally accepted standards of personal hygiene and public health.".

(b) Subsection (d) of section 113 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "In addition, there is authorized to be appropriated to carry out this section not to exceed $200,000 for the fiscal year ending September 30, 1978, and $220,000 for the fiscal year ending September 30, 1979."

GRANT APPLICATION REVIEW

Sec. 12. Section 201(g) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account section 201(d) of this Act and taking into account and allowing to the extent practicable the more efficient use of energy and resources.".

RECREATION AND OPEN SPACE

Sec. 13. Section 201(g) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(6) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that the applicant has analyzed the potential recreation and open space opportunities in the planning of the proposed treatment works.".

INDIVIDUAL SYSTEMS

SEC. 14. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(h) A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on, the date of enactment of this subsection where the Administrator finds that—

"(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

"(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 204 of this Act and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay its proportionate share of the cost of operation and maintenance (including replacement); and

"(3) the total cost and environmental impact of providing waste treatment services to such residences or commercial establishments will be less than the cost of providing a system of collection and central treatment of such wastes.

In the case of any treatment works assisted under this subsection serving commercial users, any such agreement under paragraph (2) shall make provision for the payment to the United States by the commercial users of the treatment works of that portion of the cost of construction of such works which is applicable to the treatment of commercial wastes to the extent attributable to the Federal share of the cost of construction.".

ENERGY REQUIREMENTS

SEC. 15. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(i) The Administrator shall encourage waste treatment management methods, processes, and techniques which will reduce total energy requirements.".

COST EFFECTIVENESS

SEC. 16. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(j) The Administrator is authorized to make a grant for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 304(d) (3) of this Act, if the Administrator determines it is in the public interest and if in the cost effectiveness study made of the construction grant application for the purpose of evaluating alternative treatment works, the life cycle cost of the treatment works for which the grant is to be made does not exceed the life cycle cost of the most cost effective alternative by more than 15 per centum.".

FEDERAL GRANT SHARE

SEC. 17. Subsection (a) of section 202 of the Federal Water Pollution Control Act is amended by inserting "(1)" immediately after "(a)" and by inserting at the end thereof the following new paragraphs:

"(2) The amount of any grant made after September 30, 1978, and before October 1, 1981, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be 85 per centum of the cost of construction thereof. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

"(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures.

"(4) For the purposes of this section, the term 'eligible treatment works' means those treatment works in each State which meet the requirements of section 201(g)(5) of this Act and which can be fully funded from funds available for such purpose in such State in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Such term does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.".

COMBINED GRANTS

SEC. 18. Section 203(a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentences: "In the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works. If any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant under the preceding sentence where the estimated total cost of the treatment works does not exceed $3,000,000.".

CONTRACT ENFORCEMENT

SEC. 19. Section 203 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(e) At the request of a grantee under this title, the Administrator is authorized to provide technical and legal assistance in the administration and enforcement of any contract in connection with treatment works assisted under this title, and to intervene in any civil action involving the enforcement of such a contract.".

PRIORITY

SEC. 20. Section 204(a)(3) of the Federal Water Pollution Control Act is amended by inserting immediately after the word "Act" the following: ", except that any priority list developed pursuant to section 303(e)(3) (H) may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 304(d)(3) of this Act and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 203(a) of this Act which utilizes processes and techniques meeting the guidelines promulgated under section 304(d)(3) of this Act.".

RESERVE CAPACITY

SEC. 21. Section 204(a)(5) of the Federal Water Pollution Control Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and the following: "after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under this title shall be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdication of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 208, or an applicable municipal master plan of development. For the purpose of this paragraph, section 208, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.".

USER CHARGES

SEC. 22. (a) Paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act is amended—

(1) by striking out in clause (A) "proportionate share" and inserting in lieu thereof "proportionate share (except as otherwise provided in this paragraph)"; and

(2) by adding at the end of such paragraph (1) the following: "In any case where an applicant which, as of the date of enactment of this sentence, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the wastes, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate."

(b) Subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(5) A system of charges which meets the requirement of clause (A) of paragraph (1) of this subsection may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (A) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (B) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the cost of the waste treatment services.".

WATER CONSERVATION

SEC. 23. Section 204(b)(3) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "Notwithstanding paragraph (1)(B) of this subsection, subject to the approval of the Administrator, a grantee that received a grant prior to the enactment of the Clean Water Act of 1977 may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.".

INDUSTRIAL COST RECOVERY

SEC. 24. (a) Section 204(b)(3)(B) of the Federal Water Pollution Control Act is amended by inserting after "necessary for" the following: "the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and".

(b) Section 204(b) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(6) The Administrator is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works per day equivalent to twenty-five thousand gallons or less per day of sanitary waste, if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of such works.".

(c) Sestion 204(b)(1)(B) of the Federal Water Pollution Control Act is amended by inserting before the semicolon the following: "(which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made)".

ALLOTMENT

Sec. 25. (a) The first sentence of subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by striking out "June 30, 1972," and inserting in lieu thereof "June 30, 1972, and before September 30, 1977,".

(b) Such section 205 is further amended by adding at the end thereof the following new subsections:

"(c) Sums authorized to be appropriated pursuant to section 207 for the fiscal years during the period beginning October 1, 1977, and ending September 30, 1981, shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Clean Water Act of 1977. Notwithstanding any other provision of law, sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives.

"(d) Sums allotted to the States for a fiscal year shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twelve months. The amount of any allotment not obligated by the end of such twenty-four-month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1978 and for fiscal years thereafter shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

"(e) For the fiscal years 1978, 1979, 1980, and 1981, no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, and 1981. If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

"(f) Notwithstanding any other provision of this section, sums made available between January 1, 1975, and March 1, 1975, by the Administrator for obligation shall be available for obligation until September 30, 1978.".

STATE MANAGEMENT ASSISTANCE

Sec. 26. (a) Section 205 of the Federal Water Pollution Control Act is amended by adding after new subsection (f) the following new subsection:

"(g)(1) The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the allotment made to each State under this section on or after October 1, 1977, or $400,000 whichever amount is the greater. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 201, 203, 204, and 212 of this Act the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administering an approved program under section 402 or 404, administering a statewide waste treatment management planning program under section 208(b)(4), and managing waste treatment construction grants for small communities.".

(b) Section 101(b) of Federal Water Pollution Control Act is amended by inserting immediately after the first sentence the following new sentence: "It is the policy of Congress that the States manage the construction grant program under this Act and implement the permit programs under sections 402 and 404 of this Act.".

SET ASIDE FOR ALTERNATIVE SYSTEMS FOR SMALL COMMUNITIES

Sec. 27. Section 205 of Federal Water Pollution Control Act is amended by adding after new subsection (g) a new subsection as follows:

"(h) The Administrator shall set aside from funds authorized for each fiscal year beginning on or after October 1, 1978, four per centum of the sums allotted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than four per centum of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternatives to conventional sewage treatment works for municipalities having a population of three thousand five hundred or less, or for the highly dispersed sections of larger municipalities, as defined by the Administrator.".

FUNDING

Sec. 28. Section 205 of the Federal Water Pollution Control Act is further amended by adding at the end thereof the following new subsection:

"(i) Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of two per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act.".

REIMBURSEMENT AND ADVANCED CONSTRUCTION

Sec. 29. (a) Subsection (a) of section 206 of the Federal Water Pollution Control Act is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(b) Notwithstanding section 206(c) of the Federal Water Pollution Control Act and section 2 of Public Law 93-207, in the case of publicly owned treatment works for which a grant was made under the Federal Water Pollution Control Act, as amended by the Water Pollution Control Act Amendments of 1956 (Public Law 660, 84th Congress) before July 1, 1972, and on which construction was initiated before July 1, 1973, applications for assistance under such section 206 shall be filed not later than the ninetieth day after the date of enactment of the Clean Water Act of 1977.

CONSTRUCTION GRANT AUTHORIZATIONS

Sec. 30. Section 207 of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and, subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year.".

AREAWIDE PLANNING

Sec. 31. (a) Section 208(b)(1) of the Federal Water Pollution Control Act is amended by inserting "(A)" after "(b)(1)" and by adding at the end thereof the following new subparagraph:

"(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.".

(b) Section 208(f)(2) of the Federal Water Pollution Control Act is amended to read as follows:

"(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.".

(c) The second sentence of section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

AREAWIDE WASTE TREATMENT MANAGEMENT

SEC. 32. Section 208(b)(2)(A) of the Federal Water Pollution Control Act is amended by inserting before the semicolon a comma and the following: "and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation".

IRRIGATION RETURN FLOWS

SEC. 33. (a) Section 208(b)(2)(F) of the Federal Water Pollution Control Act is amended by adding after "sources of pollution, including" the following: "return flows from irrigated agriculture, and their cumulative effects,".

(b) Section 502(14) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "This term does not include return flows from irrigated agriculture.".

(c) Section 402 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(l) The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agiculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.".

STATE BEST MANAGEMENT PRACTICES PROGRAM

SEC. 34. (a) Paragraph (4) of subsection (b) of section 208 of the Federal Water Pollution Control Act is amended—

(1) by inserting "(A)" immediately after "(4)";

(2) by striking out "to the Administrator for application to all regions within such State." and inserting in lieu thereof "to the Administrator for approval for application to a class or category of activity througout such State."; and

(3) by inserting at the end thereof the following new subparagraphs:

"(B) Any program submitted under subparagraph (A) of this paragraph which, in whole or in part, is to control the discharge or other placement of dredged or fill material into the navigable water shall include the following:

"(i) A consultation process which includes the State agency with primary jurisdiction over fish and wildlife resources.

"(ii) A process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under section 404 conducted pursuant to this Act.

"(iii) A process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under section 404(b)(1), and sections 307 and 403 of this Act.

"(iv) A process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to, the following:

"(I) violation of any condition of the best management practice;

"(II) change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice.

"(v) A process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory.

"(C) If the Governor of a State obtains approval from the Administrator of a statewide regulatory program which meets the requirements of subparagraph (B) of this paragraph and if such State is administering a permit program under section 404 of this Act, no person shall be required to obtain an individual permit pursuant to such section, or to comply with a general permit issued pursuant to such section, with respect to any appropriate activity within such State for which a best management practice has been approved by the Administrator under the program approved by the Administrator pursuant to this paragraph.

"(D)(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.".

(b) Section 208 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall, upon request of the Governor of a State, and without reimbursement, provide technical assistance to such State in developing a statewide program for submission to the Administrator under subsection (b)(4)(B) of this section and in implementing such program after its approval.

"(2) There is authorized to be appropriated to the Secretary of the Interior $6,000,000 to complete the National Wetlands Inventory of the United States, by December 31, 1981, and to provide information from such Inventory to States as it becomes available to assist such States in the development and operation of programs under this Act.".

AGRICULTURAL COST SHARING

SEC. 35. Section 208 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, is authorized and directed to establish and administer a program to enter into contracts of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c)(1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 31, 1988. Under such contracts the land owner or operator shall agree—

"(i) to effectuate a plan approved by a soil conservation district, where one exists, under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

"(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the soil conservation district, where one exists, and the Administrator, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termintaion of the contract;

"(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

"(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

"(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

"(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and measures under the contract but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

"(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

"(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most significant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

"(5) The Secretary shall, where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary, and for payment by the United States of such portion of the costs incurred in the administration of the program as the Secretary may deem appropriate.

"(6) The contracts under this subsection shall be entered into only in areas where the management agency designated under subsection (c)(1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas. Within such areas the local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine the priority of assistance among individual land owners and operators to assure that the most critical water quality problems are addressed.

"(7) The Secretary, in consultation with the Administrator and subject to section 304 (k) of this Act, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

"(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83-566.

"(9) There are hereby authorized to be appropriated to the Secretary of Agriculture $200,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.".

GRANT ELIGIBLE CATEGORIES

SEC. 36. Section 211 of the Federal Water Pollution Control Act is amended by inserting "(a)" immediately after "Sec. 211." and by adding at the end thereof of the following new subsections:

"(b) If the Administrator uses population density as a test for determining the eligibility of a collector sewer for assistance it shall be only for the purpose of evaluating alternatives and determining the needs for such system in relation to ground or surface water quality impact.

"(c) No grant shall be made under this title from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, 1982, for treatment works for control of pollutant discharges from separate storm sewer systems.".

WASTEWATER STORAGE

SEC. 37. Section 212(2)(A) of the Federal Water Pollution Control Act is amended by inserting "(including land used for the storage of treated wastewater in land treatment systems prior to land application)" after the word "process".

PUBLIC INFORMATION PROGRAM

SEC. 38. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"PUBLIC INFORMATION

"SEC. 214. The Administrator shall develop and operate within one year of the date of enactment of this section, a continuing program of public information and education on recycling and reuse of wastewater (including sludge), the use of land treatment, and methods for the reduction of wastewater volume.".

BUY AMERICAN

SEC. 39. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"REQUIREMENTS FOR AMERICAN MATERIALS

"SEC. 215. Notwithstanding any other provision of law, no grant for which application is made after February 1, 1978, shall be made under this title for any treatment works unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States will be used in such treatment works. This section shall not apply in any case where the Administrator determines, based upon those factors the Administrator deems relevant, including the available resources of the agency, it to be inconsistent with the public interest (including multilateral government procurement agreements) or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficint and reasonably available commercial quantities and of a satisfactory quality.".

DETERMINATION OF PRIORITY

SEC. 40. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"DETERMINATION OF PRIORITY

"SEC. 216. Notwithstanding any other provision of this Act, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State, except that if the Administrator, after a public hearing, determines that a specific project will not result in compliance with the enforceable requirements of this Act, such project shall be removed from the State's priority list and such State shall submit a revised priority list. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-in-flow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows. Not less than 25 per centum of funds allocated to a State in any fiscal year under this title for construction of publicly owned treatment works in such State shall be obligated for those types of projects referred to in clauses (D), (E), (F), and (G) of this section, if such projects are on such State's priority list for that year and are otherwise eligible for funding in that fiscal year.".

COST-EFFECTIVENESS GUIDELINES

SEC. 41. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"COST-EFFECTIVENESS GUIDELINES

"SEC. 217. Any guidelines for cost-effectiveness analysis published by the Administrator under this title shall provide for the identification and selection of cost effective alternatives to comply with the objective and goals of this Act and sections 201(b), 201(d), 201(g)(2)(A), and 301(b)(2)(B) of this Act.".

TIME LIMITATIONS

SEC. 42. (a) Paragraph (2) of subsection (b) of section 301 of the Federal Water Pollution Control Act is amended—

(1) in subparagraph (A), by striking out "; and" and inserting in lieu thereof a semicolon;

(2) in subparagraph (B), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) not later than July 1, 1984, with respect to all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph;

"(D) for all toxic pollutants listed under paragraph (1) of subsection (a) of section 307 of this Act which are not referred to in subparagraph (C) of this paragraph compliance with effluent limitations in accordance with subparagraph (A) of this paragraph not later than three years after the date such limitations are established;

"(E) not later than July 1, 1984, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which in the case of pollutants identified pursuant to section 304(a)(4) of this Act shall require application of the best conventional pollutant control technology as determined in accordance with regulations issued by the Administrator pursuant to section 304(b)(4) of this Act; and

"(F) for all pollutants (other than those subject to subparagraphs (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph not later than 3 years after the date such limitations are established, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.".

(b) Paragraph (2)(A) of section 301(b) of the Federal Water Pollution Control Act is amended by striking out "not later than July 1, 1983," and inserting in lieu thereof "for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph,".

WAIVER FOR CERTAIN POLLUTANTS

SEC. 43. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(g)(1) The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge of any pollutant (other than pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—

"(A) such modified requirements will result at a minimum in compliance with the requirements of subsection (b)(1) (A) or (C) of this section, whichever is applicable;

"(B) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

"(C) such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

"(2) If an owner or operator of a point source applies for a modification under this subsection with respect to the discharge of any pollutant, such owner or operator shall be eligible to apply for modification under subsection (c) of this section with respect to such pollutant only during the same time period as he is eligible to apply for a modification under this subsection.".

MODIFICATION OF SECONDARY TREATMENT REQUIREMENT

SEC. 44. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(h) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant in an existing discharge from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;

"(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

"(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

"(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

"(6) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

"(7) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

"(8) any funds available to the owner of such treatment works under title II of this Act will be used to achieve the degree of effluent reduction required by section 201(b) and (g)(2)(A) or to carry out the requirements of this subsection.

For the purposes of this subsection the phrase 'the discharge of any pollutant into marine waters' refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section, and section 101(a)(2) of this Act.".

MUNICIPAL TIME EXTENSIONS

SEC. 45. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Where construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (A) construction cannot be completed within the time required in such subsection, or (B) the United States has failed to make financial assistance under this Act available in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 402 of this Act or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after the date of enactment of this subsection. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available from the United States and construction can be completed, but in no event later than July 1, 1983, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 201 of this Act, section 307 of this Act, and such interim effluent limitations applicable to that treatment works as the Administrator determines are necessary to carry out the provisions of this Act.

"(2)(A) Where a point source (other than a publicly owned treatment works) will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section and—

"(i) if a permit issued prior to July 1, 1977, to such point source is based upon a discharge into a publicly owned treatment works; or

"(ii) if such point source (other than a publicly owned treatment works) had before July 1, 1977, a contract (enforceable against such point source) to discharge into a publicly owned treatment works; or

"(iii) if either an application made before July 1, 1977, for a construction grant under this Act for a publicly owned treatment works, or engineering or architectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works, show that such point source was to discharge into such publicly owned treatment works,

and such publicly owned treatment works is presently unable to accept such discharge without construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue or modify such a permit pursuant to such section 402 to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after the date of enactment of this subsection or the filing of a request by the appropriate publicly owned treatment works under paragraph (1) of this subsection, whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1)(A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effluent limitations and water conservation requirements applicable to that point source, as the Administrator determines are necessary to carry out the provisions of this Act.

"(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1983; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1983, and will meet the requirements of subsections (b)(1) (B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 204 of this Act, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires that point source to meet all requirements under section 307 (a) and (b) during the period of such time modification.".

PROCEDURE FOR MODIFICATIONS

SEC. 46. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(j)(1) Any application filed under this section for a modification of the provisions of—

"(A) subsection (b)(1)(B) under subsection (h) of this section shall be filed not later than 270 days after the date of enactment of the Clean Water Act of 1977;

"(B) subsection (b)(2)(A) as it applies to pollutants identified in subsection (b)(2)(F) shall be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304 or not later than 270 days after the date of enactment of the Clean Water Act of 1977, whichever is later.

"(2) Any application for a modification filed under subsection (g) of this section shall not operate to stay any requirement under this Act, unless in the judgment of the Administrator such a stay or the modification sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities, and that there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (g) of this section, the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.".

INNOVATIVE TECHNOLOGY

SEC. 47. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(k) In the case of any facility subject to a permit under section 402 which proposes to comply with the requirements of subsection (b)(2)(A) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 402, in consultation with the Administrator) may establish a date for compliance under subsection (b)(2)(A) of this section no later than July 1, 1987, if it is also determined that such innovative system has the potential for industrywide application.".

INFORMATION AND GUIDELINES

SEC. 48. (a) Section 304(a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraphs:

"(4) The Administrator shall, within 90 days after the date of enactment of the Clean Water Act of 1977 and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

"(5) (A) The Administrator, to the extent practicable before consideration of any request under section 301(g) of this Act and within six months after the date of enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

"(B) The Administrator, to the extent practicable before consideration of any application under section 301(h) of this Act and within six months after the date of enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

"(6) The Administrator shall, within three months after enactment of the Clean Water Act of 1977 and annualy thereafter, for purposes of section 301(h) of this Act publish and revise as appropriate information identifying each water quality standard in effect under this Act or State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.".

(b) Section 304(b) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (2) (B), by striking out "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (3), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) (A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best conventional pollutant control technology (including measures and practices) for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the best conventional pollutant control technology measures and practices to comply with section 301(b) (2) (E) of this Act to be applicable to any point source (other than publicly owned treatment workers) within such categories or classes. Factors relating to the assessment of best conventional pollutant control technology (including measures and practices) shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, and shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and other factors as the Administrator deems appropriate.".

IDENTIFICATION AND EVALUATION GUIDELINES

Sec. 49. Subsection (d) of section 304 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(3) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall promulgate within one hundred and eighty days after the date of enactment of this subsection guidelines for identifying and evaluating innovative and alternative wastewater treatment processes and techniques referred to in section 201(g) (5) of this Act.".

BEST MANAGEMENT PRACTICES FOR INDUSTRY

Sec. 50. Section 304 of the Federal Water Pollution Control Act is amended by inserting immediately after subsection (d) the following new subsection and by redesignating succeeding subsections, including reference thereto, accordingly:

"(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b) and (c) of this section for a class or category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307(a) (1) or 311 of this Act, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process within such class or category of point sources and many contribute significant amounts of such pollutants to navigable waters. Any applicable controls established under this subsection shall be included as a requirement for the purposes of section 301, 302, 306, 307, or 403, as the case may be, in any permit issued to a point source pursuant to section 402 of this Act.".

INTERAGENCY AGREEMENTS

Sec. 51. Section 304(k) of the Federal Water Pollution Control Act as redesignated by this Act is amended to read as follows:

"(k) (1) The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.

"(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

"(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal years 1979 through 1983.".

STATE REPORTS

Sec. 52. Subsection (b) of section 305 of the Federal Water Pollution Control Act is amended—

(1) by striking out "January 1, 1975, and shall bring up to date each year thereafter," in paragraph (1) and inserting in lieu thereof "April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter,"; and

(2) by striking out "annually" in paragraph (2) and inserting in lieu thereof the following: "October 1, 1976, and biennially".

TOXIC POLLUTANTS

Sec. 53. (a) Paragraphs (1), (2), and (3) of section 307(a) of the Federal Water Pollution Control Act are amended to read as follows:

"(a) (1) On and after the date of enactment of the Clean Water Act of 1977, the list of toxic pollutants or combination of pollutants subject to this Act shall consist of those toxic pollutants listed in table 1 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives, and the Administrator shall publish, not later than the thirtieth day after the date of enactment of the Clean Water Act of 1977, that list. From time to time thereafter, the Administrator may revise such list and the Administrator is authorized to add to or remove from such list any pollutant. The Administrator in publishing any revised list, including the addition or removal of any pollutant from such list, shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms. A determination of the Administrator under this paragraph shall be final except that if, on judicial review, such determination was based on arbitrary and capricious action of the Administrator, the Administrator shall make a redetermination.

"(2) Each toxic pollutant listed in accordance with paragraph (1) of this subsection shall be subject to effluent limitations resulting from the application of the best available technology economically achievable for the applicable category or class of point sources established in accordance with sections 301 (b) (2) (A) and 304(b) (2) of this Act. The Administrator, in his discretion, may publish in the Federal Register a proposed effluent standard (which may include a prohibition) establishing requirements for a toxic pollutant which, if an effluent limitation is applicable to a class or category of point sources, shall be applicable to such category or class only if such standard imposes more stringent requirements. Such published effluent standard (or prohibition) shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under other regulatory authority. The Administrator shall allow a period of not less than sixty days following publication of any such proposed effluent standard (or prohibition) for written comment by interested persons on such proposed standard. In addition, if within thirty days of publication of any such proposed effluent standard (or prohibition) any interested person so requests, the Administrator shall hold a public hearing in connection therewith. Such a public hearing shall provide an opportunity for oral and written presentations, such cross-examination as the Administrator determines is appropriate on disputed issues of material fact, and the transcription of a verbatim record which shall be available to the public. After consideration of such comments and any information and material presented at any public hearing held on such proposed standard or prohibition, the Administrator shall promulgate such standard (or prohibition) with such modifications as the Administrator finds are justified. Such promulgation by the Administrator shall be made within two hundred and seventy days after publication of proposed standard (or probihition). Such standard (or prohibition) shall be final except that if, on judicial review, such standard was not based on substantial evidence, the Administrator shall promulgate a revised standard. Effluent limitations shall be established in accordance with sections 301(b) (2) (A) and 304(b) (2) for every toxic pollutant referred to in table 1 of Committee Print Numbered 95–30 of the Committee on Public

Works and Transportation of the House of Representatives as soon as practicable after the date of enactment of the Clean Water Act of 1977, but no later than July 1, 1980. Such effluent limitations or effluent standards (or prohibitions) shall be established for every other toxic pollutant listed under paragraph (1) of this subsection as soon as practicable after it is so listed.

"(3) Each such effluent standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.".

(b) Paragraph (6) of section 307(a) of the Federal Water Pollution Control Act is amended to read as follows:

"(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case, more than one year from the date of such promulgation. If the Administrator determines that compliance within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator may establish the effective date of the effluent standard (or prohibition) for such category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.".

(c) Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(l) The Administrator may not modify any requirement of this section as it applies to any specific pollutant which is on the toxic pollutant list under section 307(a)(1) of this Act.".

PRETREATMENT

SEC. 54. (a) Section 307(b)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 405 of this Act, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works.".

(b) Section 309 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(f) Whenever, on the basis of any information available to him, the Administrator finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 307, the Administrator may notify the owner or operator of such treatment works and the State of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within 30 days of the date of such notification, the Administrator may commence a civil action for appropriate relief, including but not limited to, a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Administrator shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court of the United States in the district in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with this Act. Notice of commencement of any such action shall be given to the State. Nothing in this subsection shall be construed to limit or prohibit any other authority the Administrator may have under this Act.".

(c)(1) Section 402(b)(8) of the Federal Water Pollution Control Act is amended by inserting after "includes conditions to require" the following: "the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to".

(2) Any State permit program approved under section 402 of the Federal Water Pollution Control Act before the date of enactment of the Clean Water Act of 1977, which requires modification to conform to the amendment made by paragraph (1) of this subsection, shall not be required to be modified before the end of the one year period which begins on the date of enactment of the Clean Water Act of 1977 unless in order to make the required modification a State must amend or enact a law in which case such modification shall not be required for such State before the end of the two year period which begins on such date of enactment.

(d) Section 405 of the Federal Water Pollution Control Act is amended (1) by striking out in subsection (b) thereof "subject to this section" and inserting in lieu thereof "subject to subsection (a) of this section", (2) by striking out in subsection (c) thereof "sewage sludge" and inserting in lieu thereof "sewage sludge subject to subsection (a) of this section", and (3) by adding at the end thereof the following new subsections:

"(d) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this subsection and from time to time therafter, regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. Such regulations shall—

"(1) identify uses for sludge, including disposal;

"(2) specify factors to be taken into account in determining the measures and practices applicable to each such use or disposal (including publication of information on costs);

"(3) identify concentrations of pollutants which interfere with each such use or disposal.

The Administration is authorized to revise any regulation issued under this subsection.

"(e) The determination of the manner of disposal or use of sludge is a local determination except that it shall be unlawful for the owner or operator of any publicly owned treatment works to dispose of sludge from such works for any use for which guidelines have been established pursuant to subsection (d) of this section, except in accordance with such guidelines.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 55. (a) Paragraph (1) of subsection (a) of section 309 of the Federal Water Pollution Control Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

(b) Paragraph (3) of subsection (a) of section 309 of the Federal Water Pollution Control Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

(c) Subsection (d) of section 309 of the Federal Water Pollution Control Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

1977 DEADLINES

SEC. 56. (a) The third sentence of section 308(a)(2) of the Federal Water Pollution Control Act is amended by striking out "the Administrator shall" and by inserting in lieu thereof the following: "except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall".

(b) Section 309(a)(4) of the Federal Water Pollution Control Act is amended by striking out the second sentence thereof.

(c) Section 309(a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraphs:

"(5)(A) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(B) The Administrator may, if he determines (i) that any person who is a violator of, or any person who is otherwise not in compliance with, the time requirements under this Act or in any permit issued under this Act, has acted in good faith, and has made a commitment (in the form of contracts or other securities) of necessary resources to achieve compliance by the earliest possible date after July 1, 1977, but not later than April 1, 1979; (ii) that any extension under this provision will not result in the imposition of any additional controls on any other point or nonpoint source; (iii) that an application for a permit under section 402 of this Act was filed for such person prior to December 31, 1974; and (iv) that the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 302(b)(1)(A) to a date which will achieve compliance at the earliest time possible but not later than April 1, 1979.

"(6) Whenever, on the basis of information available to him, the Administrator finds (A) that any person is in violation of section 301(b)(1)(A) or (C) of this Act, (B) that such person cannot meet the requirements for a time extension under section 301(i)(2) of this Act, and (C) that the most expeditious and appropriate means of compliance with this Act by such person is to discharge into a publicly owned treatment works, then, upon request of such person, the Administrator may issue an order requiring such person to comply with this Act at the earliest date practicable, but not later than July 1, 1983, by discharging into a publicly owned treatment works if such works concur with such order. Such order shall include a schedule of compliance.".

MITIGATION COSTS

SEC. 57. Subsection (b) of section 311 of the Federal Water Pollution Control Act is amended by adding a new clause (v) to paragraph (2)(B) as follows:

"(v) In addition to establishing a penalty for the discharge of a hazardous substance determined not to be removable pursuant to clauses (ii) through (iv) of this subparagraph, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.".

OILSPILL LIABILITY

SEC. 58. (a)(1) Section 311(b))(1) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).".

(2) Section 311(b)(2)(A) of the Federal Water Pollution Control Act is amended by inserting after "the contiguous zone" the following: "or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)".

(3) Section 311(b)(3) of the Federal Water Pollution Control Act is amended by inserting "(i)" immediately after "The discharge of oil or hazardous substances" and by inserting after the phrase "into or upon the waters of the contiguous zone" a comma and the following: "or (ii) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976),".

(4) Section 311(b)(3)(A) of the Federal Water Pollution Control Act is amended by inserting "or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)" immediately after "waters of the contiguous zone", and by striking out "article IV of".

(5) Section 311(b)(4) of the Federal Water Pollution Control Act is amended by striking all after "beaches" and inserting a period.

(6) Section 311(b)(5) of the Federal Water Pollution Control Act is amended by inserting after "Any such person" in the second sentence "(A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States, or (C) in charge of an onshore facility or an offshore facility,".

(7) The first sentence of section 311(b)(6) of the Federal Water Pollution Control Act is amended by striking out "Any owner or operator of any vessel, onshore facility," and inserting in lieu thereof "Any owner, operator, or person in charge of any onshore facility".

(8) Section 311(b)(6) of the Federal Water Pollution Control Act is amended by inserting immediately after the first sentence thereof the following: "Any owner, operator, or person in charge of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, and any owner, operator, or person in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) who is otherwise subject to the jurisdiction of the United States, shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense.".

(b) Section 311(c)(1) of the Federal Water Pollution Control Act is amended by inserting after "discharged," the following: "or there is a substantial threat of such discharge,".

(c)(1) Section 311(c)(1) of the Federal Water Pollution Control Act is further amended by inserting after "contiguous zone," the following: "or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)".

(2) The last sentence of section 311(d) of the Federal Water Pollution Control Act is amended by inserting after "under this subsection" the following: "or under the Intervention on the High Seas Act (or the convention defined in section 2(3) thereof)".

(3) Section 311(j)(2) of the Federal Water Pollution Control Act is amended by inserting immediately after the first sentence the following: "This paragraph shall not apply to any owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of subsection (b) unless such owner, operator, or person in charge is otherwise subject to the jurisdiction of the United States.".

(d)(1) Section 311(a) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraphs:

"(15) 'inland oil barge' means a non-self-propelled vessel carrying oil in bulk as cargo and certificated to operate only in the inland waters of the United States, while operating in such waters;

"(16) 'inland waters of the United States' means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf Intracoastal Waterway.".

(2) Section 311(f)(1) of the Federal Water Pollution Control Act is amended by striking out "$100 per gross ton of such vessel or $14,000,000, whichever is lesser," and inserting in lieu thereof the following: ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater,".

(3) Section 311(g) of the Federal Water Pollution Control Act is amended by striking out "$100 per gross ton of such vessel or $14,000,000, whichever is the lesser." and inserting in lieu thereof the following: ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater.".

(4) Section 311(p)(1) of the Federal Water Pollution Control Act is amended by striking out "$100 per gross ton, or $14,000,000 whichever is the lesser," and inserting in lieu thereof the following: ", in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater,".

(5) Section 311(f)(2) of the Federal Water Pollution Control Act is amended by striking out "$8,000,000" and inserting in lieu thereof "$50,000,000.".

(6) Section 311(f)(3) of the Federal Water Pollution Control Act is amended by striking out "$8,000,000" and inserting in lieu thereof "$50,000,000.".

(e) Section 311(c)(2)(D) of the Federal Water Pollution Control Act is amended by striking out "to the appropriate Federal agency;" and inserting in lieu thereof "and imminent threats of such discharges to the appropriate State and Federal agencies;".

(f) Section 311(g) of the Federal Water Pollution Control Act is amended by inserting after "(g)" the following: "Where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection.".

(g) Section 311(f) of the Federal Water Pollution Control Act is amended by adding the following new paragraphs:

"(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

"(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.".

(h) The amendments made by paragraphs (5) and (6) of subsection (d) of this section shall take effect 180 days after the date of enactment of the Clean Water Act of 1977.

(i) Section 311 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsections:

"(q) The President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f)(2) and (3) of this section of less than $50,000,000, but not less than $8,000,000.

"(r) Nothing in this section shall be construed to impose, or authorize the imposition of, any limitation on liability under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974.".

(j) No vessel subject to the increased amounts which result from the amendments made by subsections (d)(2), (d)(3), and (d)(4) of this section shall be required to establish any evidence of financial responsibility under section 311(p) of the Federal Water Pollution Control Act for such increased amounts before October 1, 1978.

(k) Section 311(a)(11) of the Federal Water Pollution Control Act is amended by inserting immediately after "United States" a comma and the following: "and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters,".

(l) The first sentence of section 311(k) of the Federal Water Pollution Control Act is amended by striking out "not to exceed" and inserting in lieu thereof the following: "such sums as may be necessary to maintain such fund at a level of".

(m) Section 311(i)(2) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "or the Deepwater Port Act of 1974.".

MARINE SANITATION DEVICES

SEC. 59. (a) Section 312(a)(6) of the Federal Water Pollution Control Act is amended by adding before the semicolon at the end thereof the following: "except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater".

(b) Section 312(a) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"(10) 'commercial vessels' means those vessels used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel;

"(11) 'graywater' means galley, bath, and shower water.".

"(c) The next to the last sentence of section 31(b)(1) of the Federal Water Pollution Control Act is amended by inserting immediately after "Such standards" the following: "and standards established under subsection (c)(1)(B) of this section". The last sentence of such section 312(b)(1) is amended by inserting immediately after "subsection" the following: "and subsection (c) of this section".

(d) Section 312(c)(1) of the Federal Water Pollution Control Act is amended by inserting "(A)" after "(1)" and by adding at the end thereof a new subparagraph (B) as follows:

"(B) The Administrator shall, with respect to commercial vessels on the Great Lakes, establish standards which require at a minimum the equivalent of secondary treatment as defined under section 304(d) of this Act. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.".

(e) Section 312(f)(4) of the Federal Water Pollution Control Act is amended by inserting "(A)" after "(4)" and by adding at the end thereof a new subparagraph (B) as follows:

"(B) Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.".

FEDERAL FACILITIES

Sec. 60. Section 313 of the Federal Water Pollution Control Act is amended by inserting "(a)" immediately after "Sec. 313," and by adding at the end thereof the following new subsection:

"(b)(1) The Administrator shall coordinate with the head of each department, agency, or instrumentality of the Federal Government having jurisdiction over any property or facility utilizing federally owned wastewater facilities to develop a program of cooperation for utilizing wastewater control systems utilizing those innovative treatment processes and techniques for which guidelines have been promulgated under section 304(d)(3). Such program shall include an inventory of property and facilities which could utilize such processes and techniques.

"(2) Construction shall not be initiated for facilities for treatment of wastewater at any Federal property or facility after September 30, 1979, if alternative methods for wastewater treatment at such property or facility utilizing innovative treatment processes and techniques, including but not limited to methods utilizing recycle and reuse techniques and land treatment are not utilized, unless the life cycle cost of the alternative treatment works exceeds the life cycle cost of the most cost effective alternative by more than 15 per centum. The Administrator may waive the application of this paragraph in any case where the Administrator determines it to be in the public interest, or that compliance with this paragraph would interfere with the orderly compliance with conditions of a permit issued pursuant to section 402 of this Act.".

FEDERAL FACILITY COMPLIANCE

Sec. 61. (a) Subsection (a) of section 313 of the Federal Water Pollution Control Act is amended (1) by striking in the first sentence thereof the words "shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges." and inserting in lieu thereof a comma and the words "and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement, whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of his official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with 28 U.S.C. 144 et seq. No officer, agent, or employee of the United States shall be personally liable for any civil penalty arising from the performance of his official duties, for which he is not otherwise liable, and the United States shall be liable only for those civil penalties arising under Federal law or imposed by a State or local court to enforce an order or the process of such court."; and (2) by adding at the end of such subsection the following: "In addition to any such exemption of a particular effluent source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.".

(b) Section 401(a) of the Federal Water Pollution Control Act is amended by striking paragraph (6) and renumbering the succeeding paragraph accordingly.

CLEAN LAKES

Sec. 62. (a) Section 314(b) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a)(1) of this section.".

(b) The first sentence of section 304(j) of the Federal Water Pollution Control Act as redesignated by this Act, is amended to read as follows: "The Administrator shall issue information biennially on methods, procedures and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned freshwater lakes.".

AQUACULTURE

Sec. 63. Section 318 of the Federal Water Pollution Control Act is amended to read as follows:

"AQUACULTURE

"Sec. 318 (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision pursuant to section 402 of this Act.

"(b) The Administrator shall by regulation establish any procedures and guidelines which the Administrator deems necessary to carry out this section. Such regulations shall require the application to such discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title, as the Administrator determines necessary to carry out the objective of this Act.

"(c) Each State desiring to administer its own permit program within its jurisdiction for discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this Act.".

COMPLIANCE WITH STATE REQUIREMENTS

Sec. 64. Section 401 of the Federal Water Pollution Control Act is amended by inserting "303," after "302," in the phrase "sections 301, 302, 306, and 307 of this Act", and in the phrase "section 301, 302, 306, or 307 of this Act", each time these phrases appear.

ENVIRONMENTAL PROTECTION AGENCY ISSUANCE OF PERMITS

Sec. 65. (a) Section 402(d) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(4) In any case where, after the date of enactment of this paragraph, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act.".

(b) Section 402(d)(2) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.".

ENFORCEMENT OF MUNICIPAL PERMITS

Sec. 66. Section 402(h) of the Federal Water Pollution Control Act is amended by striking out the comma after "is approved" and inserting the following: "or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit,".

PERMITS FOR DREDGED OR FILL MATERIAL

Sec. 67. (a)(1) Subsection (a) of section 404 of the Federal Water Pollution Control Act is amended by striking out "The Secretary of the Army, acting through the Chief of Engineers," and inserting in lieu thereof "The Secretary" and by inserting at the end thereof the following new sentence: "Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection.".

(2) Subsections (b) and (c) of such section 404 are amended by striking out "The Secretary of the Army" each place it appears and inserting in lieu thereof in each such place "the Secretary".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d) The term 'Secretary' as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

"(e)(1) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued under this subsection shall (A) be based on the guidelines described in subsection (b)(1) of this section, and (B) set forth the requirements and standards which shall apply to any activity authorized by such general permit.

"(2) No general permit issued under this subsection shall be for a period of more than five years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after opportunity for public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits.

"(f)(1) Except as provided in paragraph (2) of this subsection, the discharge of dredged or fill material—

"(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

"(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

"(D) for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters;

"(E) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(F) resulting from any activity with respect to which a State has an approved program under section 208(b)(4) which meets the requirements of subparagraphs (B) and (C) of such section,

is not prohibited by or otherwise subject to regulation under this section or section 301 (a) or 402 of this Act (except for effluent standards or prohibitions under section 307).

"(2) Any discharge of dredged or fill material into the navigable waters incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section.

"(g)(1) The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters (other than those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto) within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

"(2) Not later than the tenth day after the date of the receipt of the program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall provide copies of such program and statement to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

"(3) Not later than the ninetieth day after the date of the receipt by the Administrator of the program and statement submitted by any State, under paragraph (1) of this subsection, the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such program and statement to the Administrator in writing.

"(h)(1) Not later than the one-hundred-twentieth day after the date of the receipt by the Administrator of a program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall determine, taking into account any comments submitted by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, pursuant to subsection (g) of this section, whether such State has the following authority with respect to the issuance of permits pursuant to such program:

"(A) To issue permits which—

"(i) apply, and assure compliance with, any applicable requirements of this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, and sections 307 and 403 of this Act;

"(ii) are for fixed terms not exceeding five years; and

"(iii) can be terminated or modified for cause including but not limited to, the following:

"(I) violation of any condition of the permit;

"(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

"(B) To issue permits which apply, and assure compliance with, all applicable requirements of section 308 of this Act, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act.

"(C) To assure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.

"(D) To assure that the Administrator receives notice of each application (including a copy thereof) for a permit.

"(E) To assure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.

"(F) To assure that no permit will be issued if, in the judgment of the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby.

"(G) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(H) To assure continued coordination with Federal and Federal-State water-related planning and review processes.

"(2) If, with respect to a State program submitted under subsection (g)(1) of this section, the Administrator determines that such State—

"(A) has the authority set forth in paragraph (1) of this subsection, the Administrator shall approve the program and so notify (i) such State, and (ii) the Secretary, who upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsections (a) and (e) of this section for activities with respect to which a permit may be issued pursuant to such State program; or

"(B) does not have the authority set forth in paragraph (1) of this subsection, the Administrator shall so notify such State, which notification shall also describe the revisions or modifications necessary so that such State may resubmit such program for a determination by the Administrator under this subsection.

"(3) If the Administrator fails to make a determination with respect to any program submitted by a State under subsection (g) (1) of this section within one-hundred-twenty days after the date of the receipt of such program, such program shall be deemed approved pursuant to paragraph (2)(A) of this subsection and the Administrator shall so notify such State and the Secretary who, upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued by such State.

"(4) After the Secretary receives notification from the Administrator under paragraph (2) or (3) of this subsection that a State permit program has been approved, the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to such State program to such State for appropriate action.

"(5) Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

"(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under section (h)(2)(A) of this section, in accordance with this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, the Administrator shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days after the date of the receipt of such notification, the Administrator shall (1) withdraw approval of such program until the Administrator determines such corrective action has been taken, and (2) notify the Secretary that the Secretary shall resume the program for the issuance of permits under subsections (a) and (e) of this section for activities with respect to which the State was issuing permits and that such authority of the Secretary shall continue in effect until such time as the Administrator makes the determination described in clause (1) of this subsection and such State again has an approved program.

"(j) Each State which is administering a permit program pursuant to this section shall transmit to the Administrator (1) a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State, and (2) a copy of each proposed general permit which such State intends to issue. Not later than the tenth day after the date of the receipt of such permit application or such proposed general permit, the Administrator shall provide copies of such permit application or such proposed general permit to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to such State with respect to such permit application or such proposed general permit, he shall so notify such State not later than the thirtieth day after the date of the receipt of such application or such proposed general permit and provide such written comments to such State, after consideration of any comments made in writing with respect to such application or such proposed general permit by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, not later than the ninetieth day after the date of such receipt. If such State is so notified by the Administrator, it shall not issue the proposed permit until after the receipt of such comments from the Administrator, or after such ninetieth day, whichever first occurs. Such State shall not issue such proposed permit after such ninetieth day if it has received such written comments in which the Administrator objects (A) to the issuance of such proposed permit and such proposed permit is one that has been submitted to the Administrator pursuant to subsection (h)(1)(E), or (B) to the issuance of such proposed permit as being ouside the requirements of this section, including, but not limited to, the guidelines developed under subsection (b)(1) of this section unless it modifies such proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under the preceding sentence such written objection shall contain a statement of the reasons for such objection and the conditions which such permit would include if it were issued by the Administrator. In any case where the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the case may be, for such source in accordance with the guidelines and requirements of this Act.

"(k) In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (j) of this section at the time of the approval of a program pursuant to subsection (h)(2)(A) of this section for any category (including any class, type, or size within such category) of discharge within the State submitting such program.

"(l) The Administrator shall promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of subsection (j) of this section in any State with a program approved pursuant to subsection (h)(2)(A) of this section. The Administrator may distinguish among classes, types, and sizes within any category of discharges.

"(m) Not later than the ninetieth day after the date on which the Secretary notifies the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service that (1) an application for a permit under subsection (a) of this section has been received by the Secretary, or (2) the Secretary proposes to issue a general permit under subsection (e) of this section, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such application or such proposed general permit in writing to the Secretary.

"(n) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

"(o) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof, shall further be available on request for the purpose of reproduction.

"(p) Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 307, and 403.

"(q) Not later than the one-hundred-eightieth day after the date of enactment of this subsection, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice for such application is published under subsection (a) of this section.

"(r) The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of enactment of this subsection, is not prohibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 301(a) or 402 of the Act (except for effluent standards or prohibitions under section 307), if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b)(1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for such construction.

"(s)(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such person to comply with such condition or limitation, or the Secretary shall bring a civil action in accordance with paragraph (3) of this subsection.

"(2) A copy of any order issued under this subsection shall be sent immediately by the Secretary to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

"(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

"(4)(A) Any person who willfully or negligently violates any condition or limitation in a permit issued by the Secretary under this section shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(B) For the purposes of this paragraph, the term 'person' shall mean, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

"(5) Any person who violates any condition or limitation in a permit issued by the Secretary under this section, and any person who violates any order issued by the Secretary under paragraph (1) of this subsection, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

"(t) Nothing in this section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control the discharge of dredged or fill material to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.".

(c)(1) Section 308(a)(4) of the Federal

Water Pollution Control Act is amended by inserting "404 (relating to State permit programs)," immediately before "and 504".

(2) Section 309 of the Federal Water Pollution Control Act is amended—

(A) in subsection (a)(1) thereof, by striking out "section 402" and inserting in lieu thereof "section 402 or 404";

(B) in subsection (a)(3) thereof, by inserting "or in a permit issued under section 404 of this Act by a State" immediately after "State";

(C) in the first sentence of subsection (c)(1) thereof, by inserting "or in a permit issued under section 404 of this Act by a State" immediately after "State"; and

(D) in subsection (d) thereof, by inserting "or in a permit issued under section 404 of this Act by a State," immediately after "State,".

SLUDGE DISPOSAL

Sec. 68. (a) Section 405(a) of the Federal Water Pollution Control Act is amended by striking out "under this section" and inserting in lieu thereof "under section 402 of this Act".

(b) Section 405(b) of the Federal Water Pollution Control Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof "and section 402 of this Act".

(c) The last sentence of section 405(b) of the Federal Water Pollution Control Act is amended by striking out ", as the Administrator determines necessary to carry out the objective of this Act".

(d) Section 405(c) of the Federal Water Pollution Control Act is amended by striking out "if upon submission" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "in accordance with section 402 of this Act.".

EMERGENCY FUND

Sec. 69. Section 504 of the Federal Water Pollution Control Act is amended by inserting "(a)" immediately after "Sec. 504." and by adding at the end thereof the following:

"(b)(1) The Administrator is authorized to provide assistance in emergencies caused by the release into the environment of any pollutant or other contaminant including, but not limited to, those which present, or may reasonably be anticipated to present, an imminent and substantial danger to the public health or welfare.

"(2) There is hereby established a contingency fund to carry out paragraph (1) of this subsection and there is authorized to be appropriated to such fund not to exceed $10,000,000. The amounts appropriated under this paragraph shall remain available until expended. There is authorized to be appropriated such sums as are necessary to maintain that portion of such fund available for emergency assistance at a $10,000,000 level.

"(3) The Administrator shall submit a report annually to each House of Congress on his activities in carrying out this subsection.

"(4) This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal law. Nothing contained in this subsection shall (A) affect any final action taken under such other Federal law, or (B) in any way affect the extent to which human health or the environment is to be protected under such other Federal law.

"(5) The Administrator is authorized to provide emergency assistance under this subsection whenever the Administrator determines—

"(A) such assistance is immediately required to prevent, limit, or mitigate the emergency;

"(B) there is an immediate significant risk to the public health or welfare and the environment; and

"(C) such assistance will not otherwise be provided on a timely basis.

"(6) Emergency assistance provided under this subsection may include (A) measures to abate and remedy the emergency, (B) the performance of research on the effects of an emergency on public health, welfare, and the environment, and (C) providing officers and employees of the agency to administer, at the site of any emergency, the authority under this or other Federal law to minimize and mitigate the adverse effects of the emergency.

"(7) The Administrator shall prepare and publish a contingency plan for responding to emergencies under this subsection. Such contingency plan shall include actions and responsibilities comparable to those specified in section 311(c)(2) of this Act.

"(8) If emergency assistance is provided under this subsection in an emergency caused by the discharge of any pollutant subject to section 311 of this Act, the cost of such assistance shall, at the discretion of the Administrator, be a cost of removal for the purposes of subsections (f) and (g) of such section, and added to any liability which may be imposed under subsection (b)(2) of such section.

"(9) The cost of any emergency assistance provided under this subsection in an emergency caused by the discharge of a pollutant in violation of any requirement of section 301, 306, 307, 402, or 403 of this Act, shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309 of this Act.".

COMBINED SEWER OVERFLOWS

Sec. 70. Section 516 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(c) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment works operations. The report shall include (1) the status of any projects funded under this Act to address combined sewer overflows, (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of $5,000,000,000, to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.".

UTILIZATION OF TREATED SLUDGE

Sec. 71. Section 516 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(d) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent. The report shall include (1) a summary of results of research and development programs, grants, and contracts carried out by the Environmental Protection Agency pursuant to sections 104 and 105 of this Act, regarding alternatives to disposal, landfill, or incineration of secondary effluent of sludge, (2) an estimate of the amount of sludge generated by public treatment works and its disposition, including an estimate of annual energy costs to incinerate sludge, (3) an anlysis of current technologies for the utilization, reprocessing, and other uses of sludge to utilize the nutrient value of sludge, (4) legal, institutional, public health, economic, and other impediments to the greater utilization of treated sludge, and (5) any recommendations of the Administrator for legislation to encourage or require the expanded utilization of sludge for agricultural and other purposes. In carrying out this subsection, the Administrator shall consult with, and use the services of the Tennessee Valley Authoirity and other departments, agencies, and instrumentalities of the United States, to the extent it is appropriate to do so.".

WATER SUPPLY-WASTEWATER TREATMENT COORDINATION

Sec. 72. Section 516 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

(e) The Administrator, in cooperation with the States, including water pollution control agencies, and other water pollution control planning agencies, and water supply and water resources agencies of the States and the United States shall submit to Congress, within two years of the date of enactment of this section, a report with recommendations for legislation on a program to require coordination between water supply and wastewater control plans as a condition to grants for construction of treatment works under this Act. No such report shall be submitted except after opportunity for public hearings on such proposed report.".

EXISTING GUIDELINES

Sec. 73. Within 90 days after the date of enactment of this Act, the Administrator shall review every effluent guideline promulgated prior to the date of enactment of this Act which is final or interim final (other than those applicable to industrial categories listed in table 2 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives) and which applies to those pollutants identified pursuant to section 304(a)(4) of the Federal Water Pollution Control Act. The Administrator shall review every guideline applicable to industrial categories listed in such table 2 on or before July 1, 1980. Upon completion of each such review the Administrator is authorized to make such adjustments in any such guidelines as may be necessary to carry out section 304(b)(4) of such Act. The Administrator shall publish the results of each such review, including, with respect to each such guideline, the determination to adjust or not to adjust such guideline. Any such determination by the Administrator shall be final except that if, on judicial review in accordance with section 509 of such Act, it is determined that the Administrator either did not comply with the requirements of this section or the determination of the Administrator was based on arbitrary and capricious action in applying section 304(b)(4) of such Act to such guideline, the Administrator shall make a further review and redetermination of any such guideline.

SEAFOOD PROCESSING STUDY

Sec. 74. The Administrator of the Environmental Protection Agency shall conduct a study to examine the geographical, hydrological, and biological characteristics of marine waters to determine the effects of seafood processes which dispose of untreated natural wastes into such waters. In addition, such study shall examine technologies which may be used in such processes to facilitate the use of the nutrients in these wastes or to reduce the discharge of such wastes into the marine environment. The results of such study shall be submitted to Congress not later than January 1, 1979.

COST RECOVERY STUDY

Sec. 75. (a) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the "Administrator") shall study the efficiency of, and the need for, the payment by industrial users of any treatment works of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of industrial wastes to the extent attributable to the Federal share of the cost of construction. Such study shall include, but not be limited to, an analysis of the impact of such a system of payment upon rural communities and on industries in economically distressed areas or areas of high unemployment. No later than the last day of the twelfth month which begins after the date of enactment of this section, the Administrator shall submit a report to the Congress setting forth the results of such study.

(b) During the period beginning on the date of enactment of this section and ending on the last day of the eighteenth month which begins after the date of enactment of this section (both dates inclusive), no officer or employee of the Federal Government shall enforce, or require any recipient of a grant under section 201(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1284) to enforce, any provision in an application for a grant or in a grant agreement under such section which requires any payments by industrial users pursuant to section 204(b)(1)(B) of such Act.

(c) or purposes of this section, the terms "industrial user" and "treatment works" have the same meaning given such terms in the Federal Water Pollution Control Act.

(d) Any payment by an industrial user which, but for subsection (b) of this section, was due and payable during the eighteen-month period described in such subsection shall after such eighteen-month period be paid in accordance with the applicable provisions of the Federal Water Pollution Control Act in equal annual installments prorated over the remaining useful life of the treatment works with respect to which they are requested to be paid.

LAKE CHELAN DELEGATION

SEC. 76. The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to the State of Washington upon its request all or any part of those functions vested in such Secretary by section 404 of the Federal Water Pollution Control Act and by sections 9, 10, and 13 of the Act of March 3, 1899, relating to Lake Chelan, Washington, if the Secretary determines (1) that such State has the authority, responsibility, and capability to carry out such functions, and (2) that such delegation is in the public interest. Such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such delegation.

SECONDARY TREATMENT FACILITY SITE

SEC. 77. The Administrator of the Environmental Protection Agency shall reimburse the city of Boston, Massachusetts, an amount equal to 75 per centum, but not to exceed $15,000,000, of the cost of constructing a modern correctional detention facility on a site in such city, on condition that such city convey to the Commonwealth of Massachusetts all of its right, title, and interest in and to that real property owned by such city on Deer Island which is the site of the existing correctional detention facility for use by such Commonwealth as the site for a publicly owned treatment works providing secondary treatment. There is authorized to be appropriated $15,000,000 to carry out the purposes of this section.

TOTAL TREATMENT SYSTEM FUNDING

SEC. 78. Notwithstanding any other provision of law, in any case where the Administrator of the Environmental Protection Agency finds that the total of all grants made under section 201 of the Federal Water Pollution Control Act for the same treatment works exceeds the actual construction costs for such treatment works (as defined in that Act) such excess amount shall be a grant of the Federal share (as defined in that Act) of the cost of construction of a sewage collection system if—

(1) such sewage collection system was constructed as part of the same total treatment system as the treatment works for which such section 201 grants were approved, and

(2) an application for assistance for the construction of such sewage collection system was filed in accordance with section 702 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102) before all such section 201 grants were made and such section 702 grant could not be approved due to lack of funding under such section 702.

The total of all grants for sewage collection systems made under this section shall not exceed $2,800,000.

And the Senate agree to the same.

HAROLD T. JOHNSON,
RAY ROBERTS,
GLENN M. ANDERSON,
ROBERT A. ROE,
JOHN BREAUX,
BO GINN,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
BOB STUMP,
W. H. HARSHA,
JAMES C. CLEVELAND,
DON H. CLAUSEN,
GENE SNYDER,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
MIKE GRAVEL,
QUENTIN BURDICK,
JOHN CULVER,
GARY HART,
WENDELL R. ANDERSON,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
MALCOLM WALLOP,
JAMES A. MCCLURE,
PETE V. DOMENICI,
HOWARD BAKER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

This Act may be cited as the "Federal Water Pollution Control Act Amendments of 1977".

Senate amendment

This Act may be cited as the "Clean Water Act of 1977".

Conference substitute

The conference substitute is the same as the Senate amendment.

AUTHORIZATION APPROVAL

House bill

Authorizes funds for fiscal year 1976 and the transition quarter which were previously appropriated for expenditure under the Federal Water Pollution Control Act [hereinafter in this statement referred to as the "Act"].

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill with the addition of the fiscal year 1977.

AUTHORIZATION EXTENSION

House bill

Section 3 provides for the following authorizations:

(1) Manpower training (section 104(u)(2)), not to exceed $2,000,000 for fiscal year 1977, and not to exceed $3,000,000 for fiscal year 1978.

(2) Manpower forecasting (section 104(u)(3)), not to exceed $1,000,000 for fiscal year 1977, and not to exceed $1,500,000 for fiscal year 1978.

(3) Program grants to State and interstate water pollution control agencies (section 106(a)(2)), $100,000,000 for each of the fiscal years 1977 and 1978.

(4) Training grants and scholarships to institutions of higher education (section 112(c)), $6,000,000 for fiscal year 1977, and $7,000,000 for fiscal year 1978.

(5) Grants for the costs of developing and operating areawide waste treatment management planning processes (section 208(f)(3)), not to exceed $150,000,000 for each of the fiscal years 1977 and 1978.

(6) Grants for the Clean Lakes program (section 314(c)(2)), $50,000,000 for fiscal year 1977, and $60,000,000 for fiscal year 1978.

(7) Funds for the Environmental Protection Agency to carry out sections of this Act for which no other specific authorization is provided (section 517), $150,000,000 for fiscal year 1977, and $150,000,000 for fiscal year 1978.

Senate amendment

Section 3 provides for the following authorizations:

(1) Manpower training (section 104(u)(2)), not to exceed $7,500,000 for each of the fiscal years 1978, 1979, and 1980.

(2) Manpower forecasting (section 104(u)(3)), not to exceed $2,500,000 for each of the fiscal years 1978, 1979, and 1980.

(3) Program grants to State and interstate water pollution control agencies (section 106(a)(2)), $75,000,000 for each of the fiscal years 1978, 1979, and 1980.

(4) Training grants and scholarships to institutions of higher education (section 112(c)), $25,000,000 for each of the fiscal years 1978, 1979, and 1980.

(5) Grants for the costs of developing and operating areawide waste treatment management planning processes (section 208(f)(3)), not to exceed $150,000,000 for each of the fiscal years 1978, 1979, and 1980.

(6) Grants for the Clean Lakes program (section 314(c)(2)), $150,000,000 for each of the fiscal years 1978, 1979, and 1980.

(7) Funds for the Environmental Protection Agency to carry out sections of this Act for which no other specific authorization is provided (section 517), $350,000,000 for each of the fiscal years 1978, 1979, and 1980.

Conference substitute

The conference substitute provides funding at the level authorized for fiscal year 1978 in the House bill for the 3-year period authorized by the Senate amendment.

The conferees expect the Administrator to redesign the budget for fiscal 1979 and thereafter so that appropriation requests will specifically reflect applicable authorizations. For example, funds for the Clean Lakes program should be identified in terms of the authorization for Clean Lakes. Funds for training programs should be specifically identified in relation to the authorization for training programs, and so on. The Congress must know the relationship of appropriations to authorizations in order to determine whether or not programs are being implemented as intended.

STATE JURISDICTION

House bill

No comparable provision.

Senate amendment

This section amends section 510 of the Act to provide that any authority now vested in a State to establish or operate programs for the allocation of waters within the State or any rights to, or allocations of, waters pursuant to such programs shall not be abrogated or otherwise affected by any other provision of this Act.

The conference substitute amends section 101 of the Act to add a new subsection declaring it the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction should not be superseded, abrogated or otherwise impaired by this Act. It is further the policy of Congress that nothing in this Act should be construed to supersede or abrogate rights to quantities of water that have been established by any State. Federal agencies are to cooperate with State and local agencies to develop solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources. In addition, the Administrator is required to submit a report before July 1, 1978, analyzing the relationship between programs under this Act and State and Federal programs for allocation of water. This report is to include necessary recommendations.

This provision is intended to clarify existing law to assure its effective implementation. It is not intended to change existing law.

ESTUARINE STUDY

House bill

No comparable provision.

Senate amendment

Amends section 104 of the Act to permit the estuarine report to be submitted every six years instead of every three years.

Conference substitute

The conference substitute is the same as the Senate bill.

CLEARINGHOUSE FOR ALTERNATIVE TREATMENT INFORMATION

House bill

No comparable provision.

Senate amendment

The Senate amendment further amends section 104 of the Act to establish a national clearinghouse for the collection and dissemination of information developed on alternative treatment technologies.

Conference substitute

The conference substitute is the same as the Senate amendment with additional authority granted the Administrator to establish a national clearinghouse within the agency or through other public or private nonprofit organizations.

ASSISTANCE FOR RESEARCH AND DEMONSTRATION PROJECTS

House bill

No comparable provision.

Senate amendment

This section amends section 105 to authorize grants for those costs of operating and maintaining a project which received a grant under section 104, 105, or 113 which exceed the operation and maintenance costs or a comparable community using a conventional treatment works.

Conference substitute

The conference substitute is the same as the Senate amendment restricted however to those grants made prior to the date of the enactment of the subsection.

The conferees have identified six projects under section 104 which would be eligible for operation and maintenance assistance under this provision. They include: Ely, Minnesota; Rock River, Ohio; Lake Tahoe, California; Colorado Springs, Colorado; Piscataway, Maryland; and El Lago, Texas. The conferees understand that the expected annual cost of these projects will not exceed $500,000.

In addition, the conferees expect the Administrator to review the Greenville, Maine and Avalon, California projects for the purpose of providing any appropriate operation and maintenance assistance during the period in which those communities are studying and making necessary modifications to reduce excessive operation and maintenance costs.

TRAINING GRANTS

House bill

No comparable provision.

Senate amendment

This section amends section 109 of the Act to increase the limit of a grant for a training facility from $250,000 to $500,000, to exempt any such grant from the requirements of section 204, and to increase the eligible uses of training grant funds.

Conference substitute

The conference substitute is the same as the Senate amendment except that it restricts the exemption to section 204(a)(3) only. In addition, if a grant is made to serve more than one State, an additional grant is authorized for a supplemental facility in each of those States.

The only provision under section 204(a)(3) from which training grants are exempted relates to the priority list requirement.

The amendment in section 10(d) of this Act which amends section 109(b)(1) of the Federal Water Pollution Control Act is intended to allow grants for 100 per centum of any additional costs of construction of waste treatment works required for a facility to train and upgrade waste treatment works operational and maintenance personnel. For example, a given facility could include classrooms at a local school and additional laboratory or training facilities or other facilities at more than one treatment works. The school facility would be central to the operation but satellite facilities at more than one treatment works would be considered to be part of an over-all training site.

Training programs under this section would not be limited to employees of State and local governments but could also be made available, on a cost reimbursable basis, to nongovernmental personnel.

RURAL VILLAGE STUDY

House bill

No comparable provision.

Senate amendment

This section amends section 113 of the Act to authorize a study for the development of a comprehensive program for adequate sanitation services in Alaska villages. It authorizes the Administrator to coordinate with the Secretaries of Health, Education, and Welfare, Housing and Urban Development, Interior, and Agriculture, and any other appropriate agency or department as well as the State of Alaska and the appropriate native organizations so as to develop a program for the provision of adequate sanitation services in Alaska. Funds are authorized for 1978 and 1979. A report, as well as any legislative or administrative recommendations, will be filed with the Congress.

This section requires a comprehensive planning study which will result in a coordinated approach of assuring adequate sanitation services in Alaska.

Upon conclusion of the study, the Administrator is to report to the Congress the results of the study, as well as recommendations he deems necessary to assure adequate sanitation services in rural areas of the State. The Administrator is also to provide any recommendations of administrative actions or legislation necessary to satisfy the purposes of the study.

The amendment authorizes the sum of no more than $200,000 for 1978 and no more than $220,000 for 1979 to complete the study and consequent recommendations.

Conference substitute

The conference substitute is the same as the Senate amendment with the additional requirement that the study be coordinated with, and not duplicative of, programs and projects authorized by sections 104(q) and 105(e)(2) of the Act.

GRANTS FOR INNOVATIVE AND ALTERNATIVE TECHNOLOGY

House bill

No comparable provision.

Senate amendment

Section 6 amends section 105 of the Act to provide 100-percent funding for research and development projects which demonstrate innovative technology, if such a project is on a State's priority list under section 303 of the Act. Such grants are now limited to 75 percent of the total cost. Under this new provision, the non-Federal costs of such projects may be provided from a State's allotment under the construction grant program. The total amount of such funds used for this purpose may not exceed one-half of 1 percent of a State's allotment.

Conference substitute

Section 9 of the conference substitute amends section 105 of the Act to authorize a grant to anyone who received an increased grant pursuant to section 202(a)(2) of the Act. This grant may pay up to 100 percent of the costs of technical evaluation of the costs of treatment works, the costs of training persons, and costs of disseminating technical information. Section 12 of the conference substitute amends section 201(g) of the Act to add a new paragraph (5) prohibiting the Administrator from making grants after fiscal year 1978 for treatment works unless the applicant satisfactorily demonstrates that innovative and alternative waste water treatment processes and techniques have been fully studied and evaluated and taking into account and allowing, to the extent practicable, for more efficient use of energy and resources. Section 15 of the conference substitute amends section 201 to require the Administrator to encourage waste treatment management methods, processes, and techniques which reduce total energy requirements. Section 16 of the conference substitute amends section 201 to authorize the Administrator to make a grant for treatment works utilizing processes and techniques meeting section 304(d)(3) guidelines if the Administrator determines it to be in the public interest and if in the cost effectiveness study the life cycle cost of the works for which the grant is to be made does not exceed the life cycle cost of the most cost effective alternative by more than 15 per centum. Section 17 of the conference substitute amends section 202(a) of the Act to provide that the amount of any grant made after September 30, 1978, and before October 1, 1981, for eligible treatment works, or significant portions thereof, utilizing innovative or alternative waste water processes and techniques shall be 85 per centum of the cost of construction. A State must maintain its proportionate contribution to the non-Federal share of these costs. Additionally, the Administrator is authorized to make a grant to fund all costs of modification or replacement of facilities constructed with such a grant if they fail to meet design performance specifications, unless this failure is attributable to negligence, and has significantly increased capital or operating and maintenance expenditures. For the purpose of this provision, "eligible treatment works" is defined as those which meet section 201((g)(5) requirements and can be fully funded from funds available to the State in fiscal years 1979, 1980, and 1981. It does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.

Section 20 of the conference substitute amends section 204(a)(3) of the Act to provide that section 303(e)(3)(H) priority lists may be modified by a State to give higher priority for grants for construction drawings and specifications (Step 2) for treatment works using processes and techniques meeting section 304(d)(3) guidelines and giving higher priority for grants for the combined Federal share of construction drawings and specifications and building and erection of treatment works (Steps 2 and 3) meeting the requirements of the next to the last sentence of section 203(a) of this Act which utilize processes and techniques meeting section 304(d)(3) guidelines. Section 28 of the conference substitute amends section 205 of the Act to provide that not less than ½ of 1 per centum of funds allotted to a State for each of the fiscal years 1979 through 1981 shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 to 85 per centum and that including the ½ of 1 per centum, 2 per centum per year for fiscal years 1979 and 1980, and 3 per centum for fiscal year 1981, of funds allotted to a State shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 202(a)(2). Section 37 of the conference substitute amends section 212(2)(A) of the Act to include land used for storing treated waste water in land treatment systems prior to land application within the definition of the term "treatment works" for the purposes of title II of this Act. Section 38 of the conference substitute amends title II to add a new section requiring the Administrator to develop and operate a continuing program of public information and education on recycling and reuse of waste water (including sludge), the use of land treatment, and methods for reducing waste water volume. Section 49 of the conference substitute amends section 304(d) of the Act to add a new paragraph (3) which requires the Administrator to promulgate guidelines for identifying and evaluating innovative and alternative waste water treatment processes and techniques referred to in section 201(g)(5). This is to be done within six months. Section 60 of the conference substitute amends section 313 of the Act to require the Administrator, in coordination with other Federal agencies, to develop a program of cooperation for using waste water control systems utilizing innovative treatment processes and techniques for which there are guidelines under section 304(d)(3), including an inventory of facilities which could utilize these processes and techniques. After September 30, 1979, construction shall not be initiated for waste water treatment facilities on any Federal property or facility if alternative methods utilizing innovative treatment processes and techniques are not utilized unless the life cycle cost of the alternative exceeds the life cycle cost of the most cost effective alternative by more than 15 per centum. The Administrator may waive this where he determines it to be in the public interest or that compliance would interfere with complying with a permit issued under section 402 of the Act. Section 72 of the conference substitute amends section 516 of the Act to require the Administrator to submit to Congress within two years a report, with recommendations, on a program to require coordination between water supply and waste water control plans as a condition to grants for construction of treatment works under this Act. Public hearings must be held on this report.

Sections 9, 12, 13, 15, 16, 17, 21, 28, 37, 38, 49, 60, and 72 have been incorporated into this conference report to expand the treatment works construction grant program utilization of innovative and alternative waste water treatment processes and techniques. These sections generally follow a series of provisions in H.R. 9464. They are intended to result in a major reorientation of the construction grant program.

The 1972 amendments redirected the water pollution program to municipal waste treatment alternatives which would lead to reclaiming and recycling of water and the confined and contained disposal of wastes so that pollutants would not migrate to cause environmental pollution. Little was done to achieve this result. The purpose of the grant level increases set forth in section 28 for projects consistent with this program and the series of related amendments is to underscore and expand that 1972 intent by providing supplemental assistance for innovative and alternative waste treatment processes and techniques. This supplemental assistance program is intended to force technology so that new and better alternatives will be utilized.

The Administrator has been provided all of the legislative tools needed to require the utilization of such innovative and alternative waste water treatment processes and techniques.

Care should be taken in the evaluation of grant applications to avoid unnecessary studies, investigations or analyses which are irrelevant to, and unaffected by, application of new technology, recycling, reuse or land treatment.

The provisions for increased grants for publicly owned treatment works utilizing innovative and alternative technology has been specifically phased in to avoid delays in ongoing step 1 and step 2 projects. The Administrator is cautioned in promulgation of regulations and implementation of these sections not to cause delays in the construction grant program. The environmental benefits to be realized from these sections on innovative and alternative technology should not be vitiated by such delays.

While treatment works construction grant funds are authorized for 5 years by section 30 of this Act, it is to be noted that section 17 provides for increased grants for treatment works using alternative and innovative technology for 3 years only. This provision is not applicable to grants made from funds authorized from either the first or the last year for which grant funds are available. It is expected that Congress will evaluate the program at the same time Congress considers an allotment formula for the grant funds authorized for fiscal year 1982.

While funds to increase construction grants to 85 percent are made available only for fiscal years 1979, 1980, and 1981, it is important to recognize that while 2 percent of the construction grant funds are set aside for fiscal years 1979 and 1980 to carry out this program, 3 percent is set aside for fiscal year 1981. This underscores the intent of Congress to increase the number of projects utilizing innovative and alternative technology. During fiscal year 1981 over 25 percent of new grant awards should utilize such technology.

Nothing in this section is intended to reduce the current emphasis on funding cost effective alternatives to conventional treatment under the basic grant program.

It is not intended that conventional processes including advanced biological treatment processes or advanced waste treatment systems utilizing distillation, nitrification, and denitrification or breakpoint chlorination be eligible for the increased Federal share. In addition to improved methods for conventional treatment, innovative technology should include such techniques as nutrient utilization and reclaiming or recycling of water.

The Administrator is expected to coordinate promptly with the other heads of departments, agencies, or instrumentalities of the Federal Government which has jurisdiction over any property or facility utilizing federally owned waste water facilities. The Federal Government is expected to be a leader in the use of alternative and innovative treatment processes and techniques. The cost effectiveness provision of section 60 is a mechanism for forcing the use of such processes and techniques. Section 60 allows the Administrator to waive the application of such processes and techniques where he determines it to be in the public interest. This authority is not intended to be a means for negating the 15 per centum cost effectiveness provision. The Administrator is not expected to waive this requirement unless there is a clear showing that on-going projects would be delayed or that important public interest considerations cannot be met.

RECREATION AND OPEN SPACE

House bill

No comparable provision.

Senate amendment

This section amends section 204(a) of the Act to require the Administrator before approving a grant to determine that the applicant has analyzed potential recreation and open space opportunities in the design of the proposed works.

Conference substitute

The conference substitute amends section 201 to provide that the Administrator shall not make grants after fiscal year 1978 for any treatment works unless the grant applicant shows it has analyzed potential recreation and open space opportunities in planning proposed works.

INDIVIDUAL SYSTEMS

House bill

No comparable provision.

Senate amendment

This section amends section 201 of the Act to permit grants for construction of privately-owned treatment works where a public body applies for such grant on behalf of a number of such units and will assure that such treatment works are properly operated and maintained, and where such service is more cost-effective than collection and central treatment.

Conference substitute

Same as the Senate amendment except that the public body is required to certify that public ownership is not feasible. The public body must enter into an agreement with the Administrator that includes a system of charges to insure each recipient of services will pay its proportionate share of operation and maintenance costs. Such agreement must also provide for payment to the United States by commercial users of that part of the cost applicable to treatment of commercial waste attributable to the Federal share of the construction cost.

Ordinarily this authority will not be used to construct septic tanks serving single residences.

This subsection may be used only to construct or acquire waste treatment facilities, and not commodes or associated plumbing.

This section is intended to be utilized to provide for the construction of alternative or unconventional treatment works for individual residences or clusters of residences. Secondary treatment package plants do not meet the requirements of this section.

COMBINED GRANTS

House bill

Section 5 amends section 203 of the Act to provide that the Administrator may after approval of a Step 1 facility plan which contains estimates of the cost to complete the project, award a single grant for preparing construction drawings and specifications (Step 2) and the building and erection of the treatment works (Step 3) combined in a single application, where the total cost of Steps 2 and 3 for this grant would not exceed $1,000,000.

Senate amendment

Section 16 amends section 203 of the Act to authorize the award of a combined step 2 and step 3 grant in the case of a treatment works costing less than $2 million which will serve a population of 25,000 or less. In States which have unusually high construction costs, the grant limitation may be increased to $3 million.

Conference substitute

The conference substitute is the same as the Senate amendment.

The provision for increasing combined grants from $2 million to $3 million is intended for the high construction cost areas of Alaska and Hawaii.

CONTRACT ENFORCEMENT

House bill

No comparable provision.

Senate amendment

This section amends section 203 of the Act to authorize EPA or a State agency to be made a party to contracts for the design and/or construction of a treatment works assisted under title II of the Act.

Conference substitute

The conference substitute amends section 203 of the Act to authorize the Administrator, upon request of the grantee, to provide technical and legal assistance in administering and enforcing any contract in connection with treatment works assisted under title II, and to intervene in any civil action involving the enforcement of such a contract.

RESERVE CAPACITY

House bill

No comparable provision.

Senater amendment

This section adds a new subsection (c) to section 202 of the Act to provide that the amount of reserve capacity for treatment works eligible for Federal assistance is to be limited to that future capacity required to serve the users of such treatment works expected to exist within the service area of the project 10 years from the time such treatment works is estimated to become operational (or 20 years in the case of interceptor sewers and associated appurtenances). The provision also amends section 204(a)(5) to conform to the new paragraph in section 202.

Conference substitute

Amends section 204(a)(5) of the Act to require the Administrator in determining the amount of reserve capacity to take into account efforts to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under title II of the Act shall be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 208 or an applicable municipal master plan of development. For the purpose of section 204(a)(5), section 208, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.

USER CHARGES

House bill

Section 6 amends section 204(b) of the Act to permit the use of ad valorem taxes as a method of collecting the costs of operating and maintaining a municipal waste treatment works which was constructed with the assistance of a Federal grant provided under title II of the Act.

Section 6 provides that a grant applicant which is using an ad valorem tax system to collect any municipal revenues at the time of application for a Federal construction grant may be eligible to use this system for the purpose of collecting revenues to defray the costs of operating and maintaining the proposed treatment works. The Administrator would be required to determine that the ad valorem tax system would result in a proportional distribution of costs between user classes according to each class' use of the treatment work.

In addition, section 6 requires proportionality within the class of industrial users as defined by section 502(18) of the Act. The grant applicant would be required to establish surcharges to ensure that each industrial user pays its proportionate share of the cost on the basis of volume, strength, and other relevant factors.

Senate amendment

Section 19 amends section 204(b)(1) of the Act to authorize user charges based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. The charges must meet the requirements of subsection 204(b)(1)(A) that each recipient pay its proportionate share of costs of operation and maintenance (including replacement) of any waste treatment services provided.

If the system of charges is based on something other than metering, the Administrator must require the applicant to establish a system whereby the necessary funds will be available for operation and maintenance of the treatment works. The Administrator also must require the applicant to establish a procedure to notify the residential user as to how much of his total payment will be allocated to the operation and maintenance of treatment works.

Conference substitute

Amends section 204(b)(1) to provide that in any case where an applicant which, as of the date of enactment of the sentence uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of section 204(b)(1) for the residential user class and such small nonresidential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate. A system of charges which meets the requirement of section 204(b)(1)(A) may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (i) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (ii) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the costs of the waste treatment services.

INDUSTRIAL COST RECOVERY

House bill

No comparable provision.

Senate amendment

Amends section 204 of the Act to permit the exemption of small discharges (less than 2,500 gallons a day) from industrial cost recovery requirements. It also permits publicly owned, multiplant treatment works systems to be treated as a single system so that several significant economic burdens of industrial cost recovery are avoided.

Conference substitute

The same as the provisions of the Senate amendment except that the daily flow rate exemption is set at the equivalent of 25,000 gallons or less of sanitary waste but only if the industrial user does not introduce into the works any pollutant which interferes with, or contaminates or reduces the utility of the sludge of the works. This subject matter is further discussed under the center heading "Cost Recovery Study and Water Conservation".

ALLOTMENT

House bill

Section 7 amends section 205 of the Act to provide an allotment formula for the fiscal year 1977 and fiscal year 1978 authorizations. The allotment formula is as follows: one-fourth on the basis of population, one-half on the basis of partial needs (secondary treatment, more stringent treatment to meet water quality standards, interceptor sewers and appurtenances), and one-fourth on the basis of total needs (partial needs plus collector sewers, combined sewers, and infiltration/inflow). The formula does not include any estimates of treating stormwater flows. The formula is based on the May 6, 1975, EPA report, "Cost Estimates for Construction of Publicly-Owned Waste Water Treatment Facilities—1974 'Needs' Survey".

In addition, section 7 amends section 205 of the Act to establish a new allotment procedure for funds authorized for fiscal year 1977 and beyond. The entire authorization for the fiscal year is allotted to the States on the first day of the fiscal year for which it is authorized according to the statutory allotment formula. This eliminates the six-month lead time now in the law.

The amount of the authorization available for obligation in any fiscal year is subject to limitations on obligations set by appropriation Acts. The limitations shall be applied to each State in proportion to its allotment.

The amounts which are available for obligation remain available for obligation for the fiscal year during which they could first be obligated and for the period of the next 16 months.

Any funds not obligated by the end of the period for which they were made available will be immediately reallotted among the States by EPA according to the formula applicable to sums allotted for the current fiscal year. Any State which contributes funds to the amounts subject to reallotment is ineligible to receive any portion of the reallotment shall be in addition to any funds otherwise allotted to the State for waste treatment works construction grants during any fiscal year.

Further, section 7 provides that sums made available to the Administrator for obligation between January 1, 1975, and March 1, 1975, shall remain available for obligation until September 30, 1978.

Senate amendment

Section 12(c) amends section 205 of the Act to provide two allotment formulas for the distribution of funds authorized under the Act. For fiscal year 1977 funds, the committee agreed to the formula used for the distribution of the $1 billion already made available in the fiscal year 1977 supplemental appropriations Act. That formula is 25 percent 1975 population, 25 percent total needs, as represented in the 1974 Needs Survey.

The formula for fiscal years 1978–82 represents a combination of two formulas, 100 percent 1975 population and 100 percent 1976 Needs (Categories, I, II, III, IVB, V). The formula utilizes the higher of the two percentages each State would receive under the two formulas. Such a listing adds up to a total of 117.34 percent. This percentage total is then reduced to 100 percent and the resulting percentages are the basis for distribution of fiscal years 1978–82 funds.

There is an additional provision that notwithstanding either formula, no State shall receive less than one-half of 1 percent of the total allotment. Additional sums are authorized for this purpose.

The amendment to section 205 also provides an additional authorization so that no State's proportional allotment in each of the fiscal years 1978 through 1982 will be reduced by more than 25 per centum of its proportional share allotment under the 1977 formula.

Section 11 amends section 205(b) of the Act to extend the period of time of sums made available during fiscal year 1976 to September 30, 1978.

Conference substitute

Provides that sums authorized to be appropriated pursuant to section 207 for fiscal years 1978 through 1981 shall be allotted for each such year within 10 days of the date of enactment of the Clean Water Act of 1977. The allotment is to be in accordance with table 3 of House Public Works and Transportation Committee Print Numbered 95–30. Sums allotted are available for the fiscal year authorized and the next succeeding 12 months. Funds not obligated are reallotted on the basis of the then current fiscal year ratio except none of the reallotted funds shall be allotted to any State that failed to obligate any of the funds being reallotted. Reallotted funds are in addition to funds allotted to a State in any fiscal year. For the fiscal years 1978, 1979, 1980, and 1981 no State is to receive less than one-half of 1 per centum of the total allotment except that Guam, the Virgin Islands, American Samoa, and the Trust Territories are in the aggregate to be allotted not more than thirty-three one-hundredths of 1 per centum. A separate authorization of $75 million per year for fiscal years 1978, 1979, 1980, and 1981 is provided for these minimum allotments.

Following is table 3 of House Public Works and Transportation Committee Print Numbered 95–30.

TABLE 3.—*Allotment formula for construction grant funds*

State	*Percentage*
Alabama	1.2842
Alaska	.4235
Arizona	.7757
Arkansas	.7513
California	7.9512
Colorado	.9187
Connecticut	1.1072
Delaware	.3996
District of Columbia	.3193
Florida	3.8366
Georgia	1.9418
Hawaii	.7928
Idaho	.4952
Illinois	5.1943
Indiana	2.7678
Iowa	1.2953
Kansas	.8803
Kentucky	1.4618
Louisiana	1.2625
Maine	.7495
Maryland	2.7777
Massachusetts	2.9542
Michigan	4.1306
Minnesota	1.8691
Mississippi	.9660
Missouri	2.4957
Montana	.3472
Nebraska	.5505
Nevada	.4138
New Hampshire	.8810
New Jersey	3.5715
New Mexico	.3819
New York	10.6209
North Carolina	1.9808
North Dakota	.3107
Ohio	6.4655
Oklahoma	.9279
Oregon	1.2974
Pennsylvania	4.3616
Rhode Island	.5252
South Carolina	1.1766
South Dakota	.3733
Tennessee	1.5486
Texas	4.3634
Utah	.4457
Vermont	.3845
Virginia	1.9602
Washington	1.7688
West Virginia	1.7903
Wisconsin	1.9503
Wyoming	.3003
American Samoa	.0616
Guam	.0744
Puerto Rico	1.1734
Trust Territories	.1530
Virgin Islands	.0378
Total	100.0000

NOTE.—Allotments for the States of Alaska, Delaware, District of Columbia, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, Vermont, and Wyoming are less than ½ of 1 percent of the total allotment of treatment works construction grant funds for a fiscal year. Sec. 25(e) of the Clean Water Act of 1977 provides that for fiscal years 1978, 1979, 1980, and 1981, no State shall receive less than ½ of 1 percent of the total allotment. An authorization of $75,000,000 is provided for each of these fiscal years to carry out this provision. The following States would share any amount appropriated under this subsection in the following percentages: Alaska, 5.4449; Delaware, 7.1459; District of Columbia, 12.8612; Idaho, 0.3416; Montana, 10.8755; Nevada, 6.1352; New Mexico, 8.4057; North Dakota, 13.4733; South Dakota, 9.0178; Utah, 3.8648; Vermont, 8.2206; and Wyoming, 14.2135.

STATE MANAGEMENT ASSISTANCE

House bill

Adds a new section 214 to title II of the Act. Under this provision, the Administrator of EPA may accept from States qualifying to participate, certifications as to their compliance with the Act in developing applications for treatment works grants. Qualified states are defined as those whose water pollution control agencies have the authority, responsibility and capability to effect all actions, determinations or approvals for which certification is submitted.

Section 214 authorizes the Administrator to accept certification by a State that the following Federal requirements for a construction grant award had been complied with:

Evaluation of alternative waste management techniques; determination that the proposed treatment works will provide for the application of the best practicable waste treatment technology over the life of the works and will allow for the later application of advanced treatment technology (section 201(g)(2));

The proposed treatment works is not subject to excessive infiltration (section 201(g)(3));

Plans, specifications, and estimates have been submitted (section 203(a));

Stages of projects may be eligible for a grant award (section 203(d));

The proposed works are consistent with applicable areawide waste treatment management plans and State water quality plans (section 204(a)(1) and (a)(2));

The works are entitled to priority for funding over other works in the State (section 204(a)(3));

The grant applicant agrees to pay non-Federal costs and has made provisions for proper operation and maintenance of the works (section 204(a)(4));

The proposed works contains sufficient reserve capacity (section 204(a)(5));

Bid specification requirements will be complied with (section 204(a)(6));

The user charge and industrial cost recovery provisions of the Act have been complied with (section 204(b)(1) and (b)(3));

The proposed treatment works system is eligible for a grant under the definition of "treatment works" (section 212(2)(B)).

Subject to the Administrator's approval, after public hearings, and to judicial review, with respect to qualifications to conduct a certification program, States receiving certification authority would exercise this authority by certifying to the Administrator that projects are in compliance with all or a portion of legal, financial, technical, and administrative requirements.

Certification authority could be carried out by a State for all or a part of the actions, determinations or approvals for which certification may be accepted as its capabilities warrant at a given time.

Also, the section provides that the Administrator must determine that the State is following practices that conform to the Federal construction grant regulations under the Act, including a requirement that any person having a significant financial interest in the construction of treatment works will not be a member of any State board or body which processes an application for a grant under this title.

Under section 214, the Administrator is required to issue implementing regulations within 90 days of the date of the enactment of the bill.

Section 214 addresses the possibility of failure by States to meet the requirements of this section. If, after public hearing, the Administrator determines a State is not meeting the requirements for one or more of the actions, determinations, or approvals for which certification is accepted from that State the Administrator may suspend acceptance for any or all projects in the State. In the event of such suspension, the Administrator at his discretion may reinstate that State's program for any or all projects upon receiving evidence that the deficiencies have been corrected.

The responsibilities of the Administrator under any other Federal law including the

National Environmental Policy Act of 1969 are not affected by this section.

This section does not change the Administrator's responsibility to award Federal grants. Neither does it affect the existing procedures for environmental assessments.

States participating in this program are permitted to expend up to two percent of their construction allotments from section 205 of the Act for the reasonable costs of carrying out this responsibility.

The amount up to 2 percent reserved for this purpose may be granted by the Administrator from time to time to a State for carrying out the certification authority. A grant made from the amount reserved may be obligated by the States in the same manner as for construction projects and during the same period as the allotment from which the grant is made. Funds so obligated shall be available until expended.

This section further requires the Administrator to conduct interim and final inspections and audits for the State water pollution control agencies to submit information, data, and reports.

Senate amendment

Section 22 amends section 205 of the Act to authorize reservation of up to 2 percent of a State's construction grant allotment, but no less than $400,000, for use by the State in administering any aspects of the construction grant program. Such funds may be increased to assist in the administering of the 402 permit program, statewide 208 planning, and responsibility for managing construction grants for small communities.

Paragraph (c)(2) of this new subsection provides that a State assisting the Environmental Protection Agency in the implementation of its responsibilities under sections 201, 203, and 204 may receive grants to cover the reasonable cost of that assistance.

The activities include infiltration studies, reveiw of preliminary plans to evaluate the size and scope of the project, review of operation and maintenance programs, review of plans and specifications, determination of consistency with section 208 plans and review of priorities.

Sums reserved for making grants under this provision shall be available for the same period as sums are available from an allotment under subsection (b) of section 205 of the Act, and any grant shall be available for obligation only during that period. Reserve funds that are not obligated by the end of the period for which they are available will be added to the amounts last allotted to a State under such section 205 and would be immediately available for obligation in the same manner and to the same extent as such last allotment.

Conference substitute

The conference substitute is the same as the Senate amendment except that the grant eligibility is expanded to include costs of administering section 212 of the Act.

In addition, section 101(b) of the Act is amended to declare it the policy of Congress that States manage the construction grant program and implement the sections 402 and 404 permit programs.

The conferees intend that the sums made available under this provision should not be used to reduce the level of Federal or State expenditures to administer water pollution control programs as provided in section 106 of this Act.

SET-ASIDE FOR ALTERNATIVE SYSTEMS FOR SMALL COMMUNITIES

House bill

No comparable provision.

Senate amendment

This section amends section 205 of the Act to require the setting aside of between 5 percent and 10 percent of construction grant funds allotted to a rural State (States with a rural population of 25 percent or more of the total population of the State) for use only for alternative or unconventional systems for communities of 3,500 or less or for highly dispersed sections of larger communities. Nonrural States may request, through the Governor, a set-aside of up to 10 percent of its grant allotment to be used for such purposes.

Conference substitute

The conference substitute is the same as the Senate amendment except that the amount of the set-aside is 4 per centum of the alloted sums and the term "municipalities" is used in place of "communities".

For the purpose of this section, "rural" States are those having 25 percent or more of their total population residing in places with a population of 2,500 or less.

A table of States ranked by percent of rural population consistent with this section is set forth on pages 33 and 34 of Senate Committee on Environment and Public Works Report No. 95–370.

Nothing in this section is to affect existing administrative policy for the establishment of a reserve for small communities where a State chooses to set aside a reasonable percentage of its funds for the projects of such small communities. For the purpose of this policy, the State determines the definition of "small community", subject to approval by the Administrator. States whose priority lists now reflect a setaside of a proportional share of construction funds for small communities include Texas, Michigan, and Maryland.

REIMBURSEMENT AND ADVANCED CONSTRUCTION

House bill

Section 8 amends section 206(a) of the Act to extend from July 1, 1972, to July 1, 1973, the date by which initiation of construction on treatment works projects must have occurred in order for such projects to be eligible for reimbursement grants of 50 to 55 percent of project costs. Applications for reimbursement for those projects on which construction was initiated between July 1, 1972, and July 1, 1973, must be filed within 90 days after the date of enactment of this section.

Section 8 also amends section 206(e) of the Act to increase the authorization for reimbursement grants from $2,600,000,000 to $2,950,000,000 for the purpose of fully reimbursing the total eligible grant amount of 50 to 55 percent to all those communities which have previously qualified under section 206 (a) and those communities which become eligible under the provisions of this section.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House provision with the following exceptions:

(1) construction must have been initiated before July 1, 1973,

(2) the grant must have been made under Public Law 660, 84th Congress, and

(3) the increased authorization has been eliminated.

The purpose of this amendment is to give equitable treatment to Public Law 84–660 projects which received less than either their 50 percent or 55 percent eligible grants and which were unable to initiate construction by the June 30, 1972 cut-off date to qualify for reimbursement under section 206(a).

Additional authorizations have not been requested as there remains $200,000,000 of unused authorizations for this purpose and the estimated amount needed for projects that would become eligible with this amendment is $40 million.

The term "initiation of construction" as used in this section means the issuance to a construction contractor of a notice to proceed, or, if no such notice is required, the execution of a construction contract (40 C.F.R. 35.890).

This section does not affect the term "initiation of construction" as defined by the Administrator in 40 C.F.R. 35.905, as presently in effect.

CONSTRUCTION GRANT AUTHORIZATIONS

House bill

Section 9 amends section 207 of the Act to provide additional authorizations for the purpose of providing 75 percent Federal grants for the construction of municipal waste treatment works. An authorization of $5,000,000,000 is provided for fiscal year 1977, $6,000,000,000 for fiscal year 1978, and $6,000,000,000 for fiscal year 1979.

Senate amendment

Section 12(a) amends section 207 of the Act to provide authorizations for the municipal construction grant program of $3,500,000,000 for fiscal year 1977, and $4,590,000,000 for each of the fiscal years 1978, 1979, 1980, 1981, and 1982.

Conference substitute

The conference substitute authorizes $4,500,000,000 for fiscal year 1978, and $5,000,000,000 per fiscal year for fiscal years 1979, 1980, 1981, and 1982.

The conference agreement provides an authorization for appropriations for five fiscal years. The authorizations for fiscal years 1978 through 1981 are allotted immediately after enactment. A major change in the Act is the provision making the amounts of each authorization subject to appropriations Acts. This provision was adopted so as to comply with the Congressional Budget and Impoundment Control Act of 1974. However, it is recognized that making the authorizations subject to annual appropriations Acts reintroduces the very uncertainty in the level of funding that Congress had attempted to eliminate in the Federal Water Pollution Control Act Amendments of 1972 when it provided for contract authority. Therefore an allotment is no longer a commitment to fund because, although contract authority is still theoretically available, it no longer has any impact on the availability of funds.

The Budget Impoundment and Control Act of 1974 anticipated that, in the absence of effective contract authority, the Appropriations Committees would make available advanced appropriations for those programs which require long-term planning commitments for efficient expenditures of funds. The conferees hope and expect the Appropriations Committees will, with the support of the Budget Committees, provide advanced appropriations for fiscal years 1979, 1980, and 1981. Only in this way can States and communities know in advance that adequate funds will be available and proceed to plan for construction of needed wastewater treatment works.

AREAWIDE PLANNING

House bill

Section 10 amends section 208(f)(2) of the Act to provide for 100 percent Federal grants to designated agencies for the first two years' costs of developing and operating a continuing areawide waste treatment management planning process if the first grants are approved by EPA before October 1, 1977. The 2-year period begins on the date the first grant is made.

Grants of up to 75 percent of the costs of developing and operating a continuing areawide waste treatment management process in any one year, are provided for each succeeding one year period to newly designated agencies whose first grants are approved after October 1, 1977, as well as for subsequent grants for each succeeding one year period to agencies which have already utilized their first grant.

Senate amendment

Section 13(a) amends section 208(b) of the Act to provide that any agency designated after 1975 under section 208(a) and a State acting as the planning agency for all portions of the State not otherwise designated shall have a full three years after receipt of the initial grant under section 208(f) to prepare an initial plan.

Section 13(b) amends section 208(f)(2) of the Act to provide that, for the first 2 years of operation of any agency designated prior to October 1, 1978, to conduct an areawide waste treatment management planning process under section 208, the amount of the Federal grant shall be 100 percent of the costs.

Conference substitute

The conference substitute is the same as the Senate amendment except that the date by which the first grant must be approved is set as October 1, 1977, as provided in the House bill.

The conferees note that the authorization for section 208 is unrelated to the litigation in *National Association of Regional Councils* v. *Costle*, No. 76-1970, U.S. Court of Appeals for the D.C. Circuit (decided September 8, 1977). Sums authorized for this section should not in any way be used to meet any order resulting from that case. Any funds appropriated pursuant to this authorization should be used only as set forth in this section.

AREAWIDE WASTE TREATMENT MANAGEMENT

House bill

No comparable provision.

Senate amendment

This section amends section 208(b)(2)(A) of the Act to require that any plan prepared under the areawide waste treatment management process must include an identification of open space and recreation opportunities expected to result from improved water quality, including methods and procedures to assure public access to navigable waters for recreation purposes.

Conference substitute

The conference substitute is the same as the Senate amendment except that the provision relating to public access to navigable waters has been replaced with a requirement that there be consideration of potential use of land associated with treatment works and increased access to water-based recreation.

IRRIGATION RETURN FLOWS

House bill

No comparable provision.

Senate amendment

This provision creates a new subsection (m) of section 402, and amends section 208 (b)(2)(F) of existing law. Its effect is to exempt irrigation return flows from all permit requirements under section 402 of the Act, and to assure that areawide waste treatment management plans under section 208 include consideration of irrigated agriculture.

Conference substitute

The conference substitute makes the same amendment to section 208(b)(2)(F) as the Senate amendment. It also amends section 502(14) of the Act to remove return flows from irrigated agriculture from the definition of the term "point source". In addition the amendment to section 402 of the Act is revised to prohibit the Administrator from requiring permits for this type of discharge and to prohibit the Administrator from requiring any State to require such a permit.

The purpose of this section is to assure that no permit can be required by EPA for regulation of irrigation return flows. The conferees do not intend, in any way, to restrict the authority of a State to regulate irrigation return flows as a part of an approved State section 402 permit program.

AGRICULTURE COST SHARING

House bill

No comparable provision.

Senate amendment

The section establishes a new program for the Department of Agriculture, in cooperation with the Administrator of the Environmental Protection Agency, to provide technical and financial assistance to land owners and operators in rural areas for implementing areawide management plans under section 208 of the Federal Water Pollution Control Act.

Financial assistance under this provision is delivered through a cost-sharing program for implementing long-term soil conservation practices for improving water quality under section 208. The funds would be authorized to the Secretary of Agriculture, acting through the Soil Conservation Service. The Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, would enter into contracts with farm operators and owners for the purpose of installing measures to reduce agricultural runoff. Only those soil conservation measures approved as part of State plans under section 208 as best management practices for improving water quality would be eligible for such funding. The Federal cost share could be as high as 50 percent, unless the Secretary determines otherwise. Funds available are to be used for installation of control mechanisms and not day-to-day operating costs.

These cost-sharing funds will be made available only to those areas of States which have approved management plans under section 208. The Secretary will give priority to projects in those areas which have critical nonpoint source pollution problems from agricultural runoff. Section 208 management agencies will be required to assure an appropriate level of participation by land owners and operators in the area before funding can become available.

The Secretary is authorized to carry out this cost-sharing program through the State soil conservation districts.

There is authorized to carry out this provision $200,000,000 for fiscal year 1979, and $400,000,000 for fiscal year 1980.

Conference substitute

The conference substitute is the same as the Senate amendment except that the Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department as the Secretary may designate, is to establish and administer this program. In addition, agreements to administer the program shall provide for payment by the United States of such administrative costs as the Secretary deems appropriate. The local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine priority of assistance to assure the most critical water quality programs are addressed by the program.

This provision is essentially the same as the Senate-passed bill except that it has been clarified to give the Secretary of Agriculture more flexibility within his department. The funds authorized for agricultural cost-sharing programs are to be included in the request for appropriations for agricultural programs and not to be included in the EPA budget. The funds are to be appropriated to the Secretary of Agriculture.

The conferees agree that the function of this cost-sharing program is to reduce nonpoint source pollution through financial assistance for only those soil conservation practices which improve water quality. It is not intended to be a copy or extension of existing soil conservation programs in the Department of Agriculture, and should not finance production-oriented practices except as an incidental or indirect result.

GRANT ELIGIBLE CATEGORIES

House bill

No comparable provision.

Senate amendment

This section amends section 211 of the Act to eliminate from eligibility the construction of treatment works for the control of discharges from separate storm sewers, the replacement or rehabilitation of a collection system unless necessary to correct excessive infiltration, and the construction of a new collection system unless the grant is limited to existing population, there is or will be treatment capacity to serve the system, the system is necessary to protect ground or surface water supplies or to attain water quality standards, and the alternatives had been proved less cost-effective.

Conference substitute

The conference substitute adds two new subsections to section 211 of the Act. The first provides that if population density is used as a test of eligibility of a collector sewer for assistance population density shall only be used for the purpose of evaluating alternatives and in determining the needs for the collection system in relation to ground or surface water quality impact. The second provides that no grant may be made under title II from funds for fiscal years 1978 through 1982 for treatment works for control of pollutant discharges from separate storm sewer systems.

The conference agreement deletes the Senate provision which amends section 211 of existing law relating to major sewer rehabilitation and collector sewer eligibility. This leaves in place existing law. Collector sewer eligibility is thus limited to communities in existence on October 18, 1972, with sufficient existing or planned capacity adequate to treat such collected sewage.

For the purpose of this section, it is recognized that a community qualifying for Federal grant assistance to construct a collector sewer system may be a geographic or jurisdictional area that is less than the municipality which is applying for the treatment works grant.

The conferees added an amendment which limits the use of population density as a test for determining the grant eligibility of a collector sewer to evaluation of alternatives and determination of the needs for such system in relation to ground or surface water quality impact. The Agency has issued guidance on the use of density and other factors in cost effectiveness analysis. The conferees direct the Agency to review this guidance to assure that it meets the test of this new provision.

REQUIREMENTS FOR AMERICAN MATERIALS

House bill

The new section 216 created by section 12 would extend the application of the Buy American Act to any case where Federal construction grant funds for municipal treatment works are used. However, where the Administrator of EPA determines, as in the basic Buy American Act, that enforcement of the Buy American provision would not be in the public interest or that costs would be unreasonable, the provision shall not apply.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill except that this provision is not to apply in any case where the Administrator determines, based upon those factors he deems relevant, including available agency resources, that enforcement is inconsistent with the public interest (including multilateral government procurement agreements), the cost to be unreasonable, or the articles are not reasonably available in commercial quantities of satisfactory quality.

DETERMINATION OF PRIORITY

House bill

Section 12 adds a new section 215 to the Act which gives each State the ability to determine the priority to be given each category of projects for construction of publicly owned treatment works within each State. The categories of projects for construction of publicly owned treatment works include: secondary treatment, treatment more stringent than secondary treatment as is necessary to meet water quality standards, correction of infiltration/inflow, major sewer system rehabilitation, new collector sewers and appurtenances, new interceptor sewers and appurtenances, and correction of combined sewer overflows.

Senate amendment

Section 8 amends section 106(f) to provide that in the approval of priority lists or determinations for priority under 106(f) or section 204(a)(3) or section 303(e) for grants for design or construction of publicly owned treatment works the Administrator shall give highest priority treatment works necessary to comply with sections 301(b) or 201(b), (d) and (g)(2)(A). Included are facilities providing for treatment, reclamation or recycling of wastewater and for beneficial use or disposal of residual sludges.

Conference substitute

The conference subsitute is the same as the House bill except that if the Administrator after a public hearing determines a project will not result in compliance with the enforceable requirements of the Act the project shall be removed from the priority list and the Senate shall submit a revised list. At least 25 percent of funds allocated to a State in any fiscal year for construction under this Act shall be obligated for eligible types of projects if they are on the State's priority list for that year and are otherwise eligible for funding for that year.

COST-EFFECTIVENESS GUIDELINES

House bill

No comparable provision.

Senate amendment

The bill adds a new section 213 to require that cost-effectiveness guidelines published by the Administrator provide for identification and selection of cost-effective alternatives to comply with the objective and goals of the Act and sections 201(b), 201(d), 201(g)(2)(A), and 301(b)(2)(B).

Conference substitute

The conference substitute is the same as the Senate amendment.

This section is to have no effect on collector sewers.

CONTRACT AUTHORITY

House bill

Section 11 amends section 208(f)(3) of the Act to make the payment of the Federal share of the cost of developing and operating a waste treatment management planning process approved by the Administrator subject to sufficient amounts being provided in appropriation Acts.

Senate amendment

Same as the House bill.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment.

MODIFICATION OF SECONDARY TREATMENT REQUIREMENT

House bill

No comparable provision.

Senate amendment

This section amends section 301 of the Act to provide for a modification of the secondary treatment requirement for any conventional pollutant in a discharge into marine waters from existing municipal sources if it can be shown that the modification will not interfere with the attainment or maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water, will not require additional controls on any other source, assures enforcement of all applicable pretreatment requirements, and assures that there will be no substantial increase in the volume of the discharge.

Conference substitute

The conference substitute is the same as the Senate amendment.

For those communities which can show that existing deep marine discharge requires less than secondary treatment, a case-by-case review waiver is provided. Such a waiver would be based on stringent criteria discussed below. The waiver would be reviewed every 5 years to assure continued compliance with these conditions.

This subsection is the result of recognition that there are some coastal areas of the United States and its territories where natural factors provide significant and in some cases sufficient elimination of traditional forms of pollution from publicly owned treatment works to avoid the necessity of providing secondary treatment.

An applicant, in order to obtain this relief, must demonstrate to the satisfaction of the Administrator that eight conditions are met. The first condition is that there is an applicable water quality standard specific to the pollutant for which the modification is requested. The degree of effluent reduction necessary to meet this standard must be provided as a minimum.

The second condition is that the modified requirements would not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and propagation of a balanced indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water.

The third condition is that the applicant has established a system for monitoring the impact of such discharge on a representative sampling of aquatic biota to the extent practicable.

The fourth condition is that the modified requirements will not result in any additional requirements on any other point or nonpoint source.

The fifth condition is that all applicable pretreatment requirements will be enforced.

The sixth condition is that to the extent practicable the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works.

The seventh condition is that there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

The last condition is that any title II funds available to the owner of the treatment works are to be used to achieve the degree of effluent reduction required by section 201(b) and (g)(2)(A) or to carry out the requirements of this subsection. The referenced provisions of section 201 may require a degree of effluent reduction which is greater than that required under this section of the Act as amended. Available title II funds shall be used in this case to achieve the requirements of section 301 as amended before they are used to achieve the requirements of section 201. Uses of funds appropriate to carrying out the purposes of the section might include infiltration and inflow work, interceptor construction and repair, and proper location of outfall lines.

The amendment defines the "discharge of any pollutant into marine waters" as a discharge into deep waters of the territorial sea or contiguous zone or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines are necessary to comply with the second condition described above, and section 101(a)(2) of the Act.

Depth is a key factor in determining the amount of circulation in waters of the territorial sea or contiguous zone. Circulation in turn affects the degree to which waste water discharges to these waters are rapidly dispersed. In some instances, depth of water in the territorial seas or contiguous zone in excess of 200 feet is necessary to achieve sufficiently rapid dispersion (i.e., 45 seconds) of waste water and waste water constituents. In some instances, depth of 200 feet is insufficient to provide adequate dispersion. Poor net flushing (i.e. stagnation) of a deep basin may cause undesirable vertical cycling of discharges.

Factors determining the amount and rapidity of dispersion of saline estuarine waters are the degree of tidal movement and other hydrological and geological characteristics. In some cases, rip currents and strong tidal movements which contribute to high flushing efficiency in certain bays and estuaries, may provide sufficient circulation. Additional precautions, however, need to be considered in or near the mouths of estuaries due to possible tidal transport of pollutants landward into estuarine area where they may be retained.

Distance offshore for location of outfall lines is also a factor which must be considered in many situations. In these cases, sufficient distance offshore is generally necessary so that adverse water quality conditions will not be created under assumed worst conditions of onshore current and wind based on data derived from historical records.

Greater distance offshore may provide the desired protection during adverse conditions of onshore currents and wind. Geological characteristics such as submarine canyons may also be utilized because of the same advantages of rapid dispersion and desirable circulation.

There are, of course, constituents, such as polychlorinated biphenols (PCBs), which irrespective of depth, tidal movement or other factors related to circulation in marine waters, cannot be adequately dispersed because of their persistence.

Areas described by these conditions include most of the coast of the western United States, the coasts of Hawaii, Puerto Rico, American Samoa, the Virgin Islands, and portions of estuarine waters such as Cook Inlet near Anchorage, Alaska, and Resurrection Bay near Seward, Alaska.

This provision assumes that any criteria promulgated by the Administrator under section 403 remain applicable.

MUNICIPAL TIME EXTENSIONS

House bill

Section 13 amends section 301 of the Act by adding a new subsection (g) which authorizes the Administrator to modify on a case by case basis, the time for achieving the July 1, 1977, treatment requirements imposed by section 301(b)(1) of the Act for both publicly-owned waste treatment facilities and other point sources.

In the case of publicly-owned treatment works, subsection (g) authorizes the Administrator to grant time extensions up to July 1, 1982, or if innovative technology is to be utilized, up to July 1, 1983.

New subsection (g)(3) provides that no time modifications shall be granted under this subsection unless there is an approved schedule of compliance. Failure to meet the approved schedule of compliance would be a violation of the requirements of section 301 and would be subject to enforcement under section 309 in the same manner as another violation of the requirements of section 301.

Section 13 adds a new subsection (g)(4) to section 301 of the Act. This new subsection addresses the question of point sources which introduce their effluents into publicly-owned treatment works. It provides that any point source which has a contract enforceable against itself to participate in a publicly-owned treatment works may discharge its effluent into a publicly-owned treatment works and shall not be subject to the best practicable control technical requirements of subsection 301(b)(2)(A) or the more stringent requirements necessary to meet the necessary water quality standards required by subsection 301(b)(1)(C) until the date which the treatment works receiving the effluent is itself required to meet subsections 301(b)(1) (B) and (C), secondary treatment or water quality standards, respectively. It is necessary that the enforceable contract must be in effect not later than the sixtieth day after the date the time modification is granted to the publicly-owned treatment works.

Section 13 adds a new section 301(h) to the Act which provides that industries which received grants under section 105(c) of the Act to develop new technology to treat industrial waste, and were unsuccessful, will receive an additional period of time to comply with section 301(b)(1) of the Act.

Senate amendment

Section 31 amends Section 301 of the Act to permit a case-by-base modification of the July 1, 1977, deadline for publicly owned treatment works up to July 1, 1983, where construction cannot be completed or where Federal funds have not been made available. Such modification is available to dischargers into the system if such dischargers have been found to have acted in good faith.

This amendment allows the Federal or State approved permitting agency to extend the July 1, 1977, deadline for the achievement of secondary treatment by sewage treatment plants on a case-by-case basis.

New section 301(f)(1) allows the permitting agency, in its discretion, to extend the statutory deadline for secondary treatment for sewage treatment plants, provided that either (1) major new construction is required and cannot reasonably be completed by the statutory deadline, or (2) necessary Federal financial assistance under title II of the Act has not been available.

If an extension is granted, the permitting agency shall specify in the permit that final compliance with the requirements of secondary treatment be achieved at the earliest date practically possible, but in no event later than July 1, 1983. In addition, the permit shall contain any other requirements necessary to carry out the Act, including interim effluent limitations to be achieved by the application of the best possible operations and maintenance practices and other noncapital intensive measures. In addition, the permit shall contain such requirements as are necessary to achieve the requirements of water quality standards, best practicable waste treatment technology, toxic effluent limitations, and pretreatment standards.

Paragraph (2) of section 301(f) allows the permitting authority, in its discretion, to extend the date of compliance with the July 1, 1977, deadline for nonmunicipal point sources which intend to discharge their waste to a yet unfinished sewage treatment plant.

Several criteria must be met before the nonmunicipal point source can be considered for an extension. First, the point source's permit must evidence a decision to tie-in to the municipal treatment works.

Second, the sewage treatment plant which is the intended recipient of waste from the nonmunicipal point source, must either have obtained an extension pursuant to the first paragraph of this section or require substantial construction in order to process the waste. This section allows the industrial point source to obtain an extension of its final effluent limitations pending the completion of this major construction by a sewage treatment plant, provided that the sewage treatment plant has been fully planned and can demonstrate to the satisfaction of the permitting authority that it can complete construction by July 1, 1983.

Third, no extension can be granted unless the permitting agency finds that the sewage treatment plant will be able to meet the requirements of secondary treatment and water quality standards when the waste from the contributing industry is received.

Fourth, the point source and the sewage treatment plant must have entered into a binding contract providing that the contributor agrees to discharge its waste to the treatment plant, and the sewage treatment plant agrees to accept and treat that waste by a certain date. Also, the contract must provide that the contributor agrees to pay all user charges and construction cost recovery charges required under section 204 of the Act.

In order to assist the permitting agency in protecting the public interest, the agency is instructed to consider the good faith of the industrial discharger in deciding whether or not to grant an extension of the 1977 deadline.

If all the above conditions are met, the permitting agency may extend the date of compliance with final effluent limitations either to correspond with any extension granted to the receiving treatment work, or to the earliest possible date that sewage plant construction permits the tie-in (in no event later than July 1, 1983). The permit allowing such an extension shall not allow any extension of the permittee's obligation to comply with pretreatment standards and toxic effluent limitations.

The Administrator may not grant an extension for an industry which intends to discharge through a municipal system if he determines that the municipality will not have its treatment works completed by July 1, 1983. In that event, the Administrator is required to issue the affected industry a permit which sets forth an effluent limitation and a compliance schedule which will assure compliance by that source at the earliest reasonable date.

Section 41 amends section 309 of the Act to provide two new enforcement options for violations of the 1977 best practicable technology for industrial dischargers. The first option authorizes the issuance of an enforcement order requiring a "reasonable" time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules. The second option authorizes an extension of the 1977 deadline up to January 1, 1979, where the Administrator finds that the discharger acted in good faith, that a serious commitment to achieve compliance had been made, that compliance will occur no later than January 1, 1979, that the extension will not impose additional controls on other sources, that an application for a permit was filed before December 31, 1974, and that the necessary abatement facilities are under construction.

Conference substitute

The conference substitute is based upon the Senate amendment with the following modifications:

(1) The requirement that "major" new construction be required has been revised to require that construction be required.

(2) The requirement that construction cannot be "reasonably" completed has been revised to require that construction cannot be completed.

(3) It has been made clear that the United States must have failed to make financial assistance available in time.

(4) The owner or operator of a treatment works is given 180 days to file a request for an extension.

(5) Where an industrial point source will not achieve the requirements and (i) if a permit issued before July 1, 1977, to that source is based upon a discharge into a publicly owned treatment works or (ii) if such industrial point source had before July 1, 1977, a contract enforceable against it to discharge into a publicly owned treatment works or (iii) if either an application made before July 1, 1977, for a construction grant for a publicly owned treatment works or engineering or architectural plans that such industrial point source was to discharge into the publicly owned treatment works and that the publicly owned treatment works is presently unable to accept the industrial point source without construction and, in the case of a discharge to an existing publicly owned treatment works, that treatment works has an extension under paragraph (1) of the subsection, then the owner or operator of the industrial point source may request the Administrator (or the State) to extend the time for compliance. This request must be filed within 180 days after the date of enactment of the subsection or the filing of a request by an appropriate publicly owned works under paragraph (1), whichever is later. The remaining provisions of the Senate amendment relating to the granting of such extension or modification are unchanged in the conference substitute.

This provision contemplates for those industries introducing their discharges into municipal systems, that such industries complete their pretreatment requirements by a date consistent with the pretreatment provisions of this Act which would have to be met if the municipal systems were available. For example, if an industry is planning on participating in a municipal system which will not be available until January 1983, that industry would still have to install and operate pretreatment facilities within the time specified for compliance at the time the applicable pretreatment standard was promulgated and in no event later than 3 years from the date of said promulgation. Thus, if the pretreatment regulations are promulgated March 1, 1979 and require compliance within two years, that industry would be required to comply by March 1, 1981.

There will be no time extension for industries which intend to be tied into municipal systems the treatment works for which will not be completed by July 1, 1983.

PROCEDURE FOR MODIFICATIONS

House bill

No comparable provision.

Senate amendment

This amendment establishes a procedure for filing applications for a modification of the requirements of the Act for secondary treatment for publicly owned treatment works which discharge into marine waters, and for the 1983 best available technology requirement for other point source discharges.

The amendment requires that any publicly owned system or industrial discharger which wants a modification must file an application to that effect with the Administrator within 9 months of enactment of the 1977 amendments (or in the event that EPA has not promulgated effluent guidelines for the pollutant in question, within 9 months of such a promulgation).

In the case of a modification of the best available technology requirement, the Administrator may condition a stay on the filing of a bond or other appropriate security, such as a line of credit, which will assure timely compliance with the requirements for which a modification is sought.

Conference substitute

The conference substitute is essentially the same as the Senate amendment except that the procedure for modification of best available technology only applies to nonconventional pollutants. An application for a modification is not to stay requirements of the Act unless in the judgment of the Administrator the stay or modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment and there is a substantial likelihood the applicant will succeed on the merits.

INNOVATIVE TECHNOLOGY

House bill

No comparable provision.

Senate amendment

This section amends section 301 of the Act so that any industrial point source discharger proposing to replace existing production capacity with an innovative process which will achieve a greater reduction in effluent than that achievable with the application of "best available technology", or achieve at least equivalent reduction with an innovative system that has the potential for significantly lower costs industrywide than the best available technology level determined by the Administrator, could receive an extension of the deadline for compliance with best available technology for a maximum of 2 years beyond the July 1, 1983, deadline.

Conference substitute

The conference substitute is the same as the Senate amendment except the deadline for compliance may not be later than July 1, 1987.

Prior to any State granting a waiver for innovative technology, the State must consult with the Administrator. The purpose of the consultation is to assure that a State only approve innovative systems which have the potential for industrywide application.

INFORMATION AND GUIDELINES

House bill

No comparable provision.

Senate amendment

The bill adds a paragraph to section 304(a) of the Act requiring the Administrator to develop and publish information on the factors necessary for the protection and propagation of balanced, indigenous populations of shellfish, fish, and wildlife, and to allow recreational activities, in and on the water. To the extent practicable, the Administrator is to publish this information within 6 months after enactment and before consideration of requests for modifications of the best available technology requirement for industry or the uniform secondary treatment requirements for municipalities discharging into deep ocean waters.

Conference substitute

Same as the Senate amendment except that references to modification of best available technology for industry have been deleted. A further discussion of this matter is found under the center heading "Toxic Effluent Standards and Modifications of Best Available Technology Requirements".

BEST MANAGEMENT PRACTICES FOR INDUSTRY

House bill

No comparable provision.

Senate amendment

This section amends section 304 of the Act to permit the control, through best management practices, of ancillary industrial activities which contribute toxic pollutants to the navigable waters.

The amendment to section 304, adding a new subsection (e), authorizes the Administrator to publish regulations for ancillary industrial activities of point source dischargers which contribute pollutants designated as toxic under section 307. For these ancillary activities, the regulations will specify treatment requirements, operating procedures, and other management practices by classes and categories of point source dischargers. Once promulgated, the requirements, procedures, and practices established in the regulations must be included in section 402 permits where applicable, being considered as requirements of section 301, 302, 307, or 403.

Conference substitute

The conference substitute is essentially the same as the Senate amendment and applies to toxic and hazardous pollutants under sections 307(a)(1) and 311. Once promulgated, the requirements, procedures, and practices established in the regulations must be included in section 402 permits where applicable being also considered as a requirement of section 306.

The conferees have modified the Senate provision to assure that this authority is not used by the Administrator to become involved in actual plant process design and operating decisions. The intent is to control runoff of toxic and hazardous materials from industrial sites resulting from poor housekeeping procedures. Such control should be applied as a part of the 402 permit process.

It may not be necessary to use this authority for every substance designated under section 311. In applying his discretion under this subsection the Administrator should consider whether regulation of plant site runoff, materials storage, waste disposal, or other activities covered by this amendment is appropriate to assure that any particular substance listed under section 311 is not released into the water.

INTERAGENCY AGREEMENTS

House bill

No comparable provision.

Senate amendment

This section amends section 304 of the Act to authorize $100 million for each of the fiscal years 1979–83 for interagency agreements to encourage the use of expertise in other Federal agencies.

The Administrator may enter into agreements and fund programs of the Departments of Agriculture, Army, and Interior, as well as other departments and agencies, for the purpose of achieving and maintaining water quality through the appropriate implementation of the Act.

This amendment would reauthorize funds to implement such agreements, transfer funds to the above departments, and would broaden this authority to include Federal agencies other than those above.

Conference substitute

The conference substitute is the same as the Senate amendment.

STATE REPORTS

House bill

Section 14 amends Section 305 of the Act to require the State water quality inventory report to be submitted biennially bebeginning April 1, 1976 in lieu of the present requirement for annual reports.

Senate amendment

Section 37 is the same as the House bill.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment.

TOXIC EFFLUENT STANDARDS AND MODIFICATION OF BEST AVAILABLE TECHNOLOGY REQUIREMENT

House bill

Section 15 amends section 307 of the Act to delete the existing requirement that a public hearing be held within 30 days of the date of notice, thus permitting the Administrator to hold a public hearing on a proposed toxic standard within six months of its publication. It would also require the Administrator to insure compliance with final toxic effluent standards no later than three years from the date the standard takes effect where he determines it would be technologically infeasible for a category of resources to comply with such standards within a one-year period.

The House bill has no provision for the modification of the best available technology requirement.

Senate amendment

Section 38 amends section 307 to revise the procedures for establishing and publishing a toxic pollutant and extend the period for compliance from 1 to up to 3 years as long as there is no significant risk to public health, public water supplies, or the environment.

The two major changes to this section from the present statute are the change from a formal rulemaking procedure to a less formal procedure and a provision for extended compliance times.

The first change would replace the present requirements of formal "trial-type" rulemaking hearings on the record with a less formal rulemaking. This would involve a procedure similar to that which is presently required in connection with the establishment of pretreatment standards under section 307 (b) of the Act.

The second change would allow for extended compliance time under certain circumstances. Installation of pollution abatement technology can often require lead times exceeding 1 year. This provision would allow the Administrator to extend compliance in those instances if by doing so he would not subject public health or the environment to unreasonable risks.

The bill would further amend section 307 (a) so as to extend the maximum rulemaking period from 6 months to 270 days.

The Senate amendment also amends section 301 of the Act to provide for a modification of the best available technology requirement for any conventional pollutant as long as the modified requirement is at least best practicable technology, will not require controls on any other source, will not interfere with the attainment or maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water, and represents a reasonable cost for level of reduction achieved.

Conference substitute

Section 42 of the conference substitute amends section 301(b) of the Act to require that all toxic pollutants actually listed in table 1 of House Public Works and Transportation Committee Print Numbered 95–30 must comply with effluent limitations which require the application of best available technology no later than July 1, 1984. For all other toxic pollutants compliance must be achieved no later than 3 years after the limitation is established. For all pollutants other than toxic pollutants or conventional pollutants, compliance with effluent limitations requiring best available technology must be achieved not later than 3 years after the limitation is established or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987. The earliest date for which compliance is required is the same as the date for compliance with the requirements of sections 301(b)(2) (C) and (E), that is, not later than July 1, 1984. In the case of conventional pollutants identified pursuant to section 304(a)(4) effluent limitations shall be achieved no later than July 1, 1984 which require application of best conventional pollutant control technology determined in accordance with regulations issued under section 304(b)(4). Section 43 of the conference substitute amends section 301 by adding a new subsection (g) which authorizes the Administrator (with concurrence of the State) to modify the requirements of subsection (b)(2)(A) of section 301 with respect to any pollutant (except toxic pollutants, conventional pollutants and heat) upon a showing satisfactory to the Administrator that the modified requirements will result at least in compliance with section 301(b)(1) (A) or (C), whichever is applicable, that the modified requirements will not result in additional requirements on any other source and will not interfere with attaining or maintaining water quality which assures protection of public water supplies and protection and propagation of a balanced population of shell fish, fish, and wildlife, and allow recreational activities, in and on the water and will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities. If an owner or operator of a point source applies for a modification under new subsection (g) with respect to the discharge of any pollutant, the owner or operator shall be eligible to apply for modification under section 301(c) with respect to that pollutant only during the same time period as the owner or operator is eligible to apply for a modification under subsection (g).

Section 48 of the conference substitute amends section 304(a) by adding at the end thereof a new paragraph (4) which requires the Administrator to publish and revise as appropriate information identifying conventional pollutants, including, but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. Paragraph (5)(A) requires the Administrator to develop and publish information on factors necessary for the protection of public water supplies and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and to allow recreational activities in and on the water. Paragraph (5)(B) requires the Administrator to develop and publish information on factors necessary for the protection of public water supplies and the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife and to allow recreational activities, in and on the water. Paragraph (6) requires the Administrator, for purposes of section 301(h), to publish and revise information identifying each water quality standard in effect under the Act or State law, the specific pollutants associated with such standard, and the particular water to which the standard applies. Section 48 of the conference substitute also amends section 304(b) of the Act to require the Administrator, by regulation, to identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through application of best conventional pollutant control technology for classes and categories of point sources (other than publicly owned treatment works) and to specify factors to be taken into account in determining the best conventional pollutant control technology measures and practices to comply with section 301(b)(2)(E) to be applicable to any point source within the category or class. These factors shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluent and the affluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, and shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate. Section 53 of the conference substitute provides the list of the toxic pollutants or combinations thereof subject to the Act shall be those listed in table 1 of the House Public Works and Transportation Committee Print Numbered 95–30. The Administrator shall publish this list within 30 days after the date of enactment. The Administrator may revise the list and add to or remove from the list any pollutant. It is intended that the test for adding and for removing are the same. It is not intended to be more difficult either to remove pollutants from, or to add pollutants to, the list. A determination of the Administrator to add to or remove a pollutant from the list is final unless it is based on arbitrary and capricious action. Every toxic pollutant so listed shall be subject to effluent limitations resulting from application of best available technology economically achievable for the applicable class or category of point sources. The Administrator shall publish a proposed effluent standard (including prohibition) applicable to a class or category of point sources to which a best available technology effluent limitation applies only if the standard imposes more stringent requirements. A procedure is established for promulgating such a standard. Effluent limitations are required to be established for every toxic pollutant referred to in table 1 of Committee Print Numbered 95–30 as soon as practicable but no later than July 1, 1980. Effluent limitations or standards shall be established for every other toxic pollutant listed as soon as practicable after it is listed. Every effluent standard is to be reviewed and, if appropriate, revised at least once every 3 years. An effluent standard must take effect within 1 year after the date of its promulgation unless the Administrator determines compliance to be technologically infeasible for a category of sources, in which case the effective date for that category is the earliest date compliance can be feasibly attained, but not more than 3 years after the date of promulgation. The Administrator may not modify any requirement of section 301 if it applies to any specific pollutant on the toxic pollutant list under section 307(a)(1).

Section 73 of the conference substitute requires the Administrator to review within 90 days every best available technology guideline heretofore promulgated which is final or interim final (other than those listed in table 2 of House Public Works and Transportation Committee Print Numbered 95–30), and which apply to conventional pollutants identified under section 304(a)(4). Those guidelines applicable to industrial catetories listed in table 2 must be reviewed before July 1, 1980. After the review the Administrator is authorized to make any necessary adjustments in the guidelines to carry out section 304(b)(4) of the Act. The results of the review are to be published including any determination to adjust, or not to adjust, any guideline. This determination is final unless, on judicial review, the court decides the Administrator either did not comply with this section 73 or his determination was based on arbitrary and capricious action in applying section 304(b)(4) to the guideline, in which case the Administrator shall make a further review and redetermination of any such guideline.

The conferees recognize that best practicable technology has proven more stringent in many instances than anticipated. Consequently the application of effluent limits based on those regulations will result in a larger measure of progress toward the achievement of the goals of the Act.

The cost test for conventional pollutants is a new test. It is expected to result in a determination of reasonableness which could be somewhat more than best practicable technology or could be somewhat less than best available technology for other than conventional pollutants. The result of the cost test could be a 1984 requirement which is no more than that which would result from best practicable technology but also could result in effluent reductions equal to that required in application of best available technology.

The conferees also recognize that in some instances, growth alone, despite the requirements of new source performance standards, may increase the discharge of conventional pollutants to such an extent as to erode some of the progress achieved in compliance with best practicable technology and permit requirements. Further progress toward the reduction of discharges of conventional pollutants through advancement of control technology should continue to be encouraged.

The conferees recognize that the list in table 1 of the Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives includes pollutants and families of pollutants which have varying levels of toxicity. As was set forth in the consent decree in the case *NRDC* v. *Train*, the Administrator is specifically authorized by this section to delete pollutants from the list. The Administrator is also authorized by this section to add pollutants to this list. Because of limitations on agency resources, the Administrator is urged to utilize this authority whenever the Administrator determines appropriate. It is recognized that there are specific chemical compounds within these families of pollutants for which the Administrator may not set a specific effluent limitation or standard.

The Administrator, in his discretion, may establish effluent standards for toxic pollutants under section 307(a). If the Administrator establishes an effluent standard for a toxic pollutant which is added to the list under section 307(a)(1) after the date of enactment, then the Administrator may choose not to establish effluent limitations resulting from the application of the best available technology economically achievable for such toxic pollutant.

If the owner or operator of a point source who requests a modification under section 301(g) also files for a modification under section 301(c), within the same time period, and such section 301(c) modification is not granted, nothing in this section shall preclude such owner or operator from reapplying for a modification under section 301(c) if as a result of regulations under this Act subsequent to the initial request for modification there is a substantial change in the economic circumstances of the applicant which could not have been anticipated at the time of the initial request.

These amendments do not in any way change statutory requirements for the control of the discharge of heat or affect any pending administrative or judicial proceedings under provisions of this Act addressing heat, including but not limited to, sections 301, 303, 304, 306, and 316.

PRETREATMENT

House bill

No comparable provision.

Senate amendment

This section amends section 307 of the Act to provide a mechanism for EPA enforcement of pretreatment standards for pollutants which pass through or interfere with municipal treatment processes or contaminate sewage sludge.

The provision amends sections 307(b) and

304(b) to make contamination of sludge one of the criteria for pretreatment standards. For pollutants which require pretreatment standards, the amendments require, at a minimum, the application of best available technology in national pretreatment standards.

The amendments regarding pretreatment also stipulate that local pretreatment programs must be required as a condition of any grant made under title II of the Act as well as any permit issued to a publicly owned treatment works under section 402 of the Act.

The bill amends section 304(f) to make the same clarification regarding sludge contamination and the appropriateness of best available technology that are incorporated into section 307.

Section 402(b)(8) is amended to insure the identification of pollutants that are introduced into municipal systems, to provide for the development of local pretreatment programs and to make the requirements of local pretreatment programs enforceable under sections 309 and 505 of this Act. Section 309 also is amended to insure that anyone who discharges a pollutant to which section 307(b) standards are applicable must notify the proper authorities in a timely manner, and that other pertinent information called for under section 402(b)(8) is provided. A penalty is provided for failure to provide such notice.

In addition, the amendments provide that any pretreatment requirements established or adopted through such local programs shall become an enforceable permit requirement. Such requirements can be enforced directly against the industrial source using the authorities of section 309 or 505 of the Act.

Conference substitute

Section 54 of the conference substitute amends section 307(b)(1) of the Act to provide that if a toxic pollutant is introduced into a publicly owned treatment works and the treatment by those works removes all or any part of that toxic pollutant and the discharge from that works is not in violation of the effluent limitation or standard which would apply to that toxic pollutant if it were discharged by such source other than a publicly owned treatment works and does not prevent sludge use or disposal by such works in accordance with section 405 of the Act, then the pretreatment required by sources actually discharging that toxic pollutant into that publicly owned treatment works may be revised by the owner or operator of those works to reflect the removal of that toxic pollutant by that works. In addition section 309 of the Act is amended by adding a new subsection (f) to provide that whenever the Administrator finds that a owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 307, he may notify the owner or operator of such treatment works and the State of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within 30 days of the date of such notification, the Administrator may commence a civil action for appropriate relief, including but not limited to, a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Administrator shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court of the United States in the district in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with the Act. Notice of commencement of any such action shall be given to the State. Nothing in new subsection (f) shall be construed to limit or prohibit any other authority the Administrator may have under the Act. Section 402(b)(8) of the Act is amended to provide that a State program must insure the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of the Act into publicly owned treatment works and a program to assure compliance with such pretreatment standards by each such source. State permit programs heretofore approved which require modification to conform to this requirement are not to be required to be modified for one year unless in order to make the required modification a State must amend or enact a law in which case the modification shall not be required by the State for two years. Section 405 of the Act is amended to require the Administrator to develop and publish regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. These regulations shall identify uses (including disposal) specify factors to be taken into account in determining measures and practices applicable to each such use or disposal (including information on costs) and identify concentration of pollutants which interfere with each such use or disposal. The determination of the manner of disposal or use of sludge is a local determination except that if a guideline has been established for a use it is thereafter unlawful for the owner or operator of a publicly owned treatment works to dispose of sludge from such works for that use except in accordance with the guideline.

Under the amendment to section 307(b) the Administrator would establish national pretreatment standards for toxic pollutants based on the best available technology economically achievable, or any more stringent effluent standards under section 307(a). Then in applying these pretreatment standards through its pretreatment program, the owner or operator of the municipal treatment works could modify the requirements applicable to individual classes of sources introducing that pollutant into the treatment works to reflect the degree of reduction of that pollutant achieved by the treatment works. The combination of pretreatment and treatment by the municipal treatment works shall achieve at least that level of treatment which would be required if the industrial source were making a direct discharge. Any effluent reduction attained by the treatment works and used to justify a modification of pretreatment requirements must be a permit condition enforceable against the owner or operator of the treatment work.

In promulgating national pretreatment standards the Administrator shall include a provision recognizing the option of the owner or operator to modify the requirements to reflect the degree of reduction achieved by the treatment works. An adequate pretreatment program under section 402(b)(8) may include municipal ordinances or regulations specifying pretreatment requirements and incorporated into the treatment works permit by reference, or pretreatment requirements applicable to specific sources set forth as conditions on the permit.

In addition to the express criteria of section 307(b), the Administrator in establishing pretreatment standards shall consider the guidelines for sludge disposal or use established under section 405.

It is expected that the Administrator will work with the Economic Development Administration to see that direct EPA loans as well as loan and lease guarantees are provided to eligible plants to offset the costs of installing pretreatment equipment.

Also, section 8 of Public Law 92–500, provides for loans from the Small Business Administration to small businesses for the installation of pollution control equipment. This section has never been fully implemented. It is expected that these loans will be made available to assist in the installation of pretreatment processes to industries such as metal finishers.

1977 DEADLINES

House bill

No comparable provision.

Senate amendment

Amends section 309 of the Act to provide two new enforcement options for violations of the 1977 best practicable technology for industrial dischargers. The first option authorizes the issuance of an enforcement order requiring a "reasonable" time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules. The second option authorizes up to an 18-month extension of the 1977 deadline where the Administrator finds that the discharger acted in good faith; that a serious commitment to achieve compliance had been made; that compliance will occur no later than January 1, 1979; that the extension will not impose additional controls on other sources; that an application for a permit was filed before December 31, 1974; and that the necessary abatement facilities are under construction.

Conference substitute

The conference substitute retains the first option authorized by the Senate amendment and retains the second option revised to ensure that a person, other than a violator, who is otherwise not in compliance with the time requirements of the Act, may have an extension of up to April 1, 1979.

In addition, the conference substitute establishes an additional option which provides that if the Administrator finds (1) that a person is in violation of section 301(b)(1)(A) or (C) of the Act, (2) that the person cannot meet the requirements for a time extension under section 301(i)(2) and (3) the appropriate means of compliance by the person is to discharge into a publicly owned treatment works, then upon the request of the person, the Administrator may issue a compliance order for the earliest practicable date, but not later than July 1, 1983, for the treatment works if that works concurs with the order.

For those municipal sources which are unable to meet this statutory deadline due to their unwillingness to take appropriate actions and spend necessary amounts of money at the earliest possible time, no extension would be granted and enforcement actions would be undertaken under section 309.

In determining whether or not to grant the extension, the permitting agency must consider whether the delays in construction were due to EPA's inability to make available appropriate construction grant monies promptly (as described in section 301(i) of the Act), or whether the fault lies with the municipality's unwillingness to move as fast as possible with all available resources toward the achievement of the requirements of secondary treatment.

The conferees modified the Senate amendment to provide recognition of the fact that some sources may fail to comply with the deadlines of the Act for reasons beyond their control such that it is not appropriate to label them as violators. Under the conference modification, these kinds of sources may receive extensions without bearing the stigma of violation of law. It is the intent of the conferees that under the provision which allows the Administrator to establish a reasonable time in which to comply with an enforcement order, existing administrative and court orders which provide for attainment dates beyond April 1, 1979, continue in effect unless modified under these amendments. Therefore, the existing enforcement policy of the EPA is continued. The conferees also intend that during such time of compliance, the Administrator may require a point source to meet any interim levels of treatment as he deems appropriate under the circumstances.

In any case where an industry planned on, negotiated with, and conducted joint engineering studies with a municipality which planned to construct a publicly-owned treatment works and subsequently decided not to proceed with such a works such industry would be eligible for an extension of its 1977 best practicable technology requirement for a period of time not to exceed that which elapsed during the negotiations with the municipality and the engineering studies.

A number of industries received grants under section 105(c) of the Act to assist them in developing innovative technologies for treating their wastes. A small number of these industries were unable to perfect these innovative technolcgies, through no fault of their own, and were thus required to install the necessary conventional facilities to meet the requirements of section 301(b)(1) by July 1, 1977.

It is intended that industries which received grants under section 105(c) of the Act to develop new technology to treat industrial waste, and were unsuccessful, will be eligible to receive additional time to comply with section 301(b)(1) of the Act. An example of such an industry that has come to the attention of the Managers is the Holliston Mills in Kingsport, Tennessee which would require one additional year.

A person who wishes an extension must have made a serious commitment of the necessary resources to achieve compliance as soon as possible after July 1, 1977, but no later than April 1, 1979. Here the Administrator must determine whether purchase orders were executed, land cleared, and engineers and construction workers available, or other steps taken to insure that the job can be completed by the new extended date.

TECHNICAL AND CONFORMING AMENDMENTS

House bill

No comparable provision.

Senate amendment

This section amends section 309 of the Act to insure the enforceability of permits issued under section 318 (aquaculture) and section 405 (sewage sludge).

Conference substitute

Except for the elimination of one technical amendment which was unnecessary, the conference substitute is the same as the Senate amendment.

MITIGATION COSTS

House bill

No comparable provision.

Senate amendment

This section amends section 311 of the Act to permit the expenditure of funds from the contingency fund for the purpose of mitigating the effects of a spill of a nonremovable hazardous substance and the recovery of such expenditures from the discharger.

Conference substitute

The conference substitute is the same as the Senate amendment.

The amendments provide that under section 311 the Administrator may act to mitigate the threat to public health or welfare caused by the discharge of a hazardous substance determined not to be removable. The costs of this mitigation effort are deemed costs incurred under subsection (c).

There are clear limits on the costs which the Administrator may include within subsection (c) costs. For example, the long term solution to many spills may be the construction of major capital structures, including advanced treatment systems or extension dikes. While such major construction may well mitigate the danger to public health or welfare, they are not the type of actions which the managers intend to be included within recoverable mitigation costs. Rather, this provision was intended to allow recovery for costs associated with immediate responses previously demonstrated to be effective. Mitigation efforts include, but are not limited to, activities such as containment measures, measures required to warn and protect the public of acute danger, activities necessary to provide and monitor the quality of temporary drinking water sources, monitoring for spread of the pollutant, biomonitoring to determine extent of the contamination, physical measures to identify and contain substances contaminated by the discharge, providing navigational cautions while response to the problem is underway, efforts to raise sunken vessels which are the source of the discharge, and implementation of emergency treatment facilities. The costs for such measures, efforts and activities are recoverable. Mitigation also includes efforts necessary to locate the source of the discharge and identity properties of the pollutants released. The response must follow within a reasonable period of time after discovery of the discharge of the hazardous substance or risk of such discharge.

However, it is recognized that it may be appropriate for the Administrator to take action beyond those for which recovery would be allowed for mitigation.

OIL SPILL LIABILITY

House bill

No comparable provision.

Senate amendment

This section amends section 311 of the Act to extend the jurisdiction under this section out to 200 miles, to raise the limits of liability for cleanup of oil or hazardous substance spills from vessels to $150 per gross ton (or for vessels carrying oil as cargo, $500,000, whichever is greater), to raise the limits of liability for cleanup of oil or hazardous substance spills from onshore and offshore facilities to $50 million, to authorize the use of the contingency fund for protection against threatened discharges, to permit immediate recovery of cleanup costs from oil cargo vessels or bulk oil storage or handling facilities in the event of allegations of third-party fault, reserving rights of subrogation, and to permit the recovery of costs expended by the Federal or a State government in restoring or replacing natural resources damaged by an oil or hazardous substance spill.

Conference substitute

The conference substitute makes a number of amendments to section 311 of the Act relating to liability for discharging oil or hazardous substances. One series of amendments has for their purpose the extension of the section to discharges of oil or hazardous substances in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974 or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976). The second series of amendments is designed to insure that only persons who are owners, operators, or in charge of vessels who are otherwise subject to the jurisdiction of the United States will be liable for the penalties provided in the section if they spill outside the waters of the contiguous zone. The next series of amendments is designed to make a distinction between inland oil barges and other vessels with respect to the amount of liability. In the case of inland oil barges, liability would be $125 per gross ton or $125,000, whichever is greater. In the case of any other vessel, liability would be $150 per gross ton unless the vessel carries oil or hazardous substances as cargo in which case it is $250,000, whichever amount is the greater. The limits in existing law for all vessels are $100 per gross ton or $14,000,000, whichever is the lesser. In the case of any class or category of onshore and offshore facilities, the President is authorized to provide a maximum limit of liability of less than $50,000,000, but in no case less than $8,000,000. Evidence of financial responsibility for the increased liability is not required of any vessel before October 1, 1978. In the case of onshore and offshore facilities, the maximum amount is increased from $8,000,000 to $50,000,000. Another amendment exempts the owner or operator of an inland oil barge from responsibility to the United States for actual removal costs of oil or a hazardous substance discharged from that barge which is caused by an act or omission of a third party. All other amendments to section 311 contained in the conference substitute are as contained in the Senate amendments.

New subsection (f) (4) and (5) make governmental expenses in connection with damage to or destruction of natural resources a cost of removal which can be recovered from the owner or operator of the discharge source under section 311. For those resources which can be restored or rehabilitated, the measure of liability is the reasonable costs actually incurred by Federal or State authorities in replacing the resources or otherwise mitigating the damage. Where the damaged or destroyed resource is irreplaceable (as an endangered species or an entire fishery), the measure of liability is the reasonable cost of acquiring resources to offset the loss.

The Senate conferees are committed to consideration in this Congress of pending legislation authorizing creation of an oil spill superfund. Legislation to create such a fund has passed the House (H.R. 6803) and has been referred to the Senate Environment and Public Works Committee along with a similar bill reported from the Senate Commerce, Science and Transportation Committee (S. 2083).

These amendments to section 311 will provide interim assurance that adequate funds will be available to clean up most oil spills and will provide a basis against which the Senate Committee can consider the superfund legislation.

The conferees expect that matters raised in this section will be further reviewed in conjunction with consideration of the superfund legislation and of any international agreements on pollution beyond the territorial seas.

MARINE SANITATION DEVICES

House bill

No comparable provision.

Senate amendment

This section amends section 312 of the Act (1) to require the EPA Administrator to prohibit the discharge of treated sewage from vessels in drinking water intake zones, upon an application of a State and (2) to require the Administrator to amend current marine sanitation device regulations for commercial vessels on the Great Lakes and navigable waters other than coastal waters to require said devices, within a time period to be determined by the Administrator, to produce an effluent, at a minimum, of a quality of secondary treatment, and that such vessels be required to treat graywater also.

Conference substitute

This is the same as the Senate amendment with the following changes:

(1) The application of this provision is confined to the Great Lakes.

(2) Commercial vessels are defined as those used in the business of transporting property for compensation or hire or transporting property in the business of the owner, lessee, or operator.

(3) Graywater is defined to mean galley, bath, or shower water.

(4) Upon application by a State the Ad-

ministrator shall, by regulation, establish a drinking water intake zone in any waters in that State and prohibit discharge of sewage from vessels within the zone. The conferees intend that the Administrator define the area to which the prohibition applies in his promulgation of such a prohibition.

In implementing section 304(f) (4) (B), the Administrator is cautioned to use discretion in establishing drinking water intake zones. This new subparagraph is intended to protect drinking water and not to result in far reaching discharge prohibitions unnecessary to protect drinking water.

A technology for meeting the equivalent of secondary treatment as defined under section 304(d) of this Act for vessels is readily available. The U.S. Coast Guard has certificated Type II flow through systems. In one system the treatment tank "digests" sewage material in a network of closely-positioned vertical columns of fiber. Sewage is retained by the fibers, and is reduced to liquid effluent and CO_2 through a process of biodegradation, digestion and attrition.

FEDERAL FACILITY COMPLIANCE

House bill

No comparable provision.

Senate amendment

This section clarifies section 313 of the Act to provide that all Federal facilities must comply with all substantive and procedural requirements of Federal, State, or local water pollution control laws. It also eliminates the exception for Federal agencies from the State certification of activities under section 401.

This section also amends section 404 to insure that the dredge and fill activities of any Federal agency are carried out in compliance with State, local, or interstate substantive or procedural requirements.

Conference substitute

The conference substitute is essentially the same as the Senate amendment revised to conform with a comparable provision in the Clean Air Act and with the additional requirement that any action or other judicial proceeding to which this provision applies may be removed by the Federal department, agency, instrumentality, officer, agent, or employee to the appropriate district court of the United States. In addition the President may, upon a determination that the paramount interest of the United States is to do so, issue regulations exempting from compliance with this section any weaponry equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to that property, owned or operated by the Armed Forces of the United States or the national guard of a State which are uniquely military in nature. The amendment to section 404 is revised to limit it to State and interstate requirements and to provide that this is not to be construed as affecting or impairing the authority of the Secretary of the Army, acting through the Chief of Engineers, to maintain navigation.

It is anticipated that nothing in this section will prevent any action or other proceeding to which this section applies from being removed by the appropriate department, agency, instrumentality, officer, agent, or employee of the United States to the district court of the United States for the district and division embracing the place where the action or other proceeding is pending.

CLEAN LAKES

House bill

No comparable provision.

Senate amendment

This section amends section 314 of the Act by requiring the Administrator to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biennially information to the States on methods and procedures to restore and enhance freshwater lakes. Section 314 is amended in another provision to authorize $150 million per fiscal year for fiscal years 1978, 1979, and 1980 for the clean lakes program.

Conference substitute

The conference substitute is the same as the Senate amendment except that the authorization is $60,000,000 per fiscal year.

The Clean Lakes Program has been amended to provide additional funding authority and to require the Environmental Protection Agency to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biennially information to the States on the methods and procedures to restore and enhance freshwater lakes.

When the program was first authorized, it was intended that EPA would aggressively work with the States in developing and implementing lake pollution control, including financial assistance. In fact, there has been almost no program implementation by EPA. It is expected that EPA will request full funding for the Clean Lakes Program and initiate an active implementation of this program, including lake identification and classification, and development of methods and procedures to restore lake quality. It is further intended that special attention be given to restoring lakes which offer the potential for high utility as recreation areas.

AQUACULTURE

House bill

No comparable provision.

Senate amendment

This section amends section 318 of the Act to assure that permits issued under this section are consistent with section 402, by authorizing a State to administer a permit program for aquaculture projects. A State wishing to administer such a program would be able to obtain the necessary approval from the Administrator and to issue permits accordingly. Such permits would be issued under section 402 of the Act and subject to all of the same criteria, factors, procedures, and requirements of such section.

Conference substitute

The conference substitute is the same as the Senate amendment except that the requirement of existing law that regulations be issued by the Administrator not later than January 1, 1974, to carry out this provision has been deleted.

NONCOMPLIANCE FEE

House bill

No comparable provision.

Senate amendment

This section amends title III of the Act by adding a new section 319. Any point source (other than a publicly owned treatment works) not in compliance with the effluent limitations and compliance date in its permit, shall be required to pay a fee equivalent to the economic value of noncompliance. The payment shall be imposed automatically for sources out of compliance with the 1977 requirements or applicable new source, toxic of thermal limitations beginning on July 1, 1979, and for sources out of compliance with the 1983 requirements beginning on January 1, 1984.

When the Administrator or the State determines that a violation of a permit has occurred, certain data is required from the discharger. This data (or where this data is manifestly inaccurate in the opinion of the State or the Administrator, other data determined from other relevant sources within the industry or by contract) would be used to determine a noncompliance fee. The Administrator or the State would determine the economic value that accrued to the discharger because of its failure to comply with the requirements of the law. Factors to be included in this determination would include total cost of the project, the cost of capital, and the cost of operation and maintenance activities that would have been performed plus any other factors relevant to the economic value of noncompliance as the guidelines published by the Administrator may include.

This estimated economic value would be translated into an equivalent monthly or quarterly fee that would be payable to the Administrator or the State. When the discharger has come into compliance and the actual costs are known, the fee would be recalculated and any excess amount returned to the discharger. Where sufficient fees were not paid, additional amounts would be collected. This fee is automatic. It is not to be used for long administrative proceedings. Judicial appeals on the amount of the fee collected shall not be allowed to stay collection of the fee. Errors in the determination of the fee are to be corrected using the recalculation procedure that will come into effect following the dischargers return to compliance. Good faith or bad faith should not enter into the calculation of noncompliance fees. Whenever a source is out of compliance after July 1, 1979, the fee will come into effect. Section 309(a) (5) authorizes the Administrator under certain limited circumstances to extend for a maximum of 18 months the statutory date for compliance. Therefore, the noncompliance fee provision is effective on July 1, 1979. The noncompliance fee for the 1983 deadline will become effective 6 months after the statutory date in 1983.

Rather than determining the size of the fee based upon specific data related to the source in noncompliance, the Administrator may choose to base the fee upon industry-wide costs.

In the event an owner or operator contests the noncompliance fee established under this section, he may seek review of such penalty in the appropriate United States district court. Upon review, the action of the Administrator or the State shall be affirmed, unless the court finds that such action is arbitrary, capricious or otherwise not in accordance with this section on the Administrator's guidelines.

Civil and criminal remedies for noncompliance that exist under the Act are in addition to payment of a noncompliance fee.

Conference substitute

No comparable provision.

COMPLIANCE WITH STATE REQUIREMENTS

House bill

No comparable provision.

Senate amendment

The bill amends section 401 of the Act to add section 303 to the list of the Act's provisions for which a State must certify compliance before a Federal license or permit can be issued. This means that a federally licensed or permitted activity, including a discharge permit under section 402, must be certified to comply with State water quality standards adopted under section 303.

Conference substitute

The conference substitute is the same as the Senate amendment.

The inserting of section 303 into the series of sections listed in section 401 is intended to mean that a federally licensed or permitted activity, including discharge permits under section 402, must be certified to comply with State water quality standards adopted under section 303. The inclusion of section 303 is intended to clarify the requirements of section 401. It is understood that section 303 is required by the provisions of section 301. Thus, the inclusion of section 303 in section 401 while at the same time not including section 303 in the other sections of the Act where sections 301, 302, 306, and 307 are listed is in no way intended to imply that 303 is not included by reference to 301 in those other places in the Act, such as sections 301, 309, 402, and 509 and any other point where they are listed. Section 303 is always included by reference where section 301 is listed.

ENVIRONMENTAL PROTECTION AGENCY ISSUANCE OF PERMITS

House bill

No comparable provision.

Senate amendment

This amendment provides that in any case where the Administrator objects to the issuance of a permit by a State he may, at the time of the objection, issue a permit under section 402(a) for that source in accordance with the guidelines and requirements of the Act. Any such permit shall be subject to the State's refusal to certify under section 401 for sixty days after it has been issued.

Conference substitute

The conference substitute amends section 402(d) of the Act to require the Administrator to include in the written objections to the issuance of a permit by a State the reasons for the objection and the effluent limitations and conditions such permit would include if it were issued by the Administrator. If thereafter the Administrator objects to the issuance of a permit by a State, if the State requests it a public hearing shall be held on the objection. If the State fails to resubmit a revised permit meeting the objection within 30 days of completion of the hearing, or within 90 days of the date of the objection if no hearing is requested, the Administrator may issue the permit for such source in accordance with the requirements of the Act.

There have been occasions under the existing law where the Administrator has objected to the issuance of a State permit, the State has refused to issue a revised permit, and in the absence of effluent limitations for a source specified in a permit, the Administrator has initiated enforcement action against the source seeking particular effluent reductions. This may also have occurred in other cases where a valid permit is not in effect. After the date of enactment of this provision the Administrator is expected to use the authority given by this amendment to issue a permit after objecting to a State-issued permit. Thus any litigation over the degree of effluent reduction required for a source should take place in the context of judicial review of the permit, rather than in the context of an enforcement action.

The conferees modified this provision of the Senate bill to establish a procedure for appeal of an EPA veto of State permit and to authorize EPA to issue a permit in the event of an impasse. This provision in no way authorizes the Administrator to issue a permit less stringent than required by any State effluent limitations or water quality standards. That authority is specifically preserved in section 510 of the Act and is not affected by this amendment. Judicial review arising out of this provision would be in the same manner as judicial review of any EPA issued 402 permit.

ENFORCEMENT OF MUNICIPAL PERMITS

House bill

No comparable provision.

Senate amendment

This section amends section 402(h) of the Act to permit the Administrator to obtain injunctive relief against the introduction of any pollutant into a publicly owned treatment works which has been issued a State permit to discharge if he determines the permit has been violated and the State has not commenced appropriate enforcement action.

Conference substitute

The conference substitute is the same as the Senate amendment.

PERMITS FOR DREDGED OR FILL MATERIAL AND STATE PROGRAMS FOR BEST MANAGEMENT PRACTICES

House bill

Section 16 amends section 404 of the Federal Water Pollution Control Act by limiting the requirement for a permit to navigable waters and adjacent wetlands. Navigable waters are defined as those waters which are presently used or are susceptible to use in their present condition or with reasonable improvement to transport interstate or foreign commerce.

Section 16 also contains the following provisions:

The discharge of dredged or fill material into non-navigable waters and wetlands adjacent to them is regulated if the Secretary of the Army and the Governor of the State in which thy are located agree that their regulation is needed because of their ecological and environmental importance.

The Secretary of the Army is authorized to issue general permits. Normal farming, ranching and silviculture activities, the maintenance of structures such as dikes, dams and levees, and the construction and maintenance of farm or stock ponds and irrigation ditches are exempted from the requirement for a permit.

There is a similar exemption for Federal or Federally assisted projects where an environmental impact statement for the project has been submitted to Congress in connection with the authorization or funding of the project.

The Secretary of the Army's permit authority over wetlands adjacent to navigable waters may be delegated to a State if the State has the authority, responsibility and capability to exercise the authority and the delegation is in the public interest.

The Secretary's permit authority over freshwater lakes located entirely within the bounds of a State, under section 404 or sections 9, 10, and 13 of the Act of March 3, 1899, may likewise be delegated under the same conditions.

The discharge of dredged or fill material in waters other than navigable waters and in wetlands other than those adjacent to navigable waters is made subject to the regulation of toxic substances under section 307 of the Federal Water Pollution Control Act.

Senate amendment

Section 53 amends section 402 to provide a mechanism for approving permit programs of States for controlling disposal of dredge and fill material which meet their particular needs. Section 404 of the Act is amended to provide specific exemptions from any permit requirement for certain activities. The amendment also provides for the use of general permits as a mechanism for eliminating the delays and administrative burdens associated with this program.

A third provision amends section 208(b)(4) to provide that the placement of fill material associated with activities which a State chooses to regulate by requiring best management practices under that section, is also exempt from any permit requirement under section 404 or 402.

The national wetland inventory is required to be completed by December 31, 1978, and $6 million is authorized for that purpose.

This provision does not redefine navigable waters. Under the section as amended, the Army Corps of Engineers will continue to administer the section 404 permit program in all navigable waters for a discharge of dredge or fill material until the approval of a State program for phase 2 and 3 waters.

The provision exempts from permit requirements the maintenance and emergency reconstruction of existing fills such as highways, bridge abutments, dikes, dams, levees, and other currently serviceable structures.

The provision specifically exempts from permit requirements the construction or maintenance of farm or stock ponds, as well as construction and maintenance of agricultural irrigation ditches and the maintenance of drainage ditches.

The construction of farm and forest roads is exempted from section 404 permits.

The amendment exempts from permit requirements the construction of temporary mining roads for the movement of equipment. These roads must not only be designed and constructed in accord with the prescribed requirements for protection of the navigable waters applicable to roads, they must also be removed in a manner consistent with these requirements.

These specified activities should have no serious adverse impact on water quality if performed in a manner which will not impair the flow and circulation patterns and the chemical and biological characteristics of the affected waterbody and which will not reduce the reach of the affected waterbody.

All exempt activities will be required to have permits if the activity introduces toxic materials into the navigable waters.

The bill specifically requires the Administrator to include in guidelines methods for identification and testing of toxic pollutants so as to minimize the possibility that de minimus contamination with trace amounts of toxics will not expose an exempt placement or activity to the need for a permit.

The provision continues the requirement that a permit must be obtained under section 402(1) or section 404 to minimize or prevent adverse effects caused by altering the flow or the reach of the navigable waters from direct discharges of dredged or fill material.

Under this section, a State may elect to seek approval of a dredge and fill permit program independent of any application for approval of a National Pollutant Discharge Elimination System program.

The provision also provides that a State may elect to administer its dredge and fill permit program independent of the National Pollutant Discharge Elimination System program.

The provision encourages the use of a variety of existing or developing State and local management agencies and recognizes mapping, protective orders, standards of performance and the like as useful management tools.

The authority for control of discharges of dredge or fill material granted to a State through the approval of a program pertains solely to the environmental concerns reflected in the specific guidelines set forth in the amendment. The responsibility of the Corps of Engineers under the Rivers and Harbors Act of 1899, as specified under section 511 of the Act, is not affected or altered by this provision.

The Administrator shall consult with the Secretary of the Army and the Director of the Fish and Wildlife Service prior to his approval of a State permit program for control of discharges of dredge and fill material (sec. 402(1)(2)).

This section adds a requirement for a consultation process with the State agency having primary jurisdiction over fish and wildlife resources in developing the 208 regulatory program.

In this regard, an amendment to section 208 is included which would authorize and direct the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, to consult with and provide technical assistance to any State or designated agency in developing and operating a continuing planning process (sec. 208(j)(1)).

Further, a requirement for a coordination process with the Fish and Wildlife Service is added, including a process for use of the National Wetland Inventory being conducted by that agency as part of the State's regulatory program under section 208(b)(4).

The section provides an authorization of $6 million to the Secretary of the Interior to complete the initial phase of the National Wetland Inventory by December 31, 1978.

Also, the provision authorizes the use of general permits by the Corps and States with approved programs for classes or categories of activities which cause, individually or cumulatively, only minimal environment impact.

Conference substitute

AMENDMENTS TO SECTION 404

Section 67 of the conference substitute amends subsection (a) of section 404 of the Act to require that the Secretary publish notice of any application for a permit under subsection (a) within 15 days after the applicant submits all required information. The conference substitute adds a new subsection (e) to section 404 which gives the Secretary authority to issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities are similar in nature, and cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued by the Secretary shall be based on the guidelines set forth in subsection (b) of section 404 and shall include the requirements and standards which apply to activities authorized by the permit. Any general permit issued by the Secretary shall be for a period of not more than five years and may be revoked or modified if after opportunity for public hearing the Secretary determines that activities authorized by the permit have an adverse impact on the environment or are more appropriately authorized by individual permits. The conference substitute also adds a new subsection (f) which provides that the discharge of dredged or fill material (1) from normal farming, silviculture, and ranching activities, (2) for the purpose of maintenance (including emergency reconstruction of recently damaged parts) of currently serviceable structures, (3) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance of drainage ditches, (4) for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters, (5) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized, (6) resulting from any activity with respect to which a State has an approved program under section 208(b)(4) which meets the requirements of subparagraphs (B) and (C) of such section, is not prohibited by or otherwise subject to regulation under section 404 or 301(a) or 402 of this Act (except for effluent standards or prohibitions under section 307). This subsection (f) shall not apply if the discharge of dredged or fill material into the navigable waters is incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced. The conference substitute also adds subsections (g) through (l) of section 404. These new subsections establish a process to allow the Governor of any State to administer an individual and general permit program for the discharge of dredged or fill material into phase 2 and 3 waters after the approval of a program by the Administrator.

Subsection (g) requires the Administrator upon receipt of a program from a State to submit copies of such program to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service who have 90 days from the date of receipt of the program to submit any comments with respect to the program to the Administrator in writing. Within 120 days after the receipt by the Administrator of a program submitted by a State the Administrator shall determine, taking into account any comments received from the Secretary and the Secretary of the Interior, whether such State has certain authority with respect to the issuance of permits pursuant to the program. The authority which the State must have in order for the program to be approved by the Administrator is essentially the same authority it must have to administer a 402 permit program under the Act. If, with respect to a State program submitted under subsection (g) of section 404, the Administrator determines that the State has the requisite authority to carry out the program he shall approve the program and notify the Secretary who shall suspend the issuance of permits under subsections (a) and (e) of that section for activities covered by the State program. If the Administrator determines that the State does not have the requisite authority to administer the program, he must so notify the State which notification is to include any revisions or modifications necessary so that the State can resubmit the program for a new determination by the Administrator. If the Administrator fails to make a determination with respect to a State program within the 120 days provided, the program is deemed approved and the Administrator must so notify the State and the Secretary who shall suspend the issuance of permits under subsections (a) and (e) of section 404 for activities covered by the State program. Upon notification that a State program has been approved by the Administrator, the Secretary shall transfer any applications for permits pending with the Secretary for activities with respect to which a permit may be issued pursuant to the State program to the State for appropriate action. Also, if a State, after its permit program has been approved, notifies the Secretary that it intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of section 404 with respect to activities in that State, the Secretary shall suspend the administration and enforcement of such general permit with respect to those activities.

New subsection (i) of section 404 provides that whenever the Administrator determines, after public hearing, that a State is not administering its permit program in accordance with this section he shall so notify the State, and if corrective action is not taken by the State within 90 days, the Administrator shall withdraw approval of the program until the corrective action is taken and shall notify the Secretary that the Secretary shall resume the issuance of permits under this section until such State again has an approved program. New subsection (j) requires each State which has an approved permit program under section 404 to transmit to the Administrator a copy of each permit application received by the State and a copy of each proposed general permit which such State intends to issue. The Administrator is to provide copies of each permit application or each proposed general permit within 10 days of its receipt to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to the State on the permit application or the proposed general permit he must notify the State within 30 days, and provide the written comments, after consideration of any written comments from the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, within 90 days, after the receipt of the application or the proposed general permit. If the Administrator has notified the State within the 30-day period that he intends to submit written comments the State shall not issue the proposed permit until after the receipt of the comments from the Administrator or after such 90th day, whichever first occurs.

A State shall not issue a proposed permit after such 90th day if it has received written comments from the Administrator in which he objects to the issuance of the proposed permit and the proposed permit is one that has been submitted to the Administrator pursuant to section 404(h)(1)(E) or the Administrator objects to the issuance of the proposed permits as being outside the requirements of section 404 unless the State modifies the proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under subsection (j) of section 404 the objection shall contain a statement of the reasons for the objection and the conditions which the permit would include if it were issued by the Administrator. If the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on the objection. If the State does not resubmit the permit revised to meet the objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of the objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of section 404, as the case may be, for the source in accordance with the guidelines and requirements of the Act. New subsection (k) of section 404 authorizes the Administrator, in accordance with section 304(h)(2) guidelines, to waive the requirements of section 404(j) at the time of the approval of a State permit program for any category of discharge within the State submitting the program. New subsection (l) of section 404 requires the Administrator to promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of section 404(j) in any State with a program approved under section 404. New subsection (m) of section 404 requires that within 90 days after the Secretary notifies the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, that an application for a permit under section 404(a) has been received by the Secretary or that the Secretary proposes to issue a general permit under section 404(e), the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to the application or the proposed general permit in writing to the Secretary. New subsection (n) of section 404 indicates that nothing in that section shall be construed to limit the authority of the Administrator under section 309 of the Act. New subsection (o) of section 404 requires that a copy of each permit application and each permit issued under section 404 be available to the public and that the permit application be available on request for the purpose of reproduction. New subsection (p) of section 404 indicates that compliance with a permit issued under that section, including any activity carried out pursuant to a general permit, shall be deemed compliance for purposes of sections 309 and 505 of the Act, with sections 301, 307, and 403 of the Act.

New subsection (q) of section 404 provides that within 180 days after the date of the enactment of the subsection the Secretary shall enter into agreements with the Administrator, the Secretaries of the Department of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies, to minimize to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under section 404. The agreements shall be developed to assure that, to the maximum extent practicable, decisions with respect to applications under section 404(a) will be made within 90 days after the date the notice for such application was proposed. New subsection (r) of section 404 provides that the discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of the enactment of this new subsection, is not prohibited by or otherwise subject to regulation under section 404, or a State program approved under that section, or section 301(a) or 402 of the Act (except for effluent standards or prohibitions under section 307) if information on the effects of the discharge is included in an environmental impact statement for such project and such statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of the project and prior to either authorization of the project or an appropriation of funds for the construction. New subsection (s) of section 404 provides similar enforcement authority with respect to permits issued by the Secretary under section 404 as is provided to the Administrator in section 309 of the Act with respect to permits issued under section 402 and 404 of the Act. New subsection (t) of section 404 provides that nothing in section 404 shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of the State, including any activities of any Federal agency, and that each agency shall comply with the State, or interstate requirements, both substantive and procedural to control the discharge of the dredged or fill material to the same extent that any person is subject to its requirements. This new subsection is not to be construed as affecting or impairing the authority of the Secretary to maintain navigation. Finally, the Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to the State of Washington upon its request all or any part of those functions vested in the Secretary by section 404 of the Act and by sections 9, 10, and 13 of the Act of March 3, 1899, relating to Lake Chelan, Washington, if he determines that the State has the authority, responsibility, and capability to carry out the functions and that the delegation is in the public interest. The delegation shall be subject to such terms and conditions as the Secretary deems necessary.

The Conference substitute provides for the administration by a State of its own permit program for the regulation of the discharge of dredged or fill material into the navigable waters other than traditionally navigable waters and adjacent wetlands if the program of the State meets the requirements set forth in the Conference substitute and is approved by the Environmental Protection Agency. The Federal program for the regulation of the discharge of dredged or fill material into these waters is then suspended.

The conferees wish to emphasize that such a State program is one which is established under State law and which functions in lieu of the Federal program. It is not a delegation of Federal authority. This is a point which has been widely misunderstood with regard to the permit program under section 402 of the Act. That section, after which the Conference substitute concerning State programs for the discharge of dredged or fill material is modeled, also provides for State programs which function in lieu of the Federal program and does not involve a delegation of Federal authority.

The exemption from the requirement for a section 404 permit granted certain Federal projects in the conference substitute is in recognition of the Constitutional principle of separation of powers. Where a project has been specifically authorized by the Congress that authorization shall not thereafter be subject to nullification by an executive agency. The Conferees have, however, limited the exemption so as to ensure that the Congress will have full information on the impacts of the discharge of dredged or fill material associated with a project when it determines whether or not to authorize the project or to appropriate funds for its construction. Only those projects which have received an analysis of the effects of a discharge equivalent to that provided under the guidelines promulgated under section 404 (b)(1) prior to authorization or specific funding for activities which would result in the discharge of dredge and fill material are exempt. An environmental impact statement addressing the impact of the discharge, with particular reference to the guidelines promulgated pursuant to subsection 404(b)(1), must have been submitted to Congress prior to either the authorization or the appropriation of funds. Thus Congress is to have the benefit of all the necessary information when it makes its decision. It is emphasized that the failure of a project to meet these requirements will result in the project having to obtain a section 404 permit. It would not require a reauthorization or additional appropriation action.

To expedite the consideration of permit applications, and to avoid unnecessary delay, the conference substitute provides that any comments of the Fish and Wildlife Service concerning an application for a section 404 permit be furnished to the Secretary of the Army, acting through the Chief of Engineers, within ninety days, and that such comments must be in writing. If such comments are not received within this ninety day period, the Secretary is expected to proceed with the consideration and final disposition of the permit application.

This procedure is intended to recognize that the Fish and Wildlife Service, because of its responsibilities to protect a very vital natural resource, should provide advice and consultation. Allegations have been made that the Fish and Wildlife Service has not provided written recommendations concerning responsible requirements to be included as permit conditions. Rather, it is alleged that verbal demands are made and permit negotiations conducted on the basis of resolving these verbal requirements. This practice is unacceptable. That is why a written coordination procedure has been adopted. In doing so, however, the Fish and Wildlife Service should be involved at the beginning of the permit process and not after the fact.

The section 404 permit process is not to be used as the sole vehicle to require land exchange in the case of non-Federal activities. Any such requirements must be imposed solely through specific requirements of applicable statutes.

A qualification on the exemptions granted by new subsections (f) and (r) is that permits are required for discharges of dredged or fill material containing toxic pollutants regulated under section 307.

The exemptions agreed to by the conferees for normal farming, silviculture and ranching activities attempt to clarify that many of the normal activities included within these categories were never intended by the Congress in the 1972 Act to be within the section 404 permit program. The Corps of Engineers regulations under existing law include, among other things, such exemptions.

AMENDMENTS TO SECTION 2008

Section 34(a) of the conference substitute amends section 208(b)(4) of the Act to allow the Governor of a State to develop and submit the requirements of clauses (F) through (K) of paragraph (2) of section 208(b) to the Administrator for application to a class or category of activity throughout the State. In addition, section 34(a) adds the following new subparagraphs to section 208(b)(4):

Subparagraph (B) which requires that any program submitted under subparagraph (A) of that section which is, in whole or in part, to control the discharge or other placement of dredged or fill material into the navigable waters include the following: (i) a consultation process with the State agency with primary jurisdiction over fish and wildlife; (ii) a process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under section 404 of the Act, conducted pursuant to the Act; (iii) a process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under section 404(b)(1), and sections 307 and 403 of the Act; (iv) a process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to (I) violation of any condition of the best management practice, and (II) change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice; and (v) a process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory.

Subparagraph (C) which provides that if a State obtains approval from the Administrator of a statewide regulatory program and if the State is administering a permit program under section 404 of the Act, no person is required to obtain an individual 404 permit or comply with a general 404 permit with respect to any appropriate activity within the State for which a best management practice has been approved by the Administrator under the State's approved 208 program.

Subparagraph (D) which requires the Administrator, whenever the Administrator determines after a public hearing that a State is not administering a program approved under section 208 of the Act in accordance with the requirements of the section to so notify the State and if appropriate corrective action is not taken within not to exceed 90 days the Administrator shall withdraw approval of the program. The Administrator prior to the withdrawal of approval must make public, in writing, the reasons for the withdrawal. In the case of a State with a program submitted and approved under section 208(b)(4), the Administrator shall withdraw approval of the program under this subparagraph only for a substantial failure of the State to administer its program in accordance with such section.

Section 34(b) adds a new subsection (i) to section 208 which requires the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, upon request of the Governor of a State, and without reimbursement to provide technical assistance to the State in developing a statewide program under section 208(b)(4) (B) and in implementing the program after its approval. Also, subsection (i) authorizes to be appropriated to the Secretary of the Interior $6,000,000 to complete the National Wetlands Inventory by December 31, 1981, and to provide information from the Inventory to States as it becomes available to assist States in the development and operation of programs under the Act.

The conference substitute amends section 208 of the Act to provide for the development and implementation of section 208 programs, administered by the State Government, for the regulation of a class or category of activity involving dredge or fill material throughout the State in accordance with best management practices. In reviewing and approving any program applying best management practices under section 208(b)(4)(C), the Administrator shall consider whether the proposed best management practices requirements are in fact the best applicable practices, as well as whether such a program will adequately protect the navigable waters at least to the same extent as if the activity were regulated in accordance with the section 404(b)(1) guidelines.

For example, a program may be developed for the use of best management practices for a forestry activity.

If a State regulatory program is approved by the Administrator, and if the State has a permit program approved by the Administrator under section 404, then no individual permit is required under section 404 for an activity which involves the discharge of dredged or fill material which is in conformance with the prescribed best management practices. If a particular program is disapproved by the Administrator, as provided by the conference substitute, that disapproval only applies to that particular program and not to other approved programs regulating other classes or categories of activities.

The new section 208(b)(4) programs to address dredge or fill activities are distinct from and can be developed separately from the other section 208(b)(2) programs.

The National Wetlands Inventory is intended to be used for technical assistance, as the regulatory agency deems appropriate, in carrying out this program.

SLUDGE DISPOSAL

House bill

No comparable provision.

Senate amendment

This section amends section 405 of the Act to require that any permit for the discharge of sewage sludge shall be issued pursuant to section 402 of the Act and subject to all of the criteria, factors, procedures, and requirements of that section.

Conference substitute

The conference substitute is the same as the Senate amendment with conforming amendments.

EMERGENCY FUND

House bill

Section 7 amends section 504 of the Act to establish a contingency fund to be used by EPA in handling emergency situations such as those which present an imminent and substantial danger to public health or welfare, require the protection of persons where the endangerment is to their livelihood, and those which result from natural and other disasters. EPA would be required to report annually to the Congress on its activities under this section.

Nothing in this section shall be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal law. Also, nothing in this section shall affect any final action taken under such other Federal law, or affect in any way the extent to which human health or the environment is to be protected under such other Federal law.

Funds are to be appropriated as necessary to replace expenditures from the fund in order to maintain it at a $5,000,000 level.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute amends section 504 of the Act to authorize the Administrator to provide assistance in emergencies and establishes a contingency fund for this purpose. This fund is to be maintained at a level of $10,000,000. The Administrator is authorized to provide emergency assistance whenever it is immediately required to prevent, limit, or mitigate the emergency, there is an immediate significant risk to public health or welfare and the environment, and this assistance will not otherwise be provided on a timely basis. The Administrator is required to prepare and publish a contingency plan for responding to emergencies and, at the discretion of the Administrator, emergency assistance provided because of the discharge of a pollutant subject to section 311 of the Act may be a removal cost added to liabilities under that section. The cost for emergency assistance provided as a result of the discharge of a pollutant in violation of section 301, 306, 307, 402, or 403 of the Act shall be recoverable from the owner or operator of the source of the discharge. The remainder of the provision is the same as the House bill.

COMBINED SEWER OVERFLOWS

No comparable provision.

Senate amendment

This provision requires the Administrator to prepare and submit a study by October 1, 1978, on combined sewer overflows in municipal treatment works operation, including status of existing funded projects, needs, time required to correct combined sewer overflows, analysis of pollutant discharges from overflow compared to treated effluent discharges, technological alternatives, and recommendations for legislation, including necessity for a separate program.

Conference substitute

The conference substitute is the same as the Senate amendment.

UTILIZATION OF TREATED SLUDGE

House bill

No comparable provision.

Senate amendment

This section requires the Administrator to prepare and submit a study by October 1, 1978, on the current and potential utilization of municipal waste water and sludge for productive purposes.

This study requires the Administrator to report to the Congress on the prospects of increased use of waste water and sludge for productive purposes, including legal, institutional public health and other impediments to the greater utilization of waste water and sludge.

The Administrator is also to recommend whether Federal legislation is adequate to encourage or require the expanded use of municipal waste water and sludge rather than the prevalent nationwide practice of discharge, landfilling, or incineration, or whether new legislation will be necessary.

Conference substitute

The conference substitute is the same as the Senate amendment with the addition that in carrying out this provision the Administrator is required to consult with and use the services of TVA and other departments, agencies and instrumentalities of the United States to the extent appropriate.

SHORT TITLE OF THE ACT

House bill

No comparable provision.

Senate amendment

Amends section 518 to provide that the short title of the Act shall be the Clean Water Act.

Conference substitute

The conference substitute amends section 518 to recognize that the Act is commonly referred to as the Clean Water Act. The short title of the Act remains unchanged.

COST RECOVERY STUDY AND WATER CONSERVATION

House bill

Section 21 requires the Administration to study the efficiency of, and need for, the payment by the industrial users of any treatment works of that portion of the cost of construction of that treatment works which is allocable to the treatment of each industrial users' waste to the extent attributable to the Federal share of the cost of construction.

Section 21 further provides that for a period of 18 months after the date of enactment of this section, no officer or employee of the Federal Government shall enforce, or require any recipient of a construction grant to enforce any provision in an application for a grant or in a grant agreement which requires industrial cost recovery payments.

Senate amendment

Section 20 amends section 204(b)(3) to allow a grantee which received a grant prior to the enactment of the Clean Water Act of 1977 to reduce the amounts to be paid by any industrial user which reduces its total flow of sewage or unnecessary water consumption. The amounts to be paid are to be reduced in proportion to the flow reduction achieved as determined in accordance with regulations promulgated by the Administrator.

Section 20 also amends section 204(a)(5) to require that the amount of reserve capacity approved by the Administrator shall take into account, in accordance with regulations promulgated by the Administrator, efforts to reduce flow of sewage and unnecessary water consumption.

Conference substitute

The conference substitute contains both the provisions of the House bill and the amendment to section 204(b)(3) of the Act in the Senate amendment. The Senate amendment to section 204(a)(5) is contained in section 21 of the conference substitute.

During the period of moratorium, the conferees expect the Administrator to continue to make grants and not to withhold any funding. Any funds which have been withheld should be released. At the same time, the existence of the moratorium in no way exempts any applicant or grant recipient from the requirement to develop a system for industrial cost recovery. At the end of the 18-month period, if Congress has not changed the law, the grant recipient must begin to collect industrial share of Federal grants for appropriate distribution. The grant recipient may spread the accrued industrial cost liability over the remaining life of the treatment works in order to avoid large lump sum payments.

SEAFOOD PROCESSING STUDY

Section 74 of the conference substitute requires the Administrator to conduct a study to determine the effects of seafood processes which dispose of untreated natural wastes into marine waters, to examine technologies to facilitate the use of nutrients in these wastes or to reduce their discharge into the marine environment. The results are to be reported to the Congress by January 1, 1979.

The conferees intend the Administrator of EPA to make a thorough review of marine discharges by the seafood processing industry. This study should take a full year to complete so that the full cycle of seafood wastes are examined and their compatibility with marine waters determined. The conferees expect this study to be completed and submitted to Congress by January 1, 1979. This study shall in no way interfere with the on-going regulatory process.

SECONDARY TREATMENT FACILITY SITE

House bill

Section 22 directs the Administrator of the Environment Protection Agency to reimburse the City of Boston, Massachusetts an amount equal to seventy-five percent, but not to exceed $15,000,000, of the cost of constructing a modern correctional dentention facility on condition that the City deed to the State of Massachusetts the city-owned property on Deer Island, which is the site of an existing correctional detention facility, for use by the State as the site for additional secondary treatment facilities and that the State deed to the City State-owned property for use by the City for a new correctional detention facility. $15,000,000 is authorized to be appropriated to carry out the section.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill except that the requirement that the State deed certain property to the city has been deleted.

No funds shall be made available under this provision unless there is an agreement to construct at Deer Island, Massachusetts, a secondary treatment facility.

TOTAL TREATMENT SYSTEM FUNDING

House bill

Section 4 amends section 202 of the Act to provide that if grants for the construction of a treatment works exceed the actual construction costs of the treatment works, the excess amount, if certain conditions are met, shall be a grant of the Federal share of a sewage collection system, except that the total of all grants for the sewage collection system under this provision cannot exceed $2,800,000.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is essentially the same as the House bill except that the provision is not a part of the Act, but is made an independent provision since it deals with a single case in Derry Township, Pennsylvania.

FINANCIAL DISCLOSURE

House bill

Section 20 provides for the filing of a financial disclosure statement by any EPA employee who performs any function or duty under the Act and who has any known financial interests in any person who is subject to regulation by the Act or who is applying for or receiving financial assistance under the Act. The Administrator may exempt specific positions of a regulatory and nonpolicymaking nature from the filing requirement.

The first such statement is to be filed on October 1, 1977, and annually thereafter. These statements are to be available to the public. The Administrator is required to report to Congress on disclosures and actions taken in regard thereto during the preceding calendar year beginning June 1, 1978, and annually thereafter.

Any officer or employee who knowingly violates this section is subject to a fine of up to $2,500, or imprisonment of up to one year, or both.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision. The conferees determined that financial disclosure requirements would be more appropriately dealt with in general legislation applicable to all Federal agencies.

RULE AND REGULATION REVIEW

House bill

Section 19 provides that either House of Congress may, by resolution, disapprove, in whole or in part, any administrative rule or regulation issued under the authority of the Federal Water Pollution Control Act.

Any rule or regulation adopted by an agency or department under the authority of this Act would be transmitted to Congress. During a period of 60 calendar days while Congress is in session, either body could adopt a resolution which would result in the disapproval of that rule or regulation.

Congressional inaction on or rejection of such a resolution, is not to be considered an expression of approval of the rule or regulation.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

JUDICIAL REVIEW

House bill

Section 18 amends section 509(b)(1) of the Act regarding the judicial review of actions by the Administrator. Section 18 also adds two items for which a review of actions by the Administrator may be had in the Court of Appeals.

A new item (H) is added to section 509(b)(1) to provide that the decision of the Administrator to approve a State certification program pursuant to section (b) of the new subsection 214 of the Act, may be reviewed by the Circuit Court of Appeals for the United States for the Federal Judicial District in which a person seeking review resides or transacts business.

Also a new item (G) is added to section 509(b)(1) to expressly provide for review of the Administrator's actions in promulgating or revising regulations, providing guidelines for effluent limitations, under section 304(b) of the Act by any interested person in the Circuit Court of Appeals of the United States for Federal Judicial District in which such person resides or transacts such business.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision These provisions were omitted as unnecessary.

REGULATION OF DETERGENTS IN GREAT LAKES REGION

House bill

No comparable provision.

Senate amendment

This amendment contains two major provisions.

One, it creates a series of limitations for the amount of phosphates contained in laundry detergents, dishwashing compounds, and water conditioners sold within the eight Great Lakes Basin States.

Two, it calls upon the Environmental Protection Agency to undertake a study to determine whether a national phosphate limitations program should be enacted by Congress.

Specifically, this amendment establishes a 0.5 percent by weight limitation on the amount of phosphorus contained in laundry detergents, an 8.7 percent by weight limitation on the amount of phosphates contained in commercial and household dishwashing compounds, and a 20 percent by weight limitation on the amount of phosphorus contained in water conditioners sold within the Great Lakes Basin States. These limitations would take effect 6 months after the date of enactment of this Act. In addition, this amendment directs the EPA to conduct a study to determine the economic feasibility and environmental desirability of extending this limitation program to the rest of the Nation. A report and recommendations for further action is due within 6 months.

It provides for one uniform performance standard for all the Great Lakes States—Wisconsin, Minnesota, Michigan, Illinois, Ohio, Indiana, Pennsylvania, and New York.

Conference substitute

No comparable provision.

STUDY OF INDUSTRIAL DISPOSAL OF COMPATIBLE POLLUTANTS INTO THE MARINE ENVIRONMENT

It has been stated that some Virgin Islands and Puerto Rico rum distillers might safely dispose of certain natural wastes untreated into the marine environment. In response to these statements, the conferees direct the Administrator to conduct a study, to be completed by January 1979, to ascertain if there is merit in this argument and if disposal can be environmentally acceptable or even possibly beneficial. In this study the Administrator should specifically examine geographical, hydrological and biological characteristics of marine waters receiving such wastes to determine if the discharge can be environmentally acceptable either for the purpose of acquaculture or some other purpose. In addition, the study should examine technologies which might be used in these industries to facilitate the utilization of the valuable nutrients in these wastes or the reduction in discharge to the marine environment.

WATER TREATMENT CONTRACTING AND BID SHOPPING

Information was received that section 204(a)(6) of the 1972 Act which provides that no bids for equipment for treatment works may specify particular brand names, has been interpreted in current regulations in a way which requires acceptance of the low-dollar treatment equipment bid in practically all circumstances. Also, there is concern that post-contract bid shopping for lower-tier equipment suppliers by successful bidders for grantee construction contracts has increased.

Information on potential problems posed by post bid-shopping and the emphasis on low dollar bid, has also been presented to the Environmental Protection Agency by concerned equipment suppliers. The conferees direct the Administrator to review implementation of the section 204(a)(6) provisions to determine if any modifications of regulation or law may be necessary or appropriate. The Administrator is expected to include in the review an evaluation of whether or not principal subcontractors and equipment suppliers should be named in bid submissions for treatment works. The Administrator shall submit this report to Congress within 3 months after enactment of this Act. The Administrator should include an outline of any proposed actions, together with recommendations for any necessary legislation.

Harold T. Johnson,
Ray Roberts,
Glenn M. Anderson,
Robert A. Roe,
John Breaux,
Bo Ginn,
James L. Oberstar,
Henry J. Nowak,
Bob Stump,
W. H. Harsha,
James C. Cleveland,
Don H. Clausen,
Gene Snyder,
Managers on the Part of the House.

Jennings Randolph,
Edmund S. Muskie,
Mike Gravel,
Quentin Burdick,
John Culver,
Gary Hart,
Wendell R. Anderson,
Robert T. Stafford,
John H. Chafee,
Malcolm Wallop,
James A. McClure,
Pete V. Domenici,
Howard Baker,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 305, FOREIGN CORRUPT PRACTICES

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-831)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—FOREIGN CORRUPT PRACTICES

SHORT TITLE

SEC. 101. This title may be cited as the "Foreign Corrupt Practices Act of 1977".

ACCOUNTING STANDARDS

SEC. 102. Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)) is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

"(A) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

"(B) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—

"(i) transactions are executed in accordance with management's general or specific authorization;

"(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets;

"(iii) access to assets is permitted only in accordance with management's general or specific authorization; and

"(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

"(3)(A) With respect to matters concerning the national security of the United States, no duty or liability under paragraph (2) of this subsection shall be imposed upon any person acting in cooperation with the head of any Federal department or agency responsible for such matters if such act in cooperation with such head of a department or agency was done upon the specific, written directives of the head of such department or agency pursuant to Presidential authority to issue such directives. Each directive issued under this paragraph shall set forth the specific facts and circumstances with respect to which the provisions of this paragraph are to be invoked. Each such directive shall, unless renewed in writing, expire one year after the debate of issuance.

"(B) Each head of a Federal department or agency of the United States who issues a directive pursuant to this paragraph shall maintain a complete file of all such directives and shall, on October 1 of each year, transmit a summary of matters covered by such directives in force at any time during the previous year to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.".

FOREIGN CORRUPT PRACTICES BY ISSUERS

SEC. 103. (a) The Securities Exchange Act of 1934 is amended by inserting after section 30 the following new section:

"FOREIGN CORRUPT PRACTICES BY ISSUERS

"SEC. 30A. (a) It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title, or which is required to file reports under section 15(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A) influencing any act or decision of such foreign official in his official capacity, including a decision to fail to perform his official functions; or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A) influencing any act or decision of such party, official, or candidate in its or his official capacity, including a decision to fail to perform its or his official functions; or

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to effect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business, to any person; or

"(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions; or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) As used in this section, the term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government or department, agency, or instrumentality. Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.".

(b) (1) Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended by inserting "(other than section 30A)" immediately after "title" the first place it appears.

(2) Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended by adding at the end thereof the following new subsection:

"(c) (1) Any issuer which violates section 30A(a) of this title shall, upon conviction, be fined not more than $1,000,000.

"(2) Any officer or director of an issuer, or any stockholder acting on behalf of such issuer, who willfully violates section 30A (a) of this title shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

"(3) Whenever an issuer is found to have violated section 30A(a) of this title, any employee or agent of such issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder of such issuer), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

"(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, stockholder, employee, or agent of an issuer, such fine shall not be paid, directly or indirectly, by such issuer.".

FOREIGN CORRUPT PRACTICE BY DOMESTIC CONCERNS

SEC. 104. (a) It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, or any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

(1) any foreign official for purposes of—

(A) influencing any act or decision of such foreign official in his official capacity, including a decision to fail to perform his official functions; or

(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

(A) influencing any act or decision of such party, official, or candidate in its or his official capacity, including a decision to fail to perform its or his official functions; or

(B) including such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

(A) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions; or

(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person.

(b)(1)(A) Except as provided in subparagraph (B), any domestic concern which violates subsection (a) shall, upon conviction, be fined not more than $1,000,000.

(B) Any individual who is a domestic concern and who willfully violates subsection (a) shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(2) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(3) Whenever a domestic concern is found to have violated subsection (a) of this section, any employee or agent of such domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, stockholder, employee, or agent of a domestic concern, such fine shall not be paid, directly or indirectly, by such domestic concern.

(c) Whenever it appears to the Attorney General that any domestic concern, or officer, director, employee, agent, or stockholder thereof, is engaged, or is about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing a permanent or temporary injunction or a temporary restraining order shall be granted without bond.

(d) As used in this section:

(1) The term "domestic concern" means (A) any individual who is a citizen, national, or resident of the United States; or (B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship, which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

(2) The term "foreign official" means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality. Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.

(3) The term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof. Such term includes the intrastate use of (A) a telephone or other interstate means of communication, or (B) any other interstate instrumentality.

TITLE II—DISCLOSURE

Sec. 201. This title may be cited as the "Domestic and Foreign Investment Improved Disclosure Act of 1977".

Sec. 202. Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended to read as follows:

"(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations, prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) the background, and identity, residence, and citizenship of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

"(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and citizenship of each such associate; and

"(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.".

Sec. 203. Section 13 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78m), is amended by adding at the end thereof the following new subsection:

"(g)(1) Any person who is directly or indirectly the beneficial owner of more than 5 per centum of any security of a class described in subsection (d)(1) of this section shall send to the issuer of the security and shall file with the Commission a statement setting forth, in such form and at such time as the Commission may, by rule, prescribe—

"(A) such person's identity, residence, and citizenship; and

"(B) the number and description of the shares in which such person has an interest and the nature of such interest.

"(2) If any material change occurs in the facts set forth in the statement sent to the issuer and filed with the Commission, an amendment shall be transmitted to the issuer and shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a 'person' for the purposes of this subsection.

"(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

"(5) In exercising its authority under this subsection, the Commission shall take such steps as it deems necessary or appropriate in the public interest or for the protection of investors (A) to achieve centralized reporting of information regarding ownership, (B) to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report, and (C) to tabulate and promptly make available the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State agencies and the public.

"(6) The Commission may, by rule or order, exempt, in whole or in part, any person or class of persons from any or all of the reporting requirements of this subsection as it deems necessary or appropriate in the public interest or for the protection of investors.

"(h) The Commission shall report to the Congress within thirty months of the date of enactment of this subsection with respect to (1) the effectiveness of the ownership reporting requirements contained in this title, and (2) the desirability and the feasibility of reducing or otherwise modifying the 5 per centum threshold used in subsections (d)(1) and (g)(1) of this section, giving appropriate consideration to—

"(A) the incidence of avoidance of reporting by beneficial owners using multiple holders of record;

"(B) the cost of compliance to persons required to report;

"(C) the cost to issuers and others of processing and disseminating the reported information;

"(D) the effect of such action on the securities markets, including the system for the clearance and settlement of securities transactions;

"(E) the benefits to investors and to the public;

"(F) any bona fide interests of individuals in the privacy of their financial affairs:

"(G) the extent to which such reported information gives or would give any person an undue advantage in connection with activities subject to sections 13(d) and 14(d) of this title;

"(H) the need for such information in connection with the administration and enforcement of this tile; and

"(I) such other matters as the Commission may deem relevant, including the information obtained pursuant to section 13(f) of this title.".

Sec. 204. Section 15(d) of the Securities

Exchange Act of 1934 is amended by inserting immediately before the last sentence the following new sentence: "The Commission may, for the purpose of this subsection, define by rules and regulations the term 'held of record' as it deems necessary or appropriate in the public interest or for the protection of investors in order to prevent circumvention of the provisions of this subsection.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the amendment of the House, amend the title to read as follows: "An Act to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such Act or an issuer required to file reports pursuant to section 15(d) of such Act to make certain payments to foreign officials and other foreign persons, to require such issuers to maintain accurate records, and for other purposes."

And the House agree to the same.

HARLEY O. STAGGERS,
BOB ECKHARDT,
RALPH H. METCALFE,
ROBERT KRUEGER,
CHARLES J. CARNEY,
SAM DEVINE,
JIM BROYHILL,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON A. WILLIAMS, Jr.,
EDWARD W. BROOKE,
JOHN TOWER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

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3. Payments to officials:
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A. CORPORATE BRIBERY OF FOREIGN OFFICIALS

1. Title of the act—Foreign Corrupt Practices Act

The Senate bill established the title of Title I of the Act as the "Foreign Corrupt Practices Act of 1977".

The House amendment established the title of the Act as the "Unlawful Corporate Payments Act of 1977".

The House receded to the Senate.

2. Accounting

a. Integrity of Accounting Records and Reports

The Senate bill contained a provision which required issuers subject to the jurisdiction of the Securities and Exchange Commission (the "SEC") to make and keep books, records, and accounts which accurately and fairly reflect the transactions and dispositions of the assets of the issuer.

The House amendment contained no provision.

The House receded to the Senate with an amendment requiring such books, records and accounts to be made and maintained accurately and fairly "in reasonable detail". The conference committee adopted the "in reasonable detail" qualification to the accurate and fair requirement in light of the concern that such a standard, if unqualified, might connote a degree of exactitude and precision which is unrealistic. The amendment makes clear that the issuer's records should reflect transactions in conformity with accepted methods of recording economic events and effectively prevent off-the-books slush funds and payments of bribes.

b. Systems of Accounting Controls

The Senate bill contained a provision requiring issuers to devise and maintain adequate systems of internal accounting controls sufficient to provide reasonable assurances that, among other things, transactions are recorded as necessary to maintain accountability for assets.

The House amendment contained no provision.

The House receded to the Senate with an amendment deleting the word "adequate". Since the precise requirements of the system of internal accounting controls to be maintained by the issuer are set forth in specific terms in the statute, the term adequate was deemed superfluous.

c. Prohibition on Falsification of Books and Records; False Statements to Accountants

The Senate bill contained provisions to make it unlawful for (1) any person knowingly to falsify any book, record, or account required to be made for any accounting purpose, and (2) any person knowingly to make a materially false or misleading statement or to omit to state or cause another person to omit any material fact necessary in order to make statements to an accountant not misleading.

The House amendment contained no comparable provisions because the SEC had already published for comment rules designed to accomplish similar objectives under its existing authority.

The Senate receded to the House. Although these provisions were supportive of the basic accounting section, the use of the "knowingly" standard has become involved in an issue never intended to be raised or resolved by the Senate bill—namely, whether or not the inclusion or deletion of the word "knowingly" would or would not affirm, expand, or overrule the decision of the Supreme Court in *Ernst & Ernst* v. *Hochfelder* (425 U.S. 185). As stated clearly in the Committee Report on S. 305, these provisions were to be severable from the rest of the securities laws.

Under the circumstances, the conferees determined the best method of proceeding was to retain only new section 13(b)(2) of the Securities Exchange Act of 1934. The conferees further decided that this legislation should not be converted into a debate on the important issues raised by the *Hochfelder* decision.

In deleting the Senate provisions, the conferees intend that no inference should be drawn with respect to any rulemaking authority the SEC may or may not have under the securities laws.

d. National Security

The Senate bill contained provisions which excluded from any duty or liability under paragraph (2) any person acting in cooperation with and at the specific written directive of any Federal agency or department responsible for matters concerning national security. Such directives were to be executed with specificity and to expire annually unless renewed in writing. The President of the United States was directed to review such directives annually and to certify that such directives involved classified information and were in conformity to applicable statutes and Executive orders.

The House amendment contained no provision.

The House receded to the Senate with an amendment. The amendment required that each directive be issued only pursuant to Presidential authority to issue such directives.

In addition, the amendment provides that a summary of all such directives shall be submitted annually to the appropriate intelligence oversight committees.

The conferees intend to make clear, as set forth in the Senate provision, that the only matters to be excluded from the requirements of paragraph (2) are those which would result, or would be likely to result, in the disclosure of information which has been classified by the appropriate department or agency for protection in the interests of the national security and then only to the extent that such information is specifically related to the person's lawful cooperation.

3. Payments to officials

a. Prohibitions Against Certain Payments to Foreign Officials by Issuers Subject to SEC Jurisdiction

The Senate bill amended the Securities Exchange Act of 1934 (the "Exchange Act") to prohibit the corrupt use of the mails or other means of interstate commerce by any issuer of securities registered with the SEC pursuant to section 12(b) or required to file reports pursuant to section 15(d) of the Exchange Act as well as any officer, director, employee or stockholder acting on behalf of the issuer, in furtherance of an offer, payment, promise to pay, or authorization of the payment of money or anything else of value to any official of a foreign government or instrumentality thereof, any foreign political party, any candidate for foreign political office, or any other person which the issuer knows or has reason to know will make such offer, promise or gift. The scope of the prohibition was limited by the requirement that the offer, promise, authorization, payment, or gift must have as a purpose inducing the recipient to use his influence with the foreign government or any instrumentality, influencing the enactment or promulgation of legislation or regulations of that government or instrumentality or refraining from performing any official responsibilities, so as to direct business to any person, maintain an established business opportunity with any person or divert a business opportunity from any person.

The House amendment was similar to the Senate bill; however, the scope of the House amendment was not limited by the "business purpose" test, nor did it contain the "in furtherance of" requirement.

The conference substitute includes provisions found in both the Senate bill and the House amendment. In section 30A(a), the conferees adopted the identical provisions of both bills with the addition of the Senate "in furtherance of" language. The conference substitute prohibits corporations subject to SEC jurisdiction from making corrupt use of the mails or other means of interstate commerce in furtherance of an offer, payment, promise to pay or authorization of payment of anything of value to any foreign official, foreign political party, candidate for foreign political office or any other person which the issuer knows or has reason to know will make such offer, promise or payment. The adoption of the Senate "in furtherance of" language makes clear that the use of interstate commerce need only be in furtherance of making the corrupt payment.

By incorporating provisions from both bills, the conferees clarified the scope of the prohibition by requiring that the purpose of the payment must be to influence any act or decision of a foreign official (including a decision not to act) or to induce such official to use his influence to affect a government act or decision so as to assist an issuer in obtaining, retaining or directing business to any person.

1. *Definitions.*—The Senate bill contained no definitional section.

The House amendment defined the terms "control" and "foreign official". "Control" was defined as the power to exercise a controlling influence over the management or policies of an issuer. Any person who owned beneficially, either directly or through one or more controlled issuers, more than 50 percent of the voting securities of an issuer, was presumed to control such issuer and any person who did not own more than 50 percent of the voting securities of an issuer was presumed not to have such control.

"Foreign official" was defined to mean any officer or employee of a foreign government or any department, agency or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government, department, agency, or instrumentality. The term did not include employees whose duties were primarily ministerial or clerical.

The Senate receded to the House concerning the definition of "foreign official" and the House receded to the Senate concerning the definition of "control."

2. *Penalties.*—The Senate bill provided fines of not more than $500,000 for willful violations by issuers and penalties of up to $10,000 and/or 5 years imprisonment for willful violations by any officer, director, employee or shareholder thereof.

The House amendment provided a fine of not more than $1 million for knowing and willful violations by an issuer. Penalties for knowing and willful violations by officers, directors, agents, or natural persons in control of any issuer were similar to those provided in the Senate bill. However, an agent's liability was predicated upon a finding that the issuer violated the section. Finally, the House amendment prohibited an issuer from paying either directly or indirectly any fine imposed under this section upon any officer, director, agent or natural person in control of such issuer.

The conference substitute adopts the maximum corporate penalty in the House amendment and the penalties applicable to officers, directors, employees, and stockholders acting on behalf of the issuer as provided in the Senate bill. The conference substitute incorporates the "agent" provisions of the House amendment. To provide additional protection for agents and employees, the conference substitute predicates an employee's or agent's liability upon a finding that the issuer has violated the section. As in the House amendment, the conference substitute prohibits an issuer from paying, either directly or indirectly, any fine imposed upon any individual under this section.

b. Prohibition against certain payments to foreign officials by domestic concerns

Both the Senate bill and the House amendment applied their respective prohibitions and penalties from the previous sections to domestic concerns other than those subject to SEC jurisdiction.

The conference substitute parallels the agreement reached by the conferees with respect to the provisions governing issuers.

1. *Definitions.*—The Senate bill defined several terms used in this section. "Domestic concern" is defined as an individual who is a citizen or national of the United States as well as any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States and which has its principal place of business in the United States or which is organized under the laws of a State or any territory, possession or commonwealth of the United States.

The Senate bill restated the definition of interstate commerce in the Securities Exchange Act of 1934.

The House amendment defined the terms "control" and "foreign official" as previously discussed. In addition, the House amendment defined the term "domestic concern" as any corporation, partnership, association, joint-stock company, business trust, unincorporated organization or sole proprietorship (1) which is owned or controlled by individuals who are citizens or nationals of the United States, (2) which has its principal place of business in the United States, or (3) which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States. The House amendment extended the coverage of the section to U.S. controlled foreign subsidiaries.

The Senate receded to the House concerning the definition of "foreign official." The House receded to the Senate concerning the definition of control. The House receded to the Senate in the definition of "domestic concern" with an amendment to make clear that any company having a principal place of business in the United States would be subject to the bill.

In receding to the Senate, the conferees recognized the inherent jurisdictional, enforcement, and diplomatic difficulties raised by the inclusion of foreign subsidiaries of U.S. companies in the direct prohibitions of the bill. However, the conferees intend to make clear that any issuer or domestic concern which engages in bribery of foreign officials indirectly through any other person or entity would itself be liable under the bill. The conferees recognized that such jurisdictional, enforcement, and diplomatic difficulties may not be present in the case of individuals who are U.S. citizens, nationals, or residents. Therefore, individuals other than those specifically covered by the bill (*e.g.*, officers, directors, employees, agents, or stockholders acting on behalf of an issuer or domestic concern) will be liable when they act in relation to the affairs of any foreign subsidiary of an issuer or domestic concern if they are citizens, nationals, or residents of the United States. In addition, the conferees determined that foreign nationals or residents otherwise under the jurisdiction of the United States would be covered by the bill in circumstances where an issuer or domestic concern engaged in conduct proscribed by the bill.

2. *Department of Justice injunctive power.*—The House amendment authorized the Department of Justice to enforce violations of the bill by domestic concerns through civil injunctions.

The Senate bill contained no provision. The Senate receded to the House.

B. DISCLOSURE

Title II of the Senate bill, entitled "The Domestic and Foreign Investment Improved Disclosure Act of 1977", amended the ownership disclosure and reporting requirements of the Securities Exchange Act of 1934. The House amendment contained no similar provisions.

The House receded to the Senate with an amendment to new section 13(g). The purpose of the amendment is twofold. First, the amendment deleted section 13(g)(1)(C) to make clear that the SEC may not require extensive historical ownership and transaction information. Second, the amendment deleted section 13(g)(1)(D) while the Conferees agreed was unnecessary in view of the Commission's general grant of rulemaking authority under section 13(g).

HARLEY O. STAGGERS,
BOB ECKHARDT,
RALPH H. METCALFE,
ROBERT KRUEGER,
CHARLES J. CARNEY,
SAM DEVINE,
JIM BROYHILL,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON A. WILLIAMS, Jr.,
EDWARD W. BROOKE,
JOHN TOWER,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 3722, AUTHORIZING APPROPRIATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION FOR FISCAL YEAR 1978

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978:

CONFERENCE REPORT (H. REPT. No. 95-832)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) in the first sentence thereof, by striking out "and not to exceed" and inserting in lieu thereof a comma;

(2) by inserting immediately before the period at the end of the first sentence thereof the following: ", and $63,750,000 for the fiscal year ending September 30, 1978"; and

(3) in the last sentence thereof, by striking

out "the 1977 fiscal year" and inserting in lieu thereof "fiscal year 1978".

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the House bill.

HARLEY O. STAGGERS,
BOB ECKHARDT,
RALPH H. METCALFE,
ROBERT KRUEGER,
CHARLES J. CARNEY,
SAM DEVINE,
JIM BROYHILL,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON A. WILLIAMS, Jr.,
EDWARD W. BROOKE,
JOHN TOWER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The House bill authorized $67 million for the Securities and Exchange Commission ("Commission") for the fiscal year 1978.

The Senate amendment authorized $58,290,000.

The conference substitute adopts a figure of $63,750,000 for the Commission budget authorization for the fiscal year 1978.

HARLEY O. STAGGERS,
BOB ECKHARDT,
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ROBERT KRUEGER,
CHARLES J. CARNEY,
SAM DEVINE,
JIM BROYHILL,
Managers on the Part of the House.

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HARRISON A. WILLIAMS, Jr.,
EDWARD W. BROOKE,
JOHN TOWER,
Managers on the Part of the Senate.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 662. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes.

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, a longstanding commitment to discuss pending health legislation forced me to miss a number of rollcall votes before the recess. Had I been present on Thursday, November 3 for rollcall No. 739, the Mahon motion that the House agree to the Senate abortion language, I would have voted "yes." I would also have voted "yes" on House Resolution 892, rollcall No. 740, the rule under which the continuing appropriations resolution was considered.

On Friday, November 4, I would have voted "yes" on rollcall No. 742, approval of the November 3 Journal.

On Tuesday, December 6, I would have voted "yes" on rollcall No. 762, the rule on the HEW appropriation.

RESOLUTION OFFERED BY MR. COLLINS OF TEXAS CONCERNING TAKING OF NOTES FROM COMMITTEE RECORDS

Mr. COLLINS of Texas. Mr. Speaker, I rise to a question of the privileges of the House and offer a resolution, which I ask to have the Clerk report.

The Clerk read the resolution, as follows:

Whereas, because of a ruling by the Chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce that Members could not take such notes as they chose of non-classified documents in Subcommittee files, Members have been effectively denied their right of access to such records under Rule XI 2. (e) cl. 2 of the Rules of the House of Representatives; and

Whereas, this is a matter affecting the rights of all Members of the House of Representatives; and

Whereas, this is a matter affecting the dignity and integrity of the proceedings of the House of Representatives.

Resolved, That Members of the House of Representatives are entitled to free and complete access of the records, data, charts, and files of the Committee and Subcommittees upon which they serve and shall be entitled to take personal notes with regard to any non-classified material contained in such records, data, charts, and files in order to allow the Member to conduct his legitimate legislative business and for his personal files.

POINT OF ORDER

Mr. SANTINI. Mr. Speaker, I make a point of order that the gentleman does not present a question of privilege.

The SPEAKER. The gentleman will state his point of order.

Mr. SANTINI. Mr. Speaker, the resolution just offered would modify clause 2(e) (2) of rule XI of the rules of the House. As such, the gentleman's resolution does not present a question of privilege under rule IX. (I cite Speaker Cannon sustained by the House by a vote of 235 to 53, Volume VIII, at page 3377.) A Member may not by raising a question of the privileges of the House thereby attach privilege to a question not otherwise in order under the rules of the House. (I cite Speaker Albert, June 27, 1974, page 21596; July 31, 1975.

The SPEAKER. Does the gentleman from Texas desire to be heard?

Mr. COLLINS of Texas. Yes, Mr. Speaker.

Rule IX of the Rules of the House and the precedents of the House make it clear that a question of what constitutes a question of the privilege of the House. It must affect the House collectively and not Members individually.

The issue that I raise today does not affect me alone, but applies to all Members of the House. Every Member is affected by my resolution for it deals with the rights of all Members with respect to access to committee and subcommittee records.

Second, rule IX clearly provides that a question of the privilege of the House is one that affects the safety, dignity, and integrity of our proceedings.

My resolution affects all those.

Mr. SANTINI. Mr. Speaker, any change affecting the rules of the House affects every Member of the body. The gentleman is seeking to do indirectly what the gentleman could not do directly.

The SPEAKER. The Chair is ready to rule. The Chair thanks the gentleman for informing the Chair that the gentleman was filing the resolution.

The gentleman from Nevada makes the point of order that the resolution offered by the gentleman from Texas (Mr. COLLINS) does not present a question of the privileges of the House under rule IX.

The resolution provides that all Members of the House are entitled, under clause 2(e) (2) of rule XI to take personal notes with regard to any nonclassified material contained in committee or subcommittee records, data, charts, and files and to incorporate those notes in their personal files.

While clause 2(e) (2) of rule XI grants Members access to all committee files, charts, records, and data, whether they are executive session materials or not, that rule has been interpreted merely to permit Members to examine such records in committee rooms, and not to take copies or otherwise divulge the contents of executive session materials which have not been released or made public by the committee or subcommittee (Speaker Rayburn, August 14, 1957; June 3, 1960). Clause 2(e) (2) also requires all committee files to be kept separate from the congressional office records of the Member serving as chairman of the committee (and implicity separate from the congressional office records of all other Members).

In the opinion of the Chair, the resolution offered by the gentleman from Texas constitutes an attempt to change the meaning of the term "access" in clause 2(e) (2) of rule XI as that term has been interpreted by Speakers of this House. The precedents indicate that it is not in order under the guise of a resolution offered under rule IX to raise as a question of the privilege of the House an issue which is merely an attempt to change the rules of the House (Speaker Albert, June 17, 1974; July 31, 1975). In reaching this decision, the Chair is not being called upon, nor does he take this occasion, to comment upon the interpretations of the "access rule" made by the subcommittee in question or by its chairman.

The Chair is merely ruling that the resolution offered by the gentleman from Texas does not present a question of the privileges of the House under rule IX. The Chair, therefore, sustains the point of order.

SUPPORT FOR RURAL NIGHTTIME RADIO SERVICE GROWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

Mr. FINDLEY. Mr. Speaker, today I am reintroducing House Resolution 637 with additional cosponsors. The total number of Congressmen who have introduced this resolution has now grown to 55. The purpose of this resolution is to urge the Federal Communications Commission, in the strongest terms possible, to maximize meaningful local nighttime radio service, particularly in the Nation's vast rural areas. The resolution also states that the Commission should not permit operation of standard broadcast stations in excess of 50,000 watts, which is the current maximum power for a radio station.

The reason this is so important is that, presently, approximately 30 percent of the population of this country does not have a local radio station to listen to at night. This is so because the vast majority of radio stations in this country are crowded onto a relatively few channels while a handful of the largest stations serving some of the big cities are assigned the preferred "clear channels" for fulltime use. Under FCC rules, any small station on a clear channel must quit broadcasting at sunset each evening, even though the small station would cause no detectable interference to the listeners of the dominant station if it were permitted to stay on the air at night. There is neither rhyme nor reason behind this FCC rule which deprives millions of Americans of their fair share of a valuable national resource—our Nation's airwaves.

The wide disparity between the number of stations assigned to the preferred clear channels and the regional and local channels is made abundantly clear in the following chart. In some cases, more than 170 small stations have been crowded onto one channel, while in others, only one or two stations are assigned to the "clears." Over the last half century, the FCC has allowed radio station assignments on some channels to grow like topsy, while permitting no growth whatsoever on other channels. It is time to change that policy. It is time to assure that all Americans have the same ability to listen to their local radio station each evening. If the FCC fails to bring a measure of equity into the situation, then Congress should act.

A chart and a list of cosponsors follow:

DAYTIME BROADCASTERS ASSOCIATION

Frequency (kilohertz)	Channel	Class	Full time	Day-time	Total
1600	Regional	III	23	50	73
1590	Regional	III	23	51	74
1580	Canadian	Clear	5	59	64
1570	Mexican	Clear	0	71	71
1560	Cuban	Clear	7	44	51
1550	Mexican	Clear	10	58	68
1540	Bahamian	Clear	6	42	48
1530	United States 1-B	Clear	4	39	43
1520	United States 1-B	Clear	8	37	45
1510	United States 1-B	Clear	7	41	48
1500	United States 1-B	Clear	8	31	39
1490	Local	IV	170	0	170
1480	Regional	III	25	45	70
1470	Regional	III	20	47	67
1460	Regional	III	23	40	63
1450	Local	IV	176	0	176
1440	Regional	III	29	32	61
1430	Regional	III	24	41	65
1420	Regional	III	22	40	62
1410	Regional	III	23	41	64
1400	Local	IV	170	0	170
1390	Regional	III	24	33	57
1380	Regional	III	30	38	68
1370	Regional	III	19	46	65
1360	Regional	III	24	47	71
1350	Regional	III	17	43	60
1340	Local	IV	172	0	172
1330	Regional	III	22	37	59
1320	Regional	III	24	36	60
1310	Regional	III	27	37	64
1300	Regional	III	24	40	64
1290	Regional	III	25	36	61
1280	Regional	III	25	35	60
1270	Regional	III	24	38	62
1260	Regional	III	24	42	66
1250	Regional	III	15	40	55
1240	Local	IV	151	0	151
1230	Local	IV	171	0	171
1220	Mexican	Clear	1	50	51
1210	United States 1-A	Clear	1	50	51
1210	United States 1-A	Clear	4	4	8
1200	United States 1-A	Clear	1	0	1
1190	United States and Mexico	Clear	7	19	26
1180	United States 1-A	Clear	2	1	3
1170	United States 1-B	Clear	10	13	23
1160	United States 1-A	Clear	2	1	3
1150	Regional	III	24	36	60
1140	United States and Mexico	Clear	6	17	23
1130	United States and Canada	Clear	9	20	29
1120	United States 1-A	Clear	3	3	6
1110	United States 1-B	Clear	6	28	34
1100	United States 1-A	Clear	3	3	6
1090	United States and Mexico	Clear	5	28	33
1080	United States 1-B	Clear	9	22	31
1070	United States and Canada	Clear	15	8	23
1060	United States and Mexico	Clear	5	27	32
1050	Mexican	Clear	1	50	51
1040	United States 1-A	Clear	2	1	3
1030	United States 1-A	Clear	4	0	4
1020	United States 1-A	Clear	3	2	5
1010	Canadian and Cuban	Clear	9	28	37
1000	United States and Mexico	Clear	4	26	30
990	Canadian	Clear	10	32	42
980	Regional	III	14	36	50
970	Regional	III	25	27	52
960	Regional	III	21	21	42
950	Regional	III	23	23	46
940	Canadian and Mexican	Clear	12	22	34
930	Regional	III	23	24	47
920	Regional	III	27	21	48
910	Regional	III	27	19	46
900	Mexican	Clear	1	42	43
890	United States 1-A	Clear	1	2	3
880	United States 1-A	Clear	2	2	4
870	United States 1-A	Clear	3	6	9
860	Canadian	Clear	4	29	33
850	United States 1-B	Clear	18	9	27
840	United States 1-A	Clear	1	4	5
830	United States 1-A	Clear	2	2	4
820	United States 1-A	C.ear	1	3	4
810	United States 1-B	Clear	5	16	21
800	Mexican	Clear	1	31	32
790	Regional	III	23	18	41
780	United States 1-A	Clear	3	5	8
770	United States 1-A	Clear	4	3	7
760	United States 1-A	Clear	4	1	5
750	United States 1-A	Clear	3	5	8
740	Canadian	Clear	8	20	28
730	Mexican	Clear	0	30	30
720	United States 1-A	Clear	4	0	4
710	United States 1-B	Clear	12	8	20
700	United States 1-A	Clear	2	0	2
690	Canadian	Clear	7	16	23
680	United States 1-B	Clear	14	6	20
670	United States 1-A	Clear	3	0	3
660	United States 1-A	Clear	2	3	5
650	United States 1-A	Clear	3	1	4
640	United States 1-A	Clear	1	3	4
630	Regional	III	14	13	27
620	Regional	III	18	5	23
610	Regional	III	18	5	23
600	Regional	III	17	10	27
590	Regional	III	23	4	27
580	Regional	III	18	8	26
570	Regional	III	15	5	20
560	Regional	III	18	5	23
550	Regional	III	21	3	24
540	Canadian-Mexican	Clear	3	11	14
Total			2, 215	2, 303	4, 518

Note: Data and information from Broadcasting 1977 Yearbook. Includes stations in Alaska, Hawaii, and Puerto Rico.

SPONSORS OF HOUSE RESOLUTION 637

Bill Alexander (Ark.)
L. A. (Skip) Bafalis (Fla.)
Berkley Bedell (Iowa)
David R. Bowen (Miss.)
Goodloe E. Byron (Md.)
John J. Cavanaugh (Nebr.)
Elford A. Cederberg (Mich.)
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Robert A. Roe (N.J.)
Harold Runnels (N. Mex.)
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PRIVILEGE OF THE HOUSE RESOLUTION MEMBERS RIGHTS TO COMMITTEE INFORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 60 minutes.

Mr. COLLINS of Texas. Mr. Speaker, the Speaker ruled against my resolution today to have the right of a minority member to be able to review and use committee information. The information that I sought was not secret, it was not classified, it was not proprietary, it was not subpenaed, it was not from an executive session, it was not a trade secret. It was basic, though, for us to use it to study and review the work of our Investigations Committee. It is so important because this is not just a subcommittee of the House; this is an investigation committee.

The effect of this ruling is that we in the minority do not have an opportunity to study the information that becomes available through the process of investigations. We have a 2-to-1 majority here in Congress of the Democratic Party. A member of that party is the President, and we who are in the minority are being excluded. I wonder how we can operate a democracy, how we can live in a republic, when the minority is not allowed to express itself.

Mr. Speaker, I serve as the ranking minority member of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce. In June 1975, our subcommittee began an investigation into the reliability of American Gas Association (AGA) reserve estimates in southern Louisiana. The focal point of the investigation was an effort to compare AGA reserve estimates with comparable reserve estimates made by natural gas producers.

On June 9, 1975, our subcommittee held a hearing during which there were allegations made that the company estimates were considerably higher than the AGA's. As a result our subcommittee subpenaed between 750,000 and 1,000,000 documents relating to reserve estimates from seven major natural gas producers and the AGA. All of the companies and the AGA complied with the subpenas.

In July 1975, the subcommittee staff with the help of General Accounting Office and U.S. Geological Survey personnel began to review these subpenaed documents for the purpose of actually comparing AGA estimates with company estimates.

Now in December of 1977, 2½ years after this investigation began, the Congress and the American people have received no information on the findings of this exhaustive analysis. This is in spite of the fact that in May 1976, the staff had completed its review and readied its conclusion.

I learned of the fact that there had been a conclusion reached only last month when I asked for and received the permission of the subcommittee chairman to review the committee's files on this investigation. I was advised by the subcommittee chairman that I could personally review this data, but my counsel on the subcommittee could not. The chairman also ruled that I could not disclose any of these materials.

During my review of the subcommittee's records I uncovered a memorandum from the subcommittee staff member in charge of the investigation to the subcommittees' chief counsel. This memorandum dated May 4, 1976, sets forth the conclusions of the subcommittee staff who reviewed and compared the data.

After then learning of the existence of this memorandum, and its contents, I requested that I be provided with a copy of this memorandum. The subcommittee chairman refused to provide me with a copy of it. The memorandum contains absolutely no proprietary nor classified material. It simply states the findings of the staff based upon their review of the various reserve estimates. The subcommittee chairman, based his ruling on a precedent established by Speaker Rayburn on August 14, 1957, in which he ruled that a committee member could not make copies of documents in committee files by using a photostate machine.

I have reviewed Speaker Rayburn's ruling and concluded that I could under that ruling gain access to the memorandum and make a handwritten copy of it. The subcommittee chairman, however, ruled this was not permitted by the rules of the House and Speaker Rayburn's 1957 ruling.

Mr. Speaker, rule X12(e)(2) provides that:

> All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the Congressional office records of the Member serving as Chairman of the Committee; and such records shall be the property of the House and all members shall have access thereto.

I believe that my legitimate right of access provides for me to make any and all handwritten records that I desire providing it is not classified or proprietary. How can I discuss this material with my counsel? How can I prepare my own summary statement?

On the question of disclosure of the contents of materials contained in the files, I could fully understand a rule that forbade disclosure of confidential, trade secret or proprietary information, but the May 4, 1976 staff memorandum which I seek contains no such information.

In that I have been denied the opportunity to acquire materials from the subcommittee files, I believe my rights under the rules have been abridged, and have asked the Speaker to rule on whether or not I am allowed under the rules of the House to be permitted to take full handwritten copies of materials in my subcommittee's files and, if so, what limitations do I have on the rights of freedom of information?

I would have thought that I would have had the support of my subcommittee chairman in my effort to apprise the Congress and the people of the results of this study, because he was the principal author of the famous Freedom of Information Act. During the debate on that legislation on June 20, 1966, he said the following:

> (1) "We must remove every barrier to information about—and understanding of Government activities. . . ."
>
> (2) "It is my hope that this fact (Freedom of Information Act) will be a moderating influence on those officials who on occasion have an almost proprietary attitude toward their own niche in Government."
>
> (3) "the subcommittee . . . has endeavored to build a greater awareness of the need to remove unjustifiable barriers to information . . ."
>
> (4) "We are simply attempting to enforce a basic public right—the right to access to Government information."

The facts are that I have received no such support from my subcommittee chairman because he has ruled that I not only cannot disclose nonclassified and nonproprietary data in the subcommittee's possession, but I cannot even have a copy of it for complete review.

I find the rulings of my subcommittee chairman to be strange, because he ruled in a totally different fashion on September 29, 1975. It was on this date that I questioned his public disclosure of a document from the subcommittee files without the approval of the subcommittee. The facts in this case are that on September 4, 1975, document was introduced into the record of executive sessions hearings concerning declining deliverability from Bastian Bay natural gas field as exhibit 4. This document was a Getty Oil Co. internal document entitled "Industry Outlook Series."

On September 25, 1975, without the approval of the subcommittee, the chairman introduced this very same document into the record of public hearings before the Subcommittee on Energy and Power. On September 29, 1975, I inquired of the chairman asking how could such a document be released without subcommittee approval? He ruled that the disclosure by him was not improper because he was honor bound to protect only subpenaed and executive session documents. It is true that the document in question was not subpenaed, but our subcommittee's hearing record of September 4, 1975, shows clearly that it was evidence in executive session.

I seek to have disclosed no executive session material nor subpenaed material as it is only a subcommittee staff memorandum containing no classified nor proprietary information.

Twice last year when I raised questions about the conclusions of this extensive subcommittee study, I was told that I would be seeing the results in the near future. The first time I raised the issue was on April 14, 1976, during the course of Federal Trade Commission oversight hearings. I was told by the presiding member that the subcommittee would "be publishing and releasing shortly a report" on this subject.

The second time last year, I raised the issue was in views that I filed to the subcommittee's report of October 1976, entitled "Federal Regulation and Regulatory Reform." The chairman of the subcommittee wrote additional views to this report responding to me on this issue. In his views, the subcommittee chairman said:

> The subcommittee will issue a comprehensive report on this subject as soon as possible.

These views were filed 5 months after the staff had readied its conclusions and, now in December 1977, I still have seen no report from the subcommittee.

The information that I am seeking to disclose is important for two very critical reasons. First, the Federal Trade Commission is conducting an exactly comparable investigation, but has acquired the documents that our subcommittee has had for the last 2½ years only within the past few months. If the FTC had the subcommittee's conclusions, they would see as I have seen that this investigation should be terminated without further action.

Second, the energy conferees are now considering natural gas legislation. The subcommittee's conclusion would greatly remove the cloud over AGA reserve estimates.

I would summarize four basic reasons why I am entitled to the privilege of having this information. I believe that any one of these four points merits the release of documents.

First. The document requested is not classified nor does it have any proprietary value.

Second. I need the full document to discuss in detail with my Counsel. I need to have the benefit of review by my community.

Third. To bring the results of our survey to the public could eliminate duplicate studies on this same material that are being made by other Federal agencies.

Fourth. Congress should not ask of the public what we do not ask of ourselves. Present law would provide this information immediately if these were not congressional internal papers.

FORMER SECRETARY OF DEFENSE MEL LAIRD WARNS AGAINST CONCEALING SOVIET VIOLATIONS OF SALT AGREEMENTS FROM THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, as important as the issue of the Panama Canal is, I believe a greater impact on American security is at stake in the outcome the administration is proposing in the forthcoming treaty and protocol on the limitation of strategic arms.

As one who favors a balanced and equitable SALT treaty, I believe the proposed SALT II agreements are now fundamentally unequal. They favor the Soviet Union to a degree which poses a direct and grave threat to our land-based American nuclear forces. They undermine the very essence of deterrence upon which our peace and freedom depend so heavily.

A great deal of extremely careful thought and analysis will be required to make sure that the treaty and protocol are balanced and equitable. Yet, it could come as a surprise to no one that U.S. negotiators are approaching this matter with a self-imposed impetus which could undercut that thought and analysis required to make sure the treaty and protocol are good measures. This is certainly no time for haste.

It is also no time for burying our heads in the sand about what true Soviet intentions are. Ascertaining those intentions does not have to be a guessing game. It can be fairly accurately surmised from what their actions have been with respect to the initial SALT agreements.

There was much speculation during the prior administration over the extent of Soviet violations of the SALT treaties and mutual understandings surrounding them. On more than one occasion, the administration rejected assertions that the Soviets were violating these agreements. I do not know for sure why officials within the administration denied them, but we now know—in light of a major article just released and written by former Secretary of Defense, Melvin R. Laird—that the American people had concealed from them an accurate account of Soviet violations.

The Laird thesis is this: Long withheld evidence proves that, by repeatedly violating the SALT I accords. the Soviets are posing a grave threat to U.S. security. It should also caution us about the present administration's approach to negotiating with the Soviets, one perhaps shown by the fact that on the day the Laird article was released to the press, showing the violations and the dangers of concealing them from the American people, the U.S. Department of State was issuing a communique saying that the five-year-old treaty restricting United States and Soviet antiballistic missile systems is operating effectively and "requires no amendment at this time."

The Laird article follows:

[From the Reader's Digest, December 1977]

ARMS CONTROL THE RUSSIANS ARE COMING!

(By Melvin R. Laird)

The United States took a calculated risk in 1972 by entering into strategic-arms-limitation treaties with the Soviet Union. When the accords were signed, the nuclear striking power of the two nations was roughly equal. We knew that if the Russians were permitted to violate these agreements, known popularly as SALT I, they well might gain a potentially disastrous military advantage over us. In testifying before Congress, I stressed the necessity of guarding against this danger. But we went ahead anyway, hoping that the Soviet Union would show good faith, slowing and eventually halting the nuclear-arms race that threatened the world with proliferation of ever more costly and deadly weapons.

As Secretary of Defense at that time, I felt that the prospective benefits of mutual cooperation justified our taking a chance. But today, five years later, I must report that our hopes have not been realized and that our worst fears are rapidly becoming reality. The evidence is incontrovertible that the Soviet Union has repeatedly, flagrantly and indeed contemptuously violated the treaties to which we have adhered.

This evidence has been withheld from the Congress, the press and the public. I believe there no longer is any excuse for denying the American people and their elected representatives facts whose suppression profits only our enemies. Let us consider the record.

TERMS OF AGREEMENT

The United States and the Soviet Union contracted by the 1972 accords to limit their land and sea missiles to the number then in place or under construction.[1] Both sides further agreed not to perfect and build extensive advanced missile defenses that could substantially nullify the other's striking force. Existing, obsolescent missiles could be replaced by modern models. However, the replacements could not appreciably exceed the size of those discarded.

We argued that—to guarantee that both nations abided by SALT I—each should open its territory to inspection teams from the other. The Russians adamantly rejected this approach. So the treaties specified that, to assure compliance, "each Party shall use national technical means of verification at its disposal." This meant that we would watch each other by means of satellite reconnaissance and electronic monitoring. The treaties also stipulated that "each Party undertakes not to interfere with the national technical means of verification of the other Party." Neither nation would resort to camouflage, deception or other action intended to disguise what it was doing.

The treaties were signed by President Nixon and Secretary Brezhnev in Moscow amid extravagant expectations. The next year, however, sophisticated U.S. monitoring equipment clearly showed that the Russians were testing a radar for use with an antiballistic-missile (ABM) system—in flagrant violation of explicit treaty provisions. When we privately protested, the Russians pretended ignorance. After they had performed more than a dozen radar tests specifically proscribed by the treaties (I alluded to these violations in a 1975 article[2]), the Russians finally halted the tests. But not until they had accomplished all the illegal research and development they desired.

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[1] Under SALT I, the total number of land-based intercontinental ballistic missiles and submarine-launched missiles allowed was: 1710 for the United States, and 2358 for the Soviet Union. The numerical superiority accorded the Russians was partially offset by our lead in intercontinental bombers, not covered by the treaties, and by the superior accuracy of our missiles.

Among some in the Ford Administration, evidently, the desire to see détente work was so intense that they sought to suppress—or at least minimize the significance of—intelligence revealing Soviet violations. When President Ford was asked at a press conference about the violations to which my article generally referred, he truthfully stated that he knew of no Soviet cheating. I promptly shared with him the intelligence that certainly should have been brought to his attention much earlier. Upon verifying what I had told him, the President offered to issue a correction of his press-conference statement. But such a public confirmation of disarray within the Administration would not have helped us in dealing with the Russians.

VIOLATIONS MOUNT

At the time, I hoped that through confidential negotiations the Soviet Union might still be induced to live up to its treaty commitments. But Soviet violations have increased progressively, in both number and seriousness:

The treaties prohibit the development, testing and deployment of any mobile components of an ABM system. Stationary weapons systems, unless artfully camouflaged, can in time be detected and counted through satellite photography. But it is very difficult to assess the overall capability of mobile systems moved stealthily about at night and hidden in forests. Thus, we have cause for concern upon learning, as we have, that the Russians have tested movable ABM radars in defiance of treaty pledges.

The Soviets have also emplaced around 110 urban areas the most formidable anti-aircraft defenses ever created, based upon thousands of surface-to-air SAM–5 missiles. Some U.S. intelligence experts have long feared that were the SAM–5 modified, then joined with appropriate computers and radars, it could be converted to shoot down missiles as well as aircraft. Because such a transformation would radically shift the balance of power, the SALT treaties expressly forbade any testing aimed at upgrading an anti-aircraft missile system into an ABM system. Nevertheless, on at least five occasions the Russians have made such tests. From their desert range at Kapustin Yar, north of the Caspian Sea, they have fired SAM–5s in an effort to test their capability to intercept missiles.

The Soviet Union is producing a new intercontinental ballistic missile, the SS–16, with the range and power to obliterate any U.S. city. Unlike our land-based missiles, the SS–16 is mobile, and the Russians have gone to extreme lengths to deny us knowledge of how many are being built and where they are being stationed. SS–16s have been transported from factories under cover of darkness and camouflaged in wooded areas. Sections of the Plesetsk range where they have been tested are cloaked in netting seldom penetrable by cameras.

Because of such concealment, we cannot be sure whether the Russians are producing SS–16s merely to replace older missiles, as the treaties allow, or to expand their missile force beyond the numbers permitted. But we are sure that by elaborate concealment they are deliberately interfering with our "national technical means of verification"—a flagrant violation of the treaties.

In further contempt of SALT I, the Soviets have sought to hide the capabilities of another new missile, the SS–20. As a missile undergoes tests, devices aboard measures every aspect of its performance and continuously transmit data by telemetry to ground stations. The Russians are aware that ordinarily we, too, can receive and analyze the telemetry from their tests, so they encrypted SS–20 telemetry to make it incomprehensible to us.

Why would they violate the treaties by hiding the capabilities of the SS–20? Ostensibly an intermediate missile with sufficient range to threaten Western Europe and China but not the United States, the SS–20 is not included in the number of intercontinental missiles authorized by treaty. However, when we finally deciphered SS–20 telemetry military analysts concluded that the missile had been tested with some 2000 pounds of ballast. Were this ballast to be replaced by fuel, the SS–20 would become an intercontinental missile capable of menacing North America.

Soviet Goal. As if the Soviets do not care whether we document still other undeniable treaty violations, they continue to expand already extensive camouflage of strategic sites. Huge sections of the prefabrication and assembly areas at the Severodvinsk submarine construction yard on the White Sea, the largest such yard in the world, have been covered by canvas and planking placed over intricate lattice work. Giant tarpaulins mask submarine hulls, preventing us from counting and studying missile launch tubes. A similar coverup has been effected at the Khabarovsk submarine construction yard in Siberia. Factories known to produce components for missiles and submarines are being camouflaged, as are missile launching and test sites throughout the U.S.S.R.

How much of a military advantage the Russians have gained by all this cheating is unclear. But it is terribly clear that they remain determined to gain decisive military superiority over the United States, and that in pursuit of this end they have been willing to dishonor their most fundamental agreements with us. This reality becomes all the more apparent with consideration of the dramatic Soviet expansion of conventional military power.

Since 1972, virtually every segment of the Soviet civilian economy has fallen upon hard times, and indicators suggest that even gloomier economic times are ahead. Yet, instead of diverting resources from the military to the civilian sectors of its economy, the Soviet Union has increased military spending each year since the signing of SALT I.

The U.S. intelligence community generally agrees that the Soviets are currently allocating at least 17 percent of their gross national product to the military in contrast with a U.S. allotment of less than six percent. In every vital phase of military preparedness, the Russians now are outspending us both in dollar terms and as a percentage of GNP. In modernization of ground forces, they are outspending us by an astonishing ratio of three to one.

I submit that the Russians would not be willing to so cheat and sacrifice in quest of military dominance unless they intend to exploit that dominance, once it is attained. I do not think that they necessarily are planning a Pearl Harbor-like nuclear attack on the United States, although that possibility could not be excluded should the balance of power radically change. Rather, I think Soviet leaders contemplate threatening the use of their superiority to drive the United States into headlong retreat and isolation from its vital interests around the world.

U.S. Response. In light of this Soviet duplicity and continuing military buildup, what should the United States do? We still must try to persuade the Soviet Union that a stable balance of power and an effective end to the arms race would ultimately benefit them as much as us. But such efforts certainly will fail unless we are much more realistic than we were five years ago.

As a nation, we must convince the U.S.S.R. that we are unwilling to be militarily inferior and politically subservient. Accordingly, we should not even consider any new treaty likely to consign us to inferiority. We must not seek agreement for the mere sake of agreement.

Treaties that cannot be enforced are worse than no treaties at all. They breed a baseless sense of security and dangerous complacency. Therefore, we must effectively communicate to the Russians our unwillingness to tolerate any further violations of past agreements or any transgressions of future accords. Our position should be that henceforth any deliberate violation of a treaty will mean instant abrogation of that agreement.

The Soviets appreciate that the U.S. economy is so strong and our technology so advanced that we can outstrip them in any form of weaponry, if we have a national resolve to do so. What the Russians are counting upon are ignorance and a lack of will among Americans. We should unite to demonstrate that we will do whatever is necessary to ensure survival of the United States and all nations wishing to stand with us in freedom. There is a very practical way to demonstrate such resolve.

The Congress, with the support of the people, should proceed now to give President Carter standby authorization and appropriations to immediately and decisively strengthen our military forces should the Russians defy any new agreements. More than anything else, such action would be likely to induce the Russians to negotiate reasonably and seriously. It would remind them and everybody else that the emblem of the United States still is the eagle and not the ostrich.

LEGISLATION TO IMPLEMENT DEPARTMENT OF THE INTERIOR UPPER DELAWARE RIVER STUDY REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDade) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, today I am introducing legislation to implement the 3-year Department of the Interior Upper Delaware River study report that will lead to the designation of a portion of the Delaware River as a wild and scenic river. This bill will not only implement the specifics of the Carter administration study of the creation of a wild and scenic river but it provides the framework for drawing up very flexible zoning guidelines which have been a high priority for the local government units which are contiguous to the river.

The legislation designates a 75.4 mile portion of the river between Hancock, N.Y., and Matamoras, Pa., for inclusion in the Wild and Scenic Rivers System. My bill calls for minimal land acquisition on the part of the Federal Government while at the same time insuring that the river will retain its free flowing scenic character. The bill provides for a maximum amount of local citizen input by giving local governments up to 3 years to implement the necessary zoning guidelines to protect the river. It also establishes a citizen advisory committee to monitor the progress and scope of Federal activities in the area.

Mr. Speaker, this legislation implements the Upper Delaware River study fully while satisfying local concerns about the future of the Delaware River. It does not call for any new massive acquisitions along the river nor does it seek to adjust the boundaries farther down the river than called for in the study. It does provide the opportunity for the Congress to make a spectacular and welcome addition to the National Wild Rivers System and I am optimistic about its future impact upon the scenic beauty of one of our Nation's greatest rivers. I shall be soliciting cosponsors for this bill soon and I shall welcome the interest and support of my colleagues.

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[2] See "Is *This* Détente?", The Reader's Digest, July '75.

A BIOGRAPHY OF ALEXANDER HAMILTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. LONG) is recognized for 5 minutes.

Mr. LONG of Maryland. Mr. Speaker, I wish to bring to the attention of the Members two articles, one from the Baltimore News American and one from the Baltimore Sun, on the subject of Holmes Alexander's "A Biography of Alexander Hamilton." The articles follow:

[From the Baltimore (Md.) News American, Nov. 13, 1977]

ALEXANDER'S ALEXANDER: HAMILTON THE HONORABLE

(By R. P. Harris)

In his youth the prolific author Holmes Alexander found Aaron Burr's career fascinating, and produced a life and a play about the brilliant adventurer who killed Alexander Hamilton in a duel. Now, in his maturity, the author has written a life of the victim of that encounter.

A far sounder man than Burr, Hamilton was not faultless. The title of this eminently readable, well-researched and thoughtful book takes its title from Shakespeare's "Henry V":

> But if it be a sin to cover honor,
> I am the most offending man alive.

The author makes it clear that Hamilton coveted both abstract honor and power, but not wealth. He did not enrich himself at his adopted country's expense, and he served it valiantly.

Hamilton has been pictured in American history as the low-born, self-made aristocrat who favored a monarchical, or at least strongly centralized, form of government, as opposed to the high-born Jefferson who opted for democracy. Hamilton's present biographer makes a strong case for Hamilton as a humanitarian. This is a warmly sympathetic life, but it does not whitewash the subject. His Hamilton is a hero, but no saint.

Born illegitimate (but of the planter class) in the British West Indies, red-headed young Hamilton was so attractive, ambitious and bright that a public purse was subscribed to send him to the mainland for education at Princeton. Rather than delay his entrance there, he seized the opportunity in New York to enter what is now Columbia University. As the War for Independence came on, he had his first go at the honor he so coveted, as a young officer. Gen. Washington recognized bravery and intelligence, and lost no time in making Hamilton his personal aide.

Eventually, Hamilton resigned in a huff and got into a line regiment, but he was reconciled with the commander in chief, and he became President Washington's chief adviser. Hamilton's Federalist papers and his financial genius get detailed examination and explication in "To Covet Honor." His private life likewise comes under close scrutiny.

Hamilton married the rather plain daughter of rich and powerful Philip Schuyler. And while his letters show him to have been intensely affectionate toward her and their children, it appears that he and her older (and prettier) sister Angela fell deeply in love. Had not Angela and her husband lived much of their time abroad—but here the reviewer should not speculate, when the biographer himself does not.

All this did not deter Hamilton from becoming embroiled in a sordid liaison with a woman whose husband blackmailed him. It nearly cost Hamilton his post as secretary of the Treasury, but he was able to prove beyond a doubt that he had steadfastly refused to give the woman's husband any sort of federal job. Hamilton underwent an investigation and came through it clean as a hound's tooth.

The duel that cut short Hamilton's career resulted from an indiscreet letter written by a well-connected nincompoop who happened to be a guest at a private dinner party where Hamilton made derogatory remarks about Aaron Burr. Burr had every reason to hate Hamilton, for the latter regarded Burr as a national menace, and frustrated him at every turn. Indeed, Hamilton had just been instrumental in Burr's defeat in a campaign for governor of New York. Here was Burr's chance, and he promptly sent a challenge.

Hamilton's courage had been amply proved in war. He was against dueling, but he could not manage to extricate himself now from the exigencies of the *code duello*. Burr, a crack shot, gave him no way out. Apparently Hamilton resigned himself to his fate. He arranged his personal papers as best he could, and at the appointed time went to meet his challenger. He told one of his seconds he intended only to fire over Burr's head.

Their meeting on the Heights of Weehawken, where each had arrived at dawn with his seconds by boat, was so somberly dramatic that a description could easily become maudlin. The author describes it with tensely moving restraint. Equally well told is Hamilton's lingering death, surrounded by family and friends.

[From the Baltimore (Md.) Sun, Sept. 8, 1977]

BIOGRAPHY OF HAMILTON BY ALEXANDER

(By L. G. Shreve)

Hamilton, a figure of almost unequaled influence in the formation and early direction of the United States, has long been congenial to biographers and is certainly so to the latest in the series. Mr. Alexander has given us, accordingly, a comprehensive, penetrating look at the first Secretary of the Treasury and his dreams for the republic which he helped found.

The many sides of this enigmatic and complex man, soldier, writer, orator, lawyer, financier and scandalous lover are presented in this new, highly readable and well-documented study.

Mr. Alexander is very much at home writing about the era covered by Hamilton's relatively short lifespan—beginning in 1755 and ending tragically in 1804, the result of a shot fired by his archenemy, Aaron Burr, in a duel on the heights of Weehawken. Two earlier works, a biography of Burr, and "How to Read the Federalist Papers," led the author, a longtime student of American history, to this, his most comprehensive and ambitious work.

Beginning with Hamilton's birth on the West Indian island of Nevis, Mr. Alexander traces the triumphs and tragedies of Hamilton's life. Wisely, he does not dwell upon Hamilton's illegitimacy, although making no effort to hide it—Hamilton himself made no effort to do so. Self-confident almost to the point of arrogance, highly intelligent, Hamilton would have been called a "quick study" in Twentieth-Century America.

Washington, who made him an aide-de-camp, was first attracted to Hamilton by the latter's stellar performance as a young artillerist, barely 21, at the Battle of Princeton in December, 1776. The Commander-in-Chief was "charmed by the brillant courage and admirable skill" of the young officer. Upon being told Hamilton's name, Washington immediately put him on his staff. Washington's aides were mostly young and notable for their loyalty, capacity for hard work, personal bravery and aristocratic background.

Hamilton remained with Washington until their celebrated quarrel in February, 1781, when arrogance got the best of him and he quit the staff in a huff, insisting on a return to a troop command. Maryland's own Tench Tilghman, also an aide, was sent to patch up the quarrel, but to no avail. Hamilton got his wish and at Yorktown, eight months later to the day, covered himself with glory by leading the assault in the capture of a British redoubt.

As early as 1780–1781, while still on active duty in the Continental Army, Hamilton began to point out defects in the Articles of Confederation, and called for the establishment of a strong, centralized government. He displayed a remarkable grasp of the fiscal and administrative problems of government, but, distrusting the capacity of the common man, advocated rule by the elite.

He was twice a delegate to Continental Congress from New York and also represented New York at the Annapolis convention of 1786 and at the federal Constitutional Convention of 1787. "To Covet Honor" deals profusely with Hamilton's private life and his numerous love affairs, related in detail but with the comment that "chastity has never been a requirement of genius."

In 1789 Washington made Hamilton the first Secretary of the Treasury. He initiated a national fiscal sysem, strengthened the federal government and stimulated trade and commerce.

He was also influential in the formation of political parties, which were first drawn along the lines of supporters of Hamilton and Washington (Federalists) and their Jeffersonian opponents (Anti-Federalists). In 1798, Hamilton was appointed inspector general of the Army with the rank of major general.

Holmes Alexander is a native West Virginian whose formative years were spent in Baltimore. A graduate of the Gilman School and Princeton, Mr. Alexander served a term in the Maryland legislature as a delegate from Baltimore county before doing graduate work at Cambridge University and Johns Hopkins. After teaching at McDonogh School, he turned to writing as a profession, becoming a syndicated newspaper columnist in 1947. He has lived in Washington for the last 20 years.

"To Covet Honor" presents one of the most controversial of the Founding Fathers, often in his own words and those of his contemporaries, as the true founder of the early American system of business and finance and major interpreter of the Constitution he helped write—a very human, colorful and attractive personality.

HELP REUNITE SOVIET JEWISH FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Cotter) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I hope my colleagues will join my efforts to reunite a Soviet Jewish family with their father in America.

Leizer Falkovich is an American citizen who lives in Hartford, Conn. His son, Naym Falkovich, resides in Moscow with his wife, Mariana, and their 4-year-old son, Dimitri.

Naym and his family have tried to emigrate to the United States to join their father, but the Soviet Government, without explanation, has denied them exit visas.

On Friday, December 16, I will mail an appeal to Soviet emigration authorities requesting exit visas for the Falkovich family on humanitarian grounds. A copy of this letter follows. I would be grateful if my colleagues could add their names to this appeal.

House of Representatives,
Washington, D.C., December 16, 1977.

V. S. Obidin,
Chief of the All-Union OVIR, Ogarev ul. Moscow, R.S.F.S.R., U.S.S.R.

Dear Mr. Obidin: We, the undersigned Members of the Congress of the United States, would be grateful for your assistance in an effort to reunite a family that has been tragically separated.

Leizer Falkovich is an American citizen. His son, Naym Falkovich, lives in Moscow with his wife, Mariana, and their five-year-old son, Dimitri.

N. Falkovich has attempted unsuccessfully to obtain exit visas for himself, his wife and son in order to join his father in America.

The Falkovich family wishes to end their separation and live together. We urge you, on humanitarian grounds, to make this possible by granting exit visas for the three members of the family who live in the Soviet Union.

Sincerely,

William R. Cotter,
Member of Congress.

SOCIAL SECURITY FINANCING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Burke) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, the following three articles appeared in major newspapers in this country within the past few days. These articles are clear indicators that we must look to general revenues for partial financing of the social security system.

I ask each of my colleagues to read these articles to gain a better understanding of: One, the history of general revenue financing for social security; two, the need to reduce payroll taxes in order to stimulate the economy; and three, the specific problems relating to the increases in social security taxes contained in the financing bill presently in conference.

It is of vital importance to the economy of this Nation that we provide tax relief at the employment level—thus creating jobs and providing a great incentive for people to get off the welfare rolls and back into the labor force as productive citizens where they are earning a living and contributing to the social security system.

The articles follow:

[From the Boston Herald American, Dec. 4, 1977]

The U.S. Tax Game—One Up, One Down

(By Tom Wicker)

Washington.—Once again last week President Carter indicated that what he called "necessary" Social Security tax increases for next year would be offset to some extent by income tax reduction. The final size of the Social Security tax rise and the proposed new crude oil tax, he said, would affect the amount of income tax reduction he would propose in 1978.

That's understandable, since both forms of tax increase would reduce consumer buying power while driving up the price level—a disastrous combination at a time when the economy may be slowing and unemployment remained high. Yet, the crude oil tax is the centerpiece of Carter's energy program, his primary proposal for reducing oil imports, trimming the huge balance of payments deficit caused by those imports, and shoring up the dollar.

On the other hand, cutting income taxes to compensate for rising Social Security payroll taxes is nothing more than an indirect way of diverting general tax revenues into the Social Security trust funds. But the payroll tax increases are "only necessary" because of the widespread belief in Congress that to apply general fund revenues to Social Security would convert it from an insurance to a welfare system.

It has been argued in this space that the insurance notion is a myth—that, for example, benefits usually surpass what a retired person has contributed to the trust funds, and that since employer payroll taxes are deductible from employers' income taxes, this too is an indirect method of diverting general fund revenues to Social Security.

In a recent article to that effect, J. Douglas Brown, who headed President Roosevelt's Social Security Advisory Council in 1937–38, was quoted as having said that "the planners" of Social Security have been "convinced that, as the system matured, government contributions would be necessary and fully justified to preserve the integrity of the system." Their idea, he had written in a letter to The New York Times, was that after about 1962 approximately equal contributions would be needed from workers, employers, and "the general taxpayers of the country."

This elicited an interesting letter from Thomas H. Eliot, who was in 1935 general counsel to the President's Committee on Economic Security (composed of four Cabinet members and Harry Hopkins, with a large research staff and an advisory board).

"It's fair to say," Eliot wrote, "that all these groups, with the exception of one man, assumed that 'public' contributions would eventually be necessary, and that most, if not all, believed that such contributions would be desirable." The committee drafted a report citing 1965 as the year after which contributions from general funds probably would be necessary.

Eliot—later the chancellor of Washington University in St. Louis—said the lone holdout was Secretary of the Treasury Henry Morgenthau. He persuaded Roosevelt not to issue the report on grounds that a "self-supporting" system was a political necessity. In Eliot's view, this had little to do with the kind of opposition to welfare that is common today, instead it was based on "the political need to refrain from an unbalanced budget," or anything that tended in that direction in the 1930s.

So a system based only on employer and employee contributions was set up, with payroll tax rates that were supposed to keep it sound for 30 years. But when "survivors" were brought into the system, the original rates became inadequate; the merry-go-round of rising benefits and rising payroll taxes has been going on ever since.

But the point of Eliot's letter bears out Brown: the Social Security planners of the 1930s did not intend, as today's Congress assumes they did, that the system should always be self-supporting or that it should be an insurance system. They recognized that, as in other Western democracies, a tripartite system including government contributions eventually would be necessary to avoid ruinous payroll taxes of the kind now in prospect.

If Congress could reach the same conclusion there would be no necessity for it to raise payroll taxes with one hand, while lowering income taxes with the other.

[From the Washington Post, Dec. 4, 1977]

The Tax on Labor

The other day President Carter wrote to the congressional conferees on the Social Security bill, warning them of the perils of excessive fairness. It is quite true that the Social Security rules are full of unfair eccentricities. Why, for example, should benefits be cut when recipients earn wages, but not when they get stock dividends? Income is income, after all. The trouble is that fixing the formula and ending the cuts would cost several billion dollars a year. With the enormous growth of the Social Security system over the past decade, even relatively small adjustments in the rules can be astonishingly expensive. Mr. Carter isn't the only citizen who's beginning to get apprehensive about the scale of the government's pension obligations.

Unfortunately, Congress is still determined to finance Social Security with the traditional payroll tax and nothing else. Last spring Mr. Carter suggested that it might be wise to begin using, in a modest and hesitant way, the general revenues. That means personal and corporate income taxes. Congress turned the idea down flat and Sen. Russell Long (D-La.), the chairman of the Finance Committee, continues to scoff at it. The general revenues, he observes, already fall short of balancing the federal budget, and diverting some of them to Social Security would only increase the deficit.

There is less to Mr. Long's logic than you might think at first glance. Next year Congress is going to have to cut income taxes to compensate for the automatic increase in Social Security payroll taxes. The effect on the deficit will be precisely the same as if the income tax revenues were being used directly for pensions. The difference is that, when Congress cuts the income tax and increases the payroll tax, it is shifting the tax burden from a progressive tax to a regressive one.

There's another consequence as well, and it deserves more thought than Congress seems to be giving it. The payroll tax makes labor more expensive to the employer. The increases are very gradual, to be sure, but they are mounting up. To accelerate this trend over the coming years, as the emerging Social Security bill will do, is going to make it harder than ever to push the unemployment rate down.

These next few years are going to be a particularly bad time for the federal government to impose this kind of tax on labor. Because of the very high birth rates in the 1950s and early 1960s, unprecedented numbers of young people will be pouring into the job market. At the same time women are increasingly looking for paid work outside their homes. The proportion of the American population actually holding jobs has never before been as high as it was in November, according to the Bureau of Labor Statistics. But the unemployment rate—still a painfully high 6.9 per cent—is evidence that the number who want to work is even higher.

Congress keeps saying that, as a matter of national policy, it wants those people on payrolls. Quite right. But in that case, it does not make much sense to put stiff, and steadily rising, tax on the payrolls.

[From the Wall Street Journal, Dec. 5, 1977]

Social Security, Income Tax Link Is Seen Gaining

(By John Pierson)

Washington.—House and Senate tax writers are heading toward a compromise that will greatly increase pressure to fund at least some Social Security benefits with income taxes.

Social Security has always been financed with payroll taxes, levied equally on employers and employes, a link conservatives argue is needed to preserve the system's insurance and pay-as-you-go characteristics. Break the link, conservatives warn, and politicians will be tempted to raise benefits without raising taxes, further deepening the federal deficit.

But payroll taxes are reaching the point where they really hurt. A worker earning at least $16,500 this year is paying $965.25 while his boss is making an equal contribution on his behalf. Next year, under existing law, a worker making $17,700 or more will have to pay $1,070.90. By 1987, the maximum payment is due to rise to $2,012.40, more than twice this year's maximum.

Meanwhile, congressional tax writers resume work today on a bill that will escalate the payroll tax bite even farther. The conferees have before them a House bill that would triple the maximum contribution, to $3,024.60, by 1987 and a Senate bill that would hold the maximum contribution of a worker to $2,406.90 a decade from now, but only by boosting the maximum employer contribution more than five times, to $5,325 per worker.

Senate conferees met privately Friday and reaffirmed their commitment to transfer much of the burden from employes to employers, a switch the Carter administration also supports. But House conferees—and most business interests—are dead set against an end to the traditional "parity" between employer and employe contributions, a tradition the full Senate voted to scrap by only the slimmest of margins.

Thus it's widely believed, even among "disparity's" supporters, that "parity" will prevail in the conference. "If some kind of disparity survives, I'll be very surprised," says one administration source.

But retaining parity means retaining the House bill's higher employe taxes; if bosses pay less, workers have to pay more.

Even though these higher taxes are still only a gleam in the conferees' eyes, Congress has begun to hear from unhappy workers. "The mail is really bad," says Rep. Bill Gradison (R., Ohio). "They're really screaming," adds Rep. Sam Gibbons (D., Fla.).

To deflect this anger, at least until after the 1978 election, the two chief tax writers, Rep. Al Ullman (D., Ore.) and Sen. Russell Long (D., La.), have agreed there won't be any Social Security tax increase next year beyond that already scheduled. Under existing law, the tax rate is due to rise to 6.05% from 5.85% Jan. 1, and the maximum earnings base, against which the tax is levied, is due to increase to $17,700 from $16,500.

The House bill would delay any new rate increase until 1981 but would boost the earnings base to $19,000 next year, making the maximum contribution for employes and employers $1,204, or $133.10 more than currently scheduled. The Senate bill wouldn't raise either the scheduled base or rate until 1979.

Putting off any tax increase until after the 1978 election might save a few congressional incumbents, but it would also mean that subsequent increases would be even stiffer than otherwise.

In the view of some interested observers, the situation is tailor-made for a decision to transfer some of the Social Security funding burden from payroll taxes to the Treasury's general fund; that is, to income taxes. Advocates of income-tax funding believe that when workers find themselves paying substantially higher payroll taxes in 1979, they will start demanding relief.

"That's when the pinch is going to come," says one House staff man. "This year's bill is almost a necessary catharsis," says Rep. Abner Mikva (D., Ill.), one of the House conferees. "We have to face the higher taxes and the political fallout before we can go to general funding."

Those who prefer to finance Social Security with income taxes argue that the tax is more progressive—it bears more heavily on those who can afford to pay it. Further, they say, unlike the payroll tax, income taxes aren't a levy on labor and thus don't discourage hiring.

Rep. Mikva plans to introduce a bill next year that would provide general revenue for two of the three Social Security trust funds—hospital insurance and disability insurance. Only the old age and survivors fund would continue to be supported by payroll taxes under the Mikva formula.

Funding hospital and disability insurance out of the Treasury might even permit Congress to cut the payroll tax in 1980. Under existing law, 1.7 percentage points of that year's scheduled 6.05% rate will go into the hospital and disability trust funds. Without the hospital and disability burden, the rate would be only 4.35% in 1980, and the maximum contribution would be only $887.40, instead of $1,234.20.

Not only Congress but also President Carter, who will be seeking a second term in 1980, might like to follow next year's anticipated cut in income taxes with a cut in payroll taxes in 1980.

To be sure, conservatives like Sen. Long remain strongly opposed to general funding of Social Security. Rep. Ullman, for one, would like to pay for increased benefits with some sort of national sales tax, modeled perhaps after the value-added taxes of European nations.

But House Republicans recently proposed paying for half of hospital insurance from general funds. And big business isn't as opposed to the idea as one might expect.

One corporate official who represents his company on the politically powerful Business Roundtable says he might be willing to use income tax revenue to pay for hospital and disability insurance if both programs were removed from Social Security. Such a separation would be needed to reduce the temptation to pay old age and survivors benefits out of general funds, as well, the corporate man says.

"QUORUMITIS CURED"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Michael O. Myers) is recognized for 5 minutes.

Mr. MICHAEL O. MYERS. Mr. Speaker, of the more pleasurable duties I have as a Member of the House of Representatives, I find that of my service on the Post Office and Civil Service Committee to be among the most rewarding. This is in large order due to the professional stewardship of the committee under Chairman Robert Nix.

As many of you know, the committee was for some years in a state of relative inactivity. This year, to date, the committee record is equal to or surpasses that of most other committees. It has favorably reported 23 bills and 3 resolutions to the House floor. Of these 16 have passed the House and 4 have become law.

The acceleration in the committee pace was recognized recently by one of the best publications in the field of Government reporting, The Federal Times.

I would appreciate it, Mr. Speaker, if this Federal Times article could be reprinted in the Record for the edification of all my colleagues, and there being no objection, I hereby submit it for such printing:

[From the Federal Times, Sept. 5, 1977]

Quorumitis Cured

Several years ago this newspaper coined the term—quorumitis—to describe former House Post Office and Civil Service Committee chairman Dave Henderson's inability to attract enough members to act on bills of interest to federal and postal employees.

Toward the end of Henderson's stint as chairman, quorumitis became a bad joke. He almost never was able to persuade enough of his colleagues to attend weekly business and mark-up meetings of the committee.

Henderson—we would concede—was generally sympathetic to the needs of federal and postal workers. Alas he was no great shakes as a legislative prime mover, which in practical terms meant that perhaps dozens of good bills were summarily killed not on their merits but because of Henderson's inability to lead his Democrat and Republican brothers and sisters to their roosts in the Cannon House Office Building.

That has all changed.

We are not now saying that a cornucopia of beneficial legislation is springing from the committee. But under the stewardship of Bob Nix, the full committee is meeting in regular fashion. And Nix regularly is attracting a quorum.

Thus legislation coming from the seven subcommittees is receiving a full and fair hearing. And we believe this improved turn of events may be pegged entirely to Bob Nix.

It would appear that the House is finally beginning to seriously regard the committee. A good job, Mr. Chairman.

. . . MORE ON NIX

While we're handing out praise to Bob Nix—we might just as well heap it on in generous measure.

By way of introduction, Congress is in recess. We did not expect to find during this lazy summer hiatus any new initiatives for reforming the U.S. Postal Service.

As previously reported, the White House view—or more accurately, Mr. Carter's non-position—has been out since the end of July. Our presumption was that postal reorganization had become for all intents a dead issue this year.

But Nix, last week, on his home turf in Philadelphia, gave postal service boosters reason to rejoice.

In a speech before the Pennsylvania State Association of Letter Carriers, Nix unveiled a surprisingly simple approach toward making the USPS leadership more responsive to not only postal workers but also the people.

He promised to introduce a bill that would force the postmaster general to seek prior clearance from the House or Senate before ordering service level cuts.

As Nix told the Keystone State carriers:

"Such policy decisions should not be left to the discretion of the PMG. The way to insure that postal policies will be carried out as Congress and the people wish it is to require the postmaster general to come to Congress when he wants to make such changes."

Nix's bill would give either House body 60 days to weigh whatever recommendation the postal service offers. If one or both chambers voted against the postal service, the proposal would be null.

The Nix bill is a master stroke. It would mandate a measure of responsiveness from the postal service that has not been seen since the days of the now defunct Post Office Department.

On one hand, the people would have considerable say over what levels of service they want. And on the other, the charter of the postal service, which is to say the Postal Reorganization Act of 1970, would remain intact.

A preliminary inquiry by this newspaper discloses that the Nix bill almost certainly will win the full backing of Reps. Charles H. Wilson and James M. Hanley, who control those two subcommittees in the House that focus on postal services and operations.

And we suspect that President Jimmy Carter would not fault the bill.

With Nix behind the measure, we are assured that it will—at the very least—be subject to a full House vote.

We believe that cutting the current six-day delivery week by one day or eliminating as many as 17,000 small town post offices are issues of too critical importance to be left to the devices of a top postal management, which by definition and design, is insulated from the White House and the public.

Or as Nix said in Philadelphia:

"The time has come for Congress to reassert its constitutional responsibility and role in determining postal policy. If the people are willing to give up Saturday delivery, then through the system of representative government, that will be done.

"But the day of decisions by those who do not represent the people must come to an end."

DEFICIENCY DIVIDEND DEDUCTION FOR SMALL BUSINESS INVESTMENT CORPORATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LaFalce) is recognized for 5 minutes.

Mr. LaFALCE. Mr. Speaker, as chairman of the Subcommittee on Capital, Investment and Business Opportunities of the Committee on Small Business, I have become familiar with a highly technical tax problem confronting certain small business investment companies licensed under the Small Business Investment Act of 1958. Approximately 20 of these companies are taxed as regulated investment companies. In order to gain this tax treatment, the corporation must distribute at least 90 percent of its "investment company taxable income" to its shareholders. Hence, on an annual basis, the tax status is determined by reference to both taxable income and amounts distributed to shareholders.

In the event such a company is subsequently audited by the Internal Revenue Service, and an adjustment increasing its income made, it may lose its tax status as a regulated investment company if it has not distributed 90 percent of its investment company taxable income as adjusted. In fact, one such corporation was audited, and deductions of $72,000 were disallowed, thereby increasing its "investment company taxable income" by a like amount. As a result of this increase, the company failed to distribute 90 percent of its investment company taxable income to its shareholders, missing the mark by a mere $200. This resulted in the corporation's failure to meet the tax definition of a regulated investment company, and resulted in a tax assessment of an additional $190,000.

The Deficiency Dividend Deduction for Small Business Investment Companies Act provides an equitable solution to this problem. It permits a corporation to make a dividend distribution to its shareholders after a taxable year to reflect an adjustment made by the Internal Revenue Service. This has the effect of enabling the corporation to comply with the requisite percentage to be distributed so that the status of regulated investment company may be maintained, notwithstanding the adjustment.

Real estate investment trusts face the same problem; last term in Public Law 94–455 we added section 859 of the Internal Revenue Code, an almost identical provision, to remedy this inequity for such trusts. Similarly, an almost identical provision is found in the personal holding company provisions—Internal Revenue Code section 547—which enables corporations to avoid personal holding company status through the use of deficiency dividends.

I urge all of you, especially those Members of the Ways and Means Committee, to consider the act favorably upon this proposal.

FINANCIAL DISCLOSURE RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Preyer) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, the Select Committee on Ethics last week issued a formal advisory opinion defining and interpreting the provisions of House Rule XLIV, Financial Disclosure. This Advisory Opinion No. 12, together with a sample disclosure form prepared by the Clerk of the House, will be distributed to Members' offices and to each committee during the next week.

The select committee has also prepared a factsheet summarizing the application of House rules to the acceptance and disclosure of travel-related expenses.

Mr. Speaker, for the information of the Members, officers and employees of the House, I insert in the Record at this point the complete text of Advisory Opinion No. 12 and the factsheet on travel-related expenses.

ADVISORY OPINION NO. 12

(Issued by the Committee on December 1, 1977)

SUBJECT

Application and Interpretation of House Rule XLIV, Financial Disclosure.

REASON FOR ISSUANCE

The Select Committee has received a number of inquiries regarding the interpretation and application of the new financial disclosure requirements under House Rule XLIV, as amended on March 2, 1977.

BACKGROUND AND DISCUSSION

Rule XLIV requires Members, officers, their principal assistants, and professional committee staff to file an annual financial disclosure statement with the Clerk of the House. The first disclosure statement under the new Rule must be filed by April 30, 1978 and will cover only the period from October 1 through December 31, 1977. Thereafter, each annual disclosure statement will relate to the preceding calendar year.

In order to clarify the disclosure requirements, the Committee, pursuant to its authority under H. Res. 383, issues this Advisory Opinion defining and interpreting the provisions of Rule XLIV, which requires the following information to be disclosed:

(1) Income: The source and amount of each item of income aggregating $100 or more from one source. Capital gains are excluded from the first filing.

(2) Gifts: (A) The source, a brief description, and value of gifts of transportation, lodging, food, or entertainment aggregating $250 or more from one source; and (B) The source, a brief description, and value of all other gifts aggregating $100 or more from one source. Exempted are gifts from relatives, gifts valued at $35 or less, and gifts of personal hospitality of an individual in the personal residence of, or on property owned by that individual.

The term "gift" means a payment, advance, forebearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received, but does *not* include: 1) inheritances; 2) political contributions; 3) transportation, lodging, food, and entertainment provided: (a) by federal, state, and local governments, or political subdivisions thereof; or (b) within a foreign country by the government of that country; 4) communications to the offices of a Member, including subscriptions to newspapers and periodicals; 5) suitable mementos of a function held in honor of the Member, officer, or employee; 6) consumable products provided by home-state businesses to a Member's office for distribution; and 7) food and beverages consumed at banquets, receptions or similar events. (N.B. This exemption does not include dinners for small groups at restaurants or other such "private" events.)

In disclosing gifts, it is not necessary that exact dollar figures be reported in every case. If the exact value of a gift is not reasonably ascertainable, a good-faith estimate is sufficient for disclosure purposes. In some cases involving "travel-related" expenses provided as a gift to a reporting individual, it might be difficult to provide even the approximate value of such expenses. Under these limited circumstances, a brief description of the nature of the expenses provided would be sufficient for disclosure purposes.

Travel-related expenses provided to a Member or employee for his personal benefit and which are unrelated to official duties are considered to be gifts. Travel-related expenses provided for speaking engagements, fact-finding tours, etc. are not considered to be gifts and should be disclosed as reimbursements (see below).

(3) Reimbursements: The source and value of reimbursements, directly or indirectly, for expenditures aggregating $250 or more in value from any one source. Exempted are reimbursements for travel-related expenses provided by federal, state and local governments or political subdivisions thereof. Reimbursements provided by foreign governments or by international governmental associations (e.g., NATO, Interparliamentary Union) are exempt. Such foreign travel-related expenses are required to be disclosed elsewhere under the terms of the Foreign Gifts and Decorations Act as amended (Public Law 95–105).

Additionally, Members of Congress are often provided travel-related expenses from campaign funds to make political appearances on behalf of their colleagues or other candidates for federal office. Reimbursements for these campaign-related activities are exempt from disclosure since such expenses are required to be disclosed elsewhere under the Federal Election Campaign Act.

Disclosure of reimbursements is thus required for expenses provided by non-governmental sources such as trade associations, foundations, corporations, labor unions, educational institutions, and individuals. This category would generally include items such as travel expenses provided in connection with a speaking engagement or a fact-finding event related to official duties whether those expenses were reimbursed to the individual or paid directly by the sponsoring organization.

Since reimbursements will often involve travel-related expenses which are not provided directly to a Member or employee on an individual basis, but rather involve an official group or delegation (as part of a fact-finding tour, etc.), actual or estimated costs may not be reasonably ascertainable. Therefore, whenever the exact or approximate value of travel-related expenses is not reasonably ascertainable, a brief description of the itinerary or the nature of the expenses provided is sufficient for disclosure purposes.

(4) Holdings: The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income and which has a fair-market value of at least $1,000 as of the close of the year. Items such as household goods, automobiles, and other personal property not principally held for investment purposes or the production of income need not be disclosed.

With respect to business interests, the reporting individual need only disclose the category of value of his interest in the business and not the assets and holdings of the business itself. Since the value of holdings needs to be disclosed only within certain categories, an appraisal to determine the fair-market value should usually not be necessary. However, in those few instances where it is difficult to estimate even the category of value of an asset, the individual may use any generally recognized indication of value provided that the method of valuation is indicated on the disclosure form.

(5) Liabilities: The identity and category of value of each personal liability owed, directly or indirectly, which exceeds $2,500 as of the close of the year. This category applies to all personal loans, whether secured or unsecured, and regardless of the repayment terms or interest rates. Exempted, however, are mortgages secured by real property which is the personal residence of a Member or his spouse in the Washington, D.C. area or in the district; or the principal residence of any other reporting individual or his spouse. Also exempted from disclosure are loans secured by automobiles and obligations to make alimony or child-support payments. A contingent liability (e.g., if the individual co-signs a note) need not be disclosed. Similarly, an individual with an interest in a business, corporation, partnership, etc., need not list a liability of that organization.

(6) Security transactions: The identity, date, and category of value of any transaction, directly or indirectly, in securities or commodity futures during the calendar year (beginning in 1978) which exceeds $1,000 in value. The first filing to be made in 1978 does not require the reporting of this information. Exempted are any transactions donating such securities to any tax-exempt organization, as defined in section 501(c)(3) of the IRS Code.

(7) Real property transactions: The identity, date, and category of value of any purchase or sale, directly or indirectly, of any interest in real property which exceeds $1,000 in value as of the date of such purchase or sale. This category requires the reporting of only real property transactions. Any real property held for investment purposes would be listed as a holding under item 4, as described above. As with liabilities owed, transactions involving personal residence property are exempted from disclosure.

Categories of Value: A detailed net-worth statement is not required under House Rule XLIV. Instead, financial interests and liabilities need be disclosed only by categories of value. The categories of value for items 4–7 are as follows: less than $5,000; between $5,000 and $15,000; between $15,000 and $50,000; between $50,000 and $100,000; and more than $100,000.

Spouse disclosure

Rule XLIV requires disclosure of spouse interests if they are under the "constructive control" of the reporting individual. This requirement has existed under House Rule XLIV since its original adoption in 1968. As defined by the Committee on Standards of Official Conduct, the financial interests of a spouse are regarded as constructively controlled "if enhancement of those interests would substantially benefit the person reporting. Normally, in the absence of specific property division agreements, trusts, etc., the interests of spouses . . . would be constructively controlled."

In view of the more detailed information now required to be disclosed, the Select Committee believes that clarification of spouse disclosure requirements is necessary.

Accordingly, the financial interests of a spouse should be reported as follows: (1) source, but not amount, of spouse earned income exceeding $1,000; (2) gifts or reimbursements to the spouse, unless received independent of the relationship to the reporting individual; and (3) assets and liabilities of the spouse unless the reporting individual indicates that: (a) he or she neither derives, nor expects to derive, any economic benefit from such interests; and (b) such interests were not obtained in any way from the assets or activities of the reporting individual.

The assets and liabilities of a spouse must be reported in the same manner as those of the reporting individual; however, the person reporting need not identify such items as those of the spouse. The financial interests of a spouse living separate and apart from the reporting individual need not be disclosed.

HOUSE RULES ON ACCEPTANCE AND DISLOSURE OF TRAVEL-RELATED EXPENSES

The following summary has been prepared by the Select Committee on Ethics in response to questions concerning the application of House Rules to acceptance and disclosure of travel-related expenses (i.e. transportation, lodging, food, and entertainment).

DISCLOSURE (HOUSE RULE XLIV)

Exemptions

Certain travel-related expenses are exempt from disclosure because they are either disclosed elsewhere and/or do not involve potential conflicts of interest. A reporting individual need not list travel-related expenses which are:

(a) provided by federal, state or local governments, or subdivisions thereof;

(b) provided by a foreign government or international governmental organization (Such expenses must be reported in the Federal Register under the terms of the Foreign Gifts and Decorations Act, as amended PL 95–105);

(c) provided from campaign funds to make a political appearance on behalf of a federal officeholder or candidate for federal office.

Requirements

Disclosure is required for all travel-related expenses aggregating $250 or more in a calendar year from any "non-governmental source." Therefore, expenses exceeding $250 in value provided from such sources as trade associations, foundations, corporations, labor unions, educational institutions, political organizations, or individuals (other than a relative) should be disclosed as either a reimbursement or a gift.

(a) Reimbursements.—This category includes travel-related expenses provided for such activities as speaking engagements, conferences, and fact-finding events related to official duties. Such expenses would be listed as reimbursements whether they were actually reimbursed to the reporting individual or paid directly by the sponsoring organization.

(b) Gifts—This category includes travel-related expenses provided for the personal benefit of the reporting individual (e.g., a vacation or personal side trip during fact-finding tours). However, exempted from disclosure is the "personal hospitality" of an individual provided in the residence or other property owned by that individual (e.g. use of a friend's summer home).

In disclosing travel expenses, it is not necessary that exact dollar figures be reported in every case. If the costs of travel-related expenses are not reasonably ascertainable, a good-faith estimate, along with a brief description of the expenses provided, is sufficient for disclosure purposes. In those instances where it is difficult to estimate even the approximate value of the travel-related expenses, a brief description of the itinerary or the nature of the expenses provided would be sufficient.

ACCEPTANCE OF GIFTS (HOUSE RULE XLIII)

House Rule XLIII, clause 4 prohibits the acceptance of gifts aggregating $100 or more in value in a calendar year from any source with a direct interest in legislation before the Congress, or from a foreign national. Exempted are gifts from relatives, gifts of personal hospitality of an individual, and gifts valued at $35 or less.

Therefore, acceptance of such gifts as corporate jet trips back to the district, weekends at resort areas, or personal sidetrips during fact-finding tours which exceed $100 in value are prohibited if the source of such expenses has a direct interest in legislation. Note, however, that expenses provided for fact-finding tours, conferences, and other activities related to official duties are not considered to be gifts, but rather reimbursements which may be accepted subject to disclosure requirements.

AMERICAN LEGION SUPPORTS TIGER TEAGUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Montgomery) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I recently received a copy of a letter Mr. R. E. Lyngh with the American Legion sent to our distinguished colleague from Texas, Tiger Teague. The letter sets out quite clearly the long and successful efforts of Tiger on behalf of our Nation's veterans, especially in the area of educational assistance benefits. I could not agree more with the comments made in the letter.

Congressman Teague's contributions to our Nation's veterans over the years are well known and his record speaks for itself. It is unfortunate that a small and uninformed group of people have lately attempted to take Tiger to task simply because he and other members of the House Veterans' Affairs Committee would not establish an inequitable program of GI bill benefits.

I include at this point of the record the letter from Mr. Lyngh in order that all my colleagues may be aware of the high esteem in which Tiger Teague is held by one of the Nation's largest veterans' organizations.

The American Legion,
Washington, D.C., November 29, 1977.

Hon. Olin E. Teague,
The U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Congressman Teague: On November 21, the Washington Post newspaper published an article by Colman McCarthy, titled: 'Tiger' Teague and the Veterans Compromise. The article does several things. It first demeans the value of your service in WW II and in Congress. It indicates that the current GI Bill program is not a good one; and it challenges the right of The American Legion to speak for the Vietnam veteran.

We do not think The American Legion needs to rise to your defense, either as a Congressman, or as a decorated combat veteran of WW II. The Second World War was considered quite important at the time it was being fought, and there was no indication at that time that the American people, the beneficiaries of victory in that war, would at some subsequent time depreciate the service of those who were wounded. Your service as a Congressman, and especially the interest you have shown through the years in veterans affairs, has resulted in legislation that has paid billions of dollars in benefits to veterans, their dependents and survivors. Mr. McCarthy apparently sees no need to review in detail your record of service, either in war or in peace. The American Legion has not forgotten how you achieved your distinguished military record, nor how you have helped veterans through the years since WW II ended.

The present GI Bill program, is the best of the three programs for WW II, Korean and Vietnam veterans. Vietnam veterans receive benefits under the present program that were never given to earlier veterans. For example, 45 months of training, as against 36 for WW II; the entitlement to benefits while completing high school level work, without loss of any of the total 45 month entitlement; tutorial assistance to help do college level work; a liberal loan program; entitlement to benefits for training prior to discharge.

The 6.6% increase in the new bill the President has just signed, will put more than 500 million additional dollars during the current Fiscal Year into the pockets of the 2 million Vietnam veterans who are now in training. That ain't hay. And the point could be made that more than half of the total of more than 8 million Vietnam Era veterans have used some or all of their GI Bill entitlement—a higher percentage than trained under either the WW II or Korean Programs. Mr. McCarthy has never mentioned that in any of his articles.

What seems to be bothering Mr. McCarthy, really, is the failure of the GI Bill to pay what is called a tuition equalizer. A tuition equalizer would pay a differential to those veterans, mainly in the Northeast, who do not have the advantage of low cost tuition in academically high level schools, such as there is in States like California. It is truly unfortunate that the Northeastern states do not spend as much of their per capita taxes on education as do states like California and Texas. But the thrust of Mr. McCarthy's solution to that problem is to say to veterans, that all military service is equal, but the service of those who live in the Northeast is more equal than that of those from California, etc. So far Congress has not seen fit to accept Mr. Carthy's premise.

As to Mr McCarthy's inference that The American Legion cannot speak for Vietnam veterans, all we can say is that we probably speak for them as much as anybody can. It is true that we have 700,000 Vietnam veterans presently enrolled in the Legion. No organization, including those that purport to be exclusively Vietnam organizations, have as many. It seems to be true that most veterans don't join any organization—but then more than half of all Americans don't go to church either.

The Legion never asks any veteran who requests assistance, whether he is a member. The Legion concerns itself with the problems of all generations of veterans. The veterans of WW I, WW II, Korea, and Vietnam were led to believe that their service was valuable and appreciated—at least they were so led to believe at the time that service was required of them.

The American Legion continues to appreciate that veterans have a friend like you in Congress. Your help through the years has amounted to more than lip service.

Sincerely,

R. E. Lyngh,
Director, National Veterans Affairs and Rehabilitation Commission.

THE NEED FOR COST/BENEFIT ANALYSIS ON THE ENERGY TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, currently, the House and Senate are in conference, trying to resolve the differences between the energy tax bills which passed each Chamber. It has been a long and difficult conference and little progress has been made. This is not surprising in view of the enormous differences between the two Chambers. The House bill between 1978 and 1985 raises $52.9 billion and will result in a savings in 1985 of 2,041,000 barrels of oil per day. The Senate bill will result in a cumulative loss between 1978 and 1985 of $25.5 billion and a savings in 1985 of 1,396,000 barrels of oil per day.

I am worried, Mr. Speaker, about the large number of provisions, particularly in the Senate bill, which result in large revenue losses with "negligible" energy savings. I have compiled the following table from the information provided by the Joint Committee on Taxation in its comparative committee print entitled, "Conference Comparison on the Energy Tax Provisions of H.R. 5263," dated November 7, 1977. According to this document, the Senate spends some $1,574 million between 1978 and 1985 on programs which result in what the Joint Committee defines as "negligible" energy savings.

The House bill spends some $745 million on items of "negligible" energy value. In addition, the table below highlights the home insulation credit provision where the Senate spends a cumulative of $5,167 million more than the House over the next 8 years to obtain an energy savings of only 30,000 barrels per day more than the House bill in 1985. On the excise tax on business use of oil and natural gas and the investment tax credits to encourage conservation of or conversion from oil and gas or to encourage new energy technology, the cost/benefit ratio is even worse. The Senate bill gives away $16.2 billion over the next 8 years to achieve 780,000 barrels per day in energy savings in 1985, while the House bill raises $2.2 billion to achieve a million barrels per day of oil savings in 1985. Never has so much been given away to gain so little.

We cannot afford this type of legislative extravagance; we do not have the resources to give away so much revenue to gain so little in energy savings.

I hope that as the conferees proceed, they will be able to give more attention to the cost/benefit ratio of the various provisions in the energy tax bill.

The table follows:

Comparison: House-Senate energy tax bill provision	House		Senate	
	Revenue cost, 1978-85 (millions)	Energy savings, barrels per day in 1985	Revenue cost, 1978-85 (millions)	Energy savings, barrels per day in 1985
1. Insulation credit for homeowners	-$4,017	270,000	-$9,274	[1] 300,000
2. Repeal of deduction for State and local tax on gasoline	+7,250	(2)	(3)	(3)
3. Exemption from excise taxes on fuels for gasoline	(3)	(3)	-76	(4)
4. Repeal of excise tax on buses and bus parts and removal of excise tax on certain items used in connection with buses	-204	(4)	-204	(4)

Comparison: House-Senate energy tax bill provision	House		Senate	
	Revenue cost, 1978-85 (millions)	Energy savings, barrels per day in 1985	Revenue cost, 1978-85 (millions)	Energy savings barrels per day in 1985
5. Tax credits for vans used in van pooling and exclusion from income of certain employer-furnished transportation	(3)	(3)	(5)	(4)
6. Tax credit for electric or hydrogen motor vehicles	[6] −8	(4)	−50	(4)
7. Exemption from Federal tax for interest on industrial development bonds for coal gasification and liquidation, conversion of wastes into energy, and facilities for local furnishing of electricity or gas	(3)	(3)	−532	(4)
8. Percentage depletion	[7]−13	10, 000	[8]−69	20, 000
9. Option to deduct intangible drilling costs	[9]−179	(4)	[8]−348	(4)
10. Percentage depletion for peat	(3)	(3)	(5)	(4)
11. Intangible drilling cost deductions for oil and gas wells and the minimum tax	−354	(4)	−354	(4)
12. A. Excise tax on business use of oil and natural gas	+2, 908	1, 000, 000	+244	780, 000
B. Investment tax credits to encourage conservation of or conversion from oil and gas or to encourage new energy technology	−681		−16, 402	
Total	+2, 227		−16, 158	

[1] Reason: Refundability of credit and additional items.
[2] No significant energy savings.
[3] No provision.
[4] Negligible.
[5] Less than —$5,000,000.
[6] 1978–83.
[7] Geothermal alone.
[8] Geothermal geopressurized methane.
[9] Geothermal only.

THE LATE SENATOR JOHN L. McCLELLAN

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PERKINS. Mr. Speaker, a few days ago the Congress lost one of its strongest and most steadfast Members, Senator John L. McClellan of Arkansas. In his 35 years of service in the Senate he rose to become chairman of the Appropriations Committee and one of the most respected and revered leaders in the Senate.

Over the years I have worked on a number of occasions with Senator McClellan and each time I came in contact with him my respect for him grew greater. He was a fair man, an intelligent man, and a hard working man. Once he made up his mind on something, he plowed straight ahead to achieve it. But in the process he always handled himself with dignity and was willing to respect opponents' views.

An example of Senator McClellan's character occurred in 1974 when the Congress was engaged in a very devisive struggle over title I of the Elementary and Secondary Education Act. Although he did not serve on the Senate Education Subcommittee, Senator McClellan felt so strongly about the principles of equity being applied to the allocation of title I funds that he immersed himself in the issue for weeks in order to educate the Senate on the principles involved. In that debate he stood like a giant oak tree withstanding the lashings of winds and storms until finally the majority of the Senate agreed with him and adopted the amendment he had offered on the Senate floor.

America's schoolchildren will miss Senator McClellan for his devotion to their cause that day. And, the country in general is the lesser because we have lost such a fine upstanding gentleman as Senator McClellan.

I extend my sympathies to the Senator's family and especially to his wife who shared so much of his life.

ACTION FOR BOSTON COMMUNITY DEVELOPMENT

(Mr. BURKE of Massachusetts asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, it was at this time 15 years ago that Action for Boston Community Development—better know as ABCD—began a novel experiment in uniting the citizens of Boston's neighborhoods into a common effort to augment community services.

This nonprofit organization has, with Federal assistance, initiated several major programs such as Head Start, manpower training, youth job counselling, and career information services. For Boston's elderly they have provided neighborhood drop-in centers, social services, and the like. They have engaged themselves in all aspects of the city's life. They have tried, with great success, to provide the personal touch while gearing programs to neighborhood needs.

Perhaps the most important by-product of ABCD's efforts is the heightened citizen awareness and political action that has resulted from local participation in the various programs. Local residents have found a forum where their concerns can be aired.

ABCD has been an advocate for the poor, and in poor communities it has helped mobilize the communities so they might secure public recognition of their problems.

In 15 years of service, Action for Boston Community Development has accumulated an enviable record. At this time, I ask my colleagues to join with me in publicly congratulating them.

RETIREMENT OF ERIC SEVAREID

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I believe every one of us who heard Eric Sevareid the evening of December 1 say goodby last evening on the TV felt a deep sadness in our hearts that this eloquent, able, and compassionate man, will no longer be able to delight an estimated 16 million people every evening with the moving beauty and the confirmed wisdom of his commentary.

Sad was the fact that he was not by some tragedy being taken off the air from so many Americans, but by a pernicious discriminatory practice of his company denying him the privilege to work only because of the fact he had reached 65 years of age. I am proud that this House has initiated legislation which in spite of some obstruction from the other body now in conference within a few months will become the law of this land against discriminating employment and mandatory discharge on account of age, as we have previously prohibited discrimination in employment on account of race and sex, and the more perfectly will our democracy be functioning in America.

Mr. Speaker, I have announced that every month I propose to announce the name of at least two people of noteworthy accomplishment and distinguished careers who have been arbitrarily and discriminatively forced out of their accustomed employment solely because of age. I hope the American people, having their attention focused upon such shocking facts, will more and more determine that we will no longer tolerate such rank and unfair discrimination analogous in principle to discrimination on account of race and discrimination on account of sex which we have long ago banned by the law of this land.

Mr. Speaker, the American people are not telling Eric Sevareid goodby. His memory will always be with us. Ever echoing in our hearts will be many of the beautiful words with which he has told us of things around us and about us; and we pray that that providence which has spared him, with all of his magnificent vitality, to 65 years of age may give him many many more years in which to adorn his generation and to inspire and to stimulate his fellow man. Wherever he is and whatever he does we shall know about him and catch, if only more infrequently than in the past, his words of wisdom with which he shall with beautiful elucidation tell us of events, of great deeds, or meaningful episodes in the lives of our people or our country, indeed of mankind. So, Eric, as one American and a Member of this House, and an old friend as well, we thank you for all that you have meant to make Americans see themselves in clearer light and to walk on higher ground.

But, Eric, we are not saying goodbye. We can never say goodbye as long as you and we are here. We can only say au revoir.

Mr. Speaker, I include to follow these remarks and appear in the body of the RECORD an article entitled, "Eric Sevareid's Final Commentary," by Tom Shales in the November 30 issue of "The Washington Post."

Mr. Speaker, following the above article in "The Washington Post" I include to appear in the body of the RECORD an article entitled, "This Was Eric Sevareid," on page C17 of the December 1 issue of "The Washington Post," which article includes the last moving TV commentary on CBS and saddening goodbye of this great and good man, Eric Sevareid.

The articles follow:

ERIC SEVAREID'S FINAL COMMENTARY

(By Tom Shales)

Eric Sevareid has come to represent a one-man coalition of enlightened common sense. What we learned to expect of him from his commentator's pulpit was not so much the taking of a position as the taking of The Great Position—an ultimate, melting-pot statement of opinion produced from remnants of all available viewpoints.

Maybe 10 minutes later you couldn't remember just what the position had been; but while you were hearing it, it seemed incredibly reasonable and considered and, somehow, national rather than personal—a touchstone for the mainstream.

When that venerable prune face showed up on the screen, you knew you weren't in for a cheap thrill or bit of fey japery. It was, instead, a little like being confronted with your old civics professor, pop-quiz in hand, at that. "Eric went from facts to intelligence to wisdom," reporter Charles Kuralt will say of Sevareid on a CBS News special to be seen December 13, But he also went from wit to sage to eminence; he became the very avatar of sober significance, yet maintained the requisite oatmeal immediacy we require of television performers.

And so a number of interlocking eras may be ending as Sevareid's last commentary for the CBS Evening News airs tonight. With Sevareid's forced retirement (at 65) from an active role in CBS News, we lose the sense of stability that his recurring presence conveyed. It's a tacit victory for the forces of fractionalism and specialization in broadcasting and American life generally.

Certainly the momentousness of the occasion is not going unnoticed. In a very rare gesture, and one made purely out of respect, NBC News got permission from CBS to show about 40 seconds from Sevareid's farewell on the NBC Nightly News tonight (in some cities, including Washington, the two networks' newscasts air at the same time).

Nightly News producer Joseph Angotti says of the last Sevareid piece, "It's just absolutely beautiful."

At ABC, Av Westin, producer of the ABC Evening News, said he "hadn't really considered" yesterday whether or not to take note of Sevareid's retirement on his show. Howard K. Smith, who becomes the last remaining nightly network commentator, is on vacation, so Westin expects that either Harry Reasoner or Barbara Walters will "probably say something."

Sanford Sokolow, CBS News vice president in Washington, says that Sevareid taped his last commentary on Sunday, partly to avoid "all the sobbing and handshakes" of a twilight's last gleaming.

Is it possible there will be so much hard news that the Sevareid farewell will have to be postponed? "World War III would have to break out to bump that piece off the air," Sokolow says.

It will be a "personal" note, and CBS has given Sevareid about 45 seconds beyond his usual two and a quarter minutes to deliver it. All Sevareid will let us quote in advance is his sign-off, after 38 years with CBS and 14 years on the Cronkite newscast:

"This is Eric Sevareid. Thank you, and goodbye."

Sevareid retires even as the Geraldo Riveras of TV journalism ascend—at a time when network TV news is more noisily competitive and show-bizzy than ever. Sevareid was an obstacle to the cult of personality, partly by virtue of appearing not to have any; instead, he came across as an idealized granite composite of nine Supreme Court Justices. He wasn't one to mess around, wear gaudy shirts or hit us over the head with his own name.

And yet Sevareid himself, one of the few remaining graduates of the revered Edward R. Murrow school of broadcast journalism, isn't despairing about the present or future of TV news, even though its trivializing tendencies would seem anathema to him.

"It is a problem of course," Sevareid said yesterday. "Television is the most personal journalism there has ever been, more personal even than radio, and you cannot get away from that personality aspect of it. As competition gets more severe, I think there'll be an even higher premium on personality in TV news. That doesn't have to mean that everybody on the air will be a charming idiot. There are plenty of able reporters and writers who are also good on television.

"Within three or four years, all the news people on television will be people like that—somebody who projects a personality but who is believable as well as attractive."

In a series of valedictory CBS Radio interviews with Walter Cronkite, Sevareid decried the "glut of happiness" in some TV newscasts but still thinks the happy news craze has cooled.

"I don't think it's getting worse, not even on local stations," Sevareid says. "There's bound to be some of it, because in a long period of peace and prosperity, it's inevitable that people turn inward. You can't keep dealing with the great cosmic questions because people weary of them. So you have new magazines devoted to personalities and newspapers like The Washington Post giving more space to gossip.

"When something really serious happens, some great world calamity, then you'll see a change. I don't wish for such things to happen, but they do."

With Sevareid stepping down the demise of the broadcast commentator, and perhaps of the gentleman journalist as well, seems at hand. Commentary is more and more something that creeps into regular news reports. Sevareid thinks commentary's golden era was before television, anyway.

"Commentary flowered in radio days, partly because radio time was cheaper. You had all kinds of people doing 15-minute commentaries. It didn't translate into TV very well. In radio I had four minutes or so, and I wasn't buried in a hard-news program. I come along now as a little postscript, and I've had to run with the news of the day as close as I could.

"And the time they give me is not really a natural length," Sevareid says. "As a result, you're bound to sound terribly positive and almost smug. That's part of the price of compression; it gives you no chance to loosen up a bit. And of course I look like the great stone face anyway."

Sevareid is by no means going to vanish from the public eye. He has already taped narration for a public TV documentary on the human brain and will soon start work on a 16-part, Mobil-sponsored syndicated TV series called "Between the Wars," which will be telecast beginning in April.

"I won't leave CBS entirely," Sevareid also notes. "I'm just moving my office one flight up, to a littler one. I'll spend a couple days a week kibitzing as a CBS News consultant, annoying people here and there with memos."

In bidding its farewell, Newsweek dubbed Sevareid "without doubt the most imposing of all broadcast commentators." But New York magazine sent a sniper with its bon voyage: "Why I Won't Miss Eric Sevareid." Sevareid hasn't read that one but says, "It's almost a relief to know someone's giving me hell; everyone's been so nice it was beginning to make me nervous."

It's easy to mistake for blandness Sevareid's even-headed and unifying soundness; his opinions were indeed homogenized, at least as opposed to being rancorous, but that helps prove how sensitive he remained to the breadth of his constituency. Those who think they won't give him another thought after tonight might be surprised to find themselves giving him several in the rocky years to come. Eric Sevareid could almost have made his parting words those of another respected sage: "May the force be with you."

He is a knight of an old order.

"THIS WAS ERIC SEVAREID . . . ."

Eric Sevareid, who is retiring after 38 years with CBS News, delivered his final regular daily commentary last night on the CBS Evening News. The following is a transcript of his remarks:

"By my time of life one has accumulated more allegiances and moral debts than the mind can remember or the heart contain.

"So I cannot enumerate my betters, my mentors and sustainers during so many years of trying to use, with sense, this communications instrument, as unperfected as the persons who use it. But they know that I know who they are.

"Many are gone, including the man who invented me, Ed Murrow. Some died in the wars we were reporting. I have gone the nomal span of a man's working life, rather abnormal in this calling, and it's a happy surprise.

"We were like a young band of brothers in those early radio days with Murrow. If my affections are not easily given, neither are they easily withdrawn. I have remained through it all with CBS News, and if it is regarded as old-fashioned to feel loyalty to an organization, so be it.

"Mine has been, here, an unelected, unlicensed, uncodified office and function. The rules are self-imposed. These were a few:

"Not to underestimate the intelligence of the audience and not to overestimate its information.

"To elucidate, when one can, more than to advocate.

"To remember always that the public is only people, and people only persons, no two alike.

"To retain the courage of one's doubts as well as one's convictions, in this world of dangerously passionate certainties.

"To comfort oneself, in times of error, with the knowledge that the saving grace of the press, print or broadcast, is its self-correcting nature. And to remember that ignorant and biased reporting has its counterpart in ignorant and biased reading and listening.

We do not speak into an intellectual or emotional void.

"One's influence cannot be measured. History provides, for the journalist, no markers or milestones. But he is allowed to take his memories.

"And one can understand, as he looks back, the purpose of the effort and why it must be done.

"A friend and teacher, the late Walter Lippmann, described the role of the professional reporter and observer of the news in this manner:

"'We make it our business,' he said, 'to find out what is going on, under the surface and beyond the horizon; to infer, to deduce, to imagine and to guess what is going on inside—and what this meant yesterday and what it could mean tomorrow. In this way we do what every sovereign citizen is supposed to do but has not the time or the interest to do it for himself. This is our job. It is no mean calling and we have a right to be proud of it and be glad that it is our work.'

"In the end, of course, it is not one's employers or colleagues that sustain one quite so much as the listening public when it be so minded.

"And I have found that it applies only one consistent test—not agreement with one on substance—but the perception of honesty and fair intent. There is, in the American people, a tough, undiminished instinct for what is fair. Rightly or wrongly, I have the feeling that I have passed the test. I shall wear this like a medal.

"Millions have listened, intently or indifferently, in agreement and in powerful disagreement. Tens of thousands have written their thoughts to me.

"I will feel, always, that I stand in their midst.

"This was Eric Sevareid in Washington. Thank you and goodbye."

BACKGROUND AND ANALYSES OF INVESTIGATIONS INTO ASSASSINATIONS OF PRESIDENT JOHN F. KENNEDY AND DR. MARTIN LUTHER KING, JR.

(Mr. STOKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STOKES. Mr. Speaker, the Select Committee on Assassinations has received numerous requests from constituents for information on the work and progress of the committee. As you know, under the rules adopted by this committee, the members and staff are not permitted to discuss the substance or procedure of the investigation with persons outside the committee.

Nonetheless, we are aware of the public's interest and want to be as responsive as possible under the circumstances. With this in mind, I am inserting in the RECORD two issue briefs, prepared by the Congressional Research Service in the Library of Congress, which deal with background and analyses of investigations into the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr., including chronology of events, legislation, hearings, congressional documents, and additional reference sources.

I am hopeful that this will provide some insight into the task that has been undertaken by the select committee.

The material follows:

ASSASSINATION OF JOHN F. KENNEDY: THE CONSPIRACY CONTROVERSY

ISSUE BRIEF NO. IB77054

(Author: Cavanagh, Suzanne, Government Division, the Library of Congress, Congressional Research Service, Major Issues System)

(Date originated May 4, 1977.)

(Date updated November 3, 1977.)

ISSUE DEFINITION

President John F. Kennedy was assassinated on Nov. 22, 1963, in Dallas, Texas. The Warren Commission issued its report on Sept. 24, 1964. The Commission found that: (1) the shots that killed President Kennedy and wounded Governor Connally were fired from the sixth floor window at the southeast corner of the Texas School Book Depository; (2) that the weight of evidence indicated that three shots were fired; (3) that the shots which killed President Kennedy and wounded Governor Connally were fired by Lee Harvey Oswald; and (4) that there was no evidence that either Lee Harvey Oswald or his assassin, Jack Ruby, was part of any conspiracy, domestic or foreign, to assassinate President Kennedy.

Since that time there has been controversy about the findings of the Warren Commission. Several major issues are: did Lee Harvey Oswald really kill President Kennedy; if so, did he act alone; was there a conspiracy to assassinate the President; and, if there was a conspiracy, was any foreign Government or any agency of the United States Government involved?

BACKGROUND AND POLICY ANALYSIS

President John F. Kennedy was assassinated on Nov. 22, 1963, in Dallas, Texas. The alleged assassin, Lee Harvey Oswald, was charged with the murder of President Kennedy on the following day, Nov. 23, 1963. On Sunday, Nov. 24, as Oswald was being transferred from the city jail to the Dallas County jail, he was shot and killed. Jack Ruby, a local nightclub owner, was indicted and convicted of murdering Oswald, and was sentenced to death. Ruby's conviction was overturned on appeal, and while he was awaiting a new trial, he died of a blood clot in his lungs in Dallas, Texas, on Jan. 3, 1967.

On Nov. 29, 1963, President Lyndon B. Johnson issued Executive Order 11130, creating a Commission to investigate the assassination of President Kennedy. Earl Warren, Chief Justice of the United States, was appointed chairman of the Commission, and the members included two United States Senators (Richard Russell and John Sherman Cooper), two members of the House of Representatives (Hale Boggs and Gerald Ford), a former Director of the Central Intelligence Agency (Allen Dulles), and a former U.S. High Commissioner for Germany and former President of the International Bank for Reconstruction and Development (John McCloy). The Commission reported its finding to the President on Sept. 24, 1964. Its investigation was conducted over a 10-month period by a staff of 83 who interviewed several hundred witnesses. The Commission concluded that Lee Harvey Oswald did kill President Kennedy, and that he acted alone in doing so.

From the time the Warren Commission Report was made public to the present, the Commission has been criticized for its methods, comprehensiveness, and findings. There have been many allegations against the conclusions of the Warren Commission, and the critics are not in unity with respect to alternative theories to the findings of the Commission. Criticisms frequently made are:

(1) The Warren Commission sought to dispel rumors of a conspiracy to assassinate President Kennedy—thus its function was more political than investigative. It assumed that Lee Harvey Oswald was the lone assassin and set out to prove that assumption by giving undue weight to any evidence that would be used to support the theory that Oswald acted alone.

(2) The Commission concluded that three shots were fired and that one of those bullets fatally wounded President Kennedy and that the same bullet that exited through President Kennedy's throat wounded Governor Connally. Critics argue that at least four bullets were fired, and that the "single bullet" theory is incorrect.

(3) The Warren Commission concluded that all of the bullets came from behind. Critics allege that some of the bullets came from the front, and that the wound in President Kennedy's throat was an entrance, not an exit wound. Some critics question whether President Kennedy's body arrived at the Bethesda Hospital in the same condition as it left Dallas, saying that the wound in President Kennedy's throat may have been altered to appear like an exit wound. Some of the descriptions of the wound by doctors at Parkland Memorial Hospital who first treated the President were ignored or discounted by the Warren Commission.

(4) The Warren Commission discounted 52 witnesses who insisted that some of the shots that President Kennedy came from in front of him, from the direction of the grassy knoll.

(5) Critics argue that the fatal shot came from the right and to the front and could only have been fired from the grassy knoll. In addition, the film taken by Abraham Zapruder showed President Kennedy's body moved backward after the bullet impact. The film, some argue, indicates that four bullets were shot—one from the Texas Book Depository, hitting the President in the back; the second from the County Records Building, hitting Governor Connally; the third from the rear, hitting President Kennedy in the back of the head; and the fourth from the front, hitting the President in the head. An investigation conducted by CBS television in 1975 concluded, on the basis of a study of x-rays and photographs taken at the autopsy, that only two bullets hit President Kennedy and that neither struck the President from the front.

(6) The Warren Commission ignored an FBI Summary Report which stated that President Kennedy and Governor Connally were wounded by separate bullets. The FBI Summary Report also placed President Kennedy's wounds 6 inches below the neck and in the head. The Warren Commission placed one wound at the base of President Kennedy's neck, contradicting the FBI Summary Report.

(7) There have been allegations that Lee Harvey Oswald had some connections with the FBI or CIA. On May 14, 1964, J. Edgar Hoover testified before the Commission that Oswald had no connections with the FBI. The Warren Commission did not pursue that allegation beyond Hoover's testimony. Allegations that Oswald was involved with the CIA were rejected by the Commission, with, according to some critics, a less than thorough investigation.

(8) Another concern of those who reject the "lone assassin" theory is that the Warren Commission did not give sufficient attention to the autopsy report. Critics point out that an examination of the wounds in President Kennedy's brain could resolve the question of whether or not the President was shot from the front as well as from behind. Physical evidence, including President Kennedy's brain and tissue slides from the bullet wounds, had been collected by the Warren Commission and were placed in the National Archives as a result of an agreement be-

tween the Kennedy family and the National Archives. However, in the Appendix to a Hearing before the Subcommittee on Government Information and Individual Rights of the House Committee on Government Operations, an article written by Fred P. Graham for the New York Times stated that the preserved brain of President Kennedy, plus microscopic slides of tissues removed from the bullet wounds, are missing from the National Archives. Dr. Cyril H. Wecht, a medical expert and critic of the Warren Commission Report, examined the autopsy items at the National Archives and after his examination asserted that these objects were not among the autopsy items.

(9) Critics of the sole assassin conclusion of the Warren Commission also point out that 17 witnesses connected to the assassination of President Kennedy were found dead within 3 years after the assassination. Actuarial odds against this happening are allegedly one hundred trillion to one.

(10) Finally, there have been various allegations of a Cuban connection with Lee Harvey Oswald—either governmental or nongovernmental. In the Final Report of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (Church Committee) dated April 23, 1976, the committee stated that the CIA was involved in plots to assissinate Cuban Premier Fidel Castro and that this activity dated back to 1960. There have also been allegations that Oswald was involved with anti-Castro Cubans who were seeking revenge against President Kennedy for his role in the aborted Bay of Pigs invasion.

Critics have called for a new investigation into the assassination of President Kennedy. A Gallup Poll dated February 1977 revealed that 81 percent of those surveyed believed that more than one person was involved in the assassination of President Kennedy, 11 percent believed one man was responsible, and 8 percent expressed no opinion.

One congressional response to demands for a new investigation was the creation of the House Select Committee on Assassinations, presently chaired by Mr. Stokes (D. Ohio). This committee, according to H. Res. 433, will exist for the duration of the 95th Congress (see chronology for the itemization of key events concerning creation and operations of this Committee). The Committee is authorized to investigate both the assassinations of President Kennedy and of Martin Luther King, Jr. [see IB77057, The Assassination of Martin Luther King, Jr.: The Conspiracy Controversy] and to report its findings to the House.

LEGISLATION

95th Congress

H. Res. 465 (Dent). Provided for the funding of the Select Committee on Assassinations at $2.5 million for one year. Adopted by the House on Apr. 28, 1977.

H. Res. 433 (Stokes et al.). Provided for the extension of the Select Committee on Assassinations for the duration of the 95th Congress. Adopted by the House on Mar. 30, 1977.

H. Res. 222 (Bolling). Amended H. Res. 9 and provided for the creation of a Select Committee on Assassinations which would expire on Mar. 31, 1977. Reported favorably from the Committee on Rules on Feb. 1, 1977, and adopted by the House on Feb. 2, 1977.

H. Res. 9 (Wright). Provided for the reestablishment of the Select Committee on Assassinations and provided for interim funding under the provisions of H. Res. 11. Introduced on Jan. 4, 1977, and referred to the Committee on Rules.

94th Congress

H. Res. 1540 (Gonzalez et al.). Provided for a select committee to be composed of 12 members to be appointed by the Speaker of the House for the purpose of conducting a full and complete investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., and of others the select committee shall determine. Introduced on Sept. 14, 1976, and referred to the Committee on Rules. Reported favorably to the House from the Committee on Rules on Sept. 17, 1976. Adopted Sept. 17, 1976.

HEARINGS

U.S. Congress. House. Committee on Government Operations. Subcommittee on Government Information and Individual Rights. National Archives—Security classification problems involving Warren Commission files and other records. Hearings, 94th Congress, 1st session. Nov. 11, 1975. Washington, U.S. Govt. Print. Off., 1975. 98 p.

U.S. Congress. House. Select Committee on Assassinations. Committee meetings. Hearings, 95th Congress, 1st session. Mar. 9, 11, 16, and 23, 1977. Washington, U.S. Govt. Print. Off., 1977. 59 p.

REPORTS AND CONGRESSIONAL DOCUMENTS

U.S. Congress. House. Select Committee on Assassinations. Committee rules of the House Select Committee on Assassinations; report. Mar. 18, 1977. Washington, U.S. Govt. Print. Off., 1977. 11 p.

At head of title: 95th Congress, 1st session. Committee Print.

———Report. Mar. 28, 1977. Washington, U.S. Govt. Print. Off., 1977. 13 p.

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———Report providing for the expenses of investigations and studies to be conducted by the Select Committee on Assassinations. Washington, U.S. Govt. Print. Off., 1977. 11 p. (95 Congress, 1st session. House. Report No. 95–223)

———Report together with additional and supplemental views. Washington, U.S. Govt. Print. Off., 1977. 18 p. (94th Congress, 2d Session. House. Report No. 94–1781)

U.S. Congress. Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities. Alleged assassination plots involving foreign leaders; an interim report. Washington, U.S. Govt. Print. Off., 1975. 349 p. (94th Congress, 1st session. Senate. Report No. 94–465)

———The investigation of the assassination of President John F. Kennedy: performance of the intelligence agencies. Washington, U.S. Govt. Print. Off., 1976. 106 p. (94th Congress, 2d session. Senate. Report No. 94–755)

CHRONOLOGY OF EVENTS

June 20, 1977—G. Robert Blakey named chief counsel to House Select Committee on Assassinations.

June 7, 1977—Reputed anti-Castro activist Loren Hall appeared, under subpoena, before a subcommittee of the House Select Committee on Assassinations and refused to answer any questions relating to the assassination of President John F. Kennedy.

April 28, 1977—House of Representative approved a budget of $2.5 million for one year for the Select Committee on Assassinations.

April 11, 1977—Alvin B. Lewis Jr. (now resigned) named acting chief counsel and staff director of the House Select Committee on Assassinations. Lewis had been a special counsel for the committee since Dec. 6, 1976.

April 1, 1977—William Oltmans, Dutch journalist and alleged friend of George de Mohrenschildt, testified before House Select Committee on Assassinations in a closed door session.

March 30, 1977—House Select Committee on Assassinations extended for the life of the 95th Congress.

Richard Sprague resigned as chief counsel for the Select Committee on Assassinations.

March 29, 1977—George de Mohrenschildt, Russian born professor, who allegedly knew Lee Harvey Oswald, and who was to be interviewed by the Select Committee on Assassinations, committed suicide in Florida.

March 16, 1977—Reputed organized crime leader Santo Trafficante Jr. appeared, under subpoena, before the House Select Committee on Assassinations and refused to answer any questions relating to the assassination of John F. Kennedy.

March 8, 1977—Congressman Henry B. Gonzalez's resignation as Chairman of the House Select Committee on Assassinations accepted by the House. Congressman Louis Stokes named new Chairman.

February 10, 1977—Chairman Gonzalez fired chief counsel Richard Sprague from position on the Select Committee on Assassinations. Sprague refused to leave his post. Eleven members of the Committee signed a letter to Sprague endorsing him and stating that the Chairman's action was "invalid in law . . ."

February 2, 1977—H. Res. 222, which provided for the creation of a Select Committee on Assassinations that would expire Mar. 31, 1977, was adopted by the House. Budget of $84,000 per month for the two month duration endorsed by the House. Speaker appointed twelve members of the House to the Committee with Mr. Gonzalez as Chairman.

January 3, 1977—The Select Committee on Assassinations officially expired at the end of the 94th Congress.

December 12, 1976—Chief Counsel Richard Sprague went before the Select Committee on Assassinations with a budget proposal of $6.5 million for the first year. The Committee voted unanimously to recommend the budget to the full House in the 95th Congress.

November 15, 1976—The Select Committee on Assassinations confirmed Richard Sprague, former Assistant District Attorney in Philadelphia, as chief counsel for the Committee.

September 30, 1976—The House of Representatives endorsed a preliminary budget of $150,000 for the Select Committee on Assassinations.

September 17, 1976—The House of Representatives adopted H. Res. 1540, which provided for the establishment of a select committee to be composed of 12 members appointed by the Speaker for the purpose of conducting a full and complete investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King and of others the select committee shall determine. Mr. Downing appointed Chairman of the Select Committee on Assassinations.

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Assassination of Martin Luther King, Jr.: The Conspiracy Controversy Issue Brief Number IB77057

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ISSUE DEFINITION

Dr. Martin Luther King, Jr., was assassinated on Apr. 4, 1968, in Memphis, Tennessee. The indicated assassin, James Earl Ray, eventually pled guilty to the murder of Dr. King and was sentenced to 99 years in prison. Subsequently, Ray stated that he did not murder Dr. King, and that he was the unknowing victim of a conspiracy to assassinate Dr. King. He has attempted, so far without success, to change his guilty plea and secure a new trial. A Federal District Court in Memphis found no violation of Ray's constitutional rights resulting from his guilty plea and the Sixth U.S. Circuit Court of Appeals unanimously upheld that ruling, saying that Ray's testimony at his hearing on Mar. 10, 1969, made it clear that he understood his actions in pleading guilty. Key questions about the assassination of Dr. King are still raised by many. These include: did James Earl Ray assassinate Martin Luther King, Jr.? If so why, and did he do it alone, or was he involved in a conspiracy? If Ray did not kill Dr. King, who did? If there was a conspiracy, was any Federal, State, or local governmental authority involved?

BACKGROUND AND POLICY ANALYSIS

Dr. Martin Luther King, Jr. was struck by a sniper's bullet at 6:01 p.m. while standing on the balcony of his room in the Lorraine Motel in Memphis, Tennessee on Apr. 4, 1968. He was pronounced dead at 7:05 p.m. Within one half hour after the shooting the Memphis Field Office of the FBI was ordered to conduct a full investigation of the murder as a possible violation of the civil rights conspiracy statute (18 U.S.C. 241).

Eyewitnesses described a man seen fleeing from a rooming house near the Lorraine Motel as a white male, between 26 and 30 years old, about 6 feet tall, and weighing approximately 160 pounds. Some eyewitnesses reported that a man fitting that description dropped a bundle in front of a store close to the rooming house, got into a white car, possibly a Mustang, and sped away at a high speed. The contents of the bundle were turned over to the FBI and were sent to Washington, D.C. on the night of Apr. 4, 1968.

On Apr. 7, 1968, all FBI Field Offices were directed to participate in the investigation of Dr. King's assassination. The rifle found in Memphis was traced to the seller, the Aeromarine Supply Company in Birmingham, Alabama. On Apr. 11, 1968, an abandoned white Mustang was found in Atlanta, Georgia. A license check of the vehicle revealed that it was registered to an Eric Starvo Galt, and on Apr. 17, the FBI issued a fugitive warrant for the arrest of Galt. Two days later, a check of latent fingerprints found on the rifle and binoculars positively identified the fingerprints to be those of an escapee from the Missouri State Penitentiary, James Earl Ray. The FBI determined "that Eric Starvo Galt was James Earl Ray." On June 8, 1968, the man identified as James Earl Ray was arrested by British authorities at Heathrow Airport outside of London.

While awaiting extradition in London, Ray wrote to Arthur Hanes, Sr., former mayor of Birmingham, asking Hanes to represent him at his trial. Mr. Hanes and his associate, Arthur Hanes, Jr., agreed to take Ray's case.

On Nov. 10, 1968, Arthur Hanes, Sr. and his son went to the Shelby County Jail in Memphis to see their client. Upon arrival Hanes, Sr. was told that the Sheriff wished to see him. Hanes was shown a xeroxed copy of a handwritten note from James Earl Ray in which Ray stated that he was changing lawyers. Hanes was replaced by Percy Foreman, and the trial was rescheduled for Mar. 10, 1969. Foreman reportedly advised Ray to plead guilty and receive a prison sentence rather than to risk being sentenced to death if convicted by a jury. On Mar. 10, 1969, James Earl Ray pled guilty to the charge of murdering Dr. King and was sentenced to 99 years in prison. Since that time Ray has repeatedly denied shooting Dr. King and has sought a new trial. All of Ray's petitions for a new trial and a plea change have been denied.

In the 8 years following James Earl Ray's conviction and denial of guilt several theories have been advanced by those who either doubt Ray's guilt or his lone guilt. The critics of the court finding are not in agreement as to alternative explanations of the murder, and appeals for a reopening of the case have been denied by both a Federal District Court in Memphis and the Sixth U.S. Circuit Court of Appeals, both finding no unconstitutional violation of Ray's rights resulting from his guilty plea. A Justice Department report dated Jan. 11, 1977, concluded that James Earl Ray acted alone in assassinating Dr. King.

Theory A: Ray was knowingly involved in a conspiracy to assassinate Dr. King.

Those who believe that Ray was knowingly involved in a conspiracy to assassinate Dr. King, or at least had help in doing so, question how Ray could have obtained a passport, false identification, and four credible aliases without help. These critics of the "loner" theory point out that Ray had a previous record of mistakes and miscalculations in his criminal attempts. For example, in Ray's first known burglary of a Los Angeles cafeteria, he dropped his army discharge notice and his savings account passbook. In a chase after robbing a Chicago cab driver, Ray fell through the basement window of a house. In East Alton, Illinois, Ray returned for more loot after robbing a dry cleaner and was surprised by police who had noticed a window ajar. In two grocery store holdups, Ray and his accomplices took around $2,000 from cash registers and missed $30,000 in locked safes.

Supporters of the "knowingly-involved-conspiracy" theory say that Ray obtained money from an unknown source during the year following his escape from the Missouri State Penitentiary. Ray, according to an FBI report, spent approximately $7,000 between Apr. 23, 1967, when he escaped from prison, and June 8, 1968, when he was apprehended in Heathrow Airport. Ray's documented income from that period was $664.34. During that period Ray traveled both in the U.S. and abroad, making trips to Acapulco, Montreal, London, and Lisbon.

Ray contends that a person named "Raoul," whom he met in a bar in Montreal, financed many of his trips and purchases in exchange for Ray's smuggling items across the Canadian border into the United States. "Raoul" has never been identified, and the source of Ray's additional income has not been otherwise determined. Ray insists that "Raoul" instructed him to purchase a rifle and gave him the money to do so. Some say that "Raoul" is Jerry Ray, James Earl Ray's brother, and that Jerry Ray planned the assassination of Dr. King.

These critics of the investigation point out that Ray alleges that he drove to Atlanta by himself after the assassination. However, when authorities in Atlanta discovered the abandoned white Mustang, cigarette and cigar ashes were littering the floor of the car. Ray does not and did not smoke.

Theory B: Ray is innocent or was the unwitting actor in a conspiracy to assassinate Dr. King.

Some who doubt that James Earl Ray killed Dr. King contend that the Government has failed to produce a single reliable eyewitness who could place Ray at the scene of the crime and that the police artist's sketch of the alleged assassin did not resemble James Earl Ray. In addition, no expert testimony was given either to establish that the bullet taken from Dr. King's body did or did not come from the rifle allegedly belonging to Ray. Nor could a connection be established between James Earl Ray and the bullet that killed Dr. King. The critics of the Ray conviction allege that not a single fingerprint of Ray's has been positively identified from his alleged getaway car, or in the rooming house where he allegedly shot Dr. King.

Those who support the theory that James Earl Ray was an unwitting actor in a conspiracy question why Ray would have dropped the bundle containing the rifle with his fingerprints on it after assassinating Dr. King.

Ray continues to protest his conviction, saying that his second lawyer, Percy Foreman, did not give him the best defense possible, and did not conduct an adequate investigation. Foreman allegedly was to receive a 60% share of the royalties from Ray's biography, He Slew the Dreamer, eventually written by William Bradford Huie. Huie paid for Ray's defense in return for exclusive rights to Ray's story. Ray claims he was browbeaten and misled into pleading guilty.

Theory C: "Official" conspiracy to assassinate Martin Luther King, Jr.

Because of a perceived FBI mishandling of its King assassination investigation and the reputed hatred of the late Director J. Edgar Hoover for Dr. King, some critics have asked whether the FBI was in any way involved in a conspiracy to assassinate King. Some of these critics even allege that the FBI may have helped to plan the murder of Dr. King. In support of their claims, the "official" conspiracy critics point out that in testifying before the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, former Assistant Director of the FBI's Domestic Intelligence Division, William C. Sullivan, acknowledged harassing Dr. King and tapping his telephone on orders from J. Edgar Hoover. They also note that the FBI intelligence squad to which Hoover assigned the task of destroying Dr. King's reputation was then assigned primary responsibility by Hoover to investigate King's death.

These critics are also concerned with the time lag between the FBI's taking custody of the rifle containing Ray's fingerprints and the identification of the fingerprints as those of James Earl Ray. The FBI took the rifle that allegedly contained Ray's fingerprints to Washington the night of Apr. 4, 1968, the night of the assassination. Thirteen days later the FBI issued a fugitive warrant for "Eric Starvo Galt," not James Earl Ray, although Ray had a prison record.

Finally, these critics ask why one of the two Memphis police officers in charge of security for Dr. King was taken off that assignment two hours before Dr. King was killed.

Where are we now?

Critics have called for a new investigation into the assassination of Martin Luther King, Jr. A Gallup poll dated February 1977 revealed that 69% of those surveyed believed that more than one person was involved in the assassination of Dr. King.

One congressional response to demands for a new investigation has been the creation of the House Select Committee on Assassinations, presently chaired by Representative Stokes (D. Ohio). It will exist for the duration of the 95th Congress and is authorized to investigate both the assassination of Martin Luther King, Jr., and President John F. Kennedy [see IB77054, Assassination of President John F. Kennedy: The Conspiracy Controversy], and to report its findings to the House. (See chronology for itemization of key events concerning the creation and operations of this Committee). So far it has been funded $2.5 million to conduct its study.

As previously stated, a Justice Department report dated Jan. 11, 1977, and made public on Feb. 2, 1977, concluded that James Earl Ray acted alone in assassinating Martin Luther King, Jr.

LEGISLATION

95th Congress

H. Res. 465 (Dent). Provided for the funding of the Select Committee on Assassinations at $2.5 million for one year. Adopted by the House on Apr. 28, 1977.

H. Res. 433 (Stokes et al.). Provided for the extension of the Select Committee on Assassinations for the duration of the 95th Congress. Adopted by the House on Mar. 30, 1977.

H. Res. 222 (Bolling). Amended H. Res. 9 and provided for the creation of a Select Committee on assassinations which would expire on Mar. 31, 1977. Reported favorably from the Committee on Rules on Feb. 1, 1977, and adopted by the House on Feb. 2, 1977.

H. Res. 9 (Wright). Provided for the reestablishment of the Select Committee on Assassinations and provided for interim funding under the provisions of H. Res. 11. Introduced on Jan. 4, 1977, and referred to the Committee on Rules.

94th Congress

H. Res. 1540 (Gonzalez et al.) Provided for a select committee to be composed of 12 members to be appointed by the Speaker of the House for the purpose of conducting a full and complete investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr., and of others the select committee shall determine. Introduced on Sept. 14, 1976, and referred to the Committee on Rules. Reported favorably to the House from the Committee on Rules on Sept. 17, 1976. Adopted Sept. 17, 1976.

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CHRONOLOGY OF EVENTS

June 20, 1977—G. Robert Blakey named chief counsel to House Select Committee on Assassinations.

June 13, 1977—James Earl Ray captured within 10 miles of Brushy Mountain State Penitentiary.

June 10, 1977—James Earl Ray escaped from Brushy Mountain State Penitentiary in Petros, Tennessee.

April 28, 1977—House of Representatives approved a budget of $2.5 million for one year for the Select Committee on Assassinations.

April 11, 1977—Alvin B. Lewis (now resigned) named acting chief counsel and staff director of the House Select Committee on Assassinations. Lewis had been a special counsel for the committee since Dec. 6, 1976.

March 30, 1977—House Select Committee on Assassinations extended for the life of the 95th Congress.

Richard Sprague resigned as chief counsel for the Select Committee on Assassinations.

March 22, 1977—Staff of the Select Committee on Assassinations visited James Earl Ray in prison to question him about the King assassination.

March 8, 1977—Congressman Henry B. Gonzalez's resignation as Chairman of the House Select Committee on Assassinations accepted by the House. Congressman Louis Stokes named new Chairman.

February 10, 1977—Chairman Gonzalez fired Chief Counsel Richard Sprague from position on the Select Committee on Assassinations. Sprague refused to leave his post. Eleven members of the Committee signed a letter to Sprague endorsing him and stating that the Chairman's action was "invalid in law. . . ."

February 2, 1977—H. Res. 222, which provided for the creation of a Select Committee on Assassinations that would expire on Mar. 31, 1977, was adopted by the House. Budget of $84,000 per month for the two month duration endorsed by the House. Speaker appointed twelve members of the House to the Committee with Gonzalez as Chairman.

Justice Department study concluding that James Earl Ray acted alone in assassination of Martin Luther King, Jr. made public.

January 3, 1977—The Select Committee on Assassinations officially expired at the end of the 94th Congress.

December 9, 1976—Chief Counsel Richard Sprague went before the Select Committee on Assassinations with a budget proposal of $6.5 million for the first year. The Committee voted unanimously to recommend the budget to the full House in the 95th Congress.

November 15, 1976—The Select Committee on Assassinations confirmed Richard Sprague, former Assistant District Attorney in Philadelphia, as chief counsel for the Committee.

September 30, 1976—The House of Representatives endorsed a preliminary budget of $150,000 for the Select Committee on Assassinations.

September 17, 1976—The House of Representatives adopted H. Res. 1540, which provided for the establishment of a select committee to be composed of 12 members appointed by the Speaker for the purpose of conducting a full and complete investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King and of others the select committee shall determine. Mr. Downing appointed Chairman of the Select Committee on Assassinations.

May 10, 1976—James Earl Ray was denied a new trial by the Sixth U.S. Circuit Court of Appeals.

April 29, 1976—Attorney General Edward H. Levi ordered an Internal Justice Department review of files compiled by the FBI in the investigation of Dr. King both before and after his assassination.

November 24, 1975—The Attorney General directed the Civil Rights Division of the Department of Justice to undertake a review of the files of the Department and of the FBI to determine whether the investigation of Dr. Martin Luther King, Jr. should be reopened.

November 1, 1975—William C. Sullivan, former Assistant Director, Domestic Intelligence Division, Federal Bureau of Investigation, testified before the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities that from late 1963 until Apr. 4, 1968, when Dr. King was assassinated, the FBI conducted a campaign to harass and discredit him.

October 22, 1975—After 4 years of legal effort, James Earl Ray was granted a hearing to determine if he could retract his guilty plea and be granted a new trial for the murder of Martin Luther King, Jr.

February 27, 1975—U.S. District Court Judge Robert M. McRae, Jr. denied James Earl Ray's request for a new trial.

March 10, 1969—James Earl Ray entered a guilty plea to the charge of murdering Dr. Martin Luther King and was sentenced to 99 years in prison.

June 8, 1968—James Earl Ray apprehended by officer of New Scotland Yard at Heathrow Airport outside of London.

April 19, 1968—The FBI identified fingerprints on a rifle allegedly used to assassinate Dr. King. The fingerprints compared identically to those of James Earl Ray, an escapee from the Missouri State Penitentiary.

April 4, 1968—Dr. Martin Luther King assassinated in Memphis, Tennessee.

April 3, 1968—Dr. Martin Luther King arrived in Memphis, Tennessee, to lead a march in support of striking sanitation workers.

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THE PEOPLE SPEAK

(Mr. SCHEUER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, in the

November issue of Commentary Seymour Martin Lipset and William Schneider, two prominent public opinion scholars, report on the opinions of Americans on the Middle East conflict.

With so many alternative U.S. positions on the Mideast swirling about in the Washington air it is astonishing that it has taken so long for someone to try and develop an authoritative public opinion survey on the Mideast. As policymakers, my colleagues will be interested in the findings of Professors Lipset and Schneider.

Although the entire article is reprinted following my remarks, the concluding paragraph bears special repetition here:

> . . . a confrontation with Israel will create a deep conflict within the United States, one that could very well parallel the Vietnam controversy in its bitterness, and that could have a devastating effect on the popularity and the chances for reelection of those responsible.

Mr. Speaker, I commend the entire Commentary article to our colleagues' attention:

CARTER VS. ISRAEL—WHAT THE POLLS REVEAL

(By Seymour Martin Lipset and William Schneider)

(NOTE.—Seymour Martin Lipset, a leading authority on American public opinion, is professor of political science and sociology and senior fellow of the Hoover Institution, Stanford University. William Schneider is an associate professor of government at Harvard University.)

Even before the furor the new Soviet-American declaration on the Middle East, there was considerable interest in the White House on the state of American public opinion on the Middle East conflict. For as the Carter administration was moving closer and closer to support of a separate Palestinian state which would probably be dominated by the PLO, it was also moving closer and closer to a confrontation with Israel and therefore also with the friends of Israel in the United States. What the administration has wanted to know is how great the political costs of such a confrontation would be. What would happen if Jimmy Carter appealed to public sentiment in an open conflict with Israel? Would public opinion rally behind him and against the Israelis, or would he lose more ground politically than he would gain?

National samples of Americans have been questioned by myriad organizations about their attitudes toward Israel and its Arab opponents from the founding of the state in 1948 down to the polls taken for the White House by Pat Caddell this past summer. These surveys show certain clear patterns. First, there has never been a poll which has found more support for the Arabs than for the Israelis, no matter how the question has been asked. Many Americans have on different occasions told interviewers they did not know enough about the situation to make a choice. But among those who felt that they did know enough to form an opinion, sympathy for Israel has always predominated. Various surveys taken between February 1948 and March 1949, at the time of the first Arab-Israeli war, indicated that more than a third sympathized with the Israelis, while between 11 and 16 per cent said they favored the Arabs. Again, during the crisis which led to the Sinai War in 1956, surveys found two to three times as many people blaming the Arabs generally or the Egyptians in particular as blamed Israel.

In the next ten years, there was comparatively little interest in the Middle East, but the outbreak of the Six-Day War in June 1967 led to a groundswell of sympathy for Israel among the American public. According to a Gallup poll taken during the war, 48 per cent said their sympathy lay more with Israel than with the Arab states, as compared with only 4 per cent who replied that their sympathies lay with the Arabs. The findings of the Harris poll during the same period were 41 per cent sympathetic to Israel and only 1 per cent to the Arabs. In the months following the Six-Day War, the American public evidently became even more pro-Israel, if their answers to questions dealing with the future of Jerusalem were any indication. The Harris survey found that the percentage saying, "Let Israel keep control of Jerusalem" increased from 10 in July to 43 in September, while those who favored making Jerusalem an "international city" dropped from 70 to 33 per cent.

Since 1967 questions concerning sympathy in the Middle East conflict have been asked on a fairly regular basis by several national polling organizations: Gallup (1967–77), Harris (1967–75), Roper (1974–77), and Yankelovich, Skelly, and White (1974–77). In the twenty-seven national polls which we have located, taken between 1967 and 1977, sympathy for Israel has ranged between 35 and 56 per cent, and sympathy for the Arabs between 1 and 9 per cent, with the remainder saying "neither side," "both sides," or "don't know."

Thus, support for the Arabs among the American people in the past ten years has been consistently low, averaging only 6 per cent. There has been considerably greater variation in pro-Israel sentiment. But whenever support for Israel has fallen, it has done so not because sympathy for the Arabs has increased, but because of a rise in indifference. Moreover, sympathy for Israel over the Arab states has been much greater since 1967 than before—despite the oil crisis which developed in tandem with the Yom Kippur War and despite the apparent increase in isolationist sentiment following on the American fiasco in Vietnam. Many friends of Israel feared that distance from the Holocaust and from the events that led to Israel's founding, as well as the increase in opposition to Israel in other countries and the concern over oil supplies here, would lead to a decline in American sympathy for Israel. But this has simply not happened. On the contrary, support has greatly increased in recent years. The reason seems to be admiration for the way a small democratic nation, allied to the United States, has been able to stand off and defeat the massive onslaughts of Arab armies.

The quality or depth of feeling about Israel has also been tested by pollsters in a more extreme fashion by asking how people would react to Israel's destruction. Thus Harris inquired in the winter of 1974–75: "If there were another war in the Middle East and Israel were overrun by the Arabs, would you be very upset, mildly upset, mildly pleased, or very pleased?" His findings were 44 per cent very upset and 34 per cent mildly upset, as against 2 per cent mildly pleased, and only 1 per cent very pleased. More recently, Yankelovich touched on similar sentiments when he asked in March 1977: "If Israel were destroyed by the Arabs and ceased to exist as an independent state, would this leave you indifferent, sorry but not personally affected, or feeling a deep sense of personal loss?" Only 13 per cent replied "indifferent," 27 per cent said they would feel a "deep sense of personal loss," while the remaining 60 per cent indicated "sorry but not personally affected." Many of the latter group, however, were clearly pro-Israel, since 66 per cent of all those queried in the same survey agreed that "the continuation of Israel as a Jewish state is important to our country and people like yourself," while only 27 per cent replied "not important."

If large numbers of Americans feel warmly toward Israel, there is some evidence to suggest that a significant minority has negative, close to racist, attitudes toward the Arabs. This conclusion is suggested in the results of a poll taken by Pat Caddell's Cambridge Survey Research organization in the summer of 1975. Caddel gave respondents a list of images and asked them: "Does each word apply more to the Arabs or more to the Israelis?" Nearly half or more said that the terms "greedy," "arrogant," and "barbaric" apply to the Arabs; relatively few described the Arabs as "peaceful," as "honest," as "friendly," or as "like Americans," while a majority used these terms to describe the Israelis.

Israel does even better in competition with the Palestine Liberation Organization. In surveys conducted by Yankelovich in 1975, 1976, and 1977, respondents were asked to react to a number of statements about the PLO and Israel, and their answers revealed overwhelming preference for Israel in every case. In the most recent survey (March 1977), 88 per cent said that "we can get along" with Israel, while only 23 per cent said the same for the PLO. Four-fifths replied that the PLO was "anti-U.S.," while only a tenth had comparable opinions about Israel. Over 70 per cent believed that Israel was "democratic," while only 7 per cent thought the same about the PLO.

Israel has steadily bettered its comparative standing in these three studies, while the PLO has steadily fallen. But what is even more significant, American opinion has grown more and more sympathetic to Israel's refusal to negotiate with the PLO. When asked by Yankelovich in January 1975 whether "Israel is doing the right thing in refusing to negotiate with the PLO," only 27 percent said Israel was right, 36 percent felt it was wrong, and 35 percent were not sure. A year later, the responses were slightly more positive from Israel's point of view, with 31 percent saying Israel was right, 31 wrong, and 38 not sure. But in March 1977 Yankelovich found a plurality in Israel's favor, with 40 percent saying Israel is right in not negotiating with the PLO as compared with 21 percent who think this policy is wrong.

There is some indication in recent surveys that Americans differentiate between the Palestinians as a group and the PLO or the Arabs. They are more likely to express sympathy for the Palestinians than for the Arabs or the PLO. For example, while sympathy for the Arabs runs between 5 and 9 percent, Harris found 14 percent voicing sympathy for the Palestinians in his winter 1974–75 Middle East survey. Respondents were evenly split over the statement, offered by Harris, that "Israel has mistreated the Palestinian refugees and that is wrong" (29 percent agreed, 28 percent disagreed, while even more—41 percent—responded "don't know"). In the Yankelovich survey taken in March 1977—before Begin's election—the 61 percent of respondents who said they had heard of the PLO were asked: "Do you think the Palestinian refugees have any legitimate complaints against Israel?" Over half of these—55 percent—said yes, while only 18 percent felt that the Palestinians had no legitimate complaints. Only 16 percent of the same informed respondents, however, agreed that "the Arabs have a strong moral case against Israel which deserves more attention than we give it," a finding in line with the other evidence that Americans distinguish between "Arabs" and "Palestinians."

The point at which sympathy for the Palestinians ends is the PLO. In Harris's winter 1974–75 Middle East survey, a plurality of Americans labeled Yasir Arafat as an "extremist" and a "terrorist" and a man responsible for the outrageous slaughter of innocent children. Americans tended to reject the notion that Arafat "has become more moderate in his demands lately" (29 to 19 percent), that he "wants to work out a peaceful settlement in the Middle East" (30 to 19 percent), that he made a good impression at the United Nations (32 to 17 percent), or that he should be a permanent observer at the United Nations (35 to 18 percent).

The record seems clear. By whatever measure or question one uses, and whatever opinion poll one consults, American sympathy for Israel has remained relatively constant since 1967, and many more Americans have been supportive of Israel than of the Arabs.

Sympathy for Israel does not, however, translate directly into support for U.S. military aid to Israel. A review of ten polls taken by the Gallup, Harris, and Yankelovich organizations between 1967 and 1977 shows opponents of military aid outnumbering supporters in six polls, and supporters outnumbering opponents in four. In most cases, the two sides were almost evenly balanced.

Yet however limited the support we find for U.S. military aid to Israel, support for U.S. military aid to the Arab nations is consistently lower. In October 1973, just after the Yom Kippur War, Gallup asked those who had heard or read about the conflict whether the U.S. should supply arms and materiel to Israel and, in a separate question, to the Arabs. While military aid to Israel was opposed by a margin of 49 to 37 per cent, military aid to the Arabs was opposed by the much more decisive margin of 85 to 2.

The issue here, then, would seem to be not Israel versus the Arabs, but military aid itself. Foreign aid is not a particularly popular program, and military aid is even less so. In the 1974–75 Harris survey Americans were overwhelmingly favorable (93 per cent) to "our giving emergency food and medical supplies to other nations in cases of natural disasters such as floods and earthquakes" and by a margin of 53 to 38 they also favored "our giving economic aid to other nations for purposes of economic development and technical assistance." But when the survey turned to the issue of military rather than economic aid, public support collapsed. Asked "On the whole, do you favor or oppose our giving *military* aid to other nations?" (emphasis in questionnaire), only 22 per cent said they favored it, with fully 75 per cent opposed. Americans were even hostile (53-35) to the idea of selling arms abroad. In fact, when respondents were given a list of thirteen federal programs and asked whether each should be expanded, cut back, or kept the same, economic and military aid to other nations emerged as the two least popular policies: 70 per cent felt that military aid to other nations should be cut back and 56 per cent felt that foreign economic aid should be cut back.

Another piece of evidence that Americans are against military aid in general rather than aid to Israel is the finding that those who oppose military aid to Israel tend to oppose military aid to other countries as well, including the Arab countries. Thus, in October 1974 the Yankelovich poll asked respondents whether they thought the United States should send arms to each country in a list of ten. Those who opposed military aid to Israel were also likely to oppose it for South Korea, Greece, Italy, South Vietnam, Turkey, Ireland, and Yugoslavia, as well as for Jordan and Saudi Arabia.

In its winter 1974–75 survey, the Harris organization interviewed a sample of over 3,000 Americans for an average of 73 minutes each on the subject of Israel, the Middle East conflict, and anti-Semitism. The Harris survey included four questions relating to U.S. military aid to Israel. Two of these questions were worded in a "positive" way, that is, offering cues favorable to U.S. military aid: "In general, with the Russians arming Egypt and Syria, do you think the U.S. is right or wrong to send Israel the military supplies it needs?"; and "If war broke out again in the Middle East between the Arabs and Israel, would you favor or oppose the U.S. continuing to send military supplies, not troops or personnel, to help Israel?" On both questions, 65 per cent of the sample favored military aid, with only 21–24 per cent opposed, an unusually high level of support for Israel. One might suppose that such strong support was due to the bias in question-wording ("with the *Russians* arming Egypt and Syria," "the military supplies [Israel] *needs*," etc.). But the survey included two other questions which were worded with a negative bias toward Israel: "We need Arab oil for our gasoline shortage here at home, so we had better find ways to get along with the Arabs, even if that means supporting Israel less"; and "If it came right down to it and the only way we could get Arab oil in enough quantity and at lower prices were to stop supporting Israel with military aid, would you favor or oppose such a move by this country? Sixty-eight per cent opposed cutting off military aid to Israel in order to get more Arab oil at lower prices. Thus, on all four questions, the winter 1974–75 Harris survey showed a consistent 63–68 per cent of Americans in favor of U.S. military aid to Israel.

These figures are considerably more favorable to Israel than those obtained in other surveys taken at about the same time. Inspection of the Harris questionnaire reveals the likely explanation. Virtually the entire interview dealt with Israel and the Middle East, thus establishing a definite context in the minds of the respondents. Moreover, the first question concerning support for U.S. military aid was asked after a sequence of questions dealing with sympathy in the Middle East conflict (53 per cent for Israel); estimated chances for a Middle East peace settlement (only 16 per cent "excellent" or "pretty good"); blame for starting the October 1973 war (Arabs 42 per cent, Israel 10 per cent); assessment of which side won the 1967 war (Arabs 5 per cent, Israel 43 per cent) and the 1973 war (Arabs 10 per cent, Israel 27 per cent); and a guess as to who would win "another war in the Middle East" (Arabs 20 per cent, Israel 35 per cent). This sequence of questions clearly established *Israel*, rather than military aid, as the focus of attention. Moreover, the questions leading up to the one on military aid suggested a pattern of increasing Arab military success, from the 1967 war to the 1973 war to a possible future war.

On the other hand, whenever military aid to other countries is the focus—as in the Yankelovich poll of October 1974—support for aid to Israel falls considerably. Yet even in the Yankelovich interview, more Americans supported military aid to Israel than to any of the other nine countries listed.

A similar pattern is apparent in a November 1976 Roper survey which asked respondents whether they thought the U.S. should sell arms to each country in a list of eleven. Americans were favorable to selling arms only to two countries, England and France. Next came Israel and West Germany, where support and opposition were about even (37 per cent in favor, 42–43 per cent opposed). By contrast, rather strong pluralities opposed the sale of arms to Japan, Spain, South Korea, Turkey, and Greece, while the greatest opposition was expressed in the cases of Iran (55 per cent opposed) and Saudi Arabia (61 per cent opposed).

Thus, the data indicate positive public sentiment toward Israel, negative public sentiment toward military aid, and, when the two are combined, stronger public support for military aid to Israel than for military aid to other countries, with the exception of our major West European allies.

If there is one idea more negatively regarded than military aid, it is the involvement of American troops. "Suppose it looked as though the Arabs, with the help of the Russians, were going to take over Israel in the Middle East. Would you favor or oppose sending U.S. troops to keep Israel from being taken over?" Opposed, 52 per cent; in favor, 25 per cent (Harris, 1971). "If it looked as though Israel were going to be taken over by the Russians and Arabs, do you feel that the United States should do everything to save Israel, including going to war, or do you think the United States should avoid getting involved with our own troops, even if Israel were going under?" Avoid involvement, 51 per cent; favor involvement, 34 per cent (Harris, 1973). The two winter 1974–75 Harris polls, which differed widely in public support for military aid to Israel, showed quite similar results in questions involving the use of American troops. In the survey primarily concerned with Middle East issues, 55 per cent felt that the U.S. should not send troops even "if it looked as though Israel were going to be overrun by the Arabs in another war." (23 per cent supported the use of U.S. troops). In a general foreign-policy survey carried out by Harris on behalf of the Chicago Council on Foreign Relations, 50 per cent opposed U.S. military involvement, "including the use of U.S. troops," "if Israel were being defeated by the Arabs" (27 per cent favored U.S. involvement).

But opposition to U.S. troop involvement is not limited to Israel or the Middle East. The Harris poll for the Chicago Council on Foreign Relations listed twelve circumstances which "might justify U.S. military involvement, including the use of U.S. troops." Only one circumstance called forth more support for than opposition to the use of American troops—"if Canada were invaded." Opinion was about evenly divided over the use of U.S. troops "if Western Europe were invaded." Opposition to U.S. military involvement outweighed support by about 10 per cent "if the Russians took over West Berlin" and "if Castro's Cuba invaded the Dominican Republic." Opposition outweighed support by 23 per cent "if Israel were being defeated by the Arabs," and by 35 per cent "if the Arabs cut off the oil supply to Western Europe." In the other six circumstances, support for U.S. troops ranged between 10 and 20 per cent and opposition varied between 58 and 73 per cent: "if Communist China invaded Taiwan," "if Communist China attacked India," "if the Arabs cut off the oil supply to Japan," "if North Korea attacked South Korea," "if the Soviet Union attacked Yugoslavia after Tito's death," "if North Vietnam launched a major attack against Saigon."

Clearly, Americans are willing to fight for the security only of neighboring Western Hemisphere countries and of our principal allies in Western Europe. Gallup found in polls taken in 1971 and 1975 that a plurality of Americans favored sending U.S. troops if either Mexico or England were attacked "by Communist-backed forces." This sentiment did not apply, however, to West Germany, Israel, Japan, India, Thailand, Brazil, Taiwan, or Turkey.

In the first eight months of his Presidency, Jimmy Carter has pressured Israel on a number of issues—the occupied territories, the legitimacy of the Palestinians' claim to a homeland, negotiations with the PLO. To what extent do President Carter's positions find support in the public as a whole?

Just this past August, Pat Caddell's Cambridge Survey Research asked a national sample of Americans to react to the Carter peace package in the following terms: "The President has outlined several key elements of a Middle East Peace Agreement: an expressed willingness by the Arabs to recognize Israel's sovereignty and to normalize relations with Israel; phased Israeli withdrawal from occupied territories, combined with effective security measures; a homeland for the Palestinians. Do you think this represents a fair basis of settlement?"

This question referred in general terms to all the elements that have been demanded by each side of the other. Not surprisingly, a plurality of Americans agree that obtaining all this would be desirable. Almost half, 48 per cent, said "Yes," 13 per cent replied "No," while 39 per cent were "Not sure."

It is, of course, impossible to tell what the respondents felt about any given element of the proposed agreement, whether they most favored recognition of Israel, phased Israeli withdrawal in return for "effective security measures," or a Palestinian homeland. We do, however, know from other surveys what Americans think about some of the individual parts of the President's package. On the question of the occupied territories, for example, there is very little public feeling that Israel is holding them unfairly and should simply give them up. The most straightforward question was asked in the Harris Middle East survey of December 1974–January 1975: "Israel should give back the territory it gained from the war of 1967." Americans disagreed with this proposition by a ratio of two to one. Support for Israel's hold on the occupied territories became even stronger when these same respondents were offered a slightly different proposition: "Israel should just give up the occupied Palestinian Arab territory and let Arafat rule it." In this case 54 per cent disagreed and 11 per cent agreed—a ratio of five to one.

Most relevant to the current situation, perhaps, was the public's response to the proposal that "the U.S. should not pressure Israel to give back all the Arab lands that were obtained in the 1967 Middle East war and in the latest war." Americans agreed with this position, 54 to 19 per cent, although it is possible that the specification of "all" the Arab territories may have seemed extreme to many Americans (Jerusalem, for example, would have been included). In March 1977, Yankelovich presented respondents with a proposition that was more moderate in scope: "The United States should reduce its support of Israel unless the Israelis are willing to compromise and give back some of the land they took from the Arabs during the recent wars." Still, 45 per cent of Americans were opposed to a reduction of American support and only 26 per cent favored it.

The essence of American opinion on the occupied terrritories is revealed by a question which the Roper poll has asked every year since 1973: "Ever since the Six-Day War, Israel has occupied territory that formerly belonged to the Arab nations. Which one of these statements comes closest to expressing how you feel about this?" The results show a remarkable stability of opinion over the last four years. Only a small percentage of respondents (6–7) have felt that "The territory Israel has taken in the last two wars didn't belong to her and she should not be allowed to keep it under any circumstances." The most hard-line position, "Israel should keep all of the territory she has won in the last two Arab-Israeli wars," is not very popular either; it is endorsed by only 13–16 per cent of the public. In all four polls, a majority of Americans took one of the two "intermediate" positions. About a quarter of the respondents endorsed the "soft" intermediate position, that "Israel should give up all or most of the territory she has taken in the last two wars—but only if a satisfactory treaty can be negotiated with the Arabs that will guarantee her existence as a state." The "hard" intermediate position—"It is time for Israel to make some concessions, but it is important that she keep what territory is essential for her defense"—is somewhat more popular, with about 30 per cent of Americans favoring that option. This last position was the one most frequently chosen in all four polls.

The only trend one can detect in the answers to the Roper question over the past four years is a slight increase in the percentage of Americans taking the two harder-line positions. Since the latest Roper figures were obtained from a survey administered after the Begin election, the data gave no indication of impatience with the new Israeli government on the part of the American public.

On the issue of a "Palestinian homeland," both Yankelovich and Roper have found considerable support for a position similar to the President's. Thus, in the March 1977 Yankelovich survey, 52 per cent agreed that "the Palestinians have a right to a homeland as much as the Jews do." But when the PLO is brought into the picture, support for the idea of a Palestinian homeland falls precipitously. In July, Roper asked: "As you may know, the Palestine Liberation Organization in the Middle East, known as the 'PLO,' wants to establish a homeland for Palestinian refugees in territory once held by the Palestinians but now held by Israel. Do you think the PLO is right or wrong in wanting to establish a Palestinian homeland in Israel, or haven't you paid much attention to it?" To this question 21 per cent said that the PLO is right in wanting to establish a Palestinian homeland and 20 per cent said it is wrong. An additional 9 per cent volunteered the response that the goal of a Palestinian homeland is right, but the methods of the PLO are wrong. (On this, as on most other questions dealing with the Palestinian issue, a large proportion of respondents, here 50 per cent, said that they "didn't know" how they felt or "hadn't paid attention" to the issue.)

In addition to pressuring Israel, the administration has been making no secret of its belief that Israeli "intransigence" is the major obstacle to peace. Does the public agree? All extant survey data suggests that it does not. Thus the March 1977 Yankelovich poll indicated that a majority viewed both sides as obstreperous, but over 70 per cent felt that the Arabs' refusal to recognize Israel and to sit down at a negotiating table with it was a major obstacle to peace, as contrasted with 55 per cent who believed that "Israel's refusal to negotiate with the Palestinians" was an obstacle. In earlier Yankelovich surveys, a majority of Americans said that "the Arab nations are not interested in making peace but rather in destroying Israel" (53 per cent in 1975, 56 per cent in 1976, with only 17–19 per cent expressing the opposite view). A poll taken by Cambridge Survey Research in the summer of 1975 showed three times as many Americans blaming the Arabs for the Middle East crisis (32 per cent) as blamed Israel (10 per cent). When asked to rate six Middle Eastern countries in terms of their "sincerity" in looking for a peaceful solution to their problems, Israel was ranked as very sincere by 26 per cent, followed by Egypt with 12 per cent, Jordan with 11 per cent, and Saudi Arabia with 10. And finally, Yankelovich surveys asked a key question relating to purported Israeli intransigence: "In the current situation, do you feel that the Israelis are doing everything possible to achieve a peace settlement or do you feel that their attitudes and demands are unreasonable?" In August 1975, Yankelovich showed 37 per cent of Americans claiming that Israel's demands were unreasonable, with only 23 per cent saying that Israel was doing everything possible to achieve peace. By March 1977, however, that attitude had reversed. Thirty-nine per cent now said that Israel was "doing everything possible to achieve a peace settlement," and only 29 per cent felt that Israel was being unreasonable.

On this issue, as on others, the evidence points to a trend in Israel's favor. Unfortunately, there have been no major polls dealing with this question since the new Israeli government took office. We have no basis, therefore, for assuming that the trend has continued. All the data suggest is that at the time of the May 1977 vote, American public opinion continued to see the Arabs as more intransigent, more reluctant to come to the peace table or to agree to the necessary conditions, than Israel.

In assessing the implications of these data, one has to take into consideration not only how many can be counted for and against, but also who they are. Which groups in the population are strongest in their support for, and opposition to, Israel? Our review of the distribution of public opinion reveals a persistent relationship: in virtually all surveys, support for Israel has tended to increase with higher levels of education, income, and occupational status.

The winter 1974–75 Harris survey found 65 percent of those who had attended college sympathetic to Israel, compared with 51 percent among the high-school-educated and 47 percent among those whose education had not gone beyond grammar school. Over half the college-educated, 54 percent, agreed that the United States has a special stake in seeing that Israel is not overtaken militarily, while only 38 percent of those who had not gone beyond high school and 30 percent of the grade-school-educated felt the same way. In Gallup's 1976 survey of national ratings, 77 percent of those who had been exposed to higher education gave Israel a favorable rating, while 62 percent of those with a high-school education were of the same opinion, but only 50 percent of the grade-school-educated felt the same way. In January 1977, Roper reported that 54 percent of those in executive and professional occupations were sympathetic to Israel compared with 50 percent of white-collar and 46 percent of blue-collar workers. By income, the range of sympathy for Israel ran from 55 percent pro-Israel among those earning $18,000 a year or more to 41 percent among those with family incomes of $6,000 or less. The March 1977 Yankelovich poll found that 75 percent of college graduates regarded Israel as a friend and ally of the United States, compared with 46 percent among high-school graduates and only 34 percent of those with less than a high-school diploma. Sympathy for the Arabs on these and other questions varied little by socioeconomic status and education: all groups were equally unenthusiastic, with the less advantaged more likely to give "don't know" responses.

These findings, consistently showing greater support for Israel among the better educated, the more affluent, and those in executive and professional positions, suggest that Israel has strong backing among the elite sectors—those who are more active politically and presumably more influential. The results of a number of studies of such groups confirm this assumption.

Thus, in winter 1974–75, Harris compared the opinions of a national sample of 3,377 persons with those of 491 "leaders," selected from among people who "have impact within their community." The leaders' sympathies were more with Israel than the Arabs by a ratio of over eleven to one, 56 to 5 per cent, as contrasted with the general public's seven-and-a-half to one, 52 to 7. Three-quarters of the leaders favored sending military supplies to Israel if war breaks out, a position taken by 66 per cent of the general public. When asked how they would feel if "Israel were overrun by the Arabs," 44 per cent of the general sample said "very upset" in contrast to 65 per cent of the leaders. The leaders and the public both overwhelmingly disagreed with the statement that "We need

Arab oil for our gasoline shortage here at home, so we had better find ways to get along with the Arabs, even if that means supporting Israel less." The leaders, however, felt this way by a ratio of 78–15 per cent, while the public took the same view by a somewhat lower one, 68–20. In a January 1977 survey, Roper found that fully 60 per cent of the 12 per cent of his respondents who were classified as "high" on a scale of political and social activism were sympathetic to Israel, as compared with 40 per cent of the sample as a whole. Both groups showed little sympathy for the Arabs, 6–7 per cent.

There is little doubt, then, that most Americans support Israel, and that support is strongest among the well-educated, activist, and influential social strata. But even knowing something about the distribution of public opinion does not give us everything we need to assess the political effectiveness of an issue. We have to make some estimate of the *salinence* of opinion among those on both sides of an issue; is the attitude measured by the polls a "mere opinion" with little intensity of conviction, or is it a passionate conviction which dominates the respondent's political activity?

It is hardly news that for Jews, Israel is just such a salient issue. In the past, there have been several sources of anti-Zionist sentiment within the Jewish community: socialist anti-Zionism, which rejected Zionism as a species of bourgeois nationalism; religious anti-Zionism, which saw no theological justification for reestablishing the state of Israel at this time; and assimilationist anti-Zionism, which feared that the charge of "dual loyalty" would retard the full acceptance of Jews by the larger secular society. Nevertheless, in the winter 1974–75 Harris poll, fully 95 per cent of the national Jewish sample proclaimed a sympathy for Israel in the Middle East conflict (0.2 per cent—precisely one Jewish respondent out of 506—favored the Arabs). Ninety-four per cent agreed that "The Arabs are determined to destroy Israel, so Israel is justified in building itself up militarily to defend itself." The same percentage—94—said that they would be "very upset" if there were another war in the Middle East "and Israel were overrun by the Arabs." Fully 96 per cent favored the U.S. sending military supplies to Israel, and a similar percentage opposed the U.S. lowering its aid to Israel in order to obtain more Arab oil at lower prices. "Israel," as Nathan Glazer has said, "has become the religion of American Jews."

It is difficult to gauge passion in the relatively dispassionate atmosphere of a survey interview, but several questions indicate the intensity of this Jewish commitment to Israel. Fully 81 per cent of the Jewish sample felt that "Jews who live in the United States have a special obligation to support Israel with funds and other aid" (17 per cent disagreed). And an astonishing 83 per cent said that they had given "financial contributions to [an] organization which is supporting Israel" during the previous twelve months; only 15 per cent of the Jews said that they had failed to contribute. And while only 37 per cent of the Jews had relatives living in Israel and 45 per cent had friends there, 71 per cent said that they felt a "special desire" to visit Israel because they were Jewish.

Are there any anti-Israel constituencies as intense in their antagonism as the Jewish community is in its support? If one looks through survey data for the single "simply defined group" which is least supportive of Israel, the answer one finds, in most cases, is the blacks. In twelve of the thirteen different surveys taken between 1970 and 1977 asking respondents whether they sympathized with Israel or the Arabs, blacks were less sympathetic to Israel than whites—by an average of 13 per cent. Black support for Israel was, moreover, lower than that of whites at every level of education and at every age level.

Generally, across the whole range of questions asked about Israel in the 1974–75 Harris survey, white Protestants were the most supportive (58 per cent) and blacks the least supportive (31 per cent), with white Catholics (47 per cent), and Hispanic-Americans (49 per cent) in between. While most surveys use samples that are too small to allow for any analysis of Hispanic-Americans as a group, the Catholic-Protestant difference was fairly consistent across thirteen different surveys. On the average, Catholics were 7 per cent less sympathetic to Israel than Protestants. Finally, it is important to point out that for blacks and Hispanics, relatively low support for Israel was accompanied by relatively high levels of "domestic" anti-Semitism, even after educational differences had been taken into account.

These ethnic effects are interesting, but they do not amount to evidence that blacks, Hispanic-Americans, or Catholics constitute a "veto group" passionately committed to a program of anti-Zionism and organized to help or hurt a politician depending on how he stands on this issue. The relative differences among the major racial and religious groups are noticeable and consistent, but one must also look at their absolute levels of support for Israel or the Arabs. Very few claim actually to sympathize with the Arabs: pro-Arab sympathy in the 1974–75 Harris poll was expressed by 5 per cent of white Protestants, 9 per cent of white Catholics, 11 per cent of Hispanic-Americans, and 12 per cent of blacks—hardly a passionate commitment. The same thirteen surveys that showed blacks, on the average, 13 per cent less favorable to Israel than whites did not show a comparable difference on the pro-Arab side; blacks were on the average only 3 per cent more pro-Arab than whites. The rest of the difference consisted of more black respondents saying "don't know," or favoring "both sides" or "neither side" in the conflict. When offered the statement, "Israel is a small, courageous, democratic nation, which is trying to preserve its independence," agreement was expressed by 89 per cent of whites but also by 72 per cent of Hispanic-Americans and 68 per cent—two-thirds—of blacks.

In comparison with whites (46 per cent for Protestants and 41 per cent for Catholics), fewer blacks (35 per cent) and Hispanic-Americans (37 per cent) said they would be "very upset" if Israel were overrun by the Arabs. But very few said they would be "pleased" by such an eventuality—only 4 per cent in each group, compared with about 2 per cent of whites. Again, the major difference was the higher proportion of blacks and Hispanics who said "don't know." Opposition to U.S. military aid to Israel was expressed by 22 per cent of white Protestants, 28 per cent of white Catholics, 22 per cent of Hispanic-Americans, and 31 per cent of blacks. But more blacks (47 per cent) favored military aid than opposed it. Similarly, a reduction in U.S. military aid to Israel in return for lower oil prices was favored by 16 per cent of white Protestants, 22 per cent of white Catholics, 25 per cent of blacks, and 26 per cent of Hispanics. But blacks opposing such a measure outnumbered those who favored it by 41 to 25 per cent, with Hispanic-Americans rejecting the same measure by 52 to 26.

In short, while the evidence does indicate a higher level of anti-Israel feeling among blacks, Hispanic-Americans, and (to a lesser extent) white Catholics, it does not indicate anything close to a passionate anti-Israel conviction among any of these groups.

Another source of anti-Israel sentiment is often said to consist of ideological liberals and radicals. But survey research does not confirm this much-publicized impression. Thus, a Yankelovich survey carried out in October 1974 showed self-described liberals as slightly more sympathetic to Israel than self-described conservatives (by a difference of 6 per cent), even though these liberals were considerably (15 per cent) less supportive of U.S. military aid to Israel—or to any other country tested. In the winter 1974–75 Harris poll, liberals were only slightly less likely than conservatives to support U.S. military involvement, including the possible use of troops, "if Israel were being defeated by the Arabs." Some 1975 results reported by Cambridge Survey Research show self-described conservatives more pro-Israel than liberals, but only marginally.

The March Yankelovich survey revealed some interesting and suggestive age differences. The young—those under thirty-five—were less likely to claim a strong identification with Israel, less likely to agree that "the Israelis are doing everything possible to achieve a peace settlement," and more likely to say that Israel's demands are unreasonable. Using the raw data from the winter 1974–75 Harris survey, we decided to determine whether these positions were really connected with age. The Harris survey did not include a question asking respondents to classify themselves as liberals, moderates, or conservatives, but respondents were asked how they had voted in the 1972 presidential election two years before, for Nixon or for McGovern. We looked at whites only, in order to remove the major confounding effect of large numbers of blacks and Hispanic-Americans voting for McGovern and at the same time expressing anti-Israel attitudes for—possibly—different reasons.

What we found was illuminating. McGovern voters were somewhat less supportive of Israel and a good deal less supportive of U.S. military aid to Israel than were Nixon voters—but this was true only among younger voters, that is, voters under the age of forty. Among those forty years of age or older, there was no consistent ideological difference between Nixon voters and McGovern voters; if anything, the older Nixon voters were slightly less supportive of military aid to Israel than were the older McGovern voters, averaged 5 per cent less sympathetic than younger Nixon voters, but there was no difference between Nixon and McGovern voters. On five questions eliciting sympathy toward Israel, younger McGovern voters averaged 5 per cent less sympathetic than younger Nixon voters, but there was no difference between Nixon and McGovern voters over the age of forty. On questions dealing with U.S. military aid to Israel, McGovern voters under forty averaged 21 per cent less favorable to such aid than Nixon voters under forty. Again, there was no consistent difference between Nixon and McGovern voters over the age of forty.

All this suggests that dissatisfaction with Israel is more characteristic of younger liberals (New Politics, New Left) than of older liberals (New Deal, Fair Deal). Older liberals grew up convinced that support of Israel was a legitimately liberal policy, given the experience of the Holocaust and the predominance of the socialist movement in Israeli politics. Younger liberals tend to doubt the legitimacy of Israel's liberal credentials—and they certainly tend to challenge the motivations behind American military aid to other nations.

Suggestive though these differences are, they do not point to the existence of a significant body of opinion hostile to Israel, and they give no evidence of a "passionate conviction" in any sense comparable to that of the Jewish community on the other side. One would have to go to a very fine level of detail—probably among younger blacks and radicals—to find deep-seated anti-Zionist convictions. To pursue the analysis at this level would require the tools not of survey research but of investigative reporting.

There can be little doubt, then, that the only "veto group" in the American electorate concerned with the Middle East is composed of those dedicated to the survival of Israel. This group, which includes almost all Jews along with many non-Jews, has been ready to bombard Congressmen and the administration with letters, telegrams, phone calls, and personal visits to present their case. Many of them have been willing to contribute generously to the campaign funds of politicians who support Israel. Conversely, they will vote against those who oppose Israel, a fact of which officeholders are well aware.

It may, of course, be argued that Jews constitute only 3 per cent of the population and that they can therefore be ignored by politicians who are not in areas of high Jewish concentration. In fact, however, Jews have a much higher rate of electoral participation than other groups. Close to 90 per cent of them vote in national elections, compared with 53 per cent of the electorate as a whole. Last summer, in a discussion, Pat Caddell estimated that outside of the South, Jews constitute not 3 but 7 per cent of the voters. If one adds to this figure the additional 20 per cent or so of non-Jews whom the opinion polls show to be as passionately pro-Israel as the Jews, it is clear that Israel enjoys the backing of one of the largest veto groups in the country. Hence, actions which antagonize or attract this body of opinion can affect the electoral fortunes of many candidates, including those running for President.

How important is public opinion, as revealed by the various national-opinion surveys, in the making of foreign policy? So far as the Middle East goes, in a recent piece in the New York Times, Terence Smith concluded: "In the final analysis, Pat Caddell, the President's pollster, and his other domestic political advisers may have a decisive voice in determining whether Mr. Carter takes on the Israelis. They will assess the political cost of such a campaign and advise Mr. Carter whether public concern at the possibility of another Arab oil embargo is enough to justify a confrontation with Israel."

If Mr. Smith is right that Jimmy Carter's policies on the Middle East will be deeply affected by judgments about public opinion, we would hope that the President examines the entire body of evidence, not simply the few questions asked by Caddell. For Caddell's most recent query is presented in the context of conditions for peace, an outcome fervently desired by most Americans, and it is worded in a manner bound to elicit support for the President's position. But examining all the evidence in hand, "public concern at the possibility of another Arab oil embargo" is not great enough "to justify a confrontation with Israel." The polls on the oil crisis suggest that the American public is still sanguine (overly so in our judgment) about the energy situation. Most of them do not feel that a genuine crisis exists. They believe that the oil companies and the government are exaggerating the problem.

Israel, it is fair to say, is still seen as a brave, small state, composed of people "like us," surrounded by wealthy, powerful, hostile neighbors, some of whom cooperate with the Communist world. And the past use by the Arabs of the oil weapon and their forcing up of the price of oil have reinforced the negative image held of them by most Americans. Overt pressure by the United States against Israel could very well be perceived by many as a form of bullying one of America's closest friends in order to appease states which have hurt us and helped our enemies.

Beyond whatever opinion the majority holds on specific issues like oil, Israel is fervently backed by a politically potent minority, including a very large number of non-Jews, who are prepared to punish at the ballot box those who seek to undermine the unique America-Israel relationship. Already, according to a Harris poll taken in late September, President Carter's popularity in the country at large has slipped for the first time below 50 per cent. Most of this decline is surely attributable to factors other than the administration's Middle East policy, yet just as surely that policy plays a part—especially for Jews, among whom Carter has fallen from July's standing of 57–37 per cent positive to a low of 60–37 per cent negative. (Jews, normally among the Democrats' most loyal supporters, were less favorable to Carter in this poll than blacks, Catholics, and unions, and over 10 per cent less favorable than the public as a whole.) But again, it is not only Jews who are concerned with the President's recent record on Israel and the Middle East. George Meany, interviewed on *Face the Nation* (October 2), warned that "I don't think the American people as a whole want to see Israel . . . compelled through strong, diplomatic pressure." When asked what the consequences of such a policy might be for President Carter's reelection prospects in 1980, the labor leader replied, "Well, I don't know what it's going to do to him in 1980, or 1978, or any other time, but I know politically it's going to be a great big minus for him. I'm sure of that."

What our examination of the opinion polls reveals, then, is that a confrontation with Israel will create a deep conflict within the United States, one that could very well parallel the Vietnam controversy in its bitterness, and that could have a devastating effect on the popularity and the chances for reelection of those responsible.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CHISHOLM (at the request of Mr. WRIGHT), for this week on account of a necessary absence.

Mr. DANIELSON (at the request of Mr. WRIGHT), for December 6 and 7 on account of official business of the Committee on the Judiciary.

Mr. MARRIOTT (at the request of Mr. RHODES), for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. FENWICK) to revise and extend their remarks and include extraneous matter:)

Mr. MILLER of Ohio, for 10 minutes, today.

Mr. FINDLEY, for 10 minutes, today.

Mr. RUDD, for 60 minutes, on December 7, 1977.

Mr. COLLINS of Texas, for 60 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. McDADE, for 5 minutes, today.

(The following Members (at the request of Mr. WATKINS) to revise and extend their remarks and include extraneous matter:)

Mr. LONG of Maryland, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. COTTER, for 5 minutes, today.

Mr. MATTOX, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 5 minutes, today.

Mr. MICHAEL O. MYERS, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STOKES, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,288.

Mr. SCHEUER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGESSIONAL RECORD and is estimated by the Public Printer to cost $1,395.32.

Mr. ROGERS, to extend his remarks on H.R. 8212.

Mr. ALEXANDER, to revise and extend his remarks prior to the vote on the Mahon motion on B–1 and to include two pages of items scheduled for research and development on aircrafts 5 and 6.

Mr. PEPPER, to revise and extend his remarks in support of Addabbo amendment just prior to vote on that amendment.

Mr. PEPPER, to revise and extend his remarks and include extraneous matter in two instances.

(The following Members (at the request of Mrs. FENWICK) and to include extraneous matter:)

Mr. FORSYTHE.

Mr. KASTEN.

Mr. MILLER of Ohio in four instances.

Mr. FINDLEY in two instances.

Mr. CRANE in two instances.

Mr. BADHAM in two instances.

Mr. ANDERSON of Illinois in two instances.

Mr. GILMAN.

Mr. ASHBROOK in three instances.

Mr. STEERS.

Mr. TRIBLE.

Mr. KETCHUM in two instances.

Mr. WHITEHURST.

Mr. WAMPLER in two instances.

Mr. COLLINS of Texas in three instances.

Mr. HAGEDORN in two instances.

Mr. DORNAN in three instances.

Mr. LAGOMARSINO in four instances.

Mr. BROWN of Ohio in three instances.

Mr. HYDE.

Mr. HANSEN in five instances.

(The following Members (at the request of Mr. WATKINS) and to include extraneous matter:)

Mr. O'NEILL.

Mr. CORNWELL.

Mr. LE FANTE.

Mr. CARNEY.

Mr. AUCOIN.

Mr. LEDERER in two instances.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. TEAGUE in two instances.

Mrs. SCHROEDER.

Mr. CORRADA.

Mr. BRECKINRIDGE.

Mr. BONIOR.

Mr. HAMILTON.

Mr. RICHMOND in two instances.

Mr. EILBERG in 10 instances.

Mr. MURPHY of Illinois in two instances.

Mr. MAZZOLI in five instances.

Mr. PATTISON of New York.

Mr. MILLER of California.

Ms. OAKAR.

Mr. WALGREN.

Mr. JONES of Tennessee.

Ms. HOLTZMAN in two instances.

Mrs. COLLINS of Illinois in two instances.

Mr. SKELTON in two instances.

Mr. DODD.

Mr. McDONALD in three instances.

Mr. NOLAN.

Mr. FASCELL.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 1316. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973; and

S. 2328. An act to amend Private Law 95–21 to make a technical correction therein.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5555. An act for the relief of Adelaida Rea Berry.

ADJOURNMENT

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 7, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2792. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting his annual report on the education professions, covering 1975–76, pursuant to section 503(b) of Public Law 90–35; to the Committee on Education and Labor.

2793. A letter from the Assistant Secretary of the Interior, transmitting the final rules for the initial regulatory program and coal production fee required by the Surface Mining Control and Reclamation Act of 1977; to the Committee on Interior and Insular Affairs.

2794. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a report on cancellations of debts of Indians and Indian tribes owed to the United States, covering fiscal year 1977, pursuant to the act of July 1, 1932 (47 Stat. 564); to the Committee on Interior and Insular Affairs.

2795. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Gabon (MC–56–77), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

2796. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Malaysia (MC–59–77), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

2797. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Iran (MC–60–77), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

2798. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act (66 Stat. 182); to the Committee on the Judiciary.

2799. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act (66 Stat. 214; 76 Stat. 1247); to the Committee on the Judiciary.

2800. A letter from the Comptroller General of the United States, transmitting a report on combined truck/rail transportation service (CED–78–3, December 2, 1977); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee of Conference. Conference report on H.R. 3199 (Rept. No. 95–830). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 305 (Rept. No. 95–831). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 3722 (Rept. No. 95–832). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois:

H.R. 10211. A bill to authorize the Japan-United States Friendship Commission to use penalty mail privileges; to the Committee on International Relations.

By Mr. ANDREWS of North Dakota:

H.R. 10212. A bill to protect the economy of the United States; domestic agriculture, labor and industry, by the maintenance of farm income and purchasing power; to the Committee on Agriculture.

By Mr. BALDUS:

H.R. 10213. A bill to amend title 38 of the United States Code to increase from $250 to $400 the maximum allowance for the burial and funeral expenses of certain veterans and of patients in Veterans' Administration facilities; to the Committee on Veterans' Affairs.

By Mr. BEDELL (for himself Mr. BLOUIN, Mr. CAVANAUGH, Mr. COHEN, Mr. CORNELL, Mr. EVANS of Georgia, Mr. FRASER, Mr. HARRINGTON, Mr. JEFFORDS, Mr. KINDNESS, Mr. MARLENEE, Mr. NOLAN, Mr. OTTINGER, and Mr. SIMON):

H.R. 10214. A bill to amend title 38, United States Code, to provide that agricultural employment required for eligibility for educational assistance under the GI bill for a person enrolled in a farm cooperative program need not be full-time employment or the principal expected source of income of such person and may include employment in establishments engaged in the processing, distribution, or sale of agricultural products; to the Committee on Veterans' Affairs.

By Mr. BROYHILL (for himself, Mr. ROSE, and Mr. ANDREWS of North Carolina):

H.R. 10215. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Overmountain Men Victory Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mr. CARNEY:

H.R. 10216. A bill to require certain companies to make quarterly reports to the Secretary of the Treasury with respect to the amount of imports of steel and other articles purchased for use in manufacturing or construction; to the Committee on Ways and Means.

By Mr. COCHRAN of Mississippi:

H.R. 10217. A bill to amend section 203 of the National Housing Act for the purpose of extending the repayment period of a mortgage which may be insured under such section; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FRASER (for himself, Mr. VENTO, Mr. QUIE, Mr. NOLAN, and Mr. OBERSTAR):

H.R. 10218. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for the cost of removal of trees required by the United States or a State or local government to be removed to prevent the spread of a disease caused by pests; to the Committee on Ways and Means.

By Ms. HOLTZMAN (for herself and Mr. MATTOX):

H.R. 10219. A bill to amend the Immigration and Nationality Act to exclude from admission into and to deport from the United States all aliens who persecuted others on the basis of religion, race, national origin, or political opinion; to the Committee on the Judiciary.

By Mr. LAFALCE:

H.R. 10220. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of small business investment companies electing to be taxed as regulated investment companies; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 10221. A bill to require that the Hungarian Crown of Saint Stephen and other relics of the Hungarian royalty remain in the custody of the U.S. Government and that they not be transported out of the United States, unless the Congress provides otherwise by legislation; to the Committee on International Relations.

By Mr. LATTA (for himself and Mr. VANIK):

H.R. 10222. A bill to amend section 111 of title 23, United States Code, relating to agreements for the use of and access to the rights-of-way of the Interstate System; to the Committee on Public Works and Transportation.

By Mr. LE FANTE:

H.R. 10223. A bill to amend title II of the Social Security Act to increase to $750 in all cases the amount of the lump-sum death payment thereunder; to the Committee on Ways and Means.

By Mr. MAGUIRE:

H.R. 10224. A bill to provide for the temporary suspension of the rate of duty on 2-Methyl 5-Ethyl pyridine, and for other purposes; to the Committee on Ways and Means.

By Mr. MIKVA:

H.R. 10225. A bill to amend the Hazardous Materials Transportation Act to prohibit the transportation of radioactive materials to or from any civilian airport, and for other purposes; jointly, to the Committees on Armed Services, Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. MONTGOMERY:

H.R. 10226. A bill to incorporate the American Ex-Prisoners of War, Incorporated; to the Committee on the Judiciary.

By Mr. RICHMOND:

H.R. 10227. A bill to require the Secretary of Labor to establish a grant program to provide employment training and placement services to individuals released from local, State, or Federal correctional facilities; to the Committee on Education and Labor.

H.R. 10228. A bill to provide more effectively for the use of interpreters in courts of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. ROONEY (for himself and Mr. Ertel):

H.R. 10229. A bill to authorize the creation of the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; jointly, to the Committees on Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. RUDD (for himself and Mr. Rhodes):

H.R. 10230. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowable as a deduction for charitable contributions of certain items created by the taxpayer; to the Committee on Ways and Means.

By Mr. RYAN:

H.R. 10231. A bill to change the composition and licensing procedures of the District of Columbia Board of Cosmetology, and for other purposes; to the Committee on the District of Columbia.

By Mrs. SPELLMAN:

H.R. 10232. A bill to amend section 8332 of title 5, United States Code, to provide for the inclusion in the computation of creditable service periods of certain service rendered as an employee of a State or an instrumentality of a State, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. SPELLMAN (for herself and Mr. Roe):

H.R. 10233. A bill to provide that legislation appropriating funds for payment of pay to Federal employees shall be enacted separately from other legislation; to the Committee on Rules.

By Mr. ULLMAN:

H.R. 10234. A bill to validate Federal reclamation contracts and written representations relating to repayment of allocated costs; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN (for himself, Mr. Weaver, and Mr. AuCoin):

H.R. 10235. A bill for the relief of the State of Oregon; to the Committee on the Judiciary.

By Mr. WALKER:

H.R.10236. A bill to amend title IV of the Social Security Act to improve the administration of the AFDC program by authorizing States to establish community welfare boards for the purpose of eliminating or dealing effectively with welfare fraud, considering and recommending changes in welfare policy, and (in specified cases) reviewing determinations made by the State welfare agency with respect to eligibility for assistance; to the Committee on Ways and Means.

By Mr. WEISS (for himself and Mr. Thompson):

H.R. 10237. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 to require reporting by certain employee associations; to the Committee on Education and Labor.

By Mr. BURLISON of Missouri:

H.R. 10238. A bill to provide parity to farmers and to prevent interruptions in the supply of food to American consumers; to the Committee on Agriculture.

By Mr. BURLESON of Texas:

H.R. 10239. A bill to amend the Internal Revenue Code of 1954 to clarify the tax status of certain industrial development bonds issued to provide facilities for the furnishing of water including water used to cool thermal generating plants or to generate hydroelectric energy; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 10240. A bill to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 10241. A bill to provide for the designation of a segment of the Upper Delaware River, New York and Pennsylvania, as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California (for himself, Mr. Edwards of California, Mr. Price, Mr. Richmond, Mr. Ryan, and Mr. Stark):

H.R. 10242. A bill to require the Secretary of the Interior to establish a table of water rates to be charged irrigators who contract for water resources for agricultural purposes from the United States through the U.S. Bureau of Reclamation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California (for himself, Mr. Bedell, Mr. Edwards of California, Mr. Harrington, Mr. Lagomarsino, Mr. Moss, Mr. Richmond, Mr. Ryan, Mr. Stark, and Mr. Vento):

H.R. 10243. A bill to provide that no contracts may be entered into by the Bureau of Reclamation for water supply for purposes of irrigation without prior public notice and opportunity for hearing; to the Committee on Interior and Insular Affairs.

By Ms. OAKAR (for herself, Mr. Archer, Mr. Badillo, Mr. Beard of Rhode Island, Mr. Blouin, Mr. Burke of Florida, Mr. Corcoran of Illinois, Mr. Crane, Mr. Cunningham, Mr. Fish, Mr. Goldwater, Mr. Gradison, Mr. Livingston, Mr. Miller of Ohio, Mr. Mitchell of New York, Mr. Regula, Mr. Rudd, Mr. Spence, Mr. Stockman, Mr. Stump, Mr. Vander Jagt, Mr. Walsh, Mr. Whitehurst, Mr. Young of Florida, and Mr. Young of Missouri):

H.R. 10244. A bill to require that the Hungarian Crown of Saint Stephen and other relics of the Hungarian royalty remain in the custody of the U.S. Government and that they not be transported out of the United States, unless the Congress provides otherwise by legislation; to the Committee on International Relations.

By Mr. PRESSLER:

H.R. 10245. A bill to require action by the President and Secretary of Agriculture to increase farm income and to improve the effectiveness of farm programs; to the Committee on Agriculture.

By Mr. WALSH:

H.R. 10246. A bill relating to certain Indian land claims in the State of New York, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COTTER:

H.J. Res. 667. Joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. HYDE:

H.J. Res. 668. Joint resolution proposing an amendment to the Constitution of the United States providing that all persons shall have the right to be free from discrimination; to the Committee on the Judiciary.

By Mr. KEMP (for himself and Mr. Kasten):

H.J. Res. 669. Joint resolution designating the week in each year during which Veterans Day is observed as Love America Week; to the Committee on Post Office and Civil Service.

By Mr. McDADE:

H.J. Res. 670. Joint resolution designating the third week of September 1978, as National Rehabilitation Week; to the Committee on Post Office and Civil Service.

By Mr. MINISH:

H.J. Res. 671. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. FOLEY (for himself and Mr. McCormack):

H. Con. Res. 433. Concurrent resolution to declare the sense of Congress that full parity remains the goal of American agriculture; to the Committee on Agriculture.

By Mr. BEDELL (for himself and Mr. Robinson):

H. Con. Res. 434. Concurrent resolution to assure quality health care for population located in rural areas; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. FAUNTROY (for himself and Mr. Jones of Oklahoma):

H. Con. Res. 435. Concurrent resolution approving an amendment to the District of Columbia charter relating to recall of elected officials; to the Committee on the District of Columbia.

H. Con. Res. 436. Concurrent resolution approving an amendment to the District of Columbia charter relating to initiative and referendum; to the Committee on the District of Columbia.

By Mr. JONES of Oklahoma:

H. Con. Res. 437. Concurrent resolution approving an amendment to the District of Columbia charter relating to recall of elected officials; to the Committee on the District of Columbia.

H. Con. Res. 438. Concurrent resolution approving an amendment to the District of Columbia charter relating to initiative and referendum; to the Committee on the District of Columbia.

By Mr. DODD (for himself, Mr. Mitchell of Maryland, Mr. Long of Louisiana, Mr. Lundine, Mr. Roe, Mr. Kemp, Mr. Lloyd of California, Mr. Mineta, Mr. Burke of Florida, Mrs. Fenwick, Mr. Lott, Mr. Glickman, Mr. Wolff, Mr. Winn, Mr. Yatron, Mr. Edwards of California, Mr. Lagomarsino, Mr. Huckaby, Ms. Mikulski, Mr. Eilberg, Mr. Hughes, Mr. Gammage, Mr. Bedell, Mr. Roybal, and Mr. Edwards of Oklahoma):

H. Res. 924. Resolution of congratulations to the peoples of Egypt and Israel; to the Committee on International Relations.

By Mr. DODD (for himself, Mr. CRANE, Mr. PEASE, Mr. CARR, Mr. FRENZEL, Mr. LAFALCE, Mr. OTTINGER, and Mr. FORD of Tennessee):

H. Res. 925. Resolution of congratulations to the peoples of Egypt and Israel; to the Committee on International Relations.

By Mr. FINDLEY (for himself, Mr. RHODES, Mr. CORCORAN of Illinois, Mr. COUGHLIN, Mr. DRINAN, Mr. EDGAR, Mr. MURPHY of Pennsylvania, Mr. PRICE, Mr. SIMON, Mr. SCHULZE, and Mr. SPENCE):

H. Res. 926. Resolution to maximize local nighttime radio service; to the Committee on Interstate and Foreign Commerce.

By Mr. KETCHUM:

H. Res. 927. Resolution in opposition to reorganization of the field and nursing offices of the Department of Housing and Urban Development prior to the holding of congressional committee hearings; to the Committee on Banking, Finance and Urban Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 10247. A bill for the relief of Elizabeth Berwick and Alexander Berwick, her husband; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 10248. A bill for the relief of Dr. Halla Brown; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

360. By the SPEAKER: Petition of Italian-American Labor Council, New York, N.Y., relative to including State and local governments under the jurisdiction of the National Labor Relations Act; to the Committee on Education and Labor.

361. Also, petition of the Italian-American Labor Council, New York, N.Y., relative to the assignment of teachers by race; to the Committee on Education and Labor.

362. Also, petition of the Italian-American Labor Council, New York, N.Y., relative to the North Atlantic Treaty Organization; to the Committee on International Relations.

SENATE—*Tuesday, December 6, 1977*

(Legislative day of Tuesday, November 1, 1977)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Ruler of men and nations who didst prepare in ancient times the minds and hearts of men for divine interventions, may the conquering light of Hanukkah and the joyous light of Advent come upon us to illuminate our pathway. Grant us a sense of victorious expectation, so that when baffled by problems on the human scene and vexed by daily duties we may be ready for the surprises of history. Prepare our minds and hearts to receive the expected Messiah that His Spirit may reign in our thoughts and affections as the King of Love and the Prince of Peace.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 6, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previously unapproved portions of the Journal of proceedings be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 2 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Thereupon, at 1:02 p.m. on Tuesday, December 6, 1977, the Senate adjourned until 1:02 and 2 seconds p.m., the same day.

AFTER ADJOURNMENT

TUESDAY, DECEMBER 6, 1977

The Senate met at 1:02 and 2 seconds p.m., pursuant to adjournment, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of the last legislative day be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no resolutions over under the rule during morning business today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements of Senators be limited to 10 minutes each during morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROPOSED ARMS SALES

Mr. ROBERT C. BYRD. Mr. President, on my time under the standing order, I ask unanimous consent, on behalf of Mr. SPARKMAN, the chairman of the Committee on Foreign Relations, to have printed in the RECORD a statement and the attachments referred to therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY MR. SPARKMAN

Section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notifications I have just received.

DEFENSE SECURITY ASSISTANCE AGENCY, DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C. November 22, 1977.

In reply refer to:
I-10646/77ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-5, concerning the Department of the Army's proposed Letter of Offer to the Federal Republic of Germany for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $74.1 million and support costs of $5.0 million for a total estimated cost of $79.1 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF.

[Transmittal No. 78-5]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Federal Republic of Germany.

(ii) Total Estimated Value in millions:

Major defense equipment*	$74.1
Other	5.0
Total	79.1

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Fifteen-thousand (15,000) TOW missiles (BGM71A-1).

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: November 22, 1977.

Defense Security Assistance
Agency, Deputy Assistant Secretary (Security Assistance),
OASD/ISA,
Washington, D.C., December 2, 1977.
In reply refer to:
I-1079/77ct
Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-6, concerning the Department of the Navy's proposed Letter of Offer to Australia not for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $49.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

[Transmittal No. 78-6]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Australia.

(ii) Total Estimated Value in millions:

Major defense equipment*	0
Other	$49. 6
Total	49 .6

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: In-country support material to support two (2) guided missile frigates (FFG).

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: December 2, 1977.

SENATOR HUDDLESTON: AN EFFECTIVE LEGISLATOR

Mr. ROBERT C. BYRD. Mr. President, the distinguished senior Senator from Kentucky (Mr. HUDDLESTON) has compiled an outstanding record during his first term in the Senate. Those of us who have the privilege to serve with him, and to work closely with him on issues, know that his success has resulted from hard work and his devotion to meeting the needs of his constituents.

Senator HUDDLESTON's dedication to duty has won him the respect of his colleagues, and, I am pleased to note, has won him the praise of Kentucky's largest newspaper, the Louisville Courier-Journal. Last Sunday, December 4, an article in the highly regarded newspaper correctly noted that Senator HUDDLESTON can "point to an enviable legislative record—in 5 years, only one of the dozens of amendments he has proposed has been defeated on the floor" of the Senate.

The article also said that he knows "where to turn to rattle the cages of the bureaucracy" and "where to reach to grasp the Federal-level power levers." That was a reference to Senator HUDDLESTON's work in the areas of mine safety and coal technology, both of which are vital to the economy of his State.

As a Senator from West Virginia, I share many interests in common with my neighbor from Kentucky—just as our constituents share many problems in common. On the Senate Appropriations Committee, where we both serve, I have seen Senator HUDDLESTON use his considerable influence for the benefit of Kentuckians.

And as Senate majority leader, I have been impressed by the studied approach he takes on issues which transcend State boundaries, which affect the Nation and the world. For instance, Senator HUDDLESTON made significant contributions as a member of a delegation I led to Panama last month. His questioning of Americans and Panamanians was thorough and incisive, and aimed at determining what effect the proposed Panama Canal treaties would have on the United States.

Kentucky is well-served by having "DEE" HUDDLESTON and WENDELL FORD in the Senate. Indeed, the entire Nation is well-served by their active presence here.

Mr. President, I ask unanimous consent that the Louisville Courier-Journal article of Sunday, December 4, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HUDDLESTON'S LOW-KEY, BUT GETS THINGS DONE

(By Ward Sinclair)

WASHINGTON.—In early 1973, just after he arrived to take his place as the new U.S. senator from Kentucky, Walter (Dee) Huddleston talked of himself and his job in tones that challenged the cynics.

No, he would say, he wasn't going to make a big splash. No, he would continue, he wouldn't be sounding off on this or that. And definitely no, he went on, he didn't have all the answers.

Even after six months on the job, he was saying much the same thing. A quote from that period went this way:

"We're pretty much on target—not in too great a hurry, not projecting ourselves into great positions of influence at the start, learning our way and where the power is and how you accomplish something. We're moving in that direction."

Huddleston is now completing the fifth year of the six-year term he was elected to serve as the successor to the venerated John Sherman Cooper, a Republican legislative and political eminence whose shadow still hangs impressively heavy about the Senate.

The Democrat from Elizabethtown next year will be asking Kentuckians to return him to the Senate for a second term. As he goes around the state, voters will find him to be a shade heavier, a shade grayer, perhaps, but still a same low-key politician.

The real difference is that he is no longer the tyro who didn't really know where to turn to rattle the cages of the bureaucracy or where to reach to grasp the federal-level power levers.

Cautiously, because he is a cautious man if nothing else, he has balanced his positions on issues over a period of time that put him somewhere in the middle of the political spectrum.

"I don't want a label, and I don't want to be put in anyone's pigeonhole," he said recently. "I try to take each bill separately, look at its impact and vote accordingly. I have tried to balance my positions over a period of time so I don't favor one side over the other. . . . It's a difficult line to follow."

The different and varied special-interest-group ratings reflect that. The liberal ratings put him around the middle. The conservative groups rate him around the middle.

Yet when he hits the hustings next year, Huddleston won't be talking about the labels. He will be talking about the value to Kentucky of the seniority system and committee assignments that have allowed him to direct federal largess toward the state.

And he'll be pointing to an enviable legislative record—in five years, only one of the dozens of amendments he has proposed has been defeated on the floor.

He's used an approach that he learned while serving as a state senator in Frankfort: Grease the skids beforehand, make sure everyone understands what you're doining, get it passed without a fight.

"Back there," he said, "I learned that oratory is great, but if you have people lined up with you ahead of time you can withstand any of the attacks that might occur. So I like to get agreement beforehand. As you know, most of my amendments have come up without roll calls."

Aside from the floor activity—some of his best moments have come when he quietly put together the support he needed to beat back the assaults on tobacco—the bread and butter of the work of Dee Huddleston, U.S. Senator, goes on far from the public view.

One of a senator's duties, of course, is to see that laws are passed. But a larger duty very well may be his ability to get things done for constituents with problems.

That is where committee assignments and personal staff come into play. Through positions on the agricultural and apppropriations committees and by assembling a talented staff, Huddleston has had a major impact on the affairs of Kentucky and its citizens.

"When I came here . . . I thought that if I could establish a reputation as a workhorse instead of as a "showhorse," as Majority Leader Bob Byrd likes to say, that would be a good foundation," Huddleston says.

"Once I had done that, I thought, I could be more effective for Kentucky, and I would then be able to move into the national picture and be a greater influence in the Senate. I think I've stuck to that course. I'm very pleased with my staff."

On the national scene, Huddleston has become best known for his work on the Senate intelligence-oversight committees that were formed in the wake of Watergate and disclosure of abuses by the FBI and CIA.

His assignment first to the temporary and then the permanent committee reflected his Senate peers' perception of him as a moderate who was not looking for a national forum of running for higher office, a thoughtful man who knew how to avoid publicity as well as get it.

But another key appointment—to the money-controlling Appropriations Committee—has been perhaps his biggest break in enabling him to look after his constituents. One committee seat was open; two men wanted it. And Huddleston handily defeated Sen. Bennett Johnston, D-La., for the assignment in 1975.

By virtue of that, Huddleston noted, he has been able to get more money to repair the leaking Wolf Creek Dam, repair roads in Northern Kentucky, continue coal-cleaning research projects, retain planning funds for housing programs, add money to the strip-mine reclamation budget, assure continuance of military construction at Ft. Knox and Ft. Campbell, get federal mine-safety efforts beefed up in the state.

The senator cited these other Kentucky-related efforts that he was proud of:

He helped rush an emergency bill through Congress to allow chemical spraying of blackbirds that plagued the state, but also then won approval of a $400,000 research program to study ways to combat the birds in the future.

After tornadoes swept through Kentucky in 1974 Huddleston and his staff blitzed the Commerce Department until the state was given a disaster-warning radio system that became a model for the nation.

After the record-level floods last April in Eastern Kentucky and as his office worked overtime to speed up federal assistance, Huddleston came up with an investigative bearing that allowed flood victims and bureaucrats to talk coherently to each other. A result was a plan to combine disaster and civil-defense programs to speed up help.

His concern over unsafe dams, nurtured by investigative reports and a fear of disaster in Kentucky, led to a legislative drive to require the Corps of Engineers to submit building plans to independent safety experts. President Carter co-opted the senator last spring by ordering the corps to do the same thing.

The thoughtful caution that marks Huddleston's style is not always to the liking of all his constituents. For example, in the view of some he waited too long to begin speaking out strongly on coal-mine safety and strip-mine abuses—issues vital in his state.

And he has steadily held to support of the controversial Corps of Engineers flood-control dam on Paint Creek, a project that is widely criticized by environmentalists. He doesn't say so specifically, but the reason is Rep. Carl Perkins, in whose district it would be built.

"I've had some misgivings about that project," Huddleston said, "but I decided that it would not be appropriate for me to go against the projects that were approved before I got to Washington.

"Yes, that might be a copout, but to oppose it would not stand me in very good stead with the other members of Congress that I have to work with other projects, it is important for our delegation to work together. For better or worse, it's my position—a position I'm not too comfortable with."

But in a variety of ways, Huddleston has made his influence felt in the Senate on matters with an impact far beyond Kentucky.

His early opposition to two Ford-administration nominees to the board of the Tennessee Valley Authority helped stop them both.

He has spurred the executive branch to begin studies on coal-haul roads and on the social impact of increased coal production.

He was an Agriculture Committee leader in reform of the grain-inspection program, and he led a fight to increase spending for rural-development planning.

In other areas, Huddleston spearheaded a plan directing the government to study the health needs of Appalachia and was instigator of a federal study of the impact of electric-power-plant construction in the Ohio Valley.

Such calls for study and planning might seem to be a hallmark of many of his legislative efforts. But Huddleston says it's because he wants to avoid goosechases that produce quick, short-term results to problems that aren't even understood.

His annual financial-disclosure statements, made voluntarily, show that, even with salary raises, he is losing ground economically. So why stay around?

"Anyone in Congress has to make some financial sacrifice," he said. "My position is deteriorating compared to what I could have done had I stayed in business. But that's no big issue with me. I never have felt like I wanted to chuck it all and get out of here."

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I yield it back.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

SENATOR YOUNG'S BIRTHDAY

Mr. CURTIS. Mr. President, I rise to say happy birthday to our distinguished colleague, Senator MILTON YOUNG of North Dakota. This is the 50th anniversary of his 30th birthday. It was on December 6, 1897, that our distinguished colleague was born. The entire Senate is indebted to this great and good man for his years of service in the Senate.

All the farmers of America know about MILTON YOUNG. They know that throughout the years he has been a staunch friend and ally of everyone who lived in rural America. He was a farmer. He is a farmer now. He understands all the problems of agriculture: the problems of production, marketing, disaster, and all the rest. So the farmers I represent are pleased when I pay tribute to this distinguished legislator.

Senator YOUNG, for a long time, has held a place of great influence in the Committee on Appropriations. There he has served with fairness, distinction, and understanding. He has served with a sense of patriotism. In matters relating to the defense of our Republic, MILTON YOUNG has been dedicated to the cause of this country and to the defense of it.

Requests for appropriations always receive his fair and objective consideration. At the same time he was concerned, and is concerned, about fiscal difficulties of our country, and he has been a force for stability in the financing and voting of programs for our country.

Senator YOUNG has served longer in the U.S. Senate than any other Senator on the Republican side of the aisle. I rise on this occasion not only to mention his birthday but to express my appreciation for the public service of this outstanding man.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. CURTIS. I yield.

Mr. BAKER. I shall take only a moment to join with the distinguished Senator from Nebraska in congratulating our colleague for his long and distinguished service in the Senate. I am sure that at no time has his service been more valuable to the country than it has been in the last several months.

In the course of his service as the senior Republican on the Appropriations Committee, all of us have called on him to protect our interests as we see them, to advance the programs and the proposals that are adopted by the Republican Conference, which is presided over with such skill by the distinguished Senator from Nebraska, and otherwise to advance the cause of our side of the aisle.

I take this opportunity to congratulate Senator YOUNG for his service, but most especially for the quality of that service in the last several months.

Mr. CURTIS. I thank my distinguished leader.

Mr. President, in yielding the floor, I am sure I speak for everyone in this Chamber when I express the wish not only for a very happy birthday today but many more of them, and that they will all be filled with health and happiness.

RELEASE OF CERTAIN SENATE DOCUMENTS

Mr. JACKSON. Mr. President, I report today a resolution to permit the release of certain materials and information in the possession of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs pursuant to the written request of the chairman of the Select Committee on Assassinations of the House of Representatives.

By letter dated November 18, 1977, the Honorable LOUIS STOKES, chairman of the House Select Committee on Assassinations, requested that the Permanent Subcommittee on Investigations provide the Select Committee certain materials and information now in the subcommittee's files that is pertinent to the House investigation.

Pursuant to rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, such materials and information may not be released without the approval of the Senate.

Accordingly, I report the following resolution, approved by the Committee on Governmental Affairs, and ask that this resolution be agreed to.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 330) to permit the withdrawal and release of certain documents, papers and other information obtained by and in the possession of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 330

Whereas, the United States House of Representatives Select Committee on Assassinations has formerly requested by letter dated November 18, 1977, that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs provide access to, and copies of, certain materials and information obtained by and in the possession of the Permanent Subcommittee on Investigations as a result of its official investigative activities; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, information secured by staff employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate, therefore, be it

Resolved that the Permanent Subcommittee on Investigations is authorized, at the discretion of and at the direction of its Chairman, and subject to such conditions as he may deem appropriate, to provide the Select Committee on Assassinations of the House of Representatives with certain materials and information obtained by and in the possession of the Subcommittee as requested by the Select Committee on Assassinations.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to the Honorable Louis Stokes, M.C., Washington, D.C.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations under "New Reports."

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. I wish only to advise the distinguished majority leader that all of the items on the Executive Calendar, with the exception of the first item, being those under National Museum Services Board and the National Science Foundation, as well as two nominations now at the desk reported earlier today, are cleared for confirmation on this side. We have no objection to proceeding.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

NATIONAL MUSEUM SERVICES BOARD

The assistant legislative clerk read the nomination of Douglas Dillon, of New York, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Neil Harris, of Illinois, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Joan Mondale, of Minnesota, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Mamie P. Clark, of New York, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Benjamin W. Hazard, of California, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Nancy Negeley, of Texas, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Gary K. Clarke, of Kansas, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of George Horse Capture, of Montana, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Charlotte Ferst, of Georgia, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Lewis Davis, of New York, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Raul A. Lopez, of California, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of E. Leland Webber, of Illinois, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Lloyd Hezekiah, of New York, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Peter H. Raven, of Missouri, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of George S. Seybolt, of Massachusetts, to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL SCIENCE FOUNDATION

The assistant legislative clerk read the nomination of James Arthur Krumhansl, of New York, to be an Assistant Director.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

OFFICE OF ENERGY RESEARCH

The assistant legislative clerk read the nomination of John M. Deutch, of Massachusetts, reported earlier in the day by the Committee on Energy and Natural Resources, to be Director.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

The assistant legislative clerk read the nomination of Walter N. Heine, of Pennsylvania, reported earlier in the day by the Committee on Energy and Natural Resources, to be Director.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the nominations were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President to be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive any House messages that come over during the recess which I am about to request, and that they be held at the desk pending further disposition.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under authority of the order of December 1, 1977, the Secretary of the Senate on December 2, 1977, received messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

Under authority of the order of December 1, 1977, the Secretary of the Senate on December 5, 1977, received messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

Under authority of the order of December 1, 1977, the Secretary of the Senate on December 6, 1977, received messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(For nominations received on December 2, December 5, and December 6, 1977, see the end of the proceedings today.)

MESSAGES FROM THE HOUSE

At 4 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to thhe bill

(H.R. 3313) for the relief of Mark Charles Mieir and Liane Maria Mieir, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 5 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1316. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973;

S. 2328. An act to amend Private Law 95-21 to make a technical correction therein; and

H.R. 5555. An act for the relief of Adelaida Rea Berry.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on December 2, 1977, he presented to the President of the United States the enrolled bill (S. 1131) to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes.

PRESENTATION OF PETITIONS

Mr. BAKER. Mr. President, I have received petitions requesting repeal of the Federal withholding tax from my constituents, Mr. and Mrs. Frank C. Ray, Mr. Willis E. Edwards, Dr. L. J. Carter, and Mr. Raymond J. Ballard. These Tennesseans have requested that I present their petitions to the Senate, and I now submit them for appropriate referral.

The ACTING PRESIDENT pro tempore. The petitions will be received and appropriately referred.

POM-417. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-418. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-419. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-420. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-421. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

Mr. BAKER. Mr. President, I have received petitions requesting repeal of the Federal withholding tax from five of my constituents, Miss Carolyn D. Miller, Mr. Robert G. Ely, Mr. James G. Masters, Mr. Ernest K. Peterson, and Miss JoAnn Parsley. These Tennesseans have requested that I present their petitions to the Senate, and I now submit them for appropriate referral.

The ACTING PRESIDENT pro tempore. The petitions will be received and appropriately referred.

POM-422. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-423. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-424. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-425. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

POM-426. A petition seeking repeal of the withholding tax law; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Governmental Affairs:

S. Res. 330. An original resolution to permit the withdrawal and release of certain documents, papers and other information obtained by and in the possession of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs; considered and agreed to.

By Mr. BAYH, from the Committee on the Judiciary, without amendment:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States (together with additional and minority views) (Rept. No. 95-609).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted.

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

John M. Deutch, of Massachusetts, to be Director of the Office of Energy Research.

Walter N. Heine, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources today approved the nominations of Walter N. Heine to be Director of the Office of Surface Mining Reclamation and Enforcement in the Department of the Interior and Dr. John M. Deutch to be Director of the Office of Energy Research in the Department of Energy.

I ask unanimous consent that the financial statements of Dr. Deutch and Mr. Heine be printed in the RECORD.

I also ask unanimous consent that there be included in the RECORD a letter from Mr. Heine dated November 1, 1977, advising the Committee of divestiture actions taken and a letter from the Acting General Counsel of the Department of Energy advising the committee of divestiture actions to be required of Dr. Deutch under the Department of Energy Organization Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The material ordered to be printed in the RECORD, is as follows:

FINANCIAL STATEMENT OF JOHN M. DEUTCH

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $9,500.
Listed securities—add schedule, $146,323.
Unlisted securities—add schedule, $21,275.
Accounts and notes receivable: Due from others, $7,600.
Real estate interests—Home, $80,000.
Personal property, $25,000.
Life insurance—cash value .[1]
Limited Partnership, $26,250.
Total assets, $316,148.

LIABILITIES

Notes payable to banks—cars, $2,000.
Notes payable to relatives, $15,000.
Accounts payable, $4,900.
Real estate mortgages payable—add schedule, $28,977.
Total liabilities, $50,877.
Net worth, $265,271.

1. List sourses, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

MIT September Salary $3,800. Science Applications, Inc. for any fees $2,000, Northrup Corporation September fee $2,000. All terminate upon confirmation. Dividends on securities—Pension benefits, MIT, TIAA/CREF (from Princeton) Supplemental retirement annuity TIAA/CREF and Prudential.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes. Audit of 1973, 1974 returns. Adjustments reviewed and accepted, copy of IRS letter attached.

AFFIDAVIT

John Mark Deutch, being duly sworn, hereby states that he/she has read and signed the foregoing Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

JOHN DEUTCH.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Deutch, John Mark.

Position to which nominated: Director, Energy Research.

Date of nomination: Sept. 13, 1977.

Date of birth: 27 July 1938.

Place of birth: Brussels, Belgium.

Marital status: Married.

Full name of spouse: Samayla Dodek Deutch.

Name and ages of children: Philip, 13; Paul, 11; Zachary, 7.

Education: Institution, dates attended, degrees received, dates of degrees:

Amherst College, 1956–59, BA, 1961.

MIT, 1960–61, B. Eng., 1961.

MIT, 1961–65, Ph. D., 1965.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location and date.

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[1] Two term life insurance policies, MIT $100K, TIAA/CREF $60K.

Office of the Secretary of Defense, Systems Analyst, 1961–1965.

National Bureau of Standards, Post doctoral fellow, 1966.

Princeton University, Assistant Professor of Chemistry, 1966–1969.

MIT, Associate Professor of Chemistry, 1970–1973.

MIT, Professor of Chemistry, 1972 to present.

MIT, Chairman, Department of Chemistry, 1976 to present.

Presently Consultant to private corporations: RAND, Urban Institute, Science Applications, Inc., Northrop Corp.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

John Simon Guggenheim Memorial Fellow.

Alfred P. Sloan Foundation Fellow.

Predoctoral fellow—Union Carbide 1965 at MIT; NIH 1964/65 at MIT.

Postdoctoral fellow NAS/NRC at National Bureau of Standards 1966.

Sigma Xi, Tau Beta Pi, Phi Lambda Upsilon honorary societies.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held, and dates:

Phi Lambda Upsilon, none, January 1961 to present.

Tau Beta Pi, none, January 1961 to present.

MIT Faculty Club, none, January 1970 to present.

American Phys. Society, none, 1964 to present.

Cosmos Club, none, 1970 to present.

Amer. Chem. Soc., none, 1976 to present.

Council on Foreign Relations, none, 1975 to present.

Temple Isaiah, none, 1971 to present.

Town Meeting Member, elected-political office, 1973—defeated 1976.

Lexington Historical Society, none, 1973 to present.

Lexington Citizens for Conservation, none, 1973 to present.

Hancock Men's Club, none, March 1974 to present.

Citizens' Comm. for Lexington Public Schools, none, 1973 to present.

Museum of Fine Arts, Boston, none, 1971 to present.

Science Museum, none, 1971 to present.

Children's Museum, none, 1971 to present.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

PUBLICATIONS OF J. M. DEUTCH

1. Correlation Functions in Nuclear Relaxation, I. Analysis of Random Motion from Field Dependence of Relaxation Times (with J.S. Waugh), J. Chem. Phys. 43, 1914–8 (1965).

2. On the Detectability of the Quadratic NMR Electric Field Effect in Liquids (with J. S. Waugh), J. Chem. Phys. 43, 2568 (1965).

3. Quantum Statistical Mechanics of Isotope Effects. II. The Surface Tension and Internal Energy (with J. L. Kinsey and I. Oppenheim), J. Chem. Phys. 44, 2270–6 (1966).

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72. Frictional Properties of Nonspherical Multisubunit Structures. Application to Tubules and Cylinders (with J. A. McCammon), Biopols. 15, 1397 (1976).

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JOHN M. DEUTCH

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet).

Future employment relationship:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

No. Will take leave of absence from MIT.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Yes. Return to MIT.

3. Has anybody made you a commitment to a job after you leave government?

MIT.

4. Do you expect to serve the full term for which you have been appointed?

No. Until October 1979.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Continued participation in MIT benefits and retirement plan.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in possible conflict of interest with the position to which you have been nominated.

Consultant to various government agencies presently include:

(1) Defense Science Board, (2) Army Science Advisory Panel, (3) CNO Executive Panel, (4) DCI Science and Technology Advisory Committee, (5) OSTP consultant.

None constitute possible conflicts of interest.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

(1) Sale of securities in energy related companies as required.

(2) Will have no dealings with respect to MIT.

(3) Resignation of private consultancies.

SECURITIES

1,022 Allied Super markets	$3,577
125 IBM	33,375
500 First National Bank of Boston	13,625
1,157 Fuji Photo	3,355
100 Damon Corp	575
1,100 Montana Power	27,911
400 Signal Oil	11,500
300 Union Oil Calif (Prf)	19,500
407 Japan Fund	3,560
500 ITT	16,125
300 Southern Co	4,988
15 Potomac Electric	240
46 AMAX	1,817
100 Imperial Oil	1,863
154 W. R. Grace	4,312
	146,323

UNLISTED SECURITIES

200 Bangor Hydroelectric	3,025
2,000 Modular Computer	15,250
6,000 Computer Leasing Bonds	3,000
	21,275

INTERNAL REVENUE SERVICE,
Boston, Mass., October 20, 1975.

Mr. and Mrs. JOHN M. DEUTCH,
Lexington, Mass.

DEAR TAXPAYER: An examination report showing changes to your tax returns identified above was discussed and left with you by the examiner named. We have completed our review of the report and have accepted it.

If you have overpaid your tax, we will process your refund, if you owe aditional tax, we will send you a bill for the balance due. Interest, if any, will be included in the refund or bill.

Thank you for your cooperation.

Sincerely yours,

—— ——,
District Director.

FINANCIAL STATEMENT OF WALTER N. HEINE

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $6,000.
Listed securities—add schedule, $6,000.
Real estate interests, including mortgages—add schedule, $75,000.*
Personal property, $31,000.
Life insurance—cash value, $5,000.
Other assets—itemize:
Beef cattle herd, $16,000.
Corn in storage, $2,000.
Potential corn crop, $9,000.
Total assets, $150,000.

LIABILITIES

Real estate mortgages payable—add schedule, $19,000.**
Other debts—itemize:
Stock margin account, $2,700.
Insurance loans, $5,000.
Farm Co-op debt, $7,000.
Total liabilities, $33,700.
Net worth, $116,300.

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*Farm. $65,000; rental house, $10,000.

**Mortgage at 6% will be paid off in ten (10) years.

STATEMENT OF SECURITY ACCOUNT FOR WALTER N. HEINE, PERIOD ENDING AUG. 26, 1977

Date	Bought or received	Sold or delivered	Description	Price	Debit	Credit
			U.S. FDS balance July 29	M	$2,624.39	
Aug. 1			100 RCA Corp	Div*		$30
Aug. 1			100 RCA Corp	Ck	30.00	
Aug.. 4			Int chge of *$7.58			
			For 13 DR days at (percent) 8.00			
			On avg DR bal $2,624			
			Bal to Aug. 4 $2,624			
Aug. 17			Int chge of *$7.82			
			For 13 DR days at (percent) 8.25			
			On avg DR bal $2,624			
			Bal to Aug. 17 $2,624			

Date	Bought or received	Sold or delivered	Description	Price	Debit	Credit
Aug. 19			Int chge of	*$7.24		
			For 2 DR days at (percent)	8.50		
			On avg DR bal	$2,624		
			Bal to Aug. 19	$2,624		
Aug. 19			Total interest charge		16.64	
			U.S. FDS closing balance		2,641.03	
	100		Polaroid Corp. PVI			
	100		RCA Corp			
	50		UGI Corp SR PR 2 75			
	100		Williams Co			

Note: As required by law, dividends identified by an asterisk (*) on the statement are reported to the Internal Revenue Service.

WALTER N. HEINE

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

None.

2. Are any assets pledged? (Add schedule.)

No.

3. Are you currently a party to any legal action?

No.

4. Have you ever declared bankruptcy?

No.

AFFIDAVIT

Walter N. Heine, being duly sworn, hereby states that he has read and signed the foregoing Financial Statement and that the information provided therein is, to the best of his knowledge and belief, current, accurate, and complete.

WALTER N. HEINE.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Heine, Walter Norman.

Position to which nominated: Director, Office of Surface Mining, U.S. Department of Interior.

Date of Nomination: October 17, 1977.

Date of birth: February 21, 1934.

Place of birth: New York, N.Y.

Marital status: Married.

Full name of spouse: Salome Almyra Denny.

Name and ages of children: Dana, 8; Leah, 3.

Education: Institution, dates attended, degrees received, dates of degrees:

Drexel University, September 1952 to June 1959, B.S. Civil Eng., 1959.

University of Michigan, September 1963 to June 1964, M.S. Sanitary Engineering, 1964.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

None.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held, dates:

National Society Professional Engineers, none, 1960.

American Society Civil Engineers, none, 1959.

Water Pollution Control Federation, none, 1959.

PA Water Pollution Control Association, none, 1959.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

September 11, 1971 to present, Associate Deputy Secretary, PA Department of Environmental Resources. Assists the Deputy Secretary for Environmental Protection in supervising, planning and directing the program policy development, budget and personnel review, decision-making on difficult policy matters which often require knowledge of technical aspects; evaluation of proposed goals and progress toward meeting these goals. Regulatory programs include mining, water and air quality, mine safety, occupational health, solid waste management, oil and gas and radiological health.

May 5, 1970 to September 11, 1971, Chief Environmental Engineer, Skelly & Loy Consulting Firm. Responsible for consulting firm's environmental engineering activities including idea development, preparation of contract proposals, oral and written proposal presentations, planning of project implementation and control, supervising staff regarding project details, review of study reports and developing recommendations. Work involved active and abandoned mine projects, industrial waste control and sewage treatment plant design.

Employment record: List all positions held since college, including the title and description of job, name of employer, location and dates.

March 16, 1966 to May 5, 1970, Chief Mine Drainage Division, PA Department of Health Responsible for a state-wide program for regulating environmental protection aspects of underground coal mines, included development of policies and procedures for implementation of a new Act to control pollution from active underground mines, writing of regulations to interpret the Act, planning training programs for staff and the coal industry, supervising the inspection and enforcement results. This program was one of the first in the nation to succeed in accomplishing pollution control from mines.

March 16, 1966 to November 1964, Regional Sanitary Engineer, PA Department of Health. Responsible for all environmental protection (water pollution control) and public water supplies, mine drainage control in thirteen n.w. counties of PA. Included plan review, permit issuance or denial, inspections, enforcement and supervision of technical and administrative technical staff.

May 1964 to November 1964, Section Chief, Division of Sanitary Engineering, PA Department of Health. Reviewed plans and grant application requests for sewage treatment plants, prepared manuals and drafted proposed policies and procedures for Division Director.

March 1962 to August 1963, Operations Chief, Wilkes-Barre Regional Office, PA Department of Health. Responsible for supervising field inspection activities and personnel in assuring water pollution control facilities and coal mines were in compliance with water pollution laws, also that public water supplies were in compliance, carried out enforcement action against violators.

June 1959 to March 1962, Staff Engineer, Philadelphia Regional Office, PA Department of Health. Review of plans for sewer systems, bathing places and water supplies to prepare recommendations for permit issuance, inspected facilities to determine compliance and initiate enforcement action, appointed Acting Operations Chief to supervise field inspection staff.

Government experience:

List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Almost twenty (20) years in State employment.

(See attached Employment Record.)

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

"Control of Pollution From Active Mines in Pennsylvania", Presented ORSANCO Engineering Committee, September 12, 1968. Reviews the activity of the Sanitary Water Board of Pennsylvania in regulating water pollution from mining.

"Mine Drainage Pollution—Still A Stepchild", PA Water Pollution Control Association Magazine, Nov.–Dec. 1970. Extent of abandoned mine drainage problem is discussed, pointing out need for public funding to initiate major national program for abatement.

"Treatment of Mine Drainage By Industry In Pennsylvania", Sanitary Engineering Division, Proceedings American Society Civil Engineering, 96 (SA 3), 743–755 (1970). Reports on study of five mine drainage treatment plants with emphasis on analysis for trace minerals.

"Controversy Over Proposed Federal Regulation of Surface Mining of Coal—Pro & Con", Congressional Digest, May 1974. Provides eight views of the need or desirability for federal regulation of coal surface mining.

"A New Method of Surface Coal Mining In Steep Terrain", Research and Applied Technology Symposium on Mine-Land Reclamation, National Coal Association, Pittsburgh, PA 1973. Describes technology development in lateral spoil handling in steep slope strip mining.

"Underground Disposal of Coal Mine Wastes", Member of National Academy of Sciences/National Academy of Engineering, Study Committee to Assess the Feasibility of Returning Underground Coal Mine Wastes to the Mined-Out Areas, Washington, D.C., 1975. Reports on studies, findings and conclusions about feasibility of underground disposal of coal refuse.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

September 11, 1971 to Present: Associate Deputy Secretary for Mines and Land Protection, Pa. Department of Environmental Resources, Harrisburg, Pa.

May 5, 1970 to September 11, 1971: Director of Environmental Engineering, Skelly & Loy Consultants, Harrisburg, Pa.

March 16, 1966 to May 5, 1970: Chief of Division of Mine Drainage Control, Pa. Department of Health, Harrisburg, Pa.

November 11, 1964 to March 16, 1966: Regional Sanitary Engineer, Pa. Department of Health, Meadville, Pa.

May 27, 1964 to November 11, 1964: Staff Engineer, Sewerage Section, Pa. Department of Health, Harrisburg, Pa.

March 21, 1962 to August 28, 1963: Operations Engineer, Kingston Regional Office, Pa. Department of Health, Kingston, Pa.

January 10, 1955 to March 21, 1962: Staff Engineer, Philadelphia Regional Office, Pa. Department of Health, Philadelphia, Pa.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet).

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I will sever all connections with the Commonwealth of Pennsylvania except for those necessitated by activities related to the position to which I have been nominated.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

It is conceivable that I could return to State government service.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

In addition to my engineering education as set forth elsewhere in this Statement, I have vast experience in administration at the State level of programs which closely parallel those with which I will be charged in the nominated position. The highlights of this experience includes:

Appointment by Governor Milton J. Shapp to head newly established Office of Mines and Land Protection, PA Department of Environmental Resources (September, 1971). Assignment included development of organizational structure, staffing, budgeting and responsibility for implementation of state-wide programs for surface mine reclamation, mine safety, solid waste management, occupational health, mine subsidence control and oil and gas well drilling regulation. The programs involved a staff of about 350 persons and a budget (1976) of $6.1 million.

Successfully encouraged transfer of Pennsylvania technology in steep slope surface mine reclamation to other Appalachian States.

Assisted in drafting federal coal surface mine regulation bills; testified several times before House and Senate Committees concerning the bills. Received letters of commendation from Senator Richard Schweiker and Congresswoman Patsy Mink for this work.

Responded to public complaints on surface mine blasting by arranging and participating in joint industry-government research on effects of blasting on surface structures. This resulted in the requirement for stricter blasting plans in Pennsylvania than those set forth in the "national standard" developed by the U.S. Bureau of Mines and used in most states.

Appointed (1966) to head Division of Mine Drainage Control to carry out implementation of newly strengthened Clean Streams Law which, for the first time in the State or nationally, required all mine drainage discharges to meet stringent quality standards. This required development of a State-wide program and cooperation with mining companies in technology development which ultimately resulted in construction of over 250 mine drainage treatment plants and restored hundreds of miles of streams which were extensively polluted for decades. This technology included changes in underground mine planning so as to reduce probability of pollution after completion of mining.

Initiated program requirement for testing of workers and dust exposures at quarries to reduce incidence of silicosis and other respiratory diseases in quarry workers (such workers are not covered by the national OSHA).

As Pennsylvania's representative on the Monongahela River Mine Drainage Remedial Project Interstate Committee, participated in the first Federal/State cooperative effort in identifying and correcting abandoned mine drainage conditions on a large watershed basis.

As Pennsylvania's Commissioner to the Interstate Mining Compact Commission, urged and acted for a balance between mining and environmental protection positions and activities.

As Director of Environmental Engineering with the consulting firm of Skelly and Loy 1970–71), designed and carried responsibility for the firm's abandoned mine reclamation projects in Pennsylvania, West Virginia and Maryland, including development of innovative reclamation measures in this new area of technology.

Required underground mine operators to provide complete roof support at all active areas of mines except where a specific Department variance is granted on a case by case basis.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

Upon the request of the staffs of both the Senate and House Committees which drafted the Surface Mining Control and Reclamation Act of 1977, I provided occasional technical consultation based upon the PA surface mine regulation experience. On a few occasions, this activity included discussions with Congressmen and Senators.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I do not envision any conflicts of interest.

Department of Energy,
Washington, D.C., November 1, 1977.
Hon. Henry M. Jackson,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for an opinion as to the effect of the conflict of interest provisions contained in Title VI of the Department of Energy Organization Act (Pub. L. 95–91) on the financial holdings of John M. Deutch and Robert D. Thorne, who respectively have been nominated to be Director of the Office of Energy Research and Assistant Secretary for Energy Technology in the Department of Energy.

Section 602(a) of the Department of Energy Organization Act ("Act") prohibits supervisory employees of the Department of Energy from knowingly receiving compensation from, holding any official relation with, owning the stocks or bonds of, or having any pecuniary interest in, any energy concern. "Energy concern", defined in Section 601(b) of the Act, is described in terms of entities "significantly engaged in the business" of a variety of activities related to energy production, distribution, sale, research and development, as well as entities engaged in such research and development functions pursuant to DOE-funded programs irrespective of whether they otherwise are engaged in such "business." The precise boundaries of that term are currently being explored. Nonetheless, it is possible to make some initial determinations with respect to identifying energy concerns within the meaning of the statute.

As you know, a list of the financial holdings of Mr. Deutch and Mr. Thorne has been provided to the Committee. If confirmed, Mr. Deutch will divest the following interests in energy concerns in connection with his assuming the position of Director of the Office of Energy Research:

Corporation:
Montana Power Company.
Signal Oil Company.
Union Oil of California.
Bangor Hydro-Electric.
Southern Company.
Potomac Electric Power.
AMAX.
Imperial Oil Company.

We are currently examining other aspects of Mr. Deutch's financial statements in order to ascertain either the status of certain of his holdings in view of the statutory definition of "energy concern" or the appropriate disposition of some interests held by his minor children.

If confirmed, Mr. Thorne will divest the following interests in energy concerns in connection with his assuming the position of Assistant Secretary for Energy Technology:

Corporation: Dow Chemical Company.

The list of energy concerns required by Section 601(c)(1) of the Act is presently being prepared and will be published upon completion. At that time it may be determined that additional financial holdings of Mr. Deutch or Mr. Thorne may have to be divested.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Eric J. Fygi,
Acting General Counsel.

U.S. Department of the Interior,
Washington, D.C., November 1, 1977.
Hon. Henry M. Jackson,
U.S. Senate,
Washington, D.C.

Dear Senator Jackson: In response to the concern expressed at my hearing yesterday about stock ownership listed in my financial statement, this morning I have instructed my broker to sell my shares of The Williams Company and UGI Corporation.

When I have completely divested myself of the stock, which in the ordinary course of the market should be no more than four days, I will notify you.

Sincerely,

Walter N. Heine,
Director Designate,
Office of Surface Mining.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, Science, and Transportation, and as in executive session, I report favorably sundry nominations in the Coast Guard and the National Oceanic and Atmospheric Administration which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Congressional Record of November 4 and November 22, 1977, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAKER (for Mr. Hatch):

S. 2340. A bill for the relief of Rebecca Rachel Sampsel (nee Mary Jane Platero Jubay); to the Committee on the Judiciary.

By Mr. ABOUREZK:

S. 2341. A bill to provide parity to farmers and to prevent interruptions in the supply of food to American consumers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SASSER:

S. 2342. A bill to create a Great Smoky Mountains Wilderness Area within the Great Smoky Mountains National Park; to the Committee on Energy and Natural Resources.

By Mr. MELCHER (for himself, Mr. Abourezk, Mr. McGovern, Mr. Dole, Mr. Curtis, Mr. Hayakawa, Mr. Bellmon, Mr. Wallop, Mr. Young, Mr. Burdick, Mr. Humphrey, Mr. Anderson, Mr. Huddleston, Mr. Metcalf, Mr. McClure, Mr. Zorinsky, and Mr. Goldwater):

S. 2343. A bill to ensure the quality of imported meat; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HUMPHREY (for himself and Mr. Anderson):

S. 2344. A bill to amend the Federal Crop Insurance Act to increase the use of Federal crop insurance by American farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HUMPHREY:

S. 2345. A bill to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government; ordered held at the desk, by unanimous consent.

By Mr. MAGNUSON (for himself and Mr. Pearson) (by request):

S. 2346. A bill to implement the International Convention for the Prevention of Pollution From Ships, 1973, and for other purposes; to the Committee on Commerce, Science, and Transportation, and the Committee on Environment and Public Works, jointly, by unanimous consent.

By Mr. DOMENICI:

S.J. Res. 101. Joint resolution to authorize the President to issue a proclamation designating the Sunday following Fire Service Recognition Day as Memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABOUREZK:

S. 2341. A bill to provide parity to farmers and to prevent interruptions in the supply of food to American consumers; to the Committee on Agriculture, Nutrition, and Forestry.

EMERGENCY FARM ACT OF 1977

Mr. ABOUREZK. Mr. President, several months ago this body passed a piece of legislation called the Food and Agriculture Act of 1977. An entire section of that act was devoted to reaffirming the traditional U.S. Government policy of support and encouragement for the "family farm system of agriculture" in this country. To that end, an intricate web of loan floors, target price levels, disaster protection, and other means of supporting and augmenting producers' incomes was established. In so doing, this Congress recognized the present dilemma of our Nation's farmers, most of whom are not even recovering their costs of production. The agriculture committees of both houses spent many long hours in formulating this bill which they genuinely hoped would shore up the family farmer's income and slow down the alarming trend of forced farm sales.

Unfortunately, the message has been coming through loud and clear in recent weeks that the effort was not quite enough. The one who knows best just how short our relief measures have come is the farmer and, in recent weeks, he has been organizing in an attempt to stave off economic collapse. Calling itself the American Agriculture Movement, this organization has called for 100 percent parity for all agricultural products produced and consumed in the United States. Its members have promised to strike if the demands are not heard and acted upon in good faith by December 14 of this year.

Admittedly, if the record of past agricultural strikes is any indication, the prospects for achieving all of the stated objectives are slim. It seems to me, however, that much will have been achieved if the movement is able to educate the American public as to where its food dollar is going and how much it stands to lose if the present trend of family farm liquidations continues unabated.

As Americans we all too often forget that we are served by the most efficient producers of agricultural goods the world has ever seen. Disposable income spent for food in this country has declined from the 24.6 percent figure of the 1947–49 base period to less than 17 percent in 1970. Farm productivity (measured in terms of output per unit of input) skyrocketed, increasing 57 percent from the 1947–49 base to 1975. At the same time, however,, the farmer's share of the consumer's "market basket food dollar" declined from 50 percent in 1947–49 to 39 percent in 1970, while the farm retail spread increased almost 70 percent.

The inescapable conclusion offered by all of these statistics is that the American farmer has not received his fair share of the returns for the food he has produced. Today, farm income stands at 64 percent of parity, the lowest it has been since the Depression. Parity, which can be defined as the balance between the prices a farmer receives for his output and the prices that he has to pay for his inputs, has rarely been further away.

Mr. President, I am especially aware of the plight of the family farmer because my home State of South Dakota has a lot of them. The alarming thing about their present economic dilemma is that efficiency offers no escape—the depressed market prices have come about due to the oversupply of their products. They are also helpless to do anything about the skyrocketing costs of their inputs—machinery, fuel, fertilizer—and so they are being slowly squeezed out of business. The crisis is very real and it cannot be confronted by half-hearted measures. That is why I am here today to introduce a bill which would authorize the Secretary of Agriculture to institute a system of price supports for all the major crops at a level not below 100 percent parity. For each of the 1977 through 1981 crops, the Secretary shall insure, either by loans, purchases, payments, or other like measures, that producers of all the major crops will receive a return no less than that required to strike a balance with the prices he must pay for labor and equipment, necessities and comforts.

The American farmer has, through the years, been long-suffering and patient. His back is against the wall now, however, and he can be silent no longer. If we in Congress are to honor our pledge to "foster and encourage" the family farm in this country, then we can do no less than to enable our producers to make a return sufficient to remain in business.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congres assembled, That this Act may be cited as the "Emergency Farm Act of 1977."

Sec. 2. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed to make available through loans, purchases, payments, or other operations, price support to producers for each of the 1977 through 1981 crops of corn, cotton, peanuts, rice, tobacco, wheat, barley, oats, rye, grain sorghum, soybeans, sugar, wool, mohair, milk, and honey at a level of not less than 100 per centum of the parity price for such commodity, unless a majority of the producers of any such commodity voting in a referendum conducted by the Secretary of Agriculture vote to exempt such commodity from the provisions of this Act.

By Mr. SASSER:

S. 2342. A bill to create a Great Smoky Mountains Wilderness Area within the Great Smoky Mountains National Park; to the Committee on Energy and Natural Resources.

GREAT SMOKEY MOUNTAINS WILDERNESS ACT

Mr. SASSER. Mr. President, today I am introducing legislation to create a Great Smoky Mountains Wilderness Area within the Great Smoky Mountains National Park. Under this bill, approximately 475,000 acres of the park will be designated wilderness. The purpose of the legislation is to insure that future generations of Americans will be able to use and enjoy the grandeur of this rugged wilderness and to insure that the Tennessee and North Carolina regions surrounding the park will have a continuing economic base of support.

The bill preserves Mount LeConte Lodge and the trail shelters which now exist in the park, including the well used ones on the Appalachian Trail. Other areas, including Cades Cove, Elkmont, and the Clingman's Dome Tower, are also excluded to preserve various activities already taking place within the park boundaries.

Furthermore, the legislation insists on a fair settlement of the dispute arising from the 1943 agreement between the United States and Swain County, N.C.

It is my intention in introducing this legislation to strike an equitable balance between the needs of the regions around the Great Smoky Mountains National Park and the need to preserve the beauty and usefulness of this mountain chain which includes three of the four highest peaks in Eastern North America. The park is now the most used national park in the country. This legislation will do nothing to curtail any use presently permitted. It will preserve these mountains and valleys in their delicate, awesome condition for future generations of Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Great Smoky Mountains Wilderness Act".

SEC. 2. In accordance with section 3(c) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(c)), certain lands in the Great Smoky Mountains National Park, North Carolina and Tennessee, which comprise approximately 475,000 acres, and which are depicted on the map entitled "Citizens Wilderness Plan, Great Smoky Mountains National Park, North Carolina and Tennessee", and dated March 15, 1977, are hereby designated as wilderness. The map and the description of such lands shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the office of the superintendent of the Great Smoky Mountains National Park.

SEC. 3. A ten acre enclave including the Mount Le Conte Lodge is excluded from the wilderness area and is designated a potential wilderness area under the provisions of the Wilderness Act.

SEC. 4. Trail shelters in use within the Great Smoky Mountains National Park on the date of the enactment of this Act shall be excluded from the prohibitions of section 3(c) of the Wilderness Act (16 U.S.C. 1132 (c)). Such shelters shall be maintained for a period of at least fifteen years from the date of the enactment of this Act, unless the Director of the National Park Service determines that continued maintenance of the shelters is not required for the health, safety and well-being of lawful users.

SEC. 5. (a) The Secretary of the Interior and the Tennessee Valley Authority are directed to negotiate the transfer of certain legal rights and easements retained by the Authority over lands within the park, where such legal rights and easements are:

(1) inconsistent with the provisions of the Wilderness Act; or

(2) not necessary for the operation and maintenance of the Fontana Lake Dam.

(b) The tract of land formerly owned by the Tennessee Valley Authority, comprising approximately 44,000 acres, shall be designated and administered as wilderness effective on the date of the enactment of this Act.

SEC. 6. The Secretary of the Interior is directed to acquire all lands or interests in lands within the boundaries of the Great Smoky Mountains National Park within four years of the enactment of this Act. He shall allocate personnel and funds sufficient for this purpose.

SEC. 7. Within the boundaries of the wilderness designated by this Act, the Secretary of the Interior may acquire lands and interests therein by purchase, condemnation, donation, transfer from any Federal or State agency, or exchange.

SEC. 8. (a) Nothing in this Act shall be construed to affect adversely, or to authorize any Federal agency to take any action which would affect adversely, any rights or privileges, pursuant to an Agreement, dated July 30, 1943, of the Secretary of the Interior of the United States, the State of North Carolina, and the County of Swain, North Carolina, in property within the wilderness designated by this Act: *Provided, however,* That the Secretary of the Interior is directed to seek arrangements agreeable to the State of North Carolina and to the County of Swain, North Carolina, which would eliminate the need for any encroachment, pursuant to the Agreement of July 30, 1943, upon the wilderness designated by this Act.

(b) In fulfilling his duties under this section, the Secretary of the Interior shall endeavor to find an agreeable compromise which will:

(1) satisfy the intent of the Agreement relating to the County of Swain, North Carolina; and

(2) preserve the community values and the way of life of the County of Swain, North Carolina.

(c) In fulfilling his duties under this section, the Secretary of the Interior may conduct a survey of public preferences about environmental and aesthetic quality, traffic flow, growth alternatives, cultural centers, interpretive centers and other relevant matters.

SEC. 9. As soon as practicable after the date of the enactment of this Act, a map of the wilderness area and a description of its boundaries shall be filed with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in the map and legal description may be made.

SEC. 10. The wilderness designated by this Act, including section 5(b), shall be known as the "Great Smoky Mountains Wilderness." It shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by such Act as wilderness areas, except that any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed, where appropriate, as a reference to the Secretary of the Interior.

By Mr. MELCHER (for himself, Mr. ABOUREZK, Mr. MCGOVERN, Mr. DOLE, Mr. CURTIS, Mr. HAYAKAWA, Mr. BELLMON, Mr. WALLOP, Mr. YOUNG, Mr. BURDICK, Mr. HUMPHREY, Mr. ANDERSON, Mr. HUDDLESTON, Mr. METCALF, Mr. MCCLURE, Mr. ZORINSKY, and Mr. GOLDWATER):

S. 2343. A bill to insure the quality of imported meat; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. MELCHER. Mr. President, I have just introduced a bill on behalf of myself and Mr. ABOUREZK, Mr. MCGOVERN, Mr. DOLE, Mr. CURTIS, Mr. HAYAKAWA, Mr. BELLMON, Mr. WALLOP, Mr. YOUNG, Mr. BURDICK, Mr. HUMPHREY, Mr. ANDERSON, Mr. HUDDLESTON, Mr. METCALF, Mr. MCCLURE, Mr. ZORINSKY, and Mr. GOLDWATER, amending our meat and poultry inspection laws to require that the Department of Agriculture certify to the President and Congress at least quarterly that U.S. inspectors have checked during the quarter on each foreign packing plant shipping meat products to the United States.

I was advised late last week that none of our "foreign review officers," or foreign plant inspectors who travel abroad, were being allowed to travel and had not been since August. There are 10 of them, including 3 supervisors, and it meant that many foreign plants shipping us meat went unvisited and uninspected by U.S. personnel.

Since I invited cosponsors on the bill, I understand a travel authorization (effective December 1 and retroactive to October 1), has been signed and the review officers have suddenly been "ungrounded." However, in view of the 3-month lapse in inspection service that has already occurred, I still feel strongly that the bill should be enacted to make absolutely positive there are no more lapses.

At best, our inspection of foreign meat and products coming into the United States is wholly inadequate. Less than 1 percent of it is examined by qualified U.S. inspectors at ports of entry. We put 99.5 percent of our reliance on the foreign packers meeting health standards and sanitary requirements equal to those required in the United States. That means that we are relying on visits by our inspectors to some foreign packing plants only once a year to guarantee us that day-by-day-by-day those foreign packers are not sneaking through sick animals, that they are not neglecting to scour their plants and machinery so decaying residues with bacteria build-ups cannot contaminate meat and that they are shipping us only clean and healthy meat.

A few short years ago our General Accounting Office sent investigators with some of our foreign review officers to look at plants abroad and a third of all of them were then found in violation of proper sanitary and inspection requirements.

If that could happen when the plants knew that the inspectors were in their country—we notify foreign governments when our people are coming in—one can well imagine how relaxed standards must have been when it is known that U.S. review officers in the United States have been grounded indefinitely.

Meat inspection was instituted in the United States at the turn of the century after revelation of the most revolting conditions in packing plants in Upton Sinclair's book, "The Jungle."

We instituted poultry inspection in the fifties after congressional hearings revealed almost equally revolting conditions in that industry—sick chickens being rushed to slaughter before they died, some probably after death, rodents, insects, and unbelievably insanitary practices being tolerated.

In both instances, "quality control" by some of the packers and processors was shown to be nothing short of abominable.

We currently maintain pre-mortem inspection to prevent sick animals from being slaughtered and put into the food chain, and post mortem inspection to assure that diseased animals—as revealed by examination of the carcasses and the organs of the animal—are not allowed in the food chain. The same inspectors make sure that sanitary conditions are maintained and that the blood and entrails of yesterday's pack do not contaminate the meat being processed today, or tomorrow.

I opposed the separation of meat and poultry inspection from the Animal and Plant Health Inspection Service earlier this year, Mr. President, because I feared that the effectiveness of our animal disease control programs would suffer and the quality of our inspection service—including inspection by personnel qualified to identify diseases and diseased carcasses—might suffer.

It has already suffered. Obviously, the importance of maintaining some degree of vigilance over foreign packing plants was downgraded when our foreign review officers were grounded. Booz-Allen has already recommended that we cut back on domestic inspection and revert to a large measure of "quality control" by packers on the domestic side—what we had when Congress decided at the turn of the century that there should be rigid meat inspection, and what it decided in the late fifties to be necessary in poultry packing plants.

The purpose of my proposed amendment to require quarterly certification of inspections abroad to Congress is to assure that foreign inspection services are maintained continuously and to bring about hearings on what is being done with and to our meat and poultry inspection services.

Even though the review officers are allowed to travel again, we need the assurance of at least quarterly inspections of each foreign meat packing plant that the measure will provide. Certainly, the Agriculture Committees of Congress should have been advised before inspection of foreign plants was so drastically reduced and we should not risk it happening again.

By Mr. HUMPHREY (for himself and Mr. ANDERSON):

S. 2344. A bill to amend the Federal Crop Insurance Act to increase the use of Federal crop insurance by American farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL CROP INSURANCE OF 1977

Mr. HUMPHREY. Mr. President, today I am introducing along with Senator WENDELL ANDERSON legislation to reform and expand the Federal crop insurance program for agricultural producers.

Although our U.S. agricultural system is by far the most efficient and productive agricultural system in the world, American farmers are finding it increasingly more difficult to stay in business.

Costs of production have increased dramatically for farmers over the last few years, while grain prices have steadily dropped. Many farmers, even those with well-managed and efficient operations, have been forced to go deep into debt to pay for the machinery, seed, feed, fertilizer, pesticides, and other materials necessary to produce their crops and maintain their livestock herds.

Yet, farming is an extremely high-risk business, due to the unpredictability and sometimes harshness of the weather. A whole year's labor and a perhaps substantial capital investment can be wiped out by a single freak hailstorm, an early freeze, or any of a host of other disasters.

In fact, we have seen the occurrence over the last few years of perhaps the most devastating natural disaster—drought. Several important growing areas of the country—the Great Plains area, including my State of Minnesota, then California and the Far West, and most recently the tobacco, corn, and peanut growing areas of the Southeast—have been subject to wide-spread drought. Needless to say, thousands of farmers without irrigation facilities in these areas have been hit hard, with either production so small it was barely worth harvesting or no production at all.

As we have suffered through these droughts, we have learned that the Federal disaster programs for farmers are deficient in many areas. As Secretary of Agriculture Bob Bergland said, in testifying before the Committee on Agriculture, Nutrition, and Forestry, "the disaster programs themselves are a disaster." In short, the experiences of the last several years have convinced me that our Federal disaster assistance effort is in need of substantial reform.

Perhaps the most important disaster programs for farmers already in the high cost-of-production credit squeeze are those designed to provide compensation for losses in production due to disaster: First, the disaster payments provisions of the Food and Agriculture Act of 1977; and second, the Federal crop insurance program.

The current disaster payments program under the farm bill has been of some help to farmers hit by disaster, but it has several important flaws and, in any case, it will expire in 2 years.

Federal crop insurance has, to date, been too small to be really effective in providing substantial relief to the agricultural economy when large scale disasters, such as droughts, occur.

Too few farmers take out the insurance because: First, it is not offered in many counties; and second, where it is offered, the high cost of the premiums, in many cases, discourages participation.

However, since the disaster payments program will expire soon, I believe that we must improve the Federal crop insurance program, and make it more attractive to farmers.

Several bills have already been introduced in the Senate this Congress to reform and expand the Federal crop insurance program. These bills offer different approaches to reform of crop insurance and, as such, will enable the Senate to give thorough-going consideration to the possible alternatives when we address the issue next spring.

I am introducing this bill because it contains, I believe, another reasonable alternative, not covered by the other bills, that should be considered. I want to make it clear that I am not necessarily committed, at this point, to any specific approach. However, we must lay out all alternatives before we solicit testimony from farmers and farm groups, the administration, and others, and then act on this important legislation.

Mr. President, I ask unanimous consent that a summary of the major provisions of the bill and the text of the bill be printed in the RECORD at this point.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Crop Insurance Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) Congress hereby finds that an expanded Federal crop insurance system is necessary to—

(1) encourage United States farmers to maintain agricultural production to meet national and world food and fiber requirements, notwithstanding the ever-present threat of disastrous climatic conditions; and

(2) enable farmers, faced with sharply-increased production costs, to protect themselves against the threat of crippling financial losses due to disaster-induced damage to, or destruction of, growing crops.

(b) It is the purpose of this Act to make crop insurance under the Federal Crop Insurance Corporation available to United

States producers of wheat, feed grains, cotton, rice, soybeans, and sugarbeets and sugarcane, and to encourage substantially increased participation by the producers of such commodities in the Federal crop insurance program, and otherwise to improve the Federal crop insurance program for the benefit of all United States farmers.

CAPITAL STOCK

SEC. 3. (a) Section 504(a) of the Federal Crop Insurance Act is amended by striking out "$200,000,000" and inserting in lieu thereof "$500,000,000".

(b) The Federal Crop Insurance Corporation shall report to Congress within three years after the date of enactment of this Act on the adequacy of the capital stock of the Corporation.

COMPENSATION FOR THE BOARD OF DIRECTORS

SEC. 4. Section 505(c) of the Federal Crop Insurance Act is amended by amending the second sentence to read as follows: "The members of the Board who are not employed by the Government shall be paid such compensation for their services as directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed, per day, the daily equivalent of the rate prescribed for grade GS–18 in section 5332 of title 5 of the United States Code when actually employed, and be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.".

PERSONNEL

SEC. 5. Section 507 of the Federal Crop Insurance Act is amended by—

(1) striking out "and county crop insurance committeemen" in subsection (a);

(2) striking out all that follows "title" in subsection (b) and inserting in lieu thereof a period;

(3) striking out subsection (c) in its entirety;

(4) redesignating subsection (d) as subsection (c) and amending it to read as follows:

"(c)(1) The Corporation is authorized to contract with, and transfer funds to, other agencies and offices of the Department of Agriculture, or the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, for assistance in carrying out this title: *Provided*, That any employees of such other agencies and offices shall be responsible directly to the Corporation without the intervention of any intermediate office or agency.

(2) In order to facilitate the administration of the Federal crop insurance program authorized by this title and assure that producers of wheat, cotton, grain sorghum, corn, rice, barley, oats, rye, soybeans, sugarbeets, and sugarcane have reasonable access to such programs, the Secretary of Agriculture shall, to the extent practicable, make available to the Corporation the personnel and facilities of the Agricultural Stabilization and Conservation Service (or its successor agency) located in counties in which Federal crop insurance under this title is offered to producers of wheat, cotton, grain sorghum, corn, rice, barley, oats, rye, sugarbeets, or sugarcane to assist the Corporation to implement the provisions of this title, subject to the provisions of paragraph (1) of this subsection."; and

(5) redesignating subsection (e) as subsection (d).

EXPANDED CROP INSURANCE

SEC. 6. Effective beginning with the 1980 crop year, section 508 of the Federal Crop Insurance Act is amended to read as follows:

SEC. 508. To carry out the purposes of this title, the Corporation—

"(a) shall for crop year 1980 and thereafter insure producers of wheat, cotton, grain sorghum, corn, rice, barley, oats, rye, soybeans, sugarbeets, and sugarcane, wherever grown commercially, but subject to the limitations herein, and is authorized to insure producers of other agricultural commodities wherever grown commercially, subject to the limitations herein, whenever the Board determines that insurance on any such other agricultural commodity has been developed to the point that it can be offered to the producers thereof. The insurance for any commodity shall be offered under any plan or plans determined by the Board to be adapted to the commodity. Such insurance shall be against loss of the insured commodity due to one or more unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board: *Provided*, That, except in the case of tobacco, such insurance shall not extend beyond the period the insured commodity is in the field. Any insurance offered against loss in yield shall not cover more than 75 per centum of the average yield for a representative period of years for the insured farm, or area in which the farm is located, as determined by the Corporation on the basis of recorded or appraised yields, subject to such adjustments as may be necessary to the end that the average yield fixed for farms in the same area, which are subject to the same conditions, may be fair and just. Insurance provided under this subsection shall not cover losses due to the neglect or malfeasance of the producer, or to the failure of the producer to reseed to the same crop in areas and under circumstances where the Corporation determines it was practical to so reseed, or to the failure of the producer to follow established good farming practices. Beginning with the 1983 crop year, the Board may limit or refuse insurance on wheat, cotton, grain sorghum, corn, rice, barley, oats, rye, soybeans, sugarbeets, and sugarcane in any county or area, or on any farm, on the basis of the insurance risk involved. For each crop insured, the Corporation shall not offer insurance on any acreage not suited to the production of such crop or in any county where the planted acreage of such crop is below a minimum county acreage as established by the Corporation, except that the Corporation is authorized, if it is deemed practical to do so, to offer insurance in such county through the office serving another county that meets the minimum county acreage requirement. The Corporation shall report annually to Congress the results of its operations on each commodity insured.

"(b) is authorized to fix adequate premiums for insurance at such rates as the Board deems sufficient to cover claims for crop losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses: *Provided*, That, for the purpose of encouraging the broadest possible participation in the crop insurance program by the producers of basic commodities, one-third of each calculated premium assessed against a participant by the Corporation for the insurance of any wheat, cotton, corn, grain sorghum, barley, rice, oats, rye, soybeans, sugarbeets, or sugarcane crop shall be paid by the Federal Government and the remaining two-thirds of each premium shall be paid by the participant. Such premiums shall be collected at such time or times, or shall be secured in such manner, as the Board may determine.

"(c) is authorized to adjust and pay claims for losses under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court, or in any court of record of the State having general jurisdiction, sitting in the district or county in which the insured farm is located, and jurisdiction is hereby conferred upon such district courts to determine such controversies without regard to the amount in controversy: *Provided*, That no suit on such claim shall be allowed under this section unless the same shall have been brought within one year after the date when notice of denial of the claim by registered mail is sent to the claimant.

"(d) is authorized to reinsure multiple peril crop insurance risks subject to the limitations of this Act in not to exceed twenty counties.

"(e) notwithstanding any other provision of this title, is hereby authorized, under such terms and conditions as the Corporation deems consistent with sound reinsurance principles, to provide reinsurance on any crop or plantation insurance provided in Puerto Rico by a duly authorized agency of the Commonwealth of Puerto Rico: *Provided*, That no application for reinsurance authorized herein shall be approved, unless the Corporation shall have determined that the reinsurance deemed necessary is not available from recognized private sources at reasonable cost.".

COMPENSATION FOR ADVISORY COMMITTEE

SEC. 7. Section 515 of the Federal Crop Insurance Act is amended by amending the second sentence to read as follows: "The compensation of the members of such committee shall be determined by the Board, but shall not exceed, per day, the daily equivalent of the rate prescribed for Grade GS–18 in section 5332 of title 5 of the United States Code when actually employed, and shall include travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.".

APPROPRIATIONS

SEC. 8. Section 516 of the Federal Crop Insurance Act is amended by—

(1) amending the first sentence of subsection (a) to read as follows: "There are hereby authorized to be appropriated such sums, not in excess of $12,000,000 for each fiscal year beginning after June 30, 1938, through the fiscal year ending September 30, 1978, nor in excess of $40,000,000 for the fiscal year ending September 30, 1979, nor in excess of $70,000,000 for each fiscal year thereafter, as may be necessary to cover the operating and administrative costs of the Corporation, which shall be allotted to the Corporation in such amounts and at such time or times as the Secretary of Agriculture may determine: *Provided*, That the direct cost of loss adjustors for crop inspections and loss adjustment and agents' commissions may be considered by the Corporation as being nonadministrative or nonoperating expenses."; and

(2) redesignating subsection (b) as subsection (c) and inserting a new subsection (b) as follows:

"(b) There are hereby authorized to be appropriated annually funds in such amounts as are necessary to cover the cost of crop insurance premium payments made by the Federal Government under section 508(b) of this title.".

TECHNICAL AMENDMENT

SEC. 9. Section 518 of the Federal Crop Insurance Act is amended by inserting "grain sorghum," immediately after "tame hay,".

STUDY OF PRIVATE CROP INSURANCE

SEC. 10. The Secretary of Agriculture shall perform a study to assess the potential for increasing the role of private enterprise in providing crop insurance coverage for agricultural producers. The Secretary shall complete this study and submit to Congress a report setting forth the findings of the study and recommendations for the implementation of these findings within one year after the effective date of this Act.

EFFECTIVE DATE

SEC. 11. Except or otherwise provided in section 5 of this Act, the provisions of this Act shall become effective October 1, 1978.

SUMMARY OF MAJOR PROVISIONS

The major provisions of this bill, which amends the Federal Crop Insurance Act and provides for a study of private crop insurance, are as follows:

(1) Effective for the 1980, 1981, and 1982 crop years, Federal crop insurance would become available to all producers of wheat, cotton, grain sorghum, corn, rice, barley, oats, rye, soybeans, sugarbeets, and sugarcane, wherever these commodities are grown commercially. Beginning with the 1983 crop year, the Federal Crop Insurance Corporation could limit or refuse coverage on these crops in any county or area, or on any farm, based on the insurance risk involved.

(2) The Federal Government would pay one-third of the premium cost for insurance on wheat, cotton, grain sorghum, corn, rice, barley, oats, rye, soybeans, sugarbeets, and sugarcane.

(3) Crop insurance on other commodities would remain in effect under the provisions of current law, except that the limitations on expanding the program into new counties and adding new commodities would be removed.

(4) The authorized capital stock of the Corporation would be increased from $200,000,000 to $500,000,000, and the Corporation would report to in Congress, within three years, on the adequacy of the $500,000,000 level for capital stock.

(5) The authorization for annual appropriations to cover the Corporation's administrative and operating expenses would be increased from $12,000,000 to $40,000,000 for fiscal year 1979 and $70,000,000 thereafter.

(6) The Secretary of Agriculture would be required to make available, to the extent practicable, the personnel and facilities of the Agricultural Stabilization and Conservation Service located in counties in which insurance on wheat, cotton, grain sorghum, corn, rice, barley, oats, rye, soybeans, sugarbeets, and sugarcane is offered, to assist the Corporation to implement the crop insurance program.

(7) The Secretary of Agriculture would be required to perform a study to assess the potential for increasing the role of private enterprise in providing crop insurance coverage for agricultural producers. A report setting out the findings of the study and the Secretary's recommendations for implementing the finding would be due on September 30, 1979.

(8) The provisions of the bill would become effective October 1, 1978.

By Mr. HUMPHREY:

S. 2345. A bill to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government; ordered held at the desk, by unanimous consent.

THE HUMPHREY-HAWKINS FULL EMPLOYMENT ACT: WHAT IT DOES AND DOES NOT DO

Mr. HUMPHREY. Mr. President, I would like to present to my colleagues for their consideration, the revised Full Employment and Balanced Growth Act of 1977, the so-called Humphrey-Hawkins bill. This legislation, which has now been fully endorsed by the Carter administration and a broad coalition of community, labor, church, civil rights, farm and small business groups, is the product of years of study, hearings and debate and months of careful discussion with the Carter administration.

The sponsors and supporters of the Humphrey-Hawkins bill are very pleased with the revised version of it and are hopeful that Congress will act favorably on it early next year.

A great deal has changed in the 30 years that have passed since the Employment Act of 1946 was enacted as the basic economic policy law of the land. The time has come to recognize the changes that have occurred and the experience we have gained in the last 30 years by enacting the Full Employment and Balanced Growth Act of 1977.

Since announcing agreement on the revised Humphrey-Hawkins bill by the sponsors and the White House on November 14, a number of comments and analyses of it have appeared in the press. Some of these commentaries have been based on a thorough reading of the bill and careful consideration of its implications. Some commentaries, on the other hand, appear to have been written prior to a careful reading or without objective analysis of it. Those that are most disconcerting have described the bill as an empty promise or meaningless and, at the same time, presented a list of warnings of its potentially significant impact on the economy. Both of these conflicting claims cannot be correct, and in my opinion and that of the administration and the coalition of supporting organizations, neither conclusion has merit.

In the interest of providing each of my colleagues with the opportunity to analyze this proposal conscientiously and objectively, the complete revised bill will follow my remarks. I am also taking this opportunity to describe what the Humphrey-Hawkins bill will and will not do.

Mr. President, in recent years, tragically high unemployment has sapped the great strength of our Nation, insulted the dignity of millions of American workers and squandered our most important resource, the talent and energy of American workers. Moreover, our failure to keep unemployment even at a 4-percent rate has cost America over $600 billion in lost production and lost income in the 1970's. This represents a loss of about $12,000 during the past 7 years to the typical American family of four. We cannot permit this wasting of America and Americans to continue.

The Humphrey-Hawkins bill is not a panacea for an ailing economy. It is no miracle cure. However, I am convinced that the principles, commitments, policies, and processes that it establishes will help immeasurably in moving our Nation toward a new era of full employment, vigorous economic growth, and relatively stable prices.

The purpose of this legislation is to establish an orderly procedure through which national economic goals and policies can be rationally formulated. Once enacted, it would hold Congress and the President accountable in law, for the first time, for the achievement of these specific economic goals.

If we follow the procedures and live up to the commitment of the Humphrey-Hawkins bill, we can break away from our habitual bits and pieces approach and responses that are too little and too late to restrain an economy running down hill.

Mr. President, to help clarify the understanding of my colleagues regarding the revised Full Employment and Balanced Growth Act, I wish to present the following brief list of what the legislation does and does not do.

The bill would:

Affirm in law, for the first time, the right of every American willing and able to work to useful employment paying decent wages;

Commit the Federal Government to the goal of reducing overall unemployment to 4 percent—3 percent for workers 20 years old and older—within 5 years following enactment and to further reduce unemployment thereafter;

Require the President to annually propose to Congress the short- and medium-term employment, production, and real income goals, together with the comprehensive, coordinated fiscal and monetary policy and program mix aimed at achieving these objectives within the framework of the 5-year unemployment goal of the bill;

Require the Federal Reserve to report annually its intended monetary policy for the years ahead and estimate its impact on the numerical economic goals presented by the President;

Place first emphasis on creating and sustaining the kind of economic climate that will promote maximum activity and job opportunities in the private sector;

State a clear prohibition against interference with private business activity;

Recognize, in law, that unemployment and inflation feed upon each other and that, as a result, methods must be used to reach our goals that reinforce their achievement and do not sacrifice progress on one in the name of achieving the other;

Commit the Government to achieve reasonable price stability as rapidly as possible and call for the use of effective anti-inflation programs designed to monitor prices, stockpile commodities in short supply, encourage increased productivity on the part of both management and labor, enforce—and when necessary—strengthen antitrust laws, and remove or modify counterproductive Government regulations;

Temporarily utilize existing public works, employment and job training programs to fill the gap between private sector employment and established employment targets;

Require the President to propose to Congress new employment programs, if, no sooner than 2 years following enactment, he finds this necessary to reach the 5-year employment goal;

Provide needed flexibility by allowing the President, no sooner than the third year following enactment and subject to congressional approval, to propose modification of the 5-year employment goal in the event that unforeseen circumstances, in his judgment, make such action unavoidable.

Require that the Federal budget be directed toward the achievement of the economic goals provided under the bill and be fully supportive of these goals.

The revised Full Employment and Balanced Growth Act does not:

Require creation of massive new public employment programs;

Dictate to the President and Congress the kinds of policies and programs, nor the mix of such policies and programs, to achieve the purposes of the legislation;

Call for any expansion of government bureaucracy.

Mr. President, to one degree or another, at one time or another, both the administration and Congress have used or tried to use many of the policy and program tools on which the revised Full Employment and Balanced Growth Act relies. However, these efforts have most often been initiated as separate actions, isolated from each other. Decisions were made without an overall understanding of the condition of the economy, how different programs relate to each other or of their collective impact on the economy as a whole. As a result, improvements have often been temporary and of limited impact.

Now, with the Full Employment and Balanced Growth Act, we will have the framework and the procedures to comprehensively assess all the components of the economy and to design policy and program responses so that all the components simultaneously contribute to the whole. This is the fundamental function of the legislation. It does not invent economic ideology or policies or programs. Rather, it provides government with a way of taking these elements, many of which are well known to all of us, and shaping them into a coordinated campaign to achieve and sustain full employment and stable growth.

All of the essential principles, procedures, policy commitments, and goals of the Full Employment and Balanced Growth Act have been retained in the revised version of the legislation. When enacted, the Humphrey-Hawkins bill will be the ambitious, achievable, and binding commitment by our Government to move our economy as quickly as possible to full employment. The bill is as tough as is reasonable to require in a measure designed to be a long-term guide to national economic policymaking.

And it will create the political climate in which the bold and creative initiatives essential to fulfilling these commitments will be undertaken.

Widespread continued and renewed support for the revised bill is evidenced by the forceful public statement of support issued by Mrs. Coretta Scott King and Murray Finley, as cochairpersons of the Full Employment Action Council, representing 32 diverse organizations committed to achieving full employment. Growing support in other quarters, including the business community, is also indicated by editorials and news analyses in some of the Nation's leading publications.

In some instances these comments observe that although still effective, the bill has been weakened. I do not in any way accept this qualification. Rather, the legislation has been streamlined, pared down to its essentials and made more workable.

Mr. President, with this thought in mind, I ask unanimous consent that the statement, on behalf of the Full Employment Action Council, supporting the Full Employment and Balanced Growth Act, be printed in the RECORD, along with the revised bill itself and a brief summary of it, as well as editorial commentaries appearing in the Washington Post on November 17 and December 4, the November 28 issue of Business Week, The Christian Science Monitor of November 16, and the Washington Star of November 21.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That this Act and the following table of contents may be cited as the "Full Employment and Balanced Growth Act of 1977."

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GENERAL FINDINGS

SEC. 2. (a) The Congress finds that the Nation has suffered substantial unemployment and underemployment, idleness of other productive resources, high rates of inflation, and inadequate productivity growth, over prolonged periods of time, imposing numerous economic and social costs on the Nation. Such costs include the following:

(1) The Nation is deprived of the full supply of goods and services, the full utilization of labor and capital resources, and the related increases in economic well-being that would occur under conditions of genuine full employment, production and real income, balanced growth, and reasonable price stability.

(2) Insufficient output of goods and services is available to meet pressing national priorities.

(3) Workers are deprived of the job security, income, skill development, and productivity necessary to maintain and advance their standards of living.

(4) Business and industry are deprived of the production, sales, capital flow, and productivity necessary to maintain adequate profits, undertake new investment, create jobs, and contribute to meeting society's economic needs.

(5) Unemployment exposes many families to social, psychological, and physiological costs, including disruption of family life, loss of individual dignity and self-respect, and the aggravation of physical and psychological illnesses, drug addiction, crime and social conflict.

(6) Federal, State and local government budgets are undermined by deficits due to shortfalls in tax revenues and increases in expenditures for unemployment compensation, public assistance, and other recession-related services in the areas of criminal justice, drug addiction, and physical and mental health.

(b) The Congress further finds that:

(1) High unemployment often contributes to inflation by diminishing labor training and skills, under-utilizing capital resources, reducing the rate of productivity advance, increasing unit labor costs, and reducing the general supply of goods and services and thereby generating cost-push inflation.

(2) Aggregate monetary and fiscal policies alone have been unable to achieve full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability, and therefore must be supplemented by other measures designed to serve these ends.

(3) Attainment of these objectives should be facilitated by setting explicit short-term and medium-term economic goals, and by

improved coordination among the President, the Congress, and the Federal Reserve.

(4) Increasing job opportunities and full employment would greatly contribute to the elimination of discrimination based upon sex, age, race, color, religion, national origin, and other improper factors.

(c) The Congress further finds that an effective policy to promote full employment, production and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and price stability should (1) be based on the development of explicit economic goals and policies involving the President, the Congress, and the Federal Reserve, with full-use of the resources and ingenuity of the private sector of the economy, and (2) include programs specifically designed to reduce high unemployment due to recessions, and to reduce structural unemployment within regional areas and among particular labor force groups.

(d) The Congress further finds that full employment, production and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability are important national requirements that will promote the economic security and well-being of all our citizens.

TITLE I—ESTABLISHMENT OF GOALS AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this title to declare the general policies of this Act; to provide an open process under which economic goals and policies are proposed, reviewed, and established; to provide for yearly review of national economic policies to ensure their consistency with these goals to the maximum extent possible; and generally to strengthen and supplement the purposes and policies of the Employment Act of 1946.

DECLARATION OF POLICY

SEC. 102. Section 2 of the Employment Act of 1946 is amended to read as follows:

"SEC. 2. (a) The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means, consistent with its needs and obligations and other essential national policies, and with the assistance and cooperation of industry, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and promote full employment, production and real income, balanced, adequate productivity growth, proper attention to national priority needs, and reasonably stable prices as provided for in Section 5(b) of this Act.

"(b) The Congress further declares and establishes as a national goal the fulfillment of the right of all Americans able, willing, and seeking to work to full opportunities for useful paid employment at fair rates of compensation.

"(c) The Congress further declares that inflation is a major national problem requiring improved government policies relating to food, energy, improved fiscal and monetary management, the reform of outmoded government rules and regulations, the correction of structural defects in the economy that prevent or seriously impede competition in private markets, and other measures.

"(d) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1977 to improve the coordination and integration of the policies and programs of the Federal Government toward achievement of the objectives of such Act through better management, increased efficiency, and attention to long-range as well as short-range problems.

"(e) The Congress further declares that, although it is the purpose under the Full Employment and Balanced Growth Act of 1977 to seek diligently and to encourage the voluntary cooperation of the private sector in helping to achieve the objectives of the Act, no provisions of the Act shall be used, with respect to any portion of the private sector of the economy, to provide for Government control of production, employment, allocation of resources, or wages and prices, except to the extent authorized under other legislation.

"(f) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1977 to maximize and place primary emphasis upon the expansion of private employment, and all programs and policies under that Act shall be in accord with that purpose. Toward this end, the effort to expand jobs to the full employment level shall be in this order of priority to the extent consistent with balanced growth: (1) expansion of conventional private jobs through improved use of general economic and structural policies; (2) expansion of private employment through federal assistance in connection with the priority programs in such Act; (3) expansion of public employment other than through the provisions of Section 206 of such Act; and (4) only when recommended by the President under Section 206 of such Act and subject to the limitations therein, the creation of employment through the methods set forth in such section."

ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

SEC. 103. The heading preceding Section 3 and Section 3(a) of the Employment Act of 1946 are amended to read as follows:

"ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

"SEC. 3 (a) The President shall transmit to the Congress during the first 20 days of each regular session an economic report (hereinafter called the Economic Report), together with the annual report of the Council of Economic Advisers submitted in accordance with section 4(c)(2) of this Act, setting forth:

"(1) the current and foreseeable trends in the levels of employment, unemployment, production, real income, productivity, and prices, and a review and analysis of recent developments affecting economic trends in the United States;

"(2) annual numerical goals for five years for employment and unemployment, production, real income, and productivity. The goals for the calendar year in which the Economic Report is transmitted and for the following calendar year, designated as short-term goals, shall be consistent with achieving as rapidly as feasible the goals of full employment, production and real income, balanced growth, adequate productivity growth, and proper attention to national priorities.

"(3) the program and policies which the President deems necessary to achieve the goals of paragraph (2) of this subsection, and to achieve reasonable price stability as rapidly as feasible as provided for in Section 5(b) of this Act.

"(4) for all of the purposes of the Full Employment and Balanced Growth Act of 1977, the percentage rate of unemployment at any given time shall be the rate of unemployment as a percentage of the civilian labor force as set forth currently by the Bureau of Labor Statistics in the U.S. Department of Labor."

FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

SEC. 104. The Employment Act of 1946 is amended by adding a new Section 4 as follows:

"FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

"SEC. 4(a) In each Economic Report after enactment of the Full Employment and Balanced Growth Act of 1977, the President shall incorporate (as part of the five-year numerical goals in each Economic Report) medium-term annual numerical goals covering the same items and for the same purposes as the goals specified in paragraph (2) of subsection 3(a), but for the three calendar years subsequent to the two years referred to in such paragraph, and the programs and policies the President deems necessary to achieve such medium-term goals, and to achieve reasonable price stability as rapidly as feasible as provided for in Section 5(b) of this Act.

"(b) The medium-term goals in the first three Economic Reports after enactment of the Full Employment and Balanced Growth Act of 1977 shall include (as part of the five-year goals in each Economic Report) the interim numerical goal of reducing unemployment among Americans aged 20 and over in the civilian labor force to not more than 3 percent and to reduce unemployment among the entire civilian labor force aged 16 and over to not more than 4 percent within a period not extending beyond the fifth calendar year after the first such Economic Report, counting as the first calendar year the year in which such Economic Report is issued. Upon achievement of the 3 and 4 percent goals as specified above, each succeeding Economic Report shall have the goal of achieving full employment as soon as practicable and maintaining full employment after it has been reached. In the third Economic Report after enactment of the Full Employment and Balanced Growth Act of 1977, the President shall review the numerical goals and timetables for the reduction of unemployment, report to the Congress on any obstacles to their achievement, and if necessary propose corrective economic measures toward achievement of such goals and timetables: *Provided,* that beginning with such third report and in any subsequent reports, if the President finds it necessary, the President may in his or her judgment recommend modifications in the numerical goals and/or timetables for the reduction of unemployment, and the Congress may take such action as it sees fit by the method set forth in Title III of the Full Employment and Balanced Growth Act of 1977."

"(c) In moving to reduce unemployment in accord with the numerical goals and timetable as called for in subsection (b), every effort shall be made to reduce those differences between the rates of unemployment among teenagers, women, minorities, and other labor force groups and the overall rate of unemployment which stem from any improper factors, with the ultimate objective of removing such differentials to the extent possible. Insofar as these differences are due to lack of training and skills, occupational practices, and other relevant factors, the Secretary of Labor shall take such action as he or she can to achieve the objectives of this subsection; shall make studies, develop information, and make recommendations toward remedying these differences in rates of unemployment, and include these in the annual Employment and Training Report of the President; and, if deemed necessary, make recommendations to the Congress related to the objectives of this paragraph."

PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

SEC. 105. The Employment Act of 1946 is amended by adding a new Section 5 as follows:

"PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

"SEC. 5(a). To aid in determining the short-term and medium-term goals for employment, production, and real income, analysis shall be presented in the Economic Report with respect to major aspects of the appropriate composition or structure of each goal, and as to the appropriate apportionment of total national production among its major components (private investment, consumer expenditures, and public outlays) as affected by relative income flows and other factors, in order to promote balanced growth, reduce cyclical disturbances, and achieve the other purposes of the Full Employment and Balanced Growth Act of 1977.

"(b) The objective of achieving reasonable price stability as soon as feasible, as set forth in Section 3(a)(3) and Section 4(a), shall be sought by vigorous efforts through the methods set forth in Section 109 and elsewhere in the Full Employment and Balanced Growth Act of 1977, and by such other means as the President may find necessary, including recommendations to the Congress. In choosing means to achieve the goal for the reduction of unemployment and choosing means to achieve the goal of reasonable price stability, those means which are mutually reinforcing shall be used to the extent practicable."

NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

SEC. 106. The Employment Act of 1946 is amended by adding a new Section 6 as follows:

"NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

"SEC. 6. To contribute to the achievement of the goals under the Full Employment and Balanced Growth Act of 1977, the Economic Report shall include priority policies and programs to encourage productive nonwasteful jobs and help to reorder national priorities and employ the jobless in the production of goods and services which add to the strength of the economy, the wealth of the Nation, the well-being of the people, and the restraint of inflation. Such policies and programs shall not be set forth in the programmatic detail developed by specialized Federal agencies, and by others in the public and private sectors, but only sufficiently to furnish an integrated perspective of our needs and capabilities and as a long-run guide to relevant national economic policies and programs. The national priority policies and programs dealt with in the First Economic Report under the Full Employment and Balanced Growth Act of 1977 shall include those listed below, but in subsequent Economic Reports the President may deal with them more selectively as he or she finds desirable.

"(1) development of energy, transportation, small business, and environmental improvement;

"(2) proper attention to the needs of rural America, related to (a) nationwide food and fiber requirements and the labor force and capital needed to meet these requirements, (b) the income needs of farmers to encourage production in accord with the above requirements and moving farm families toward parity of income, (c) encouragement of supplementary nonfarm work and income for farm families, and (d) other policies and programs for rural people outside of agriculture;

"(3) the quality and quantity of health care, education and training programs, child care and other human services, and housing, essential to a full economy and moving gradually toward adequacy for all at costs within their means;

"(4) Federal aid to State and local governments, especially for public investment and unemployment related costs;

"(5) national defense and other needed international programs; and

"(6) such other priority policies and programs as the President deems appropriate."

THE PRESIDENT'S BUDGET

SEC. 107. The Employment Act of 1946 is amended by inserting a new Section 7 as follows:

"THE PRESIDENT'S BUDGET

"SEC. 7(a). The President's Budget shall recommend levels of outlays and receipts which shall be consistent with the short-term economic goals of subsection (a)(2) of Section 3.

"(b) The President's Budget shall provide five-year projections of outlays and receipts consistent with the medium-term goals of subsection (b) of Section 4.

"(c) The basic elements in the President's Budget shall be set forth briefly in each Economic Report, toward the end of making clear the relationship between the President's Budget and the goals and policies set forth in such Economic Report. Both the expenditure and the tax sides of the President's Budget, as set forth briefly in the Economic Report, shall be geared to the purposes of the Full Employment and Balanced Growth Act of 1977. The size of the President's expenditure and tax proposals, and the relationships between the two, shall be determined in a manner which pays due attention to the needs of the economy and the people in the priority areas set forth in Section 6, and the relationship between the President's expenditure and tax proposals shall be guided accordingly.

MONETARY POLICY

SEC. 108. The Employment Act of 1946 is amended by inserting a new Section 8 as follows:

"MONETARY POLICY

"SEC. 8. The Board of Governors of the Federal Reserve shall transmit to the Congress, within one month after the transmission of the Economic Report, an independent statement setting forth its intended policies for the year ahead, and their relationship to the short-term goals set forth in the Economic Report pursuant to subsection (a)(2) of Section 3. The Congress shall then take such action as it finds necessary to insure closer conformity to the purposes of the Full Employment and Balanced Growth Act of 1977.

OVERCOMING INFLATION

SEC. 109. The Employment Act of 1946 is amended by inserting a new Section 9 as follows:

"OVERCOMING INFLATION

"SEC. 9(a). The Congress hereby determines that the objective of achieving reasonable price stability as soon as feasible, as set forth in Section 3(a)(3) and Section 4(a), shall be pursued by the methods and subject to the requirements of Section 5(b).

"(b) The Congress finds that, in addition to the coordinated use of fiscal and monetary policies to combat inflation, structural measures are also needed. The President shall initiate as appropriate, including recommendations to the Congress where necessary, and included within the Economic Report to the extent practicable without excessive delay, structural policies to reduce the rate of inflation, embracing but not necessarily limited to:

"(1) an effective information system to monitor and analyze inflationary trends in individual economic sectors, so that the President and Congress can be alerted to developing inflation problems and bottlenecks;

"(2) programs and policies for increasing the supply of goods, services, labor, and capital in tight markets, with particular emphasis on food, energy, and critical industrial materials;

"(3) the establishment of stockpiles of agricultural commodities and other critical materials to help stabilize prices, meet emergency needs, and promote adequate income to producers;

"(4) encouragement to labor and management to increase productivity within the national framework of full employment through voluntary arrangements in industries and economic sectors;

"(5) recommendations to strengthen and enforce the antitrust laws and such other recommendations as are necessary to increase competition in the private sector;

"(6) removal or proper modification of such Government restrictions and regulations as add unnecessarily to inflationary costs;

"(7) such other administrative actions and recommendations for legislation as the President deems desirable, to promote reasonable price stability."

COUNCIL OF ECONOMIC ADVISERS

SEC. 110. (a) The second sentence of Section 4(a) of the Employment Act of 1946 is amended by inserting "full" immediately after "promote."

(b) Section 4(c)(4) of such Act is amended by inserting "full" immediately after "maintain."

(c)(1) Section 4(e)(1) of such Act is amended by inserting immediately before the semicolon a comma and the following: "and shall consult with the Board or Boards established under Section 11."

(2) Section 4(e) of such Act is amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and by adding after such paragraph (2) the following:

"(3) In its work under this Act and the Full Employment and Balanced Growth Act of 1977, the Council is authorized and directed to seek and obtain the cooperation of the various executive and independent agencies in the development of specialized studies essential to its responsibilities."

ADVISORY BOARD OR BOARDS

SEC. 111. (a) Sections 4 and 5 of the Employment Act of 1946 are renumbered Sections 12 and 13.

(b) The Employment Act of 1946 is amended by adding a new Section 11 as follows:

"ADVISORY BOARD OR BOARDS

"SEC. 11. (a) The President shall establish, in not less than three months prior to the first Economic Report under the Full Employment and Balanced Growth Act of 1977, an advisory board or boards to advise and consult with one or all of the following periodically at reasonable periods of time as they, respectively, determine: The President, the Council of Economic Advisers, and such other departments and agencies of the Executive Branch of the Government as the President shall determine. Such advisory board or boards shall include appropriate representation of labor, industry, agriculture, consumers, State and local officials, and the public at large, and shall advise and consult with respect to matters related to the Full Employment and Balanced Growth Act of 1977 and other appropriate matters related to national economic programs and policies. The President shall take the steps necessary to provide appropriate compensation to the members of such advisory board or boards.

TITLE II—STRUCTURAL ECONOMIC POLICIES AND PROGRAMS, INCLUDING TREATMENT OF RESOURCE RESTRAINTS

STATEMENT OF PURPOSE

SEC. 201. The Congress recognizes that general economic policies alone have been unable to achieve the goals set forth in this Act related to full employment, production and real income, balanced growth, adequate growth in productivity, proper attention to national priorities, and achievement of reasonable price stability as provided for in Section 5(b) of the Employment Act of 1946. It is therefore the purpose of this Title to require the President to initiate as he or she deems appropriate, with recommendations to the Congress where necessary, supplementary programs and policies to the extent that he or she finds such action necessary to help achieve these goals, including the goals and timetables for the reduction of unemployment. Insofar as feasible without undue delay, any policies and programs so recommended shall be included in the Economic Report.

COUNTERCYCLICAL EMPLOYMENT POLICIES

SEC. 202. (a) Any countercyclical efforts undertaken to aid in achieving the purposes of section 201 shall consider for inclusion the following programmatic entities: accelerated public works, including the development of standby public works projects; countercyclical public service employment; State and local countercyclical grant programs as specified in section 203; the levels and duration of unemployment insurance; skill training in both the private and public sectors, both as a general remedy and as a supplement to unemployment insurance; youth employment programs as specified in section 205; community development programs to provide employment in activities of value to the States, local communities (including rural areas), and the Nation; and augmentation of other employment and manpower programs which would help to reduce high levels of unemployment arising from cyclical causes.

(b) In any countercyclical efforts undertaken, the President shall consider a triggering mechanism which will implement the program during a period of rising unemployment and phase out the program when unemployment is appropriately reduced, and incorporate effective means to facilitate individuals assisted under programs developed pursuant to this section to return promptly to regular private and public employment as the economy recovers.

COORDINATION WITH STATE AND LOCAL GOVERNMENT AND PRIVATE SECTOR ECONOMIC ACTIVITY

SEC. 203. (a) As an integral part of any countercyclical employment policies undertaken in accord with section 202, the President shall to the extent he or she deems necessary set forth programs and policies, including recommended legislation where needed, to facilitate harmonious economic action among the Federal Government, regions, States and localities, and the private sector to promote achievement of the goals of this Act and an economic environment in which State and local governments and private sector economic activity and employment will prosper and essential services will be maintained.

(b) In any efforts under this section, the President shall endeavor to meet criteria that establish programs which are funded to take account of the fiscal needs and budget conditions of the respective States and localities and their own efforts, with special attention to the rates of unemployment in these States and localities.

REGIONAL AND STRUCTURAL EMPLOYMENT POLICIES

SEC. 204. To the extent deemed appropriate by the President in fulfillment of the purposes of section 201, the President shall initiate, and recommend legislation to the Congress if necessary, regional and structural policies and programs. In formulating the regional components of any such programs, the President, to the extent he or she deems it desirable, shall encourage new private sector production and employment to locate within depressed localities and regions with substantial unemployment. Any regional employment proposal of the President shall also include an analysis of the extent to which Federal Government tax, expenditure, and employment policies have influenced the movement of people, jobs, industry from chronic high unemployment regions and areas, and proposals designed to correct Federal policies that have an adverse economic impact upon such regions and areas.

YOUTH EMPLOYMENT POLICIES

SEC. 205. (a) The Congress finds and declares that serious unemployment and economic disadvantage of a unique nature exist among youths even under generally favorable economic conditions; that this group constitutes a substantial portion of the Nation's unemployment, and that this significantly contributes to crime, drug addiction, and other social and economic problems; and that many youths have special employment needs and problems which, if not promptly addressed, will substantially contribute to more severe unemployment problems in the long run.

(b) To the extent deemed necessary in fulfillment of the purposes of this Act, the President shall improve and expand existing youth employment programs, recommending legislation where required. In formulating any such program, the President shall include provisions designed to fully coordinate youth employment activities with other employment and manpower programs; develop a smoother transition from school to work; prepare disadvantaged and other youths with employability handicaps for regular self-sustaining employment; and develop realistic methods for combining training with work.

JOB TRAINING, COUNSELING AND RESERVOIRS OF EMPLOYMENT PROJECTS

SEC. 206. (a) Further to promote achievement of full employment under this Act, the President through the Secretary of Labor shall develop policies, procedures, and programs to provide employment opportunities to Americans aged 16, and over in the civilian labor force able, willing, and seeking to work but who, despite serious efforts to obtain employment, remain unemployed.

(b) In meeting the responsibilities to provide job opportunities under subsection (a) and after full utilization of the Comprehensive Employment and Training Act of 1973 and other relevant provisions of law, the Secretary of Labor shall, as appropriate—

(1) assure that counseling, training, and other support activities necessary to prepare persons willing and seeking work for employment under relevant provisions of law including the Comprehensive Employment and Training Act of 1973 (including use of section 110 of such Act when necessary); and

(2) refer persons able, willing, and seeking work to job opportunities in the private and public sectors through the existing public employment placement facilities and through the United States Employment Service, including job opportunities in any positions created pursuant to sections 202, 204, and 205 of this Act.

(c) Only to the extent that Americans aged 16 and over and able, willing, and seeking work are not in the judgment of the President cannot be provided with private job opportunities nor provided with job opportunities under other programs and actions in being, in accord with the goals and timetables set forth in this Act and/or the Employment Act of 1946, the President shall establish reservoirs of public employment and private nonprofit employment projects, to be approved by the Secretary of Labor, in the form of expansion of CETA and other existing employment and training projects and/or through such new programs as are determined by the President to be needed and which the Congress authorizes and provides funds for. Such new programs as require authorizations under this Act shall not be put into operation less than two years after the enactment of this Act, nor without a finding by the President, transmitted to the Congress, that other means of employment are not yielding enough jobs to be consistent with attainment of the goals and timetables for the reduction of unemployment set forth in this Act. The Congress hereby establishes the policy that such new programs for reservoir projects shall be so designated as not to draw any workers from private employment to the reservoir projects thereunder. The jobs under such new program reservoir projects shall be useful and productive jobs. Nonetheless, such jobs shall be mainly in the lower ranges of skills and pay, and toward this end the number of reservoir jobs under such new programs shall, to the extent practicable, be maximized in relationship to the appropriations provided for such jobs. The projects under this subsection relating to such new programs shall be phased in by the President as necessary, in conjunction with the employment goals under Sections 3(a)(2) and 4(b) of the Employment Act of 1946.

(d) The Secretary, in carrying out the provisions of this section, shall establish such regulations as he or she deems necessary. Such regulations shall include provisions for—

(1) an initial determination of the job seekers' ability to be employed at certain types and duration of work, so that he or she may be appropriately referred to jobs, training, counseling, and other supportive services;

(2) compliance with the nondiscrimination provisions of this Act in accordance with Section 401;

(3) appropriate eligibility criteria to determine the order of priority of access of any person to any new program under subsection (c) requiring authorization by the Congress, including but not necessarily limited to such criteria as household income, duration of unemployment (not less than five weeks), and the number of people economically dependent upon such person; and denial of access to any person refusing to accept or hold a job other than a job under subsection (c) except for good cause as determined by the Secretary of Labor, including refusal to accept or hold a job subject to reference under subsection (b) paragraph (2), in order to seek a reservoir project job under subsection (c); and

(4) such administrative appeal procedures as may be appropriate to review the initial determination of the abilities of persons willing, able, and seeking to work under clause (1) of this subsection and the employment need and eligibility under clause (3) of this subsection.

CAPITAL FORMATION—PRIVATE AND PUBLIC

SEC. 207 (a). The Congress finds that:

(1) promotion of full employment and balanced growth is in itself a principal ave-

nue to high and sustained rates of capital formation;

(2) high rates of capital formation are necessary to insure adequate rates of capacity expansion and productivity growth;

(3) an important goal of national policy shall be to remove obstacles to the free flow of resources into new investment; and

(4) while private business firms are, and should continue to be, the major source of investment, the investment activities of the Federal, State, and local governments play an important role in affecting the level of output, employment, and productivity and in achieving other national purposes.

(b) The Economic Report shall, as appropriate, review and assess existing Federal Government programs and policies which affect business investment decisions, including, but not necessarily limited to, the relevant aspects of the tax code, Federal regulatory policy, international trade policy, and Federal support for research, development, and diffusion of new technologies. In addition, the Economic Report shall assess the effect of the overall economic policy environment and the rate of inflation on business investment. The President shall recommend, as appropriate, new programs or modifications to improve existing programs concerned with private capital formation.

(c) The Economic Report shall review and assess, to the degree appropriate, Federal policies and programs which directly, or through grants-in-aid to State and local governments, or indirectly through other means, affect the adequacy, composition and effectiveness of public investments, as a means of achieving the goals of this Act. The President shall recommend, as appropriate, new programs and policies or modifications to improve existing Federal programs affecting public investment.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

STATEMENT OF PURPOSE

SEC. 301. (a) The purposes of this title are to establish procedures for congressional review and action with respect to the Economic Report, the report of the Board of Governors of the Federal Reserve System, and the other policies and provisions of this Act and the Employment Act of 1946.

(b) To provide for comprehensive national policies to meet the objectives of this Act and the Employment Act of 1946, and to provide the Congress with guidance on these matters, the appropriate committees of the Congress shall review and revise, to the extent deemed desirable, the economic goals, priorities, policies, and programs proposed under such Acts by the President and the Board of Governors of the Federal Reserve System. Furthermore, the Congress shall consider the implications of the short-term goals and related policies for the Concurrent Resolutions required under the Congressional Budget Act of 1974. The Congress shall initiate or develop such legislation as it deems necessary to implement these proposals and objectives, after such modification in such proposals as it deems desirable. Nothing in this Act shall be construed to prevent the Congress or any of its committees from considering or initiating at any time action to implement this Act.

REVIEW OF ECONOMIC REPORT BY JOINT ECONOMIC COMMITTEE

SEC. 302. (a) In conjunction with its review of the Economic Report, and the holding of hearings on the Economic Report as required under the Employment Act of 1946, the Joint Economic Committee shall review and analyze the policies and programs recommended by the President and the short-term and medium-term goals for employment, production and purchasing power under Sections 3(a)(2) and Section 4(b) of the Employment Act of 1946.

(b) The Joint Economic Committee shall hold hearings on the Economic Report for the purpose of receiving testimony from Members of the Congress, appropriate representatives of Federal departments and agencies, such representatives of the general public and interested groups, and such others as the joint committee deems advisable. The joint committee shall also consider the comments and views on the Economic Report which are received from State and local officials.

(c) Within thirty days after receipt by the Congress of the Economic Report, each standing committee of the Senate and the House of Representatives and each joint committee of the Congress shall submit to the Joint Economic Committee a report containing its views and recommendations with respect to aspects of the Economic Report which relate to their respective jurisdictions.

(d) Not later than ninety days after the submission of the Economic Report to the Congress, the members of the Joint Economic Committee who are Members of the House of Representatives shall report to the House, and the members of the joint committee who are Members of the Senate shall report to the Senate, a concurrent resolution which shall state in substance that the Congress approves or disapproves in whole or in part the programs, policies, and goals in the Economic Report, and which may contain such alternatives to, modifications of, or additions to the Economic Report as the joint committee deems appropriate and in accord with the purposes of this Act and the Employment Act of 1946. The report accompanying such concurrent resolution shall include findings and recommendations of the joint committee with respect to each of the main recommendations contained in the Economic Report.

(e)(1) When a concurrent resolution referred to in subsection (d) has been reported to the House of Representatives it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any such concurrent resolution in the House of Representatives shall be in the Committee of the Whole House on the State of the Union, and shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the concurrent resolution. A motion further to limit debate shall not be debatable.

(3) Except to the extent specifically provided in the preceding provisions of this subsection, consideration in the House of Representatives of any such concurrent resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstance.

(f)(1) Debate in the Senate on a concurrent resolution referred to in subsection (d), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to any such concurrent resolution shall be limited to two hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. Debate on any amendment to an amendment, and debate on any debatable motion or appeal shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germain to the provisions of the concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion in the Senate to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed three, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(4) The conference report on any such concurrent resolution shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(5) During the consideration in the Senate of the conference report on any such concurrent resolution, debate shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to thirty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated in the Senate, debate on any request for a new conference and the appointment of conferees shall be limited to one hour to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to thirty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(7) In any case in which there are amendments in disagreement, time on each amendment in the Senate shall be limited to thirty minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germain to the provisions of such amendments shall be received.

(g) Upon adoption of a concurrent resolution under this section with respect to any Economic Report, the concurrent resolution shall serve as a long-term guide to the Congress with respect to legislation relevant to the goals, priorities, policies, and programs recommended in such report, as modified by the concurrent resolution. A copy of the concurrent resolution shall be transmitted to the President by the Clerk of the House of Representatives or the Secretary of the Senate, as appropriate, for such actions as the President deems appropriate.

EXERCISE OF RULEMAKING POWERS

SEC. 303. (a) The provisions of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House), at any time, in the same manner and to the same extent as in the case of any other rule of such House.

REVIEW OF ECONOMIC REPORT BY COMMITTEES ON THE BUDGET OF BOTH HOUSES

SEC. 304. Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "and" at the end of clause (5);

(2) by redesignating clause 6 and clause 7, and

(3) by inserting after clause (5) the following new clause:

"(6) the policies, programs, and goals set forth in the Economic Report of the President, and".

(b) The second sentence of Section 301(c) of the Congressional Budget Act of 1974 is amended to read as follows: "The Joint Economic Committee shall submit to the Committees on the Budget of both Houses its recommendations as to the policies and programs and the short-term and medium-term goals set forth in the Economic Report. These recommendations shall be incorporated by the Committee on the Budget of each House in the first concurrent resolution on the budget referred to in subsection (a) reported by that committee, with modifications if necessary to fulfill the objectives of the Full Employment and Balanced Growth Act of 1977. In the event that the Committee on the Budget of either House modifies the recommendations of the Joint Economic Committee, that Budget Committees shall provide its reasons for such modification in the report accompanying the first concurrent resolution.

TITLE IV—GENERAL PROVISIONS

NONDISCRIMINATION

SEC. 401. (a) No person in the United States shall on the ground of sex, age, race, color, religion, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act, including membership in any structure created by this Act.

(b) Whenever the Secretary of Labor determines that a recipient of funds under this Act has failed to comply with subsection (a), or an applicable regulation, he or she shall notify the recipient of the noncompliance and shall request such recipient to secure compliance. If within a reasonable period of time, not to exceed sixty days, the recipient fails or refuses to secure compliance, the Secretary of Labor is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), or (3) to take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he or she has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in the appropriate United States district court for any and all appropriate relief.

(d) To assist and evaluate the enforcement of this section, and the broader equal employment opportunity policies of this Act, the Secretary of Labor shall include, in the annual Employment and Training Report of the President, a detailed analysis of the extent to which the enforcement of this section achieves affirmative action in both the quantity and quality of jobs, and for employment opportunities generally.

LABOR STANDARDS

SEC. 402. Any new programs provided for and implemented by this Act, and funded in whole or in part through this Act, shall provide that persons employed pursuant to such policies and programs are paid equal wages for equal work, and that such policies and programs create a net increase in employment through work that would not otherwise be done or are essential to fulfill national priority purposes. The President shall insure that any person employed in any such reservoir project undertaken under Section 206(c) as require new authorization by the Congress, or in any other job utilizing funds provided in whole or in part under this Act, shall be paid not less than the pay received by others performing the same type of work for the same employer, and in no case less than the minimum wage under the Fair Labor Standards Act of 1938 as amended. No person employed under Section 206(c) shall perform work of the type to which the Bacon-Davis Act, as amended (40 U.S.C. 276a–276a-5) applies. Any recommendation by the President for legislation to implement any program under this Act, requiring the use of funds under this Act, and submitted pursuant to the requirements of this Act, shall contain appropriate wage provisions based upon existing wage standard legislation.

AUTHORIZATIONS

SEC. 403. There is authorized to be appropriated such sums as may be needed to carry out the provisions of this Act. Notwithstanding any other provisions of this Act, no provision shall be construed to require expenditures in excess of amounts appropriated pursuant to this Act.

HIGHLIGHTS AND DISCUSSION OF THE MAJOR PROVISIONS OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1977 AS REVISED NOVEMBER, 1977

PREMISES

The bill is based on the commitment to translate into practical reality the right of all Americans able and willing to work to have a job paying decent wages and under decent working conditions. For the first time, that right would be affirmed in law. However, there is clearly no right to sue for legal protection of the right to a job. Further, the bill recognizes that this objective is possible only in conjunction with achieving balanced growth, full production, growing real incomes, price stability, and adequate growth of productivity. In pursuing these objectives, the conviction is expressed that policies mutually reinforcing price stability and employment are available and should be used. Additionally, monetary and fiscal policies are declared insufficient alone to achieve a healthy economy.

EMPLOYMENT, PRODUCTION, REAL INCOME, AND BALANCED GROWTH

1. Employment target: The initial interim target is an average adult—over age 19—unemployment rate of 3 percent, and overall rate of 4 percent during the fifth calendar year after passage. The President may suggest revision of this target in his third annual Economic Report after enactment, but such a change would require approval by the Congess. After reaching the interim target, the long-term objective shall be achieving and maintaining full employment as soon as practicable.

2. Other numerical objectives: Five year numerical targets shall also be set annually for production and real income.

3. Policies: Those policies which mutually reinforce employment and price stability shall be relied upon. Primary reliance is placed upon the expansion of conventional, private sector jobs, and all programs under the act shall be consistent with this purpose.

4. Job Reservoir: There is no authorization of new temporary public service employment programs to keep the economy on track. Rather, provision is made for expansion of existing programs, primarily CETA, as necessary. New programs, the bill explicitly says, will require Congressional authorization, and may be suggested as appropriate by the President. However, if we are failing to meet our unemployment goals, the President is required to expand existing job creation programs, and/or propose to Congress new programs.

5. Other employment provisions: Other provisions of the bill specifically call for intensified programmatic efforts to deal more effectively with cyclical unemployment problems, including budget problems of State and local government, regional economic development problems, youth unemployment and job training and counseling needs.

6. Labor market discrimination: The bill recognizes that the best way to obviate the effects of discrimination is to have an overall tight labor market. To the extent that differential unemployment rates result from labor market imperfections or discrimination, the Secretary of Labor shall analyze the problem, and make recommendations annually in the already existing Employment and Training Report of the President. The bill sets a commitment to reduce the differential between the unemployment rate of minorities, teenagers, women and other labor market groups, and the overall rate.

7. Labor Standards. The bill institutes the principle of equal pay for equal work for the same employer, subject to wages no lower than the minimum wage, for any employment programs authorized or expanded pursuant to the Act; again, no one so employed shall perform work for which the Bacon-Davis Act was designed.

CAPITAL FORMATION

In a new section, the President is required to identify in his Economic Report, obstacles to adequate private sector and public sector capital formation, including Federal tax and regulatory policies, and to make recommendations to remove such obstacles. This section finds that a major cause of inadequate capital investment has been slow growth and high unemployment.

PRICE STABILITY

As in past versions, a number of specific anti-inflation policies, consistent with attaining full employment, are called for in this legislation. These do *not* include wage and price controls or restraints in any form, but do include:

1. An effective information system to monitor inflation;

2. Programs for increasing supplies, with emphasis on basic commodities;

3. Agricultural stockpiles to meet emergency needs and stabilize prices, consistent with adequate income to farmers;

4. Voluntary labor-management cooperation to increase productivity and assure production incentive;

5. Strengthening and enforcement of antitrust laws; and

6. Curtailment of Government regulations and red tape which add to costs.

THE ECONOMIC POLICY PROCESS

No new bureaucracy is established in the bill. The procedure, which bears some similarity to well proven budgetary practice, is structured to enhance the expression of democratic decisions, and not to supplant the judgment of elected leaders. Clearly stated is the limitation that "no provisions of the Act shall be used, with respect to any portion of the private sector of the economy, to provide for Government control of production, employment, allocation of resources, or wages and prices, except to the extent authorized under other legislation."

The essential elements of the process are:

1. President's Economic Report: The numerical objectives, and other analysis and recommendations mentioned earlier will be included in the President's Economic Report, which already exists, and is sent to Congress every January. No separate planning document, as envisioned in earlier versions of the bill, is required. In addition to those items already mentioned which are covered, the Report will present, in outline form, budgetary policy for the next five years as it relates to the primary economic objectives of the bill.

2. Federal Reserve Report: For the first time, the Federal Reserve will have to submit to Congress within a month of the President's Economic Report, a statement of how its intended policies over the next two calendar years are likely to affect the President's stated numerical goals. Thus, we shall concentrate upon those economic objectives in which we are really interested, rather than solely on monetary policy for its own sake.

3. Congressional Review: As under present law, the President's Report shall be sent to the Joint Economic Committee which shall seek the views, through hearings, of the various legislative committees, State and local officials, and the public-at-large. Within 3 months, the Members of the JEC shall report a concurrent resolution to their respective chambers, modifying as appropriate the President's numerical targets, policies and programs, and recommending alternatives where needed. The JEC shall also report to the Budget Committees about the relation of their recommendations to the First Concurrent Budget Resolution, and that report shall become part of the Resolution with such changes as the Budget Committees deem appropriate. The Budget Committees shall provide their reasons to Congress for such changes.

4. Disposition of Concurrent Resolution: The national economic goals and policies to achieve them, as embodied in the concurrent resolution adopted by Congress, shall "serve as a longterm guide to the Congress with respect to legislation relevant to the goals, priorities, policies, and programs recommended" therein. This new process will offer moral and political discipline in policy formation which is now clearly missing.

STATEMENT OF CORETTA SCOTT KING AND MURRAY FINLEY, CHAIRPERSONS, FULL EMPLOYMENT ACTION COUNCIL, NOVEMBER 22, 1977

The Full Employment Action Council welcomes President Carter's decision to support a revised Humphrey-Hawkins bill. We regard his support as a major victory for advocates of full employment. After reviewing the agreement reached with the White House, our Board voted this legislation full support as an essential first step toward full employment. We will work actively and enthusiastically for its passage in the coming session of Congress.

This legislation, if enacted, will commit this nation and its leaders to specific targets of 3% adult unemployment and 4% overall unemployment by 1983, and mandate the President and the Congress to pursue policies to achieve these targets and genuine full employment. The labor, religious, civil rights and other organizations which make up the Council, have been advocating for several years this kind of comprehensive planning process focused on specific goals and timetables. Its passage would be a major breakthrough.

This legislation, if enacted, will put an end to the cynical process of redefining full employment as 5%, 6%, or even 7% in order to explain the failure of particular economic policies. Instead, this legislation will focus our national efforts on the achievement of specific and mandated targets for reducing unemployment. These provisions will permit us to measure year by year, the progress of particular economic policies against specific goals and will help document the need for the job creating program outlined in the legislation.

Some editorial writers and commentators have suggested that this bill is an empty promise. We could not disagree more. This revised version contains measures which are absolutely essential to any serious attempt to achieve genuine full employment. This legislation includes:

(1) Affirmation of the "right of all Americans who are able, willing and seeking to work to full opportunity for useful paid employment at fair rates of compensation," as a basis for economic policy.

(2) Comprehensive and integrated planning of our national policies and programs to achieve full employment.

(3) Specific quantitative goals and a specific timetable for the reduction of unemployment.

(4) Provisions for reducing and then removing the gap between the rates of unemployment among different sectors of the civilian labor force, i.e., teenagers, minority groups and women.

(5) Strong anti-inflation, labor standard and nondiscrimination provisions as set forth in the previous bill.

In addition, the revision retains all of the tools, including last resort public jobs programs, which were contained in the January 4, 1977 version of the bill. Instead of mandating the President to use all of these measures within a few months of enactment, it mandates him to use the various tools to the extent required to reach the mandated goals and timetable for the reduction of unemployment. While the President could select his own approaches and programs, compliance with the targets and the timetables is not optional. The President could not change the objectives nor modify the goals or timetable, without the approval of Congress.

We are practical people. We know that without the President's support, this legislation would have great difficulty in the Congress. We are pleased that President Carter has agreed to endorse a bill which we can fully support as a major step toward full employment. We would urge those who are evaluating this proposal, to compare it with what now exists, rather than naively comparing it to the ideal without regard for political or economic reality. While this revision may not be as strong as the very early versions of the bill, it would be an enormous improvement over existing law and policy, which is the fundamental test of proposed legislation.

Clearly, no one bill will "solve" our unemployment problem and its tragic human and economic costs. More work will be required to translate this legislation into meaningful jobs at decent wages for all American workers. However, without this legislation, those battles will probably remain unfought and our nation shall grow ever more accustomed to the enormous waste of our material and human resources represented by massive joblessness. Our coalition of labor, religious, civil rights and other progressive organizations is not going to rest until we have genuine full employment in this country.

Clearly, fundamental social legislation such as the Full Employment and Balanced Growth Act will generate substantial opposition. We know that from our battles on other social and moral issues. However, some of the people criticizing this agreement as merely symbolic were even more critical of earlier and stronger versions of the bill. But despite what you may read in the newspapers, no bill can be both an empty promise and terribly inflationary. No legislation can simultaneously offer no help to the jobless and cost the Treasury billions. This revised legislation is neither a meaningless gesture nor a costly, inflationary boondoggle. It establishes this country's commitment to a job for every American able and willing to work and sets in motion a comprehensive planning process. It also lays the foundation for the policies and programs needed to fulfill that commitment. Its passage would be a major step toward a more just, productive and humane America.

[From the Washington Post, Dec. 4, 1977]

THE JOBS BILL: AN "INDISPENSABLE FIRST STEP"

(By HUBERT H. HUMPHREY)

For years, Augustus Hawkins and I have argued, cajoled, conspired, introduced bills and voted for policies and programs to reduce unemployment, lower inflation and move the economy forward.

Despite our best efforts and those of many of our colleagues, unemployment has remained a staggering social and economic problem for America—a situation unworthy of an economic system that, fundamentally, has served our people well for so long.

As active participants in the fight for full employment over three decades, experience has taught us some lessons.

First, while our current jobs programs, economic-development initiatives and tax policies are important tools, they are, in and of themselves, insufficient to reach the full employment, stable price and steady growth objectives that we must achieve.

Second, uncoordinated, unfocused, on-again, off-again economic policies without specific economic goals and timetables are totally inadequate to the needs of a complex modern economy and a business community that requires more predictability on the part of government.

Third, the intentions of Congress and the President can be frustrated inadvertently and by design, unless all of our economic programs and policies, including those of the Federal Reserve, are moving together in the same direction at the same time.

Fourth, recent experience with simultaneous high inflation and high unemployment clearly indicates that traditional approaches to solving our economic problems are insufficient and that any simplistic inflation/unemployment trade-off theory certainly does not explain how our economy operates in today's world.

It is, therefore, our conclusion that something new must be tried. In our view this new beginning is a restatement of national economic policies, new principles, new goals, new commitments to those goals, and a new process through which to address them.

The revised Humphrey-Hawkins bill, fully endorsed by the President and a broad coalition of labor, minority, church, farm, small business and other groups, reflects this shared conclusion.

I believe that a careful reading of the revised bill, which unfortunately the authors of the recent Washington Post editorial did not have available when they criticized it, clearly shows that it is not the empty promise that some have proclaimed it to be.

The revised Humphreys-Hawkins bill would:

Establish as national policy the objective of reducing unemployment to four percent within not more than five years, three percent for adults in the labor force, and require that all economic policy tools be designed to reach this ambitious but reachable goal;

Require a flexible, but effective, process whereby Congress and the President would determine each year, and for a five-year period, the exact mix of programs and polices needed to reach specified economic goals;

Recognize, in law, that unemployment and inflation feed upon each other and that, as a result, methods must be used to reach our goals that reinforce their achievement and do not sacrifice progress on one in the name of achieving the other;

Affirm for the first time in law the right of every American who wants to work and is able to work to a job at decent wages;

Require the close coordination of all national economic policies, including the policies of the Federal Reserve System, directed toward achieving the goals established as national policy;

Place primary emphasis, in achieving our employment goals, on encouraging expansion of private-sector jobs;

Commit the government to achieve reasonable price stability as rapidly as possible and call for a specific set of significant anti-inflation measures to move us toward this goal;

Require the President to establish direct job-creating programs to fill any gap that may exist between the goals established under the bill and the actual performance of the economy; and

Require that the federal budget be directed toward the achievement of the economic goals provided under the bill and be fully supportive of these goals.

When enacted, the Humphrey-Hawkins bill will be an ambitious, achievable and binding commitment by our government to move our economy as quickly as possible to full employment. The bill is as tough as is reasonable to require in a measure designed to be a long-term guide to national economic policy-making. And it will create the political climate on which the bold and creative initiatives essential to fulfilling these commitments will be undertaken.

The Washington Post contends that the best we can hope for is to reduce unemployment at some point far in the future to about 5.5 per cent. Unfortunately, that assessment may be correct, unless we determine as a nation that such a concession is politically, socially and morally unacceptable and economically unnecessary. And I believe that it is.

Can we ask several million of our fellow citizens to stand quietly in line year after year without hope of even the knowledge that their government will do whatever it takes to satisfy their fundamental human right to a means of earning their livelihood? Can we ask a permanent underclass of unemployed Americans to bear the heavy burden of our nation's economic failures?

The Humphrey-Hawkins bill is a first step, but an indispensable one, toward an era of full employment, steady economic growth and reasonable price stability. It is no panacea. It is no miracle cure. With it, national economic policy will be required to be directed toward achieving specific, measurable economic goals. Without it, we are likely to continue to flounder, bounding from recession to slow growth and back to recession again, with all of the tragic waste that such a future holds for all Americans.

[From the Washington Post, Nov. 17, 1977]

What Humphrey-Hawkins Would Do

(By Hobart M. Rowen)

There is more than meets the eye in the compromise Humphrey-Hawkins "full employment" bill that President Carter—after careful negotiation by his lieutenants with congressional leaders—has decided to accept.

It is likely to pack a punch that will contradict the critics who mistakenly jumped all over it as a bit of cloudy rhetoric designed to assuage Carter's black constituency, promising much and yielding little.

Indeed, the vigor of the attack on this latest Humphrey-Hawkins version should suggest to the careful observer that the proposal would, in fact, have an important impact on the economy and the way economic policy is made.

What the bill does is to make a renewed commitment, long overdue, to a national goal of reducing unemployment (within five years of adoption) to 4 per cent. The unemployment level in October was 7 per cent.

Within that overall target, the goal is to reduce adult (20 and over) unemployment to 3 per cent. Also implied, but unstated, is another ambitious goal: a sharp cut in the staggering rate of teenage unemployment. At present it is about 17 per cent, with black teenage unemployment running well over 40 per cent.

The compromise bill does not dictate to the President the precise mix of tax, spending, monetary, manpower or other measures he must take to get unemployment down. Moreover, an order of priorities is set out for job expansion that puts the private sector first and government "last-resort jobs" at the end of the line.

But the essential point is that the President—while he could choose his approach and tactics—would be committed to attaining the full-employment goals. Complying with the targets and the timetables would not be optional.

The President would be required to spell out each year in the economic report numerical targets for employment, unemployment, production, real income and productivity. The budget message would show the expenditure and receipt projections consistent with those annual targets. And the Federal Reserve would have to tell Congress the shape of the monetary policy it intended to follow that would be compatible with the presidential targets.

Sensibly, the bill would allow the President, after two years, to recommend changes in the 4 per cent full-employment objective if economic realities dictated such a step. But the burden of proof would be on any politician who found it necessary to settle for higher unemployment.

As Vice President Mondale has been telling friends, the significance of the Humphrey-Hawkins bill is that by setting out numerical goals, it would place real pressure on any President and Congress. If there's a shortfall in performance, they'd have to explain why.

The old "interim" 4 per cent target set by the Kennedy administration has been allowed to slip backward as a consequence of economic mismanagement by Democrats and Republicans alike.

The Brookings Institution liberals say that inflationary pressures now being at 5.0 to 5.5 per cent unemployment. If that's true, then the answer to reducing the jobless rate is to relay more on specific microeconomic measures (training and education, for example) and less on the general economic tools (tax cuts and easy money).

Moreover, economists who contend that a low unemployment rate guarantees a high inflation rate are ignoring the history of the last decade, which has proved the trade-off theory a failure. We have had unacceptable inflation, ranging from the present 6 per cent level to double digits a few years ago, side by side with unemployment ranging from 7 to nearly 10 per cent.

The conventional liberals, as well as right-wingers like Herbert Stein who treat 7 per cent unemployment as the proper target for "full employment," are putting forth a dangerous dogma. And while the Humphrey-Hawkins bill is no ultimate remedy, and may require the nation to show more guts in controlling incipient inflation problems, it ought to shatter the respectability that lately has attached itself to the idea that society can tolerate high unemployment rates.

The Humphrey-Hawkins bill, as it emerges now, with Carter's cooperation, is worthwhile. Getting to 4 per cent unemployment by 1983 will surely be difficult. But the President can no longer ignore the legitimate demands of the black community for a stronger jobs commitment. The time has come to recognize, as a matter of national policy, that the U.S. economy is really two economies—one affluent white, the other poor black—and to do something about it.

[From Business Week, Nov. 28, 1977]

The Sanitizing of Humphrey-Hawkins

(By Norman Jonas)

Ten years after John Maynard Keynes wrote The General Theory of Employment, Interest and Money, Congress passed a landmark piece of legislation, the Employment Act of 1946, which required the federal government "to promote maximum employment, production, and purchasing power." At the time, few people could have realized that this law established the great English economist's ideas of demand management by government as the paradigm for economic policymaking in the U.S. for the next 30 years.

Keynes's ideas worked well for the first 20 years after World War II. But the inflation-plagued 1970s have demonstrated the perils of relying solely on fiscal and monetary policies to stimulate production and employment. The structural imperfections of both product and labor markets can thwart Keynesian prescriptions for expanding employment opportunities—or for restraining demand to check inflation.

Despite this lesson of the post-Vietnam and OPEC era, the U.S. government is about to try to breathe new life into the old employment act. The Full Employment and Balanced Growth Act of 1977, cautiously endorsed by President Carter this week, will enshrine what the 1946 act simply codified.

AMORPHOUS SUGGESTIONS

The most hopeful thing to be said about the proposal—called the Humphrey-Hawkins bill for its sponsors, Senator Hubert H. Humphrey (D-Minn.) and Representative Augustus F. Hawkins (D-Calif.)—is that its amorphous suggestions for achieving "reasonable price stability" and high employment through structural means may hold a fresh paradigm that will lead economic policy beyond Keynes.

It may be unfair to blame Carter or Congress for not developing what the economics profession itself has been unable to achieve. Since Humphrey-Hawkins authorizes no news employment programs and simply outlines a formal process for specifying national economic goals, the real test of its scope will be in any follow-on legislation.

Still, it would be a mistake to regard Humphrey-Hawkins as a legislative paper tiger. By requiring the President and the Federal Reserve Board to report each year to Congress on how their programs will lead to "full employment" by 1983, the lawmakers will create a commitment that they also must take seriously. The legislative imperative to reach the target unemployment rates of 4 percent for all workers and 3 percent for adults aged 20 and over may eventually stir up some exciting new economic ideas, but it could also pressure impatient lawmakers into pouring more money into old programs of dubious value.

Either way, Carter's acceptance of Humphrey-Hawkins, which Congress will probably pass early next year, puts the nation's unemployment problem squarely at the center of economic policymaking for years to come, and that is a victory for the liberal, black, and labor forces that have backed the bill since it was first proposed almost two years ago.

DEFERRING TO BUSINESS

The official pronouncements by the White House and the offices of Humphrey and Hawkins leave no doubt that the bill is a reluctant compromise. Humphrey-Hawkins, in deference to the fears of business, has now been sanitized of all references to economic planning, eschews government control of any part of the private economy, focuses solely on national production goals without reference to specific industries, and stresses repeatedly that job-creating programs the President may propose shall emphasize employment in the private sector. Government is only implicitly the employer of last resort at the end of a shopping list of other proposals for creating a job "reservoir."

Wages for such jobs shall be those paid by the same employer for the same work, not the potentially inflationary "prevailing wage" of an earlier Humphrey-Hawkins draft. And the bill no longer seeks "to establish the right" of all Americans to jobs, since White House lawyers feared this language would give the unemployed the right to sue the government.

In addition, the President gets an escape clause that Faust would have envied. He can propose a change in the targets after three years. As one Administration cynic puts it: "This bill requires Carter to do nothing he wasn't already planning to do to increase employment."

But there should be no doubt that Humphrey-Hawkins can and will be used to maintain pressure on Carter and future presidents to fight unemployment. The ultimate importance of this measure will depend on whether it also can drive the White House and Congress into designing programs based on that yet-to-be discovered paradigm beyond Keynes.

[From the Christian Science Monitor, Nov. 16, 1977]

THE CHRISTIAN SCIENCE MONITOR PUTTING AMERICANS TO WORK

The Humphrey-Hawkins bill endorsed by President Carter this week is a far cry from the "full employment" proposal originally put forward to lower the nation's unemployment rate and ensure every able-bodied American a job. The original 1975 version, rejected several times by Congress, raised strong objections from business and industry as being potentially too inflationary, as leaning too much toward a government-planned economy, and as potentially too expensive, costing billions of dollars in public service and other government-sponsored work programs.

Some business leaders still oppose the compromise bill and warn that the bill's goals of lowering the overall unemployment rate to 4 percent and the adult jobless rate to 3 percent by 1983 cannot be attained without increasing the inflation rate from the current 6 percent to 10 percent a year. What the compromise legislation does do, however, is recognize the tragic fact that far too many Americans are still without work. The jobless rate rose a tenth of a percentage point in October to 7 percent of the work force, and labor experts warn that, if the current pattern is allowed to persist, joblessness could become an ever bigger problem, because the economy is not producing jobs fast enough to reduce unemployment.

The current Humphrey-Hawkins bill commits the government to specific goals for lowering unemployment but does not authorize particular programs for doing so. At a time when the nation's economic recovery has been sluggish and business expansion has slowed in part because of unease among executives about many of Mr. Carter's legislative proposals, the Humphrey-Hawkins bill rightly gives the President needed flexibility in deciding how best to tackle unemployment.

The compromise bill takes into account the need for "high rates of capital formation" to assure expanded production and growth which, in turn, create more jobs.

The President's plans for a tax cut early next year for business and individuals also should help. Under Mr. Carter the federal government already is financing more jobs than at any time since the New Deal era of Franklin D. Roosevelt.

Humphrey-Hawkins commits the government to build on these initial efforts. The White House will be required to make annual reports on progress and plans for meeting the 4 percent jobless rate goal. The Federal Reserve Board would retain its independence but would be required to keep Congress posted on how its monetary policies relate to the now sometimes contradictory policies of the White House.

Recent studies have indicated that if the U.S. had maintained a 4 percent unemployment rate over the past two decades, Americans last year would have enjoyed 17 percent more goods and services than they actually had. The economy would have produced a cumulative total of $3 trillion more in gross national product. A recent Social Security Administration study indicated that a 5 percent unemployment rate over the next four years would give social security a $10 billion surplus instead of its expected $11 billion deficit.

Thus all Americans—not just the chronic unemployed—obviously have a big stake in lowering the jobless rate. Humphrey-Hawkins is an important step in the right direction.

[From the Washington Star, Nov. 21, 1977]

DO NOT UNDERRATE HUMPHREY-HAWKINS

(By Carl T. Rowan)

President Carter finally has thrown his weight behind a Humphrey-Hawkins bill that would establish a national goal of 4 per cent unemployment.

This has produced a spate of contradictory allegations that (1) the bill is so watered down as to become a meaningless Carter "con job" on the nation's unemployed, and (2) it commits the government to big spending programs that will heap heavy new inflation upon the 90 million-plus Americans who are working.

Let's talk sense about what Mr. Carter's endorsement of the Humphrey-Hawkins compromise means.

It is understandable that black Americans would be skeptical, given the fact that for a quarter-century black unemployment has averaged almost 10 per cent, a level of catastrophic depression. Who can blame them for believing that a president who has been lukewarm to Humphrey-Hawkins for a couple of years is suddenly going to pursue policies that lift blacks out of their state of chronic economic catastrophe?

Likewise, it is natural that business interests who fear inflation should throw up cries of alarm regarding any pledge to reduce unemployment to 4 per cent. Most businessmen are making money these days, and they are perfectly prepared to live with 7 or 8 per cent unemployment in the nation as a whole and 14 per cent in black America.

What Americans must understand is that the Humphrey-Hawkins bill is not a "pump-priming" measure that requires public works programs or authorizes specific job-creating programs. But it does something very important: It establishes the right of all Americans to a useful job at fair wages. We have never before had such a specific national commitment.

The compromise seems to be reasonable in that it recognizes that it may take five years for this country to reach the goal of 4 per cent joblessness.

While Humphrey-Hawkins does not commit the Congress to allocate money for specific projects, it clearly states that if there is a gap between the national goal and the performance of the national economy the president shall establish programs to close that gap.

Some critics offer the snide suggestion that Carter balked until he got Congress to give him an escape hatch—meaning he can promise the American jobless the moon until the 1980 elections are over and then change the national goals in 1981.

You ought to understand what I am sure Jimmy Carter understands: While the compromise gives the president some flexibility, he cannot change the 4 per cent goal without congressional agreement.

Furthermore, the blacks, labor leaders and other groups who agreed to this compromise are expecting a lot from Jimmy Carter even before the Humphrey-Hawkins bill is passed. They expect the budget Mr. Carter submits to Congress in January to reflect his commitment to reduce unemployment sharply.

There is something else the average American must understand, and that is that it is possible to create thousands of jobs in America without adding to inflation. The people who drafted Humphrey-Hawkins point out that billions of dollars could be invested in regional economic development programs in New England, the upper Midwest, rural areas and inner cities where there has been an outflow of people and investment without adding to national inflation.

These people make a valid point. Why give tax cuts and public works programs to Houston, where unemployment is very low, when those economic incentives are urgently needed in Worcester, Mass., or Wilkes-Barre, Pa. both suffering from high unemployment?

One problem is that our politicians have never had the guts to say that when Congress allocates funds for economic development, the pie doesn't have to be sliced evenly on a per capita basis—that it ought to be divided up on a basis of regional need. If Humphrey-Hawkins forces our politicians to show the guts to face this reality, that alone will make Humphrey-Hawkins a boon to the nation.

Having worked in this town for more than 16 years, I know that cynicism becomes a way of life, especially among journalists. Thus the knee-jerk inclination to dismiss Humphrey-Hawkins as merely a political pacifier.

But I hope Congress passes it, and I am willing to wait a couple of years to see if Humphrey-Hawkins offers economic hope to millions of Americans who for more than a generation have had precious little reason to hope.

By Mr. MAGNUSON (for himself and Mr. Pearson) (by request):

S. 2346. A bill to implement the International Convention for the Prevention of Pollution From Ships, 1973, and for other purposes; to the Committee on Commerce, Science, and Transportation, and the Committee on Environment and Public Works, jointly, by unanimous consent.

ACT TO PREVENT POLLUTION FROM SHIPS

Mr. MAGNUSON. Mr. President, I introduce on behalf of myself and Senator Pearson, by request of the Department of Transportation, a bill to implement the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes.

I ask unanimous consent that the bill be referred jointly to the Committees on Commerce, Science, and Transportation, and Environment and Public Works.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I also ask unanimous consent that the text of the bill and the letter of transmittal be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Act to Prevent Pollution From Ships".

Sec. 2. Unless the context indicates otherwise, as used in this Act—

(1) "convention" means the International Convention for the Prevention of Pollution from Ships, 1973, signed at London on November 2, 1973, including the protocols and annexes I and II attached thereto;

(2) "discharge" means, in relation to a harmful substance or an effluent containing a harmful substance, any release from a ship however caused—

(a) including any escape, disposal, spilling, leaking, pumping, emitting, or emptying;

(b) but not including—

(i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972;

(ii) the release of harmful substances directly resulting from the exploration or exploitation of seabed mineral resources including the offshore processing associated therewith; or

(iii) the release of harmful substances for the purpose of legitimate scientific research into pollution abatement or control;

(3) "harmful substance" means—

(a) a substance subject to control by the convention, or

(b) any other substance which if introduced into the sea is liable to create a hazard to human health, to harm living resources or marine life, to damage amenities, or otherwise to interfere with legitimate uses of the marine environment;

(4) "incident" means an event involving the actual or probable discharge into the sea of a harmful substance or an effluent containing a harmful substance;

(5) "marine environment" means the high seas including the contiguous zone and all waters subject to the jurisdiction of the United States;

(6) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect his security interest in the ship or terminal;

(7) "operator" means—

(1) in the case of a ship a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of a terminal any person, except the owner, responsible for the operation of the terminal by agreement with the owner;

(8) "person", means an individual, firm, public or private corporation, partnership, association, State, municipality; commission, political subdivision of a State, or any interstate body;

(9) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(10) "ship" means a vessel of any type whatsoever operating in the marine environment, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms; and

(11) "terminal" means an on-shore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

Sec. 3. (a) This Act applies—

(1) to a ship of United States registry or nationality, or one operated under the authority of the United States wherever located;

(2) to a ship registered in or of the nationality of a country party to the convention, or one operated under the authority of a country party to the convention, while in the marine environment, except while on the high seas; and

(3) to a ship registered in or of the nationality of a country not a party to the convention, under subsection (c) of this section.

(b) This Act does not apply to—

(1) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

(2) any other ship specifically excluded by the convention.

(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the convention while in the marine environment, except while on the high seas, to ensure that their treatment is not more favorable than that accorded ships of parties to the convention.

(d) The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this Act by subsection (b)(1) of this section and for which they are responsible. The Secretary shall prescribe standards applicable to ships excluded from this Act by subsection (b)(2) of this section. Standards prescribed under this subsection, applicable to ships excluded from this Act by subsection (b), shall ensure, so far as is reasonable and practicable without imparing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the convention.

Sec. 4. (a) Unless otherwise specified herein, the Secretary shall administer and enforce the convention and this Act. In administering and enforcing the convention and this Act, annexes I and II of the convention shall be applicable only to seagoing ships.

(b) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the convention or this Act.

(c) The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the convention, this Act, or the regulations thereunder.

Sec. 5. (a) The Secretary shall designate those persons authorized to issue the certificates required by the convention. A certificate required by the convention shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the convention.

(b) A certificate issued by a country which is a party to the convention has the same validity as a certificate issued by the Secretary under the authority of the convention.

(c) A ship required by the convention to have a certificate—

(1) shall carry a valid certificate on board in the manner prescribed by the authority issuing the certificate; and

(2) is subject to inspection while in a port or terminal under the jurisdiction of the United States.

(d) An inspection conducted under subsection (c)(2) of this section is limited to verifying whether or not a valid certificate is on board, unless clear grounds exist which reasonably indicate that the condition of the ship or its equipment does not substantially agree with the particulars of its certificate. Subsection (c)(2) of this section shall not limit the authority of any official or employee of the United States under any other treaty, law, or regulation to board and inspect a ship or its equipment.

(e) In addition to the penalties prescribed in section 9 of this Act, a ship required by the convention to have a certificate—

(1) which does not have a valid certificate on board; or

(2) whose condition or the condition of its equipment does not substantially agree with the particulars of the certificate on board;

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

(f) A person whose ship is subject to a detention order under this section may petition the Secretary, in the manner prescribed by regulation to review the detention order. Upon receipt of a petition under this subsection, the Secretary shall affirm, modify, or withdraw the detention order within the time prescribed by regulation.

(g) A ship unreasonably detained or delayed by the Secretary acting under the authority of this Act is entitled to compensation for any loss or damage suffered thereby.

Sec. 6. (a) The Secretary shall establish regulations setting criteria for determining the adequacy of reception facilities of a port or terminal and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substances from seagoing ships are adequate.

(b) In determining the adequacy of reception facilities required by the convention at a port or terminal, the Secretary may consider, among other things, the number and types of seagoing ships using the port or terminal, including their principal trades.

(c) If, upon inspection, the capacity of reception facilities of a port or terminal is adequate to meet the requirements of the convention and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection—

(i) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

(ii) shall be available for inspection upon the request of the master, other person in charge, or agent of a seagoing ship using or intending to use the port or terminal.

The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by him in the manner prescribed by regulation.

(d) The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminals holding a valid certificate issued under this section.

(e) Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the convention to retain on board, at sea, residues and mixtures containing oil or noxious liquid substances if—

(i) the port or terminal is one required by the convention or regulations hereunder to have adequate reception facilities; and

((ii) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

SEC. 7. (a) As soon as he has knowledge of an incident, the master or other person in charge of a ship shall report it to the Secretary in the manner prescribed by article 8 of the convention.

(b) Upon receipt of the report of an incident involving a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall take the action required by article 8 of the convention.

SEC. 8. (a) It is unlawful to act in violation of the convention, this Act, or the regulations issued thereunder. The Secretary shall cooperate with other parties to the convention in the detection of violations and in the enforcement of the convention. To that end, he shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

(b) Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In the investigation under this section the Secretary may issue a subpoena to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Upon completion of the investigation, the Secretary shall take the action required by the convention and whatever further action he considers appropriate under the circumstances. If the initial evidence was provided by a party to the convention, the Secretary, acting through the Secretary of State, shall inform that party of the action taken or proposed.

(c) While at a port or terminal subject to the jurisdiction of the United States, a ship to which the convention applies may be inspected by the Secretary—

(1) to verify whether or not the ship has discharged a harmful substance in violation of the convention or this Act; or

(2) to comply with a request from a party to the convention for an investigation as to whether or not the ship may have discharged a harmful substance anywhere. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge has occurred. If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by article 6 of the convention.

(d) (1) Remedies and requirements of this Act supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this Act.

(2) Nothing in this Act shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this Act.

SEC. 9. (a) A person who knowingly violates the convention, this Act, or the regulations issued thereunder shall be fined not more than $50,000 for each violation or be imprisoned for not more than five years, or both.

(b) In addition to any other penalty prescribed by law, a person who—

(1) violates the convention, this Act, or the regulations issued thereunder is liable for a civil penalty of not more than $10,000 for each violation; or

(2) makes a false, fictitious, or fraudulent, statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the convention, this Act, or the regulations thereunder, is liable for a civil penalty of not more than $1,000 for each such statement or representation.

(c) The Secretary may assess any civil penalty incurred under this section and, in his discretion, remit, mitigate or compromise any penalty. A penalty shall not be assessed hereunder unless the alleged violator is given notice and the opportunity to be heard on the alleged violation. Upon the failure to collect a civil penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action in a U.S. District Court to collect the penalty. In hearing the action, the district court has authority to review the violation and the assessment of the penalty *de novo*.

(d) A ship operated in violation of the convention, this Act, or the regulations thereunder is liable *in rem* for any pecuniary fine or penalty incurred under this section, and may be proceeded against in the district court of any district in which it may be found.

(e) The Secretary of the Treasury, upon the request of the Secretary, shall refuse or revoke clearance required by R.S. 4197 as amended, to any ship subject to the convention or this Act, if the ship, its owner, operator, or person in charge is liable for a penalty under this subsection, or there is reasonable cause to believe that the ship, its owner, operator, or person in charge may be subject to such a penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

(f) Notwithstanding subsections (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the convention, or one operated under the authority of a country party to the convention, the Secretary, acting in coordination with the Secretary of State, may refer the matter to that country for appropriate action, rather than taking the actions required or authorized by this section.

SEC. 10. (a) A proposed amendment to the convention received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to article 16 of the convention, shall be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(b) A proposed amendment to annex I or II, appendices to these annexes, or protocol I of the convention, received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to article 16 of the convention, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, who shall inform the Secretary of State as to what action he considers appropriate at least 30 days prior to the expiration of the period specified in article 16 of the convention during which objection may be made to any amendment received.

(c) Following consultation with the Secretary, the Secretary of State may make a declaration that the United States does not accept an amendment proposed pursuant to article 16 of the convention.

SEC. 11. (a) Except as provided in subsection (b) of this section, any person having an interest which is, or can be, adversely affected, may bring an action on his own behalf—

(1) against any person alleged to be in violation of the provisions of this Act, or regulations issued hereunder;

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary;

(3) against the Secretary of the Treasury where there is alleged a failure of the Secretary of the Treasury to take action under Section 9(e) of this Act.

(b) No action may be commenced under subsection (a) of this section—

(1) prior to sixty days after the plaintiff has given notice, in writing and under oath, to the alleged violator, the Secretary concerned, and the Attorney General;

(2) if the Secretary has commenced enforcement or penalty action with respect to the alleged violation and is conducting such procedures diligently.

(c) Any suit brought under this section, shall be brought—

(1) in a case concerning an onshore facility or port, in the district court for the judicial district where the onshore facility, or port is located;

(2) in a case concerning an offshore facility or offshore structure under the jurisdiction of the United States, in the district court for the judicial district nearest the offshore facility or offshore structure;

(3) in a case concerning a ship, in the district court for any judicial district wherein the ship or its owner or operator may be found;

(4) in any case, in the district court for the District of Columbia.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party including the Federal Government, whenever the court determines such an award is appropriate.

(e) In any action brought under this section, if the Secretary or Attorney General are not parties of record, the United States, through the Attorney General, shall have the right to intervene.

SEC. 12. On the effective date of this Act—

(a) the Oil Pollution Act, 1961, as amended (75 Stat. 402, 33 U.S.C. 1001, *et seq.*) is repealed. Any criminal or civil penalty proceeding under that Act for a violation which occurred prior to the effective date of this Act may be initiated or continued to conclusion as though that Act had not been repealed; and

(b) the Oil Pollution Act Amendments of 1973, (87 Stat. 428, Public Law 93-119) are repealed.

SEC. 13. (a) Section 4417a of the Revised Statutes of the United States, as amended (46 U.S.C. 391a) is further amended as follows—

(1) in the third subparagraph of paragraph (1) by adding the words ", operating on," between the words "United States" and "or entering";

(2) by amending paragraph (2) to read as follows:

"(2) Vessels Included.—(A) All vessels, regardless of tonnage size or manner of propulsion, and whether self-propelled or not, and whether carrying freight or passengers for hire or not, which are documented under the laws of the United States, operate on, or enter the navigable waters of the United States, except public vessels when engaged in noncommercial service, that have on board—

(i) or which are constructed or adapted to carry, cargo in bulk which if flammable or combustible, or oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil; or

(ii) liquid cargo in bulk which is designated as a noxious liquid substance under annex II of the International Convention for the Prevention of Pollution From Ships, 1973;

are subject to inspection by the Secretary of the department in which the Coast Guard is operating under regulation he may prescribe. To the extent practicable, title 52 of the Revised Statutes of the United States and the regulations thereunder shall apply.

"(B) This section shall not apply to vessels having on board the substances set forth in paragraph 2(a)(i) or 2(a)(ii) above only for use as fuel or stores; or to vessels carrying those cargoes in drums, barrels, or other packages."

(3) in the second sentence of clause (D) of paragraph (7) by striking the phrase ", in his discretion, may" and inserting in lieu thereof the word "shall";

(4) in clause (A) of paragraph (9) by adding the words ", if any," between the words "crew" and "required";

(5) in clauses (A) and (B) of paragraph (11) by striking the period at the end of each clause and inserting in lieu thereof the following phrase "for each violation."; and

(6) in paragraph (13) by adding the phrase "or to any port or terminal under the jurisdiction of the United States" between the words "United States" and "to any vessel".

(b) The Federal Water Pollution Control Act, as amended (86 Stat. 816, P.L. 92-500) is further amended in the first sentence of section 311(b)(3) by striking the phrase "article IV of the International Convention For the Prevention of Pollution of the Sea by Oil, 1954, as amended" and inserting in lieu thereof the phrase "the International Convention for the Prevention of Pollution From Ships, 1973".

SEC. 14. (a) Except as provided in subsection (b) of this section, this Act is effective upon the date of enactment, or on the date the convention becomes effective as to the United States, whichever is later.

(b) The Secretary and the heads of Federal departments, shall have the authority to issue regulations, standards, and certifications under sections 3(c), 3(d), 4(b), 5 (a), 6(a), and 6(c) effective on the date of enactment of this Act.

(c) Any rights or liabilities existing on the effective date of this Act shall not be affected by this enactment. Any regulations or procedures promulgated or effected pursuant to the Oil Pollution Act, 1961, as amended, remain in effect until modified or superseded under the authority of the convention or this Act.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 5, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the President, there is transmitted herewith a draft of a proposed bill,

"To implement the International Convention for the Prevention of Pollution From Ships, 1973, and for other purposes."

This legislative proposal is an integral part of the President's program to control oil pollution in the marine environment. It implements the basic articles and other provisions of the International Convention for the Prevention of Pollution From Ships, 1973 (hereinafter referred to as the 1973 Convention) signed at London on November 2, 1973, and repeals or amends existing law made obsolete by, or which conflicts with, the 1973 Convention.

Seventy-nine countries participated in the formulation of the 1973 Convention, which is one of the most significant marine pollution treaties ever developed. The 1973 Convention far surpasses, in both breadth of coverage and in methods of control, the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended (hereinafter referred to as the 1954 Convention) which it is intended to replace for parties to both conventions. For example, the discharge of light refined oil products will be controlled for the first time as will a number of other previously unregulated major sources of marine pollution.

To achieve the desired control over noxious liquid substances, the conferees evaluated all of the major liquid substances currently carried, in bulk, on the oceans of the world and ranked them in four categories of noxious substances or included them on a list of "other liquid substances". To provide for substances which may be carried in bulk in the future, the 1973 Convention has a broad definition of "harmful substances", which has been incorporated in the proposed legislation. When it is proposed to carry any liquid substance, in bulk, which has not been evaluated, a provisional assessment is made by the government concerned. Thus, after enactment of this proposed legislation and the coming into force of the 1973 Convention, the carriage of liquid substances in bulk will be regulated and requirements on discharges will be imposed, ranging from retention on board for disposal at shoreside reception facilities to dilution of the residue prior to discharge.

To insure that the goals of the convention are realized, parties to the 1973 Convention are obliged to apply the requirements of the 1973 Convention to the ships of nonsignatory nations, as necessary, to insure that these ships do not receive more favorable treatment than that accorded the ships of signatory nations. The proposal authorizes the Secretary to prescribe necessary regulations to accomplish this.

The 1973 Convention requires that all new and existing tankers be fitted with equipment intended to ensure conformance to its requirements. Examples of the items made mandatory by the 1973 Convention include oil discharge monitoring and control systems, oily water separating equipment or filtering systems, slop tanks, piping and pumping arrangements, and segregated ballast requirements for all tankers in excess of 70,000 deadweight tons, if contracted for after December 31, 1975, or delivered after December 31, 1979. Certificates issued to vessels which fully comply with applicable requirements of the 1973 Convention are recognized by all parties to the 1973 Convention.

The 1973 Convention includes provisions designed to prevent discharges into the marine environment. This is an extension of the 1954 Convention's prohibition against discharges into the sea. The term "marine environment" was not defined by the conferees due, in large part, to the fact that the issue of the extent of a nation's maritime jurisdiction is, and remains, one of the basic questions being resolved by the Law of the Sea Conference. The approach taken in the implementing legislation is to define the term "marine environment" in a manner which gives the maximum possible application to the 1973 Convention. This approach is clearly consistent with the intent of the conferees, with our national goals, and with our world leadership responsibilities. However, the intent of the conferees that annexes I and II of the 1973 Convention are to be applied only to sea-going vessels is also clear. Therefore, this limited application is provided for in the proposed legislation and when deposited, our instrument of ratification will be accompanied by a memorandum of understanding to that effect. The proposed legislation does not include application of the optional annexes, annexes III (pollution of sea by packages), IV (sewage pollution), and V (garbage pollution). If, at a later time those annexes are determined to be acceptable to the United States, that will be the subject of an amendatory legislative proposal.

The 1973 Convention, as implemented by this proposal, provides for an innovative amendment procedure to make possible the relatively rapid updating of its technical provisions without requiring the traditional, but more cumbersome, treaty revision process. The rapid amendment process will be used to reflect new technology and, therefore, is necessary to ensure effective control of pollution from ships operating in the marine environment.

In addition to implementing the basic provisions of the 1973 Convention, the draft bill imposes criminal and civil sanctions of sufficient magnitude to ensure compliance with the mandates of the 1973 Convention and its implementing legislation and regulations.

Finally, the remaining applicability of the implementing legislation for the 1954 Convention for non-parties to the 1973 Convention is minimal. Therefore, it is being repealed by this legislative proposal. Conforming amendments have also been made to the Federal Water Pollution Control Act, as amended, and to Title II of the Ports and Waterways Safety Act of 1972. However, not all of the amendments to the latter statute are, strictly speaking, necessary to implement the 1973 Convention. Rather, some minor changes are responsive to other problems that have been identified in our administration of that statute since its enactment.

This is not a major legislative proposal within the meaning of Executive Order 11821. The vessel consrtuction standards which will be necessary to implement annexes I and II of the Convention are being promulgated under the Ports and Waterways Safety Act of 1972. The requirements for reception facilities will depend on the extent of the implementing regulations. The inflationary impact will be considered fully at the time regulations are proposed.

Enactment of this legislative proposal will result in additional monetary requirements for the Federal Government as follows:

Fiscal year 1	$350,000
Fiscal year 2	$350,000
Fiscal year 3	$350,000
Fiscal year 4	$350,000
Fiscal year 5	$350,000

It is recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that this proposed legislation is in accord with the Administration's objectives.

Sincerely,

BROCK ADAMS.

By Mr. DOMENICI:

S.J. Res. 101. A joint resolution to authorize the President to issue a proclamation designating the Sunday following Fire Service Recognition Day as Memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year; to the Committee on the Judiciary.

MEMORIAL DAY FOR FIREFIGHTERS

Mr. DOMENICI. Mr. President, every year the ravages of fire cause devastation of property, resources and lives.

Firefighters across the Nation have dedicated themselves to protect the lives and dreams of their fellow citizens. Sadly, too often these men are called and lost in the line of duty or suffer permanent disability.

Mr. President, I introduce this resolution to set aside a day of tribute to those who will have been disabled or killed in the line of duty so that each American can offer prayer for their benefit and grateful thanks for their sacrifice.

ADDITIONAL COSPONSORS

S. 1728

At the request of Mr. ANDERSON, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 1728, the Domestic Violence Prevention and Treatment Act.

S. 1820

At the request of Mr. METCALF, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1820, a bill to authorize the Secretary of the Interior to assist the States to establish programs for the maintenance of natural diversity, and for other purposes.

At the request of Mr. METCALF, the Senator from Wyoming (Mr. WALLOP), who was originally added by mistake, be removed as a cosponsor of S. 1820, the Natural Diversity Act.

S. 1954

At the request of Mr. CURTIS, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1954, a bill to repeal the estate tax carryover basis provisions of the 1976 Tax Reform Act.

S. 2142

At the request of Mr. PACKWOOD, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 2142, the Tuition Tax Credit Act.

S. 2236

At the request of Mr. RIBICOFF, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2236, the Omnibus Anti-Terrorism Act of 1977.

S. 2303

At the request of Mr. MELCHER, the Senator from Nevada (Mr. LAXALT) and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 2303, a bill to declare a national policy on conservation, development and utilization of natural resources, assurance of resources for economic growth and national security, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS AND RECREATION

Mr. ABOUREZK. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a hearing before the Subcommittee on Parks and Recreation of the Senate Energy and Natural Resources Committee.

The hearing will be held on December 17, 1977, in Gretna, La., and testimony will be received on S. 1829, a bill to provide for the establishment of the Jean Lafitte National Historical Park in the State of Louisiana, and for other purposes.

Those wishing to submit testimony for the record should write the Subcommittee on Parks and Recreation, room 3106, Dirksen Senate Office Buliding, Washington, D.C. 20510.

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams of subcommittee staff at 224-7145.

NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, December 13, 1977, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Paul A. Simmons, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Ralph F. Scalera, resigned.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

NOMINATION

Mr. JACKSON. Mr. President, I wish to announce a hearing on the nomination of Lincoln E. Moses to be Administrator of the Energy Information Administration in the Department of Energy. The hearing will begin at 8:30 a.m., on Tuesday, December 13, 1977, in room 3110 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON CITIZENS AND SHAREHOLDERS RIGHTS AND REMEDIES

Mr. METZENBAUM. Mr. President, the Subcommittee on Citizens and Shareholders Rights and Remedies of the Committee on the Judiciary, will hold 2 days of hearings, January 17-18, 1978, on Rights and Remedies of Insurance Policyholders, Part 1: Fairness in Coverage and Cost. The hearings will commence at 9:30 a.m., both days, in room 2228 Dirksen Senate Office Building.

Anyone wishing to submit testimony for the record, contact Ms. Ricki Tigert, Counsel, 4-B Russell Senate Office Building, Washington, D.C., 20510. Phone (202) 224-4703.

SUBCOMMITTEE ON CITIZENS AND SHAREHOLDERS RIGHTS AND REMEDIES

Mr. METZENBAUM. Mr. President, the Subcommittee on Citizens and Shareholders Rights and Remedies of the Committee on the Judiciary, will hold a hearing on Thursday, January 26, 1978, on S. 2117, the Federal Tort Claims Act. The hearing will commence at 9:30 a.m., in room 235 Russell Senate Office Building.

Anyone wishing to submit testimony for the record, contact Mr. Herman Schwartz, Chief Counsel of the Subcommittee, 4B Russell Senate Office Building, Washington, D.C. 20510. Phone (202) 224-4703.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. GLENN. Mr. President, I wish to announce that on December 14 and 15 at 10 a.m., the Governmental Affairs Subcommittee on Intergovernmental Relations will hold hearings in 1202 Dirksen Senate Office Building. These hearings concern: "Arson for Profit: Its Impact on States and Localities."

ADDITIONAL STATEMENTS

CONGRATULATIONS FOR A JOB WELL DONE

Mr. ROBERT C. BYRD. Mr. President, because Washington is a center of international as well as national significance, it is understandable that this city is often the focus of world attention. At times, however, it is also the stage on which the conflicts and tensions of other nations find an unfortunate expression.

Such an instance of this was witnessed during the recent visit of His Imperial Majesty, the Shah of Iran. Iranian nationals and other persons, both in support and opposition to the policies of the Shah, gathered in large numbers to demonstrate in Washington. The result was that violence broke out near the White House and in several random locations in the city during the Shah's visit, as the opposing groups clashed with one another and with the police units dispatched to maintain order. Many people were injured, and, subsequently, some law enforcement officials have engaged in mutual criticism over the procedures used to handle the disruptions.

But there was one area of the city visited by the Shah that was conspicuous by its relative calm and orderliness, and that was the Capitol itself. In no small measure, this was the result of the excellent preparation and performance of duty by the U.S. Capitol Police. The professional manner in which this force carried out its responsibilities during the Shah's official visit made it possible for that occasion to be almost totally without incident under those rather volatile circumstances.

A few years ago, a decision was made to upgrade the Capitol Police Force, in order to provide the Capitol area with a genuinely professional law enforcement body. The Shah's visit was but another example of the wisdom of that decision, and the success of their performance was a tribute to the outstanding men and women who are serving on our police force.

Mr. President, I have written a letter to Acting Chief William W. Kirby of the U.S. Capitol Police, expressing my appreciation to him, his supervisors, and his officers for their commendable efforts during the Shah's visit. I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

November 23, 1977.

Acting Chief William W. Kirby,
U.S. Capitol Police,
Washington, D.C.

Dear Chief Kirby: On behalf of the Members of the United States Senate, I am writing to express our special thanks and deepest appreciation to the supervisors and officers of the United States Capitol Police for the exemplary way in which they performed their duties on the occasion of the recent visit to the Capitol by His Imperial Majesty, the Shah of Iran.

The professional manner in which the Capitol Police provided the necessary escort and security assistance almost totally without incident during rather volatile circumstances is a tribute to the outstanding men and women we are so fortunate to have on the Force.

Please extend these expressions of our gratitude and esteem to each and every officer for a job well done.

With warmest best wishes.

Sincerely,

Robert C. Byrd,
Majority Leader.

TRAVELING FIRST CLASS ON UNCLE SAM

Mr. HARRY F. BYRD, JR. Mr. President, in an article distributed to member newspapers for October 15 by United Press International, Reporter Donald Lambro set forth the results of a 4-week investigation into the travel practices of Government officials.

He found that many officials are traveling with luxury accommodations, whereas Government policy requires economy travel in all but a few cases.

Mr. Lambro states that the Government's travel bill runs $2.7 billion a year, and that there is little or no control over travel expenditures.

Believing that Mr. Lambro's findings will be of interest to the Senate, I ask unanimous consent that the text of his article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Traveling First Class on Uncle Sam

(By Donald Lambro)

Washington.—When Secretary of Labor Ray Marshall and two aides flew last June to conferences in Geneva and Bonn they traveled—as do many top federal officials on government business—first class.

The spacious seats, champagne and gourmet meals available to Marshall and his aides cost taxpayers $1,484 each. That was almost 42 percent more than economy class, which government officials with rare exceptions are supposed to use.

Marshall is not alone in his preference for the best in travel accommodations, though some top officials like Max Cleland, the triple amputee who heads the Veterans' Administration always travel economy.

A four-week UPI investigation into government travel costs—which now total $2.7 billion annually—revealed that many officials routinely travel first class.

The investigation into the travel practices of more than a dozen departments and agencies also found:

Officials of the World Bank, which receives much of its funds from the United States, took nearly 600 trips this year on the costly supersonic airplane Concorde. It also frequently pays travel costs for officials' wives.

Many federal officials never file a report of any kind with their agency detailing what they accomplished on extensive trips abroad.

Government planes often are used to fly officials to places that could be more cheaply reached by flying commercial. Federal planes transport officials to conventions, air shows, and social events.

Wives often accompany their husbands at government expense for "public relations" purposes, solely to attend social activities.

First class travel is virtually the rule rather than the exception at the World Bank, which administers a $42 billion loan program for the impoverished countries of the world.

More than 7,800 trips in the past year have cost the bank over $12 million. Officials say most of the travel is first class.

When a Bank official flew to London on official business earlier this year he chose the most costly commercial transportation available, the Concorde. Its $1,683 roundtrip fare to London compares to the $678 coach fare for a regular jet.

The Bank defends the Concorde's use, saying the faster flight time reduces lost man hours spent in flight and thus saves money. But a Senate investigator who has examined Bank practices says this rationale is "as phony as it can be. No one else in the government, no matter how important their missions flies the Concorde."

The Bank's allows first class travel when officials fly farther than 5,000 to 6,000 miles. Since most of the Bank's business is in Asia, South America and Africa, at least 98 percent of travel is first class.

A Bank spokesman said officials often spent up to three months of the year traveling and the more comfortable accommodations eased the burden of long distance flights.

"After the first year or two, it's not a joyride anymore," he said.

Yet State Department officials say they travel equally long distances and just as often, but note that 98 percent of their travel is economy class.

Referring to the World Bank defense of first class travel, a State Department official said "That's a lot of baloney. Many State employees travel three months or more each year but we still go economy."

The Bank argues that free transportation for spouses of eligible employees—figured under an elaborate point system based in part on years employed—is needed to keep up "morale". Last year the Bank spent $603,000 on trips for 203 spouses.

When a Bank official took his wife along on a global six-nation business trip to Honolulu, Tokyo, Manila, Jakarta, New Delhi and Rome, the Bank picked up the entire tab for her $3,250 first class airfare.

The Inter-American Development Bank, which receives more than half of its funding from the United States for loans to poor countries, spent $34,131 last year on spouse travel. Moreover, all its top executives are permitted to fly first class.

Last September, for example, it paid $3,999 so an official's wife could accompany him to the Philippines, India, Singapore, Japan and France. On another trip, a wife traveled with her husband to Denmark, Belgium, Spain, Switzerland and Yugoslavia, adding $1,879 in first class fare.

Congress has been unable to curtail the travel of either bank since both were created as autonomous international bodies governed by directors representing member countries. Congressional committees have often found it difficult even to get information about their travel.

A UPI request for a list of trips by World Bank President Robert McNamara was rejected by an officer who said, "I don't think we ought to be accountable in detail to the public at large."

Federal agencies work under strict prohibitions against first class travel. The only exceptions are supposed to be medical disability, unavailability of economy seats, or when first class is "deemed necessary for the conduct of the mission."

It is this last provision that some officials have liberally interpreted to mean first class always, though an official of the General Services Administration, charged with enforcing the rule, says "The general policy is that it (travel) will be less than first class."

An official of the Office of Management and Budget, which wrote the rule last year, said "You don't travel first class unless you have a vital reason to do so."

Yet a random survey found that first class is almost routine for many top officials.

The labor secretary has taken 37 trips this year, virtually all first class. Charles Krapp, Marshall's special assistant, and John Leslie, his chief public information officer, also have accompanied him on most trips first class.

Spokesmen for Attorney General Griffin Bell, Agriculture Secretary Robert Bergland and Treasury Secretary Michael Blumenthal said they almost always fly first class.

Commerce Secretary Juanita Kreps, who has taken 27 trips since February, usually travels first class, while Patricia Harris, secretary of housing and Urban Development travels first class about half the time. Of 282 trips taken by HUD's top 22 officials last year, 86 were first class.

Last year Byron Pepitone, director of Selective Service, traveled first class on 28 out of 65 trips he made, while his deputy director went first class on 32 of 40 trips, or 82 per cent of the time.

The Federal Home Loan Bank Board, with a $4 million annual travel budget, last year took 287 first class trips. Board chairman Garth Marston, and board member Grady Perry, Jr. each flew first class 17 times.

Sen. William Proxmire, D-Wis., whose appropriations subcommittee oversees the FRLBB, says the agency has "an abysmal record" on travel costs and that abuse of first class travel "extends throughout the agency."

Last March the General Accounting Office (GAO), Congress' auditing arm, investigated the travel practices of five departments and agencies and found that 15 per cent of all the trips taken were unnecessary. The House Government Operations Committee calculated that about $375 million in travel costs was being wasted each year.

The GAO found that the largest amount of travel by top government officials was to low priority conferences and seminars, a finding which later led to a CMR directive curtailing such travel.

Despite this, questions continue to be raised about travel to conferences and seminars. There also are numerous instances of officials taking such trips and never filing reports on what they accomplished.

Examples include two Consumer Product Safety Commission officials Bert Simson, who attended an international conference on television set standards in Moscow June 4, and Alan Phrlich, who went to a conference in Paris May 8 to discuss lawnmower standards. CESA does not require reports on such trips and neither man made them through September.

Simson stopped on his way back for two days vacation in Frankfort, Germany. Phrlich was to have returned in eight days but stayed an extra day in Paris. Both used their own funds on the extra days.

One commission member, Barbara Franklin, told UPI, "I must admit that Soviet Union trip I have to scratch my head over. I can't see it did any good whatsoever."

While not requiring formal reports, the commission does require that "logs"—summaries of where officials have been and who they met—be filed on trips considered to be "of substantial interest matter."

Last year George Nichols, who heads the agency's foreign operations, traveled to London, Buenos Aires, Rio de Janeiro, Paris, and Tokyo. A spokesman said he had filed no reports on any of them. Mrs. Franklin said of Nichols' operation, "I can't figure out what that whole damn office does. I don't know what George has been doing."

Commission Chairman John Byington last year and early this year traveled to Brussels, Bonn, Hamburg, Geneva, Tokyo, Hong Kong, and Taiwan, Mrs. Franklin went to Ottawa, Paris, Cologne, London, and Berlin.

Byington attended a European Consumer Leader Group meeting. Mrs. Franklin met with various consumer leaders. Both gave some speeches. Neither of them submitted formal reports. Moreover, Mrs. Franklin, as well as other officials, did not file the logs of her trips, except for one covering two cities she visited.

"I can see from your own standpoint that it looks a little bit furry," Mrs. Franklin said, "but we have no requirement that a report be filed." She said she could not recall ever receiving a report on any of Byington's trips abroad. "I think I screwed up by not having all the logs filed," she added, conceding she "wouldn't like staff people flying around without filing a report of some kind." The commission spends $1.4 million a year on travel.

Many agencies and departments within the government maintain their own fleets of small executive aircraft. They range from two planes, one a jet, used by Coast Guard and Transportation Department officials, to the 72-plane fleet maintained by the Federal Aviation Administration at a cost of $23 million a year.

An examination of flight manifests on trips taken by Coast Guard and FAA officials showed many would have cost much less if they had flown commercial.

On Aug. 2, for example, 16 FAA officials flew from Washington to Oshkosh, Wis. aboard a turbo-prop Gruman Gulfstream to attend the annual Experimental Aircraft Association show for the day. The show is attended by airplane buffs to see planes people have built in their garages or backyards.

FAA spokesman Fred Ferarr said officials visited the show to "get an idea of what's happening in the field," even though regional FAA officers also attended the meeting.

FAA Administrator Largherne Bond also flew to Oshkosh in a FAA Cessna twin jet, which seats five, to speak and present an award. He took Don Waunch, an aide to Rep. Jim Lloyd, D-Calif., a member of a House aviation subcommittee.

A subcommittee official said the panel has never examined the subject of home-built aircraft. However, Waunch, a licensed pilot, said he picked up plans to build a single engine Christer Eagle at the meeting.

The round trip cost FAA $1,381. Commercial tickets would have cost $352.

Another FAA plane trip, which took DOT's number two information officer, Robert Holland, and two other officials to Fond du Lac, Wis., to attend the National Aerobatic Competition cost $1,332. Commercial would have cost $528.

An FAA spokesman said regional FAA safety enforcement officials also were at the aerobatic show.

Last July, Deputy DOT Secretary Alan Butchran flew to Boston on a Friday to inspect the Transportation Systems Center, a DOT funded research and development facility.

After four hours at the center, Butchman flew to nearby Martha's Vineyard where he spent the rest of the weekend. A spokesman said Butchman reimbursed the DOT $32 for the added cost of his sidetrip to the resort island.

A spokesman at the center said four days before Butchman's trip two other top DOT officials had also toured the center in what he described as "a fairly extensive visit."

Civilian and military officials often take their wives on official trips. In some instances, the trips appear to be, in the words of one Coast Guard officer, "less than vital."

Last July 6, a Coast Guard jet flew three top Guard officers and their wives to Seattle and back to attend the Reserve Officers Association convention. Fuel costs alone exceeded $3,000. Wives may travel for public relations purposes, but a Coast Guard official said in this case "these ladies do not satisfy the criteria for official functions."

Or a five day tour of Los Angeles and Seattle last June to inspect Guard installations, Adm. Owen W. Siler, the Guard commandant, and two other rear admirals were accompanied by their wives. Officials said the wives were needed to attend various social affairs with their husbands.

Last August Siler and some aides flew to New York City to speak at a New York Times luncheon. The round trip fuel cost for the Coast Guard jet was $291. The commercial shuttle, which leaves every hour, would have carried Siler for $78.

The Air Force's 89th Military Airlift Wing maintains a fleet of 16 executive aircraft, including Air Force One. The wing had 25 planes until President Carter cut it back.

An examination of Pentagon flight manifests for a two-month period revealed the following use of the fleet by officials, including members of Congress:

Sen. Barry Goldwater, R-Ariz., was flown on Air Force jets at least twice this summer to Sawyer, Mich., and to Yuma, Ariz., to speak at military bases. Cost of both flights: $5,282.

Sen. Daniel Moynihan, D-N.Y., was flown by the Air Force from his home in New York to Washington last July. An aide said Moynihan requested the trip because of a back ailment, and was flown on a stretcher. He added that the senator went to work the next day, appearing in the Senate and chairing a morning hearing. The one-way trip cost $850.

Treasury Secretary Michael Blumenthal and two aides were flown to Cleveland on an eight-seat Jetstart to deliver a speech to a group of businessmen. Cost $1,413.

An Air Force major was flown alone on an eight-seat military jet from Washington to Wilmington, N.C., and back. It cost the government $1,486 roundtrip to fly him there compared to $112 for a commercial flight.

The plane used for many of these trips is the VC140, a small but sleek four-engine jet that seats eight and is described by one Air Force official as "plush."

One officer, who asked not to be named, said there was "no reason in the world why we should keep planes on standby for members of Congress. They should be required to travel commercial unless there is some emergency."

A government auditor who has extensively investigated government travel abuses told UPI "There's just a lot of travel that is unnecessary. They're (agency and department heads) not looking closely enough at it."

Federal travel expenditures have shot up sharply in recent years, rising from $1.8 billion in 1973 to $2.5 billion in fiscal 1977. The price tag is expected to hit $2.7 billion in this fiscal year—up nearly $1 billion in five years.

While a lot of attention is paid to junketing by members of Congress, legislative travel costs less than one percent of the government-wide total.

Most travel is done in the Executive Branch, through the departments and agencies. The military spent $1.4 billion out the $2.4 billion total for travel in fiscal 1976. The bulk of that was for moving military personnel between assignments.

Yet other agencies are also ringing up big travel bills: The Agriculture Department spends nearly $100 million annually; Treasury Department, $95 million; HEW, $86 million; Transportation Department, $81 million; the Veterans Administration, $79 million; with other independent agencies collectively spending over $100 million a year.

Sen. William Roth, R-Del., a critic of government travel, believes costs can be curbed but says it will take "strict guidelines and restrictions" by OMB.

In 1975, Congress enacted Roth's proposal for a mandatory 10 per cent cut in travel spending. Two months later, it quietly repealed the Roth amendment in response to a howl of protest from agencies which claimed they could not function under such strict reductions.

It substituted a milder Roth proposal calling on the President for tighter regulations to cut unnecessary travel.

But despite the new guidelines, travel costs continue to mount. Next year agencies and departments are expected to seek still more money for travel.

Many say only agency heads and supervisors can halt needless travel, but the GAO found that would be putting the problem in charge of the solution.

These are the people who are supposed to be setting an example for the rest of the government, a Senate Appropriations Committee staffer said. Instead, they are among the worst offenders.

For some officials, old habits are hard to break. An assistant to Blumenthal, the former Bendix Corp. board chairman, explained why the Treasury secretary flies first class:

"You see, when he was doing corporate work, he traveled in his own jet. He's become accustomed to something a little better."

IN PRAISE OF A GENTLE MAN

Mr. MATHIAS. Mr. President, the death of a public man is usually and properly followed by tributes to his career and his accomplishments. This is not only an appropriate recognition of his service, but also illuminates an example of service that is important to any society whose continuity is dependent on its members' willingness to serve.

But such eulogies often praise the statement and miss the man. It would be a pity if that were the case with David Bruce, because his career reflected the qualities of his personality and his character.

In my own contacts with David Bruce, I was always struck by his kindness and by his gentle manner. He had a way of making it clear that there was room in his life for the concerns and interests of other people and this was important to the way other people viewed him.

David Bruce lived in a serious world and was taken as a serious man. That never inhibited him, however, from having fun or from enjoying life with a gaiety that was infectious and spread goodwill and pleasure to those who shared his company, even briefly. He knew the tragedies of the world, personal as well as political, but he also knew the beauty that can soften the harsh features of human life, and he was not afraid to embrace art and what might be called good living.

The success David Bruce enjoyed was not accidental. His grades at the University of Maryland Law School were the best any student had received since his father graduated there. He first came to spend time in Washington when his father entered the Senate and he obtained a vantage point for a broader education in the conduct of public affairs. His service with Maryland's famous 110th Field Artillery gave him a host of lifetime friends and a knowledge of people that he never lost.

It is not without significance that David Bruce was taken ill Sunday at the home of his old friends, Mr. and Mrs. Macgill James. He and Mr. James had been boyhood companions, tent mates in World War I, and celebrated peace together with a walking tour of Europe. Although David Bruce walked with kings, he never forgot the people of Maryland and Virginia who were his first friends. David Bruce was never "old" in any sense, but it can otherwise truly be said of him, as it was of a great Englishman, that "the companions of his youth were the friends of his old age."

Mr. President, I ask unanimous consent that the account of Ambassador Bruçe's life published in the Baltimore Sun today be printed in the RECORD together with the Sun editorial entitled "David K. E. Bruce."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Dec. 6, 1977]

AMBASSADOR DAVID BRUCE DIES AT 79

WASHINGTON.—David K. E. Bruce, a native Baltimorean who became a major figure in post-World War II diplomatic history, died early yesterday at the age of 79.

He had a heart attack Sunday evening and died about four hours later at Georgetown University Hospital here.

The silver-haired, sophisticated Mr. Bruce was the only American to serve as ambassador to all three of his country's major European allies—France, Germany and Britain. He also was under secretary of state, chief negotiator at the Vietnam peace talks in Paris, first head of the U.S. liaison office in the People's Republic of China and wartime director of American intelligence operations in Europe, among other assignments.

At the news of his death, other participants in the great events of the past four decades tried to place his career in perspective.

An official State Department tribute called him "one of the most eminent diplomats of his generation."

Dean Rusk, former secretary of state, said Mr. Bruce was "one of the finest public servants in this entire postwar period. He was a brilliant diplomat, able to deal with the most complex and acrimonious problems in high style.

"He was respected by all those with whom he worked, including the other parties to negotiations in which he was involved. His loss is very serious, but we can be grateful that he gave us the long service that he did."

That assessment was echoed by Mr. Bruce's friend, Joseph Alsop, the retired columnist. Mr. Bruce, he said, was "one of the greatest public servants the United States has ever had . . . In every capital where he represented us, he is remembered with intense admiration and affection . . . without having sacrificed a jot or a tittle of America's interests."

By both the style and substance of his earlier service, Mr. Bruce earned such stature that in 1970 he was called out of retirement by President Nixon to lead the American side in the Vietnam negotiations, his personal presence was seen as a sign that Washington wanted progress in the talks. Similarly, when Mr. Nixon asked him out of retirement a second time to go to Peking, his individual prestige was considered so great that it automatically transformed the liaison office there into a major American mission.

Mr. Bruce's first diplomatic experience was a member of the courier service just after World War I, and he did not retire finally until January of last year. At higher levels, he served six presidents over more than half a century.

He earned the accolade of being a "real pro" at diplomacy without being a professional diplomat.

Born in Baltimore February 12, 1898, David Kirkpatrick Este Bruce was the son of Maryland's U.S. Senator William Cabell Bruce and Louise Este Fisher Bruce. He was educated at the Gilman Country School and Princeton University, where his attendance was interrupted by Army service in World War I. Then he attended the law schools of the Universities of Virginia and Maryland.

He was employed first with the Fidelity Trust Company in Baltimore, then with the law firm of William Cabell Bruce & Son, and from 1924 to 1925 with the firm of Semmes, Bowen and Semmes.

From 1924 to 1926, he was in the Maryland House of Delegates—and, uniquely, served in the Virginia General Assembly from 1939 to 1943.

After his brief stint with the courier service following the war, he joined the State Department in 1926 and was posted as vice consul in Rome. But he left the foreign service again and in 1966 married Ailsa Mellon, only daughter of the industrial Andrew W. Mellon, then secretary of the treasury. They were divorced in 1945, and that year he married Evangeline Bell.

In 1928, Mr. Bruce began a business period with Bankers Trust Company and W. A. Harriman & Co. in New York, and during the following years served on the boards of a long list of companies, many of them connected with the Mellon family interests.

In those years he also spent much time at his 4,000-acre estate, Staunton Hall, near Brookneal in piedmont Virginia.

But as World War II approached, his interest in affairs abroad drew him to accept the post of chief representative of the American Red Cross in Britain, then into colonel's rank with the Office of Strategic Services.

With the OSS, forerunner of the Central Intelligence Agency, he became chief of European operations, in charge of a huge network of agents scattered over the continent.

After the war he was called back to government in 1947 as an assistant secretary of commerce under his old New York associate, W. Averell Harriman. That association led him to his subsequent assignments as head of the Marshall Plan mission to France and of the U.S. mission to the European Economic Community.

President Truman gave him his first formal ambassadorial appointment, to Paris, from 1949 to 1952, and there Mr. Bruce solidified his reputation for dignity, discretion, elegance, courtesy, subtlety—virtually a catalogue of the qualities to which diplomats aspire.

Before and during his Paris assignment, he worked closely with the historic men of the time—Churchill, Eden, Macmillan, the French statesmen, later Chou En-lai, and of course each occupant of the White House. It was one of them, Mr. Nixon, who said in 1969 that he and his four presidential predecessors disagreed on many things, but "agree that David Bruce was a giant."

Mr. Bruce played a key role as under secretary of state and on special assignment during the reconstruction of Europe in the early 1950's. Although he was a Democrat, President Eisenhower tapped him to continue that work as ambassador to Bonn—and although some Republicans complained that Mr. Bruce had contributed to the Adlai Stevenson Democratic campaign in 1956, he was confirmed and served in Germany from 1957 to 1959.

It was a Democrat, President Kennedy, who next sent him abroad, to London in 1961, and there Mr. Bruce remained until 1969.

Nominally he had retired, when in 1970 Mr. Nixon asked him to take over the American side at the Paris peace talks on Vietnam. He spent a year there before retiring again, and the President asked him next to lend his senior status to the new opening with China.

After a year there, Mr. Bruce accepted his final assignment, as ambassador to the North Atlantic Treaty Organization in Brussels. He retired, for the last time in January, 1976.

Like his father and his brother, James, who was ambassador to Argentina, Mr.

Bruce carried out a family tradition of public service—but unlike many others who step in and out of government, he carried his role far beyond the level reached by most lifetime professionals.

A connoisseur of art, wine, antiques and sports, he was the first president of the National Gallery of Art and a trustee of the Frick Museum and the Metropolitan Opera Company. President Ford decorated him with the Medal of Freedom, the nation's highest civilian honor.

He is survived by his wife, his brother James, and two sons, David and Nicholas.

Funeral services will be held at St. John's Church, Lafayette Square, Washington, at 2:30 P.M. Friday.

[From the Baltimore Sun, Dec. 6, 1977]

DAVID K. E. BRUCE

"Diplomacy is no longer as picturesque or as mysterious as it once was," wrote a young contributor to *The Sun* in 1921. David K. E. Bruce then went on to explain to his hometown readers that the splendid costumes of yore had given way to "somber black and standard cut" and that couriers were no longer "kidnaped and tortured in remote fastnessess."

This straight-faced introduction to the intrigues of the French in Syria plus some other pieces about bullfighting in Spain, the Bolshevik takeover in Russia and drinking habits in Norway, whence came the ancestors of the author of the Volstead Act, was what one might have expected from a bright, well-educated scion of one of Baltimore's elite families.

After his taste of travel abroad, it was perhaps predictable that David Bruce would tire of a Baltimore law practice to enter the foreign service. True enough, he resigned, after marrying Andrew Mellon's daughter, to go into investment banking. But when World War II broke out, Mr. Bruce moved quickly from Red Cross operations overseas to spy work in Europe for the Office of Strategic Services. His life was cast for public service.

President Truman, the first of six postwar Presidents to use Mr. Bruce's talents, tapped him for a Commerce Department post that led to a Marshall Plan appointment and then the ambassadorship to France in 1949. In those days one had to be rich to hold down the Paris post, which Mr. Bruce was. He pretended the role of an amateur diplomatist, and even managed to fool a few interviewers who concentrated on his unstudied elegance and the hospitality which he and his second wife, Evangeline Bell, offered in the years of postwar reconstruction.

But social graces, while important, could not have been the reason for the diplomatic career that followed. President Eisenhower appointed Mr. Bruce ambassador to Bonn in the days of recurrent Berlin crises. He served under Presidents Kennedy and Johnson as ambassador to Britain in the Sixties. President Nixon put him in charge of the Vietnam peace talks, a frustrating chore that was followed by the prestigious assignment as the first U.S. envoy to China. President Ford named him ambassador to NATO.

All talk about being a professional amateur had, of course, been dropped. Mr. Bruce was a professional's professional and recognized as such. He was one of those patrician patriots (like Averell Harriman) whose personal authority enhances whatever missions their government assigns them. He was called from retirement so often that the "old geezer network" in the State Department could hardly envisage a foreign policy without him. Now, at 79, David Bruce's final retirement has come.

OIL COMPANIES AND THE DEPARTMENT OF ENERGY

Mr. METZENBAUM. Mr. President, I have long been concerned about the "revolving door" that seemed to exist between the former Federal Energy Administration and the major oil and gas companies. I had hoped that the appointment of those close to the oil industry would be studiously avoided when the new Department of Energy was organized.

However, one of the first major appointments announced was that of Mr. Lynn R. Coleman to be Chief Counsel, a highly important and sensitive post. Mr. Coleman is a partner in a Texas law firm whose clients read like a Who's Who of the Oil Industry. Mr. Coleman has spent most of his legal career acting as an advocate for oil companies.

Recently, the Senate Energy and Natural Resources Committee questioned Mr. Coleman at great length about his connections with the oil industry. It is the feeling of myself and several other Senators that there are still many unanswered questions.

I have asked the President to withdraw this nomination because I am convinced the American people are tired of these relationships between the Government and big oil.

In the December 5, 1977, edition of the Washington Star, James R. Dickenson has put the issue in the proper perspective. I ask unanimous consent that the article be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 5, 1977]

ENERGY EQUATIONS THAT DON'T WORK OUT

(By James R. Dickenson)

The refusal last week of Lynn R. Coleman, President Carter's nominee as general counsel for the Department of Energy, to divulge a full list of oil and gas companies represented by his Houston law firm calls to mind a character from the musical "Guys and Dolls"—Big Julie of East Cicero, Illinois (pronounced Illinoiz).

Big Julie, a man whose fearsome reputation extended well beyond the East Cicero city limits, was tapped out in Nathan Detroit's oldest established permanent floating crap game in New York. He attempted to recoup by using his own dice, which had no spots.

Never fear, Big Julie assured the intimidated Nathan Detroit, Big Julie has memorized where the spots were. Purely by coincidence nothing but sevens and his point happened to turn up.

"Ah, huh!" he exclaimed as he rolled the blank dice. "A six. Six is my pernt!" "Ah, huh!" he said on the next roll. "A four and a two. See, I remember they were on those sides."

Coleman's firm is Vinson and Elkins, one of whose partners is former Texas Gov. John B. Connally, and it represents 20 companies that probably will have cases coming before the Energy Department. Among its clients are Exxon, Texaco, Shell, Mobil and Union Oil.

Coleman justified his refusal on the grounds that such disclosure would violate the firm's attorney-client privilege. He assured the members of the Senate Energy Committee, however, that he would disqualify himself when these cases come up.

Not surprisingly this did not entirely reassure all the senators. They objected first of all to the idea that they shouldn't know for sure which cases were involved.

Some pushed a step further and suggested that putting an oil company lawyer in such a sensitive job was a little like locking the fox inside the chicken coop. Incredibly, 77 years into a century in which oil is one of the most important political and social factors, the United States government knows less about our existing and potential resources than the private oil companies do, and often depends on them for information.

This week, House and Senate conferees take up the crucial segments of the controversial energy bill, natural gas pricing and the crude oil equalization tax. The exchange between Coleman and the senators gives many average citizens that old familiar feeling: the itching between the shoulder blades and over the wallet that excites the suspicion that one's pocket is about to be picked again for the benefit of the oil and gas producers.

The question the conferees will struggle over is essentially how much the pending bill will benefit the producers. At issue is how high Sen. Russell Long can drive natural gas prices and how much of the oil equalization tax, which would put the price of newly discovered domestic oil at world levels, he can divert to producers rather than be rebated to consumers.

The justification for higher prices by both the President and industry is that they are needed to stimulate exploration, discourage consumption and therefore reduce the nation's dependence on imported oil.

They probably have a point but they undoubtedly have a problem: A lot of the people who burn the gasoline and natural gas don't quite understand.

The last time a lot of us checked, the oil companies were making a big profit. So, we don't understand why businesses so profitable need higher and higher prices to produce the resources that produce their profits.

You'd think they'd be happy as it is now. The more you produce the more money you make.

The natural gas producers contend that they need higher prices to stimulate exploration because of the risk involved, but when last seen they were out drilling like crazy at the current price and no one suggests that they're doing it for their health.

In the energy conference the House comes down as the defenders of President Carter's proposed bill and of the consumer. The Senate under Long's leadership favors higher prices and incentives for the oil companies.

It's not much of a choice, actually, as some of the House members admit. Defending the President's bill to some of them is just a "holding action," as one put it, against Long.

Carter's proposal of a tax on oil, with rebates to low and middle income consumers, seems a clumsy and jury-rigged scheme whose chief virtue is that it's preferable to the industry subsidies proposed by Long.

How many of us can drive our cars any less or not heat our homes? The problem is not that so many of us are wasteful but that our society is organized around the auto and the assumption of cheap energy.

The chief virtue of Carter's plan is that it's better than Long's alternatives. Several House members are beginning to suspect that, given what they see as Carter's preference for compromising with Long rather than standing fast for his original proposals that were easier on the consumer, the best alternative may be no bill at all.

FDA FAILS TO ACT DECISIVELY ON LIQUID PROTEIN RISK

Mr. PERCY. Mr. President, on November 22, 1977, I urged the Food and Drug Administration to order off the shelves immediately all substances sold as predigested liquid protein because of its possible link to at least 22 deaths and other serious illness. Since that letter, the Center for Disease Control (CDC) in Atlanta has reported nine more deaths that may be linked to use of the liquid protein fast.

The 31 dead persons were from Illinois, California, New Mexico, Minnesota, Washington State, Ohio, Virginia, Florida, New York, Michigan, the District of Columbia, New Jersey, and Ontario, Canada.

Liquid protein is made basically from animal hides, cartilage, and tendons and is used in conjunction with a partial fast designed for persons who wish to lose large amounts of weight quickly. Some persons also use it as a diet supplement. It was popularized by Dr. Robert Linn, in his book, "The Last Chance Diet," which reportedly has sold over 2 million copies.

The CDC has reported to me of documented evidence that 10 of the victims were otherwise healthly young women, between the ages of 25 and 44, who died suddenly of the cause—cardiac arrhythmia, or chaotic, uncontrollable, heartbeats. None had a history of heart disease before starting the fast and taking the liquid. All of these women were under the care of competent physicians, who examined all but one at least once biweekly. Virtually all were taking vitamin and mineral supplements.

The announcement made by the FDA on December 2, 1977, proposing a rule requiring mandatory labeling for protein products—to advise purchasers to consult with a physician before using—would be prudent under normal circumstances. But it is an affront to American consumers to ask them to consult with a physician before using diet liquid protein when those were the precise instructions followed by all 10 of the persons studied whose reported deaths appear to be linked to the liquid protein fast.

Seven physicians who specialize in nutrition have expressed to me their concerns about the easy availability of diet liquid protein for quick weight loss. One physician said there are such significant risks in the liquid protein that he would never give it to an outpatient. Another physician said:

> It can be dangerous, even under closely supervised conditions.

Liquid protein may also be of marginal nutritional value. Specifically:

A recent study by the WARF Institute, Inc., showed that the liquid protein tested had a zero protein efficiency ratio. By comparison, an egg white has a 3.3 PER.

In its natural state, liquid protein lacks tryptophan, an essential amino acid that cannot be manufactured by the human body. It can be added by manufacturers to their product, but laboratory analyses indicate that some manufacturers may have failed to add that amount of tryptophan promised on the label. Without sufficient quantities of tryptophan, the product is of low biological quality.

Use of liquid protein has no scientific basis, according to a University of Chicago Medical School professor.

Quality control is also lax. FDA has recalled two major lots of contaminated liquid protein in the past 3 months.

Liquid protein also may be a ripoff in terms of price. One FDA official estimated that it costs less than $1 a quart in raw materials to manufacture, while consumers are asked to pay between $6 and $15.

The medical community has also provided these arguments against continued use of the liquid as part of a protein-sparing fast:

No scientific followup studies of participants in the fast have been completed. Such studies are usually done before a medical procedure is recommended to the general public. The very physician who pioneered in the development of the diet warned Dr. Linn not to publish his book because it was "ill-advised" and criticized the lack of such studies.

The liquid protein fast is only intended for persons 50 or more pounds overweight, yet is promoted for persons 20 or more pounds overweight.

The liquid protein fast fails to emphasize a meaningful program of exercise, psychological counseling, and the learning of new dietary habits, essential in keeping pounds off after they are lost.

Only an estimated 1 percent of the persons participating in liquid protein fasts are under the supervsion of a physician competent to supervise this type of diet.

An estimated 30 million Americans are overweight; some 15 million of them are considered obese because they are more than 20 percent above their desirable weight. The Senate Select Committee on Nutrition and Human Needs, on which I serve as ranking minority member, heard testimony last February that Americans spend $10 billion annually on weight reduction books, pills, and diet regimens.

It is no wonder that a significant number of overweight persons seek all sorts of ways to shed excess weight. In this context, I have urged that the FDA immediately remove liquid protein products from the market before anyone else dies or becomes seriously ill.

Commissioner Kennedy, for whom I have the highest regard, in his reply to my letter, expressed concern that the vitamin amendment passed by Congress in 1976, limits the authority of the FDA to regulate the sale of predigested liquid protein. The Commissioner also states that I voted in favor of the amendment. The record should reflect that the only time the vitamin amendment came up for a separate vote, on September 24, 1974, I voted against it. The amendment passed 81 to 10. The amendment died at the end of the session and was reintroduced the following session. It was then incorporated as a separate title of the National Biomedical Heart, Blood Vessel, Lung, Blood, and Research Training Act of 1975. That bill passed the Senate on December 11, 1975, 90 to 2. I voted in favor of the entire bill. However, the office of Senator WILLIAM PROXMIRE, chief sponsor of the amendment, said the only real vote on the amendment was taken in 1974.

In addition, I have asked the American Law Division of the Library of Congress to render an opinion on whether FDA has sufficient legal authority to act to remove liquid protein from over-the-counter sales. I expect its response within the next several days.

I shall ask unanimous consent to have printed my letter to FDA Commissioner Donald Kennedy and his reply which I regretfully find to be unsatisfactory, and an official FDA announcement on warning labels for protein products. I firmly believe, in view of the evidence accumulated to date, and the possibility that more Americans may needlessly die from their use of liquid protein in connection with a fast, that the FDA should take immediate steps to remove the product from open shelves pending the submission by manufacturers of proof of its safety and effectiveness.

I consider the FDA announcement requiring warning labels on diet liquid protein a wholly inadequate response to a potentially lethal health problem.

The FDA should order diet liquid protein products off the shelves because of their possible link to deaths of liquid protein users.

My office has now been notified by the Center for Disease Control (CDC), in Atlanta, of 31 deaths which may be associated with use of the liquid protein diet. The CDC reports that one was a 45-year-old Washington, D.C., man who died within the last several days after having been on the diet for 3 months. That was five more deaths than we were aware of last week.

How many more people must die before the FDA orders the product off the market pending proof of its safety?

Six physicians who specialize in nutrition have expressed their concerns to me about the easy availability of diet liquid protein for quick weight loss. One doctor said that there are such significant risks in the liquid protein diet that he would never give it to an outpatient.

Mr. President, I ask unanimous consent that the materials to which I referred previously be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., November 22, 1977.

Hon. DONALD KENNEDY,
Commissioner, the Food and Drug Administration, Department of Health, Education, and Welfare, Rockville. Md.

DEAR COMMISSIONER KENNEDY: I must respectfully take exception to FDA's lack of decisive action to date with respect to the risks inherent in the use of substances known as pre-digested liquid protein. Since your announcement of November 9, 1977, I have become aware of six new deaths that may be attributed to the ingestion of this liquid as part of a partial protein-sparing fast. This adds up to at least 22 deaths in the last four and one-half months associated with this liquid and the fast.

I am also in receipt of new documented data from the Center for Disease Control (CDC) in Atlanta, not yet disseminated to the public, which analyzes the premature deaths since July of 10 healthy women (out of the 22) taking pre-digested liquid protein as part of a so-called protein-sparing fast. Dr. Harold Sours, a CDC epidemiologist, reports that all 10 women were illness-free before fasting and were relatively young—ranging in age from 25 to 44. Yet, they died at an unusually early age from the same cause—cardiac arrhythmia, or erratic heartbeats. It is generally rare for women of this age to die of this cause. While such erratic heartbeats might normally be due to a lack of potassium, all but one of the women were taking a potassium supplement. Just prior to death, some were found to have normal-to-slightly-low potassium levels in their blood. The lower potassium levels were not in the range that should have caused cardiac problems and no damage that could have been caused by low potassium levels was found upon autopsy in the kidneys.

All the women were under the care of competent physicians. All but one was examined by a doctor at least once every two weeks, and some once a week. They all received vitamin supplements. It appears now that there may be a direct cause and effect relationship between the use of this liquid as part of the protein-sparing diet and their deaths.

Because of this data, I urge you, at an absolute minimum, to immediately reclassify liquid protein a prescription drug, not to be available over-the-counter. FDA should carefully stipulate the conditions for its appropriate use. Like other prescription drugs, it should be cleared for use only after proven safe and effective. Pending its approval as a prescription drug, it should be ordered removed from store shelves by the FDA. I urge this action fully cognizant of the announcement that you made on November 9, 1977, that the FDA would ask manufacturers voluntarily to affix warning labels to containers of the liquid protein stating:

"Do not use for weight reduction or maintenance without medical supervision. Do not use without medical advice if you are taking prescription medication. Not for use by infants, children, or pregnant or nursing women."

You further warned that persons contemplating going on the diet:

"* * * should not go on the diet on your own. Close medical supervision is required by a doctor skilled in the use of this kind of diet. The reason is that strict monitoring is required while on the diet, and vitamin and mineral supplements, and especially potassium supplementation, must be carefully prescribed. Too much potassium, as well as too little, can be extremely harmful."

Frankly, I find this action to be an inadequate response to what appears to be a highly serious health danger.

Dr. Sours has informed my office that on the morning of November 9, 1977, prior to your announcement, he told key FDA officials in a three-hour meeting that the women were being treated regularly by physicians and some of them worked in the medical sciences: one was a hospital nurse; another was a medical lab technician; one was married to a physician. Dr. Sours told my office that "I had anticipated finding mediocre care by quack M.D.'s, but I spoke to reasonably competent physicians who encountered an unexpected pathology." Almost all of the patients were carefully monitored and their blood chemistry was checked regularly for abnormalities. None were detected. As mentioned earlier, all but one were taking a potassium supplement.

The FDA's statement advising dieters to seek the advice of competent physicians and to take potassium supplements, if necessary, would be prudent under normal conditions. But these 10 women did seek the supervision of competent physicians whom they saw regularly; in all but one case, they did take potassium supplements. It is difficult to fathom how the FDA could advise liquid protein dieters to seek medical advice and take supplements, when the CDC had informed the FDA that almost without exception the women who died had followed precisely that course.

These were women who started the so-called "Last Chance Diet" out of hopes of losing weight and instead lost their lives. How many more persons must die or become seriously ill before the government moves forcefully in this matter?

The FDA, faced with mounting evidence that exclusive use of the liquid diet as part of a fast may produce disastrous consequences, instead has chosen to meekly ask manufacturers to voluntarily put warning labels on bottles of their product. One manufacturer has already announced that he will refuse to take even that step. But even if the label is affixed and its warning heeded, there is still no guarantee that otherwise healthy users will be spared death or illness if they use it exclusively as part of a protein-sparing fast. In view of the evidence of risk, I personally do not believe that labeling alone—even if made mandatory—is an adequate response.

There are no precise estimates of the number of persons on this diet, but there are known sales of two million copies of the book that popularized it—*The Last Chance Diet*, by Dr. Robert Linn. The liquid is marketed under approximately 50 brand names. The diet consists of a fast broken only by consumption of liquid pre-digested protein.

I understand that liquid protein used in this diet is manufactured primarily from collagens or gelatin obtained from animal hides, bones, and tendons. It is intended to be used as a food substitute by persons seeking large weight loss over a relatively short period of time. The diet is meant to spare the body's protein, which builds muscle tissue and other important structures, while allowing fat to be used up. Because liquid protein looks and tastes somewhat like medicine, proponents claim dieters are less prone to go off the diet because their senses are not tempted by the taste and odor of food. But even that assertion has been challenged. I am told that many of the persons using this diet subsist only on this liquid, while others use it as supplement to solid foods.

I am also reliably informed that besides this liquid being an apparent health danger when used with the fast, it may be of marginal protein value, despite claims by its supporters. A study by the Warf Institute, Inc., in Madison, Wisconsin, completed on October 31, 1977, concluded that the liquid has a zero protein efficiency ratio (PER). The liquid was fed to 10 rats for four weeks, and their growth was negligible. As you know, PER is a method to differentiate bad from good proteins. To qualify under FDA's nutrition labeling requirements, a protein must show a 2.5 PER. (An egg white, for instance, has a PER of 3.3). Thus, there is some question whether liquid protein is of any meaningful nutritional value.

Dr. Irwin Rosenberg, Chairman of the Department of Gastrointestinal Medicine at the University of Chicago Medical School, informs my staff that the hydrolyzed proteins used in liquid protein are inferior to regular proteins and their use has no scientific basis. Several nutritionists and chemists have noted that liquids used in this diet have the same amino acid pattern and same low protein quality as collagens and gelatins. They are virtually devoid in their natural state of tryptophan, which is one of the eight essential amino acids that cannot be manufactured by the human body and is generally supplied by normal diet. Without it, the liquid protein is incomplete and thus held to be of low biological quality. Tryptophan can be added to liquid proteins, but laboratory analyses indicate that some manufacturers claim more tryptophan than is really in their products. This casts doubt on the product's effectiveness, according to FDA nutritionists.

Quality control is also lax. I am told that some 1,700 bottles of liquid protein were ordered off the market by FDA because of potential bacterial contamination on November 16, 1977. Two months previously, some 12,500 gallons of another brand were seized by FDA for similar reasons.

Liquid protein may also be a rip-off in terms of price. Consumers are asked to pay from $6 to $15 a quart for what costs under one dollar in raw materials to manufacture, according to knowledgeable FDA program administrators in the nutrition field.

The arguments against continued over-the-counter distribution of the liquid go beyond even those fundamental issues of safety and product integrity. Specifically:

There is no scientific basis for this specific partial fasting diet. According to Dr. George Blackburn of Harvard University Medical School who has pioneered in this area, Dr. Linn has not even followed minimal medical research standards by carefully studying his own patients. Dr. Linn's book is based largely on Dr. Blackburn's carefully-monitored diets. Yet, Dr. Blackburn had warned Dr. Linn not to publish the book because it was "ill-advised."

Only an estimated one percent of persons on the diet are under the supervision of a physician conversant with this type of diet, despite all contrary warnings according to Dr. Blackburn. This is because no prescription is required and because The Last Chance Diet provides enough information that many believe physician monitoring to be unnecessary. Many think it is another "how-to-do-it" book. Additionally, there are only a few hundred physicians in the country expert in nutritional metabolism. Expert monitoring is necessary because this diet disturbs the electrolyte balance in the body and places stress on the kidneys, according to Dr. Prosky.

This type of drastic diet is intended for only massively obese individuals who are 50 or more pounds overweight, according to Dr. Jean Mayer, eminent nutritionist and President of Tufts University. Yet, the back cover of The Last Chance Diet says it is for persons who are 20 pounds or more overweight. A spokesman for the book's publishers, Bantam Books, Inc., advised my staff that Dr. Linn could have had this promotional message removed upon request.

Diet specialists agree that exercise, psychological counseling, and the learning of new dietary habits should accompany any weight reduction program. The Last Chance Diet hardly touches on any of these subjects: 18 pages out of the 206-page book focus upon behavior modification and new dietary habits. Absent such a program, persons tend to rapidly gain the pounds they have lost, according to Dr. Jeremiah Stamler, Professor and Chairman of the Department of Community Health and Preventive Medicine at the Northwestern University Medical School.

Here is a brief sample of responses to the liquid protein that my office has received in recent days:

"There are no reports on long-term follow-up of large numbers of patients after protein-sparing diets. The assumption that dietary protein in sufficient amounts to maintain a patient in or near nitrogen equilibrium will effectively 'spare' the protein in tissues from being used for fuel during fasting has not been proven." (The Medical Letter on Drugs and Therapeutics, August 26, 1977, published in New Rochelle, N.Y., by a group of 18 physicians, mostly medical school professors.)

"This is another kind of snake medicine, playing on the fears of people. This kind of diet should not even be allowed to be sold over-the-counter. Just putting a label on the bottle is not enough for the consumer to use it safely. It should be used only under careful medical supervision." (Dr. Rosenberg, University of Chicago Medical School.)

"The protein-sparing fast is still in the experimental stages." (Dr. Jean Mayer, President, Tufts University.)

"There are such significant risks in this diet that I would never give it to an outpatient." (Dr. Errol Marliss, clinical researcher into diabetes and obesity at the University of Toronto.)

"This type of liquid shouldn't be sold across-the-counter, no matter whom the diet is directed to, because there are overweight persons who may be sick in other ways and this kind of rigorous fast may be dangerous for them." (Dr. Saul Genuth, Co-Director of the Nutrition Service at Mt. Sinai Hospital in Cleveland, who has treated about 1,400 patients in the last several years for obesity; 75 to 80 per cent of the patients have lost more than 40 pounds within six months.)

Staff has accumulated other expert opinions which I would be happy to provide to you. Dr. Stamler, for instance, said he could not understand why this liquid is not taken off the shelf. I ask that same question.

Some questions about FDA's legal authority have been raised by your own staff on the belief that no medical claims have been made on behalf of the liquid. But, liquid protein is recommended as if it were a medicine. For instance, on page 93 of The Last Chance Diet Dr. Linn writes ". . . it may be easier for you to think of Prolinn as medicine. Obesity is as much a disease as pneumonia or swine flu. You want to be cured. You're going to cure yourself and Prolinn is going to assist you." The FDA has more than sufficient legal authority to act with dispatch in this matter (e.g., Section 505, Food, Drug and Cosmetic Act, as amended).

New information has also been developed by CDC which indicates that four of the eight healthy women who died in the hospital suffered from myocarditis or an inflammation of the cardiac tissue. Deaths from this cause are rare for persons this age. Dr. Sours notes that a check of death certificates in New York City for 1976 showed no women between 25–44 years of age (the age of the deceased) dying of myocarditis. This underscores even more the apparent cause and effect relationship between premature death and use of the liquid as part of the fast.

Because of my numerous concerns over possible commercial exploitation, serious risks to human health, and government inaction associated with this matter, I intend to have the Senate Permanent Subcommitte on Investigations look into this matter to determine whether a full-scale inquiry and public hearings are warranted in the absence of decisive action by FDA.

As you probably know, the Senate Select Committee on Nutrition and Human Needs, on which I serve as ranking minority member, will terminate its activities on December 31, 1977. In February, the Committee heard testimony on one of the nation's most critical health problems—overnutrition and accompanying obesity. We learned that 30 million Americans are overweight and half of them are considered obese because they are more than 20 per cent above their desirable weight. Many of these individuals face shortened life spans and increased chances of developing cardiovascular disease, hypertension, diabetes, and arthritis. Many who are excessively overweight face other additional problems—such as social and employment discrimination.

It is no wonder, then, that a significant number of overweight persons seek all sorts of ways to shed excess weight. Americans spend over $10 billion a year on weight reduction books, pills, diet regimens, and the like.

In this context, I urge that you move with dispatch with respect to the liquid protein diet before anyone else dies or becomes seriously ill.

I look forward to meeting with you in the days immediately ahead to receive a detailed report from you as to the actions you have taken to better safeguard the health of citizens throughout the Nation.

Sincerely,

CHARLES H. PERCY,
Ranking Minority Member.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., November 25, 1977.

Hon. CHARLES PERCY,
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: In your letter of November 22, 1977, you ask that the Food and Drug Administration (FDA) "ban" the liquid protein diets.

Before FDA can "ban" anything, it must have a firm legal basis upon which to proceed. Congress has carefully framed FDA's authority to regulate, and it has done so in different ways for different products. In order to proceed against a particular product FDA must show (1) that it belongs to a class of products over which FDA has statutory authority; (2) that FDA has proceeded according to the provision of the law. Whenever we fail to meet these responsibilities, the courts refuse to permit the actions we propose.

In the case of the liquid protein diet products, and other low calorie protein diet products, the legal picture is complex. They do not appear to be represented as drugs, and Congress and the courts have been wary of past FDA efforts to force substances into that status. For example, FDA lost a recent case on appeal in which it argued that certain dosage forms of vitamins A and D should be regulated as drugs because of toxicity. And Congress in effect rejected similar arguments when it declared a moratorium on FDA's regulation of saccharin after we had proposed to regulate it as a drug.

The low calorie protein preparations actually are special dietary foods, regulated under the same part of our law as are dietary supplements of vitamins and minerals. Eighteen months ago our legal position on an unsafe dietary supplement would have been clear: such an item would have been subject to the provisions of our law that apply to food additives generally. But in 1976 Congress, in response to strong pressure from the health food industry, exempted vitamins and minerals from much of FDA's authority and required FDA generally to regulate such products as foods. The result of this legislation—authored by Senators Proxmire and Schweiker, and for which you voted along with many others, and strongly opposed by FDA—may be to make the low calorie protein preparations very much harder to reach: In a case now pending before the United States Court of Appeals for the Second Circuit, the "health food" industry is arguing that special dietary food preparations are not subject to the food additive provisions of the Federal Food, Drug, and Cosmetic Act.

We are examining our options carefully, and in the meantime we are continuing to collect case reports and analyze them in collaboration with the Center for Disease Control (CDC). It should be emphasized that none of the deaths reported since our original action of November 9 has as yet been definitely associated by CDC with the use of the liquid protein diet.

In summary: the regulatory jurisdiction of FDA over the low calorie protein diet is not a simple matter. The problem presented by the diet is a problem of process more than of product. In addition, recent legislation in the Congress has put in question the extent of our authority over the product. Finally, even if our authority were unclouded, a swift and universal ban would not be possible under the law; FDA would have to propose regulations or seize products on a lot-by-lot basis.

In the meantime we are continuing to emphasize that the diet may be very dangerous to health and, indeed, may in some cases cause death, that people on the diet should see their doctors immediately, and that people thinking about going on the diet should consider other means of weight control.

Sincerely yours,

DONALD KENNEDY,
Commissioner of Food and Drugs.

[Department of Health, Education, and Welfare, Food and Drug Administration]

[21 CFR PART 101]

[Docket No. 77N–0404]

PROTEIN SUPPLEMENTS WARNING LABELING

Agency: Food and Drug Administration.
Action. Proposed Rule.

SUMMARY

This proposal would establish label warning requirements for protein supplements that may be used in weight reduction or weight maintenance programs. The Food and Drug Administration is proposing these requirements on the basis of evidence that, without proper medical supervision, very low calorie diets consisting primarily of protein may cause serious medical problems, including death. The purposes of this proposal are to ensure that consumers are alerted to the potential health hazards associated with consumption of protein supplements for purposes of weight control and to inform consumers that the advice of a physician should be sought before using these products for weight control.

The agency is asking for the submission of any additional data relating to the safety of these products, and is also inviting comment with respect to whether the agency should take any other action concerning these products, including removing them from the market.

Dates: Written comments by (insert date 30 days after date of publication in the Federal Register); the proposed effective date of a final rule based on this proposal is 30 days after publication of the final rule in the Federal Register.

Address: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

For further information contact: Victor P. Frattali, Bureau of Foods (HFF–200), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202–245–1561).

Supplementary information: The Commissioner of Food and Drugs is concerned about potential hazards for consumers who use certain protein formulations for weight reduction, particularly those who do so without close medical supervision. There are readily available to consumers a number of protein supplements which are being promoted for use in weight reduction programs. Many of these do not bear adequate statements advising that there are conditions under which use of the products is contraindicated and that strict medical supervision is required for their safe use. Other protein products are not expressly promoted for use in weight reduction programs, but nevertheless are used by some consumers for that purpose. The protein supplements currently available appear to be derived from whole sources or are hydrolysates of proteins, most of which are of low nutritional value, such as collagen or gelatin. Some of the products are fortified with various essential amino acids, vitamins, and minerals, but many do not supply a complete spectrum of nutrients necessary for sustaining normal body functions during extended periods of usage. The products are marketed as aqueous, "liquid protein" solutions or as powders with instructions for mixing with a liquid. Although frequently labeled as "supplements," the protein products are commonly used to replace whole meals and are often promoted as the sole source of nourishment.

The Commissioner believes that large quantities of these products are being sold nationwide and that a significant number of consumers are using these products for weight control or maintenance. Diets consisting primarily of protein have been, and continue to be, widely promoted. One such diet is the subject of a best-selling book.

An ad hoc advisory group consisting of five clinicians internationally recognized for their studies on obesity and weight control measures met with FDA representatives on October 20, 1977 to review the safety for consumer use of the various liquid and dry preparations composed primarily of protein or protein hydrolysates. A copy of a memorandum of the meeting has been placed on file with the Hearing Clerk, FDA.

The advisory group reviewed and discussed several cases of illnesses and deaths which involved individuals who were apparently utilizing these protein products as their primary source of nourishment. The side effects described in accounts of the illnesses include nausea, vomiting, diarrhea (particularly with "predigested" or partially hydrolyzed liquid preparations), constipation (particularly with whole protein preparations), cold intolerance, fatigue, irritability, euphoria, postural hypotension, faintness, muscle weakness, gout recurrence, hypokalemia, cardiac arrhythmias, and dehydration. Since it is known that diets that consist primarily of protein can elicit these dysfunctions, it is absolutely critical that persons receive adequate medical counseling from professionals knowledgeable in nutrition and the physiology of weight control, and aware of the symptoms associated with these dysfunctions, before using the protein supplements in a very low calorie diet regimen.

Members of the advisory group expressed concern that promotion of these protein products did not adequately inform consumers of potential health hazards associated with protein diets, and they concluded that these protein products should not be used without careful supervision by specially trained medical personnel. The advisory group pointed out that use of very low calorie protein diets is particularly hazardous for individuals who are taking diuretics, antihypertensive drugs, oral hypoglycemic agents, insulin, adrenergic medications, corticosteroids, thyroid preparations, digitalis, or other prescribed medications and that very low calorie protein diets should not ordinarily be used by patients with significant renal, hepatic, or cerebrovascular disease; by patients with cardiovascular disorders; by psychiatric patients with suicidal tendencies; or by infants, children, or pregnant or lactating women.

The Commissioner has considered the evidence discussed by the advisory group and is concerned that many individuals are using these protein products for weight control without any awareness of the possible consequences. The Commissioner, therefore, believes that consumers should be alerted to the potential health hazards associated with use of these products and should be informed of the need to consult a physician for advice on the appropriateness of this type of strenuous diet. To ensure that consumers are provided this information, the Commissioner proposes to require that labeling for protein supplements intended for weight control bear the following warning statement:

Warning—Very low calorie protein diets may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION OR MAINTENANCE WITHOUT MEDICAL SUPERVISION. Do not use for any purpose without medical advice if you are taking medication. Not for use by infants, children, or pregnant or nursing women.

The Commissioner recognizes that this proposed warning differs from the one FDA asked manufacturers to use voluntarily. The changes in the language of the warning are necessary, however, to ensure that consumers are adequately apprised of the hazards associated with the use of these protein supplements. The Commissioner advises that manufacturers who have already taken action to adopt the warning suggested at the Commissioner's November 9, 1977 press conference or who adopt the proposed warning above, will be given a reasonable period of time after a final rule is issued, to adopt the language of the warning in the final rule.

It appears that many protein supplements which are not labeled for use in weight control are nevertheless used for this purpose by consumers who have heard of the diet. For example, the current labeling of one product that has been associated with a death does not mention weight control. A copy of this label is on file with the Hearing Clerk, FDA. To protect such consumers the Commissioner proposes to require the following warning on protein supplements not intended for use in weight control:

Warning—Very low calorie protein diets may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION OR MAINTENANCE.

The Commissioner requests that any person who has data or information that might be useful in assessing the safety of protein supplements for weight control submit such data or information to the Hearing Clerk for consideration by the Commissioner in this proceeding. In addition, the Commissioner asks that any reports of illness or death associated with the use of these products be made promptly by telephone or by writing to Richard Swanson, Epidemiological Investigation Section (HFO–120), Rm. 13–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301–443–4667).

The Commissioner is also considering whether the risk to human health presented by these products is so great that he should seek to remove some or all of them from the market, instead of requiring warnings. The Commissioner invites comments on this subject including scientific comment on the need to remove the products from the market.

The Commissioner also invites the legal community to comment on the most appropriate statutory basis for a partial or total ban. Would it be appropriate, for example, to deem all protein products intended for use in weight control or maintenance regimens to be "unfit for food" and thus adulterated within the meaning of section 402(a)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(3))? Should the protein components of such products be deemed unapproved food additives, pursuant to sections 201(s), 402(a)(2)(C), and 409 of the act (21 U.S.C. 321(s), 342(a)(2)(C), and 348), making such use illegal? Additionally, would it be appropriate to deem all protein supplements intended for use in weight control or maintenance regimens to be new drugs within the meaning of section 505 of the act (21 U.S.C. 355)?

The Commissioner advises that, instead of the warnings proposed below, he may decide to remove the products from the market, if he concludes that they present a substantial risk to public health that cannot adequately be controlled by the use of warnings. After a final rule prescribing a warning is issued, protein supplements would be misbranded under sections 403(a) and 201(n) of the Federal Food, Drug, and Cosmetic Act if the label and labeling do not bear one of the prescribed warning statements.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the Environmental Impact Analysis Report has been filed with the Hearing Clerk.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 402(a), 403(a), 505, 701(a), 52 Stat. 1041 as amended, 1046–1047 as amended, 1052–1053 as amended, 1055 (21 U.S.C. 321(n), 342(a), 343(a), 355, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Chapter I of Title 21 of the Code of Federal Regulations in Part 101 by adding new paragraph (d) to § 101.17 to read as follows:

§ 101.17 Food labeling warning statements.

* * * * *

(d) Protein supplements. (1) The label and labeling of any product composed essentially of protein or protein hydrolysates which is intended for use in a weight reduction or maintenance dietary regimen shall bear the following warning:

Warning—Very low calorie protein diets may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION OR MAINTENANCE WITHOUT MEDICAL SUPERVISION. Do not use for any purpose without medical advice if you are taking medication. Not for use by infants, children, or pregnant or nursing women.

(2) Special dietary food products which are essentially of protein or protein hydrolysates, or which use the word "protein" in their statement of identity, or otherwise emphasize the word "protein" in their label or labeling, shall bear the following warning if they are not intended for use in a weight reduction or maintenance dietary regimen:

Warning—Very low protein calorie diets may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION OR MAINTENANCE.

(3) The warning statement required by paragraph (d)(1) or (2) of this section shall appear prominently and conspicuously on the principal display panel of the package and on any other labeling. The warning shall be printed in bold letters and shall be enclosed by lines forming a rectangle in an area separated from other written, printed, or graphic matter. The capitalized sentences in paragraph (d)(1) and (2) of this section shall be capitalized on all labels and labeling. The height of the printed letters comprising the warning statement shall not be less than one half of the height of the largest type appearing on the label of the product. In no case shall the warning statement be printed in letters less than 1/16 of an inch.

Interested persons may, on or before (insert date 30 days after date of publication in the Federal Register) submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A–107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated November 30, 1977.

SOUTH KOREA: LOW PAY, LONG HOURS

Mr. SASSER. Mr. President, I want to bring to the attention of the Senate an article from the Sunday, November 27 Washington Post. This article entitled "South Korea: Low Pay, Long Hours," indicates that workers in South Korean manufacturing plants, particularly textile mills, earn as little as $2.50 a day for supervisory positions, and that nonsupervisory workers earn even less. Additionally, they work 9 to 10 hours a day, 6 or 7 days a week.

It is no wonder that South Korean goods compete effectively, and unfairly, with American products. For good reason, American workers make twice as much an hour in some instances as South Korean workers make in a day. It is incumbent upon us to maintain the high standard of living American workers deserve. To do this requires firm Government control of the flow of inexpensively produced goods into this country.

Our textile industries are in dire circumstances now because for too long Washington ignored the need to control the flood of imported goods which compete unfairly with American products. Finally, this administration, after years of neglect under the previous administrations, negotiated trade agreements. If the agreements do not succeed, it will be necessary for Congress to act to correct this serious economic problem.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUTH KOREA: LOW PAY, LONG HOURS

(By William Chapman)

SEOUL.—Two-and-a-half years ago, Miss Lee came to Seoul from her parents' farm to work in a textile plant.

She quickly became skilled at her work and now supervises 50 machines that produce cloth sold on the international market.

Miss Lee is paid $2.50 a day.

Her company, moreover, often illegally demands that she work nine or 10 hours a day, and pays her no overtime. Until she and a group of friends engaged in some mild agitation, Miss Lee was forced to work seven days a week when her company had a backlog of orders.

Many of Miss Lee's co-workers still do not get a day off each week—only the monthly menstrual leave.

Miss Lee's low wages, and her lack of bargaining power to raise them in a country where strikes are forbidden, are the other side of South Korea's bright economic picture.

While Korea has gleaming new factories and a growing middle class, it remains a land of miserable poverty and Dickensian wages and employment conditions for the working class.

One academic expert feels that restlessness is growing among South Korea's poor over how little of their country's new prosperity is trickling down to the low-paid workers.

Tame as it may seem by Western standards, agitation in the mills is increasing, he points out.

So far, this has not consisted of anything much more daring than an occasional slowdown. Bus drivers in Seoul recently protested by meticulously observing all traffic rules—thereby delaying trips and costing the company money.

For the more obstreperous, government agents are an ominous presence. Miss Lee, the textile worker, asked that her real name not be used in this story because she already receives regular visits from the Korean Central Intelligence Agency.

KCIA agents and local police also appear routinely to caution leaders of the Urban Industrial Mission, a Presbyterian church-sponsored organization that tries to advise mill workers of their rights under the national labor law.

Labor unions in South Korea are generally ineffectual. One of President Park Chung Hee's 1972 "emergency" laws prohibited strikes. If a union seeks more than a company is willing to give, a government panel arbitrates and its decision is binding.

Even if unions were free to strike and bargain in Korea, most economists feel they would not have much clout. With 400,000 new workers pouring into the job market annually, abundant cheap labor will be available for years.

Big business, meanwhile, attempts to fight unions with big doses of paternalism. The Hyundai Group companies give every worker a free lunch, and they build hospitals and schools for their employees at Ulsan.

"Unions are not necessary," says H. W. Paik, a Hyundai Motor Co. executive. "Chairman Chung (Hyundai board chairman Chung Ju Yung) is like a grandfather to us."

Statistically, the gains Korean workers have made over the past 17 years are striking. Between 1963 and 1975, average real wages increased by 7 per cent annually. In 1961, per capita income in South Korea was about $100. Last year, it was about $700.

Moreover, there is some evidence to support the government's claim that income is distributed more evenly in South Korea than in other developing countries.

A 1970 study published in Great Britain showed that the poorest 40 per cent of South Korea's population earned 18 per cent of the country's income—far better than the same group fared in such Latin American countries as Honduras or Ecuador, better than in the Philippines, and about the same as in Taiwan.

"There is little doubt that there has been a substantial improvement in the income and welfare of the entire population," a World Bank study recently concluded.

In some of the newer industries that mark Korea's next stage of development, the wages are far above the standards of the old textile mills and shoe factories. An average auto worker in the Hyundai Motor Co. plant, for example, earns about $200 a month. Skilled workers earn considerably more.

Management and government officials argue that wage rates cannot climb too rapidly or South Korea industries will lose their competitive advantage in international markets. Low wages in the shoe and textile factories helped launch the country's economic boom in the 1960s, and they are still very much a factor as the big move is made to heavy machinery and more sophisticated export products.

South Korea has begun to cut into Japan's shipbuilding markets because, in part, its wage-scale in shipyards is only about one-third that of Japan.

But the pressure from below for a bigger slice of the pie will continue to grow, according to those who have watched the stirrings of textile workers. One scholar who has long studied the workers' scene said that despite the gains of the past 15 years, there is a sharper sense of inequality today among those who have made the smallest advances.

"The general standard of living is going up, but the aspirations are going higher," he said. "There is a greater sense of deprivation when the people see that some are living in homes that are like castles."

MANDATORY RETIREMENT

Mr. PERCY. Mr. President, when I voted for passage of H.R. 5383, which would raise the mandatory retirement age from 65 to 70, I did so because I believe it is unfair to meet the employment needs of younger workers by denying those of older workers. Many people are able to work beyond age 65, and although the trend today is toward early retirement, those older workers who are able to work and desire to do so should not be denied that option.

However, although I voted for H.R. 5383, I did so with grave misgivings. I was, and still am, deeply concerned about the possible adverse impact this bill could have on the employment and advancement prospects of younger workers and on business productivity. I am sure that many of my colleagues who voted for H.R. 5383 share my concerns. We feel more information is needed on the possible impact of this bill on younger workers. For that reason, I ask unanimous consent that material sent to me by Mr. Arthur M. Wood, chairman of the board of Sears, Roebuck & Co., be printed in the RECORD at the conclusion of my remarks. I am sure that my colleagues will find Mr. Wood's material interesting, and I hope that they will keep it in mind when the conference report on this bill comes before us.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EMPLOYMENT IMPACT STATEMENT—INCREASING THE MANDATORY RETIREMENT AGE TO 70

The Congress is considering legislation (H.R. 5383, S. 1583 and others) which, among other things, would prohibit mandatory retirement prior to the age of 70 in private employment.

Present Sears, Roebuck and Co. policy permits voluntary retirement as early as age 60 (55 with 20 years service) and provides for mandatory retirement at 65 (63 for certain executives).

QUESTIONS

1. What impact would the legislation have on Sears employment opportunities for:
   (a) Full time non-exempt employees
   (b) Exempt (management) employees
2. What impact would the legislation have on the national labor force unemployment rate?
3. What other factors should be considered?

SEARS FULL-TIME NONEXEMPT EMPLOYEES

In an average year approximately 3,100 full-time non-exempt employees retire from Sears. If the mandatory retirement age were increased from 65 to 70, it is likely that as many as one third of these employees would choose to continue working.

If proposed present legislation were to become law, it would take 5 years before normal retirements in full force would reoccur. Over this period there would be 5,100 fewer full-time job openings for new entrants into the Sears workforce. This would reduce the Company's full-time new hire rate by about 7 percent. In addition, each retirement in the past has triggered approximately four promotional opportunities. As a result, the net effect of the five-year extension would be the loss of 20,000 job change opportunities. This would reduce the total number of non-exempt level job moves within the Company by 8.3 percent. Particularly affected, as far as promotional opportunity is concerned, would be minority employees who have been joining the Company full-time workforce at ever increasing rates, and female employees who, in recent years, have earned an increasing share of Company promotions.

This data, of course, assumes that only one third of those employees over 65 continue working, the reduction in the full-time new hire rate would rise to 10.3 percent and the reduction in job change opportunities would rise to 12.5 percent.

SEARS EXEMPT EMPLOYEES

In a normal year approximately 285 exempt employees retire. By increasing the average mandatory retirement age of Sears' exempt employees from 64 (which it is today) to 70, it is again assumed that as many as one-third of these employees would continue working. Effective with the passage of this legislation, it would take 6 years before normal retirements in full force would reoccur. Over this period there would be 560 fewer exempt openings for new employees to fill. This would reduce the rate at which the Company assimilated new exempt employees into its workforce by 7 percent. In addition, each exempt retirement in the past has generated approximately six promotional opportunities.

Consequently, the net effect of the six-year extension would be the loss of 3,800 job change opportunities, and would reduce the total number of job moves by 12.0 percent. Again, those most acutely affected as far as promotional opportunity is concerned would be the middle management minority and female employees. These figures, of course, are assuming that only one-third of those employees over 64 continue working. If as many as one-half continue working, the reduction in exempt employee assimilation into the Company would be 10.2 percent and the reduction in job change opportunities would be 13.1 percent.

EFFECTS ON NATIONAL LABOR FORCE UNEMPLOYMENT RATE

Currently there are 4,158,000[1] employed workers in the age range of 60–64. Of this group roughly 2,040,000[2] normally would be expected to retire by the age 65. However, if the mandatory retirement age were extended to 70 in 1978 a certain proportion of these employees could be expected to retain their jobs. If this proportion were one-third, the net effect would be a reduction in job openings of 136,000[2] a year for each of the five years between 1978 and 1982, the time at which the normal retirement flow would begin to reoccur. In 1978 this would raise the national unemployment rate by .14%. This tendency to increase the rate of unemployment would, of course, be cumulative and become greater each year.

By 1982, this longer working life would have eliminated 680,000[2] job openings and increased the unemployment rate by .6%. Of course, this projection assumes that only one-third of the potential retirees continue working. If one-half continue working the additional five years the potential increase in the unemployment rate by 1982 and beyond could exceed 1.0%.

Thus far only employed people in the 60–64 age range have been consiedred. Currently, of the 24,000,000[2] people over 60 who are nonparticipants in the labor force, roughly 8,000,000[3] are retirees. It is impossible to determine how many may decide to re-seek employment if the retirement age were extended. However, if only 5% decide to seek jobs, this alone could increase the unemployment rate in 1978 by .4%. Figure 1 illustrates how both the reduction in job openings due to fewer retirements and the increase in job seekers as people come out of retirement could potentially affect the nation's rate of unemployment.

FIGURE 1

Date	Estimated civilian labor force [1]	Estimated reduction in job openings if ⅓ of employees who would have retired at 65, continue work	Estimated labor force reentrants if 5 percent of current retirees seek employment	Increased unemployment rate by extending retirement age to 70 (percent)
1978..	99, 183, 000	136, 000	400, 000	0. 5
1979..	101, 464, 000	272, 000	400, 000	. 7
1980..	103, 798, 000	408, 000	400, 000	. 8
1981..	106, 185, 000	544, 000	400, 000	. 9
1982..	108, 627, 000	680, 000	400, 000	1. 0

[1] Assumes 2.3 percent annual growth rate from 1976 base.

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[1] Employment in Earnings (BLS), January 1977, Table 1, pg. 138–9.

[2] Derived from Employment in Earnings (BLS), January 1977, Table 1, pg. 138–9.

[3] Derived from Handbook of Labor Statistics (BLS), 1976, Table 8, pg. 44.

In 1978, the impact of extending the mandatory retirement age could increase the unemployment rate by one-half of one percent. This indicates that if 1978 unemployment is estimated at 6.5 percent, the enactment of this legislation could well raise this estimate to 7.0 percent. In 1982 and beyond the accumulated effect could increase the unemployment rate by as much as 1 percent.

IV. ADDITIONAL FACTORS

In addition, other oft-mentioned factors which, while difficult to quantify at the moment, can undoubtedly be anticipated, such as—

1. Reduced employee morale and increased litigation as a result of the termination of those older employees who are no longer able to perform job responsibilities,
2. Increased costs of life insurance coverage, disability pay and medical/hospital coverage,
3. Reduced productivity due to increased illness absence at higher age levels.

SUMMARY

In summary, this legislation, if passed as proposed, would—

1. Over time, probably extend the average retirement age for Sears—

exempt employees from 60 to 66,

non-exempt employees from 62 to 67,

2. Reduce substantially the number of new entrants into the work-force, both in Sears and nationally, thereby increasing pressure on the unemployment situation,
3. Reduce quite significantly, advancement opportunities for those presently employed because of fewer job openings,
4. Severely hamper affirmative action programs to recruit and advance minorities and women.

FAMILY FARMERS COMMENT ON PROPOSED INTERIOR DEPARTMENT REGULATIONS FOR THE SALE OF EXCESS LAND

Mr. ABOUREZK. Mr. President, the Interior Department's proposed regulations for the sale of excess lands in Federal reclamation projects have caused a great deal of controversy and confusion. Many people have been claiming that the regulations would allow the Secretary of the Interior to confiscate land, set acreage limitations that would make farming impossible, and violate individual property rights. In fact, the regulations are rather mild. Federal reclamation projects involve billions of dollars in Federal tax subsidies. All too often, these subsidies are going to wealthy nonresident investors, rather than to the small family farmers the law was intended to benefit. This week, a group of farmers in South Dakota—United Family Farmers—sent in their comments on the proposed regulations. UFF is a large organization of family farmers in South Dakota that has taken an active and effective interest in reclamation projects. Their detailed comments on the regulations show that family farmers, contrary to what some groups are saying, do favor the regulations. In fact, UFF believes the regulations do not go far enough. I believe that anyone interested in this subject should read their comments carefully. I ask unanimous consent that their comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

COMMENTS OF UNITED FAMILY FARMERS, INC.

United Family Farmers, Inc. is a South Dakota non-profit corporation. At the present time its membership is comprised of more than 500 farm members. During the past several years more than 1000 people have contributed time and money to achievement of the organization's purposes.

The corporate purposes are stated as follows:

"To encourage careful and prudent soil, water, air and other resource conservation;

"To cooperate with appropriate local, state and federal agencies and with individuals and other associations engaged in activities and purposes likely to preserve and improve that social structure and climate in which the family size farm will flourish as an economic and social unit;

"By all lawful means to oppose and defend against the practices and policies of those local, state and federal agencies and those individuals and other associations which appear likely to threaten the continued health and vitality of the family farm unit."

For the past four years the United Family Farmers has taken an active interest in questions relating to the enforcement of the acreage limitation and residency requirement in reclamation law. The organization, at the direction of its membership, has been closely involved with the planning of the proposed Oahe Diversion Unit, South Dakota, and other federal reclamation projects in North Dakota, South Dakota and Nebraska. Pursuant to this interest it has observed the effect that reclamation programs appear to have on family sized farms. In addition, it has become knowledgeable concerning the Bureau of Reclamation's attitude toward acreage limitation and residency. Especially with the Oahe Project, UFF has continually attempted to gain enforcement of these legal requirements at early stages. To this end, it has pursued litigation against the Bureau to the Eighth Circuit Court of Appeals. These activities along with the corporate purpose of preserving family farms makes United Family Farmers, Inc. particularly qualified to speak to the need of the proposed regulation and to critique them.

The proposed regulations regarding excess land sales and enforcement of the residency requirement receive the hearty and enthusiastic support of the United Family Farmers, Inc. As an organization and as individuals we have for years watched with dismay as the Bureau of Reclamation and the large landowners who form the constituency of that administrative agency, actively subverted the clear and honorable purpose of reclamation law. Viewing this subversion is particularly painful to our members, the majority of whom have grown up enjoying the great benefits of an economy and a society based upon family-size farms. That the federal executive has the courage, understanding and forthrightness to undertake enforcement of these laws is encouraging beyond words.

The comments that follow include a number of specific criticisms of these regulations. In several situations we feel that the regulations inadvertently create large loopholes through which the large landowners will slide. We have indicated these. We have also pointed out the strong points of the regulations.

United Family Farmers is particularly pleased that the regulations contemplate enforcement of the residency requirement, which requirement we feel to be the most important single provision in reclamation law. Farms are meant to be farmed by people who live on the land. They do not exist for the benefit of absentee investors. A broad based land tenure system creates strong democracies. A widespread system of farm tenancy is an evil which the United States government and the American people have resisted throughout this century. Our organization stands with that policy.

COMMENT

That ". . . power always follows property [is] an infallible . . . maxim in politics." John Adams, *Works*, Vol. *IX*, p. 376; quoted in Coker, "American Traditions Concerning Property and Liberty," 30 Am. Pol. Sci. Rev. 1 (1936).

"National land policy from the start right down to this day has attempted to structure land policy in a way to encourage 'family-size' farms and owner-operatorship." M. Kelso, "National Land Policy and the Development of Agriculture: The American Experience," in *National Land Policy In America* (1956).

"[T]he form of agricultural organization that maximizes profit may not necessarily be the form desired for society." United Nation's Food and Agricultural Organization, World Land Reform Conference, Country Paper: Unitel States of America 3 (1966).

Lord Macauley said we never would experience the test of our institutions until our public domain was exhausted and an increased population engaged in a contest for the ownership of land. That will be the test of the future, and the very purpose of this bill is to guard against land monopoly and to hold this land in small tracts for the people of the entire country. . . . Convey this land to private corporations and doubtless this work would be done, but we would have fastened upon this country all the evils of land monopoly which produced the great French revolution which caused the revolt against church monopoly in South America, and which in recent times has caused the outbreak of the Filipinos against Spanish authority." Congressman Francis G. Newlands, 35 Cong. Rec. 6734 (1902). Debate on Reclamation Act of 1902.

"Public policy in the United States has favored wide distribution of the rights of ownership in land. Prospective farmers have been encouraged to acquire, develop, and operate individual farms. This policy is still being followed. However, the great bulk of the area that can be profitably developed and used for agriculture has already been brought into use." Libby & Barlowe, "Policy Choices Affecting Access to Farmland," in *Who Will Control U.S. Agriculture?* at 23 (1972).

"It is argued by some that as wealth grows larger in a few hands the opportunities of the laboring classes to secure employment are multiplied. . . . [B]ut looking a little beyond immediate benefits, it appears that the tendency under such a condition is to dwarf self-reliance in the masses and to make the mere service of opulent employers by the great army of breadwinners the fulfillment of all human ambition. I think it is the duty of the legislator to pursue a policy under which the greatest possible number of our people may be provided with the means of independent employment, by which the aspirations of the individual may be encouraged and developed." Sen. Hansbrough, 35 Cong. Rec. 1386 (1902). Debate on Reclamation Act of 1902.

"It has been demonstrated historically and is true in many countries today that those who control the land end up controlling the country." Sen. G. Nelson. Hearings Before Subcommittee on Monopoly of Senate Select Committee on Small Business, 90th Cong. 2d Sess. 199 (1968).

"Acreage limitation is, in every respect, the most important part of reclamation law. The excess-land provisions are the most economically significant, the most controversial, the most frequently litigated—and the most violated." J. Sax, "Federal Reclamation Law," 2 *Waters and Water Rights* § 121, p. 209 (Clark, ed. 1967).

RESIDENCY

United Family Farmers, Inc., considers full enforcement of the residency requirement to be the critical provision of reclamation law, and urges that the regulation not be compromised on this point.

The acreage limitation, if properly implemented, can break up large land holdings. The residency requirement guards against speculative investment in those lands and insures that only bona fide farmers receive the heavy federal subsidy. The acreage limitation without the residency requirement cannot work.

Without residency, subsidized water will certainly go to absentee investor owners. That is, the acreage limitation will break up large holdings, but these will be divided into parcels, or "shares" for outside absentee investors—a result not intended by Congress. However, when the acreage limitation is joined with residency, it follows that as large land holdings are broken up, they will necessarily be sold to bona fide resident farmers. Then and only then, will the objectives of Congress be achieved.

The acreage limitation laws are not mere surveying laws dictating the size of tracts in irrigation districts; rather, they have a purpose and that purpose is to put people on the land in family size units. Without a residency requirement we will have little more than a technical requirement, as loopholes are readily available to the sophisticated. Examples of these loopholes may be found in section 426.7 and section 426.8 of the proposed regulations. However, when a strict residency requirement is imposed upon the acreage limitation the overall system takes on the logic of the clear goals manifested in the legislation.

Discussion of the various forms of joint ownership available to landowners in federal irrigation districts, such as partnership, co-ownership, trust ownership and the like, highlight the absolute need for the residency requirement. It is very likely that, despite the finest efforts of the Department of Interior to anticipate by regulation the sophisticated forms of common ownership that will be used in attempts to subvert the excess land law, ingenious counsel will continue to develop new legal forms that will not fall within the proscriptions of the regulations. Anyone who has observed development of federal tax law, and certainly the development of acreage limitation enforcement, is well aware that the technical ingenuity of attorneys is without limit. The proposed regulation should deal with this fact realistically. The best way to deal with it is to enforce the residency requirements strictly. The achilles tendon of joint ownership forms is that the investors in them, and upon whom they are dependent, are not farmers and do not intend to go to the land and farm the land. As Sax states in his work titled "Federal Reclamation Law" at p. 222:

"Accomodations of the legitimate need for such forms of ownership and protection against the dangers they create for the integrity of acreage limitation policy must be found, not only in the excess land provision, but—even more important—in the revival of the virtually forgotten residency requirement. The danger presented by such entities as trusts is not one of mere aggregation of ownership; as we have seen, such ownership may be consistent with the excess land law. The danger is that water may be supplied for ownerships which are merely investment interests rather than true working interests in the farms. It is submitted that the problems of forms of ownership would be substantially diminished if the residency requirement—which is, after all, a federal law that has never been repealed—were enforced along the lines suggested in the paragraphs following and in the later discussion of the residency provision."

If each beneficial owner of a legal form met the residency requirement every recipient of project waters would have a working relationship to the land rather than an investment relationship. This is what the residency does—it undertakes to insure that the acreage limitation can work.

Unduly restrictive regulations upon the forms of ownership that can exist creates the potential of actually damaging family farm ownership. That is, under modern tax law, numerous forms of ownership actually make it easier to acquire capital and move into family farms. The "Sub-Chapter S" corporation is one example.

If the regulations are aimed at eliminating all common forms of ownership, there is a risk that they will make this attractive legal form unavailable to legitimate family farmers. But, the regulations need not be unduly restrictive in this matter if the residency requirement is there. Across the midwest many legitimate family farm operations are organized as corporations, partnerships, Sub-Chapter S corporations and the like. The purpose of forming the corporation is to facilitate intergenerational transfers, and to make it possible for one generation to transfer operational farms to the next generation during the lives of the senior generation. These goals are important—and they have a great deal to do with the survival of family farms—and these regulations should not ignore them. Again, the way to allow these useful legal forms to co-exist with reclamation projects is to strictly and enthusiastically enforce the reclamation residency requirements. In fact, we believe that the acreage limitation will remain unenforceable so long as the residency requirement is not enforced.

RESIDENCY: THE "NEIGHBORHOOD" ISSUE

Sections 426.4(j), (k), and (l) defining "neighborhood" for purposes of the residency requirement provide a large loophole for those seeking to subvert the regulations. These sections must be made more restrictive if the purpose is to be achieved.

Sections 426.4(j), (k), and (l) represent a major loophole inadvertently placed in these regulations by the Secretary. First, they allow unrestricted speculation in vast acreages of lands receiving federal water; and, second, they do nothing to insure that the resident of a farm is a bona fide farmer. We feel that the definition of "neighborhood" must be made more strict and that the definition of a resident must make reference to bona fide farmers.

If these sections are not made more restrictive, we can readily imagine real estate salespersons in the towns and cities of the midwest using their compasses on land maps to chart fifty mile circles around the towns and cities in which potential investors reside. The lands within the circle will be coveted "speculation lands" for investors. It will be these lands that the real estate agents will attempt to acquire and resell to investors for speculative purposes. For these lands the acreage limitation will be a sham. And, we note, that a circle with a radius of fifty miles encompasesses a vast acreage.

In South Dakota and other midwestern states the population is not concentrated in a few large cities. Rather, we enjoy a dispersed commerce found in a number of medium sized and small towns and cities. These towns and cities all contain considerable numbers of people who would qualify and be anxious to participate as investors for speculation purposes. It will be very difficult to draw 50 mile circles in South Dakota without encompassing one or two or three of these towns.

In addition, the sections encourage further abuse by families who establish "non-farm family compounds," in rural areas for purposes of complying with the regulations.

Thus, we see that in this area the regulations that are proposed have departed from the clear purpose of the statute—to provide family farm opportunities, not investment opportunities. Whenever this goal is forgotten the loopholes open. What is essential is that the regulations be revised to require that the resident be a *bona fide farmer*, actually farming on a day to day basis, the residency is close to the farm, and the residency has not been established in order to subvert the clear purpose of the law.

We should add that a 10 to 15 mile radius for purposes of defining a "neighborhood" would be acceptable, provided the Secretary is required to make an independent validation in each case where the farmer does not live on his farm. Anyone who lives more than 15 miles from his farm, to our experience as farmers, is probably not a bona fide farmer. You cannot commute to a farm business the way you can commute from the suburbs of Virginia to downtown Washington, D.C.

Our specific proposal is that Section 426.4 (k) be revised to state a maximum fifteen mile radius from the particular tract of land. In addition, a sentence should be added to that section stating: "whenever a resident owner does not reside on the particular tract of land receiving water from a federal project governed by reclamation law, the Secretary shall make an independent validation to insure that the resident is a bona fide farmer, operating the land on a day to day basis, and relying on the farm as a principal source of family support." In addition, Section 426.4 (1) should add an additional requirement to the definition of "eligible non-excess owner." That additional requirement should be that the owner is "a bona fide farmer, operating the land on a day to day basis, and relying upon the farm as a principal source of family support."

We have examined the law of federal reclamation to determine whether the fifty mile radius is somehow mandatory as a definition of neighborhood". We find nothing to support this possibility, although the annotations to § 5 of the Reclamation Act of 1902 make mention of the departmental decision of January 20, 1909 that the term "in the neighborhood" is held to mean within 50 miles. As we explained above, we feel that this definition defines the clear and certain purpose of reclamation law. That being the case the Secretary would be in error to rely upon the ancient and misguided administrative decision which has, apparently, never been subjected to legal scrutiny.

RESIDENCY

The residency requirement is still in force.

The issue of whether the residency requirement is still in legal force is critical, but it is only critical because the Bureau of Reclamation and the large landowners that benefit from project subsidies can point to a history of steadfast resistance to the residency requirement. The argument that residency is repealed is supported only by bureaucratic resistance and inertia and the greed of large landowners. Professor Sax probably put it most accurately at p. 240 of his work when he said that the residency requirement was "administratively emasculated." Our review of the law leaves no doubt in our mind that the residency requirement is in full effect. Whenever it has been independently reviewed it has been upheld.

Apparently the Bureau and the landowners have argued that § 46 of the Omnibus Adjustment Act of 1926 in some way repealed the residency requirement of § 5 of the Reclamation Act of 1902. The 1926 Act requires the Secretary of Interior to contract with irrigation districts directly for the construction of reclamation projects and the repayment of construction costs. The contract must provide that landowners be required to sign recordable contracts wherein they agree to sell their land holdings in excess of 160 acres as a prerequisite to the receipt of project water for their excess land. Apparently the argument is that since residency was not mentioned in § 46, that section takes the place of § 5 of the 1902 Act and effectively deletes reclamation. This argument is more wishful thinking than legal argument.

The only recorded adjudication of the issue is the case of *Yellen v. Hickel*, 335 F. Supp. 200 (S.D. Cal. 1971). That case arose from a suit seeking to compel the Secretary of Interior to enforce the residency requirement of the Reclamation Act of 1902. The court clearly upheld the residency requirement against the best argument of the United States government. At page 203, the Court said:

"Statutory construction of § 5 and § 46 reveals no repugnancy whatever. Section 5 requires that there is no right to use water on tracts of any one owner of over 160 acres and that no water shall be sold to anyone not occupying the land or residing in the neighborhood. Section 46 establishes a system whereby the Secretary no longer sells to individuals, but to irrigation districts instead, and provides for a situation not contemplated in the original Act where water would be supplied through the irrigation district to private landowners of more than 160 acres in addition to settlers on public lands opened up for entry under the original reclamation law. There is no inconsistency in applying the requirements of § 5 at the same time with those of § 46. The latter merely provides for the sale of excess lands over 160 acres if the private owner wants reclamation project water. Section 5 requires that you be a resident to get water at all. A literal reading of both statutes then reveals no implied intent on the part of Congress that the earlier statute would be repealed by § 46. Since both can stand by reasonable construction, that construction must be adopted. . . .

* * * * *

"The Reclamation Act of 1902 was enacted after a long history of monopoly of and speculation in the arid lands of the west. This background resulted in a national policy of anti-monopoly and anti-speculation which found expression in reclamation law. It is this policy which provides possibly the strongest rationale holding the residency requirement in force. From its very inception reclamation policy had been to make benefits therefrom available to the largest number of people. The 1902 Act contained a 160 acre limitation, required that users be bona fide residents, required that the reclamation water right be appurtenant to the land, and provided that right to the water be limited by beneficial use . . . These devices were incorporated into the bill in order to prevent land monopolization and profiteering by large corporations to the detriment of the intended beneficiaries of the Act . . . the idea was to create a class of self-reliant family farmers. . . .

* * * * *

"National policy, as expressed in reclamation laws is to provide homes for people. Homes are possible only where speculation and monopolization are not possible . . . the residency requirement in Section 5 is a sound expression of that national policy. It's repeal by implication would be contrary to the purpose for which Section 5 was enacted. Early in reclamation history events showed that "under the private project where residence is not required, the developments have been very largely along the lines of the creation of tenant farms." . . . *Failure to enforce residency subverts excess land limitations which Ivanhoe, supra, specifically upheld.* Through the use of corporations, trusts and co-tenancies, flagrant violations of the purposes of this limitation are possible. Each of these farms may be used to bypass the acreage limitation. The policy behind reclamation law to aid and encourage owner operated farms requires enforcement of the residency requirement to prevent these violations. 335 F.Supp. 200 at 207–08." (Italics added)

In his work titled "Federal Reclamation Law," in *Waters and Water Rights* (Clark, ed.) at page 121, Professor Sax, generally recognized as the leading scholar on reclamation law in the United States, makes the following comments with regard to residency:

"Unfortunately, the residency provision has been administratively emasculated so that today it is virtually inoperative. Originally the residency-occupancy requirement was applied not only to the first applicants for project water, who were required to live within 50 miles of the project, but to all users, as long as construction charges remained unpaid. But in 1916 it was ruled that the provision was applicable only at the time the original water-rights application was made. It is most difficult to see the justification for so narrow a reading of the restriction. *Without question this interpretation should be abrogated, and the provision should be restored to its original importance.* If this were done, water would be supplied only to farms that were owner-operated, and water would be denied to all farms operated by lessees and owned by absentee landlords with only an investment interest in the farm." (emphasis added).

The section dealing with residency requirements from the Sax work are attached hereto as Appendix A.

Section 508 of the Soldiers and Sailors Civil Relief Act of 1940, 54 Stat. 1189, 50 U.S.C. § 568, October 17, 1940 states:

"The Secretary of the Interior is hereby authorized, in his discretion, to suspend as to persons in military service during the period while this Act remains in force and for a period of six months thereafter or during any period of hospitalization because of wounds or disability incurred in the line of duty that provision of the Act known as the "Reclamation Act" requiring residents upon land in private ownership or within the neighborhood for securing water for the irrigation of the same, and he is authorized to permit the use of available water thereon upon such terms and conditions as he may deem proper."

This important statute makes specific reference to the residency requirement. Apparently the author of the statute found the residency requirement of sufficient importance in 1940 that a separate section of this statute was dedicated to addressing the impact of the residency requirement upon members of our armed services. It is unlikely that such an effort would have been directed at a requirement that was not law.

During the 80th Congress, 1st Sess. in 1947, S. 912 was introduced. That Act would have exempted a number of projects from "land-limitation" provisions, which were defined to include provisions "relating to residency and occupancy." The Act was not enacted, but it was debated. The interesting point concerning that statute is that the projects that would have been exempted were authorized after 1923. This suggests that those Congressmen associated with the Act assumed residency applied. It is noteworthy that the Senator introducing the bill was Sheridan Downey of California, an individual who had a reputation for sophisticated understanding of western water problems.

The General Accounting Office apparently agrees that the residency requirement was never repealed by Congress. In their November 30, 1972 Report to the Congress, titled, "Congress Should Reevaluate the 160-Acre Limitation on Land Eligible to Receive Water From Federal Water Resources Projects," they state:

"Although the Reclamation Act of 1902 required that no project water be sold to a landowner for use on his land unless he was an actual bona fide resident on the land, the *residency requirement was enforced less and less over the years and finally its enforcement was discontinued.*" (emphasis added).

And in the end, perhaps the strongest argument against those who oppose the residency requirement is simply that their argument is based upon repeal by implication. That is, they admit that Congress did not expressly repeal the residency requirement, but that the repeal must be implied from subsequent legislation. The standard rule of statutory interpretation is that repeals by implication are not favored. In the case of *Posadas* v. *National City Bank,* 296 U.S. 497, 503 (1963), the Supreme Court of the United States laid down the principal:

". . . The intention of the legislature to repeal must be clear and manifest; otherwise, at least as a general thing, a latter act is to be construed as a continuation of, and not a substitute for, the first act, and will continue to speak, so far as the two acts are the same, from the time for the first enactment."

EARLY ENFORCEMENT REQUIRED IN NEW PROJECT CONSTRUCTION

The proposed regulations should be expanded to require enforcement of the residency and acreage limitations at the outset of new project construction.

". . . [S]peculative fever is principally a product of the early years of a projects life." Sax, "Federal Reclamation Law" in *Waters and Water Rights* 228 (Clark ed.).

United Family Farmers, Inc. recommends that the proposed regulations be revised to include procedures that will insure that the numerous new projects now under construction, or being considered for initiation, will be subject to early enforcement of the residency requirement and acreage limitation.

Section 426.2(b) states that these regulations ". . . apply to all existing excess lands." The objective is admirable, but any attempts to correct the long-term breach of the laws of federal reclamation must also cut-off the problem at its source—new projects. The reason the problem of non-resident ownership and excess lands exists is because the Bureau of Reclamation failed to enforce the law during early stages of major project construction. Without specific regulations it is fair to assume that the Bureau will continue to delay initial enforcement until the latest possible stages in a project's history.

It is the belief of United Family Farmers, Inc. that the Bureau develops projects in a way that makes ultimate enforcement of the residency and acreage laws—enforcement which is the goal of the proposed regulations—extremely difficult, if not highly unlikely. First they gain political support for a particular project by minimizing the effect and applicability of acreage and residency limits. *Without question the Bureau, during early efforts to create enthusiasm for a planned project, assures large landowners that "There are ways to get around the law."* Once project authorization is secured and construction moneys are flowing, the Bureau delays acquisition of recordable contracts until water is ready for delivery. This is often a matter of years—usually decades. During this extended period speculation in project lands is often widespread, and unchecked, contrary to the purpose and intent of reclamation law.

This speculation allows project benefits to leave the project even before water is delivered. There is a direct correlation between speculation in project lands and the ability of farmers to purchase irrigated lands. Similarly, there is a direct correlation between speculation in project lands and the ability of farmers who have bought lands to retire their debt and pay interest (land purchase, land improvement, and project repayment), all essential prerequisites to financial survival. William E. Warne, former Assistant Secretary of the Interior, in "Land Speculation . . ." The Reclamation Era 176, 180 (August 1947:

". . . [I]n the main those projects on which the greatest amount of speculation occurred in their formative years had, a few years later, the most delinquency. The delinquency on projects which had had relatively little speculation was negligible.

"Studies have shown that even a 70 and 80 percent rise in the price of land would increase payments on farms on the Frenchman-Cambridge Unit of the Missouri Basin Project in Nebraska and on the Ogden River Project in Utah to a point at which the ability of the farmers to pay for irrigation construction would be wiped out."

The next development that we have observed is that projects are substantially constructed before recordable contracts are required. This delay has two impacts. First, by it the Bureau has created conditions under which it is highly unlikely that water delivery to excess landholders will be terminated because to do so would be to cut off the source of revenue needed to pay for the project. Second, by this stage in project development control over local contracting boards, i.e., water user's associations, has typically passed to the large (excess) landowners. These landowners, who have every reason to resist enforcement of residency and acreage limitation laws, are then asked by the Bureau to enforce acreage limitation, as required by the terms of the master contract. Thus, by a series of calculated steps during the early stages of project development, the Bureau puts the non-enforcement "bunny in the hat," and contributes to the pattern of law-breaking with which the Secretary of the Interior is now attempting to deal.

Non-enforcement during early stages of reclamation projects also encourages speculation by those who might benefit from replenishment of the groundwater by delivery of federal water. This occurs because individuals in project areas may find that due to replenishment of groundwater by surface delivery, and reduced pumping of groundwater by surface delivery, and reduced pumping of groundwater by surface users, they do not need to call for water delivery and therefore don't need to sign a recordable contract. If these individuals were compelled to sign recordable contracts, they would have to weigh their desires for the project against the prospect of losing their excess lands. As it is they run no risk. They may speculate freely in advance of water delivery. They get project benefits without calling for water delivery, and they incur no financial obligation to pay for the project.

United Family Farmers, Inc., has observed this process at work with the proposed Oahe Diversion Unit in South Dakota. Pursuant to our corporate purposes we requested the Bureau to activate anti-speculation efforts before construction began. This they vigorously refused to do. In the case of *United Family Farmers, Inc.* v. *Kleppe,* 552 F. 2d 823 (C.A. 8, 1977) [Appendix B], we asked the federal courts to enforce Section 12 of the Reclamation Extension Act of 1914, 38 Stat. 689, which requires execution of recordable contracts prior to initiation of project construction. The purpose of this litigation was to reduce land speculation in the Oahe project area and thereby increase the family farming opportunities there. The U.S. Circuit Court of Appeals for the Eighth Circuit held that Section 12 had been repealed by Section 46 of the Omnibus Adjustment Act of May 25, 1926, 44 Stat. 649.

As a result of our inability to compel the Bureau of Reclamation to pursue early execution of recordable contracts, speculation in Oahe project lands did occur. Evidence of this is obtainable from real estate experts in the project area. It is also made apparent as a project motive in a letter from Mike McHugh to the members of Friends of Oahe, an organization of project supporters, included as Appendix C to these comments. In that letter McHugh notes that among the effects of Oahe Project termination is that ". . . your land values which had begun to reflect the Oahe Project will begin to drop."

It is our opinion that present legislation—Section 46 of the Omnibus Adjustment Act of 1926—authorizes the Secretary to call for the execution of recordable contracts at any time before project water is delivered. We strongly recommend that the regulations under the consideration be revised to require the Bureau to call for recordable contracts prior to initiation of project construction. This will avoid land speculation and insure that the project is not supported by large landowners having no intention of complying with acreage limitation or residency laws.

RESPONSIBILITY FOR ENFORCEMENT

The proposed regulations should be revised to include rules that make responsibility for enforcement clearly that of the Secretary, not the various water user's association's with whom the Secretary contracts.

As already suggested earlier, one of the devices relied upon by the Bureau of Reclamation to insure against effective implementation of acreage limitation laws has been delegation of authority. By making acreage limitation a condition of the master contract with water users associations the Bureau can claim to have delegated the authority for enforcement. The fact that the authority and responsibility for enforcement has been delegated to organizations serving the interests of excess landowners is not usually included by the Bureau as part of its claim.

This process is well described in a letter of July 8, 1976 from G. G. Stamm, Commissioner of Reclamation to the Honorable Teno Roncalio:

"The enforcement of acreage limitation provisions is accomplished through the irrigation district which is obligated under a contract with the United States to withhold delivery of water to ineligible lands. The various irrigation districts in the Upper Missouri Region, in which ineligible excess lands are being served, have been advised of the problem many times in the past but have not carried out their contractual obligation in this regard, and the problem has persisted."

Later in the same letter the Commissioner, describing recordable contracts, says "the form of a recordable contract . . . [was made] . . . available to the various irrigation districts in that region, . . . for consideration by each excess landowner who wishes to comply with Reclamation law by entering into such a contract." (A copy of the full letter is Appendix E.)

The point is that if enforcement of residency and acreage limitation is ever to be achieved it will be necessary for the Secretary to assume responsibility for enforcement, and cease the practice of delegation to excess landowners acting through water user associations.

DEFINITION OF FAMILY AND BENEFICIAL OWNERSHIP

The proposed regulations should be revised to restrict the definition of family ownership so that it more realistically reflects the obvious intent and purpose of the Act.

The proposed regulations at §§ 426.4(b), 426.7, and 426.8 are not consistent with the clear purpose of acreage limitation law and policy and provide a mechanism for ready circumvention of the law by large landowners. United Family Farmers strongly recommends that these provisions be revised to apply the limitation to families, rather than to individuals.

According to the terms of § 426.4(b), 320 acres owned by husband and wife is considered non-excess. Section 426.7 allows each family member to "own" 160 acres as non-excess. Section 426.8 allows one person to lease 160 acres.

What this means is that the average family of two adults and two children can own 640 acres of land not subject to treatment as excess land. Moreover, each of these family members is eligible to lease 160 acres. Thus a family of four can farm 1280 acres in a federal reclamation project without violating the proposed regulations. If we were to calculate the rate of federal subsidy per acre at $2000 (a conservative figure) this would mean that one family of four will be subsidized in the amount of $1,560,000 less the sum of repayment. More importantly, however, this means that the concept of family farm as intended by Congress is stretched to non-recognition. The purpose of the reclamation law is to provide farming opportunities for families. The proposed regulations distort this goal by applying the acreage limitation to individuals rather than families. We believe that this misses the point of the statute and defies common sense.

A farm family is normally comprised of several adults and several children. The adults are farmers. The minor children are not farmers, but rather live with their parents in the family home. The proposed regulations, however, assume that minor children are farmers and therefore should receive irrigation water for 160 acres of land. The truth is that they are children in the home and not farmers; they are no more entitled to federal farm subsidies than the minor children of the Commissioner of Reclamation are entitled to the perquisites of that office by reason of being raised in that individual's home.

Minor children of a farmer are just that—minor children. To authorize them to receive project water for 160 acres is merely to employ a shallow fiction that will enable the Bureau to continue its long-standing practice of delivering water to its constituency—the excess landowners. When a minor child of a farmer grows up and wishes to go into farming, we would hope that meaningful opportunity will await him or her. But the opportunity should be that arising from status as a new and independent farmer, not as the recipient of project water through a family connection.

We challenge the Secretary to provide statutory authority for an application of the acreage limitation law that allows a family of four to own 640 acres in a project and lease an additional 640. Further, we find no authority for the provision in § 426.4 that allows a husband and wife 320 acres.

We believe that a motivating factor in the passage of the Reclamation Act of 1902 was a desire to avoid the land monopolizing effects of the Homestead Act of 1862. In the years before 1900, despite the fact that the federal government transferred millions and millions of acres into private hands, relatively few family farms were established and the rate of tenancy on western farms increased regularly. The land and water monopolies gave rise to a political movement that was determined to provide family farming opportunities in the West. The purpose of providing family opportunities so completely pervades the history of this movement that we are hard-pressed to see how the Secretary has converted "family" into "individual".

LEASING

A landowner-recipient of project water should not be allowed to receive water for leased lands.

Again we must bring to the Secretary's attention the fact that the purpose of the laws which he, by these proposed regulations, undertakes to enforce, is to increase family farming opportunities. To allow non-excess landowners to double the amount of acres they farm by way of a lease seems to be regulatory legislation, i.e., in the face of a clear legislative acreage limit, the effect of the rule is to double the statutory limit. How does this rule serve the purpose and intent of the statute, and what is its legislative authority?

The proposed regulations fail to make clear whether the residency requirement applies to lessees of non-excess and excess lands. We recommend that this point be clarified.

Leasing can provide a valid method to assist individuals entering farming. In the midwest it is a common method of obtaining an entree to farming, and, therefore, may have a role to play in providing opportunities. That is, a new farmer entering an irrigation district may not be able to raise the capital to purchase land outright. He may, however, be able to move on land and live on it as a tenant-lessee with the hope of ultimately purchasing the land. We feel that leasing should be limited so that it serves only this goal. The lessee should be a bona fide farmer who is actually residing on the farm or in the neighborhood of the farm. He should be entering the district as a new farmer and should have a reasonable prospect of ultimately purchasing the farm that he is leasing. He must be farming the leased farm as an independent business unit. Leasing should not be used as a device to supplement existing farms. Rather it should be used as a device to initiate new farms, and to provide farming opportunities that might not exist otherwise. The leasing section of the proposed regulation should be thoroughly revised to reflect thinking of this type.

RECORDABLE CONTRACTS

The proposed regulations should be revised to include a requirement that recordable contracts contain a sliding scale for the gradual disposition of excess lands.

The proposed regulations, at § 426.5(2) require that a landowner "shall dispose of his excess land at an approved price . . . within five years." We believe this time period is reasonable but that it's administration can be improved upon substantially. Attached as Appendix F to these comments is a draft recordable contract for use in the Missouri River Basin. This draft contract requires a gradual disposition of excess acreage. That is, a designated acreage of land must be sold the first year, a designated acreage the second year, third year, etc., until by the fifth year of the disposition period all lands are disposed of. This procedure has several advantages. First, it requires that the landowner act in good faith from the beginning. Any failure to sell vests the Secretary's power of attorney as to the land scheduled for sale in that year. Second, it is a convenient device for dividing land into logical parcels for resale to family farmers. Third, it regulates the flow of acreage to the land market, helping to alleviate somewhat the problems that potentially arise when large parcels reach the market at once. Fourth, the provision can be a vehicle for assisting the good-faith excess landowner to achieve a reasonable sale of lands, with reduced impact on his ongoing farm business.

APPRAISAL

Appraisals should be made when the recordable contracts are signed and recordable contracts should be signed prior to or at an early stage of project construction.

Section 426.12(b) of the Regulations requires that appraisals of excess land be made upon request of the landowner or a prospective buyer, or when power of attorney, provided for in recordable contract, vests in the Secretary. We strongly oppose this provision.

The purpose of the appraisal is to determine the land's value without reference to the reclamation project. The reasonable meaning of this is the value of the land as dry land rather than as irrigated or potentially irrigated land. There is only one time when this goal can be achieved with accuracy. That is the time when information on the value of the land as dry land is available. The further along project development has gone, the more difficult it will be for appraisers to place a value on the land that does not reflect the large scale federal investment. When appraisals are postponed for long periods of time, accurate appraisals become virtually impossible, and dry land values become mere speculation.

Moreover, requiring appraisals at an early stage in project development will insure that excess landowners are informed early in the project's history that the excess land laws and residency requirement are going to be enforced as to the particular project. This will result in a standard appraisal of the project by all parties concerned at a time when that appraisal can be translated into decisions.

APPRAISAL

In appraising lands that have been theretofore irrigated by pumping ground water, the appraiser should take into consideration the fact, where applicable, that without project construction the ground water supply would have been depleted and the land without value attributable to irrigation.

The purpose of the appraisal is to determine the land's value without reference to the reclamation project. A particular issue that arises has to do with the fact that a great many reclamation projects are constructed as the result of landowner concerns that the available supply of ground water for irrigation is being depleted. This is the present motivation for many of the proposed irrigation projects in the Northern Great Plains, for example. The lands to be irrigated by federal water are, at the initiation of project construction, under irrigation from pumped ground water. This might suggest that the federal appraisal should appraise the lands at irrigated-land values. But such a value would be highly deceptive in the situation where the ground water supply will in the foreseeable future be depleted, causing the land to be without any value attributable to irrigation. A fair appraisal of the land in situations such as this should be required to take into consideration the rapidly depleting ground water resource. Special procedures to address this problem could be made mandatory for all projects where ground water depletion problems constitute one of the rationales—economic and otherwise—for project construction.

Unless a precaution is taken with regard to this problem, persons owning land at the time of project construction will receive a major bonus in the form of land values that are artificially high and not reflective of the true situation.

CLASS I EQUIVALENCY

Where lands are abnormally unproductive, resulting in the application of a Class I equivalency concept, the Secretary should not recommend project construction.

Of the various methods Congress has employed to exempt or modify acreage limitations, we find Class I equivalency the most acceptable if the residency requirement is strictly enforced. However, we feel that a comment is in order. The Class I equivalency concept purports to deal with that situation where the lands are abnormally unproductive. Projects that involve as much money as reclamation projects simply should not be built where the lands are abnormally unproductive.

DEFINITION OF PROJECT WATER

The definition of project water should be revised to take into account the enhancement of groundwater as a project benefit.

One of the better understood facts of reclamation development is that projects are often built in order to rescue existing irrigation regimes that have improvidently depleted their groundwater source. In response to such depletion Congress exercises its spending power to provide water. Under the proposed rules, however, it is only the recipients of surface water from the federal project that are bound by residency, acreage limitation and other restrictions. Those landowners in the area that do not come into the project, and do not call for delivery of surface water, can receive the greatest benefit of the federal subsidy. This is so because first, fewer people will be irrigating out of the groundwater, and, second, the groundwater source will be replenished by seepage from the federally supplied surface supply. If this is the case, there is a potential group of irrigators who are receiving project water free of any cost or limitation. Those who receive and use federal reclamation water should be subject to these requirements.

The definition of project water should be expanded to include all water taken from federal reservoirs for irrigation purposes in the western reclamation states.

Section 426.4(m) of the proposed regulations defines project water as ". . . water that is furnished by or through federally financed facilities to a District pursuant to a water service or repayment contract with the United States." It is our opinion that this definition is too restrictive and excludes from coverage a potentially large group of farms that receive irrigation benefits from federal water projects of all types. More specifically, we assert that any person who irrigates from a federal reservoir should be subject to the acreage limitation and residency requirement. In support of this assertion we include as Appendix G a copy of a letter dated April 27, 1970 from Assistant Secretary of the Interior James R. Smith to Governor Farrar of South Dakota, along with several supporting documents.

While making this recommendation we must state the most obvious point, less there be a misunderstanding. That is, the acreage limitation and residency requirement apply only to waters taken from federal reservoirs *in western reclamation states*. There is no basis for the contention that § 5 of the 1902 Act, and § 46 of the 1926 Act were meant to apply outside reclamation states.

PUBLIC RESPONSE

The Secretary should, prior to final implementation, seek to foster public understanding of the purposes of the residency and acreage limitation requirement.

The Bureau of Reclamation has available to its extensive resources for educating and informing the public. Members of United Family Farmers, Inc., have personally observed this skill at work as the Bureau has sought to develop public and political support for the proposed Oahe project.

The owners of large acreages who seek to defeat the proposed regulations are taking advantage of the fact that the public does not understand the purpose of residency and acreage limitation. These programs appeal to commonsense when explained. The Secretary should see that the explanation is taken to the people.

SUBSEQUENT SALES

Subsequent sales of excess land should be regulated to insure that profits are not taken out of projects to the detriment of statutory purposes.

Sections 426.5(b), 426.9(b) and 426.10 limit the time period during which the Secretary will regulate subsequent sales of excess lands. We strongly recommend that the Secretary retain price control over subsequent sales for so long as necessary to insure that benefits of the project remain in the project. If this is not done it is certain that the Congressional purpose will be defeated. If early purchasers are allowed to sell out at a higher market value the effects will be two. First, the early purchaser will receive a windfall profit. Second, a potential family farmer seeking to enter the project area will have much higher capital costs, thus making entry or ultimate success less likely. Both results are patently in conflict with the legislative purpose.

The Secretary has the authority to regulate subsequent sales of excess lands, and must do so. Sax, at page 228 of his work on federal reclamation law states:

"The duration of this limitation on control of the price at which lands are sold seems quite explicit. But the provision should be examined with the purpose of determining whether its literal terms adequately cover the problems with which Congress has, in other places, indicated it wants to deal. The idea behind the time limitation is that speculative fever is principally a product of the early years of a project's life. But general reclamation policy might suggest that speculation is not the only problem; the draining off of the reclamation subsidy by nonspeculator sellers of land, at the expense of buyers of land, presents a separable problem which is not mitigated by the passage of time.

"It might be argued that the time limitation is meant to apply only to speculative sales; that the reaping of incremental profits at the expense of new persons coming on the projects, as opposed to sales by mere speculators, is a practice that was not brought to the attention of Congress when the time limitation was imposed and thus Congress cannot be said to have intended to permit such sales so long as they are made after repayment is half completed. Thus it would be appropriate to conclude that the Secretary can exercise control over land sale prices, despite the fact that construction costs have been more than half repaid.

See also, Sax, "Selling Reclamation Water Rights: A Case Study in Federal Subsidy Policy," 64 *Mich. L. Rev.* 13, 38–39 (1965).

TABLE OF APPENDICES

Appendix A: "Residency and Cultivation Requirements" from J. Sax, "Federal Reclamation Law," pages 239–241 in II "Waters and Water Rights" (Clark, ed.).

Appendix B: *United Family Farmers, Inc.* v. *Kleppe et al.*, 552 F.2d 823 (C.A. 8, 1970).

Appendix C: Undated letter from Mike McHugh, President of "Friends of Oahe" to "Fellow Landowners".

Appendix D: Statement of Klaus G. Loewald, in "Acreage Limitation Review." Hearings before the Subcommittee on Irrigation and Reclamation of the Senate Committee on Interior and Insular Affairs," 85th Cong., 2nd Sess. April 30 and May 1, 1958.

Appendix E: Letter from E. F. Sullivan, acting for G. G. Stamm Commissioner of Reclamation to Hon. Teno Roncalio, July 8, 1976.

Appendix F: Preliminary draft of proposed recordable contract for use in Oahe Unit of the Missouri River Basin Project (5–2–68, revised 8–9–68).

Appendix G: Letter of April 27, 1970 from Assistant Secretary of the Interior to Governor of South Dakota, with related documents, addressing "policy declarations on private irrigation projects on Federal reservoirs."

THE PANAMA CANAL ISSUE

Mr. CURTIS. Mr. President, the Senate Republican policy committee, under the able leadership of the senior Senator from Texas, JOHN TOWER, has been very active during this session of the 95th Congress.

Under the chairmanship of the Senator from Texas, the policy committee and staff have reviewed and analyzed numerous public policy issues including the economy, energy, tax policy, election reform, welfare reform, and foreign policy and national security. The studies addressed by Senator TOWER and the committee staff to date have all been important national issues. Without exception, these studies have made a significant contribution to the debate on the issue, both in the Senate and in the Nation.

As chairman of the Republican conference I am most grateful to Senator TOWER for his effective and farsighted leadership and for the excellent work of the policy committee. The Republican conference and the policy committee have enjoyed a close and effective working relationship during this Congress.

Recognizing that the Panama Canal treaties are a major issue facing the Senate and the American people, Senator TOWER directed the policy committee staff to do a detailed analysis of the "Panama Canal Treaty" and the "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal." The study is one of the best analyses I have seen on the issue of the Panama Canal. It is balanced and fair. It carefully considers the arguments of the major articles in both treaties pro and con.

I commend Senator TOWER and the committee staff for this excellent analysis. I feel it would be helpful to all Members of Congress and, therefore, ask unanimous consent that the study entitled "The Panama Canal Issue" be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL TREATY

PREAMBLE

Analysis: The long disputed issue of whether the United States or Panama is sovereign over the Panama Canal and the present Canal Zone is dealt with quickly and simply in the Preamble. The United States, "Acknowledging the Republic of Panama's sovereignty over its territory," agrees with Panama to establish a new relationship. This provision is intended to resolve permanently the confusion over which nation holds sovereignty stemming from Article III of the 1903 Treaty between the United States and Panama. It reads as follows:

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said

Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

Pro: Recognition by the United States of Panama's sovereignty is timely and long overdue. The colonial era ended years ago, and the continued exercise of sovereign rights in the Canal Zone by the United States is a vestige of a bygone era. Testifying before the Senate Foreign Relations Commission on September 27, 1977, General George Brown, Chairman of the Joint Chiefs of Staff, emphasized the need to end American colonialism in Panama:

"I would say as a factor one of the elements that leads to our support of these new treaties is the impact, the favorable impact, ratification would have on all Latin America and the acceptance of the United States as living by the moral principles that we espouse in divesting ourselves of this last appearance of colonialism in Panama."

No one can honestly dispute the circumstances under which the United States acquired its "sovereign rights" under the 1903 treaty. It was gunboat diplomacy at its finest. Panama was in no position to resist the granting of those rights in 1903, but times have changed. It is now time for the United States to redress that infamous page in our history and restore to Panama is full sovereignty over the Canal Zone.

This is a time when foreign control and dominance by great powers is no longer tolerated by even the smallest nations. The Panama Canal Zone is the territory of Panama and should be turned over to the people and Government of that country. In today's world, what nation would accept a foreign presence that dominates its economy, cuts its territory in half and renders untold damage to its national pride. The United States wouldn't tolerate it for one day. As the colonial era has faded into history, the U.S. has shown great sensitivity to other nations where it held substantial treaty rights. These include, Japan, Okinawa, the Marianas, Spain, Libya, Greece and the Philippines. Why not in Panama?

Con: The 1903 Convention between the United States and Panama gave the U.S. sovereign rights over the Panama Canal and the Canal Zone "in perpetuity". The United States may well have conducted some gunboat diplomacy, but it was that very diplomacy which created the nation of Panama. Without it Panama would still be a province of Colombia today. It is difficult to measure all the benefits which came to Panama as a result of American involvement. The private French Company was bankrupt and incapable of completing the project. Only with American financing, engineering and resources was it possible to build the Canal. Since 1903 the United States has largely eradicated malaria and other serious health problems in the Isthmus. From the time the Canal opened the United States has operated it fairly, efficiently and without serious financial loss. Since it opened the Canal has returned approximately $642 million to the U.S. Treasury in interest on the original debt which has never been amortized. The American Government and the American taxpayer paid roughly $387 million in 1904–1914 to build the Panama Canal. The building, financing and operation of the Canal is something Panama or any other government could never have accomplished.

Panama has benefited financially from the Canal. For example, it is estimated that Panama is now receiving, directly or indirectly $250 million per year from Canal and Canal related operations. Since 1963 these benefits total $1.8 billion.

There is some question that the Canal will continue to be operated efficiently and fairly if Panama gains control of it. Since General Torrijos came to power in 1968 he has increased the national debt of Panama from $167 million to $1.5 billion. Certainly the economy of Panama is not strong enough to maintain the Canal should it become a big money loser.

The left-wing bias of certain Panamanian Government officials and the dismal human rights record of General Torrijos should be a warning to the United States Senate that the future of the Panama Canal is questionable at best.

In testimony before the Subcommittee on Separation of Powers of the Committee on the Judiciary Harold Parfitt, the Governor of the Panama Canal Zone, stated:

"I believe the general consensus is that the Panamanian Government itself is not Communist-leaning, but advisers in various places within the Government are in fact Communists."

In the field of human rights Panama is practically a total failure. In the view of Freedom House, an internationally respected organization which deals with human rights worldwide, Panama has a record worse than Argentina, Chile and even Cuba. In fact their record is the worst in all of Latin America.

The rights of sovereignty must be maintained by the United States if the Canal itself is to remain free, open and efficiently operated.

Several Supreme Court decisions including *Wilson* v. *Shaw* [204 U.S. 24 (1907)], lower court decisions and ruling of Federal agencies show that the Canal belongs to the United States. The 1903 Treaty is a valid binding document under international law. It grants to the United States the full rights of sovereignty and precludes the exercise of those rights by Panama. To replace the 1903 Treaty with a new one turning the Canal over to Panama will prove to be a serious mistake by the United States.

Article I: Abrogation of prior treaties and establishment of a new relationship

Analysis: Paragraph 1 of Article I stipulates that upon ratification, the new Panama Canal Treaty terminates and supersedes the following treaties:

(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, November 8, 1903.

(b) The Treaty of Friendship and Mutual Understanding and Cooperation, March 2, 1936.

(c) Memorandum of Understanding reached between the United States and Panama, January 25, 1955.

(d) All other treaties, conventions and exchange of notes between the two countries and all provisions covering the Panama Canal which appear in other treaties unless specifically retained by other provisions of this Treaty.

Under paragraph 2, Panama as the territorial sovereign grants to the United States "the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal." This authority is probably sufficient for the United States to operate, maintain and defend the Canal, although it is far from the total authority now held by the United States.

Paragraph 3 states that Panama "shall participate increasingly in the management and protection and defense of the Canal . . ."

Pro: The abrogation of previous treaties is necessary if a new relationship between the United States and Panama is to be established. The previous treaties, especially the 1903 Treaty, were unequal and unfair to Panama. There has been conflicting interpretation by the signatories over the sovereignty issue. It is timely and fitting that the old treaties be terminated. It is a long overdue magnanimous act by the United States.

Paragraph 2 of Article I adequately protects the rights of the United States to operate and defend the Canal through 1999 when the Treaty expires.

Under Paragraph 3 a good working relationship is established between the U.S. and Panama that will prepare Panama to operate the Canal after December 1999.

Con: Abrogation of the 1903, 1936, and 1955 Treaties by Article I is a mistake. The United States under this article gives up one of its most important economic and strategic assets. Furthermore, it terminates the American position in Panama without any compensation to the United States Treasury.

Paragraph 2 once again recognizes the sovereignty of Panama over the Canal and the Canal Zone. Since Panama is the grantor of the rights to the United States, the position of the U.S. is not unlike our position in other countries where the sovereign from time to time has chosen to terminate the grant of rights prematurely.

The joint relationship established under Paragraph 3 may well prove to be a source of friction between the signatories, especially in light of Panama's growing nationalism and deep-seated resentment about the American role in Panama.

Article II: Ratification, entry into force, and termination

Analysis: This treaty shall be be ratified in accordance with the constitutional procedures of the signatories. Instruments of ratification shall be exchanged in Panama at the same time the Treaty concerning the Permanent Neutrality and Operation of the Panama Canal is ratified.

The Panama Canal Treaty goes into force six calendar months from the date when the instruments of ratification are exchanged.

Paragraph 2 stipulates that this Treaty terminates at noon Panama time, December 31, 1999.

Pro: This article meets the requirement under Article II Section 2 of the United States Constitution requiring that all treaties be approved in the U.S. Senate by ⅔ majority of all Senators present and voting.

There is no requirement for this treaty to be approved by the House of Representatives. The Supreme Court rulings on this subject have all applied to Federal-State relations. The Court has never addressed the question of this power as a limitation on the treaty making powers of the President and the Senate. There are many precedents, both legislative and legal that clearly show the President may dispose of Federal property by treaty and by action of executive agencies. To cite one of many examples, the U.S. ceded the Ryukyu and Daito Islands to Japan in 1972 by treaty without House of Representative approval of the transfer.

Con: The wisdom of the founding fathers in giving the Senate the constitutional responsibility of approving treaties is vindicated once again by the treaties on the Panama Canal. The major responsibility of the Senate in this case is to determine if American interests regarding the Panama Canal have been adequately protected in the two treaties submitted by the Carter Administration. Clearly the treaties are inadequate, and it falls to the United States Senate to bring these inadequacies to the attention of the American people.

A major constitutional requirement that the Carter Administration is attempting to ignore is Article IV, section 3, clause 2. which grants to Congress the power to dispose of Federal property:

"The Congress shall have power to dispose of and make all rules and regulations respecting the territory or other property belonging to the United States . . ."

There is no question that the United States holds and owns property in the Panama Canal Zone. While the Carter Administration has chosen to ignore this constitutional requirement, it should be remembered that the House of Representatives has not. Recently 50 members of the House filed suit in the Supreme Court to protect the constitutional right of the House to vote on the disposal of U.S. property. Once this right is asserted by the House, it cannot be constitutionally denied. In a treatise on the treaty and property disposal power of Congress published August 4, 1977 the Congressional Research Service of the Library of Congress said:

". . . the Supreme Court has constantly ruled that Congress' power to dispose of federal territory and property is exclusive."

Whatever power the President has to convey property by treaty is delegated by Congress and is not exclusive to the treaty making power. Such authority can be withdrawn by the Congress. Finally as the Congressional Research Service points out, transfers of property to Panama have occurred in the past and almost without exception, these transfers have been approved by the House of Representatives.

Article III: Canal operation and management

Analysis: Paragraph 1 restates the rights granted to the United States by Panama whereby the U.S. will manage, operate and maintain the Panama Canal and the subsidiary works, installations and equipment. The U.S. agrees to exercise these rights in accordance with this Treaty and related agreements.

Paragraph 2 allows the United States to exercise the following key powers:

(a) Use all the necessary installations and areas without cost except as provided in this Treaty, to carry out its responsibilities in operating and maintaining the Canal.

(b) Make such improvements and alterations as it deems appropriate.

(c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules respecting navigation and maritime matters. Panama may lend its cooperation when necessary to enforce these rules.

(d) The U.S. has the right to establish, modify, collect and retain tolls for use of the Panama Canal.

Paragraph 3 creates a new governing body, the Panama Canal Commission to operate the Canal through 1999. The Commission shall be a United States Government Agency:

(a) The Panama Canal Commission is to be supervised by a 9 member board, five of whom shall be U.S. nationals and 4 of whom shall be Panamanian nationals nominated by the Government of Panama for appointment to the Board by the United States.

(b) Under subparagraph (b) the Republic of Panama may request the removal of a Panamanian member from the Commission and the United States is obligated to honor the request. If the U.S. wishes to remove a Panamanian member, the two signatories will consult in advance to reach agreement covering the removal.

(c) From the time the Treaty goes into force until December 31, 1989, the Administrator of the Panama Canal Commission shall be an American, with a Panamanian serving as Deputy Administrator. From January 1, 1990 until December 31, 1999 the Administrator shall be a Panamanian and the Deputy shall be an American. Panama shall propose the above Panamanian nationals to the United States for appointment by the U.S.

(d) Should the United States remove the Panamanian from his position as Administrator or Deputy Administrator, Panama shall propose another of its nationals for appointment by the U.S.

Paragraph 5. The Panama Canal Commission shall reimburse the Republic of Panama for costs incurred by that Government in providing the following public services which are currently provided by the Canal Zone Government: police and fire protection, street maintenance, traffic management and garbage collection. The Commission shall pay $10 million annually for the above services. Every three years during the life of the Treaty this sum shall be reexamined by the signatories to determine if readjustments are required.

Paragraph 6 reserves to Panama the responsibility to provide customs, immigration, postal, court and licensing services.

Paragraph 7 requires the U.S. and Panama to establish a Panama Canal Consultative Committee composed of an equal number of high-level representatives from each country. This committee shall advise the U.S. and Panama on matters of policy affecting the Canal's operation including general tolls, employment and training programs to increase the participation of Panamanians in the operation of the Canal.

Paragraph 8 requires that there shall be growing participation of Panamanian nationals at all levels to prepare, in an orderly and efficient way, for the assumption of full operating control of the Canal by Panama upon the termination of this Treaty.

Paragraph 10 stipulates that upon entry into force of this Treaty the Panama Canal Company and the U.S. Canal Zone Government shall cease to operate within the Republic of Panama territory that formerly constituted the Canal Zone.

Pro: Paragraph 2 gives to the United States all the necessary power to operate the Canal as well as the necessary use of installations and facilities. Under subparagraph (b) the U.S. is free to make the necessary improvements or alterations for efficient management of the Canal. Subparagraph (c) is an important grant in that the United States is empowered to make and enforce all rules pertaining to passage of vessels and the rules of navigation. This power gives the United States the dominant role in operating the Canal. Under subparagraph (d) the U.S. is given near exclusive control over the setting, modification and collection of tolls which will protect American shipping from unwarranted fare increases for the duration of the Treaty. This is a critical right and properly protects U.S. interests through the end of the century.

Paragraph 3 which creates the Panama Canal Commission establishes a balanced workable relationship between the two signatories. The U.S. maintains a voting edge, with 5 members compared to 4 for Panama. No Panamanian can be appointed to the Commission without U.S. approval. The role of Administrator and Deputy Administrator is balanced and will go far in preparing key Panamanian nationals to administer and operate the Canal after December 31, 1999. Again the U.S. is protected because it has final approval authority over the appointment of Panamanians to both positions for the duration of the Treaty.

Paragraph 5, in keeping with the Treaty's recognition of Panama's sovereignty over the Canal, properly transfers to the Government of Panama the responsibility to provide police and fire protection and to operate the legal system under which the Commission and its employees will operate. The $10 million annual payment for the services appears to be reasonable and fair.

Paragraph 7 gives to Panama a joint consultative role in determining the policy governing operation of the Canal and the setting of tolls. This will be a useful learning experience for the Panamanians.

Paragraph 10. The termination of the Panama Canal Zone and the Canal Zone Government heralds the end of a bygone era. This action will be applauded by all Panamanians, by the nations of Latin America and by the third world. It will signal the beginning of a new and more trusting relationship between the United States and Panama.

Con: Article III contains several contradictions.

Paragraph 1 appears to give the United States a unilateral right to manage, operate and maintain the Canal for the duration of the Treaty.

Subparagraphs (c), (d) and (g) of Paragraph 2 appear to reinforce the sole right of the United States to (c) "Make and enforce *all* rules pertaining to passage of vessels through the Canal and other rules with respect to navigation and maritime matters . . ." Likewise the U.S. is empowered to (d) "Establish, modify, collect and retain tolls for the use of the Panama Canal . . ."

Paragraph 3 and subsequent paragraphs then proceed to dilute and reduce the powers granted the United States in Paragraph 1 and 2. Among these are:

(a) Creation of a Panama Canal Commission governed by a Board of 9 members, 4 of whom shall be Panamanians, apparently with full voting rights.

(b) The United States must "reach agreement" with Panama before it can remove a Panamanian board member.

Paragraph 5 and 6 give to the Government of Panama control over the police, courts, immigration and customs. Regardless of what powers are granted to the United States under the Treaty, other more critical powers granted to and reserved to Panama could be used at some future time to harass U.S. operations and presence in the Canal Zone. Advocates of the Treaty will say that interference of this kind is prohibited under the various articles in the Treaty. Such idealistic pronouncements are quite meaningless should Panama choose to negatively exercise these newly acquired powers. *Who* holds the *police* and *judicial powers* is more critical than treaty provisions describing their use.

Paragraph 7 sets up a Consultative Committee of high ranking representatives from both sides which *"shall"* advise the signatories "on matters of policy affecting the Canal's operations" and "on matters such as general tolls policy . . ." This Committee, unlike the Board that governs the Commission, has *"equal"* representation. Its advice is not described as something that *may* be given, but something that *"shall"* be given. Thus, what first appears to be a unilateral right of the U.S. to operate and manage the Canal and set and collect tolls for the duration of the Treaty is modified by giving Panama a significant role in the entire scheme of things. Treaty advocates will undoubtedly argue that this special relationship will work, and one hopes it will. However, it must be recognized that Panama now has legal standing as part of the machinery of Canal operation and government. Under certain political circumstances, that status, combined with the newly acquired police and legal powers, could be used very effectively against the United States. Finally, in a dispute over toll policy the U.S. can point to paragraphs 1 and 2 as the source of its authority, but Panama can point to paragraph 7 claiming that it has a role in toll policy as well. As in most other provisions of the Treaty, the language is imprecise, unclear and quite contradictory.

Article IV: Protection and defense

Analysis: Paragraph 1 commits both the U.S. and Panama "to protect and defend the Panama Canal". Such action shall be pursuant to each nation's constitutional process and covers "the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it."

This appears to be a general and blanket right for both parties to take whatever actions necessary to defend the Canal.

Paragraph 2 specifies that "For the duration of this Treaty, the United States of America shall have *primary* responsibility to protect and defend the Canal."

Paragraph 3, "In order to facilitate the participation and cooperation of the armed forces of both parties in the protection and defense of the Canal . . ." the Treaty establishes a Combined Board "comprised of an *equal* number of senior military representatives of each Party."

"The Combined Board *shall* provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties;

(b) The planning and conduct of combined military exercises; and

(c) The *conduct* of the United States and Panamanian military operations with respect to the protection and defense of the Canal."

This provision of subparagraph (c) appears to give Panama through the Combined Board, the right and the responsibility to jointly and equally participate in the *"conduct"* of military operations carried out for the purpose of protecting the Canal.

Pro: Article IV is designed to give Panama a role in protecting and defending the Canal while reserving to the United States the *"primary"* defense role through December 1999. It would be unrealistic to exclude Panama from any defense role for the duration of the Treaty. Panama has an equal interest, perhaps a greater interest than the U.S. in keeping the Canal free, open and operating efficiently. Directly related to that interest is Panama's desire to protect the Canal from any kind of attack either foreign or domestic. By agreeing to give the Government of Panama a direct role and specified treaty rights under paragraphs 1 and 3, the United States has done more to protect the Canal against internal attack and subversion than any other defense arrangement could provide. Conversely, if Panama were completely excluded from any defense role, the domestic frustration and damaged pride of the Panamanian people would undoubtedly lead to internal attacks and sabotage against U.S. personnel in Panama or the Canal itself.

The role of the Combined Board is a workable and cooperative arrangement that will involve Panama in all aspects of defending and protecting the Canal.

Con: Like so many other provisions of the treaty Article IV is contradictory. Paragraph 1 gives the United States and Panama an equal role in defending and protecting the Canal. This shall be done according to the constitutional processes of both countries. Suffice it to say, the constitutional process of a left-wing dictator is considerably more flexible than it is for the United States.

The "primary responsibility" to defend and protect the Canal granted to the U.S. in paragraph 2 runs head-on into the "equal" role given Panama in Paragraphs 1 and 3. The membership of the Combined Board is equal. It does not favor the United States numerically nor is the U.S. given removal powers over the Panamanian members of the board. Furthermore, subparagraph (c) gives Panama through the Combined Board an equal role in the "conduct" of all military operations. The potential for mischief by Panama under these conflicting arrangements is enormous. It is not unthinkable that Mr. Castro may someday activate or support a guerilla movement in the Isthmus. He has, after all, done that in several Latin American countries and in Africa. The object of attack could be the Canal itself. With the defense arrangement under Article IV, Panama is in a position to thwart and sabotage any defense effort of the United States. Should Panama oppose a U.S. defense strategy or action, it will probably solidify Panamanian public opinion against the United States and make that defense effort very difficult and perhaps impossible.

Paragraph 2 which gives the U.S. "primary responsibility" is mere window dressing. Article IV, when read in its entirety, makes the defense and protection of the Panama Canal an equal and joint responsibility for the two signatories. To claim that the U.S. has the major or primary responsibility, as does the Carter Administration is simply not supported by the facts.

Paragraph 5 requires the U.S. to maintain its forces in "normal times" at a level not to exceed the number in the Canal Zone immediately prior to the time when this Treaty goes into force.

The Joint Chiefs of Staff told the Senate Armed Services Committee that the two signatories have not decided what the U.S. force level shall be after the treaties are ratified. The word "normal" is not defined and may well become a serious conflict after ratification.

Article VIII: Privileges and immunities

Analysis: Paragraph 1 stipulates that installations, instrumentalities, archives and documents owned or used by the United States Government in Panama "shall be inviolable". "The two Parties shall agree on procedures to be followed in the conduct of any criminal investigation at such locations by the Republic of Panama."

Paragraph 2 states that the agencies and instrumentalities of the U.S. Government operating in Panama pursuant to this Treaty "shall be immune from the jurisdiction of the Republic of Panama." Paragraph 3 allows the U.S. to designate 20 officials of the Panama Canal Commission who with their dependents shall enjoy diplomatic immunity under international law and practice.

Pro: Article VIII protects the United States during its remaining 23 year tenure in Panama. Paragraphs 1 and 2 provide that U.S. installations, instrumentalities, archives and documents "shall be inviolable" and "immune from the jurisdiction of the Republic of Panama."

This provides adequate protection for the United States and its personnel who will continue to reside and work in Panama.

Since the United States has recognized the sovereignty of Panama over all its territory, including the Canal and the present Canal Zone, it would be inconsistent not to define the legal status of U.S. instrumentalities and agencies in Panama.

Con: The enunciation that U.S. installations, instrumentalities, archives and documents will be "inviolable" and "immune from Panamanian jurisdiction" is welcome. However, Article VIII does not exempt U.S. personnel from Panamanian jurisdiction for the duration of the treaty. Although Article XI provides that United States personnel shall be subject concurrently to U.S. and Panamanian law during the 30 month transition period, at the conclusion thereof Americans working in Panama become subject to Panamanian law, police and courts. The inviolability and immunity of U.S. agencies, instrumentalities and installations should have been applied as well to U.S. personnel. With Panama's sorry human rights record American personnel will undoubtedly be subjected to police harassment and a judicial process that will fall far short in protecting their U.S. constitutional rights.

Article IX: Applicable laws and law enforcement

Analysis: Paragraph 1 states, "In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty."

The question arises as to whether this is a general application of Panamanian law to the areas under U.S. control and whether it conflicts with paragraphs 1 and 2 of Article VIII which make all U.S. instrumentalities "inviolable" and "immune" from Panamanian jurisdiction.

Pro: This provisions is a blanket application of Panamanian law to U.S. operations and facilities. Paragraph 1 is qualified by the phrase "In accordance with the provisions of this treaty and related agreements . . ." What appears to be a conflict with paragraphs 1 and 2 of Article VIII does not follow because of the qualifier. The inviolability and immunity of U.S. operations and facilities from Panamanian law is thus protected by the qualifier.

Con: Again the draftmanship is unclear and imprecise. Obviously the United States wanted complete inviolability and immunity from all Panamanian law, while Panama hoped during the negotiating process to subject all U.S. operations, facilities and personnel to Panamanian jurisdiction. Consequently the language was compromised and purposely obscured. What should not be forgotten is that both powers will interpret the provisions of Articles VIII and IX to serve their own interests. Paragraph 2 of Article VIII should read that the U.S. shall be immune from the jurisdiction of the Republic of Panama notwithstanding any other provision of this treaty, but it doesn't. Article IX, paragraph 1 should specify that U.S. operations and agencies shall be inviolable and immune from Panamanian jurisdiction regardless of the general coverage listed in the paragraph, but it doesn't. The contradiction and imprecise drafting could well prove to be a serious source of contention at some future date.

Article XII: A sea-level canal or a third lane of locks

Analysis: Paragraph 1 commits both parties "to study jointly the feasibility of a sea-level canal in the Republic of Panama . . ."

Paragraph 2(a) stipulates that no new interoceanic canal shall be built in the Republic of Panama during the lifetime of this treaty, except in accordance with the provisions of this treaty or "as the two parties may otherwise agree . . ."

Paragraph 2(b) provides that the United States "shall not negotiate with third states for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree."

In paragraph 3 the Republic of Panama grants to the United States the right to add a third lane to the existing Canal at any time during the lifetime of the treaty. The only requirement is for the U.S. to provide copies of the plans to Panama. There is no provision for meeting the cost of building the third lane of locks.

Paragraph 5 prevents the United States from using nuclear excavating techniques to build the third lane of locks or a new sea-level canal.

Pro: A new sea-level canal may one day be necessary to meet the shipping needs of world commerce and to accommodate super tankers and giant ore ships. In 1970 the Atlantic-Pacific Interoceanic Canal Study Commission concluded that the most feasible site for a new sea-level canal would be Route 10 through the Republic of Panama. Thus, the prospect of building a sea-level canal in a third country is not very high. If such a Canal is built in Panama, it is only proper that Panama be a party to the process. Furthermore if a new sea-level canal is built, the U.S. under Article XII is given the right through 1999 to build it jointly with Panama. No other nation, such as Russia can be part of this process without U.S. approval.

Paragraph 5 stands on its own merits. No nation can allow another power to use nuclear devices within its borders without its consent.

Con: The real mistake and unwarranted concession in Article XII is the agreement by the United States for the duration of the treaty, not to negotiate with third states for the right to construct a new sea-level canal elsewhere in the Western Hemisphere without the approval of Panama.

This provision unduly binds the U.S. The Panama Canal may become obsolete and very unprofitable much sooner than expected. The Panamanians may try to nationalize the Canal, leaving the U.S. the option of invading Panama or doing nothing. The U.S. has no assurance that Panama will give its approval for a new Canal within its territory.

Should the United States attempt to get Panama's approval for a sea-level canal outside of Panama, one must assume that approval will not be forthcoming. Why should Panama approve a competitive canal when it can retain a monopoly as long as the new canal is not built?

Finally, the longer the U.S. waits, the less likely that a sea-level canal will be built. If Panama withholds its approval, the U.S. cannot even start negotiations until the 21st Century begins. Such a delay will probably make the cost prohibitive.

Article XIII

Analysis: Paragraph 1. Upon termination of the Panama Canal Treaty Panama assumes total responsibility for management, operation and maintenance of the Canal. It must be turned over by the United States, in operating condition and free of liens and debts.

Under paragraph 2, "The United States of America transfers, without charge, to the Republic of Panama all rights, title and interest the United States of America may have with respect to *all* real property, including non-removable improvements thereon. . . ." This transfer takes place generally at the time the treaty goes into force. Under subparagraph (d), certain other properties to be used by the United States pursuant to the provisions of this Treaty and for its duration are transferred at the time the Panama Canal Treaty is terminated.

Paragraph 4 states that Panama shall receive from the Panama Canal Commission "a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal . . ."

Subparagraph (a) requires the Commission to pay Panama $0.30 (based on U.S. dollar) per net Panama Canal ton for each vessel transiting the Canal once the Treaty goes into effect. This shall be adjusted periodically to reflect changes in the U.S. wholesale price index. Subparagraph (b) requires a fixed annuity of $10 million (U.S. dollars) to be paid to Panama out of Canal operating revenues. This figure shall be a fixed expense of the Panama Canal Commission.

Subparagraph (c) requires an additional payment of $10 million (U.S. dollars) to Panama to be paid out of Canal operating revenues to the extent such revenues exceed expenditures of the Commission. Should such revenue surpluses not be available in any given year, "the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed."

Pro: Paragraphs 1 and 2 of Article XIII are the heart of this Treaty. Panamanian control of its own territory and its greatest single national asset and resource will be realized by this article. Panama's long occupation by a foreign power will begin to terminate when the Treaty goes into effect. It should be remembered, however, that Panama must wait 22–23 more years before it acquires complete control over its own territory. In the words of General Torrijos, "Panama must walk for 23 more years with a stone in its shoe in order to remove the dagger from its heart."

Panama has been extremely patient particularly during the post-war era. When compared with past sacrifices made by Panama, the financial payments going to that government under this treaty are not excessive.

Some have argued that the United States should receive compensation for transferring to Panama the Canal, the Canal Zone and associated properties. While the worth of the overall investment is indeed significant, it should not be forgotten that the United States has realized tremendous economic benefits from the Canal since it was opened. The savings in shipping costs alone are probably incalculable. Likewise, until 1975 the Canal produced a revenue surplus, most of which has been reinvested in the Canal.

It should not be forgotten that the U.S. is transferring to Panama a Canal with a questionable economic future. Now that the Canal is losing money and incapable of handling an increasing percentage of ocean going vessels, it may well turn out to be an economic liability for Panama especially if the U.S. and or Panama are forced to raise tolls to the point where alternative systems of transportation become more competitive.

Con: Article XIII specifically and the Panama Canal Treaty generally constitute one of the biggest giveaways in American history. The book value of the total American investment in the Panama Canal is $561 million, while the replacement cost of the Canal and its facility in today's dollars would be $9.8 billion. All this is turned over to Panama without reimbursement to the United States Treasury and the American taxpayer.

On top of the property transfer, the U.S. has agreed to pay Panama up to $20 million per year out of Panama Canal Commission revenues plus the $.30 per each Panama Canal ton transiting the Canal. Since the Canal is now losing money, one would hope that the $10 million to be paid to Panama as a fixed cost of the Commission can be raised from an increase in tolls. If not, will the United States Congress be required to appropriate this money as an operating expense of the Commission or under a treaty obligation which has become the law of the land?

Article XIII, paragraphs 1 and 2, transfer U.S. assets and property to the Government of Panama in an outright violation of Article IV, Section 3, paragraph 2, of the U.S. Constitution which reads as follows:

"The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

The argument by the Carter Administration that this transfer of U.S. property can take place through the treaty process alone is a clear case of ignoring the Constitution of the United States.

THE TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL

Article I

Analysis: "The Republic of Panama declares that the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty."

The declaration of neutrality is made unilaterally by the Republic of Panama and excludes the United States.

Pro: Panama is the only nation which can declare the neutrality of the Canal. It is exclusively in Panamanian territory and under the Panama Canal Treaty the undisputed sovereignty of Panama over the Canal is fully recognized by the United States. Thus the U.S. as a foreign power has no role in the neutrality declaration.

Con: The United States should have been a joint partner in the neutrality declaration contained in Article I. The Canal is designated as an international waterway. The United States has a major role in the defense of the Canal under the Panama Canal Treaty and, one would hope, a responsibility to maintain its neutrality beginning January 1, 2000. Panama, as a small weak nation, is not in a position to effectively protect the neutrality of the Canal against larger nations. As the builder, long-time operator, primary defender and the guarantor (the role of primary defender and guarantor is quite unclear, however) of the Canal's neutrality, the United States should have been a party of the declaration of neutrality.

Article II

Analysis: "The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality . . ."

The purpose of Article II is to keep the Canal open to all nations, belligerents and non-belligerents alike in time of peace and in time of war.

Pro: The only way to protect the Canal from attack, reprisals or sabotage in time of war is to assure that it will be completely neutral. To do otherwise would invite attack upon it by belligerents or nations which are denied neutral passage through the Canal.

As an international waterway, the Canal must be open, freely and equitably, to all nations of all political persuasion in times of peace and war. As a practical matter, the United States would not need to violate the Neutrality Treaty to keep Soviet vessels from going through the Canal in time of war. Soviet vessels trying to transit the Canal would be sitting ducks for the U.S. Navy which could sit outside the entrances of the Canal in international waters and block their passage or sink them if they tried to enter the Canal. Also in a time of hostilities with the U.S. it is unrealistic to assume that the Soviets would even attempt to transit the Canal.

Con: The guise of neutrality in time of war ignores the lessons of history. During World War II the United States effectively closed the Canal to Japanese and German shipping and the Suez Canal was closed to German shipping by the British. In a drawnout worldwide conflagration involving the United States and the Soviet Union, the Panama Canal would be a very critical choke point. Natural resources going to American ports would transit the Canal in much greater quantity than at present. Naval warfare between the two super powers could be very intense as the Soviets tried to stop the flow of raw material to the United States. The U.S. Navy has a lot of eggs in a few baskets (aircraft carriers) which may require considerable movement of non-carrier naval forces from ocean to ocean. If the naval battle becomes critical, the United States may find it necessary to close the Canal to all Soviet vessels. Under such conditions the United States would find itself in violation of the Treaty. From a strategic point of view, no one in his right mind would advocate that the U.S. politely stand aside while Soviet men-of-war transit the Canal during a naval war on the high seas involving the world's two super powers.

It is argued that the U.S. Navy could station itself beyond the territorial waters of Panama and in effect prevent the Soviet Navy from using the Canal during hostilities between the two super powers. This argument has two glaring flaws. First, nothing will prevent the Soviet Union from doing the same thing to the U.S. Navy. Secondly, as the Soviet Navy grows, its ability to engage the U.S. Navy in its own backyard will also increase. To assume that the U.S. Navy could station itself near the Canal's entrances and block or destroy Soviet ships attempting to transit the Canal without facing a major naval battle is terribly naive.

Article III

Analysis: The key provision of Article III is subparagraph (e) of paragraph 1. "Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance."

Subparagraph (e) apparently does the following:

1. Naval and auxiliary vessels of all nations shall be permitted to transit the Canal at all times including wartime.

2. No naval or auxiliary vessel of any nation shall be subject to inspection, search or surveillance at any time.

3. The transit of nuclear powered vessels through the Canal whether they be war vessels, auxiliaries, or merchantmen, is protected by the phrase "irrespective of their internal operation, means of propulsion. . . ."

4. The transit of nuclear armed naval vessels through the Canal is protected by the phrase "irrespective of their . . . armament. . . ."

Pro: Article III, paragraph 1, subparagraph (e), further establishes the neutrality of the Panama Canal. If the Canal is to be completely neutral, transit through the Canal by war and auxiliary vessels during hostilities is absolutely necessary. Anything less would destroy the neutrality of the Canal.

Vital transit interests of the United States Navy are protected by subparagraph (e) as follows:

1. All U.S. naval vessels are permitted to transit the Canal in time of war and peace without inspection, search or surveillance.

2. U.S. nuclear powered and nuclear armed ships are also permitted to transit the Canal without inspection, search or surveillance.

Con: There may come a time when the national security interests of the United States require that the Panama Canal be closed to the naval vessels of the Soviet Union or other nations. History has shown that in time of war or belligerency, neutrality declarations are breached almost as frequently as they are respected. The Panama Canal is vital to the security of the United States. In times past, the U.S. closed it to enemy shipping. Under subparagraph (e) the U.S. no longer has that right.

Article IV

Analysis: Article IV is the heart of the controversy over whether or not the U.S. has the right to intervene in Panama for the purpose of defending and protecting the Canal. It reads as follows:

"The United States of America and the Republic of Panama *agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral,* notwithstanding the termination of any other treaties entered into by the two Contracting Parties."

Unfortunately the above language is ambiguous, imprecise and confusing. Circumstances surrounding it clearly point to the fact that it was deliberately drafted this way because of the serious differences which the negotiators had concerning the defense role of the United States after the year 1999. It is very important to note, therefore, what the article says and what it does not say.

1. It says that the United States and Panama "agree to maintain the regime of neutrality established in this Treaty." From this language it is clear that the United States does have some kind of role in maintaining the neutrality of the Canal.

2. It does not say how this neutrality is to be maintained.

3. It does not say which of the two parties shall determine how and when the neutrality of the Panama Canal is violated.

4. It does not say what mechanism, procedure, policy or action can or shall be taken to protect the Canal's neutrality.

Pro: The regime of neutrality will be properly maintained by the United States and Panama. This was a crucial issue in the negotiations but it has been satisfactorily resolved.

Mr. Sol Linowitz, the former U.S. Chief Negotiator during the Panama Canal Talks, clarified the U.S. position before the Senate Foreign Relations Committee on September 27, 1977:

"Under the Treaty, the United States is in a position to assure that the Canal's permanent neutrality is maintained, and there is not, as Secretary Vance has said, any limitation on our ability to take such action as we may deem necessary in the event the Canal's neutrality is threatened or violated from any source. . . .

"Thus, the Treaty provides for the United States maximum freedom to determine how to carry out its responsibility for Canal neutrality. We are under no obligation to consult with or seek approval from any other nation or international body before acting to maintain the neutrality of the Canal nor does the Treaty in any other way limit our ability to act."

Also in his testimony Mr. Linowitz put to rest some of the confusion coming from the Panamanian negotiators who on occasion have given differing interpretations of Article IV from that given by U.S. officials. He stated:

"In signing the treaties at the Pan American Union here in Washington on September 7, 1977, General Torrijos told the people of Panama, the people of the Hemisphere and the people of the world; 'We have agreed upon a neutrality treaty that places us under the protective umbrella of the Pentagon. This pact could, if not administered judiciously by future generations, become an instrument of permanent intervention'."

Secretary Vance likewise takes the position that under Article IV the U.S. has unlimited freedom of action. In his testimony before the Senate Foreign Relations Committee on September 27, he said:

"This means there is no limit under the treaties on the freedom of the United States to assure permanently the canal's neutrality."

If there was any question about what right the United States has to defend the Panama Canal under Article IV, it was resolved on October 15, 1977 by Mr. Carter and General Torrijos:

"Under the treaty concerning the permanent neutrality and operation of the Panama Canal (The Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective Constitutional processess, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

"This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be rerected at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

"The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall be so interpreted to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly."

Thus the various clarifications have settled the issue.

As General Maxwell Taylor has pointed out, this was a very hotly contested issue between the two parties; the language in Article IV is the best obtainable and to meddle with it now could very well doom the Treaty to defeat.

Con: The basic problem with Article IV is that both the United States and Panama have been unwilling to give up their respective positions regarding the right of intervention by he United States.

Consequently, he language is deliberately ambiguous. This might be necessary for political reasons in the United States and Panama, but the ambiguity and confusion must also be considered in a long-range context. Should the time ever come when the U.S. finds it necessary to intervene to protect the Canal for whatever reason, it will not be the intent of negotiators, or their interpretations that will count. It will be the language of Article IV. If Panama is unwilling to concede this right today, it is certain the Panamanians will oppose American intervention in the future under any circumstance which they do not support or approve. And they can point to the language of Article IV and accurately say the right of American intervention is not specified.

The interpretations given by key Panamanian officials show this to be true. It is not necessary to list all their pronouncements, but a few will clearly show that they do not concede the right of intervention to the United States.

In a speech before the Panamanian National assembly on August 19, 1977, Dr. Romula Bethancourt the Chief Panamanian negotiator said:

"They said that they wanted the Panama Canal to be neutral and we said we entirely agreed with them. Differences then arose only in what they understood by neutrality and what we understood by neutrality. They proposed that Panama and the United States declare that the Canal was neutral and that the United States would guarantee that neutrality. Panama was opposed to this concept, explaining that we did not want the United States to maintain a guarantee over the State of Panama, using the neutrality issue as an excuse. This was another source of debate that kept the negotiations stalled until the United States gave up the idea of its guaranteeing the Canal's neutrality.

The criticism made of it—some that you have heard or have read—indicate that we give the United States the right to intervene in our country after the year 2000. These critics think that rights of intervention are granted in the treaty. To the great powers, no one gives the right of intervention; they intervene whenever they feel like it with or without a treaty. When they (the Americans) landed in Santo Domingo, they had no military treaty with Santo Domingo, nor had any right of intervention in Santo Domingo, and they landed anyway. But there are people here who think that it is in the articles of a code (law code) that tell a country if it has the right to intervene or not, and they don't know that it is the bayonets, the guns, and the atomic bomb that gives a country the strength to intervene. And so a country like the United States can land in Panama whenever it feels like it after the year 2000 with or without a neutrality pact. But it cannot land, for example, in Russia, even if Russia tells it to land. Those are the facts of the matter so that with the neutrality pact, we are not giving the United States the right of intervention. What we are giving is an assurance that the Canal will be permanently neutral, that we are not going to close the Canal so that their ships or this ship or that ship cannot go through. Why this neutrality pact? Because they are thinking, By the year 2000 this country (Panama) may have gone socialist and become our (U.S.) enemy and we now want to make sure that even if they become socialist, they cannot close our passage.' "

On August 22, 1977, Dr. Bethancourt held a news conference wherein he said:

"The Neutrality Pact does not provide what the United States will say when neutrality is violated. . . . That is not provided here. There is an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the Canal remain open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States to decide when neutrality is violated or not." [Quoted by Senator Howard Baker in the Senate Foreign Relations Committee Hearings on the Panama Canal Treaty, September 26, 1977]

Let us turn now to the Carter-Torrijos statement issued October 15, 1977 after their meeting at the White House. The first two paragraphs are critical:

"Under the treaty concerning the permanent neutrality and operation of the Panama Canal (The Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective Constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

"This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible and it shall never be directed against the territorial integrity or political independence of Panama."

Supporters of the Treaty will point to the first paragraph of the Carter-Torrijos statement and argue that the U.S. does have "the right to act against any aggression or threat directed against the Canal. . . ."

Whatever rights, if any, that are granted to the United States in the first paragraph of the Carter-Torrijos statement are negated and destroyed by the second paragraph, which states: "This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action . . . shall never be directed against the territorial integrity or independence of Panama."

After December 31, 1999, the United States must get out of Panama lock, stock, and barrel. There are no base rights, no military rights and no presence except the regular Embassy and consular representation. The only right is Article IV of the Neutrality treaty which, in reality, is no right at all. For the United States to protect the Canal after the year 2000, it must intervene in an internal affair of Panama. Nothing in that country after 1999 will be more "internal" than the Panama Canal. Secondly, there is no way the U.S. can move into Panama to protect the Canal without violating Panama's territorial integrity especially if Panama does not agree to the intervention.

The Carter-Torrijos statement runs true to form—Now you see it now you don't. Yes, the United States has the right of intervention to protect the Canal. No, the United States does not have the right to intervene.

General Torrijos could no more agree to the right of intervention than Mr. Carter could agree to give it up. Consequently, when General Torrijos arrived back in Panama after his White House meeting, he held a short press conference reported in the Washington Post on October 16:

"Omar Torrijos, fresh from a meeting with President Carter on the Panama Canal treaties; has denied reports here that he signed a pact giving the United States the right to military intervention in the canal.

"'I haven't even signed an autograph.' Torrijos said yesterday when his flight from Washington landed at the Rio Hato air force base, near his beach house. He said he was too tired to make further comments."

It should be pointed out that the Carter-Torrijos statement was not signed by either principal. It has no binding effect upon the two parties under international or constitutional law since it is not part of the treaty.

The most obvious circumstance requiring U.S. intervention would be closure of the Canal by Panama for economic reasons. It should be remembered that the Canal has lost money since 1975; that Panama is a poor nation which could not sustain a Canal deficit for any length of time; that the administrative skills of the Panamanians remain unproven; and that Panama refused during the negotiations to commit itself to keep the Canal open should it become unprofitable. Dr. Bethancourt explained the position of his government very explicitly in his August 19, 1977, address to the Panama General Assembly:

"The third possibility was that the Canal could become unprofitable for Panama; in such a situation, Panama could not be tied down to keeping open a canal which was not earning revenue. They (United States negotiators) accepted the first two reasons—natural causes and temporary disruptions—but they did not accept the third reason, lack of profits. This, too kept the negotiations stalled for a long time.

They argued that if the Canal was not profitable, Panama could obtain money from the United States or other countries that use the Canal to keep it open. We told them that when the new treaty with the United States ended, we did not want Panama to be under either direct or indirect obligation to turn to the United States or any other country to request money to keep the Canal open. Our respective positions remained unchanged until we reached the agreement I am about to describe. They said, we can't present to our Congress an article that states you will close the Canal because of insufficient revenues. And we said we could not present an article committing us to operating the Canal permanently when we have no way of knowing if the Canal someday will yield no profit. We finally agreed to eliminate that article, and so Panama was freed of the obligation to maintain the Canal open permanently."

Thus, two things are clear. The most logical circumstance requiring U.S. intervention to protect the Canal would be closure of the Canal by Panama for economic reasons. This prospect is more probable than most treaty advocates care to admit. The second factor is that if and when this occurs, the United States does not have the clear right to step in and operate the Canal.

Article VII

Analysis: "The United States of America and the Republic of Panama shall jointly sponsor a resolution in the Organization of American States opening to accession by all States of the world the Protocol to this Treaty whereby all the signatories will adhere to the objectives of this Treaty, agreeing to respect the regime of neutrality set forth herein."

This article will allow all nations of the world to become a party to the Treaty through the protocol. The protocol itself consists of the three articles which do the following:

1. Article I, "The contracting Parties hereby acknowledge the regime of permanent neutrality for the Canal established in the Treaty . . ." and ". . . associate themselves with its objective."
2. Article II, "The Contracting Parties agree to observe and respect the regime of permanent neutrality of the Canal in time of war and peace . . ."
3. Article III, states that "This Protocol shall be open to accession by all states of the world . . ."

Pro: This article will strengthen the neutrality of the Canal. It is hoped that most nations of the World, especially the maritime nations and the great powers, will accede to the treaty, thus binding them to respect the neutrality of the Canal in time of war and peace. Should the Soviet Union accede to the treaty, it will prevent that nation from meddling or interfering in the internal affairs of Panama or the administration of the Canal, especially after 1999.

Con: Should the Soviet Union or other Communist Bloc nations accede to the Treaty, they become a party to it and will then be in a legal position to challenge as signatories the actions of any other signatory, especially the United States. If the United States ever finds it necessary to intervene to protect and defend the Canal, the Protocol of accession will open it up to challenges by other signatories before the United Nations, international courts, and the world press, where America has not faired well in recent years.

DOES THE UNITED STATES POSSESS FULL SOVEREIGNTY OVER THE PANAMA CANAL AND THE CANAL ZONE?

Article IIII of the 1903 Convention between the United States and Panama addressed the sovereignty issue as follows:

Article III

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise *if it were* the sovereign of the territory within which said lands and waters are located *to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.*"

The above article has been the subject of intense debate over the past several years and is the major source of divided opinion concerning which nation is sovereign over the Panama Canal.

Those who say the U.S. is not the full sovereign point to the phrase in Article III "if it were the sovereign of the territory" arguing that the words "if it were" qualify the grant to the United States. The words "if it were" can only mean that in fact the U.S. is not the sovereign. Those who argue that the U.S. is the full sovereign point to the words "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority". This phrase they argue denies sovereignty to Panama and when taken in the context of the entire article (III) proves that the U.S. is the sovereign in the Canal Zone.

Chief Justice Taft noted these diverging opinions in his opinion in *Luckenbach S.S. v. United States*, decided in 1930:

"Whether the grant in the Treaty amounts to a complete cession of the territory and dominion to the United States or is so limited that it leaves at least titular sovereignty in the Republic of Panama, is a question which has been the subject of diverging opinions. . . ." [280 U.S. 173, 177 (1930).]

No: "Sovereignty is perhaps the major issue raised by opponents of a new treaty. It is clear that under law we do not have sovereignty in Panama. The Treaty of 1903 did not confer sovereignty, but speaks of rights the United States would exercise as 'if it were the sovereign.' From as early as 1905, United States officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the Zone." [Ellsworth Bunker, U.S. Ambassador-at-Large, Address before World Affairs Council, Los Angeles, December 2, 1975. Quoted in Congressional Digest, April 7, 1976, p. 119.]

Yes: "The executive and judicial branches of the Government of the United States have always exercised, and are now exercising, the powers and rights of sovereignty within the Canal Zone. . . .

"There can be no question that the Canal Zone was acquired and is held by the United States under a perpetual grant which, for all practical purposes, conferred upon and vested in the United States all the rights, powers, and authority of a sovereign, and that the United States has exercised full sovereign rights over the Canal Zone ever since the strip of land was acquired." [Arguments for the United States by Assistant Attorney General Sisson and Solicitor General Hughes in *Luckenbach S.S. Co. v. U.S.* 280 U.S. 173, 174–175 (1930).]

No: ". . . the one question of the flag has never been specifically placed before me, no decision has ever been made about it; but I do in some form or other believe we should have visual evidence that Panama does have titular sovereignty over the region." [The

President's News Conference, December 2, 1959, Public Papers of the President, Dwight D. Eisenhower, 1959, p. 794.]

Yes: "To such an extent, indeed, are we sovereign in the Canal Zone that Panama has been granted special commercial rights only by express and formal concession, and this Court has reviewed the history of the acquisition and concluded that the title of the United States is complete and perfect. [Justice Jackson dissenting, *Vermilya-Brown and Co. Inc. et al.* v. *Connell et al.*, 335 U.S. 377, 402 (1948).]

No: "It does not depend upon sovereignty in the political or any sense over the territory. So the administrator of the Wage-Hour Division has issued a statement of general policy or interpretation that directs all officers and agencies of his division to apply this Act to the Canal Zone, admittedly territory over which we do not have sovereignty." [Mr. Justice Reed in delivering the opinion of the Supreme Court in *Vermilya-Brown and Co. Inc. et al.* v. *Connell et al.*, 335 U.S. 377, 381 (1948).]

Yes: "The Government would never recede from the position which it had taken in the note of Secretary Hay in 1904. This Government could not and would not enter into any discussion affecting its full right to deal with the Canal Zone under Article III of the Treaty of 1903 as if it were the sovereign of the Canal Zone and to the exclusion of any sovereign rights or authority on the part of Panama. . . . This must be regarded as ending the discussion of that matter" [Memorandum of Conversation, Secretary of State Charles Evans Hughes, *Foreign Relations*, 1923, Vol. II, p. 684.]

IS THE PANAMA CANAL ZONE, INCLUDING THE CANAL, A POSSESSION OR TERRITORY OF THE UNITED STATES?

Yes: "We should end those negotiations and tell the General: We bought it, we paid for it, we built it and we intend to keep it." [Governor Ronald Reagan, *Wall Street Journal*, April 29, 1976.]

No: "But let us look at the truth about ownership and sovereignty. The United States does not own the Panama Canal Zone. Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for $10 million in 1903. Rather, the money we gave Panama then was in return for the rights which Panama granted us by Treaty. We bought Louisiana; we bought Alaska. In Panama we bought not territory, but rights." [Ellsworth Bunker, U.S. Ambassador-at-Large, Address before World Affairs Council, Los Angeles, California, December 2, 1975. Quoted in *Congressional Digest*, April 7, 1976, p. 119.]

No: "It is proper to remark that the Zone has not been sold, transferred, or alienated by the Republic of Panama to the United States in full ownership. That which was ceded is the use, occupation, and control of the Zone for the specific needs of the construction, conservation, operation sanitation, and protection of the Canal. If the Canal were abandoned by the United States, the United States would have no legal ground for occupying the Zone, title to which it has not acquired either by purchase, transfer, or conquest. Further, the Canal Zone has not been even leased to the United States because the annual payment of two hundred and fifty thousand dollars which it undertook to make under the Canal Treaty was not stipulated as a fee for the use of the Zone." [Letter from Panamanian Minister Alfara to Secretary of State Hughes, January 3, 1923 cited in Whiteman, Marjorie, *Digest of International Law*, Volume 3, 1964, Department of State, p. 1143.]

Yes: "Ever since it was acquired, the Canal Zone has been considered and treated by the legislative branch of the Government as a possession of the United States and not as a foreign country." [Argument for the United States by Assistant Attorney General Sisson and Solicitor General Hughes in *Luckenbach S.S.* v. *United States*, 280 US 173, 175 (1930).]

No: ". . . on September 8, 1909, 27 Op. Atty. Gen. 594, the Attorney General, in an opinion given to the Secretary of War, held that the Canal Zone was not a possession of the United States within the meaning of the Tariff Act of August 5, 1909. . ." [Opinion of the Court delivered by Mr. Chief Justice Taft in *Luckenbach S.S. Co.* v. *United States*, 280 U.S. 173, 178 (1930).]

Yes: "It is hypercritical to contend that the title of the United States is imperfect, and that the territory described [the Panama Canal Zone] does not belong to this Nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate." [Mr. Justice Brewer delivering the opinion of the Supreme Court in *Wilson* v. *Shaw*, 204 U.S. 24, 33 (1907).]

No: "I would never give up complete control or practical control of the Panama Canal Zone, but I would continue to negotiate with the Panamanians . . ." [Governor Jimmy Carter in Presidential Debate on Foreign Policy, October 6, 1976, in San Francisco, California.]

Yes: "*Acknowledging* the Republic of Panama's sovereignty over its territory . . ." [Preamble of the Panama Canal Treaty signed September 7, 1977 by President Jimmy Carter and General Omar Torrijos in Washington, D.C.]

Unclear: "A cursory examination of legal sources indicates that the words 'Canal Zone' have received various interpretations for United States legislative purposes. For purposes of extradition, it is considered an organized territory (37 Stat. 569, 48 U.S.C. 1330); for purposes of customs duties, it is treated as foreign territory (33 Stat. 843, 19 U.S.C.); as to transportation of mail, its ports are considered foreign ports (Luckenbach Co. v. U.S., 280 U.S. 173); as to the authority of the Government to engage in (*Wilson v. Shaw*, 204 U.S. 24) . . ." [Assistant Legal Adviser Snow to John R. Kelly, letter, June 19, 1950, MS. Department of State, file 611.1913/6–1550. Cited in Whiteman, Marjorie, *Digest of International Law*, Volume 3, 1964, Department of State, p. 1171.]

IS THE PANAMA CANAL CRITICAL TO U.S. NATIONAL SECURITY?

Yes. Every ship in the U.S. Navy except the 13 aircraft carriers can transit the Canal. This includes American nuclear submarines. Also, the trend in naval shipbuilding is toward smaller ships, most of which will be able to transit the Canal by the turn of the century. The United States in reality does not have a two ocean navy. With only 476 ships in the active fleet, America at best has only a one and a half ocean navy. The ability to move units of the fleet between the Atlantic and the Pacific will be critical to the United States for decades to come.

In a June 6, 1977 letter addressed to Mr. Carter, former U.S. Navy Admirals Arleigh Burke, Robert B. Carney, George Anderson and Thomas H. Moorer, explained the strategic importance of the Panama Canal:

"Our experience has been that as each crisis developed during our active service—World War II, Korea, Vietnam and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for the Armed Forces. The Canal provided operational flexibility and rapid mobility. In addition, there are the psychological advantages of this power potential. As Commander-in-Chief, you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict."

During America's involvement in Southeast Asia, ⅓ of all U.S. sea-going cargo destined for that part of the world passed through the Canal. Japan continues to rely upon the United States for its primary defense and for this reason alone we must remain a Pacific Power.

The importance of Latin American natural resources to the United States economy is increasing with the Western Hemisphere becoming more economically interrelated each year. Much of this trade transits the Panama Canal in at least one direction.

The United States has critical strategic, defense and energy interests in the Caribbean area. We are a major buyer of Venezuela oil. Soviet influence in Cuba and Peru is not diminishing. Panama itself may well be a target of Soviet influence and probing. The Panama Canal Zone is the headquarters of the U.S. Southern Command. It provides the best available facilities anywhere in the world for jungle warfare training. It gives the U.S. a presence in a part of the world which has always been important to the United States and this importance is growing.

Finally, the United States must stop its long series of foreign policy defeats and setbacks. From the Bay of Pigs to Angola the U.S. has retreated around the world and to give up the Panama Canal which is critical to U.S. economic and national security interests would cause serious political ramifications for the U.S. and its key allies. It could further convince America's adversaries that we have lost our will and are no longer willing to stand up for our vital national interests.

No: The Canal has lost its strategic and military importance to the United States. Aircraft carriers are the heart of the U.S. fleet. Most other Navy ships serve as part of the Carrier Task forces. The carriers cannot transit the Panama Canal. Thus the ability of the smaller ships attached to a carrier task force to do so is quite meaningless. For U.S. Navy attack or missile launching submarines to pass through the Canal requires surfacing. which in time of war would be a decided threat to any sub doing so. American military presence in Panama is a lasting and irritating vestige of colonialism. It is not needed to protect U.S. interests because the presence does more damage than it does good. It is a bone of contention to most of Latin America.

The real interest of the United States is to maintain open and unhindered passage through the Panama Canal for the naval and commercial vessels of all nations. With the Canal such an emotional issue in Panama, the best way to achieve this free passage is through a new arrangement between the U.S. and Panama.

While the United States can presumably protect the Canal from most foreign attacks (a sea or air launched missile attack against the Canal would undoubtedly be impossible to stop in its entirety and would close the Canal for a long period of time), the real military threat to the continued operation of the Canal comes from sabotage and guerrilla type operations within Panama. The best assurance against such attacks would be a new arrangement with Panama giving that nation a dominating interest in keeping the Canal open and free from internal attack.

With jungle terrain more difficult to fight in than Viet Nam, the U.S. would have to send 100,000 troops into Panama to put down a domestic or guerrilla attack on the Canal. Such military action would undoubtedly last for many months, causing serious domestic disruptions among the American people.

IS THE PANAMA CANAL IMPORTANT TO THE ECONOMY OF THE UNITED STATES?

Yes: The Canal shortens the sea route from New York to San Francisco by 8,000 miles and 30 days and from New York to Yokohama, Japan, by 3,000 miles. Japan, America's second largest trading partner after Canada sends approximately one-third of its sea borne commerce through the Canal. According to the White House fact sheet on the Treaties, 7% of all foreign trade going in and out of U.S. seaports passed through the Panama Canal in 1976. The Library of Congress estimates this to be 12% In FY 1976 12,280 ocean going vessels transited the Canal. Also, 96% of the U.S. merchant fleet can go through the Canal.

The energy needs of the United States are becoming increasingly linked to the Panama Canal. Although super tankers cannot use it, the United States is soon expected to be sending 200,000 barrels or 29,000 long tons of Alaskan crude oil through the Canal daily. This figure is expected to reach 70,000 long tons by 1980. For the period FY 1973 to FY 1976 42,494,000 long tons of petroleum shipments passed through the Canal going to or from U.S. ports according to testimony of Howard Casey, Deputy Assistant Secretary of Commerce for Maritime Affairs, before the House Subcommittee on the Panama Canal on July 25–27, 1977.

No: The Panama Canal is losing its economic importance to the United States. The overall percentage of U.S. import and export sea-going tonnage is declining, and the 7% of U.S. tonnage going through the Canal is minimal. In FY 1975 total transits of the Canal numbered 14,735. In FY 1976 this figure had fallen to 12,280. Ships exceeding 950 feet in length, 106 feet in width and having a draft of more than 40 feet cannot use the Canal. This eliminates super tankers and giant ore ships which are moving an increasing percentage of U.S. produced goods or purchased raw materials on the high seas. Alternative means of shipping goods between the East and West Coasts of the United States, like the combined sea-railway system, have become more competitive with the cost of shipping through Panama. Since 1975, the Canal has lost money. The lock system is over 50 years old, and maintenance costs will continue to go up. If the United States retains control of the Canal, it faces the prospect of much higher maintenance costs and declining revenues. This difference can only be made up by higher tolls, which will make the Canal less competitive as a means of transportation, or by congressional appropriations. The Canal is becoming an economic liability for the United States. Under these conditions, it makes sense to transfer it to the Government of Panama, which wants it very badly.

TOWARD TRUE PEACE IN THE MIDDLE EAST

Mr. **METZENBAUM**. Mr. President, there has been a great deal of controversy in recent weeks about some of the Carter administration's policy initiatives in the Middle East. Recently, the Jewish Federation of Cincinnati passed a resolution on American Mideast policy which summarizes very well some of the concerns that a great many Americans have. The resolution also offers some very useful suggestions for future U.S. policy in that troubled area of the world.

Mr. President, I ask unanimous consent that the "Resolution on the Middle East" by the Jewish Federation of Cincinnati be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION ON MIDDLE EAST

We applaud President Carter's efforts to bring about peace in the Middle East and his firm commitment to support Israel. However, we are concerned about some aspects of the policy developments in our country's efforts to achieve a Middle East peace, dependent as it is on Arab recognition of Israel's legitimacy and direct negotiations between the parties.

We perceive American policy moving towards acceptance of the Palestine Liberation Organization as an equal participant in the Geneva Peace Conference. Together with the joint U.S./Soviet communique, this has profoundly dangerous implications.

The joint U.S./Soviet communique's language "the legitimate rights of the Palestinian people" is interpreted in the Arab world as national rights for Palestinians, meaning creation of an independent, separate Palestinian entity between Israel and Jordan. The Arab world knows this could only be done if the United States and the Soviet Union impose their will upon Israel and not in a bargaining process between the Arab states and Israel.

In any case, as the P.L.O. has stated, such an entity would still not solve the crucial issue of permanent settlement of Arab refugees.

Far-reaching implications for the Middle East and the world result from the creation of such an entity. It would give the P.L.O. a springboard from which to carry out its declared purpose of destroying Israel. It would give the Soviet Union a new power base in the area and serve as a center for revolutionary, radical agitation against Jordan, Saudi Arabia, and Egypt, countries which now are relatively U.S. oriented.

The Soviet aim in the Middle East is to deprive the U.S. of influence in the area. Soviet actions in continuing a massive arms supply to the Arabs are designed to intensify conflicts, not ease them. The U.S. should not legitimize Soviet acts detrimental to our own and Israel's interest in peace. The quest for peace in the Middle East is a vital part of American foreign policy which we all fervently support. In encouraging a short-term solution, we must not advocate or support the creation of a P.L.O. dominated Palestinian entity which would contain seeds certain seeds certain to bring chaos and war over a longer term.

Rather, the U.S. should use its good offices to bring the states involved—Israel, Egypt, Jordan, Syria, and Lebanon—to Geneva on the basis of U.N. Resolutions 242 and 338, and permit those states to negotiate the terms of a peace among themselves. It should not vary from this position, except with Israel's approval, as agreed to in the "Memorandum of Agreement," dated September 1, 1975.

We think U.S. involvement is essential to bring about direct peace negotiations between Israel and the Arab states. We ask you to support U.S. efforts towards that end without U.S. pressure on Israel to make substantial concessions before such negotiations start.

We request that you make your position known to the President and to your constituents.

SMALL IS STILL BEAUTIFUL

Mr. **PERCY**. Mr. President, I would like to draw the attention of my colleagues to an excellent article which appeared last month in the Washington Post entitled "Small is Still Beautiful." The article, a moving tribute to the late E. F. Schumacher, was written by Barbara Ward, a well known British economist and humanitarian. While Barbara Ward mourns the loss of a friend and colleague, her deepest regret is for the world and what it has lost.

We are all indebted to Fritz Schumacher. He taught us that the western path of development—typically large scale, capital intensive technology—is not necessarily appropriate for the developing world where labor abounds and capital is short.

But more than teaching us a new economics, E. F. Schumacher taught us a new humanism. He taught us that people count—their traditions, culture, language and history—and that economics should be tempered and molded to fit their needs.

Mr. President, I ask unanimous consent that the Washington Post article by Barbara Ward be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMALL IS STILL BEAUTIFUL

(By Barbara Ward)

Anyone fortunate enough to have known Fritz Schumacher, who died last month, will now be chiefly mourning the loss of a friend who combined a remarkable innovating intelligence and rigor of mind with the greatest gentleness and humor. But what the world has lost is of far greater importance.

It was in the 1960s, at the height of the euphoria about "stages of growth" that would lead the developing world, in the wake of Western prosperity, to the same ultimate felicity of high technology and high consumption, that Schumacher first sounded a warning note. He began asking, for countries desperately short of capital and endowed—even overendowed—with an abundant and growing labor force, how anyone could expect that high-cost technology, largely replacing manpower, could lead to anything but economic and social disruption. He was the first Western expert to argue that in such areas as India (and, by implication, China) the prime needs, especially in the rural areas where most people lived, were workplaces which could be established at, say, $100 to $1,000 in capital costs and tools and machinery which would use to the full the manpower and the human skills locally available.

This "intermediate technology"—which has come to be generally known as "appropriate technology"—would conform to local requirements and permit the most rapid and socially acceptable forms of growth. Schumacher foresaw that undue priority given to, say, the petrochemical complex—which can demand $10 million in investment and provide just 150 jobs—or to the auto assembly line or the "Green Revolution" in agriculture would lead in the Third World to huge debts abroad and spreading underemployment and deepening maldistribution of income at home.

What was prophecy in 1965 is certainty in 1977. But Schumacher was not content to be a prophet. His best known book, "Small Is Beautiful," belongs in some measure to the category of exhortation, but his literal invention of the concept of "appropriate technology" and his establishment of an institution—the Intermediate Technology Development Group—to study its implications and encourage its widespread use has revolutionized the policies of international lending agencies and—though more slowly—of governments throughout the world.

The sheer scale of the impact is almost unbelievable when it is seen to be what it is—the inspiration of a single man. For instance, by 1982 the U.N. Environmental Program hopes to have "a global network of institutions to test, apply and publish advice on appropriate and environmentally sound technology." The World Health Organization has introduced a new program entitled "Appropriate Technology for Health." The technology and employment branches of both the International Labor Organization and the U.N. Industrial Development Organization are developing appropriate technology programs.

Several agencies, realizing that rural water supplies and sanitation are virtually inconceivable without small-scale technology and full local involvement, are concentrating on "appropriate technology" in these areas. The U.N. Development Program is working in the irrigation sector, and the World Bank recently helped sponsor a seminar at Oxford on appropriate technologies for sanitation.

These signs of a new direction in development thinking also can be found in national aid programs. Britain's Overseas Development Ministry has set aside over $2 million for work on appropriate technology. America has gone further. A special unit has been set up in this area within the U.S. Agency for International Development, with a starting fund of $20 million.

The Dutch and Swedish governments are also increasing their interest in this sphere, and it is perhaps of melancholy interest to note that in the very week of Schumacher's untimely death, the Asian Development Bank published a study of the effects in Asia of the Green Revolution (supported by so many aid agencies), which reported on its general failure to increase food production on the needed scale and its tendency to increase social disruption, the flight from the land, and the swelling of vast urban megalopolises where adequate employment, education and even the minimum decencies of life are not available for at least a third of the inhabitants.

There are those in the Third World who see "appropriate technology" as one more Western plot to ensure that the main instruments of power in modern production are kept from the poorer countries so they may continue in abject dependence. It is probably for this reason that developing nations rejected a resolution at the ILO World Employment Conference in 1976, proposing the establishment of an International Institute for Appropriate Technology.

But the fear is basd on misapprehensions, as can be seen from several examples. The first is, of course, the degree to which a vast country like China has based most of its crucial rural development on "appropriate technology" and thereby has increased its independence from more industrialized societies.

The second can also be illustrated from the Chinese experience. To begin with, labor-intensive techniques and technologies can lay a secure basis for a later more elaborated use of what is valuable in more sophisticated technology and science. The stronger the base—in employment, skills and the satisfaction of basic needs—the higher the pyramid of capital expansion and scientific research that can be raised up later. And not all modern "breakthroughs" are valuable simply because they are modern. If appropriate agricultural technology helps minimize the use of a range of lethal pesticides, herbicides and fungicides, people will not only have enough to eat—they also will avoid the deaths and injuries to which so many Third World farmers and laborers have succumbed through use and misuse of these chemicals.

Finally, one should not forget the degree to which Schumacher's own thinking was profoundly shaped by his experience in the Third World. It was after serving as economic adviser first to Burma in the 1950s and in India in the early 1960s that, influenced by Buddhist thought and Gandhian philosophy, he began to evolve his concepts of a technology appropriate to each people's cultural tradition and his "economics as though people mattered." In a very real sense, his thought was a gift from the Third World to the first, and the lessons he devoted his life to teaching may turn out, sooner than we expect, to be as relevant to New York City as to Lagos or Bombay.

POWER PLAY

Mr. METCALF. Mr. President, the General Services Administration in its attempt to hold down spiraling utility rates has intervened before State and Federal regulatory commissions throughout the Nation, saving the Federal Government millions of dollars. I applaud the GSA for its efforts and ask unanimous consent that a recent article from the Wall Street Journal pertaining to this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FEDERAL AGENCIES FIGHT ELECTRICITY RATE BOOSTS IN A BID TO SAVE MONEY

(By James C. Hyatt)

BALTIMORE.—Baltimore Gas & Electric Co. wants to raise its rates by $120 million a year. As usual, its customers are trying to short-circuit that plan.

The higher rates are being opposed by such heavyweights as General Motors Corp., General Electric Co. and the Peoples' Counsel, a Maryland state office that claims to represent homeowners. And battling alongside them, in proceedings before the state Public Utility Commission, is another formidable consumer: Uncle Sam.

The reason is plain dollars-and-cents. Last year the federal government's electricity bills from Balitmore G&E totaled $14,692,693, ranging from $15,168 at an Army Reserve center to $5,189,406 for Fort Meade, Md. If the proposed rates take effect, technicians figure, Uncle Sam will be stuck for an additional $3.2 million a year.

Much the same thing is happening to other federal utility bills around the country. So, in self-defense, the government increasingly is becoming its own consumer advocate before state and federal regulatory commissions. Its lawyers, economists and utility rate experts—a force now totaling about 100—are moving in to uphold the taxpayer's interest and limit, the drain on the U.S. Treasury. At last count, these operatives were fighting no fewer than 171 proposed rate rises for electricity, gas, telephone or other service.

A VICTORY IN ILLINOIS

They are winning victories. On Oct. 12, the Illinois Commerce Commission granted Commonwealth Edison Co. a rate increase calling for a return on its common stock of about 12 percent. That was about what the federal government had recommended, and it was significantly less than the 14.5 percent to 15 percent the company had sought. (Each additional percentage point yields about $28 million in increased revenues to the company.) The government was the only major customer challenging Commonwealth Edison's requested rate of return.

Though utility executives don't like to talk on the record about the government's rate-fighting attempts, some privately express irritation. "They're always out there with a hammer to knock you down," complains one Midwest utility's financial officer. "Trying to figure out the lowest rate they can recommend gets to be a technical game with them."

But the federal intervenors contend they are doing an essential job, and they boast of some clear-cut savings. Last year Public Service Electric & Gas Co. of New Jersey proposed to double, to $2 from $1, a special charge per kilowatt for certain major customers whose sudden surges in power consumption require availability of extra generating capacity. The change would have cost a Navy air-propulsion test center an additional $1 million a year. The government, the only party in the case to oppose that provision, prevailed. "We were able to convince the commission that the charge wasn't justified," Attorney James Ellis says.

SAVINGS ADD UP

Since the federal government's annual power bill exceed $1 billion, and telecommunications services cost it another $3 billion or $4 billion, the savings in successful rate fights can add up impressively. "Conservatively, in the last year we've saved the federal government better than $50 million in all kinds of key services," says Spence Perry, who heads the Regulatory Law Division of the General Services Administration, the governments' chief purchasing agent and chief intervenor in rate cases. Jay Solomon, the GSA administrator, declares, "I think we do a pretty good job of protecting the government's pocketbook."

It isn't only the government that gains, though. When Uncle Sam successfully attacks a utility's broad plea for a higher return on investment, all customers from homeowners and storekeepers on up share in the immediate benefits. "When we do get together on an across-the-board kind of proposition, such as rate of return, we win it for everybody, no matter who the customer is," says Donald F. Rogers, who is serving as Deputy Assistant People's Counsel in the Baltimore G&E case.

But utility executives naturally are nettled, particularly when the government representatives argue for a lower rate of return on investment than the companies consider necessary. One company official says "we've never felt they've presented a reasonable case" taking proper account of a utility's need to raise capital under today's market conditions.

"A VICIOUS CIRCLE"

Adds a spokesman for one Eastern utility: "There is a vicious circle here. We're trying to protect our revenues. And when our earnings improve, we pay more taxes. The government might not be as injured as one would think." An executive of another company insists: "In the end, GSA intervention will cost the government money because tax revenues go down."

For their own protection, some utilities have tried to keep the government out of rate cases. And during the Nixon era, the Treasury Department unsuccessfully urged the GSA to stay out of electricity-rate proceedings; it insisted that low returns on investment were jeopardizing utilities' financial health.

Nowadays, utilities have an added talking-point: The Carter administration's push for redesign of utility rates to encourage energy conservation may clash with the government's effort to hold down its own utility bills. One company executive notes that energy officials have suggested "that utilities consider novel approaches to rate-making in order to change habits in the use of energy." He adds: "Then what happens is that the GSA stands up and complains that they'll wind up paying more for electricity."

As one conservation measure, federal energy officials and many utilities have been pushing "time-of-day" pricing, which grants reduced rates for power used during low-consumption periods, such as nighttime. But because federal offices are daytime operations, Uncle Sam's bills would be hard-hit by a pricing plan penalizing daytime usage. So the GSA is urging a cautious approach.

Recently, in an Ohio case, the agency won a delay of time-of-day pricing. Dayton Power & Light Co. wanted to adopt such a rate structure. But government witnesses argued that there's little Uncle Sam can do to move its workload to nighttime operations and gain the benefit of lower rates. (Many big private employers, of course, might face the same difficulty.)

During the hearing, Col. Fred M. Blum, a personnel officer at Wright-Patterson Air Force Base, said adoption of night-work schedules would mean "our recruitment of new people would be dealt a heavy blow." The base employs thousands of civilian scientists and technicians in research projects, and moving them to night work "would probably steer them elsewhere to pursue careers," he said. In its opinion, the Ohio Public Utilities Commission decided the record was insufficient to justify adoption of time-of-day pricing. It ordered more study of how such rates should be designed.

SOME MIXED EMOTIONS

Environmentalists, for their part, have mixed feelings about the government's rate intervention. "We see the GSA's involvement as both a help and a hindrance to us," says Richard E. Morgan, a utility researcher for the Environmental Action Foundation, a Washington-based public-interest group. Environmentalists applaud when everybody's energy bills are held down. But when the GSA tries to keep rate structures "as favorable as possible to the government as a large customer, that's where we get into conflict," Mr. Morgan says. Environmentalists prefer considerably higher rates for big users, to help discourage energy consumption.

The critics notwithstanding, federal representatives have increased their intervention as utilities' rate-rise requests have multiplied. But Uncle Sam lacks the money and manpower to intervene in every case. So officials pick and choose, depending on their assessment of the effects. They consider not only possible savings for the government but also broad economic and social goals.

One such question is whether the poor or the elderly should pay lower rates than other customers. If so, which other classes of customers should be hit with higher rates to provide the subsidy?

A rather typical proceeding in which the government has intervened is the Baltimore G. & E. case. The company argues that it has consistently failed to achieve the rates of return on investment allowed by past PUC decisions, and that its stock price and ability to raise capital have suffered as a result.

"One of the major factors for our stock's selling below its book value is investor concern over whether we will receive sufficient rate relief," the company's chairman, C. Edward Utermohle Jr., testified early in the current case. "BG&E's history of inadequate earnings throughout this decade has not been a record to inspire the confidence of investors, and understandably, they are waiting for proof that regulation in Maryland is constructive."

In terms of common stock equity, the company is seeking a 14.25 percent after-tax rate of return, up from the 12.74 percent authorized in the last rate case. Instead, a GSA witness appearing before the commission called for a reduction, to a range of 11.72 percent to 12.09 percent.

And John W. McCabe III, a utilities consultant hired by the Defense Department, challenged Baltimore G&E's request for a $120 million revenue boost. Only an additional $15.2 million from electric and $13.2 million from gas operations are "required in order that the company have the opportunity to earn a minimum return," he told the PUC.

EXAMINER'S RECOMMENDATION

So far, the company isn't faring as well as it would like. On Oct. 27, a hearing examiner for the commission recommended that Baltimore G&E raise its rates to produce an additional $87 million in annual revenue, instead of the requested $120 million. That recommendation, which will take effect Nov. 25 if it isn't altered by the commission, calls for a 12.7 percent return on common stock equity, slightly more than the GSA has proposed but significantly less than the company has requested. "We are disappointed," a Baltimore G&E spokesman says.

Much of the government's case involves rate design, the way the company apportions its revenue needs among various classes of customers. The key issue is how to treat Fort Meade, a 13,486-acre post near Baltimore that houses 43,000 people in 2,127 buildings.

Terry J. Kolp, a Defense Department attorney participating in the case, calculates that while natural-gas rates provide the company a 7 percent return on residential service, the rates paid by the Army, which is classed as a commercial user, generate a return of more than 14 percent. "We'll ask that the increases be allocated to reflect cost of service more accurately," he says.

Unlike other major customers, Mr. Kolp argues, the government bears the heavy expense of installing and maintaining the electricity and gas distribution system on the Army base; that system, installed at a cost of $12 million, includes 1,154,866 feet of overhead power lines, according to a government witness, George E. Cunningham, who heads Fort Meade's utilities division.

Sometimes, of course, the government's witnesses miss the mark. One day during the Baltimore G&E proceedings, a GSA representative was challenging the company's requested increase in its rate of return on common-stock equity. He calculated that return as 14.14 percent in 1976.

J. A. Biddison Jr., the company's general counsel, hardly could suppress his glee. He declared that the government's witness had failed to take into account the company's dividend on its preferred stock. A proper calculation, he concluded, would work out to only 11.66%—indicating the utility is doing less well than the government had argued.

But Baltimore G&E executives decline to speak out pro or con the government's participation in the case. They explain that any favorable comment might influence the Public Utilities Commission to give more attention to the government's arguments, and any negative statement would unnecessarily create hard feelings.

CITY OF MESA, ARIZ., OPPOSED TO EXTENDING ERA RATIFICATION TIME

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Arizona (Mr. GOLDWATER), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR GOLDWATER

The proposed legislative extension of the deadline for ratification of the Equal Rights Amendment raises the proverbial "can of worms." Frankly, it is my opinion that such a move would not be constitutional.

At the very least, there is so much sharp division among constitutional scholars on the question that Congress would be most unwise to act on the proposal. In other words, this just is no way to amend the Constitution.

The fact of the matter is that Congress has never before extended the ratification deadline of any proposed constitutional amendment and the courts have never considered the question of whether it has power to do so. Assuming for the sake of argument that Congress has such a power, a multitude of additional questions are raised.

Must Congress pass the extension by a two-thirds vote of each House as it did in the case of the amendment itself? Or can Congress act by a simple majority vote?

If a later Congress should choose not to accept a time extension granted by the present one, is the action of this Congress binding on its successor or can the later Congress repeal the time extension?

If Congress can reopen the issue by extending the date for ratification, does this allow the States to reopen the question by rescinding their past approval?

These are the kinds of questions that surround the proposed time extension, and these serious doubts are reason alone to oppose it.

This is the opinion of the vast majority of Arizonans who have expressed their opinions on the subject to me. Representative of local opinion in Arizona is a Resolution of the City Council of Mesa which I have just received expressing opposition to the time extension and which I have attached hereto.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZ., EXPRESSING OPPOSITION TO EXTENDING TIME FOR RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

Whereas, proponents of the Equal Rights Amendment, with the assistance of huge Federal subsidies, have lobbied extensively for the adoption of the Equal Rights Amendment by the requisite number of States; and

Whereas, unless the amendment is ratified by the requisite number of States by March of 1979 the time for its ratification will have expired; and

Whereas, proponents of the amendment are now seeking congressional action to extend the time period for ratification, with the understanding that additional efforts to secure its ratification will be subsidized by Federal funds; and

Whereas, in the opinion of the City Council, it is not in the best interests of the City of Mesa or of the United States of America that the time for ratification should be extended;

Now therefore, be it resolved by the City Council of the City of Mesa, Maricopa County, Arizona, as follows:

Section 1: That the City Council of the City of Mesa does by this resolution express its opposition to the extension of time for the ratification of the Equal Rights Amendment, and it dces hereby request the Arizona Congressional Delegation to use all available means to secure the defeat of any proposed extension of time.

SURVIVAL

Mr. ABOUREZK. Mr. President, I ask unanimous consent that an article written by Marcus Raskin of the Institute of Policy Studies, which was published in Society magazine issue dated November/December 1977, be printed in the RECORD. Mr. RASKIN's paper is an important contribution on the subject of human rights.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SURVIVAL

(By Marcus G. Raskin)

Practical concern with human rights is the life instinct of civilization. Without a shared consciousness and means for their application, there is little chance that humanity and civilization will be able to survive the next fifty years without horrifying and devastating tragedies. It goes without saying that any progress which human civilization might make is utterly tied to the meaning that human rights is given in the daily practice of nations and peoples.

Some will say that there is nothing "new" in the collective horror of this century, where reason is detached from personal feeling and subjective understanding. But they would be wrong. Our sophisticated, calculative intelligence is translated into military technologies of violence in being, like missiles, thermonuclear weapons, smart bombs, prisons, torture chambers.

Others will say that there is nothing new in huge bureaucratic structures where people are reduced to roles of processor and processed, joined together in a Kafkaesque embrace waiting for each to exchange roles. But there is a difference between this and other times. By virtue of what technology allows, there do not have to be limits to behavior. And that is what has happened.

DEFINING HUMAN RIGHTS

There is another side. Silently people cry out "enough," in a world gone morally and legally mad, where few either speak for humankind or with a human face. But a half-awakened consciousness of people is slowly becoming aware of a membrane which holds civilization together. It is this membrane, human rights, which is our task to nurture and strengthen, bringing intellectual and political sustenance to those rights. This task is not easy because the very nature and definition of human rights is ambiguous.

In our time the concept of human rights emerged from World War II, where cruelty and abomination had reached stunning proportions. It emerged from a period in which human beings had been the "objects" of Great Powers with virtually no standing in international law, and where the individual person's life was open to intrusion and destruction by states or the games which statesmen play with each other. The League of Nations took no notice of the internal affairs of state no matter how brutal the result, and leaders were not thought to be responsible for their actions in international law. It took World War II to recognize that there is a link between respect for freedom within the state and the maintenance of peace betwen states. The UN Charter reflects this point of view and recognizes human rights in the preamble.

It is important to remember the historical, moral, legal, and even psychological relationship between the Charter of Nuremberg (which attempted to develop a definition of personal responsibility), the United Nations Charter, and the later Human Rights Declaration. The Charter of Nuremberg, which was narrowly interpreted by judges, had sweeping and high purposes. The articles themselves either overlap or deal with those questions which *in practice* are human rights questions, questions which determine whether a state is something other than the means to organize people into submission or violence. The tribunal sought individual responsibility in three areas: crimes against peace, war crimes, and crimes against humanity.

As Richard Wasserstrom has pointed out, the principle of vicarious liability, which would hold members of a conspiracy responsible regardless of whether they had committed a particular act, was also introduced. Thousands of people were brought to justice under this charter and a similar one in Japan. Nuremberg is a stubborn fact of international affairs; it is a precedent that will not go away. Indeed, it is critical to our present understanding of international politics and law.

PROMOTING HUMAN RIGHTS

Simultaneous to the emergence of the Cold War and the breakup of old empires, the need appeared to forge some other, more positive direction which would limit the destruction of man's institutions upon people themselves. Nuremberg and the UN Charter were such imperfect instruments. The objective of the United Nations as laid out in the charter did not mean that there was a list of formal obligations in human rights which were a condition precedent to membership in the United Nations. Nevertheless, even without an explicit provision dealing with formal obligations, it would be absurd to think that the members of the United Nations did not formally accept the principles of respect for human rights. But respect, of course, is not the same as legal commitment.

The question of how to promote human rights in practice foundered on the rock of political sovereignty, legal imprecision, and bureaucratic fear and the Cold War. With the passage of the Universal Declaration of Human Rights in 1948, the world's people learned how limited—if any existed at all—were the obligations of the states to either apply or sign and implement by treaty the declaration's provisions. Mrs. Roosevelt, as chairwoman of the Commission on Human Rights, stated prior to its passage that the declaration was not a treaty or agreement; yet the declaration carried moral weight with the mass of people.

The declaration made clear that human rights were more than a "luxury." The declaration was more than the culmination of the ideologies which centered around natural law or those which centered around the cartoon of the inevitability of progress, a conception which had so gripped the pre-World War I socialist and liberal thinkers. The miracle of that document was that people with opposed ideologies had agreed on a basic list of rights although they could not state why they favored those rights as basic, how the definition of those rights would operate in practice, or a common philosophical understanding of the world.

AMERICAN AMBIGUITY

Disagreement about first principles made it very difficult to develop a series of practices which would cause the enforcement of the Universal Declaration. While the document was predicated on many American notions, such as those laid out in the American Declaration of the Rights and Duties of Man (Bogota Conference of American States, 1948) and the thoughts of President Roosevelt's New Deal, and while diligent efforts caused the declaration to be quickly adopted, the United States did not accede to the document as a legally binding one, claiming that it had no such force. The document was seen by nations as an exercise in moral oughtness. The Soviets, however, appeared to want to give the declaration greater legal weight, as did the French and Belgians.

Early on the United States faced a hornet's nest with the passage of the declaration; and by the time that Eisenhower and Dulles came to power in 1953, the stage was set for the United States to withdraw any sort of support for effective human rights treaties. The reason the United States took this position during the time of Eisenhower is a complex one. In part, it was related to the conservatives in Congress and the Republican party who feared that the United Nations, and other nations as well, would upset the internal social system of the United States with "socialistic" ideas. There had been evidence that the U.S. courts were referring to the UN Charter in various of their decisions.

There was also a more complicated foreign policy reason. Dulles had enunciated the doctrine of liberation for Eastern Europe in the 1950–54 period. Except for covert operations, this reflected Cold War rhetoric more than the actualities of military intervention. Dulles feared that human rights covenants and declarations could be used by those to his political right or liberal interventionists to insist that the United States use such treaties as legalistic instruments for military action in Eastern Europe, a direction which he had no interest in implementing by force—as shown in the 1956 event of the Hungarian Revolution.

HELSINKI ACCORDS

But a generation is a long time in the history of international affairs. Friends become enemies, disputes which are thought of as settled flare up, ideas and goals thought of as too difficult to achieve become important questions to discuss and negotiate. The Helsinki Conference on Security and Cooperation in Europe set the diplomatic terms of reference for future U.S. diplomatic policy regarding Eastern Europe and human rights in Europe. Politically it is seen as a fine line between disengagement and liberation and means to reintegrate Europe. On the Western side, what could not be done by the spice of "rollback" was to be accomplished by the sugar of détente.

For our purposes, however, the human rights aspects to the Helsinki Accords are critical. The same secretary of state who objected to the American ambassador giving "political science lessons" to the Chilean junta when he complained about Chilean torture, accepted the human rights sections of the Helsinki Accords. The language of this document is similar in purpose and intent to the Universal Declaration, tracking the ideas of that document.

The more specific meaning of this section of the accords has been interpreted to apply to increased human contacts between Warsaw and NATO bloc nations. But the Helsinki Accords do nothing to point up the criminal nature of the arms race, calling instead for "confidence-building measures" such as "prior notification of major military maneuvers, exchange of observers" which "by their nature constitute steps towards the ultimate achievement of general and complete disarmament under strict and effective international control, and which should result in strengthening peace and security throughout the world."

What can we conclude from this litany of new good intentions? Moral pretension plays an important role in the statements, if not in the actions, of states; and while such pronouncements may be pronounced as cynical, it is also true that governmental energy is often spent explaining how the action of the particular state is in the path of moral righteousness and decency. This is understandable since most statesmen recognize, consciously or unconsciously, that both a state and the law which it uses and lives under require a moral basis if either the particular law or the state is to have any lasting significance—especially during a period of great transformation and turbulence. Without a moral basis which can be recognized as such by those who are not part of that particular system of beliefs, one may be sure that such laws or that state will become casualties of social transformation and world opinion. We see this phenomenon operating in southern Africa, and we saw it as well in the thirty-five year struggle against outside domination waged by the Vietnamese people.

HUMAN RIGHTS AND THE ARMS RACE

Certain rights have stood the test of time and the test of modern revolution as the basis upon which the people's freedom, and their own hopes, are to be staked. These freedoms can be added to and deepened in meaning as people discover more clearly the needs necessary to help them in their active subject role in history. The human rights of any particular period are rights necessary for people to exist and thrive in that particular historical period. But rights also are cumulative. Free speech or assembly is no less important because economic security is guaranteed in a society. Nor is it the case that the rights of economic security cease to exist because there is free speech and assembly. Rights in this sense are additive, not contradictory.

These rights, critical as they are and central to our present dilemma, are merely the beginning of understanding the problem of human rights as we should now come to consider it. In this sense we are confronted with an irony. The declaration, which should have been translated from "oughtness" to legally binding treaties a generation ago, is not adequate to face the present turbulent world because of the generally limited or ambiguous definition of human rights which is seen as applying to individuals, but not to individuals as part of a collective or class that can seek relief prior to an action of states. Thus it would seem that genocide has to be completed before there is acknowledgement that genocide has occurred.

The United States is in an even more troubling situation conceptually and morally. The Genocide Treaty has yet to be ratified by the U.S. Senate. Nor is the arms race and arms preparation recognized as part of the way that human rights are violated, or a crime nationally or internationally committed. Instead, nations see arming only as "defense."

The question of human rights must be linked to issues concerning the arms race and war. The direct nexus between the idea of human rights and the existing law of war was not envisaged until World War II was over. The nexus that the charter framers saw between the criminality of state aggression by armed forces and the denial of human worth within the frontiers of such states, and then repeated and increased in the areas that military adventures subjected to their occupation, rammed home in a way that mankind was not likely to forget the connection between aggressive war, the way it is waged, and the total disregard of the individual. In the modern technological context this formulation gives rise to the question of genocide.

Cataclysmic social and political events serve as a catalyst to ideas which are "in the air" but have not crystallized because the events have not occurred to force the reconsideration of basic conceptual frameworks, which usually set the terms of debate in international affairs. It is only now that we begin to see the direct relationship between the work of the Nuremberg judgments and a new understanding of human rights. The Nuremberg trials and judgments grew out of principles of accountability and responsibility from the laws of agency, democratic, and socialist theory. However, this conception of personal accountability and individual human rights has consistently avoided the relationship of the powers of national leaders to make war either on their own people or on people of other lands. Consequently, international law has been silent on the importance of human rights as a line of defense by the individual person, the family, or the community against the state's leadership and its activities as they relate to war preparations, or the more specific question of participation in warlike acts.

In this sense human rights should be seen as a condition precedent to the penumbra of policies which states follow that shade into war, cold war, arming, and covert war. It is a conceptual and moral error to assert that humanitarian rules should be found in the context of armed conflict. Instead, the "human rights" rules should be seen as governing actions of governments precedent to any particular policies which they intend to pursue. They are required to ask what effect the government's foreign and defense policies have on innocent populations. This question goes to the very nature of the arms acquisition and arms race process, a more euphemistic phrase for the preparation of mass murder and genocide.

The legal formulations and judgments to emerge from Nuremberg and the Asian war crimes trials, as well as the moral suasion of the Universal Declaration, the charter, and later resolutions of the General Assembly on war and disarmament, are in direct conflict with the types of weapons which states acquire or make. Besides being a horrifying tragedy, their use sets the stage for considering those who prepare, acquire, and use such weapons as criminals. In this sense, if the killing cannot be legitimated by the laws of war, then surely the actions of leadership fall more within the context of domestic and international criminal concern than high policy. Municipal law becomes the means of bringing action against leadership once the proper legislation is passed to bring leadership to justice for denying the security of the person through the means of weapons chosen to defend the citizen.

MAKING GOVERNMENT ACCOUNTABLE

Obviously the question of bringing such actions against governments falls in the psychological area of political will coupled with existing legislation. Will is usually exercised where there is an aroused and organized citizenry which sees a means to bring such pressure to bear against its government by championing already existent principles. Such a stance, which uses an emerging consensus of international legal doctrine against the excesses of states, needs to find a double constituency: one is among diplomats and international civil servants; the other is among groups in other countries who see that their own liberties are directly tied to those people who are prepared to challenge state law that has no basis in universally accepted principles, while their challenge is legitimated and codified in UN Charter covenants, provisions, resolutions, and international law generally.

In some cases municipal legislation may not exist, and policymakers may think that because there is no law which abjures their action, they are not covered by the domestic criminal law. In this regard, the Kastenmeier Bill is a significant piece of legislation which would commence the tedious but necessary process of holding government officials in the foreign and national security policy areas personally accountable for their plans and practices. Kastenmeier's bill uses as a standard the norms laid on Germany and Japan at the end of World War II, stating that such legislation should be internalized in U.S. law. It also calls for internalizing the charter as well as other international legal structures against war crimes. The bill is grounded on the principle that the person's security is robbed in the case of war, and fundamental human rights are therefore violated in the process.

WAR PREPARATION AND GENOCIDE

The nature of war preparation should now come under direct scrutiny. There is little doubt that a person's security and, therefore, human rights are directly violated by the nature of weaponry adopted. In modern states huge organizations enter into a series of activities on a daily basis which may not appear to be crimes or violations of anyone's rights. But in reality—once we are able to remove the conceptual blinders from our eyes—those actions are crimes in situ, crimes in being. The armaments race, given the nature of the arms made and the war plans fashioned, is criminal in nature when compared to laws of war or peace, the criminal laws of individual nations, and the Nuremberg and Asian trial standards. It would seem to fall within the framework of the first four articles of the Nuremberg charter.

Once we begin our understanding that we are living in an event of genocide which has not, thankfully, played out the final notes of civilization's götterdämmerung, we are able to evaluate an entire spectrum of negotiations and talks on arms control and disarmament from a somewhat different perspective than we usually use. The participants in the SALT talks, favoring great secrecy, eschew necessary moral, legal, and criminal questions when discussing armaments. When these talks are divorced from the fundamentally criminal nature of the weaponry or strategies under discussion, arms control talks are reduced to a narrow exercise between state representatives on the character and size of genocidal forces.

Unfortunately, the SALT talks give the appearance of legitimacy to the entire field of weapons of mass destruction because they create the mind-set among elites in the media and the universities, as well as the public as a whole, that such weapons are "needed" and that they should be considered in the card catalogues of libraries and treasury accounts under the heading of "Policy and Diplomacy" rather than "Crime and Criminal Behavior." There can be no successful discussion which is meant to comprehend the character and gravity of the weapons, and to limit and eliminate them, without that discussion beginning from accepted international legal principles about genocide, population safety, and the Nuremberg judgment of personal accountability of public officials to either municipal or international tribunals.

During the past several years, under the sponsorship of the International Red Cross, more than a hundred states have been negotiating a new set of rules for the laws of war which are to partially take the place of the 1949 Geneva protocols on the war. The negotiators have excluded weapons of mass destruction from their rather intriguing set of talks on the ground that they are being dealt with in another forum. The critical question remains whether all weapons will be subjected to the same standards laid down in this almost successfully negotiated treaty.

If the negotiators have intentionally excluded weapons of mass destruction, then the document will end up as another cynical exercise of governmental duplicity. There is talk among members of the Department of State that it will have criminal sanctions attached to it. But the question of sanctions must also apply to weapons and their acquisition if there is to be much substantive meaning to the treaty. It is ludicrous to work out laws of war that in fact neither touch the nature of arms acquisition nor the major weapons in one's arsenal, which are criminal by nature and which are harmful to any basic human rights.

IMPLEMENTING HUMAN RIGHTS

Some natural law philosophers argue that human rights attach to the human personality and therefore are more important than states themselves. They tend to argue that the raison d'être of the state is to promote human rights of the people; otherwise it has no positive purpose. Regardless of whether this point of view is accepted, it is time for worldwide meetings horizontally between city, neighborhood, and non-governmental representatives of different nations to consider the substantive meanings of human rights in the context of the problems which humanity now faces.

The purpose of such a reconsideration is not to undo the painstaking work already accomplished, but exactly the opposite. It is to make clear that human rights are the inescapable ground upon which international relations exist, not in the sense that human rights become a cloak for busybody intervention and imperialism. Instead, they are to be the ground upon which nations, diplomats, statesmen, and people come to understand the essential need of rights in practice in questions concerning the international economic order, the arms race, the relations of their states to other states, and the internal rights of their own citizenry.

I would suggest an international, nongovernmental monitoring agency which permanently reported on the question of human rights violations, as defined according to the covenants and the Universal Declaration, the Nuremberg Charter, and the UN Charter. It would seek and receive information from governments, nongovernmental organizations, and individuals. It would also fashion economic standards and comment on major technological and military systems and their effect on human rights and individual and group security. It would aid groups in various countries. Human rights in this framework would assert that international economic actions must be in furtherance of aspirations which are stated in treaties and General Assembly resolutions that seek to set out a framework in such matters as disarmament and apartheid.

A major purpose of the UN declaration was to reach the mass of people and clarify their rights. But it is necessary for the people to have access to information and groups in their own countries or in other countries which will help in asserting the "right of human rights." Thus serious relationships which can develop, as outlined in the Helsinki Accords, for the protection of human rights and the establishment of a common understanding of them, will have the effect of strengthening concern and awareness of human rights questions. These groups should work to make operational the language of treaties, charters, and General Assembly resolutions. On a state level treaties and resolutions should be written with an eye to their effect on human rights and the consequences which any particular actions or series of actions would have on human rights.

I have in mind problems which are already recognized as human rights problems, whether torture in Chile or apartheid in South Africa, and problems which have not yet been conceptualized or politicized as such (environmental poisoning, uncontrolled scientific research, military developments). Such questions require a new consideration of human rights by nongovernmental organizations, the General Assembly, and the Security Council, with the purpose of finding means of binding states to declarations and resolutions while providing ways that people can successfully assert internationally accepted rights in their own respective nations.

CHRISTINE M. KNEIFL

Mr. CURTIS. Mr. President, one of Nebraska's outstanding women, Mrs. Christine M. Kneifl, has expressed herself on the equal rights amendment in a manner that I believe deserves the attention of the entire Congress. Mrs. Kneifl has been a long-time teacher of speech and debate in the Omaha public schools, is knowledgeable in public affairs, and her opinion is worthy of consideration.

Mr. President, I ask unanimous consent that her article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CURB FEDERAL CONTROL OF LIFE

(By Christine M. Kneifl)

Mayor Veys is justified on his stand in regard to the Mayor's Commission on the Status of Women.

If there is to be such a commission, it should be representative of all the goals of all the women in his city. If public tax money is to support such a commission, a record of how that money is spent should be in his hands.

There should be as many non-business career women (those committed to total family careers) as there are business and professional career women if the results are to be fair to our society.

There should be a recognized balance between those members with a liberal view and those with the conservative view. We should also have a variation in the economic status in the members of this commission.

Problems confronting women should be worked out in local and state commissions, rather than women limiting their freedoms by welcoming the limits and controls of a bureaucratic federal government which already limits too much of our freedoms at too great a price.

TIME TO RESCIND

Last Wednesday's World-Herald stated that the Congress was voting to extend the time for the passage of ERA but was not going to allow the three states to rescind their vote.

The public should fight for justice in this. If the time is extended, then the states who wish should have the right to rescind. If our federal government is truly interested in fairness to its citizens, rather than grabbing unnecessry power, the Congress should be willing to extend the right to rescind as well as the longer ratification period.

ERA will limit the rights of women and American women should fight this loss of freedoms. The efforts of career women have made all of society more aware of the needs of women in general.

Women will protect and maintain this progress by local and state efforts, not by tying their hands with federal regulations and expense.

In my lifetime, economic conditions of the country have limited the choices and opportunity of women more than specific discrimination against women.

WORST ENEMY

I have been a professional woman in Nebraska since 1924, a business woman since 1932, and a mother, (my No. 1 career) since 1935.

I know America is a place where women have the best opportunity to do as they please, to become what they want to become more than anywhere else in the world.

Society does not limit women. It depends on how she reconciles her life to the acceptance of the nature and purpose of women if she is to feel fulfilled and successful. One learns that we have to make choices and the price or compensations have to be taken into consideration.

I have been a member and often an officer in many women's organizations in my business and public life, and I have found that a woman's problem is not believing in the capabilities of other women.

We are our worst enemy when it comes to recognizing that women have the ability to handle high office in business and government.

We need less control by federal laws, rather than limiting our freedoms with the passage of ERA. For instance, the age discrimination by government against both male and female has been hard for me to accept. There should be no age limit for work opportunity if you have the ability and health.

I wish women could be persuaded not to seek protection through federal control of their lives, but to leave opportunity wide open for them without the control of ERA.

We would know then that America was still marching forward to greater opportunity for all men and women with the local and state citizens (men and women) in the management of their lives.

God gives us our lives. What we do with them is what we give back to God.

SPRAWLING DEVELOPMENT IS TREADING UPON THE APPALACHIAN TRAIL

Mr. ABOUREZK. Mr. President, as you know, on November 1, 1977, the Parks and Recreation Subcommittee of the Energy and Natural Resources Committee held a hearing on S. 2066, sponsored by Senator MATHIAS and 14 cosponsors and H.R. 8803 had previously passed the House of Representatives overwhelmingly by a vote of 409 to 12. Both measures amend the National Trails System Act of 1968 to provide necessary additional protection for the Appalachian Trail.

I ask unanimous consent that an article from the New York Times regarding the Appalachian Trail be printed in the RECORD for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPRAWLING DEVELOPMENT IS TREADING UPON THE APPALACHIAN TRAIL

(By Philip Shabecoff)

HARPERS FERRY, W. VA.—The hikers trudging the Appalachian Trail as it snaked along the top of the Blue Ridge paused a few minutes for a look at the long valley spreading far beneath them. Bathed in the late morning sunlight, the treetops glowed warmly in red, yellow and russet tints as far as the eye could see.

Steven Golden, the National Park Service's project assistant for the Appalachian Trail, had a sly look in his eye as he gestured toward the shimmering mass of color. "People don't realize," he said, "what a lot of work that takes. Volunteers had to paint every one of those leaves by hand."

It was a fine day for hiking "The Trail," as those familiar with the path call it. The sky was clear blue after several days of rain and the air was mild but bracing. Leaves crunched underfoot and the wet earth gave off a fragrant smell. As the group walked through the columns of oaks, hickories and maples, it was easy to imagine being in a wilderness instead of on the heavily used footpath only an hour away from the nation's capital.

DEVELOPMENT AROUND THE EDGES

But as the path curved sharply, the illusion was quickly dispelled. There, crowding right up to the edge of the trail, was a clearing filled with an unpainted house, ramshackle trailers, a rusting old stove, and piles of used rubber tires. A German shepherd snarled and strained at its chain as the hikers passed by.

The Appalachian Trail is in trouble.

For much of the 2,030-mile length of the Maine-Georgia route, particularly in the crowded mid-Atlantic and New England states, developers, road builders and industry are lapping around the edges.

Already, 181 miles of the trail require walking along roads instead of through woods. Housing developments are springing up along the trail's right-of-way. Second-home builders are snapping up private lands through which the trail passes.

"It's not much of a hiking experience when you can see into people's backyards and swimming pools as you go," said Henry W. Lautz, executive director of the Appalachian Trail Conference, which coordinates the volunteer efforts to maintain the trail.

The pressures for the land have continued to build along the crowded Eastern Seaboard. "If we don't do something soon," said Mr. Lautz, "we won't have an Appalachian Trail."

Last month, the House of Representatives passed amendments to the National Trails Systems Act that would permit the Federal Government to condemn and buy up to 125 acres for every mile of trail. The House also voted to make $90 million available for land acquisition.

With this authority, the Government would be able to create a buffer zone of 500 feet on each side of the trail, enough to preserve the natural character of the route.

Currently, the Government is authorized, with $5 million, to acquire only 25 acres for each mile of trail, which could provide a protective strip of just 50 feet on each side of the path.

The new legislation passed the House by a vote of 409 to 12. The Senate is considering similar amendments and is likely to adopt them.

"As a political issue, the Appalachian Trail is like apple pie," Mr. Lautz said. "Nobody is against it." He added: "This is as good a chance as we've ever had. If this goes through, it will be enough to preserve the trail and the hiking experience it can give indefinitely."

A TOUGH HURDLE

But funding measures for the land acquisition, even after the legislation was passed by both Houses, would still have to go through the appropriation process on Capitol Hill, and Congress has repeatedly demonstrated that that can be a tough hurdle.

Some four to five million people hike the trail each year, not counting the millions more who come just to walk for a mile or two during the day in some accessible areas.

About 300 people a year hike the entire Maine-to-Georgia route, taking three months or more to do so.

The trail is considered one of the most valuable outdoor recreation areas in the East, all the more so as 70 percent of the available recreation land is in the Western part of the country while 60 percent of the population is in the East.

In part because of its proximity to major urban centers, including New York and Washington, the trail has been increasingly subjected to uses for which it was not intended.

MOTOR BIKES AND BEER CANS

Motor-bikes illegally disturb the tranquillity that the long path was meant to offer. A pile of beer cans and other garbage at a shelter near Harpers Ferry gave testimony of a party by nonhikers. Graffiti scrawled on the shelter noted that it had been used for an "Elvis Presley memorial party."

The trail, a hodgepodge of Federal, state and private ownership, is maintained largely by an army of volunteers, some of whom have been at it since the trail opened more than 50 years ago. In the South, much of the trail runs through national or state parkland and needs no buffer zones to insulate it.

But more than 650 miles of the footpath, which Mr. Lautz says is the world's longest trail, is without any legal protection.

Unless the Government acquires the land soon, Mr. Lautz warned, the trail could vanish before the pressures of soaring land values and sprawling development.

WHAT'S THE HURRY? LIVING WITH THE SPEED LIMIT

Mr. PERCY. Mr. President, a recent editorial in the Washington Post spoke to an issue too often ignored: Our abused 55 mph speed limit. The dramatic declines in gasoline consumption and highway fatalities that followed the imposition of the 55 mph speed limit seem to have lost their persuasive impact. State by State, average highway speeds have crept up, attended by increased fuel consumption and more traffic deaths. In their hurry to get some place, motorists seem to have forgotten what a good idea it is to drive at reasonable speeds.

As the Post points out, voluntary compliance has failed. Law enforcement efforts therefore need to be stepped up, and Congress must support a nationwide crackdown on violators of the 55 mph speed limit.

Mr. President, I ask unanimous consent that the Washington Post editorial of November 30, "Living With the Speed Limit," be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Living With the Speed Limit

A Department of Transportation study has documented what many drivers already know: The 55-miles-per-hour speed limit on the nation's highways is being widely ignored. Worse, average traffic speeds, which dropped dramatically when the 55-mph law was imposed in 1974, have started inching up again. According to DOT's survey of speeds on rural interstate highways earlier this year, drivers in Virginia are the slowest-paced of all; only 30 per cent of them were measured traveling faster than 55. In Maryland, which ranked 11th among the states, nearly half of the vehicles counted were exceeding the limit. The highest averages, DOT found, were in Wyoming and Connecticut, where 77 per cent of the vehicles were speeding—and about one of every six was going faster than 65.

Why is this worrisome? Because speed kills. The advent of the 55-mph limit was the major reason why highway fatalities dropped by more than 9,100, or over 16 per cent, from 1973 to 1974. Even more telling, the highway death rate (fatalities per 100 million miles traveled) went down about 15 per cent in 1974. Other factors also come into play, including vehicle and road design, terrain, weather, traffic patterns, the ages of drivers and the use of seat belts.

Thus while most states with higher average speeds also have higher death rates, with Wyoming's being the worst of all, the carnage in Connecticut, for instance, is much less than its speeds might suggest. Despite such anomalies, though, the general relationship between speed and danger is so clear that the 55-mph limit could turn out to be the most important public-health measure in years.

Slower driving also saves gas. While an individual driver may hardly notice the difference, DOT estimates that the 55-mph limit is producing fuel savings of around 1½ billion gallons of gasoline a year—and that if everyone obeyed the limit, the savings could be twice as great. Moreover, a number of studies have disproved the common claim that many vehicles, notably trucks, operate more efficiently at higher speeds.

So it is worrisome that speeds and deaths and fuel consumption are all going up again. The ideal remedy would be voluntary compliance with the limit by all drivers. Since that has obviously not been attained, most states' law-enforcement efforts need to be stepped up. Maryland's tough, ingenious, well-publicized anti-speeding campaign has obviously had a real effect, as has Virginia's banning of radar-detection devices. Other states, though, are much less committed to slowing their drivers down. According to DOT, the maximum fine for speeding in Idaho is $5. Seven states have reduced their penalties for speeding since 1974—and legislatures in several others, mostly in the West, keep trying to do the same. Other states lack resources; the chief of Montana's highway patrol told a DOT team that he can put no more than 30 troopers on the state's roads at any one time.

Congress has empowered DOT to cut off highway construction aid to states that fail to enforce the 55-mph limit. That drastic power has never been used, although warnings from DOT Secretary Brock Adams last spring did encourage four governors to veto measures reducing speeding penalties. Such threats may keep the states' performance from getting worse. Real improvements in law enforcement, though, will probably require more federal support. Secretary Adams recommends $30 million to $50 million a year in new aid to the States, coupled with a strong public-education campaign aimed at getting 85 per cent of all drivers down to 55 mph or less by 1982. Congress should support such a program. The speed limit is, as the slogan says, "a law we can live with"—but only to the extent that it is observed and enforced.

PRACTICAL WAYS TO SAVE ENERGY TODAY

Mr. METZENBAUM. Mr. President, I rise to call to the attention of the Senate a forum on energy conservation recently conducted by the Washington Action office of the Council of Jewish Federations and Welfare Funds at their 46th general assembly in Dallas, Tex. Having been deeply involved with the development of national policy in the vital area of energy conservation, I was particularly struck by the hard-hitting, practical nature of the papers presented at this important forum.

Upon investigation, my office learned that the Council of Jewish Federations and its constituent federations and agencies throughout the country have been grappling with the dilemma which every American public service group is currently facing of how to continue to provide vital services to millions of persons within the restrictions of their ever tightening budgets.

To begin to meet this crucial problem with practical solutions, papers were developed and presented from three separate but interrelated aspects of energy conservation for those who are responsible for the operation of community facilities. The first paper was presented by Dr. William Rice, a Washington-based energy conservation consultant. His task was to outline the nature of the energy crisis and the massive level of consumption of foreign source oil. He then outlined clearly how leaders in each community could rationally assess present levels of energy consumption building by building. Finally, he presented a cogent plan to reduce that level of consumption of energy through straight-forward readily available techniques which then result in significant reduction in the consumption of energy, thus making available funds for service programing which otherwise had to be used for energy.

The next presentation was by Mrs. Billie Tisch and Mrs. Rachel Lieberman of the Federation of Jewish Philanthropies New York City. This presentation consisted of a detailed report of the experiment actually run in eight different federation buildings and the results in terms of energy reduction and the cost savings involved in each case. When an energy coservation program is developed in the manner described in this New York experiment, the dollar and energy savings can be enormous. Several of the buildings in this New York example are now back to a 1974 level of energy consumption and overall cost notwithstanding enormous cost increases during the past few years. These cost and energy reductions are attributable in full to the implementation during the past year of this very significant energy conservation experiment.

Finally, the Dallas Jewish Community Center director, Harry Rosen, presented a paper outlining the philosophy, and actual planning which went into the construction of a new community facility for their JCC utilizing the most up-to-date energy conservation techniques. Mr. Rosen's paper provides a "How To" manual for those contemplating new construction.

In each of these instances, the Council of Jewish Federations has brought the general discussion on energy conservation down to the most practical level. The two papers prove clearly that serious local application of basic principles of energy conservation will produce significant energy reduction with concurrent dollar savings which then can assist in providing services when agency budgets are so universally tight.

I extend my hearty congratulations to the Council of Jewish Federations and the participants in the energy forum for their excellent contribution to the Nation. It is my sincere hope that by placing these papers in the Congressional Record that others will benefit from this fine work. I ask unanimous consent that they be printed in the Record.

There being no objection, the papers were ordered to be printed in the Record, as follows:

A Talk on Energy Management For Federations and Their Agencies

(By William L. Rice, Ph.D.)

I. INTRODUCTION

The Arab oil embargo of 1973–74 exposed the extreme vulnerability of the United States to an interruption in its supply of imported energy, particularly Middle Eastern oil. A major element of the national policy to reduce this dependence involves conservation of all energy resources. The members of the Council of Jewish Federation along with other Jewish and non-Jewish organizations and individuals can support this effort through direct, specific energy management programs.

This talk, after briefly discussing the present national energy situation, introduces the principles of energy management and conservation for existing buildings, with an emphasis on health care facilities. These principles include administrative leadership, high-level and continuing; collection and analysis of data both in energy terms (i.e. Btu's) and dollars; and the setting of an energy reduction goal from a base-period consumption level. Because of the present high energy prices, energy conservation is cost-effective. It saves money—money which can be used for priority programs.

II. NATIONAL ENERGY SITUATION

The U.S. continues to be highly dependent on imported oil. Almost 45 percent of domestic demand was met by imports in 1976, compared to about 35 percent of demand at the time of the embargo in 1973–74. Perhaps more significantly, however, 18 percent of this domestic demand was met by Arab OPEC nations (Saudi Arabia, Kuwait, Iraq, United Arab Emirates, Qatar, Libya, and Algeria). This is three times the 1973–74 level.

The continuing high level of imports is producing a major balance of payments problem. Payments for oil have gone from $10 billion in 1973 to more than $30 billion in 1976 and are forecast to increase again by more than 33 percent in 1977 to $45 billion. The 300 percent in oil prices since 1973 has been the main cause of these increased payments. Prices have gone from about $4 per barrel in 1973 to about $13 per barrel today.

U.S. consumers, however, do not pay the world price of $13 per barrel. This is because of the large quantity of price-controlled domestic oil which is sold at about $8 per barrel. When averaged with the $13 per barrel for U.S. refiners. The insulation of U.S. consumers from high world energy prices leads to greater U.S. consumption than would othewise be the case, thereby exacerbating the dependence and payment problems. Voluntary domestic conservation to reduce imports is a direct way of meeting these two problems.

III. COST-EFFECTIVE ENERGY CONSERVATION

There are a number of interdependent steps needed for an effective conservation program. There are:

Management leadership—High level continuing leadership is needed to motivate the entire organization in energy conservation. This leadership must be visible, systematic and continuing.

Data Collection and Analysis—Data for post energy consumption on an Btu, energy, basis should be collected and analyzed. This is obtainable from utility bills.

Conservation Goal—A goal of reduced energy consumption (on a Btu basis) should be formulated to provide a benchmark for achieving energy savings.

Action—After analysis as to cost, payback period and energy saving potential, implementation of energy saving actions is needed to achieve the conservation goal.

Management leadership is probably the most critical ingredient in achieving a successful conservation program. It must, however, overcome a number of problems. These include the reluctance of personnel to assume "one more headache," the need for all occupants to cooperate, and the relatively low percent energy costs are of overall budgets. This last situation is documented by the Veterans' Administration which estimates that energy costs are less than three percent of gross medical costs.

A conservation program can be administered through an interdepartmental committee. This committee should have high-level members and have representatives from the engineering and maintenance staff, the administration, and the medical or other professional staffs in the building.

Any effective management program requires good information. An energy information system is needed to establish a baseline of past energy consumption and to provide a yardstick to measure the actual savings. As shown on the table, "Annual Energy Use and Cost Survey," (not included in Record) data are assembled from past bills on energy consumption and cost. It is then necessary to convert, the kilowatt hours of electricity, the cubic feet of gas, and the gallons of oil to a common unit—the British thermal unit (or Btu) using the conversion factors shown. Btu's of energy are analogous to calories in food and are the primary measure of the effectiveness of an energy conservation action. Money saved is a secondary requirement, albeit a very important one.

One of the important reasons in using Btu's in energy analysis and not just dollars, arises from the wide variations in U.S. energy prices due to regional differences and government regulation. Specifically, interstate natural gas is often cheaper than oil or electricity on a Btu basis because of Federal price controls. Thus, switching to gas and possibly increasing consumption because it is cheaper would not itself lower Btu consumption and would almost surely aggravate the gas shortages of recent winters.

The data from the table should be analyzed for comparative costs per unit of energy, overall $/Btu and Btu/square foot. Immediate energy savings may be possible to identify. For instance, if two similar facilities have significantly different energy consumption in Btu/square foot, the lower consumer might be able to offer assistance to the higher consumer.

The historic data is the base for formulation of the conservation goal. This can be a 10 percent reduction compared to the average of the past three years, or any other reasonable target. The monthly progress toward meeting this goal is recorded in the "Energy Consumption Monitor" table. This provides for month-by-month and cumulative Btu and dollar comparisons with the base period. These data can also be plotted graphically.

Weather is of course one of the major variables in energy consumption, with the demand variable felt in the heating, ventilation, and air conditioning (HVAC) system. However, it has been found that in spite of wide variations in monthly energy consumption, there is no net climatological effect for similar facilities on a Btu/square foot basis over a full year. That is, the heating energy demand in the north is balanced by the cooling energy demand in the south, with the middle areas having approximately balanced winter/summer demands.

The HVAC is usually the most energy intensive system in a building. Thus, major saving can often be realized not only through better, more efficient operation, but also by shutting HVAC systems down completely when particular space is not occupied and health and safety are not affected. This can be the source of a "no-cost" savings along with the free equipment tune-ups offered by dealers and manufacturers.

The building and equipment survey, or "energy audit" is an important part of any conservation program. A number of checklists have been published in the literature (see Appendix). These lists typically include the minimal expense items such as rehanging doors, weatherstripping doors and windows, resetting thermostats, installing spray faucets and eliminating waste steam plumes. More costly possibilities include the reduction of unnecessary lighting, and the decentralization of hot water heating and air conditioning so that a large unit is not used inefficiently where a smaller unit can meet the need.

A cost/benefit analysis is desirable for any actions requiring a significant capitol expenditure. A ranking based on the simple payback period (SPP), takes into account the cost, and the Btu's and dollars saved. It is the ratio of the capitol cost over the dollars saved per year:

SPP (years) = capitol cost/dollars saved/year

The shorter the SPP, the more desirable the energy saving action. It should be pointed out that as energy prices continue their predicted rise, the SPP becomes an increasingly conservative estimate of the benefits from an investment. The Btu's saved would otherwise have to be purchased at higher prices and the SPP gets shorter.

The SPP analysis highlights the present situation wherein high energy prices mean "you can get something for nothing." In part energy saving investments often have SPP's of less than two years thus freeing monies almost immediately for other program needs.

Two government programs have been successful in encouraging conservation and can serve as examples for private programs. The Veterans Administration has saved large amounts of energy in its hospitals and health care facilities. Under Executive Order 12003, the VA and all other agencies are under a mandate to reduce, by 1985, consumption from existing buildings by 20 percent, and from new buildings by 45 percent from 1975 levels. The VA effort has involved improved housekeeping, actions by resident engineers, seminars for these resident engineers on energy conservation, and energy surveys by architectural and engineering consultants specializing in conservation. These surveys, currently under way, appear to be very cost/effective with SPP's of about one half year. Overall, the VA estimates that from 1974 to 1977 it has saved 7.1 billion Btu's, worth $37 million, at a cost of about $10 million—a better than three-to-one return.

The Voluntary Industrial Energy Conservation program is the second Federal program which can serve as a model for private energy management. In this program, industrial trade associations and the Department of Energy have developed, on a strictly voluntary basis, targets for energy conservation for the industry represented by the particular association. The target are reductions in Btu/output compared to a 1972 base year. Besides requiring that a reporting system be introduced, the program relies on the publicly disseminated energy consumption data as encouragement for the member companies in the associations to meet the conservation goal. Other groups, not only in the social welfare area, but throughout the community, can also formulate similar energy conservation targets and publicly monitor progress in meeting the objective.

In conservation effort involving buildings as the principal energy consumer, architecture and engineering consultants specializing in energy conservation can provide significant, useful, help. However, these consultants are usually best utilized *after* there has been in-house data collection and analysis. This will enable the client to better direct and supervise the consultant and measure the energy savings and the effectiveness of the program.

III. SUMMARY

Energy conservation requires high-level and continuing administrative leadership; the collection, analysis, and utilization of energy data based on Btu's, as well as dollars; and the implementation of energy saving actions. These actions have short payback periods and can save significant amounts of money.

IV. APPENDIX

Energy conservation pamphlets

Below is a brief description of some energy conservation publications.

Health Care Facilities

"Practical Energy Management in Health Care Institutions" contact:

Douglas H. Worrall, Sr.
Blue Cross of Greater Philadelphia
1333 Chestnut Street
Philadelphia, Pa 19107
Tel: 215/448-5232
Price: $2.50

A manual for administrators and operating personnel. Includes practical guidelines for gathering and analyzing information, as well as basic energy saving ideas.

Note: This pamphlet appears to be out-of-print, but has been widely distributed previously.

"Total Energy Management for Hospitals" and "Total Energy Management for Nursing Homes" available from Department of Health, Education and Welfare, Energy Action Staff, Health Resources Administration, Rockville, Md. 20852.

Buildings—General

"Total Energy Management" available from:

National Electrical Manufacturers Association
7315 Wisconsin Avenue
Bethesda, Md., 20014
Attention: Miss Stohecker
Price: 75¢

A guide for owners and managers of office buildings and small stores.

"Energy Cost Reduction for Apartment Owners and Managers" available from:

Institute of Real Estate Management
430 North Michigan Avenue
Chicago, Illinois 60611
Price: $3.00

Short case studies of dollar savings from various energy saving actions.

Includes cash flow analysis.

"Identifying Retrofit Projects for Buildings" available from:

U.S. Government Printing Office
Washington, D.C. 20402
Stock No. 041-018-00129-8
Price: $2.20

Overview guide to energy management and detailed examination of savings possible in major building systems.

ENERGY SAVING PROGRAM: NEW YORK CITY CASE STUDY

(By the Federation of Jewish Philanthropies of New York City, Mrs. Lawrence A. Tisch, and Mrs. Rachel R. Liebeman)

Re: Paper on Energy Savings Case Study at Council of Jewish Federations and Welfare Funds—46th General Assembly of CJF, Dallas, Texas.

I. BACKGROUND

In early 1975, faced with a 120-percent increase in energy costs in 1974, the Federation of Jewish Philanthropies of New York determined to take emergency measures to achieve the maximum savings in the use of electricity, gas and heat. Two steps were taken; a memorandum to the members of the Federation staff about efforts to be made at the Federation Building in mid-town New York; and the convening of key lay leaders in the field of real estate to develop a comprehensive program for energy saving by Federation agencies. Each of the lay leaders brought a technical expert and the group recommended that Federation solicit a proposal from the engineering firm which serves as a consultant to Federation and its agencies.

II. RATIONALE

Several factors combined to bring Federation to a heightened awareness of the need for immediate energy savings:

Most immediately was the concern that scarce communal resources not be siphoned off for unnecessary and wasteful energy costs at a time when community needs were increasing at a faster rate than dollars raised. Federation was most anxious that its funds be used for services rather than utility bills;

Federation felt that its steps toward energy savings were equally important as an expression of patriotic concern;

In terms of its support for Israel, Federation felt that it had a direct interest in helping to lower demand for foreign sources of energy so that the United States support of Israel would never be prejudiced by its dependence on foreign oil;

At a time when Federation's allocations to its agencies could not keep up with inflation or the demands for services, the availability of a Consultant who would be able to advise on a more efficient use of funds was viewed as a most important supportive service from Federation to its agencies.

III. OBJECTIVES

By embarking on an energy saving program, Federation hoped to demonstrate two basic objectives:

1. to stabilize rapidly rising energy costs:
2. to demonstrate energy savings approaches which would be replicable in other social service agencies within the Federation network, in New York City, and across the country.

IV. METHODS

A. Proposal approval

The proposal developed by Federation's consulting engineers was based on a careful survey of 7 Federation agency buildings and suggested that very worthwhile savings could be obtained in two ways: by relatively modest changes in fixtures or equipment, and by changes in operating procedures. The original Ad Hoc Committee, Mr. Fred Rose, Mr. Irving Schneider, and Mr. Alan Tishman, recommended that a demonstration project be undertaken in the 7 institutions studied by the consulting engineers, and that if the projected energy savings could be achieved, the Distribution Committee of Federation should then consider expanding the program to other Federation agencies as well.

The proposed project consisted of two parts: first, the engineering work and resulting fees; and second, the material and labor involved in making the structural and/or equipment changes. The Ad Hoc Committee recommended that a reserve of up to $20,000 be set aside for the engineering work, and that the Federation Revolving Loan Fund (a fund available at no interest for agencies undertaking projects for capital purchases which would result in demonstrable savings to the agency) be made available for equipment and/or structural changes related to the recommendations of the engineering consultants.

The recommendations of the Ad Hoc Committee were approved by the Distribution Committee and the Distribution Committee requested that an advisory committee of the three key lay leaders who had formed the Ad Hoc Committee continue to review and evaluate the program.

Approval was also given to the involvement of seven agencies in this first stage:

1. The YM and YWHA of Washington Heights-Inwood.
2. The Samuel Field YM-YWHA.
3. The YM-YMHA of Mid-Westchester.
4. The Moshulu-Montefiore Community Center.
5. The Hebrew Educational Society of Brooklyn.
6. The Jewish Institute for Geriatric Care.
7. The Greenwall Pavilion-The Jewish Home and Hospital for Aged.

B. Identification of problems and recommended energy saving steps

The proposal to the Distribution Committee discussed general suggestions which would apply to most or all buildings plus individual preliminary recommendations that were applicable to one or possibly several buildings. The overall suggestions were divided into savings with regard to

Fuel

1. More efficient generation of steam and hot water;
2. Better use of steam and hot water by correcting deficiencies in the distribution systems;
3. Reduction of wasted heat by installation of proper control equipment to monitor heat quantities, installation of insulation including storm windows and doors where feasible, correction of building defects such as ill-fitting doors;
4. Determination of how much fuel each structure should use assuming an efficient operation and then strive to reduce fuel consumption to that level;
5. Education of the maintenance staff and frequent review of operating procedures in each institution.

Electricity

1. Establishment of new lighting standards for various types of occupancies and reduction of lighting loads where possible;
2. Substitution of more efficient lamps and existing fixtures for less efficient fixtures in other areas and for overall energy consumption. As an example, a fluorescent fixture in a stair corridor giving the same quantity of light will save over $15 per year per fixture in electrical charges over an incandescent fixture;
3. Educating the agencies about demand charges and scheduling of equipment use. An example of this is to schedule the operation of air conditioning and other heavy electrical uses to avoid unnecessary peak demands.

The proposal stated that some of the work would require one-time changes of plant, while other work would require a continuing relationship with each agency and the time required would depend in large measure on the competancy of the agency engineer or maintenance person and on the cooperation of each individual director. The proposal stated that systems such as air conditioning might require redesign which would probably necessitate additional engineering fees, but that in each instance, the engineering consultants would first provide budget figures of needed capital expenditures, the anticipated savings and the engineering costs.

With regard to individual, specific problems and steps at the five community centers and two geriatric residences, the following points were raised:

The need to inquire about the possibility of having co-incident billing of two electric services. Co-incident billing could save $10 per month;

Stairway and hallway incandescent lights equipped with 150 or 225 watts of bulbs could be changed to fluorescent of 40 watts which would provide the same light and save about $14 per fixture per year based upon 14 hour illumination 5½ days per week;

Newly installed electric cooking equipment cost about $37 per month to operate. Gas equipment would cost about $5 per month to operate;

A sauna used 15 KW with the demand charge of $121 per month just to turn on and usage resulted in a cost of 60¢ per hour. Conversion to a gas-fired boiler would cost approximately $3000 and $25 per month to operate;

Lights in a gymnasium used 9 KW operating 8 hours per day 5½ days a week. This cost about $145 per month and the substitution of General Elecrtic Lucalox bulbs (high pressure sodium bulbs—150 watts each) with input of 200 watts would cut the electric cost by 60 percent or $87 per month. The cost of changing these fixtures would be about $160 each which would cost about 3 years to pay out. The color of the lights would be somewhat different but not harmful or interfering with gym use;

A leak in a boiler was a major energy waster;

Installation of a control so that the heating system pump could be cycled would cost $100 and result in a savings of $200 per year;

Change of incandescent lights in the stairways to fluorescent would cost $200 and result in a savings of $120 per year;

Installation of steam unit heaters in a recently completed basement room would cost approximately $900 and result in a savings of $1,500 per year;

Arrangements for automation for 15 KW of kilns to reduce demand would result in a savings of approximately $1,000 per year;

In a lounge containing a combination of fluorescent and incandescent lighting, incandescent lights provided little light and could be disconnected;

In an auditorium containing 35 300 watt down lights in use at most 10 hours per day should substitute fluorescent lighting at a cost of about $1,500 for savings of approximately $1,500 per year;

In a lounge, men's locker room, a corridor outside a boiler room, and other meeting areas, skylights measuring 4 feet times as much as 50 feet had considerable heat loss from these lights in winter, many of which were cracked. The skylights could be covered over on the interior without significant change in the appearance of the building at a cost of $2,000 with the resulting savings of about $1,000 per year in heating and air-conditioning costs;

Pool and locker rooms were heated and cooled with oil-fired air handling units containing chilled water coils that ran 24 hours per day. Better scheduling with automatic timers would save a substantial amount at a cost of approximately $500;

An electric heater near a main entrance door should be disconnected;

A kitchen containing duplicate refrigerators, stoves (18 KW) and two large (4 KW) coffee makers could be replaced with gas stove units at a cost of $3,000 with savings of $2,000 per year and the use of the coffee makers should be scheduled so that only one is in use at a time;

A hot water circulating pump could be reduced to roughly one-quarter the size at a cost of $1000 with a savings of approximately $1500 in electricity costs per year;

All meter readings should be checked frequently to make sure that the reported figures coincide with the meter and that readings are done accurately;

Boiler tubes should be cleaned on a regular schedule—approximately every three weeks—to prevent soot buildup which impedes heat transfer from the burner flame to the boiler water.

The above are illustrative of some of the consultant's initial suggestions. The specific recommendations made for the community centers and geriatric residences can be had upon request. These include specifications for types of timers, the model number, price estimates and types of materials. Suggestions also included reference to particular lights and building procedures, and sketches for more efficient use of equipment were provided to several of the agencies.

C. Project followup

In September, 1975, Federation asked both the engineering consultants and each individual agency for a progress report. Each agency had received an assessment of its energy problems from the engineering consultants and had agreed to try and accomplish some or all of the tasks recommended.

The engineering consultants reported that with the exception of one of the community centers much of the recommended work was in progress. One of the community centers showed, according to the consultant, no interest whatsoever, even though substantial savings were possible. The consultants reported that the work at the geriatric residences was extremely complex and that they were working closely with the chief engineers on the replacement of oversized fan motors, simplification of control equipment, etc.

The agencies were asked to indicate the following:

1. Nature and status of projects recommended by the consulting firm. If applicable indicate why the agency has decided not to implement any of the recommended projects;
2. Estimated cost of project(s) which are to be undertaken and/or actual cost of project(s) if completed;
3. Anticipated annual savings and actual savings, if any, as of the date of this report;
4. Does the agency anticipate making a request of Federation's Revolving Loan Fund? If so, what would be the nature and amount of the request?
5. Any problems encountered by the agency in connection with this program.

The agency reports indicated varying degrees of cooperation and participation. One interesting reply from one of the geriatric residences indicated that they were required to obtain approval from the New York State Board of Health before replacing approximately 1,520 100 watt incandescent light bulbs and fixtures with approxiamtely 550 50 watt fluorescent bulbs and fixtures which would result in a considerable savings to the institution.

The consulting engineers indicated that overall the agencies were extremely pleased with the changes and that several of the agencies visited other agencies where changes were made and that this has served as an incentive for the reluctant agencies to agree to recommendations necessary to save energy.

In January of 1976 the consulting engineers reported that for several of the community centers demand for electricity had been reduced to approximately 75 percent of the demand ni 1974 and that electrical use was close to 70 percent of the use in 1974. This resulted in savings between $300 and $500 per month, as compared to 1974 bills or up to $700 per month considering the increase in Con Edison rates. In each case the consultant felt that the savings to be realized could be increased even further in the months to come. At one community center the consultant felt the results were disappointing, because little interest had been shown by the agency in reducing overall use of power. In addition, he indicated that the maintenace staff seemed to lack the competence needed to operate the agency's plant and implement the recommendations.

With regard to the two geriatric residences, the consultant indicated that major savings had already been achieved. At one geriatric residence savings were approximately $4,000 per month in electricity bills; in the other residence, fuel use had been reduced approximately 30 percent.

In April of 1976 the consultant updated information on annual savings. He indicated that the estimated annual savings at the completion of the recommended changes would run from a minimum of $4,500 a year at one community center to $15,000 at another community center with the average savings being around $6,000; in each case the savings amounted to between 20 and 50 percent of the 1975 costs for electricity. The savings anticipated for the geriatric residences ranged from $20,000 at one to $125,000 at the other. These figures also represent savings of between 20 and 50 percent of the 1975 costs. These dollar figures are the actual charges and were not adjusted to reflect the 20 percent increase in Con Edison rates before 1976 over 1975.

Also, in the spring of 1976, the engineering consultants held a seminar for interested agency executives and engineers to discuss some of the findings of the consultants, some of their recommendations, and some of the problems encountered by the agencies in implementing these recommendations. As a result of this meeting, the engineering consultants received many additional inquiries and requests for services under the projects to other federation agencies.

D. Continuing the energy saving project

Representatives of the Advisory Committee met with the consultant and Federation staff in the spring of 1976. The purpose of this meeting was to review the work of the consultants and to make a recommendation on the request for an additional reserve of $20,000 to enable the consultant to work with a larger number of agencies.

At this meeting the committee recommended that "an additional $20,000 be made available for the continuation of the energy saving program and that during the course of the second stage, guidelines for an acceptable level of energy consumption for each participating agency, and 'how to' material concerning energy saving measures should be developed which can be shared with the Distribution Committee and Federation agencies."

In arriving at that recommendation the committee noted the following:

That any work done by the consultant is undertaken only after it is clearly determined that any expenses incurred will result in cost savings over and above the cost of the work:

That a major problem is getting the directors of agencies and their staffs to take the problem of high energy costs seriously. This is translated into a lack of cooperation, and indifference to suggested changes in operations, and a reluctance to keep and forward records and other information which would help the consultants form an accurate comparison as to the effects of the recommended changes;

That in continuing to work with agency personnel it is also necessary to incorporate techniques, such as timeclocks and other mechanical devices which monitor the use and availability of energy;

That much of the work being done is aimed at removing the human element so that energy saving will not depend entirely on the caliber of an agency's director and/or staff;

That whenever building changes are to be undertaken as a result of a suggestion by the consultant, each agency is requested to be in contact with the consultant to verify the specifics so as to confirm that the proposed work is in line with the original recommendations. Several agencies had not done so and might not realize the full extent of the potential savings because of the purchase of the wrong or inadequate equipment;

That it would be possible and highly desirable to develop a set of guidelines for each agency which would indicate the reasonable cost for energy cost as a goal for both the agency itself and as a signal to the Distribution Committee, as to which agencies are keeping energy costs as reasonable as possible and which agencies are not adhering to measures necessary for significant savings.

The recommendation was reviewed and approved by the Distribution Committee and the consultant carried on with Stage Two of the project.

V. LESSONS

With all of the apparent successes of the energy saving project, there are still major problems which have been brought to the Federation's attention by the consultants on several occasions. One of the most serious of these problems was the lack of interest or understanding on the part of agency directors as to the significance of the project. When executive directors indicated indifference, this attitude was readily transmitted to any maintenance staff who were involved with implementation of the recommendations and this resulted in half-hearted participation in the project.

Even where agencies had been most cooperative in implementing recommendations, and seemed to be seriously concerned with reducing energy costs, it was often difficult to maintain the interest and the necessary attention to details over and above the initial period. As a result, agencies which showed an initial major saving, sometimes report an increase in cost which can be attributed largely to neglect or lack of maintenance of effort.

One final problem which has serious implications for the entire community emerged in relation to an agency which receives much of its money from a public funding source. Because money was reimbursed to this agency on the basis of its operating costs, and any capital investments would have to come from the agency's own budget, the agency saw no point in investing in improvements which would reduce the operating costs of its utilities. While Jewish communal funds were not directly involved in the situation, the attitude expressed by this agency raised very serious questions about how it reviewed its responsibilities to the taxpayers of the United States, and demonstrated its total indifference to the potential impact on policies toward Israel if energy dependence on foreign sources of oil continued to grow unchecked.

VI. CASE STUDIES

Case Study 1: Jewish Institute for Geriatric Care:

Electric power usage is coming down, the results of changes in the operations of various systems. The work of the consultants began in the summer of 1975 and by the end of 1975 all the electrical usage and demand had dropped about 15 percent. During 1976 additional operating changes reduced consumption approximately 10 percent further. In dollars, taking into consideration the several intervening Con Edison rate increases, the savings are averaging just under $10,000 per month.

The changes include installation of flourescent lighting to replace incandescent lighting; operation of some refrigeration to maintain a temperature of 0° F. rather than −40° F; substitution of steam-heated kitchen equipment for electrically heated equipment; programming of kitchen operations; improvement of supply and exhaust ventilation, etc. One specific example of what has been done to reduce electric consumption is a change made with the ventilation system. By reducing friction and pressure losses in one of the ventilation systems, the consultant was able to substitute a 25 h.p. motor for a 50 h.p. motor and ventilation was considerably improved. Cost of implementing the above changes to date is approximately $20,000.

Although demand has levelled off at approximately a reduction of 15 percent, and consumption is down by approximately 25 percent, energy conservation is not a "one time" thing. Recently the consultant noticed that consumption started to rise again when compared to like months of previous years. The reason for the turnabout, the consultant determined, was that the chief engineer was no longer following some of the schedules set up for him and top management had to become involved. Constant surveillance has been needed to impress staff and employees with energy conservation.

The approximate cost of electricity paid by the institution each year for the past three years is $365,000 in 1974–75, $349,000 in 1975–76, and $311,000 in 1976–77. These figures are not adjusted to reflect the several substantial rate increases awarded Con Edison during this time period.

There are several remaining energy saving recommendations to be implemented, including:

Redesign of the well pump used for air conditioning;

Installation of turning vanes in the air-conditioning duct work;

Additional changes to the refrigeration serving kitchens, storage boxes; and

Speed adjustments on several fans.

These items will be implemented slowly because they represent rather major operating changes.

Case Study 2: YM & YWHA of Washington Heights-Inwood:

Since 1975 the electrical demand and consumption at the Y has steadily decreased on a month-to-month basis as compared to previous years, with the exception of this past summer when demand in consumption took a drastic jump forward.

The work done that resulted in a 10% drop of both demand and consumption involved changing the incandescent light fixtures in the gym to high pressure sodium fixtures, replacing the inadequate incandescent lighting in many of the corridors and rooms with fluorescent lighting, and installation of time clocks on a number of ventilating fans.

This past summer, however, there was a substantial increase in both demand and consumption which is unexplainable, particularly since the central air-conditioning unit was inoperative during one of the summer months. The consultant is endeavoring to determine the reason for the increase including contacting the Con Edison company regarding their readings.

All in all, with the exception of the three summer months, the dollar outlay for electricity is approximately the same today as it was in 1975, despite the several interim rate increases.

Disregarding the rate increases the Y paid $17,000 in 1974–75, $17,300 in 1975–76, and $17.600 in 1976–77.

Case Study 3: Jewish Child Care Association—Central Building:

Electrical usage in this building has come down by the amount of the rate increases during the period of the energy saving project. In 1974 the central office used $40.304 of electricity. In 1976 the cost was $40.104. The monthly cost in 1977 was running under the comparable monthly charges for 1976 until July and August of this year, when there was a prolonged hot spell and usage, and the cost increased substantially. The amount of increase, however, the consultant believes indicates a defect in the operation of the air-conditioning system which the consultant has brought to the attention of the agency and arrangements are being made to correct the trouble.

The work that was done to reduce electric costs included correction of defects in the air-conditioning condensing units. The consultant also found the lumin output for each fluorescent light fixture to be only a fraction of what it should have been. Changing the diffusers and cleaning the fixtures substantially increased light output.

The results at this building clearly demonstrate the need for continuing surveillance of energy use.

Case Study 4: A Major Residential Child Care Facility:

Some institutions are not concerned with reducing the use of energy. A major child care residential facility could significantly reduce its use of power without in any way curtailing its activities but because of an unusual situation, the agency has claimed it would be penalized if it took steps to reduce electric usage.

A few examples of ways in which electric use could be reduced are:

a. two gynmasia are lighted with incandescent lamps. Gym lighting could be improved and the quality of electricity reduced to approximately 25 percent of its present consumption by substituting high pressure sodium lamps for the incandescent lamps;

b. one large building is heated electrically. If hot water heat were installed, savings in electricity would pay for the hot water installation in approximately one heating season;

c. in 1976–77 the agency planned to replace gas-fired stoves in each cottage with electric stoves, a change that would have increased operating costs, without considering the capital charges, by approximately $1,500 per year. The consultant was able to dissuade the agency from taking this course, at least temporarily.

One area where the consultant has been able to influence electrical consumption is with the agency's outdoor lighting. Last year the agency planned to install new incandescent exterior lighting around all cottages. The consultant redesigned the lighting that was originally planned and substituted high pressure sodium fixtures for the incandescent fixtures. Because high pressure sodium lighting produces far more lumen per watt of electrical input, the redesign resulted in higher lighting level using fewer fixtures at lower initial cost and for approximately 20 percent of the operating cost as compared with the original design. The consultant also substituted high pressure sodium lighting for some existing quartz lighting around the central building but reduced the electrical cost to about 15 percent of what was previously needed.

As mentioned above, an interesting yet distressing reason is offered for the agency's reluctance to reduce use of power. The agency's operating costs are defrayed by New York City whereas no capital costs are paid by the City. Were the agency to strive for more efficient operation any costs would have to be borne by them yet any savings would revert back to the city.

VII. CURRENT STATUS

Currently there are more than 20 agencies involved in the energy saving project using the services of the engineering consultant. The consulting engineers are continuing to have some problems with agencies being indifferent to their recommendations and also not being fully cooperative about submitting monthly reports on demand, usage, and costs.

This monthly reporting is considered especially important by the consulting engineers so that trends can be established and any problems can be caught before they become costly. However, in spite of the problems and the reluctance of some agencies to maintain energy savings, a report from the consultants in the early part of 1977 clearly demonstrated that those agencies cooperating in a modest or complete way were realizing significant savings over and above the cost of improvements.

VIII. NEXT STEPS

The reports of the engineering consultants are being made available on a regular basis to the subcommittees of the Distribution Committee which have the responsibility of agency visits, budget hearings and budget recommendations. The material to these committees includes a summary of the consulting engineers experience with each agency and wherever possible the savings, the cost of the improvements necessary to effect these savings, and the willingness or lack thereof of agencies to make an effort to maximize savings. This material will be used at site visits and budget hearings with the understanding that because money is so precious, it would be helpful for members of the Distribution Committee to know which agencies are aggressive in seeking savings, which are less so, and what levels of savings are possible.

In addition, the whole question of reimbursements from public sources for operating as opposed to capital costs is being brought to the attention of the Public Policies and Programs Committee at Federation. Where it can be clearly demonstrated that such a policy on the part of public agencies is wasteful, every effort will be made on the part of Federation and its lay leaders to save scarce communal resources and to remedy this situation.

Federation has Functional Committees with lay and professional representatives from agencies in a common functional area which meet periodically. Every effort will be made on the part of the Federation Consultant to that Functional Committee to see that there is full understanding of the measures necessary for energy savings and for compliance with recommendations of the engineering consultant.

The energy saving program has more than justified the $40,000 expenditure for the program. Efforts will now be made to survey other institutions to determine which should participate in the program so that the benefits of the project are brought to as many agencies as possible.

It is our hope that this presentation will give professional and lay leaders a better understanding of how one Federation set about to save scarce communal resources and to strengthen United States support for Israel by undertaking an intensive effort to achieve energy savings at its social service agencies. Any of the lists of recommendations or subsequent reports are available to any of you who would like to institute a similiar program in your community.

Thank you all very much for your attention and interest.

Energy Conservation Planning in a New Jewish Community Center

(By Harry R. Rosen)

Several years ago, at the outset of the planning process for the new Dallas JCC, our annual utility bills to heat and cool the present 25,000 sq. ft. of building amounted to some $15,000. Our planning took place coincidentally with the oil crisis and this motivated us to begin to give some special thought to conserving fuel. We established a special program to conserve energy within the facilities and adhered to it quite rigidly. Despite this, our fuel costs shot up from $15,000 to $22,000 annually. A consultant from Dallas Power & Light Company estimated that upon completion of our 105,000 sq. ft. building, combined with escalating energy costs, we could expect to be paying somewhere between $100,000 and $120,000 annually for our utilities. This startling news caused us to reconsider our basic concept for the building and redesign, based on energy conservation considerations.

I must say that in addition to giving consideration to how we could conserve on gas and electric we also were looking for a design that would permit us to save on the number of staff required to maintain this larger facility.

We eventually arrived at a concept and design which we think will save the community considerable moneys in operating costs.

Almost all institutional buildings are built on a multifunctional basis. That is to say that each facility within the buildng is planned to have a variety of uses and not just one function alone if this is possible. The concept is based on the thought that having each facility used maximally minimizes your building costs, the size of the building, and therefore the operating costs.

We first did a very careful cost analysis on each of the various functions and departments the Center operated. We arrived at the feeling that we could save considerable labor and energy costs if certain departments of the Community Center were established as semi-independent wings and were used on a limited basis for their department use only, rather than as a multifunctional facility where several departments would use them. We, therefore, will be heating and air conditioning wings on a much more limited schedule than if they were multifunctional. We feel that there are certain facilities within the Center, such as the Physical Education area and the central facilties which need rather constant energy; whereas the extremities (wings) will not. This same concept will allow us to maintain these facilities, as far as cleaning and room setups go, with fewer janitorial staff because we have more latitude and flexibility in the use of staff time. We will not be involved in room setups whereby juvenile furniture is moved out and replaced with adult size tables and chairs. These wings will have permanent room setups. The furniture, carpeting and wall coverings will take much less abuse and in the long run save us replacement costs. The concept also provides similar wing facilities adjacent to each other so that compatible programs can expand from one wing into an adjacent wing if they outgrow, at any time, their own facilities. That is to say it makes more sense to place the Preschool and Children's wings next to each other than placing the Preschool next to the Adult or Senior Citizen wing since this hampers growth expansion.

A huge volume of space is required both in an indoor swimming pool and a fixed seat theatre, both of which had been in our original plans. There were, of course, other considerations, but we decided to eliminate both of these facilities because of the very high per capita cost of maintaining programs in them in relation to the numbers served. Both of these facilities have very high ceilings and take a very large volume of energy to cool or heat.

As we got into the specific design of the building, energy saving was the focus in the design and in the materials used. We placed our power plant as close to the center of the building as we could so our ducts had shorter distances to run. Our air conditioning was zoned in such a way as to consider the movement of the sun hitting various sides of the building at different times of the day. Therefore, all of the air conditioning does not go on at one time; it is zoned. The southeastern portion of the building goes on automatically in the morning as the sun hits that part of the building first. In insulating the building throughout we used a two-inch solid styrofoam sheeting because we were convinced that this was superior to other forms of insulation. We also insulated our basement walls with this same material. Throughout the building we have used double glass windows with a ½" thermal barrier. These very heavy windows were installed with a plastic liner between the window frame and the brick and the aluminum and the glass so that there is no heat transfer. In designing our building the architects placed operating windows in such a way as to take advantage of the direction of the prevailing breezes so that we could get more natural ventilation when the weather permits. The air conditioning and heating system was also designed to circulate fresh air when the outside temperature permits. In addition, outside air is brought into the building through a damper system when it is advantageous to use outside air, rather than cool recirculating air from within the building with the central energy plant. This is called the "economizer cycle" in the air conditioning trade.

The brick used on the building is an off-white to reflect the sun, and for the same reason a white gravel is being used on the roof. Double sets of entry doors are being used in all vestibules to minimize loss of treated air. We have minimized the amount of existing outside doors to just those needed for safety or in case of an emergency. In this way we also hope to better control building traffic and security. We have used double glass ceiling domes to bring in natural light in a number of areas where it is appropriate and needed, and we have put a concrete canopy over the windows on the south side where the sun is constant. On the east side of the building, where we get early morning sun, we are installing louvre window blinds of a reflective aluminum color. For roof insulation, one inch styrofoam sheeting is sandwiched between two layers of a special asbestos cement to a total thickness of 5".

Even landscaping was included in our energy considerations. Fast growing trees will be planted on that side that gets the most direct sun to further shade the building. At the present time we are considering how the changing of the schedules of activities and meetings can affect energy savings. We are asking ourselves if we can effectively change the pattern of community leisure time activities and communal meetings. The Jewish Community Center is currently open some 92 hours a week; we are thinking that cutting back on evening time during the winter and, perhaps afternoon activities during the hotter months, may, indeed, be a way of cutting down on energy use. Executive and maintenance staff have to be tuned into how our utility companies charge not only for power consumption, but also for demand and not turn electricity on and off without due regard for this consideration.

For whatever it is worth, we have passed a policy minimizing areas in which smoking will be permitted to one or two central lounges. The possibility exists that smoking will be eliminated altogether by the time the building is completed. This will provide cleaner air and as such has a significant impact on energy savings.

In the design of the building, we have placed most of our staff offices at the Center in modules of three. There are, at the entrances to the wings, two program staff workers with one secretary. Aside from the operational efficiency this provides, it permits us to zone smaller areas for heating and air conditioning without having to turn on the entire wing.

Lastly, I want to refer to our consideration of solar energy. We hired a solar energy consultation firm who helped us think through our needs and actually develop the solar energy fund application which we submitted to Washington. Mark Talisman and the C.J.F.W.F.'s Action office in the Capitol can be very helpful here. Our initial application for the design and utilization of solar energy collectors to completely air condition, heat and provide hot water for our Preschool wing was accepted by the Energy Research & Development Administration (ERDA). Unfortunately, there are too few contractors around who have had experience in the installation of solar energy units and in order to protect themselves our local contractors bid the plan very high. This caused the government to eliminate us from consideration. We do plan to reconsider this application once our building is complete. I am sure that many of you know that there is a good deal more technology necessary to make solar energy efficient enough for general use. It would take an enormous amount of collectors just to take care of one of our wings and so at this point in time we cannot give consideration to total solar energy utilization, but want to begin to experiment.

No one can accurately determine the future costs of energy, but we feel we have protected the community's limited funds to a very significant degree by planning whatever was conceivably possible in energy protection for this major community facility. We have learned that there is much more to consider than was originally thought and that there are still further options available. We learned that with intensive planning and open minds, we can save considerably on other operating costs as well. On behalf of the Jewish Community Center of Dallas, we are very pleased to share our experiences with you.

ZERO ENERGY GROWTH

Mr. PERCY. Mr. President, Folke Dovring, a professor of land economics at the University of Illinois, has been kind enough to send me his unpublished essay, "Energy Doubling by Year 2000?" It warrants careful scrutiny by my colleagues.

In his paper, Professor Dovring questions an assumption often uncontested. Must our economic growth necessitate energy growth? Professor Dovring thinks not. He finds that simple extrapolation of current energy growth rates leads to an unfeasible situation by the year 2000. Energy growth would by then be so expensive it would absorb all our economic growth and then some.

He recommends a policy of zero energy growth. He argues that such a path is both economically and technically feasible. To match a rate of economic growth of 4 percent per year, energy use efficiency, rather than energy supply, would have to increase at the same rate.

Professor Dovring's article is timely and interesting. I recommend it to all, but especially to those who have never questioned the marriage between energy growth and economic growth.

Mr. President, I ask unanimous consent that Professor Dovring's essay be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

Energy Doubling by Year 2000?—Critique of a Growth Perspective

(By Folke Dovring)

Economic forecasts for this country generally assume that the supply of energy will have to go on growing. This would appear necessary to backstop the rising flow of goods and services which is the purpose of continued economic expansion.

Even modest goals of long-term economic growth, such as the 4-percent per year target now being pursued, assume growth in energy supply close to 3 percent per year. Only a slow rate of increase in the productivity of energy use is allowed, in most discussions.

The following will question whether substantial increase in energy supply in the United States, from now until year 2000, is physically and economically feasible. The answer to this question should have profound consequences for the kind of economic policy which the country can pursue toward realistic goals.

A QUARTER-CENTURY PERSPECTIVE

The Statistical Abstract of the United States, in a table repeated and revised in the 1976 issue (Table 907, p. 549) falls in line with the assumption of about 3 percent annual growth in energy supply, as follows (data in quadrillions of BTU):

	1970	1975 [1]	Projections		
			1980	1985	2000
Gross energy	67.1	71.1	87.1	103.5	163.4
Net energy	56.2	57.5	68.9	77.5	110.2

[1] Estimate.

Recently discussed projections sometimes include optimistic assumptions on the success of policies to reduce energy demand. The more cautious forecasts still come close to the figures cited.

The difference between gross and net is defined as reflecting conversion losses (as in thermoelectric power stations, but also the thermal requirements to generate the equivalent of nuclear-generated electricity).

The implicit growth rates, 1975–2000, come to 3.3 percent for gross energy and 2.6 percent for net energy.

Some of the assumptions of the Statistical Abstract table are not realistic. Gross energy supply is specified as follows (data in quadrillion BTU):

	1970	1975	1980	1985	2000
Coal	12.7	13.4	17.2	21.3	34.8
Petroleum	29.5	32.7	41.0	46.4	56.9
Domestic	(22.1)	(20.1)	(24.0)	(30.1)	(33.5)
Supplemental [1]	(7.4)	(12.6)	(17.0)	(16.3)	(23.8)
Natural gas	22.0	20.2	20.6	20.1	19.6
Domestic	21.2	19.2	19.5	18.8	17.0)
Imports	.8	1.0	1.1	1.3	2.6)
Nuclear power	.2	1.7	4.5	11.8	46.1
Hydropower and geothermal	2.6	3.2	3.8	3.9	6.0
Total	67.1	71.1	87.1	103.5	163.4

[1] From imports, shale oil, coal liquefaction, etc.

The composition of projected supply in year 2000 is clearly unrealistic in regard to domestic production of petroleum and natural gas. By that time we have no reason to expect any domestic supply at all of these two main energy sources, nor is there any reason to believe that imports of any consequence will be available at the time. Liquid and gaseous fuels will have to come entirely from processing of coal—that is the only safe assumption.

As petroleum and natural gas fade out of the energy picture, our entire supply—whether increased or not—will have to come from three main domestic sources: coal, hydropower, and nuclear power. New sources such as solar power, wind power, et cetera, cannot safely be counted upon to deliver large quantities of usable net energy until a great deal more of research and development has been done.

At present, petroleum and natural gas deliver about ¾ of our energy supply; coal, hydropower and nuclear power about ¼. This continuing energy base would thus have to be increased by a factor of 8 from now until year 2000. This even understates the investment needs, because the current stock of power stations will for the most part have been worn out by year 2000, so that most of them also need to be replaced.

NUCLEAR POWER

The data discussed above assume that nuclear power would grow faster than any other source of energy. The projected growth rates come to 21½ percent per year 1975–85 and almost 9½ percent per year 1985–2000. The former of these growth rates means a doubling time of about 3½ years, the latter, of 7 years.

An important reason for wanting to accept rapid growth in nuclear energy would be to spare us the spectacle of having coal production rise by a factor of 10 or more in 25 years. As long as we are debating this, we can as well give nuclear energy all of the future electricity production (other than from hydropower), thus a capacity of 70 q. BTU rather than just the 46.1 shown in the data quoted above.

From the gross energy target of 163 q. BTU we subtract the hydropower target of 6.0 q. BTU, and find 157 q. BTU to be filled by coal and nuclear power. Giving nuclear energy 46 or 70 q. BTU still leaves 111 or 87 q. BTU to be filled by coal and sundry sources, against 13.4 in 1975.

Neither the published target of 46 q. BTU nor the alternative one of 70 q. BTU should however be related to the estimate for 1975. There is now a lull in start-up of nuclear power station construction. The projection for 1980 of 4.5 q. BTU of nuclear power may not be reached either; 3 q. BTU is a more realistic base figure for 1980. Then the target of 46.1 q. BTU in 2000 means a growth rate of over 14 percent per year, or a doubling time of 5 years; the target of 70 q. BTU would require a growth rate of over 17 percent per year or a doubling time of 4 years. For every year after 1980 that an accelerated buildup is delayed, the growth rates would increase and the doubling times become shorter.

What might be the fuel source of such growth? Fusion energy is not even invented and cannot be counted upon within the next quarter century. Plutonium fission, even if it were an acceptable option, could not become a large factor before year 2000, that much is clear by now. Thorium is little developed in this country and nuclear fuel imports late in the century will be no more realistic than oil and gas imports by that time. This leaves us essentially with fissionable uranium (U_{235}) as found in the United States.

The Bureau of Mines (in *Mineral Facts and Problems,* 1976) gives data on uranium reserves (imputed as well as confirmed) which show high-grade uranium ores to be in limited supply, should uranium fission be called upon to supply a large part of our energy. Ores of high yield (3000 parts per million) would in fact cover only a few years' consumption on the level of 46 q. BTU projected for year 2000. Going to ores of lower yield, we would have to explain which ones among them are a resource and which ones are not.

NET YIELD IN NUCLEAR ENERGY

Net yield is the energy produced over the energy consumed in the process of producing it. The rate of net yield in nuclear energy production has been the subject of some controversy. Different writers will give different answers depending on what accounting conventions they follow. The choice of accounting conventions depends in part on the planning horizon and the scope of anticipated development.

Energy used up in the construction and initial fueling of nuclear power stations has been computed by Peter F. Chapman (in *Energy Policy,* December 1975). His data indicate that in most power stations, the thermal equivalent of all energy invested in the power station would be about equal to two years of power production from the station. With rapid expansion (short doubling times), the system would for a long time work as an "energy sink", supplying no net additions to the supply of the country. For short-run analysis, Chapman and others find a way out by using the accounting convention that what counts is not the thermal equivalent, but the electricity equivalent of the energy invested in the station. In other words, not the coal and oil used up, but the amount of electricity that would have been obtained, had these quantities of coal and oil been used to generate electricity instead of investing them in a nuclear power station. By this convention, the result looks optimistic: the payback time would be a mere fraction of a year, and the nuclear system would produce net energy almost at once.

The fallacy of using this "electricity equivalent" accounting convention is in the short-run perspective As of now, society has a preference for electricity; electricity is at a premium, it is more valuable than the heat energy in oil and coal—as it should be, because using coal and oil to generate electricity means large conversion losses. As long as electricity is used to do work (and not to supply mere heat), electricity is also more efficient than coal and oil, and thus the conversion losses are made good.

But all of this assumes the present scene, with the present mix of energy sources. In the quarter-century perspective discussed here, the mix of sources would change a great deal. Electricity would no longer be at a premium; oil would. Coal probably, too, because of the upheaval of vast increases in mining. As a basic source, nuclear-generated electricity would be used to supply heat, and on a large scale. Then we should no longer use an accounting convention based on present conditions. Nor could we change the accounting conventions gradually over the period. Knowing, as we do now, that oil will be at a premium toward the end of the century, we should now treat it—in economic planning if not in actual pricing—by its future opportunity cost (the cost of making synthetic oil from coal, including the future higher scarcity value of water used in such production).

For a large nuclear-power industry, this means that all the energy invested in the building and supplying of nuclear power stations should be treated as if it were electricity generated by nuclear power stations. The nuclear energy sector should be treated as a "closed subsystem", supplying all its energy requirements from its own electricity output.

Then we are back to Chapman's basic findings: the energy input in the investment of a power station is of the order of 1–2 years, depending on how much of the energy consumed in the investment is electricity to begin with, and how large is the initial nuclear core.

But this is all on the assumption of rich uranium ores—yield of 3,000 parts per million. With yields falling, the energy used in mining and milling uranium goes up—not in proportion, but it goes up substantially. When the yield goes to 1,000 parts per million (the largest category, according to the Bureau of Mines), energy input per ton of uranium doubles (Chapman). At 100 parts per million or less (Chattanooga shales) the energy input would be definitely prohibitive.

But even this is too optimistic. When the nuclear-power industry is treated as a closed subsystem, we also must reckon with a snowballing effect from the use of lower-yield ores. To explain this, let us first say that mining and milling of a ton of uranium takes certain energy quantities, partly heat, partly work by electric motors; part of this is direct (in the milling and mining) and part is indirect (in the making of the tools, chemicals, etc. used in the process). But all of this is a "first-order" requirement. Behind such a requirement is a "second-order" requirement which is what was used (directly and indirectly) in mining and milling the uranium which generated the electricity used in the first-order requirement. The second-order requirement is smaller than the first-order requirement, a third-order requirement still smaller, and so on. For instance, when first-order requirements are 10, 20, 30, 40 and 50 percent (of the output of the power station) respectively, then the following total requirements will come up:

1-order	0.10000	0.20000	0.30000	0.40000	0.50000
2	.01000	.04000	.09000	.16000	.25000
3	.00100	.01600	.02700	.06400	.12500
4	.00010	.00640	.00810	.02560	.06250
5	.00001	.00256	.00243	.01024	.03125
6	.00000	.00051	.00073	.00410	.01563
7	.00000	.00010	.00022	.00164	.00781
Total[1]	.11111	.26557	.42848	.66558	.99219

[1] Approximately.

These numbers relate not only to the initial investment and the payback-and doubling times of nuclear power stations. They also relate to the lifetime requirements of the station. First-order requirements of 50 percent are out of the question, those of 40 percent would be very hard to live with—after all, energy production has other costs besides energy.

Now it appears that the present lifetime annual requirements can be computed to be about 15 percent of annual output—a little more for light-water reactors, a little less for gas-cooled reactors. Thus it also appears that doubling the energy input in mining and milling of uranium (as when we get to ores yielding 1000 parts per million) will be as far as the industry can take it; trebling the cost (ca. 500 ppm) would already approach the prohibitive.

Thus we are forced to conclude that the rapid buildup of uranium-fission power industry, to meet 25 to 40 percent of the gross energy need by 2000, is not only not feasible for reasons of "expansion logistics", but also because the basic resource simply will not carry such a volume of uranium-fission power development.

As a practical matter, cash-flow and investment problems would arrest extensive nuclear-power development even sooner than indicated by the resource requirements. Coal would be clearly more economical than uranium, possibly already at the ore level of 1000 ppm.

With the possible development of nuclear power down considerably below the 46 q. BTU estimate—say, to about half of that, or 25 q. BTU—the logistics and resource-economic difficulties of uranium-fission power would largely subside, but the advantage of nuclear-power development would also be much reduced. A similar reduction of forward estimates came from ERDA in the fall of 1976 (the Hanrahan report). 25 q. BTU is a mere 13 percent of the projected gross energy supply, and only ⅓ of the projected electricity supply in year 2000. Coal would have to carry nearly as large a burden as if there were no nuclear energy.

COAL MINING AND CONVERSION

We have found that doubling energy supply by year 2000 would require coal to provide about 135 q. BTU, or 100 times the volume of coal extraction in the early 1970s—going from 600 million tons to 6000 million tons a year—or more, depending on the rate of conversion losses when oil and gas are produced from coal.

Such expansion is fraught with problems no less than that of nuclear power. On the positive side, there would be no "snowballing effect", since for a long time we would not have to face the equivalent of ores with lower and lower yields. The cost of building coal-fired power stations has so far been lower than for nuclear power station, and the construction times are shorter. But the cost advantage is lost when the station has adequate "scrubbers". The need to open up many more mines in short order, supply them with overheads and (to a large extent) recruit new workers for underground mining, represent an additional heavy investment burden.

A large increase in coal-fired power stations also necessitates special measures to mitigate the magnifying effects of water pollution (through sulphuric acid from coal mines). The consequences of such measures, for cost and for fuel efficiency, are not altogether clear.

Equally important, the technologies for converting coal into liquid and gaseous fuels are as yet so relatively untested despite 30 years of R & D that a rapid buildup of such plants could not start for some years yet—not until the early 1980s. Too little is known by now of the energy and other resource requirements of such conversion plants. Water is a likely bottleneck, unless a large part of this activity were to become located in Alaska, an option which could entail unusually large costs for infrastructure investments. It is unlikely that these "synfuel" resources could be built up in less than two decades, in the quantities that would be required to replace the fading supplies of petroleum and natural gas, and without doing irreparable damage to the physical and human environment of the country.

INVESTMENT COSTS AND EMPLOYMENT

For nuclear power, the most recent data available to me are those regarding the Clinton (Illinois) power plant, where construction started in the late part of 1975. Total cost is now given as $1.7 billion, for a net capacity of 1870 megawatts, thus close to $900,000 per megawatt of installed capacity. The projection of 46.1 q. BTU nuclear capacity by year 2000 would mean nearly 1 million megawatts, thus an investment of $900 billion (1977 dollars), to supply ¼ of the projected gross energy requirements for year 2000.

The costs of investments in coal mining and conversion cannot even begin to be estimated, but they must be assumed similar to those for nuclear capacity. In addition to plant construction and new mining operations, there would have to be large overheads for additional services and for environment protection.

It is not in any way fanciful to suggest that doubling energy by year 2000 would cost upwards of $3½ trillion, or most of the industrial investments in the normal course of events could come out of a doubling economy in the same time span.

The effect on investment and production in general would be dramatic. Many other activities would be under-supplied with investment funds and goods, and so the generating of national income would lag behind that of energy, and the normal economic demand for the increased production would not be forthcoming.

It is easy to suggest that, instead of displacing other investment, the exceptional effort in energy production should be financed from a heightened rate of savings and capital formation in the economy. Yes, this is easy to say but a good deal more difficult to do. Such an increase in the rate of saving and capital formation would also mean that labor's share in national income would have to go down, which again would undercut the expected increase in demand of goods and services, including energy.

The investment perspective itself shows that such a gigantic effort in building up the energy complex would be not only trying but also self-defeating. This conclusion is all the more justified since the reason usually given why the economy should continue growing at a rate of 4 percent (or more) per year is so that employment can be kept up and gradually improved.

Energy industries are among the least employment creating that we can think of. In recent years, the capital cost of employment in manufacturing has been about $30,000 per employee ($40,000 per production worker). In petroleum extracting and refining, the same figures were $190,000 per employee and

$300,000 per production worker. In electric and gas utilities, the figure is close to $200,000 per employee. These figures are for existing capital stock; for new investments, the price tags per job created is considerably higher. Expenditures of $3½ trillion for energy would support only a fraction of the jobs reduced in the rest of the economy, above all the manufacturing sector. A system of greatly increased savings and investment would in fact pull in the same direction, because the capital creating industries generally also have higher than average capital requirements per employee.

The switch toward higher capital intensity which would be implied in the effort at doubling energy by year 2000 would boost employment mainly in the higher-paying job categories and would leave ever larger numbers of low-skilled and light-industry workers unemployed. Thus, not only would the job-creating purpose of economic expansion be defeated; but with a generally undesirable increase in the cleavage between the well-paid and the poor, the general purchasing power of the population would be undercut, and the economic effort itself become self defeating.

CONCLUSION: ZERO ENERGY GROWTH

If there were no other way to solve the nation's economic problem than to double energy supply by year 2000, then we would find ourselves in a true impasse, unable to go either forward or backward. The ambitious task might have been less forbidding if it had been taken in hand long ago, say, in the 1950s; but America's political leadership then refused to lead the nation's economy. What makes the projected energy supplies for year 2000 impossible is above all in the time dimension, the fact that, due to lags in investment and in research and development, the whole enormous task of replacing petroleum and natural gas would have to be accomplished in two decades or less.

But there need not be an impasse if the problem is formulated in a different way. We already have enough studies to show that substituting for energy (and materials) by ingenuity is far less expensive than the meat-ax approach of always going it bigger. Higher productivities of energy and materials can add to the supply of goods and services for final consumption at lower cost. Steam-and-power co-generation, heat pumps, design features in buildings, and a more rational traffic system, these and numerous other innovations can give us continuing improved leverage on nature and supply our real income at less expenditure in terms of natural resources and capital.

If the target were merely to maintain the current level of energy supply from now until year 2000, then the investment needs can be met by an expanding economy without overstraining the system. And this again can be reached by improving productivity in the use of energy at a rate of 4 percent per year.

SUMMARY

1. Large increases in energy supply above the current level in the United States are not feasible because of the resource and capital requirements for replacing petroleum and natural gas. The attempt to double energy by 2000 would be economically self-defeating because of capital shortage and low employment.

2. It is assumed (a) that petroleum and natural gas will no longer be available to the United States in significant quantities around 2000; (b) that neither fusion energy nor plutonium fission will make large contributions by that time; and (c) that consequently the energy now supplied by coal, hydropower, and uranium-fission would have to increase by a factor of 8 by year 2000. (Solar energy is disregarded because the capital requirements appear higher than for coal).

3. Fission energy would take $900 billion, to supply one fourth of the doubled energy budget by year 2000. Because high-grade uranium ores are limited, even such a target is not realistic, at most half of it could be economically viable.

4. The bulk of energy development until year 2000 would have to rely on coal, which would have to increase by a factor greater than 10. Investment needs would likely come to more than $3½ trillion, or most of the industrial investment in the last two decades of the century.

5. Because of investment costs in the energy sector, consumer demand for energy would not be enough to absorb the increased supply. At the same time the energy industries would, during the build-up period, consume larger than normal portions of their own output.

6. Unemployment would rise because energy development is very capital intensive and would create fewer jobs per million dollars' investment than lost in those parts of the economy which would be starved of capital during the build-up period.

7. In conclusion, a policy of zero energy growth is recommended as being both economically and technologically feasible. To match a rate of economic growth of 4 percent per year, productivity in the use of energy would have to rise at the same rate. This can be done at far less cost than needed for continuing energy growth. It can be done on condition that the nature of the problem is recognized and a clear policy shift in this direction is started without further delay.

NATURAL GAS DEREGULATION CONSEQUENCES

Mr. JACKSON. Mr. President, a Washington State independent oil man, Mr. Victor D. Alhadeff, chairman of ENI Corp., recently made a very interesting public statement on natural gas pricing. Unlike many proponents on both sides of this intensely emotional issue, Mr. Alhadeff has analyzed the facts.

He points out that current gas prices are providing an adequate incentive for new production. He notes that "There is a shortage of rigs in a year that the industry has cried the loudest over price controls."

Mr. Alhadeff concludes that it would be in the industry's best interest to have Federal regulation of both inter- and intrastate natural gas markets as opposed to having deregulation or a phased-in deregulation. He fears that deregulation in any form would lead to very high prices for a small amount of gas production which will lead to a consumer backlash followed by very strict controls over the industry. I agree with his analysis.

Mr. President, I ask unanimous consent that the text of Mr. Alhadeff's remarks be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAS DEREGULATION COULD CAUSE CONSUMER BACKLASH

(By Victor D. Alhadeff)

I would like to share with you some facts that I have on the current legislation relating to pricing of oil and natural gas.

By way of background, I am president of the ENI Corp. and managing general partner of ENI Exploration Co., which is a non-operating independent oil company. As one who operates an independent oil company and gets involved in drilling, like this year of over 200 separate and distinct oil wells, one develops an individual perspective of the industry and what I found happening over time is that my own perception of the industry varied quite a bit from what I was reading in the newspapers, and what the industry groups were telling us was reality.

While representatives of the industry gas groups or gas producing groups would be speaking about tremendous shortages, I would find that we were discovering excellent quantities of natural gas, producing natural gas and finding that the utilities would not buy our natural gas because of a surplus condition.

For an example, we have wells in both Oklahoma and Texas which are capable of substantially greater production than we are experiencing on those wells simply because there is a surplus of oil and gas or of natural gas in those states.

So, as a result of that, I started to formulate some different opinions than the industry and I will share some of them with you.

First of all, as all of you are aware, the Senate has recently proposed that the price of natural gas be set at 2.48 per thousand cubic feet (mcf) and that that $2.48 be a lid and at the end of two years, that it be removed and we should have a free market.

The House, on the other hand, has approached a control price of $1.75 and sometime in the next couple of weeks, hopefully, the House and Senate conferees will come to a compromise and some legislation can be proposed.

What I would suggest happen or what I would like to see happen is that the federal government control both the inter and intra state markets for natural gas at a regulated national price of $2.00 to $2.25 per mcf, as opposed to having deregulation or a phased-in deregulation.

Now, I know that the position of supporting controls is contrary to the industry, but I have some pretty strong feelings about it and the reasons why I think it is an appropriate course of action.

First of all, when I started in the business in 1971, instrastate gas in Texas was selling for 20 cents per mcf. Today it is selling for $2.00 per mcf, that is about a ten-fold increase in that price already.

In 1976, interstate gas was regulated at 52 cents per mcf. Today, it is regulated at $1.46 per mcf; so, we have already experienced almost a 300 percent increase in the price of regulated interstate natural gas prices in a year.

We are constantly receiving a tremendous backlash from the industry, from consumer groups and from certain of the gas companies themselves and, in fact, when the Administration allowed the FPC to change the price of gas from 52 cents to $1.46, that ruling was tied up in the courts and it took about a year and a half for that to become effective.

My big concern about deregulation is that if there were deregulation, a small percentage of the natural gas in this country, maybe only two to three percent of the natural gas, would sell at three to four dollars per mcf, and potentially, some gas could be selling as high as five dollars per mcf simply due to the fact that a certain industry who needs production will pay a premium because as a function of their total operating costs, their energy costs are a minor percentage.

If it ever happens that gas starts selling at four or five dollars per mcf, the backlash that type of pricing would cause, I think, could result in a consumer reaction that would result in more serious, more punitive legislation than we have the ability to obtain at this time.

Secondly, I think it is important to understand that even if the price of natural gas were four dollars per mcf today, we could not drill any more natural gas wells in the U.S. today because there is a constraint, other than price, in our ability to drill, and that is rigs. You can't drill a well if you don't have a rig, and currently there are—let me get my figures straight here—2,077 rigs running in the U.S. This was the count for last week. This rig count of 2,077 was the highest rig count since 1959. As recently as two years ago, there were only a little over 1,600 rigs.

It is estimated that there are 200 rigs, new rigs, which will come on each year for the next several years; however, many of the 2,077 rigs that are running now are older rigs which can drill to only very shallow depths and they will have to be replaced, so net gain may be only 75 to 100 rigs per year and nowhere keeping pace with the existing demands for rigs.

Currently, when we commit to drill a well onshore U.S., we normally have to wait at least six months to get our hands on a rig to drill that particular well; so, rigs become a constraint as much as price.

The other reality of the industry that I am starting to see is that the loudest voice for deregulation seems to come from the weakest link in the chain. Basically, most independent oil companies—and I might re-emphasize that independent oil companies account for ninety percent of drilling onshore U.S.—most independent oil companies are making spectacular profits off the two dollars per mcf price which they are getting on an intrastate basis and they are emphasizing drilling in intrastate markets.

In fact, within the intrastate markets, such as Texas, it is stated that by 1980, there will be a trillion feet of cubic feet a year surplus of gas. A trillion feet of cubic feet a year surplus of gas, in effect, while we are having an overall shortage of natural gas is absolutely ridiculous.

To give you some perspective on what a trillion cubic feet is, we produced in the U.S. 19.5 trillion cubic feet in 1976, and in 1973, we were producing about 24 trillion cubic feet of natural gas a year; so, we have seen our production of natural gas decline tremendously from 24 trillion cubic feet to 19.5 trillion cubic feet; yet, we are projecting surpluses of gas that simply will not be produced in the U.S., such as Texas, and the absolute identical condition exists in Oklahoma.

Meanwhile, the highest level of new activity and the biggest drilling discoveries in the U.S. have been in the Rocky Mountains—not in Texas—where gas is controlled at the $1.46 price. If the ceiling was taken off the $1.48 price and raised to two dollars, you would see as much activity as a rig situation would allow for.

The question that arises over and over again is: Are there, in fact, reserves remaining to be discovered in the U.S. and currently, according to many industry groups, only two percent of the prospective natural gas acreage in the U.S. has, in fact, been drilled upon, and as a result there are currently 260 trillion feet of proved natural gas reserves in the U.S.

However, the industry groups and the United States Geological Survey vary dramatically as to what undiscovered natural gas potential is. For an example, the U.S.G.S. in 1972 estimated that there was 2,100 trillion feet of natural gas left to be discovered, today, they only estimate that there is 524 to 857 trillion cubic feet of natural gas to be discovered.

These types of tremendous variances cause me concern because basically there is no accurate method of forecasting the undiscovered natural gas reserves in the U.S.

Recently, the natural gas industry formed a group called the Potential Gas Committee and they estimated that there were 973 trillion cubic feet of undiscovered natural gas with a rock bottom minimum of about 646 trillion cubic feet from field extension and possible reserves, again, a substantial variance from the U.S.G.S., and I quite frankly put no reliance on any of these statements.

The reality is there is money available for drilling. There is no shortage of geological concepts, and there is a shortage of rigs in a year that the industry has cried the loudest over price controls, it had the highest level of drilling activity in the U.S.

By comparison, we drilled 45,000 wells this year versus 25,000 wells two years ago and this is the year when everybody is crying poverty. It is incongruous. It simply does not make sense. The incongruity of this was causing controversy and attack on the industry.

For an example, Congress recently came up with a study that estimated that deregulation of natural gas would add $25 billion a year to the consumer's natural gas bills. In this statement, Congress is estimating a $25 billion a year addition to the gas bills; the industry groups are saying that deregulation would cause $123 billion savings. The variance there is phenomenal, and the industry groups, when they assumed that $123 billion savings, assumed an average price of natural gas over the next several years of $2.50 per mcf and I see no reason why we can't start at the two, and a quarter level and have a gradual savings and avoid the risk of attack from consumer groups. I think certainly it is the key here to stimulate the producers.

In addition to natural gas issues, we are also facing a time when we are having a piece of legislation called Crude Oil Equalization Tax, which is one of the most absurd pieces of legislation I have ever seen in that it calls for increasing the price of oil through the form of a tax and finding some way to rebate that tax back to the consumers.

The interesting thing, however, is that the industry groups have the tenacity to say that all of the price increases on new oil should go to the producers, without any type of plowback provision.

I do feel, however, that the industry should have access to those increased dollars in the form of a plowback provision; in other words, the price of oil could increase, let's say, from $11.50 a barrel to $14.00 or $15.00 a barrel and there should be a tax on that money with a tax credit for that which is redrilled.

I think if this type of legislation was enacted, we would minimize the amount of negative publicity, and we would minimize the amount of continued uncertainty and the industry would be in a position of saying we know exactly what your financial incentives are and those capable of remaining will and the weak links will get out of the business.

There is no reason why the weakest link should stay in the business, especially when the reality of this entire increase was not worldwide supply and demand, but the Arab oil embargo, because currently on a worldwide basis there is a surplus of oil. And currently, on a worldwide basis only about ten percent of the natural gas has been discovered to date.

So, although we have national priorities to concern ourselves with and I am very keen on those. I think from the consumer's viewpoint, while he sees a surplus of the product, we have to be careful in how we develop our national supplies.

WOMEN IN INDIA

Mr. PERCY. Mr. President, Hobart Rowen has written an excellent article on women in India that I commend to the attention of my Senate colleagues. The article, which appeared in the December 4 issue of the Washington Post, will be of particular interest to those who have supported my initiatives to encourage U.S. bilateral aid programs to advance the role of women in economic development. The economic role of women in the development process has interested some people for many years, but it has never received as much notice as it has recently as a result of International Women's Year.

Without objection, I ask unanimous consent that Mr. Rowen's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INDIA'S SUBMERGED WOMEN

NEW DELHI.—It doesn't take long for the visitor to India to become aware of the sharp gap between the rich and the poor, between the cities and the rural areas, and between the northern and southern parts of the country.

Here in Delhi, one of the more (relatively) affluent Indian cities, migrant construction workers squatting right in front of the government's rehabilitation center provide an ironic contrast between the well-fed and housed bureaucracy and the less fortunate.

But less apparent is what may be the biggest gap of all in India—the gap between men and women.

Mrs. Rami Chhabra, a highly regarded journalist and spokesperson for women's rights, described to a meeting here of the International Press Institute a shocking system of discrimination against Indian women.

"Indian society has built a halo around woman, and then they put her on a crucifix," she told an audience of Western and Indian reporters. The poorest of the poor "are always women—they have become a submerged mass of drudges and peasants," she said.

I have run her account of the place of women in Indian society past government officials and private observers. While some argue with a statistic here and there, no one contests the basic thrust.

This is a story that has been ignored by the Indian press, although the basic research for it was published in a 1975 report by a National Committee on the Status of Women. The discrimination scenario begins with deliberate neglect of baby girls, because boys are likely to be more of an economic asset to the family. It stops only technically short of female infanticide.

Thus from birth to well beyond childbearing years, there is a higher rate of female mortality—a reverse of the pattern in the rest of the world. India is now one of the few countries where the female population is less than the male, and has been declining sharply. From 970 women per 1000 men in 1900, the figure is now about 930 women per 1000 men.

"There is obviously something more than mere poverty at work if malnutritional disease hits more girls than boys," says Rami. According to figures of the Indian Council of Medical Research cited by her, hospital records for treatment of the most virulent forms of malnutrition show admission for males only. Why? "Few girls are brought to the hospital for treatment," she says.

Although the government had a woman prime minister for 11 years, Rami accuses the state of acquiescing in the attitude of "expendability" of women. For example, hospital beds in a major province are allocated two-thirds for men, although a logical tilt would be the other way around to deal with maternity cases.

The real crunch comes on the economic front. In 1917, there were 525 women for every 1,000 men in the labor force. Sixty years later, the ratio was only 210 to every 1,000 men. "In the context of rising numbers of poverty-stricken, this phenomenon of fewer women working is obviously not the result of increased prosperity leading to a voluntary withdrawal of women from work in preference for more leisurely activities," says Rami.

"Rather, it is a case of acute deprivation leading to extreme destitution and of disintegration of families, in a measure giving rise to an increase in criminal and anti-social activities, including prostitution."

The male-dominated media in India and much of the government bureaucracy tend to scoff at Rami as a professional feminist trumpeting a cause. But she seems to have the facts on her side.

Some government planners take the issue seriously, for they are aware of the loss of national economic potential. But they don't expect to be able to satisfy the demand of women's groups for more and better jobs, or equal pay.

In the villages, women and young girls can be seen doing the routine but tough jobs, balancing on their heads dung-cakes for fuel, fodder for animals, or heavy jugs of water. There are lots of female construction workers, too.

As I write these words in Delhi, female construction laborers make their way up a wooden ramp with headloads of brick, mortar or rock to the third level of an addition to my hotel. Their kids are nearby—tiny tots taking care of infants.

A study of female construction workers done in 1975 by S. N. Ranade and G. P. Sinha suggests that these women probably are illiterates recruited from rural areas. Many are likely to be in debt to money lenders or to their recruiters. According to Vina Mazumdar of the Indian Council of Social Science Research, the relationship "sometimes amounts to bondage."

The attitude I found among many Indian men is that the general problem of poverty in India is so overwhelming that they can't get too worked up over the special problem of women. Rami seems to be saying not only that there is no justification for the degradation of women, but that the extraordinary system of discrimination from infancy through later life is a contributory factor to the grim overall economic picture. And no one is doing anything about it.

RECONFIRMATION OF FEDERAL JUDGES

Mr. HARRY F. BYRD, JR. Mr. President, in its November 20 edition, the Roanoke Times and World-News published an editorial endorsing the concept of requiring congressional reconfirmation of Federal judges every 8 years.

As is noted in the editorial, this is a change of editorial position for the newspaper, whose editorial page editor is Harold Sugg.

The new position of the newspaper is based upon its perception that "Federal judges are making law and they are administrators; lawmakers and administrators should be accountable."

I have urged this constitutional change for a number of years. Nine Senators joined as cosponsors this year when I again introduced legislation to require reconfirmation by the senate.

Interest in this proposal is growing. The State legislatures of Virginia, Alabama and Michigan have endorsed it.

Federal judges now serve for life, subject only to a rare impeachment. In recent years, some judges have gone well beyond the sphere of interpreting the law and into the domain of making the law.

Reconfirmation for Federal judges would parallel the system in Virginia, which certainly has worked well. In fact, all States except Rhode Island limit judicial tenure in some way, and there is no evidence that the judiciary has been compromised in any State because of fixed terms.

As the editorial in the Times and World-News states:

> Most Federal judges would survivie a reconfirmation process. It would help all of them to be reminded, formally, once every 8 years, that they are mortal and accountable.

I ask unanimous consent that the text of the editorial from the Roanoke Times and World-News be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

RECONFIRM THE JUDGES

Today we change an editorial position of the last six years. We now favor—and vigorously favor—a constitutional amendment proposed by U.S. Sen. Harry F. Byrd Jr. to subject federal judges to the reconfirmation process every eight years.

We have always understood the purpose of the Byrd amendment and sympathized with its objectives. Our opposition was based on history during bad times: the massive resistance movements of the 1950's and early 1960's. In those days some federal judges were the rocks and pillars of law and decency. Except for lifetime tenure, some of them might not have withstood the abuse heaped upon them.

The traumas of the 1950's, however, cannot be permitted to permanently thwart the history of the nation. The federal judiciary itself has drastically changed since the 1950's. Taking the lead (in a sense, the orders) from the U.S. Supreme Court, the judges are running prisons when they are not running schools when they are not running personnel offices in City Hall. The federal court system—set up to decide grave constitutional issues and suits and crimes involving more than one state—has invaded every nook and cranny of life. The federal judges are making law and they are administrators; law-makers and administrators should be accountable.

Judge John H. Pratt, of the U.S. District Court, District of Columbia, should be asked to tell a Senate judiciary committee, in a reconfirmation hearing, just how he justifies giving integration orders involving dozens of states and scores of school districts: all at the same time.

The confused, disagreeing-within-itself, majority of the Supreme Court, each member at a time, should be asked to explain how they decided that a sheriff must appoint as deputies those who campaigned against him for the office. There are scores of opinions that suggest the federal judges should be required to explain themselves as other people do.

We would prefer an amendment limiting federal jurisdiction to plainly federal matters; a host of lawyers says it cannot be obtained. We would prefer even more a Supreme Court willing to restrain itself and thus restrain the lower federal courts; the outlook for that is not favorable. The Byrd amendment is the only feasible corrective at hand and we urge its adoption. Most federal judges would survive a reconfirmation process. It would help all of them to be reminded, formally, once every eight years, that they are mortal and accountable.

TROOP WITHDRAWALS FROM KOREA

Mr. PERCY. Mr. President, I would like to call the attention of my colleagues to an editorial that appeared in the November 17, 1977, issue of the Indianapolis News. The editorial, entitled "What Kind of Asia?," asks some tough questions about President Carter's program of ground troop withdrawals from South Korea. I, too, have serious doubts about the wisdom of the current withdrawal plan.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHAT KIND OF ASIA?

"Key questions are posed by President Carter's plans to withdraw American ground forces from South Korea.

"What kind of Asia would it be without the presence of American military personnel in South Korea? Would it be less hostile or more hostile to U.S. interests? Would it be a less dangerous or more dangerous place?

"It is clear that the United States has sufficient forces and facilities in the region to defend its interests without forces on the ground in South Korea. But a withdrawal of personnel from South Korea would cast considerable doubt on whether the United States has the *will* as well as the capability to meet its defense commitments to South Korea or counter threats to its other Asian allies.

"If South Korea, Japan, the Philippines, and other allies observed U.S. withdrawal from South Korea (following closely upon the collapse of South Vietnam after the U.S. exist) and concluded that the U.S. was no longer a reliable partner, a chain of events could be set in motion that could make Asia a much more dangerous region than it is now.

"The most immediate impact, of course, would be on Korea. An arms race between the North and the South could result in a replay of 1950, when North Korea decided it had sufficient strength to overwhelm the South. This time, however, South Korea has the industrial and scientific sophistication to produce a nuclear bomb; the uncertainties of the U.S. troop withdrawal would be a powerful temptation to go nuclear.

"Korea is separated from Japan by a narrow strait, roughly the distance between New York and Philadelphia. Events there would affect Japan in a similar way that news of Soviet missiles in Cuba jolted the United States in 1962. If Japan doubted American credibility, the result could be a lurch into nationalism and rapid rearmament—either that, or an accommodation with the Soviet Union. Either development would be detrimental to U.S. interests and the peace of the region.

"China, too, might decide to scuttle the 'normalization' process with the United States and patch up its relations with the Soviet Union.

"For over a generation, the American presence in Asia has served to submerge old nationalisms and provide the framework for peaceful cooperation. But if that presence is no longer credible, if our Asian allies come to believe we will never use it, the forces which have produced countless Asian wars over the centuries could re-emerge.

"The prospect of a nuclear South Korea or a rearmed Japan is sufficiently real and alarming that it should give pause to President Carter in his plans to withdraw U.S. troops from South Korea."

RESOLUTION OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, the Department of the Interior has informed the Committee on Energy and Natural Resources that it intends to grant rights-of-way over Federal lands for the Sohio crude oil pipeline.

At a business meeting on December 6, the committee passed a resolution waiving the 60-day waiting period for committee review of the rights-of-way required by section 28(w)(2) of the Mineral Leasing Act of 1920.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Department of the Interior has notified the Committee that it intends to grant a right-of-way permit over Federal lands to the SOHIO Transportation Company for a crude oil pipeline from Long Beach, California to Midland, Texas.

Subsection 28(w)(2) of the Mineral Leasing Act of 1920 (30 U.S.C. 185) as amended, provides that no right-of-way across Federal lands shall be granted for a pipeline 24 inches or more in diameter until after 60 days notice of intention to grant such right-of-way has been given to the House and Senate committees with jurisdiction.

The Committee hereby resolves that, pursuant to subsection (w)(2), the waiting period required by such subsection of the Mineral Leasing Act of 1920, as amended, is waived for the granting of Federal rights-of-way for the Long Beach-to-Midland pipeline.

CANAL: FACTS, NOT EMOTION

Mr. CASE. Mr. President, recently George Meany, president of the AFL–CIO, spoke out on the Panama Canal Treaty.

One of the outstanding leaders in the country, Mr. Meany succinctly makes the case for ratification. I ask unanimous consent to be printed in the RECORD the editorial that appeared in the November issue of the AFL–CIO's monthly magazine, the Federationist.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CANAL: FACTS, NOT EMOTION

In recent weeks, the great national debate surrounding the new Panama Canal Treaties has begun. The AFL–CIO joined that debate on Aug. 30 when the Executive Council voted unanimously to urge the Senate to ratify these important treaties.

To date, much heat, and little light, has been shed on the issue. Myths, rather than facts, have served as the basis for many publicly expressed opinions on this important subject. Thus, emotion-laden code words like "giveaway" have distorted the central issues.

When the AFL–CIO Executive Council considered its statement on the Treaties, three items dominated our concerns:

The effect of the treaties on the job security of workers—both American citizens and Panamanians—in the Canal Zone.

The future security of the Canal as an international waterway open to all nations.

The impact of the treaties on U.S. relations with its neighbors in the Western Hemisphere.

On each of these counts we are satisfied that the Treaties are in the best interests of the United States, the workers, and peace and harmony in the world.

Nearly 30 years, the American labor movement has called for justice for workers in the Canal Zone on the basis of equal pay for equal work. We were concerned then and are concerned today that Panamanian nationals not be exploited through a double standard of remuneration. The treaties guarantee the rights of workers, both American and Panamanian, in the Canal Zone. One of the fears, during negotiation of the treaty language, was that workers in the Canal Zone would be forced to relinquish their superior wage and working standards to satisfy the xenophobic yearnings of vocal Panamanian nationalists. Thus, in our opinion, by guaranteeing the rights of U.S. and Panamanian workers, the treaties lay this fear to rest.

The specifics of the labor guarantees will be worked out in enabling legislation which will be undertaken by Congress upon ratification. While we will be watching this legislation closely, we believe the negotiators for both sides, having clearly recognized the need to protect the workers involved, will satisfactorily meet this first test.

According to the President of the United States and the Joint Chiefs of Staff, the treaties of 1977 provide for continuing freedom of action by the United States to maintain the neutrality of the Canal and further guarantee U.S. access and rights to use all land and water areas and installations necessary for the defense of the Canal.

At least for those vessels which can still fit through the now-narrow confines of the locks, the treaties guarantee future passage. The purpose and function of the Canal is, after all, to offer transit to the vessels of all nations from the Atlantic to the Pacific. And that, precisely, is what the treaties would guarantee.

While the AFL–CIO does not buy those arguments that the treaties are necessary salve for "historical wrongs," we are convinced that the treaties serve as the basis for the rational conduct of Hemispheric relations. Neither does the United States lose sovereignty by negotiating a treaty which transfers this narrow strip of land to the nation-state which it has for so long divided.

Demagogues, in an effort to reap personal and political gain from opposition to the treaties, seek to make this issue one of national "pride." We believe the American people would have much to be proud of in the fact that their country does not want to become a colonial power, clutching a cloudy semi-sovereignty over a narrow strip of land like some faded banner of past glory.

The negotiation of the treaties—a painstaking, 13-year process through Republican as well as Democratic Administrations—is a solid piece of statesmanship on the part of the United States. The treaties meet the concerns we have long expressed as representatives of the workers, as Americans interested in their nation's security, and as internationalists who seek to strengthen this country's relations with the rest of the world

The AFL–CIO urges the Senate to promptly ratify the treaties and the entire Congress to enact the necessary enabling legislation. We urge our members to participate fully in this national debate on the basis of facts, not emotion, and to communicate with their senators on this issue.

As reason replaces emotion in this debate, we are confident the treaties proposed by President Carter will receive the support of the American people.

GEORGE MEANY.

ALCOHOL FUELS FROM RENEWABLE RESOURCES: A RESPONSE TO THE DOUBTERS

Mr. ABOUREZK. Mr. President, there is little doubt that one of the most hard fought and important of all the pieces of legislation that will have been acted on in this session of the 95th Congress is the President's energy bill. Whether or not this bill will be enacted into law—and, if it is, what its final form will be—has yet to be decided, but a few conclusions can be drawn from the action that has been taken on it so far. First, there is not even the closest thing to a consensus on just how close we are to the depletion of traditional fossil fuels. Second, there is general agreement that we will someday run out of oil and natural gas, the fuels which we are most dependent on at present. Third, there has been a great deal of rhetoric about the need to develop alternative energy technologies from renewable resources, but, in the final analysis, very little substantive action has been taken.

As you know, I have, in the past, questioned the tendency of Federal agencies charged with the development of dependable energy forms to consistently pursue "total-fix," centralized, capital- and technology-intensive energy forms—like nuclear energy—while almost virtually ignoring some of the more promising forms of energy production from renewable resources which require far less massive infusions of capital and technology.

I have been heartened, therefore, by the recent evidence of congressional support for and interest in alcohol fuels. These fuels, of course, can be derived from all sorts of organic renewable materials, ranging all the way from grain to lumber to urban and animal wastes. While it would be wrong to represent alcohol fuels as a panacea, the technology is here today and, with a little farsighted management, alcohol fuels production could go a long way in solving our energy problem. Not only could security of supply be enhanced and our trade deficit reduced, but the use of grains, crop residues, and urban wastes as feedstocks could provide some outlets for these materials whose accumulation imposes costly burdens on our society in the way of disposal and storage. What is more, alcohol fuels can be produced in a more decentralized manner, and are safer and more environmentally sound than the alternatives.

The benefits are numerous and the performance has been widely demonstrated, yet we in the United States are really no nearer to the widespread commercial use of alcohol fuels today than we were 50 years ago. There has been little or no stimulus provided or direction given to the development of an alcohol fuels program by those who could have—and should have—done so. Even today, officials in the Department of Energy and elsewhere in the energy bureaucracy contend that the technology is still decades away and then turn around and do nothing more than commission another repetitive study. Powerful groups, especially the oil companies, have a vested interest in seeing that alcohol fuels production does not become too widespread and they have done much to retard their development. Whatever the reason for the slow pace of alcohol fuels development, there is no question but that those who claim that a significant contribution cannot be made by this energy option are either deluding themselves or are purposefully trying to delude others.

A good example of what can be done in this area is going on right now in Brazil, where the Government has set in motion a concerted alcohol fuels production program. By 1980, the Brazilians predict that they will produce $300 million worth of anhydrous alcohol from manioc and sugarcane. Anyone who believes that alcohol fuels production from renewable resources is a technology that only belongs in the future should take a long look at the strides that Brazil has made in the last 5 years. There is no doubt in my mind that, if Brazil can do it, we can do it.

Mr. President, I ask unanimous consent that the following article detailing Brazil's alcohol fuels program be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Foreign Agriculture, May 2, 1977]

Brazilian Agriculture To Help Meet Fuel Needs

(By Edmond Missiaen)

Brazil, in an attempt to cut its petroleum import bill, has set up a long-range program to mix anhydrous alcohol from sugarcane or manioc (casava) with gasoline.

The program, begun in 1975, foresees production by the early 1980's of 4 billion liters of alcohol per year, which would supply 20 percent of Brazil's estimated gasoline needs.

Brazil's decision to develop alcohol for fuel means that a significant part of the country's agricultural development efforts are to be directed toward production of farm products for fuel, rather than for food or fiber. Land used to grow sugarcane and manioc for alcohol will not be available for food and export crops such as soybeans, corn, and rice.

Close to 900,000 hectares of Brazil's total cropland area of about 45 million hectares will be needed to produce by the early 1980's the volume of alcohol needed for a 1:5 alcohol/gasoline mixture.

Such a ratio of alcohol to gasoline would require no adjustments to motor vehicle engines and would permit Brazil to reduce its petroleum imports by about 10 percent, resulting in a saving of about $400 million annually in foreign exchange.

Brazil also is considering the possibility of using a 1:1 ratio of alcohol to gasoline in diesel trucks and buses, and all-alcohol fuel in passenger cars. Although such changes would require major modifications to existing vehicle engines, new alcohol-powered cars reportedly could be built for about the same cost as gasoline-powered vehicles.

To demonstrate the feasibility of vehicles powered entirely by alcohol, Brazil's Aerospace Technical Center recently converted three cars to run solely on alcohol and sent them on an 8,000-kilometer trip from São Paulo State to Manaus (on the Amazon) and back.

Alcohol also is being considered as fuel for electric power plants.

The main instrument for achieving the goals of the alcohol-as-fuel program is special financing. Industrial financing (for establishment, expansion, or modernization of distilleries) is available for 80 percent of the total investment (90 percent in the north and northeast) for a maximum period of 12 years, with 3 years of grace, at interest rates of 17 percent (15 percent in the north and northeast).

For farm projects, 100 percent of the investment cost can be financed for up to 5 years, with 2 years of grace, at 7 percent per year. These interest rates are highly negative (less than the rate of inflation) in an economy that has a high rate of inflation (46 percent in 1976).

Project proposals are presented for approval to the National Alcohol Commission. After this approval has been obtained, entrepreneurs have up to 180 days to apply for bank loans.

As of December 22, 1976, 83 projects for construction of alcohol distilleries had been approved by the National Alcohol Commission, and 15 of these had obtained financing by December 24. Another 95 agricultural projects, for the planting of sugarcane, also had been approved by that date.

The 83 distillery projects are expected to have an annual productive capacity of 1.9 billion liters of alcohol, or 48 percent of the Government's goal of 4 billion liters by 1980.

Five of the planned facilities will distill alcohol from manioc, one will use babassu nuts as raw materials, and the remainder will use sugarcane. Some of the sugarcane projects envision the establishment of distilleries annexed to established sugar mills, while others will be independent.

Of the 83 approved projects, 27 are in the northeast, one is in the north (Amazon) area, and the remaining 55 are in the more developed center south part of the country.

Thirty-three of the projects are to be in São Paulo State, which produces about half of Brazil's sugar. Another 22 projects are to be located in the traditional sugar-producing States of Pernambuco, Alagoas, and Rio de Janeiro.

There are two basic types of alcohol—anhydrous and hydrous. Only the former is used for mixing with gasoline, and both are inputs for various chemical manufacturing processes. Both are produced in Brazil, and are manufactured almost entirely from residual molasses resulting from sugar refining.

The residual molasses resulting from production of 1 metric ton of crystal sugar is sufficient to produce, on average, 117 liters of alcohol. Stated another way, 1 ton of sugarcane will produce 92 kilograms of sugar plus 10.7 liters of alcohol.

Alcohol also can be extracted directly from sugar—i.e., the cane can be used to make only alcohol and no sugar. In this process, 67 liters of alcohol can be extracted from 1 metric ton of sugarcane.

Most of the hoped-for expansion in alcohol production will come from direct conversion of sugarcane to alcohol. In the past, the direct conversion of sugarcane to alcohol was used only when there was surplus sugarcane production. The manufacture of alcohol served as an escape valve.

Alcohol also can be extracted from other plants. The most apt for Brazil are manioc, sorghum, sweet potato, and babassu. Apart from sugarcane, the most important future source of alcohol in Brazil is expected to be manioc.

The costs of producing alcohol from manioc and sugarcane are about the same. The manufacturing process for manioc is more complicated, however, and there is no pool of experienced entrepreneurs in manioc processing, as there is for sugarcane.

Many of the hopes for reducing regional disparities and reducing income inequalities—as outlined in the Government goals for the expansion program—are based on the expectation that production of manioc for alcohol will be expanded in the poorer northeast, north, and center-west regions.

Brazil produces 700–750 million liters of alcohol per year, of which 200–300 million liters are anhydrous alcohol, used for mixing with gasoline.

Exports of alcohol have risen from 7 million liters in 1970 to 64 million liters, earning $17 million, in 1975.

About three-quarters of Brazil's alcohol is produced in the center-south area. Sugar mills in the northeast distill less of their residual molasses into alcohol. Molasses exports, mostly from the northeast, have been growing in recent years, jumping in value from 3.5 million in 1970 to $41 million in 1976.

Most of the alcohol for mixing with gasoline is produced and consumed in Sao Paulo State, which accounts for 40 percent of Brazil's total gasoline consumption. The proportion of alcohol in gasoline (average for all Brazil) has ranged from 2 to 3.5 percent in recent years.

If Brazil reaches its goal of 4 billion liters of alcohol per year for mixing with gasoline by the early 1980's, it is likely that 500 million liters will be distilled from residual molasses processed in existing capacity; 3 billion liters will be distilled directly from sugarcane; and 500 million liters will be distilled from manioc.

The additional agricultural capacity required to produce this alcohol can be calculated as follows: For sugar, an alcohol extraction rate of 67 liters per ton would require 44.8 million tons of cane from 747,000 hectares. For manioc, an alcohol extraction rate of 180 liters per ton would require 2.78 million tons of the commodity from 139,000 hectares.

Total sugarcane area (for sugar) is now about 1.7 million hectares, and area in manioc is 2.1 million hectares.

If Brazil were to attempt to substitute alcohol completely for gasoline, the demand for alcohol would approach 25 billion liters per year by the mid 1980's. Members of the National Alcohol Commission believe that as alcohol production approaches that level, a much higher proportion will come from manioc than is the case with currently approved projects.

Thus a production level of 25 billion liters of alcohol per year (half from sugarcane and half from manioc—would require about 187 million tons of sugarcane grown on 3.1 million hectares plus about 69 million tons of manioc grown in 3.5 million hectares—6.6 million hectares out of Brazil's total current cropped area of about 45 million hectares.

REMARKS OF CONGRESSMAN JOHN BRADEMAS BEFORE THE BUSINESS COUNCIL

Mr. PERCY. Mr. President, at the fall meeting of the Business Council, Congressman John Brademas of Indiana spoke about increasing congressional assertion, in recent years, of its proper and equal constitutional role in the Federal Government. Using such examples as the Congressional Budget Act and the developing part played by the House in foreign policy, Congressman Brademas expands upon the theme that "Congress has taken a series of initiatives that have buttressed its role." By these actions, he says:

> Congress has not diminished the Presidency but has simply insisted on its own place in the sun of our constitutional constellation.

Because his statement will be of interest to all of us who have worked together to improve Congress' ability to function according to its constitutional mandate, I ask unanimous consent that Congressman BRADEMAS' remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF CONGRESSMAN JOHN BRADEMAS

Before beginning, I want to answer that unspoken question that, if not already in your minds, is sure to be there before I finish.

No, I have never met a payroll.

I am a politician, not a businessman. But just as I have never had to meet a payroll, so I doubt whether many of you have ever had to convince a few hundred thousand people every two years to vote for you and not some other guy.

Although I am a politician, I used to be a professor of political science. So I hope you will forgive the recidivism if I start these remarks with what sounds like a civics lesson.

In order to understand what happens in Washington, it is essential to recognize what our separation of powers system means and how it affects the actual functioning of our government.

I find that newcomers to Washington do not really understand our system, and I include visitors from our own country as well as those from other nations. I also include some Presidents.

People know the phrase, "separation of powers," but for some reason the words often lack meaning for them. The idea is somehow prevalent that Congress exists to do whatever a President wants it to do. According to this view, Presidents ask and Congress gives. This attitude is based loosely on the idea of what the structure of a corporation is thought to be. The President is perceived as the corporation's chief executive officer and Congress as a complaint board of directors.

Although some corporations may work that way, the government of the United States does not—nor was it ever intended to.

The President and Congress are elected separately. Each President, each Senator and each Member of the House of Representatives has his own mandate and his own responsibility to the people. This curious system of shared power has no real parallel in the world today, a fact that sometimes I think is recognized only by politicians and political scientists—and not all of them.

In order to get anything of consequence accomplished under this system of what Richard Neustadt called "separated institutions sharing power," the President and Congress must work together. Although it is a system that no engineer or management expert ever would recommend, it also is a system that, by and large, works.

In the American government, when the executive and legislative branches are controlled by members of the same political party, the two branches are likely to have common goals—although rarely do they agree on how just those goals are to be reached.

There is a famous story about Speaker Sam Rayburn. Once asked how many Presidents he had served under, he responded: "None. But I have had the privilege of serving with eight Presidents."

That kind of attitude is more pronounced today in Washington than at any time since President Roosevelt took office in 1933.

In the 1970s, Congress has taken a series of initiatives that have buttressed its role. By these actions, Congress has not diminished the Presidency but has simply insisted on its own place in the sun of our constitutional constellation.

Congress, increasingly, thinks for itself. It does not tolerate the idea that all wisdom originates at the other end of Pennsylvania Avenue. It seeks to make its constitutional share of the national policy making function an affirmative—even an assertive—one. We in Congress work in harness with the President, but we do not work in tandem. The Founding Fathers did not intend that we should.

It has been said that the Constitution assures that Congress and the President will fight fiercely, fight fairly and fight forever. To a certain extent that is true—and it is an important safeguard of the freedom that has distinguished our nation. It is also true, however—contrary to many news reports—that Congress and President Carter share a common commitment and, with all the fits and starts that are built into the process, have developed a fine working relationship that already has produced many solid accomplishments and will produce many more.

NEW LEADERS IN CONGRESS

This is an unusual year, for not only do we have strong new leadership in the White House, but there are strong, new leaders in Congress as well. The record of this year will show that Speaker Tip O'Neill in the House and Majority Leader Robert Byrd in the Senate are as strong, effective and outstanding as is President Carter in the White House. I am privileged to serve with Speaker O'Neill and our new Majority Leader, Jim Wright of Texas, on the House Leadership team. Way back last December, before either the new Congress or the new President had taken office, we of the congressional leadership already were meeting with President-elect Carter and his new counselors in Plains and laying out priorities for this year.

Since then, the congressional leadership, and particularly Speaker O'Neill, have made it plain that Congress wants coordination and cooperation with the White House—not conflict and confrontation.

President-elect Carter agreed that Pennsylvania Avenue, which joins the Capitol and the White House, is a two-way street. The President showed then, and he shows now, that he is a President who is willing to work with Congress and he is a man who does not fear sharing responsibility—and the credit and blame. He is a good listener, a quality that is not all that common in Presidents—whether of a nation or of a corporation.

President Carter, for example, went to the unusual length of holding a round table last January with 45 Members of Congress, including myself, on international affairs. This is an area where Presidents usually tolerate little advice from Congress. But for seven hours President Carter sat and listened while we of Congress told him what we felt about various foreign policy issues.

In the domestic area, our early priorities dealt overwhelmingly with economic and energy matters. Much of that priority program already is enacted, including a tax cut designed to encourage business expansion.

Energy is a new, urgent and immensely difficult issue. Congress, as you are seeing, is thoroughly exercising its prerogative of reviewing the President's proposals. In that regard, I want to say I do not think things are as irreconcilable as they appear to be right now. I think that all of us, in fact, will be better off for the independent and tough scrutiny by Congress of a major national issue.

The world we live in today, with its domestic and international tensions, its technological explosion and its dizzying change, has presented us with increasingly complex questions of national policy. Our well-being—in many cases, our ultimate survival—depends on our finding answers to questions that either were ignored or did not exist a short time ago. It is essential that we in Congress examine carefully every new proposal, test every thesis, question every premise, debate every solution before we help launch the nation on some new course of action.

The country needs the benefit of all the ideas and debate it can muster on such complex and controversial matters as energy policy, the neutron bomb, genetic research and international arms control. It also needs ideas and dialogue to help solve such less cosmic but equally difficult problems as health, schools, transportation, housing and jobs.

Seeking solutions—or even palliatives—to these problems is not always a net process, as anyone who has followed the fortunes of the President's energy package in the Senate knows. But fashioning an effective and acceptable energy program is an unusually difficult problem, and I hope that our troubles with energy will not blind you to the real record of achievement that the new President and new Congress have put together.

INTERNATIONAL POLICY

On the international scene, the revitalization of Congressional authority has given the House as well as the Senate an increasingly important role in foreign policy. In fact, Kenneth Bradshaw, the Clerk of the House of Commons in Great Britain, wrote in his book, Parliament and Congress: "It can be said of Congress, to an extent that it could never be said of Parliament, that there are times when it initiates foreign policy."

Mr. Bradshaw cited as examples the Senate Foreign Relations Committee hearings on Vietnam in 1967 that gave voice to the misgivings about the war within the United States, the post World War II proposals that paved the way to the North Atlantic Treaty, and the insistence that controls be placed on the use of the atomic bomb. That last effort continues today; the House recently passed a Nuclear Non-Proliferation Act that provides guidelines to the executive in its dealings with other nations.

The Senate's role in foreign policy, including the constitutional power to ratify treaties and to advise and consent to the appointment of the Secretary of State and U.S. ambassadors, is well known. What may not be so well realized are the ways that the House of Representatives increasingly is making itself felt in the international arena.

First, through the legislative process, we authorize the President to make "executive agreements" with certain countries concerning specific matters; these agreements do not require Senate ratification, and, as Mr. Bradshaw pointed out, one of them was important enough to set up American bases in Spain and to commit the United States to keep troops there.

Second, the House plays a foreign policy role through laws authorizing American participation in international organizations. For example, we recently sent to the President a bill providing for U.S. contributions to international lending institutions, such as the World Bank, the Asian Development Bank and the African Development Fund.

Third, the House acts on much legislation needed to implement foreign policy. For example, the proposed Panama Canal Treaties, after Senate ratification, will require new laws passed by both House and Senate enabling the United States to meet the terms of agreement.

I do not say that congressional contributions to foreign policy always represent improvements. For example, like President Carter, I had severe reservations about the restrictions the House attached to the Foreign Assistance Appropriations bill. Many of them would have prohibited assistance to countries that did not measure up to our standards on human rights. Laudable as these objectives were, the restrictions would have hampered the President unduly in the difficult task of helping other nations and furthering American interests abroad. House leaders worked with the White House on this matter to arrive at a compromise that gives the President more flexibility in this vital area. We shall vote on this legislation next week.

CONGRESSIONAL BUDGET ACT

One of the major and little understood reasons for the resurgence of Capitol Hill in recent years is that Congress has moved to re-establish control of its most important constitutional function—the power of the purse—through the fiscal framework provided by the Congressional Budget Act of 1974. As you know, the Budget Act mandates that Congress approve a pair of budget resolutions—spring and fall—not subject to presidential review. These two resolutions set target levels for spending and taxes and then—after we have passed the actual tax and spending legislation in the summer—fix binding totals.

In this way, we know what we are shooting for when we start out the yearly cycle of budget-making and, if economic or other conditions necessitate adjustments along the way, we can make them.

Still more to the point, however, the Congressional Budget process provides us a mechanism through which we can impose fiscal discipline on ourselves. We now can make broad policy decisions about how much shall be spent for various purposes—national defense, commerce, transportation, health, education and welfare and other areas. And we are now able to view the budget—projected expenditures and projected revenues—as a whole. At the same time we can see the budget within the context of the economy at large.

The Congressional Budget Act, in effect, has retooled the mechanisms for making fiscal decisions in the United States government. The Act created the Congressional Budget Office, which gave Congress a professional staff, including its own economists, and computer capability for the performance of in-depth budget analyses and projections.

THE NEW HOUSE

Congress, itself, meanwhile, has been undergoing a substantial and significant change of personnel. In the House of Representatives in particular, we have a young, active, increasingly well educated group of new Members. Some 156 Members—more than one-third of the House—have served one term or less. And 242 Members—well over a majority—have been elected since 1970.

These newer, younger Members joined a cadre of seasoned, longer-term Members who are both knowledgeable on national issues and schooled in legislative skills. So what we have in the 95th Congress is a fortuitous balance of new blood and experience.

It is a combination that, in my view is well serving the best interests of the American people.

With this House, in this post-Vietnam, post-Watergate world, it is difficult for either Presidents or Speakers easily to have their way. Neither a President nor a Speaker can fire, demote or transfer Members of Congress. To convince Members today, it is necessary to rely on reason and persuasion rather than mandate and command.

As its membership has changed, so has the House as an institution. It has become more open and more democratic—both small "d" and large "D."

I shall not here take time to recite the litany of reforms that have made the House of Representatives a more responsive and accountable body, but they are many.

I note, only by way of example, that some 30 to 40 subcommittees—where the bulk of the legislative work is done—have been opened to junior Members. Committee chairmen, once all powerful, now must pay heed both to the members of their committees and to their colleagues in the House for their ascension to committee leadership no longer is assured by seniority.

To be effective today, a full committee chairman must operate like a politician, not an autocrat.

The cumulative effect of all these institutional changes has made the House much more effective in dealing with the needs of the nation.

STEERING AND POLICY COMMITTEE

Among the barely noted changes in the House has been the emergence of the Democratic Steering and Policy Committee as a major policy making instrument.

The Committee, chaired by Speaker O'Neill, is composed of the Democratic Leadership, including myself, and elected Members reflecting the different shades of political philosophy within the Democratic Party, from conservative to liberal; a representative sampling of all geographical areas of the country; and a range of service from first-termer to senior House Members.

The Steering and Policy Committee is a true sounding board of the Democratic constituency of the House. The Speaker convenes it regularly; it serves as a means of planning strategy, testing legislative proposals and rallying support for party policy. Although its decisions are not binding, it is fair to say that the Steering Committee is the closest thing we have to a board of directors in the House of Representatives.

The Speaker also invites outside groups to meet with the Steering and Policy Committee to give their views to House Democrats. On consecutive weeks, for instance, the Speaker asked George Meany and his colleagues in the AFL–CIO to discuss labor's goals and Irving Shapiro and his colleagues in the Business Roundtable to outline theirs.

SPEAKER O'NEILL

Although the Steering and Policy Committee helps to coordinate the majority party's policy in the House, the Speaker remains the chief custodian of leadership. I cannot praise too highly the effective leadership of Tip O'Neill. He understands the House and its Members deeply and thoroughly. His instincts and acumen are legendary. It is my job as Majority Whip to count votes for him on major legislation. But often he will know, even before he looks at the count, how much chance a given bill has in the House. And he'll tell you. You always know where you stand on an issue with Tip O'Neill.

Beyond that, Tip O'Neill is as sensitive and compassionate as he is strong. He believes deeply that our nation's strength and prosperity depend on the extent each of us has to participate politically, socially and economically in the growth of our country.

He deservedly is receiving major credit for the accomplishments of the new Congress and the new Administration. President Carter has been very much a beneficiary of the Speaker's frank advice. I can bear personal witness to this since I participate in the meeetings between President Carter and the House and Senate Leaders.

Every other week the Democratic leaders of the House and Senate have breakfast with the President at the White House. The President tells us what's on his mind and the Speaker and Senator Byrd then tell him what's on ours, with others chiming in whenever they wish.

The conversation is candid and pointed, but warm and friendly. We all want the President to succeed, not just because we are of the same party but because he is the President of our country.

LEGISLATIVE ACHIEVEMENTS IN 1977

This continuing communication and shared responsibility between the two branches of government has helped establish the best legislative record since Franklin Roosevelt's first term. Not since then has any new President seen so many major new laws enacted so soon after he took office.

Let me run over them briefly.

We made a strong start toward economic recovery with a major $34 billion, three-year tax cut, including a new jobs tax credit for employers and a $2.3 billion corporate tax saving in 1978. We have enacted public works, public service and youth jobs laws that are creating more than a million jobs and expanding your consumer markets.

We have established a Cabinet-level Department of Energy, and, as everyone in this room knows, we are in the throes of writing what we hope will be a bill creating a comprehensive energy policy.

Although the Senate is having its problems with energy, this most complex piece of legislation went through the House precisely on the timetable set by Speaker O'Neill early this year. The Senate is completing its deliberations and House and Senate conferees are going to work to develop a final bill that, hopefully, will give the nation a sound, far-sighted policy on a matter vital to the lives of every American, to the strength of our economy and to the security of our country.

Among other accomplishments this year, many of which would stand on their own in any other year, are a $13.7 billion, three-year housing and community development act; a $12 billion, three-year food, agriculture and food stamp reform act; a strip mining control and reclamation act; clean air act amendments that prevented a possible shutdown in the auto industry; and a $3-billion, two-year small business act. Next week we expect to pass amendments to the Social Security Act to assure its solvency.

END TO 8 YEARS OF DIVIDED COUNSEL

Beyond these substantive accomplishments—and perhaps even more important—we have shown the people of this nation that Congress and the President can work together in their behalf.

As contention is replaced by cooperation, so will there be a return of consumer confidence, a corresponding increase in business activity and an upturn in the economy.

STILL MUCH TO DO

I do not wish to leave the impression that all is done and utopia is near. The stock market is just as disappointing to me as it is to investors and to those of you who seek to raise capital in it.

Inflation and unemployment rates remain too high. Unemployment among teenagers and minorities is particularly troublesome—and dangerous—although it is heartening to note that unemployment again dropped last month and is more than a full point below the 1976 high of 8 percent.

Without question, we will continue to be preoccupied by the energy issue.

We must have tax reform that is fair to the taxpayers while providing incentives to economic growth.

We cannot ignore the problems that continue to afflict our great cities.

Nor can urban America turn its back on the fact that falling farm prices threaten the strength of rural America.

High on the agenda of President Carter and Congress in the year upcoming must be welfare reform and an overhaul of the Social Security system.

Poll after poll shows that Americans are deeply worried about the skyrocketing cost of health care.

And even as our citizens want decent jobs and decent wages, they are insisting that the environment in which they live and work be safe and healthy.

In the international arena, our relationships with the Soviet Union continue to be of central concern and involve such questions as nuclear proliferation and arms control as well as trade.

Even now President Carter is seeking some viable basis for moving toward a stable peace in the Middle East.

We must look anew at our policy toward the increasingly vocal nations of the developing world, and we must attempt to fashion a policy toward the People's Republic of China that is at once realistic and responsible.

And, of course, we must maintain and strengthen our links, both political and economic, with our most valued allies, the countries of Western Europe and Japan.

In all these areas, our government must act in the best interests of the citizens of the United States including your own interests as businessmen.

BUSINESS AND CONGRESS

In conclusion, let me turn to the relationship between business and Congress. Rest assured that Congress is no more anti-business than business is anti-Congress. As Americans, we are all in the same boat, a boat whose passengers include working men and women, farmers and consumers as well.

We will strive to see that business—big and small—can be conducted in the kind of an atmosphere that is conducive to its health.

There is not one Member of Congress who does not want business to prosper. We know, just as you do, that only a prosperous, thriving private economy can provide the jobs our nation needs, not to speak of the revenues required to operate the public sector. If any of you think that we enjoy voting money for welfare or for unemployment compensation or for public service jobs, he is wrong.

You and I know that programs like these are necessary evils that would not exist if your own businesses were expanding and were more profitable.

But just as you want us to foster an economic climate for your success, so we want you to understand and support programs and policies that will enable the less fortunate members of our society to sustain themselves. Just as you seek opportunity for yourselves, so must you recognize that others who may not be as smart as you, as hard-working as you or as lucky as you need your help.

Like President Carter, we want a balanced budget, too. The continued high deficits in the Federal budget are as obnoxious to us as they are to you. But we also know—as, indeed, I'm sure you know—that a balanced budget can only be the product of a balanced economy.

You in business may be able to balance your budget by reducing your work force, by cutting your expenses. But we cannot balance the Federal budget by throwing people out of work, by reducing the assistance given to people who either cannot work or who want to work but cannot find work. The budget cannot be balanced by a recession. As we have learned to our sorrow, we all now know that a recession does not even reduce inflation.

So we need to continue policies that help our economy grow, help to create jobs and help expand business.

Such policies are the best kind of welfare reform because they get able-bodied men and women off public assistance and make them both consumers and taxpayers. It is a simple fact that every increase of one percent in the rate of national unemployment above four percent costs the Federal Treasury $16 billion in lost tax revenues and additional unemployment compensation and other recession-related payments.

I suggest that those of you who object to aid for welfare families and to other forms of public assistance do some quick calculating to determine the annual subsidy you get from the Federal government from deductions for interest and taxes and business expenses as well as from other tax advantages, and then compare that figure with what a family on welfare may receive each year.

In saying this, I don't want you to think for a moment that we do not recognize your problems or that we do not sympathize with your needs. We know, for instance, that capital formation is becoming increasingly difficult. We know that without action to stimulate new investment there cannot be the kind of economic expansion that will be lasting. We know that you need new plants and new equipment. We know that many of our laws designed to protect your employees from job safety hazards and to protect you and your families and your employees from environmental hazards are costly. We know that you need help.

But you must recognize that others also need help and that the kind of blind opposition that often comes from businessmen less enlightened than the membership of the Business Council brings on confrontation and ill-will rather than the kind of joint effort needed to solve problems that affect us all.

Just as we now have political leadership that is taking a new look at old problems and seeking solutions that will benefit all of us, so we need business leadership that looks beyond short-term problems and quick profits to the needs of our entire nation.

We need leadership from you as individuals and from the Business Council as an organization that recognizes that private enterprise cannot be successful unless the other parts of our society are successful, that the basis of stable, sustainable growth cannot come at the expense of one group over another.

The Business Council historically has been a major voice of business leadership in our country. I for one hope that you will continue in that role, not solely as champions of the interests of business, but as citizens of the greatest free nation in history.

For, as the great philosopher, Alfred North Whitehead, once said, ". . . a great society is a society in which its men of business think greatly of their functions."

May you think greatly of yours.

SECRETARY SCHLESINGER ADDRESSES THE NATIONAL CONVENTION OF THE AMERICAN LEGION

Mr. JACKSON. Mr. President, the Secretary of Energy, James R. Schlesinger, recently spoke to the National Convention of the American Legion. His concise and thoughtful analysis of our energy problems makes clear how little time we have to chart a new course on energy. His discussion of the President's program merits careful study as Congress nears final action on this legislation.

I ask unanimous consent that Secretary Schlesinger's eloquent remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY JAMES R. SCHLESINGER

Legionnaires, today our nation faces a troublesome passage—requiring dramatic changes in our sources of energy. It is a passage both difficult and potentially perilous. Nonetheless, it is one through which—with foresight and with dedication—we can triumphantly come. The President of the United States has sounded a clarion call—of warning and of challenge. To that summons Legionnaires, along with other Americans, will respond. It calls us to a different type of battlefield—one that requires less raw courage than it does persistence and patient effort.

If we, as a people, respond—as we have done before—then we shall, with relative ease, move through a difficult transition of prospective oil stringency into a new future in which our energy supplies will be provided by new sources and new technologies achieved through American imagination and ingenuity. If we fail to respond, we shall face a growing menace to our economy and to our political and social stability. Consequently, we cannot afford to fail.

President Carter has called for the moral equivalent of war. This does not—happily—mean that the Nation need go on a wartime footing or resort to wartime measures. But, it does mean that we must achieve the cohesion and that sense of national purpose normally achieved only in time of war.

In itself the energy crisis provides no clear, unequivocal signal of national danger such as that represented by Pearl Harbor. Instead, the danger is more subtle, more complex. It can be grasped only through analysis and countered only through vision. Yet the signs and the portents have continued to grow. Indeed, one might describe the brief embargo of 1973-1974 as an undiscerned Pearl Harbor.

Only lately have we begun to grasp the magnitude of the energy problem. And our awareness is yet imperfect. Recent polls have disclosed that some 50 percent of the American people do not know that the United States imports any oil at all. This is disturbing when our import dependency has already reached almost 50 percent. Thus, altogether too many Americans apparently believe that we are self-sustaining and possess energy invulnerability. They cannot, therefore, appreciate the constraints that continuing economic growth and growing dependency would impose on our foreign and defense policies—or anticipate the even greater vulnerability that we will face as oil production worldwide reaches the point that it can grow no further.

How did we get where we are today? Let us examine the background.

Time was that our energy problems, like our security problems to which they are intimately related, were easily borne. In the wake of World War II, and down into the Vietnam war, the preeminence of American power remained unquestioned. The expansion of the international economy and the maintenance of security took place under the protection of that American power. In that era, we also were totally secure in our energy supplies. Indeed, our capacity was so great, relative to demand, that we could not only satisfy our domestic requirements, but could also take care of our allies in a period of emergency. In the Suez crisis of 1956, for example, the shut-in production capacity of the United States was by itself sufficient that we could tide Europe through a period of cut-off.

In the subsequent twenty years vast changes have taken place. American oil consumption has grown to so great an extent that even with enlarged production, we accommodate little more than half of our domestic requirements. And, of course, there is preciously little spare capacity to tide other nations over in a time of trouble.

Just as political security has been affected by a world grown more fractious, just as our military position has been challenged by the steadily growing power of the Soviet Union, so has our overall position been further weakened by the new fact of substantial energy dependency. Energy supply and security have always gone hand in hand. But the United States has been blessed with abundant resources, so that the connection between energy and security could be accepted without being explicity recognized.

Yet, as the world has become more interdependent, and as our own dependency has grown, our ability to protect our vital interests has come under a new and different challenge.

Moreover, there is still a more fundamental and underlying issue that goes beyond the ordinary considerations of security policy. It is a problem that we share, with all other nations, of prospective worldwide shortage. It is the prospect that within a decade oil production worldwide will have reached a limit beyond which it will not be possible significantly to increase production. Sometime in the early 1990's oil production worldwide will peak out and begin its long slide downward. But even before then we shall approach a production ceiling such that output cannot accommodate further increases in demand. Consequently, expanding supplies of oil—the world's fuel of choice—will not supply the additional energy to sustain further economic growth and rising standards of living. This brief period, a century, in which oil has become the principal motive force of worldwide economic expansion will be at an end. We, along with all other nations, shall have to turn to alternative sources of supply and, in the period of grace allowed to us, seek out those alternative sources.

There are, of course, always Pollyannas who will believe that nothing that they wish not to occur, can possibly occur. They will suggest that, of course, there must be more oil out there to accommodate our ever-expanding appetite. Be not deceived! Our voracious demand for oil—doubling every decade, increasing thirty fold in half a century—is beginning to encroach not only on potential production limits but on potential long-term supply. In this decade alone the world will consume not only one-third of its proven reserves, but will also consume one-tenth of all the oil that the geologists in their wildest dreams ever expected might exist worldwide—and might be found and recovered.

Thus, we, along with other nations, face an altered and potentially distressing future. Let us gather our courage and determination and face up to it.

We must not imitate the grasshopper in Aesop's fable. We must avoid a policy of drift until the moment of acute crisis is upon us. If we have the appropriate vision and foresight, we shall take advantage of the time that is available to us and act now.

We should begin now—while we still have time and before the era of restricted oil and gas availability is upon us—to alter the capital equipment that sustains and will sustain the American standard of living—our factories, our homes, our automobiles. Our factories and power plants should increasingly burn coal or uranium, which these stationary facilities, unlike our transportation, can utilize at small penalty. We must, if we are prudent, take care to avoid increased dependence of our capital assets on oil and gas when we already know that the future supplies will be limited. And, we must achieve a higher degree of fuel efficiency. We must learn to conserve.

These are the things that we must do. And these are the things that President Carter's energy plan is intended to accomplish. The measures are numerous and intricate, but the underlying design is quite simple. Put briefly, the program is intended, first, to attain a higher degree of fuel efficiency to reduce waste and to conserve. Second, it is intended to wean us away from oil and gas and gradually to substitute further our more abundant fuel resources, solar energy, coal and uranium.

A major goal of the plan is to reduce the annual growth of energy consumption in the United States from approximately 4 percent to less than 2 percent per year. This can be achieved by making our homes better insulated, our automobiles more fuel-efficient, and by providing incentives for greater efficiency in our industrial processes. It can be achieved with no sacrifice in our prospective living standards.

The President has called for sacrifice, but the sacrifice for which he calls is less of a material nature than of a change in attitude and assumptions—of all sacrifices the hardest for men to make. We shall have to give up our careless, spendthrift, ways in energy use. We shall have to learn anew such homespun wisdom as "willful waste makes willful want."

Nonetheless, it is axiomatic in the President's plan that enough energy shall be available to permit the continued growth of the economy and the expansion of productivity, output and the number of jobs. The pace is gradual and the use of energy will continue to grow. We are not interested in self-punishment through conservation.

The major element is equally simple: To avoid a growing dependence on oil and gas and to make better use of our more abundant fuel resources.

It was only after World War II that we emerged from a period in which coal had been our principal fuel. Increasingly, we shall return to it. Facilities-in-place can, in most cases, readily utilize coal. In that way, we can reserve a larger share of the dwindling supply of fuel liquids for our transportation sector in which there is no such readily available substitute. Our new factories and power plants should use coal or uranium. In that way we can avoid having our new capital plant and equipment become dependent on a type of fuel which is likely to be unavailable during the last fifteen or twenty years service of that plant.

If we are prepared to act now, we can make this transition relatively smoothly and painlessly. If we fail to act now, the consequences will be far more dire: In the middle 1980's rising unemployment, much more rapid inflation, and severe balance of payments difficulties. Such developments would shake the political and social foundations of the United States in a way that they have not been shaken since the 1930's. Much has been said about the economic consequences, relatively light, of the National Energy Plan. It is far wiser if we take into account not the consequences of our decision to act, but the economic and political consequences of our failure to act, for those could prove devastating.

But what of the longer term? What happens when we run short, as we inevitably must, of fossil fuel? Will these short-term sacrifices, which we now contemplate, make things better for our children and grandchildren in the future, or, will they merely postpone a day of reckoning? Some people these days have become so disquieted by future shock that they have lost faith in our long-run ability to cope. Will there be a happy ending?

The answer is unequivocally, yes. We face the future, not merely with hope, but with confidence. We shall devote our technical resources to the development of new sources of supply, be they techniques for the more efficient use of available energy, biomass, solar energy more narrowly defined, or fusion or fission power. Our researchers and our scientists have not yet failed the United States. Once we recognize the problem and apply to it the time-honored inventiveness and resolution of the American people, we can have unbounded confidence in our ability to solve it.

Yet, the Nation does face a formidable challenge.

Let us resolve to master it.

The President has presented an ambitious plan. Its development has been guided by the precept: Make no small plans; they have no magic to stir the souls of men.

The challenge is sufficiently great that this is no time for politics as usual, looking no further than the next election. It is no time for business as usual, looking no further than the next profit and loss statement.

The President has called on all of us: In every State, municipality and hamlet; in business and in unions, and, in voluntary organizations. Let us all respond to that call. We shall need the help of every man and woman in America.

"The summer patriot and the sunshine soldier will in this crisis shrink from the service of his country."

CAB NAMES ILLINOIS ATTORNEY NEW GENERAL COUNSEL

Mr. PERCY. Mr. President, on December 5, 1977, one of my constituents, Philip J. Bakes, Jr., joined the Civil Aeronautics Board as its general counsel.

At 31 years of age, Mr. Bakes is one of the youngest persons ever named to the position of general counsel at any Federal regulatory agency. I applaud his selection by Civil Aeronautics Board Chairman Alfred E. Kahn. The Chairman has not only recognized the talents of a brilliant and personable attorney, but the skills of an individual who effectively fought for the passage of airline regulatory reform legislation in the Senate. The selection of Mr. Bakes, once again, underscores Mr. Kahn's commitment to reform.

During the past 3 years, as an attorney working for two Senate subcommittees, Mr. Bakes quietly built support for airline reform legislation, while effectively countering a major campaign to thwart change. It is no small tribute to him that this legislation passed the Senate Commerce Committee on October 27, 1977, by an overwhelming 11–2 vote.

Mr. Bakes has well served Senator EDWARD M. KENNEDY (Democrat of Massachusetts), who cointroduced airline reform legislation this session together with Senator HOWARD CANNON (Democrat of Nevada). As Special Counsel on the Subcommittee on Antitrust and Monopoly, Mr. Bakes worked to achieve a consensus among supporters of reform.

Previous to joining the Antitrust Subcommittee, Mr. Bakes was Assistant Chief Counsel for the Senate Subcommittee on Administrative Practice and Procedure where he directed a major set of oversight hearings on the CAB for Senator KENNEDY. Prior to joining the Senate staff, he was Assistant Special Prosecutor for the Watergate Special Posecution Force at the Department of Justice from May 1973 to October 1974.

Mr. Bakes is a native of the Chicago area. His parents, Philip J. Bakes, Sr., and Theresa Bakes, reside in Palos Hills, Ill., southwest of Chicago. They can justly be proud of their son's extraordinary achievements.

Mr. Bakes attended Brother Rice High School in Chicago and then graduated from Loyola University on the North Side of Chicago in 1968, where he received the President's Medallion as "Student of the Year." In 1971, he graduated from the Harvard University Law School, where he edited the Law Review.

His talents will be missed at the Senate, but I am confident he will continue to work for needed reform and less Government regulation in his new position.

DELIVERY OF ALASKAN OIL

Mr. MELCHER. Mr. President, I believe it is important to inform the Senate on an issue that House and Senate energy conferees have worked hard to try to resolve—that of speeding delivery of Alaskan oil to parts of the United States which badly need it. Unfortunately, in my judgment, that effort has been unsuccessful.

My State of Montana, and indeed, the entire Northern Tier of States and parts of the Midwest, are facing a desperate crude oil supply situation at the very time we have a glut of oil on the west coast. We have the means by which to begin promptly to correct this serious imbalance with legislation already approved twice by the Senate, and yet I believe tentative action by the conferees on the Public Utilities Regulatory Policy Act is a step away from this goal rather than toward it.

On October 6 as part of the bill I mentioned, the Senate approved legislation sponsored by 37 of us to speed decisions on Federal permits and authorizations necessary for U.S. pipelines to be constructed to carry oil from the west coast to Northern Tier and inland States. That amendment recognized that there are two such projects now proposed: the Sohio Long Beach, Calif.-to-Midland, Tex., pipeline designed to carry about 500,000 barrels of Alaskan crude oil daily to existing refinery centers and pipeline systems in the gulf coast and midcontinent areas; and the almost one-million-barrel-per-day Northern Tier Pipeline proposed from Port Angeles, Wash. (outside Puget Sound), through Northern Tier States to Clearbrook, Minn., where it would connect with existing pipelines to serve refineries as far east as Buffalo, N.Y.

The amendment was straightforward and direct. It said that since an environmental impact statement was completed on the Sohio proposal, a Federal permitting decision should be made by December 15, 1977. The Federal EIS on the Northern Tier project—which was triggered by permit applications last April—our proposal would require to be completed by March 1, 1978, with a decision on whether to approve the line by April 1. In both cases, any construction permits, rights-of-way or other Federal authorizations should have to be issued within 30 days of such approval. In addition, future pipeline applicants could receive expedited consideration, with any environmental impact statements required to be completed within 1 year. And in every case there would be expedited handling of court challenges which might arise from actions of Federal agencies.

On October 31, an almost identical amendment was approved by the Senate as part of the energy tax bill. It was modified to recognize concern from within the administration that the Northern Tier EIS preparation schedule was short—and the final decision date was moved back to June 15, 1978. It also included language recommended by the administration concerning the need to encourage cooperation between States and the Federal Government in pipeline permitting and to specifically authorize and direct use of competent non-Federal data in preparation of the EIS. Again, there was no objection to the amendment.

Although the House of Representatives has not acted on this matter, the House Interior Committee did report similar legislation and Chairman MORRIS UDALL urged conferees to recognize that action as they considered the Senate amendment.

When the nontax energy conferees met on this subject last week, they were faced with a letter signed jointly by Secretary of Interior Cecil Andrus and Secretary of Energy James Schlesinger setting forth the administration position on this legislation. The letter stated that the administration supported the intent of the Senate amendment to expedite pipeline construction, but took objection to the specific language. The letter stated: "We strongly believe that legislation of this type should be enacted as soon as possible," but it proposed provisions, circulated in a draft bill by House conferees which were approved by the conferees in large measure but which could actually delay the construction of the pipelines we need to move Alaskan oil inland.

This result has been brought about by the addition of criteria, considerations, consultations and decision-making deadline delays that are not only unnecessary, but which go beyond those in effect under existing laws which govern the issuance of Federal rights-of-way, permits and authorizations for pipelines. As one Senator from a State projected to have crude oil shortages within the next year, I would prefer to have no change in existing law than to pile on more Federal redtape which could further delay construction of the Northern Tier Pipeline. The possibility of a 2-year delay is clear: the entire 1979 construction season could be lost as a result of the conference action instead of this pipeline, if approved under the Senate provisions, being able to move forward in 1978 with one-half billion dollars in steel orders, acquisition of rights-of-way and early construction starts on pump stations and port facilities and completion in 1980. The conferees have tentatively agreed to provisions that would delay completion of the line until 1982.

My purpose today, is to bring this matter to the attention of the Senate and the conferees and to urge that they reconsider this matter. There is still time to return to a better, more direct approach to solving the West Coast crude oil surplus situation through equitable distribution of Alaskan crude oil as is required by law and by clearing the way for early decisions on the crude oil pipelines already proposed to accomplish this goal.

Mr. President I ask unanimous consent that the letter from the Secretaries of Interior and Energy and the detailed response I sent to the Secretary, which explains the delays likely under the conference agreement, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, D.C., November 30, 1977.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Thank you for this opportunity to state the Administration's position on Subtitle B of Title I of the bill H.R. 4018, the "Public Regulatory Policy Act of 1977", which was passed by the Senate on October 6, 1977.

The Administration strongly opposes Subtitle B as presently written and believes that it is a highly inappropriate mechanism for selection of a crude oil transportation system to supply northern tier and midwestern States in the 1980's. Essentially, Subtitle B is expediting legislation for construction of a west-to-east pipeline system which would be located by the terms of the bill entirely within the United States. The Administration recommends revised legislation that would create a neutral decision-making process to evaluate all the proposals for crude oil transportation systems, in Canada as well as in the United States, and to approve the system or systems that would best serve national energy and environmental concerns.

The Administration supports the intent of Subtitle B to expedite development of any transportation system or systems which may be necessary to deliver Alaskan and other crude oil to northern tier and midwestern States. We strongly believe that legislation of this type should be enacted as soon as possible.

The Administration therefore recommends that the Committee amend and substantially revise Subtitle B to include the following major changes:

1. Neutral Decision-Making Procedure. The Administration recommends language that would authorize the President to evaluate and approve any system or systems with respect to specific energy and environmental policy critieria. Any such legislation should provide for a neutral decision-making procedure that would permit consideration of all proposed pipeline systems, whether or not they would be located within the United States. In addition, the President should receive recommendations from the States and from Federal agencies before making his decision and should be required to explain the basis for his decision with respect to the energy and environmental policy criteria that would be specified in the bill.

2. Review Deadlines. The Administration recommends language which would extend the deadline for preparation of environmental impact statements from March 1, 1978, as provided in Subtitle B, to December 15, 1978. A Presidential decision should then be required 45 days after completion of the final environmental impact statement. The March 1 deadline in the Senate bill is simply unrealistic and would cause inadequate environmental impact statements to be filed which would open any approved pipeline to judicial challenge. A somewhat longer review process of approximately one year would reduce this risk and allow Federal coordination with State agencies. The Administration believes that an adequate review period is essential to avoid subsequent delay due to litigation.

3. Sohio Project. Subtitle B provides a one-year deadline for completion of a final environmental impact statement with respect to the Long Beach/Midland, Texas ("Sohio") pipeline. The Administration recommends that the Sohio project be excluded from the decision-making aspects of this legislation since this project is already in the final stages of the review process. To require another review procedure would risk further

delay of this project. The Administration, however, recommends that the Sohio project be included within those sections of Subtitle B which call for expedited permitting and limited judicial review.

4. Canadian Route. The Administration further recommends language that would expressly allow for construction of a pipeline system to be built through Canada to serve inland markets in the United States. Such language should specifically authorize the President to enter into negotiations with Canada to discuss terms for possible expansion of crude oil exchanges, as well as discuss other measures which could be taken to establish cooperative arrangements for transportation of crude oil.

We hope this brief statement of the Administration position on Subtitle B will assist you and your colleagues in your deliberations.

Sincerely,

CECIL D. ANDRUS,
Secretary, Department of the Interior.
JAMES R. SCHLESINGER,
Secretary, Department of Energy.

U.S. SENATE,
Washington, D.C., December 6, 1977.

Hon. JAMES R. SCHLESINGER,
Secretary, Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: Your joint letter with Secretary Andrus to Senator Jackson giving the Administration's viewpoint on legislation to expedite oil pipelines from the West Coast to inland states was neither specific nor complete.

Your letter is critical of provisions of Subtitle B of Title I of H.R. 4018, but provides only sketchy Administration recommendations dealing with federal permits for oil pipelines. Thirty-seven of us in the Senate cosponsored the above Subtitle to expedite as rapidly as possible federal permits for these oil pipelines. Your recommendation would unnecessarily delay start of construction of a northern tier-to-midwest oil pipeline for several years, in effect, virtually gutting our proposal. In fact, your timetable for the issuance of federal permits would likely be in the last half of 1979—probably later than it would be without any expediting legislation. Although almost everyone agrees that procedures for federal permits under existing law are too time-consuming and entangled with too much red tape, your proposals blossom out into more layers of bureaucratic evaluations, comparisons and data collection.

It is particularly disappointing and counter-productive that your recommendations adding further layers of criteria and requirements onto the present existing law dealing with the issuance of federal permits for oil pipelines occur after we have worked with you diligently for the past eleven months. During this time we have tried to explain to you and others in the new Administration that because of hearings held throughout 1976 and the passage of Section 18 of Public Law 94-586 we believe that expedited federal action is necessary to relieve the oil glut on the West Coast by transporting oil to refineries in inland states that are desperate to assure a stable supply of crude.

The Federal Energy Administration study on petroleum supply for northern tier states stresses that in 1978 Montana and Eastern Washington will have a shortfall of 35% and 12.5% respectively. The projected surplus on the West Coast of Alaskan crude will be 600,000 BPD when the Alaska Pipeline is operating at 1.2 million BPD. There will be a one million BPD West Coast surplus when the pipeline meets its designed level of 1.6 million BPD some time late next year. In addition, Elk Hills production is only averaging 121,000 BPD although the maximum efficient rate for the field is 300,000 BPD, production of which is mandated by Public Law 94-258. The hold-down of Elk Hills production adds to the dilemma to which this Administration has not constructively responded.

Your recommendations, rather than resolving and shortening the time frame for the issuance of permits, have added many new considerations, consultations and evaluations by federal agencies in addition to what is now required. Your proposal is more time-consuming than would be the case if our legislative proposal were passed and is probably more time-consuming than if no legislation at all were passed.

Our proposal, which was introduced as S. 1868 with more than one-third of the Senate cosponsoring, was passed twice without objection in the Senate. Its purpose is straightforward—to expedite the issuance of federal permits for oil pipelines from the West Coast to inland states. Further, the proposal limits judicial review of those federal permits.

Since your letter fails to note the urgency of solving the crude oil surplus on the West Coast, contains some misconceptions about the intent of this proposal, and makes some misstatements on the Sohio project, we believe it is essential that we respond to you on those points.

Our proposal establishes a time frame for issuing federal permits. This applies to oil pipelines built within the United States since neither Congress nor executive departments such as yours are involved in Canadian oil pipeline applications and permits. Our proposal does not address the permitting process that the Canadian Kitimat pipeline would undergo since that would be a Canadian government process. Yet, your letter stresses the need for "legislation that would create a neutral decision-making process to evaluate all the proposals for crude oil transportation systems, in Canada as well as the United States . . ." You or the President hardly need our permission to speak to the Canadians. but it is misleading to indicate you would hold up U.S. permits pending action by the government of Canada. The truth is there is no movement in Canada on this matter and you and other federal agenices must process the pending U.S. applications for permits.

There are two active proposals—and only two—dealing with the construction of pipelines to solve the surplus of crude oil on the West Coast. These are the Northern Tier and Sohio proposals. Northern Tier made applications for federal permits last April and Sohio (for the Long Beach-to-Midland project) made applications for federal permits in 1975.

Despite your letter's allegation. our proposal specifically permits consideration of any other proposal for an oil pipeline in the United States as cited in Sections 142(g) ad 143(a).

The above-named projects—Northern Tier and Sohio—or any other applicants which may be proposed under our legislation will be built by the private sector using their own capital. They seek federal permits only to allow them to start such construction. The Northern Tier Pipeline Company is a new entry into the major oil pipeline business. It is not owned, controlled or managed by a major oil company. In fact, it is refreshing and encouraging to find that a 40-inch oil pipeline with over 1,500 miles of new construction can be proposed in the free enterprise system without being involved with a major oil company and without asking for federal subsidies.

It is impossible for Congress to pass legislation to expedite the issuance of the necessary permits for an oil pipeline in Canada. While the Administration may want to consider and evaluate the effect a pipeline such as Kitimat might have on the United States, it is apparent that (a) such a line, if it were to be built, would be built by private industry; (b) all of the construction and environmental permits would be under Canadian authority; and (c) Congress does not need to pass any new legislation to allow such an evaluation by the Administration.

The once-proposed pipeline from Kitimat, British Columbia, to Edmonton, Alberta, where it would connect with an existing pipeline system to bring Alaskan oil to the United States, is no longer active.

Kitimat proponents several months ago asked that their application before the Canadian National Energy Board be held in abeyance pending a decision on the Trans Mountain proposal which would reverse an existing pipeline to pump oil from Puget Sound, Washington, to Edmonton and back into the United States. That project, however, was blocked by recent legislation banning expanded tanker facilities in Puget Sound.

In the meantime, the largest equity owner in the Kitimat project, Koch Industries, announced its withdrawal. The group will not seek reactivation of its project application without additional participants.

The West Coast Oil Ports Inquiry, set up by the Canadian government, was studying the issue but has been indefinitely recessed citing lack of any projects to consider. Recent testimony before a House Interior Investigations Subcommittee by a representative of the Canadian panel (also called the Thompson Commission) indicated that the earliest it could be reconvened under any circumstances would be late spring 1978 and no permits could be issued prior to September 1979.

As a result of these events, the only remaining active proposal to serve the Northern Tier and Midwest states already feeling effects of the Canadian crude oil phase-out is the Northern Tier Pipeline project. It is designed to carry nearly one million barrels of Alaskan and other crude oil from Port Angeles, Washington (outside Puget Sound) through Northern Tier states to Clearbrook, Minnesota, where it would connect with existing pipeline systems to the Midwest and eastward to New York. With expedited permit approvals, it would be in operation by mid-to-late 1980. Without expedited permit approvals, operation could not begin until 1981 or 1982.

Congress does not envision that your and other Executive Departments should perform a special function of designating which oil pipelines should be built within the United States. However, Congress has set many standards and requirements for federal agencies requiring specific permits from various federal agencies for the construction and operation of oil pipelines within the United States, particularly when an oil pipeline crosses federal lands. As the floor manager in the House and chairman of the conference committee during the passage of the Trans-Alaskan Pipeline Act in 1973, and as the chairman of the House subcommittee having oversight responsibility during the construction of that pipeline, I am well aware of the need to expedite and coordinate the various federal permits that are required for a major oil pipeline. Our proposal provides such an expedited framework.

Your letter is in error in stating that our proposal provides a "one year deadline for completion of a final environmental impact statement with respect to the Long Beach/Midland, Texas ('Sohio') pipeline." Section 142(f) noted that Sohio's environmental impact statement (EIS) had been completed on June 1st of this year.

Section 143(a) in part states an exception for Sohio because of its completed EIS. Furthermore, to make certain that the decision on Sohio's application would be timely, our proposal sets a deadline of December 15 of this year—only a few days away from now. Despite this explicitness on Sohio, your letter mistakenly states our proposal would "require another review procedure (and) would risk further delay of this project."

Compounding the confusion and misleading statements in your letter is the fact that no draft bill from the Administration is referred to or identified. However, the House conferees proposed a draft which was represented as being the detailed recommendations of the Administration. Your letter recommended December 15, 1978, as the deadline for completion of an EIS for Northern Tier which varied slightly with the draft. Further, your letter proposed a presidential decision 45 days after completion of the final EIS, yet the draft bill would have provided 120 more days from that time to delay making the decision. Obviously you propose that a decision on whether or not Northern Tier will be granted federal permits need not be made until May or June of 1979. While action of the conferees last week shortened that time frame somewhat (March 15, 1979), your recommendations on when the permits should actually be issued following that time frame is left very much indefinite since "federal officers and agencies" will issue the necessary permits "as soon as practical." It is obvious to me that that could stretch well past the middle of 1979, not only missing all of the 1978 construction season but all of the 1979 construction season. Construction then could only be completed in late '82 or '83.

The urgency of the problem is much greater than has been recognized by the Administration. Our proposal to expedite has been burdened by so many added tests and processes contained in your draft (accepted by the conferees) to delay Northern Tier or other applicants than would be the case under existing law. You have added further red tape burdens to an already tortuous task.

We encourage you and others in the Administration to again review your proposal and to communicate to the conferees your willingness to accept a more simple and direct approach similar to that passed by the Senate. Without such an approach, no final decision can be made on applications such as Northern Tier's until 1979 instead of next year and, therefore, no construction or rights-of-way acquisitions could start and no steel orders placed until 1979 instead of next year. Our refineries are running out of crude oil supplies and they need to know where a stable crude supply can be obtained. Construction time for Northern Tier is two years and a start-up, even if late in 1978, would allow for placing of a half-billion dollars worth of steel orders at that time and completion of the pipeline in 1980.

Sincerely,

——— ———.

NEW OIL DISCOVERIES ON THE ALASKAN NORTH SLOPE

Mr. STEVENS. Mr. President, there is a thread running through the current debate on the national energy policy legislation which I find to be disturbing. The basis of this theme is in the notion that we are so low on oil and gas resources that there is not much chance of finding any significant new supplies in the future.

This notion is applied not just to the traditional producing regions in the South 48—to Texas, Louisiana, California, and so on—but to a State which is truly on the frontier in this respect—Alaska. The theme appeared and reappeared throughout the Senate's consideration of the Alcan pipeline resolution and I have noticed it in other contexts. The theme is this: The Prudhoe Bay reserves that have been discovered and are now producing are all that we will get from Alaska's North Slope.

There are two corollaries which follow from this untrue proposition:

First, the trans-Alaska pipeline system will be running half empty in a few years after Prudhoe Bay production peaks and begins to decline.

Second, there is no need to take seriously the potential for new discoveries and the incentives needed to explore and develop them.

These corollaries are as false as the proposition on which they are based.

The North Slope of Alaska is a vast, almost virgin region, even after decades of exploration. Prudhoe Bay and the areas of the national petroleum reserve which have been explored are relatively small. All of the remaining area has oil and gas potential and only further exploration can tell us just what that potential is.

Let me add, at this point, that the North Slope is only the second of Alaska's 15 sedimentary basins to be the subject of significant oil and gas exploration. Each of these other basins has the potential for a substantial contribution to the Nation's energy supply.

The fact that there are oil and gas reservoirs up on the North Slope just waiting to be found is underscored by some recent discoveries. Exxon has drilled two wells which have encountered large quantities of oil and gas in a region about 55 miles east of Prudhoe Bay.

One was on Flaxman Island, in the Beaufort Sea, the other was about 5 miles away on the mainland in what is known as the Point Thompson Unit. The Flaxman Island well produced oil at a rate of 2.500 barrels per day (2.500 BPD) and gas at 2 million cubic feet per day (2 MMcfd). The Point Thompson well produced oil at 2,300 BPD and gas at 13.3 MMcfd.

The geologic formations involved here are distinct from those at Prudhoe Bay. It is now known yet what the relation is between the producing zones of these two new wells, nor is it known how large these formations might be. So no estimate is available yet of the quantities of oil and gas which may be present. But Exxon plans further exploration in the area. The next well will be drilled about 4 miles from Point Thompson, in the opposite direction from Flaxman Island.

I have copies of a few news releases and press clippings on these new discoveries which I ask unanimous consent to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Anchorage Times, Oct. 25, 1977]

EXXON REVEALS OIL DISCOVERY AT ISLAND EAST OF PRUDHOE

(By Susan Andrews)

Exxon has discovered oil at Flaxman Island, 50 miles east of Prudhoe Bay.

The discovery was made as the result of an exploratory well drilled in 1975, but it was a closely-held secret until the state's two-year confidential period expired Friday.

Exxon said additional drilling will be needed to determine the extent of the discovery.

The well flowed at a rate of 2,500 barrels a day during testing, which state officials point out is not an exceptional rate for the North Slope, although it would be a good well in the Lower 48.

Some Prudhoe Bay field wells flow from 10,000 to 24,000 barrels a day.

Exxon is still testing an exploratory well at Point Thomson, seven miles west of Flaxman Island, which was started last March.

And Exxon has applied to the state for a permit to drill another wildcat well four miles west of Point Thomson.

But a decision to drill won't be made until after the company has finished testing the Point Thomson well in another week or so and has evaluated the results, said Exxon spokesman Bleu Beathard.

The Flaxman Island well is a single well, not an old field, emphasized Tom Marshall, the state's chief petroleum geologist.

"It's a very interesting teaser," he said, "that you can't walk away from. It may be on the edge of something big."

Because the well is isolated from the Prudhoe Bay field, it will require much more production than if it were in the field to justify the cost of separate processing facilities and a pipeline, Marshall said.

Exxon's Flaxman Island well was drilled from a lease held solely by Exxon.

The Point Thomson well is located on a 40,768-acre unit on which 20 companies hold leases. A group headed by Tipperary Corp. owns the lease on which the actual well was drilled. Other leaseholders in the unit include Chevron USA, Mobil, Phillips, Atlantic Richfield, Continental, Cities Service, and a group headed by Pennzoil, in addition to Exxon.

The rig drilling the Point Thomson well is Loffland Brothers No. 162, the same rig that drilled the Prudhoe Bay discovery well in 1968 on a state lease held 50–50 by Exxon and Arco.

Exxon's exploration efforts are not limited to the Flaxman Island area. The company has applied for an Army Corps of Engineers permit for an exploratory well to be drilled from a gravel island in the Sagavanirktok River delta at Prudhoe Bay.

The island is to be located in three feet of water, and will be the site for drilling the well from a state lease which extends into the Beaufort Sea.

Exxon intends to construct the drill site next spring, prior to breakup, but would not start drilling until the fall of 1978.

[From the Oil and Gas Journal, Nov. 14, 1977]

NEW FIELD MAY BE SHAPING UP EAST OF PRUDHOE

(By Howard M. Wilson)

The North Slope's biggest field outside Prudhoe Bay may be developing 55 miles east of Pump Station 1 on the trans-Alaska line.

Exxon Co. U.S.A. has drilled two successful oil and gas wells on an east-west trend at the edge of the Beaufort Sea and is preparing to drill a third well which could extend the potential producing area farther west.

Although remote location of the wells means high-cost drilling, development, and pipelining, prospects appear bright a major new source of oil and gas may be tapped for delivery—some years hence—into Prudhoe Bay field's trans-Alaska oil line and the proposed Alcan gas line.

Exxon isn't saying yet whether this will happen. But the company has spent $30 million drilling just two wells and will spend another $17 million for a third.

This kind of money means Exxon is dead serious about the outlook for developing production. But the reservoir still must be big enough to justify additional spending for development, running into hundreds of millions of dollars.

Exxon, by spending its own money to date, is increasing its acreage position in the 40,768-acre Point Thomson Unit to 42% from 9%. The unit has 26 participants. Exxon is the sole owner of the tract on which the first strike was made just outside the unit at 1 Alaska State.

The wells. Exxon has just released some of the test data on the Point Thomson Unit, 32-10n-23e (OGJ, Nov. 7, p. 30). Last month similar data on the earlier discovery, 1 Alaska State, 27-10n-24e, on Flaxman Island, became public information under Alaska law.

The two wells, 5 miles apart, have similar characteristics—but important differences. Both are oil and gas producers. Both have low-gravity oil.

The 1 Alaska State, drilled in 1975, flowed about 2,500 b/d of 23.1°-gravity oi and more than 2 MMcfd of gas from 12,565-610 and 12,620-635 ft.

The 1 Point Thomson Unit flowed at rate of about 2,300 b/d of 18.5°-gravity oil and 13.3 MMcfd of gas from 12,963 to 13,050 ft.

The second well, therefore, has a much higher gas-oil ratio, and the producing horizon is deeper.

Whether the two wells are tapping the same reservoir or the same sands separated by faulting is not publicly known. Exxon geologists aren't saying what they think.

They say it is too early to conclude they have found "a major accumulation." By major they mean reserves large enough for North Slope development. If found in West Texas the wells would be considered, without question, big commercial discoveries.

"We are seeing so far just the tip of the iceberg," one Exxon executive said. "But we must continue to probe to see just how big it is. Potentially, it is a good-sized field. That's what you must have to build a 50-mile pipeline on the North Slope."

The tests show the reservoir sands are producible and they are younger than the Triassic Sadlerochit at Prudhoe Bay. They probably are Cretaceous or Tertiary.

The next well. Exxon is still testing the 1 Point Thomson Unit.

When testing is finished, Exxon will move the rig 4 miles west-southwest to drill the 2 Point Thomson Unit.

When the second unit well is completed, Exxon will then consult with participants in the unit to decide whether to proceed with delineation on drilling and how the costs will be shared.

Exxon will, by then, have earned its 42% interest in the unit acreage, and the other companies will begin to share drilling costs.

How acquired. Exxon put together the rectangular Point Thomson Unit a year ago—after it drilled the Flaxman Island discovery.

Exxon's Flaxman Island tract, on which the 1 Alaska State was drilled, isn't in the unit.

All of the tracts, including Flaxman Island, were acquired in the $862-million state lease sale of 1969. At the time, acreage far to the east of Prudhoe Bay attracted little attention, and the tracts went for prices much less than those nearer the 9.6-billion-barrel Prudhoe Bay bonanza.

Sixteen tracts which make up the unit were acquired for a little more than $18 million. Twelve of them cost less than $1 million each.

Standard Oil Co. of California paid about $12 million for five of the 16 tracts, while the remaining 11 tracts cost only $6 million.

The 1 Point Thomson Unit was drilled on a tract which Tipperary Corp. acquired for $660,000.

The Flaxman Island tract was acquired in the sale by Exxon for $2.2 million.

The tracts are all 2,560 acres or slightly less in size. The smallest is 2,523 acres.

The owners. Exxon's arrangement to acquire a 42% ownership of acreage is complex. Its deals vary from tract to tract.

When the unit was formed, Mobil Oil Corp. and Phillips Petroleum Co. jointly owned six of the 16 tracts.

Socal had five tracts. The Pennzoil Co. group had two. Atlantic Richfield Co. and Exxon had one. Exxon had one by itself. The original Tipperary tract had been divided three ways—one-fourth to Tipperary, one-fourth to Cities Service Co. and Continental Oil Co. jointly, and one-half to Mobil-Phillips-Socal. The Tipperary group retained certain royalty interests in the portions sold.

Members of the Tipperary group are Tipperary, Edward H. Leede, Leede & Pine, Richard Donnelly, Jack L. Russell, G. H. Doeling, Jr., Robert Searls, Jr., the estate of John W. Peery, and Kingdon R. Hughes.

Members of the Pennzoil group are Pennzoil, Al Aquitaine Exploration Ltd., Forest Oil Corp., Colorado Oil Co., Newmont Oil Co., Carling Brewing Co., Coastal States Gas Producing Co., Kodiak Oil & Gas Co., Oil Resources Inc., Sunlite International Inc.

The next sale. Companies involved in the unit are close-mouthed about the geology of the area.

Alaska and the U.S. Interior Department are planning a joint lease sale of Beaufort Sea acreage in 1979, but the state could decide to hold one in the Point Thomson area on its own.

The joint sale is needed only because of a dispute over ownership of certain acreage just north of Prudhoe Bay. Ownership of Beaufort Sea tracts to the east is not disputed, and the state can move when it pleases.

Prime interest in such a sale will lie in the offshore tracts immediately to the north, where the state's ownership extends 3 miles beyond the barrier islands. There also is one unleased tract immediately west of the unit.

Onshore acreage to the south of the unit has been leased. Some of this acreage already has been tested without success. Two dry holes were drilled on the Mobil-Phillips-Shell tracts after the 1969 sale.

[News, Exxon Co., U.S.A., Nov. 11, 1977]

Exxon USA To Drill Second Test Well for Point Thomson Unit In Alaska

Houston.—Exxon USA today announced its intention to drill a second test well in the Point Thomson Unit on Alaska's North Slope.

Crandall Jones, manager of Exxon's Offshore/Alaska Division, said the proposed 13,-500-foot test well will be four miles west-southwest of the discovery well, Point Thomson Unit No. 1, which flowed oil at a rate of 2,300 barrels per day on an initial test.

The second wildcat will be located on a farm-in, Jones said, from a group of companies including Pennzoil, Al-Aquitane, Carling National Breweries, Coastal State Gas Corporation, Forest Oil, Trans World Oil & Gas Limited, Newmont Oil, Oil Resources, and Sunlite International. Other operators with interests in the 40,000-acre State of Alaska unit, located some 50 miles east of Prudhoe Bay, are chevron USA, Mobil, Phillips, Cities Service, Atlantic Richfield, Continental and a group headed by Tipperary Corporation.

Location of the Point Thomson Unit No. 2 well is 2,615 feet north of the south line and 1,801 feet west of the east line of Section 3, Township 9 North, Range 22 East, Umiat Meridian, North Slope, Alaska. Drilling is expected to begin in early 1978 pending timely acquisition of permits.

NEIGHBORHOOD ENERGY TECHNOLOGY

Mr. PERCY. Mr. President, energy planners commonly refer to technologies as either "conventional" or "alternate." These labels imply that alternate energy technologies—which include solar and wind systems—are untested, uneconomical, and unlikely to contribute significantly to our energy needs.

But small innovators are producing economical alternate systems today. So-called neighborhood technology groups and individuals are actively making solar collectors, anaerobic digestors, greenhouses, and other energy and non-energy devices at low cost on a local scale.

Many are active in the greater Chicago area, as described in a November 17 Chicago Tribune article. I wish to commend these groups for their dedication and creativity. They are acting in the best American tradition of self-reliance and innovation.

Mr. President, I ask unanimous consent that reporter John McCarron's Tribune article, entitled "They Want To Disconnect From Technology Systems," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Nov. 17, 1977]

They Want To Disconnect From Technology Systems

(By John McCarron)

Are you willing to live next door to a house with a windmill on the roof and to keep your trees trimmed so as not to cast a shadow on your neighbor's solar collector?

Give it some thought, because something called the neighborhood technology (NT) movement is gathering steam in the Chicago area.

New recruits are won every day—some angered at sky-high utility bills, others fearful of a nuclear "accident," oil spills, or the effect of chemical fertilizers and pesticides in their food.

They communicate with each other through newsletters and at little-publicized conferences and workshops.

They don't have a motto or slogan, but a theme runs through what they say, write, and do: It's time to disconnect.

Americans must disconnect, they say from the high-technology systems that pipe energy into homes and food into supermarkets.

We should replace those systems, or rely on them as little as possible, by using simple, or, as some call it, "appropriate," technology—do-it-yourself systems that don't cost much, they argue.

NT magazines and workshops are full of "how-to" information on affordable solar heating, backyard windmills that generate electricity, greenhouse agriculture, and homemade gadgets such as the anaerobic digestor—a tank that turns organic waste into usable fertilizer and methane gas.

"We want to make our own food, our own energy," said Scott Bernstein, a research assistant at Northwestern University's Center for Urban Affairs.

He is director of the recently organized Center for Neighborhood Techonology—a joint project of the university, and the Community Renewal Society.

This week more than 40 workers from Chicago neighborhood organizations are at the center's first Neighborhood Engineering Training Workshop.

A team of domestic technology experts from Colorado is showing them how to build solar greenhouses, collectors, and crop dryers.

The students plan to go home and start urban agriculture projects—producing food and jobs for the inner city.

"If you don't see yourself at the end of a long pipe that begins in Saudi Arabia, you won't see the need for neighborhood technology," Bernstein said.

He likes to explain how the high-tech economy makes a bowl of cornflakes: Potash mined in Canada and oil from the Middle East are shipped to a synthetic fertilizer plant. The fertilizer is shipped to the Midwest, where it helps grow corn, which, after being dried by natural gas burners, is shipped to Battle Creek, Mich., for processing into flakes.

Bernstein has three objections to this approach: It wastes energy; it pollutes the environment; and it prospers without the participation of 5 to 7 percent of the population, mostly blacks in cities, who are "being written off by Washington as structurally unemployed."

Bernstein contends that the inner city, with its large number of unemployed, is the logical place for an initial NT revolution.

"Anyone who can afford to pay $50,000 for a home isn't that worried about his electric or food bill—yet."

But the need for neighborhood self-sufficiency, city and suburban, is being acknowledged not only by activists such as Bernstein, but also by government officials such as Marvin Nodiff, the state's top energy officer.

"The trend toward centralized energy supplies is not healthy for communities," Nodiff told a gathering of energy experts last week at a Chicago conference.

He likened the burning of fossil fuels to raise the temperature of homes a few degrees "to cutting butter with a chain saw."

Nodiff, who heads the Division of Energy of the Illinois Department of Business and Economic Development, said the common man feels depersonalized and "very distant from energy production decisions."

He said the state should seek a community-based energy future." His department is studying the "social and legal hinderances to solar power" and has a $5-million program to study alternative energy resources.

Nodiff and other speakers at the conference, sponsored by Battelle Memorial Institute, concluded that lower demand, not more production, is the nation's best hope for avoiding an energy catastrophe in the face of dwindling oil and gas supplies.

NT enthusiasts agree, but go a step farther: Conservation of fossil fuels (by insulating one's house or driving less) is fine but to maximize well-being and minimize consumption, neighborhoods must begin producing their own heat, electricity, and food.

In the process, NTers say, residents will feel better about themselves and their neighborhoods.

"There's a lot of the old barn-raising spirit," said Bill Becker, a solar design expert who holds workshops on solar heating and wind power.

Becker says do-it-yourself solar heating is here at affordable prices—about $7,000 for a medium-size house. He uses solar air collectors rather than methods that use copper tubing or photovoltaic cells. He said utility companies are suffering from a "nuclear-power fixation" and probably won't use low-tech energy devices soon—so it would be foolish to wait for them.

Becker is helping to "disconnect" the Evanston Ecology Center, 2024 McCormack Blvd., in the suburb.

A NT group there has equipped the center with solar panels and a windmill that provide part of the building's heat and electricity.

The system was designed by Rodney Wright, of Hawkweed Group, Ltd., who is considered by some to be the Chicago area's leading low-tech solar architect.

Becker predicted that "one more hard winter will push people over the brink" and into the NT movement.

Another NT leader in the Chicago area is Bethe Hagens, an anthropologist who teaches urban planning at Governors State University in Park Forest South. She is also co-editor of "Acorn," an appropriate technology newsletter circulated throughout the Midwest.

She said the key to NT projects is swapping expertise.

"We're trying to build a community barter system," she said. "A lot of people who can deal with paper can't deal with plumbing. So I'll do your taxes if you'll help me with my wind generator."

Hagens is working on a community solar greenhouse for Park Forest South and hopes to start other low-tech projects in the area.

She said getting involved in NT doesn't make one a drop-out. "You can still shop at the Jewel," she said. "But you may not be able to power a steam iron or an air-conditioner with a wind generator."

Hagens was one of several sponsors of the visit to Chicago last spring of the late E. F. Schumacher, the British economist whose book, "Small Is Beautiful," established him as the guru of down-sized technology.

Schumacher, who died in September, complained that economists have set up material growth as the most important measure of social progress. They assume that a person who consumes more, or a country that has a higher gross national product, is automatically better off than a person or country that consumes less.

He said mankind is reaching a point in its relation with nature beyond which this "quantity" standard cannot continue.

"Because consumption is merely a means to human well-being," he wrote, "the aim should be to obtain the maximum of well-being with the minimum of consumption."

EULOGY TO SENATOR JOHN L. McCLELLAN

Mr. MATSUNAGA. Mr. President, I join my colleagues in extending heartfelt sympathy to the family of the late Senator John L. McClellan. His passing leaves an emptiness in this body which can never be filled.

As a freshman Senator, I had occasion to seek Senator McClellan's advice, and I was profoundly impressed by his devotion to public service and the welfare of our Nation. During his nearly 40 years in elective office, he earned a well-deserved reputation for courage, conviction, and integrity. Although he served in one of the most important and influential posts in the Senate, he retained his high regard for the individual citizen and his concern for the needs of the individual. On numerous occasions, I introduced visiting constituents from Hawaii to the distinguished senior Senator from Arkansas, in the Dirksen Senators' Dining Room where he customarily lunched, and invariably by his unfeigned courtesy and a few choice expressions, he left a lasting, favorable impression on them.

The people of Arkansas can be truly proud of their great public servant, the late John L. McClellan. By his passing, the people of the United States have suffered an immeasurable loss.

WATERWAY USER CHARGES: WHAT THE ECONOMISTS SAY

Mr. DOMENICI. Mr. President, while there may be no unanimity in the Senate over the need for a system of reasonable waterway user charges, there is one group of experts that appears unanimous in its view that user charges are essential for effective transportation balance.

These experts are the economists. It is virtually impossible to find an economist who does not support—and support strongly—the immediate imposition of waterway user charges in the interest of a better allocation of national resources and expansion of national wealth.

Several independent economists came to Washington to support user charges in oral testimony before the Committee on Environment and Public Works. A number of economists have taken the time to write to me, expressing their views on waterway user charges.

In addition, a letter has come to my attention, signed by more than 100 economists. My proposal, which the Senate adopted in June, does not meet fully the demands of this letter: There is no full recoupment of construction costs, even after the 11-year phasein; there is no undiluted segment charge system, for my proposal protects against any economic hardship on any waterway by limiting charges under the worst case to 1 percent of a commodity's value. Nevertheless, I believe that my amendment goes far toward the principles and intent of this letter.

In an effort to share these views with my colleagues, I ask unanimous consent that excerpts from these various letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS

1. George W. Hilton, Professor, Department of Economics, Univ. of Calif., Los Angeles:

The desirabiilty of user charges on the inland rivers has achieved something as close to unanimity among academic economists as is to be expected in a free society. The absence of user charges has precisely the consequences one would expect. Notably, nothing provides the usual function of a price in encouraging economization of the existing supply of the resource. Operators make their calculations between towboats, barges, labor and various variable inputs, but treat the river, dams and locks as if they were a free good, something which may be used to absolute satiation. The consequence is an endless escalation of the power of towboats and the expanse of barge tows, coupled with an equally endless political effort to expand the size of locks, depth of channel, and navigational facilities more generally. Nothing provides the function of a price in indicating the demand for additional investment. . . .

Apart from the waste of capital involved the secondary consequences are thoroughly undesirable. The subsidy misallocates industry geographically, causing industries which ship or receive large amounts of bulk cargo to congregate along the rivers. . . . Similarly, the subsidy misallocates freight among the major codes of transport. The excessive use of the rivers accelerates their biological degradation.

II. Otto Eckstein, Professor of Economics, Harvard Univ.:

The economics of this question is clear and unambiguous. In th eabsence of pricing, there is no mechanism which provides any assurance that investments in inland waterways yield a return that approaches the returns available elsewhere. The Federal budget faces many needs and is limited in its resources. Where a routine commercial value is delivered by a public service, there is no reason why the revenues to defray the costs of that service should not be collected from the beneficiaries, leaving the money raised from the taxpayer for purposes that cannot be financed out of their own benefits, including defense and the social programs. . . .

The lack of charges on the inland waterways also leads to an irrational allocation of traffic among the competing transportation media. The "freebie" inland waterway system is one of the coffin nails on our railroads, which the Federal Government is now forced to rescue through subsidies and nationalization. There are bulk commodities that should move by water, and these can stand user charges. But other traffic moves by barge only because the taxpayer picks up so much of the total cost.

. . . The groups that benefit from these subsidies of the nation's taxpayers have no interest in sound economic analysis, and there is no way to force them to use it. User charges are a much superior approach to assure economic rationality because they mean that the beneficiaries do have to be willing to pay. . . .

. . . User charges that also include operation and maintenance would further improve resource allocation in the transportation industry.

III. Lester P. Lave, Professor and Head, Dept. of Economics, Carnegie-Mellon University:

Your bill S. 790 is excellent in conception and, if enacted, would do much to restore a balance in the nation's transportation system. You have made a crucial step forward in going from a fuel tax to a lockage fee; this system is much more viable.

IV. Leon N. Moses, Director, Transportation Center, Prof. of Economics, Northwestern Univ.:

What I believe might follow from user charges is benefit to the waterways carriers themselves. At the present time the Locks are used on the principle of First In, First Out (FIFO). If a system of user charges were instituted and those charges were made to reflect the peak load demands, the most valuable uses might well be willing to pay more than other users. Overall, the scarce resource they represent would be more effectively allocated to the alternative users. One possible result of such an allocation would be that the commercial carriers themselves were made the better off by the imposition of a user charge. I am sure that any one of the carriers who is giving testimony would view this as heresy but there are very good lessons for believing that the user charge would improve the social welfare as well as the individual welfare of those involved in commercial carriage.

V. Allen V. Kneese, Professor of Economics, Univ. of New Mexico:

The most important argument in favor of user fees is, in my opinion, that they would reduce the enormous income redistribution to the regions in which waterway projects are constructed and to the shipping industry. This should reduce the political pressure for such projects regardless of their real economic merit and on the Corps to use incorrect evaluation procedures which exaggerate benefits.

VI. Robert W. Harbeson, Prof. of Economics Emeritus, Univ. of Illinois at Urbana-Champaign:

In my opinion, we should move ultimately to the gradual recovery of all navigation-connected waterway operation and maintenance costs as well as the capital costs of newly constructed or rehabilitated navigation facilities. S. 790 moves a substantial distance toward this goal and has the important merit of incorporating a gradual approach to cost recovery which will facilitate adjustment by the transportation and shipper interests concerned as well as permitting; continuing assessments of the results of the program.

VII. Leonard A. Shabman, Asst. Prof., Agricultural Economics, Virginia Polytechnic Inst.:

A frequently heard argument is that beneficiaries of low-cost water transportation are consumers of final goods. Federal waterway improvement programs resulting in lower transport costs, it is claimed, will be passed along as lower prices for fossil fuels, foodstuffs, construction materials, and any other product that moves by water. . . . The symmetrical argument would state that trucks and airlines should pay no charge for using the roads and airports; that the government should build and maintain the track-bed of the railroads free of charge. This argument has superficial appeal, but note that, while all consumers benefit, they do not all benefit equally. Consumers located in areas served by waterways and users of products shipped by water reap a substantially larger benefit. A more reasonable equity argument is that the consumers of products shipped by water do receive benefits and, as such, they should be willing to pay the cost of achieving these benefits. . . .

For example, a computer model of wheat transportation we have just completed shows that recovery of $145 million annually through a tax of fuel would result in only a minimal diversion of the wheat traffic from the inland waterway system. In short it seems likely that a user fee policy could be designed which would recover a large part of public costs, and not have a discernable impact on the barge industry's share of intercity freight traffic. . . .

Thus, it appears that a user fee plan could achieve three desirable goals: (1) Recovery by the public treasury of the costs of operating the waterways: (2) promote an equitable distribution of the burden of payment, such that beneficiaries pay for the use of services consumed; and (3) promote economic efficiency in the use of water resources and the production of transportation services. Of particular importance, these goals can be achieved without significant dislocations caused in the nation's transportation system. In this context, adoption of a user fee policy would be in the best interests of the nation.

VIII. Dudley F. Pegrum, Prof. of Economics Emeritus, University of Calif., Los Angeles:

The return on net investment by railroads in 1975 was .08 per cent, by motor carriers 13.27 per cent, by water carriers 15.79 per cent, and by pipelines 7.66 per cent.

. . . The pipelines carry their share completely. In 1975 the railroads had an outlay of $2.4 billion or 14.6 percent, on a freight bill of $16.4 billion for maintenance way and structures alone. This was 17 per cent of their operating expenses. . . . At the other extreme were the water carriers which made no contribution to the provision of the infrastructure facilities nor to the maintenance or operation of them.

. . . If transport is to be cheap (and that means economical) the allocation of economic resources to it must be in keeping with the efficiency principle. Cheap transport for the individual may actually be very expensive for the country. Cheap transport to the country and cheap transport to individual shippers are too frequently regarded as being the same thing.

The most effective device that has yet been developed for rationing is the pricing system. If no price is charged to the user of resources, and he is permitted to use any amount he wishes, he does not have to economize on them. This means that to him they are free goods. There is no incentive to him to economize on the use of them nor to avoid waste. It is not surprising to learn that a prominent waterway operator has said that tonnage will soon exceed capacity on Locks 26. What is surprising is that this has not been the situation before now in view of the absence of charges for use. . . .

If goods or services are provided to the user free of charge, they are free goods to him and he does not have to economize on their use. Failure to economize on the utilization of economic goods is waste. The contention that water transport is cheaper than the other modes is fallacious unless all of the costs entailed in providing the facilities for it are included in the comparisons that are made with the other modes. . . .

The levying of charges on the commercial users of our national waterway facilities will not increase the freight costs of the country, will not increase freight costs to the consumer, and will not add to inflationary pressures. On the contrary, the result will be precisely the reverse. Total freight bills will be less because of: a more efficient allocation of economic resources to transportation; a more efficient allocation of freight traffic among the modes; a reduction in the total costs of the infrastructure of freight transport facilities; a reduction in the federal tax burden on taxpayers; and a reduction in total federal spending with a consequent reduction in the pressure on inflation.

LETTER TO MEMBERS OF CONGRESS:

Financing inland waterways imposes large and growing costs on taxpayers, but requires no cost sharing from private interests. Consequently both transportation and water policy are distorted. A well designed user charge imposed on commercial navigation on the inland waterways would correct this situation.

The problem is substantial and is increasing. In FY 1974 construction operation and maintenance for shallow draft navigation cost $386 million, up 29 percent from FY 1970. If interest and depreciation were included FY 1974 costs very conservatively estimated would have been $411 million, a 47 percent increase from the comparable FY 1970 figure. The Corps of Engineers' propensity to understate multi-purpose projects costs attributed to navigation suggests that both of these figures may be too low. With $7 billion in new waterway development projects under active consideration, the navigation subsidy will remain an expensive item for the foreseeable future.

The high cost of the subsidy is not producing commensurate social benefits. On the contrary, the "free" waterway policy is incompatible with an economically efficient transportation system. Because water carriers receive "free" infrastructure, they enjoy a competitive advantage vis a vis railroads and pipelines. Hence barge operators can win traffic and force down freight rates to a degree that would be impossible were the taxpayers' contribution repaid. The illusion of inexpensive barge transportation induces shippers to select that mode even when, if the cost of federal facilities were included, alternative means of transportation would be preferred. The railroads estimate that this traffic loss, plus depressed freight rates attributable to waterway subsidies, result in substantial losses of net revenue. Inevitably investment patterns are also affected. Subsidy induced waterway shipments are used to justify further construction while depressed earnings foster disinvestment from the railroad industry.

The federal navigation subsidy is also counter-productive from the viewpoint of water policy. Subsidizing barge traffic exacerbates problems of eutrophication, local ecosystem disruption, and toxic spills. Though a user fee system cannot, in itself, establish an optimum balance between conservation and transportation, it would terminate the existing federal subsidy to evironmental degradation.

The degree to which a navigation charge systems potential benefits are realized depends on its design. There are three basic principles for structuring the collection system:

It should be based on the relevant costs.

It should be a segment charge.

It should test private sector willingness to invest in proposed new construction.

Only a system based on these concepts can capture all the potential benefits.

Charges must recover the relevant costs. All traffic should be assessed federal operation and maintenance expenses. Also barge operations should be required to defray the capital costs of new construction. Finally, at congested points fees reflecting the delay costs to other traffic should be collected.

Because conditions differ in regard to new construction or congestion, the costs to be repaid vary among the inland waterways segments. Moreover, even operation and maintenance expenditures are, on a per ton-mile basis, extremely diverse, ranging from .01 mill on the Lower Mississippi to 114 mills on the Willamette. Imposing identical rates across such disparate segments would be inequitable, and it would provide only slightly improved rationing of existing capacity and new investment. Hence, charge rates should be set segment by segment.

Even a segment charge will not, however, effectively discourage unnecessary construction. A private contribution should be obtained before making new waterway investments. Collection from users after project completion is insufficient. As the St. Lawrence Seaway experience indicates, it is impossible to recover public investments on unsuccessful waterways. Hence the threat of such collection will not deter prospective users from advocating unjustified construction. Mandating private cost and risk sharing would not only redistribute part of the burden to private interests. It would also require that waterway development compete with alternative private sector investments; thus discouraging ill-advised new construction. Several mechanisms including congestion tolls and user surcharges, capital bond issues, pre-paid licenses, and repayment contracts could be used to obtain the desired level of private participation.

The need for a well structured user charge system is well established. Four Presidents have called for the end of waterway subsidies. The concept has been studied and endorsed by the National Water Commission, the U.S. Department of Transportation, and many independent economists. Congressional action to implement a comprehensive user charge system is long overdue. We strongly urge that segment user charge legislation be enacted at the earliest possible time.

ENDORSEMENTS OF FINANCING INLAND WATERWAYS

B. J. Abrahamsson, Denver Research.

Polly R. Allan, University of Connecticut.

Jim Alleman, Boulder, Colo.

Thomas C. Anderson, Eastern Michigan University.

Garrett J. Arron, Harvard University.

Robert Aveatt, Smith College.

R. Bernes, Board of Governors, Federal Reserve System, Washington, D.C..

William Baumol, Princeton University.

D. Lee Bawden, Urban Institute, Washington, D.C.

Miles O. Bidwell, Wake Forest University.

Robert A. Boade, Lake Forest University.

Peter Bernstein, New York, N.Y.

Stanley W. Black, Vanderbilt University.

Randolph C. Blitz, Vanderbilt University.

Tom Bradbeer, Eastern Oregon State College.

Kathleen Brook, Smith College.

Robert S. Browne, Black Economic Research, New York, N.Y.

Lester O. Bumas, Polytechnic Institute of N.Y.

Monroe Burk, University of Baltimore.

W. E. Cage.

Glen G. Cain, University of Wisconsin.

Dorothy Camer, Takoma, Maryland.

K. P. Ceassen, Arlington, Va.

M. A. Chaudry, New School for Social Research, New York, N.Y.

Glenn Conner.

Joseph J. Cordes, George Washington University.

Robert D. Cooter, University of California at Berkeley.

John Craver, Middlebury College, Middlebury, Vermont.

Richard K. Darr, University of Wisconsin.

Sid Davis, Atlanta University.

Edwin G. Dolan, Dartmouth College.

Kenneth G. Elzinga, University of Virginia.

Edgor Felge.

Anthony Fischer, University of Maryland.

A. Myrick Freiman, Bowdin College.

Donald Frey, Wake Forest University.

Edward Foster, University of Minnesota.

Aaron Gellman, Gellman Research.

Phillip Griffin, Valdosta State College, Valdosta, Ga.

Fred Harder, Andrews University, Berrien Springs, Mi.

C. Lowell Harriss, Columbia University, New York, N.Y.

William G. Harris, Georgetown University.

Robert H. Haveman, NIAS.

Bruce Herrick, University of California.

George W. Hilton, UCLA.

A. O. Hirschman, Princeton.

Arlene Holen, Arlington, Va.

Janos Horvath, Holcomb Research, Butler University.

Charles Howe, University of Colorado.

Stanley A. Hocowit, Arlington, Va.

Lloyd Irland, Department of Conservation, Augusta, Maine.

Louis Jacobson, Arlington, Va.

Henry Jakubizk, International Monetary Fund, Washington, D.C.

Z. Kisler, Central State University, Edmond, Oklahoma.

Samuel Kleenm, Arlington, Va.

Jack L. Knetsch, Simon Fraser University, Burnaby, B.C., Canada.

Robert E. Kohn, Southern Illinois University.

Mark L. Ladenson, Michigan State University.

Fred Leonard, Smith College.

Stanford Levin, Southern Illinois University.

Clayton Libeau, Bethesda, Md.

Alan McAdams, Cornell University.

Jeanne McFarland, Smith College.

T. J. Meeks, Virginia State College.

John R. Meyer, Harvard University.

Walter Miklius, University of Hawaii.

Ervin Miller, University of Pennsylvania.

Richard Milk.

John P. Mondejar, Greenbelt, Md.

John C. Moorhouse, Wake Forest University.

Theodore Morgan, University of Wisconsin.

Alexander Morton, Civil Aeronautics Board, Washington, D.C.

Walter C. Neale, University of Tennessee.

Ann Nelson, Rochester, N.Y.

Jim Nelson, Amherst College.

Robert A. Nelson, Commonwealth of Virginia.

Dr. I. J. Nijhawan, Fayetteville State University.

Roger Noll, Stanford University.

Rhonda S. Paul, University of Kentucky.

R. B. Price, Western Maryland College.

Polly Roberts, University of Berkeley.

Clifford F. Russell, Resources for Future.

Joseph J. Seneco, Rutgers College, New Brunswick, N.J.

James D. Shaffer, Michigan State University.

William Shepherd, University of Michigan.

William D. Shipman, Bowdoin College, Brunswick, Me.

Kenneth A. Small, Princeton University.

Vernon L. Smith, University of Arizona.

Dan Snell, Arlington, Va.

Robert M. Solow, Massachusetts Inst. of Technology.

John A. Sorrentino.

John P. Stein.

Philip Stern, Stern Foundation.

Gelvin L. Stevenson, Bronx, N.Y.

Richard Tybout, Ohio State.

William Vickery, Columbia University.

J. Van Wagstall, Wake Forest University.

O. T. Warner, Arlington, Va.

Professor David Whipple, Carmel Valley, Calif.

John B. William.

Ronald Wolf, University of Tennessee.

N. Wolbman, Albuquerque, N.M.

Anthony M. Yezer, George Washington University.

Michael D. Yokell, University of California.

Richard O. Zerbe, Jr., University of Washington.

Andrew Zimbilist.

Armand Zottola, Central Conn. State College, New Britain, Conn.

GASOHOL FIELD HEARING

Mr. LUGAR. Mr. President, on Monday, December 12, 1977, the Agricultural Research and General Legislation Subcommittee will hold a field hearing on "gasohol," a fuel blend of gasoline and alcohol. This full day of hearings will start at 8:30 in Indianapolis, Ind., in room 204 of the Old Federal Building located on 46 East Ohio Street.

Senator LEAHY and I, as chairman and ranking minority member of this subcommittee, look forward to this hearing. We anticipate that about 15 experts will testify, including farmers, an automobile manufacturer, an oil industry spokesman, scientists, industrial alcohol producers, and government officials. The hearing record will be held open for 1 week after the hearing so others not testifying may submit written statements.

For several months, I have been studying this issue with great interest. My staff has been in contact with many people associated with alcohol production and research across the Nation. After reviewing their findings, I have concluded that alcohol has the long-run potential, when mixed with gasoline, to reduce our Nation's dependence on foreign oil.

Moreover, it could help our Nation's farmers by converting surplus grain and other products into energy and will provide an economic stimulus to the economy through increased employment and capital investment. Given the potential benefits, it seems to me that our Nation must carefully develop this idea to the fullest. We will not make great strides in reducing our dependence on the OPEC countries for our energy needs by failing to take bold action in new directions.

Many Americans have recently awakened to the possibilities of gasohol, and I share their enthusiasm. It is imperative, however, that we avoid ill-conceived measures which give the appearance of stimulating gasohol production but which would prove costly and ineffective in the final analysis.

There are several questions which must be answered before we establish any type of a national gasohol program. With current technology, is the cost of a gallon of gasohol greater than a gallon of gasoline? Is the total energy needed to grow the grain, make the alcohol, and blend it with gasoline greater than the energy derived from burning it? Is new technology within reach which would make gasohol more feasible from an economic and net energy standpoint? What crops or materials are best suited for making alcohol, given possible new technologies?

In sum, Mr. President, I believe this hearing will lay a very solid foundation for the responsible development and use of this promising energy source. Gasohol has tremendous long-range potential if we identify the best approaches among many alternatives. Prudence must guide the development of the policy used to bring gasohol into fuel tanks, or this important idea might be set back for years.

THE INSULATION SHORTAGE

Mr. PERCY. Mr. President, the insulation industry is booming. The people of this country are at last getting serious about conservation. Memories of last winter's fuel bills have motivated more people to buy and install insulation than ever before. So many more people are in the market, in fact, that it appears insulation suppliers cannot keep up with demand.

The rush to purchase insulation opens the door to consumer deception. In this seller's market, homeowners can be victimized by shoddy workmanship, unsafe products and materials, and unfair and deceptive enrgy saving claims.

I was very pleased to learn that the Federal Trade Commission is addressing itself to these issues. In a letter to Senator FORD, reprinted in the November 3 RECORD, Michael Pertschuk, Chairman of the FTC, reports on three related actions of his Agency. The first involves a rule to assure that consumers receive adequate information about the performance of insulating materials. The second involves notifying affected manufacturers and retailers that the Commission will seek civil penalties if firms exaggerate the likely energy savings from insulation or make any energy related claims without adequate substantiation. The third involves careful FTC scrutiny of insulation advertising. I commend Mr. Pertschuk for these initiatives.

Consumer victimization may not be a problem now, but supplies of insulation fall short of the increasing demand. On October 10, Jack Houston, in an article in the Chicago Tribune, discussed the shortage of insulation in the Chicago area. Because of Mr. Houston's article, I wrote a letter to Secretary Schlesinger requesting information on the Department of Energy's views and plans. Maxine Savitz of DOE responded to my letter. Not surprisingly, she attributes the shortages to heavy increases in demand. However, she says "supplies can be increased to meet demand in approximately 18 months."

I have no doubt the insulation industry will rise to the challenge of meeting increased demand in Illinois as soon as is physically possible. I hope to see demand for insulation continue to rise. I hope to see more and more builders and homeowners working to conserve energy.

Mr. President, I ask unanimous consent that Jack Houston's article in the Chicago Tribune, my letter to Secretary Schlesinger, and Maxine Savitz' reply, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOME INSULATION SHORTAGE IS BLAMED ON HEAVY DEMAND

(By Jack Houston)

Last week a Chicago homeowner phoned an insulation contractor she had hired to reinsulate her house and asked why, after so many weeks, the job hadn't been done.

The contractor replied he was out of materials and had been for the last 3 to 8 weeks. The entire Midwest is out of it, he said, and for some reason all shipments of insulating materials are going to the East Coast.

That story turned out to be untrue. According to the contractor's insulation manufacturer and supplier, shipments of the material are being delivered to regular dealers and contractors of a rate of about one truckload a week the same as last year.

True, shipments are behind consumer demand, the supplier said. Because of that heavy demand, long-time contractors and dealers are having their orders filled first. The others have to wait.

Most of the major manufacturers and suppliers of home insulation—Owens-Corning, Johns-Manville, CertainTeed, and Thermtron—have been allocating shipments of their materials at the same rate or higher than last year. However, consumer demand for the products continues to rise as cold weather approaches.

Demand is up because of the energy crunch and soaring fuel bills. Owens-Corning, maker of Fiberglas insulation and the nation's largest manufacturer and supplier of insulating materials, said that in the last 3½ years more than 11 million homeowners have added insulation to their homes.

As the cost of heating fuel continues to rise, budget-minded homeowners are beginning to realize that the cost of properly insulating their homes probably will be offset by savings on their fuel bills.

Adding to this demand is a nationwide increase in homebuilding this year. The National Association of Home Builders estimates 2,750,000 new homes will be built in 1977.

In the Chicago area alone, permits for new construction of single-family homes and multifamily housing for the first eight months of this year reached 35,000 units, according to a survey by Bell Federal Savings and Loan Association. While all these homes have not been started, most will go under construction eventually. The heavy demand for insulating materials has caused many delays in delivery dates for new homes.

Manufacturers of fiberglas and rockwool insulations plan to expand production to overcome shortages, an industry spokesman said last week.

Sheldon H. Cady, executive vice president of the National Mineral Wood Insulation Association, said production will be nearly doubled by the mid-1990s.

Improvement of existing processing equipment already is showing results and is expected to add about 20 per cent to output soon, he said. Facilities under construction are to begin production in about a year.

Johns-Manville Corp. is spending $200 million to double production within five years, Cady said. CertainTeed Corp., building a new plant in California, will enlarge the facility to twice its planned capacity. Production is to begin there by early 1979.

Owens-Corning Fiberglas Corp. plans to increase structural insulation production capacity from 1.3 billion pounds this year to about 2.3 billion pounds by 1984. Rockwool Industries, Inc., has expanded 20 per cent this year and is considering further expansion of 60 per cent, Cady said.

He said the doubling of production capacity under way comes on top of a previous doubling since 1972.

"Although most plants operated at or near capacity during 1972 and 1973, only 50 to 60 per cent of capacity was used during 1974 and 1975," he said. "As recently as last year, plants were running at only 10 to 23 per cent."

Noting that energy supply is a controlling factor in insulation supply, Cady said natural gas curtailments last winter led to the loss of 40 per cent of fiberglass production. He said any future energy curtailment inevitably would have a similar effect.

However, insulation is available for those willing to wait. Wilkin Insulation Co. in Mount Prospect, for example, has been receiving regular shipments of insulation materials from its suppliers. But customers must be willing to wait four or five weeks to have it installed.

Randall Wilkin, president of the insulation contracting company, said his firm does not sell to the public. People who want to install insulation themselves must go to a lumber company.

Edward Hines Lumber Co.'s wholesale department is supplying its 27 retail outlets in Chicago and suburbs with about a half truckload a month.

A check of Hines Lumber stores found the Lombard outlet out of all insulating materials until the end of November. In Evanston, the next shipment is expected at the end of October.

Hines' wholesale department sent shipments to its outlets on Archer Avenue, in Glenview, River Forest, Palatine, and St. Charles last week.

However, the load received at the Archer Avenue store was sold the day it arrived.

WASHINGTON, D.C., *October 25, 1977.*

Hon. JAMES R. SCHLESINGER,
Secretary of Energy,
Department of Energy,
Washington, D.C.

DEAR JIM: I have just read an article by Jack Houston in the October 10 edition of the Chicago Tribune which indicates that the Chicago area is suffering from a shortage of home insulation material. With winter approaching, I am very concerned that Illinois citizens may not be able to buy insulation for their homes.

As you know, it is likely that this situation will be exacerbated if tax credits for insulation become available. According to the Council on Wage and Price Stability, the demand for fiberglass insulation may increase by as much as 50% if the energy tax bill now pending before the Senate becomes law.

I would be very interested to hear your own views of this problem, and whether your Department has any plans for mitigating the shortage.

I look forward to your reply.

Warmest personal regards,

CHARLES H. PERCY,
U.S. Senator.

DEPARTMENT OF ENERGY,
Washington, D.C., November 29, 1977.

Hon. CHARLES PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of October 25, 1977, on behalf of your constituency, regarding the shortage of home insulation.

The Department of Energy (DOE) is most sympathetic to this problem and we are aware of a growing number of consumers who are finding themselves caught in this frustrating situation. Regretfully, as I am sure you realize, this is a basic problem of supply and demand which, in this case, has been intensified far beyond anticipated proportions due to the severity of last winter. In the past, insulation manufacturers have been able to expect and accommodate a normal seasonal increase in demand, as well as some overall increase, and production capacities have been expanded in accordance with carefully analyzed marketing projections. The market, however, has now been overstimulated within a very short period of time, and the industry is simply unprepared to satisfy the demand in full.

Although we, of course, are unable to provide any immediate relief from the current situation, you may be assured that every effort is being made to resolve the problem as quickly as possible. On August 5, 1977, the Federal Energy Administration met with representatives of the insulation industry, including manufacturers and distributors, to discuss this matter and it was determined that with acceleration of production expansion efforts already underway, supplies can be increased to meet demand in approximately 18 months. In the meantime, it was recommended that consumers postpone plans to insulate and concentrate on other energy conservation measures such as weatherstripping, caulking, storm windows and doors and automatic thermostats. In addition to that meeting, the Senate Subcommittee on Intergovernmental Relations held hearings on this issue on November 2, 1977, and legislation has been introduced (S. 2219) which would give the Secretary of Energy the authority to establish a program to monitor the supply and demand of home insulation materials.

With regard to the particular concern you expressed for the availability of fiber glass insulation, I think that you would be interested to know that in a recent discussion of this situation with Mr. Sheldon Cady of the National Mineral Wool Manufacturers Association, we were assured that all plants within the mineral wool category (fiber glass and rock wool) are operating at full capacity. Mr. Cady also advised us that most manufacturers have doubled production capacity over the last five years and are now initiating the work necessary to double that capacity again over the next five years. You might be interested to know that according to Mr. Cady, one of the primary factors considered by manufacturers undertaking expansion efforts was the anticipated impact of energy conservation legislation.

I hope that this information will be helpful in responding to your constituents, and thank you for your interest in efficient energy conservation.

Sincerely,

MAXINE SAVITZ,
Director,
Division of Buildings and Community Systems, Office of the Assistant Secretary for Conservation and Solar Applications.

PANAMA CANAL TREATY

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Arizona (Mr. GOLDWATER), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GOLDWATER

It was my distinct pleasure on Friday of last week to have been able to discuss the Panama Treaty with Ambassador Sol Linowitz with former Secretary of State Dean Rusk as the moderator, before the State Bar of Georgia in Atlanta. It was a very revealing discussion, particularly because once again in a large American city I gathered the distinct impression that the American people are not going to buy the present Panama treaties. I disagree wholeheartedly with the majority leader of the Senate, Senator Robert Byrd, when he feels or says that a treaty can be ratified next year. I think a treaty could be acted on, but it is going to take some changes and the changes are incorporated in the joint statement of understanding agreed to by both President Carter and Dictator Omar Torrijos indicating that the United States would have the ability to interfere at any time in Panama should the future and safety of the canal be threatened. The word "intervention" does not appear anywhere in either treaty and it was deleted in capitulation to Panama's demands. The statement was made by the Ambassador, and I believe it is true, that if we change the wording of the present treaty in any way it would require a plebiscite to be held in Panama, and because of the seeming powerful objection to the word "intervention," it would never pass. Now I hold that this is not important to the United States. If the canal is to remain a viable means of access between the two oceans and if it is to remain—as the treaty implies but does not clearly spell out—our responsibility, along with that of other hemispheric countries, to provide protection, then we must have the right of intervention. I am going to propose language to be added to the present treaty indicating that it is the consensus of the Senate that these words are part of the treaty whether in it or not, but I believe that even that would require a vote by the people of Panama. But, again, that is not important. The main thrust of my remarks I would like to have made a matter of record.

The national security aspects of the Panama Canal issue, not in relation to the defense of the Canal as such, but as regards the continuation of a U.S. military presence in Panama, is the very essence of the national security interest that requires the modification of the proposed new treaties.

One can quibble endlessly over the defensibility of the Canal as a waterway—just as one can quibble endlessly, in this day and age, over the defensibility of almost any defense facility, anywhere. But U.S. operational control of the Canal and the attendant U.S. military presence in Panama to assure the continuation of that control have become the foundation of the security of both the United States and the Western Hemisphere against a Communist takeover of Latin America.

This is true from a military as well as a political and psychological standpoint.

Panama, because of its geographical location at the crossroads of Atlantic-Pacific transportation, because of its dominant position in relation to the Caribbean, and because of the existence of the Canal, is at once, both symbolically and practically, the key to hemispheric defense. It is also the Achilles heel of that defense. If we were, as proposed in the new treaties, to create a power vacuum by giving up our right to maintain a military presence in Panama after 1999, it seems inevitable that the Soviets, not directly but through the Cuban surrogacy, would move in quickly to fill it.

The continuation of the U.S. military presence in Panama is, therefore, the all-important factor. As long as we have an adequate force in Panama to "hold the fort" until reinforcements, if needed, can be sent in, there seems to be little likelihood that "defense" of the Canal will ever become necessary. It is almost inconceivable that, in the face of that military presence, any nation, unless it were bent on precipitating World War III, would launch a significant effort to wrest control of the Canal from the United States.

Defense from within is a far different thing from defense from without. It is the latter that the new treaties would require the United States, and the Western Hemisphere, to rely on.

From a military standpoint, in the absence of a preliminary holding capability, any attacking or infiltrating forces would become speedily entrenched in all strategic locations and the task of dislodging them from without would be a major, costly and highly destructive one, as compared with that of repelling such forces at the outset.

And from a political standpoint there is also a vast difference between, on the one hand, augmenting military forces already legitimately positioned within a country, and, on the other, introducing forces into a country where there are none, no matter how firm the legal right to do so may be. The latter would be the case after 1999 under the proposed new treaties. Even if it were quite clear that the United States had the right to send force into Panama to "defend" the Canal—and the proposed new treaties are wholly unclear on this point—the cries of "imperialist aggression" and "imperialist intervention" would be so orchestrated internationally as to effectively deter any such action on the part of the United States, woefully sensitive as we Americans seem to be to "world opinion," even when rightful defense of lives and property are involved.

Not much less important than the military considerations regarding a continuing U.S. military presence in Panama are the psychological ones.

Southcom has become to most Latin American military leaders, and therefore to most Latin American governments, the energizing center of their Latin American defense system. They feel possessive about it, proud of it. This has come about by virtue of Southcom's military assistance and representative functions throughout Latin America, all headquartered in Latin America. The very fact that the United States deems Latin America of such strategic importance as to maintain the hub of its operations in defense of the area in Panama is a matter of considerable significance to Latin American leaders. That significance is appreciably enhanced by the additional fact that the commander of Southcom has consistently been a U.S. general officer of a rank substantially higher than the size of the forces under his command would ordinarily call for.

If the functions and responsibilities of Southcom were to be transferred to a command headquartered within the continental United States, as the proposed new treaties would, in effect, require, U.S. military rapport with Latin America, and hence U.S. diplomatic rapport with Latin American governments, would diminish greatly. A tendency would inevitably be generated for the Latin American nations to look elsewhere for military assistance and cooperation. The basic nexus of current U.S.-Latin American relations would be destroyed. The recognition of this fact is, of course, anathema to those who view foreign relations only in terms of universal sweetness and light. Nevertheless, it is a reality—and a transcendent one.

One of the major contributing factors to the development of this situation—the close military bonds between the U.S. and the Latin American nations—has been the various military schools operated by Southcom in Panama for the benefit of all Latin American military establishments. Many of these schools are staffed to a substantial degree by their own Latin American honor graduates. The "alumni" body of these institutions, spread throughout Latin America, now numbers close to 50,000.

To cite just one example of the effectiveness of these military education facilities, the counter-insurgency curriculum conducted over the years in one of the schools, the prestigious School of the Americas, has played a leading role in thwarting the Latin American Communist insurgency program instituted by Fidel Castro as far back as the sixties.

To give all this up—to place ourselves in a position of being unable to resist a takeover of the Panama Canal by the Soviets, to place Panama in the position of a sitting duck, and to destroy our close military, and hence governmental, ties with Latin America—to me would be the height of national folly. The proposed new treaties are a blueprint for just such a course of action.

Mr. GOLDWATER. I brought up these questions during the course of the discussion. Where does the trilateral commission fit into this treaty? How much money is owed by Panama to the large banking institutions whose officers in most cases are members of this commission? How much money is owed by Third World countries to these same banks? In other words, the question I put and tried to put in a way that would not step on the toes of friends of mine in the banking business, was: Is it going to become the job of the Congress of the United States to bail out the banking business of this country when they have made poor loans to foreign countries? This question has not been answered, but I have asked the chairman of the Foreign Relations Committee to conduct an investigation into it, and I hope he will.

TRIBUTE TO SENATOR JOHN L. McCLELLAN

Mr. PERCY. Mr. President, I have been greatly saddened by the death of Senator John McClellan. His loss is a personal loss to me. I extend my deepest sympathies to his wife, Norma, and other members of his family.

John McClellan had more than his share of personal sorrows. There is no loss quite as heartrending as the death of a child, particularly when that child is taken away from a father suddenly, unexpectedly, and violently. Yet, this happened to John McClellan not once, but three times during his life. There is no deeper anguish in the heart of a father. Yet he remained compassionate, loving and always looking toward the betterment of his fellow Americans with a heart free of bitterness and remorse. I pay tribute particularly to these personal qualities which made John McClellan such a wonderful human being.

Senator McClellan was also one of the most respected and vigorous Members of the Senate. I got to know him best through my service on the Senate Government Operations Committee and the Permanent Subcommittee on Investigations of the Committee. For many years, I served under his chairmanship.

I remember him best for his vigorous pursuit of a number of the investigations in the Permanent Subcommittee on Investigations. Among those hearings in which we participated together were investigations into illegal gun running, an investigation into military service club scandals, and organized crime's involvement with stolen securities. He always pursued investigations with vigor and the goal to attain the truth. I learned much from his investigative work and feel that his service as chairman of the Permanent Subcommittee on Investigations more than justifies his reputation as a great Senator.

For both his professional and personal qualities, I pay tribute to John McClellan—a good man and a good Senator.

ADDITIONAL FUNDING FOR AMTRAK

Mr. SASSER. Mr. President, I commend the action of the House of Representatives for increasing the appropriation for Amtrak by $10 million.

As my colleagues will recall, the Senate approved the supplemental with funding totaling $18 million for Amtrak operating expenses. However, the House-Senate conference reduced this amount to only $8 million.

I particularly want to commend my colleague from Tennessee, Representative Albert Gore, Jr., for his leadership and vision in urging the House to insist on the original Senate allocation of $18 million.

As the Members of the Senate are aware, last month the members of the Amtrak Board of Directors voted to cancel the Floridian route which links Chicago, Ill., with Tennessee and Florida. The Board also voted to review many other routes—a review which could also lead to cancellation of a great portion of passenger train service in this country.

Earlier, I had joined with Congressman Gore and dozens of other Members of the House and Senate in urging that Amtrak management take positive action to put the Floridian on sound financial footing rather than outright cancelling the train. We urged that this train be rerouted through a more populous and better market area. We urged that Amtrak provide improved schedules and equipment. In summary, we urged the Board to make the train more economical under Amtrak's own standards and criteria.

Since the action of the House, I have consulted with Amtrak to indicate that it is the intent of the Congress that the Floridian not be canceled, but instead be continued. When the Senate Appropriations Committee, of which I am a member, first recommended a total appropriation of $18 million, we were told by Amtrak that this funding would forestall any route cancellations.

I am pleased that Amtrak now indicates that since the House has agreed to $18 million, the Board will probably direct the present Floridian route to continue indefinitely while arrangements are being made for a transition to the new route. If the Board takes this action, and I encourage them to do so, then train service for many thousands of rail passengers can continue.

Mr. President, I believe that the action of the Congress makes clear that we should continue the national policy of assisting rail passenger service in this country. However, we must continue to urge Amtrak management to make needed efficiencies and improve ridership so that these subsidies do not continue to increase in the future.

SENATOR GLENN RECEIVES AWARD FOR CIVIL RIGHTS RECORD

Mr. BROOKE. Mr. President, on Friday, December 2, my distinguished colleague and friend, Senator John Glenn, was the featured speaker at the Ohio State convention of the American Civil Liberties Union in Columbus, Ohio. The Ohio ACLU presented him with a well-deserved award in recognition of his outstanding legislative record on civil rights issues.

I have worked with Senator Glenn on many of these issues since he was elected in 1974 and have been greatly impressed with his understanding of and commitment to the cause of civil rights and racial equality. The speech that he delivered in Columbus is an excellent example of both his knowledge of, and activity in behalf of, the difficult and complex issues that we face today in the continuing struggle for equality and justice.

I strongly urge my colleagues to read Senator Glenn's speech and I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks were order to be printed in the Record, as follows:

Racial Equality and Civil Rights Issues in the 1970's: New Language for an Old Struggle

I am very happy to be here this evening joining such a distinguished assemblage of citizens. You have been in the forefront of the struggle to secure for all of our citizens the basic and fundamental opportunities and protections that the Constitution promises. As you certainly know, that struggle is not an easy one nor is it always a popular one. The fact remains however, that there are injustices and inequities in our society that are morally and legally wrong. The struggle to correct them must be waged no matter how difficult or unpopular the battle may be. I shudder to think of the condition this nation would be in today had the epic civil rights struggles of the 1950's and 1960's not been fought. As few as 14 years ago, a short period, we carried an unforgiveable national blemish of separate and unequal public accommodations, tacitly sanctioned employment discrimination, thoroughly segregated schools and faculties, massive voter disenfranchisement and much more. Only 14 years ago, well within all of our lifetimes, black citizens marched on Washington seeking basic remedies that even at present, have not been thoroughly implemented. That 1963 march and the movement it represented set the stage for the landmark civil and voting rights legislation of 1964 and 1965.

Surely, you all know the history of this Nation's racial problems. This evening it is my intention to bring you some current perspectives on today's civil rights issues as I see them as your Senator in Washington. First, I want to state that I am proud to have a 100% record of having voted the "civil rights position" on every civil rights rollcall vote in the 94th and 95th Congress. I have been active legislatively on this issue and I am proud of what we have achieved. I am proud not because legislation is a solve-all, it is not, but because every step that we take, large and small, helps set a national tone that commits our society irrevocably toward a goal of totally eradicating the blemishes of racism and discrimination from our society, and, ladies and gentlemen, the United States Senate itself is perhaps the best evidence that we are winning this struggle.

The Voting Rights Act was first passed in 1965, over tremendous opposition. It was extended in 1970 over vigorous, but lesser opposition. Most recently in 1975, it was extended again through 1980, with only 11 votes against it. What was once outright, race-baiting opposition argument, in 1965 turned into a subtle-but-still dangerous attempt by amendment to "gut" the act in 1975. That amendment was defeated 48–44 and the Voting Rights Act passed easily. My point, ladies and gentlemen, is this, in Washington today, in the U.S. Senate today, the mantle of respectability has been removed from the segregationist, the force of cumulative events, the courts, the black vote, the powerful legislation that has provided better opportunities have succeeded in driving out and making untenable the blatant racism and demagogery that was a tragic characteristic of Congress only 14 years ago, what a refreshing change in our national policy-making process. But, how much has changed? Have the issues been resolved or are they now more subtle, more complex and perhaps more intractable? I feel that many of the elements of the old coalitions that supported civil rights have been lulled by the new, soft language and the early tangible progress, so that they are no longer as aware or as vigilant in the more subtle issues that we face today. Once rights have been secured they must be implemented and carried out. There certainly is more work to be done. To illustrate my point, let me highlight several major issues among many others, that face us today.

MUNICIPAL SERVICES

I spoke of legislation of the 1960's that banned discrimination in public accommodations and facilities. Yet in 1972 we enacted the Revenue Sharing Act since extended into the 1980's, which distributes over $7 billion annually to 39,000 units of State, county and local governments. The feature of this bill was wide discretion in the use of funds. Soon after the money started flowing, complaints poured in alleging employment discrimination and discriminatory provision of services such as garbage pickup, street paving, lighting, electric power, water, sewage, and so on, all supported by Federal funds. Yet to monitor this program of 39,000 jurisdictions, the Office Revenue Sharing had, at one point only 4 civil rights officers!!! I was successful in adding an amendment to the Treasury Department appropriations bill that would add 21 more compliance officers. At present, there are 15 civil rights specialists actually working, I hope that we have a full complement on the job very soon. I was also successful in strengthening the civil rights protections of the Revenue Sharing Act. My amendment made it clear that individuals or communities who were the victims of discrimination made possible by revenue sharing money could seek restitution, that is, seek to be "made whole" by the Treasury for past discrimination. These were small but important legislative steps that faced substantial opposition. It was not easy winning these small, quiet battles. The Kleig light of network news were certainly not on when these miniature unglamourous civil rights battles were fought. Understandable, but not a reason for not fighting them.

HOUSING DISCRIMINATION

In 1968, Congress passed legislation banning housing discrimination in the bulk of the Nation's housing. This is a critically important area since it bears so heavily on other problem areas such as employment and school discrimination. Amazingly, under the original legislation, HUD does not have the power to sue on behalf of victims of discrimination in housing cases. Senator Mathias and I have introduced legislation in this session of Congress to give HUD this vitally important power. We look forward to early passage of this bill, it is badly needed. Additionally, I've introduced legislation designed to improve the Federal effort in combatting arson-for-profit, a particularly vicious crime whereby absentee owners "torch" their non-profitable, aging properties to collect insurance. No one calls this a "civil rights problem" but arson-for-profit certainly discriminates as the residents of the torched neighborhoods are almost exclusively low-income blacks or Hispanic-Americans, the very same groups that are locked out of so many other neighborhoods.

MINORITY BUSINESS DEVELOPMENT

Unbelievably, U.S. blacks gross only 0.65% (16.6 billion) of the estimated 2.54 trillion (1976) in gross U.S. business receipts. This statistic speaks volumes about the need to take aggressive steps to help the victims of past discrimination move into the mainstream of American economic life. I've been active with my own legislation in this area as well as attempting to open up the area of Federal contracting as a logical building-base for entrepreneurs attempting to overcome the devastating effects of past discrimination. This, again, is not a highly visible "civil rights issue" but its importance and complexity is obvious. As we move into an advanced technological age with sophisticated development in energy, telecommunication and more, we must include all segments of our society in that age. Twenty of us have joined in an effort to upgrade the minority business development effort in the Department of Commerce. We ran out of time in the last session of Congress on this bill. I'm very hopeful that we can pass it next year.

EQUAL EMPLOYMENT/SCHOOL DESEGREGATION

I mention these issues together because I think that they are the most visible, most emotional and most illustrative of the dilemma facing civil rights advocates today. Too often, we in public life allow ourselves to be painted into a shallow demagogic game of code words that is an insult to intelligence. Thus, you are "pro-Bakke" or "anti-Bakke", you are "pro-busing" or "anti-busing, "pro-affirmative action" or "anti-affirmative action." Many opponents of civil rights use these types of shallow, inflammatory, code-words to attempt to put civil rights supporters on the defensive and as devices to precipitate large, wider attacks on much of the progress made through civil rights laws and judicial holdings. This is a particularly reprehensible tactic that attempts to play on lack of knowledge and fear and pits race against race. Middle and low-income whites are led to believe that progress and rights for others means loss of their employment, their homes, neighborhoods and so on. I believe that national and local leaders must begin to speak honestly to their citizens and put the passions of the moment aside. Only in that way can we work for practical, responsible solutions that allow every citizen to enjoy his fullest rights of equality of opportunity under the constitution.

With the help of Senator Brooke and Congressmen Seiberling and Whalen I have succeeded in having enacted into law and funded the only measure to pass Congress that deals constructively and positively with school desegregation. Magnet schools takes no ones constitutional rights away and encourages school integration. It is working in Dayton, in Boston (where ¼ of the school population is now enrolled in magnets) and across the nation. While busing remains with the courts, magnets and integration are possible as a practical, every day, workable means in the hands of local people. It is not "pro-busing" or "anti-busing" it is pro-student, pro-sound, substantive, constitutional, integrated education.

Employment remains a national disgrace in minority communities. Perhaps in no other area are the effects of the Nation's past discrimination so tragically evidenced. The Wall Street Journal on Monday reported black employment at 14.5%, whites at 7.1%, black youth at over 40%, black representation in virtually all skilled professions is simply atrocious with progress only gradual as the long process of entry and training is only beginning. To dismiss the enormity of the job that needs doing with simplistic rhetoric like "pro-Bakke" is again, both unintelligent and reprehensible. Where there is or has been discrimination, it must be corrected. Where there has not been, as in California, then enough flexibility must be allowed so that institutions may attempt to broaden their population. If real opportunity exists and if there is a will to provide it, then there will be far fewer "Bakke" cases occupying our national attention and consuming so much of our attention.

CONCLUSION

Those are, ladies and gentlemen, some of today's key issues as I see them. I think that the essence of what I've said tonight is that the debate and the style has changed but that the underlying issues remain with us, less dramatic, less clear-cut, but perhaps more difficult and more complex. I will continue to be active in the Senate. In fact, in January our Government Affairs Committee will begin dealing with the issue of race and sex discrimination in the Congress, which as you might know, specifically exempted itself from the Civil Rights Act of 1964. In committee also we will be facing the terribly complex question of Government reorganization which, again, doesn't sound terribly dramatic, but contains the vital question of how our Federal civil rights enforcement apparatus should be organized, or reorganized to maximize its effectiveness. Beyond our national borders, there are the troublesome questions about South Africa and Rhodesia. Can the United States, in some way, help achieve peaceful majority rule and basic human rights in these areas? As a member of the Foreign Relations Committee I hope to join in searching for the answers.

I appreciate knowing your views on these vital issues. Now is not the time to relax, to lower the guard. In a lot of ways, after 201 years, our struggle is still just beginning to tackle one of the core issues of American society. To live up to the American dream, to make it a reality not at some far future date, but in our time, in our day. That is your challenge, that is my challenge. Working together, it can be done.

Thank you very much.

TEN YEARS OF PROGRESS: NEWARK'S EMPLOYMENT AND TRAINING PROGRAM

Mr. WILLIAMS. Mr. President, this year the city of Newark celebrated the 10th anniversary of its highly successful program to provide jobs and job training for its unemployed and underemployed citizens.

The acronyms by which the program has been known—TEAM, CMDS, and CETDS—have been symbols of dedication, sensitivity, and professionalism in the delivery of employment services to jobless and disadvantaged Newark residents.

Approximately 20,000 persons have been placed in jobs of many kinds with more than 500 firms, large and small, in Newark and throughout the metropolitan area. Their earnings, in the aggregate over the 10 years, total tens of millions of dollars. Their personal rewards and the benefits for their families have had an added incalculable value.

The history of Newark's employment and training program began in 1967 with TEAM—Total Employment and Manpower, Inc. In that year, President Lyndon B. Johnson's administration realized that the explosive problems of urban ghettos could not be solved by traditional means. New and innovative manpower programs were developed to ease unemployment, the major cause of urban unrest.

One of these programs was the concentrated employment program (CEP), a revision of the original slum employment program (SEP). Officials of the Office of Economic Opportunity and the Labor Department were sent by the Federal Government to establish Newark's CEP with a grant of $4.5 million. After long negotiations among the city of Newark, the United Community Corp. (Newark's antipoverty agency), and other major social agencies, Newark's CEP was finally established under the joint sponsorship of the United Community Corp. by the city of Newark. It assumed the name of "TEAM."

TEAM was funded to last 1 year as a demonstrtion project. The demonstration has been going on for 10 years and is still going forward.

TEAM opened its doors on July 15, 1967, at 988 Broad Street with an idea, a skeleton staff, cramped quarters, and an enormous goal to achieve. After a shaky start, the operation gradually took shape and expanded. It provided Newark's first full service manpower program, with recruitment, intake, counseling, medical, and other supportive services all available within the same agency.

In succeeding years, TEAM reached out to industry with one hand and to the ghetto residents with the other, bringing them together. Working hand-in-hand with the Greater Newark Chamber of Commerce and the leading firms of the area, new and innovative methods were devised through trial-and-error experimentation to create more productive lives for Newark residents through meaningful jobs.

A typical experiment took place in 1968 with the cooperation of Western Electric. A study of that program was reported in the Newark Sunday News of June 8, 1969:

> This study was conducted by Total Employment and Manpower (TEAM), a Newark agency, among 143 persons it placed last year in the Western Electric Co. inner-city training shop at 200 Central Avenue.
>
> The Western Electric facility, which provides technical and clerical training, was opened in March 1966 as part of the Bell System's "Job Now" project for city-residents. Nearly 600 have been enrolled so far, and 226 have already moved into permanent jobs with the company. Another 135 are currently in training.
>
> The TEAM researchers interviewed 109 present and former trainees and found that the vast majority—even those who had been dismissed, spoke favorably of the program, its instructors, company supervisors, pay scales and promotion procedures.
>
> A Western Electric spokesman said the company is generally satisfied with results. He said the turnover rate has been only 20 percent, about twice that for regular workers, and "this is not out of line".

A new era began in 1970 after the election of Kenneth A. Gibson as mayor of the city of Newark. Mayor Gibson, making an early mark as an effective public official, worked tirelessly to utilize effectively the millions of new dollars that flowed into the city of Newark, greatly benefitting all areas of need and giving a new impetus to the TEAM program.

A major new dimension was added with the establishment of the mayor's office of Manpower (now mayor's office of Employment and Training) to do planning and assume fiscal accountability and evaluation for those manpower enterprises sponsored by the mayor's office. Harry L. Wheeler, director, has administered this office with skill and energy, while helping to shape the Federal programs and legislation that provided many of the resources for Newark's efforts.

In August 1974, following passage of the Comprehensive Employment and Training Act of 1973 (CETA), TEAM, Inc., was phased out and its corporate entity liquidated.

The manpower structure built under the TEAM name was designated by the mayor to be the operating arm of the new CETA program. The new name was comprehensive manpower delivery system (CMDS). Under its new name, the agency expanded its operations into each of the five wards of the city where it established intake centers. Additional funding permitted increased services, and the job placement output of the agency was increased from an average of 1,000 per year to 2,400 per year.

In 1975, the name was changed to comprehensive employment and training delivery system.

Time does not permit a complete chronicling of the contributions made by the agency or of its impact on the city of Newark. A few significant highlights will suffice:

It brought together as joint sponsors of a major manpower program the city administration and a community action program. This legal entity under the name of TEAM, with a board consisting in equal parts of representatives from the municipal administration, the antipoverty agency (UCC) and the Chamber of Commerce, was unique among manpower programs in the United States.

It developed through the Newark Day Care Council the first "educational continuum" program in the Nation linking a federally funded day care program to the existing public school system.

TEAM's new careers program was designated as the model program of the Nation in the year 1970.

A licensed practical nurses school, fully accredited by the New Jersey Board of Nursing, was established.

It became the first federally funded agency to develop and put into operation special programs for the Spanish community in which the teaching of the English language was linked to a vocational skill.

In partnership with the Greater Newark Chamber of Commerce, TEAM conducted a "Job-A-Thon" in 1968, which resulted in a crash program of 500 jobs in 2½ months for ghetto residents.

In October, it reached an agreement with Newark's compre health program for the provision of health services for its clients.

Now operating the city of Newark's title I and title III programs at a total budgetary figure of approximately $12 million annually, CETDS has its central operations on four floors at 32 Green Street, Newark. Intake centers are located in each of the five wards of the city, and the drug rehabilitation program is at 15 Roseville Avenue. The program offers recruitment, counseling, testing, preemployment orientation, work sampling, job training in 28 skills, supportive services, including compre health, work experience, on the job training, drug rehabilitation services, and job placement to over 5,000 persons during the current fiscal year. Two thousand unemployed persons will be placed into jobs, 584 of them after skill training.

After 10 years of progress, CETDS continues to grow and progress, and thousands of Newark residents are grateful for it.

HATCH ACT REFORM

Mr. GARN. Mr. President, the Hatch Act is a piece of protective legislation designed to limit abuses of the personal freedom of Federal workers but not to hinder that freedom itself.

I believe we must be wary of attempts to amend the Hatch Act, in deliberations on this subject during the coming months.

I noted with pleasure a statement by my esteemed colleague from North Carolina, Senator MORGAN, on the proposed Hatch Act reform. He has grasped what I believe is the essence of the problem of reform.

I ask unanimous consent that the Senator's memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

THE HATCH ACT REFORM PROPOSAL

(By ROBERT MORGAN)

(This memorandum is designed to put forth my best analysis at the present time. However, it must be understood that there is much debate ahead, and legislation undergoes amendment from the time hearings are held on it until the moment of final passage by the Senate. Substantial changes in a bill may well change my attitude toward it. And just as importantly, I want to have all the information I can, and the advice of my constituents is welcome.)

One law that has received substantial public attention of late is the Hatch Act. Many proposals have been made to amend this act because of the need to lift the restrictions from the government employees' right to participate in political activities. A bill doing this has passed the House of Representatives.

The Hatch Act consists of two main parts. It bans attempts to coerce government workers into engaging in political activities, and more controversially, it limits the types of political activities those workers may engage in. This second section has come under increasing attack, with critics saying federal workers suffer an unreasonable limitation of their freedom. What we should not forget is that those restrictions are not meant simply to restrict, but rather to protect—to protect those employees from political pressures and coercion.

It must be remembered that there are political activities a federal worker can engage in. He can vote, contribute to a campaign fund, attend political meetings, wear campaign buttons and place stickers on his car, and even belong to partisan clubs as long as he doesn't hold office or make partisan speeches. He may also run for local office, though only as an Independent candidate.

The basic restriction is that federal employees may not actively participate in partisan political activity. This is a limitation, to be sure, but it is one which preserves the right not to be pressured to engage in partisan activity.

As the law reads now, if an employee is pressured, he can say, "I'm under the Hatch Act. You cannot ask me to break the law." If the law is changed to allow partisan political activities, an entirely different situation exists. Under the proposed Hatch Act reform bill, the employee would have to come forward and complain that he is being pressured, and since he would be making a criminal charge he would have the difficult task of supplying proof. If he made this charge, especially if the complaint failed, reprisals might well follow. In short, to just prohibit coercive actions would be difficult to enforce.

Because of current Civil Service regulations, it is difficult to threaten a government worker with loss of his job, but more subtle pressures could easily be used. Promotions could be held up, or the recalcitrant worker could be assigned the most undesirable jobs or time schedules.

Pressures can be subtle. An efficiency report could be graded down slightly—not enough to be an obvious attack, but enough to ruin a promotion.

The Hatch Act protects the public as much as the government employee, for it prevents the misuse of public power. Those government employees who would use their positions to pressure others would be using power and authority entrusted them by the public for their own or some other candidate's benefit.

Public power should be used for the public benefit, and nothing else. An unenforceable version of the Hatch Act could have serious consequences. It is easy to imagine a government agency mobilizing its employees, and using government time and equipment, against a political candidate who has threatened that agency with cutbacks.

Public confidence, which is important to the proper operation of our government, might also be threatened. Allegations are frequently made concerning political bias on the part of federal employees. To weaken the Hatch Act, at a time when the faith of many people in their government is so low, would be a mistake. It would understandably be difficult for many people to accept that the same person who campaigns so vigorously for a candidate at night is being unbiased in the performance of his job during the day.

Though not a perfect piece of legislation, the Hatch Act is an example of the government regulating itself. It was passed 38 years ago because of many proven cases of government employees being coerced into performing partisan political activities, and it would be a mistake to weaken it today.

TRIBUTE TO SENATOR McCLELLAN

Mr. HARRY F. BYRD, JR. Mr. President, when the long history of the U.S. Senate is written, few Senators are likely to be considered as possessing to a greater degree the combined qualities of courage, ability, and devotion to duty than Senator John L. McClellan of Arkansas.

To the Senator from Virginia, John McClellan was a dear friend and I shall miss him very much.

All who journeyed to Little Rock for the funeral services were enabled to see firsthand the affection and esteem in which Senator McClellan was held in his own State. Indeed, the people of Arkansas eight times evidenced their faith in him; he was elected to two terms in the House of Representatives and six in the Senate.

The Nation is the richer for these decisions by the voters of Arkansas. John McClellan gave to his country 39 years of distinguished service in the Congress.

Senator McClellan was perhaps best known as a dogged but fair investigator, a role which he assumed even before coming to Washington, when he served as a prosecuting attorney in his own State. As chairman of the Permanent Subcommittee on Investigations of the Senate Government Operations Committee, John McClellan brought to congressional inquiry a balance and fairness sorely needed after the excesses of the McCarthy period.

Yet Senator McClellan was never soft or easy in his probes. Indeed, his relentless pursuit of the nefarious activities of organized crime earned him the enmity of professional criminals—and the gratitude of every decent citizen.

It was not alone as an investigator that John McClellan distinguished himself in the Senate. He also chaired the Government Operations Committee, presiding over many important changes in the structure of our Government. Later he took the helm of the Appropriations Committee, a post in which he was serving at the time of his death, holding the enormous responsibility of controlling the flow of the hard-earned tax dollars of the American people.

On the Committee on the Judiciary, Senator McClellan left what surely will be a lasting mark with his 10-year effort to revise our criminal code, a task which has culminated in monumental legislation which the Senate will in all likelihood be considering in 1978.

To every job which he undertook, John McClellan brought conviction, fortitude, and high idealism. His strong character extended to his family life and enabled him to endure with typical courage the loss of three children.

Arkansas and the Nation mourn a distinguished public servant.

I join in this feeling, and I add to it the sadness of the loss of a great colleague and a true friend. My deepest sympathies go to Mrs. McClellan and the other members of the Senator's family.

By all of us, he will be missed.

FINLAND'S 60TH ANNIVERSARY OF INDEPENDENCE

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Vermont (Mr. STAFFORD).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR STAFFORD

This week Finland is celebrating the 60th anniversary of its independence. I think it is fair to say that no other European country has shown greater courage and resilience in maintaining its independence and democratic institutions. This is a proud moment for the people of Finland and for our American citizens of Finnish descent. It merits the salute of free men everywhere.

This is a special occasion for saluting not only Finland's independence, but also the excellent relations between Finland and the United States.

One aspect of this relationship demonstrates the continuity of good will on both sides. Soon after Finland became independent, it suffered terrible food shortages because of civil war. The American Relief Administration headed by Herbert Hoover helped by sending ships of food. The food was supplied on credit, and Finland has paid on that loan into the 1970's. Thus, it has been the one country which has been paying off its World War I debt to the United States.

Finland's act was more than symbolic, because the educational exchange which those payments financed became of great practical importance. President Urho Kekkonen explained why at the National Press Club last year. He pointed out that Finland had experienced great difficulty in finding highly trained personnel after World War II and that it had been possible to get help from the United States in the form of scholarships. He said that there had been more than 2,100 of them and that they had made a very important contribution to Finnish society.

Shortly before President Kekkonen's visit, we had agreed to Finland's proposal to pay off the remaining debt by establishing a permanent binational trust fund to ensure that there will be educational and cultural exchange between our two countries in perpetuity. Thus we and Finland will enjoy a people-to-people arrangement which is unique in international relations.

The benefits have flowed both ways, as do the nearly half a billion dollars of annual trade between the United States and Finland. Finns have contributed a great deal to America throughout our history, beginning with settlements along the Delaware River in 1638. Pioneering Finns built some of the first log cabins in our country, following Finnish models.

Many of us have seen the more recent contributions of Finnish architects. Eero Saarinen designed the great arch of St. Louis which symbolically links the two sides of the Mississippi River. Surely all of my Congressional colleagues have walked through his greatest work here in Washington, the magnificent main building at Dulles International Airport.

Finns have been as characteristically industrious in our country as in Finland. They have tended to settle in those states which offer scenery, occupations and outdoor life similar to Finland's. Vermont is one of those states, and I am pleased to note that the Finnish American Cultural Institute is located in Vermont.

Finland is important to the United States in a way which frequently has put dateline Helsinki before the world press: as the site for negotiations between East and West. It has provided the site for our SALT negotiations with the Soviet Union. Many will recall that President Ford attended another meeting there, the 35-nation Conference on Security and Cooperation in Europe.

Neutral Finland is the only democracy which has a long border with the Soviet Union in Europe. While sensitive to avoid offending its powerful neighbor, it has pursued a very constructive neutrality, even assigning troops to UN peacekeeping efforts in Cyprus and the Middle East. By serving as host for the most important international conferences, Finland contributes to world peace. By conducting our negotiations in Helsinki, we in turn have contributed to the world's awareness of Finnish independence.

May we all honor, this week, the sixtieth anniversary of the independence of Finland, a courageous country which long has been among our friends.

SOUTH AFRICA

Mr. EAGLETON. Mr. President, for weeks we have watched the unfolding of events in South Africa with the hope against hope that somehow the outrage expressed by the international community after the disclosure of Steve Biko's death in mid-September would persuade Prime Minister John Vorster to improve his government's record in human rights and race relations.

Last week we learned that the formal inquest into Mr. Biko's death had concluded and that the magistrate had absolved the police of any wrongdoing. This, despite evidence that Steve Biko was removed from his cell, naked and handcuffed, and driven over 700 miles to Pretoria in his already deteriorating physical condition. In addition, at the conclusion of the inquest, we learned that two of Steve Biko's brothers had been detained on the charge of distributing subversive literature.

Steve Biko was a threat to the Vorster Government because he undertook to awaken his people to their rightful place in South African society. Steve Biko attempted to promote black consciousness in a nation where the white minority rules by force. In his own words, Steve Biko saw black consciousness as "the cultural and political revival of an oppressed people."

I recently read an interview with Steve Biko which was printed in the Christian Science Monitor in November. Although the interview occurred in July, the author, Dr. Bernard Zylstra, did not publish it at that time for fear of repercussions against Mr. Biko. In this interview, Mr. Biko discusses his hopes for dignity and self-determination for black South Africans:

> Whites must be made to realize that they are simply human, not superior. The same with blacks. They must be made to realize that they too are human and—in their case—not inferior.

These words should remind us that our own record in civil rights has not always been unblemished.

Mr. President, another excellent article on South Africa by Anthony Lewis appeared in the December 5 New York Times. On condemning South Africa's repressive measures, Mr. Lewis makes the following observation:

> For South Africa's friends in the world, the terrible message of the Biko case is that we have placed too much hope in reason. A government of reason would have respected Steve Biko in life, and it would have sought the cause of his death in honest pursuit of the legal process. Instead, by its unwillingness to face the truth, it showed how desperately it is caught up in the paranoia of racism.

It is appropriate that we express our abhorrence as we observe Mr. Vorster's government proceeding on the path toward further repression.

Mr. President, I ask unanimous consent that the following articles be printed in the Record at this point:

1. "South Africa: Steven Biko's Scenario", Dr. Bernard Zylstra, the Christian Science Monitor, November 10, 1977.

2. "State of Violence", Anthony Lewis, New York Times, December 5, 1977.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Christian Science Monitor, Nov. 19, 1977]

SOUTH AFRICA: STEVE BIKO'S SCENARIO

(Note.—Steve Biko, who died in police custody in South Africa barely two months ago, is recognized as the key figure behind the five-year-old black consciousnes movement in his troubled country. Three weeks ago, the Black People's Convention—of which Mr. Biko had been honorary president—and all other movements under the black consciousness umbrella were banned by the South African Government. Simultaneously the other known leaders of the movement were arrested.

Last July, Bernard Zylstra, who teaches political theory at the Institute for Christian Studies in Toronto, interviewed Mr. Biko just outside King William's Town where he was living under a banning order—virtual house arrest. Dr. Zylstra made a record of the interview at the time but has refrained from publishing it until now lest by so doing he might have harmed Mr. Biko. This is part of Dr. Zylstra's record in which, he says, 'I have tried to follow Steve Biko's words as faithfully as I could.' It is given herewith in question-and-answer form.)

WHAT IS BLACK CONSCIOUSNESS?

By black consciousness I mean the cultural and political revival of an oppressed people. This must be related to the emancipation of the entire continent of Africa since the second world war. Africa has experienced the end of white invincibility. Before that we were conscious mainly of two classes of people: the white conquerors and the black conquered. The blacks in Africa now know that the whites will not be conquerors forever.

I must emphasize the cultural depth of black consciousness. The recognition of the end of white invincibility forces blacks to ask the question: "Who am I?" "Who are we?" And the fundamental answer we give is this: "People are people!" So black consciousness says: "Forget about color!" But the reality we faced 10 to 15 years ago did not allow us to articulate this. After all, the continent was in a period of rapid decolonization, which implied a challenge to black inferiority all over Africa.

This challenge was shared by white liberals. So for quite some time the white liberals acted as the spokesmen for the blacks. But then some of us began to ask ourselves: "Can our liberal trustees put themselves in our place?" Our answer was twofold: "No! They cannot." And: "As long as the white liberals are our spokesmen, there will be no black spokesmen." It is not possible to have black spokesmen in a white context.

This was realized quite quickly in many black countries outside of South Africa. But what did we have here? Society as a whole was divided into white and black groups. This forced division had to disappear; and many nonracial groups worked toward that end. But almost every nonracial group was still largely white, notably so in the student world. Thus here we were confronted with the same shortcomings: the context to getting rid of white-black tensions was still a white context. So we began to realize that blacks themselves had to speak out about the black predicament. We could no longer depend upon whites answering the question: "Who are we?" There had to be a singleness of purpose in that answer. The white trustees would always be mixed in purpose.

At this time we were also influenced by the development of a black consciousness movement in the United States. There were differences, of course, because the political context simply was not the same. The conflicts in South Africa were—and are—much sharper. I'll come back to that later but I do want to acknowledge the indebtedness of the black consciousness movement in South Africa to the development of black thought in the U.S.A. in the 1960s.

What about black consciousness and Christianity?

I grew up in the Anglican Church, this this matter is an important one for me. But it is a troublesome question. For in South Africa, Christianity for most people is purely a formal matter. We as blacks cannot forget the fact that Christianity in Africa is tied up with the entire colonial process. This meant that Christians came here with a form of culture which they called Christian but which in effect was Western, and which expressed itself as an imperial culture as far as Africa was concerned.

Here the missionaries did not make the proper distinctions. This very important matter can easily be illustrated by relatively small things. Take the question of dress, for example. When an African became a Christion, as a rule he or she was expected to drop traditional garb and dress like a Westerner. The same with many customs dear to blacks which they were expected to drop for supposed "Christian" reasons while in effect they were only in conflict with certain Western mores.

Moreover, the responsibility for church affairs was exclusively white. This meant that the nature especially of the main-line churches was hardly influenced by the black fact.

It cannot be denied that in this situation many blacks, especially the young blacks, have begun to question Christianity. The question they ask is whether the necessary decolonization of Africa also requires the deChristianization of Africa. The most positive facet of this questioning is the development of "black" theology in the context of black consciousness. For black theology does not challenge Christianity itself but its Western package in order to discover what the Christian faith means for our continent.

What is the Black People's Convention?

Let's return to the main line of development. In the 1960s, the African National Congress (ANC) and the Pan-Africanist Congress (PAC) had been banned. So the main realities we were confronted with were the power of the police and the leftist noises of the white liberals. Faced with these realities, we had to solve the question how a new consciousness could take hold of the people. The government controlled the schools. There was a low output from the schools as far as black consciousness was concerned. We knew that we had to seek for participation among the intelligentsia. But we also knew that the intelligentsia quite quickly looks upon the masses as tools to be manipulated by them.

So the change of consciousness among graduates of the black universities that we sought focused on an identification of intellectuals with the needs of the black community. Here lies the origin of SASO—the South Africa Student Organization. It challenged the injustice of the existing structures, but it did that in a new way. As a matter of fact, since we stressed black consciousness and the relation of the intellectuals with the real needs of the black community, we were at first regarded as supporters of the system. The liberals criticized us and the conservatives supported us. But this did not last very long. It took the government four years before taking measures against us.

Even today we are still accused of racism. This is a mistake. We know that all interracial groups in South Africa are relationships in which whites are superior, blacks inferior. So, as a prelude, whites must be made to realize that they are simply human, not superior. The same with blacks. They must be made to realize that they too are human and—in their case—not inferior. For all of us this means that South Africa is not European, but African.

Gradually this began to make sense. Black consciousness gained momentum. But we were still faced with the practical issue that the people who were speaking were mainly students and graduates. There was no broad debate. For this reason we had to move from SASO to the organization of the Black People's Convention (BPC) so that the masses could get involved in the development of a new consciousness. The BPC was established in 1972. It was then that the government began to get into action. It banned individual leaders of the BPC. But today the BPC is getting wide support. The people are willing to sacrifice for it, with their money and with their time—as you can see from the packed courtrooms at trials of black leaders and inquests into their "mysterious" deaths in backrooms of police stations.

In a sense the Black People's Convention is the most powerful organization among blacks.

Yet this is hard to tell since the ANC and the PAC are banned as organizations, which means that they have a kind of generation-gap problem. There is a whole generation now that has not been influenced by the ANC and the PAC.

In any case, the actual identification of people with the BPC is strong. When I put it this way, I do not want to give the impression that the relations between these organizations is one of competition. There will be one movement of revolt against the system of injustice. To be sure, there are the usual divisions due to geography, background, etc. But in terms of the revolution there is unity.

What about the government's policy of separate black homelands? And are you faced with a generation gap?

Some blacks support the government policy of separate development in the homelands for the sake of peace but not as a movement. Here we will have to look carefully into the kind of support that [Zulu leader] Gatsha Buthelezi gets. He has a tribal following among the Zulus. He has managed to combine many elements as a traditional chief in a nonurban setting. For a long time he opposed apartheid, but today he is the government-paid leader of the Zulus. In this way he managed to gain a following.

We oppose Gatsha. He dilutes the cause by operating on a government platform. Because of this I see the danger of division among blacks. But we hope to avoid a real split on the basis of the BPC's great appeal to the younger generation. Gatsha is supported by "oldies," for good reason, since Gatsha protects the stability that the older persons need. But we are young. We do not look upon the solution to injustice as an expectation but as a duty. Here lies the dilemma of the old: between duty and bread.

Where is the evidence of support for BPC among the young?

In one word: Soweto! the boldness, dedication, sense of purpose, and clarity of analysis of the situation—all of these things are definitely a result of black consciousness ideas among the young generation in Soweto and elsewhere. Indeed, this is not quantitatively analyzable. For the power of a movement lies in the fact that it can indeed change the habits of people. This change is not the result of force but of dedication, of moral persuasion. This is what has gotten through to the young people. They realize that we are not dealing with mere bread-and-butter issues. In view of this the real momentum is on their side.

What lies ahead?

This again is a difficult issue. I am now getting to the position where I expect an overall escalation of the conflict. Just consider the various angles. To begin with, the Afrikaners. They have maneuvered themselves into an extremely vulnerable position. They have made up their minds that sharing of political power with the blacks is out of the question. Since a sharing of power is imperative if we are to have a just society, this position of the Afrikaners makes conflict inevitable.

Can the Afrikaners change?

In part, yes. But they need 50 years, and that simply is too long.

In the light of these factors what can one expect of the government?

I expect an escalation of conflict, also on the part of the police. And if the Afrikaner regime will become even more intransigent, then we as blacks will have to reassess our strategy. It is true that the government is very powerful and that it can last a long time. But precisely because it, too, is aware of the escalation of conflict on all sides, the sobering effect of force (at the borders and in the urban townships), the pressure from international public opinion, and a change of attitude among whites—all of these factors combined may well make the Afrikaner regime change its mind.

What about pressure for a one-man, one-vote political system of representation, especially from abroad?

Today the one-man, one-vote "solution" would spell disaster, economically, for the black masses. For the white man it would be the greatest solution. For it would encourage competition among blacks. And it would eliminate the most important ground for critique from abroad of the present regime. But it would not change the position of economic oppression of the blacks. That would remain the same.

Why cannot the blacks do today as the Afrikaners did in the '40s and '50s and dramatically improve their economic position?

Because the Afrikaners had an organized vanguard. The blacks need this before a transition is possible. Hence restraint among blacks today is necessary. The frustrating difficulty lies herein, that the situation does not allow blacks to develop an organized vanguard. This is not only a result of the fact that many of our leaders are imprisoned or banned but also because of the fact that blacks are excluded from many of the essential disciplines needed for the formation of a vanguard: the natural sciences, engineering, and many other areas. This must change. Without a competent, organized vanguard the black population cannot properly assume the responsibilities which by right they ought to exercise.

But if the future transition is not to end in chaos, the white population must also be prepared for radical change within their midst. The whites will have to accept a political constellation in this country in which the blacks have full participation.

What about communism?

We within the BPC have made up our mind that we must operate within the confines of the law or we will not operate at all. This means that the BPC is not a communist organization. We feel that we must always operate. To some extent this can be done underground, but for our kind of organization it is much more effective to work above ground. Moreover, an above-ground movement must have an element of compromise about it. We look upon that as an advantage. Moreover, a Communist in South Africa today will be an instrument of Moscow, not of the black people.

Furthermore, the BPC is nonviolent. If it were anything else, we couldn't exist.

What about the Soviet Union?

While critical of the economic self-interest of American capitalism, I have no illusions about the Soviet Union. It is as imperialistic as America. This is evident in its internal history as well as in the role it plays in countries like Angola. But the Russians have a less dirty name; in the eyes of the third world, they have a clean slate. Because of this, they have had a better start in the power game. Their policy seems to be acceptable to revolutionary groups. They are not a "taboo." Here we are probably faced with the greatest problem in the third world today. We are divided because some of us think that Soviet imperialism can be accepted as purely an interim phase, while others—like myself—doubt whether the Soviet Union is really interested in the liberation of the black peoples.

What can the United States and other nations do to contribute meaningfully toward the necessary transition?

Here are a few suggestions.

In the first place, if our struggle is to be forthright, well-directed, and consistent, the blacks need proper literature and freedom of mobility. If the Carter administration means business in its human-rights policy, it should put pressure on South Africa to guarantee freedom of the press for blacks and freedom of movement for blacks.

In the second place, Washington can exert such economic pressures on South Africa that it will become considerably less profitable to invest in South African industries. The argument is often made that loss of foreign investment would hurt blacks the most. It would undoubtedly hurt blacks in the short run, because many of them would stand to lose their jobs. But it should be understood in Europe and North America that foreign investment supports the present economic system and thus indirectly the present system of political injustice. We blacks are therefore not interested in foreign investment.

Moreover, the United States Government should exert pressure on American-owned firms in South Africa to do justice to blacks employed by them by eliminating job reservation and wage disparities between blacks and whites, by encouraging on-the-job training, and by negotiating with black labor unions. A final suggestion in the economic sphere: foreigners should quit purchasing South African products.

In the diplomatic arena it would be a tremendous psychological boost for the blacks in this country if the U.S.A. would downgrade its diplomatic presence in South Africa from the ambassadorial level to the consular level. That would have to be done in piecemeal fashion. Moreover, the U.S. should never use its veto power in the UN Security Council in favor of the present regime in Pretoria. South Africa must learn that it is losing friends in the West.

What can individual foreigners outside South Africa do?

They can provide analytical information about South Africa to their own constituencies and possibly to their governments.

Within South Africa, foreigners should gently share their thoughts, inclinations, and diagnoses with both blacks and whites, especially with the Afrikaner intellectuals who are perhaps the only persons willing to consider change in the community that constitutes the political base for the present regime. Whether they will listen? That is for you to find out.

Foreigners can of course also help the blacks. In the first place, there are several community programs that are in need of financial assistance. Since these programs are not welfare agencies but institutions that emphasize self-reliance among blacks, a relatively small amount of financial aid goes a very long way. But because of the income inequities which the blacks suffer, we do need outside help.

Foreign intellectuals can help us with materials, with simply maintaining ties with us, and by supplying us with political and economic models for the restructuring of an unjust society.

Is not the contribution of the foreigner inevitably one of white imperialism?

That all depends. When we receive financial aid from abroad, we must be able to do with it what we think is best for the community, what contributes most to its self-reliance. When we receive intellectual assistance with respect to alternative models, we must be able to maintain our independence in working with them. We do not want any more paternalism. But we do need help.

State of Violence

(By Anthony Lewis)

Boston, Dec. 4.—The death of Stephen Biko was disclosed on Sept. 13 by South Africa's Minister of Justice, James T. Kruger. He issued an unusually detailed statement, saying in part:

"Since Sept. 5 Mr. Biko refused his meals and threatened a hunger strike, but he was however regularly supplied with meals and water which he refused to partake of. The district surgeon was called in Sept. 7 after Mr. Biko appeared to be unwell. The doctor certified he could not find anything wrong with Mr. Biko. . . . [The statement listed further medical examination without diagnosis.]

"By Sunday [Sept. 11], Mr. Biko had still not eaten and appeared to be unwell. After consultation with the district surgeon it was decided to transfer Mr. Biko to Pretoria. He was taken to Pretoria the same night. On Sept. 12, Mr. Biko was again examined and medically treated by a district surgeon in Pretoria. Mr. Biko died the same night."

The statement was a farrago of rubbish. There was no hunger strike. Stephen Biko died of brain damage suffered while he was a prisoner of the security police. He died after the police ignored the findings of one set of doctors and concealed his condition from another.

The world knows all that from uncontested evidence at the inquest into his death. The colonel in charge of questioning him said in a police telex message that injuries had been "inflicted" on Mr. Biko at 7 A.M. on Sept. 7. He was driven 700 miles to Pretoria, naked, despite doctors' advice that he had symptoms of brain damage. The police did not tell the doctor in Pretoria of those symptoms; they said the prisoner was weak from not eating.

Before the inquest, Andrew Young cautioned against Western self-righteousness in the Biko case. "Every country has its neurotics and sadists in its prison service," he said. True enough. But what the inquest has shown is that, in South Africa, police sadism is officially condoned. Indeed it is the inevitable result of the racial policy of the state.

In the teeth of the evidence, the magistrate who conducted the inquest found no unlawful "act or omission" by the police in connection with Stephen Biko's death. If there was no "omission" in this case—no neglect of the most basic human duty—then the police in South Africa can do anything to a black prisoner without fear of legal consequences.

The politician responsible for police conduct also remains untouched by the lies and cruelties exposed at the inquest. That is Mr. Kruger. In a government of minimal sensitivity to truth and decency, a minister caught in a statement as grossly deceitful or misinformed as his of Sept. 13 would have been dropped from the Cabinet. Mr. Kruger has not even bothered to explain.

In a sense nothing about the Biko case should have come as a surprise. Other black South Africans have died in detention, twenty others in the last 18 months. There have been other crude cover-ups. In one case two doctors who examined the body of a prison "suicide" and doubted the police version were then themselves detained.

But sometimes it takes a particular event to dramatize tyranny and awaken us to its meaning. Even Americans who knew a good deal about South Africa were revolted at the evidence in the Biko inquest. Their general understanding of the human cost of racism—the toll on the oppressor as much as the oppressed—had not prepared them for the concrete fact that a man charged with no crime was kept shackled hand and foot for four days on a urine-soaked mat, smashed, allowed to die without mercy.

In death, Stephen Biko tells us the fundamental truth about South Africa. A minority holds power there by violence. It has no consent and can only rule by force. Its violence is as logical and as inevitable as the terror that Lenin bequeathed to the Communists of the Soviet Union—and as hard to forsake, once begun.

For South Africa's friends in the world, the terrible message of the Biko case is that we have placed too much hope in reason. A government of reason would have respected Stephen Biko in life, and it would have sought the cause of his death in honest pursuit of the legal process. Instead, by its unwillingness to face the truth, it showed how desperately it is caught up in the paranoia of racism.

By dimming the hope of reason, the Biko case is likely to have profound effects on Western relations with South Africa. Not just governments alone but businesses and banks and foundations and individuals will want to re-examine their associations with a society that has decided to sow the wind.

"There is a particular horror about the kind of violence perpetrated on Biko." So said Richard Moose. Assistant Secretary of State for African Affairs, in condemning the verdict of the inquest. The particular cruelties were appalling, but the real horror lies in their racial basis. We learned the cost of national racism once before, and said: Never again.

THE ENERGY CONTROVERSY

Mr. GARN. Mr. President, the conferees are still wrestling with the energy bill, and while few concrete details are available, and all decisions taken to date are, I understand, tentative, enough is known to cause some real worries on the part of those looking for real, as opposed to cosmetic, solutions. At the same time, we see a great deal of publicity given to certain House Members who are delivering ultimatums to the President about what is acceptable and what is not. It seems to me that it takes a great deal of courage for anyone who swallowed the House bill to lecture anyone on what is or is not acceptable. Even some of the supporters of the House bill are now questioning the crude oil equalization tax, and how they could have been snookered into voting for it, but that is another story.

I thought it might be worthwhile, Mr. President, to take a moment to set forth some of the provisions of an energy bill which will be acceptable, or unacceptable, to this Senator. In doing so, I emphasize that I speak for myself, and for the vast majority of my constituents. I lead no faction, no coalition, no group.

As I see things right now, Mr. President, there are three primary areas of contention: The energy tax, natural gas, and utility regulation. Let me take them in reverse order.

The House-passed utility rate regulation bill was nothing more than a massive takeover of the utility regulatory functions traditionally exercised by the States. Specific pricing policies would have been mandated by the Federal Energy Regulatory Commission; interconnections, wheeling, and pooling would have been mandatory. Any semblance of independence of the electric utility industry would have been destroyed.

By contrast, the Senate passed a much more restrained bill. The power of the Federal Government was limited to advisory recommendations to State regulatory commissions, and FERC was prohibited from ordering the interconnections and wheeling by utilities.

As I understand the present compromise, the power to do what the House wanted is retained, but for the moment, FERC is restricted to approximately what the Senate ordered. Nonetheless, in my view, this section of the energy package is unacceptable, for what it does is federalize the electric utility industry, although full Federal control is not yet exercised. It is clear, for example, that anytime Congress wants to it can order the specific pricing policies that were in the House-passed bill. That is a principle that has not yet been accepted by the Senate, and one I hope the Senate will not accept. There are simply too many variables, too many differences among States, to many local conditions to be taken into account for us to accept this federalization of the industry. It is unnecessary and unwise.

As to natural gas, the basic shape of a possible compromise can be seen taking shape. Under it, the House would permit producers to get somewhat higher prices for their gas, probably up to around $2 or $2.25 per thousand cubic feet. In exchange, the Senate would agree to the Federal regulation of the intrastate market.

Such a compromise has two things wrong with it: It does not contain the deregulation the Senate insisted on, after a long and bitter battle, and it destroys the one productive sector of the natural gas market. Why anyone thinks that extending the benefits of Federal regulation will solve our problems is beyond me. It is the regulated, interstate market that is in trouble, not the intrastate market. Why should we afflict the healthy patient with the disease that has almost killed the sick one? When will we understand that government decrees will not call gas out of the ground? When will we stop bad-mouthing a highly productive industry for trying to make a living?

There are some other questions that occur, Mr. President. Apparently there are those among us who object to paying American oil and gas companies more than $1.75 per thousand. Why do these same individuals insist on paying the Algerians $4.50 per thousand for their gas? It is the same gas. We can get it here in the United States. If we were to deregulate gas totally, most independent estimates are that the price of new gas, remember I said new gas, would rise to around $2.50 per thousand. That is $2 cheaper than the gas we are having to import from Algeria. Why is it all right to pay Algerians $4.50, but wrong to pay Americans $2.50? We are importing gas from Canada and Mexico, and paying as much as $3.50 per thousand for it. We are even lending the Mexicans money to build a pipeline so they can sell us gas at $3.50. Do the opponents of deregulation know these things? Can they explain their position?

The opponents of deregulation try to have it both ways. On the one hand, they tell us that higher prices will not produce more gas. They tell us that all is being produced now that could be produced, and that higher prices would not call more out. At the same time, they tell us that deregulation of new gas would cost the consumers billions of dollars.

Now Mr. President, that is just nonsense. If no new gas is going to be produced, the consumer is not going to have to pay more. Gas is produced under contracts, mostly under very long-term contracts. Even deregulation of old gas would have only a minor effect on prices now. That is why I would like to see all gas deregulated. But no one is presently proposing that. The Senate-passed bill deregulated new gas. Only new wells drilled, new production started would get the deregulated price, which, as I say, would still be $2 per thousand lower than what we are willing to pay Algeria. In short, if the consumer has to pay, it is in return for new supplies. If no new supplies are forthcoming, he will not have to pay a thing. It appears to me, Mr. President, the height of commonsense to go ahead and dergulate, and see what happens.

Incidentally, President Carter spoke the other day in his press conference about the balance-of-payments deficit. He was worried by it, and he attributed a good share of it to our imports of oil and gas. Yet his energy proposal does absolutely nothing to decrease those imports. I have already talked about the gas we are importing from Algeria, Canada, and Mexico. Is President Carter under the impression that these imports do not contribute to our balance-of-payments problem? Is he under the impression that these imports will increase if we deregulate natural gas prices? Can he explain why deregulating natural gas in this country would not decrease imports? It appears elementary to me that if we were to deregulate, and deregulation were to call forth additional supplies, as the industry claims it would, that we would reduce our need to import $4.50 gas grom Algeria. Would that not help our balance-of-payments problem? Of course it would.

Which brings us to oil. We are now importing very close to 50 percent of our oil needs. At the same time, the Middle East situation is explosive. I am very encouraged by the peace initiatives between Egypt and Israel, and hope that they will grow into the lasting peace and stability that troubled corner of the world has so long been denied. At the same time, I must recognize that they may not. Not only may the new friendship between Egypt and Israel prove less than permanent, a new split in the Arab world has been created. It is conceivable that Egypt will be ostracized from the Arab League. It is even conceivable that there will be war between Egypt and one or more of the other Arab States. And while the United States is right now on the side of Egypt and Israel, neither of them produce oil for export. Another oil embargo must always be counted a real possibility, one that is even more serious than Exxon making another million dollars, hard as that may be for some to believe.

As President Carter noted in his press conference, we simply must reduce our dependence on foreign oil. And yet, Mr. President, the Carter proposals do not do it. The President relies on a higher price of oil to discourage consumption, and thus produce the conservation that is going to reduce the gap between production and consumption. Never mind that the already high price of oil is already producing conservation, and that very little more can be done. Never mind that President Carter could already raise the price of domestic production if he had the political courage to do it, rather than waiting for the Congress to take the heat. The question is, how would the COET reduce imports? That is what I have never been able to understand.

Under the COET, what is the incentive for a domestic producer to get out there and find more oil? He gets a higher price for it? He can charge the world price of around $14 per barrel? But the difference between what he can charge now and what he will be able to charge will be taxed away. He will not get it. He will not get any more for his barrel than he gets now. It is the government that gets the difference, and as far as I know, the government does not produce oil.

Besides, even if, somehow, the producer should get some marginal amount more for his barrel of oil, the price he can charge for his old barrel must go down, so that the "composite price" of all oil remains the same. Now will someone explain to me where the incentive is for Exxon to produce more? At a minimum, the "composite price" concept has to go.

And if there is no additional incentive, there will be no additional production, and if there is no additional production, there will be no reduction in imports, except for the marginal reduction in consumption due to conservation, and the marketplace is already encouraging that conservation.

So where does that leave us, Mr. President? Of the three pieces of the energy program I have discussed, not one of the three is proceeding in an acceptable way. Regulation of the intrastate gas market is unacceptable; the destruction of the independence of the electric utility industry and the usurpation of the States' role are unacceptable; and the refusal to do away with the "composite price," with extremely burdensome crude oil tax of doubtful utility, is unacceptable.

As I said earlier, I am only one Senator. I represent a producing State, and I understand a little bit about the economics of energy production. At the same time, my constituents are consumers, and they do not want higher energy prices. I do not know anyone who does, not even Exxon. The plain fact of the matter is that prices are going to be higher before they get lower, and we should get ourselves out of the market so that those higher prices call forth additional supplies. This bill does not do it, and I see very little likelihood that it can be made to do so. Shoud the conferees care to see them my suggestions are: phased deregulation of natural gas, the elimination of the "composite price," and the phaseout of the "old oil" category.

On the other hand, should the conferees report back a bill containing intrastate regulation of gas, the federalization of utilities, and a tremendous oil tax with no possibility of relief, then I predict that there will be no bill at all this year. I cannot believe that the Senate will accept such legislation, and I will do what I can to see that they do not. It is time for us to level with people, to explain the facts of life. We may get lucky and have a mild winter this year. I hope we do. But if we do not, all the laws in the world will not produce the energy we need. Nothing ever has but the marketplace.

RETIREMENT OF CLARENCE M. KELLEY

Mr. EASTLAND. Mr. President, I would like to call to the attention and the notice of the Senate the fact that Director Clarence M. Kelley of the Federal Bureau of Investigation has agreed, at the request of the Attorney General, to defer his retirement and to remain in his position as FBI Director until February 15, 1978. This extension was necessitated when the Honorable Frank M. Johnson felt impelled to withdraw as nominee as FBI Director for health reasons. I believe Mr. Kelley's action, another personal sacrifice in a long career in the public service, is worthy of the notice of this body.

Mr. Kelley has devoted a lifetime to the service of our country and our citizens. That public service began in 1940 with his appointment as an FBI agent, was interrupted for duty with the Navy during World War II, and was resumed in 1946. With increasing competence and growing responsibility, Mr. Kelley served with the FBI until his retirement in 1961 as the special agent in charge of the FBI Memphis Office. For 12 years following, he was chief of police at Kansas City, Mo., his native city, until called to assume his present office as Director of the FBI in 1973. He has devoted 37 years to law enforcement, as an investigator, instructor, supervisor and, for the last 20 years, as an administrator with recognized accomplishments.

On December 15, a testimonial dinner will be held for Director Kelley at the Washington Hilton Hotel, by friends and associates from all parts of our Nation, in and out of law enforcement, in recognition of his long service and valuable contributions. In an era when flamboyance has often been equated with ability, I believe that the unassuming competence, unswerving dedication, and unstinted efforts of Director Kelley during a troubled period, and the recognition being accorded him, merit the official notice of this body.

ONE OF A RARE BREED

Mr. HANSEN. Mr. President, one of Wyoming's best editorial writers, James Flinchum of the Wyoming State Tribune in Cheyenne, Wyo., has published a fine salute to U.S. Senator John L. McClellan.

Because the editorial tribute is so excellent, in that it tells so much about the man and the statesman that he became through a lifetime of public service, I am sure it is one that my colleagues and other interested persons would like to read.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wyoming State Tribune, Nov. 29, 1977]

ONE OF A RARE BREED

John L. McClellan was of a character mold that seems to have largely passed from our scene. This son of an Arkansas poor dirt farmer rose to occupy a moral plateau in this nation's government that few can claim any territorial rights to, and to which fewer still may be granted tenancy.

One does not achieve such eminence by being a mere successful politician able to survive assaults on one's tenure at the polls. The clever, the cunning and the lucky as well as the simply persevering, can carry this off. But John McClellan was not just another politician even of the survivable southern kind.

His stern visage and his unyielding determination gave him the aspect of an Old Testament prophet, a terror to evil doers which he actually became in the days of the Senate rackets committee he served as chairman over 20 years ago.

But Senator McClellan was more than a mere pursuer of miscreants. His rocklike character provided this country through his established leadership in the Senate a medium of stability in a time of turmoil and chaos. In a period when the established value system of our society was under attack from all sides the mere fact that he was where he was at the time he served provided the uncertain with encouragement and guidance, the weak with strength and the errant with deterrence. At a time when we are confronted on all sides with the inept, the venal, the avaricious, the greedy and the murderous; with men of small or no vision, bereft of spirit and principle, and above all the shallow and dishonest with morally and intellectually, it is some solace to know that our society has been graced by an individual of his rectitude and probity. Thus it gives us hope that others of his kind may pass our way again. But not too often is it likely; not too often.

TRIBUTE TO SENATOR McCLELLAN

Mr. HAYAKAWA. Mr. President, I join my colleagues and the entire Nation in mourning the death of John McClellan.

He was a man of remarkable inner strength, able to meet great personal sorrow with the same courage he used to face life.

His life was a living testimony of what can be when we want it to be. At 3 weeks, he was a motherless farmchild; at 17 years, the youngest lawyer in the history of his State; at 46, a U.S. Senator. He was given a good mind and a strong spirit, and he used them to carve a special place for himself in the history of a great nation.

His strengths were virtues so often looked for, and so rarely found: He was honest, just, and noble of spirit.

He read as he announced his retirement shortly before he died:

> To everything there is a season and a time to every purpose under the heaven.

We will be poorer for the loss, but the heaven he spoke of will be richer.

IN SUPPORT OF THE PANAMA CANAL TREATIES

Mr. KENNEDY. Mr. President, on November 11 Deputy Secretary of State Warren Christopher delivered an excellent speech in support of the Panama Canal treaties, before the Florida Council of 100 in Palm Beach. In his speech, Mr. Christopher reviews the important history of these treaties, and details the reasons why they are in our strong national interest. Those Members who remain skeptical about the treaties should carefully consider the strong security, economic, and political arguments so ably presented by Mr. Christopher. It is my hope that the future Panama Canal debate in this country will proceed along these rational lines, rather than descending to the emotional jingoism which has characterized some of the early attacks on the treaties.

I ask unanimous consent, Mr. President, that Mr. Christopher's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY THE HONORABLE WARREN CHRISTOPHER

I am delighted to be here today to meet with such a distinguished group of business leaders.

I would like to talk with you this morning about an issue that is being debated, not only in the halls of Congress, but across America—the Panama Canal Treaties.

The new treaties have aroused strong emotional feelings among many Americans. Since it was built, the canal has been more so to us than simply another waterway for our ships. It was built at a time when America was just emerging on the world scene. We were able to conquer this monumental engineering problem where others had failed. Even today, it is impressive to see how ingenious the canal system really is. Indeed, the canal came to symbolize the resourcefulness and ingenuity of the American people—qualities that we all believe to be among our greatest assets as a nation.

This sentiment, this symbolism, is the first reaction of many Americans when they think about the prospect of these new treaties. In fact, as you probably recall, President Carter has said that his first reaction was to be against the idea of a new treaty.

At the same time, we all recognize that the Panama Canal is important to our national defense and commerce. It is not a monument that sits there simply to be visited and to remind us of the past. It is an important navigational link. As such, our first concern must be to assure that it will always remain open, secure, and efficiently operated.

It is that concern which led President Johnson—after consulting with former Presidents Truman and Eisenhower—to open negotiations for a new treaty in 1964. It is that concern which has convinced every succeeding President of the necessity of a new treaty. And, it was that concern for the future which convinced President Carter that his initial reaction against changing the current arrangement had to be weighed against our national interest in assuring that the canal remains open and secure to both our commercial and naval vessels.

As the Senate vote approaches and the debate over the treaties accelerates, I think most Americans are going to ask themselves several basic questions:

Which course is best from a military standpoint?

From an economic standpoint?

Are these treaties "right," both in terms of what we, as a nation, stand for and, in terms of our self-interest?

I would like to spend a few moments this morning addressing those questions. I want to tell you what these treaties do and I want to answer some of the questions that come to mind as we consider the treaties.

The treaties that were signed by President Carter in September are the product of fourteen years of negotiations. They would replace a treaty that was arranged seventy-four years ago. The first of the two new treaties provides for the operation and defense of the canal through December 31, 1999. The second treaty provides for the permanent neutrality of the canal and has no termination date.

Under the terms of the first treaty, the United States will continue to operate the canal until the year 2000. That operation will be conducted through a U.S. Government agency, to be known as the Panama Canal Commission. The Commission will operate in accordance with U.S. law, which will govern such matters as the setting of tolls and the regulation of employment policies. Five members of the Commission's nine-member board will be Americans. During this period, American troops will remain in Panama and the United States will have primary responsibility for defending the canal.

Starting with the year 2000, operation of the canal will be the responsibility of the Panamanians. At present, nearly seventy-five percent of the canal work-force is Panamanians and, by the year 2000, Panamanians will have moved into all levels of management and will be in charge of running the canal. But, after the year 2000, the second treaty—the neutrality treaty—will remain in effect.

The neutrality treaty commits both the United States and Panama to protect the openness, security, and neutrality of the canal for the indefinite future. Under that treaty, as it has been interpreted, both by the United States and Panama, each country will have the right to act against any threat directed against the canal or against the peaceful transit of ships through the canal. The treaty does not give us the right to intervene or meddle in the internal affairs of Panama. That is not a right we sought. It does, however, give us the right to take action directed at ensuring that the canal remains open, secure, and accessible.

Moreover, the neutrality treaty assures us that United States warships will be able to go through the canal as quickly as possible, without any impediment, and in case of need or emergency that they will be able to go to the head of the line—ahead of other ships waiting to transit the canal.

It should be noted that both the United States and Panama are agreed on the interpretation of these rights. This was recently confirmed by the statement of understanding that was issued in Washington on October 14 following a meeting between President Carter and General Torrijos.

The treaties also contain additional significant provisions. For example, the basic treaty contains a provision relating to the construction of a sea-level canal. Under this provision, both the United States and Panama agree to study the feasibility of building a new canal in Panama which could accommodate some of the new and larger tankers. Based on our studies, which show that Panama is the most feasible place to build such a canal, we agreed, until the end of this century, not to construct such a canal, outside of Panama. In exchange, Panama agreed that, during this same period, it would not allow any other nation to build an inter-oceanic canal in Panama without our approval. Finally, the treaties also provide privileges and protections for the Americans who will be working in Panama in connection with the canal during this 23-year transition period.

This is the basic arrangement. But what about the questions that have been raised? Are there good answers to the many questions which have been raised regarding the treaties? I think there are.

Can we defend the canal under these treaties? Do they protect our military interests? In my judgment, the first place to look for an answer to that question is to our Joint Chiefs of Staff. These are the men who have the initial responsibility for our defense. The fact is that the Joint Chiefs are active proponents of these treaties. They worked closely with our negotiators on a regular basis and the treaties reflect their judgment on what we need to defend the canal.

According to the Joint Chiefs, these treaties are not only as good as the existing arrangement in terms of our national security interests, they are far better. They afford us all the rights we need to step in against any military threat to the canal. In the judgment of the Joint Chiefs, they also decrease the problems that would be presented if we continued to operate the canal under the existing arrangement in the face of growing opposition from the Panamanian people.

We must understand that, just as the canal is a symbol for us, it is a symbol to the Panamanian people as well—indeed, one that is far stronger to them than it is to us. For them, it is a constant reminder that their nation is divided. Early this year, when the new treaties were just coming under discussion, my high school son asked, how would we feel if another country had a canal through Florida? That is a simple metaphor, but it helps me understand the hostility that the Panamanians feel.

These treaties—in a way that is fully consistent with our own interests—will eliminate the major causes of that hostility. For the Panamanian people, they mean that their country will no longer be divided in two by an American enclave. They mean that a Panamanian visiting a relative on the other side of his country will not have to pass through American jurisdiction. They mean that the people of Panama will begin to receive a fair share of the revenue from the canal, which is, after all, a major national resource. In short, they give the Panamanian people a legitimate stake in the canal which makes them our partners rather than adversaries in the canal enterprise. And in so doing, they make us real partners in assuring that the canal remains open to all ships and is defended against all threats.

Unlike the existing arrangement, the new treaties have the support of the Panamanian people. In their recent national referendum, two-thirds of the Panamanian voters approved the new treaties. The national debate which preceded the referendum was lively, free and fair. Much of the opposition to the treaty in Panama was, in many ways, a mirror image of the opposition here—many Panamanians thought that their government had conceded too much to the Americans. But the overwhelming majority of Panamanians accepted the new treaty terms, assuring us that under the new treaties the canal will be operated with the energetic support of the people of Panama.

From a military standpoint, then, these treaties protect our right to defend the canal, if necessary, and they make it less likely that an American life will ever be lost defending it.

What about our commercial interests? What effect will the treaties have on American trade and American business? The first concern of those who use the canal in their trade is to assure that it remains open and efficiently operated, that tolls remain reasonable, and that ships passing through the canal are secure. In addition, companies that use the canal also want certainty about the future; they want a stable situation for the canal so that they can plan effectively. The new treaties address these concerns and promote our interests.

As I have noted, we will continue to be responsible for operating the canal through the end of this century. During this period, we will be training Panamanians in the management of the canal so that they will be able to operate it effectively after the year 2000. Both before and after the year 2000, we will be able to defend the canal if it is threatened.

The practical facts of life are just as important as the legal rights we have under these treaties. By resolving the cause of bitterness and resentment, and enhancing the stake of the Panamanian people in the canal enterprise, we are taking the most effective action possible to assure the smooth operation of the canal in the future.

In his regard, it is important to recognize that Panama derives 12 percent of its gross domestic product and 18 percent of its foreign exchange earnings from canal-related activities. Moreover, unlike the present arrangement, what Panama will earn from the canal enterprise under the new treaties will be directly related to the level of traffic that moves through the canal. If traffic were suddenly shut off by the closing of the canal, or diverted because of inefficient operation, the biggest loser would be Panama.

As a result of our insistence that payments to Panama for its contribution to the canal enterprise be drawn entirely from canal revenues, there will be toll increases in the future. Although our current study of the subject is not yet completed, it appears that such an increase will be on the order of 30 percent.

Is such an increase justified and what will it mean for American consumers and exporters? Over the last 40 years, tolls have only increased from 90¢ per canal ton to $1.29 today. Can you think of any other product or service which has increased so little in 40 years?

Panama's toll levels are far below those for the Suez Canal. An increase of 30 percent would mean that for a Japanese car enroute to an Atlantic or Gulf port, for example, the increased transportation cost will be $3.00, less than one-tenth of one percent of the total purchase price.

If I may, I would like to add one other word about the commercial aspect of the canal and these treaties. We consider our commercial interest in the canal to be important. The port of Tampa, for example, shipped over two million tons of phosphates to Asian markets through the canal in 1976. And, Florida's citrus exports through the canal to Asia were worth approximately $20 million in 1976.

Thus, while the canal is less important to our overall commerce than it once was—only 7 percent of all our waterborne foreign trade passed through the canal in fiscal year 1976—it remains important to the economy of this state and the nation. That is one important reason why ratification of these treaties is essential. They substantially increase the likelihood of a stable, long-term partnership with Panama, which will ensure an open and efficient canal in the future.

What about the cost of these treaties to the American taxpayer? Are we paying Panama to take it away, as some have claimed? The answer is no.

We insisted during the negotiations that payments to Panama for its contribution to the canal enterprise be drawn entirely from the canal's earnings. Panama initially sought much larger payments which far exceeded what could be financed from the canal's earnings. Our view prevailed. Under the treaties, Panama will receive payments that more nearly reflect the fact that it is making available its major national resource—its territory. But the treaties will not require any appropriations from the American taxpayer.

In addition, we have agreed, outside the treaty, to seek certain arrangements which will assist the general economic development of Panama and enhance its stability. These are loans, guarantees and credits. And, they will be used largely to help Panama finance U.S. trade and U.S. investment.

Finally, what about our image as a world leader? Are these treaties a sign of retreat? Will they create a power vacuum in the Caribbean that can be exploited by Cuba or the Soviet Union? The fact is that these treaties will have just the opposite effect. They will increase our influence in this hemisphere. It is the status quo which can be exploited by others. The treaties lessen this danger by removing a major source of anti-American feeling throughout Latin America.

It is the widely shared conviction of the Latin American nations that the original treaty needs to be changed. Some of our closest friends in this hemisphere—including Venezuela, Costa Rica, Mexico, and Colombia—issued a joint communique in August urging the United States and Panama to conclude the new treaties. Indeed, through all the years of these negotiations, the people of Latin America have looked forward to the peaceful resolution of this troublesome issue.

The treaties do not settle the other important issues on the agenda of the United States and the nations of Latin America—issues involving trade and development, regional peace and human rights. Nevertheless, they will enable us to approach these issues with a fresh spirit of cooperation, unencumbered by the suspicion and resentment that accompany the existing canal arrangement.

To all nations in the world, the treaties demonstrate that we will use our power in a manner that not only takes full account of our own security interests, but also our firm belief in reducing global tensions and in dealing with other nations on the basis of mutual respect.

Thus, the very same resourcefulness and ingenuity that enabled us to build a canal where others had failed now leads us to build a new relationship with the people of Panama that reflects present-day realities and that provides for the future.

We are a nation that has always been able to change with changing times.

We have never rested on our laurels; we have always seized the opportunity to make things better.

And we are a nation that wants to use our great strength and power, not to prove that we are powerful, but to lessen the dangers of violence and conflict around the world.

These new treaties serve America's interests. I hope that, after you listen to the treaty arguments, and consider them carefully, you will conclude that they should be approved by the United States Senate.

SEA POWER OF THE STATE

Mr. GARN. Mr. President, Adm. Sergei Gorshkov, the father and architect of today's Soviet Navy, has framed a powerful and theoretical work that permits us an inside perception of contemporary strategy for sea power. Fortunately, an astute analysis has been offered of "Sea Power of the State" by David Joseph Kenney, as printed in the spring 1977 Naval War College Review. Commander Kenney's review is closely studied for several reasons. First, it becomes clear that the Soviet Navy's primary mission will remain the protection and viability of its first and second strike capability from its SSBN's. Second, a corollary mission will continue to be destruction of U.S. SSBN's by a concerted attack on our protective systems—the antisubmarine warfare (ASW) P3 and S3 aircraft, and shipborne ASW platforms. Such is Gorshkov's reliance on the SSN that his navy has become the first to devote major resources to destruction of opposing ASW resources.

Operationally speaking, Gorshkov clarifies his navy's ubiquity in stating that the Soviets will steam everywhere, in a readiness to fire the first shot on the naval side of a political event. Further measures will dedicate assets to intervene in local wars as its amphibious and logistics mature. New tanker classes will offer the backbone for an expanded worldwide capability without fixed bases.

Sea power has placed the Soviet Navy in Marxist political theory as an equal of the army, air force, and strategic rocket force. The Soviet Navy now has major claims on defense budgets and missions and, accordingly, they must enter our defense thinking in a very serious way.

I recommend Commander Kenney's article to my colleagues for a clear reflection on the rising Soviet naval threat and the forms and methods of naval warfare aimed directly at our own sea forces. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEA POWER OF THE STATE

(By David Joseph Kenney)

Few institutions and fewer men change their country's destiny singlehandedly. By deploying a submarine fleet, first the Whiskey-class boat in the 1950's and later the SSBN, away from the Russian coast into the shipping lanes of the world, Sergei Georgiyevich Gorshkov has rushed his navy into history.

The admiral's disposition of this fleet transformed a country, whose history is a chronicle of struggle with ancient enemies on the Eurasian landmass, into the second maritime nation of the world. Russia was, after 1,000 years, finally free of its own soil.

This deployment was the seminal act of Russian naval history. Russia no longer depends solely on her armies or rocket forces to bring victory by tortuous campaigns so destructive to Russia and her enemies alike. As a consequence, other possibilities of defense and of expansion exist beyond those provided by the ground arms and the nuclear weapons of air and rocket forces.

These possibilities and their potential effect on us are the subject of Gorshkov's most recent and arquably most striking work, *Sea Power of the State*. The book is dense, rich, logical and almost overpowering in breadth. The admiral calls upon the wisdom and experience of a life, dramatically spent, to give us a summa of naval power. This Soviet officer earned his flag during the darkest days of September 1941 and has held it through wars, purges and bloody ideological strife. Whatever else happened to Russia, Gorshkov determined that he should survive as a principal naval leader and that his country should have a navy second to none. He has succeeded in the tasks of building and operating the Soviet navy. The admiral is that *rara avis*, a maker of history who is kind enough to give us glimpses of the future.

It would be useful to describe what *Sea Power* is not about and why Gorshkov writes and builds his arguments the way he does:

(1) The admiral's purpose is not to recast history in a Soviet mold. In this book the revisionist asides are muted and of short duration. True, he must do the usual courtesy to official Soviet history. He even attempts to make Admiral Ushakov, the victor of an engagement with the Turks, into a Russian Mahan. This predictably comes off badly. To his credit, the admiral focuses princapally upon the present and future rather than on descriptions and analyses of past events.

(2) Nor does the admiral propagandize in this work. He writes factually and, compared to the usual Soviet polemicist, dispassionately. From the summit of a brilliant career he can survey the world ocean as few men can. His ships steam everywhere. He no longer needs to be defensive or tentative.

(3) The admiral's hostility to the United States does not influence the book's form or content in a meaningful way—if in fact it

ever existed beyond the pages of his earlier, less refined work.[1] What does show is his great sense of being a Russian. There can be no doubt that in his old age (he is approaching 70) sheer patriotism is one of his great motives.

(4) Gorshkov, finally, is not interested in ship types, missions and weapons systems per se. He is greatly concerned with historical forces and levels of technology, and only as a consequence of these, with the equipment a navy has and the use to which it is put.

STYLE AND METHOD

Not many people will find Gorshkov's prose style as felicitous as his observations are stimulating. Though his writing in translation is cumbersome to us, his goals in this book are achieved by a subtly constructed and artfully executed stylistic method which cannot be separated from his intent. The admiral was born before the Revolution and heard his first words from a family whose members most remembered literary experience was the liturgy of the Russian Orthodox Church.

Despite governmental attempts to excise Tsarist remnants from life under Marxism, Soviet political literature still observes in its form prescribed usages of the ancient rite: repetition, deference to its own "Sacred Scripture" and a complex sentence structure designed for its poetic effect. Why? To clear the way for a total acceptance or explication of Marxist-Leninist doctrine. The results are not always benign, for the admiral's prose, especially in translation, is often unavoidably wordy and awkward rather than solemn and beautiful. The admiral might be suspected, too, of knowing that the loftier the tone of his discourse, the purer his readers will consider his intent.

Gorshkov's practice of this near-liturgical form does not mask his intent to the Slavic reader but highlights it, because the admiral is concerned with final ends, with destiny. He speculates at a very high philosophical level on the final victory of Marxism according to the scientific laws of history and on the part the navy must play. He dwells on the earthly purpose of a man who is a Russian, a sailor, and a believer in the Hegelian-Marxist dialectic of history.

Purpose. The lines of argument and the weight of evidence show clearly Gorshkov's purpose in writing *Sea Power*. The admiral's overriding goal is none other than to show that a Marxist, dialectical interpretation of the scientific laws of history demands the existence of a strong Russian Navy. Gorshkov contends that because a new thesis, or set of historical circumstances, has arrived, in which a strong Soviet Navy is dialectically necessary for advancement into the next stage of history, the navy must be given a vote in the political-military decisionmaking process, a just allocation of military funds, and an enlarged strategic mission. His statements fly in the face of classic postwar Soviet strategy as espoused by such leaders as Marshall Sokolovsky, who relegated the navy to a role far beneath the army's, and who thought the high purpose of a contemporary battle fleet was engagement of surface ships.

Why should the most successful Russian Admiral ever, feel compelled to use the vehicle of a book to advance this proposition, a task at once philosophic and budgetary?

Russian methods of forming a consensus differ drastically from those of the West. We publicly debate strategic options and military policy in our journals and in other public media, whereas formulators of Soviet policy must first search Marxist-Leninist literature for doctrinal bases with which to support their definitions, their analyses and their solutions. It is highly unlikely, for example, that a Russian counterpart of "Mr. X" (later revealed to be George Kennan) could write a speculative and pseudoanonymous article in the Russian equivalent of *Foreign Affairs*, arguing a whole new policy toward the West on nonideological grounds.

On the contrary, any Soviet strategist who proposes novel solutions to difficult questions, must support his logic with wealth of classic Marxist underpinnings. The more daring the argument, the surer the author's grasp of dialectical logic must be shown to be. In this last will and testament, Gorshkov could not risk an ideological mistake. He wants to leave with the decks clean.

The most important reason for Gorshkov's prolixity falls into the central purpose of *Sea Power*. The admiral's great theoretical contribution and the basis for all the purely naval discussion in the book stems from his description of the course on which history now leads us.

Gorshkov believes radical changes have occurred in world politics, in the wealth and power of leading countries, in the way countries use power, in the economic bases of a nation's strength and, most importantly, in the way navies interact with all the elements of state power. Seapower is not merely the capacity to destroy one's maritime enemy but it is also the ability of the state to use for national purposes any part of the maritime world, from its oil to its fish to its shipping lanes. Gorshkov concludes that a principal power's navy may soon be the glue which holds a state together.

The end of World War II, according to the admiral, signalled the close of an epoch and the arrival, in Marxist terms, of a new synthesis. At that time a new set of social, political, military and economic forces, a new set of historical circumstances arrived. This synthesis then became the new thesis. In practice, this meant that Russia was free to rival America's economic power and to advance international Marxism because Russian armies dominated the Eurasian landmass as never before. Although large standing armies are necessary to confirm the victory over fascism and to maintain status quo, the ethnic enemies that taunted Mother Russia for a millenium are firmly in hand. The Soviet Navy has secured the army's flank well into the Mediterranean basin and guards the commercial and fishing fleets on the seven seas.

What, then, does Russia have to fear in the face of security undreamt of 25 years earlier? Gorshkov's answer has two parts: First, the new thesis produced a high technology that permits, even encourages, the destruction of Moscow not by armies or by airplanes, but by ICBM's launched from beneath the sea's surface thousands of miles from target. Formerly, Russia's sheer size and poor weather allowed the worst generals and the most ill-prepared ground troops an opportunity for the mud of winter to repulse even a Napoleon. Now, sure defeat can occur 20 minutes after missile launch.

The second part of the reply is that Russia's traditional land enemies have been replaced by a coalition of imperialist maritime nations. Gone forever is the smug certainty that Russia had always and would always finally defeat the Poles, Magyars, Teutons and Balts as well as enemies from the East. These new and unfamiliar enemies and their technology are not susceptible to attack, let alone defeat by the traditional arms of the U.S.S.R.

Gorshkov warns that warmaking potential of this new coalition must never become military reality on Russian soil. In case of war or threat of war, the imperialist enemies' military and industrial power must be destroyed quickly in their own countries. The overall mission of the Soviet Navy is still defense of the homeland, but henceforth by use of the fleet against its opponents' shore facilities. This is a forward defense carried to the ultimate by modern technology. Its aim is to achieve victory without a land war and if possible without damage to Russia herself. No one wants a replay of the murderous land battles fought in Russia during World War II.

This argument fulfills a trend begun most noticeably in Sokolovsky's *Military Strategy*, which had led Soviet military thinkers away from a preoccupation with theater warfare whose inherent parochialism makes it less cost-effective and bloodier than global war, which if waged by a Soviet Navy at sea is cheap and sterile. Gorshkov implies that favorable major changes in the world's balance of power can be obtained by loss of few ships and their crews.

Hence the ancient concept of a fleet's purpose, combat against another fleet, carries secondary importance. The Red Army, Gorshkov reiterates, may sit powerfully astride the Elbe; it is powerless against the Trident. The Soviet Navy is now the motherland's first line of defense.

Why does Gorshkov advance this argument? Accepted Soviet or Marxist revolutionary doctrine (by omission not by design) had never held a navy necessary for victory in the class struggle. Gorshkov had to breach this obstacle before the Soviet Navy could hold a valid position in the military pantheon and before the navy's institutional memory within the Soviet government could be secured. Furthermore, he had to fight history tooth and nail to show that the course of action he advocates has precedent in victories during the class struggle. He had to show philosophy in action.

He gets little help from the Red Navy's history, because by and large it is a minefield of disasters. Even the most patient researcher cannot find the Russian equivalents of Trafalgar and Coral Sea, of Nimitz and Jacky Fisher, or de Grasse and von Hipper. Ironically, only the modern Russian naval era begotten by Gorshkov would please the historian in Gorshkov.

On the other hand, Marx, Engels, and Lenin had uniquely acute insights into the role of a Red Army during the revolutionary struggle. They and their successors believe that the army is the conduit by which civil strife, economic complaint and political discord are brought to bear in the class struggle. Theory became blood through the Red Army around the Winter Palace, on the Long March and in the Sierra Maestre.

Not only were Marx and Engels elegant theorists but they were also practical managers of violence who knew that successful revolutions occupied buildings, road crossings and power stations by force. They knew that the best way to accomplish these necessarily dirty tasks was the conversion and use of peasants and workers who fire the rifles and drive the tanks. Ships cannot seize and hold ground, armies can. Marx, Engels and Lenin sided with the armies. Lenin could not afford to build ships; Stalin wanted a big-ship navy because the British had one; and Khrushchev thought *Sverdlov* cruisers best suited for transporting senior Soviet statesmen abroad in high style. No theoretical role in the class struggle was ever assigned to the navy.

Gorshkov has overcome this historical and theoretical burden by a simple but clear piece of Marxist logic. He proposes that since Russia and international Marxism find themselves at a new stage of history and contend against new opponents, the state must maintain a mix of armed forces quite different from that needed to assure past victories in order to triumph in the present phase of the class struggle. Moreover, because of the vastly increased importance of the sea, which yields wealth of its own as well as carries the riches of the land, no nation can remain a principal actor on the world stage without a strong navy.

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[1] *Red Star Rising at Sea* (Annapolis: U.S. Naval Institute Press, 1974).

It is as though Gorshkov turns to his army colleagues and says, "Comrades, your land armies were dialectically necessary in a former movement of history and are still needed to consolidate victory. Military roles have changed, however, according to the scientific laws of history. That history has removed the main class struggle from the Eurasian landmass to distinct countries and has made the sea a hiding place for weapons that could do to Russia what Napoleon and Hitler could not. The navy has to become a paramount arm, because only naval force applies to these new circumstances."

Nothing Gorshkov has done in the way of ship construction, weapons systems, operations and tactics contradicts *Sea Power's* interpretation of classic Marxist-Leninist military doctrine. All his acts accord with it. In fact, so powerful is the logic and so acute the sense of history in *Sea Power* that Gorshkov's work is now part of the hierarchy of doctrine his book venerates.

While the Soviet Navy's goal, defense of the homeland, remains the same, the fleet's missions have changed drastically. Traditionally, naval defense began and ended with strategic protection of waters near the Russian shore. To assuage army fears. Gorshkov stresses the continuing need for a strong coastal defense of the Russian littoral, principally by small rocket-equipped ships and by airplanes.

During this phase of history, however, modern technology demands that the most significant defense of the homeland begins on the high seas where both the Soviet and the imperialist shore-destroying ballistic missiles are concealed and launched. Here, the mission bifurcates: to destroy from the ocean bed the enemy's land-based military and industrial strength, while at the same time to neutralize the enemy's SSBN's which presently constitute about 70 percent of the U.S. strategic missile force.

Gorshkov thus demonstrates that the army, air and rocket forces have no role in foiling the vast preponderance of U.S. ballistic missiles. His navy is the only weapon that has a chance under foreseeable technological circumstances of killing the SSBN. Again, Gorshkov devotes lengthy argumentation to anchor this major conclusion to a classically Marxist interpretation of history's dialectical movement.

Once the idea that the fleet should operate principally against the shore is comprehended, the logic of the Soviet Navy's ship construction program and its fleet operations becomes clear. The analyst must then concentrate on what Gorshkov considers the touchiest problem to solve before the missions of the fleet against shore can be successfully prosecuted.

The most important operational point in the book is Gorshkov's statement that since the SSN is the most lethal ASW weapon, it must be neutralized or destroyed along with air and surface ASW forces to protect Russian SSBN's targeted against the imperialist's military potential and to leave the hostile missile submarines open to successful attack.

Gorshkov draws on the lessons of World War II to show how the Soviet Navy must operate its fleet successfully against its enemies' shores. By way of example, Gorshkov claims that 70 percent of all German U-boats sunk in World War II were destroyed in transit, not during prosecution of an attack. He heaps mortal blame on the German Naval High Command for not devoting sufficient resources to neutralize Allied ASW efforts. Surface ships, Gorshkov claims, should have protected and coordinated submarine transits to and from operating areas.

This statement has enormous evidential value. It confirms our speculative reasoning to account for the substantial force of large ASW ships built and building, e.g., the *Krestas* and *Krivaks*. It predicts the deployment of squadrons built around the *Kiev* ASW carrier to perform high seas ASW and to protect Soviet submarines en route to operational areas.

To sum up, Gorshkov's principal operational reason for writing this book lies in his need to demonstrate that the Soviet Navy must kill hostile ASW forces as well as destroy their enemies' shore-based warmaking potential by attack from SSBN's. The implications of this statement, which approach a dramatic or theatrical tone as nearly as is possible in Soviet political literature, are profound. NATO navies must consider anew the rationale for ship construction, weapons systems and tactics.

Sea Control. The need to neutralize hostile ASW forces absorbs the admiral's concept of sea control. Gorshkov's notion is not Mahan's. The Soviet admiral envisages sea control as the establishment of dominance in a maritime area, perhaps measured in minutes, perhaps in only one medium of a small sector of the world's ocean. He sees a Soviet Navy composed of forces which either by threat or by actual victory in combat can prevent any other navy from working its will against the Soviet naval effort during this transitory period of control. Safe passage to their operating areas of the Soviet SSBN is sea control's first purpose, and neutralization of the imperialists is its second. Clearly, *Kiev's* embarked VSTOL aircraft are directed to this task.

Other cases are made for sea control, such as blockades against critical marine traffic, and assistance to friendly forces in the Third World. Gorshkov offers one proviso, however, in his remarks on sea control. So lethal are modern weapons, he warns, and so fast in their injection into combat, that sustained dominance by any navy over any body of water or maritime airspace is problematic.

Gorshkov is confident, nevertheless, that his navy can now establish what he calls a "favorable operating regime" virtually anywhere in the world ocean over a period long enough for Marxist political, military and social elements to produce a victory in the class struggle under proper dialectical circumstances. Strategic mobility renders the Soviet Navy alone of all the U.S.S.R.'s armed forces capable of decisive intervention abroad.

To Gorshkov, this belief may well mean the superiority of a naval force designed by himself as the principal military agent of his country's political leadership. Modern technology, the admiral warns, will smile only on a swift attacker who fires overpowering first shots, destroys his adversary and flees back into concealment. Running through *Sea Power* is the notion, vigorously expressed, that modern combat no longer favors the standing army, the massed artillery barrages, the frontal attacks of thousands of soldiers, and the existence of a huge logistics enterprise.

Despite its mobility, Gorshkov considers the attack carrier, up to now the foremost 20th-century example of naval surface and airpower, a useless system when used against the Eurasian landmass. No surface force, he claims flatly, can withstand nuclear air-to-surface missiles fired from the planes of the Soviet Naval Force. Despite this bold assertion, the admiral concedes that the carrier, somewhat modified for sea control missions, is useful for that role and for general use in the Third World. Doubtless, the operations of *Kiev* and her sisters will show which roles the Soviet Navy does envisage for its own large air-capable ships.

Gorshkov's theoretical base for that part of his navy not pertaining to the SSBN/SSN/ASW mission has to do with what Marxists call "contradictions in history." These events occur when the forces of working class or peasantry collide with those of the capitalist imperialists. No one can predict the time, place or characteristics of these struggles, but the scientific laws of history dictate that they will happen. Gorshkov claims that when navies have been involved in these episodes, the imperialists have nearly always won, e.g., the Cuban missile crisis and the conquest of the Philippines by the United States. He warns that since the Eurasian landmass is largely policed by the Red Army, contradictions will occur most frequently in other, distant areas where the only mode of military intervention to assure a victory will be the Soviet Navy.

Gorshkov's world, boisterous and dynamic, is subject always to violent upheavals and quick to cause and to accept death. To further the class struggle in the next movement of history, the admiral posits an increasing need for strategic and tactical mobility. This means amphibious forces, a chain of foreign bases and a fleet train. Not only ships, but navies and countries must move swiftly.

To meet the demands of mobility in a world where contradictions of history occur unpredictably, a fleet must be able to fight in three media. While the admiral reluctantly admits to his own inability to predict accurately the kinds of engagements his fleet will fight, he does assert that he will build variegated and mutually supportive units and systems to prepare for all kinds of combat. The Soviet Navy, he insists, will install a plenitude of the best weapons systems on the cheapest, most austere hulls available. At the expense of desirable characteristics such as larger crew accommodations and spare parts, the Soviet Navy will maximize the cost-effectiveness of its weapons suites.

Some Short Points. Scattered through Sea Power are tersely expressed insights which outline Gorshkov's views on many issues common to all navies. Offered by way of example, but not of limitation, are the following short expressions paraphrased from the book.

(1) Building Program.

Each navy is a unique product of its own leaders and is set in a particular economic and technological milieu. Therefore, the Soviet Navy will never be a mirror image of any other navy.

Weapons, not hulls, kill.

The tendency of naval warfare is to produce more heterogeneous ships, weapons and tactics.

Single-purpose hulls are too expensive. Henceforth, all combat ships should fight in the three media.

Technology is so expensive no navy can have everything. Each navy must select its own range of military problems to solve.

The era's technological base will determine the final form of victory.

Gorshkov boasts that his navy rides the crest of a technological wave which fortuitously satisfies its huge wants in an era of revolutionary transition. He is obviously quite happy with his ship designers and naval engineers. The admiral believes he has the key not only to the navy's strategic needs but also to the kinds of weapons necessitated by his strategy. Here, he breaks with European naval tradition which weighed the thickness of one's own armor against the penetrating power of a potential enemy's projectile. A new technological and strategic day has arrived; so too has the need for innovative ships and weapons that bear little resemblance to their counterparts of the 1940's and 1950's.

(2) Operations.

The next war will be fought with forces on hand and on station. No opportunity will exist to move, let alone to build ships.

Contemporary weaponry is so lethal that he who fires first probably will win.

The appointment of ship captains and of

tactical commanders is all-important. They must be able to act independently and decisively, because communications will almost certainly fail during a nuclear engagement.

General fleet engagements serve little purpose and are vestigial. Fleet versus shore is the principal strategic preoccupation.

The strike by a competent, prepared unit is the greatest naval act.

Gorshkov predicts short, savage naval engagements fought by forces already on station or at least nearby a combat area. The tide of battle, he warns, will swing back and forth, as missiles fired from airplanes and submarines, as well as from ships, destroy an enemy with a single shot and leave a battle's outcome in doubt until its end. In the next war a defensive posture is sure to bring defeat; all forces must be strategically and tactically ready to attack. Consequently, captains must imbue their ships' companies with an offensive mentality.

(3) Strategy.

A world navy must construct a favorable operating environment in areas critical to that navy's success. Sometimes the task demands years, but history rewards him who stays the course.

To go from favorable operating conditions to tactical control to theatre superiority to strategic dominance and vice versa can take but a few hours. Speed in every act is essential.

Each epoch has its own naval problem. To understand it one must study history and logic with its dialectics.

The present era demands that the Soviet Navy sail the world ocean not only for traditional naval purposes but to decide which maritime areas are critical to success and to learn how to operate there. Within those areas, the navy must build tactical ascendancy, so that when battle comes, knowledgeable captains can gain theatre control quickly. If done astutely in consonance with the actions of other armed forces, strategic dominance may also be obtained quickly.

(4) Missions.

Future naval wars may be surrogates for land combat. Naval wars are clean and occur away from Russia. Land wars are dirty and have historically involved serious destruction of the Russian people and property.

The navy is the Soviet Union's only medium of strategic intercontinental mobility. Without it the Soviet Union would act contrary to the dialectic and would have to fight costly, damaging land wars.

The sea and all it yields up will grow in importance. A principal nation must use the sea to assure its living standard.

The Soviet Navy is only the maritime tail of the foreign policy dog.

Victory on the naval side of a political event, not defeat of the enemy at sea per se, is the navy's job.

It is well to remember when analyzing *Sea Power* and all its complexity that Gorshkov is not burdened by the baggage of victory. No cabal of victorious but retired admirals utter critical stage whispers to the civilian leadership about the "odd" task young Gorshkov assigns the Soviet Navy. The terror of the 1930's and the disasters of the "Great Patriotic War" permitted the few survivors, of whom Gorshkov is the prime exemplar, virtually free rein to devise a whole new set of assignments for the navy. No hoary wardroom traditions frustrate the experimentation which new looks at a radically changing world must necessarily produce.

Some Things Left Unsaid. Although Sea Power has enormous scope, some lacunae remain in the admiral's discussion. For example, the surface ship is inherently vulnerable. It cannot unilaterally terminate an engagement (it cannot run fast enough nor hide to avoid its adversaries); it must either kill or be killed. Although the Soviet Navy continues to build very costly and large surface ships, Gorshkov has not constructed a new theoretical framework that assimilates and discusses this new calculus of lethality.

Further, all navies of more than 100' boat size either have or will shortly acquire surface-to-surface missiles capable of killing a 5,000-ton ship. Are Soviet ships, like ours, too expensive to risk against an obviously offensive Third World PGF? What are the risks attendant upon the dispatch of expensive ships to fight very minor engagements?

How will the Soviet Navy, traditionally a highly centralized organization, exercise command and control during a nuclear engagement when communications are broken? It is well but not satisfactory to say "Have good ship captains."

Is not a war of position self-producing in the sense that during the construction of favorable operating conditions thought by Gorshkov to be a prelude necessary for victory, the presence of warships in a troubled area will destabilize the situation sufficiently to force or permit naval combat?

What will the admiral do to counteract the cheap precision guided missiles (PGM) that will appear by 1980 at the latest? These missiles will have a 500+ mile range, carry a ship-killing warhead and be operable by irregular troops from, say, the hills of Sicily. History shows us that owners of weapons tend to use them. The problem of operating surface ships close aboard a hostile shore or in an enclosed body of water such as the Mediterranean might become unmanageable.

Is the strategic mobility that Gorshkov claims for his navy a cover for a new wave of adventurism involving limited nonnuclear naval wars? Was the Soviet combat naval presence hull down off Angola a harbinger? Why does the admiral make so much of his gift to the Soviet leadership of strategic mobility?

While Gorshkov is careful not to offend the army, his whole argument cannot fail to produce a question about the structure and purpose of massive Soviet ground forces. Does Gorshkov represent or head a group of thinkers who wish to deemphasize the huge army establishment of the Warsaw Pact in order to free resources for other tasks such as increasing domestic living standards? If this proposition has even small validity, who are the admiral's colleagues and his opponents in this venture?

Gorshkov does not discuss these and other vexing questions. He must know of their existence. His innate brilliance and his knowledge of Thales, Heraclitus, Hegel, Lucretius and Jomini, all of whose influence is quite apparent in *Sea Power*, as well as that of the classic Marxist writers, put him in a position to handle these speculative topics as well as anyone. Has technology and the wild race of events about us, overpowered even Gorshkov's ability to synthesize all he perceives into one construct according to the scientific laws of history?

All Is Not Vodka and Caviar After All. Certainly, Gorshkov does express well-modulated trepidation about the future. The admiral realizes that the importance of seapower and of a navy is not a constant either in Russian history or in the dialectical march of events. He fears that one day history may have no use for his splendid machine.

Oddly enough, in view of his present position, Gorshkov fears the ocean will become the main, perhaps the only, arena for the next war. He envisages savage naval engagements as surrogates for the blood-filled wars on Russian soil he wishes to avoid. Ruefully, he believes all countries will carry their wars to sea. He contemplates it as a vast launching pad for all nations' missiles, finally becoming a desolate no-man's land where victory, as heretofore understood, may have no significance.

Gorshkov worries about the methods and techniques of the battle itself. Do air-to-surface missiles fired undetectably hundreds of miles from target prevent the attainment of any kind of sea control? What is sea control? He wonders at the end of the book in the face of new technology, and how does one meld it to the proven ways of the sea?

The world, laments the admiral, is dotted by the imperialists' bases. How can the Soviet Navy achieve the superiority of position it needs to win a naval war? How will he get the money to build and maintain the fleets he believes necessary to defend fisheries, offshore oil and mineral deposits and the marine economic zones so necessary for a growth in Russian living standards?

Balefully, Gorshkov perceives a strategic shift of imperialist power from land to sea and wonders if the Soviet Navy can withstand new expansionist policies of the West. The admiral somewhat puzzlingly affirms the existence of a continuing power held and ready to be used by the West against the Soviet Union; a power not explicable by the scientific laws of history, a power he neither can fully perceive nor accurately describe.

CONCLUSION

Because Gorshkov's main points are chillingly important, we must understand why he writes as he does and what his primary concerns are. Even though Gorshkov's place in Russian military thought has not been argued through to its conclusion, *Sea Power* offers profound insights into naval problems America and her allies must solve for the sake of their countries' survival.

No Soviet newspaper publishes the hearings that must certainly be held in the Soviet Defense Ministry on strategic option-building programs and force levels. *Sea Power* is the closest firsthand look a lay reader will get inside the Soviet decisionmaking process. The distribution of 60,000 copies of this book inside the U.S.S.R., and the sale overseas of hundreds of bound editions at cheap prices indicate the Soviet Government wants the book read and understood.

Probably no author other than Gorshkov is better suited to outline the strategic, theoretical and operational framework of Soviet military policy for the balance of this century. Now a member of the Defense Ministry, Gorshkov has spent 20 years as CNO. This extraordinarily long tour has yielded the Soviet Navy unique stability in the design and operation of its ships, weapons and planes. Western admirals are fortunate if the ships designed on their watch are operational under their immediate succesors. Some ships launched and operated by Gorshkov have, by contrast, served a full 20-year term and now move into obsolescence.

The admiral is a man of high pragmatic accomplishment. No modern naval leader but Gorshkov has survived Moscow's internecine warfare to bring his navy from the backwaters of Eastern and Central Europe to a periscope view of the Statue of Liberty.

Who among us could fuse a discredited Slavic navy to the bankrupt philosophy of Marxism and produce a weapon that can help destroy Western civilization? Sergei Georgiyevich Gorshkov, Admiral of the Fleet of the Soviet Union and strategist, has written a book that will influence navies and governments for the rest of this century.

TRIBUTE TO SENATOR HUMPHREY

Mr. ANDERSON. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial tribute to our distinguished colleague HUBERT H. HUMPHREY. The editorial captures the essence of many of the contributions made by Mr. HUMPHREY.

There being no objection, the editorial

was ordered to be printed in the Record, as follows:

[From the Watertown (N.Y.) Daily Times, Nov. 25, 1977]

Humphrey's Monument: His Service

(By Alan Emory)

You could tell when they named a government department building after him. And then when the House of Representatives shattered all the precedents and asked him to address one of its sessions—an invitation no United States Senator had ever before received.

It was official Washington's way of doing something special for Hubert Humphrey while he could still enjoy it, and his reaction was much the same as it had been on the day he returned to the Senate and each colleague tried to outdo the other in praising the man from Minnesota.

Finally, Sen. Dale Bumpers of Arkansas leaned over to ask Mr. Humphrey whether he didn't think the Senators were laying it on a little thick, and Mr. Humphrey, who has been battling inoperable cancer, grinned broadly and allowed as how he didn't mind a bit.

But it is not buildings or speeches that will stand as monuments to Hubert Horatio Humphrey when the time does come for monuments. More than anything else his legacy to the American political scene will be the importance, value and deep satisfaction of public service superbly and unstintingly performed.

Government and politics have never been dirty words to Hubert Humphrey, and his example has been to encourage others to become involved in the decision-making process, to find out how rewarding it can become.

Those who have come to know Senator Humphrey over the years, both as lawmaker and political candidate, understand that a mass of concrete, steel and glass will never evoke the excitement and, to use his own word, joy, of the battle over issues and elections.

The remarkable record of ideas and proposals and programs that originated with him as mayor, as Senator, as Vice President and, even, as professor in the brief hiatus wedged into his public life by the results of the 1968 presidential election, will stand unmatched.

Senator Humphrey has been the champion of the blacks, the farmers, the workers and those out of work, the poor, the educationally disadvantaged, those striving for balanced and peaceful foreign relations and those who want the super-powers to reduce their superarms to the point where the world can stop worrying about being blown up tomorrow.

In this corner there is no memory of anyone in public life who thoroughly enjoys people the way Hubert Humphrey does, and if public service means anything it means service to people. He cannot pass the most casual greeter without stopping to exchange a few words and a vigorous handshake.

Washington is a brighter and happier place with Hubert Humphrey back in the Senate, albeit on a more restricted work schedule. That restriction does not curb the active mind and articulate expression that have characterized his work in government and relationships outside government.

So they can name all the buildings they want to for Hubert Humphrey, but they won't mean a thing. What will mean something is when someone enters public service on the local, state or federal level or runs for office because he wants to do something for people the way Hubert Humphrey has done things for people, because the satisfaction of that service is a reward that surpasses other rewards.

Hubert Humphrey went back into the hospital this past week for treatment of cancer. Washington cannot wait until he is released and gets back on the job, for good government and Minnesota's senior senator are one and the same.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to U.S. Census Bureau approximations, the total population of the United States as of December 1, 1977, is 218,102,055. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,797,729 since December 1 of last year. It also represents an increase of 136,411 since November 1, 1977, that is, in just the last month.

Over the year, therefore, we have added more than enough people to fill the cities of Baltimore, Md., and Seattle, Wash. And in just 1 short month, our population has grown enough to more than fill the city of Topeka, Kans.

VERDICT ON STEVE BIKO'S DEATH

Mr. KENNEDY. Mr. President, I join in expressing shock and outrage at the recent Pretoria court verdict clearing South African police of blame in the death of Steve Biko, the moderate leader of the Black People's Convention.

It is incontrovertible that Mr. Biko had suffered head injuries in the hands of the South African security police. Instead of receiving medical treatment, he was driven 700 miles in a landrover while naked and in a semiconscious state. I strongly agree with the State Department statement that:

> It seems inconceivable on the evidence presented that the inquest could render a judgment that no one was responsible.

It is not only a twisted legal system but a callous society that produces such gross mistreatment with such gross impunity. Mr. Biko is preceded by at least 20 persons known to have died in South African prisons this year, and by at least 23 who died under similarly suspicious circumstances last year. In no case have the racist authorities been brought to account by their vaunted system of justice, which must now be counted a farce in the international community.

The tragedy is that South Africa has lost in Steve Biko a moderate black figure of competence and intelligence. Instead of helping overcome the deep racial chasm in that tortured society—as he would have wished—he has become a symbol of hostility between the black majority and white minority. And yet it was Steve Biko who wrote that he looked forward to a "nonracial, just and egalitarian society in which color, creed and race shall form no point of reference."

Mr. President, on October 31, I had the privilege to cosponsor Senate Concurrent Resolution 60 on the death of Steve Biko, introduced by my good friend, the Senator from Iowa (Mr. Clark). I ask unanimous consent that the text of this resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Con. Res. 60

Whereas the circumstances surrounding the death of Steve Biko on September 12, 1977, while he was being detained by the Government of the Republic of South Africa, have aroused deep concern among Americans and within the world community; and

Whereas the Government of the Republic of South Africa on October 19, 1977, took a series of repressive measures against black and white opponents of its apartheid policy, including the closing of newspapers, the outlawing of peaceful religious and social groups, and the detention and "banning" of South African citizens; and

Whereas these repressive measures represent a serious violation of the rights of the persons and organizations affected and will further isolate the Government of the Republic of South Africa as a member of the international community; and

Whereas the United States hold such actions to be unacceptable: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress strongly denounces the above acts committed by the Government of the Republic of South Africa which suppress the expression of political thought and violate the rights of the individual, and urges the President to take effective measures against the Republic of South Africa in order to register the deep concern of the American people about the continued violation of human rights in that country.

CETA

Mr. HAYAKAWA. Mr. President, I believe one of this year's most objectionable congressional actions was the increase of CETA funds by $1.5 billion. The resulting budget jump from zero in 1976 to $2.5 billion in 1978 was passed by the Senate without much debate. I am, of course, deeply concerned about unemployment among youth—indeed it is a major concern of mine. I know that job training programs work for some young workers and not for others. I know that restrictions placed (often by trade unions) on what young workers are permitted to do make many of these programs a sham—so that young people come to despise themselves, the programs, and the society that gives them nothing better to do. I was willing, nevertheless, to go along with spending $1 billion to see what can be done for the idle young, although I had serious reservations.

A recent editorial in the Pittsburgh Press and two articles by the respected black journalist, William Raspberry, in the Washington Post unfortunately confirm that my misgivings were justified. Accordingly, I ask unanimous consent that these articles be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Pittsburgh Press, Oct. 19, 1977]

The Job Flop

In the past three years the U.S. Labor Department's Employment and Training Administration has dumped more than $1.6 billion in taxpayers' money into a nationwide program that was supposed to provide summer jobs and skills training for young people.

But the program has been an utter flop.

That is the word from the General Accounting Office (GAO) of Congress.

Indeed, almost everyone concerned with the program—the Labor Department, local governments throughout the nation, and non-profit organizations running it—knew it was a flop.

This past summer GAO sent investigators to check on job sites throughout New York City, where 70,000 youngsters were hired at a cost of $35 million.

They found that at half of the job sites large numbers of youngsters had nothing to do. Many were simply playing games—or were absent. Teenagers were being paid even though they didn't show up for work. Others were late but were not docked any pay.

In addition, neither federal or municipal authorities were monitoring the program adequately. Many so-called non-profit groups were running the program in the same slovenly way they had operated it in previous years.

These groups should have shaped up or should have been cut off from federal funds, but neither occurred, according to the GAO.

The GAO has been checking on this program since 1969. It has submitted almost a dozen reports. In every case the findings were similar to the New York City situation this past summer.

If this is how the Labor Department runs a fairly simple, short-range jobs and training program for a half-million youngsters, how would it run the proposed jobs and training program for 1.4 million welfare recipients?

Considering the department's track record, the President might serve the country by shoveling $1,000 bills out of airplanes.

[From the Washington Post, Dec. 2, 1977]

Kids Who Don't Know How to Work

(By William Raspberry)

It sounds like something your grandfather might say, but it is almost literally true that we are raising a generation of kids who don't know what work is.

And without discounting the problems of a sluggish economy, discrimination, wage rates and the rest, that is one of the reasons why so many people find it tough to get jobs.

An example: Several months ago, a local firm had a need for some part-time, temporary laborers. After consulting with local community-action groups, the firm decided to hire young men aged 17 to 21.

Listen to their boss, a young black man who had urged that they be hired in the first place:

"Twelve of the youngsters didn't have Social Security cards and didn't know what Social Security cards were. Several had no Selective Service card, driver's license or anything else that they could use for identification, and most of them were not cognizant of the fact that they needed basic ID.

"They could not fill out application forms and seemed totally unfamiliar with routine procedures.

"And their decorum was awful. The work wasn't hard—in fact it was easily possible to complete the work in five hours and go home, although we still paid them for eight hours. Yet, they could hardly get the work done in a full shift. They didn't know how to organize the simplest tasks.

"I'd wind up saying, 'Look, you're right-handed—right?—so why don't you take the thing this way, see, and move it over here so you don't have to keep going back and—but, first, take your coat off, okay?'

"At one point, we hired some white girls from a local college, and they would be finished in 6, 6½ hours, no sweat. The boys would be working two hours longer doing the same work."

The problem wasn't indolence, he stressed. The youngsters wanted the jobs, often desperately. "When we first advertised for the openings—three days a week, $3 an hour—kids were lined up outside at 5:30 in the morning, waiting for us to open up," the supervisor said. "And after they were hired, several would come up to me and ask if there was any chance they could get on full-time. I'd tell them, "Sure, if you show me you can work."

"Then they'd work an hour or so and go to the bathroom and stay 30 minutes, or go over in the corner and take a nap. Hey, it was a trip!"

Most of the youngsters, the supervisor said, had never held jobs where they were expected to accomplish specific tasks, to get something finished. As a result, they had no sense of mission, no awareness that the employer existed for any reason except to sign their paychecks.

For many of them, their total work experience had been either of the Neighborhood Youth Corps type or in make-work summer jobs, where they spent their days filing cards, stapling papers or, frequently, doing nothing at all. At any rate, doing nothing that needed doing. The jobs existed because the kids needed them, not because the employers needed the kids.

"I'm not saying we shouldn't have these programs," the supervisor said. "But some provision has to be made for kids to learn the things that we used to learn by hustling our own jobs. We learned how to dress, so The Man would think we really wanted to work. We quickly learned that if you didn't have your working papers, you were out of luck. We learned how to impress the right people—by doing the job more quickly than someone else, or by making suggestions or by volunteering to do something that obviously needed doing, although no one had been told to do it. These kids today don't even know how to b.s.

"These kids today don't even know what to wear to work. I mean, they'll show up in long coats and stacked-heel shoes. We used to rap a lot, and I'd try to help them understand how to get a toehold on a job and how to progress. The only thing some of them wanted to know was, how did I get my job?

"I don't know where the problem originates. I suppose it's because their counselors don't tell them, or because they don't have to sharpen their wits hustling their own jobs, or because there are no fathers, brothers or uncles to clue them in to how it's done."

All those things, no doubt, and this additional one: So many of the "good" jobs—particularly in a city like Washington—are inside office buildings and out of view, or they involve functions that, to the uninitiated, don't look like work at all.

And as a result, thousands of youngsters—many of them bright, ambitious and unafraid of work—are reaching adulthood without learning just what work is.

[From the Washington Post, Dec. 5, 1977]

Kids Who Don't Know How Little They Know

(By William Raspberry)

The dozen young black men on the other side of the one-way glass were eager and ambitious, though less than dead certain about their career plans.

According to the New York management consultant who told me about it, all were high school graduates, and at least half of them students in open-enrollment junior colleges.

"'What do you want to do?" a counselor asked them. The answers came back: "Get a job." "Play ball (professionally)," "Make me some money."

Few were even remotely realistic about their prospects.

One young man had gone to Brooklyn College to study accounting but soon had switched to Manhattan Community College and a record-keeping course. After graduation, he said, he expected to make "you know, maybe $25,000." Another, whose skills were hardly more sophisticated or any more in demand, thought he'd be knocking down "about 40 grand."

The one who wanted a "real job" defined it as a "white-collar job, you know, where I can tell a few people what to do. Like, I see them coming in and out of this building all the time."

Suppose things didn't go exactly as he planned; would he settle for something else, say driving a cab?

"No, man. I got to make 25 to 30 K, minimum." Six of the 12 expressed serious interest in mass communications, though none could define it, the consultant said. Two of them thought it had something to do with data processing.

"The one phrase that was repeated over and over, like it had been drilled into their consciousness, was their need for 'meaningful and relevant' jobs," he said.

He feared that most of them would be disappointed, because no one had bothered to tell them about the real world. For instance: "The graduation rate from junior colleges in New York City is 40 percent, and of that 40 percent the majority are women who've gone back to school to become nurses, technicians and so forth."

"I feel sorry for some of these kids," the New York consultant said. "They don't know how little they know. Their guidance counselors are scared to tell them they aren't really equipped to go to college, and once they are in college, they automatically reject certain kinds of work as beneath their education.

"But it starts even earlier than that. When I went to public school in New York, there were two diplomas: regents or vocational. Now they have these two, plus academic, general and attendance. The attendance diploma says only that you 'completed' 12 years of school—which you can basically do just by showing up."

It's a familiar phenomenon, sometimes the result of those in authority not really caring about the kids, but perhaps more frequently the result of misguided attempts to make their lives better.

Someone observed the income differential between high school graduates and dropouts, noted also the higher dropout rate for black youths, and concluded that it would be a good thing if more young blacks completed their high school education.

Fine. But we've been accomplishing that worthy goal, not by helping the young people understand the value of education and of perseverance, not by inspiring them to work harder and keep their grades up. We're doing it by making high school substantially easier—in effect, by promising them a diploma if they only stick around long enough.

Someone discovered that high school completion was no longer adequate to ensure a decent job. A college diploma was the ticket for the job lottery, it seemed. Not a college education, a college diploma.

And rather than risk having admissions officers keep large numbers of ambitious youngsters out of line for the job lottery ticket, we pushed the notion of open-enrollment colleges to which any illiterate possessor of a meaningless high school diploma could gain automatic admission. Maybe next we'll make the awarding of the college degree automatic as well.

But, there ends our ability to smooth the way. We can't demand that prospective employers treat these counterfeit lottery tickets as genuine. So what finally happens, after all our years of care and concern, is that the youngsters discover that they are unemployable, that they have been had—not by "society" but by us.

And not just the ones who took the easy ride. We are in danger of creating a situation in which certificates from certain high schools and colleges will be an actual detriment to their possessors—even those who earned them."

LORNE GREENE'S TRIBUTE TO SENATOR HUMPHREY

Mr. ANDERSON. Mr. President, since Senator Humphrey's return to the Senate on October 25, many well-deserved tributes have been paid to our colleague by Members of Congress. Prior to returning to Washington, D.C., on October 20, the Minnesota Society sponsored a dinner in honor of Hubert H. Humphrey, in part to raise funds for the Humphrey Institute of Public Affairs at the University of Minnesota.

One of the speakers at the Minnesota Society dinner was Lorne Greene, the respected actor and a long-time close friend and supporter of Senator Humphrey. Mr. Greene's remarks particularly impressed me for they expressed eloquently the deep personal respect and affection that so many feel for Hubert H. Humphrey.

Mr. President, my colleagues will all be impressed with Lorne Green's tribute to Senator Humphrey and I ask unanimous consent that Mr. Greene's remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record. as follows:

Tribute to Senator Hubert H. Humphrey

(By Lorne Greene)

I am very happy to be here tonight. I flew in from Vancouver, Canada, this afternoon. It was a long trip, but I would do it again and again for our dear friend Senator Hubert Horatio Humphrey.

And I am pleased as punch to see so many friends here tonight to honor the great Senator. What a man we are honoring. What a shining example of faith and courage. He is unique. A rare breed. He would have fitted well with the Founding Fathers had he been born in that time and there's no doubt that he would have been one of them.

But we are fortunate that he is of our time. He is a modern Founding Father.

Imagine the enormous energy and initiative of the man who imprinted the most indelible changes for human progress in America in this century. I am so proud to be the friend of the man who brought the sunshine into the Democratic Party in 1948 in the struggle for civil rights which culminated in his Civil Rights bill . . . then there was the great fight for Medicare, and the Peace Corps, and the Jobs Corps, and his leadership in the fight for proper nutrition for all people and his belief in their right to live in the Nuclear Non-Proliferation Treaty, and so much, so much more.

Whatever cause Hubert espouses, is always a just cause. He has such a great sense of decency and fairness. More than that, no one in his presence ever feels depressed. He makes them feel light and happy and full of hope. Sunlight is his ambience, not darkness. He has never lived for personal gain or profit, only to make things better in this world for all of us. Speaking for Nancy and myself, Hubert Humphrey renewed our faith in politics and politicians. He never allowed politics to make a cynic of him, never allowed reality to make him lose sight of his goals and ideals and his faith in human nature, and he never allowed his ideals to cloud his sense of reality.

He is not here tonight and he is sorely missed. We need him perhaps more than ever. We need his strength, his quick and accurate perception, his marvelous sense of humor, his down to earth practicality, and we need him to keep talking to us and telling us things we might otherwise be too likely to forget. And we need to pray for the miracle of his recovery.

We need his extraordinary vision and humanity for some time to come. Leaders may come and leaders may go, but I suspect that when history records the great social advancements of our time, the impact of the man who never became President may just outweigh them all.

DAVID BRUCE

Mr. PERCY. Mr. President, the death of David K. E. Bruce is a great loss for our country as well as for his family and friends. He was an ambassador par excellence who served the United States in major posts abroad, in Paris, Bonn, London, Peking, and NATO. He was highly respected as an Undersecretary of State and an Assistant Secretary of Commerce. He was a special representative to the European communities.

For those of us who were privileged to know him personally, he was a man of character, intelligence, judgment, and discretion. He was a wonderful and thoughtful friend. Our deepest sympathy goes to his beloved wife and close companion, Evangeline.

I ask unanimous consent that the David Bruce obituary published in the Chicago Sun-Times of December 6, 1977, and that of the New York Times be printed in the Record.

There being no objection, the obituaries were ordered to be printed in the Record, as follows:

China Liaison David Bruce, 79, Dies

Washington.—David K. E. Bruce, the first U.S. liaison to China after the 1972 thaw in relations and a major diplomatic figure for more than a quarter century, died Monday in Georgetown University Medical Center after suffering a heart attack. He was 79.

Mr. Bruce was ambassador to France in 1948–49, West Germany in 1957–59 and Great Britain in 1961–69.

Although he was only briefly a member of the Foreign Service in 1924, he became one of the United States' diplomatic giants.

He was undersecretary of state in 1952–53, an assistant secretary of commerce in 1947–48 and a special representative to the European communities.

During World War II, he was chief of European operations of the Office of Strategic Services, forerunner of the Central Intelligence Agency.

A registered Democrat, Mr. Bruce was lured from retirement in 1971 by President Richard M. Nixon to lead the U.S. delegation to the Vietnam peace talks in Paris. Frustrated by the slow progress of the talks, he retired once more a year later, only to be called again by Nixon in 1973 as the first head of the U.S. liaison office in China.

Mr. Bruce retired for good in 1976 after serving under President Gerald R. Ford as ambassador to the North Atlantic Treaty Organization. Ford presented him with the Medal of Freedom.

Three Democratic and three Republican Presidents relied on Mr. Bruce for advice in sensitive diplomatic roles, and he once was asked how he was able to retain the confidence of a succession of administrations.

"The cardinal rule for an ambassador in a foreign country is to cherish no antipathies or attachments for particular domestic political parties or programs," he replied.

He was the author of a history of the early days of the American Presidency called "Revolution to Reconstruction."

Mr. Bruce—a patrician who looked the part—was silver-haired, slim and always impeccably tailored. He was one of the members of a wealthy landed family, the Bruces of Maryland and Virginia.

He was divorced from Alisa Mellon in 1945. After that, he married Evangeline Bell, who has a deep interest in the arts. They had three children, Alexandra, David and Nicholas.

David K. E. Bruce, Diplomat, Dies

(By Albin Krebs)

David K. E. Bruce, one of the nation's most gifted and seasoned diplomats, died early yesterday at Georgetown Medical Center in Washington.

Mr. Bruce, who was 79 years old, suffered a heart attack Sunday at his home and was admitted to the hospital at 10 P.M. He had been retired since early 1976 after having served 16 months as chief United States delegate to the North Atlantic Treaty Organization.

Upon his retirement, he was awarded the Medal of Freedom.

Secretary of State Cyrus R. Vance said in a statement yesterday that Mr. Bruce had "served the United States with great distinction" and "was among the most eminent diplomats of his generation."

Mr. Bruce was a man of great charm, wit and sympathy, whose easy skills at cooling sometimes heated situations led him to a distinguished career that included heading three of his country's premier embassies, those in London, Paris and Bonn.

He was highly regarded in all those capitals, particularly in London, where he was Ambassador for eight years, the longest that anyone ever held that post. He also served in less glamorous and more vexing diplomatic assignments, such as the job he took on in 1970—head of the American delegation at the stalemated Paris peace talks to end the war in Vietnam. In addition, he was the first head of the U.S. liaison office set up in Peking in 1973.

After serving as Ambassador to France from 1949 to 1952, Mr. Bruce returned to Washington to become Under Secretary of State, and in 1953, he was made the special United States observer at the European Defense Commission and later was appointed representative to the European High Authority for Coal and Steel.

In the two latter posts, Mr. Bruce strove to achieve a united Europe, an undertaking that was only a partial success. He later regarded the breakdown of attempts to completely unify Europe as "a great failure for the United States as well as a great personal failure."

SERVED SIX MONTHS

Mr. Bruce was a Democrat, but in his diplomatic roles he was strictly nonpartisan. He took on assignments from Presidents Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, Richard M. Nixon, and Gerald R. Ford.

Upon his first "retirement" from the State Department, in 1969, when he left his post in London because of health problems, Mr. Bruce said, "The cardinal rule for an ambassador in a foreign country is to cherish no antipathies or attachments for particular domestic political parties or programs. This, fortunately, does not forbid him to contract friendships regardless of parties, or love the country of his residence dispassionately."

Mr. Bruce was called out of retirement a year later for the Paris Vietnam talks, then the Peking post, and in 1974 he became the American representative to the North Atlantic Treaty Organization in Brussels. He was then 76 years old.

Mr. Bruce was a descendant of old and distinguished Maryland families. His father, William Cabell Bruce, was a United States Senator from Maryland and was noted as a lawyer and an author (his biography, "Benjamin Franklin, Self-Revealed," won the Pulitzer Prize in 1918). Mr. Bruce's mother was the former Louise Este Fisher, a member of one of Baltimore's first families. His older brother, James, was to become Ambassador to Argentina in the 1940's. Born in Baltimore on Feb. 12, 1898 David Kirkpatrick Este Bruce had a comfortable upbringing, attending private schools and moving in the best circles. He entered Princeton in 1915, but left in 1917, in his sophomore year, to enlist in the Army. While serving in the artillery in France, he received a battlefield commission and was discharged as a first lieutenant.

DELIVERING A PIANO

After the war Mr. Bruce served briefly as a diplomatic courier in Europe, quitting in disgust after being assigned to deliver a baby grand piano to a Y.M.C.A. in Istanbul. He attended the law schools of the University of Virginia and the University of Maryland, and after being admitted to the Maryland bar in 1921 set up practice in Baltimore. In 1924 he was elected to the Maryland House of Delegates.

He joined the Foreign Service the following year and was assigned to Rome as a vice consul, with the primary duty of screening would-be emigrants to the United States. While in that job Mr. Bruce met Benito Mussolini and told him, undiplomatically: "I've been here for six months and my luggage is still being held by your Customs." Hours later the luggage was delivered to his apartment.

During the 1930's Mr. Bruce, who had established residence in Virginia, bought a 500-acre tobacco plantation and worked it as a gentleman farmer. He also invested in a plant that manufactured parachutes in Virginia. In 1939 he was elected to that state's House of Delegates.

His tenure was short-lived, however. By the following year war had erupted in Europe, and Mr. Bruce, he recalled years later, "knew instinctively that within months we would be deeply involved." He sought and won appointment as the chief representative of the American Red Cross in London. Even before the official entry of United States into the war late in 1941, Mr. Bruce had been recruited by Maj. Gen. William J. Donovan to be the general's right-hand man in the formation of the Office of Strategic Services, the intelligence-gathering organization that was to evolve into the postwar Central Intelligence Agency. From 1943 until 1945 at the height of World War II, Mr. Bruce commanded the O.S.S. in the European Theater of Operations.

WED MELLON'S DAUGHTER

Mr. Bruce came from a moderately well-to-do family, and never had to do without. He did not become a rich man, however, until after he married his first wife. She was Ailsa Mellon, the only daughter of Andrew W. Mellon, the multimillionaire industrialist who was Secretary of the Treasury at the time of his daughter's marriage to Mr. Bruce in 1926.

The following year, Mr. Bruce left the Foreign Service and moved with his wife to New York, where, for the next several years, he was active in the management of the Mellon business interests and in the firm of W. A. Harriman & Co. (At one point he was a director of some two dozen corporations.) While acquiring the base for a fortune, Mr. Bruce became the close friend of W. Averell Harriman, who was later to have a hand in getting him back into diplomatic channels.

David and Ailsa Mellon Bruce were divorced in 1945. Their only child was lost with her husband, Stephen R. Currier, in a 1967 airplane crash in the Caribbean.

Later in 1945 Mr. Bruce married Evangeline Bell, daughter of a career Foreign Service officer, and they had three children, Alexandra, David and Nicholas. Their daughter died in 1975.

Evangeline Bruce, a woman noted for her taste and beauty, loved her husband's assignments abroad, but managed at the same time to preside over the couple's three permanent households, a red brick house in the Georgetown area of Washington, a Gothic-type mansion on the old tobacco plantation in Virginia and an apartment in London.

In 1947, at Mr. Harriman's urging, Mr. Bruce served as Assistant Secretary of Commerce and the following year became chief of the European Cooperation Administration Mission to France, a job in which he channeled Marshall Plan aid into France's postwar recovery. In 1949 he became Ambassador to Paris and remained there until 1952 and his return to Washington to be Under Secretary of State.

In 1957 President Eisenhower ignored the protests of his fellow Republicans over Mr. Bruce's $1,000 campaign contribution to the 1956 Democratic campaign and appointed him Ambassador to West Germany. President Kennedy sent him to London in 1961.

The Bruces were admired and loved by the British, who appreciated their knack for seeming down-to-earth, taking their children to a pub for traditional steak and kidney pie washed down with a pint of bitter. (Mr. Bruce was also a gourmet of great sophistication and kept impressively stocked wine cellars in his homes.) The embassy in London entertained all sorts of people—writers and artists, long-haired dropouts, the socially prominent and the politically powerful.

As Prime Minister Harold Wilson told Mr. Bruce, "Your ambassadorial epitaph will never contain the phrase 'United States Ambassador to the Establishment.' "

Mr. Bruce was a man of singular grace who seemed able to perform any task, whether diplomatic, social or financial, with a refreshing admixture of charm, toughness, amiability, slyness, wit and an aura of offhanded expertise. He had a reputation as a man of reason, capable of being polite and quietly analytical on the most agitated of subjects. When a diplomatic bargaining discussion turned uncomfortably overheated, he was apt to cool matters with generous pourings of Dom Perignon.

He moved in a richly embossed world, one in which he could keenly discuss the most esoteric of books and speak learnedly on such subjects as fine silver and furniture. An avid and knowledgeable art collector, he at one time served as president of the National Gallery of Art in Washington. Mr. Bruce's knowledge of the arts stood him in good stead in discoursing on diplomatic problems. "In political affairs," he once told a news conference in Bonn, "the inability of nations to compose their differences constitutes a disharmony that would be insufferable to any art-loving audience."

A raconteur of considerable repute, Mr. Bruce liked to regale his friends and audiences with anecdotes about an assortment of relatives, his favorite being a 102-year-old grandmother. He once told a delighted audience about "the old lady, who had long abandoned any effort to communicate with her relatives, addressing them only in French, a language none of them understood. "She loathed Baltimore," he said, "although she acknowledged the excellence of its shellfish." When fire swept the city, he said, his centenarian progenitor perched on her roof "There goes the national bank!" She had and made joyous exclamations such as, her bonds in that bank, Mr. Bruce said, but she later explained she had always detested its architecture.

Despite his smoothness and calm demeanor, however, Mr. Bruce could on occasion be blunt. At one point, during the frustrating Vietnam negotiations in Paris, he became incensed after Xuan Thuy, the North Vietnamese representative, began an intemperate, personal attack on President Nixon.

Mr. Bruce told him coldly: "Your choice of words and your attitude . . . with regard to President Nixon [are] shameful and completely inadmissible. At least one should be courteous if one cannot be quiet." He added testily that "there have never been any true negotiations."

Mr. Bruce's role in the Paris talks ended in frustration and deadlock on July 29, 1971, but later it was revealed that with his help, Secretary of State Kissinger had had secret talks with the Communist side that eventually helped break the deadlock.

A GRACEFUL SPEAKER

Mr. Bruce, who walked with a slight limp because of a wartime injury or gout (none of his friends was able to determine the exact cause), was well over 6 feet tall. He spoke fluent French, but found it rough going in Bonn because he knew little German. He was a graceful extemporaneous speaker with a trace of a Tidewater accent. He dressed excellently and unflashily.

A man of exceptional warmth and generosity, he never hesitated to spend his own money in carrying out his diplomatic assignments. For example, when he was Ambassador to France, he used nearly the entire annual entertainment expense allowance furnished by the State Department just for the traditional Fourth of July party for the American colony in Paris. He thus assumed responsibility for the payment of all other debts in connection with embassy receptions and entertainments for the rest of the year.

Discussing the role of an ambassador, Mr. Bruce once said: "The dictionary definition of diplomacy is the simplest and most accurate of all—diplomacy is the management of international relations by negotiation. It is not a system of moral philosphy. It is rather the application of intelligence and tact to the conduct of official relations between the governments of independent states."

THE 60TH ANNIVERSARY OF THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. BURDICK. Mr. President, I take this opportunity to pay tribute today to the National Federation of Federal Employees, the oldest of all general Government employee organizations and the largest independent union of Federal employees in the Nation.

The National Federation of Federal Employees, this year celebrating its 60th anniversary, was founded at a time when Government workers had seen no general pay increase for 50 years and World War I had increased the cost of living to the point of causing financial problems for many. Among the goals adopted at the Charter Convention of NFFE in 1917 were: A retirement program for Federal employees, a modern system of duties classification, elimination of the spoils system, and establishment of a sound personnel system, and broader scope for the Civil Service Commission. The National Federation of Federal Employees has made and continues to make a key contribution toward achieving these and other very worthwhile goals.

I ask Senators to join me in saluting the National Federation of Federal Employees and in recognizing the accomplishments of an organization whose purpose, as stated in its constitution, includes "to aid in the perfection of systems that will make for greater efficiency in the various services of the United States."

THE CASE FOR INCREASED TRUCKING SAFETY

Mr. PERCY. Mr. President, in recent months, I have made several statements in the Senate concerning the lack of adequate truck safety on this Nation's highways. As the Nation's truck population continues to grow, and as Americans gradually turn to smaller cars, the lack of truck safety will become a greater, even more serious problem.

Secretary of Transportation Brock Adams has pledged to do his best to use the resources of the Department of Transportation to combat safety violations. I intend to enhance the Department's statutory power in the safety area by introducing a comprehensive truck safety bill early next year. Specifically, this legislation will be aimed at increasing the use and amount of civil fines for violation of safety regulations, extending protection to truckers from employer discrimination for refusing to drive unsafe equipment or break Federal safety regulations, and providing incentives to States to adopt adequate safety programs.

A recent article by Robert Sherrill in the New York Times magazine excellently outlines the problem of truck safety. He writes that—

> Truckers are operating all too often outside the law, greatly endangering other motorists and causing extensive damage to the interstate highway system.

Mr. President, it is important to point out that many truckers are conscientious about safety. Others would be, were it not for trucking company demands and schedules. But there are so many big trucks on the roads today that this problem cannot be ignored; it has reached proportions that demand congressional action.

Mr. Sherrill has discussed this timely issue with precision and facts. I ask unanimous consent that "Raising Hell on the Highways" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RAISING HELL ON THE HIGHWAYS

(By Robert Sherrill)

I got 10 forward gears and a Georgia overdrive
I'm takin' little white pills and my eyes are open wide
I just passed a Jimmy and a White
I been passin' everything in sight
Six days on the road, and I'm gonna make it home tonight.

—"Six Days on the Road," by Earl Green and Carl Montgomery.

Americans are strangely sentimental about the heavy, long-distance truck—the tractor-trailer outfit with a dozen or so gears and a dozen or so tires that washes the highways with waves of terrible noise and vibrations and towering arrogance. Trucks now carry about one-third of the nation's intercity merchandise, and we probably could not do without them, but they are nonetheless one of the great abominations of the Asphalt Age.

Yet they and the men who drive them do, like Beelzebub, have a unique attraction for many people. Jane Stern, who hitchhiked with truckers for three years to gather material for her book "Trucker," subtitled it "A Portrait of the Last American Cowboy." She has a point, for truck drivers have inspired as much inflated myth as cowboys of another era, and when you consider the long hours, the bad food, the boringly macho aura and the casual attitude toward the law that was and is characteristic of both careers, it is not hard to see why truckers and cowboys are lumped together.

Even a writer for the staid Smithsonian magazine becomes a bit giddy over what he calls "the new folk hero." Citizens-band radio, once used only by truckers to circumvent the highway patrol, is embraced with gabbling bravado by the middle-class motorist. Country-western musicians crank out endless variations on the theme of the trucker's lonely road. Movies—at least since Bogart and Raft performed in "They Drive by Night"—keep going back to muscular truck drivers for basic schmaltz. Politicians, always eager to find some way to seem close to the commonest folks, apparently enjoy being intimidated by truckers who brandish their rigs like weapons. Hundreds of heavy trucks descended on Washington to roar around the Capitol in support of strip mining; when a Congressional subcommittee met on the West Coast to discuss legislation to protect the redwoods, scores of angry truckers drove their vehicles, laden with heavy tree-cutting equipment, into San Francisco to tie up traffic. The use of trucks in this way, trying to win economic debating points by paralyzing traffic, has become increasingly commonplace. But politicians and the general public, if they are offended by the ignominy of being bullied, certainly do not raise much protest. When motorists traveling at moderate speeds look into rear-view mirrors and see the back windows filled by the grilles of tailgating trucks, they may curse in terror, but they seldom try to get their curses translated into stiffer law enforcement. The drivers of small cars seem to accept as a routine part of life that they must fight the steering wheel for stability in the 70 mile-per-hour wake of passing trucks. The new folk hero is tolerated when not idolized.

Whatever pleasure Americans get from indulging themselves in the Romance of Trucking comes at a very high price—in lives lost, dollars wasted and driving comfort surrendered. Moreover, it is an indulgence in veneer, not in the reality, of trucking. The reality of this $108 billion industry is not to be found at the counter of a neon-lit truckstop but in the executive suite of American Trucking Associations Inc., the principal Washington voice of the industry, a voice that harmonizes with other rich lobbies representing oil, rubber and highway-construction interests.

In one of the few recent challenges to the association's influence over Congress, Representative Edward I. Koch, now Mayor-elect of New York, tried to to get a rollback of allowable truck weights. Just before the vote was taken, Koch told his Congressional colleagues, "We have been lobbied to death in this Congress by the truck lobby. In the judgment of some, it is at least as big as, and perhaps bigger than, the military-industrial lobby. . . . The largest lobby in the country today is the trucking lobby, and they have got to be stopped and stopped on this floor." He may have been exaggerating, but the ease with which it defeated him indicated he wasn't exaggerating much.

The reality of trucking it that if it is dominated not by the individual trucker, not by the owner-operator, but by corporations owning thousands of rigs each—outfits like McLean and Yellow Freight and TIME-DC. Theirs is not the jargon of CB radio but of the ledger, and the life they have created for their drivers is often not so much an adventure as an ordeal. But the Romance of Trucking serves the motor-carrier corporations very well. In lieu of comfortable and safe working conditions, they serve up another verse of folk heroism for their drivers. Some are simple enough to be satisfied with that, but many others resent being portrayed as happy, defiant, whistling highwaymen. "I'd give anything, I'd get down on my knees and pray, if it would do any good," says Lincoln Merrill of Winston-Salem, N.C., for 17 years a line driver for Roadway Express, "if I could convince the public that truck drivers are forced to be the unwilling participants in all sorts of unsafe practices because our union and the Government are in collusion with the trucking companies."

The truck population, swelling everywhere, has reached plague proportions in some parts of the country. The federally regulated ton-miles of truck traffic has more than doubled since 1960, and the Highway Users Federation—500 businesses and industries that feed off the highways—predicts that during the next 15 to 20 years, while auto travel increases 30 to 50 percent, truck traffic will double again.

As trucks have increased their domination of the highways, they have also increased their slaughter. The truck lobby boasts that trucks are the safest vehicles on the highways, if the judgment is based on how many people they kill per million miles. Quite true. But unfortunately there are getting to be so many big trucks on the highways, and each truck driver travels so many more millions of miles than the typical motorist, that they must be considered just as dangerous as they look and sound.

Of the four million trucks rolling today, about one million are the biggies, weighing up to 80,000 pounds (and, by special permit, even up to 130,000). These behemoths have an especially wicked kill rate. Of fatal highway accidents in 1975, Government figures show that 7.8 percent involved heavy trucks. In 1976 their share of the carnage moved up to 8.9 percent—a rather impressive score, considering that these heavies constitute less than one percent of vehicles on the road. Considering also that while all fatal highway accidents increased only 1.2 percent between 1975 and 1976, those involving heavy trucks soared 16.8 percent.

When the collision is between a heavy truck and auto, it's goodbye motorist. The University of North Carolina's Highway Safety Research Center analyzed 2,776 crashes between heavy trucks (all weighing more than 24,000 pounds) and autos; 2.8 percent resulted in a death—a mortality rate 14 times higher than the rate for auto-auto accidents. They found that seven out of eight times it was the car occupant, not the truck driver who was killed. And the heavier the truck, the deadlier. The National Highway Traffic Safety Administration found that deaths among the car occupants increased by 1.1 for each 10,000 pounds in added truck cargo.

To a large extent, the increased involvement of heavy trucks in highway slaughter can be blamed on a Congress and a Federal transportation bureaucracy that, for nearly two generations, has had a policy of doing as little as possible to guarantee the public's safety.

Most state governments have a permissive attitude toward the trucking industry, but the pattern and spirit of this permissiveness is set in Washington. Motor-carrier companies are rarely forced to adhere to safety laws, and the laws that they are supposed to adhere to are antiquated. If they operate safe equipment and give their employees safe working conditions—and some do—it is out of corporate benevolence, not out of fear of Federal or state sanctions. Nor do they fear pressures from the International Brotherhood of Teamsters, which did not get around to establishing a safety department until 1973; it has been one of the less aggressive union offices.

Jurisdiction over safety in the interstate truck industry is largely in the hands of the Bureau of Motor Carrier Safety. As a policing agency, the B.M.C.S. could be fairly described as a minifarce—intentionally set up and perpetuated by Congress in such a way as to give no more than the appearance of concern. The B.M.C.S. is debilitated by lack of funds, buried under a slag heap of superior bureaucracy, and its personnel, absurdly few for the task, are trained to a high degree of inefficiency.

The B.M.C.S. started life as an adjunct to the Interstate Commerce Commission, probably the most unabashedly proindustry regulatory agency in Washington. Most of the B.M.C.S.'s enforcement personnel learned their bureauratic survival skills in the I.C.C. days. When the Department of Transportation was established in 1966, the B.M.C.S. came over as a part of the Federal Highway Administration. The FHWA is now headed by William M. Cox, who until his appointment by President Carter, was vice president of a Kentucky trucking company operating 700 tractor-trailer units. The FHWA has always been much more interested in serving commerce with bigger and wider highways than with the safety of the motoring public, and under Cox it has shown no sign of changing.

But for all their faults, B.M.C.S. officials don't compound their failure with hypocrisy. They know they don't amount to beans. Howard L. Anderson, associate administrator for safety at the Federal Highway Administration, is policy boss of the B.M.C.S. He gives this honest appraisal of the bureau's work:

"There's around three million heavy trucks we have jurisdiction of. And around four million drivers. That's interstate trucks, heavy trucks, not the cement trucks and delivery trucks around town. We have to set regulations for drivers' physical qualifications, and enforce them. Then we have to take the vehicle and determine whether it is a safe commodity, and we have to decide if the carrier is complying with the safety requirements, and then whether the driver is operating the vehicle properly after he gets in it.

"We have 128 investigators in the United States. That's right—128. They handle all enforcement activities. You know, three million trucks and four million drivers is a lot of trucks and drivers for 128 people to regulate. You take any small suburb of New York City and you will find 600 or 700 police enforcing the laws of that suburb. To do the safety job right, says Anderson, would take between 1,000 and 2,000 investigators."

"So what you're talking about," says William Russel Fiste Jr., head of the bureau's Regulations Division, "essentially, is a voluntary program. We take action against only the most flagrant violators." In fact, the bureau rarely takes any action against even flagrant violators, and it does not normally discover these flagrant violators except by accident. Its record gets progressively worse. According to the Government Accounting Office, 10 years ago the ratio of commerical vehicles to Federal safety investigators was about 22,000 to 1, and about 3 percent of these trucks were inspected. Today the ratio is about 32,000 to 1, and the bureau is inspecting less than 1 percent of all interstate commercial vehicles.

The bureau's investigators hang out at state weigh stations and watch the trucks roll by. Once in a while, if they don't like the look or sound of a truck as it approaches the scales (if, for example, they notice something obvious like the hiss of a leaking air brake), they will flag it to the side for an inspection. Pierson says his investigators give the visual-audible once-over to about 80,000 trucks a year—a trifing fraction of the total in service. Out of these, they usually give about 25,000 to 30,000 trucks a full half-hour inspection. And between one-third to 40 percent of the trucks receiving the fuller inspection turn out to have "imminently hazardous" defects. They are impounded until fixed. Twelve thousand trucks were impounded last year.

How many unsafe trucks slip across the scales without a glance from Federal investigators? Nobody knows. "It's a sampling at best," acknowledges Pierson. "If one were going with the probabilities, the probability of being stopped, inspected and impounded isn't that great."

Nor is the risk of being punished for violating safety regulations. There are about 160,000 motor-carrier companies in this country, about 17,000 of which are licensed by the I.C.C. for interstate operations. In a typical year, the B.M.C.S. will take no more than 500 to court for lawless behavior, and the total fines resulting from these court encounters usually amount to considerably less than $1 million—hardly enough to frighten an industry whose regulated part alone takes in well over $20 billion a year. It is more profitable, some companies feel, to keep rolling and pay the petty fines than it is to take trucks out of operation for safety repairs. Interstate companies can have their licenses revoked by the I.C.C. but only twice in the last 10 years has it taken such action against firms that operate dangerous clunkers.

Although Federal law says that no driver can be forced to take out unsafe equipment, drivers have been fired for refusing a clunker, and the Teamsters Union, which has a cozy relationship with management, does not always fight for their re-employment. Nor have Federal officials always responded to drivers' safety complaints with much sympathy. Some drivers claim that when they specifically requested bureau investigators to inspect a dangerous defect they were told to move along and stop holding up traffic.

Some of the regulations are stunningly outdated. Federal law permits 60 hours of driving in seven days, 70 hours in eight days. It stipulates that a driver can be on duty for 15 hours but that he can actually drive for only 10 before getting eight hours off. That law is nearly 40 years old. It was put on the books when trucks were half the size and capable of half the speed they are today, and when traffic was half as thick. But until recently Federal highway-safety officials did not seriously consider imposing more humane working conditions on the industry even though they admit that driver fatigue is the No. 1 safety problem in trucking.

They could hardly say otherwise. Their own statistics covering major truck accidents from 1973 to 1976 show that physical exhaustion played a role in 32 percent of the cases. A study done for the Department of Transportation in 1972 found that after four hours behind the wheel, truck drivers begin making a "significant" number of errors and suffering a significant decline in alertness. It found that, after about seven hours of driving, "the frequency of accidents increased disproportionately." Worse, the study showed that after nine hours on the road a driver is too drained to recover from an ordinary rest break—indeed, that "there was not only no recovery but a further decline in psychophysiological arousal following that break." And it found that all of these physical problems were greatly intensified after fours days on the road.

Since profits take precedence over safety, Federal officials generally ignore the hours-on-duty regulations and let the highways fill up with exhausted truckers. Bob Green, a former produce trucker and now a reporter for Overdrive, a publication that caters to independent truckers, says, "Most produce is handled from Texas to New York City—2,200 to 2,500 miles—in 72 hours, and it doesn't pay enough to warrant using two drivers per truck. Some shipments are made from California to New York City in 72 hours. [Some by two drivers per truck; some by one.] The only way you can do that is to average 50 miles an hour for three 20-hour days. And the drivers know they've got to make it. If they're a few hours late, the people on the other end may refuse to take the shipment."

When Green was driving, he often did the produce trip from Florida to California, 3,200 miles of steady driving except for a six-hour fall-over in El Paso. He says others are still pulling similar marathons all over the country. "How do you think produce is picked in Florida one day and on the shelves in New York City the next day?" asks Bill Scheffer, national vice president of the Independent Truckers Association.

Many independent drivers are willing to undergo great fatigue because, for the luxury of being their own boss, they are often strapped with a $50,000 tractor-trailer outfit that they must pay off in three years. They can't afford a weekend at home, can't afford the kind of layovers on the road that permit digestion and enough sleep, and they feel that the 55-mile speed limit violates some primitive compact by which a person should be free to gamble his life (and others' lives) for his livelihood. An I.T.A. press release argues: "If Gary Gilmore can be allowed to kill himself, or be sentenced to death, then the nation's speeding motorists should have the same right."

But if the independent truckers are willing to risk lives in pursuit of the buck, they are no more responsible in this regard than many regulated trucking companies that subject their drivers not only to long but also erratic schedules. Bill Berryhill, a former Teamster official and 14-year driver out of Hagerstown, Md., says, "It's very common for a driver to be awake 24 hours. What happens is, you'll be eligible for a call, say, at 10 o'clock in the morning to run at noon. O.K., they do not call you. You sit by the telephone and wait for this call eight to 10 hours, maybe 12 hours, before the company calls you. By the time you get away from the terminal, you should be going to bed but instead you're heading out on a 10-hour run. You are out there on the road driving a vehicle after you have been awake 20 hours. And that is very, very commonplace."

Officials of Professional Drivers Council (PROD) say their files are loaded with letters from drivers making the Berryhill complaint. PROD is a lobby of about 6,000 dissident Teamsters who don't feel that their union is scrapping hard enough for safe working regulations. Arthur L. Fox 2d, former executive director and still attorney for PROD, claims that the B.M.C.S. has interpreted the hours-of-service regulation so loosely that companies "frequently" force drivers to work "close to 100 hours by conventional notions of what constitutes work" while stringing together 70 hours of driving in an eight-day period.

Aside from the long hours that bring it on, fatigue will also finally envelop drivers as the result of physical punishment inside the cab: fumes from defective exhaust stacks, noise levels that damage hearing (110 decibels in some cabs—greater than the noise level of the Concorde at takeoff) extremely cramped seating, and so much jolting and bouncing that drivers commonly suffer back and kidney disorders.

Government transportation officials have known of these sources of fatigue for years. You can go back to, say, 1971 and find a group of medical researchers from Michigan trooping to Washington to lay out all of these before a Senate labor subcommittee. They told how drivers finally become virtually hypnotized from staring at the roadway, how vibrations from high-powered truck engines causes fluid shifts within a driver's body and, from that, chronic and permanent lung damage. At about the same time, Ralph Nader came out with his poll of 1,300 truck drivers, 61 percent of whom said that taking pep pills to stay awake was "widespread" in their ranks. Eighty percent of the drivers admitted to having dozed at the wheel despite taking the pills.

But what has happened as a result of these disclosures? Virtually nothing at all. Drivers are still hallucinating from exhaustion. Pep pills, as FHWA's Anderson admits, are still being used, though nobody knows to what extent. One of the drivers who was a witness at the 1971 hearings says today, "the only difference our testimony made was it raised the price of goofballs."

If anything, new truck designs have made working conditions even worse and fatigue more certain.

Faced with an overall vehicle length maximum of 55 feet in most Eastern states and greedy to exploit the last cubic inch available under the regulation, carriers have begun using shorter cabs and longer trailers. Some cabs are so cramped that the drivers bump their knees on the dashboards. Ralph V. Durham, the Teamsters' safety director, says some tractors offer only 12 inches between the steering wheel and the back of the seat, forcing husky truckers to drive with their bellies rubbing against the wheel. The latest design for exploiting load space is the "cab under" tractor. Designed by Strick Corporation to give the trailer 600 cubic feet more payload space, the truck looks like a small crab scuttling along with a whale on its back.

Sixty percent of truck industry costs is labor. Profits depend largely on how adept managements are at manipulating that part of their budget. Since it is rather difficult to figure out a way to operate a truck with less than one driver, the objective over the years has been not to cut manpower but to increase the loads pulled per man. In 1975 the industry made a breakthrough on weights—a breakthrough that will put billions of additional dollars into its treasury but will further lessen highway safety and will add enormously to maintenance costs. The manner in which this came about is instructive.

When Congress passed the Federal Highway Act of 1956 (the year the Interstate was opened), it outlawed truck weights on the Interstate System greater than 18,000 pounds for a single axle or 32,000 pounds for tandem axles; additionally, it outlawed a gross weight of more than 73,280 pounds for both tractor and trailer.

Almost immediately the trucking industry began hammering at Congress to raise these limits. As the railroad industry slipped and the truck industry boomed in the late 1960's and early 1970's, the latter became increasingly ambitious and was determined to force Congress to permit a greater payload per truck. Largely through the counterlobbying of highway engineers, the American Automobile Association and the Association of American Railroads, however, these efforts failed.

Then came the energy hysteria of 1973, when OPEC nations quadrupled the price of oil. This was the opportunity the truck lobby was waiting for. Now it argued that patriotism demanded that the weight limits be lifted to get greater efficiency per gallon of gas. It claimed that if the load limit was raised to 80,000 pounds (about 10 percent higher), seven trucks could haul what eight trucks had hauled before. Claude S. Brinegar, then Secretary of Transportation and a former top executive with Union Oil Company, agreed wholeheartedly.

But Congress wasn't so sure. It had, after all, turned down the truck lobby's weight legislation in the two previous sessions, and now such august advisers as the National Society of Professional Engineers put it on the spot by urging that "the current fuel situation" should not be used "as a pretext for disregarding the wisdom previously demonstrated by Congress. . . ." Furthermore, as on earlier occasions, highway engineers came to Washington to warn that if the truck lobby got the axle loads it asked for, the remaining life of pavements could be cut 25 to 40 percent and that even some Interstate bridges (which are far sturdier than most bridges away from the Interstate) would suffer overstresses of up to 36 percent. Congress was also reminded there was little reliable data to show that raising the load limits could be done without seriously reducing highway safety.

The arguments against the weight increase were too potent for Congress to ignore unless the truck lobby could come up with a gimmick. It did.

Congress wanted to pass a 55-mile national speed limit. This would impose no great hardship on the trucking industry; after all, 55 m.p.h. was already the limit in several states where trucking was heaviest. Truckers weren't obeying the state speed limits and they had no intention of obeying the Federal, but with impressive theatrics the truck lobby claimed that a Federal 55 m.p.h. limit would ruin the drivers who were paid—as most are—by the mile; they claimed it would critically interfere with the pace of commerce; they claimed that truck motors were not built to operate at that speed. They said they simply could not accept 55 m.p.h. Then, with a great and generous show of compromise, the truck lobby offered to accept the unacceptable speed limit *if* Congress raised the weight limit. That was the swap that allowed Congress to bow without total embarrassment. And thus it came to pass; the weight change was quietly slipped into an omnibus bill in conference committee and shoveled through Congress during the pre-Christmas rush before adjournment in 1974.

The efforts by Congressman Koch in 1975 to have the weights rolled back got nowhere. So most of the nation is stuck with 80,000-pound trucks, or larger, and with little or no diminution of truck speeds. (You can test that premise to break the monotony of highway driving. Recently, I drove at a steady 63-65 miles an hour for 50 minutes. I was passed by 14 trucks; I passed one. Anyone who has been on the highway lately knows that heavy trucks and buses rarely get below the speed limit except on a grade.)

However, the new weight burden is not yet officially nationwide. The Federal increase of 1974 was permissive. States that did not already permit the 80,000-pound behemoths on their highways had the choice of taking the new limits or not. Maryland is one of the last barriers to the unobstructed movement of 80,000-pound trucks between Florida and the Northeast. The Maryland Legislature was deluged last session in what one reporter called "bourbon, beef and backslap" by the truck lobby, but so far the offerings have not been high enough to buy legislative approval of the new weights. A north-south line of barrier states also exists in the Middle West, frustrating the big trucks' unhampered east-west travel. But the pressures are getting so intense that the situation will likely change in the near future.

Meanwhile, the heaviest simply move through these barrier states illegally—traveling by back roads where necessary to dodge the weight stations. As the National Society of Professional Engineers warned Congress, no state can "realistically maintain limits presently set by law when neighboring states adopt the permissible maximums . . . no state could be expected to stop larger vehicles arriving at their borders from adjacent states."

They were so right. Illinois has not yet raised its maximum to 80,000 pounds, but Chicago is the nation's busiest truck terminal and many of the big trucks arrive there with outlaw load limits. A team of Chicago Tribune reporters staked out a weigh station southwest of the city and found that on a busy day an average of one truck every two minutes was leaving the highway to bypass the scale. The dodging maneuver took only five minutes of the truckers' time. Officials manning the scale could easily observe what the trucks were up to, but no effort was made to stop them. The policing of truck weights is left almost entirely to the states, but few try to enforce truck weights enthusiastically. In one recent year, Oregon issued 40,000 citations for overweight trucks, but according to the AAA, using data supplied by the FHWA, Pennsylvania issued only 610 (a tolerance for lawlessness that may help explain why Pennsylvania has 7,000 miles of roads that need resurfacing and 1,500 bridges that need replacing). Most states are more like Pennsylvania, and some—Massachusetts, Georgia and New York, for example—do not even have permanent weigh stations.

Never content with their payloads many companies take the 10 percent legal increase and add an illegal dollop on top. Susan Ginsberg, safety and health director of PROD, says that "thousands of complaints" convinced her that "overloading is a routine practice." She offers in evidence a Xeroxed memo from a manager in Consolidated Freightways, the third largest common carrier, reminding his drivers that "there are ways to run overloads." She pulls out a memo from a manager of McLean Trucking, sixth largest carrier, instructing drivers on how to avoid weigh scales. She says she has been told by drivers for Yellow Freight, the nation's eighth carrier, that the company has paid bonuses to drivers who take an overload and dodge the scales. And she cites a study by the State of Illinois that found illegal overloads on 41 percent of the trucks traveling one expressway.

The result of increased loads could mean plenty of trouble ahead.

Congress, in its usual fashion, set a load limit on the rear axles but set no load limit for the crucial front (steering) axle. So to exploit the new 80,000 pounds allowable for the truck as a whole, companies are throwing 12,000 pounds onto the front axle to go with the permissible 34,000 pounds on the middle and rear axles. Yet most drivers agree that anything over 10,000 pounds on the front axle can make steering extremely difficult—under certain conditions, impossible.

Tire failure and brake failure are the top killers in truck accidents caused by mechanical failure, and two-thirds of the tire failures are blowouts on the front. Even with new tires, the heavier front load presents an extra risk of blowouts. With retreads, the risk becomes much greater; but the Federal transportation bureaucracy, despite repeated pleas from drivers to come up with a ruling, has not outlawed retreads on the steering axle. The B.M.C.S.'s Pierson doesn't seem much concerned; he says that most companies "as a matter of practice" put their best tires on the front.

But drivers are so upset about it that even the Teamsters talk tough on this point. "It's plumb ridiculous," says Durham, the Teamsters director of safety and health. "They won't let interstate buses use retreads because they are carrying people, but they let a truck use retreads even though the truck, if it has a blowout on a front tire, can go out of control and wipe out the bus. A front tire blowout is always catastrophic. There's no way to hold the road with it. On the side of a mountain, the driver will just go over. On an undivided highway, he's likely to wind up in the opposite lane."

Congress' 10 percent load gift to the industry will also increase the number of cars plowing into the rear ends of big trucks—one of the commonest car-truck accidents—because, as the National Highway Transportation Safety Administration's own studies have shown, a 10 percent increase in weight can reduce the speed of even the best-performing truck by 20 percent on a three-percent grade, which autos can take without breaking speed. For years drivers have asked transportation officials to set a minimum horsepower requirement for gross weights, but the bureaucracy has not been moved. The Government admits that this kind of accident is on the increase and that right now perhaps as many as 40,000 cars run into the back of trucks each year, resulting in 100 to 300 fatalities and more than 8,000 injuries.

In many of the rear-end collisions, the car slips under the trailer. When this happens the occupants of the cars' front seat often wind up with their faces pushed back to their ears or with severed heads. Of course, the threat becomes greater as cars get smaller, but the Federal Highway Administration continues to use rear-end protection standards 25 years ago. Interstate trucks are within the law if their rear-end guards are 30 inches off the ground—but the top of the cylinder head of a Chevette, for example, is only 25 inches off the ground. Federal transportation officials, with what for them amounts to great insight, have indicated they think that, considering auto-design trends, a maximum clearance of no more than 18 to 24 inches would be much safer than the clearance allowed by present regulations.

But they have done nothing about it. (Tests sponsored by the Insurance Institute for Highway Safety showed that stronger, lower and much more effective rear-end guards could be built for no more than $20 to $28 extra per truck.)

Even if America's motorists are willing to put up with additional gore, it's highly unlikely that they will appreciate the extra cost of highway construction and repairs that will accompany the heavier weights. Already state and local governments are beginning to wail about ruptured highway budgets.

Not even the Interstate System, the premier quality highway, has been built to take the axle loads or total loads of the heaviest trucks, which is one reason the 42,000-mile, $100 billion Interstate, still unfinished and unpaid for, is already suffering serious decay. The Highway Users Federation complains that "some 28,000 miles of existing interstate highways are already obsolete by modern road standards." The Department of Transportation's figures are not that bad but bad enough; they indicate that 8,000 miles of completed Interstate needs $2.6 billion worth of repairs.

Ten years ago the Federal Highway Administration estimated that 88,900 bridges were structurally deficient or functionally obsolete. Today it estimates more than 100,000 bridges fit those categories. It also claims that our total highway system is falling apart 50 percent faster than it is being built.

One must allow for some exaggeration in such statements, of course, for they come from business groups and corners of the bureaucracy that want to keep Federal transportation money going into asphalt and concrete and away from mass transit. But there is also much truth in the picture of deterioration—especially in the local roads and bridges apart from the Interstate System. Art Haddad, treasurer of the Ohio County Engineers, says, "We are living with bridges on the local road system which were designed, for the most part, around the turn of the century and were really designed to carry herds of cattle or sheep. Local governments haven't had the money to replace them. Since January 1968, Ohio has had 355 bridges collapse. . . . a good many went under from heavy trucks. We have this happening all the time."

It's the sort of thing highway engineers are saying throughout the country, and they are worrying about new roads as well. Howard Schwark of Kankakee County in Illinois, road adviser for Region 5 of the Federal Highway Administration, says, "When you ride up and down the Interstates, you are beginning to see what 80,000-pound loads are doing to what was supposed to be a perfectly designed pavement. There isn't any of it that they aren't doing some work on. What are we going to do if the trucks get bigger and start using structures and highways designed for a maximum of 73,280? We'll have to go back and rebuild, and we keep telling Congress all the time, 'Hey, we just don't have the money to do that. Send us more money.' This is ridiculous. We'd better get these loads back on the rails again. That's the cheapest energy transportation. We need to get these truckers and lobbyists out of the hair of our Congressmen and sit down and face the energy crisis the way it should be faced."

The states' cry for money will grow louder in the years ahead, for the bulk of the repair costs is the states' responsibility, and their highway revenues have been far short of what they had forecast. Between 1964 and and 1974 the number of registered vehicles increased 51 percent, vehicles miles traveled increased 52 percent, and the number of highway miles increased by about 170,000—but the states could afford to buy only 4 percent more maintenance work at the end of the decade than at the start. There has been no official summary since 1974, but all signs point to a worsening of the states' ability to keep up with maintenance. For the first time some are doing serious engineering studies to find out exactly what kind of devastation can result from big truck traffic; their discoveries are chilling. An Illinois Department of Transportation study found that a tractor-trailer only 5 percent over the maximum permissible weight did damage to the highway equal to what 10,000 passenger cars could do.

Other studies, including one by the FHWA, show that the big trucks that do the greatest damage have got by with paying much less than their share of the cost of highway construction and upkeep. The FHWA's estimate as of 1969 was that the big trucks were shortchanging the highway fund by more than $200 million a year, considering taxes their owners paid as compared with the extra highway costs they caused.

It may be that eventually the general public will rebel at having their highways dominated by trucks that operate all too often outside the law, that present special safety problems and that raise their industrial hell at the general taxpayer's expense. After all, romance built on discomfort and bullying does have a way of petering out. As the West matured, its residents got sick of drunk cowboys shooting out the street lights and cattle barons intruding on farmlands. The "last cowboys" of today may finally inspire a similar response.

But if not, the industry will undoubtedly push on to even heavier, noisier and more dangerous dominance of the highways. Not long ago a Federal interagency task force produced the "Commercial Vehicle Post-1980 Goals Study." It predicted, and recommended the acceptance of supertrucks by 1990 that will weigh 120,000 pounds—50 percent heavier than today's maximum. That would be the routine weight; special weight loads could go much higher. A 120,000-pound truck: That's the equivalent of 30 Fords piled up and welded together. Those metallic mountains should make some fascinating traffic situations, as long as the roadway holds out. The interagency force thought of that, too. It suggested that all motorists chip in to pay for the strengthening of the highways so that the romance of trucking could continue unabated. They didn't put a price tag on their suggestion, but when you start rebuilding a $100 billion Interstate plus all of the other Federal and non-Federal roads, you are facing the costliest romance on record.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert M. Thompson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years vice Leonard E. Alderson, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, December 13, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

RECESS UNTIL 4 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m. today.

There being no objection, the Senate, at 1:14 p.m., recessed until 4 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. INOUYE).

ORDER FOR REPORTING S. 1566

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence have 30 days after the convening of the 2d session of the 95th Congress to report S. 1566.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 5 o'clock p.m. today.

There being no objection, the Senate, at 4:01 p.m., recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HARRY F. BYRD, JR.).

Mr. ROBERT C. BYRD. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 5:12 p.m., recessed until 5:42 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. METZENBAUM).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO PRINT ADDITIONAL COPIES OF REPORT ON S. 1437

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate authorize to be printed the usual number plus 3,000 additional copies of Senate Report 95-605 on S. 1437, the Criminal Code Reform Act of 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR JOINT REFERRAL OF H.R. 7819, S. 1256, AND S. 1257

Mr. ROBERT C. BYRD. Mr. President—this has been cleared all around—I ask unanimous consent that S. 1256, S. 1257, and H.R. 7819, three bills relative to diplomatic immunity that are presently pending before the Committee on Foreign Relations, be referred, if and when reported by the Committee on Foreign Relations, to the Committee on the Judiciary for a period not to exceed 60 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Howard Menell, Ken McLean, and Lindy Marinaccio, of the staff of the Committee on Banking, Housing, and Urban Affairs, be granted the privilege of the floor during the consideration of the conference report on the antibribery bill (S. 305).

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 662, that it be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

UP AMENDMENT 1080

(Purpose: To further restrict the Federal funding of abortion to certain limited situations including incidences of rape and incest that have been promptly reported.)

Mr. MAGNUSON. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Massachusetts (Mr. BROOKE).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes unprinted amendment numbered 1080.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning on line 15, strike the following: "as modified by the House of Representatives on August 2, 1977".

On page 2, after line 17, insert the following:

Provided, however That none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

Mr. MAGNUSON. Mr. President, the House has just sent over a continuing resolution which contains an amendment on this matter of abortion that we have struggled so long with, the House and the Senate, for the past many weeks. The House voted, 200 to 170, again, to change the Senate amendment, almost entirely reversed the whole procedure that we thought the House would accept as a part of the abortion portion of the continuing resolution.

We are sending back to the House what we think is more than reasonable. We have given in here and there, we have changed words, and they have changed them around. What comes over here from the House is hardly recognizable, when we compare it with our original language, the paragraphs of the language that we went through over the many conferences we had on this matter. So we sending it back to the House, hoping that they will accept what we have done here this evening.

We think it is wholly within the context of what we talked about in a score of conferences with the House, what they sent back and we have been talking about. We have had informal conferences, we have had formal conferences, we have discussed with individuals back and forth, and we think this is reasonable. It is not exactly what the Senate would like. The Senate has voted now, Mr. President, 18 times—I thought it was 13, but I have just been advised that we have voted on this language now 18 times. It has been modified. I think it is language that the House should accept, because on Thursday, the time runs out on some other matters that are quite important, involving HEW appropriations.

I do not know what to do, Mr. President, about this legislation on appropriations bills. I wish it had not been on HEW. HEW appropriations is becoming a repository of all the amendments that people can think of that belong in legislative committees, matters of intense controversy that belong in legislative committees which should be considered and made, one way or another, a part of national policy and not be in an appropriations bill.

A year ago, Mr. President, when we had this matter before us and had the long argument about it, both in the Senate and the House again, back and forth, we had the assurance of the legislative committees that they would take up this particular matter. We have had five or six other important matters. OSHA is one. We have had civil rights, and about six other important policy matters that should have been taken up in the legislative committees, all in appropriations bills, particularly HEW.

I am hopeful that this issue can be resolved tonight. We are going to wait patiently to see. It does what we have understood the Members of the House—who have objected to parts of the original Senate language, that we have passed on many, many times—what we think some of them would like to see done, and language which would make it more acceptable to them. It includes only what we did last year by way of report, a report which specified the problems involved with the victims of rape or incest. This time, we wanted to put it in the legislation, because we have been told by the Department and other people, including some obiter dictum in the courts, that the language in the report did not mean anything and that, therefore, it need not be carried out. So we are putting it in the language of the joint resolution.

The House conferees agreed with that. They agreed on many occasions. And some of them have agreed to this language themselves; the conference committee of the House once agreed to this language. Now, they have changed it back and forth, but the Senate has stuck with its original provisions, and the Senate, on many, many occasions, has voted about 2 to 1 to sustain that viewpoint.

The House is still in session. The Senate will be in session. I hope that they will accept this language.

In a moment I shall yield to the Senator from Massachusetts, who has been so active in this matter, along with myself. I do not like to give in on some of this language. If I had my way, I would appear before the legislative committee, the proper committee, and insist on stronger language on this whole problem of abortion. But we do have an approximately $60 billion-plus bill that involves everybody in the whole of the United States, in one way or another, in the HEW appropriations. Of course, that has to be considered, too.

I hope the House realizes that this is only one facet of the real problem we have with respect to the responsibility of the Congress of the United States to pass an HEW bill—for all the programs to be carried out and the salaries to be paid. I believe that approximately 300,000 people are involved with respect to salaries alone. They will not receive their checks unless we can resolve this problem.

I yield to the Senator from Massachusetts.

Mr. BROOKE. I thank the distinguished chairman for yielding.

Mr. President, I commend the Senator from Washington on his very strong and forceful statement on this issue.

I will not here review the sequence of events, the many votes that have taken place by the Senate and by the House in this matter, the many conferences, the many hours, days, weeks, and months in which we have discussed this issue.

Mr. President, the legislative stalemate on the abortion issue today took a new turn for the worse. The House this afternoon rejected an effort to reach any accommodation with the Senate. It has once again sent us a continuing resolution containing the restrictive Hyde language to which the Senate is clearly opposed. The House action makes more difficult our efforts to reach a workable resolution to this impasse which has held up the Labor-HEW bill for many months.

The language in the continuing resolution takes us back to the restrictions in the original Hyde language which the House passed last June. The Senate has rejected this language several times by overwhelming votes.

If we do insist upon denying poor women the funds for abortions, we shall not prevent abortions among poor women. We shall only be denying them safe abortions. We shall only be forcing them once again into dangerous self-induced or back-alley abortions. We shall only be forcing them again into abortions through coat hangers, lye, a quart of alcohol, an "accidental" fall. And, incredibly, after we have done this, we shall then allow the 25,000 poor women each year who the Department of HEW estimates will suffer serious complications from such dangerous abortions, medicaid funds to correct the botched abortions we forced them into.

For all these reasons and more, we cannot accept the language the House has sent us.

Instead, we simply will return to the House essentially the language the Senate passed on November 29. That includes language the House requested providing for a reporting requirement for rape and incest, but excluding reporting to "equivalent" organizations, language the House would not accept.

In addition, we also include the word "promptly," to provide that any reporting must be prompt. By this we do not mean hours; we mean a much longer period of time that is reasonable yet humane.

Frankly, we do not like the word "promptly." In fact, the Senate recently rejected "promptly" by a vote of 23 to 42.

However, it is clear we must find a solution to the impasse over the abortion language. The word "promptly" may be a way out of this morass.

Mr. President, earlier today Chairman GEORGE MAHON, of Texas, the distinguished chairman of the full Appropriations Committee in the House, presented a proposal to the House which only differed in three respects from what we already had agreed upon. One change was "forced" rape, one was "promptly," and the other was the deletion of the words "or its equivalent."

Again, the Senate is making a compromise, a very serious compromise, and I think we should know what we are doing. That compromise would now put in the word "promptly," which will require reporting promptly in cases of rape or incest. That is what we voted upon. That was the Helms amendment, which lost in the Senate by a vote of 23 to 42 the last time we voted. So this is a further concession by the Senate to the House; it is on the word "promptly."

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. MAGNUSON. As a matter of fact, the word "promptly" was constantly suggested by the House members of the conference over a period of 8 or 10 conferences. There was some difficulty or argument as to whether the reporting should be done to the law enforcement agency or the health agency, but they finally agreed to that.

This is exactly the wording they suggested to us in the beginning, and it was the basis of all the discussions we had in the last five or six conferences with the House.

Mr. BROOKE. The chairman is correct. As a matter of fact, the Senate bill originally did not contain any reporting language. So what we have done is to concede on reporting, and now on reporting "promptly."

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I yield.

Mr. METZENBAUM. In yielding to the House with respect to putting in the word "promptly," it seems to me that it opens the door to a wide variety of interpretations. We are talking about reporting promptly after a woman has been raped. Does it also apply in the event of incest?

Mr. BROOKE. It does.

Mr. METZENBAUM. Does the Senator from Massachusetts, therefore, interpret the word "promptly" to mean a number of weeks and possibly months after the traumatic experience has occurred, rather than a requirement to get on the telephone immediately after that kind of occurrence? I believe it does have relevance, and I would appreciate some elaboration on the subject from the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I agree with the Senator from Ohio that the word "promptly" is subject to interpretation.

As I view it, "promptly" would mean a reasonable and humane period of time in which the rape or incest would be reported to a law enforcement agency or to a public health service; it might be reported by a parent or someone in behalf of that victim of rape or incest, or it could be reported by the victim.

We may be talking about children. As the distinguished Senator from Ohio well knows, it is a matter that concerns me deeply and concerns him and others deeply. We may talking about young children, so we may be talking about the reporting of the parent, where the child cannot be in a position to make that report promptly. It is not a question of hours, as I see it, but maybe days, weeks—a reasonable and humane period of time, whatever that may be considered.

Mr. METZENBAUM. Possibly weeks and months.

Mr. BROOKE. It could be, yes.

Mr. MAGNUSON. I would not suggest that they wait months. As with any piece of legislation, you cannot spell out the time. We probably could say within 90 days or within 60 days or within the first part of the pregnancy. But we have to leave it up to the Department to make what we hope will be reasonable regulations to carry out what the word "promptly" means.

In reverse, I think it means that you cannot wait and wait and wait and all of a sudden show up some place and say, "I was raped," or, "Incest took place." You would have to do it within a reasonable time, with respect to the Department.

In this amendment, we go even further. We say:

> The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

I think that would mean that they would interpret the word "promptly" not to apply to any length of time, but that it should be done, say, in 90 days, or say that was the middle figure, that it be before that time, not "promptly" after a long period of time.

I am sure that is the way the regulations would read.

Mr. BROOKE. I think a reasonable and humane period of time would be a fair period of time. I think there might be extenuating circumstances in certain cases which should be taken into consideration.

Mr. MAGNUSON. Each case has to be taken into consideration.

Mr. BROOKE. I can conceive of a case where there is an extenuating circumstance such as reqiuring a longer period of time, say, than the normal case. So I think that would be the intent of the language.

Mr. METZENBAUM. I appreciate the assurances of the distinguished Senator from Massachusetts and the distinguished Senator from Washington that "promptly" in this sense in this legislation does not mean "promptly" as we normally think of it such as when we expect the Secretary of HEW to act promptly in issuing regulations. That is a different kind of promptness than that which we expect under these circumstances.

Mr. BROOKE. I agree.

Mr. MAGNUSON. I hope this will set an example for other regulations they have to issue down there.

Mr. METZENBAUM. I appreciate it.

Mr. BROOKE. In the case of incest involving a young female child, I say to the distinguished Senator from Ohio, it may not be found out for a period of time.

The mother of that child might not find out until several months afterwards that there has been incest. There could be those extenuating circumstances.

Mr. METZENBAUM. I understand the Senator from Massachusetts. I appreciate the clarification, and I thank the Senator.

Mr. BROOKE. So, Mr. President, as I said, we have had all of these conferences and many, many times sat down with the conferees of the House of Representatives where we have considered language which time after time has proved to be a concession to the House's position.

I hope that in this last attempt, where we are giving them two out of three of the issues that they consider to be so important in order to get this matter passed through the House, they would accept the proposal which we are presenting to them through this amendment to the continuing resolution.

I also point out to my colleagues that this continuing resolution that has been sent to us has the funding level of the 1978 Labor-HEW appropriations bill, so it is, as the chairman has said, $60 billion plus.

If the House of Representatives will accept the amendment that we have now or will hopefully include and send back to them tonight, there will be no necessity then for a Labor-HEW bill. This, in essence, would be the Labor-HEW bill at the funding level of 1978 and with the new programs, so there would be no need for either house to act upon this matter again.

So we would be making some real progress if the House of Representatives would, at long last, recognize that this is a matter of compromise. This is certainly something that I do not want to accept. This is not anywhere near what I believe is right. I believe "medically necessary" was the right path for us to have taken in the first instance, after it became clear there would be some restrictions on Federal funding of abortions. So, therefore, we have come a long way from "medically necessary," as was well pointed out, and I am hopeful that the House of Representatives will accept this latent version.

Mr. President, I call for the vote.

The PRESIDING OFFICER (Mr. METZENBAUM). The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, for the record, I think it should be clear that if the House of Representatives would agree to this language, then, of course, we would not have to go to conference and there would be no need for another rollcall vote on it.

Mr. BROOKE. The Senator, of course, is correct.

Mr. MAGNUSON. As the Senator from Massachusetts pointed out it is the 1978 amount of over $60 billion, and it is for a period of time that will take care of all of these other very important matters involved in the HEW appropriation.

Mr. BROOKE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Will the continuing resolution now voted upon with the amendment be sent immediately to the House of Representatives?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROOKE. I thank the Chair.

Mr. MAGNUSON. Mr. President, I know that we have a very efficient staff up here, and all the clerks, but I urge that the Chair promptly get this over to the House of Representatives. Will he do that?

I thank the Chair.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read the third time.

The joint resolution (H.J. Res. 622) was read the third time and passed.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN CORRUPT PRACTICES ACT OF 1977—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on S. 305 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of Representatives.)

Mr. PROXMIRE. Mr. President, this is the antibribery bill which passed the Senate 87 to 0 earlier in the year. We had a very satisfactory conference with the House of Representatives.

I think we strengthened the bill. They have some provisions that were, I think, stronger and wiser than ours, and they also made some concessions to us.

Mr. President, the purpose of this legislation is to stop foreign corporate bribery.

Disclosures during the past several years have shown that the bribery of foreign government officials by corporations for the purpose of obtaining business is a significant problem in need of clear legislative attention.

Investigations by the Securities and Exchange Commission revealed that over 300 companies made corrupt payments to foreign government officials in the hundreds of millions of dollars. Foreign democratic governments friendly to the United States in Japan, Italy and the Netherlands came under intense pressure from their own people complicating our foreign policy. The image of American democracy abroad was tarnished. Confidence in the financial integrity of our corporations was impaired and the efficient functioning of our capital markets hampered.

Corporate bribery undermines the free market system. In the free market it is basic that the sale of products should take place on the basis of price, quality and service. Corporate bribery is destructive of these basic tenets. Corporate bribery takes place primarily to assist corporations in gaining business. Thus, foreign corporate bribery affects the very stability of overseas business. Foreign corporate bribery also adversely affects our domestic competitive climate because domestic firms engage in such practices as a substitute for healthy competition for foreign business.

Mr. President, foreign corporate bribery has largely been accomplished by the maintenance of off-the-books slush funds. This legislation requires corporate issuers subject to the jurisdiction of the SEC to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect corporate transactions and dispositions of assets. The in reasonable detail qualification will insure that the accurate and fair standard will require a degree of precision which is realistic, reflecting transactions in conformity with accepted methods of recording economic events and effectively preventing off-the-books slush funds and payments of bribes.

Under the legislation such corporations are required to devise and maintain systems of internal accounting controls sufficient to provide reasonable assurances that, among other things, transactions are recorded as necessary to maintain accountability for assets. This provision places the responsibility where it belongs to prohibit off-the-books slush funds—namely in corporate management.

Two supportive accounting provisions contained in the Senate bill which were not in the House bill were deleted by the conferees. These were provisions prohibiting any person from "knowingly" falsifying a corporate book or record or "knowingly" lying to an accountant in connection with an audit of the firm. Unfortunately, these provisions became involved in an issue never intended to be raised or resolved by the Senate bill—namely, whether or not the inclusion or deletion of the word "knowingly" would or would not affirm, expand or overrule the decision of the Supreme Court in the Hochfelder case. As stated clearly in the Senate committee report on S. 305, their provisions were to be severable from the rest of the securities laws. This legislation is not the forum to debate the Hochfelder issues. This is legislation to proscribe foreign corporate bribery.

The legislation also makes it a crime for corporations to use the mails or any means or instrumentality of interstate commerce corruptly in furtherance of making a bribe to a foreign official for the purpose of obtaining business. Any corporation violating these provisions of the legislation may be penalized up to $1 million per violation. Individuals such as officers or directors of such corporations participating in violations may be fined up to $10,000 or imprisoned for up to 5 years, or both.

Mr. President, this legislation recognizes the inherent jurisdictional, enforcement, and diplomatic problems in the passage of legislation which prohibits conduct some part of which takes place overseas. Accordingly, the conferees determined not to cover foreign subsidiaries of American corporations operating overseas. Nevertheless, where the parent corporation participates directly or indirectly the prohibited conduct it would itself be liable. Enactment of this legislation will enable the State Department to go forward with the negotiation of a treaty which, for example, will require all of the European nations in the Common Market and Japan to adopt similar legislation proscribing foreign corrupt practices by their corporations. This will insure that no nation's corporations are disadvantaged in the marketplace because another nation permits such practices to take place.

President Carter firmly supports this legislation and has taken the lead among the industrialized Western nations on the issue of proscribing foreign corporate bribery. President Carter is to be commended on his firm stand. Mr. President, I wish to state my personal gratitude to Senator HARRISON WILLIAMS who cosponsored this legislation and provided guidance on intricate issues of SEC law, and to Senator BROOKE, the ranking Republican member of our committee, for his valuable assistance in seeing S. 305 become law. I wish further to state my personal gratitude to the members of the House Interstate and Foreign Commerce Committee, particularly Chairman HARLEY STAGGERS and Congressman BOB ECKHARDT, for their leadership on these important issues.

Mr. President, I move the adoption of the conference report.

Mr. BROOKE. Mr. President, I am pleased to join in submitting this conference report to accompany S. 305, a bill that would prohibit U. S. companies from paying bribes to foreign officials in order to obtain or retain business.

The bill includes stiff criminal penalties for violations of its antibribery provisions and also requires every publicly owned company to establish an internal accounting system designed to insure that all company financial transactions are properly reported. This latter requirement places an affirmative statutory duty on publicly owned companies and should effectively discourage them from establishing off-record "slush funds" or other devices used in the past to make improper payments.

During the past few years, principally through congressional hearings and actions of the Securities and Exchange Commission, it became apparent that hundreds of U.S. corporations were misusing corporate funds to make improper payments to foreign officials. These questionable or illegal payments involved hundreds of millions of dollars and significantly harmed our Nation's image in foreign countries. In the process of making such payments, companies were engaging in elaborate schemes designed to give stockholders and others no hint that such payments were in fact being made. In my opinion, the dubious schemes used to hide such payments were themselves an indication of the questionable nature of the payments.

In light of such improper activities, several bills were introduced in the Senate during the past year that were designed to deal with the payments problem. After considering the various alternatives, this past May the Senate passed S. 305, a bill that includes accounting and antibribery provisions. Since the House passed an antibribery bill that did not include accounting provisions, a joint conference became necessary. While the conference committee agreed to revise or delete certain provisions contained in S. 305. the bill is substantially the same as when the Senate originally passed it. In my opinion, the bill agreed to by the conferees provides reasonable standards of conduct that will help to strengthen and reaffirm our country's democratic ideals.

In recognition of the importance of this bill, I should note that the Banking Committee has made a conscious effort to act expediously on the various antibribery bills that have come before it during the past year. In this regard, I also wish to commend the chairman of the Banking Committee, Senate PROXMIRE for his strong leadership in helping to insure that S. 305, a strong antibribery bill, has been approved by the conferees and sent to the floor.

Mr. President, there is widespread recognition in the Senate of the need for this bill, and it is my hope that the Senate will approve it without delay.

Mr. WILLIAMS. Mr. President, as chairman of the Subcommittee on Securities and a cosponsor of this landmark legislation, I rise in its support and strongly urge its enactment without further delay.

S. 305, the Foreign Corrupt Practices and Foreign and Investment Disclosure Acts of 1977, deals responsibly and effectively with two separate and complex issues—corrupt payments overseas by and disclosure of corporate ownership of American business. As it is before us today, the bill is the result of several years of study and effort by the Congress, the Securities and Exchange Commission, the American business community, the administration, the international community and organizations, and the accounting profession. It is universally supported.

By prohibiting bribes to foreign officials by American companies, the bill reaffirms the commitment of the United States to a system of free enterprise undistorted by improper and questionable practices which intefere with the free flow of commerce and trade.

There is a manifest need for title I of the bill which would prohibit U.S. companies from bribing foreign officials. More than 350 U.S. companies have already admitted to committing acts of bribery overseas. As a result, the reputation of American business is tarnished and both our foreign policy and our economy have been substantially and adversely affected.

Bribery is simply incompatible with traditional business practices at home; there should not be a double standard overseas.

S. 305 is necessary legislation. Neither the SEC's disclosure program nor self-regulation by the business community are adequate. Disclosure alone will never put a stop to the practice. I believe the kind of bribery this legislation addresses cannot and should not be regulated or controlled through disclosure; it must be prohibited by law. Thus, this bill would make it a crime for U.S. companies to bribe a foreign government official for the specified corrupt purposes. Companies violating the criminal prohibitions face maximum fines of $1 million. Individuals acting on behalf of such companies face a maximum fine of $10,000 and 5 years in jail.

In addition to the direct prohibition of foreign corrupt payments, the bill also imposes an affirmative requirement on publicly owned American corporations to strengthen the accuracy of corporate books and records and the reliability of the audit process. These are the bedrock elements of our system of corporate disclosure and accountability. With the enactment of this bill, it will no longer be possible for corporations to conceal questionable or illegal payments on the company's books and records. Secret bank accounts, off-the-book slush funds, fictitious subsidiaries, and other devices used in the past to cover up or paper over such illegitimate payments will no longer be possible. These provisions should operate in tandem with the outright prohibition of bribery and further deter corporate bribery.

The accounting sections of the bill, of course, reach beyond the problem of bribery and other questionable payments. In its "Report on Questionable and Illegal Corporate Payments and Practices" (May 12, 1976) to the committee, the SEC stated that:

> . . . the almost universal characteristic of the cases reviewed to date by the Commission has been the apparent frustration of our system of corporate accountability which has been designed to assure that there is a proper accounting of the use of corporate funds in the documents filed with the Commission and circulated to shareholders . . .

New section 13(b)(2) of the Securities Exchange Act of 1934 will prevent definance or circumvention of the system of corporate accountability, assure reliable and accurate books and records, protect the integrity of the audit process and make clear the responsibilities of corporate management and accountants, and safeguard fundmental precepts of corporate democracy.

Title II of the bill is designed to strengthen the disclosure and ownership reporting requirements of the Securities Exchange Act of 1934 applicable to domestic and foreign investors having a significant ownership interest in the securities of American corporations.

Title II of the bill would:

First. Amend section 13(d) of the act to require those persons who already file reports with the SEC when they own more then 5 percent of the shares in a U.S. company to identify their residence, citizenship, and the nature of their beneficial ownership.

Second. Enact a new section 13(g) to provide for the development of a comprehensive system for gathering and disseminating information about ownership interests in publicly held companies.

Third. Require the Commission to consolidate the various beneficial ownership reporting requirements of the Securities Exchange Act into a centralized nonduplicative system for the collection of such information, and to tabulate such information and make it available to regulators and the public.

Fourth. Enact a new section 13(h) to require the Commission, within 30 months of the date of enactment of the legislation, to report to Congress with respect to the effectiveness of the ownership reporting requirements under the act and the desirability and feasibility of reducing or otherwise modifying the 5-percent disclosure threshold giving appropriate consideration to specified regulatory and public policy considerations.

Fifth. Provide the Commission with authority to assure that the jurisdictional effectiveness of section 15(d) of the Securities Exchange Act is not inappropriately limited because of the use of nominee and street name registration of securities.

In 1975, the Congress directed the Commission—in section 12(m) of the Securities Exchange Act of 1934—to conduct a study and investigation of the practice of recording the ownership of securities in other than the name of the beneficial owner-"street" and "nominee" names.

To more fully achieve the purposes originally intended by Congress in 1968 when ownership reporting at the 5 percent was added to the act by the committee, the Commission recommended the establishment of a comprehensive system for disclosure of ownership interests and called for legislation "to require ownership reports from those persons owning more than 5 percent of an issuer's securities who are not currently required to report under the Act."

These recommendations of the Commission would be implemented under title II of S. 305. In these respects, title II will close inappropriate and anomalous gaps in the legislative scheme of disclosure under the Exchange Act and result in across-the-board disclosure essential to a cohesive and comprehensive reporting system.

At the same time, title II of the legislation is designed to unify present reporting requirements of the Securities Exchange Act into a comprehensive system for gathering and disseminating information about ownership interests.

Public policy in support of enhanced disclosure in securities transactions follows a pattern which began with the securities acts of 1933 and 1934. This legislation will complement continuing efforts within the executive branch, the regulatory agencies, and the committee to increase the availability of information which is vital to the development of sound policy where important national and international issues are at stake.

Mr. President, this bill permits American companies to conduct business anywhere in the world on a legitimate basis and establishes the United States as a world leader in the creation of an international code of business standards. It sets the ground rules for unilateral and multilateral agreements. And by regulating only American business, and citizens, it respects the jurisdiction of our law enforcement agencies and the sovereignty of other nations.

This bill is only the first step, but an essential one. Affirmative action by our Government will facilitate an international solution. Once this bill is law, the U.S. Government will be in a position to argue forcefully, with integrity and credibility, for bilateral and multilateral agreements.

Mr. President, numerous individuals and organizaitons have influenced and helped to shape the final provisions of the bill. Senator PROXMIRE, the distinguished chairman of the Banking Committee, has steered this bill through the Congress, overcoming considerable difficulties. I wish to congratulate him on his firm leadership. On the House side, Congressmen STAGGERS and ECKHARDT, the chairmen of the House Committee and its Finance Subcommittee, respectively, have cooperated throughout to make certain this legislation would become law. They, too, deserve the congratulations they have earned for their efforts.

The Securities and Exchange Commission has vigorously pursued and prosecuted questionable payments—both domestic and foreign—for violations of the securities laws. At last count, some 400 companies have admitted to such improper practices. With the administration, Secretary of the Treasury Blumenthal, in forcefully presenting the administration's response to this problem, has been supportive of tough antibribery legislation. And President Carter's support for S. 305 is already on record.

Mr. President, both titles of S. 305 have been fully considered by the committee and passed by the Senate on several occasions. I am hopeful that these important amendments to our Federal securities laws will receive final congressional passage today so that they may be signed by President Carter.

Mr. TOWER. Mr. President, the Foreign Corrupt Practices Act of 1977 constitutes a needed and rational response to the practice of some U.S. companies paying bribes to officials of foreign governments to secure or retain business. Since discussion of the bill began, I have felt that the real solution lay in the negotiation of treaties with foreign governments to secure a concerted effort to deal with essentially an international problem. I still believe that this will be required in the long run. My concern with this bill from the beginning therefore was that it would inhibit our negotiating efforts by attempting to stretch the reach of U.S. jurisdiction too far.

While the bill we report today should be an effective deterent, it contains two limitations that I believe are necessary for the long range solution as I have outlined it, and that will make the new law workable in practice.

First, the bill excludes "grease" or "facilitating" payments. These are bribes to relatively low level officials, usually made to secure the prompt and proper performance of his duties. Under the bill, payments must meet two tests to be actionable: First, they must be made to secure or retain business, and second, they must be made to an official whose duties are not "essentially ministerial or clerical." We discussed the possibility of excluding payments to secure the performance of "essentially ministerical or clerical" duties, but rejected it in favor of a test that would look to the type of officer involved—not to the particular duty he was being asked to perform.

Second, the bill excludes foreign subsidiaries of U.S. companies. The Senate felt that given jurisdictional, diplomatic, and enforcement difficulties, it would be unrealistic to attempt to extend the law's prohibitions to foreign subsidiaries. Moreover, their actions would be substantially curtailed by section 102 of the bill, which would require the U.S. parent to closely oversee its accounting practices. H.R. 3815 did not contain a comparable section, and evidently the House believed coverage was necessary. The House receded to the Senate on this point, however.

Perhaps the most controversial section in the bill was section 102 of S. 305. The Senate bill provided that:

First. Companies keep books which "accurately and fairly" reflect company transactions.

Second. Companies establish internal controls "adequate" to insure that transactions occur only in accordance with management's authorization, and that accountability for assets is maintained.

Third. It is unlawful for any person to "knowingly" falsify corporate books.

Fourth. It is unlawful for any person to "knowingly" make a false or misleading statement to an auditor.

The conference inserted "in reasonable detail" before "accurately and fairly" to make it clear that no absolute standard of precision is required or attainable. I would not expect this provision to establish a new accounting standard. Its purpose is to require that books and records are kept so that financial statements prepared in accordance with generally accepted accounting principles can be derived from them. It should be kept in mind that the section was intended to merely stop the use of off-book accounts by insuring the maintenance of accountability for company assets.

Subsections (3) and (4) of section 102 which were dropped in conference made unlawful the knowing falsification of corporate accounts, and knowing misstatements to auditors.

I felt the "knowingly" standard was appropriate because: First, the off-book accounts uncovered during the SEC investigation were by and large intentional falsifications—no need was shown to establish liability for mere negligence; second, only inadvertent acts were to be excluded—the report makes it clear that "knowingly" encompasses reckless or grossly negligent acts, and that inadvertent acts were to be excluded; and third, inasmuch as the section for the first time amends the securities laws to deal directly with corporate conduct—not disclosure—it was believed appropriate to require that only gross negligence or intentional misconduct be actionable. The reason is that, unlike elsewhere in the securities laws, a sale of securities is not here involved—nor is direct information to the public involved. The higher degree of protection needed when a securities transaction is involved, which demands a public policy of liability for negligent misinformation, is not here required.

The SEC and the House majority strongly opposed the inclusion of "knowingly." It would affect the Commission primarily in a civil injunctive action, and they said it would unduly burden their enforcement efforts to have to prove this added element. They also fear that the courts would interpret the inclusion of "knowingly" as a policy statement affecting other sections of the securities laws as well. See Hochfelder (424 U.S. 185) 1976.

As the Senate report (No. 95–114) states, however:

> The inclusion of this standard is intended to be limited to matters arising under these new subsections and not to any other provisions of the securities laws. (p. 9.)

Nevertheless, it was not the intent of the Senate to raise the issue, and, rather than embroil the legislation in this dispute, the conferees determined to delete subsections (3) and (4) altogether.

The House report states it is expected that the courts will recognize implied private right of action under the criminalization sections of the bill. This question was not considered in the Senate or during the conference, and thus cannot be said that any intent is expressed at all on this issue. In view of the existing case law, it is difficult to conceive that the courts would imply a cause of action in any event. Nevertheless, because of the gratuitous statement in the House report, I feel I should state my understanding that neither the Senate nor the conferees expressed any opinion on this issue.

Regarding title II, I have previously stated my views in the Senate Report (No. 95–114), page 22. They have not previously appeared in the RECORD, and I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATORS TOWER, GARN, AND LUGAR

We concur with the committee's conclusions regarding the need for title I of S. 305. Further, although the merits of the various proposals to deal with the problem of foreign payments may be debated, we believe that the method adopted by the committee will be an effective deterrent to such conduct in the future.

Regarding title II, however, even though it has been substantially altered since its introduction and its effects will now be minimal, we believe that there remains much doubt as to the need for such legislation.

The stated justification for title II has been difficult to fix due to the many changes it has undergone. Its forerunners were S. 425 and S. 3084 in the 94th Congress, and title II, S. 305, as introduced in the 95th Congress. Those who advocate the legislation in its present form point to the practice of registration in nominee name as providing the principal justification. This results in: (1) difficult shareholder communication and (2) difficulty for investors in determining who controls the policies of a corporation. In support of their argument, they cite the reports of the Senate Committee on Government Operations in 1973 and 1975, chaired by Senator Metcalf, and the "Street Name Study" of the Securities and Exchange Commission authorized by the "Securities Acts Amendments of 1975."

Regarding registration in nominee name as it affects shareholder communication, the "Street Name Study" concluded that—

"While problems exist, they are not evidence of systemic weaknesses but result from failures by individual brokers and issuers. In general, legislative or regulatory action does not appear to be necessary to correct these problems. Rather, improved compliance with self-regulatory rules and industry-wide implementation of generally accepted standard procedures for the distribution of annual reports and the solicitation of proxies would resolve most of them."

Not only was increased ownership disclosure not recommended by the EC's study, but it is difficult to perceive that the present bill would enhance issuer-shareholder communications in any event. The bill only requires disclosure by 5 percent owners. Although the number of investors owning a greater than 5 percent interest may not be insignificant, the number of ultimate shareholders it would reach is not such that it would significantly affect shareholder communications.

Next, it is said that disclosure by 5 percent beneficial owners is required so that investors may know who is in a position to control the policies of the corporation. While in some cases it is undoubtedly true that a 5-percent owner could control corporate policy, it must be conceded that it is not universally true and varies from company to company. Treasury Secretary Blumenthal, testifying before the committee on this issue stated:

"I think it depends on the circumstances of individual corporations. I would think that in many situations when you get to about 15 percent or more, it depends on the kind of corporation it is. And if the rest of it widely held, it depends how the rest of it is held, you are getting to the point where you can exercise where you can get on board and begin to control. But not less than that."

The "Street Name Study" did recommend that Congress "close the gaps" in the 5 percent reporting requirements of the Williams Act. Currently exempt are those who acquire less than 2 percent annually, and those who acquired their interest before enactment in 1970. These would be effectively deleted by the present legisltion. The study, however, bases its recommendation on its perception of congressional intent in enacting the Williams Act. The study states:

"The Commission believes that the act and the rules thereunder currently may not achieve fully the scope of disclosure or range of dissemination contemplated by Congress."

The Williams Act, however, clearly was aimed at tender offers and those situations where it appears that an investor is attempting to acquire control or exert influence over company policy. In that light, the exemptions are entirely appropriate, and remain so. The present section 13(d) reporting already catches those situations where control is a real possibility.

The study, however, fails to recognize this and merely states that national policy, as expressed by the Williams Act, is disclosure at the 5-percent level. This is not consistent with the express provisions and purpose of the Williams Act, nor is it based on any independent finding by the Securities and Exchange Commission.

The assertion is also made that Government policymakers need centralized and comprehensive reporting of foreign ownership information. Again, we submit that the case simply has not been made. The Treasury Department and the Commerce Department in their foreign investment studies—Foreign Investment Study Act of 1974—did not recommend new legislative initiatives. Moreover our vital industries such as communications, energy, and transportation are already adequately protected from control by foreign interests—either by direct prohibition or close regulation. See hearings, "Foreign Investment and Arab Boycott Legislation," July 22, 23, 1975.

We are not unmindful of the fact that the author of the Williams Act is also the author of the instant legislation. Nevertheless, we submit that the stated justification and need for title II is logically inconsistent, and unsupported by the record. If there is a new policy to be here developed, then sound reasons for it should be advanced and examined. In our opinion, this has not been done to date.

The bill is not major legislation, and few people will be affected by it. Even so, it does not follow that it should be enacted without well-reasoned policy arguments supporting it. Those that have been advanced are marginal at best and seem to reflect the well-known irrepressible desire by Government regulators to close perceived gaps, and to acquire information for its own sake.

For these reasons, we believe title II to be unnecessary would recommend that it be deleted from S. 305.

John Tower.
Jake Garn.
Richard G. Lugar.

Mr. TOWER. The conferees have made a further improvement by deleting the requirement that historical data be provided. Inasmuch as the disclosure requirement does not necessarily deal with the takeover situation, I feel this is appropriate. More extensive disclosure would still be required for those situations under section 13(d).

I would hope too that the Commission will take to heart the direction that it study, not only the possibility of "reducing" the threshold disclosure level of 5 percent, but also the possibility of "otherwise modifying" it upward. Perhaps we will then gain a clearer idea of the purpose and need for this legislation.

Mr. President, I make these criticisms of the legislation to make my colleagues aware of the issues that were discussed and resolved. I do not mean to leave the impression that I am wholly dissatisfied with the bill. I am not. Many people have worked long and hard on this legislation, and I believe their efforts, conducted in the spirit of compromise, have produced a workable bill. I hope my colleagues will join with me in support of the bill, and would urge its favorable, and speedy, consideration.

Mr. PROXMIRE. Mr. President, I move that the conference report be adopted.

The PRESIDING OFFICER (Mr. Leahy). The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECURITIES AND EXCHANGE COMMISSION AUTHORIZATIONS, 1978—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, there is one other conference report in connection with the same issue. This is the conference report that provides for funds for the continuation of the Securities and Exchange Commission.

I submit a report of the committee of conference on H.R. 3722 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of Representatives.)

Mr. PROXMIRE. Mr. President, this bill passed the Senate unanimously. It simply authorizes the administrative expenditures of the Securities and Exchange Commission for fiscal year 1978. The House bill authorized a total of $67 million for the salaries and expenses of the Commission. The Senate bill authorized $58.290 million. After meeting in conference, the conferees agreed upon $63.750 million. This sum will enable the Commission to carry on its activities, and it contains enough flexibility to allow for the anticipated cost of a supplemental pay raise appropriation to accomodate the raises authorized for Federal employees last October 1.

I think this is a reasonable compromise. It falls in between the figures set by the House and the Senate.

I move the adoption of this conference report.

Mr. BROOKE. Mr. President, I agree with the distinguished chairman, and I join with him in his motion.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO RESOLUTIONS TO COME OVER UNDER THE RULE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow no resolutions come over under the rule at the conclusion of routine morning business.

THE PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING A PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow under the standang order——

The PRESIDING OFFICER. May we have order so that the majority leader can be heard?

The majority leader will continue.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes, with statements limited to 2 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1977 (S. 2345) BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill (S. 2345) introduced by Mr. Humphrey and other Senators, which is titled the Full Employment and Balanced Growth Act of 1977, be held at the desk until tomorrow pending further disposition.

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Will the majority leader withhold his request for a moment? Do I understand the request is that it be held at the desk until tomorrow? Could it be held at the desk pending further disposition?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the majority leader.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to; and at 6:39 p.m. the Senate adjourned until tomorrow, Wednesday, December 7, 1977 at 12 noon.

NOMINATIONS

Executive nominations received by the Senate December 2, 1977, pursuant to the order of the Senate of November 29, 1977:

INSTITUTE OF MUSEUM SERVICES

Leila I. Kimche, of Maryland, to be Director of the Institute of Museum Services (new position).

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. James Erskine Hill [redacted], U.S. Air Force.

Executive nominations received by the Senate on December 5, 1977, pursuant to the order of the Senate of November 29, 1977:

COMMISSIONER ON AGING

Robert Clyde Benedict, of Pennsylvania, to be Commissioner on Aging, vice Arthur S. Flemming.

RAILROAD RETIREMENT BOARD

William P. Adams, of Virginia, to be a member of the Railroad Retirement Board for the term of 5 years from August 9, 1977, vice James L. Cowen, resigned.

IN THE COAST GUARD

The following-named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

Lennard K. Rambusch
William R. Babineau
Ernest J. Bader
Aristedes (n) Manthous
Henry G. Satterwhite
William A. Stone, Jr.
Thomas M. Bader
Hugh J. Costello
Bolivar T. Recio
Bennett S. Sparks
John D. McLean
Morton M. Levine
William J. Tangalos
David L. Pearl
Harmon G. Eakles
George L. Sutton
William N. Taylor
Joseph F. Lavelle

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

DENTAL CORPS

Major to Lieutenant colonel

Barkmeier, Wayne W., [redacted].
Bergman, Dennis W., [redacted].
Blaser, Paul K., [redacted].
Brennan, Mark E., [redacted].
Buchanan, William E., Jr., [redacted].
Eyman, Russell G., [redacted].
Goupil, Michael T., [redacted].
Hallmon, William W., [redacted].
Hebda, Thomas W., [redacted].
Hickory, John E., Jr., [redacted].
Hill, Robert L., [redacted].
Jackson, Anson B., [redacted].
Killian, William F., [redacted].
Kreig, Louis T., Jr., [redacted].
Landers, Sam R., [redacted].
Lauder, Keith F., [redacted].
Lubow, Richard M., [redacted].
Maki, Karl A., [redacted].
Munford, Arthur G., [redacted].
Nielsen, Adrian M., [redacted].
Samuelson, John A., [redacted].
Steegstra, David A., [redacted].
Stevens, Fredric D., [redacted].
Stoffers, Kenneth W., [redacted].
Thompson, Larry D., [redacted].
Voss, James E., [redacted].
Westbrook, Steve D., [redacted].
Williams, Howard J., [redacted].
Zeitz, Stanley E., Jr., [redacted].

MEDICAL CORPS

Abraham, David A., [redacted].
Arnold, Hendrick J., III, [redacted].
Baldwin, John L., [redacted].
Barnes, Robert P., [redacted].
Biehl, Albert G., III, [redacted].
Bostrom, Stuart G., [redacted].
Brady, Charles E., III, [redacted].
Carbonneau, John R., [redacted].
Carson, James H., Jr., [redacted].
Celdran, Harriet H., [redacted].
Chasen, Marvin H., [redacted].
Christian, Charles B., Jr., [redacted].
Coburn, Bry H., [redacted].
Cofoid, Paul B., [redacted].
Cogburn, Bobby E., [redacted].
Collins, Cleve B., [redacted].
Conklin, James J., [redacted].
Corwin, James A., [redacted].
Crawford, Raymond S., III, [redacted].
Dail, Eric M., [redacted].
Davey, Joseph J., [redacted].
Davis, David L., [redacted].
Delermecolon, Melida E., [redacted].
Delp, Glenn R., [redacted].
Douglas, Glen A., [redacted].
Elms, John B., Jr., [redacted].
England, Douglas M., [redacted].
Evans, William M., [redacted].
Fan, Warner J., [redacted].
Fedosky, Allan L., [redacted].
Figueroadesigas, Ibis D., [redacted].
Fishburn, Frederick B., [redacted].
Fisk, David E., [redacted].
Floyd, John L., Jr., [redacted].
Frenger, Fred P., Jr., [redacted].
Fuller, Philip S. B., [redacted].
Gilmore, Robert W., [redacted].
Gilstrap, Larry C., III, [redacted].
Hall, Ronald R., [redacted].
Harasimowicz, Joseph A., [redacted].
Harris, Melvin E., [redacted].
Hastings, John R., [redacted].
Heffron, Charles H., Jr., [redacted].
Henderson, Richard A., III, [redacted].
Hidayat, Ahmed A., [redacted].
Hoenes, Douglas R., [redacted].
Holeyfield, Roy W., [redacted].
Howard, Wilbur F., Jr., [redacted].
Johnson, Sherman B., [redacted].
Jordan, Henry S., Jr., [redacted].
Josselson, Arnold R., [redacted].
Kee, Jimmy W., [redacted].
Keller, Harrison B., [redacted].
Learned, David K., [redacted].
Lee, Dennis R., [redacted].
Legaspi, Lester M., [redacted].
Lewis, Ramon L., [redacted].
Mabry, Earl W., II, [redacted].
Marquart, Chris D., [redacted].
Marsh, Royden W., [redacted].
Mataban, Antonio A. B., [redacted].
McClean, Charles K., [redacted].
McDonald, Robert E., [redacted].
Medina, Oswaldo F., [redacted].
Meier, Walter L., [redacted].
Mendlick, Richard M., [redacted].
Miller, Charles J., [redacted].
Mills, William C., III, [redacted].
Mimay, Antonio S., [redacted].
Mittuch, Joseph E., [redacted].
Moncrief, Hugh, [redacted].
Montgomery, Michael A., [redacted].
Muller, Stephen P., [redacted].
Murray, Harry M., Jr., [redacted].
Naguwa, Stanley M., [redacted].
Osterholzer, Heinz O., [redacted].
Paullus, Wayne S., Jr., [redacted].
Paxston, Donald K., [redacted].
Perschau, Richard A., [redacted].
Phillips, Daniel G., [redacted].
Player, David M., [redacted].
Poitrast, Bruce J., [redacted].
Racek, Edward L., [redacted].
Rasmussen, Reed C., [redacted].
Rettig, Kenneth R., [redacted].
Richardson, Howard M., [redacted].
Rigopoulou, Helen, [redacted].
Riley, Robert J., [redacted].
Risser, Christian F., [redacted].
Roadman, Charles H., II, [redacted].
Rogers, James H., Jr., [redacted].
Roper, Daniel L., [redacted].
Rose, Donald D., [redacted].
Ruehle, Charles J., [redacted].
Ruggles, Charles W., [redacted].
Ryan, Michael E., [redacted].
Schwartz, Gary P., [redacted].
Schwender, George E., [redacted].
Seith, William F., Jr., [redacted].
Sexson, William R., [redacted].
Shane, Jeffrey A., [redacted].
Shelley, James M., Jr., [redacted].
Shirley, Douglas P., [redacted].
Sigler, Robert W., [redacted].
Sipperley, Jack O., [redacted].
Smith, James M., [redacted].
Spielvogel, Richard L., [redacted].
Stelling, Henry G., Jr., [redacted].
Stevens, Edwin A., [redacted].
Stith, John A., [redacted].
Stonefeld, Donald F., [redacted].
Stutts, Baldwin S., III, [redacted].
Szpak, Michael W., [redacted].
Tolan, Gil D., [redacted].
Toon, Lee, [redacted].
Tremblay, Normand F., [redacted].
Trent, William G., [redacted].
Tuggle, Allen Q., [redacted].
Turlington, James T., [redacted].
Waring, William M., [redacted].
Warren, Fredric H., [redacted].
Whelan, Gerald P., [redacted].
Wilcox, Harry E., [redacted].
Wilson, Robert O., [redacted].
Wolfe, William H., [redacted].
Yu, Percy P. C., [redacted].
Yunes, Earl L., [redacted].

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be captain

David E. Fisk, [redacted].
Ronald R. Hall, [redacted].
Earl W. Mabry II, [redacted].

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Dale K. Atkinson
Elizabeth V. Bres
Richard Chelune

The following-named (Naval Reserve officer) to be appointed a permanent captain in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. Harold R. Schumacher, MC, USNR.

The following-named (Naval Reserve officers) to be appointed permanent commanders in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. Frank R. Arko, MC, USNR.
Comdr. John C. Fulmer, MC, USNR.
Comdr. Godofredo L. Navarro, MC, USNR.
Comdr. Richard H. Rahe, MC, USNR.

The following-named (Naval Reserve officers) to be appointed permanent lieutenant commanders in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. Comdr. John A. Bigbee, MC, USNR.
Lt. Comdr. Djalma A. Braga, MC, USNR.
Lt. Comdr. David S. Frost, MC, USNR.
Lt. Comdr. George W. Gregory, III, MC, USNR.
Lt. Comdr. Kenneth G. Gross, MC, USNR.
Lt. Comdr. Justiniano C. Leyva, MC, USNR.
Lt. Comdr. Robert L. Magnuson, MC, USNR.

Lt. Comdr. Gerald W. Ross, MC, USNR.
Lt. Comdr. Judy E. Schwartz, MC, USNR.
Lt. Comdr. Charles S. Settle, MC, USNR.
Lt. Comdr. James C. Syverud, MC, USNR.
Lt. Comdr. Felix R. Tormes, MC, USNR.

The following-named (Naval Reserve officer) to be appointed a permanent Lieutenant Commander in the Dental Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. Comdr. Ronald B. Schatz, DC, USNR.

The following named Chief Warrant Officer to be appointed a permanent Chief Warrant Officer, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

CWO-2 Robert L. Kennedy, USNR.

The following-named (Naval Reserve officers) to be appointed temporary captains in the Medical Corps of the U.S. Navy subject to the qualifications therefor as provided by law:

Capt. Frank R. Arko, MC, USNR.
Capt. John C. Fulmer, MC, USNR.
Capt. Richard H. Rahe, MC, USNR.

The following-named (Naval Reserve officers) to be appointed temporary commanders in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr George W. Gregory, III, MC, USNR.

Cdr Kenneth G. Gross, MC, USNR.

Executive nominations received by the Senate before the convening of the Senate on December 6, 1977, pursuant to the order of the Senate of November 29, 1977:

DEPARTMENT OF JUSTICE

Carlon M. O'Malley, Jr., of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania for the term of 4 years, vice S. John Cottone.

Mack Burton, of Arkansas, to be U.S. marshal for the western district of Arkansas for the term of 4 years, vice Lee R. Owen.

Coy W. Rogers, of Oklahoma, to be U.S. marshal for the western district of Oklahoma for the term of 4 years, vice Floyd E. Carrier, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 6, 1977:

NATIONAL MUSEUM SERVICES BOARD

The following-named persons to be members of the National Museum Services Board for the terms indicated:

For a term of 1 year:
Douglas Dillon, of New York.
Neil Harris, of Illinois.
Joan Mondale, of Minnesota.
For a term of 2 years:
Mamie P. Clark, of New York.
Benjamin W. Hazard, of California.
Nancy Negley, of Texas.
For a term of 3 years:
Gary K. Clarke, of Kansas.
George Horse Capture, of Montana.
Charlotte Ferst, of Georgia.
For a term of 4 years:
Lewis Davis, of New York.
Raul A. Lopez, of California.
E. Leland Webber, of Illinois.
For a term of 5 years:
Lloyd Hezekiah, of New York.
Peter H. Raven, of Missouri.
George C. Seybolt, of Massachusetts.

NATIONAL SCIENCE FOUNDATION

James Arthur Krumhansl, of New York, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF ENERGY

John M. Deutch, of Massachusetts, to be Director of the Office of Energy Research.

DEPARTMENT OF THE INTERIOR

Walter N. Heine, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

VOLUNTEER DEVELOPMENT CORPS

HON. THOMAS F. EAGLETON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Tuesday, December 6, 1977

Mr. EAGLETON. Mr. President, I call your attention to the work of one of my constituents who has three times volunteered his skills and experience to advance self-help economic development overseas. I ask that the article, "Bud Barker: International Volunteer," by Nancy C. Kaprelian, which appeared in the September 1977 issue of the Missouri Courier, the monthly publication of Missouri Credit Union League, be printed in the RECORD immediately following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. Bernard C. Barker of Washington, Mo., former assistant managing director of the league, has completed three Volunteer Development Corps assignments. The first was in Peru, where he developed an information gathering system for credit co-ops. The second was in El Salvador, where Mr. Barker helped establish lending and repayment procedures for a group of small agricultural credit co-ops. His third assignment was in Thailand, where he organized a training program for credit co-op fieldmen throughout the country.

Mr. Barker is only one of several Missourians who have reported to me on their work as they have returned from VDC assignments overseas. I recall others including—

Dr. Harry A. Herman, former executive director of American Association of Animal Breeders, Columbia, Mo., who advised the superintendent of cooperatives of the Brazilian States of Minas Gerais, a State as large as France, on establishing artificial insemination cooperatives for both milk and beef producers:

Earl W. Grigg of Sunrise Beach, Mo., a former Farmland Industries construction supervisor, who helped members of a honey marketing co-op in Belize erect a steel building to house their processing equipment; and

A. H. Stephenson of Tuscumbia, Mo., former executive vice president of Farmland Industries, who advised Indonesia's director general of cooperatives on fertilizer distribution.

The contributions of these Missourians and other VDC volunteers to economic development overseas is impressive. As Ms. Kaprelian says in her article, the co-ops that sponsor VDC "want to make certain that the cooperative technique of economic organization is used and used effectively."

U.S. co-ops provide some of VDC's funds. Most of its money comes from the Agency for International Development as grants. Its most important resource, however, is not money but the volunteered skills and experience of highly qualified men and women. Ms. Kaprelian's article has caught not only the spirit of VDC and its volunteers but the spirit that lies at the heart of America's foreign aid program.

EXHIBIT 1

BUD BARKER: INTERNATIONAL VOLUNTEER

(By Nancy C. Kaprelian)

As the car came to the river's edge in Thailand, the driver informed Bud Barker that the credit union meeting was on the island in the middle of the river and that the only means of getting to that island was by boat. Barker took the situation in stride and calmly stepped into the boat, to be steered to the island. This was just another episode in a long line of international adventures and experiences in Barker's life since his retirement from the Missouri Credit Union League in December 1971.

Retirement—it is a word that conjures up such gentle images as the creak of a rocking chair on a front porch swept with a summer breeze, or at least nothing more strenuous than the idea of puttering in a garden. Retirement is a time of peace and quiet, the reward after a lifetime of bustle and pressure.

Barker eschews that quiet image because he prefers the bustle of life. His present lifestyle would be full for a man half his age, but the seventy-year-old finds it satisfying and rewarding. His most gratifying experiences these past six years have been his missions for the Volunteer Development Corps (VDC).

In the months before his retirement from the Missouri League after four years as assistant managing director and virtually after a lifetime of credit union work, he contemplated what he was going to do with his retirement. He noticed a small article in a credit union publication about the VDC. He felt that he would have the time now to devote to such volunteer work, so he wrote the organization for some descriptive literature. In its answer, the VDC suggested that he write Credit Union National Association (CUNA), which happened to be one of the sponsoring organizations of VDC. Barker didn't write CUNA and let the matter drop, or so he thought.

But in November 1971, right before the League's annual meeting, he received a call from the VDC to see if he could go to Peru on a volunteer mission. They wanted Barker to leave immediately, the next day if possible.

With special permission from the League board of directors and after quick orientations at the state department, CUNA's Washington office, and the Confederation of Latin American Credit Unions (COLAC) offices in Panama, Barker and his wife Eloise found themselves in Lima, Peru. They arrived in December and stayed for approximately three months. His job was to develop a statistical department for the Federacion Nacional de Cooperativas de Credito del Peru, Peru's equivalent of a credit union league, and to train someone to manage that department.

It was a typical job for the VDC, a private, non-profit organization which had been established seven years ago by a group of six U.S. cooperatives to provide short-term technical assistance to other cooperatives in developing countries. According to David Angevine, VDC president, these sponsoring cooperatives wanted to make certain that the cooperative technique of economic organization is used and used effectively.

VDC is financed jointly by the Agency for International Development (AID), a U.S. government agency, and the now-five cooperatives, one of which is the World Council of Credit Unions (WOCCU). (CUNA had been one of the six charter cooperatives, but in April of this year, transferred its authority to WOCCU. A. A. (Paddy) Bailey, president of WOCCU, presently is a member of the VDC board of directors.) In order not to conflict with the international work of these cooperatives, the VDC does not accept any assignments overseas which cannot be handled within 90 days. The VDC also depends on volunteers.

These volunteers are highly qualified, experienced men and women who are chosen carefully for each specific task. The volunteer may have retired recently from a U.S. cooperative or may be a mid-career professional whose co-op has granted him or her leave-with-pay to handle the overseas assignment.

Into this situation, Barker had strode with 33 years of credit union affiliation. Angevine was impressed with Barker's experience and jumped at the chance to tap this goldmine. He sent Barker off to Peru, to develop that statistical department. The credit union league there did not have any idea what credit unions were in its membership. The task was a formidable one for Barker. In classic understatement, he shook his head, smiled and said, "You can't imagine how loosely-run some credit unions are in other countries."

Because of the short-term nature of VDC work, the volunteers do not learn the language of the country to which they have been assigned. They need interpreters, and Barker's interpreter was a young man from Wisconsin who was in the Peace Corps.

Despite the free-wheeling attitude there, Barker believes that U.S. credit unions, with all their technical knowledge, can learn a thing or two from Peru and other countries. There is a national police credit union in Lima that has a ten-story building. One floor is devoted to education, one to dormitory space, another is a health clinic, and still another a cooperative with goods for purchase for all the credit union's members, who are scattered throughout the country. Barker says, "I don't know of any credit union in the States that gives the services that credit union in Lima does."

The VDC volunteer usually is not called up for a second assignment, but in April 1972, Barker left for six weeks in El Salvador. The Foundacion de Promotora de Cooperativas, a Catholic Church organization in that country, had asked the VDC for assistance. The organization sponsors a group of credit unions, which are not members of the credit union league there. This group wanted a volunteer to present an educational program for their officers.

A young Catholic priest served as Barker's interpreter as he visited these credit unions formed from farmers cooperatives. Beyond the specific assignment of a credit union educational program, Barker also worked with these people to teach them the wise use of credit to buy farm equipment to bring about better farm yield. "You're given the specifics of an assignment by the VDC," he states, "but you respond also to other needs as they come up in the countries."

The VDC must have been terribly pleased with Barker's initiative, for in 1974, they assigned him to a job in New Guinea to conduct seminars for credit union leaders from all parts of that country, but primarily from the back country. However, the assignment did not pan out because Australia did not pick up the tab as had been expected, and New Guinea did not have the finances.

Two years later, Barker embarked on his most recent VDC assignment. His trip to Thailand has left the greatest impression on his memory. Bud and Eloise left the U.S. in July 1976 to stay for two months in Bangkok. The request had been made to the VDC by the Credit Union League of Thailand to send a volunteer to review the operations of the league. Barker also was to devise a training program for the league's field representatives or extension workers, who then would organize new credit unions, especially in the rural areas. And he was to advise the league's officers of the directions to proceed to make the league self-supporting.

One of the field representatives who was fluent in English was assigned to the Barkers as their interpreter, Nikom Subongkot was driver, interpreter, and all-around "Man Friday" to them. "I don't know what we would have done without him," Barker smiles. "Whatever we wanted or requested, Nikom could find." The Barkers also were assisted by Somchit Varangkanangyubol, the acting manager director of the league. Happily for the Barkers, the Thai tradition of addressing people is to call them by their first names.

Barker found no trouble being an American in that troubled Asian country. He thought the people friendly and cooperative. "I was impressed by the people in Thailand," he remembers. "They were eager to work and progress." It pleased him to help these people. He found that the Thai people need financial guidance and credit at a reasonable rate of interest. "They can't go into a bank from the street like we can for easy credit," Barker states. He believes that if the government remains stable, the credit union movement in Thailand will grow because it answers a real need, much like the beginnings of the movement in this country.

The credit unions in Thailand are village credit unions. Some are located in remote provinces, like the credit union on the island in the river in Ubon province. Barker traveled the country and visited credit unions and chapters to "get the feel" of the land and the people.

Just as he had for Peru and El Salvador, Barker researched information and background data on Thailand in the library before leaving this country. The short briefings at the state department were not enough as far as he was concerned. For his trips to Peru and El Salvador, Barker even subscribed to *Americas* magazine, which is published in Washington, D.C., and which contains stories on the countries of South and Central America. Then, when he arrived at his destination, he traveled the length of the land to obtain firsthand knowledge of the country and its people. "You have to start from the grassroots," he believes.

In Thailand, Barker found that the majority of the people were Buddhists but that the majority of the league's employees were Catholics. One of his recommendations was to hire more Buddhists to dispel the people's notion that credit unions were elitist organizations. He wanted to rid the credit unions of the stigma of distrust. He also observed that the Thai people considered credit unions as organizations for "the poorest of the poor only" and that the middle classes did not need to show an interest in the movement.

The entire credit union movement in Thailand is worth seven million bahts, the Thai currency. Barker says that compares with the assets of Kirkwood Municipal credit union, in Kirkwood, Missouri, which is about $350,000. The currency exchange is 20 bahts to one dollar.

In his report, Barker felt that the future development of Thai credit unions presented possibilities. He believed that credit unions could offer unlimited assistance to the majority of Thai people, and that the growth and expansion of the credit union movement there was greatly needed for the benefit of the people.

One of the impressions in Thailand that sticks vividly in Barker's mind is his visit to a refugee camp in the northern province which borders on Laos. It was an abandoned American base that has been converted by the Thai government into housing for refugees from the fighting in Laos. The Thai government had done all it could to make the refugees comfortable, but it still was disturbing to see these displaced citizens of Laos who could never go back to their homeland. Barker and his interpreter walked among the refugees, and Barker was able to talk to them extensively.

Barker is not certain he will be called again for volunteer service. "Normally, the VDC just calls a person for service for one time only," he stated, "but they've asked me to serve three times so far. I'd like to go to Africa; that's a continent I've never been to. My wife says she won't go."

Eloise Barker has accompanied her husband on all of his trips. She learned to cope with domestic needs in the three countries and keep Bud's home life stable while he battled with the problems that had brought them there in the first place. She was born Eloise Goodale in Indian territory before Oklahoma became a state. Her father was a justice of the peace there, in land that was much like the old west. She inherited her father's spirit and proved it when she followed Bud on his jaunts overseas. Are there any takers on a bet that she won't accompany him to Africa if they are called?

While they are waiting to see if they receive another VDC assignment, the Barkers keep busy with their many other activities and jobs. Both are members of the Greater St. Louis Airstream Unit, which is part of the national Wally Byam Caravan Club International. They recently returned from the 20th international rally of the club at Bozeman, Montana, a gathering of the tribes, so to speak, of Airstream travel trailer owners. On that one trip alone, the Barkers traveled through 14 states in the west.

Bud Barker also is manager of the Kirkwood Municipal credit union and has had that position for the past three years. He has been the accountant for the past two and one half years for the Consumer Credit Counseling Services of Metropolitan St. Louis, and recently added the duty of lecturer in schools and at civic group meetings on the subject of consumer finance.

And Barker's hobby in woodworking is well-known. His decorative trays are works of art, and one was presented to Leonor K. Sullivan, former Congresswoman from Missouri, for her untiring efforts on behalf of consumers and credit union members in this state.

Born Bernard C. Barker on September 2, 1906 in LaGrange, Missouri, he attended elementary and high school in Keokuk, Iowa. He attended Iowa University and Hills Business College in Oklahoma City, then graduated from International Accountants Society in Chicago, Illinois.

It is plain to see that traveling was in his blood from the start. At that time, it was natural for Barker to join the navy and continue his traveling ways, but this was the one time fate thwarted him. "I thought you joined the navy to see the world," he joked, "but I was in the finance office on the naval repair base in San Diego and I stayed there." He served nearly three years as first class petty officer and was released with an honorable discharge.

He spent years in banking, in the insurance business, and in the treasury department of a large oil company before going back to Oklahoma and employment as chief auditor of the consumers tax division of that state's tax commission. In 1938, he moved to the Oklahoma employment security commission. And in that same year, he began his affiliation with the credit union movement.

After 15 years with the commission, Barker moved to Michigan in 1953 to begin work with the Michigan Credit Union League. He worked there in various capacities until 1961, when he assumed the position of treasurer-manager of Detroit Federal Employees credit union. He left Detroit in 1965 for Arizona and the position of assistant managing director of the Arizona Credit Union League. He stayed there until 1967, when he came to the Missouri League. Barker is a member of the Founders Club and a charter member of the Credit Union Executives Society.

He married Eloise in June 1932 and aften teases her with the remark that "45 years is an awfully long time to stay with one woman." They have two sons: Dan, who is 30, and lives with his wife Terri in Tempe, Arizona; and Lane, who is 25, and lives in Webster Groves with his wife Linda.

As an elder in the Christian Church (Disciples of Christ) for nearly 30 years, Barker has been instrumental in organizing two churches, one in Oklahoma and the other in Michigan. He is a Sunday School teacher and presently serves as chairman of the board at the Villa Ridge Christian Church.

His values and his love of travel merge in Barker's work as an international volunteer. He believes that "the cooperative effort in financing and other areas in these emerging nations is the way they are going to progress the fastest. These people need information so that they can help themselves. With the cooperative effort, people learn to do for themselves." He recognizes that the U.S. cooperative movement has helped a great many people in this country and feels that these same methods can help others in developing nations. Barker smiles and states, "I'm not a philosopher, but that's how I feel. That's my philosophy."

It's this philosophy that will draw Bud Barker from his tranquil home near Washington, Missouri, to roam the world spreading the cooperative creed as a volunteer with the VDC. He may be retired, but he hasn't been sent to pasture, for the people of the world need Bud Barker and his experience and values.

PHILADELPHIA ACTS TO REDUCE NUMBER OF VACANT HOMES IN CITY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. EILBERG. Mr. Speaker, the city of Philadelphia has been engaged in a determined effort to reduce the number of vacant homes in the city, and I am happy to be able to report that this campaign has resulted in a substantial improvement in this critical area of housing.

A new survey, completed earlier this year, shows a 38.1 percent decrease in vacant residential and residential-commercial properties in the past 3 years.

Mayor Frank L. Rizzo has issued the following statement on the progress that has been made:

> This significant improvement in a critical area of our housing problem is most welcome. It demonstrates that we are on the right track. In the months ahead we will exert every effort to bring about even greater improvements in the all-important area of housing.

The vacant housing report, issued by Licenses and Inspections Commissioner Dominic Sabatini, has been transmitted to Allen R. Vose, General Manager of the U.S. General Accounting Office, by John A. Gallery, director of the city's Office of Housing and Community Development.

Comparing a recent survey of vacant residential properties conducted by the city during the period June 1 to July 15, 1977, with a similar survey done in 1974, Gallery noted that there were some 34,303 vacant properties in the city 3 years ago. Some 7,000 to 8,000 of these were owned by the Department of Housing and Urban Development as a result of FHA mortgage defaults.

The current vacancy figure for these residential categories is 21,214—a drop of 13,089 vacancies. This reduction, Gallery noted, can be attributed to a number of factors:

> First, there has been a substantial reduction of HUD vacant units during this period as a result of HUD's own efforts and the City's efforts to take HUD properties through the City's Gift Property Program, the LPA Rehab Program, and Urban Homesteading. HUD's inventory has been reduced from the 7000 to 8000 figure to slightly less than 1000 properties . . .
>
> There has also been a reduction resulting from L & I's demolition of public nuisance properties. Approximately 5600 such properties have been demolished, usually as a result of requests from individuals or community organizations.

In his letter, Gallery also noted that there has been a reduction based upon the city's rehabilitation efforts directed toward privately-owned vacant properties, which have reclaimed 1,257 vacant properties through the gift property program and the urban homesteading program, as well as through efforts of the Philadelphia Housing Development Corporation and the Redevelopment Authority LPA Rehab Program.

In his 1977 report on the vacant property survey, Commissioner Sabatini gave further details of the city's efforts to reduce the residential vacancy rates.

He noted that neighborhoods and community groups are recognizing the negative influence of vacant dilapidated houses and that the Department of Licenses and Inspections requested by communities to remove these sources of blight, has demolished 5,632 structures through its public nuisance and dangerous building programs.

He added that the number of vacant lots has not increased even with greater demolition activity—there has actually been a decrease of 3.18 percent from 15,562 to 15,067 in the past 3 years. A number of programs have made such lots a benefit to the neighborhood by paving them for parking or making them available as community gardens or play areas. Further, where whole blocks of structures have been torn down, the resultant large vacant lots are more marketable for development.

Private market activity has also played a role in the vacancy rate reduction, the commissioner states, as such areas as Queen Village, Fairmount, Spring Garden, and Olde Kensington have benefitted from a back-to-urban-living concept and have been improved and reoccupied on an individual basis.

The city's urban homestead program makes vacant properties available to families who agree to rehabilitate a house and occupy it for 5 years. Technical rehabilitation services and financial counseling, plus help in obtaining mortgages, are provided to homestead families.

The gift property program of the Office of Housing and Community Development provides an opportunity for owners of tax-delinquent vacant properties to give them to the city for forgiveness of back taxes and city liens. Properties accepted by the program are made available to individual families, channeled into existing public programs, or held aside for future development.

The Redevelopment Authority's LPA (Local Public Agency) rehabilitation program purchases vacant, vandalized and abandoned houses in 12 urban renewal areas, rehabilitates them, and sells them to eligible home-buyers who plan to live in them.

The vacant property survey was compiled by department inspectors who reported on over 51,000 addresses in a concentrated, highly controlled program using computer-produced records and detailed maps to assure complete coverage of the city.

COMMUNIST CHINA: ENEMY OF A FREE PRESS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. ASHBROOK. Mr. Speaker, recently I placed one of a series of articles that Ross Munro of the Toronto Globe and Mail wrote on the lack of human rights in mainland China. To the Washington Post's credit it ran the whole series of articles.

The Chinese Communists have informed the Toronto Globe and Mail that Munro's visa will not be renewed "due to obvious reasons". Toid of this in Peking, Munro commented,

> Communist countries never expel correspondents for telling lies.

The West would be much better served by this type of honest reporting rather than that which usually is the case.

The refusal to renew Ross Munro's visa shows the true nature of the Chinese Communists. Reporters who have the courage to report the truth will not be allowed to continue reporting from the mainland of China. Communist China is an enemy of a free press. It not only prohibits its own subjects from learning the truth but also wants to restrict information to the citizens of the United States. But then we should not be too surprised. The Chinese Communists have tried other tricks in regard to the press including threats of no Peking bureaus for newspapers that carried advertising of Free China.

OIL COMPANIES—"THEY ARE ME"

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. KETCHUM. Mr. Speaker, the accusations, misrepresentations, and half-truths being leveled by the White House on the oil industry in recent weeks are not only unjustifiable, but in my opinion represent a last-ditch "anything goes" effort by the administration to salvage the Carter energy bill. From a President whose earlier campaign promises emphasized honesty and integrity, these tactics are that much more difficult for the American public to swallow.

I represent a district in which oil is a vital part of the area economy. Consequently, I am able to see firsthand the effects of the industry on employment, tax revenue, and area development, and I assure you that these effects are positive ones. My district, however, is but a small example of the positive impact of this industry on the American economy. In his attacks the President has painted the oil industry as a monolithic structure commandeered by a few individuals whose influence is so vast that they are able to strong-arm the U.S. Congress into turning down some of the major proposals incorporated in the Carter energy "panacea." I consider this an insult to myself and to the Congress. Instead of portraying himself as the "knight in shining armour" out to protect the Nation from the "dragon" oil industry, I suggest that the President more closely examine the faults inherent in his energy proposals.

Mr. Speaker, I would like to conclude by requesting that a copy of an editorial printed in the October 19 edition of the Washington Post be included in today's RECORD for the benefit of my colleagues. I think that this letter better represents the role of the oil industry in the American economy.

THE OIL COMPANIES—"THEY ARE ME"

President Carter's senseless attack on "the oil companies" should be noted as political rhetoric only, as any brief analysis would show. Who are "the oil companies"? Well, they are me—I own 800 shares of Continental Oil Company (Conoco) stock, which I bought with money I saved while working, and the $93.33 that Conoco pays me every month helps a great deal now that I'm retired. Although lagging for a while, dividend increases lately have a bit more than matched the increase in cost of living.

Over the past 10 years, including those when Sen. Henry Jackson was calling "the oil companies" thieves, Conoco has sold $44.3 billion worth of products, has paid federal income taxes of $600 million and other taxes of $8.9 billions, and "other costs" have amounted to $32.6 billion. Net profits were $2.2 billion (5 per cent of sales), dividends were $800 million, and $1.4 billion were reinvested in the business. Those receiving dividends (the owners) were perhaps, on the average, in a 38 per cent tax bracket, so $300 million of the $800 million in dividends went to Uncle Sam, increasing his take from the business to $900 million and decreasing the owners' take to $500 million.

So Uncle got, in income taxes alone, almost twice as much as the owners got in net income; total taxes paid by Conoco over the period were almost 20 times as much as the owners got from the business. During the 10 years, long-term debt increased by $600 million, so the owners borrowed more money than they got back in net income.

"Other costs" of $32.6 billion, the $1.4 billion reinvested, and the $600 million increase in long-term debt mostly went into jobs for people—you can't drill a hole in the ground or buy transportation or equipment without putting people to work. Certainly these figures represent hundreds of thousands of jobs.

So this is "the oil companies," fostered by private capital and existing in a competitive environment, paying 20 times as much in taxes as the owners get, and selling gasoline much more cheaply than it can be bought in most other major countries of the world. This is a rip-off?

What do the politicians offer us in return if we accede to their demands that they be allowed to run the oil companies? Promises, intentionally vague promises, because they know little of the system they would destroy. But I know this, that when they destroy the oil companies they destroy me and hundreds of thousands of people like me. I am writing this letter because I object strenuously to being destroyed.

WILLIAM T. ST. CLAIR.

BERRYVILLE, VA.

LIBERTY LITTLE LEOPARDS—LIBERTY, OHIO—ARE NATIONAL CHAMPIONS IN POP WARNER FOOTBALL

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. CARNEY. Mr. Speaker, the members of the Liberty Little Leopards football team were honored at the fouth annual football banquet on December 4, 1977, at the Mahoning Country Club in Youngstown, Ohio. This year's banquet was an especially important event. The Liberty Little Leopards, composed of boys from the Youngstown area, have been named the "Number One Junior Midget Team in the Nation" following their victory over Orlando, Fla., in the Pop Warner Youth Football Playoffs. The Little Leopards were undefeated in 10 games.

I had the privilege of addressing the Little Leopards football banquet. In my remarks, I urged the boys to be champions off the football field, as well as on it. I also encouraged them to excel scholastically, and to set an example for their peers. The Liberty Little Leopards and their coaches have met their community's highest expectations for sportsmanship, teamwork, and discipline. Their hard work and determination have led them to develop the strength and skill necessary to achieve this national championship. Their families, friends, and supporters are justly proud of them, as I am.

Pop Warner, who once coached at such major universities as Cornell, Temple, Stanford, Georgia, and Pittsburgh, founded a football organization in 1929 to coordinate boys' football teams. Today, over 6,000 teams nationwide, made up of players between the ages of 8 and 15, are affiliated with Pop Warner Football. These teams are able to take advantage of the national organization's publications, insurance, safety, and scheduling programs.

Mr. Speaker, I wish to extend my congratulations to the Liberty Little Leopards and their coaches on their outstanding football season. Our community is proud of their accomplishment, and wishes them future success. At this time, I would like to insert the names of the coaches and the members of the championship team in the RECORD:

John Batcho, head coach; Dan Gustafson, coach; Bill Long, coach; Ed McCann, coach; Ed Rohm, coach; Robert Palumbo, coach; Tom Thomas, coach; and Ron Coman, equipment manager.

Members of the team: Mark Aliff, Brian Blasko, Marty Blasko, Doug Brown, Randy Burns, Bob Burton, Terry Chalker, Greg Cizmar, David Cordy, Danny D'Andrea, Bill Daniels, Ted Daroski, Antoine Davis, Keith Davis, Jack Day, John D'Egidio, Mark Demidovich, Tony DeNunzio, Joe Merolillo, Tom Matey, Sean McFarland, Dave Moamis, George Moamis, Joe Novello, Brian Palumbo, Lenny Portolese, Dean Pierce, Ed Quaranta, Tommy Ragland, Joe Sarko, John Sallustio, Greg Scharrer, Allen Smail, Mike Weddell, and Mark Welsh.

Kevin Holmes, manager; John Ague, manager; and Kevin Blasko, manager.

SHOPLIFTING: CONSUMERS ARE ITS INDIRECT VICTIMS

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. MURPHY of Illinois. Mr. Speaker, for the fifth straight year, the Illinois Retail Merchants Association sponsored an educational campaign to raise public awareness of one of America's fastest growing crimes—shoplifting. In recognition of the seriousness of retail theft, Gov. James Thompson and Chicago's Mayor Michael Bilandic declared November 13–19 Everything Has a Price Week.

The point of Everything Has a Price Week is this: People who steal do not get "something for nothing." Theft hurts all of us—in the form of higher prices (caused by higher insurance costs and money spent on theft prevention), fewer job openings because of lower business profits, and higher taxes for increased law enforcement services.

Everything Has a Price Week activities were aimed at discouraging this "something for nothing" attitude. Retail merchants want the public to be aware that everyone—not just store owners—suffer a financial loss when people shoplift. As Hugh E. Muncy, president of the Retail Merchants Association, said:

Few people realize that by turning the

other way when they see a thief in action, it costs them plenty.

Mr. Speaker, I commend the Illinois Retail Merchants Association for its continuing effort to reduce the crime of shoplifting. Consumers everywhere must realize that they have a vested interest in seeing that retail theft is curbed.

NUTRITION EDUCATION IN NEW YORK CITY

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. RICHMOND. Mr. Speaker, nutrition education should be a major concern of the Federal Government. Yet when we take a look at our current $70 million effort designed to teach people to eat right, we see an array of 30 programs administered by 11 different agencies. There is a clear lack of planning and coordination with the result that relatively limited Federal funds are being wasted on a patchwork of largely misdirected nutrition education projects.

In an effort to remedy this situation the Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, which I chair, has begun an intensive investigation of the Federal Government's role in nutrition education. So far, we have found that the American public is not being reached by Government nutrition information where they want it nor in an easily comprehensible format.

The expanded food and nutrition education program (EFNEP) of the Extension Service, USDA, serves citizens who live outside of the mainstream of opportunity and affluence, consumers who can least afford to be nutritionally ill informed. Mothers who live and raise their families in the community are trained to carry the messages of good nutrition to neighbors and friends, offering shopping and cooking advice in the language of the people whom they assist. EFNEP is a unique example of a Federal program contributing to the public health while strengthening the stability of the family.

Mr. Speaker, I would like to share with my colleagues the following article by New York Times writer Patricia Wells. The article emphasizes the need for clear Federal directives in establishing nutrition education programs that will have long-term impact on the eating habits of all Americans.

[From the New York Times, Nov. 2, 1977]

PUTTING NUTRITION INTO HISPANIC DIETS

(By Patricia Wells)

In Puerto Rico, they snacked on papayas, acerola berries and guava. Now, more often than not, it's Twinkies or doughnuts. Rice and beans is still a staple, but meat, once reserved for holidays, has become a daily habit.

For the many hundreds of thousands of Puerto Ricans now settled in New York, besides a new climate, new language and customs, there have been drastic changes in diet. And according to nutritionists working in the city's Spanish-speaking communities, the change has largely been negative.

Obesty. Hypertension. Iron deficiency. Deficiencies in Vitamins A and C. These are the health problems that Nilda Tirado, nutritionist working seven years in East Harlem, relates to the changing Puerto Rican diet.

"It's hard to tell a family who sees daily consumption of meat as a status symbol that this isn't good for them," said Miss Tirado, who believes that the old, simple diet, full of folk wisdom and cures, was nutritionally superior. "I have to say, look at what you ate back home, and look at what you eat now. Remember all the fruits? You didn't eat meat every day. You never ate cakes and candies."

It isn't that simple. According to Miss Tirado, head of one of the three offices in New York City of the Expanded Food and Nutrition Education Program, food habits are not formed overnight. Nor are they changed in a day.

Miss Tirado, her staff and those in community nutrition programs in the South Bronx and South Brooklyn have been working at improving the dietary habits of residents ever since Cornell University began administering the Federally financed program in 1970. And they're the first to admit that such change is slow.

The program, based on the belief that knowledge of foods and nutrition can improve the diet, health and life of low-income New Yorkers, now reaches about 15,000 adults and younger people, most of them Spanish-speaking.

The nutritionists and their aides go into the community with a one-to-one education program that includes everything from assistance on food selection in supermarkets to informal classes on cooking and baking.

The city's three offices employ about 60 aides full time, all young mothers recruited from the community in which they work. All receive an intensive three-week training course in foods and nutrition, and later attend weekly programs to update their knowledge.

After canvassing door to door and talking with homemakers about food and related subjects, each aide sets up a caseload of homemakers who voluntarily agree to participate in the program from six months to a year. Aides make weekly or semiweekly visits to 30 to 50 homemakers, beginning with discussions on the family's eating patterns and food-buying habits.

"The homemaker's needs vary widely," explained Miss Tirado. "Sometimes it's just a young mother who doesn't know how to cook and wants to learn. Or another who is confused by all the unfamiliar foods here and wants to know how to shop for and prepare such vegetables as spinach or broccoli. Infant nutrition is another big area."

In some housing projects, groups of homemakers enrolled in the program have gathered on their own to form discussion groups on weight control, food preparation or menu planning.

In many cases, homemakers graduate from the program and become so interested in nutrition and the community work that they go on to become aides themselves.

"It is a very costly, time-consuming program," Miss Tirado admitted, "but it's not just enough to give information. We're looking for behavioral changes, not just knowledge change."

Such behavioral change was much in evidence during a recent visit to a South Bronx homemaker. During a previous trip, Milagros Caraballo, the young nutrition aide, had found that the homemaker and her family of four used one gallon of vegetable oil each week, generally in frying pork chops or chicken or in preparing rice.

"I saw that their consumption of fats was awfully high, and suggested ways in which they could cut down," said Miss Caraballo.

During this visit the aide was greeted at the door with a smile and the words, "The pork chops were delicious. I baked them with a little spice, no oil, and everyone loved them."

A similarly positive behavioral change was noted in a group of South Bronx fourth graders who had received nutrition lessons from Cecilia Hallgren, a nutrition aide specializing in work with children.

Months after Mrs. Hallgren had visited, the class had a party. Instead of the usual snacks, students brought bananas rolled in wheat germ, fruit salad and carrot cake—all items rather foreign to their diet before Mrs. Hallgren's appearance.

On a larger scale, the program's influence was felt throughout the state in 1972, with the passage of a bill requiring that all rice sold in New York be enriched.

Maria Burgos, the nutritionist heading the South Bronx program, initiated the bill after she discovered that most of the rice sold in one-pound boxes was enriched, which was not the case with the 10- or 20-pound bags purchased by Spanish-speaking residents, who consume a half pound of rice per day per capita.

"In Puerto Rico, it was law that rice be enriched," said Mrs. Burgos. "I had to see that it was so here, too."

Some of the other changes the nutrition program has encouraged include a more varied diet, adding more vegetables high in vitamin A and fruits high in vitamin C; better shopping habits; healthful breakfasts, and better snacking habits.

For vitamin A, they often suggest adding carrots to stews or offer recipes for carrot cookies and carrot cake. They've also introduced the community to orange nog—a combination of orange juice and milk—now a popular snack drink that competes successfully with Kool-Aid and Hi-C.

As Miss Tirado pointed out, the program deals largely with a populace that sees a dentist only to have a tooth pulled and with women for whom prenatal care is almost nonexistent.

"Our largest and most captive audience is really the children," explained Judy Rodriguez, who works with young people in the East Harlem program.

Working with schools, community centers and after-school programs in the nutrition center, Mrs. Rodriguez stressed healthful snacks and the "breakfast habit."

"They love to cook—oatmeal cookies with raisins, special ice milks—it's the only thing that keeps them coming back," she said.

JOSEPH EGAN NAMED TO COMMERCE POST IN CITY OF PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. EILBERG. Mr. Speaker, I am pleased to report that one of my constituents, Joseph M. Egan, Jr., has just been named first deputy director of commerce for the city of Philadelphia.

The appointment of Mr. Egan was announced by Mayor Frank L. Rizzo, who has described the new first deputy director as a man "well versed on the Philadelphia business and economic scene."

Mr. Egan, vice president of program development for the Philadelphia Industrial Development Corp., is a career economic development professional who worked with the redevelopment authority on the successful marketing of Independence Mall in the late 1960's, before joining PIDC.

Mr. Egan, who packaged the multimillion-dollar federally funded community economic development program at the PIDC, is a cofounder of the Philadelphia Garment Board, member of the board of directors of the Parkway-Stevens School, the Council of Revitalization of Employment, and the Dunmore Corp. He is also a member of the Irish Society.

He is married to the former Marian Patricia Saring. The couple has three boys, Joseph III, 14, a pupil at Holy Ghost Preparatory School, and Patrick Logan, 12, and David Matthew, 9, who attend Maternity B.V.M. School.

The family resides at 2121 Murray Street in the far northeast.

LETTER FROM A CONCERNED CONSTITUENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following excellent letter my constituent, Elaine K. Fulton, of Ventura County, Calif., the wife of a small businessman, has written to the members of the House Ways and Means Committee. Mrs. Fulton presents a practical, down-to-earth, approach to the problems we in the Congress will soon be facing.

The letter follows:

SANTA PAULA, CALIF.,
November 23, 1977.

To The Honorable Members of the House Ways and Means Committee

GENTLEMEN: My name is Elaine K. Fulton, and I live at 20090 South Mountain Road, Santa Paula, California. I am a registered Democrat. My husband is a small business man. He is the inventor of the first Avocado Harvesting Machine in the world. Development and exploitation of the system has been a long slow process and we are severely burdened by the tax system which has developed over the past several years.

I attended your open hearings in Los Angeles, on November 17. I believe that I have a unique point of view, at least with respect to the testimony I heard that day. I am not employed by the government. I am not on any kind of welfare program. I represent an endangered species, a tax paying citizen of the middle class who has no guarantee of income from the government.

I ask that my testimony be entered into the record of the hearings of that day, but to some of you, I am sending this in the hope that you will take the information offered into consideration as you think about welfare reform.

I believe that your hearings were focused on the wrong end of the line. Since my experience has been limited to running a household for thirty years, and studying and thinking independently for a lot of that time, I can see your welfare system in terms of a household, and in most well-run, successful homes, the parents do not ask the children what they want until there is some idea about how much money will be available. Children, (and other unemployed individuals,) have a lot of time to sit around and think of things that they want. To allow/encourage people on welfare and other dependent individuals to set forth demands before the money is in hand is to set the scene for frustration.

The economic system that is the United States, has achieved its power through the rather simple-minded belief that a working person has a right to earn money and a right to spend that money for good things that he wants for himself and for his family. Each person is allowed to define what is good in his own terms.

Since World War II, an ideology has developed that says that people who earn the money do not know best how to spend it. Wage earners can produce the goods but they are denied the money/profit which is earned by the increase in value which they add to the raw materials. A vast bureaucracy of civil servants and politicians has been imposed on the productive part of society. This bureaucracy says to the working man, "You do not know how to spend 39 percent of your money. We know better how to spend that money so that it buys more 'good'."

These people take the money from the worker. The first thing they do is to set themselves handsome salaries and provide for their own future retirement, and then they use what is left over for whatever 'good project' they had selected to do.

The working man pays the bills, and yet he is given no voice in what the bureaucrats spend his money for. He may be given a voice in which of them get to write the checks, but the priorities remain the same, first provide for the department employees—then do what needs the be done, if you can afford it. The bureaucracy provides a standard of living and a standard of retirement for its employees that a small business person cannot even hope to acquire for himself.

The good life, as we know it, does not come from the chambers of government, nor from the offices of the bureaucrats. The good life comes from the fields, the factories and the markets of America. It comes from the work of millions of men and women who go to their place of business each day and collect a pay check each month. They take their money and use it to buy the things they need and want for themselves and their families. Only those things that they buy from the private sector add to the economic growth and development of the nation. Those dollars which they spend to hire people to tell them how to run their lives and their business cannot be spent for anything else. The money is gone. The use of the money is denied to the person who earned it. It is lost forever. The money that is used for government is only consumed, it can neither be spent nor invested.

In their shrill and strident manner, the unemployed demand meaningful jobs with a future. Those wage earners who support the whole system do not have meaningful jobs, but they are too busy to appear before congressional committees. To expect a hash slinger at the local greasy spoon to pay for a meaningful job for someone else, (who chooses not to work at anything at all unless it is 'meaningful') is patently unfair. A person who spends his working day climbing up and down 12 foot ladders with a picking bag hung round his neck ought not to be taxed to support that person who does nothing but complain that his life is meaningless because he has nothing he wants to do. What means meaningful?

These people who are demanding meaningful jobs are also demanding jobs with a future. Presumably, a job could be rejected on either of those bases. (A meaningful job could be said to have no future. A job with a future could be said to be meaningless.) The pickets outside the hearing said that they did not want to be told that they had to work. The present welfare system depends on their not working since the welfare department is staffed on the basis of its case load. If the case load were to be reduced, then the staff would be reduced, unless of course, the head of the agency said that his job could be done with 20,000 fewer people, but that those people did not have to worry, they would not lose their jobs. Their wages and their pensions were locked in.

I believe that the only fair way to distribute the Gross National Product is on a percentage basis. Prosperity would return if the share which the private sector pays for government could be reduced. Prosperity would have a fighting chance if that share could be stabilized. Twenty-five percent of every dollar any body, or any corporation earns would seem an equitable share. Survival would also be possible if the charge for government were as much as 35 percent. However when we must pay between 39 and 41 percent of our income before we get to spend anything on ourselves, we are in danger of experiencing an economic collapse.

If the share of money now used to buy government were reduced, and more dollars were left in the hands of the people who earn it, this money could be used to buy the things the families need for their welfare and their comfort. This money would generate jobs in the private sector. It might be that the economy would grow to the point that the 25 percent or the 35 percent would be more dollars than the present 39 to 41 percent.

If you really want welfare reform, the easiest way to do it would be to decide what percentage of the national income should be spent for government. If this is 25 percent, then that is a quarter out of every dollar earned by any one. Let this twenty-five percent be one hundred percent of the money spent for government, and then decide what share of the total each of the layers should receive, Local, municipal, state and federal government would each receive a share of the total.

Each of the departments of each of the governing levels would also get a percentage. Finally priorities could be established on a national basis, Interior Commerce, etc? The Congress can take their share for administering the whole thing.

The only hard and fast rule would be that the share of the GNP that went for government could not be increased. This would serve as a reward system for both the public and the private sector. It would put them on a cooperative basis instead of a competitive one. Good management would be rewarded in the public sector as well as in the private, and I would expect that half the people could do twice the work, and the rest could be employed in 'meaningful' jobs. It would restore the right of the wage earner to decide how most of his money ought to be spent. It would enable public employees to know how much money would be coming in and allow them to do the most with it.

As long as you develop a marketing list before you look at the bank balance, you are doomed to insolvency.

Sincerely,

ELAINE K. FULTON.

RESOLUTION OF APPRECIATION

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LEDERER. Mr. Speaker, it is with the greatest sense of pride that I share with my colleagues in the House of Representatives the accomplishments of Scoutmaster William Kitchen and the Scouts of Troop 10, Boy Scouts of America.

The executive board of the Philadelphia Council, Boy Scouts of America, at its regular meeting on November 17, 1977, unanimously adopted a "Resolution of Appreciation," recognizing the outstanding accomplishments of the leaders and Scouts of Troop 10, particularly taking note of the massive rehabilitation project completed by the Scouts and leaders in the restoration of meeting rooms to be used on behalf of scouting.

I, and, I am sure, all my colleagues in the House join with the executive board of the Philadelphia Council of Boy Scouts of America in conveying our highest commendation to the leaders and Scouts of Troop 10, sponsored by Horn Ross Weiss Post VFW.

RHODESIA: A NATION THAT REFUSES TO DIE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. ASHBROOK. Mr. Speaker, I want to call to the attention of my colleagues that on November 11 Rhodesia celebrated her 13th year of independence. This has been made possible by the gutsy leadership of Prime Minister Ian Smith and the strong resolve of that nation's citizens.

From the beginning liberal doomsayers have eagerly predicted the imminent death of Rhodesia. When she proclaimed independence from Great Britain in 1965, most said that the government would last only a few short months.

The New York Times proclaimed the Rhodesian economy would be quickly strangled. The London Economist urged the British Government to make the first moves in opening talks so that the Smith regime could gracefully surrender. The British Prime Minister stated the matter would be settled in weeks, not months.

As the months turned into years, dire prophecies as to the demise of Rhodesia have continued. To cite just one example, I have in my files a Dear Colleague letter from the gentleman from Minnesota, Don Fraser, head of the International Organizations Subcommittee, dated September 23, 1975. In that letter he stated:

> The Ian Smith government in Rhodesia is facing the end.

Needless to say Rhodesia has survived another 2 years and 2 months beyond "the end."

In short, Rhodesia has confounded the experts. Year after year she has beaten the odds and lived to celebrate another anniversary.

All of this has been accomplished without the help of the United States. For 13 long years we have refused to recognize Rhodesia's independence. We have spurned her friendship and refused to lend a helping hand. Instead we have joined the United Nations in imposing strict economic sanctions against Rhodesia on the ridiculous grounds that she constituted a threat to world peace.

Such a policy is hard for me to understand. It is détente with our enemies but a cold shoulder for those who would be our friends.

Nevertheless, Rhodesia has continued to survive. Despite outside pressures she is moving forward with her own policies and developing her own solutions to internal problems. That she is still alive to celebrate her 13th year of independence is an impressive achievement.

HANSEN VERSUS THE IMPERIAL JUSTICE DEPARTMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. DORNAN. Mr. Speaker, on November 18, I had the privilege of chairing ad hoc hearings in Houston dealing with the alleged misuse of Federal funds and irregularities associated with the International Women's Year Conference.

The first and most distinguished witness was our colleague and my good friend, Representative George Hansen of Idaho. The Congressman spoke forcefully for the rights of the individual States to ratify—or not to ratify—the so-called equal rights amendment. His arguments were as lucid and as logical as those we have become accustomed to hear him deliver in this Chamber. I wish only that all of our colleagues could have been present to listen to his powerful arguments in favor of allowing States to rescind approval of the equal rights amendment.

So that all of our colleagues will have the benefit of his cogent reasoning, I insert his news release of November 18 to be reprinted in the Record.

Sovereign Rights of the States Assaulted by U.S. Attorney General

Houston.—"The Sovereign rights of the states are being unfairly and unconstitutionally assaulted by arbitrary and political decisions from the office of the U.S. Attorney General," Idaho Congressman George Hansen said in Houston today.

Hansen appeared before an Ad Hoc Congressional Hearing chaired by U.S. Representative Robert Dornan (R-Calif.) in connection with activities related to the National Conference of International Women's Year (IWY) to testify for his legislation to allow states to rescind their ratifications of the Equal Rights Amendment (ERA).

"Three states have already passed recissions of ERA ratifications including my own state of Idaho," Hansen said, "but the Carter Administration is so hell-bent to get ERA approved that the U.S. Attorney General's office is passing off political advice as determinations of law in a blatant display of legal arrogance."

The Idaho Lawmaker contended, "The Attorney General's office should be fair enough to admit they can't have it both ways. States not approving ERA on first consideration are not prevented from later ratifying, so why should ratifying states later be prohibited from rescinding?" Hansen questioned.

"My bill which I call the Hostage Relief Act will clarify and guarantee that legislatures are free to change their minds either way until such time as the proper number of states have qualified for certifying approval of the proposed amendment," he pointed out.

Hansen noted that his legislation is particularly important in light of the recent bill introduced by Rep. Elizabeth Holtzman (D-NY) which would extend the time for ERA ratifications for another seven years.

"Certainly states should not be held hostage to actions taken under a given set of rules and conditions when those circumstances are changed." He continued.

"ERA has already had the advantage of extensive lobbying at taxpayers' expense," stated Hansen who has filed a lawsuit against IWY for illegal diversion of funds as revealed in an audit by the General Accounting Office (GAO). "Why should they also be able to arbitrarily change the rules to their advantage without allowing the fairness of an escape clause for those who wish to reconsider?"

Hansen also noted that he has sent several strong protests to President Carter over what he termed "abusive, bigoted and divisive public statements made by IWY and Administration leaders like Bella Abzug and Midge Costanaza."

"They have no business using a tax supported position to publicly condemn in the most derisive fashion those who philosophically disagree with their program and goals—a wrath that has been heaped heavily upon such minority religious groups as Catholics and Mormons who have strong anti-abortion and family-oriented philosophies," Hansen concluded.

REPRESENTATIVE FISH DELIVERS PAPER IN GENEVA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. GILMAN. Mr. Speaker, the distinguished gentleman from New York's 25th District, Mr. Fish, has recently returned from Europe where he had the dual honor of serving as an adviser to the American Delegation to the Belgrade Conference and addressing the 41st session of the Intergovernmental Committee on European Migration (ICEM) in Geneva.

At this point in the Record, Mr. Speaker, I request that Mr. Fish's remarks at the 41st session of the ICEM be inserted. In just a quarter of a century, the ICEM has been responsible for the safe movement of more than 2.3 million Europeans, including 1.3 million refugees. The ICEM's function has been to provide for the needs of those Europeans who wish to emigrate to other lands. It is an important body, with an important function, and Congressman Fish's remarks are indeed fitting:

Statement of Congressman Hamilton Fish, Jr.

Thank you Mr. Chairman.

At the outset, I wish to say how pleased I am to have this opportunity to attend another session of the ICEM Council. I well recall the 25th Anniversary of ICEM in 1976, when I had the great honor to participate in the Commemorative Ceremony.

Mr. Chairman, my colleagues and I in the United States Congress follow with close interest the programs of ICEM and we have been pleased to note the great achievements of the organization over the years. As we understand it, ICEM, since its inception in 1952, has moved almost 2,300,000 persons including about 1,300,000 refugees. We further understand that during the current year ICEM will move some 63,000 persons including 57,000 refugees. These are most impressive figures and I take this opportunity to commend the Director and his very able staff on a big job well done.

At the present time, ICEM is playing a most important role in the resettlement of Indochinese refugees including the tragic boat cases, as well as refugees from Eastern Europe mainly from the Soviet Union, and refugees and detainees from Latin America.

The record established by ICEM shows what a determined group of free nations working together in a common cause can do. Mr. Chairman, The International Community is very fortunate to have the ICEM mechanism. One of the forces for good in the world today is this body of organizations—ICEM, ICRC, UNHCR and the Voluntary Agencies—who set for themselves the task of relieving the distressed, the needy, the persecuted and the uprooted who are unable to help themselves and require resettlement assistance.

I am proud to observe that through this network of organizations my government has always responded generously. The American people have been especially sympathetic to the plight of refugees probably because all of us have been immigrants if not refugees.

My interest in these matters is intensified, Mr. Chairman, because I serve as the ranking minority member of the Judiciary Committee's Sub-Committee on Immigration, Citizenship and International Law in the House of Representatives. You are all acquainted with the previous Chairman of that Sub-Committee, the Honorable Peter Rodino, and with the present Chairman, the Honorable Joshua Eilberg. Both gentlemen have had the pleasure of attending previous sessions of ICEM here in Geneva.

The Sub-Committee on which I serve has jurisdiction over legislation involving the admission of refugees into the United States. In 1975, we wrote the Indochinese Migration and Refugee Assistance Act. That legislation authorized the appropriation of funds for some 150,000 Indochinese refugees to settle in my country. That legislation was recently extended and, I am pleased to state, now provides for the adjustment of their status as permanent resident aliens. Recently hearings have been held on paroling into the country an additional 15,000 Indochinese refugees, those in Thailand and a number of so-called boat cases. I would expect this flow to continue.

The Sub-Committee at the same time has been increasingly concerned over the flow of refugees from Eastern Europe, especially the Soviet Union. As you are aware, Mr. Chairman, the number of these refugees is building up in Italy. I would like to commend this acute humanitarian issue to the attention of all the member governments.

Now, Mr. Chairman, we would all be pleased, I know, if conditions in the world were to improve suddenly so that peace and stability would prevail. Then perhaps the refugee problems would diminish and finally disappear—and we could all devote our efforts to other important problems confronting us. However, I see no prospect of any such result. The disturbing state of the world today provides no hope that current refugee problems will soon be resolved, or that new refugee situations will not develop. So the number of persons in need continues as before.

It is of the utmost importance, therefore, that our international machinery—ICEM and the Voluntary Agencies—continues to operate in the future. Adequate funds and resettlement opportunities should be available to meet the continuing problems in an effective way so that the human needs can be met with a minimum of political repercussions. It is most desirable that financial resources be large enough and that resettlement opportunities be generous enough to permit ICEM and Voluntary Agencies to provide prompt and effective responses to the newly arriving refugees. The problem is an international one—and the need for the International Community to be responsive to it is clearly evident.

Having said this, Mr. Chairman, I am mindful of the current financial problems facing ICEM. The existing and projected deficits are cause for real concern. As an interested party, permit me to suggest, Mr. Chairman, that all of us—the Director and member governments alike—must renew our efforts to place and maintain ICEM on a sound basis. Member governments in particular should demonstrate a greater willingness to provide their fair share of financial support to ensure the fulfillment of ICEM's programs, both the Regular and Special Programs. I am confident that the United States will not be found wanting in this regard.

All of us who follow refugee and migration activities appreciate the human need and the tragedy of the refugees and needy migrants. Similarly, we appreciate the heart-warming hopes and joys of those given a new chance of life.

ICEM must continue its vital work and I am confident that our joint concerns and interests are great enough that we will not falter in this important endeavor. Those of us fortunate enough to be here today can do no less.

POVERTY A REALITY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. BROWN of California. Mr. Speaker, Congress, through legislation, has attempted to maximize the effectiveness of human service programing at the local level. Quality management is required to optimize the impact of Federal dollars in the community.

It is for this reason that I commend the Community Services Department of San Bernardino County—the war on poverty agency in my congressional district. The community services department has implemented modern management techniques—management by objectives, zero-based budgeting, cost benefit analysis, and so forth—in their efforts to maximize services for poor people.

The following is an article, from a weekly newspaper in my district, that outlines the goals and objectives of this cost-effective organization:

[From the El Chicano, Aug. 25, 1977]

POVERTY A REALITY

Mr. Rodolfo H. Castro has been Executive Director of the Community Services Department (CSD) since December, 1976 for the County of San Bernardino. He comes to our area with both local and national experience in the management of Community Action Programs. Mr. Castro's CAP experience commenced with Summer Youth Programs in the Middle 1960s and since then, he has been involved in a broad range of program activities—Head Start, Opportunity Centers, Manpower, Senior Programs, Educational Projects, etc.

A graduate of California State Polytechnic College, he majored in Business Administration and graduated in the top 5 percent of his class. In 1973, Mr. Castro received his Masters of Business Administration from Harvard University.

The following interview was conducted recently by a volunteer Chicano staffer:

Q. What is the Community Services Department?

A. The Community Services Department is the Community Action Agency for the San Bernardino County. We are a Public CAP under the administrative framework of the San Bernardino County Board of Supervisors.

Q. What are the objectives of your Department?

A. Our programmatic objectives are: a. To develop and implement human service programs designed to alleviate poverty in San Bernardino County. b. To function as an advocate on behalf of San Bernardino County's poor people. c. To build community sefl-sufficiency and dignity.

Q. What kinds of Programs are you administering?

A. CSD is currently administering a diverse combination of human service programs designed to effectively deal with the problems of poverty—nutrition, transportation, weatherization, food stamps, outreach, neighborhood projects, Indian opportunities, etc.

Q. Does CSD operate San Bernardino County's Nutrition for Seniors Program?

A. Yes, that is correct. CSD operates twenty nutrition sites in San Bernardino County that provide approximately three-hundred thousand meals to Senior Citizens annually. I would like to point out that CSD's Nutrition for Seniors Program has earned a statewide reputation for cost effective-high quality meals.

In addition, the Nutrition Program provides other services—socialization, transportation, counseling, information and referral, and shopping assistance.

Q. What is Weatherization?

A. CSD administers a Weatherization Program designed to weatherize the homes of poverty level participants.

CSD's Weatherization Program work crews insulate and weatherstrip low-income participant's homes. The Weatherization process reduces utility bills, conserves energy, and reinforces homes against the elements.

The program includes an education component designed to inform poor people about energy conservation techniques. CSD's Weatherization Program is receiving national recognition for programmatic effectiveness and innovation. I have been informed that CSD's weatherization efforts will be highlighted in the Communicator—the CAP World's national publication.

Q. Has CSD funded local Neighborhood Projects?

A. CSD funded nine Neighborhood Projects this year. The objective of the Neighborhood Projects Program is to provide local community based organizations with the opportunity to meet specific local community needs. Some Program examples are Casa Ramona's Senior Day Care Program, the Urban League Sickle Cell Education Effort, East Valley Area Health Council's Project H.E.A.L., and the Ex-Contact Program administered by Inland Area Development Projects.

A. In addition. CSD funded Los Padrinos for a Chicano Needs Assessment Study this year and a Black Needs Assessment Study has been budgeted for next year.

Q. What about the American-Indian?

A. CSD will fund two American-Indian Projects next year. In addition, we are currently working with the San Bernardino and Barstow Indian Centers and providing nutrition services at Fort Mojave.

The CSD Social Planning Unit will assist Indian managed community based organizations with resource attraction and grant writing. We are currently building communication linkages with San Bernardino County's Indian Community.

In the resource allocation process, the American-Indian is once again the forgotten

American. We must see that he/she is remembered through Advocacy.

Q. Who are the poor in San Bernardino County?

A. CSD estimates that there are approximately one-hundred and sixty thousand poor people in San Bernardino County—21 percent of the aggregate population. The poor are comprised of the unemployed, elderly, ethnic minorities, migrants, the handicapped, and the disenfranchised.

One out of five people in San Bernardino County is poor. Poverty in San Bernardino County is a reality. A reality that must be confronted by a joint public-private sectors effort if there is to be a solution.

Q. Is there a future for the War on Poverty?

A. Yes, a very optimistic future. Ms. Graciela Olivarez, the New National Director of CSA, has the complete support of the President of the United States in her effort to re-vitalize the War on Poverty. The new theme is "Bring the Program back to the People." Everywhere I travel, there is enthusiasm and optimism on the part of CAP people. Its very exciting.

Q. What about at CSD?

A. I am in the process of developing a first date, results oriented Management Team.

A. Management, Fiscal Accountability, Community Involvement, and Advocacy are the long-term directions for CSD. I hope to build a sound managerial framework from which to achieve the CAP's programmatic and philosophical objectives.

The CSD Administering Commission has been very supportive. They have put in a lot of long hours to translate our dream into a reality—to build a viable, effective CAP Program in San Bernardino County.

GREEK CYPRIOTS PLIGHT

HON. PAUL S. TRIBLE, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. TRIBLE. Mr. Speaker, I want to remind this House of the continuing plight of the Greek Cypriots. Their tragic situation is being forced out of the headlines by other issues of international import. But we cannot forget the human and political tragedy of Cyprus. America has a special interest in Cyprus and her people.

Many Americans have friends and family who continue to suffer from the devastation of the Turkish invasion of July 1974, and oppression of the Turkish occupation forces. The continued division of this island threatens renewed hostilities between Greece and Turkey which would destroy the southern flank of NATO. Most importantly, the human suffering and injustice on Cyprus cries out for our attention.

The Turkish invasion in 1974 affected the lives of tens of thousands of innocent people who were caught in the path of the Turkish forces. Nearly 5,000 Cypriots died, some 2,000 are missing, and 200,000 were left homeless in the wake of the battle. The Greek Cypriots suffered one of the most blatant violations of human rights since the close of World War II at the hands of the Turkish army. The rape, looting, desecration of churches, and killing was compounded by the expropriation of homes, farms, and businesses that had belonged to Greek Cypriot families for generations. Forty percent of the island remains in the iron grip of a Turkish occupation army. The issue of missing persons remains unresolved, with many families not yet knowing the fate of fathers and sons since 1974. Freedom of movement about the island is restricted. The Cypriot people live in daily fear of the resumption of war. It is an unstable and intolerable situation in which the Cypriot people must try to live.

Turkey, which so quickly assumed the responsibility for supporting the Turkish Cypriots in 1974, must be made to assume the responsibility for resolving the desperate situation on Cyprus. The illegal use of American arms and ammunition in the 1974 invasion is compounded by the continued illegal Turkish presence on the island.

As a result of the invasion, the United States suspended military aid to Turkey for 8 months. Turkey responded by closing U.S. bases in Turkey. To prevent the dissolution of the southern flank of NATO, aid to Turkey has been resumed on a limited basis. This year $175 million will go to Turkey in the form of military aid. About $93 million of this aid will consist of F-4 jet fighters.

Congress should not divorce mutual defense agreements with Turkey from the Cypriot issue. While I recognize the importance of maintaining a strong NATO posture in the Middle East, I believe that the suffering, injustice, and threat of renewed hostilities on Cyprus are of equal importance.

We cannot afford to repeat our earlier mistakes. American weapons should not be used against the Greek Cypriots or to prop up the military occupation forces on Cyprus. Before these weapons and planes are shipped to Turkey, the Ankara regime should make substantial concessions on Cyprus. I oppose further aid to Turkey until that time.

The American people are committed to resist the violation of human rights worldwide. Congress cannot in good conscience deliver the tools of aggression into the hands of the Turks until the people of Cyprus are once again absolutely free to govern their own destiny.

A VALIANT RESCUE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. O'NEILL. Mr. Speaker, I would like to call to the attention of my colleagues an incident which occurred off the coast of Cape Cod last summer.

The 36-foot fishing vessel, *Fairwind*, of Eastham, Mass., was sinking some 18 miles off the coast of Chatham, when the Chatham Coast Guard received a call for help. Responding immediately to the call the Coast Guard dispatched a helicopter with pumps, and a buoy tender, as well as a 44-footer, in an attempt to repair the stricken *Fairwind*. Meanwhile, another fishing vessel in that area heard the call and rescued the *Fairwind* crew, consisting of James Rainey, George Williams, and Bob Jennings, all of Eastham.

In conditions that were hardly conducive to a rescue attempt—visibility was seriously hampered by an early morning cape fog—the Coast Guard crew worked skillfully and quickly to lift the *Fairwind* out of the water and patch her up after she had, within 15 minutes of striking a log, sunk to her rails.

Through the resourceful efforts of the Coast Guard crew, the *Fairwind* was saved from complete destruction.

The Coast Guard plays a valuable and important role in patroling and maintaining the safety of the waters of the cape and in responding to the needs of fishermen when they experience difficulty. Too often, the efforts of the Coast Guard go unnoticed, and sometimes, unappreciated.

The crew of the *Fairwind* is deeply grateful to the Coast Guard for its efforts in their behalf, and I would like to take this opportunity to extend my compliments to the Coast Guard for a job well done on that occasion.

MARYLAND STATE INCOME TAXES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. TEAGUE. Mr. Speaker, I am sure that there are other Members in this body who have experienced or will experience problems with the State of Maryland with respect to the payment of income taxes for the 5-year period immediately preceding this year.

I have already had the problem and remitted to the State of Maryland a tidy sum of money which I will be able to deduct from the payment of my Federal taxes this year. In view of our action in adopting Public Law 95-67 I wrote to the Attorney General of the United States to ascertain what action, if any, his office could take in behalf of Members of Congress who have been taken to task by the State of Maryland.

Under leave to extend my remarks in the RECORD, I wish to include my letter to the Attorney General and a copy of his reply to me dated November 23, 1977. You will note that their Tax Division is prepared to represent Members of Congress who have had problems with the State of Maryland and have asked that those interested Members get in contact with his office as soon as possible sending him copies of all correspondence and affiliated papers:

NOVEMBER 8, 1977.

HON. J. GRIFFIN BELL,
The Attorney General of the United States,
Department of Justice, Washington, D.C.

DEAR MR. BELL: In May of this year, the State of Maryland dunned a number of Members of Congress who reside in the State of Maryland for State Income tax for the years 1972 through 1976.

I paid to the State of Maryland a sum of $11,714.00 under protest, representing the tax for the years listed above; however, did not remit the penalties which they claimed against me.

As the result of PL 95-67, I claimed refund of the tax remitted. The refund was denied as set forth in the enclosed letter from the State of Maryland.

As a U.S. citizen, I also pay Federal income tax and the amount paid to the State of Maryland this year will represent a substantial reduction in my tax liability to the Federal government.

In view of the fact that the Federal government pays a rather substantial amount of money under various programs enacted by the Congress for aid to the States based on the fact that I am a Federal employee and residing in the State of Maryland, and the signing into Public Law the act which places an exemption on Members of Congress residing in the States adjacent to Washington because of circumstances beyond our control; I would appreciate very much learning from you whether your office can and will be of assistance to this group of Members of Congress in their claim with the State of Maryland.

Sincerely,

OLIN E. TEAGUE,
Congressman.

WASHINGTON, D.C.,
November 23, 1977.

Hon. OLIN E. TEAGUE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN TEAGUE: Your letter of November 8, 1977, addressed to the Attorney General, has been referred to the Tax Division for reply.

While the primary function of the Tax Division is to represent the Internal Revenue Service in matters involving the enforcement and administration of the revenue laws before the courts, we also have an additional function of litigating matters involving the resolution of conflicts between federal and state statutes in the field of taxes. Having read your letter and the material which you submitted, it appears to me that your claim against the State of Maryland is a matter appropriate for us to undertake in the exercise of the latter function. The passage of P.L. 95-67 does, I believe, evidence a Congressional purpose to avoid the imposition of additional burdens upon Members of Congress in the form of local income taxation by the states contiguous to the District of Columbia in which many of the Members may have temporary residences.

Accordingly, we are prepared to represent you and other Members of Congress similarly situated in establishing your exemption from taxation in the State of Maryland under P.L. 95-67 and in establishing the constitutionality of that statute. If any other Members of Congress wish to join you in this matter, it will be necessary for them to advise us and to furnish us with the necessary details as to the tax claims asserted and the amounts involved. We shall probably also require from each of you copies of the relevant tax returns and any other papers associated therewith. We request that you act promptly in this regard in order that our efforts not to be hampered by unnecessary procedural obstacles. Thus, for example, the letter from the State of Maryland denying your claim is dated October 7, 1977, and is stated to be a statutory notice of denial permitting appeal to the Maryland Tax Court within thirty days. Unfortunately, your letter to the Attorney General was not written until that thirty-day period had expired.

We shall be pleased to cooperate with you in every way possible and request the same consideration from you and the other Members of Congress. Your case will be handled under the supervision of Mr. John J. McCarthy, Chief, Civil Trial Section, Central Region, and I would suggest that you address further communications directly to Mr. McCarthy.

Sincerely yours,

M. CARR FERGUSON,
Assistant Attorney General, Tax Division.

NEW FACES AND NEW FOCUS IN BOB BERGLAND'S DEPARTMENT OF AGRICULTURE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. RICHMOND. Mr. Speaker, the U.S. Department of Agriculture was originally conceived to serve farmers. Over the years though, we have seen the USDA expand its role and take on new responsibilities. Technological advances, social and economic changes, and the movement of people from rural to urban areas have all been key determinants in the changing character of the American farm.

As these changes were incorporated into our national lifestyle, so were they integrated with USDA policy. Bob Bergland's USDA is no exception.

In bold moves to reorganize and refocus the efforts of USDA, Mr. Bergland has shed new light on the agency. He understands that consumer input is equal in importance to farmer advice in formulating U.S. food policy. He has displayed the responsible leadership which the USDA has so long needed.

Des Moines Register writer Lauren Soth recently commented on the new USDA. Mr. Speaker, I would like to share this article with my colleagues, as it provides an excellent overview of the growing importance of USDA in assuring an abundance of nutritious food for all Americans.

The article follows:

[From Des Moines Register, Oct. 3, 1977]

NEW FACES AND NEW FOCUS IN BOB BERGLAND'S USDA

(By Lauren Soth)

Bob Bergland is trying to reshape that ancient institution which he heads, the U.S. Department of Agriculture.

During most of its illustrious, century-old life, USDA has been considered by its clients and the public to be strictly a farmers' agency. Except for the Forest Service and a few other odds and ends, USDA worked for farm families, primarily to increase their productivity.

The promotion of better farming methods and the paying of subsidies on the basis of commodity-unit prices have been so successful that USDA doesn't have many clients left. The number of workers needed in farming has been slashed; the size of farms has increased; the farm population has fallen.

Income of the top half-million farm operators (who produce 80 per cent of the products for sale) has climbed steeply.

At the same time, the interest of the public in agriculture has changed. During the last few years sudden eruptions of food prices have alarmed consumers; the long period of chronic farm surplus and low food prices seemed ended. Also, the public has become concerned about environmental abuses in farming.

The appearance of nitrates in some water supplies, pesticide dangers, siltation of streams; the alarms about cancer-causing substances in foods, some coming from livestock feed additives and some from food processing—all these have turned public attention to USDA.

Bergland, the northern Minnesota farmer, former farm program official and former congressman, knows the new claims on USDA better than most. Recently, he called in a group of about 55 persons connected with food and agricultural affairs near Philadelphia to a weekend retreat conference with 34 policymaking officials of his department and himself. The subject of discussion was what the USDA should be doing to meet the public needs in food and agriculture.

Bergland already has shown that he is ready to break with tradition in USDA. His appointments to high positions include a number of people from outside the familiar agricultural establishment: big farmers, farm organizations, state agricultural colleges, farm product processors, farm supply companies.

The appointment of Carol Tucker Foreman as assistant secretary for food and consumer services caused a semi-panic in some quarters of the Establishment. Foreman was director of the Consumer Federation of America and of the Paul Douglas Consumer Research Center. She also has worked in the Department of Housing and Urban Development. Her criticism of agricultural policies in recent years and her championing of consumer interests have caused some farm organization leaders to regard her as a dangerous witch.

I found her to be a very bright and levelheaded leader. She understands farmers and their problems better than some of her lobbyist opponents of the past would have you believe. But, since USDA spends more public money on food programs than it does on all its other activities combined, it's about time that the department give this activity more emphasis. Carol Foreman will do that.

The conflict between food consumers and farmers has been stirred up in part by farmer lobbyists who have been sucked in by food processors and distributors to do their work. The cost of the raw material in food (what the farmer receives) is less than the cost of manufacturing, distributing and selling food products. In the case of cereal products, including bread, the cost of the grain is almost negligible.

It is the common interest of farmers and consumers to minimize costs between the farm gate and the retail counter. Farmers and consumers need not be so fiercely at odds over drugs in livestock feeds, environmental controls and food preservation, either. The tradeoffs in such cases, if they reduce farm production, will raise farmer income. So the issue is whether consumers want to pay higher food prices in order to eliminate or reduce certain drugs.

The new look at USDA, I believe, will give both farm people and food consumers (farm people buy practically all their food at the supermarket, too) better service than before.

In other aspects, USDA is departing from historic molds. The new man in charge of rural development, Assistant Secretary Alex P. Mercure, is a Mexican-American from New Mexico. He has been a farmer and rancher and vice-president for public service of the University of New Mexico. He doesn't have all the old ties and inhibitions of the Land Grant ag college system about working with poor people.

M. Rupert Cutler, the assistant secretary for conservation, research, and education, is not the usual type of Land Grant educator.

He is a conservation and wildlife specialist and has been something of a crusader. The Soil Conservation Service people think he'll be great, but some of the research and extension oldtimers view him with forboding.

My own view is that these new appointments are healthy and will move the USDA along in the new directions which it must go. Our conference in Pennsylvania was constructive. If it did not produce any charts for change, it certainly was imbued with an attitude of change and willingness to experiment. Bob Bergland deserves praise from the public and the special clients of USDA as well.

PHILADELPHIA GETS NEW DIRECTOR OF FINANCE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. EILBERG. Mr. Speaker, Mayor Frank L. Rizzo of Philadelphia has recently appointed Irvin R. Davis to the post of director of finance for the city.

Mr. Davis is a constituent of mine, in the 4th Congressional District of Pennsylvania, and I am naturally pleased at this appointment. He is a 22-year career city employee, who has been serving as acting director since the resignation in September of Lennox Moak.

Mayor Rizzo named Davis from a list of nominees presented to him by the finance panel, in accordance with the provisions of the home rule charter.

Davis, 43, was deputy director of finance from 1968 to 1976, when he was named first deputy. He also served as the city's legislative liaison with members of the general assembly in Harrisburg, where he helped obtain changes in various State laws resulting in increased grants and subsidies for Philadelphia in areas such as road maintenance, health and welfare services, and increased contributions from the State on other programs.

Davis joined the city of Philadelphia as an accountant in 1955, gradually rising through the ranks to accounting supervisor and fiscal analyst. He was named deputy finance director in 1968.

In his over 2 decades of service with the finance department, he has been responsible for development and implementation of various accounting procedures saving the Philadelphia taxpayers money.

In 1968, Davis was an adviser to the Philadelphia delegation attending the State Constitutional Convention on Local Government and Financial Changes held in Harrisburg.

He is a member of the Municipal Finance Officers Association, the Association of Governmental Accountants, a director of the Pennsylvania League of Cities and is serving on the Effective Government Steering Committee of the National League of Cities.

He attended the University of Pennsylvania's Wharton School Evening Division from 1952 to 1955 and received an associate degree in business administration from St. Joseph's College in 1958.

Davis is married and has two children. He is a graduate of West Catholic Boys High School and formerly worked for Atlantic Refining Co. (now Atlantic Richfield). He lives in the Northeast.

NATIONAL HEALTH INSURANCE—AT WHAT COST?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. ASHBROOK. Mr. Speaker, one of the national health insurance proposals most talked about by liberals is the Kennedy plan, sponsored by Senator EDWARD KENNEDY of Massachusetts. It would establish a program covering the entire population to be financed through a combination of social security taxes and general revenues.

Before we take up any health insurance legislation, however, I think it is important to carefully consider the cost. In only the last 2 years our Nation has chalked up a budget deficit in the $100 billion range. Such unwarranted Federal spending must be brought under control. Congress should proceed with extreme caution before enacting any new spending programs.

The cost estimate of the Kennedy health insurance plan is simply staggering. According to a report prepared last year by an independent actuary, adoption of the proposal would add an additional $130.1 billion in Federal spending by 1980.

In this same regard nationally syndicated columnist James J. Kilpatrick recently wrote the following about the Kennedy plan:

> The total cost? No one has even a foggy notion of the cost. Two hundred billion, three hundred billion? . . . Present costs are vaguely estimated at $145 billion. Once all restraints were abandoned, the figure easily could double or treble.

In other words, the Kennedy plan would increase Federal spending by one-third or more over the current level of spending. Such a massive increase at a time when we are already suffering from huge budget deficits and steep social security taxes would be irresponsible.

President Carter, of course, has promised us a comprehensive national health insurance plan of the Kennedy variety. This is one campaign promise that would be better forgotten.

Following is an excellent article on this subject by James J. Kilpatrick which appeared in the November 12 Washington Star.

A CAMPAIGN PROMISE TO BE BROKEN

(By James J. Kilpatrick)

In his press conference of Oct. 27, President Carter said he couldn't think of any major innovative proposals he would offer in 1978 or 1979. Shortly thereafter, responding to some raised eyebrows, the press office said that wasn't exactly so. Mr. Carter had not abandoned his promise of national health insurance. Such a program would yet be presented.

Maybe so. Mr. Carter's commitment was absolute. Time after time on the campaign trail, he pledged his efforts to enact a "comprehensive, mandatory program of national health insurance."

This is the kind of sweeping, first-dollar, all-embracing program that Sen. Edward Kennedy, D-Mass., continues to push. The 100-member Committee for National Health Insurance still is beating the drums for this scheme. The American Public Health Association, which met in Washington last week, raised whoops and hollers for "socialized medicine" as such.

But unless I am wholly mistaken, most of the steam has leaked out of the movement toward national health insurance. Victor Hugo once said that no army can resist the strength of an idea whose time has come. By the same token, no army can impose an idea whose hour has passed. This idea is over the hill.

Several reasons support that cheerful prediction.

So radical a departure from existing patterns of medical care would have to command overwhelming popular support. Are the people clamoring for national health insurance? Unless my ears deceive me, the people are as quiet as so many clams.

Last year, NBC took a poll: "Do you favor or oppose a program of health insurance paid by the government through increased taxation?" Only 36 percent of the respondents said yes. Almost half opposed; 16 percent were not sure. It is not what you would call a ground swell.

The NBC figures reflect the growing disillusionment with federal programs generally. What is proposed, under Kennedy's grandiose plan, is to turn medical care over to the same wonderful folks who have given us Amtrak and the Postal Service.

If ever a majority of the people believed government could perform a function better than the private sector, that belief no longer commands much support. A people disenchanted with public education have no perceptible enthusiasm for comprehensive public health.

The opposition to the Carter-Kennedy program rests on more than intuitive antipathy. The people are perfectly capable of foreseeing fantastic costs, and they don't like what they see.

The senator's idea is to scrap all existing programs of private insurance; he would also abandon Medicare, and he would retain only parts of the health care now provided under Medicaid, the Veterans Administration and other agencies.

In their place he would erect an enormous new bureaucratic structure headed by a Health Security Board. This board would effectively fix hospital budgets, fix doctors' fees, fix prescription prices, collect billions of dollars in new taxes and disburse millions of checks annually to providers of health services.

The total cost? No one has even a foggy notion of the cost. Two hundred billion, three hundred billion? It is all the same to Messrs. Kennedy and Carter.

Present costs are vaguely estimated at $145 billion. Once all restraints were abandoned, the figure easily could double or treble.

Who would pay for all this? Who do you think would pay for all this? The Kennedy-Carter plan envisions new taxes on employer and employee (on top of the stunning Social Security increases now in prospect), plus matching billions from the general fund. There is no way under moon or sun that Mr. Carter could fold any such program into his budget for 1979 or 1980, and still hope to see the budget balanced.

An estimated 92 percent of our people now are covered by some sort of health or hospital insurance. Relatively speaking, only a

> small minority of families have no coverage of any sort.
>
> The poor are fully covered by Medicaid, the aged by Medicare, the veterans and their families by military benefits. In our largest industries, such as automobile manufacturing, collective bargaining has resulted in health benefits equaling what Kennedy proposes.
>
> If any federal program at all can be justified—and can be afforded—it is a program to insure the risk of catastrophic illness. If Mr. Carter will settle for that, few persons will belabor him for breaking a promise. And you can't depend on that.

PITTSBURGH'S BRIDGES ARE FALLING DOWN

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. WALGREN. Mr. Speaker, the issue which I would like to address today is the tremendous need that continues to exist for the repair, replacement, and rehabilitation of bridges across the Nation and the question of funding for these bridge repairs.

It is undeniable that if any progress is to be made in this area, funding for bridge repair has to be increased significantly. At current funding levels, if all of Pennsylvania's funds for bridge repair were allocated solely for my home county of Allegheny's 37 deficient bridges, it would take 10 years to complete all repairs. If the State of Pennsylvania's level of funding remains constant, it would be approximately 110 years before each of the State's 362 unsafe bridges would be repaired. This outrageous figure becomes even more so when we realize that this is assuming that no additional bridges become deficient in the interim.

It is generally accepted that a reasonable funding figure for bridge repair in the Nation is approximately $2 billion annually. This figure has been recommended repeatedly in testimony before the Public Works Subcommittee on Surface Transportation. This is also the figure contained in the Surface Transportation Act of 1977 of which I am a sponsor. This sum is not especially exorbitant since it is currently estimated that a total of $23 billion is required to adequately repair the approximately 105,000 unsafe bridges in the United States.

How are we to finance this large but necessary sum of money? I believe the only place to turn for the money needed for bridge repair is the highway trust fund, which receives the incredible sum of $7 billion each year from principally Federal gas taxes.

The Federal Highway Administration announced on March 10, 1977, that, as of December 31, 1976, 89.9 percent of the total designated mileage in the Interstate System of 42,500 miles was open to traffic. The remaining 10 percent of the interstate mileage is estimated to cost one-third of the total cost of the entire Interstate System, or about $30 billion. The remaining 4.250 miles are projected to cost, in current dollars, more than the original estimate of the entire Interstate Highway System ($26.6 billion).

No final location decisions have been made for 1.6 percent of the total interstate mileage (705 miles). Locations have been approved, but no construction has begun, on another 4.0 percent of the system (1,714 miles). This represents over 2,000 miles where the State governments involved have not gone beyond even the preliminary stages of constructing a highway. I believe it is time to ask whether it is better to build roads that are still on the drawing boards or repair bridges which are already known to be unsafe.

The people of my district who depend on bridges like the Sewickley or Thornburg of Jacks Run or any of the other 34 deficient bridges in Allegheny County answered that question long ago.

We endanger lives and property by continued neglect of our rapidly deteriorating bridges. This is an emergency problem; these are immediate and undeniable needs. We cannot continue to neglect our bridges by funding bridge repair at the current insufficient levels. We should not wait until the major disaster which will undoubtedly come if we hesitate to act. It is time for funds from the highway trust fund to be appropriated for the repair and replacement of our most deficient bridges.

THE ENDANGERED AMERICAN WILDERNESS ACT

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. KETCHUM. Mr. Speaker, most of the Members of this House have had to face at one time or another legislation dealing almost exclusively with his or her district. Throughout this first session of the 95th Congress I have had to do just that on a matter of vital importance to my constituents in the 18th District of California. Specifically, I am referring to the Golden Trout Wilderness Area provision of the Endangered American Wilderness Act which this body is considering within the near future.

The members of the House Interior and Insular Affairs Committee know full well of my long struggle to limit the amount of acreage designation for the golden trout, an area entirely contained within my district. At first I opposed any wilderness, but then I compromised my position of 179,000 acres. After receding to the Senate language and obtaining a revised administration position on the morning of the conference, however, the leadership of the House conferees drastically raised this figure from 179,000 acres to over 300,000 acres.

To share with my colleagues the genuine concerns of my constituents I would like to cite one letter from Mr. Hank C. Abraham, chief forester of the American Forest Products Corp., who writes,

> I find it really astonishing that a Joint Conference compromise on H.R. 3454 and S. 1180 included a worthless adjustment of the Senate Committee Report acreage to be included in the Golden Trout Wilderness Area (proposed).
>
> The Compromise is not a compromise.
>
> It ignores the silvicultural needs of a very large area that adjoins the more suitable wilderness acreage as reported by the House Committee, 179,625 acres.
>
> It has provoked the dismay and wrath of many hardworking employees and residents of the 100 percent dependent community of Johnsondale, a group of people who lived there for 30 to 40 years. Their homes and jobs are scheduled for a very indefinite future as this "Endangered Wilderness Bill" moves towards enactment.
>
> The principal forces that are prevailing have used political maneuver and clout to in effect guarantee one man a lifetime job in further research on the Golden Trout, its associated subspecies, hybrids, strains, and mutations in an undisturbed state, while refusing to see that existing investment of capital and lives in the full and proper management of the forested areas. There will be 125 people losing homes and jobs while one man researches at random and at his own pace amongst a species of fish of relatively low value. Countless other people will be denied access to and use of these lands for multiple-utilization and enjoyment.
>
> Organized labor has spoken out for the reasonable compromise which would have permitted both the use of the land, providing jobs, and the research as provided for in the Forest Service Environmental Report.
>
> We now hear that the Sierra Club is further suggesting that the 27,000 acres relinquished in this "compromise" cannot be put to use, even in the area recently ravaged by a fire in the Bonita Flat area, because it lies within the RARE II inventory area. This is nonsense and arrogant—certainly not in the spirit of Senator Church's and others' intentions when working out a compromise.
>
> I feel bad about this because it is sickening to see, so close to home, such a waste! My hopes have always been that somewhere there are real meaningful reasons for preservation of wilderness. I believe there were good sound reasons in the past for a number of wilderness set-asides. Now, I am reluctantly convinced the real reasons stem not from reason and quality criteria for the wilderness, but rather from a simple continuation of attempts to win legislative battles just for the sake of winning legislative battles.
>
> At least we know we are right! Hopefully, a miracle can in some way regain the needed acreage in the southern portions of this proposal to continue our jobs and the appropriate silviculture and recreational management of the Little Kern, and even the compromise areas in Moses ski areas proposed by Mr. Krebs and in the areas near the Bonita Flat and Lookout Mountain.

I deeply share this same conviction with the majority of my constituents; the provision of the Golden Trout Wilderness is grossly ill-conceived and will have a dramatically negative impact on the economy and livelihood of the surrounding communities. For my part I will vote to see that this measure is defeated in its final passage, and I would urge my colleagues to boldly take the same stand.

PARTS PER MILLION—PPM?

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. WAMPLER. Mr. Speaker, sometimes it pays to know what we are talking about or we see or hear. Most of us are not scientists or mathematicians, yet daily information comes across our desks or we hear in committee complicated scientific or technical testimony or supposed facts that bear little relation to good old plain English. One such situation came to mind recently during markup on the pesticides bill before the Agriculture Committee. Someone asked me what "ppm" stood for. Because I had been involved in my own mind with a similar question and had to find out for myself, I answered authoritatively, "Parts per million." Unfortunately neither he nor I sought the answer to the real question—what does parts per million really mean? What does it mean when put in proper perspective to the subject under discussion?

Mr. Joe Walker, Wisconsin agricultural agent, who writes a weekly column for the Waupaca County Post, put "ppm"—parts per million—in perspective in his November 30 column.

I insert Mr. Walker's column in the RECORD:

PARTS PER MILLION—PPM?

(By Joe Walker)

The pesticide bill was passed and signed by the Governor on October 11 and, for the most part, this puts a new dimension into pesticide use in the state.

As of last month, over 17,000 people in the state have received training for certification. As a matter of fact, just last week, 288 operators took part in the four pesticide certification programs held in Shawano and Waupaca counties.

This hits private and commercial applicators who plan to use restricted-use pesticides.

Now, the big question remains, just what will be on the restricted use list and, for the present, your guess is as good as mine. However, you can rest assured that those more potent or hotter materials are all prime candidates.

Another question often asked is, just what is included as a pesticide and here herbicides, insecticides, fungicides, rodenticides, avicides, piscicides and predacides all fall into this slot.

Thus, when we talk about pesticides, we are digging a little deeper than just insect or weed control materials but, rather, hit the entire gambit of chemical prescription pharmacy in agriculture.

Now the restricted use list hasn't been developed by E.P.A., as yet, and this list will never be engraved in granite but will, no doubt, be in a state of flux for some time to come. As with anything of this nature, it is always greeted with mixed emotions.

However, after one has been certified, he doesn't have to be recertified for five years. The program as such, points out the safety of operator, environment and the product, itself. After all, we only use these pesticides to provide better quality food for everyone.

Now, for those who haven't had an opportunity to attend a session, we are planning to hold another in Shawano County on March 7 and Waupaca County on March 8 and those interested are urged to contact their UW—Extension Office.

Speaking of pesticide use and certification brings to mind the fact that one of the terms often used when speaking of pesticides is tolerance in terms of parts per million. Most of us have difficulty with this term.

However, to put it in a practical light, we find one part per million to be as follows: In distance it is one inch in 16 miles, in time it is one minute in two years, in money it is one cent in ten thousand dollars, in weight it is one ounce in 31 tons, in volume it is equal to a drop of vermouth in 80 fifths of gin, in quality, yes, it's but one bad apple in 2000 barrels of same.

Thus we see parts per million are mighty small amounts. However, when dealing with pesticides, we are usually dealing with these terms, so it's a good idea to give them more good old, common term approach.

At any rate, when using any produce, we have to follow the label or directions. Seems the label to the pesticide is similar to the directions on the bottle of medicine, if not followed we can be in serious trouble.

A SUPREMELY COURAGEOUS ACT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to take this opportunity to formally recognize the heroism and unselfishness of Mr. Samuel Jones, a young man from Santa Barbara who last month rescued a young woman from drowning.

Mr. Jones was driving along Highway 101 in the middle of the night when he saw a car crash and plunge into the Pacific Ocean. Without regard for his own safety, he jumped into the waves and rescued one of the victims.

I would like to publicly salute Mr. Jones, on behalf of the U.S. Congress, for his courage and concern for his fellow human beings. His heroic actions, in the face of personal danger, set an example for us all and stand as a heartwarming reminder of human values and concerns. I insert the editorial from the Santa Barbara News-Press, detailing Mr. Jones' heroism, in the CONGRESSIONAL RECORD:

A SUPREMELY COURAGEOUS ACT

The accident that claimed four lives when an auto plunged into the ocean near here Friday, tragic as it was, almost certainly would have been worse but for the heroism of a 20-year-old Santa Barbaran. Samuel Jones, 1151 Pepper Ln., dove into the dark waters of the Pacific at high risk to his own life to rescue Marian Thorpe, 21, the lone survivor of the harrowing tragedy. The California Highway Patrol reported that the Union City woman "surely would have died" had not Jones jumped into the foreboding ocean in the middle of the night to rescue her.

Observations of others bore out the CHP's conclusion. A News-Press staff member described the somber scene along The Rincon, where Freeway 101 almost touches the ocean, in these words: "The surf was pounding against the wet rock of the seawall in the dark, and there were no lights down there in the water when Jones jumped into the ocean. Some of the rescue workers, even after ropes were tied around them, seemed reluctant to clamber down the jagged rocks."

Jones, who witnessed the death car's plunge while driving in the opposite direction, appears to have acted instinctively and without regard for his own welfare in attempting this supremely difficult rescue. He also searched without success for some of the others who were trapped in the auto beneath the ocean's surface. It was a particularly courageous act, one that exemplified the concern of one human being for another. We salute young Samuel Jones, not only for his heroism, but for reminding us of that humanitarian concern.

STRATEGY BEHIND NONSTRATEGIC TRADE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. CRANE. Mr. Speaker, it seems as if all trade that is not labeled "arms trade" is labeled "nonstrategic trade" today. Any commodity that does not look or act like a gun, missile, or weapon, is supposedly nonmilitary, and therefore nonstrategic. Automobile and tractor plants built, equipped, or designed by Americans for the Soviet Union, although they may seem harmless enough, produce as much as 95 percent of all Soviet military vehicles. Although the United States is not transferring nuclear warheads and missiles to the Soviet Union, we might as well be if one takes a close look at the so-called peaceful trade we have engaged in with the Soviet Union since 1930.

Following is an article by Mr. Allan Brownfeld on United States-Soviet trade and a strategic look at the nonstrategic trade we have engaged in:

"PEACEFUL TRADE" RUSSIAN-STYLE

(By Allan C. Brownfeld)

The Soviet Union is today, in the opinion of many experts, the most powerful military state in the world. In nuclear weapons, in armed forces, in its naval fleet—it either surpasses the West or will very shortly do so.

What many Americans do not know is that the Soviet Union could never have achieved this remarkable status without our help. In non-military areas, the Soviet Union remains a primitive society. Indoor plumbing, television, automobiles, telephones—these remain luxuries for the few. In nuclear warheads and missiles, however, Soviet technology is second to none. Unfortunately, it is we who helped to make it that way.

The transfer of sophisticated technology from the U.S. to the Soviet Union has been going on for many years. One major step forward, for example, was the agreement in February, 1930, between the U.S.S.R. and the Albert Kahn Co. of Detroit, builders of the Ford River Rouge, General Motors, Packard and other large plants in the U.S. The Kahn group designed and did the engineering work for all heavy and light industrial units projected by Gosplan. The units designed and started in 1929–32 were far larger than any the firm had constructed elsewhere in the world. The Urals Elmash plant in Stalin's "steel triangle" multiplied Soviet electrical-equipment manufacturing capacity by a factor of seven.

Later, as a result of the Lend-Lease Plan, which continued through 1947, the Soviet Union, in spite of war damage, ended World War II with a greater capacity than in 1940 and on a technical parity with the U.S. In 1930, the Ford Motor Co. designed the Gorki automobile plant. Individual parts and overall design of present-day Soviet military vehicles, including those used for weapons systems, can largely be traced to American automobile technology sent to the Soviet Union as "peaceful trade."

U.S. policy makers still make a distinction between "peaceful" trade in "non-strategic" goods and trade in directly strategic goods which Soviet policy-makers, for good reason, totally discount. In November, 1971, Krasnaya Zvedzda, "Red Star," the organ of the Red Army, clearly stated the Soviet perspective about what the U.S. refers to as "peaceful" trade: "In this era of complex weapons systems, all of heavy industry—from steel to electronics—and not only pure defense industries producing military end products, represents the foundation of military power."

While U.S. officials have referred repeatedly to automobile plants, computers, and other technological advances as "non-strategic" trade items, the Soviet Union has an entirely different view. The "Red Star" article states that, "The creation of modern armaments now requires the production of high-grade special metals and plastics, the most modern instruments, computers and communications systems . . . the interdependence of industries is now so great that almost all branches of heavy industry play a role in the manufacture of any complex mechanism or device."

The Soviet Union clearly believes that all trade and all technological exports are strategic. In the 1930s, U.S. firms were largely responsible for building tractor plants in Stalingrad, Kharkov, and Chelyabinsk, as well as the Kirov plant in Leningrad. From the very beginning, although U.S. officials said that the plants were "non-strategic," they were used to produce Soviet tanks, armored cars, and self-propelled guns. The Stalingrad Tractor Plant, the largest in Europe, was a packaged factory built in the U.S., dismantled, shipped to the U.S.S.R. and re-erected in Stalingrad under the supervision of American engineers. All its equipment was manufactured in the U.S. by some 80 firms.

The Soviet Union never pretended that automobile and tractor plants were anything but strategic. Pravda of July 20, 1927, declared that, "If we do not develop our automobile industry, we are threatened with the heaviest losses, if not defeats in a future war." As early as 1927, the Soviets officially stated their intention to use foreign technology for military vehicles. V. S. Ossinsky, a top planner, wrote a series of articles for Pravda in which he declared, "If in a future war we use Russian peasant cart against the American or European automobile, the result to say the least will be disproportionately heavy losses, the inevitable consequences of technical weakness." As much as 95 per cent of all Soviet military vehicles are produced in plants originally designed by Americans.

This is not simply historic—it is all going on at the present time, and involves computer technology as well as complete factories. In 1972, the U.S. Government issued $1 billion in licenses to export equipment and technical assistance to the Kama truck plant. Planned as the largest truck plant in the world, it covers 36 square miles and produces more heavy trucks than the output of all U.S. heavy manufacturers combined.

Thus, although it is not known by most Americans, we face an enemy which we have largely made into the powerful force it is today. In his important book, National Suicide: Military Aid to the Soviet Union, Antony Sutton declares that, "Soviet Russia is the most dependent large nation in modern history, for wheat as well as technology . . . an examination of the production history of individual Soviet tank models and related systems shows them to be of American origin. The U.S. has built for the Soviet Union a capability for military trucks and wheeled, armored, and weapons-carrying vehicles. This construction job has taken 40 years . . . All modern technology . . . depends on the use of computers. To make any progress in weapons systems the Soviets have to utilize modern high-speed computers. These . . . have come . . . almost exclusively from the U.S."

RULE XXII

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. HAGEDORN. Mr. Speaker, along with 15 other Members, I have introduced legislation which would amend rule XXII of the House of Representatives to require that every bill received or considered by the House contain within it a statement of constitutional authority. The statement would be required to cite, as precisely as possible, the article, section, and clause, or amendment of the Constitution which is the ostensible basis of authority for the bill.

In the short time that I have served in Congress, I have witnessed legislation being introduced which would regulate, promote, or prohibit virtually every area of private human endeavour. Among a few of the subjects which have been the focus of congressional legislation during that period have been spaying clinics, oyster producers, zoos, aquariums, home repairs, climate, scholastic sports, boxing, condominiums, seeds, military toys, the calendar, every disease and malady known to mankind, railroad depot art, local property taxes, cigarettes, poet laureates, Agriculture Halls of Fame, fertility, pate fois gras, blood donations, home garden tools, burglar prevention devices, summer camps, the arts and humanities, school field trips, travel agents, automobile repairmen, drivers' education, teachers' sabbaticals, temporary employment services, brainwashing cults, urban trees, and polygraphs.

The purpose of this legislation is not to suggest that each of these areas is necessarily an improper area for Federal involvement, but simply to occasionally remind ourselves that our Federal Government remains one of limited powers, and that such powers must be enumerated by the Constitution.

As the 10th amendment to the Constitution reads:

> The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It is this relationship between the National and State governments, and the people that this legislation is designed to highlight. The legislative initiatives that each of us in Congress have must be judged not simply on the basis of whether or not they are "good ideas," but also on the basis of whether or not they are legitimate areas for Federal involvement. Not all "good ideas" meet this latter test.

The constraints imposed upon legislation by a Federal structure are not the result of obeisance to an antique public document, but rather serve to promote the basic principles upon which this Nation was founded. They serve to insure against excessive concentration of power in the National Government; they serve to insure that the individual maintains maximum control over his own destiny; they serve to preserve and protect the diversity of the American experience; and they serve to limit the harmful effects of "bad ideas."

While I have absolutely no illusions that this bill will be a panacea for exercises of power by the legislative branch, I do believe that it will be instructive, and perhaps in the long run remedial, to learn the purported constitutional authority underlying many pieces of congressional legislation.

Of course, it is not Congress alone that is at fault. As Prof. Gottfried Dietze once noted:

> An uncurbed Congress will probably be less constitutionalist . . . than a Congress that must doubt whether its acts will be considered Constitutional.

The Federal judiciary, whose duty it is to do so, has not only failed to instill this sense of doubt in Congress' mind, but have in fact been in the vanguard of efforts to spur the legislative branch into taking actions of dubious constitutionality (earlier this year, incidentally, I introduced a resolution to establish a Commission on Legislative-Judicial Relations to examine this problem).

Each of us as elected Members of Congress must take an oath to uphold the Constitution. The only objective of the instant legislation is to insure that each of us give further thought to this vow during the 2-year period between swearing-in ceremonies. At this point in the RECORD, I would like to insert the language of this legislation:

> *Resolved*, That rule XXII of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:
>
> "7. The House shall not receive or consider any bill or resolution unless it contains a statement citing, as precisely as possible, the article, section, paragraph, and clause, or amendment, of the Constitution of the United States which is the basis of authority for the bill or resolution. Statements which cite language contained in the final paragraph of article I, section 8 of the Constitution of the United States shall further specify that language conferring the "powers" to which such paragraph refers.".

PRESIDENT SUPPORTS GI BILL IMPROVEMENTS ACT OF 1977

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. TEAGUE. Mr. Speaker, as H.R. 8701, the GI Bill Improvements Act of

1977, was being considered by the Congress, there was some criticism about the inadequacy of the GI bill program. Following my meeting of October 27, 1977, with Senator CRANSTON and Congressman ROBERTS, chairmen of their respective Veterans' Affairs Committees, a compromise was subsequently agreed to based on policy decisions established by Senator CRANSTON, myself, and Chairman ROBERTS. A copy of the compromise accepted by the principal parties based on the policy decision agreed to by representative of both the Senate and the House was presented to the administration for its comments and reactions. In a letter dated November 3 to the Speaker of the House, Max Cleland, Veterans' Administrator, speaking for the administration endorsed the agreed-to compromise. Following the acceptance of the compromise by the House and Senate, H.R. 8701 was signed into law on November 23 by the President.

So that all Members will be informed with regard to the strong support of the President of the GI Bill Improvements Act of 1977, which is now identified as Public Law 95-202, I am inserting a copy of the letter of November 3 by Veterans' Administrator Cleland to the Speaker and the President's statement of November 23 when he approved H.R. 8701 in the RECORD at this point:

WASHINGTON, D.C.,
November 3, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: It is my understanding that a compromise amendment to H.R. 8701, the GI Bill Improvement Act of 1977, will be offered today by Mr. Teague, the Chairman of the Subcommittee on Education and Training of the Committee on Veterans' Affairs.

You will recall that earlier this year, on September 12, the House passed H.R. 8701 by a vote of 397 to 0. Subsequently, on October 19, the Senate, by a vote of 91 to 0, returned the measure to the House with amendments. Since that time, both Veterans' Affairs Committees have been negotiating the respective versions of the bill. We believe that the resulting compromise version which will be offered today is worthy of support.

Under the compromise, almost one million Vietnam era veterans who are enrolled in the current fall school term will receive a 6.6 percent cost-of-living increase. Basic monthly support rate for a single veteran will be $311. A married veteran will receive $370, and the addition of a child will boost the monthly rate to $422. It is estimated that during Fiscal Year 1978 approximately 1,760,000 veterans will benefit from this rate increase.

Additional assistance for veterans attending high tuition institutions will be provided by a simplified veteran loan program which authorizes up to $2,500 a school year in direct VA low interest loans.

The compromise version also includes for the first time a provision allowing "acceleration" of a veteran's unused entitlement which can be used to cancel a portion of the veteran's loan repayment obligation. Under this provision, for example, a veteran who borrowed $2,500 could, if he successfully completed his program of education, have up to $1,200 cancelled through matching action by the federal government and the appropriate state or local governmental unit.

A third major provision of the compromise bill would provide a 2 year additional entitlement for direct veteran's loans to those veterans whose 10 year "delimiting period" for use of educational benefits has expired.

While the Administration continues to be concerned about the possible distortion of what is intended to be a readjustment benefit through extension of an already generous 10 year entitlement period to 12 years, we nevertheless can support the provision in the context of the overall compromise which would provide needed benefits to Vietnam veterans during this fall term.

A fourth major provision would provide a process by which service as a member of the Women's Airforce Service Pilots (WASP's), or any other similarly situated group whose members rendered service to the Armed Forces in a capacity considered, at the time, to be civilian employment or contractual service could be considered active duty for purposes of laws administered by the Veterans' Administration subject to certain specified conditions.

Finally, the compromise version contains a number of amendments, and studies designed to improve the operation of the program and to ease some of the administrative problems experienced by both schools and the Veterans' Administration with respect to the GI Bill program.

In conclusion, we believe the compromise amendment to be offered today is a reasonable one which takes into account the respective interests of both Houses and the Administration. Action today by the House would help ensure these increased benefits for Vietnam era veterans during the fall term, rather than postponement to February or later of next year. Thank you for your consideration of this matter.

Sincerely,

MAX CLELAND,
Administrator.

STATEMENT BY THE PRESIDENT

I am pleased to sign into law today, H.R. 8701, the "GI Bill Improvement Act of 1977," a measure providing expanded benefits for Vietnam-era veterans. This measure includes a 6.6 percent increase in monthly educational assistance benefits retroactive to October 1. It will mean larger checks for the approximately 1,700,000 individuals who will train during this fiscal year under the GI Bill and the Survivors' Educational Assistance Act. Monthly benefits for a single veteran will increase to $311; a married veteran will receive $370; a married veterar with a child will receive $422.

The VA work-study allowances are increased under this measure, as are special tutorial assistance provisions for veterans having academic difficulties.

This bill is also designed to help veterans attending high-tuition schools, by liberalizing the VA direct low interest educational loan program and increasing it from $1,500 to $2,500 per school year. Veterans will also be eligible to have a portion of their loan cancelled, through matching action by the Federal and State governments.

This means that a single veteran is now eligible for up to $4,745 in grants for a 9-month school year, plus an additional $2,500 in low interest loans. The current GI Bill now has a 65 percent participation rate, which far exceeds the final participation rate under both the Korean conflict program (43 percent) and the World War II GI Bill (50 percent). That rate will rise even farther when nearly 1,700,000 veterans benefit from the GI Bill Improvement Act.

The nearly $25 billion that we have spent under the current GI Bill has been an excellent investment in our Nation's future. The measure I sign today should further improve this program.

THE STEEL SHOT MISTAKE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. BAUMAN. Mr. Speaker, 1 year ago I spoke to the House of Representatives about rules then being implemented by officials of the Interior Department which banned the use of lead shot pellets in 12-gage shotguns by hunters of waterfowl in Maryland. We are now in the midst of the first season of full scale steel shot waterfowling which was mandated by the Interior rules.

Just as everybody connected with the controversy over lead versus steel shot, except the isolated Government bureaucrats in Washington, D.C., then predicted, we are this season seeing record numbers of waterfowl being crippled, but not killed. The reason is that steel shot simply does not have the killing power of lead shot when used in a 12-gage shotgun. Waterfowl hit by steel shot more often than not are merely severely wounded or crippled. The hunters are unable to recover them, with the result that the fowl die miserable deaths in marshes, swamps, and grain fields in Maryland due to poorly thought-out legislation.

Gene Mueller, the fine outdoorsman who writes a regular column for the Washington Star, recently devoted his column to this topic and I commend Mr. Mueller's thoughts to my colleagues. As Mr. Mueller points out, it is time to go back to the drawing boards on the lead shot ban.

[From the Washington Star, Nov. 20, 1977]

STEEL SHOT: IT IS HAVING A CRIPPLING EFFECT ON FOWL HUNTING

It all started when Jim Bren of New Carrollton, Md., picked up his first box of steel shot shells to comply with a controversial new federal law that says you must stop using lead pellets in your 12-gauge when pursuing waterfowl within 150 yards of any water in a host of areas—especially Maryland's Eastern Shore.

"The law stinks," says Bren bluntly. "What in the world is the brass in Washington up to?"

A farmer in Kent County echoes Bren. "So they were concerned about lead-poisoned ducks. Big deal. Now, they passed a law that is so dumb only a government bureaucrat could have thought it up."

The corn and soya bean farmer is upset. Bren is upset. So are Alex Ross, Bob Moore, Dale Berkheimer, and at least 40 other waterfowlers—primarily goose hunters—we have talked to since the season on the majestic Canada geese opened up Oct. 21.

There are hundreds upon hundreds of geese dying a miserable death in the marshes, swamps, and grain fields of Maryland because of well-intended, but poorly thought-out, legislation. Steel shot—the very stuff hailed as the saving substance for thousands of ducks that supposedly ingested spent lead pellets and died from poisoning—is crippling birds in record numbers. No matter what the hunters do, the birds very rarely fall as they did in the day of the lead shot. No matter how long you wait for closely decoying geese, the steel pellets roughly equal the power of throwing small pebbles at them. It isn't working.

What's the answer? Stop hunting altogether? No way. Even if antihunting voice Cleveland Amory would be delighted at that prospect, it will not happen. Without hunters the geese would inundate the winter wheat fields of Maryland and devastate them even more than they do now. Disease would ravage its ever growing numbers. Hunting, believe it or not, is still the most useful wildelife management tool. Emotional rhetoric notwithstanding.

When asked what longtime waterfowler Alex Ross of Adelphi, Md., thought of using steel shot, his answer was brisk and short. "It's not worth a damn," he said. "Beyond 30-35 yards all you're doing is knocking out a few feathers, not a bird."

"I've gone back to using a 10-gauge gun," says Ross in reference to another strange part of the steel shot law. It appears the great ammunition manufacturers of our country could not come up with adequate amounts of steel shot to be used in all shell sizes. So 10-gauge, 16-gauge, and 20-gauge guns can still use lead, while the popular 12-gauges must use steel.

"I really don't believe all those lead-poisoning statistics," says Ross. "But if they are true, perhaps they ought to apply the law to duck hunters on rivers, bays and creeks, not us goose hunters who stay primarily in cornfields, even if they are a little close to water. Geese feed mostly on grains here. Our shot falls mostly on fields. It isn't hurting anything."

Bob Moore of New Carrollton says, "I don't have much use for it. It doesn't have the killing power lead has. Check out Eastern Bay (along Kent Island), and see how many cripples you can find. No one can dispute it. I won't stop hunting, but there are too many cripples. In the fields we can chase them down. But forget the water. You'll never get them."

Dale Berkheimer of Hyattsville is a retired Post Office employe who enjoys goose hunting as much as anything. "I don't know how they can improve the steel shot," he says, "but if it doesn't get better I'm switching over to a 10-gauge. I hunt about three times a week during the season and I've never seen so many cripples in the fields. Foxes are feeding on the carcasses. Yes, I'd like to see the law changed back."

The statements from other hunters are only more carbon copies of the ones you've read. All agree that steel shot is terrible and simply too expensive to be wasted, or to have birds wasted senselessly. It's a mess generated by many factions in the world of waterfowl. Most of these factions, hunter and nonhunter, alike, surely want the best for wildlife. But steel shot, at this time, is not the answer.

Back to the drawing board.

LASALA NAMED CITY REPRESENTATIVE, DIRECTOR OF COMMERCE IN PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. EILBERG. Mr. Speaker, Philadelphia's Mayor Frank L. Rizzo has recently announced the appointment of Joseph A. LaSala to his cabinet as city representative and director of commerce.

Mr. LaSala, former regional head of the Federal Energy Administration in Philadelphia, has succeeded Albert V. Gaudiosi in the post.

Prior to joining FEA, LaSala was Deputy Regional Administrator for the U.S. Department of Housing and Urban Development in Region III and served as senior HUD officer in Pennsylvania during the Hurricane Agnes disaster.

A native of Aliquippa, Pa., LaSala served as director of the Pennsylvania Community Affairs Department Southwestern Region before joining the Federal Government in June of 1972.

He is married to the former Keith Hyde of Millvale, Pa. They have seven children and reside in Media, Pa.

HE DID NOT SIT THERE AND WATCH

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. WHITEHURST. Mr. Speaker, since most of the news we read in the press or see on televison or heard on the radio deals with the dark side of life, I must say that the following article, which appeared on the front page of the Norfolk Virginian-Pilot on November 29, served to brighten my day considerably. It was written by Steve Goldberg, a staff writer for the Pilot, and it gives me great pleasure to take this opportunity to share it with my colleagues.

Mr. Herbst is to be commended for his efforts. He is a symbol of what is still good about this great Nation of ours.

The article follows:

PURSE-SNATCHER SUSPECT CAUGHT: HE DID NOT SIT THERE AND WATCH

(By Steve Goldberg)

NORFOLK.—Stephen Herbst was sitting on his front stoop across from the Giant in Ghent when he saw two men knock over an elderly woman and grab her purse.

"I got mad. I've got a grandmother, and if something like that were to happen to her, I would want someone to do something," said the 18-year-old Navy enlisted man.

So, when the two men ran down Colonial Avenue, Herbst jumped in his car and gave chase.

While admitting to being a little afraid, Herbst said, "I figured if they had a gun, they would have held up a liquor store instead of having mugged an old lady.

"I thought maybe I could catch them."

The two men ran in different directions, but Herbst was able to get out of his car and collar one on Ghent Square. He held the suspect until a security guard arrived. Then, he retrieved the purse from under a car where it had been thrown during the chase.

Mrs. Lempi Edith Ritchey, 60, who lives in Haddon Hall apartments, said she was walking to the Giant on Colonial Avenue about 8 p.m. Friday when the men knocked her down. "I tried to hold onto my purse, but they grabbed it away from me."

She was left lying on the ground, her leg bleeding, holding the strap of her purse. "I thought the only thing I could do was start screaming."

Two passers-by heard her screams and called police. Police arrested Timothy Eugene McClain, 23, of the 300 block of East Olney Road on charges of assault and robbery. He is being held in City Jail. The other suspect has not been arrested.

"Those men who stopped to help me, and that young fellow that caught the man, they both deserve thanks," Mrs. Ritchey said.

"I had been going to the Giant at all hours since it opened, and I'd never had trouble before," she added.

Herbst lives in the 1200 block of Colonial Avenue and is stationed at the Naval Air Station. A New York native, he has lived here about two years.

THE ANTILABOR UNIONS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. DORNAN. Mr. Speaker, the recent controversy over the granting of visas to Soviet "trade unionists" for the first time in our history has generated many misconceptions. In the summer issue of Policy Review, a publication of the Heritage Foundation, Dr. Stephen Haseler (former Labor Member of the Greater London County Council) offers a most perceptive analysis of the subject.

To begin with, he presents the proposition that an Eastern bloc "trade unionist" cannot exist since the concept is a contradiction in terms. As a trade union member himself, Dr. Haseler's argument carries all the more weight. He posits that free trade unionism cannot function in a totalitarian society where strikes are illegal and voluntary associations of workers for collective bargaining are outlawed. To grant a visa to the representatives of such an organization or to recognize them in other ways, is only to grant them respectability and to help perpetuate a dangerous myth. Far from being legitimate representatives of Soviet workers, the Soviet "trade unions" and their international labor organizations are fronts for the advancement of Soviet influence and control.

However, as Dr. Haseler illustrates, both policymakers and the American public still do not understand the true nature of the Soviet trade unions. As the most important cause of such a misconception, Dr. Haseler cites the policy of détente, which he states has positively disarmed any efforts to oppose contacts with these trade unions. He shows that:

> With political leaders in the West proclaiming the need for better relations between East and West, with the "cold war" increasingly derided by opinion formers, and with memories of the invasions of Hungary and Czechoslovakia receding, the whole balance of the argument has tilted against any trade union leader who wishes to oppose contacts.

Dr. Haseler continues by demonstrating how Western political leaders give further legitimacy to the Eastern bloc trade unions by claiming that their trips to the United States are justified by the Helsinki pact, involving the free movement of people and ideas. However, he reminds us that in reality, "contacts between trade unions of East and West are not part of the free flow of people and ideas, they are rather contacts between free trade unions on the one hand and agents of Communist governments and their intelligence agencies on the other."

Dr. Haseler has no objection to the persons involved coming to the United States in their true role as KGB agents (which many are) or as other Soviet Government and party officials.

With the Belgrade Conference recently in session, we would be well advised to consider seriously our commitment to trade union exchange between East and West.

I request that this timely article be inserted in the CONGRESSIONAL RECORD at this time:

Visas for Soviet "Trade Unionists"?

(By Stephen Haseler)

The recent controversy over the attempt to grant visas to Soviet "trade unionists" in order that they may be able to visit the United States raises wider questions about East-West "trade union" contacts. The attitude of the AFL–CIO in opposing such visas is but symbolic of their more general refusal to dignify Communist Party or Soviet government officials by accepting the deceit inherent in describing them as "trade unionists."

The simple proposition of the AFL–CIO is that an East-bloc "trade unionist" cannot exist since the concept represents a contradiction in terms. The argument, compelling as it is obvious, is simply that free trade unionism cannot exist in a totalitarian society—where strikes are illegal, voluntary associations of workers for collective bargaining out-lawed, and "trade unions," so-called, are simply an arm of the state and staffed by party or governmental personnel. To grant a visa to the representative of such an organization, or to recognize them in other ways, can only grant them respectability and help perpetuate a dangerous myth.

Consequently, for most of the post-war period, Western trade union organizations, conscious of the distinctions between organized labor in a free and an unfree society, have refused to have either formal or informal contacts with those East-bloc organizations which have appropriated their name. This policy of non-recognition was started in January, 1949 when the British TUC (Trade Union Congress), the American CIO and their Dutch counterpart led a withdrawal from The World Federation Of Trade Unions, which had fallen under communist control. They then, in the following November, set up the International Confederation Of Free Trade Unions which has since served as the international organization for organized labor in the free world.

The 1949 break was justified by similar reasons to those employed today by the AFL–CIO on the visa issue for communist "trade unionists." Not only is respectability conferred upon organizations which deserve none, but the communists actively use their "trade unions" and their international labor organizations as fronts for the advancement of influence and control.

The aim of the Soviet controlled WFTU, as with all East-bloc "trade unions," is to find points of agreement with Western unions over seemingly innocuous issues such as health and safety at work, and then to use these common aims, preferably augmented by an international conference, to spread their influence throughout the West. At the same time the ultimate political aims of these communist organizations remain quite clear. They remain unswervingly partisan in their support of Soviet actions. The WFTU supported the Soviet invasion of Hungary, and it remains silent about trials of writers and human rights campaigners in the East-bloc and about workers' revolts in Poland and East Germany. Although some initial criticism was voiced by the WFTU's secretariat in 1968 over the Soviet-led invasion of Czechoslovakia, Soviet control was soon reasserted. Some key WFTU officials were removed from office and the then Italian President was replaced by the Uruguayan communist, Enrique Pastorino.

The Russians make no secret of the role of their own "trade union" organization. Piotr Pimenov, Secretary of the Central Council of Soviet Trade Unions, has written that "the Soviet Trade Unions unreservedly support the Leninist foreign policy of the Communist Party."[1] The WFTU's general secretary, Pierre Gensous, the French Communist, has made it quite clear that "international exchanges between trade unions and countries of different political systems were an important contribution to the strengthening of the front of anti-imperialist struggle, as well as international trade union unity."[2]

Even so, and in the face of all this evidence, many Western trade unions (with the singular exception of the AFL-CIO) have opened up contacts and fraternal relations with some of their East-bloc so-called counterparts. The British Trades Union Congress has taken the lead in this peculiar adventure and for a labor movement ostensibly aligned with a Western social-democratic party it has thrown caution to the winds in this most sensitive of areas. At its 1975 Blackpool Congress the British TUC passed a motion calling for an initiative to bring the "two world trade union centers more closely together" (the ICFTU and the WFTU) and suggested that it (the TUC) was the best body to take such an initiative. Since then meetings have been going on in Geneva between WFTU officials and British trade union officials—notably Len Murray, the General-Secretary of the TUC, and Jack Jones, head of Britain's largest union, the Transport Workers.

Apparently not content with multilateral fraternization with East-bloc unions, the British TUC has entered upon a whole series of bilateral exchanges which would have been unthinkable for an earlier generation of British union leaders. In 1975 the TUC invited a Soviet delegation to Britain which included a former head of the KGB, Alexandr Shelepin, in his new guise a "trade union" boss of Soviet organized labor. Shelepin had to leave Britain prematurely on that occasion because of public protests: even so, the following year the TUC, evidently undaunted, gave a reception at their headquarters for Boris Ponomarev, the Soviet Communist Party's Central Committee man responsible for coordinating Communist Party activities in the West. So overtly political have the British TUC seem to have become that they now no longer even seek to hide behind some spurious "trade union" cover for their meetings with Soviet party officials. Alexandr Solzhenitsyn went so far as to single out for special condemnation the British trade union movement when he addressed the AFL-CIO in June of 1975. He said, "The leaders of the British trade unions are free to play the unworthy game of visiting the so-called trade unions (of the East-bloc) and receiving visits in return. But the AFL-CIO has never given in to these illusions."

The problem is not confined, though, to Britain. All over Western Europe bilateral trade union contacts between free unions and the puppet organizations of the East have been set in motion. For instance, the East German Trade Union Federation (FDGB), not particularly noted for its ability to engage in free collective bargaining, has established relations at the executive level with a number of Western trade unions, including those of Finland (not particularly surprising), Scotland (where the trade union congress is under communist control), Norway, Austria, Iceland, Belgium, and Denmark. The West German trade union movement (the DGB) has also been involved with contacts with the East, but seems of late to have cooled somewhat towards them.

In many respects, therefore, the continuing opposition to East-West trade union contacts by the AFL–CIO, and in particular their recent hostility towards the International Longshoremen's attempt to follow West European precedents by inviting Soviet "trade unionists" to their conference, is a welcome sign that American labor is not ready, as yet, to throw in their lot with what appears to be a developing trend.

The innocent observer might ask: why is it that decades of tradition have so easily been overthrown? What can free trade unions, operating within free societies and with full rights, possibly learn from agencies of totalitarian governments? How is it that Western trade union leaders can be so suspicious of their own governments and employers and yet so anxious to improve relations with bodies which repress workers abroad? The answer is probably three-fold.

First, there is simple, unadorned, guillibility—always a factor in human affairs. Many West European trade unionists, even those in relatively high and influential positions, are simply unaware of the consequences of their actions. They are often ignorant of the political intent of East-West exchanges and of the propaganda use to which they are put in communist countries. Trade union executives quite like traveling abroad and tend not to discriminate between good hotels in Sophia or the South of France, the hospitality is often quite lavish for visiting dignitaries behind the Iron Curtain and visitors, trade unionists, particularly, are not encouraged to visit real workers. Trade unionists from the West are not noted for their enquiries on this point, either.

Secondly, and more important, Western trade unions have since their inception been targets for internal Communist Party penetration. Lenin's famous dictum, proclaimed to the foundation meeting of the British Communist Party in 1920, that "we must be able to make any sacrifice, and even—if need be—to resort to various strategems, artifices and illegal methods, to evasions and subterfuges, as long as we can get in to the trade unions, remain in them, and carry on communist work within them at all costs"[3] has not gone unheeded. Communists and their fellow-travelers are present in enough numbers in many West European trade unions, which are not even affiliated to Communist Parties, to initiate East-West contacts and to carry along with them the gullible and the junket-seekers when any decision has to be taken. The decision-making processes in many trade unions are often so archaic, byzantine and closed that small, highly disciplined and unrepresentative groups can gain disproportionate power.

Even so, Western trade unions have always had a fair share of the gullible and the fellow-travelers amongst them, and it is only recently that East-West contacts have proliferated. In the fifties and early sixties not one single West European trade union organization, apart from the Communist trade unions of Southern Europe, would have even considered opening relations with the East. Of course, since then, European trade unions have moved to the left somewhat, although this process has been uneven. Only part of the answer can rest with the changing political complexion of unions, for even in Britain where the change has been most dramatic the majority of trade union executives are, if not exactly hostile to the East-bloc, at least non-communist.

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[1] World Trade Union Movement (No. 3, March, 1973).

[2] Nachrichten zur Wirtschafts und Sozialpolitik (July–August, 1973).

[3] V.J. Lenin, *Selected Works*, Progress Publishers, Moscow, vol. 3, pp. 318–9, 1964.

The really important new factor is the effect which the policy of detente has had in the internal arguments between left and right within trade union executives. With political leaders in the West proclaiming the need for better relations between East and West, with the "cold war" increasingly derided by opinion formers, and with memories of the invasions of Hungary and Czechoslovakia receding, the whole balance of the argument has tilted against any trade union leader who wishes to oppose contacts.

To a not very politically committed member of a trade union executive the argument proffered by a fellow-traveler that "we can not turn down this invitation as we would want to further detente, comrades" appears compelling. Even though detente is supposed to involve an easing of tension between governments and the ideological struggle between the free and unfree systems is supposed to go on, involving as it must the whole issue of the rights of trades unions, this is a far too sophisticated and complicated reply to assertions that East and West should get together to increase understanding.

It is in this way, therefore, that the evolution of the detente policy by Western political leaders has positively disarmed many moderate trade unionists in their battles with their leftists over East-West contacts. It takes a particularly clear-sighted and ideologically committed trade union leader, with ample political support from within his union, to overcome the obstacles placed in his way by the Western politicians who have initiated and supported the detente policy.

In Western Europe, because of the changed ideological atmosphere and the new balance of political forces, it is rare nowadays for a political leader, even of a right of center party, to condemn these new trade union contacts with the East. Indeed, political leaders often encourage them. For instance, in a little-known political move of considerable significance Britain's present Prime Minister, while he was Foreign Secretary, actively supported the development of relations between the trade unions of Western Europe and those of the U.S.S.R.[4] Only a few years ago such support from such a quarter would not have been believed.

No doubt those Western political leaders who give legitimacy to these East-West trade union contracts will argue that it is all part of the Helsinki pact, involving the free movement of peoples and ideas. In reality, of course, it is no such thing. The fact remains that East-bloc "trade unions" do not exist in the sense that we understand them in the West.[5] Contacts between trade unions of East and West are not part of the free flow of people and ideas, they are rather contacts between free trade unions on the one hand and agents of communist governments and indeed communist intelligence agencies on the other.[6] To properly implement the Helsinki agreement it would involve Western trade unionists meeting regularly with real workers from behind the Iron Curtain and discussing with them how best to forward the process of free collective bargaining and other trade union rights. In fact, the East-West trade union issue highlights the inadequacy of detente as it is interpreted by many leaders of opinion in the West.

It would seem that from amongst all the trade union organizations in countries of the Atlantic pact only the AFL–CIO remains keenly aware of the pitfalls of East-West contracts, and how the detente policy has helped undermine the resilience of those who would still wish to oppose what amounts to a submission by major Western industrial organizations to Soviet international strategy.

UTICA HIGH SCHOOL CHIEFTAIN MARCHING BAND

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. BONIOR. Mr. Speaker, the residents of Michigan's 12th District join with me in congratulating the Utica High School Chieftain Marching Band on being selected to participate in the Orange Bowl Parade of 1977.

The Chieftains Marching Band was selected from a field of over 400 highly competent and competitive high school bands. The auditioning was long and arduous, yet the highly enthusiastic members of this well-disciplined team had the stamina and determination to continue and remain a favorite in the competition.

Part of this congratulation should be directed to the taskmaster of this highly motivated musical force, the director, Mr. Nawrocki. A marching band with the high energy and unsinkable spirit of the Utica Chieftains requires the same energy and strength of its director. Mr. Nawrocki has provided that same energy and strength in his direction of the Chieftains Marching Band.

I will be watching the Orange Bowl Parade this year with a special sense of pride knowing that the district I represent in Congress has one of the best high school marching bands in the country.

ACP—A LOOK AT THE FUTURE

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. JONES of Tennessee. Mr. Speaker, a new soil and water conservation awareness is building in this country and the agricultural conservation program has been revised to reflect this awareness. Congress relied on advice from farmers, conservationists, environmentalists, program administrators and, yes, contractors before rewriting the act this fall.

You may ask why farm State Representatives in the Congress were persuaded to reform a program on which we have lavished praise for decades. First and foremost is that we, too, have developed a new awareness of conservation needs; and second, is the natural instinct for survival.

ACP was under fierce attack. Environmental interests complained ACP did not emphasize "long-term" conservation protection. An investigation by the congressional watchdog (the Government Accounting Office) charged that ACP concentrated too much on production-type practices. Taxpayers have frequently voiced the concern that farmers should be paying for the cost-shared practices because there were few off-farm benefits for society. Farmers, on the other hand, complained that not enough cost-sharing funds have been available to help meet the critical conservation needs on our agricultural land. Debate on local control versus tighter Federal guidelines has been continuous.

Believe it or not, Congress, in its own plodding and frustrating way, mirrors the feelings of the Nation at large and responds to the national mood. Farm-oriented Representatives are outnumbered about 10 to 1 in the Congress; this roughly reflects the breakdown of the U.S. population. Each year it was a harder fight to protect ACP from virtual elimination.

At hearings on reforming ACP, the president of the National Limestone Institute said:

> Over the next few years, the funds were cut from $500 million a year to $250 million—and recently they have been compromised out at $190 million. The $500 million was when our National budget was $8.9 billion. And, yet, in recent years, this Program has been operating at $190 million while our National budget has increased to more than $450 billion.

President Carter in August 1977 voiced his concerns very specifically. He had just asked Congress to consider additional funding for ACP but he stated he did so with reservations. He said:

> I'm concerned that our soil conservation programs, and this program in particular, are not as effective as they could or should be. I fear that we have about 3,000 separate conservation programs with little national guidance or problem solving orientation.

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[4] In the 1976 General Council Report of the British TUC it was stated that a letter had been received from Foreign Secretary Callaghan to the effect that "The TUC was correct in adopting a pragmatic, step by step approach toward the development of relations between the trade unions of Western Europe and the U.S.S.R.," *Report of 108th Annual TUC*, 1976, p. 247.

[5] If any more evidence were needed, Vladimir Bukovsky (recently exchanged by the U.S.S.R. after being imprisoned for several years) laid out the facts with great eloquence before a meeting of the AFL–CIO Executive Council on February 25, 1977. *See AFL–CIO Free Trade Union News*, March 1977. He said that: "In the West, the decision to strike is usually taken by the labor union. In the Soviet Union, this is beyond imagination. Soviet trade unions do not protect the workers against hunger, persecution or exploitation. Labor unions in the U.S.S.R. are part of the party-government machine, which addresses itself not to the defense of the interests of working people, but only to the implementation of party-government projects. Even the Soviet Supreme Court, having looked into the practice of court cases involving illegal firings, was forced to point out that the labor union organizations are not observing labor legislation and do not defend the workers actively enough. Workers' complaints to labor union organizations are handed over by them to the KGB. In the verdict of the court in the political case of the truckdriver, Vladimir Pavlov (Maikoptown, 1971), his complaint to the district council of labor unions was taken to be material proof of his guilt. So, there is nothing surprising in the fact that for a ten-year period, the chairman of the Soviet labor unions was the former chairman of the KGB."

[6] See Dan C. Heldman, *Soviet Trade Unions*, Council on American Affairs, 1977.

> and, consequently, that the emphasis is on yield-enhancing practices rather than the more enduring conservation measures.

Congressmen are, indeed, politicians, and politicians can tell which way the winds are blowing. It was obvious ACP had to be reformed and reoriented if it was to be saved. Many of the critcisms were misdirected and can be rebutted. Any conservation practice is going to contribute in some degree to production; what is needed is enduring protection and sometimes short-term practices are required to accomplish long-term protection; both society and producers benefit from conservation practices even if only through protection of the resource base—our national heritage. But, in the end, the arguments for reform won on their merit—the problems with the program were growing too fast.

While many changes, major and minor were made, the thrust of the new program can be capsulized in this sentence from the new law:

> Eligibility for financial assistance shall be based upon the existence of a conservation or environmental problem which reduces the productive capacity of the nation's land and water resources or causes degradation of environmental quality.

An emphasis on real problem solving, I believe, is going to be the strength of the new ACP. County committees, in cooperation with development groups, are to identify and assign priorities to conservation and pollution problems in their areas. Focusing attention and money where it will do the most good and where it is most needed will not only enhance the image of the program, but will make it more efficient and effective. A great amount of discretion is left with the county committees in identifying and solving problems and we do not yet know how they will use it.

I envision that a county committee might recognize a severe erosion problem in one particular watershed or community which may result from the physical characteristics of a particular stream or soil type. The committee then might decide to place special emphasis on solving this localized problem by funneling a certain percentage of the county's ACP funds to it. This, obviously, would involve tradeoffs, because other farmers in the county deserve consideration for assistance as well. But one of the functions of the county committee is to make these tough decisions.

In any case, the local committee will be required to develop a priority system for the identification and solution of conservation and pollution problems. Using the same management principles used by any successful business, the committee will: First, identify the problems; second, set the priorities for action; third, develop solutions and carry out the practices; and fourth, make evaluations of the program.

A set of national practices has been developed to address conservation and pollution problems. State and county ACP programs will follow these national guidelines, but they have authority to develop additional practices to solve specific local problems.

Again the program will be trying to get landowners to agree to multiyear or long-term agreements of either 3 to 10 years or 3 to 5 years with an option to extend up to 10 years. A special emphasis will be placed on wind erosion control measures in the Great Plains area.

Coordination between ACP with the effort to rid waterways and lakes of point and nonpoint sources of pollution will be strengthened. Obviously, the goal of drinkable and swimmable water by 1985 established in the Federal Water Pollution Control Act cannot be met without the cooperation of farmers and assistance from ACP.

Delayed reimbursement for installation of conservation practices should no longer be a problem for farmers and contractors under the new funding mechanism which was adopted. The $2,500.00 cost-share limitation was dropped from the legislation but will continue in effect through 1978. Farmers and contractors alike have complained about both inordinate delays and the limitation.

Assessing the future of ACP, I must be optimistic. ACP has contributed too much in the past—it now has been reoriented—to solve present problems and to meet future goals.

HERE WE GO AGAIN

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. WAMPLER. Mr. Speaker, with farm income down and food prices rising Mr. Donald Kennedy, Administrator of the Food and Drug Administration, is taking steps to make this situation even worse, by promising to issue new Federal regulations to severely restrict antibiotics utilized by farmers in feed that reduces disease and food consumption in livestock and dairy animals and poultry. The loss by the farmer of low-dosage antibiotics in feed to produce cheaper and healthier livestock and poultry, would cause a further rise in retail food prices and force farm incomes down. Conservative estimates indicate such an action by FDA would cause a retail price rise in beef products of 7 to 10 cents per pound and a much higher rise in pork and dairy products. Estimates also show we could lose 30 percent of our poultry if antibiotics are removed from their feed.

Mr. Speaker, if Mr. Kennedy were to be found correct and we had substantial scientific and medical proof that the use of antibiotics by farmers in animal and poultry feed caused a marked lowering of resistance to bacteria among humans, then I would have no quarrel with his proposal. But on the other hand, if Mr. Kennedy's proposal to take this drastic action is based on theoretical risks and hypothetical dangers existing only in the test tube, then much greater research and substantiated tests are needed before this drastic action is taken.

The facts of the matter are: We have not established reliable methods to measure the theoretical risks that a small element in science says exists; we do not have evidence that resistance to bacteria is occurring among farmers who are the closest to the theoretical exposure risks, that is those who daily dispense the antibiotic feeds to the livestock or poultry remain healthy; and we have few if any studies performed in a real-life field test basis to confirm these controversial test-tube theories expounded by some at FDA.

Dr. Kennedy's findings should, of course, be taken as a danger signal. But more important, strong and expanded research and field testing efforts should be conducted by the Department of Agriculture's animal disease research arm, at both the Federal and State levels, to establish firm and reliable guidelines for the utilization of low-dosage antibiotics in feed to control disease in livestock and poultry. Additionally, other medical research arms of Government should conduct valid tests among farmworkers, food processors and the public to determine the correlation between the feeding of antibiotics to animals and a lowering of resistance to bacteria among humans, on a real basis at different levels and methods of feeding.

Mr. Speaker, the Congress recently passed legislation under title XIV, Public Law 95-113, the National Agricultural Research Extension and Teaching Policy Act of 1977, which clearly foresaw the need and authorized funds for such research and field testing. In this instance the Food and Drug Administration would be well advised to withdraw its proposed action until adequate research is undertaken and FDA is on firmer ground. Too much is at stake here for Congress to permit American agriculture to be made a whipping boy or to force the American consumer to pay higher prices for food products as a result of a guessing game.

Mr. Speaker, in order that my colleagues are aware of Mr. Kennedy's proposals, I insert his recent letter to me on the subject in the RECORD:

ROCKVILLE, MD.,
November 30, 1977.

Hon. WILLIAM C. WAMPLER,
Ranking Minority Member, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. WAMPLER: The Food and Drug Administration (FDA) is preparing to publish the third and final document of the series of proposals in the *Federal Register* intended to limit the use of penicillin and the tetracyclines (chlortetracycline, oxytetracycline) in livestock and poultry feeds.

Proposals published in the *Federal Registers* of August 30, 1977 (42 FR 43770) and October 21, 1977 (42 FR 56254) addressed the uses of penicillin and the tetracyclines. Our proposals to restrict the uses of these antibiotics are based upon extensively documented scientific evidence of a significant potential public health problem as documented in detail in the *Federal Register* notices.

The next document on antibiotics in animal feeds we plan to issue will propose to limit the distribution of penicillin and tetracycline-containing premixes to feed mills that hold approved medicated feed applications for the manufacture of medicated feeds containing these antibiotics. The notice also proposes to restrict further the distribution of such feeds to the order of a licensed veterinarian as a part of the record maintenance requirement of the Federal Food, Drug, and Cosmetic Act. We believe this proposal will enable us to obtain the widest possible spectrum of comments for evaluation in reaching a final decision. Thoughtful analyses of its contents will be welcomed from members of the public and from all quarters of the scientific and agricultural communities and State control officials. We expect to have this distribution controls proposal published in the *Federal Register* on or shortly after December 16, 1977.

This notice and explanation is submitted in accordance with the Conference Report (Rept. No. 95–520) concerning appropriations for the U.S. Department of Agriculture and other agencies for fiscal year 1978. We will send you a copy of the *Federal Register* document as it becomes available.

Sincerely yours,

DONALD KENNEDY,
Commissioner of Food and Drugs.

SENATE COMMITTEE ACTS TO END ELECTORAL COLLEGE

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. MURPHY of Illinois. Mr. Speaker, the Senate Judiciary Committee voted September 15 to approve a bill calling for the direct election of the President. The committee is to be commended for staving off a number of amendments that would have killed the direct election proposal. All of the alternatives to direct election—the so-called automatic, proportional, and district plans—are half-hearted reforms that only tinker with a system in need of an overhaul.

Mr. Speaker, I would like to draw my colleagues' attention to an article I have written on the recent action by the Senate Judiciary Committee. The article appeared in the Southtown Economist on November 2, 1977.

[From the Southern Economist, Nov. 2, 1977]

SENATE COMMITTEE ACTS TO END ELECTORAL COLLEGE

(By Representative MORGAN F. MURPHY)

Suppose there was a bill pending in Congress that had the support of 75 per cent of the American people. Suppose, also, that the bill had been endorsed by such diverse groups as the AFL–CIO, Common Cause, the American Bar Association, the United Auto Workers, the League of Women Voters, and the Chamber of Commerce.

What would you say are the chances for the bill's passage? Pretty good, right? Wrong.

Although the Senate Judiciary committee voted Sept. 15 to approve a bill calling for the direct election of the President, it appears to have only a slim chance of being ratified by the necessary two-thirds vote of the full Senate.

The bill, sponsored by Sen. Birch Bayh (D-Ind.), would amend the U.S. constitution to abolish the electoral college and award the Presidency to the candidate winning the most popular votes. If no candidate received at least 40 percent of the vote, a runoff would be held between the top two vote-getters'.

The Judiciary committee's approval was the first Senate action on the electoral college since 1969. That year, the House overwhelmingly supported a direct election bill by a vote of 339–70. But the measure was filibustered to death in the Senate, and the House is waiting for Senate ratification before considering the bill again.

Fortunately, the Judiciary committee staved off a number of amendments that would have killed Bayh's proposal. Among the amendments:

The "automatic" plan. This would eliminate the problem of the "faithless" elector—someone who fails to vote for the candidate winning the most popular votes in his state. The plan would require each state's electoral votes to be automatically cast for the popular vote winner. But this change in our electoral system would be so slight—and practically speaking, unimportant—that it would not be deserving of a constitutional amendment.

The "proportional" plan. This proposal would abolish the current "winner-take-all" system that awards all of a state's electoral votes to one candidate. According to this formula, electoral votes would be divided in proportion to the popular vote in each state.

The "district" plan. This complex proposal would allocate electoral votes to the popular-vote winner in each congressional district and throw in two extra electoral votes for the statewide winner. (Interestingly, Nixon would have beaten Kennedy under either the proportional or district plans.)

All of these alternatives to direct election were rightly rejected by the Judiciary committee. The plans are half-hearted "reforms" that only tinker with a system in need of an overhaul.

The direct election plan is the only proposal that would (1) count everyone's vote equally; (2) eliminate the possibility that the popular-vote winner could still lose the presidency; and (3) enable people to vote directly for the presidential candidate of their choice.

Despite the Judiciary committee's stamp of approval, the direct election bill faces an uphill struggle in the Senate. Sen. Bayh believes he has enough votes now to stop a filibuster, but not enough to win by the necessary 2–1 margin. A major reason: some senators from smaller states favor keeping the electoral college, as their states have slightly more influence under the present system than they would under direct election. Sen. Bayh recently told the National Journal: "The problem here is everyone is trying to figure out whose ox is being gored and who has the best advantage. The best thing under direct election is that no one has an advantage."

Because the direct election bill would amend the U.S. constitution, it must be approved by a two-thirds vote of both houses of Congress, and then be ratified by three-fourths of the state legislatures. Many believe that the smaller states would never pass a measure that would (slightly) diminish their electoral power.

But a poll taken by Sen. Robert Griffin (R-Mich.) in 1969, the year Congress last debated direct election, does not support that notion. Griffin's poll of legislators from the 27 smallest states showed that 64 percent of the respondents supported direct election. While sentiment may have changed somewhat over the last eight years, it appears that direct election has a fighting chance to win smaller states' approval.

The important thing is that the U.S. switch to direct election before the present system wreaks its full potential for damage. In the last presidential election, the shift of a few thousand votes in Hawaii and Ohio would have denied Jimmy Carter the presidency, even though he had won a majority of the popular vote.

At a time of mass communication and widespread skepticism about government, no popular-vote loser could hope to govern effectively following his assumption of the presidency. It is far better that we anticipate and avoid this crisis than be forced to change the system after the damage has been done.

CARTER'S SURRENDER TO MOSCOW

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. CRANE. Mr. Speaker, in theory, strategic arms limitation talks are to be reciprocal, mutually beneficial and mutually accommodating. In 1972, the United States and the Soviet Union decided to proceed from a common determination that in the age of nuclear weapons peaceful coexistence must be the basis for any bilateral agreement between the two superpowers. The ultimate objective, as outlined in the basic principles of relation and signed May 29, 1972, is to be complete disarmament on a bilateral as well as on a multilateral basis. With this in mind, it is vital that we look at the course we have followed to this point in time. Have we faithfully pursued our obligation to not obtain "unilateral advantage at the expense of the other, directly or indirectly" as stated in the basic principles? Yes, I believe our efforts have been consistent with the objectives set out in 1972, but, those principles were signed by two nations and it is to the Soviet Union that this question must be asked. The answer, I feel, may be in the following article entitled "Carter's Surrender to Moscow."

[From the Lima (Ill.) News, Nov. 13, 1977]

CARTER'S SURRENDER TO MOSCOW

(By Allan C. Brownfield)

"Surrender" is a word being heard more and more in Washington to describe the dramatic deterioration of the Carter administration's position concerning a SALT II agreement.

The agreement now being negotiated by the administration is far short of what the president demanded from the Russians last March. The figures which Carter appears prepared to accept are generally similar to those agreed to by President Gerald Ford at Vladivostok in 1974. The problem which caused a delay at that time—the difference over Russia's Backfire bomber and the U.S. cruise missile—seems to have been resolved by agreeing not to count the Russian bomber and a decision to severely limit the cruise missile.

Former U.S. arms control negotiator and former deputy secretary of defense, Paul Nitze argues that the agreement now being negotiated will leave the United States land-based nuclear missile force vulnerable to a Soviet "first-strike" by the mid-1980s. Nitze criticizes the Carter administration for leaving the Soviet Backfire bomber out of the agreement, for placing limits on the number of U.S. bombers armed with cruise missiles and for retreating from earlier proposals for heavy cuts in the number of Soviet land-based heavy modern ballistic missiles.

In the U.S. Senate, which must ratify any new SALT treaty, opposition has gradually been emerging in the form of criticism of elements of the agreement by Sen. Henry M. Jackson, D-Wash. Other members of Congress have spoken out strongly against the new and weaker position adopted by President Carter. Rep. Jack Kemp, R-N.Y., recently stated:

"The most chilling consequences of the unwise arms limitation policy being pursued by the Carter administration is that the lack of resolution Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world."

Kemp argues that there has been "a collapse of the president's negotiating position on virtually every point of significance in the SALT negotiations" and that this "underscores the danger the nation faces at the hand of America's arms control negotiators. As one who supported the administrations SALT posture in March, I am appalled at the unilateral retreat by our SALT negotiators."

Critics argue—quite properly—that the terms already agreed to would limit the administration's efforts to revitalize the NATO alliance. The U.S. agreed not to transfer cruise missile technology to its allies, despite the fact that Britain and West Germany have requested such assistance. In addition, the new agreement would guarantee the Soviets an advantage in missile throw-weight on the order of 10 to 1, posing a severe threat to the American Minuteman missile while precluding substitutes such as the proposed MX missile.

The deterioration of the American position is dramatic. In March, the U.S. asked for a limit of 150 Soviet heavy missiles, asking the Russians to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is approximately the number of current heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried for a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, the U.S. dropped the idea entirely.

In March, the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber. The Soviets argue that the Backfire bomber is not an intercontinental weapon—although it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September, the U.S. agreed to keep Backfire out of the treaty if the Soviet Union would promise—separately—not to increase its production rate, even though the Kremlin refuses to say what the current production rate is. Critics charge—again quite properly—that such a promise is meaningless and totally unenforceable.

In March, the U.S. offered a cruise-missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted. In September, the U.S. agreed that if it builds more than about 120 such bombers, it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 600 kilometers. What we have seen is the Soviet Union being asked to concede almost nothing, while the U.S. makes concessions beyond what had been promised in the past.

Nitze, at an early November press conference, declared that under the most likely provisions of the new agreement, the U.S. runs a "high risks" of having no B-1 bomber and no cruise missiles adequate in either number or range to penetrate Soviet defenses, no "follow-up" weapons to replace the aging Minuteman missile force and a sea-based force of fewer than 25 submarines.

Our European allies are as worried about the Carter administration's strange performance as are many in Washington. The Economist of London, for example, declared:

"The greatest political—and in the end military—danger in all American-Russian strategic arms deals has been the wedge they tend to drive between America and its European allies, at a time when American technical superiority is the West's best defense against the sheer weight of Russia's nuclear weaponry. On previous occasions this has been avoided. Now, however, the threatened closure of the cruise missile option for Europe's own armies makes that danger suddenly real. If this treaty results in a Russian missile strength not very different from what it probably would have been without any treaty at all (which is what the figures suggest) at the price of starting to unravel the Atlantic alliance, then the treaty will be not bad, but disastrous."

PANAMA CANAL: THE MORAL ISSUES IN THE GIVEAWAY TREATIES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. DORNAN. Mr. Speaker, the signing on September 7, 1977 of two proposed new Panama Canal Treaties that would give to Panama the U.S. Canal Zone, and their submission on September 16 to the U.S. Senate for its advice and consent to ratification, has aroused the people of the United States to a greater degree than any foreign policy in decades.

Unfortunately, the mass news media, including the major wire services, have not presented the issues involved in a forthright and objective manner but have reflected the views of the U.S. State Department in support of the giveaway, and thus views have contained monumental deceptions.

In spite of such attempts to propagandize, the people of our country, through the efforts of the large patriotic organizations and many ad hoc groups in various locations, have learned essential facts and are making their voices felt in the Halls of Congress with thousands of letters and other communications.

Among the recent clarifying articles on the canal question was one by Phyllis Schlafly, distinguished author, publicist, and commentator, now chairman of national defense, National Society of the DAR, who ably discusses the moral issues involved in the projected surrender and makes a strong appeal for the defeat of the proposed treaties.

In this article, she reports that the latest Federal Reserve Board figures show that American banks have loaned a total of $2.9 billion to Panama, a country whose credit is gone. Certainly, their debts should not be transferred to the overburdened American taxpayer.

As the indicated article by Mrs. Schlafly should be of interest to all Members of the Congress and the Nation at large, I quote it as part of my remarks:

THE MORAL ISSUES IN THE PANAMA TREATIES

(By Phyllis Schlafly)

The new treaties with Panama regarding the U.S. Canal involve moral, national security, constitutional and financial issues of great concern to all Americans. Let's examine some of these issues, beginning with the moral issues.

These treaties are highly immoral because they deprive us of the physical means of defending the Canal with the least cost in American lives. The first of the two Panama Canal treaties runs from the time of ratification to 1999. Under it we supposedly retain our right to defend the Canal. But this right is hamstrung with many handicaps.

First, under the terms of the treaty, we cede the Canal Zone to Panama. This buffer zone of five miles on each side of the Canal has always enabled us to keep five miles away from the Canal any saboteurs, rioters, or attacking troops. If we give it up, we will be allowing any of those people to come in close to the Canal. We will have lost the tremendous advantage of that buffer zone.

Second, under the terms of the Panama treaty, we are forbidden to increase the number of troops we have at the Canal over the level presently stationed there.

Third, the defense of the Canal is made subject to a combined military board on which will serve an equal number of Americans and Panamanians who must consult and cooperate together in the defense of the Canal.

Fourth, under the financial deal that accompanies the Panama treaty, the American taxpayers will loan to the Torrijos regime $50 million in military sales credits. This loan will be used to arm Torrijos' troops and to perpetuate the dictatorship he enjoys at the present time.

Assume that during the next 22 years, which is the life of the first treaty, there is a threat to the defense of the Canal. This threat could come from Torrijos who decides to nationalize the Canal. It could come from Communist agitators who run riot, or whom Torrijos allows to run riot. The threat could come from Cuban troops returning from Angola flushed with victory and looking for a new country to conquer.

Our existing troops would then be called upon to defend the Canal. They would have to carry out the defense without the advantage of the five-mile buffer zone on either side, without any reinforcements coming from the United States, and with the treaty-noose around their necks of being forced to consult and cooperate with the Panamanians. They might even have to defend the Canal against an attack by Torrijos' own troops who are armed by the American taxpayers' money.

This would be asking American servicemen to pay with their blood to overcome the handicaps that this treaty hangs around their necks.

Next comes the matter of defending the Canal after 1999 when the second treaty goes into effect. The second treaty provides that only the ~~Republic~~ of Panama shall operate the Canal and maintain military forces, defense sites, and military installations.

When I ask treaty proponents what is going to happen if Panama closes the Canal to our Navy, the answer is "Oh, if our national security is at stake, we will send the troops in if necessary and retake the Canal." This would be impossible if we abide by the terms of the treaty. They specifically deprive us of any right to have a single troop, a single base, or a single installation at the Canal after 1999. Of course we could violate the treaty, and we could retake the Canal. But at what cost! In the first place, world opinion would be against us, exactly as it was against the French and English when they tried to repossess the Suez Canal after Nasser took it over.

Secondly, and more important, are we willing to risk American blood for the paper promise of a pro-Communist dictator? He seized power in 1968, threw out his own constitution, and has demonstrated his disregard for human rights ever since. Should we surrender American territory and property, already paid for by the American taxpayers, which we may find necessary to reacquire at the expense of American lives? These are the moral issues that cry out for an answer before we sign any treaty.

What about the question, can we defend the U.S. Canal at Panama? Yes, we can defend the Canal if we reject the treaty. Our Canal Zone Commander-in-Chief, General McAuliffe, has testified that his troops are adequate to defend the Canal from any threat. Our Army, Navy, Air Force and Marines have always been equal to the duties imposed upon them.

But if we sign the Panama treaties, we will not be able to defend the Canal, because we will have no Canal Zone to keep our enemies five miles away, we will suffer the handicaps I have previously described, we won't be able to bring any reenforcements from the United States, and the Canal will be subject to saboteurs who can come in close to the Canal itself.

The second moral issue is the matter of American property at the Canal and in the Canal Zone. The American people have poured $7 billion of the taxpayers' money into the Canal and Zone. Does our Government have the right to simply give it away to some foreign country?

The third moral question involved in the Panama Canal treaties is the immorality of Panama's dictator. We are not talking about giving the Canal to some great Latin American hero like Simon Bolivar. We are talking about giving it to a dictator who is immoral, pro-Communist, who seized power in 1968, threw out his own constitution, and who has the worst record of human rights in all of Latin America. He was never elected to anything. An organization called Freedom House rates countries on their record of human, political and civil rights on a scale of 1-7, with 7 being the greatest violations of individual rights. Freedom House rates Panama 7 in political rights and 6 in civil rights; that's the worst record of all Latin America. Panama is specifically rated "NF", which stands for "Not a Free Country."

Torrijos' own brother is under an indictment in New York for smuggling narcotics into the United States. The Justice Department has confirmed that several members of Torrijos' family have been engaged in smuggling narcotics into the United States.

WERE WE FAIR TO PANAMA?

When we discuss moral issues, for some reason many people are given to understand that we should have some kind of guilt complex about the way we have treated Panama in the past. Let's discuss the question of justice to Panama.

Under the terms of the 1903 treaty, Panama granted us the Canal Zone. Panama did not lease us the Panama Canal Zone. The term "grant" is used 14 times in the treaty. The terms "rent" or "lease" do not appear even once. Panama granted us the exclusive use, occupation and control of the Canal Zone and all rights, power and authority as if we were sovereign "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights power or authority." Some people have tried to make a case out of the word "if" we were sovereign. That agrument goes nowhere at all because, even if we don't have sovereignty, Panama still doesn't have it. The 1903 treaty specifically says that Panama has no sovereign rights whatsoever.

What was the length of the time of the 1903 treaty's grant of sovereignty and title? It was "in perpetuity". The words "in perpetuity" appear seven times in the 1903 treaty.

Our exclusive title and sovereignty over the Canal Zone were officially upheld by the U.S. Supreme Court in the case of *Wilson v. Shaw* in 1907, and again in a U.S. Court of Appeals case in 1971.

Even if we did not acquire title to the Canal Zone by means of the 1903 treaty, we acquired it anyway by virtue of our peaceful possession of the land and display of sovereignty for more than 50 years. International law sanctions the acquisition of sovereignty for a period of time without objections by other nations. We did exactly that for more than 50 years without any complaint from Panama.

Were we unfair to Panama by the 1903 treaty or when we bought the land? Was it a bad deal for Panama? No one in the history of the world ever got so much for such a worthless piece of real estate as Panama got out of the deal. All we received was a little piece of land 10 miles wide by 50 miles long. It was pest-ridden, mosquito-infested, and uninhabitable. But look what Panama got out of the deal.

First of all, the Panamanians got our guarantee of their independence. Panama had revolted 50 times against Columbia in the preceding 70 years. All those revolts were unsuccessful. By the 1903 treaty, the great United States of America pledged its honor to guarantee the independence of this little country. How lucky for the Panamanians!

Secondly, Panama got the promise that we would build our Canal at Panama instead of Nicaragua. The American Isthmian Commission had officially recommended that we build our Canal in Nicaragua, which was a better place, closer to our country, and has a more favorable climate and a deep lake which would have made construction more economical. But Panama won out over Nicaragua by the 1903 treaty.

Third, Panama got more cash than we paid for any land in all our history. Panama originally received $10 million in cash and has subsequently received a total of $70 million in cash. This is far more, for example, than what we paid for Alaska.

Fourth, we cleaned up Panama. Encyclopedias describe Panama in 1903 as one of the most disease-ridden areas in the entire world. We spent the first two years wiping out the malaria, the yellow fever, and the rats that carried the bubonic plague. We made it into a healthful place to live.

Finally, we poured in a tremendous investment which has given Panama the highest standard of living in Central America and fourth highest in all of Latin America. The economic benefits that have flowed into Panama, in addition to cash payments, have been tremendous. Last year the economic benefits totaled $243 million going into Panama.

Some people try to tell us that our control of the Canal Zone is a vestige of colonialism which we should eliminate in the 20th century. There is no parallel between our sovereignty over the Canal Zone and what is universally understood to be colonialism. The Canal Zone is not a colonial nation. We have not imposed our culture on the people of Panama. We have our Canal Zone and the Panamanians have their country, their dictator, their laws, their culture, and whatever they want. There is nothing exploitative about our relationship with Panama. We are not taking out their natural resources. We are constantly pooring money and investment in.

THE NATIONAL SECURITY ISSUES

There are vital national security issues involved in the new Panama Canal treaties. In wartime, the Canal is essential to American security. In World War II we were able to close the Canal to German submarines and Japanese warships but allow our Navy to go through. This was a tremendous military asset. During the Vietnam War, 70 percent of the cargo that we sent to Vietnam went through the Canal.

The Canal is also essential to us in peacetime. It enables us to have a much smaller Navy then we would otherwise be required to have. The Canal enables us to move our Navy back and forth quickly between the Atlantic and Pacific coasts. Of our 483 U.S. Navy ships, 470 can go through the Canal. Only 13 aircraft carriers cannot transit the Canal.

The Canal is almost as important to our national security in peacetime. Can we protect it and keep it open? Yes—*if* we reject the treaty. Our trump card would be that, if Panama closed the Canal to our ships, or allowed rioters or saboteurs to threaten it, we would be able to issue a peaceful threat to build another Canal somewhere else, such as Nicaragua. But if we ratify the Canal treaty, we bind ourselves not even to talk to a third nation about building another Canal without the express approval of the government of Panama. This is a humiliating provision, a restriction of our sovereignty, and a giveaway of our trump card that could eliminate all threats to the Canal from Panamanian agitation.

Third, we need the Canal for economic reasons. Thirty-five percent of the cargo that goes through the Canal is destined for or coming from the American ports. It is estimated that by 1980, 45 percent of the oil drilled in Alaska will be going through the Canal headed for the East Coast of the United States.

THE CARIBBEAN—A "RED LAKE?"

Fourth, the giveaway of the U.S. Canal will give another beachhead in the Western Hemisphere to a pro-Communist government. Congresswoman Leonor Sullivan, who was the chairman of the Merchant Marine Committee that had direct charge over the supervision of the Canal, said that turning the Canal over to Panama would turn the Caribbean into a "Red lake". She said that this would be "the most serious mistake of this century."

Torrijos went to Cuba for a state visit and took a retinue of 200 Panamanians. The Cuban embassy in Panama has an unusually large staff. Torrijos is also a good friend of the Communist dictator who runs Libya. In the summer of 1977, Torrijos invited the Soviet Union in to sign a trade agreement allowing the Soviets to open a bank, to carry on commercial dealings, and to occupy one of the bases formerly occupied by Americans. It begins to look as though, as fast as the United States moves out, the Soviets will move in.

We are told by the treaty proponents that the real issue is not who owns the Canal, but whether the Canal will be kept open. That is the best reason to reject the treaty. Our record is completely clear. We have kept the Canal open for 63 years. We have maintained it as a major international strait on fair and even generous terms to the whole world. We operate it at low rates open to all countries except our enemies in time of war. The U.S. Canal was really our gift to the world. We have never taken any return on our capital investment. We have charged only enough tolls to take care of current operational expenses.

Will Panama keep the Canal open? By the terms of the treaty, Panama doesn't even promise to keep the Canal open. Panama specifically refused to have a treaty provision requiring them to keep the Canal open. All they promise is that it will be "neutral." The Canal can just as well be neutral and closed, as neutral and open.

THE UNSTABLE PANAMA GOVERNMENT

Look at the unreliability of the Panamanian government. In the last 74 years Panama has had 59 chiefs of state. Since World War II, Panama has had 13 changes of government, five of them violent. This present dictator seized power and threw out his own constitution. And after 22 years, of course, total control will go to this Panamanian government. However, even before that, Panama would acquire de facto control.

The administration of the Canal during the next 22 years is set up on an unworkable arrangement. It is to be governed by a Panama Canal Commission with five Americans and four Panamanians. For the first 12 years, we appoint the top administrator and they appoint the deputy administrator. At the end of 12 years, Panama appoints the top administrator and we appoint the second in command.

In addition, there is a Consultative Commission to advise on all aspects of the Canal, on which there are to be an equal number of Panamanians and Americans. Under the treaty, Panama gets control of the Canal Zone, where Panama's civil and criminal laws will apply rather than American laws.

We are required to give preferential hiring to Panamanians in the operation of the Canal. We are required to accept Panama's professional licenses. Americans may remain in any jobs at the Canal a maximum of five years. Even George Kennan has conceded the impossibility of administering the Canal jointly by two countries who have different cultures, different political systems, different national goals, different technological abilities, and different temperaments. The arrangement will cause daily disagreements. Of course, George Kennan comes to the conclusion that we should give the Canal away right now. It is easy to see, that as we are beset by daily disagreements, Americans would get worn out and conclude, "Let's get rid of it, we can't stand it any longer."

Finally, we are told that we should support the Canal treaty because the Joint Chiefs of Staff are for it. The firing of General Singlaub in Korea shows clearly that the Joint Chiefs and every military officer on active duty will obey the policy of the Commander-in-Chief, or find himself another career.

THE CONSTITUTIONAL ISSUES

There are also constitutional issues involved in the Panama Canal treaties. Under our Constitution, the treaty power is shared by the President and the Senate which must give its advice and consent. The Senate gave no advice whatsoever about the Canal treaties. The Senators were prevented from even knowing the terms of the treaties until after they were signed on September 7, 1977.

Article 4, Section 3, of the Constitution says, "The Congress shall have power to dispose of and make all needful rules and regulations respecting territory or other property belonging to the United States." In other words, Congress, that is both Houses, has the sole and exclusive right to give away American territory and American property. Supreme Court cases have held that the President has even no right to negotiate about the transfer of American property or territory unless he has first been delegated that power by the Congress (consisting of both Houses). President Carter was given no such power by the Congress.

The third constitutional issue is the way the Canal treaty attempts to override the tax laws of the United States. Until this treaty came along, nobody ever would have thought that the President could sign a treaty with some foreign country and rewrite the tax law of this country. One provision of this treaty gives total income tax and other tax exemption to American citizens in the Canal Zone. It is not clear what is the purpose of this provision. It might be a little sweetener to get Canal Zone Americans to support the treaty or it might be to create a tax-free enclave for certain favored people. In any event, it is an attempt by treaty to amend the tax laws and give complete exemption to a privileged class of people.

There is also a First Amendment issue involved in the Canal treaty. The treaty says that Americans in the Canal Zone must abstain from any activity incompatible with the spirit of the treaty, and the United States will take all measures to ensure that this is carried out. That means that Americans living in the Canal Zone have no right to criticize the treaty. Certainly Torrijos would consider any criticism incompatible with the spirit of the treaty.

THE FINANCIAL ISSUES

Finally, there are major financial issues involved in the treaty. The Canal is a great national asset which we paid for four times. We paid Panama $70 million, we paid Colombia $25 million, we paid the French $40 million, and in addition to that we bought off the private land owners. We invested $7 billion of the American taxpayers' money in the Canal which the treaty will turn over to Panama, plus $82 million in buildings that we have erected in the Canal Zone.

But that is just the beginning. Look at the cash flow that will go along with it. By the terms of the treaty, Panama will get $10 million in guaranteed cash. Panama will get an additional $10 million for police and fire protection and street cleaning, without promising any satisfactory level of performance. Panama will get 30 cents for every ton going through the Panama Canal, estimated to total $50 million a year. Then Panama will get an additional $10 million a year if revenues permit; but that is cumulative and, if it is not paid one year, it must be paid the next. Then Panama will get another $5 million a year in revenues from certain business transactions. This makes a total of $85 million a year for 22 years.

That isn't all. Then come the loans from the American taxpayers. By the side agreements that go along with the treaties, the Administration has promised to loan the Torrijos regime $200 million from the Export-Import Bank, $75 million from the Agency for International Development, $20 million from the Overseas Private Investment Corporation, and $50 million in military sales credits, making a total of $345 million guaranteed out of the United States Treasury. Add it all up and it comes to $2.2 billion in cash over the next 22 years, in addition to the capital asset that we would turn over.

Why the great push to give Torrijos all this cash in addition to the Canal and the land? The polls show that about 80 percent of the American people are opposed to this giveaway. Where does the push come from? The answer is in a couple of ads run in the Wall Street Journal in 1972 and 1973. Those ads identified ten of our country's largest banks which had loaned millions of dollars to the Torrijos government in Panama. After 1972, the banks accelerated their loans. The latest Federal Reserve Board figures show that American banks have loaned a total of $2.9 billion to Panama.

The Panamanian government is now broke. Its credit is gone. The banks don't have a chance of collecting their bad loans. The Torrijos government is paying almost 40 percent of its national budget in debt service, that is, in interest on loans. By comparison, the United States, with our huge national debt, is paying only 7 percent of our national budget in debt service. Any individual or country that is paying almost 40 percent in interest is bankrupt.

How are those loans going to be paid back? How can they be paid back? There is no way unless Torrijos somehow gets access to the tolls or to money from the United States. This is the reason for the tremendous push from powerful and important people in our country to put over the Panama treaties in order to guarantee a cash flow to Panama over the next 22 years of a sum that approximates the amount that the ten largest U.S. banks have loaned to Panama.

In addition to the other costs, there will be a big increase in costs to shippers. We are told that the Latin American countries are very eager for us to give away our Canal and will be offended if we reject the treaty. When they realize how much they will have to pay in increased shipping costs, they will take an entirely different look at the treaties.

The Organization of American States passed a resolution in August 1977 saying that the tolls at the Panama Canal should reflect only current operating costs and should not be a monopoly source of revenue for the country that is operating it. Only the United States will ever operate the Canal that way. The Canal treaty violates this standard because it will require at least a 50 percent increase in the tolls in order to pay Panama the $85 million a year it expects.

WHAT MUST BE DONE

Our task is to speak up and inform the American people on this vital issue. Ask your Senators and Congressmen if they are going to force the American taxpayers to bail out the big bankers from their bad loans? Are they going to force us to give away this priceless asset paid for four times by the American taxpayers? Are they going to deal a mighty blow to our military security and our economic prosperity? Are they going to force the American taxpayers to finance another Communist base in the Caribbean? Are they going to force us to commit the immoral act of risking American lives for the paper promise of a corrupt pro-Communist dictator? It makes no difference what type of cosmetic surgery the Carter Administration or public relations personnel may apply to the treaties. The clear terms of the treaties represent a sellout, a surrender, and a shakedown of American interests from the first line to the last.

Make it your personal resolution to make sure that the Canal treaties are defeated, and that your Senators and Congressmen vote No.

SOVIET RUSSIA AFTER 60 YEARS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LAGOMARSINO. Mr. Speaker, this November the Soviets celebrated the 60th anniversary of the Bolshevik revolution. Henry Huglin, a retired Air Force brigadier general and syndicated columnist on national security and international affairs, has made some very relevant observations about this occasion:

SOVIET RUSSIA AFTER 60 YEARS

(By Henry Huglin)

This month the Soviets are celebrating the 60th anniversary of the Bolshevik revolution which transformed Russia from an absolute monarchy into an absolute Marxist-Leninist state.

For half of the Soviet Union's existence our country has been deeply involved with her in a protracted geopolitical competition, conflict, and sometimes confrontation—for which there is no sure end in sight.

It is highly important that we Americans perceive Soviet Russia in a realistic perspective. Yet, for many of us, the Soviet state remains much as Winston Churchhill characterized it in 1939: "a riddle wrapped in a mystery inside an enigma."

Here are some views we ought to consider.

The Soviet regime has had considerable success in some ways—though at great human cost. Materially, most of the people are far better off than under the Czars. But they would likely have been even much better off than they are if a free enterprise democracy had emerged 60 years ago. And even the Czarist regime might have evolved and created better conditions by now than has the Soviet regime.

Because Soviet Russia is a superpower, two major aspects of that society most trouble our country and others.

The first is the hangup the Soviet leaders have that they must turn the rest of the world their way for them to be secure. Their seemingly ingrained ideological and geopolitical expansionism—now backed by great and growing military power—has been and remains the most pervasive unsettling force in the world.

The other most troubling aspect is the nature of the regime. It is repressive and devoid of many of the human rights we and many other peoples of the world hold dear. One of the reasons for this is that the regime has no true legitimacy; the people have no valid choice at the ballot boxes except to act as rubber stamps.

In addition, the Soviets are highly skilled in misleading propaganda and in subversion and political manipulation—through Communist parties and sympathizers throughout the world. And the effects of their foreign activities are more malevolent than benevolent.

Further, the Soviet regime has not created a system that is widely admired or emulated. No country has adopted communism by choice of its people. And many of those outside Russia who are attracted to communism are bewitched by the impractical idealism expounded by Marx or Mao and not by its Soviet application.

Fortunately, the Soviets make mistakes, suffer setbacks, and have great problems.

Their system is highly inefficient. Despite having over twice our land area and many more people farming, they cannot consistently produce enough food to be self-sufficient. In consumer products they are way behind the western world in quantity and quality. The regimentation, lack of incentive awards for initiative and hard work, and stultifying bureaucracy are millstones around the Russians' necks.

Of course, when the Kremlin leaders want to concentrate their resources and technical talent, they can get good results. This they particularly have done in their armaments and space programs.

Major problems of the Soviets abroad are the undependability of their satellites and the weakening of their control, except where their troops are present or nearby, as in eastern Europe. Tito's Yugoslavia defected in 1948 and Mao's China in 1959. And now the apparent growing independence of Communist parties, particularly in Italy, France, and Spain—the so-called Eurocommunism—is causing the Soviets deep concern. Further, some of their effort to gain influence and control through economic and military aid abroad, as in Egypt, have miserably failed.

Yet, their persistent drive to expand obviously remains strong and menacing.

How should we regard and deal with the Soviets? Well, warily, as we have been.

Above all, we must not allow them to achieve superiority in military strength, because that would give them the ability to checkmate us and free them to act with impunity in the world. Thus our long-term security would be jeopardized, as well as the security of many nations that depend on us.

Yet, we also need to continue patiently to seek areas of cooperation, conciliation, and agreement—to reduce areas of tension and to dampen down the arms race, the pace of which is being clearly set by the Soviets.

In effect, we need to follow the general policies that our country has followed for 30 years, profiting from our mistakes, but maintaining our military and economic strengths, diplomatic and technological dynamism, and our will to measure to the challenges we shall inevitably face. We've got "to hang in there."

Our long-term hope can primarily be that, if the Soviets continue to be thwarted in their imperialist expansion ambitions, the dynamics of their internal problems will result in a revolution or at least evolution of their society into one that is less repressive, more democratic, non-imperialistic, and hence more cooperative. But this may take another 60 years or more.

DROUGHT RELIEF AND WATER CONSERVATION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. MILLER of California. Mr. Speaker, the severe drought which has affected much of the Western United States for 2 years appears to be continuing, at least at the moment, into a third year. The economic, social, and environmental impacts of a third year of drought could be truly calamitous.

I have frequently said that lack of rainfall is not the sole cause of drought. Poor planning, improper management, and wasteful consumption have contributed to the severe shortage of water throughout not only the West, but in other areas of the Nation as well. Falling back on the traditional responses to short water supplies—the construction of new dams and other storage and transportation facilities—is no longer acceptable any more than simply producing more oil and natural gas will solve the energy crisis. We are fast reaching the limits of the resources, and we must look to workable alternatives.

The level of waste in our water usage has been clearly documented, as has the effectiveness of conservation programs. In northern California, residents are compelled to save 25 percent of their usual water consumption because of the drought. In fact, most counties registered far better records, and some even doubled the anticipated savings.

I am today reintroducing the Drought Relief and Water Conservation Act which would establish conservation as a mandatory feature of the Federal water program. The United States, through the Bureau of Reclamation and other agencies, delivers tens of billions of gallons of water per year to its customers. Yet, our management and pricing policies do nothing to encourage or mandate the most efficient use of that increasingly precious resource. A recent study by the General Accounting Office has estimated that a substantial portion of the federally developed water, perhaps half, is not used beneficially by the plants it is intended for.

Conservation can occur both residentially and agriculturally. Residential conservation can be very inexpensive and effective. A study by the California Department of Water Resources has estimated that retrofitting just one-third of the residences in the State would result in a savings of 40 million gallons of water at a financial savings of $4.38 million. The same reduction in water use would cut the consumption of oil, which is used to transport and heat the water, by 1.67 million barrels costing $25.1 million.

Nationally, the University of California at Davis has estimated that, over a 10-year period, residential water users could save $22.5 billion, and industries could save $52.3 billion. Yet the per home cost could be as low as $2 for the installation of aerators and flow-resting devices. Widespread use of such devices could help to stimulate new industries as it has in California, where over 26,000 jobs related to water conservation have been created in the past 2 years, and another 12,000 are anticipated.

Another recent study, by the prestigious Lawrence Berkeley Laboratory, has concluded that water conservation could save significant amounts of water. I would like to share these conclusions with my colleagues, and invite them to join me in sponsoring this legislation.

The article and bill follows:

STUDY BY LAWRENCE BERKELEY LABORATORY

(By Linda Stephenson)

Californians could reduce urban water consumption by 40 percent if standard water conservation measures were instituted in the residential and industrial sectors, a recent Lawrence Berkeley Laboratory (LBL) study shows. This savings in water consumption would also result in sizable energy savings, since energy is required to extract, convey, purify and heat water prior to use, and to treat wastewater.

"The significant water savings potential shown in this study indicates that conservation can be considered as an alternative to dam construction to protect against water scarcity," says LBL economist Peter Benenson, author of the 77-page report on the study. The report is entitled "A Water Conservation Scenario for the Residential and Industrial Sectors in California: Potential Savings of Water and Related Energy."

Water consumption data in the study was separated by various uses in residences, by the largest water-consuming industries and by 11 geographical subregions of the state. The energy use associated with this water use was also estimated for surface and groundwater delivery, distribution, heating and wastewater treatment.

"In the Bay Area," the report states, "the potential savings from water conservation are greater than the amount of water which would be delivered by the major planned water projects for urban supply in the next 10 years. In the Los Angeles and San Diego areas, the potential water savings from conservation measures exceed the short run groundwater overdraft in the Owens Valley."

The study, which was funded through the San Francisco Operations Office of the Department of Energy, concludes that water conservation potential should be included as a key factor in water supply planning. According to the report, projects still on the drawing boards should be reassessed in terms of water conservation potential in the area to be served.

In terms of energy, reducing California residential and industrial water use by 40 percent would result in approximately 40 percent reduction of energy consumption required to deliver, heat, and treat that water, according to Benenson. That represents a savings of two percent in overall statewide electricity consumption and three percent in statewide natural gas consumption, he adds. The electricity savings would result in decreased consumption in nonrenewable fuels and decreased pollution emissions.

"The estimated water savings potential outlined in this study is thought to be conservative," says Benenson, "because several water districts and industries have already reported far greater savings." Specifically, in 1977 California's Marin Municipal Water District and the East Bay Municipal Utility District have reported water savings for selected months of more than 50 percent of 1976 consumption. And at Lawrence Berkeley Laboratory the 1977 water consumption is 50 percent of what it was in 1976, according to Lab officials. "A comparison of estimated savings potential with savings actually reported shows that while the potential is attainable, and in some cases has been exceeded, statewide only one-third of the conservation potential derived in this study has been reached," the report concludes.

The study indicates that the 40 percent savings in residential water use could be brought about by simple and inexpensive measures such as placing two quart plastic bottles in a five-gallon toilet tank and reducing the average number of flushes a day from five to four; placing flow restrictors on spigots and reducing showering time from an average of five-and-a-half to four-and-a-half minutes; and using household grey water for landscape watering. The study concludes that exterior watering, toilet flushing, and bathing are the largest residential water uses, and therefore conservation efforts in these areas would result in the largest savings.

In industry, the study suggests that many of the projected savings could be effected quickly and relatively inexpensively by applying housekeeping measures such as plugging leaks, taking water which is heated in industrial processes and cooling it for reuse, and taking water which has had its quality reduced and using it in processes that tolerate lower quality water.

The study points out that one of the main difficulties in relying on water conservation is the possibility of sustained consumer resistance to behavioral change. This potential resistance applies mainly to conservation measures that require continuous attention to conserving a particular resource. However, large savings are possible from conservation measures that require only a one-time installation of a technological device, the study indicates.

The study concludes that although conservation cannot be relied upon with certainty as a water supply option equivalent to its full potential, it cannot be ignored as it often has been in past water supply planning.

Copies of the report, LBL No. 6817, are available from the Technical Information Department, Lawrence Berkeley Laboratory, 1 Cyclotron Road, Berkeley, Calif., 94720.

Lawrence Berkeley Laboratory is operated by the University of California under contract with the U.S. Department of Energy.

H.R. —

Mr. MILLER of California (for himself, Mr. EDGAR, Mr. MOSS, Mr. RICHMOND, Mr. RYAN, Mr. STARK, and Mr. VENTO) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs.

A bill to establish a loan program to provide financial assistance to drought-impacted water districts, to provide Federal assistance to water districts for acquisition and installation of residential and agricultural water conservation devices and equipment, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the Drought Relief and Water Conservation Act of 1977".

DROUGHT IMPACT RELIEF LOANS

SEC. 2. (a) The Secretary of the Interior is authorized to make loans to any local water district, unit of local government, or other public agency which supplies agricultural or municipal water to consumers if such water district, unit of local government, or other public agency has sustained or is likely to sustain a substantial reduction in income due to a reduction in water consumption caused by drought. The Secretary shall by rule prescribe standards for determining which local water districts, units of local government, and other public agencies are eligible for loans under this section.

(b) Loans under this section shall be made at rates of interest not to exceed 5 per centum per annum and shall be made for periods not to exceed ten years. Repayment of loans under this section shall be made at such times, in such manner, and subject to such conditions as the Secretary may prescribe.

(c) A loan under this section shall be made upon approval of an application submitted by a local water district, unit of local government, or other public agency which supplies water to consumers. Such application shall be in such form and manner, and shall provide such information, as the Secretary may by rule require.

WATER CONSERVATION PLAN REQUIREMENT FOR FEDERAL WATER PURCHASERS

SEC. 3. (a) (1) The Secretary may not enter into a new contract, or (except as provided in paragraph (2)) extend or renew an existing contract, for the sale of water from any Federal reclamation project unless the purchaser of such water under such contract has adopted a water conservation program approved by the Secretary.

(2) The Secretary may extend or renew a contract in effect on the date of enactment of this Act for the sale of water from any Federal reclamation project if under such extension or renewal the Secretary will not provide more than 85 per centum of the amount of water provided under the terms of such contract as in effect on the date of enactment of this Act.

(b) The Secretary may not sell any surplus water to any contractor for water from any Federal reclamation project if such contractor has not adopted a water conservation program approved by the Secretary.

(c) Subsections (a) and (b) shall not apply in any State in which loans under section 4 are not available.

(d) (1) Subsections (a) and (b) shall take effect at the end of the one-year period beginning on the date of enactment of this Act.

(2) During such one-year period, any contract for the sale of water from any Federal reclamation project entered into by the Secretary, and any extension or renewal of any such contract, shall not be for a period of more than five years unless the purchaser of water under such contract has adopted a water conservation program approved by the Secretary.

WATER CONSERVATION LOAN PROGRAM

SEC. 4 (a) Upon the approval of an application of any general purpose unit of local government or of any local water district, the Secretary may make loans to such unit or water district for purposes of acquisition, distribution, and installation of certified residential water conservation devices and certified agricultural water conservation equipment to be installed in residences or for agricultural purposes within the jurisdiction of such unit or water district, and for related technical and educational information. An application for a loan under this section shall describe—

(1) the number of residential units or the agricultural area in which such devices or equipment, as the case may be, will be installed;

(2) the types and quantities of certified water conservation devices and equipment to be purchased, in whole or in part, with money received under this section;

(3) the amount of water which the entity submitting the application estimates will be conserved following installation of such devices and equipment; and

(4) such other information as the Secretary may by rule require in order to carry out the purposes of this Act.

(b) Loans under this section shall be made at rates of interest not to exceed 5 per centum per annum and shall be made for periods not to exceed ten years. Repayment of loans under this section shall be made at such times, in such manner, and subject to such conditions as the Secretary may prescribe.

(c) (1) No loan under this section shall be approved unless the Secretary has determined that the entity receiving the loan has established such procedures and requirements respecting a program for the distribution and installation of water conservation devices and equipment to be acquired with money received from the loan as the Secretary considers appropriate to carry out the purposes of this Act in an effective, fair, and equitable manner.

(2) Such procedures and requirements shall provide appropriate priorities for the distribution of such devices and equipment, considering the area in which such entity is located and the amount of water available in such area.

(d) No loan under this section shall be made to any general purpose unit of local government unless such unit has—

(1) adopted a regulation or ordinance requiring that all new construction begun after January 1, 1979, within the jurisdiction of such unit shall be required to include appropriate water conservation devices; and

(2) adopted a plan for the retrofitting of existing facilities owned or administered by such unit with appropriate water conservation devices.

(e) Nothing in this section shall be construed to require that distribution or installation of water conservation devices or equipment be carried out by officers or employees of a local government agency.

(f) The Secretary may initiate the loan program authorized by this section on a demonstration basis in not less than five States, such States to be selected on the basis of the acuteness of their water shortages in the previous two years and the likelihood of such a program having a significant effect on the residential consumption of water within such States.

MONITORING

SEC. 5. (a) The Secretary shall monitor the operation of entities receiving loans under sections 2 and 4 of this Act through on-site inspections and such other means as may be effective to assure that the requirements of this Act are met.

(b) (1) Each entity receiving a loan under this Act shall maintain such records as the Secretary may require.

(2) The Secretary and the Comptroller General of the United States shall have access, for purposes of examination and audit, to any book, document, paper, information, and record pertaining to any loan made under this Act.

CERTIFICATION OF DEVICES

SEC. 6. The Secretary shall, upon application of any manufacturer of a residential water conservation device (such as low flow showerheads and flow restriction and toilet tank displacement devices), or of any item of agricultural water conservation equipment (such as materials for lining or enclosing irrigation conveyances and drip irrigation equipment), certify such device or item for purposes of section 4 if the Secretary determines that such device or item—

(1) is effective in reducing the consumption of water in residential units or in agricultural use, as appropriate; and

(2) meets such other requirement (including requirements with respect to cost and quality) as may be prescribed by the Secretary.

REPORT

SEC. 7. The Secretary shall submit a report to the Congress on the operation of the loan programs authorized by this Act not later than July 1, 1979.

DEFINITIONS

SEC. 8. As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "residences" means private homes, apartment buildings, hotels, motels, and iinstitutional, retirement, and hospital facilities.

(3) The term "State" means any of the fifty States and the District of Columbia.

OUR TIES WITH IRAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LAGOMARSINO. Mr. Speaker, the Shah of Iran's recent visit is a timely reminder of international realities, especially in regard to our energy demand. Retired Air Force Gen. Henry Huglin explores several significant questions pertaining to "Our Ties With Iran" in the following article:

OUR TIES WITH IRAN

(By Henry Huglin)

The violence in Washington between the Shah of Iran's supporters and opponents, during his recent state visit, focused attention more than usual on the ties between Iran and our country.

The nub of our relationship—which stretches over three decades—is that Iran is viewed as a geopolitical keystone linking the Mideast and southern Asia and bulwarking an area coveted by the Soviets to control the oil-rich Persian Gulf region. But another major factor now is access to the oil in Iran itself.

As the result of the great oil wealth now pouring in, the Iranian government, under the dynamic drive of the autocratic Shah, is engaged in a huge, across-the-board, highly-costly modernization program. Included is a major upgrading of Iranian armed forces, ostensibly for defense from neighboring Russia and Iraq, but also to become the dominant power in the Persian Gulf region. And the modernization program further includes nuclear power reactors, to take over energy production when Iranian oil runs out.

The Shah has made it clear that, if he cannot get from us the arms and nuclear plants he is determined to have, they will be gotten elsewhere.

A cause for concern is that, after the Iranians are strongly armed, their geopolitical goals may not remain so seemingly benign; and the nuclear reactors might be a step toward their making nuclear weapons some day.

Also, to finance his overly-ambitious plans, the Shah led the move four years ago that quadrupled the price of oil—to the great detriment of our economy and most of the others throughout the world. Now, though he has said that Iran will oppose an oil price rise in 1978.

Further, although much good has been accomplished for the Iranians with the modernization program, it has been done in an authoritarian way, with little respect for human rights and democratic forms.

So, our government has had to face a dilemma. If we don't deal with the Shah, as some critics are urging—because of his strict rule, or concerns over where the Iranians' growing strength will lead and over our possible involvement if they get into a war—we still don't prevent the Shah acquiring the arms and nuclear plants he wants, and we lose tens of billions in trade, a relatively-assured source of oil, and a great deal of potentially-important influence.

President Carter has obviously taken the prudent course to overlook or downplay the drawbacks and doubts and to recognize the key role the Shah can play in holding down further oil price increases and in promoting stability in the vital Mideast oil region.

But it was particularly ironical for Mr. Carter to be giving the Shah a warm reception while sniffing the tear gas being used to break up the violence between the pro and con demonstrators. The Shah hardly passes the litmus test on human rights that the President has made, in theory at least, a major basis of his foreign policy dealings. And Iran is currently getting more arms from us than any other country—and **now** more from the President who campaigned to scale down such arms sales abroad.

But we American consumers need to appreciate that, with our profligate use of oil, we are contributing to our government's bind over relations with such countries as Iran.

Instead of conserving energy we are making our country increasingly dependent on foreign oil sources. This is affecting our balance of payments problems, as well as forcing the government into action to insure reliable sources of oil abroad. And Iran—not being an Arab country, and hence not likely to embargo shipments of oil to us or Israel in case of another Mideast war, and becoming increasingly dependent on us for arms and other goods—is obviously being tied to us, in major part, for oil-source security reasons.

As the result of our ties, our government does exert influence on the Shah. He has recently moderated his regime's authoritarianism and he is helping keep stability in the Persian Gulf area. If he persuades the other oil exporting nations to forego price hikes, our government's realistic power politics will have achieved some specific payoffs.

So, the recent visit of the Shah is a clear reminder of international realities—and the impact of our voracious appetite for energy.

President Carter played the Shah's visit to the benefit of our overall national interests, though at the cost of some further disillusion over his circumvented pledges and policies, and to the dismay of the human rights crusaders, isolationist doves, and ivory-tower idealists.

REFINANCING SOCIAL SECURITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for December 7, 1977, into the CONGRESSIONAL RECORD:

REFINANCING SOCIAL SECURITY

One of the most vexing questions before the Congress is how to pay for the steadily rising cost of social security benefits for the aged, the disabled and their dependents. The basic problem is that because of high unemployment, improved benefits and the rising ratio of beneficiaries to workers, the system has been spending more than it takes in from payroll taxes.

As the Congress wrestles with solutions to this problem, it debates whether the social security system should be considered an insurance system or a form of welfare. In many ways social security is similar to an ordinary insurance program. Persons pay money into the system during their working lives so that they will be guaranteed a source of income when they retire or become disabled. The amount of benefits they get upon retirement is related to the amount of money they have paid in over their working years. At the same time, however, the social security system differs in major ways from an insurance system. It is a pay-as-you-go system with the taxes of each generation of workers financing the benefits of the previous generation. Furthermore, the amount of benefits that a retired or disabled person receives is related only loosely to the taxes he pays. Those who emphasize the insurance nature of the system do not favor using general federal revenues to shore up the social security system; benefits, they argue, should be paid from payroll taxes. Those who emphasize the welfare aspects of the social security system favor financing at least part of the benefits out of general revenues since the income tax rate is more progressive than the payroll tax rate.

The social security system faces two financing crises, one short-term and one long-term. The short-term crisis has been brought about by high rates of unemployment which curtail social security revenues, and equally high rates of inflation which cause increases in social security benefits. The House bill completely eliminates the deficit in the system brought on by these events through the remainder of this century through a combination of increases in employee and employer social security taxes. Had no action been taken by the Congress, two of the three trust funds within the system would have run out of funds by 1983.

The long-term financing crisis has primarily been caused by the sharp decline in the birth rate along with an increase in average life expectancy and a trend toward earlier retirement. These trends mean that the number of people working and paying social security contributions in the future will be smaller in relation to the number drawing benefits. Consequently, the cost of the program per worker will rise.

A number of proposals to restore the financing balance of the social security system are under consideration. President Carter has proposed to move some of the burden from the payroll tax to the income tax by using general revenues only when the national unemployment rate exceeds 6% and only until 1982. He would remove the ceiling on the wage base on which employers pay social security taxes while retaining the ceiling for employees. Both the House and the Senate have rejected anything but token funding from general revenues. The House has retained the parity feature of equal contributions by employer and employee. The Senate, by a narrow margin, has approved an end to the parity feature. Both House and Senate bills would raise the tax rate beyond the higher levels already scheduled in the law, although the Senate bill would raise it sooner and further. Both bills would raise the wage base ceiling, the House favoring an earlier boost and the Senate raising the ceiling much faster for employers than employees. Both bills would enable retirees to earn more money before they start losing social security benefits.

Both House and Senate bills are aimed at eliminating the short-run deficit in the social security funds which result from recent recession and a long-run deficit which will result from a lower birth rate, changed economic assumptions, and a faulty cost of living adjustment mechanism that threatens to run wild in future years.

No one likes to increase taxes but the Congress really has no choice. Virtually everyone concedes that a tax boost is necessary to put the social security trust fund back in order. Unless something is done quickly the system will go broke in the early 1980s.

Hard decisions simply must be made in order to maintain a soundly financed social security system. Thirty-three million Americans (one out of seven) currently receive benefits and another 104 million Americans contribute to the system. I know of no one who seriously advocates abandoning the system. To do so would be catastrophic for the entire nation.

In addition to the higher taxes, another unfortunate aspect of the social security bills now under consideration is that they raise taxes at the very time when the need for major tax reductions are needed to assure the continuance of the economic recovery. Thus, positive moves must be made quickly in 1978 to provide tax relief in order to offset the impact of the social security measure.

CITIZEN OF THE MONTH AWARD

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LEDERER. Mr. Speaker, it is with the greatest pleasure that I have the opportunity to present to my colleagues in the House of Representatives a newspaper account of the accomplishments of Mr. Grover C. Willis, recipient of the Philadelphia Tribune-Pepsi Cola Citizen of the Month Award.

The account follows:

[From the Philadelphia Tribune, Nov. 19, 1977]

CITIZEN OF MONTH IS MAN OF ACTION RATHER THAN WORDS

(By Linn Washington)

The old saying that actions speak louder than words befits the winner of the Tribune's October Citizen of the Month award.

Grover C. Willis was selected by a panel of judges to receive the Pepsi Cola-Philadelphia Tribune Citizen of the Month award and was presented with an engraved silver bowl during a luncheon given yesterday (Thursday) in his honor.

An employee of the General Electric Company and official of the National Technical Association, Mr. Willis replied with shy modesty when asked by luncheon guests to describe his community accomplishments and prompting Tribune President Alfred Morris to comment that he was a good example of actions speaking louder than words.

Willis is very active in his North Philadelphia community and at the luncheon complained to a reporter about efforts to get Conrail to cut the grass at a vacant station in his neighborhood.

Over the summer, Mr. Willis' efforts transformed a vacant trash-filled lot into a community garden. He personally took part in removing the debris from the lot which filled four city trash trucks. After the lot was cleared, various vegetables were planted. Willis said he had no problems with persons vandalizing the garden because the community was involved with its upkeep.

He also organized community co-op caravan trips to farms where persons could pick their own fruits and vegetables. Both the garden and the co-ops were unqualified successes. Next year, there will be more gardens in his community.

Mr. Willis is a board member of the Black Political Forum and worked for the local Carter campaign during last year's presidential race. Since then, he has been active in voter registration and registered 125 persons for the just-passed election.

Other of Willis' voluntary activities include vice president of Simon Gratz Home and School Association, minority business and job chairperson of the National Technical Association, Inc., Democratic Associated Committeeman for the 11th Ward, 12th Division.

Friends and neighbors describe Mr. Willis as "a very warm and pleasant person to know, and always concerned about the well-being of others and the progress that is being made by his fellow community citizens."

ENERGY "JUST A COMMODITY"

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. BADHAM. Mr. Speaker, the November 30 Long Beach Independent Press Telegram contained a story which I would desire to have reprinted in the RECORD because it demonstrates the shocking lack of consistency and commonsense, both of which are becoming increasingly associated with the administration and the Department of Energy.

I said it is shocking because John F. O'Leary, Deputy Secretary of the new Department of Energy, is quoted as saying that it would neither be "sensible or realistic" for our Nation to achieve energy self-sufficiency. That and the balance of the article certainly do not demonstrate commonsense and further seem to be in direct conflict with the statements of President, or at least candidate Carter, who has told us for 2 years now we must strive to reduce imports.

Deputy Secretary O'Leary said that he expects almost a 60 percent increase in the already huge amount of imported oil. I hope my colleagues will read this article and develop a clear sense of where this country should be going. I insert the article at this point:

SELF-SUFFICIENCY DRIVE UNWISE, SAYS O'LEARY: ENERGY "JUST A COMMODITY"

SAN FRANCISCO.—It would be neither "sensible nor realistic" for the nation to achieve energy self-sufficiency, a top federal energy official said Monday.

"There's a great deal to be said for trade back and forth," John F. O'Leary, deputy secretary of the new Department of Energy, said.

Ending fuel imports would not only be "very difficult," for the U.S. economy, he said, but "from the standpoint of providing dollar flows to developing nations, it would be bad for their economies."

"I think within limits, energy is just another commodity," said O'Leary, former administrator of the Federal Energy Administration. "But when you talk about oil versus copper, for example you're talking about an elephant versus a squirrel.

"It is so dominant, the dollar flows are so huge, it so outweighs other things" that it has to be treated as an exception and regulated more strictly than other imports, he said.

But, he added, "I don't think that drives you to the conclusion that we ought to get out of the trade business and become totally self-sufficient," he said.

In a speech to the Atomic Industrial Forum, O'Leary said he expects the energy package Congress approves to boost oil imports to 9.5 million to 10 million barrels a day by 1985. That compares to six million barrels a day now—the ceiling at which the administration hoped to keep imports, he said.

Both coal and nuclear power could meet America's growing energy needs, but nuclear power holds the greatest potential, he said, particularly if a proposed licensing reform bill being drafted by the administration is approved.

INCREASE IN THE LUMP-SUM DEATH BENEFIT

HON. JOSEPH A. LE FANTE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LE FANTE. Mr. Speaker, today I am introducing a bill which would increase the amount of the lump-sum death payment made under the Social Security Act.

Under current law, the lump-sum death benefit is equal to three times an individual's primary insurance amount, or $255, whichever is smaller. My bill amends the law to increase the amount to $750 in all cases.

The lump-sum death benefit is payable to the surviving spouse of a fully or currently insured wage earner who was living with the deceased at the time of death. Where there is no surviving spouse, the lump-sum payment can be made to any person or persons who paid for the burial expenses. If the person responsible for payment of the burial expenses agrees or if no one assumes responsibility for the burial expenses within 90 days, the lump-sum death payment may be assigned directly to the funeral director.

The lump-sum death payment was designed to help pay expenses which are related to a wage earner's last illness and death and is often used to pay for funeral expenses.

The $255 ceiling on the amount payable for the lump-sum death benefit was set in 1954 and no increases in the benefit have been made since that time. Congress placed this $255 ceiling when across-the-board increases in social security benefits were made so that the lump-sum death benefit did not exceed reasonable funeral costs.

The $255 ceiling may have been reasonable in 1954 but inflation has eroded what this amount can cover over the past 23 years and the amount has not kept pace with the increasing costs of funerals. The lump-sum death benefit of $255 now covers only a fraction of the cost of a standard funeral. The National Funeral Directors Association in a 1977 study found that the national average expenditure for a funeral was $1,175. This figure does not include cemetary expenses, which would increase the average cost to $1,576 for all categories of services. Expenses for the average indigent funeral service amount to $438 not including cemetery expenses. When cemetery expenses are added on, the amount increases to $839 for a welfare adult funeral.

This large financial burden is placed on a surviving spouse at a time when he or she is least able to afford it or cope with it. Even though the surviving spouse may receive survivors' benefits, these benefits are not necessarily adequate or timely enough to cover the financial hardships related to immediate needs such as funeral expenses and medical bills resulting from the illness and death of a spouse.

Increasing the lump-sum death benefit at this time to $750 is certainly justifiable and is within the intent of keeping benefits at an amount which does not exceed reasonable funeral costs.

The text of the bill follows:

H.R. —

A bill to amend title II of the Social Security Act to increase to $750 in all cases the amount of the lump-sum death payment thereunder

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(i) of the Social Security Act is amended by striking out "an amount equal to three times such individual's primary insurance amount, or an amount equal to $255, whichever is the smaller, shall be paid" and inserting in lieu thereof "the sum of $750 shall be paid".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to deaths occurring on and after the date of the enactment of this Act.

STROESSNER OF PARAGUAY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. COLLINS of Texas. Mr. Speaker, I have recently had the opportunity to visit with Paraguay's distinguished Ambassador to the United States, Mr. Mario Lopez Escobar. Paraguay is a solid friend of the United States, and a country which maintains a balanced economy.

The Paraguayan guarani continues to maintain a stable relationship to the U.S. dollar, as it has done for the last 15 years. Current export figures are once again ahead of the previous year's, as Paraguay continues to maintain an excellent balance of trade with its exports of beef, soy, cotton, lumber, vegetable oil and coffee.

In addition to its stable domestic economy, Paraguay has operated with a consistently cooperative foreign policy, and has been a longstanding friend of the United States in foreign affairs. Paraguay was one of the first South American nations to support the United States in the 1962 Cuban missile crisis. Paraguay contributed a 200-man OAS peace force in the Dominican Republic. Paraguay offered to send troops to Bolivia when Guevara was on the loose. Paraguay consistently backed the U.S. position when the OAS sanctions were imposed against Cuba.

Paraguay continues the growth and development of its economic program with its hydroelectric projects. Over a period of 8 to 10 years, to be completed about 1980, Paraguay will have been transformed, without changing its essentially agricultural structure, into an important exporter of hydroelectric energy. The Yacyreta dam will produce 5 million kilowatts, Corpus 7 million kilowatts, and Itaipu 12 million kilowatts. Thus, Paraguay will be in a position of potential in a world with daily increasing needs for energy.

Leading Paraguay in this prosperity is a realistic, practical and energetic man, who through his foresight has transformed his nation into a land of peace, prosperity and progress. President Alfredo Stroessner has encouraged business in Paraguay and restored optimism and hope to its people. The country now has an excellent merchant fleet, airlines, schools, and modern hospitals.

Paraguay continues to be a peaceful country where people are safe to walk the streets day and night. They have also maintained a strong defense, and resisted all Communist inroads. Through the distinguished leadership of such fine men as President Alfredo Stroessner and Ambassador Mario Lopez Escobar, Paraguay continues to maintain its peaceful way of life, its progressive economic development, its Western Christian tradition, and its solid, dependable friendship with the United States.

LOSES A FRIEND

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. SKELTON. Mr. Speaker, throughout the ages, many writers have tried to express what it is about friendship that makes it such a rare and highly prized thing. The American philosopher, William James, said it well, I think, when he said:

> Wherever you are it is your own friends who make your world.

I am deeply saddened to report today that I have lost one of my friends—one of those special friends who do so much to enrich the lives of those around them.

My friendship with Raymond Vocate of Lexington, Mo., began when I was a child. As time went by, the friendship grew. Raymond was a trusted friend—a man I felt I could rely on through good times and bad times alike.

But, Mr. Speaker, Raymond Vocate was not just my friend. He was a friend to the entire community. Raymond was well known and well loved by all of us in Lexington. His warm personality and his generous, unselfish spirit seemed somehow to exert an attraction on those around him.

Any tribute to Raymond would not be complete without reference to his family life. He was a fine husband and a model father. He is survived by his lovely wife, Lucille, a daughter, Mrs. Janet Alley, and one granddaughter.

As James put it:

> It is your own friends who make your world.

Mr. Speaker, my world is a sadder place today without Raymond Vocate.

BRING BACK THE MELTING POT

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. CORRADA. Mr. Speaker, the December 5 issue of U.S. News & World Report carries an editorial titled "Bring Back the Melting Pot," extolling the virtues of the assimilated American stereotype, and incisively attacking the concept of bilingual education and the extent of our Federal commitment. As you know, the Education and Labor Committee will be actively considering the reauthorization of the Elementary and Secondary Education Act, including title VII (the Bilingual Education Act). As a member of the Subcommittee on Elementary, Secondary and Vocational Education, as the representative of the largest Hispanic constituency in Congress (3.2 million citizens), and as an individual deeply concerned with the special educational needs of those children whose language of the home is not English, I wanted to share with you my reply to the aforementioned editorial. During the coming weeks, I will be working on a bill to revise and extend title VII of ESEA. Lately it seems that bilingual education provokes an echo of overly reacting and hysterical individuals who by self-appointed right, deem what shall constitute acceptable American norms. I believe it is time that we look at the problem frontally. Bilingual education serves a legitimate purpose and need in our society. The Supreme Court in its Lau against Nichols decision acknowledged that need. Our society will not be threatened by the fact that a child will continue to speak the language of the home in addition to English. On the contrary, we will be richer, and more tolerant and understanding of the multiplicity of languages and cultures which dot the globe. It is unjust to look at the small and fragmented bilingual education programs which are federally sponsored and expect miracles. It will take a long time before we can develop effective and ideal models, with the necessary staffing, curriculum material, and local support. I look forward to working on the extension and refinement of the Bilingual Education Act, based on our experience, our need, and our ability to deliver services efficiently and effectively.

The letter to the editor follows:

To The Editor, U.S. News & World Report:

I wish to take strong exception to Marvin Stone's Editorial entitled "Bring Back the Melting Pot", which appeared in your December 5th issue.

In an era when shrinking distances are measured in the number of hours spent in an airplane, and when growing interdependence between nations is a reality as evidenced by the petroleum and coffee crisis, it seems that the editor is harking back to perpetualizing the stereotype of the assimilated immigrant who shed his or her native language and culture, and embraced English.

because in America to be different was to be less. Their children would be forced to disremember their language, and swim or sink in the educational system. These very children later on would be told that it was desirable to learn a foreign language, and a half hearted attempt would be made to teach them a second language which usually bore no relation whatsoever to the language of their ancestors.

Children in the United States have a responsibility to learn English. There is no question or doubt on this point. But equally, a child who speaks a language other than English does not force his or her language on the majority. They strive to retain the ability to communicate in their language, while acquiring English skills which will enable them to function in everyday American society.

The editor presupposes that the ability for all segments of American society to "assimilate" is the end goal for all of our diverse groups. The truth is that our nation is *not* a melting pot, but as my colleague Shirley Chisholm once pointed out, "a salad bowl".

Bilingual education was initiated in this nation precisely because an educational system, whose philosophy catered almost exclusively to the stereotype of the majority, failed abysmally to serve the needs of children who were limited in their English speaking ability, and who, because of the structure of the system, were faced with alternatives such as dropping out, being relegated to the realm of the slow learners, or being kept back in school.

The editor seems to imply that bilingual education programs are taught in languages other than English. This is not the case, bilingual education involves the teaching of two languages; namely, English and the child's language of the home.

The question is not whether we face divisiveness and a dismemberment of our "American" way. The basic question is what constitutes "American", both in terms of acknowledging the needs and aspirations of the majority and the minority, be it racial, ethnic, linguistic or otherwise.

THE CROWN OF ST. STEPHEN

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. STEERS. Mr. Speaker, I would like to take this opportunity to insert into the CONGRESSIONAL RECORD a letter written to President Carter by the Coordinating Committee of the Hungarian Organizations in North America. Since the decision to send the Crown back to Hungary was made with no consultation with the Hungarian-American community, I feel that it is important to have their viewpoint expressed in a public forum.

NOVEMBER 14, 1977.

DEAR MR. PRESIDENT: On behalf of the Coordinating Committee of Hungarian Organizations in North America, a consultative body of 14 Hungarian-American and Hungarian-Canadian nationwide organizations, we suggest the following conditions as to the surrender of the Crown of St. Stephen to the present imposed regime residing in Budapest:

1. The immediate withdrawal of foreign military forces from Hungary, and,

2. Free parliamentary elections with the participation of several political parties, including those of non-marxist disposition.

These basic conditions represent everything in essence which the Holy Crown represents and symbolizes. Anything less would be a morally indefensible trespassing of the commitment of safekeeping so nobly accepted and maintained by the Government of the United States for 32 long years.

Dr. ANDRUS H. POGANY,
Acting Secretary.

CROWNING A COMMUNIST REGIME

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. CRANE. Mr. Speaker, saying one thing and doing another has become a cynical trademark of the Carter administration's foreign policy. On November 4, 1977, the Carter administration, through the State Department, announced that the Communist regime of captive Hungary would be given the sacred crown of St. Stephen.

Those brave Hungarian men, women, and children who died from 1947 on do not deserve the dishonor that President Carter is contemplating. Has the situation in Hungary changed so as to make the return of the crown an honorable gesture? Since World War II, every U.S. President kept the promise that the holy crown, symbol of Hungarian Christianity, nationhood, and legitimacy of rule, would never be returned until Hungary was, again, a free nation. Repression and inhumanity are still the rule in Soviet-dominated Hungary. Shall we allow the President to crown the illegitimate regime? Communism and what it means may have been forgotten by this administration, but it has not been erased from the minds of the people of Hungary, both in Hungary and in the United States.

Following are 10 good reasons not to give away the holy crown. They were sent to me by the Cardinal Mindszenty Foundation, an organization dedicated to preserving freedom and opposing communism through educational programs.

REASONS NOT TO GIVE AWAY THE HOLY CROWN

1. The President and the Congress of the United States assumed the responsibility of official Crown Guard when they took the Crown in trust. By taking the Crown in trust, they have become liable for the historical integrity of one of the world's foremost objects of freedom. Their responsibility to protect the integrity of the Crown is equal to their responsibility to adhere to the United States Constitution and The Bill of Rights. The Crown represents the same ideals.

2. The members of the Holy Crown are the millions of Hungarians all over the world who have been deprived of their country and its independent national existence, by Soviet aggression in 1945 and again in 1956. The United States must act as a trustee for them until Hungary is again free.

3. The Holy Crown is the 1000 year old constitutional basis of legitimate government in Hungary. It is partially religious and partially constitutional in nature. The doctrine of the Holy Crown precludes the Crown's incorporation into a government whose people are denied their essential freedoms.

4. The Crown belongs to a free people. Hungary is not a free nation. Its government is a self-proclaimed revolutionary dictatorship that is not and does not claim to be a legitimate successor of any Hungarian government preceding it.

5. Since Hungary's present government can not claim continuity with governments of the past because of its ideology, there cannot be any transfer of title in the Holy Crown to the Hungarian communist government by succession.

6. In their present captive state, the Hungarian people in Hungary, the beneficiaries of the Holy Crown, cannot exercise their political rights. The United States must remain the trustee of the Holy Crown until the members of the Holy Crown have regained their political freedom and national independence.

7. The people of the Holy Crown are the Hungarian people scattered around the free world. The concepts of freedom and democratic government for which the Holy Crown stands can only be represented by free Hungarians. Hungarians in America and other parts of the free world represent the hope for freedom of Hungary.

8. The Hungarian people living under communist rule have no say in electing their government. The present government is inescapably controlled by the Soviet Union. Handing over the Holy Crown to that government would be a breach of promise, on the part of the United States to the Hungarian people of the Holy Crown.

9. The opinions expressed by the Hungarian people in Hungary are dictated by the government's ideology and repressive tactics. Only Hungarians in the free world can speak for the Holy Crown.

10. The Hungarian government can do nothing more than what Russia allows it to do. The Holy Crown cannot legitimatize or make more independent a satellite of Russia.

MOTHER OF MERCY HIGH SCHOOL, 1977 VOLLEYBALL CHAMPS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. LUKEN. Mr. Speaker, I would like to call my colleagues' attention to a group of young ladies who have worked hard for something and have had that hard work pay off. I am referring to the volleyball team of Mother of Mercy High School in Cincinnati who have recently earned the title of Ohio State Champions in Volleyball for 1977.

The hard work which went into securing this title should not go unrecognized. It is hard to be a good loser, but it is even harder to be a good winner. Their sportsmanship is outstanding and I would like to say my heartiest congratulations to both team and coaching staff. Ladies, a job well done.

Rose Bauer, coach; Joanne Trame, manager; Ceal Franz, Sue Bachman, Bev Day, Joan Hensler, Nancy Hollstegge, Kathy Horn, Amy Klopp, Terri Nichting, Cindy Riehle, Janet Thorpe, Pam O'Brien, and Karen Wernke.

HELP FOR BATTERED WOMEN IN MILWAUKEE AND KENOSHA

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. KASTEN. Mr. Speaker, several months ago, I joined as cosponsor of the Domestic Violence Prevention and Treatment Act, legislation designed to aid the victims of domestic violence. Since that time, I have become increasingly aware of the desperate need for the services and financial support this legislation would provide women who suffer constant physical and emotional abuse from their husbands.

For too long, we have ignored, and in many cases denied, women their constitutional right to the fullest protection of the law. However, in the last few years women have begun to fight back with the formation of special groups, task forces, emergency shelters and self-help facilities which offer battered wives and their children an alternative to living in fear.

Today, I would like to take this opportunity to commend two such groups in Wisconsin, the Battered Women's Task Force in Milwaukee and Women's Horizons in Kenosha, who are fulfilling the unmet needs of battered women in their communities. In addition to providing crisis counseling and supportive services to battered women, these groups have worked to educate the general public and sensitize members of the legal/judicial system to the complex and largely misunderstood problem of domestic violence.

As evidence of the support and interest growing for these programs, the Battered Women's Task Force and Women's Horizons will soon realize one of their primary goals—the establishment of permanent, emergency shelters for the victims of wife abuse.

Milwaukee's proposed Sojourner Truth House, planned as a temporary haven for about a dozen women and children at a time, will function as a joint enterprise by Family Hospital and the Battered Women's Task Force. Ultimately, the shelter will offer battered women physical and psychological treatment, counseling and referral services, child care facilities and will operate a 24-hour, 7-day-a-week telephone crisis line. The task force plans to open Sojourner Truth House in March of 1978.

Women's Horizons, formerly incorporated in October of 1976, plans to open a similar facility in January. In addition to providing primary supportive services to wife abuse victims, Women's Horizons has been working in close conjunction with Kenosha County's social service and law enforcement agencies to more effectively reduce the incidence of violence, not only in the home, but also in the community. With additional funds provided by the Law Enforcement Assistance Administration, Women's Horizons plans to implement a program designed to combat violent crime through increased cooperation between the public and the criminal justice system, improved rehabilitation, therapeutic and counseling programs and efforts to promote greater understanding and awareness of domestic violence within the community.

Both these groups offer excellent examples of the potential services battered women's programs can provide to communities interested in responding to the problem of domestic violence. However, funding still remains the most formidable obstacle discouraging many areas from establishing even very limited programs and facilities.

Enactment of the Domestic Violence Prevention and Treatment Act would alleviate this problem with the authorization of funds for the creation of domestic violence prevention programs at the grassroots level. We must fulfill our obligation to the women of this country whose right to the fullest protection of the law has been ignored. Further delay will mean that the injustice and tragedy of domestic violence will continue.

HOW S. 1437 WOULD SHIFT CRIME JURISDICTION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Ms. HOLTZMAN. Mr. Speaker, although the proposed criminal code revision has generated a great deal of public interest, little attention has been given to how it would expand Federal jurisdiction. The views of Prof. John Quigley on this matter, published in today's New York Times, should be given serious consideration. The text follows:

HOW S. 1437 WOULD SHIFT CRIME JURISDICTION

To the Editor:

Anthony Lewis' "Politics of the possible" column (Nov. 14) is the third recent Times piece commenting favorably on S. 1437, the proposed revision of the Federal crime code. Tom Wicker wrote a column on the bill Oct. 25, and The Times editorialized in its support Sept. 23.

These three pieces have focused on the sentencing provisions of the bill and have ignored what to my mind is an aspect of S. 1437 of greater significance.

S. 1437's greatest significance is that it would plummet the Federal Government in a major way into the law-enforcement business. Whereas from 1789 until the present Federal crimes have been peripheral, with major law-enforcement responsibility at the state level, S. 1437 would give the Federal Government power to punish many crimes that have traditionally been considered to hold no Federal significance.

S. 1437 would give Federal authorities power to punish most blackmail, extortion and bribery offenses committed in the United States, plus a goodly portion of all robberies. It achieves this by liberal use of such jurisdictional handles as employment of the mails or telephone, the crossing of a state line and the affecting of interstate commerce. These so-called "Federal jurisdictional bases" would federalize crimes with no real Federal impact—the only Federal connection would be the happenstance that a phone was used in connection with the crime.

My preliminary study of S. 1437 indicates that it would likely yield a tenfold increase in the number of federally prosecutable crimes. This means that S. 1437 would effect the sharpest break in the history of Federal-state relations since the New Deal.

To my mind, this development is unwise: first, because it is sound public policy in a federation to leave as much as possible to the constituent entities, and second, because such an increase in Federal crime jurisdiction would give rise to a Federal crime bureaucracy of heretofore unthinkable dimensions. More Federal judges, prosecutors and prisons would be needed, and the Federal Bureau of Investigation would grow into a national police force.

These are clearly reforms of great magnitude. I oppose such changes. But what bothers me even more than the changes themselves is that they are being made with the public unaware that they are happening. The bill's sponsors have been silent on this aspect of S. 1437.

S. 1437 is scheduled for Senate floor action soon after the first of the year. It is time that the bill's true impact be discussed publicly before it is too late.

JOHN QUIGLEY,
Professor of Law, Ohio State University,
Columbus, Ohio, November 17, 1977.

URBAN CRISIS FORUM IN CLEVELAND

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Ms. OAKAR. Mr. Speaker, during March and April of this year, the League of Women Voters of Cuyahoga County and the City Club of Cleveland sponsored a series of forums entitled "The Urban Crisis." A number of highly respected experts in urban affairs visited Cleveland to participate in this project, including the eminent chairman of the Banking, Finance and Urban Affairs Committee, HENRY REUSS.

So that all Members may benefit from this excellent series, I am submitting the following excerpts:

THE URBAN CRISIS

REVIVING THE AMERICAN CITY

(Excerpt from remarks of Rep. Henry S. Reuss, Chairman, House Committee on Banking, Finance and Urban Affairs)

Many of our great cities are sick—losing population, losing jobs, losing fiscal solvency, losing the experience of neighborhood and community, losing the convenience and safety which are the reasons a city is put up in the first place. In constitutional terms, we are short on justice, short on tranquility, and very short on the general welfare.

In all of these cities, millions of unemployed, largely, though not entirely, the young, the Black, and other minority, are stranded in the city centers. Blue collar jobs have migrated to the suburban industrial parks, to outlying areas, and to the Sun Belt.

Smog, congestion, wasted energy get worse as millions of white-collar workers and managers commute from the suburbs to the central city.

City after city, mostly in our Northeast and Midwest, our part of the country, faces a money crisis, because revenues go down and the cost of poverty and its associated ills go up. The crisis is heightened because of fiscal mismatches—between the central city and its suburban belt, and between the declining cold belt and the burgeoning Sun Belt.

As a result, the cities' social fabric is strained. Increasing poverty, crime, and drug use, demoralized schools heighten the alienation between citizen and government.

Despite all this I personally believe that the future of the American city is not as bleak and dreary as many are now prophesying. It is within our power, I think, to see to it that the American City survives and flourishes as a viable economic entity, as a livable residential community, and as the cultural center of our age.

What we really need is a coherent national urban policy providing the framework to be approached by the federal government, state government and the cities and counties, and above all the private sector of individuals and organizations to the problem of reviving the cities. Only with such a policy in place can the federal government's various city programs make the slightest sense.

Unfortunately, almost alone in the industrialized world, the United States just doesn't have a national urban policy.

Our committee has recently established a subcommittee on the city to help develop such a national urban policy and to provide a focus in the Congress for all the urban problems, not just the question of housing.

I want to describe today what I think could be the outlines of such a national urban policy. I do so with the hope that by throwing out these burning issues for discussion, you in Cleveland, as in a hundred other American cities, will be able to chew on them and perhaps to come back to us in Washington one of these days, the sooner the better, with your first draft of such a policy.

If the cities do recover, as I've said I believe they can, it is not going to be because of some massive, Washington-based, super Marshall Plan.

If there are four central problems, I'd suggest that Washington probably has to assume primary responsibility for two of them—achieving jobs for people and restructuring the whole gamut of federal aid programs. Those are Washington's job; the other two goals—conservation of neighborhoods, of land, of resources, of energy; and creating equitable metropolitan area burden-sharing, those primarily have to be addressed outside of Washington.

Let's take up number one, and it is advisably number one on my list—jobs. The most straightforward way to help our cities is to come to grips with the terrifying unemployment in our central cities.

As a starter, we have to adopt sensible, National economic policies which go toward our goal of full employment without inflation. During the last years we have not been doing this. We have been creating joblessness deliberately in the misguided belief that that is how you fight inflation. And of course the cities are the ultimate victim of that kind of misguided policy.

At any rate things go much better between the Congress and the Federal Reserve, and I would hope that no longer would there be any excuse, if ever there was for fighting inflation by adding to the cities unemployed.

But you can have the most sensible, overall macroeconomic general monetary and fiscal policy designed to bring about full employment and it still won't have much impact on the people in the central city.

To get there you need specific programs because millions of our unemployed are those who are trapped by poverty or race or under-education in the central city, with only bootleg economic activities available to them. Drug pushing, prostitution, robbery, gambling and whatever. I suggest a three grip handle on the policy which would bring jobs to where the people are and bring the people to where the jobs are, because I think you have to do both.

In bringing jobs to the people the blunt fact is that blue-collar jobs have been disappearing from our central city. They've been skadaddling out to the suburbs and out to the Sun Belt.

Let me suggest some ways of bringing back to the city, both blue-collar and white-collar.

To attract blue-collar jobs back to the city, let the state and local governments do more than they've done so far to assemble the land through eminent domain, let them offer local tax concessions. Then let the federal government with a "central city revival program" which takes a humane attitude about people who may be in the way of such a program and doesn't make it merely a poor people removal programs such as the bad old days of the 1950's.

Washington could also help by getting the Economic Development Administration to change its focus a bit on to high unemployment central cities.

Federal tax policy ought to be part of the solution instead of part of the problem as it is now. As it is now, the federal government gives tax-exempt industrial revenue bonds to any community that wants them whether it be a beleaguered central city or whether it be a Sun Belt area which has no unemployment. That doesn't make sense. We ought to confine that program to areas of high unemployment. Our investment tax credit treats all areas alike, we ought to be giving a slanted credit to central cities, city industries which want to modernize themselves. So there are some things that can be done about blue-collar industry. And since manufacturing jobs pay more than service jobs, wonderful though service jobs are, let's not go overboard about this, let's have a nice mix if we can.

Let's get the service jobs, the white-collar jobs. So how about affecting a little marriage there; how about getting our central city high schools, and community colleges to reorient their teaching toward these jobs.

We ought to get the downtown service industries, and I've names who they are to provide that actual job pot of gold at the end of the educational rainbow.

The federal government could help too on white-collar service industries for our central cities. There is no reason why my hometown, Washington, D.C., should strangle with endless, proliferated, mostly suburban parts of the federal establishment. Let some of them be plunked down in Milwaukee and Cleveland as years ago the Social Security Administration was plunked down in Baltimore, making twenty thousand jobs, well paid and adding a middle class, as a nondiscriminatory basis to that great city.

A few years ago, after many years of trying, I finally got a Federal Reserve office in my hometown of Milwaukee and I saw that that was put right near an area of great central unemployment and the minority employment at the Federal Reserve office is simply excellent. I wish the rest of the Fed would do as well.

So that's how you bring jobs to where the people are, both white collar and blue collar. How about bringing people to where the jobs are.

So it is a one-way deal and utterly wrong and we ought to change the emphasis there so we get some better transport out to where the jobs are.

There used to be out and out discrimination against minorities in the suburbs, but which today masks as a "oh we just want to keep poor people out". We want five acre zoning, and hundred thousand dollar homes, and so on.

I think it is just untenable that Uncle Sam gives grants to suburbs which pursue a dog-in-the-manger policy, which have land which could be used for workers' housing.

Well, that's jobs in the suburbs, but what about the Sun Belt? I'd like our country to be as mobile as possible and while I'm certainly not advocating any totalitarian big population movement, I think we ought to do everything possible to retrain and grub-stake and give travel allowances.

Well, if the government of the United States, could, as it did, transport and give tailor-made programs to millions of Hungarian refugees in '56 and anti-Castro Cuban refugees in 1960 and Vietnamese refugees a couple of years ago; with jobs found and educational aids provided and the general welcome wagon out, we should be able to do as much for our own citizens.

Finally, because all of this takes time: bringing jobs to the where the people are and bringing people to where the jobs are, you need something like a national service corps of larger dimensions than we now have to act in the interim to heal this horrible social cancer of unemployment in our central cities. Until the private sector, the new university-community, the greater born-again Cleveland, can provide the private sector jobs that they need. And here I ask you if FDR, 40 years ago, in the New Deal, could provide a civilian conservation corps with three million young men, can't we maybe get three hundred thousand now that we know so much more and are so much richer 40 years later.

Now that the snow has gone from the streets of Cleveland and Milwaukee, I find enough potholes to keep a million young people busy for an indefinite period of time. And you could go on and on recycling waste, renewing neighborhoods, staffing day-care centers, old folks good food program.

National service jobs could offer a decent job at a living wage, they ought to train enrollees while they are working so that they can get a private sector job that means something down the line.

Restructurnig federal aids has to be done. I believe that the federal government ought to sooner rather than later, to assume the cost of Welfare and Medicaid. That Cleveland is host to so many unfortunate people who are on welfare is not Cleveland's fault.

There ought to be a cost of living adjustment for the people who live in the old and cold and more expensive parts of the country, like ours.

We should re-examine too, the whole problem of federal grants. Suffice it to say that on general revenue sharing, community development block grants, law enforcement assistance: Milwaukee, Cleveland and the rest of us all get gypped in one form or another. This ought to be revised in the national interest so that we can't become the walking wounded and mendicants.

Now the last two things are things that very largely have to be done by you here, not by Mary Rose, and me, and Charlie, and Lou and Ron and the others in Washington. And that is conservation—the neighborhood. Cleveland's got the most magnificent Lithuanian, and Estonian and Slovenian, I could go on but you are not preserving them by letting financial institutions go over the hill and brag about "our man in Singapore"; they ought to be bragging about "our man on the east side or the west side of Cleveland." We ought to encourage local neighborhood economic institutions, neighborhood credit unions, consumer co-ops, neighborhood development corporations. Local institutions, financial institutions, who are always so fearful of "credit allocations" ought to remember that they are giving a monopoly privilege by the state or federal government and just like a television station they ought to report every few years what they are doing for the people whose deposits they take.

Localities ought to revise their tax system. In Cleveland as in Milwaukee, you have a very high tax on improvements and a very low tax on land. That just means that the speculator makes a killing and the home owner who wants to rehabilitate or the businessman who wants to expand takes a shellacking. It ought to be turned around.

The new emphasis on neighborhood conservation ought to encourage the cooperative spirit that is just beginning to show itself, here and there, on part of the country's banks and savings and loans. Many banks and thrift institutions are lending skilled personnel toward neighborhood conservation activities. They are forming financial pools designed to spread the risk of rehabilitating declining neighborhoods. You should be very proud of what many of your financial institutions are doing here in Cleveland under the Neighborhood Housing partnership. There ought to be more of it and I want to commend now those who are participating in it.

We've got to conserve land because it is getting very, very scarce. That means that we are going to have to emphasize multi-family homes, not just garden apartment but rowhouses and cluster dwellings, rather than the single-detached family dwelling.

Wouldn't it be a great idea from here on out if we concentrated on the least expensive, most sensible form of saving energy on travel and transportation, namely good city planning so that by and large people live near where they work, where they worship and where they shop.

While we are at it, our localities, yours and mine, ought to consider getting rid of their ancient and really not very sensible ordinances which say that residences and commercial shopping have to be separate.

The fourth and last thing which we've got to put our minds on is metropolitan burden-sharing and you've been talking about this for the last 88 years. All I would say is, take a look down the Great Lakes at Toronto; they solved it there. They've got a metropolitan burden-sharing arrangement. The only outfit in this country that has done it is Minnesota where the legislature to its great credit a few years ago, set up an arrangement whereby the people in the Twin Cities in effect do metropolitan sharing. In effect, any increase in real estate value, most of which nowadays occurs in the suburbs, accrues to the benefit of the entire metropoltan area; at least 40 percent of it does.

What is all of this going to cost? Well, I haven't in the Washington phrase, costed it out, but I'm very sure, very positive, that it is going to cost a great deal less than if we wait until all the cities of the northeast and the midwest are old and cold and dead, because then the cost would indeed be terrific.

I would suggest too, that if we at the federal level and at the state level would just stop doing so many things that are wrong, the cities would be able to do very well.

Turning to the states. As usual they grumbled about everything that Washington was doing, but so far as I can see, and I studied their resolutions there wasn't one word said about the obligation they as sovereign governments owe to their cities, not a word.

How many are following the state of Hawaii in having the state pick up 100 percent of the cost of local schools instead of loading it all on the local homeowner. How many are doing what my own state of Wisconsin is doing, moving away from the point of origin of tax payments as the sole criterion for distributing state collected funds to the locality and instead getting a more equitable formula based on need and tax effort and poverty. How many states for that matter have a progressive income tax?

I am not for doing in the multi-nationals, I think they have many affirmative things going for them, but I would amend our tax laws, which now in my judgment give an unfair advantage to the multi-nationals and a perverse incentive to export jobs.

A. Would I like to change my philosophy so that by-and-large tax money stay in the community where it originates. Not very much to be honest with you because I think that we are going to keep society strong only as we prevent income disparities between our people from growing too great. I'm distressed for instance at the fact that in the last eight years in this country if you study the census figures, the share of the income going to the 40 percent of the people at the bottom of the American income. That isn't just poor people that is lower middle-class working people has grown less and the share of the 5 percent at the top has grown more. I'm not for egalitarianism or vast redistributions of wealth. I don't want to see us get great disparity because I don't think you're going to keep the body politic together that way. Therefore, no I guess I wouldn't like to see the people in the wealthiest suburbs around Cleveland, keep all the tax money that they generate while the central city continues to get worse and worse.

URBAN HARDSHIP

(Central cities vs. suburbs: Excerpts from remarks of Richard P. Nathan)

One of the themes that we developed in the research that we've done at the Brookings Institute, looking nationally at the problems and conditions of America's cities, is that the nation does not have a single national urban crisis.

One of the themes of my research and of these remarks will be that cities are different, very different and that is important to understand. In our research we took six factors for gauging the economic and social needs of cities. Unemployed; the number of old and young in the community, that is the dependency rate; the number of people over 25 with less than a high school education; per capita income; overcrowded housing; and poverty. And using this six factor index we've looked at all the major cities in the country.

Putting these six social and economic indicators together, how much worse off is the city than its surrounding suburbs. We felt that was an important thing to do and indeed the more we think about it and look at this analysis the more we think it is the right way to think about urban crisis condition. Because indeed, cities compete with each other, city to city in a fairly remote way. But cities and their suburbs interact all the time. The worse things get, the worse things get, because as people move out of the city into the suburbs, as jobs move out of the city into the suburbs, the tax base of the city declines the city has to raise taxes in the typical case and that drives more people out.

So this relationship of cities to suburbs on what we call our hardship index, is an important way to look at central cities and suburbs. And indeed on this basis, as has been reported before, out of the 55 largest metropolitan areas, Cleveland is number 2, that is second from the worst of greatest disparity which is Newark, New Jersey.

While the disparity between Cleveland and its suburbs ranks second, if you compare Cleveland to other cities on the same basis, the city is somewhat better off, ranking 9th out of the 55 places and that is the function of the suburbs being somewhat better off than other suburban communities in the country.

Five factors came together to define the problems of cities like Cleveland. These five factors are politically structured. This city contains 36 percent of the population of the metropolitan area in 1970, whereas Phoenix and other cities contain upwards of two-thirds. So the city is isolated relative to its suburbs.

Second the cities that have the most serious problems are older cities.

Third, these cities typically have a high concentration of low income person and often also a high percentage of minority population.

Fourth, these cities have been losing population.

And the fifth factor, is region. This is a city in the older, industrial parts of our country and these five factors come together to define urban needs of older cities.

Structural isolation, number one, old age, poverty, impaction, population decline, and being located in these older regions.

I wouldn't want to skip over the fact that many of the older suburbs have the same problems. East Cleveland; East St. Louis; Camden outside of Philadelphia; Compton, Mt. Vernon, New York.

Now let me shift the focus and talk for a minute about the prospects for these older cities. And I would have to say that right off the bat, the most important thing to a city's success for the future is the determination and concern of local people.

Why should the suburbs care about the central city? And I said there were two basic reasons why the suburban resident should care about the central cities. The first of these reasons is humanitarian.

Now the second reason is much more practical, and it is the economic reason. Why should the suburbs care about the central city. They should care about the central city because the region as a whole, the Cleveland metropolitan region is very greatly affected by the conditions of its inner city.

So at one end nationally, you have the view of let nature and the market take its course and at the end you have this Marshall plan, billions for the cities point of view. Neither of which in my view will, and I guess I would say, should prevail.

So somewhere in between these two positions, is sort of a realistic, I think, let's look at the cities kind or urban needs perpective that has to be brought to bear all across the spectrum of federal policy.

In this metropolitan area, in Cuyahoga County there are 100 governments and 97 of them can levy property taxes; 56 cities, 4 towns, 33 school districts, 1 county, and 6 special districts.

So we propose, and I'm very proud and happy to say that the proposal that we made, was recommended both by Ford and Carter administration, that the formula be changed. That it be changed in a way that would take into account population decline, and the old age of housing and facilities in urban areas, so that older, hardship cities according to this kind of an analysis would receive more money.

Not a national urban crisis, but urban hardship conditions particularly characteristic of older declining cities, most of which are in the northeast and the midwest.

I had to make one proposal of the one thing that I thought needed to be done next, and I'm happy to say this is high on the list for planning in the Carter administration, what we need is an urban development bank to supplement these grants with loans and loan guarantees that also can be focused on community development projects with the federal government facilitating a banking function for the cities which have particularly significant needs and important opportunities for development, again such as the University Circle project here in Cleveland. These kinds of projects could be aided by an urban development bank. That in my opinion, is the most important and most promising next piece of federal urban policy, which those of you who are interested in this field, and the League has been in the forefront in this area, would work on and press for in the debate this year on domestic policy in Washington.

Q. Dr. Nathan, in your prepared comments, you noted that New York City had 3 governmental units and that Chicago had 600 some odd such units and in the answer to one of the earlier questions you also noted that New York City is poorly managed and in horrible financial position while Chicago is in pretty good financial condition and perhaps quite well managed, are you suggesting that we should splinter up our governmental units?

A. I feel this way that there is a sort of theory in the United States, a view which says to have big regional governments in metropolitan areas is always a good thing to do and that reform should create two-tier metropolitan regional government, which is very impractical and its knocking your head against an awful brick wall.

NEW YORK CITY—CAN IT HAPPEN HERE

(Excerpts from remarks of Roger Star)

Now, I can't tell you whether New York City will happen here in Cleveland unless we have a measure of agreement as to what it is that really has happened in New York City. I can summarize I think in one sentence and that is, New York City, the economic city of New York, no longer produces enough wealth to sustain its population. Its assets do not measure up to its liabilities.

It is beginning to dawn on people that for a city to flourish it must meet its basic economic needs. Now a few years ago, everybody was talking about the urban crisis, just the way they are now. But they meant a wholly different crisis. They meant a crisis of growth, overcrowding, congestion and loss of amenities.

In the United States, we have on the one hand Louis Mumford, who told us that congestion was bad. We had on the other hand, Jane Jacobs, who told us that congestion was good. They both agreed on one thing, that congestion was the way of the future.

Well, you drive around New York City today, you wish you could go back to those good old congested days of ten years. Because if congestion is depressing; vacant, unused, unusable land, burned out buildings, tumbled down places where nobody lives, these are much more depressing than congestion was.

What else has gone wrong in New York City. Now I come to something which is extraordinarily unpleasant to talk about with audience of nice people. The fact is that we have spent far too much money on social services and far too little on hardware.

There isn't one person in this room who at the time wouldn't have said, children, warm lunches, drug programs, social programs come first. But there is no question also, that the human effect of the collapse of that highway by causing people to lose their jobs, by creating unemployment, by creating a permanent dislocation of the ability of this city to deal with its problems on a fiscal basis, has caused not just the collapse of steel beams, but has exacted in tremendous human cost from the most helpless people in the city of New York. This is the kind of thing that has happened in New York City and you have to take it into account.

My feeling about Cleveland is that its basic situation is very different from New York City.

A second issue here. Welfare, at least in part, is a county responsibility. In New York City, the city pays 50% of non-federal welfare which is to say home relief, where in the case of federal aid, like ADC, the city pays 25%.

And we unfortunately instead of saying no to its public employees, we engage in something I call futurizing their demands. We turn present demands for wage increases into higher pension benefits so that somebody else was going to have to pay for them.

In my view nothing could be more damaging to these large number of people to make them or to make it impossible or at least very difficult for them to leave the city in which they are living at risk of reducing their welfare benefits, in order to go somewhere else where they have a better chance to fit into the mainstream of life.

I have sat and talked to many welfare people. The great tragedy they face is not just that they haven't got enough money to live decently but that they are not part of the economic mainstream of American life. And that the best we can do for them is to anchor them forever in the deteriorating neighborhoods in which they live without an opportunity to have their children break out of the trans-generational dependency.

We need for them a program that will seriously direct itself to integrating them into the economic stream of American life.

This not only means job training it also means realistic job opportunities. I think it means the opportunities for migration to those parts of the country which are booming today.

The second thing that we have to do besides doing something about trans-generational dependency, is to do something to cut the web of city services. In my view it is essential that we take a population and encourage it to cluster. Two apartment houses, each half full, will be abandoned. One apartment full and one apartment empty, will at least enable one to survive.

We have for example, a law in New York City that you get priority for admission to public housing if you are the victim of a burn-out. Now one of the results of this is that buildings burn down.

One of the things that I feel more strongly about and that distinguishes me from most other urban problematists, is my hatred of the subway systems. I wish New York had never built a subway system.

A subway system anchors all transportation between two points but it doesn't anchor any of the reasons that make those points necessary or attractive. There is something terribly inflexible about any rail transportation system whether you call it a subway, or a people mover. You have a one use only of the tremendous investment compared to what a street can do. A street gets emergency vehicles from one place to another, it provides a channel for water and sewage to leave, it provides a space for the electric conduits, it provides for the movement of goods, and it provides for bus transportation. I think that buses are the way to go in all urban transportation.

If your population in Cleveland is shrinking, your basic municipal configuration has to be geared to the change in the population size and it may well mean that larger areas of the city are going to be abandoned altogether.

If we are going to get federal government participation on an even greater scale than we have had in the past, you've got to be sure it is not done simply to turn the city into what Norton Long calls a "reservation." Indian reservation to keep people out of the mainstream of American life.

THE CARTER ADMINISTRATION'S PLANS FOR THE CITY

(Excerpts from remarks of Joseph Burstein, counsel to Patricia Harris, HUD)

As I speak today, more than 3 million families are aided by federal-assisted housing. And the Carter administration is adding 1.2 million units to that number in the years 1977-78. The Carter administration $4 billion block grant program to aid American cities, including a $400 million development action grant awaits Congressional approval. Much has been done, clearly much more needs to be done.

Let us first consider housing and then talk about the cities. Despite public and private efforts, over the past four decades, there continues to be a great national need to provide an adequate supply of decent and affordable housing. The Harvard-MIT Joint Center recently published reports on housing needs and documents the fact that there are still 13 million housing deprived families in America. About half of these families reside in physically inadequate housing. The low housing production of the past few years has actually, and incredibly in my opinion, let America fall further behind in meeting the housing needs of the American people.

Although median income is up 47 percent since 1970, the median sales price of new homes is up 89 percent and ownership costs are up 102.5 percent. The facts also show that excess housing costs are a burden for many American households. Five million homeowners have mortgage payments in excess of 25 percent of their income.

10½ million tenants paid more than 25 percent of their income for rent, almost 60 percent of America's families cannot afford to buy the median priced new homes.

Now lets take a look at the condition of our cities. Between March 1975 and March 1976, the United States metropolitan areas lost nearly 400,000 citizens to out-migration. During that same one year period, central cities sustained an incredible net population loss of 2 million people out of the central cities into the suburbs. In 1975 and 1976, many cities were burdened with unemployment rates in excess of 15 percent. Unemployment amongst minority youth reached 40 percent.

The central cities share of metro jobs plummeted from 63 percent in 1960 to 52 percent in 1970 to less than 50 percent today.

Additionally, what was once usable, sound housing starts, have become unsalvageable through lack of maintenance, abandonment, and a combination of other facts. The problems of the older cities go deeper than this. There is the very real threat that in the major population centers there will be a collapse of the municipal interstructure itself.

Finally, we come to the question of poverty itself. In urban America, Nathan Glazer and William Gorman, point out in the urban predicament, that the average income of central cities residents relative to suburban residents is dropping sharply. That from 1960 to 1970, the median income for central city residents as a percentage for the median metro income dropped from 90 to 87 percent in Cincinnati, from 85 to 80 percent in Cleveland, and 90 to 83 percent in Detroit. In other words, although poverty is declining nationally, it is increasing for the older cities.

Of the poor who reside in the central city, the percentage who are black have risen from 37 percent to 50 percent in the past 15 years. And one in every six black Americans, more than 4 million people, are trapped in poverty in the urban ghetto. America faces two great unmet domestic challenges. One to provide more housing opportunities for low and moderate income people, and two, somehow to direct housing as well as other assistance as a means of reviving and rehabilitating those inner city Neighborhoods, so that they once again, perhaps more than ever, provide the economic, social and cultural development and the happiness of family living to attract the people to the cities once again.

First, let us look again to the area of housing. For the rest of fiscal 1977 and for fiscal 1978, the Department presented budget requests which dramatically altered the previous administration's plans. A $508 million supplemental appropriation in section VIII Contract Authority, bringing the program level to 400,000 units for fiscal year 1977. $1.2 billion in Contract Authority to provide an additional 400,000 units for both section VIII and public housing in 1978. $50 million for both 1977 and 1978 for the section 3–12 rehabilitation program. This is a very popular program in many cities which the previous administration had scheduled to end in 1977. $35 million in contract authority to modernize other housing projects. This represents a 700 percent increase over the Ford budget request. Now my secretary looked at 700 percent and thought it was a typo, but it wasn't. A 700 percent increase.

$50 million for the urban homesteading program, which represents a tripling of the previous administration's request and an extension from 20 to 30 years of the Section VIII housing assistance contract for privately financed housing. A move which will facilitate the flow of conventional financing through new Section VIII construction. Here, I'm sure people in the audience who are familiar with the problem will recognize how significant this is. One of the problems of Section VIII is financing and if we can involve the conventional lending monies that are around to finance Section VIII we'll have a tremendous resource that hasn't been available and that is what that amendment is assigned to do.

I should not overlook the fact that additional section VIII funding will allow the department to implement fully the $700 million allotted for section 202. There are quite a few people in this room who are interested in section 202 and the program is going ahead and this should mean an additional 25,000 units of housing for the elderly and handicapped for fiscal year 1978.

In direct response to the plight of the American city, especially the older distressed cities, the administration took the following initiatives and you'll recognize what these initiatives mean in terms of the changes that I was talking about. The out migration, the fact that the older cities are declining much more rapidly, and the poverty levels in the older cities. We have a three-year re-authorization for the community development block grant program. A $750 million increase over the current program to $4 billion annually. Increase to 4.15 billion in 1979 and 4.3 billion in 1980. The inauguration of a new $400 million urban development action grant program which you will be hearing about, and the term you'll hear is U-dac.

Change in the entitlement formula which will have the effect of targeting more federal aid to older cities. What specific effect does this last initiative have on two different areas in Ohio. You will be pleased and maybe surprised to hear this. The two examples are Cincinnati and Cleveland. In 1980 when old Congress agreements are phased out, the city of Cincinnati will go from 10,995,000 under the old formula, to 20,152,000 under the new formula. Cleveland will go from 16,784,000 under the old formula to 40,613,000 under the new formula. Almost a 250 percent increase.

These are the cautions that Secretary Harris noted. First, although what has been suggested is clearly a dramatic improvement of the previous administration's proposals it is still much less than we would like to have. Second, as much as the government does accomplish, it cannot reverse completely the downward trend in urban economics and housing without major assistance from private enterprise. The government can't do it alone and I might add, that business can't be expected to do it without appropriate government assistance. Finally, all that we do now at the public and private fronts are pretty stop-gap methods until this nation finally accepts its responsibility to develop a cohesive, dynamic and inclusive urban policy. And a principal part of any national urban policy is what Secretary Harris said on March 7th, "We must affirm as a nation, that a decent home is a right and that adequate shelter is a basic commodity, equivalent to food and clothing in the spectrum of human needs." She added that this is a point that cannot be compromised and all of who have made this business our life work totally agree.

Let me mention next what I mean by that kind of approach. We have here a distinguished citizen of Greater Cleveland, one Dorothy Duke, who back in the mid-sixties along with several other people representing the National Council of Negro Women, went down to Mississippi and re-developed a form of housing where the families, these poor families are not just renters but they have the opportunity to own these homes. In Cleveland, Miss., by the way, and surrounding area, these families are going to own those houses in about nine or ten years. Now, supposing that we had kept our eye on that ball, ten year ago, or even earlier. Supposing that we had had the national will and the national ability to pursue the endeavor in Mississippi and other rural areas, would we perhaps not have the problems we have in the northern cities today. I wonder.

What seems to be arising out of that, conflagration, are the neighborhood families themselves, are bonding together, rehabilitating their own buildings and managing together to maybe start living again in that part of the inner city.

I wonder if we transported that idea from Mississippi, and it can be transported by the way, we have the tools to do it, in the Bronx or any place else, I wonder if that wouldn't be possibly one of the best solutions to revitalizing or even now rebuilding those burned out areas and we have some old burned out areas in Cleveland, we have them in Washington, D.C., and we'll probably continue to have them.

A SHAMEFUL VERDICT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, the verdict rendered by Pretoria's chief magistrate following the South African inquest into the death of Steve Biko is a shameful travesty of justice. In spite of testimony that the police kept Biko's head injury a secret from doctors for more than 5 days, the magistrate ruled that the South African police were in no way responsible for Steve Biko's tragic death.

Although the guilty will not be brought to justice in this case, the image of the 30-year-old civil rights leader lying shackled hand and foot, incoherent because of his head injuries, naked, on the prison floor, will remain as a vivid reminder of just how brutal and inhuman South Africa's policy of apartheid truly is.

The verdict is an ominous sign for those 714 South Africans who are currently in jail for the same types of "political crimes" for which Steve Biko had been arrested. Just recently, while the world listened to the evidence in the Biko case, the news came that yet another South African black has died in detention without trial—bringing the number of victims to 21 over the last 20 months.

In the meantime, while the administration rightly denounces the South African policy and Congress does the same in the name of the American people, U.S. corporations continue to do profitable business in a country where blacks are paid one-fourth of the wages that whites receive for the same work. It is time for the Congress to bring this issue to the full attention of the business community and to make it clear that the American people are no longer willing to facilitate investment and trade relations with the Republic of South Africa.

A TRIBUTE TO LOUIS KANASTER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. ANDERSON of California. Mr. Speaker, the City Council of Los Angeles has designated this December 16 as Louis Kanaster Day. This is a fine tribute to an outstanding citizen.

As a member of the Public Works Committee, I have come to learn something about what it takes to develop a strong community. It may take a little money, or a little luck, but it most definitely requires people like Louis Kanaster. Dedicated, talented people, willing to work long and hard to serve the public.

Lou Kanaster has served. For 6 years, he was a member of the State of California Planning Commission, and for 14 years he was on the Los Angeles County Planning Commission. Of course, until recently he served as executive director of the Los Angeles County Housing Authority. He has clearly utilized his professional expertise to serve the public. Yet, Mr. Kanaster has also given a great deal of his personal time for the betterment of his community. For 40 years, he has been on the board of directors of the San Pedro Boys Club, and served as president of the Boys Club Southern Pacific Regional Council. He has been president of the Fisherman's Fiesta in San Pedro; and of the San Pedro Civitans; and Jaycees. Few have given more of themselves than Lou Kanaster, and we have all benefited.

Lou was born 64 years ago in Bayonne, N.J., but came to San Pedro while still a boy. He graduated from San Pedro High School, and then the University of Southern California. Times were hard then, in the early 1930's, and some people gave up on life. Lou threw himself into it.

We will miss having Lou as executive director of the housing authority. I certainly mean no disrespect to his successor, just as I do not envy his task of trying to fill Lou's shoes. Of course, we will still have Lou. His civic career is not over. This simply means he will have more time to serve us in other ways. And he will have more time to spend serenading his lovely wife Betty on the violin. Over the years, Lou has sometimes had to neglect his study of that instrument, and his stamp collection. But he has never neglected his community and it shows.

Few people ever get to see monuments to themselves. Louis Kanaster can point with pride to the Harbor Hills project;

and the housing complex that was the Maravilla project. And, in retirement, he will be able to watch the growth of newer monuments, such as the Carmelitos project, and that development where Lancaster home has stood.

Under Lou, the housing authority has grown to the point where it now has responsibility for 10,000 low-income housing units. I know that the families residing in those homes join my wife Lee and myself, and all those people whose lives Lou has touched, in thanking him, sincerely, and wishing him all the best in the years to come.

NATO'S ANNUAL REFORGER EXERCISES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mrs. SCHROEDER. Mr. Speaker, the first week in September the Air National Guard's 140th Tactical Fighter Wing, based at Buckley Air National Guard Base in Denver, took part in NATO's annual Reforger exercises. These exercises are, in part, aimed at demonstrating the ability of U.S.-based forces to move quickly to Europe in wartime conditions and integrate effectively with our NATO allies. The success of this year's exercise for the Colorado unit can add to our faith in both the concept and the readiness of our reserve forces. Some excerpts from an article by Ed Mack Miller that appeared in the Denver Post point to the success of the 140th's mission:

WINGS OF THE ROCKIES OVER HOLLAND

(By Ed Mack Miller)

"France takes Holland!" read a headline in an Air Force publication a few weeks ago. But there was no cause for alarm because "France" was Brig. Gen. John L. France, commander of the Air National Guard's 140th Tactical Fighter Wing, based at Denver's Buckley Air National Guard base.

General France, who turned 44 while at Gilze-Rijen Air Base in Holland, is the jet-flying lawyer who led 18 A–7D fighters across the Atlantic in Operation Coronet Ante the first week in September in support of NATO Cold Fire maneuvers. The deployment was part of the annual Reforger exercises in which U.S.-based forces demonstrate their ability to move quickly to Europe in wartime conditions.

The 140th Wing is a citizen-soldier unit made up of three squadrons in Colorado, New Mexico and Texas. (The Netherlands deployment utilized only the Colorado and New Mexico units because the Texas squadron flies a different type of fighter, the older F–100, for which there was no task assigned in Operation Cold Fire.)

The concept of a citizen-soldier guardsman—who during the week may be lawyer, butcher, baker, hairstylist, accountant or supermarket checker—is not new. It goes back to the days of Lexington and Concord. But in the Air Guard's first deployment ever to the Netherlands, several new concepts were added. Women played a significant role, moving into the jobs they had been trained for one weekend each month at Buckley Field, specializing in such varied fields as intelligence, operations, photography and supply. (Undoubtedly, the next time the Guard deploys to a foreign country, women will be flying some support planes—and eventually, fighters as well.)

But, if the presence of women on Operation Coronet Ante was a new departure, even more so was the fact that the modern guardsman has become a front-line troop, performing his or her mission within a few hours after an enemy attack. Using guardsmen, the United States can double its presence in Europe in hours.

The deployment of 18 A–7D (Corsair) fighters and 300 personnel to Gilze-Rijen Air Base in Holland demonstrated that this new and bold concept is valid. It is a far cry from the old days when a guardsman or a reservist was called up only to fill gaps created by fallen regulars.

While the 140th's role in Reforger was only one small part of the fall NATO exercises in Europe, the Colorado Wing had confidence that it could do the job. But it took a lot of planning, because the logistical problems were extensive and complex: The challenge was not only to move a strike force and its support arms into position, but to collocate with another NATO entity—in this case the Dutch—at one of its bases and function as a team.

Could the Americans and the Dutch work together when even the language could be a problem? Could the U.S. fighters get "a drink" of fuel from Dutch fuel trucks? Would the fuel hoses reach? Would the nozzles fit the receptacles? Would munitions, arms and stores from the Dutch have fittings allowing them to be used on the American "birds"? An exercise like Reforger shows whether the butcher, the baker and the candlestick maker can perform in a professionl military manner.

But this Cold Fire portion of Reforger was not just flying fighters on a lot of missions in any kind of weather. It was also the less glamorous but necessary process of logistics, of supplying beds and chow and munitions and fuel and spare parts. It was also learning Dutch habits, Dutch phrases, finding out where to get the laundry done, where to buy razor blades or the towels you forgot to bring, where to get postage stamps and where to get a beer when the day's work was done.

Within 12 hours after arriving, maintenance crews had turned the tactical fighters around, and the pilots began flying familiarization flights with Dutch pilots in Northrop NF–5s leading the A–7Ds. Once a few of the Guard pilots were oriented, they would return to lead other A–7D pilots through the flying procedures. Once ready, the A–7D pilots stood by "to be tasked" from higher NATO headquarters; then they were off in support of tank and ground troops fighting a mock war somewhere in Central Europe, west of the Iron Curtain.

What made it possible was the fact that nearly all Dutch troops at Gilze-Rijen could speak English. The Dutch had prepared well. (They even sent their cooks off to school at the American base at Soesterberg near Utrecht to learn to fry bacon and eggs for the Yanks. They realized the Americans would have a difficult time with the usual Dutch breakfast fare of sliced cheese and blood-sausage cold cuts.)

Col. Verne Marooney of Denver, wing director of logistics and chief of maintenance for the Colorado Air Guard, summed up the three-week exercise:

"The integration with the Dutch in the various command, control and maintenance functions went more smoothly than anyone could have reasonably expected. Anything we needed and didn't have, the Dutch got for us immediately.

"We flew 368 sorties—853 hours in 15 flying days with 18 aircraft. Our in-commission rate of fully combat ready aircraft was 95.8 per cent for the total operation."

Lt. Col. James W. Van Scyoc, commander of the 188th Tactical Fighter Squadron, Albuquerque, who is of Dutch heritage, said:

"It was a fine operation. Even the weather was great."

The Netherlands fighter pilots threw a final party. Everyone from both sides exchanged everything from wings to nearly full uniforms, squadron insignia (and even cowboy hats for wooden shoes).

The Dutch commander, Col. Van der Spek, in his final salute to the Air Guard troops said: "During the weeks we have been operating together, we learned to know your wing as being highly professional, fully combat-ready and extremely highly motivated." And then he did something unprecedented in Dutch history as far as anyone could remember. He gave the 140th a Royal Netherlands Air Force flag.

The feelings of the troops in working with their Dutch opposite numbers were perhaps best summed up by Tech. Sgt. John Pickette, 41, of Albuquerque, a 17-year Guard veteran: "The Dutch people have been extremely nice and the troops very cooperative. The country is absolutely beautiful. This has been one of the great experiences of my life."

When the Colorado and New Mexico units returned to the U.S., they received this message:

"To all personnel of the 140 Tactical Fighter Wing, 'Welcome Home': Coronet Ante adds another chapter to the distinguished record of the 140th TFW. Your deployments were conducted in a professional manner, your sortie rates unparalleled, and your interface with the Royal Netherlands Air Force a clear message of our commitment to NATO and the defense of Europe. Please express my appreciation to all personnel.

James D. Hughes, Lt. Gen. USAF
12AF Commander"

It was, as the Dutch say, *a goed gedaan!* (a good show). To which they added: "The *Speedwell* made it to the U.S. this time. *Gerveldig! Kom gauwterug!*" ("Marvelous! Come back soon!")

DURHAMS FOSTER PARENTS OF THE YEAR

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. FINDLEY. Mr. Speaker, seldom in my life have I been so moved as by a story which recently appeared in the Springfield Journal-Register about the Wilbur Durham family—all 62 of them. Mr. and Mrs. Wilbur Durham, who I am proud to call constituents, not only raised their own family of four children, but then proceeded to rear 56 other children for varying periods of time.

I can add nothing to the story, which is without question one of the most eloquent and poignant I have ever read, except perhaps this: Through their selfless love, they have been able to do what hundreds of Government programs have not—save the spiritual, emotional, and intellectual lives of abandoned and homeless children. Would that there were more people like the Durhams.

Text of article follows:

THEY'VE CARED FOR AND LOVED 56 FOSTER CHILDREN

(By Fran Bernard)

One by one, the children wake up from their naps and come out to the living room where the "Foster Parents of the Year" are being interviewed.

A three-year-old little bit of a girl crawls up on Wilbur Durham's lap and settles sleepily in his arms for a few minutes, looks up at him and holds out her new red shoes for him to put on.

A four-year-old girl, ribbons in her hair, dances across the floor, quickly followed by another four-year-old.

They run right to Mary Durham, "Grandma," for permission to go out to play in the big back yard. But it's raining, so she tells them to stay in and they head for the playroom at the back of the house where two boys, ages 6 and 7, are already settled in front of the tiny table television set playing a game.

The babies wake up last.

First, a chunky blond 16-month-old boy hungry for his milk. Then a fairhaired 17-month-old girl, who circles the coffee table picking up first one thing, then another, to touch and feel.

She's blind, you see.

When "Grandpa" picks her up, she explores his face, pulling at his nose and patting his cheeks, comfortable in his arms, content in her environment as all seven seem to be.

In a way, they're lucky children.

At least for now, they're in a foster home where there's love and good care and a full measure of devotion to their well-being.

Wilbur and Mary Durham, 1820 E. Keys, have cared for 56 foster children, plus four of their own, since 1962 when they were licensed by the State of Illinois Department of Children and Family Services as foster parents.

Although presently they have just seven, they're licensed for eight and through the years have generally had eight children in placement at a time.

They were not easy-to-place children.

They were Mongoloid, retarded, hyperactive, physically handicapped, terminally ill, abused and neglected children.

"I remember once the agency told me, 'Mary, you've got a perfectly normal baby this time,' and that one turned out to be my crossest baby," says Mrs. Durham, with a smile.

She's never asked for any recognition for her years as a foster parent, nor has her husband.

But Friday and Saturday, statewide recognition will be theirs.

The Child Care Association of Illinois will present them with an award as the "Foster Parents of the Year" at the 1977 fall workshops in Rockford.

"I'm scared to death," says Mary Durham. "I won't know what to do."

Her husband just smiles and says softly, "She'll do all right. She always has."

Mary Durham always wanted a big family.

She grew up in the orphanage at Alton where "everyone was responsible for everyone else."

Before she left at the age of 15, she was responsible for 23 little girls, seeing to it they got to chapel, to meals, and to classes neat and clean and on time. And she came home to a household that included two small half-brothers to help raise.

She married Wilbur Durham 30 years ago and within the next ten years they had four babies, two girls and two boys.

She was 41 when the last one was born, and she started watching other children along with her own. A natural thing to do from her viewpoint . . .

But, she found she had to have a license to watch children.

The Department of Children and Family Services did a study on her home, asked if she would consider going into foster care, and she agreed with the support and encouragement of her husband.

Caring for the children was easy.

Losing them to adoption, the heartbreak.

The second baby, they had almost three years. They still can't talk about the day she left.

Angel was next.

She was four days old when they got her from the hospital. The mother didn't want her, wouldn't even look at her, wouldn't name her.

"They just called her Baby Girl, so we named her Angel," Mrs. Durham says, remembering. "She had a harelip, but after plastic surgery she was beautiful.

"At seven months, they adopted her out.

"I told them, don't bring me any more, I can't stand this.

"Daddy went to the hospital with a kidney condition that flared up. The whole household was upset. But within two weeks, I was on the phone telling them to bring someone else."

A two-year old who was an epileptic is another lump-in-the-throat memory.

"He shaved with Daddy the morning we took him back to his parents. He had his own little shaver. When we got in the car, he kept saying 'I'll be back, Daddy, I'll be back.'

They almost adopted one little boy they had for three years. "Gino," they called him, although that wasn't his real name.

He ran a continuous temperature, and they took him to hospitals in St. Louis and Chicago trying to find out why. He had a large head but was not hydrocephalic. "He was so sweet and such a pretty baby, but nobody wanted to adopt him. We asked for him."

The agency said wait a year, and two months before the year was up he was adopted.

"They never brought him back to see us.

"They couldn't, the ties were so close they were afraid."

Two black babies they took when the girl was four months and the boy seven months were with them the longest—five years.

When they were ready for school, the Durhams knew Fairview school wasn't read for mixed classes, so they asked the agency to take them and place them in black homes. "To this day, one of them still calls me Mother."

They're called "Grandma" and "Grandpa" usually, she explains.

That way the children are ready to accept a new mother and father more easily.

A careful procedure is followed to help the foster children prepare for return to their biological parents or to a new mommy and daddy through adoption.

First, the adoptive parents-to-be come to the Durham's modest home to meet the child and them. After two or three visits, the child begins to recognize them and feel familiar toward them.

Next, the people take the child for out-of-the-house visits. It may be just over to the nearby Dairy Queen, and it may be for a very short time.

The next step is an overnight visit at the people's home and maybe then a weekend, depending on how the child responds.

"And then I take him to the home and leave him for a day so he can get used to my leaving," Mrs. Durham explains. "All of this time we're talking to him, telling him that one of these days he'll get to stay with his new mommy and daddy and won't come back.

"The children accept it, but it takes time."

When the day finally arrives, the Durhams make it a big day. There's always a party before it's time to get in the car and take the child to his new home.

"But I can't say that last good-by," she admits and Wilbur Durham adds "Some you get closer to than others, especially if you've had them quite a while."

Wilbur Durham is every bit as involved as his wife with the foster care program.

He is a quiet, gentle man, a "gentleman" in the true sense of the word. He shakes his head in wonderment as he tells of a remark the 7-year-old boy made recent to him, a boy who has been physically and emotionally hurt over and over again by adults.

"He asked why it was bad for him to tell a lie and not bad for grown-ups. In other words, he's been hurt and lied to so much he just can't understand."

Durham is gone during the day at his job at the Pennington Equipment Company, but weekends he takes over and his wife takes off.

"I get my hair set and go shopping for the children and get out of the house," she says. "He does all the grocery shopping and all the cooking and leaves me free. Maybe on the spur of the moment I'll take four or five of the children out to dinner.

"I've taken off as long as a weekend and left him four babies in cribs. He's just as good as any woman and better than some."

The Durham's own children are now 28, 27, 24, and 20. They help immensely and always have. The married daughters come in and "take over the household" periodically, giving up their own vacations to allow their mother to get away on trips to Hawaii and the Caribbean, for instance.

"She likes to go, and I like to stay home," says Durham, grinning at his wife.

The Durhams have four grandchildren they've helped raise, also. The latest is just over a month old, and his mother is going back to work Monday.

The baby is already used to the crib at the foot of their bed.

"The grandchildren are here with the foster children daytimes," Mrs. Durham says. "They all have their birthday parties together. We have birthday parties all the time here."

The New Year's Eve party is the most fun. The children take a late nap so they can see the New Year in, and they have paper hats and horns and pans to bang on. "Daddy fixes hors d'oeuvres on a big tray on the coffee table and, we open the couch up into a bed so the children can watch television until they fall asleep. Some of them don't quite make it until midnight. . . .

"The grandchildren come, too. You know the younger set likes to go out, and we don't care about it."

Money is a problem for any ordinary family, and the Durhams spend far more on the children than they receive in subsidies from the state.

For an infant, a foster family gets $96 monthly for board and $10 for clothes. For ages 3 to 5, it's $95 for board and $16 for clothes. And from age 5 to 9, it goes up to $100.50 for board, $18 for clothes, and 3.50 a month for personal allowance for the child.

Any parent who has tried to buy a pair of children's shoes in the last year can appreciate the difficulty of stretching that amount of money to cover needs.

"I usually have clothing on hand when a child is brought to me," Mrs. Durham says.

She has to. Many times the call comes in the middle of the night. A baby is abandoned, or abused to the point the police are called, and the authorities know they can turn to the Durhams any time of day or night.

The Durhams have four cribs in one small bedroom presently, plus the small size crib in their room and a trundle bed for the boys. They have five extra beds in the garage and, for emergencies, can open up the living room couch.

They've added an enormous playroom on the back of the house, and the back yard in their double lot has two swing sets, a jungle gym, a good basketball court, and even a big tank for a swimming pool.

"It's a way of life," muses Durham.

Mary Durham has literally saved the life of more than one foster child in her care.

One with serious brain damage had a collapsed esophagus, complicated by a case of thrush. He had to be fed by teaspoon every hour. Another child, a black boy, was retarded and blind and in braces.

A severely abused child described by the doctors as being in a terminal condition was brought back to health by the Durhams, and another with bronchitis that caused him to be tube-fed was rushed to the hospital more than once after completely stopping breathing.

Dr. D. J. Mauro tought Mrs. Durham how to use a stethoscope after she finally bought one herself. "Dr Mauro worked with me and taught me so much," she says gratefully. "I learned how to listen for signs of pneumonia and bronchitis, and he always believed me when I called him."

She sought training from the hospitals and from Hope School and Aid to Retarded Children to better enable her to care for the children.

And she kept daily records on each child's progress which provided valuable assistance in diagnosing and treating the complicated medical problems of her charges.

She's 60 years old now and says she's trying to retire.

"But our work isn't finished," she insists.

Her husband nods in agreement.

"Remember not long ago when we got down to three," he says, "and we thought it would be a good time to kind of phase out. But the next thing we knew, three came back and then a phone call came in the middle of the night . . .

"How could we say no?"

No wonder Wilbur and Mary Durham are "Foster Parents of the Year."

SOCIAL SECURITY

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. BADHAM. Mr. Speaker, with all the emotional debate of a few weeks ago revolving around universal coverage of the social security program, we heard the emotional outcries of the proponents of the Fisher amendment to eliminate all public employees saying that their benefits would be reduced.

Mr. Speaker, you and I and the Members of this House know that in reality no one's benefits were going to be reduced. To the contrary, we would have required paying into the social security system all those but only those who would potentially receive an eventual benefit.

I received a letter from a constituent of mine which graphically illustrates part of the flagrant abuse of the social security system. This letter demonstrates not the greed of Federal employees but rather the situation of employees of the system forcing almost unwanted dollars on embarrassed citizens.

If this situation is repeated many times, it is clear to see how the system is going broke. The cure for this is universal coverage.

The letter follows:

Dear Bob: An incident occurred yesterday which makes me appreciate much more what you said Friday evening about "universal" membership in Social Security being the answer to Social Security problems.

My next door neighbor came over yesterday to tell me about his experience with SS.I. He is retired from the U.S. Postal Service and as such, gets an adequate retirement income, and his wife is retired on Social Security. His insurance company representative (also a P.O. retirement benefit) told him to go into the Social Security office and apply for "Medicare A" to bolster his insurance benefits, had neither Medicare "A" and "B".

When he went into the Oceanside office to apply for Medicare "A" only, he was told that because of a Supreme Court decision last March (obviously a result of ERA), he also was entitled to Social Security payments on his wife's membership, and he was pressed to fill out an application for it, although he told the clerk he only wanted Medicare "A".

Saturday he received a check from Social Security for more than $950 (I believe it was $954.00). He showed me the check for his payments back to March 1977. He was visibly embarrassed because he said he did not feel entitled to it. He said he is getting enough to get by, which was all he felt entitled to. I asked him if I might write to you about this example of why Social Security is fast going bankrupt, and he said "yes" and that I could use his name in writing.

At first he felt like returning the check and then he thought if it was the law and others received it, it would be a futile gesture to return it.

I thought you might be interested, and it would add strength to your case for universal membership in Social Security.

Sincerely,

Grace E. White.

P.S.—In addition to your Contract of the Month (in your Congressional Update of November 14, 1977), I would like to add the Award of the Year—the more than $6000 Art Award given to the woman who discovered that crepe paper was more artistic in falling than toilet paper when thrown from an airplane! Henceforth, I think all money to encourage art should be deleted from the budget. Also all money for Women's International Year should be deleted. It is obviously only a radical "Women's Lib" dominated organization, not endorsed by the majority of American women.

Thanks for listening.

HORSE CENSUS III

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. BRECKINRIDGE. Mr. Speaker, on April 4, I introduced H.R. 5935, directing the Secretary of Agriculture to conduct a horse census starting in 1978, and reintroduced the bill on May 5, H.R. 6937, to amend its provisions by providing for a $1.25 million authorization annually, beginning in fiscal year 1978. This change reflects the opinion of the Statistical Reporting Service of USDA to the effect that an accurate national census count of equines can be achieved within this funding level in one-third of the States, annually, for the ensuing 3-year period.

Mr. Speaker, in the 7 months since the horse census bill was introduced, hundreds of organizations, businesses, and individuals involved with horses in the United States have written to me expressing the need for, and their support of, this legislation.

Support for the bill has grown in the House and since it was first introduced; there are now 14 cosponsors, including Mr. Eligio de la Garza of Texas, chairman of the subcommittee, Mr. Carter, Mr. English, Mr. Goodling, Mr. Jenrette, Mr. Lagomarsino, Mr. Montgomery, Mr. Perkins, Mr. Quie, Mr. Robinson, Mr. Santini, Mr. Waggonner, Mr. Hightower, and Mr. Chappell. H.R. 6937 is presently before the Department Investigations, Oversight and Research Subcommittee of the House Agriculture Committee.

Mr. Speaker, several horse organizations have also endorsed the bill. The American Horse Council, and its more than 80 affiliated associations, is one of the bill's main backers.

Disease control constitutes an important element of the bill. To promote health research and insure adequate production of vaccines during outbreaks of equine diseases, information as to the number and location of the Nation's horses is essential. Without this knowledge, these diseases can rapidly spread, severely reducing the horse population.

An accurate census is also needed to guide the industry in marketing and other decisions. The horse industry is constantly expanding. Horse owners spend more than $7 billion per year on feed, upkeep, equipment, and services for their horses, and their combined annual investments and expenditures exceeds $13 billion.

The need for the legislation is shown by the service that horses provide as one of our country's greatest sources of recreation and entertainment. There are now over 320,000 young people involved in 4-H horse projects. Over 3,300 horse shows drew more than 112 million spectators in 1975 alone. Horse racing remained the number one spectator sport for the 24th consecutive year, with over 78.5 million people attending races in 1975.

The bill would authorize the Secretary of Agriculture to take a count of the Nation's horses in 1978 and every following year. The census will include the national total of all horses and detailed information for one-third of the States each year, on a rotating 3-year cycle. All the data obtained from the census would be published, annually and cumulatively, for the public's information and use.

Mr. Speaker, the Kentucky Horse Council has conducted—in concert with the USDA—a preliminary report on the number of equines in our State. Our Kentucky Horse Council has been a prime mover and innovator in sparking interest in a horse census. I should like to insert a copy of a press release dated September 14, 1977, from the Kentucky Horse Council, outlining their efforts in counting equines.

The Kentucky Horse Council's press release follows:

Kentucky Reports Over 200,000 Equines

The Kentucky Horse Council, the U.S. Department of Agriculture's Kentucky Crop and Livestock Reporting Service, and the Kentucky Department of Agriculture have jointly released a preliminary report on the size and makeup of the Kentucky equine industry.

The report, a two-page summary of major findings enumerated by the 1977 Kentucky Equine Survey conducted by the Kentucky Crop and Livestock Reporting Service, indicates that as of May 1, 1977 there were an estimated 204,000 equines in the state. Light and draft horses represented 74.3 percent of this total or 151,500. Ponies accounted for

41,500 head and mules and donkeys totaled a surprising 11,000 head.

Pleasure riding was the largest use category, with 94,000 equines owned primarily for recreational enjoyment.

Throughout history, Kentucky has been known primarily as a breeding state—the state's prominence as the horse center of the nation developing because of the quality of the animals born and raised within its borders. It is not surprising then that the next largest use category is that of equines held primarily for breeding purposes, which includes 38,000 head.

Although mechanization came to farming long ago and was partially responsible for the rapid decrease in the number of horses in the United States in the second quarter of the twentieth century, the steep hills and specialized farming in Kentucky have tended to keep the work horse and mule a vital part of today's equine industry. About 24,000 head are used as some sort of work animal. It is not an uncommon sight when traveling through Kentucky to see, for example, a work horse or mule harnessed to a plow threading its way through rows of close growing tobacco.

An almost equal number of Kentucky equines are used mainly for show or racing, 20,000 and 19,700 head respectively. The remaining 8,300 head are used in a variety of other ways, some of which may eventually overlap into the major use categories when the final analysis of the Kentucky Equine Survey is completed.

A formal publication will be prepared and published later in the year and will also include information on the location of equines in the state, the number of horses by breed, the acreage associated with the Kentucky equine industry, and the number of equine operations by type.

Copies of the preliminary report are available from either the USDA Statistical Reporting Service, P.O. Box 1120, Louisville, Kentucky 40201 or the Kentucky Horse Council, P.O. Box 11992, Lexington, Kentucky 40511.

THE TAXPAYERS ARE SUFFOCATING

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. HYDE. Mr. Speaker, a very tiny portion of the President's National Energy Act—Mr. Carter's "moral equivalent of war," is likely to complete the suffocation of the already gasping taxpayer.

Buried in the midst of the President's energy proposal is a section repealing the personal income tax deduction for State and local government taxes imposed on gasoline, diesel fuel and other motor fuels used for nonbusiness purposes, effective for purchases after December 31, 1977.

The Ad Hoc Committee on Energy and the Ways and Means Committee rubber-stamped repeal of this deduction. The Democratic-dominated Rules Committee only allowed debate and votes on certain amendments last August when this body considered the bill, and predictably, prevented debate and vote on the Republican alternative which continued the personal deduction.

According to projections of the Joint Committee on Internal Revenue Taxation, this little-noticed section of the energy bill will cost the American taxpayers $1.383 billion in 1985—and this committee anticipates that no energy savings will result because of the repeal.

Permit me to cite a glaring example of why it is important for the taxpayers to continue this personal deduction:

Last Thursday, at 1 minute after midnight, the total taxes on a gallon of gas purchased in the six-county Chicago area increased to the highest in the Nation with the imposition of a 5 percent regional transit authority gasoline tax. Cook County residents now pay as high as 20 cents tax for each gallon of gasoline they purchase.

Chicago area residents are angry about the RTA tax—5 percent on top of all the other Federal, State, and local taxes they pay on gasoline. Their one meagre consolation was in knowing they would have the option of deducting State and local gasoline taxes when income tax time rolls around next year. Of course, even this is no help to those who do not itemize the deductions.

Residents of the six-county Chicago area are still reeling from the RTA 5-percent tax. Wait until they find out what else is in store for them as a result of the President's energy tax bill!

Last August when this body debated the National Energy Act, some of us concluded the administration's proposals were a one-way ticket to economic disaster, failing to address the vital question of energy production, while using the Federal tax code as the primary element of a national energy strategy. It was a tax revenue program then and it is a tax revenue program now, wherein the administration will set the price and distribute the proceeds politically.

Mr. Speaker, we express our sympathy for every endangered species except one—the battered and bruised taxpayer. Unless some constructive concern is exercised by those who impose these taxes, instead of solving our problems, we will compound them and cause even more erosion of public confidence in our system of government.

The National Energy Act will represent the most significant increase in middle America's tax burden in our Nation's history. Following on the heels of heavy increases in social security taxes, it could be catastrophic.

The American people are frustrated. All they see is higher prices and more taxes. This Congress will only add to their burdens by forcing upon them this gigantic tax increase bill.

There is still time to take the only prudent course—scrap the National Energy Act and start over. History will look more kindly upon the 95th Congress if we exercise more judgment and less ideology in determining the course of our energy policy.

Consider the taxpayers who must foot the bills for whatever we do. At the very least, we should retain the personal deduction for State and local gasoline taxes.

I call upon my colleagues to join me in personally contacting the conferees on the energy bill—urge them to at least retain the personal deduction. Do not be guilty of saddling the taxpayer with another $1.383 billion in taxes on top of everything else.

Let us stop assaulting the taxpayer, or they just might assault back!

NEED TO INCREASE THE STAFF OF THE FARMERS HOME ADMINISTRATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. AuCOIN. Mr. Speaker, I would like to enter into the RECORD today a letter I wrote, which has been signed by 51 other Congressmen, urging President Carter to allow an increase in the staff of the Farmers Home Administration. Additional staff are absolutely essential if the current employees are to successfully meet the challenges of expanded programs so that more houses, industry, and jobs will be created for the increasing rural population.

The letter follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., November 9, 1977.

HON. JAMES EARL CARTER,
The White House, Washington, D.C.

DEAR PRESIDENT CARTER: We write with deep concern about the future of Rural America, a concern we know you share. Few federal agencies are more important to the economic well-being of rural areas of our country than the Farmers Home Administration (FmHA).

The FmHA is a major source of credit for a wide range of rural needs—for farmers, small communities, businesses and, of course, those who lack decent housing. The FmHA is uniquely suited to the special credit needs of rural areas because it provides direct service from locally based people in over 1,780 offices.

In addition, it provides direct loans in most of its programs, thus assuring lower costs for the consumer. Today, the FmHA is the largest direct lending federal agency, making more than 250,000 loans and grants valued around $7 billion in FY 1977.

After years of a steady loss in population in rural areas, the first reversal in that trend is now apparent. As a result, the programs of FmHA are more important than ever to assure that new business and industry will be created, that the essential water and sewer facilities will be made available, that small farmers will be able to prosper and that low and moderate-income rural people will be decently housed.

Of particular significance in light of the high unemployment and increasing population in Rural America is the dramatic impact of FmHA programs on the creation of jobs. For example, the National Association of Home Builders estimates that every new house generates two person years of employment. Mr. President, the jobs generated by FmHA are not phony ones—they are real, productive employment.

Department of Agriculture figures indicate that in 1976 FmHA farming, housing and community services programs created and saved more than 1 million jobs in Rural America.

Congress has recognized the importance of FmHA to Rural America by steady and substantial increases in the funding levels for the Agency's programs. Congress also has recognized that a multiplicity of important programs cannot be operated without adequate staff. In response, enough funds for 300 new permanent employees for FmHA were provided in the FY 78 Agriculture Appropriations Act.

We were extremely concerned, then, to learn that the Office of Management and Budget has required a reduction of 1,600 people in the Department of Agriculture's employment ceilings for FY 1978. This brings into serious doubt, the status of the Congressionally mandated 300 person staff increase at FmHA.

Mr. President, during your campaign you stated on a number of occasions that you were going to make the federal bureaucracy more responsive to the needs of the people. In the case of FmHA, the bureaucracy is responsive to its constituents because of its locally based structure and direct loan programs.

However, additional staff are absolutely essential if the current devoted employees are to successfully meet the challenges of an expanded set of programs so that more houses, industry and jobs will be created for the increasing rural population.

We are asking the House Agriculture Committee to hold oversight hearings on FmHA staffing needs, with a major emphasis on the Administration's response to the problem. We trust that you will ensure that the Congressional mandate about FmHA staffing is implemented.

With warm regards,

Sincerely,

Les AuCoin, Bill Alexander, Ed Jones, Stan Lundine, Philip Ruppe, Gillis Long.

Norm Dicks, David R. Obey, Matthew F. McHugh, James L. Oberstar, Frank E. Evans, Lee H. Hamilton, Albert Gore, Jr., Bob Traxler, Walter Flowers, James M. Jeffords.

Helen S. Meyner, Paul E. Tsongas, Michael T. Blouin, Berkley Bedell, Christopher J. Dodd, William F. Walsh, Arlan Stangeland, Robert J. Cornell, Leon E. Panetta, Mike McCormack.

Neal Smith, Charles Rose, Edward R. Roybal, Charles Grassley, Rick Nolan, Donald M. Fraser, Norman D'Amours, Frederick W. Richmond, James C. Cleveland, John Paul Hammerschmidt.

Bo Ginn, Walter Jones, J. J. Pickle, Jim Santini, Dan Glickman, William A. Steiger, James J. Florio, David W. Evans, Tom Harkin, James M. Hanley.

Nick Joe Rahall II, Robert Drinan, David E. Bonior, Don Edwards, Floyd J. Fithian, William S. Cohen.

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. McDONALD. Mr. Speaker, due to a commitment made prior to the decision to reconvene the week of November 29, I was unable to be in attendance. If I had been present, I would have voted as follows:

Rollcall No. 747, "No."
Rollcall No. 748, "Yes."
Rollcall No. 749, "Yes."
Rollcall No. 751, "No."
Rollcall No. 753, "No."
Rollcall No. 754, "No."
Rollcall No. 755, "No."
Rollcall No. 756, "No."
Rollcall No. 757, "Yes."
Rollcall No. 759, "No."

THE 19TH MEETING OF CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. FASCELL. Mr. Speaker, the Canada-United States Interparliamentary Group will hold its 19th annual meeting February 9–13, 1978. House participation in the group was authorized in 1959 for the purpose of discussing specific issues in United States-Canadian relations. In recent years, we have discussed not just bilateral problems, such as environmental, energy, and trade issues, but we also have considered prospects for United States-Canadian cooperation in dealing with both domestic concerns and multilateral issues.

The agenda for the February meeting is presented below. As chairman of the House delegation, I invite Members to provide me with any suggestions as to additional issues which should be discussed.

Furthermore, the delegation welcomes any statements which members may wish to submit regarding any of the agenda issues.

A report summarizing the discussions will be made to the House shortly after the conclusion of the meeting.

The agenda follows:

DRAFT AGENDA FOR 20TH MEETING OF CANADIAN-UNITED STATES INTERPARLIAMENTARY GROUP

COMMITTEE I—MUTUAL DOMESTIC AND MULTILATERAL ISSUES

1. Nuclear proliferation; Canadian and American safeguards, fast-breeder technology, the problem of nuclear waste, SALT problems.

2. The 200 mile limit; the resolution of Canada-United States maritime boundaries issue for fisheries and resources.

3. The deep-seabed issue of the Law of the Sea Conference.

4. The Canadian political situation.

5. Linkage of U.S.-Canadian issue.

6. Role of internal security forces in a democratic society.

7. Human rights including CSCE.

8. Development assistance.

9. Southern African questions.

10. Grains; international reserves, marketing systems, allocation of supplies in times of shortage.

COMMITTEE II—TRADE AND ECONOMIC ISSUES

1. Trade issues—

(a) status report on automotive trade; possible corrective action on auto parts imbalance;

(b) U.S. convention tax; impact on Canadian current account;

(c) MTN negotiations; bilateral and multilateral concerns and objectives; tariffs and NTBs;

(d) Chicken marketing boards.

2. Metric conversion: a comparison.

3. St. Lawrence Seaway tolls; possible agreement.

4. Cross-border workers; status report.

5. Canadian and U.S. economic situations; how to handle stafflation and unemployment; discussion of OECD McCracken study.

6. Investment climate—

(a) Canadian foreign investment policy;

(b) Provincial jurisdiction over resources; potash, asbestos;

(c) Quebec;

(d) Impact of depreciation of Canadian and American dollars;

(e) Impact on Canada of possible restriction by U.S. of technology transfers.

7. Canadian and U.S. international competitiveness; rising trade deficits; state of the economies; cooperative R and D programme.

COMMITTEE III—ENERGY AND ENVIRONMENTAL ISSUES

1. Status report on supply and price of gas, oil, electricity, and uranium.

2. Status report on the ALCAN gas pipeline agreement. Some ongoing issues: size of pipe, pipeline procurement, offshore competition, financing, administration of pipeline construction, environmental difficulties.

3. Oil pipeline routes in light of restrictions on Cherry Point; feasibility of Kitimat, Port Angeles, cost comparisons, environmental impact.

4. Comparative programmes—Canada-United States—

(a) Conservation measures and policies;

(b) Reserves and storage policies;

(c) Environmental pollution control standards.

5. Energy exploration and transportation; possible environmental problems—

(a) Arctic—Beaufort oil and gas; Eastern Arctic gas; LNG tankers;

(b) East and west coast tanker traffic; hazards and regulation; refinery locations; status report on Eastport.

6. Air pollution; U.S. north-east air pollution of Martimes: Cornwall Island; Boundary Wilderness (Atikokan); Poplar River.

7. Great Lakes Water Quality; status report on revision of agreement.

8. Status report on Garrison Dam, Dickey Lincoln, Flathead River, Champlain Richelieu.

LOOKING OUT FOR AMERICA'S KIDS: A NUTRITION LOBBY

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. NOLAN. Mr. Speaker, development of a national nutrition policy has become a high priority for several Members of Congress in recent years. Already during the 95th Congress, we have passed legislation making substantial improvements in the school lunch and summer feeding programs. That legislation also included provisions to initiate a long-overdue program of nutrition education in conjunction with Federal feeding programs for children.

In the coming months, similarly important legislation will be before us. The highly successful women, infants, and children's feeding program (WIC) will come up for reauthorization, and the issues of quality foods in Federal feeding programs will be the subject of legislation hopefully. In these issues, as in the past, my colleague from California, GEORGE MILLER, will play a key role. GEORGE's knowledge of these programs, and his legislative record on expanding and improving them, is well known to every Member of the Congress.

I am gratified to see, in a recent article in one of George's local papers, a detailed report on these nutrition issues. In particular, I am pleased to know that George's constituents in Contra Costa County are being fully informed of the important role their Congressman has played in providing national leadership on issues regarding nutrition and children's health. I would like to share this article with my colleagues in the House:

Looking Out for America's Kids: A Nutrition Lobby

(By Kathy Batts)

Washington.—These days, there is a congressional caucus or lobby for just about every special interest group in America.

But the newest legislative lobby represents constituents who do not vote and do not give campaign contributions. Most probably never write a letter to their congressman or senator.

They are the future's constituents. And the Children's Lobby consists of a bipartisan group of lawmakers who say they are determined that these future voters grow up healthy.

At the helm of the Children's Lobby is Rep. George Miller, D-Martinez. He's joined by Reps. Frederick Richmond, D-N.Y., William Wampler, R-Va., Richard Nolan, D-Minn., and Sens. Hubert Humphrey, D-Minn., Robert Dole, R-Kans., Edward Kennedy, D-Mass., Jacob Javits, R-N.Y., and James Sasser, D-Tenn.

The group is trying to establish a national nutrition policy for America—the best-fed nation in the world.

Their plan for feeding hungry children will not be a new set of programs. Instead, the congressmen say they will build on existing programs, coordinating them around a basic nutritional plan.

These programs include free and reduced-price school lunches, school breakfasts, the summer feeding program and a special supplemental food program for pregnant women, infants and children (WIC).

Miller often has had a hand in nutrition legislation. In 1975, he introduced the bill extending funding for the WIC program (originally a Humphrey proposal). The bill also marked an achievement in another sense for Miller—it was the first bill by a freshman lawmaker signed into law that session.

This year Miller has introduced the Meals-On-Wheels addition to the Older Americans Act, and the bill extending the school lunch program. He co-sponsored a bill calling for a presidential commission on malnutrition in America.

His plans for next year include a bill on nutrition education and further amendments to the school lunch program, to apply it to institutions, such as orphanages.

Miller's interest in the national nutrition policy, to be formed next year, centers on nutritional quality. He would like to get junk food out of school cafeterias.

This new emphasis on quality will probably become a feature of the national nutrition policy. At least, Miller hopes it will. He says he also would like to see nutrition education in the plan. Although the proposed new policy is expected to be embodied in legislation slated for introduction into Congress next spring, the details of the measure have not been determined.

The national policy will take the place of several statutes and may include some government reorganization, says Brad Michaelson, an aide in Rep. Richmond's office. Participating at the executive end of the policy plan will be the Agriculture and Health, Education and Welfare Departments, plus a nutrition task force set up by President Carter. A White House conference on nutrition, and children in general, is scheduled for 1979.

Miller is optimistic about the chances of establishing a national nutrition policy, if he and his supporters can persuade other congressmen that this policy will get the most for the taxpayers' money. The warning signs for this fiscal attitude were evident in debate this year over the funding extension for the school lunch program.

"It was more a bill of how we account for the taxpayers' money," Miller says. "We've come to a point where this has to happen. The crunch has come."

In writing the nutrition policy next year, Miller says, "We'll take our philosophy of how we feel about nutrition and we'll put on a banker's visor to see how the money is being spent. As long as we keep our books in order, the administration will be sympathetic."

Much of the criticism leveled at current nutrition programs are that they have been badly administered, and overly influenced by the food industry, resulting in skyrocketing costs.

Miller defends what happened to those programs, saying they were created to fill a need in the Kennedy-Johnson era. Those programs, he says, were ammunition in the War on Poverty.

"In those days, there was a great awakening," Miller says. "And the need to do something right then."

"That's why we even have the programs now. But we now have the luxury of giving the programs a tune-up. We know we're making the resources available. The magnitude of the problem is not the same as it was then."

"We can take the time to do it right," he says.

Some of that time will be spent just trying to get people with different viewpoints to join in forming a national nutrition policy.

"We're trying to put people together," Miller says. "We're sitting down with critics and talking to them, too."

Miller says he isn't sure exactly what the policy will say yet.

"What we're doing now is listening to everyone," he says.

THE FOUR PILLARS OF FREEDOM BY EZRA TAFT BENSON

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. McDONALD. Mr. Speaker, one of our more distinguished Americans, former Secretary of Agriculture, Ezra Taft Benson, made a speech to the Devotional Assembly at Ricks College, Rexburg, Idaho, on September 20, 1977. His speech, in slightly condensed form, was reprinted in the Review of the News on November 9, 1977. The main points of his speech were: First, a faith in God and in the universal brotherhood of all mankind; second, strong home and family ties; third, a political climate and governmental system which protects man's inalienable rights; and fourth, elected Government officials who are wise and good, and a vigilant, informed citizenry.

His talk develops these four points in a magnificent fashion and, therefore, I commend the address to the attention of my colleagues:

The Four Pillars of Freedom

(By Ezra Taft Benson)

We are a free and prosperous nation. Our people have high-paying jobs. Our incomes are high. Our standard of living is at an unprecedented level. We do not like to be disturbed as we enjoy our comfortable complacency—our life of ease. We live in the soft present and feel the future is secure. We do not worry about history. We seem oblivious to the causes of the rise and fall of nations. We are blind to the hard fact that nations usually sow the seeds of their own destruction while enjoying unprecedented prosperity.

I say to you with all the fervor of my soul: We are sowing the seeds of our own destruction in America and much of the free world today. It is my sober warning to you today that if the trends of the past forty years—and especially the past fifteen years—continue, we will lose that which is as priceless as life itself—our freedom—our liberty—our right to act as free men. It can happen here. It is happening here. And if we lose our freedom, blood will be required to bring it back. . . . Of all sad things in the world, the saddest is to see a people who have once known liberty and freedom and then lost it.

I have seen the unquenchable yearning of the human heart for liberty on two unforgettable occasions. These two experiences are indelibly etched on the memory of my soul.

I saw this yearning spirit in the faces of many European people in the aftermath of World War II. It fell my lot, under the direction of the President of the Church [*of Jesus Christ of Latter-day Saints*], to be the first Church official to go into war-torn European countries. This emergency mission was twofold—the re-establishment of our missions in Europe and the distribution of food, clothing, bedding, and medical supplies. I saw firsthand entire nations prostrate, flat on their backs economically. I looked into the face of hunger—the pale, the many dressed in rags, and some barefooted. I saw the refugees, the poor unwanted souls who were driven from their homes to destinations unknown. They came with all their possessions on their backs. I visited some of their homes—shacks—where as many as twenty-two people were living in one room—four complete families. I saw men enslaved by habit barter their food and clothing for a cigarette. I saw some, fortunate to get hold of an American magazine, pore over its pages wondering if what they saw could possibly be true. I saw the struggles on every hand to get to America—some legal and others illegal—all in an effort to enjoy freedom and liberty. These were a people who had once known freedom but had let it slip away.

The second such unforgettable experience was when I was in Russia in 1959. We had been touring seven European countries as a part of the objective of the government of the United States to develop world markets and create good will.

Premier Khrushchev and Vladimir Matskevich, the Soviet Minister of Agriculture, had promised me that I would be able to visit a Christian Church in Russia. During our stay there, the government guides did everything possible to prevent this. On the way to the airport, before leaving Moscow, I insisted that we go to a Baptist Church which I had located in that city. It was only a few minutes out of the way. Reluctantly we were taken to the church. Our guides had told us that the churches were empty and had been converted into museums and warehouses, saying that no one attended church anymore, and that religion is the "opiate of the people."

When we arrived at that Baptist Church on this Thursday, we found it full to overflowing. Five services were being held weekly to accommodate the people. We were invited to stand by the local minister. This gave me a good view of the faces of the people. Many were middle-aged and older, but a surprising number were young. As we went onto the stand, the people crowded over to the aisles to make room for the twenty members of the press who accompanied me on our unexpected visit. The people reached out and grasped for our hands to touch us, "almost," in the words of one newsman, "as one would reach out for the last final caress of one's most beloved just before the casket is lowered." They were in misery, and yet a light shone through the misery. They gripped our hands like frightened children.

Later in the service I was asked to address the congregation. I spoke to them about God and Jesus Christ, His Son. I encouraged them to be unafraid and to pray for peace. I witnessed to them the reality of the resurrection and that this life is only a part of eternity. Then, in closing, I told them that truth would endure and that time was on the side of truth.

I don't recall all I said, but I recall being lifted up and inspired by their rapt faces. When I sat down, the whole congregation broke into a favorite hymn of my childhood, "God Be With You Till We Meet Again." As we walked down from the platform to leave, they waved their handkerchiefs in farewell. It seemed that all 1,500 were waving as we left. When we were finally outside, one young lady Russian guide whispered to my wife, "I'm a Christian, too."

It has been my privilege to speak before many church bodies in all parts of the world, but the impact of that experience is almost indescribable. I shall never forget that evening as long as I live.

On the arrival at the airport each of the members of the press (except one) came to me personally and indicated this was the greatest spiritual experience of their lives. The other member of the twenty handed me a note on which was written the following: "Dear Mr. Secretary, I've been wondering why you came to Russia; but after that experience in the Baptist Church tonight, I think I have the answer."

Seldom, if ever, have I felt the oneness of mankind and the unquenchable yearning of the human heart for freedom so keenly as at that moment. Correspondent Tom Anderson described the experience in these words: "The Communist plan is that when these 'last believers' die off, religion will die with them. What the atheists don't know is that God can't be stamped out either by legislated atheism or firing squad. This Methodist backslider, who occasionally grumbles about having to go to church, stood crying unashamedly, throat lumped, and chills running from spine to toes. It was the most heartrending and most inspiring scene I've ever witnessed. With heavy hearts we left to rejoin the smug, smart-aleck atheist guides who took us to the church but refused to go in."

Never will I forget this victory of spirit over tyranny, oppression, and ignorance. Never can I doubt the ultimate deliverance of the Russian people.

But dangers remain. In perilous circumstances such as the world finds itself suffering today, it is quite natural that people would have a common concern about the ever-present external threat of war. Freedom from aggression is a justifiable concern. As historians have pointed out, however, great nations do not usually fall by external aggression, they first erode and decay inwardly, so that like rotten fruit, they fall of themselves.

The history of nations shows that the cycle of the body politic slowly but surely undergoes change. It progresses:

From bondage to spiritual faith.
From spiritual faith to courage.
From courage to freedom.
From freedom to abundance.
From abundance to selfishness.
From selfishness to complacency.
From complacency to apathy.
From apathy to fear.
From fear to dependency.
From dependency to bondage.

The greatest threat to the freedom of any nation is erosion; not erosion of the soil, but erosion of the national morality and character. What we have to fear is not force from without, but weaknesses from within.

Every nation yearns for liberty, but too frequently its own self-indulgence precludes the possibility of freedom. I speak of the trend of pleasure without conscience, wealth without work, business without morality, politics without principle, and worship without sacrifice. I believe personally there is a strong relationship between a strong, prosperous nation and the faith and righteousness of its people. This brings me to the crux of my message.

There are indispensable conditions which must be met if a nation is to preserve freedom and prevent its own downfall. Such truths are self-evident to all responsible people everywhere. Today, I mention four of these truths—pillars upon which our nation's security rests. The first pillar is:

1. A faith in God and in the universal brotherhood of all mankind.

I believe with all my heart the words of the patriot Patrick Henry, who on the eve of the Revolution said, "There is a just God who presides over the destinies of nations and who will raise up friends to fight our battles for us." Further, it is part of my faith that no people can maintain freedom unless their political institutions are founded on faith in God and belief in the existence of moral law. God has endowed men with certain inalienable rights, and no government may morally limit or destroy these.

The Founding Fathers of this country seemed to have a clear realization that, to survive, the new nation would need a reliance on the protection of God. In the Declaration of Independence there is an appeal to the "Supreme Judge of the World," and to "the laws of nature and nature's God." The document is concluded with this affirmation: "And for support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

Here we see that the principle of supremacy of the individual over government is rooted in religious precept. The corollary to this recognition and reliance upon God is the belief in the worth of the individual. The two precepts go hand in hand. The truth is very evident and simple. There is a God in heaven who is the Sovereign Power of the universe, and we are His literal offspring. He has endowed us with inalienable rights among which are life, liberty, and the pursuit of happiness. This He has implanted in the human breast. This is why men cannot be driven indefinitely or led despotic rulers to intellectual or physical slavery and bondage. Fear and despotism may rule for a generation or two, or three, but in time the human spirit rebels, the spirit of liberty manifests itself, and its tyrannous hand is overthrown.

Yes, as the offspring of God, we share a common paternity that makes us literally brothers, and thus we share a common destiny. When this truth sinks into the human heart, men demand their rights—life, liberty, and happiness. It is as the Apostle Paul told the Corinthinans: "Where the spirit of the Lord is, there is liberty."

A second pillar of freedom is:

2. Strong homes and family ties.

The home is the rock foundation, the cornerstone of civilization. No nation will rise above its homes, and no nation will long endure when the family unit is weakened or destroyed. If you accept the truth of these statements, then you must conclude that the American family has serious problems.

Divorce is epidemic. The father's place at the head of the home is being challenged, and mothers have, in many instances, left the hearth to join the work force, which weakens the stability of the home. Children, growing up without strong parental guidance and spiritual influence, are allowed to roam freely. Not only does this lack of training and permissiveness sponsor indolence, but many of these youth, out of boredom, have turned to drugs, juvenile delinquency, or crime.

One great Church leader has wisely said, "No other success can compensate for failure in the home." If this nation is to endure, then the home must be safeguarded, strenghened, and restored to its rightful importance.

As I have thought about this, I am convinced that there are some fundamental things we might well give attention to in our nation if the family is to be preserved. I will mention five.

First, one of our greatest needs is more time of parents in the home. Youth of the nation need more than physical comforts. We will need to leave them more than lands and stocks. They need more than a modern automobile and a lovely modern building to live in. There is no satisfactory substitute for mother, and no one can take care of her children as she can.

Second, we need daily devotion in the home. We need to return to the practice of family prayer, secret prayer, the old-fashioned practice of devotion in the home, daily, night and morning; the singing of hymns; the reading of scriptures. How much more happiness there would be, how many fewer divorces there would be, if these simple practices were followed as was the custom in the early days of this country, according to the diaries of our early founders.

Third, I think one of the great needs is more paternal instruction on life's problems. I know there is a tendency for parents to shrink from this responsibility, the instructing of their own children in the problems of sex, the relationship with other young people, the problems of dating, and all of the many temptations that confront a growing boy and girl. These instructions should not be left to the school or a class in sociology. The safest place, the best place, to give this vital counsel, these sacred instructions in matters of moral purity, should be in the home on a basis of confidence between parent and child.

Fourth, I believe there is a great need for family recreation and cultural activities together. We should do things together as a family. It may mean a reduction of participation in women's clubs, in men's clubs, but if families could only seek their recreation and cultural activities more as a family unit, I am sure that untold benefits and blessings would accrue.

And fifth, we need a closer parent-child relationship. This is closely related to the other four needs. One of the greatest needs of our young people is a closer, more frequent, companionship with father and mother. There is no satisfactory substitute. In homes where these principles are stressed, there is no "generation gap."

Yes, the second pillar is strong homes and family ties. For a third pillar, I name:

3. A political climate and governmental system which protects man's inalienable rights.

Every governmental system has a sovereign, one or several who possess all executive, legislative, and judicial powers. That sovereign may be an individual, a group; or the people themselves. Broadly speaking, there are only two governmental systems in the world today. One system recognized that the sovereign power is vested in the head of state (a monarchy or dictatorship) or a group of men (an oligarchy). This system is as old as history and rests on the premise that the ruler grants to the people the rights and powers he thinks they should have. It is the basis of Roman or *civil law*, and all dictatorships of history. The system is wrong regardless of how benevolent the dictator may be, because it denies that which belongs to all men inalienably—their right to life, property, and liberty. Since all men are brothers, it follows "that it is not right for any man to be in bondage one to another."

The other system is that which had its historic origin two hundred years ago in 1776, the year of our independence. The Founding Fathers were men who understood the tyranny that can come out of the system of *civil law*. They had been indoctrinated in a different system of thought, that of *common law*, which was premised on the idea that true sovereignty rests with the people. Believing this to be in accord with truth, they inserted this imperative in the Declaration of Independence: "That to secure these rights [*life, liberty, and the pursuit of happiness*], governments are instituted among men, deriving their just powers from the consent of the governed."

Later, when our nation had won her independence through the Revolutionary War, a free people's representatives drafted a second document, the Constitution of the United States, which opens with this preamble: "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, *do ordain and establish this Constitution for the United States of America.*"

Here the people were speaking. They recognized *their* sovereignty, not that of a king, emperor, or oligarchy. All rights and powers not granted specifically to the government were retained by themselves. This is the difference between freedom and despotism!

There are only two possible sources of man's rights. Rights are either God-given as part of the divine plan, or they are granted by government as part of the political plan. Reason, necessity, tradition, and religious convictions all lead me to accept the divine origin of these rights. If we accept the premise that human rights are granted by government, then we must be willing to accept the corollary that they can be denied by government. I, for one, shall never accept that premise. As the French political economist, Frederic Bastiat, phrased it so succinctly in his important book *The Law*, "Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place."

We must ever keep in mind the inspired words of Thomas Jefferson, as found in the Declaration of Independence: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed . . . ."

Since God created man with certain inalienable rights, and man, in turn, created government to help secure and safeguard those rights, it follows that man is superior to government and should remain master over it, not the other way around.

And we need to keep before us the truth that people who do not master themselves and their appetites will soon be mastered by government. In 1801 Thomas Jefferson, in his First Inaugural Address, said: "With all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow citizens—a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

It seems pertinent to ask, are we rearing a generation of Americans who do not understand the basis of our economic prosperity and the principles upon which prosperity is predicated? The principles behind this American philosophy can be reduced to a rather simple formula:

1. Economic security for all is impossible without widespread abundance.
2. Abundance is impossible without industrious and efficient production.
3. Such production is impossible without energetic, willing, and eager labor.
4. This labor is not possible without incentive.
5. Of all forms of incentive—the freedom to attain a reward for one's labors is the most sustaining for most people. Sometimes called the profit motive, it is simply the right to plan and to earn and to enjoy the fruits of your labor.
6. This profit motive diminishes as government controls, regulations, and taxes increase to deny the fruits of success to those who produce.
7. Therefore, any attempt through government intervention to redistribute the material rewards of labor can only result in the eventual destruction of the productive base of society, without which real abundance and security for more than the ruling elite is quite impossible.

It is evident that, when the willingness to work sharply declines, there will be increased frustration of an economic plan, however well intentioned or well conceived. "Poverty is abolished by economic growth, not by economic distribution," and economic growth requires work. As we more and more become "welfare conscious," it is essential to reaffirm the scriptural imperative that "the idler shall not eat the bread of the worker." To operate contrary to this is soul-destroying to the idler, and incentive-reducing to the worker. We should never forget the wise words of President Grover Cleveland that ". . . though the people support the Government, the Government should not support the people."

Students of history know that no government in the history of mankind has ever created any wealth. People who work create wealth. But because of the tendency for almost everyone to feel that their wage or profit is not enough, there is more and more of a tendency to look to the federal government for help. Increasing numbers of Americans today are subscribing to the myth that you get something for nothing—as long as the government is footing the bill. In fact, they believe it is the duty of government to take care of them from the cradle to the grave.

But there is no such thing as a free lunch. Everything we get from the government—everything—we pay for in debilitating taxes. Everything that government gives to the people it must first take from the people. Agricultural subsidies, price supports, government grants, federal loans, subsidized housing, welfare benefits, and other government benefits all are paid for by the wage earner or businessman. It is automatic that when government paternalistically provides, it controls and regulates. The Supreme Court has so declared. To the extent that a state, an industry, or an individual is regulated by the government a degree of freedom has been lost. This is something few Americans appear to understand.

Socialism is simply government ownership and control of the means of production and distribution. Most loyal Americans are repelled by the very word. If a candidate were running this year under a socialist label, as some are, he almost certainly would garner few votes. Yet, consider these grim facts.

We have accepted a degree of socialism in our country. The question is how much. The amount of freedom depends upon the amount of socialism. A good measurement is to determine the amount, or percentage, of income of the people which is taken over and spent by the state. Russia, it is reported, takes well over 80 percent of the income of the people. Scandinavia takes about 65–70 percent. England some 60 percent. The United States is now taking approximately 40 percent. What is our direction?

In the past fifteen years, government spending on social programs grew from twenty-one billion dollars to one hundred fifty billion dollars a year. Eighteen million people now receive food stamps. Eleven million participate in aid to dependent children. Thirteen million participate in medicare. Twenty-three million are now medicaid beneficiaries. Our present social security program has been going in the hole at a rate of twelve billion dollars a year, and with increased benefits and greater numbers of recipients, even though the tax base has been increased, we will probably have larger deficits in the future. Today candidates in both parties are advocating a comprehensive national health insurance program; in other words, socialized medicine. The challenge before organizations such as yours is to determine where you stand in relation to this proposal. Will you stand on the principle that sets us apart from all other nations—free enterprise—or will you give in to the trend as so many special interest groups have done over the years?

I have just returned from Great Britain, that nation which has provided the free world with a tradition of freedom and democratic rights, stemming from the Magna Carta and coming down through other important historical documents and statements by famous Englishmen. Yet England today is losing her freedom and democracy. She has become a giant welfare state. Today government spending in Great Britain amounts to 60 percent of her national income. This has led the renowned University of Chicago economist, Dr. Milton Friedman, to forecast: "I fear very much that within the next five years the odds are at least fifty-fifty that British freedom and democracy as we have seen it will be destroyed." Recognizing the past record of the British people for stamina and courage, I am hopeful—even confident—that they will disprove this prediction. I hope and pray they will meet the serious challenges facing them.

We say, "It can't happen here." The lesson of New York City should tell us that this same thing is happening here—to us—now. New York City is no longer governed by its elected officials. It is governed by a committee of overseers appointed by the State of New York. New York City has partially lost its freedom! When will we learn the lesson that fiscal irresponsibility leads to a loss of self-government?

Margaret Thatcher, head of the Conservative Party in Great Britain, in a speech given appropriately in New York, gave a simple lesson in economics that even a child could not misunderstand. She said:

You cannot pay yourself more money unless you do more work.

You cannot print more money unless you produce more goods.

You cannot have more jobs unless you have more investment.

You cannot have more investment unless you have more savings.

You cannot have more savings unless you keep faith with the saver.

You cannot keep faith with the saver unless you have sound money.

You cannot have sound money if you spend beyond your means.

And you cannot increase your means unless you increase your efforts.

America was built on the principles of self-reliance, the profit motive, individual action, and voluntary charity. It was built by those who believed that the surest helping hand was at the end of their own sleeves. These forefathers of ours shared one thing in common—an unshakable faith in God and a faith in themselves. Today, Washington is being looked to as the provider of whatever is needful . . . at no cost to ourselves. If this trend is permitted to continue, the states and counties will be but hollow shells, and we will find ourselves in the same predicament as England.

It was heartening for me to see recently a testimony of the principles of faith in God and individual initiative in action. As you know, the eastern sector of Idaho was devastated by the Teton Dam flood. I went over the entire area by helicopter and car. Immediately after the flood, government relief agencies were dispatched to the area. Government officials, veterans to the scenes of national disasters, were amazed at the reactions of these people to this seeming tragedy. Though victims of property loss, they are not victims of despair, despondency, and defeat. They collectively met in their Church meetings and thanked God for their lives, then they organized themselves and rolled up their sleeves and went to work. Even though welfare assistance and government food stamps were made available, these victims, by and large, chose the route of self-reliance. Because of this, they will emerge from this catastrophe stronger and more faithful.

Any country which pursues policies that cause the self-reliance, initiative, and freedom of its people slowly to drain away is a country in danger. And though this truth is not as evident to many as it once was, we hope that it will be a truth upheld by our great institutions. This leads me to the final pillar:

4. Elected government officials who are wise and good, and a vigilant, informed citizenry.

You will note that I have qualified what, to me, should epitomize those fit to lead. They must be both good and wise. Some men are good, too naïve to be wise statesmen. Other men possess great intellect, but are not morally good. A nation, to endure, must have leaders at the helm whose mandate is higher than the ballot box. When James Russell Lowell was asked, "How long will the American Republic endure?" he replied: "As long as the ideas of the men who founded it continue dominant." Constitutional government, as designed by the framers, will survive only with a righteous people. "Our Constitution," said John Adams (first Vice President and second President), "was made only for a moral and religious people. It is wholly inadequate to the government of any other."

Righteousness is an indispensable ingredient to liberty. Virtuous people elect wise and good representatives. Good representatives make good laws and then wisely administer them. This tends to preserve righteousness. Unvirtuous citizenry tend to elect representatives who will pander to their covetous lustings. The burden of self-government is a great responsibility. It calls for restraint, righteousness, responsibility, and reliance upon God.

As presiding officer of the Constitutional Convention, George Washington appealed to the delegates in these words: "Let us raise a standard to which the wise and the honest can repair." Wise and honorable men raised that glorious standard for this nation. It will also take wise and honorable men to perpetuate what was so nobly established.

If a government is really the sum of its people, and they are sovereign, then it follows that they must be watchful, vigilant, and informed lest their liberties become gradually usurped by naïve or unscrupulous leaders and they awaken to find their liberty gone. Despotism does not arise on the platform of totalitarianism, or anything resembling it. It is voted into office on platitudes of "democracy," "freedom," "national planning," "New Dealism," "The Great Society," and "New Federalism." In reality, government should do nothing economically for a people that they can do for themselves. To pursue policies to the contrary weakens national initiative and destroys character; and, politicians who prey on the gullibilities of the electorate to stay in public office are unworthy of the trust given to them. A citizen of this Republic cannot do his duty and be an idle spectator.

It was Alexander Hamilton who warned that: "Nothing is more common than for a free people, in times of heat and violence, to gratify momentary passions, by letting into the government principles and precedents which afterwards prove fatal to themselves."

These, then, are the pillars upon which any nation's national security rests:

1. A faith in God and in the univeral brotherhood of all mankind.

2. Strong homes and family ties.

3. A political climate and governmental system which protects man's inalienable rights.

4. Elected government officials who are wise and good, and a vigilant, informed citizenry.

I have great faith in America and its people. This is a choice land. If we live and work so as to enjoy the approval of a Divine Providence, will endure as a nation. Without God's help, we cannot long endure.

Today we face a crisis situation in our beloved Republic. There is first of all a spiritual crisis among our people. In our quest for material things, we have forgotten God. There is a crisis for competent, honest, and moral leadership in government at all levels. There is an economic and political crisis, where our basic freedoms stand in jeopardy because of a departure from fundamental principles. We must return to these basic principles if our free Republic is to survive.

Yes, in the words of Thomas Paine, "These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now, deserves the love and thanks of man and woman." That was said on December 23, 1776. Now, 200 years later, Paine's words are even more apropos to our situation.

The days ahead are sobering and challenging and will require the faith, prayers, loyalty, courage, and moral integrity of every American citizen. May God bless us to be equal to the task.

BANK RECORD PRIVACY

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. PATTISON of New York. Mr. Speaker, there is considerable interest in the issue of bank record privacy, and I would like to take this opportunity to discuss what is now being done about this issue in the House Committee on Banking, Finance and Urban Affairs, on which I serve.

In September of this year the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, chaired by FERNAND ST GERMAIN, held hearings on the proposed Safe Banking Act. Along with other issues, the subcommittee considered the need to protect the confidentiality of bank customers' records.

Although on the full committee, I do not serve on the Financial Institutions Subcommittee. However, that panel did invite me to participate in their discussion of bank record privacy on September 20.

Title XI of the proposed Safe Banking Act is entitled the "Right to Financial Privacy Act." The language of that portion of the bill is derived in large part from the Bill of Rights Procedures Act, H.R. 215. In the last Congress I served on the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice; we spent a total of more than 40 days considering the Bill of Rights Procedures Act, authored by Senator MAC MATHIAS and then-Congressman Charles Mosher. This year, I am a cosponsor of that legislation as it was reintroduced by Senator MATHIAS and Representative CHARLES WHALEN.

My testimony before the Financial Institutions Subcommittee indicated that I thought they had made several substantive improvements over the original Bill of Rights Procedures Act. In particular, I noted the Right to Financial Privacy Act's application to State and local government officials, as well as those at the Federal level. Also, I thought its application to electronic funds transfer systems and its specification of the customer's right to standing in a motion to quash a subpena were sound improvements.

However, I also noted several areas where I thought changes were needed in the legislation before the subcommittee. Speaking for myself, and also on behalf of the sponsors of the Bill of Rights Procedures Act, I offered several proposals for changes to be made in the pending legislation. I am pleased to note that most of our suggestions appear to have met with the approval of the subcommittee.

Congressman JOHN CAVANAUGH, a member of the subcommittee, is the principal architect of the Right to Financial Privacy Act. Last month he reintroduced that legislation as H.R. 9909, incorporating several key changes.

First, the new bill extends its coverage beyond banks and other depository institutions, to include credit card issuers. This, I believe, is a great improvement, as the privacy of credit card records should be guarded just as closely as that of bank records.

Second, the language of the proposed Right to Financial Privacy Act has been modified to much more closely parallel that found in section 1205 of the Tax Reform Act of 1976, which established rules for Internal Revenue Service agents' access to bank records. This change in the new legislation will make it much easier for bankers to comply with the law, because they will not be confronted with two different sets of standards and procedures.

Third, the proposed legislation has been revised to specify that if a customer objects to enforcement of an administrative subpena, the Government must go to court in order to overcome the objection. This was implied in the original version, but the new language removes any ambiguity.

Fourth, the section on search warrants has been revised, to provide that customers must be notified that their files have been examined. When necessary, a Federal court could order a delay in the delivery of the notice, though. Restoration of the notice requirement, I believe, is an important safeguard against abuse.

Fifth, language has been added to the bill, requiring written notice to the bank or credit card issuer if an objection is lodged to enforcement of a subpena, and also requiring certification to the record holder that the objection has been withdrawn or overcome before the records can be released. This is in keeping with the idea that the record holder should be protected against being forced to make subjective judgments about the disclosure of records.

The procedures set forth in the new language are still a bit cumbersome, and I will endeavor to help refine it further, but it does reflect a fair improvement.

At this point, it is not clear whether the Financial Institutions Subcommittee will take up bank record privacy as a separate issue in the next session or if it will continue to regard it as a part of the larger, more controversial bill, the Safe Banking Act. In any event, I am pleased to note the general progress being made toward perfecting the Right to Financial Privacy Act. I think the prospects for its enactment next year appear reasonably good.

Mr. Speaker, in the testimony presented on September 20, I said:

> When I was in private law practice in Troy, New York, my firm represented a number of small banks, both commercial and thrift. I know, from my dealings with bankers in New York State and with trade association representatives here in Washington, that financial institutions are very concerned about maintaining the confidentiality of their customers' records.

Subsequently, I sent copies of my prepared remarks to bankers in my district. Along with the testimony, I sent an explanatory note and a request for their comments.

At this point in the RECORD, I wish to insert excerpts from some of the letters I received in the past month from bankers in my district. Their comments are just one more indication of the popular support, both within the banking industry and among the general public, for improved protection of bank record privacy. The letters follow:

GLENS FALLS NATIONAL BANK
AND TRUST CO.,
Glens Falls, N.Y.,
Greenwich Office, October 31, 1977.

Hon. NED PATTISON,
Congress of the United States, Longworth House Office Building, Washington, D.C.

DEAR MR. PATTISON: I am in agreement with the points made by you in your testimony before the Subcommittee on Financial Institutions Supervision. More and more, my customers question me as to who may have access to their records. The vast majority have nothing to hide, but are concerned that someone besides their banker will know their business. I realize that different government agencies must have information from time to time, but my thought is that in many cases an agent could more readily obtain the needed information from the person involved instead of turning to the bank first. As you pointed out, it is very costly and time consuming for us to search our records, and on some occasions has cost us a customer.

I appreciate your asking for my thoughts and hope that the above is helpful to you.

Sincerely,

WILLIAM H. G. CLARK,
Assistant Cashier and Branch Manager.

ALBANY SAVINGS BANK,
Albany, N.Y., November 3, 1977.

Hon. NED PATTISON:
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR NED: I thoroughly endorse the thrust of your suggestions to the Subcommittee.

As both a banker and a citizen, I strongly favor whatever legislation is necessary to insure privacy for our citizens not only in the conduct of their banking business, but in their affairs generally. The less government prying and in fact the less government regulation that we can obtain, the better off we will be as a society.

As a banker, of course, I appreciate your efforts to insure that in being responsive to legitimate governmental demands for information concerning the records of our depositors and borrowers, we may be protected by appropriate legal safeguards.

I would be pleased to give any further evidence of my support for your proposal as you might find appropriate.

Sincerely,

VINCE.

THE FIRST NATIONAL BANK
OF GLENS FALLS,
Glens Falls, N.Y., November 9, 1977.

Hon. EDWARD W. PATTISON,
Longworth House Office Building,
Washington, D.C.

DEAR NED: The thoughts contained in your statement of September 20 before the Sub-Committee are well thought out and very needed. I have taken the liberty of sharing your statement with several of my associates and they all agree with your concern about the issue of confidentiality of customer records.

We feel strongly that your point that the customer is entitled to know at some point that his records have been examined, by whom, and for what purpose, is a good one. Not only does the customer need to be treated fairly, but he must always feel he can have confidence in his bank and know they are treating his records fairly.

We would not make any changes in your statement and, in fact, commend you for your position on this issue. It will be of interest to us to follow the progression of this through Congress. Good luck and thank you for seeking our views.

Cordially,

WILLIAM T. CLARK,
Chairman.

BALLSTON SPA NATIONAL BANK,
Ballston Spa, N.Y., November 16, 1977.

Hon. NED PATTISON,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. PATTISON: Thank you for the opportunity to comment on your recent testimony concerning "confidentiality of Bank customers' records."

As a representative of a small (approximately $32 million) commercial bank, I heartily concur with your observation that "The banker is an innocent bystander to any exchange between his customers and the government; . . ." and you are to be commended for recognizing the difficult position that has been forced upon bankers.

In response to your five points:

First, a clear cut set of rules governing access to financial records would certainly help to relieve the unnecessary burden which we now face. However, it would be even more meaningful if it were possible to require agents of the various States, such as the Crime Task Force, the Department of Audit and Control, and the BCI, to also be included under the same rules. We find that compliance at best is costly, but it becomes even more costly when agents seek access but have not come prepared with the necessary supporting subpoenas.

Second, we heartily support your recommendation that credit issuers be included under the Bill. Piecemeal legislation has consistently been one of the horrors of the banking industry.

Third, we make every effort to contact the customer and notify him that his records have been subpoenaed. However, the execution of our fiduciary responsibility could be greatly enhanced if a Government agent should be required to certify to the bank at the end of a reasonable waiting period that no objections have been filed by the customer.

Fourth, every person should be entitled to a notice whenever his records are examined by persons from outside the financial institution or its supervisory agencies and for what purpose. As you stated, the Courts could act in those rare instances where there is a need for a particular search to be kept secret until after an investigation is completed.

Fifth, as a point of principle, we support your concern as it relates to the need to clarify the manner in which conflicts between customers and Government agents will be resolved.

Confidentiality of customer records is a very sensitive issue to us; and, as bankers continue to be overwhelmed by mandated legislative and regulatory directives and controls, we should, at a minimum, be entitled to expect a clear cut definition of the ground rules and accepted procedures.

Sincerely yours,

JAMES WHELDEN, *President.*

GLENS FALLS NATIONAL
BANK AND TRUST CO.,
Glens Falls, N.Y., November 25, 1977.

Hon. EDWARD W. PATTISON,
House of Representatives,
Washington, D.C.

DEAR NED: With respect to financial privacy, we share your views and support the position you have taken. We are very much concerned with this matter. Private citizens are upset and blame the banks for the virtually unlimited access to financial records by government agencies.

Orderly and rational procedures should be established for granting access to our records, and they should be uniformly applied to all government agencies. The exemption of I.R.S. agents would effectively establish two sets of rules. Moreover, it is not clear that present laws and regulations adequately protect the individual tax payer under I.R.S. special procedures for third party summonses. Under the present section 7609, exceptions seem to be granted for purposes of gaining information concerning identity or to assist in collections against persons already assessed.

We agree with your contention that this bill should be expanded to cover records held by credit card companies and other credit issuers subject to the jurisdiction of the Banking Committee.

We strongly agree with your third recommendation that agents seeking records be required to certify that no objections have been filed after the customer has been duly notified.

In this context, we also agree with your fourth recommendation concerning notice to customers by the government agency involved whenever their records are examined by persons outside the financial institution or its supervisory agencies.

If, as you indicate, the customers' rights in resolving conflicts with government agencies are not clear, they should be revised.

In summary, we are completely in accord with your remarks, and appreciate your efforts.

Respectfully,
Robert P. Larson, C.F.A.,
President.

First Commercial Banks, Inc.,
Albany N.Y., November 10, 1977.
Hon. Edward W. Pattison,
House of Representatives, Longworth House Office Building, Washington, D.C.

Dear Ned: After reading your statement before the Subcommittee on Financial Institutions Supervision of the House Banking Committee, I can assure you that we are pleased with your position. Your understanding of the bankers problem is very encouraging to us and we hope you will be successful in moving your ideas forward.

I am sure you have a sticky one to resolve on Title XI relating to customer notification of record examination. The intent is good, I would only hope that the mechanics of such wouldn't be just one more burdensome and expensive requirement for the bank.

Overall, we're with you all the way on this. Good luck!

Cordially,
H. Newcomb Steuart, Jr.,
Executive Vice President.

THE NEW CHAIRMAN OF ACIR

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. BROWN of Ohio. Mr. Speaker, I have the pleasure of serving on the Advisory Commission on Intergovernmental Relations. The Commission, formed in 1959, provides Congress with objective, scholarly studies on the intergovernmental aspect of serious public policy problems. Since 1959 the Commission has produced a prodigious number of studies, has become a repository for facts on the Federal system, and has distinguished itself as an objective, no-nonsense body that can be relied upon for solid public policy research.

The Advisory Commission on Intergovernmental Relations was established by Public Law 86-380 passed in 1959 in the 86th Congress, and the oversight jurisdiction of the Commission was given to the Committee on Government Operations of the U.S. Senate and House of Representatives. Both these committees have responsibility to try to encourage the economy and efficiency of the Federal Government. The recommendations of the ACIR during its distinguished 18-year history have been consistent with that mandate of its oversight committees. Its first Chairman was named by President Dwight Eisenhower who, befitting the bipartisan nature of the Commission, selected Frank Bane, a Virginia Democrat, as the first Chairman. Bane served 6½ years and was replaced by Farris Bryant, who served 2 years before he was replaced by the present Chairman, Robert E. Merriam. Merriam had served in the Eisenhower administration and worked on the legislation originally creating the Commission and has continued its bipartisan traditions since his accession on October 30, 1969.

My concern and the thrust of my remarks today is whether this fine record will continue. Soon-to-be ex-mayor of New York City—Abraham D. Beame—has recently accepted an offer from President Carter to be Chairman of the Commission. I would like to take a moment now to express to you my disappointment that this particular job has been offered to and accepted by this particular man.

If there is one man whose service seems to embody the problems which have befallen government for a lack of sound management, it is Mr. Beame. His service as mayor of New York City and, immediately prior to that, comptroller of that city, spans the era in which the Nation's biggest city fell deeper and deeper into the quicksand of financial management difficulties. The indictment that Mr. Beame was unable to extricate his city from these problems would not be as damning if he had not had prior responsibility for recognizing and addressing the problems as the city's comptroller. In the recent election in New York, he was turned out of the office of mayor. The political burden of the city's near collapse during his incumbency was too great to bear.

Perhaps Mayor Beame should receive some charity for the efforts he has made since the problems of his city became public knowledge, but one cannot help but wonder why he failed to recognize these problems and call attention to them earlier. And now, to be named to chair the very commission which did recognize the financial management problems of New York and call public attention to them before Comptroller/Mayor Beame did would seem to be some kind of sarcastic joke.

In a report entitled "City Financial Emergencies: The Intergovernmental Dimensions," based on studies undertaken in 1972 and published March 9, 1973, ACIR identified the financial problems of several of the cities of the country and drew attention to the problems of New York which did not receive great public attention until a couple of years later.

Over the past few years, in daily news coverage, in the testimony of public officials and of business and financial analysts, the Nation has been made aware of the financial crisis facing the city governed by Abraham Beame. To anyone who has cared to read about New York since March of 1975, it has been made clear to the public that the city has been on the brink of financial disaster. The cause of this disaster has been manifold. Clearly, however, gross misjudgment in city leadership and financial mismanagement has been most responsible. It was argued by many at the time that Federal action had to be taken to prevent the financial collapse of the city if dire consequences were not to befall the Nation and the world. One could not help but wonder at the time whether this was truly a national problem as argued by the leaders of New York, or whether it was a lot of rhetoric, a purposefully designed strategy to scare money out of Washington to avoid the obvious need to cope at home with the problems.

In the 1972 study, ACIR undertook on the intergovernmental dimensions of city financial emergencies, ACIR studied 30 cities, including New York, that had serious financial problems. The Commission came to the conclusion in 1972 that not one of the cities had financial conditions such that timely action by local officials (or in a few cases, State officials) could not avert or promptly relieve a financial emergency. The key to a secure financial picture lay in a sound national economy and sound financial management at the local level. The Commission's report outlined the warning signs of coming financial disaster, and it provided a number of very specific recommendations calling for: an improvement in local financial management, severe regulation of short-term borrowing, and regulation of local retirement systems. It is my opinion that those recommendations are all as relevant today as they were in 1973.

Yet, it is only today, after a long and painful crisis, that the city is showing any sign of starting to take these recommendations seriously. From 1972 through 1975, when the crisis came to a boil, it was business as usual in New York City. The capital budget was used to finance operating expenses, short-term debt increased, revenues were over-estimated, expenses were under-estimated. The budget was balanced in name only. We could have all been spared this New York City debacle if the local officials of New York City, such as Mr. Beame, had taken ACIR's admonitions and recommendations seriously.

The question that we must ask is: Why did not New York put its house in order when the warning was sounded and there was still time? Were the officials of that city ignorant of what they were doing? I suspect not. What I suspect is that they were always confident that they could get someone to bail them out and that the strategy from the beginning was design to do just that.

The early strategy in New York was not one of conservation, retrenchment, and better management, but one of expanding the crisis, bringing the pot to a boil, and trying to precipitate a solution from outside. The city fathers apparently believed that if they drove the city far enough into bankruptcy, made the collapse as spectacular as possible, and tied other governments—particularly New York State—to the debacle, Federal aid would ultimately be forthcoming.

The strategy was a not-too-subtle form of blackmail. The spectacular almost occurred. The aid did come. But now the Federal Government is inextricably intertwined in the local affairs of New York City and local government and autonomy has received a severe setback if not a fatal blow. Where Federal moneys go, so goes the heavy Federal hand. New York City and other local governments have become addicted to Federal aid and are paying the price with their economic autonomy and political independence.

As I see it, the philosophy and purpose of the ACIR, as seen in its very charter and demonstrated in its works over the last 18 years, is totally at odds with the philosophy and demonstrated leadership abilities of Mr. Beame. While the ACIR was warning local governments in early 1973 to take action to prevent financial collapse, Mr. Beame and his cohorts in New York City were continuing the very dubious practices that the ACIR was trying to discourage. While the philosophy of the ACIR is to promote a strong Federal system balanced between national, State, and local governments, the strategy employed by the Beame administration to cope with the financial crisis in New York City was to strike a serious blow to that system.

RESOLUTION OF CONGRATULATIONS TO THE PEOPLES OF EGYPT AND ISRAEL

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. DODD. Mr. Speaker, last week Congress passed a concurrent resolution commending the President of Egypt, Anwar el Sadat, and the Prime Minister of Israel, Menachem Begin, for the courageous steps they have taken to resolve the differences between their nations and to bring peace between Israel and her Arab neighbors through face-to-face negotiations in the context of a Geneva conference.

This resolution was offered in the House by the distinguished majority leader, Mr. Wright, and cosponsored by the distinguished minority leader, Mr. RHODES. I and about 50 other Members joined in cosponsoring this resolution, which I believe truly expresses the sense of Congress and the American people that the United States should encourage the parties to the Arab-Israeli conflict to reach a just and lasting settlement through the process of direct negotiations.

There are many critical issues which comprise the Middle East problem, but in my view there is one central issue—the willingness of the nations in the region to live in peace with each other within secure and recognized borders.

The steps taken by Israel and Egypt during the past 2 weeks indicate that the two most important adversaries in the Arab-Israeli dispute are ready to forgo war as an instrument for settling their differences. I fervently hope that Israel, Egypt, and the other parties to the conflict will move as quickly as possible to establish a lasting and fruitful peace in the region.

Mr. Speaker, just after the Sadat visits I submitted a "Resolution of Congratulations to the Peoples of Egypt and Israel" (H. Res. 914) applauding the efforts of President Sadat and Prime Minister Begin and urging all the nations of the Middle East to follow their example in beginning direct negotiations leading to peace treaties that will establish permanent peace and full normalized relations in the Middle East. Over 50 of my colleagues have cosponsored my resolution, which has been referred to the Committee on International Relations.

In light of the passage of the Wright resolution, I am sure that all of the cosponsors of my resolution would wish to join me in full support of House Concurrent Resolution 417.

At this point in the RECORD, I would like to include the texts of House Concurrent Resolution 417 and House Resolution 914. I would also like to include the names of all Members who have thus far cosponsored either resolution:

H. CON. RES. 417

Resolved by the House of Representatives (the Senate concurring), that it is the sense of the Congress that Anwar el Sadat, the President of Egypt, and Menachem Begin, the Prime Minister of Israel, be commended for the courageous steps they have taken to resolve the differences between their nations and to bring peace between Israel and her Arab neighbors through face to face negotiations in the context of a Geneva conference. We hope this will result in further face to face negotiations which will lead to a comprehensive, just and durable peace.

H. RES. 914—RESOLUTION OF CONGRATULATIONS TO THE PEOPLES OF EGPYT AND ISRAEL

Whereas the people of the United States earnestly hope that peace may be negotiated in the Middle East; and

Whereas President Anwar Sadat and Premier Menachem Begin have shattered the barriers separating Egypt and Israel by commencing direct negotiations; and

Whereas the two parties have agreed to continue their dialogue, paving the way toward negotiations resulting in the signing of peace treaties in Geneva between Israel and all the neighboring Arab states; therefore be it resolved that:

It is the sense of the House that the United States offer its congratulations to the people of Egypt and Israel, and that the United States encourage all the states of the Middle East to follow their example in beginning direct negotiations leading to peace treaties that will establish permanent peace and full normalized relations in the Middle East.

COSPONSORS

Wright, Rhodes, Brademas, Rostenkowski, Zablocki, Fascell, Rosenthal, Dodd, Bingham, Foley, Long of Louisiana, Yates, Fountain, Rooney, Alexander, Howard, Carney, Moakley, Danielson, Waxman, Blanchard.

Quillen, Skubitz, Hamilton, Carter, Hammerschmidt, Fraser, Cochran, Solarz, Wolff, Pepper, Zeferetti, Boland, Bonior, Thompson, Le Fante, Young of Missouri, Reuss.

Guyer, Ketchum, Corman, Marks, Hyde, Cornwell, Kildee, Flood, Conte, Edgar, Krebs, and Corrada.

Addabbo, Rogers, Don H. Clausen, Gilman, Erlenborn, Mitchell of Md., Lundine, Roe, Kemp, Lloyd of Cal., Mineta, Burke of Fla., Fenwick, Lott, Glickman, Wolff, Winn, and Yatron.

Edwards of California, Lagomarsino, Huckaby, Mikulski, Eilberg, Hughes, Gammage, Bedell, Roybal, Edwards of Oklahoma, Crane, Pease, Carr, Frenzel, LaFalce, Ottinger, and Ford of Tennessee.

KANSAS CITY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. SKELTON. Mr. Speaker, those of us who live in and around the city of Kansas City, Mo., have known for some time of that city's many outstanding virtues and of the extraordinary civic pride of its citizenry. Recently, that city and its populace were severely tested by a flood which inundated a large portion of the metropolitan area. But, as Shakespeare says, "sweet are the uses of adversity." The people of Kansas City responded magnificently to the challenge. Acts of selfless heroism were so common that they were the norm, rather than the exception. Since the flood, the city has bounced back quickly and is showing every sign of being stronger than ever. Paul Harvey, the noted commentator, paid tribute to the spirit and determination of Kansas City in a recent speech. In a world where sacrifice and stick-to-it-ive-ness are sometimes thought of as disappearing, I think it is altogether fitting that Paul Harvey's remarks be recorded here:

[From Paul Harvey News, Oct. 29, 1977]

KANSAS CITY, LEAD ON

Kansas City, I love you! While the rest of us are debating and deliberating how to put the spurs to our lethargic economy without a resultant runaway—you are out front SHOWING the way. Lead on, Kansas City. This generation in this room right now inherited a city with tired blood. . . . An inadequate fog-shrouded riverfront airport . . .

Historic but outdated hotels . . . Smelly stockyards and provincial shops.

And you, in the snap of a finger as historical time is measured—a dozen years more or less—you watered these hillsides with sweat—You built a citadel city bound with ribbons and bows of concrete—And presented to the rest of us living evidence that the American dream is still good.

Your "show-me" citizenry sure enough showed us!

Nobody anywhere on planet earth has a sports complex to compare with yours. Nobody has an airport more nearly ready for the inevitable arrival of tomorrow. Your shopping areas, outdoors and indoors, are incomparable. There are no finer hotels than your newest. And all this without paving the parks, without obliterating history—and without forgetting the recipe for real and true BARBEQUE!

Then along came the storm clouds of 1977 to throw mud at your beautiful citadel. You didn't shake your fist at the sky and demand to know why. . . .

You didn't weep for yourselves or wait for Washington to bail you out. You bailed yourself out. Over there at Forty-eighth and Harrison police officers Gurrin and Price are diving for trapped people in parked cars when their police car floats away.

Some nameless somebody offered them a rubber raft so they could continue the rescue . . . When that got punctured they swam to anyone stranded . . . Our TV and radio stations have been inundated since with calls from people saying thanks to people they never got to know . . . Look at the Star and Times still getting notes of appreciation to whom it may concern who quote "rescued me but never gave his name."

I happen to know it was a carpenter named Dennis Watts who grabbed a man with one hand and a tree branch with the other and held his head above water for two hours in the dark . . . until firemen came.

And somebody in a floating VW on Wornall Road in the Plaza area may never know who threw a rope from the Nichols Parkway Bridge and pulled him through the sunroof to safety.

And when it was over . . . Kansas City had defended its beachhead on the river . . . With shovels and mops . . . the dug-in city dug out. No haggling over profits or losses or wages or hours . . . As the high and dry reached out to the hurt and the homeless . . . you picked yourselves up and wrung yourselves out and dried one another's tears and today the sun shines on a Kansas City proud and prospering and scrubbed brighter than ever.

Thank you, Kansas City, for showing the rest of us, fearful, timid souls who are likely to run scared from such trifling inconsequentials as Dow and Jones . . . Thanks for showing us again . . . The inevitable victory for indomitable men . . . Kansas City—lead on!

SCIENTIFIC EVIDENCE AGAINST MARIHUANA: PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. McDONALD. Mr. Speaker, promarihuana propagandists have dominated the media for the last dozen years, urging legalization of cannabis on the ground that it is a "safe" euphoric drug, nonaddictive and without harmful side effects, and which has none of alcohol's hangover drawbacks for frequent prolonged use. In the past several years, scientific research has shown that all of those claims are false. Yet in the 1976 annual report to the President by the Domestic Council Drug Abuse Task Force, this information was reduced to a mere footnote by the political pressures in favor of legalization of marihuana and other psychotropic drugs. That footnote read:

> Recent research indicated that marihuana is far from harmless, and * * * chronic use can produce adverse psychological and physiological effects. Therefore, its use should be strongly discouraged as a matter of national policy.

This year the President's special adviser on mental health and drug abuse, Peter G. Bourne, M.D., expressed his support for legalization of both marihuana and cocaine. This position was a shock to the scientific community where researchers have been presenting papers on the deleterious effects of marihuana to international scientific meetings for some 3 years. Generally the pro-marihuana lobbyists have not been Presidential advisers, but rather members of radical nihilist political movements who view the use of euphoric psychotropic drugs as a weapon in the war against the continuation of America's political, economic, and social institutions; a faction of extremist civil libertarians who argue that society has no right to protect itself from dangerous psychotropic drugs like marihuana and yet generally support Government restrictions on substances like saccharine; other drug users; and drug dealers looking to expand their markets. In the latter context, Keith Stroup, who runs one of the more strident pro-pot lobbies called the National Organization for the Reform—formerly "Repeal"—of Marihuana Laws (NORML), admitted in an interview last year that some of NORML's funding has come from anonymous cash contributions from drug dealers.

Dr. Hardin B. Jones, professor of medical physics and physiology at the University of California at Berkeley, in 1967 was a hero of the marihuana legalization movement when he was quoted in the student newspaper as stating he knew of no evidence suggesting marihuana was harmful and, therefore, supported its legalization. Over the past 10 years, Professor Hardin has sharply revised his earlier position as his research has shown important harmful effects from marihuana.

Professor Hardin's article from the October issue of the Executive Health newsletter is a particularly lucid examination of the recent marihuana research findings which I commend to the attention of my colleagues:

[From Executive Health, October 1977]

ON THE PROBLEMS EXECUTIVES MUST ANTICIPATE WITH THE GROWTH OF MARIJUANA SMOKING

(By Hardin B. Jones, Ph. D.)

"Men occasionally stumble on the truth, but most of them pick themselves up and hurry off as if nothing has happened."—WINSTON CHURCHILL.

The Senior Scientist at the world-renowned Donner Laboratory of Medical Research, University of California, Berkeley, explains some little-understood facts that executives should know as the growth of marijuana use continues among employees.

Today, many adults, including some executives, smoke marijuana. Some start using marijuana to help themselves stop drinking. Some use it in an attempt to revive their failing sexual powers. Some find marijuana a substitute for tranquilizers or other medication. Some use the drug to keep up with the younger generation. Although the reasons older users smoke marijuana may differ somewhat from the reasons given by younger users (who may use it for peer identification or to alleviate social and sexual problems associated with adolescence and early adulthood), the deleterious effects are much the same. Those past the years when they plan to become parents may not worry so much about genetic damage as should younger users but the damage to the brain and the sexual mechanisms caused by marijuana should still be a subject of concern.

For more than a decade, we have been subjected to a flood of articles, books, and reports supporting the idea that smoking marijuana is simple fun and has no serious consequences. Earlier observations that marijuana was linked to mental disorders, to the use of narcotics, and to personality changes have been declared "obsolete" or "exaggerated." That these early observations are now supported by scientific studies and that many of the early studies were carefully conducted have been ignored.

There are problems with many of the reports supporting the harmlessness of marijuana. First, examinations of marijuana smokers early in their use do not reveal the long-range effects. Second, as marijuana causes adverse behavioral changes that the user cannot recognize in himself, some investigators may have been deceived by their own experiences with the drug. Because they cannot feel the ill effects themselves, many investigators have assumed that marijuana would turn out to be as free of long-term effects as most well-tested medicines.

Throughout the same period that the promarijuana reports were being published, the World Health Organization has continued to warn against the use of marijuana. Although some promarijuana inquiries in the past were sponsored by the British and Canadian governments, these governments have since issued clear warnings about marijuana.

THE EFFECT OF MARIJUANA IS PROBABLY NEVER TRANSITORY

Marijuana is an unusual drug in that the active ingredient, tetra hydrocannabinal (THC), is retained in the body for long periods of time. One study, conducted by Louis Lemberger of the Indiana University School of Medicine, has indicated that 30 percent of the THC is retained in the body at the end of a week. Similar retention occurs whether the users are heavily or lightly exposed to marijuana. From animal studies it appears that the 30 percent retained at the end of a week is eliminated much more slowly than the first 70 percent. Therefore, with repeated exposure, THC accumulates in the body.

THC is changed only slightly by metabolism. In this process, some is converted to a more psychoactive form. (There are about fifty cannabinoids in marijuana; those that have been studied retain their basic cannabinoid structure and fat solubility even though partly altered by metabolism.) THC is highly fat soluble and is, therefore, deposited in the fatty outer membrane of cells. THC appears to have adverse effects on all body cells, but there is reason to be especially concerned about its effects on brain cells and on the reproductive process.

ON DAMAGE TO THE CELL MEMBRANE

An important source for information on the toxic effects of THC on cells is the report of a symposium on marijuana presented at the Sixth International Congress of Pharmacology held in Helsinki in 1975.

More recently W. D. M. Paton, professor of pharmacology at Oxford, and Robert Heath, chairman of the Department of Psychiatry and Neurology at Tulane University, and their colleagues have shown the profound changes that occur in the surface membranes of brain cells in animals exposed to doses of marijuana within the range of typical human doses. Changes have been found to occur in the membrane of brain cells, red and white blood cells, liver and lung cells, and sperm.

ON BRAIN DAMAGE

Marijuana appears to injure the fine, hair-like extensions of the brain cell membranes that communicate with the other brain cells. Such damage is critical, for although each cell has tens of thousands of these connectors, the brain needs them all. They are the mechanisms of the mind.

One important study on the damage caused to the brain by marijuana has received too little attention. The late A. M. G. Campbell of the Department of Neurology, Bristol University, conducted a study of ten consecutive cases of young marijuana users who showed marked behavioral changes. X-ray examinations of their brains revealed that they all suffered from cerebral atrophy. The degree of atrophy correlated with the duration of marijuana use.

In the United States, Harold Kolansky and William Moore, professors of psychiatry at the University of Pennsylvania, were able to correlate the appearance of the symptoms of organic brain disease with marijuana use. In the *Journal of the American Medical Association* (June 2, 1975), they stated: In our reports, we detailed the toxic psychological effects of cannabis use in 51 of our patients, all of whom demonstrated symptoms that simultaneously began with cannabis use and disappeared within 3 to 24 months after cessation of drug use. Moreover, a correlation of the symptoms to the duration and frequency of smoking was established. When these observations were coupled with the stereotyped nature of the symptoms seen, regardless of psychological predisposition, we presumed that with intensive cannabis use, biochemical and structural changes occurred in the central nervous system."

That marijuana can cause brain damage has recently been confirmed by Robert G. Heath. In his study, Heath exposed monkeys for six months to doses of marijuana corresponding to moderate and heavy human doses. Before the brains of the monkeys were examined they were taken off marijuana for eight months. The site and degree of brain atrophy in the monkeys were similar to those in the young men in the Campbell study. Heath also examined the hair-like extensions of the brain cell membranes and found that these synaptic structures were also altered.

The findings of the Heath study were important confirmations of the Campbell study. The brain damage associated with marijuana observed in these two studies appears to account for the behavioral changes often observed in marijuana users.

ON GENETIC AND EMBRYOLOGIC DAMAGE

THC has been associated with genetic changes through the suppression of cell division and the alteration of protein synthesis. E. Sassenrath (in the *8th Technical Review on Genetics and Drug Abuse,* August 1976) has reported recent findings on the increase in malformations in the offspring of monkeys exposed to marijuana. These results, the first definitive findings on primate malformation associated with marijuana, confirm the results of earlier studies involving laboratory rodents. As many developmental abnormalities were found in the offspring when the father monkey alone was exposed to marijuana as when the mother was.

Even before Sassenrath's study was published, there was reason to suspect an association between malformation in human offspring and exposure to marijuana. Statistical tabulations on the number of malformed infants born in the United States over the past decade are now available. Although malformations had been on the decline in the United States for thirty years, since 1970 (coincident with the rise in marijuana use) there have been striking increases in malformations of the hip joint and of the cardiovascular system. It will take several years to compile more complete data, but it seems probable that marijuana use is the cause of this epidemic of malformation.

Two major studies have shown genetic and developmental damage in laboratory rodents after exposure to marijuana. One unpublished study, conducted by du Paul Lynch of Saint John's University, New York, examined the transmission of defects to succeeding generations. Excessive abnormalities appeared in two generations after exposure of the original animals. In this instance only two generations were studied. The other study conducted by Peter Fried of Carlton University, Canada, establishes a variety of genetic changes in offspring of rats exposed to marijuana. Developmental abnormalities were found to be equally frequent after the exposure of either male or female parents.

There are indications that the risks involved with "normal" marijuana use probably exceed the genetic risks associated with exposure to sublethal levels of radiation.

ON DAMAGE TO THE RESPIRATORY SYSTEM

The correlation between cigarette smoking and lung cancer, emphysema, and other respiratory problems is well known. Emphysema is found in 52 percent of those who smoke more than a pack of cigarettes a day; only three percent of nonsmokers develop emphysema. The death rate among cigarette smokers exceeds that of nonsmokers by 83 percent.

Tobacco smoking diminishes lung capacity. The amount of oxygen transported in the blood is decreased when some hemoglobin unites with molecules of carbon monoxide rather than oxygen. In addition, the lungs are irritated by the smoke and become inflamed.

With marijuana, because fewer cigarettes are smoked, less carbon monoxide is taken up in the blood. However, the lungs of the marijuana smoker become more irritated than those of the tobacco smoker. The irritation is greater because TCH is more tightly bound to the carbon particles in the smoke than nicotine is, and, in order to get an effect, the marijuana smoker must inhale deeply and hold the smoke in his lungs. After even a short period of exposure, as the carbon particles accumulate, the lungs of the marijuana smoker change permanently from pink to black.

According to the Leuchtenbergers, working at the Institute of Experimental Cancer Research in Lausanne, Switzerland, marijuana smoke causes a greater range and degree of damage to lung cells than tobacco smoke. Studies by the U.S. Army indicate that lung impairment occurs more rapidly with marijuana. Precancerous lesions have been observed in the air passages of the lungs of marijuana smokers, and autopsy examinations of the lungs of heavy marijuana smokers have revealed severe breakdowns in the lung structure.

ON MARIJUANA VS. ALCOHOL

Marijuana is often said to be like alcohol, but the two drugs are not at all alike. THC, the principal active ingredient in marijuana is highly soluble in fat and insoluble in water. THC remains in the fatty structures of cells for long periods and, with repeated use, accumulates there. Alcohol is a water-soluble food and is metabolized to provide cell energy. It leaves the body rapidly and completely. There is no residue.

Molecule for molecule, THC is 10,000 times stronger than alcohol in its ability to produce mild intoxication. For example, one drink containing 19 grams of ethyl alcohol is metabolized in an average-sized person in about one hour into carbon dioxide, water, and acetone; 50 grams of alcohol produces mild intoxication and is metabolized in about five hours. Only 5 milligrams (0.005 gram) of THC are required to produce the same degree of intoxication. THC is removed slowly from the body, and many months are required to recover from its effects. The marijuana user is under the influence of the drug even between highs.

Marijuana is a complex mixture of many cannabinoids, each of which may have different effects on the body. In addition, the retention of the cannabinoids in the body means that even small doses may have adverse effects. Many of the adverse effects correlate with the duration of the use rather than with the size of the dose, and there may be no truly safe range of exposure. With alcohol the adverse effects are brought about by the larger doses.

It takes decades for irreversible brain changes to appear in the heavy drinker. In the marijuana smoker, irreversible brain changes may appear within three years. Comparing alcohol and cannabis, W. D. M. Paton, professor of pharmacology, Oxford University, said: "The price [in health] for [marijuana] overuse is paid in adolescence or in early life; the price for alcohol overuse is paid in later life."

Along with cancer and cardiovascular disease, which are linked to cigarette smoking, alcoholism is another of the major health problems of this country. With the increasing use of marijuana, another major health problem has now been added. The problem is increased when marijuana is used with alcohol, as it often is. The two drugs *in combination* have a greater effect than the sum of their individual effects.

SENSUAL DRUGS AND THE PLEASURE CENTERS

Sensual drugs, of which marijuana is one, are drugs that the body has no need for but give the user a strong sense of pleasure. These drugs affect the reflex centers located deep within the cerebrum that appear to be the site in the brain of the pleasures we derive from the body, including the pleasures of eating, feeling alive and fit, and sex. The pleasure centers are probably very important in the development of learned behavior, for, along with pain, they form the basis for conditioning. Self-activation, emotions and mood, memory storage and recall, perception and awareness, desire, satisfaction of appetites, and sexual activity are dependent on the balance of reactions in these reflex centers.

The pleasure centers become active after marijuana is smoked. This has been demonstrated by Heath, the discoverer of the pleasure centers. Heath observed the response to marijuana of humans who had undergone brain surgery during which electrodes were placed at the site of the pleasure centers deep within the brain. He conducted similar studies on monkeys.

Although the pleasure centers are activated *artificially* by marijuana, the process would probably be more properly termed *irritation,* as the normal operation of the pleasure reflexes becomes impaired after they have been activated by marijuana. With heavy exposure to marijuana, the operation of the pleasure centers is suppressed. This suppression seems to correspond to what many researchers have called sensory deprivation. Sensory deprivation becomes progressively more severe the longer marijuana is used.

Even those who do not seem to be much affected by marijuana show a marked degree of recovery of their sensory perception and thought processes after several months of abstinence. The user's memory is the first thought process to improve; then his thought formation becomes more vigorous; finally, after several months of abstinence, he begins to notice that he feels more alive. The recovery of the sensual capacity comes last. The restoration of sexual inclination and capacity is a pleasant surprise to the person recovering from the chronic effects of marijuana. Although the user often was not aware of the gradual dimming of his mental and sensual functions he feels his recovery and is impressed by this proof that marijuana had indeed had adverse effects.

I have had less opportunity to study adults than I have men and women in their late teens and early twenties, but they seem to follow the same pattern in their recovery: mental functions that had not been missed return, especially memory and the accuracy of thought formation. However, for older people, recovery may be slower. This is to be expected. The body metabolism gradually declines with age and decreasing physical activity. The accumulated marijuana is eliminated from the body through the circulation and is excreted in the bile; this process is vigorous in youth and declines as we get older.

ON ADDICTION

Contrary to many reports and popular belief, marijuana is chemically addictive. It is addictive because the user can develop tolerance to its effects and suffers withdrawal symptoms when he abstains. The withdrawal symptoms are mild, so mild, in fact, that until recently they were not recognized as withdrawal symptoms. The mild symptoms include irritability, restlessness, and sleeplessness. More intense withdrawal symptoms have been observed in persons exposed for a few weeks to high doses of THC; restlessness, sleeplessness, rapid onset of irritability, loss of weight, nausea and vomiting, diarrhea, salivation, sweating, hot flashes, runny nose, hiccups and electroencephalographic changes during sleep.

The mildness of the marijuana withdrawal symptoms is explained by the fact that THC accumlates and is retained in the brain and body fat. Other sensual drugs that are not stored in the body produce more marked withdrawal symptoms.

Much debate over the dangers of specific drugs centers on the question of chemical or psychological addiction. A purely psychological addiction is usually considered controllable through conscious effort. Chemical addiction is considered less susceptible to mental control. Drugs thought to be merely psychologically addictive are considered relatively harmless; those that are chemically addictive are thought to have more serious consequences. Actually, there is an inseparable relationship between chemical and psychological addiction, and the two forms coincide when the addictive substance is a pleasure-giving drug.

The sensual drugs give pleasure chemically by stimulating the pleasure centers below the conscious level. The brain produces psychological responses to the chemical stimulation of its pleasure mechanisms. The brain's controls then become adjusted so that unmistakable discomfort results if the chemical is not supplied. Thus, chemical and psychological addictions are developed at the same time. Breaking a chemical addiction may be simple compared with breaking the psychological addiction. In fact, a psychological need for chemically induced pleasure drives even occasional users to repeat drug use.

ON MARIJUANA AND SEX

Some adults begin to use marijuana in an attempt to revive their failing sexual powers. They say marijuana does this by expanding the sense of time and by increasing the senses of touch, sight, and hearing. The aphrodesiac effect some users claim marijuana has can also be explained through the power of suggestion. Because the user believes in the effect, he actually feels the effect, at least for a time.

If the user, however, becomes tolerant of the drug and begins to take larger doses or more potent kinds of marijuana, he may find that he is decreasing the amount of sensory information his brain interprets as pleasurable. The magnification effect fails, and the sensory endings become anesthetized. The sense of touch diminishes. As a result, although marijuana may seem to enhance sex at the beginning when taken in small doses, it becomes progressively less satisfying as a sexual stimulant.

Older users who take marijuana to enhance their sex lives may find that at first the novelty itself increases their desire and makes the sex act more exciting. With continued use, however, their pleasure usually decreases. If they stop using the drug, they may find that they have become conditioned to arousal only with the aid of the drug and so cannot perform without it. If they are willing to try higher doses, the numbering effect increases and they may have difficulty reaching a climax. They may blame their difficulties or impotence on advancing age. Many of them, however, could probably recover their physical and mental health through the proper effort.

The vigor or failure of the sexual capacity is usually not dependent on the sexual organs. These organs are merely appendages of the skin, and, except for trauma or prolapses that may affect either men or women and which rarely occur, the sexual organs remain mechanically functional for the life of the individual. The sexual reflexes—sexual inclination, erection, preorgasmic events, orgasm, and postorgasmic changes—all center in the brain.

Many separate brain functions are involved in the sexual cycle, including the functions of both divisions of the autonomic nervous system (the divisions of the brain below the level of consciousness that rule over the vegative functions of the body and also regulate mood). The norms for the balance of the functional divisions of the brain necessary for sexual activity are probably narrower than for other types of responses. In the young and healthy person, the brain is able to compensate for much disturbance of the balance of the divisions of the autonomic nervous system brought on by alcohol, marijuana, or more powerful drugs. Thus, in the young, the sexual functions may not show many signs of disturbance. With age, the autonomic nerve centers lose their capacity to adjust, and the sexual response mechanisms are much more likely to be severely affected.

EFFECTS OF MARIJUANA ON OTHER MENTAL FUNCTIONS

We have all seen examples of the tragic effects of marijuana on the mind. Marijuana smokers seem to suffer from distorted emotional responses, disordered thinking, dullness, and slothfulness. Early in the use of the drug, these behavioral changes appear to be reversible, but as exposure continues, recovery is less and less complete. Those most severely affected are usually not employed. There are, however, many marijuana users in factories and offices who appear to be normal but who suffer chronically from an altered judgment that may affect the quality of their work.

The most extensive study of the lingering effect of the hemp drugs was conducted at the request of the Egyptian government by Professor Soueif. Over a period of twenty-five years, he observed 850 cases of hemp-drug users, which he matched against control cases. Both the users and the controls were given standardized tests of mental function. The tests showed that "those with a higher level of education—and/or intelligence—show the largest amount of deterioration from marijuana use." It appears that the cumulative detrimental changes induced by marijuana result in impaired judgment and a diminished capacity to take responsibility.

Marijuana has an adverse effect on the performance of high-level jobs. The user is frequently lethargic, lacks motivation, is prone to error, has trouble remembering important details, and cannot think practically about the future. These transformations are gradual and are not marked by the obvious signs of impaired ability; it is easy to spot the alcoholic, but not so easy to spot the marijuana user.

The dullness of the marijuana user appears long before he can actually be called amotivated. Although there have been no proper quantitative studies of the degree to which marijuana use induces carelessness, lack of attention, or failure to achieve the highest job performance level, the cost of marijuana use to the individual and to society appears to be high. In industry there appears to be as much reason to limit the job responsibilities of the marijuana user as to limit those of the alcoholic.

Studies of the influence of marijuana on drivers have shown that marijuana impairs judgment and reduces the driver's ability to gauge distance, speed, and road conditions. The severely altered behavior typical of the chronic marijuana user suggests that driving performance would be impaired even between uses; the user is never free from the burden of the active material.

There are other reasons for believing that the judgment of marijuana smokers is impaired. Marijuana users often accept the use of LSD, heroin, or cocaine, while the nonusers reject these more powerful drugs. The adverse effects of marijuana ranks next to the adverse effects of opiates as the reason given for admission to federally financed treatment centers. Marijuana use interferes with practical success and produces alienation, sometimes mild, but sometimes severe enough to be called paranoia.

Recognizing the marijuana user in the early stages of use presents a problem. The appearance of the residues of the cannabinoids in urine can be used to indicate use within the past twenty-four hours. The level of THC in the blood, fat, or feces can be used as an indication of the average level of intake over a period of many months. Chemical testing for these residues is now possible but expensive; rapid, inexpensive methods will probably be developed. A legal issue will then arise: Does a firm have the right to require that employees take a test for marijuana use?

A CASE OF HISTORY

Until recently most of the requests I received for advice about marijuana were from people in their teens and early twenties. Now I am receiving more and more requests for help from older people.

Recently an executive who read my article in Private Practice telephoned me. "Your article described me," he said. "It enabled me to comprehend how desperately I need help." He had started to use marijuana a few years ago, he told me, at the invitation of a just-out-of-college salesman he had hired. He found smoking marijuana a great way to unwind and began to smoke more and more frequently. "I now roll and smoke a joint six or seven times a day," he said. "To have enough appetite to eat, I usually have to start smoking before breakfast. If I haven't toked up since the previous evening, I get so paranoid by morning that I can't bear my awful thoughts. I got my wife started on marijuana, and now she is even worse off than I am. She has begun to have headaches continuously. We've tried to quit now for several months, but we can't; we need help. What shall we do?"

Bit by bit, under my questioning, he revealed that his income, which had been quite high, had fallen to a minimum. He had changed from a robust, healthy, enthusiastic, sexually active man, in love with his wife and devoted to his family, to a man emotionally empty and sexually and physically inactive. He and his wife, he felt, had stayed together only because there was no better alternative for either of them. He has begun, he said, to lose weight—his buttocks are now too thin to sit on a hard chair; his face is thin and sallow; his fingers tremble; and his memory plays tricks on him. His wife's headaches have become worse and worse. (From interviews with drug users, I have found that women get headaches after prolonged exposure to marijuana, whereas men get headaches during withdrawal.) Both he and his wife desperately want to return to the life they had before they started smoking marijuana.

They are already on the way back, for they sincerely want to stop using marijuana. But to be able to abstain completely, they will undoubtedly need professional help. Their recovery should be striking after six months of abstinence; their full recovery will probably take several years.

"WHY HAVEN'T WE BEEN TOLD THIS BEFORE"

The belief that marijuana is safe has become so entrenched that the steadily mounting proofs of its dangers are ignored. The political movement to "decriminalize" (legalize) marijuana has distracted attention from the health hazards. There are those in government, education. and science who have chosen to cope with the marijuana problem by making light of it or by condoning the use of the drug. For example, the following statement was treated merely as a footnote in the 1976 Annual Report to the President by the Domestic Council Drug Abuse Task Force: "Recent research indicated that marijuana is far from harmless, and . . . chronic use can produce adverse psychological and physiological effects. Therefore, its use should be strongly discouraged as a matter of national policy." When such statements as this are buried in footnotes, it is easy to see why people become confused.

This situation must change, for, in my experience, people are eager to know the facts. When I explain the effects of marijuana to audiences, someone always asks, "Why haven't we been told this before?"

I believe that if people know the evidence indicating the real dangers of marijuana, they will be discouraged from using it. In my teaching of drug abuse courses at the University of California and in my counseling around the world, I have found that by explaining how the brain functions and how marijuana affects this functioning, I was able to help people stop using the drug and to keep others from experimenting. The study of the brain is fascinating. The brain is the master control for both mind and body. It governs sensations, moods, thoughts, and actions, not by a magical process, but by a complex series of chemically regulated controls that are easily upset by sensual drugs. People become interested in knowing about the programming of sexual development in the brain; how the brain's control of sexual functioning and sexual dreaming can be disturbed by drugs; how drugs can cause the brain to make colors appear brighter, sounds clearer, and odors more intense; how drugs distort images and the sense of time. They learn the causes of drug-induced hallucinations, flashbacks, memory loss, pleasure and pain, and changes in mood. They are usually surprised to learn that these effects occur in the brain and that, although fascinating, they are indications of disturbed brain function.

ALL THAT WE ARE IS IN THE INTERACTIONS OF OUR BRAIN CELLS

Our thoughts and perceptions as normal persons cannot be improved by drugs. All that we are is in the interactions of our brain cells. With this understanding of how our brains work, the false notion that the mind is expanded by drugs can be replaced by a more profound appreciation of the complexity of our being. When potential drug users come to understand that the disorders induced by drugs are *interferences rather than additions to perception*, they will be in a better position to reject the use of mind-altering drugs.

To sum up: The risk is great for the persistent marijuana user, and part of the risk is that he may harm himself before he can recognize the warning symptoms. In the long run, executives who deal with life's situations through perseverence, self-discipline, and effort will be in a better position physically and mentally than those who depend on drugs to solve their problems. The pleasures of sensual drugs may be immediate, but they are not gratifying or sustained, and they are not greater than the naturally-induced pleasures. Natural stimulation through the senses, thought, and communication can expand the mind to give pleasure and gratification that do not fade.

INVESTING IN APARTHEID

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Ms. HOLTZMAN. Mr. Speaker, American operations and investments in South Africa continue to be substantial despite the system of apartheid and the oppressive denial of civil rights there. Tom Wicker's analysis of how American corporate investments support apartheid merits further consideration. The text of his article on this subject, published in today's New York Times, follows:

INVESTING IN APARTHEID

(By Tom Wicker)

Following the death of Steve Biko and the Government's crackdown on the press, condemnation of apartheid in South Africa has become fashionable. Once again, as during the Soweto riots, the South African story is on the front pages and featured in the nightly television news reports.

Yet, as reported by Michael C. Jensen in The New York Times, about 350 American companies—Ford, G.E., Coca-Cola, I.B.M., Mobil, any number of others—have substantial operations in South Africa. Their aggregate direct investment in that country is nearly $1.7 billion, about 17 percent of all foreign investment there. American banks have outstanding loans and credits in South Africa totaling $2.2 billion, some of them directly to the Vorster Government; by some estimates, about a third of all borrowings by South African Governments and corporations come from American banks.

In the current issue of More magazine, Daniel Schechter, a journalist who was a founder of the Africa Research Group, reports that the United States imported nearly $1 billion in South African goods in 1976, while shipping about $1.85 billion in American products to South Africa. And he points out that Britain, traditionally this country's closest ally, has a $7 billion economic investment in South Africa—more than three times that of the United States.

Apartheid or no apartheid, Steve Biko or no Steve Biko, the United States does thriving and important business with South Africa. It follows, therefore, that the United States could have substantial influence on the South African Government if it were to use either economic sanctions or the plausible threat of them to try to bring apartheid to an end.

Unfortunately, it also follows that such economic sanctions would also interfere with profitable business operations in South Africa by American companies; Mr. Schechter's article says that in 1974 the return on investment in South Africa was 19.1 percent, compared to the world average of 11 percent.

In The Times, Mr. Jensen cited some examples of corporations recently reducing activities in South Africa, or banks re-examining the terms on which they might make further loans to that country. But he found that most, including all the giants, plan to continue or perhaps expand their South African operations. The rationale they offer, which is more or less officially shared by the U.S. Government, is that American investment in and business dealings with South Africa provide jobs for blacks, thus a higher standard of living than they might otherwise have, and that this ultimately will undermine the apartheid system.

Some company and Government officials may honestly believe that, but it's hard to see why. As Mr. Schechter points out, apartheid is not merely a system of segregating blacks but "an organized and highly structured method of controlling and exploiting black labor." Apartheid enables South Africa to finance, in effect, its industrial and agricultural development with cheap, virtually captive labor. Anti-union laws and strict regulation of the black population's movements and locations insures the availability of such labor; apartheid is virtually a system of peonage.

Even with all that American and British investment, moreover, unemployment among South African blacks runs at an estimated 40 percent. That helps insure cheap labor, and suggests that South Africa is not the booming economic bonzana that's sometimes pictured—not for South African blacks.

Seen in this light, unquestioning and unprotesting American investment in and trade with South Africa is bound to prop up the system of apartheid, not erode it. These dealings promote the stability of the Government, the prosperity of the dominant whites and the facade of respectability that South Africa tries so desperately to maintain. While the money pours in, the criticisms bounces off.

And what about South African blacks, who are supposedly being so greatly helped by American business? Mr. Schechter says that virtually every black South African leader favors economic sanctions; and that now includes Chief Gatsha Buthelezi, the leader of 5.8 million Zulus, who is known as a moderate.

A total American pullout from South Africa is neither practical nor necessary; but some stern American corporate decisions, to cut back or limit business-as-usual in that contorted country might have substantial impact. Official Government economic sanctions might be even more effective. At the least, American businessmen ought to stop kidding themselves, or disguising their profit motives; when they invest in South Africa, they invest in apartheid.

A DESIRE TO LIVE IN ISRAEL

HON. DAVID L. CORNWELL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. CORNWELL. Mr. Speaker, under leave to extend my remarks in the Record, I include the following letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 2, 1977.
General Secretary BREZHNEV,
Presidium of the Supreme Soviet of the U.S.S.R., Moscow, The Kremlin, U.S.S.R.

DEAR MR. CHAIRMAN: We are writing to ask that you allow Mr. Lev Ovsishcher to emigrate to Israel.

Mr. Ovsishcher, along with his wife and daughter applied to emigrate in 1973. Throughout his life he has been a law abiding citizen who in fact served his country heroically during World War II. For this service, Mr. Ovsishcher was recommended for the highest military award bestowed by the Soviet Union, the Hero of the Soviet Union, in recognition of his flying ability and brave acts as commander of an air squadron near Stalingrad.

After the war, Mr. Ovsishcher graduated from the Highest Military Air Academy in the Soviet Union, and subsequently retired with rank of colonel. Later on, he worked in the Scientific Research Institute of Mathematical Research in Economy.

Since he applied to leave the Soviet Union, Mr. Ovsishcher has been harassed, threatened and lost his military pension. All he wants to do is spend his last years in Israel with his wife and daughter after having served the Soviet Union for most of his life in different capacities.

Because you signed the Helsinki Human Rights document, we now strongly urge you to grant Lev Ovsishcher, his wife and daughter permission to emigrate to the State of Israel as soon as possible.

Sincerely,

Bill Brodhead, Steven Solarz, Jack F. Kemp, Dale E. Kildee, Claude Pepper, Frank Thompson, Jr., Henry A. Waxman, Antonio Borja, Won Pat, Margaret Heckler, Joe Moakley, Larry McDonald, Ted Weiss, C. B. Rangel, Lou Frey, Jr.,

Tom Downey, Raymond F. Lederer, Max Baucus, Liz Holtzman, Norman Lent, Joshua Eilberg, Bill Hughes, Bill Lehman, Henry J. Hyde, Dan Glickman, Parren J. Mitchell, Richard L. Ottinger, Peter H. Kostmayer, Ed Koch,

Daniel J. Flood, James J. Blanchard, David L. Cornwell, Paul Simon, Robert J. Lagomarsino, Mickey Edwards, Donald Fraser,

Members of Congress.

SENATE COMMITTEE MEETINGS

All committees, subcommittees, joint committees, and committees of conference are required to notify the Office of the Senate Daily Digest of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

The Office of the Senate Daily Digest will periodically prepare this information for printing in the Extensions of Remarks section of the CONGRESSONAL RECORD.

MEETINGS SCHEDULED

DECEMBER 13

8:30 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Lincoln E. Moses, of California, to be Administrator of the Energy Information Administration.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agriculture Research and General Legislation Subcommittee
To hold hearings on the safety of workers in the production of pesticides.
Until 5:00 p.m. 322 Russell Building

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agriculture Research and General Legislation Subcommittee
To continue hearings on the safety of workers in the production of pesticides.
Until 2:30 p.m. 322 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the New York City Seasonal Financing Act.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of Ernest Ambler, of Maryland, to be Director of the National Bureau of Standards.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee.
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the New York Seasonal Financing Act.
5302 Dirksen Building

DECEMBER 16

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the New York City Seasonal Financing Act.
5302 Dirksen Building

DECEMBER 20

10:00 a.m.
Select Small Business
To hold hearings on the problem of agricultural labor certification for nonimmigrant aliens and small growers.
424 Russell Building

DECEMBER 21

10:00 a.m.
Select Small Business
To continue hearings on the problem of agricultural labor certification for nonimmigrant aliens and small growers.
424 Russell Building

JANUARY 17

9:30 a.m.
Judiciary
Citizens and Shareholders Rights Subcommittee
To hold hearings on problems associated with the rights and remedies of insurance policy holders, especially on questions of the cost to and coverage for such policy holders.
2228 Dirksen Building

JANUARY 18

9:30 a.m.
Judiciary
Citizens and Shareholders Rights Subcommittee
To continue hearings on problems associated with the rights and remedies of insurance policyholders, especially on questions of the cost to and coverage for such policyholders.
2228 Dirksen Building

SENATE—*Wednesday, December 7, 1977*

The Senate met at 12 meridian and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Prepare us, O Lord, for the journey to Bethlehem and to newness of life. May we be star-led to the manger-cradle and find Thee right in the family circle. May the tenderness of Mary deliver us from hardness of heart and the patience and love of Joseph save us from harsh judgments. May the shepherds watch keep our eyes open for every sign of Thy coming. Give us ears to hear the music of the skies. As wise men of old followed the star, move us to follow Thy guiding light to the place of peace.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 7, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, December 6, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations placed on the Secretary's desk.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

NOMINATIONS ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read nominations placed on the Secretary's desk in the Coast Guard and the National Oceanic and Atmospheric Administration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to move to reconsider en bloc the vote by which the nominations were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations confirmed are printed at the end of today's Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEVELOPMENTS IN PANAMA

Mr. ROBERT C. BYRD. Mr. President, two of the Panamanian newspapers, Critica and Matutino are reporting that the Panamanian Government has moved to abrogate two of the laws, or decrees, which were the subject of the delegation's discussions with Torrijos. I refer to the delegation which I recently led to Panama.

According to the press reports, the General Council of State, composed of legislative representatives and Cabinet members, has abrogated law 341 relating to the right of assembly and law 342 which was the summary administrative trial and detention provision—said to have been needed for "terrorism" cases.

Torrijos has been quoted as saying these actions follow his commitment to the delegation. He has also said that he will be discussing law 343 on press freedom with the journalists union.

These are, of course, very encouraging developments—both for the Panamanian people and for United States-Panama relations. They indicate that Torrijos is acting in good faith and is determined to meet the commitments he made to the delegation.

The State Department will keep us informed to further developments. It is to be hoped that Torrijos will follow through on these actions and will take definite action on press freedom.

Mr. President, on December 3, 1977, General Torrijos wrote a letter which has been delivered to me by Ambassador Gabriel Lewis, the Panamanian Ambassador to the United States. I ask unanimous consent that that letter from Gabriel Lewis, which contains a communication addressed to me from the Chief of Government, Brig. Gen. Omar Torrijos, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Embajada De Panama,
Washington, D.C., December 3, 1977.

Hon. Senator Robert Byrd,
U.S. Senate,
Washington, D.C.

Dear Senator Byrd: I have received the following message from our Chief of Government, Brigadier General Omar Torrijos Herrera, with the request it be delivered to you immediately:

Hon. Senator Robert Byrd,
Majority Leader, US. Senate,
Washington, D.C.

Dear Senator: This is to inform you that our Council of State on December 2, 1977, at Frallón, repealed in its entirety Decree 342 of October 31, 1969, which refers to crimes against constitutional order and the State. This means that such crimes will be dealt with the Penal and Judicial Codes which remain as they were prior to 1968.

This is also to inform you that certain articles of Decree 341 which suspended constitutional guarantees also were repealed. These articles now repealed referred to prohibitions to hold public meetings in Panama City and Colon. Therefore, this public activity may be carried out throughout the country, including Panama City and Colon, as it always was in practice.

Within the next few days, proposed laws regarding public communication and printed matter will be discussed. We are awaiting recommendations by the Journalists Union which has expressed concern that repeal of the present law would make previous legislation applicable and that such legislation is considered as requiring updating.

I am keeping my word. Please convey this to your colleagues whom I dearly trust.

(Signed) General Omar Torrijos H.

I avail myself of this opportunity to renew the assurances of my highest esteem and consideration.

Gabriel Lewis,
Ambassador.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I yield such portion of the minority's time as the Senator from Virginia (Mr. Scott) requires to pay tribute to Mr. Arthur E. Scott.

TRIBUTES TO ARTHUR E. SCOTT

Mr. SCOTT. Mr. President, last Friday, with the death of Arthur E. Scott, I lost a friend and a neighbor from Fairfax County. The Senate lost one of its most familiar and friendly faces. Although we bore the same surname and lived in the same general area of Fairfax County, we were not related.

Arthur, or Scotty, as he was generally known on the Hill, came to work as a photographer for the International News Service in 1934. He became a photographer for the Republican Senatorial Committee in 1955, remaining until his retirement from the Senate last year. His wife Grace was a caseworker in my office for 10 years. She retired with her husband.

Perhaps Scotty was best known to Members of the Senate for his cheerful, friendly face, his smile, and his desire to share his photographic talents representing Senators pictorially in the best possible manner. He was a perfectionist in his work and persisted in placing us in what he considered to be the proper position in obtaining the best angle, the best background, and the best overall presentation of a specific happening of the moment.

I ask unanimous consent, Mr. President, to have printed in the Record at this point a more detailed statement with regard to Arthur Scott.

There being no objection the statement was ordered to be printed in the Record, as follows:

Arthur E. Scott

Born in Montpelier, Vermont, March 14, 1913. Moved to Washington with his parents and brother Clifton in 1925. The family ran a rooming house known as the Loch Raven Hotel at 3rd and Constitution Ave., on the site that is now occupied by the Department of Labor. Arthur often kidded about going to Arthur School on Arthur Place, just about on the spot where the fountain sparkles in the park above the Senate garage.

His career began as a copy boy on the Times-Herald newspaper in 1930 and he retired as the first photo-historian of the United States Senate in 1976. During these years he made many pictorial contributions to the history of our country, recording the activities of many national and international figures on the Washington scene. Scotty's ability as a photographer won him many prizes, as well as recognition among his colleagues. He served as President of the White House News Photographers Association in 1945, and later as Regional Director of the National Press Photographer's Association, of which he was a charter member. He was the Historian of both of these organizations at the time of his death on December 2, 1977.

When Arthur retired he mentioned that there was not one member of the Senate remaining who was there at the time he started covering the Hill for International

News Photos in 1934. These years also brought before his camera the wartime heroes and foreign dignitaries who appeared before the Senate and its Committees, and he became a popular figure at the Capitol with his ready smile and willing spirit.

In 1955, when the Republican Senatorial Committee was looking around for photographers, Scotty was one of the two chosen to provide photographic services for Republican Senators. This was a new approach to keeping the constituents aware of the day by day activities of the Senators in Washington and his pictures went to all sections of the country, depicting legislative activities and current events in the Nation's Capitol. He covered the Republican National Conventions from 1956 through 1972, as well as many other momentous occasions during this period. The click of his camera is silenced but his pictures will be a living record of his efforts to preserve the history of our country for those who will build the future.

Mr. SCOTT. Mr. President, I extend my deepest sympathy to Grace and to the other members of the family on the loss of this fine man.

I am glad to yield to the distinguished Senator from West Virginia.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, Scotty, as he was known for so many years by those of us who work on the Hill, was not exclusively a Republican photographer, although he was a part of the organization of those who sit on the other side of the aisle. There were many times when I would need a photograph with a constituent or constituents. It could be a hurried photographic request. The Democratic photographer would not then be available. Scotty had led me to feel that if there were such an occasion I could call upon him. If he were available he would fill in, he would help.

I knew Scotty so very well. I know Grace. I have talked with her since his passing. He was a superb photographer, of course. He had a certain diligence about him as he did his job. The Senator from Virginia (Mr. SCOTT) has characterized him correctly when he has spoken of Scotty as a cheerful person. He certainly was always that. When men like Scotty leave not just a profession but the area in which they have labored, there are many of us who do not forget them. It will be so with me in Scotty's passing.

Mr. SCOTT. Mr. President, I appreciate the kind remarks offered by the distinguished Senator from West Virginia. Scotty was a Republican and I believe was on the payroll for a period of years of the Republican senatorial campaign committee. He did love the Senate and, I believe, each Member of the Senate.

Mr. CURTIS. Mr. President, I wish to pay tribute to a good man, a gentle man, a kindly man, whom we all called Scotty because we loved him. He is gone from our midst, for this radiant Christian has been called to his reward.

Scotty will be remembered as he walked around these Halls with his camera, ever ready to record in pictures an interesting moment for a constituent, as well as for a Senator. During the years that he served as an official photographer for the Senate Republicans he won a host of friends because he was a friend to all.

Scotty was never impatient, always courteous, and always willing to do a little more or to take a little more time than was required. As a photographer he was an artist. His work was superb.

Mrs. Curtis and I extend to his widow, Grace, and to the rest of the family our most sincere sympathy in his passing.

Mr. DOLE. Mr. President, Arthur Scott, a friend of mine and many other Members of the Senate, especially Senators on this side of the aisle, died last Friday of cancer. I would like to express my sympathy to his wife, Grace, and other members of his family.

Many of us saw Scotty almost daily, sometimes several times a day, in his capacity as Republican Senate photographer. His winning manner with constituents, his humorous approach to his work, and his ability to be several places at once when different Senators were ready to have their picture taken, made him a truly outstanding servant of the Senate.

His ability to keep constituents entertained while waiting for a Senator to arrive—and his way of getting the very best pose for the photograph in a very few seconds, marked him as a truly outstanding photographer. He was very good to our constituents, and was very good to us.

I would like to express my gratitude for his many years of service and pass along my condolences to his wife and family

TRIBUTE TO THE APOLLO MISSIONS

Mr. SCHMITT. Mr. President, just a personal observation about today, December 7. It is often remembered as a day that, as I quote, "will live in infamy." But it is a day of great importance to this Nation, not only because of our entry into that great war, World War II, but because of another event that occurred just 5 years ago today. That was the beginning of the last of the Apollo missions to the Moon, a mission which I was privileged to serve upon, along with Capt. Gene Gernan and Comdr. Ronald Evans. I just want to pay tribute to those hundreds of thousands of Americans, most of whom were in the private sector, but many of whom were in NASA and in the Department of Defense and other agencies of the Government, who made possible possibly one of the greatest sequence of events in the history of mankind. That was man's first evolutionary step into the universe.

It hardly seems that 5 years have passed, but they have. Captain Cernan and Captain Evans and I, as we talked on the telephone yesterday and reminisced a little bit, all had the feeling that the next 5 years are going to be even more exciting for us personally than have been the last, and that the potential for the future of this country is even greater now than it was when the Apollo programs stopped.

We used for the motto of our particular mission to the Moon, Apollo 17: "This is the beginning, not the end." I think that should certainly hold for the country as a whole and certainly, I hope, for our future as a nation in space.

Mr. President, I have no further need for the minority's time. I yield that time back.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements therein limited to 2 minutes.

ORDER FOR ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 1 p.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VITIATION OF ORDER TO HOLD BILL AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order to hold at the desk pending further disposition a bill by Senator HUMPHREY and others, designated as S. 2345, be vitiated. It was not the Senator's intent to introduce the bill, but only to have it printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:05 p.m. a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 2, 5, 8, 10, 15, 25, 28, 29, 31, 32, 35, 44, 48, 49 through 51 inclusive, and 53 to the bill, and concur therein; that the House recedes from its disagreement to the amendments of the Senate numbered 1, 7, 16, 22, 23, 37, 52, and concurs therein each with an amendment; and that the House insists on its disagreement to the amendment of the Senate numbered 43, and requests that the Senate concur therein.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1405. An Act for the relief of Jennet Juanita Miller;

H.R. 1450. An act for the relief of Hildegard G. Blakeley;

H.R. 1777. An act for the relief of Cathy Gee Yuen;

H.R. 1787. An act for the relief of Paz A. Norona;

H.R. 5466. An act for the relief of Doris Mauri Coonrad;

H.R. 6760. An act for the relief of Charles M. Metott;

H.R. 8212. An act for the relief of Charles P. Bailey;

H.R. 8481. An act for the relief of M/Sgt. George C. Lee, U.S. Air Force;

H.R. 9071. An act to confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight; and

H.J. Res. 489. A joint resolution granting the status of permanent residence to certain aliens.

The message further announced that the House has agreed to House Concurrent Resolution 432, to assure quality health care for populations located in rural areas, in which it requests the concurrence of the Senate.

At 2 p.m., a message from the House of Representatives, delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9418) to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes.

At 5 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 9378) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans.

The message also announced that the House agrees to the amendment of the Senate numbered 1 to the resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes; that the House agrees to the amendment of the Senate numbered 2, with an amendment in which it requests the concurrence of the Senate.

HOUSE BILLS AND RESOLUTIONS REFERRED

The following bills and joint resolution were read twice by their titles and referred as indicated:

H.R. 1405. An act for the relief of Jennet Juanita Miller; to the Committee on the Judiciary.

H.R. 1450. An act for the relief of Hildegard G. Blakeley; to the Committee on the Judiciary.

H.R. 1777. An act for the relief of Cathy Gee Yuen; to the Committee on the Judiciary.

H.R. 1787. An act for the relief of Paz A. Norona; to the Committee on the Judiciary.

H.R. 5466. An act for the relief of Doris Mauri Coonrad; to the Committee on the Judiciary.

H.R. 6760. An act for the relief of Charles M. Metott; to the Committee on the Judiciary.

H.R. 8481. An act for the relief of M/Sgt. George C. Lee, U.S. Air Force; to the Committee on the Judiciary.

H.R. 9071. An act to confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight; to the Committee on the Judiciary.

H.J. Res. 489. A joint resolution granting the status of permanent residence to certain aliens; to the Committee on the Judiciary.

The concurrent resolution (H. Con. Res. 432) to assure quality health care for populations located in rural areas, was read by title and referred to the Committee on Human Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 7, 1977, he presented to the President of the United States the following enrolled bills:

S. 1316. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973; and

S. 2328. An act to amend Private Law 95-21 to make a technical correction therein.

REFERRAL OF S. 2236

Mr. INOUYE. Mr. President, when S. 2236, the Omnibus Antiterrorism Act of 1977, is reported by the committees to which it has already been referred, I request that it be referred to the Select Committee on Intelligence pursuant to the provisions of Senate Resolution 400.

The ACTING PRESIDENT pro tempore. Pursuant to Senate Resolution 400, the bill will be so referred.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ZORINSKY) laid before the Senate the following communications, which were referred as indicated:

EC-2388. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, six construction projects to be undertaken by the Army National Guard (with accompanying papers); to the Committee on Armed Services.

EC-2389. A communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance, reporting, pursuant to law, on the Departent of the Navy's proposed letter of offer to Australia for defense articles estimated to cost in excess of $25 million (with accompanying papers); to the Committee on Armed Services.

EC-2390. A communication from the Assistant Secretary of the Army (Research, Development and Acquisition), transmitting, pursuant to law, a report on Department of the Army Research and Development Contracts for $50,000 or more which were awarded during the period 1 April 1977 through 30 September 1977 (with an accompanying report); to the Committee on Armed Services.

EC-2391. A communication from the Assistant Deputy Chief of Naval Material (Contracts and Business Management), transmitting, pursuant to law, the Department of the Navy's semiannual report of research and development procurement actions of $50,000 and over, covering the period October 1, 1976, through September 30, 1977 (with an accompanying report); to the Committee on Armed Services.

EC-2392. A communication from the Attorney General, transmitting, pursuant to law, a report on the activities of the Department of Justice in the enforcement of title II of the Consumer Credit Protection Act for the fiscal year 1977 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC-2393. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the activities of the Office of Energy Information and Analysis, Federal Energy Administration, December 5, 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2394. A communication from the senior adviser and director for International Narcotics Control, Department of State, transmitting, pursuant to law, planned changes in allocations of fiscal year 1978 funds authorized and appropriated for the international narcotics control program (with accompanying papers); to the Committee on Foreign Relations.

EC-2395. A communication from the assistant legal adviser for treaty affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC-2396. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Combined Truck/Rail Transportation Service: Action Needed to Enhance Effectiveness," December 2, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2397. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Illegal Entry at United States-Mexico Border—Multiagency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People," December 2, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2398. A communication from the chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council of the District of Columbia on October 25, 1977, which would order the closing of an east-west public alley from 50th Street NE., to the rear property lines of Lots 42 and 53 in Square 5202, 50th and Meade Streets NE. (Act 2-101) (with accompanying papers); to the Committee on Governmental Affairs.

EC-2399. A communication from the chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council of the District of Columbia on October 25, 1977, which would order the closing of a north-south public alley between the East Washington Railroad right-of-way and an east-west public alley in Square 5217, bounded by 55th, Nannie Helen Burroughs Avenue, 56th, and Foote Streets NE. (Act 2-103) (with accompanying papers); to the Committee on Governmental Affairs.

EC-2400. A communication from the chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council of the District of Columbia on October 25, 1977, which would order the closing of an east-west public alley abutting on Lot 110, Lot 111, and two north-south public alleys in Square 754, bounded by 2d, E, 3d, and F Streets NW. (Act 2-102) (with accompanying papers); to the Committee on Governmental Affairs.

EC-2401. A communication from the chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council of the District of Columbia on May 17, 1977, and ratified by a majority of the registered qualified electors of the District voting in the referendum held for such ratification, which would amend the Charter of the District of Columbia to provide for initiative, referendum and recall (Act 2-46) (with accompanying papers); to the Committee on Governmental Affairs.

EC-2402. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Inequities in the Federal Withholding Tax System," December 2, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2403. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Summary of Open GAO Recommendations for Legislative Action as of Sept. 30, 1977," December 5, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2404. A communication from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting, pursuant to law, two orders covering cancellations and adjustments in reimbursable charges existing as debts against individual Indians or tribes of Indians, May 12, 1977, and September 9, 1977 (approved Sept. 23, 1977) (with accompanying papers); to the Select Committee on Indian Affairs.

EC-2405. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in the cases of aliens who have been found admissible to the United States (with accompanying papers); to the Committee on the Judiciary.

EC-2406. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

EC-2407. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 826 cases in which the authority contained in section 212(d)(2) of the Immigration and Nationality Act was exercised in behalf of such aliens (with accompanying papers); to the Committee on the Judiciary.

EC-2408. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, correspondence which it has sent to the Office of Management and Budget (with accompanying papers); to the Committee on Rules and Administration.

EC-2409. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report on "Abnormal Occurrences," July-September 1977 (with an accompanying report); to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

A special report on the conduct of monetary policy (together with additional and supplemental views) (Rept. No. 95-610).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

James K. Logan, of Kansas, to be U.S. circuit judge for the 10th Circuit.

Robert S. Vance of Alabama, to be U.S. circuit judge for the Fifth Circuit.

George C. Carr, of Florida, to be U.S. district judge for the middle district of Florida.

John L. Kane, Jr., of Colorado, to be U.S. district judge for the district of Colorado.

Alexander O. Bryner, of Alaska, to be U.S. attorney for the district of Alaska.

John H. Cary, of Tennessee, to be U.S. attorney for the eastern district of Tennessee.

Julian K. Fite, of Oklahoma to be U.S. attorney for the eastern district of Oklahoma.

Larry R. McCord, of Arkansas, to be U.S. attorney for the western district of Arkansas.

Michael H. Walsh, of California, to be U.S. attorney for the southern district of California.

Edward G. Warin, of Nebraska, to be U.S. attorney for the district of Nebraska.

Harry D. Mansfield, of Tennessee, to be U.S. marshal for the eastern district of Tennessee.

Rex O. Presley, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma.

Thomas Arny Rhoden, of Mississippi, to be U.S. marshal for the southern district of Mississippi.

John A. Roe, of Iowa, to be U.S. marshal for the northern district of Iowa.

Andrew E. Gardner, of North Carolina, to be U.S. marshal for the western district of North Carolina.

Edward P. Gribben, of South Dakota, to be U.S. marshal for the district of South Dakota.

(The foregoing nominations to be U.S. attorneys and U.S. marshals were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND:

S. 2347. A bill for the relief of John A. Mitchell and Audrey E. Mitchell, of Columbia, S.C.; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2348. A bill to amend the Merchant Marine Act, 1920, by establishing a program of development grants for those seaports located in the domestic offshore States, territories, and possessions of the United States; to the Committee on Commerce, Science, and Transportation.

S. 2349. A bill for the relief of Margaret Perry; to the Committee on the Judiciary.

S. 2350. A bill for the relief of Thavorn Wong; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND RESOLUTIONS

By Mr. THURMOND:

S. 2347. A bill for the relief of John A. Mitchell and Audrey E. Mitchell, of Columbia, S.C.; to the Committee on the Judiciary.

S. Res. 331. A resolution to refer the bill (S. 2347) entitled "A bill for the relief of John A. Mitchell and Audrey E. Mitchell, of Columbia, S.C.", to the Chief Commissioner of the U.S. Court of Claims for a report thereon; to the Committee on the Judiciary.

JOHN A. AND AUDREY E. MITCHELL

Mr. THURMOND. Mr. President, on May 15, 1976, Chief Petty Officer John Henry Mitchell, Social Security No. 247-04-8073, U.S. Navy, of Columbia, S.C., died of Hodgkins disease, while a member of the Naval Service. It is alleged that his death was due to negligence by naval doctors because of the delay in treatment and diagnosis of the ailment, as Hodgkins disease.

In an effort to resolve differences of opinion concerning alleged negligence, I am introducing a private relief bill in behalf of Mr. and Mrs. John A. Mitchell, parents of the deceased. Concurrently, I am also introducing a resolution to refer this case to the Commissioners of the U.S. Court of Claims for review and submission of findings to the Senate.

Mr. President, I ask unanimous consent that the private relief bill and the resolution be printed in the RECORD.

There being no objection, the bill and resolution were ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $——— to John A. Mitchell and Audrey E. Mitchell of Columbia, South Carolina. The payment of such sum shall be in full satisfaction of all claims of the said John A. Mitchell and Audrey E. Mitchell against the United States for the loss of their son, John H. Mitchell, who died on May 15, 1976, while serving in the United States Navy and whose death, from Hodgkins disease, allegedly resulted from a failure on the part of naval medical personnel to make a timely diagnosis and treatment of such disease.

Sec. 2. No part of the amount appropriated by this Act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

S. Res. 331

Resolved, That the bill (S. 2347), entitled "A bill for the relief of John A. Mitchell and Audrey E. Mitchell of Columbia, South Carolina", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform the Congress of the nature and character of the demand as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

By Mr. INOUYE:

S. 2348. A bill to amend the Merchant Marine Act, 1920, by establishing a program of development grants for those seaports located in the domestic offshore States, territories, and possessions of the United States; to the Committee on Commerce, Science, and Transportation.

DOMESTIC OFFSHORE COMMUNITIES SEAPORT DEVELOPMENT ACT OF 1977

Mr. INOUYE. Mr. President, I am introducing today a bill—the Domestic Offshore Communities Seaport Development Act of 1977—that takes necessary cognizance of Hawaii's and its sister noncontiguous States, territories, and possessions', unique and almost total dependence on ocean shipping for movement of its commerce, both interstate and foreign, by authorizing seaport development grants to those public agencies having qualified seaport development projects. The purpose of such grants is to financially assist such agencies in the construction, improvement, or repair of a publicly owned area or facility used for the docking of ocean-going cargo vessels; the receiving, sorting, segregation or delivery of cargo; and for other purposes—all with the objective of modernizing such area or facility and increasing its productive capacity.

If the shipping public and consumers are to have an efficient, lowest possible cost, surface transportation system linking them with the U.S. mainland, it is not enough that carriers performing such service have high-speed, modern vessels in operation. Of equal importance is the presence of modern and efficient seaport facilities through which cargo can be quickly processed and moved to and from the vessel.

Because of congestion and other factors at existing seaport facilities in my own State of Hawaii, this objective of efficiency and lowest cost is not presently realized.

The State of Hawaii's capital budget is necessarily subject to limitations which can result in postponement of, or delay in completion of these important projects at the Port of Honolulu, or other ports in the State. In connection with the financing of such projects, it should be pointed out that the citizens of Hawaii, through the medium of wharfage and dockage charges and other fees assessed by the State's Department of Transportation which are ultimately included in freight charges collected by ocean carriers serving the State, are already paying millions of dollars for the development and maintenance of seaport facilities.

Freight rates are already high and one factor in giving us living costs in Hawaii some 18 percent higher than in Washington, D.C. Federal assistance is essential if we are to achieve some measure of transportation equity with mainland areas. Ocean terminal development assistance for off-shore areas is a logical means of providing such assistance.

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Pennsylvania (Mr. HEINZ) and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of S. 123, a bill to amend the Social Security Act to provide for the payment of services by psychologists, and for other purposes.

S. 676

At the request of Mr. BENTSEN, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 676, a bill to provide loans for small businessmen.

S. 1997

At the request of Mr. INOUYE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1997, a bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer.

S. 2004

At the request of Mr. INOUYE, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 2004, a bill to amend the Internal Revenue Code of 1954 to permit an individual who is an active participant in a retirement plan to claim the deduction for retirement savings for amounts contributed by him to an individual retirement account, for an individual retirement annuity, or for a retirement bond, to the extent that the amounts paid by him or on his behalf under the retirement plan does not equal the maximum amount of the retirement savings deduction to which he would be entitled if he were not an active participant in such plan.

S. 2119

At the request of Mr. BENTSEN, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2119, a bill for the relief of Calvin Graham.

S. 2250

At the request of Mr. BENTSEN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2250, a bill to amend title II of the Social Security Act to eliminate the waiting periods for disability benefits and hospital insurance benefits with respect to any individual who becomes disabled as a result of a traumatic spinal cord injury.

S. 2300

At the request of Mr. ROBERT C. BYRD (on behalf of Mr. BAYH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Minnesota (Mr. ANDERSON), the Senator from Illinois (Mr. STEVENSON), the Senator from Colorado (Mr. HASKELL), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2300, the Civil Rights Commission Act of 1978.

SENATE JOINT RESOLUTION 101

At the request of Mr. DOMENICI, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. J. Res. 101, a joint resolution to authorize the President to issue a proclamation designating a Memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year.

SENATE RESOLUTION 326

At the request of Mr. KENNEDY, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of S. Res. 326, amending the Standing Rules of the Senate to require that reported bills and amendments containing or extending tax expenditures provisions be referred to the Committee on Appropriations and the committees having legislative jurisdiction over the subject matters involved.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. DOLE, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of Senate Concurrent Resolution 34, a resolution relating to the Holy Crown of St. Stephen of Hungary.

SENATE RESOLUTION 332—SUBMISSION OF A RESOLUTION RELATING TO THE PRESIDENT'S VISIT TO POLAND

(Referred to the Committee on Foreign Relations.)

Mr. DOLE submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 332

Whereas the President will hold talks with Edward Gierek, the head of the Polish Communist Party, and other Polish Government officials on questions of mutual concern to the governments and peoples of Poland and the United States; and

Whereas the United States and Poland are signatories to the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Accords: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President in his upcoming trip to Poland should discuss with officials of the Polish government—

(1) the restrictions imposed on family reunification and emigration, the free flow of information, and the practice of religion in Poland, and the effect of such restrictions on the Polish people; and

(2) the great importance that Americans in general and the Congress in particular attach to compliance with the human rights provisions of the Helsinki Accords.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DOLE. Mr. President, President Carter is planning to visit Poland this month to discuss with Communist party leader Edward Gierek the various problems that Poland is having and how they can be resolved. One of the major topics of discussion will undoubtedly be the state of the Polish economy.

POLISH ECONOMY UNDER STRAIN

At the present time, the Polish economy is undergoing severe strains in trying to expand its agricultural and industrial base. To offset a worsening shortage of meat, Poland will continue to need grain imports to feed its livestock. Up to now, it has used Commodity Credit Corporation credit to provide a substantial part of its agricultural import financing. However, unless economic conditions improve in Poland, there is a possibility that Poland could in later years become ineligible for this form of credit. As a result, it would have to resort to cash payments to cover its agricultural purchases.

In order to raise the hard cash, its domestic industrial potential has to be developed and at the present time this can only be done by importing Western technology, again with the help of Western financing. In spite of the availability of credits at reasonable rates from the United States through the CCC, the Export-Import Bank, as well as most favored nation treatment, Poland has a $10.2 billion debt and an uncertain future in being able to meet interest and principal payments. According to some financial analysts, in 1980 when many Polish loans mature, it will be hard pressed to meet its obligations.

POSSIBLE POLISH DEBT CRISIS

The problem with the Polish debt is twofold. First, is its debt size in comparison to its exporting capacity, the debt service ratio? According to Eastwest Markets, the Chase Manhattan Bank's newletter, the Polish ratio at the end of 1976 was 47 percent, while 25 percent is considered generally acceptable by western bankers. Second, the total Soviet bloc indebtedness according to the best estimates is $40 billion. Poland alone owes $10.2 billion or more than 25 percent of the total debt owed to western countries.

There are an increasing number of experts who believe that a debt crisis is possible, not just in Poland but in all the eastern bloc and Soviet Union. Richard Portes, professor of economics at the University of London, wrote in the July issue of Foreign Affairs that there would be no easy exit from this crisis and a large default would shake confidence in European money markets.

I have brought up these economic issues because they have a direct bearing on President Carter's upcoming trip.

U.S. CONCERN FOR HUMAN RIGHTS

According to the Washington Post on November 1, 1977, the Poles are "looking for some economic payoff in return for what is expected to be a warm reception for Carter." I find this to be an inadequate payoff. The economic considerations are complex and difficult and to help in their resolution, if even possible, is not going to be easy for the United States and could endanger the stability of Western financial institutions.

If Gierek talks to President Carter about problems close to his heart, then President Carter should bring up the very great concerns we in America have over the Polish restrictions on family reunification and emigration policies. The Polish Government has allowed only 2,000 persons to emigrate a year. At this time there are 145 immediate families—consisting of spouses and their unmarried children—and 832 nonimmediate families—any relatives, either by blood or marriage—still seeking reunification.

RELIGIOUS DISCRIMINATION

Nor is Poland totally without discrimination against believers and without restrictions on their right to profess and practice their religious beliefs free from state interference. Children can only attend public schools, members of religious orders are formally prohibited from teaching in schools, certain documents of the Holy See cannot be published, chaplains are not admitted to prisons and religious processions and pilgrimages require permits which are given only selectively.

These are just a few of the restrictions and harassments that the Polish Government resorts to against believers. And these practices are unacceptable in terms of the Helsinki Final Act to which the Polish Government is a signator. The President should bring up each and every one of these violations. It is for these reasons that I am introducing a sense of the Senate resolution.

SENATE RESOLUTION 333—SUBMISSION OF A RESOLUTION FOR BETTER HEALTH THROUGH NONSMOKING

(Referred to the Committee on Rules and Administration.)

Mr. LEAHY submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 333

Whereas, it is important that the Senate of the United States be not only a legislative body but also an example-setting body;

Whereas, it has been determined that cigarette smoking is a hazard to the health our citizens and remains the largest single unnecessary and preventable cause of illness and early death;

Whereas, cigarette smoking in enclosed areas results in being detrimental not only to the smoker but also to the non-smoker or "involuntary smoker"; now, therefore be it

Resolved by the Senate that from this day forward cigarette smoking shall be banned from all Senate hearing rooms while a public hearing is in session.

Mr. LEAHY. Mr. President, we have become painfully aware in recent years of the health hazards of smoking. In an effort to reduce the number of smokers, the advertisements have been banned from television and all others must include warnings. We are constantly informed by the American Cancer Society that there is a direct relation between smoking and heart and lung diseases. With all the information we have available to us, it is simply amazing the number of Americans who continue with this most unhealthy habit. We spend millions of dollars each year as we should on cancer research though one of the best preventive methods is right at our finger tips.

The rights of the nonsmoker has become quite an issue lately. We see smoking more and more either banned altogether from public places or being permitted only in restricted areas. I firmly believe that the nonsmoker has the right not to be inflicted with the toxic fumes of another person's cigarette. In that regard, I would hope that the Senate would agree to the resolution I am submitting today which would ban smoking in Senate hearing rooms while a public hearing is in session.

NOTICES OF HEARINGS

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Thursday, December 8, 1977, at 2:15 p.m. in room 4232, Dirksen Senate Office Building, on the nomination of Leila I. Kimche, of Maryland, to be Director of the Institute of Museum Services.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Indiana (Mr. BAYH), I wish to announce that the Subcommittee on the Constitution of the Committee on the Judiciary has scheduled hearings on S. 2300, the Civil Rights Commission Act of 1978, on Thursday, December 15, 1977, on Wednesday, January 25, 1978, and Thursday, January 26, 1978. The hearings will be held on all 3 days in room 2228 of the Dirksen Office Building.

ADDITIONAL STATEMENTS

DR. LAURENCE WOODWORTH

Mr. HATHAWAY. Mr. President, the United States is diminished today with death of Larry Woodworth. It is difficult to contemplate the loss of such a man—his warmth and grace coupled with technical brilliance will be difficult to replace. His credentials said "Doctor," but to all of us who knew him, it was Larry.

He was serving this country as Assistant Secretary of the Treasury (Tax Policy) at the time of his death. Prior to accepting that challenging position, he was chief of staff of the Joint Committee on Taxation.

Larry was a remarkable man. He has left his imprint on the solutions to the most technical problems of this country—taxation. His counsel and expertise will be missed as the administration and the Congress wrestle with tax issues.

There is a far greater gap left with Larry's passing. To paraphrase Will Rogers, "I never met a man who didn't like him."

Larry brought a warm and gracious presence to all who knew him. He captivated people with his sensitivity and wit. Larry's integrity and consideration were his hallmarks.

No one can claim a greater honor than to say: "I was a friend of Larry's."

I know we shall all miss him. All of us extend our sympathy to Margaret and the children.

The void left by Larry's death has diminished us all.

Larry Woodworth has left behind an extraordinary record of achievement and as many friends as those who ever met him.

When people ask, "What makes a great public servant?" I shall answer, "Look to the career of Larry Woodworth."

DEATH OF LARRY WOODWORTH

Mr. KENNEDY. Mr. President, Larry Woodworth's untimely death this morning deprives the Nation of one of the ablest and most respected public servants ever to grace the Halls of Congress or the executive branch.

The many public honors he earned throughout his career are a tribute to the extraordinary skill with which he guided the deliberations of Congress for so many years in the sensitive and extremely complex field of taxation and tax policy.

It was natural, therefore, that President Carter, in seeking the best, should turn to Larry Woodworth to fill the high position of chief tax adviser in the Treasury Department, and to be the architect of the President's comprehensive tax reform program.

It is fortunate for the country that his preparation of this program had been so nearly completed in recent weeks. But it is a special tragedy that we shall not have his wise assistance in the future, as the program moves through Congress.

In recent years, taxation and tax reform have been perennial issues before the Senate. Few, if any, pieces of legislation are more complex than the Nation's tax laws. You could tell when floor debate was about to begin on a major tax bill or on a conference report on tax legislation, because Larry Woodworth would arrive a few minutes in advance of the appointed hour, to confer with Senator Long, or the Senate leadership or the Parliamentarian, or other players in the forthcoming debate.

He was a master at making the hard ones look easy. He would have been a great teacher, because he had the rare ability to decipher even the most arcane passages of the Internal Revenue Code, and translate them into understandable provisions and clearcut policy choices on which the Senate could exercise its judgment.

Our respect for him was enhanced by the realization that he did everything twice. The same skill and judgment that served us so well in the Senate were also constantly at the service of the House of Representatives, as he guided tax measures through that Chamber, too. There are few, if any, more demanding staff jobs on Capitol Hill, and Larry Woodworth performed his dual House and Senate role in a way that earned him the friendship, affection, and respect of all of us.

Part of Larry's immense appeal was his great ability to steer an accurate middle course between conflicting viewpoints on complex issues. His advice and assistance were always available to any side in any debate. None of us ever left a floor debate without new admiration for Larry—not only for his knowledge, but also for his fairness and impartiality. Under his leadership, the Joint Tax Committee staff maintained an unsurpassed reputation for excellence and service on Capitol Hill.

All of us who knew Larry Woodworth deeply regret his sudden and tragic death. I extend my deepest sympathy to his family, and I shall miss him as a friend and wise counselor.

Mr. President, last January, on the occasion of Larry's appointment to his Treasury position, I had the occasion to write a letter to the editor of the Washington Post, expressing my support and respect for him. I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter to the editor was ordered to be printed in the Record, as follows:

Promising Appointment

I take mild issue with the comment in David Broder's otherwise perceptive column of Jan. 23, to the effect that, in choosing Dr. Laurence Woodworth as Assistant Secretary of the Treasury for Tax Policy, President Carter yielded too easily to the pressure of Sen. Russell Long.

I have no direct knowledge of the moves behind Dr. Woodworth's selection for the position, which is one of the most important jobs in the executive branch. But as a longstanding advocate of tax reform in the Senate, I think it is an excellent appointment, one for which Dr. Woodworth is doubly qualified—as an expert on the tax laws and on the way those laws are written by Congress. I believe the choice of Dr. Woodworth holds great promise for the cause of tax reform and for the early fulfillment of President Carter's commitment to that goal. My only regret is that the administration chose, at least for the present, not to upgrade the position to the level of Under Secretary.

President John Adams once said that, of his accomplishments, the one in which he took most pride was his gift of Chief Justice Marshall to the people of the nation. In a similar vein, it may turn out one of Sen. Long's most notable contributions to tax reform is his gift of Dr. Woodworth to the Carter administration.

Edward M. Kennedy,
U.S. Senator (D-Mass.).

Washington.

TRIBUTE TO SENATOR JOHN L. McCLELLAN

Mr. WEICKER. Mr. President, I join my colleagues in expressing sincere personal sorrow at the passing of our friend and colleague, Senator John L. McClellan.

Though never his intimate, in my brief service on the Appropriations Committee I have come to know my chairman as a leader worthy of great respect and a gentleman of the highest integrity. As a public servant for more than 50 years, his achievements present an unequaled legacy. His courage and diligence will be truly missed in the U.S. Senate.

DEATH OF SENATOR JOHN L. McCLELLAN

Mr. HUDDLESTON. Mr. President, I would belabor the Senate if I spoke at any length about the late John McClellan's career here in this place because there are those in this body who have served with him for more than a quarter of a century and know firsthand of his achievements. Nevertheless, I do wish to take an opportunity to briefly recount some of the events in John McClellan's life that stand out in my mind.

Mr. President, the stories that we have heard about John McClellan and his purposeful life are legion. Perhaps the one that best exemplifies those characteristics of hard work and careful preparation that marked his career here in the Senate is a story that appeared on the front page of the Sunday St. Louis Post-Dispatch almost 65 years ago. The headline reads "Plowboy at 17 Admitted To Bar Under Special Act of Legislature" and goes on to relate "Arkansas Farm Lad Is Youngest Lawyer in the United States." The news report of that time recounted that young John had been attending school whenever he could spare time from his farm work since he was 4 years old and "reading Blackstone since he was 10." Upon completion of his course of reading law, he passed a "grueling examination," conducted by the "veterans of the circut court in a strange town." He then successfully "applied to the State lawmakers to lift the ban that would bar him from practicing his profession for 4 years," and thus became the youngest lawyer in the United States. I think the extent of John McClellan's achievements come as less of a surprise once one hears that story of unrelenting persistence.

Mr. President, as I returned from the funeral of our late departed colleague, John L. McClellan, I could not help but marvel at the great outpouring of esteem, admiration, and affection for John that took place in Little Rock. The clergy, especially, were extraordinarily eloquent in recounting his long career of public service and accomplishment and his triumph over tragedy and adversity in his private life.

As the Members may recall John McClellan utilized his knowledge of the law to good advantage in the Senate, first in ferreting out the criminal element in the spectacular hearings conducted by the Permanent Investigations Subcommittee of the Government Operations Committee and later in his role as the chairman of the more powerful but less visible Appropriations Committee.

Over the past few years, I have been privileged to serve on the Appropriations

Committee. During that time I came to know John McClellan as a judicious chairman with a singular respect for due process, the country lawyer searching for the facts, impatiently cutting short the irrelevancies. He was always quick to extend every possible courtesy to senior and junior Members alike. For his many personal kindnesses to me I will always be grateful.

As the clergy at John McClellan's funeral recounted, his personal life was marred many times by hardship, anguish, and tragedy. He lost his mother when he was only 3 weeks old. His first two wives died. One son died while serving in World War II. Another was killed in an automobile accident while traveling to the reburial service of the first son. A third died in an airplane crash. He bore these burdens and fortunately he had the opportunity to enjoy the lives of his two daughters, Doris McClellan and Mary Alice McDermott.

Those who knew him better than I tell me that the two sustaining strengths during those difficult years were his faith in God and his present wife, the former Norma Myers Cheatham, whom he married in 1937 and for whom he had the greatest respect and affection.

John McClellan was a self-described conservative "I am proud of it but I am not a conservative to the point of being a reactionary, I am a conservative to conserve the resources of our Nation and preserve the integrity and solvency of our country," he would often say. Many times he has publicly declared that he would "war against crime and criminals, because society cannot withstand these assaults and we will have chaos if the trend is not reversed." These two thrusts constituted his political creed.

Yet, his legacy also includes active support for programs beneficial to his people in Arkansas, for he was a man of compassion with understanding for those constituents who were forced to cope with grinding poverty. He was especially proud of his efforts to secure $1.2 billion for development of the Arkansas River navigation system which now bears his name.

Finally, I mention the effort that may yet prove to be his crowning achievement—the first codification of the criminal laws in the Nation's history, an effort over which he has labored for many years.

Mr. President, I salute the memory of John McClellan, his inspiring leadership, his magnificient energy and his dedication to his country.

Mr. President, I ask unanimous consent that an editorial that appeared in the November 29, 1977, issue of the Washington Post be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

JOHN LITTLE MCCLELLAN

John L. McClellan, the Arkansas Democrat, was nearing the end of his fifth term in the Senate when he died yesterday at the age of 81. So, his career spanned some enormously important—and occasionally convulsive—changes in the country's public life; and it also brought him the entitlements and rank that go with longevity in office: Sen. McClellan was chairman of the Senate Appropriations Committee when he died, and he had previously been chairman of the Senate Committee on Government Operations. He had played a prominent role in the civil rights battles of the postwar years, the Army-McCarthy hearings, the labor and crime legislation that took shape in the past two decades.

In much of this we had found ourselves on the opposite side from John McClellan, especially where racial and civil-liberties questions were concerned. But none of that alters our view that Sen. McClellan was a man of personal dignity and fairness, who did not abuse his power in the Senate or seek to close out the views of those who disagreed with him. And wherever others, ourselves included, may have fetched up concerning his principal interest—i.e., the creation of conditions that would restore respect for authority in this country—no one could deny the relevance of this preoccupation to our public life in recent years. One didn't have to share Mr. McClellan's conclusions on how to deal with crime to share his outrage at the organized depredations of the labor and Mafia racketeers.

Sen. McClellan does leave one indisputably monumental achievement: the enormous and enormously complex codification of the nation's criminal laws on which he had worked for many years and which he had not so long ago managed to accommodate to the views of some of his critics, such as Sen. Edward Kennedy. The negotiated result, now before the Congress, is legislation of great stature and importance—truly of landmark quality.

We would mention only one further aspect of the senator's record. That is the sad and terrible record of personal tragedy that befell him as a father three times bereaved in a life that was stark and Job-like in its accumulated ordeals. John McClellan fought back, mastered his sorrow, overcame the temptation to self-pity and, with hard work, built a new life. This is a town where accomplishment is often measured in terms of legislative monuments alone. But we put Sen. McClellan's personal strength in the face of adversity at the top of the list of his life achievements.

TRIBUTE TO SENATOR McCLELLAN

Mr. JACKSON. Mr. President, I join my colleagues in paying tribute to a great American, Senator John L. McClellan of Arkansas.

I have been a Member of this body for 25 of the 35 years John McClellan served here. It was my great good fortune to work with him closely throughout those years. I knew him as a wise counselor, a close friend, and as a trusted leader in historic tasks undertaken by this body. The Senate is not the same without him. Mrs. Jackson and I extend our greatest sympathy to Senator McClellan's widow, Norma, and to other family members.

As his colleagues so well know, John McClellan was above all a person of solid integrity. You could count on him: his word was his bond and I never knew him to back down on a commitment.

I discovered this very early after coming to the Senate in 1952. I found myself serving with John McClellan on the Permanent Subcommittee on Investigations, then chaired by Senator Joseph R. McCarthy. Those were dark days, but John McClellan—the ranking Democrat on the subcommittee—was stalwart in opposition to the vilification of witnesses and the arbitrary conduct of the inquiry. He led us in the walkout on McCarthy, and when the Democrats gained control of Congress in 1955 and Senator McClellan became the subcommittee chairman, he promptly authored a set of rules for the conduct of congressional inquiries that provided witnesses a measure of security from harassment, and served the purposes of a bipartisan Congress.

I had the privilege of serving with Senator McClellan for 25 years on the Permanent Subcommittee on Investigations. In 1973, I assumed the chairmanship of that subcommittee when he became chairman of the Senate Appropriations Committee.

No other chairman of a congressional investigating committee in the history of the U.S. Congress produced more substantive results than did Senator McClellan. Senator McClellan's ability as a cross-examiner was unequalled in the Senate. His style was stern but fair. He was judicious in his approach. Friendly witnesses were subject to the same scrutiny as adversaries. The reputation he achieved as chairman of the Permanent Subcommittee on Investigations stemmed mainly from his adherence to the rules of fair play.

When he was still a boy, John McClellan had ridden the circuit with his lawyer father and gained a deep respect for the law. When he was admitted to the Arkansas bar at the age of 17 he was the youngest lawyer in the United States at the time.

From that early start, John McClellan became a staunch guardian of our constitutional, democratic heritage. He believed in protecting and strengthening the standards that encourage fair and lawful relationships among our citizens.

Landmark legislation which he authored was aimed at enhancing law enforcement: the Omnibus Crime Control and Safe Streets Act of 1968 and 1970, and the Organized Crime Control Act of 1970. He exercised a major influence on judicial and legal reform as a member of the Senate Judiciary Committee and chairman of its Criminal Laws and Procedures, and Patents, Trademarks, and Copyrights Subcommittees. Right now, the Senate has under consideration his pioneering piece of legislation: a complete revision of the U.S. Criminal Code.

Senator McClellan, of course, was more than the Senate's leading investigator. He was also an innovative, persuasive, and effective spokesman in Washington for the needs of his own State of Arkansas. He played a major role in bringing new economic growth to Arkansas.

And over the years, in critical votes, John McClellan stood up and was counted for a strong national defense, and for the support of our basic alliances including the North Atlantic Treaty Organization. In the last few years, as chairman of the Appropriations Committee, Senator McClellan continued his responsible consideration of national defense programs.

In his long and productive life, John McClellan gave the full measure of dedication and devotion to the high purposes of this Nation. We shall miss him. He was the kind of statesman-legislator we need today more than ever before.

THE LATE SENATOR JOHN L. McCLELLAN

Mr. EASTLAND. Mr. President, I ask unanimous consent that a telegram addressed to me as President pro tempore of the Senate from the Honorable Peter M. Towe, Canadian Ambassador to the United States, be printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

[Telegram]

Washington, D.C.,
November 30, 1977.

Senator Eastland,
President pro tempore of the Senate,
Dirksen Senate Office Building,
Washington, D.C.

I was greatly saddened to learn of the sudden passing of your illustrious colleague, the late senior Senator from Arkansas, John L. McClellan. His long and distinguished career of service to his country will continue to inspire and provide an example to all Americans. I am sure Sen. McClellan's friends and parliamentary colleagues in Canada would join with me in extending to you and your colleagues in Congress as well as to the family of the late Senator, our deepest sympathies on your great loss.

Sincerely,

Peter M. Towe,
Canadian Ambassador,
Washington, D.C.

HARD TIMES DOWN ON THE FARM

Mr. TALMADGE. Mr. President, I have great sympathy with the farmers of Georgia and throughout the Nation because of the multitude of economic problems presently confronting them.

I think it can be said without fear of contradiction that this has been a very bad year for farmers and American agriculture.

Farmers all over the country suffered a severe drought last summer which put many of them on the verge of bankruptcy. To complicate an already grave situation, Federal farm disaster loan programs were short of funds and lacking in adequate processing and administration. In an effort to break the logjam, I supported legislation to increase funding for farm disaster loan programs under the Farmers' Home Administration and the Small Business Administration. Also, I personally met in Washington and in Georgia with officials of FmHA and SBA to devise ways and means for streamlining these programs and carrying out the intent of the law in an effort to provide drought stricken farmers with needed aid.

Because of the drought, because of the disaster aid program mess, and because of the agriculture cost-price squeeze, it is no wonder farmers are up in arms. So, as I say, I am sympathetic with the American farmer. Farmers are fully justified in focusing attention on their problems and they have my full support in their efforts to achieve their goals. Their basic goal is neither unreasonable nor unrealistic. What farmers want and what they are fully entitled to is their fair and equitable share of the national income in keeping with their hard work and importance to the American economy.

Agriculture is the Nation's biggest business. It is the most important. It is directly responsible for the employment of 4.4 million people, which is more than the number of jobs in our automobile and steel industries.

Yet, net farm income is down approximately $10 billion less than 4 years ago. While farm income has been going down, the price of everything else, equipment, fertilizer, and energy, has been going up. As a result, farmers are caught in the intolerable situation of having to sell their commodities for less than what they cost to produce.

There appeared in the December 6 edition of the Wall Street Journal an excellent front-page article on this problem. I bring it to the attention of the Senate and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Farmers Are Troubled, And the Ripples Move Through the Economy

(By Joseph M. Winski)

Chicago.—Crop prices are down and U.S. farmers are up in arms.

A new farm group calling itself American Agriculture is calling on farmers to "strike" on Dec. 14—to stop producing crops and stop buying nonessential goods. Agricultural observers acknowledge the flair of the movement's leaders who managed to get thousands of farmers to stage a protest tractor parade in Plains, Ga., a few weeks back, but they doubt that any broad strike will materialize. (See story on page 6.)

There is widespread agreement, however, that hard times have hit the U.S. farmer. And strike or no strike, evidence is mounting that the shock waves from those hard times are beginning to ripple through the U.S. economy.

Nobody knows what the ultimate impact will be, of course. That depends largely on how long the current farm squeeze lasts. Some people say that the squeeze—a product of the generally sagging crop prices and a continuing rise in farmers' costs—could last several years.

On the other hand, farmers' fortunes could turn up again as suddenly as they did in 1972, when large foreign purchases of U.S. grain ushered in a boom in the U.S. agricultural economy.

SOME HOPEFUL SIGNS

Indeed, there were signs in recent weeks that things were looking up for the farmer. The Russian grain crop was reported to be much smaller than originally anticipated, and the Chinese were rumored to be planning large purchases of grain and soybeans. Though the result may be larger foreign purchases than were expected earlier, few observers believe they will be massive enough to bail out the U.S. farmer.

"Things have become a bit more bullish, but not much more," says Dean Chen, head of agriculture for Wharton Econometric Forecasting Associates Inc. of Philadelphia.

So for the moment at least, the farm boom has turned to bust, and the potential effects are considerable. Despite a steady decline in farm employment, the nation's 2.8 million farms still provide jobs for about 4.4 million people, including the principal operator, working family members and hired hands. That's more jobs than are provided by such industrial heavyweights as autos and steel.

Thus, the present financial difficulties of farmers, like layoffs in major industries, could result in large cutbacks in consumer spending for appliances, furniture, automobiles and the like. In fact, some consumer-oriented companies with stakes in the farm community, such as Minneapolis retailer Gamble-Skogmo, Inc., have already reported earnings declines related to reduced spending by farmers.

Probably of greater concern, though, is the likelihood that farmers will be cutting back the sizable spending they do as businessmen. This prospect worries farm-equipment makers, fertilizer companies and other suppliers of goods and services to farmers.

ABUNDANT PRODUCTION

Farmers' present difficulties reflect two straight years of abundant crop production in the U.S. and generally good crops in other countries. The result has been crop prices that farmers say are well below their costs of production.

Despite a rise in prices following a recent flurry of export talk, corn is selling in Chicago for about $2.20 a bushel, down from $2.42 a year ago and from more than $4 in 1974. Wheat is selling in Kansas City for about $2.75 a bushel, up slightly from depressed year-ago levels, but well below the $6-plus levels of 1974. Soybeans and cotton also are selling for well below their peak prices in 1973.

The carryover of unused corn on Oct. 1 amounted to a record 879 million bushels, and record production this year may push the carryover up another 40% by next Oct. 1, analysts say. U.S. farmers are harvesting a record 1.68 billion bushels of soybeans, up a third from last year; soybean carryover stocks are expected to double during the current crop year.

DROP IN EXPORTS PREDICTED

U.S. farm exports managed to rise 5.5% to a record $24 billion in the crop year ended Sept. 30, but they weren't large enough to make much of a dent in the burdensome supplies. Moreover, Agriculture Department analysts say that the value of exports in the current crop year could drop between 5% and 10%, while agricultural imports of such things as coffee and cocoa, which increased by 27% last year, are expected to rise again, to about $13.5 billion.

That won't be good for the country's trade balance because agricultural exports are the one consistently positive contributor to the U.S. balance of payments. In four of the last 10 years, such exports were responsible for the country's receiving more money in exports than it was shelling out for such things as imported oil. And exports have a so-called "multiplier effect." In the case of agriculture, the government estimates that every $1 increase in exports adds another 90 cents of income to the rest of the economy.

Another possible side effect is an increase in the number of farmers seeking off-farm employment. Even in flush times, farmers rely heavily on off-farm income; last year such income accounted for 59% of the total income received by farmers. Continuing declines in income, observers fear, probably would raise the number of farmers looking for other jobs, and at a time when unemployment among nonfarmers remains high.

The plight of the farmers extends far beyond the farmstead in another important respect. All taxpayers are affected because the government is back in the agriculture business. Under recently enacted farm legislation, it will make subsidy payments to wheat farmers of more than $1 billion by the end of the year.

Not all farmers find themselves in dire straits. Low prices for feed grains have considerably brightened the outlook for livestock producers, for example, and large-scale, efficient farmers who haven't plunged heavily into debt in recent years should be able to weather the storm quite nicely, says Gene Hamilton, economist for the American Farm Bureau Federation.

But on the whole, farmers appear to be in far worse shape than they were a few years ago. Even including government support payments, farmers' realized net income this year is expected to be about $20 billion, down from $21.9 billion last year and more than a third lower than the record $29.9 billion of 1973. Mr. Chen of Wharton Econometric says his firm expects a further decline this year, to about $19.5 billion.

Last year's average income per farm, the Agriculture Department says, was $7,885, compared with a peak of $10,529 attained in 1973.

Not surprisingly, recent surveys by the Federal Reserve banks of Chicago and Minneapolis indicate a sharp increase in the number of bankers who say farmers are having loan-repayment problems.

It now appears that the drop in commodity prices may be leading to what some observers feel would be the most telling development of all: a drop in the value of farmland. Average national farmland prices haven't fallen since the 1950s, and they've risen 114 percent in the last five years alone. The sharp rise is the major reason total U.S. farm assets reached a record $643 billion last year, according to the Agriculture Department.

But the Federal Reserve Bank of Chicago reports that farmland prices in its district (Iowa and most of Illinois, Indiana, Michigan and Wisconsin) declined 1.2 percent in third quarter as compared with the second. The bank said the decline was the first in its district since the fourth quarter of 1960. The Federal Reserve banks in Kansas City and Dallas also reported slight declines for most categories of farmland in the third quarter.

Rising farmland prices have been crucial to the continued spending increases by farmers. By virtue of their landholdings, many of them have achieved net worths of more than a million dollars, and thus are able to borrow to finance further spending. A downward trend in land prices would mean reduced borrowing power and otherwise seriously imperial the economic health of farmers and those industries that depend on them.

Bearing the immediate brunt of current conditions, probably, will be that large chunk of U.S. agribusiness that supplies the farmers with what he needs to produce. Farmers last year spent more than $60 million on such goods and services.

The farm-equipment industry already appears to be slumping. Sales held up through the first half of the year but began dropping in July. Through October of this year, according to the Chicago-based Farm and Industrial Equipment Institute, tractor sales were down 6.9 percent to 125,507 units. Sales of the large four-wheel-drive tractors that were the industry's hottest item a few years ago have been hardest hit, plunging 28 percent through October.

Fertilizer producers were the glamour companies of agribusiness during the farm boom. Between its fiscal years 1973 and 1975, for example, International Minerals & Chemical Corp.'s earnings increased nearly sevenfold. It's agricultural earnings have fallen since then, and domestic fertilizer earnings might do so again in the year ending next June 30. Richard A. Lenon, president, says the company expects foreign demand should be strong.

Businesses that buy farm products rather than sell things to farmers—makers of bakery mixes, for example—can benefit in a time of abundant supplies and low farm prices. And at least one industry that sells things to farmers—makers of grain-storage bins—is doing fine. Butler Manufacturing Co. says it can't keep up with demand from farmers who want a place to put their grain until prices rise.

WATERWAY USER CHARGES: WHAT IS AHEAD ON THE WATERWAYS

Mr. DOMENICI. Mr. President, the Federal Government has spent several billions of dollars in recent years to construct new and improved inland navigation projects. Each and every one of these projects was built at taxpayer expense. And each and every one is being used by the barge industry without a penny of charge.

The Corps of Engineers has estimated that there are some $7.5 billion in new navigation projects now under construction or authorized and awaiting construction.

Moreover, new navigation ideas continue to pop up, ones the Congress has not even considered as yet and are not included in the $7.5 billion figure. For example, one of the latest involves a recommendation from the corps' North Pacific division to replace Bonneville lock, the lowermost lock on the Columbia-Snake River waterway. It is estimated that a new 675-by-86-foot lock would cost $94,300,000. It would provide nearly twice the capacity the corps estimates will be needed in the year 2040.

The corps is also studying plans to extend navigation into Kentucky and West Virginia tributaries of the Big Sandy River well beyond the 7 miles now dredged for navigation. There is talk of reviving navigation on the Pearl River Canal system between Louisiana and Mississippi, at full taxpayer expense.

This is all being considered for an industry that has received more net subsidies than all other transportation modes put together, according to the Library of Congress. It is an industry that annually receives a taxpayer subsidy of $2 on every $5 in revenues, according to the Congressional Budget Office.

I do not believe Congress will ever be able to develop a rational consideration of new waterway projects until we can assure the taxpayers that the users of these waterways are paying a portion of the cost of the projects. This point was underlined effectively in a recent Senate report 95–215 that evaluated the need for waterway user charge legislation:

> It will be increasingly hard to win taxpayer, and thus political, approval of continued financing for new work on the waterways without some form of user charge. A gradual imposition of a reasonable user charge system meets that problem.

Mr. President, I ask unanimous consent that a partial list, prepared by the Corps of Engineers, of some $10 billion in inland projects finished in the past decade, plus those under construction and those authorized but not yet initiated, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CORPS OF ENGINEERS INLAND NAVIGATION PROJECTS

OPERATIONAL STATUS ATTAINED AFTER JANUARY 1, 1967

Project:	*Total Federal cost*
Alabama-Coosa River	$178,400,000
McClellan-Kerr Arkansas River Navigation System	1,029,210,000
John Hollis Bankhead Lock and Dam, Black Warrior and Tombigbee River	53,400,000
Calcasieu River Salt Water Barrier, Calcasieu River	4,197,000
Cordell Hull Dam and Reservoir, Cumberland River	78,100,000
Freshwater Bayou Lock, Freshwater Bayou Channel	7,116,000
Kaskaskia River Navigation	127,160,000
Opekiska Lock and Dam, Monongahela River	25,200,000
Hannibal Locks and Dam, Ohio River	87,500,000
Willow Island Locks and Dam, Ohio River	76,700,000
Belleville Locks and Dam, Ohio River	62,200,000
Racine Locks and Dam, Ohio River	65,900,000
Cannelton Locks and Dam, Ohio River	97,300,000
Newburg Locks and Dam, Ohio River	106,900,000
Uniontown Locks and Dam, Ohio River	99,100,000
Temporary Lock 52, Ohio River	10,100,000
Jonesville Lock and Dam, Ouachita/Black Rivers	43,700,000
Columbia Lock and Dam, Ouachita/Black Rivers	33,300,000
Total	2,185,483,000

UNDER CONSTRUCTION

Total estimated Federal cost October 1976 price levels

Project:	
Bayou La Fourche and La Fourche Jump Waterway	$11,500,000
Mississippi River Regulation Works between Ohio and Missouri Rivers	151,000,000
Missouri River, Sioux City To Mouth	450,000,000
Smithland Locks and Dam, Ohio River	243,000,000
Temporary Lock 53, Ohio River	37,200,000
Pelsenthal Lock and Dam, Ouachita/Black Rivers	61,420,000
Callon Locks and Dam, Ouachita/Black Rivers	45,577,000
Red River Waterway, Shreveport to Mississippi River	905,000,000
Tennessee-Tombigbee Waterway	1,410,000,000
Wallisville Lake, Trinity River	28,800,000
Total	3,343,497,000

AUTHORIZED FOR CONSTRUCTION, WORK NOT INITIATED

Project:	
Big and Little Sallisaw Creek Navigation, Arkansas River Basin	$1,200,000
Coosa River Channel, Montgomery to Gadsden	500,000,000
Gulf Intracoastal Waterway, St. Marks to Tampa	185,000,000
Gulf Intracoastal Waterway, Petit Anac, Tigre and Carlin Bayous	4,260,000
Gulf Intracoastal Waterway, Rigolets Lock	14,125,000
Gulf Intracoastal Waterway, Seabrook Lock	20,995,000
Gulf Intracoastal Waterway, Vermillion Lock	20,600,000
Illinois Waterway Duplicate Locks	769,000,000
Kansas River Navigation	5,000,000
Mound City Locks and Dam, Ohio River	277,000,000
Red River Waterway, Shreve-	

port to Daingerfield, Texas	355,000,000
Project:	*Total Federal cost*
Trinity River	2,010,000,000
Yazoo River	130,000,000
Total	4,272,180,000

ELLSWORTH H. MORSE, JR.

Mr. HUDDLESTON. Mr. President, I wish to call to the attention of the Senate the sudden passing of Mr. Ellsworth H. Morse, Jr., Assistant Comptroller General of the United States, on November 29. Mr. Morse, an employee of the GAO for 31 years, was an extraordinarily able and experienced policy adviser to the Comptroller General for many years and was the deserved recipient of the National Civil Service League Career Service Award.

As chairman of the Legislative Appropriations Subcommittee, I have been very interested in the work of the General Accounting Office in stimulating improvement in Federal Government accounting practices. Mr. Morse was long active in both Federal and private efforts to promote the financial management disciplines throughout the Federal Government.

My sympathies are extended to Mr. Morse's wife and daughters, to Comptroller General Elmer B. Staats who lost a trusted friend and adviser, and to the employees of the General Accounting Office who have lost an experienced and dedicated leader.

By unanimous consent, I request that a portion of the official statement of the General Accounting Office be inserted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Mr. Morse's career in the General Accounting Office spans many years and his contribution to its development is hard to overstate. He loved the GAO and was completely dedicated to its mission. High professional and ethical standards—which he personally epitomized—were basic to the policies and standards which he did so much to establish and maintain for the General Accounting Office. His sights were high and he held these high standards as always before us.

DICK MOORE

Mr. MATHIAS. Mr. President, at the end of this month a respected Maryland journalist, Richard L. Moore, will retire as editor of the Salisbury Daily and Sunday Times.

When Dick Moore first joined what was then the Salisbury Times, front page stories carried such headlines as, "Four Killed, Five Lost in British War," just before the start of World War II, and "Jack Garner Home, Is Glad Of It," which told of that irrepressible Vice Presidents return to his home in Uvalde, Tex.

Dick Moore has touched on nearly every major story since then in some journalistic capacity, and he has done so with insight and judgment that have deservedly earned him the respect of his peers and his readers.

In a career that spanned 38 years as a reporter, photographer, and editor, Dick became recognized throughout Maryland and the Delmarva Peninsula as a "compleat" journalist, and a man of unquestioned integrity.

After 12 years as editor of the Times, he is retiring a year short of the mandatory age to pursue a semi-retirement career in free-lance writing and public relations. His contributions to his community and to the world of communications have been many.

On November 28, WBOC–TV and Radio in Salisbury broadcast a farewell editorial to Dick Moore. It well sums up the regard with which we in Maryland hold him, and I would like to share it with my colleagues, for Dick Moore is a leader and a man one is privileged to have as a friend.

Mr. President, I ask unanimous consent that the WBOC editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DICK MOORE

When a person has been on the job with a particular company for a long period of time, and in leadership capacity, there seems to be a tendency to consider him as the embodiment of all that a particular organization actually is. One person who would fit that general description would be Dick Moore, editor of the Daily Times. And when Dick would be the first to admit that the growth of that paper has been an organizational affair . . . and not an individual feat . . . the fact remains that to many people, Dick Moore is the Daily Times.

Now, Dick is going to retire at the end of the year . . . and we had to let you know how happy we are for him, but how we also shall miss him. Richard L. Moore joined the paper in 1939 as a reporter . . . became managing editor in 1942 . . . and upon the death of Oscar L. Morris twelve years ago, became the editor. He has seen the paper grow from an 8 page, 4,000 daily circulation paper to what it is today . . . and while company growth is never a one-man job, his efforts were part of the pattern.

We can remember the days when call letters on our microphones were blacked out if they were going to be visible in a picture to be printed in the daily paper—and we were not always charitable in our comments either. But those days have long gone . . . and there exists mutual rapport and respect between the printed and electronic press in this town . . . and Dick Moore had much to do with this.

His retirement comes a full year ahead of the mandatory age. He has things he wants to do . . . including free-lance writing and public relations work . . . and he is an expert with a camera too.

Dick Moore has fully earned his retirement. We will miss him, but wish him well. We suspect he will continue to contribute to the community, even though his efforts will no longer be made over the editor's desk.

BANKERS AND CONSUMERS WORK TOGETHER IN WISCONSIN

Mr. PROXMIRE. Mr. President, a meeting recently took place in Madison, Wis., which typifies the cooperative relationship between bankers and consumers that has developed in Wisconsin.

The Wisconsin Bankers Association recently sponsored a daylong seminar designed to improve communications between consumers and bankers. Consumers were encouraged to speak their minds on the whole spectrum of banking issues and services. In addition to answering questions, bankers conducted workshops designed to explain the provisions of various Federal and Wisconsin consumer protection laws.

This seminar is a good example of how bankers and consumers have cooperated in Wisconsin for their common good. Another excellent example is the Wisconsin regulations in the EFT area. Last year, bankers, consumer groups, and State regulators sat down together and jointly agreed on consumer safeguards in EFT systems which are the most comprehensive and progressive in the Nation.

Our experience in Wisconsin illustrates that the air of combativeness which often exists between bankers and consumers is unnecessary. It makes sense for bankers and consumers to get together and trade ideas, and I hope that this attitude will be adopted in other States as well.

Mr. President, I ask unanimous consent that a recent article from the American Banker describing this conference be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Banker, Dec. 5, 1977]

BANKERS HEAR PUBLIC'S VIEWS AT WISCONSIN BANKING ASSOCIATION PANEL

(By James Rubenstein)

MADISON, Wis.—The Wisconsin Bankers Association acted as host recently for an unusual all-day financial information conference aimed at letting consumer leaders voice their concerns on banking issues directly to banking industry representatives.

The educational session, designed primarily to help clear public confusion on consumer protection laws and regulations, included presentations by bank regulators and Wisconsin bank presidents who answered questions from the participants on everything from debit card reconcilement and equal credit rules to Truth-in-Lending violations and escalator clauses.

During one segment of the program, the bank regulators and Wisconsin BA lawyers assumed the roles of bank officers and customers to dramatize potential violations of bank consumer laws.

The skit as well as the entire day's events was prepared under the guidance of a Milwaukee consumer counseling firm hired by the Wisconsin BA last June as part of a year-long program to upgrade banking's image in the state and lessen the combative atmosphere between banks and consumer groups.

Contending the banking industry is undergoing an historic upheaval in the way it treats its customers, John C. Geilfuss, president of the Wisconsin BA, told the 50 consumer leaders his trade group seeks to promote an active "give and take" between financial institutions and consumer organizations.

In this way, he explained, it can avoid the confrontations that have existed in other parts of the country between these groups.

In some cases, these clashes have become needlessly "automatic" but might have been avoided had the two sides tried to resolve their differences through "workable, mutually beneficial ways," declared a 100-page notebook distributed to the conferees.

Beside emphasizing the cooperative theme, the color-coded pamphlet contained synopses in outline form of the various consumer laws and regulations which Wisconsin banks must comply with.

Many of the speakers addressing the gathering told the consumer heads that the plethora of laws and regulations have become highly burdensome to banks and eventually the compliance costs will be passed on to the public.

"We are finding that we have to spend long hours training our loan officers to comply with these regulations taking away valuable time which should be spent in teaching them how to handle difficult loan situations," asserted Lee E. Gunderson, president of the $10.8 million-deposit Bank of Osceola.

In the long run, he said, communities will suffer if local banks are unable to function as credit providers because of excessive regulatory burdens.

Discussing other areas, John F. Kundert, president of the $46.5 million-deposit Commercial & Savings Bank, Monroe, urged the consumer representatives to seek out their bankers for advice on financial matters as they would look to their family doctors for medical advice.

"The banker has nothing to sell you," Mr. Kundert told the audience assembled in a student center on the University of Wisconsin campus.

He said that as insurance agents, accountants, tax men and members of other professions are selling their services, the local banker can become an impartial source for advising customers on financial subjects.

Robert C. O'Malley, president of the $63.8 million-deposit United Bank & Trust Co. Madison, said banks remain "guardians of privacy" for their customers by refusing to carelessly divulge information about their financial habits or personal lives.

He said banks only "grudgingly" provide the data to government agencies and then "only under court order."

In the meantime, he said banks are asked to act as "policemen for the world" in supplying the Internal Revenue Service interest rate reports for income tax purposes.

Theodore I. Arneson, president of the $10.6 million-deposit Barneveld State Bank, also emphasized banking's defense of privacy in handling customer accounts, adding that consumers should recognize the strong role played by community banks, particularly in one-bank towns.

Questioned by the consumer representatives about commercial banking's apparent withdrawal from home financing, the bank presidents maintained that residential loans, particularly in smaller institutions, make up a larger portion of their portfolios than ever before—even though some banks would prefer that this not be the case.

Mr. Gunderson, a candidate for 1978 president-elect of the American Bankers Association, said the Osceola bank has 40% of its loans in residential mortgages, adding "we work together with our savings and loans" in sharing home financing for the community.

The bank presidents agree that rural banks are currently in a better position regarding loan demand than their urban counterparts. Mr. Kundert said, "I think there are some big city banks which like to have our problem."

Despite a rise in agricultural and residential demand, loan-to-deposit ratios in some cases have become uncomfortably high, the bank president agreed. The state average is 67%.

Mr. O'Malley said United B&T is experiencing a 73% loan-to-deposit ratio as a result of booming business activity in the state capitol and as a result of inflation factors affecting all customers.

Much of the questioning by the consumer leaders came in a panel discussion of electronic funds transfer systems led by J. Frederic Ruf, president of TYME Corp., a Milwaukee-based EFT related firm which was formed by banks in the area and James L. Brown, acting director of the University of Wisconsin Extension Center for Consumer Affairs, Milwaukee.

"How do we help motivate people to keep track of their checking records in EFT?" asked Louise Young, of the University of Wisconsin extension service in Madison and a past president of the Wisconsin Consumers League, referring to the problem that debit card customers have in reconciling EFT transactions with regular checks.

"I don't really have the answer to that one," Mr. Ruf replied, adding that it will require the public "to change its habits" to adapt to the new EFT environment.

Besides being president of TYME Corp., Mr. Ruf is also vice president of the $636 million-deposit M & I Marshall & Ilsley Bank, Milwaukee.

In his remarks, Mr. Ruf acknowledged there is indeed "an element of fear" in EFT but consumers are not alone in expressing alarm over what seems like a "loss of ability to master their own affairs."

Small banks, too, he said, fear the advent of EFT because they see larger institutions taking advantage of them. Despite these concerns, the industry as a whole looks at EFT as beneficial because it reduces paper volume and at the same time provides a convenient service to the public.

Commenting on the recently-issued report of the National Commission on Electronic Fund Transfers, Mr. Brown, an attorney representing the extension service, said that despite the passage of EFT laws in many states, including a liberal measure in Wisconsin, there remains a "legal vacuum" in EFT, an area which to date "is sparsely regulated."

Taking part in the role-playing skits—moderated by Wisconsin BA attorney Lawrence Bugge—were Robert Patrick, legal counsel to the Wisconsin Commissioner of Banking; Richard Victor, assistant attorney general for the Wisconsin Department of Justice and John Knight, Wisconsin BA general counsel and partner in the "Madison firm of Boardman, Suhr, Curry & Field.

In the dramatization, Mr. Bugge, a partner in the firm of Foley & Lardner here, blew a whistle each time a violation occurred in the re-enactment of two scenes involving a loan officer and a borrower and the loan officer and his superior, a bank president.

During the conference, speakers cited the generally amicable meetings between BA executives and Wisconsin consumer groups which have taken place over the last four years in enactment of the EFT law as well as the 1973 passage of a model consumer act which has been used by other states across the country in dealing with consumer protection, defaults, holder in due course and rate limitations.

Mr. Geilfuss, who is also chairman of the $439.1 million-deposit Marine National Exchange Bank, Milwaukee, noted in his opening remarks that "there are darn few things we can't iron out if we can only sit down and talk with one another."

Since the Wisconsin BA began its consumer enlightenment program last spring Mr. Geilfuss and other members of the association leadership have met frequently with newspaper, radio and television reporters across the state "to show bankers as human beings," according to Mary B. Kuester, a partner in Consumer Concepts, Inc., the Milwaukee counseling firm hired by the Wisconsin BA to handle the program.

Starting Dec. 11 Wisconsin bankers will appear on a weekly TV show answering questions from media representatives on banking topics, Ms. Kuester said. Taping of the first program to be paid for by the Wisconsin BA is to begin Dec. 3.

A probable title for the series will be "Money in the Bank."

Aside from EFT, Truth-in-Lending and rural loan demand, the Madison conference also dealt with some of the most complex technical areas of consumer legislation including lengthy sessions on "Multiple Party and Agency Accounts" and "Rights of Recission."

Other laws covered included the Real Estate Settlement Procedures Act, Fair Credit Reporting Act, Fair Credit Billing Act and the Equal Credit Opportunity Act.

Ironically a frequent question put to the bankers and regulators was "How does a person like me get into banking?" The replies focused on the wide opportunities available to individuals with varied skills.

Apart from the direct appeal of the Wisconsin BA to foster "improved communications" with consumer leaders, bankers attending the Madison conference also supported commercial bank savings rate equality with thrifts.

Bryan K. Koontz, executive director of the Wisconsin BA, warned the group of the "dislocation of deposits" as a result of the differential on savings and he said studies show that "a lot of money moves for a quarter of a point."

He said the rate advantage afforded thrifts "discourages people from doing business with a bank" and the end result is that local communities suffer the loss of lendable funds to sustain a healthy economy.

"You couldn't have picked a better audience—consumer leaders—to give such a message," remarked one industry official after Mr. Koontz finished his remarks, "these people are the ones whom legislators really listen to.

TRADING WITH VIETNAM

Mr. HUMPHREY. Mr. President, a publication of the U.S. Department of Agriculture recently carried an article which reported that Vietnam's grain import needs for 1977 will reach a minimum of 1 million tons. Vietnam's import needs, which have been generated by a persistent drought, will be met by a number of our leading agricultural trade competitors, including Canada and Argentina.

I must share with my colleagues my feeling of concern that not 1 ounce of these imports will directly come from U.S. granaries. This is particularly distressing, given our unprecedented trade deficit and our depressed prices caused by overflowing stocks. To deny ourselves this market does not make sense to me in either political or economic terms.

Our self-imposed prohibitions on food exports to Vietnam are, for practical purposes, ineffective. There is no meaningful way to safeguard against the transshipment of U.S. grains by second parties to Vietnam. We, in the Senate, can legislate all we want, but in the end there is no guarantee that the food we produce will not show up in the prohibited nation. Even if food from U.S. farms did not go to these countries, our exports to favored nations would simply displace their domestic requirements, allowing this new surplus food to be transshipped, thereby improving their own trade balances.

In 1977 the Vietnamese will purchase 200,000 tons of wheat from the Soviet Union; 120,000 tons from Canada; 50,000 tons from Sweden; 17,680 from the Netherlands and the European Community; 100,000 from India (on loan) and about 200,000 tons from other sources. France, Turkey, and Argentina are shipping more than 150,000 tons of flour, and Thailand has sold the Vietnamese 50,000 tons of corn and 30,000 tons of rice.

Mr. President, I am not able to calculate what percentage of this market the United States could tap. I have no assurance of even an indication that the Vietnamese would buy U.S. food if we wiped out our prohibitions. I do know, though, that if we choose to continue the status quo, we will never find out. Instead, we will only be able to watch our competition make significant inroads in this market.

In closing this statement, I would like to point out that France, which dominated the Vietnamese peninsula for several decades before leaving in humiliating defeat in 1954, is now one of Vietnam's leading trade partners. There is, in my opinion, no sound reason to deny ourselves this obvious trading opportunity. To do otherwise is to penalize American commerce.

SENATOR ABOUREZK ADDRESSES THE NATIONAL CONVENTION OF RURAL AMERICA

Mr. ANDERSON. Mr. President, on Monday of this week my colleague from South Dakota, Senator Abourezk, delivered a very important speech to the National Convention of Rural America. Senator Abourezk had some very important observations to make on the current crisis in energy and agriculture, and I ask unanimous consent to have the address printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

We Can't Eat Nostalgia: A Brief for Meeting the Real Needs of Rural America

I welcome this opportunity to speak with you this morning because—frankly—the time has come for serious discussion about the real problems confronting the survival of the foundation on which this country was built—the rural American.

During the past year we have been forced to endure the bipartisan bombast of the Bicentennial and its attendant turgid excesses. But now reality has replaced the rhetoric—and what do we find? Too many pay homage to the ideals professed in the Declaration of Independence—that "all" are created equal—that we as citizens have certain "unalienable" rights, among which are "Life, Liberty and the Pursuit of Happiness"—that when "any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or abolish it. . . ."

But these hopes and beliefs have been temporized—and traumatized—by the agents of social conformity—and reinforced by their surrogates in the churches, the schools, official pronouncements and the organs of mass communication. Rather than honor diversity and dissent, we decry it.

For too long the official governmental reality has been that all are created equal—except—foreigners with whom we have gone to war, Blacks who have not been singled out for "special" attention, Indians who will not submit, Latinos who treasure their language and cultural heritage, women who no longer will be servile, the elderly who are powerless—and anyone without money.

What are most alienable are the lives of young men sent off to die in unjust wars and the liberties of people helpless against authority. Should any group of people choose to challenge the prevailing assumptions of the power elite—that of greed and exploitation—the government, resorting to the righteous rhetoric of national security, now asserts its right to alter or abolish those challenges through harassment, persecution, imprisonment—and even murder. It is in this context that Richard Helms is able to walk the streets a free man, wearing his "badge of honor" while the Wilmington Ten languish in jail for their "crimes" of defending their own civil rights.

In the same vein, Lincoln's hope for a government of the people, by the people—and for the people has been subverted by the oligarchy of power which controls both the Republican and Democratic parties. Today, our government is, in too many instances, a government of the few, by the few—and not for you, the ordinary citizen—without power, and without money to obtain power.

How did this sad state of affairs come to pass? Do we have the power to promote—and pass—progressive legislative reform? What can you—as a collective umbrella organization—do to help? Let's try to examine these questions in the context of these basic problem areas confronting rural Americans today:

First of all, the necessity for providing basic human services in the areas of housing, health care, education and employment.

Secondly, the necessity for securing the survival of the small farm, the cornerstone of rural society.

Thirdly, the regional, national and global impact of the so-called energy crisis.

In 1890, the U.S. Census Bureau formally proclaimed the closing of the American frontier, a myth soon certified as "historical fact" in Professor Frederick Jackson Turner's famous essay. In the same year, 1890, a supposed "final solution" to the Indian problem was effected by the bloody massacre of the Sioux at Wounded Knee. The "official" closing of the frontier intensified the ongoing struggle for economic primacy between the rural-agrarian and urban-industrial forces in our society.

The first real trauma in effecting this transition occurred in 1893, with the onset of the first industrial depression in our history. In Massillon, Ohio, Jacob S. Coxey, a successful businessman and a Populist with a conscience, called for action. He wanted the government to act as an employer of last resort. He asked for training and jobs for the dispossessed farmers and unskilled workers victimized by the machine age. To dramatize both his program and the tragic consequences of mass unemployment he led "a petition in boots" to Washington. He and his army marched to the very steps of the national Capitol. There Coxey passionately proclaimed that: "Up these steps the lobbyists of trusts and corporations have passed unchallenged on their way to committee rooms, access to which we, the repiesentatives of t toiling wealth producers, have been denied." The Congressional response was to have Coxey arrested for treading on the Capitol lawn without a permit. Contrary to Bob Dylan's words, the times haven't changed that much. . . .

To make matters worse for rural Americans, the numbers—the money—and the power—have steadily moved to the other side. In 1790, the first nationwide census revealed that more than 95 percent of the country's population were engaged in some form of agricultural endeavor. By 1920 the Census Bureau had decreed that, for the first time in our history, America could now be labeled as an urban, rather than a rural nation.

The Great Depression afflicted all, but the combination of New Deal reforms and the prosperity engendered by the second World War rescued millions from the blight of economic disaster. Major portions of urban and suburban America rushed forward in mad pursuit of the bitch goddess, Success. They left trampled in the dust the millions of rural America to be content to diet on the leftovers of shattered dreams and broken promises. For too many Americans the horrors depicted in John Steinbeck's Grapes of Wrath and the portrait of privation described in James Abee's Let Us Now Praise Famous Men are still an everyday reality of life.

Starkly stated, the facts of the rural crisis cry out for prompt—and constructive—resolution. As an intoduction to the enormity of the problem, consider the following:

In a nation of 214 million people, rural Americans comprise 31.4 percent of the total population.

But of all persons 65 years or older, 36.6 percent are rural residents.

Of all persons 25 years or older having less than a high school education, 36.7 percent are rural residents.

Approximately 60 percent of all subsidized housing is located in rural areas. More than 60 percent of all Indians living on reservations are forced to live in housing requiring either total replacement or substantive rehabilitation.

More than 30 thousand smaller rural communities lack safe water systems. The absence of adequate waste disposal systems affect millions more.

The median family income in rural America is less than 80 percent of its urban counterpart.

Woman in rural America comprise only 20 percent of all women of child-bearing age, but they account for 50 percent of all maternal deaths in the country.

Since 1955, the infant death rate among Indians has been halved. However, the current rate is still 50 percent higher than for the general population. The national death rate for Indian women is still 20 percent greater than the national average.

In 1973 the ratio of population to physician nationally was 1 to 768. In rural areas it varied from 1 to 1,432 in the larger towns to as much as 1 to 2,512 in isolated rural areas. Since 1963 the number of counties without a single physician has increased from 98 to 135. In a large number of rural counties the number of doctors has declined.

More than 26 million Americans cannot afford to purchase an adequate diet. Over 11.2 million of them received no assistance through the Federal food program. Of this number more than half live in rural America.

Unemployment in much of rural America is more than double the national rate. There is a direct correlation between unemployment and the number of people living on incomes below the poverty level. Nowhere is this more acute than among the Indian population. The 1970 Census reported that 48.8% of the Indian population had incomes below the poverty line. This was more than 3½ times the national rate, and even twice the incidence of poverty among all rural people.

What is being done to revise this discouraging trend? What can be done through concerted pressure from organizations such as yours to improve the situation? Let's examine some of the current programs and possibilities.

At present the major federal housing and community facility programs for rural areas are operated by H.U.D., the Farmers Home Administration and the Community Services Administration. To be blunt, the delivery systems for providing proper services are either outmoded, redundant, or too restrictive, in terms of a priori mandates. Too often the majority of programs pit small towns against urban areas in an unequal contest for funds. In too many rural areas, the lack of trained housing personnel is the biggest impediment to the effective operation of delivery systems. The best solution might be the creation of a new independent department, operating under the aegis of the Rural Development Act of 1972. A department which would embrace all the current functions of H.U.D. and the U.S.D.A., while promoting the most effective coordination of federal, state and local activities in these areas. If properly implemented this would accomplish the twin objectives of improved delivery services at less cost to the taxpayer.

It should be obvious to everyone here that the time is long overdue for a national health care program. We can not tolerate one day longer the barbaric notion promulgated by the American Medical Association that proper preventive and restorative health care is a privilege and not a right. Nor should we tolerate piecemeal, patchwork solutions such as the Appalachian Regional Development Act of 1965 which, in the first ten years of "service" to rural counties in thirteen states, spent more than 60% of its total budget for highway construction, while less than 10% was spent on regional health care.

Nor should we be willing to accept the way in which the present Administration has handled the funding of the Indian Health Care Improvement Act of 1976 (P.L. 94–437). The President's proposed budget for Fiscal Year 1978 requested only about one-fourth the amount authorized by the Congress. Moreover, HEW failed to fully implement the bureaucratic regulations of Title I under the Act. This would have provided hundreds of thousands of dollars in scholarship money for health care professionals currently in training for service to the Indians. As a result, almost three hundred medical students around the country, including some at schools such as South Dakota, Stanford, the University of California at Berkeley and the University of Rochester were denied scholarship funds for the Fall semester. Some of them had to drop out of school because of the government's bureaucratic incompetence.

What is needed—now—is a national health care program which guarantees full medical, dental and hygienic treatment. The Kennedy-Corman bill is only the first step in this direction. A much more comprehensive measure, and one which fully meets the needs of rural America, is that introduced by Congressman Ronald Dellums of California (H.R. 6894).

The situation in rural education has reached crisis proportions. A 1975 Census Bureau survey found that more than two million rural adults have been exposed to less than five years of formal education, and thus were considered to be functionally illiterate. 24.1% of all Black adults and 30.7% of all Hispanic adults in rural areas had dropped out of school by the fifth grade. Sadly, the trend continues. At the present time more than 5% of all rural school aged children are not enrolled in any school. This is a non-enrollment rate nearly double that of urban areas.

While the major burden for making reforms in this area rests with the state and local agencies, the federal government could make a solid contribution through the sponsorship of rural in-service training programs designed to meet specific curriculum and student needs. They might also consider the possibility of federal subsidies to rural areas with a low property tax base or a teacher-subsidy program designed to offer competitive salaries as a means of attracting dedicated—and competent—teachers from more wealthy regions of the country.

II

There can be no doubt that the small farmer is the hub of rural American society. He must be the cornerstone of any foundation for rebuilding a vital—and viable—rural America.

On the economic battlefields of production, prices and trade the American farmer has always been asked to be first in war. But he has been relegated to last in peace—and he is seldom in the hearts of his countrymen when the need arises for the passage of progressive legislation . . . legislation which would insure the individual farmer his fair share of the economic profit pie.

Worst of all, in times of economic stress and depression, it has always been the farmer who was first asked to turn the other cheek and to make sacrifices for "the good of the country." Well, the farmer has turned all four cheeks in recent years—and what does he have to show for it? A left hook from a disdainful public, a right uppercut of Executive and Congressional indifference, and two swift kicks in the rear from the agribusiness "insiders" and the oil companies.

Make no mistake about it—we are in the midst of a life and death struggle to preserve the best of agricultural America—the small farm—from exploitation by those who farm the farmers. . . . The commercial grain traders, the packing houses, the agribusiness conglomerates, and the money men who provide the financing.

Sad to say, the problems—and the power—confronting the farmer are basically the same as they were a century ago when the Populists made an heroic effort to change the face—and fabric—of American society.

Now—as then—the farmer is confronted with an ever-higher mortgage indebtedness. His cost of production is too high for the price he receives. The land-owning farmer's only "salvation" today is an increase in the loan value on his land. He can't receive prices that return his costs, but he can borrow more on his land. So farmers now have the "privilege" of staying in the farming business—if—they will pay the price in higher interest rates and greater mortgage debt.

Now—as then—the farmer is the captive of unfair transportation rate structures, arbitrary grain grading standards and price fixing. Adverse marketing arrangements are too often dictated by such agribusiness moguls as Bunge, Continental Grain or Cook Industries.

The classic example of this rip-off mentality at the expense of the farmer was the Great Grain Robbery of 1972. Thanks to the secretive duplicity of the Commerce Department and the venality and stupidity of officials in the Department of Agriculture, the Russians cornered a quarter of the world grain market. The agribusiness "insiders" were able to make millions more in profits because of their exclusive knowledge of the pending sale.

In both the short and long term the American farmer suffered, because of the poor public image pinned on him. Without really profiting from the sale, he was further victimized by the inflationary spiral of escalating production costs. The biggest factor here was the fourfold increase in energy prices in the wake of the O.P.E.C. oil embargo. As a result of the search for easy scapegoats and the ideological paranoia prevalent in certain areas of our society, the American farmer has been inhibited in recent years from aggressively seeking new markets for his products.

The search for new markets at home and abroad must be intensified. Let me offer some suggestions. The use of government buying power, whether at the federal, state, county or municipal level—to support small, local producers is a potential source of revenue. If the buying power of federal agencies, including the military, state institutions, school systems, day-care centers, etc. were re-directed to aid small farmers, the income impact could be measured in billions of dollars.

On the international scene, consider the following. A recent study by the Food and Agriculture Organization (F.A.O.) reveals that, because of drought and other severe climatic conditions, there are already drastic crop failures and food deficits this year in at least fifteen major countries, including China, the Soviet Union and Egypt, among others.

Think of the possibilitiies of re-opening agricultural trade with Cuba, a country which used to be the 7th largest importer of U.S. agricultural products. And what about the prospects for trade with the Arab states of the Middle East? Think what a reciprocal exchange of food for oil would mean for the economies of both countries.

In a world in which at least 15 million children will die of hunger and malnutrition this year—wouldn't it be better to have this government more concerned with the expansion of our agricultural markets than with the incessant promotion of arms sales to all comers, regardless of ideology? If we can export missiles to the Arabs, AWACS to Iran, jets to the Israelis, computers to the Poles and Romanians, corporate bribes to the Italians and the Japanese, and kidnapping and assassination to Chile and Korea, then why can't we ship our agricultural exports to whomever we want—and at fair prices and profits—without government interference or collusion with the corporate middlemen? Think about it. . . .

At the present time the two biggest obstacles to the survival and growth of the family farm concept are the menace of agribusiness conglomerates and the indifference of the Department of Agriculture. It is a statistical fact that small family farm units are much more efficient than conglomerate farms. Conversely, the only areas in which conglomerate agribusiness displays any efficiency is in gathering capital and obtaining huge amounts of credits. This enables them to accumulate more land in order to control—in many instances—all aspects of production—from the seed to the supermarket.

Thus I am gratified to see that Rural America plans to take an active role in the question of acreage limitations for federal reclamation projects. This is a crucial problem area, for there are 9 million acres irrigated by federally supplied and subsidized water. Much of this land is owned by non-farming absentee investors who pay only 18% of the actual cost for irrigation while their rural counterparts are expected to pay 64% for the same type of service.

There is a two fold opportunity here for constructive action. The Interior Department, prodded by a lawsuit from the National Land for People group, has issued new regulations which would limit ownership to 160 acres per direct family member. They would also impose much stricter residency requirements.

Secondly, I have introduced, along with Senators Nelson, Metcalf and Haskell, the Reclamation Lands Family Farm Act. As framed, this bill is a frontal assault on the power of the agribusiness conglomerates and the absentee owners. It would also enable those who cannot afford to purchase the land outright to lease it with an option to buy. Hearings on the bill are scheduled for late January. It faces a difficult course, so it will require your vigorous support for successful passage.

I have also introduced an additional bill which would make rural water supplies more available to all rural residents at more reasonable rates. A special word of thanks is due here to the National Demonstration Water Project. Their data gathering efforts and pilot projects have been instrumental in focusing attention on this neglected area.

I am also pleased to note that this conference will be devoting some of its sessions to alternative agricultural methods and to agricultural research.

Earlier this year, I held hearings on this subject, and was strongly impressed by the evidence indicating the urgent need to move away from chemical, energy and capital intensive agricultural practices of the recent past. If we persist in the current overuse of chemical pesticides we are laying the groundwork for the total destruction of the soil and the highest cancer rates in the history of the planet.

In the realm of agricultural research, the Department of Agriculture, in spite of protests to the contrary, has continued to subsidize giant corporate agribusiness, at the expense of the research needs of the small farmer.

A close examination of the Federal Research and Development budget provides a pathetic commentary on our inverted priorities. The defense budget consumes 48% of the total, with space research a distant second at 16%. Agricultural research is a paltry 2% of the total—approximately $700 million. The overwhelming portion of this figure goes exclusively for the promotion of agribusiness interests.

The Congressional hearings which I chaired in October dealt with the current research priorities of the Agriculture Department. The findings clearly indicated that small farms are not receiving the attention they deserve from government and land grant college research. Even worse, at the present time, there is no long range plan or focus in the Department of Agriculture research program. The Agriculture Department, in these hearings, pledged more of their future resources to the concerns of small farmers. But, like you, I am more interested in performance than promises. It is our mutual task to hold the Department up to intense public scrutiny until these services are delivered.

III

Finally, it cannot be emphasized too strongly—that rural America—and the family farm—*cannot long survive* if energy prices continue to rise at their present rates. It is the farmer who has been—and will be—the first to feel the catastrophic impact of a new round of energy price increases before any other segment of our economy. Every piece of machinery that is used in farming requires a great deal of energy for its manufacture. When that machinery is used in the fields it requires even more energy for operation. Natural gas, which is used to heat 60% of the homes in this country, is also the basic element in the production of farm fertilizers used in massive amounts throughout the country.

So let me lay it on the line—rural America ought to have the biggest stake in constraining the power of the Big Oil companies. . . . Companies whose sole motivation for acting in this manner at the present time is their unmitigated greed. I'm here to tell you that the American oil industry has no concern whatever for the public interest. Their only concern is to maximize their profits, and they will use any means available to them, legal or illegal, to achieve their objective.

In 1956, when the oil industry first tried to deregulate natural gas in the Congress, they attempted to bribe South Dakota Senator Francis Case. But Senator Case reported the bribe attempt and publicly denounced the oil industry from the Senate floor. That sent them scurrying like rats down a hole, and there they remained for almost twenty years.

In 1973, the oil industry saw a golden opportunity for achieving its objective—the renewal of war in the Middle East. They attempted to exploit the crisis by claiming the existence of a severe supply shortage. In this manner they tried to coerce the Congress and the public into raising both oil and natural gas prices—whether or not such prices were needed for additional research and production. The renewed attempt at deregulation, in the form of an amendment proposed by then Senator James Buckley of New York was defeated by only two votes in the Senate.

However, the oil industry continued to attack. Encouraged by promises from a Federal Power Commission under Richard Nixon's control that deregulation was inevitable, the oil industry made the withholding of natural gas reserves an integral part of its basic strategy. The dual purpose of this move was to create artificial shortages and to save their gas reserves for the day that deregulation would come. So in 1975, Senators Bentsen of Texas and Pearson of Kansas offered another deregulation amendment which passed, 50 to 41. Fortunately, the House of Representatives refused to accept total deregulation, which is tantamount to an express train to economic oblivion for the American farmer and consumer.

It is important that we look behind the facade of oil industry propaganda and get at the true facts of the situation. When the Arab nations placed an embargo on their oil exports in 1973, only 6 to 10 percent of our annual oil imports came from that region. Seventy percent of the oil we used was produced right here in the U.S. But the oil companies scapegoated the Arabs and pocketed billions of dollars in profits—at the expense of American consumers.

Make no mistake about it—it was the unconscionable increase in the U.S. oil prices that sent tidal waves of inflation cascading across the American economic landscape. One needs only to examine the profit margins reported by the major oil companies during the past three years to grasp the full dimensions of the oil industry's total disregard for the public's welfare.

In the same vein, the oil companies lied to the Congress and the public about last year's shortages. They were not caused by a supply shortage. The real reasons were the unusually severe winter of 1976–1977 and the demonstrably inadequate gas transmission facilities currently in use.

This year, faced with a new round of scare tactics and arm-twisting seldom, if ever, seen in the Congress, I joined with Senator Howard Metzenbaum of Ohio in trying to slow down the oil industry's steamroller.

We began one of the most difficult tasks in the U.S. Senate, a prolonged filibuster designed to prevent the oil industry from having its way on the issue of deregulation. After a thirteen day struggle we lost by four votes. But I think we accomplished one major objective. After two weeks of bitter floor fights in the U.S. Senate, the American public is finally aware of the oil industry's blatant attempt to plunder the public purse.

However, after being involved in the U.S. Senate with the President's proposed energy bill for the past year, it's my firm conviction that Mr. Carter should withdraw his support from the bill that is emerging from the joint energy Conference Committee of the Congress.

Why? Because it is a case study in utter chaos and confusion, something which reminds me of the lines from Carl Sandburg's poem, "Under the Capitol Dome". In that poem he noted that:

There are those who speak of confusion today as though yesterday there was order rather than confusion.

There are those who point to confusion today as though if given a chance they could tomorrow transform it into order.

There are those who find benefits in confusion and make it a labor of delight to render any confusion more confounded.

The President's original bill was, at best, a mixed blessing. Now that the Congress has eliminated nearly everything from the bill except higher prices, the bill stands as a bizarre commentary on the concept of government by committee.

It is crucial to realize that neither the President's original proposals, nor the disastrous bill that the Congress is currently negotiating, go to the core of the energy problem. To be very candid, the United States cannot continue for very long its dependence on ever more costly fossil fuels and nuclear power. The inevitable, catastrophic consequences will be the total ravaging of our environment and permanent economic subservience to Big Oil.

Listen for a moment to some somber facts that you won't find in the public relations media blitz perpetrated by the oil companies. Their theory is that the difference between rape and seduction is the degree of salesmanship. What they won't tell you is that the top twenty oil companies in this country control 84% of the production process, ~~92% of~~ the pipeline shipments, and 80% of the refinery business.

Even more ominously, the top twenty oil companies are now expanding their tentacles of control to other sources of energy. In the past five years they have obtained control of almost 40% of the nation's known coal deposits. At the present time 7 of the 15 largest coal companies are subsidiaries of the oil companies. Note also that, as Big Oil's coal ownership increased, so have coal prices—up 300% in the past five years. In the field of nuclear energy deposits a similar pattern is developing. Responsible estimates indicate that Big Oil now controls well in excess of 50% of all known uranium reserves. As for shale and geothermal lands, virtually all those leased to date have gone to the oil companies.

So for our own economic and environmental survival a constructive long-range solution must include the conversion to so-called renewable resources like solar and wind power. Any new energy bill must require mandatory conservation measures such as honest minimum mileage standards on cars, a stringent ban against the wasteful burning of natural gas to produce electricity, and a long-range program to rebuild the nation's decaying rail system.

Any sound national energy policy must focus on conversion to solar energy, not conversion to coal—on natural gas obtained from alcohol and new processes like bio-energy—not deregulation of gas prices—on research to perfect solar energy—and not on the mortally perilous pursuit of a nuclear energy economy.

In conclusion, our mandate is simply this. We must prevail over the James Schlesingers of this society—that is—IF—we want to leave our children a legacy of sanity and safety in the search for new energy sources.

So the message I bring today is not one of happiness—but of hope—not one of despair—but of dedication—not one of complacency—but of commitment. It is a commitment to do what is right and best for all our citizens, especially those most in peril from the avarice of the affluent and the indifference of political incumbents. Like Woody Guthrie, we are secure in the knowledge that this land is our land—and we intend to keep it. But, like Langston Hughes we will no longer tolerate a concept of a dream deferred.

The crisis has been upon us and the time for action is now. All of America needs Rural America's best efforts. I pledge mine. I hope you'll do the same in the days and months ahead.

Thank you very much.

DO NOT FORGET GENOCIDE

Mr. PROXMIRE. Mr. President, the last few weeks have witnessed a rekindling of interest in human rights issues with three important actions.

First, President Carter recently went before the U.N. General Assembly to sign two human rights accords.

Second, Secretary of State Cyrus Vance has spoken out against the discriminatory actions of the South African Government against the black majority. These repressive actions included such actions as arresting black leaders, closing of black newspapers, and further restriction of movement of blacks. His statements were followed by U.S. support of a resolution establishing an arms embargo against South Africa.

Third, introduction and passage by the House of Representatives of a resolution protesting recent acts of repression by the South African Government is another significant development. This resolution is the first of its kind to pass the House of Representatives and President Carter personally called Representative Cardiss Collins, the sponsor of the resolution with congratulations.

Human rights issues are among the most important issues facing the world community today. I am pleased and reassured to see such concern and forthright action by leaders of both branches of our Government.

It is ironic though, that the Genocide Treaty, one of the most basic human rights, has been forgotten.

America's role as a spokesman for human rights around the world has been jeopardized by our failure to ratify the Genocide Treaty. I am deeply disturbed that the United States has apparently decided to make genocide a "back burner" issue. This is inconsistent with every recent action taken by the United States. The basic right of a group of people to exist can never become a "back burner" issue. For this reason I urge my colleagues to quickly ratify the Genocide Treaty.

CONGRESS AND ADMINISTRATION ACT ON HUMAN RIGHTS POLICY

Mr. HUMPHREY. Mr. President, during the past year, the United States has moved boldly to make human rights a central tenet of its foreign policy. This new emphasis on human rights has restored the link between our Nation's own democratic values and our foreign policy. It stresses the rights and dignity of the individual and allows each American to understand better the direction of our foreign policy. The executive branch has now begun the task of instituting this new policy emphasis on human rights when it makes decisions on foreign assistance.

Many of the basic guidelines of America's human rights policy have been set by the Congress. This especially true in the case of countries receiving U.S. foreign assistance. During the past 2 years, Congress has enacted legislation linking a country's human rights performance to all four major kinds of foreign assistance: security assistance, bilateral development assistance, multilateral assistance, and Public Law 480 food aid. To insure that human rights considerations are factored into U.S. assistance policies, Congress has established certain procedures and guidelines for the executive branch to follow. In addition, the Congress has requested reports on human rights practices in each country for which security and economic assistance has been requested.

The guidelines have been set and we are now entering a period where the implementation of these guidelines will be crucial. The laws enacted by Congress must be implemented vigorously but with balance. The executive branch must strive for consistency in implementing these laws but it must recognize that each case presents a different set of facts. It must also implement these laws in such a way that the poor people of a country are not punished because of the repressive action's of their leaders. I am concerned, for example, about a recent case in which Public Law 480 food assistance to more than a score of countries was delayed while State Department officials made judgments about human rights situations in those countries. There are also instances in which America's security interests are involved with the security of foreign aid recipients whose human rights practices are questionable. In such cases, the U.S. must vigilantly continue its diplomatic efforts for human rights reform in those countries without adversely affecting U.S. security interest in the process.

As the Subcommittee on Foreign Assistance undertakes its effort to rewrite the Foreign Assistance Act of 1961 we will carefully review U.S. human rights policy, its implementation, and its impact. The staff has recently done a preliminary report cataloging human rights legislation, its implementation, and its impact. I commend it to the attention of my colleagues.

Mr. President, I ask unanimous consent that this staff report be printed in the Record.

There being no objection, the staff report was ordered to be printed in the Record, as follows:

Recent Human Rights Legislation and Its Implementation

This memorandum contains a brief review of recent human rights legislation, its implementation, and some recent positive developments which may be in response to U.S. policy.

TAB A—Legislative guidance related to human rights and foreign assistance;

TAB B—Human rights legislative sanctions on specific countries (1976–1977);

TAB C—Executive Branch implementation of legislative guidance on human rights.

The following preliminary conclusions might be drawn from the three tabs and other information available to the staff.

LEGISLATIVE RECORD

Congress has now passed legislation providing human rights guidance for all major military and economic aid programs.

Specific aid sanctions have been legislated or agreed to against 18 countries in the 1976–77 period and subsequent Administration action has affected an additional 15. In total, aid to 33 countries has been affected in some way. (See Tab B).

In 13 legislated cases military aid was affected and in 12 cases economic aid was affected.

Seven countries have been especially hard hit in FY76 and FY77 by both economic and military sanctions (Argentina, Cuba, Chile, Cambodia, Laos, Vietnam, and Ethiopia). Aid to Uganda has been prohibited since 1973.

The recent human rights focus in Congress has been on the IFIs (both for general guidance and specific sanctions) in part because these funds reach some countries with whom the U.S. has no bilateral programs.

Appropriations legislation has increasingly served as a vehicle for sanctions.

Decisions on specific legislative sanctions appear to be made on an ad hoc basis.

In some cases committee report language or non-binding resolutions are used in lieu of sanctions because of U.S. national security interests (i.e., South Korea) or because of the concern that reprisals might be forthcoming (the Case Resolution condemning murders in Uganda).

IMPLEMENTATION

The Executive Branch has taken steps to implement all four provisions of law relating to aid sanctions for human rights violators. (Tabs A & C).

In many cases this implementation is symbolic, consisting of opposition in IFI assistance, delaying assistance, and sending demarches.

At least 25 countries have been affected by such Administrative action and in 15 cases there were no specific legislative sanctions against these countries.

Much of this action has not been publicized.

In terms of U.S. aid programs, Chile remains the only country formally designated by the U.S. with having a "consistent pattern of gross violations of human rights."

A new interagency human rights coordinating mechanism has been established but coordination problems still exist.

IMPACT

The Administration cites 19 developing countries in which it believes that at least cosmetic progress has been made recently in human rights. In at least 7 of these 19 cases, some action was taken which threatened or halted U.S. assistance.

It is premature to judge the effects of U.S. human rights policy on national security objectives and the traditionally non-political IFIs.

NEW INITIATIVES

The Administration has already taken steps to reward countries for improvements in their human rights record (i.e., by providing additional P.L. 480 to Peru in 1978 and signing the 1977 FMS agreement with Nicaragua).

New proposals are currently being considered to expand the use of P.L. 480 as a human rights tool.

Congressman Pease has introduced legislation in the House to establish a trade ban on Uganda.

TAB A: Legislative Guidance Related to Human Rights and Foreign Assistance.

1. SECURITY ASSISTANCE

Section 301 of the International Security Assistance and Arms Export Control Act of 1976 created a new Section 502(b) of the FAA. This provision 1) states that it is U.S. policy that no security assistance be provided to any country that engages in a consistent pattern of gross violations of human rights; 2) requires annual individual country reports on the status of human rights in the eighty or so countries that receive security assistance; 3) establishes a new position of Coordinator for Human Rights at State to be confirmed by the Senate, the objective being that human rights factors be given a bureaucratic priority; 4) establishes a procedure whereby the Committee can request a human rights report from State on any individual country. The Congress, by point resolution, could reduce, terminate, or restrict security assistance to that country after triggering this request for the individual report.

2. BILATERAL DEVELOPMENT ASSISTANCE

Section 116 of the Foreign Assistance Act of 1961 prohibits provision of development assistance to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights unless such assistance will directly benefit the needy people in such country. In determining whether a government is engaged in such conduct, the Administrator of AID considers in consultation with the Assistant Secretary for Human Rights and Humanitarian Affairs the extent of cooperation of the government in permitting investigations of violations by international organizations and specific actions which have been taken by the President or Congress relating to multilateral or security assistance because of human rights practices.

The Act also requires a report concerning the status of human rights in each country receiving development aid and the steps the Administrator of AID has taken to alter U.S. development aid programs in any country because of human rights considerations.

The International Development and Food Assistance Act of 1977 earmarked $750,000 in FY 78 for studies to identify and openly carry out program and activities which encourage or promote increased adherence to civil and political rights.

3. P.L. 480 FOOD AID

The International Development and Food Assistance Act of 1977 added a Human Rights provision to P.L. 480. Section 112 of P.L. 480 now prohibits Title I sales to any country which engages in a consistent pattern of gross violations of internationally recognized human rights unless such sales will directly benefit the needy people in the country. The provision states that, for the purposes of this section, Title I sales will not directly benefit the needy people unless either the commodities themselves or the proceeds from the sale will be used for specific projects or programs which the President determines directly benefit the needy people. Further, the law requires that a Title I sales agreement shall specify how the projects or programs will be used to benefit needy people. The provision also calls for a report to the President within 6 months after the commodities are delivered on how the program benefits the needy.

The P.L. 480 amendments also include a requirement to consider the extent of cooperation of the government with international investigations of its human rights practices and a full and complete report regarding steps the President has taken to carry out the provisions of the section in the annual presentation materials.

4. INTERNATIONAL FINANCIAL INSTITUTIONS

Section 701 of the omnibus International Financial Institution Act of 1977 (P.L. 95-118) requires the U.S. Government to advance the cause of human rights with its voice and vote in the international financial institutions including seeking to channel assistance toward countries not guilty of human rights violations or harboring hijackers, and opposing (vote no, abstain, vote present) assistance to those who are, unless that assistance is directed specifically to basic human needs. In addition, Section 701 requires the U.S. Government to (1) take into consideration in determining whether a country is guilty of human rights violations, its cooperation with international agencies conducting investigations, (2) initiate a wide consultation to develop a viable standard for basic human needs and protection of human rights, (3) seek to channel assistance to projects which address basic human needs, (4) instruct the Executive Directors to take into consideration in carrying out their duties specific actions on bilateral assistance programs relating to human rights, the extent to which the assistance will directly benefit needy people, whether the recipient country has detonated a nuclear device or is not a State Party to the Nonproliferation Treaty, and whether Vietnam, Laos, and Cambodia have provided a more substantial accounting of American MIAs. The human rights sections of the Inter-American Development Bank and African Development Funds Acts are repealed. Finally, a report to Congress on the implementation of this provision is required one year after enactment. Subsequently, amendments concerning prohibitions of multilateral aid to specific countries were considered for the FY 1978 Appropriations Bill (see Tab B for details).

TABLE B.—HUMAN RIGHTS RELATED LEGISLATIVE SANCTIONS ON SPECIFIC COUNTRIES (1976–77)

	Military					Economic			
Country	FMS credits on guarantees	FMS sales	Ccmmercial sales	Military assistance (MAP)	Military training (IMET)	Multilateral aid (IFIs)	Bilateral development aid	Supporting assistance (SSA)	Food aid (Public law 480)
Latin America:									
Argentina	(3)	(1)	(1)	(1)	(2)			(1)	
Brazil	(3)								
Chile	(4)	(4)	(4)	(4)	(4)		(4)	(4)	
Cuba	(11)	(11)	(11)	(11)	(11)	(5)	(11)	(11)	(11).
El Salvador	(3)								
Guatemala	(3)								
Nicaragua	(6)								
Uruguay	(7)			(7)	(7)				
Africa:									
Angola						(5)		(9)	
Ethiopia	(8)	(8)		(8)	(8)			(8)	
Mozambique						(5)		(9)	
Tanzania								(9)	
Uganda						(5)			
Zambia								(9)	
Asia:									
Cambodia	(11)	(11)	(11)	(11)	(11)	(5)	(11)	(11)	(11).
Laos	(11)	(11)	(11)	(11)	(11)	(5)	(11)	(11)	(11).
Philippines	(10)			(10)	(10)				
Vietnam	(11)	(11)	(11)	(11)	(11)	(5)	(11)	(11)	(11).

FOOTNOTES

[1] Section 11 of the International Security Assistance Act of 1977 prohibits the following types of assistance and sales to *Argentina* after September 30, 1978: FMS credits and sales, commercial arms sales to the Government of Argentina, grant MAP, IMET, and SSA. The September 30, 1978 date would put Argentina on notice but would allow Congress to review Argentina's response. No authorization was provided by FY78 FMS credits since they were rejected by Argentina.

[2] The FY78 Appropriations Act prohibits IMET for *Argentina* in 1978.

[3] The FY 1978 Appropriations Act prohibits FMS credits for *Argentina, Brazil, El Salvador*, and *Guatemala* for FY78 after those countries rejected all FMS credits in response to President Carter's human rights policy. The President had announced limited human rights cuts for Argentina, Ethiopia, and Uruguay.

[4] Section 406 of the International Security Assistance and Arms Export Control Act of 1976 prohibits the following types of assistance and sales to *Chile:* FMS credits and sales, commercial sales, MAP, IMET, and SSA. It also prohibits all deliveries of military equipment and placed a $27.5 million ceiling on bilateral development aid unless the President determined that human rights improvements were made.

[5] The Young/Crane/Ashbrook Amendments to the House FY78 Appropriations bill would have prohibited the use of direct or indirect assistance to *Cuba, Vietnam, Cambodia, Laos, Uganda, Mozambique*, and *Angola*. This primarily affects the IFIs (indirect) since no bilateral aid was requested or authorized for any of these countries and in most cases previous law prohibits such bilateral aid. In a letter to Rep. Long the President stated that for FY 1978 he would instruct U.S. Executive Directors of the IFIs to vote against loans to these seven countries and tied this decision to Congressional human rights concerns. The Long Amendment was subsequently dropped in conference.

[6] The SFRC Committee Report for the International Security Assistance Act of 1977 indicated that Committee approval is necessary before any FMS credits are disbursed to *Nicaragua* by FY 1978. Appropriations language prohibiting 1978 FMS credits to Nicaragua was dropped in conference. The Administration has obliged already authorized FY77 FMS credits for Nicaragua but has with-

held bilateral economic assistance pending a human rights review. Bilateral economic assistance can be obligated at any time while FMS credits must be obligated before the end of the fiscal year.

[7] The FY 1977 Appropriations Act (Section 505) prohibited FY77 funds for MAP, IMET, and FMS credits to *Uruguay*. No funds were requested or authorized for these programs to Uruguay in FY 1978. The FY78 Appropriations Act specifically prohibits use of funds for these three programs in Uruguay.

[8] The International Security Assistance Act of 1977 adds a Section 620B to the FAA to prohibit MAP, IMET, SSA, FMS credits and sales, and deliveries of USG financed military equipment to *Ethiopia*. The President can waive the prohibitions if this is in the national interest. The FY 1978 Appropriations Act similarly prohibited MAP, IMET, and FMS credits to Ethiopia in 1978 without a specific waiver provision.

[9] The International Security Assistance Act of 1977 prohibits the use of SSA funds for *Mozambique, Angola, Tanzania,* and *Zambia* unless the President determines such aid to be in the U.S. foreign policy interest. The prohibition was not explicitly linked to human rights by the conference report.

[10] The FY 1978 Appropriations Act reduces the FMS credit request for the *Philippines* by $1.5 million, the MAP program by $1.5 million, and the IMET program by $100,000; and stated the reason as human rights violations.

[11] The International Development and Food Assistance Act of 1977 prohibits provision of aid to *Cuba, Cambodia, Laos,* and *Vietnam*. The conference report notes that other statutes put trade restrictions on these countries.

TAB C.—EXECUTIVE BRANCH IMPLEMENTATION OF LEGISLATIVE GUIDANCE ON HUMAN RIGHTS

The following actions have been taken by the Executive Branch to implement legislation on human rights:

Security assistance

The Administration has delayed or halted some or all security assistance to 12 countries. It declined to sign the FY77 FMS agreement with Argentina. All arms sales to South Africa were halted under the UN Security Council Resolution.

Bilateral development aid

Loans to 6 countries have been delayed or dropped, and demarches linking U.S. aid and human rights policies have been sent to 9 countries. Aid to Chile was cut to zero in FY78 and obligation of FY77 aid to Nicaragua was delayed.

P.L. 480

A proposed increase in food assistance to a West African country was rejected and demarches are being considered in several cases.

IFI loans

The U.S. has abstained in 8 proposed IFI loans including those to South Korea, Ethiopia, Benin, and the Central African Empire. It voted against loans to Argentina and Chile. It further has sent 25 demarches relating the U.S. position on human rights to future loans.

Administration testimony and statements indicate that the Executive Branch has taken some action related to human rights in 25 non-European countries, including the following:

Latin America

Argentina, Brazil, Chile, El Salvador, Guatemala, Haiti, Nicaragua, Uruguay.

Africa

Benin, Central African Empire, Ethiopia, Guinea, South Africa, Uganda.

Asia

Philippines, South Korea, Thailand, and possibly Indonesia.

Middle East

Iran.

In 15 of these 25 cases there were no specific legislative sanctions against the country in question.

THE PASSING OF DR. LARRY WOODWORTH

Mr. GRAVEL. Mr. President, at this time, mere words seem to belittle the accomplishments of our steadfast associate and friend, Dr. Larry Woodworth. The Nation has lost a dauntless public servant; the Congress has lost a friend. Larry will be missed for his professional ability and his human traits. His passing should make us all reflect on the price this Nation exacts for selfless public service. I am shocked and greately saddened that so vibrant and vital an individual was with us one day in person, and was gone the next. As I pause to pay my personal respects to him, I am confident Larry will serve as an example to all of us. I am thankful that he was with us as long as he was. I will miss him.

STRATEGIC MOBILITY AT SEA

Mr. INOUYE. Mr. President, recently Rear Adm. John D. Johnson, Jr., Commander, Military Sealift Command, delivered a very timely address on our need for a strong and viable merchant marine if we are to have strategic mobility. By "strategic mobility," Admiral Johnson means the combination of people, equipment, procedures, and plans required to move men and equipment to any part of the world in response to a shooting war, political contingency or natural disaster.

To those of us closely involved with our national policy to promote a strong and viable merchant marine, Admiral Johnson's pessimistic assessment of our present merchant cargo resources comes as no surprise.

In the days ahead when Congress considers legislative proposals to support our national shipping policy, we would all do well, in my judgment, to keep Admiral Johnson's remarks in mind.

I. therefore, ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY ADMIRAL JOHNSON

I am delighted to have been invited to speak to you today and to share with you some of my thoughts. Although I am a rather recent arrival to the maritime world, I have been impressed from the very start by the need for a strong community voice and by the outstanding efforts of the Propeller Club to help generate and sustain such a voice. The maritime industry and Department of Defense need desperately to be heard and our many and severe problems must be articulated accurately and with enough volume to be understood, not only by the administration but by the American public as well. We are all in trouble and our situation is not getting any better. This state of affairs has been repeatedy publicized and was again highlighted during the recent Propeller Club convention in Galveston.

The health and welfare of the merchant marine is of very special concern to me as the Department of Defense sealift commander. Sealift is a critcal element in virtually all of our contingency plans, and failure of the sea link in an emergency would almost assuredly spell disaster. So how do we stand today.

During the next few minutes I would like to give you a quick overview of our sealift capabilities as they appear within the broader framework of strategic mobility. I trust my comments will strike an even balance, and will not overstress the negative aspects.

When I speak of strategic mobility I am talking about the combination of people, equipment, procedures and plans required to move men and equipment to any part of the world in response to a shooting war, political contingency or national disaster.

Note that I said combination. It is essential to recognize that the core of strategic mobility is a closely coordinated system, not a group of unrelated, uncoordinated individual elements. Thus, while sealift is without question a major component, it cannot function in isolation. Ships, aircraft, trucks, trains, the human element, and a vast inventory of management devices must all respond to a bewildering array of requirements like a well-oiled machine. There can be no mismatches, no disconnects and no petty quarrels. Teamwork, reinforced by solid planning and exercising is the order of the day if we are to assure mobility of our forces.

Our mobility team is a complex entity that must be capable of functioning within a broad spectrum of scenarios ranging from an all-out NATO conventional war to brush fires, evacuation of American citizens, and disaster relief.

The diversity of these scenarios and the vastness of the world stage require our country to maintain a means of response that is both rapid and flexible. Mobility assets must be of the highest quality and must be ready to respond at the drop of a hat. This is not an easy matter, for our mobility resources are geographically dispersed, in short supply and frequently optimized to civilian rather than defense needs. This last comment is not, by the way, voiced as a criticism, but merely recognizes that the complexion of our civilian mobility resources is regulated by economic considerations, and appropriately so.

We have only to glance at the globe or to flick through the pages of recent history to realize that sealift has been, and will certainly continue to be, an essential and major player on this strategic mobility team.

I well realize that this is obvious to such a distinguished audience. I don't mean to insult your intelligence by dwelling on this fact of life. However, I have found from bitter experience that the role of sealift has in recent years been increasingly misunderstood and misinterpreted.

Typical of this is the view that airlift with its great responsiveness and speed has made sealift obsolete. This is a tragic misperception of strategic mobility. Sealift and airlift are not competitors in this arena. They, and all of the other strategic mobility components, are complementary and are part of a necessarily integrated system. Let me illustrate by reviewing two basic scenarios: a general war in Europe and a typical nonmobilization contingency.

The war in NATO would represent our most severe mobility challenge and so is of special interest. Our potential enemy in Europe is very strong, and getting stronger. He is fully capable of interdicting the line of communication over virtually its full length. His submarines and warships can wreak havoc with our merchant shipping. His aircraft can strike at our sea and airports, roads, rail lines, ships and transport aircraft. We have only to look back to World War II to envision what enormous difficulties we would face and how tenuous our mobility bridge would be.

Although we and our Allies have significant forces already positioned within NATO nations, the majority of U.S. men and equipment remains in the continental United States. These forces and their resupply represent many thousands of tons of cargo.

Most of it must be moved by air, rail and road to aerial and sea ports of embarkation. Timing, speed and flexibility are the criteria here. We must match what has to be lifted to the right kind of vehicle. We have to maintain unit integrity so that our port loadouts do not result in a meaningless jumble of men and machines.

Above all, we must initiate and sustain a smooth, uninterrupted traffic flow which feeds through our domestic ports into ships and aircraft without serious backlogs, or idle lift assets. The air and sealift mix for the intra-theatre movement must be carefully optimized to ensure the best possible delivery profile to support NATO requirements. This means that we must plan in exacting detail so that each aircraft and each ship is carrying that cargo for which it is best suited.

In general, people and highly time-sensitive material will be moved by air. But, at best, this represents only about 4 or 5 per cent of the total tonnage. The remainder must go by sea. Both modes are essential and they are complementary. Air gives us badly needed speed of response and short transits. But it is tonnage limited.

So it is up to sealift to move the mountains of equipment for the initial reinforcement of Europe and for the follow-up resupply. The diversity of the cargo, its volume, and the unique characteristics of a substantial segment of the lift combine to make this an incredible challenge for all of us in the world of sealift.

Now let's get down to some specifics concerning our ability to meet the challenge at sea. Looking at our marine cargo resources does not give me the warmest of feelings. The Military Sealift Command owns six specialized dry cargo ships, three of which are not very well suited to the strategic role. They obviously are not a significant resource factor in wartime.

The remainder of the MSC controlled, general cargo fleet of 21 ships consists of commercial charters, and would of course be fully involved.

Next and most importantly we have the merchant fleet of approximately 270 militarily useful dry cargo ships. This is our most significant U.S. capability, both in terms of ship technology and capacity. Added to this is the National Defense Reserve Fleet numbering some 140 largely aged cargo ships. Next is the flag of convenience fleet with about 11 militarily useful dry cargo ships, but carrying the inevitable question mark of availability. Cumulatively, these assets are not anywhere near enough to do the job. Thus we must also depend in this scenario on significant numbers of NATO ships to meet our delivery requirement deadlines. Not a very comfortable posture, especially if we are faced by a short warning situation which woud virtually eliminate any attrition free mobilization lift.

Let us be very realistic about shipping losses in the first few days of such an all-out war at sea. Losses will be heavy in spite of our our very capable anti-submarine and anti-air forces. Our already rather slim sealift will be stretched even thinner. If the war is of short duration we will not have the time to build back up, World War II style. With a come-as-you-are war a possibility, the need for an in-hand sealift capability of the highest order becomes even more vital.

The initial phase of reinforcement/resupply poses some special problems. Not only will we be faced with potentially higher attrition rates, but our requirements for shipping will be more challenging than in the steady-state resupply of the later time frame. Not only must we get ships on berth very very quickly, but we must control the mix of ships.

The nature of the reinforcement equipment, with its heavy concentration of wheeled and tracked vehicles and aircraft, makes the inclusion of specialized ships such as ro/ro mandatory.

Another early-on challenge is the availability of adequate specialized offloading facilities at the European ports. The industry trend away from self-sustaining ships, while economically attractive in peacetime, is unattractive in war. It reduces the flexibility of port assignment and leaves us highly vulnerable if specialized port capabilities are lost to enemy action.

I could go on for several hours on this subject, but I think you can see that our sealift problems are numerous and difficult. This does not mean that we cannot do the job, or that we are facing disaster. It does mean though that we must recognize our substantial deficiencies and work very hard as a community to solve them. Neither does it mean that as a group we have failed to do anything about the problems in the past, for we most certainly have. We must, however, do more.

What about mobility in a non-mobilization contingency? The challenge can be just as great but its complexion is different. Here we are usually not concerned with the enormous tonnages of a major war, nor are we necessarily addressing a shooting situation. What we almost always face in this area is the requirement for speed of response and the need for great flexibility in tailoring the response to the task. Airlift with its quick reaction time is very attractive in many of these situations, and plays a significant role.

But its partner, sealift, is also very attractive since it too can react with surprising speed, can carry much larger volumes of cargo, and avoids the political vulnerability of aircraft overflight and landing rights.

We have only to look back at the magnificent job our merchant marine did on extremely short notice during the evacuation of refugees from Vietnam to realize how essential a responsive sealift is to our national interest. Every year sealift is involved in some measure in the support of our country in unexpected emergencies. It has never failed us, but we cannot take it for granted.

Long-term or especially demanding contingency scenarios can and do pose a special set of demands. As in the case of the mobilization scenario, we must depend heavily on our merchant marine to augment our extremely limited Navy controlled fleet of less than 30 commercially-owned ships. The Sealift Readiness Program with 124 ships is absolutely vital in any large scale contingency. At the same time our planning must recognize the potentially disruptive effects that callup of ships under this program might have on industry.

As you reflect on my comments so far you may conclude that most of what I have said to this point sounds pretty negative. Perhaps it is, but I don't want to create an impression of inevitable doom. Rather, I would want to leave behind a clear sense of challenge, pride in past accomplishments and a recognition that we must solve our problems as a community.

We in the Defense Department must clearly acknowledge that the maritime industry is controlled by economic realities. We cannot expect ship owners to build ships to meet defense needs if these needs result in a less than economically viable cargo carrier. This does not mean that we are at an impasse on additional defense oriented improvements, but it does demand that we are both imaginative and realistic about them. Thus we must work very hard with the industry to create a more effective utilization of the maritime asset within these constraints.

The area of improved communications equipment is typical of the type of initiative we can undertake without degrading the economic health of the maritime industry. There are, I am convinced, a number of other initiatives we can take if we put our collective minds into the problem-solving mode.

As has been pointed out on a number of other occasions, we in Defense must also communicate our specific lift requirements more accurately to top management in the industry. In this regard, we are working very hard to overcome the hurdles of classified information so that our statements of requirements can be meaningful. After all, if industry and defense are to be true partners, each must be able to lay his cards on the table. The success of our recent tests in over-the-shore loading/offloading of merchant shipping, and in the use of merchant tankers for at-sea consolidation of fleet support ships is clear evidence of a community ability to solve difficult interface problems.

The nurturing of the defense/maritime industry partnership is a matter of sheer necessity, and we must get on with it. But we cannot let the details of this process obscure the central issue which faces us—now and in the years ahead. Our best community efforts to build a better sealift team and thus assure strategic mobility will be little more than window dressing if we do not have as our foundation a strong and viable merchant marine.

As I said at the outset of my remarks, our collective voice must be heard. We cannot afford to whisper, to quarrel among ourselves or to defer to the future. We must act, and act now. In the battle for an effective and responsive sealift force, you and your Propeller Club associates must continue to be in the forefront. I know that you will.

WOMEN'S CONFERENCE FAR OUTSIDE U.S. MAINSTREAM

Mr. McCLURE. Mr. President, the events surrounding the National Women's Conference held this November in Houston, Tex., have added to the controversy surrounding the activities of the National Commission on the Observance of International Women's Year. The national plan of action adopted by the delegates to the conference which includes recommendations for Federal funding of abortion and to vindicate homosexual activity will soon be presented to Congress. Most of us will agree that the controversial proposals adopted by the conference are not representative of the majority of American women. Others have maintained that the delegate selection process and organization of the State meetings promoted by the National Commission on IWY were designed to purposefully exclude many women from participating in these meetings by reason of their political or religious beliefs.

I was extremely shocked to learn further that the National Commission on International Women's Year apparently had printed and mailed, under the franking privileges of the U.S. Department of State, material which was extremely critical of the Church of Jesus Christ of Latter-day Saints. The eight-page publication equated the Mormon Church with the Ku Klux Klan and other extremist groups. But beyond that, it accused the women members of that religious organization of subverting the efforts of IWY.

I believe the record should be made clear in that regard, that in my State of Idaho, women of many political and philosophical persuasions attempted to be represented at the State and national IWY conventions. As a matter of fact, certain segments of women felt they were excluded from participation through a variety of methods. The IWY convention, both in State and national levels was not representative of a democratic process, but serves as a learning tool of how the democratic, representative form of government can be subverted and destroyed by those few who do not believe a wide variety of opinions should be represented.

That is perhaps why I, and many responsible residents of my State, are gravely concerned that taxpayer funds were used to prepare and mail literature which chastizes the LDS Church. This is fraud of the very worst kind, and those responsible should be held accountable for their actions. I have joined others in demanding a full explanation of this totally inappropriate use of taxpayer money.

Another point needs to be made. There were many well-meaning women who went to this conference with worthy goals and desirable objectives to pursue. How regrettable that their efforts were so badly undermined by the kind of people mentioned in the article I am about to insert who turned the conference into a Roman circus.

Mr. President, the following report by John Lofton in Human Events outlines the Houston convention as he saw it. More than that, he takes the time to pay tribute to Senator Jesse Helms for the work he has done in exposing some of the excesses of the International Women's Year. It is a tribute well-deserved. He has done the work for the rest of us who never found the time. He deserves a sincere thanks from all of us who had hoped the IWY would help promote the genuine interests of women. We can only be embarrassed for those prominent American ladies who by innocence or stupidity allowed themselves to be used so shamelessly by the extremists running the show in Houston.

Mr. President, I ask unanimous consent that the article referred to be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Women's Conference (Far) Outside U.S. Mainstream

(By John D. Lofton, Jr.)

Houston.—Since the IWY sprang full-blown from the brow of Bella Abzug over two years ago, Sen. Jesse Helms (R.-N.C.) has been a man ahead of his time vigorously opposing the idea of a federally funded International Women's Year conference. After investigating just exactly how the delegates to this get-together were selected, and just who the people were running this show, Sen. Helms told the Senate this past July:

"Of the 42 members of the International Women's Year Commission appointed by President Carter on March 29 of this year, there is only one who opposes the ratification of the Equal Rights Amendment. There is not a single member who belongs to such groups as STOP ERA, Eagle Forum, or a Right to Life chapter. Not one state coordinating committee is chaired by a member of one of these anti-ERA pro-life groups who speak for a large number of women across this country."

Because this was so, Sen. Helms predicted that the meeting being held here would be "a rubber-stamp, unrepresentative debacle" which would be used "to promote the goals of a militant feminist minority."

Well, as one who has closely watched this freak-show for the past three and a half days, I hereby give Sen. Helms the 1977 First Annual Jeane Dixon Gift of Prophecy Award.

During the time I've been here I have, not surprisingly, been in many arguments with many women about many subjects. But the one assertion I am absolutely unable to challenge is spelled out on a large sign stapled to the wall of the National Gay Task Force (NGTF) booth in the IWY exhibit hall. It reads: "We Are Everywhere!" Indeed, they are.

This conference is loaded with lesbians. It is wall-to-wall weirdos. If it is true, as the conference sponsors allege, that this Valley of the Dykes is representative of the female population at large, then 150% of American women are homosexuals.

Like they say, they are everywhere. How many? When I ask, a woman(?) in the NGTF booth says, with a laugh, "thousands." Perhaps as many as 500 lesbians are delegates, she(?) says.

Another booth in the IWY exhibit hall, operated by a group pushing the idea that homemakers should be salaried, bears a huge banner reading: "Lesbians for Wages for Housework." I buy a booklet titled "Lesbians Organize: Wages Due Lesbians—Wages for Housework Campaign." Its cover has a Peanuts-style drawing on the cover showing Lucy and another female holding hands. The caption: "Who Needs Charlie Brown?" Another book being offered: "The Power of Women and the Subversion of the Community."

When I ask a Ms. Marshall of Black Women for Wages for Housework just how much she thinks housewives should be paid, she says $20,000 a year. When I note that 40 million women are housewives, which means that her proposal would cost a mere $800 billion annually, and ask who will pay these salaries, she is obviously bored with such details, replying:

"When you bog yourself down with petty points of an issue, you don't move, okay? The thing is when there's an issue and you have clout behind it, they find a way to do it, okay?" Right on, I say, but who are "they"? Who will pay these salaries? Well, there are "profits from corporations and money within the government," she says. Like where, I say, pointing out that the federal government is running a $50-billion deficit. Does she know this, I ask?

"Okay, that's fine," she says. "But, you look at Watergate, at the senators running the country, those corporations with profits. The money's going somewhere. I don't know where. They're saying there's a deficit but I do know there's red tape, redundance, and people taking it off the top."

When, in a parting observation, I explain that if business is saddled with an additional expense of $800 billion annually, they'll most likely pass along this increased cost of doing business to those who buy their products, people like lesbian houseworkers, she says: "This is okay, they'd probably do it anyway." Hmmm. Never thought of that.

On my way over to the San Francisco Bisexual Center (SFBC) booth, I am handed a copy of the current issue of "Defending Women's Rights Newsletter." The back-page article is headlined: "Defend Lesbian Rights." Its author: Cheryl Adams, a New Yorker delegate to the IWY convention, who is also the Lesbian Rights Coordinator for the Empire State's National Organization for Women (NOW).

When I reach the SFBC booth, I am handed a flyer by bisexual author Ruth Falk, promoting her book, *Women Loving*. The flyer bears an interesting promo blurb: ". . . an honest, sinewy book; its pace is electric; its shock enduring." To ignore this book, says the promo author, "would be to block out an important part of women's lives as well as our own." The promoter? Les Whitten, co-author of Jack Anderson's syndicated column.

They are everywhere. But not everything they do can be shown in a family newspaper.

The night after the IWY convention approves a lesbian rights resolution, hundreds of lesbians and their sympathizers rally outside the convention hall. A downcast Houston *Chronicle* photographer shows me "a great" photo he took of two women kissing. But, he says, his paper didn't run it. Oh, well, I console him, what can you expect from a publication run by white, uptight, probably straight men.

They are everywhere. When at one of the so-called "Briefings from the Top," presidential aide Midge Costanza finishes her talk and asks for questions, the first one—a statement actually—is from a woman (?) who identifies herself as a member of the Socialist Workers party and a lesbian who "refuses to compromise my rights." Costanza empathizes. She notes that in a Father's Day interview with the AP, President Carter, saying "more than any President ever said before," had declared that he knew people who were taught by homosexuals and "they were never negatively affected by that." Says Midge:

"I get very emotional about this issue because I feel very strongly that you should have the right to love whomever you want. I do." Applause.

Watching Costanza's fist-waving, head-shaking, loose-mouthed macho performance, one realizes why she stays in hot water. At one point, she brags that her first act as a member of the Rochester, N.Y., City Council was to appropriate some money to clean up Susan B. Anthony's grave-site. She says that in her first life as Susan things were much more difficult. Laughter. "Yep, Jimmy and I believe in that stuff," she says. "His [the President's] error was that he made the mistake of coming back as himself." More laughter, applause.

Later, she is asked if Mr. Carter will campaign actively for ERA. Yes, he will, says Midge, and she doesn't mean just make phone calls, which she admits has not been successful. She tells how the phone call strategy backfired because those state lawmakers who were called promptly held news conferences announcing that the President could not intimidate them. Costanza refers to these legislators as "nincompoops." Laughter.

They are everywhere. But not everyone is eager to take up their cause. IWY Big Wig, actress Jean Stapleton, who plays Archie Bunker's wife Edith on "All in the Family," is asked how "Edith" would handle the lesbian rights issue. She ducks this one, telling a Houston Chronicle reporter: "I believe that we'd have a number of story conferences to resolve that issue." Too bad the convention didn't approach the subject this thoughtfully.

A footnote: In fairness to the other far-out crazies working this confab, it ought to be noted that lesbians and their supporters weren't the only weirdos working this gathering. Also in the IWY exhibit hall was the extreme left-wing Pathfinder Press booth which was selling a wide variety of Communist and Socialist literature including the Guardian newspaper. Outside the convention hall, free sample copies of the Communist Daily World were being given away.

Also being handed out free of charge were copies of a newspaper published by the ultra-left Prairie Fire Organizing Group of San Francisco. Last but not least, prowling the halls and holding press conferences here was Margo St. James, the head of what she calls "a loose organization," COYOTE—Call Off Your Old Tired Ethics. Pushing her favorite cause, the legalization of prostitution, St. James was passing out the program from her group's 4th Annual Hookers Masquerade Ball, held last February in—where else?—San Francisco.

It's 9:15 a.m., Sunday morning. I am about to listen to a panel of women discuss "peace and disarmament." The literature on the table is a sign of what is to come. All the material is pro-unilateral disarmament stuff. There's a press release from the Women's International League for Peace and Freedom; a "Bread—Not Bombers!" handout from the Women Strike for Peace; and a pamphlet from the Institute for World Order telling how reduced defense spending is good for the economy.

The meeting comes to order. "The reason we scheduled this thing," says Rep. Pat Schroeder (D.-Colo.), "is because women are no longer going to be observers in the area of peace, disarmament and all that. We're no longer going to be a passive rubber stamp. Arms control is not just men's work." She says something about trying to grope with the issue of the way certain countries, headed by men, need certain "technological things" to parade through the streets but don't have good health care, education, etc. Nuclear weapons are sexist.

Randall Forsberg, an "arms control specialist" from Harvard, endorses a "safe" defense policy and a "wide margin" of arms reduction (ours). She says "almost none of our defense budget goes for defense." I don't understand her explanation. But, she's from Harvard. It must be me. I never went to college.

Forsberg talks about the U.S. and the U.S.S.R. having almost the same number of delivery vehicles. But she doesn't mention the tremendous Soviet advantage in so-called throw-weight, which is very important. She talks about our bombers as if all of them would be able to deliver their bombs in an attack on Russia. But she never mentions Soviet air defenses, which we lack. She talks about our general purpose forces as existing to defend Western Europe. She sounds like this isn't important. Forsberg is opposed to a "militarized foreign policy." Suddenly, I'm glad I never went to college.

The next speaker is a Dr. Helen Caldicott, introduced as a specialist in cystic fibrosis who also was very active in opposing the French nuclear tests near Australia. Or the Australian nuclear tests near France. Whatever. Sounds like the plot for a Woody Allen movie. I'll stay a while longer.

Dr. Caldicott is on the program to talk about the horrible physical effects of atomic radiation, a subject about which I was unaware there was any debate among either men or women.

Nuclear weapons are "hideous," a "diabolical force" which she has fretted about since she was 17. They are the "ultimate insanity" causing "a lot of vomiting and diarrhea," as they did in Japan. Surveys have shown Japanese women whose babies, damaged in utero, were born with tiny brains caused by radiation. The audience is silent. This pro-abortion crowd isn't too big on the problems of the unborn.

There is "no way" to survive an atomic war, says the doctor. Only cockroaches would survive. Such a war would cause "severe psychiatric consequences" for the survivors of a nuclear war, "if there were survivors." The neutron bomb is also a "diabolical" weapon, a terrible way to "kill your fellow brothers." Nixon had the Black Box taken away from him because he was "unstable" the last few weeks of his presidency. The doctor asks:

"Have any of the world's male politicians ever seen a 12-year-old die of leukemia? Obviously not. We must eliminate all nuclear weapons. Women are the civilizers of the human race. We carry life in our bellies. The ultimate in preventive medicine is to abolish all atomic weapons." Standing ovation.

On the way out, I see anthropologist Margaret Mead in the audience sitting in an aisle seat. I ask her if the whole IWY thing is worth $5 million? She looks at me with disdain. "Certainly," she says. "How much of a bomber can you buy for $5 million? I suggest you study how much is spent on instruments of death."

As an expert on culture, I say, do you think the IWY convention is representative of the American female population at large? She taps her walking stick on the floor a couple of times. She's thinking. She replies: "Nothing in this country ever reflects anything at large." I wonder: Does a wet bird fly at night?

It is late Sunday evening, very late. As I lie on the floor of the convention hall's Music Center watching a seven-foot clown woman on stilts playing "As the Saints Go Marching In" on a kazoo, I think of that memorable moment in the main convention hall when a delegate from Guam, speaking Guam talk, is told by the Chairthing that she was not being understood because she was, well, speaking Guam talk and there was no one to interpret.

I know of nothing I've ever agreed with Betty Friedan on. But when she says of this convention: "I have never seen anything like this," I agree. And I hope I never do again. But, if I do, I at least hope I'm not helping pay for it.

So, enough of the feel, the flavor of this phantasmagoria of nuttiness. Now to the hard facts and demographic data as regards this orgy of sexism.

Is this conference affording, as Bella Abzug predicted it would two years ago, "an opportunity for every kind of woman, representing every viewpoint, in every state of this nation to make a statement of her concern"? Does this carnival of kookiness represent the kind of women who are potential recruits for the Republican party, as has been stated by former GOP National Chairman Mary Louise Smith, and former RNC Co-Chairman Elly Peterson?

Mrs. Smith is quoted by the Washington Post as saying here that GOP women "have the responsibility to show that Phyllis Schlafly is not a role model for Republican women." Well, maybe Phyllis should or should not be. That's obviously debatable. But one thing is for sure and it is this: Phyllis Schlafly is much more in the mainstream of female American thought than are the women delegates to this get-together.

If Mrs. Smith had bothered to stop by the Houston Astrodome to attend the so-called Pro-Family, Anti-IWY rally, which attracted between 15,000 and 20,000 grassroots Americans of all sexes and ages, she would have seen this. This gathering was, in many ways, the real story happening in this city. All of the people in this group paid their own way, unlike the IWY delegates who had their expenses completely financed by federal tax dollars.

How do the women IWY delegates compare and contrast with American women in the U.S. population? The following is extracted from data released by the IWY Commission itself and from information based on statistics provided the Commission by the Department of Labor, the Census Bureau, the National Opinion Research Center in Chicago, and a 1975 poll of American women taken by the Detroit-based organization, Market Opinion Research (MOR).

First, some attitudinal questions. Do you agree that "it is much better for everyone involved if the man is the achiever outside the home and the woman takes care of the home and family?" This question, which is literally the do-you-believe-a-woman's-place-is-in-the-home-question, was put to a representative sample of American women by Market Opinion Research. Over half, 52%, of all women agreed. Most of the females at this conference would punch your face if you even asked them this question.

Next: Do you agree "it is more important for a wife to help her husband than to have a career of her own?" Fifty-five per cent of all American women told MOR that they agreed. Most women here would look at you like you were crazy if you asked them this question.

Finally: Do you agree "if a wife earns more than her husband, the marriage is headed for trouble?" Fifty-two per cent of all American black women agreed; 58 per cent of all Spanish-American women agreed. One would be taking one's life in one's hands to ask such a question of the black and Hispanic women at this conference.

According to the MOR poll, the magazines most read by all American women are, in ranking order, the *Reader's Digest, Ladies' Home Journal* and *Good Housekeeping*. It is inconceivable that most of the women here read these publications with any degree of frequency. This is a *Rolling Stone* crowd all the way.

Now, the demographics of this convention. First, I will give the category, then the percentage of all women in this category, and then the percentage of the women delegates in this category here at the IWY conference. What the following figures show is that this convention was in dire need of one of those affirmative action-quota plans that it so enthusiastically endorsed.

Age: 16–25, in the population, this group is 22 per cent; in this convention, 7.5 per cent. Ages 26–55, population, 49 per cent; convention delegates, 77.8 per cent. Ages 56 and over, population, 29 per cent; convention 14.8 per cent. Thus, younger IWY delegates, who tend to be more liberal, are significantly over-represented, while the older delegates, who would tend to be more conservative, are under-represented.

Race: in the population, 84.4 per cent are white; this convention, 64.5 per cent. Blacks, population, 10.4 per cent; convention, 17.4 per cent. Hispanic, population, 4.3 per cent; convention, 8.3 per cent. Asian-Americans, population, .6 per cent; convention, 2.7 per cent. American Indians, population, .6 per cent; convention, 3.4 per cent. Clearly, despite the claims of representatives of the U.S. female population at large, here racial minorities are over-represented and the majority is under-represented.

Income: Under $7,000 a year, population, 78 per cent; convention, 23.1 per cent. Women who make $15,000 or more annually comprise less than 3 per cent of the population. But at this convention, 14.1 per cent of the delegates make over $20,000 a year. This is, relatively speaking, a rich woman's conference with poorer women drastically under-represented.

Religion: Protestant population, 65.8 per cent; convention, 46.5 per cent. Catholics, population, 25.6 per cent; convention, 24.2 percent (finally, an approximation); Jewish, population, 2.8 per cent; convention, 8.9 per cent.

At the beginning of its poll report for the IWY Commission, "American Women Today and Tomorrow," Market Opinion Research inserts a disclaimer reading: "The views expressed in this report reflect public opinion and do not necessarily represent the views of the National Commission on the Observance of International Women's Year or any other federal agency."

I'll say. Any agreement between the opinions of American women at large in this country and the opinions of those gathered here is strictly coincidental.

PORTLAND VA HOSPITAL

Mr. HATFIELD. Mr. President, on November 3 the House-Senate conference committee met to act on the first supplemental appropriations bill for fiscal year 1977. One of the components of the bill of particular interest to me and to people in Oregon and Washington was an item designated to provide replacement facilities for the present Veterans' Administration hospitals in Portland, Oreg., and Vancouver, Wash. The first approval of plans for these facilities was in 1962 and since then there have been numerous refinements and adjustments in these plans. The present proposal calls for a 648-bed acute care facility near the present location of the Sam Jackson Hospital in Portland, plus an outpatient facility in downtown Portland and space and administrative functions at the location of the present Barnes Hospital in Vancouver. It should be noted that the VA recommendation constitutes a somewhat smaller facility than the present hospital, with its 816 acute care beds.

In response to a plea that the Veterans' Administration had not adequately considered an alternate site near the present Emanuel Hospital in Portland, the House Appropriations Committee sent investigators to Portland to examine the two locations and consider the positive and negative features of each. Since that report was available on November 3 when the conferees met, but the VA had not yet had time to respond, the committee decided to defer action until the next supplemental appropriations bill.

Mr. President, the Veterans' Administration has now responded to the House report and to assure that these points are readily available to my colleagues and others who are interested, I ask unanimous consent that the report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, while I do not pretend to be an architect or engineer and I realize that there still may be honest differences of opinion on some of the issues, I feel that the VA has responded very satisfactorily to the House objections. The VA disagrees with the House estimate of construction cost at the Emmanuel site, but readily admits that there will be approximately 5 percent in additional cost to build at Marquam Hill. This is not wasted money, but a reasonable payment for assuring a close and healthy relationship with the Health Sciences Center of the University of Oregon. As is typically the case with VA hospitals, medical school personnel provide a great part of the professional care. The VA report provides convincing evidence of a correlation between the quality of care in a VA hospital and the distance between the hospital and the medical school.

The VA report provides satisfactory solutions to the very real traffic and parking problems posed by the Marquam Hill site and I personally intend to see that VA mental bill, as soon as possible in 1978.

EXHIBIT 1

COMMENTS OF THE VETERANS' ADMINISTRATION

The comments of the Veterans Administration on the report of the Surveys and Investigations Staff of the Committee on Appropriations, United States House of Representatives concerning plans for the replacement of VA facilities in Portland, Oregon and Vancouver, Washington are contained herein.

I. INTRODUCTION

The VA presently operates three facilities in the Portland/Vancouver area including a 527-bed hospital on Marquam Hill in Portland, a 376-bed hospital in Vancouver and a satellite outpatient clinic in downtown Portland.

The VA has proposed that a single new hospital be constructed on the site of the present Portland Hospital as a replacement for both of the existing hospital facilities and that certain outpatient and logistical support facilities for the hospital be located in Vancouver. The present downtown clinic would remain in operation although it would be relocated closer to the hospital site and afford the opportunity to be used as a fringe parking area for hospital employees.

In May 1977 the Committee on Appropriations of the House of Representtaives directed the Surveys and Investigations Staff of the Committee to conduct a study of plans proposed by the Veterans Administration to construct facilities in Portland, Oregon and Vancouver, Washington to replace the existing antiquated facilities.

The Survey Report concludes that the replacement VA facilities should be constructed on the site of the Emanuel Hospital. This recommendation is based on the investigators' analysis of the several issues which impact on this decision. Each of these issues will be discussed in these comments.

II. PLANNING FOR THE REPLACEMENT HOSPITAL

The report criticizes VA planning for the proposed hospitals as being ineffective. "Because of a lack of effective long-range planning, the Portland Hospital project has been placed in the VA's construction program before being fully developed." The primary basis for this criticism is the absence of specific spatial needs for individual hospital services, and the use of historical data on space requirements and costs for estimating purposes. The report cites a previous study of the investigative staff which found weaknesses in the VA's construction program. At this point in time, the planning process of the VA was to develop cost and space data on an historical basis although it should be noted that for the first time a special planning technique was used for the eight hospitals including the Portland replacement hospital. This study, conducted by the Griffin-Balzhiser firm, was a unique and additional planning mechanism used for Portland and not for hospital construction prior to 1975.

A. The development of the space requirements for a construction project such as this replacement hospital is dependent upon the availability of several items of information including the location of the various functions, bed levels, inpatient and outpatient workload information, and data on the numbers of staff who will be working in the facility. When this information is available, project development can move forward. In the event however that policy or programmatic decisions are made which change this base-line information, the detailed development of the project must begin again. This has been the case as relates to the Portland Replacement Hospital project.

The original proposal of the VA approved by the President in May 1976 was to consolidate all functions at the site of the new hospital. The facility was proposed to include 770-bed hospital and a 120-bed nursing home care facility. In June 1976 the Congress directed the VA to reassess the matter of this replacement hospital in light of the various concerns which had been raised. As part of this reassessment, the VA concluded that it would be appropriate to retain in operation the downtown Portland outpatient clinic without diminishing the quality of care provided. This division of functions and reduction of requirements at the hospital itself necessitated that much of the developmental work previously accomplished be re-done. This decision was made in January 1977.

Shortly after the appointment of the present Administrator of Veterans Affairs, the VA received numerous requests from interested parties including members of the Congress, that the new Administrator examine thoroughly the many aspects of this issue. The Administrator undertook such a review including a personal visit to the area and concluded that the location of certain activities in Vancouver would be beneficial. This decision which was made in April 1977 required another beginning of the detailed project development.

The most recent major change in plans for the replacement hospital came in August 1977 when at the direction of the Congress the VA reduced the number of hospital beds planned from the original 770 beds to the present level of 738 beds.

Each time these basic decisions were made, developmental efforts had to be recycled and thus specific information on space requirements had to be continually redetermined.

B. The VA has developed an advance planning capability in part as a result of the concerns expressed by the Congress regarding the VA construction process. The Fiscal Year 1978 VA appropriation includes funding to develop major construction projects through the completion of preliminary plans. This planning tool will provide for a greater opportunity to review alternatve concepts and develop refined cost estimates in advance of the request for design and construction funds. This Advance Planning Fund mechanism was not available for use on the Portland project. However, whatever planning capability is being utilized, detailed redesign will always be required each time the basic plan is changed.

C. The report concludes that there exists a lack of coordination between the VA's Department of Medicine and Surgery and the Office of Construction. The report presents no evidence to support this conclusion. In December 1962, President Kennedy approved the closure of the Vancouver Hospital and the expansion of the Portland facility. Prior to that decision and at each stage in the long history of this project, the Department of Medicine and Surgery and the Office of Construction have worked together. The report cites only a discrepancy in information provided by the various offices as to when relevant developmental data was provided to the Office of Construction. As indicated above, it was necesary to revise his information several times.

III. BED SIZING METHODOLOGY

In regard to the recommendation that the VA revise its hospital sizing methodology to develop bed requirements on the average length of stay data in community hospitals, the report contends that this bed estimating technique would result in less beds and therefore a reduced cost. The report points out that for specific diagnoses, the average length of stay at the Portland Hospital exceeds that for similar diagnoses treated in community hospitals in a six county area. For example, the report specifies that cancer patients in community hospitals experienced an average length of stay between 13–15.4 days while VA patients consumed 28 days. In addition, for such diagnoses as cerebrovascular disease or pneumonia, community hospital patients averaged between 12-14 days per case while VA cases recorded average length of stays of 63 and 21 days respectively. The report fails to mention the pertinent fact that the VA 1985 bed estimate for internal medicine was based on a 14 day average stay. The diagnoses identified in the report would be hospitalized in internal medicine bed sections. The differences in the VA and community patient populations also introduce major differences in length-of-stay data. These differences include socio-economic status, marital status, incidence of secondary diseases, and the distance between the hospital and the patient's home.

The report references the GAO report of May 1977 to the Chairman of the Subcommittee HUD-Independent Agencies, Senate Committee on Appropriations citing that GAO "in its review specifically analyzed the proposed bed size for three new VA hospitals that have been authorized for construction—Bay Pines, Little Rock, and Richmond. GAO disagreed with the VA's methodology in determining the size of the proposed hospitals—GAO suggested a methodology that would project acute bed needs . . ."

The report suggests that application of the GAO methodology to these three hospitals produced bed estimates significantly different than those resulting from the VA estimating procedure. However, the actual difference in the two estimates were in fact very minor. For the three hospitals combined, GAO's model estimated a need for ten more "acute non-psychiatric" beds than did the VA model in projections involving 1275 beds in the three hospitals.

In its responses to the Chairman relative to the GAO report, VA pointed out some of the inadequacies of the GAO model; the most significant being that it produced one estimated bed value termed "acute care beds." Included in this bed classification, but not uniquely identified were the bed needs for internal medicine, surgery, neurology, etc. Other major shortcomings of the model were its inability to generate estimates for psychiatry or intermediate care.

At the urging of the Senate Appropriations Subcommittee, VA and GAO agreed to meet in an effort to develop mutually agreeable estimating techniques. At the initial meeting in September, the GAO officials verbally presented a new bed estimating model which was different than that used in their May 20, 1977 report to the Chairman. The written description of the new model was recently made available to VA and is now being reviewed.

IV. CONSTRUCTION COSTS

The primary basis for the recommendation of the report that the replacement hospital be located on the Emanuel site is the view of the investigative staff that the VA would save $27,410,300 by selecting that location as opposed to Marquam Hill. The VA has previously estimated that the utilization of the Emanuel site in conjunction with the downtown clinic and the clinic/logistical support at Vancouver would have a construction cost of $143,239,700. The VA estimate has been prepared by a staff of experienced professional estimators. The Survey report, although highly critical of the VA's estimating techniques, utilizes the same approach in developing a new estimate for the Emanuel site. The report accepts the VA estimate for constructing on the more complicated Marquam Hill site. This new estimate of the investigative staff for Emanuel, which accepts many of the basic estimates provided by VA, is $124,688,700.

The VA has conducted a review of each of the line items which comprise this new estimate and we have also closely examined our own estimate. We find that the report makes some very basic estimating errors in arriving at the $27.4 million dollar savings. We will address each instance where a difference in the estimates exists; but first it should be noted that VA has always acknowledged that the construction cost at Emanuel would be less than Marquam Hill. This additional cost was in the past and remains now part of the mix of factors to be considered in the site selection decision.

The first difference occurs in the area of site acquisition and preparation. The VA originally estimated this cost to be $3.4 million. The report estimates the cost to be $3.76 million. We have revised the VA estimate to agree with the report with one exception. In the judgment of the investigative staff based on conversations with the Griffin-Balzhiser consulting group, a neighborhood park at the Emanuel site will not be required. It is the judgment of the VA that the park will be required if the Emanuel site is selected. Thus, VA includes a cost of $50,000 to cover the expense of relocating this park. A chart is appended to this report which compares item by item the original VA estimate, the new estimate of the report, the VA's revised estimate and the cost differences. The reader will note that the current distribution of site acquisition costs is somewhat different from that of the earlier estimate because approximately one million dollars is now shown as reimbursement costs instead of site acquisition costs. This change was made so that the VA estimate could clearly be compared to the estimate in the report.

The investigative staff's estimate has deleted altogether any phasing cost at Emanuel. The VA has previously included a one million dollar allowance to cover potential delays at the Emanuel site. We believe this is justified in view of the fact that the start of detailed design and construction on the Emanuel site would be contingent upon action by parties other than the VA in connection with site acquisition negotiations, relocation of existing Emanuel functions on the site, and evacuation of these buildings. There is an apparent potential delay in each of these steps which could delay design and construction activities or change their sequence. The one million dollar allowance is included to cover that potential.

A major difference between the VA's estimate and that of the investigative staff is in the cost of providing adequate parking at the Emanuel site. This difference represents $5.6 million. The VA believes that the estimate of the investigative staff is not valid. The savings are found in large measure in the assumption by the investigative staff that the unit cost per car on the lowest level of the parking structure would be the same as for exterior surface parking. In a parking structure, the cost of the lowest level must be counted the same as the upper levels in determining the unit cost of construction. Moreover, all of our studies of the cost of structural parking facilities indicate a base construction cost of approximately $5,500 per car as a reasonable figure. The average cost per structured parking space according to the investigative staff's estimate is $1,816 per car. The VA believes such a figure is grossly unrealistic. It should also be recognized that, if the survey staff's parking cost estimate is to be accepted at Emanuel, it must also be applied to the parking cost at the Marquam Hill site reducing that cost approximately $2.9 million.

The VA estimate for Marquam Hill and Emanuel included a 6 percent allowance to cover unknown factors. The Investigations Staff has arbitrarily reduced this to 3 percent at the Emanuel location. The report explains the reduction in this way: "Due to the uncertainty of costs in building on a steep site, the percentage for unknown factors is 6 percent on Marquam Hill; whereas the factors is only 3 percent at Emanuel resulting in a $3.2 million cost difference." The VA takes exception to this reduction because the allowance for unknowns is intended to cover many potential additional cost factors than just those attributable to site complexity. These include medical program changes, spatial criteria changes, construction code changes, design changes, etc. The differential cost for building on the steep hill site has already been included under "Abnormal Foundations" and cannot again be included in "Unknown Factors." The unknown factors by definition cannot be apportioned among the various elements and thus the reduction to 3 percent at Emanuel has no basis.

The remaining difference between the estimates (and the biggest single difference) is a reduction by the Investigations Staff of $5.7 million in the category which they identify as "Additional Cost Savings." The report attributes these savings to the effect of general site conditions on the contractors ability to work effectively. The report breaks down the savings as follows: contractor accessibility, 0.5 percent; material and equipment deliveries, 0.33 percent; construction staging area, 1.0 percent; construction employee travel and parking, 0.33 percent; and reduction of total construction time, 2.5 percent; total, 4.66 percent. This reduction is absolutely without any sound basis.

You cannot save money that does not exist in the first place. The VA estimate for Emanuel does not contain a special allowance for site complexity as does the estimate for Marquam Hill. We recognize the additional cost of construction on Marquam Hill by the inclusion of special allowances for abnormal foundations and phasing. The base construction costs at Emanuel are less because of the absence of these complexities. The report in effect tries to save this money twice.

The survey report suggests by implication in Recommendation 4 that the VA is trying to hide the cost of new support facilities in the estimate for demolition. This is not true. The term, "demolition", in the VA estimate represents the cost of demolishing and clearing the site. Because the water storage tank is vital to the continued functioning of the existing hospital during construction, it is appropriate that its relocation costs be included in the site clearance item. This is also the case for the pumping equipment and piping associated with the site clearance.

We conclude then that the estimate in the Surveys and Investigations report is inaccurate and that the more reasonable estimate of savings at Emanuel is $8.2 million which is 5.4 percent less than the proposal for Marquam Hill.

It is clear that the preparation of the report relied to a great extent on information received from the firm of Martin-Brewster. As indicated in the report, the Martin-Brewster firm had been retained in the past by the Emanuel Hospital to develop cost estimates for construction at Emanuel. Their estimate presented to the Congress was within $400,000 of the estimate developed by the Investigations Staff for this report. We have appended to this document copies of the Martin-Brewster presentation and the associated VA comments in response.

V. PORTABLE EQUIPMENT

The report recommends that VA "furnish a further detailed estimate of 'portable' equipment costs." The report rejects the estimating of equipment costs based on historical data and suggests that a detailed list of equipment should be required for estimating purposes. The equipment estimate for the Portland Replacement Hospital was based on actual budgeting data gathered from funding records of recently built hospitals. The per bed cost is used because it is the best indicator based on the fact that all VA hospital GM&S activities will contain the same medical services and equipment. During the investigation, VA provided to the investigators a sample listing of equipment and offered to make available the complete list of equipment placed in recently completed hospitals. It is from such detailed itemized data that the VA estimates are made.

The funding for portable equipment is provided as part of the VA's medical care appropriation. This is a one year appropriation and the funding request would not be made until the year in which the money is actually required. It is not considered a part of the construction cost since it is not provided through the construction appropriation. It would be impractical to develop a total itemized list of equipment at this time for several reasons. The technology of sophisticated health care equipment advances rapidly and significant progress in this respect can be anticipated before the Portland Hospital is completed. A detailed equipment list developed now would be totally inadequate 2–3 years hence. Furthermore, as we approach the completion of the hospital, we will evaluate the existing equipment in use in the replaced facilities to determine that which can be retained in use at the new hospital. The functional layout and design of the new hospital and the transportation systems employed will also impact on equipment purchased. These decisions cannot be made at this time. This cost item, "Portable Equipment", would of course be the same regardless of the location of the hospital.

VI. EXCESS COMMUNITY BEDS

The report addresses the question of excess community beds and recommends that the Congress grant authority to the VA to utilize excess community beds for the care of non-service-connected veterans. The report also recommends that the VA consider the availability of excess community beds in determining VA bed need. This is an extremely complex issue which is not peculiar to the Portland replacement hospital and which could only be addressed superficially by the investigative staff. The report does not discuss the nationwide impact of the recommendation nor does it address the resources which would be required to implement such a recommendation. The VA believes that this issue cannot and should not be addressed tangential to the Portland controversy. It is a major policy consideration which strikes at the basic Congressional mandate to the VA.

VII. PROXIMITY TO THE HEALTH SCIENCES CENTER

The paramount concern of VA in the considering the location of the replacement hospital has been and continues to be the quality of care that can be provided to the veteran. This issue has focused on the strength of the medical school affiliation and the relationship of distance to the effectiveness of an affiliation. It is the consistent experience of this agency that an effective medical school affiliation enhances the quality of care that can be provided in a VA hospital, and that a close relationship, in which large numbers of professional staff, residents, and other trainees flow freely between the VA hospital and the school, encourages a more effective affiliation and thus creates an appreciably higher level of quality.

It has never been held that proximity is a sole factor determining the strength that an affiliation and its consequent impact on quality of care. It is a factor, however, that exerts its beneficial or deleterious impact for the life of the facility.

The VA hospital in Portland has, at the present time, a very close association with the Health Sciences Center. As indicated in the report of the Investigations Staff, ninety percent of the 400 residents at the Health Sciences Center rotate through the V.A. hospital. The remaining 40 residents rotate through other area hospitals. In addition, approximately 600 students in other health manpower occupations are in training at the VA hospital. These include nurses, dental students, physician assistants, radiology technicians and students in a variety of other allied health fields.

A primary reason for the VA selection of the Marquam Hill site for the replacement hospital is the strong belief that distance between the hospital and the school has a direct impact on the strength of the affiliation and the numbers of individuals who will move routinely to and from the VA hospital for purposes of patient care. The VA is concerned about taking action which might curtail rather than enhance the willingness of highly qualified staff to participate fully in the affiliation and which could discourage residents from desiring VA as their training location. The reduction of the affiliation's intensity associated with these attitudinal changes would have a serious impact on the care provided. The movement of patients between the VA hospital and the teaching hospital is also very important. In radiology alone, for example, 286 patients were transported to the Health Sciences Center last year to receive over 8,000 radiation therapy treatments.

The exact effect on the intensity of the affiliation by relocating the hospital to the Emanuel location is difficult if not impossible to quantify. There are some items which are assumed to reflect quality and which are quantifiable. These include the characteristics of physician board certification, average length of patient stay, and the corresponding patient turnover rate. A review of this data for affiliated hospitals nationwide reveals the following information.

Distance of VA hospital to medical center	Number of VA hospitals	Percentage of physicians boarded	Average length of stay (days)	Average monthly turnover rate
0 to 1 mi....	41	65.1	21.2	203.3
1 to 5 mi....	19	60.0	25.8	174.7
Over 5 mi....	78	56.1	33.8	144.4

This data would indicate that the shorter the distance, the greater the chances are of a strong affiliation and a comparatively higher standard of patient care.

The report of the investigative staff has concluded that proximity of the VA hospital to the Health Science Center is not necessary for a high quality of patient care. This view was formed after interviewing staff at the VA hospital in Portland, the Health Sciences Center, and the community hospital facilities. The report points out that only thirty percent of affiliated VA hospitals are within one mile of the affiliated medical school and that many hospitals with greater distance separation have succesful affiliations. These exceptions do not disprove the VA's contention that strength of affiliation and institutional proximity are correlated. Many of these successful affiliations have a lower level of intensity than does the present VA hospital on Marquam Hill.

The report indicates that many of the staff interviewed at VA hospitals located away from their medical school affiliations reported that proximity had no bearing on their ability to provide quality care. It might be unreasonable to expect a physician to endorse the premise that the issue of proximity has a relationship to quality of care in a situation in which that individual is a participant when the location of the VA hospitals is not adjacent to its affiliate. The investigative staff found that the overwhelming majority of professionals at the VA hospital Portland and the Health Sciences Center and the trainees at these institutions favored the Marquam Hill site and placed importance on the proximity question. The report discounts the views of these individuals as being opinionated. These are the individuals who will hopefully be functioning in the affiliated situation and their opinions will have profound effect on their acceptance of the relationship.

The VA firmly believes that the present close location of the VA hospital to the Health Sciences Center has been responsible for the development of the present strength in the affiliation. To increase the distance would diminish this strength. The training of health manpower is a recognized part of the VA mission. This is enhanced by remaining close to the university. The allied health training programs, which the report refers to only in passing, and involves undergraduates for the most part, could be impaired. These individuals, many of whom presently walk back and forth between the hospitals, would be seriously inconvenienced if the hospitals were at separate locations as suggested.

We do not believe the investigative report to be accurate in concluding that proximity is unimportant in the success of an affiliated VA hospitals. The VA has recommended proximity historically when the opportunity arose and will continue to do so.

VIII. SITE GEOLOGY

There has been a great deal of discussion about the seismic and geological characteristics of the Marquam Hill and Emanuel sites. The Marquam Hill site is generally referred to as a "steep site" whereas Emanuel represents a "flat site."

Seismically, the two sites are similar. This is reported in the investigative staffs report and has been presented in the report of the Griffin-Balzhiser firm. The nature of the construction at any site in the area would involve strengthening to protect the structure in a seismic event.

The report identifies the Marquam Hill as a slide hazard area because of the sloping characteristics. The topography of Marquam Hill does lend itself to the possibility of earth slides. This potential on the site however will be contained through the construction process.

The report states that earth slides would block access to the hospital and render the hospital unusable. There are three access routes to the hospital—from the north and south on Terwilliger Boulevard, and through the university and it is extremely unlikely that earth slides would block Terwilliger Boulevard from both directions at the same time. The entrance through the university is off Terwilliger Boulevard, but it occurs prior to the area susceptible to slides. Since the VA hospital opened in 1928, there has never been a land slide which impacted on the operation of the hospital. Therefore, the point made in the report that the Marquam Hill site can be isolated by a possible earth slide is not supported by historical fact.

The VA recently commissioned the Dames and Moore engineering firm to study the Marquam Hill site. Their report of October 21, 1977 concludes that the characteristics of the Marquam Hill site in no way preclude construction of the hospital on that site.

IX. ACCESSIBILITY AND PARKING

The report is critical of the accessibility to Marquam Hill and includes in this section discussion concerning the present parking situation, difficulties in movement by wheelchair bound patients, and the access routes. The current availability of parking on the Marquam Hill site is irrelevant to this issue. The new construction will entail the provision of an adequate number of parking spaces to accommodate patients, staff, and visitors to the hospital.

In the development of any new VA hospital, multiple design factors are employed to adapt the facility to meet the needs of handicapped persons. This includes the convenient location of parking, sufficient vertical transportation systems, and the removal of the impediments to insure freedom of movement by wheelchair patients on the grounds and within the hospital. This will occur at the Emanuel location as well as Marquam Hill.

There are measures to improve the access of motor vehicles to Marquam Hill and these must be fully developed. It is important that a primary emphasis be placed by VA on traffic control measures. The present parking situation is a primary contributor to the preception of a major access problem. When adequate parking is provided through the new construction, a great deal of difficulty will be eliminated. Steps are available and in fact underway to diminish the need for ingress to the property and a discussion of these follows later in this document. The road network on the site itself and the design of the hospital entrance is contributory to a problem of congestion. Re-design of the entrance and VA street pattern will prevent bottlenecks occurring as vehicles enter and leave the property. Public transportation and transportation to the site from the other VA locations in the area can be improved.

X. COMMUNITY RESPONSE

The issue of the Portland Replacement Hospital has been controversial and many elements of the community have expressed opinion.

The views of the veterans in the community are very important to the VA. The veterans service organizations have consistently favored the Marquam Hill location over the Emanuel site. The VA rejects that portion of the report which alleges that the views of the service organizations have been influenced by VA. The report refers to a Vietnam veteran who opposes Marquam Hill because of the problems with the movement of the handicapped. As discussed elsewhere in these comments, the design of the new facilities will eliminate this problem.

The residents of Marquam Hill have expressed concern about increased traffic in their neighborhood. VA has worked with this neighborhood group and explained measures which can be taken to alleviate this problem. It is VA's understanding that because of the many efforts being taken to curb traffic, the Homestead Neighborhood Association no longer objects to the location of the hospital on Marquam Hill. The Governor of Oregon has endorsed the VA hospital on Marquam Hill as well as the Board of Higher Education and the governing body of the University. The local Health Systems Agency, while opposed to the VA system, has concluded that if a hospital is to be built, it should be in Portland.

The report indicates that the residents of the Emanuel neighborhood support the location of the hospital at Emanuel. It is our understanding that at two public hearings held on the subject in Portland, objection was voiced by several area residents who were opposed to the relocation of the VA hospital into their neighborhood.

XI. TRAFFIC

A major concern of Portland area residents and city officials is that the location of the replacement hospital on Marquam Hill will generate large increases in the volume of traffic coming to the area and that this additional traffic will exceed the capacity of the road network. It has been estimated by the City of Portland that the hospital will generate an additional 1,300 vehicular trips per day (5.3%) and that potential residential development will increase traffic on the access routes to the hospitals by 4,840 trips (20%).

The VA has taken several steps to minimize any potential increase in traffic coming to Marquam Hill. The retention of the downtown clinic and the operation of a clinic in Vancouver will reduce the number of outpatients coming to the hill by almost 50 percent. The real concern about traffic is during the peak periods. It is at these times in the morning and afternoon when employees are moving to and from work that the streets are the busiest, and it is these times that the VA efforts focus on. We plan to locate the laundry and supply warehouse activity at Vancouver as well as the medical district staff. This action and operating the two clinics will significantly reduce the number of VA employees who come to the hill. We will also take several steps to reduce the number of hospital employees who drive to the hill. We plan to relocate the downtown clinic to a location closer to the hill and establish a fringe parking area off the hill at which employees can park and ride a shuttle bus to the hospital. We are working with the University in the hope that they will locate part of their outpatient activity at the VA clinic away from Marquam Hill and thus reduce the number of university employees and outpatients who come to the area.

We will be fully exploring ways to stagger employee shift times and will be encouraging additional use of employee car pools. The university will be asked to do the same.

These efforts are very encouraging that the increase in traffic if any will be held to an absolute minimum. In view of this, the neighborhood association has stated that they do not object to the new facility. The investigative staff report has indicated that the Mayor of Portland would have no objection to the Marquam Hill site if no additional traffic is created.

XII. SAFETY AND SECURITY

The report includes data on the number of crimes reported in the areas of Marquam Hill and Emanuel. The data however is not comparable because the reporting units are of varying geographical size and population density. This is noted by the investigative staff. The reporting "grids" of the Health Sciences Center and the VA hospital are much larger and have a significantly greater population.

The security force at the VA hospital reported that during the 12 month period ending June 30, 1977, 94 offenses occurred on the hospital premises. The Director of Security at the Emanuel Hospital reported that in the 6 month period ending June 30, 1977, 154 offenses occurred in the 55 acres patrolled by that security force. The Griffin-Balzhiser consultant reported similar information regarding a higher number of offenses in the Emanuel area compared to the Marquam Hill area.

It should be noted that throughout the high volume of correspondence received by VA on this issue, security in the Emanuel area has been a common theme.

XIII. SITE SELECTION

The VA selected the Marquam Hill site because of our belief that this location affords the best opportunity to meet the veteran health care needs in a facility which provides the highest possible quality of care This decision recognized that the cost of construction would be higher (5.4%) and that the Marquam Hill site exhibits a less convenient ease of access than would some of the other sites. On balance, these aspects although important were outweighed in the judgment of the VA by the quality of care issues and by the views of veterans and veterans service organizations.

The VA consultant on this issue, Griffin-Balzhiser, recommended a site on Marquam Hill. This fact is not diminished by the survey reports allegation that VA influenced the consultant to recommend a site other than their first choice. The importance which has been placed on the scoring methodology of Griffin-Balzhiser is unwarranted. This scoring method, developed for its study is an interesting, initial, and unvalidated attempt to rank competing sites. The VA has rejected the methodology as did Griffin-Balzhiser in their final recommendation. As noted, this mechanism was not intended as the final arbiter, but only as tool to narrow down the number of sites for further consideration. This produced three sites—two on Marquam Hill and the Emanuel location.

The Emanuel site was included originally because of the presumption by the consultant that this location had something to offer in terms of health care. This report by the Investigations Staff however does not touch on this aspect; but recommends the Emanuel site because of the smaller cost to construct and the accessibility in terms of road networks and public transportation. This recommendation is made after discounting the views held by VA relative to quality care and distance to the affiliated school.

The investigations Staff has in effect presented a new criteria by which to judge potential sites for hospital construction. If acepted, then one must presume that a variety of other sites in the Portland/Vancouver area would have these characteristics of reduced construction cost and accessibility. The other sites would not have been considered earlier because they could not meet the original criteria; but must be now identified and examined if these new criteria are to become primary considerations.

XIV. SUMMMARY AND CONCLUSIONS

The report of the Investigative Staff makes eight recommendations to the Committee.

Recommendation 1

Include in its budget justification to the Congress for proposed construction projects, sufficient planning and design work to formulate realistic estimates of scope and cost.

Recommendation 2

Describe to the Committee what interface has taken place between the VA's Department of Medicine and Surgery and its Office of Construction for the Portland Hospital project.

Recommendation 3

Justify to the Committee its basis for:

a. Estimating the proposed Portland Hospital space requirements and unit cost solely on the basis of gross square feet per bed.

b. Basing unit construction costs for the Portland and Vancouver facilities on the *average* of construction award costs for past hospital projects.

VA Comment

These recommendations have been fully addressed in the foregoing comments.

Recommendation 4

Submit to the Committee the rationale behind its adamant position to build the new facilities on Marquam Hill in the face of enormous added construction costs peculiar to building in this area.

VA Comment

This recommendation is based on the belief of the staff that $27.4 million would be saved by locating the hospital at Emanuel. The VA believes that a more realistic savings is $8.2 million or 5.4% less than the cost of constructing at Marquam Hill.

Recommendation 5

Explain why estimated expenses of over $1 million in new support facilities and relocation of utilities have been included in demolition costs for the new hospital.

VA Comment

The term demolition in the VA estimate represents the cost of demolishing and clearing the site. The relocation of the utilities is a necessary part of this site clearance.

Recommendation 6

Furnish a further detailed estimate of "portable" equipment costs, it being noted $22.4 million has been estimated by them thus far for this type equipment, based only on a "per bed" cost, with no itemized list available.

VA comment

As discussed in the foregoing, it is premature to develop such a detailed list at this time. When nearing completion of the hospital decisions will be made regarding which items of equipment in the existing hospital can be continued in use and at that time the latest advances in health care technology can be incorporated in the items of equipment to be purchased. This equipment estimate is unrelated to the issue of site selection, is not included in the construction appropriation, and can only be precisely estimated when the hospital is nearing completion.

Recommendation 7

Revise its hospital sizing methodology to develop bed requirements on the basis of average length of stay data in community hospitals.

In the matter of VA bed requirements, the Investigative Staff suggests the Congress consider granting the VA authority to use underutilized community hospitals and related services in connection with its care of veterans' nonservice-connected illnesses and the feasibility of considering surplus beds in the community hospitals in its determination of bed size requirements.

VA comment

These issues are of nationwide impact to the VA system and are not relevant to site selection.

Recommendation 8

Reevaluate their position that the new hospital should be built on Marquam Hill and build a single facility at the Emanuel site, consolidating all of their health care services at this location.

The Investigative Staff is of the opinion, after a careful analysis and evaluation of all the pertinent issues just discussed, that Emanuel is the better and more conomical site, for the following reasons: a. Proximity of the Veterans Hospital to the HSC is not necessary for a high quality of patient care.

VA comment

As discussed, the VA finds that proximity to the Health Sciences Center is an important aspect of maintaining and enhancing the affiliation which presently exists. The affiliation has a direct impact on quality of care and to relocate the VA hospital to the Emanuel site would lessen the intensity of this affiliation. The data presented in our comments shows that VA hospitals which are closer to the medical school affiliate generally have a greater percentage of board certifications, a shorter length of patient stay in VA hospitals, and a more rapid turnover rate. The information contained in the report does not demonstrate that relocation to the Emanuel site would preserve the strength of the affiliation and the quality of care provided.

b. Excessive costs are required to build on Marquam Hill.

VA comment

The construction cost at Marquam Hill is 5.4 percent greater than the Emanuel location.

c. Due to the topography of the Marquam Hill area, a slide hazard does exist there.

VA comment

This is discussed in our comments. There has not been a slide that has impacted on the VA hospital since it opened in 1928.

d. The elected and appointed officials of Portland, for reasons of possible increased traffic volume on Marquam Hill and the resultant costs to the city, favor the Emanuel site.

VA Comment

This is not correct. It is our understanding that the Portland city commissioners are split on this issue.

e. The lack of accessibility to the current VA hospital site on Marquam Hill is very real.

VA Comment

The accessibility to Marquam Hill is primarily a function of traffic. As discussed in the report, steps are and will be taken to curb any increase in traffic.

f. To satisfy the homeowners interests on Marquam Hill, the VA would have to fragment their health care services over several locations.

VA Comment

The VA decision to locate functions away from the hospital had several bases and not solely "to satisfy the homeowners' interests." The first considerations was to insure that any action taken would not impair the health care delivery of VA in the area. The VA proposal would not be detrimental to quality of care. The downtown clinic is a long standing operation and will be strengthened in the VA plan. The retention of this clinic in downtown Portland and the establishment of a clinic in Vancouver facilitates entry into the VA system. The ancillary services to be located in Vancouver will not seriously impair the operation of the health care system.

The VA has thoroughly analyzed the report of the Investigative Staff and has concluded that the evidence presented in the report does not justify the abandonment of the Marquam Hill site and the relocation of the VA hospital to the Emanuel location.

	VA estimate dated Aug. 29, 1977		Investigative staff's estimate, Emanuel	VA estimate revised, Oct. 27, 1977, Emanuel	Cost difference, estimates (3) and (4)
	Marquam Hill (1)	Emanuel (2)	(3)	(4)	
Site acquisition and preparation:					
Site acquisition		$1,900,000	$942,200	$942,200	
Additional urban development costs			250,000	250,000	
Park relocate				50,000	$50,000
Reimbursement—Boiler, parking, warehouse, and med. rec. bldg		1,200,000	2,264,000	2,264,000	
Demolish boiler		300,000	300,000	300,000	
Demolish existing VAH structure	$1,370,000				
Relocate utilities, construct new water tank	1,050,000				
Subtotal, site acquisition and preparation	(2,420,000)	(3,400,000)	(3,756,200)	(3,806,200)	(50,000)
Hospital:					
738 beds—929,880 ft^2 at $77.92/ft^2	72,456,300	72,456,300	72,456,300	72,456,300	
Increase boiler house for NHCU	350,000	350,000	350,000	350,000	
Abnormal foundations	2,000,000				
Phasing (percent)	(10) 7,480,600	1,000,000		1,000,000	1,000,000
Parking—1,700 cars	6,500,000	8,250,000	2,724,100	8,250,000	5,525,900
Subtotal, hospital	(88,786,900)	(82,056,300)	(75,530,400)	(82,056,300)	(6,525,900)
Nursing home care:					
120 beds—52,000 ft^2 at $63.41/ft^2	3,297,300	3,297,300	3,297,300	3,297,300	
Connecting corridor	60,000	60,000	60,000	60,000	
Abnormal foundations	100,000				
Subtotal, nursing home care	(3,457,300)	(3,357,300)	(3,357,300)	(3,357,300)	(..............)
Unknown factors (percent)	(6) 5,679,800	(6) 5,328,800	(3) 2,479,300	(6) 5,353,200	2,873,900
Base construction cost	100,344,000	94,142,400	85,123,200	94,573,000	9,449,800
Escalation (24.79 percent)	24,875,200	23,337,900	21,102,000	23,444,600	2,342,600

	VA estimate dated Aug. 29, 1977		Investigative staff's estimate, Emanuel	VA estimate revised, Oct. 27, 1977, Emanuel	Cost difference, estimates (3) and (4)
	Marquam Hill	Emanuel			
	(1)	(2)	(3)	(4)	
Contingencies (5 percent)	6,261,000	5,874,000	5,311,300	5,900,800	589,500
Technical services (10 percent)	11,865,800	11,132,400	10,065,900	11,183,600	1,117,700
Less: Additional cost savings from site conditions (4.66 percent)			−5,666,700		5,666,700
Total project cost	143,346,000	134,486,700	115,935,700	135,102,000	19,166,300
Vancouver total project cost	8,753,000	8,753,000	8,753,000	8,753,000	
Total	152,099,000	143,239,700	124,688,700	143,855,000	19,166,300

MARSHALL COMMENDED FOR OSHA REFORM

Mr. BUMPERS. Mr. President, I would like to commend the Secretary of Labor, F. Ray Marshall, for his decision to halt enforcement of 1,100 of OSHA's silliest job-safety rules. OSHA—the Occupational Safety and Health Administration—has become synonymous with intrusive, meddling, high-handed, inflexible, nitpicking, and infuriating bureaucracy. This may be unfair to some extent, for certainly the intent of the legislation forming OSHA was to protect the American worker from death and injury. OSHA has many employees whose dedication to job safety is unquestionable.

Unfortunately, much of the public, including notably small businessmen, perceive OSHA as bureaucracy run amok. Ever since I came to Washington, this image has continually been reinforced by the mail I have received from constituents. An automobile dealer was cited for failure to have a bulletin board. A small screw manufacturer got in trouble for not having a guard around a compressor belt that was virtually inaccessible between a huge machine and a wall. The complaints have poured in, and the combination of petty, ridiculous regulation with arrogant inspection and summary judgment has laid OSHA open to ridicule and contempt. This state of affairs detracted seriously from the very laudable aims of the job safety program. Employers have been so busy cursing OSHA's shortcomings that they have not been inclined to support its many good regulations.

Thus, it is with great pleasure that I take note of Secretary Marshall's burial of 1,100 of the regulations that he considered "nitpicking." That amounts roughly to one-tenth of all of OSHA's health and safety regulations. It is amazing to me that the most dedicated of bureaucrats could have dreamed up so many foolish rules, but there you have it. We should count our blessings, and hope that further review will exercise even more of these needless regulations.

Among the regulations just chosen for death are these:

A ban on "open-front type" toilet seats;

A rule that fire extinguishers can be no more than 3½ feet off the floor in some cases and 5 feet in others;

A requirement that kiln tenders be provided with a warm room.

Mr. President, I will spare my colleagues a verbal listing of the remaining 1,097 regulations that have just been declared "nitpicking."

In congratulating Secretary Marshall, I would just like to add the suggestion and the hope that President Carter will put pressure on the other Federal agencies to emulate the Labor Department's example. I feel certain that the President is serious about streamlining the Federal bureaucracy, and I earnestly hope that the step just taken by OSHA is only the first step out of the undergrowth. In fact, I am so heartened by this development that I allow myself to imagine that the Department of Health, Education, and Welfare may be the next agency to do away with 10 percent of its more foolish aggravations.

AMERICAN STEEL AND THE CARTER ADMINISTRATION—WHERE ARE WE NOW?

Mr. HEINZ. Mr. President, in this week's Newsweek, Columnist George Will eloquently summarizes the situation in the American steel industry today, particularly the extent to which it is affected by subsidized competition from abroad. Mr. Will points out that while free trade may be an elegant ideal; in fact, our trade is anything but free. We no longer have a real market economy in steel in the world, and instead we are competing with foreign companies that, if not owned outright by their governments, are heavily subsidized by them. The result is that the rest of the world is playing the game by different rules, and if we continue to ignore that fact, the situation is only going to get worse.

The adminstration today made public its plan to help the steel industry, which includes as its centerpiece a "reference price" system to provide a swifter, surer determination of dumping when it is occurring. Despite the respectability of the administration's goal in this program—reducting steel imports to the 12- to 14-percent level from the current 20-percent level—I have serious doubts as to whether this program will achieve these goals.

The system will be cumbersome and complicated to develop and administer. The Government has had little success in recent years in attempting to influence or control prices, and it is quite likely that the reference price concept is going to be subject to the same problems, omissions, and inequities that crippled the price control program of several years ago.

One serious inequity is that, by basing the reference prices on Japanese production costs, European steel will still be dumped in this country. Since European costs are higher than the Japanese, they will be able to sell here below cost yet still be above the reference prices. This means the system will impact less heavily on European steel and, therefore, will provide little or no relief for those American companies that compete with the Europeans. Regionally, this means the East will suffer, while the West and South will gain a measure of protection from Japanese imports. Nationally this could mean a net gain for the industry—assuming the whole system works—but regionally it promises significant disparities, disparities that will adversely affect the Northeast—the center of steel activity in the country.

The Treasury Department has yet to explain how it plans to deal with this problem, but it is something Congress will scrutinize carefully in the next month.

Another disturbing disparity is that between the plan and what the President promised last month. Setting reference prices is not law enforcement against unfair trade as the President promised, it is price setting by the Government, a process which is inevitably subject to political influences. This procedure represents a Government intrusion into decisionmaking in the steel industry which will have serious long-term consequences.

Finally, all should realize that trade problems are only a part of the total situation. The administration's proposals for modernization, pollution control tax incentives, and assistance to impacted communities will have the most significant long-term impact on the industry. In the case of all these, however, the administration proposals have not yet appeared in any detail and may not for some time. Any modernization or pollution control tax incentives will emerge as part of the general tax reform program due next year. Other comments in today's report on pollution control and community assistance were vague in the extreme. An earlier reference to $21 million in EDA funds that were to be made available for distressed steel companies has mysteriously disappeared from the final report, leading one to wonder the real depth of the administration's commitment to doing something on behalf of those already laid off.

These and other questions will be examined by the members of the Senate and House steel caucuses in the coming weeks. The administration's plan is carefully designed to require no legislation, but there is no question we will not hesitate to propose legislation—as we already have with respect to trade procedures and buy American legislation—to correct the deficiencies in the administration proposals.

Mr. President, George Will's column is an excellent commentary on the problems of the industry and the need for us to reorient our thinking on trade. I am doubtful that the administration's program can solve the problems posed by Mr. Will, and I fear that Congress may have to take the initiative. I ask unanimous consent that the George Will column from Newsweek be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

Big Steel and Big Government

(By George F. Will)

Ladles of molten minerals and rolling ribbons of glow make steel mills the great industrial spectacles. Not all eyes are pleased by such spectacles. In 1787 Robert Burns scratched this poem on the windowpane of an iron foundry:

We cam na here to view your warks,
In hopes to be mair wise,
But only, lest we gang to hell,
It may be nae surprise.

But there is poetry in people manipulating the violence of a volcano.

Steel is the symbolic metal of the industrial age, as gold was of aristocratic ages. Steel is everywhere, in the rails that first knit America together and in the skeletons of skyscrapers, cathedrals of commercial civilization. Steel towns, like Donora, Pa., where Grandfather Will ministered to Lutheran souls, still have what much of the nation has lost: a sense of the role of hard physical labor.

Although steel is only a $36 billion industry in a trillion-and-a-half-dollar economy, it is a symbol of national strength. Today the U.S. steel industry is ailing, and just as its robustness once typified the prodigies of private enterprise, its problems reflect the transformation of that system.

The industry's problems are writ large in losses and layoffs. Bethlehem's third-quarter loss of $477 million was the largest quarterly loss ever by a U.S. corporation. More than 60,000 steelworkers are eligible for government aid because of the impact of imports.

IMPORTS AND SMALLER CARS

The trouble is not just imports. During the 1930s, demand was so low that U.S. steelmakers had no reason to modernize for efficiency. During the 1940s and part of the 1950s, demand was so strong that there was no need to be more efficient. Capital spending by U.S. industry is sluggish, and capital goods account for more than half of steel production. Cars are shrinking, so Detroit's appetite for steel is, too. (Chevrolet's Malibu shed 396 pounds of steel this year, and Detroit's diet has just begun.) Steelworkers' salaries and benefits are high.

However, imports have been a growing problem for years. For fifteen years, steel has been part of the nation's balance-of-payments problem. Last year the U.S. imported $2.8 billion more steel than it exported, and imports currently capture about 19 per cent of the U.S. market. In the first half of 1977, imports won 74 per cent of the growth of U.S. demand.

To regard this as simply the proper outcome of "free trade" is to obscure reality with a concept that is increasingly irrelevant to a world of politicized economies. The idea of "free trade" implies competition between producers who are comparably disciplined by market forces. But U.S. steel companies compete less with foreign companies than with foreign governments. About 44 per cent of world steel production is by government-owned companies.

THOSE 'PRIVATE' FOREIGN FIRMS

Outside the U.S., the major "private" companies are subsidized and directed by governments that use them as instruments of economic policy to promote employment and trade. Between 1950 and 1975, the number of nations with steel industries grew from 32 to 71. The expansion of steel capacity in many countries does not reflect calculations of domestic demand. When the production levels are determined by employment priorities, price levels are determined by the problem of moving the product through aggressive exporting. This is one reason for predatory pricing, such as "dumping" (selling the product abroad below cost).

The largest steel company, Nippon, is part of the fabric of government agencies—and what are smilingly called "private" enterprises—that constitute Japan's economy, known as "Japan, Inc." Japan's steel industry pays 173 per cent more for oil than it did before the price increases. But the average for all Japanese industry is 282 per cent more. Steel gets a subsidy worth $5 a ton in reduced costs. About 83 per cent of the Japanese steel industry's capital structure is debt. This compares with 23 per cent in the U.S. industry. Government policy, sustained by the Bank of Japan, gives steel firms an abundance of capital. (In the U.S., government policy will require the steel industry to sink perhaps 25 per cent of its capital spending over the next few years in antipollution equipment. Japan's industry bears no comparable burden of investment in nonproductive facilities.) If U.S. firms tried to form joint-production ventures to match the economies of scale that Japanese firms enjoy, government antitrust lawyers would pounce.

In steel, governments are decisive, worldwide. In 1975, Common Market governments forced Japan to limit exports to Europe, thereby diverting steel to the U.S., where in 1976 Japanese imports rose 37 per cent. It is altogether fitting that the President's special trade representative is Robert Strauss, former Democratic National Chairman and a politician to his fingertips. International business is political business.

Even in periods when "free trade" is the ascendant ideology, governments that espouse it believe, as Benjamin Disraeli did, that "free trade is not a principle, it is an expedient." A nation respects market forces when those forces respect its interests. Nations have trade policies; they treat trades as an instrument of political purposes. Of course Japan, Inc., pursues economic dynamism with the fervor of a nation that otherwise would have to export people. This is not the first time the world has had reason to notice that Japan is an archipelago where the ratio of population to resources means that aggressive exporting is not optional. The second world war was, in part, about how (and where) Japanese should live. The answer seems to be: by exports.

ECONOMIC METAMORPHOSIS

The U.S. Government could help the U.S. steel industry by enforcing anti-dumping laws; by changing antitrust laws, by changing tax laws to speed depreciation of equipment, and to base deductions on replacement costs rather than historical costs; by quotas; by duties on steel sold below "reference prices" (perhaps based on real Japanese production costs, if anyone can decipher them); even by straight cash subsidies.

Some forms of assistance would involve more collaboration between government and business than Americans generally consider proper. But the consensus in most industrial societies is that enterprise generally, and especially basic industry, is permeated with public interests and so government should be an active, even dominant, collaborator. Because the distinction between public and private sectors is decreasingly meaningful, traditional "free trade" ideology is increasingly anachronistic. And the steady politicization of major economies exerts pressure toward further politicization of the U.S. economy, which cannot be impervious to the worldwide dynamic of collectivization and semi-socialization. It is perhaps, fitting that steel, symbol of the traditional enterprise economy, today dramatizes the metamorphosis of that system.

IS THERE A B-2 BOMBER IN OUR FUTURE?

Mr. PROXMIRE. Mr. President, the decision by the House of Representatives to continue construction of two additional B-1 bombers renews a controversy that has captured the attention of Congress for 4 years. As President Carter is reported to have said:

> The B-1 seems to have a life of its own.

Although the most recent House vote may only prolong the agony of a final decision for another month or two, the longer term issue involves replacing the B-52's with another bomber—be it a penetrator or a standoff platform.

Clearly, the case for the FB-111H is the weakest of the alternatives being considered, while the cruise missile carrier promises the greatest cost-benefit ratio. Nonetheless, it is not assured that either the most obvious or rational choice will be made. There are many complicating factors: Regional politics, SALT considerations, bureaucratic interests, and lobbying by defense corporations.

Placing these conflicting elements in perspective is often difficult to accomplish. Therefore, I recommend a recent article published in Arms Control Today to students of the B-1 controversy. It is written by Ron Tammen, a brilliant young expert and a member of my staff who has followed the B-1 debate for a number of years.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Bomber Debate: Is There a B-2 in Our Future?

(By Ronald L. Tammen)

"The B-1 seems to have a life of its own," the President is quoted as saying a strategy meeting with Congressional leaders. And so it did. It required a Presidential declaration, 15 separate votes in Congress, a nationwide grass-roots campaign and the evolution of the cruise missile to halt development of the B-1. Even then, the margin was razor thin at every step, and support continues to run high for another manned, strategic, penetrating bomber program to replace B-52s.

The key to stopping the B-1 was forged by Sen. John Culver (D-Ia.)—the delay amendment. Anticipating a Democratic victory in the 1976 Presidential campaign, Sen. Culver succeeded in convincing a majority of the

Senate to delay full-scale production of the B-1 until February of 1977. Although his proposal was not accepted by the House of Representatives, a similar amendment by Sen. William Proxmire (D-Wis.) was signed into law as part of the military appropriations bill.

With the election of President Carter, the Air Force decided to delay the B-1 production decision even further, until the summer of 1977. Then, on June 30th, despite widespread expectation of B-1 approval, the President chose the B-52s and the cruise missile as alternatives to the $24 billion B-1 program. The Air Force suffered a severe shock but recovered quickly and set in motion a number of back-up strategies.

Nor did the President's announcement end the Congressional debate. The Senate voted overwhelmingly for cancellation. The House, which on June 28th had supported the B-1, later narrowly rejected it by a vote of 202-199. But the House Appropriations Committee refused to allow the President to stop spending $462 million in "prior-year" funds for two more B-1 aircraft. To further confuse the issue, another "new" manned penetrating bomber emerged as an alternative to the B-1. The President's decision seemed in danger of reversal.

THE CONTENDERS

When the President cancelled the B-1, he cited the cruise missile and the improved B-52 as the near-term replacement with cruise missile carriers (an aircraft designed to carry the new air-launched cruise missile) as a possible future option. Yet he did not completely rule out either the B-1 or another manned, penetrating bomber. This ambiguity led to three perhaps unanticipated responses. First, it gave hope to B-1 supporters that, given a fortuitous event, the program could be resurrected. Secondly, it encouraged the Air Force and defense contractors to pursue other manned bomber alternatives. Thirdly, and perhaps most importantly, it raised once again, but in new circumstances, the entire question of the future of the bomber portion of the Triad of strategic deterrent forces.

Several schools of thought have emerged. Some advocate a pure "stand-off" force of aircraft armed with cruise missiles to replace the B-52 fleet, while others argue for a predominantly "penetrating" force of new bombers. Still a third view is that the bomber force should be mixed, so as to complicate further an adversary's air defense problem. Adherents of this approach differ, however, over whether this mixed bomber fleet can be achieved by modifying existing aircraft or whether it requires new planes. The Administration favors the former option, calling for B-52 modifications and improvements while examining the long-term potential of the cruise missile carrier.

Believing that the bomber force provides insurance against "unexpected breakthroughs" in anti-submarine warfare and anti-ballistic missile technology, but without provocative first-strike implications, the Administration wants to preserve this so-called "air-breathing" component of the deterrent force (as contrasted with the submarine- and land-launched ballistic missiles). It calculates that the improved B-52 followed later by a cruise missile carrier will permit a survivable, retaliatory (second-strike) capacity that will match or exceed projected Soviet strategic growth in warheads, megatonnage, throw-weight, and hardened target destruction capability through a least 1986 *without* the B-1 or other new bomber and *without* the new MX mobile missile. This approach, moreover, would save $10 billion in constant fiscal year 1978 dollars, as compared to the cost of a moderate force of 150 B-1 bombers.

The Administration backed up its position by sending Congress a $449 million supplemental military authorization bill requesting funds for upgrading the B-52s, for accelerating development of the cruise missile and for early testing of a cruise missile carrier. No funds were sought for a new, manned, penetrating bomber.

Nonetheless, a contender was waiting, the FB-111H. Proposed as early as 1973 by its prime contractor, General Dynamics, the FB-111A medium bomber, with which it shares a 43 percent common structure. Though similar to the FB-111A, the new "H" model would be 12 feet longer, have a more restricted wing arc, use B-1 engines and electronics, and carry a modified tail section.

The Air Force enthusiastically embraced the FB-111H. No longer the unmentionable stepchild of the B-1, the FB-111H was widely praised and its supporters recommended a full development plan to Secretary of Defense Harold Brown, who initially refused to make a for-or-against decision.

At the same time, the cruise missile carrier was coming under attack. The military supplemental bill contained a request for $90 million to purchase and test a cruise missile carrier. Under scrutiny by B-1 supporters in the House and Senate Armed Services Committees, the Administration's plan was found to be almost non-existent. There was no specific spending plan for the $90 million, soon revised downward to $50 million; there were none of the timetables, cost estimates, or performance indicators essential for a go-ahead decision.

Though denigrated by some, the cruise missile carrier concept is popular with other Congressmen because of its cost-effectiveness. A force of 50 cruise missile carriers could be deployed with about 3,000 cruise missiles at a cost of $5.8 billion for the aircraft and $3.4 billion for the missiles. A fleet of 100 carriers with 6,000 missiles would cost $16.5 billion. This compares to a 240-aircraft B-1 program cost of $24 billion. The roughly 5,000 nuclear "loadings" of the B-1 force, including short-range attack missiles, would account for another $4-5 billion.

Rockwell International, the B-1 prime contractor, sought to capitalize on Washington's renewed interest in the bomber issue. It was already making a major effort to retain manufacturing capability for the B-1 until 1981 by encouraging the House of Representatives to deny the President's rescission of fiscal year 1977 B-1 funds, thereby allowing production of two more aircraft. Noting Congressional and Air Force interest in the FB-111H, Rockwell designed two lower-cost versions of the B-1. A fixed-wing cruise missile carrier option was proposed to compete with the FB-111H by carrying 16 internal and 14 external missiles at about two-thirds the B-1 cost. A higher-cost, combined penetrator/cruise missile carrier was also conceived. This proliferation of options and arguments encouraged bomber enthusiasts and brightened prospects for some form of new manned, strategic bomber.

SENATE STRATEGY

While it appeared that the House of Representatives might simply either resurrect the B-1 or fund the FB-111H, a more comprehensive plan emerged in the Senate Armed Services Subcommittee on Research and Development.

First, the Administration's poor showing in justifying the cruise missile carrier program was used to support a cut in requested funds from $50 million to $5 million for a "definition study." Rejecting a plea from Secretary Brown that "this option is extremely important particularly because it would allow us to expand our strategic capability rapidly," the Subcommittee held that a "costly aircraft flight demonstration" is unnecessary due to a "lack of urgency."

While the Subcommittee cut monies for the cruise missile carrier, it funded the FB-111H at a level of $20 million. Since no funds for the FB-111H had been requested by the Administration, Chairman John Stennis (D-Miss.) would not include this item in the supplemental military authorization bill until formal approval could be obtained from the Defense Department. After a personal conversation, a letter was received from Secretary Brown indicating that he would agree to $20 million for preliminary development work as a "prudent step."

The third element was the Subcommittee's addition of a special $5 million authorization for a study of another manned, penetrating bomber called the BX. Again, this was not requested by the Administration.

HOUSE AND SENATE BOMBER PLANS COLLAPSE

The letter from Secretary Brown to Senator Stennis on the FB-111H touched off a protest in the House from B-1 advocates and critics alike. B-1 advocates decried the FB-111H funding as not cost-effective. Critics saw the aircraft as the "Son of B-1." This unusual coalition struck the FB-111H funding recommended by the House Armed Services Committee in the supplemental military authorization bill. The Senate, however, restored the money in the Conference Committee on the authorization measure.

When House B-1 supporters attempted to resurrect the entire program through the supplemental appropriation bill, only a plea for party unity by Speaker Tip O'Neill and a strong lecture on deterrence by Appropriations Chairman George Mahon defeated the amendment to restore $1.4 billion for full-scale production. The Administration, in contrast to its earlier efforts, also mounted an effective lobbying campaign. With that vote, the B-1 issue seemed to be settled, with only the "prior year" funding question remaining to be decided in late November.

A compromise on the cruise carrier was reached when the Senate agreed to fund a study at the level of $15 million, higher than the $5 million recommended by the Senate Armed Services Committee but less than the revised Administration request for $50 million. The House agreed to the $15 million figure. Ultimately, the unrequested funds for study of the new BX strategic bomber were deleted entirely.

Finally, the unsought FB-111H option was knocked out of the supplemental appropriations bill in the Conference Committee by House conferees, who were adamantly against it. The FB-111H proposal is not entirely dead, however. The conferees agreed that the deletion of the FB-111H funds was done "without prejudice to the program" and that they would consider any official request this year or next for more funds. For the FB-111H supporters this invitation may prove irresistible, now that the complicating issue of the B-1 appears settled.

IS THE FB-111H THE BOMBER OF THE FUTURE?

Assuming a need to extend the life of the bomber force, the FB-111H seems a poor candidate for this role in the 1980s. In terms of basic capability, it cannot compete with the B-52 fleet. Current plans call for a mixed force of about 300 B-52s, with 150 B-52Gs as stand-off cruise missile carriers and about 150 D and H models as penetrators. The modifications recently approved by Congress will extend the life of the B-52 into the 1990s, allowing a mixed force for penetrating and stand-off missions for the next 10-15 years without producing a new bomber.

As shown on the accompanying chart, the FB-111H has about half the cruise missile capability of the B-52 and less range regardless of the assigned mission. Its radar cross-section and infrared signature provide improved protection against air defenses, but it remains much more vulnerable than a 19-foot cruise missile.

If the B-1 is not cost-effective, there is no calculation that can make the FB-111H cost-effective for the same mission. A force of 165 FB–111Hs would have a 20-year life cycle cost of $17 billion compared to an equal alert force of 61 B–1s at $11.5 billion. The production cost for modifying 65 FB–111s and manufacturing 100 FB–111Hs by 1985 would total $7.02 billion, barring future cost growth. There would be no competitive bidding for the airframe or engines for this aircraft, which are manufactured by General Dynamics (with a sole-source contract) and General Electric, respectively.

Two major strategic bomber studies have, in recent years, analyzed the FB–111H. In commenting on the Joint Strategic Bomber Study during the Ford Administration, one defense official noted that the FB–111H was "markedly cost-ineffective compared to all other forces" and that it is deficient in range, payload and electronic countermeasures. According to Secretary Brown, whose B–1 study resulted in the cancellation of that program: "We eliminated the FB–111H. Our analysis showed no significant advantage in cost or effectiveness over the B–1." He also concluded that the BX recommended by the Senate R&D Subcommittee could not save money and would take too long to develop.

It appears that the B–1 as such is dead. Nevertheless, the bomber debate is not, and, given past support in the Congress and the Air Force, could still lead to another manned, penetrating bomber.

COMPARING STRATEGIC BOMBERS

Characteristics	B52G/H	B-1	FB-111H
Length (feet)	159	151	88
Width (feet)	185	70/137	45/70
Maximum takeoff gross weight (pounds)	488,000	395,000	140,000
Crew size	6	4	2
Internal nuclear payload	12	24	4
External nuclear payload	12		10
Cruise missile capability (internal and external)	20	24	10-14
Low altitude penetration (mach)	.53-.55	.85	.85
Penetration altitude (feet)	400	200	200
Maximum high altitude (mach)	.90	1.6	1.6
High altitude cruise (mach)	.77	.70	.75
Ferry range (high altitude unrefueled—nautical miles)	c. 8,000	c. 7,000	c. 6,000
Total program cost (billions of inflated dollars)		24	7
Program unit cost (millions of inflated dollars)		102	45

DR. LAURENCE N. WOODWORTH

Mr. DOLE. Mr. President, I was deeply shocked to hear of the death of Dr. Laurence Woodworth. Those of us on the Finance Committee have lost a valued friend and adviser. The suddenness of his death comes as a surprise, since many of us saw him hard at work shortly before his stroke last weekend.

Larry Woodworth served as the chief of staff for the Joint Committee on Taxation for 12 years and had worked as an economist there for 20 years before that. When he left the joint committee earlier this year to become Assistant Secretary of the Treasury for Tax Policy, he was widely praised by members of the Finance Committee of both parties for the work which he had done over the years. Anyone who ever attended a markup session of the committee during those years knows the value of the technical advice which Dr. Woodworth provided.

When President Carter tapped him for the Assistant Secretary's position, the President brought to the executive branch a dedicated, principled, and thoroughly knowledgeable public servant. He was one of those rare individuals with expertise in a thoroughly complex subject who retained the ability to explain that subject in a fair, impartial, and comprehensive manner to nonexperts. Likewise, you could depend on his advice for its technical accuracy and precision.

His brilliant counsel was as widely appreciated as it will now be missed.

In the very finest sense of the word, Dr. Woodworth was a professional. When he left the joint committee to move into the executive branch, the Finance Committee was consoled with the knowledge that it would still benefit from his help and assistance when needed. When he left us to take his new job, we knew that his tremendous talents would continue to serve the American taxpayer. Sadly, there is no such consolation today.

Especially today, with the proposals for tax simplification and reform a major topic, he will be sorely needed, and sorely missed. His passing will leave an enormous void, accented by the reliance which many had placed in him.

Mr. President, I join my colleagues in expressing our deep sympathy to Dr. Woodworth's wife, Margaret, and to the rest of his family.

MEMORIAL TRIBUTE AND PRAYERS AT THE FUNERAL OF JOHN L. McCLELLAN

Mr. BUMPERS. Mr. President, a beautiful tribute to John L. McClellan, late a Senator from the State of Arkansas, was delivered by our Senate Chaplain, the Reverend Dr. Edward L. R. Elson, at the Immanuel Baptist Church in Little Rock on November 30, 1977. This tribute was delivered as part of the funeral services for Senator McClellan, and I want to take this opportunity to share it with the Members of the Senate and the public.

Mr. President, I ask unanimous consent that the memorial tribute and prayers delivered by Dr. Elson on this occasion be printed in the RECORD.

There being no objection, the tribute and prayers were ordered to be printed in the RECORD, as follows:

MEMORIAL TRIBUTE AND PRAYERS AT THE FUNERAL OF SENATOR JOHN L. McCLELLAN

In the classical literary style of the Bible, a few days ago, Senator John L. McClellan informed the world he would not seek another term in the United States Senate, saying "There is a proper time to aspire, a time to achieve and a time to retire". Then he quoted the words of the third chapter of the Book of Ecclesiastes:

"To everything there is a season, and a time to every purpose under heaven".

Had he continued the quotation, paragraph after paragraph would amplify the opening verse. The passage continues—

"A time to be born, and a time to die; a time to plant and a time to pluck up that which is planted;

"A time to kill, and a time to heal; a time to break down, and a time to build up;

"A time to weep, and a time to laugh; a time to mourn, and a time to dance; . . .

"A time to get, and a time to lose; a time to keep, and a time to cast away;

". . . a time to keep silence, and a time to speak;

"A time to love, and a time to hate; a time of war, and a time of peace; . . .

"He hath made everything beautiful in his time: . . .

"I know that, whatsoever God doeth, it shall be for ever: . . ."

And this is the time to thank God for the life, the work and the witness of John McClellan and to offer our tribute of affection and esteem.

He came right out of the life of our common humanity to give half a century of public service to the people he loved.

Motherless at three weeks of age he had the good fortune to have a school-teacher-father, who of necessity, took the tiny boy to the one room school with him, where as a precocious four year old could read and write and do arithmetic. By six years of age he was in the fourth grade and absorbing lessons of the other grades.

Father and Son read law and by seventeen young John was admitted to the State Bar, the youngest in history and he never stopped studying law.

John McClellan was devoted to the law. But first of all he was committed to the law of God made known on Mt. Sinai and the basis of all civil law. The marks of the talented lawyer, the skillful inquisitor, the gifted prosecutor, the eloquent protagonist of law and order, was upon everything he touched. He said and he did what he believed to be right, whether popular or not. He challenged and later defied a committee chairman whose procedures and practices he regarded as unwarranted, unethical and illegal. The law he knew and practiced as a gentleman.

His name is written large in achievements for his State and Nation. His crowning memorial may yet be the Criminal Code Reform Act of 1977, which if adopted, will be the first comprehensive revision of the Federal Criminal Code in the Nation's history.

John McClellan lived by the elemental virtues—chastity—sobriety, frugality—and these qualities flowed from the center of his daily life.

He had a profound sense of duty. Once he gave you his word, no other guarantee was needed. Once he took an oath of office he was committed—totally—with all the power of his being. From that moment on there was no deviation.

He believed in work—all kinds of work—not simply as a means of livelihood, but as a way of life. He believed work was God's design for life and for him obedience to the Biblical injunction was mandatory, "man shall live by the sweat of his brow." Lavishly, unsparingly he poured out his energies of mind and body in the service of others. How he worked!!!

Though somewhat reserved, John McClellan was outgoing and genuine in his friendship. He made scores of friends—young and old, rich and poor, the high and the low. For more than thirty years in Washington I have known him. He always had time for the Chaplain in exchanges of good humor or deep discussions about some of the vexing moral ambiguities of Senate work.

The only enemies he had were criminals, or those who demeaned the country he loved.

He lifted life wherever he went. Whatever he touched was enhanced. His life was one of kindness and compassion. Like His Master he went about doing good. He loved God with his heart and mind and strength. He trusted in the finished work of Christ for the well-being of his soul.

Throughout his life he taught us in unforgettable terms how a Christian turns suffering into a testimony. From sorrow he distilled dignity and character and love.

After his second son was killed while *en route* to the reburial of another son, he exclaimed one day among friends in the Senate, "What more can one man endure!" And there was more. Another son was taken. And with Christian grace and nobility he bore the grief, building a stronger character, a deeper faith, a purer life—making the best of life's remainders.

"I walked a mile with Pleasure,
She chatted all the way
But left me none the wiser
For all she had to say.

"I walked a mile with Sorrow
And ne'er a word said she
But O the truths I learned from her
When Sorrow walked with me."

That was John McClellan's lesson to us.

In the prologue to the Gospel of St. John there is an unforgettable sentence in which the writer describes the Herald of the coming Messiah saying: "There was a man sent from God whose name was John . . ."—a total biography in one sentence.

"There was a man."—What nobler description could a person have? What greater praise? Nothing needs to be added, nothing can be taken away.

He was a "man sent by God—and his name was 'John'."

There was a man sent from God, whose name was *John McClellan*.

With thankful hearts for God's gift to us, we give him back to the tender care of the Heavenly Father.

Let us pray.

Almighty God, Father of mercies and giver of all comfort, deal graciously, we pray Thee, with those who mourn this day, that casting every care on Thee, they may know the consolation of Thy love and the healing of Thy presence, through Jesus Christ, our Lord.

Be graciously near to Norma and all those dear to John, to give them strength and wisdom for the pilgrimage ahead, through Jesus Christ, our Lord.

Our Father God, we thank Thee for all the sacred memories and hallowed recollections which cluster about this hour. We thank Thee for Thy servant John, for his manhood, his love of country, his devotion to duty, his selfless public service, his magnanimity, his compassion, his innate spirituality, his steadfastness to truth and justice, for the depth and durability of his faith, and for all that endeared him to so many.

Suffer us not miss the meaning of this hour. May a new spirit arise in us this day. Give us eyes to see and hearts to feel something of his spirit among us that we may be true as he was true, loyal as he was loyal, great enough and strong enough and good enough for our time and duties.

And now, O Father, who doest all things well, with thankful hearts that Thou hast given him to us for a season, we give Thy servant John back to Thy tender care until the shadows flee away and the brighter day dawns, when the visible and the invisible are one in Thy higher kingdom.

Through Jesus Christ, our Lord. Amen.

PANAMA CANAL

Mr. McCLURE. Mr. President, our distinguished colleague from Kansas (Senator DOLE) has played an important role in the consideration of the Panama Canal Treaties now before this body. In these past months he has issued perceptive analyses of provisions written in his usual articulate style, and proposed a number of modifications to the treaty language which would go far toward correcting these problems.

Recently, in response to an article in Forbes magazine dismissing the possibility of severe economic hardships in the event of a Panama Canal closure, Senator DOLE wrote the publication, pointing out the flaws in its argument. It is evident to many of us in this body, and certainly to the American citizens whose livelihood would be directly affected by a canal closure, that the unavailability of the canal shipping route would severely impact on our economy, and have a disastrous effect on those segments of the market most dependent on it.

I salute my distinguished friend for eloquently articulating the situation in his letter to Forbes, which he has kindly agreed to have placed in the RECORD by me for the benefit of all our colleagues.

Mr. President, I ask unanimous consent to print in the RECORD the text of Senator DOLE's letter to Forbes in response to its November 15 article, "The Canal Without Rhetoric."

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 5, 1977.

FORBES MAGAZINE,
New York, N.Y.

DEAR EDITOR: In its November 15 article, "The Canal Without Rhetoric," *Forbes* seems to contradict itself. It asserts that "from a practical economic point of view" the U.S. "almost certainly" does not need the Panama Canal. Yet in its analysis of the impact of a canal closure, it describes several sectors of the nation for whom the consequences would be disastrous.

Admitting that certain "shifts in trade" would occur, the article comments that one-fifth of all U.S. farm exports travel through the Canal to the Far East. If the canal were closed, it adds, these grain producers "could pay the highest price" as a result of "increased competition for foreign producers."

Since the article concludes, however, that economically the Canal is "more symbol than substance," I assume that FORBES editors regard the economic chaos this would produce in our farm states as a point significant enough to mention but not important enough to worry about.

In an effort to protect the economic interests of the United States, I have proposed Amendments to the pending Canal Treaties. To protect commercial shippers from unreasonable increases in Canal tolls, I want to cut in half the proposed payments of $60 million a year to Panama from toll revenues. And to protect our short-cut route to Asian markets, I would eliminate the provision now in the Treaties that prevents the United States from constructing a new Canal in any other country if the one in Panama is ever closed. These modifications in the pending Treaties are vital to American agriculture and commerce.

The United States Department of Agriculture has provided statistics on the magnitude of our commercial use of the Canal in shipping of agricultural goods. One-fifth of all corn exports, one-fourth of soybean exports, almost half of our sorghum production and much of the hard red winter wheat from the Great Plains goes through the Canal on its way to foreign ports. Much of this grain goes to Japan, which is now the single largest country market for U.S. farm products. The total trade is worth about $8 billion, and its disruption could plainly cause financial ruin for thousands of farmers.

I sincerely believe that the best way out of the current cost-price squeeze in which so many American farmers are caught is through expanded exports. For that reason, an accessible and inexpensive Canal shipping lane is imperative to U.S. agricultural producers.

Other dislocations are cited in the article. *Forbes* admits that "the Canal . . . is the only avenue for shipping Alaskan North Slope oil to the U.S. East Coast" and that at present there is no contingency proposal for bringing the fuel to the East. The article also indicates that "without the Panama Canal the East Coast ports are sure to suffer." These words translate into hundreds or thousands of workers shifting from productive work onto public assistance, and into an increased strain on the already fragile urban economies of the East. While according to the article business in West Coast ports would increase, this is not likely to be of great comfort to the unemployed dock workers of New York or Baltimore, for whom moving would be a significant financial hardship.

Finally, the article suggests that we would be affected far less than a number of other nations, and lists Ecuador, Peru and Colombia as examples of countries who would feel a Canal closure intensely. This brings to mind that one of the reasons given in support of the Treaties is the improvement of relations with Latin America; according to this argument, ratification of the documents will help persuade Latin America to reciprocate our feeling of friendship.

The article suggests that "without the Canal, the U.S. East Coast market for Ecuadorian bananas and Colombian coffee would disappear. But there is plenty of coffee elsewhere." I suggest that this type of attitude on our part will hardly enhance U.S.-Latin American relations.

It is clear from this review that a Canal closure, or even a substantial increase in tolls, would involve far more than what *Forbes* surprisingly describes as "shifts in trade." Although some segments of the economy may benefit slightly from the situation and some will remain untouched by the change, for other sectors the closing of the Canal would signal wholesale unemployment and widespread bankruptcy. The Panama Canal may be an economic "symbol," as *Forbes* maintains, but the problems its closing would cause are substantive.

Sincerely yours,

BOB DOLE,
U.S. Senator.

WILEY A. BRANTON NAMED DEAN OF LAW SCHOOL

Mr. BUMPERS. Mr. President, I take great pleasure in noting the appointment of Wiley A. Branton, a native of Pine Bluff, Ark., as dean of the Howard University School of Law. Mr. Branton is a distinguished son of my State, having practiced law with distinction for many years in Arkansas and elsewhere. He also served under the Senator from Minnesota (Mr. HUMPHREY), while he was Vice President, as Executive Director of the President's Council on Equal Opportunity. In 1967, Mr. Branton became Executive Director of the United Planning Organization, the District of Columbia's antipoverty agency, and in 1969, he left public life for the private practice of law here in Washington.

At the time Mr. Branton's appointment as dean was announced, he was being actively considered for appointment to the Federal bench. It is a credit to him and to his spirit of public service that he has renounced this ambition and decided to devote his considerable talents and energies to legal education.

Mr. President, I know I speak for all of my fellow citizens of Arkansas in extending most cordial congratulations to Wiley Branton. His career at the bar and in public service is an enviable one, now about to enter upon a new and larger stage. I ask unanimous consent that a copy of an article from the Washington Post of Tuesday, December 6, 1977, describing Mr. Branton's new appointment, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Attorney Wiley Branton: Howard Names New Law Dean

(By Joseph D. Whitaker)

Former civil rights lawyer Wiley A. Branton, who first gained national prominence representing blacks who attempted to integrate public schools in Little Rock, Ark., will become dean of the troubled Howard University Law School on Jan. 1.

Branton will be trying to rescue the 108-year-old law school that graduated more than half the nation's black lawyers—including Supreme Court Justice Thurgood Marshall, D.C. Mayor Walter E. Washington and Chief Judge William B. Bryant of the U.S. District Court here—and served as the legal think tank for the civil rights movement during the 1940s and 1950s.

The law school's reputation has declined sharply in recent years, however, and top black law students have gone elsewhere. The school's accreditation is now in jeopardy, its graduates have consistently performed poorly on the bar exam, and its faculty and administration have fallen to arguing over what needs to be done to restore the law school's effectiveness.

Branton, who ran both the federal Council on Equal Opportunity and Washington's local antipoverty agency before going into private law practice, will be the eighth dean of the Howard law school since 1960. But he said yesterday that he is ready for the challenge.

"At this point in my life, I felt I could be of some help to young people seeking legal careers," Branton, 54, said. "This is a job that needs to be done and I would like to do it."

As a condition for accepting the job, Branton said he asked for and received a commitment from the Howard administration to increase financial aid for students (half of whom must now work their way through school), to increase funds for the Law Review and to consider providing housing for married students.

Two months ago, Branton was one of five persons nominated for appointment to a federal judgeship, which ultimately went to Louis F. Oberdorfer. However Branton said he was a front-runner for appointment to two other vacancies on the federal branch.

"By accepting the job at Howard I have lost my chance to be a federal judge," Branton said yesterday. "But after considering all sides of the issue, I decided I could make a greater contribution to the legal profession as dean of the law school than as a judge."

The Howard University Law School was created by Congress in 1869 to provide a law school for blacks who were barred from white schools by legal segregation.

Over the years, the circumstances that give birth to a black law school have changed. At first, blacks who wanted to study law routinely went to Howard. As a result, classes often were composed of highly qualified students from high-income homes.

When schools were desegregated in the 1950s and 1960s the pool of talent from which Howard had traditionally drawn its students changed drastically.

Students who once would have gone to Howard increasingly began to enroll at such schools as Harvard, Yale and Georgetown where scholarships were plentiful and faculty and facilities more impressive.

Today, the Howard law school is composed largely of students who in many cases were not able to attend another law school for academic or financial reasons.

More than half the students at Howard work part time to pay their tuition and living expenses. The average student at Howard owes between $8,000 and $10,000 for education loans by the time he graduates.

"We do admit a lot of students—black and white—who may not have been able to get into another law school," said Charles T. Duncan, who resigned his deanship in August, but is still a professor at Howard law. "We have always had a mission to provide an opportunity for blacks to get a legal education."

"I'm not disturbed that some of our people, perhaps at the bottom of the class, do not have a competitive bar passage rate," Duncan said. "What does disturb me is when our top graduates are discriminated against simply because they graduated from Howard."

While most other law schools have standard criteria for admissions, Howard does not. Only since Duncan became dean of the school in 1974 have applicants been required to take the Law School Aptitude Test, which is used extensively at many other schools to weed out applicants.

"We've found that there's no perfect test to determine quality," said Henry Jones, a law professor and chairman of the Howard admissions committee.

"We do not base our admissions on one or two factors," he added. "The committee does not only look at academics, but we look at industry, integrity, diligence and the potential of students here," Jones said.

"Our students are not necessarily the sons and daughters of doctors, lawyers or the elite group, but we are certain that we have high-quality students here," Jones said.

Herbert O. Reid, 61, came to Howard as a law professor 31 years ago and today is the "Charles Hamilton Houston distinguished professor of law," the highest-ranking professorship at Howard. Houston was a brilliant civil rights lawyer who was dean of the law school in the 1930s.

Reid talks often about the "Houston tradition" and how the school in general is straying away from the high standards it was known for.

"When I was coming along, most young people thought that to be (teaching) at the Howard law school was the apex of a black man's legal career and could be topped only by an appointment to the U.S. Supreme Court," Reid said recently.

GOLDEN AGE RECALLED

Reid said the so-called "golden age" of the Howard law school was a relatively brief period in the 1940s and early 1950s when Marshall, Houston, Bryant, the late William Hastie researched and collaborated on civil rights cases in the halls and classrooms of Howard.

In the Houston tradition, lawyers in private practice worked with law professors and students to research and write briefs for major civil rights cases.

Many times, the cases were rehearsed in Howard law school classrooms several times before they reached the courtroom floor. Students were able to study the law, then put their knowledge to work immediately in a real court suit.

Reid said he tried to rekindle the Houston ideal earlier this year when he included students in the preparation of a friend-of-the-court brief he filed in U.S. Supreme Court on behalf of the Howard law school in the Bakke reverse discrimination case.

But Reid believes the standards of Houston have not been lost among many new members of the faculty. He points out that 20 of the 38 faculty members—many of whom graduated from Ivy League schools—were hired during the three years Duncan was dean.

"I feel threatened by a thinking and mentality that people come to Howard and feel they should be given something special because they graduated from Harvard," said Reid, who is himself a graduate of the Harvard law school.

"A lot of these younger teachers fail to realize they should be helping the tradition," Reid said.

After schools were desegregated, Reid said, Howard lost sight of its mission. "Howard thought it had a new mission to be another Harvard or Yale," said Reid. "We almost forgot about our role as a watchdog over social policy to point out inequities."

"MISSION" DESCRIBED

Reid believes the Howard law school still has a twofold mission: to train and develop a cadre of legal engineers to bring about equality for blacks through the legal process and to provide an opportunity for disadvantaged blacks to study law.

"But when you're talking about education for disadvantaged people, you're essentially talking about compensatory education and financial aid," Reid said.

Last year Phyllis Pratt, the daughter of a low-income Louisiana couple, received $1,200 in financial aid to help pay her tuition during her first year at the Howard law school.

This year Pratt, 27, expected her financial aid to be renewed. But she was told at the beginning of the school year that "funds were insufficient" and she may not get any financial assistance this year.

To pay her living expenses and her academic bills, Pratt works part-time as a research assistant at a local law firm. But while she earns enough to keep herself in school, her working has a negative effect on her academic performance.

When first-year law students at other schools were grappling with their first law courses, Pratt, in addition to the academics, was puzzling over her new part-time job as a research assistant at a local law firm.

She earned a C grade average during her first year and, like many of her classmates who also work, Pratt said she became caught up "in a kind of paranoia" about whether she would pass the bar examination at the end of law school.

Between 1970 and 1975, graduates of the Howard University Law School who took bar examinations in 40 states compiled a national average passage rate of about 61 per cent, according to the school's own study of bar results.

In the Washington area, only 25 per cent of the Howard graduates taking the bar passed, the study shows. The passage rate in District of Columbia was 45 per cent; 23 per cent passed in Maryland; and in Virginia, only 18 per cent passed the bar.

CONGRESSIONAL QUERY

At Congressional hearings on the Howard University budget in recent years, legislators have asked Howard University President James E. Cheek to explain why Howard law graduates perform so poorly on bar examinations.

Although Cheek maintained that part of the problem is "related to quality," he said it is difficult to know exactly what is responsible for the relatively low number of Howard gradautes who pass the bar.

But Howard graduates are not the only graduates having troubles with bar examinations, according to Victor Goode, associate director of the National Conference of Black Lawyers in New York.

"It is true that black law graduates in general don't seem to be faring on bar exams as their white counterparts," said Goode. He said no one so far has been able to clearly identify why black graduates of law schools as disparate as Harvard, Howard and Texas Southern seem to have problems passing the bar.

At Howard, which has traditionally produced more black lawyers than any other school in the world, there are numerous theories of why graduates of the historic institution have scored poorly on many bar examinations across the country.

According to one professor, Howard students do not score well because Howard is a "national" law school, concerned primarily with national policies and laws when state bar examinations very often dwell heavily on local, jurisdictional law.

Many blacks who have taken and failed various bar examinations nationwide have filed suits claiming that the exams are discriminatory and weighted against blacks.

In a recent discrimination suit filed against the D.C. Committee on Admissions in the D.C. Court of Appeals, a three-judge panel ruled that they found no evidence of discrimination in the D.C. bar exam.

Branton said he believes bar examinations are generally weighted against black law graduates.

"Few questions on the bar examination have any thing to do with a person's fitness to practice law," he said. "Questions very often call for one to draw on a certain kind of cultural background which many blacks do not have."

Branton said that one way to improve the school's bar passage rate would be to set higher standards of admission. "But with higher standards of admission, we may just exclude many of the people Howard is here to serve—people who have potential, but would have trouble getting into other law schools," he said.

Branton, a native of Pine Bluff, Ark., and the third black to attend the University of Arkansas Law school, made national headlines in 1957 as the chief counsel for the National Association for the Advancement of Colored People in the fight for school desegregaton in Little Rock.

In the late 1950s and early 1960s he held other legal posts in the civil rights movement. Branton was hired in 1965 by then Vice President Hubert H. Humphrey as executive director of the President's Council on Equal Opportunity.

In 1967 Branton became executive director of the United Planning Organization, the District's antipoverty agency, a position in which he frequently found himself attacked and criticized by local community leaders.

Branton left public life in 1969 and joined the prestigious black law firm of Dolphin, Branton, Stafford and Webber, which later was dissolved and Branton continued in private practice.

ANNIVERSARY OF THE ATTACK ON PEARL HARBOR

Mr. DOLE. Mr. President, today we observe the 36th anniversary of the Japanese attack on the American naval base at Pearl Harbor. That event, of course, marked the entry of the United States into the Second World War—a conflict which was to cost the lives of over 400,000 Americans, with another 700,000 wounded. It is, as always, appropriate on this day to honor all those who served this country during that war, and particularly those who made the supreme sacrifice.

A LESSON AND A LEGACY

I believe that Pearl Harbor taught this Nation a great lesson: That America cannot isolate herself from the trials and tribulations that affect the rest of the world. And Pearl Harbor left a legacy as well: This Nation, when challenged by aggression from abroad, will not retreat. For retreat in the face of adversity only invites further aggression.

The Second World War did not eliminate international aggresssion from the face of the Earth. Today, the challenges are of a different nature and from different sources, but they are there nonetheless. Threats to peace and political stability are much in evidence today on the African Continent, in the Middle East, and in the Asian and Pacific region.

What disturbes many of us today is the very real prospect that, for the first time in our Nation's history, we may recoil in the face of adversity or compromise the national interest for the sake of temporary tranquility. It is the withdrawal of U.S. forces from South Korea, the reassessment of our NATO defense strategy in Western Europe, and the apparent compromise of basic principles in Asia, Africa, and elsewhere which stir the passions of thoughtful Americans today. And it is the trend of submission on the part of our own Nation in recent months which raises legitimate questions about the fate of the free world for the future.

America was not the only nation that learned a lesson from Pearl Harbor. It has stood as a lesson to all would be antagonists during the succeeding four decades as well. Let us hope that the costly lesson will not be "unlearned" due to mistakes in strategy and policy on our part.

If the lesson and the legacy of Pearl Harbor are not to be lost to history, then it is certain that we must remain constantly aware of their relevance to the challenges we face today.

TRIBUTE TO DR. LAURENCE WOODWORTH

Mr. ROBERT C. BYRD. Mr. President, it was with sadness today that I learned of the death of Dr. Laurence Woodworth, Assistant Secretary of the Treasury for Tax Policy. Because of the many years of dedicated service of Dr. Woodworth as staff director of the Joint Committee on Taxation, I know that practically every member of this body knew him personally and held him in the highest respect and esteem. He was the Nation's taxation expert and was not only a man of great knowledge and ability, but of absolute integrity. The country has lost an outstanding citizen and public servant.

I know my colleagues would wish to join me in expressing the condolences of the Senate to Mrs. Woodworth and to the other members of his family.

THE AMERICAN STEEL INDUSTRY: A PLAN FOR BOTH JOBS AND A CLEAN ENVIRONMENT

Mr. HEINZ. Mr. President, one part of the administration's steel plan deals with helping the industry solve its pollution control problems. Unfortunately, this part of the plan appears to be the weakest. Few substantive recommendations were made, and any relevant tax incentive proposals were delayed until the presentation of the President's tax reform plan early next year.

With respect to that plan, one alternative continues to gain public support, and, in fact, the President himself has already expressed support for it. I refer to the idea of allowing companies to deduct their pollution control capital expenditures as current expenses in the year they are made, rather than require their amortization over a longer period of time.

The arguments for this proposal have been made frequently over the past year, and a number of administration officials have expressed interest in it. On December 6 Senators RANDOLPH, PERCY, DANFORTH, ALLEN, and I wrote the President reminding him of his expression of support for expensing pollution control equipment and urging him to include such a provision in his tax program. This letter may be of interest to the Senate, and I ask unanimous consent that its text be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS,
Washington, D.C., December 6, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: When you met at the White House with members of the Senate and House Steel Caucuses on October 27th, you expressed support for proposals to permit same year amortization of pollution control equipment.

We are writing at this time to remind you of that commitment and to urge that this proposal be included in the tax reform plan to be sent to Congress early next year.

Rapid amortization of pollution control equipment has broader application than the steel industry, the context in which we discussed it with you, but it is particularly relevant to steel because of that industry's extensive and continuing pollution problems.

Recent data indicate that the steel industry spent $500 million in 1976 for pollution control facilities, and more importantly, that this figure will certainly increase over the next several years as stricter standards have to be met.

This investment is not "productive" in the classic sense of investment that contributes to improvements or increases in production or reduction in product costs, etc. While investment in pollution control facilities helps create cleaner factories and neighborhoods and in some cases cleaner products, it does not, in the strictest sense, contribute to the economic growth of the companies installing it. These are not investments that earn a return for the investor. On the contrary, in addition to the capital cost of installation, such facilities usually cost a considerable amount to operate and maintain, and it goes without saying that the billions invested in pollution control are not available for other job creating investments.

Our efforts to clean up industry will be more successful, more quickly accomplished, and ultimately more consistent with economic growth if we provide appropriate incentives to industry to install pollution control equipment promptly and effectively. Of course, our environmental laws mandate compliance, and compliance will occur. Since the federal government is imposing the burden, however, and all the taxpayers share in the benefits, it is appropriate that we absorb some of the cost more directly and more equitably than through higher consumer prices.

Although there have been numerous proposals that would provide some support for these expenditures, it is our view that the tax approach is the best one. As a matter of principle the government should provide for fair tax treatment of the heavy expenditures it has mandated. And, as opposed to capitalization (and treatment through depreciation or amortization), treatment as a current expense for pollution control investments would be the fairest, quickest, and most effective means of achieving that objective. The Senate energy tax bill affirms this principle in its provision allowing tax credits for a variety of energy conversion (and attendant pollution control) equipment, much of which will be installed pursuant to federal law or order.

We were pleased to hear your expressed support for this proposal in our previous discussion, and we hope to see that support manifest itself in your tax reform proposals.

H. John Heinz III,
James B. Allen,
Jennings Randolph,
John C. Danforth,
Charles H. Percy,
U.S. Senators.

"A PRAYER FOR A NEW BRIDGE" CELEBRATES THE STRENGTH OF MEN AND MOUNTAINS

Mr. RANDOLPH. Mr. President, on May 13, 1976, it was my privilege to participate in a ceremony marking the closing of the steel arch spanning the New River Gorge in Fayette County, W. Va.

As part of the program, the invocation was given by the Rev. Billy Reed Wickline of the Fayetteville United Methodist Church. His rolling words about the majesty and awe-inspiring setting of the world's longest steel arch bridge provided an almost transcendental experience for the thousands gathered for the occasion. For example:

> Thou hast arched the Heavens above us and enriched the Earth beneath us and allowed the trees of the forests to clap their hands and the hills to break forth into singing.

Perhaps there is little about a bridge to inspire the average person. But to some, as Pastor Wickline, the steel arch soaring 876 feet above the beautiful New River Canyon evokes a poetic paean to God. I felt his words so deeply that they are shared now with my colleagues and the readers of the Record.

The bridge was formally dedicated on October 22, 1977. The 3,030-foot long roadway was opened to traffic after speakers praised the marvelous engineering triumph, which created this magnificent span over the world's second oldest river, next to the Nile.

Rev. Billy Reed Wickline, raised his voice to the heavens with words that mirrored the feelings of the vast assemblage. It was a truly memorable attestation to "an altar in the sky," an affirmation of humility of God's glorious creations, the mountains and the forests surrounding this splendid manmade structure.

I ask unanimous consent that Reverend Wickline's invocation, "A Prayer for a New Bridge," be printed in the Record.

There being no objection, the prayer was ordered to be printed in the Record, as follows:

A Prayer for a New Bridge

(By Rev. Billy Reed Wickline)

O Almighty God, praise be unto Thee from the heights, for this glorious day as we consider the heavens, the works of Thy fingers and hear the sculptured mountains and everlasting hills break forth into singing, and the trees in the forest of gold, crimson and scarlet clap their hands in adoration and exultation. Open now our hearts to the joy and beauty that surrounds us and the occasion called forth in celebration.

We thank Thee, O God, for this bridge, founded upon the sheer ledges of gaunt rocks, arching the stalwart oaks, towering pines and white waters, raised above the earth that the winds may chant in her beams and trusses Thy creative skill. Standing beside her massive structure, she appears as a rainbow of promised prosperity and progress; downward from the sky above, it appears as a gigantic steel band, vicing and clamping the mountains together, embracing the people and communities as a family of one household. To view her from the earth beneath, the bridge spans the gorge like an altar in the sky; but to stand upon it is to be upon holy ground and humbly viewed as an instrument of service, a gift and tribute of God's favor and man's genius.

We bow in awe and reverence before Thee for this abounding life and invoke Thy blessings upon those who prophesied this projection; those who have labored and witnessed its construction and now all who will enjoy its convenience and service. Gracious Father, continue to pour forth Thy favor upon all whose dream is this day fulfilled and whose work has ended. We give thanks unto Thee for the artists, architects and engineers for the drafting of their dream, laying the plans, and for all laborers who readied the ledges, forged the steel, mixed the mortar, poured the foundations, welded and riveted the joints; for those who walked the girders in confidence and others who have taken the risks and suffered the abuse when schedules were interrupted; for those families who have ached in separation and loneliness. We thank Thee, Our Father, for those persons who have given their homesteads and sacrificed what to them was sacred, for this greater shrine. We remember this day those who were thrilled by its promise but have not lived to celebrate its completion. Look upon any injured in the process and comfort those left, of the life which was lost. We beseech Thy grace upon the yet unborn who shall receive this gift as an inheritance for their generation in ministry to their need.

Forbid that any among us shall be so heedless and unseeing so as to be without gratitude and thanksgiving, but guard us from viewing this accomplishment to make of it a tower of Babel; instead, let it be the travelers' temple, a symbol of the spirit of cooperation and concord where each man's labor and every man's task is the offering of his skill with dedication to fulfill his calling and the extending of his life, to bridge nature's barrier and every human rift.

Our Father, grant, we beseech Thee, an unfaltering return to our homes and reward our days with the strength to work without weariness or complaint. Equip us with thankful enthusiasm for this day and the future before us, that our spirit shall be continuous praise, through Jesus Christ our Lord. Amen.

ABORTION FUNDING STATEMENT

Mr. DOLE. Mr. President. The adversary process, institutionalized in our legal system and Government, has perhaps never been so thoroughly tested as it has during the lengthy debate over Federal funding of abortions. Today, after 6 months of debate, compromise language releasing over $60 billion in funding for human services programs has been forged. Although many have complained that this day has been too long in coming, I feel that the realization of a House-Senate consensus on the proper Federal role in preserving the sacred right to life of the unborn has been worth every minute, day, week, and month it took.

Throughout the numerous debates on the "medicaid abortion" issue, we have brought forth every conceivable factor relating to abortion and its place—or lack of it—in our society. Every Member of the House and Senate has had the opportunity to consider the issues raised. The key to success in the adversary process is compromise. Without compromise and without the recognition that one side's viewpoint may have as many valid bases as the other's, a democracy would wither in its own indecision. It was in the spirit of compromise that, last week, I lent my support to what I consider a reasonable position, one nearly identical to that adopted by voice vote in the Senate today.

In a compromise, each side loses something. Longstanding opponents of any abortion lost. The majority of my colleagues in the Senate, who have consistently advocated much weaker anti-abortion funding language, also lost. But all gained too, and that is what compromise is all about. It will no longer be possible for the Federal Government to underwrite as large number of abortions as it has in the past. At the same time, victims of rape or incest or women who might suffer serious and long term damage to their health will be able to obtain federally financed abortions.

I feel it is important to emphasize that my position on this particular bill in no way indicates any lessened sense of the sanctity of life on my part. Individuals familiar with my voting record on the abortion issue know that I respect all life—be it born or unborn. I would certainly hope that my vote will not be misinterpreted to the point that doubt is cast upon the sincerity of my feelings on this matter.

At the point, Mr. President, I ask unanimous consent that a letter sent to me by Vincent DeCoursey—executive director of the Kansas Catholic Conference—be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Kansas Catholic Conference,
Kansas City, Kans., December 2, 1977.

Senator Bob Dole,
Dirksen Senate Office Building,
Washington, D.C.

Dear Bob: Quite frankly I was astounded when I read of your vote on the Senate language proposed to be enacted as a replacement for the Hyde Amendment to the Labor-HEW Appropriations Bill. Yours has always been a strong voice in support of life for the unborn, and this switch quite frankly is hard to relate to your past history in voting pro-life.

The so-called "new" language as proposed in the Senate bill, as you unquestionably know, is totally cosmetic and did nothing to change the substance of the original language as proposed by Senator Brooke.

I am more than anxious to hear from you as to your intentions on future votes on this subject. As you unquestionably know, the movement to reverse the United States Supreme Court decision of January 1973 is gaining strength almost daily and as more and more people become aware of the facts relative to abortion the conviction grows that of necessity this country must change its position by reversing the Supreme Court's monstrous decision.

Please let me know of your intentions and, hopefully, of your continued support for life and your opposition to abortion.

Sincerely,
KANSAS CATHOLIC CONFERENCE,
VINCENT DECOURSEY,
Executive Director.

Mr. DOLE. Mr. DeCoursey, a highly-respected and effective advocate for individuals who wish to protect life, raises some valid points in his letter; and I want to assure him and others who have expressed concern about a possible shift in my position that I will continue—as I have done in the past—to safeguard the right to life and to curb the attitude that living beings may be discarded with as little thought as that given to tossing old clothes.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 12:14, recessed until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. SASSER).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 2:05 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 2:59 p.m., when called to order by the presiding officer (Mr. ROBERT C. BYRD).

RECESS UNTIL 4 P.M. TODAY

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until 4 p.m. today.

At 2:59 the Senate recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

RECESS UNTIL 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 5 p.m. today.

There being no objection, the Senate, at 4 p.m., recessed until 5 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. STONE).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL EMERGENCY WAR POWERS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7738.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 2, 4, 5, 6, and 7 to the bill (H.R. 7738) entitled "An Act with respect to the powers of the President in time of war or national emergency."

Resolved, That the House agree to the amendment of the Senate numbered 1 to the aforesaid bill with the following amendment:

Page 1, line 3, of the Senate engrossed amendments, strike out "supercede" and insert: *supersede*

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill with the following amendments:

1 Page 1, line 11, of the Senate engrossed amendments, strike out "including" and insert: *such as*

2 Page 1, line 12, of the Senate engrossed amendments, strike out "solely"

3 Page 2, line 2, of the Senate engrossed amendments, strike out "authority" and insert: *ability*

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate to H.R. 7738.

The motion was agreed to.

MARK CHARLES MIEIR AND LIANE MARIA MIEIR

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3313.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3313) entitled "An Act for the relief of Mark Charles Mieir and Liane Maria Mieir", with the following amendment:

Line 6, of the Senate engrossed amendment, strike out "United States." and insert: United States: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate to H.R. 3313.

The motion was agreed to.

FURTHER CONTINUING APPROPRIATIONS, 1978

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 662.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the resolution (H.J. Res. 662) entitled "Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid resolution with the following:

AMENDMENT

In lieu of the matter proposed by said amendment, insert:

Provided, That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced.

Mr. MAGNUSON. Mr. President, before I move, reluctantly, to concur in the House amendment, I want to say that the Senator from Massachusetts and I, and many of us in the committee, have struggled a long time with this problem. We have deep respect for the views of people on the other side. As a matter of fact, Mr. President, there was no black or white on this thing. There were a lot of grays. It is just a question of how far you should go.

I think that we in the Senate, as the bottom line on this very emotional matter, looked at things with one thing in mind: What is the most humane thing to do? What will be in the best interest of a lot of people that have personal, serious problems, legitimate problems, and what can we do to help solve a situation that has been in and out of the courts, in settling the argument over whether the States should handle it or the National Government?

We have done the best we know how. There has not been any particular compromise as such. It is pretty hard to compromise emotional matters. It is pretty hard to compromise between people who believe strongly on one side and people who believe strongly on the other side. But I think there is a possibility, always, of finding what is the best way for all of us—all, not just the extremists on both sides. I think that is what the Senator from Massachusetts and I have been trying to do, the best we know how.

The House, because of legislative procedures, at times put us in embarrassing positions. I just do not know why. Everybody knew that tomorrow night, there are, literally, almost a half million people who will be looking for their Christmas paychecks. They knew that. But I discount that. I am charitable, as we tried to be charitable about this issue, to think that they felt so keenly about it that they kept voting the way they did.

We voted over and over. Last night, I said, we had voted 18 times. I want to correct the RECORD. We voted 16 times on this measure, and probably 18 on portions of it that were indirectly related to the measure.

I have said many, many times, as sort of a voice in the wilderness, that this does not belong on the HEW bill. It is legislation of the rawest nature on an appropriations—money—bill. I said that I was going to introduce, and I intend to, as soon as Congress convenes on January 19, some four or maybe five bills which will take every aspect of this problem, and have them referred to the proper committee in the Senate, so that we can have a national policy on the question of abortion. I am sure that my friend from Massachusetts joins me in that, so that we can go on with the business that we have. I hope the Parliamentarian is listening to me; I know he is.

I do not suggest what the proper committee will be, but I have an idea that it might go to two specific committees. One is the Human Resources Committee, which has promised, over and over again, to myself and the members of my subcommittee, that they would hold hearings on this matter.

This is an amazing thing. Here we are, passing on a piece of major legislation, on which neither the House nor the Senate committees heard one single witness. We have no figures, we have no facts, we have no medical testimony; we did not hear a single witness on a matter of this grave importance. It is high time that the Human Resources Committee or the Government Operations Committee consider it.

I do know one committee that might well take it on. It might belong in the Committee on Finance of the Senate, because it deals with payment of money under medicaid.

What would come out of the Finance Committee of the United States I shall leave to you. But it does not belong on an HEW appropriation bill. So I am going to introduce those bills. They are going to take up all sides and shades within the two extremes of this particular problem, and next year, when they come to the Appropriations Committee with some of these amendments, I am going to say, "Why don't you go and testify to the proper committee and have them establish some kind of national policy on this matter?"

Now, having said that, as I say reluctantly, I hope we can agree and concur in the amendment, that was sent over by the House. For the record, I understand the House voted 181 to 166 for this particular language. Over there, it has been a question, sometimes, of 10 votes one way or 20 votes the other. There has never been a very large margin back and forth on how House Members felt about this matter; whereas, in the Senate, it was always a matter of voting 2 to 1 against. So I think we have been about as generous as we can be.

I suppose that I might be criticized by some people in suggesting that we have been too generous. But we have done the best that we know how. I am hoping that maybe this matter can be sent to the proper committee of the U.S. Senate, before we start next year's appropriations process. Then, possibly, we will be on the road to finally resolving this emotional issue.

I am sure that all Senators have been torn by this matter. It is an agonizing thing. I think about it all the time. When the Senator from Massachusetts and I talk to each other, we do not even ask, "How is the weather in Boston?" or, "How is the weather in Seattle?" We say, "What is going on with respect to abortion?" We do not even ask each other, "How are you feeling?"

This has been going on and on. I hope this will be the conclusion of this and we can get on to what is the real responsibility of the Appropriations Committee and HEW.

This bill involves millions of schoolchildren, millions of people who are dependent upon medical research at NIH, millions of people under medicaid and medicare. Hundreds of thousands of people are involved in social security. All these things we had to weigh in the balance.

I must confess that I do not like this; but I do not know, at this hour, just what we can do except concur with the House. But we have come a long way from what we did with respect to last year, so far as we are concerned. I think we have made some progress in this matter. Therefore, I am going to move at the proper time that the Senate concur with the House amendment.

With the passage of this bill through September 30, I want to make it very clear to the departments and programs which this bill affects that they should every closely follow the Senate and conference reports when allocating these funds for fiscal year 1978.

This is the exact same levels of funding, and the conference report, which the House and Senate have already agreed to following our conferences.

It is the exact same bill as the regular bill—it just has a different name.

I yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I concur with everything that the distinguished chairman has said. I commend him for his able leadership during the many long months we have had this issue before the Appropriations Committee and before the Congress of the United States.

I also commend Terry Lierman, the majority staff director, and Gar Kaganowich, the minority staff director, and others who have worked diligently and efficiently on this important legislation.

Mr. President, I point out for the record that this is not just a continuing resolution now, as I am sure the President well understands. This is the bill itself. This is finally the Labor-HEW bill of more than $60 billion, with all the money for Health, Education, and Welfare, and money for Labor as well, and the many programs that are involved.

There will be no necessity now for Congress to act upon the bill itself, because the continuing resolution that has been passed by the House and sent to the Senate—which I hope we will pass soon—will be, in effect, the Labor-HEW appropriations bill for 1978. So we are here dealing with that appropriation itself.

Mr. President, I shall read the language, as I understand it, and I will point out certain changes that have been made. The amendment which was offered last evening by the distinguished Senator from Washington (Mr. MAGNUSON), and which the Senate adopted by a voice vote and sent to the House of Representatives, reads as follows:

> On page 2 beginning on, line 15, strike the following: "as modified by the House of Representatives on August 2, 1977"; on page 2, after line 17, insert the following:
>
> *Provided, however,* that none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.
>
> Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.
>
> The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

Mr. President, the House acted upon that language this morning and rejected it. They held the bill at the desk, and there were many consultations back and forth. Finally, a proposal was made that the House would include only—and I say only—one change in the language as sent by the Senate to the House. That one change is this: The words were "when so determined by two physicians." So that section would read: "or except in those instances where severe and long-lasting physcial health damage to the mother would result if the pregnancy were carried to term, when so determined by two physicians."

It is my understanding that the debate and the vote in the House were based upon those additional words, and those additional words only. As I now read the language that came back from the House to the Senate, and which we are now acting upon, I see an additional change. I do not know whether it was due to inadvertence or whether it was deliberate. The change I refer to is contained at the end of the first phrase: "*Provided, however,* that none of the funds provided for in this paragraph shall be used to perform abortions"—and there is no colon.

Mr. President, one might wonder why I raise this question. We have been back and forth with the House on many occasions with respect to one word and now with respect to punctuation marks.

I want to make it crystal clear, and I want to make it certain for the record, as to what was intended by the Senate and, as I understand, what was intended by the House by their vote—because no other change was referred to in that debate—is that we are talking about medical procedures being abortions.

There is no doubt in my mind that medical procedures are abortions, and when that colon was placed in there and it went on after "abortions," the antecedent, of course, would have been "abortions." I do not say that even the deletion of the colon means anything. I do not know. It might have been a question of interpretation. As I said, it might have been due to inadvertence. It also might have been done deliberately. It might have been done by a clerk. I do not know why it was done or how it was done.

However, I want the record to show clearly that we are talking about abortions when we talk about medical procedures, where we are concerned with the victims of rape or incest. We are not talking about D. & C.'s or anything of those things. We are saying that where a woman has been a victim of rape or incest, and it has been reported promptly to a law enforcement agency or to a public health service, that woman is entitled to medicaid funds for an abortion. That is what "medical procedures means, whether that colon is in or out.

I think it only fair to report this to the Senate, and, by reporting it to the Senate, also reporting it to the House; because, as I say, it was not a question of debate nor was it a question upon which the Members of the House were called upon to vote.

Mr. President, I am not going to review tonight the long history to which the distinguished chairman has referred. It weighs heavily upon us all. He is absolutely right: We have been able to talk about little else than abortions with respect to this bill for a long time.

It is not only an emotional issue. To some, it is a religious issue; to others, it is a moral issue; to others, it is a political issue; to some it is all those.

I understand and I respect the differences. I understand the diversity. I understand the reasons why many of our colleagues in the Senate and in the House have felt so strongly about this issue.

But I do want to make clear what we are talking about, Mr. President, when we discuss this language that apparently will now end up as the compromise language between the Senate and the House of Representatives.

First of all, the new language is "when so determined by two physicians." I think, Mr. President, that this language has no rational connection at all with the patient's needs. I think it unduly infringes upon her physician's right to practice medicine. And I think it violates the equal protection clause of the Constitution of the United States. As an attorney and as a former attorney general of the Commonwealth of Massachusetts I do not like to predict what the Supreme Court of the United States will do, but I think the courts will declare that this is unconstitutional.

There is no justification under the equal protection clause for giving all other medicaid patients the right to have medicaid funds paid for a particular injury or illness after consulting with one physician, and requiring medicaid patients who require an abortion to consult with two physicians. That to me is unconstitutional. It is discrimination. And I think the courts will so declare it.

If they do, it would only apply to that language "when so determined by two physicians." There is no question at all about the constitutionality of the rest of the language. But there is a serious question, and I repeat, a serious question, as to the constitutionality of the new language that has been added by the House of Representatives.

Then, Mr. President, what does this new language mean? Does it mean that a woman is restricted to two physicians?

Can she only go to two physicians and consult with them before and have both of them agree that she needs an abortion, because she would have a severe and long-lasting physical health injury resulting? I think the answer is obviously clearly no. I think she can go to more physicians. I think that there must be the "reasonably necessary" test as well. She could go to three or more physicians, and I think it is equally clear that medicaid funds could be used to pay for those. I want to enter into a colloquy subsequently with my distinguished chairman on some of these points.

Then, Mr. President, no one should dictate to the woman what doctor she should see. It should be a doctor of her own choosing, not one dictated by any health service or by any law enforcement agency but by the woman herself. She should have that freedom of choice in determining what physician she wants to consult with. And medicaid unquestionably and clearly will have to pay, Mr. President, for the consultations and the accompanying examinations and tests.

But I want to make it clear also, Mr. President, that that provision "when so determined by two physicians" applies only to those "instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term" and not to any previous language contained in this abortion language.

I think that is a question that we should clarify now, because it could raise some problems with us subsequently.

Mr. President, the section pertaining to severe and long-lasting physical health damage to the mother is, of course, a new section. We did not have that under existing law. The law will be changed. It will be changed substantively and substantially as well.

And we do not have a provision covering rape and incest in the present law. We had it in the report language but not in the bill itself.

So, there are major changes now as to what poor, indigent women would be eligible for medicaid abortions. If the woman is a victim of rape or incest, she is eligible under the conditions of the reporting provision. If severe and long-lasting physical damage to the mother would result if that pregnancy were carried to term when determined by two physicians, two out of three, two out of four, two out of five—I do not know—then, of course, she would be entitled to a medicaid abortion.

So these are the two changes. There is no change so far as the life of the mother is concerned or the drugs or devices. And, of course, the only other change is that the Secretary shall promptly issue regulations and rigorously enforce them. Of course, we understand that that has always been the rule anyway, so there is no problem with that.

Mr. President, if agreeable to the distinguished chairman I wish to ask certain questions of him at this time to further clarify the language. I shall direct several questions to Mr. MAGNUSON because I believe it is vital that we make clear the legislative intent of the provisions we are acting upon, and I think this is particularly necessary since HEW has refused to give us any interpretation in advance. We asked for that interpretation but they would not give it and, of course, that is within their rights. Since they have not given us any interpretation, I think we should clarify for them what the legislative intent is.

We have been advised by the department that they are looking to us to tell them the intent of the language we are recommending, and we are to be as precise as we can, so that no doubt is left in Mr. Califano's mind as to what we intend. And we expect our intent, Mr. President, to be carried out in the regulations that the Secretary will issue, because the Secretary will issue regulations on this language. And we want to be sure that the Secretary is well-informed of the intent of Congress.

The language makes an exception for providing "medical procedures" necessary for the victims of rape or incest. As I said, it is our intention that "medical procedures necessary" not be viewed as a limitation on the length of time during which medical assistance shall be available. We fully intend "medical procedures" to include, again, abortions. So long as the rape or incest has been reported to a law enforcement agency or to a public health service, the woman is clearly eligible for a publicly funded abortion.

Am I correct about our intent, that "medical procedures" do include abortion? Is that the chairman's understanding?

Mr. MAGNUSON. That is correct. I think we should make it clear to the Secretary, Mr. Califano, that we mean that a woman who is a victim of rape or incest may have an abortion as long as she reports the incident, and he should issue regulations not necessarily timewise but regulations that will carry out that intent.

Second, I say to the Senator from Massachusetts, that I am very pleased with the part of the language that the House of Representatives sent us regarding long-term serious damage. We never had that before. But I think this is one of the most important provisions in the whole bill.

Mr. BROOKE. The health provision?

Mr. MAGNUSON. The health provision.

Mr. BROOKE. I think that is very appropriate, yes.

Mr. MAGNUSON. There is one matter which is very important that might go on for years and years; it is too bad we did not get the fetus in there, too.

Mr. BROOKE. I agree.

Mr. MAGNUSON. Because the medical profession today can tell along the way whether the child is going to be born hopelessly crippled or mentally retarded, and I am hopeful that when the legislative committee—I repeat that—the legislative committee starts to establish a national policy they will consider this, too. I see the distinguished Senator from New York here who serves on that committee. We were unable to get the House to even talk about genetic diseases of the fetus, and I understand there are some 2,000 of them listed in medical dictionaries.

Mr. BROOKE. That is correct.

Mr. MAGNUSON. When the authorizing committees get to this—which you are going to do, we have to see to it that those bills are properly referred—and the Parliamentarian nods his head and he says that is correct—that you pay attention to this because this is one of the things the Senator from Massachusetts and I have been thinking about for a long time. This is the humane bottom line of the whole bill when you get down to it.

Mr. BROOKE. Mr. President, if the Senator would yield, I wish I could be as optimistic about this matter as my distinguished chairman is.

Mr. MAGNUSON. I am not optimistic, but I caught him here and I wanted to remind him.

Mr. BROOKE. I think the legislative committee ought to be challenged. But, as I said, I am not as optimistic, because if we have a Labor-HEW appropriation bill—and we will have next year, and the Parliamentarian is also smiling about this—if they come in with that language "none of the funds shall be used in this bill except for" we are faced with the same old problem again.

I am thinking if we do not get some action on the part of the legislative committee we are going to have to conduct hearings ourselves to determine what the problems involved are.

We did not have any hearings on the question of rape or incest or the fetus or anything else.

Mr. MAGNUSON. I want to suggest to the Senator from Massachusetts that there are not many experts on this problem, but I have listened to so much of it informally on both sides that while I do not consider myself necessarily an expert in making a decision on abortion, I am sure I have heard every side of the question——

Mr. BROOKE. I am sure.

Mr. MAGNUSON (continuing). Back and forth.

Mr. BROOKE. We did not have any statistical data at all, as the chairman knows.

Mr. MAGNUSON. We did not have any of that.

Mr. BROOKE. None of that at all, which we needed very clearly.

I just want to reiterate, though the chairman did respond relative to the reporting of the rape or incest, that I want to make it clear, as clear as we can possibly make it, that when we use the language "medical procedures" we are referring to abortions; is that correct?

Mr. MAGNUSON. That is correct. I think that is what we mean; I am sure the House people understand that is what we mean. "Medical procedures" are abortion procedures.

Mr. BROOKE. And that should be distinguished——

Mr. MAGNUSON. To stop the fetus from becoming—stop from having a child being born under circumstances which some people think they should not be born.

Mr. BROOKE. I think that is even more clear when we consider the fact that the House wanted to put in the word "treatment," as the chairman will remember.

Mr. MAGNUSON. Yes, that is right.

Mr. BROOKE. When they referred to "treatment" they really were referring to a D and C because they wanted a woman to have a D and C prior to the determination of pregnancy.

Mr. MAGNUSON. Let me say this: It is our understanding that a D and C covers, if you want to use a literal interpretation of the term, abortion; would that be correct?

Mr. BROOKE. Well, the D and C, with what they were hoping at one time we would accept—which we did not accept, thank God—is that a woman could get a D and C prior to the determination of pregnancy, meaning the woman would have to get a D and C even if she did not need a D and C. But we are not talking about a D and C.

Mr. MAGNUSON. But if abortion follows that examination that is allowed.

Mr. BROOKE. What we are talking about here is a medical procedure——

Mr. MAGNUSON. Is the whole thing.

Mr. BROOKE. Is an abortion, no question about it. If she is a victim of rape or incest she is then entitled, with these other provisions, of course——

Mr. MAGNUSON. It covers abortion.

Mr. BROOKE. It covers abortion, and it is abortion.

Mr. MAGNUSON. I think that should be clear.

Mr. BROOKE. I think that should be very clear, crystal clear, for the record.

Now, Mr. President, I think this clarifies the intent of the Senate, and I think of the House as well, as to any language which may cause the Secretary some problem insofar as the promulgation of regulations is concerned.

I think all of the other language here is clear on its face. I do not see any ambiguity, as I review this language, that could cause the Secretary to want to seek further any legislative intent. We know, when we are talking about medical procedures, that we are talking about abortions.

We know, when we are talking about severe and long-lasting physical health damage, that that is something that will be determined by a physician, because he is the only one who can determine that. We are not in a position to determine what severe and long-lasting physical health damage might be. It would be different from case to case. That is a medical determination that must be made.

We know what we are talking about when we say "when so determined by two physicians." It does not restrict the woman to two physicians; she can go to more physicians. The "reasonable" test will be used.

We also know that medicaid will pay for those physicians and for those consultations and the accompanying examinations and tests.

But we also expect—I should say I also expect—that that provision will be declared unconstitutional.

We know what we are talking about when we say the reporting must be prompt and that it must be within a reasonable and humane period of time.

Having all of that clearly spelled out for the Secretary of HEW, I can see no reason why he should have any difficulty whatsoever in the promulgation and drafting of regulations that will be in keeping with the intent of this Congress and the passage of this language.

Mr. MAGNUSON. Will the Senator yield, Mr. President?

Mr. BROOKE. Yes.

Mr. MAGNUSON. Also we never had any disagreement with this part of the language wherein we say:

> Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

In other words, both Houses have overwhelmingly given their implied approval to family planning and we, in the Appropriations Committee, have always thought we have given sufficient funds for family planning. On that, I think, we are all in general agreement.

Mr. BROOKE. I think the Senator is absolutely correct. There has been no question about that at all.

The last provision provides us with no problem, and the first provision is the so-called pure Hyde language which excepts the life of the mother.

Mr. MAGNUSON. That is the best reason for an abortion that I can think of.

Mr. BROOKE. That is right, and I agree with the distinguished chairman again.

We wanted "fetus" in there, and I hope that some time we will progress to the point that "fetus" will be included because we get into the Tay-Sachs disease and others that are too horrible even to mention, that are excluded by virtue of the fact we have had to compromise this language time after time after time.

I think we have made a clear legislative record.

I would like to yield at this time, if I may, to he distinguished Senator from Pennsylvania (Mr. SCHWEIKER) who wants to speak in this matter.

Mr. MAGNUSON. I must say, before the Senator from Pennsylvania speaks, that I respect his feelings on this matter. I must say to the Senator from North Carolina and others who have been against—not necessarily against, but have been for stronger language than we have—that they have been most helpful.

I have been around this place for a long time, and I do not know how many conferences we have had on this issue. I have had more conferences on this than anything I can think of, and I can think of some pretty important ones we have had. But the Senators have been very, very helpful in helping the Senate arrive at some kind of resolution with the House, and I deeply appreciate it, and I know the Senator from Massachusetts does.

Mr. BROOKE. I certainly do. I concur.

Mr. SCHWEIKER. I thank the Senator for yielding.

Mr. President, my position is well known. I strongly support the anti-abortion language in the Labor-HEW conference report of last year. I have offered that language several times on this floor, but the Senate has rejected it, usually by a 2-to-1 margin.

I shall vote against this pending proposal because I cannot support language allowing the use of taxpayers' funds to pay for abortions as provided by this language.

However, while I disagree with the chairman and the ranking Republican members of the subcommittee, I respect their beliefs and their efforts to reach agreement with the House.

Mr. BROOKE. Mr. President, I thank the distinguished Senator from Pennsylvania for his statement. As our chairman has said, he is a very able and distinguished member of our subcommittee. He has been on a different side of this issue, but he has been fair and he has been objective. He has worked hard to resolve this question. Fully knowing how he feels about this issue, I just want to say how much I respect him, to thank him for everything he has done in an effort to uphold his position, and the fairness with which he has done that.

Mr. STENNIS. Mr. President, if the floor manager of the bill is through——

Mr. BROOKE. I have to yield to the Senator from New York.

Mr. STENNIS. I ask for the floor in my own right.

Mr. BROOKE. I yield to the Senator from New York first.

Mr. JAVITS. Is this on the same subject?

Mr. STENNIS. Yes.

Mr. JAVITS. If the Senator would like to precede me, he may go ahead.

Mr. STENNIS. The Senator may proceed.

Mr. JAVITS. Mr. President, I feel fortunate in returning from the Far East on the very day on which this matter is being finally resolved between the House and Senate. It has been a matter of deep concern to me, to all communities in New York and, I know, to the whole country.

First, we are all deeply indebted to Senators BROOKE and MAGNUSON for leading this fight and leading it successfully. I think what they have accomplished here, notwithstanding the limitation of the result, is a victory for humanity and enlightenment. They have also demonstrated that legislatures are not necessarily panicked by persistent, widespread, and powerful lobbying. This matter has certainly proved that.

Also, Mr. President, it is a victory for constitutional government and, in my judgment, of the ability of a Congress to agree.

Certainly, both Houses were deeply dug in on the subject. We have finally come to some resolution.

Second, it is a victory for social justice in our country. It is inconceivable to me, and to millions of other Americans, that women too poor to pay should be deprived of rights under the Constitution, as certified by the decision of the U.S. Supreme Court, accorded to women with means to pay.

This is the kind of discrimination which is anathema in our country.

I appreciate and respect the depth and sincerity of any American's philosphy, experience, religious and moral training that may lead him or her to conclude that abortion is wrong, and to follow it out for herself. But, I do not believe that the state should seek to impose involuntary requirements for other individuals who may have a different view. Abortion is a matter of individual conscience.

In my work in the Senate, I have diligently pursued the objective of equal access to all human services, including education and medical services and the elimination of practices which, intentionally or not, discriminate against individuals on the basis of income by depriving them of equal access—and their equal rights to public services.

Denial of Federal funds otherwise available for medical care, for "medically necessary" abortions is discrimination against the rights of millions of American women who can least afford it. Such action deprives women too poor to pay of the rights which under the Constitution and the Supreme Court decisions are accorded to women with means.

They alone are to be subjected by state action to bear children which they do not wish to bear and which no other woman with means is required to bear.

I appreciate the concern of Senator BROOKE about the constitutionality of this new language, but it may be that the court, as it can, may reject some part of this catechism, to wit, "when so determined by two physicians," but retain the substance, as the court test is whether or not the objectionable provision compromises the whole provision. That will, of course, be a question the courts will decide.

I think we are deciding something very substantive here, even if there is an adverse constitutional finding on that particular provision.

Finally, Mr. President, it is a major victory for women's rights. I am deeply sympathetic to the ERA and I voted for it here, as did many others. I am rather disappointed, deeply disappointed, that the States have not yet ratified that amendment. But the substance of women's rights is in few other instances more clearly demonstrated, and our action with respect to them more clearly required, than in this one which touches every woman in this country so intimately. A ban on Federal medical care funds for such use would have erected a legal impediment to equal protection for a class of women whom we have established by law to be entitled to look to the Federal and State Governments for their medical care.

So, Mr. President, I deeply feel that this is not only a very trying dispute between the House and the Senate which has been settled, but a milestone in our legislation and a milestone in our history on women's rights and on the fidelity of both Houses of Congress to their duty and to conscience.

I believe the country owes a great debt to Senators MAGNUSON and BROOKE for the persistence which this has called for. It would have been easy enough to say, "Well, it is only 1 year. We will try again next year." But they stuck to it and the Senate stuck with them. It is a great victory for our country today. I congratulate both Senators.

Mr. MAGNUSON. I thank the Senator.

Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate.

Mr. BROOKE. Mr. President, if the Senator will withhold that for a moment——

Mr. MAGNUSON. I will withhold it.

Mr. BROOKE. I want to thank the Senator from New York, as our chairman has. That was very kind and generous of the Senator, as is customary.

I also want to thank the majority and minority leadership. They have really been very, very helpful to us in this whole fight. I do not mean because they happened to vote on the side of the chairman and the side that I believed in, but because procedurally they have been fair and objective. They have helped us in many of the procedural matters, as has the very distinguished Parliamentarian of this august body.

I want the record to show that the majority leader, Mr. BYRD, the minority leader, Mr. BAKER, and our distinguished Parliamentarian have been very, very helpful during these long parliamentary problems we have had night after night, which, hopefully now, we are resolving.

Mr. MAGNUSON. Mr. President, I gladly associate myself with the remarks of the Senator from Massachusetts.

Mr. EAGLETON. Mr. President, as I have stated before, I am in sympathy with the Senate managers of the bill and respect their efforts to see that the programs operated by the Departments of Health, Education, and Welfare, and Labor do not grind to a halt; however, I wish to go on record as opposing the compromise language now before the Senate.

In my view, Federal funds should not be used to pay for abortions except in those cases where the life of the mother would be endangered if the fetus were carried to term. The language before us permitting abortions in those instances "where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians" broadens the exception to an unacceptable level.

As I have repeatedly stated, it is my profound moral conviction, Mr. President, that life is a continuum, from first beginnings in the womb to the final gasp of the dying, and that the first function of society, the primary responsibility of government, is to protect life and to create conditions which permit each person to flourish and to reach his or her fullest potential. For this reason, I shall vote against the compromise and urge my colleagues to do likewise.

Mr. HAYAKAWA. Mr. President, as the abortion controversy continues, I would like to bring to the attention of my colleagues three letters to the editor published today (December 7) in the Washington Post. Each of the three deals with an aspect of the problem that has not been previously discussed. I believe that the information and arguments presented in these letters may be helpful to my colleagues in Congress as well as to the general public during the consideration of the issue.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The lengthy deadlock between the House and Senate concerning abortion reflects our politicians' appalling ignorace of the latest scientific developments. While politicians wrangle over abortion in case of rape, medical innovations have created a quite different problem.

It is now possible to diagnose a number of serious and costly birth defects during pregnancy. Among the conditions identifiable by amniocentesis are Down's syndrome (Mongolism), spina bifida and other irreversible abnormalities requiring costly care or life-long institutionalization. According to one report, another technique will permit the discovery of some birth defects, including anencephaly—that is, a fetus without a brain. Other tests are not unlikely to be developed.

The economic costs—not to mention human suffering—involved in the artificial prolongation of grossly defective newborns are already a serious problem in today's hospitals. These new techniques offer the promise that parents could abort a defective fetus in order to have a normal, healthy child.

In their haste to prevent what some consider "sinful" abortions, however, congressmen seem to have forgotten their own previous legislation in the area of birth defects. Under the program known as EPSDT (Early Periodic Screening, Detection and Treatment), low-income families have a right to both screening and treatment for a wide range of birth defects. On the surface, it seems that EPSDT requires the federal government to pay for the care of defective newborns whose birth might for the first time be avoidable.

Obviously, it is not a question of requiring all pregnant women to undergo prenatal testing to see if their pregnancies are abnormal. But in some cases, such as Down's syndrome, if the mother is over 40, the risk is known to be very high and testing is reasonable. If a test in these circumstances reveals abnormality, it is contrary to common sense and humanity to prevent families from choosing a therapeutic abortion.

Roger D. Masters,
Fellow, Hastings Center, Professor of Government, Dartmouth College.
Hanover, N.H.

As far as I know, congressional debate on abortion never has brought out clearly what the basic issue is. Certainly, Congress has made no real effort to resolve it.

The right-to-lifers say abortion is murder.

The pro-abortionists say it is just a medical procedure of great personal worth to those undergoing it—and of vast financial value to society.

Obviously, if abortion is, indeed, murder, it should be forbidden to everyone. If it is not, then it should be available to everyone.

So, in theory at least, all Congress had to do was outlaw it across the board, as murder is outlawed, or treat it as a legitimate medical procedure and make it available in the same manner as any other such procedure.

Instead, it has decided, in effect, that abortion is murder for those who can't pay for it but an ordinary medical option for those who can pay.

Lewis Hawkins.
Bethesda.

If the poor are deprived of abortions, then what? Who will love and nurture the unwanted infant so that it will grow into a healthy human being? Not likely the mother who was ready to abort it. I recognize the position held by the right-to-life groups, but I am very troubled by their apparent lack of concern for the infant they want born to unwilling parents. Let the right-to-life people take the first step to resolve the problem by guaranteeing to adopt every single unwanted child regardless of its race, color or physical condition. Only then might they have a valid argument against abortion. There are many ways to destroy life. In many circumstances, abortion may be the kindest.

Seymour Bress.
Rockville.

Mr. LEAHY. Mr. President, passage of this joint resolution is necessary in order to provide the District of Columbia city government with the legal authority to continue to incur obligations to meet the city payroll and to continue other basic city functions. The legal authority for the city to incur obligations expired on November 30, 1977. This joint resolution is the traditional continuing appropriation resolution with which we are all familiar and it will be effective until September 30, 1978. This will be the third continuing resolution that we have passed for the District of Columbia this year.

As many of you will recall, the fiscal year 1978 budget for the District of Columbia was passed by the Senate on October 4, 1977. Since then, the House and Senate conference committee has met on October 12 and again on October 17 in an attempt to resolve our differences. Since then I have repeatedly expressed my willingness to meet again in conference at any time starting at 6 a.m. and running at late as 12 p.m. in the evening. So far the House has not been able to meet again in conference.

By passing this continuing resolution and making it effective until September 30, 1978, I do not want to give the impression that we no longer have an interest in returning to the conference table and agreeing to a budget for the city for fiscal year 1978. I would have preferred an extention to February 28, 1978, at the very latest and have agreed reluctantly with the House on their date of September 30, 1978.

The city proposal to build and operate a $110,000,000 convention center in downtown Washington is the main difference between the House and Senate and this one issue alone is preventing us from reaching an agreement with the House. I have suggested that we set this item aside and pass a fiscal year 1978 budget for the city so the city can better plan its activities for the remainder of this fiscal year. I have also suggested that the city immediately begin to develop a proposal for a convention center that would accommodate the concerns of all affected parties, especially the views of the citizens and taxpayers of the city. So far the city has made no visible progress in developing a compromise proposal and so far seems more interested in obtaining approval for this one item in exactly the form they have proposed than they are in gaining passage of the entire city budget. Not only will this approach not gain approval for the current convention center proposal, but it is no longer responsible with regard to the city government's central responsibility for the operation of the entire city.

The elected city officials understood completely the issue that has the Congress deadlocked and they know full well how to resolve the issue and gain rapid approval of the fiscal year 1978 budget for the city. I am hopeful that the city will soon see their responsibility in this broader context so that we can pass a budget for the city for fiscal year 1978.

Mr. President. I ask unanimous consent that an editorial by Joe McCaffrey of WMAL radio be printed in the Record at this point.

The editorial concerns an alternative convention center proposal made by Mr. John Hechinger. I do not know enough about this proposal or other specific alternatives to endorse them, but points made by Mr. McCaffrey are illustrative of the problems we have faced on this issue.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

John Hechinger is one of the nation's leading retailers.

He has also done more than his share as a public servant, but he is not politician. Because of that his plan to build a convention center and lease it back to the District of Columbia is drawing a cold shoulder from city officials.

Mr. Hechinger knows the first principle of retailing is to give the consumer a bargain. He followed the same line of reasoning when he offered the District of Columbia his plan for a civic center.

This, he said, will save the taxpayers from 20 million to 30 million dollars.

That was where he made his mistake. Saving the taxpayer money is not one of the popular things today. Spending the taxpayers money is the big thrust.

Had Mr. Hechinger said—this will cost from 20 to 30 million more than the civic center now under consideration at Mt. Vernon Square, then he would have won the brass ring. It would be hailed as a wonderful thing for the taxpayer.

His mistake was in offering a saving. See, government isn't like retailing. Bargains are not appreciated.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. I would like to have recognition in my own right.

Mr. MAGNUSON. Before this is finished?

Mr. STENNIS. Before it is passed.

Mr. MAGNUSON. Mr. President, I would like to get this out of the way.

Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I ask recognition for just a very few minutes. I commend the Senators who have worked on a very, very difficult subject, which was before the Appropriations Committee, for weeks and months. I think there have been over 35 rollcall votes on this matter. I especially thank the Senator from Pennsylvania, Mr. SCHWEIKER, who has worked hard and diligently for many, many days, and I thank him for wisely exercising my proxy on this abortion question.

Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Certainly, the Senator from Pennsylvania is due a debt of gratitude by all of us who have views anywhere near or similar to his, and, I believe these views are shared by millions of Americans. I am most grateful to him for what he has done.

All Senators have worked on it, whichever side of the aisle they were on, with due diligence.

I just make one passing observation about the inadequacy of our Senate rules. I do not see how, with the volume of business we have to do each year, we can continue indefinitely with such obscure rules about amendments on appropriations bills, that contain legislation on appropriations bills. We all know about the practices here on points of order and germaneness, all too often, the membership vote on the merits of these proposed amendments rather than voting on an interpretation of the rules.

I would encourage those who specialize in this field and who are concerned with it, the leadership, too, to see if something could be done with reference to clearing up and being more specific as to our rules with reference to amendments on appropriations bills which also carry legislation. It chokes the committees; it slows down the floor consideration, and it is a millstone around our necks, really. I have observed this more and more from year to year. A lot of this type of proposals are in this bill, including the point on abortion.

Now, Mr. President, I have listened with the greatest interest here to the arguments which have been made. I do not want this subject left with the record reading like those of us who have been on the other side are more or less inhumane and indifferent to human suffering, or have a calloused viewpoint, or anything like that.

I believe, Mr. President, that on this matter of abortion, abortion at will or by choice, whatever it may be called, by and large, as it is carried on and practiced now with private funds, or public funds, or anything else, it is an attack on the family.

That is the main issue; it is an attack on the human family. That is the view, and I believe, it is the view of millions and millions of Americans tonight. This matter ought not to be passed over here without something being said with reference to that viewpoint.

Very respectfully, I believe that whatever is an attack on the human family is an attack even on our form of government, because the human family is a major institution in the bedrock and foundation of our system of self-government.

This matter has gone on and on with its variations and is taken as a joke, now, in some places. I am talking about abortion—abortion at will, not referring to the fine points and distinctions about the kind and the state, but the idea of abortion at will or by choice I believe there is already a changing sentiment, a deeper concern and more determination on the part of a many many people to bring back a better substance and better consideration of this subject as it relates to the human family.

I know the Senator from Massachusetts is a splendid fine lawyer, I do not see how we can go on with the practice of trying to read into our own language certain interpretations that we expect the courts to follow or we expect the Secretary of the Department of HEW or any Secretary to follow, I know how easy it is to do. I know I am tempted to do it; I may be guilty of it somewhat myself at times. But I do not accept the idea that a Member of this body can get up on the floor as individuals and read in interpretations. We can give facts, but we have to make our own language express what we mean and get as near thereto as we can, rather than depend, for example, upon my idea of what it may mean and trying to make what I say have the effect of law, which it really cannot have.

Mr. SCHWEIKER. Will the Senator yield?

Mr. STENNIS. Yes, I am glad to yield.

I want to make clear that I am not trying to critcize or give anyone a lecture, but I sit here as a Member and as a lawyer who has had to listen to cases in court and make rulings, and I know the seriousness of those matters. It is no fun.

Mr. SCHWEIKER. I thank the distinguished Senator from Mississippi for his kind words about my work, but in turn, I thank him for the staunch support and the close cooperation he has given me in this problem ever since it has emerged. He has been one of the stalwart supporters of our conference position, both in the committee and on the Senate floor. I thank him for it.

I think he very aptly summed up the issue as I strongly feel it, as an attack on the human family, an attack on human life. Those of us who believe this way feel very deeply that that is what the issue is. I think he very articulately and very ably expressed it and I thank him for it.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. STENNIS. If the Senator wants me to yield the floor, I shall either yield it or yield to him.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, I defer to no one in respect for the distinguished Senator from Mississippi (Mr. STENNIS). But my distinguished chairman (Mr. MAGNUSON) and I have been proposing amendments and negotiating with the House, as is well known, for many months. When making amendments on this floor, we know what we intend by those amendments. When we debate those amendments on the floor, we make it clear to our colleagues what we intended by those amendments. And when the Senate votes upon those amendments, obviously, the Senate adopts the intent that is contained in the amendments.

That is all I wanted to do in trying to make clear what the intent was of the proponents of most of these amendments and the negotiators with the House as to what was said between the House conferees and the Senate conferees, both in and out of conference; and also what the House did in its debate upon this same legislation and the passage of the language which was before us tonight.

I think it is always helpful to a judge and jury to have the legislative intent when that judge or that jury is trying to determine what the legislature intended by certain language. Mr. President, I tried to define what was the legislative intent of that language, as the distinguished Senator from Mississippi has said he has done time after time, on many occasions, and as I think we all have tried to do. I think it is helpful to the judicial branch of Government when the legislative branch gives it some insight into what their intent was. That is what we have tried to do here tonight.

Mr. President, I shall not belabor this

point. I just want to make clear what my position was in the colloquy that I had with my distinguished chairman.

Mr. President, if it is in order, I move to reconsider the vote that was taken by the Senate on this language.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, will the Senator yield for just a very brief observation?

Mr. BROOKE. Yes, I yield.

Mr. JAVITS. We have very sharp differences, and I should like to affirm not only my enormous respect but my deep affection for the Senators who have spoken on the other side of this issue. When we speak about the humanity of the issue, that is our concept of it, and those gentlemen have the deepest sincerity and deepest feelings. They are passionately defending the very same highest human emotion. I hope my colleagues will understand that.

Mr. MAGNUSON. Mr. President, now that this matter is resolved in the Senate, I noticed, if I could get his attention, the distinguished Senator from California on the floor. I must say that we were very remiss in all these discussions between the House and the Senate on the question of what "prompt" means, or whether "grave" is serious, or "serious" is grave. At no time did we call upon the expert advice of the Senator from California.

I am sorry about that, because he might have cleared up a lot of the fog for us on what the words actually mean. That is why the Senator from Massachusetts and I spent a little time at least suggesting what we think they mean.

I apologize to the Senator. We should have called upon him, not as a Senator, but as an expert.

Mr. HAYAKAWA. The distinguished Senator from Washington does me too much credit altogether. My learned colleagues in the Senate have been dealing with words for a longer time than I have been and in a more important context than I have ever done.

No one knows better how to use words for their own purposes or broaden them for their own purposes or make them vague for their own purposes. They are all better at that than I am. Maybe after I have been a Member of this body for a number of years, I shall be as adept as they are.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Chair will observe that the Chair thought that perhaps the Senator from Washington thought the Senator from California was a Senator from Hawaii and therefore did not call upon him. [Laughter.]

Mr. MAGNUSON. So far as I am concerned, the Senate can now recess for a while, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1978—CONFERENCE REPORT

Mr. STENNIS. Mr. President, in cooperation with and in counsel with the Senator from Washington (Mr. MAGNUSON), for the Appropriations Committee and for him, I submit a report of the committee of conference on H.R. 9375 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses of the amendments of the Senate to the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 1, 1977.)

Mr. STENNIS. Mr. President, for the information of the membership—and this is important—we have not heard of any kind of special interest in this conference report in its present form, except with respect to the B-1 bomber. That is rescission of part of the 1977 appropriation for the B-1.

Mr. President, the House adopted the conference report yesterday by a voice vote.

The conference report appeared in the CONGRESSIONAL RECORD of Thursday, December 1, 1977, and the printed report, House Report 95-829, is also available. Therefore, I shall not go into detail on all of the items that were before the Conference Committee, but I will summarize and briefly review the recommendations of the conferees on major items.

The conference agreement and subsequent House action provides a grand total of $7,799,898,000 in new budget—obligational—authority for fiscal year 1978. This is $107,526,000 less than the $7,907,424,000 in budget estimates submitted by the President and considered by the House and Senate in connection with this bill. The conference agreement is $617,296,000 more than the bill as passed by the House and $90,348,000 less than the bill as passed by the Senate. Thus, new budget authority contained in the bill is very near the totals as approved by the Senate.

Major items in the bill include: $30 million for Federal crop insurance; $30 million for watershed and flood prevention operations; $36.6 million for agricultural conservation program; $44.2 million for Environmental Protection Agency research and development; $85 million for EPA abatement control; $4.5 billion for EPA waste treatment plant grants, the largest item in the bill; $67 million for surface mining reclamation and enforcement; $273 million for the Federal Energy Administration programs, now in the Department of Energy; $383 million for strategic petroleum reserves; $124 million for assistance to refugees from Cambodia, Vietnam, and Laos; $200 million for emergency fuel assistance to the poor and elderly; $80 million for the Clinch River breeder reactor project, one of the more controversial issues in the bill and before the Congress this year; $1.4 billion for SBA loans, principally to farmers; $423 million for Defense Department programs, principally involving acceleration of the cruise missile program; and $18 million for Amtrak.

Mr. President, some of these items were in contest.

On this last item regarding Amtrak, the House recommitted the first conference report on the bill with instructions to their conferees to recede to the Senate amendment providing $18 million for the Amtrak rail pasenger system. That has been done.

Several items were reported in disagreement and are outside of the conference report. The major items in this category were the $200 million appropriation for emergency fuel assistance for the poor and elderly under the Community Services Administration and the rescission of funds previously appropriated for the production of the B-1 bomber. The House yesterday by a rollcall vote of 182 to 181 receded and concurred in the Senate amendment providing $200 million for emergency fuel assistance. On the B-1 bomber rescission, the House rejected the Senate amendment and insisted on its disagreement with the Senate.

After disposition of the conference report, this matter on the B-1 will have to be dealt with further, probably at some time to be set within the next 10 days or near thereto and agreed on by the leaders and the membership.

I repeat here: The matter about the B-1 from a parliamentary standpoint has to be dealt with as more or less outside the conference report, and any action on the report here that I will ask for will not include action tonight on the B-1. I want to make that very clear.

Mr. President, I ask unanimous consent that a comparative statement on the conference amounts and House and Senate allowances be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SUPPLEMENTAL APPROPRIATION'S ACT, 1978 (H.R. 9375)—CONFERENCE SUMMARY

						Conference action compared with—		
Document No.	Agency and item	Estimates of new budget (obligational) authority, fiscal year 1978	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Estimates of new budget (obligational) authority, fiscal year 1978	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	CHAPTER I							
	DEPARTMENT OF AGRICULTURE							
	AGRICULTURAL PROGRAMS							
	Production, Processing, And Marketing							
H. Doc. 95-195	Office of the Secretary	$145, 000	$145, 000	$145, 000	$145, 000			
	Agricultural Marketing Service:							
	Marketing services			3, 708, 000	2, 000, 000	+$2, 000, 000	+$2, 000, 000	−$1, 708, 000
	Farm Income Stabilization							
	Federal Crop Insurance Corporation:							
	Subscription to capital stock			30, 000, 000	30, 000, 000	+30, 000, 000	+30, 000, 000	
	RURAL DEVELOPMENT PROGRAMS							
	Rural Development Assistance							
H. Doc. 95-223	Farmers Home Administration:							
	Very low-income housing repair grants	4, 000, 000	4, 000, 000	4, 000, 000	4, 000, 000			
	Agricultural Credit Insurance Fund:							
	Insured real estate loans			(100, 000, 000)				(−100, 000, 000)
	Conservation							
	Soil Conservation Service:							
	Watershed and flood prevention operations		30, 000, 000	26, 704, 000	30, 000, 000	+30, 000, 000		+3, 296, 000
	Agricultural Stabilization and Conservation Service:							
	Agricultural conservation program:							
	Advance authorization (contract authority)			36, 600, 000	36, 600, 000	+36, 600, 000	+36, 600, 000	
	(Liquidation of contract authority)			(36, 600, 000)	(36, 600, 000)	(+36, 600, 000)	(+36, 600, 000)	
	Total, chapter I:							
	New budget (obligational) authority	4, 145, 000	34, 145, 000	101, 157, 000	102, 745, 000	+98, 600, 000	+68, 600, 000	+1, 588, 000
	(Insured loans)			(100, 000, 000)				(−100, 000, 000)
	(Liquidation of contract authority)			(36, 600, 000)	(35, 600, 000)	(+36, 600, 000)	(+36, 600, 000)	
	CHAPTER II							
	INDEPENDENT AGENCIES							
	Environmental Protection Agency							
H. Doc. 95-209	Research and development	35, 000, 000	40, 500, 000	47, 000, 000	44, 200, 000	+9, 200, 000	+3, 700, 000	−2, 800, 000
H. Doc. 95-203 H. Doc. 95-223	Abatement and control	85, 000, 000	85, 000, 000	85, 000, 000	85, 000, 000			
H. Doc. 95-223	Construction grants	4, 500, 000, 000	4, 500, 000, 000	4, 500, 000, 000	4, 500, 000, 000			
	Total, Environmental Protection Agency	4, 620, 000, 000	4, 625, 500, 000	4, 632, 000, 000	4, 629, 200, 000	+9, 200, 000	+3, 700, 000	−2, 800, 000
	Veterans' Administration							
H. Doc. 95- 29	Construction, major projects			139, 100, 000				−139, 100, 000
S. Doc. 95- 55	Grants for construction of State extended care facilities	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000			
	Assistance for health manpower training institutions			3, 847, 000	3, 847, 000	+3, 847, 000	+3, 847, 000	
	Total, Veterans' Administration	5, 000, 000	5, 000, 000	147, 947, 000	8, 847, 000	+3, 847, 000	+3, 847, 000	−139, 100, 000
	Total, chapter II: New budget (obligational) authority	4, 625, 000, 000	4, 630, 500, 000	4, 779, 947, 000	4, 638, 047, 000	+13, 047, 000	+7, 547, 000	−141, 900, 000
	CHAPTER III							
	DEPARTMENT OF THE INTERIOR							
	FISH AND WILDLIFE AND PARKS							
	United States Fish and Wildlife Service							
	Resource management			2, 600, 000				−2, 600, 000
H. Doc. 95-236	Construction and anadromous fish	3, 600, 000	3, 600, 000	3, 600, 000	3, 600, 000			
	Total, Fish and Wildlife and Parks	3, 600, 000	3, 600, 000	6, 200, 000	3, 600, 000			−2, 600, 000
	ENERGY AND MINERALS							
	Geological Survey							
H. Doc. 95-223	Surveys, investigations, and research	5, 000, 000	5, 000, 000	2. 000, 000	2, 000, 000	−3, 000, 000	−3, 000, 000	
	Office of Surface Mining							
	Reclamation and Enforcement							
H. Doc. 95-223	Enforcement and research	24, 080, 000	24, 080, 000	30, 880, 000	30, 880, 000	+6, 800, 000	+6, 800, 000	
H. Doc. 95-223	Abandoned mine reclamation	36, 647, 000	36, 647, 000	36, 647, 000	36, 647, 000			
	Total, Office of Surface Mining Reclamation and Enforcement	60, 727, 000	60, 727, 000	67, 527, 000	67, 527, 000	+6, 800, 000	+6, 800, 000	

						Conference action compared with—		
Document No.	Agency and item	Estimates of new budget (obligational) authority, fiscal year 1978	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Estimates of new budget (obligational) authority, fiscal year 1978	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	CHAPTER III—Continued							
	DEPARTMENT OF THE INTERIOR—Continued							
	INDIAN AFFAIRS							
	Bureau of Indian Affairs							
H. Doc. 95-175 H. Doc. 95-236	Operation of Indian programs	6,381,000	8,054,000	7,224,000	8,374,000	+1,993,000	+320,000	+1,150,000
H. Doc. 95-236	Construction	2,163,000	1,866,000	2,166,000	2,166,000	+3,000	+300,000	
	Total, Bureau of Indian Affairs	8,544,000	9,920,000	9,390,000	10,540,000	+1,996,000	+620,000	+1,150,000
	TERRITORIAL AFFAIRS							
	Office of Territorial Affairs							
H. Doc. 95-223	Administration of territories	1,798,000	1,798,000	1,798,000	1,798,000			
	SECRETARIAL OFFICES							
	Office of the Solicitor							
H. Doc. 95-223	Salaries and expenses	1,100,000	1,100,000	1,100,000	1,100,000			
	Office of the Secretary							
H. Doc. 95-223	Salaries and expenses	250,000	250,000	250,000	250,000			
H. Doc. 95-223	Departmental operations	795,000	795,000	795,000	795,000			
	Total, Office of the Secretary	1,045,000	1,045,000	1,045,000	1,045,000			
	Total, Secretarial Offices	2,145,000	2,145,000	2,145,000	2,145,000			
	Total, Department of the Interior	81,814,000	83,190,000	89,060,000	87,610,000	+5,796,000	+4,420,000	−1,450,000
	RELATED AGENCIES							
	FOREST SERVICE							
	Forest protection and utilization: Forest land management			3,672,000	1,836,000	+1,836,000	+1,836,000	+1,836,000
	ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION							
	Operating expenses, fossil fuels			5,000,000	1,000,000	+1,000,000	+1,000,000	−4,000,000
	FEDERAL ENERGY ADMINISTRATION							
H. Doc. 95-223	Salaries and expenses	423,789,000		276,344,000	273,194,000	−150,595,000	+273,194,000	−3,150,000
H. Doc. 95-223	Strategic petroleum reserves	798,189,000	383,173,000	383,173,000	383,173,000	−415,016,000		
	Total, Federal Energy Administration	1,221,978,000	383,173,000	659,517,000	656,367,000	−565,611,000	+273,194,000	−3,150,000
	Total, Related Agencies	1,221,978,000	383,173,000	668,189,000	659,203,000	−562,775,000	+276,030,000	−8,986,000
	Total, chapter III: New budget (obligational) authority	1,303,792,000	466,363,000	757,249,000	746,813,000	−556,979,000	+280,450,000	−10,436,000
	CHAPTER IV							
	DEPARTMENT OF LABOR							
	Employment Standards Administration							
H. Doc. 95-223	Salaries and expenses	4,700,000	3,700,000	3,700,000	3,700,000	−1,000,000		
	Departmental Management							
H. Doc. 95-223	Salaries and expenses	1,270,000	1,270,000	1,270,000	1,270,000			
	Total, Department of Labor	5,970,000	4,970,000	4,970,000	4,970,000	−1,000,000		
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
	Health Resources Administration							
	Medical facilities guarantee and loan fund			(2,000,000)	(2,000,000)	(+2,000,000)	(+2,000,000)	
	EDUCATION DIVISION							
	Office of Education							
	Higher education		9,100,000		5,000,000	+5,000,000	−4,100,000	+5,000,000
H. Doc. 95-223	Student loan insurance fund:							
	Appropriation	15,948,000				−15,948,000		
	Authority to spend debt receipts	15,000,000	15,000,000	15,000,000	15,000,000			
	Total, Student loan insurance fund	30,948,000	15,000,000	15,000,000	15,000,000	−15,948,000		

SUPPLEMENTAL APPROPRIATION'S ACT, 1978 (H.R. 9375)—CONFERENCE SUMMARY—Continued

						Conference action compared with—		
Document No. (1)	Agency and item (2)	Estimates of new budget (obligational) authority, fiscal year 1978 (3)	New budget (obligational) authority, House bill (4)	New budget (obligational) authority, Senate bill (5)	New budget (obligational) authority, Conference (6)	Estimates of new budget (obligational) authority, fiscal year 1978 (7)	House bill (8)	Senate bill (9)
	Higher education facilities loan and insurance fund: Loan authority		(7,200,000)		(7,200,000)	(+7,200,000)		(+7,200,000)
	Total, Office of Education	30,948,000	24,100,000	15,000,000	20,000,000	−10,948,000	−4,100,000	+5,000,000
	Social Security Administration							
H. Doc. 95–227	Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States	71,700,000		124,000,000	124,000,000	+52,300,000	+124,000,000	
	Departmental Management							
H. Doc. 95–203	General departmental management	1,719,000		1,719,000	1,719,000		+1,719,000	
	Total, Department of Health, Education, and Welfare	104,367,000	24,100,000	140,719,000	145,719,000	+41,352,000	+121,619,000	+5,000,000
	RELATED AGENCIES							
	Community Services Administration							
	Community services program			200,000,000	200,000,000	+200,000,000	+200,000,000	
	Total, chapter IV:							
	New budget (obligational) authority	110,337,000	29,070,000	345,689,000	350,689,000	+240,352,000	+321,619,000	+5,000,000
	Appropriations	95,337,000	41,070,000	330,689,000	335,689,000	+240,352,000	+321,619,000	+5,000,000
	Authority to spend debt receipts	15,000,000	15,000,000	15,000,000	15,000,000			
	CHAPTER V							
	ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION							
H. Doc. 95–223	Operating Expenses	(17,000,000)	121,000,000	99,000,000	101,000,000	+101,000,000	−20,000,000	+2,000,000
	DEPARTMENT OF DEFENSE—CIVIL							
	DEPARTMENT OF THE ARMY							
	Corps of Engineers—Civil							
	Alaska Hydroelectric Development Fund			5,450,000	5,450,000	+5,450,000	+5,450,000	
	DEPARTMENT OF THE INTERIOR							
	Bureau of Reclamation							
	Upper Colorado River Storage Project (By transfer)			(875,000)	(875,000)	(+875,000)	(+875,000)	
	Total, chapter V:							
	New budget (obligational) authority	(17,000,000)	121,000,000	104,450,000	106,450,000	+106,450,000	−14,550,000	+2,000,000
	(By transfer)			(875,000)	(875,000)	(+875,000)	(+875,000)	
	CHAPTER VI							
	DEPARTMENT OF JUSTICE							
	Legal Activities							
H. Doc. 95–223	Salaries and expenses, general legal activities: (By transfer)	(1,445,000)	(1,445,000)	(1,445,000)	(1,445,000)			
H. Doc. 95–223	Salaries and expenses, Antitrust Division: (By transfer)	(1,223,000)	(1,223,000)	(1,223,000)	(1,223,000)			
	Total, Department of Justice (By transfer)	(2,668,000)	(2,668,000)	(2,668,000)	(2,668,000)			
	DEPARTMENT OF COMMERCE							
	General Administration							
H. Doc. 95–208	Salaries and expenses	1,350,000				−1,350,000		
	Bureau of the Census							
H. Doc. 95–174	Periodic censuses and programs	7,500,000	7,000,000	7,500,000	7,000,000	−500,000		−500,000
	Total, Department of Commerce	8,850,000	7,000,000	7,500,000	7,000,000	−1,850,000		−500,000
	RELATED AGENCIES							
	Small Business Administration							
H. Doc. 95–223 S. Doc. 95–69	Disaster loan fund	1,400,000,000	1,400,000,000	1,400,000,000	1,400,000,000			
	Total, chapter VI:							
	New budget (obligational) authority	1,408,850,000	1,407,000,000	1,407,500,000	1,407,000,000	−1,850,000		500,000
	(By transfer)	(2,668,000)	(2,668,000)	(2,668,000)	(2,668,000)			
	CHAPTER VII							
	DEPARTMENT OF THE TREASURY							
	Internal Revenue Service:							
H. Doc. 95–223	Salaries and expenses	(285,000)				(−285,000)		
H. Doc. 95–223	Accounts, collection and taxpayer service	(7,476,000)				(−7,476,000)		
H. Doc. 95–223	Compliance	(3,839,000)				(−3,839,000)		
	Total, Internal Revenue Service	(11,600,000)				(−11,600,000)		

Document No.	Agency and item	Estimates of new budget (obligational) authority, fiscal year 1978	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with—		
						Estimates of new budget (obligational) authority, fiscal year 1978	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	CHAPTER VII—Continued							
	EXECUTIVE OFFICE OF THE PRESIDENT							
H. Doc. 95-223	National Security Council	(160,000)				(−160,000)		
	INDEPENDENT AGENCIES							
	General Services Administration:							
	Federal Buildings Fund:							
	Limitation on availability of revenue:							
	Construction		(48,913,000)	(34,130,000)	(48,913,000)	(+48,913,000)		(+14,783,000)
	General activities:							
	Allowances and Office Staff for Former Presidents		54,000	54,000	54,000	+54,000		
	Total, chapter VII:							
	New budget (obligational) authority		54,000	54,000	54,000	+54,000		
	(Increase in limitations)		(48,913,000)	(34,130,000)	(48,913,000)	(+48,913,000)		(+14,783,000)
	CHAPTER VIII							
	DEPARTMENT OF DEFENSE—MILITARY							
S. Doc. 95-57	Operation and maintenance, Defense agencies	3,400,000	3,400,000	3,400,000	3,400,000			
	Aircraft procurement, Navy		151,600,000		73,900,000	+73,900,000	−77,700,000	+73,900,000
S. Doc. 95-57	Aircraft procurement, Air Force	33,000,000	33,000,000	33,000,000	33,000,000			
95-187	Rescission of prior year budget authority	−462,000,000		−462,000,000 [1]				
S. Doc. 59-57	Missile procurement, Air Force	64,000,000	64,000,000	64,000,000	64,000,000			
95-187	Rescission of prior year budget authority	−1,400,000		−1,400,000	−1,400,000		−1,400,000	
S. Doc. 95-57	Research, development, test and evaluation, Air Force	333,600,000	233,470,000	260,500,000	240,500,000	−93,100,000	+7,030,000	−20,000,000
S. Doc. 95-57	Research, development, test, and evaluation, Defense agencies	15,000,000	9,000,000	9,000,000	9,000,000	−6,000,000		
	Total, chapter VIII:							
	Net budget (obligational) authority	−14,400,000	494,470,000	−93,500,000	−39,600,000	−25,200,000	−534,070,000	+53,900,000
	New budget (obligational) authority	449,000,000	494,470,000	369,900,000	423,800,000	−25,200,000	−70,670,000	+53,900,000
	Rescission of prior year budget authority	−463,400,000		−463,400,000 [1]				
	CHAPTER IX							
	DEPARTMENT OF TRANSPORTATION							
	Federal Railroad Administration							
	Grants to the National Railroad Passenger Corporation (Amtrak)			18,000,000	18,000,000	+18,000,000	+18,000,000	
	Total, chapter IX: Net budget (obligational) authority			18,000,000	18,000,000	+18,000,000	+18,000,000	

Title No.	Agency and item	New budget (obligational) authority, fiscal year 1977 (enacted to date)	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with—		
						New budget (obligational) authority, fiscal year 1977 (enacted to date)	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	CHAPTER X							
	FOREIGN OPERATIONS							
	DEPARTMENT OF STATE							
H. Doc. 95-223	Migration and refugee assistance	6,300,000		6,300,000	6,300,000		+6,300,000	
	SUMMARY							
I	Agriculture:							
	New budget (obligational) authority	4,145,000	34,145,000	101,157,000	102,745,000	+98,600,000	+68,600,000	+1,588,000
	(Insured loans)			(100,000,000)				(−100,000,000)
	(Liquidation of contract authority)			(36,600,000)	(36,600,000)	(+36,600,000)	(+36,600,000)	
II	Housing and Urban Development—Independent Agencies:							
	New budget (obligational) authority	4,625,000,000	4,630,500,000	4,779,947,000	4,638,047,000	+13,047,000	+7,547,000	−141,900,000
III	Interior and Related Agencies:							
	New budget (obligational) authority	1,303,792,000	466,363,000	757,249,000	746,813,000	−556,979,000	+280,450,000	−10,436,000
IV	Labor and Health, Education and Welfare:							
	New budget (obligational) authority	110,337,000	29,070,000	345,689,000	350,689,000	+240,352,000	+321,619,000	+25,000,000
	Appropriations	95,337,000	14,070,000	330,689,000	135,689,000	+240,352,000	+321,619,000	+25,000,000
	Authority to spend debt receipts	15,000,000	15,000,000	15,000,000	15,000,000			
V	Public Works:							
	New budget (obligational) authority		121,000,000	104,450,000	106,450,000	+106,450,000	−14,550,000	+2,000,000
	(By transfer)			(875,000)	(875,000)	(+875,000)	(+875,000)	
VI	State, Justice, Commerce and the Judiciary:							
	New budget (obligational) authority	1,408,850,000	1,407,000,000	1,407,500,000	1,407,000,000	−1,850,000		−500,000
	(By transfer)	(2,668,000)	(2,668,000)	(2,668,000)	(2,668,000)			
VII	Treasury, Postal Service and General Government:							
	New budget (obligational) authority		54,000	54,000	54,000	+54,000		
	(Increase in limitations)		(48,913,000)	(34,130,000)	(48,913,000)	(+48,913,000)		(+14,783,000)
VIII	Defense:							
	Net budget (obligational) authority	−14,400,000	494,470,000	−93,500,000	−39,600,000	−25,200,000	−534,070,000	+53,900,000
	New budget (obligational) authority	449,000,000	494,470,000	369,900,000	423,800,000	−25,200,000	−70,670,000	+53,900,000
	Rescission of prior year budget authority	−463,400,000		−463,400,000 [1]				

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[1] Rescission remains in disagreement between House and Senate.

SUPPLEMENTAL APPROPRIATION'S ACT, 1978 (H.R. 9375)—CONFERENCE SUMMARY—Continued

						Conference action compared with—		
Title No.	Agency and Item	New budget (obligational) authority, fiscal year 1977 (enacted to date)	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	New budget (obligational) authority, fiscal year 1977 (enacted to date)	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
IX	Transportation:							
	New budget (obligational) authority			18,000,000	18,000,000	+18,000,000	+18,000,000	
X	Foreign Operations:							
	New budget (obligational) authority	6,300,000		6,300,000	6,300,000		+6,300,000	
	Grand total:							
	New budget (obligational) authority	7,907,424,000	7,182,602,000	7,890,246,000	7,799,898,000	−107,526,000	+517,296,000	−90,348,000
	Appropriations	7,892,424,000	7,167,602,000	7,875,246,000	7,774,898,000	−107,526,000	+517,296,000	−90,348,000
	Authority to spend debt receipts	15,000,000	15,000,000	15,000,000	15,000,000			
	Rescission of prior year budget authority	−463,400,000		−463,400,000	[1]			
	(Insured loans)			(100,000,000)				(−100,000,000)
	(By transfer)	(2,668,000)	(2,668,000)	(3,543,000)	(3,543,000)	(+875,000)	(+875,000)	
	(Increase in limitations)		(48,913,000)	(34,130,000)	(48,913,000)	(+48,913,000)		(+14,783,000)
	(Liquidation of contract authority)			(36,600,000)	(36,600,000)	(+36,600,000)	(+36,600,000)	

Mr. BROOKE. Mr. President, I am pleased to recommend adoption of the conference report on the Labor-HEW chapter—chapter IV—of the fiscal year 1978 supplemental appropriations bill.

The Labor-HEW chapter provides $350,689,000 to take care of a few important requirements which have developed since action on the regular fiscal 1978 bill.

I am glad to report that we were able to sustain most of our amendments to the House bill. I am particularly pleased that the House has voted to accept our amendment to provide $200 million for the emergency fuel assistance program under the Community Services Administration. The conferees were unable to agree on this item, but the full House has voted to recede and concur with the Senate action. This means that $200 million will be available, at the outset of the winter, to provide the poor and near poor, including the elderly, with emergency assistance to pay fuel bills in the event of another severe winter. The funds are to be made available on a contingency basis, and will be directed only to those areas with energy emergencies. I commend my colleagues in the House for their foresight in supporting this measure.

I am glad the conferees were able to reach agreement on funding for the intercultural facilities to be built at Tufts University in Boston and at Georgetown University. Tufts' Fletcher School of Law and Diplomacy and Georgetown's School of Foreign Service are two of the Nation's oldest and finest institutions for the training of foreign service personnel. They will serve as excellent models for the testing of the intercultural center concept.

I was pleased, too, that the House agreed to the Senate's amendment to provide $124 million for the continued operation of the Indochinese refugee program. The program will begin a planned, orderly phaseout over the next 4 years.

I also was pleased that the House and Senate agreed on the need for additional staff for the Labor Department. This action will strengthen the enforcement of minimum wage and overtime laws in industries with large numbers of undocumented workers, and will improve the handling of the growing workload of trade adjustment assistance cases. And we agreed to the borrowing authority requested by the administration for mandatory default payments on guaranteed student loans.

We have limited Labor-HEW items to those with an immediate need for appropriations. I recommend them to the Senate and urge adoption of the conference report.

Mr. GLENN. Mr. President, the House recommitted the supplemental conference report by a vote of 258 to 138 and receded entirely on chapter IX—the Department of Transportation provisions. They ordered restoration of the $18 million contained in the Senate version and were silent on the remainder of the Senate language. The Senate report stated that Amtrak should continue the National Limited over the present route—through Dayton, Ohio and Richmond, Ind.—utilizing part of the $18 million for that purpose.

The full House and the House conferees had the opportunity of rejecting that language, but they did not; they remained silent.

Since the House restored the $18 million and remained silent on Senate language continuing the present route of the National, and since the only language remaining concerning the National is the Senate report, does the distinguished chairman believe that it is the intent of the Congress that the National continue to travel over its present route?

Mr. MAGNUSON. I certainly agree with the Senator's statement. In fact, I asked the Appropriations Committee staff to check with Mr. Reistrup on this matter and we have received his assurances that he intends to continue this train on its present route for the forseeable future.

NATIONAL LIMITED ROUTE TO STAY IN DAYTON

Mr. GLENN. Mr. President, as a result of congressional action on the Amtrak supplemental appropriations, the National Limited will continue to serve Dayton for the foreseeable future.

A switching of the main east-west freight line of Conrail's north of the city of Dayton lead to the decision by Amtrak to travel the same route—thus depriving Dayton of rail passenger service the Congress said the city should have. Those of us who have looked into the situation in some detail feel that the northern route would kill the train: Freight traffic of from 40 to 60 freight trains a day would effectively interdict the passenger train—destroying its now favorable schedule; plus, the shifting of routes would cause loss of riders from Dayton and Richmond. We feel the train would soon join the "hit" list of trains suffering from low ridership and high deficits.

Today the Senate approved legislation which will require the National to continue to be routed via Dayton. I am very pleased that the Congress has made clear its intent that Dayton shall continue to be served by the National. Those of us who have worked for the past 6 months to save this train for Dayton passengers feel that the effort has been worth the result. The National will continue to run on a route and a schedule which will permit introduction of new equipment and the continued increase in ridership.

Both the House and Senate have made clear that the "rail experiment" shall continue. Hopefully, the result will be to attract increased long- and short-haul passenger traffic to the rails—getting people out of their cars and into safer and more energy-efficient trains.

Mr. President, I wish to salute the people of Dayton, the Dayton Chamber of Commerce, the city government of Dayton, and the Ohio Rail Transportation Authority for their refusal to accept what many said was the inevitable. I also wish to thank my colleagues in the House who made clear that Congress remain committed to making rail service an increasingly important part of a balanced national transportation system.

Dayton is an example of what can happen when you provide decent scheduling and adequate equipment on a rail line. Dayton's train station has been named the "Station of the Year" for its facilities and services. Ridership since the change in schedules has more than tripled in Dayton.

In closing, Mr. President, I would like to point out that preserving this train now will mean that when track repairs are completed between Cincinnati and Indianapolis, the National is scheduled to run between Dayton, Cincinnati, and Indianapolis, adding millions of potential rail passengers to the route. Hopefully, the National will become one of Amtrak's most successful long-haul trains, and continue to provide transcontinental service across America.

Mr. STENNIS. Mr. President, I ask unanimous consent that a statement by the chairman of the Subcommittee on

Agriculture Appropriations, the Senator from Missouri (Mr. EAGLETON) on this conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement ordered to be printed in the RECORD is as follows:

STATEMENT OF SENATOR EAGLETON

The conference agreement with respect to Chapter I, Agriculture, includes new budget authority of $102,745,000. This is $68.6 million above the House bill and $1,588,000 above the Senate bill. I might add that the Senate considered and took action on a number of items not considered by the House, and for which there were no budget estimates; although, there was a clear need for further appropriations.

I would like to summarize the conference agreement briefly, and outline what is funded.

First, there is an appropriation of $145,000 for executive level pay raises. Both Houses included these funds. Next, the conferees agreed to provide $2 million for the Agricultural Marketing Service's new governmentwide Food Quality Assurance Program. The Senate had provided $3.7 million, but it was believed by the conferees that the work could be accomplished with a smaller budget. The conferees agreed to consider a 1978 supplemental if this funding is not adequate.

An appropriation of $30 million is provided in the conference agreement for Subscription to Capital Stock of the Federal Crop Insurance Corporation. Last month, the Department advised the conferees that the Corporation expected to be out of funds to meet contractual obligations for claims by early December of this year. We have just recently been advised that because of a lower volume of claims, this date has been revised to the end of December. Therefore, these funds will still be needed.

For the Farmers Home Administration, the conference agreement includes $4 million for very-low income housing repair grants, to be used primarily for weatherization of homes for the elderly.

With respect to the additional authority of $100 million included only in the Senate bill for farm ownership loans, the conferees decided to defer action at this time. In lieu of additional authority, the conferees requested that a study of various loan programs be completed, paying particular attention to the farm credit situation.

The conference agreement provides $30 million for Section 216 emergency watershed and flood prevention operations. Here, the Senate had funded only the level of known applications, while the House included an additional allowance for future emergency activities. Conferees were advised that additional applications in the amount of $2.7 million had been identified subsequent to the Senate action.

Finally, the conference agreement includes $36,600,000 for the Agricultural Conservation Program, Drought and Flood Conservation Program. This was the same as the Senate amount, and will provide for cost-sharing assistance in drought areas. The conferees agreed that moneys appropriated for this program should be for reimbursement to farmers for expenditures incurred beginning on the date of the Presidential disaster declaration as authorized by law.

This completes the summary of the conference agreement on Chapter I.

Mr. STENNIS. Mr. President, with the explanation I have already made that this motion now that I make does not include the one question which we will discuss some later, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion to adopt the conference report.

The motion was agreed to.

Mr. STENNIS. I thank the Chair.

Mr. President, continuing, I ask that the Chair lay before the Senate certain amendments in disagreement.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 8, 10, 15, 25, 28, 29, 31, 32, 35, 44, 48, 49 through 51 inclusive, and 53 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"AGRICULTURAL MARKETING SERVICE, MARKETING SERVICES

"For additional amount for the 'Agricultural Marketing Service, Marketing Services', $2,000,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: table 3 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $8,374,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

FEDERAL ENERGY ADMINISTRATION, SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $273,194,000, of wihich $253,110,000 shall become available only upon enactment of authorizing legislation as follows: (1) for conservation grants for schools and health care facilities, $200,000,000; for conservation grants for local government buildings, $25,000,000; for grants for financial assistance to utility regulatory commissions, $6,630,000; for solar heating and cooling installations in Federal buildings, $20,000,000; to remain available for obligation until September 30, 1979; and (2) for administration of grants for schools and health care facilities, local government buildings, and utility rate reform, $1,480,000; *Provided,* That of the total amount of this appropriation, not to exceed $6,000,000 shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94–163; *Provided further,* That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $62,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: $15,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 209. The Secretary of Transportation shall, not later than 60 days after the date of enactment of this Act, designate as a route on the National System of Interstate and Defense Highways, from mileage withdrawn from such System before the date of enactment of this Act under authority of 23 U.S.C. 103(e), and which is available for such a designation, 1.5 miles in the State of Washington for a connection with Interstate Route 5 and the City of Tacoma, Washington.

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill.

Mr. STENNIS. Mr. President, those mentioned in the opening statement are included, and I repeat that these items now being presented by the Chair do not include this B–1 item, which will come up next.

So I move, Mr. President, that the Senate now concur en bloc in the amendments of the House to the amendments of the Senate numbered 1, 7, 16, 22, 23, 27, 37, and 52.

Without objection, the motion was agreed to.

Mr. STENNIS. Mr. President, that concludes those matters.

That does conclude action, as I understand the parliamentary situation, on the conference report and amendments of the House to the Senate amendments except this outside item, which was the B–1, which is a rescission amendment that was in the bill, a rescission of funds appropriated for fiscal year 1977 put in the bill by the Senate committee under the Senate rules, authority that we have had for many years under the Senate rules to rescind appropriations with equal authority that we have to make appropriations, but that is a separate matter, and there has been consideration.

The majority leader, Mr. ROBERT C. BYRD, conferred by telephone with the senior Senator from North Dakota and went over these matters, not including the B–1, which was a matter that was left to the discretion here of those of us who are managing the bill, and we have already presented them. The B–1 was definitely to go over for some future date perhaps about 10 days from now, as I have said, to be worked out by the leadership after reasonable notice.

So the action here tonight will leave the B–1 on the table, so to speak, without prejudice, to be an open question. I propose to make a motion that we reject the House's action on the B–1 money. Anyone else may make a motion to accept the House's action to not rescind that money. The issue then will be open to debate, of course.

I am emphasizing that sum because there have been some inquiries about it, and I have gone into it again even today on its merits. I am not going to argue that matter now. But I have supported the B–1 for a long time, many years. In fact, we had it before our preparedness subcommittee when I was chairman, way back. But we called on the President, whoever he might be—we passed a law in 1976, that the President would have to make a finding, a conclusion. It turned out to be Mr. Carter, and he made his recommendation, on June 30 I recall. I took the position then, not knowing what his ruling was going to be, but I said we must not use up the rest of the year now arguing it. We must move forward and see what can be done about alternatives, and we have passed some authorizations.

To bring the picture briefly in focus, we have passed some authorization bills on this subject, and then some appropriations bills on it, and they have been approved by the House of Representatives and the Senate, and they are in process now.

So, back to this rescission matter only, and it relates primarily to the bombers No. 5, 6, and 7, as I recall, some research has already been provided with fresh funds, new funds for 1979, and that research will continue. This is just a question of using the remainder of the old 1977 money. So it will be an open question for everyone.

I appreciate the courtesy accorded me here. I learned of the interest in this matter just a short time ago of the Senator from California, who is present in the Chamber, and he and I have chatted about it a little. Does the Senator wish to say something?

Mr. HAYAKAWA. No.

Mr. STENNIS. All right.

I say to the Members of the body that is all I know about the facts. Unless there are some questions with reference to the matter, I shall yield.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator from Washington.

Mr. MAGNUSON. I had to leave the Chamber for just a few minutes.

Mr. STENNIS. The Senator from Washington is really in charge of this bill, and I yield the floor to him. I am delighted to yield to him.

Mr. MAGNUSON. I understand in the supplemental bill that came back from the House of Representatives, which the Senator motioned to bring up, there are three items in the bill of some importance. Of the three items involved, the Senate put in $18 million on Amtrak to keep it going for a period of time until we could look at the whole system. The original House figure was zero.

The House voted to instruct their conferees to accept our figure. That would keep everything in almost status quo until about the first part of March, or the last of February. Then we will have to take another look at it when they come in with their overall plan on different routes and what they intend to do.

The other item was the $200 million which involved emergency fuel payments to people in different sections of the country.

There was a great deal of argument on how you do it, whether you guarantee a loan to winterize a home or whether you pay for fuel costs. The $200 million is for low-income people. Somebody would do it for them, and they would get paid for it.

The other item was the B–1 to which the Senator from Mississippi has been directing himself here in the Chamber.

So the Senate is in the position to accept the $18 million on the Amtrak. The House has also accepted the $200 million that we put in on the fuel assistance. The only matter now not in dispute but in controversy is that the House voted to go ahead with the B–1, and I understand that means there are two airplanes involved. Is that correct?

Mr. STENNIS. Three.

Mr. MAGNUSON. Three airplanes involved.

The Senator from Mississippi did not mention this, but the Senate committee had a rollcall vote on this matter.

Mr. STENNIS. Yes.

Mr. MAGNUSON. We voted. There were two votes, I think.

Mr. STENNIS. Yes, that is right.

Mr. MAGNUSON. Two votes to go ahead with the B–1.

Mr. STENNIS. Yes.

Mr. MAGNUSON. And this refers to them. I forget the exact figure. I shall put it in the RECORD.

Mr. STENNIS. As to these funds the Senator is correct. The vote was 21, I think, to 2.

Mr. MAGNUSON. Voted to defer the three planes.

Mr. STENNIS. Nos. 5, 6, and 7, if the Senator will yield, just so the record will show.

Mr. MAGNUSON. That is right, 5, 6, and 7.

So the Senator from Mississippi is propounding the question. What should the Senate do now that the House of Representatives has voted? I understand that he is suggesting, which I agree with, that we stick to our position because of that overwhelming vote of the people who know a little more about it, I hope, in the Appropriations Committee, having hearings back and forth, and everything else—to stick to the Senate's position that we do not accept their particular version or their conclusion on the B–1, is that correct?

Mr. STENNIS. The Senator is correct. He stated the facts correctly and it is well said.

So, Mr. President, while this is a little repetitious——

Mr. MAGNUSON. Now, I want to ask a question because everybody will be asking me and you and the Senator from California, what is your opinion and when are we going to vote on this or what we do about it? What Senate action will be taken?

Mr. STENNIS. The best prospects that I know of, and I know about the prospective planning——

Mr. MAGNUSON. I know the Senator has worked hard today to try to find out.

Mr. STENNIS. The week after next, you see. We will convene here on the 19th or the 20th. There will be time for notice, and everyone can be here, and that is what the leadership now has in mind. But that is a tentative date.

Mr. MAGNUSON. May I make one other observation?

Mr. STENNIS. Yes, I yield gladly.

Mr. MAGNUSON. Because there are some people who ask can we wait that long.

Mr. STENNIS. Yes.

Mr. MAGNUSON. If the supplemental—and I went through it with a fine tooth comb, and the Senator from Mississippi did—there is really nothing—well, everything is an urgency for people who want extra money, and I understand that, but there is really nothing Earth shaking about any urgency respecting any part of the bill except the Vietnam refugee problem. That is the only one on which there is apparently, from all the testimony we heard, some urgency. So delaying it for this period of time, other than that particular problem, I do not think is going to make a great deal of difference.

Mr. STENNIS. Yes.

Mr. MAGNUSON. I wanted to sustain the Senator from Mississippi in that request.

Mr. STENNIS. Well, that is a very valuable contribution.

Mr. MAGNUSON. Yes.

Mr. STENNIS. Mr. President, at this point—and then I will be glad to——

Mr. MAGNUSON. But there is that refugee problem in there that is of some importance.

Mr. STENNIS. There are only a few days, and I want to yield to the Senator from California now, if he wishes, but at this point in the RECORD will be a good place to state that when we do consider disposition of this B–1 matter, I will move that the Senate further insist on its amendment numbered 43—that is the amendment that relates to the rescission of the funds for the B–1—and I will request a conference with the House thereon and request that the Chair be authorized to appoint conferees on the part of the Senate.

So in that way everything here will have been disposed of.

I am glad to yield to the Senator from California. May we have it quiet so that the Senator can be heard and understood.

Mr. HAYAKAWA. Mr. President, I thank the distinguished Senator from Mississippi. I look forward to the decision and completion of our deliberations on this matter. My staff has been alerted to this discussion, and we shall take part in the discussion. I thank the Senator very much.

Mr. STENNIS. I thank the Senator very much.

So, Mr. President, the matter will be held in abeyance, as I understand the parliamentary situation.

We are not sending it back to the House because we have not finished it. There was not time for the membership to be given proper notice, travel time, and so forth. So it is being held here for that purpose.

When it is disposed of, as to the B–1 question, if it is voted to go to conference, it will go and, if not, it will not go. So, Mr. President, if there are no other questions I yield the floor.

THE B–1 BOMBER

Mr. DOLE. Mr. President, I do not intend to stand before you today to present new supporting evidence on the B–1 bomber issue. The supporting factual evidence has long been presented. My intent, Mr. President, is to remind my colleagues of the importance of the B–1 bomber, especially in light of recent reports stating the U.S. declining strategic position and limited strategic weapons.

Mr. President, the Senator from Kansas believes the United States is truly at a crossroads with respect to national defense. The factual arguments that have been made before us many times bear this out.

MAINTAINING THE TRIAD DEFENSE

As most of us realize, our Nation's deterrent strategy against attack is based upon the triad concept consisting of land-based ballistic missiles, sea-launched ballistic missiles, and manned strategic bombers. Each of these components supports and complements the others in an attempt to complicate the enemy's defense planning and reduce his ability to launch a successful strike against our country. If we diminish or eliminate any one leg of this three prong defense system, we place a greater burden on the other two and increase our vulnerability.

A WEAK TRIAD

Mr. President, we have repeatedly been warned by experts that our Minuteman missile force is becoming increasingly vulnerable to the improved Soviet first-strike capability. Some, however, will respond to this concern by arguing that we have the MX missile. However, the MX project is years away from production and will be extremely costly.

Let us take a look at our submarine-launched ballistic missile. Recently, it was reported that the delivery of the first of our Trident submarines will be delayed until 1981. It has been estimated that it is presently at a $400 million cost overrun.

Then we have the manned bomber, the B–1, whose fate will be determined by this congressional body. Far from being an outmoded weapon system, the B–1 remains a vital, reliable component of our overall defense network. Of the three components of the triad, the manned bomber remains the most flexible and controllable system. In the ever-increasing nuclear environment, these qualities are particularly important.

WHY WE NEED THE B–1 BOMBER

In the final analysis, a manned bomber is the most accurate, proven delivery system. In fact, it is the only U.S. weapon system that has actually been used under combat conditions, where it demonstrated its effectiveness and capabilities. Mr. President, the Senator from Kansas believes it is vital that the manned bomber be retained as a principle component.

B–1 AND SALT II

Mr. President, the question as to why we should revive the B–1 program can be answered very easily in light of the uncertainties surrouunding the SALT II negotiations. Mr. President, the SALT II talks are not doing very well. Everyday we read in the newspapers that the negotiations are not in favor of the United States. Why should we further jeopardize our position in the SALT talks by discontinuing the B–1 program?

Mr. President, because we simply do not know what will happen to the strategic balance of power in the coming years, the Senator from Kansas believes that we must insure, for the American people, an effective national defense—the B–1 bomber can help provide that capability.

NATIONAL DEFENSE

Mr. President, this is an issue that goes beyond simple considerations of costs or special interest—it is an issue that bears directly on national survival.

My own reasoning, and that of many of my colleageus, leads to the conclusion that our defense interests are best served by maintaining and updating our manned bomber system.

Once again, as in the past, the Senator from Kansas strongly supports the revival and maintenance of the B–1 bomber project.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there any further matter to be brought before the Senate?

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 8212 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 8212 a private relief bill be held at the desk pending further disposition, with the understanding that the bill will be referred to the Finance Committee at the request of the chairman, inasmuch as Senator LONG is unavailable at the moment to clear the unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 11 A.M., MONDAY, DECEMBER 12, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senate stand in adjournment until the hour of 11 o'clock a.m., Monday, December 12, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER PERMITTING INTRODUCTION OF BILLS AND RESOLUTIONS AND SUBMISSION OF STATEMENTS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, Senators may have between the time the Senate convenes at 1 o'clock p.m. and 5 o'clock p.m. to introduce bills and resolutions, and submit statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO BUSINESS BE TRANSACTED ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no business be transacted on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRO FORMA SESSION ON DECEMBER 12, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate meets on December 12, 1977, it be a pro forma session only, with no speeches and no business, but that it be strictly a pro forma session, which means that it would last just long enough for the Chair to convene the Senate and adjourn it.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM DECEMBER 12, 1977, UNTIL 11 A.M., THURSDAY, DECEMBER 15, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on December 12, 1977, at the conclusion of the pro forma session, the Senate stand in adjournment until the hour of 11 o'clock a.m., Thursday, December 15, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTIONS WHILE SENATE IS NOT IN SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the period from the instant date until 11 o'clock a.m., December 15, 1977, the Secretary of the Senate be authorized to receive messages from the House of Representatives and from the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE VICE PRESIDENT, THE PRESIDENT OF THE SENATE PRO TEMPORE, THE ACTING PRESIDENT PRO TEMPORE, AND THE DEPUTY PRESIDENT PRO TEMPORE TO SIGN BILLS AND JOINT RESOLUTIONS WHILE THE SENATE IS NOT IN SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the period extending from the instant date until 11 o'clock a.m., Thursday, December 15, 1977, the Vice President of the United States, the President of the Senate pro tempore, the Acting President pro tempore, and the Deputy President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR SUBMISSION OF CONFERENCE REPORTS FOR PRINTING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that conference reports may be submitted for printing at any time during the period extending from the close of business today until 11 a.m. on December 15, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this means that there will be no votes tomorrow, no transaction of business tomorrow. There will be no votes on Monday, December 12, no transaction of business whatsoever on Monday, December 12; no speeches, no introduction of bills, resolutions, petitions, or memorials, on December 12.

It means that on Thursday, December 15, business may be transacted and conference reports may be acted upon. It may very well be that the social security conference report will be ready for action at that time, the conference report on legal services may be ready for action at that time, and there may be various and sundry other conference reports that could be acted on Thursday, December 15. Quite possibly, the matter affecting the B-1 could be acted upon on Thursday, December 15.

The leadership on both sides of the aisle will attempt to inform Senators on our respective sides as to that prospect if we are able to have that information available to us in time. In any event, Senators should be prepared to be present for rollcall votes on December 15.

Mr. HAYAKAWA. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. HAYAKAWA. It was my understanding that the B-1 bomber matter is not to be taken up until after December 19.

Mr. ROBERT C. BYRD. That was the earlier information that was given out. I think I probably am partially responsible for that information having been given out. However, I think that the record should show that it will be quite possible that we will dispose of that matter on December 15. I think our colleagues should be so informed.

Mr. HAYAKAWA. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to file reports during the hours between 1 p.m. and 5 p.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 1 p.m. on tomorrow.

The motion was agreed to; and, at 6:55 p.m., the Senate adjourned until tomorrow, Thursday, December 8, 1977, at 1 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 7, 1977:

IN THE COAST GUARD

Coast Guard nominations beginning Robert F. Melsheimer, to be commander, and ending Kent H. Williams, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 4, 1977.

IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Archibald J. Patrick, to be captain, and ending Jeffrey W. Greene, to be ensign, which nominations were received by the Senate on November 21, 1977, and appeared in the CONGRESSIONAL RECORD on November 22, 1977.

HOUSE OF REPRESENTATIVES—*Wednesday, December 7, 1977*

The House met at 10 o'clock a.m.

The Chaplain, the Reverend Edward G. Latch, D.D., offered the following prayer:

By this shall all men know that you are My disciples, if you have love for one another.—John 13: 35.

Eternal Father, make us conscious of Thy presence in the duties of this day that our work done may be done as well as we can do it. When we are weak and weary, strengthen us. When we are discouraged, encourage us. When we falter, steady us. When we become anxious and troubled about many things, grant us Thy peace. When we would give way to ill will, lift us up to the high plane of good will. Thus may we live from day to day working and worshipping to make our Nation a better nation and our world a better world where people can live together humbly, peacefully, justly, and with love in every heart. Amen.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. FOLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 766]

Addabbo
Alexander
Ambro
Andrews, N.C.
Armstrong
Ashley
Badillo
Barnard
Beilenson
Blanchard
Bolling
Bonker
Broyhill
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Byron
Cavanaugh
Chisholm
Clausen, Don H.
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Davis
Dellums
Dent
Dickinson
Diggs
Dingell
Downey
Drinan
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fenwick
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gibbons
Goldwater
Hall
Hammerschmidt
Harrington
Harsha
Hawkins
Hillis
Holland
Ireland
Johnson, Calif.
Kasten
Kastenmeier
Kelly
Koch
Krueger
LaFalce
Le Fante
Leggett
Lent
Lundine
McCloskey
McDade
McDonald
McHugh
Madigan
Markey
Marriott
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Mikulski
Milford
Miller, Calif.
Moffett
Mollohan
Moss
Murphy, N.Y.
Nichols
Nolan
Patterson
Pattison
Pike
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Santini
Sarasin
Sawyer
Scheuer
Sebelius
Shipley
Skubitz
Solarz
Staggers
Steed
Stockman
Symms
Teague
Thompson
Traxler
Tucker
Udall
Ullman
Vander Jagt
Walker
Waxman
Weaver
Whalen
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Young, Alaska
Zablocki

The SPEAKER pro tempore (Mr. KAZEN). On this rollcall 297 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3722) entitled "An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 305) entitled "An act to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes."

GOSHEN, IND., CHAMBER OF COMMERCE TO HEAR GERALD R. FORD ON CHAMBER'S 25TH ANNIVERSARY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, this evening a most significant event takes place in the district I am privileged to represent in Congress, and I deeply regret that the heavy legislative schedule will prevent my being on hand.

The event of which I speak is the 25th anniversary of the Goshen, Ind., Chamber of Commerce which will be marked by the visit of a distinguished guest of honor, our former colleague and the former President of the United States, the Honorable Gerald R. Ford.

During its two-score plus one years, the Goshen Chamber has been a vigorous voice for local economic development and civil responsibility and I am happy to salute its members, its past presidents, and its current executive vice president, Clarence R. Beller, on this occasion.

As one of the many Members of the House who served with Gerald Ford during the time when he was a Member of this body, I count it my good fortune to have known this outstanding American first, while in the House, as "Jerry", and then as "Mr. Vice President" and, finally, as "Mr. President."

Mr. Speaker, I think the Nation will always be grateful for the firm way in which Gerald Ford assumed the Presidency of the United States at a moment of immense travail and anguish for the American people.

He brought a much-needed sense of stability in a time of trouble and for this achievement alone we must always be thankful to him.

Mr. Speaker, I am delighted that President Ford will be in Goshen this evening to help make the anniversary celebration a most memorable one.

TAKE ACTION ON SOCIAL SECURITY BEFORE END OF YEAR

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to report to the House the action of the House conferees on social security. At the present time the social security conferees, being chaired by the distinguished gentleman from Louisiana has recessed the committee, subject to a call of the Chair.

I urge all Members of this House to contact all of the conferees to urge that action be taken before the end of this year. In 1978 it is possible that the disability fund, the D.I. funds will run out. If that happens, there will be complete chaos in this country as far as people receiving their total disability checks. It is important that the conferees complete their work and have action taken before the first of the year.

PERSONAL EXPLANATION

Mrs. FENWICK. Mr. Speaker, I take less than a minute to say that I regret very much that I was present in the Chamber at the time of the quorum call but I was involved in discussion of legislative matters with my colleagues and failed to notice the end of the time had come. I just want to register my presence.

CONFERENCE REPORT ON H.R. 9418, HEALTH PROFESSIONS EDUCATION AMENDMENTS OF 1977

Mr. ROGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 9418) to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of December 1, 1977.)

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) is recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) is recognized for 30 minutes.

The Chair recognizes the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, a little more than a year ago, after the adjournment of the 94th Congress, President Ford signed into law the Health Professions Educational Assistance Act of 1976, a measure which was the product of nearly 3 years of often heated debate as to the proper direction of Federal health manpower policy. The conference report to accompany H.R. 9418 addresses several issues which are outgrowths of 1 year's experience in implementing the 1976 act.

Under existing law, in order to be eligible for capitation support—a statutory amount of money per student per year—schools of medicine must reserve positions in their third year classes in each of school years 1978–79, 1979–80, and 1980–81 for an identified pool of eligible transfer students. A number of positions equal to the number of U.S. citizens who have successfully completed a 2-year special educational program in the United States or who had enrolled in foreign medical schools prior to October 12, 1976, had completed 2 years of study in such schools, and had passed part I of the National Board of Medical Examiners' examination is to be equitably apportioned among schools of medicine receiving capitaton. Schools of medicine are prohibited from applying any academic or place of residence criteria to prospective applicants from the pool.

The conference report would replace the requirement of existing law with a new requirement that schools of medicine, in order to be eligible for capitation support, increase their third-year enrollment by 5 percent in school year 1978–79. It would eliminate any overt reference to an identifiable pool of eligible students or to admission criteria, but would prohibit schools from counting non-U.S. citizens, transfer students from schools of osteopathy and dentistry and from schools of medicine which have a place for such students in the third year, and U.S. citizens who enrolled in foreign medical schools after October 12, 1976, in order to meet the required increase. Any school which chooses not to participate in the capitation program in fiscal year 1978 would be ineligible to receive capitation support in fiscal years 1979 and 1980.

The proposed legislation is intended to meet the objections of many schools of medicine that existing law infringes on their academic freedom to apply their own admissions criteria in the selection of students. By requiring an enrollment increase in the third year, it also preserves a reasonable opportunity for those individuals to whom the Congress made a commitment under the 1976 act to complete their medical education in the United States.

Mr. Speaker, during our deliberations on this highly controversial issue, it became apparent to me that we need to reexamine the concept of institutional support for schools of medicine and the validity of the requirements under the law which schools of medicine must fulfill in order to be eligible for capitation support.

The requirement with respect to U.S. foreign medical students was but one of two requirements of the 1976 legislation for medical schools that wish to receive capitation support. The second capitation quid pro quo was based on the well-established need for more physicians in the primary care specialties of family medicine, general internal medicine, and general pediatrics and fewer numbers of most subspecialists and nonprimary care specialists. Under the existing law, each medical school receiving capitation support would be required by school year 1980–81 to have at least 50 percent of its filled first year residency positions in the three primary care specialties, unless such percentage were met on a national basis.

The formula under which the percentage was to be determined was based on information hastily gathered by the Association of American Medical Colleges at the request of the Subcommittee on Health and the Environment. Under the formula which was developed, the number of students who drop out of primary care after the first year of training in order to enter a nonprimary care specialty are not to be counted as persons filling first year residency positions. Using the AAMC data and the formula, the percentage of filled first year primary care positions was calculated at 42 percent. For this reason, the House conferees in 1976 rejected as too difficult to attain a request of HEW representatives during conference that all primary care trainees who accept fellowships for subspecialty training be deducted from the number of first year primary care positions.

Information received from the Department of Health, Education, and Welfare indicates that the AAMC data although submitted in completely good faith was not accurate and that, under the existing formula, the percentage now exceeds the 1980 goal of 50 percent. It now appears that much more can be done to accomplish the goal that 50 percent of all residents be trained in—and only in—primary care.

Next year, I intend to consider legislation amending the formula by which primary care positions are determined, as well as possible alternative capitation requirements.

The conference report contains three other amendments to provisions of the 1976 act, all of which were contained in the House-passed bill.

First, it would exempt schools of dentistry which in school year 1977–78 had less than six filled first year positions in dental specialty programs from the requirement that schools of dentistry, in order to be eligible for capitation support provide assurances that 70 percent of all new dental specialty positions be in general dentistry or pedodontics. This revision is necessary if emerging schools of dentistry are to develop strong, well-rounded curriculums.

Second, it would restore the authority under the Public Health Services Act to award public health traineeships to individuals not enrolled in schools of public health. Prior to the enactment of the 1976 act, section 302 of the Public Health Service Act authorized the Secretary of Health, Education, and Welfare to make grants to schools of public health and to other public and nonprofit private institutions offering graduate or specialized training in public health for the purpose of providing traineeships to individuals receiving such training. Under the old authority, for example, preventive medicine and dentistry residency programs, nutrition and environmental health training programs, and graduate programs in health planning, hospital administration and health administration were eligible to receive such grants, whether or not they were located in schools of public health. The 1976 act provided separate authority for graduate programs in health planning, hospital administration and health administration and, inadvertently limited the authority for public health traineeships to schools of public health.

The proposed legislation would simply restore the authority to award grants to programs not in schools of public health, specify that individuals being trained in preventive medicine including maternal and child health and dentistry programs would be eligible for traineeships, and increase the authorization of appropriations for public health traineeships by $1 million in each of fiscal years 1979 and 1980.

Third, H.R. 9418 contains several minor and technical amendments to the health professions guaranteed student loan program estabilshed by the 1976 act. These amendments were requested by the Office of Education and, for the most part, are intended to conform the health professions loan program to the Higher Education Acts' guaranteed student loan program. According to the Office of Education, these amendments are necessary if the authority is to be properly implemented.

The proposed legislation would also require the Secretary of Health, Education, and Welfare to undertake study of the need to prohibit, by statute, medical, osteopathic, and nursing schools from discriminating against an applicant because of his or her views on abortion or sterlization. He is to report the results of this study to the Committee on Interstate and Foreign Commerce and the Committee on Human Resources by March 1, 1978.

It would authorize the disbursing agent of Saint Elizabeths Hospital to invest funds deposited in the U.S. Treasury on behalf of patients; and extend the period within which health systems agencies and State health planning and development agencies must meet HEW standards for full designation for an additional year.

Mr. Speaker, the conference agreement reflects a fair and thoughtful balancing of the House and Senate positions. It maintains the intent of the House-passed legislation, and it deserves the support of every Member of this body.

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. Reading the conference report, on page 11 it says,

> In the view of the managers, this enrollment increase requirement in no way impinges on the academic freedom of schools of medicine to apply their own admission criteria . . ."

I wonder if the gentleman might explain what is meant by that statement.

Mr. ROGERS. Well, I think that in other words, we are asking that they increase their enrollment a certain percentage in the third year. Their admission policies are left up to the schools.

Mr. SATTERFIELD. Will the gentleman yield further?

Mr. ROGERS. I yield.

Mr. SATTERFIELD. I invite the gentleman's attention to language on the bottom of page 10, where it says,

> The conferees do not intend the additional waiver authority to be used for schools who simply apply their normal admissions standards and find no student eligible to be counted can meet such standards.

In other words, reading those two together, it would seem to me that we are saying that if a school applies its normal admission standards and there are not enough people available to fill the quota, then the school has to lower those standards in order to meet the quota. Am I correct?

Mr. ROGERS. What we are saying there is that we do not expect them to manufacture unusual conditions to try to avoid the requirement of the law to increase 5 percent in the third year. For example, if a school attempted to apply its first year requirements to the third year class, that would, in my view, not constitute a basis for a waiver.

Mr. SATTERFIELD. If they apply their normal admission standards, I would not think that would be unusual action.

Mr. ROGERS. It depends. And, also, the normal admission might not even include a 5-percent increase.

Mr. SATTERFIELD. That is the point. In other words, you make the 5-percent quota, and if your normal admission standards are too stringent to provide that 5 percent, you must fulfill your quota by reducing your standards?

Mr. ROGERS. No. What we are saying is that we expect a group of students who qualify to be considered. They must be the normal, fair standards of the school. But we do not expect them to manufacture unusual standards or make a standard so high that they are able to say that, "We are not able to take 5 percent."

Mr. SATTERFIELD. Will the gentleman yield further?

Mr. ROGERS. I yield to the gentleman.

Mr. SATTERFIELD. I invite the gentleman's attention to the waiver provision. According to the report, it says that the Secretary may grant a waiver if he determines that the school has made a good-faith effort to meet the requirements but there are not enough students eligible to be counted.

I am a little puzzled by the meaning of that, in light of the two provisions I just read.

Mr. ROGERS. This is what we are trying to say—and I think the language is put in the statement of the managers to bear that out—that, if they make a good-faith effort in accepting the student under the 5-percent requirement, that is what is required. If there is an insufficient number of students eligible to be counted, then—and only then—would this particular provision attach. There are two additional bases for waiver: Threatened loss of accreditation and insufficient size of population in order to provide high quality clinical training.

If it is not an artificial requirement, if it is a good-faith effort and then they simply cannot get the students, then they are entitled to a waiver.

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield further?

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. Then in reading this report, I am to conclude that a school which applies its normal admission standards that it has applied through the years would not be making a good-faith effort?

Mr. ROGERS. No. Normal admission standards might be that they do not admit students in their third year.

If they make a good-faith effort under the law, a good-faith effort but the total group eligible to be counted is not sufficient, and thus a school simply cannot get enough students, it would be entitled to the waiver.

Mr. SATTERFIELD. You emphasize the word "normally," am I to understand then that the word "normal" really does not apply to academic standards.

Mr. ROGERS. It could, because if they make an artificial academic standard in order to simply avoid the requirement they also would be blocking what we are trying to do, to get them to increase class size in the third year by 5 percent.

Mr. SATTERFIELD. Would a school, then, which applies its normal academic admission standards which it has applied through the years be exercising good faith?

Mr. ROGERS. If it is not blocking the 5 percent increase.

Mr. SATTERFIELD. In other words, the 5 percent controls, and if you cannot reach the 5 percent with your normal academic standards, you have to reduce them in order to reach the quota?

Mr. ROGERS. Not necessarily. If they make a good-faith effort but there is an insufficient pool, they are entitled to a waiver.

Mr. SATTERFIELD. I thank the gentleman.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Speaker, on this point, if I recall correctly, we enacted some legislation not too long ago which would impose upon the medical schools the responsibility or the obligation to admit American students who in their third year were studying in foreign schools.

I would like to ask, why at this point have we receded?

Mr. ROGERS. Mr. Speaker, the original health manpower law—the 1976 law—included the provision the gentleman described. The House passed legislation to change that, as the gentleman may recall. This change has now gone to conference, and this is the agreement that has come back.

The new requirement is that for one year the schools will agree to an additional 5 percent increase in enrollment in their third year. This was the change in the provision that the House passed. We actually passed it with the provision that they would agree to an increase for 2 years.

The Senate amendment repealed the provision. This is a compromise. It provides that they must agree to increase third year enrollment by at least 5 percent for 1 year in order to receive capitation support. That was the compromise that was worked out in the conference.

Mr. BIAGGI. To begin with, the whole legislative process in this matter has a tainted quality about it, as a result of what we have witnessed and what we have read in the press relating to the conduct of certain medical schools which refused to accept Federal funds, saying that they would refuse to accede to these equitable conditions that were created and were made necessary as a result of their own discriminatory practices, and denial of opportunity to deserving students that led to the inadequacies of medical schools in our Nation.

Let us deal with this situation. As I see the problem and if I am correct in what the gentleman is saying, the medical schools, in order to qualify for Federal funding, must make a good-faith effort.

Mr. ROGERS. For capitation.

Mr. BIAGGI. Yes. For capitation, the medical schools are obligated to make a good-faith effort to permit the acceptance of 5 percent.

Mr. ROGERS. As an increase in the third year.

Mr. BIAGGI. As an increase in admissions in the third year of those American students who are in foreign medical schools?

Mr. ROGERS. Most would be American students who have trained for 2 years in foreign medical school, that is correct.

Mr. BIAGGI. Proceeding further, the previous speaker raised a most critical point referring to the schools a "good-faith effort."

Let me suggest this: If a good-faith effort is made, there is no question that 5 percent would be obtained. I suggest that 10 percent might be obtained, that 15 percent might be obtained, or that 20 percent might be obtained, because we have countless numbers of Americans in foreign medical schools who are desirous of coming into American medical schools.

Now, the question is this: What represents good faith? What standards will be used? Will a good academic rating of the student in the foreign medical school be considered meritorious?

This is a question that leaves a very uncertain situation, at least in my mind.

Mr. ROGERS. Mr. Speaker, one of the objections that the medical schools raised about the original law was that it constituted an invasion of their academic freedom, and that in effect the Federal Government was telling them what students they must accept. Thus, all references to academic standards are removed from the original legislation. There are many qualified young Americans who had to go overseas because they could not get into American medical schools. I agree that is true, and that is why we passed the original act.

There has been great consternation among some of the medical schools because they felt the law in effect told them what students they had to admit. In the House, we tried to accommodate them by changing the requirement to an enrollment increase of 6 percent in each of which would have created about 900 slots for qualified students. We allow schools to apply their own admission criteria.

That is what we were saying in the discussion here. We say that if they make a good-faith effort and if they do not put up artificial barriers for those students to come in, then they will have made a good-faith effort, and if an insufficient number of eligible students are available such that a school could not meet the 5 percent increase, they would be entitled to a waiver.

I think that is a fair compromise, because the Senate took the position that the entire provision should be repealed.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield further on that point?

Mr. ROGERS. Yes, I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I am sure it is a fair compromise, and I respect the judgment of the gentleman from Florida, the chairman of the subcommittee, for his work and his interest in this field.

But the question in my mind is this: What standards does the gentleman contemplate for a medical school, especially in the light of their basic resistance? Can they say that, "These people do not measure up, and hence we are not obliged to take Americans back, and we will take the 5 percent from whatever source we choose?"

Mr. ROGERS. Well, that would not necessarily happen, because there are only about 130 students who are going to 2-year American schools or schools in which the third-year enrollment is less than the enrollment in the first year. So by elimination, the bulk of the positions will have to be filled by Americans who have gone overseas.

Mr. BIAGGI. Mr. Speaker, that response is critical.

So I understand what the gentleman says; and for the record, 130 students would be the most they could take; is that correct?

Mr. ROGERS. From all the available information, that number would be the most they could take.

Mr. BIAGGI. The most they could take, and they, of necessity, must be Americans from foreign medical schools; is that correct?

Mr. ROGERS. That would be my assessment.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I do not know of any more effective Member of

Congress than my colleague, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. I have the same feeling about the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Perhaps we can get together.

Having listened to the answers not only on this issue but on other questions here, it brings us back to something like the saccharin issue which we had here. If the gentleman will recall, Congress had to put a restriction on the Food and Drug Administration to keep them from prohibiting the use of saccharin as a food additive. Then the gentleman got busy on the subject.

Mr. ROGERS. The gentleman must remember that that is not exactly true. The Health Subcommittee already had introduced legislation on the subject. Someone from the Appropriations Subcommittee started to get involved in the legislative side of the issue which was all right with us. We did not object to that.

Mr. WHITTEN. At any rate, we got action when the Congress acted.

Mr. ROGERS. We gave the gentleman action. The Committee on Interstate and Foreign Commerce acted on the issue.

Mr. WHITTEN. After the Congress acted.

Mr. ROGERS. We had already begun to act.

Mr. WHITTEN. Now the gentleman is changing the subject.

I asked a simple question: Who will determine whether it is good faith or not?

Mr. ROGERS. The Secretary of HEW.

Mr. WHITTEN. Which leaves it in the hands of the Secretary of HEW to do whatever he pleases; is that correct?

Mr. ROGERS. No.

Mr. WHITTEN. Is it not based on his determination?

Mr. ROGERS. Not entirely.

Mr. WHITTEN. All right, what is the limitation?

Mr. ROGERS. The schools must show that they have made a good faith effort and that an insufficient number of eligible students are available.

The SPEAKER pro tempore. The Chair would ask the gentlemen to speak one at a time, please.

Mr. ROGERS. The schools have to show that they made a good faith effort.

Mr. WHITTEN. To whom do they have to show it? Who makes the determination?

Mr. ROGERS. The Secretary.

Mr. WHITTEN. So the Secretary, in the final analysis, can say, "Yes" in this case and "No" in that case; and we have no guidelines pursuant to which he must act; is that correct?

Mr. ROGERS. Who else is to determine it? Is a school to determine whether it has made a good faith effort?

Mr. WHITTEN. That is the point.

After listening to the gentleman's answers, I want to get to the crux of the matter, which goes to what my friend, the gentleman from New York (Mr. BIAGGI) was talking about.

The gentleman says that the Secretary will determine it to suit himself?

Mr. ROGERS. This has always been done, as the gentleman knows. Who else would you have making a determination as to whether an entity meets eligibility requirements for Federal funds? I would think the gentleman would want someone to make a determination where Federal funds are being expended that they are being expended in accordance with the law.

Mr. WHITTEN. I would want the record to show who makes the determination. The gentleman has finally said who does.

Mr. ROGERS. Everyone knew that. No one said the schools made the determination as to good faith.

Mr. WHITTEN. As the gentleman understands, for about 15 years we have been dealing with these matters having to do with the Department of Health, Education, and Welfare. We have learned that they frequently take unto themselves the right to decide whatever they wish to base on their own determination, of "good faith" and that is final.

Mr. ROGERS. I would agree with the gentleman if he would say that we have to continually insure that HEW does what the law says and what the intent of Congress is. We will have to make sure that they understand what "good faith" means, in case an insufficient number of students is eligible to be counted.

Mr. WHITTEN. That would at least give us some guidelines.

Mr. ROGERS. With respect to good faith, in other words, we do not expect them to use unusual policies or policies that they have not used heretofore, artificial policies, to try to bar compliance with the law. The waiver provision is very clear as to what criteria must be used in making the determination.

Mr. WHITTEN. The gentleman is saying what we do not count on their doing. Would the gentleman tell us what we do count on their doing?

Mr. ROGERS. To obey the law and admit 5 percent of the people who are qualified to be counted.

Mr. WHITTEN. What is the meaning of "good faith?"

Mr. ROGERS. Exactly that.

Mr. WHITTEN. Who will determine it?

Mr. ROGERS. Who else determines compliance with the law in spending Federal funds other than the responsible Federal agency?

Mr. WHITTEN. Is that good faith?

Mr. ROGERS. It is exactly that, good faith in carrying out the law.

Mr. WHITTEN. And the law is what?

Mr. ROGERS. The law is that they shall admit 5 percent of qualified students based on the admissions criteria of that particular school.

Mr. WHITTEN. So the "good faith" matter is just a come-on for doing as they wish.

Mr. ROGERS. Not at all. It is to let them out if they have made a good faith effort, and an insufficient number of eligible students are available such that the school is unable to comply.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I am very encouraged by the provision in the conference report which would increase the number of students from foreign medical schools to be admitted during their third year, such increase to be set at 5 percent.

However, one of my constituents is having a great deal of difficulty in getting a transcript of his 2 years of foreign study. The foreign school is endeavoring to impose a requirement that he pay $2,000 for the transcript.

Is there any way by which, under this conference report or in the application of this change in the law, a student's records of study abroad can be verified without his being held up by this kind of outrageous demand from the foreign medical school?

Mr. ROGERS. I do not know that there is any way that we can insure that. We have asked the Secretary of HEW to contact the Department of State to try to see if this problem can be resolved. But I do not know whether the United States can establish policies for a medical school in a foreign country.

Mr. McCLORY. Would it not be possible for the American medical school to accept affidavits or other evidence of the studies pursued at a foreign medical school in lieu of such a transcript?

Mr. ROGERS. Certainly. I am under the impression that many of the medical schools will be looking at MCAT scores—that is, results of tests individuals took prior to applying to U.S. schools before going to foreign schools, undergraduate records, and to scores on part I of the National Board of Medical Examiners' examination. Most of the medical school representatives I have spoken with have advised me that they would be very wary of relying solely on the academic standing of a student in a foreign medical school.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New York.

Mr. BIAGGI. It would seem to me on this point of good faith, that that phrase that was very significantly addressed by the gentleman from Mississippi (Mr. WHITTEN) represents nothing more than an escape clause. But I just cannot envision these medical schools, four of which have refused Federal funds under the old law, because they refused to submit themselves to the conditions of the law which meant that they would be required to accept American medical students from foreign medical schools, and now we come back and say they are required to take 5 percent, but we will assume that they are operating in good faith. Now, good faith was implied in the law good faith requires them to do so, if they are a medical school. Hence I assume as a medical school they have some degree of integrity, and if that is the case, then we would have to believe that they operated in good faith prior to this dispute.

The thing that concerns me, as was touched upon by the gentleman from Mississippi (Mr. WHITTEN) is that good faith in this case could be used by the medical school as an escape from the conditions of this legislation.

Mr. ROGERS. May I say to the gentleman that this determination, the issue of determination of good faith, is not a determination that is made by the schools. That was the point I was trying to make. For example, a school could apply first year standards to third year transfers. That would not constitute good faith in applying academic standards.

Mr. BIAGGI. This is a very critical area. Medical schools have been historically difficult insofar as those students who aspire to be doctors and I am not satisfied that they are above reproach and I am not satisfied that they are administering the admissions policy fairly, and possibly there has been policies of discrimination that has been built in over the years.

Let me ask you this question. Would the standard of performance by the American student in a foreign medical school be judged by his academic standards in that foreign medical school? Will the standards of performance determine whether or not that American student in a foreign medical school would be worthy of admission? Would that be the academic standards of that student in that foreign medical school, or would it be something else?

Mr. ROGERS. Normally they would require the applicant to have passed Part I of the National Boards. I assume they would also look at their academic records. It would be the judgment of that school as to whether that student would be enrolled unless the Secretary determines the school was trying to subvert the law. Of course, then that would be taken into consideration.

Mr. PEPPER. If my distinguished colleague and friend would yield, we are dealing here in this report with provisions for access of American students who go to medical schools abroad to medical schools in our own country.

Mr. ROGERS. In the third year.

Mr. PEPPER. Does my distinguished friend know how many American students are annually enrolled in medical schools abroad?

Mr. ROGERS. No one knows for sure, but it is probably around 1,500. It may be a little higher.

Mr. PEPPER. How many students are annually enrolled in medical schools in our own country?

Mr. ROGERS. About 16,000. That may increase some in the next few years.

Mr. PEPPER. The students who are enrolled in foreign medical schools do not get any aid at all in going to school; do they? They get no subsidies from the government, or anything?

Mr. ROGERS. Not from the Federal Government.

Mr. PEPPER. Is the number of students who are enrolled in our own schools at home adequate to meet the health needs of our country, regardless of these American students who are going to foreign medical schools?

Mr. ROGERS. We are increasing the output. As the gentleman knows, since we initiated health manpower legislation in 1963, medical school enrollment has doubled, or will have by 1979. I still think we need more physicians but there is some question. But I would agree, and I think the gentleman shares that feeling, that we do need more.

Mr. PEPPER. That is why I venture to ask the question, because our need is so vital for the services that doctors render to the people of our country. It is a rather precarious fact that we do not have enough institutions to turn out the necessary number in our own country, and I was wondering if we could not some way or another—if we are doubling the number now—double them again next year. May I have the assurance of my distinguished friend, who is so influential in this area, that we are taking the necessary steps to see to it that our own schools will provide enough doctors for the people of this country?

Mr. ROGERS. We are doing that. Existing manpower authority provides startup assistance for new schools. We have now about 124 medical schools in this country.

Mr. PEPPER. One other question: When will my friend anticipate that we will be turning out the necessary number of doctors in our own country?

Mr. ROGERS. I think it is difficult to say at what particular time. Many think we are producing enough now. There is a difference of opinion. Also it will depend on how we handle health care. If we move into a national health program, this may increase demand substantially. If we cut back on the number of alien foreign medical graduates coming into this country, that will also have an impact, because in some parts of this country 50 to 75 percent of the newly licensed doctors are alien foreign medical graduates.

Mr. PEPPER. Are our Federal programs adequate to encourage additional medical schools if we need them?

Mr. ROGERS. We feel the health manpower legislation is adequate to encourage the establishment of new schools and the increased production of physicians.

Mr. PEPPER. I just hope that my distinguished friend will make a report to this House from time to time on the progress we are making in this critical area.

Mr. ROGERS. I thank the gentleman for his extreme interest in this critical matter.

Mr. CARTER. Mr. Speaker, so many of these students actually come, I regret to say, from about three States and go through medical mills abroad and come back in and want to be admitted. Our schools in this country do not like to have those students thrust down their throats. They want the right to choose those who are qualified to train physicians.

By this legislation we are helping in that area. The schools are required to increase third year enrollment by 5 percent of the third or first year, whichever is less, of the American students who were in foreign medical schools prior to Octber 12, 1976. Personally I favor this agreement. It just goes through one year.

In addition to this, it does not take away the loan provisions from those schools who do not want to participate. My understanding is that 18 schools at one time did not want to participate, but now all of them I believe are going to.

Mr. Speaker, I strongly support this legislation.

I believe that the conference report on H.R. 9418 provides a reasonable resolution of the controversial provision of current health manpower law—regarding the transfer of U.S. foreign medical students.

The agreement we have reached represents a compromise between the concerns of the U.S. foreign medical students—and the objections of our medical schools regarding infringement on their academic freedom.

Essentially the compromise report requires a one-time enrollment increase program of 5 percent as a condition for medical schools to receive Federal capitation grants.

The language of the legislation does not include any requirements regarding academic standards—or part 1 of the Medical Board of Examinations.

Rather each medical school will be allowed to apply its own academic criteria in determining which students it will accept to meet the enrollment increase requirement.

Also the language of the bill provides that the transfer students may be placed in the second- or third-year class and both will be counted toward the school's quota.

In addition the conferees agreed to allow medical students to qualify for guaranteed student loans—even if their medical school decided not to participate in the enrollment increase program. Thus—even if the school decided to give up capitation support—its students could still be eligible for the health professions student loan program.

The conference report also includes a new waiver provision. It authorizes the Secretary of Health, Education, and Welfare to grant a waiver if he determines that the school has made a good faith effort to meet the enrollment increase requirement—but has been unable to do so solely because there is an insufficient number of eligible students to be counted.

Mr. Speaker, in addition to the waiver authority added during the conference the legislation also includes another waiver authority. It provides that the Secretary of Health, Education, and Welfare may grant a waiver—in whole or in part—to a medical school if he determines that compliance with the enrollment increase requirement would prevent the school from maintaining its accreditation—or if the school's clinical training would be significantly jeopardized.

I hope that the Secretary will give careful consideration to the impact of this enrollment increase on our medical schools' clinical training facilities when he reviews the applications for waivers.

Mr. Speaker, I would like to emphasize that while my own preference would have been to repeal the entire transfer program—we must also recognize that the Congress did pass a law last year which effectively raised the hopes of many U.S. students studying abroad. So I sympathize with those who argue that it is only fair to try to reach a compromise on this issue.

I believe that this conference report does provide the best compromise available—given the alternatives before us.

There are several other provisions of

the bill—regarding interest rates for student loans—dental schools' capitation requirements—National Health Service Corps scholarships—and extension of deadlines under the health planning law—but these are not controversial—and I believe they are acceptable.

Therefore, Mr. Speaker, I urge adoption of the conference report on H.R. 9418.

Mr. Speaker, I reserve the balance of my time, and I yield 5 minutes to the distinguished gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Kentucky for yielding.

I have asked for this time to engage the gentleman from Florida (Mr. ROGERS) in a colloquy for the record. I have spoken to the gentleman about these questions which have concerned officials at the Ohio State University. I realize that after the colloquy between the gentleman from Virginia, New York, and the gentleman from Mississippi, that some of the questions and answers will be somewhat repetitious, and I think I know the answers, although I am not sure. However, I would like to make the record, if the gentleman from Florida would respond.

As I understand it, the present provision in the law requires medical schools to accept a certain number of students out of a pool of U.S. students studying in foreign medical schools, who entered those foreign medical schools on or before October 12, 1976, who have completed 2 years of medical education abroad, and have passed part 1 of the national boards in order to receive a capitation grant. Is that correct?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. WYLIE. The amendment which the conference has adopted in this regard, and with which we are asking the House to agree, would remove that mandatory requirement and substitute a requirement that U.S. medical schools would be required to increase their third year classes by 5 percent for the 1978–79 school year. Is that correct?

Mr. ROGERS. That is correct.

Mr. WYLIE. This legal requirement that the students thus selected be from foreign medical schools is dropped, although it seems clear that most of these students would come from a pool of U.S. students who have studied abroad. Is that a fair analysis?

Mr. ROGERS. From information made available to me, it would appear that about one-eighth of the number will be students who have gone to U.S. schools and the remainder would be American students who are attending foreign medical schools.

Mr. WYLIE. This could involve some American students matriculating in U.S. schools, but most of them it is expected would be from the pool of American students going to foreign schools?

Mr. ROGERS. That is correct.

Mr. WYLIE. It is my further understanding that if an American medical school can prove that it has used due diligence to meet the 5-percent requirement of this conference report and there is an insufficient number of individuals eligible to be counted toward the fulfillment of these requirements, the school will not lose its capitation grant. Is my understanding on this point correct?

Mr. ROGERS. If the gentleman will yield, the gentleman is correct.

Mr. WYLIE. Would a medical school that has already accepted foreign medical school students on a voluntary basis for the 1977–78 academic year get credit for those students in meeting their 5-percent requirement? I might add the Ohio State University Medical School has already accepted American students studying abroad for the 1977–78 academic year on a voluntary basis. I think, of course, that Ohio State should be given credit for those students, but as I understand it from what you have said and reading the conference report Ohio State will not be given such credit, and will still have to meet the 5-percent requirement over and above the foreign medical school students accepted on a voluntary basis?

Mr. ROGERS. Mr. Speaker, will the gentleman yield further?

Mr. WYLIE. I am glad to yield.

Mr. ROGERS. That is true. In the conference report that provision is not included, so the answer would be no. Those students that schools have already admitted on a voluntary basis cannot be counted. Schools have, however, received capitation support for students they have voluntarily admitted.

Mr. WYLIE. The answer is the medical school has received Federal capitation money already for these students and that is the reason why they will not be included in the 5 percent requirement.

Mr. ROGERS. Yes.

Mr. WYLIE. The gentleman from Mississippi touched on this as did the gentleman from New York awhile ago. Does not that penalize the medical schools which have complied with the spirit of the law already and have accepted U.S. students studying abroad on a voluntary basis?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield further, I do not think it will, because they have already received Federal funding for them.

Mr. WYLIE. And that is the basis on which the 5 percent amendment was adopted?

Mr. ROGERS. Yes.

Mr. WYLIE. What happens if a medical school does not comply with the 5-percent-enrollment increase provision in 1978; will it be penalized in any way in future years?

Mr. ROGERS. Yes; it would not be eligible for capitation for 1979 and 1980.

Mr. WYLIE. So a medical school could be penalized for an additional year beyond the one in which it did not comply with the 5 percent requirement?

Mr. ROGERS. For 2 years.

Mr. WYLIE. In other words, the mandatory 5 percent increase is for 1 year only, but a school that does not comply with the mandatory requirement could be penalized for 2 years?

Mr. ROGERS. Yes.

Mr. WYLIE. That is a fair analysis?

Mr. ROGERS. Yes.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Florida for his patience and I thank the gentleman from Kentucky for yielding me the time.

Mr. ANDERSON of California. Mr. Speaker, let me preface my brief remarks by indicating for the record that I have long been interested in higher education. I served as a regent of the University of California, and on the board of trustees of the State Colleges of California. In State government, I worked to help establish several small colleges. My record in this body shows my continued support for responsible education programs.

I rise in support of this report on H.R. 9418 as a much needed aid to the training of health professionals. However, the language on waivers for capitation grants seems ambiguous. I wish to make clear that my intent in voting for this legislation that the right of medical schools to maintain their own admission standards be upheld. If a school's admission committee cannot find and recruit enough eligible American students transferring from foreign medical institutions who meet the same requirements as the school's continuing students, they should not be forced to accept under-qualified students to meet the 5-percent quota to retain the capitation grants. The autonomy of colleges to establish their own nondiscriminatory admissions policies should not be infringed.

Mr. GIAIMO. Mr. Speaker, I am pleased to support the conference report. It represents a very fair compromise in resolving difficult and controversial problems that were identified in one of the Public Health Service Act amendments enacted last year.

Adding a new section 771(b)(3) to that act, the Congress made it a condition of a medical school's eligibility for capitation support that it agree to admit whatever number of transfer students the Secretary of Health might allocate. As part of the assurances, the school had to agree that it would not apply its own academic admissions criteria in evaluating the students.

A number of medical schools, including one in my home State, objected to this approach as an encroachment upon the historic freedom of American universities to apply their own fair and nondiscriminatory admissions criteria in deciding who should be accepted for study.

In light of these strong objections, both Houses this year set about remedying the situation. This House initially voted for percentage targets which medical schools would be asked to agree to pursue for 2 years. We also expanded the sources of potential applicants who could be counted toward the increase enrollment and, more importantly, the bill we originally passed preserved each school's ability to evaluate the applicants in accordance with its own admissions standards.

When the Senate considered a similar proposal, it initially decided to repeal the enrollment-increase program entirely so as to avoid any possible threat to academic freedom.

The conference report embodies a fair compromise which attempts to pursue the goal of opening up additional places for American students in medical schools next year, while protecting the basic principle of academic freedom. What the conference bill does is to enlist the cooperation of the Nation's medical schools in a 1-year program to increase enrollment while leaving to them the complete responsibility for deciding which applicants meet their qualifications for admissions.

The conference bill is careful to provide for a waiver of the requirement that schools seeking capitation grants provide assurances to the Secretary of Health. If a school concludes that it cannot enroll enough qualified students to increase its third-year class by 5 percent, it will be relieved of the need to give the assurances. In addition, consistent with the principle of academic freedom, no school should be penalized in any way because it is unable to reach a 5-percent expansion through the addition of students who measure up to its academic standards.

What is expected is a bona fide effort by each participating school to evaluate transfer applicants to determine whether or not they satisfy the school's admissions criteria. Under this bill, no American medical school would be faced with the choice of foregoing substantial Federal support or accepting students not considered qualified according to the school's own academic standards.

Since the conference bill offers the prospect of opening significant additional places in American medical schools while at the same time recognizing academic independence as the ultimate principle here, I am pleased to endorse the conference report and to urge its adoption.

Mr. DEVINE. Mr. Speaker, I rise in support of the conference report to accompany H.R. 9418, Health Professions Education Amendments of 1977.

My support is not based, however, on any conclusion that this legislation represents wise public policy. Rather, it merely is less onerous than existing law.

Currently, in order to be eligible for capitation grants, schools of medicine must reserve positions in each of school years 1978–79, 1979–80, and 1980–81 for an identified pool of U.S. students in foreign medical schools or special educational programs in the United States. These students would be equitably apportioned among schools of medicine receiving capitation grants. U.S. citizens who had enrolled in foreign medical schools prior to October 12, 1976, date of enactment of Public Law 94–484, had completed 2 years in such school, and had passed part I of the National Board of Medical Examiners' examination would be eligible.

This is an outrageous infringement upon the academic freedom of medical schools in that students would be assigned to schools without regard to admission standards.

Under the provisions of the conference report, a school of medicine as a condition for receipt of capitation support appropriated in fiscal years 1978, 1979, and 1980 must increase its third year enrollment only in school year 1978 by 5 percent over either the number of its full-time first-year or third-year students enrolled in school year 1977–78, whichever is lesser.

Schools of medicine could not count toward the increase transfer students who first, are aliens, second, are from U.S. schools of medicine which have a place for them in the third year, third, first enrolled in a foreign medical school after October 12, 1976, fourth, are from schools of dentistry or osteopathy, or fifth, are from unaccredited U.S. schools of medicine.

The Secretary could waive the requirements, in whole or part, if: First, a school's accreditation would be threatened, second, inadequate population size will prevent the school from providing high quality clinical training for each of its third-year students, or third, despite a good faith effort an insufficient number of students are eligible to be counted. Further, the requirement would be inapplicable to a school of medicine if in school year 1977–78 its enrollment of full-time, first-year students exceeded its full-time, third year students by 25 percent or more.

Among those classes of individuals who could be counted are those students who had enrolled in foreign medical schools prior to October 12, 1976, and those enrolled in special educational programs in the United States. Schools could count as third-year students, for purposes of the enrollment increase, transfer students enrolled in the second year who were first enrolled in foreign medical schools prior to October 12, 1976. There is no reference to passing part I of the National Board of Medical Examiners' examination.

On page 10 of the conference report in the statement of the managers, it is stated that the schools cannot use the additional waiver authority after simply applying their normal admission standards and finding "no student eligible to be counted under those standards."

On page 11, it is mentioned that this enrollment increase requirement in no way infringes on the academic freedom of schools of medicine to apply their own admissions criteria.

The question arises, then, as to what happens when the school, in good faith application of its own admissions standards, determines that it is willing to accept those students who meet them but an insufficient number can be selected on merit.

That is, the pool of students is large enough, but not after application of the school's admissions criteria. What is the extent of the school's obligation thereafter?

We know, of course, and I am sure the gentleman from Florida will agree that there is no authority for HEW to force allocation of students whether or not monies have been accepted. What recourses would be available—recollection in whole or part? If pro tanto credit is allowed, would the schools be allowed a partial capitation?

What disturbs me is that despite the assertion that the measure in no way infringes on the academic freedom of schools the conference report is silent on the results that could flow from the school exercising its academic freedom.

The decision of several schools to forego capitation support unless the conditions for receipt were altered does not raise a significant question about the utility of this funding mechanism as a vehicle for accomplishing public policy objections. Instead, it more properly raises questions about the appropriateness of the conditions of receipt as a means to accomplish the policy objectives.

Mr. PREYER. Mr. Speaker, there has been much discussion of the foreign medical student provision in this bill in absolutist terms, and with charges and implications that the Health Subcommittees of the House and the Senate were bent on trampling on academic freedom.

I think it should be emphasized that the primary intent of the Health Subcommittees and the conferees was not to intrude on academic prerogatives but to solve a very tough practical problem in the fairest way possible. A doctrinaire approach can see this as the nose of the camel under the tent, and argue that this is only the opening wedge of an assault on academic freedom.

Nothing can be further from the truth. The conferees fully appreciate the requirements of academic freedom and the problems that arise where requirements for Federal funding are imposed. We plan to reexamine the requirements of capitation funding next year in this light.

The present bill offers a pragmatic, 1-year solution for a difficult practical problem that must be answered now. It represents the democratic process working to balance and compromise irreconcilable positions. I think it is a fair and honorable solution, even though it may not satisfy absolutist positions of academic freedom.

Again, let me repeat that the Health Subcommittees are seriously concerned with questions of academic freedom and at all times stand ready to discuss these questions with the medical schools and to review our programs accordingly.

Mr. STAGGERS. Mr. Speaker, these amendments to the Health Professions Educational Assistance Act—Public Law 94–484—improve the legislation which passed Congress nearly 1 year ago. The bill requires medical schools in order to be eligible to receive capitation payments to increase their third-year class enrollment by 5 percent and limits this requirement to fiscal year 1978 only. Schools not complying with this requirement in fiscal year 1978 are ineligible to receive capitation payments in fiscal years 1979 and 1980. In addition, this legislation permits students enrolled in medical schools which elect not to comply with this requirement to participate in the health professions guaranteed student loan program.

This legislation is supported by the Association of American Medical Colleges, as well as by the individual interest groups supporting American students studying medicine abroad.

To reach the increased quota of 5 percent the medical schools may draw not only on U.S. students studying abroad, but may also enroll students studying in the United States who attend schools which offer only the first 2 years of medical study.

The academic qualifications for admission of students remain at the discretion of the medical schools involved. We have not infringed on the academic freedom of the medical schools and we have not placed the Nation's health in peril by the possibility of having inadequate students who inevitably become inadequate physicians. This program only authorizes the admission to the third year of medical school. The admitted students must perform within the requirements of the medical school for a degree as doctor of medicine. They are subject to the same standard of performance as any other medical student must meet for graduation. The medical schools are not penalized should they feel that any one of these students do not fulfill their academic requirements. In short, these students may be disciplined academically as any other medical student may be disciplined.

Mr. Speaker, because of the broad base of support for this legislation from all interested groups, we feel that this legislation makes a substantial contribution to medical education in this country, and therefore to the health care of this Nation.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 0, answered "present" 1, not voting 89, as follows:

[Roll No. 767]

YEAS—344

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Fountain
Fowler
Fraser
Frenzel
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Leach
Lederer
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marks
Marlenee
Martin
Mazzoli
Meyner
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Perkins
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Pickle
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Poage
Pressler
Preyer
Price
Pritchard
Pursell
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rousselot
Roybal
Rudd
Runnels
Ryan
Santini
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—89

Ambro
Badillo
Barnard
Beilenson
Blanchard
Bolling
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clausen, Don H.
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dellums
Dent
Dickinson
Diggs
Downey
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gibbons
Hall
Hawkins
Hillis
Holland
Ichord
Kasten
Kelly
Koch
Krueger
Le Fante
Leggett
Lent
Livingston
Lundine
McCloskey
McDonald
Markey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Moss
Nichols
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Sarasin
Sawyer
Scheuer
Sebelius
Symms
Tucker
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

Mr. Dent with Mr. Ruppe.
Mr. Hall with Mr. Sebelius.
Mr. Ertel with Mr. McCloskey.
Mr. Cornwell with Mr. Frey.
Mr. Evans of Georgia with Mr. Symms.
Mr. Fithian with Mr. Kasten.
Mr. Charles H. Wilson of California with Mr. Broyhill.
Mr. Ford of Michigan with Mr. Crane.
Mr. Waxman with Mr. Edwards of Alabama.
Mr. Rahall with Mr. Marriott.
Mr. Blanchard with Mr. Walker.
Mr. Koch with Mr. Railsback.
Mr. Badillo with Mr. Sawyer.
Ms. Chisholm with Mr. Erlenborn.
Mr. Gammage with Mr. Livingston.
Mr. Ford of Tennessee with Mr. Cunningham.
Mr. Mattox with Mr. Sarasin.
Mr. Wirth with Mr. Bob Wilson.
Mr. Patterson of California with Mr. Kelly.
Mr. Russo with Mr. Quillen.
Mr. Weaver with Mr. Whalen.
Mr. Hawkins with Mr. Quie.
Mr. Tucker with Mr. Forsythe.
Mr. Conyers with Mr. Hillis.
Mr. Clay with Mr. Young of Alaska.
Mr. Downey with Mr. Lent.
Mr. Beilenson with Mr. McDonald.
Mr. Danielson with Mr. Quayle.
Mr. Meeds with Mr. Barnard.
Mr. Wright with Mr. Milford.
Mr. Krueger with Mr. English.
Mr. Roncalio with Mr. Diggs.
Ms. Mikulski with Mr. Dickinson.
Mr. Nichols with Mr. Dellums.
Mr. Rosenthal with Mr. Don H. Clausen.
Mr. Rostenkowski with Mr. Scheuer.
Mr. Ambro with Mr. Fuqua.
Mr. Wolff with Mr. Gibbons.
Mr. John L. Burton with Mr. Holland.
Mr. Cotter with Mr. Ichord.
Mr. Le Fante with Mr. Leggett.
Mr. Markey with Mr. Metcalfe.
Mr. Phillip Burton with Mr. Moss.
Mr. Lundine with Mr. Mathis.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6666, LEGAL SERVICES CORPORATION

Mr. KASTENMEIER. Mr. Speaker, I call up the conference report on the bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. McKay). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 30, 1977.)

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. Kastenmeier) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. Butler) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. Kastenmeier).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on November 30 this year I filed a conference report on this bill (H.R. 6666). Both the Congressional Record of that date and a subsequent printing of the conference report contained printer's errors. Both errors have been corrected in the official report and are not contained in the enrolled bill. An errata sheet accompanying the printed conference report will clarify those two errors to Members. I would ask to amend the permanent Congressional Record of November 30 to reflect the correction.

Mr. Speaker, the conference report is in the form of a substitute to the House bill and the Senate amendment. This report is the result of very careful consideration and discussions by the conferees of both Houses. The conferees personally met on both November 17 and 23, and the 10 conferees from the other body and the 7 House conferees agreed unanimously on the conference report.

Mr. Speaker, many of the differences between the House bill and the Senate amendment were of a minor and technical nature; and I would refer Members to the statement of the managers for an explanation or detailed comparison.

I would like, Mr. Speaker, to very briefly focus on several of the more important issues which confronted the conference and to discuss the resolution of those issues.

One of the important issues was whether the prohibition, agreed to by the House on the use of Corporation funds for litigation or proceedings on school desegregation cases should be continued. On the part of the House, not only was there a vote, June 27, on the issue which continued the present prohibition, but, also on October 20, the House conferees were instructed by a motion of the gentleman from Ohio (Mr. Wylie) to persist in the House position.

On the other hand, the Senate had, in fact, voted strongly a completely different position: that is, to delete the prohibition entirely. This was undoubtedly the most contentious issue which confronted the conferees and the one to which we devoted the most time.

The conferees of the other body submitted three or four amendments to us after we had refused to accept their position, but the House conferees declined to accept those, because in each case they involved the recipient programs in litigation or proceedings. We maintained the House position entirely on that point.

Mr. Speaker, we were mindful of the fact that in our colloquy on the House floor, the gentlewoman from Texas (Miss Jordan) had raised the question of whether the eligible clients who were parents, for example, could consult with or be advised or be given legal advice by the recipients of the Corporation. That is, in fact, the present procedure.

We did put that implied provision into the statutory language. Therefore, the House language which was agreed to is only changed by the following phrase: "Except that nothing in this paragraph shall prohibit provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities." The additional language would not allow a recipient program to develop materials in preparation for an administrative or judicial proceeding, nor would it allow representation of an eligible client. It would only clarify that legal advice and referral may be given. That was all we agreed to. Therefore, the Senate did recede on that issue; the House prevailed.

Another issue which was important in conference was the support assistance provision.

The House has spoken strongly in the past 2 years to remove the restriction against corporation funding of support assistance—research, training, technical assistance, and clearinghouse functions—by grant or contract. The House has voted three times supporting repeal of the restriction:

First. H.R. 10799—March 24, 1976 (256–143);

Second. H.R. 6666—June 9, 1977—against reinserting the restriction; and

Third. H.R. 6666—June 27, 1977—against a motion to recommit the bill with instructions to reinsert (213–154).

In addition, the passage of the House bill, H.R. 6666, included removal of this restriction.

The House has clearly stated its confidence in the Legal Services Corporation by allowing it the option of funding these above-mentioned support assistance activities by grant or contract, or undertaking them directly. It is logical that the corporation should be able to choose the most effective, economical, and efficient methods of funding such activities. The only limit placed on such a choice by the House these past 2 years was that no more than 10 percent of the amounts appropriated in any fiscal year would be available for such grants or contracts under section 1006(a)(3) of the act. This was the Wiggins amendment offered in the original bill (H.R. 10799) by the gentleman from California (Mr. Wiggins). It has remained in H.R. 6666 throughout its consideration, and is part of the conference bill, section 5(c).

The above provisions remain in the conference bill, except that the Senate conferees narrowed the types of "research," which are permitted to be funded by grant or contract, by prohibiting such funding of "broad general legal or policy research unrelated to representation of eligible clients." The House resisted this prohibition on the grounds that its ambiguous language may clutter the statute and have a chilling effect on research. However, the Senate conferees prevailed, suggesting that their language was meant to be limited. The House conferees agreed to recede on the condition that the restriction on research would be given a narrow construction.

A third important conference issue was the financing of the Corporation through the authorization for appropriations. The conferees agreed to another 3-year term. Originally in the House subcommittee, when we began the markup, we provided for a 2-year rather than the minimum 3-year term which was requested by the Legal Services Corporation. The program has been operating under an original 3-year term of authorization for appropriations. The Senate had considered a 5-year term but finally agreed to the 3-year term. We think that a 3-year term at this point in time is preferable. We are already in the first year of the authorization for fiscal year 1978, so that it seemed perfectly reasonable.

In terms of the amount of authorization for the funding, we also accepted the Senate formulation. We had agreed to $217 million for the authorization for fiscal year 1978, and the House Appropriations Subcommittee under the able chairmanship of the gentleman from West Virginia (Mr. Slack) had the House appropriate $217 million for that fiscal year, but in the conference on appropriations, that amount was reduced to $205 million. The other body in its authorization legislation provided for $205 million, although their original bill (S. 1303) had authorized $225 million for fiscal year 1978. That lower amount was agreed to in the conference on H.R. 6666, since that was the amount already appropriated for fiscal year 1978, and so there was a proven record. The conferees agreed to leave the authorization level for the other 2 years open ended. The Legal Services Corporation program had been operating in the past fiscal year, 1977, under an open-ended authorization for appropriations, and under the oversight of the other body's subcommittee on this question and our own subcommittee, and certainly the Committees on Appropriations. The amounts to be provided in subsequent years will be reviewed carefully by the committees with authorization and oversight jurisdiction, and we intend to have input into the deliberations by the Appropriations Committees. In light of the present and additional directives in the Legal Services Corporation Act, as well as the Corporation's preliminary goal of minimal access, it is reasonable that an open-ended appropriation be made for fiscal years 1979 and 1980.

There were several instances in which the House prevailed. For example, they prevailed totally on the question of restrictions on legal assistance in criminal cases, including the question of whether persons charged in nontribal courts with criminal offenses of hunting, trapping, fishing, or gathering fruits of the land could be represented when the principal defense arose from treaties or Executive orders relating to native Americans. Such defendants are not covered under the House language, and that restriction continues in the conference bill.

Another issue on which the conference bill has narrowed the House-passed version of H.R. 6666 is regarding the types of legislative and administrative advocacy which the recipient programs are allowed to conduct. Current law allows such representation when necessary to the provision of legal advice and representation with respect to an eligible client's legal rights and responsibilities. The House bill had clarified that the recipients could also respond to formal requests to testify, draft, or review measures or make representations to a governmental agency, legislative body, committee, or member. The House bill had further stated that a recipient could comment or make representations on activities which directly affect the recipient program or the Legal Services Corporation. This latter provision remains intact with the clarification that such activities must be those which are pursuant to the Legal Services Corporation Act and the attending regulations. Certainly a recipient program may protect its own interests before legislative and administrative bodies, for example, on matters related to its funding, its operations, its legal status, or its very existence.

However, the conference bill deletes the House language which would have allowed recipient programs to comment on measures which directly affected the poor in general if on a subject upon which that program's board of directors had voted to take a position. The House reluctantly agreed to recede on this one point, although the Committee on the Judiciary and the House had supported this position.

Mr. Speaker, I believe that the conference report is a good product of the two Houses, and will be an important continuation of an invaluable program to assist in the delivery of justice.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Massachusettts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I join with my distinguished chairman (Mr. KASTENMEIER) in urging the other Members of the House to vote in favor of the conference report on the Legal Services Corporation Act amendments of 1977 and approve the bill in its final form. As with all measures reported out of conference, this bill contains both elements of the House proposal and provisions approved originally by the Senate. After a full discussion of the disagreements between the bodies, your conferees agreed to the report and bill now before us as embodying as many sections of the original House proposal as was possible to include. In some instances the Senate accepted without any change the precise House provision. In other cases, it agreed to slight or clarifying modifications.

To be sure, there were instances in which the House receded to a Senate provision, in some cases with an amendment. Your conferees, in those circumstances, sought to preserve as much of the House philosophy and intent as possible, as expressed in the original version of H.R. 6666. So that there is no doubt about the nature and scope of these modifications, let me add a few words about some of them.

First, both the House and the Senate bills would restore to the legal services program the "pre-Green amendment" authority to fund, by grant or contract, support or "backup" centers to perform research, training, technical assistance, and clearinghouse functions. The Senate bill would except from the grant or contract authority "broad general legal or policy research unrelated to representation of eligible clients." Since the Green amendment originated in the House and was specifically "repealed" by the House on two occasions, your conferees were very reluctant to agree to any exception.

The House receded, however, with the understanding that the Senate exception would be given a narrow construction. Thus to come within the exception, the particular activity in question would have to: First, be of a strictly "research" nature; second, have to involve a "broad general legal or policy" matter; and third, be "unrelated to representation of eligible clients."

The phrase "representation of eligible clients" means only that the research activity at issue be related to actual or potential clients who are eligible for legal assistance under the act. The word "representation" does not require that the support center or a recipient have a client in hand at the time the research is undertaken. Support centers must have the capacity to anticipate the legal problems of the poor if these centers are to provide the needed backup functions intended by the amendments.

In addition many legal problems of the poor are resolved out-of-court by a negotiated settlement. In some instances, it is clear that a particular difficulty is of a recurring nature, justifying indepth research by a support center even though the legal problem of a specific client has been corrected. Anticipating the imminent arrival of eligible clients with a similar problem, the support centers must have the ability to engage in such research so that these future clients will receive the best possible advice and counsel when they seek legal assistance from recipients.

Furthermore at some point most recurring difficulties are litigated. Legal services attorneys should have the research product of the support centers available for such occasions. The Senate exception, to which we agreed, would not preclude research in these and similar circumstances.

Second, both bills contained provisions which would forbid courts to appoint legal services attorneys, on a discriminatory basis, to represent indigents. Evidence at the hearings disclosed that some judges were relying exclusively on legal services program lawyers for such representation. The Senate provision is included in the conference report.

As written, it would allow appointments without compensation only when made pursuant to a "statute, rule, or practice" which is applied to all attorneys practicing in that court. This provision will prevent an undue drain on program resources. It would not, however, affect appointment of legal services lawyers if compensation is provided by the court or other non-Corporation source. Thus if legal services attorneys are singled out for appointment, they must be compensated for their services. This will preserve the fiscal integrity and priorities of the program while recognizing the professional responsibilities of all lawyers, including legal services personnel, to provide legal assistance to the poor.

The provision relating to appointment also raises a question regarding the prohibitions in the act forbidding legal services attorneys from undertaking certain kinds of litigation. Since these restrictions are defended in part by a perceived need to conserve the resources of the Corporation, they would not be offended if a court appoints a legal services attorney with compensation. If such an appointment is made without compensation, pursuant to a general rule or practice, then the legal services attorney would have to advise the court of the existing prohibition, leaving it to the judge to determine whether professional ethics and responsibilities require that the appointment be made notwithstanding the restriction.

This construction of the appointment provision would place legal services attorneys in approximately the same position as private attorneys in similar circumstances. Putting legal services and private lawyers on the same footing with regard to court appointments is, of course, the whole point of this amendment. And like the lawyer in private practice, the legal services attorney could, as she or he deemed desirable, have her or his name placed on the appointment list, which some courts maintain for such purposes.

Third, both bills contained provisions which would require recipients to establish priorities in the utilization of Federal funds for legal services. Both bills also listed particular segments of the poor which, because of their "special difficulties of access to legal services," merit particular attention in setting priorities. The House listed two groups and the Senate listed six. The Senate receded on its longer list with an amendment to require the Corporation to study, by January 1, 1979, the needs of those segments of the poor with "special difficulties." That list is, of course, not intended to be exhaustive, and if the Corporation wishes to include in its study other segments of the indigent community not named, it should feel free to do so.

Fourth, the Senate bill included a provision which would extend the notification requirements presently in the act to "principal local bar associations" whenever a legal services program is initiated (but not continued or refunded). The Senate included the word "principal" so that the Corporation would not have to notify every association of lawyers in the jurisdiction, especially in large metropolitan areas where attorney groups abound. It has the danger, however, of limiting notice to the established bar, thus excluding other groups which, while not the "principal" association, are nonetheless significant parts of the legal community. I am confident the Corporation will take account of other segments of the bar, such as minority, female, and public interest oriented associations, when providing notice of a new legal services program.

Finally, the conference report recommends one additional change which should be noted. In the provision relating to organizational assistance, the Senate receded to the House provision with an amendment which would substitute "act as an organizer" for "directly organize." The intention of the conferees is to clarify the House provision, without any substantive change. Thus the explanation of this provision set out in House Report No. 95-310 is equally and fully applicable to the provision as modified. For a fuller explication of that section, I refer my colleagues to pages 14 and 29 of that House report.

To summarize, I believe the bill as contained in the conference report is a good measure. It is a result of good faith discussion and negotiation by the conferees of both Houses. It retains the essence of the House bill, while recognizing the legitimate concerns expressed in the Senate version. I urge the Members of this House to approve it forthwith.

Mr. Speaker, I wish to commend the gentleman from Wisconsin (Mr. KASTENMEIER) and congratulate him very heartily on the excellent conference report that has emerged from the conference.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I also wish to commend the gentleman from Wisconsin (Mr. KASTENMEIER) upon the leadership he has given and especially his efforts to adhere to the position of the House whenever possible.

I would like to ask a question as to the fate of the language with relation to the outreach program for the elderly and for the handicapped that was in the amendment I introduced which was passed by the House on June 27.

Mr. KASTENMEIER. On that point, the Biaggi amendment, as agreed to on the House floor, the conference bill retains your language. Your provision, section 9(b) of the conference bill requires the Legal Services Corporation to insure that recipients adopt procedures for determining and implementing priorities for assistance by considering the relative needs of eligible clients, including the need for outreach, training, and support services where necessary, and including the needs of persons or groups (including elderly and handicapped individuals) who have special difficulties of access or special legal problems.

We did, however, even go further and I am sure the gentleman from New York would agree that that was desirable, in that the conferees did provide in section 13 for an eligible clients' special needs assessment study at the behest of the Senate. This study would cover some of the other people which the gentleman from New York (Mr. BIAGGI) had in mind, and would determine whether veterans, native Americans, migrants or seasonal farmworkers, persons with limited English-speaking abilities, or persons in sparsely populated areas have special difficulties of access to legal services or special legal problems which are not being met. The legal services corporation must report to Congress not later than January 1, 1979, on the extent and nature of any such problems or difficulties, and shall note and implement appropriate recommendations.

I am sure the gentleman will agree that that is a welcome addition to the bill.

Mr. BIAGGI. I want to thank the gentleman very much. I think it might be worthy to note at this point that as a result of the House action in June, the department of the aging in the city of New York has already commenced its Outreach program with relation to providing legal services for the elderly and the handicapped and already are constructing ramps, or at least removing barriers in their offices throughout the city.

Mr. KASTENMEIER. I thank the gentleman from New York for his contribution.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding.

I want to commend my chairman for a superlative job in ushering this important piece of legislation through our subcommittee and through the full committee and maintaining the House position in the conference. I truly feel that the subcommittee chairman in this legislation has given life and breath to the concept of equal justice under the law. The subcommittee chairman deserves the recognition for that accomplishment.

Mr. KASTENMEIER. I thank the gentleman from Nevada (Mr. SANTINI) and would like to say that I wish to compliment him and the gentleman from Massachusetts (Mr. DRINAN), the gentleman from Virginia (Mr. BUTLER), and other members of the subcommittee, including the gentleman from California (Mr. DANIELSON), the gentleman from Pennsylvania (Mr. ERTEL), and the gentleman from Illinois (Mr. RAILSBACK). Over the last 9 months these members have spent a great deal of time and energy on this issue.

I would also like to thank Mrs. Gail Higgins Fogarty, a counsel for the subcommittee, who has worked on the legal services issue since the Corporation Board was first installed in 1975. There are also many others whose assistance I deeply appreciate.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

I just want to take a moment to thank the chairman of the subcommittee and the conference committee for the work they have done on this legislation. It is an extremely important piece of legislation, and to have wended their way through all the obiter dictum that tends to get attached to legislation like this, I think it takes real genius and real perseverance.

Going over the conference report, I think there is probably a surplusage of words more than are needed as far as cluttering up the functions of attorneys who are legal counsel for the poor and for those who need it, but by and large I think an excellent job was done in conference. I think the chairman deserves a lot of credit for it.

Mr. KASTENMEIER. I thank the gentleman from Virginia, and I agree with him. There is a surplusage of words in the act, but some of those were necessary to assuage the concerns of some of our colleagues both in this body and in the other body. I trust that it will at least aid in some respects rather than confuse the issue.

Mr. Speaker, I reserve the remainder of my time.

Mr. BUTLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 6666, the Legal Services Corporation Act Amendments of 1977. This legislation originated in the House, and in fact I have directly worked on it during hearings, through committee markup, House debate, and conference action. I was a cosponsor of H.R. 6666, and will vote for the conference bill today. I would like to note that my colleague, the gentleman from Illinois (Mr. RAILSBACK), who is unable to be here today, is a strong supporter of this legislation, and we have worked on it together.

As I noted earlier to this House, I am pleased with the manner in which the Legal Services Corporation has performed in its 2 years of existence. Today we have an excellent program—a sound corporation which is charged with funding, monitoring, and assisting local programs. We have in place regulations promulgated by the Corporation after careful deliberations by the Board. We have placed restrictions on the Corporation and its recipients, and in parts of this conference bill we have removed unnecessary restrictions—for example—with respect to juvenile representation.

My own amendment, insuring that staff attorneys cannot be candidates for a partisan political election, even in their off-duty hours, has been retained by the conferees. I believe it is a reasonable restriction.

The conference bill authorizes appropriations for the Legal Services Corporation for 3 additional fiscal years at $205 million—fiscal year 1978—and such sums "as may be necessary" thereafter. Although I can understand that this agreement is a reasonable compromise, I would have preferred a shorter period with sums certain. The House had approved a 2-year authorization at $217 million—fiscal year 1978—and $275 million—fiscal year 1979. The Committee on the Judiciary had approved $238.7 million for fiscal year 1978 and $300 million for fiscal year 1979. However, I realize that the Senate conferees, who had originally supported a 5-year authorization at $225 million—fiscal year 1978—and such sums as necessary thereafter, refused to reduce the level and term of authorization further.

Mr. KASTENMEIER has indicated his intent to continue oversight of this program, as well as to give input to the Appropriations Committee in its annual deliberations on the Corporation's budget request. I, too, intend to participate in that oversight. I believe the program is a good one, but that it should be followed with interest and attention. We have monitored the board meetings and other Corporation activities and expect to continue this practice.

Before I yield to my colleagues, I would like to briefly note two issues which are contained in the conference bill: First, political activities of staff attorneys, and second, legislative and administrative advocacy. I believe that both issues show congressional concern of balancing constitutional—first amendment—rights with reasonable restrictions:

1. POLITICAL ACTIVITIES OF STAFF ATTORNEYS

The House bill (passed on 6/27) and the conference bill have the *identical* prohibitions on "staff attorneys" of the recipients.

A "staff attorney" [1] is now subject to the *same* restrictions on political activities as are individuals who are employees of the Legal Services Corporation or who are deemed "state or local employees" for purposes of chapter 15 of title 5, United States Code (the applicable provisions of the Hatch Act). Therefore, with the passage of this bill, the "staff attorneys" will now be allowed to participate in *non*-partisan political candidacies—e.g., run for the local school board.

Moreover, the House bill and the conference bill, unlike the Senate version, has an *explicit* prohibition or *partisan* political candidacies. (My floor amendment was necessitated by the passage by the House of H.R. 10—a modification of the Hatch Act which would have allowed "State and local employees" who are subject to chapter 15 of title 5 to be candidates for partisan political offices.)

2. LEGISLATIVE AND ADMINISTRATIVE ADVOCACY

The conference bill clarifies the legislative and administrative advocacy which the legal services programs ("recipients") may undertake. However, it *narrows* the activities which the recipients would have been allowed to undertake under the House-passed bill.

The conference bill (Sec. 9(c)—p. 3/4) states that, with respect to grants or contracts, the Corporation shall * * *

"(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

"(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

"(B) a governmental agency, legislative body, a committee, or a member thereof—

"(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

"(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.".

The conference bill makes the following amendments in current law (§ 1007(a) (5) of the LSC Act):

a. As in the House bill, it adds "State proposals by initiative petition" to the list of legislative and executive actions which the recipients are restricted from influencing.

b. As in the House bill, it clarifies that an employee of a recipient may provide legal advice to and representation of an eligible client in an administrative or legislative proceeding, with the Senate proviso that such employee may not solicit a client in violation of professional responsibilities. (The ABA Code of Professional Responsibility is applicable to legal services programs and employees, and, although it prohibits solicitation, it does allow legal services personnel to engage in educational and outreach activities to insure that the poor are aware of their legal rights.)

c. As in the House bill, it specifies examples of the types of representations (testifying, drafting, or reviewing measures, or making representations to an agency, body, committee or member) that may be made by legal services programs in response to a request from a legislative or administrative body or member.

d. As in the House bill, it clarifies that, when no formal request is made or when so identifiable clients or client groups need legal advice or representation, that the recipient program may still make comments and representations on a measure which directly affects the activities (under this title) of the recipient or the Corporation. (Some examples of measures which could be covered by this provision are: state legislation amending the charter of a legal services program; state legislation providing funds for legal assistance for the poor through filing fees; state legislation establishing credentials standards for paralegals.)

The conference bill, however, eliminates the House language which would have authorized legislative and administrative advocacy on matters of *general* concern to poor persons, and on which the local board had voted to take a position.

Mr. Speaker, at this point I yield 5 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I sincerely commend the gentleman from Wisconsin (Mr. KASTENMEIER) for his diligence and persistence in support of the House position on the school desegregation provision.

I have read the conference language and I think it is fair to say the House position has been sustained.

The Judiciary Committee had brought a bill to the floor which would amend present law and permit Legal Services Corporation lawyers to participate in forced schoolbusing litigation. I offered an amendment to restore present language in the law and prohibit the use of corporate funds in litigation involving the forced busing of schoolchildren. That amendment was adopted by this House.

When it was deleted by the other body this House voted to insist on its position. The language of this conference sustains the House position with what I regard as clarifying language. The prohibition regarding litigation will be retained in the law. The clarifying language says the prohibition does not prevent Legal Services Corporation lawyers from giving advice to eligible persons as to the state of the law and allows Legal Service Corporation lawyers to refer an eligible client to another lawyer.

The new language does not do violence to my amendment. As a matter of fact, I think it improves the law in that it clarifies a possible ambiguity. I do not think Legal Services Corporation lawyers should get involved in the very controversial arena of litigation surrounding forced busing cases. Such activity would render them less effective for several reasons which I have previously enunciated. Then, too, it would be difficult to enforce a provision which prohibited the expression of an opinion on the issue. Indeed, there is some question as to whether our legislation could reach that far.

So, to me the conference language is clarifying and makes no substantive change.

My friend, Mr. KASTENMEIER, who opposed my amendment, has demonstrated his sense of fairness, his objectivity, and statesmanship in his fight to sustain the House position and present law.

I happen to think we are right and I thank Mr. KASTENMEIER for his leadership in resolving the issue in the manner he did.

Mr. BUTLER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Speaker, I wish to commend the conferees for their work on the Legal Services Corporation Act Amendments of 1977.

Though I am not in wholehearted agreement with each provision, I believe substantial improvements have been made. This is especially so regarding the provision to which I objected last May which would authorize attorneys, salaried with tax dollars, to lobby anyone anywhere whether or not they were responding to a governmental request. Requiring a specific, eligible client to be directly affected, or the activities of the Corporation or a local legal services program, will aid this worthy service by protecting it from becoming embroiled in political battles which could ultimately defeat the whole endeavor.

For the same reason, I am pleased to see such inflammatory issues as school desegregation restricted and abortion litigation prohibited. It is also appropriate that Legal Services Corporation funds not be used to initiate or directly organize groups, though further protection against harassing and often unmanageable class actions—even continued prohibition of such assistance to groups—would have been preferable in my view.

Legal representation for the poor is a noble and humanitarian objective and the recent history of the Legal Services Corporation has been commendable in achieving this objective. I am sufficiently satisfied with the agreed amendments to genuinely support H.R. 6666.

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[1] The definition under S1002(7) of P.L. 93–355 is a recipient's attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this title.

Mr. BUTLER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Hyde).

Mr. HYDE. Mr. Speaker, I thank the gentleman.

Would the distinguished chairman of the subcommittee permit me to address a couple questions to the gentleman?

I am troubled by the proposition in this bill that where no formal request is made or where there is no identifiable client or client group needing representation, that the recipient program may still make comments and representations, which I take it is a euphemistic way of saying lobbying, on a measure which directly affects the activities of the recipient or the corporation. Are we not using taxpayers' money to subsidize lobbying for legislation?

I can not only understand, I strongly support the idea that poor people ought to have a lawyer and ought to have good legal talent available to them when necessary, but I am troubled by providing taxpayers' funds to groups who are advocating social change or changes in legislation. Everyone ought to have that right, but I am not convinced that the taxpayers ought to pay for that advocacy.

I would like some comments from the distinguished subcommittee chairman on that proposition.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman.

Mr. KASTENMEIER. Of course, what the House approved when it first considered the bill earlier this year goes quite a bit beyond the conference report. What the conference did was to delete the House language which would have allowed appearances and representations by employees of a recipient program on general matters directly affecting the poor whenever the local board of that program had voted to take a position on the subject, irregardless of whether eligible clients needed such legal representation or action.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. BUTLER. Mr. Speaker, I yield the gentleman from Illinois (Mr. Hyde) 2 additional minutes.

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield further, the conference bill provides that the recipient programs may appear or make other representations on measures which directly affect the program itself or the Legal Services Corporation, under this act. The conference bill does not remove the authority of recipient personnel to respond to specific governmental requests, nor does it alter the ability of a recipient's employee to represent an eligible client or group of eligible clients when such representation is necessary to provide legal advice and representation with respect to such client's legal rights and responsibilities.

Mr. HYDE. Mr. Speaker, if I may ask, what about lobbying for additional funds for the program? That certainly affects the program. Would we be subsidizing members of the Corporation lobbying for additional funds for the program?

Mr. KASTENMEIER. Well, I would say yes, although that is a moot question, and both the Senate and the House agreed with the language which is in the conference report. A legal services program may protect its own interests before a legislature or other governmental unit. We would not prohibit, let us say, the Legal Services Corporation or a recipient program from appearing or from advocating something on behalf of the Corporation or the program; but the broad policy questions which the gentleman is talking about definitely are prohibited. They may not, without request, involve themselves generally in lobbying on broad policy questions unrelated to client representation. But with respect, for example, as to how a program may operate within a community, it may appear before a city council and suggest that it would be affected in a certain way.

Mr. HYDE. I can see where that might even be desirable in a situation like that. I appreciate the clarification and I will support the bill.

Mr. BUTLER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Kindness).

Mr. KINDNESS. Mr. Speaker, I would like to commend the conferees for their good work on this conference report, all of which, with one exception, is unnecessary. That is the financing of the Legal Services Corporation for the following 3 fiscal years. We started out with a law that had barely begun really operate. The House measure sought to change things so as to go back to the times before the Legal Services Corporation was established. The final result is that we tend in that direction, but not very far, and it is all an exercise that is quite unnecessary.

I, of course, did not support the bill as it passed the House, and I would urge that the conference report, while it has been good work, in bringing together the House and Senate versions, is much of the unnecessary type of function that goes on around here. We have barely had time for the Legal Services Corporation Act, as previously established by the Congress, to operate when we started messing around with it and changing things, and we did not change it very much. I am grateful that it was not changed more, of course.

I again commend the conferees for their work on this, and their diligence on the whole matter, but would still urge that the conference report ought to be rejected.

Mr. ASHBROOK. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 6666, the Legal Services Corporation Act Amendments of 1977. This legislation would greatly expand the funding and power of the Corporation. It would remove almost all restraints on legal services attorneys and open the program to even more abuse.

I think we should clear up some misconceptions about Federal legal services. Despite what its backers may claim, this is not a program for the poor. Nor is it one to impartially seek justice. It is, however, a program of social activism which uses taxpayers funds to promote radical change outside the electoral process. This is accomplished not just through the courts, but through grass roots lobbying organizations, voter registration efforts, political publications, and lobbying of local, State, and Federal agencies.

The activities of legal services employees are often highly political in nature. Let me mention just a few of the activities they have engaged in at public expense.

Legal services employees have been tax-supported advocates of causes such as rent strikes, racial quotas in jobs and schooling, unions of the unemployed, welfare rights, and Indian land claims. They have also been public-funded promoters of homosexual demands, student protests, voting rights for prison inmates, boycotts of private businesses, and massive expansion of the food stamp program. Probusing, no-growth environmentalism, antibusiness regulation, the list goes on and on.

When the Legal Services Corporation was established as a separate entity in 1974, an attempt was made to depoliticize legal services and prevent such abuses in the future. Perhaps the most important proposal was of our former colleague Edith Green of Oregon. Her successful amendment—which I supported—was intended to prohibit backup centers from committing their resources to social change rather than the needs of individual poor clients.

As Congresswoman Green stated at the time:

> I think it is dishonest to say that we are providing legal aid to the poor when in fact we are financing lobbying for social reform that certain groups want . . . These offices have become the cutting edge for social change in this country.

Despite the adoption of the Green amendment, abuses have continued. The LSC-funded Massachusetts Law Reform Institute lobbied actively in behalf of a referendum for a graduated State income tax. I ask my colleagues, is this providing legal services to the poor? The LSC-funded Pine Tree Legal Assistance and Native American Rights Fund have been trying to force the State of Maine to give two-thirds of its land back to the Passamaquoddy and Penobscot Indian tribes. Again, I ask, is giving part of the country back to the Indians providing legal services to the poor?

Rather than working on ways to strengthen the Green amendment so as to prevent such abuses, however, the Congress is now effectively repealing it. H.R. 6666 would specifically authorize the type of activity which we earlier voted to prohibit. This is a serious mistake and I oppose it.

In addition, the law previously contained a complete prohibition on involvement in school desegregation cases. This was triggered by the Center for Law and Education in Cambridge, Mass., which had intervened on the pro-busing side in Detroit. Although earlier repealed by the House Judiciary Committee, an amendment by my colleague from Ohio (Mr. Wylie) added back strong antibusing language.

Unfortunately the language approved by the conference committee opens up a virtual pandora's box. The flat prohibition against involvement in school desegregation cases has been modified to include the following proviso:

> . . . except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

If we go along with such weak language we are inviting a repetition of the probusing activities we earlier sought to prevent.

The House has also abandoned its restriction on gay rights cases. Although this body overwhelmingly adopted an amendment to prohibit legal assistance with respect to litigation involving the issue of homosexuality, the House conferees receded totally from this position.

In other areas, such as juvenile representation and military related cases, adoption of the conference report would open the legal services program to further abuses. Corporation employees would be permitted to intervene in matters previously outside their jurisdiction. Most of the restrictions we so wisely added in 1974 would be eliminated by H.R. 6666.

The Federal legal services program has been at the forefront of radical political change. With the aid of millions of taxpayers dollars legal services employees have engaged in aggressive social activism, promoting their own views of what is best for the Nation—all the while claiming to represent the poor. This highly political program should be brought to an end.

Mr. WEISS. Mr. Speaker, I was extremely pleased to learn that the House-Senate conference committee on the Legal Services Corporation Act of 1977 deleted the McDonald amendment from its version of the bill. This insidious amendment to H.R. 6666 would have prohibited the Legal Services Corporation from participating in any litigation concerning homosexuality or gay rights.

I voted against this amendment, because it denied equal treatment under the law to gay people who are, of course, as entitled to the Corporation's services as anyone else in the country. The 14th amendment to the Constitution is unequivocal about equal protection:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of . . . the equal protection of the laws.

Passage of the McDonald amendment would have set a precedent for denying other groups equal protection under the law. Who knows what groups would have been next? Women, Jews, Members of Congress? This House must not single out any individual for discrimination if it is to continue to represent all of the Nation's people.

Furthermore, the McDonald amendment's vague wording extended its potential for discrimination far beyond infringements on the rights of gay people. The amendment could have easily discriminated against someone, even if a charge of homosexuality were completely without foundation, solely because the litigation involved homosexuality. This is akin to presuming guilt rather than innocence.

As a cosponsor of the Civil Rights Amendments Act of 1977—which outlaws discrimination on the basis of any kind of sexual preference—I am gratified to see that the conference committee thwarted this attack on the principle of equal rights for all.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of the conference report on H.R. 6666, Legal Services Corporation amendments. My support, however, is qualified and less than total. The reason is fairly simple. This conference report prohibits legal services attorneys from becoming involved in school desegregation suits on behalf of poor clients. The legal services program, although established to serve those who are not able to secure private legal counsel in their efforts to assert their rights, will not serve poor racial minorities or poor women in their efforts to either have equal access to education or fair health treatment.

It seems to me that this conference report unnecessarily restricts the work of legal services attorneys and in so doing limits the opportunities to help the poor. All the same, I must support this authorization, because without supporting it the funds necessary to run the Legal Services Corporation cannot be permitted to fully serve its clients. It is a shame that we in the Congress have restricted the work of dedicated lawyers and limited the rights of poor people who ask these attorneys for help. For these reasons, I support this legislation only in so far as it allocates money for the continuation of the Legal Services Corporation and with strong dissatisfaction with the content of the measure in the area of desegregation.

Mr. BIAGGI. Mr. Speaker, I rise in full support of the conference report to H.R. 6666, the Legal Services Corporation Act amendments. I am pleased to note that the language of my amendment which passed the House, giving a priority to the elderly and handicapped in receiving legal services, is contained in the final bill.

As crime against the elderly, both violent and "victimless" continues to rise throughout the country, so too does their need for legal services. The Legal Services Corporation was established in 1974 to provide the poor of this Nation with legal services which they previously could not afford. We are aware not only of a growing senior population, but also, of the growing number of elderly poor.

Traditionally, the greatest problem facing the elderly with respect to obtaining legal services, has been access. A survey conducted by "legal research and services for the elderly," a project of the National Council of Senior Citizens, found, in the 10 States polled, people over 65 comprised 21.7 percent of their poor population; yet, accounted for only 7.2 percent of the Legal Services Corporation caseload in those States. This graphically illustrates the problem my amendment seeks to correct.

For the handicapped, the problems are all too similar. Limited mobility severely restricts their access to legal services. Further, the handicapped community has an increasing number of economically disadvantaged who cannot afford legal services. These two factors combine to restrict participation of the handicapped in LSC programs. My amendment will provide the means for greater participation and receipt of services.

My amendment will basically set directions for local Legal Service Corporation offices in their determination of which groups to direct services. Where the needs of the elderly and handicapped are identified, LSC offices must respond with necessary services. Further, my amendment requires increased outreach services to better identify those elderly and handicapped in need of services.

As an original member of the House Select Committee on Aging, I am proud of this Congress' record on behalf of the elderly. Today we are addressing and hopefully resolving, a problem of great significance to the elderly. We are breaking down the barriers which prevent them from obtaining the legal services they so desperately need. Their vulnerability to crime is high—their accessibility to legal services is far too limited.

Discrimination of any type against any group must be eliminated. Our Constitution provides for equal protection under the law. It provides it for all—not just for some. Yet, societal barriers never imagined by the Founding Fathers have deprived the elderly and handicapped of their full rights to legal services. I am confident that my amendment will eradicate this problem. I am grateful for the leadership demonstrated by Chairman KASTENMEIER, as well as by the distinguished chairman of the House Select Committee on Aging, Mr. PEPPER. With your support, the elderly and handicapped can win a significant victory today.

Mr. BUTLER. Mr. Speaker, we have no further requests for time on this side.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report.

The SPEAKER (pro tempore) (Mr. McKAY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KASTENMEIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 110, not voting 88, as follows:

[Roll No. 768]

YEAS—236

Addabbo
Akaka
Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corman
Cornell
Coughlin
D'Amours
Davis
de la Garza
Delaney
Dellums
Derrick
Dicks
Dodd
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Foley
Fraser
Frenzel
Gaydos
Gephardt
Giaimo
Gilman
Glickman
Gonzalez
Gore
Gradison
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
LaFalce
Leach
Lederer
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McClory
McCormack
McFall
McHugh
McKay
McKinney
Maguire
Mann
Marks
Marlenee
Mazzoli
Meyner
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pursell
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Roybal
Ryan
Santini
Schroeder
Seiberling
Sharp
Shipley
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solarz
St Germain
Staggers
Stanton
Stark
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thone
Traxler
Trible
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Weiss
White
Whitehurst
Wiggins
Wilson, Tex.
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—110

Abdnor
Allen
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brown, Mich.
Brown, Ohio
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Caputo
Chappell
Clausen, Don H.
Clawson, Del
Collins, Tex.
Corcoran
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dornan
Edwards, Okla.
Evans, Del.
Flippo
Flynt
Fountain
Ginn
Goldwater
Goodling
Grassley
Gudger
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Holt
Hubbard
Huckaby
Ichord
Ireland
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lott
McDonald
McEwen
Madigan
Mahon
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, John
O'Brien
Poage
Pritchard
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Runnels
Satterfield
Schulze
Shuster
Sikes
Sisk
Skelton
Skubitz
Snyder
Spence
Stangeland
Steed
Stockman
Stump
Taylor
Teague
Thornton
Treen
Waggonner
Walsh
Watkins
Whitley
Whitten
Winn
Wydler
Young, Fla.
Young, Tex.

NOT VOTING—88

Ambro
Badillo
Barnard
Beilenson
Blanchard
Bolling
Broyhill
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Diggs
Dingell
Downey
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frey
Fuqua
Gammage
Gibbons
Hall
Hawkins
Hillis
Holland
Kasten
Kelly
Koch
Krueger
Le Fante
Leggett
Lent
Livingston
Lundine
McCloskey
McDade
Markey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Moss
Nichols
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Sarasin
Sawyer
Scheuer
Sebelius
Spellman
Symms
Tucker
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Erlenborn for, with Mr. Crane against.

Mr. McDade for, with Mr. Frey against.

Mr. Railsback for, with Mr. Marriott against.

Mr. Sarasin for, with Mr. Sebelius against.

Mr. Young of Alaska for, with Mr. Symms against.

Mr. Rostenkowski for, with Mr. Kelly against.

Mr. Rosenthal for, with Mr. Dickinson against.

Until further notice:

Mr. Dent with Mr. Badillo.

Mr. Ambro with Mr. Evans of Georgia.

Mr. Danielson with Mr. Kasten.

Mr. English with Mr. Barnard.

Mr. Cotter with Mr. Broyhill.

Mr. Phillip Burton with Mr. Fowler.

Mr. Gammage with Mr. Ertel.

Mr. Gibbons with Mr. Beilenson.

Mr. Le Fante with Mr. Edwards of Alabama.

Mr. Dingell with Mr. Forsythe.

Mrs. Chisholm with Mr. Fithian.

Mr. Downey with Mr. Clay.

Mr. Rahall with Mr. Hall.

Mr. Ford of Michigan with Mr. Hillis.

Mr. Conyers with Mr. Holland.

Mr. Blanchard with Mr. Krueger.

Mr. Cornwell with Mr. Livingston.

Mr. Fuqua with Mr. Markey.

Mr. Diggs with Mr. Leggett.

Mr. Ford of Tennessee with Mr. Lundine.

Mr. Hawkins with Mr. Mattox.

Mr. Koch with Mr. Lent.

Mr. McCloskey with Mr. Mathis.

Mr. Meeds with Mr. Quayle.

Mr. Moss with Ms. Mikulski.

Mr. Ruppe with Mr. Quie.

Mr. Metcalfe with Mr. Patterson of California.

Mr. Russo with Mr. Quillen.

Mr. Milford with Mr. Nichols.

Mr. Scheuer with Mr. Roncalio.

Mrs. Spellman with Mr. Sawyer.

Mr. Tucker with Mr. Waxman.

Mr. Charles H. Wilson of California with Mr. Walker.

Mr. Bob Wilson with Mr. Weaver.

Mr. Wirth with Mr, Whalen.

Mr. Wolff with Mr. Wright.

Messrs. YOUNG of Texas, RISENHOOVER, BROWN of Michigan, and WALSH changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER CONTINUING APPROPRIATIONS, 1978

Mr. DODD, from the Committee on Rules, reported the following privileged resolution (H. Res. 928, Rept. No. 95–833), which was referred to the House Calendar and ordered to be printed:

H. RES. 928

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider a motion to take from the Speaker's table the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, with the Senate amendments thereto, and concur in the Senate amendments, without any intervening motion, and at the conclusion of the debate thereon the previous question shall be considered as ordered, and the question shall be put on the motion to concur without any intervening motion.

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 928 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The question is, will the House now consider House Resolution 928?

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, does not the consideration of this resolution require a two-thirds vote?

The SPEAKER pro tempore. The Chair will state that that is correct.

Mr. BAUMAN. Is there no debate permitted on consideration of the question?

The SPEAKER pro tempore. The Chair will state that no debate is permitted on consideration of the question.

The question is, will the House now consider House Resolution 928?

The question was taken.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 86, not voting 97, as follows:

[Roll No. 769]

YEAS—251

Addabbo
Akaka
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashley
Aspin
AuCoin
Baldus
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Bingham
Blouin
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Corcoran
Corman
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dellums
Derrick
Devine
Dicks
Dingell
Dodd
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Del.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Florio
Flowers
Foley
Fountain
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gudger
Guyer
Hagedorn
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hefner
Heftel
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kemp
Ketchum
Keys
Kostmayer
Krebs
LaFalce
Latta
Leach
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
McClory
McCormack
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marlenee
Martin
Mazzoli
Meyner
Michel
Mikva
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Pritchard
Pursell
Rangel
Regula
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roybal
Runnels
Ryan
Santini
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Solarz
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Stump
Thompson
Thornton
Treen
Trible
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vento
Waggonner
Walgren
Walsh
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Wilson, Tex.
Winn
Yates
Young, Mo.

NAYS—86

Abdnor
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Biaggi
Boland
Breaux
Burke, Mass.
Burleson, Tex.
Chappell
Clausen, Don H.
Clawson, Del
Coleman
Collins, Tex.
Conte
Cornell
Delaney
Derwinski
Dornan
Early
Edwards, Okla.
Fary
Flood
Flynt
Gephardt
Gonzalez
Grassley
Hammerschmidt
Hansen
Harsha
Heckler
Hightower
Holt
Hubbard
Hyde
Ichord
Kazen
Kildee
Kindness
Lagomarsino
Lederer
Lujan
McDade
McDonald
Marks
Miller, Ohio
Mitchell, N.Y.
Moorhead, Calif.
Murphy, N.Y.
Myers, John
Myers, Michael
O'Brien
Oberstar
Pressler
Price
Rinaldo
Rooney
Rousselot
Rudd
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
St Germain
Steiger
Stockman
Taylor
Teague
Thone
Traxler
Vander Jagt
Volkmer
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—97

Alexander
Ambro
Badillo
Barnard
Baucus
Beilenson
Blanchard
Boggs
Bolling
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Diggs
Downey
Eckhardt
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frey
Fuqua
Gammage
Gibbons
Hall
Hawkins
Hillis
Holland
Kasten
Kelly
Koch
Krueger
Le Fante
Leggett
Lent
Livingston
Lundine
McCloskey
Markey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Mitchell, Md.
Montgomery
Moss
Nichols
Nix
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Risenhoover
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Sarasin
Sawyer
Scheuer
Sebelius
Spellman
Symms
Tucker
Walker
Waxman
Weaver
Whalen
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

Mr. Dent with Mr. Ruppe.
Mr. Hall with Mr. Sebelius.
Mr. Ertel with Mr. McCloskey.
Mr. Cornwell with Mr. Frey.
Mr. Evans of Georgia with Mr. Symms.
Mr. Fithian with Mr. Kasten.
Mr. Charles H. Wilson of California with Mr. Broyhill.
Mr. Ford of Michigan with Mr. Crane.
Mr. Waxman with Mr. Edwards of Alabama.
Mr. Rahall with Mr. Marriott.
Mr. Blanchard with Mr. Walker.
Mr. Koch with Mr. Railsback.
Mr. Badillo with Mr. Sawyer.
Ms. Chisholm with Mr. Erlenborn.
Mr. Gammage with Mr. Livingston.
Mr. Ford of Tennessee with Mr. Cunningham.
Mr. Mattox with Mr. Sarasin.
Mr. Wirth with Mr. Bob Wilson.
Mr. Patterson of California with Mr. Kelly.
Mr. Russo with Mr. Quillen.
Mr. Weaver with Mr. Whalen.
Mr. Hawkins with Mr. Quie.
Mr. Tucker with Mr. Forsythe.
Mr. Conyers with Mr. Hillis.
Mr. Clay with Mr. Young of Alaska.
Mr. Downey with Mr. Lent.
Mr. Beilenson with Mr. Leggett.
Mr. Danielson with Mr. Quayle.
Mr. Meeds with Mr. Barnard.
Mr. Wright with Mr. Milford.
Mr. Krueger with Mr. English.
Mr. Roncalio with Mr. Diggs.
Ms. Mikulski with Mr. Dickinson.
Mr. Nichols with Mr. Baucus.
Mr. Rosenthal with Mr. Montgomery.
Mr. Rostenkowski with Mr. Scheuer.
Mr. Ambro with Mr. Alexander.
Mrs. Boggs with Mr. Eckhardt.
Mr. Cotter with Mr. Wiggins.
Mrs. Spellman with Mr. Lundine.
Mr. John L. Burton with Mr. Moss.
Mr. Nix with Mr. Mathis.
Mr. Markey with Mr. Holland.
Mr. Fuqua with Mr. Gibbons.
Mr. Phillip Burton with Mr. Whitten.
Mr. Mitchell of Maryland with Mr. Risenhover.
Mr. Metcalfe with Mr. Fowler.
Mr. Wolff with Mr. Le Fante.

Messrs. ANNUNZIO, BIAGGI, PRICE, HARSHA, LEDERER, MICHEL, GARY A. MYERS, RINALDO, FARY and ZEFERETTI changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the House agreed to consider House Joint Resolution 662.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McDONALD. Mr. Speaker, on the vote on the conference report on H.R. 9418, the Public Health Services Act, I missed the vote because I was detained on official business.

Had I been present, I would have voted "no."

FURTHER CONTINUING APPROPRIATIONS, 1978

The SPEAKER pro tempore (Mr. McKAY). The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, I do not intend to use all my time on this issue, on the rule itself. I would just merely explain what this resolution does. It directs the Appropriations Committee to offer a motion to concur in a Senate amendment.

I would just like to make one point here. This debate has been going on for months now. If there is one issue on which the Members of this institution have let the record show where they stand, this issue has been it. I would hope that in the remaining few minutes of today and the few days that are left before the end of this year we would try and come to agreement, come to a compromise, and resolve this issue.

We all have our differences and views on how this issue should be dealt with, but I intend to support the motion to be made by the chairman of the Appropriations Committee. I recognize that there are those who feel that the Michel amendment offered yesterday was the best. I voted for that motion. I think it was a good effort.

The fact that the word "forcible" has been deleted from that particular language, I do not think makes that much significant difference. I do not think we are going to have a situation where a person is going to be involved in a statutory rape who would not report it promptly. I think the word "promptly" protects against the situation feared by those who are concerned over the Senate's deletion of the word "forcible."

I would hope that the matter would be debated thoroughly and that we would resolve this issue.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DODD. I yield for purposes of debate only.

Mr. VOLKMER. As a freshman Member, I would just like to understand where I am. If, in the event that this rule would be defeated, there is nothing to prohibit the Rules Committee from even today coming back with another rule, is that correct?

Mr. DODD. It could happen, but I do not see that as a strong likelihood. But, it certainly is something that could occur. As in this case, we would be required to have a two-thirds vote to bring it up.

Mr. VOLKMER. Let us assume the next day. In the event the rule is adopted—I am not going to vote for it—but in the event the rule is adopted and the motion itself is defeated, then the question is, Where do we stand from there?

Mr. DODD. I am not prepared to respond to that. I am not in a position to say exactly what the will of the House would be with regard to that particular matter. But, if the previous question still stands, there is a possibility that we could come up with another rule.

Mr. VOLKMER. Correct, and we are not quitting today, as I understand from the leadership, and all the debate that has been going on here before concerning recess, we are not going to recess because we still have the energy matter to concern ourselves with. Is that correct?

Mr. DODD. The gentleman is correct.

Mr. VOLKMER. I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, I concur in the explanation of this resolution that has just been given by my colleague on the Committee on Rules, the gentleman from Connecticut.

Mr. Speaker, I would observe that I would somehow hope that the 251 to 86 vote by which we have just agreed to consider this rule might be a precursor of a happier solution to the final problem that we face than we had on yesterday and on the more than 12 occasions, I believe, that we have voted on this matter in the past.

I was disappointed a moment ago to hear the gentleman from Missouri say that he was going to oppose this rule. I cannot think of any reason, particularly in view of some of the facts that were brought out in the debate yesterday by the distinguished majority leader, the leader on the other side of the aisle, about the fact that three-quarters of a million State, local and Federal employees may literally face a payless payday before Christmas, why we would want to take the obdurate and absolutely intransigent attitude that we would not consider this rule, that we would not consider this matter under an appropriate rule.

As the gentleman from Connecticut has explained, it does makes a change, it does make a compromise, a further compromise, on this issue and an opportunity for some of those Members who, regrettably, did not vote for the Michel amendment on yesterday to come back to our side and support an acceptable compromise on this very controversial issue.

So I urge every Member of this body to support the rule.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Missouri. I mentioned the gentleman's name, and I certainly will yield to the gentleman.

Mr. VOLKMER. Mr. Speaker, I would like to ask the gentleman this question: This provision, this proposal that is now before us, the rule proposing that the House adopt the Senate language, is actually more broad than what the House rejected yesterday; is that not correct?

Mr. ANDERSON of Illinois. I think the issue is not the language at this particular juncture in these proceedings. The issue is whether or not we are willing to even consider a matter and to allow the distinguished chairman of the Committee on Appripriations (Mr. Mahon) to offer a motion to concur in the Senate amendment to House Resolution 662, the continuing resolution.

Mr. VOLKMER. Without any subsequent motion being presented?

Mr. ANDERSON of Illinois. The substantive issue will be debated in the hour that will be allowed the gentleman from Texas (Mr. Mahon) when he makes the motion to concur in the Senate amendment.

Mr. VOLKMER. No preferential motion can be raised under this rule; is that correct?

Mr. ANDERSON of Illinois. The motion can be raised up or down. Members will have an opportunity to express their views on the issue when the votes are made.

Mr. VOLKMER. And nothing else?

Mr. ANDERSON of Illinois. I do not know what else the gentleman thinks he should have at this point.

Mr. VOLKMER. No other preferential motion could be presented?

Mr. ANDERSON of Illinois. No. The motion would be a motion to concur in the Senate amendment. That motion will be explained in the hour of debate that will be provided under the rules for its consideration.

Mr. VOLKMER. I thank the gentleman for his explanation.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the reason I asked for a vote on the question of consideration was because a rule of this nature requires a two-thirds vote to be brought up on the same day it is reported out. Just about without any notice to any Members interested in this issue, including the chairman of the Subcommittee on Appropriations dealing with it under the rules, they convened this morning, at the direction, I assume, of the leadership, and reported this rule out. All the rule does is to change the order in which consideration of motions dealing with a conference report are normally handled. It says that, instead of the gentleman from Pennsylvania (Mr. Flood), if he chose, or any other Members, being able to offer a motion to concur in the Senate amendment with an amendment, which might be an acceptable compromise, that the House is forced by this rule to vote solely on the Senate language adopted yesterday. I think most of us who have stood steadfast against the compromise on this issue of right to life feel that the Senate language is totally meaningless as a compromise, and is worse than many of the others that have been voted down. And there is other language being considered which may be offered by some of the members of the Committee on Appropriations that would have the support of the gentleman from Maryland, the gentleman from Illinois (Mr. Hyde), the gentleman from Pennsylvania (Mr. Flood), and could very well possibly resolve this issue.

However, the rule before us forces us to vote first—and possibly only—depending upon the outcome of the vote on whether or not we swallow the Senate amendment wholly. I think it is unfortunate that we find ourselves in this position.

I will oppose the rule. I am not going to force it to a rollcall vote, but perhaps some other Member will. There is still a chance for a compromise here. The language could be sent back to the other body this afternoon, in light of the closeness of the vote, in light of the paydays involved, and in light of the remarks of other Members who are desirous of leaving. Approximately 40 Members have left yesterday since this House voted, and we do have to resolve this issue.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I was trying to make a point along these lines a minute ago.

In other words, this is basically what we call a closed rule, is it not?

Mr. BAUMAN. It still allows the possibility of compromise if the motion to concur in the Senate amendments is defeated.

Mr. VOLKMER. I do not understand that to be the case.

Mr. BAUMAN. I fervently hope that will be the result. In that event, another amendment might be offered.

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken and on a division (demanded by Mr. Bauman) there were—yeas 54; nays 40.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. Mahon).

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, pursuant to the rule just adopted, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves to take from the Speaker's table the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The **SPEAKER** pro tempore. The Clerk will report the title of the joint resolution and the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

(1) Page 2, lines 15 and 16, strike out "as modified by the House of Representatives on August 2, 1977".

(2) Page 2, line 17, after "resolution" insert: "*Provided, however*, that none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

"Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced."

PARLIAMENTARY INQUIRIES

Mr. **BAUMAN**. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore. The gentleman will state his parliamentary inquiry.

Mr. **BAUMAN**. Mr. Speaker, if the motion offered to concur in the Senate amendments is defeated, is it still not in order for a Member to be recognized to offer a motion to concur in the Senate amendments with an amendment?

The **SPEAKER** pro tempore. The Chair will inform the gentleman that it would take unanimous consent.

Mr. **BAUMAN**. Because of the rule that was adopted, that would not be in order?

The **SPEAKER** pro tempore. No, it would not.

Mr. **BAUMAN**. So, Mr. Speaker, the rule totally precludes any possibility of offering an amendment?

The **SPEAKER** pro tempore. The gentleman is correct, other than by unanimous consent or by the adoption of another rule.

Mr. **BAUMAN**. Mr. Speaker, I have a further parliamentary inquiry.

Under the normal order of procedure, which the rule has changed, such a motion would be first in order now instead of the pending motion, would it not?

The rule mentions nothing about precluding a motion to concur in the Senate amendments with an amendment. Would that not have been in order if this motion were defeated?

The **SPEAKER** pro tempore. The rule makes in order one motion to concur and nothing else. Rejection of that motion would not at that stage permit other privileged motions in the House to dispose of the Senate amendment.

Mr. **BAUMAN**. Mr. Speaker, I understand, and I thank the chair.

The **SPEAKER** pro tempore. The gentleman from Texas (Mr. MAHON) is recognized for 1 hour.

Mr. **MAHON**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of my colleagues said to me a moment ago, "Why do you appear so grim? Why are you so glum?"

We have been wrestling with this abortion question for quite some time. However, I am not faced with a payless pay day or with anything of that kind, so I am not facing an emergency myself personally.

However, there are some people who are, and I have great concern about some way in which to solve this problem.

Mr. Speaker, the Members will remember Hamlet, the melancholy Dane, who in frustration and despair said on one occasion:

O! that this too too solid flesh would melt,
Thaw and resolve itself into a dew;
Or that the Everlasting had not fixed
His canon 'gainst self-slaughter!

He should not have been quite so depressed.

Mr. Speaker, I think we could use a little hope, a little human hope—hope in small letters—that we will be able to resolve this issue involving abortion. I cannot resolve it myself. I have tried diligently and ineffectively to do it.

Mr. Speaker, there is an old hymn which says, "Take your troubles to the Lord and leave them there."

I am taking my troubles to the House of Representatives, and I am leaving them there. I can still sleep well at night, and I expect to sleep well tonight.

I just want my colleagues to vote their own consciences with respect to this matter. I would not twist an arm or say an unkind word or otherwise try to pressure anyone. I say to the Members, "Just vote according to your desires as you have in the past."

Mr. Speaker, yesterday was the certifying date for the payroll for the Department of Labor. Today is the date for HEW. Tens of thousands of people are involved. For the Department of Labor people payday would be on Friday of this week, so we are running up against a deadline. Payday for the HEW people is next Tuesday.

Mr. Speaker, I ask the Members to realize that I can take it if they can take it. It is just a matter of how we can resolve this issue.

Mr. Speaker, somebody was saying to me the other day, "Did you not know that everybody in this House has voted for abortion?"

I thought for a moment, and I said, "Yes, you are right. Everybody, Mr. HYDE, and everybody else voted for abortion because they voted for the language which says that no abortion shall be permitted unless the health of the mother is in jeopardy or unless the life of the mother is in jeopardy. Therefore, everyone has voted for abortion in some form. It is a matter of the degree of abortion which we have all voted upon."

This is a very troublesome question, a very troublesome issue.

Mr. Speaker, this resolution went over to the Senate yesterday, and the Senate rejected it. However, they passed substantially what the House had rejected. This is as far as the Senate has gone in making some kind of compromise. If the House has made any substantial compromise, I am not aware of it.

Mr. Speaker, the compromise of the Senate yesterday was more substantial than had taken place in the past. Therefore, the problem is, What are we voting on today? We are voting on what we voted on yesterday, in an atmosphere in which payless paydays are more imminent.

Mr. Speaker, we are voting on the amendment we voted on yesterday without the word "force" in connection with rape. If I know anything about words, "rape" means "force," and therefore, abortion would be permitted after a rape had taken place.

In statutory rape the relationship would be illegal so the courts could very well hold that a statutory rape was forced rape. Well, that interpretation would militate against certain positions. We do not know just what the courts would decide.

But, Mr. Speaker, it would be good if we can get this matter behind us—get it behind us until when? Until next September 30. Is it not delightful to contemplate that we might dispose of this thing and not have to confront it month after month as we go campaigning next year? Would it not be good if we could extend this period until the end of the fiscal year which is September 30, 1978? If this language is approved today it is all over and we will not have to be back tomorrow for the consideration of this issue. Of course, if this is voted down—and I am not urging any Member to vote one way or another—if it is voted down, then we would have to be back tomorrow, or certainly late tonight or today in trying to work something out. I suppose that everybody has a secret formula, maybe it is not really secret, but a formula to work this out.

We have done our best with various proposals. So I would hope that we could vote on this matter and get this matter behind us and avoid the reaction that will necessarily follow if we do not enable these Federal employees to get paid on Friday of this week.

I believe it does reflect on the Congress in its ability to do its job.

The Committee on Rules has been very tolerant. The Committee on Rules provided us with a rule and we have it. In the interests of getting this matter behind us and in the realization of the fact that compromise is necessary even though people are completely and totally entitled to their own views but if they will not in any way give in a little one way or another on their own viewpoints then any kind of a compromise of course cannot ensue and cannot be worked out.

So I urge the Members to use their own best judgment. I am prepared to stay here with you. In fact, I have no plans to the contrary for the next week, otherwise certain of our people will have a payless payday.

So, let your conscience be your guide.

Mr. **BONKER**. Mr. Speaker, will the gentleman yield?

Mr. **MAHON**. I yield to the distinguished gentleman from Washington.

Mr. **BONKER**. Mr. Speaker, may I say to the gentleman from Texas (Mr.

Mahon) that I appreciate his tireless efforts to break this impasse. It just seems to me that with each vote, in view of the diminishing number of people who are here, it becomes more difficult to solve this issue, but the pressure is going to increase if we do not do something. However, I would like to have the gentleman perhaps confirm one point that I think should be made and that is does the gentleman not feel that those who voted for the Michel amendment yesterday may feel that the Senate has weakened that language by substituting "rape" for "forced rape"? But the fact is that existing section 209 of the law and both the Hyde amendment which is now in force, makes no reference to rape and the Secretary of HEW in his regulations makes no reference to forced rape.

So I think we are dealing intellectually with some phrases. But in terms of substance and consequence, we really are not that far apart. The real key word is "prompt," that any occurrence under the circumstances involved in this language be promptly reported to the authorities. To me that closes any possible loophole, and it should be acceptable to those who have been supporting the Hyde position.

Mr. MAHON. The gentleman makes a very, very significant point. Under the Senate language upon which we will vote, which was the House language that we submitted yesterday, if it is a forcible rape, it must be reported promptly. The prompt reporting is the thing that is very significant here. What we vote on today would require the prompt reporting. This, it seems to me, should be borne in mind in connection with the decision which we shall make.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

The gentleman from Washington and the gentleman from Texas have both placed great score on what the meaning of "prompt" is under the Senate language. I refer them to the debate in the Senate yesterday at page 38598 in which the Senator from Massachusetts (Mr. Brooke) and the Senator from Ohio (Mr. Metzenbaum) at length discussed promptitude and what it meant in this case:

> Mr. Metzenbaum. Possibly weeks and months.
>
> Mr. Brooke. It could be, yes.

Then they went on to explain in their view months could pass and still lead to prompt reporting. In other words, this is a very large loophole, and this debate in the Senate could support a complete reversal of the attitude of the House when we desired a prompt reporting of when the rape occurred. Read what the Senate said.

Mr. MAHON. Regardless of what may have been said by any Member of the other body and by any Member of this body, in plain English "prompt" means reasonably quick. It does not mean months, regardless of what anybody may have said. I do not accept everything I read in the Congressional Record. I know what the word "promptly" means, and I know that Mr. Califano, the Secretary of HEW, is a man of integrity, and he is required under the language in this proposal to promptly issue regulations to rigorously enforce the import of the resolution. So I would not be concerned about that matter.

Mr. BONKER. Will the chairman yield on this point?

Mr. MAHON. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

I wonder if the gentleman from Maryland has any idea where the word "prompt" was first introduced in this language. It was first introduced by Senator Helms, who is an archadvocate of the Hyde amendment, when it was being considered on the Senate floor last week. He had moved to amend the language to include the words "reported promptly," so that is the language that is now before this body. That does not come from the pro-abortionists; that comes from Senator Jesse Helms, whose position, I would imagine the gentleman from Maryland supports on this issue.

Mr. MAHON. If I may say, since we are talking about the word "promptly," let us read what the resolution upon which we are going to vote says:

> except where the life of the mother would be endangered if the fetus were carried to term;

That is the first exception where abortion would be permitted—

> or except for such medical procedures necessary for the victims of rape—

We leave out "forced." The language we vote on today is—

> necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service;

This is the best and the quickest way to dispose of this matter. Whether it is the wisest, it is up to us to make a determination on that issue.

Mr. CARTER. Mr. Speaker, I would ask the distinguished Dean of the House to yield to me.

Mr. MAHON. I yield to the gentleman from Kentucky.

Mr. CARTER. I regret so much that the Chairman is feeling glum today. I always like to see him convivial, congenial, and feeling good and of great spirit.

Mr. MAHON. Yes.

Mr. CARTER. To that end I say: "Be still, sad heart, and cease repining; Behind the clouds is the sun still shining. Your fate is but the common fate of all; Into every life some rain must fall. Some days must be dark and dreary."

I thank the gentleman for yielding.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield for a question?

Mr. MAHON. I yield for a question.

Mr. VOLKMER. Yesterday I believe the gentleman was present during the debate on the amendment offered by the gentleman from Illinois; is that not correct?

Mr. MAHON. What did the gentleman ask?

Mr. VOLKMER. I say yesterday during the debate on the amendment offered by the gentleman from Illinois, the gentleman was present—on the Michel amendment?

Mr. MAHON. Was the gentleman from Missouri on the floor?

Mr. VOLKMER. Yes, I was here.

Mr. MAHON. Was the gentleman from Missouri aware whether or not I was here?

Mr. VOLKMER. Yes. I believe the gentleman from Texas was here. I do not remember everybody who was on the floor, I know. I just do not remember everybody who was here.

Mr. MAHON. The chairman who was handling the bill I hope would be noticeable.

Mr. VOLKMER. The reason I asked was during the debate the gentleman from Illinois gave his opinion as to certain meanings of certain provisions of the language of that amendment. I would just like to know if the gentleman from Texas agrees with those statements.

Mr. MAHON. I have not checked the Record this morning.

Mr. VOLKMER. The gentleman was here and I am sure he paid close attention to every bit of the debate.

Mr. MAHON. But I say I have not read what appeared in the Record this morning and I would not be in a position to confirm or deny what the gentleman from Illinois has said.

Next question.

Mr. VOLKMER. I thank the gentleman.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Is it the chairman's intention to divide the time equally or is it just at his pleasure that he would yield?

The SPEAKER pro tempore (Mr. Stratton). The gentleman from Texas (Mr. Mahon) has consumed 17 minutes.

Mr. MICHEL. Is the chairman intending to divide the time between himself and the gentleman from Illinois or should we simply make our requests to the chairman?

Mr. MAHON. I believe under the rule I have all the time, but I would be happy to yield to the extent the gentleman desires.

Mr. MICHEL. I just want to make it clear. The gentleman has always been eminently fair. I would like to make sure the gentleman from Maryland (Mr. Bauman) and the gentleman from Illinois (Mr. Hyde) and the gentleman from Kentucky (Mr. Carter) could be heard.

Mr. MAHON. I would be happy, if the rules permitted, to yield 20 minutes or 30 minutes to the gentleman from Illinois for the purpose of controlling the debate.

Mr. MICHEL. I appreciate that very much, Mr. Speaker, so I yield 5 minutes to the gentleman from Illinois (Mr. Hyde).

Mr. MAHON. Mr. Speaker, has the Chair ruled that I can yield such time?

The SPEAKER pro tempore. The gentleman from Texas can yield the time as he sees fit. The gentleman understands the gentleman from Texas has yielded 30 minutes to the gentleman from Illinois.

Mr. MAHON. In view of the fact that 17 minutes have already elapsed, would 20 minutes be adequate?

Mr. MICHEL. Sufficient.

Mr. Speaker, I yield the first 5 of the 20 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, yesterday I took only 2 minutes and I was low-keyed and attempted to be moderate in my approach to this subject, which was somewhat out of character, because I know that the scenario that is devoutly desired for the pro-life congressmen over here is for us to go "gently into the night" and not rage against the dying of the light.

I just do not choose to do so today because the immoderate subject of killing prenatal young does not lend itself to moderate discourse. I believe firmly that man must render an accounting not only for every idle word but also for every idle silence.

The other body has removed "forced" from the definition of rape and thus opens medicaid abortions to any woman under the age of consent, whether there has been a forced rape or rape has been consented to or whether there has been any rape whatever in the sense that force has been used or not.

The distinguished majority leader yesterday adverted to and supplied us with a list of hundreds and hundreds of very important—even vital—programs that will be halted if we do not succumb to the will of the other body and change the existing law to provide for the extermination of thousands of defenseless pre-born lives.

One of our distinguished colleagues put several statements in the Record the other day indicating there is a great ambiguity among church groups, different church groups, a lack of consensus on the part of several of them on the essential question, "When does human life begin?"

First of all, disputations among religious groups on important issues are nothing new. Wars have been fought over such matters. That is why these church groups are different.

But I say, "So what?" If you cannot tell when life begins, where do you allocate the benefit of the doubt? Do you shoot the gun through the door because you are not sure anyone is behind it?

More importantly, the commencement of human life is determined by biology, not theology.

Theology says, "Thou shalt not kill."

Biology says, "That fetus is human life."

One highly respected authoritative organization in this field is Planned Parenthood. They are on the cutting edge of the abortion controversy. It seems to me they ought to be authoritative on this basic question of when does life begin. I have here one of their pamphlets, issued by Planned Parenthood, 515 Madison Avenue, "Every Child a Wanted Child," and it is called, "Plan Your Children".

It says, "Is It An Abortion?" This was issued in 1964. "Is It An Abortion?"

"Definitely not. An abortion kills the life of a baby after it has begun. It is dangerous to your life and health. It may make you sterile so that when you want a child you cannot have it. Birth control merely postpones the beginning of life."

I always ask the Planned Parenthood people, "What medical discoveries have occurred since 1964 to reverse this position? Do you stand by the fact that abortion kills the life of a baby?" I do not get much of a response.

I do not like to stand here and be accused of being the consummate Christmas Scrooge standing between thousands of employees and their Christmas checks; but what am I supposed to do, abandon prenatal life because the Senate wants to change the existing law?

The citizens of Dachau and Buchenwald, when they visited the furnaces and ovens of the prison camps cringed and shuddered and said, "We didn't know."

The defendants at Nurenberg said, "We didn't know."

I do not think we have that excuse. We know that unborn life is human life. I am unwilling to trade it for a health condition or for any other circumstances, except to save another human life.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume, first of all to make inquiry of the chairman. On page 2 of the resolution, on lines 15 and 16, it says:

> As modified by the House of Representatives on August 2, 1977, has been struck in the Senate.

Now, in the House we made absolutely sure in the continuing resolution that all the other items in the conference report and the disagreeing amendments which we have reached agreement on were not to be touched by what we may or may not do on the so-called Hyde amendment.

I want to make sure that is the chairman's understanding, that notwithstanding the striking of that line in the Senate and in this resolution that we are not tampering with any of those other items in the HEW bill that have heretofore been agreed to.

Mr. MAHON. Mr. Speaker, the gentleman from Illinois has performed a service in calling this matter to the attention of the House. The gentleman from Illinois is absolutely correct. There was no intention whatever of involving ourselves in the reconsideration of other issues in the Labor-HEW appropriation bill. The only matter involved here was this amendment having to do with abortion. I would call this a technical error and the meaning is absolutely clear from this colloquy what the House and the Senate intend to do.

Mr. MICHEL. Mr. Speaker, is it the chairman's intention to acknowledge the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. FLOOD), at some juncture?

Mr. MAHON. I shall yield some time to the gentleman from Pennsylvania, yes.

Mr. MICHEL. I have really only the gentleman from Maryland (Mr. BAUMAN) left for a few words.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Subcommittee on Labor, Health, Education, and Welfare, the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, let me tell you just what the situation is here. There are very few Members in attendance on the floor now, and I am satisfied that even those of the very few are not clear about who pulled what rabbit out of what hat at some time during today. But, it was done.

Now, Members, when you think of the debates we have had on this bill over the past months; the deadly seriousness, the heartrending debate on both sides of the aisle and from both sides of this issue, I just have never seen anything like it. Yet, despite that, here is where you are: The Members are now faced with a take-it-or-leave-it-situation on the Senate language that we have been debating concerning Federal funds for abortion. A subject you have been worrying and debating for months. The Senate language before us is a watered-down version of the language rejected by the House just yesterday by a recorded vote—most of you were here and voted yesterday—of 170 to 200. Remember, just yesterday?

If you voted against the Michel amendment yesterday, then you vote against this Senate amendment. Do you see why? It is as plain as the nose on your face; just like night follows day.

Now, I am not going to repeat the arguments of yesterday against this Senate language. I could take an hour here in three languages. But I am sure that Members know what is happening here today. You know what is happening here today. You are being forced as Members of the House, to vote up or down on a Senate amendment.

You—with no opportunity to change a single word or even the punctuation. I find this totally unacceptable, in capital letters. I urge you to reject the Senate amendment.

Mr. MICHEL. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Once more to the well, Mr. Speaker. The gentleman from Illinois (Mr. HYDE) has stated most clearly the concern of those of us who have voted repeatedly in favor of the Hyde amendment and for human life. The Members can read my other speeches on other days in the RECORD as to why I understand it is very difficult for those who hold our position to compromise with those who hold the position that the fetus is nothing more than a bit of tissue, to be thrown away in a garbage can after being excised.

We know that there are deep-seated differences that exist and will continue to exist on legislation in years to come, whether it is national health insurance, or the appropriation bill on HEW next year.

So I have taken the trouble to ask some experts overnight to give some estimate of what the language of the other body would mean in terms of actual abortions. Understand, there are more than 1 million abortions in the United States a year, and in some States there are more children killed by abortion than are live-born. So abortion is occurring. Three hundred thousand abortions, approximately, are financed by the Federal Government, and that is what we are fighting about. The Supreme Court a few months ago upheld the Hyde amendment as a proper action of the majority of this body and of the other body to limit those 300,000 abortions to the absolutely necessary ones, when the life of the mother was in danger. The Court said that was acceptable and constitutional.

Ever since that time, the other body has been fighting to increase the loopholes and their scope so as to permit more and more abortions. So I asked an expert whether he could estimate what this language could mean. The removal alone, the estimate was given to me, of the word "forced" would mean that one-quarter to one-third of the 300,000 abortions would be permitted. So, if this language is adopted the Members are voting for at least that many deaths. With the inclusion of the broadly interpreted "prompt reporting" months after the occurrence, as the Members of the other body readily interpret it—and legislative history does play a part—we have another estimate. It could be almost unlimited, I was told, because anyone could say they had been raped. The abortion would be months after the fact, and it would be paid for by the Government. As to the mother's health exception, it would be left up to the judgment of the doctor. In my experience with the medical people who regularly perform abortions, many are running abortion clinics where much of their money comes from medicaid for performing abortions, doing this death-dealing operation, and little else.

So what the Members may be voting for is 300,000, or more, abortions financed by the Federal Government. So the Members should not deceive themselves. If they have voted 10 times for the right to life, this pending language is not going to offer them some out. I know that there were 10 or 12 Members who voted with us in the past who switched yesterday. This language offers them no excuse for such a switch. This vote is the most crucial one of all, because if this language is defeated, it will be written up in every newspaper in the country as a major defeat for the right-to-life forces who are not going to stop their activity. They believe and I believe and a majority of this body believes, at least until today, in the right to life. So that issue will be raised. Ask yourself: Do you want to be the one who makes the difference and brings defeat, after switching your vote, after voting on this so many times? Do you want to accept that responsibility? Not because it will affect your reelection, but because it will affect the lives of 300,000 American citizens, children unborn every year, I ask you to stand with us. That is the issue.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume to the extent it has been allotted by our distinguished chairman.

Mr. Speaker, I do not expect there to be any significant change from the vote we had yesterday. At most, those 10 or 12 that we lost yesterday on that side, those who have strongly opposed the Hyde amendment, could conceivably be persuaded to go along with the Senate position. At the same time, there might very well be six or eight here on this side who had made a switch to support my amendment, but who are not likely to support other compromise language unless the word "forced" were in it.

I obviously cannot be enthused about what the Senate has done to what I said was going to be the last effort I would make to come to any kind of an agreement. I suppose we are all subject to changing our minds from time to time.

If perchance this motion does go down today, I am going to include with my remarks some language that ought to be considered by the Members. This would, I think, in the final analysis get the endorsement of the gentleman from Illinois (Mr. HYDE), the gentleman from Maryland (Mr. BAUMAN), and other Members.

What has happened here is that this is such a symbol that, I do not care how pliable the minds of Members of this House are, they are locked in concrete. They will tell me privately, "Bob, you are right. I'm with you, I am sympathetic with your position, but I cannot extricate myself from my own position."

So I am going to read into the RECORD this following language and suggest that if this motion does go down, we ought to be given an opportunity at this language:

> None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except where the pregnancy would substantially aggravate a pre-existing serious physical illness to the mother.
>
> This section does not prohibit payment for medical procedures necessary for the prompt treatment of the victims of rape or incest.

This language does not contain anything about reporting.

I had conversation with my friend, the gentlewoman from New York (Ms. HOLTZMAN), on the issue of privacy and reporting. The more I get to examine these matters, the more I begin to understand the problems and the issues involved.

The last 2 paragraphs of this language I am offering are exactly what we have all agreed on, including the gentleman from Illinois (Mr. HYDE), the gentleman from Maryland (Mr. BAUMAN), and other Members.

As I said, if the motion before us goes down on this next vote, this language I am suggesting will hopefully be considered. However, I think it only appropriate to make the caution that the parliamentary situation is extremely complex and may not afford us the opportunity to consider this language in a timely fashion.

The Members will note that we did not use the word, "permanent," because that has always been anathema to the other side. The language is "a preexisting serious physical illness."

This does constitute a compromise. We have made an adjustment with the other side on the rape question. This is a little different approach.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, I thank the gentleman for yielding, and I must say I appreciate what he is attempting to do in moving the Members to some action.

The House has to come to some agreement on this matter if we are to break the impasse.

As the gentleman has mentioned, this issue has polarized the House, and the leadership appears almost paralyzed. Yet, we have a responsibility to resolve this issue.

I would point out, since the gentleman is working with definitional problems pertaining to rape and incest that the present law, with the Hyde amendment, which is section 209, does not make any reference to rape or incest, and it has resulted in the following regulation put forth by Secretary Califano, and I quote:

> Treatment for rape or incest is . . . limited for these purposes to prompt treatment before the fact of pregnancy is established.

This is now the law, and there is not one Member who is supporting the Hyde amendment who has taken issue with this language. And yet, if we bring essentially the same language on this floor, it would be rejected by the Hyde supporters. If we were to incorporate the Secretary's language in this amendment and presented either by the distinguished chairman of the committee or the gentleman from Illinois (Mr. HYDE), it would probably be rejected.

We are apparently trying to deal too honestly with this issue in working out a compromise. The people on the anti-abortion side are dealing with another issue, one that has not even come before this body, and that is a constitutional amendment. That is why I think our efforts have been fruitless by trying to compromise, because the Hyde supporters simply are not going to accept any language, regardless of the form it takes, unless it is the exact kind of language they want.

However, I would ask the gentleman from Maryland (Mr. BAUMAN) or the gentleman from Illinois (Mr. HYDE) if they would accept the language that is now in the regulations, if that language were to come before this body in some legislative form?

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Yes, I yield to the gentleman from Illinois.

Mr. HYDE. Absolutely, Mr. Speaker, I would accept that. I have no quarrel with the regulations.

What I object to is the games that are being played with the term, "medical procedures," by the other body, because they want to use that term to mean an abortion.

Medical procedures promptly administered are not the same as an abortion because they do not even know if the woman isp regnant. They would administer estrogens, perform a D. & C., but they do not abort something that is not there. The fact of pregnancy has not been determined.

Yes, Mr. Speaker, I support that. I am

with the gentleman on that, and I agree with that language.

Mr. BONKER. Is that not exactly what we are doing by providing for prompt reporting? Is that not what Senator HELMS attempted to do on the Senate side when he amended the Senate language last week?

Mr. HYDE. Which was rejected by the Senate.

Mr. BONKER. Yes, but it was offered by the gentleman's colleague on the Senate side, that exact language, was it not?

Mr. HYDE. Prompt treatment is what interests me, and the prompt reporting was to avoid the fraud incident to someone's coming in 6 months later and saying she was raped 6 months ago by an assailant unknown. That is the problem with this, and that would be an abortion.

Mr. BONKER. Mr. Speaker, I would assume, if the gentleman from Illinois (Mr. MICHEL) will yield further, that the provision which says that the "Secretary shall promptly issue regulations and establish procedures to assure that the provisions of this section are rigorously enforced" would be sufficient to establish the guidelines that the gentleman is looking for in this language.

Mr. HYDE. Mr. Speaker, if the gentleman will yield further, it was the gentlemen in the other body who wanted to eliminate from the report the statutory language or phrases that deal with rape and incest. We have attempted to accommodate them so long as they do not include abortion after the fact of pregnancy, which is something I do not agree with, and which is not what the current regulations require.

Mr. BONKER. I think what we are attempting to do in this language and what is already in existence in the regulations is not that far apart. It has pretty much the same effect.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding.

While I am dismayed at these efforts to restrict the constitutionally guaranteed rights of poor women to a medically safe abortion, I will not expound on the reasons again at this time.

Mr. Speaker, I would, however, like to ask the gentleman from Illinois (Mr. MICHEL) two questions about the impact of the language which he has proposed, and which has come back from the other body with a minor amendment.

First, I am concerned about the issue of privacy because the amendment imposes a reporting requirement in cases of rape and incest.

Would the gentleman from Illinois (Mr. MICHEL) tell me whether or not the Secretary of HEW would have the authority to promulgate regulations that would protect legitimate privacy interests, say, of young girls who are the victims of incest, or girls or women who are raped?

Mr. MICHEL. I would think, in keeping with the earlier conversation we had, that that would be my feeling; there would have to be some special concession for those kinds of occasions.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

Mr. MICHEL. Mr. Speaker, is that my entire 20 minutes?

The SPEAKER pro tempore. The Chair will state that that is correct.

Mr. MAHON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr Speaker, I appreciate the chairman's yielding me this additional time.

Again I would say to the gentlewoman from New York (Ms. HOLTZMAN) that that would be my position, yes.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for that assurance.

I am also concerned about the "prompt" reporting requirement in the case of, let us say, a 10-year-old girl who is the victim of incest or a mentally retarded woman who has been raped and does not understand what has happened. Would the same reporting requirement, in terms of promptness, be imposed on someone who does not understand the nature of what has happened, as would be imposed on someone who can reasonably be held to be aware of what has taken place?

Mr. MICHEL. I just think that under the kind of situation which the gentlewoman from New York has described, there has to be special consideration given in that kind of case. The present law, as a matter of fact, gives them that special consideration.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution now pending before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have pointed out, of course, that the payday for the Department of Labor is Friday of this week; and the payday for HEW, with all of its various programs, is on Tuesday of next week.

Therefore, Mr. Speaker, it is necessary that we take some steps to dispose of this matter. The joint resolution pending would dispose of the matter until September 30 of next year.

The question of abortion, of course, is an emotional one but, as I pointed out earlier, everybody when he goes home to his constituents must say, "Yes, madam," and "Yes, mister, I did vote for abortion," he has to say that, if he is asked the question, but he can modify it by saying, "But, I voted for abortion only in cases where the life of a mother might be in danger, or in certain other cases." So it is just a matter of degree.

So I would hope that we can find an approach that will insure that we will not have to wrestle with this question next January in a continuing resolution or in the Labor-HEW bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

Under the rule, the previous question is ordered.

The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MAHON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 171, nays 178, answered "present" 1, not voting 84, as follows:

[Roll No. 770]

YEAS—171

Addabbo
Akaka
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Ashley
Aspin
AuCoin
Bedell
Bingham
Blanchard
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burlison, Mo.
Burton, John
Butler
Carr
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Corman
Coughlin
Daniel, R. W.
Davis
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Evans, Del.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Flippo
Flowers
Foley
Fountain
Fowler
Fraser
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gudger
Hamilton
Hammerschmidt
Hannaford
Harkin
Harrington
Harris
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Kostmayer
Krebs
Leach
Lehman
Levitas
Lloyd, Calif.
Long, Md.
McCormack
McFall
McHugh
McKinney
Maguire
Mahon
Mann
Martin
Meyner
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Neal
Obey
Ottinger
Panetta
Pattison
Pease
Pepper
Pettis
Pickle
Pike
Poage
Preyer
Pritchard
Pursell
Rangel
Reuss
Richmond
Roberts
Rogers
Rose
Roybal
Runnels
Ryan
Santini
Schroeder
Seiberling
Sharp
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steers
Stockman
Stokes
Studds
Thompson
Thornton
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Walgren
Weiss
Whitehurst
Whitley
Wiggins
Wilson, Tex.
Yates

NAYS—178

Abdnor
Ammerman
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Blouin
Boggs
Boland
Bonior
Breaux
Broomfield
Brown, Ohio
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Clawson, Del
Coleman
Collins, Tex.
Conte
Corcoran
Cornell
D'Amours
Daniel, Dan
de la Garza
Delaney
Derwinski
Devine
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Eilberg
Emery
Fary

Fish
Flood
Florio
Flynt
Gaydos
Gephardt
Goldwater
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hanley
Hansen
Harsha
Heckler
Holt
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Kasten
Kemp
Kildee
Kindness
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McClory
McDade
McDonald
McEwen
McKay
Madigan
Marks
Marlenee
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Patten
Perkins
Pressler
Price
Regula
Rhodes
Rinaldo
Robinson
Rodino
Roe
Rooney
Rousselot
Rudd
Satterfield
Schulze
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Smith, Nebr
Snyder
Spence
St Germain
Stangeland
Stanton
Steiger
Stratton
Stump
Taylor
Teague
Thone
Traxler
Treen
Vander Jagt
Vento
Volkmer
Waggonner
Walsh
Wampler
Watkins
White
Whitten
Winn
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Frenzel

NOT VOTING—84

Ambro
Andrews, N.C.
Badillo
Barnard
Baucus
Beilenson
Bolling
Broyhill
Burton, Phillip
Chappell
Chisholm
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Downey
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gibbons
Hall
Hawkins
Hillis
Kazen
Kelly
Koch
Krueger
Leggett
Lent
Livingston
Lundine
McCloskey
Markey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Montgomery
Moss
Nichols
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Risenhoover
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Sarasin
Sawyer
Scheuer
Sebelius
Symms
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Ms. Mikulski for, with Mr. Rahall against.

Mr. Ford of Tennessee for, with Mr. Kazen against.

Mr. Beilenson for, with Mr. Nichols against.

Mr. Cornwell for, with Mr. Gammage against.

Mr. Wirth for, with Mr. Ambro against.

Mr. Waxman for, with Mr. Chappell against.

Mr. Weaver for, with Mr. Cotter against.

Mr. Baucus for, with Mr. Fithian against.

Mr. Badillo for, with Mr. Ertel against.

Ms. Chisholm for, with Mr. Koch against.

Mr. Clay for, with Mr. Markey against.

Mr. Conyers for, with Mr. Montgomery against.

Mr. Danielson for, with Mr. Risenhoover against.

Mr. Downey for, with Mr. Rostenkowski against.

Mr. Ford of Michigan for, with Mr. Russo against.

Mr. Hawkins for, with Mr. Crane against.

Mr. Krueger for, with Mr. Cunningham against.

Mr. Leggett for, with Mr. Dickinson against.

Mr. Lundine for, with Mr. Erlenborn against.

Mr. Mattox for, with Mr. Frey against.

Mr. Meeds for, with Mr. Hillis against.

Mr. Metcalfe for, with Mr. Kelly against.

Mr. Moss for, with Mr. Lent against.

Mr. Patterson of California for, with Mr. Livingston against.

Mr. Rosenthal for, with Mr. Marriott against.

Mr. Scheuer for, with Mr. Quayle against.

Mr. Frenzel for, with Mr. Quie against.

Mr. Wolff for, with Mr. Quillen against.

Mr. Wright for, with Mr. Ruppe against.

Mr. Forsythe for, with Mr. Sawyer against.

Mr. Sarasin for, with Mr. Symms against.

Until further notice:

Mr. Dent with Mr. Broyhill.

Mr. Phillip Burton with Mr. Edwards of Alabama.

Mr. Andrews of North Carolina with Mr. Fuqua.

Mr. English with Mr. Gibbons.

Mr. Evans of Georgia with Mr. Hall.

Mr. Mathis with Mr. McCloskey.

Mr. Milford with Mr. Whalen.

Mr. Railsback with Mr. Roncalio.

Mr. Walker with Mr. Bob Wilson.

Mr. PATTEN changed his vote from "yea" to "nay."

Mr. FRENZEL changed his vote from "yea" to "present."

Mr. FRENZEL. Mr. Speaker, I have a live pair with the gentleman from Minnesota (Mr. QUIE), who, had he been present, would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 1340, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1977 AND 1978—CIVILIAN APPLICATIONS

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 916 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 916

Resolved, That upon the adoption of this resolution it shall be in order to consider the bill (S. 1340) to authorize appropriations to the Energy Research and Development Administration for energy research, development, demonstration, and related programs in accordance with section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, in the House.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield to the distinguished gentleman from Oregon (Mr. ULLMAN) to speak out of order.

(By unanimous consent Mr. ULLMAN was allowed to proceed out of order.)

THE LATE DR. LAURENCE WOODWORTH

Mr. ULLMAN. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, it is with a great sense of personal loss that I announce the death of Dr. Larry Woodworth. As most Members know—and he did know many Members—he was the Director of the Joint Committee on Taxation for the past 14 years. He was on the Hill with the joint committee for more than 25 years. Since February, he has been the Assistant Secretary of the Treasury for Taxation.

There is no man that I know who has had a more profound influence on the broad scope of public policy in this country than Dr. Woodworth. In addition to his work on tax law, he was a key staff person in such major undertakings as the development of the congressional budget procedure, ERISA, and a great many other legislative matters of vital importance and far-reaching effect.

His guidance to tax writers in Congress over the decades has been enormous. In his quiet way, Larry was as much an influence in shaping the tax policy of this country as any committee chairman or Treasury Secretary or President in memory. He leaves a legacy of justice to millions of Americans.

While he avoided the limelight, others knew of his work and recognized his importance, and he was awarded such high honors as the U.S. Civil Service League Award and the Rockefeller Award (sometimes called the Nobel Prize of the civil service) as a result.

These accomplishments are great. But they are no more outstanding than his contributions as a decent, understanding human being. He gave his time and assistance generously to hundreds of Members of Congress and to others who sought his help. His sense of fairness and gift for finding shared goals among those of divergent views cannot be replaced.

He was one of the most remarkable men I have known; one of the great Americans of our time. I valued his help and, much more than that, his friendship. He has had as profound an influence on my life as anyone. I am grateful for our years together.

My love and deep sympathy go to Larry's wonderful, understanding wife Margaret and to his children and grandchildren. All of us share their loss.

A memorial service for Larry will be held on Saturday morning. Further details can be obtained from the Joint Committee on Taxation.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I will be happy to yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I want to join in the general feeling of sorrow at Larry's passing. He not only was a fine public servant, but he was just a first-class human being. Many of us are going to miss him, while we cherish our memories of working with him. I send my love and my profound sense of personal loss to his family.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr.

Speaker, I wish to join with the distinguished chairman of the House Ways and Means Committee in expressing my profound sorrow on the death of a great and dedicated man.

Mr. JONES of Oklahoma. Mr. Speaker, the Christmas season is a time of great joy, and also a time of great loss. Such a saddening loss has befallen the country with the sudden passing of Larry Woodworth from this life into the next. Larry's knowledge and honesty will be sorely missed by those both in and out of government.

Larry Woodworth was the acknowledged expert on tax law. But far from being a mere technician, Larry had the ability to relate complex issues of taxation to social and economic policies. His long hours of work and dedication while serving on the Joint Committee on Internal Revenue Taxation are legendary, and his reputation for integrity and forthrightness has never been questioned.

Beyond all this, Larry Woodworth was a friend of mine. His patience and consideration was extended to me as a freshman member of the Ways and Means Committee no less than it was to the chairman. He was a kind and effective teacher to those of us attempting to master the complex issues of taxation.

While we sometimes disagreed on matters of tax policy, Larry's competence and perseverance will be missed both by the Congress that relied on his wisdom for so long, and by the current administration that wisely sought his services. A giant has passed from our midst, and it is our extreme loss.

Mr. PICKLE. Mr. Speaker, all of us who have worked with Larry Woodworth feel a deep sense of loss at his death. Even those who have not worked with him or who never knew him will feel the loss because he is one of those servants in government no one can truly replace.

Larry Woodworth was a warm and cooperative man. He was one of the most decent individuals in all of government. And he was good. He could give a hurried and pressured Member of Congress a quick summation of any tax issue, and the Member could accept it with the confidence that it would be accurate, fair, and objective.

He clearly carried those qualities over to the Executive branch when he joined the Carter administration earlier this year.

We shall miss him as much as anybody who has ever served in the U.S. Government.

Mr. MOFFETT. Mr. Speaker, it was with a great deal of sadness that I learned of the death today of Laurence N. Woodworth, who has been serving as this country's Assistant Secretary of the Treasury for Tax Policy.

I have only recently gotten to know him professionally, largely as a result of our mutual involvement in helping to formulate national energy policy. Dr. Woodworth has testified before our Government Operations Committee and has taken an active role in the joint House-Senate conference committee now formulating the national energy policy act.

During the past few months, he has earned my respect and my admiration—he was a true professional, a recognized expert in his field. I know from my colleagues' comments that they too recognized Dr. Woodworth as a dedicated and devoted public servant. His long career, both on Capitol Hill and for the Carter administration, attest to his great value to this Nation.

I shall miss him, Mr. Speaker. All of us will miss him.

Mr. FRENZEL. Mr. Speaker, I would like to join in this tribute to Larry Woodworth, and second the remarks of the distinguished gentlemen from Oregon (Mr. ULLMAN) and New York (Mr. CONABLE).

Larry Woodworth was, indeed, a first-class human being. But he was in addition an enormously talented man whose great abilities contributed much to the people of this country.

As the top staff person to the Joint Committee on Internal Revenue Taxation for a decade and a half, he exercised extraordinary influence on changes in the tax code. As Treasury's tax policy expert, he did the same.

He was one of those rare individuals who was trusted completely by persons on both sides of the aisle, both sides of the Capitol, and at both ends of Pennsylvania Avenue.

Larry was a real gentleman who will be sorely missed by all who worked with him and by many who knew him only by his effective work.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the life, character, and public service of the late Dr. Laurence Woodworth.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA), pending which time I yield myself such time as I may consume.

Mr. Speaker, House Resolution 916 provides for the consideration of S. 1340 in the House. The rule provides for 1 hour of general debate on the measure and the only amendments would be those offered by the floor manager of the bill unless he yielded for the purpose of further amendments. It is the intention of the Committee on Science and Technology to strike all after the enacting clause in S. 1340 and insert an amendment in the nature of a substitute which would incorporate all of the bill, S. 1181 except for certain modifications. S. 1181 was the ERDA Authorization Act for Civilian Applications that was vetoed on November 5, 1977, by the President. The modifications that will be offered to the text of S. 1811 will account for the objections that the President indicated at the time of his veto. Specifically those modifications will eliminate the funding authorization for the Clinch River breeder reactor project and language relating to that project, as well as, striking all of title V dealing with uranium enrichment services pricing which includes the one-house veto provision. Additionally the substitute to be offered changes all references to ERDA to read the Department of Energy.

The substitute provides for the funding of operational, plant, and capital expenses for the various research and development projects in the field of energy. It further provides for a grant program to foster municipal projects to convert waste to energy, establishes an automotive research and development program, and a loan guarantee program in the area of synthetic fuel production. The substitute provides for a total authorization of $6.1 billion for these vital programs.

Mr. Speaker, it is imperative that this authorization bill be acted on so that the important research and development programs in the field of energy can go forward. Therefore, Mr. Speaker, I urge the adoption of House Resolution 916 so that we might debate and vote on this important matter.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rules make it in order to take from the Speaker's table S. 1340, which authorizes appropriations to the Energy Research and Development Administration for energy research, development, demonstration, and related programs, and to consider the legislation in the House. Under this procedure there will be 1 hour of debate, and the manager of the bill will control the amendment process.

By way of explanation, S. 1340 passed the Senate on June 13 but was never referred by the House for action, since it contained only nonnuclear R. & D. authority. Later the Senate passed and forwarded to the House S. 1811, which included both nuclear and nonnuclear R. & D. programs for ERDA. Meanwhile, the House passed its own ERDA authorization language which was substituted into S. 1811. Both Houses subsequently approved the conference report, and the bill was sent to the President.

On November 5 the President vetoed S. 1811 primarily because it contained funding authority for the Clinch River breeder reactor and three legislative veto provisions.

Since the authorization for the new Department of Energy was included in S. 1811, the Committee on Science and Technology is seeking to use S. 1340 as a vehicle to reconsider the language of S. 1811 minus the provisions to which the President objects. The chairman of the Committee on Science and Technology stated before the Rules Committee that he would offer an amendment to S. 1340, once it is before the House, to incorporate the text of the vetoed bill less all funding for the Clinch River project and one legislative veto provision.

The new total authorization of $6,081,445,000 is $80 million below the vetoed measure.

Mr. Speaker, I have no further requests for time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The question was taken; and the

Speaker announced that the ayes appeared to have it.

Mr. THONE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 329, nays 18, not voting 87, as follows:

[Roll No. 771]

YEAS—329

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Bafalis
Baldus
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fowler
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gudger
Guyer
Hagedorn
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Marks
Marlenee
Martin
Mazzoli
Meyner
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Roybal
Rudd
Runnels
Santini
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Watkins
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—18

Archer
Armstrong
Ashbrook
Badham
Bauman
Butler
Clawson, Del
Grassley
Hammerschmidt
Hansen
Latta
McDonald
Moorhead, Calif.
Myers, Gary
Obey
Rousselot
Satterfield
Wampler

NOT VOTING—87

Ambro
Badillo
Barnard
Baucus
Beilenson
Bolling
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Diggs
Downey
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gephardt
Gibbons
Hall
Hawkins
Hillis
Kazen
Kelly
Koch
Krueger
Leggett
Lent
Livingston
Lott
Lundine
McCloskey
Madigan
Markey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Montgomery
Moss
Nichols
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Risenhoover
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Ryan
Sarasin
Sawyer
Scheuer
Sebelius
Symms
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

Mr. Kazen with Mr. Broyhill.
Mr. Cornwell with Mr. Whalen.
Mr. Cotter with Mr. Gephardt.
Mr. Dent with Mr. Cunningham.
Mr. Ambro with Mr. Erlenborn.
Mr. English with Mr. Forsythe.
Mr. John L. Burton with Mr. Frey.
Mr. Danielson with Mr. Railsback.
Mr. Ertel with Mr. Dickinson.
Mr. Ford of Tennessee with Mr. Young of Alaska.
Mr. Badillo with Mr. Edwards of Alabama.
Mr. Diggs with Mr. Hillis.
Mr. Evans of Georgia with Mr. Walker.
Mr. Phillip Burton with Mr. Sawyer.
Mr. Fithian with Mr. Ruppe.
Mr. Nichols with Mr. Quillen.
Mr. Wirth with Mr. Roncalio.
Mr. Wolff with Mr. Sebelius.
Ms. Chisholm with Mr. Scheuer.
Mr. Gammage with Mr. Quie.
Mr. Downey with Mr. Sarasin.
Mr. Patterson of California with Mr. Waxman.
Mr. Barnard with Mr. Symms.
Mr. Clay with Mr. Bob Wilson.
Mr. Hall with Mr. McCloskey.
Mr. Hawkins with Mr. Marriott.
Mr. Conyers with Mr. Quayle.
Mr. Rahall with Ms. Mikulski.
Mr. Baucus with Mr. Mattox.
Mr. Rosenthal with Mr. Madigan.
Mr. Rostenkowski with Mr. Milford.
Mr. Beilenson with Mr. Markey.
Mr. Russo with Mr. Mathis.
Mr. Ryan with Mr. Montgomery.
Mr. Weaver with Mr. Lott.
Mr Charles H. Wilson of California with Mr. Wright.
Mr. Fuqua with Mr. Kelly.
Mr. Koch with Mr. Krueger.
Mr. Risenhoover with Mr. Lent.
Mr. Leggett with Mr. Livingston.
Mr. Moss with Mr. Metcalfe.
Mr. Lundine with Mr. Gibbons.
Mr. Meeds with Mr. Crane.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT DECEMBER 13, 1977, TO FILE REPORT ON H.R. 8729, AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight Tuesday, December 13, 1977, to file a report on H.R. 8729, the Airport and Aircraft Noise Reduction Act.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous matter on the Senate bill, S. 1340, Energy Research and Development Administration Authorization Act of 1977.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1977 AND 1978—CIVILIAN APPLICATIONS

Mr. TEAGUE. Mr. Speaker, pursuant to the provisions of House Resolution 916, I call up the Senate bill (S. 1340) to authorize appropriations to the Energy Research and Development Administration for energy research, development, demonstration, and related programs in accordance with section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 1340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "ERDA Authorization Act of 1978—Civilian Applications".

SEC. 2. In accordance with section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration subject to titles I and II of this Act, the following:

TITLE I—FOR NONNUCLEAR ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For operating expenses, for the following programs, a sum equal to the total of the following amounts:

(1) Conservation research and development;

Electric energy systems and energy storage:

(a) Electric energy systems, $36,700,000.

(b) Energy storage systems, $49,900,000.

End use conservation and technologies to improve efficiency:

(a) Industrial energy conservation, $40,000,000.

(b) Buildings and community systems, $56,000,000: *Provided,* That $2,000,000 of such sums are hereby authorized for a research and development program in residential gas furnaces.

(c) Transportation energy conservation, $88,000,000, of which $2,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided,* That, of those funds authorized, funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol: *Provided further,* That no more than two hundred electric vehicles may be purchased within the provisions of Public Law 94–413 utilizing funds made available in this section.

(d) Improved conversion efficiency, $78,200,000.

(e) Small grants for appropriate technology, $6,000,000.

Energy extension service:

(a) Energy extension service, $8,000,000.

(2) Fossil energy development:

Coal:

(a) Liquefaction, $107,000,000.

(b) High Btu gasification, $51,200,000.

(c) Low Btu gasification, $73,900,000: *Provided,* That the sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76–1–a (clean boiler fuel demonstration plant (A–E) and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this act for the low Btu gasification program.

(d) Advanced power systems, $25,500,000.

(e) Direct combustion, $65,200,000.

(f) Advanced research and supporting technology, $45,000,000: *Provided,* That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose:

(1) The Administrator shall conduct a feasibility study of the technology and the commercial applications of the process of fine-grinding of coal and dry vegetable residues to four micron-size particles for the purpose of preparing these substances as clean burning fuels.

(2) In carrying out the feasibility study, the Administrator may provide for adequate participation by individuals, corporations and private and public research facilities, colleges and universities.

(3) A report of the findings together with recommendations for advancing the technology, if deemed appropriate by the Administrator, shall be submitted to the Congress as soon as possible but not later than January 1, 1978.

(g) Demonstration plants, $50,900,000.

(h) Magnetohydrodynamics, $80,000,000.

Petroleum and natural gas:

(a) Enhanced oil recovery, $46,100,000.

(b) Enhanced gas recovery, $30,000,000.

(c) Drilling, exploration and offshore technology, $1,600,000.

(d) Processing and utilization, $1,400,000.

Oil shale and in situ technology:

(a) Oil shale, $28,000,000.

(b) In situ coal gasification, $11,000,000: *Provided,* That, of those funds authorized for fossil energy development, and funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct a study to determine the extent of the Nation's coal reserves, the general geographic location of such reserves and the cost of extracting said reserves.

(3) Solar energy development:

(a) Thermal applications, $107,700,000.

(b) Technology support and utilization, $12,000,000.

(c) Solar electric application, $178,900,000: *Provided,* That $7,500,000 of such sum are hereby authorized for design work for small community applications.

(d) Solar Energy Research Institute and Regional Centers. Tehre is hereby authorized from funds made available under subsections (a), (b), and (c) of this section an amount no less than $10,000,000 for the operation of the Solar Energy Research Institute and its associated regional centers.

(e) Fuels from biomass, $19,500,000; and under such rules and regulations as he may establish, the Administrator is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(4) Geothermal energy development:

(a) Engineering research and development, $17,000,000.

(b) Resource exploration and assessment, $17,600,000.

(c) Hydrothermal technology applications, $32,000,000.

(d) Advanced technology applications, $23,500,000.

(e) Utilization experiments, $16,000,000.

(f) Environmental control and institutional studies, $8,100,000.

(g) Low head hydroelectric demonstration, $15,000,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition: and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

Project 78–1–a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined (A–E and long-lead procurement only), $6,000,000.

Project 78–2–d, solvent refined coal demonstration plant, site undetermined (A–E and long-lead procurement only), $2,000,000.

(3) Capital Equipment Not Related to Construction:

(A) Conservation research and development $6,170,000.

(B) Fossil energy development, $5,500,000.

(C) Solar energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 103. (a) Public Law 94–187 is amended by:

(1) Striking from subsection 101(b)(1) project 76–1–b, high Btu synthetic pipeline gas demonstration plant, the words "(A–E and long-lead procurement)" and the figure, "$20,000,000", and striking from subsection 201(b)(1) "project 76–1–b, high Btu synthetic pipeline gas demonstration plant (A–E and long-lead procurement) $5,000,000", which authorized appropriations for this project totaling $25,000,000, and substituting therefor in subsection 101(b)(1), project 76–1–b, high Btu synthetic pipeline gas demonstration plant, the figure "$220,000,000".

(2) Striking from subsection 101(b)(1), project 76–1–c, low Btu fuel gas demonstration plant, the words "(A–E and long-lead procurement)" and the figure "$15,000,000", and striking from subsection 201(b)(1) the words and figures "project 76–1–c, low Btu fuel gas demonstration plant (A–E and long-lead procurement), $3,750,000," which authorized appropriations for this project totaling $18,750,000, and substituting therefor in subsection 101(b)(1), project 76–1–c, low Btu fuel gas demonstration plant, the figure "$150,000,000".

(3) Striking from subsection 101(b)(2), project 76–2–a, five megawatt solar thermal test facility, the figure "$5,000,000", and striking from subsection 201(b)(2) the words and figures "project 76–2–a, five megawatt solar thermal test facility, $1,250,000", which authorized appropriations for this project totaling $6,250,000, and substituting therefor in subsection 101(b)(2) the figure "$21,250,000", which is an increase of $3,000,000 over the amount authorized by Public Law 94–355, as amended.

(4) Striking from subsection 101(b)(2), project 76–2–b, ten megawatt central receiver solar thermal powerplant (A–E and long-lead procurement), the words "(A–E and long-lead procurement)" and the figure "$5,000,000", and striking from subsection 201(b)(2) the words and figures "project 76–2–b, ten megawatt central receiver solar thermal powerplant (A–E and long-lead procurement), $1,250,000" which authorized appropriations for this project totaling $6,250,000, and substituting therefor in subsection 101(b)(2), the words "Barstow, California," and the figure "$61,250,000": *Provided,* That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(b) Project 77–1–d, MHD component development and integration facility, authorized by Public Law 94–373, is increased by $8,200,000 for a total authorization of $13,200,000.

TITLE II—FOR NONNUCLEAR ENVIRONMENTAL RESEARCH AND DEVELOPMENT, PROGRAM MANAGEMENT AND SUPPORT, AND RELATED PROGRAMS

OPERATING EXPENSES

SEC. 201. For operating expenses for the following programs, a sum equal to the total of the following amounts:

(1) Environmental research and development:

(a) Overview and assessment, $43,010,000.

(b) Biomedical and environmental research, $143,970,000, of which $1,000,000 shall be made available to the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912), as amended.

(2) Life sciences research and biomedical applications, $38,113,000.

(3) Program management and support:

(a) Program direction, $257,100,000.

(b) Institutional relations, $30,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended; and $1,800,000 is authorized to be appropriated pursuant to this paragraph (3) for financial awards by ERDA to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended.

(c) Supporting activities, $54,460,000.

(d) International cooperation, $5,000,000.

(4) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910) in the amount of $500,000 for the Council on Environmental Quality.

PLANT AND CAPITAL EQUIPMENT

SEC. 202. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Environmental Research and Development:

Project 78–9–a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(2) Program Management and Support:

Project 78–1–b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

Project 78–1–c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

Project 78–19–a, program support facility, Argonne National Laboratory, Illinois (A–E and long-lead procurement only), $5,000,000.

(3) Project 78–22, Construction Planning and Design, $10,000,000.

(4) Capital Equipment Not Related to Construction:

(A) Environmental research and development, $18,825,000.

(B) Program management and support, $5,155,000.

SEC. 203. The Administrator of the Energy Research and Development Administration, or its successor agency, is hereby authorized, to the extent and in such amounts as are provided in appropriation Acts, to enter into a cooperative arrangement with an interstate pipeline organization for participation in the construction and operation of a high Btu pipeline gas demonstration plant, utilizing the HYGAS steam-oxygen process and Illinois Basin type coal.

TITLE III—GENERAL PROVISIONS

SEC. 301. Funds appropriated pursuant to titles I and II of this Act may be used for the construction or acquisition of any facilities or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development and demonstration activities. Title to all such facilities and items of equipment shall remain in the United States, unless the Administrator or his designee determines in writing that the research, development and demonstration authorized by this Act shall best be implemented by permitting title or other such property interests to be in an entity other than the United States.

SEC. 302. Except as otherwise provided in this Act—

(a) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act,

(b) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless (1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 303. The Administrator is authorized to start any project set forth in title I, subsections 102 (1) and (2), and in title II, subsection 202 (1) and (2), only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for the project. Further, the total cost of any project undertaken under these subsections shall not exceed the estimated cost set forth for that project by more than 25 per centum unless and until additional appropriations are authorized: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

SEC. 304. Subject to the applicable requirements and limitations of this Act, when so specified in appropriations Acts amounts appropriated for the Administration pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

SEC. 305. When so specified in appropriations Acts, amounts appropriated pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

SEC. 306. Amounts appropriated pursuant to this Act for activities under subsections 201(3) and 202(3) are available for use, when necessary, in connection with all Administration programs.

SEC. 307. The Administrator is authorized to perform construction design services for any Administration construction project whenever (a) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (b) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 308. When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

SEC. 309. When so specified in appropriations Acts, transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred, may be merged with the appropriations to which transferred.

SEC. 310. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further*, That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816 (e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to, the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interest of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefits to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided,* That the Senate, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible State, political subdivisions, or Indian tribes for such purposes: *Provided,* That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further.* That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total cost of the demonstration facility.

"(5) The Administrator is further authorized to make grants to State, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more State, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objective of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the fund referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to opertaions of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactments of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilite an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction on the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat 948; 40 U.S.C. 276 (c)).

"(y) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

SEC. 311. In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damaged farm, and in order to restore the economic and agricultural base of the flood damaged region, there is hereby transferred 5.955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Energy Research and Development Administration, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

Part I. As used in this Act, the term:

(a) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5. 1976.

(b) "Energy Research and Development Administration land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, of range thirty-three (33) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(c) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of the Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income comensurate with that earned prior to the Teton flood.

(d) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

Part II. For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with part V of this Act by the Secretary of the Interior.

Part III. Energy Research and Development Administration land as described in part I(b) of this Act shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Energy Research and Development Administration land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

Part IV. Any part of the Energy Research and Development Administration land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Energy Research and Development Administration.

Part V. Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this Act.

Part VI. Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976, Public Law 94-400, 94 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94-438, 90 Stat. 1415.

Part VII. Actions taken pursuant to this Act are in response to emergency conditions and depend for their effectiveness upon their prompt completion and, therefore, are deemed not only to be major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (83 Stat. 852, as amended, 42 U.S.C. 4321).

Part VIII. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. TEAGUE: Strike all after the enacting clause and insert the following:

"That this Act may be cited as the 'Department of Energy Act of 1978—Civilian Applications'."

SEC. 2. In accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Department of Energy, for energy research, development and demonstration, and related activities, the sum of $6,081,445,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

Fossil Energy Development

(1) Coal:

(A) Coal liquefaction, $107,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal), $73,900,000.

(D) Advanced power systems, $25,500,000.

(E) Direct combustion (coal), $65,200,000.

(F) Advanced research and supporting technology, $50,000,000: *Provided*, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose: The Secretary of Energy shall conduct a feasibility study of the technology and the commercial applications of the process of fine grinding of coal and dry vegetable residues for the purpose of preparing these substances as clean burning fuels.

(G) Demonstration plants and major test facilities (coal), $60,900,000.

(H) Magnetohydrodynamics, $70,800,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Enhanced oil recovery, $46,100,000.

(B) Enhanced gas recovery, $30,000,000.

(C) Drilling, exploration and offshore technology, $7,600,000.

(D) Processing and utilization, $1,400,000.

(3) Oil shale and in situ technology:

(A) Oil shale, $28,000,000.

(B) In situ coal gasification, $19,000,000.

Solar Energy Development

(4) Thermal applications, $104,700,000, including $94,400,000 for heating and cooling of buildings.

(5) Fuels from biomass, $20,500,000; and under such rules and regulations as he may establish, the Department of Energy is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(6) Other Solar Energy Programs, $219,700,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $203,700,000 for other solar electric applications: *Provided*, That $7,500,000 of such sum is hereby authorized for design work for small community applications.

Geothermal Energy Development

(7) Engineering research and development, $15,500,000.

(8) Resource exploration and assessment, $17,600,000.

(9) Hydrothermal technology applications, $28,000,000.

(10) Advanced technology applications, $24,300,000.

(11) Utilization experiments, $16,000,000.

(12) Environmental control and institutional studies, $8,100,000.

(13) Low head hydroelectric program, $15,000,000.

Conservation Research and Development

(14) Electric energy systems and energy storage:

(A) Electric energy systems, $36,800,000.

(B) Energy storage systems, $48,500,000.

(15) End use conservation and technologies to improve efficiency:

(A) Industrial energy conservation, $38,000,000.

(B) Buildings and community systems, $59,500,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas and oil furnaces.

(C) Transportation energy conservation, $87,000,000, of which $1,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That, of those funds authorized for the Alternative Fuel Utilization Program, funds as may be necessary are hereby authorized for the Department of Energy to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol.

(D) Improved conversion efficiency, $69,700,000.

(16) Energy extension service, $8,000,000.

(17) Small grants for appropriate technology, $8,000,000.

Environment and Safety Research and Development

(18) Environmental and Safety Research and Development:

(A) Overview and Assessment, $50,010,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

Nuclear Research and Development

(19) Magnetic fusion, $207,900,000.

(20) Fuel cycle research and development, $363,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 107 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(21) Liquid metal fast breeder reactor, $333,300,000: *Provided*, That $5,000,000 of such sums are hereby authorized for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted.

(22) Nuclear research and applications, $228,829,000.

(23) Light water reactor safety facilities, $24,000,000.

(24) High energy physics, nuclear physics, and basic energy sciences, $413,394,000.

(25) Nuclear materials security and safeguards, $40,106,000.

(26) Uranium enrichment, $989,185,000.

All Other Programs, $444,604,000, including—

(27) (i) Not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iii) Program management and support:

(a) Program direction, $222,900,000.

(b) Institutional relations, $34,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended and including $1,800,000, is authorized to be appropriated pursuant to this paragraph (iii) for financial awards by the Department of Energy to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913) as amended.

(c) Supporting activities, $37,460,000.

(d) International cooperation, $5,000,000

Prior Year Authorizations

(28) The sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76-1-a (clean boiler fuel demonstration plant (A-E) and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78-1-a, high bay addition, Los

Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78-2-a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78-2-b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78-2-c, low Btu fuel gas small industrial demonstration plants, sites undetermined (A-E and long-lead procurement only), $6,000,000.

(D) Project 78-2-d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78-3-a, a mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78-3-b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A-E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78-3-a, a mirror fusion test tional waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement), $10,000,000.

(B) Project 78-5-b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A-E and long-lead procurement only), $3,000,000.

(C) Project 78-5-c, advanced isotope separation facility, site undetermined (A-E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78-6-a, modifications to reactors, $8,700,000.

(B) Project 78-6-b, safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Illinois, $4,935,000.

(C) Project 78-6-c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E, long-lead procurement and limited construction only), $20,100,000.

(D) Project 78-6-d, experimental breeder reactor II modification, Idaho Falls, Idaho (A-E and selected long-lead procurement only), $3,100,000.

(E) Project 78-6-e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A-E only), $4,000,000.

(F) Project 78-6-j, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

(G) Project 78-7-a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

(H) Project 78-7-b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78-8-a, upgrade Test Area North hot shop facility, Idaho National Engineering Laboratory, Idaho, $3,400,000.

(7) Environmental Research and Development:

(A) Project 78-9-a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78-10-a, accelerator improvements and modifications, various locations, $4,500,000.

(B) 78-10-b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.

(C) Project 78-11-a, master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78-12-a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78-12-b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(10) Basic Energy Sciences:

(A) Project 78-13-a, national synchrotron light source, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78-13-b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranimum Enrichment:

(A) Project 78-14-a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78-14-b, process control modifications, plants, various locations, $17,400,000.

(C) Project 78-15-a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(12) Program Management and Support:

(A) Project 78-1-b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78-1-c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

(C) Projects 78-19-a, program support facility, Argonne National Laboratory, Illinois (A-E and long-lead procurement only), $5,000,000.

(13) Project 78-21, General Plant Projects, $44,265,000.

(14) Project 78-22, Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $8,670,000.

(B) Fossil energy development, $5,500,000.

(C) Solar energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

(E) Magnetic fusion, $27,600,000.

(F) Fuel cycle research and development, $25,300,000.

(G) Liquid metal fast breeder reactor, $35,650,000.

(H) Nuclear research and applications, $18,595,000.

(I) Light water reactor safety facilities, $800,000.

(J) High energy physics, nuclear physics, and basic energy sciences, $61,300,000.

(K) Nuclear materials, security and safeguards, $2,794,000.

(L) Uranium enrichment, $19,000,000.

(M) Environmental research and development, $19,025,000.

(N) Program management and support, $4,955,000.

CHANGES TO PRIOR YEAR AUTHORIZATIONS

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71-1-f), authorized by section 101(b)(1) of Public Law 91-273 (for a total project authorization of $920,000,000).

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (project 74-1-g), authorized by section 101(b)(1) of Public Law 93-60 (for a total project authorization of $460,000,000).

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76-1-b) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $55,000,000).

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 76-1-c) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $150,000,000).

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76-2-b), authorized by section 101(b)(2) of Public Law 94-187 (for a total project authorization of $47,250,000): *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (project 76-5-a), authorized by section 101(b)(5) of Public Law 94-187 (for a total project authorization of $238,600,000).

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio (project 76-8-e), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $15,250,000).

(8) There is authorized an additional sum of $107,630,000 for the enriched uranium production facilities, gas centrifuge (project 76-8-g), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $362,630,000).

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77-1-d) authorized by Public Law 94-373 (for a total project authorization of $13,200,000).

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A-E only) (project 77-4-c) (for a total project authorization of $6,500,000).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77-4-d) (for a total project authorization of $30,000,000).

(12) There is authorized an additional $3,200,000 for the 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico (project 76-5-b) authorized by Public Law 94-187 (for a total project authorization of $25,300,000).

SEC. 103. Public Law 93-276, as amended, is further amended by rescinding therefrom authorization for project 75-5-g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 104(a). Notwithstanding any other provision of law, jurisdiction over matters transferred to the Department of Energy from the Energy Research and Development Administration which on the effective date of such transfer were required by law, regulation, or administrative order to be made on the record after an opportunity for an agency hearing may be assigned to the Federal Energy Regulatory Commission or retained by the Secretary at his discretion.

(b) Notwithstanding any other provision of law, the Secretary of Energy shall not be required to delegate to the Administrator of the Energy Information Administration any energy research, development, and demonstration function vested in the Secretary, pursuant to the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Geothermal Research, Development and Demontrastion Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Heating and Cooling Demonstration Act, the Solar Energy Research, Development and Demonstration Act, and the Energy Reorganization Act. Additionally, the Secretary may utilize the capabilities of the Energy Information Administration as he deems appropriate for the conduct of such programs.

(c) As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

(ii) by January 31, 1978, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 105. (a) The Secretary of Energy shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Secretary of Energy shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the study to the Congress the Secretary of Energy shall release the proposed study for comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $1,000,000.

SEC. 106. (a) The Department of Energy shall conduct a study of the Barnwell Nuclear Fuel Plant located in South Carolina to determine if that facility may be utilized in support of the nonproliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the multinational and international management options available for utilizing the Barnwell facility;

(2) include an evaluation of how Barnwell facility might be used to contribute to the INFCE, including preliminary studies on siting and design for adajacent facilities to the Barnwell Separations Plant to solidify liquid waste and mixed-oxide evolving from the chemical separations process (these preliminary efforts being consistent with similar efforts undertaken as part of the INFCE);

(3) include an evaluation of a possible role for the IAEA in utilization of Barnwell facility for international non-proliferation programs;

(4) include an evaluation of the means by which the Barnwell facility could be used in demonstration of improved safeguards equipment and proceedings;

(5) include an evaluation of how the Barnwell facility can be used to complement the U.S.-approved research and development program at the Japanese Tokai Mura Reprocessing Plant, and non-proliferation research activities to be undertaken at the British Windscale Reprocessing Plant; and

(6) include an evaluation of whether and how the Barnwell facility might be transferred to the Federal Government.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and efficient use of resources and the independence of resource supply can have in assuring our national security objectives.

(d) The study shall be completed and a report submitted to the Congress not later than six months after the date that funds are appropriated for carrying out the purposes of this section. In addition, the report shall include recommendations and funding requirements to implement recommended programs resulting from such study.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act an authorization of appropriations in the amount of $1,000,000.

SEC. 107. The Department of Energy is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress (by joint or concurrent resolution or legislation hereafter enacted), with other nations or groups of nations, for providing appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $20,000,000: *Provided,* notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds; and provided further, notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, 30 days during which the Congress is in continuous session, as defined in the Impoundment Control Act of 1974, prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407). Any report or plan proposed under this proviso shall include information and any supporting documentation thereof relating to policy objectives, technical description and discussion, geographic information, cost data, justification and projections, legal and regulatory considerations, environmental impact information and any related bilateral or international agreements, arrangements or understandings; and provided further that nothing contained in this Section shall be construed in any Executive Branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, or reverse the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977 for the issuance of License No. XSNM-845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station or any other Order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration of the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities. No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed section;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has been presented to, or requested of the Congress, unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committee of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for us within the categories of coal, petroleum and natural gas, oil shale, solar geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriation for the Administration: *Provided*, That no such amounts appropriated for 'plant and capital equipment' may be merged with amounts appropriated for 'operating expenses.'

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be related and used for the specific purpose of offsetting costs incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.".

SEC. 202. (a) The Secretary of Energy is authorized to start any project set forth in section 102(a) (1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Secretary of Energy is authorized to start any project under section 102(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

Sec. 203. The Secretary of Energy, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy", on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administraitve agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative.

Sec. 204. (a) In carrying out the programs for which funds are authorized by this Act, the Secretary of Energy shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Secretary of Energy shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

Sec. 205. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration porgrams;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations."; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1968, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"Sec. 94. Contracts.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make such entity the payments directed or authorized to be made by section 91: Provided, however, That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

Sec. 206. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph;

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts,".

Sec. 207. (a) Section (7a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"Sec. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil, shale, biomass, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) and (y) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection and subsection (y) of this section the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: Provided, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: Provided further, That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) or (y) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) or subsection (y) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section.

If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and cost of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816 (e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g) (1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under pragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Service Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under Section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k) (1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: Provided, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: Provided further, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunties to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following.

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (II) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such imports, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual report required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), (h), and (y) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin

Islands, American Samoa, any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa,

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity, and

"(4) 'biomass' shall include, but is not limited to, animal and timber waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) or subsection (y) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1) or subsection (y), to make guarantees or commitments to guarantees, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b), (j), and (y) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not llimted to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States, or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necesary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(y)(1) The Administrator is authorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, bonds, debentures, notes and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of municipal or industrial waste, sewage sludge, or other municipal organic wastes into synthetic fuels, and (B) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from municipal or industrial waste, sewage sludge, or other municipal organic waste. With respect to a guarantee or a commitment to guarantee authorized by this subsection; the following subsections of this section shall not apply: (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3) (j) (k), and (q).

"(2) In the case where the Administrator seeks to guarantee or to make commitments to guarantee as provided by this subsection he is authorized to incur an outstanding indebtedness which at no time shall exceed $300,000,000.

"(3) The Administrator shall apply the following provisions thereto:

"(A) With respect to any demonstration facility for the conversion of solid waste (as the term is defined in the Resources Conservation and Recovery Act (42 U.S.C. 6903), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 1008(a) of the Resources Conservation and Recovery Act, and any applicable State or regional solid waste management plan.

"(B) The amount guaranteed shall not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup.

"(C) The maximum maturity of the obligation shall not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(D) The Administrator shall charge and collect fees for guarantees of obligations in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(E) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Resources Conservation and Recovery Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy From Solid Wastes, and provided specifically that in accordance with this agreement (i) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (ii) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (iii) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended, and any applicable State or regional solid waste-management plan.

"(F) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.".

Sec. 208. (a) The Secretary of Energy shall—

(1) initiate and conduct an "application and system design study", cooperatively with appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Secretary of Energy deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to Congress within nine months following the enactment of this Act;

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act;

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry and to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Secretary of Energy. A preliminary report shall be submitted to Congress within six months following the enactment of this Act;

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary of Energy deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $13,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, provided that no procurement takes place until their application on Federal sites is determined to be life cycle cost effective.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $6,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

Sec. 209. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 *x* of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended).

Sec. 210. (a) In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damage farm, and in order to restore the economic and agricultural base of the flood damaged region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Department of Energy, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

(b) As used in this section, the term:

(1) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(2) "Department of Energy" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, or range thirty-three (33) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(3) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of the Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(4) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

(c) For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with subsection (f) of this section by the Secretary of the Interior.

(d) Department of Energy lands as described in subsection (b)(2) of this section shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Department of Energy land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

(e) Any part of the Department of Energy land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Department of Energy.

(f) Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this section.

(g) Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976, Public Law 94–400, 90 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94–438, 90 Stat. 1415.

(h) There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this section.

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1977".

FINDINGS AND PURPOSE

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress, in this title, to—

(1) (A) direct the Department of Energy to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(2) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(3) "fuel" means any energy source capable of propelling an automobile;

(4) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(5) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(6) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(7) "safety" refers to the performance of an automotive propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident; and

(8) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Secretary of Energy shall establish, within the Department of Energy, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Secretary of Energy shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Secretary of Energy shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Secretary of Energy shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Secretary of Energy's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Secretary of Energy shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Department of Energy shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f)(1) The Secretary of Energy shall insure that the conduct of the program as defined in subsection (a) of this section—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

(2) To that end, the Secretary of Energy shall issue administrative regulations, within 60 days after the date of the enactment of this Act, which shall specify procedures, standards, and criteria for the timely review for compliance of each new contract, grant, Department of Energy project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Secretary of Energy or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights.

(3) Such certifications shall be available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5, United States Code, shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5, United States Code, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, shall apply to public disclosure of such certifications.

(4) The Secretary of Energy also shall include in the report required by section 310 (a) of this Act a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Secretary of Energy in each annual budget submission to the Congress, or amendment thereto, for the programs authorized by this Act shall describe how each identified research and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to the enactment of this Act, or with respect to any renewal or extension thereof.

DUTIES OF THE SECRETARY OF TRANSPORTATION

SEC. 305. The Secretary of Transportation, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary of Transportation shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Secretary of Energy shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Secretary of Energy, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Secretary of Energy; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Secretary of Energy determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary of Transportation, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Secretary of Energy under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Secretary of Energy.

(c) The Secretary of Energy may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary of Energy deems necessary to carry out any duty under this title.

(d) The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Secretary of Energy may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Secretary of Energy for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Secretary of Energy shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Secretary of Energy in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Secretary of Energy, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Secretary of Energy.

(c) The Secretary of Energy shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Secretary of Energy under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant."

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under section 6 (a) and (b) of such Act, the Secretary of Energy shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Secretary of Energy shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Secretary of Energy shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(e) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $12,500,000 for the fiscal year ending September 30, 1978.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 207 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $20,000,000 in the fiscal year ending September 30, 1978.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary, pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580) are applied in carrying out this section.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

Sec. 501. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

Sec. 502. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs:

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

Sec. 503. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

Sec. 504. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

Sec. 505. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or ", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

Sec. 506. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

Sec. 507. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

Sec. 508. Section 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof $100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee."

Sec. 509. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 510. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Adminis-
who shall take such action as may be appro-
trator shall notify the Attorney General,
priate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 511. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 512. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purposes of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94–377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

TITLE VI—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 601. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b) (33 is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under (b)(1). The delivery of which vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of which operations, management, and control for maximum wide-spread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. No more than 400 vehicles may be procured for this purpose during fiscal year 1978. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurements will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984,

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.".

SEC. 602. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93–438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93–577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a–10c).".

SEC. 603. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end of the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g) (1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee."

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment in the nature of a substitute, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. TEAGUE) for 1 hour.

Mr. TEAGUE. Mr. Speaker, the gentleman from Texas (Mr. YOUNG) and the gentleman from Ohio (Mr. LATTA) have told us just exactly what this bill is. So far as we know, there is no controversy or no opposition. The President vetoed the previous bill because of the Clinch River project. We have taken the Clinch River project from this bill, and we are sending it back to him with the rest of the bill intact.

Mr. Speaker, I am here today only as a result of President Carter's veto action on the bill, S. 1811, which authorized appropriations for the Department of Energy Civilian Research and Development programs for the fiscal year 1978. Before I begin, Mr. Speaker, I would like to take this opportunity to thank and commend the chairman of the three subcommittees in our committee who worked so hard and diligent to bring an authorization bill to the floor.

The work of WALTER FLOWERS, chairman of the Subcommittee on Fossil and Nuclear Energy, MIKE MCCORMACK, chairman of the Subcommittee on Advanced Energy Technologies and Conservation as well as the subcommittee chairman on the Environment and Atmosphere GEORGE BROWN have set a high standard of leadership for the members of our committee and I truly feel they deserve this recognition I give them today. Let me finally thank the staff of the committee who also worked very hard in analyzing three separate budget submittals and drafted many amendments and the legislation you have before you today.

The President stated in his veto message that S. 1811 was returned because it contained funding authorizing the continuation of the Clinch River breeder reactor project and he expressed the usual executive branch disapproval of the one-House veto provisions contained in the bill. It should be noted that the conference report accompanying S. 1811 passed the House overwhelmingly by a vote of 366 to 52 on October 20, 1977. Therefore, we are taking this step today, which is really only a technical action since the Congress has already acted on this matter, to amend the Senate-passed bill, S. 1340, and incorporate all of the authorization language of the vetoed S. 1811 with the exception of the following:

This bill with its programs and new emphasis is the key to the national effort to solve our energy problems. It is the only energy bill that is before the Congress which addresses long range supply and demand issues by tapping our coal, oil shale, geothermal and nuclear resources. Therefore, we have walked the extra mile to accommodate the President by taking out of the bill any reference to the Clinch River breeder reactor project and removing one of the one-house veto provisions that the President found offensive.

Specifically, S. 1340 as amended will eliminate all funding for the Clinch River breeder reactor project—$80 million. It also eliminates section 106 language which related to the Clinch River breeder reactor project. And, finally, it strikes all of title V of S. 1811 which dealt with uranium enrichment services pricing and included a one-house veto provision. Mr. Speaker, there are no other changes in the bill. We feel strongly that the authorization process must be preserved, and that the many exciting new initiatives contained in our bill should be gotten underway now. The new total authorized to be appropriated to the Department of Energy for Civilian Research, Development and Demonstration and related activities is $6,081,445,000 which reflects the $80 million reduction below the total of S. 1811.

Mr. Speaker, let me review the Senate bill, S. 1340, for a moment. The S. 1340 bill passed the Senate in the early months of the 95th Congress and was sent to the House for action. However, the bill was never referred to committee. S. 1811 as introduced, contained only nuclear R. & D. authority for civilian programs. However, before final passage in the Senate it was expanded to incorporate the S. 1340 language, and was then forwarded to the House and referred to our committee.

The House, acting on its own, passed H.R. 6796 after being favorably reported by the Committee on Science and Technology and sequentially referred to the Committees on Armed Services and International Relations. Subsequent to the passage of H.R. 6796, S. 1811 was taken from the table, and amended by the House by incorporating the contents of H.R. 6796.

Subsequent to conference, S. 1811 was passed by both the House and the Senate.

It passed the House on October 20, 1977, by a recorded vote of 366 to 52. S. 1811 would have authorized appropriations of $6,161,435,000 for the newly created Department of Energy's civilian research and development programs for fiscal year 1978.

Mr. Speaker, the primary reason for this authorization bill is the requirement to authorize new programs and the continuation of existing programs on a year-to-year basis for the new Department of Energy research and development activities. This requirement is contained in the new Department of Energy statute, just as it is contained in the Non-Nuclear Energy Research and Development Act of 1974. The appropriation is not sufficient to carry forward the Department of Energy functions without a good deal of confusion—and, at the same time, any new initiatives will be very uncertain. There is no issue of authorization versus appropriation. I feel strongly that the Appropriation Committee role must be complemented by the authorization committee role of making careful studies of program initiatives and indeed make certain that the congressional intent is stamped clearly on agency activities. This process assures the Appropriations Committee and the Members of this body that the requested programs by a given agency are not frivilous requests.

Mr. Speaker, this bill, S. 1340, and the one it supersedes, S. 1811, is and was a good bill. It is vitally needed to get our fossil and nuclear programs, for example, and biomass programs moving. The conference was accomplished in the spirit of compromise and candor, and the bill truly reflected the many varied views and resulted in a firm and solid foundation for the newly created Department of Energy.

The major reason expressed by the Presdent in his veto message for his action on S. 1811 was the Clinch River breeder reactor project. Let me say here and now I do not agree with his reasoning. I respect his opinion, but I do not agree with it. I think he is ill-advised and I think that the breeder technology has a vital role to play in this country's energy future.

This bill contains no funding for Clinch River, but let me emphasize that the base breeder technology program is still contained in this bill. We intend to vigorously pursue not only this energy technology option, but all the aforementioned technologies which have merit. They all have their roles to play in increasing energy supply, using our own resources, and in reducing energy demand. We intend to see that they receive the necessary exposure.

This bill is not a one-issue bill, for there are a number of new initiatives which the committee has taken in this bill which are extremely vital to this Nation's future. The committee has acted in a most positive manner in the areas of fossil fuels, geothermal, solar, conservation, nuclear and other areas of major concern—not only to the committee and this body, but to the Nation.

Mr. Speaker, in addition to the specific concerns mentioned above, the bill is structured so that basic changes in the programs conducted by the Department of Energy from those changes authorized by Congress will require notification to the appropriate committees and the Congress. Our congressional oversight will be greatly improved since the committees and the Congress will be kept involved in any changes in program direction.

Mr. Speaker, in closing, let me thank you and all the Members of this body for your patience and your diligence in dealing with this most difficult and complex piece of legislation during the year.

I think the House has again displayed to the executive branch as well as to the country that it can and will act in a responsible manner when put to the test. Because of the importance we place on all the language worked out to accompany the previously vetoed S. 1811 bill, I have included the conference report in my remarks with the necessary changes we have made to accommodate the President's veto. I think it expresses the will of the committee, the will of the conferees, and the will of both bodies to act on one of the Nation's most pressing problems.

At this point in the RECORD I think it is appropriate to insert the language of the conference report that accompanied S. 1811 so that the intent of the House is clear in the passage of the revised S. 1340.

The entire conference report, 95–714, except for the statements and budgetary items from the deleted positions of the amendment follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811), Energy Research and Development Administration Authorization Act, 1978—Civilian Applications, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

EXPLANATION OF FUNDING PROVISIONS

The compromise funding provisions adopted by the conference committee regarding the civilian research and development programs is reflected in the language of the Conference report.

This statement includes the table which reflects the level of program activities contained in the bill with authorization amounts and budget outlays. The Conferees expect that the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology be kept fully and currently informed of any proposed increase in the level of funding above the amount which has been appropriated for the activities contained in the table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	S. 1340 authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlays
FOSSIL ENERGY DEVELOPMENT							
Operating Expenses							
Coal:							
Liquefaction	$72, 957	$109, 000	$107, 000	$107, 000	$109, 800	$107, 000	$109, 800
High-Btu gasification	44, 054	51, 200	51, 200	51, 200	42, 800	51, 200	42, 800
Low-Btu gasification	33, 052	73, 900	73, 900	73, 900	47, 200	73, 900	47, 200
Advanced power systems	22, 500	25, 500	25, 500	25, 500	23, 800	25, 500	23, 800
Direct combusiton (coal)	51, 901	59, 200	65, 200	65, 200	64, 900	58, 200	60, 700
Advanced research and supporting technology	37, 070	59, 000	45, 000	50, 000	49, 500	40, 000	42, 000
Demonstration plants	53, 000	70, 900	50, 900	60, 900	43, 900	44, 900	31, 900
Magnetohydrodynamics	34, 990	63, 400	80, 000	70, 800	51, 150	65, 800	47, 400
Total, coal	349, 524	512, 100	498, 700	504, 500	433, 050	466, 500	405, 600
Petroleum and natural gas:							
Enhanced oil recovery	23, 782	46, 100	46, 100	46, 100	40, 100	46, 100	40, 100
Enhanced gas recovery	14, 874	30, 000	30, 000	30, 000	25, 500	26, 900	23, 400
Drilling, exploration, and offshore technology	2, 400	10, 600	1, 600	7, 600	6, 500	1, 600	2, 000
Processing utilization	1, 831	1, 400	1, 400	1, 400	1, 400	1, 400	1, 400
Total, petroleum and natural gas	42, 887	88, 100	79, 100	85, 100	73, 500	76, 000	66, 900
In-situ technology:							
Oil shale	22, 278	28, 000	28, 000	28, 000	21, 500	28, 000	21, 500
Coal gasification	8, 236	27, 600	11, 000	19, 000	18, 000	11, 000	12, 000
Total, in-situ technology	30, 514	55, 600	39, 000	47, 000	39, 500	39, 000	33, 500
General fossil energy reduction						−50, 000	0
Energy Research Center, personnel and travel costs						−393	−393
Total, operating expenses	422, 925	655, 800	616, 800	636, 600	546, 050	531, 107	505, 607
Total capital equipment	1, 020	5, 500	5, 500	5, 500	3, 500	5, 500	3, 500
Total plant	59, 200	242, 350	350, 350	[1] 212, 350	37, 400	83, 800	34, 300
Total, fossil energy development	483, 145	903, 650	972, 650	854, 450	586, 950	620, 407	543, 407
Capital Equipment							
Coal:							
Liquefaction	0	400	400	400	200	400	200
High-Btu gasification	100	300	300	300	200	300	200
Low-Btu gasification	0	500	500	500	300	500	300
Advanced power systems	0	200	200	200	200	200	200
Direct combustion (coal)	0	200	200	200	100	200	100
Advanced research and supporting technology	0	300	300	300	200	300	200
Demonstration plants	0	0	0	0	0	0	0
Magnetohydrodynamics	0	500	500	500	300	500	300
Other capital equipment	150	0	0	0	0	0	0
Total, coal	250	2, 400	2, 400	2, 400	1, 500	2, 400	1, 500
Petroleum and natural gas:							
Enhanced oil recovery	100	300	300	300	200	300	200
Enhanced gas recovery	0	300	300	300	200	300	200
Drilling, exploration, and offshore technology	0	0	0	0	0	0	0
Processing utilization	0	0	0	0	0	0	0
Other capital equipment	170	0	0	0	0	0	0
Total, petroleum and natural gas	270	600	600	600	400	600	400

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	S. 1340 authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlays
FOSSIL ENERGY DEVELOPMENT—Continued							
Capital Equipment—continued							
In-situ technology:							
Oil shale	450	900	900	900	600	900	600
Coal gasification	0	1,600	1,600	1,600	1,000	1,600	1,000
Other capital equipment	50	0	0	0	0	0	0
Total, in-situ technology	500	2,500	2,500	3,500	1,600	2,500	1,600
Total, capital equipment	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Plant							
Coal:							
Demo plants:							
78-2-c—Low Btu fuel gas small industrial demonstration plants, sites undetermined (A-E and long-lead procurement only)	0	6,000	6,000	6,000	1,000	3,000	500
78-2-d—Solvent refined coal demonstration plant, site undetermined (A-E and long-lead procurement only)[3]	0	30,000	2,000	30,000	6,100	0	0
78-2-e—High Btu coal gasification test facility, site undetermined	0	30,000	0	0	0	0	0
76-1-b—High Btu synthetic pipeline gas demonstration plant	10,000	30,000	195,000	30,000	10,000	29,000	10,000
76-1-c—Low Btu fuel gas demonstration plant	7,300	131,250	131,250	131,250	14,000	36,000	14,000
76-1-d—Fluidized bed direct combustion demonstration plant						2,000	
Prior-year projects	30,000	0	0	0	0	0	0
Total. demo plants	47,300	227,250	334,250	197,250	31,100	70,000	25,000
Magnetohydrodynamics:							
77-1-d—MHD component development and integration facility, total	5,000	5,500	6,500	5,500	4,000	4,200	4,000
Other coal related plants:							
78-2-a—Analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pa	0	6,600	6,600	6,600	1,300	6,600	1,300
78-2-b—Modifications and additions to energy research centers, various locations	0	3,000	3,000	3,000	1,000	3,000	1,000
Prior-year projects	6,900	0	0	0	0	0	3,000
Total, other coal related plants	6,900	9,600	9,600	9,600	2,300	9,600	5,300
Total, coal	59,200	242,350	350,350	212,350	37,400	83,800	34,300
Total, plant	59,200	242,350	350,350	212,350	37,400	83,800	34,300
SOLAR ENERGY DEVELOPMENT							
Operating Expenses							
Direct thermal application:							
Heating and cooling of buildings	84,800	91,900	97,400	94,400	88,375	93,900	88,000
Agricultural and process heat	7,800	10,300	10,300	10,300	7,600	10,300	7,600
Total, direct thermal application	92,600	102,200	107,700	104,700	95,975	104,200	95,600
Technology support and utilization	11,500	9,000	[2] 9,000	9,000	6,000	9,000	6,000
Solar electric applications:							
Solar thermal	51,300	55,600	61,100	61,100	49,850	60,100	49,100
Photovoltaics	59,400	95,200	57,200	76,200	59,250	57,200	45,000
Wind	20,500	35,300	35,300	35,300	26,000	33,300	24,500
Ocean thermal	13,500	45,100	25,300	55,300	24,500	35,300	24,500
Satellite solar power systems	0	5,000	0	2,800	2,100	0	0
Total, solar electric applications	144,700	236,200	178,900	210,700	161,700	185,900	143,100
Fuels from Biomass	9,700	21,000	19,500	20,500	12,088	20,250	11,900
Total, operating expenses	258,500	368,400	315,100	344,900	275,763	319,350	256,600
Total, capital equipment	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Total plant	24,500	41,000	55,000	[4] 41,000	17,000	41,000	24,000
Total, solar energy development	290,400	417,300	378,000	393,800	297,963	368,250	285,800
Capital Equipment							
Direct thermal application:							
Heating and cooling of buildings	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Agricultural and process heat	0	0	0	0	0	0	0
Total, direct thermal application	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Technology support and utilization	0	0	0	0	0	0	0
Solar electric applications:							
Solar thermal	0	3,000	3,000	3,000	1,500	3,000	1,500
Photovoltaics	4,600	300	300	300	150	300	150
Wind	1,100	1,400	1,400	1,400	700	1,400	700
Ocean thermal	0	700	700	700	350	700	350
Satellite solar power systems	0	0	0	0	0	0	0
Total, solar electric applications	5,700	5,400	5,400	5,400	2,700	5,400	2,700
Fuels from biomass	0	500	500	500	300	500	300
Total, capital equipment	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Plant							
Solar electric applications:							
Solar thermal:							
76-2-b—10-megawatt central receiver solar thermal powerplant, Barstow, Calif. (A-E and long-lead procurement)	2,500	41,000	55,000	41,000	17,000	41,000	17,000
Prior-year projects	22,000	0	0	0	0	0	7,000
Total, plant	24,500	41,000	55,000	41,000	17,000	41,000	24,000
GEOTHERMAL ENERGY DEVELOPMENT							
Operating Expenses							
Engineering research and development	13,500	15,500	17,100	15,500	13,600	15,500	13,600
Resource exploration and assessment	9,000	17,600	17,600	17,600	15,800	17,600	15,800
Hydrothermal technology applications	14,000	24,900	32,000	28,000	22,025	28,000	22,025

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	S. 1340 authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlay
GEOTHERMAL ENERGY DEVELOPMENT—Continued							
Operating Expenses—Continued							
Advanced technology applications	11,900	24,800	23,500	24,300	19,050	22,500	17,700
Utilization experiments	0	18,000	16,000	16,000	4,300	12,000	3,500
Environmental control and institutional studies	4,800	8,100	8,100	8,100	7,100	8,100	7,100
Low-head hydroelectric program	0	15,000	15,000	15,000	12,000	10,000	7,500
Total, operating expenses	53,200	123,900	129,300	124,500	93,875	113,700	87,225
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
Total, geothermal energy development	54,700	126,400	131,800	127,000	96,075	116,200	89,425
Capital Equipment							
Engineering research and development	400	700	700	700	700	700	700
Resource exploration and assessment	300	500	500	500	400	500	400
Hydrothermal technology applications	400	700	700	700	600	700	600
Advanced technology applications	300	500	500	500	400	500	400
Utilization experiments	0	0	0	0	0	0	0
Environmental control and institutional studies	100	100	100	100	100	100	100
Low-head hydroelectric program	0	0	0	0	0	0	0
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
CONSERVATION RESEARCH AND DEVELOPMENT							
Operating Expenses							
Electric energy systems and energy storage:							
Electric energy system	23,000	36,800	36,700	36,800	32,200	36,700	32,100
Energy storage	31,000	48,500	49,900	48,500	39,975	48,500	39,975
Total, electric energy systems and energy storage	54,000	85,300	86,600	85,300	72,175	85,200	72,075
End-use conservation and technologies to improve efficiency:							
Buildings	26,600	68,000	56,000	59,500	47,908	51,090	40,600
Industry	14,430	38,000	40,000	38,000	27,800	28,750	20,900
Transportation	27,170	111,000	88,000	99,500	77,225	64,400	50,900
Improved conversion efficiency	23,150	62,000	78,200	69,700	56,565	58,280	48,000
Total, end-use conservation and technologies to improve efficiency	91,350	279,000	262,200	266,700	209,498	206,250	164,400
Energy Extension Service	7,500	8,000	8,000	8,000	6,000	7,500	6,000
Small grants program	0	10,000	6,000	8,000	6,750	3,000	3,000
Municipal solid waste	0	200,000	0	20,000	15,000	4,000	4,000
Total, operating expenses	152,850	582,300	362,800	388,000	309,423	302,220	245,475
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Total, plant	0	800	800	[5] 800	200	800	200
Total, conservation research and development	160,850	592,270	369,770	397,470	314,841	309,190	249,645
Capital Equipment							
Electric energy systems and energy storage:							
Electric energy system	3,500	2,800	2,800	2,800	1,700	2,800	1,700
Energy storage	2,500	1,700	1,700	1,700	1,100	1,700	1,100
Total, electric energy systems and energy storage	6,000	4,500	4,500	4,500	2,800	4,500	2,800
End-use conservation and technologies to improve efficiency:							
Buildings	0	1,170	170	670	418	170	170
Industry	1,000	2,500	500	2,500	1,500	500	500
Transportation	500	500	500	500	100	500	100
Improved conversion efficiency	500	500	500	500	400	500	400
Total, end-use conservation and technologies to improve efficiency	2,000	4,670	1,670	4,170	2,418	1,670	1,170
Energy Extension Service	0	0	0	0	0	0	0
Small grants program	0	0	0	0	0	0	0
Municipal solid waste	0	0	0	0	0	0	0
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Plant							
Electric systems and energy storage:							
Electric energy systems:							
78-1-a—High-bay addition, Los Alamos, N. Mex	0	800	800	800	200	800	200
Total, plant	0	800	800	800	200	800	200
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT							
Operating Expenses							
Overview and assessment	37,148	51,910	43,010	50,010	43,881	48,010	43,381
Environmental research	131,606	143,970	[6] 143,970	143,970	137,819	143,970	137,069
Life sciences research	43,484	38,113	38,113	38,113	36,854	38,113	36,854
Decontamination and decommissioning	9,516	19,000	17,000	19,000	17,000	18,000	16,000
Total, operating expenses	221,754	252,993	242,093	251,093	235,554	248,093	232,304
Total capital equipment	13,753	19,025	19,025	19,025	15,870	19,025	15,870
Total plant	3,200	6,000	6,000	[7] 6,000	1,200	5,000	9,148
Total, Environment and Safety Research and Development	238,707	278.018	267,118	276,118	252,624	272,118	257,322
Capital Equipment							
Overview and assessment	1,782	3,400	3,400	3,400	2,445	3,400	2,445
Environmental research	10,931	14,425	14,425	14,425	12,341	14,425	12,341
Life sciences research	900	1,000	1,000	1,000	884	1,000	884
Decontamination and decommissioning	140	200	200	200	200	200	200
Total. capital equipment	13,753	19,025	19,025	19,025	15,870	19,025	15,870

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	S. 1340 authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlays
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT—Continued							
Plant							
Environmental research:							
78-9-a— Modifications and additions to biomedical and environmental research facilities, various locations	0	6,000	6,000	6,000	1,200	5,000	1,000
Prior-year projects	3,200	0	0	0	0	0	8,148
Total, environmental research	3,200	6,000	6,000	6,000	1,200	5,000	9,148
Total, plant	3,200	6,000	6,000	6,000	1,200	5,000	9,148
MAGNETIC FUSION							
Total operating expenses	195,000	207,900	199,900	207,900	196,200	203,900	193,200
Total capital equipment	23,000	27,600	27,600	27,600	17,165	27,600	17,165
Total plant	96,900	132,600	121,400	[8] 135,800	73,480	92,500	68,435
Total, magnetic fusion	314,900	368,100	348,900	371,300	286,845	324,000	27,800
Capital Equipment							
Magnetic fusion	23,200	27,600	27,600	27,600	17,165	27,600	17,165
Plant							
Magnetic fusion:							
78-3-a —Mirror fusion test facility, Lawrence Livermore Laboratory, Calif	0	94,200	94,200	94,200	3,000	14,000	3,000
78-3-b —Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Wash	0	14,400	0	14,400	2,880	7,500	1,500
76-5-a —Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J	75,400	24,000	24,000	24,000	59,000	71,000	59,000
76-5-b —14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex	14,000	0	3,200	3,200	8,600	0	0
Prior-Year Projects	7,500	0	0	0	0	0	4,935
Total, plant	96,900	132,600	121,400	135,800	73,480	92,500	68,435
FUEL CYCLE RESEARCH AND DEVELOPMENT							
Operating Expenses							
Uranium resource assessment	31,335	59,485	67,485	67,485	57,300	59,495	51,300
Support of nuclear fuel cycle:							
LWR fuel reprocessing	33,900	35,100	34,000	24,000	18,000	0	0
HTGR fuel cycle R. & D	10,600	12,100	12,100	12,100	12,000	12,100	12,000
Breeder reactor fuel cycle R. & D	10,200	30,300	30,300	30,300	27,700	30,300	27,700
Alternate concepts	0	32,000	32,000	32,000	27,000	32,000	27,000
Thorium fuel recycle	0	18,000	8,000	18,000	13,500	18,000	13,500
Total, support of nuclear fuel cycle	54,700	127,500	116,400	116,400	98,200	92,400	80,200
Waste management (commercial)	82,500	165,000	154,000	160,000	118,300	158,500	117,175
Total, operating expenses	168,535	351,985	337,885	343,885	273,800	310,395	248,675
Total capital equipment	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Total plant	0	16,500	13,000	[9] 16,500	3,300	13,000	2,978
Total, fuel cycle research and development	182,535	391,785	376,185	385,685	292,750	348,685	267,303
Capital Equipment							
Uranium resource assessment	4,500	4,800	4,800	4,800	2,900	4,800	2,900
Support of nuclear fuel cycle:							
LWR fuel reprocessing	0	0	0	0	0	0	0
HTGR fuel cycle R. & D	1,450	990	1,000	1,000	995	1,000	995
Breeder reactor fuel cycle R. & D	900	3,000	3,000	3,000	1,900	3,000	1,900
Alternate concepts	1,950	3,000	3,000	3,000	2,000	3,000	2,000
Thorium fuel recycle	0	10	2,000	2,000	1,005	2,000	1,005
Total, support of nuclear fuel cycle	4,300	7,000	9,000	9,000	5,900	9,000	5,900
Waste management (commercial)	5,200	11,500	11,500	11,500	6,850	11,500	6,850
Total, fuel cycle research and development	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Plant							
Fuel cycle R. & D.:							
Support of nuclear fuel cycle (LMFBR fuel reprocessing R. & D.):							
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and longlead procurement only)	0	3,000	3,000	3,000	600	3,000	600
Prior-year projects							378
78-5-c—Laser isotope facility, site undesignated (A-E only)	0	6,500	3,000	6,500	1,300	3,000	978
Total, LMFBR fuel reprocessing R. & D	0	3,500	0	3,500	700	0	0
Total, support of nuclear fuel cycle	0	6,500	3,000	6,500	1,300	3,000	978
Waste Management (Commercial): 78-5-a —Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) total	0	10,000	10,000	10,000	2,000	10,000	2,000
Total, plant	0	16,500	13,000	16,500	3,300	13,000	2,978
LIQUID METAL FAST BREEDER REACTOR							
Operating Expenses							
Clinch River breeder reactor	237,600	150,000	75,000	(19)	(19)	(19)	(19)
LMFBR base program	304,283	333,300	333,300	333,300	304,400	304,200	300,100
Total, operating expenses	541,883	483,300	408,300	333,300	304,400	304,200	300,100
Total capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total plant	783,950	213,335	208,335	[10] 208,335	20,450	105,385	80,440
Total, liquid metal fast breeder reactor	670,771	732,285	652,285	577,285	373,310	439,535	423,700
Capital Equipment							
Clinch River breeder reactor	0	0	0	0	0	0	0
LMFBR base program	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total, capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	S. 1340 authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlays
LIQUID METAL FAST BREEDER REACTOR—Continued							
Plant							
Breeder reactor:							
LMFBR base program:							
78-6-a—Modifications to reactors	0	8,700	8,700	8,700	1,700	8,700	1,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill	0	4,935	4,935	4,935	1,000	4,935	1,000
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only)	0	20,100	20,100	20,100	3,800	14,050	1,300
78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only)	0	3,100	3,100	3,100	750	1,500	550
78-6-e—Modifications to facilities Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	0	9,000	4,000	4,000	1,000	1,600	500
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	0	134,800	134,800	134,800	3,500	5,200	1,000
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory Washington	0	3,600	3,600	3,600	500	2,700	500
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory Idaho	0	1,100	1,100	1,100	100	500	100
77-4-c—High-performance fuel laboratory, Richland, Wash. (A-E only)	1,500	5,000	5,000	5,000	3,700	5,000	3,700
77-4-d—Fuel storage facility, Richland, Wash	1,500	23,000	23,000	23,000	4,400	16,200	4,400
67-3-a—Fast flux test facility						45,000	47,421
Prior-year projects	80,950	0	0	0	0	0	18,269
Total, breeder reactor base program	83,950	213,335	208,335	208,335	20,450	105,385	80,440
Total, plant	83,950	213,335	208,335	208,335	20,450	105,385	80,440
NUCLEAR RESEARCH AND APPLICATIONS							
Operating Expenses							
Water cooled breeder reactor	37,000	38,500	38,500	38,500	37,600	38,500	37,600
Gas cooled thermal reactor	15,900	31,000	16,000	31,000	26,500	31,000	26,500
Gas cooled fast breeder reactor	12,800	14,670	14,670	14,670	12,800	14,670	12,800
Light water reactor technology	12,500	13,000	31,200	31,200	26,100	18,800	16,800
Technology development and special projects	11,322	14,842	14,842	14,452	13,478	14,842	13,478
Space applications	20,555	31,700	0	31,700	26,500	31,000	25,975
Advanced isotope separation technology	40,230	43,617	43,617	43,617	40,000	43,617	40,000
Nuclear energy assessments	7,687	23,300	23,100	23,300	18,750	23,100	18,600
Total, operating expenses	157,994	210,629	181,929	228,829	201,728	215,529	191,753
Total capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Total plant	9,500	0	0	0	0	0	3,400
Total, nuclear research and applications	181,758	229,224	197,124	247,424	218,908	234,124	212,333
Capital Equipment							
Water cooled breeder reactor	2,350	3,100	3,100	3,100	2,600	3,100	2,600
Gas cooled thermal reactor	549	1,000	1,000	1,000	800	1,000	800
Gas cooled fast breeder reactor	800	1,330	1,330	1,330	1,200	1,330	1,200
Light water reactor technology	0	0	0	0	0	0	0
Technology development and special projects	1,545	1,280	1,280	1,280	1,180	1,280	1,180
Space applications	2,020	3,400	0	3,400	2,400	3,400	2,400
Advanced isotope separation technology	7,000	8,485	8,485	8,485	9,000	8,485	9,000
Nuclear energy assessments	0	0	0	0	0	0	0
Total, capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Plant							
Water cooled breeder reactor: Prior-year projects, total	9,500	0	0	0	0	0	3,400
Total, plant	9,500	0	0	0	0	0	3,400
LIGHT WATER REACTOR FACILITIES AND FUEL STORAGE							
Operating Expenses							
Light water reactor safety facilities	28,300	24,000	24,000	24,000	21,600	24,000	21,600
International spent fuel disposition	0	20,000	20,000	20,000	10,000	5,000	5,000
Total, operating expenses	28,300	44,000	44,000	44,000	31,600	29,000	6,600
Total, capital equipment	0	800	800	800	300	800	300
Total plant	0	3,000	3,000	[11] 3,000	700	3,000	700
Total, light water reactor facilities and fuel strorage	28,300	47,800	47,800	47,800	32,600	32,800	27,600
Capital Equipment							
Light water reactor safety facilities	0	800	800	800	800	800	300
International spent fuel disposition	0	0	0	0	0	0	0
Total capital equipment	0	800	800	800	300	800	300
Light water reactor safety facilities:							
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho	0	3,000	3,000	3,000	700	3,000	700
Total light water reactor safety facilities	0	3,000	3,000	3,000	700	3,000	700
Total, plant	0	3,000	3,000	3,000	700	3,000	700
HIGH ENERGY PHYSICS							
Total operatng expenses	170,000	189,450	187,950	188,950	186,300	187,950	185,550
Total capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100
Total plant	28,600	16,700	6,200	[12] 16,700	3,400	40,600	26,987
Total, high energy physics	220,700	249,650	236,150	248,150	215,175	270,550	237,637
Capital Equipment							
High-energy physics	20,400	41,000	39,500	40,000	32,854	39,500	23,479
Other capital equipment	1,400	2,500	2,500	2,500	1,621	2,500	1,621
Total, capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	S. 1340 authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlays
HIGH ENERGY PHYSICS—Continued							
Plant							
78-10-a—Accelerator improvements and modifications, various locations	0	4,500	4,500	4,500	1,000	4,500	1,000
78-10-b—Intersecting storage accelerator, Brookhaven National Laboratory, New York	0	10,500	0	10,500	2,000	5,000	1,000
78-11-a—Master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California	0	1,700	1,700	1,700	400	1,700	400
Positron-electron: Joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center						29,400	20,000
Prior-year projects	28,600	0	0	0	0	0	4,587
Total, plant	28,600	16,700	6,200	16,700	3,400	40,600	26,987
NUCLEAR PHYSICS							
Total operating expenses	64,918	68,444	74,444	74,444	70,340	68,444	65,840
Total operating equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Total plant	6,200	7,900	7,900	[13] 7,900	1,600	1,900	10,387
Total, nuclear physics	76,452	83,069	89,069	89,069	78,073	77,069	82,360
Capital Equipment							
Nuclear physics	4,834	5,525	5,525	5,525	5,100	5,525	5,100
Other capital equipment	500	1,200	1,200	1,200	1,033	1,200	1,033
Total, capital equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Plant							
78-12-a—Accelerator and reactor improvements and modifications, various locations	0	1,900	1,900	1,900	400	1,900	400
78-12-b—High-intensity uranium beams, Lawrence Berkeley Laboratory, California	0	6,000	6,000	6,000	1,200	0	0
Prior-year projects	6,200	0	0	0	0	0	9,987
Total, plant	6,200	7,900	7,900	7,900	1,600	1,900	10,387
BASIC ENERGY SCIENCES							
Operating Expenses							
Nuclear Sciences	25,022	26,467	25,667	25,787	24,753	26,063	24,960
Material Sciences	56,516	66,006	62,406	64,026	59,662	64,010	59,650
Molecular Mathematical and Geosciences	47,396	57,700	55,800	57,000	53,182	56,740	52,987
Advanced Energy Programs	0	3,187	3,187	3,187	3,000	3,187	3,000
Total, operating expenses	128.934	153,360	147,060	150,000	140,597	150,000	140,597
Total capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Total plant	12,800	33,400	33,400	[14] 33,400	2,000	13,000	11,967
Total, basic energy sciences	152,800	198,835	192,535	195,475	153,764	175,075	163.731
Capital Equipment							
Nuclear science	866	1,075	1,075	1,075	1,150	1,075	1,150
Material sciences	5,100	5,400	5,400	5,400	5,050	5,400	5,050
Molecular mathematical and geosciences	3,300	3,600	3,600	3,600	2,800	3,600	2,800
Advanced energy programs	0	0	0	0	0	0	0
Other capital equipment	1,800	2,000	2,000	2,000	2,167	2,000	2,167
Total, capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Plant							
Nuclear science:							
Prior-year projects	2,500	0	0	0	0	0	3,500
Total, nuclear science	2,500	0	0	0	0	0	3,500
Materials science:							
78-13-a—National synchrotron light source, Brookhaven National Laboratory, New York	0	24,000	24,000	24,000	1,000	5,000	1,000
77-8-d Conventional steam plant facilities ORNL, Tennessee						2,000	4,300
Prior-year projects	10,300	0	0	0	0	0	2,167
Total, materials sciences	10,300	24,000	24,000	24,000	1,000	7,000	7,467
Molecular mathematical and geosciences:							
78-13-b—Combustion research facility, Sandia Laboratories, Livermore, Calif	0	9,400	9,400	9,400	1,000	6,000	1,000
Total molecular mathematical and geosciences	0	9,400	9,400	9,400	1,000	6,000	1,000
Total, plant	12,800	33,400	33,400	33,400	2,000	13,000	11,967
NUCLEAR MATERIALS SECURITY AND SAFEGUARDS							
Total operating expenses	27,420	37,906	40,106	40,106	35,150	37,906	33,500
Total capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Total plant	0	0	0	0	0	0	195
Total, nuclear materials security and safeguards	31,352	40,700	42,900	42,900	38,150	40,700	36,695
Capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Plant: Prior-year projects	0	0	0	0	0	0	195
Total, plant	0	0	0	0	0	0	195
URANIUM ENRICHMENT ACTIVITIES							
Operating Expenses							
U^{235} production	799,566	899,145	895,445	895,445	888,050	859,245	860,900
Process development	68,150	85,650	77,400	77,400	68,300	77,400	68,300
All other U^{235}	20,629	14,840	17,740	16,340	17,300	23,940	23,000
Total operating expenses	888,345	999,635	990,585	989,185	973,650	960,585	952,200
Total capital equipment	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Total plant	664,475	376,350	303,980	[15] 303,980	361,750	443,050	401,052
Total, uranium enrichment activities	1,569,820	1,394,985	1,313,565	1,312,165	1,351,400	1,422,635	1,369,252

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	S. 1340 authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlays
URANIUM ENRICHMENT ACTIVITIES—Continued							
Capital Equipment							
U^{235} production	13,778	15,000	15,000	15,000	13,000	15,000	13,000
Process development	3,222	4,000	4,000	4,000	3,000	4,000	3,000
All other U^{235}	0	0	0	0	0	0	0
Total, capital equipment	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Plant							
Uranium enrichment—U^{235} production:							
78-14-b—Process control modifications, gaseous diffusion plants, various locations	0	17,400	17,400	17,400	2,300	12,900	2,300
78-15-a—Water system improvements, gaseous diffusion plant, Kentucky	0	4,500	4,500	4,500	650	2,500	650
76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center Fernald, Ohio	5,300	1,750	1,750	1,750	6,000	2,950	6,000
76-8-g—Enriched uranium production facility, Portsmouth, Ohio	167,325	180,000	107,630	107,630	82,000	15,000	67,000
74-1-g—Cascade uprating program, gaseous diffusion plants	161,000	42,700	42,700	42,700	108,000	63,900	108,000
74-1-f—Process equipment modifications, gaseous diffusion plants	267,800	100,000	100,000	100,000	160,000	143,800	16,000
77-9-a—Expansion of feed vaporizing sampling facility, gaseous diffusion plants, multiple sites						18,000	8,700
Prior-year projects	38,050	0	0	0	0	0	20,256
Total, U^{235} production	639,475	346,350	273,980	273,980	358,950	394,050	372,906
Uranium enrichment—Process development:							
78-14-a—Centrifuge facilities modifications, various locations	0	30,000	30,000	30,000	2,800	14,000	2,800
77-9-d—Centrifuge plant demo, facility Oak Ridge, Tenn						35,000	20,000
Prior-year projects	25,000	0	0	0	0	0	5,346
Total, process development	25,000	30,000	30,000	30,000	2,800	49,000	28,146
Total, plant	664,475	376,350	308,980	303,980	361,750	443,050	401,052
PROGRAM MANAGEMENT AND SUPPORT							
Operating Expenses							
Program direction	218,760	220,535	263,700	282,900	222,900	254,100	254,100
Institutional relations	26,451	33,368	[17] 34,179	34,179	34,100	28,379	28,779
Supporting activities	35,469	37,460	37,460	37,460	36,494	33,360	33,044
International cooperation	0	0	5,000	5,000	4,000	3,500	2,600
Cost of work for others	20,100	18,265	18,265	18,265	18,255	18,265	18,255
Total, operating expenses	300,780	[16] 309,628	358,604	[16] 317,804	315,749	337,604	336,778
Total capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total plant	0	11,530	11,530	[18] 11,530	1,780	6,730	6,936
Total, program management and support	306,220	326,113	375,089	334,289	322,484	348,439	347,819
Operating Expenses							
Changes in inventories, working capital and other adjustments	81,885	126,300	126,300	126,300	92,082	111,300	77,082
Transfer to Council on Environmental Quality	500	500	500	500	0	500	0
General reduction in operating expenses	−89,578	0	0	0	0	0	0
Capital Equipment							
Program direction	4,325	4,000	4,000	4,000	4,000	3,150	3,150
Institutional relations	790	755	755	755	755	755	755
Supporting activities	325	200	200	200	200	200	200
International cooperation	0	0	0	0	0	0	0
Total, capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total	192,307	239,089	233,189	239,589	197,473	220,039	189,700
Plant							
Supporting activities:							
78-1-b—Chiller modifications for energy conservation, Bendix Plant, Kansas City, Mo	0	830	830	830	80	830	80
78-1-c—Process waste heat utilization, gaseous diffusion plant, Paducah, Ky	0	5,700	5,700	5,700	700	900	700
Prior-year projects	0	0	0	0	0	0	5,156
78-19-a—Program support facility, Argonne National Laboratory, Illinois (A-E and long-lead procurement only)	0	5,000	5,000	5,000	1,000	5,000	1,000
Total, supporting activities	0	11,530	11,530	11,530	1,780	6,730	6,936
Total, plant	0	11,530	11,530	11,530	1,780	6,730	6,936
PLANT—OTHER							
General plant projects	40,800	44,265	44,265	44,265	9,338	42,665	8,995
Construction planning and design	7,200	10,000	10,000	10,000	2,000	9,000	1,800
Total plant	1,037,325	1,150,730	1,175,160	1,051,560	535,598	901,430	691,920
Summary totals							
Operating expenses	3,774,145	5,166,430	4,759,656	4,790,296	4,282,261	4,431,773	4,079,086
Capital equipment	192,307	239,089	233,189	239,589	197,473	230,039	189,700
Plant	1,037,325	1,155,730	1,175,160	1,051,560	535,598	901,430	691,920
Working capital adjustment						0	−52,016
Unobligated balance brought forward						−64,300	0
Unobligated balance carried forward						−65,500	0
Total, ERDA authorization	5,003,917	6,561,249	6,172,005	6,081,445	5,015,332	5,433,442	4,908,690
Less:							
Anticipated enrichment revenues	−660,000	−845,820	−845,820	−845,820	−845,820	−965,820	−965,820
Anticipated miscellaneous revenues	−77,900	−100,720	−100,720	−100,720	−100,720	−100,720	−100,720
Total	4,266,017	5,614,709	5,225,465	5,134,905	4,068,792	4,366,902	3,842,150

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[1] This authorization for plant represents $114,800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[2] In H.R. 6796 project title does not include "A-E and long-lead procurement only."

[3] S-1811 shows $12,000,000 for technology support and utilization. $3,000,000 of this has been incorporated in institutional relations—University programs.

[4] This authorization for plant represents $41,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[5] This authorization for plant represents $800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority

[6] Included in this amount is $1,000,000 for the Water Resources Council.

[7] This authorization for plant represents $6,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[8] This authorization for plant represents $110,300,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[9] This authorization for plant represents $16,500,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[10] This authorization for plant represents $75,535,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

Footnotes continued on following page.

[11] This authorization for plant represents $3,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[12] This authorization for plant represents $16,700,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[13] This authorization for plant represents $7,500,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[14] This authorization for plant represents $11,000,000 in related budget authority. The authorized amounts for operating expenses and captial equipment also represent related budget authority.

[15] This authorization for plant represents $420,050,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[16] Included in this amount is $1,000,000 for the Water Resources Council.

[17] Includes $3,000,000 that is part of the S-1811 amount of $12,000,000 for technology support and utilization under solar energy development. It was agreed that this $3,000,000 should be incorporated in institutional relations—University programs.

[18] This authorization for plant represents $6,730,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represents related budget authority.

[19] CRBR was authorized in Public Law 91-273, Sec. 106, as amended. Appropriations for fiscal year 1978 are contained in H.R. 9375.

COMPARISON BETWEEN HOUSE AND SENATE AUTHORIZATION PROGRAM STRUCTURE FOR NUCLEAR PROGRAMS

[In thousands of dollars]

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	S. 1340 authorization
NUCLEAR PROGRAMS		NUCLEAR PROGRAMS—Continued		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	$43, 617	1. Advanced isotope separation technology	$43, 617	$43, 617
2. Light water reactor technology	13, 000	2. Light water reactor technology	31, 200	31, 200
3. Technology development and special projects	14, 842	3. Technology development and special projects	14, 842	14, 842
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	24, 000	4. Light water reactor safety facilities	24, 000	24, 000
		Uranium enrichment activities:		
5. Process development (U^{235})	85, 650	5. Process development	77, 400	77, 400
		Fuel cycle research and development:		
6. Uranium resource assessment	59, 485	6. Uranium resource assessment	67, 485	67, 485
7. LWR fuel reprocessing	35, 100	7. LWR fuel reprocessing	34, 000	24, 000
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	37, 906	8. Nuclear materials security and safeguards	40, 106	40, 106
Total, light water reactors	313, 600	Total	332, 650	322, 650
Waste management:		Fuel cycle research and development:		
9. Waste management (commercial)	165, 000	9. Waste management (commercial)	154, 000	160, 000
		Light water reactor facilities and fuel storage:		
10. International spent fuel dispostiion	20, 000	10. International spent fuel disposition	20, 000	20, 000
Total, waste management	185, 000	Total	174, 000	180, 000
Liquid metal fast breeder reactor:		Liquid metal fast breeder reactor:		
11. LMFBR base program	333, 300	11. LMFBR base program	333, 300	333, 300
12. Clinch River breeder reactor	150, 000	12. Clinch River breeder reactor	75, 000	[19] 0
Total, breeder reactor	483, 300	Total	408, 300	333, 300
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	38, 500	13. Water cooled breeder reactor	38, 500	38, 500
14. Gas cooled thermal reactor	31, 000	14. Gas cooled thermal reactor	16, 000	31, 000
15. Gas cooled fast breeder reactor	14, 670	15. Gas cooled fast breeder reactor	14, 670	14, 670
Total, other advanced reactor concepts	84, 170	Total	69, 170	84, 170
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	12, 100	16. HTGR fuel cycle R. & D	12, 100	12, 100
17. Breeder reactor fuel reprocessing R. & D	30, 300	17. Breeder reactor fuel reprocessing R. & D	30, 300	30, 300
18. Thorium fuel	18, 000	18. Thorium fuel	8, 000	18, 000
19. Altornate fuel cycle	32, 000	19. Alternate concepts	32, 000	32, 000
Total, advanced fuel cycle concepts	92, 400	Total	82, 400	92, 400
		Nuclear research and applications:		
20. Nuclear energy assessments	23, 300	20. Nuclear energy assessments	23, 100	23, 300
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	899, 145	21. U^{235} production	895, 455	895, 445
22. All other U^{235}	14, 840	22. All other U^{235}	17, 740	16, 340
Total, uranium enrichment	913, 985	Total	913, 185	911, 785
		Magnetic fusion:		
23. Magnetic fusion	207, 900	23. Magnetic fusion	199, 900	207, 900
Total, operating expenses	2, 303, 655	Total, operating expenses	2, 202, 705	2, 155, 505
Total, capital equipment	124, 339	Total. capital equipment	126, 339	126, 339
Total, plant	741, 785	Total, plant	649, 715	667, 615
Total, nuclear porgrams	3, 169, 779	Total	2, 978, 759	2, 949, 459
Capital Equipment		Capital Equipment		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	8, 485	1. Advanced isotope separation technology	8, 485	8, 485
2. Light water reactor technology	0	2. Light water reactor technology	0	0
3. Technology development and special projects	1, 280	3. Technology development and special projects	1, 280	1, 280
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	800	4. Light water reactor safety facilities	800	800
		Uranium enrichment activities:		
5. Process development (U^{235})	4, 000	5. Process development	4, 000	4, 000
		Fuel cycle research and development:		
6. Uranium resource assessment	4, 800	6. Uranium resource assessment	4, 800	4, 800
7. LWR fuel reprocessing	0	7. LWR fuel reprocessing	0	0
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	2, 794	8. Nuclear materials security and safeguards	2, 794	2, 794
Total, light water reactors	22, 159	Total	22, 159	22, 159
Waste management:		Fuel cycle research and development:		
9. Waste management (commercial)	11, 500	9. Waste management (commercial)	11, 500	11, 500
		Light water reactor facilities and fuel storage:		
10. International spent fuel disposition	0	10. International spent fuel disposition	0	0
Total, waste management	11, 500	Total	11, 500	11, 500

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	S. 1340 authorization
NUCLEAR PROGRAMS—Continued		NUCLEAR PROGRAMS—Continued		
Plant		Plant		
Uranium enrichment:		Uranium enrichment:		
6. U^{235} production:		6. U^{235} production:		
78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	17,400
78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	4,500
76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	1,750
76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	180,000	76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	107,630	107,630
74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	74-1-g—Cascade uprating program, gaseous diffusion plants.	42,700	42,700
71-1-f—Process equipment modifications, gaseous diffusion plants.	100,000	71-1-f—Process equipment modifications, gaseous diffusion plants.	100,000	100,000
Total, U^{235} production	346,350	Total, U^{235} production	273,980	273,980
Total, uranium enrichment	346,350	Total, uranium enrichment	273,980	273,980
7. Magnetic fusion:		7. Magnetic fusion:		
78-3-a—Mirrior fusion test facility, Lawrence Livermore Laboratory, California.	94,200	78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	94,200
78-3-b—Fusion materials irradiated test facility, Hanford Engineering Development Laboratory, Washington.	14,400	78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington.	0	14,400
76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	24,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	0	76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	3,200	3,200
Total, magnetic fusion	132,600	Total, magnetic fusion	121,400	135,800
Total, nuclear programs	741,785	Total, nuclear programs	649,715	667,615

[1] See footnote 19 on p. 38761.

EXPLANATION OF SIGNIFICANT NUMBER CHANGES

Nonnuclear energy

High Btu Coal Gasification Test Facility

The conferees agreed to add $10 million in operating funds for a feasibility study for a high Btu coal gasification test facility. The House receded to the Senate and no construction funds are authorized for the facility in fiscal year 1978. The high Btu coal gasification test facility would demonstrate and evaluate several second and third generation gasification technologies in a single installation.

A GOCO (Government owned, contractor operated) arrangement is proposed as a financing mechanism that will avoid the complications and time delays of the present cost sharing arrangement in the demonstration program. The test facility program is not intended to replace the present demonstration program. It does provide an option that ERDA has agreed is attractive. Dr. White has sent a letter to the House committee which affirms the value of such a facility and supports beginning design work.

The conferees view the test facility as expanding the options for demonstrating new gasification technologies at commercial size. The inclusion of this facility into the current fossil demonstration program indicates a dissatisfaction with the Administrator's execution of section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974. This section authorizes the Administrator to "identify opportunities to accelerate the commercial applications of new energy technologies and provide assistance for participation in demonstration projects." Great latitude is allowed in this section as to the kind and degree of cooperative agreements with non-Federal entities which may be entered into. The rigid fifty-fifty cost-sharing arrangement of the fossil energy demonstration program limits the flexibility granted under section 8. The introduction of the high Btu test facility and the feasibility study is intended to open up possibilities which are precluded by the present financial arrangements.

The conferees wish to emphasize, by this action, that this authorization is not intended, in any way, to stop, delay or inhibit the presently constituted demonstration program. The actual purpose of the demonstration program has always been clear and that is to insure that second generation technologies are demonstrated at selected sites to provide that information necessary to make decisions about the commercial viability of such technologies. Therefore, the feasibility study for the test facility should include a discussion about the relative merits of pursuing the construction of the test facility and its impact, if any, on the present demonstration program.

Gasifiers in Industry

Forty million dollars was reauthorized from the Clean Boiler Fuel from coal demonstration plant for the "gasifiers in industry" program. These funds were placed in operating expenses for the low Btu gasification program. This permits greater flexibility and quicker action in execution of this near-term program. The program objective is to get gasifiers operating and producing gas during the next 3 years. This will demonstrate the economic viability of low and medium Btu gas as a substitute for natural gas and also prove its environmental acceptability. State of the art gasification technologies would be used. However, modern environmental control equipment must be added to the gasifiers and the use of caking coals needs to be demonstrated.

Direct Combustion

A total of $12 million was added to the direct combustion program to further emphasize the conferees strong commitment to this program which has potential near-term impact. Two million dollars will be used for the utilization of anthracite waste in fluidized bed combusters and $6 million will be used for the component testing and integration facility for atmospheric fluidized bed combustion at Morgantown, W. Va. Four million dollars was not in dispute among the conferees and will support coal-oil slurries which are critical for the conservation of oil, the usage of coal and reduction of the retrofit problems of current oil burners. The conferees felt that this program should be enhanced by allowing larger scale tests and the initiation of commercial application.

Oil Shale and In-Situ Coal Gasification Program

The in-situ coal gasification program has made significant progress within the last fiscal year. The conference addition of $8.0 million for this work is meant to advance the Linked Vertical Well method as well as the Packed Bed method.

The conferees also direct the ERDA to prepare a management plan for oil shale R&D to include possible or likely efforts for process development units and pilot plants utilizing above-ground and in-situ processes. The above-ground efforts have not been carefully devised and there does not appear to be logical steps of mining, retorting, hydrotreating and refining. The funds for this plan are included in the conference amount.

Advanced Research and Supporting Technology

The conferees agreed to add $10 million to the advanced research and supporting technology program. This increase is intended to augment the materials and exploratory research program carried out within this program.

The long term increase in coal and oil shale used to meet the energy needs of the country will require new and environmentally sound technologies be developed. This means that fundamental knowledge of coal, coal chemistry, geology, rock mechanics and materials must be increased. According to the scientific and engineering communities ERDA's fossil energy program has not stressed this work sufficiently in the past. The increase is intended to enable them to expand these efforts.

Flash Liquefaction

The House receded from its addition for the flash liquefaction process. The conferees wish to emphasize their interest in support for the flash liquefaction but understand that there are carryover funds in the liquefaction program that can be used in support of the construction of a process development unit.

Drilling, Exploration, and Offshore Technology

With respect to increased funding for drilling technology development, the conference committee deleted $1.6 million under geothermal resource development added by the Senate, while selecting a compromise figure of $7.6 million in the fossil energy area. This latter figure is $6 million above the Senate authorization, and $3 million below the House.

The committee wishes to make clear that this action is in no way intended to indicate

Congressional direction that fossil drilling technology be emphasized at the expense of its geothermal counterpart. The Committee recognizes that great similarities exist between the developmental needs in these two areas. Common problems such as coping with high temperature and corrosive environments, and common needs for improvements in directional drilling techniques, down-hole motor capability, and drill bit design and fabrication, insure that progress in one area will be of substantial benefit to the other.

Five million dollars will be used for the development of down hole electronics, severe service elastomers and steels and improved bit designs. In addition, testing and evaluation instrumentation is to be supported by the development of telemetry systems and better down hole motors. This new technology will have near term application and is not presently under development, because the drilling industry is small and does not have the capital resources to support sophisticated R&D programs. It is clear that in the past ERDA has made a considerable effort to insure that work in these two drilling technologies has been well-coordinated in order to minimize needless duplication and overlap. The Committee directs that of the additional funds authorized in this legislation at least $1.6 million should be used to emphasize problem areas common to both fossil energy and geothermal resource development, including subterranean melting research.

The addition also includes $1 million for an evaluation of the possible applications of zirconium hydride reactors as self-contained power systems for subsea oil recovery efforts.

Solvent Refined Coal (SRC) Demonstration Plant

The conferees action for this promising technology emphasizes both the SRC solids process, which has been the subject of extensive testing, and the SRC liquids process, which produces a desirable and versatile liquid product with some solids output, but is now in the early stages of large scale testing.

In May of 1977, the SRC pilot plant in Fort Lewis, Washington was adapted to operate in the SRC II mode. The conferees feel this test can provide the data needed for a realistic assessment and design of an SRC II plant. To take advantage of this information and to do the design work the conferees have provided $10 million in operating funds for fiscal year 1978.

In the case of the solid fuel SRC process, successful work has been concluded in several important areas including pilot scale process studies on seven different coals including high sulfur coals, a successful 3000 tons combustion test, and conceptual commercial designs sponsored both by EPRI and the Southern Company.

As a consequence, the conferees have agreed that $30 million be authorized for construction of an SRC solids demonstration plant to produce solid fuels. The conferees agree that this demonstration plant be constructed at the smallest commercial size module which can efficiently demonstrate the technology. Although commercialization is the ultimate goal, government involvement and expense are to be minimized. However, once the Secretary has selected a plant size, the conferees direct that the Department report to the appropriate committees in Congress on the cost considerations involved in the decision.

Geothermal Energy

The Conference Committee recommendation to the authorization for hydrothermal technology applications is $3.1 million above the House Bill. This increase is to be used to accelerate the pace of the Raft River Thermal Loop Experiment in Idaho. The Conferees feel that this experiment should be rapidly pursued because it utilizes moderate-temperature resources, which are more abundant than the high temperature hydrothermal resources.

The Conference recommends an increase of $11.9 million over the Administration request for Advanced Technology Applications. Of this figure, $2.1 million will go for hot dry rock resources, and $9.8 million for geopressured resources. The conferees encourage the ERDA to continue subterranean melting research. The House amendment to the Senate Bill includes an authorization of $6 million for Architect/Engineering design and long-lead procurement for construction of a second 50 MWe geothermal demonstration plant; the Senate bill includes $4 million. The Conferees understand that necessary project activities can be successfully initiated within the $4 million level and they have agreed to accept this figure as provided in the Senate bill. ERDA is hereby authorized to enter into a cost-share arrangement for the design, construction and operation of the 50 MWe geothermal energy demonstration plant.

Solar Energy

The Conferees feel that the Federal Government should take a stronger role in reducing the cost of solar photovoltaic cells. To do this the authorization for the photovoltaic program is increased by $19 million above the level provided in the Senate Bill. Of this, $12.2 million will be used for the purchase of photovoltaic cells to be utilized on Federal sites where their applications are shown to be life cycle cost effective; $800,000 is earmarked for market studies; the remaining funds will be utilized for technology development, particularly related to cost reducing production technologies.

The Conference recommendation for Ocean Thermal Energy Conversion is to increase funding by $10 million over the Administration request. This is a $9.8 million reduction from the House amendment of $19.8 million to the Senate Bill. The Conferees feel that the potential of Ocean Thermal Energy Conversion is substantial for the production of energy intensive products and wish to insure that ERDA begins work on a 5 MW OTEC Tropic Ocean Grazing Pilot Plant. At the same time, the Conferees wish to emphasize the importance of the ongoing base-line program by providing additional funds for this as well.

The Conferees accepted the House amendment funding level of $41 million for the construction of a 10 MWe Central Receiver Solar Thermal Pilot Plant in Barstow, California, and recommend that ERDA put this project back on schedule with no restriction as to the procurement of heliostats.

The Conference recommendation for solar heating and cooling of buildings is $2.5 million above the House Amendment to the Senate Bill. Of this, $2 million will go for research in retrofitting existing structures to utilize solar heating and cooling systems, and the remaining $500,000 is for support of the Solar Data Centers.

NUCLEAR ENERGY

NUCLEAR RESEARCH AND APPLICATIONS

Light water reactor technology

The Conferees adopted the Senate authorization figure for the LWR technology program which included $12.4 million for standardization of designs for light water reactors which is part of the President's draft proposal to streamline the LWR licensing process, but was not included in the budget amendment.

It is the opinion of the Conferees that ERDA should seek as much private cost-sharing as possible for this program, hopefully over time as high as 40%.

Gas-cooled thermal reactors

The Conferees adopted the House figure of $31 million, which is $15 million above the Senate figure and the Administration request, for a program to develop a more proliferation-proof fuel for the gas-cooled reactor in both the High Temperature Gas Reactor (HTGR) Steam Cycle and the Advanced HTR direct cycle concepts. The HTGR can use either a low-enriched uranium (LEU) fuel cycle, or a LEU-thorium fuel cycle in which the bred U–233 is denatured with a U–238. Both of these cycles are attractive from the safeguards viewpoint because of the low enrichment of the Uranium at all points in the fuel cycle, and because the small amounts of plutonium produced (less than ⅓ as much as found in LWR spent fuel) can be discarded as waste. The Advanced HTR Program on directly gas-cooled reactors is a cooperative one with the West Germans.

Laser isotope facility

The Conferees adopted the House inclusion of $3.5 million in funding for A–E work only on a laser isotope pilot facility project 78–5–c with the site undetermined. This rapidly advancing technology promises great reduction in operating expenses and capital plant costs for uranium enrichment facilities.

SUPPORT OF NUCLEAR FUEL CYCLE

Light water reactor fuel reprocessing

The Conferees agreed on $10 million authorization to fund design work on a full-scale nuclear waste solidification facility, a waste storage facility and to conduct systems integration activity. The Senate had authorized $20 million for this work; the item did not appear in the House bill. The Conferees also adopted the Senate funding of $13 million and provisions pertaining to activities to be performed at the Barnwell Nuclear Fuels Plant and funding of $1 million and provisions with an amendment pertaining to a study on future utilization of the Barnwell Nuclear Fuels Plant. The amendment further refined the objectives of the study.

The House amendment to the Senate bill contained a proviso requiring submission to the Congress of a plan of the specific activities to be funded at the Barnwell Plant. The House receded to the Senate position. However, the Conferees indicated that they expected the Committee on Science and Technology and the Committee on Energy and Natural Resources to be informed of the nature of the activities to be undertaken at the Barnwell Nuclear Fuels Plant in conformity with the requirements of the Department of Energy Act that the Congress be kept "fully and currently informed." It was also the opinion of the Conferees that the Barnwell facility should be used in such a way so as not to limit the potential for eventual use as a reprocessing plant.

MAGNETIC FUSION

The Conferees adopted the House authorization level which was $8 million above the Senate Figure, to fund the following activities:

(1) Tokamak Confinement Systems work in neutral beam heating and impurity effects on the Oak Ridge ORMAK facility;

(2) Development and technology efforts on critical superconducting magnets and prototype development of neutral beam injectors to support the Tokamak Fusion Test Reactor (TFTR) at Princeton Plasma Physics Laboratory;

(3) Applied Plasma Physics theoretical support of Tokamak and Mirror Programs;

(4) Reactor Projects in diagnostics and test components for TFTR of at least $1 million.

The Conferees adopted the House position to include $14.4 million for project 78–3–b which is of highest priority in the Magnetic Fusion program and is a key support facility for fusion pilot plant materials selection.

The Conferees adopted the Senate position to increase the authorization for Project 46–5–b by $3.2 million for which would provide thorough materials understanding and provide tritium handling experience for scale-up to pilot-plant operation.

HIGH ENERGY PHYSICS

The House amendment includes an authorization of $10,500,000 in plant funds for the Proton-Proton Intersecting Storage accelerator facility (ISABELLE) to be located at the Brookhaven National Laboratory. This authorization provides for engineering design and preliminary construction activities. The conferees feel that ISABELLE should proceed and have agreed to accept the House authorization in full.

NUCLEAR PHYSICS

The Conferees adopted the Senate increase of $6 million to generally enhance the effectiveness of major facilities which have been underutilized chiefly because of inflation, particularly in power costs.

CONSERVATION

The House and the Senate both increased the Administration budget request for the superconducting magnetic energy storage facility. The Conferees accepted $0.1 million addition to the budget request.

The Senate and House both increased the Administration budget request for Industrial Energy Conservation by $15.0 million to accelerate cogeneration in industry, but allocated this increase differently between operating expenses and capital equipment. The Conferees agreed to accept the Administration's division of operating and capital equipment expenses.

The Conferees resolved independent increases to the Administration budget request for Buildings and Community Conservation as follows: a $2.0 million increase for research and demonstration of improved gas and oil furnace efficiency; $2.0 million to develop a program plan covering financing, development and demonstration of urban area designs based upon integrated energy use; and $2.0 million for community energy management planning demonstration. The Conferees also agreed to emphasize the importance of finding uses for hot water effluents from power plants as an extension of cogeneration project planning.

The House bill contained authorizations for Transportation Conservation in both Title I and Title III. Under Title I, the Conferees agreed to $1.0 million for the Alternative Fuels Utilization Program and, under Title III, $12.5 million for Automotive Propulsion Research and Development.

The Conferees increased the authorization above the Administration's request for Improved Conversion Efficiency by $12.5 million as follows: Thermionics, $0.2 million; Fuel Cells, $10.3 million; Methane Recovery, $2.0 million.

ENVIRONMENT AND SAFETY

Members of the conference committee agreed to accept an increase in the authorization level for Environment and Safety research and development activities of $9 million over the President's request of $252,093,000. Of this increase, $7 million is provided for overview and assessment activities for the purposes of reviewing the current status of ERDA's Environment and Safety Review Program, refining and enlarging the environmental-energy data and information effort, expanding the liquefied natural gas program, and continuing with the regional environmental energy assessments. The remaining $2 million increase is for the decommissioning and decontamination activities of which $1 million is to be used in conjunction with the study of the West Valley Nuclear Fuel Services facility and $1 million is to be used for the general environmental study of decommissioning and decontamination activities.

Since a $1 million authorization was provided in both the Waste Management Program and in the Environment and Safety Program for purposes of carrying out the West Valley study, the conference committee directs the Administrator to undertake this study with the joint cooperation and assistance of both Assistant Administrators.

The general study should consider a series of alternative institutional approaches for Federal Government and private sector management of a national decommissioning strategy and program including but not limited to: 1) investigate the feasibility of having a lead federal agency approve and monitor an overall decommissioning strategy and whether ERDA should accelerate its decommissioning programs; 2) consider the needs of the nuclear industry, which will rely in large part on the research, demonstration and experience from ERDA decommissioning efforts; 3) examine the technical alternatives for decommissioning, decontamination and disposal as well as the costs for all recommended steps and alternatives for each type of facility and waste; 4) investigate alternative methods for financing the operation, including escrow and bonding procedures, and the cost estimates should be sufficiently detailed to assist in allocating the proper amounts to be set aside in such procedures; 5) investigate the possibility of an independent waste handling corporation, financed by current fees or preposted bonding; 6) examine and make recommendations for reasonable tax accounting methods for handling decommissioning costs, such as the possibility of including "negative salvage value" in the depreciation allowance; 7) review the extent to which ERDA is meeting State mandated requirements and recommend generic criteria for environmental impact statements; and 8) make recommendations for the coordination of ERDA, NRC, and EPA in the setting and implementation of decommissioning, disposal, and decontamination standards and criteria.

PROGRAM MANAGEMENT AND SUPPORT

The funding level of $317,804,000 for operating expenses for Program Management and Support agreed to by the conferees is $16.438 million above the Administration request. (This does not include any program management and support funding for military or joint civilian-military programs which are included in other legislation.) This additional funding is for staff support ($6.6 million), governmental relations ($4.038 million), university programs ($1.0 million for university reactor fuel, $1.65 million for occupational and vocational training and curriculum development, $1.35 million for traineeships), and small grants to inventors ($1.8 million).

Explanation of selected provisions

The Conference accepted an amendment to incorporate into the bill a program of loan guarantees for financing the construction and startup costs of demonstration facilities for the conversion of municipal and industrial wastes into synthetic fuels and other desirable forms of energy. Originally, the House bill contained a section 214 which authorized a $300 million loan guarantee program for the construction and start-up of demonstration facilities to convert various forms of biomass to desirable forms of energy (including synthetic fuels).

Section 214 contained provisions which were identical or similar to provisions contained in section 210 of H.R. 6796 and section 312 of S. 1811. Sections 210 and 312 of the respective bills, which authorized a loan guarantee program for the demonstration of technologies to produce alternative fuels from coal, oil shale and other domestic resources, were identical for a provision relating to patent rights. Section 214 was deleted from the agreed upon bill and the amendment offered, and accepted, incorporated into the program authorized by section 210, the major provisions of the biomass loan guarantee bill. By this action, the Conference avoided enacting into law unnecessary and duplicative provisions which would have established two entirely separate and distinct loan guarantee programs. Also, however, those provisions of the biomass loan guarantee section which were different from section 210 and which were specifically designed to attract participation by municipalities and other public and private entities, were retained in the compromise amendment offered in Conference.

The major provisions of the amended section 214 as incorporated into section 210 are as follows:

(1) A new subsection (4) is added to section 19 of the Federal Nonnuclear Research and Development Act, as amended. The program authorized by this subsection is confined to loan guarantees for municipal and industrial waste, sewerage sludge and other municipal organic wastes.

(2) The Administrator is authorized to guarantee and to make commitments to guarantee loans, the outstanding indebtedness not to exceed $300 million at any one time.

(3) With regard to the program for municipal or industrial waste the following subsections of the loan guarantee program authorized in section 19 shall not apply (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k) and (q).

(4) Any demonstration facility for the conversion of solid waste shall, prior to issuance of such guarantee, receive a certification from the Environmental Protection Agency and any appropriate State or area-wide solid waste management planning agency that such guarantee agreement is consistent with applicable solid waste management plans and guidelines.

(5) In the case of such demonstration facilities the amount guaranteed shall not exceed 75 per centum of the total cost of the facility provided that 90 per centum of the total cost of the facility shall not be guaranteed during the period of construction and start-up.

(6) The maximum maturity on any obligation is not to exceed 30 years or 90 per centum of the projected useful life of the facilities physical assets.

(7) To cover administrative costs and probable losses or guaranteed obligations, the Secretary is to collect fees for guarantees of obligations not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

(8) No project is to be transferred to any other agency except pursuant to Act of Congress and the projects are to be administered in accordance with an interagency agreement between the Environmental Protection Agency and the Energy Research and Development Administration.

(9) With respect to any guaranteed obligation issued by a tax-exempt authority the interest which would otherwise be tax-free is made taxable provided that the Secretary shall repay to such issuer a portion of the interest on such obligations as determined by the Secretary of the Treasury.

The identical language included in section 210 of the House bill and section 312 of the Senate bill to provide authorization for the establishment of a loan guarantee program for the construction and operation of facilities to produce synthetic fuels from coal, oil shale and other domestic resources does not specifically define the word "demonstration". To insure that the intent of the Conference is clearly stated, the managers of the Conference include the explanation of this term given by Congressman Teague during floor consideration of H.R. 6796, the Fiscal Year 1978 ERDA Authorization bill.

The ERDA Authorization bill for fiscal year 1978, H.R. 6796, contains an amendment to the Non-Nuclear Energy Research and Development Act of 1974 which would provide authority to ERDA or its successor agency in the Department of Energy to use loan guarantees in the development of alternative forms of energy.

The purpose of this amendment is to give the agency new authority to set up a loan guarantee program as part of the Non-Nuclear Act.

The Congress has indicated in Section 8 of the Act the applicability and intent of the Act regarding demonstrations of full-size facilities. This section authorizes the Administrator to "enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis." The Act is clear in that the intent of Congress is that commercial scale facilities qualify for assistance.

If the development of coal gasification is to proceed through the assistance of loan guarantees it is important that the agency be able to look at different demonstration projects under this legislation with respect to coal, environmental and socioeconomic impact and other geographical limiting parameters. The agency must be free to consider all of the coal gasification projects so far announced based on their contribution to the energy technology and energy inventories of this country.

This Section 210 contains no explicit language which limits the size of the facility to be demonstrated. The optimal size of a demonstration plant would vary with the technology and with the particular situation. For example, if the Administration was considering proposing a high Btu coal gasification plant demonstration, it might choose to guarantee construction of a commercial size plant, or one that is smaller than commercial size. However, if by choosing the smaller size it thereby limits the number of potential projects that could bid on the project to only one, then the success of the project would be seriously jeopardized. A better public policy and a sound energy RD&D policy would be to build a plant which would permit sufficient participants to bid for the award. The language of Section 210 does not prohibit the Administrator of ERDA from making his choice. It gives him the flexibility he needs.

The language of the bill provides that all projects which exceed $50 million will require individual review and specific approval by both Houses of Congress through separate legislation. Congress will have ample opportunity to closely review the choice of the Agency before approving or disapproving authorizing legislation. With this authorization safeguard in place, it is important now that the Agency get on with the task before it and not be restricted in the review of the type and number of projects which can help to mitigate the energy shortfall in this country.

The Senate bill contained a title on changing the basis for government charge for uranium enrichment services. The language of the title conformed to that submitted by the Administration except for an amendment. The amendment changed the procedure for the Congressional review of uranium pricing policy from a layover period of 45 days before the appropriate committees to a layover period of 60 days with a one-house disapproval resolution procedure for changes in the price charged for enrichment services. The House amendment also contained the title submitted by the Administration with amendments including a provision that the enrichment services pricing was limited to recovery of Government costs and normal and ordinary business expenses which would otherwise be incurred by a private operator.

Because of the President's objections to the one-house veto and the limiting language in this Title, it was deleted from the amendment to S. 1340.

The Conference Committee agreed to delete Section 601(3)(d) in the Senate Bill which would have specifically called for the ERDA to spend, during fiscal year 1978, at least $10 million of the solar program funding for the operation of the Solar Energy Research Institute (SERI). The deletion of this language in no way reflects any prejudice to the SERI. The conferees confirm their full support for the ERDA and urge the ERDA to move as rapidly as possible to develop the SERI consistent with a wise expenditure of the Institute's funding.

The Senate bill contained a section which required a study of the options for decommissioning or other disposition of the Western New York Nuclear Service Center, but contained a provision that the section was not to be construed to commit the Federal Government to any new assistance or participation in the Center and that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. The House amendment contained a similar section which required a plan rather than a study, and the provision stating that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. That Conferees adopted the Senate language. However, it is the view of the Conferees that the section does not preclude future Federal participation.

The Conferees accepted House language which requires that the revenues received by the Administration from the enrichment of uranium be used to offset the costs which are incurred in providing existing and future uranium enrichment service activities, both for operating and plant and capital expenditures.

The Senate agreed to recede to the House to delete language contained in the Senate bill to establish an employee grievance procedure for the Lawrence Livermore Laboratory. The Conferees note that recently, the University of California has agreed to a new set of guidelines for relations with employee organizations. This agreement is an important step in establishing an improved labor management policy. For this reason it was felt that the amendment was not required.

The House bill had a separate Title III relating to automotive propulsion research and development. Title III of the House bill was amended on the House floor on September 21. The amendment changed the title from the "Automotive Transport Research and Development Act" to the "Automotive Propulsion Research and Development Act", and deleted the concept of "integrated test vehicles" from the bill. The Senate bill had no comparable title.

The conferees agreed to accept Title III of the House bill with an amendment to Sec. 304(f) which requires special reports on grants and contracts entered into under the "Automotive Propulsion Research and Development Act of 1977".

The Conferees adopted the House provision which required a report focused on the impact of the President's non-proliferation policy on cooperative agreements in research and development with an amendment. The Conferees amended the provision so that the report is to be transmitted to the House International Relations and Science and Technology Committees and the Senate Foreign Relations and Energy and Natural Resources Committees.

The Conferees directed that the report should be made as consistent as possible with other required reports to the Congress on nonproliferation policy and initiatives.

The Conference passed Sec. 313 with the clear understanding that the action taken under this section is in response to emergency conditions resulting from the Teton Dam disaster and that it is not a major federal action. They further agreed that the effectiveness of the section depends on its prompt implementation and encourage the Secretary of Interior to request the Council on Environmental Quality to exempt this action from the environmental impact statement requirements of the National Environmental Policy Act of 1969.

In both the House and Senate-passed authorization bills, $15 million was provided to develop a program whereby the United States would embark upon the research, development and demonstration of low-head hydroelectric technology. A good deal of foreign technology utilizing turbines that can generate electricity under low-head, run-of-the-river conditions already exists, but further refinement of this technology is called for in order to reduce cost. Based upon these complementary rationales, the conferees have agreed to retain the $15 million authorization and to further characterize purposes for which this authorization is made.

The House, in its report on H.R. 6796, indicated that the authorization would be used to develop a research and development program. This entails research work, systems evaluation, site analysis and selection, and other economic, environmental and technical activities. The Senate bill and accompanying report contemplated a demonstration type program whereby a majority of funds would be utilized for demonstrating the feasibility of installing small scale hydroelectric generators in existing dams. It is the judgment of the conferees that the programs contemplated by both houses should be initiated in fiscal year 1978. Specifically, the conferees believe that ERDA should embark upon demonstration programs with full consideration to existing but unused facilities and to refine existing technology to help meet short-term goals for producing energy from low-head hydroelectric technology. At the same time, ERDA should initiate a research and development program and perform studies which will define the locations and resource potential of the sites where this technology might be used. It should be emphasized that there is no intention upon the part of the conferees to establish at this time a large research and development activity at the expense of an aggressive demonstration program. Instead, ERDA should establish an appropriately balanced program for accelerated introduction of low-head hydroelectric power generation.

The Senate bill contained a funding level of $75 million for the continuation of the Clinch River Breeder Reactor (CRBR) Project.

The House amendment contained $150 million for the CRBR project. Because of the President's veto of S. 1811, S. 1340 contains no reference to the CRBR.

The House bill included a proviso requiring that of the funds authorized for the Liquid Metal Fast Breeder Reactor (LMFBR) program, at least $10,400,000 shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development. The House bill also included an additional $5,000,000 in construction funds to build facilities for the testing of these steam generators.

These provisions were predicated on the availability of sufficient funds within the LMFBR program, as contained in the House bill, to assure that high priority component development and testing activities would be accomplished. Unfortunately, at the $80,000,000 level agreed upon for the CRBR by the conferees in the supplemental appropriations bill the impetus to component and advanced fuel development that would have been obtained by the provisions is no longer achievable, and the House proviso and capital funding addition are therefore withdrawn.

At the same time, the conferees believe that the LMFBR program should not lose sight of the need to maintain some focus on the development and testing of components of the type and size appropriate for an intermediate sized LMFBR plant, in the event that construction of such a plant may be warranted in the future.

The conferees recognize the possibility that the U.S. may need to rely on LMFBR technology at an earlier date than that currently projected, and that a strong technological base both in research areas, and in component development and testing is needed so that the U.S. will be in a position to utilize its LMFBR capabilities expeditiously should the need arise.

The Senate bill provided that all inventions made or conceived in the course of or under a guarantee authorized by this Act must be subject to the title and waiver requirements and conditions of section 9 of Public Law 93-577. The House amendment required the application of section 9 of Public Law 93-577 to a loan guarantee only in the case of default. The House receded to the Senate position.

The conferees reconfirm the fact that the Secretary has the full authority to grant apriori waivers of the United States' right to inventions made under a loan guarantee and to include provisions pertaining to terms and conditions under which the Federal government would recapture the rights to such inventions in case of default. The conferees expressed a strong consensus view that the Secretary should liberally use his authority to grant apriori waiver of Federal government rights to inventions made under a loan guarantee and in anticipation of a default the Secretary, in his discretion, has the authority to include provisions in the loan guarantee contract to insure that patents developed under the loan guarantee became part of the project assets and available to the United States.

It is noted that conceptual design of a demonstration plant for the HYGAS process is already underway within the demonstration plant program at ERDA. Seven and one-half million dollars is to be spent on this 20 month project through fiscal year 1978.

Demonstration plants for high Btu coal gasification processes have already been authorized, one in 1976 (Project 76-1-b), one in 1977 (Project 77-1-b). Two processes were chosen to begin conceptual design under the authorization for the first pipeline demonstration project. At the time that the second demonstration plant was authorized in fiscal year 1977, the conferees noted in their report (S. 94-1327, H.R. 94-1718): "HYGAS technology, which has been developed in an ERDA pilot plant, offers the potential for economic success as revealed in a recent independent study made for ERDA. The conferees urge ERDA to consider the selection of a process for the demonstration plant, which has both economic promise and process reliability. The conferees recognize the importance of cost-sharing aspects in any joint program but are concerned if the best technology for demonstration is not developed properly." With these objectives in mind, the conferees wish to emphasize their concern that the best technology for demonstration be developed properly.

While the cost sharing arrangements are important aspects of the demonstration programs, any rigid application of financial formulas is unadvisable, since the purpose of the program is to demonstrate second generation technology and thereby increase its chances for success in the market place.

The current contract for conceptual design of a HYGAS demonstration plant will result in three conceptual designs in competition for two demonstration projects. The fiscal year 1977 Authorization bill provided $10 million for the second demonstration plant but no appropriations were made for that plant in fiscal year 1977. Further authorization of this plant depends upon a competition where technological criteria are given equal weight with economic criteria.

The conferees are also concerned that previous proposals which developed the HYGAS process for a demonstration plant not be dismissed as a result of the ERDA-sponsored conceptual design contract. Any such previous proposals for a HYGAS demonstration should also be eligible for the competition for the second High Btu Demonstration Plant.

The Department of Energy has assured the conferees that the HYGAS process will be a candidate for the second demonstration plant in a letter from Dr. Philip White, Acting Program Administrator for Fossil Energy:

Department of Energy,
Washington, D.C., Oct. 3, 1977.

Hon. Walter Flowers,
Chairman, Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration, Committee on Science and Technology, House of Representatives.

Dear Mr. Chairman: The following is provided for your information regarding the recommendation being made by Senator Ford to seek authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant dedicated to the HYGAS Process.

Fiscal Year 1977 ERDA authorization provided for a second High BTU Pipeline Gas Demonstration Plant (Project 77-1-b). The authorization did not specify the process and no funds were subsequently appropriated for this project. This authorization could eventually be utilized for the HYGAS Demonstration Plant if funds are to be appropriated.

On July 29, 1977, ERDA using available funds from its operating budget awarded a twenty (20) month contract with PROCON, Inc. The objectives of the contract are to (1) prepare a conceptual design of a commercial size plant employing the institute or Gas Technology HYGAS Process, and (2) select a demonstration plant size and prepare detailed process design and conceptual designs with economic evaluations. Funds in the amount of $3.6 million were obligated in Fiscal Year 1977. The balance of funds ($3.9 million) are programmed for Fiscal Year 1978 and 1979. Concurrent with this contract, the HYGAS Pilot is being operated to generate the firm data base required for optimization of a demonstration plant design for the production of pipeline gas from bituminous coal. Approximately 15 months of pilot plant R&D efforts will be required to obtain the information needed to complete the process design and economic evaluations. This step must be carried out to assure that the project can be carried forward with an acceptable technical and financial risk. The study contract will culminate in Fiscal Year 1979 with the delivery of documentation in sufficient detail to proceed directly with detailed design procurement and construction of the HYGAS Demonstration Plant, if warranted.

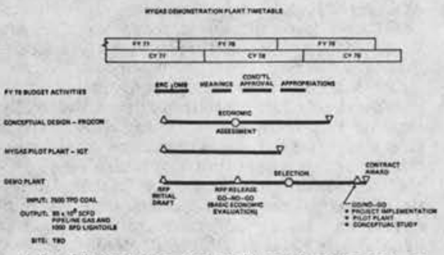
The rationale for the "if warranted" position is that a go-no-go detailed economic assessment will be made on the commercial plant design in mid-Fiscal Year 1978. If at that point a decision is made to proceed with the study, the earliest that this agency could use appropriated funds is Fiscal Year 1979. In anticipation of this decision, funds are being requested in the Fiscal Year 1979 budget for initiation of the HYGAS Demonstration Plant. A copy of the HYGAS Demonstration Plant Timetable is enclosed.

Based upon the above information, it has been concluded that authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant is not recommended at this time. Please also note that the overall agency High BTU Pipeline Gas Program consists of three (3) different processes competing for two plants to move forward to construction and operation.

Please advise if you need any additional information.

Sincerely,

Philip C. White,
Acting Program Administrator for Fossil Energy.



The House receded to the Senate and excluded language which required the Secretary of the Department of Energy to personally approve of each shipment of plutonium for national security purposes if the plutonium is not carried in an approved "safe container". The Conferees understand that such a safe container is currently under development by the Department of Energy and that it will be subject to certification shortly. The Conferees direct the Department to proceed promptly. After certification, such containers shall be used for all air transportation of plutonium as quickly as possible. Further, these casks should be able to accommodate all configurations of plutonium that might be shipped.

Yesterday, in response to my request for an opinion on the funding situation of the Clinch River project the GAO sent me its finding on the use of the money contained in the supplemental appropriations bill. The letter of Mr. Elmer Staats, the Comptroller General, is a positive and clear statement that the Clinch River project funding must be used to continue the project. At this point I would like to insert the letter in the Record:

Washington, D.C.,
December 5, 1977.

Hon. Olin E. Teague,
Chairman, Committee on Science and Technology, House of Representatives.

Dear Mr. Chairman: This replies to your letter of November 23, 1977, requesting our opinion as to the purposes for which funds contained in H.R. 9375 for the Clinch River Breeder Reactor Project might be used should the bill be enacted into law. In essence, the question is whether the President may properly use such funds to terminate the project or carry it forward on a basis different from that prescribed in the initial authorizing legislation.

The bill, making supplemental appropriations for fiscal year 1978, provides simply that:

"[of the amount appropriated] $80,000,000 shall be for the Clinch River Breeder Reactor Project."

There is no existing legislation authorizing the appropriation of any sum for the project. The project itself was authorized, however, by section 106 of P.L. 91-273, as amended by section 103(d) of P.L. 94-187. In conjunction with authorization of the project, section 106 authorized appropriations for its implementation, but only through September 30, 1976.

Section 106 specifies stringent conditions governing the manner in which funds appropriated for the Clinch River project must be used. We have previously considered the extent to which section 106 constrains the purposes for which funds appropriated to carry out the project may be used and have concluded that the provisions of the section are controlling. See our letter of June 23, 1977, to Senator Henry M. Jackson as Vice Chairman of the Joint Committee on Atomic Energy, copy enclosed, in which we conclude that by reason of the provisions of section 106, the President may not curtail or terminate the Clinch River project.

The question you pose arises as a result of the lapse of authorization for appropriations to carry out the project and is somewhat complicated by reason of the President's veto of S. 1811, the "ERDA Authorization Act of 1978—Civilian Applications." The vetoed measure would have extended the authorization of appropriations for Clinch River through fiscal year 1978 and, further, would have emphasized in express terms the congressional mandate that any funds appropriated pursuant to authorization for the project be used only in conformity with the project authorization provisions and not for its cancellation or termination.

Had the President not vetoed S. 1811, there would be no question but that the $80 million contained in H.R. 9375 would have to be construed as being in furtherance of the appropriation authorization provided and subject to the constraints set forth. Aside from extension of the authorization for appropriations, however, the vetoed measure did not in any way touch upon the operative effect of section 106, referred to above, providing the basic authority for carrying out the Clinch River project except to emphasize congressional concurrence in its legal effect as previously construed in our letter to Senator Jackson. In other words, we do not consider that the substantive provisions of S. 1811 materially affected the project authorization requirements of section 106 and, but for the appropriation authorization provisions it contained, its failure of enactment into law had no significant effect on the Clinch River project.

The issue that we come down to, then, is whether an appropriation of $80 million for "the Clinch River Breeder Reactor Project" may somehow be construed as an appropriation for some other project than the one authorized by section 106 on the sole ground that the appropriation is not preceded by an authorization therefor.

In our view, there is not the slightest justification for considering the funds contained in H.R. 9375 for "the Clinch River Breeder Reactor Project" as being unrestrained by the provisions of section 106. There is only one project that conceivably can come under that name and there is no legislation which removes the project from the constraints of section 106 relating to it. Any doubt as to identification of the project for which the $80 million is being provided is utterly dissipated by reference to legislative history throughout which there was continuing concern over the legal effect of providing the funds without prior appropriation authorization.

The fact, however, that an appropriation of funds to carry out the project will have been enacted without prior legislation authorizing the appropriation is of no consequence given the clear identification in the appropriation language of the purpose for which the funds are being provided.

Accordingly, we conclude that the Executive Branch must use the funds to be provided by H.R. 9375 pursuant to the requirements of section 106 as discussed in our letter to Senator Jackson. Failure to do so would constitute contravention of section 628 of title 31, United States Code, which provides that:

"Except as otherwise provided by law sums appropriated for the various branches of expenditure in the public service *shall be applied solely to the objects for which they are respectively made, and for no others.*" (Emphasis added.)

Should the Executive Branch, without further authority, use the funds provided in a way that does not accord with section 106 requirements we will have to consider whether the taking of formal exception to such expenditures would be appropriate.

Finally, we point out that the President's exercise of the authority granted to him by the Impoundment Control Act of 1974 is a matter wholly independent of the issues raised by using H.R. 9375 budget authority. Should rescission or deferral of all or part of the $80 million be proposed to the Congress pursuant to the Impoundment Control Act of 1974, the Congress will, at such time, have an opportunity to take whatever action it might deem appropriate in response thereto.

We hope the foregoing will be of assistance to you.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., June 23, 1977.

Hon. HENRY M. JACKSON,
Vice Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. VICE CHAIRMAN: This replies to your letter of May 26, 1977, in which you and Senator Baker asked that we review deferral number D77–58 transmitted by the President to the Congress on May 18, 1977. By this action the President proposed to defer $31.8 million in budget authority appropriated for the Clinch River Breeder Reactor Project (CRBRP). Because you believe the action taken by the President should have been proposed as a rescission rather than as a deferral of budget authority, you asked that we review this matter to see if it has been correctly classified. You also asked if any actions currently undertaken or proposed by the executive branch toward significant curtailment of the CRBRP exceed or will exceed controlling statutory authorities.

Based on the facts currently available, we conclude that the action proposed to the Congress was correctly classified—it is a deferral of budget authority. However, we will monitor the situation and will promptly report to the Congress any future actions constituting a rescission or deferral under the Impoundment Control Act of 1974.

With respect to the second question, we believe that the Administration's proposed curtailment of CRBRP objective is substantially inconsistent with that set forth in the CRBRP program criteria that were approved as required by law, by the Joint Committee on Atomic Energy (JCAE). We also believe the curtailed problem is not in accord with the statute authorizing the CRBRP. In our view, for these reasons the Energy Research and Development Administration (ERDA) lacks the legal authority to implement the President's plan.

Accordingly, expenditures of Federal funds to fully implement the revised CRBRP program would be improper unless ERDA first obtains the necessary authority to undertake such actions. Should ERDA proceed to use CRBRP funds to implement the President's proposed plan without having secured such authority, this Office will review the specific actions taken with the objective of taking formal exception to such expenditures.

There follows a detailed discussion of our findings and conclusions.

I. BACKGROUND

A. Progress to date

Before discussing the legal issues raised by your letter, it is appropriate to discuss the history and facts surrounding the project and the effects of the most recent executive branch actions on the CRBRP. In reviewing the President's actions, we met with ERDA and contractor officials both at headquarters and at the project office site.

Prior to the recent executive branch actions, the Clinch River Breeder Reactor Demonstation Plant was scheduled to be operational by early 1984 and was to be the nation's first large-scale liquid metal fast breeder reactor (LMFBR) demonstration plant with a 380 megawatt capacity. Presently, design, procurement, and component fabrication for the project are about 25 percent complete, although no site preparation or actual plant construction has yet begun. According to ERDA estimates, the project, if completed, will cost about $2 billion, $270 million of which will be constributed by industry participants. As of May 31, 1977, ERDA had spent about $254 million and industry participants a little over $99 million.

B. Origins and statutory basis of the CRBRP

The CRBRP had its origins in 1969. In that year the Atomic Energy Commission (AEC) was specifically authorized to study the ways in which an LMFBR demonstration project could be designed. Section 106 of Public Law 91–44, approved July 11, 1969, stated:

"SEC. 106: Liquid Metal Fast Breeder Reactor Demonstration Program—Project Definition Phase.—(a) The Commission is hereby authorized to conduct the Project Definition Phase of a Liquid Metal Fast Breeder Reactor Demonstration Program, under cooperative arrangements with reactor manufacturers and others, in accordance with the criteria heretofore submitted to the Joint Committee on Atomic Energy, without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended, and authorization of appropriations therefor in the amoun of $7,000,000 is included in section 101 of this Act."

One year later the Congress went further in the area of an LMFBR demonstration project and specifically authorized the design, construction, and operation of such a reactor. Section 106 of Public Law 91–273, June 7, 1970, stated:

"SEC. 106. Liquid Metal Fast Breeder Reactor Demonstration Program—Fourth Round.—(a) *The Commission is hereby authorized to enter into a cooperative arrangement with a reactor manufacturer and others for participation in the research and development, design, construction, and operation of a Liquid Metal Fast Breeder Reactor powerplant, in accordance with the criteria heretofore submitted to the Joint Committee on Atomic Energy and referred to in section 106 of Public Law 91–44,* without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended, and the Commission is further authorized to continue to conduct the Project Definition Phase subsequent to the aforementioned cooperative arrangement. * * *

"(b) Before the Commission enters into any arrangement or amendment thereto under the authority of subsection (a) of this section, the basis for the arrangement or amendment thereto which the Commission proposes to execute (including the name of the proposed participating party or parties with whom the arrangement is to be made, a general description of the proposed powerplant, the estimated amount of cost to be incurred by the Commission and by the participating parties, and the general features of the proposed arrangement or amendment) shall be submitted to the Joint Committee on Atomic Energy, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee, after having received the basis for a proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five day period: *Provided, further,* That such arrangement or amendment shall be entered into in accordance with the basis for the arrangement or amendment submitted as provided herein * * *." (Emphasis added.)

This basic scheme was retained in 1975 when section 106 of the 1970 act was amended by section 103(d) of Public Law 94–187, December 31, 1975:

"SEC. 106. Liquid Metal Fast Breeder Reactor Demonstration Program—Fourth Round.—(a) The *Energy Research and Development Administration (ERDA) is hereby authorized to enter into cooperative arrangements with reactor manufacturers and others for participation in the research and development, design, construction; and operation of a Liquid Metal Fast Breeder Reactor powerplant, in accordance with criteria approved by the Joint Committee on Atomic Energy,* without regard to the provisions of section 169 of the Atomic Energy Act of 1954, as amended. Appropriations are hereby authorized * * * for the aforementioned cooperative arrangements as shown in the basis for arrangements as submitted in accordance with subsection (b) hereof. * * *

"(b) *Before ERDA enters into any arrangement or amendment thereto under the authority of subsection (a) of this section, the basis for the arrangement or amendment thereto which ERDA proposes to execute (including the name of the proposed participating party or parties with which the arrangement is to be made, a general description of the proposed powerplant, the estimated amount of cost to be incurred by ERDA and by the participating parties, and the general features of the proposed arrangement or amendment) shall be submitted to the Joint Committee on Atomic Energy,* and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee, after having received the basis for a proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of all, or any portion of, such forty-five-day period: *Provided, further,* That such arrangement or amendment shall be entered into in accordance with the basis for the arrangement or amendment submitted as provided herein: * * *" (Emphasis added.)

Pursuant to the 1975 law, ERDA proposed criteria to the JCAE for its approval. On April 29, 1976, the JCAE approved the most recently submitted criteria. Those project criteria appear at page 63 of *Modifications in the Proposed Arrangements for the Clinch River Breeder Reactor Demonstration Project.* Hearings Before the Joint Committee on Atomic Energy, 94th Cong., 2d Sess., April 14 and 29, 1976 (1976 Hearings).

C. The present CRBRP criteria and contract

As a result of the JCAE's action of April 29, 1976 (a rollcall vote), the LMFBR demonstration program at the Clinch River site is governed by criteria that call for the design, construction, and operation of an LMFBR plant. These program criteria state that the CRBRP's major objectives are to demonstrate the technology pertaining to, and the reliability safety, and economics of, LMFBR powerplants in the utility environment. Other objectives are to:

Provide for meaningful identification of areas requiring emphasis in the LMFBR research and development program;

Validate, to the extent practicable, technical and economic data and information pertinent to the total LMFBR program;

Assist in developing an adequate industrial base;

Provide for meaningful utility participation and experience in developing, acquiring, and operating LMFBR plants;

Help assure overall program success; and

Demonstrate and maintain U.S. technological leadership.

The criteria also specifically set forth design requirements and plant objectives stating, among other things, that the plant's first core is to use mixed oxide fuel consisting of uranium and plutonium and that it be designed, fabricated, constructed, tested, operated, and maintained in conformance with established engineering standards and high quality assurance practices.

Pursuant to the JCAE-approved criteria, ERDA entered into a cooperative arrangement with the Project Management Corporation (PMC), the Commonwealth Edison Company, and the Tennessee Valley Authority (TVA) on May 4, 1976. That contract recognizes the controlling statutory criteria for the LMFBR. For example, the contract states, pertinently:

A. Para. 1.1.9: "'Project' means the cooperative effort to *design, develop, construct, test and operate the LMFBR Demonstration Plant* provided for in the Principal Project Agreements." [See para 3.1] (Emphasis added.)

B. Para. 3.1: [Principal Project Agreements] " * * * TVA and ERDA will enter into an agreement *for the operation of the Demonstration Plant* * * *" (Emphasis added.)

C. Para. 4.1: "* * * ERDA shall, pursuant to this contract, manage and carry out the Project [see Para. 1.1.9, above] in an efficient, effective and timely manner consistent with the Principal Project Objectives, and shall use its best efforts to design and build the Demonstration Plant substantially in conformance with the Reference Design. * * *"

D. Recent ERDA plans and GAO evaluation

On May 19, 1977, Mr. Robert W. Fri. Acting Administrator, ERDA, sent to the JCAE notice of ERDA's plans to revise the CRBRP. Mr. Fri stated, *inter alia,* ERDA's plans for the "cancellation of construction, component construction, licensing and commercialization efforts for CRBRP, but completion of systems design;"

This letter clearly recognized that the plan proposed by the President and reflected in the May 18, 1977, deferral message would necessitate revision to the present JCAE-approved CRBRP criteria, and acknowledged that an amendment to the statutory authorization may be in order if the President's program revision is to be implemented. Mr. Fri stated:

"At the direction of the President, and in compliance with Section 106(b) of Public Law 91–273, as amended, ERDA herewith submits the enclosed amended program justification data *reflecting discontinuance of the CRBRP Project, except for completion of systems design* so as to help identify engineering problems that will have to be solved in developing alternative types of reactors. *The statutory criteria will likewise require commensurate revision.*

"Appropriate negotiations will, of course, have to be undertaken and concluded with the other Project participants, with the objective of implementing the proposed action concerning the Project, and the cooperative arrangement amended accordingly. In addition, amendatory legislation with respect to the basic enabling authorization for the CRBRP Project may be in order.

"For the prescribed statutory period during which this revised basis of arrangement is required to lie before the Joint Committee, new obligations for the Project will be kept to a minimum consistent with prudent Project management. A deferral (No. D77–58) is being reported for the $31.8 million of CRBRP Project budget authority that will not be available during this period. *Following such period ERDA will proceed with appropriate implementing actions.*" (Emphasis added.)

In an attachment to his letter, Mr. Fri discussed the existing four-party contractual agreement and those contract amendments that would have to be made in order to limit LMFBR activities to systems design efforts. Systems design (roughly 60 percent of the total design work) would, under the President's proposal, be completed. Pursuant to this proposal, ERDA has reduced its fiscal year 1978 budget request from $208.7 million to $162 million. The funds requested would be used to continue systems design activities; to terminate detailed design, licensing, procurement, and construction activities; and to settle claims, primarily those anticipated from the termination actions.

Thus far, we have found no evidence indicating that project activity has been significantly slowed down as a result of the executive branch's proposed change in program objectives. To date, we have found no procurement actions that have been delayed or cancelled and ERDA officials told us there were none. However, the project office in Tennessee, at the direction of ERDA headquarters, recently submitted a list of 10 scheduled procurements to ERDA headquarters for approval. According to an ERDA procurement official, the proposed procurement actions involve contracts by Westinghouse, the lead reactor manufacturer, with its subcontractors. The amount involved in these procurements is about $9.8 million. (Should ERDA decide to prevent award of any of the subcontracts it may develop that further questions will exist regarding such actions in light of the Impoundment Control Act of 1974, discussed below.)

We compared the proposed changes on the Clinch River LMFBR project as submitted by ERDA to the JCAE on May 19, 1977, with the existing criteria. As part of this comparison, we discussed the criteria with the General Manager of PMC (the contract party that represents the utility participants in the project) on a line-by-line basis to pinpoint the specific program changes that would result from the President's actions. Based on our examination, we confirm that ERDA's proposal of May 19, 1977, represents a notice of its intention to proceed with the CRBRP in a way that will result in a program that does not fulfill major objectives of the existing JCAE-approved statutory criteria; nor the object of the authorization itself—to operate an LMFBR demonstration plant.

We asked ERDA officials to give us their estimate of the additional costs that would be incurred assuming ERDA terminated the project, except for systems design, on or about July 26, 1977, and the Congress subsequently provided the funds to continue the project on December 1, 1977. We chose a December 1, 1977, date because it allows the Congress an opportunity to consider fully whether to go ahead with LMFBR efforts and the associated funding. Although it is uncertain when the Congress will make its decision on the project, and how quickly or completely ERDA may implement the proposed discontinuance of the program, we believe that the December date provides a good indication of the impact a project termination will have prior to Congress having an opportunity to fully consider the matter.

ERDA provided us with cost and schedule information using three assumptions:

1. Assuming the licensing process could begin where it was stopped, project costs would increase by about $346 million and plant operations would be delayed between 1 and 1½ years. To restart the project where it was terminated in the licensing process, however, probably would require legislation that would, in effect, circumvent some of the normal licensing processes.

2. Assuming the licensing process would have to begin with a new application, project costs would increase by about $546 million and plant operation would be delayed over 3 years. Neither this assumption nor the first account for the possibility that ERDA may be required by the Nuclear Regulatory Commission (NRC) to locate the plant at a different site if projected plant operation is delayed. Such a relocation appears to be a distinct possibility based on past NRC proceedings on the Clinch River Project. In fact, the Deputy Director, Division of Site Safety and Environmental Analysis, NRC, told us that if the CRBRP is delayed for 2 years or more, it would be very difficult, if not impossible, for the NRC staff, in its analysis, to conclude that it is cost beneficial to locate the demonstration reactor at the Clinch River site.

3. Assuming the plant would have to be relocated, project costs would increase by about $1.1 to $1.3 billion and plant operation would be delayed 5 to 6 years.

Although we did not have the opportunity to evaluate ERDA's estimates in detail, we believe they provide a reasonable indication of the magnitude of the costs and extent of schedule slippages that might occur if the project were terminated on July 26, 1977, and the Congress decided to restart it at a later date. By comparison, if ERDA were to delay project termination until December 1, 1977, by honoring ongoing contracts but not entering into additional contracts not essential to ongoing work, the estimated costs would be increased by about $61 million.

Based on the information set out above, it would seem that terminating the project prior to congressional deliberations could make restarting the project so costly as to outweigh its benefit. Thus, in effect, the executive branch, if it is successful in promptly implementing its present plan, may well have made a major policy decision unilaterally through administrative procedures which should have been made through the legislative process. The documentation we have examined discloses no intention on the part of the executive branch to proceed with completion of an LMFBR demonstration plant at Clinch River in the future.

II. THE IMPOUNDMENT CONTROL ACT OF 1974

Under the Impoundment Control Act of 1974 (Act), title X of Public Law 93-344, 88 Stat. 332, July 12, 1974, 31 U.S.C. 1400, *et. seq.*, there are two types of impoundments—deferrals and rescissions. The distinction between the two categories is the duration of a proposed withholding of budget authority: a deferral is a proposal to withdraw temporarily budget authority from availability for obligation; a rescission is a request to cancel, *i.e.*, rescind, previously appropriated funds—in other words, a permanent withdrawal of budget authority.

In both categories of withholdings there exists a common characteristic—impoundment. While the term "impoundment" is not defined by the Act, we have operated under the view that an impoundment is any type of executive action or inaction that effectively thwarts the obligation or expenditure of budget authority. This does not mean, however, that impoundments always exist when budget authority is not used to implement all authorized activities.

The Act is concerned with the rescission or deferral of budget authority, not the rescission or deferral of programs. Thus, a lump-sum appropriation for programs A, B, and C used to carry out only program C would not necessarily indicate the existence of impoundments regarding programs A and B. So long as all budgetary resources were used for program C, no impoundment would occur even though activities A and B remained unfunded.

Consistent with this construction of the Act, sections 1012(b) and 1013(b) of the Act, 31 U.S.C. 1402(b) and 1403(b), respectively, provide that when proposed rescissions and deferrals are rejected the impounded budget authority must be "made available for obligation." If this is not done the Comptroller General is authorized to bring suit to compel the cessation of the withholding. 31 U.S.C. 1406. In this connection, the requirements of the Act clearly are to mandate the release of withheld funds. Significantly, no mention is made in the Act with respect to the uses to which the released funds are put. The Comptroller General can only seek, and the court can only grant, an order compelling the President to release the funds. Neither the Comptroller General nor the courts are authorized under the Act to constrain the executive branch in the way the funds are to be used once released.

Concerning the CRBRP, we have determined that, except for the $31.8 million held in reserve for deferral D77-58, all funds have been made available for obligation for either incurring or liquidating obligations associated with the project. Regarding the $31.8 million proposed for deferral, these funds also are planned for use. That available funding is being and will be used is the critical determination under the Act. In this light, we must presently conclude that no evidence suggests an intention not to utilize (*i.e.*, a rescission) the $31.8 million in the future. Thus, we are satisfied that the deferral has been properly classified. However, should we later determine that the executive branch has altered its plans for the use of the $31.8 million and has decided that a portion of the funds will not be used at all, we will, at that time, take the necessary action to reclassify the impoundment to a rescission.

In addition we are monitoring the executive branch's handling of the $9.8 million involved in the award of subcontracts currently being reviewed by ERDA. If we decide that ERDA's actions regarding the use of these funds or any other CRBRP funds indicate the existence of further budgetary withholdings, we will promptly report the matter to the Congress.

III. PROPRIETY OF THE REVISED CRBRP PLANS

The President's plans to curtail substantially the scope of the LFMBR program at the Clinch River site raise a number of questions that focus upon the legislation that authorized the project. Our analysis of the statutes setting forth the LMBFR activities of AEC and later ERDA is that they authorize the AEC (ERDA) to embark only on clearly delineated lines of effort. In 1969 the effort was to define what ultimately might comprise an LMFBR demonstration project cooperative arrangement. With enactment of the 1970 and 1975 legislation. AEC (ERDA) was authorized to enter into agreements for the research and development, design, construction, and operation of such a reactor.

We conclude that ERDA's proposed expenditure of funds for the curtailed LMFBR program is an intention to expend funds for unauthorized purposes. The most recent (1975) revisions of section 106 of the CRBRP authorization, quoted above, introduced the requirement of JCAE approval of LMFBR program criteria. We believe subsection 106 (a) incorporates by reference into the statute itself the program criteria submitted to and approved by the JCAE. In our view, and we know of no other that contradicts it, the approved program criteria and the major objectives set forth therein are as much as a part of subsection 106(a) as if they were explicitly stated in the statutory language itself. Thus, the currently approved program criteria, and of course the statute itself, establish the CRBRP's ultimate objective—to successfully complete, operate, and demonstrate the usefulness of an LMFBR powerplant.

Subsection 106(b) provides for a 45-day period of waiting during which time the basis or description of a proposed amendment to the cooperative arrangement must lie before the JCAE. This delay, prior to ERDA's executing the amendment it proposes, affords the JCAE and others time to express views on the specific means by which ERDA would accomplish the statutory objective of the program. We believe the proposed amendments contemplated by subsection 106(b) are only those the execution of which lead to fulfilling this goal.

This construction of section 106 is supported both by the language of the statute and by its legislative history. Subsection (b) of section 106 provides not only that the basis or description of the amendment shall lie before the JCAE for 45 days, but also that the amended cooperative agreement ERDA is authorized to execute after the 45-day period is to be entered into "under the authority of subsection (a) of this section." Subsection (a) authorized ERDA to enter into cooperative agreements only in accordance with the statutorily approved program criteria. Those criteria, effectively a part of the statute itself, contemplate the eventual operation of an LMFBR powerplant. Therefore, ERDA's authority to initiate the running of the 45-day period after which it may proceed to implement its plans to amend the cooperative agreement, is constrained to offering to the JCAE a basis or description of amendments that are compatible with the objectives of the program criteria and of course the harmonious objective of the authorization act—operating an LMFBR demonstration plant.

Our construction of section 106 is supported as well by discussions of the JCAE. For example, during debate on the most recently submitted project criteria, the following exchange took place between Representative Moss and Mr. William Parler, Committee Counsel, JCAE:

"Representative Moss. If there is a conflict between the contract [the cooperative arrangement] provisions and the criteria, which controls?

"Mr. Parler. The criteria and the justification data which the committee [JCAE] approved.

"Representative Moss. In other words, at all times that becomes the dominant factor in interpreting any contract [for the CRBRP]? It must be consistent at all times with the criteria?

"Mr. Parler. That is my opinion, Mr. Moss yes, sir." 1976 Hearings, page 4.

Moreover, on April 29, 1976, Mr. Parler said:

"* * * If the Committee [JCAE] disapproves the criteria, ERDA cannot proceed with implementation of the modification to the contract." 1976 Hearings, page 521.

In meeting with ERDA representatives on the President's plans to revise the CRBRP objective, we discussed the agency's reading of section 106. ERDA views subsection 106 (b) as a requirement that it begin to implement its plans for proposed amendments, after the expiration of the 45-day period during which the bases for those amendments will have laid before the JCAE irrespective of whether such action supports or destroys the objective of the authorization act. And, because subsection (a) of section 106 does not provide explicit time periods for either ERDA's submitting or the JCAE's approving new program criteria, subsection (a) "defers" to subsection (b). Thus, ERDA believes that its letter of May 19, 1977, was in compliance with the statutory mechanism of subsection (b) and it will, at the end of the 45-day period that began May 19, 1977, trigger both the necessary authority and the obligation to implement its revised plans to curtail the CRBRP. ERDA officials did not disagree that ERDA presently has no authority to revise the document representing the cooperative arrangement in ways that are inconsistent with existing statutory criteria, but apparently believe ERDA may effectively implement its plans without at the same time constructively revising the cooperative arrangement, an arrangement that calls for accomplishment, not termination, of the CRBRP.

In sum, ERDA views section 106 as conferring authority to begin implementing the cancellation of portions of the CRBRP 45 days after appropriate notice to the JCAE, but also requires that before ERDA formally modifies its contractual document it obtain from the JCAE approval of ERDA's proposed new program.

The practical consequences of ERDA's construction of the law deny the JCAE oversight of the LMFBR so long as the agency does not enter into a fully executed amendment of the formal contractual document. Such construction disregards the wide-ranging and very concrete changes that must be wrought upon the operation of the approved LMFBR program before implementation of the President's plan. ERDA apparently professes to read the relevant statutory language as indicative of congressional disinterest in whether ERDA unilaterally proceeds to change the statutory objective of the program. The simplest reading of that language is to the contrary—that Congress has a strong interest in maintaining the program objective fully in accord with criteria approved by a committee of Congress. ERDA assumes, we think without a sound basis, that the actions it takes preparatory to abandoning the program it has commenced will not be tantamount to an amendment of the cooperative agreement that represents the commitment to go forward with the original program, and therefore that the actual changes, however dramatic, need not be of concern to the JCAE. This view limits the Committee's role to deciding whether to acquiesce in ERDA's subsequent recommendation to change the statutory criteria after ERDA's actions to change the statutory objective are already effectively accomplished, and appropriated funds are already obligated for the purpose of discontinuing instead of fulfilling the program objective of the statutory criteria.

We cannot agree the law was intended to so operate. Our view, as we have stated, is that before ERDA can invoke the authority of subsection (b) to implement new plans that depart in any significant way from the major program objectives of the statutorily approved criteria, it must first, under subsection (a), secure JCAE approval of new criteria. Since we believe section 106(b) contemplates amendments the thrust of which is to fulfill the major objectives of the statutory criteria, we must also conclude that, because the May 19, 1977, proposal does not so accord with the criteria, it did not trigger the 45-day mechanism of section 106(b).

Moreover, while the JCAE's authority to approve criteria is broad, the statute under which the President is acting authorizes only efforts leading to the construction and operation of a reactor. Thus, the President would be compelled to obtain amendatory legislation to section 106 to authorize only the limited and different objective of LMFBR systems design, and to repeal those parts of the statute that speak to efforts beyond such activities.

The legal effect of this conclusion is that the status of the CRBRP remains unchanged, except for the current $31.8 million deferral now before the Congress. Federal funds may not be expended to implement the President's plan of curtailing the program, without appropriate change in the authorization statute and the program criteria.

To implement the President's plan without such necessary authority would be in violation of law since such expenditures would be for purposes inconsistent with those for which the appropriations were made. In this regard, 31 U.S.C. 628 provides:

"Except as otherwise provided by law, *sums appropriated* for the various branches of expenditure in the public service *shall be applied solely to the objects for which they are respectively made, and for no others.*" (Emphasis added.)

We hope the foregoing responds to your questions. A similar letter today is being sent to Senator Baker.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of S. 1340, to authorize funding for the Department of Energy, for energy research, development, and demonstration programs. I take this opportunity to make my position clear, and I feel certain, to speak for most of those 250 Members of the House, about 60 percent of those voting, who voted in support of the Clinch River breeder project in the authorization legislation (S. 1811) which President Carter so tragically and mistakenly vetoed.

After some consideration, it was decided that no attempt should be made to override the President's veto. However, in order to save the many valuable energy programs authorized in the vetoed bill, we who have been most directly involved in solar and geothermal energy—in fossil and nuclear energy, in energy conservation, in nuclear fission and fusion research and development, in high energy physics, and in basic energy research—agreed that the action we are taking today with S. 1340, reauthorizing all programs except the Clinch River breeder program and the section on uranium enrichment, is the prudent thing to do.

While many energy programs are funded without this bill's authorization (including the Clinch River breeder project), the President's veto, nevertheless, damaged and delayed energy research, development, and demonstration in programs such as the electric vehicle program; loan guarantee programs for clean, synthetic fuels from coal, shale and municipal wastes, and from agricultural, forest and industrial wastes; the automobile propulsion research program for cleaner, more efficient cars and fuels; and a major international study on how to use the nuclear fuel reprocessing plant at Barnwell, S.C., as a demonstration facility for preventing nuclear weapons proliferation, and for handling nuclear wastes safely.

In enacting S. 1340, we are protecting these important programs, but we are not, and I repeat, Mr. Speaker, we are not abandoning the Clinch River breeder project. Our action today is not to be construed as agreement by the Congress to any slowdown in the continuing Clinch River breeder program, or in the basic LMFBR program. The CRBR project does not require authorization this year or any other year in the future. The entire Clinch River breeder project was authorized under the provisions of Public Law 91-273, the Atomic Energy Commission Authorization Act for fiscal year 1971, and according to a statement which Chairman TEAGUE has just received from the Comptroller General, the $80 million appropriated in the supplemental appropriations bill must be spent for the purpose of continuing the Clinch River breeder program whether or not S. 1340 or any other subsequent authorization or legislation is enacted.

Accordingly, we can enact this legislation, without the authorization for Clinch River, while still supporting the Clinch River breeder project, and recognizing that, under the law, the President must proceed with it.

There is another feature of this bill which is important to understand. The conference report on S. 1811 (which the President vetoed) and S. 1340 both direct that a study shall be made of the feasibility of using the nuclear fuel reprocessing plant at Barnwell, S.C., as a demonstration facility to show how, with proper international controls and advanced technologies, it will be possible to reprocess nuclear fuel, while reducing virtually to zero the potential for diversion of fissionable materials for use in nuclear weapons. This study will be carried out under this bill and is of great importance to this Nation and to the world.

Mr. Speaker, I have commented that the President's veto constituted a great tragedy for this country. Even though the President cannot kill the Clinch River project with his veto, the tragic fact is that he has sent a signal to all the world that he intends to attempt to undermind and cripple his Nation's nuclear energy programs upon which we must depend so heavily if we are to provide the energy our Nation will need to meet our requirements later in this century. It comes as no surprise that the stock market has fallen so low and that the value of the American dollar has fallen. The veto will be taken by the underdeveloped nations as a message that the United States will be using its power to preempt the oil they will need in the coming decades, and they will escalate their efforts to find alternate sources, such as nuclear energy. They will seek other friends, such as the Communist countries, who will back them in competing with us for oil and in developing independent nuclear capabilities.

Our friends in Europe will now know that they cannot trust the United States, or depend upon us for help in solving their energy problems—and they will continue to turn away from us, going nuclear with their own nuclear breeder and reprocessing programs, over which we will have no influence or control.

The President's attempts to kill our Nation's breeder studies would, in effect, saddle the next generation of Americans with a lower standard of living, depriving them of information they will need, if they are to have adequate energy during their lifetimes. Such a loss must be prevented, and thus, while S. 1340, which we are supporting today, contains no authorization for the Clinch River project, we know that work on the breeder will proceed from the funds that have been appropriated. We can support this bill today without damaging the breeder program.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill, S. 1340, the DOE Research and Development Authorization for fiscal year 1978. I urge all of my colleagues to support, this legislation as amended. The amendment of Chairman TEAGUE is similar to the bill which passed, S. 1811, earlier in this session by a vote of 366 to 52 but without the money for the Clinch River breeder reactor, the new language for that project, and the provisions for uranium enrichment pricing. These were some of the most controversial matters considered by the House, and were the principal reasons cited by the President for his veto of the bill, S. 1811.

As you will recall, the DOE Research and Development Authorization bill was brought to the floor with the authorization for the Clinch River breeder reactor and with the provisions for uranium enrichment pricing increases. The bill passed the House and the Senate and after conference was sent to the President. The President issued his first veto against this bill and S. 1811 is now in the Senate awaiting decision. Because of the many important new initiatives in this authorization bill, we in the House feel we must act. Without an authorization of these new programs, many will be in jeopardy and may not be funded. This would be a tragedy, because many of the programs in this bill are brand new and are needed by our country for our growing energy demand in the future. At the time that this bill was first considered by the House, I pointed out that this may be the only piece of legislation considered by Congress which will actually increase the supply of energy for our Nation in the future. Without this authorization, we have only the appropriation, which expresses nothing about the congressional intent for programmatic direction.

This amendment is completely neutral regarding the Clinch River breeder reactor. However, I wish to assure my colleagues that by voting for this bill, they will not be voting against the Clinch River breeder reactor. The situation will remain unchanged: without this bill, the CRBR will have an appropriation of $80 million and with this bill, the CRBR will have an appropriation of $80 million, in both cases without an authorization. The President will have to spend this $80 million for the CRBR or, if he refuses, then send a deferral or rescission to the Congress. The appropriation is worded so that the money will have to be spent for the CRBR. There is not one shred of legislative history to support the administration if it tries to spend $1 for termination of the CRBR.

In this authorization we have also struck title V or S. 1811, which would provide the authority for DOE to increase the price it charges for uranium enrichment services. However, in the President's veto message, he complained that this provision contained language which would limit the ability of DOE to recover a fair value of services and also it contained a one-house veto provision which the President did not like. The one-house veto provision would have provided the Congress with a meaningful opportunity to examine the price increases which would be proposed. Both bodies felt that these were important provisions of title V in S. 1811. Therefore, because of the controversial nature of this uranium enrichment pricing provision, we have decided to delete this from the present authorization.

As an example of the new initiatives which are extremely important to our Nation's future energy supply, I would like to discuss both the solvent refined coal demonstration plant and the loan guarantees. This bill contains money for both the solvent refined coal (SRC) solids process and for design of an SRC II liquids process. Both processes will ultimately be very important to our Nation's future energy supply if this bill passes, but we can aggressively proceed with a demonstration plant for the SRC solids process. The SRC solids process has been developed by ERDA, now DOE, since 1964. It was selected as a new demonstration plant in this authorization bill for the following reasons: First, the technology is the furthest developed second generation coal conversion process; second, the pilot plant has operated successfully in making solid fuels; third, the preliminary economic evaluations indicate that the process is competitive. It provides an attractive route for conversion of our abundant high sulfur coal reserves to an environmentally acceptable substitute for imported fuel oil. This plant could be the forerunner of many such facilities to utilize our high sulfur coal reserve and thus cut into our need to import oil.

The loan guarantee authority provided to DOE by this bill will give the Secretary the opportunity to demonstrate emerging technologies at the least possible costs to the Government. Our committee has received hundreds of pages of testimony on the insurmountable problems that companies and municipalities have faced in trying to build the first plant using a new energy technology. It was clear from our hearings that Federal assistance was needed to back up, these first few plants. Without this assistance, our economy would never assimilate these new technologies. By utilizing loan guarantees we have maximized the private contribution to the demonstration of new technologies and at the same time, allowed those technologies to be demonstrated which were sitting idly by.

The proposed amendment to section 7 of the Federal Nonnuclear Energy Research and Development Act gives the Secretary of DOE the authority to make loan guarantees to persons and municipalities wishing to demonstrate these new technologies. All loan guarantees would be issued with controls to protect the Government's interest, the local community, and the environment. However, before a plant can be built this authority to make loan guarantees must be further acted on by Congress. The only immediate impact of this amendment would be to authorize the Secretary to solicit proposals for financial assistance for demonstration of nonnuclear energy technology projects.

In addition, I wish to call to the attention of the Members that this bill also authorizes many of the new initiatives in the President's international nonproliferation fuel cycle evaluation program, which he says are vitally needed in his nonproliferation policy.

There are many other initiatives in this authorization bill, too numerous to mention, before the House at this time. Therefore, I ask that the remainder of my statement be placed in the RECORD. I urge my colleagues to speedily pass this bill, S. 1340, as amended.

NEW INITIATIVES IN FISCAL YEAR 1978 DOE RESEARCH AND DEVELOPMENT AUTHORIZATION

In addition to the initiatives mentioned above, there are a number of new initiatives which the subcommittee that I chair, the Fossil and Nuclear Energy Research, Development and Demonstration Subcommittee worked to develop. They are broken out into the areas as follows:

FOSSIL FUELS

1. The generic loan guarantee program will permit High BTU coal gasification.

2. Clean fuel from coal (SRC) demonstration plant authorization.

3. MHD program operating expenses are doubled from last year.

4. The in-situ coal gasification program is greatly accelerated to move it toward the pilot plant stage.

5. Preliminary feasibility work is included for a multitechnology coal conversion facility.

NUCLEAR

Most of the changes in the nuclear program were to accommodate the President's proliferation concerns.

1. The uranium resource assessment program for determining the extent of our uranium reserves was doubled.

2. The nuclear assessment program which evaluates the potential of alternate fuel cycles was tripled.

3. A new thorium fuel cycle program to match the President's interest in this technology is in the bill.

4. A new Alternate Concept Fuel Cycle program was added to develop an optimized LWR fuel cycle for management of spent fuel consistent with non-proliferation objectives.

5. There is money in the bill for standardization of LWRs, an integral part of President Carter's proposed licensing reform.

6. The bill contains a number of serious new waste management initiatives.

7. Waste solidification facility design funds are in the bill.

8. An International Spent Fuel Disposal program was created to complement the President's non-proliferation policy.

OTHER

1. The bill contains important funding for ISABELLE, the next step in our high energy physics program.

2. It contains aid to certain communities

under the ERDA community assistance programs.

3. It contains new emphasis on involving small business in ERDA programs.

4. A study of the West Valley waste storage problem is included.

5. The decontamination and decommissioning of old nuclear facilities program is doubled over last year.

The bill also improves Congressional oversight by requiring that basic changes in the programs from those changes that are authorized by the Congress require notification to the appropriate Committees in the Congress. In this way the Committee and the Congress are kept involved in any changes in program direction and oversight of the programs and indeed agency responsibility for the continuing or changing of programs is further underlined and its importance emphasized.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield for debate only to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I thank the gentleman from Texas for yielding.

Mr. Speaker, I rise in support of S. 1340, Department of Energy Research and Development Authorization for fiscal year 1978. This legislation contains a variety of important initiatives which should not be delayed any longer.

S. 1340 as amended will embody all the programs which went to the President in S. 1811 except Clinch River and the change in uranium enrichment pricing. Although some of this bill's programs have already received appropriations for fiscal year 1978, many others are new or expanded.

At the outset I also want to state that despite this bill's neutrality on the Clinch River breeder reactor demonstration project, I remain firmly committed to the development of the Clinch River reactor and the breeder option.

S. 1340 does continue the strong breeder reactor base program which, absent unforeseen developments, is an essential ingredient in a healthy energy future. It continues strong development programs for each of the other mid- and long-range energy sources such as coal conversion and magnetic fusion at an orderly pace.

This bill will do a good job of balancing nuclear and nonnuclear energy research. Other fossil programs aim at improved combustion technology for coal in its solid form. They include fluidized bed technology and magneto-hydrodynamic (MHD) technology. The program also maintains our effort to develop successful techniques to extract oil from oil shale deposits and to extract gas from heretofore neglected reserves such as Devonian Shale and geopressured zones.

This year's new and expanded initiatives are spread across the energy R. & D. spectrum. In the nuclear area, our efforts to assess the extent of domestic uranium reserves and the potential of alternate fuel cycles will be expanded greatly by this legislation. Programs will be added to research the standardization of light water reactors and to optimize light water reactor fuel cycles' management of spent fuel. The bill also attacks our nuclear waste problems in a variety of ways including an extensive study of the nuclear waste problem at West Valley, N.Y., design work for a nuclear waste solidification facility, and the beginning of an international spent fuel research program.

In the nonnuclear area, there are authorizations included for several new pilot plants for the study of various solar, geothermal, and biomass technologies. Conservation initiatives include acceleration of the Federal development programs for the Stirling engine and other heat engines and a stretching out of the electric vehicle program to bring it into agreement with technological reality. The bill also takes a hard look at municipal waste as an energy source by establishing grants and loan guarantee programs to help municipalities.

I am particularly gratified that this bill finally resolves the generic loan guarantee controversy which has faced Congress for the past 3 years. These guarantees are needed immediately to enable industry to get risky first-of-a-kind coal liquefaction plants on line. We cannot afford further delay in demonstration of technologies which may enable us to substitute some of our abundant coal reserves for petroleum imports.

The bill does not permit the important energy basic research area to slip further. Of particular importance is the $10,500,000 included for engineering design work and preliminary construction activities on the Isabelle accelerator facility at Brookhaven National Laboratory. This facility is a crucial next step in our high energy physics program.

Mr. Speaker S. 1340 is obviously a bill which will have a lasting impact on our energy future. I urge that it be passed into law without further delay.

Mr. TEAGUE. Mr. Speaker, for purpose of debate only, I yield such time as he may consume to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I want to congratulate the chairman for bringing this bill to the floor in this manner and also to say that I agree with a great deal of what my colleague, the gentleman from New York, has said. We know of the gentleman's diligence and interest in getting energy production in the United States.

I would like to address one question the gentleman raised, however, that has to do with the issue of whether or not the Clinch River money contained in the supplemental bill will mean the program will go ahead. In my judgment, this is not the case. Public Law 95-91, August 4, 1977, created the Department of Energy. ERDA is now a part of the Department of Energy. Section 660 of Public Law 95-91 reads as follows:

> Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

This language I just read is very, very clear. It is unusual to have such language in a bill of the Congress, but it was the House language adopted by the conferees. "Appropriations to carry out the provisions of this Act shall be subject to annual authorization." If that were not clear enough, we have the veto of the Clinch River authorization and by the actions of the chairman in bringing this bill before the House expressly excluding the Clinch River breeder and all its parts and references in this legislation, it seems to me we underscore the intent of Congress that appropriations for the Department of Energy shall not be effective without annual authorization. Lacking the Clinch River authorization before the House at this moment, it is my judgment that appropriations are not binding on the Department of Energy.

The legal issue is not over the power of Congress to appropriate, rather the question is whether the DOE may spend money appropriated in view of section 660 of Public Law 95-91.

Mr. Speaker, I also wish to commend the President for his conviction and to agree that there was no logical alternative but to veto the ERDA authorization bill based on sound reasoning consistent with his economic, energy, and antiproliferation policies.

Again, I must point out that the CRBR is hardly economically justifiable. A cost estimate of $2.2 billion is unthinkable when one considers that the electricity produced by the CRBR results from an 88 percent contribution from the Federal Government with the taxpayer expected to bear any future cost override.

We have established a number of times in the past that this Nation, with its uranium supply, fossil fuels and light water reactors, is not in urgent need of bringing breeder technology on line. In the meantime, the $500 million this year for breeder research can be wisely employed to determine if the particular Clinch River breeder application is indeed the most desirable.

It has also been pointed out that the design and location of the CRBR are questionable. Clinch River has been termed as "one of the worst sites ever selected for a powerplant, based on topography and rock conditions."

Last, Mr. Speaker, the decision to defer the CRBR is completely consistent with the President's proliferation policies. We can hardly hope to get Europeans to reevaluate their positions on exporting plutonium breeder reactors and the concept of a plutonium economy if we ourselves are not willing to reevaluate one questionable project. It simply cannot be born out than a pause suggested by the President is reckless or an irresponsible attitude toward our future energy needs. Rather, it is a prudent and calculated move, consistent with our foreign policy objectives, designed to prove to the Euratom nations that we are willing to take the lead in this decision of monumental consequence and provide strong international disciplines to responsibly control the spread of nuclear materials.

Mr. TEAGUE. Mr. Speaker, I yield such time as she may consume, for purposes of debate only, to the gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD of Tennessee. Mr. Speaker, am I correct that our action today in not including specific authorization for Clinch River in this bill is in no way intended to affect the vitality of the appropriation for the project? In other words, our silence in this bill is not intended to create an inference that the appropriation is without sufficient prerequisite authorization.

Mr. TEAGUE. That is correct.

Mrs. LLOYD of Tennessee. At this time I would like to state there was no Member of Congress more disappointed than I by the veto of the energy bill including the breeder program. I do not think it is a parochial issue; every Member of this body needs the breeder reactor as much as the 3d District of Tennessee. Even with the figures used by the President in evaluating our needs for energy, even with his own figures, we will need the nuclear power that only a breeder reactor can provide, if we are to meet the electrical needs of our country into the 1990's. I view with deep regret the veto of this bill. However, the many vital programs in this legislation will go forward and we will continue working for the breeder reactor and, in accepting this vital legislation we need to pass today, we in no way renounce our support for the Clinch River facility.

Mr. TEAGUE. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I rise reluctantly in support of this bill to fund the National Energy Agency. I say reluctantly because again I agree with most of my colleagues in the committee that the President's veto of the Clinch River program was ill-advised. I strongly believe it is going to be quite detrimental in the future as far as our search for alternate fuel supplies to fossil fuel, and oil and gas. I am also concerned for the international aspects of this situation and for the growth of nuclear energy for peaceful uses and as a source of energy. Up to this point, the United States has been in the forefront of guiding and directing international policies that pertain to nuclear energy; but recently with the advent of the new administration, we are seeing the United States increasingly losing its influence upon the direction nuclear energy will take as an energy source.

The old axiom, "If you don't play the game you can't make the rules" is certainly alive, especially as it pertains to energy sources such as the breeder reactor. Other nations are going ahead with this program. The United States, with the President's veto, is slipping farther and farther behind.

Hopefully, we all share the concern expressed by the President over various problems of the breeder reactor, but those are solvable. They are problems that can be solved because they are basically technical problems. There are very few technical problems that the United States has not been able to find answers to, but we have got to be willing to tackle those problems.

So, here again we are taking ourselves out of the picture as far as trying to find solutions to the problems that may be created by the breeder reactor. In so doing, we are leaving those solutions to other nations, and thus the direction of the high standards of safety, and new technology to other nations. I think this is going to bode very poorly for the world in general as it pertains to the peaceful use of nuclear energy.

So, Mr. Speaker, I again reluctantly support this proposal before us today. Hopefully, we will be able to, in some way, find a way clear in which we can pursue the breeder reactor in the demonstration phase it is now in.

Mr. Speaker, I rise in support of S. 1340 as an absolute necessity toward continuing with the Nation's urgent energy research and development programs. In doing so, I feel compelled to note the irony in our being here today during this period of so-called energy crisis and having to pass an energy authorization bill for the second time. We are in this unfortunate situation, as all of us know, because the President has vetoed the first authorization bill for the Energy Research and Development Administration that was sent to him after considerable deliberation by the Congress.

This veto was shortsighted and ill-advised for several reasons. First, it came at the worst possible time: when Congress was considering the national energy plan, which supposedly solves a problem which Mr. Carter has said must be addressed with the moral equivalent of war. The failure to proceed with the energy development programs included in the vetoed bill can only be seen as a retreat. This is hardly an auspicious first step toward demonstrating the President's commitment to energy.

Also disappointing, especially in view of Congress' current activities in grappling with the energy program, is the fact that the bill Mr. Carter vetoed represents a significant attempt by Congress to compromise with him on the pace of nuclear energy development. By now rejecting this compromise, the President has taken a "my way or no way" attitude, with the Nation's energy programs suffering as a result.

Among the more subtle aspects of this situation is the fact that just several days after this veto, the President appeared on national television to encourage public support for his energy plan. At that time he highlighted and took credit for the estabilshment of the new Department of Energy, but conveniently neglected to mention that he had just vetoed the first authorization bill for that Department. This kind of logic is not my idea of playing straight with the public.

With regard to the merits of the energy authorization originally reported out by the Science and Technology Committee, and of the second authorization bill before us today, I would like to point out that this committee has a history of developing balanced, well thought out energy legislation. I doubt that I need remind most of my colleagues of the Solar Heating and Cooling Demonstration Act of 1974, which initiated the program to demonstrate the technical and economic feasibility of using solar energy for heating and cooling; the Geothermal Energy Research and Development Act, which provided major impetus and incentives for accelerated development of geothermal energy; the Solar Energy Research, Development and Demonstration Act of 1974, which established many of the major activities now underway on solar research; and the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, which focused effort on the development and acceptance of vehicles that can rely on alternatives to petroleum fuels.

These and other legislative actions reflect credit on the unbiased nature of this committee in pursuing all promising energy concepts. Now that the subject of nuclear research, development, and demonstration has been added to our jurisdiction, we have given the same careful scrutiny to nuclear projects that we have previously given to nonnuclear energy activities, and the bill we reported out reflected that approach.

The fact that we are bringing an energy authorization bill to the floor again, despite the poor treatment it received in its original form by the Executive, is in no small way due to the courage and foresight of our chairman, Congressman OLIN TEAGUE, and of our ranking minority member, Congressman JOHN WYDLER. Both of these gentlemen recognized the urgent need to maintain the momentum of our ongoing energy development activities, and to establish a sound congressional mandate for initiating newly authorized energy projects. In particular, I would note that the legislation now before us includes new energy programs such as the construction of a new geothermal energy demonstration plant, Federal purchases of solar photovoltaic energy systems, loan guarantee authority for synthetic fuel plants and for the conversion of municipal wastes to energy, accelerated development of more efficient automobile propulsion systems, and other activities. We need to get on with these projects, and that is why I support the bill now under consideration.

Mr. Speaker, S. 1340 is one of the most far-reaching pieces of legislation that the House will consider this year. The American public seems to be aware, at last, that we are facing an energy crisis. It is now up to this Congress to provide the leadership that has been lacking in obtaining solutions to that crisis. The Department of Energy authorization bill is an important step in that solution. I urge my colleagues to approve it.

Mr. TEAGUE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GARY A. MYERS), for debate only.

(Mr. GARY A. MYERS asked and was given permission to revise and extend his remarks.)

Mr. GARY A. MYERS. Mr. Speaker, I rise to oppose the dropping of the Clinch River breeder reactor for the fiscal year

1978 Department of Energy Research and Development—civilian applications legislation. We worked hard for the passage of S. 1811. We examined every facet of the breeder reactor technology and politics and by a solid majority in the Science and Technology Committee and on the floor of both Houses we came to the twin conclusions that we have no realistic alternative to a major breeder reactor development program and that the Clinch River demonstration plant is the next logical step in the development of this technology.

What has changed since we last voted overwelmingly in favor of Clinch River on October 20? I know of no major energy breakthrough or discovery. The only intervening event between then and now is President Carter's unwillingness to acknowledge either the massive evidence which has developed against his position or the unwillingness of any of the world's civilian nuclear powers to buy his logic.

The prevailing view in light of the GAO letter to Chairman TEAGUE December 5, 1977, concerning H.R. 9375 now appears to be that Clinch River is permanently authorized; that the project can be continued by means of annual appropriations in the absence of annual authorizations. Even so, in my opinion, it is a mistake not to work to override this unfortunate veto.

If an override succeeded, we could put an end to this energy tangent for all time and permit the Science and Technology Committee Energy Subcommittees to focus full time on advancing energy research and development. If we failed to override the veto of a bill whose conference report passed the House by a 366 to 52 margin, we would still leave the present course of action available to us to salvage the committee's new initiatives.

We also should stop to consider the precedent we are setting by giving the Appropriations Committee a mechanism for continuing on an annual basis, major projects that have previously been authorized. Today we have a situation where the authorizing and appropriating committees are in agreement on the necessity of the project, but it is easy to think of situations where this might not be the case. The decision not to take the President on directly does have a price.

Therefore, I feel compelled to vote against S. 1340.

Mr. BROWN of California. Mr. Speaker, the authorization for the CRBR project as originally enacted included general criteria for the project previously submitted by the Atomic Energy Commission for the project to the Joint Committee on Atomic Energy. Those criteria set forth the general types of assistance the agencies were prepared to offer to industry in order to motivate industrial participation and funding in the advancement of this technology. It necessarily was general and anticipated flexibility in working out the ultimate arrangements for the project. Those criteria included a provision allowing revisions to be issued from time to time as the agency saw fit in order to accommodate such changing circumstances.

In addition, in enacting the authorization for the project, we in the Congress built a further mechanism into the authorizing statute—section 106(b))—allowing amendments to whatever arrangements were ultimately worked out with the industry. This was intended to accommodate changes in technology or new developments as they might occur during the course of the project without the requirement for formal congressional enactment of new legislation. This mechanism permitted Congress, through its Joint Committee on Atomic Energy, to maintain oversight of the project and at the same time permit flexible reaction capability to project changes, as might be necessary over the life of the project.

This mechanism for maintaining flexibility, while at the same time providing for appropriate congressional oversight over power reactor demonstration projects, has been used over the years in similar situations. It was recently used effectively in the CRBR project to accommodate major changes in the orientation and responsibility for carrying out the project, including a complete reorientation of the lead responsibility for the project from the industry participants to the Government.

It is apparent from this background that the Congress recognized that it could not foresee precisely the future course of a research and development process involving a technology such as Clinch River breeder reactor, and provided the statutory mechanism which would enable the project to keep pace with developments as they occurred without the necessity of requiring legislation each time. Thus the provisions and intent of the authorization legislation dating back to 1971 for the CRBR project clearly authorize but do not compel the executive branch to complete every stage of the project, and recognize the very real possibility of changes over a long period of time by providing the means through which those changes—including changes which limit the scope of the CRBR project—could be accomplished in a timely manner without formal legislative action.

The bill before us, S. 1340, is silent on the Clinch River breeder reactor project because that was the reason President Carter vetoed the previous authorization bill, S. 1811. It is completely inconsistent and contradictory of the Congress to first say the authorization for the Clinch River reactor project is needed in order to proceed with this project, and then after the authorization is vetoed to say that the authorization in previous years is sufficient to continue the project today. We can all understand the need to put a good face on a political defeat, but we should not allow the legislative history to be distorted beyond the factual situation.

We are in an ambiguous situation, where a project has been authorized in fairly general terms, and then further, more specific authorization is vetoed, but no additional authorization language is adopted. I prefer to see us deauthorize, or terminate the Clinch River breeder reactor project. This would be the most proper course of action to follow, unless the Congress were to change its mind and override the President's veto. However, the Clinch River project can die as easily by the Congress being silent. Favorable action on S. 1340, which I favor, will accomplish the termination of the Clinch River breeder reactor project while allowing the Congress the opportunity to avoid voting on this issue. This appears to be a reasonable compromise solution to our dilemma.

Mr. FUQUA. Mr. Speaker, I rise to support this most important bill, S. 1340, which authorizes appropriations for the newly created Department of Energy for fiscal year 1978.

I want to again commend the work of the chairman of the full committee, the Honorable OLIN E. TEAGUE of Texas and the subcommittee chairman, the Honorable WALTER FLOWER: of Alabama; the Honorable MIKE McCORMACK of Washington; and the Honorable GEORGE BROWN of California. These men gave many, many hours to this authorization and provided the leadership which brings a most comprehensive bill to the floor and addresses the vital needs of the energy problem today.

Mr. Speaker, I have the honor of chairing the Subcommittee on Space Science Applications, and we are helping where we can in the space activities in supporting our energy needs. Let me cite a few.

First. This is the first bill that authorizes the solar satellite power project. Although the money is modest, it is a beginning. I think we will all see great things from this effort.

Second. The bill authorizes an ocean thermal energy conversion tropic ocean grazing pilot plant which may provide an economic method of producing ammonia and thus release the fertilizer industry from its dependence on natural gas.

Third. A space spinoff in the photovoltaic or solar cell area is contained in the bill which has the potential for clean efficient electrical generation on earth by 1986 at a cost of 50 cents per kilowatt. I would like to publicly commend the work of the NASA people in this area, especially the Jet Propulsion Laboratory in Pasadena, Calif., which is leading the effort in the flat plate area.

Fourth. The wind energy conversion program is being managed by another NASA space center, Lewis Research Center in Cleveland, Ohio. They have the only operating machine looking at this potential energy conversion system.

Fifth. Also contained in the bill is work in solar heating and cooling. This bill firmly supports this program, which has a large scale application in my home State of Florida, by authorizing approximately $100 million.

The committee, and I know the Congress, will continue its efforts in these areas.

Mr. Speaker, in closing—as you can tell by words—I am enthused about this bill because of the technology thrusts it contains. I think we are on the threshold of many research and development breakthroughs and I urge the support of all the Members of this great body.

Thank you for your support.

Mr. BINGHAM. Mr. Speaker, I am pleased to see that the Science and Technology Committee has acceded to the President's position and has deleted any authorization for continuation of the Clinch River project from this measure. This decision quite obviously represents the sound assessment of the chairman of the Science Committee that he does not have the votes necessary to override the President's veto. The fact that this veto has thus in effect been sustained is an important factor when we consider the legislative history surrounding the appropriation of funds for the Clinch River project. As I stated during the debate over the supplemental appropriation, it is my considered opinion that in the absence of any authorizing legislation, the President is free to expend the $80 million appropriated "for the Clinch River breeder reactor project" as he sees fit. The Clinch River project's proponents' strategy of trying to continue the project by appropriating without authorizing does violence not only to the congressional budget process, but to the Constitution and its express veto powers, as well. So once again, I would urge the President to exercise the option he has to use this $80 million to terminate the Clinch River project.

I am pleased also that the committee has decided to address the President's concerns relating to proposed increases in the price DOE may charge domestic and foreign customers for enrichment services, by deleting these provisions from the legislation altogether. These increases might well have hurt our antiproliferation efforts by needlessly introducing an element of uncertainty into the minds of foreign customers who share our antiproliferation goals and who must rely upon us for fuel services.

I remain deeply concerned about one provision of this legislation, however. This is section 107 of the bill, which unnecessarily limits the flexibility of the executive branch in negotiating antiproliferation accords and agreements for nuclear commerce with foreign nations. Section 107 would introduce another layer of uncertainty into international nuclear commerce by providing for one-house vetos of any executive branch arrangements for the return of foreign nations' spent nuclear fuel to this country for safeguarding. This section was not in the original House bill, but rather was added in the Senate, accepted in conference by House conferees, and now has been added to the bill we are acting upon today.

Section 107 has not been the subject of hearings before House committees or subcommittees, nor has it been the subject of discussion in any House committee reports. It was not discussed on the House floor during consideration of the previous ERDA authorization bill, nor was it addressed by the Science and Technology Committee when they returned to the House on two separate occasions with conference reports on the ERDA bill. Under the procedure followed in the handling of the ERDA bill on the floor today—where the bill was not first referred to the Committee of the Whole House on the State of the Union, as is normal for important legislation in order that amendments can be considered under the 5-minute rule—there is no possibility for the consideration of amendments. In other words, although the resolution from the Rules Committee is not called a "closed rule," the effect is the same.

So the provision we are being asked to pass on today has not been the subject of any House committee consideration nor has it been subject to any House debate. I am deeply concerned that the House should be called upon to act in such a precipitate manner, the more so because section 107 is in direct conflict with the concerns expressed by President Carter in his veto mesage of November 5, wherein he stated that this provision "would impede our nonproliferation goals by imposing limitations on the ability of the United States to provide for storage of spent fuel from foreign reactors in those instances where such an action would serve those goals."

The issue here is not whether or not "the United States is to become the world's nuclear dumping ground." I am not aware of anyone within the administration, or the Congress for that matter, who is suggesting that we pursue such a course. What the President's antiproliferation policies do seek to provide however, is the flexibility to retrieve the sensitive U.S. source spent nuclear fuel from volatile stiuations where it might potentially be misused. We are especially concerned that several nations store U.S. source spent fuel in unsafeguarded facilities.

By providing for a one-House veto over any arrangements which the executive branch might make for safe disposition of this spent fuel, the proponents of section 107 are compromising from the outset the certainty that accords for safe storage of foreign spent fuel will be swiftly implemented. This provision may prove especially destructive to U.S. efforts to guarantee return of spent fuel to the United States where the most politically attractive alternative available to a foreign customer might seem to be to have the spent fuel reprocessed, thereby giving rise to increased international commerce in plutonium, a nuclear weapons grade material.

This amendment, which puts in doubt the reliability of the United States as a supplier of nuclear fuel services to nations which share our antiproliferation policies, has been pushed—surprisingly—by Members of the other body who are frequently in sympathy with nuclear industry interests, and who are quick to uphold the necessity of our "reliable supplier" position in other instances. It is most ironic that this same amendment has been endorsed by those of an opposite viewpoint, who believe that the answer to the proliferation crisis is nuclear isolationism and that the United States should place a moratorium on all nuclear exports. As one who does not share either view, I find it most unfortunate that this provision, which will serve only to reduce the reliability of the United States as a supplier of nuclear fuel services, is being railroaded through the House in this fashion.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the amendment in the nature of a substitute.

The previous question was ordered.

The SPEAKER. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. TEAGUE).

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

AMENDMENT OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. TEAGUE: Amend the title so as to read: To authorize appropriations to the Department of Energy, for energy research, development, and demonstration, and related programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The title amendment was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3722, AUTHORIZING APPROPRIATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION FOR FISCAL YEAR 1978

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 6, 1977.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain to the House what he is doing?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, the conference report on H.R. 3722 provides for an authorization for the Securities and Exchange Commission of $63,750,000. The conferees recognize that the Commission can effectively discharge its responsibilities under the Federal securities laws only if its presently overburdened staff is modestly increased and only if it is provided sufficient funds to acquire additional space to relieve overcrowded conditions in its headquarters building. Accordingly, the conferees believe that the Commission's budget authorization request for fiscal 1978 is necessary and fully justified.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us that it is not much different from the House version?

Mr. STAGGERS. It is less than the House version was when it passed here. It is just a simple authorization, and the conference report has already been passed by the Senate.

Mr. ROUSSELOT. Less money?

Mr. STAGGERS. Less money, that is correct.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The gentleman from West Virginia (Mr. STAGGERS) is recognized for 30 minutes.

Mr. STAGGERS. Mr. Speaker, I have no requests for time on this side of the House.

The SPEAKER. The gentleman from Ohio (Mr. DEVINE) is recognized for 30 minutes.

Mr. DEVINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the remarks of the gentleman from West Virginia. This is a reduction of a little over $3 million from the bill previously passed by the House. It is a savings. I would urge the House to adopt the conference report.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STAGGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 2, not voting 84, as follows:

[Roll No. 772]

YEAS—348

Abdnor
Addabbo
Akaka
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fowler
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marks
Marlenee
Martin
Mazzoli
Meyner
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rousselot
Roybal
Rudd
Runnels
Ryan
Santini
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Collins, Tex.
McDonald

NOT VOTING—84

Alexander
Ambro
Badillo
Barnard
Baucus
Beilenson
Bolling
Breaux
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Downey
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gephardt
Gibbons
Hall
Hawkins
Hillis
Kazen
Kelly
Koch
Krueger
Lent
Livingston
Lundine
McCloskey
Markey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Montgomery
Moss
Nichols
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Risenhoover
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Sarasin
Sawyer
Scheuer
Sebelius
Symms
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

Mr. Kazen with Mr. Alexander.
Mr. Rahall with Mr. Frey.
Mr. Ambro with Mr. Crane.
Mr. Cornwell with Mr. Gephardt.
Mr. Cotter with Mr. McCloskey.
Mr. Danielson with Mr. Quayle.
Mr. Rosenthal with Mr. Railsback.
Mr. Rostenkowski with Mr. Ruppe.
Mr. Koch with Mr. Whalen.
Mr. Hawkins with Mr. Young of Alaska.
Mr. Russo with Mr. Risenhoover.
Mr. Charles H. Wilson of California with Mr. Forsythe.
Mr. Fuqua with Mr. Bob Wilson.
Mr. Weaver with Mr. Markey.
Mr. Wolff with Mr. Symms.
Mr. Mattox with Mr. Milford.
Mr. Downey with Mr. Kelly.
Mr. Wright with Mr. Moss.
Mr. Meeds with Mr. Quillen.
Mr. Mathis with Mr. Roncalio.
Mr. Nichols with Mr. Walker.
Mr. Gammage with Mr. Lent.
Mr. Gibbons with Mr. Scheuer.
Mr. Hall with Mr. Sebelius.
Mr. Metcalfe with Mr. Krueger.
Mr. Montgomery with Mr. Livingston.
Mr. Evans of Georgia with Mr. Hillis.
Mr. Fithian with Mr. Sawyer.
Mr. Ertel with Mr. Marriott.
Mr. English with Mr. Clay.
Ms. Mikulski with Mr. Dent.
Mr. Waxman with Mr. Dickinson.
Mr. Patterson of California with Mr. Edwards of Alabama.
Mr. Ford of Tennessee with Mr. Sarasin.
Mr. Breaux with Mr. Erlenborn.
Mr. Conyers with Mr. Lundine.
Mr. Wirth with Mr. Barnard.
Mr. Baucus with Mr. Badillo.
Mr. Beilenson with Mr. Broyhill.
Mr. John Burton with Ms. Chisholm.
Mr. Phillip Burton with Mr. Cunningham.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FOREIGN CORRUPT PRACTICES ACT OF 1977

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 305) to amend the Securities and Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the distinguished chairman of the committee explain what this conference is all about?

Mr. STAGGERS. I will be happy to, if the gentleman will yield.

Mr. ROUSSELOT. I will be happy to yield.

Mr. STAGGERS. There is no added cost, no authorization whatsoever.

Mr. ROUSSELOT. And it is not substantially changed from the version that left the House?

Mr. STAGGERS. No; we took part of the Senate bill, and they took part of our bill. It is substantially the same as it was when it passed here.

Mr. ROUSSELOT. Will the gentleman explain briefly the changes that the Senate suggested.

Mr. STAGGERS. The Senate added a provision which would have required U.S. corporations which file with the SEC to keep accurate books and records, and so forth, and we accepted that. We made two minor changes that had to go with it, that had to satisfy the accountants. There was some question about some of the things that they were perturbed about. We removed those and the section that had to do with that. Then we took section 2 of the Senate bill, the complete section, which expanded the disclosure requirements presently applicable to investors in equity securities, particularly as those requirements affect the disclosure of foreign investments in the United States. Those are the principal changes.

Mr. ROUSSELOT. I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, the conference report on S. 305 adopts virtually all of the significant provisions of the House-passed legislation and several meritorious provisions from the Senate-passed bill.

The Senate-passed bill contained a provision, not included in the House version, which would have required U.S. corporations which file with the SEC to keep accurate books and records and to maintain internal accounting controls sufficient to provide assurances that the company's transactions are properly recorded and that its assets are accounted for.

With two relatively minor changes, the House conferees proposed to recede to the Senate and adopt this provision. It was not originally included in the House-passed bill because it was felt that this was an area better left to SEC rulemaking. However, its adoption in the conference was supported by the SEC and the accountants.

In order to enforce these accounting standards the Senate bill contained provisions, also not in the House-passed bill, making it unlawful for officers and directors of the company knowingly to falsify the company's books and records or to deceive an accountant in connection with his examination.

Again, the House bill did not contain this provision because the SEC had already proposed rules in this area.

Further, the Senate bill contained language exempting from the corporate accounting provisions activities by intelligence agencies involving national security. The House conferees suggested certain changes which would require that such activities be pursuant to the specific written directive of the head of the intelligence agency and pursuant to Presidential authority. Moreover, a summary of the matters covered by the directive would be transmitted to the congressional Intelligence Oversight Committees annually. The Senate agreed to the House-proposed changes.

The conference report adopts the House provision prohibiting corporations subject to SEC jurisdiction and other domestic concerns from making payments, promises of payment, or authorization of payment of anything of value to any foreign official, foreign political party, candidate for foreign political office, or intermediary where there is a corrupt purpose. The Senate-passed provision which define corrupt purpose was vague and contained several loopholes. The House version which provided that the corrupt purpose must be to influence any official act or decision of the recipient or to induce the recipient to use his influence to affect a Government act or decision, with the modification that the bribe must also be to retain or obtain business.

Criminal penalties of up to 5 years imprisonment and/or a fine of no more than $10,000 would be applied to individuals who violate this proscription. The Senate receded to the House's corporate penalty of up to $1,000,000 in lieu of $500,000 penalty. The House definition of domestic concern included foreign subsidiaries of U.S. companies, while the Senate definition did not. The House receded to the Senate on this provision. Although foreign subsidiaries themselves would not be reached under the conference report, U.S. companies which make bribes through foreign subsidiaries would be covered.

Violations by domestic concerns would be investigated and prosecuted by the Justice Department. Violations by companies subject to SEC jurisdiction would be investigated by the SEC, but prosecuted by the Justice Department. Since the Securities Exchange Act of 1934 provides the SEC with injunctive authority to enforce the provisions with with respect to companies which file with the SEC, the Senate receded to the House provision providing similar authority for the Justice Department to enforce this prohibition with respect to other domestic concerns.

Title II of the Senate-passed bill expanded the disclosure requirements presently applicable to investors in equity securities, particularly as those requirements affect the disclosure of foreign investments in the United States. It also implemented the SEC's legislative recommendations arising from its recent street name study, and essentially adopts rules already proposed by the SEC. The House conferees receded to the Senate on this provision, which would fill existing legislative gaps, help improve shareholder communications, and provide us with a more accurate picture of who controls U.S. corporations.

Mr. Speaker, I believe that we have a good compromise bill which includes almost all of the House-passed provisions as well as several related meritorious provisions from the Senate bill. On behalf of the House conferees, I urge the conference report's passage.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 6, 1977.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Ohio (Mr. DEVINE) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I have no requests for time on this side.

Mr. DEVINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one of the conferees who worked on this legislation I would urge my colleagues to act favorably on the conference report on S. 305. The subcommittee chairman has described in detail the provisions of the conference report and I will not repeat them in detail. I would, however, like to highlight several of the more important provisions.

For example, section 102 of the conference report requires that companies subject to the jurisdiction of the Securities and Exchange Commission make and keep accurate books and records and devise internal accounting controls to guarantee that transactions are executed only with management's authorization. The House-passed bill did not contain any provisions dealing with accounting standards; the House had no position on this issue at all. The Senate on the other hand included not only section 102, but provisions which would have prohibited a company from falsifying books and records or making false statements to accountants. Although we note that the SEC has initiated a rulemaking proceeding in this area, questions have been raised as to the Commission's authority to issue such rules. I want to emphasize that the conferees took no position on this question.

Sections 103 and 104 would prohibit U.S. corporations from making payments to foreign government officials for a corrupt purpose. For example, section 103 prohibits a company subject to the jurisdiction of the SEC from using interstate commerce to make a bribe to a foreign official in order to obtain or retain business. Section 104 prohibits all other domestic concerns from making these kinds of bribes and vests enforcement responsibilities including the authority to seek injunctions, in the Department of Justice. The bill specifically excludes so-called facilitating payments made to low-level officials whose duties are primarily ministerial or clerical. The bill also recognizes the enforcement problems which are inherent in trying to extend the reach of this legislation to foreign subsidiaries of the U.S. corporations and consequently foreign subsidiaries have not been included within the ambit of the bill. Finally, I want to point out that the conference report vests enforcement responsibility in the SEC and Justice Department and the conferees did not intend to create a private right of action.

Finally, title II of the legislation would authorize the SEC to promulgate rules requiring any person who acquires more than 5 percent of the beneficial ownership of the company to inform the issuer of the securities and the SEC of that person's identity, residence, and citizenship and the number and description of shares in which that person has an interest. The conferees agreed to drop provisions in the Senate bill which would have authorized the SEC to impose requirements for reporting extensive historical ownership information and other information deemed necessary by the SEC. It is our hope that the Commission in promulgating those rules would provide for the least burdensome possible reporting requirements.

In conclusion, Mr. Speaker, I think that the conference report on S. 305 is a good compromise between the House position and the Senate position and I would urge the Members of this body to vote affirmatively so that we can send this legislation on to the President as quickly as possible.

Mr. Speaker, I have no requests for time, and reserve the balance of my time.

Mr. STAGGERS. Mr. Speaker, I yield briefly to the gentleman from Texas (Mr. ECKHARDT) and before that, I would like to compliment him and all of the members of the committee for working out the bill and the conference report with the Senate. I know the importance of the bill. I do want to compliment the gentleman and all the members of the committee and of the staff who worked on the bill.

Mr. Speaker, I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, the conference report before us today is one of the more important pieces of legislation to be considered by the Congress this year. It is legislation designed to prohibit bribery by U.S. companies of officials of foreign governments and is in response to recent disclosures by a large number of American companies of having paid over $300 million in corporate funds to foreign officials. While some funds were given simply for the privilege of doing business in a particular foreign country, other funds were given for the purpose of improperly obtaining business and influencing the decisions of foreign governments. The disclosure of these payments has tarnished the reputation of American business in the international community, and has created serious repercussions for the governments of a number of foreign countries.

The legislation is supported by the administration, the Securities and Exchange Commission, the American Institute of Certified Public Accountants, and the business community in general.

Briefly, the bill would require U.S. companies subject to the jurisdiction of the SEC to make and keep books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer. In addition, the bill contains provisions requiring these companies to devise and maintain systems of internal accounting controls sufficient to provide reasonable assurances that, among other things, transactions are recorded as necessary to maintain accountability for assets. These provisions should effectively prevent off-the-books slush funds and payments of bribes.

The bill agreed to by the conferees does not contain two provisions in the Senate bill that would have made it an offense "knowingly" to falsify corporate books and records, or "knowingly" to make a false or misleading statement to an auditor.

The Commission has published proposed rules for public comment, however, which would, if finally adopted, promulgate the substance of those provisions as Commission rules, but without the requirement that the conduct, to be actionable, be performed "knowingly."

In my judgment, the deleted proposals involve sensitive and specialized issues best left to the discretion of the Commission. As the Commission's enforcement program has demonstrated, these are matters as to which a hard-and-fast legislative resolution is inappropriate; these issues are, therefore, better suited to Commission rulemaking to frame the language best adapted to achieving the objectives contained in the deleted proposals. Commission rulemaking would permit the Commission to alter any rules it may adopt to accommodate changed circumstances or to deal with other difficulties not presently perceived without the necessity of seeking additional legislation.

I am aware, in this regard, that certain questions have been raised concerning the Commission's authority to promulgate the proposed rules concerning the falsification of corporate books and records and the making of false or misleading statements to an auditor. I believe these questions are without merit. The Commission's proposals, in large measure, codify existing law rather than create new obligations. One who falsifies corporate records or deceives corporate auditors, for example, very likely has engaged in a violation of the existing antifraud provisions of the Federal securities laws. After reviewing the analysis of the Commission's authority to promulgate the rules contained in the Commission release issued at the time the rules were proposed for comment, it is my view that the Commission may promulgate the rules under its existing rulemaking authority. In this regard, it is significant that Section 23(a) of the Securities Exchange Act authorizes the Commission, among other things, "to make such rules and regulations as may be necessary or appropriate to implement the provisions * * *" of the Act "or for the execution of the functions vested in the * * *" the Commission by the Act. The Commission's adoption of the proposed rules concerning these matters would, in my judgment, reflect a responsible and appropriate use by the Commission of its rulemaking authority.

The report of the House committee concerning this legislation makes clear why the House conferees could not accept the two provisions contained in the Senate bill that would have required proof that violations had occurred knowingly. That requirement that might be construed as the equivalent of a showing of scienter. The report of your committee concerning the House bill pointed out, however—pages 10–11—that "the committee intends [that] no proof of scienter be required in a Commission enforcement action brought under * * * any * * * provision of the federal securities laws." The report also stated that "the appellate courts quite properly have never required proof of scienter in any of the Commission's own enforcement proceedings." Because the Commission has taken the lead by its rulemaking proposals, and because the conferees did not intend to enmesh themselves in any fundamental change in the lack of any need for the Commission to prove scienter in its own enforcement actions, the deletion of the two provisions from the proposed legislation better leaves the matter to the discretion of the Commission.

The legislation exempts from the corporate accounting provisions activities by intelligence agencies involving national security. Such activities must be pursuant to the specific written directive of the head of the intelligence agency and pursuant to presidential authority. Moreover, annually, a summary of the matters covered by the directives would be transmitted to the congressional intelligence oversight committees.

The focal point of the legislation is the provision which would make it unlawful for any U.S. company to use the means

of interstate commerce in furtherance of an offer, payment, promise to pay, or authorization of payment of anything of value directly or indirectly to any foreign official, foreign political party, or candidate for foreign political office. The purpose of the payment must be to influence any act or decision of a foreign government official or to induce such official to use his influence to affect a government act or decision so as to assist U.S. companies in obtaining, retaining, or directing business to any person. So-called "grease" or "facilitating" payments to persons whose functions are essentially ministerial or clerical would be excluded from the bill's prohibitions.

The penalties for violations of these provisions are up to $1,000,000 for corporations and $10,000 and/or 5 years imprisonment for any officer, director, employee or shareholder acting on behalf of the corporation. It should be noted that any employee's or agent's liability is predicated upon a finding that the corporation has violated the provisions of the act.

The Justice Department would prosecute all criminal violations of the act. However, with respect to those companies which file reports with the SEC, that agency would have principal investigative authority.

Because of certain jurisdictional and diplomatic difficulties the bill does not encompass foreign subsidiaries of U.S. corporations, through which many questionable payments have been made in the past. However, the scope of the bill is sufficient to reach any U.S. company which uses its foreign subsidiary as a conduit for such payments.

Title II of the bill contains provisions which deal with disclosure of the beneficial ownership of American corporations, and would expand the disclosure requirements applicable to investors in the United States. These provisions would implement the Commission's legislative recommendations arising from its recent street name study, which was mandated by the Securities Acts Amendments of 1975.

These provisions would require persons owning, directly or indirectly, 5 percent or more of any registered security to disclose: First, their identity, residence and citizenship; and second, the number and description of shares in which such person has an interest. The principal effect of the proposal would be to remove existing exemptions for persons who acquired ownership of more than 5 percent of an issuer's securities prior to 1970 and for persons who acquire less than 2 percent of an issuer's securities in any 12-month period.

The bill also requires the Commission to report to Congress, within 30 months after enactment of the legislation, concerning the effectiveness of the beneficial ownership reporting requirements and "the desirability and feasibility of reducing or otherwise modifying" the 5 percent disclosure threshold.

Mr. Speaker, the conference report will enable us to effectively deal with the widespread and serious problem of corporate off-book slush funds and foreign bribery. I urge my colleagues to approve the conference report.

Mr. STAGGERS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PATTEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. DAN DANIEL). Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 349, nays 0, not voting 85, as follows:

[Roll No. 773]

YEAS—349

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fowler
Fraser
Frenzel
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holt
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marks
Marlenee
Martin
Mazzoli
Meyner
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rousselot
Roybal
Rudd
Ryan
Santini
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Tex.
Winn
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—85

Ambro
Badillo
Barnard
Baucus
Beilenson
Bolling
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Diggs
Downey
Duncan, Oreg.
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gibbons
Hall
Hawkins
Hillis
Horton
Kazen
Kelly
Koch
Krueger
Lent
Livingston
Lundine
McCloskey
Markey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Montgomery
Moss
Nichols
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Risenhoover
Roncalio
Rosenthal
Rostenkowski
Runnels
Ruppe
Russo
Sarasin
Sawyer
Scheuer
Sebelius
Symms
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

Mr. Kazen with Mr. Duncan of Oregon.
Mr. Rahall with Frey.
Mr. Ambro with Mr. Crane.
Mr. Cotter with Mr. McCloskey.
Mr. Danielson with Mr. Quayle.
Mr. Rosenthal with Mr. Railsback.
Mr. Rostenkowski with Mr. Ruppe.
Mr. Koch with Mr. Whalen.
Mr. Hawkins with Mr. Young of Alaska.
Mr. Russo with Mr. Risenhoover.
Mr. Charles H. Wilson of California with Mr. Forsythe.
Mr. Fuqua with Mr. Bob Wilson.
Mr. Weaver with Mr. Markey.
Mr. Wolff with Mr. Symms.
Mr. Mattox with Mr. Milford.

Mr. Downey with Mr. Kelly.
Mr. Wright with Mr. Moss.
Mr. Meeds with Mr. Quillen.
Mr. Mathis with Mr. Roncalio.
Mr. Nichols with Mr. Walker.
Mr. Gammage with Mr. Lent.
Mr. Gibbons with Mr. Scheuer.
Mr. Hall with Mr. Sebelius.
Mr. Metcalfe with Mr. Krueger.
Mr. Montgomery with Mr. Livingston.
Mr. Evans of Georgia with Mr. Hillis.
Mr. Fithian with Mr. Sawyer.
Mr. Ertel with Mr. Marriott.
Mr. English with Mr. Clay.
Ms. Mikulski with Mr. Dent.
Mr. Waxman with Mr. Dickinson.
Mr. Patterson of California with Mr. Edwards of Alabama.
Mr. Ford of Tennessee with Mr. Sarasin.
Mr. Diggs with Mr. Erlenborn.
Mr. Conyers with Mr. Lundine.
Mr. Wirth with Mr. Barnard.
Mr. Baucus with Mr. Badillo.
Mr. Beilenson with Mr. Broyhill.
Mr. John Burton with Mr. Cunningham.
Mr. Phillip Burton with Ms. Chisholm.
Mr. Horton with Mr. Quie.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority whip as to whether he can tell us who is on first base; in other words, what the further program of the House will be.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I may say to the distinguished minority leader that the next item of business will be a consideration of the rule and then, hopefully, a vote on the continuing resolution with which we have been seized during the last several days.

Then the House, assuming that we pass that, would consider tomorrow H.R. 9378, to concur in the Senate amendment on the Employee Retirement Income Security Act of 1974.

Then we would hope, by later in the afternoon today, to hear from the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), the status of the social security financing amendments and get a judgment as to whether or not we would be voting on that measure within the foreseeable future.

Mr. RHODES. Am I to gather, from the statement just made by the gentleman, that there is a possibility of a session on Friday?

Mr. BRADEMAS. If the gentleman will yield, only pro forma.

Mr. RHODES. So that if the social security conference report is not ready for consideration by tomorrow, the consideration of such report would go over until some time in the indeterminate future?

Mr. BRADEMAS. The minority leader is correct.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, it is my understanding that the next order of business, as the gentleman from Indiana (Mr. BRADEMAS) stated, is the consideration of a resolution that would require a two-thirds vote of the House to make in order the joint resolution 662. Along with the Senate amendments that will make in order language that was not available to me until 5 minutes ago,' and many other Members have not had an opportunity as yet to see it.

This amendment bears no relationship to the language read earlier by the gentleman from Illinois (Mr. MICHEL), and this to me is a complete betrayal of the position that this House has taken on numerous occasions.

Mr. Speaker, I would hope that a vote on the rule would be demanded and that it be voted down when the rollcall is taken.

Mr. RHODES. Mr. Speaker, I assume there would be debate had on the rule.

Mr. SNYDER. Mr. Speaker, will the gentleman yield so I may ask a question about the program?

Mr. RHODES. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, yesterday I understood the distinguished majority whip to indicate that tomorrow's session would be a pro forma session. I have checked the RECORD, and the gentleman did say that.

I believe that the gentleman has now indicated there will be votes tomorrow?

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Arizona will yield, it is not impossible that there will be a vote tomorrow.

Mr. SNYDER. The gentleman announced that a piece of legislation is scheduled for tomorrow?

Mr. BRADEMAS. The gentleman is correct.

Mr. RHODES. And there is a possibility that there would be a vote on that particular motion to agree to the Senate amendments; and further, if the social security conference report is ready for consideration, there might well be a vote on the adoption of that report, as I understand it.

Is there any possibility that the gentleman from Indiana (Mr. BRADEMAS) can foresee that there might be any other votes on tomorrow?

Mr. BRADEMAS. Not that I can foresee.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, what is this great piece of legislation we have scheduled for tomorrow? Why can we not consider it today?

Mr. BRADEMAS. Mr. Speaker, if the minority leader will yield further, I am not familiar with the substance of the act. All I can say is that this is the measure which I have been advised by the Speaker will be scheduled for tomorrow.

Mr. ROUSSELOT. We do not know the subject of that legislation?

Mr. BRADEMAS. Yes, we do. Mr. Speaker, as I said earlier—and perhaps the gentleman from California (Mr. ROUSSELOT) did not hear me—I am given to understand that the Committee on Rules has not yet filed a rule with respect to the matter which I said would be programed for tomorrow, and that would be to concur in the Senate amendment on H.R. 9378, an Act to amend title IV of the Employment Retirement Income Security Act of 1974. If the Committee on Rules does file a rule, we can very well bring that up, I am advised.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I just wish to inform the House that the Committee on Rules just broke up, and we are going back in session to report this matter out, so there is no reason why this could not be reported and this matter acted on today.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman.

FURTHER CONTINUING APPROPRIATIONS, 1978

Mr. DODD, from the Committee on Rules, reported the following privileged resolution (H. Res. 929, Rept. No. 95-834), which was referred to the House Calendar and ordered to be printed:

H. RES. 929

Resolved, That immediately upon the adoption of this resolution it shall be in order to take from the Speaker's table the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, together with the Senate amendments thereto, and to consider the Senate amendments in the House.

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 929 and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. DAN DANIEL). The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 929?

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 110, nays 31.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 240, nays 109, not voting 85, as follows:

[Roll No. 774]

YEAS—240

Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Corcoran
Corman
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dodd
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Emery
Evans, Colo.
Evans, Del.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Florio
Flowers
Foley
Ford, Mich.
Fountain
Fowler
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gudger
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Kostmayer
Krebs
LaFalce
Leach
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
McClory
McCormack
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Marks
Martin
Meyner
Michel
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murtha
Myers, Gary
Nedzi
Nix
Nolan
Nowak
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Rangel
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roybal
Ryan
Santini
Satterfield
Schroeder
Seiberling
Sharp
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steers
Stockman
Stokes
Stratton
Studds
Teague
Thompson
Thornton
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Weiss
Whitehurst
Whitley
Wiggins
Wilson, Tex.
Yates
Lederer
Lujan
McDade
McDonald
McEwen
Madigan
Marlenee
Mazzoli
Miller, Ohio
Mitchell, N.Y.
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, John
Myers, Michael
Natcher
O'Brien
Oakar
Oberstar
Pressler
Regula
Rinaldo
Rooney
Rousselot
Rudd
Schulze
Shipley
Shuster
Skelton
Smith, Nebr.
Snyder
Spence
St Germain
Stangeland
Stanton
Steiger
Stump
Taylor
Thone
Traxler
Vander Jagt
Volkmer
Waggonner
Walsh
Wampler
White
Whitten
Winn
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—109

Abdnor
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, R.I.
Biaggi
Boggs
Boland
Breaux
Broomfield
Burke, Fla.
Burke, Mass.
Clausen, Don H.
Clawson, Del
Coleman
Collins, Tex.
Conte
Cornell
Coughlin
Delaney
Derwinski
Devine
Dornan
Early
Edwards, Okla.
Eilberg
Fary
Flood
Flynt
Gephardt
Goodling
Grassley
Guyer
Hansen
Harsha
Heckler
Holt
Hubbard
Hyde
Ichord
Kasten
Kemp
Kildee
Kindness
Lagomarsino
Latta
Le Fante

NOT VOTING—85

Ambro
Badillo
Barnard
Baucus
Beilenson
Bolling
Broyhill
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Diggs
Downey
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gibbons
Goldwater
Hall
Hawkins
Hillis
Kazen
Kelly
Koch
Krueger
Lent
Livingston
Lundine
McCloskey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Montgomery
Moss
Neal
Nichols
Patterson
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Risenhoover
Roncalio
Rosenthal
Rostenkowski
Runnels
Ruppe
Russo
Sarasin
Sawyer
Scheuer
Sebelius
Symms
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

Mr. Kazen with Mr. Broyhill.
Mr. Ambro with Mr. Barnard.
Ms. Chisholm with Mr. Patterson of California.
Mr. Dent with Mr. Crane.
Mr. Beilenson with Mr. Dickinson.
Mr. Cornwell with Mr. Forsythe.
Mr. Danielson with Mr. Marriott.
Mr. Fuqua with Mr. Edwards of Alabama.
Mr. Badillo with Mr. Goldwater.
Mr. Cotter with Mr. McCloskey.
Mr. Ertel with Mr. Hillis.
Mr. John Burton with Mr. Baucus.
Mr. English with Mr. Erlenborn.
Mr. Gammage with Mr. Livingston.
Mr. Ford of Tennessee with Mr. Mathis.
Mr. Diggs with Mr. Pursell.
Mr. Phillip Burton with Mr. Cunningham.
Mr. Evans of Georgia with Mr. Krueger.
Mr. Hall with Mr. Quayle.
Mr. Gibbons with Mr. Frey.
Mr. Clay with Mr. Risenhoover.
Mr. Hawkins with Mr. Runnels.
Mr. Downey with Mr. Kelly.
Mr. Koch with Mr. Quie.
Mr. Conyers with Mr. Railsback.
Mr. Meeds with Mr. Roncalio.
Mr. Fithian with Mr. Lent.
Mr. Lundine with Mr. Milford.
Mr. Mattox with Mr. Quillen.
Mr. Metcalfe with Mr. Ruppe.
Ms. Mikulski with Mr. Montgomery.
Mr. Moss with Mr. Russo.
Mr. Neal with Mr. Sarasin.
Mr. Nichols with Mr. Sawyer.
Mr. Rahall with Mr. Scheuer.
Mr. Rosenthal with Mr. Sebelius.
Mr. Waxman with Mr. Symms.
Mr. Rostenkowski with Mr. Walker.
Mr. Weaver with Mr. Whalen.
Mr. Charles H. Wilson of California with Mr. Wright.
Mr. Wirth with Mr. Bob Wilson.
Mr. Wolff with Mr. Young of Alaska.

Mr. MARLENEE changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 929.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, very briefly, this resolution will make in order consideration in the House of the Senate amendments to the continuing resolution. It is my hope and I know the hope of the vast majority of the people in the Chamber this afternoon that we would be able to resolve this issue once and for all.

Mr. Speaker, I have no request for time and I yield to the gentleman from Ohio (Mr. LATTA).

(Mr. LATTA asked and was given permission to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I think the House should be informed as to the new language to be added to the abortion amendment. It provides for the addition of the words "when so determined by two physicians". This additional language has been provided, and the rule makes consideration of it in order. Mr. speaker, I am opposed to the rule as well as the joint resolution.

Mr. Speaker, I have no request for time.

Mr. DODD. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

Mr. BAUMAN. Mr. Speaker, I object. Will the gentleman from Connecticut withhold his request?

Mr. DODD. I will be glad to withhold.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, could the gentleman tell us who presented this language to the Rules Committee? A great many people were under the impression that the gentleman from Illinois (Mr. MICHEL) had read the language that would be made in order during debate this afternoon and we were of the impression that the language was to be made in order by the Rules Committee. Subsequently this new language arrived on the floor, and made in order under the rule, to the great surprise of many of us.

Mr. LATTA. Mr. Speaker, I regret the gentleman's surprise. This language was presented in the Rules Committee by the chairman of the Appropriations Committee, and the gentleman from Illinois (Mr. MICHEL) was there in the Rules

Committee and agreed to the language at that time.

I will be glad to yield to the gentleman from Illinois (Mr. MICHEL) if he has any comment.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

I am sorry the gentleman from Maryland was laboring under some misapprehension that this had all been set in concrete, because I presented the language basically just as a suggestion to follow.

The events which flowed subsequent to that were such as these: When I checked with the other body, particularly, those I knew would be opposed to the kind of language I would have preferred, it became quite obvious to me that there was no way that we were going to get this thing resolved finally, even with a good House vote. We would be running up against the same kind of opposition in the Senate, and we would then be back where we were 4 months ago. So it became clear to me that such language was not a viable alternative with which to look around for a few other votes. There was one other alternative that has been proposed around here for several days and which I have reluctantly opposed, because it calls for two physicians. It means additional costs. If one doctor is fraudulent, there would be two doctors which would help protect against abuse. I was not that enthused about such additional language, but we are at that point where we are moving from feet to inches to centimeters.

If that means just a couple votes, since we were just about there, it seems to me that this is the direction the chairman of our committee preferred to move in; so you base the situation on what you can do. I am not all enthused about it. I wish the good Lord would take this cup from me at this hour, but we have to do the best we can.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Well, of course, Mr. Speaker, I had what I thought was a very clear understanding, not only today, but yesterday and last night, that if and when the situation arose that after the House defeated this last Senate amendment, that certain language, the so-called Michel language, would then be acceptable.

Now I find out, like this, there was another meeting of the Committee on Rules and entirely different language was discussed; when, where or how, who, what, we have not the faintest idea. It happened just like that. Somebody must have blinked their eyes and there we were.

Now, on this thing I hold in my hand, it is not just a couple lousy votes, no, not just a couple more votes, but two more physicians instead of a couple votes.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I just want to briefly state there were some rumors floating around that this language that is made in order as a result of this rule is acceptable to me as well as others who have shared the same view as I have. It is not acceptable as far as I am concerned and I just wanted to dispel that rumor and set the record straight.

Mr. DODD. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, pursuant to the rule just adopted in the House, I move to take from the Speaker's table the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes, together with the Senate amendments thereto, and to consider the Senate amendments in the House.

The Clerk read the title of the joint resolution.

SENATE AMENDMENTS

The SPEAKER. The Clerk will report the first Senate amendment.

The Clerk read as follows:

Senate amendment No. 1: Page 2, lines 15 and 16, strike "as modified by the House of Representatives on August 2, 1977".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 1.

Mr. MAHON. Mr. Speaker, this is purely a technical amendment. It should be clear that the continuing resolution provides for the operation of the Departments of Labor and HEW at the conference rate and also that these departments operate under the provisions of the conference agreement on the Labor-HEW bill. I do not know of any other conflict on this.

The motion was agreed to.

The SPEAKER. The Clerk will report the second Senate amendment.

The Clerk read as follows: Senate amendment No. 2; page 2, line 17, after "resolution" insert: "*Provided, however,* That none of the funds provided for in this paragraph shall be used to perform abortions: except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

"Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.".

The SPEAKER. The Chair recognizes the gentleman from Illinois (Mr. MICHEL).

MOTION OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MICHEL moves that the House concur in the amendment of the Senate numbered 2 with an amendment, as follows: "*Provided,* That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

"Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.".

The SPEAKER. The gentleman from Illinois (Mr. MICHEL) is recognized for 1 hour.

Mr. MICHEL. Mr. Speaker, I yield 30 minutes to the chairman of our committee, the gentleman from Texas (Mr. MAHON), and pending that I will proceed for just a few moments.

Let me make it very clear at the outset that this is not, obviously, that language which we were talking about earlier in the day, and which I would have preferred to have made in order as an amendment to this bill. To repeat what I said just a moment or two ago, it became quite obvious to me that such language was simply going to put us right back in that position we were in 3 or 4 months ago, rather than making a further movement to an ultimate or eventual agreement.

Now, the only difference in this language than that which the Members voted on a little earlier in the day are the words, "when so determined by two physicians."

That is the only thing that has been added. Members will remember when the amendment came over from the other body, they deleted the word "force," so in that initial Michel language we still have "promptly" reporting minus the word "force," and now adding, "when so determined by two physicians."

I think we have all heard the arguments pro and con. It is simply a question here of whether or not these additional few words will get those additional few votes to finally bring this matter to a successful conclusion.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to say to the gentleman that I admire his diligence in this matter, but I think the issue is a bit more than just a few words to get a few more votes. The health provision which existed in the language this morning would have required determination by one physician. Now it is going to require, at an additional cost to the Federal Government, the determination by two physicians.

Mr. MICHEL. As the gentleman heard

me say earlier, I had been reluctant to accept this earlier in the week because of that dollar figure and what was involved with two rather than one physician.

Mr. BAUMAN. If the gentleman will yield further, I have been informed by persons that I have talked with in the few minutes I have had since this language was made available that, in States where similar rules or regulations have been placed in effect, they have been used very effectively in allowing abortions. A great many doctors, particularly those whose chief practice is performing abortions, are more than willing to certify to the need. That was my concern with the one physician. Now the gentleman is requiring that two physicians make this determination. I see no difference, except an increased cost to the taxpayers, between this and what the House voted down earlier today. There is no requirement, even, for an examination. The second doctor can certify the need on a consulting fee basis and sign the authorization.

So I would hope that at this late hour we are not going to sell out on this issue simply to reach a solution that is acceptable to one or two Members of the other body.

Mr. MICHEL. We wrestled with this question of fraud, even to the extent, maybe, of this kind of language:

> Whoever knowingly and wilfully makes or causes to be made any false statement or representation of a material fact in any report made to a law enforcement agency or a public health service shall be subject to section 1909 of the Medicare-Medicaid Antifraud and Abuse Amendments of 1977 (P.L. 95-142).

The problem is that here, with the flow of events happening so quickly, I am not altogether sure that we want to impose that kind of $2,500 or $5,000 fine if it were applicable to minors.

I realize that maybe over in the other body that might be even more acceptable than two physicians. But as I said, it has been a most difficult 3 or 4 months we have gone through. Those of us who have been at every conference, at every meeting, every change of words, every dotting of the "i" and crossing of the "t," have just about had it up to here. As I indicated, I cannot be happy about not having my way, but that is the art of compromise.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman from Illinois, I commend the chairman of the committee and the chairman of the subcommittee, and all who have wrestled with this problem. It is not an easy one, and everyone is trying to do what is right. The difficulty is in knowing what is right.

I just want to make one point. In California, I am informed that in 1970 the law required three physicians to certify, and this is what they had to certify: that the woman was a physical threat to herself and to the person or property of others, and under restraint or supervision.

That is a tough requirement. Three physicians had to certify to that, and they performed 100,000 abortions with that language.

There is one more point I would like to make, and then I will sit down. I never knew an abortionist who did not have a partner.

Mr. MICHEL. Mr. Speaker, the gentleman has been a very vocal and a very effective spokesman for his point of view. I respect his view and those who have been wedded to his view, but I just know that we have to have a little movement to get a final bill. I hope we will have a sufficient switch to make the difference here.

Mr. MAHON. With those cries for a vote, Mr. Speaker, I yield myself such time as I may utilize. Those cries for a vote are music to my ears.

We will be, I hope, moving very quickly on this matter. It was thought that we should not have another vote on this very difficult and disturbing issue without making some significant change in the language that was voted on earlier today, in order to make it more likely that the rules which the Secretary of Health, Education, and Welfare proposes to set forth would be free of collusion and fraud.

It was thought that the provision for two physicians would be appropriate. This suggestion did not come from me; it came from Members of the House who talked with me on several occasions.

So, Mr. Speaker, it just seems to me that this is a further concession, and I believe that some of the Members who are anxious to resolve this issue will be impressed by the fact that the provision for two physicians is to be included in the language.

I would hope that the House may accept this motion offered by the gentleman from Illinois (Mr. Michel). I heartily support the motion. It is the best we can do under the circumstances, and it seems to me that now is the hour and now is the moment to vote.

Mr. MICHEL. Mr. Speaker, I am afraid that I did neglect my friend, the gentleman from Kentucky (Mr. Carter), who had asked for time to make a statement.

Therefore, Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Kentucky (Mr. Carter).

Mr. CARTER. Mr. Speaker, this morning I complimented the distinguished Dean of the House, the gentleman from Texas (Mr. Mahon), on his excellent work over a long period of time on this matter, and I also want to compliment the minority whip, the gentleman from Illinois (Mr. Michel), who has worked long and hard on this legislation.

I submit, Mr. Speaker, that this is a difficult problem. I have as a physician always opposed abortion. However, in this case, when serious physical damage can occur to a woman who is pregnant and two physicians make the statement that it would so endanger her life, I think that it is necessary and absolutely right for them to make such a decision, and I think it is right that the abortion be done to save the life of the mother or to save her from serious physical damage.

The minority whip, Mr. Michel, accepted an amendment offered by myself and the gentleman from Kansas (Mr. Skubitz) in these words, "when so determined by two physicians." This, Mr. Speaker, makes sure the abortion is necessary to prevent severe and long-lasting health damage and will also limit the chance of fraud. Again, I urge adoption of the amendment.

I agree with the motion as it has been presented today. I think it is right.

Some Members might say, "Well, you have changed your position."

I may reply and say that that is quite true. I have changed my position, and I believe that a decision of two physicians is necessary before an abortion should be performed.

This may mean it will be just a little bit more expensive at the start, but it will be less so in the end, because the delivery, if it were possible, would be more expensive than the abortion. Under this provision two physicians would attest to the fact of the absolute necessity for this action, and I feel that would diminish the possibility of fraud.

I strongly support this language as it is written, and as far as my change in position is concerned, I would again quote, as the distinguished committee chairman quoted from Hamlet this morning:

> And thus the native hue of resolution is
> sicklied o'er with the pale cast of thought.

Mr. Speaker, in this case I have changed my thinking because this language is good, and it is necessary. We should agree to this and get on with our business. It is humanitarian, and I urge that the motion be adopted. I strongly support it.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this joint resolution, on the motion which I offered earlier, and on the motion offered by the gentleman from Illinois (Mr. Michel).

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MICHEL. Mr. Speaker, if the chairman of the committee has no further requests for time, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. Michel).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 181, nays 167, answered "present" 1, not voting 85, as follows:

[Roll No. 775]

YEAS—181

Addabbo
Akaka
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashley
Aspin
AuCoin
Bedell
Bingham
Blanchard
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burlison, Mo.
Burton, John
Butler
Carr
Carter
Cochran
Cohen
Collins, Ill.
Conable
Corman
Coughlin
Daniel, R. W.
Davis
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Drinan
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Evans, Del.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Flippo
Flowers
Foley
Ford, Mich.
Fountain
Fowler
Fraser
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gudger
Hamilton
Hammerschmidt
Hannaford
Harkin
Harrington
Harris
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Ketchum
Keys
Kostmayer
Krebs
Leach
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, Md.
McCormack
McFall
McHugh
McKinney
Maguire
Mahon
Mann
Martin
Meyner
Michel
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Neal
Nix
Nolan
Obey
Ottinger
Panetta
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Rangel
Reuss
Richmond
Roberts
Rogers
Rose
Roybal
Runnels
Santini
Schroeder
Seiberling
Sharp
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steers
Stockman
Stokes
Studds
Teague
Thompson
Thornton
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Weiss
White
Whitehurst
Whitley
Wiggins
Yates

NAYS—167

Abdnor
Ammerman
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Blouin
Boggs
Boland
Bonior
Breaux
Broomfield
Brown, Ohio
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Byron
Caputo
Carney
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Coleman
Collins, Tex.
Conte
Corcoran
Cornell
D'Amours
Daniel, Dan
de la Garza
Delaney
Derwinski
Devine
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Eilberg
Emery
Fary
Fish
Flood
Florio
Flynt
Gaydos
Gephardt
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hanley
Hansen
Harsha
Heckler
Holt
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Kasten
Kemp
Kildee
Kindness
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McClory
McDade
McDonald
McEwen
McKay
Madigan
Markey
Marks
Marlenee
Mazzoli
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nowak
O Brien
Oakar
Oberstar
Patten
Pressler
Regula
Rhodes
Rinaldo
Robinson
Rodino
Roe
Rooney
Rousselot
Rudd
Satterfield
Shipley
Shuster
Sikes
Skelton
Smith, Nebr.
Snyder
Spence
St Germain
Stangeland
Stanton
Steiger
Stratton
Stump
Taylor
Thone
Traxler
Treen
Vander Jagt
Volkmer
Waggonner
Walsh
Wampler
Watkins
Whitten
Winn
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Frenzel

NOT VOTING—85

Ambro
Badillo
Barnard
Baucus
Beilenson
Bolling
Broyhill
Burton, Phillip
Chisholm
Clay
Cleveland
Conyers
Cornwell
Cotter
Crane
Cunningham
Danielson
Dent
Dickinson
Downey
Duncan, Oreg.
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fithian
Ford, Tenn.
Forsythe
Frey
Fuqua
Gammage
Gibbons
Goldwater
Hall
Hawkins
Hillis
Kazen
Kelly
Koch
Krueger
Lent
Livingston
Lundine
McCloskey
Marriott
Mathis
Mattox
Meeds
Metcalfe
Mikulski
Milford
Montgomery
Moss
Nichols
Patterson
Quayle
Quie
Quillen
Rahall
Railsback
Risenhoover
Roncalio
Rosenthal
Rostenkowski
Ruppe
Russo
Ryan
Sarasin
Sawyer
Scheuer
Schulze
Sebelius
Symms
Walker
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Frenzel for, with Mr. Quie against.

Mr. Baucus for, with Mr. Rahall against.

Ms. Mikulski for, with Mr. Nichols against.

Mr. Weaver for, with Mr. Gammage against.

Mr. Waxman for, with Mr. Ambro against.

Mr. Cornwell for, with Mr. Koch against.

Mr. Wirth for, with Mr. Cotter against.

Mr. Ford of Tennessee for, with Mr. Hall against.

Mr. Badillo for, with Mr. Kazen against.

Mr. Beilenson for, with Mr. Risenhoover against.

Ms. Chisholm for, with Mr. Rostenkowski against.

Mr. Danielson for, with Mr. Russo against.

Mr. Downey for, with Mr. Crane against.

Mr. Hawkins for, with Mr. Cunningham against.

Mr. Lundine for, with Mr. Dickinson against.

Mr. Meeds for, with Mr. Erlenborn against.

Mr. Metcalfe for, with Mr. Goldwater against.

Mr. Patterson of California for, with Mr. Hillis against.

Mr. Rosenthal for, with Mr. Kelly against.

Mr. Ryan for, with Mr. Lent against.

Mr. Scheuer for, with Mr. Livingston against.

Mr. Charles H. Wilson of California for, with Mr. Marriott against.

Mr. Wolff for, with Mr. Quayle against.

Mr. Wright for, with Mr. Quillen against.

Mr. Mattox for, with Mr. Ruppe against.

Mr. Clay for, with Mr. Sawyer against.

Mr. Conyers for, with Mr. Schulze against.

Mr. Forsythe for, with Mr. Sebelius against.

Mr. Sarasin for, with Mr. Walker against.

Until further notice:

Mr. Mathis with Mr. Broyhill.

Mr. English with Mr. Duncan of Oregon.

Mr. Evans of Georgia with Mr. Frey.

Mr. Gibbons with Mr. Krueger.

Mr. Montgomery with Mr. Cleveland.

Mr. Fuqua with Mr. McCloskey.

Mr. Ertel with Mr. Milford.

Mr. Moss with Mr. Railsback.

Mr. Barnard with Mr. Symms.

Mr. Phillip Burton with Mr. Edwards of Alabama.

Mr. Dent with Mr. Young of Alaska.

Mr. Whalen with Mr. Bob Wilson.

Messrs. DAVIS and JENRETTE changed their vote from "nay" to "yea."

Mr. DUNCAN of Tennessee changed his vote from "yea" to "nay."

Mr. FRENZEL changed his vote from "yea" to "present."

Mr. FRENZEL. Mr. Speaker, I have a live pair with the gentleman from Minnesota (Mr. QUIE). If he were present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR AGREEING TO SENATE AMENDMENTS TO H.R. 9378, AMENDING TITLE IV OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Report No. 95–835) on the resolution (H. Res. 930) providing for agreeing to Senate amendments to the bill (H.R. 9378) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to proceed out of order.)

Mr. O'NEILL. Mr. Speaker, I asked to speak out of order for 1 minute so I can give the schedule.

There will be a session tomorrow. There is a great possibility that we may have the supplemental appropriation bill back, and for that reason we must be here.

For the remainder of today we will take up the rule on ERISA.

By tomorrow we will know definitely where we are with respect to the supplemental appropriation bill and where we are concerning the social security bill, and by tomorrow we will have a definite agenda for the remainder of the year.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, when will we be coming in tomorrow?

Mr. O'NEILL. Mr. Speaker, in view of the fact that it was announced we would be coming in at 10 o'clock, we will come in at 10 o'clock tomorrow.

Mr. RHODES. I thank the Speaker.

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 930 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 930

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 9378) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for two years, the date on which the corporation first begins paying benefits under terminated multiemployer plans, together with the Senate amendments thereto, is taken from the Speaker's table to the end that the Senate amendments be, and the same are hereby, agreed to.

The SPEAKER. The question is, Will the House now consider House Resolution 930?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 930.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. LONG) for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order the consideration of H.R. 9378 and to take the bill from the Speaker's table and to agree to the Senate amendments.

The bill passed the House on October 13, 1977, on suspension. Subsequently the other body amended the bill to include a raise in the premium for single employer plans insurance from $1 to $2.60 per participant per year.

This is for Federal funds to insure these pension funds. The House version of H.R. 9378 would solve the question of insurance rates. The House did, however, address this issue through House Concurrent Resolution 369, which passed the House on November 2, 1977. In that resolution the raise had been to $2.25 rather than to the $2.60 to which I refer.

Since that time new information and computations suggest that the $2.60 figure reflects the proper rate and the House committees involved do agree with the raise to $2.60.

Ancillary to the substance to the bill and the amendment is the conflict of jurisdiction. The chairmen of the two involved committees, however, realize the emergency nature of the matter, since the fund itself may be placed in jeopardy, and have worked out an understanding which will be related through floor colloquy at the proper time.

As I stated, this action is necessary because the pension plans insured by the Federal fund will be placed in potential jeopardy unless the increase called for is agreed to. Therefore, I urge adoption of the resolution.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once we have passed House Resolution 930, that is it. This issue will be resolved. We will have agreed to the action and we will go on to the next issue. I think we should clearly understand that.

Now, what is involved here is really a jurisdictional dispute, some jurisdictional question between the Committee on Education and Labor and the Committee on Ways and Means. It really involves two different bills, one relating to an 18-month extension of ERISA and the other dealing with the premium raise in the title IV section, I believe it is, for single employees. The Senate added an amendment to H.R. 9378 and then it went exclusively to the Committee on Education and Labor. The Committee on Education and Labor then tried to take it from the Speaker's table by unanimous consent so that we could vote on it. I understand now there is an agreement between the Members on both sides, the majority and the minority of the Committee on Education and Labor and the Committee on Ways and Means that this jurisdictional problem is not going to be in effect taken up by this issue and all parties agree with the merits of what is being done here basically. The Members of both committees have come before the House Rules Committee this afternoon in support of what is proposed under House Resolution 930.

Mr. Speaker, I believe it would be appropriate for me to yield such time as he may consume to the gentleman from Wisconsin (Mr. STEIGER), since the gentleman from Wisconsin was the Member that objected to the unanimous consent request to take it from the Speaker's table.

Mr. STEIGER. Mr. Speaker, I must admit I find myself in a difficult position. I am the last one that gets hung up by jurisdictional disputes. I do not think it makes good sense, nor is there any good public policy that comes out of it.

What we are dealing with this afternoon is something that needs to be done. I do not think there is any question but that the automatic coverage of multiemployer plans has to be postponed for 18 months, as proposed by the Committee on Education and Labor. There is a question in my mind about the annual premium rate of $2.60 proposed by the other body, compared with the $2.25 rate passed unanimously in this chamber.

Upon reflection and discussion with the Pension Benefit Guaranty Corporation and with the distinguished gentleman from Florida (Mr. GIBBONS), the chairman of the task force, the Committee on Ways and Means is at this point persuaded that the $2.60 rate is a valid rate. So the issue on which, for some reason, the Committee on Education and Labor was insistent, had to do with the report. If the Members will take a moment and simply look at the language in the resolution and look at what is being done, they will see that the report is to be submitted to the Senate Finance Committee, to the Senate Human Resources Committee, and to the House Committee on Education and Labor and that it simply excludes the Committee on Ways and Means. My question to the Committee on Education and Labor, to make sure we clarify where all of us stand, is whether or not the Committee on Ways and Means is to be excluded from the opportunity to receive this report.

Could I ask the gentleman from Kentucky (Mr. PERKINS) to respond to that question?

Mr. LOTT. Mr. Speaker, I am happy to yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. I thank the gentleman for yielding.

The gentleman from Louisiana was also going to yield me time, and I will take advantage of this kind offer to add additional comments.

I hope we can avoid a jurisdictional dispute here. There is no dispute over the need to extend the date for automatic coverage of multiemployer plans or over the need to increase the premium for single employer plans, although there may or may not be some question on the amount of the necessary increase. The real issue here is one of committee jurisdiction. This bill calls for the PBGC, the Pension Benefit Guarantee Corporation, to make a study of termination insurance for multiemployer plans and to report back to the Senate Human Resources Committee, to the Senate Finance Committee, and to the House Committee on Education and Labor.

The bill does not provide that the report is to be referred back to the House Ways and Means Committee. Although this procedure may be agreeable to the House Education and Labor Committee, we must point out that the Ways and Means Committee is very definitely involved in pension plan termination insurance.

There are several reasons why we are very definitely involved. First, there would not be any ERISA program or PBGC if we did not provide tax incentives when these plans qualify under the tax law.

Second, the law gives considerable responsibility to the Internal Revenue Service to enforce rules prohibiting self-dealing rules with pension plans and to enforce funding requirements for pension plans. These self-dealing and funding rules are a prerequisite for termination insurance. Without them, the PBGC would be insuring each employer's promise to contribute to his pension plan and would, in effect, be insuring against self-dealing.

In addition, the Secretary of the Treasury is a member of the PBGC's Board of Directors.

It is my understanding that H.R. 9378, which postpones the effective date for automatic coverage for multiemployer pension plans under the termination of insurance program of ERISA, was referred only to the Education and Labor Committee. It is my understanding that the chairman of the House Education and Labor Committee does not—or at least did not—agree with the proposition that termination insurance would be a shared responsibility between the Committee on Education and Labor and the Committee on Ways and Means.

I want to inquire of my distinguished colleague, the chairman of the House Education and Labor Committee (Mr. Perkins) whether he will agree that the procedures involved in enacting this bill will not serve in any way to establish a precedent that the Ways and Means Committee does not have primary or considerable jurisdiction over the PBGC program.

Mr. PERKINS. Let me say to my distinguished colleague from Texas that the question only arose after we passed H.R. 9378. Then, the Senate added the increase in the premium for termination insurance for single employer pension plans, from $1 per participant per year to $2.60 per participant per year.

So, the Senate tied the concurrent resolution in which jurisdiction was shared with the Ways and Means Committee, to H.R. 9378. There is no question in my mind, and I fully agree with my distinguished colleague Mr. Pickle that the Ways and Means Committee certainly shares jurisdiction over the substance of House Concurrent Resolution 369, the insurance premium increase for single employer pension plans.

I think there is no question about that in my mind, and we have operated on that assumption over the years. I certainly would not want to usurp or question the jurisdiction of the Committee on Ways and Means over the substance of House Concurrent Resolution 369, the insurance premiums for single employer plans. I think, myself, that we jointly share that jurisdiction. But be that as it may, the gentleman from Florida (Mr. Gibbons) is chairman of this subcommittee, and in my conversation with the gentleman from Florida (Mr. Gibbons) on a couple of occasions today I specifically stated to him that we would not undertake to thrash out or settle any jurisdictional problems in this bill, if we did proceed with it, because of the lateness of the hour. I wanted to give the distinguished gentleman from Texas my own viewpoint.

I would also like to acknowledge at this time the tremendous contributions made by two of our colleagues who are not present here at this moment. Mr. Gibbons, the chairman of the Oversight Subcommittee of the Ways and Means Committee, has greatly contributed to the cause of pension reform, in his service on the Ways and Means Committee, and prior to that, on the Education and Labor Committee.

And of course, my dear friend, John Dent, the chairman of the Labor Standards Subcommittee, who is not feeling well and is at home in Pennsylvania today, has tremendously and expertly contributed to the cause of pension reform over the years, including the termination insurance program which we are now discussing.

Mr. PICKLE. Mr. Speaker, will the gentleman yield further?

Mr. LOTT. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, for the purpose of clarification, is it true that the House passed a concurrent resolution, House Concurrent Resolution 369, which approved a single-employer premium rate of $2.25, and an additional measure, H.R. 9378, which postponed the date for automatic coverage of multiemployer plans, and that those two issues were joined over in the Senate in one bill?

Mr. PERKINS. Yes.

Mr. PICKLE. It comes back to us from the Senate with both measures merged in a single bill, H.R. 9378, which was only referred to the Committee on Education and Labor here.

Mr. PERKINS. Let me assure the gentleman from Texas that under no circumstances would we state that we had sole jurisdiction over the House concurrent resolution which was attached to the Senate bill.

Mr. PICKLE. We also agree with the gentleman that they share responsibility and that the legislation is needed.

Mr. PERKINS. Absolutely. And I agree with the gentleman on that.

Mr. PICKLE. I just want to be certain that we are not establishing precedent, that that portion of ERISA, title IV I believe, it is refers to PBGC, that the Committee on Ways and Means has a very definite responsibility, and we are not by this legislation in any way decreasing our jurisdiction.

Mr. PERKINS. I agree with the gentleman on that, and I believe we will share that jurisdiction in the future, on all resolutions which would approve proposed premium rate increases, while the Committee on Education and Labor would retain exclusive jurisdiction over the balance of title IV of ERISA.

Mr. LOTT. Mr. Speaker, first of all, is there an emergency? Does the gentleman feel that this needs to be done at this time in order to prevent a very difficult situation with these pension plans between now and the first of next year?

Mr. PICKLE. Yes, we determined it is an emergency. We need this in connection with termination insurance. I think it is a most regrettable situation we are faced with today, because the situation that we have now, on December 7, 1977, is no different, basically, than it was in July, 1977. The members of the PBGC's board of directors should have made a recommendation to this body long ago, with reference to the amount of a proper premium, and the reasons for a premium increase. They were slow in doing it. Nevertheless, we do have plans that may be going under. Because of that, we need to increase the premiums. Therefore, there is a need to pass the legislation.

Mr. LOTT. Mr. Speaker, my next question is: To the best of the gentleman's knowledge, do the employers who will have to pay this increase from $1 to $2.60 agree that this needs to be done, and are they willing to go along with it?

Mr. PICKLE. There is no question that the bill will cost employers more money, but for a typical employer with 10 employees in a pension plan the increase from $1.00 to $2.60 per participant raises the premium to $26. That means, per year, just $16 more. That would not be a problem to the average employer. Of course, for the big plans, the costs will be greater, but there is no disagreement that the premium needs to be raised.

Mr. LOTT. In view of the colloquy with the distinguished Chairman of the Committee on Education and Labor, does the gentleman support this resolution (H. Res. 930)?

Mr. PICKLE. I will reply to the gentleman that I will support it. I do not like to establish a question of jurisdiction by saying we are not establishing a precedent and then passing a bill.

I think that is a rather poor way to go about this. However, we have a situation that is of rather an emergency nature. I think the legislation needs to be passed. This may be the last opportunity we may have to do it, and I hope we will agree to this resolution.

Mr. LOTT. Mr. Speaker, we are going to do something here to establish precedents on the question of jurisdiction, but we are saying that we are not establishing a jurisdictional question.

Mr. PICKLE. That is correct.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I join in urging the passage of this resolution. It is particularly needed to protect the pension rights of people all over the United States, and I associate myself with the remarks of the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. Perkins).

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SEVENTY-FIFTH ANNIVERSARY OF MANNED FLIGHT AND CENTRAL NEW YORK-LOCATED INSURANCE CO.

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, I would like to take a moment to share with my colleagues the story of an anniversary about to take place in my home community.

In a recent report to policy owners, John F. X. Mannion, president of Unity Mutual Life Insurance Co., observed,

> Unity Life and Aviation were born in the same year—1903. How different our world is today! In 1907, Unity's entire bill for postage, telephone and freight was $31.43. Today, we spend over $125 a day for telephone service alone.

Need we mention the progress of aviation?

The year 1978 will mark the 75th anniversary of the technological breakthrough of manned flight and of the central New York-located insurance company. Though obviously unrelated, the insurance company and aviation both grew up, in a sense, with the country. Both were born at a time when American life was still placid, when life revolved in a small circle around home and work and church, when the average family income was $1,500 per year, when the trolley was the fanciest form of transportation for most, and when saving for old age or having insurance was a luxury only for the rich.

The shatteringly profound effects of industrial technology in transportation, communications and manufacturing and scientific advances in medicine and research were just about to be felt in 1903 when the Wright Brothers got their "motorized kite" to fly at Kitty Hawk, and eight businessmen in Syracuse formed a partly fraternal-partly insurance organization "for beneficiaries in case of sickness, disability or death. Also for the purpose of providing money to insureds on attaining their expectancy in years."

Both events were to have effects far beyond their original significance. One, worldwide and now into space, the other, regional, but affecting thousands and thousands of families in the Northeastern United States.

As family income increased through industrial mechanization, Unity offered a means of saving and insurance protection to more and more wage earners in central New York through World War I and into the 1920s, evolving with the national economy, adapting its services to the changing economic circumstances of its market.

The company issued its first life insurance policy in 1923. That policy was part of a "Prosperity Club" plan which included both life insurance and a savings account, in a mutual savings bank. Within 18 months, more than 6,000 of these policies, whose average face value was $1,000, were issued. It was this plan, coupled with the expansion in 1934 into the coverage of children, which fully established Unity as an insurance company. Assets of Unity prior to the "Prosperity Club" plan were $30,000. In 1977, they total more than $59 million.

What Unity has demonstrated in reaching its 75th anniversary in such a sound financial condition is that a business founded within a given socioeconomic structure can, by adapting to a changing economy, by remaining flexible in its administrative policies and by stressing fundamental customer service, succeed in a marketplace of increasing complexity.

In 1903, the office was a $15-a-month room in an old opera house, serving essentially eight people. Unity Life today occupies gleaming new quarters in a campus-like setting overlooking the city of Syracuse. From this home office, 110 people conduct business in 15 States and the District of Columbia, where Unity Life is licensed.

As President John Mannion noted in recalling the common year of beginning for Unity Life and aviation, "How different our world is now."

GUILT BY ASSOCIATION

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, in the last week of October, I was the subject of a speculative newsstory, sources undetermined, which alleged that I had "leaked" information concerning a South Korean KCIA agent who had defected from their government service.

I have noted with interest an article in yesterday's Washington Post claiming that "the Federal grand jury that began investigating South Korean influence-buying in Congress ended its 18-month term yesterday with the unusual step of presenting a secret report." According to the Post, the 2-page report was critical of me.

However, the story goes on to report that the grand jury did not see fit to indict me for any crime, and "prosecutors told the grand jury that there was not enough evidence to support a criminal indictment of Derwinski." This comes as no surprise to me.

I have no way of knowing whether such a report was issued, but if so, I find it interesting that a grand jury, which has been spending 18 months presumably investigating alleged South Korean influence-buying in Congress—of which I have never been accused by the grand jury or anybody else to my knowledge—ends up issuing only a 2-page statement, and apparently only critical of me, and having little if anything to do with the original purpose of the investigation.

Why have I been singled out? Is it because I am a Republican and believe firmly that we should suport the Republic of Korea as the best bulwark against Communist aggression from North Korea?

Who caused the grand jury to write a report on me? And who leaked the existence of this secret report to the Washington Post, and why?

You may recall that my name first came up in a story that was leaked to the Wall Street Journal in October from "senior officials of the government." Is it possible that these same officials, overcome by frustration, have now resorted to causing a "report" to be made and its existence leaked to the press, all for the purpose of confusing the public into believing there is a Republican involved in the so-called Korean scandal?

Since it is my practice to maintain close and friendly personal ties with members of the South Korean Parliament and officials of that country, have I become a bad guy in a black hat? A few weeks ago I had a long and friendly visit with a major official of an Eastern European Communist government. Under present Washington standards, does this make me the good guy in a white hat?

Mr. Speaker, it is obvious that there is a guilt by association act being played out in Washington, and any Member who vigorously supports our alliance with South Korea is automatically suspect. While I am not aware that any Member has publicly endorsed the North Korean Government, if someone would, it would probably be called an act of statesmanship.

Now, returning to the point of my statement, I wish to advise the House that my attorney yesterday requested the court to investigate the planting of this story which may be in violation of Federal law and the secrecy rules of the grand jury. When and if there is anything I can report on this development, I will do so.

GROWTH VERSUS NO GROWTH

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. REGULA. Mr. Speaker, I have begun speaking out on what I regard as a dangerous trend underlying our national public policy. The trend is toward ever slower economic growth; and if it continues, then we can expect to end up at no-growth, or—worse yet—minus-growth as in Sweden or Great Britain. We have embarked on this path unwittingly and in my view it is imperative that we initiate a national dialog on whether this country wishes to trade in its historic high-growth—and the benefits flowing therefrom—for slow-growth or even nongrowth.

When the question is put that way, I can think of nobody who would opt for slow-growth or no-growth. But it is not that simple. We seem to be failing to perceive how well intentioned discrete public policies—each one aimed at a meritorious social goal—is exacting an economic price in ever slower growth. What we are doing in sum, when one views of the totality of our efforts, is putting an ever greater burden on the diminishing growth part of our economy to pay for the swelling non-growth part of our economy.

You say that I am an alarmist? You say that we are too ingenious and energetic a Nation to commit the kind of economic folly that Great Britain or Sweden did? You say that Americans are too sensible to demand social benefits beyond their ability to pay for them? Well, I ask you to look at the recent explosion of Federal regulations, most of them now aimed at social goals like cleaner air, cleaner water, less noise, greater job safety, greater product safety, and so on.

These regulations have very worthy social goals—which I support as do my constituents—but they are not costless; and we pay those costs in slower economic growth, fewer jobs, and diminishing capital investment. For example, EPA's regulations alone, and this is according to their own estimates, will cost the economy an additional $40 billion per year by 1984.

What concerns me is not EPA's regulations per se, but the exponential rate of growth of all regulations. When we endorse an incremental form of Government action, we are looking at the particular, and thinking it deserving—which it probably is, but we are not looking at the sum and asking the price. Look at the sum. The Federal Government is imposing on our society more than 10,000 new regulations each year, and many of these regulations flow from the infant regulatory agencies that we have created in just the 1970's. Just think, agencies like EPA, and OSHA, and the Consumer Product Safety Commission are only babies in point of time but they already are household words. The recent action by OSHA in eliminating 1,100 nitpicking regulations is a ray of hope in an otherwise dismal landscape.

What we need as an implicit guide to national policy—a commonsense common denominator if you please—is a pragmatic awareness that the price of achieving a discrete social goal through Government action is reckoned in slower economic growth. Such an awareness does not mean that we should not do things which we decide that we want, but it does mean that if we do one thing, then we have diminished our capability to do something else. We should be aware of that. Great Britain and Sweden—all socially homogeneous countries with great human talents and strong democratic traditions—failed to develop that awareness and as a result drained their economic prosperity. I do not want that to happen here.

PEARL HARBOR 1977

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. SCHULZE. Mr. Speaker, I would like to ask my colleagues to pause for a moment today to reflect on the significance of this date. December 7 is not only a date which will live in infamy, but a date during which each American who was alive at that time can remember exactly what he or she was doing when the news of Pearl Harbor was flashed across the airwaves.

That attack was the inception of a struggle in which many of the Members of this Chamber and the citizens which we represent committed their lives and resources. The reasons for making such a commitment were clear to all. The United States had been attacked; our social and economic system had to be sustained.

I submit that 36 years later the United States has yet again fallen under attack. As in 1941, our social and economic system must be maintained. It is my hope that the Members of this body are willing to commit their efforts and a small part of their resources to repulse the assault from abroad.

The attack of which I speak is, of course, economic. The source is the same today as it was on December 7, 1941. One has only to consider the trade figures for the preceding month to realize how extensively our defenses have been breached. In the month of November, this Nation imported $3 billion more than we exported. In large part these were; Japanese televisions, Japanese automobiles, Japanese watches and most of all, Japanese steel.

The interrelationships of international trade are complex, but the impact of Japanese steel products on our country is simple and clear. Americans are losing their jobs.

It is a characteristic of Japanese industry that once an employee is hired, he or she will generally not be let go in slack periods. There are no layoffs in Japan. One of the results of this fact is that there is overproduction, particularly in the manufacture of steel and steel products.

This excess is commonly sent to the United States for sale. The idea is not necessarily to make a profit, for frequently this steel is sold below the cost of production. It is sold at a loss because the Japanese believe it is more important to keep their factories and employees working. They can do this because their factories are, at present, more efficient than our own and our import laws permit it.

It is in response to this new and equally destructive attack that we Americans must defend ourselves. We must close the door to steel which is dumped on our shores and simultaneously give our domestic steel producers time to modernize and regain their competitive position.

The alternatives are potentially as devastating as they were in 1941. Thousands of steel workers are already unemployed. Others will follow. The balance-of-payments problem and the inflation which it fuels will persist and grow worse. The casualties of this action will be those unemployed and perhaps those who failed to take the necessary defensive measures. The social and political ramifications of this trend are incalculable and threaten our economy and standard of living.

It is for these reasons that I ask the Members of this body to respond as immediately and forcefully to foreign economic assault in 1977 as we did to foreign military attack in 1941.

U.S. INTELLIGENCE ACTIVITIES ARE INDISPENSABLE TO OUR FREEDOM

The SPEAKER pro tempore (Mr. DAN DANIEL). Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 60 minutes.

Mr. RUDD. Mr. Speaker, for the past 4 years our Nation's intelligence agencies—particularly the Central Intelligence Agency—have been buffeted by a concerted attack against their activities.

We have all witnessed the unreasonable media attacks, the tell-it-all books by former CIA agents who have joined the other side and the congressional inquiries into alleged abuses of power.

Some of the criticism of official intelligence gathering activities has come from well-meaning but naive people who have recoiled at clandestine intelligence operations because they apparently do not recognize or accept the idea that the free world is still involved in a 24-hour-a-day war against Communist expansionism and subversion, in all its guises, throughout the world.

However, the main thrust of the attack against our intelligence community itself has been launched by ideological opponents of U.S. foreign policy over the years—particularly commitment to oppose and wherever possible to stop Communist expansionism.

These critics are mainly from the intellectual community, the media, the arts, and from the political world.

Some of them are ideological allies and supporters of Communist expansionism, who realize that an important victory for their leftist cause would be the decimation and ultimate destruction of U.S. intelligence activities—brought on by a piecemeal chipping away at the credibility, and security of intelligence gathering operations and the morale of the entire intelligence community.

Obviously, any ill-considered action by the President, administration official, Congress, or anyone else that contributes to this attack against our intelligence activities contributes to the overall strategy of our leftist ideological enemies.

Mr. Speaker, I would include in this category of ill-considered actions President Carter's decision last June to abolish the Foreign Intelligence Advisory Review Board, which provided the President with a wide range of top-level counsel on intelligence activities and problems, as well as acting as a important watchdog over intelligence operations.

I would include the administration's decision to bring charges against former CIA Director Richard Helms, for his proper refusal to give Congress secret information about covert intelligence activities in a foreign country—as well as U.S. District Judge Barrington Parker's intemperate and injudicious statements to Helms at the time of his trial.

I would also include Admiral Stanfield Turner's recent sweeping purge of at least eight top CIA station chiefs around the world—a highly questionable action that it is reported could result in the elimination of 1,000 of the CIA's important covert intelligence branch.

Mr. Speaker, through the great wisdom of President Harry Truman, then NATO Commander Dwight D. Eisenhower, and the Congress in 1947, all covert U.S. intelligence operations were entrusted to a Central Intelligence Service.

This Intelligence Service—now the CIA—was excluded from policymaking for the very good reason that it could then avoid, to the greatest extent possible, the bending of facts obtained through intelligence to suit a particular prejudice.

The world expansionist objectives of the Soviet Union, Communist China, and other Communist nations have not changed since the CIA was established to supplement the overt intelligence collection work of the State and Defense Departments.

Behind the iron and bamboo curtains still lie vast areas cut off and secreted from the rest of the world, where major military, technical, industrial, and nuclear installations exist, comprising the backbone of Communist power and threat against the free world.

These secret denied areas of the world are the major targets of CIA activities. It is from these areas that Communist plans and operations are spawned to implement Soviet and Communist Chinese warmaking intentions, as well as their supposedly "peaceful" political intentions.

The Soviet Union has raised the art of espionage to an unprecedented height, while developing the collateral techniques of subversion and deception into a formidable political instrument of attack. These are the techniques used by Soviet satellite regimes—such as Castro's Cuba—throughout Latin America and against the United States.

These grand scale operations, in support of overall Soviet policies of subversion and takeover go on in times of so-called thaw and under the guise of coexistence with the same determination and vigor as in times of acute crisis.

Our intelligence operations have a major share of the task of neutralizing such hostile activities which present a common danger to us and to our allies.

Obviously the CIA's highly specialized and successful covert intelligence operations are essential to penetrate the security barriers of the Communist bloc. Our intelligence service must also maintain a constant watch in every part of the world, regardless of what is occupying the attention of diplomats and military people at any certain time since our vital national interests and those of our allies are subject to attack at any place in the world.

Several decades ago, no one would have predicted the events in Korea, Cuba, Southeast Asia, and Africa, where Communist insurgents have maintained an unremitting juggernaut to impose their will and their power upon peoples throughout the world.

Yet all these places have assumed grave importance to the United States and in our foreign policy.

It is impossible to predict where the next danger spot may develop. And it is the duty of our intelligence community to remain constantly alert, collect data, and to forewarn of such dangers wherever they may crop up.

Our allies depend upon a strong and effective U.S. intelligence effort and leadership in this area in order to recognize and counter threats to our individual and collective security.

All of us who are realists recognize that we are not "at peace," and can never be at peace with Communist regimes that have declared war on our people's freedoms and our system of government.

These Communist regimes constitute a closed, conspiratorial, police-dominated bloc of nations. As a major hostile force alined against the non-Communist world, these regimes ultimately depend upon the destruction of our own ability to be forewarned of their subversive activities or of their surprise attacks anywhere in the world, at the time and place of their choosing.

Mr. Speaker, I believe that it is time for individual Members of Congress and for the Congress itself to reaffirm our support for a strong and effective Central Intelligence Service.

As the most immediate elected representatives of the people at the Federal level, Congress must take the lead to stop the destructive chipping away at the security, and credibility of our Nation's intelligence activities, and the morale of our intelligence community.

This means that Congress must take steps to vigilantly reaffirm the vital need for and positive worth of all types of intelligence gathering operations by our Central Intelligence Service.

We must work to improve and responsibly prevent abuses of power by the Central Intelligence Agency and other intelligence agencies of the Federal Government.

We must work to discredit the ideologically motivated and masochistic attacks against the CIA and other intelligence operations by zealous extremists of the left and self-serving critics whose motives are not the improvement of our national security.

We must oversee intelligence activities and safeguard information about intelligence operations and data with the highest possible degree of security and confidentiality. Every effort must be made by Congress and individual Members of Congress to crack down against dangerous and sometimes purposeful leaks of highly sensitive intelligence information—both from the executive branch of Government as well as from our own committees or carelessness of Members of Congress and their staffs.

We must recognize the limits of Congress in reviewing and overseeing intelligence operations. Our job is to insure against abuses of power and to guarantee the integrity and confidentiality of all intelligence operations and information that come to our attention—not to second-guess our professional intelligence operatives over every action taken in the performance of their war-time functions, for they are always acting under the rules of war.

And we must work with responsible elements of the professional news media to find appropriate legislative means within our constitutional framework to prevent the unnecessary publication of intelligence information that is valuable to our enemies, and to deal more effectively with leaks from the executive branch of government.

Mr. Speaker, my purpose in taking this special order today is to start a frank, responsible, and worthwhile dialog on this subject of supporting and improving our Central Intelligence Service—and to challenge those in our society who are hell-bent on the destruction of any meaningful U.S. intelligence operation.

I believe that most Americans still share the view of former CIA Director Allen Dulles, who declared in 1963 when the CIA was unfairly under attack following the political mistakes of the Bay of Pigs operation:

> It is not our intelligence organization which threatens our liberties. The danger is rather that we will not be adequately informed of the perils which face us. If we have more Cubas, if non-Communist countries which are today in jeopardy are further weakened, then we could well be isolated and our liberties, too, could be in jeopardy.
>
> The military threat in the nuclear missile age is well understood, and we are rightly spending billions to counter it. We must similarly deal with all aspects of the invisible war, Khrushchev's wars of liberation, the subversive threats orchestrated by the Soviet Communist Party with all its ramifications and fronts, supported by espionage. The last thing we can afford to do today is to put our intelligence in chains. Its protective and informative role is indispensible in an era of unique and continuing danger.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. STEERS) is recognized for 5 minutes.

Mr. STEERS. Mr. Speaker, yesterday, December 6, 1977, I was unavoidably detained and was, therefore, unable to vote on the preferential motion offered by Congressman ADDABBO that the House recede and concur in the Senate amendment No. 29 to H.R. 9375. This motion would have continued the program of last year that had the Federal Government provide assistance to those who are adversely affected by increasing utility costs due to a severe winter.

Had I been present, I would have voted in favor of the preferential motion.

LACKAWANNA COUNTY CONSERVATION DISTRICT RECEIVES "TOP NATIONAL AWARD" OF KEEP AMERICA BEAUTIFUL ORGANIZATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, I would like to bring to the attention of my colleagues a singular accolade that has been bestowed on the Lackawanna County Conservation District in my congressional district in Pennsylvania.

They have received the top national award of the Keep America Beautiful Organization, Inc. (KAB) for the second successive year. Besides this, their entry has been enrolled in the KAB President's Society, the most prestigious honor of the organization. Only 12 States have ever received this commendation since its inception in 1973 and this is a first for the State of Pennsylvania. To be eligible for this honor a group must have received a first place national award during the past 3 years. Competition nationally for this honor was very keen.

Most of the work performed under the successful project was done by the youth of seven local schools under the guidance of the district's youth activities committee cochairmen, Sister M. Laurence of Marywood and George Shepuk, district director, and the project coordinator, Sylvester Kazmerski. Other conservation district officials to be named for their efforts are: Kenneth Seamans, William Lange, Norman Miller, Ray Harris, Glenn Miller, Edward J. Zipay, and Dolores Matthews.

Over 52,000 evergreens, flowering shrubs, and plants had been planted in open spaces throughout the county as well as the planting of 1,700 petunias in sidewalk containers in downtown Scranton.

I am very proud to represent a district where concern for the physical appearance of an area is a united effort. I believe it is a credit to the Keep America Beautiful organization and the local organizers but more importantly to the youth who have placed the Lackawanna County Conservation District in an environmental Hall of Fame through their voluntary efforts.

GUARANTEES FOR HANDICAPPED PARKING RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. PURSELL) is recognized for 5 minutes.

Mr. PURSELL. Mr. Speaker, earlier this year, the Committee on Science and Technology, of which I am a member, published a report made to the committee by the Panel on Research Programs

To Aid the Handicapped. One of the major findings of the panel was that there is very little being done to evaluate the service or equipment needs of the handicapped. Furthermore, it was found that the economic investment in research and development for the handicapped is too miniscule to cope with the scope of potential benefits and needs.

The findings of this panel may surprise the average citizen, who has experienced a growing awareness of problems encountered by the handicapped in recent years. While it is evident that our scientific and technological resources are not being utilized to their full potential in this area, I think the real tragedy is that many of us fall far short of what we can do personally to help handicapped persons enjoy fuller, more complete lives.

One very simple way in which we can all participate personally is by helping to make ambulation a little easier for the handicapped. Many units of Government have taken action toward this goal, such as providing convenient, reserved parking spaces for the handicapped. Unfortunately, handicapped parking privileges are often abused by nonhandicapped people. This abuse is unfortunate and sad, but there are constructive methods we can use to insure the rights of the handicapped.

My own State of Michigan has recently enacted a law which makes it a misdemeanor for nonhandicapped persons to park in those spaces reserved for the handicapped on public and private property. The Michigan secretary of state's office has indicated that handicapped persons in Michigan are participating in this new law as the number of applications for the necessary identification for handicapper's vehicles has risen dramatically. In my own district, law enforcement officials have publicly stated that they intend to enforce this law fully. I applaud Michigan's efforts in this regard.

My interest in the problems of the handicapped, coupled with the success of the new Michigan law, has led me to develop legislation of a similar nature at the Federal level. Today then, I am introducing a bill, based on the Michigan law, which instructs each State to establish a system of identification of motor vehicles used by handicapped individuals, and penalties for improper use of parking spaces reserved for handicapped persons. Each State which does not already have such a law would be required to enact one, based on Federal guidelines, within 2 years of enactment of my bill. This bill does not mandate that a State provide parking spaces for the handicapped—it simply insures that those spaces which are provided are protected by law, whether on private or public property.

This is a small way of making the lives of handicapped persons fuller and more complete. However, it is a way in which everyone can participate and that is very important. Our awareness of the problems of the handicapped needs to grow and this is certainly one seed to help make it grow.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN of Tennessee. Mr. Speaker, yesterday, Tuesday, December 6, 1977, I was present and recorded as answering the quorum call No. 760 at the opening of the House. A short time thereafter, on rollcall No. 761, the CONGRESSIONAL RECORD indicates that I was among those not voting. I did not leave the Chamber during this entire time, was present and voted "yea" with my electronic card. For some reason the electronic system did not receive or record my vote. This issue passed by a vote of 357 to 0, however, I include this statement as part of the record of proceeding of the House of Representatives.

As a matter of information, on rollcall No. 762, I was properly recorded present and voting.

MEDICAL EXPENSE TAX CREDIT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 5 minutes.

Mr. MARTIN. Mr. Speaker, I am today introducing the Medical Expense Tax Credit Act. This bill, similar to the one that I introduced in the last Congress, is a catastrophic health care program operating through the Tax Code. If enacted, it will insure that no American family, or individual, should be financially wiped out by medical expenses.

The Medical Expense Tax Credit Act—or, acronymically speaking, METCA—provides a refundable tax credit of 85 percent of medical expenses which exceed 15 percent of one's modified adjusted gross income, and a 100-percent credit when out-of-pocket expenses exceed 25 percent of AGI, as modified. By way of explanation because I am tossing in a new concept, the modification to adjusted gross income is the addition of the untaxed half of capital gains and of otherwise tax free State and local bond interest and the subtraction of personal exemptions.

We have all heard the horror stories about medically induced financial disasters put forward as justifications for $50 and $100 billion womb-to-tomb health care, and comprehensive national health insurance programs. All these horror stories revolve around typical wage earner families being wiped out by $10,000 and $20,000 medical bills. METCA would take care of those situations by guaranteeing that a family of four with income of $10,000 could not possibly be stuck with more than $1,750 in bills in a year for any combination of doctors, hospitals, psychiatrists, health insurance premiums, chiropractors, or dentists. The cost is shockingly low: $3.7 billion.

This bill contains no provision for a new bureaucracy to provide new guidelines and new regulations. The basic principle is that an expense which today, under the Internal Revenue Code, is deductible, would, tomorrow under METCA, be an expense eligible for the METCA credit. Neither does the bill provide any new cost containment provisions. It relies on the most effective of all possible inducements to consumers' and providers' sticking to the straight and narrow: the implicit threat of an IRS audit. If we need additional cost containment under METCA, then we can add it. Frankly, if we leave METCA's policing to the IRS, I doubt we will have the need of very much legislation along the lines of what we have had to do vis-a-vis medicare and medicaid this year.

I do not presume to suggest that this latest version of METCA is the ultimate answer to America's health care needs. I do suggest, however, that it is an affordable alternative to proposals which would get the government into the management of medicine and bankrupt the Treasury in the process. It is my belief that we have an obligation to solve the problems highlighted in the stories about the horrors of unmanageable medical expenses. Usually, these horror stories involve people who fall between the cracks of existing private and public programs: the people who are uninsurable, who are between jobs (and thus between group plans), the people who could, but did not sign up for insurance they were eligible for and could afford, and some few cases of pure flukes.

METCA does leave on the shoulders of the individual a fairly significant responsibility for his own care. In and of itself, it provides no "first dollar" coverage. It does not say to the individual, "You can spend as much time in the cozy doctor's office as you want and Uncle Sam will pay for it." It says, instead "You have a responsibility to budget for medical, hospital, and dental expenses just like you have a responsibility to budget for rent and food, and the result of your failure to budget for any will be the same. But, you can be sure that you will never, under any wild circumstances, ever have to budget more than 20 or 25 percent of your income for any combination of health care costs." I believe this is a very fair bargain to offer a responsible public.

THE DEATH OF STEPHEN BIKO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MATTOX) is recognized for 5 minutes.

Mr. MATTOX. Mr. Speaker, on August 18 of this year a man—engaged not in crimes, but in civics—was arrested and held without charge. We are told it had something to do with pamphlets, that is, the expression of ideas. The weak and poor use pamphlets while rich and powerful people can disseminate their ideas through declarations or official acts. This man's freedom was taken away under provisions of an official act.

He was kept in confinement for 26 days, naked and chained to his cell most of the time. If giving someone the shirt off your back expresses optimum regard, then taking the shirt off another can express optimum contempt.

During his imprisonment he was denied access to anyone who might look after his interests, including, as it was, his interest in being alive.

On the final day of his life, then in a critical condition, he was subjected to a 750-mile automobile ride. At the end of it, still naked and shackled, he was placed in another cell. Given no medical attention, there he died.

The same authority which had arrested and imprisoned him, then provided for an official inquest to determine who had been responsible for his extinction. Medical people reported that his brain, that is, the main part of him used for expressing ideas, had been rendered inoperative, which then caused his life to vanish from this world altogether. "Severe brain injuries resulting in kidney failure," they said, had caused his death.

At the end of the official inquest, the magistrate ruled that the authority which had taken away this man's freedom, nevertheless, was not responsible for taking away his life, the magistrate speaking as the duly appointed officer of the, in effect, self-exonerating government.

Stephen Biko, the man who died, was a threat to the current Government of South Africa. His death is an outrage, because, rather than correct the conditions which makes that country vulnerable, the government chose to suppress the voices of conscience. The conditions which brought this death about cry out for the strongest condemnation by the international community.

"Let every man make known what kind of government would command his respect," said Thoreau, "and that will be one step toward obtaining it." The minimum requirement for a government to be respected is that it not destroy people because of their political or religious convictions. Killing those who express their convictions courageously is a weak act of barbaric paranoia, in South Africa's case, the paranoia of racism.

It is fortunate that the mechanism of martyrdom will cause us to have a closer look at the conditions of Stephen Biko's death. It can be seen more clearly than ever that if the prosperity of South African whites can only be maintained by the suppression of blacks, such prosperity is based on a total poverty of the spirit.

The first congressional representatives of the United States spoke of grievances and oppressions, the power of self-evident truths and the unalienable rights of all people. In 1776 they pledged their lives to defend those rights and appealed to the world for help.

It is easier today for us to speak of human freedom; in our country personal liberty is not so threatened, nor does the simple act of speaking in support of human dignity and universal sufferage jeopardize our safety. But now there are others who appeal to us for help. Are we listening? Do we care?

It was Martin Luther King, Jr. who said, "injustice anywhere is a threat to justice everywhere."

AMBASSADOR YOUNG'S CRITICISM OF RHODESIAN PRIME MINISTER SMITH'S INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. ICHORD) is recognized for 10 minutes.

Mr. ICHORD. Mr. Speaker, for some time now I have attempted to convey to this body my concern for the situation in Rhodesia or Zimbabwe. I have expressed concern regarding the folly of U.S. policy based on biased intelligence, misinformation and ignorance and have attempted to insure that the actions of this body not have a destabilizing effect on the internal affairs of Zimbabwe.

We have had a number of opportunities to encourage an internal solution and promote stability, yet by a narrow margin we have elected the other course. Such was the case in the authorization and appropriation of funds for a South African Special Requirement Fund.

Now I personally find the epitome of ignorance displayed in Ambassador Andrew Young's public reaction to Prime Minister Ian Smith's announced willingness to hold one-man, one-vote elections in Rhodesia. Such a reaction to a peace initiative, particularly coming on the heels of the praise heaped on President Sadat, appears incredulous.

Young's criticism of the Smith initiative focuses on nonrecognition of rebel elements outside Zimbabwe and the fact that Smith, through his proposed course of action, would attempt to protect the rights of the white minority.

If our Ambassador to the U.N. is really interested in promoting world peace he certainly must recognize why externally based, Marxist supported rebels cannot be given a role in the transition process. These forces represent a minority of the Zimbabwe people and are dedicated to forcing their will on the majority by militant means. Andrew Young's statements serve only to promote and advocate open rebellion. Such a stance, with the obvious resulting bloodshed is incomprehensible. Unfortunately, I must therefore challenge Ambassador Young's motives and his qualifications.

He would have you believe that if these outside rebel groups are not included in the transition process, fighting will be intensified. While this may ultimately happen, and I pray that it does not, it would appear that the putting down of such rebel activity should be a function of the duly elected majority Government of Zimbabwe. The potential to do so certainly exists. The Karangas, a part of the Mashona, who constitute 80 percent of the black population of Zimbabwe, also constitute over 60 percent of the Rhodesian Army. Such a force would certainly be loyal to a duly elected majority ruler and dedicated to the maintenance of peace.

Ambassador Young's other criticism addresses Prime Minister Smith's efforts to protect the rights of the white minority. In this country, blacks are dedicated to protection of their rights as a minority—why then is it so surprising that Smith would have similar goals in Rhodesia. Does the color of one's skin or relative numbers change an individual's quest to protect his rights—I think not.

The whites in Zimbabwe have not merely exploited the blacks as some would have you believe, they have contributed to the advancement of the blacks in areas of business and economics, in education, in medicine, etc. The state of Zimbabwe today is a result of white leadership and the joint labor of both blacks and whites together. The white minority of Zimbabwe has an investment in the heritage of Zimbabwe, just as the blacks in this country have an investment in America. Both investments deserve to be protected.

In conclusion, I would say that Ambassador Young's reaction to the Smith initiative is contrary to fostering peace in Zimbabwe, is contrary to our attempts to promote a transition to majority rule, is destabilizing, and advocates rebellion and will increase bloodshed both black and white. I do not believe that this body nor the American people should countenance such a position contrary to American and Zimbabwe interests on the part of our Ambassador to the United Nations.

Mr. Speaker, I insert a related article from the Columbia (Mo.) Daily Tribune entitled "Rhodesia's Smith: Joining the Peace Making Parade" be inserted in the RECORD at this point and would encourage my colleagues to join in applauding the initiatives of Prime Minister Smith as it has the efforts of President Sadat in the Middle East.

RHODESIA'S SMITH JOINING THE PEACE-MAKING PARADE

It's almost as if Rhodesian Prime Minister Ian Smith wanted to upstage Egyptian President Anwar Sadat.

Last week Sadat made a dramatic trip to Israel in search of peace, a move that hardly anyone would have predicted as late as the day before it was announced. Then, not to be outdone, Smith last Thursday offered to hold one-man, one-vote elections in Rhodesia, a turn of events that, if consummated, would surely lead his country to the black majority rule he has opposed for so long.

As in the Arab-Israeli situation, there is much that will have to happen before the millenium comes in Rhodesia. But for the country's leader to make such a move in the direction of universal adult suffrage when his white constituency is outnumbered 25 to 1 is quite an event, indeed.

Not surprisingly, our excessively loquacious ambassador to the United Nations, Andrew Young, took the occasion to condemn Smith, saying the prime minister's offer was a deceit that, if anything, would intensify the fighting. Young has a point in that the offer falls short of what the most militant black groups want, because the prime minister coupled his offer with a suggestion for protecting the white minority after a black government takes over. And, to offer another possible explanation for his outburst, Young is probably reacting in part because he is a black man commmenting on a black-white struggle.

But, in our view, Young should have acted more responsibly. As U.N. ambassador, he should have taken a more positive tone, using that context to explain (if he had to at the very moment of initial reaction) the shortcomings of the Smith plan. Instead, Young acted like a representative of the most militant guerrillas in Rhodesia—too partisan for a third-party official to act. In his job as U.N.

representative, Young should be a national official first and a black man second. It's little wonder Prime Minister Smith has been reluctant to accept Ambassador Young's peace plan. Young's manner would make it hard even if the plan might provide an element in eventual progress. Young should grow up a bit.

Smith seemed to have the same reaction as that of Sadat and Israeli Prime Minister Begin; he would just as soon handle his own peace-making efforts as have the United States mixed up in it. In a twisted-about way, perhaps the poor job the U.S. has done of getting antagonists together has worked toward peace. The embattled parties may subconsciously think they had better do something on their own before we screw things up royally for them.

The last American envoy, Henry Kissinger, was better at this sort of thing. He shuttled about, trying to solve one problem at a time, avoiding overt, simple-minded criticism of the type Young too often lets forth. It's likely that Kissinger's work has had much to do with encouraging leaders like Begin, Sadat and Smith closer to the peace table.

Despite Young's potshots from the side and the Rhodesian extremists' diatribe, Smith's dramatic announcement can only bring the nation closer to peace. The moderate black factions there have said it provides a new basis for trying to work out a deal, and they are willing to sit down right away with the government to talk about it. This turn of events should be enough to cause the guerillas and others to stop killing each other while they see what happens.

The militants have an answer for this, of course. They say Smith is only trying to buy time and that the only way to bring "justice" in Rhodesia is to intensify the fighting. This attitude offers only one avenue to governmental reform, one that is swimming in blood.

ILYA S. GINZBURG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, today I am participating in the project coordinated by Congressman DRINAN on behalf of Soviet Jews who have been thwarted in their attempts to leave the Soviet Union. I feel it is important to make known our concern about the Soviet Union's violation of basic liberties that are the subject of the Helsinki Agreement and the Universal Declaration of Human Rights.

I would like to bring to the attention of my colleagues the case of Ilya S. Ginzburg. Mr. Ginzburg is a 39-year-old engineer from Leningrad. Before applying for an exit visa in 1971, he worked on the design of electronic apparatus. He is now employed in a low-paying, menial job. His wife, Eleanora, immediately lost her job as a teacher upon application for an exit visa, and was never able to find another.

The Ginzburg family made the decision to emigrate to Israel in 1971. At that time, Ilya's 78-year old father and his brother were granted exit visas, but Ilya's application was denied because of the nature of his job. He was told that he would be permitted to leave Russia 5 years after leaving the secret project. These 5 years have now elapsed. During this time the Ginzburgs have been forced to subsist on the pittance Ilya makes each month. Their hope has been that the Soviet officials would keep their word in granting the exit visas.

In February 1975, Ilya's father applied through the International Red Cross to be reunited with his son. The request was sent to the Soviet Red Cross and then forwarded to OVIR, the visa office in Leningrad. In May 1975, these officials told Ilya of his father's Red Cross request. They maintained that Ilya's own visa application had been sitting too long, and since he had not reapplied himself, he was no longer considered an applicant, or, in Russian terms, a "refusenik." Simultaneously, officials sent a message to the International Red Cross that there was no Ilya Ginzburg in their files.

In October of 1976, Mr. Salman Ginzburg, Ilya's father, wrote from Israel:

> I am 83 years old now, and won't be able to wait for my son much longer. My fervent hopes for the success of your generous enterprise come with this letter.

Mr. Samuel I. Horowitz of Minnesota has provided me with the following letter from Ilya, which he obtained during a recent visit to the Soviet Union. The contents follow below:

> SEPTEMBER 16, 1977.
>
> Representative DONALD FRASER,
> *Subcommittee on International Organizations, Washington, D.C.*
>
> DEAR REPRESENTATIVE DONALD FRASER: I am a Russian Jew, one of the thousands who want to live in Israel, on my land, promised me by God with my father and brother.
>
> I haven't been working for 6 years in so called "secret work".
>
> My father, Solomon Ginsburg, 84 years old dreams to live with us. He sees his granddaughter at night in his dreams and writes us to hurry because he is old and everyday in waiting is hard for him.
>
> According (to) the International Human Rights (agreements) nobody should prevent us to reunite.
>
> Please help us to be together with my family.
>
> Sincerely yours,
> ILYA GINSBURG,
> *Parkhomenko 42, Apt. 78,*
> *Leningrad 194021 U.S.S.R.*

It is my hope that with the support of this Congress, Ilya and Eleanor Ginzburg, and many others like them, will be able to realize their basic human rights as guaranteed by the Helsinki Agreement.

THE PRODUCT LIABILITY TAX RELIEF ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, as you may know, the Subcommitte on Capital, Investment and Business Opportunities, of which I am chairman, has been conducting a most extensive investigation into the problem many small businesses are experiencing in the availability and affordability of product liability insurance. In fact, because of their inability to obtain this insurance at reasonable cost, many firms are going "naked".

As a result of these problems, there is an immediate need for congressional action. While the subcommittee is in the process of preparing a report and comprehensive legislation affecting the entire area of product liability insurance, both of which I intend to have prepared when we next meet in January, it is important to get a viable interim measure before the House to alleviate these difficulties as expeditiously as possible.

Accordingly, I have introduced today the Product Liability Tax Relief Act of 1977. While this bill is conceptually similar to others in that it creates a tax deduction for self-insuring against contingent product liability claims, it is nevertheless significantly different in several important respects.

The bill permits a taxpayer to deduct cash amounts contributed to a trust, the purpose of which is to provide payment for product liability claims. The effect of this is to enable the taxpayer to self-insure against these claims with pretax dollars. The definition of product liability includes all circumstances under which there may be exposure.

As the trust is tax exempt, there is no tax liability so long as these funds are used to satisfy product liability claims (including expenses of investigation and administration of claims).

The bill contains a variety of provisions the effect of which will be to eliminate all tax avoidance potential of this new product liability trust concept. This is done by limiting contributions to those made in cash, by limiting the amount of the deduction, by providing that trust funds can revert to the taxpayer only upon the cessation of the trade or business, and by the imposition of excise taxes for tax avoidance transactions.

I urge all Members to support this much-needed measure so that it may benefit American businesses experiencing product liability problems as soon as possible.

ECONOMIC IMPACT STATEMENT FOR GOVERNMENT REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, today I am introducing a bill which would amend the Administrative Procedures Act to require the preparation and development of economic impact analyses for all rules and regulations required to be published in the Federal Register. These economic impact statements would also be published in the Federal Register. They would include a detailed analysis and discussion of the impact the regulation would have on the economy.

I consider this legislation to be a vital part of the many pieces of regulatory reform legislation pending before this Congress. We have all heard many horror stories about the direct and indirect cost to the American people of Government regulations. I most recently received a copy of a letter to the President from a small businessman in Georgia regarding the economic effect Government regulations have had on his business. The letter started out with the statement, "You win! I quit!" This small businessman was driven out of business by the costs of complying with Government regulations and filling out Government reports. His 29 employees are now out of a job.

The regulatory agencies promulgate rules and regulations which have significant economic impact upon those persons and businesses required to comply, but there is no requirement for a systematic analysis of the potential direct or indirect economic effect of those rules and regulations. Regulations should only be promulgated after an analysis of whether the benefits to be derived from the proposed rule would exceed any negative economic impact.

Mr. Speaker, I am not introducing this legislation so that, if enacted, it could be passed over with a simple sentence such as, "There would be no adverse economic impact from implementing this proposed regulation." My bill requires a detailed analysis that would address the cost impact of the regulation on consumers, businesses, markets, and Federal, State, and local governments. It would deal with the estimated cost of implementing, monitoring, and enforcing the rule by the agency, the effect of the rule on employment and the fiscal effects of any predicted increase in unemployment if the analysis so indicates, the effect of the rule on competition and on supplies of important products and services, and the effect of the rule on productivity of wage earners, businesses, and Government. It would also require the alternatives that were considered by the agency to the proposed rule, to be published along with a finding as to why the alternatives were not proposed.

I notice that President Carter in his Executive order "Improving Government Regulations" published in the November 18 Federal Register, endorsed this concept of regulatory economic impact analyses. I see no reason why, then, that this legislation would not be made part of the statutory requirements for promulgating regulations. This would insure that such analyses are accomplished and available to Congress and the public. It would also insure that future administrations would not be able to change this policy.

This legislation would go far to improving the public's confidence in its Government because it would make that Government better. I urge my colleagues to support this proposal.

SOCIAL SECURITY FINANCING: TIME TO TALK GENERAL REVENUES

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

Mr. REUSS. Mr. Speaker, we are faced with a desperate need to overhaul the financing of our social security system. For more than 2 years, the media have pointed out the financial difficulties facing the social security trust fund. There is no question that the system is in trouble. A sharp decline in the birth rate, steady increases in the level of benefits, and a severe recession, coupled with a slow recovery, threaten to push the trust fund deep into deficit over the next decade.

The financial health of the social security system is of immediate importance to millions of retired people and provides the retirement base for almost the entire American work force. There is not a man or woman in this Chamber who has not felt hometown concern about secure retirement income.

In meeting the future needs of the social security system the Congress could move in a number of directions. Tax rates could be increased as could the amount of income subject to the social security tax. Benefits could be readjusted. The system could be broadened to bring in more affluent workers. Or the Congress could turn to general revenues and the progressive income tax to bear part of the retirement burden.

In fact, the Congress considered moving in almost all these directions at once. The House-passed version of the social security financing bill included small increases in social security tax rates, coupled with sharp increases in the amount of income subject to the tax. The so-called "double indexing" problem was also eliminated, so that benefits would no longer rise more rapidly than the cost of living.

The Senate approach also relied largely on the traditional payroll tax. Compared to the House bill, the Senate put somewhat more weight on higher tax rates, and somewhat less emphasis on a rising tax base. The Senate did depart from an historical pattern. From the inception of the social security program, employees and employers have paid social security taxes in equal proportion. The Senate broke with that practice by proposing to put more of the new tax burden on the employer.

Mr. Speaker, I know well that the bill now in conference has not been the product of a hasty process. Demographic studies and statistical analyses preceded congressional action. But if we accept the conference report as now being written, we will be asking the country to pay a needlessly high price for retirement security.

By continuing to rely on the payroll tax, we are exacerbating an already serious unemployment problem, threatening an often anemic recovery, courting more inflation, and doing little to alleviate the inequities of a regressive tax. Worse—the obvious alternative of general revenue financing has been shunted aside, only to reappear as a backdoor salvation for expected economic difficulties. It is time we walked directly to the right solution, rather than engaging in this social policy two-step.

There are almost 7 million Americans still looking for work they cannot find. Despite that staggering figure, we have persisted in using payroll taxes to finance unemployment compensation as well as social security. Higher costs for labor discourage hiring, accelerate the adoption of laborsaving machinery, and even influence the future course of technological innovation.

Nor can we ignore the inflationary implications of higher payroll taxes. Not only will the impact of higher payroll taxes ripple through an increasingly indexed economy. Worse, the future schedule of increases will be part of the public record for all to see and incorporate in their future pricing decisions.

Dare we ignore the future course of the recovery? An expected slowing in early calendar 1978 could turn into recession by 1979 unless corrective action is taken next year. In any case, a tax increase is not indicated. With one eye on the recovery and another on the prospect of sharply rising social security taxes, the administration has already begun to talk about a $20 billion tax cut next year to keep the workingman whole and the economy running smoothly.

What is so striking about all this is that general revenues are kept hovering in the background to ameliorate the bad effects of rising payroll taxes. In a very real sense, the Senate approach has already brought general revenues into the social security system through the side door. Putting a greater burden on corporate employers, the Senate has indirectly increased business deductions, and therefore, reduced the corporate tax liability of most corporations. Social security trust funds go up and general revenues go down. It looks like general revenue financing, but apparently the indirect rise has a sweeter smell for the Senate.

The administration proposal for a 1978 tax cut is basicaly more of the same. Social security trust funds are to be increased with payroll taxes, while general revenues are to go down in order to repair some of the inequities of payroll taxes and to avoid any fiscal drag on the economy. The effect will be a general mismatch of benefits and losses. And even if this economic balancing act manages to offset some of the worst effects of the payroll tax rise, the burden that the rise places on workers and their employers will not so easily be lifted. Payroll costs will still go up, and the proinflation, antiemployment effects of that increase will still be with us.

What we should have done, and should still do, is to turn directly to general revenues to help finance the social security system. If we turn to the progressive income tax, we lessen the dependence on regressive payroll taxes, avoid inflationary pressures, encourage employment, and pose no threat to the recovery.

There are, however, two arguments raised against the use of general revenues. The first suggests that without the discipline of the payroll tax-trust fund approach, there would be no limit on the amount of general revenues allocated to retirement income. Not at all. Trust funds and special taxes are the exception, not the rule, in the Federal budget. We do not rely on a defense trust fund or space trust fund to restrain expenditures. With the advent of the Budget Control Act and a new sense of congressional power and responsibility, the Congress has never been better prepared to talk intelligently about how much money should go where.

The second argument strikes deeper and sounds a responsive chord in most of us. If we turn to general revenues, are we formally admitting that social security has become another welfare program? I have wrestled with this thought myself—but I have decided no.

What social security has become for people is their basic retirement plan.

I see it more and more as society's version of the gold watch for a lifetime of work and service. The program was never designed to get you rich, but rather to get you by. Social security payments already ignore differences in an individual's lifetime earnings. And in breaking the direct link between past earnings and retirement income, society also ignores the vagaries of bad luck, the unexpected illness, the crippling accident, as well as good fortune and health. The past generation carried other burdens, including part of the retirement costs of those that preceded them. We can and should talk about how much children and grandchildren should pay for their parents and grandparents. But to say that society will see that every elderly person has a certain minimum retirement income just does not sound like welfare to me.

Mr. Speaker, I realize that the political pressures for the proposed payroll taxes are great. And we must take some action quickly. But if, in the face of the augury of inflation and unemployment, we enact in haste a payroll tax increase, we will almost surely repent at leisure. We should postpone final action on social security until the new session. And before we consider the social security system again, I ask my colleagues to take a long and hard look at general revenue financing.

The great industrial countries of Europe have for almost a century used general revenues for this purpose. It is time that we did, too. To paraphrase the old hymn:

It was good enough for Bismarck,
  It was good for old Disraeli,
It was good for Georges Clemenceau,
  And it's good for you and me!

FIRST SESSION WRAP-UP—95TH CONGRESS

(Mr. RHODES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RHODES. Mr. Speaker, the best Christmas present the 95th Congress could give the American taxpayer is to adjourn. Unfortunately, the Democratic leadership continues to force a year-end compromise on a bad energy bill in order to save face for President Carter. This "in-again, out-again" ending is par for the course and fits right in with the inconsistent performance of the 95th Congress.

The usual end of session accounting to the public reflects the fact that, as usual, the musclebound majority in Congress is excessively long on promise and woefully short on performance. Even the length of the report filed by Democratic Whip JOHN BRADEMAS cannot disguise the onerous tax increases and questionable legislation the majority has engineered through the House.

The Democrats wax eloquent in favor of reducing unemployment and then pass a bill raising the minimum wage, despite strong evidence that it would increase unemployment among the lower bracket wage earners, blacks and young people. The Democrats speak of reducing inflation and the burden of government on the "little guy" and then pass an energy bill in the House that will cost the average family of four $2,000 in new taxes over the next 8 years.

On the other hand, we Republicans have been hard at work developing and offering positive programs in such critical areas as energy and social security that we believe will provide long-term solutions without imposing undue costs or further burdening American citizens with governmental redtape. Following my remarks is a summary of the major Republican initiatives this session.

A more detailed and cogent analysis of this session of Congress has been prepared for the Republican leadership by Congressman BILL FRENZEL, chairman of the Republican Research Committee. Our synopsis is not intended as a response to the Democrats' summary, but rather is designed to present a more balanced and objective perspective. I do not intend to repeat Congressman FRENZEL's first-rate effort here, but I would like to offer a few observations on what I believe the 95th Congress has done, particularly to the American taxpayer.

In the field of taxation, President Carter set the stage with his campaign promise that he would "never increase taxes for the working people of our country and the lower and middle income groups." Yet his legislative technicians in this Democrat-dominated House have passed social security and energy legislation that will raise the effective tax burden on all American taxpayers by more than 80 percent in the next 4 years. That would amount to an additional $1,000 in taxes each year over the next 4 years for every taxpaying family. On the basis of total tax receipts, the Democrats would increase tax revenues from $299 billion in 1976 to $590 billion in 1981—an increase of more than 97 percent in just 5 years.

At the same time, the Democrats have rejected five efforts by House Republicans to cut Federal income taxes. When the Republican leadership mounted a strong initiative in October behind legislation to cut personal income taxes by an average of 33 percent, and corporate taxes by 3 percent, it was stoutly opposed by the Democratic Chairman of the Appropriations and Ways and Means Committees. Now we are hearing noises that a tax cut may be in order—not to improve the economy, but merely to compensate for President Carter's proposed increases in "other" taxes. In other words, the Government will take with one hand and give with the other, while keeping a bit for itself, unfortunately, to pay for the effort involved.

On the economic front, the measures proposed and passed are simply going to raise costs without improving productivity. The Democrats' flip-flop economic policy continues to depress the stock market and shackle the economy, forcing it to limp along in low gear. I have already mentioned the minimum wage bill, which will not reduce unemployment one iota, but will raise costs to business and threaten many small businesses. The massive Democratic jobs stimulus program in the public sector has produced few tangible jobs and contributes to Federal spending that has driven the national debt to a new high of $700 billion. The inflationary impact of continued Federal spending is tremendous, with the result that business investment and expansion suffers, jobs are not created in the private sector and our economy remains sluggish.

President Carter promised to balance the budget by 1981. Federal spending continues at record levels and shows no signs of being controlled by either the President or Congress. If the budget is to be balanced, it could only happen by increasing taxes. Perhaps the Democrat-dominated Congress is taking the first steps along that road with the new social security and energy tax proposals.

In the field of energy, Congress remains deadlocked over a critical question: Do we accept the pessimistic notion advanced by this administration and House Democrats that there are no more energy resources to be tapped and that we must simply allocate the energy shortages? Or, as Republicans believe, do we try to solve the energy crisis by turning loose American technological know-how to explore and develop new sources of energy?

The enormous taxes sought by Mr. Carter and the House Democratic leadership will not produce 1 additional gallon of gasoline or heating fuel, and they will fall most heavily on those least able to absorb these new costs. That is one gift I think American families can do without this holiday season.

What the Democrats are doing speaks so loudly it drowns out what they are promising. The public will not be fooled and the 95th Congress will be known for what it is and for how deep it has reached into the pockets of American taxpayers.

The summary of major Republican initiatives in this session follows:

MAJOR REPUBLICAN LEGISLATIVE INITIATIVES: 1ST SESSION, 95TH CONGRESS

ENERGY POLICY

The Republicans unveiled a complete substitute for the Administration's confused National Energy Act. Whereas the Carter Plan assumes that more energy cannot be found, seeks to discourage demand and allocate shortage, the Republican plan would increase domestic production, reduce consumption, and pare down the imports of foreign oil. In offering its proposal, the GOP sought to deal with our energy crunch in a practical way by recognizing that the era of cheap energy is over. Yet, Republicans refuse to agree to the Democrats' "no growth" policy and believe that our national energy policy should foster economic growth and need not end our improving standard of living. The Republican alternative called for increased production of oil and natural gas while remaining committed to cleaning up the environment. The Republican policy broke new legislative ground by proposing that trust funds be set up (to be financed by a tax on crude oil) for: (1) mass transit, (2) development of synthetic fuels, and (3) highway maintenance.

SOCIAL SECURITY FINANCING

The GOP has proposed a 15-point program that places an ailing system on a solid financial basis for the next 75 years while eliminating many of its present inequities. The highlights of the GOP Program are: (1) decoupling the present system of over-indexing benefits; (2) eliminating the earnings limitation by Social Security recipients, and; (3) requiring no new taxes until at least 1982, and then only a modest 1¼ percent increase over the remainder of the 75 years.

TAX POLICY AND TAXPAYER RELIEF

The Republican minority introduced a sweeping array of tax measures to revitalize the American economy. At the same time, the GOP proposals would ease the burden on the individual taxpayer through: (1) a hefty across-the-board tax cut on all personal income taxes; (2) an end to the double taxation of corporate dividends, and; (3) tax reductions for small businesses.

HOUSE ETHICS REFORM

The Republican Membership demanded full public accountability for many of the more questionable practices of the House. Highlights of the GOP ethics reform proposals include: (1) institution of an auditing authority to guard against abuses; (2) full disclosure of expenditure records by House Members, and; (3) democratizing House procedures via bans on proxy voting, revamped committee jurisdictions, and a restriction on closed rules.

REVISION OF CIVIL RIGHTS LEGISLATION

The GOP addressed the crazy quilt tangle of 47-odd statutes and executive orders with a single comprehensive statute eliminating existing duplication and inconsistencies. Republicans also advocated streamlining the present onerous and complicated reporting requirements.

FOOD STAMP REFORM

During the First Session, the GOP offered comprehensive reforms of the Nation's exorbitant Food Stamp Program. The central elements of the proposal would: (1) provide a greater incentive to purchase a nutritionally adequate diet; (2) enable the government to recover excess benefits disbursed, and; (3) permit the states and localities to establish "work-fare" programs for able-bodied food stamp recipients.

ILLEGAL ALIEN CONTROL

Republicans pushed vigorously for legislation controlling the influx of illegal aliens across our borders. The GOP Program called for: (1) strengthening the border patrol; (2) mandating strict identification procedures for all prospective employees and welfare recipients, and; (3) providing increased penalties for anyone who knowingly hires an illegal alien.

The GOP can look upon its contributions in the 1st Session with a sense of satisfaction at having proposed sound solutions to some of the Nation's most pressing problems.

INDEXING THE INCOME TAX

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, President Carter will shortly propose and Congress will consider the first change in our basic personal income tax structure since the Kennedy-Johnson tax cut enacted in 1964. There have been tax reductions since that time, but they have taken the form of changes in exemptions, credits, and the standard deduction. The tax "brackets," establishing marginal tax rates, have remained unaltered.

If we are now to have this most welcome tax reduction, including a change in the tax brackets, it seems to me that the time has come to make a major philosophical breakthrough and to start to index the personal income tax against inflation. This has major merit on several counts.

First, there is the matter of equity. At present, as we all know, most persons whose wages or other income manage to keep up with inflation still are losers in terms of real disposable income because they move into higher tax brackets. This is perhaps the most insidious of the "thefts" that inflation imposes.

Second, there is the matter of sound macroeconomic policy. Inflation exacerbates the "fiscal drag" that is already inherent in a progressive income tax. Fiscal policy becomes more restrictive whether or not we want it to because the Government's "take" from the economy rises more rapidly than income. Sometimes a restrictive fiscal policy makes sense, essentially when total demand is excessive. But we have learned to our sorrow that the economy can and does have inflation—rising prices—even when demand is far from excessive and unemployment is high. It makes no sense in these conditions to make fiscal policy more restrictive, but an unadjusted tax system does precisely that. Indexation would keep the tax system neutral in this regard, with discretionary changes still available as needed to meet conditions of excess or deficient demand.

Third, there is the matter of the Government's share. One of our deepest philosophical debates is over how large should be the share of Government spending in the total economy. I do not intend to enter that debate today. But what is beyond dispute is that in a period of persistent inflation, given a progressive personal income tax, the Government's share will inexorably rise unless something is done. Once again, indexing will prevent such an unintended and unplanned result. If we decide after full debate to raise the Government's share, it will be with our eyes open.

By way of further information, it is interesting to note that Canada has in place a successful system of indexing the personal income tax to inflation, and it is in no way the cause of the present economic difficulties of that country. As an additional tax reduction just announced by the Finance Minister reveals, indexation does not preclude discretionary changes as needed to meet the requirements of the economy or to reflect a curb on the growth of Government spending.

In Canada indexation is based upon the increase in the consumer price index over a 12-month period and covers what in our terms would be called the personal exemption and the standard deduction and also the tax brackets established in the basic law. It is a thorough indexation so that each taxpayer whose income exactly keeps pace with inflation pays the same portion of that income in Federal personal income tax as before.

I am not convinced that we need indexation as complete as that in Canada. In our system, three variables are involved: The personal exemption—which may be converted into a tax credit in the new tax reduction bill—the standard deduction, and the tax brackets. Preliminary research suggests that, on the basis of present tax law, indexation limited to the exemption and the standard deduction would accomplish most of the task of keeping taxpayers "whole" without changing the tax brackets every year.

Mr. Speaker, I am not introducing legislation at this time to accomplish indexation of the income tax because I am aware that the President's proposals will necessitate a revision of the tax structure, including a possible conversion of the exemption into a flat credit. At the appropriate time, I expect to introduce the necessary legislation, possibly to take effect only after the basic tax reductions to be proposed are fully in effect a year or two in the future. I hope that many of my colleagues will agree with me that the time has come for this fundamental change.

BOY SCOUT TROOP NO. 1283 OF BOWIE, MD.

(Mrs. SPELLMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. SPELLMAN. Mr. Speaker, the attainment of the rank of Eagle Scout represents years of commitment, tenacity, and an unwavering desire on the part of a young man. A sincere and deep belief in Scouting is the propelling force which motivates and sustains his seeking this highest level of Scouting, and all aspirants deserve our sincerest respect and recognition for striving for those high principles and goals.

The long, and arduous road to the pinnacle is never traveled alone, and certainly that is true in Scouting programs. Parents, teachers, friends, and Scout leaders all impart wisdom, offer encouragement, and extend helping hands. Without such support, the road would be longer and far more difficult to traverse.

For the first time in the history of Scouting in Prince George's County, Md., five Scouts in one troop successfully and concurrently completed the requirements for the Eagle Scout badge. The awards were conferred in Bowie, their home town, during the Court of Honor, sponsored by Boy Scout Troop No. 1283, Cresthill Baptist Church. I am exceedingly proud of the unique accomplishments of these Scouts and their leaders, and thus, am anxious to have you, my colleagues, share with me in recognizing them.

David Allen, who was born in Cheverly, Maryland, on July 21, 1962, is now a resident of Bowie. He attended Meadowbrook Elementary, serving on the student council before entering Samuel Ogle Junior High. While at Samuel Ogle, David excelled in track, setting two records—one in the mile relay and the other in the 880 yard run. He also pursued an interest in music which he continues this year at Bowie Senior High, where he is a member of the marching band. David played baseball and basketball for the Boys Club, making the all star team in 1974, and last year played on their 140 pounds football team, being named runner-up for most valuable player. He is an active participant in his church group, and entered senior Scouting by joining the Cresthill Baptist Church Troop No. 1283. David's background, interest and hard work have resulted in his progress up the Scouting ladder to the Eagle rank.

Michael H. Atkinson, a resident of Bowie, Md., was born June 23, 1963, in Boulder, Colo. He first entered Scouting as a third grader at Chapel Forge Elementary School, and joined Troop No. 1283 in 1974, progressing up the ranks to Eagle Scout, and is presently in Leadership Corps. His Eagle project was recognized in a city proclamation personally presented by the mayor of Bowie. He has earned 10 skill awards and 26 merit badges. Mike, a young man of many talents, is an avid sportsman. He has earned the mile swim, completed the Washington-Lee Trail, the Presidential Trail and the Gettysburg Trail, is an outstanding soccer player in the Bowie Soccer Association, and an accomplished rifleman. Mike was selected to attend the Science and Technology Center at Eleanor Roosevelt Senior High School, where he is an honors student. Reaching the rank of Eagle Scout is yet another achievement for this talented young man.

Richard Michael Brandon, Jr., was born in Washington, D.C., on April 27, 1961, and became a resident of Bowie in 1969. At the age of 8, he joined the Cub Scouts, and at 11 became a member of Boy Scout Troop No. 1283, working his way through the ranks to Eagle. Mike is an avid camper and partook in the Canadian Adventure in 1975 and a recent Western Trip. In junior high school, Mike became interested in collecting stamps and coins, and enjoys these hobbies today. He plays clarinet in the Bowie High School Marching Band, and is now in his junior year. He is interested in the sciences, in particular astronomy and electronics, and hopes to make his career in one of these fields. His father, the troop's dynamic leader, has, I know, inspired and encouraged Mike to seek the highest rank of Scouting.

Jonathan C. Burbee was born in Exeter, N.H., on May 8, 1963, and became a resident of Bowie in 1971. He attended Meadowbrook Elementary and is currently a student at Samuel Ogle Junior High School. In 1972, Jon entered Cub Scouts, progressing on to Boy Scout Troop No. 1283 in 1974. He has earned 40 merit badges, completing his requirements for Eagle in July of this year. He is a member of the Order of the Arrow. At Samuel Ogle Junior High, Jon is an honor roll student and a member of the drama club. He is a confirmed member of St. James Episcopal Church and is president of the youth group.

Jon's plans include a college education, with a major in architecture or engineering. To be sure, the honor of reaching the Eagle rank is an outstanding accomplishment for the Scout. In this case, I know the strength of the family and the guidance and love of the parents have provided a strong far-reaching positive influence. Clark and Sally Burbee, and Muffie, too, are just that kind of family, and I salute them for their commitment to community and to their Jon.

Lavid Latzko was born in Mount Holly, N.J., on July 2, 1963, and first came to Maryland when he was 1 month old. He started in Scouting with newly formed Cub Scout Troop No. 1701 of Chapel Forge in 1971, and in 1974 joined Scout Troop No. 1283. His formal education progressed from kindergarten, through Chapel Forge Elementary and Samuel Ogle Junior High School, where he was an honor student. At present, David is in the ninth grade at the Science and Technology Center of Eleanor Roosevelt Senior High School, a superior institution where admission is mostly limited to students passing tough competitive entrance examinations. He is a member of the Diplomacy Club, is active in sports, including baseball, basketball, soccer, and tennis, and is an avid beer can and stamp collector. The discipline which enabled David to become an Eagle Scout will greatly enhance his likelihood of achieving the medical career he has chosen for himself.

Mr. Speaker, these few words inadequately express the months and years of disciplined efforts our five Eagle Scouts expended to reach their goal. They suffered discouragement, but were uplifted by those who cared; they experienced disappointment, but returned to try again. Through reassurances and support, they survived anxiety and distress, and ultimately triumphed because of determination and inner strength. I know my colleagues join me in recognizing these fine examples of American youth and send them our heartiest congratulations for a job exceedingly well done.

ARMISTICE/VETERANS DAY CEREMONY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on November 11 each year the town of Surfside, in my congressional district, has a stirring, patriotic ceremony. I know of no municipality or community which more constantly honors our Nation's dead and provides appropriate ceremonies to commemorate our patriotic obligations than the town of Surfside. For many years I have been honored to participate in various patriotic events which this progressive and beautiful municipality has provided. Another stirring occasion at Surfside was November 11 of this year when I again was privileged to participate. The outstanding address made on that occasion was made by the very distinguished and eloquent mayor of Surfside, a very dear friend of mine, the Honorable Sam Brenner. On a similar occasion Mayor Brenner made an eloquent address which I inserted in the CONGRESSIONAL RECORD, because of the breadth and scope, as well as the moving beauty, of what he said. On November 11 of this year, Mayor Brenner made another outstanding address in which he not only calls upon us to honor our heroic dead but he movingly inspires us, as a duty to our honored dead, to do all in our power to establish institutions to keep the peace, which would save the lives of those who would die in war. We need more emphasis upon adequate preparedness and peace-serving institutions in our patriotic addresses. It is with a great deal of pleasure that I ask that Mayor Brenner's outstanding address on November 11 of this year be incorporated following these remarks in the body of the RECORD.

ARMISTICE/VETERANS DAY ADDRESS

We, of this small community of Surfside, Florida, are gathered here before the open sky with our hearts bared to the heavens on this Armistice/Veterans Day to pay tribute to our dead who fought in that First World War, which was the war to end all wars.

How useless does that all seem now! Instead of ending wars, wars have accelerated themselves into greater and more destructive conflicts and they rejuvenate themselves constantly.

Why are we here again? Armistice Day has almost lost its meaning, yet, the dream of Woodrow Wilson keeps coming alive and tries to resurrect itself many times. Remembering that the dream died because there were no teeth in the League of Nations, it is frightening to think that after all these years, there are no teeth in our United Nations either.

Besides remembering our dead we are bothered by the greatest disturbing question since time began. From the chaos of the present how can we create world order which could end all wars and for which all of us so intensely yearn?

Again, I must cry out in pain that we can no longer live in a world where nations are wild beasts roaming the jungles of nationalism. We must clear the jungles and tame the wild beasts. I will shout that out to my dying day or until some form of lasting peace shall inherit the earth. Who dares to say we cannot live side by side with our neighboring nations? And who dares to say we need not bring the spectre of world holocaust before our eyes when it grows more imminent day by day?

As we pay tribute to these men of world war one, and to all veterans, let us also pay tribute to the memory of Woodrow Wilson, their leader, for his was the dream of peace for which these men fought and died. The dream of Woodrow Wilson lies embedded in their bones. Where is that peace for which they fought? Our duty and obligation to that dream began the moment these men died. There must be something more to their dying than just the preservation of old ideas, but also for the building of new ones, and for the dreams men dream. Men do not fight only to preserve the ideas of the past, but to improve the present and to idealize the future. There is always an innate hope in the soldier that something new and better will evolve from his supreme sacrifice. From that, the dream of Woodrow Wilson and the League of Nations was born. Today, if we grow bold with the same courage these men displayed, we could be but a short time away from having the dream come true in its real essence and meaning.

Oddly enough, at this moment in history, I believe Israel finds itself in the position of probably holding the magic key to man's destiny in the successful attainment of a just world order.

The United Nations is making demands upon Israel to desist from establishing new settlements in certain areas and return some territories to the Arabs.

If I were Israel I would use their demands to make some demands of my own.

If I were Israel I would insist upon the implementation of a new blueprint for a just world order which would guarantee security and protection for all nations before I'd give up an inch of territory.

Would we in America advise our country to give up any land needed for our protection for which American lives were lost or blood was shed? Would we not solidify our gains? Our enemies are thousands of miles away! How can we have the hypocrisy to expect Israel to give back territories which were the bases for attacks against them or not to solidify their gains when Israel's enemies are ringed all about them and only several miles away?

If I were Israel I would ask of the United Nations, "were you the innocent victims who were rounded up and slaughtered like sheep as the Jews were in World War Two? And you ask us not to fortify our gains for our own protection? Why? Will you protect us? What right do you have to tell Israel to let her guard down? Israel was duped and chloroformed before and will not be anesthesized again." How can the world justify the price Israel has had to pay for its existence? Never in the blackest annals of history was there ever a slaughter of such magnitude! And you tell Israel not to fortify its position? Israel has every righteous indignation to spurn your request! Did any of you not protect your gains through the years? What are all of you who sit in the U.N. General Assembly if not the retention and fortification of all your gains throughout the years? What protection will you give Israel? This? This organization where every member nation sits here armed to the teeth like a pack of gangsters and allows itself to be addressed by one who comes before you with a gun in his holster and denies Israel the right to exist! Such a sacrilege you do not even challenge in these sacred halls of alleged peace! How can we rely on you in such a situation?"

If I were Israel I would say, "Yes, we'll give up our gains, we'll desist from fortifying our borders and creating new settlements for that purpose. We'll give it all up if you will give us the assurance that you will protect us as well as protecting all nations by the formation of a heterogeneous peace keeping force, based upon proportionate percentages of your member nations existing fighting forces, sufficiently adequate to keep the peace. And this force must be governed by an impartial world constitution with justice and protection for all nations, regardless of their race, color, creed or form of government. Then there'll be no need for national armaments. That is the only just solution for lasting peace."

"If we see that you can give adequate protection to all nations, then no nation will need to fortify its boundaries. There will be no more boundaries or Maginot Lines as we have known them in the past. Nation's boundaries will come to cease to exist. As should be, they will become invisible lines of demarcation, based upon the cultures and municipalities of what was heretofore nations."

No wind can rustle the leaves as much as mankind's dire need to establish world order can shake the roots of the trees for such a creation.

Oh Israel, insist upon this and as you were led out of bondage, so lead the world out of the recurring scourge of war. And, as is proclaimed in all your parchments, "Hear Oh Israel, the Lord Our God Is One!" So should it also be said, "Hear oh Israel, the world is one!" Then nations will have truly risen to beat their swords into ploughshares. And these men of World War One to whom we pay tribute today can best be remembered and immortalized by this creation of world order, so that they can rest assured that we lifted the torch they passed on to us, that "freedom's light shall never die" and that at long last, these men who march again in our stricken consciences will have won the war to end all wars.

YOUNG MIAMIAN WRITES STIRRING ESSAY ON WHAT IT MEANS TO BE AN AMERICAN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am pleased to be able to call to your attention, and that of our distinguished colleagues, a remarkably talented young person of my area, Miss Renee Reinhardt.

Miss Reinhardt is 17 years old and has shown herself to be an involved, active person, who, far beyond the requirements of high school, deeply cares about our Nation and the people in it. Aside from an eventual law course and aspirations to Government service, her interests range broadly into teaching, drama, and psychology. Miss Reinhardt currently works as a valued and capable intern in my district office in Miami, where she was referred by the Dade County leadership program, and where she has proven a real addition to our regular staff who like her well.

In school, as well, Miss Reinhardt is intensely busy, and the fact that she is vice president of two of Miami Coral Park High's scholastic and service organizations, while belonging to seven other clubs, including the National Honor Society, shows how qualified she is. Needless to say, her grades are standing at a perfect 4.0 average, and she has received numerous performance awards, such as Girl's Nation, Girl's State, letters in track and cross country, and placing first in her school in the VFW Voice of Democracy competition.

It was for that last named competition that she wrote the following, excellent essay, which, I think, might speak for all of us, whose forebears came not long ago to this country to fulfill their own special hopes for success and whom we honor with our gratitude and patriotism as fervent as is Miss Reinhardt's love for our country. I think we all might be interested in this thoughtful and mature essay, which I am inserting at this point in the Record:

Essay by Renee Reinhardt

Taking a trip to a bicentennial city proved to be an extremely beneficial experience. Boston over the Fourth of July is beautiful and has an atmosphere of a slow-moving, congenial carnival. Almost the entire purpose of the journey was to learn about America's beginning and find my roots somewhere in my grandparent's adopted country. Perhaps this progressive age of technology is not quite so detrimental. When else could you find an entire village of houses and artifacts from around the country, 200 years old, except now in a place called Sturbridge Village? Yes, this journey to another world caught my fascination and convinced me to begin to learn about my country and its very essence.

When I stand up every school day at 8:15 and pledge my allegiance to that piece of cotton fabric hanging in the corner—something always touches me. It has become a reassurance to me, now that I am old enough to understand and mean what I am saying. It is something solid to hang onto, and I breathe a silent Amen after my classmates and I finish mumbling our recitation.

In order to understand how I feel about America, you must first understand just a few things about myself. I consider myself a simple person, and according to my standards I do not expect much, but this is what I do want. The right to be ME! The choice to love whom I want to love, believe what I want to believe, and be what I want to be—me! America gives me this. I base everything on what I consider to be the most natural gift of all: individualism in life. Fortunately, I have had no personal experience with communism, but from my reading I have found that it curtails individualism. That is enough to influence me strongly against it. From the moves of the communist powers in history, I believe that if it were not for America, Communism and its subsidiaries would be much more widely spread. America is the balance, and the bulwark of peace.

To me as a person and a citizen, this land offers certain rights which appeal to me in their uniqueness and their freeness. Recently, I watched a news report on television, demonstrating how the Senate "morals" Committee does almost nothing, and, according to off the record comments, functions primarily as a Senate country club, with the advocation of our great and obviously human leaders—the Senate. Now perhaps this report is not totally true, perhaps it *is* rumor and hearsay and scandal. But what I truly marvel at is the sincerity with which our first amendment to the Constitution is meant. Freedom of speech is a way of life to the American people, and they do not expect to hear about any reporter's unfortunate and timely fatal accident.

Another remarkable right, at the risk of being repetitious, was clearly demonstrated in this last election. The worth and importance of just one vote along with the "just plain folks running the government" theory was nicely illustrated.

Which brings us right up to the fact that anyone in this country can ring doorbells for a candidate of their choice and I have the right to listen, no matter what they say, I have the right to listen, then shut my door if I want. I do not have to listen to anyone I do not want to, and I am not withheld from hearing anyone. It is something I have been used to, not even noticing, but little things like this are so inherent in America's working structure, without them this country would be lost.

Another point on individualism: It is obvious to anyone researching almost anything that books and articles do not all reach the same conclusion. I can walk into a library and read ten different viewpoints on a single historical event, and then decide for myself. Make a choice and I treasure that. Each and every American is given the right to free thought, creativity, and original ideas. And this is the vortex of forward movement.

Of course, America is not perfect, she has many faults, but I truly believe she is the best yet. Furthermore, rights are only one side of the coin. We have an enormous responsibility to this benefactor of ours, and that is to take advantage of America's invitation to make the most out of yourself you possibly can. To do your personal best, to serve your country in whatever way you are able. I feel deeply indebted and grateful to America for making me what I am. We have some fantastic abilities; the ability to admit mistakes being foremost in my mind. We are strong enough to put a government official in jail, but also strong enough to show them mercy. We have the ability to improve our country, and the courage to do it. As you can probably tell, America means a great deal to me.

I once read a saying, "Freedom is not the right to do whatever you want to do, it is the right to do as you should do." I guess that, in a nutshell, is what America means to me. But, she is not just a land and a people, she is not only rights and responsibilities, she is not even just a way of life. America is all this, but most of all, she is a dream come true.

NARCOTICS TRAFFICKER NICKY BARNES IS NO LONGER "MR. UNTOUCHABLE"

(Mr. GILMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GILMAN. Mr. Speaker, on December 2, 1977, Leroy (Nicky) Barnes, known among narcotics traffickers as "Mr. Untouchable" and "Mr. Big" because of his ability for avoiding conviction in previous cases against him and for his skill in eluding detection by law enforcement agencies, was found guilty, along with 10 codefendants, after a trial in the U.S. District Court for the Southern District of New York of conspiring to sell more than 40 pounds of heroin a month at an estimated wholesale monthly value of $1 million. His conviction carries a penalty of up to 15 years in prison and a $25,000 fine. Five "chief lieutenants" in the Barnes organization—Steven Baker, Steven Monsanto, John Hatcher, and Joseph Hayden—along with six lower echelon" members—Leon Johnson, James McCoy, Waymin Hines, Walter Centeno, Leonard Rollock, and Wallace Fisher—were also convicted on this conspiracy charge. Guy Fisher, a "chief lieutenant" for Barnes and Wallace Fisher's brother, and two underlings, Gary Saunders and Wayne Sasso, were freed either because of a jury deadlock or an acquittal.

Barnes, regarded as one of Harlem's top narcotics dealers, was also convicted of masterminding a "continuing criminal enterprise" which carries a penalty ranging from 10 years to life in prison. Some authorities estimate that his adept narcotics operation yielded $200 million of income annually from heroin and cocaine trafficking.

The Barnes trial before Federal Judge Henry J. Werker lasted 2 months and the sequestered jury, whose names and addresses remained anonymous for security reasons even to the attorneys on both sides of the case, deliberated for nearly 3 days over the 10,000 page trial transcript.

Robert B. Fiske, Jr., U.S. attorney for the southern district of New York, assisted by Thomas H. Sear and Robert N. Mazur, brilliantly established the Government's case against Barnes and his coconspirators.

Although no date for sentencing has yet been announced, reports indicate that bail for both Barnes and the convicted codefendants has been revoked and that they have been remanded to U.S. marshals.

Mr. Speaker, although there have been some interagency rivalries among Federal, State and local law enforcement agencies, the Nicky Barnes case represents, a concerted effort by these authorities to cooperate and coordinate their activities to bring to trial a major narcotics underworld figure. Our Nation owes these dedicated men and women its heartfelt thanks for a job well done. Without the cooperation and coordination by the Federal Drug Enforcement Administration, headed by its competent Director, Peter Bensinger, the New York City Police Department under the leadership of Commissioner Micheal Codd and his special investigations unit, the Federal task force, headed by DEA's effective Regional Director John Fallon, the New York City prosecutor's office led by Sterling Johnson, a dedicated fighter against Narcotic trafficking and the U.S. attorney's office for the southern district of New York, together with the untold numbers of dedicated law enforcement men and women, Nicky Barnes and his gang would still remain at large and continue to be folk heros among certain segments of the New York City community. Through their diligent efforts, Nicky Barnes is no longer "Mr. Untouchable."

However, our Nation must not be lulled into any sense of complacency and must not permit euphoria to set in. It is obvious that much work remains to be done in busting other narcotics trafficking operations both here and abroad, and there are many other nefarious individuals who are willing and able to replace Barnes once he is incarcerated. But there is no doubt that some progress is being made, Mr. Speaker, and hopefully the narcotics peddlers will come to realize that no one is above the law, that no criminal is "untouchable."

Mr. Speaker, in order to bring the magnitude of Nicky Barnes' organization to the attention of my colleagues and in order to bring some of the problems faced by this Nation's law enforcement agencies into perspective with regard to establishing a case against him, I am inserting at this point in the Record an article entitled "Mr. Untouchable" appearing in the New York Times Magazine of June 7, 1977, by Fred Ferretti. Mr. Ferretti discusses the events that led up to Barnes' indictment in March of this year.

The article follows:

"Mister Untouchable"

(By Fred Ferretti)

(The police say that Nicky Barnes may be Harlem's biggest drug dealer. Now, the Government will try to prove it.)

The apartment might be in Elmhurst or Flatbush, in Riverdale or South Jamaica, in Mount Vernon or Sugar Hill. It really doesn't matter where it is, for as many as 20 or 30 flats are kept permanently rented, locked securely, empty, awaiting the time when one of them becomes a one-night processing mill.

Two men, lieutenants they are called, sit in the apartment watching the women work. There are 15 women, between the ages of 16 and 30, and they are lined up along the sides of a huge sheet of plate glass that, propped up on pieces of furniture, has become a table. The women are naked, to insure that they will not be tempted to conceal any of the powder they are working over. The lieutenants, trusted, dressed, do not even look at the women. Their eyes, like the eyes of the women, are on the small pyramids of white powder heaped on the plate glass.

The women have surgical masks over their noses and mouths so they won't inhale the powder. They make equally sized mounds of the powders in front of them, powders of quinine, lactose, dextrose, a milk sugar called bonita, and almost-pure white heroin. By the ounce they mix heroin with four parts—often five parts—of dilutant, using tiny aluminum measuring spoons. They mix it thoroughly, weigh out 55 grains at a time, then spoon it carefully into glassine envelopes. Each of these envelopes will sell on the street for $70.

It is an all-night task, considering that 10 kilos of heroin are diluted in one evening. Once the cutting is done, "salesmen" or "jobbers," who have been waiting by prearrangement, are telephoned. They arrive at the apartment in gypsy cabs, and they are carrying shopping bags. There is money in the bags, lots of money. They trade the money for the glassine envelopes of cut heroin, called "scrambled eggs." They go back to their waiting cabs and deliver the heroin to a local outlet: a candy store, a bar, a luncheonette, perhaps on Avenue C, or Delancey Street, or somewhere in the Village. There, it is dispensed by street people to addicts, often after the heroin has been cut once again with milk sugar.

In the apartment, the women dress, receive anywhere from $500 to $1,000 apiece for their 16 hours of work and go to their homes, or to their straight jobs.

In those 16 hours, 10 kilos of pure heroin, usually bought from a wholesaler by a trusted representative of one of New York City's major drug dealers for $150,000 ($15,000 a kilo), has become worth about $630,000. For the dealer, the night's expenses have run about $170,000, including the cash fees to the women and their apartment guardians. Thus the dealer has cleared about $460,000 in profits—all in cash—in an operation that he financed, sanctioned and arranged, but in which he had no physical part.

There are very few drug dealers in the city, or in the country for that matter, who can operate at a level involving that much cash. Leroy (Nicky) Barnes, 44, is one such dealer, according to the New York City Police Department's intelligence apparatus, its Special Investigations Unit, the Federal Drug Enforcement Administration and the Unified Intelligence Division, which is a sort of Federal-local crime clearinghouse in Manhattan, staffed with ex-Federal and local police officers.

Barnes is, police say, one of the biggest heroin dealers in the country. In his home base, Harlem, the center of the New York City drug traffic, he is regarded as perhaps the biggest. But he is more than that. To the police, to the drug community and to an extent in the uptown drug-related subculture, Nicky Barnes is a current legend. His appearances, either on the streets or at the stops he makes on his rounds, attract attention; his name alone inspires awe because of a spit-in-your-eye, flamboyant life style that is perceived by the street people as Barnes's way of thumbing his nose at officialdom.

Furthermore, he has not been convicted of any of the charges law-enforcement authorities have brought against him since 1973. Juries have acquitted him. Court cases, often poorly researched or prosecuted too soon because of the publicity attached to the arrest, have often been thrown out on appeal. Evidence thought to be airtight has been disallowed because of poor police procedure. This is not uncommon in narcotics cases or with figures dubbed "major violators" by narcotics detectives. Often the anxiety to arrest and jail an alleged major dealer causes prosecutors to rush to court with cases that lack proper development. Disgruntled law-enforcement authorities feel this combination of haste, of too much awareness of public pressure, and of prosecutors' desire to make names for themselves by jailing someone possessing underworld glamour, has contributed to the failure to put Nicky Barnes in jail. Barnes's lawyer, on the other hand, maintains that Barnes is, unjustly, a target of police and prosecutors "out to make a score."

Whatever the reasons, the failure to make an arrest stick has earned Barnes the street name "Mr. Untouchable." He is not a retiring man. Of medium height, he projects a presence larger than his size. He is muscular and recently shaved the beard he sported for years. He prefers luxurious motor cars and elaborate custom clothing. To the street people, he is a presence. To the police, this symbolic quality is as significant as the crimes they allege he has committed.

To them he embodies the new trend in drug trafficking, in which blacks and Hispanics, the new ethnic successors in organized crime, have taken over from their predecessors, the Italian street gangsters. Nicky Barnes is also important to the Federal Government, which is trying to put him in jail, something the city police have been unable to do recently. On March 16, Barnes and 17 others, including five men closely associated with him, were indicted by the Federal Government for alleged participation in a vast heroin-selling conspiracy. Five days later, President Carter took note of the arrests in a letter to Peter Bensinger, administrator of drug enforcement in the Department of Justice.

"I congratulate you on the culmination of the Drug Enforcement Administration's New York investigation, which resulted in Wednesday's important arrests," the President wrote. Then, after noting that those arrested would be tried and either found guilty or innocent, he wrote that he wanted to thank all of law enforcement for its "tireless, often dangerous hours spent in their efforts to end heroin trafficking here and abroad."

It was the first time that an American President had taken note of Nicky Barnes.

He has a record of 13 arrests dating back to 1950, when he was 18. For more than 10 years, the police have labeled him a "major narcotics violator." They have investigated him and bugged the telephones of his several apartments. He has been put under continual surveillance—at one point, 24 hours a day for eight consecutive months. He has been arrested for narcotics violations, for bribery of a police officer and for murder. His current Federal indictment charges him with conspiracy to violate the narcotics laws and with being the leader of a "criminal enterprise" of more than five people who constituted a drug-selling operation.

He may have the most voluminous file in the records cabinets of the Police Department's Intelligence Section, a file filled with allegations, suppositions, the results of countless surveillances, with confidential reports from street informants, with rumor. At one time his file went by the name of "Operation Slick." The Unified Intelligence Division file is equally stocked, only this agency puts out what it calls "blue books" of crime. Barnes is listed in its "Black Major Violators" book. But he is also to be found in the file labeled "Italian Major Violators"—this in recognition, perhaps, of Barnes' reported ties to Italian sources of narcotics, and to his alleged fondness for patterning himself after what possibly is his conception of the way organized crime, Italian-style, works.

Thus, the files report not only an acquaintance with the late mobster Joey Gallo, who Barnes is said to have met during a 1965 stay in Greenhaven Prison, but a tenuous connection with Carmine Galante, the man police have been publicizing as one of the new leaders of Italian organized crime. They allege that Barnes conducts his business after consultation with some sort of "Council of 12" that he formed in Harlem. The council, the police say, is a group of black drug dealers who meet sporadically to set up distribution territories.

These intelligence sources suggest that Nicky Barnes might have met in Greenwich Village with Joanne Chesimard, a key figure in the Black Liberation Army, and that Patty Hearst, when she was a fugitive, might have met him as well. They suggest that he is somewhat of an organizational genius. The police say that because he has put so many administrative layers between himself and the actual drugs, he has created practically an arrest-proof narcotics operation; even if one of his processing mills is successfully raided, it can't be traced back to him and can't put a crimp in his operations. The intelligence says that Barnes has enormous quantities of uncut heroin stashed at various locations in the New York City area (he was picked up once, police reported with $500,000 worth of drugs in his car).

The files also note the fate of one Reggie Isaacs, a man they identified as a Barnes lieutenant. Isaacs liked to play golf. The police believe he held out on Barnes. He was found dead four years ago, with three bullets in him, on the 18th hole of the Mosholu Golf Course in the Bronx. The police believe Barnes, whom they refer to as "Nick," was implicated in the slaying, but they have never been able to prove it—just as they have been unable to prove Barne's complicity in the slaying of another former intimate, Stanley Morgan, who was shot eight times almost next door to a police station. Morgan, it is said, held out on part of a narcotics cache.

The police say Barnes has, at the very least, one Mercedes-Benz, perhaps more, and a Citroen Maserati, and is surrounded by gaggles of Thunderbirds, Lincoln Continentals and Cadillacs. At various times he has had, they report, apartments in upper Manhattan, Riverdale, Hackensack and across the Hudson in the forest of high rises in Fort Lee.

Ironically, these police intelligence operatives, who keep on watching Nicky Barnes but haven't caught Nicky Barnes, betray a certain grudging admiration for Barnes's life style, a style which is, consistently, wickedly flamboyant, and often humorous. They are professionals admiring a professional, without condoning what they believe him to be. This, for example, is Nick Barnes:

It is just before last Christmas on 126th Street and St. Nicholas Avenue, and Barnes, in what the police say is one of his 300 new suits, wearing one of his 100 pairs of shoes, one of his 50 leather coats, one of his 25 hats—all color-coordinated—is handing out turkeys to the needy with a panache that would do credit to a turn-of-the-century Tammany Hall alderman.

And this is Nicky Barnes:

He is on trial last year for possession of hashish, a sawed-off shotgun, a .25-caliber automatic, a .32-caliber Smith & Wesson revolver, a .32-caliber Clerke revolver and a .38-caliber handgun, a collection police said they found in his upper Manhattan apartment in August, 1973, along with $43,934 in small bills. During an adjournment he goes into a washroom in Criminal Court and sees two narcotics detectives he knows.

He dips his hands under the tap, lifts them up and says to the mirror, "I need a handkerchief. Let's see, is this a handkerchief?" He reaches into a side pocket and pulls out a cylindrical roll of bills. "Oh," he says, "That's not a handkerchief, is it?" and he grins at the two narcs reflected in the mirror.

The wad goes back in his pocket. He reaches into the other side pocket. "Is this a handkerchief here?" and pulls out a duplicate roll. "Now, that isn't a handkerchief either, is it?" he says, and grins again at the two detectives. He shakes his hands dry and walks out of the washroom.

And this is Nicky Barnes:

He'll show the flag evenings in Harlem, checking in at the Shalimar, the Gold Lounge, or Small's and he will be bowed to, nodded to, but not touched. "It's like the Godfather movie," says one detective, "Baaad, Baaad Leroy Brown. . . ."—the song that his fans believe was written for him—will get a steady play on the juke, and Nicky Barnes will wade through his admirers, "being treated like the ——— Pope," a detective says.

And this is Nicky Barnes:

A few months ago, a school for court stenographers advertised in The Law Journal that it was staging a mock trial during which testimony would be taken so that its students could be tested. Nicky Barnes answered the ad, suggesting that he play the part of the "bad guy" on trial. The school did not accept his offer, which is a bit surprising: It would appear that Barnes has almost singlehandedly seen to it that unemployment among court stenographers is kept to an absolute minimum, because of his insistence on having copies of every page of testimony—at $4.50 a page—taken at his many trials.

Which is not all he does. He has all of the testimony and evidence in his trials bound into volumes that he keeps in his apartment. Those portions of the trial record that deal with instances of police surveillance are reproduced and distributed, police say, to his lieutenants as primers on basic security. His lawyer, David Breitbart, calls Barnes a "voracious reader, particularly of the law." Mr. Breitbart said that when Barnes was in Greenhaven Prison he subscribed to 37 different law journals, and "when he sits next to me in court, each issue, each constitutional question, whether it be search or seizure, the admissibility of evidence, is discussed by him with knowledge and thoroughness. I consider him a learned client."

Mr. Breitbart, while refusing comment on Barnes's current indictment, dismissed as ridiculous virtually all of the police intelligence information. The accounts of his client's wardrobe are "pure bull," he says. "My God, the guy's got holes in his shoes." As for his fleet of cars, Mr. Breitbart claims that Barnes "only rents them."

He says that Barnes has repeatedy been "framed" by the police, "ever since he was nominated by the Intelligence Section as a major violator."

Why the frame?

"Budget items," said Mr. Breitbart. "The police have to justify their budgets. The Drug Enforcement Administration has to justify itself to the General Accounting Office. And these are the prosecutors. Each individual prosecutor has a shot at the crown. He's the biggest, they say. So they want their shot. You know, I love the system. It works if it's followed. The trouble is they don't follow the rules."

Mr. Breitbart, who was once a prosecutor in the Bronx District Attorney's office, quit, he said, "so I could earn a living." His firm, Goldberger, Feldman and Breitbart, is a criminal law office made up of former prosecutors. He makes a nice living now, he says, and when he is asked how Nicky Barnes—who Mr. Breitbart says is in the real-estate business—can afford an attorney "who wears a gold watch and a lizard belt, I say I'm a humanitarian. I like causes, I like this cause."

Early in 1973, Nicky Barnes again became a hot item for the police, and a joint investigation by the Police Department's Intelligence Section, the Special Investments Unit—with input from the Manhattan District Attorney's office's Special Narcotics Unit—was aimed at him. From January until August of that year the police were with Nicky Barnes 24 hours a day.

And Barnes knew it.

One of Barnes's cars would pull out of the garage of his building, the police said, and Barnes's wife, Thelma, would be driving while Barnes lay flat on the back seat. The car would speed to the West Side Highway and then careen along at 100 miles an hour. Then it would simply return to the garage, and Barnes and his wife would go back to their apartment. No ticket was ever issued. In any other circumstances, a speeder would be arrested. Police feel that Barnes knew they were more interested in tailing him than in arresting him, and so he played with them.

At other times, the car would be driven to Brooklyn. Barnes would get out, get into a building, come out, walk around the car and casually look at the tail, then he'd get back in his car and it would make a bewildering series of U-turns before returning to his apartment, completing the wild goose chase he had just led.

The car would be driven to Harlem, and Barnes would make a point of stopping in at literally 100 different locations simply to annoy his trailers.

The car would be driven to Riverdale, and Barnes would, as he did once, quickly turn into a clump of high weeds at roadside. Then, as the police trailing car passed, he would switch on his lights and move in back of the policemen and blow his horn.

On Aug. 30, 1973, policemen with a warrant arrested Barnes in the basement of the Haven Avenue apartment. When they went up to what they claimed was his apartment, they found a flat whose walls were covered with mirrors, whose floors were covered with gray shag. There was a $4,000 white leather sofa and furnishings of glass, chrome and marble. There was a king-sized bed in the Mediterranean-style bedroom, a shotgun loaded with 10 shells next to it, and the collection of handguns mentioned earlier. Said one detective, "Where Nicky is, is guns."

Barnes, by all accounts, wasn't bothered a bit by his arrest and, as it eventually turned out, he was right in not being concerned. The case dragged on through hearings on the admissibility of evidence and on the validity of the warrant served. It was not until January of this year that the charges were dismissed, because it was ruled that, though the police arrested Barnes in the basement of that house, there was no evidence that could be admitted that connected him with the apartment.

At one point in the many court arguments, the prosecutor was addressing the court and mentioned that $50,000 in cash had been found in the apartment. This figure was excessive: Actually, $43,934 had been found. Mr. Breitbart rose from his seat and suggested to the court that what the prosecutor was saving meant that perhaps the arresting police had pocketed about $6,000. At that point Nicky Barnes jumped up and told the judge that that wasn't the case at all—because "these cops are honest, they don't steal." Then he sat down, grinning.

Between then and now Barnes beat a few other charges as well. On May 11, 1974, he was arrested and charged with stabbing a Bronx man to death with a penknife. That court proceeding was marked by a series of legal arguments over the posting of Barnes's bail. A sum of $100,000 in checks from a Harlem church was rejected by a judge who suggested that the source of the money was questionable. Subsequently, bail was posted by Barnes, who said he put up his equity in a $4.6-million Detroit housing project—a Federally backed enterprise—as collateral.

While he was out on bail, while arguments were still going on about the 1973 arrest, he was arrested yet again on Dec. 17, 1974, charged with offering a bribe to a policeman—who had stopped his Mercedes in the Bronx after a series of suspicious driving maneuvers—with $130,000 in cash that was in the trunk of the car. Bail on this charge, initially set at $2.6 million, was reduced first to $500,000 then to $100,000 on Mr. Breitbart's application. He pointed out that Barnes had never failed to appear for a court appearance.

Then things began to go Nicky Barnes's way. On May 8, 1975, he was acquitted of the bribery charge, although his $130,000 wasn't returned because Internal Revenue had put a lien on it as partial payment of the $325,000 it says Barnes owes in back taxes.

In March of 1976 he was acquitted of the murder charge by a Bronx jury.

Last October 26, he was again arrested in the Bronx for possession of a gun, but the charge was dismissed by the Bronx grand jury. Mr. Breitbart contended that the gun, allegedly found in Barnes's car, had been planted there by police.

Then, this January, the 1973 charges of drug and gun possession were finally thrown out by a Bronx court, and Barnes found himself completely free of any criminal charges, though police were still referring to him as one of the most powerful, perhaps the most powerful, of the "major violators" in the city.

During that four-year period, from 1973 until March of this year, when Nicky Barnes had been charged with homicide, bribery, drug dealing and possesion of dangerous weapons, the only time he had spent in jail was 150 days on various charges while bail was being secured.

Then, on March 16, he was arrested again. He was one of 18 people indicted by a Federal grand jury for a heroin selling and distributing conspiracy. The indictment charged that Barnes, who it called the chief of the operation, and five of his "lieutenants," had conspired to sell 44 pounds of heroin, at a wholesale price of $1 million, from a Harlem garage each month since November of 1976. It called Barnes "the head of a loose-knit narcotics organization which distributed bulk quantities of heroin and cocaine," an organization through which "a chain of distribution was established, and the narcotics flowed through several levels of the conspiracy, and ultimately to narcotics on the streets of New York City." Nicky Barnes spent another 44 days in jail after this arrest. Then, on April 29, he was released in $300,000 bail put up by a bondsman after Barnes pledged his $1.25 million interest in that Detroit housing project.

These days he spends his time at Mr. Breitbart's office preparing his defense. Meanwhile, in recent weeks another fellow—who dresses all in white and sports a white cape with a scarlet lining—has been driving his white Cadillac into the 116th Street and Eighth Avenue scene and calling himself "The Godfather." The street word is that this new man on the scene will be someone to reckon with, if the Federal Government succeeds in putting Nicky Barnes in jail. But the street people in Harlem remember each of those times when it looked as if the police were about to get Barnes behind bars, and they are skeptical about the Federal effort: To them, Nicky Barnes remains "Mr. Untouchable."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows for:

Mr. Walker (at the request of Mr. Rhodes), for the remainder of this week, on account of a death in his family.

Mr. Marriott (at the request of Mr. Rhodes), for today, on account of official business.

Mr. Railsback (at the request of Mr. Rhodes), for the week of December 5, on account of official business.

Mr. Cotter (at the request of Mr. Wright), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Kindness) to revise and extend their remarks and include extraneous material:)

Mr. Steers, for 5 minutes, today.

Mr. McDade, for 5 minutes, today.

Mr. Pursell, for 5 minutes, today.

Mr. Duncan, for 5 minutes, today.

Mr. Martin, for 5 minutes, today.

(The following Members (at the request of Mr. Flippo) and to revise and extend their remarks and include extraneous matter:)

Mr. Mattox, for 5 minutes, today.

Mr. Ichord, for 10 minutes, today.

Mr. Fraser, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. LaFalce, for 5 minutes, today.

Mr. Levitas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gilman, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $885.50.

(The following Members (at the request of Mr. Kindness) and to include extraneous material:)

Mr. Ashbrook in three instances.

Mr. Anderson of Illinois.

Mr. Whalen.

Mr. Derwinski in two instances.

Mr. Rousselot in two instances.

Mr. Gilman.

Mr. Goldwater.

Mr. Regula.

Mr. Frenzel in three instances.

Mr. Lagomarsino.

Mr. Forsythe.

Mr. Stockman.

Mr. Kasten.

Mr. Crane.

Mr. Young of Florida in two instances.

(The following Members (at the request of Mr. Flippo) and to include extraneous matter:)

Mr. Montgomery in two instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez.

Mr. Addabbo.

Mr. Mitchell of Maryland.

Mr. Mottl.

Mr. Murphy of Illinois.

Mrs. Burke of California in two instances.

Mr. Bonker in two instances.

Mr. Leggett.

Mr. McDonald.

Mr. Levitas in three instances.

Mr. Oberstar.

Mrs. Collins of Illinois in two instances.

Mr. Bevill.

Mr. Baucus in two instances.

Mr. Foley.

Mr. Edwards of California in two instances.

Mr. Ullman.

Mr. Udall.

Mr. Stark.

Mr. Harkin.

Mr. Lederer.

Mr. Fascell.

Mr. Gore.

Mr. Conyers.

ADJOURNMENT

Mr. FLIPPO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Thursday, December 8, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2801. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation for Salaries and Expenses, Agricultural Stabilization and Conservation Service has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2802. A letter from the Secretary of Transportation, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1977, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949; to the Committee on Government Operations.

2803. A letter from the Chief, Forest Service, U.S. Department of Agriculture, transmitting the classification, development plan, and boundaries for the Flathead Wild and Scenic River, Mont., pursuant to section 3(b) of the Wild and Scenic Rivers Act (82 Stat. 908); to the Committee on Interior and Insular Affairs.

2804. A letter from the Comptroller General of the United States, transmitting the initial report of the Professional Audit Review Team on the activities of the Office of Energy Information and Analysis, pursuant to section 55(a) of the Federal Energy Administration Act, as amended (90 Stat. 1137); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DODD: Committee on Rules. House Resolution 928. Resolution providing for the consideration of Senate amendments to the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes (Rept. No. 95–833). Referred to the House Calendar.

Mr. DODD: Committee on Rules. House Resolution 929. Resolution providing for considering the Senate amendments to the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes (Rept. No. 95–834). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 930. Resolution providing for the agreeing to the Senate amendments to the bill (H.R. 9378) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans (Rept. No. 95–835). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself and Mr. Snyder):

H.R. 10249. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and related purposes; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mr. BAUCUS:

H.R. 10250. A bill to amend medicare and medicaid provisions as they relate to rural health care facilities; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 10251. A bill to amend the Public Health Service Act to permit disapproval by Congress of national guidelines for health planning issued by the Secretary of Health, Education, and Welfare; jointly, to the Committees on Interstate and Foreign Commerce, and Rules.

By Mr. BEDELL (for himself and Mr. Steiger):

H.R. 10252. A bill to amend title 38, United States Code, to provide that agricultural employment required for eligibility for educational assistance under the GI bill for a person enrolled in a farm cooperative program need not be full-time employment or the principal expected source of income of such person and may include employment in establishments engaged in the processing, distribution, or sale of agricultural products; to the Committee on Veterans' Affairs.

By Mr. CARNEY:

H.R. 10253. A bill to amend title 38 of the United States Code in order to revise the provisions therein relating to the construction, alteration, and acquisition of land for cemeteries; to the Committee on Veterans' Affairs.

By Mrs. FENWICK:

H.R. 10254. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide benefits to survivors of certain medical and rescue personnel who die in the performance of duty; to the Committee on the Judiciary.

By Mr. FORSYTHE (for himself, Mr. Leggett, Mr. Murphy of New York, Mr. Dingell, Mr. Bowen, Mr. Young of Alaska, Mr. Oberstar, Mr. Anderson of California, Mr. Bauman, Mr. de la Garza, Mr. Breaux, Mr. Emery, Mr. Studds, Mr. Bonker, Mr. Dornan, Mr. AuCoin, Mr. Trible, Mr. Hughes, and Mr. Akaka):

H.R. 10255. A bill to assist the States in developing comprehensive fish and wildlife resource management plans and in implementing such plans with respect to nongame fish and wildlife; to the Committee on Merchant Marine and Fisheries.

By Mr. KEMP (for himself, Mr. Butler, Mrs. Heckler, and Mr. Young of Florida):

H.R. 10256. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. LEVITAS:

H.R. 10257. A bill to amend the Administrative Procedure Act to require the performance and publication of economic impact analyses in the Federal Register for all proposed and final rules which are subject to the provisions of that act; to the Committee on the Judiciary.

By Mr. LLOYD of California (for himself, Mr. Baucus, Mr. Bevill, Mr. Burke of Florida, Mr. D'Amours, Mr. Duncan of Tennessee, Mr. Flood, Mr. Fuqua, Mr. Guyer, Mr. Hughes, Mr. Hyde, Mr. Lehman, Mr. Lent, Mr. McCormack, Mr. Ottinger, Mr. Price, Mr. Roe, Mr. Scheuer, Mr. Simon, Mr. Vento, Mr. Weiss, and Mr. Whitehurst):

H.R. 10258. A bill to strengthen Federal programs and policies for combating international and domestic terrorism; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mrs. LLOYD of Tennessee:

H.R. 10259. A bill to establish a Department of Education and for other purposes; to the Committee on Government Operations.

H.R. 10260. A bill to amend title 39, United States Code, to require that the notice included in a mailed solicitation stating that such solicitation is not a bill or an account due shall be displayed at or near the beginning of such solicitation; to the Committee on Post Office and Civil Service.

By Mr. MILLER of California (for himself, Mr. Edgar, Mr. Moss, Mr. Richmond, Mr. Ryan, Mr. Stark, and Mr. Vento):

H.R. 10261. A bill to establish a loan program to provide financial assistance to drought-impacted water districts, to provide Federal assistance to water districts for acquisition and installation of residential and agricultural water conservation devices and equipment, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR (for himself, Mr. Quie, Mr. Hagedorn, Mr. Frenzel, Mr. Vento, Mr. Fraser, Mr. Nolan, and Mr. Stangeland):

H.R. 10262. A bill to authorize access spurs for the Great River Road; to the Committee on Public Works and Transportation.

By Mr. RISENHOOVER:

H.R. 10263. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions for economic development, and for other purposes; to the Committee on Government Operations.

H.R. 10264. A bill to amend the Internal Revenue Code of 1954 to increase from $1 million to $20 million the exemption from industrial development bond treatment for certain small issues; to the Committee on Ways and Means.

By Mrs. SPELLMAN (for herself and Mr. Vento):

H.R. 10265. A bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 with respect to the awarding of attorney's fees and the authority of the Department of Housing and Urban Development to initiate a civil action to enforce the provisions of such title; to the Committee on the Judiciary.

By Mr. VENTO:

H.R. 10266. A bill to amend title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 to provide mandatory coverage under the old-age, survivors, and disability insurance program for Members of Congress; to the Committee on Ways and Means.

By Mr. BAUCUS:

H.R. 10267. A bill to amend the Small Business Act to declare a national small business economic policy, to provide for an ongoing program of advocacy and economic research and analysis for small business, and to increase the exchange of pertinent information and the level of cooperation between the Small Business Administration and other departments, agencies, and instrumentalities of the Federal Government; to the Committee on Small Business.

By Mr. BRINKLEY (for himself and Mr. Abdnor):

H.R. 10268. A bill to amend title 38, United States Code, to increase the amount of a home loan which may be guaranteed by the Veterans' Administration from $17,500, to $25,000; to the Committee on Veterans' Affairs.

By Mr. BRINKLEY:

H.R. 10269. A bill to amend title 38, United States Code, to increase the specially adapted housing assistance grant for certain disabled veterans from $25,000 to $30,000; to the Committee on Veterans' Affairs.

By Mrs. BURKE of California (for herself and Mr. Hawkins):

H.R. 10270. A bill to amend the Comprehensive Employment and Training Act of 1973 to establish a program of assistance to multipurpose service centers for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Mr. HARRINGTON (for himself, Mr. Akaka, Mr. Anderson of Illinois, Mr. Bedell, Mr. Benjamin, Mr. Bonker, Mr. Breckinridge, Mr. Cederberg, Mr. Edgar, Mr. Fascell, Mr. Fraser, Mr. Harris, Mr. Heftel, Mr. Krebs, Mr. Mazzoli, Mr. McHugh, Mr. Mikva, Mr. Moakley, Mr. Ottinger, Mr. Patterson of California, Mr. Pease, Mrs. Spellman, Mr. Vento, and Mr. Wirth):

H.R. 10271. A bill to amend the Federal Election Campaign Act of 1971 to permit expenditures by certain political committees with respect to Presidential candidates, to provide that payments made by candidates for certain political campaign advertisements shall not be considered to be contributions to other candidates, and for other purposes; to the Committee on House Administration.

By Mr. LaFALCE:

H.R. 10272. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, that a deduction shall be allowed for contributions to such trusts, and for other purposes; to the Committee on Ways and Means.

By Mr. LEDERER:

H.R. 10273. A bill to amend title XX of the Social Security Act to provide that a family's net income (as determined for Federal income tax purposes), rather than its gross income, shall be used in determining the eligibility of its members for services with respect to which Federal payments may be made thereunder; to the Committee on Ways and Means.

By Mr. LEVITAS:

H.R. 10274. A bill to prevent Federal enforcement of racial quotas; jointly, to the Committees on Education and Labor, and the Judiciary.

By Mr. MARTIN:

H.R. 10275. A bill to amend the Internal Revenue Code of 1954 to provide a refundable income tax credit for medical expenses, and for other purposes; to the Committee on Ways and Means.

By Mr. MURPHY of New York (by request):

H.R. 10276. A bill to amend the Shipping Act, 1916, to provide for the licensing, bonding, and regulating of nonvessel operating common carriers in the foreign and domestic offshore commerce of the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. POAGE:

H.R. 10277. A bill to amend the Flood Control Act of 1946 to provide that the conservation storage capacity provided by the Belton Reservoir in Texas shall be available for purposes other than irrigation; to the Committee on Public Works and Transportation.

By Mr. PURSELL:

H.R. 10278. A bill to condition the approval of Federal highway aid projects in a State on the establishment by that State of a system of identification and penalties for use in reserving parking spaces for motor vehicles used by handicapped individuals; to the Committee on Public Works and Transportation.

By Mr. REGULA (for himself, Mr. Ashbrook, Mr. Ashley, Mr. Applegate, Mr. Brown of Ohio, Mr. Carney, Mr. Devine, Mr. Gradison, Mr. Guyer, Mr. Harsha, Mr. Kindness, Mr. Latta, Mr. Luken, Mr. Miller of Ohio, Mr. Mottl, Ms. Oakar, Mr. Pease, Mr. Stanton, Mr. Stokes, Mr. Vanik, Mr. Whalen, and Mr. Wylie):

H.J. Res. 672. Joint resolution to retain the name of Mount McKinley; to the Committee on Interior and Insular Affairs.

By Mr. THONE:

H. Con. Res. 439. Concurrent resolution to declare the sense of Congress that full parity remains the goal of American agriculture; to the Committee on Agriculture.

By Mrs. COLLINS of Illinois:

H. Res. 931. Resolution urging the President not to recognize the Bophuthatswana territory in South Africa; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. SPELLMAN:

H.R. 10279. A bill to permit the burial of Chief Tayac in Piscataway Park, Oxon Hill, Md., to the Committee on Interior and Insular Affairs.

By Mr. YATES (by request):

H.R. 10280. A bill for the relief of Dong Hwan Kim; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

WATER USE AND ALLOCATION

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. ULLMAN. Mr. Speaker, one of the most critical issues confronting agriculture in the West is water use and allocation. If doubt about this fact ever existed, it was dispelled last August, when the Interior Department and Bureau of Reclamation proposed regulations regarding the distribution of this regionally scarce resource from Federal impoundment projects.

The Department's proposal responded broadly to a relatively narrow court ruling on water distribution. By so doing, it cast doubt on scores of agreements between the Federal Government and water users, reached over three-quarters of a century.

Predictably, the proposal was met by waves of protest that welled up in every Western State where Federal projects help control the flow of rivers and streams. Just as predictably, the Department has initiated an intensive review of its proposed regulations.

Meanwhile, however, contracts and agreements reached in good faith remain in doubt; planning for the coming crop year is rendered impossible.

Mr. Speaker, farmers in the West cannot afford this uncertainty. As a result, I have introduced legislation that will give Congress the opportunity to demonstrate that the Federal Government is as good as its word.

The bill is a simple one. It addresses a very limited aspect of the controversy currently swirling around reclamation law. It would do nothing more than validate the contracts and written representations upon which water users have long-relied.

The bill would not allow any Federal water user to obtain release from acreage limitations by arguing reliance on general Bureau of Reclamation policy statements or Bureau representations made to other contracting entities. It defines "written representations" restrictively, including only those representations that are addressed to or logically encompass a specific project, district, or other contracting entity. And, for purposes of eliminating the cloud presently hanging over the title to acreage in these districts, the Secretary of the Interior would be required to issue a recordable document which states that the land is no longer subject to certain restrictions—in legalese, that the release is "appurtenant" to the land.

As my colleagues know, several bills have been introduced that would affect one aspect or another of the current controversy involving reclamation. Let me take a moment to explain why, in my judgment, the legislation I have just introduced merits expeditious consideration and broad bipartisan support in the House.

For many years, the Bureau of Reclamation has interpreted reclamation law to allow for the release from acreage limitations of some or all water users whose allocated construction costs were repaid. Reclamation water was not available to holders of excess lands unless all allocated costs were fully repaid. Pursuant to this long-standing Bureau policy, contracts were entered into with irrigation districts and individual entities—individuals, partnerships, and corporations—which specifically provide that the excess land provisions "shall cease to operate when the construction charge obligation allowable to such land has been paid in full to the United States." Because of various court decisions and administrative interpretations, the Bureau has ruled that the "pay-out" provisions in 50 years of contracts are now inoperative.

In the Klamath project alone—a Federal reclamation project partially in my congressional district—over 170 contracts exist with irrigation districts and individual entities which either contain, or have been represented to be subject to, "pay-out" provisions. It must be remembered that these contracting bodies agreed to the restrictions and conditions of the reclamation contracts only because of Government assurances that the restrictions would terminate upon repayment of the allocated construction costs. In fact, in many cases, the reclamation contract was proposed and entered into primarily to facilitate the Government's own interests. Contracting individuals and other entities agreed to forego existing water rights and allow the Government to undertake its reclamation project only after strict assurance that a "pay-out" provision would be included.

Most of the contracts in the Klamath project have been fully paid out—some for over 20 years. During this period there has been general compliance with the existing reclamation laws, as interpreted by the Bureau of Reclamation. Both the water users and the Federal Government have recognized and acknowledged that the paid-up entities were no longer subject to excess land provisions. Prospective purchasers of land within these districts have often inquired whether a release had in fact been effected and were always assured by the Bureau that it had been. Without this legislation, these purchasers would be required to dispose of their excess acreage at only a fraction of the price at which it was purchased.

I recognize, Mr. Speaker, that our reclamation laws are currently the subject of intensive reviews being conducted by the administration and by Congress. The administration hopes to send to Congress a package of recommended changes soon after March 1, 1978, and in January the House Interior Subcommittee on Water and Power Resources intends to hold field hearings to better inform itself on what changes will be needed. One can anticipate with some certainty that throughout the next year the subcommittee will intensively study the basic acreage provision itself, the residency requirement, the regulatory definitions or "neighborhood" and "family," a class I equivalency factor and many other provisions which currently constitute our reclamation laws. It is my hope, however, that Congress will not wait and include today's "contract-ratification" proposal in this comprehensive revision. Whether or not the Government should honor its word to those who have relied thereon, is not an issue to be relegated to a general discussion of what our reclamation laws should accomplish. Congressional action should not depend upon an examination of the accuracy of the Bureau's former interpretations of reclamation law. The only issue is whether or not the United States Government does indeed intend to keep its word to the Federal water users in our Western States.

Mr. Speaker, it is my sincere hope that this legislation can be adopted in a nonpartisan and expeditious manner. Thank you very much.

BANKRUPTCY HEARINGS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. EDWARDS of California. Mr. Speaker, the Subcommittee on Civil and Constitutional Rights has scheduled hearings in December on the court and administrative structure for bankruptcy cases. I wish to announce the dates of the hearings, the witnesses we have invited, and the scope and nature of the hearings, so that all interested members, groups, and individuals will have an opportunity to attend or to submit their views to the subcommittee. Though we will not have time to schedule any additional witnesses for oral testimony, we welcome written comments for the record on this important aspect of the bankruptcy revision legislation. The record will remain open through January 6, 1978:

SCHEDULE

Monday, December 12, 1977—2:00 p.m.:

Harold Marsh, Former Chairman of the Bankruptcy Commission.

American College of Trial Lawyers (The Honorable Simon Rifkind, Immediate Past President).

J. Stanley Shaw, Esq., Long Island, New York.

Tuesday, December 13, 1977—9:30 a.m.:

The Honorable Shirley M. Hufstedler (9th Cir.).

Commercial Law League of America, (Robert B. Chatz, Esq., President; Louis Levit, Esq.).

Robert Morris Associates (John W. Ingraham, Citibank, N.A.).

Tuesday, December 13, 1977—2:00 p.m.:

Judicial Conference of the United States (The Honorable Wesley E. Brown (D. Kans.), Chairman, Judicial Conference Ad Hoc Committee on H.R. 6; The Honorable Edward Weinfield, (S.D.N.Y.), Chairman, Judicial Conference Committee on Bankruptcy Administration; The Honorable Ruggero Aldisert (3d Cir.)).

National Conference of Bankruptcy Judges (The Honorable Conrad Cyr (D. Me.), Immediate Past President; The Honorable Joe Lee (D. Ky.); Arthur Moller, Esq.).

American Bar Association (Stanley Chauvin, Esq., Ky., Chairman, AB Task Force on Bankruptcy Law Revision).

Wednesday, December 14, 1977—9:30 a.m.:

The Honorable Griffin Bell National Bankruptcy Conference (George M. Treister, Esq., Los Angeles; William Rochelle, Jr., Esq., Dallas; Professor Frank Kennedy, University of Michigan Law School; Professor Vern Countryman, Harvard Law School).

NATURE AND SCOPE

The following letter is being sent to all witnesses that will testify:

DEAR ——— ———: We are looking forward to your testimony before the Subcommittee on Civil and Constitutional Rights during our hearings on the court and administrative structure for bankruptcy cases.

The purpose of the hearings is to examine how the substantive bankruptcy law changes in title I of H.R. 8200 can be carried into effect. Title II of H.R. 8200 proposes one system. We wish to explore others as well.

The other important aspect of title II of H.R. 8200 is the establishment of United States trustees. We expect that United States trustees will solve, to a large degree, the first problem listed above. There is little disagreement over the establishment of the system. However, the proper placement of United States trustees remains a difficult question. We would like you to address that issue also.

We will appreciate your informed views at the hearing, and hope to have your prepared statement as soon as your schedule allows, so that we may be able to discuss your ideas in sufficient depth.

With kind regards,

Sincerely yours,

DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights.

WHY THE RUSSIANS ARE HAPPY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. DERWINSKI. Mr. Speaker, while the news media is concentrating on the recent developments in the Middle East and the problems of southern Africa, one should not forget the status of the SALT talks between the United States and the U.S.S.R.

Frankly, I am concerned. The administration is so eager to reach agreement for agreement sake that our national security could be affected.

An editorial in the Chicago Tribune of December 5, warns of this possibility, and I insert it at this time for the attention of the Members.

WHY THE RUSSIANS ARE HAPPY

Sources in the State Department said recently that United States relations with the Soviet Union have improved in the last six months. They think the strategic arms limitations negotiations have had something to do with it. We think so, too, although we certainly don't feel any of the State Department's euphoria.

If Paul Nitze, a former deputy secretary of defense, is right, the Russians have ample reason to be pleased with us. He charges that the U.S. has been overly generous in its SALT concessions to the Soviet Union and that this will have an adverse effect on future national security. Although he has been criticized for this, we have great confidence in Mr. Nitze's judgment. In fact, we have considerably more confidence in him than in President Carter, who recently said: "A SALT II accord must spell out a fixed and sensible balance. Thereafter, a SALT accord would advance us toward the final goal of reducing nuclear weapons to zero."

A President who talks of "zero" nuclear weapons is being unrealistic, for several reasons, and might logically be expected to encourage the kind of SALT concessions which alarm Mr. Nitze. As columnist Patrick Buchanan pointed out on our Perspective page last Tuesday, a U.S. without nuclear weapons "becomes indeed the 'paper tiger' of Mao's phrase." Without nuclear weapons, Mr. Buchanan said, "God would again be on the side of the big battalions. And today the big battalions are Asian, Communist, and Russian, not American." We suggest that Mr. Carter, an advocate of reduced defense budgets, reflect upon that. We do not like living in a world of nuclear weapons any more than anyone else, but we know that in an atomless world we are going to need far more big battalions than the President seems to think.

Mr. Carter also favors an end to nuclear tests, and Mr. Brezhnev has obliged him recently by proposing one. We suggest that the President heed the warning of his defense secretary, Harold Brown, that the land-based Minuteman missile force will become vulnerable to Soviet nuclear attack by the mid-1980s. Without tests, how will we develop a replacement?

It is not surprising to hear reports that the Defense Department, worried about that impending vulnerability, has begun a major review of our strategic defense posture. We hope this study is conducted soon and in great detail and that its findings are enunciated clearly and heard by the American people. If the impending SALT II agreement in itself is not fatal to this country, certainly the attitudes of the Carter administration can be. We cannot hope to survive in a superpower world unless we remain as potent as those who would destroy us. Idealism is not enough to deter a Soviet attack.

NEW YORK POLICE CHIEF MICHAEL J. CODD

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MURPHY of New York. Mr. Speaker, the city of New York is about to lose one of its most valuable public servants. Police Commissioner Michael Codd's second retirement marks the end of a most remarkable career, the termination of a 36-year career during which he rose the entire distance from the rank of patrolman to chief inspector—the highest uniformed rank—when he first retired in early 1973, and was later called out of retirement to become commissioner at Mayor Beame's request.

Mike Codd was not only a good policeman; he was also a good administrator. The New York Police Department is a multimillion dollar enterprise with an extremely intricate institutional structure. It is not only constantly changing within itself, but within the environment of the Nation's largest city. It is a position which requires tough executive leadership, and those are the qualities which he brought during his tenure.

It is not an easy job, but his supreme handling of such emergency problems as the power blackout and the city's fiscal crisis which forced huge layoffs and other "economy" moves within the police department, has brought the city a tradition of quality leadership which will be hard to match. His has been an administrator known to be tough, honest, and highly deserving of the public's confidence.

The words which he himself chose to describe the department's performance during recent times of crisis are an equally fitting tribute to his career: He rose to the challenge and served the city magnificently.

EXPERTS PREFER NUCLEAR ENERGY OVER SOLAR ENERGY

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. BEVILL. Mr. Speaker, I read with great interest a recent news story out of Miami concerning some energy conclusions of 14 of the world's leading scientists.

At a nuclear energy conference in Miami, the scientists called for expanded development of nuclear energy as a major means of meeting growing energy demands of the immediate future.

The scientists concluded that because of the cost factor involved in making solar energy practical in the near future, our major energy efforts should be directed toward nuclear energy systems.

For those of us concerned with exploring every avenue for increased energy production, I would strongly recommend the contents of the accompanying article.

Experts Push N-Energy Over Costly Solar Work

Miami.—Fourteen of the world's leading scientists have concluded solar energy is too expensive and called for stepped up development of nuclear energy, including the fast breeder reactor program vetoed by President Carter.

The conclusions were contained in a position paper simultaneously released yesterday at Miami, Tokyo, Paris and Montreal.

The group includes four Nobel laureates and Stanford University's Dr. Edward Teller, father of the H-bomb. Floyd Culler, director of the Oak Ridge National Laboratory, and Alvin Weinberg, of Oak Ridge, also took part in the conference.

The 14 gathered at Fort Lauderdale, Fla., last week at the invitation of the University of Miami for a five-day "International Scientific Forum on an Acceptable Nuclear Energy Future of the World." A 14-point white paper was drafted by the group at the close of the meeting. Its contents were disclosed yesterday.

The paper acknowledges there is a danger that nuclear power facilities will be converted to production of weaponry. But the scientists concluded that proper precautions could prevent that. It found the threat of nuclear accidents insufficient to abandon nuclear power projects.

The paper said fast breeder reactors, which President Carter opposes for fear of nuclear bomb proliferation, are among a number of "candidate systems" to replace current methods of nuclear power production.

Dr. Behram Kursunoglu, director of the University of Miami's Center of Theoretical Studies, who was host to the conference, said yesterday solar energy is impractical in the foreseeable future because in addition to its cost, it takes up too much space.

He estimated that nuclear fusion (harnessing the hydrogen atom) may be impractical for as much as 20 years. But he said nuclear fusion might be combined with existing nuclear fission techniques into an acceptable, efficient hybrid system before that.

CLARIFYING THE INTENT OF CONGRESS: AUTHORIZING ACCESS ROADS FOR THE GREAT RIVER ROAD

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. OBERSTAR. Mr. Speaker, today I am introducing a bill to authorize access spurs along the Great River Road to cross the Mississippi River.

The Great River Road is a recreational and scenic highway, running parallel to the Mississippi River from Lake Itasca in Minnesota to the Gulf of Mexico. It was established by section 14 of the Federal-Aid Highway Act of 1954, Public Law 83–350. Federal funding for the Great River Road was first authorized by the Federal-Aid Highway Act of 1973.

The 1973 act provided that Federal funds could be used on only one route parallel to the river. It was the intent of Congress that there not be two parallel roads. However, States are allowed to construct the Great River Road alternate on the other side of the river with their own money.

On November 22, 1976, the Federal Highway Administration (FHWA) issued regulations to govern Great River Road construction. Aside from the one route parallel to the river, their regulations provide for "access spurs to areas of scenic enhancement proximate to the Mississippi." The FHWA has interpreted the prohibition against roads on both sides of the river to mean that these spurs cannot cross the river. The FHWA feels it needs a specific expression of congressional intent before it allows access spurs to cross the river.

The result of the FHWA regulations has caused a reduction in the scenic and recreational value of the Great River Road. The purpose of the road is to provide for greater accessibility to places of interest along the river. Access spurs enhance this accessibility. But when those places of interest happen to lie on the other side of the river, no access is provided.

To remedy this situation, the legislation I am introducing specifically provides that access spurs may cross the river, where necessary. The bill does not allow Federal funding of either new bridges across the river or two parallel roads along the river route and does not require new authorization or appropriation.

Mr. Speaker, there are countless places of scenic, historical, and recreational interests along the Great River Road whose esthetic and cultural value should be made available to all Americans.

DISPLACED HOMEMAKER ASSISTANCE ACT

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mrs. BURKE of California. Mr. Speaker, today I am introducing legislation which will amend the Comprehensive Employment and Training Act of 1973 (CETA) to include a program of assistance for displaced homemakers.

This amendment follows the conclusion of House and Senate hearings on H.R. 28 and S. 418, respectively. I am particularly pleased to have my esteemed colleague, AUGUSTUS HAWKINS, chairman of the Employment Opportunities Subcommittee of Education and Labor, as a cosponsor today.

To a great extent, the problems of today's displaced homemakers reflect the dramatic changes in our society. Today, nearly one out of three marriages ends in divorce. With the continuing trend to no-fault divorce, many women are suddenly finding themselves alone and independent, a status for which they are completely unprepared. Alimony is rapidly becoming a relic of the past. The National Commission on the Observance of International Women's Year discovered that only 14 percent of divorced women receive alimony and within this group, only 46 percent receive alimony regularly. The trend in many States with divorce reform legislation on the books is to limited alimony, alimony which is granted for a specified period of time, for example, 5 years, at the conclusion of which time the women are expected to be self-supporting.

Widowhood presents other difficult problems for older women. Survivors' benefits vary enormously. Often, the carefully developed plans for retirement are found painfully inadequate in the light of galloping inflation. Insurance money ordinarily covers only a few years of living expenses. Presently, there are four times as many widows as widowers. The life expectancy of women is 75 years compared to 67 years for men. The painful reality is that the older women become, the more likely it is that they will be on their own.

This tragic situation is compounded by a marked departure in the customs of previous generations. In the past, there were fewer divorces and widows were taken in by relatives. Today, because of the mobility of families, differences in lifestyles and smaller homes, this solution is often impractical.

The displaced homemaker cannot turn to the usual sources for temporary financial relief. Even though she is unemployed, she does not qualify for unemployment compensation. Under present law, if she is divorced after having been married less than 20 years, she may not qualify for social security benefits. If she has no children under age 18, she will be ineligible for aid to families with dependent children.

Having fallen through the cracks of every income security program devised, displaced homemakers are left to fend for themselves in the job market. I need not tell you that the middle-aged woman who has spent her adult life in the traditional role of homemaker finds it extremely difficult to make the transition from dependence on a family breadwinner to being self-supporting. Aside from the psychological adjustments, she may not be able to overcome the obstacles of the job market. Her lack of recent paid work experience combined with her age and sex make her chances of immediate employment dim in a youth-dominated culture. She may never have had to look for a job in her life and is confronted with such problems as conducting a job search, writing a resumé, competing with younger workers and mastering the technology of today's business world.

The most recent statistics compiled by the Bureau of Labor Statistics indicate that in November 1977 there were 280,000 unemployed women aged 55 or older. That statistic, however, includes only those who are actively seeking work. Many displaced homemakers are so traumatized by their first ventures into the job market that they retreat to lives of quiet desperation. Some turn to alcohol, others to prescription drugs to ease the burden that has been placed so unexpectedly upon them.

Displaced homemakers have, for some time, been isolated individuals desperately in need of assistance. However, many have recently found themselves an organizational vehicle in the Alliance for Displaced Homemakers, whose coordinators Tish Sommers and Laurie Shields, are themselves displaced homemakers. Ms. Somers and Ms. Shields have forged a network of displaced homemakers that stretches across this country and into every State in the Union. It is small wonder that in a very short time, displaced homemakers legislation has been adopted by 14 States and introduced in a number of others.

Having become acquainted with the problems of displaced homemakers through my contact with the Alliance for Displaced Homemakers, I introduced H.R. 28 to assist displaced homemakers during their difficult readjustment period. H.R. 28 provides for the establishment of 50 multipurpose centers to offer job training and placement services, counseling and referrals in health care, education, legal assistance and financial management, as well as outreach and information services relating to already existing programs.

I realize that Government resources are limited and that they must be deployed as efficiently as possible. For this reason, I have drafted an amendment to the Comprehensive Employment and Training Act of 1973 which will come before the House Employment Opportunities Subcommittee early next year for reauthorization.

My amendment retains the basic provisions of H.R. 28 in that it provides for the establishment of a minimum of 50 multipurpose service centers for displaced homemakers which would provide job counseling, training and placement services for work in both the public and private sector. It provides referrals for existing services in health, legal assistance, education and financial management. Additionally, provision is made for payment of stipends to those demonstrating financial need.

I am aware that in the past, CETA has not been particularly responsive to the needs of older workers. Research done by Ms. Sommers indicates that although CETA serviced 1.5 million persons in 1975, only 3 percent of that number were age 55 or older, despite the fact that from the fourth quarter of 1973 to the first quarter of 1975, unemployment more than doubled for persons age 55 and older.

Many CETA programs have not been designed to meet the needs of displaced homemakers simply because they were intended to move persons from the welfare rolls into the job market. Others were devised to take care of the large numbers of unemployed workers following the long recession we recently experienced. Displaced homemakers, because they are older, have never worked or are not currently receiving Federal assistance, have not been perceived as a group in need of assistance.

Because CETA programs funded under title I, II and VI have not been attuned to the needs of older workers in general and displaced homemakers in particular, I have drafted my amendment to place an assistance program for displaced homemakers under title III, which serves designated groups in need of special assistance. Funding would be available through title III to nonprofit and community-based organizations which have to date been the most responsive to the needs of older women.

I am confident that this amendment will enable displaced homemakers to receive the assistance they need without duplication of existing services or agencies and I look forward to action on this proposal early in the second session of the 95th Congress.

Thank you.

CLINCH RIVER VETO: A BAD DECISION

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MURPHY of Illinois. Mr. Speaker, President Carter has cast his first veto since he took office as President. On November 5, the President vetoed a bill authorizing $80 million for the experimental breeder reactor at Clinch River, Tenn.

The President's decision is well intentioned but poorly reasoned and badly timed, given our current energy problems. Carter justified his veto by saying that the breeder reactor would encourage the spread of nuclear weapons. In addition, Carter charged, the breeder would be "technically obsolete" and "economically unsound" once it was constructed. These charges are untrue.

Mr. Speaker, I would like to draw my

colleagues' attention to an article I have written on the Clinch River project, which responds to the President's criticisms of the breeder reactor. The article appeared in the Daily Calumet on November 18, 1977:

JIMMY TAKES FIRST VETO ACTION

(By Representative MORGAN F. MURPHY)

President Carter, in what has aptly been called a "retreat from reality," has cast his first veto since he assumed the Presidency. In an attempt to scuttle the nation's breeder reactor program, Carter vetoed a bill Nov. 5 that authorizes $80 million for the experimental breeder reactor at Clinch River, Tenn.

Carter sent the legislation back to Congress, saying that approval of the Clinch River project would undermine efforts "to prevent the proliferation of nuclear weapons" throughout the world. Carter further charged that Clinch River would be a "large and unnecessarily expensive project, which, when completed, would be technically obsolete and economically unsound."

Carter had to veto a $6.7 billion energy research and development bill to stop the funding of Clinch River. Fortunately, the President's veto may not be enough to kill the breeder reactor program. That's because later this month Congress will send Carter another bill appropriating $80 million for the breeder reactor and almost $7 billion for a host of other programs.

Carter's only alternative, short of vetoing the entire appropriations bill, would be to "impound" the breeder funds—that is, refuse to spend the money. But under a 1974 law, Congress has 45 days to overturn the President's decision by a majority vote in either house.

Carter's veto of the Clinch River project is well intentioned but poorly reasoned and badly timed. The President cited the danger of nuclear proliferation, noting that breeder produces (or "breeds") plutonium, a fuel which can be used to construct atomic bombs. But Carter's decision to halt the breeder does not really reduce the risk of nuclear proliferation, since it affects only the use of plutonium in the U.S. The danger of proliferation can be lessened only if other nations choose to follow the U.S. example, and that does not appear to be the case.

France, Britain, West Germany, the Soviet Union, and Japan have all conducted extensive fast breeder research programs for many years. Except for perhaps the Soviet Union and Britain, these countries are eager to find energy alternatives to coal, gas, and oil—which are in diminishing supply. Regardless of what the U.S. does, these nations will probably go forward with their breeder research programs.

The General Accounting Office (GAO) correctly noted in a report last July that the U.S. may actually run a greater proliferation risk by abandoning the Clinch River project. Other countries will most likely go on developing their breeders, and this will weaken America's ability to influence the safety features and design of breeders around the world.

It should be kept in mind that Clinch River is a research and development project. A decision to commercialize the breeder does not have to be made for perhaps seven to 10 years after Clinch River's construction. The purpose of Clinch River is to test the feasibility of operating a fast breeder reactor in a safe, economical, sound way. GAO pointed out that by completing Clinch River, the nation can move to a point where it can make an informed decision on whether to commercialize the breeder. But to stop construction now would retard U.S. progress in nuclear technology and dramatically increase future costs should the project be resumed later.

An example of how costs could soar: the Energy Research and Development Administration (now part of the new Department of Energy) estimated that if construction of Clinch River were stopped for just four months and then restarted, costs would increase nearly $350 million.

President Carter charged that Clinch River would be "technically obsolete and economically unsound" once it was constructed. These criticisms are untrue. There are no known advanced nuclear fission technologies (such as light water, molten salt, or gas-cooled breeder reactors) that promise economic or technical advantages to the liquid metal Clinch River breeder. Nor have any of these alternative breeder reactors been proven scientifically feasible. Moreover, all of the known breeder alternatives have some potential for producing weapons grade material. Alternatives such as solar, wind, or sea power won't be useful sources of energy for at least another 15 years.

As for Clinch River's cost, it is undeniably true that the breeder's price tag has jumped from an estimated $450 million when it was first approved by Congress to more than $2.2 billion. But much of that cost growth has been caused by inflation and higher interest rates. And while the breeder's economic benefits are not absolutely certain, its potential is great.

The world supply of uranium for conventional reactors is unknown and may not be adequate to meet our expanding energy needs in the future. In addition, the price of uranium—with the help of an international uranium cartel—has soared from $6 to $40 a pound in recent years. The value of the breeder is that it can extract 60 times more energy from each ton of uranium than today's light water reactors. This will allow the U.S. to extend its uranium supply for centuries to come.

Ironically, President Carter's veto comes at a time when he is pushing an energy program aimed at reducing America's dependence on depletable natural gas and foreign oil. By switching to atomic energy, the U.S. can reduce this dependence and move toward its goal of energy self-sufficiency.

GEOTHERMAL FUNDING IN ERDA AUTHORIZATION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. PICKLE. Mr. Speaker, contained in S. 1340 is a small amount of money for two geothermal test wells off the coast of Texas. I am very pleased to see this money now on its way. It is not a large part of the bill, but it potentially is one of the more important.

Off the coast of Texas and Louisiana lie vast geopressured areas. They used to be the bane and headache of drillers seeking oil in the Gulf of Mexico. Now we are beginning to realize that they represent a significant energy source in their own right—more so, I think, than most people realize.

Congressman BOB GAMMAGE and I worked together to see this funding included in the bill, and we are very pleased at the prospect of actually tapping this energy source in the next few months.

BANKRUPTCY REVISION BILL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. EDWARDS of California. Mr. Speaker, at Chairman HARLEY STAGGERS' request, I wish to include for the RECORD an exchange of correspondence between myself and Chairman RODINO and Chairman STAGGERS concerning a provision in the bankruptcy revision bill currently pending before the Committee of the Whole House on the State of the Union. The letters follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 27, 1977.

Hon. PETER W. RODINO,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in regard to H.R. 8200, a bill to establish a uniform law on the subject of bankruptcies, which was ordered favorably reported, as amended, by the Committee on the Judiciary on September 8, 1977. Section 332 of H.R. 8200 repeals section 3(c) of the Emergency Rail Services Act of 1970, which prohibits the guarantee of a certificate of indebtedness in a railroad reorganization case by the United States unless the claim of the United States is treated as an expense of administration and receives the highest lien on the railroad property and priority in payment under the Bankruptcy Act.

As you know, the Committee on Interstate and Foreign Commerce has jurisdiction over railroads. Having reviewed section 332, I wish to state that I have no objection to its inclusion in H.R. 8200, without prejudice to the jurisdiction of this Committee.

It is understood that the repeal of section 3(c) of the Emergency Rail Services Act of 1970 will be effective only insofar as future railroad reorganizations are concerned and would not prevent the Secretary of the Treasury from demanding the same priority now required by section 3(c) if he determines that circumstances so warrant.

Thank you for your consideration in this matter.

Sincerely yours,
HARLEY O. STAGGERS,
Chairman.

JULY 5, 1977.

The Honorable HARLEY O. STAGGERS,
Chairman, House Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: The Subcommittee on Civil and Constitutional Rights has recently reported favorably the bill H.R. 7330, a bill to establish a uniform law on the subject of bankruptcies. This bill is the first major revision of the bankruptcy laws in nearly 40 years.

As part of the Subcommittee's proposed revision, we have looked at other laws of the United States that directly or indirectly impact the bankruptcy process, in order to conform them with the general bankruptcy policies expressed in H.R. 7330. The areas of impact are few: priorities in bankruptcy, assignability of property of a bankrupt debtor, and discrimination by the government against bankrupts solely on account of their bankruptcy. There is one provision in a law that generally comes within the jurisdiction of the Commerce Committee that has such an impact on bankruptcy. H.R. 7330 proposes a conforming amendment to this provision, and the Subcommittee requests your support.

Section 3(c) of the Emergency Rail Services Act of 1970, entitled "Financial assistance," prohibits the guarantee of a certificate of indebtedness in a railroad reorganization case by the United States unless the claim of the United States is treated as an expense of administration and receives the highest lien on the railroad property and priority in payment under the Bankruptcy Act. This provision, we feel, impairs the Secretary of the Treasury's flexibility in dealing with the exigencies of a major railroad reorganization case, and is generally contrary to the policy of H.R. 7330 to treat the Government as a general creditor without special priority. Section 332 of H.R. 7330 proposes repeal of section 3(c).

I fully understand the circumstances under which section 3(c) was enacted, and the priority there called for made sense in the reorganization of the seven Northeast roads. However, if this provision is to be used in the future, more discretion on the part of the Secretary may be a wiser course, from a bankruptcy perspective. The amendment H.R. 7330 proposes does not, of course, prevent the Secretary from demanding the same priority now required by section 3(c).

I note in passing that section 3 as written applies only to railroads under reorganization under section 77 of the Bankruptcy Act. If H.R. 7330 becomes law, railroads will no longer proceed under section 77, but rather under chapter 11 of proposed title 11 of the United States Code. This may make the entire debate over section 3(c) academic. However, in the event that the loan guarantee program is revived by amendment to section 3(a), the amendment proposed by H.R. 7330 would be beneficial to bankruptcy administration, and more in conformity with general bankruptcy policy.

I would appreciate hearing your comments on the changes proposed in H.R. 7330. I enclose a Ramseyer of the proposed change for your information. We expect full Committee to begin mark-up on July 14, and Floor action in September.

With kind regards.

Sincerely,

DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights.

OSHA REPEALS IRRELEVANT RULES

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mrs. COLLINS of Illinois. As Chairwoman of the Government Operations Subcommittee on Manpower and Housing, I was pleased to hear Secretary Marshall announce on December 5 that the Occupational Safety and Health Administration will no longer expend its precious time and energy enforcing rules of questionable relevance to the health and safety of American workers. It is my strong hope that by unburdening itself from such wasteful preoccupations as the permissable size of knotholes in the siderails of stepladders, that OSHA can now turn its attention to the real issues that inspired its creation in the first place: the deadly hazards that plague one out of four Americans on the job, according to a recent study of the National Institute of Occupational Safety and Health.

This same study, summarized in the New York Times on October 3, 1977, supported the findings made by my subcommittee in hearings that we held last May, to the effect that an estimated 7 million workers are exposed to toxic substances, many of which are known—or suspected of being—cancer-causing. Even more shocking was the revelation that OSHA has been lagging far behind in its ability to regulate the use of these hazardous substances. I am pleased that OSHA has shown a willingness to redirect its efforts in a more promising direction.

THE 60TH ANNIVERSARY OF THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. UDALL. Mr. Speaker, I would like to take this opportunity to pay tribute today to the National Federation of Federal Employees, the oldest of all general Government employee organizations and the largest independent union of Federal employees in the Nation.

The National Federation of Federal Employees this year is celebrating its 60th anniversary of distinguished service to our dedicated civil servants and to the Nation as a whole.

The National Federation of Federal Employees was founded in 1917, at a time when Government workers had seen no general pay increase for 50 years and World War I had increased the cost of living to the point of causing financial problems for many. But money was not at the very heart of reasons the NFFE founders came together in September 60 years ago. Among the goals adopted at the Washington Charter Convention of NFFE were ideas that may have seemed somewhat radical at the time: a retirement program for Federal employees; a modern system of duties classification; elimination of the spoils system; and establishment of a sound personnel system and broader scope for the Civil Service Commission.

Because of the National Federation of Federal Employees and the precedents it continues to set, we have come a long way toward achieving these and other very worthwhile goals. Though the goals of today are different the original purpose of the organization continues to ring true to the American spirit.

I ask you to join me in saluting the National Federation of Federal Employees and in recognizing the untold accomplishments of an organization whose purpose, as stated in its constitution, includes "to aid in the perfection of systems that will make for greater efficiency in the various services of the United States."

MANIPULATION OF PUBLIC AND CONGRESSIONAL OPINION BY THE CENTER OF DISEASE CONTROL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. OBERSTAR. Mr. Speaker, recently some very disturbing information regarding the CDC's involvement in modifying public and congressional opinion on a national political issue—the controversy over funding abortions under medicaid—has come to light. I commend for my colleagues' information the following copyrighted article, "Facts Don't Back Link of Abortion Death in Texas to Fund Cutoff," published in Ob. Gyn News by Mr. Richard Grauel and Mr. Frank Murray, and my letter to Secretary Califano asking for a thorough investigation of the CDC's involvement in this matter:

FACTS DON'T BACK LINK OF ABORTION DEATH IN TEXAS TO FUND CUTOFF

(By Richard Grauel and Frank Murray)

The woman portrayed as a martyr to the Hyde Amendment after she died from complications of a Mexican abortion actually may have crossed the border to keep the abortion secret from her family, despite a federal investigator's conclusion that she was motivated by the cutoff in funding brought about by the Hyde Amendment.

This newspaper obtained information that the woman had gone to Mexico for another abortion 2 years earlier, while covered by Medicaid, and that low-cost abortion had been available to her in her Texas home town when she opted for the second Mexican abortion.

It was learned that these facts were known to the federal investigator but were disregarded by him without making them public. He said he accepted instead the statement of a relative that the woman went to Mexico because of the Medicaid cutoff.

The woman's death, and the report by the Center for Disease Control linking it to the funding cutoff, have been cited in the national press, in congressional debate, and by Planned Parenthood in Washington as justification for rejecting the controversial Hyde Amendment, which bars expenditure of federal funds for most abortions.

The federal investigator, Dr. Julian Gold, officially reported five cases of abortion complications clustered in McAllen, Tex., (the other four not fatal) in connection with a survey of the effects of the cutoff Aug. 4 of Medicaid funds for abortions.

When asked about facts obtained by Ob. Gyn. News suggesting that his conclusion was at least questionable, Dr. Gold said he had known of those facts but chose to accept the word of the dead woman's relative, whom he refused to identify.

Asked how he had corroborated that statement, he replied, "How can you corroborate that kind of thing?"

(Another source, Dr. Daniel Chester, an ob. gyn. who treated the woman in the days prior to her death, said the relative was a cousin.)

Dr. Gold also conceded that he believes all of the other four women in the "cluster" were motivated to go to Mexico for abortions by their wish to keep the procedure secret from their families.

He said he knew that many women from Mexican Catholic backgrounds living along the border customarily go to Mexico for abortions so that their families won't learn of the procedure.

When told that the dead woman apparently had gone to Mexico for another abortion in 1975, when Medicaid would have paid for the procedure if it were done in Texas, Dr. Gold conceded that he also had known this and that he assumed she had done so then for privacy.

None of these facts had been reported either in official announcements of the "cluster" of abortion complications or in subsequent interviews by Dr. Gold, the CDC's principal investigator on the case and the person authorized to release facts from the file.

The cases were reported in the Nov. 4 issue of the CDC's Morbidity and Mortality Weekly Report. Dr. Gold wrote that report.

In his report, Dr. Gold said the woman consulted her physician on Sept. 1 and Sept. 19 about sternal pain.

"On the second visit, when she indicated to her physician that she might be pregnant, he informed her that Medicaid no longer paid for abortions. She subsequently obtained an induced abortion in Mexico," the report said.

The physician, Dr. Homero Rivas, longtime family physician for the woman, told this newspaper he did not tell the woman that Medicaid no longer paid for abortions. He said he told Dr. Gold that she had volunteered that information herself and that he merely confirmed it.

When asked about this, Dr. Gold insisted the report was accurate and said, "It's a semantic problem; I know people are reading it to say he turned her down for an abortion because she didn't have the money."

"The press have printed the things they want to print," said Dr. Gold..

Dr. Rivas said that if the woman had returned as instructed and the pregnancy was confirmed, he would have referred her to one of two medical groups "regardless of whether she could pay for it, because it's more important that she get an abortion done correctly than done cheaply."

"I do not do abortions," Dr. Rivas added in an interview.

Dr. Gold's superior, Dr. Willard Cates, head of the Abortion Surveillance Branch of CDC, said in an interview that data from Dr. Gold's investigation were being analyzed but were open to several possible conclusions. He said the relationship between the funding cutoff and the death was merely a temporal one.

Among those possible conclusions, Dr. Cates mentioned the possibility that the cutoff of funds was responsible for her death; the possibility that the specific facility in Mexico where the women were aborted was using unsanitary instruments or bad technique; and the possibility that the women had gone across the border to obtain more privacy than they thought would be available in McAllen.

Dr. Cates said it would be unscientific to draw any conclusion now.

Asked if the public had been misled, he said, "The public was very quick to jump and make the causal association, but I wouldn't use words as strong as saying we have misled them."

He said no statements or press releases had been issued to correct any misimpressions that might exist on the issue.

He referred all other questions to Dr. Gold, who said, "As for the woman who died, I feel it was reasonable to assume that's why she went. In that particular case, I'm convinced she went over because of the lack of Medicaid funding," Dr. Gold said.

Told that Lila Burns, the head of the Planned Parenthood Clinic in nearby Mission, Tex., where the dead woman had been a client, as well as Dr. Kenneth Landrum, a physician who treated her in McAllen General Hospital after the abortion, both felt she had gone to seek privacy, Dr. Gold said he would stick to his conclusion.

Asked why she would go to Mexico in 1975 for an abortion in privacy when she had Medicaid and not be assumed to be going for the same purposes now, he said: "I've thought about that point. I don't know."

The woman entered McAllen General Hospital on Sept. 26. A hysterectomy was done the next day. She died Oct. 3 of renal and cardiac failure attributed to disseminated intravascular coagulation secondary to sepsis. Clostridium perfringens organisms were demonstrated in blood culture. No autopsy was done.

For much of the week after she was admitted to the hospital, the woman herself continued to deny even that she had had an abortion. Near the last, while she was intubated and unable to speak, Dr. Chester again pressed her on this and asked her to squeeze his hand once for "yes" and twice for "no" to the question: "Did you have an abortion?"

He said she squeezed his hand to indicate yes.

When the death was revealed by CDC, the broadcast and print press gave it wide play with an approach typified by the three-column headline in The Washington Post: "Woman Dies After Mexico Abortion/Had Been Told of Medicaid Cutoff." A New York Times editorial, titled "First Victim," said "the dead woman carried a Medicaid card but it did her little good."

Jeannie I. Rosoff, head of the Planned Parenthood Washington office, said. "Members of Congress who support the ban on Medicaid abortions are responsible for a chain of events that inevitably led to the death and sufferings of these poor women.

A church memorial service was arranged during the meeting of the American Public Health Association. National family planning figures attended and heard the service's organizer, Elisa Sanchez, president of the Mexican-American Women's National Association, say, "The only thing that stood between her and life was a Medicaid card that wouldn't buy her an abortion she chose to have."

Ms. Sanchez told this newspaper she knew nothing more about the case than what had been in The Washington Post.

The Post report said, "A CDC spokesman said his investigators could not determine whether the dead woman had been refused a Medicaid-funded abortion. But he confirmed that she had been informed that they were no longer available before she crossed the border to get her $40 abortion in Reynosa, Mexico."

At a press briefing shortly afterward, Secretary of Health, Education, and Welfare Joseph A. Califano Jr. was asked about the case by a reporter who said, "But aren't you concerned at all about the involvement of federal policy in those deaths?" He corrected the number of deaths to one, called it sad, but said it did not justify a change in the law.

At a nationally televised press conference the next day, President Carter was asked a similar question by a reporter who said, "A young woman in Texas recently was unable to obtain a Medicaid abortion and went across the border into Mexico, obtained a cheap botched-up operation, and died.

President Carter did not directly address the question about the death, but restated his objection to public funding of abortions.

The entire appropriations bill for the Department of Health, Education, and Welfare has been tied up for months over the Hyde Amendment fight. In the most recent debate on the issue, on Nov. 3, several members of Congress cited the death of the woman in McAllen, Tex., and linked it to the issue before them.

Rep. Elizabeth Holtzman (D-N.Y.) was perhaps the most vivid:

"As a result of the actions of the House in restricting Medicaid abortions, a woman has already died. An unmarried mother of a 4-year-old girl, who was too poor to afford a safe medical abortion, crossed the border into Mexico to obtain an unsafe abortion. She died in a hospital in McAllen, Tex., just a few days ago. Hundreds, if not thousands, of other women will suffer the same fate."

House of Representatives,
Washington, D.C., December 2, 1977.

Hon. Joseph A. Califano,
Secretary, U.S. Department of Health, Education, and Welfare, Washington, D.C.

Dear Secretary Califano: I am writing in regard to what I believe to be a very serious problem, the apparent manipulation of public and Congressional opinion by Federal official's at HEW's Center for Disease Control in Atlanta.

Specifically, I am referring to information, recently published in the Washington Post, surrounding the tragic death of an American woman due to complications resulting from an abortion she had in Mexico, supposedly because Medicaid would not cover the costs in this country. The Post story suggests that the incident may have been fabricated. My purpose here is not only to question the findings of the CDC report, but to question the propriety of that agency in using that report in an effort to modify public and Congressional opinion on a national political issue.

When Congress established the CDC, it clearly did not intend for them to engage in winning political acceptance for the views of special interest groups or political parties. Furthermore, this thinly veiled attempt to manipulate opinion runs counter to both your and President Carter's publicly stated position on abortion.

The CDC, is not, nor should it be, a propagandizing agency. I urge you to conduct a prompt and thorough investigation of this matter and encourage the CDC to abandon these wasteful, misguided activities and proceed with urgent matters.

Sincerely,

James L. Oberstar, M.C.

EULOGY FOR CARLETON J. KING

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MITCHELL of New York. Mr. Speaker, I note with deep regret the passing of a former colleague and member of the New York State delegation, the Honorable Carleton James King. Representative King, a native of Saratoga Springs, served his birthplace and the people of the 29th district of New York with distinction for 14 years, from 1960 until 1974. Prior to that, his years of law practice and bar experience in his native area made him a well-known and respected public figure in eastern New York.

I wish to acknowledge a personal debt to Representative King from my days as a freshman Congressman and colleague of his on the Armed Services Committee. In the course of our brief service together, Congressman King's earnest commitment to the security of our country through a strong national defense posture made a lasting impression on me. America's spirit of national strength, which he sought to keep alive and vital for many years, will survive as a legacy to his dedication.

The people for whom Congressman King spoke in Washington join me in mourning his passing. Since many of my own constituents were formerly served by Mr. King, I am especially aware of the mutual regard and respect that existed between them. He will be remembered by those whom he represented for so many years, well and fondly.

TRYING TO REGULATE THE REGULATORS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. LEVITAS. Mr. Speaker, as you know, one of my main congressional interests which I share with many of my colleagues, is the regaining of control over the bureaucracy and making its processes more rational. An article by Hugh Sidey in the December 5 issue of Time magazine has caught my eye. It is entitled "Trying To Regulate the Regulators," and deals with President Carter's proposed Executive order, "Improving Government Regulations" which appeared in the Federal Register of November 18, 1977.

I commend the President for his initiative in issuing this Executive order, and I hope that he will not be frustrated by the bureaucrats in fully implementing it in reality and not just in words. President Carter has taken a good first step. However, it is only a first step. If the President is to fulfill his commitment to the American people to get the bureaucracy in hand, he will have to go much further. It is not enough simply to get Government rulemakers to think before they promulgate. More control is needed. It is necessary for Congress, as elected representatives who delegate to the unelected rulemakers the authority to make rules, to have the power to review and veto these administrative rules and regulations. If the President is to achieve the goal of getting the bureaucracy in hand, he would be taking a major step by endorsing this proposal. Indeed, President Carter would prove to the American people that his pledge to control big government is being kept by providing this means of legislative veto for controlling regulations which have so burdened, confused, and harassed the American people for so long.

I want to bring the article from Time magazine to the attention of my colleagues. It contains some glaring examples of why control over bureauratic regulations is imperative:

TRYING TO REGULATE THE REGULATORS

(By Hugh Sidey)

(Regulations should be as simple and clear as possible. They should achieve legislative goals effectively and efficiently. They should not impose unnecessary burdens on the economy, on individuals, on public or private organizations, or on state and local governments.)

That unusually straightforward passage of governmental prose, printed in the Federal Register a few days ago, is a declaration of intent by Jimmy Carter. It is the preamble to a presidential order he hopes to issue before the end of the year. For those who dwell in the world of red tape, which is most of America, the words shone like diamonds in a mountain of slag. The wisdom rivaled that of Solomon.

Georgia's Charles Henson, had he read this, would have wept. For 28 years he manufactured Red Fox denims. Then one day came a ruling from the Federal Trade Commission: since his denims did not have any red fox fur in them, he could no longer use the name. Think of the joy Carter's sensible proclamation would have brought to the parsimonious New Hampshirite who had to spend $26.23 in postage to mail the bulky forms for a license renewal for his small radio station. Pity the distress the Carter doctrine will cause the Occupational Safety and Health Administration bureaucrat who propounded the 39-word, single-sentence definition of exit: "That portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subpart to provide a protected way of travel to the exit discharge."

And, surely had the folks at the Bureau of Land Management known about the new dictum, they never would have issued 155 pages of requirements, including 23 foldout diagrams, for fire equipment to be purchased for two bureau pickup trucks. The low bid was $31,000, an estimated $8,000 for the equipment and the rest for processing the regulations.

Carter's campaign to force Government rulemakers to think before they promulgate may not be the moral equivalent of war, but if he wins a few skirmishes he will be blessed from Bangor to Chula Vista.

Fred J. Emery, director of the Federal Register, looks over his desk each day at a 15-ft. shelf containing 73,000 pages of the Code of Federal Regulation. There are millions of entries, new rules for life in these United States. It grows as much as 5,000 pages a year. Emery has started a school for the rule writers. He is trying to make the language at least understandable. He illustrates the problem with a parable: "It is like the two fellows in the hot air balloon who get lost in a cloud and, emerging, call down to a man on the ground, 'Where are we?' The fellow calls back, 'In a hot air balloon.' The answer, like a lot of regulations, is absolutely accurate but totally useless."

Wayne Granquist and Stanley Morris at the Office of Management and Budget are guiding Carter's campaign. They drafted the presidential proclamation. In a few weeks they will present Carter with a final draft of an Executive order to all federal agencies and departments.

The next task will be to pump the order through the governmental circulatory system. Part of the problem is that the proliferation of rules often takes place in the depths of the bureaucracy, not at the top. A program chief hears a complaint and summons a committee, which calls in lawyers. New regulations are drafted, then sent to a boss who approves them. The regulations are printed; sent to the field; and one morning a federal authority is insisting—to take actual cases—that ice cannot be added to drinking water, chickens cannot be processed in rooms with tile floors, fire extinguishers are to be lowered 6 in., and cowboys must work within 5 min. ride of a toilet. The reasons for, and meanings of, the regulations have been lost somewhere between Washington and Pocatello.

At the very heart of the issue is the attitude of the thousands of people who concoct and enforce the Government rules. The best of the bureaucratic breed talk sincerely of transforming regulators from cops who are out to punish offenders to public servants who help citizens solve their problems. After all, it was partly a rejection of oppressive, expensive regulation by far-off authorities that led to the creation of this country 201 years ago.

H.R. 41 IS THE WRONG APPROACH TO ABUSES IN THE NAME OF CHARITY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. BONKER. Mr. Speaker I am sure other Members of the House share my concern over abuses made in the name of charity; there is something particularly offensive about the person or organization that takes advantage of the nobler human emotions for selfish ends. Such abuses have recently prompted reform proposals, including Congressman CHARLES WILSON's bill, H.R. 41, to require charitable organizations which solicit contributions to disclose the percentage of a contribution which would actually go to the charitable purpose for which it is intended.

Although the purpose of H.R. 41, to limit possible abuses by ostensibly charitable organizations, is certainly commendable, I do not believe it is the proper way to remedy the problem. The legislation would be open to serious constitutional challenges on first amendment grounds, and it would do more to burden legitimate charities and religious groups than it would to discourage unethical solicitations. To impose on all religious and charitable groups the accounting, paperwork, and reporting required by H.R. 41 would punish the vast majority of worthwhile causes in order to halt the abuses of a tiny minority.

H.R. 41 has aroused some vigorous opposition. Regrettably, part of this opposition is based on misinformation. It was therefore especially instructive for me to read a very thorough and responsible analysis of H.R. 41 in a recent issue of Christianity Today. I heartily recommend the following article, by William Proctor, to my colleagues.

H.R. 41: THE STATE DEMANDS CHURCH DISCLOSURES

(By William Proctor)

Watergate cover-ups and clandestine Central Intelligence Agency activities have thrust us into an era when baring the organizational soul to the public has become a virtue—and the eighth deadly sin is refusing to do so.

Despite traditional protection from state interference, religious organizations are not immune to these pressures for disclosure. During the last year religious groups have been the targets of proposed legislation in bill, H.R. 41, introduced into the House of Representatives by Charles H. Wilson (D-Calif.), chairman of the Committee on Post Office and Civil Service.

Wilson's bill seeks to regulate any charitable organization, including churches and other religious groups, that solicits "in any manner or through any means, the remittance of a contribution by mail." In plain language, this means that a religious group asking in any way for money to be donated to it through the mail is subject to the disclosure requirements of the bill. Groups covered by the bill would have to include with their solicitations the following information: the legal name and address of the charity; the purpose of the solicitation and intended use of the money contributed; and the percentage of contributions "which were directly applied" to the charitable purpose, after deducting "all fundraising and management and general costs during the most recent complete fiscal year."

This information must be provided at the point of solicitation, or when the appeal for funds is made, rather than at the demand of prospective contributors or investigators. The bill requires groups that solicit on radio to make their communications clearly audible. Those that use television must make their disclosures in clear lettering and for a sufficient period of time to allow the viewer to read the wording. The bill exempts some very short radio and TV appeals, and also "bona fide membership organizations," including churches, that make exclusive solicitations to their members.

Any charitable organization, including churches, that falls under the bill would find its records subject to the watchful eye of the Postal Service. At the request of postal authorities, church would have to supply "audit reports, accounts, or other information as the Postal Service may require to establish or verify information which such organization is required to include in solicitations."

From a legal point of view, there are two main problems with H.R. 41. In the first place, there is good reason to believe that the courts would find the bill unconstitutional. Secondly, even if the bill is constitutional, some of the key words and phrases are so vague that the courts would have to work overtime to give them meaning in future lawsuits.

The possible conflict of the bill with the Constitution centers on the First Amendment, which prohibits Congress from passing laws "respecting an establishment of religion, or prohibiting the free exercise thereof." If H.R. 41 becomes law it seems likely to restrict the freedom of churches and other religious organizations in fundraising. Television appeals would have to be interrupted by an extensive disclosure statement, and the impact of the appeal would be blunted. Also, the additional accounting and paperwork in delineating management and "direct" charitable costs will put an added financial burden on religious groups. In a kind of religious Catch-22, as churches spend more money on administration to comply with the disclosure law, the percentage of money they can apply directly to their charitable purpose will decrease. And in the public eye they may appear to be spending an inordinate amount of money on administration, partly because the disclosure law requires them to do so. The power of churches and other religious organizations to raise money freely to support their activities is necessary if they are to remain an independent force in society. Otherwise, financial pressures may force these groups to rely more on foundations or even government aid, and our constitutional priniciple of strong, separate spiritual institutions will be lost.

The U.S. Supreme Court has traditionally avoided taking an active role in restricting or regulating the activities of religious groups. On the contrary, most active steps by the court have been to broaden the power of religious groups. For example, in the 1952 *Zorach v. Clauson* case, the court held that a New York City ruling which allowed students to leave school for religious instruction during regular school classes was constitutional. The court again approved a form of state aid to religion in *Sherbert v. Verner* in 1963. Writing for the majority the late Justice Tom C. Clark said it was a violation of freedom of religion not to allow a woman who was a Seventh-day Adventist to receive state unemployment compensation. She had been fired by her employer because her religious convictions prohibited her from working on Saturdays.

H.R. 41, in contrast, would cast the federal government in an active role opposing religion. This role appears to be in conflict with the Supreme Court's landmark 1947 decision of *Everson v. Board of Education*, in which the late Justice Hugo Black declared that "State power is no more to be used to handicap religions than it is to favor them." Chief Justice Warren Burger reinforced this line of thought in 1970 in *Walz* v. *Tax Commission*, which upheld tax exemptions for property used solely for religious worship. Burger wrote, "We must also be sure that the end result—the effect—is not an excessive government entanglement in religion."

He established two tests to determine excessive state entanglement in religion: "whether the involvement is excessive, and whether it is a continuing one calling for official and continuing surveillance leading to an impermissible degree of entanglement." Although Justices Byron White and William Rehnquist criticized this entanglement standard in a later case. Burger's ruling still stands as the law of the land.

The Chief Justice conclued in *Walz* that a principle of "benevolent neutrality" should control the state's dealings with the church. The provisions of H.R. 41 seem anything but "benevolently neutral" as they attempt to impose an active fundraising and accounting burden on religious groups.

But the constitutional problems that surround H.R. 41 are only part of the problem. The language of the bill is so vague that considerable litigation is inevitable on that ground alone. One phrase that poses serious problems of interpretation is the statement that charitable organizations that solicit *"in any manner or through any means"* the remittance of contributions by mail must include the various financial disclosures with the solicitations. But what about the lay chairman of a local church pledge drive who stands in front of his congregation and tells them to take pledge cards from the ushers and mail them to the church? If nonmembers are present, must the chairman exclude them explicitly from his appeal, or recite the disclosure litany from the pulpit? Will missionaries writing of their financial needs on the field be under similar obligations? Which federal agencies will implement and police such requirements?

Or how about the pastor who is pulled aside by a nonmember who wants information about giving money to the church? If the pastor suggests that the inquirer drop his contribution in the mail, will this suggestion be a solicitation "in any manner and through any means"—a solicitation that would require a full, on-the-spot disclosure of management percentages? If so, the pastor's freedom in asking for contributions will be severely limited.

What it all boils down to is this: the phrase "in any manner or through any means" is so sweeping that it is bound to be challenged in court by religious groups that are understandably reluctant to surrender control over their fundraising.

An even more difficult section of the bill to define is the requirement of disclosure of the *percentage* of all contributions that were directly applied to the charitable purpose "after deducting all fundraising and management and general costs during the most recent complete fiscal year of the organization." In any charity, there is a large gray area of costs that cannot be defined clearly as either "management" or purely charitable. In a local church, is the ministers' salary a management cost, when a large part of his time is devoted to counseling and preaching? If the costs attributable to counseling and preaching are not being "directly applied" to the charitable purpose, it is difficult to imagine what would be. But the pastor is also an administrator. So to comply with H.R. 41 it will probably be necessary to allocate his salary between charitable and administrative functions.

Also, what about the church secretary's salary? Granted, the secretary may be doing "fundraising" work, like typing appeal letters. But the job may also include typing the minister's sermons and putting together the Sunday bulletin. That part of the secretary's salary required for both of these latter tasks would seem to be money "directly applied to the charitable purpose," but some postal investigator might well decide otherwise. If the bill becomes law, the failure to define these terms clearly could create a nightmare of paperwork and accounting costs for religious groups, and will make enforcement by the Postal Service even harder.

The problem of enforcement and surveillance brings up another difficult problem raised by the language of the proposed law. Recent amendments, apparently in response to constitutional questions about excessive state entanglement in religion posed by the *Walz* case, give lip service to restricting the Postal Service's power under the bill to oversee religious groups. For example, the Service cannot audit charities "at regular intervals" and can intervene only where there is a "specific need." But postal authorities still retain broad discretion under H.R. 41 to demand "such audit reports, accounts, or other information as the Postal Service may require to establish or verify information which such organization is required to include in solicitations."

Taken at face value these words seem to give the Postal Service the right to demand such confidential records as contributors lists. If these lists should become public, and there is reason to think that they might under the provisions of the Freedom of Information Act, a church or other religious organizations would lose control over who would have access to their hard-earned and carefully-guarded donor lists. Donors to unpopular or controversial evangelistic groups might find themselves being harassed by the group's opponents.

Finally, though churches and other religious groups that solicit "exclusively" from their "members" are excluded from the bill, the definition of the word "members" raises a knotty question. There are some churches with different classes of membership. The United Methodist Book of Discipline, for example, provides for "affiliate members" who can participate fully and hold office in one United Methodist church while staying on the rolls of another. There are also "associate members," who are members of a different denomination but who elect to participate in a United Methodist church on the same terms as an affiliate member. H.R. 41 is unclear whether the term "members" includes all these types. Defining the term precisely is essential to determine whether solicitations to one or more classes of "members" require disclosure under the bill. Furthermore, in some organizations all donors are regarded as members of a contributors' organization or club, and their membership gives them certain privileges and recognition. If the word "members" in this bill can be read so broadly, religious groups might be well advised to use the same escape hatch to avoid compliance with disclosure requirements.

But looking for ways to escape the requirements of H.R. 41 is not really the answer to this proposed legislation. Instead of imposing onerous, vague, and constitutionally questionable disclosure requirements on religious organizations, the federal government should concentrate on enforcing mail fraud and other statutes that are on the books. The most that is called for on the federal level is a statute that would preempt the various state laws now in force so that charity regulations would become more uniform nationally. Any such legislation, however, should only give federal authorities power to compel disclosure and investigate religious groups when there is evidence of some criminal or civil violation. Bills like H.R. 41 that require disclosure with no evidence of wrongdoing and give the Postal Service broad discretion in auditing confidential church records seem more an overreaction to the enthusiasm for disclosure than a measured proposal for effective long-term reform.

MERIDIAN EMPLOYMENT SECURITY OFFICE RECOGNIZED FOR WORK ON BEHALF OF VETERANS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MONTGOMERY. Mr. Speaker, because of my deep interest in employment programs for our Nation's veterans, I am pleased to call attention today to the outstanding work being done by the Meridian, Miss., office of the Employment Security Commission for veterans. The attached materials explain quite thoroughly the outstanding work being done by James T. Dawson, Edward Furgalak, and William H. Wright. I include at this point in the Record a newspaper article detailing national and international awards the office won, plus letters and resolutions of commendation they have received:

EMPLOYMENT SERVICE OFFICE TAKES AWARD

The Meridian office of the Mississippi State Employment Service has won a second award for its services to veterans, Jim Dawson, office manager, announced.

It is the top award in the larger office category from the International Association of Personnel in Employment Security, a worldwide organization, according to Dawson.

The award was presented at the association's convention held in Hot Springs, Ark., marking the first time any office in the State of Mississippi has won the honor, Dawson said.

It was accepted on behalf of the Meridian office by John E. Aldridge, executive director of the Mississippi Employment Security Commission.

The Meridian office earlier was announced the winner of the top national Veterans of Foreign Wars award for its outstanding services to veterans.

The VFW presentation was made to Dawson at a banquet Saturday night in Jackson.

"I am highly pleased and honored that my staff has received both national and international recognition for its work," Dawson said. "It's a very nice feeling to be named number one from two areas."

JUNE 30, 1977.

Mr. JAMES DAWSON,
Mississippi State Employment Service,
Meridian, Miss.

DEAR MR. DAWSON: I want to take this opportunity to extend to you my personal congratulations on your recent awards for providing services to veterans. To receive national awards from two prominent organizations as the Veterans of Foreign Wars and the International Association of Employment Security is indeed a most commendable achievement.

The employment security system in this country has achieved great success due to outstanding and dedicated employees such as yourself. Please know that I am very proud to be associated with you and your agency.

On behalf of the entire regional staff here in Atlanta, I extend to you best wishes for continued success in your local office operations.

Sincerely,

JULIAN O. COLQUITT,
Regional Administrator.

RESOLUTION

The Mississippi Employment Security Commission in regular meeting, duly assembled, hereby expresses special commendation and personal congratulations to the Meridian Employment Service Local Office for winning two national awards for its services to veterans from the International Association of Personnel in Employment Security and the Veterans of Foreign Wars of the United States.

While we commend the entire staff of the Meridian Employment Service Local Office, we wish to especially commend James T. Dawson, Manager, and Edward Furgalak and William H. Wright, local Veterans Employment Representatives, for their leadership in making these accomplishments possible.

These commendable achievements reflect the cooperation and support of the Meridian area in the Employment Security system and services to its people.

We are indeed proud of our dedicated employees, and order that a copy of this Resolution and commendation be forwarded to the Meridian Employment Service Local Office.

RESOLUTION

The Lauderdale County Board of Supervisors, Meridian, Mississippi, in regular meeting, duly assembled, hereby expresses special commendation and personal congratulations to the Meridian Employment Service Local Office for winning two national awards for its services to veterans from the International Association of Personnel in Employment Security and the Veterans of Foreign Wars of the United States.

While we commend the entire staff of the Meridian Employment Service Local Office, we wish to especially commend James T. Dawson, Manager, William H. Wright, Placement Manager, and Edward Furgalack, local Veterans Employment Representative, for their leadership in making these accomplishments possible.

These commendable achievements reflect the cooperation and support of the Lauderdale County area in the Employment Security system and service to its people.

We are indeed proud of our dedicated Job Service staff and order that a copy of this Resolution and commendation be forwarded to the Meridian Office of the State Employment Service.

NINE DE KALB BOY SCOUTS RECEIVE EAGLE AWARD

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. LEVITAS. Mr. Speaker, on December 3, 1977, nine Boy Scouts received their Eagle awards at St. Timothy's United Methodist Church in De Kalb County, Ga. Excluding military bases, this is the largest number ever to receive such an award at a single ceremony in De Kalb County, and in Georgia. All of the young men were from Troop 70, sponsored by St. Timothy's United Methodist Church.

The Order of the Eagle is the highest award that a Boy Scout can obtain. To do so, a boy must earn 24 merit badges and complete a community project which benefits the church, the local government, or the local community with a minimum of 8 hours and includes leadership through supervision of other scouts who assist in the project. Most of the young men from St. Timothy's spent from 30 to 50 hours on their projects.

It was my honor to be present at the awards ceremony, and it reminded me anew of the effect scouting has had on my own life. As a former Boy Scout, I learned the tenets of obedience, leadership, loyalty, comaraderie. The lessons of scouting have continued to be relevant in my life. The values imparted through the Boy Scouts are those that I still value highly. It was my pleasure to see the following young men receive their Eagles: Bruce Carraway III, Michael T. Craft, Jay R. Craytor, Michael R. Duryea, Norman L. Engard, Jr., Ronald W. Funkhouser, Kenneth N. Hickox, Jr., William T. Howe, and Kurt G. Winters. Their Scoutmaster is William E. Funkhouser, and the chairman of the Troop Committee is William Winters. They are all to be congratulated.

SECRETARY MARSHALL—HE GETS RESULTS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. PICKLE. Mr. Speaker, a soft-spoken Texan is not quoted often in the press. But he gets results.

His latest is a growing list of achievements is the proposed revocation of 1,100 Occupational Safety and Health Administration regulations. The proposal to take 1,100 regulations and—not modify them—not improve them—not add more pages to clarify their intent—but to chuck them in the trash can—is one of the healthiest steps this Government has taken in a long, long time. President Carter promised to make Government more sensible and serviceable.

I applaud Secretary Marshall and his plain English, commonsense attitude toward government. I applaud the results of that attitude.

This is not the first occasion I have had to praise this man. Secretary Marshall joined forces with the IRS and Justice and carried forward the investigation of the Teamsters Central States pension fund with vigor and, again, with results. Under his and others efforts, the funds assets have now been turned over to independent investment managers of highest reputation who can now begin to safeguard these funds so that Central States participants can be better assured of a good pension at a reasonable cost and so that the allegations fund abuses can be put to rest once and for all.

Secretary Marshall has been effective in other ways, too. And he has through it all done the difficult job of simultaneously being true to the President, true to his Department, and true to the American people. He is a breath of fresh air. He is not an old Washington hand, and he is proof that you do not have to be to get things done.

BOSTON'S DESEGREGATION PROGRAM ENDS UP IN RESEGREGATION

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MOTTL. Mr. Speaker, in today's Washington Post article by Evans and Novak titled, "Boston's Busing Stage II," the authors cite the results of Federal Judge Garrity's plan to desegregate the Boston school system.

Because of the great white flight out of Boston proper to the suburbs the end result is massive resegregation of a school system which was supposed to be desegregated.

This article does not tell of the astronomical cost the taxpayers had to bear nor of the waste of precious gasoline to transport students across town.

If you would like to put this devisive issue of busing behind us and restore the concept of the neighborhood school by giving each child the right to attend his neighborhood school, please sign discharge petition No. 1 at the Clerk's desk.

Hereafter is the eye-opening article by Evans and Novak:

Boston Busing, Stage II

(By Rowland Evans and Robert Novak)

Boston.—When Federal District Judge W. Arthur Garrity Jr. on Nov. 29 made clear that he—not the elected Boston School Committee—will ultimately decide which schools close here, he continued the judicial overlordship that has driven half the city's white students out of the school system.

What makes this remarkable is that the school committee is no longer the bastion of bitter-end anti-busers. Its Chairman, Kathleen Sullivan, provides moderate leadership that accepts the inevitability if not the wisdom of court-ordered busing. She led all candidates for reelection Nov. 8, when Boston's voters elected the committee's first black (a moderate) and defeated its foremost anti-busing zealot.

But the new school committee is treated no differently from the old school committee by Judge Garrity. He and what Miss Sullivan calls "those crazy experts of his" are not surrendering control. That suggests continued white exodus from the system, in which Garrity's rule has brought soaring per-pupil costs without improving education. "The victims are the kids," Sullivan told us.

This is stage II of Boston's busing. Violence and demonstrations have ended, and one-issue politicians are driven from office. But liberals elsewhere make a mistake if they interpret this as approval of busing. "The people don't go out and chant slogans," Sullivan told us. "They merely creep out of the system."

Unable to overcome the judge, they escape him. Since Garrity's busing order in June 1974, white school enrollment has dropped from 58,000 to 29,000. Experts had predicted a normal yearly loss of 3,000 whites, due to population patterns—12,000 over the last four years. So, because of busing, an additional 17,000 white students have left the system. In a city where the black population is only 20 per cent, the black school population is nearing 60 per cent.

A classic case is the Morris School in the West Roxbury section, which in November 1974 had an all-white enrollment of 347. A 1975 "masters' panel" of distinguished citizens (appointed by Garrity) recommended, as part of a citywide plan, a total of 260 whites and 70 blacks at Morris. But Garrity rejected the whole plan and redrew school boundaries to ensure a 50–50 racial mix. The result: Current enrollment at Morris is 23 whites and 123 blacks. The whites have all but disappeared.

Nor has the exodus concluded. A Garrity-ordered school reassignment last summer (later suspended) led many white liberals finally to give up and put their children in private schools. Garrity's resistance to the special program for gifted students has lowered another possible barrier to flight from city schools.

The decline of the Morris school enrollment, down from 347 to 146 in three years, is no extreme example. Unfilled classrooms, along with busing costs, have boosted annual costs per pupil to over $3,000 (and $5,500 at embattled South Boston High).

Mayor Kevin White, the tragedy is that high costs have produced education no better and likely worse than it was. But Garrity and his chief expert, Boston University Dean of Education Robert A. Dentler, have fought school closing as a covert attempt at resegregation.

When we interviewed Sullivan and Dean Dentler on television in September 1976, Dentler steadfastly denied *any* white flight. "It was then for the first time," Sullivan told us more than a year later, "that I realized how little those people understand what was going on."

Ignorance of political realities is characteristic of colonial rule by overlords who do not live in the political unit they control. Garrity lives in suburban Wellesley, Dentler in Lexington.

Garrity obviously regards Boston's politicians and people with intense suspicion. Although he may relinguish school control in about two years, Garrity exhibits a paternalistic need to protect Bostonians from themselves—another colonial characteristic.

Constitutional scholar Raoul Berger, in "Government By Judiciary," concludes: "The judges might begin by curbing their reach for policy-making power, by withdrawing from extreme measures such as administration of school systems—government by decree—which have disquieted even sympathizers with the ultimate objectives. Such decrees cannot rest on the assertion that the Constitution demands busing, when in truth it is the justices who require it in contravention of the framers' intention to leave such matters to the states."

For Garrity to take that advice would be welcome news for Bostonians and their elected school committee, who want nothing more than to run their own affairs without the good judge's protection.

THE NONGAME FISH AND WILDLIFE CONSERVATION ACT OF 1978

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. FORSYTHE. Mr. Speaker, on July 28, 1977, Congressman Bob Leggett and I introduced the Nongame Fish and Wildlife Conservation Act. The purpose of this legislation is to provide financial and technical assistance to the States to enable them to develop and implement conservation programs for nongame fish and wildlife.

Although the Pittman-Robertson and Dingell-John programs have gone a long way toward fulfilling the conservation needs of game species, the sad truth is that no comparable legislation exists for the protection of nongame fish and wildlife. I recognize that the Endangered Species Act does provide protection for nongame species, but I submit that our national goal must be the preservation of wildlife before they become endangered.

What I am talking about is the quality of life in America—the quality of life for over 89 million Americans who each year venture into the outdoors to enjoy the nongame wildlife heritage of this great land of ours. It is time that we seize the initiative and move forward in an effective manner to insure that the full range of wildlife values in America are protected and conserved for the enjoyment of present and future generations. To accomplish this purpose Bob Leggett and I introduced the Nongame Fish and Wildlife Conservation Act of 1978.

On September 30 the Subcommittee on Fisheries and Wildlife Conservation and the Environment conducted hearings on this legislation. The testimony received by the subcommittee revealed a compelling need for the bill. Nongame fish and wildlife represent the overwhelming majority of the 3,700 vertebrate species found in the continental United States. Yet, at the present time, only 10 percent of these species receive any scientific management to insure their welfare, and with few exceptions these represent the game species. If the States had adequate resources to establish comprehensive nongame conservation programs, new or increased attention would be given to an average of 279 species in each State. This number is approximately twice the number of species which are legally harvested in each State and is probably more than three times the number of species which are currently the subject of a State wildlife conservation program.

During the September 30 hearings the subcommittee heard virtually unanimous support for the legislation and received several recommendations. The two major suggestions were that the bill be amended to provide an opportunity for comprehensive fish and wildlife planning that reaches beyond the boundaries of nongame species, and that the authorization levels be increased to accurately reflect the needs of the States.

Subsequent to the hearings, the legislation was redrafted to incorporate the many positive suggestions received. In particular, the authorization levels were increased and a comprehensive planning option was incorporated into the legislation. Today I am reintroducing the Nongame Fish and Wildlife Conservation Act with subcommittee cosponsors.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment will be conducting additional hearings on the new legislation early in the second session and it is my hope that these hearings will lead to prompt passage of the bill.

Mr. Speaker, if we as a nation are to meet the challenge to protect and conserve our natural wildlife resources, it is critical that the Congress enact a comprehensive nongame conservation program.

FIFTY YEARS OF LOVING KIDS

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. ADDABBO. Mr. Speaker, the year 1977 marks the golden anniversary of the Queensboro Children's Shelter. Operated by the Queensboro Society for the Prevention of Cruelty to Children (QSPCC), which itself has survived 58 years as a volunteer social effort, the shelter was the first of many programs and facilities devoted to child care services.

Today, there is a variety of residential services, protective-preventive services, an innovative group home program, and a newly acquired day care center. Through it all, the society has fostered a unique understanding of parents and children in conflict. And, in these trying economic times, which have done little to prevent the incidence of violence against or by children, staff, and volunteers have given of themselves to make up for funding deficits.

Four members of the society have been honored for their devotion and service: Morris Horn, Maurice Nalven, Ann Thompson, and Herbert Prezant. In addition, I would like to add a few words of high praise and admiration for the chairman of the board and outgoing president, Ralph H. Kress; Louis L. Theiss, the new president of QSPCC; and, the executive director, Eric B. Brettschneider. From all of us—and on behalf of the children of Queens—thank you.

I insert into the RECORD an article concerning the honorees:

THE HONOREES

MORRIS HORN

It is with a sense of privilege and pride that the QSPCC bestows upon Morris Horn, labor statesman and community leader, the Youth Development Award. As the QSPCC pauses to celebrate 50 years of service through the Children's Shelter, it is appropriate that recognition be given a community resident who also has been a leader in the cause of caring for children and youth.

For more than 45 years, Morris Horn has been an active member and distinguished leader of the trade union movement in the United States. As a founder and secretary-treasurer emeritus of the Provision Salesmen and Distributors Union Local 627 A.F.L.-C.I.O., Mr. Horn has earned for himself an enviable position in union ranks.

In 1963, he inaugurated the Morris Horn Scholarship Fund which, under the sponsorship of Local 627, provides funds to deserving high school graduates wishing to continue their education.

During his many years of community involvement Mr. Horn, a resident of Bayside, Queens, has devoted himself with enthusiasm and great effectiveness to humanitarian causes such as the Boys' Town of Italy, the Muscular Dystrophy Campaign, the Negro College Fund and the United Fund, as well as numerous other philanthropies. He was a pioneer investor in Israel Bonds and has contributed generously to the United Jewish Appeal, the Weitzmann Institute and the Red Mogen David. He has ben honored by many organizations including the Parkinson Foundation and the International League for the Repatriation of Russian Jews.

As a founder, president and now honorary president of the Jewish Center of Bayside Oaks, Mr. Horn is carrying on in the noblest tradition of trade union ideals when he works for the betterment of young people.

ANN THOMPSON

For her dedication in active service to the children and families served by the QSPCC, Ann Thompson is being presented with the Distinguished Service Award.

Ann joined the QSPCC board of directors in 1973 and has served in a number of capacities including Assistant Secretary and Assistant Vice President for Development, her current position.

Eric Brettschneider speaks of Ann's involvement, "whether it's writing letters to companies requesting raffle prizes, selling chances at the Summer Garden Party, working on a Phonathon or Street Fair, or contacting someone whose support is needed, we can always count on Ann to pitch in and help."

The list of community organizations that benefit from Ann's participation is long and impressive. She is presently chairperson of the Central Civic Association of Hollis, a member of Community Planning Board No. 12, and the Jamaica branch of the NAACP. She has served as secretary, co-chairperson of the housing and education committees, and New York State membership chairperson of the NAACP, First Vice President, Second Vice President and Financial Secretary of the Central Civic Association of Hollis, executive board member of the League of Women Voters, member of Queens Borough President Donald R. Manes' Decentralization Committee, Treasurer of the South East Queens Community Organization and member of the District 29 panel to screen nominees for the community school board.

And the list continues ... Ann is recording Secretary for the St. Gerard Drum and Fife Corps, member of the Human Resources Council of the Greater Jamaica Chamber of Commerce, Publicity Chairperson of the 705th Precinct Community Council.

In the political arena, Ann is a member of the United Democratic Club, 29th A.D., New York State Committeewoman for the 29th A.D. and in 1972 and 1973 was elected to the Democratic Judicial Convention for the 11th Judicial District. Ms. Thompson was also an elected delegate to the First National Women's Conference in Houston, Texas.

Ann feels her seven years' work experience as a Manpower Development Analyst and Director of manpower outreach programs for New York City's Office of Manpower and her B.A. in political science from Queens College have helped make her more effective in her community work.

A longtime resident of Queens, Ann currently resides in Hollis with her husband Otis and their two children, Steven, 15 and Denise, 12.

MAURICE NALVEN

In gratitude for and recognition for his many years of service to the QSPCC, Maurice ("Mal") Nalven, is receiving the President Emeritus Award.

Born in Brooklyn, New York in April of 1925, Mr. Nalven was educated in the public schools of that borough. Upon his high school graduation, he attended Syracuse University and attained his Bachelor of Science degree in 1949.

Mal came to Jamaica in 1957 and, though he had various prior civic interest (i.e., YMCA, Kiwanis), he was introduced to the work of the QSPCC in 1961 via the efforts of James Holton, a long time member and past President. Mr. Nalven had entered the insurance business with Mr. Holton, subsequently became a partner and, later on, bought him out.

He speaks of the QSPCC with abiding affection, particularly relating to its actions under his presidency (1973–1975). Mr. Nalven said he was "pleased with the awareness of the Board and extremely gratified to be a member and officer."

Regarding priorities for QSPCC, he realized long ago that there is a role that must be played in helping children become "productive adults." Said he, "Our policy should be to take the course of action so determined for mutual understanding. The professionals have been telling us that the best corrective way is to de-institutionalize." This idea is the foundation in the Society's group home endeavors.

No stranger to high office, Maurice Nalven is a past Chairman of the Board of the YMCA. In October, 1972, he was selected as Man of the Year for Outstanding Service. Well-known and respected in his chosen profession, he was President of the Insurance Agents Association of Queens County, Inc., 1963–64, from whom he received a Certificate of Appreciation.

At six feet and 185 lbs., "Mal" keeps himself in good shape by engaging in year-round recreation with his sons Glenn, 19, Todd, 14. It's golf, tennis and sailing in the summer and skiing and skating in the winter. Paddleball is another favorite.

Herbert Sam Prezant, Chairman of the 1977 Annual Awards Dinner Dance, is QSPCC's First Vice President and is known throughout Queens for his dedication to community service.

Sam served in World War II from 1942 to 1946, after which he successfully operated an automobile agency in Elmhurst, where he now heads a real estate and insurance brokerage business.

Mr. Prezant is a member of Temple Israel of Jamaica and the Jamaica Estates Assn. He also holds membership in the National, New York State and Queens County Insurance Agents Association and has served on the Community Councils of the 110th and 112th Precincts of the New York City Police Department, Salvation Army Service Unit of Queens and as Special Assistant to the State Attorney General. He is a Master Mason, Elk, and Odd Fellow. Recently, Sam became a member of the Relationships Committee of the Greater New York Councils, Boy Scouts of America.

Sam was responsible for organizing the Elmhurst Chamber of Commerce and is President and Chairman of the Board of Directors. He also helped to form and heads as its president, The Elmhurst Economic Development Corporation.

During the last fourteen years, Mr. Prezant has devoted much of his energetic existence to Lionism. He is a charter member of the Lions Club of Elmhurst, having served it in every office and capacity. In July 1969, in Tokyo, Japan, he was installed as District Governor of Lions International, heading a District comprising all of Queens and Brooklyn, and consisting of 44 individual Lions Clubs. His pet project has been an Eye and Ear Mobile Unit which provides free vision and hearing screeming to all and is often seen in the local communities of both boroughs. He has received many Appreciation Awards and Citations from international, state and district levels of Lions International for Outstanding Service.

Sam was introduced to the QSPCC seven years ago when he became a member of the

Board of Directors. In 1974, he saw a tremendous need for an official publication and with the approval of all concerned the QSPCC NEWS, VIEWS, newspaper was born. The first edition went to press in September, 1974, and the paper has completed three years with Mr. Prezant as its editor. For this and other outstanding service, Mr. Prezant was honored by the QSPCC's Board of Directors in December, 1975.

A TRIBUTE TO THE "LUCKY LOU"

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. PICKLE. Mr. Speaker, I am sure that my colleagues recognize that today is the anniversary of one of the most tragic events in the history of our Nation.

We are all familiar with the events that took place at Pearl Harbor on that Sunday morning 36 years ago, but I would like to bring to the attention of my colleagues one story that began on December 7, 1941, that has continued through today.

The cruiser U.S.S. *St. Louis* was one of about 100 American ships anchored in Pearl Harbor that day and it was the only major American warship that was able to get underway and reach open sea.

The ship became known as the "Lucky Lou" and the luck held throughout the war. After a distinguished battle career, the Navy called the *St. Louis* "the ship that couldn't be sunk."

I had the honor of serving on the *St. Louis* from October 1942, through September of 1944. I was a member of the 5th Division, antiaircraft battery and an assistant officer of the deck. During the time I was on board, we were torpedoed in the Battle of Kula Gulf on July 3, 1943. I must admit that at that moment we did not feel that the "Lucky Lou" was very lucky but we were able to return to harbor for repairs. Our spirits were good. And the spirit and dedication of officers and men over the years have remained good and steadfast. To a man, we all have been proud to serve on the U.S.S. *St. Louis*.

In 1951, the ship was sold to the Brazilan navy and after 25 years of service there it was decommissioned and scheduled for the scrap heap. A group of former shipmates of the *St. Louis*, headed by A. L. Seton, formed the U.S.S. *St. Louis* Association to try to save the ship from being scrapped and to bring it back to the United States to be preserved as a museum.

While the association has worked hard in this preservation effort, it now appears that most of the ship has already been dismantled and only the hull of the ship remains.

It is a sad ending for this valiant ship that played a major role in our victory in World War II, but it appears that the obstacles of lack of time and money could not be overcome.

Even though it could not be saved as a memorial, I think we should at least give tribute to this ship and the spirit that it represented as it steamed out of the holocous of Pearl Harbor 36 years ago today. That valiant action represented our determination to survive and it gave us some reason for hope on that dark day.

I hope that my colleagues in the House will join me in saluting the men who served aboard this ship and their efforts to establish an appropriate memorial for the "Lucky Lou."

Mr. Speaker, the following article from the Associated Press which was written in August provides a good summary of the efforts to save the U.S.S. *St. Louis* from the scrap heap:

NOSTALGIC EX-CREW TRIES TO SAVE FAMED CRUISER

WASHINGTON.—Some sentimental ex-crew members have succeeded in saving their old ship, the U.S.S. St. Louis, from a scrap heap in Brazil—at least temporarily.

Their eventual goal is to restore the "Lucky Lou" and maintain it as a museum.

The St. Louis, a cruiser, won its initial fame and began earning its nickname on the morning of Dec. 7, 1941, when it was berthed at Pearl Harbor for maintenance and repairs.

As Japanese planes and submarines began destroying the American fleet in a sneak attack, the St. Louis crew managed to get its ship underway. It steamed out of the harbor and reached the open sea, the only major U.S. warship to do so that morning.

The ship's crew later claimed six Japanese planes and was officially credited with three during the attack.

By the end of the war, the St. Louis had survived torpedo attacks and kamikaze pilots. It fired more rounds than any other Navy ship and sank one submarine, two cruisers, five destroyers and 14 planes.

But in 1951, the United States sold it to Brazil, where it was renamed the Almirante Tamendare, after the founder of the Brazilian navy. In 1975, Brazil retired the ship, cannibalized its working parts and prepared to sell the hulk for scrap.

That was when retired Cmdr. Al Seton of Staten Island, N.Y., found out what was going on. Seton, who was on the St. Louis at Pearl Harbor, began contacting other ex-crew members. He talked to representatives of the Brazilian government.

Another ex-crew member, Rep. J. J. Pickle, D-Tex., wrote to Brazilian Ambassador Joao Baptista Pinheiro, asking him to intercede to help save the St. Louis.

This week, a Brazilian government spokesman said that the plans to scrap the St. Louis have been abandoned for now. The spokesman said that Brazil is aware of the interest in saving the ship and has no present plans to dispose of it.

"That's great news," said Seton. "Now we have to raise some money." But he said fund-raising could not begin until Brazil gives some indication it is willing to sell the ship to its would-be rescuers.

The money required will be substantial, Seton said. The hulk is probably worth about a million dollars. Simply painting it would cost more than a million. Add towing charges and the cost of some basic restoration, and the amount needed approaches $5 million, Seton said.

Seton said he is exploring the possibility of joining with former Almirante Tamendare crew members in a joint project by both countries.

Another problem is finding a site and sponsor for the ship. States like Massachusetts and North Carolina have given berths to the battleships that bore their names, but Seton said the city of St. Louis has expressed little interest in becoming the permanent home of the "Lucky Lou."

STATUS OF PINEY WOODS COUNTRY LIFE SCHOOL

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MONTGOMERY. Mr. Speaker, I recently received the following article on Piney Woods School from Mrs. Nellie E. Bass of Jackson, Miss., who is president of the Laurence C. Jones Student Aid Foundation. Mr. Jones was the founder and guiding light of the Piney Woods School for many, many years. Because of the importance of Piney Woods School to Mississippi, I would like to share the newspaper article with my colleagues.

[From the Simpson County (Mendenhall, Miss.) News, Nov. 3, 1977]

PINEY WOODS CHANGES CALLED "KILLING OF A DREAM"

"The old order changes" and "a new broom sweeps clean" is the policy of the president and chief executive officer, James S. Wade, and the board of trustees of Piney Woods Country Life School, Piney Woods, Miss.

Dr. Laurence Jones, founder and long-time president of Piney Woods School, had acquired a loyal, hard-working, self sacrificing group of people, affectionately called "The Piney Woods Family". He tried to make justifiable provision for their residence at the school as long as they wished to stay and could render some useful service to the school after his death. He did not leave a formal will, but to many he gave a tenure statement which read: "______, faithful employee more than 10 years, upon the recommendation of Laurence Jones, founder and president, in whose judgment we have full confidence, is hereby elected to membership in the Piney Woods faculty and is to be retained in that capacity until charges of mis-conduct are brought against him in writing before the board of trustees in open meeting by president and secretary of board of trustees, with accused one having opportunity of hearing by the board with the accused one present. At that hearing the board shall either sustain or dismiss the charges. Until one of the above contingencies has happened, the person above named shall have full security of tenure." Signed, Everett Reese, chairman of the board, and Vaughn Watkins, secretary, Laurence Jones, president.

No holders of such tenure agreements were ever given a hearing by the board. Mr. Wade, in a bulletin to Dr. Jones, soon after he took office, stated that he was in complete authority of all affairs of the school, and "it would do no good for anyone to make complaints to you about me."

The mortal remains of Laurence Jones had scarcely had time to adjust to their new surroundings under the cedar tree, when the rumblings of disharmony indicated that his passing signaled the eviction of the Piney Woods family.

Mrs. Nellie Bass, sister of Dr. Jones, had occupied a small home on the campus which she had remodeled and repaired at her expense, with the intention to remain there at her pleasure because of a request of Dr. Jones on March 13, 1961, to Mr. Reese, chairman of the board which stated: "My family-that is my late wife and my sister Mrs. Nellie Jones Bass-gave many years of their time to the development of Piney Woods School without practically any salary. . . . She should be allowed to use the house and grounds she is now occupying as long as she lives. All the furniture in this house belongs to her and her estate-excluding the plumbing." In

March of 1976, Mr. Jack Halen, buildings and grounds supervisor, notified her that she should vacate the house by May 1, 1977. She challenged his order with the above letter, saying also, if she must vacate, then Mr. John Halen, Sr. should also vacate his home, since she was included in the same letter which gave him residency rights for life. She received a negative reply, and after several harassments, she left the campus and moved to Jackson.

Mrs. Eula Kelly Moman, now in her seventies, had lived with the Jones family since she was nine years old, and expected to stay in her small apartment in the Community House where Dr. Jones and family had lived. She had been school treasurer, dean of women, hostess at the community house and chief guide and receptionist to guests at Piney Woods School. She felt capable and desired to retain her apartment and fill the latter position as guide and receptionist—public relationist. She, too, received warnings and harassment, and in spring of 1977 was served an eviction notice by the deputy sheriff of Rankin County. She challenged the case in view of her tenure statement, and a hearing was held in chancery court in Brandon on August 4 & 5, 1977. She lost the case and departed from the campus in September, 1977.

Several other long-time staff members held similar residence tenure statements and none were granted a hearing before the board of trustees.

Mr. and Mrs. Paul Fosness, long-time friends of Dr. Jones and supporters of the school, came to Piney Woods School, June 1, 1970, after they had retired from previous employment—Mrs. Fosness, as teacher, and Mr. Fosness, in industry. They were volunteers, paid their personal and household expenses, furnished their home, received free housing and meals in the dining hall. They received no "token pay." A verbal agreement with Dr Jones provided that they make expenditures to remodel a facility as a little theater in return for a permanent residence on the campus. In addition to the thousands of dollars they invested, their friends in Central Iowa matched their investment to provide the beautiful, useful facility. Mr. Fosness died of long-term cancer in April, 1975. Dr. Jones then repeated that Mrs. Fosness should continue her residence there as long as she wished, in return for the previous investment. Soon after the death of Dr. Jones in July, 1975, Mrs. Fosness received notice from the president and chief executive officer, Mr. Wade, that her volunteer services were not needed, and she must vacate the house by September 1, 1975. She complied with the request without objection, but appealed to the board of trustees for some return on her investment since her right to residence had been terminated. At this writing, two years later, she has received no reply to her request.

In a recent interview on television, Mr. Wade was asked why these people had been denied residency on the campus and had been requested to retire, and his reply was two-fold: it was the decision of the board and the administration, and the school could not receive accreditation with unqualified personnel. This statement is not valid in most cases, and in the case of Mrs. Fosness is untrue, for she holds two valid teacher's certificates to teach in Mississippi issued by the Mississippi State Department of Education.

Mrs. Nellie Bass, sister of Dr. Jones, in personal comment said: "The tactics and present policy of Piney Woods School, might be called 'the killing of a dream'. It is almost unbelievable that a man who spent his life helping people had to leave Piney Woods School in the hands of people with no compassion or consideration for the people who worked closely with him for many years. Piney Woods School is more able now to give help to children than it was in the early days when no one was turned away and everyone was given a home. In 1917, there were more work opportunities there for students than there are now. There was community involvement with farmers' conferences, mothers' club and community fairs. Piney Woods School was not founded to be a big, prestigious school, but a small school to meet the needs of the needy.

Dr. Laurence Jones preferred that his grandson, Laurence C. Jones, III, should be his successor. He has had valuable experience as an administrator, and knows the philosophy and needs of Piney Woods School. The chairman of the board of trustees refused to consider him. Dr. Jones was too old, and too sick to challenge this refusal, so he conceded to the choice of the board. He said he had done all he could, but he hoped the old Piney Woods Family of workers would carry on the traditions and activities of the school. Those wishes were negated when all the relatives and older staff members were banished from the school."

WORLD BANK SALARIES CAUSES ENVY AMONG CONTEMPORARIES

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. YOUNG of Florida. Mr. Speaker, for many months, I have taken issue with the high salaries and benefits which are paid to employees of the World Bank. While this institution is supposed to be active in economic and social development in the less developed countries, it's own employees are becoming a rather high living elite, especially when contrasted with those they are supposed to serve.

The employees of the World Bank are charged with the responsibility of providing assistance to the "poorest of the poor," yet the American taxpayer is helping to foot the bill for the "richest of the rich" of international bureaucrats. In this regard, the following Wall Street Journal article by Mr. Urban C. Lehner which appeared on November 28, 1977 does an excellent job of confirming my earlier reports to the House relative to the very generous benefits received by World Bank employees. Following is a reprint of the Wall Street Journal article and I hope my colleagues will take the time to read it.

SALARIES AND BENEFITS AT WORLD BANK ARE ENVY OF WASHINGTON—AT 8TH LEVEL, PAY GETS DOWN TO CONGRESSIONAL STIPEND; A COUNTRY CLUB FOR IMF

(By Urban C. Lehner)

WASHINGTON.—The World Bank is a 130-nation institution that from its headquarters here lends billions of dollars to underdeveloped countries, some of which are so poor that their people subsist on less than $100 a year.

The bank, whose biggest contributor is Uncle Sam, also is openhanded to its 2,200 professional employes here, several hundred of whom subsist on salaries of more than $50,000 a year. Indeed, the bountiful pay and perquisites of the World Bank and three similar organizations—the Asian Development Bank, the Interamerican Development Bank and the International Monetary Fund—are the envy of official Washington.

The agencies' staffers can dine on gourmet meals in graciously appointed dining rooms subsidized by the institutions so that employes pay as little as 75% of the cost of the food. For $42 a month and no initiation fee, high-level officers of the IMF and some of the other organizations swim and play tennis and golf at their own country club near Washington; lower-ranking employes pay less. And on overseas business trips, World Bank people last year made nearly 600 first-class flights on the Concorde supersonic jet even though Concorde fares are twice as costly as regular jet fares.

STRINGS MAY BE ADDED

This munificence, however, is evoking rising resentment in Congress, which is threatening to add cost-cutting strings to the more than $2 billion a year the U.S. is spending to help support the four international financing bodies. The personnel practices of the organizations, the Senate Appropriations Committee complains, "are suggestive of an institutionalized granting of lifetime sinecures where extraordinarily high salaries are commonplace and the pursuit of fringe benefits has been raised to an art form."

The Carter administration shares Congress's resentment. Treasury Secretary Michael Blumenthal, told that high salaries are needed to induce foreign employes of the organizations to come here to work, snapped sarcastically that "Washington is *not* a hardship." (The Treasury is in charge of obtaining appropriations for the organizations from Congress.)

All this criticism has the institutions' employees feeling much maligned and misunderstood. One World Bank man, trying to illustrate the frustration employes feel, tells of treating a Treasury Department official to lunch in the bank's dining room. "The guy didn't know a thing about any of our development projects, but he knew the exact amount of the dining room's subsidy," the bank man complains.

The organizations contend they are being unfairly compaired to U.S. government agencies when in fact they are international financial institutions controlled by many nations, not just the U.S. and they insist their pay and perks must be competitive with private business's to attract top executives.

CHARACTERIZING A NEIGHBORHOOD

There isn't any question that the institutions' emoluments are generous. In the Washington real-estate market "A lot of World Bank people live here" is a catch phrase for a well-to-do-neighborhood.

Robert McNamara, the World Bank's president and a former U.S. Secretary of Defense, grosses $115,000 a year, or almost double the $66,000 annual salary of Cabinet members. His pay also is well above the $75,000 salary of Vice President Mondale. Among U.S. government officials, only President Carter, at $200,000 a year, makes more than Mr. McNamara.

But what particularly rankles many Senators and Representatives is that at least 350 World Bank employes make more than the $57,500 annual pay of members of Congress. In fact, it isn't until the eighth level down on the bank's pay scales that salaries fall below $57,500, to a minimum of $56,310 if the employe is a U.S. citizen. A foreign employe on that level earns at least $35,220, but that's tax-free; U.S. citizens are paid more so that their after-tax salaries will equal the foreigners'.

On a "taxable equivalent" basis, the average World Bank salary is $43,000 a year. The pay is comparable at the other three international financing organizations here.

Equally generous are the perquisites. In addition to cut-rate meals and country-club fees, education allowances of up to $2,500 a child supplement salaries at many of the institutions. When a World Bank employe wants to buy a home, he may be able to borrow the down payment at an 8.5% interest rate. Every two years, foreign employes get air fares back to their native lands for "home leave."

On business, World Bank staffers fly first class, often taking the Concorde, for longer trips, such as those to Asia, Africa, or southern Latin America—even though their boss, Mr. McNamara, makes a point of flying tourist. The difference between first-class and tourist-rate travel last year added $1.8 million to the bank's air-travel bill, which totaled $12 million.

The institutions argue that their perquisites are comparable to those businesses and governments give employes assigned to work thousands of miles from home. "Washington isn't New Delhi," one staffer concedes. "But if you're from New Delhi, it (Washington) isn't necessarily where you want to be, especially if your wife's visa doesn't allow her to work and you're traveling to projects for weeks at a time." (About 75% of the banks' professional employes are from foreign countries.)

Nor do the employes consider themselves overpaid. "We manage $40 billion of high-risk projects, from building hydroelectric dams to expanding village agriculture in Upper Volta, and we make a profit" says a World Bank official. "To do that, we have to recruit successful people at the prime of their careers in competition with private enterprises."

Such arguments fail to impress critics. Citing what it called the "unparalleled pay and allowances" of "those whose primary mission is to assist the poor and needy of the world," Congress recently decreed a maximum $50,000 salary for each of the three U.S. officials who cast America's votes at the World Bank, the Asian Development Bank and the Inter-American Development Bank. For Edward Fried, the "U.S. executive director" of the World Bank, that means nearly a $34,000 pay cut from $83,830 a year. (The banks are free to pay the three men more, but if they did so, they would forfeit this year's U.S. contribution.)

Sen. Daniel Inouye, who chairs the subcommittee that writes the institutions' U.S. appropriations, calls the Fried pay cut a "message" to the organizations to reduce their employes' salaries to U.S. civil-service levels. "If this is not forthcoming, the Congress can attach strings to the U.S.'s contributions," the Hawaii Democrat warns.

The World Bank and the IMF staff associations have begun a study of the issue. In addition, the five leading subscribers to the World Bank—the U.S., West Germany, England, Japan and France—have quietly asked two private consulting firms to do another study.

But how the various officials stand on the issues seems to depend on where they sit. To one World Bank official, "the issue is, Do you want to turn this place into another civil-service bureaucracy by limiting salaries to U.S. civil-service levels?" To one Treasury official, however, the issue is "How much of a premium do you need to pay to motivate these people?"

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MAZZOLI. Mr. Speaker, responsibilities in my district prevented my being present Thursday, December 1, 1977, for rollcall No. 759. Had I been present I would have voted "yea."

MAYOR ABRAHAM D. BEAME OF NEW YORK

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MURPHY of New York. Mr. Speaker, leadership is not an easy quality to define, nor is the job of leading the largest city in this great Nation. Yet Abe Beame has most impressively demonstrated that quality which has provided a strong foundation for the revitalization of the government of New York.

His has been an exceptional lifetime of public service, with his background particularly well suited for the difficult road that lay ahead. During the times of crisis, such as the riots sparked by the power blackout and in particular the masterful handling of the city's financial crisis, Mayor Beame brought a depth of understanding and guidance unequaled in our city's heritage.

Abraham David Beame took the oath of office as the city's 104th mayor on January 1, 1974, capping a unique 31-year career by becoming the highest officer in the Nation's largest city.

Born in London, England, on March 19, 1906, Beame was brought to New York City by his parents in that year. He grew up on the Lower East Side, attended the city's public schools, and received a B.A. cum laude from City College of New York in 1928.

After establishing his own accounting firm while in college, Beame became a certified public accountant in 1930 and continued in this profession until 1946 Beginning in 1929, he also taught accounting and commercial law in city high schools and at Rutgers University, and served as legislative representative for the joint committee of teachers organization.

Beame was appointed assistant budget director for New York City in 1946 and promoted to budget director in 1952. In these posts, he analyzed the wide variety of diverse municipal programs and evaluated their usefulness and efficiency. In 1948, he initiated a pioneering management improvement program, updating the city's antiquated procedures.

In 1962, Beame was elected comptroller of the City of New York and continued in this post until 1965, when he won the mayoral nomination of the Democratic party. Until his reelection as comptroller in 1969, Beame was a consultant in the area of finance, serving as a director of the finance committee of the American Bank and Trust Co.

During his terms as comptroller, Beame introduced a number of improvements in the handling of pension funds and municipal debt and issued a major report on upgrading the city's credit rating. He went beyond the traditional fiscal aspects of his office by initiating additional studies on narcotics control, hospital care, housing and day care centers. He spoke out for free tuition and open enrollment in the City University system and advocated positive steps to increase consumer representation in many areas of government which had traditionally been unresponsive to consumer input.

During his career, Beame has served on the Mayor's Committee on Management Survey and was a member of the New York State Commission on Constitutional Revision. In addition to an extensive array of organization and committee memberships, he was on the Board of the National Conference of Christians and Jews and served as trustee at large for the Federation of Jewish Philanthropies.

The mayor and his wife, the former Mary Ingerman, were married in 1928. They have two sons, Edmond and Bernard, and five grandchildren.

Service to his city was always first and foremost in Abe Beame's public life. He has served admirably, and the people of New York owe him a debt of gratitude which will be hard to repay.

PRESIDENTIAL CHRISTMAS TREE IS FROM WASHINGTON'S THIRD CONGRESSIONAL DISTRICT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. BONKER. Mr. Speaker, I am proud to announce that a 21-foot noble fir from Washington State's west slope of the Cascades has been selected as President Carter's first White House Christmas tree. The Pacific silver fir was donated by Weyerhaeuser from its property on snowy Mount St. Helens near Spirit Lake, which is located approximately 100 miles southeast of Olympia. The tree was selected and shipped by the J. Hofert Co., which also donated the White House Christmas tree in 1972. The tree was trucked across the country in a refrigerated trailer by Ed Humbert, accompanied by his wife and daughter, and was delivered to the White House today. The fir is being erected in the Blue Room where it will be on display for visitors.

It is appropriate that the tree is from western Washington, for the west slope of the Cascades contains some of the most productive and beautiful timberlands in the world. The abundant precipitation, proper soils and other factors combine to provide an ideal environment for fir, hemlock, spruce, and other valuable species. These west slope forests are one of our most precious renewable resources. In addition to their material value, these forests provide protected watershed, balanced ecosystems, wilderness, and recreational opportunities, and many other benefits. So when we see the traditional Christmas fir, I hope that we would remember the importance of this resource in our daily lives.

Let us also not forget the special significance of the tree, apart from its com-

mon uses. Although greenery—especially from oaks—was a part of pagan customs over a thousand years ago, it was Saint Boniface, in the eighth century, that dedicated the fir to the Holy Child, and began its association with Christmas. The evergreen has become a symbol of vigor, life, and survival. As the Nation's "first tree," may it be a symbol of our own renewal and life, and serve as a reminder of the importance of our spiritual resource.

JAMES JAY GARMAN

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. GORE. Mr. Speaker, I want to call my colleagues' attention to a tragedy which has occurred recently in the district I represent in this House which demonstrates a need for a change in current law.

Early last month, James Jay Garman, the commander of the ROTC Rangers at Tennessee Technological University in Cookeville, was killed during a training exercise. Mr. Garman was instructing other cadets in important military skills when he accidentally fell and was swept over a waterfall. This young man was a credit to his family, to his community, and to this country's military service. As one of his professors commented after Jay's death, "He represented the highest standards of professionalism and integrity and scholarship."

The shock of this tragedy is only compounded by the fact that, under existing law, Jay's widow will apparently not be eligible to receive benefits normally paid to widows of U.S. servicemen killed in the line of duty. Jay's death occurred in the service of his country, as much so as the death of any serviceman killed during peacetime. But inquiries by members of his family and my own inquiries have indicated that Jay's widow will receive only the benefits of his group life insurance policy, not the dependency indemnity compensation ordinarily paid to widows of servicemen. I believe this is an unfortunate oversight in the law and demonstrates the need for legislative changes to correct it.

I wish to insert here copies of the newspaper articles published following Jay's death last month. I hope that my colleagues will consider these articles as a memorial to Jay and to the tradition of patriotic service to his country which he and his family believed in so much.

[From The Oracle (Tennessee Technological University), Nov. 11, 1977]

ARLINGTON FUNERAL HELD

(By Tracy McMahan)

James Jay Garman, a 21-year-old senior physical education major and commander of the ROTC Rangers, was swept to his death over the 100-foot Fancher's Falls in White County during an ROTC training exercise on Saturday, Nov. 5 about 10:30 a.m.

Garman, who was buried yesterday in Arlington National Cemetery with full military honors, was the son of Col. and Mrs. Fred Garman of Cookeville.

Garman and nine Rangers, building a rope bridge and practicing rappeling during a training session lead by Garman at the falls, were familiar with the wilderness area in White County where previous training sessions had been held.

Walking down a ledge above the falls to secure a rope, he lost his footing, and the rapid waters carried him to his death. His body was recovered about 12:45 a.m. at the bottom of the falls from the waters of Center Hill Lake.

Lt. Col. Jon Eiche, professor of Military Science at TTU said, that Garman was working about 12 feet from the falls on a rope bridge located above the falls. He had built bridges similar to this several times before and had already been up and down the slope three or four times; therefore, he used no safety hookups.

On the east bank the rope got tangled in branches; as he went down the slope to free the rope he lost his footing about five feet above the water.

The Rangers on the opposite bank watched helplessly as the strong current forced their commander over the 100-foot falls and held him underwater at the base of the falls. The water was moving rapidly because of recent rain.

Garman screamed twice, but, according to White County Deputy Melvin Werley, there was no way he could escape the falls. "The water there is very rapid because it has been traveling over a stair-step of smaller falls by the time it reaches the large one," Deputy Wherley said.

Another group of ROTC students were in training five miles away at Tech Aqua under the supervision of Major Yates, deputy professor of Military Science, and Captain Stempel, assistant professor of Military Science. The other students did not join in the search, but Cpt. Stemple came to the falls and took the other nine Rangers away from the scene of the accident.

Cpt. Stempel said the nine Rangers conducted themselves in the best manner possible. After searching about two hours, a rescue squad boat using dragging equipment found Garman's body at the base of the falls.

According to other Rangers who have trained in the area before, the water at the bottom of the falls varies in depth from around 18 inches to 20 feet, and Garman was probably held by an undertow in deeper areas of the water.

Garman, a graduate of James Robinson High School in Fairfax County Virginia, has always been an active participant in school activities. In high school he was president of the student government, captain of the track team, and a member of "Who's Who In American High Schools."

Entering TTU in 1974 as a physical education major, he got involved in many aspects of campus life. During the past three years, he was a member of the track team, a president of the P.E. Club, and a resident adviser for two years in Maddux-McCord in 1975–76, and in Cooper-Dunn in 1976–77.

He served as head resident of Warf and Ellington Halls this year. Also, he took photos at home football games and on campus for the University Photo Services.

He had a three-year ROTC scholarship that he received after his first year as a ROTC cadet. He received the Distinguished Military Graduate award and several other awards.

He graduated from the U.S. Army Airborne School and the U.S. Army Ranger Training Fort Benning, Ga. His training record was so outstanding that he was allowed to wear the Ranger Tab earned rarely by U.S. Army officers in active duty.

Garman leaves behind his wife of two months, Jerrie Jennings Garman, a senior journalism major, and former ORACLE managing editor and former photographer for the Hearld-Citizen; his parents, Col. and Mrs. Garman, 125 Scenic Lane; four brothers, Frederick Garman of Falls Church, Va.; Joseph and Thomas Garman of Cookeville; Wiliam Garman, a TTU sophomore; and one sister, Teresa Jane Garman, a TTU freshman.

Memorial services were held at Hooper & Huddleston Funeral home on Tuesday with Rev. Dan Haskins officiating. Rev. Haskins, who is the BSU advisor at Tech, also, officiated at the graveside services at Arlington National Cemetery.

FRIENDS COMMENT

I would not do justice to Jay Garman, who died Saturday during an ROTC training exercise at Fancher's Falls, to paint him as a one-dimensional person. Rather, he was a multi-dimensional person who would not fit a typical stereotype of an army career man.

Jay displayed various interests and a multitude of talents. Lt. Col. Jon Eiche, professor of Military Science, said, "He demonstrated leadership qualities in every facet of life." According to Jay's friends and superiors a major part of his life could be summed up in three words: challenges, competition, and care.

The outdoors and the military presented many challenges for him. He graduated from the U.S. Army Airborne School and was one of few Tech ROTC students to complete the U.S. Army Ranger Training Program at Fort Benning, Ga.

The Ranger program is one of the most rigorous offered by the ROTC program. His superiors were hesistant to let him go into the Ranger training, his friends said, but he met the challenge and returned with the coveted Ranger Tab.

Captain Stempel, a professor of Military Science and advisor of the Orienteering Club, said, "Jay thrived on challenges." He set his goals high and although some of them were unfulfilled, he always tried to do his best and learn from his experiences according to Stempel.

Charles Fletcher another ROTC student, recalled that Jay said, "It isn't adventure if everybody does it."

He was a member of the Orienteering Club and often helped president Jeff Macintire organize activities. In 1976 he placed sixth out of 80 contestants in the Vanderbilt Orienteering Contest helping his team take first place.

Cpt. Stempel said that he played a regulation role in Jay's life often telling him "no" when he wanted to engage in risky out door training.

However, he not only enjoyed the challenge the outdoors offered; nature also offered him chances to laugh and love. Steve Swann, a friend of Jay's, told of one 45-mile hiking trip in the Smokeys last summer on which Jay and his friends relaxed and laughed together.

The Reverend Dan Haskins, Tech BSU director and friend of the Garman family, said, "Jay was raised in an extremely warm family situation, and high moral values were instilled in him."

Jay participated in athletic competition. He ran cross-country track and played tailback for the football team at James Robinson High School in Fairfax County, Virginia.

He was a member of the TTU track team and broke one relay record. All of his friends said he liked to keep in top-notch physical shape. MacIntire said, "His most unfavorite type people were lazy people who didn't try."

He did not neglect academic competion. He recieved a three year ROTC scholarship during his first year as a cadet in ROTC and had a QPA of around 3.6 He was president of the Student Government in high school and was listed in Who's Who In American High School Students.

Lastly, Garman showed he cared. He took pictures for the University Photographic Service. His interest in photography was promoted by his wife of two months Jerrie Jennings Garman, who is a senior journalism major, former editor of the ORACLE, and former photographer for the Herald-Citizen. Don Reese, head of University Photographic Service said that Jerie and Jay enjoyed taking pictures at the football games and experimenting with dark room techniques.

Jerrie often joined Jay and his friends in their adventures. MacIntire said Jay met Jerrie in a PE class about 2-3 years ago.

Serving as a resident advisor for two years in Maddux-McCord in 1975-76 and in Cooper-Dunn Hall in 1976-77 and as a head resident in Warf-Ellington Halls, he came in contact with many students and their problems.

Mrs. Fox who helps select the Head residents said that Jerrie helped Jay in dorm activities and, "both their lives blended together in everything they did."

Jay cared about his residents and their problems, residents said. One resident in Jay's dorm said, "He always had time to talk to me about anything on my mind."

This spring Jay was to be commissioned in the army, fulfilling one of his goals. Swan said he often said that he wanted to be the best second lieutenant the army ever had.

Garman's fellow ROTC students served in a memoral service for him at Hooper & Huddleston Funeral Home last Tuesday. He was buried Thursday in Arlington National Cemetery with full military honors.

Many described him as someone whose unchanging confidence and limitless enthusiasm engulfed them. While he was here he touched many lives not by his services or achievements, but by "living life to its fullest—just being Jay."

[From The Cookeville (Tenn.) Herald-Citizen, Nov. 7, 1977]

Cookeville Man Swept to Death Over Falls

(By Bronwyn Turner)

James Jay Garman, of Cookeville, 21-year-old commander of the ROTC Rangers at Tennessee Tech, was killed Saturday during a training exercise when swept over the 100-ft. Fancher's Falls in nearby White County.

Young Garman, a distinguished ROTC student who had looked forward to a promising military career, was the son of Col. and Mrs. Fred Garman of Cookeville. He died in the plunge over the towering waterfall about 10:30 a.m. Saturday and his body was recovered from the waters of Center Hill Lake at the foot of the falls about two hours later.

Memorial services will be held here at Hooper & Huddleston Funeral Home at 10 a.m. Tuesday, and he will be buried Thursday in Arlington National Cemetery with full military honors.

Garman was in charge of the group of nine Rangers practicing rappelling and building rope bridges in the area above the falls and was securing a rope on one bank when he lost his footing and was carried to his death in the rapid waters.

Rangers located on the opposite bank were helpless to save him as the TTU senior was forced by strong currents over the falls, White County authorities said today. Garman's body was found two hours later at the base of the falls, apparently held underwater by the current.

News of Garman's death brought shock to ROTC students and staff at the university. "He was the guiding light of our program. He representsd the highest standards of professionalism and integrity and scholarship," Lt. Col. Jon Eiche, professor of Military Science at TTU said this morning.

Garman was well-trained and an outstanding soldier, Col. Eiche said, and the accident Saturday was apparently the result of the student's loss of footing on the bank.

Garman was working on a rope bridge located some 15-20 feet above a shallow stream about 12 feet from the falls. Rope on the east bank had become tangled in branches, and Garman was on the slope freeing the line when he lost his foothold and fell. The other Rangers participating in the exercise were on the opposite bank and could not reach him, Eiche said.

The Ranger fell about 15 feet to the water below, White County Deputy Melvin Wherley said today. He shouted for help twice as the strong currents forced him over the falls.

"The water there is very rapid because it has been traveling over a stair-step of smaller falls by the time it reaches the large one," Deputy Wherley said.

"There was no chance of him swimming out and escaping the falls," he said.

Some 15 other ROTC students training in the area joined with the remaining Rangers and White County Rescue Squad in searching for Garman, Col. Eiche said. The Rangers used ropes to reach the bottom of the falls as soon as possible after Garman fell, he said, but could not find him.

A rescue squad boat, fighting the strong turbulence beneath the falls, located the body using dragging equipment about 12:45 p.m. Saturday.

Garman will be buried in military uniform, Col. Eiche said today, and a uniformed honor guard will be pallbearers at the funeral scheduled here for 10 a.m. Tuesday. A gun salute and the playing of taps will be part of the ceremony honoring Garman, he said.

The student was the head resident of Warf Hall at Tennessee Tech and was on a three-year ROTC scholarship at the school.

"I think it's safe to say that Jay lived life to the fullest and he died doing what he enjoyed most," Col. Eiche said. "He was a sterling young man."

Garman is survived by his wife of two months, Jerrie Jennings Garman, a senior journalism major at the university and a former Herald-Citizen photographer, his parents, Col. and Mrs. Garman, 125 Scenic Lane; four brothers, Frederick Garman of Falls Church, Va.; William, Joseph and Thomas Garman of Cookeville; and one sister, Teresa Jane Garman, of Cookeville.

Garman graduated from James Robinson High School in Fairfax County, Virginia, in 1974. He was president of the Student Government, captain of the track team, a member of the cross-country track team and gained listing in "Who's Who In American High Schools."

He entered Tennessee Tech in the fall of 1974, a physical education major. During the past three years he was active in all phases of campus life. He was a member of the track team, a past president of the P.E. Club and for two years served as a dormitory resident advisor, during 1975-76 in Maddux-McCord and 1976-77 in Cooper-Dunn Hall. This academic year, Garman was selected as head resident for Warf and Ellington Halls. He assisted the University Photo Services by taking photos on campus and particularly at home football games.

As an ROTC cadet, his achievements were many. At the end of his first cadet year, he was awarded a three-year ROTC scholarship. Since that time, he received numerous awards and medals, including the Distinguished Military Graduate award. He served in most leadership positions and graduated from the US Army Airborne School and the US Army Ranger Training Program at Fort Benning, Ga.

As a result of his outstanding training record as a ranger cadet, he was authorized to wear the coveted Ranger Tab which is earned by few active duty US Army officers.

Tuesday services here will be at the chapel of Hooper & Huddleston. The body will lie in state at the funeral home today from 1-9 p.m.

The services at Arlington Cemetery will be at 1 p.m. Thursday.

[From the Cookeville (Tenn.) Dispatch, Nov. 7, 1977]

Jay Garman, Tech Ranger Dies in Mishap

ROTC Cadet James Jay Garman, 125 Scenic Lane, Cookeville, died on November 5, 1977 while participating in a U.S. Army ROTC Ranger field problem at Fanchers Falls in White County.

Cadet Garman, who was 21 years old, was graduated from James Robinson High School in Fairfax County, Virginia, in 1974. He was the President of the Student Government, Captain of the track team, a member of the cross country track team and gained listing in Who's Who In American High Schools. Cadet Garman entered Tennessee Technological University in the fall of 1974 and selected physical education as a major. During the past three years he was extremely active in all phases of campus life. He was a member of the track team, a past President of the P. E. Club, for two years served as a resident advisor; during 1975-76 in Maddux-McCord and 1976-77 in Cooper-Dunn Hall. This academic year Cadet Garman was selected as Head Resident for Warf and Ellington Halls. He assisted the University Photo Services by taking photos on Campus and particularly at Eagle home football games.

Garman, leading a party of 10 Rangers in tactical exercises at the falls, where they often trained, apparently lost his footing while working on a rope bridge about 10 yards above the falls. He slipped into the stream and was swept over the falls, plummeting some 200 feet to his death.

The White County Rescue Squad recovered the body at the base of the falls where it falls into Center Hill Lake and transported it by boat to the Johnson's Chapel Boat Dock. He was dead on arrival at White County Hospital.

"He was a model student, model soldier, model athlete," said Lt. Col. Eiche. "He was no doubt one of the best, if not the best officer to come out of this university, or any university," the officer said.

As an R.O.T.C. cadet Jay's achievements are long listed. He enrolled in the R.O.T.C. program as a freshman. His first training exercise was during the pre-1974 fall term, prior to the start of the academic year. Cadet Garman, through correspondence found out about a Ranger Club and joined early so that he could receive pre-training for his future cadet days. At the end of his first cadet year he earned and was awarded a three year R.O.T.C. scholarship. Since that time he has received numerous R.O.T.C. awards and medals including the distinguished military graduate award. Additionally he served in most leadership positions, was graduated from the U.S. Army Airborne School and the U.S. Army Ranger Training Program at Fort Benning, Ga. As a result of his outstanding training record as a ranger cadet, Jay was authorized to wear the coveted Ranger Tab which is earned by few active duty U.S. Army officers. This academic year Cadet Garman was serving as the commander of the Tenn. Tech. R.O.T.C. Rangers.

Orienteering was high on the list of the many loves enjoyed by Cadet Garman. His capabilities in this cross country navigational sport were well known because he was a frequent winner. During the past two years he applied his abilities in orienteering to organizing meets, setting up courses and training students in techniques of the sport.

Cadet Garman was married to Jerrie Jennings of Woodbury, Tenn. at Hidden Hollow on Sept. 1. Jerrie is a senior at Tenn. Tech majoring in Journalism. She was the managing editor for the Oracle, the campus newspaper during academic year 1976-1977. Jay's parents are Colonel and Mrs. Fred Garman of Cookeville and his brothers are Rick of Fairfax, Va.; Bill, Joe and Tag of Cookeville and a sister Terry of Cookeville.

Although only 21 years old, Cadet Garman has accomplished many praiseworthy objectives. He was advisor to many new university students, a leader in the ROTC Program a 3.6 academic grade point student finishing his senior year, and a loving and devoted husband, son and brother. His truly christian way of living each day is a tragic loss to his family and friends, this community and to those he would have served.

Funeral services for Cadet Garman were held at 10 a.m. on Tuesday, October 8, 1977 at the Hooper and Huddleston Funeral Home. Burial was at the Arlington National Cemetery, Arlington, Va. Donations to the James Jay Garman Memorial Orienteering Fund, c-o American Bank and Trust are appropriate.

NEW PROTECTION FOR AMERICA'S FISH AND WILDLIFE HERITAGE

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. LEGGETT. Mr. Speaker, along with my colleague, ED FORSYTHE, and other members of my Subcommittee on Fisheries and Wildlife Conservation and the Environment, I have today introduced a bill to assist States in improving and invigorating their nongame fish and wildlife programs. This bill refines and strengthens the provisions found in H.R. 8606 which also would assist State nongame programs.

The basic purpose of this new bill is to benefit those species of fish and wildlife which are not taken for sport or food. These so-called nongame species have received little direct benefit from State fish and wildlife programs up to now, although they are enjoyed by increasing numbers of bird-watchers, students, photographers, and nature lovers. The available habitat for these nongame species has decreased at the same time the public is demanding increased opportunities to enjoy nongame wildlife experiences.

Wildlife experts and conservation organizations have urged the Subcommittee on Fisheries and Wildlife Conservation and the Environment to give greater attention to the needs of nongame species. Their requests have been supported by ecologists and scientists who recognize that protection of our fish and wildlife heritage requires scientific management of both game and nongame species and the ecosystems in which they live.

My subcommittee held hearings on H.R. 8606 in September. Those conservationists and wildlife biologists who testified agreed that there was a need for a comprehensive approach to fish and wildlife planning and management. They pointed out that each species, regardless of its desirability as a hunting trophy, is an integral part of the natural environment. The bill introduced today was drafted in response to this testimony. It would assist the States in preparing statewide fish and wildlife plans which would cover all vertebrate species of fish and wildlife. These long-term plans will help assure that State management will not develop into a piecemeal system with each category of fish and wildlife being awarded its separate share of attention.

The subcommittee also was told during its hearings that adequate revenue for State nongame fish and wildlife is critical. Many States have already introduced some form of nongame programing with funds being derived from general appropriations, sale of nongame stamps, and sales of personalized automobile license tags. Yet these revenues have not been adequate to the task. Voluntary citizen contributions have not been as productive as was hoped and nongame projects have proven unable to compete successfully for appropriations against other programs. The financial support of the Federal Government, the subcommittee learned, is essential to the success of State conservation programs. The matching fund program of H.R. 8606, therefore, was strengthened in the new bill. Its $100 million program should provide an effective incentive to generate local interest in and support for State wildlife conservation efforts on behalf of nongame species.

Several regional and local public bodies testified during the subcommittee hearings concerning their programs for nongame fish and wildlife. In the San Francisco Bay area of Alameda and Contra Costa Counties, for example, much of the responsibility for the conservation of nongame fish and wildlife is borne by the East Bay Regional Park District which administers over 46,000 acres of land. This land provides important habitat for nearly every fish and wildlife species found in the San Francisco Bay area from the smallest wren to the largest bird of prey. The East Bay Regional Park District, however, is not unique in its concern for nongame fish and wildlife. Other urban park agencies including those of Cleveland, Minneapolis, Chicago, and northern Virginia are equally involved. Public agencies such as these would have the opportunity to seek the support they need to continue their important work under the bill introduced today.

Mr. Speaker, this new nongame fish and wildlife bill would encourage each State to increase its efforts to benefit all species of fish and wildlife. Moneys available under this bill could be used to acquire and protect significant fish and wildlife populations and their habitat in their natural state for all of us to enjoy. I believe that all Americans benefit when we take steps, as this bill proposes, to assure the future of the fish and wildlife heritage of our country.

EXPLANATION

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. HARKIN. Mr. Speaker, due to an illness in my family, I was necessarily absent from the proceedings of the House yesterday, December 6. Had I been present, I would have voted as follows:

Rollcall vote number 761, "yea."
Rollcall vote number 762, "yea."
Rollcall vote number 763, "yea."
Rollcall vote number 764, "yea."
Rollcall vote number 765, "yea."

IMPACT OF FUEL AVAILABILITY AND OTHER TRENDS ON GENERAL AVIATION

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. GOLDWATER. Mr. Speaker, unfortunately, the national energy debate often results in attempts to find energy scapegoats. One such scapegoat has been general aviation, which is one of the most efficient users of fuel. In addition, general aviation means jobs and is a positive factor in our balance of payments. One of aviation's leading spokesmen, John Winant, recently delivered a timely and thought-provoking speech on the fuel crisis and general aviation. I commend his address to Congress and the Nation:

IMPACT ON FUEL AVAILABILITY AND OTHER COST TRENDS ON GENERAL AVIATION

(By John H. Winant)

Five years ago, an appeal for creation of a "national energy policy" would likely have been greeted with reactions ranging from boredom to bewilderment. Today the subject occupies the center of the national stage, and is identified by our President as the most urgent of all domestic issues.

Those few fast-paced years since have pervasively focussed our attention on energy, with emphasis on its sufficiency and cost.

In terms of impact on general aviation—and perhaps in its broad implications to our entire society—we have gone through two stages of crisis, and are now, half a decade later, enmeshed in a third.

First came the trauma of drastically curtailed supply at aviation fuel pumps all over America. That stage witnessed an attempt by the Nixon Administration in late 1973 to cut general aviation's fuel supply by up to 40 percent—a move which, if enacted, could have sounded general aviation's death knell.

A Congress with vision broader than that of the Administration called off the funeral, and general aviation survived. Supply levels, after several agonizing months, returned to near-normal when the OPEC nations decided, on the most pragmatic of terms, that they simply could no longer withhold from the marketplace a product on whose sale their political and economic existence depended.

Enter then, in 1974 crisis state two: the regulatory phase, aimed at constructing an artificial marketplace in which supply, demand and price would not freely interact on one another. Three years later, we are still feeling the effects of this stage, largely because 11,000 persons have been placed on the Federal payroll and more than 7 billion dollars have been invested to insure that the artificial marketplace has been built on a rock foundation.

And now we are in phase three; the attempt to piece together a "national energy policy" which aims at conserving energy (a worthy goal), at reducing dependence on imported petroleum, and at maximizing energy sources of new or different kinds.

Two Administrations have addressed the energy policy challenge. Mr. Ford's proposals were badly managled on Capitol Hill, and the resulting Energy Policy and Conservation Act of 1976 emerged as a patchwork quilt rather than an exquisite tapestry.

And now (as of this writing) we see Mr. Carter and the Congress hard at it in October trying to fashion an energy strategy proposed in April. The Senate version differs dramatically from that of the House and there may be a classic battle in conference committee to reconcile the two versions.

The results, to date, appear to be more of a tax plan than an energy plan. There still exists wide divergence of view as to whether energy sources are running out—or whether there still are a good deal yet to be discovered, if producers will be given the incentive to explore for them.

Through other legislation, we now have a Department of Energy which will try to take all the pieces—those already existing and those which emerge in the National Energy Act—and put them together into a workable whole. We understand it will take 20,000 employees to do the job.

All of these events and developments have impacted on general aviation, and that relatively small community has, through determination and creativity, managed to cope with them rather handily. What appeared to be monumental problems have generally been turned into productive opportunities, and general aviation has prospered despite apparent constraints.

Looking ahead, general aviation will continue to strive for certain principles and actions, because we believe they are the key elements in maintaining sufficiency of energy supply.

First, we believe that a national energy policy should stress development of energy sources as well as conservation. Within our community, a strong conservation ethic has emerged in the past five years, and it will continue into the future.

But we believe that conservation alone does not guarantee long term sufficiency nor does it provide a basis on which to sustain a growing economy. American producers of energy must be given adequate incentive to aggressively explore for new sources of petroleum. We must accept the fact that the costs of energy will increase to that point—and that point only—at which willing purchasers will begin to leave the market place, and this may be the only truly effective conservation tool.

A second keypoint in general aviation's position is that allocation and price controls should be removed from aviation fuels at the earliest possible date.

By mid-November, FEA plans to remove motor gasoline from allocation and price controls. Naptha-based jet fuel controls were scrapped some time ago. Controls on diesel fuel and home heating oils have also been removed.

The cumulative effects are that, as other products are removed from controls, the incentive for refiners to producte additional jet fuel is diminished.

We have, then, an emerging situation in which the demand for other products is more important to supply levels of aviation fuels than any other current factor. Removal of controls on aviation fuels would remove that factor as a potential problem area.

A third keypoint of general aviation's position is that research should be intensified toward the goal of developing alternative fuel sources for use in aviation.

Fuel efficiency has been dramatically improved in general aviation in recent years. New design concepts and new aircraft engines are helping to accelerate the thrust already generated through fuel-efficient piloting techniques.

But we need to go further, and general aviation strongly supports a stepped-up program which would involve NASA, ERDA and the industry in research to probe fuel sources other than petroleum.

Dependency of aviation on petroleum is absolute today. We feel that alternatives, such as liquified hydrogen, hold promise for aircraft propulsion, as well as for other transportation vehicles, and that research should go forward, with concentration on solving the problems which are associated with shipment and storage of such cryogenic fuels.

Finally, there are several other structural factors involving demand, supply and refining which general aviation believes may have bearing on aviation fuel supplies in the near-term future. They require close monitoring by our community for at least the next five years.

Even though it competes with no-lead motor gasoline in the distilling spectrum, aviation gasoline is plentiful. But, as automotive model years go by in the future, the demand of no-lead will increase sharply.

In the refining process, jet fuel competes with diesel and home heating oils. We should monitor the market acceptance of diesel-powered automobiles, now being manufactured in the United States for the first time. The House-passed energy act calls for cash rebates to consumers of heating oils, which may translate into increased demand.

The U.S. Air Force continues to mull over whether it can economically manage a shift from naphtha-based JP–4 to kerosine-based JP–8 fuel. Twenty-four percent of jet fuel is consumed by the military, six times that in general aviation.

The sum and substance of what I have said today may leave the impression that general aviation is depressed by uncertainties and complexities which have existed for half a decade with respect to energy. Such an impression would not be correct.

General aviation has an aggressive and forward-looking position predicated on the healthy belief that we can cut through complexity and dispel uncertainty. In summary, then, here is how we see the situation in broad terms:

There is today a sufficiency of supply for all types of aviation fuel. We believe that refiners will meet the challenge of maintaining sufficiency in the future if the Federal government will let them get on with the job.

The price of fuel has not proven to be a deterrent to a vigorous and growing general aviation community. Putting aviation fuel in an uncontrolled free market place would benefit the entire general aviation community.

Conservation measures already undertaken by the general aviation community have resulted in substantially increased utilization by its fleet, but at very modest increased fuel consumption.

In short, general aviation has adroitly managed the ongoing energy situation for half a decade, and has been able to turn it to its advantage. Given a national policy which will aim for the elimination of government regulation, for intensified conservation, for the development of new petroleum sources and for alternative fuel sources, our future will be as bright as our recent past.

CONGRESSMAN CRANE PLANS MIDDLE EAST TRIP

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. CRANE. Mr. Speaker, during the congressional recess I intend to travel to the Middle East, with several stopovers in Europe. This trip is strictly of a fact-finding nature, and is being made at the request of the World Jewish Congress, and under their sponsorship. No public funds will be expended during this trip, and all regulations set down by the Ethics Committee will be observed. I intend to make a public declaration of all the details of my trip as soon as they are finalized.

AN UNFAIR LIMITATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues an excellent editorial from the Santa Maria Times, concerning the enforcement of the 160-acre limitation. The views expressed in this editorial provide sound advice for all of us; I commend it to your attention:

AN UNFAIR LIMITATION

The question of enforcing the 160-acre limit for farms drawing water from federal water projects is now before the Senate Energy and Natural Resources Committee. In our opinion the moratorium on enforcement and review of the act itself is an urgent necessity.

In our opinion, the 1902 Reclamation Law, if enforced, will have disastrous effects on the agricultural industry and on the new overly-strained food budgets of the American consumer.

Profitable farming and lower consumer prices are based on the same principle as is all modern manufacturing—mass production. This has brought useful, needed goods and a healthy diet to a larger number of people in our nation than that of any other nation in the world.

To suggest that the large, successfully productive farms be broken into parcels under an agrarian reform styled after a "Banana Republic" type revolution slogan, is to throw one of California's vital industries back into the economic dark ages.

It is an industry that could be in serious trouble if the 160-acre parcel rule is enforced.

California agriculture produced $8.9 billion in gross receipts for 1976 and harvested over 49 million tons of farm crops. It supplies millions of dollars in payroll directly and indirectly in supplying its need for labor, packaging materials, transportation, machinery and energy. It contributes millions of dollars locally, county, state and federally in tax base. To tamper with its workings is to court disaster.

Experts point out that the American system of farming is the most efficient in the world, requiring fewer man hours per acre and thus providing the most healthful diet at the lowest possible cost.

One of the ingredients of success is the size of the farm. Studies based on 15 years of research show that the cost advantages, meaning lower consumer prices, are found on farms of acreage well over the 160 acre limit, and most efficient cost advantage farms fell in the 1200 to 1500-acre sizes. This was further substantiated by farm family after farm family giving testimony at the recent Sacramento hearings. The 160-acre parcel limit supposedly designed to help the family farmer will only prove his undoing and that of the consumer at the same time. It is not practical in today's market to profitably farm 160 acres in one ownership.

The reasons further supporting this are many and obvious.

Consider that all land, large and small, must have both rotational crops and land in fallow. The limited volume of a variety of crops because of the limited size of the acreage will make farming in that manner unprofitable.

Also, many families now farm marginally profitable land along with the prime. The hugeness of the machinery and the total volume of the crop makes it profitable. However, should the family be forced to sell some of its surplus land under the Reclamation Act of 1902, it will certainly sell the marginal part first. Much of this land, according to its current owners or leasors, would not be farmed. Thus the total amount of land in production would be diminished and crop production lowered.

Machinery has made farming of large acreages feasible and profitable. It has also lowered the cost of products to the consumer. Many farmers operate on land they own as well as land leased from others, who in previous years farmed their property but now in retirement receive a fair return from the land farmed by others

But the 160-acre limitation would halt this. A provision calls for residing within 25 miles of their land, and this would be an outright hardship for those who have been productive farmers but are now in retirement.

A look at the statistics of leased land shows its high activity.

As an example in the San Luis Water District: 53 percent of the total acreage in the district was leased in 1977 and leases of over 320 acres accounted for 49 percent of district acreage.

If the people now leasing land came back to the land under the residency requirement and the land were split into 160-acre parcels, these problems arise: there must be new rights of way and service roads to the parcels, more land needed for dwellings, machinery sheds, extended sanitation facilities, water, fire, and police protection, and added retail services, all resulting in the loss of about 12 acres per 640 acres, plus adding to vehicular traffic and its attendant problems.

In our opinion, the proponents of the 160-acre parcel and other items in the act—National Land for People, California Rural Legal Assistance, California Campaign for Economic Democracy, Friends of the Earth and other fellow travelers—all would have us believe that we should return to hand making Model T's and forsake the assembly line.

To them, we say that the Model T had its day as well as the one-man, one-mule, and one-acre did in agribusiness yesterday, and to promote that doctrine for today would be a disaster for everyone in California and the consumer in general.

RESOLUTION TO RETAIN THE NAME OF MOUNT McKINLEY

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. REGULA. Mr. Speaker, today I am introducing a resolution cosponsored by the Ohio delegation which will permanently retain the name of Mount McKinley in Alaska, which is North America's highest peak.

This effort by the delegation is on behalf of the people of Ohio, and those throughout the Nation, who honor the memory of our 25th President, William McKinley. The mountain was named after him in 1896 by the prospector, William Dickey.

McKinley served his country with distinction as a Representative to Congress from my district in Ohio, during which time he was chairman of the Committee on Ways and Means; and as Governor of Ohio, before he rose to the Presidency.

Our effort to preserve his name for Mount McKinley is prompted by the attempt of a small group of people who would like the name changed to an Indian one, Denali. While the mountain has been referred to by various Indian names and others, the name Mount McKinley is the only permanent one. It has been globally recognized as the official name for some 80 years.

Any action to change the name of the mountain would be an affront to the memory of this martyred President and to the people of Ohio who are so proud of his heritage.

William McKinley well deserved the honor bestowed on him with the naming of the peak. As prosecuting attorney for my district, he earned the reputation as a champion of the workingman, when he represented coal miners in their right to strike. It was a quality he carried into the White House. He was a man of integrity and accomplishment from the time he was elected President in 1896, through his second term in 1900.

McKinley's dedication to promoting the welfare of the common workingman produced tangible results: in his first term he won approval of a measure providing arbitration in labor disputes. He was most well known for his initiation of ideas on a new economic world order, engendering a new era of America's recognition as a world power. In 1899, McKinley backed an open door policy with China. He was instrumental in helping China maintain its territorial integrity in the Boxer Rebellion of 1900.

When McKinley ran for a second Presidential term, he could boast fulfilling his original campaign promise: "Good Work, Good Wages, Good Money." His reelection in 1900 marked the most overwhelming majority in 30 years, making his front-porch campaign style history. His assassination in 1901, just 6 months into his second term, was a tremendous loss to the country.

This is the background we are talking about when we speak of Mount McKinley—not a vacuous name, but a selfless leader who dedicated himself to the enrichment of our Nation.

It is in support of these principles that the Ohio Members of the House introduce this resolution, so that we may permanently safeguard the meaning and tradition William McKinley's life provided for our country.

INSTITUTIONAL DISINCENTIVES TO AGRICULTURAL PRODUCTION IN DEVELOPING COUNTRIES

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 1977

Mr. HAGEDORN. Mr. Speaker, during the 94th Congress, this body approved what was known as the "right to food" resolution. This resolution was intended to "reaffirm the right of every person in this country and throughout the world to food and a nutritionally adequate diet," and to mobilize U.S. foreign and domestic policies in behalf of that goal.

What was not recognized by the resolution, however, was the role played by domestic production disincentives in many developing countries to the food shortages which they constantly suffer. If the United States is to be expected to continue to channel billions of dollars of economic foreign assistance to these nations, there is no reason why we should not also expect domestic production policies likely to insure adequate domestic resources at some point in the future. By exporting a measure of free enterprise, the United States could do a great deal to insure that these nations do not remain forever "developing."

A recent study by two foreign commodity analysts at the Foreign Agricultural Service identified nine agricultural production disincentives commonly found in developing nations, and concludes that—

> It seems reasonable that food production could be substantially increased if these restrictive policies were replaced with incentives for farmers.

At this point, I would like to insert a summary of the results of this extremely informative study:

INSTITUTIONAL DISINCENTIVES TO AGRICULTURAL PRODUCTION IN DEVELOPING COUNTRIES

(By Abdullah A. Saleh and O. Halbert Goolsby)

Institutional disincentives to farmers—in such forms as price and export controls, and restrictions on credit and the domestic movement of agricultural products—have the potential for widespread and serious harm, unless these countries have ample foreign exchange to import food—an unlikely situation. Given the present poor external financial position of many developing nations, agricultural disincentives are all the more serious. For a few petroleum-rich countries there is no problem, of course.

In September 1976, the U.S. Department of Agriculture surveyed 44 countries that had been found in an earlier study [1] to have governmental policies that could directly or indirectly discourage production. In 1975, these 44 nations contained 1.6 billion people—two-fifths of the world's population, or four-fifths of the population in the developing nations. In most of these countries, the bulk of the population is concerned with agriculture, and a large proportion of their national income is derived from the sale of agricultural products.

In the 1976 study, approximately 600 disincentives were identified, although it is difficult to count with precision because of the generic nature of some classifications of commodities reported. Price controls were the most often-used disincentive (106 occurences at the producer level and 112 at the retail level). Export controls were the next most-often used (physical limitations,

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[1] Results of this study appeared in a supplement to *Foreign Agriculture*, March 1975. The survey covered 50 nations, of which 46 were found to have disincentives to domestic farm production. The current study covers all of these countries, except Spain and Greece. The disincentives reported in the Survey appear in the Appendix, where they are classified by country and commodity.

89 occurrences; and export taxes, 70). Least used were restrictions on internal movements (23 occurrences).

Disincentives were most often used in Peru (54 times), India (46), and Guatemala (32). They are more widely used in South America and Asia than in Africa, in part reflecting the fact that many African economies are still largely on a subsistence basis.

From the viewpoint of commodities, disincentives were applied most often to rice, wheat and flour products, and sugar—obviously because these are staple products in many developing countries. They are, however, applied to a wide variety of foods—from cassava to beef—and even to some nonfood agricultural products (tobacco, jute, and wool). In total, there were over 30 commodities against which disincentives were applied.

With the exception of Spain and Greece in the first survey, no attempt was made in either survey to ascertain disincentives in developed nations. Paradoxically, many of them have policies that often lead to overproduction of certain agricultural products. They also have policies that tend to restrict agriculture production.

As recently as 1973, U.S. Government set-aside payments for feed grain acreage totaled $1.17 billion, and 9.4 million acres of land were withheld from production.[2] Over the past two decades—during which in most years carryover stocks were large, depressing prices and farm income—U.S. agriculture has been the subject of various production adjustment programs to support farm income. Consequently, such programs have generally had as their objective supply reduction rather than supply expansion.

Current programs that act as restrictions on production in the United States are marketing quotas and acreage allotments for extra long staple cotton, peanuts, and most types of tobacco. Also, recent environmental legislation calls attention to social trade-offs between what is conceived of as being a socially desirable environment, and higher production.

There can, of course, be any number of types of disincentives that are general in nature and thus not specifically disincentives for the agricultural sector. These types of disincentives were not included in either survey. The types of disincentives found in the developing nations that more directly influence agricultural production include:

1. Controlling the producer price of agricultural products.
2. Controlling the retail price of agricultural products.
3. Noncompetitive buying (procurement policy).
4. Export controls.
5. Export taxes.
6. Importing for sale at subsidized prices.
7. Foreign exchange rate controls.
8. Restrictions on farm size, land tenure, and credit.
9. Restrictions on domestic movement of agricultural products.

To more fully appreciate the potential and detrimental effects of these practices, a short discussion of their general nature is given below.

IMPACT OF DISINCENTIVES [3]

Price controls. Producers normally try to maximize their profits within (a) the constraints of their technology, (b) the natural resources available to them, and (c) the final demand for the product. The consumer, in turn, tries to maximize satisfaction by demanding at the lowest price possible those products (including goods and services) that directly or indirectly satisfy some need or want. In a market-oriented economy where the forces of supply and demand are more or less free to interact on a competitive basis, both sellers and buyers can on a realistic and sound basis maximize their standards of living.

If a nation lacks foreign exchange to import food commercially and finds that it cannot import on a concessional basis, it must meet any increased requirement for food by stimulating domestic production. One way to accomplish this objective is to free production from artificial constraints, such as prices kept at low levels.

Why then are price controls instituted? In some cases, governments desire to control the price of food for political reasons; for many developing countries food prices comprise the largest component in the consumer price index—the primary indicator of the degree of inflation—and, when these prices rise rapidly, are often considered a mark of failure on the part of the government.

In many cases, however, the objective of price controls is a more equitable distribution of food, especially where there are inadequate domestic supplies and wide dispersion in the level of income. Unfortunately, when brought about by price controls, an improvement in food distribution in the short run may dampen production in subsequent periods. Also, prices set too low discourage farmers from using productive but costly inputs, such as improved seeds, fertilizers, irrigation, and pesticides—all needed to increase production.

Fortunately, the updated survey of September 1976, indicates some shift in government policies from controls on producer prices to support price systems that establish minimum guaranteed prices.

An increase in these minimum prices, for instance, almost certainly stimulated production of rice in Thailand. Previously, the Government was paying farmers a price far below the world price level. With the decline in rice prices since mid-1974, perhaps the minimum guaranteed price should now be lowered. But in any case, the changes in the level of production indicate—if they do not prove—the responsiveness of production to changes in prices.

Procurement policies. Certain procurement policies and forms of noncompetitive buying can be constraints that lead to lower than potential production. Such policies—where a government or a government-sponsored agency is the sole buyer of a product—may have adverse effects on both producers and consumers. Very often these practices are used to secure supplies for consumers at relatively low prices or to secure revenue for the government. However, producers, especially marginal producers, may be deprived of a price that covers total cost, and the consumer eventually may find himself paying more for a smaller output.

Noncompetitive buying is practiced in many developing countries such as India, Pakistan, Sri Lanka, and many Latin American and African countries. Commodities commonly subject to these practices are wheat, rice, and vegetable oils.

In some countries where noncompetitive buying causes a loss to farmers, government subsidies are given to farmers to more or less offset the loss. One effect is a heavy burden on the government's budget since the government must subsidize both consumers and food producers. Practices in Iran and Venezuela typify this arrangement. These two countries are oil-rich OPEC (Organization of Petroleum Exporting Countries) nations and few developing countries can afford to copy their example. Such policies, although they seem plausible, can lead to a lower production level than under a competitive system and perhaps distort the cropping patterns of these countries. This can result from the lag between paying production costs and receiving the subsidy, or from the inequity of subsidies among various types of enterprises.

Export controls and taxes. To domestic producers, export controls limit, sometimes absolutely prohibit, foreign sales—thus shrinking geographically and economically the total marketing area available to them. The supply of agricultural commodities offered for sale within the country exercising export controls, of course, will be increased at least in the short-run. The short-run increase in supply most likely will reduce prices and expand domestic sales. However, the reduced price may be one that produces revenue that is less than cost for marginal producers, thus reducing the incentive to increase, or perhaps even to maintain, production levels.

An export tax will not limit legally the geographic market available to producers, but economically the effect may be somewhat the same. This is the case when the export tax means a higher price to various importing nations—especially if these nations can find alternative sources of supply, or other commodities that will serve as substitutes. If on the other hand, the world market is very competitive and market forces determine prices, the exporting nation must sell at prevailing prices. Since the export tax cannot be added to the price in this case, the tax becomes a tax on producers and the disincentive naturally follows.

In the case of both export controls and taxes, foreign exchange earnings are most likely foregone that may be badly needed to import essential items. Such items may be impossible to obtain domestically or obtained only with the application of a great deal of time, energy, and resources—all of which could be used in other ways to increase standards of living.

Import subsidization. In an effort to control inflation and to provide consumers with an adequate supply of basic food commodities, some governments resort to import subsidization. That is, governments import at one price but sell domestically at a lower price, or perhaps even distribute freely. Unless incomes are so low that the food would not have been purchased in any case, this policy obviously will lower prices and discourage producers within the country from expanding production.

For example, improved seed varieties, around which the "green revolution" was built, require intensive use of fertilizers, irrigation, and pesticides. Unless domestic prices are high enough—or other incentives are available to justify the investment in such costly inputs—producers have no incentive to expand their production.

Exchange rate controls. In general, controls on foreign exchange proceeds of agricultural exports take the form of requirements to surrender the proceeds within a specified time or to surrender the proceeds at a specified minimum price of the item exported. Limiting the time an exporter may hold his proceeds in dollars or other convertible currencies may force him to exchange his proceeds at an undervalued level. By waiting, he might benefit through a devaluation of his native currency, which would allow the exporter to receive more local currencies per dollar surrendered.

Specifying a minimum export price at which foreign exchange proceeds are submitted, may at times remove the flexibility an exporter needs to consummate a sale. Either the exporter foregoes a sale—if the world market price is beneath the specified price—or the exporter may be required to make up the difference between the price he can obtain in the world market and the specified price level at which he must submit foreign exchange proceeds.

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[2] *Commodity Fact Sheet*, April 1974, ASCS, USDA.

[3] This survey does not deal explicitly with interdependencies among commodities. It is recognized that a disincentive for one commodity may prove to be an incentive for another commodity, or the same commodity in another country.

Restrictions on land tenure and credit. Imposition of these restrictions on farmers constitutes a serious barrier to the expansion of agricultural production in many developing countries. Despite the increased number of farmers owning land because of land reform, many developing countries have subsequently experienced lower output. While land is an important factor of production, other factors must be combined with land to maintain or increase the level of production. During the early stages of adjustment after land reform, new owners are usually farm workers with limited experience in farm management and most likely with little or no liquid funds to cover the variable costs of production. Poor management and the lack of funds result in inefficient use of resources and a decline in output unless these deficiencies are corrected.

Restrictions on land tenure that limit farm size could discourage farmers from investing highly productive inputs, and cause a loss of scale economies. In the Dominican Republic, for example, the land tenure law, which limits rice land ownership to 80 acres, has been one reason that country has needed to import rice over the past several years. The effect of this policy has been further amplified by controls on farm prices.

In another example, after Tunisia eliminated its policy of requiring State-controlled farm organizations in the late 1960's, the country's per capita agricultural production rose by 58 percent from the average level in 1961–65 to 1976. For all developing countries there was only an 8 percent gain.[4]

Rural credit policies that limit the amount of credit given to small farmers have limited the expansion of the agricultural production in many developing countries. For example, the Government of Indonesia, in order to compensate rice producers for low rice prices, offers them subsidized credit. However, since the banking system views small farmers as high-risk borrowers, only the larger farmers benefit from the subsidized financing that facilitates the adoption of new production techniques. Therefore, it is only the larger farmers who have the negative impact of low rice prices partially neutralized through Government-subsidized credit programs. This results in inefficient resource allocation by depriving a large number of small farmers of liquidity to improve their level of production. In many other countries, applications for loans require a land title, which is not generally easy to provide.

Restrictions on domestic movement of agricultural products. Whatever the political justification may be, the prohibition on shipment of farm products from surplus districts to deficit districts within a country obviously discourages farmers in the surplus areas from producing more. Almost certainly the existence of such restrictions in India amplified the impact of food shortages following the 1974 drought and floods in India, where some States, such as West Bengal, were hit harder than others.

Another example is Indonesia, where inter-island shipments of rice are prohibited except under Government auspices.

CONCLUSIONS

While it is beyond the scope of this report to present a quantitative evaluation of the net effect of various policies in different countries, a general indication about each country's need to expand its agricultural output is indicated by Table 1. For two-thirds of the countries included in this study, containing 1.6 billion people, the long-term rate of growth (1952–72) in domestic demand for food exceeded that for food production. Furthermore, the most optimistic food projections indicate that Asian developing nations will continue to be heavy foodgrain importers through 1985. These projections also indicate that India, Pakistan, Bangladesh, and Sri Lanka will continue in most years to be heavy grain importers within this region for the next decade.

The ability of various countries to import food at present is indicated in a general way by the data in Table 2. Many of these countries have current account deficits and a low level of reserves relative to the level of their imports. Those with good financial positions are mainly petroleum-producing countries, or supported by petroleum rich countries.

These data also indicate the ability of various countries to import such additional farm inputs as fertilizers, pesticides, and farm machinery. Recent estimates by the FAO (Food and Agriculture Organization) Emergency Fertilizer Supply Scheme indicate that the four Asian nations mentioned above accounted for nearly 80 percent of the world fertilizer shortfall in 1975.[5]

The nine disincentives discussed here are of course only some of the factors affecting total world food production. But it seems reasonable that food production could be substantially increased if these restrictive policies were replaced with incentives for farmers.

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[4] Data from USDA, Economic Research Service, *Food Production Indices*, 1977.

[5] Tennessee Valley Authority, *An Appraisal of the Fertilizer Market and Trends in Asia*, 1975.

APPENDIX

POTENTIAL DISINCENTIVE TO AGRICULTURAL PRODUCTION BY COUNTRY AND COMMODITY, 1976 D C

Country and commodity	Price controls		Noncompetitive buying	Export controls		Import subsidies	Foreign exchange controls	Restrictions on—	
	At producer level	At retail level		Physical limitations	Export taxes			Credit and land tenure	Internal movements
AFRICA									
Angola: Coffee					X				
Ghana:									
Cocoa	X		X					X	
Seed cotton	X		X					X	
Ivory Coast:									
Coffee	X		X						
Cocoa	X		X						
Rice	X		X						
Kenya:									
Wheat	X							X	
Corn	X							X	
Sugar	X								
Rice	X								
Liberia: Many commodities	X	X	X						
Morocco:									
Oranges					X			X	
Wheat products	X	X				X			
Morocco—Continued									
Other staple foods	X	X						X	
Nigeria:									
Cocoa	(1)		X					X	
Seed cotton	X		X					X	
Senegal:									
Peanuts	X		X						
Rice	X		X						
Sierra Leone: Some commodities	X		X					X	
Zaire:									
Palm oil	X	X		X					
Coffee		X			X				
Tobacco		X	X		X				
Rice	X	X							
Sugar	X	X							
Tea	X				X				
Cocoa					X				

THE 36TH ANNIVERSARY OF PEARL HARBOR

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. MURPHY. of New York. Mr. Speaker, today, December 7, marks the 36th anniversary of the Japanese attack on American forces in Pearl Harbor. This devastating action crippled many of our military units in the Pacific theater, while at the same time thrusting this country into the midst of World War II.

On that Sunday morning in 1941, there were approximately 100 ships docked in Pearl Harbor, one of which was the U.S.S. *St. Louis*. This ship was later nicknamed the *"Lucky Lou"* in recognition of its valiant efforts to get underway and out into the open sea even though many of its crew were on liberty and the ship was partially inoperative. *Lucky Lou* was the only major warship to safely reach open sea during the attack.

The *St. Louis* continued to distinguish itself throughout the war and the rest of its service in the U.S. Navy. In 1951, the ship was taken out of mothballs and sold to the Brazilian Government to bolster the defense of the Western Hemisphere during the Korean war. In 1976, *Lucky Lou*, known to the Brazilians as *Almirante Tamandare*, was decommissioned.

Since that time, the Brazilian Navy has begun to strip the ship and is planning to send the remains to the scrap pile. Spurred by the concerns of those who served aboard the U.S.S. *St. Louis*, a national effort has mobilized in this country to "Save *Lucky Lou.*" Mr. Al Seton, a resident of my congressional district and a member of the ship's company, is heading up this movement. I might also add that one of our distinguished colleagues, JAKE PICKLE, also served on the *Lucky Lou.*

At present, last ditch efforts are being made to retrieve *Lucky Lou* through both formal and informal channels. It is a shame that we may lose this ship which symbolizes so much about the American spirit. It might be prevented by the passage of legislation I have introduced, the National Historic Preservation Policy Act.

This measure would establish a national policy for the preservation of our historic resources and specifically includes a distinctly separate maritime heritage program. The history of this country is rich with the contributions of those who have taken to the seas for both peaceful and wartime purposes. However, there has never been a concerted Federal effort to recognize the importance of our maritime heritage. I believe that my legislation, which has been cosponsored by 13 of my colleagues, will not only perform the much needed task of consolidating our Federal-level preservation efforts, but will provide the necessary direction and support in the area of our unique maritime heritage.

While it may be too late for this measure to be of assistance to the efforts to save *Lucky Lou,* I hope that early in the next session of Congress we can take this legislative action so that future efforts with other ships will not be stymied.

REMARKS ON SOUTH AFRICAN HOMELANDS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, I include in the RECORD a brief article that appeared in the Washington Post of Tuesday, December 6, 1977. The article recounts the so-called independence celebration of another African "State," Bophuthatswana. Those that read the article will readily see that Bophuthatswana is yet another fiction of the South African Government and a product of its apartheid homeland policy. As my colleagues will recall this homeland policy is an official South African tactic used to separate ethnic elements in the country by forcing them to occupy lands designated for their use. These lands are declared "independent states" and the South African Government feels obliged to call this policy of racial separation democracy.

Members of this body who read this account will, I am safe in saying, conclude that separating people by race and exiling them to land masses that cannot sustain independent state status, even in the most favorable of circumstances, is a hideous illustration of the twisted logic that governs the apartheid system in South Africa. It is safe to conclude that those who think about this homeland policy will reason that a policy of forced racial separation that isolates 70 percent of the total population to 13 percent of the land is not democratic, just, or excusable.

The article follows:

[From the Washington Post, Dec. 6, 1977]

BOPHUTHATSWANA'S "BITS AND PIECES" BECOME INDEPENDENT

(By Caryle Murphy)

Mmabatho, Bophuthatswana, Dec. 5—Under a starry sky and amid the blasts of a 101-gun salute the South African flag was lowered tonight, and a blue and orange flag with the face of a leopard was raised in its place as six unconnected parcels of South African territory became the independent country of Bophuthatswana.

This newest African state whose capital city was a grassy field only eight months ago is the second black homeland to become independent under South Africa's internationally condemned policy of separate development, apartheid.

As with its predecessor Transkei, which became independent in October 1976, Bophuthatswana's declaration of independence is expected to fall on deaf ears in the international community and its new status to be officially recognized only by South Africa and Transkei.

Transkei and Bophuthatswana are the products of the policy of separate development or "ethnic democracy" which the ruling National Party introduced after it came to power in South Africa in 1948.

The intention is to carve from 13 per cent of South Africa's territory independent black states or homelands for each of South Africa's black ethnic groups while maintaining white rule over the remaining 87 per cent. Blacks make up 70 per cent of South Africa's population.

The new homeland is for the 2.1 million members of the Tswana tribe, 1.4 million of whom live outside the territory. As citizens of the new homeland they will lose their South African citizenship and political rights, one of the controversial aspects of the homelands policy.

Like a scattered jigsaw puzzle, Bophuthatswana consists of six separate districts, totaling 16,000 square miles—half the size of Maine—in north central South Africa. Each district is surrounded by "white areas," governed by the white minority government in Pretoria.

Two of Bophuthatswana's districts border on Botswana, with which it shares a common language and culture.

A vital railway line that is the only link with the outside world for landlocked Rhodesia and Botswana passes through one of Bophuthatswana's districts. There has been speculation that Bophuthatswana might block passage of trains through its territory if Botswana refuses to recognize the new state.

In his remarks at the midnight independence celebrations Bophuthatswana's head of state, Chief Lucas Mangope, 53, indicated that his country's unusual geographic arrangement, which he acknowledged provoked ridicule in foreign circles, would continue to plague the "naturally strained relations with our former colonial master South Africa."

Chief Mangope told thousands of celebrating Bophuthatswana citizens that "just as it is born our independence has already fallen into a fatal credibility gap which bears the stamp 'made in Pretoria.' It is not at all surprising, I am afraid, that in overseas capitals they show me a map of the bits and pieces of Bophuthatswana and add the sarcastic remark, 'Did you say independence? Please forgive our mirth. We thought you were joking.' "

The expected international boycott was foreshadowed by the fact that the 120 foreign and national journalists covering the two-day independence celebrations far outnumbered the few official visitors. South African Foreign Minister R. F. (Pik) Botha, Transkei's Chief Kaiser Matanzima and the leaders of two other homelands that are expected to become independent in the future were the main "foreign" dignitaries.

Critics say that the geographic and economic dependence of the homelands on South Africa precludes any true independence. For Bophuthatswana's first year of independence, 71 per cent of the $83 million budget will be grants from South Africa.

South Africa says the newly independent homeland is as economically viable as any other recently independent African state and that its per capital annual income of $268 is double that of Botswana's. That figure includes the incomes of 200,000 Tswanas who work outside the territory.

Bophuthatswana or "where the Tswanas meet" is home for about one-third of South Africa's 2.1 million Tswanas, the second largest black ethnic group in South Africa. The rest of Bophuthatswana's 900,000 citizens have other tribal backgrounds.

Mangope's Bophuthatswana Democratic Party won all but a handful of the country's 96-member legislative assembly seats in elections last September. Only 13 per cent of the eligible 2.1 million Tswanas voted in that election, since most of the 1.4 million Tswanas who live and work in South Africa's cities boycotted the vote to protest homeland independence and separate development.

These Tswanas consider Mangope a "sellout" to the white man's apartheid policy.

Mangope had tried to persuade the South African government to allow the Tswanas a choice between citizenship in Bophuthatswana or South Africa, but Pretoria did not budge.

About 45,000 people filled Independence Stadium on this chilly night to watch the tribal dances and gymnastics exhibitions that preceded the flag ceremony. Among them was Jacobeth, a 25-year-old typist who thought Bophuthatswana's independence was a good thing "so we can know and do what other people know and do."

There were some Tswanas who did not agree. A black newspaper reporter named Steve said he did not accept independence, "because we are South Africans. This land is ours. I don't want to see it broken into bits and pieces that will only turn to islands of poverty."

As the South African flag was lowered to South Africa's national anthem and the Bophuthatswana's flag was hoisted to the new country's anthem, an Afrikaner reporter said, "This is the part I don't like, seeing the flag come down and knowing that it's not yours anymore."

The stadium where the ceremony was held is next to Bophuthatswana's newly constructed Parliament building, the eight-bedroom residence of Mangope and the homes of nine other Cabinet ministers. The $12.5 million complex, built over the last eight months on a dusty field, forms the governmental heart of Bophuthatswana's capital city, Mmabatho, which also will include the black township of Montshiwa just outside the white town of Mafeking.

Before independence, Bophuthatswana signed extradition and labor agreements with South Africa. The two countries also signed a nonagression pact.

Bophuthatswana's new 250-man army was trained by South African army officers, some of whom will remain in the new force as advisers.

CARTER CALLS THE RIGHT MIDEAST PLAY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. FASCELL. Mr. Speaker, all of us hope that the forthcoming talks among Israel, Egypt, and possibly other parties in the Middle East will produce a breakthrough for peace in that area of the world.

While the United States did not directly initiate this development, we can offer our support and such participation as may be helpful. I am glad to see that President Carter has recognized this, and his handling of the diplomatic situation reflects credit on his skill in the field of international relations.

The Miami Herald published an editorial on December 2. The editorial points out that if events seem to move toward a separate peace—why not?

I am sure our colleagues will be interested in the editorial:

CARTER CALLS THE RIGHT MIDEAST PLAY

President Carter has taken precisely the right stand on Israeli-Egyptian peace talks on behalf of the United States. It is one of less than a doer and more of a watcher and helper.

"Now that progress is being made," he said at his news conference Wednesday, "a proper role for the United States is to support that progress and to give the credit to the strong leadership that's already been exhibited by Prime Minister Begin and President Sadat and to let our nation be used as called upon to expedite the peace process."

This newspaper has said frequently that peace could not be realized by an imposed settlement but rather by face-to-face negotiation.

All the ingredients of that peaceful confrontation are now available save for the participation, or at least the attendance, of the other Arab states. Perhaps the last can be achieved, but we doubt it. Mr. Carter is known to have urged a brief delay in the Cairo talks to cool off and bring in the Arab world as a whole.

Israel and Egypt, the giant of that world, have taken the vow of war no more. Mr. Sadat has welcomed Israel to the Middle East club, which means long-cherished recognition of its right to exist by the most powerful of its neighbors.

It is said that Washington dislikes and even fears a separate peace between Egypt and Israel. Events, however, are moving inexorably in that direction. And why not? There is more of a natural affinity between Israel and Egypt than between Israel and any other Arab state, save perhaps Jordan. They understand one another.

Anwar Sadat surprised everyone, and even possibly himself, by reaction in most of the Western world to this hopeful breakthrough of bitterness and diplomatic bluster. He no longer needs our lead. He should have our support, and President Carter has properly given it.

CORPORATE PROFITS AND INFLATION

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. STOCKMAN. Mr. Speaker, in recent days the Carter administration has announced its general program on tax reform. While the specifics have yet to be released, the administration will soon send to Congress a $20 to $23 billion tax reduction package spread between individuals and business in a two-thirds—one-third formula. Apparently, reform measures will be sent to Congress later in a separate package.

I applaud the President and his advisers for recognizing the urgent need for a tax cut, but $20 to $23 billion is not enough to fund relief for both individuals and business.

By now everyone is aware that inflation interacts with the progressive tax schedule to drive up the burden on individual taxpayers faster than the rate of inflation. Even if we adopted a $30 to $33 billion tax cut, tax rate increases over the past decade would still equal the rate of inflation.

Few people may be aware that inflation has the same effect on the burden on business activity as it does on individuals. Recent research completed by the Republican Research Committee suggests that business overpaid the Federal Government by $12.6 billion last year because of inflation. Inflation, the study concludes, leads to insufficient depreciation deductions taken against business income and therefore higher taxes.

I place this study in the RECORD to further congressional understanding of how inflation has increased pressure on taxpayers:

CORPORATE PROFITS AND INFLATION

In recent public appearances Federal Reserve Board Chairman Arthur Burns sounded the general alarm on an important issue; low corporate profitability. Present Federal tax policy, by not taking into account the effects of inflation on reported earnings, is largely to blame for today's weak after-tax profits.

CORPORATE PROFITS AND TAX POLICY

The plight of corporations during inflationary periods is similar to that of individual taxpayers. Just as inflation is not taken into account when individuals compute their federal income tax—meaning higher tax brackets and proportionately higher taxes—so corporations pay proportionately higher taxes under inflation. Major corporate expenses are calculated on the basis of old, pre-inflation prices, but corporate revenues are measured in today's prices. When prices are rising, this policy leads to overstatement of corporate profits. The correct policy would be to measure both revenues and expenses using today's prices.

Depreciation deductions taken against income under current unadjusted rules are the most obvious and serious source of corporate overtaxation. Using data recently acquired from the SEC and a July 1977 study by Chase Econometrics it is possible to develop estimates of the underdepreciation problem. This data suggests underdepreciation of $31 billion by American corporations for tax purposes in 1977. Corporations will overpay the Federal Government by $12.8 billion for this reason alone in 1977.

Below are the estimates developed by the Republican Research Committee of the underdepreciation problem and the overtaxation of American corporations in 1977. Of particuar interest today are the figures for utilities and primary metal industries. Utilities are presently paying $2.1 billion more in taxes because of unadjusted depreciation deductions while the primary metal industries are paying $950 million more. In the case of utilities, all these funds could be returned to the public through lower utility rates without altering rates of return set by regulatory authorities. Inflation adjusted depreciation deductions for the primary metals industries would permit the rate of investment in new equipment to increase by 35% at a time when many believe that these industries are losing their ability to compete against modern facilities.

ALTERNATIVE

DEPRECIATION POLICIES, INFLATION, AND CORPORATE OVERTAXATION

[In millions of dollars]

	Depreciation expenses under present policy, 1977	Adjusted for inflation, 1977	Difference, 1977	Estimated overtaxation, 1977
Agriculture	1, 210	1, 500	290	106
Mining	2, 180	2, 470	290	137
Construction	3, 340	3, 470	1, 130	441
Manufacturing				
Food and kindred products	3, 320	4, 310	990	463
Tabacco	370	520	150	70
Textiles and apparel	1, 290	1, 760	470	21
Wood, paper, and furniture	3, 120	3, 430	310	145
Publishing	1, 260	1, 620	350	163
Chemical products	4, 860	5, 950	1, 090	521
Petroleum products	7, 690	9, 860	2, 170	1, 036
Rubber	900	1, 160	260	121
Stone, clay, and glass	1, 370	1, 830	460	215
Primary metals	3, 580	5, 570	1, 990	949
Fabricated metal products	1, 680	2, 760	1, 080	492
Machinery, except electrical	4, 270	5, 220	950	446
Electrical machinery	2, 950	3, 650	700	331
Motor vehicles	2, 910	3, 610	700	335
Transportation equipment except motor vehicles	1, 420	1, 880	460	191
Instruments and related products	820	860	40	20
Miscellaneous	480	650	170	80
Transportation	6, 210	7, 930	1, 720	760
Communications	9, 350	13, 330	3, 980	756
Wholesale and retail trade	10, 200	12, 240	2, 040	841
Finance	8, 050	10, 000	1, 950	882
Services	8, 050	10, 610	2, 560	940
Utilities	10, 470	14, 930	4, 460	2, 117
Total	101, 300	132, 100	30, 800	12, 600

THE PANAMA TREATIES AND THE ABANDONED AMERICANS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. HANSEN. Mr. Speaker, many questions have been raised concerning the folly of President Carter's proposed Panama Canal Treaties; however, none is more serious than the lack of consideration shown by the administration to the plight of the American citizens who work in the Canal Zone. Most of these 34,000 Zonians are dedicated, patriotic Americans who perform key functions in the direct operation of the canal.

Mr. Speaker, for the benefit of my colleagues, as well as the American public, I offer for the RECORD an appropriate article by Mr. Egon Tausch dealing with this serious matter.

REPORT FROM PANAMA: THE AMERICANS WHO OPERATE AMERICA'S CANAL

(By Egon Tausch)

One factor in the Panama Canal controversy which has been deliberately ignored by both the State Department and the media is the problem of the Canal Zone residents, or "Zonians."

There are about 34,000 U.S. citizens living in the Zone, most of whom are directly connected with Canal operations. It is a remarkably stable population, made up for the most part of children, grandchildren, and great-grandchildren of the original Canal workers. Many have married Panamanians and others are naturalized U.S. citizens themselves. There is no labor-management dissension, unemployment, welfare, race issue, or crime problem in the Zone.

The Zone is not a duty assignment for its residents; it is their home, which they have quite rightly believed would always be part of the United States. For obvious reasons, the State Department would like to forget about them.

Much has been made of the fact that the Canal will be turned over to Panama gradually; the Panamanians will not have full control until the year 2000. This has obscured the fact that the Zone itself, as distinct from the Canal, will be turned over 30 days after the treaty is ratified. The Zonians have lived next door to the Panamanian police state and do not relish the thought of living under it. Their attitudes must be taken into consideration before ratifying the treaties: any timetable for the transition to Panamanian control of the Canal depends entirely upon the willingness of Zonian employees to stay and work after the Zone is under the jurisdiction of the *Guardia Nacional*. If they won't the Canal will close down quickly and disastrously, regardless of any agreements to the contrary that U.S. and Panamanian negotiators might have made.

The Zonians have no intention of being ignored. They were the victims of the 1964 riots, sporadic violent incidents since then, including the bombings of American automobiles in November, 1976, and harassment by the Panamanian *Guardia Nacional* and secret police.

Now they find themselves an embarrassment to the U.S. Embassy in Panama, which has refused to permit the rights of these American citizens to strain relations with the Panamanian dictatorship.

"When we go into Panama to use their airport—we aren't allowed to use our own military field anymore—and get detained by the *Guardia*, we're all alone," says Mrs. James Fulton, president of the Pacific Civic Council in the Zone. Patrolman William Drummond adds, "If we get into any kind of trouble, we now know better than to call on our own Embassy. We call the British. They don't have to pretend we don't exist."

Drummond, president of the Police Union and legislative chairman of the Central Labor Union and Metal Trades Council, had his two automobiles bombed in the terrorist attacks of 1976. The incident was attributed to the G–2, the intelligence arm of the Panamanian secret police. The U.S. Embassy in Panama speculated publicly that Drummond might have bombed his own car to gain sympathy for the plight of the Zonians, a charge proven false when the other bombs went off and the terrorist notes were discovered. The Embassy never apologized to Drummond.

On February 11, 1977, Drummond was arrested by the G–2 at the Panama airport when he was on his way to testify in Washington on union business. He was detained and questioned in downtown Panama City for three hours. His release was obtained only because the arrest was reported by the protocol officer from the Embassy, who had happened to witness it. The Ambassador decided not to make a point of such arrests for fear of endangering the treaties.

Shortly before the negotiators completed the treaties they authorized Gov. H. R. Parfitt of the Canal Zone to release a list of fifteen "assurances" to U.S. citizens in the Zone—points that were to be in any proposed treaty.

Among them was the following assurance concerning criminal justice: "In connection with offenses arising from acts of omission punishable under the laws of the Republic of Panama, United States Citizen employees and their dependents will be entitled to specific charges, cross-examination of witnesses and legal representation of choice."

Also, the State Department announced, a status-of-forces agreement would be included in the treaty, which would permit U.S. civilians to be tried by their own courts as is done by the military in other foreign countries. These assurances were repeated by every level of government and were even incorporated into a Department of Defense directive to the military.

In reality, the State Department negotiators were aware that Panamanian dictator Gen. Omar Torrijos had consistently refused to consider any such assurances. These clauses had already been omitted from the early draft treaty at Torrijos' insistence.

The final treaty gives all authority over criminal justice—procedural and substantive, crimes of commission and crimes of omission—directly to Torrijos, with no safeguards for U.S. citizens, other than the right to serve their sentences in America if Panama agrees at a later date.

In the face of his repeated failure to get Panamanian agreement on these points, Ambassador Bunker continues to push the treaties by promising that a status-of-forces agreement will be forthcoming, somehow.

The residents of the Canal Zone feel a personal sense of betrayal by the U.S. government. They can vote only in presidential general elections, so their interests are centered on one issue—foreign policy. Secretary of State Henry Kissinger was profoundly disliked in the Zone, and the last television debate between Carter and Ford led the Zonians to believe that Dr. Kissinger's policies would be reversed by a Democratic administration. The Zone went solidly for Jimmy Carter. Now the President's representatives encounter only hurt hostility from the residents.

The Zonians have held rallies protesting the proposed treaties. More than 2,600 appeared at the last one before the treaties were signed. If any Zonians favor the treaties, they have yet to speak out. Despite their expert knowledge of Canal operations and of conditions in the Zone, the residents have not been interviewed by the major U.S. news media. The Canal Public Information Office complains that it gives a representative list of Zonians to every reporter who calls on the office, but none bother to visit the Zonians.

Some of the American reporters have resorted to denouncing the Zonians' stilt bungalows and commissaries-without-discounts as "unfair" luxurious living. Unlike other Americans, the Zonians are expected by the press to live a Spartan existence, in return for the privilege of working on the Canal.

In actuality, the architecture and scenery of the Zone differs from that of Panama only in that it is kept clean and in good repair. The attack on Zonians is reflected in *Time's* report of a Canal pilot who "refuses to work for a dictator." The quote is preceded by the magazine's categorical opinion: "The Zonians' basic objections to the treaty range from chauvinistic to sentimental to mercenary."

State Department officials counter Zonian opposition to the treaties by calling the U.S. citizens "colonialists" or "racists," a charge which labor leader Drummond refers to as the last-ditch effort of desperate bureaucrats. He, like many Zonians, is married to a Panamanian national.

Speculation about the evacuation of the Zone continues, without evidence of U.S. concern for keeping the Canal going.

Federal District Clerk Doris McClellan feels protective of her courthouse in the Zone. The daughter of Sen. John McClellan (D-Ark) knows her way around Washington: "What right," she asks, "does the State Department have to abolish or give a federal court over to a foreign jurisdiction? We're under the Justice Department, not Foggy Bottom!" A Southern lady of the traditional mold, she gets angry when she envisions the future of her beloved courthouse under the rule of Gen. Torrijos and his henchmen of the *Guardia*. Indeed, the General will have little use for a court of justice within a governmental system which recognizes no civil rights whatever.

Miss McClellan is taking no chances with the historical honesty of the future occupants of the Zone—she is sending all the deed records, which prove ownership of the land, to the U.S. for safekeeping.

Washington seems in no hurry to appoint a new federal judge for the Canal, making do with visiting judges in an obvious ploy to prepare for the turnover in case the treaties are ratified.

"What do they think they'll do with us? Send us home? Where is our home, if not here?" asks William Benny, a control house operator on the Canal. He and his wife were born in the Zone, and have no ties with other parts of the U.S. Benny will have to make his own plans for his family, and they won't be based on a timetable prepared in Washington.

The Governor of the Canal Zone and President of the Panama Canal Company is an Army general on leave of absence. The Zone Government and the Canal Company both operate under the general supervision of the Secretary of the Army. After completing his term, Gov. Parfitt will return to active duty, with a promotion if he hasn't made waves. He is prevented by his office from voicing Zonian complaints about the State Department or taking any position in regard to the proposed treaties. Nevertheless, his testimony before Congress during earlier hearings must have been unwelcome to those among his superiors who favor a gradual Panamanian takeover of the Canal.

Gov. Parfitt is painfully aware that the Canal must be closed if there are not enough U.S. employees who are willing to remain at a temporary job in a place that is no longer to be their home, under a repressive foreign regime, and with little or no support from their own embassy. The Governor testified that fear of the future was affecting the work force even before the treaty agreement was reached. Since the 1974 Kissinger announcement of the Joint Statement of Principles, resignations have increased by 60 percent.

The Governor said: "Athough the number is not of such magnitude as to cause great concern, what we are concerned about is the trend—the fact that this could snowball and ultimately seriously affect our ability to perform the Canal's mission . . . prospective employees are wary in seeking employment with the Panama Canal when doubt exists as to the future security and tenure of their positions and the conditions which might prevail under a new treaty."

Even if other Americans were paid enough to induce them to move to Panama, they would require extensive training to become familiar with the 1910 technology of the Canal, simple as it is. They would have to be integrated slowly into the regular workforce. If the treaties are ratified, there won't be a regular workforce to ease them in to.

The U.S. Civic Councils, organizations of Canal Zone community representatives, polled 285 U.S. citizens about their plans. 62.8 percent said that they would not consider remaining if the Zone is given to Panama. "Many of our people now tell us that 'the day that the Canal Zone Police go, we go,' and also, more alarmingly, 'when the U.S. workers see the day getting closer that jurisdiction will be handed to Panama, you can expect to see the Canal shut down.' "

The only labor trouble that the Canal ever faced was a "sick-out" in March of 1976, which was a response to rumors of a new Canal treaty. As the Civic Councils reported, "Morale at that time was extremely low; this year we have to say honestly that our people are so demoralized that they are ready to give up and quit—a shutdown of the Canal, if it occurs, will not happen over a labor issue. It will result from apprehensive employees, who in their fear for their physical security, will simply leave their jobsites, go home and pack their suitcases. . ."

"The trouble with the State Department," concludes Pat Fulton of the Pacific Civic Council, "is that they want a new treaty as a 'symbol.' But the Canal is a *thing!*" Ideology and nationalism will not change the fact that if the Americans leave, the Canal will be dependent on Panamanian mechanical skills.

The Canal mechanism is simple, but it requires upkeep. There is no regular maintenance system in Panama. The elaborate daily lake dredging and cleaning and lubricating procedures employed on the Canal are causes of amazement, and sometimes derision, among Panamanian visitors.

For years, the United States has given preference in hiring, training, and promotion to Panamanian nationals. At the present time only two of the ship pilots are Panamanians, and not many other Panamanian nationals have risen above menial jobs. Far fewer than the quota provided for by the programs apply for training; fewer still complete it.

Recently the United States acceded to Panamanian requests and gave up control of Bayano Dam, a source of energy and a necessary control valve on the lake which supplies the locks with water. The daily inspection of the dam ceased immediately after Panama took possession. Within a few months the dam became inoperable. Torrijos could find no Panamanians with the knowledge and skills to repair it, and was forced to fly in a team of Yugoslav engineers and mechanics. Since the repair of the dam, new cracks have appeared.

Panama has never conquered the problems of mechanical and administrative efficiency. The garbage collection system in Panama City is practically non-existent; heaps of refuse rot in the tropical sun. Modern buildings have no hot water systems. Torrijos bought a new fleet of buses from Germany, but made no arrangements for mechanics or replacement parts. A year later, less than one-third of the buses were still running; the others were cannibalized for their parts and the bodies left abandoned along the streets.

The treaty negotiators could not entirely ignore the possibility of Zonian flight and the lack of skilled Panamanians to replace the American employees.

Consequently, the U.S. Embassy in Panama contracted the services of Mr. John L. Jackle to do a study of the impact of a new treaty on Canal Zone residents and how they might be convinced of its benefits. The political branch of the Embassy worked with Mr. Jackle. The final report indicates that the methods of the Panamanian dictatorship are not completely alien to the State Department: "a lot of good press would be essential for success: in this situation we would make good use of the controlled press situation on the Isthmus. If it does not work, no propaganda will sell it. But it can be given at least an initial breath of promise through skillful manipulations of the available media."

Later the report adds, ". . . we would have to work closely with the Government of Panama to insure that their share of the participation would be handled with our goals in mind. We would not want a Government of Panama speaker who is going to rant and rave about how glorious Panama's demands are; we would want someone who could communicate on a low-key level and who would be very reassuring."

Even such sophisticated Madison Avenue techniques might not work with Bill McConaughy, Senior Control House Operator and a highly respected mechanic. McConaughy has worked on the Canal all his adult life, as have his two brothers, their father, their grandfather, and their great-grandfather, who helped build the Canal and whose Theodore Roosevelt Medal the descendants treasure. McConaughy's pride in the Canal is second only to his pride in America for having created it.

"Short of working on the moonshot there's nothing I'd be prouder to do than what I'm doing here," he says. "We all feel that way, and it doesn't wear off with time." After thinking a moment, he adds, slowly, "As long as the Canal is American."

A RAILROADING DERAILMENT

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. LEDERER. Mr. Speaker, there were trying times during the deliberations in the Ways and Means Committee when I feared the Federal employees would be legislatively railroaded into the Social Security System—at the risk of possible derailment of their own pension benefits.

I was one of those who stood steadfast against such dubious machinations which, even had they succeeded, would have been only a temporary prophylactic for the ailing social security fund.

The impetus for change was so strong it appeared, in fact, there was little chance of it being side-tracked. Fortunately, my colleague, ROBERT NIX, in his capacity of Chairman of Post Office and Civil Service, entered the legislative maneuvering. Then, as the following article by Jerry Waldie of the Federal Times describes, what would have been a congressional faux pas was averted. And—I, for one, hope it will be many years before such a dubious and harebrained scheme is again brought to the House floor:

[From the Federal Times, Oct. 31, 1977]

NEW BALLGAME IN TOWN

(By Jerry Waldie)

Not so very long ago, capitol observers would have yawned at the news that the House Post Office and Civil Service Committee intended to take on the powerful Ways and Means Committee. The thought that the lowly PO&CS Committee might be successful in an effort to reverse a decision of the awesome Ways and Means Committee would be too much for anyone familiar with Congress to seriously consider.

But things have changed on Capitol Hill. The PO&CS Committee did exactly that on the issue of mandatory coverage under social security for federal and postal employees.

Ways and Means, over the opposition of its new chairman, Al Ullman of Oregon, and its social security subcommittee chairman. Jim Burke of Massachusetts, mandated such coverage.

Chairman Bob Nix of the PO&CS Committee moved with surprising speed and determination to challenge that action. He shot off a letter to Speaker O'Neill signed by most of the PO&CS members asserting his committee's "sequential jurisdiction" over the issue of social security coverage for these employees. The action of the Ways and Means Committee, Nix told the speaker, "grossly infringes upon a major portion of this committee's jurisdiction."

Speaker O'Neill didn't hesitate. He ordered "sequential referral" in compliance with Nix's strong demand and the old patterns of doing things in the House were delivered a major blow.

Nix followed up this concession to his committee's authority by a superb effort in obtaining support of the members of the PO&CS Committee for an amendment to strike mandatory coverage. Every single member of his committee, both Democrat and Republican, voted to support such an amendment to the Ways and Means Committee bill.

Suddenly casual observers began to understand there was a new ballgame in town. At least where the PO&CS Committee was concerned and probably where the Ways and Means Committee was concerned, too.

What brought about this unprecedented show of strength on the part of the PO&CS Committee as well as the unexpected display of weakness demonstrated by the Ways and Means Committee?

The newly found strength of the PO&CS Committee clearly has as its basis the determination of Nix to reassert the authority of that committee that for too long has languished unused.

Make no mistake—Nix is an aggressive and competent chairman and has worked out a strong working relationship with his ranking minority member, the very capable Ed Derwinski (R. Ill.) on matters affecting committee jurisdiction. Nix and Derwinski, in turn, have effectively persuaded the other members of the committee to act as a unified voice against efforts to weaken and ignore the heretofore lowly esteemed PO&CS Committe.

A new spirit has begun to infuse the entire committee, including its staff. The morale is high and deservedly so.

On the other side of this controversy, certain weaknesses on the part of the Ways and Means Committee have been revealed by this episode.

It would have been inconceivable during Wilbur Mills' era as chairman for the Republican minority to control a critical vote on the Ways and Means Committee. Yet, on this vote, the Republican minority, under the leadership of Barber Conable, their ranking member, voted as a bloc and, together with a minority of committee Democrats, overturned the position of Chairman Ullman.

It is hoped—and expected—that the new chairman, Ullman, will soon receive the support his courteous and open leadership should elicit from committee Democrats. But that point has not yet arrived.

Finally, Speaker O'Neill is a different House Leader than was Speaker Carl Albert. Albert's deference to the major committees in disputes with minor committees was absolute. O'Neill appears to be more open to a resolution of jurisdictional disputes according to the rules rather than according to power personalities.

All this adds up to good news for federal and postal employees. At least in the House, their affairs are in the hands of a very capable committee and staff.

It is too early to make a similar assessment of the Senate's handling of federal and postal matters.

But half a loaf at this time is better than none. "None" is where we were at the begining of this Congress.

THE PRESIDENT'S COMMITMENT

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. YOUNG. Mr. Speaker, in a letter to Chairman LONG of the Appropriations Subcommittee on Foreign Operations during our consideration of this year's foreign aid bill, the President of the United States promised us that he would instruct the U.S. representatives to the International Financial Institutions to oppose and vote against loans to Vietnam, Uganda, Cambodia, Laos, Mozambique, Angola, Cuba, and for the production of palm oil, sugar and citrus crops.

In the CONGRESSIONAL RECORD of November 2, see page 36695. I reported how the first chance the President had to keep this commitment, he did not do it. The Soviet Union introduced and passed a resolution at the United Nations calling for the rebuilding of Vietnam. Despite the strong feeling expressed in the House and despite President Carter's pledge to oppose and vote against assistance to Vietnam, our own representative to the United Nations did not vote against the resolution or even ask for a recorded vote.

Now, when the President has had a second opportunity to keep this commitment, again it slipped away. Despite the President's promise, Assistant Secretary of the Treasury, C. Fred Bergsten, instructed our executive director to the World Bank not to oppose a loan to Indonesia for development of palm oil production. In a lengthy technical attempt to justify this position, Assistant Secretary Bergsten explained that this particular palm oil project might not be used by Indonesia for export which would compete with the United States.

But, even that is doubtful because Assistant Secretary Bergsten admitted on page 3 of that technical document that "the likelihood is strong that most if not all of the production involved in the loan will be for domestic consumption rather than export." Even if we could reliably assume that this particular palm oil project would not be used for export, this additional supply would obviously free up other Indonesian produced palm oil for export and to compete with U.S. industry. In effect, our soybean oil industry helps to subsidize the Indonesian palm oil industry which then competes with the very industry helping to provide the subsidy. I am certainly not against competition, in fact I favor it, but we should not be in a position where we have to finance our competitors.

So again, despite the President's promise, which I as one Member believed he would keep, he has again presented us with another loop hole and has failed to live up to the spirit of his commitment.

Following is a reprint of the President's letter containing the commitments he made. I urge my colleagues to reread this letter for their own reference.

President's letter follows:

THE WHITE HOUSE,
Washington.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, Washington, D.C.

To Chairman Clarence Long:

Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER

SCIENTIFIC EVIDENCE AGAINST MARIHUANA: PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. McDONALD. Mr. Speaker, medical research over the last 7 years has shown that the active chemical ingredient in marihuana, various compounds of the chemical tetrahydrocannabinol (THC), have a number of markedly deleterious effects on the physical and mental condition of even moderate users who smoke two or three joints a week. The advocates of legalizing marihuana have tried to ignore the scientific evidence, and others who by their backgrounds in medicine or research should be expected to keep on this new information continue to promote marihuana as harmless. The White House adviser on drug abuse and mental health issues, Peter Bourne, M.D., who this year expressed his support for legalization of marihuana and cocaine appears to be in such a category.

Hardin B. Jones, professor of medical physics and physiology at the University of California at Berkeley, a leading researcher into the effects of marihuana, wrote an excellent article for Private Practice magazine in January 1976 which while designed for the family physician is not so technical as to be beyond laymen.

The article follows:

WHAT THE PRACTICING PHYSICIAN SHOULD KNOW ABOUT MARIHUANA

The average marijuana user—the young man who smokes two to three "joints" per week—is adversely and persistently affected by the "weed." But he does not comprehend his situation. Young women are affected in the same way, but they are about half as likely to use the drug and they usually consume somewhat less when they do. Effects on these young people are, of course, less than with daily use of the drug, but young people who smoke marijuana to any degree are likely to be brought to physicians by concerned parents who are worried because of the change in their behavior.

Evidence of the cumulative nature of the effects of marijuana is found throughout the literature of this subject. It was my own initial observation upon interviewing marijuana users. I found that it was necessary to smoke marijuana cigarettes several times to get the first intoxicative "high," and that after that stage was reached (usually after about five cigarettes had been smoked, either all at once or spread out over several weeks), intoxication could be renewed by smoking only a portion of a joint. Because of my observations, I challenged the claims that marijuana has a "reverse tolerance," with the implication that it was, therefore, safe. The notion of safety due to reverse tolerance has remained in the pro-marijuana literature in spite of the proof that the active components of marijuana do indeed accumulate in the body and in the brain.

The fate of the active ingredient of the cannabis drugs, delta-9 tetrahydrocannabinol (THC), has been determined by a number of studies in laboratory animals and in humans by labeling the administered THC with a radioactive isotope (either hydrogen-3 or carbon-14) and tracing it in the body for distribution, retention, transformation to other chemical forms, and excretion. The retention of labeled THC measured in humans is about forty percent at three days, thirty percent at one week; by extrapolation, ten percent at forty-eight days, and one percent at 4.6 months. The high retention of THC is confirmed by studies in which it was administered to laboratory rodents. The retentions is comparable in mice, rats, and humans, except that small animals are more active per unit of size and time of retention is correspondingly reduced. There are also minor species differences in the partial degradation of THC prior to excretion as cannabinol residue. A large fraction of administered THC is converted in the body to 11-hydroxy-THC—a substance that is several times more psychoactive than THC. Both active forms of THC tend to persist in the body for long periods of time.

During the "high" period following the smoking of marijuana, the organ concentrations follow that of the blood. There is a peak of concentration in the brain corresponding to that of the blood which lasts about four to six hours. Although the concentration of THC in the brain is much lower than in the other organs, that fact is not a measure of its effectiveness. The THC taken up by the brain is concentrated largely in the cell membranes, where the local concentration is twice as high as the THC content of the red blood cells membranes.

The disappearance of THC from the blood over the several hours of the "high" is not due to its removal from the body; it merely accumulates in fat tissue, which has a high affinity for THC. Some of the THC is partially degraded, but it remains a cannabinol residue. Cannabinol residues and THC are excreted largely by the bile, but only at a very slow rate. When THC has been administered to laboratory animals on a uniformly repeated schedule, it accumulates in the fatty parts of cells at an essentially constant rate, since the rate of elimination is so slow—about ten percent per month. The implication of this finding for humans is that progressive retention will increase the body burden of THC for many months before reaching equilibrium when the rate of excretion becomes equal to the rate of intake of THC. Based on animal studies the concomitant accumulation in brain cells is such that the result of smoking marijuana every other day for a month is a retention of the same quantity of THC in brain cells as that which causes an acute "high" in the beginning marijuana user. The chronic marijuana smoker increases his brain's burden above this chronic level when he smokes by producing a transitory peak concentration in the blood and brain; but he is never without significant quantities of THC in the brain at a level determined by the brain's equilibrium with the body fat. In the chronic marijuana user, the high brain levels cannot be reduced with out the many months of abstinence necessary to clear THC from the body fat.

The accumulation of THC in the body fat means that the THC becomes involved with lipoproteins and the lipid layers of the cell membranes. The effect of the THC on the cell is not solely the consequence of absorption into the cell surfaces; many substances, including gasoline and kerosene, have equal affinity for fat and are carried into the body readily on inhalation of these vapors. Also, some of the other cannabinoids in marijuana have the same high affinity for cell membranes and body fat. Yet gasoline and kerosene do not cause the problems known to occur with marijuana. One of these cannabinoids is responsible for the alteration of liver function which has been shown to take place independently of the psychic effects of THC. It will be some time before there is comprehensive understanding of the full range of effects of THC and the other cannabinoids once they are absorbed into the body. Among the known effects, THC depresses cell division and synthesis of DNA, suppresses the immune response of the blood lymphocytes, and alters the structure of the brain cell membrane. Alteration of cell structures in lung air passages of marijuana smokers has also been observed in studies made by Dr. Tennant, a pathologist who investigated cannabis-using American soldiers in Germany. Dr. Tennant did bronchial biopsies on thirty soldiers, average age twenty-one, who smoked 25–30 grams of hashish per month for a few months. This is an estimated 80–90 milligrams of THC per day, approximately four times as much as is received by a person smoking one marijuana cigarette (2 percent THC) per day. *Twenty-four of the thirty young men had precancerous lesions* detected in the biopsied specimen. These lesions are seen in tobacco cigarette smokers, but not until much later in life and after about three decades of cigarette smoking. It remains to be seen what fraction of marijuana smokers will develop severe respiratory disease. The frequently observed association of marijuana or hashish smoking with some degree of inflammation of the respiratory system, from sinusitis to bronchitis, suggests that valid results can be obtained from a demographic survey of the problem with a much smaller sample than was required to establish the effects of cigarette smokng. The signs are that emphysema and lung cancer will occur sooner than in the case of cigarette smoking. The effects should shortly become evident in our vital statistics when appreciable numbers of marijuana smokers will have been exposed to the drug for more than fifteen years. That is the interval usually estimated as the latent time for development of lung cancer in humans.

The physician should especially warn patients with existing lung disease against the use of the cannabis drugs. In this regard there is a well-founded claim that marijuana smoking makes breathing easier during the immediate period of exposure to the smoke. The effect seems to be due to drug-induced relaxation of the bronchioles. This observation has led to a claim by some people in the movement to legalize marijuana that the drug offers a benefit to asthmatics. It has been noted just as frequently in the literature, however, that marijuana is likely to bring on an asthmatic attack. These are not contradictory sets of observations; the induction of attacks of asthma seems to be caused by the chronic irritation by the marijuana smoke, an inflammation due to the cytotoxic impact of THC itself. It certainly appears necessary to warn young asthmatics that aggravation is the more likely result of marijuana smoking.

There can be no doubt about the pleasant effects of marijuana smoking, as attested to by several thousands of users I have interviewed. Furthermore, Dr. Robert Heath has been able to show, by direct placement of brain-wave detecting electrodes into the pleasure centers deep in the brain, that the pleasure centers themselves are triggered by marijuana smoking just as though they had been activated by an electrical current or by other stimuli. His extensive work includes neurological observation of humans experiencing sex, various drugs, and other sensory stimuli, and corresponding work with monkeys. In monkeys, activation of the pleasure centers by marijuana smoking produces brain wave discharges, but afterward the normal responsiveness of these centers is impaired up to five days. In exposures equal to those of a heavy marijuana user, the pleasure centers of the monkey become inactive for an indefinitely long period of time. An inaccurate, though widespread, criticism of this aspect of Dr. Heath's work is that the dosage causing semipermanent quiescence of pleasure responses is higher than the usual human range of exposure. Dr. Heath has verified that this is not the case. It may be, of course, that the monkey is somewhat more sensitive to THC than is the case in humans; nevertheless, it is commonly observed that young people who smoke marijuana heavily experience essentially the same effects—quiescence of the sensations of pleasure. I use the term "sensory deprivation" to describe this consequence of marijuana use. The term "depersonalization," as used by Drs. Kolansky and Moore, has a similar implication about these brain changes that evolve slowly with the cumulative effects of marijuana smoking and which on rehabilitative abstinence are the slowest to recover. The ability to feel good or to feel alive results from the normal operation of the pleasure centers and they give such zest as we can know to all the ordinary events of life. Sexuality is merely one facet of these emotional functions. The anatomical structures that control these important functions are first irritated and then impaired by the use of marijuana. The smoker merely observes in his early experiences with marijuana that he feels good or that sex becomes more sensual. He does not observe what became a common, obvious pattern to me as an interviewer of marijuana-smoking students. Their sexuality was heightened only for a short period in early marijuana use; afterward, sexuality diminished steadily. It is common to find absence of sexual activity in marijuana smokers, including absence of sexual dreams and masturbations. Yet the pot smoker does not perceive these changes. Perhaps they are due in part to induced depression of pituitary and gonadal function. The mechanisms are unknown at this time, but the clinical result is well established.

For some persons, smoking the weed once or twice a week may constitute heavy use as judged by its effects. It depends on the individual sensitivity to the drug and the strength of the marijuana used. Certainly all daily smoking of marijuana is heavy use and there are many signs of chronic debilitation. It is common to find that daily users have become unable to cope with ordinary problems. An early sign of such effect is the complaint that he is being "hasseled" by almost any interpersonal contact, an indication that the mental reserves are thin. Daily marijuana users, though heavily affected, have no insight into their condition or recognition of what has happened to them.

A morphological causative factor for their mental state has been observed. In ten consecutive cases of young men who were heavy users, the late Dr. A.M.G. Campbell, professor of radiology at the University of London, and his associates, did air electroencephalography and found enlargement of the ventricles and rounding of the usually sharp and well defined edges of the ventricles—findings that point to severe atrophy of the deepest portion of the cerebral hemispheres. It is noteworthy that the pleasure centers are also in this area of the brain. Clinical findings on heavy marijuana users point to the development of organic brain disease as described by Kolansky and Moore.[1] It appears that irreversible brain changes may be encountered as marijuana use extends beyond three years. Kolansky and Moore [2] note that marked and rapid improvement resulting from abstinence does not begin until several weeks have elapsed and then only if exposure has been of less than about three years' duration. The subjects of the Campbell study had all used marijuana for three years or longer. I have observed improvement in all college students who, after established regular use, have cooperated with me in abstaining for several months. Most of them have become convinced by their personal experience of recovery that marijuana had indeed impaired their minds, and they have continued to abstain. Improved memory, clearer thinking ability, feeling good, and the return or augmentation of sexual functions have usually been noted in my series of cases. In three cases of students who were heavily affected, but not incapacitated, I had opportunity to follow them closely over a period of four years. In each, improvement was evident in a few months. These young men probably gained full recovery and lost all signs of suppressed mental functions. Viewed over the entire period of observation, the improvement was very slow and required a period of three years.

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[1] Kolansky & Moore, "Marihuana: Can It Hurt You?" J. Am. Med. Assoc. 222: 923–924 (1975).

The average marijuana user, in between exposures, exhibits a wide range of brain changes:

1. He has shifted from a self-activating, interesting, and interested person to one who is withdrawn and given to disordered thinking. I have observed some degree of change of this kind in every marijuana user. When it becomes clearly noticeable as a change in life style, it is often called the "amotivational syndrome." It is more than just a shift to sedation; thinking is affected in many ways.

2. Thought formation in the marijuana user tends to be less powerful: conclusions are relatively impetuous, and expressed ideas are often non sequiturs. It is as though some of the reference checking in thinking has gone astray. The user has the illusion that his chronic state is simply a mature mellowing.

3. The marijuana user's attention span and ability to concentrate have been reduced. Memory, especially short-term memory, is shortened.

4. The facial circulation reflexes are impaired; blushing is reduced. The skin tends to be pallid and relatively lacking in blood (except during the marijuana "high," when the skin is flushed and the sclera of the eyes are bloodshot). The focusing of the eyes is less precise; eye movements and facial expressions are less pronounced than in nonusers.

5. The conditioned social responses, such as affection for parents and tolerance for their suggestions, are impaired. Throughout the literature, cannabis is known as "the drug of alienation." Perhaps the cause is that pleasure centers for social conditioning have been affected. There is a loss of other conditioned responses; for example, an unkempt appearance is common and a loss of inhibition about urination in inappropriate places. One mother recently complained that her son had urinated in her flour bin, which happened to be open; more often the story is urination on walls of rooms in the vicinity of the toilet. Concern for consequences is reduced, and concern for the rights and well-being of others may be largely absent.

6. The marijuana user does not want to be "hassled." Mild criticism or merely requesting that housekeeping chores be done may be interpreted as hassling. The conflict causes the marijuana user to feel actual pain. He may even threaten his parents or other adults opposing his life style.

7. Marijuana is a hypnotic drug, and the hypnotic spell is long lasting. Thus, the user is likely to be talked into many situations that he would otherwise avoid. He may even engage in work in which there is a follow-the-leader type of spirit. The leader, in this case, is not likely to be outside the circle of persons using marijuana. The hypnotic effects of marijuana are, in my opinion, largely responsible for the acceptance of the hazardous consequences of more powerful drugs, a yielding to homosexual advances, and overly generous compliance with unreasonable requests by friends.

8. The young marijuana user tends to remain thin and to be underdeveloped for his age. The trend is more pronounced with heavy use. The daily marijuana user of several years' duration is likely to appear emaciated. The buttocks are thin; the facial muscles are atrophied. Similar changes in body composition have been well established in the rat.

9. The male is deficient in male hormone. The findings of Kolodny [3] indicate a five percent decline in male hormone production for each marijuana cigarette (one percent THC) smoked per week. This is the relationship in mature males; it is likely that the effect is relatively larger in the adolescent. Since Kolodny finds that the effect is mediated through the pituitary, and both gonadotropic hormones are diminished, it is likely that a similar effect occurs in women.

10. He is likely to have a tendency toward paranoia or schizophrenia, or both. This may be caused by chronic disturbance of the neural mechanisms by which sensations received through two or more organs are synthesized into a composite interpretation of the physical cause. Such a disturbance, which occurs in both psychotic persons and those using marijuana, can lead to completely inaccurate interpretations of the real world.

11. He is likely to have an elevated number of broken chromosomes in cultures of his white blood cells.

12. His white blood cell immune response is lowered. The immune response of skin cells has been shown to be unaffected; the difference is probably a consequence of the high exposure of blood cells to THC, whereas skin cells are less exposed. It is estimated that skin cells receive fifteen percent of the exposure of blood cells.

13. The diurnal cycle of sleep and waking is largely inverted. The marijuana user stays up at night.

14. Sexual functions are often stimulated early in marijuana use, but with regular use, sexuality is suppressed. This is dramatically the case with sexual dreaming, which is usually abolished with the beginning of regular marijuana use.

The average marijuana user will stop using this drug upon being convinced that the life style and effects are not what he seeks. He is not addicted or physically dependent on marijuana; he uses it only about twice a week, while the narcotic addict requires his drug on a regular daily basis. Nevertheless, the average marijuana user is likely to encounter difficulties. His friends are probably users, and the pressure to continue to join in when the "roach" is passed is very great. On the physical side, the marijuana user may have intermittent headaches for the first few months upon abstaining. This is a mild withdrawal symptom. There may also be symptoms of sleeplessness, restlessness, and agitation, which a physician can alleviate in order to help the user withdraw completely from the drug.

As in most forms of drug dependency, whether physical or mental (including alcohol, barbiturates, tobacco, amphetamines, and narcotics), body conditioning through hard physical exercise is helpful in readjusting the brain reflexes tied to the diurnal cycle. Physical exercise is also helpful in reestablishing the normal vigor of the pleasure mechanisms that rule over brain function.

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[2] Kolansky & Moore, "Toxic Effects of Chronic Marihuana Use," J. Am. Med. Assoc. 222: 35–41 (1972).

[3] Robert C. Kolodny *et al.*, "Depression of Plasma Testosterone Levels After Chronic Intensive Marihauna Use," N. Engl. J. Med. 290: 872–874 (1971).

Robert G. Heath, Harold Kolansky, Robert Kolodny, William T. Moore, Forest S. Tennant, Jr., "Marihuana-Hashish Epidemic and Its Impact on United States Security," Hearings before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary, United States Senate, held May 9, 16, 17, 20, 21, and June 13, 1974. U.S. Gov't. Printing Office.

TUITION TAX RELIEF

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. KASTEN. Mr. Speaker, I am pleased to join in cosponsoring the Tuition Tax Credit Act of 1977. This bill is designed to provide relief to financially hard-pressed middle-income families who are finding it increasingly difficult to bear the costs of education.

The Tuition Tax Credit Act would allow taxpayer to subtract one-half of the tuition they pay, up to a maximum of $500 per student, from their Federal income tax bill. Adults could claim the tax credit if they went back to school and parents could claim the credit for their children's education.

The credit would be available for tuition paid to an elemenary or secondary school, a college or university, a vocational or technical school, or an accredited business or trade school. Low-income families whose taxes are less than the credit would also benefit from a refund for the difference between the tax credit and their tax liability.

STRONG PUBLIC SUPPORT

As my colleagues know, the concept of a tuition tax credit is not new. More than 50 tuition-relief bills have been introduced in this Congress. The Senate has passed such legislation in four out of five past Congresses. The House recently voted to provide necessary funds in the fiscal year 1978 Second Concurrent Budget Resolution. There is strong public sentiment in favor of such a credit. The time has come to enact the necessary legislation.

TAX RELIEF—A NECESSITY

The average American taxpayer is fast reaching the end of his rope. In times like these, with the cost of living steadily increasing and the emphasis on the need for education as great as ever, the taxpayers who are financing their own or their children's education deserve relief.

A recent survey by the College Entrance Examination Board indicates that the average cost of a year's education for a student who goes away to a 4-year private institution is $4,811. The average cost at a public institution is $2,906. And of course those figures will continue to escalate.

Often, the victims of these soaring educational costs are middle-income families—those who have insufficient incomes to pay the costs of college or private schools, but are considered too affluent to qualify for federal financial assistance.

Government assistance programs have increased substantially in recent years, but these programs are targeted almost exclusively for lower-income students. For example, as of January, 1975, less than 4 percent of the basic educational opportunity grants, the main Federal college assistance program, went to families earning more than $12,000 per year.

While I support such Federal assistance, I also believe we cannot forget those families who are paying the taxes to finance these programs and are finding themselves unable to educate their own children.

As a New York Times article has said, the difficulty that these parents are having in sending their children to college suggests outright disaster for the vast majority of American middle-class families in the $12,000–$20,000 range who are considered too affluent for Federal or State scholarship aid.

MORE GOVERNMENT AID—NOT A SOLUTION

There can be no doubt that Congress must take action and soon. I do not believe that an expanded system of Federal grant support is the answer. That can only translate into bigger deficits or higher taxes.

America was built on hard work and perseverance. We cannot continue to sap the productive energies of our working people with more Government aid programs. Rather, we should allow them to keep more of what they earn to pay their own bills rather than the Government's.

Instead of helping people by requiring them to fill out detailed forms, baring their personal finances and pleading poverty in order to receive a portion of the money they have already paid in taxes, Congress should allow taxpayers to keep a greater portion of their own income to spend on educational expenses.

That is why I believe the tax credit approach is the best mechanism to providing relief to the middle-income family. It is simple, direct and effective. It will apply to all students at all levels of education. It will not entail a further expansion of an already massive Federal bureaucracy.

While some have questioned the cost of such a program in terms of lost revenues to the Federal Treasury, I believe the revenue impact would be a worthwhile and necessary investment in the future of our country—an investment that would be returned in higher earnings, better job opportunities and consequently, higher Federal tax revenues in the future.

I sincerely hope that next year as Congress considers the broader issue of comprehensive tax reform, it will make provision for a tax credit along the lines of those suggested in the Tuition Tax Relief Act of 1977.

COMPENSATION FOR REGULATORY VICTIMS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. ASHBROOK. Mr. Speaker, I have long believed that the Federal Government should be more accountable in exercising its regulatory activities. The power to regulate, after all, is the power to destroy.

Those who are regulated can find themselves subject to decisions which cost thousands of dollars. In some cases a governmental ruling may even result in bankruptcy.

In the 94th Congress I sponsored an amendment along with former Senator Buckley to provide a small measure of relief. This amendment gave private parties wronged by decisions of the Consumer Product Safety Commission the opportunity to recover damages. The Commission could not evade its legal responsibility for its tortious acts by hiding behind the cloak of sovereign immunity.

This, however, is just a small beginning. Regulatory victims deserve to be compensated for their financial losses.

S. John Byington, Chairman of the Consumer Product Safety Commission, has stated his support for a broad compensation program. He recently recommended a Government policy on compensation for companies suffering losses as a result of Federal regulations. According to Byington:

> It's time to decide who should foot the bill for economic losses directly or indirectly caused by government regulation . . . Historically, the government's response to those injured by its regulatory action has been to give occasional expressions of sympathy and not much more.

The policy urged by Mr. Byington seems sensible. Businesses suffering huge financial losses as a result of Federal regulatory actions deserve more than sympathy.

Following is an article on Byington's remarks which appeared in the November 30 Washington Star:

New Policy Urged To Aid Regulatory Victims

(By Bailey Morris)

The chairman of the Consumer Product Safety Commission, citing the problems in regulating the flame retardant Tris, today called for a government policy on compensation for companies that suffer losses as a result of federal regulations.

"It's time to decide who should foot the bill for economic losses directly or indirectly caused by governmental regulation," CPSC Chairman S. John Byington told a group of industry and consumer representatives.

Almost any policy would be "fairer" than the present one, Byington told participants in a two-day symposium on hazardous chemicals. Currently, Byington said, only "those with a political clout who get private relief acts through Congress" are able to obtain compensation for financial losses.

The Tris case graphically pointed up the need for a new government policy, Byington said.

In this case, sleepwear manufacturers, most of them small companies, found themselves caught between the need to comply with government flammability standards as well as a ban and recall of Tris-treated sleepwear. The ban was promulgated by the CPSC on grounds that the chemical caused cancer.

"In the Tris case there has been no admission of error by the government . . . nor do I believe that there should be one," Byington said.

But, he added, the losses suffered by responsible companies pose the question of who should bear the financial burden of bankruptcies and losses.

"Historically, the government's response to those injured by its regulatory action has been to give occasional expressions of sympathy and not much more," Byington said.

One case where the government admitted error was the cranberry scare of 1959, Byington said. "It supported compensation of those it had wrongfully harmed," he said.

But in another case, the cyclamate scare of the late 1960s, Congress denied a request for compensation to canners who suffered more than $200 million in losses, Byington said.

"Relief was withheld despite the canners' assertion they had relied on the Food and Drug Administration's placing of cyclamates on a list of products generally recognized as safe," Byington told the group.

It is this kind of uncertainty that must be eliminated, especially now that government surveillance of hazardous substances is more intense and the technology to detect them is more sophisticated, Byington said.

Part of the solution, the chairman said, lies in the creation of "eligibility criteria" that would protect businesses against unforseeable laws while barring compensation for the unscrupulous.

That distinction, though a difficult one to make, might be fashioned by applying "a test of reasonable reliance," Byington said.

Reasonable reliance, he said, should be defined by answering the following question:

"Was the injured party reasonable in his reliance that government would not regulate in such a way as to cause his losses, or were the circumstances such that the party should have been aware of the possible pitfalls?"

Byington's expression of concern for the fate of businessmen comes as the government is expanding its regulation of toxic substances.

After five years of debate and passage of 12 versions of a toxic substances bill, pressure is being put on the federal government to take new and decisive action against harmful chemicals in the environment, a leading regulator told the symposium yesterday.

The Environmental Protection Agency, for example, plans to quadruple the staff of the office dealing with toxic substances—from 100 to 400—over the next two years, according to EPA official Steven Jellinek.

Jellinek said hazardous chemicals are the topic of the moment, just as air and water pollution were spotlighted 5 to 10 years ago.

EXPLANATION OF MISSED VOTES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. CONYERS. Mr. Speaker, due to my absence as a result of public hearings on unemployment and crime that I am conducting in California with the Subcommittee on Crime of the House Judiciary Committee, I was unable to vote on the conference report on Legal Services Corporation Amendments (H.R. 6666). Had I been present, I would have voted affirmatively for the conference report.

PRESSING THE PRESIDENT ON INNOCENT PRISONERS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. HANSEN. Mr. Speaker, as the end of another year arrives and the Christmas season is upon us I cannot help but call the attention of this body to a grievous injustice which continues to exist for certain Americans overseas.

I refer to those of our citizens incarcerated in Bolivian prisons who wait month after month, year after year for justice to be done in an antiquated court system even though they may be innocent.

I have personally traveled to Bolivia specifically to help correct this problem and significant progress has been made. However, much remains to be done to correct abuses of human rights, particularly the rights of the innocent.

To this end I have addressed significant effort in every possible area where help might be expected, and particularly at the Presidential level. I am still hopeful that the White House will become more specifically involved to expedite matters to the fullest extent possible and submit the following press release and letters to the President to illustrate the extent of my efforts in this regard:

EXPEDITING RELEASE OF AMERICANS IN BOLIVIAN PRISONS

Specific requests to expedite the release of Americans held in Bolivian prisons were made Tuesday by Congressman George Hansen at a White House sponsored meeting held in the U.S. Capitol Building.

Conducting the meeting at President Carter's request was Ms. Patricia Derian, the President's State Department Coordinator for Human Rights and Humanitarian Affairs, who has personally been to Bolivia to study the prisoner problem.

Hansen, who has also been to Bolivia and who arranged for the meetings on Capitol Hill for the benefit of concerned lawmakers and staff members, made requests designed to expedite the handling of prisoners, particularly those considered innocent. Noting that a constituent, Tom McGinnis of Idaho Falls, has been held for 18 months by Bolivan authorities with no prosecution recommended, Hansen insisted that something must be done to stop this abuse of human rights.

The Idaho lawmaker requested of State Department officials present that they check with Bolivian authorities to see if a prisoner when considered innocent by the prosecutors might not be freed with little or no review by the Courts which are so grievously slow in such cases. He also asked regarding the McGinnis case if it wouldn't be possible to separate the eight prisoners involved who are now considered as a group so that they might proceed individually without suffering the delays that grouping has chronically caused.

"This," he said, "would help move the McGinnis case along much more rapidly which certainly should be a consideration after he has been in prison so long and is considered not guilty."

"A lower court decision on the McGinnis case is expected by December 14," Hansen noted. "However, a Superior Court must then review the lower court decision whether innocent or guilty."

DECEMBER 7, 1977.

DEAR MR. PRESIDENT: I wrote you on October 19 regarding measures necessary to expedite the release of Americans imprisoned in Bolivia. Since that time, I have made several and frequent contacts with the White House and State Department to promote such efforts including an insistence that your personal involvement is necessary to assure maximum possible success.

To date, cooperation has improved measurably in State Department areas including the activities of our new Ambassador to Bolivia. However, efforts at the White House beyond your visit with President Banzer continue to be at a level less than necessary or desired.

Even a brief meeting with you by concerned Members of Congress and a measured effort on your part could be the necessary ingredient to assure success in at least six cases of getting innocent people home for the Christmas holidays.

Surely the spirit of the season should be sufficient motivation to gain this important White House assistance.

Mr. President, the Bolivian prosecutors have now recommended absolution (no prosecution) for six Americans who have been held, even though innocent, for nearly two years. The Lower Court on December 3 has accepted this recommendation for absolution on three Americans and is expected to so rule by the 14th of December on the other three. A Superior Court must then pass final judgment before release can be made which could again be frustratingly time consuming.

I have requested the State Department to ask Bolivian authorities for only a limited or cursory review at the Superior Court level on cases where absolution has been agreed to by both prosecutors and the Lower Court in order to expedite the handling of cases where there is apparently no guilt.

It is here as well as in other key places where your influence could be most effectively felt and possibly productive in bringing the six innocent people home to their families for Christmas.

Will you not intercede with a special request in this noble cause at this most appropriate occasion. Certainly in the cause of human rights, securing justice and humanitarian treatment among the nations of the world is important, but let us not forget "charity begins at home."

I hope for an early and favorable reply.

Sincerely,

GEORGE HANSEN,
Member of Congress.

OCTOBER 19, 1977.

DEAR MR. PRESIDENT: I am writing to you on a matter of urgent humanitarian concern. Two score Americans have been languishing in Bolivian prisons month after month, year after year, unable to even get a determination on innocence or guilt. In the name of civil rights and human decency this is intolerable.

The Bolivian Government is friendly and cooperative and has joined in many ways to assist the United States in solving social and economic problems effecting each of us. I find the leaders and the people themselves in Bolivia genuinely hospitable, friendly and accommodating.

Nevertheless, the time has come for the leadership of both of our nations to put an end to ritualistic procedures and bureaucratic red tape and insensitivity and to do something to relieve the plight of Americans imprisoned in foreign circumstances and their families here at home. I have played the game of international and internal politics to the point of frustration and even anger.

My efforts have taken me as the only Member of Congress or the Senate to visit Bolivia for the sole purpose of solving the prisoner problem and I know whereof I speak. We have witnessed a parade of Americans both private and official to Bolivia to deal with the prisoner situation. The President of that nation has also discussed with you the matter of Americans imprisoned in Bolivia during his recent visit here. Still nothing substantive has been accomplished and very few individuals have found relief in this plight.

I do not pretend to pass judgment on the cases. Obviously they range from not guilty to varying degrees of guilt which must be determined by the Bolivian legal system. However, this is where the problem really lies—the fact that prisoners remain incarcerated whether innocent or guilty for great periods of time while bureaucracy rolls on with relatively little response both here and there.

Everyone deserves the right to plan their life and their families should have some knowledge of the time and extent of their sacrifice. Guilt or innocence, not knowing is the worst part.

I find some families of limited circumstances unable to plan how much money they can send for the upkeep of their loved one because they have no way of knowing how long the incarceration will be, with or without sentence, as related to the resources they have available. Such uncertainty is cruel and inhuman treatment by any standard and must come to an immediate end.

Of course, another sad aspect of a system of prolonged trials and indecision is that innocent people can spend years in jail. This is the case with my own constituent, Tom McGinnis of Idaho Falls, and several friends both American and other nationalities.

The Bolivian prosecutors have agreed that there is not sufficient evidence to make a case and yet six individuals of one group, including Mr. McGinnis, who have already served 16 months in prison must continue to wait month after month pending some pro forma decision of the court which may or may not grant their release.

Since my visit to Bolivia during the August Congressional Recess some accomplishments have materialized which were arranged pursuant to my negotiations with government officials there.

1. A Supreme Court review has been generally abolished which leaves consideration of prisoner cases to the two stages of lower and superior court levels.

2. Prison time served in awaiting sentence may be counted against the sentence and a reduction of sentence for good behavior is also now available. Earlier this year laws were changed reducing sentences from a minimum of eight to ten years to two years which caused some delay in processing cases because of the anticipation of such a change.

3. Agreement was reached to make possible early release of prisoners technically detained who have already served their sentences. Two of these prisoners, both from the State of Texas, came home at approximately the same time as I returned from Bolivia.

4. Additional new judges and prosecutors have been appointed making possible some speedup in review which this past week allowed resolution of the case of Susan Scanlan who has been seriously ill for many months. Miss Scanlan has now been released and two others associated with her have received final sentencing from the superior court. Unfortunately the final court decision added more time for incarceration to the lower court sentences which was deeply disappointing to the prisoners and their families. This is most

difficult to understand for those of us not familiar with such latitudes in court procedures. Certainly the matter of a reveiw court increasing a sentence is distasteful and should be protested bitterly by this government.

5. Bolivian authorities have lived up to the assurance I received in recommending complete absolution (no prosecution) in the case of Tom McGinnis and five of his associates after their reveiw of case facts while I was there. For this I am gratified and am sure the prisoners and their families are also appreciative. Nevertheless the frustrating and ridiculous procedure of holding all related cases together in a single unit and handling review of such in piecemeal fashion from attorney to attorney is absurd, cruel, and intolerable. After sixteen months these people now considered unprosecutable by the Bolivian government continue to be held in circumstances where they have not even completed the lower court review. At this rate a final determination will be so long in coming that they may have just as well been guilty of a serious crime, because they will have served the sentence anyway.

Mr. President, the last point I made regarding long-term incarceration of innocent persons is such a grievous sin against human beings that if there is any semblance of humanity left in this government or its agents, such as yourself and others in high positions, no stone should be left unturned to secure the immediate release of these people. I not only urge your action, but I demand it and stand ready to assist in every way possible. You can be certain that I am making my own plans to do what must be done in this regard even to the point of returning to Bolivia for more strenuous action very shortly as the Congress adjourns.

May these prisoners and their families, myself and all concerned count on you as our President to do what must be done swiftly and effectively to bring the relief so long hoped and prayed for.

Sincerely,

George Hansen,
Member of Congress.

SOUTH BEND TRIBUNE SUMMARIZES WOMEN'S CONFERENCE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. BRADEMAS. Mr. Speaker, I am pleased to call to the attention of my colleagues a most useful summary, compiled by Jeanne Derbeck, a staff writer for the South Bend Tribune, of the resolutions passed by the National Women's Conference in Houston:

Will Women's Panel Resolutions Be Enforced?

(By Jeanne Derbeck)

Now that the National Women's Conference in Houston is over, what happens next?

The 25 women's rights resolutions passed by the delegates will go to the President and Congress, who may or may not take strong action to enforce the resolutions.

"We have 120 days to submit a report to the President and he has 120 days after that to respond," said Bella Abzug, presiding officer at the conference.

"Of course I expect him to do that (respond). Just as we have operated under the law, I am sure the President also will operate under the law."

Ms. Abzug was referring to the federal law that called for the conference and created the International Women's Year Commission that ran it. But what does "respond" mean? The law says that "the President shall submit to each House of Congress recommendations with respect to matters considered in such report" and he shall do so within 120 days of receipt of the report.

In eight months, then, President Jimmy Carter's recommendations will reach members of Congress, who will surely disagree on some of them.

By law the conference was supposed to "identify the barriers that prevent women from participating fully and equally in all aspects of national life and develop recommendations for means by which such barriers can be removed."

The resolutions passed form a large and costly order. Here is a summary of them:

Arts and humanities: Instructs the President to take steps to assure equal opportunities for women in upper level posts in federally-funded cultural institutions, on grant-awarding boards and in receiving government grants.

Battered women: The President and Congress should declare the elimination of violence in the home a national goal and should establish a clearing house for information and financial assistance for groups providing service for battered women and their children.

Business: Seeks a national policy from the President integrating women into government-wide business-related activities.

Child abuse: Asks funding and support for treatment of abused children and their parents. Child abuse is defined as pornographic exploitation of children, sexual abuse, battering and neglect.

Child care: Calls for the federal government taking a major role in providing child care program.

Credit: Calls for vigorous enforcement of the federal Equal Credit Opportunity Act.

Disabled women: Seeks enforcement of the Vocational Rehabilitation Act of 1973.

Education: Seeks vigorous enforcement of laws prohibiting discrimination at all levels of education, more educational programs for women and bilingual programs.

Elective and appointive office: Calls for more efforts to increase the number of women in office, including judgeships and policy-making positions.

Employment: Seeks a federal policy of full employment so that all women who are willing and able to work may do so.

Equal rights amendment: Calls for ratification of the amendment.

Health: Calls for a national health security program and points to special health needs of women because they bear children.

Homemakers: Says laws relating to marital property, inheritance and domestic relations should be based on the principle that marriage is a partnership in which the contribution of each spouse is of equal importance and value. Seeks coverage of homemakers under social security.

Insurance: Calls for the elimination of insurance discrimination.

International affairs: Urges that many more women participate in all aspects of formulating and executing U.S. foreign policy.

Media: Calls for the media to employ women in all job categories, especially in policy-making positions. Also seeks end to stereotyped portrayal of women's roles.

Minority women: Seeks specific proposals in all programs designed to assist women to also "overcome the double discrimination against minority women."

Offenders: Calls for a review and reform of state laws to eliminate discrimination in the treatment of women in penal facilities.

Older women: Asks federal and state governments and social welfare groups to support efforts to provide social and health services for older women to "live with dignity and security."

Rape: Seeks revised rape laws to provide for graduated degrees of seriousness, to include rape by spouses and to ban the introduction into evidence of the past sexual conduct of the victim.

Reproductive freedom: Supports the Supreme Court ruling that women should have the right to an abortion, and calls for family planning services for teen-agers and others and the reform of laws discriminating against illegitimacy.

Rural women: Calls for a federal rural education policy to meet the special needs of isolation, poverty and underemployment that "characterizes much of rural America."

Sexual preference: Seeks elimination of discrimination against lesbians, including that in child custody cases.

Statistics: Calls for federal collection and analysis of data on the basis of sex.

Welfare: Calls for reform of federal welfare laws, including special training for parents receiving Aid to Families with Dependent Children, and a focus on assisting heads of such families to get off welfare and support themselves and their children.

FARMERS AND LEGIONNAIRES SAY "NO" TO PANAMA TREATIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. HANSEN. Mr. Speaker, an army runs on its stomach and wins by its manpower or force of arms. The United States of America has been blessed with abundant food supplies and a dedicated and resourceful military organization.

Those very same people who have furnished the food and firepower to keep America free and strong now form two strong bulwarks against the threat to the Nation's security posed in the effort to give away the Panama Canal.

Polls show the rural areas of the Nation strongly against the turnover of the canal to Panama and there is good reason. The Nation's farmers and ranchers stand to lose a great deal if the proposed Panama Canal treaties are ratified.

Little attention has been given to a report entitled "The Panama Canal and U.S. Farm Trade" published by the Foreign Agricultural Service of the U.S. Department of Agriculture.

An article regarding this report published in the December 4 edition of the Washington Post raises staggering implications which certainly merit the attention of every Member of Congress. The proposed treaties would not only prove disastrous to America's agricultural industry, but also very damaging to the interests of every American consumer.

Additionally, Mr. Speaker, the men who have fought and sacrificed for our freedom and security have strong opinions against any transfer of the Panama Canal from American control. Mr. Robert C. Smith, national commander of the American Legion, speaks forthrightly concerning the Legion's posture toward the proposed treaties and raises many points in the commander's message in the December 1977 issue of the American Legion Magazine which strongly question the merits of giving up U.S. control of an area so vital to our economic and military security.

The articles follow:

[From the Washington Post, Dec. 4, 1977]

FOR THE RECORD

From "The Panama Canal and U.S. Farm Trade," published by the Foreign Agricultural Service.

While its role in total U.S. trade has declined in recent years, the 51-mile-long Panama Canal continues to be a key East-West link for U.S. farm trade. . . .

During 1976, about one in every five tons of U.S. farm-product exports moved through the canal. . . . During fiscal year 1976 grains and soybeans accounted for 16.3 per cent of all traffic through the canal—their share being exceeded only by the 18.7 per cent for petroleum and petroleum products. In calendar 1976, roughly 18 per cent of the 44.3 million-ton U.S. corn export, 26 per cent of the 15.3 million-ton soybean export, and 45 per cent of the 5.1 million-ton grain sorghum export moved through the canal. These three products, combined, earned $9.1 billion in foreign exchange for the United States during 1976 out of the $23 billion in total U.S. farm exports.

The canal handled 70 per cent of all U.S. farm-commodity exports to 15 markets in East, Southeast and South Asia and Oceania. The Asian market as a whole now means $8.5 billion to U.S. farmers and ranks alongside Western Europe as the leading outlet for U.S. agricultural products. . . .

. . . the canal is a much more economical means of shipping bulk products than any other alternative now available. Rerouting grain shipments around South America might almost double transportation costs, according to USDA analyses. And transit time would be increased considerably. . . . Cross-country land-sea transportation—including the minibridge system with surface carriers now used extensively for container shipping—also would be prohibitively expensive for grains and soybeans. . . .

[From the American Legion Magazine, December 1977]

WE HAVE AGAIN STUDIED THE TREATY; WE STILL SAY "NO"

Why is the American Legion so vehement in its opposition to the Panama Canal Treaty? Does it want to alienate all of Latin America? Does it want to invite sabotage against the canal? Does it really believe the canal is still vital to U.S. security?

The questions have dogged me in my first months as your national commander. I believe I should use this forum to reply so every American Legion member understands our position before Senate debate.

First, our opposition is directed at the treaty, not at the people of Panama. The American Legion has consistently supported fair and equitable payments to Panama for the canal, generous social and material assistance for its people and constant modernization of the canal for the economic and military well-being of the entire Western Hemisphere.

Debaters avoid these economic and security factors.

Isn't it disturbing that although this treaty has been negotiated by four U.S. administrations, the text was not made public until the eve of the gala signing ceremony at the White House? We were treated to a spectacle in which virtually every hemisphere chief of state signed a protocol for a treaty they had not read!

Subsequently, it became apparent that Washington and Panama City did not even agree what the text meant. Worse, the controversy has centered on circumstances under which the United States could exercise its military might to protect the canal and the hemisphere. President Carter and President Torrijos finally met and announced that they agreed on the interpretation of the treaty's vague language—but they did not clarify the language in the treaty.

An "understanding" between two heads of state is fine, but it lacks the force of law. What happens when Mr. Carter and/or Gen. Torrijos have left office? The American Legion does not believe such questions should rest on a reed called "understanding."

In 1975 alone, 14,000 ships transited the canal. Forty-five per cent of these voyages originated in the United States. These ships were loaded with the agricultural and manufactured exports vital to our balance of trade and payments. Any increase in tolls by Panama could have devastating effect on the world market position of the American farmer, laborer, businessman. The Mississippi Valley, Plains States and the east coast are vulnerable.

Should the canal ever be closed to U.S. ships, the Commerce Department estimates a $932 million jump in the price of U.S. exports, a $583 million jump in the price of imports. The impact would be chaotic.

On military issues there have been honest differences of opinion between highly qualified men who have debated the importance of the canal, but none has denied that loss of the canal in a time of emergency could be disastrous. Yet the very provisions of the treaty that are supposed to guarantee our right of intervention are those that cause anguish among left-wing Panamanians.

It's true that our biggest aircraft carriers cannot transit the canal. But 95 percent of U.S. fighting ships can, including powerfull nuclear forces. There's a lot more to the Navy than its giant flattops.

And what about Panama, this government headed by Gen. Torrijos?

His friendship for Castro is disquieting. His henchmen and propagandists have flayed the United States for years with phoney "colonialism" charges. Yet who has advertised the human rights survey of Panama by the respected Freedom House? That survey ranks Panama as the most dictatorial regime in the Hemisphere.

When Torrijos seized power in Panama in 1968, the country had a debt of $167 million. Today is owes over $1.5 billion and there has been precious little improvement in the lot of the average Panamanian. Under the treaty, the United States—in addition to huge annual payments to Panama—would encourage banks to loan Torrijos another $300 million.

Faced with all this, we are asked to endorse:

1. Surrender of control over a vital waterway built by American ingenuity and American money on land fairly purchased by the United States.

2. Surrender of all defense rights within 22 years, sooner should Panama exercise full sovereignty.

3. Surrender of U.S. sovereignty over the canal and the Canal Zone and the exposure of the human rights of U.S. citizens to Torrijos' law.

4. Granting veto power to Panama over any potential U.S. plan to build another Atlantic-Pacific canal anywhere in Central America.

5. Acceptance of nebulous language—backed by imprecise personal agreements—that U.S. warships would have priority use of the canal during an emergency.

The American Legion cannot endorse such a treaty. We pray that the Senate shares our years.

HOUSE OF REPRESENTATIVES—*Thursday, December 8, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let the peace of God rule in your hearts.—Colossians 3: 15.

Eternal Spirit, as we continue our way through the Advent season we open our hearts unto Thee who art the Way, the Truth, and the Life—the way to life, the truth about life, and the life itself. Strengthen us and all who work on Capitol Hill. Hold us steady amid the noise and bustle of a busy time. Give to us the spirit of wisdom and understanding and the determination to plan and to proceed together for the good of our country. May the light of Christmas add to our joy, the love of Christmas multiply our service to humanity, and the life of Christmas increase the opportunities for peace in our world.

In the spirit of the Prince of Peace we offer this our morning prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on December 2, 1977, the President approved and signed a bill of the House of the following title:

H.R. 7345. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1 and 3 to a bill of the House of the following title:

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency.

The message also announced that the Senate agrees to the amendments of the

House to the amendments of the Senate to a bill and joint resolution of the House of the following titles:

H.R. 3313. An act for the relief of Mark Charles Mieir and Liane Maria Mieir;

H.J. Res. 662. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes.

Senate concurring in House amendment to Senate amendment numbered 2.

TRIBUTE TO HON. GEORGE MAHON ON HIS PROSPECTIVE RETIREMENT

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, the dean of the House has served in this body for 43 years. It is my understanding that George Mahon means to bring his illustrious career in the House to a close next year. I feel it fitting and proper that we give credit where credit is due to this intelligent and powerful, yet humble, man.

If with pleasure you are viewing
Any work a man is doing
And you like him, or you love him, say it now!
Don't withhold your approbation
Till the person makes oration
And he lies with snowy lilies o'er his brow.
For no matter how you shout it
He won't really care about it
He won't know how many teardrops you have shed.
If you think some praise is due him
Now's the time to hand it to him.
For he cannot read his tombstone when he's dead!

More than fame and more than money
Is the comment, kind and sunny
And the hearty warm approval of a friend;
Oh! it gives to life a savor
And strengthens those who waver
And gives one heart and courage to the end.
If one earns your praise—bestow it!
If you like him—let him know it!
Let the words of true encouragement be said!
Let's not wait 'till life is over,
And he lives beneath the clover
For he cannot read his tombstone when he's dead!

RESPONSE TO HON. TIM LEE CARTER

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, I want to thank the distinguished gentleman from Kentucky (Mr. Carter) for his kind words.

Frequently, as we pass in the corridors or meet on the floor, we exchange quotes from literature which we have treasured through the years.

It is a delight to be praised by a friend who is a scholar, a physician, and a statesman. Thank you Tim Lee.

HOPE FOR THE BEGINNING OF PEACE IN THE MIDDLE EAST

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, as one Member of Congress I would like to express for the record my sense of hope that the Cairo Conference between President Sadat of Egypt and President Begin of Israel will be the beginning of peace in the Mideast.

It is regrettable that the American press refers to this conference as one which "only" involves Egypt and Israel. Certainly, wide Arab participation would be desirable. However, it is most impressive to me that finally Egypt and Israel—the two nations that have borne the brunt of war in the Middle East in human terms for the past decade are now on the verge of making a sincere effort to discuss peace. This, in itself, is a remarkable achievement.

I applaud President Sadat's bold initiative which has reshaped the pattern of diplomacy in the Middle East. The warm acceptance of his overtures by Prime Minister Begin and the Jewish people augers well for the fruitful negotiations in Cairo.

Thus I send a message of great hope and support, as well as a message of prayer from the people of my district to those two world leaders who potentially could end the massive threat of war which has clouded their portion of the globe and the security of people everywhere. It is immaterial that this conference is being held in Cairo and not initially in Geneva as had been proposed by the United States.

Geneva is not a portion of Heaven, divinely endowed with properties which produce lasting agreements among warring countries. It is the spirit and leadership of the negotiators alone which could produce that desired result.

Cairo will serve as well as a setting for this historic meeting. It is my hope that this session will produce a meaningful understanding between these two leading nations of the world. It is my hope, as well, that other responsible Arab leaders will ultimately become supportive of this effort so that a comprehensive settlement can be achieved. Failing that, a true understanding between Israel and Egypt, which have both been so devastated by war, will be in itself worthy of world acclaim.

The American role should not be to intervene between the parties directly involved, but to be supportive of the negotiating process and to wish them Godspeed in their important mission.

Mr. MAZZOLI. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I would just like to commend and compliment the gentlewoman from Massachusetts (Mrs. Heckler) for the statement she has just made, and to express my support in her statement. I believe the gentlewoman has touched upon a very important point. I too have been somewhat less than happy with the response of the American Government with regard to the Cairo conference. I believe that the conference has great promise.

Again I congratulate the gentlewoman for the statement she has just made.

Mr. RHODES. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I yield to our distinguished minority leader, the gentleman from Arizona (Mr. Rhodes).

Mr. RHODES. Mr. Speaker, I thank the gentlewoman from Massachusetts (Mrs. Heckler) for yielding to me. I also want to associate myself with the remarks the gentlewoman has just made, and to compliment her on a very fine statement.

REQUEST FOR PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, DECEMBER 9, 1977, TO FILE CONFERENCE REPORT ON H.R. 9346, SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Friday December 9, 1977, to file a conference report on the bill H.R. 9346, the Social Security Financing Amendments of 1977, and, further, that it be in order to consider the conference report on Wednesday, December 14, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. RHODES. Mr. Speaker, reserving the right to object, can the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. Ullman), assure the House that the conference has practically concluded and that there actually will be a conference report on the social security bill?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the chairman of the Committee on Ways and Means can only say that, although the conference is not concluded, that all matters in contest have been gone over very thoroughly with the Members in the other body. We have every assurance and every reason to believe that the conference will be concluded this week.

Mr. RHODES. Mr. Speaker, further reserving the right to object, may I also ask the distinguished chairman of the Committee on Ways and Means if it is imperative that this matter be disposed of on next Wednesday? We get all sorts of rumors which I have not been able to corroborate about the possibility that the House will be back after the 19th of December. I also hear that perhaps the new Congress will reconvene in session on the 19th of January, and also that we may reconvene on the 3d of January, and if all of those things, or any of them are actually to happen, I see no reason why it would be necessary to call the conference report up next Wednesday. Practically every Member of the House has, I think, had some assurances that there will not be sessions of import during this next week and have made plans accordingly. Is it absolutely necessary that this matter be brought up next week?

Mr. ULLMAN. If the gentleman will yield, of course the chairman of the Committee on Ways and Means is not in a position to respond to the general programing comments made by the distinguished minority leader, but the chairman of the committee will say that he thinks it is exceedingly important that this legislation be disposed of next week. I have no knowledge at all as to when we are going to come back, but it would seem to me that with a conference report of this magnitude ready to go, it would be a grave error to have it passed by the House. So I would strongly urge my friend to allow this orderly procedure to go forward so that we can dispose of this very important matter.

Mr. RHODES. If I thought it were an orderly procedure, I would allow it to go forward. I do not. It would be my intention to object to the unanimous-consent request that the gentleman has made insofar as it refers to the calling up of the conference report on Wednesday. I would not object to the unanimous-consent request the gentleman made to file a report before midnight tonight.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield to me?

Mr. RHODES. I yield to the gentleman from California.

Mr. KETCHUM. I thank the distinguished minority leader for yielding.

As a member of the conference, I think it only fair to inform the Members that that conference, which we were in such a great hurry to have, met for precisely 5 hours on Thursday last. The House was not in session Friday. We did not meet for some reason unknown to me. On Monday we met again for a total of 2 hours. I would say to the gentleman that other than a cursory examination of the items in disagreement, there has been practically no discussion as to the major contents of that bill. There are six welfare amendments to that conference report, and unless some deal has been cut that I do not know anything about, I think the Members should know that. We have done nothing in that conference of any consequence whatsoever. As a member of that conference committee, I stand ready to go to conference today, tomorrow, Saturday, or Sunday, but such has not been the case. I think perhaps the President should understand that Russell Long is running this country.

Mr. RHODES. Mr. Speaker, I object to the unanimous-consent request.

THE SPEAKER. Does the gentleman appreciate the fact that his objection would only delay the Congress for 1 day, since the conferees would report under normal procedure and the House would take up the report on Thursday?

Mr. RHODES. I think the Speaker should realize that the Members of the House, including this Member, are becoming a little bit irked with the on-again, off-again plans of this body. Until we have some resolution as to when we will adjourn sine die and when the second session will begin, and whether or not we will be here on the 19th of December, I will object.

The SPEAKER. Objection is heard.

Mr. ULLMAN. Mr. Speaker, I withdraw my unanimous consent request.

PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, DECEMBER 9, 1977, TO FILE CONFERENCE REPORT ON H.R. 9346, SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Friday, December 9, 1977, to file a conference report on the bill H.R. 9346, Social Security Financing Amendments of 1977.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PROVIDING FOR ADJOURNMENT TO MONDAY, DECEMBER 12, 1977, AT NOON, AND THEN TO WEDNESDAY, DECEMBER 14, 1977, AT NOON

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next, December 12, 1977, at noon, and, Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, December 12, 1977, it stand adjourned until Wednesday, December 14, 1977, at noon.

Mr. RHODES. Mr. Speaker, reserving the right to object, is the distinguished acting majority leader in a position to inform the House as to the probable program for Wednesday next?

Mr. BRADEMAS. Will the distinguished minority leader yield?

Mr. RHODES. I yield for that purpose.

Mr. BRADEMAS. Mr. Speaker, the bill that will be scheduled on that day is the one that was the subject of the colloquy between the minority leader and the gentleman from Oregon, the conference report on H.R. 9346, the Social Security Financing Amendments of 1977.

Mr. RHODES. Will there be other business on that day?

Mr. BRADEMAS. There will not be.

I might say to the minority leader, so I am not in a position of responding categorically, that we do not anticipate there will be any other business.

Mr. BRADEMAS. The chairman of the committee with jurisdiction over that legislation has just a moment ago advised me that at this point he does not intend to bring the water pollution conference report up next week, and it was in the light of that advice to me, may I say to the minority leader, that I gave the response I gave to him.

Mr. RHODES. I thank the gentleman from Indiana.

Under the circumstances, of course, I do not object to the gentleman's unanimous-consent request.

I would like to renew, however, my request that at the earliest possible moment the majority leadership inform the House as to what the plans are not only for December but also for January. I think it is time that we be let in on the secret.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN ENROLLED MEASURES DULY PASSED AND TRULY ENROLLED, NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Monday, December 12, 1977, the Clerk be authorized to receive messages from the Senate, and the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. KETCHUM. Mr. Speaker, reserving the right to object, I reserve this right merely to ask the distinguished majority whip, when is the social security conference going to conference? I hear we are going to file the report on Friday and this member of the committee has been informed of nothing but a sort of "probably" or "maybe" or "I guess." I wonder if we might have some positive information on that? There are many of us trying to get airplane reservations and I have had so many airplane reservations that they will not take any more.

Mr. ULLMAN. Mr. Speaker, if the gentleman would yield, let me say it is the intention of the chairman of the Ways and Means Committee to send out a meeting notice very soon. This decision has only just been arrived at. We will send out the notice that this conference will meet at 10 o'clock tomorrow morning.

Mr. KETCHUM. I thank the gentleman. That is wonderful news.

Mr. CEDERBERG. Mr. Speaker, further reserving the right to object, when will the conference report be printed, because we have Members who have left and who will not be back until Monday or Tuesday, so we will come to a conference and we will not have had an opportunity to know what is in it?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, if we can reach agreement in the conference the conference report will be filed at midnight Friday night and will be available as soon as the mechanics allow it to be available.

Mr. CEDERBERG. When will those mechanics make it available?

Mr. ULLMAN. I presume on Monday morning we will have the printed material.

Mr. CEDERBERG. That is strange.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the minority leader.

Mr. RHODES. Mr. Speaker, I would like to address my friend, the gentleman from Oregon, and ask: Will it be fatal to the Republic if the matter of the social security conference report were to go over until January 3? It is my understanding that at the present time it may be necessary or desirable to call the House and Senate into session on January 3 for the purpose of trying to deal with a conference report on energy. If that is to be the situation, would it not be possible also to deal with a conference report on social security at the same time?

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, the distinguished chairman of the Subcommittee on Social Security, the gentleman from Massachusetts, would like to respond.

Mr. BURKE of Massachusetts. Mr. Speaker, if the gentleman will yield, I would like to inform the minority leader that it would be the height of irresponsibility for this Congress to adjourn this year without acting on the social security legislation before the end of the year. Two years ago when we should have taken action it was held up because it was an election year. Next year will be an election year and we will have more trouble than we have had this year. I think if we are not going to do anything about the disability funds which are in dire trouble, they would run out in 1978 and create one of the most chaotic conditions in the country, forcing people off the disability payments and onto welfare. That is the kind of thing that would greatly increase the cost of government to every State in the Union.

We have to act on the social security bill this year and make sure that the disability funds do not run out in 1978. I think that is incumbent upon us and where that responsibility lies will develop during the next few days.

I think it is important that the conferees meet tomorrow, that we work out our differences and that this Congress, irrespective of plane rides or plane schedules, pass the social security bill in 1977.

Mr. CEDERBERG. Mr. Speaker, further reserving the right to object, I think the height of irresponsibility is that we have not had the conference report here now. The House passed this bill months ago. I understand they have only had it 8 or 10 hours. They have not met on conference all week. They only met on Monday. Now suddenly some Members do not know you will have a conference and then you wrap it up just like that. I think that is the height of irresponsibility.

Mr. BURKE of Massachusetts. Mr. Speaker, if the gentleman will yield further, I pleaded with the House yesterday to contact all the conferees to urge that the bill be brought out by the end of 1977.

Mr. CEDERBERG. The gentleman is just about 2 months too late.

Mr. BURKE of Massachusetts. There is not a Member of this House that does not know that the social security bill is pending and every one of us should be willing to wait and vote on the thing and not raise these spurious questions about plane rides and all.

We had 14 votes on abortion and that thing went back and forth about 14 times. If we can spend that much time on abortion, we can give the social security problem a little bit of attention.

Mr. CEDERBERG. We should give it a little attention.

Mr. BURKE of Massachusetts. We asked that we go ahead with the conference.

Mr. CEDERBERG. It is all going to be done tomorrow?

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I would simply observe that the fact of the matter is that we apparently do have a social security conference agreement about ready and, therefore, we can vote on it; whereas, the gentleman knows, the energy conference is not yet ready and no person can say with assurance when it will be.

Further, I would say to the gentleman from Michigan that the House cannot vote on the energy conference until the other body will have voted on it, anyway.

Mr. CEDERBERG. Mr. Speaker, further reserving the right to object, can the gentleman enlighten us any more on a supplemental appropriations; what can we expect on that?

Mr. BRADEMAS. That is in the hands of the other body, I will say to the gentleman from Michigan.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Speaker, back on the farm we say, "If it looks like a duck and quacks like a duck, probably it is a duck."

The reason we are coming back is because the White House is inviting everyone in Congress to a Christmas party which will cost $200 to each Member just to come back. That is going to be the most expensive Christmas party in the history of the Republic.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, this raises a very interesting question. I do not know, based on past experience, how we are going to solve this conference in 1 day, unless a deal has been cut. I do not know anything about that, but I am stating that there are six very significant welfare amendments to this bill, all of which are contained in H.R. 7200, that has been in the Senate since last June and could have come over for conference. We have significant differences on the earnings limitation between the Senate and the House.

I just simply cannot understand how we are going to resolve it in 1 day. I am perfectly willing to go tomorrow and Saturday and Sunday, whatever it takes to get it done: but I would inform the gentleman that I find it amazing that someone can tell me that this can be resolved in 1 day, when all we did in 7 hours was to read through the bill.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, reference was made to the supplemental appropriations bill conference report. This matter is in the Senate. It would seem very unlikely in the very near future that this conference report could be filed in the House and be brought back to the House for further consideration. Certainly it is unlikely that we can get a conference report ready before this week or next.

Mr. CEDERBERG. Would it be correct to say that there is really not that much urgency in the supplemental that it could not lay over until, say, next year?

Mr. MAHON. There are some matters that are somewhat urgent, but it may be that it would go over until next year.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I have been sitting here all morning listening to this interesting debate about when to bring up the social security bill. If the gentleman could inform me, am I not correct in saying that one Member of the minority side on the conference, his refusal to permit the appointment of conferees did in fact delay the entire consideration by the conferees of the social security bill?

Mr. CEDERBERG. I am not familiar with that, but I know the conference has been going on for at least 2 weeks, and they have only been meeting sporadically during that 2 weeks. That is all I know.

There was some problem between the conferees, and as I say, some deal has probably been cut. Maybe they can get away with it, but there are going to be Members here who cannot read the conference report and who do not know anything that is in it. I think that is a bad way to legislate.

Mr. BRADEMAS. Mr. Speaker, I renew my request that notwithstanding the adjournment of the House until Monday, December 12, 1977, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to dispense with business in order under the Calendar Wednesday rule on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in connection with the colloquy just concluded.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. RHODES. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in connection with the colloquy just concluded.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REPORT OF COMMODITY CREDIT CORPORATION FOR FISCAL YEAR ENDED JUNE 30, 1976, AND TRANSITION QUARTER ENDED SEPTEMBER 30, 1976—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Agriculture:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended June 30, 1976 and the transition quarter ended September 30, 1976. This Report covers events prior to the beginning of my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *December 8, 1977.*

SOCIAL SECURITY FINANCING

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, as we proceed with legislation concerning the financing of the social security program, it is essential that we keep in mind the basic principles that underlie the system. We are fortunate to have available the expertise of one of the founders of social security, J. Douglas Brown.

Dr. Brown is uniquely qualified to discuss these principles because he was a member of a small group that developed them in 1934–35. He was chairman of the Advisory Council that refined and restated these principles in 1937–38, and he has served on several succeeding social security advisory councils.

In his recent book entitled, "Essays on Social Security," Dr. Brown includes a chapter on general revenue financing for social security. This chapter, which I am inserting in the RECORD at this time, emphasizes the intention of the founders of social security to use general revenues for one-third of the cost of the social security system.

The chapter follows:

IV. THE CONCEPT OF GOVERNMENT CONTRIBUTIONS

In discussing the ways the concept of mutual responsibility is reflected in the philosophical framework of the OASDI program, we referred to the recommendations of the Advisory Council on Social Security of 1937–38 that called for financial participation by the federal government in support of the program. The Council recommended an eventual sharing of the cost of the program by employers, employees, and the government by means of approximately equal contributions. The significant word "eventual" was inserted in recognition of the "funnel" program in the early years of the system when payroll taxes would be more than sufficient to provide for the relatively small but steadily increasing costs of benefits. There was no justification for government appropriations to the old-age insurance trust fund in the early years when it was already much larger than that needed for a contingency reserve.

The old-age staff of the Committee on Economic Security had proposed that the system be financed by payroll taxes for the first 25 years. By that time, they estimated the reserve would be approximately $11 billion. The rate of payroll taxes then in effect, 2½ percent each on employers and employees, should not be further increased. Instead, the government should be called upon to contribute sufficient funds each year to maintain an $11-billion contingency reserve. It is interesting to note that the staff estimated that they assumed that, after the govern- would be needed in 1962. Although they did not recommend any precise limit on government contributions after 1962, it is probable that they assumed that, after the government contribution had come to equal a third of the costs of the system, any further needs would be met by increasing the contributions of employers, employees, and the government by approximately equal amounts.

The fate of the concept of government contributions to the OASDI system demonstrates the difficulty of maintaining the vitality of an idea that cannot be implemented until many years in the future. The interest span of Americans for ideas, as such, is exceptionally short. An idea or concept becomes interesting when it can be put to work to secure tangible results. If government contributions would not be needed for a quarter of a century, why worry about what should be done until then? In this, the Congress understood the thinking of the people better than did the planners of the system.

The natural tendency of the Congress to wait and see when governmental contributions would be needed was encouraged by the unexpected willingness of the workers of America, or even of employers, to contribute to OASDI. The flow of income from payroll taxes rose from $600 million in 1940, to $2.1 billion in 1950 and to $10.8 billion in 1960. Only in 1960, was it necessary to raise the rate of employer and employee contributions above that of 2.5 percent each proposed by the staff. The honeymoon period of depending on payroll taxes had lasted for so long that any theoretical marriage vows had long been forgotten. Meanwhile, for workers, the psychological impact of OASDI contributions had become blurred and softened by the ingenious operations of payroll accountants and the increasing significance of the expression "take-home pay." Not until the sixties were discussions renewed concerning an upper limit, such as 5 percent each, on the rates of payroll taxes. By 1971, the rate had reached 4.6 percent each for OASDI with 0.6 percent added for Medicare. The Rubicon of 5 percent each had been crossed.

One can marshal various reasons why workers and employers exerted little pressure for resurrection of the concept of government contributions to OASDI as contribution rates came to approximate double those recommended by the staff, and much more than the eventual 3 percent each established by Congress in the 1935 Act. An underlying reason is the rise of earnings over the period and the increasing availability of funds to both workers and employers for "fringe benefits" as distinguished from day-to-day expenditures for immediate requirements. At the same time, stimulated by the OASDI program itself, there came to be a greater interest on the part of both workers and employers in protection against the contingencies of old age, death, and disability. With increasing income, the span of interest in future needs is extended, and one has more to lose if one ceases to be self-sufficient. Employers needed a means of retiring older workers in a time of rapid technological change. National unions in larger and more prosperous industries had moved into the field of supplementary benefits apart from wages and working conditions and thereby indicated their belief that security was worth the price paid in bargaining power or deductions. Meanwhile, the benefits under contributory social insurance were improving in both level and scope, including the introduction of Medicare in 1965.

But the question remains: were the planners of the OASDI program in 1934–35 and 1937–38 wrong in their conviction that there should be governmental contributions to the system at some future time? It may be helpful to analyze their reasons for this conviction, to consider how far time has sustained or negated their reasons and to suggest steps that might be taken in the light of current political and economic realities to return to the concept of governmental contributions.

The reasoning of the old-age staff of the Committee on Economic Security was summarized in my testimony before the House Ways and Means Committee on January 25, 1935, pp. 242–43, as follows:

1. The final security of any social insurance plan is the guarantee of the Government. To buttress the guarantee of security there must be the financial strength and the taxing power of the Government.

2. There are limits to the reasonable use of employment and earnings taxes when used for the benefit of the public as a whole. The payment of annuities larger than can be earned in the earlier years of the plan may well be considered a public benefit and has been so considered in practically every important foreign plan. (The old age insurance plan would reduce the costs of old age assistance wholly financed by the public.)

3. To avoid large reserves. If contribution rates are raised sharply in the early years, huge reserves accumulate. . . . If the contribution rates are raised sharply in the later years, the worker then contributing may receive on retirement scarcely more than a return of own contributions. (Government contributions in the later years assume the function of a vast reserve without the serious economic and fiscal repercussions of accumulating an ever increasing funded reserve.)

4. The shifting of the incidence of the employment tax to the consumer, which may take place, . . . may become in time a regressive tax that may well be supplemented by the use of funds drawn from a progressive income tax. (If the tax on the employer is not shifted, it may encourage the displacement of labor by machines.)

In general the staff recognized that the old-age insurance plan would shift resources from the better-paid worker to the lower-paid worker and also, over time, from the contributors of the future to those receiving higher benefits than "paid for" in the earlier years. It believed that both kinds of social redistribution justified the balancing effect of government contributions, when needed, equal to one-third of the long-range cost of the system. With the steadily increasing proportion of older people in the country, the costs of assuring their security were bound to increase no matter what means were used. Old-age insurance would afford a real sense of security with two-thirds of the cost met from payroll taxes. Steadily increasing old-age assistance costs would need be met entirely by government and would still but mitigate insecurity through needs-test relief with its unfortunate by-products in a democratic nation.

The Advisory Council of 1937–38 emphasized, in supporting government contributions, that dependent old age had become a national problem for several reasons. The steadily rising proportion of the aged, technological change, mobility, and urban life combined to create a condition that could not be effectively met by state governments alone. The nation as a whole would benefit materially and socially by a national program of old-age insurance. The costs of relief and old-age assistance would be reduced. The Council cited the policies of other countries and warned that there were definite limits upon the proper use of payroll taxes. An analysis of the incidence of such taxes led to the conviction that they should be supplemented by general taxes.

The argument that government contributions following 1962 were a means of avoiding the need for a large reserve in earlier years has obviously lost its significance. Reserves larger than those needed as a contingency fund were accumulated but no longer exist. The system is now operating on a current-flow basis with less than optimum contingency reserves. This makes it all the more obvious, however, that the current old-age beneficiaries are being heavily supported by current contributors. This is truly a social redistribution in time resulting from the lower contributions in the earlier years. Should not the public, which in the earlier years benefited by the social effects of accelerating the impact of adequate old-age insurance benefits, as opposed of old-age assistance, relief, or insecurity among the aged share in the cost of such acceleration rather than imposing the cost entirely on current payroll taxes? Should not the people as a whole bear a part of the cost of the accrued liability assumed by the system in substituting contributory insurance for public assistance? It is interesting that the special benefit introduced in 1966 for persons 72 and over not eligible for OASDI or other governmental pensions or assistance is financed from general funds.

The argument still holds that the public, rather than payroll taxes, should bear the cost of providing larger relative benefits to those of lower earnings than to those of higher earnings. The minimum benefit and the amount paid to workers with a low average of covered earnings absorbs a very considerable flow of funds. While the person with higher earnings receives a lower proportion of his earnings in benefit under the graduated schedule, it is true that he and his employer are contributing to the cost of the lower benefits. There is no question that social insurance benefit schedules should favor those of lower average earnings. The question is, should not this cost be shared by the general taxpayer rather than loaded upon payroll taxes alone?

The concern of the staff and the Advisory Council of 1937–38 that there was a limit beyond which payroll taxes should not increase has not lost justification after a honeymoon period of 40 years, even though the steady rise in productivity and earnings has shifted the attention of Congress and the general public from such concern. The steady upward adjustment of benefits by Congress and, more recently, the automatic cost-of-living increases have made OASDI benefits appear, for the present, a good buy, even for the higher-paid beneficiaries. This is especially true because benefits are exempt from income taxes. For the typical employer, payroll taxes for OASDI, since they are uniform throughout the country, appear to be just another cost of doing business, incorporated in the prices of goods sold or services rendered. It is, as always, difficult to determine whether and how far such taxes have encouraged the steady shift to labor-saving machinery and methods. It can be argued, however, that, merged into the total costs of employing people rather than using substitute means of production, payroll taxes have helped to retard the absorption of our growing labor force.

Rather than the slow and hidden effects of rising payroll taxes on consumer prices and employment, it will be the reaction of workers and especially the self-employed to increasing social security taxes that will hasten the resurrection of the concept of government contributions to the OASDI program. In 1977, an employee earning the maximum amount covered by OASDI and Medicare, $16,500, will pay $965.25 in taxes. A self-employed worker will pay $1,293.50. Even submerged in the detailed statements of deductions that now accompany salary checks, the amounts taken out for OASDI are becoming noticeable, especially for persons of higher salary. For the self-employed, they become even more evident when their income tax is computed. No one can anticipate when pressure will become articulate if either ceilings or tax rates continue to increase. The treats of termination of coverage under OASDI by state and municipal employees suggest that the time is not far off. Such employees and their employers, with the opportunity to bail out, may not feel obligated to help meet the "accrued liability" involved in protecting the current aged, which should be met by the federal government with its far wider tax base.

The recent decline in OASDI reserves will also raise again the issue of government contributions to the OASDI program. Alternative methods of increasing the inflow into the reserves (either raising the ceiling on earnings covered or raising the rate of contribution for all, or both) have definite disadvantages. A higher ceiling increases future costs, since those receiving higher earnings through life must eventually be paid higher benefits. The higher the ceiling is raised, the further a payroll tax levied on a proportionate basis and without deductions such as for dependents, heavy medical expenses, or mortgage interest invades the zone of income left free for private initiative in assuring security, whether by savings, investments, insurance, home ownership, company annuity plans, or trade union benefit programs.

In contrast to raising the ceiling on OASDI contributions, further increases in the rate of the employee-employer payroll tax would more seriously affect workers of lower average earnings. Not only the impact on the net earnings of the less skilled workers must be considered but also the effect of higher payroll taxes on their employers in encouraging the introduction of labor-saving methods of production or service.

In anticipating the effects of increases in OASDI contributions, it is necessary to keep in mind that contribution rates for Medicare, Part A, will have to be raised, especially with the sharp increases in hospital costs. If any form of general health insurance is introduced, a heavy share of the cost will probably be met by payroll taxes. Already, one-half of the cost of Part B of Medicare is met by government and one-half by the beneficiary deducted from this benefit. If, as has been strongly recommended, the beneficiary's share of the cost of Part B of Medicare is shifted to payroll taxes paid throughout working life, there will be a further burden on workers of all levels.

The present-day opponents of government contributions to the OASDI program raises the fear that such contributions will change the character of the system. They argue that, once government funds are available, there will be increasing pressure to raise benefit levels and to extend the scope of the system more rapidly than the country can afford. Some foresee that the costs of the system might become so great that a needs test will need to be introduced since benefits could no longer be paid as a matter of right. Just how the government could refuse benefits after years of contributions is not visualized. Nor is it likely that a long-established payroll tax for a specific individual benefit will be diverted into public assistance payments.

The major shortcoming of those who argue that government contributions to the OASDI program would change its character is that they have not studied the history of contributory social insurance either in America or abroad nor understand the degree to which it is a response to the fundamental desire of working people for security with self-reliant dignity. It is not just an American gadget invented in 1935. Our people have the common sense to know that one does not gain security with dignity for nothing. A return to the needs-test relief does not appeal to the great majority. Over the past 40 years, they have developed a great stake in the OASDI system and a firm conviction that they are providing for themselves a level of security for which one must and should pay. They are not sure, nor is anyone, just what part of their eventual benefit is financed by their own contributions, those of their employers, or the contribution of other workers and employers as time passes. They do know that their current contributions to the system are a considerable factor in their available income and that the contribution has been increasing steadily.

It is important to weigh in the balance of the arguments for and against government contributions that such contributions are not intended to reduce the burden of payroll taxes that are now being paid, but rather are meant to prevent future increases in the rate of those taxes as the system approaches maturity. This was precisely the expectation of the old-age staff of the Committee on Economic Security in 1934–35 and the Advisory Council on Social Security in 1937–38. Government contributions to the OASDI system are not a new idea but an idea whose time is approaching. The planners of the system never assumed that contributions by employers and employees of one-half the current cost each involved a distinctly different philosophy of contributory social insurance than contributions by employers, employees, and the government of a third each. To them, it was a matter of timing, not philosophy; of conditions, not a theory. It is believed that the American people will see it the same way. If the costs of the system are increasing because of an accrued liability incurred by paying adequate benefits for those retiring in the past, then the time has come for the government to help meet that liability. The people will continue to pay their share—a dollar amount that will still be clearly evident when deducted from their earnings.

In the determination of policy for a government or any other enterprise it is well to decide upon a carefully reasoned framework of principles within which a policy should operate, and then consider realistically the conditions that should or will affect the implementation of the particular policy. The difference between democratic governments and private enterprises in this respect is only one of degree. Both must deal with response, whether from citizens, customers, or employees. Applied to policies concerning the financing of contributory social insurance programs, as a basic principle, a three-way, equal sharing of costs by employers, employees, and the government is logical, practical, and sound. The conditions that should and will affect the implementation of this policy are no longer prospective or uncertain. They have become definite and measurable, at least to those immediately concerned in planning the future of the OASDI and Medicare programs. The remaining task is the difficult one of gaining public understanding of the principle and why the time has come to implement it.

It is also a sound principle of leadership that changes of policy that affect many people should not be made suddenly. The more complex the change, the longer the period required for preparatory discussion and gradual implementation of the policy. In the introduction of a policy of three-way sharing of contributory social insurance costs under OASDI and Medicare this means that the time for discussion is now and that the implementation of the policy should be planned on a step-by-step basis. Since OASDI and Medicare, Part A, contributions are now grouped together in their impact upon the employers and employees of the country, the gradual steps taken can be initiated in respect to the combined payroll taxes.

The inevitable shift to three-way financing of the national social insurance in the United States should begin with Medicare. Every reason presented for government contributions to OASDI is even stronger for such contributions to Medicare. In its haste to counter the American Medical Association's objections to the inclusion of doctors' fees under the same system as hospital charges, Congress in 1965 divided Medicare into Parts A and B. Contributions to Part A were added to the joint payroll taxes, but the financing of Part B was sanctified in some mysterious way by placing one-half the burden on the government and one-half upon old-age beneficiaries when they could least afford to pay the premiums. The inclusion of the government as a participant in meeting costs was far wiser than appreciated at the time. It followed, unwittingly, sound principles of social insurance. The burdening of old-age beneficiaries with one-half the cost was an inconsistent and unreasonable impairment of the effectiveness of the total program to protect older people through contributory social insurance. Medicare Part B remains an unfortunate hybrid, neither true social insurance nor private insurance operated with heavy government subsidies.

The Advisory Council on Social Security of 1971, after careful study, recommended that Part A and B of Medicare be merged and become true social insurance, financed by a three-way, equal sharing of costs by employees, employers, and the government. Premiums charged to old-age beneficiaries should be eliminated. The Council estimated that the government's share in the combined A and B programs would rise from one-fifth to one-third, thus lowering the payroll taxes for Medicare to offset needed increases in payroll taxes for OASDI. The recommendations of 1971 were sound and farsighted. It is unfortunate that they were not implemented. The effect on payroll taxes would have been gradual and relatively minor, but more important, the change would have established Medicare as a program consistent with sound social insurance principles, both in structure and in financing.

The precept that policies should first fall within a framework of principles and, second, be implemented with a realistic consideration of conditions was overlooked by the Advisory Council of 1975 in its recommendation on the financing of Medicare. In need of a greater flow of funds to finance OASDI in future years, and with but limited consideration, it proposed that, step-by-step, the government should assume the *total* cost of Medicare, not one-third. The argument of the majority of the Council was that the amount of benefits for an individual under Medicare bears no relationship to his wages or those of anyone else. This seemed to the majority of the Council to be sufficient justification, as time passed, to swing from excessive dependence upon contributions from employers and workers under Part A to dependence upon government contributions alone. To the student of the long history of contributory social insurance, this appears to be jumping from the frying pan into the fire. Instead of moving to a long-tested policy of equal contributions by employers, workers, and the government in establishing earned rights in the avoidance of insecurity, the Council, concerned with problems of finance, would substitute a system of publicly financed health care. It is difficult to see how the final stage of the transition proposed would justify the designation of contributory social insurance. Instead, it would take on the many political, economic and social problems of a free public service.

It has become increasingly evident that the future costs of the OASDI system cannot be met by diverting payroll contributions from the Medicare program. The recommendation of the Advisory Council of 1971 for combining Parts A and B of Medicare into a single program financed in equal shares by employers, workers, and the government is sound in principle but the savings are incidental. The basic solution is to introduce government contributions to both OASDI and an integrated Medicare in gradually increasing amounts until a one-third share is reached. Once this has been achieved, all three sources should share any additional costs. The time is past when the bugaboo that this would change the essential character of the system should be taken seriously by responsible planners. Payroll taxes cannot continue to assume burdens that should properly be borne by progressive income taxes. The honeymoon period is over. The steadily increasing cost of providing a decent, self-reliant life for the aged, for survivors, and for the disabled is truly a burden in which the public should share. In the words of the Advisory Council of 1937–38, the nation as a whole, independent of the beneficiaries of the system, derives a benefit from the program. It is a condition that America faces, not a theory; but sound policies based on tested principles will help it adjust to new conditions.

CHICAGO SUN-TIMES, BRUCE INGERSOLL SERIES ON HAZARDS OF NUCLEAR MATERIALS DISPOSAL AND TRANSPORTATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, the Chicago Sun-Times and one of its reporters, Bruce Ingersoll, recently did a series of stories revealing the serious problems and hazards in storing and transporting radioactive materials. Mr. Ingersoll's outstanding work not only educated the public on critical issues involving nuclear materials, but it has led to an order by President Carter to investigate the hazards of shipping weapons-grade uranium through O'Hare Airport and to legislation introduced in Congress to prohibit the shipment of such materials through civilian airports. In addition, Mr. Ingersoll's revelations of the problems of radioactive waste disposal in Illinois prompted the Illinois attorney general to call for a full public hearing.

Although a major focus of Mr. Ingersoll's series was on the problems that have arisen in Illinois, the implications of his exceptional reporting go far beyond the borders of one State. They are both national and international in scope, and demand the serious examination of policymakers in Washington as well as concerned citizens everywhere.

Mr. Speaker, the Chicago Sun-Times and Bruce Ingersoll are to be commended for providing an extraordinary public service through the series on nuclear waste and related problems. It is a clear example of excellence in journalism, and at this time I would like to share Mr. Ingersoll's series with my colleagues:

N-Plant "Crud" Is a $1 Billion Mess

(By Bruce Ingersoll)

The nation's nuclear power industry is facing a billion-dollar cleaning bill for flushing tons of highly radioactive "crud" out of the cooling systems of 65 nuclear reactors.

Commonwealth Edison Co., the pioneer of the industry, is the first utility to confront what nuclear engineers call the crud problem—metal oxides becoming radioactive in the cooling water and accumulating on the insides of reactor piping like rust on ordinary iron pipes.

At a cost of $36 million, Edison will begin cleansing Dresden reactor No. 1 near Morris, Ill., in November, 1978. Dresden, the nation's oldest commercial reactor, has been generating electricity since 1960.

For other utilities, the cost of cleaning out their contaminated reactors will come due over the next 20 years as each reactor grows older and its cooling system becomes crud-encrusted. Ultimately, the consumers will pay the price for decontamination. It is an operating expense never foreseen by the utilities when they began touting the economic advantages of nuclear power over coal and oil.

"To the best of my knowledge," George B. Kistiakowsky, science adviser to President Dwight D. Eisenhower from 1957 to 1961, said in an interview last week, "the economics of (reactor) decontamination and the disposal of radio-active wastes wasn't even considered important enough to worry about."

Now, 17 years after the dawn of commercial nuclear power, Gordon Corey, vice chairman of Chicago's Commonwealth Edison, has estimated the cost of cleaning out just one reactor at $20 million. And he was calculating the cost in 1976 dollars; his estimate does not account for inflation.

If the $20-million-per-reactor estimate were applied nationwide, the total bill for 65 reactors would hit $1.3 billion.

A reactor engineer in the U.S. Energy Department's Chicago office said this price tag "sounds reasonable." On the other hand, Paul J. Pettit, manager of the department's decontamination research in Washington, expressed confidence that the industry will find ways to economize.

Unless a reactor is cleansed by the time it reaches "middle age"—approximately the 20th year in its anticipated operating life of 40 years—the build-up of crud causes radiation levels to rise drastically inside a nuclear plant.

If workers spend too much time in certain areas of a plant, they run the risk of a radiation overdose. As a result, major repairs and even routine chores require extra manpower and take inordinate amounts of time. With a reactor out of service, this "down time" can cost a utility millions of dollars in lost kilowatt output.

The $36-million "demonstration" project to decontaminate Dresden will cost more than half as much as the $51-million plant itself. With a "miracle" cleaning solvent developed by a Dow Chemical subsidiary, Edison hopes to dissolve most of the crud in the plant's maze of piping. Work already has begun on a radioactive-waste facility to handle the flushed-out crud. The Energy Department is contributing $8.2 million.

"Our concern is to provide continued safe working conditions for the people in the plant," said J. Stanley Graves, project manager. "We see this as a first. We recognize that the entire industry is going to be faced with the same situation. Nuclear plants, as they get older, do get 'hotter' (more radioactive). Our objective is to develop a technique for handling this problem on a routine basis."

From sources in the Energy Department and Nuclear Regulatory Commission, it was learned that besides the Dresden reactor 12 reactors are already candidates for decontamination:

Yankee Atomic Electric's Yankee Nuclear reactor (started up in 1960), Rowe, Mass.

Consolidated Edison's Indian Point reactor 1 (1962), Indian Point, N.Y.

Pacific Gas & Electric's Humboldt Bay reactor (1963), Eureka, Calif.

San Onofre reactor 1 (1967), San Clemente, Calif., owned by Southern California Edison and San Diego Gas & Electric.

Connecticut Yankee Atomic Power's Haddam Neck reactor (1967), Haddam Neck, Conn.

Niagara Mohawk Power's Nine Mile Point reactor (1969), Scriba, N.Y.

Rochester Gas & Electric's Robert Emmett Ginna reactor (1969), Ontario, N.Y.

Consumers Power's Palisades reactor (1971), South Haven, Mich.

Virginia Electric Power's Surry reactors 1 (1972) and 2 (1973), Gravel Neck, Va.

Florida Power & Light's Turkey Point reactors 3 (1972) and 4 (1973), Florida City, Fla.

The disparity in reactor ages indicates that the crud accumulates at widely varying rates, depending on the design of the reactor, the skill of its operators, the efficiency of its cooling-water filters and other factors. Therefore, "middle age" by the 20th year is a less-than-perfect rule of thumb.

It looks as if Florida's Turkey Point and Virginia's Surry reactors skipped their youth altogether. They are special cases, however. So much crud accumulated on tubes in their steam generators that it caused serious dents.

Possible techniques for crud removal include remote-control scouring with brushes, high-velocity jets of water and high-frequency sound vibration to shake the layers of metal oxides loose. Graves, project manager at Dresden, is convinced that chemical cleansing will be the safest and most practical.

A year from now, the reactor's uranium fuel will be removed and 85,000 gallons of solvent will be added to the cooling water, he said. It will be pumped through five miles of piping.

The solvent—its ingredients are the trade secret of Dow Nuclear Services of Midland, Mich.—"must be potent enough to dissolve the crud but not potent enough to weaken the pipes," he said.

The dissolved crud will be funneled into the radioactive waste facility for treatment. The cooling water will be evaporated, leaving 1,000 pounds of radioactive "sludge." It then will be solidified and shipped to low-level radioactive waste-disposal grounds for burial.

If the experiment works, Graves said, Dresden reactors 2 and 3 will be cleansed in the same fashion, probably in the mid-1980s.

Wallace B. Behnke, executive vice president of Edison, said the cost of decontaminating Dresden 1 is covered in the plant's high depreciation rate allowing for all sorts of unforeseeable contingencies.

As for the $20-million-per-reactor estimate, Behnke said, "It may be too low or it may be too high." Whatever the case, decontamination will not appreciably affect nuclear power's edge over coal, he maintained. It will still be cheaper—1.4 cents per kilowatt hour vs. 1.7 cents.

The Energy Department's Pettit believes two neighboring utilities may be able to save money by sharing a radioactive waste facility. Or a utility may be able to hire a waste-handling contractor.

However, he cautioned, in shipping dissolved crud over the highways, utilities may run into a roadblock—state restrictions on the transportation of radioactive wastes.

UNWANTED "ORPHANS" OF ATOMIC AGE

(By Bruce Ingersoll)

Scattered across the desolate expanses of Nevada, Idaho and Washington are the "orphans" of the atomic age—nuclear-powered rockets from a scuttled space probe, experimental reactors left dormant, outmoded buildings, even atomic-bomb factories from the Manhattan Project.

They are lepers, really. To varying degrees, they are contaminated with radioactivity. Many are so dangerously "hot" they are untouchable.

"We're responsible for all these orphans," said Robert Ramsey, assistant director of nuclear programs for the Energy Department. "Nobody has any interest in them or any use for them. Sitting out there in the tumbleweed, they aren't jeopardizing anybody's health, but ultimately we are going to have to dismantle them."

Somehow, the government must find graves for all the dead reactors and derelict rockets in federal orphanages. And eventually the operators of hundreds of civilian reactors will have to accept the same responsibility. The total cost will amount to billions.

The government acknowledges it hasn't yet finished going over at least 300 radioactive relics and deciding how to dispose of them safely. For years, heaps of Rover rocket parts were left to the rattlesnakes on the Nevada Test Site. They are now sitting in railroad cars on a siding of the Jackass & Western R.R., destined soon for safe burial. At the Hanford Nuclear Reservation at Richland, Wash., laboratories are locked tight; huge reactors and fuel-reprocessing plants sit inert. Many more obsolete and contaminated facilities are in government custody at Oak Ridge, Tenn.; Los Alamos, N.M., and Idaho Falls, Ida. They afford not only a glance back at our atomic past, but also a glimpse of our future.

Within the next 20 to 30 years, the nuclear power industry will have as many as 65 worn and embrittled reactors on its hands. And, just as the government cannot abandon all the relics of its weapons and space programs, so the electric utilities won't be able to padlock their reactors and walk away.

In the course of their 30-to 40-year operating lives, reactors become highly radioactive. Impurities in their stainless steel innards are transformed into deadly radio-isotopes, some of which will keep on emitting radioactivity for thousands of years.

The government and the industry have some experience in "decommissioning" small reactors. But neither has ever attempted to deal with the long-lingering hazards of huge dead reactors. As they see it, there are three ways to decommission a reactor:

Mothballing. Remove the fuel and radioactive wastes; keep the reactor under 24-hour guard and monitor for radioactive leaks indefinitely.

Entombment. Remove fuel and radioactive wastes; encase the reactor innards in concrete; install electronic alarms to detect any intruders.

Dismantling. Remove fuel and radioactive wastes; cut up the reactor and other hardware; demolish the concrete walls and foundations; dismantle the reactor building, and ship every bit of contaminated scrap and rubble to a waste-disposal site.

Neither entombment nor dismantling is cheap and easy. Much of the work must be done by remote control because of the risk of radiation overdoses. The General Accounting Office, investigative arm of Congress, calls it a "multibillion-dollar problem."

The Energy Department's Ramsey agrees. "The ultimate solution is total dismantling and removal of all radioactive materials to a proper disposal area," he said.

So far, only one commercial reactor has been torn down and trucked away—the Elk River (Minn.) reactor near Minneapolis, built by the government and operated by the United Power Assn. A tea kettle next to the big reactors of today, it cost $6 million to build in the late 1950s and $6.2 million to dismantle in the early 1970s.

"We built prototype tools and tested them on a mockup at the Oak Ridge Lab," said Joseph F. Nemec, then assistant superintendent of the Elk River job.

The reactor was filled with water and then its internal steel was cut up with remote-control torches. Explosives were used to blast apart the 9-foot-thick walls of concrete. About 95 percent of the rubble was shipped to a Sheffield (Ill.) burial ground for low-level radioactive wastes.

William J. Manion and Thomas S. LaGuardia, consulting engineers from Danbury, Conn., have studied the costs of decommissioning big reactors for the Atomic Industrial Forum, an industry group. Their estimates, calculated in 1975 dollars, were astounding:

It would cost $2.3 million to mothball a reactor, not counting the additional annual expense of $167,000 for guarding it and monitoring for environmental contamination. Entombment would cost $7.4 million, plus $58,000 a year for intrusion alarms and monitoring or $167,000 for guards and monitoring. Complete dismantling would cost $27 million to $29 million, depending on the type of reactor.

A fourth option—favored by many utilities, according to LaGuardia—would be entombing the reactor for 100 years or so to let cobalt 60 and other fairly short-lived radioisotopes "decay" (lose their radioactivity), then dismantling it. Combined cost: $25 million. If every utility in the nation were to opt for this combination, the total cost for 65 reactors now licensed would exceed $1.6 billion.

"I don't know what that figure tells you," LaGuardia said. "It isn't really a real-world number. It doesn't take into account inflation or interest on the money."

Ramsey believes the expense of decommissioning never was anticipated by the utilities in their postwar haste to harness the "peaceful" atom. "They didn't look at those issues in those days," he asserted. "They were looking at nuclear energy as a developing program."

Unforeseen or not, the cost is "insignificant," even at $25 million per reactor, maintained LaGuardia. In 1975 dollars, it amounts to only 2.5 per cent of a typical billion-dollar reactor. The industry's critics are not so persuaded. Whatever the final tally, they say, it will be passed routinely on to the consumers in most states.

Yet to be answered are two questions: How should the bill for decommissioning be paid? when should it be paid?

"It's entirely possible that the children and grandchildren of today's electric rate-payers are going to have to pay for dismantling Commonwealth Edison's Zion reactors," said Richard E. Morgan, staff member of the Environmental Action Fund and author of "Nuclear Power: The Bargain We Cannot Afford."

Several public-interest groups have asked the Nuclear Regulatory Commission to require every utility to post bonds so as to ensure "proper isolation" of dangerous radioactive materials from retired reactors. And Rep. John Drinan (D-Mass.) has berated the commission for failing "to bite the bullet" on this financing issue.

To a certain extent, the government and industry have confronted the problem of decommissioning. Small "demonstration" reactors at Hallam, Neb.; Piqua, Ohio, and Rincon, Puerto Rico, were entombed in the late 1960s after outliving their usefulness. At least four more have been mothballed—Northern States Power's Pathfinder reactor at Sioux Falls, S.D.; Fermi reactor No. 1 outside Detroit; Philadelphia Electric's Peach Bottom 1, and a Parr (S.C.) reactor operated by a combine of utilities.

In trying to tend to its orphans, the government has dismantled several reactors that were tested as auxiliary power sources for spacecraft. It entombed an experimental reactor at the Argonne National Laboratory and dismantled others elsewhere.

"We're not spending billions of bucks but we are spending a few million to keep the hazards within bounds " Ramsey said. "We're now planning major programs to clean up these reactor remains."

Atomics International, a division of Rockwell International Corp., has been hired to dismantle by remote control a small reactor in the Santa Susana Mountains of Southern California. As happened at Elk River, the workers ran a dress-rehearsal on a mock-up before undertaking the tedious task.

Joe Nemec, the Elk River veteran, is working for United Nuclear Industries, Richland, Wash. His assignment: Plan the government's decommissioning of eight plutonium-production reactors at Hanford.

The problem, however, doesn't stop there. During President Dwight D. Eisenhower's Atoms for Peace program, nuclear reactors "suddenly came in vogue," Ramsey said. "Every major university and laboratory had to have one." Of 63 reactors started up on campuses throughout the country 54 are still operating. Dozens of other research reactors also were put into operation in the 1950s and '60s. All eventually will have to be "pacified," he said.

Moreover, even though the industry has stagnated in recent years, 300 more commercial reactors are still projected by the year 2000. Said Monte Canfield, GAO director of energy and minerals: "I think that every year that the (nuclear) genie gets out of the bottle we are in worse shape."

He shares the sense of urgency felt by Cornell University physicist Robert O. Pohl and Marvin Resnikoff, physicist at State University of New York at Buffalo. Independently, they have turned up evidence indicating that, contrary to the industry's thinking, radioactivity levels after 100 to 200 years of entombment still will be too high for dismantling without remote controls.

The nickel 59 won't decay for 1.5 million years, Resnikoff found. And two other radioisotopes, according to Pohl, will remain highly radioactive for thousands of years necessitating not only remote controls but also disposal in special repositories, not in low-level radioactive waste burial grounds.

NUCLEAR WASTE—TWO OPPOSING VIEWS

(By Bruce Ingersoll)

SHEFFIELD, ILL.—He jokes about someday transforming one of the nation's largest nuclear waste-burial grounds into an "atomic golf course."

She tells of "living in fear."

He is president of Nuclear Engineering Co., guiding visitors on a tour of his company's radioactive waste-disposal facility four miles southwest of this town of 1,000.

She is a farm wife, helping her husband bring in the corn crop.

James Neel, 50, charters a plane to fly up here from Louisville just for a fast-paced afternoon of business.

Mrs. Linda Flint, 41, drives a chugging tractor all day long.

As Neel stands on the brink of a blocklong, 30-foot-deep trench, watching a crane operator stow away drums of waste, he wonders why the local populace has such misgivings about his company's tightly regulated operation. "We want you to know that safety is our most important product," he declares.

As Mrs. Flint hauls load after load of sun-ripe corn out of the fields, she catches herself brooding about all the radio-active material being buried. "They don't know enough about this stuff to dump it in the ground," she says.

Neel, a former Atomic Energy Commission attorney and onetime director of Kentucky's nuclear program, appears supremely confident in himself and the talented technocrats he has recruited for the company he calls NECO.

He disarms you with his urbane Southern manner, his charm and his jokes. Pointing to a grassy mound of clay covering a filled-in trench, he says: "We're thinking about making this place a golf course. "It'll be the first atomic golf course in the world."

He impresses you with his conviction that NECO is performing a public service.

Mrs. Flint, helpmate of Irvin Flint, seems reluctant at first to confide her vacillating feelings of vague unease and keen anxiety. Then it comes out: "I'm living in fear. It's fear of what's to be. This nuclear waste is dangerous."

She looks to her husband and vows: "What's the use of living if you don't fight? We're going to fight to the end." She and her neighbors are determined to keep the company they call Nuclear from expanding its activities. Better yet, they hope to see Nuclear forced out of Illinois altogether. She wins you over with her pluck. You say goodby, touched by her dread of the future.

The Flints farm right up to Nuclear's boundaries. Linda Flint, nonetheless, has never seen what goes on there. She knows nothing of the company's precautions against radioactive spills, safeguards against environmental contamination. She only picks up tales of strange goings-on.

One rumor has it that a worker was drenched in radioactive liquid when a canister broke open. His fate, she said, has yet to be learned. Another has it that some workers died from an overdose of radiation.

Irv Flint, 43, puts no credence in such wild talk. He does believe, however, there is a connection between Nuclear's operation and the deaths of his cattle.

"I lost a cow in November, 1976, and a bull last March," he said. "Before she died, the cow had her tongue hanging out of the left side of her mouth; her left ear was hanging down; and she was blind in the left eye. . . . The vet said he'd never seen anything like it.

"The bull was diagnosed as having stomach cancer," he said. "I lost some other cows but they were too far gone for testing."

Then there was the time muddy Crappie Lake "turned bloody, rusty red," he said. And last spring there was a fish kill in Barbwire Lake. He is inclined to think drainage from Nuclear's chemical waste-disposal area was to blame.

His wife remains especially troubled about the cancerous appearance of a half-dead fish that a Nuclear Regulatory Commission inspector found in a creek flowing from Nuclear's disposal area. "It was a bullhead," she said. "It's tail was decayed away and it had white blotches on its skin."

Their hired hand, Buddy Carlson, 36, cannot understand why the government permits a nuclear graveyard in well-populated Bureau County. "They have all that desert out West with a lot less water and a lot fewer people. Why can't they bury it there?"

James Blackburn, manager of radioactive waste disposal from the Illinois Department of Public Health, thinks Jim Neel conducts a safe operation.

"Otherwise, I wouldn't allow it to continue," he said.

Federal officials have been inspecting NECO's site at least once a year and auditing its books ever since the first trench was dug in 1967.

The commission did cite NECO for three infractions in 1974 and five this year. The "items of noncompliance," he said, included failing to take daily air samples for radioactivity and allowing employes to start working before they completed a radiation-safety course. In one instance, the radiation level alongside a trench was found to be twice the safe limit.

The Sheffield site has yet to attain the notoriety of NECO disposal areas at Maxey Flats, Ky., and Beatty, Nev. Kentucky was in an uproar last year after inspectors discovered radioactive wastes "migrating" from trenches. Workers at Beatty were caught peddling radioactive plywood, steel tanks and surplus Navy compasses with radium dials that they had scavenged. NECO has a fourth site at Richland, Wash.

Of the four, Sheffield handles the biggest volume. Shipments of radioactive waste are trucked in from nuclear power plants, laboratories, pharmaceutical houses, hospitals and industries throughout the Midwest. If the waste is liquid, NECO workers convert it into a solid before burying it.

The State of Illinois owns the 20-acre disposal area and leases it to NECO. In return, the company has been paying the state a nickel fee for every cubic foot of waste buried. (This year, the fee was raised to a dime in order to accumulate a fund for "perpetual waste care.")

By the end of 1976, more than 2.4 million cubic feet had been disposed of—enough to fill 13 trenches. These trenches are now grave-like mounds of clay, designed to drain off rain or melt water. Beneath them are containers of contaminated tools, clothing and mops, boxes of animal carcasses from experiments, hospital syringes and needles, drums of radioactive chemicals, bins of sludge from nuclear power plants.

"A complete inventory is maintained on what's gone into each trench," Jim Neel assured. "Well over 90 per cent of the radioactive material will have 'decayed' (lost its radioactivity) within 100 years."

In the interim, he said, impermeable clay in the ground will prevent any radioactivity from seeping into the watertable.

With the 20 acres already two-thirds full, Neel is trying to win county approval to start slicing another 166 acres into trenches. "Those 186 acres should be able to accommodate the Middle Western United States for 30 years."

Linda Flint is having none of it. Neither is the Bureau County board.

Neel sees his firm, NECO, as vital to the nation's supply of energy: "Nuclear reactors have a waste-storage capacity of 72 hours to two weeks. If they don't move the stuff, they'll have to shut down."

She keeps thinking of Sadie Cauwels; her friend and neighbor. "Sadie just passed away this spring. She had cancer all through her."

FIND "5-BOMB" A-JUNK CACHE

(By Bruce Ingersoll)

SPRINGFIELD, ILL.—Nearly 34 pounds of plutonium and 70.8 pounds of enriched uranium—theoretically, enough to manufacture five atomic bombs—are buried in a northwestern Illinois graveyard for nuclear waste.

The highly radioactive materials are enclosed in 55-gallon drums or special casks and entombed in trenches at Nuclear Engineering Co.'s Sheffield (Ill.) nuclear waste-disposal facility, a search for Illinois Public Health Department records revealed.

Most of the plutonium was stowed in five trenches and covered with earth between late 1968 and early 1974, according to state records. Shipments of Uranium 235 were buried as recently as August.

Plutonium, one of the most deadly elements, remains radioactive for more than 24,000 years.

Princeton University physicist Theodore B. Taylor, onetime designer of nuclear weapons for the Atomic Energy Commission, said the Sheffield facility harbors enough plutonium for three homemade bombs and enough Uranium 235 for two bombs. However, Taylor agreed with state officials that the materials would have to be fairly well concentrated for weapons use.

"Plutonium, if dispersed in small concentrations in a lot of radioactive junk, would be very hard to retrieve," Taylor said Monday in a telephone interview.

James Neel, president of Louisville-based Nuclear Engineering, said each container of plutonium or Uranium 235 holds only a small amount. The containers, in turn, are scattered among hundreds of other radioactive waste bins, boxes and casks.

"The real question is whether that stuff can leak out," Taylor emphasized. "If it got spread around, it could cause a lot of environmental damage."

Neel said there is no chance of plutonium or any other radioactive waste escaping from the Sheffield trenches. The 20-acre burial ground consists of impermeable clay that prevents any seepage into the underlying water table.

James Keppler, regional director of the Nuclear Regulatory Commission, was surprised Monday to learn of the plutonium and Uranium 235 at Sheffield. The facility is licensed by both the state and the commission.

Federal officials have been auditing the company's books and inspecting its Sheffield operation since the first of 21 trenches was excavated in 1967. Keppler said it was his understanding that the NRC license permitted the burial of "special nuclear materials"—plutonium and Uranium 235—so long as the concentrations were low.

Officials in Public Health's division of nuclear safety here, however, indicated that the NRC changed the license last January and set such a stringent limit on plutonium burial.

James Blackburn, state manager of radioactive waste disposal, said he does not know exactly where the plutonium and Uranium 235 came from.

Taylor said he believes the materials may be residue from the cleansing of uranium-enrichment plants and nuclear fuel-fabrication facilities. Some of the materials may be equipment too contaminated to use any longer.

* * * * *

Neel was reticent about explaining the origins of the plutonium and Uranium 235, but he said that some contaminated pieces of equipment are buried at Sheffield.

The facility, hidden in the hills four miles southwest of Sheffield, is one of four Nuclear Engineering sites. The others are at Maxey Flats, Ky.; Beatty, Nev. and Richland, Wash.

Of the four, Sheffield handles the biggest volume—475,963 cubic feet of waste last year and a projected 600,000 cubic feet this year. More than 2.4 million cubic feet have been buried in the trenches, some of which are as long as a football field, 50 feet wide and 30 feet deep.

Taylor said excavating containers of plutonium and Uranium 235 would be a "dirty and messy job." Blackburn said "nothing's impossible but it would take a large team of men working under cover of dark to dig the stuff up."

Such an attempt would be foolhardy, he added, unless the thieves obtained beforehand state of Nuclear Engineering records that would pinpoint where the plutonium or Uranium 235 is buried.

NUCLEAR WASTE FIRM PERMITLESS 9 YEARS

(By Bruce Ingersoll)

For the last nine years, Nuclear Engineering Co. has been burying tons of nuclear waste near Sheffield, Ill., with an expired waste-disposal license.

The company applied for a license renewal in 1968, but the Atomic Energy Commission and its successor, the Nuclear Regulatory Commission, never got around to its application.

Jan Strasma, an NRC spokesman, was at a loss Wednesday to explain why federal officials have been sitting on the application since it expired Aug. 31, 1968.

"I don't have a ready-made excuse," he said. "In effect, they (Nuclear Engineering) have been floating in regulatory limbo for nine years."

In investigating the company's radioactive waste-burial ground four miles southwest of Sheffield, The Sun-Times also discovered that the federal government has been lax in other respects:

Federal officials did not bother to inspect Nuclear Engineering's operation for a period of 2 years 11 months in the early 1970s, the very period when burial of plutonium and uranium-235 wastes peaked at Sheffield.

Not until 1975 did federal inspections begin visiting the burial grounds twice a year to measure radiation levels, check for any environmental contamination and audit the company's books.

It has been business as usual for Louisville-based Nuclear Engineering, in limbo or not. On the legal strength of its "timely application," the company has been handling more and more shipments of nuclear wastes from nuclear power plants, laboratories, pharmaceutical houses and hospitals throughout the Midwest.

The accumulation of waste in earth-covered trenches has grown from 185,000 cubic feet in 1968 to nearly 3 million today, making Sheffield the nation's third-largest graveyard for low-level radioactive waste.

Nearly 34 pounds of deadly plutonium, which remains radioactive for more than 24,000 years, and 70.8 pounds of uranium-235 are buried there, according to state records.

These "special nuclear materials" can be used to make atomic bombs, but nuclear safety officials in the Illinois Department of Public Health say the concentrations of plutonium and Uranium 235 are too small and too widely dispersed in the Sheffield trenches to be dug up for weapons use.

In 1974, the AEC was considering what would have amounted to a ban on plutonium burial at Sheffield and similar sites. James Neel, president of Nuclear Engineering, said his company did not wait for the government to act. Instead, it voluntarily stopped burying plutonium at Sheffield in June, 1975.

Neel, a former AEC attorney, declined to speculate why first the AEC and then the NRC sat on his company's renewal application. Timely as it once was, the application has become so out of date that it is out of step with environmental policies adopted since 1968.

The NRC required the company in early 1976 to study the environmental impact of its Sheffield operation and its plans for expansion. And once again the company has filed an application, this time for an entirely new license.

Michael Bell, chief of the NRC's low-level waste branch, said one reason for federal inaction was indecision in Washington on whether to impose a prohibitive limit on plutonium burial. (In Sheffield's case, the decision didn't come until last January.)

"Changes in licensing policy take longer than anybody anticipates," Bell said. "There was no great urgency in renewing the (Sheffield) license because the site has been operated very well."

He and Strasma pointed out that the State of Illinois is Nuclear Engineering's landlord. It leases the 20-acre site to the company for a nominal fee. Public health officials periodically inspect the site.

Strasma said the NRC did not step up field inspections until after Nuclear Engineering workers had been caught scavenging radioactive plywood and Navy compasses at another burial ground at Beatty, Nev., in 1976.

ILLINOIS: HEIR TO A-WASTE FOREVER

(By Bruce Ingersoll)

As a result of a little noticed state law adopted in 1963, the citizens of Illinois are heirs to a radioactive junkyard that the state will have to baby-sit for thousands of years.

Ever since 1967, this legacy of nuclear waste has been accumulating on state land leased to Nuclear Engineering Co., a subsidiary of the huge Los Angeles conglomerate Teledyne Inc.

Nearly 3 million cubic feet of radioactive waste already has been buried in deep trenches as long as football fields in the hills southwest of Sheffield, Ill.

Much of the waste was trucked in from other states, including Arkansas and Pennsylvania. Some of it is plutonium, a potentially deadly waste that remains radioactive for more than 24,000 years and requires what the Illinois Department of Public Health terms "perpetual care."

The 1963 law empowered the department to acquire a site for nuclear-waste disposal, lease it to a private company and collect burial fees. From 1967 to 1976, the department collected a nickel for every cubic foot of waste buried by Nuclear Engineering of Louisville. The total revenue amounted to $114,000, according to state records. But not a penny was set aside for taking care of this nuclear graveyard, even though the Radioactive Waste Act of 1963 gave the state "perpetual responsibility" for its safekeeping.

"The people possess these wastes just the way they do the Capitol building," said Leroy Stratton, associate director of environmental health.

The legislatures of Kentucky, South Carolina, Nevada and Washington all set up perpetual-care funds for similar privately operated waste sites, but the Illinois General Assembly failed to do so in 1963.

As a result, all the burial fees from Nuclear Engineering's operation went into the state's general revenue fund, never to be saved for safeguarding wastes.

"There was a general reluctance on the part of the General Assembly to earmark funds," said Illinois Appellate Court Justice Thomas A. McGloon, former state senator and onetime member of the Joint Legislative Commission on Atomic Energy. "When you earmark funds, you have millions of dollars sitting around that are not being used."

Stratton also recalled that the Legislature was "very hesitant" about dedicating funds for special purposes, even taking care of potentially dangerous wastes. The flaw in the 1963 law was not corrected until last fall when the Legislature set up a special fund for Sheffield's care when Nuclear Engineering someday moves on to another state.

Last January, Public Health Department officials increased the burial fee to 10 cents from 5 cents per cubic foot. Even so, the fee is considerably less than what Nuclear Engineering is paying Nevada and what its sole rival, Chem-Nuclear Systems Inc., is paying South Carolina.

"We realize that 10 cents was not sufficient but it was a start," said James Blackburn, manager of radiocative-waste disposal for the Public Health Department. "We are already negotiating (with Nuclear Engineering) for another substantial fee increase to cover the cost of inflation and to bring the perpetual-care fund more in line with the eventual costs of monitoring the site."

Interest accrued from the fund will be used to inspect the 20-acre burial site for environmental contamination and possible threats to public health and safety.

Last year, 31 per cent of the wastes buried at Sheffield came from out-of-state hospitals, laboratories, pharmaceutical houses and nuclear power plants, Blackburn said. In the first half of 1977, more than 50 per cent was imported from 20 states.

The increase in out-of-state wastes can be attributed in part to a 10-cent-a pound tax that the Kentucky Legislature imposed on waste buried at Nuclear Engineering's Maxey Flats (Ky.) burial ground. This tax made burial so costly that many shipments were diverted to Sheffield and Chem-Nuclear's Barnwell(S.C.) site.

Sheffield, with 3 million cubic feet of waste, is the third-largest graveyard for low-level radioactive waste in the country, trailing Maxey Flats (4.8 million) and Barnwell (an estimated 4 million).

The fund for Sheffield, however, amounts to only $56,000 today, compared with $500,000 in South Carolina's fund for Barnwell and $250,000 in Kentucky's fund for Maxey Flats.

In 1967, when Illinois was charging Nuclear Engineering only 5 cents per cubic foot, the state authorized the company to charge its customers 75 cents per cubic foot. In 1976, when the burial fee was still 5 cents, the company could charge $1.36 per cubic foot and assess surcharges for handling extra-heavy or highly radioactive containers of waste.

A year ago the Public Health Department stopped regulating the company's prices, Blackburn said. The burial charge since has risen to $2 per cubic foot. Over the years, the company has steadfastly refused to disclose its profits, he added.

Scott Urges State to Cancel A-Waste Pact With GE

(By Bruce Ingersoll)

Atty. Gen. William J. Scott urged the Illinois Department of Public Health Tuesday to cancel a contract that requires the state to take "perpetual care" of General Electric's nuclear waste-storage facility at Morris, 50 miles southwest of Chicago.

The contract was signed by the department and GE in 1967 when the company was planning to reprocess used nuclear fuel from nuclear power plants. The state was to have received a $250 royalty for every metric ton of "spent fuel" recycled by GE.

The money was to have gone into a state fund for cleaning up radioactive parts of the reprocessing plant and safeguarding it after it had outlived its usefulness.

"The plant has simply never worked and the state has never received a penny under this contract," Scott said. "GE has itself a $64-million white elephant."

The company, in trying to recoup part of its investment, turned the plant into the nation's largest commercial storage depot for spent fuel. It has a Nuclear Regulatory Commission permit to store 750 metric tons and it is seeking permission to store up to 1,850 tons.

At last count, 300 tons, including shipments from Wisconsin, California and Connecticut, were stored underwater at Morris.

"The state is set to be a patsy for taking care of this high-level nuclear waste," Scott said.

The federal government should take responsibility for the spent fuel and put it in a remote repository in a sparsely populated area of the West, he said.

Under the terms of the contract, Scott said, either the state or GE could terminate if reprocessing did not begin by Dec. 31, 1972.

A state Public Health Department official, who declined to be named, had a different interpretation of the state's responsibility for perpetual care.

"It wasn't a case where we were going to take care of high-level waste (spent fuel)," the official said. "We were going to take care of the reprocessing plant after GE had decontaminated it.

"We saw no need to formally terminate the contract because the plant is a defunct facility."

The contract had provided for a $750,000 fund—$500,000 for decontaminating the plant and $250,000 for safeguarding it.

"The plant itself does not require decontamination," the health official added. "No radioactive spent fuel was ever used in the trial runs."

It is unclear, however, whether the state or GE will eventually be responsible for the storage pools at Morris, he acknowledged.

Scott Sues To Halt Burial of A-Waste at Sheffield

(By Bruce Ingersoll)

Atty. Gen. William J. Scott filed suit Thursday against the Nuclear Regulatory Commission and a major waste-disposal company, seeking an immediate halt to the burial of radioactive wastes near Sheffield, Ill.

Scott accused the NRC of allowing the Louisville-based Nuclear Engineering Co. to operate the Sheffield burial ground with an expired license.

He filed the lawsuit here in U.S. District Court after The Sun-Times revealed that the NRC and its predecessor, the Atomic Energy Commission, have neglected for nine years to act on the company's application for a license renewal.

Such bureaucratic inaction is "unlawful," the suit contended.

"By sitting on the application for nine years, they have prevented any public participation in the license-renewal process," Scott asserted in an interview.

The suit also charged the company and the NRC with deliberately evading a federal requirement for an environmental-impact study of the hazards of burying radioactive-waste containers in trenches. This "chicanery," Scott said, constitutes a violation of the National Environmental Policy Act of 1970.

James Neel, president of Nuclear Engineering, said the Sheffield operation performs a "national service." Nuclear power plants, hospitals, laboratories and industries rely on it for the disposal of myriad "low-level" radioactive wastes, including contaminated lab garments, medical radioisotopes and sludge filtered from the cooling water of nuclear reactors.

If the court were to close the burial ground, the repercussions would be felt in at least 10 states besides Illinois, Neel warned. He identified them as Pennsylvania, Ohio, Michigan, Indiana, Wisconsin, Minnesota, Iowa, Missouri, Nebraska and Arkansas.

The license expired Aug. 31, 1968, approximately one year after truckloads of nuclear waste began rolling into the 20-acre disposal area 4 miles southwest of Sheffield and 100 miles west of the Chicago area.

The accumulation of waste has grown from 185,000 cubic feet in 1968 to nearly 3 million today, making Sheffield the nation's third largest graveyard for low-level radioactive waste.

In examining state records, The Sun-Times discovered that 33.9 pounds of plutonium and 7.8 pounds of uranium-235 are buried there. These "special nuclear materials" are in such low concentrations, however, that experts do not believe they could ever be retrieved for the clandestine manufacture of atomic bombs.

The NRC and Nuclear Engineering, a subsidiary of the Teledyne Inc. conglomerate, contend that the original license was automatically extended when the company made a "timely application" for renewal. Scott refused to accept this argument, however.

"While the NRC sits on the application, radioactive wastes from all over the country are being brought day after day to a dumping site in Illinois located less than 100 miles from 8 million men, women and children," he said.

Jan Strasma, an NRC spokesman, said last week that he had no "ready-made excuse" for the government's failure to act on renewing the license. "In effect, they (Nuclear Engineering) have been floating in regulatory limbo for nine years," Strasma said.

In 1975, Strasma said, the NRC directed the company to submit an environmental report on its operation and update its license application. The company wants to expand its disposal area from 20 acres to 188 adjoining acres. The NRC has begun preparing an environmental-impact statement on the basis of the company's report.

Neel emphasized that state and NRC inspectors have detected no signs of radioactive leaks from the 21 trenches that already have been filled and capped with clay.

"If I could meet with Mr. Scott and explain the role of this site in the nuclear-energy industry, he'd probably change his position," he said. "If the site were shut down, it would have a drastic effect on the generation of electricity. Nuclear reactors have a waste-storage capacity of 72 hours to 2 weeks. If they don't move the stuff, they'll have to shut down."

Freeway Fallout? Odds Assessed

(By Bruce Ingersoll)

They are a breed apart from your typical over-the-road truck-driving man. The cargoes they carry are packaged with such care you would think they were hauling a Mona Lisa or a King Tut. Yet their loads are sometimes so heavy they have to obtain overweight permits before they can roll.

The enormous rigs they drive all bear placards saying one thing: Radioactive.

They haul everything from faintly contaminated clothing to deadly plutonium, but the few drivers who would talk seemed almost blithe about their jobs or given to gallows humor. Said one off-duty driver in a Sheffield (Ill.) bar, "I'm still living, ain't I."

Any common carrier can haul radioactive materials but only a dozen U.S. trucking companies specialize in bulk transport of nuclear wastes. Even fewer carry "special nuclear materials"—plutonium and enriched uranium, which are the makings for atomic bombs. So far, the companies have rolled up an admirable safety record.

"We don't try to make health physicists out of our drivers but we do give them basic training about what they should do in case of an accident or radioactive spill," said Charles Mayer, a vice president of Tri-State Motor Transit of Joplin, Mo., the nation's largest nuclear carrier.

"Oh, we've had accidents, other carriers have had accidents, but in 30 years there has never been a single serious injury or death from overexposure to radiation.

"We stay on the interstate highways," Mayer said. "They're the safest by far."

I–80, stretching from San Francisco Bay to the Hudson River, is a true transcontinental. It is, by all accounts, the route most heavily used by the nuclear truckers, primarily because it is rapidly becoming the nation's nuclear alley.

Within 25 miles of I–80, 10 nuclear power reactors are generating electricity and 14 more are under construction or planned. (Only the Sacramento Municipal Power District's Rancho Seco reactor is not shown on the accompanying map.) In addition, the government has three small research reactors at Argonne National Laboratory.

Only a few miles to the south of I–80 are the destinations for much of the nuclear waste moving in interstate commerce—General Electric's Morris (Ill.) storage facility and Nuclear Engineering's Sheffield burial ground.

From California and Connecticut come huge truckloads of "high-level" waste, so named because it is so highly radioactive. This waste is actually used fuel shipped from reactors to Morris for safekeeping.

From a 20-state region encompassing the Midwest and parts of the East and West come flatbed trucks bearing all sorts of "high-level" waste for entombment at Sheffield. This is the radioactive junk that no power company, no hospital, no pharmaceutical firm would send to the town dump.

I–80 has only one rival as a nuclear corridor—I–95. There are 14 reactors in operation, another 12 in the offing within 25 miles of the Maine-to-Florida route.

On portions of interstates and numerous other highways, uranium is being hauled from mills in the West to conversion plants, thence to government-owned uranium-enrichment plants in Kentucky, Tennessee and Ohio and finally to fuel-fabrication plants operated by Westinghouse, General Electric and other reactor manufacturers. Ultimately, the fresh fuel is trucked to the nation's 65 licensed reactors. And, of course, wastes from each link in this industrial chain are transported to disposal areas.

"We're probably the most nuclear state in the nation," said Illinois State Police Cpl. Harold Diveley. He is the hazardous materials co-ordinator for the Department of Law Enforcement.

His best estimate is that the volume of radioactive shipments has been growing 10 per cent a year in Illinois. Ninety-five per cent of the shipments are radioactive pharmaceuticals used in medical diagnosis and cancer treatment. Many are small packages picked up or delivered at O'Hare Airport, he said.

As for the remaining 5 per cent, he sees no cause for extreme concern. "I'm not hung up on radioactive waste," he said. "The companies' safety record is darned hard to beat."

Many citizens and some local governments are not so persuaded. Mrs. Marilyn Shineflug of the DeKalb County League of Women Voters frets about radioactive—placarded trucks rumbling through the city of DeKalb. She can envision a catastrophic train-truck collision in the heart of DeKalb's business district.

She inquired at the city hall about the chances of banning such shipments, but the city attorney rendered the opinion that Washington has preempted this regulatory realm. New York City, however, didn't see it that way. It outlawed nuclear waste shipments through its boroughs in January, 1976. In response to a bid to lift the ban, a city health official warned Friday that a spill of highly radioactive wastes could cause 10,000 immediate deaths and more than a million latent cancers.

Catherine Quigg, the leader of a Palatine-gased group known as PEP (Pollution & Environmental Problems), is convinced that a serious accident could occur on I–80 and any other Chicago area interstate highway. She draws her conviction from two close calls:

On Sept. 27, a tractor-trailer rig overturned on a southeastern Colorado highway, spilling at least 15,000 pounds of uranium oxide over a 5,000-square-foot area.

The powdery material and contaminated soil were cleaned up by a crew wearing protective clothing and respirators. The Nuclear Regulatory Commission said the low-level radioactive material posed no health hazard, but Mrs. Quigg keeps wondering "What if it happened in Denver?"

On a foggy December morning in 1973, a truck carrying highly radioactive cobalt was involved in a chain-reaction pileup with five other trucks and two cars on icy I–80 near Stroudsburg, Pa. One car burst into flames not far from a tank truck loaded with flammable lacquer. Fortunately, she said, the fire did not spread and the two cobalt casks did not rupture.

Cpl. Diveley is neither an apologist nor a self-appointed spokesman for Tri-State and the other nuclear truckers. After learning all he could about hazardous materials, he has concluded there is no justification for fears about fallout on the freeway.

Truckers, he said, voluntarily notify him whenever crossing the state line with a load of used ("spent") fuel or special nuclear materials. The drivers, blithe as some may seem, abide by the laws.

Spent fuel travels in stainless-steel casks weighing 20 tons or more, he said. Their insides are lined with lead to contain the fuel's intense radioactivity. Their prototypes were tested by fire (1,475 degrees for 30 minutes), dropped from 30 feet up, smashed against a 6-inch steel spike and immersed in water for 24 hours. Bigger casks have been put to similar tests, even smashed against a concrete wall at 81 m.p.h. None has been punctured, Diveley said. None has spewed radioactivity.

"Those spent-fuel packages are tough packages, real tough," he said. "I don't regard the transportation of nuclear wastes as nearly as hazardous as flammables and corrosives."

Prof. Robert Blanks, a Michigan State University chemical engineer, can conceive of an accident that could result in a cask rupture—a collision between a spent-fuel truck and a tanker carrying propane, benzene, heptane or several other frequently transported flammables.

If it occurred in a tunnel or underpass, these flammables could reach temperatures ranging from 3,820 to 4,275 degrees, far hotter than the melting point of lead or steel, he said. Blanks readily concedes the odds of such a catastrophe are small, but "they are not zero."

On Jan. 1, 1971, a gasoline truck crashed in an underpass on I–75 near Flint, Mich., and burst into flames, he said. The heat was so intense it melted parts of the cab and engine. What's more, the overhead steel girders began to sag in the fire.

Said Cpl. Diveley: "You never can answer all the 'what if' questions."

O'Hare the Hub for Radioactive Cargo

(By Bruce Ingersoll)

Chicago has become the nation's shipping point for radioactive cargo that New York City banned from its streets as a hazard to public safety.

The cargo—always shipped by armored truck, always escorted by at least one carload of heavily armed guards—is weapons-grade uranium. It is so highly enriched that it would be ideal for any terrorist group bent on making atomic bombs or extorting a ransom.

The uranium once was trucked to New York's Kennedy International Airport for shipment abroad on commercial cargo flights. It now is hauled, instead, to Chicago's O'Hare Airport via the Dan Ryan and Kennedy expressways or the Tri-State Tollway.

Large quantities of uranium began passing through O'Hare in August, 1975, only a few weeks after Leonard R. Solon, a New York health official, took a stand against armored trucks using New York routes to reach Kennedy Airport.

"Highly enriched uranium, in a clean form, is not an enormous health hazard, but it is an important ingredient for making nuclear weapons," said Solon, director of radiation control for the New York Health Department.

Explaining why his department imposed a virtual ban in January, 1976, he said, "We were concerned about accidents, sabotage and terrorist attacks. We did not want to increase the number of targets of opportunity for terrorists and crazies in our city."

During a weeklong investigation, The Sun-Times discovered that:

O'Hare has supplanted Kennedy as the No. 1 funnel for the bulk of the highly enriched uranium being exported to West Germany, France, Italy and Canada for use in nuclear research reactors. Much of the uranium flown to West Germany was converted to reactor fuel and shipped on to The Netherlands, Sweden, Denmark, Austria, France, Japan and Canada for research purposes, according to Nuclear Regulatory Commission records.

O'Hare also funnels French-owned uranium into this country for additional enrichment.

Twenty-two of 24 uranium shipments exported from the United States or imported since mid-1975 have gone through O'Hare, NRC records show. One shipment went out of Washington's Dulles International Airport and another out of the Columbus (Ohio) airport.

Altogether, the uranium airlift at O'Hare has amounted to 1,097 kilograms (4,613 pounds, or more than two tons). The Uranium-235 content of the shipments ranged from 49 per cent to 93 per cent. Anything greater than 20 per cent is regarded as highly enriched. (In contrast, fuel used in nuclear-power reactors is enriched to only 3 per cent.)

This much uranium would be enough for a nuclear arsenal of 50 to 100 homemade bombs, according to Theodore Taylor, a Princeton University physicist and onetime designer of nuclear weaponry for the Atomic Energy Commission. "It is much easier to make bombs with U-235 than plutonium, particularly the amateur type," Taylor said.

Tempting as they might be to saboteurs and terrorists, these shipments through Chicago bear safeguarding for yet another reason. The prevailing price for highly enriched uranium is $15,000 a kilogram. The total value of the O'Hare shipments to date exceeds $20 million, according to one NRC estimate.

Chicago officials said they had no inkling that such valuable and potentially dangerous cargo was being picked up and delivered at O'Hare.

"Remember, we have other agencies taking care of things like that," said Aviation Comr. J. P. (Pat) Dunne. "We, as the airport operator, do not go into the cargo area and open up shipments. We have no educated people to do that."

Said Dr. Murray C. Brown, commissioner of health: "I don't have a radiological health man on my staff. I just don't know if it's a real hazard. Enriched uranium isn't all that hot (radioactive). . . . Why don't you talk to H. W. Poston. He's the commissioner of environmental control."

H. Wallace Poston said: "I don't know what I can tell you. I'm going to look into it."

Most of the shipments originated at Goodyear Atomic Corp.'s uranium-enrichment plant at Piketon, Ohio, south of Columbus. Some came from the government's enrichment facility at Oak Ridge, Tenn. All the French imports were destined for Goodyear Atomic. Each shipment was licensed by the NRC and inspected by NRC security and radiation-safety specialists at O'Hare.

"We used to go to J.F.K. (Kennedy Airport) with all these shipments," said Charles Mayer, a vice president of Tri-State Motor Transit, of Joplin, Mo., the nation's largest nuclear-trucking firm. "Then they banned the transportation of radioactive materials (except for radiopharmaceuticals) and we got shut out of New York."

Ralph G. Page, deputy director of safeguards for the NRC, surmised that, with Kennedy out of the picture, O'Hare became the most "cost-effective" way to go, probably because of the frequency of its overseas flights.

Solon, the New York health official, is a bit apologetic about the rerouting of enriched uranium. "I was doing my job," he said. "I had no intention of diverting these kinds of things to our good neighbors in Illinois."

There is growing debate over the risks of trucking so-called special nuclear materials—Uranium-235 and plutonium—around the country, particularly into densely populated areas.

Taylor, the Princeton physicist and the first scientist to speak up about the perils of nuclear theft and blackmail, said the shipments are "certainly vulnerable to terrorist attack." He acknowledged that safeguards have been bolstered in recent years but said, "I would still call them inadequate to stop a highly professional, strongly motivated effort to hijack one of these shipments."

Page said he is convinced the armored truckloads are impregnable. Under NRC rules, each truck must be accompanied by one escort vehicle and protected by five guards during the day and two escort vehicles and seven guards at night. The guards carry sidearms, shotguns and, in some instances, semiautomatic weapons, he said.

Between Piketon and O'Hare, the guards are required to make radio-telephone contact with the Tri-State dispatcher's office once every two hours. "We do stipulate that they should stay on main thoroughfares," Page said. "They must preplan the route, and they must avoid any areas of natural disaster—such as floods or hurricanes—and they must avoid any riot areas."

Said Tri-State's Mayer: "We stay on the interstates; we do vary our route from trip to trip. That way, nobody can determine any pattern. It makes it harder for anybody to ambush a truck."

Upon entering the Chicago area, the trucks take I–294 (Tri-State Tollway) through the western suburbs or I–94 (Dan Ryan) and the Kennedy Expressway through the city to O'Hare, Mayer said. The NRC notifies the Federal Bureau of Investigation, U.S. Customs Service, Illinois Public Health Department, airport officials and the Chicago police detachment at O'Hare whenever a shipment is due.

Physicist Taylor said all these precautions still are insufficient. "My main concern isn't so much with the number of guards as with the transport vehicle itself," he said. "I've been pressing for a truck that would be so heavy and so massive that it would be impossible to get into.

"The question is: What would happen if a couple of hand grenades were thrown under the truck, or even high explosives?"

If ambushed, the guards would be shielded by armor plate and bulletproof glass, Page said. They could fire on their attackers from the truck's gunports. "I imagine a charge of dynamite would disable the vehicle, but I don't think it would kill the men inside," he said.

"In 30 years of transportation, there has never been an attack on a transport vehicle or a hijacking attempt."

Enriched uranium travels in steel cylinders that are cushioned in plastic foam-lined drums. Taylor contends that the containers themselves should be so enormously heavy that, even if the guards were wiped out and the truck disabled, they could not be hijacked without a heavy-duty crane.

Haunting this debate over the security of nuclear shipments are all the bombings and jet hijackings of recent years, most notably the bombing of New York's La Guardia Airport that killed 11 and injured 75 on Dec. 29, 1975. This wave of violence pushes one question to the fore: What would happen if O'Hare were the scene of a hijacking attempt?

A typical shipment of enriched uranium reaches O'Hare in the late afternoon and is unloaded in the cargo area of either Air France or Lufthansa German Airlines. Four Pinkerton men stand guard until the shipment is put aboard a cargo plane and the flight takes off, usually early the next day. It is during this time that the shipment is most vulnerable to theft.

NRC inspectors detected two security infractions last Feb. 8 when the largest shipment ever to go through O'Hare—807 kilograms (about 1,775 pounds)—was sitting on the ground, awaiting a Lufthansa flight to Frankfurt.

At the time, a NRC official admitted a well-armed gang could have captured at least part of the shipment. This raises yet another question: What are the odds of bystanders being killed or hurt in a gunfight between guards and terrorists or in a police chase through O'Hare, the world's busiest airport?

RISKY CARGO AT O'HARE

It is the stuff that dreams are made of—the dreams sometimes called nightmares.

It is the stuff that bombs are made of—nuclear bombs. It is weapons-grade uranium.

And O'Hare Airport, smack on the Northwest Side of Chicago, is the nation's main shipping point for this stuff, as reporter Bruce Ingersoll reveals in today's Sun-Times.

The shipments get to O'Hare in armored trucks under heavy guard—amid traffic on the Dan Ryan and Kennedy expressways and the Tri-State Tollway. And many careful critics fear the possibility of terrorist diversion of the material on such road trips or at airport transfers and layovers.

Ingersoll uncovered a planeload of facts about weapons-grade uranium cargo here and he raised some serious questions:

The amount shipped through O'Hare so far —more than two tons—would be enough to make a terrorist arsenal of 50 to 100 homemade A-bombs, according to one expert who also questions the sturdiness of the highway transport vehicles. Don't those factors make O'Hare shipments a needless risk?

New York City officials aren't taking such a chance. Fearing "accidents, sabotage and terrorist attacks," they have virtually banned such shipments there. Why hasn't Chicago demanded similar precautions?

Because officials here are oblivious? Asked about the shipments, the city aviation commissioner tossed the ball to the health commissioner, who threw it to the environmental control commissioner, who said, "I'm going to look into it." He should, indeed.

So should a congressional subcommittee visiting Illinois early next month to investigate some of Ingersoll's other recent disclosures about nuclear issues here.

A House Government Operations subcommittee headed by Rep. Leo J. Ryan (D-Calif.) is to hold hearings on nuclear storage problems Dec. 8 and 9 downstate and in Chicago. In light of Ingersoll's new reports, the panel should add shipments to its agenda.

Why, for example, couldn't these cargoes be sent from Chanute Air Force Base at downstate Rantoul (if they must go through Illinois at all)?

City and state officials should join Ryan's panel in demanding answers—and action.

JANE'S EDITOR SAYS B–1 DECISION MAY DOOM THE WEST

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, for the last 8 years the House of Representatives has been joined by the Senate in funding the development of a manned penetrating bomber, the B–1. This aircraft was designed to modernize and maintain the viability of the third leg of our triad of strategic defense to insure that our adversaries would never chance a global war. Two days ago, we in the House voted to continue the development of the B–1. An article in today's New York Times quotes the world aviation expert, John W. R. Taylor, editor of "Jane's All the World's Aircraft," on the consequences of the decision of the other body to stop development of the B–1. In order that these consequences can be clearly understood, I submit the article for reprinting in the CONGRESSIONAL RECORD:

JANE'S EDITOR SAYS B–1 DECISION MAY DOOM THE WEST

LONDON, December 7.—President Carter's decision to scrap the B–1 strategic bomber may help bring about a Western defeat if a general nuclear war breaks out, according to the editor of "Jane's All the World's Aircraft" in a preface to the 1977–78 edition.

The editor, John W. R. Taylor, writes in the authoritative annual that rejection of the bomber, which Mr. Carter considered too costly, may endanger the military balance that has prevented war between the two major powers for a generation. The new 900-page edition, is being published tomorrow by Jane's Yearbooks of London.

The Soviet leaders "must be surprised beyond belief that the U.S. President has disposed of the B–1 bomber without asking any Soviet concession in return," Mr. Taylor wrote. "If our planet is subjected one day to the unimaginable horrors of a third world war, 1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown."

President Carter decided earlier this year to cancel the B–1 program, after four test planes had been built. He said that the

United States armed forces should rely on the older B-52 bomber and the new cruise missile. The Senate then voted to cut off funds for new B-1's, but the House voted yesterday to appropriate money for two more test planes. The Senate must now vote again on the issue.

CITES MISSILES' LIMITED ABILITY

Mr. Taylor said that cruise missiles, which travel slower than the speed of sound, were incapable of jamming enemy defense radar and were intended primarily for use against undefended targets.

Only one military leader in history, Adolf Hitler, has put his confidence in such a weapon, wrote Mr. Taylor, who is a world aviation authority. And that device, the V-1 missile that was known as the "buzz bomb," caused Britain little difficulty in World War II, he said. Mr. Taylor suggested that Mr. Carter's unilateral action probably was the reason the Soviet Union did not stage its usual display of air power at celebrations in October marking the 60th anniversary of the Russian revolution.

Mr. Taylor said that perhaps only West Europeans, living within range of two powerful Soviet aircraft, the Tupelev bomber, known in the West as the Backfire, and the Sukhol Su-19 attack plane, felt strongly apprehensive when their own aircraft were ranged alongside the Soviet arsenal. That force includes about 1,400 intercontinental ballistic missiles, 600 intermediate- and medium-range missiles, 950 submarine-launched missiles and 200 older long-range bombers, "each capable of annihilating a city in a second of time," he wrote.

DEFENDS LIMITED B-1 PRODUCTION

Mr. Taylor said the United States did not need to base its B-1 decision on a previously estimated full fleet of 244, with an initial cost of $28 billion. "Every 100 B-1's would have compelled the Soviet Union to expend huge sums of money and immense effort on developing, producing and maintaining defenses against air attack," he wrote.

The editor warned that the United States also was delaying replacement of its interceptors and other aircraft, while the Soviet Union had given its squadrons a 500 percent increase in both radius of action and weapon load within a decade. "At the same time," he said, "the amount of advance warning of an impending attack that NATO units can expect, even on the basis of highly efficient monitoring, has diminished from an estimated 30 days to four or five days."

ELEMENTS OF NATIONAL GUARD READINESS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, when the Volunteer Force was first conceived, the Department of Defense and the Congress agreed that incentives for enlistment and retention of people in the active services were essential if manpower requirements were to be met. The National Guard Association of the United States and Guard and Reserve leaders pointed out at the time that these incentives were equally essential for Guard and Reserve units. This point has been made many times since. Bonuses and educational assistance have been provided only for active service personnel.

Although the Guard and Reserve are critically short of personnel, DOD spokesmen never miss an opportunity to proclaim the success of the Volunteer Force.

Since the fiscal year 1978 Defense Budget includes $183 million for educational assistance and bonuses for the active forces, it is obvious that both DOD and the Congress are convinced that these incentives work.

No one thinks that the Volunteer Force could succeed for the Active Forces without these incentives. Yet DOD has denied these incentives to the Guard and Reserve.

In the 2-year period from August 1974 to April 1977, National Guard and Reserve units have suffered a net loss of almost 100,000 members or over 11 percent of their force.

In the Volunteer Force/zero draft environment, the decision was made to pay bonuses and provide other benefits as recruiting and retention incentives for active service, although similar incentives, other than low-cost insurance, were not provided to Guard/Reserve personnel.

Special pay, in the form of enlistment/reenlistment bonuses, has proven to be effective in the Active Forces and the need to extend these to the National Guard and other Reserve components is generally recognized.

Special pay proposals for Guard/Reserve Forces are economically sound and effective, in that the cost of reenlistment bonuses should more than offset costs which would be required for newly-enlisted, nonprior service personnel.

The Congress has authorized a limited test of reenlistment bonuses for the Guard/Reserve in the fiscal year 1978 authorization act.

The Congress has also appropriated funding for a limited reenlistment bonus test for the Guard/Reserve.

It has become obvious that the Volunteer Force policy cannot support the total force policy unless bonuses are offered to all Guard/Reserve reenlistees.

When you consider incentives, you cannot overlook educational incentives.

Authority has been granted in the fiscal year 1978 authorization act in the 95th Congress to provide tuition assistance for members of the National Guard and of the Selected Reserve of the Ready Reserve.

This legislation if funded by the Appropriations Committee would increase the personnel strength and readiness in the National Guard, and improve the educational level of the National Guard, our States and our Nation.

The DOD Appropriation Authorization Act, 1978 conference report, dated June 21, 1977, includes the following language:

> The conferees agreed to support authority for a test educational assistance and reenlistment bonus program in the Selected Reserve. At the present time and until sufficient evidence is available to determine the effectiveness of these programs in assisting recruiting and retention in the Selected Reserve, the authority provided shall be used for a test program to assemble the necessary data. This program shall be limited to an expenditure of $5 million. The results of the test shall be reported to the Congress on a quarterly basis with the first report due December 31, 1977.
>
> If reserve recruiting continues to decline, authority contained in this legislation could be used in a broader program only after advising the committees on Armed Services and through existing procedures.
>
> The conferees agreed that the authority to offer further incentives contained in sections 402 and 403 of the House bill shall expire for personnel enlisting or reenlisting after September 30, 1978. This expiration date is included to insure that the Department of Defense develops and submits a complete program to address the problems in maintaining reserve strengths in its fiscal year 1979 budget submission. The DOD will have had ample time to address this problem by them, and the conferees expect to see a comprehensive program in the fiscal year 1979 budget submission.

The only report the committees can expect on December 31 is that the test has at long last been designed and will be started in January 1978 in 19 States.

In the meantime, Army National Guard strength has continued to fall, as has the strength of other Reserve components. At end October 1977, the paid drill strength of the ARNG was 354,354—down 10,040 from last February. The ARNG is now short 77,600 from its wartime requirement.

Sixty percent of the combat power of the U.S. Army, measured in battalions, is in the Army National Guard.

The total force policy dictates that Army National Guard early deploying units must arrive in overseas theaters with Active Force units, not afterwards as reinforcements.

Many Army National Guard units are not deployable today because strength objectives are not being met.

This situation may continue if the Army National Guard is not supported with programs designed to allow the Army National Guard to maintain the strength necessary for NATO deployment.

The savings generated in fiscal year 1978 because of the continued decline of Guard and Reserve manpower levels would fund a full expansion of the incentives program authorized by the Congress. Yet, if the DOD budget analysts follow their normal pattern they can be expected to reduce the fiscal year 1978 Guard and Reserve manpower levels in the fiscal year 1979 budget submission, rather than to request expansion of the incentives program.

While I am speaking about incentives and strength problems, let me mention another tangible incentive that must be corrected for the Guard and Reserve.

Under current law a member or former member of a Reserve component who has completed 20 or more years of qualifying service under chapter 67 of title 10, United States Code, is not entitled to retired pay unless he attains age 60.

The dependents of such a member or former member are not entitled to benefits under the survivor benefits plan unless he was entitled to retired pay at the time of his death.

H.R. 97, 95th Congress, introduced by Representative SONNY MONTGOMERY of Mississippi, would correct this inequity by authorizing survivor's benefits for dependents of members otherwise qualified for retired pay under chapter 67 of title 10, United States Code, who die before attaining age 60.

This is an inequity that the Congress recognized, so let us rectify it.

My final point will address unionization of the military.

When the Senate Committee on Armed Services reported out S. 274 which would forbid members of the Armed Forces belonging to military unions, it included a section that categorized technicians who also are members of the Reserve components as members of the Armed Forces for the purposes of the union ban, thus forbidding them to belong to technician, as well as military, unions.

Congress clearly determined the military character of the technician function when it revised section 709, title 32, in 1968. It made military membership in their units mandatory for all technicians except a handful of clerical workers. It established a direct correlation, in law, between an individual's technician position and his military grade and assignment. It provided that loss of military membership means automatic loss of technician employment. In almost all instances, the technicians' full-time duties are substantially the same as, or identical to, his or her duties in their military assignment.

The technician force performs military functions in sole furtherance of military purposes, so Congress gave it a military character. To accommodate that unusual status, Congress also provided that Guard technicians would be categorized as "excepted," rather than competitive, civil service workers.

The technician function essentially is military in nature. Technicians perform tasks that are directly related to producing combat readiness. They also serve in such crucial, on-going national defense operations as the Strategic Air Command alert—Air Guard refueling forces—and the 24-hour air defense alert—Air Guard fighter-interceptors.

Although unionization of the Armed Forces has been denied by Congress, there are efforts to bring about a partiona unionization by organizing technicians. This could be an entering wedge toward full unionization and it is a matter to be considered very carefully when additional legislation is enacted.

I have been discussing three elements impacting on the readiness of the National Guard, or in other words, the ability of the Guard to meet their commitments in defending the Nation. These elements rarely receive the exposure they deserve in the national tabloids, however, they are vital to our security. I urge fullest consideration of them and favorable action by the Congress.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Abdnor) to revise and extend their remarks and include extraneous material:)

Mr. Burgener, for 5 minutes, today.

(The following Members (at the request of Mr. Kildee) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Burke of Massachusetts, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mikva, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $2,012.

(The following Members (at the request of Mr. Abdnor) and to include extraneous matter:)

Mr. Derwinski.

Mr. Whalen.

Mr. Gilman.

Mr. Burgener.

Mr. Dornan in two instances.

Mr. Ashbrook in two instances.

(The following Members (at the request of Mr. Kildee) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Richmond.

Mr. Jenrette.

Mr. Moorhead of Pennsylvania.

Mr. Studds.

Mr. Biaggi in 10 instances.

Mr. Mazzoli.

Mr. Ford of Michigan in two instances.

Mr. Burke of Massachusetts.

Mr. Danielson.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 305. An act to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such Act or an issuer required to file reports pursuant to section 15(d) of such Act to make certain payments to foreign officials and other foreign persons, to require such issuers to maintain accurate records, and for other purposes.

ENROLLED BILLS JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3722. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978;

H.R. 9418. An act to amend the conditions for schools receiving capitation grants under section 770 of such Act, and for other purposes; and

H.J. Res. 662. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 31 minutes a.m.), under its previous order, the House adjourned until Monday, December 12, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2805. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions, to authorize U.S. Marshals to serve warrants under the act, and for other purposes; to the Committee on Agriculture.

2806. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–106, to provide additional compensation for the Chairman of the District of Columbia Board of Elections and Ethics, and for other purposes, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2807. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–110, to order the closing the a north-south public alley in square 2558, bounded by Champlain Street, 18th Street, California Street, Kalorama Road, and Florida Avenue, NW., pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2808. A letter from the Chairman, National Market Advisory Board, transmitting a report on next steps to be taken to facilitate the establishment of a National Market System, pursuant to section 11A(d) of the Securities Exchange Act of 1934, as amended; to the Committee on Interstate and Foreign Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California (for himself, Mr. Bonker, Ms. Chisholm, Mr. Del Clawson, Mr. Dellums, Mr. Downey, Mr. Edgar, Mr. Eilberg, Mr. Flowers, Mr. Gore, Mr. Guyer, Mr. Harrington, Mr. Miller of California, Mr. Mineta, Mrs. Pettis, Mr. Preyer, Mr. Pursell, Mrs. Schroeder, Mr. Thone, Mr. Traxler, and Mr. Walgren):

H.R. 10281. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mrs. Collins of Illinois, Mr. Frey, Mr. Oberstar, Mr. Richmond, and Mr. Vento):

H.R. 10282. A bill to establish a comprehensive program of long-term care services for aged individuals, and to provide for the creation of community long-term care centers and State long-term care agencies as part of a new administrative structure for the organization and delivery of such services; jointly; to the Committees on Agriculture, Education and Labor, Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

By Mr. ROYBAL (for himself and Mr. PATTISON of New York):

H.R. 10283. A bill to provide for payment by the United States for certain medical services and treatment provided to U.S. citizens and permanent residents suffering from physical injuries attributable to the atomic bomb explosions on Hiroshima and Nagasaki, Japan, in August 1945; to the Committee on the Judiciary.

By Mr. GILMAN:

H. Con. Res. 440. Concurrent resolution urging a continuing Presidential commitment to improving Federal regulation making; to the Committee on Government Operations.

By Mr. PEPPER:

H. Con. Res. 441. Concurrent resolution providing for the printing of the report "New Perspectives in Health Care for Older Americans; to the Committee on House Administration.

H. Res. 932. Resolution providing for the printing of the report "Mandatory Retirement: The Social and Human Cost of Enforced Idleness"; to the Committee on House Administration.

H. Res. 933. Resolution providing for the printing of the report "Senior Transportation: Ticket to Dignity"; to the Committee on House Administration.

H. Res. 934. Resolution providing for the printing of the Committee Print "Federal Responsibility to the Elderly"; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BONKER introduced a bill (H.R. 10284) for the relief of Chitra Schlotterbeck; which was referred to the Committee on the Judiciary.

SENATE—*Thursday, December 8, 1977*

The Senate met at 1 p.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

The PRESIDING OFFICER. In the absence of the Chaplain, we will have a minute of silent prayer.

[Pause.]

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 8, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. NUNN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Wednesday, December 7, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

THE B-1 BOMBER

Mr. BAKER. Mr. President, an article that appeared in this morning's edition of the New York Times concerning the President's decision to terminate the B–1 development program reflects the concerns that many of my colleagues on both sides of the aisle in this Chamber and in the House share.

Considering only the traditional strategic doctrine of the United States, the President's decision on the B–1 was, at best, in my view ill advised. The strategic defense of the United States has for two decades depended for its credibility on the triad of strategic bombers, submarine-launched ballistic missiles (SLBM's), and intercontinental ballistic missiles (ICBM's). Unless the effectiveness of each force is credible, the strategic posture of the United States is severely threatened and it was only the credibility of the triad concept and its components that allowed us to accept the unequal limitations imposed by SALT I.

The B–1 bomber, to replace the aging and obsolescent B–52's, was designed to maintain that credibility. That consideration alone should have been sufficient to justify the President's continuation of the program in my opinion. But there is another consideration potentially more important, and that is the President's reliance on the development of air launched cruise missiles as the justification for the termination of the B–1.

Notwithstanding the criticisms of the cruise missile program contained in the New York Times article, I believe the cruise missile concept to be an important and valuable breakthrough in the defensive systems of the United States. However accurate the description of the inherent limitations of that cruise missible program contained in the Times article may be, the Carter administration is also in the process of developing artificial limitation, I believe, in the SALT II negotiations that make even less sense, considering the B–1 decision. If the reports are accurate, and I believe they are, the Carter administration is willing to impose limits on the range of the cruise missiles and our development of alternative delivery systems.

In my mind the combination of the decision on the B–1 program and the apparent intent to negotiate severe limits on the program touted as justification for that decision raises severe and significant questions concerning this administration's will and determination to maintain an unchallengeable strategic defensive posture.

The New York Times article, referencing this year's edition of "Jane's," further underscores this concern; and I ask Mr. President, that it be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 8, 1977]

JANE'S EDITOR SAYS B–1 DECISION MAY DOOM THE WEST

LONDON, December 7.—President Carter's decision to scrap the B–1 strategic bomber may help bring about a Western defeat if a general nuclear war breaks out, according to the editor of "Jane's All the World's Aircraft" in a preface to the 1977–78 edition.

The editor, John W. R. Taylor, writes in the authoritative annual that rejection of the bomber, which Mr. Carter considered too costly, may endanger the military balance that has prevented war between the two major powers for a generation. The new 900-page edition, is being published tomorrow by Jane's Yearbooks of London.

The Soviet leaders "must be surprised beyond belief that the U.S. President has disposed of the B–1 without asking any Soviet concession in return," Mr. Taylor wrote. "If our planet is subjected one day to the unimaginable horrors of a third world war, 1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown."

President Carter decided earlier this year to cancel the B–1 program, after four test planes had been built. He said that the United States armed forces should rely on the older B–52 bomber and the new cruise missile. The Senate then voted to cut off funds for new B–1's, but the House voted yesterday to appropriate money for two more test planes. The Senate must now vote again on the issue.

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Only one military leader in history, Adolf Hitler, has put his confidence in such a weapon, wrote Mr. Taylor, who is a world aviation authority. And that device, the V–1 missile that was known as the "buzz bomb," caused Britain little difficulty in World War II, he said. Mr. Taylor suggested that Mr. Carter's unilateral action probably was the reason the Soviet Union did not stage its usual display of air power at celebrations in October marking the 60th anniversary of the Russian revolution.

Mr. Taylor said that perhaps only West Europeans, living within range of two powerful Soviet aircraft, the Tupolev bomber, known in the West as the Backfire, and the Sukhoi Su-19 attack plane, felt strongly apprehensive when their own aircraft were ranged alongside the Soviet arsenal. That force includes about 1,400 intercontinental ballistic missiles, 600 intermediate- and medium-range missiles, 950 submarine-launched missiles and 200 older long-range bombers, "each capable of annihilating a city in a second of time," he wrote.

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The editor warned that the United States also was delaying replacement of its interceptors and other aircraft, while the Soviet Union had given its squadrons a 500 percent increase in both radius of action and weapon load within a decade. "At the same time," he said, "the amount of advance warning of an impending attack that NATO units can expect, even on the basis of highly efficient monitoring, has diminished from an estimated 30 days to four or five days."

Mr. BAKER. Mr. President, I have no further need for my time under the standing order, and I yield it back.

REPORT OF THE COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—PM 134

Under authority of the order of December 7, 1977, the Secretary of the Senate, on December 8, 1977, received the following message fom the President of the United States, which, with the accompanying report, was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended June 30, 1976 and the transition quarter ended September 30, 1976. This Report covers events prior to the beginning of my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *December 8, 1977.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under authority of the order of December 7, 1977, the Secretary of the Senate, on December 8, 1977, received a message from the House of Representatives, which announced that the Speaker had signed the following enrolled bills and joint resolution:

S. 305. An act to amend the Securities Exchange Act of 1934 to make it lawful for an issuer of securities registered pursuant to section 12 of such act or an issuer required to file reports pursuant to section 15(d) of such act to make certain payments to foreign officials and other foreign persons, to require such issuers to maintain accurate records, and for other purposes.

H.R. 3722. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978.

H.R. 9418. An act to amend the conditions for schools receiving capitation grants under section 770 of such act, and for other purposes.

H.J. Res. 662. A joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. METCALF).

Under authority of the order of December 7, 1977, the Secretary of the Senate, on December 8, 1977, received a message from the House of Representatives:

The message announced that the House has passed the bill (S. 1340) to authorize appropriations to the Energy Research and Development Administration for energy research, development, demonstration, and related programs in accordance with section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 3313. An act for the relief of Mark Charles Mieir and Liane Maria Mieir.

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency.

H.R. 9378. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. NUNN).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 8, 1977, he presented to the President of the United States the enrolled bill (S. 305) to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such act or an issuer required to file reports pursuant to section 15(d) of such act to make certain payments to foreign officials and other foreign persons, to require such issuers to maintain accurate records, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BUMPERS:

S. 2351. A bill to name the new Veterans' Administration Hospital in Little Rock, Ark., the John L. McClellan Hospital; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS:

S. 2351. A bill to name the new Veterans' Administration Hospital in Little Rock, Ark., the John L. McClellan Hospital; to the Committee on Veterans' Affairs.

JOHN L. M'CLELLAN HOSPITAL

Mr. BUMPERS. Mr. President, I am introducing today a bill to name a new Veterans' Administration Hospital to be constructed in Little Rock, Ark., after my late distinguished senior colleague, John L. McClellan.

Mr. President, one of John McClellan's lifelong interests was the provision of adequate health care for our citizens. Much of his time and energy in the last few years was spent in an effort to make this dream a reality by securing the construction in Little Rock of a modern replacement veterans hospital. This hospital, to be located adjacent to the University of Arkansas Medical Center, would replace older facilities operated for many years on Roosevelt Road.

The right to decent and competent health care is perhaps the first of all human rights, and Senator McClellan labored tirelessly and effectively to make that right a reality for veterans and their dependents in Arkansas. Largely through his efforts, funds have been appropriated for the construction of the new hospital, and the Veterans' Administration and the State government are cooperating actively in the planning process that must precede construction.

This project was dear to Senator McClellan's heart for another reason. As a veteran himself, he was always mindful of Lincoln's injunction that the United States has an obligation "to care for him who shall have borne the battle, and for his widow, and for his orphan." There could be no finer memorial to Senator McClellan than the attachment of his name to this fine new facility when it is completed and dedicated. I urge my colleagues to pass the bill expeditiously, in the hope that it will be promptly acted on by the House and the President.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans Administration replacement hospital to be constructed adjacent to the University of Arkansas Medical Center in Little Rock, Arkansas, for which funds have heretofore been appropriated by the Congress, is hereby designated as the "John L. McClellan Hospital." Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the John L. McClellan Hospital.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under authority of the order of December 7, 1977, the following reports of committees were received on December 8, 1977:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with amendments, and with a preamble:

H.J. Res. 386. A joint resolution to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789 (Rept. No. 95-611).

ADDITIONAL STATEMENTS

A TRIBUTE TO SCOTTY

Mr. PACKWOOD. Mr. President, it is with sadness I join with my colleagues in paying tribute to one of our finest friends, Arthur E. Scott, better known as simply Scotty to most of us. His death is our loss. Scotty was a photographer for the Senate Republicans for 20 years, and I am sure there are few among us who do not have pictures he has taken on our office walls.

But Scotty did not limit his photography or his work to the U.S. Senate. In all, he spent more than 40 years in Washington as a political photographer on Capitol Hill chronicling the rise and fall of many administrations and the surge of bright young lawmakers who constantly flow into the Nation's Capital. When anything important happened, Scotty was there by our sides with a click of the shutter recording the moment for posterity.

He began his own career with the old Washington Times and was first assigned to Capitol Hill in 1935. He also worked for the old International News Service before it was merged with United Press International. He also served as Senate photo historian, was a past president of the White House Press Photographers Association, a regional director of the National Press Photographers organization, and a member of the Royal Photographic Society of Great Britain.

His talent was great, his awards and honors many, and our appreciation for this man, his work, and his friendship will go with us through history.

IN MEMORY OF DR. LAURENCE WOODWORTH

Mr. NELSON. Mr. President, yesterday the Nation suffered the immeasurable loss of one of its most respected and talented public servants, Dr. Laurence N. Woodworth, Assistant Secretary of the Treasury for Tax Policy. Throughout his illustrious career exceeding 30 years of service to this Nation, Larry Woodworth truly epitomized the selfless and dedicated civil servant. As a member of the Finance Committee, I had the privilege of working closely with Larry on many occasions and often relied on his expert counsel and guidance to decipher even the most complex tax legislation.

We are all deeply saddened by his sudden and tragic death. I join my colleagues in expressing our profound sorrow and extending our sympathy to Larry's wife, Margaret, and their family.

TOKAMAK FUSION TEST REACTOR

Mr. CASE. Mr. President, for many years I have been a strong supporter of this Nation's fusion energy program.

Fusion energy offers the extraordinary promise of being both a major source of new energy and a safe and environmentally sound source of new energy.

Last year's report by the House Appropriations Committee noted that the principal fuel for fusion energy is seawater and, in theory, the fusion of deuterium nuclei in a gallon of water could produce the energy equivalent of 300 gallons of gasoline. The report said:

> The controlled fusion process has certain unique characteristics which make it extremely attractive from the safety and environmental points of view. Thus, controlled thermonuclear fusion could well be a key answer to mankind's long-range energy problems.

Since 1951, the Princeton University Plasma Physics Laboratory, with support from ERDA and now the Department of Energy, has been pursuing the goal of sustained production of fusion energy.

The Department of Energy and the Plasma Physics Laboratory have joined Ebasco Services, the Grumman Aerospace Corp., the Lawrence Berkeley/Lawrence Livermore Laboratories, and Giffels Associates to construct a device known as the Tokamak fusion test reactor which will be the first magnetic fusion system in the country to produce significant quantities of energy.

While we in the Senate were working on the energy bill late in October, groundbreaking ceremonies were being held for the Tokamak fusion test reactor at Princeton, N.J.

In a statement in connection with those groundbreaking ceremonies, President Carter said:

> Our hope for the future rests largely on the continued availability of energy. Fusion is the last energy source available and presents the highest challenge for this nation's capability to put science to work for the benefit of all mankind. We must move ahead dramatically in fusion research during the next few years to gain the insights we need to make wise choices among our few long-term energy options.

Mr. President, at this time I want to extend my congratulations to all the men and women involved in the important work going on at the Princeton Laboratory and especially to Dr. Melvin Gottlieb, the current director of the laboratory, and Dr. Lyman Spitzer, the first director of the laboratory.

I ask unanimous consent that the text of the President's message for the ground-breaking ceremonies, the text of a speech given by Dr. Robert D. Thorne, Acting Assistant Secretary of Energy Technology for DOE, and the text of my own message to those at the ceremony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., October 27, 1977.

I extend my best wishes to all those attending the groundbreaking ceremony for the Tokamak Fusion Test Reactor.

The initiation of this project is symbolic of our growing success in the development of fusion energy. It has the scientific objective of producing, for the first time in history, significant quantities of controlled thermonuclear energy.

Achievement of fusion power will have a profound effect on all nations. Our hopes for the future rest largely on the continued availability of energy. Fusion is the last energy source available and presents the highest challenge for this nation's capability to put science to work for the benefit of all mankind.

We must move ahead dramatically in fusion research during the next few years to gain the insights we need to make wise choices among our few long-term energy options.

Fusion development is a national objective that will require the best of our academic, industrial and laboratory talent. It is also a world objective, and sustained cooperation among all nations in fusion research is more important than ever. In this respect, I also welcome the opportunity to congratulate our European friends—many of whom are present on this occasion—on agreeing this week to proceed with the Joint European Torus, a complementary facility to the Princeton test reactor. The United States looks forward to working in close partnership with other nations in an endeavor that is so crucial for all of us.

May the spirit of cooperation that is so much in evidence on this occasion characterize our on-going achievements in fusion energy development.

JIMMY CARTER.

SPEECH BY ROBERT D. THORNE

Governor Byrne, President Bowen, Dr. Spitzer, Dr. Gottlieb, ladies and gentlemen.

It is a particular pleasure for me, personally to have an opportunity to participate with you in this historic groundbreaking, not only because it represents a significant milestone on the way toward a major scientific and practical objective, but also because, in a very special way, it reaffirms and gives evidence to a long-held belief of mine about the place of science and technology in our lives, the life of our Nation, and, most importantly, in all our futures.

I think it is time that all of the citizens of our Nation finally recognize that we live in a scientific and technological world. Our national life has been dominated for many years by what are clearly scientific and technological crises, crusades and inventions. The energy crisis is technological as are many of the discrete threats to the environment.

Our new drive toward infinite energy technologies—as typified by this fusion effort—is, like the space program a decade ago, a scientific and technological crusade. And if we need evidence of domination by technological invention, we need look no further than either television or the electronic computer revolution of the past 25 years or so, to see how a single technological development can permeate and deeply change almost every aspect of our lives. So we are a scientific and technological society, whether we like it or not. And the problem is that some people don't like it.

There are too many people who see only the ills and problems caused by the imperfections or abuses of our present technology. They see the pollution of the environment as purely a product of technology rather than of a historic cultural pattern of neglect or a childlike faith in the infinite renewability of the environment. They see what they perceive as an unhealthy life style and an erosion of what they call basic human values as an outgrowth of our scientific and technological society. Indeed, they lay most of the ills of the world at the feet of science and technology. In other words, they see only the negative aspects.

I think it's time for a change in attitude toward science and technology. I think it's time that we began to recognize not only the incredible bounty of benefits that have accrued to us from our past scientific and technological efforts, but also the immense hope for the future that our current and future efforts promise. We need to recognize that science and technology are tools for use for good or evil. As tools, they are capable of being abused or misused and then they will produce problems. But when they are used properly, with discretion, wisdom and a sense of proportion, they can produce great good for all mankind. They can produce almost limitless hope for a future beyond our fondest expectations. And that hope, I believe, would be justified, for history already has demonstrated how science and technology have repeatedly exceeded early hopeful predictions for the future. Thus the dominant theme in our attitude toward science and technology should be, not a negative anticipation of new and greater problems nor a bemoaning of technology-related difficulties, but a positive emotion of great hope—hope for solutions to our problems, hope for unimagined benefits, hope for a better life for all mankind. And I can think of no better example than the promise of fusion.

Fusion, in fact, is one of the few energy technologies we have, in which the general public perception is dominated by a sense of hope, untainted by fears of new problems or ills flowing from it. It is no exaggeration to say that the entire world awaits hopefully for the successful completion and operation of this project. Our National Energy Plan recognizes that our hopes for the long-term beyond the year 2000 rest largely on renewable and inexhaustible sources of energy. The Plan is based on the principle that the use of such inexhaustible sources will be vigorously expanded, while on the shorter term we conserve our diminishing supplies of conventional fuels and bring more mature energy technologies into the marketplace. Thus we have to make it clear to our public that fusion represents a long-term hope, and is not immediately around the corner.

This is another typical characteristic of science and technology. It takes time, dedication, resources and talent to come to fruition. And that's another concept that is sometimes difficult to understand for certain segments of the public. I am reminded of a quotation from an unknown 17th Century historian who wrote in part:

"It is strange that we are not able to inculcate into the minds of many men, the necessity of that distinction of my Lord Bacon, that there ought to be Experiments of Light, as well as Fruit. It is their usual words, What solid good will come from thence? But they are to know that in so large and so various an Art of Experiments, there are many degrees of usefulness: Some may serve for real and plain benefit, without much delight; some for teaching without apparent profit; some for light now, and for use thereafter; some only for ornament and curiosity. If they will persist in condemning all experiments, except those which bring them immediate gain and a present harvest, they may as well cavil at the Providence of God, that He has not made all the seasons of the year to be times of mowing, reaping and vintage."

One might be tempted to speculate that this unknown writer back in the 17th Century had some vision of what we are about today. We have been on this road to fusion—this hopeful road—for some 26 years or more. It was back in 1951 that Dr. Lyman Spitzer pioneered the research in the physics of fusion plasmas, and founded the Princeton Plasma Physics Laboratory. In 1961, still 16 years ago, Dr. Melvin Gottlieb took up the reins as director of this laboratory and helped guide it toward its present pre-eminent position as the world's largest fusion research laboratory and a recognized leader in its field.

During these past 26 years, we have been working at a deliberate pace, carefully uncovering the fundamental principles of fusion plasma physics. One might say that these have been experiments "for light now and for use thereafter," to quote my 17th Century friend.

I am aware that there are many in the fusion community who believe that we now have reached a new plateau, that we are preparing to go beyond pure experiments of "light and teaching without apparent profit", that recent advances in plasma heating and confinement have virtually assured us of a future season of "mowing, reaping and vintage." I hope so! If that is the case, then it gives even greater significance to our TFTR experiments, because they will constitute the first definitive demonstration of the basis for our hope.

Such a demonstration, such an achievement, however, should not be taken as a signal for us to relax our efforts, to slow down, to feel that we have made it over the hump. On the contrary, it should be a signal for renewed effort, renewed urgency, for renewed dedication to our goal. That goal will not be an easy one to achieve. It will take all of the intellect, resources, patience—and luck—that we can muster.

And even in that distant future when we have finally achieved our current goals, our work will still not be done. That too is typical of this business of science and technology.

I remember in my own life an earlier time of great and untroubled hope for another technology. We called it atomic energy then. I began working in atomic energy back in 1952. We all were so full of hope then. This was the time of Atoms for Peace, of a hundred or a thousand benefits from this new young technology and source of energy. Atomic energy was to be the bountiful and unblemished cornucopia for the world of the future.

Today, 25 years hence, we have realized many of the goals and objectives of our research program then. We have gained many of the hoped-for benefits of atomic energy that we perceived then and quite a few that we never even suspected. But 25 years also have brought with them some sophistication, a new perspective, an understanding that some of the goals we hoped for then are not really very practical, a realization that some of the other goals are going to be far more difficult to achieve than we first expected, and also finally, a comprehension that there are few unmixed blessings in science and technology, that there are costs and penalties and problems remaining to be solved. That is the sobering and maturing aspect of scientific and technological effort.

I do not, by this, wish to imply that I see all kinds of problems and difficulties emerging from the successful achievement of practical fusion. I don't. But I would not be surprised if there are not a few unsuspected problems ahead in our work on fusion. It would be unusual if there were not.

My point is, however, that if and when these problems do emerge, we should not be dismayed; we should not be discouraged; we should not lose our faith or our hope. Rather we should know that this is the way of science and technology. It comes with the territory. But problems can be solved. Solutions can be found. There is always new hope over the horizon.

To me, this is the true significance of this joyous occasion. Again, as pioneers of the past always have been, at the beginning of a venture, we are filled with great hopes, and that is the source of our joy and our buoyancy of spirit. Although the practical fruits of our fusion project still remain years ahead of us, we are today tasting that sweet and never-ending spiritual fruit of all science and technology—a virtually limitless hope for the future.

Thank you.

Message From Senator Case

I deeply regret that I am unable to be with you today for the groundbreaking ceremony for the TFTR experimental complex.

As you may have guessed, the reason that I am unable to be with you is that the Senate is currently considering the energy tax bill. The appropriate focus of this legislation, which is part of the administration's national energy plan, is on the period between the present and 1985. Actions are urgently needed during that time to adjust the patterns of U.S. energy supply and demand to avoid world conflicts over scarce oil supplies.

But the critical need for action to deal with our short-term problems should not be allowed to obscure the equally great need to deal now with the energy needs of this country beyond 1985. Unless we act now it will be too late to develop the extremely promising energy resources we will need in the future.

It is for this reason that I have, for many years, been a strong supporter of this Nation's fusion energy research program. The ceremony you are holding today marks a very important milestone and I very much would like to be with you to observe the occasion. Please be assured of my best wishes for continued success in the future. Certainly you can be sure of my continued support for efforts to make fusion energy, with all of its promise, a reality in the shortest possible time.

TRIBUTE TO AMBASSADOR DAVID K. E. BRUCE

Mr. PELL. Mr. President, it was with a profound sense of personal loss that I heard of David Bruce's death. I admired him greatly as a man of tremendous intellect, dedication, and practicality. I also had a deep affection for him personally as a warm and engaging human being whose thoughtfulness and consideration of others knew no bounds.

When I was a young diplomat in our Foreign Service, David Bruce was my model as the quintessential diplomat and public servant. This career as a public servant, both in diplomacy and, early on, in politics had a real effect on my own career decisions. At one time or another he held all of our most important diplomatic posts, and I cannot imagine anyone who better epitomizes the qualities of the truly professional practitioner of diplomacy. A true gentleman and Renaissance man, David Bruce brought immense cultivation, insight and tact to each of his important assignments.

David Bruce was an adviser to many Presidents and participated in shaping some of the most important events in our history. His wise counsel, steadiness of judgment and charm will be sorely missed by all of us who have had the privilege to call him our friend and mentor.

Mr. President, I ask unanimous consent that editorial tributes to Ambassador Bruce by the New York Times and Washington Post be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 7, 1977]

David Bruce, American and European

David Kirkpatrick Este Bruce was proof that American foreign policy could be bipartisan and that the amateur—selected for ability, not campaign contributions—could equal the professional in diplomacy. A lifelong Democrat, he served as ambassador for six Presidents, three of them Republicans. President Eisenhower appointed him Ambassador to Bonn despite his campaign contribution and much-sought advice in 1956 to the Democratic Party. His political affiliation was never concealed; his Republican appointments, which he did not seek, were resigned before Presidential campaigns. But in international affairs, he saw only a continuum of national interest in the American search for a peaceful world.

The son of a lawyer and Pulitzer-Prize biographer who became a United States Senator, David Bruce himself had been a lawyer, author, twice-elected state legislator, banker, soldier, gentleman farmer, wine connoisseur, World War II O.S.S. spymaster and Marshall Plan administrator when President Truman named him Ambassador to France in 1949. Before he finished his ambassadorial functions more than a quarter-century later, he had served in Bonn, London, Peking and at NATO headquarters in Brussels, a record unique in variety and duration as well as distinction. He served Dean Acheson as Under Secretary of State and, in Peking, headed America's first liaison mission to Communist China. Yet his most important task was one of his earliest and one in which he—and the United States—failed. Theodore White called it "Ambassador to a Dream"—the dream of a United States of Europe. Together with Jean Monnet in France, John J. McCloy in Bonn and Dwight Eisenhower, Mr. Bruce sought to catalyze the political union of Western Europe. The instrument was the abortive European Defense Community treaty. Six nations signed, but France, after a four-year debate, refused to ratify despite Mr. Bruce's vigorous efforts as special American representative.

Military and political union remain on West Europe's future agenda, but what has been achieved as a result of that effort in the early 1950's is an economic community of nine nations, known as the Common Market. It has helped to keep the democratic way vitally alive in Europe. In the history of our era, his service to the European idea will always qualify David Bruce not only as a distinguished American but as an eminent European.

[From the Washington Post, Dec. 7, 1977]

David Kirkpatrick Este Bruce

"Each honest calling, each walk of life," James Bryant Conant once wrote, "has its own elite, its own aristocracy, based on excellence of performance." In the calling of diplomacy, David Bruce, who died Monday morning at the age of 79, was very nearly the embodiment of that aristocracy. He was, as Trollope said of Plantagenet Palliser, "a perfect gentleman." That is to say that he was, in the strict dictionary sense, "a man of good breeding, education and manners . . . civilized . . . sensitive . . . a man of independent income who does not work for a living." But that's only to begin with; it doesn't really describe the man, and still less his extraordinary career of public service. It is true that David Bruce did not need to work for a living. And so, while he was from time to time a lawyer, a tobacco farmer, a banker and a business broker with electric interests (sugar plantations, race tracks, newspapers, parachute-manufacture, oil and a project for de-nicotinizing cigarettes), he worked almost all of his life for his country.

It began the day he left Princeton in 1917 as a sophomore at 19 to enlist as a private in the U.S. Army in World War I, and it ended last year when he resigned from his post as American ambassador to the North Atlantic Treaty Organization—at the age of 78. And in between? There is no way to convey a sense of David Bruce's service in those intervening years without at least some brief résumé: Chief of the Office of Strategic Services in Europe in World War II, Assistant Secretary of Commerce, administrator of the Marshall Plan for France, ambassador to France, Undersecretary of State, ambassador to West Germany, ambassador to Great Britain, and the head of the first U.S. liaison office in Peking in 1973. And that's not complete: It doesn't for example, take into account elective office: Mr. Bruce was a member at different times during his career of both the Maryland and Virginia House of Delegates.

The defeats and disappointments can be dealt with quickly—the triumphs take longer. There was the unrewarding 16-month tour as the U.S. representative to the Vietnam peace talks in Paris, beginning in 1970, when there was not much disposition on either side to compromise. And there was the shattering of a cherished dream when the French refused to ratify the European Defense Community for which he had labored hard as the American "observer" on an interim committee set up to advance this critical move toward European unity. For such unity as the Europeans have achieved, however, David Bruce deserves large credit. "It was Bruce who first singled out the Schuman Plan—the first realization of European unity—as a vital new idea, and mobilized American diplomacy to support it," wrote Theodore H. White in 1954.

As for the other triumphs, they were mostly quiet and difficult to measure, for they took the form of nothing more spectacular than the consistently effective, professional practice of diplomacy. David Bruce was not an ideologue. He was more often the engineer than the inventor of policy—he made things work. "Diplomacy is the management of international relations by negotiation," he once said. "It is not a system of moral philosophy." For him, the key to it was "the application of intelligence and tact," which he possessed in abundance. Most who knew him would add uncommon charm, intellectual curiosity, cultivation, consideration, patience—and toughness of mind.

In "A Thousand Days," Arthur M. Schlesinger Jr. speaks of the "great confidence" that President Kennedy had in David Bruce's "steadiness of judgment." That's what it came down to, with six Presidents of both parties, over a span of more than 30 years. And that is why his country is so heavily in his debt.

RETIREMENT OF MAJ. GEN. RUPERT H. BURRIS

Mr. BAKER. Mr. President, I ask unanimous consent that a statement by the Senator from Arizona (Mr. Goldwater) relating to the retirement of Maj. Gen. Rupert H. Burris, be printed in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Senator Goldwater

A few weeks ago, it was my privilege and honor to participate by telephone in a ceremony held by the Harry S. Truman Chapter of the Air Force Association in Kansas City, Missouri. The occasion was a retirement dinner for Major General Rupert H. Burris, one of this nation's most skilled communications experts.

Before his retirement, General Burris commanded the Air Force Communication Service with headquarters at Richards-Gebaur Air Force Base in Missouri. The AFCS mission includes engineering, installing, operating, and maintaining communications-electronics-meteorological facilities for all Air Force commands. AFCS is also responsible for operating long-haul intercontinental and local base communications, air traffic control, and navigational aid facilities and services for the Air Force and selected government and civilian agencies.

The first non-rated officer ever to head an Air Force major command, General Burris was born in Whelen Springs, Ark., on Sept. 24, 1925. He graduated from high school in 1943 in El Dorado, Ark. He received a bachelor of arts degree in business administration from Jackson College, Honolulu, Hawaii, 1958. He attended Squadron Officers School at Maxwell Air Force Base, Ala., in December 1950; the Armed Forces Staff College, Norfolk, Va., in August 1963; and Air War College, Maxwell Air Force Base, Ala., in August 1966.

During World War II, he enlisted in the U.S. Army Air Forces in October 1943. He served as a B–17 aircraft armorer/gunner in the European Theater of Operations and completed 30 combat missions over Germany and France. He was discharged from the Army in December 1946.

General Burris enlisted in the U.S. Air Force in March 1947 and served as an administrative clerk until July 1948 when he entered officer candidate school at Lackland Air Force Base, Tex., where he received his commission as second lieutenant in December 1948. He was then sent to Keesler Air Force Base, Miss., where he completed the Aircraft Warning Officers Course in June 1950.

In December 1950, General Burris was assigned to the aircraft control and warning squadron at McGhee Tyson Airport, Tenn., that had responsibility for protecting Oak Ridge.

After attending Squadron Officers School he served with the 1st Radar Calibration Squadron at Griffis Air Force Base, N.Y., from June 1952 to December 1954, where he helped the Air Force modify radar calibration procedures into what is now known as radar evaluation.

In December 1954, General Burris went overseas to Headquarters Far East Air Forces at Tokyo, Japan, where he served as a ground electronics officer. He was transferred to Headquarters Pacific Air Forces in Hawaii, in December 1956, as Chief, Aircraft Control and Warning Branch, in the Electronic Systems Division.

He returned to the mainland in December 1958 and served first as senior evaluation officer and later as Chief of the Radar Evaluation Branch, in the Communications-Electronics Directorate at Headquarters Air Defense Command, Ent Air Force Base, Colo.

Following Armed Forces Staff College, General Burris was transferred to Headquarters European-African-Middle Eastern Communications Area, Wiesbaden, Germany, in February 1964. There he served successively as Chief, Aircraft Control and Warning Division; Director of Electronics; Director of Communications Systems Management; and Deputy Chief of Staff for Electronics.

General Burris was transferred to the Republic of Vietnam in August 1967 as Director of Communications-Electronics for the U.S. Air Force Advisory Group, Military Assistance Command Vietnam (MACV). He joined Headquarters Pacific Communications Area at Hickman Air Force Base, Hawaii, as Deputy Chief of Staff for Electronics in August 1968 and later as Deputy Chief of Staff Plans and Programs. In January 1971 he became Director of Communications-Electronics for the Aerospace Defense Command at Ent Air Force Base, Colo.

He became commander of AFCS' Southern Communications Area, Oklahoma City Air Force Station, Okla., in April 1972, and assumed command of the Northern Communications Area, Griffiss Air Force Base, N.Y., in July 1974. He became AFCS Vice Commander on July 1, 1975, and Commander on August 25, 1975.

His military decorations and awards include the Legion of Merit with cluster; Bronze Star Medal; Meritorious Service Medal; Air Medal with four Oak Leaf Clusters; Air Force Commendation Medal with two Oak Leaf Clusters; Air Force Outstanding Unit Award Ribbon; Army Good Conduct Medal; Vietnamese Honor Medal, First Class; Republic of Vietnam Cross of Gallantry with Palm; and the Republic of China Meritorious Service Medal, Class A, Second Degree.

General Burris is married to the former Julia Jo Hastings of El Dorado, Ark. Their son, John Charles, was killed in action in Vietnam. They have two daughters, Mrs. Julie Shank and Mrs. Clarice Long.

He was promoted to the grade of major general effective February 6, 1976, with date of rank June 5, 1973.

CONGRESSIONAL ACTION ON PROPOSALS FOR OLDER AMERICANS

Mr. CHURCH. Mr. President, the 1st session of the 95th Congress has produced important and potentially far-reaching legislative actions for aged and aging Americans.

Several of these measures, I am pleased to say, have been advanced by members of the Committee on Aging, including:

Raising the mandatory retirement age to 70.

The Domenici amendment to provide a $75 tax credit to provide relief from rising energy costs for low- and moderate-income elderly households.

Authorization for the Civil Aeronautics Board to grant reduced air fares on a space-available basis for older Americans.

Expansion of the volunteer income tax assistance program to provide tax counseling assistance to an additional 240,000 taxpayers, including 100,000 older persons.

Protection for disaster victims from having their supplemental security income payments either reduced or terminated.

Major expansion of the title IX senior community service employment program.

Allowing persons 65 or older the option of claiming for taxable year 1976 the former retirement income credit or the new elderly credit, whichever is greater.

The Committee on Aging staff recently prepared a summary describing these proposals and other developments affecting older Americans in greater detail.

Mr. President, I ask unanimous consent that this legislative summary be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL ACTIONS ON SENATE COMMITTEE ON AGING PROPOSALS FOR OLDER AMERICANS

EMPLOYMENT

Committee on Aging Action	*Status*
1. Senator Church wrote Secretary of Labor F. Ray Marshall on February 4, urging a $150 million funding level for the Older American Community Service Employment program for fiscal 1977 and $200 million for fiscal 1978. (The Title IX program had a $55.9 million funding level, effective from July 1, 1976, to June 30, 1977. This amount was scheduled to rise to $90.6 million on July 1, 1977.)	The Economic Stimulus Appropriations Act (Public Law 95–29) provides $150 million (available from July 1, 1977 to June 30, 1978) for the Older American Community Service Employment program. Public Law 95–29 would increase the number of jobs for older workers (age 55 or older) from 15,000 to 37,400. The Fiscal 1978 Labor-HEW Appropriations Act (conference agreement on H.R. 7555 provides $190.4 million (available from July 1, 1978 to June 30, 1979) for the Older American Community Service Employment program. This funding level would support 47,500 jobs for older workers.
2. S. 481 (Domenici and Church)—removes the age-65 ceiling for application of the Age Discrimination in Employment Act.	The Subcommittee on Labor of the Human Resources Committee held hearings on July 26 and 27 on legislation to amend the Age Discrimination in Employment Act. Senators Church and Domenici testified.
3. S. 1784 (Church Cosponsorship with Senator Williams)—(a) raises the upper age limit of the Age Discrimination in Employment Act from 65 to 70 in three stages, (b) authorizes a study by the Secretary of Labor to determine the feasibility or raising the age limit above 70, and (c) prohibits employee benefit plans from mandatorily retiring workers prior to the upper age limit of the Age Discrimination in Employment Act.	The Senate passed the Age Discrimination in Employment Act Amendments of 1977 (H.R. 5383) on October 19. The Senate-passed bill would (a) raise the upper age limit of the Age Discrimination in Employment Act from 65 to 70 (effective January 1979), (b) authorize a study by the Secretary of Labor to determine the feasibility of raising the age limit above 70, and (c) prohibit employee benefits plans from mandatorily retiring workers prior to the upper age limit of the Age Discrimination in Employment Act.
4. S. 2058 (Church)—extends the notice of intent to sue requirement from 180 days to 22 months for most cases under the Age Discrimination in Employment Act.	Provision incorporated in Senate-passed version of the Age Discrimination in Employment Amendments of 1977 (H.R. 5383).
5. Domenici Amendment to H.R. 5383 (Age Discrimination in Employment Act Amendments of 1977)—places a two-year limitation on the period during which the statute of limitations is tolled while the Department of Labor is engaging in conciliation activities under the Age Discrimination in Employment Act.	Senate adopted amendment on October 19.

ENERGY

Committee on Aging Action	*Status*
1. Senator Muskie chaired hearings before the Government Operations Committee on hardships suffered by low-income individuals as a result of abnormally high heating bills from the winter of 1976–1977. Senator Muskie also advanced an amendment to provide $200 million for emergency payment of fuel bills for the low income, elderly, and handicapped.	Amendment included in the Fiscal 1977 Supplemental Appropriations Act which became law (Public Law 95–26) on May 4. Senator Muskie was also successful in winning Senate approval of a $200 million funding level to help low-income families in energy emergencies, as a part of H.R. 9375 (the Fiscal 1978 Supplemental Appropriations Act).
2. Amendment (Domenici, Church, Chiles, Brooke, and DeConcini) to Energy Production and Conservation Tax Incentive Act (H.R. 5263)—provides a $75 refundable tax credit to households headed by persons 65 or older and having an adjusted gross income up to $7,500. The credit is reduced by 1.5 percent of the amount by which the adjusted gross income exceeds $7,500, resulting in a full phase-out at $12,500. The credit is available for taxable years 1978–85, and will provide older Americans with about $1 billion in annual tax relief to help defray rising energy costs.	The Senate adopted the amendment by a vote of 88–2 on October 27.
3. Amendment (Church, Domenici, Chiles, DeConcini, and Brooke) to National Energy and Conservation Policy Act (S. 2057)—provides (a) the new Department of Energy (DOE) weatherization program for low-income persons should have the same eligibility guidelines, (125 percent of poverty) and material cost limits ($800) as the current Community Services Administration (CSA) program; (b) the CSA will have some input into shaping the new DOE program; (c) Title IX Older American Community Service employees may participate in Federal weatherization efforts; (d) an annual evaluation of Federal weatherization programs shall be submitted to the Congress; and (e) a $25 million authorization to weatherize public housing projects, including Section 202 projects, facing financial difficulty because of high energy costs.	The Senate passed S. 2057 on September 9. Conferees adopted all the Committee on Aging amendments.

Congressional Actions on Senate Committee on Aging Proposals for Older Americans—Continued

HEALTH

Committee on Aging Action	*Status*
1. Chiles Amendment to Fiscal 1977 Supplemental Appropriations Act (H.R. 4877)—provides $2 million for the Center for Studies of Mental Health of the Aging to support research concerning mental health diseases of the elderly.	Senate Appropriations Committee adopted the Chiles Amendment. President Carter signed the Fiscal 1977 Supplemental Appropriations Act, including the Chiles Amendment, into law (Public Law 95-26) on May 4.
2. Muskie Amendment to H.R. 4975—extends the Committee on Mental Health and Illness of the Elderly to September 30, 1977. The purpose is to enable the Committee to share its recommendations with the recently established Presidential Commission on Mental Health.	Included in Public Law 95-83.
3. Church Amendment to H.R. 4975—(a) authorizes $8 million for the home health expansion and development demonstration grant program and (b) authorizes $4 million to train professional and paraprofessional personnel.	Included in Public Law 95-83.
4. S. 708 (cosponsored by Senators Church and DeConcini)—to authorize Medicare reimbursement for physician extenders and nurse practitioners in rural health clinics. Senator Church testified in favor of S. 708 before Finance Committee.	S. 708 was incorporated in H.R. 422 (aircraft engine duties), which the Senate passed on September 16. Similar measure, H.R. 8422, passed the House on October 17. House and Senate conferees have reached agreement on H.R. 8422.
5. Senators Church and Domenici submitted a summary of evidence relating to kickbacks among Medicaid providers at joint hearings conducted by the House Ways and Means Committee and the House Interstate and Foreign Commerce Committee in March 1977. Senators Church and Domenici recommended that Medicaid fraud be elevated from a misdemeanor to a felony.	The Medicare-Medicaid Anti-Fraud and Abuse Amendment to H.R. 31 classifies most fraudulent acts under Medicare and Medicaid as felonies. President Carter signed H.R. 3 into law (Public Law 95-142) on October 25.
6. Senators Church and Domenici also suggested Federal funding to help the States establish investigative units to identify Medicaid fraud and prosecute lawbreakers.	Public Law 95-142 authorizes 90 percent Federal Funding to assist states is establishing fraud investigative units.
7. The Senate Committee on Aging and the House Ways and Means Committee conducted home health hearings in March which focused on problems relating to the choice of Medicare intermediaries. The common practice was for the provider to choose an intermediary from a list submitted by HEW. If dissatisfied a provider could change intermediaries simply by giving notice to HEW. As a result, many intermediaries have been reticent to question providers or to conduct vigorous audits for fear of losing accounts.	Public Law 95-142 authorizes the Secretary of HEW to assign and reassign fiscal intermediaries. The Secretary is also authorized to designate regional intermediaries or national intermediaries with respect to a class of providers.
8. Hearings by the Senate Committee on Aging and an audit by the General Accounting Office revealed that some nursing homes required family members to offer a donation or to supplement Medicaid payments in order to have their relatives admitted to a nursing home. Representative Pepper made reference to the work of the Senate Committee on Aging when he succeeded in adding an amendment to H.R. 3 to prohibit this practice.	The amendment was accepted in conference and became part of Public Law 95-142.

NURSING HOMES

Committee on Aging Action	*Status*
1. On August 31, 1976, Senator Moss released a General Accounting Office audit which pointed to shortcomings in Federal regulations with respect to the $25 monthly personal needs allowance for patients in Medicaid institutions. GAO examined nursing homes in five States and found abuses of patient funds in each State. Senators Church and Domenici transmitted the GAO audit in March 1977 to the Ways and Means Committee, the Interstate and Foreign Commerce Committee, and the Senate Finance Committee.	Senator Moss introduced a bill (S. 1572) in the last Congress to protect patient funds, requiring that full records and vouchers be kept. S. 1572 also prohibited the comingling of funds. The Senate Finance Committee added a provision to the Medicare-Medicaid Anti-Fraud and Abuse Amendments to require Medicare and Medicaid facilities to maintain a system to assure proper accounting of patient funds. This measure was incorporated in Public Law 95-142.

NUTRITION

Committee on Aging Action	*Status*
1. S. 1272 (National Food Stamp Reform Act for the Elderly (Church and Melcher)—(a) eliminates the purchase requirement for food stamp recipients, (b) permits Supplemental Security Income and Social Security beneficiaries to apply for and be certified for food stamps at a local Social Security office, and (c) authorizes certification on an annual basis for SSI and Social Security beneficiaries.	Similar provisions included in S. 275 (Food and Agricultural Act of 1977). President Carter signed S. 275 into law (Public Law 95-113) on September 29.

OLDER AMERICANS ACT

Committee on Aging Action	*Status*
1. Senators Church and Domenici wrote the Secretary of Health, Education, and Welfare on June 7 to emphasize that Congress intended the Title V multipurpose senior centers program to permit funding for limited expansion of senior centers.	The Department of HEW approved final regulations on June 24, permiting Title V funds to be used for limited expansion of senior centers.
2. H.R. 7555 (Fiscal 1978 Labor-HEW Appropriations Act)—includes $508.75 million for the Older Americans Act; Area planning and social services, $153 million; model projects, $15 million; administration, $19 million; training, $17 million; research, $8.5 million; gerontology centers, $3.8 million; senior centers, $40 million; nutrition, $250 million; National Information and Resource Clearing House, $2 million; and Federal Council on the Aging, $450,000. Senators Chiles, DeConcini, and Brooke are members of the Appropriations Committee. The Senate Committee on Aging staff worked closely with the Appropriations Committee staff to provide information to justify funding for the Older Americans Act.	The House and Senate approved H.J. Res. 662 on December 7 to continue funding for Labor-HEW programs through fiscal 1978. Programs under the Older Americans Act would be continued at the conference agreement levels for H.R. 7555 (Fiscal 1978 Labor-HEW Appropriations Act).

CONGRESSIONAL ACTIONS ON SENATE COMMITTEE ON AGING PROPOSALS FOR OLDER AMERICANS—Continued

SENATE REORGANIZATION

Committee on Aging Action	*Status*
1. Amendment (Church, Brooke, Chiles, DeConcini, Domenici, Melcher, Muskie, Percy, and 43 other Senators) to S. Res. 4—continues the Committee on Aging as a permanent committee.	Senate adopted amendment on February 1 by a vote of 90 to 4.

SOCIAL SECURITY

Committee on Aging Action	*Status*
1. Amendment (Church, Domenici, Chiles, Melcher, DeConcini, Brooke, and Percy) to Social Security Financing Amendments of 1977 (H.R. 9346)—authorizes Social Security cost-of-living adjustments—in January and July—provided the consumer price index increases by at least 4 percent semi-annually from February to August (for the January adjustment) and from February to August (for the July adjustment).	The Senate adopted the amendment on November 4 by a vote of 50 to 21.
2. Church Amendment to Social Security Financing Amendments of 1977 (H.R. 9346)—repeals the earnings limitation for beneficiaries aged 70 or older, effective in 1982.	The Senate adopted the amendment on November 4 by a vote of 59 to 28.
3. Chiles Amendment to Social Security Financing Amendments of 1977 (H.R. 9346)—eliminates the monthly aspect of the retirement test for Social Security beneficiaries.	The Senate adopted the amendment on November 4.
4. DeConcini Amendment to Social Security Financing Amendments of 1977 (H.R. 9346)—(a) allows blind persons to qualify for disability benefits if they have six quarters of coverage and (b) removes the earnings limitations for blind persons.	The Senate adopted the amendment on November 4.

SUPPLEMENTAL SECURITY INCOME

Committee on Aging Action	*Status*
1. S. 1915 (Church)—(a) exempts disaster assistance as a countable resource for nine months after SSI beneficiaries receive these payments because of a Presidentially-declared disaster (the Secretary of HEW would have authority to provide an extension of time for good cause), (b) excludes as countable income any interest earned on disaster compensation payments for nine months (the Secretary would have authority to provide an extension for good cause), (c) makes permanent a measure to exempt disaster assistance from being included as countable income for SSI purposes, and (d) makes permanent the authority to allow SSI recipients to continue to receive their full benefits for 18 months if they are forced to move into the household of another because of a Presidentially declared disaster.	The Senate adopted S. 1915 as an amendment to H.R. 3387 on October 17. House agreed to Church Amendment on October 25. President Carter approved this legislation (Public Law 95-171) on November 12.

TAXATION

Committee on Aging Action	*Status*
1. Amendment (Church, Domenici, Chiles, Glenn, Melcher, DeConcini, Brooke, and Percy) to Tax Reduction and Simplification Act (H.R. 3477)—gives persons 65 or older the option of claiming for taxable year 1976 the former retirement income credit or the new elderly credit, whichever is greater. Nearly 165,000 older taxpayers will receive refunds, averaging about $182, under this amendment.	Senate approved the amendment by 97 to 1 on April 26. The amendment became law (Public Law 95-30) on May 23.
2. Church-Chiles amendment to Fiscal 1978 Treasury-Postal Service Appropriations Act (H.R. 7552)—increases funding from $500,000 to $800,000 for the Volunteer Income Tax Assistance program. This measure would provide tax counseling assistance to an additional 240,000 taxpayers, including 100,000 older persons.	Passed the Senate on June 20. The amendment became law (Public Law 95-81) on July 31.

TRANSPORTATION

Committee on Aging Action	*Status*
1. S. 459 (Church and Melcher)—authorizes reduced airline fares on a space-available basis for individuals (a) 21 years of age or younger or (b) 65 years of age or older.	The House passed (February 22) H.R. 27, which would permit the Civil Aeronautics Board to approve reduced air fares on a standby basis for persons who are (a) 60 years or older and retired, (b) 65 years or older, or (c) handicapped. The House later incorporated this measure in H.R. 6010. House and Senate conferees agreed to this provision. The Senate (on October 28) and the House (on November 2) agreed to the conference report on H.R. 6010. President Carter signed H.R. 6010 into law (Public Law 95-163) on November 9.

WORLD ASSEMBLY ON AGING

Committee on Aging Action	*Status*
1. S. Res. 238 (Church, Chiles, Brooke, DeConcini, Percy and Glenn)—requests the President to instruct the United States delegation to the United Nations to work with delegations of other nations to call for a World Assembly on Aging and a World Year on Aging not later than 1982.	The Senate passed S. Res. 238 on October 5. The House of Representatives passed a companion resolution (H. Res. 736) on October 31.

IN DEFENSE OF IDENTITY CARDS

Mr. PACKWOOD. Mr. President, last year, at my urging, the Select Committee on Small Business performed a field study and held hearings on possible legislation to bar illegal aliens, or as they are sometimes called, "undocumented workers," from taking American jobs. On September 29 this year, I placed the results of that study and hearings in the RECORD.

One of the study's major conclusions—and one that I incorporated in my proposed Alien Employment Act, S. 993, is that we develop an identity-checking system that gives every U.S. employer a concrete method to establish the identity of any job applicant. In short, we must have a foolproof "right-to-employment" card, such as the social security card, to be shown at the time of employment.

The creation of a national identity card has raised vital questions whether this is an intolerable infringement on our civil liberties or an outright assault on the American right to privacy. In defense, I argue that it is neither. As William F. Buckley recently pointed out in the Washington Star, the abuse is not in the card, but in the uses to which it is put. I recommend a reading of Mr. Buckley's defense to my colleagues and I ask that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 1, 1977]

IN DEFENSE OF IDENTITY CARDS

(By William F. Buckley, Jr.)

I am associated, in one of my lives, with what the professionals call a "little magazine." It is a journal of conservative thought and opinion, a small chapel filled with jeweled objects on which the season's light refract through stained glass windows wonderfully, variously, inexhaustibly, illuminating the truths we live and die for. The tabletkeepers of that magazine received an afflatus recently, causing us to come out in favor of a national identity card, and we woke the next day to find ourselves surrounded by the faithful, hurling objects at us, charging that we had profaned the very foundations of our church. It is un-American to have an I.D.

That is, in my judgment, a venture in ideological mystification. What is un-American is the invasion of privacy. The documentation of individual Americans is not in itself a violation of privacy. What is done with that documentation is what matters.

Before we had a federal social security act, we did not need federal social security numbers. It would be chaotic to attempt to do without social security numbers; and, so far as one can judge, Americans nowadays accept not only social security, but social security numbers; and there has been no abuse. Before the age of passports, there were no passport numbers; but there is no rational resentment of passports nowadays, if it is conceded that the identification of the individual is important.

Which brings us to the critical question. Much having been written on the problem of immigration, the subject of an identity card arises. It appears that there is available a technology for the manufacture of an identity card that is virtually proof against forgery. By definition, anything produced by craft can be reproduced by craft: so that although it is unsafe to say that the contemplated identity card will be absolute proof of the identity of its holder, experts assure us it would take the resources of a superpower to duplicate it.

What have we got, if we have an identity card? A means not of damming the tide of immigrants coming in over the Mexican border (primarily); but a means of greatly reducing their number. The population problem in Mexico is as severe as anywhere in the world. I was a student in Mexico when the population of the country was 22 million. The woman was born in 1975 (I quote a Mexican authority) who will become the mother of the 100-millionth living Mexican.

The barometric differences in the economy of the American sunbelt, and of the north country of Mexico, is of the kind that causes tidal waves. If it is true that there are already seven or more million illegals in the United States today, then they are already inundating us: but the floods lie ahead.

An identity card is not the solution, it is merely one device to aid in the regulation of one problem. The presumptive philosophical objections to it ought to be analyzed. If we believe that a country has the right to regulate citizenship by a rhythm suitable to its own priorities, then it follows that a country has the right to seek the means of distinguishing between those people within its frontiers who are citizens, and those who are not.

An identity card is, of course, the kind of thing one associates with totalitarian regimes like Russia's and China's, and despotic regimes like South Africa's used for the purpose of doing things no state should ever be permitted to do. But that is a contamination not of the card, but of the uses to which it is put.

This distinction—as we move cautiously into the question of what to do about the illegals—we ought to keep clearly in mind. It would have the effect of causing the armies beleaguering our little magazine to pack up, and go home.

JUSTICE FRANK ROWE KENISON RETIRES WITH "THE RESPECT OF THE ENTIRE JUDICIARY"

Mr. McINTYRE. Mr. President, on November 2, 1977, Frank Rowe Kenison retired as chief justice of the New Hampshire Supreme Court, thus closing a 25-year career of judicial leadership marked by dedication and outstanding service to the State of New Hampshire, to the United States of America, and to justice. I would like to take this opportunity to share with my colleagues the inspiration of this fine man's life and to offer a personal tribute to him.

Frank Kenison, born and brought up in a small town in his native State, has devoted his entire life to the cause of law and justice in New Hampshire. After admission to the New Hampshire bar in 1932, he joined his father's law practice, but was soon elected to the office of county solicitor. In 1937, he became the State assistant attorney general and continued his rising career in public law with two terms as New Hampshire's attorney general from 1940 to 1942 and again in 1945 and 1946, serving in our country's Armed Forces in the interim. In 1946, Justice Kenison was named to the New Hampshire Supreme Court, the leadership of which he assumed in 1952.

During his distinguished tenure on the supreme court, he made substantial progress toward improving the State legal system, bringing it to the fore among the courts of this Nation. As a firm believer in the crucial importance of the judiciary within the framework of our democratic system of government, he strove, always, to apply the principle of the law with a fair and even hand.

A hallmark of the Kenison court, one from which all of us might take good counsel, was the clear and concise language of the chief justice. He believes that the ordinary citizen ought to be able to read and understand the decisions of the judiciary. This conviction is a direct extension of the judge's down-to-earth personality, once demonstrated by his acceptance, as a young lawyer, of a moose head for payment of a legal fee.

Chief Justice Kenison always maintained a strict standard of judicial responsibility, one which has kept the court removed from the tangles of politics and contributed greatly to respect for the integrity of its decisions.

The accomplishments of this man are too numerous and varied for individual citation. But prominent among his many achievements was consolidation and unification of the body of New Hampshire law and its administration.

Although Chief Justice Kenison no longer will participate in the decisions of the New Hampshire Supreme Court, his legacy of considered, able, and nonpartisan judicature will continue to influence and instruct the American, as well as the New Hampshire, judiciary process.

I was delighted to learn that Judge Kenison now plans to teach at the Franklin Pierce Law Center in Concord, N.H., for this new role will extend his remarkable and wholly positive impact upon the practice of law and the judicial process.

The late U.S. Chief Justice Earl Warren once said of Frank Rowe Kenison:

> He is one of the small galaxy of Supreme Court Justices who are spending their summers and all of their unoccupied time with trying to teach methods and means for advancing the cause of justice—and he has the respect of the entire judiciary of this entire nation.

Mr. President, as I salute the character and the career accomplishments of this most excellent of men, I ask unanimous consent to have printed in the RECORD a sampling of the press tributes that appeared in New Hampshire publications at the time of his retirement.

Specifically these are: an editorial that appeared in the Concord Monitor of October 29, a front page article by Cynthia Kyle in the October 31 issue of the Concord Monitor, and the pertinent passage of an editorial in The Valley News November 1.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Concord (N.H.) Monitor, Oct. 29, 1977]

JUSTICE KENISON'S TENURE EXPIRES

Chief Justice Frank R. Kenison of the New Hampshire Supreme Court reaches the mandatory retirement age of 70 on Tuesday. He leaves the state's highest tribunal a legacy of fairness, integrity and compassion that it will have to struggle to maintain.

Justice Kenison is a compact man with an easy smile and a perpetual twinkle in his eye. His friendly demeanor masks an intellectual toughness and determination that have guided the Court to the zenith of national respect.

He was named to the Court 31 years ago and has presided over it as chief justice for the past 26 years. His departure marks the end of an era and the begining of an uncertain one for the Supreme Court. The naming of his successor is locked in political turmoil.

Though it's doubtful he would acknowledge it, that must disturb him. For if one thing has characterized the Supreme Court under Justice Kenison's leadership, it has been the absence of political considerations and the anticeptic independence of the state's judiciary from influence by the executive or legislative branches.

He thus has become known, not only in New Hampshire, but throughout the nation, as the giant of New Hampshire's judiciary. Twice he was suggested for appointment to the U.S. Supreme Court. But because those appointments are made with a finger in the political wind, he never was nominated. New Hampshire is simply too small.

Justice Kenison came to Concord in 1937 from his home town of Conway where he practiced law briefly with his father and became the Carroll County solicitor.

He was named as an assistant attorney general—the only one—and three years later was appointed attorney general, at $4,000 a year.

Despite serving as chief justice longer than anyone else in the state's history, he never lost his folksy touch. One of his pet peeves always has been the stiff formality of legal language. Thus his opinions have been sprinkled with "street talk" that any citizen could understand.

He also has been noted for finding imaginative ways of dispensing justice within the framework of bad law. He has sought to sustain principles rather than adhering slavishly to the letter of an ill-conceived statute.

He has been a defender of the rights of the individual caught in the web of a burgeoning government. And we know first-hand he has been an activist in promoting the need for the public better to understand the judicial system.

Justice Kenison has fought quietly—for that is his way—for the unification of the court system over which he has exercised administrative control. He has sought to do away with local court "fiefdoms" to the end that all of the state's courts will be unified "so the left hand of one knows what the right hand of the other is doing," as he once said.

Progress has been significant, but slow. The recommendations of a $200,000 court system study even now are being put into practice, but it will be up to the legislature to finish the job.

His national stature is attested by the fact he has been given five honorary degrees; he was on the faculty of the Appellate Judges' Seminar at New York University Law School for 13 years and has taught at the University of Chicago Law School and at Boston University Law School, from which he graduated in 1932.

Has also has, or had, his share of idiosyncracies. He considers fiddle head greens—the tops of young ferns—a gourmet's delight. And he used to smoke Havana cigars, until they became unavailable, to the distress of his wife Loretta, who used to boot him out of the house when he lighted up.

Said a neighbor who witnessed this episode: "He looked like the engine of a Concord-Claremont railroad train, walking down the street."

The New Hampshire judiciary is losing its leader and the state is losing the services of a man who has brought us honor, pride and a toehold on integrity we hope never will be dislodged.

[From the Concord (N.H.) Monitor, Oct. 31, 1977]

Chief Justice Retires

(By Cynthia Kyle)

Frank Rowe Kenison is 70 years old today. He is celebrating by retiring as chief justice of the N.H. Supreme Court.

Kenison will change his daily routine from ruling on laws to advising and teaching about his progressive opinions which have been praised for cutting clearly and concisely to the heart of legal disputes.

"Protecting the public from unconstitutional government action is one of the judicial system's noblest functions," says Kenison who has taken much of that responsibility during the past 31 years.

Top state officials from both political parties, as well as the state's congressional delegation, twice tried unsuccessfully, in 1969 and 1970, to persuade then-President Richard Nixon to nominate Kenison to a U.S. Supreme Court seat.

Former U.S. Supreme Court Justice Earl Warren called Kenison "one of the small galaxy of Supreme Court justices who are spending their summers and all of their unoccupied time with trying to teach methods and means for advancing the cause of justice."

The key, Kenison says, is not to let personal opinion get in the way of the law. You shouldn't give any consideration to whether the decision will be popular or unpopular. You've got to keep yourself out of it."

"The law has to move," says Kenison, who shies from calling himself a strict constitutionalist, but admits that the more than 200-year-old document is his first reference for cases.

"The law can't stay static forever."

The son of an Ossipee Superior Court clerk who practiced law, Kenison originally aspired to the pulpit, not the bench. By the time he entered Brewster Academy, a legal interest had replaced the religious one.

From there he graduated to Dartmouth College in Hanover and Boston University Law School. His climb up the legal ladder started at the bottom: he went from Carroll County Solicitor in 1935 to assistant attorney general in 1937 and attorney general in 1940.

The Conway native who once accepted a moose head in lieu of a fee has come a long way to the carpeted halls and plush offices of the state's highest court.

During that time, he says an increasing number of citizens have sought the courts for protection from a burgeoning government and predicts that trend will continue.

"Government is getting so big and so bureaucratic. We have to have a break somewhere," he says.

The courts are also facing disputes once settled without their intervention.

"So many cases today get into the courts that never got there before. I think citizens today are more concerned about their rights I think they're getting that redress."

[From the Valley News, Nov. 1, 1977]

Frank R. Kenison

Frank R. Kenison was born Nov. 1, 1907. That makes him 70 years old today, the mandatory retirement age for state Supreme Court justices in New Hampshire.

His retirement as chief justice has been effective since Saturday, the end of one era and the uncertain beginning of a new era for the Supreme Court.

It is ironic that one of the chief hallmarks of the Kenison court, its sturdy independence and freedom from political pressure, should be one of its qualities first threatened at his retirement.

Mr. Chief Justice Kenison, a 1929 Dartmouth graduate, received his law degree from Boston University and practiced in his home town of Conway. He served as Carroll County solicitor, state assistant attorney general and attorney general before his appointment as associate justice in 1946. He had been chief justice since April 29, 1952.

In the past quarter century, he has brought the court closer to the average person by encouraging plain talk and less "legalese" in judicial decisions, by promoting public understanding of the judicial system and by upholding broad legal principles rather than niggling technicalities.

"Legalistic prose, if pursued to its logical extreme, is an invitation of the devil. We get our thoughts frozen into cramped confined cabins," he once commented.

Among other things, he will be known for the way he elevated the stature of the state Supreme Court to national prominence, for the unification of the court system, and for his studied indifference to political influences even while ruling on volatile, partisan legislation.

Associate Justice John W. King of the New Hampshire Superior Court, while governor, wrote in the Boston University Law Review dedicated to Chief Justice Kenison:

"The tone of the judicial-legislative-executive relations in New Hampshire has in great part been molded by Judge Kenison. He has taken a strong position in matters of importance to the judicial branch while disassociating himself from the issues and squabbles and arguments inevitably involved in partisan legislative proposals. The result has been a respectful isolation of the judiciary from partisan politics, and a bipartisan support for matters advocated by the Chief Justice."

TOKAMAK FUSION TEST CENTER

Mr. CASE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from New Jersey (Mr. WILLIAMS) relating to the recent groundbreaking for the Tokamak Fusion Test Reactor, together with an attachment thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Senator Williams

My warmest congratulations are extended to the men and women of the Princeton Plasma Physics Laboratory on the recent groundbreaking for the Tokamak Fusion Test Reactor. The experimental effort in fusion energy is of utmost importance to the Nation and, indeed, the world. Successful demonstration of sustained fusion energy production could dramatically alter our Nation's energy policies, and that is why those of us in Congress who support magnetic fusion development will work to maintain the high priority of this project. My best wishes to Melvin Gottlieb, Director of the Laboratory, to Lyman Spitzer, whose vision initiated the effort. My congratulations also to the subcontractors Grumman Aerospace Corporation, Ebasco Services, Lawrence Berkley/Lawrence Livermore Laboratories, and Giffels Associates.

As President William Bowen of Princeton noted in his remarks at the TFTR groundbreaking, "Without the support of the Congress, and without the foresight of the U.S. Department of Energy, as well as of its predecessor agency, this collaboration of scientists, of the University, government, and industry would not have occurred. This Laboratory is surely a visible testimonial to such interactions." He also noted the gratitude that all of us feel to those "whose basic research in science and mathematics, extending over many decades, prepared the way for work that is now before us . . . that will occupy many very talented people for additional decades, and that may itself take us in directions no one envisions fully now."

As Chairman of the Committee with responsibility for the National Science Foundation, which supports basic research in the sciences, I join with President Bowen in paying tribute to those many scientists here and abroad whose perhaps unheralded discoveries in the past have led to this exciting and important point in energy research and development. Fusion energy holds enormous potential for the future and promises important benefits for all the world. Mr. President, I include the text of President Bowen's remarks.

The attachment ordered to be printed in the RECORD is as follows:

REMARKS AT TFTR GROUNDBREAKING FORRESTAL CENTER

It is a great privilege for me, on behalf of the Trustees of the University, to welcome all of you to the Plasma Physics Laboratory this afternoon. I am delighted that so many representatives from government, the academic community, the national and international scientific communities, and business and labor are able to be here today to celebrate a very proud moment in the history of this laboratory and a significant event in the United States fusion energy research and development program.

In the most immediate sense we are of course gathered to witness the groundbreaking for particular experimental device—the Tokamak Fusion Test Reactor. It is your good fortune—and mine—that I am not called upon to explain to you recent developments in fusion research—or to discuss such equally "easy" subjects as the economics and politics of energy in the world today or the mysteries of the federal legislative process.

Perhaps I can be allowed, however, to suggest that in a larger sense we are here to celebrate something still more important than even this extraordinary device: a continuing confidence, a continuing faith, in what the human mind can achieve if given the opportunity. I can never think of this Laboratory without recalling how all of this began. Local legend has it that our great friend and colleague, Lyman Spitzer, was skiing in Aspen one marvelously bright and sunny day when he made the mental connection between his knowledge of astro-magnetic confinement and the prospects for fusion on earth. It would be enough to make one want to go skiing—indeed to make us want everyone to go skiing—if only the rest of us could claim even a fraction of Lyman's creativity, not to mention his knowledge of astrophysics.

It is in the nature of great ideas that they occur at odd times and that they surprise us. And in participating in this groundbreaking ceremony today, I hope all of us will feel a renewed debt of gratitude to those whose basic research in science and mathematics, extending over many decades, prepared the way for the work that is now before us—that will occupy many very talented people for additional decades, and that may itself take us in directions no one envisions fully now.

A distinguished alumnus of ours in a very different field—Lewis Thomas, President of the Memorial Sloan-Kettering Cancer Center—has made my point much more eloquently than I ever could. In a beautifully written article on the history of medicine, he demonstrates that the most powerful, practically beneficial, tools of modern medicine—antibiotics, for example—were possible only after scientists had devoted decades of work to understanding the underlying mechanisms. Thus, he notes, "Without the long, painstaking research on the tubercle bacillus, we would still be thinking that tuberculosis was due to night air, and we would still be trying to cure it by sunlight."

In a society characterized all too often by an unwillingness to look ahead, a reluctance to take risks, and an impatience, a commitment to immediate "solutions," that sometimes borders on the pathological, it is encouraging to be reminded today that the speculations of a skier can lead to a program of research that offers the hope of some astounding practical possibilities.

I am meant only to greet you—and that means get out of the way for the speakers—so I shall resist the temptation to use this occasion to talk about another important subject: productive interactions among industry, government, and the academy. Without the support of the Congress, and without the foresight of the U.S. Department of Energy, as well as of its predecessor agency, this collaboration of scientists and technicians, of the University, government, and industry, would not have occurred. This Laboratory is, surely, a visible testimonial to such interactions and, as such, speaks for itself. I hope we shall remember its message, and apply it in other areas. There is so much to be accomplished, without as well as within the natural sciences.

To return more specifically to the Plasma Physics Laboratory, we should recognize that managing these collaborations, giving direction to our efforts, is no easy task. We simply would not be here today were it not for the extraordinary talent—and faith—and determination—of the person who has directed this Laboratory since 1961. It is with the strongest sense of parochial pride that I ask you to join me in recognizing the achievements of Dr. Melvin Gottlieb, Professor of Astrophysics and Director of the Plasma Physics Laboratory.

It remains only for me to say again how pleased I am to be with you this afternoon and to have a small part in this ceremony.

ACCIDENTAL HYPOTHERMIA

Mr. CHURCH. Mr. President, Dr. Robert N. Butler, Director of the National Institute on Aging, and Dr. Richard W. Besdinc, assistant physician in medicine, Beth Israel Hospital, Harvard Medical School, held a press conference on December 6 explaining the details of hypothermia and the elderly's susceptibility to the disease. Persons affected by hypothermia have abnormally low body temperature. It affects many older persons when they are exposed to cold winter temperatures. Hypothermia can be fatal.

Doctors Butler's and Besdine's statements are an excellent warning to all of us, but especially to our older citizens. As we prepare to face what appears to be another extremely cold winter, I think their warnings are most timely. I ask unanimous consent that the statement of Dr. Butler be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT N. BUTLER, M.D., DIRECTOR, NATIONAL INSTITUTE ON AGING

Winter and cold weather bring many health hazards, ranging from broken bones to frostbite. But for the elderly, even mild cold can trigger a potentially fatal drop in deep body temperature, known as accidental hypothermia.

In general, we Americans overheat our houses. Many of us would be better off with lower indoor temperatures. However, people have different heat requirements depending on their age and health. The old are particularly vulnerable: indoor temperatures of even 65°F may pose hazards for some older people who have diseases of the veins and arteries or are taking certain types of drugs (phenothiazines, commonly used to treat anxiety, agitation, and nausea), or those whose body temperature regulation is defective.

Accidental hypothermia is not new, but recognition of it is recent. Most health care practitioners are not trained in geriatric medicine and do not recognize the signs and symptoms of diseases and other conditions common in old age.

Not only are most health professionals unaware of the hazard of accidental hypothermia, they do not know that rapid rewarming of an elderly hypothermia victim could lead to death, although a younger person might survive. This lack of special training is complicated by the fact that low-reading clinical thermometers, essential to a correct diagnosis of accidental hypothermia, are not readily available in the United States.

Tragically, the victims of accidental hypothermia are not most often the very old, the poor elderly unable to afford adequate heating, and those whose bodies do not respond to cold normally. Dr. Besdine will describe the signs and symptoms of accidental hypothermia in further detail and explain how to recognize the condition and what to do if it occurs.

Obviously, the best solution to accidental hypothermia is prevention. A national energy plan, which would assure adequate supplies of energy for heat and other purposes in years to come, would be a major step toward protecting persons vulnerable to accidental hypothermia. We must also educate both the public and physicians on what is currently known about accidental hypothermia, for their role in prevention is clear.

We hope research will further our understanding of the causes of accidental hypothermia. This knowledge will help physicians identify susceptible individuals and improve the quality of their care.

DEVELOPMENT ASSISTANCE

Mr. HUMPHREY. Mr. President, the Senate Foreign Assistance Subcommittee, of which I have the privilege of being chairman, intends to undertake a major effort over the next few months to review the role of foreign assistance as an important part of our overall U.S. foreign policy toward developing countries. I have felt for some time that we needed new foreign assistance legislation to replace the Foreign Assistance Act of 1961. I continue to feel this is a necessary undertaking.

The President has initiated a vigorous and thorough review of our foreign assistance efforts, and a number of studies have been commissioned to assist in that review. Most of these efforts have now been virtually completed. However, I am somewhat concerned that some of the steam has gone out of this review and that the recommendations we will get from the executive branch may not fully reflect the breadth and scope I think is necessary to place foreign assistance on a sound footing. In fact, we may get little more than a cleanup act, rather than one which really deals with the changes that have taken place in the world since 1961.

The global changes have been extensive. Some have been dramatic and have had a powerful impact on American life—the oil embargo and the 400-percent increase in oil prices dating from 1973 are the most far-reaching. Other changes have been equally dramatic, but have been spread over time—such as the change from colonial territories to independent status for most developing countries. And we are still feeling our way in dealing with the implications of this vast change. Some 80 of the 114 developing countries are newly independent sovereignties.

We tend to overlook some of the less dramatic, but very significant changes in the developing countries over recent years.

A major improvement has taken place in health. This is reflected in the increase in life expectancy in the developing countries, from an average of 32 years just before World War II, to 49 years in the latter part of the 1960's. There has also been some decline in birth rates in the last 15 years—from 40 to 35 per thousand—although not enough of a drop to curtail the population explosion we are witnessing. Illiteracy has also fallen in developing countries from 44 percent of the adult population in 1950 to 34 percent in 1970.

For all their problems, these countries are far more capable of handling their internal affairs and planning their own development than they were 15 to 20 years ago.

These changes were accompanied by a highly favorable growth in GNP per capita in the developing countries. Their average growth rate was 3.4 percent from 1950 to 1975, faster than either the developing countries or industrialized nations have grown in any comparable period before 1950. This growth rate reached a remarkable 6.6 percent per annum in the first 3 years of the 1970s before oil price increases and the world recession slowed their economic growth.

But this major progress tends to mask very serious problems. The poorest developing countries grew much more slowly than the middle income developing countries. The large, poor countries of South Asia and most of Africa, with a total population of over 1 billion, grew at less than 2 percent on a per capital basis between 1950 and 1975. Even in the middle income developing nations there are large groups of very poor people who have had few, if any, of the benefits of rapid GNP growth. It is this large group that is the special target of our bilateral aid program, primarily as a result of the new directions focus legislated by Congress in 1973. The new directions mandate emphasizes the development needs of the poor primarily on improving food production and nutrition; health and population planning; and manpower training and education. We recognize that programs in these areas are less easy to devise and administer than are capital intensive projects. But the poor majority require special attention because they have been bypassed by much of the growth in developing countries.

We are fortunate that there is a considerable body of recent thought in writing on the subject of development and the appropriate U.S. role. Some of this has been stimulated by the President's review of foreign assistance and the concern of Congress with our growing interdependence with developing countries. I intend to share some of this material with my colleagues in the hope that this will stimulate their thinking prior to Foreign Assistance Subcommittee hearings next year on foreign aid legislation.

There are a large number of issues which must be considered in the process of rationalizing our foreign assistance efforts. At the outset, it is important to understand the problems and prospects of the Third World. Only when we understand something of the totality of our economic relations with the Third World will we be able to see clearly the particular role of foreign assistance, which is only one of many aspects of our overall foreign and economic policy.

This will be the first of a number of such reports to my colleagues on this issue, beginning with the general issues and going on to more specific topics, such as food, population, technology, security assistance, human rights, and arms sales to developing countries.

An excellent overview of U.S. relations with the developing countries was recently published by the Atlantic Council Working Group on the United States and the Developing Countries. The Working Group was chaired by Ambassador Edwin Martin. The first chapter, which deals with U.S. interests in the developing countries, is a very helpful introduction to the subject.

Mr. President, I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE U.S. INTEREST IN DEVELOPING COUNTRIES

WHO ARE THE DEVELOPING COUNTRIES?

The developing countries are 114 sovereign countries, all members of the United Nations and most of its specialized agencies. They are rather closely united in a group called "the 77" from the number of its members when first organized in 1964. The 77 represent around 2 billion people, over 50 percent of the world's population—two-thirds if one includes the People's Republic of China, which although not a formal member of the group usually supports them in U.N. forums. Although demographic forecasting is a hazardous occupation, by the year 2000 the countries now belonging to the 77 will probably represent around 5 billion of the 6.5 billion people then on earth, as their population is growing about three times as fast as that of the developed countries (see figuro 1).

It is true that most GNP measures tend to exaggerate differences in income levels, but they do correlate rather well with such other basic criteria of modernization as literacy and health. In these terms, most of the people in developing countries live in conditions of severe poverty. Preliminary estimates for 1975 for 100 countries, all members of the World Bank, illustrate this fact as well as the diversity in the economic levels attained by developing countries. Despite continuing inflation in dollar terms, twenty-eight countries were still below $200 GNP per capita—including India, Bangladesh, Pakistan, and Indonesia. 1.2 billion people lived in these twenty-eight countries, 60 percent of those of the developing world (excluding China).

Eight of these countries had not even reached $100 GNP per capita: six in Africa south of the Sahara and two in Asia. At the other extreme, the countries with over $1,000 GNP per capita (which used to be considered before inflation and the oil price rises as the really wealthy LDCs) numbered thirty-one in 1975, with thirteen exceeding $2,000 GNP per capita. Most of the latter group were oil exporters. But even in the thirty-one richer countries a substantial portion of the population lived in absolute poverty.

The differences in incomes per capita among countries also translate into major differences in income and welfare levels among regions. In 1973 the per capita income in the Middle East was over five times, and that of Latin America over four times that of Asia. Africa was ahead of Asia by around 40 percent.

The range of population size is even greater going from several tens of thousands to nearly 500 million in India.

With one-country, one-vote rule that prevails in most U.N. agencies, the developing countries can pass any resolution they can agree on by a two-thirds majority or better. And they do agree rather often. By their numbers they thus have the potential to block reform of U.N. voting procedures as well as any attempt that might be launched to replace the United Nations with a new set of global institutions in which their voting power would be substantially weakened.

WHAT ARE THEIR GOALS?

To most newcomers to the task of dealing with developing countries, the salient negotiating problem is not their numbers but their relative unity, especially in international forums, when facing the industrialized world. The forces that unite these 114 countries can best be described in terms of common goals and common problems. Those goals and problems must be understood if responses to the varying proposals being made by the LDCs are to be chosen wisely. Some of the bases for their unity are more profound than others, and the unity is stronger on some issues than on others, but it is nonetheless a remarkable factor on the international scene. The depth of feeling that lies behind this unity was revealed by its persistence despite the strains of the 1973 oil price increase, impoverishing all but a handful of LDCs and making a few OPEC members enormously rich.

In attempting to explore what their goals are, it must be understood that outsiders operate at a handicap in interpreting their beliefs and ambitions and that any brief description of goals must gloss over many differences in emphasis among the countries involved. Nevertheless, the following represents a set of widespread and important beliefs of which we in the developed world must take some account in choosing our policies.

We may take it as a tribute to the developed nations, perhaps unintended, that all developing countries, having achieved their first aim of political independence, as a matter of national policy are committed to "modernization" in a "Western" but nonideological sense. They translate modernization largely into improving their material well-being and enlarging their power, prestige, and the sovereign independence of their nation. Which comes first will vary from country to country and over time, though we are often puzzled by how frequently they give political goals priority despite their poverty. However, the two objectives are generally considered as mutually supportive. Ideologies, both political and economic, tend to be chosen because of their expected contribution to this modernization process rather than for their specific content. Commitment to a larger or smaller public role in the economy, to greater or lesser equality in incomes, and to more or less authoritarian governments, becomes a secondary issue in the face of these two objectives. Hence the relative ease with which governments with sharply different outlooks on issues collaborate in the 77.

WHAT ARE THEIR COMMON PROBLEMS?

Developing country unity has been forged from not only common goals but also common problems. There has been a widespread sharing of colonial rule in the past and, even more importantly, a common belief that their present poverty and national weaknesses, as well as their difficulties in achieving their current goals, are primarily due to the actions and attitudes of the "all-powerful" richer countries.

This is an obvious oversimplification. Poverty and dependence have many causes, with each country afflicted by its package of handicaps, even though some of them are rather widespread. The following presentation must be judged leniently, therefore, as not applicable with precision to any one country but rather a broad-brush picture of an evolving situation.

1. Being located for the most part in tropical or subtropical zones has given the developing nations extremes of rainfall. Where heat and no frost are combined with high humidity, people, animals, and plants are attacked by their enemies with a virulence seldom experienced in temperate zones. It has been suggested, with considerable justification, that we should refer not to the North-South but to the temperate-tropical dialogue.

2. Their cultural heritage is also often a serious handicap to development in the GNP terms by which it is commonly defined. The values and attitudes required to operate a modern industrial society are quite special and specific. Our relative success in the West is the result of a complex process of indoctrination and selection over many generations. The societies of developing countries have their own value systems, of course, often more ancient than ours and often expressed in complicated institutions and patterns of required behavior. But they often stress different virtues than those required to operate a modern industrial society, due largely to the absence of opportunities to benefit from any others. It is the interaction between these local value systems and alien ideas, manners, and outlooks introduced by the pervasive international communication media which have produced the serious cultural conflicts seen in most of the developing countries in pursuit of modernization. These conflicts are at the origin of many of the mistakes and contradictions that we are prone to criticize. They are to be regretted—although we have to be careful about who can cast the first stone—but they are also a sign of change. All change may not be constructive but without it there would be no hope of progress.

3. Most of the developing countries have become active seekers of wealth and power on the world stage only after World War II. For the majority of them, the independence they achieved in the postwar period was a necessary prerequisite for progress. This has meant that they are all trying to make a place for themselves in a world system dominated for centuries by the present industrial countries. This results in handicaps of three basic kinds:

(a) Their military and economic power enabled the developed countries to colonize much of the world and use its resources as they saw fit. Even after most colonies became independent and developed countries were outnumbered by the developing world at both the country and population level, they managed to maintain essential control over global political and economic relationships. Changes have taken place mainly because we chose to make them, not because we were forced to do so. The rise to positions of power of the Communist countries may have weakened our global political position but not our economic one.

We defend the principles of current world economic arrangements against a New International Economic Order on the grounds that the former have worked and stood the test of time. If one could give an Indian landless laborer an idea of how an average family lived in an average developed country, might he not consider that the system had worked better for some than for others, including himself? Or if one were to explain to a Pakistani textile worker the operating principles of the so-called voluntary textile agreement, might he not conclude that its quotas on his country's exports were fixed less in accordance with an international order based on the principles of free market competition than on the basis of interference with the market by a few developed countries to protect the profits and jobs of their textile industries at the expense of their consumers?

Or take the question of migration. During the last century, the developed countries were able to relieve the pressure of a growing population on job opportunities, a pressure far less than that faced today by nearly all developing countries, by emigration to any place in the world, including North and South America, Australia, and New Zealand. Now all of these countries face the overpopulated developing ones with various kinds of barriers to emigration from them. Who will be admitted is usually dictated wholly by the needs of the developed, not the developing countries.

It was our long-standing confidence in our ability to dictate the rules of the game that made the OPEC oil price escalation and then the OPEC embargo such a profound shock to us, with implications going well beyond oil. So far this is a rather isolated breakthrough. In general, whether it is a question of aid or trade or private investment or price structure or immigration or financial arrangements, the developing countries feel with some justification that they remain the recipients of favors within bounds set rather rigidly by the developed countries.

(b) A far more serious handicap than these overt pressures has been the unintended example our existence and success has set for them. Desire for wealth or power or both seems to be almost a universal trait. The consequences for the developing countries have been an almost instinctive desire to copy Western societies, broadly and even in some detail. They are seldom able to put together an accurate picture of what we are or of the path by which we got here. Nevertheless, our visible success in achieving the mutually desired goals makes it mandatory for them to copy us as best they can. The effort to do so has created serious problems for them because our current ways of doing things are often inappropriate to their needs and opportunities. Moreover, our societies clearly cannot be copied as they now exist without enormous distortions. There are necessary sequences by which progress in one area is made possible only by progress in others.

We, of course, share some of the blame for we seldom understood the historical irrelevance to the LDCs of some of our current institutions and practices, though often it was a case of our having nothing else to offer. For example, one of the fundamental aspects of our societies which they have sought to copy has been our capital-intensive, high-technology system for producing and distributing goods and services. Whether they looked at market-oriented or centrally-planned economies the approach was the same. The wealth produced by these means was many times that enjoyed by any society in previous world history. The desire to enjoy similar abundance was irresistible and generated the often described "revolution of rising expectations."

However, there was obviously a serious timing problem. They not unnaturally wanted quickly what we had achieved by centuries of slow accumulation of capital and technology.

To create in a few decades an advanced industrial economy has been enormously difficult, given the poverty which most developing countries suffer. From this situation derives the constant pressure for greater transfers of resources from developed to developing countries by any means in order to supplement domestically generated savings and nationally earned foreign exchange, even if the burden of accumulated debt grows to levels that threaten to become unmanageable. In general, our economists—not our businessmen—were the first to see that developing countries were usually short of capital and had a surplus of labor, while our situation was the reverse. The least costly technology for them—economically and socially—seemed, therefore, to be a labor-intensive one. But developing countries often changed that we did not want them to enjoy the benefits of our high technology and were actually trying to limit their export potential by urging on them outmodel ways of doing things.

While most leaders of developing countries still object to what they regard as second-best answers to their needs, a few have been attracted by the independence that the People's Republic of China has achieved by its stress on small-scale and labor-intensive technology and a high degree of national self-sufficiency. Whether China's cultural background, its large area and population, and its autocratic political system make its approach unique and not easily transferable to other countries, as some of its leaders have been suggested, remains to be tested. In theory, at least, the prognosis for easy copying of the Chinese approach must remain poor, especially in view of increasing evidence that the Chinese themselves are finding it's necessary to modify their policy of full self-sufficiency.

Another example of out-of-phase development is the population explosion which threatens the progress of most of the developing countries as well as everyone's future well-being. Reflecting our humanitarian instincts, the health experts of the developed countries undertook in the postwar period a major and successful attack on several of the more serious endemic diseases. The result of this effort, coupled with modestly rising income levels, was a drastic fall in death rates coming long before economic growth and education had created substantial motivation for the parental planning for the future that is basic to reduced fertility. In the Western world the fall in death rates occurred only in the last half of the nineteenth century, by which time education and income growth had established the necessary conditions for voluntary limitation of family size.

Another example is the effort many have made, mostly unsuccessfully, to copy our democratic forms of government, again with our active encouragement. This has been done despite the slow spread of democracy among Western countries in the centuries since modernization began, and a number of cases of serious backsliding, even in this century. Its successful operation is far from easy. The universal suffrage on which democracy is based was again a phenomenon largely of the latter part of the nineteenth century, when long historical tradition had given the people of most states a strong sense of national loyalty. In addition, primary education was almost universal and the economic situation of the bulk of the population was reasonably satisfactory, or at least constantly improving, under a widely supported economic system, based mainly on private enterprise. Almost nowhere have the developing countries achieved these favorable conditions for the operation of the fairest but most difficult system of government.

To add to their problems of political organization, most developing countries have had to face intense internal and external pressures to choose between capitalist-libertarian and Marxist-authoritarian politico-economic systems. This is a dilemma which the industralized countries did not have to confront in their formative period.

When these factors are all brought into focus, current tendencies to write off developing countries or to disparage aid because of their political or other difficulties, are obviously both unhistorical and unjustified.

(c) Finally, we have taught the world by our example that the symbol and substance of national power lies in military strength. A first fruit of nationhood is an army. Progress in status is often measured by the move from tanks to jet aircraft to guided missiles. Whether we had or have legitimate justification for our enormous expenditures on defense is debatable, although they come out of fat and not out of life itself. But the example is inescapably powerful for others, whether or not they have enemies, external or internal. In fact, the defense budget tends by its weight to create both.

The most conspicuous recent example is the use by several OPEC members of a large part of their increased income from oil exports to add military strength to their economic power though fortunately not at the nuclear level so far. What legitimate national interests, other than a concept of prestige that the West has sanctified, justify such a huge diversion of resources to a nonproductive purpose is hard for a foreigner to perceive.

The result has also been that often the military establishment becomes the first well-trained and well-organized national institution which, coupled with the physical power at its command, makes the military the controlling factor in national political life—whether or not it occupies the formal seat of power.

The military have made useful and often strongly modernizing contributions in many countries, but their profession does not normally equip military officers with the political skills required for responsive as well as efficient government. Moreover, the diversion of scarce resources to purchase their equipment should be regretted, even by those whose exports have benefited so much from it.

HOW MUCH PROGRESS SO FAR?

The nations of the world have been collaborating on the development task for a quarter of a century, yet public confrontation on development issues is sharper now in many respects than in the beginning and most developing countries are still poor and unable to mount an effective attack on their poverty. It is customary in some developed country circles to take as given that the development effort, particularly as promoted by aid transfers, has failed. The developing countries have tended to confirm this negative conclusion by stressing, sometimes stridently and publicly, their lack of success in reducing their poverty.

Is progress as absent as this suggests? There is no simple answer to this question. In the first place, here as in most human endeavors, success must be measured against some standard of achievement. How rapidly the developing countries should have become developed is really the basic issue. What is involved is not a mechanical process of spending so many dollars to raise output by so much. It is in most cases the transformation of a well-rooted society, its institutions, its attitudes, its values, and its human skills.

In this context, it is essential to remember that it has taken the industrialized world four to five centuries, helped by the borrowing of wisdom and experience from the earlier Jewish, Greek, and Roman cultures and of science and technology from the early Chinese and Arab societies, to arrive at the relatively advanced position it occupies in the world of today. In many ways, this heritage was summarized in the Protestant ethical standards formulated in the sixteenth and seventeenth centuries. We should be aware—better than anyone in a developing country could be—of the long struggles, the mistakes and suffering that have produced our present societies. We should also keep in mind that Western civilization has experienced, in our lifetime, the two bloodiest wars in history. The developing countries' not knowing or understanding all this, and our forgetting it, is a major cause of the failure to achieve a common outlook on the present or the future.

On the other hand, the developing countries in their national policies and priorities, and in their individual efforts, have not always been single-minded in their devotion to development. Moreover, they have made mistakes, often against our advice, and have wasted vast resources, some of which we had provided in aid. But if we remember well our own history, we will realize that man is an imperfect animal, that mistakes are a seemingly necessary part of the learning process, including our own as well as theirs with respect to development policies, and that waste, whether on wars or the preparation for wars or simply in conspicuous consumption, still goes on everywhere.

A fair judgment must, therefore, reflect a considerable degree of historical perspective and a willingness to judge others no more harshly than we judge ourselves. But this does not absolve anyone from pressing to improve the effectiveness of the use of resources to meet human needs so long as resources are scarce and so long as so many people must exist deprived of the minimum essentials of life. If we do find the will to continue to help generously with our human and material resources, the progress made in the last twenty-five years by many developing countries would seem to indicate that, despite the difficulties just noted, a truly cooperative effort can achieve worthwhile results in decades rather than in the centuries we needed.

However, it is essential to distinguish *the many* from the rest of the developing countries. The variety of experiences among the 114 countries making up the developing world and the complex of elements that constitute development require that any evaluation of progress give consideration to different measures of development.

The most dramatic success story thus far has undoubtedly been the improvement in health. The evidence is in the great increase in life expectancy, going from a thirty-two-year average in the developing countries just before World War II, to forty-nine years in the last half of the sixties, a rise of over 50 percent. Here, in declining death rates, lies the cause of the population explosion, for birth rates have also been falling but not nearly as rapidly, going from forty to thirty-five per thousand in the last fifteen years.

In the field of education there has also been steady progress in nearly all developing countries. Although much that has been taught in schools has not been as relevant as it should have been to the urgent needs of the developing societies—perhaps partly because it copied too closely our educational system—and women and the rural population have been neglected, a substantial educated class has been created in most countries. The number of people able to read and write has increased greatly, though population growth has prevented an equivalent reduction in the number of illiterates. Nearly everywhere a significant professional group has already been formed, even in countries in which twenty years ago a university graduate was a rarity.

Some 80 of the 114 are newly independent countries. They have organized governments, all of which have already learned to walk and some to run. This is no mean achievement, for the operation of a government is a complicated task, often more complex in a poor country than a rich one, and certainly far more so now than when the United States first began to run its own affairs. Colonial regimes left some helpful institutions and some trained nationals behind, yet both were more often than not ill-suited to perform the tasks of an independent government, committed to development and to playing a role on the world stage. That collapse and chaos have not often occurred is more significant than that many of the new countries are still struggling with bureaucratic inefficiency and corruption. What developed country can claim immunity from these afflictions?

These three factors—health, education, and government leadership—are basic to all else and have thus been dealt with first. Without progress in them, other development goals become almost out of reach. With them, and in a number of cases helped by the possession of valuable natural resources, many developing countries have made great progress in that more easily measurable index of development, GNP growth; in fact enough did so that over the decade of the 1960s, developing countries as a group averaged a 5.5 percent increase per year in GNP in real terms, and in the first three years of the seventies the increase even reached 6.6 percent, substantially better records than the developed world could boast for the same prosperous periods. It represents a remarkable economic achievement.

Nevertheless an outstanding feature of economic change in the developing world since 1960 has also been in unevenness, with the poorest countries, needing growth the most, increasing their GNPs the least. According to the World Bank estimates in the fairly long span of 1960–73, nineteen of the ninety-one developing countries with populations in excess of 1 million people (excluding centrally planned economies, except Yugoslavia) experienced average annual per capita GNP growth of 1 percent or less; nine had absolute declines. As one would expect, none of the nineteen so far possess discovered mineral or oil deposits of importance. At the other end of the income scale, thirty-five countries or nearly 40 percent of the total, have managed to register an average per capita growth rate of over 3 percent per year, ten of them in excess of 5 percent. With population increases ranging from 2 to 3 percent, or even more in a few cases, these are outstanding records. With a population growth rate of only 1.2 percent a year, the U.S. GNP growth rate was 3.1 percent during the same period.

These data underline the important point that not all nations have been helpless before the economic domination or exploitation of the developed world. This is especially reflected in the fact that seven of the ten achieved their outstanding record largely by exports of manufactures to developed countries rather than by the possession of rich mineral resources. In fact, during the sixties exports of manufactures by the developing countries increased at an average rate of 15 per year. As a result, manufactures were 9 percent of their total exports in 1955 and 21 percent in 1973.

The successful 35 countries had an estimated mid-1973 population of 613 million while the lagging 19 counted only 260 million. As might be expected, both the Middle Eastern-North African and Latin American areas are well represented in the successful group—eight and six countries respectively—and less in the second group of relative economic stagnation, one and two respectively. In Asia and Africa south of the Sahara the division of countries is, on the other hand, fairly even.

Particularly significant for future policy is the fact that nineteen of the thirty-five success stories had 1973 per capita incomes of $500 or over and only five had incomes of under $200. On the other hand, of the nineteen states with poor GNP records almost all were under the $200 per capita GNP figures in 1973 (seventeen) and twelve did not even reach $100 per capita that year. Of the nine with negative growth, all but Uruguay and Senegal had per capita GNP in 1975 of less than $150.

Thus over the 1960–73 period the general pattern has been for the middle-income countries to get richer while the poorest countries could improve their GNP per capita only modestly if at all. As a result, the income spread within the developing country group, already wide, has increased greatly in recent years. The joint effort to speed up development everywhere has clearly been vigorous or more successful, or both, in some countries than in others.

The overall success of the LDCs in the 1960–73 period, therefore, must not be permitted to conceal the failure thus far to achieve very much for the 12 percent of the total developing country population who live in these nineteen poorest countries. Clearly we should try harder than in the past to tailor measures to the special economic needs and potentialities of this increasingly disparate group of countries, with special attention to those who are having the greatest difficulty making economic progress. This will become a major point in the discussion of U.S. policy in chapter 3.

Finally a cause for concern, though one not as capable of precise statistical description, has been the persistence of the gap between the rich and poor within nearly all developing countries, regardless of their GNP growth rates. Here too the world community, acting of course through its members, has a challenge which it has not yet met successfully.

The positive results described above have been made possible for the LDCs not only by their own actions but by help from the already industrialized countries. For we have made many positive contributions in addition to the negative effects of our colonial presence cited above. For example:

1. In the postwar period, a substantial volume of financial and technical flow has taken place from developed to developing countries through private and public channels.

In 1973, total public and private transfers from developed to developing countries, net of repayments of principal, were some $33 billion, of which $12.4 was from public funds. Total net transfers from DAC countries added nearly one-fourth to the total export earnings of the developing countries, representing an important increase in their foreign exchange availabilities. For the oil-importing developing countries alone, they were much more significant, adding nearly two-thirds to their export earnings.

DAC transfers also made an important addition to the savings available for investment, especially in the case of the poorer developing countries where savings ratio to GNP necessarily tend to be low. Public bilateral and multilateral net flows were 4 percent of the GNP of the countries with less than $200 per capita incomes in 1973. Savings of these countries average less than 15 percent of their GNP, and public savings are only a portion of this total. Hence the receipt of net public funds from abroad amounting to 4 percent of their GNP is of substantial help to their investment programs. Moreover, the 4 percent figure measures the contribution in purely financial terms, taking no account of the technology and experience transferred with that money. Developed-country aid clearly has played a large and helpful role in providing these poorer countries with the necessary foundation for more substantial progress.

2. The contribution of economic growth in the developed countries to that in developing countries is reflected directly in the growth of the exports of the latter to the former. In the period of unusual prosperity for most of the industrial world from 1960 to 1973, these exports increased nearly fourfold, from $196 billion in 1960 to $750 billion in 1973. Covering the period before the quadrupling of oil prices, only a fraction of this growth can be attributed to price increases. But just as the concessional aid contribution was of greatest importance to the poorer countries, so access to export markets is of particular value to the middle-income states.

For developing countries that do not export oil, export receipts represented $148 per capita for countries in the $500 to $1,000 group but only $15 to the under $300 countries. In 1973 this trade was by far the biggest contribution to developing-country foreign exchange resources, total net receipts as capital or similar transfers amounting to less than half that, $35 billion.

3. Despite the excesses of militarism and the rivalries and bickering among countries that should be cooperating for survival, national loyalties have also had beneficial effects. Given their circumstances, especially those of the countries only achieving independence in the post-World War II period, it has taken and will continue to take large doses of nationalistic fervor to unite populations in a common effort to better their situation through a vigorous development program involving current sacrifices for future gains.

4. The colonial experience, despite many distorting elements and some complete failures in this respect, has given many countries their only trained leadership and a bureaucratic structure without which a national government could not have functioned at the time of its independence. A considerable amount of infrastructure investment was also left behind as well as some productive skills, although usually at rather low levels.

5. Much of the production technology of developed countries has been useful and has saved a great deal of time and effort for the developing countries. Where it would not meet their needs, our scientists, using our analytical procedures and technical equipment, and increasingly supplemented by their own professionals trained in our universities and laboratories, have often been able to produce technology which did.

The novelty of a strong country trying to help a weak one in a relationship which raises enormously complicated economic, social and political issues has required a learning process in which mistakes, as well as successes, have their role to play. Much has been learned, as we have seen, but even in this learning period progress has been far from negligible. In the future we ought to be able to stimulate more development with fewer assistance dollars.

WHY SHOULD THE UNITED STATES HELP?

This is the fundamental question. For all of recorded history up to the past quarter of a century, the usual political relationship between a rich and powerful country and a poor, weak nation was one of domination. This was often accompanied by tribute or, later on, by a colonial connection in which, whatever the balance of economic advantage, undisputed political control was in the hands of the more powerful government.

In the postwar period several factors have contributed to a fundamental change. Without relinquishing significantly their basic position of control, the strong powers have moved on many fronts to help weaker nations become stronger, both politically and economically.

The colonial powers, shaken by World War II and pressed by new forces in their colonies and by anticolonial attitudes in many of the developed countries, were not able to resist the widening demands for political independence. In many cases, it seemed prudent to retire gracefully from the political burdens of governing in order to retain a favorable economic position in the developing countries.

Once the former colonies became independent, long-established cultural and economic ties led public opinion in the former colonial powers to support economic aid and other concessions to the new countries. In addition, there was often a hope that such help could maintain spheres of political and economic influence that would compensate in part for the loss of empire and of global prestige brought by the independence movement. This remains an important though probably diminishing element in policymaking in several of the European countries.

At the same time, the United States and to some extent other rich countries were concerned that the Soviet bloc, and later the People's Republic of China, might take advantage of the poverty, inexperience, and antipathy toward their "capitalist exploiters" of some Third World countries and establish close political ties with them, perhaps even install Marxist governments. In the cold war context of the fifties and sixties, this was seen as a serious problem. It became a major motivation for the benevolent policies of some Western countries toward developing ones.

Although the cold war support for economic favors has not wholly disappeared in the United States and from a long-term standpoint should not do so, it seems to be playing a declining role, reflected in falling amounts of aid in the absence of other justifications that have been persuasive to our political leaders. Partly this may be traced to the spirit of detente, producing less concern about conflicting ideologies, but probably of more importance has been the repeated failure of the USSR or the United States to achieve solid power positions in the developing countries through aid programs. Chastened by the examples of Indonesia and the United Arab Republic, the USSR seems to have recognized the weakness of aid as a tool for this purpose and is concentrating her relatively modest aid effort outside Communist countries on Turkey and Afghanistan. We in the United States also have lost some but not all of our illusions about the ability of our aid programs to influence domestic political ideologies directly and in the short term.

Nevertheless, there remains a deep concern shared by thoughtful people in the developed countries that as long as large blocs of people exist in absolute poverty alongside prospering population groups in their own country or elsewhere, there will be a growing risk of political upheavals that could lead to regimes antagonistic to the societal values to which we in the West attach the most importance. That concern is eminently justified. Such regimes would represent a threat to us regardless of the labels they might give themselves or with what countries they might align themselves.

A related argument for positive policies toward particular developing countries, especially in the United States has been that it is useful to secure influence in settling local disputes, sometimes disputes with important implications for big-power rivalry, such as in the Middle East. Somewhat similar has been the use of aid to try to "buy" favorable attitudes of particular countries on controversial international issues in the United Nations or elsewhere. In neither case has experience so far been encouraging, factors other than short-term economic gains or losses being nearly always more important to decisions affecting national interests than aid flows.

In some cases it may even be counterproductive, for the appearance of changing votes as a result of aid pressures, even when the change is due to the logic of the facts of the case, is sure to produce accusations of sellout from both domestic opponents of the developing government and many of its 77 colleagues, thus making more difficult the very change in position that was sought. Yet the temptation continues, again especially in the United States with adverse effects on the efficiency with which aid is used and hence on public support for aid budgets.

Throughout the postwar period, a growing concern for social welfare and equity in the developed countries has been reflected in greater emphasis on social justice and humanitarian needs in justifying aid appropriations. Undoubtedly improved travel apportunities and more vivid media coverage have also created an awareness of and concern about distant suffering that could never have existed previously. Popular response is most dramatic at times of great natural disasters, such as famines, but it is a permanent factor of varying degrees of importance in most developed countries.

Converting this credible concern for poverty and suffering into more favorable donor policies has often been made difficult by the apparent lack of an equal concern for impoverished groups on the part of the governments of many of the developing countries. They will appear to believe that the fruits of increased productivity will be adequately distributed by the "trickle-down" process. There has been limited though growing pressure from donor countries on the leaders of the developing world to redirect aid programs to help poorer people more directly, whether through rural development, basic education, paramedical free health clinics, special nutrition projects, or the substitution of labor-intensive for capital-intensive technologies in various sectors. Sometimes there have been fewer sound project proposals of this sort presented by developing countries than donors were prepared to finance. This lack of developing country support for domestic policies aimed directly at reducing absolute poverty is reflected also in the emphasis given generally in the North-South dialogue by the 77 to national contrasts in wealth and power between the two groups of countries rather than to individual poverty. We can hardly fault them for this set of attitudes as we were much wealthier than they before we paid very much attention to greater equality in income distribution as a national problem.

What rights can legitimately be expected to flow from our role as aid-giver is a difficult question. However, it cannot be denied that the half-truth that foreign aid "taxes the poor to give to the rich" has substantially hurt the support for foreign aid in the United States. Concern for social justice is the major argument for foreign aid today in only a few smaller European countries but they happen to be those doing the most for developing countries. Such concern could provide a more powerful rationale in the United States if it could be given a more prominent place by all parties to the international development effort.

Looking to the future, and having in mind the United States particularly, the most important justification of our concern with what happens in developing countries lies in the growing importance of global economic interdependence and common policies and actions to deal with a number of problems, both political and economic, which affect all of us. This list is a familiar one, but a few comments on each point may be useful.

1. Industrial countries' exports to developing areas amounted to $21 billion in 1960. By 1973, the figure had more than tripled to $69.5 billion, about one-eighth of their total exports. Price increases over that period accounted for only a modest proportion of that rise. For the United States, the corresponding figures were $7.1 billion of exports in 1960, rising to $20.6 billion in 1973 or to nearly 30 percent of total exports. This represents an important increase for U.S. industry and agriculture in profits and jobs, one that can only go on growing if developing-country economics continue to grow.

There was a similar growth in imports from developing countries so that they were by 1973 a similar percentage of total imports of the industrialized countries, reflecting our need for minerals, fuels, agricultural commodities, and manufactured goods produced in developing countries. Without these imports our consumers would have to pay higher prices for a considerably narrower range of goods. Their value to us is especially critical in the case of certain nonrenewable resources on which both our economy and our security depend. This is not a static situation; quite the contrary. For example, despite our low rate of population growth, the United States is now expected to have 50 million more people in 2000 than there are now.

This factor plus rising incomes will increase substantially our dependence for growth, and perhaps even security, on an expanding flow of raw materials from developing countries. Unless their economies are functioning well and their political situation is reasonably stable and friendly, we cannot count on these supplies.

Related to the trade benefits to us which flow from their economic health is the opportunity they offer to our business and financial community to invest capital and skills to the benefit of millions of stock and bond holders and bank depositors, also taxpayers.

2. The external public debt of eighty-six larger developing countries at the end of 1974, owed to various donor countries and international agencies, was $151 billion, of which nearly one-third was undisbursed. In addition to this, and to a considerable volume of private debt, DAC countries at the end of 1973 had made direct private investments in developing countries of just under $60 billion, rising by some 10 percent a year. Our governments, some of our financial institutions, and some of our people would be poorer if economic conditions or political attitudes were to cause any significant proportion of these debts to be canceled or expected income from them to be withheld.

3. Equally critical for the health of the world financial systems is the handling of the huge external reserves being accumulated by the OPEC members. Effective international monetary arrangements depend increasingly on their cooperation in managing these reserves wisely in the global interest.

4. The environment in which we live—air, land, and water—is threatened by man's actions. Cooperation from developing countries in controlling pollution and other damage to the environment will become more and more important as the years go by. This can only be expected if the developing nations not only perceive the threat in time but also see a future for themselves worth protecting. The pressures of present poverty tend to limit their interest in working sacrifices now to protect the future.

5. As the world scientific community makes further progress, whether in the use of space or the ocean depths, in laser rays or cell fusion, in weather modification or biological warfare, a more effective international system of control will be imperative. This can be based only on the desire of the vast majority of states and people to control the spread and use of such technologies in the interest of a common future. We must share a common interest in that future.

6. Improved technologies of transport and destruction make the whole world more vulnerable to violence from private terrorists with real or imaginary grievances. The difficulties of coping with increasing energy costs and potential petroleum shortages are encouraging the spread of nuclear power plants. Almost inevitably those plants carry with them some potential for the production of nuclear weaponry. Whether nuclear materials are captured by private groups or fall into the hands of irresponsible governments, all mankind is threatened. War of any kind and anywhere is, in fact, a threat to peace for all of us, given present world tensions.

Control of these threats will be difficult at best, but will be possible only if all governments, acting with wide public support, really see it as in their own, as well as in the global interest, to prevent violence and nuclear disaster. Developing country governments and peoples must have, and believe they have, something to lose. The stakes are high for everyone.

7. There is a wide consensus that a liveable world for everyone—economically, environmentally, and politically—depends directly on keeping the size of the world's population within reasonable bounds. Over the next twenty-five years, 80 percent of the increase will occur in developing countries as their population growth rate is currently nearly three times that of the developed world. Only they as nations and their people as parents can reduce that figure. Only a realistic possibility of a better future for them and their children can motivate them to try. The help of developed countries has made an important contribution to a better future but needs to do so even more effectively in the years to come. Planning, family or other, must feed on this hope that the future can be better.

8. Looking to the longer-term future, the world may have to face constraints of one kind or another on the availability of nonrenewable resources, or those like productive land and fresh water which are expansible, if at all, only at sharply rising costs. There may also be ultimate constraints on environmental absorptive capacity, of which the most plausible would limit the amount of waste heat released to the atmosphere for fear of engendering a calamitous change in the earth's climate. The timing and seriousness of such constraints will be affected by how long and to what degree man continues to look primarily to the possession of more material objects not just for survival—food, clothing, and shelter—but as the prime resources of happiness in general. A modest shift toward spending a larger proportion of incomes on services than on things is already taking place in the most developed countries. It may need encouragement.

The most likely candidates for serious scarcities seem to involve arable land and fresh water, fossil fuel energy supplies (especially as petroleum or natural gas), and certain minerals with specialized uses (uranium, chrome, platinum, etc.). The constraints may take the form of physical shortages at any acceptable price or increased costs of maintaining an adequate supply due to the need for larger investment of scarce capital or human skills. To prevent the resultant constraints from putting greater limits than necessary on growth in individual well-being, and especially to avoid reductions in it, active programs along various lines are necessary, some of which will be induced by price changes but others will require greater or lesser degrees of collaboration by the global community. By far the most effective way of avoiding intolerable pressures on land, water, and food is to restrict the growth of global population, which also accelerates development and the escape from poverty. For other resources, however, rates of usage depend more heavily on the rate and nature of economic development—especially in secondary industry—than on population numbers. Research on ways to discover new resources more readily, to make the use of them more efficient, to locate substitutes, and to facilitate re-use, can make major contributions altough one can never be sure when needed breakthroughs will become available. Research results cannot be produced on a schedule.

But if difficult situations should arise despite these and other measures that may be thought of in future decades, it might become desirable to guide reductions in the use of the more vital scarce goods in ways that would reflect the marginal costs of deprivation to the consumer rather than relative market purchasing power. Thus a reduction in food supplies should fall less heavily on a person eating the minimum for survival than one who is eating more than is really good for him because he can afford it.

A start should be made now to develop common programs to avoid or postpone scarcities and to think through what the global reaction should be if they nevertheless arise. Doing so and establishing a successful history of solving other global problems together, like those of development, within a respected institutional framework would help to reduce the danger that such constraints will lead to violence between rich and poor, among and within nations.

These elements in the present and future world order describe what *interdependence* among the world's nations means. They offer the main reasons why we must make an extraordinary effort to put substantial content into what word for all peoples by giving them a future to care about and a willingness to share with us the tasks of guarding that future against the many perils which threaten it. Such a program has no ideological bias between a capitalist or socialistic economic system, only a prejudice in favor of that equality of opportunity for all humans necessary to enable them to make the most of their capacities within the limits set by the need for all to share whatever opportunities there are.

Of course there can be no guarantee that greater cooperation from the developed countries in the efforts of the developing countries to improve the well-being of their peoples can achieve significant results, given the far more important role that must be played by the latter's governments and peoples. Nor can we be sure that improved future prospects, economic and other, will persuade developing nations to cooperate in solving the problems of global interdependence in which we have such an important stake.

Ideologies have a long record in history of disrupting long-established and constructive economic relationships. Yet no credible alternative to a joint effort to improve individual well-being in all its aspects seems available for trying to overcome these divisive loyalties, as we must if mankind is to be able to share an improving future.

The one alternative sometimes suggested is that the United States—with a large area behind wide oceans, high technology, relatively abundant natural resources, great military power, and great economic strength—need be less concerned about these issues than most other countries and need not, therefore, take the lead with the risks this might involve. These points may have some validity but the term *less concerned* is in this case a long way from not being concerned at all. Our highly organized economy is particularly susceptible to disruption from external factors. We are finding it almost impossible to keep out illegal immigrants or narcotic drugs. We can avoid terrorist attacks from abroad and dangers of various sorts to Americans who travel abroad only at the very high cost of hermetically sealed borders, a condition hard to achieve under current technological conditions. And wherever political troubles start, whether isolated acts of terror or nuclear attacks, the United States will be a prime target, not because of what we have done so much as for what we stand for in terms of wealth and power. Nor can we close our borders to some forms of air and water pollution.

If a serious deterioration were to occur in international arrangements to deal effectively with the major areas of economic interdependence, the impacts on the U.S. economy would be serious. In fact, significant readjustments in U.S. political structures might be required to maintain internal order and our own security. The tendency would probably be toward an enhancement of government jurisdiction and power to a degree which most Americans would deplore.

Nor could we avoid moral damage to ourselves if we had to watch economic disaster with all its fatal consequences spread around the world. Without an effective international framework there would be little one could do to avoid it and nothing to do but watch it if it came. Emergency relief efforts can never replace continuing joint programs to move the more than 1 billion very poor people in developing countries steadily farther away from the brink of famine.

Against these gloomy possibilities, the fact that economically we might get along better in a disorganized world than our European or Japanese friends is relatively unimportant, for their fate will have a considerable impact on our prospects. The alternative of a "fortress America" is almost too frightening to contemplate. In fact, if we should decide not to make a really vigorous effort to work with the developing world, we would certainly need as many as possible of the OECD countries in our camp, a choice that might not be made as readily by a number of them as we would like to believe. But for those which did, their greater vulnerability would call for further sacrifices from us to help them adjust to a serious failure of the world economic system, and thus make U.S. problems more acute.

It should be noted here that, as a result of long years of imposed or chosen economic isolation, the USSR and her allies and the People's Republic of China, even without new relations with some of the developing countries, might fare better relatively speaking than the U.S. in such circumstances. In a chaotic world situation, closer relations with the Communist countries might in fact prove to be attractive alternatives to some of our present friends among the developed countries.

The issue thus comes back to what the United States and its friends should do, both by what specific means and in terms of how big an effort.

If this analysis is correct, it is in the interest of the United States to play an active intellectual and material role among the developed countries in seeking a basis for cooperation among all countries that will enable a common effort to deal with critical global issues listed earlier, and do so in ways that will permit all peoples, including Americans, to look forward to a steadily improving quality of life. That common effort must encompass the measures necessary to convince the governments and peoples of developing countries that if they cooperate there will be a better future for them, not only in terms of physical well-being but, just as important, of personal and national dignity and independence, with a full sharing in decision making that affects their future. If this requires some remaking of the present international economic order, then we will need the cooperation of all to do it wisely and effectively.

Whenever international arrangements, policies, and programs may be needed to meet these requirements, it is essential also that no nation, developed or developing, forget that in nearly every case successful performance depends upon national and, in turn, individual actions. To set up the right international institutions, to vote the right U.N. resolutions, even to turn over substantial sums of money to international bodies, will solve no problem in the absence of national will to act within each country to carry out the appropriate measures.

DAVID K. E. BRUCE—IN MEMORIAM

Mr. JAVITS, Mr. President, the Nation and the world have lost a great diplomat, a gracious and highly intelligent American, and, for many of us, a dear friend.

Our hearts go out to Evangeline Bruce, who has been Ambassador Bruce's partner these many years.

The obituary on Ambassador Bruce tells the story in his case. The facts are themselves a legend. The Nation may truly mourn its loss.

The obituary from the New York Times, Tuesday, December 6, 1977:

I ask unanimous consent to print the New York Times article in the Record.

There being no objection, the obituary was ordered to be printed in the Record, as follows:

David K. E. Bruce, Diplomat, Dies

(By Albin Krebs)

David K. E. Bruce, one of the nation's most gifted and seasoned diplomats, died early yesterday at Georgetown Medical Center in Washington.

Mr. Bruce, who was 79 years old, suffered a heart attack Sunday at his home and was admitted to the hospital at 10 P.M. He had been retired since early 1976 after having served 16 months as chief United States delegate to the North Atlantic Treaty Organization.

Upon his retirement, he was awarded the Medal of Freedom.

Secretary of State Cyrus R. Vance said in a statement yesterday that Mr. Bruce had "served the United States with great distinction" and "was among the most eminent diplomats of his generation."

Mr. Bruce was a man of great charm, wit and sympathy, whose easy skills at cooling sometimes heated situations led him to a distinguished career that included heading three of his country's premier embassies, those in London, Paris and Bonn.

He was highly regarded in all those capitals, particularly in London, where he was Ambassador for eight years, the longest that anyone ever held that post. He also served in less glamorous and more vexing diplomatic assignments, such as the job he took on in 1970—head of the American delegation at the stalemated Paris peace talks to end the war in Vietnam. In addition, he was the first head of the U.S. liaison office set up in Peking in 1973.

After serving as Ambassador to France from 1949 to 1952, Mr. Bruce returned to Washington to become Under Secretary of State, and in 1953, he was made the special United States observer at the European Defense Commission and later was appointed representative to the European High Authority for Coal and Steel.

In the two latter posts, Mr. Bruce strove to achieve a united Europe, an undertaking that was only a partial success. He later regarded the breakdown of attempts to completely unify Europe as "a great failure for the United States as well as a great personal failure."

SERVED SIX PRESIDENTS

Mr. Bruce was a Democrat, but in his diplomatic roles he was strictly nonpartisan. He took on assignments from Presidents Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, Richard M. Nixon, and Gerald R. Ford.

Upon his first "retirement" from the State Department, in 1969, when he left his post in London because of health problems, Mr. Bruce said "The cardinal rule for an ambassador in a foreign country is to cherish no antipathies or attachments for particular domestic political parties or programs. This, fortunately, does not forbid him to contract friendships regardless of parties, or love the country of his residence dispassionately."

Mr. Bruce was called out of retirement a year later for the Paris Vietnam talks, then the Peking post, and in 1974 he became the American representative to the North Atlantic Treaty Organization in Brussels. He was then 76 years old.

Mr. Bruce was a descendant of old and distinguished Maryland families. His father, William Cabell Bruce, was a United States Senator from Maryland and was noted as a lawyer and an author (his biography, "Benjamin Franklin, Self-Revealed," won the Pulitzer Prize in 1918). Mr. Bruce's mother was the former Louise Este Fisher, a member of one of Baltimore's first families. His older brother, James, was to become Ambassador to Argentina in the 1940's. Born in Baltimore on Feb. 12, 1898 David Kirkpatrick Este Bruce had a comfortable upbringing, attending private schools and moving in the best circles. He entered Princeton in 1915, but left in 1917, in his sophomore year, to enlist in the Army. While serving in the artillery in France, he received a battlefield commission and was discharged as a first lieutenant.

DELIVERING A PIANO

After the war Mr. Bruce served briefly as a diplomatic courier in Europe, quitting in disgust after being assigned to deliver a baby grand piano to a Y.M.C.A. in Istanbul. He attended the law schools of the University of Virginia and the University of Maryland, and after being admitted to the Maryland bar in 1921 set up practice in Baltimore. In 1924 he was elected to the Maryland House of Delegates.

He joined the Foreign Service the following year and was assigned to Rome as a vice consul, with the primary duty of screening would-be emigrants to the United States. While in that job Mr. Bruce met Benito Mussolini and told him, undiplomatically: "I've been here for six months and my luggage is still being held by your Customs." Hours later the luggage was delivered to his apartment.

During the 1930's Mr. Bruce, who had established residence in Virginia, bought it a 500-acre tobacco plantation and worked it as a gentleman farmer. He also invested in a plant that manufactured parachutes in Virginia. In 1939 he was elected to that state's House of Delegates

His tenure was short-lived, however. By the following year war had erupted in Europe, and Mr. Bruce, he recalled years later, "knew instinctively that within months we would be deeply involved." He sought and won appointment as the chief representative of the American Red Cross in London. Even before the official entry of United States into the war late in 1941, Mr. Bruce had been recruited by Maj. Gen. William J. Donovan to be the general's right-hand man in the formation of the Office of Strategic Services, the intelligence-gathering organization that was to evolve into the postwar Central Intelligence Agency. From 1943 until 1945 at the height of World War II, Mr. Bruce commanded the O.S.S. in the European Theater of Operations.

WED MELLON'S DAUGHTER

Mr. Bruce came from a moderately well-to-do family, and never had to do without. He did not become a rich man, however, until after he married his first wife. She was Ailsa Mellon, the only daughter of Andrew W. Mellon, the multimillionaire industrialist who was Secretary of the Treasury at the time of his daughter's marriage to Mr. Bruce in 1926.

The following year, Mr. Bruce left the Foreign Service and moved with his wife to New York, where, for the next several years, he was active in the management of the Mellon business interests and in the firm of W. A. Harriman & Co. (At one point he was a director of some two dozen corporations.) While acquiring the base for a fortune, Mr. Bruce became the close friend of W. Averell Harriman, who was later to have a hand in getting him back into diplomatic channels.

David and Ailsa Mellon Bruce were divorced in 1945. Their only child was lost with her busband, Stephen R. Currier, in a 1967 airplane crash in the Caribbean.

Later in 1945 Mr. Bruce married Evangeline Bell, daughter of a career Foreign Service officer, and they had three children, Alexandra, David and Nicholas. Their daughter died in 1975.

Evangeline Bruce, a woman noted for her taste and beauty, loved her husband's assignments abroad, but managed at the same time to preside over the couple's three permanent households, a red brick house in the Georgetown area of Washington, a Gothic-style mansion on the old tobacco plantation in Virginia and an apartment in London.

In 1947, at Mr. Harriman's urging, Mr. Bruce served as Assistant Secretary of Commerce and the following year became chief of the European Cooperation Administration Mission to France, a job in which he channeled Marshall Plan aid into France's postwar recovery. In 1949 he became Ambassador to Paris and remained there until 1952 and his return to Washington to be Under Secretary of State.

In 1957 President Eisenhower ignored the protests of his fellow Republicans over Mr. Bruce's $1,000 campaign contribution to the 1956 Democratic campaign and appointed him Ambassador to West Germany. President Kennedy sent him to London in 1961.

The Bruces were admired and loved by the British, who appreciated their knack for seeming down-to-earth, taking their children to a pub for traditional steak and kidney pie washed down with a pint of bitter. (Mr. Bruce was also a gourmet of great sophistication and kept impressively stocked wine cellars in his homes.) The embassy in London entertained all sorts of people—writers and artists, long-haired dropouts, the socially, prominent and the politically powerful.

As Prime Minister Harold Wilson told Mr. Bruce, "Your ambassadorial epitaph will never contain the phrase 'United States Ambassador to the Establishment.' "

Mr. Bruce was a man of singular grace who seemed able to perform any task, whether diplomatic, social or financial, with a refreshing admixture of charm, toughness, amiability, slyness, wit and an aura of offhanded expertise. He had a reputation as a man of reason, capable of being polite and quietly analytical on the most agitated of subjects. When a diplomatic bargaining discussion turned uncomfortably overheated, he was apt to cool matters with generous pourings of Dom Perignon.

He moved in a richly embossed world, one in which he could keenly discuss the most esoteric of books and speak learnedly on such subjects as fine silver and furniture. An avid and knowledgeable art collector, he at one time served as president of the National Gallery of Art in Washington. Mr. Bruce's knowledge of the arts stood him in good stead in discoursing on diplomatic problems. "In political affairs," he once told a news conference in Bonn, "the inability of nations to compose their differences constitutes a disharmony that would be insufferable to any art-loving audience."

A raconteur of considerable repute, Mr. Bruce liked to regale his friends and audiences with anecdotes about an assortment of relatives, his favorite being a 102-year-old grandmother. He once told a delighted audience about "the old lady, who had long abandoned any effort to communicate with relatives, addressing them only in French, a language none of them understood." "She loathed Baltimore," he said, "although she acknowledged the excellence of its shellfish." When fire swept the city, he said, his centenarian progenitor perched on her roof. "There goes the national bank!" She had made joyous exclamations such as, her bonds in that bank, Mr. Bruce said, but she later explained she had always detested its architecture.

Despite his smoothness and calm demeanor, however, Mr. Bruce could on occasion be blunt. At one point, during the frustrating Vietnam negotiations in Paris, he became incensed afer Xuan Thuy, the North Vietnamese representative, began an intemperate, personal attack on President Nixon.

Mr. Bruce told him coldly: "Your choice of words and your attitude . . . with regard to President Nixon [are] shameful and completely inadmissible. At least one should be courteous if one cannot be quiet." He added testily that "there have never been any true negotiations."

Mr. Bruce's role in the Paris talks ended in frustration and deadlock on July 29, 1971, but later it was revealed that with his help, Secretary of State Kissinger had had secret talks with the Communists side that eventually helped break the deadlock.

A GRACEFUL SPEAKER

Mr. Bruce, who walked with a slight limp because of a wartime injury or gout (none of his friends was able to determine the exact cause), was well over 6 feet tall. He spoke fluent French, but found it rough going in Bonn because he knew little German. He was a graceful extemporaneous speaker with a trace of a Tidewater accent. He dressed excellently and unflashily.

A man of exceptional warmth and generosity, he never hesitated to spend his own money in carrying out his diplomatic assignments. For example, when he was Ambassador to France, he used nearly the entire annual entertainment expense allowance furnished by the State Department just for the traditional Fourth of July party for the American colony in Paris. He thus assumed responsibility for the payment of all other debts in connection with embassy receptions and entertainments for the rest of the year.

Discussing the role of an ambassador, Mr. Bruce once said: "The dictionary definition of diplomacy is the simplest and most accurate of all—diplomacy is the management of international relations by negotiation. It is not a system of moral philosophy, it is rather the application of intelligence and tact to the conduct of official relations between the governments of independent states."

Funeral services for Mr. Bruce will be held at 2:30 P.M. Friday at St. John's Church on Lafayette Square in Washington.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Mack Burton, of Arkansas, to be U.S marshal for the western district of Arkansas for the term of 4 years vice Lee R. Owen.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, December 15, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

PROGRAM FOR MONDAY, DECEMBER 12, 1977

Mr. ROBERT C. BYRD. Mr. President, the Senate will shortly go out until next Monday at 11 a.m. The 11 a.m. Monday morning session will be strictly pro forma. The Chair will convene the Senate. Immediately the Senate will go out. There will be no business transacted. There will be no statements included in the Record of that day, no bills or resolutions introduced, and following that pro forma session the Senate will go over until next Thursday, a week from today.

PROGRAM FOR THURSDAY, DECEMBER 15, 1977

The Senate will convene at 11 a.m. on Thursday, December 15. Hopefully on Thursday the Senate will be able to take up the social security conference report if the House of Representatives acts thereon.

It is my understanding that the House of Representatives will convene at 10 a.m. on Thursday. The Senate will convene at 11 a.m.

The Senate hopefully will also be able to dispose of the legal services conference report.

The matter involving the B–1 bomber will likely be taken up on Thursday. Mr. Stennis, the chairman of the conferees on that matter, will be prepared to take up the issue.

So Senators will be well advised, I think, to anticipate possible rollcall votes on Thursday, a week from today, on any one or more of those three items.

There may be other items ready for action by that time, and I speak with reference to conference reports. I do not foresee any rollcall votes on nominations. But in any event I urge Senators to be prepared for possible rollcall votes a week from today.

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I understand the statement of the majority leader to be that Thursday the 15th of December then will be a business day for all practical purposes.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I had hoped, and a number of Members on this side of the aisle had indicated their preference, that these things might be grouped together to deal with on the 19th of December instead of the 15th. Do I gather from the majority leader's remarks that that is not a practical alternative in his view?

Mr. ROBERT C. BYRD. I would like to have seen the 9th as the day for action on social security financing rather than the 15th, but the House will be in on the 15th, and I discussed the matter with the Speaker earlier today. It was his feeling that the House might dispose of the conference report on the morning of next Thursday. That being the case, I feel that the Senate should be prepared to take it up once the papers reach the Chamber; otherwise, if the Senate waited until Tuesday, in the event that there were disagreement between the two Houses and the papers had to go back to the other body, it might very well be that the other body would have problems with attendance the following week.

It is conceivably an eventuality that some problem would be encountered with social security financing even on next Thursday. But just so that we might be prepared, I think that the Senate should be ready on Thursday to handle the conference report if it comes over from the other body.

May I say again that I, too, would have preferred waiting until the Tuesday after, which would mean the 20th of December, but because the House is going to take up the conference report next Thursday, I believe that the Senate should be here and be ready to follow through with action on that day, if indeed the House does send over the conference report.

Mr. BAKER. Mr. President, I thank the majority leader.

I am also concerned about the material dealing with the B–1 bomber. I know there are Members on this side who think it is urgently important for them to be here. I think many of them would prefer that that matter be taken up the week of the 19th. Is there any possibility that that item might be deferred then until the 19th or 20th to the satisfaction of the majority leader?

Mr. ROBERT C. BYRD. I would not rule out that possibility. I did get word from Mr. Stennis this morning to the effect that he would hope that we could take up that matter next Thursday. If Mr. Stennis and Mr. Young should work it out between themselves that it should be taken up the following Tuesday, then that could be arranged. However, as of this moment at least, my information from Mr. Stennis is that he would like to proceed next Thursday inasmuch as we will be here and possibly dispose of the matter on that date.

Mr. BAKER. Mr. President, I thank the majority leader, and I might just say for the record that we have an expression of strong preference from Senator Young, who, of course, is the ranking minority member on the Appropriations Committee, to do it the week of the 19th, and I will contact Senator Young and ask him to be in touch with his counterpart, Senator Stennis, to see if they can work that matter out to their satisfaction. But I would like to note now that on this side we would express a preference for the 19th in order to take account of the requirements of Senator Young as he has in mind.

Mr. President, may I ask the majority leader one other question?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I wonder if he can give us any idea now about the possibility of further recesses of the Senate or even of sine die adjournment for this session?

Mr. ROBERT C. BYRD. I think that there will have to be a sine die adjournment before January 3, or as of noon January 3, the Constitution requiring the two Houses to meet once each year, unless that date is changed by law. So as to when there will be sine die adjournment, I am just in no position at the moment to venture a conjecture.

The conferees continue to work on the energy bills, and I believe that some progress is being made, and I would hope for continuing progress. I would hope that the conferees could complete their work before Christmas. It will take a week or 10 days after the conferees reach agreement for the papers to be prepared and the report to be written, and this would mean that, if the conferees were able to finish their work before Christmas, we would probably have to come back in January to act on the conference reports.

I would prefer to see the Senate do its work on those conference reports before the second session formally begins.

I would rather not carry over the energy legislation into the second session or into February, I will put it that way.

And so if the conferees complete their work and we can do the Senate floor work on the conference in early January, then I would hope that we would proceed accordingly so as to dispose of the energy legislation as soon as possible and get it down to the President.

Mr. BAKER. Mr. President, I thank my friend, the majority leader, and it will be a surprise to no one to know that he and I have discussed this matter in an informal way before we held the colloquy and the information he imparts to me then not totally surprising.

I wish to say, Mr. President, that it would be extremely difficult for many Members, possibly all Members, on this side of the aisle to readjust their schedules for the time after Christmas and before the projected reconvening date of January 19.

And I hope there may be an opportunity to consider this matter further and to discuss it in greater detail with the majority leader. Since we talked earlier, I find there are very, very strong objections on this side to trying to rearrange that schedule as we have previously announced.

I understand the difficulties of his position and the importance of trying to finish this legislation, and I know he understands because I have said many times from this place that I, too, want to see an energy bill passed. I in no way want to stop this. I committed to that earlier this year with the foreknowledge that I probably was not going to like what came out in terms of the final legislative product. But I feel an obligation to pass an energy bill. So I do understand the position of the majority leader, but I would hope that we might consider this matter a little further because I have very, very strong expressions of objection to changing that brief time between sine die adjournment and reconvening in terms of plans that have long been made and become more important because we have been in so long this year.

Mr. ROBERT C. BYRD. I regret that this discussion took place in a way because I am afraid that it may leave the impression that the outlook for energy legislation is rather gloomy. I do not want to leave that impression. I think the conferees are making progress, and I think there is a good likelihood that the conferees may complete action on the legislation in conference before Christmas. As to what happens thereafter is conjectural.

I think we always have to think in terms of the other body. We have to give consideration to the feelings and the advice certainly and counsel of the managers of the conference reports and the ranking minority members.

So my reaction to the able minority leader's question really is off the top of my head. It may very well be that once the conference reports have been signed, the managers of the bills and the ranking minority members would prefer to wait until the 19th of January.

Certainly, my scheduling will be finalized once I have advised with them, once I have advised with the minority leader, and we can I think always find a reasonable, feasible, and workable approach to the floor scheduling of those matters.

I have voiced the hope that we could complete the action on the floor in the event all other things were equal before we started into the next session in a formal way.

There is nothing final about what I have said at this point, but I do not want to leave anything on the record that anyone could interpret as any sign of pessimism on my part, and I appreciate the questions that have been asked by the distinguished minority leader. He expresses the concern that has been evidenced to him. But I hope we could just leave the record stand that insofar as the floor work on the conference reports is concerned, we will schedule that after due consultations among us, and it will be scheduled in consideration of those who manage the conference reports, in consideration of the problems of the other body, and in consideration of our own respective viewpoints.

Mr. BAKER. Mr. President, I thank——

Mr. MATSUNAGA. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Could I yield to the minority leader first?

Mr. BAKER. I thank the Senator from Hawaii for letting me interrupt for a moment only to say that I thank the majority leader for that additional information and insight, and I am fully sensitive to the difficulties that he always has in trying to arrange the business of the Senate. And I always want to be helpful in that respect.

Mr. ROBERT C. BYRD. The Senator is always helpful.

Mr. BAKER. And I want to pass on to him today the difficulties that I find on this side of the aisle about readjusting schedules and to tell him that I appreciate his reassurance of his willingness to consider this matter and to discuss it with those of us in the minority. I would join him, however, in one other thing, and that is nothing is meant by this colloquy to indicate that either of us, I believe, have any doubt or lessening of commitment to the passage of an energy package. We have disagreed on the details, but we are long past that point, and I am not expressing any view except that I wish to accommodate the scheduling requirements of Members of the Senate on this side of the aisle for whom I am responsible, and it has nothing to do with the probability of the outcome of the conference.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. BAKER. I thank the majority leader.

Mr. MATSUNAGA. I thank the majority leader for yielding.

In listening, I thought as a member of the energy conference committee I might strike an optimistic note here.

Mr. ROBERT C. BYRD. Good.

Mr. MATSUNAGA. We did pass a resolution amongst the Senate conferees this morning that we had determined to come out with an energy package and this might confirm the views of the majority leader and the hope of the minority leader that the conferees will come out with something. I think we now have an attitude—and I might say that the vote was 15 to 3—we have determined to come out with some energy package.

Mr. BAKER. Which side of the aisle were the three on?

Mr. MATSUNAGA. The three were on our side. They had their own personal reasons.

Mr. BAKER. I just wanted to be exonerated.

Mr. MATSUNAGA. With a vote of 15 to 3 they did pass the resolution to come out with some energy package.

Mr. ROBERT C. BYRD. I am delighted. I think it is entirely conceivable that we could see some action on conference reports before Christmas. That is not outside the realm of possibility, and so may I reassure the distinguished minority leader that I think the important thing is for the conferees to get their work done and to get the conference reports signed, and then we will all get our heads in a huddle and we will work out the scheduling for the debate on the conference reports on the floor.

Mr. BAKER. I thank the majority leader.

The ACTING PRESIDENT pro tempore, All time of the leadership has expired.

Mr. ROBERT C. BYRD. Mr. President, there can be no business before the Senate. I think all has been said.

ADJOURNMENT UNTIL MONDAY, DECEMBER 12, 1977, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I shall move that the Senate stand in adjournment, under the order previously entered, with thanks to the very distinguished Presiding Officer, the junior Senator from Georgia, who does such a superb job in all the work he does, not only in presiding over the Senate, but in his work on committees. May I say in that regard that when he speaks I listen. And so I move that the Senate stand in adjournment until the hour of 11 a.m., Monday, December 12, 1977.

The motion was agreed to, and, at 1:25 p.m., the Senate adjourned until Monday, December 12, 1977, at 11 a.m.

EXTENSIONS OF REMARKS

GOOD NEWS—PAPERWORK IS REDUCED AT DOD

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. TREEN. Mr. Speaker, Members of Congress frequently find it easy to criticize the bureaucracy as inefficient, wasteful, and lethargic. In recent years, the Defense Department has been particularly subjected to such easy criticism.

On this occasion it gives me real pleasure to call to my colleague's attention a recent news account which addresses the particular accomplishments of Mr. Bob Kelley, a DOD Management Analyst. Mr. Kelley has demonstrated unusual zeal and ability in reducing paperwork, avoiding costly and unnecessary data collection, and convincing many well meaning DOD employees that the surveys, studies, or reports they sought were not needed or already existed somewhere else.

In fiscal years 1975 and 1976, this dedicated public servant is credited with saving the Defense Department (and the taxpayers) $40 million.

The following article spells out the details of Mr. Kelley's accomplishments. I wish to publicly commend him for his outstanding work. He has set a fine example for others and has proven that the

Defense Department is working hard to assure efficient use of the taxpayers' money.

DR. BAD NEWS SENDS GOOD NEWS TO PUBLIC

There exists in Washington, D.C., a federal employee whose job is to eliminate wasted effort.

Unbelievable, you say? Even more so when you learn that this courageous soul, this upstream swimmer, toils in the (gasp) Pentagon, otherwise known as the land of the mimeo and the home of the waste.

Robert F. Kelley knows he is not the most popular Pentagoner ever to get lost in the E Ring. Do they call you Dr. Bad News? "I guess that's a fair assessment," he replies.

But oh, the results.

In fiscal years '75 and '76, Kelley's hounding and dogging produced $40 million in savings for the Defense Department—paper that was never bureaucratized upon; information that was never sought because it already existed; surveys, studies and reports that were never started because the results were already known.

No, they didn't give Kelley a bonus. No, they didn't slip extra tidbits into those green paychecks with the holes in them. But yes, last month, they did honor Kelley at a Defense Department luncheon. And yes, cynics, the honor was a citation—on a piece of paper.

Still it was parchment well spent. For no one has ever before saved the feds that much money in that little time, according to several long-serving and long-suffering government spokesmen. Meanwhile, Lord knows, many have spent and overspent $40 million, and more.

It takes the patience of a priest, the legs of an Olympic distance star, the sense of direction of a homing pigeon and the clearance of Someone Important to reach Bob Kelley's office in the DOD comptroller's wing. But it is worth it.

Not only is the office as uncluttered as a monastery (unsurprising), but the occupant is passionate about conservation and its necessity (very surprising).

"Under every president," Kelley said, "we've had periodic evangelistic reduction programs. These always yield significant savings. But then it slips back.

"One reason it does is that the traditionalists say: 'What the hell's wrong with the way we're doing it today?' "

Another reason, according to Kelley, is that when in doubt, every government employee who values his scalp will pack too much information into a written document, not too little.

"We had a control emphasis before, but it was applied only after the majority of information systems had begun," Kelley said. "So in 1972, we said, 'Hey, you've got to reduce it in the first place.' "

That was called "management by objectives." It took more than three years to get all the approvals. But what it has meant in practice is this:

If the Air Force, for example, wanted to know how many of its people had deformed big left toes, they would first have to come see Kelley, or see if the information already lay in a memory bank somewhere else in the government.

If it turned out that, say, the U.S. Public Health Service had already done such a survey, Kelley would be in a position both to know that and to obtain the data the Air Force wanted.

Thus, not just paper and ink would be saved, but also huge gobs of costly man-hours. In fiscal '75 and '76, according to Pentagon records, about 2,000 such projects were rendered unnecessary because Kelley headed them off at the pass. The total savings is well worth repeating—$40 million.

Of course, bureaucrats do not take kindly to the suggestion that what they plan and seek and want is unnecessary. "So it's been kind of an uphill battle," said Kelley. "It's kind of a never-ending process." It is also fraught with enough tension to end, occasionally, "just short of fist fights."

Kelley remembers one man who grew increasingly redder as he listened to the non-duplication pitch. When it ended, he accused Kelley of being after his job.

"He was shouting: 'You can't do this! That's 90 per cent of my job description!' " Kelley recalled. "But he came in to see me a few months later. Said he was retiring. He said, 'You were right all along. I just wasn't ready to go yet.' "

Indeed, rightness has never been the problem. Clout has.

Jimmy Carter's declaration of war on paperwork during the 1976 Presidential campaign—and his election—"made all this tremendously easier," Kelley said.

"Unless you have that kind of clout, this program is not going anywhere. You have to hammer every time there's a changing of the guard."

Despite his success, Kelley is no babe in the woods. He knows Defense still "enjoys" a reputation as the most overfed, overhungry child in the federal household. All the more reason then, he argues, why bringing efficiency to Defense is necessary. Success could beam the message that anything is possible all the brighter to other agencies.

"You strike a nerve whenever you put the ax to any information system," says Kelley, 47, a management analyst who has spent 10 years at Defense and who lives in Vienna, Va. "But I'm willing to let the chips fall where they may."

Kelley insists that his performance during '75 and '76 "wasn't a one-man show. We had a lot of things that fell in place for us."

He wishes "garbage control," as he calls it, were a more "sexy or glamorous job," because, "admittedly, there's still an awful lot to do."

Amen to that last one. But hosannas that someone is poised to do it.

MANHATTAN—AN AGRICULTURAL CENTER?

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. BIAGGI. Mr. Speaker, picture if you can Manhattan with "huge aboriginal trees, weeds that were strawberries, catnip and blackberries; wild geese, turkeys, pigeons, and ducks; rivers filled with fish." Imagine further, Greenwich Village as farmland complete with grazing cattle. This is not imagination on my part but rather historical reality as recounted in a fascinating article which appeared in the December 7 New York Times.

The article written by Edith Evans Asbury focuses on the little known fact that black slaves imported by the Dutch West India Co. were emancipated and became the farm owners during the mid-17th century. Farming was then as it is today a rigorous occupation, and many in the early days of Manhattan lacked the desire and stamina to be farm owners and operators.

Unfortunately the emancipation of the black slaves was short lived. By the 1670's Britain had instituted chattel slavery into New York severely restricting freed blacks including a prohibition against owning property.

I submit this article for the historical edification of my colleagues. As we look to the roots of Manhattan we discover that then as now, it is the people that make her great.

The article follows:

FREED BLACK FARMERS TILLED MANHATTAN'S SOIL IN THE 1600'S

(By Edith Evans Asbury)

Before it was Chatham Square, before it was Astor Place, before it was Greenwich Village and before it was Herald Square, the crowded Manhattan land now designated by those names was farmland, and in the 1640's, while it was controlled by the Dutch, much of it came into the hands of freed black slaves. Blacks caught up in the surging interest in genealogy aroused by the book and television film "Roots," may find their American ancestry goes back much further than they thought if they check the minutes of the Dutch Burgumasters and Schepens—the New Amsterdam Town Council—or other yellowing documents in the city's new Department of Archives, libraries and historical societies.

It was a casual remark by a history buff, Paul O'Dwyer, the City Council President, that there were black farmers here in the time of the Dutch that set a reporter on the trail of further information about the little-known fact. And along that trail, even professional historians were encountered who had never heard of the 17th-century black farmers in Manhattan.

ELEVEN BLACK MEN ARRIVE

Shortly after Peter Minuit bought the Manhattan Island from the Manhattan Indians in 1626, 11 black men arrived.

They came on a ship owned by the Dutch West India Company, which had sent Minuit to be Governor of Nieuw Netherlands, a trading post to which the company had sent 30 families with horses and cattle in 1623.

Manhattan land was rich and fruitful then. There were huge, aboriginal trees, weeds that were strawberries, catnip and blackberries; wild geese, turkeys, wild pigeons and ducks. The rivers were full of perch, sturgeon, bass, herring, mackerel, weakfish, stonebeam and eel. Oysters were so large that "one must cut them in two or three pieces," an enthusiastic Dutch settler wrote to a friend in the Netherlands. There were large quantities of oyster shells to burn for lime. Timber was abundant and so were quarrystones, and the day was of fair quality for bricks and tile.

Eighteen years after Minuit purchased Manhattan, in 1644, 11 black slaves, petitioned the Dutch West India Company for their freedem and, possibly to their own astonishment, got it.

All of the 11 freed slaves may not have been the same 11 who came to New Amsterdam in 1626, but at least four of them were. These four, whose names probably indicate their country of origin, were Paulo d'Angola, Simon Congo, Antony Portuguese and John Francisco.

REWARD FOR SERVICE

The others freed in 1644 were Big Manuel, Little Manuel, Manuel de Gerrit de Rens, Peter Santome, Little Anthony and John Fort Orange.

The slaves were granted their freedom, and land in Manhattan on which to farm, as a reward for 18 or 19 years of service to the Dutch West India Company, according to records of that time. An examination of other contemporary records of events and circumstances of 1644 and preceding years indicates that the company was probably acting in its own interest as well.

Farm produce was desperately needed in New Amsterdam. The white settlers, now numbering 400 to 500 and including men speaking 18 different languages, were not interested in farming. There was more money to be made trading with the Indians for food, and for beaver skins to send by the thousands to the Netherlands.

WINDMILLS AND BREWERIES

In the thriving town, with its windmills and its breweries producing—beer as good as any Dutch beer—for sale in its many taphouses, families lived in reed-thatched houses with orchards and gardens, huge fireplaces bordered with blue and white tiles, and cozy sitting-room kitchens. Ships were loaded and unloaded in the harbor by scows, small boats and canoes, carried tobacco from Maryland and Virginia, beaver pelts from Fort Orange which is now Albany, and they brought wine, linen, pewter and silverware to New Amsterdam from the Netherlands.

Outside the town of New Amsterdam, Indians were burning houses, cattle, barns and crops, and killing and capturing farmers and their families when the Dutch began granting farmland to freed blacks. In the swamps of what is now Greenwich Village, where many of the blacks' farms were, cattle sank down over their backs but being "strong and well in flesh" finally got through, goaded by a woman through the marsh, a writer reported in August 1643, not noting the color of the woman, nor how she managed to keep from sinking to her death in the marsh.

SOME WHITES SHIPPED HOME

A Jesuit missionary who visited New Amsterdam in 1643 wrote that three large ships had come there from the West Indies to load wheat, but only two could be loaded because the Indians had burned so many barns full of wheat.

Some of the whites who came and wouldn't work were shipped home "as useless ballast," a Dutch Reformed minister wrote from New Amsterdam in 1628. In 1646, there was a great deal more to overcome than laziness to persuade a fellow New Netherlander to go to the country and farm.

Blacks had already farmed in that area for two years when the Governor of New Netherlands began granting them farmland in 1643. Emancipated slaves of the Dutch West India Company received these grants from 1643 to 1647 centered around the Fresh Water and Public Wagon Road which is west of the present Bowery, between Canal Street and Astor Place. Earlier, the company's blacks had lived in a house at what is now 31-34 William Street.

ADDITIONAL GRANTS MADE

During 1659 and 1660, several additional grants were made to blacks—this time by Peter Stuyvesant, who had become the New Netherlands governor.

The average size of all of the grants was 12 acres, but Simon Congo received 45 acres.

The largest number of grants to blacks lay in the area bounded on the north and south by 23d and Franklin Streets—along what are now Broome, Spring, Houston, Bleecker, West Third and West Fourth Streets. On the east and west the farms were between Fourth and Sixth Avenues, along Fifth Avenue, Broadway and University Place.

Farthersouth, blacks were given land in a rough square now bounded by Bayard and Centre Streets, Park Row and Chatham Square.

Fifteen acres east of the old Bloomingdale Road (later a part of Broadway) between what are now 31st and 35th Streets and Broadway and Fifth Avenue was the most northerly grant to any black farmer.

LITTLE KNOWN OF EARLY FARMERS

Little is known of these early black farmers except for their names, and more than one name seems to have been applied to some of them.

Peter Santome's six acres went, on his death, to his sons, Lucas and Solomon, concerning whom it is recorded that Lucas was a physician and Solomon was the first patentee of another large farm.

Anna D'Angola and Marycke, who were granted six acres each in 1647 and 1643 respectively, are described as widows.

Other grantees include Domingo Anthony, Catelina Anthony, Paulo d'Angola, Peter van-Campen, Big Manuel, Gratia d'Angola, Cleyn Antonio, Cleyn Manuel, Antony Portugese, Mannuel de Ros, Bastiaen Elles, Antony Congo, AnManuel DeSpangie.

The English Governor who captured New Netherlands from the Dutch and renamed it New York confirmed the blacks' ownership of their land in 1667.

However, not long afterward, the British introduced chattel slavery into New York and imposed severe restriction against owning property. Old deeds show that most of their lands became part of large farms owned later by Brevoor, LeLancey, Dyckman, Van Cortlandt, Bleeker and the Trinity Church.

A SENIOR CITIZEN'S GUARDIAN ANGEL

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. PEPPER. Mr. Speaker, you know I was delighted to receive several days ago a clipping from a local Florida newspaper describing the activities of Mrs. Lilla Kinman, an 83-year-old retired nurse from Atlantic Beach, Fla.

I do believe this article expresses so eloquently the rewards and sense of satisfaction which can be gained through volunteerism in later life. I am convinced that advancing age need not diminish one's ability to continue contributing to one's community and fellow man. Therefore, I would like to share with my colleagues this article and encourage them to urge senior citizens in their districts to consider the value of such volunteer service in their community. I insert this article in its entirety at this point in the RECORD:

AT 83, SHE IS SENIOR CITIZEN'S GUARDIAN ANGEL

(By Tilly Teller)

Twenty years ago Mrs. Lilla Kinman, a retired nurse, founded the Merry Service Club, a group dedicated to bringing joy into the lives of patients in nursing homes. Many of these aged and ill people have neither friends nor family who care about them and sometimes the attendants who are supposed to look after them don't care either. Lilla, who is 83 and has suffered a series of heart attacks, still refuses to give up her mission, now shared by 30 other kind hearted women in the club. They bring gifts of lap robes, little pillows, punch, homemade cookies and, best of all, concern.

Having been a nurse, Lilla knows where to look and what to look for to determine whether these helpless oldsters are getting the attention they deserve. In the past she has reported bad conditions in some nursing homes and force revisions to be made. Among the newer members of the club is Mrs. Virginia Russell, who has worked as recreation supervisor in several nursing homes. Now, with the other club members and the unsinkable Lilla, she makes the rounds of all the nursing homes, and uses her own observation on behalf of these fragile senior citizens. The club's good deeds are year-round, of course, but all holidays call for extra effort. For Easter the visit was made to Arlington Manor and one who got her gifts, including a bunny basket, was Mrs. Gertrude Ruth, 72, who is confined to a wheelchair and has no relatives at all.

Lilla Told Tilly, "There are some nice people who take the patients for a ride, maybe stop and have a bite to eat. But a lot more are needed and if you will call the nursing home nearest you and ask to do this you can be sure that you have made some old lady or gentleman happy. I don't care how nice the place may be, cabin fever is an awful thing. Just to get out and look around a bit is a godsend."

THE DEATH OF STEPHEN BIKO

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Ms. HOLTZMAN. Mr. Speaker, in a decision which is belied by the evidence, a South African magistrate absolved the security police of any responsibility for the death of Steven Biko, the young leader of the "Black Consciousness" movement. This decision demonstrated clearly that even the judicial system of South Africa will not provide any check on outrageous government abuses against those who question that country's oppressive racial policies.

Sydney Kentridge, who served as counsel for the Biko family, argued forcefully that the facts of the case required a finding that the security police were guilty of criminal assault. His dramatic summation, portions of which were reprinted in the New York Times, lays out the stark facts. I think my colleagues will agree that, as Mr. Kentridge says, "It is difficult to comment on these facts in measured terms."

The text follows:

[From the New York Times, Dec. 7, 1977]

STEPHEN BIKO'S DEATH ON A PRISON FLOOR

(By Sydney W. Kentridge)

The undisputed facts concerning the treatment of Mr. Biko.

Mr. Biko was detained on the 18th August, 1977, whilst in good health. He died 26 days later. What the security police themselves admit they subjected him to during this period is more than a matter for comment. The admitted assaults on his dignity under the direction of Colonel [Pieter J.] Goosen [chief of the Port Elizabeth unit of the security police are evidence of a callous disregard for his legal and human rights and are highly relevant in assessing the evidence of those who abused him:

(A) He was left in solitary confinement from the 19th of August to the 6th of September. Whilst at Walmer police station before his interrogation he was deprived even of the negligible rights he had as a Section 6 detainee [Section 6 of the Terrorism Act].

His clothes were removed and he was left naked in his cell, he was not taken out for the minimum period of exercise in the open air, he was not allowed to purchase any food, he was not allowed proper washing facilities. His complaints to the magistrate on the 2nd September were a dead letter. The complaints did not even come to the notice of those against whom they were made.

(B) He was brought to the interrogation

room on the morning of the 6th September, 1977. At night he was handcuffed and shackled by leg irons placed on his feet which in turn were locked on to walls. This was the position that he was expected to sleep in.

(C) He remained so shackled even after Colonel Goosen, according to his own evidence, suspected that he had suffered a stroke and was trying to get Dr. [Ivor] Lang [district surgeon in Port Elizabeth] as a matter of urgency during the morning of the 7th.

(D) He remained so shackled even after his hands, feet and ankles were swollen and cut.

(E) He remained shackled on the mat on the floor, after he was seen by Dr. Lang, for the whole day of the 7th and during the night of the 7th/8th, despite sufficient concern about his health to arouse Lieutenant Wilken to call Major Fisher [officers of Colonel Goosen's unit], who in turn called Colonel Goosen.

(F) He remained shackled during the morning of the 8th. Security policemen say that he had not made use of toilet facilities offered, but the fact is that he was found in urine-wet trousers and blankets, on a wet mat.

(G) The two medical practitioners who saw him during their lunch hour on the 8th were sufficiently concerned to seek the assistance of a specialist physician. However, Mr. Bilko was still left there, shackled, in wet trousers and a wet bed until he was removed to the prison hospital at about 2100 [hours].

(H) No attempt was made to get another physician when it was known that Dr. Hersh would not be available until late. Mr. Biko was left shackled on the mat.

(I) Although Mr. Biko was shown some kindness by prison warders (who alone seem to have shown some appreciation that Mr. Biko was a sick man) no channels of communication were established to report his condition to the doctors.

(J) His obviously confused behavior in trying to have a bath with all his clothes on or sitting in an empty bath, although reported to the doctors and Colonel Goosen, produced no change in their attitude to him.

(K) For contradictory and inadequate reasons he was moved from the prison hospital and placed in a cell, ostensibly to make it easier for Dr. Lang to see him regularly. In fact, this meant that he was removed from the semi-skilled care of the prison, removed from a bed to a mat, and again left naked in an ordinary cell.

(L) He had not been back in the police station above a few hours when he was found in a state of collapse on the floor by Sgt. [Paul Janse] Van Vuuren [a warder]. The senior officers and Dr. [Benjamin] Tucker [chief district surgeon in Port Elizabeth] were again hurriedly called in. Again there was insistence on only a prison hospital, even if it was 1,200 [kilometers—750 miles] away and even if only a van was available as transport.

(M) He was transported approximately 750 miles lying naked in the back of a Land-Rover without any medically qualified person to attend to him and with nothing more than a bottle of water by way of equipment.

(N) No medical reports were furnished by the doctors of Port Elizabeth nor were they asked for by the security policemen who took Mr. Biko to Pretoria.

(O) Although Mr. Biko had to be carried into prison by four men using a mat as a stretcher a further attempt was made by the security policemen from Port Elizabeth to persuade the officials at the Pretoria prison that the obviously sick man might be feigning illness and that he was on a hunger strike.

(P) He was sent all the way to Pretoria prison because there, according to Colonel Goosen, there was "outstanding medical facilities." For Biko these facilities proved to be a mat in the corner of the cell, the attendance of a newly-qualified general practioner six hours after his arrival at the prison, a diagnosis based on false reports of a hunger strike and that other doctors had found nothing wrong with him, a drip and vitamin injection and nothing more.

(Q) At no time was any member of Biko's family or any friend informed of his condition. He died a miserable and lonely death on a mat on a stone floor in a prison cell.

It is difficult to comment on these facts in measured terms.

Conclusion—

The doctors—for whatever precise reason—felt themselves beholden to the security police. Upon being called in, Dr. Lang gave a patently false certificate. Neither he, nor his superior, Dr. Tucker, made any inquiry of their patient as to the origin of even the lip injury which, at least, they admit seeing. They did not even direct any inquiry to the police.

This studied lack of curiosity can only be explained either by their active collaboration with the police or a deliberate election not to embarrass the police, nor indeed themselves, by asking questions to which the answers were obvious.

They—no doubt in common with the police—did not fear initially for Mr. Biko's life. On the contrary, it must have seemed that the course of time would heal Mr. Biko without their medical intervention which would have had to be given in concert with officials of hospitals who would no doubt be more curious than they were.

And as time passed, one falsehood was compounded by another: Dr. Lang's false report . . . that nothing wrong was found and Dr. Tucker's claim that the dying man was in a satisfactory condition on his removal to Pretoria.

The police felt confident they could rely upon the doctors to support them. And their confidence was justified. Perhaps strengthened thereby they, with gross impertinence, presented to this court a totally implausible account of Mr. Biko's death, starting with a fanciful description of a struggle violent in the extreme in which no blow was struck, a bizarre account of an alleged shamming when to any candid observer a man's progress to his death was being seen and described and all the while the refusal to acknowledge the head injury.

A court—including an inquest court—is the brake upon the abuse of power. It must be made known by this court that the penalty for falsehood contemptuously fabricated is not merely rebuke or reprimand but a firm finding adverse to the fabricators; if you create a tissue of lies it can only be that you dare not speak the truth.

Accordingly the verdict which we submit is the only one reasonably open to this court is one finding that the death of Mr. Biko was due to a criminal assault upon him by one or more of the eight members of the security police in whose custody he was at on the 6th or 7th September, 1977.

This inquest has exposed grave irregularity and misconduct in the treatment of a single detainee. It has incidentally revealed the dangers to life and liberty involved in the system or holding detainees incommunicado.

A firm and clear verdict may help to prevent further abuse of the system. In the light of further disquieting evidence before this court, any verdict which can be seen as an exoneration of the Port Elizabeth security police will unfortunately be interpreted as a license to abuse helpless people with impunity. This court cannot allow that to happen.

OSHA LAUDED FOR TRIMMING REGULATIONS

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. WHALEN. Mr. Speaker, I believe in giving credit where credit is due. So, I take this opportunity to laud Eula Bingham, Administrator of the Occupational Safety and Health Administration (OSHA) and her superiors at the Department of Labor.

Earlier this week, the Labor Department announced that it was dropping over 1,000 of the rules administered by OSHA. All of these regulations were trivial in nature and not significant to the agency's mission of protecting American workers against injury from industrial safety or health hazards.

For the most part, the regulations in question have not been enforced or else have been considered as "de minimis" violations only. Nonetheless, their removal from the books makes the OSHA rules that much shorter and easier to grasp. The Labor Department's action allows employers and OSHA both to focus more attention and effort on important health and safety issues and less on minor details that are of nuisance value only.

Mr. Speaker, I do think that the role assigned to OSHA, to help make the workplace a safer environment, is an important one. The policy change announced recently by the Labor Department represents a substantive step toward more effective fulfillment of its role, while at the same time minimizing the irritation felt by some employers toward OSHA regulations.

Earlier this year, I joined Congressmen SARASIN and STEIGER in an effort to expand the consultative services offered by OSHA. Our goal was to make it easier for concerned employers to obtain advice, in a nonadversary fashion, from Government experts who could tell them how to go about improving the safety of their workplaces. In late April, OSHA did dramatically increase its support for State-run consultative services, such as those offered in my home State of Ohio.

In the CONGRESSIONAL RECORD of May 3 I applauded OSHA for its responsiveness to our congressional initative. Now, I am acknowledging their very positive response to businessmen's desire for a pruning of the thicket of OSHA regulations. This is a change in policy that I am sure will be welcomed throughout the business community. And I think that most laborers will also appreciate the added focus on key problems in the occupational safety and health area.

At this point in the RECORD, I wish to insert the full text of an article that appeared recently in the Washington Post.

[From the Washington Post, Dec. 6, 1977]

1,100 RULES DITCHED BY OSHA AS "NITPICKING" AND NEEDLESS

(By Helen Dewar)

The Labor Department announced yesterday that it will stop enforcing 1,100 "nitpicking" job safety rules ranging from design specifications for toilet seats to the permissible size of knotholes in the siderails of stepladders.

Asserting that the safety of American workers is not threatened by the "shape of a toilet seat," Labor Secretary Ray Marshall told a press conference he is moving to junk such rules which have made the job safety program a laughingstock in the past.

"Thousands of working people suffer serious accidents and illnesses each year," said Marshall. "Yet to the best of our knowledge none of these accidents or illnesses has been caused by the shape of a toilet seat or because a fire extinguisher was two inches too low. That is why we are taking steps today to prune some of the underbrush that stands between OSHA (the Occupational Safety and Health Administration and intelligently focused enforcement."

Most of the 1,100 doomed rules—roughly one-tenth of OSHA's entire roster of health and safety regulations—were adopted without change from industry-devised guidelines when the agency was created in the early 1970s.

They quickly became potent weapons in the hands of OSHA critics seeking to ridicule the agency to death.

One of the critics' favorites was the requirement for "open-front type" seats on toilets installed after June 4, 1973. Another was a rule that fire extinguishers can be no more than 3½ feet off the floor in some cases and 5 feet in others. Few critics failed to mention the 12 pages of fine print on the design of ladders or the provision, dating back to the 1930s, that ice cut from ponds could not be used in watercoolers.

Marshall and OSHA Administrator Eula Bingham vowed to get rid of such rules when they took office last winter, but it has taken 10 people until now to accumulate the hit list, which will take 250 or more pages of a special edition of the Federal Register to explain.

The 1,100 rules cannot be dropped officially until after a review period of about five months, but Bingham said that in the meantime they will not be enforced by written notices or penalties.

A similar "de minimis" procedure—the government's way of saying that a silly, misdirected or outmoded rule will not be enforced to the letter—will also be followed in dealing with cases where technical violations of OSHA rules do not actually threaten the health or safety of workers, Bingham said.

"Employers will not be cited for minute differences in implementing the standard, as long as the intent of the standard is carried out," she explained.

Bingham and others said most of the 1,100 rules targeted for extinction were technologically obsolete or designed primarily to protect machinery. Some were simply aimed at improving comfort rather than promoting safety, they said.

Others were virtually indecipherable. Some were written in Latin, said John Proctor, deputy director of OSHA safety standards, and "our people don't read Latin."

While some inspectors "winked" at the more ridiculous rules, Proctor said, regulations on the height of fire extinguishers turned up on OSHA's list of its 100 most violated rules.

Bingham said further streamlining efforts will be made in the future, including proposed revisions over the next few months in general industry standards covering walking and working surfaces, fire protection and machine guarding.

OUTSTANDING ACCOMPLISHMENTS OF RUTH M. SENIOR

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. BURGENER. Mr. Speaker, we are so involved in authorizing and spending millions and hundreds of millions and even billions of dollars that we sometimes forget the impact of some of these programs. I was effectively reminded of this recently when one of my constituents, Ruth M. Senior of Rancho Bernardo, reported to me on her work in Paraguay as a volunteer, with her travel, lodgings, meals, and clothing care paid for largely out of Agency for International Development funds.

Ms. Senior is a trained economist, and back in the 1940's she headed research projects at the University of Puerto Rico, Rio Piedras, and at Columbia University, New York City. In 1952 she worked with David Rockefeller in organizing Morningside Heights Housing Corp., and served 17 years as vice president of Association for Middle Income Housing, New York City. Since she retired in 1970, she has spent part of her time on various co-op housing assignments in Chile, Jamaica, and Lesotho.

Early this year an agency of the Paraguay Government, Instituto Paraguayo de Vivienda y Urbanismo, asked the Organization of American States for help in planning that nation's first housing co-op. OAS was at the time unable to fund such assistance and turned to an organization created 7 years ago by U.S. cooperatives, Volunteer Development Corps., to provide the help IPVU had requested. VDC asked Ms. Senior if she would volunteer her services to help the Paraguay Government, and she said she would.

Thanks to Ms. Senior, the project is taking shape. One of the first things she did was to get IPVU, which knows much about housing and nothing about cooperatives, to consult with Paraguay's director general of cooperatives, who knows much cooperatives and nothing about housing.

You may ask, Mr. Speaker, why someone should fly 5,500 miles to get two agencies of the same government to meet, to consult, and to share their combined expertise in a single project. I do not know the answer, but Ms. Senior was told it had never happened before. And I dare say we might find the same situation within our own Government.

The two Paraguay agencies have now identified a low- and middle-income suburb of Asuncion where they will organize this pilot project in cooperative housing. They have also chosen a sponsoring organization for the project, a step which we in the United States have found extremely valuable. The directors of this organization, a large community-based credit cooperative, are now considering what their sponsorship would involve, what responsibilities they would have as sponsor, what risks they run.

Ms. Senior recommended that the sponsor hire IPVU to supervise its architect, bring together various pieces of private land, negotiate with a lender, contract for construction, recruit members of the co-op, and handle their down payments. It would, in the language of U.S. housing co-ops, serve as the technical service organization.

Ms. Senior helped the agencies locate a potential lender, Banco Nacional de Ahorro y Prestamos para la Vivienda. As a government agency, IPVU couldn't borrow from Banco Nacional, but the private sponsoring organization, acting in the name of the housing co-op, could.

Having helped the two agencies develop a long-range plan and agree on the immediate steps, Ms. Senior returned home. As the agencies work this plan, they will undoubtedly hit snags or feel hesitant about proceeding further without more advice. Both OAS and VDC are poised to receive further requests for technical help and are ready to provide it.

VDC has received $300,000 in fiscal 1977 funds from AID, and the Agency plans to provide $415,000 in fiscal 1978. This covers travel, lodging, meals, and clothing care of VDC's volunteers—$7,742 per project this year. It also pays most of the salaries of VDC's five-member staff. The rest of VDC's funds come from its five sponsoring organizations—Agricultural Cooperative Development International, American Institute of Cooperation, National Council of Farmer Cooperatives, National Rural Electric Cooperative Association, and World Council of Credit Unions.

However, as VDC emphasizes, its most vital, most important resource is not money. It is the volunteered services of persons like Ms. Senior. I am told that these services, if valued at $150 a day represent more than half VDC's total resources.

It seems to me my constituent, Ms. Senior, epitomizes the kind of help the American people wholeheartedly support overseas. It offers technical help—not money, but know-how. It offers this help to groups of people who want it, who ask for it, who are willing to commit some of their own resources to a joint effort with the United States, who want to help themselves. Such a program is private, organization to organization. With relatively small amounts of AID funds, such a program is able to marshal modest contributions from United States cooperatives and the volunteer services of highly skilled, well-qualified men and women. I commend to you, Mr. Speaker, this fine piece of work by my constituent.

TRIBUTE TO LATE HON. CARLETON J. KING

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 1977

Mr. HANLEY. Mr. Speaker, I would like to add my voice to those paying tribute to our former colleague, Representative Carleton J. King of Saratoga Springs, N.Y.

Congressman King enjoyed a long political career on both the State and National levels, entering public service in 1936 as acting city judge for Saratoga Springs. He was first elected to the House of Representatives in 1960, when he resigned as Saratoga County district attorney.

Carleton King represented the 29th District of New York for 14 years, and he represented the people of his district in the true sense of the word, voting to reflect what he perceived were the wishes of his constituents.

Certainly, Carleton King and I differed on some of the issues, but no one can deny he was an exemplary public servant who earned and deserved the respect of his constituents, his friends and his colleagues.

We will miss Carleton King, and our heartfelt prayers go out to Mrs. Constance King and her entire family.

A LIFESAVING FACTOR

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. DERWINSKI. Mr. Speaker, when the Congress passed the 55-mile-per-hour speed limit, I, like most Members, voted for it as an energy saving device. Since then, I have been especially impressed with the lifesaving factor of the reduced speed limit, in addition to the number of accidents and injuries that have substantially subsided. For that reason, I concur with the editorial appearing in the Chicago Daily News of December 5, which I insert at this point:

FIFTY-FIVE-MILE-PER-HOUR LIMIT: MAY IT LIVE AGAIN

Remember the 55 m.p.h. speed limit? Most Illinoisans apparently do not. Highway traffic surveys brand this state as one of 22 in which 60 per cent or more drivers exceed the limit. We are not the worst example; Connecticut and Wyoming are, with violation rates of 77 per cent. The best record was set by Virginia—30.5 per cent, nothing to be proud of in a nation of laws.

President Carter has telegraphed his concern to the governors of the 22 states with the worst records. And well he might. The speed limit was enacted in 1974 as an energy conservation measure. But the nation got a substantial bonus when traffic deaths and injuries fell off sharply as highway speeds were reduced. Last year, however, the traffic toll resumed its rise as more and more drivers began to scoff at the law and enforcement grew lax. At the same time, the gasoline and diesel fuel that the speed limit was supposed to save has been going up in smoke.

Transportation Sec. Brock Adams has proposed—and Carter has approved—that pressure be applied on the states to enforce the law. Under Adams' plan, the states would get federal funds and technical assistance to monitor highway traffic, and to work toward a compliance rate of 85 per cent by 1982. States that don't measure up to the new standards would, presumably, be penalized. The Transportation Department is considering a reduction in federal highway fund allotments of as much as 10 per cent for the states with the highest proportion of scofflaws.

Congress would have to enact whatever plan emerges from the Transportation Department, and we hope there will be little resistance. The fuel saved by driving at 55 m.p.h. is substantial, which ought to be important in a country that's now importing nearly half its oil, and paying through the nose for it. And the minutes saved by cheating the law do not compensate for the lives lost.

CITIZENS FALSELY ACCUSED OF A CRIME BY THE GOVERNMENT AND THE COURT COSTS INCURRED

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. JENRETTE. Mr. Speaker, it is well known that our Constitution guarantees the right of counsel to anyone accused of a crime who is "indigent."

However, it is not so well known that a long criminal trial can destroy the savings of a middle-income person who is wrongly accused of committing a crime. Such a trial can have the same effect as a catastrophic illness has on the average American family.

I believe that my colleagues would be interested in a communication which I recently received from one of my constituents, Mr. Mordecai C. Johnson, an attorney in Florence, S.C.

He makes the excellent argument that citizens falsely accused of a crime by the Government should not have to bear the exorbitant cost of defending themselves. In short, he says that only the guilty should pay.

I hope that our colleagues will give Mr. Johnson's statement the consideration it deserves. It reads as follows:

FLORENCE, S.C., *November 21, 1977.*

Hon. JOHN W. JENRETTE, Jr.,
Cannon House Office Building,
Washington, D.C.

DEAR JOHN: Thank you for your letter to me of November 12, 1977 responding to my earlier letter proposal that provisions be made in the Federal Criminal Code for compensation, including attorney fees, to persons accused, but not convicted, of crimes.

I was certainly gratified to know that you supported and favor compensation—up to $50,000, I believe—for victims of crimes.

You indicated that you incline toward believing that my proposal could not pass—essentially because of its expense—but that you would take it up with your Congressional colleagues.

I would like to briefly state here the proponent case, and to urge you to pass on to your colleagues these considerations along with whatever you would like to add along those lines.

First, the Constitution, as you know, guarantees to persons accused of crime the right to counsel. The Supreme Court has held that the Constitutional right to the assistance of counsel means the effective assistance of counsel. The Congress has made the judgement, expressed in the Criminal Justice Act, that the right to the effective assistance of counsel requires Government paid counsel and other defense expenses, at least where the Defendant is indigent or cannot afford to pay for his defense. And these defense expenses are payable by the Government for those who can't afford it, even though the Defendant is quilty of a crime against the people of the United States.

My proposal, unlike that compensating victims of crimes, is founded squarely on the Constitution; not sympathy, not largess with the public's funds. It would implement Sixth—and Fifth—Amendment rights. It would logically extend the policy of the CJA to effectuate the Constitutional protection to all citizens, rich, poor, or the large group in between. An important limitation is that the people of the United States would not be called upon to pay one dime to persons convicted in the proceedings of a crime against the people of the United States, as charged.

Second, I would address the matter of the expense of this proposal.

We start with the proposition that when an innocent person is accused of crime, someone necessarily pays. One's good name, once besmirched by a criminal accusation, can never be returned—or paid for with all of a Midas' gold. No mere money can pay for the humiliation, the depreciation, the embarrassment, the opprobrium, the mental—and phyical—anguish, the wear and tear on self and family and friends, the business or professional standing lost or never achieved because of an accusation of criminality. In short, you can pay for lawyers and investigators and the like. But there are just some things money won't buy. Ask a Mayor of Fayette, Mississippi or an Ex-Governor of Texas—to cite a couple of well publicized examples. The direct expenses of defending fees, investigative costs, and the like—can be astronomical.

But this proposal may well be less expensive than upon first blush it might appear. I suspect that statistics available to you from the Administrative Office of the United States Courts or the Library of Congress would show that well over 90% of the persons accused of crimes against the United States are proven to be guilty. If I'm right, we're talking about only a few persons—5 or 10 percent of those accused—who would would benefit from this proposal.

The question, however, is not whether a criminal defense is—like a criminal prosecution—expensive. The question is one of who is best able to bear the expenses—the individual innocent citizen against whom the people of the United States move, on the one hand, or the movant, the people of the United States, on the other hand. Who should bear these costs One citizen or 200,000,000 citizens

To put the question differently, can this Nation afford to *Not* correct the injustice toward which my suggestion is directed?

It may well be that some limitations must be written in, if only for practical, political and budgetary reasons. It may be, for example, that some limitations would have to be written in patterned after the provisions for compensating victims of crime. On that, I would simply rely on your judgement as an experienced defense lawyer, a lawmaker and a representative of the people.

There is a third consideration to which I will allude briefly. This proposal presents an opportunity for the Federal Government to exercise some leadership by example in this important area of Constitutionally protected rights. In our own state, for example, the Legislature in which you served adopted forward thinking provisions on Defense of Indigents accused of crime and on bail for the accused along the lines of similar legislation by the Congress of the United States in which you now sit. Even now the South Carolina Legislature is considering revising our state's criminal procedures and I'm sure they will be looking carefully at what the United States Congress is doing.

I won't say, John, that my proposal is perfect, or beyond improvement or the like. What it is is an effort to move us in the right general direction in this important sphere. I do hope you will do what you can to make it a reality.

Warm personal regards.

Sincerely yours,

MORDECAI C. JOHNSON.

REFORMING FEDERAL REGULATION MAKING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. GILMAN. Mr. Speaker, the November 12, 1977, edition of the National Journal offered its readers an article entitled "The Headache of Writing Regulations in a New Language—English." Indeed, anyone turning to a daily issue of the Federal Register is bound to feel somewhat bewildered as he confronts page after page of abstrusive rules and regulations issued by executive departments and agencies.

President Carter issued for comment on November 18, 1977, a proposed Executive order which commits his administration to "assuring that Federal regulations are as effective, reasonable, and as understandable as possible." The resolution I am introducing today puts Congress squarely on record as urging a continued Presidential commitment to assuring that Federal regulations: First, are issued expeditiously; second, are written clearly so as to be readily understandable by those persons subject to or affected by these regulations; and third, are otherwise designed to meet efficiently the goals of those programs to which they relate.

Moreover, by urging the President to submit anually a report to Congress indicating the progress made towards assuring that regulations are effective, readily understandable, and expeditiously written, this legislation affords Congress the opportunity to identify continuing impediments to effective Federal regulation-making, and then to formulate legislative remedies, if necessary, to eliminate such impediments.

Mr. Speaker, I am certain that all my colleagues have frequently encountered constituents who, affected by a certain Federal rule or regulation, simply toss their hands up in puzzlement because of the difficulties they have in determining just what it is that a particular regulation demands of them. It is obvious that an individual seekng to conform to a regulation must first be able to clearly understand that regulation.

Health, Education, and Welfare general counsel Inez S. Reid sums up a large part of the problem. Quoted in the abovementioned National Journal article, she states that—

> Regulation writers must recognize that in most cases their audience is not the legal profession, but individuals who must follow the regulations.

While recognizing the important criteria that regulations must be written so as to be legally defensible and enforceable, she logically points out that regulations must also be "understandable to those who must follow them."

In a recent edition of Time magazine, Fred J. Emery, director of the Federal Register—and an individual who is attempting to tackle the regulation writing problem—offered to columnist Hugh Sidey, an anecdote which well conveys the bewilderment so often accompanying attempts to ferret out the meaning and the applicability of certain Federal regulations:

> It is like the two fellows in the hot air balloon who get lost in a cloud and, emerging, call down to a man on the ground, "Where are we?" The fellow calls back, "In a hot air balloon."

The man's answer, Emery observes, "like a lot of regulations, is absolutely accurate but totally useless."

However, several promising efforts to reassert "plain English" as the language of the realm prove that Federal regulations do not have to be characterized by verbiage and "gobbledygook."

The Federal Trade Commission (FTC), for example, hired Harvard language specialist, Dr. Rudolf Flesch, to work with FTC staff in redrafting a proposed hearing aid regulation which FTC planned to issue. The proposed rule as first issued was approximately 8,000 words long and rated 21 or "very difficult"—comparable in difficulty of reading to the Harvard Law Review—on Dr. Flesch's scale. The redraft of the rule contained only 5,000 words, scoring a 68 or "standard" rating—comparable in difficulty of reading to the Reader's Digest.

In another instance, HEW Secretary Joseph A. Califano, Jr. has inaugurated "Operation Commonsense" in an attempt to alleviate the problems plaguing HEW rulemaking. Califano admits that HEW has been painfully slow in issuing some important regulations. For example, as the National Journal observes, the regulations Califano issued in May to prohibit discrimination against the handicapped, followed enactment of the 1973 Rehabilitation Act by 3½ years.

The National Journal also points out somewhat encouragingly that a 3-day course in regulation-writing being offered by the Federal Register to officials of the executive departments and agencies, is "booked up" for the next 2 months.

We can draw encouragement from initial steps taken to publish readily understandable regulations within a reasonable period of time. However, the task of rewriting much of the incomprehensible jargon of the more than 70,000 pages of the regulations contained in the Code of Federal Regulations is formidable, and bureaucratic resistance is sure to be encountered as we endeavor to assure that future Federal regulations are efficiently issued and written so as to be readily understandable. Yet, reform of the Federal regulation-making process is needed now.

Accordingly, I urge my colleagues to support the resolution I am introducing today so that we may begin in earnest to unmuddy the waters of Federal regulationmaking.

I request that the full text of this resolution be inserted at this point in the RECORD:

H.R. —

Concurrent resolution urging a continuing Presidential commitment to improving Federal regulation-making

Whereas all too often regulations issued by executive departments and agencies are both difficult to understand and issued far too long after enactment of programs to which the regulations relate; and

Whereas these regulations should be written both within a reasonable time after enactment of programs to which the regulations relate and in terms that are clear to and understandable by those persons subject to or affected by these regulations; and

Whereas President Carter recently outlined in a proposed Executive order his commitment to issuing regulations which are "as simple and clear as possible" and which "achieve legislative goals effectively and efficiently": Now, therefore, be it.

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that there should be a continuing Presidential commitment to assuring that Federal regulations (1) are issued expeditiously; (2) are written clearly so as to be readily understandable by those persons subject to or affected by these regulations; and (3) are otherwise designed to meet efficiently the goals of those programs to which the regulations relate. Furthermore, it is the sense of the Congress that the President should submit annually a report to the Congress indicating the progress made towards achieving the objectives set forth in this resolution.

POSITIONS ON RECORD VOTES

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. AMBRO. Mr. Speaker, I accompanied Mr. James McIntyre, the acting director of the Office of Management and Budget, a long standing date, on a visit to Long Island yesterday for a meeting with a great many local officials on a matter of the utmost importance to residents of my congressional district, and indeed all Long Islanders.

We presented arguments to the Budget Director in support of our petition for a separate planning agency for Nassau and Suffolk Counties, independent of the Tri-State Regional Planning Commission, under the A-95 review process. Without going into the details of this extremely complex issue, it is one of great significance to all the people on Long Island and in my judgment, it was essential that Mr. McIntyre understand that it is a matter of the highest concern to the congressional representatives from the bicounty area.

Since the matter was so important and the meeting went on for several hours, I was unable to return to Washington until early evening and therefore could not vote on several important measures which reached the floor yesterday.

Lest there be any doubts raised as to my position on the issues brought to the floor yesterday, I would like to indicate for the RECORD how I would have voted on the following legislation that came to the floor December 7, 1977:

Health Professions Education Amendments, H.R. 9418—Yes.

Conference report on Legal Services Corporation Amendments of 1977, H.R. 6666—Yes.

Continuing Appropriations:
Rule to consider Senate amendments—Yes.
To concur with Senate amendments—No.
ERDA Authorization, rule to consider—Yes.
SEC Authorization—Yes.
Unlawful Corporate Payments—Yes.
Continuing Appropriations:
Rule to consider Senate amendment—Yes.
To concur with Senate amendment—No.

DAVID McCULLOUGH ON THE PANAMA CANAL TREATIES

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. STUDDS. Mr. Speaker, David McCullough is the author of "The Path Between the Seas," a superb history of the construction of the Panama Canal. Mr. McCullough's exhaustive research into this issue has made him one of the Nation's foremost experts on the canal, while placing him in an ideal position to comment on the current debate over the new proposed Panama Canal treaties. The following is a copy of a letter which Mr. McCullough has written to President Carter outlining his views on the current debate. I believe that this letter captures brilliantly the issues involved in the treaty controversy and I am sure that it will be of interest to my colleagues:

West Tisbury, Mass.,
October 21, 1977.

Dear Mr. President: Rosalee and I were so very pleased and honored to be able to meet you last Friday, and especially on such a propitious day in your campaign for the canal treaties. Your generous inscription on the newspaper picture of you and Gen. Torrijos, as well as your thoughtful remarks about my book, pleased us more than I can say, and we thank you most sincerely.

May I add also that after so many years of studying and writing about dead Presidents, I found it an enormous thrill to see and shake the hand of a live one.

During our afternoon at the White House, I had, as perhaps you know, a chance to talk at some length with presidential aides Landon Butler and Joseph Aragon, and it was Butler's suggestion that a letter covering some of my thoughts on the Panama issue might be of help to you in the months to come.

Mr. President, I am concerned about a certain lack of creative fervor in what has been said in behalf of the treaties thus far. The opposition has a "cause." Its response is full of emotion, even passion, while the arguments for the treaties, however intellectually solid, remain for many people largely an abstraction.

This is not to discount for a moment the powerful logic of the case for the treaties. Indeed, the more we are told of the hard practicalities involved—political, military, operational—the more convincing they become. They virtually speak for themselves, if presented in language of the kind the layman can understand, and, when set forth for the country by a Commander-in-Chief who is himself a former naval officer and engineer, their effect cannot help but be profound, perhaps even deciding.

But how much more important and useful this great national debate could become, how much better off we will all be for it, if the treaties are seen also as the expression of a high ideal, if in making this historic decision we can sense what Theodore Roosevelt called "the lift toward nobler things which marks a great and generous people."

There are, as I know you appreciate, all kinds of reasons why suddenly we seem to care so intensely about the canal, a subject most of us have never given much thought to until lately. To say that the opposition springs from some vague or naive nostalgia for a simpler past is really to miss the point. There is a grandeur about the Panama Canal and a grandeur of a kind we like to think of as particularly American. The canal is a triumph of an era we remember fondly for its confidence and energy, youth and sense of purpose. The canal is something we made and have looked after these many years; it is "ours" in that sense, which is very different from just ownership.

It works, still. Despite time and change it remains a huge American Success, and this just now, in the aftermath of Vietnam, is of psychological import. (There is a haunting kind of irony to the realization that we went into the jungles of Vietnam to rescue a disastrous French failure, just as once we went into the jungles of Panama to rescue a disastrous French failure.)

Probably it is the aura of power surrounding the canal that has the most to do with our feelings about it. We have known since school days of the tremendous powers called forth to build it—the power to eradicate disease, the power to literally move mountains. There is its own miraculous power to lift and transport ships from ocean to ocean. It is both the symbol and implement of sea power. So when we talk of the canal, whether we are old, young, for or against the treaties, we are talking about very elemental feelings about our own strengths, and it is this, I think, that makes the thought of giving it up or giving it away so disturbing to many people who fail to see the treaties as a positive step.

Still, by the same token, we want, all of us, a more humane and stable world.

We believe in good will, as well as strength.

We want to be builders no less than did that generation which created the canal.

So for all these reasons it is imperative that the case for the treaties be expressed in the most positive terms, *and* with eloquence. It is because the canal is of such critical importance, because it must be kept secure and in use, because we revere it as a monument to the human spirit, that the long outmoded Bunau-Varilla treaty has to be replaced and the nature of our presence in Panama brought up to date. Our decision must not be a grudging concession, but a far-seeing, constructive innovation. This, we should be able to say, is something we do because we know it is right. This is not merely the surest way to "Save Our Canal," it is the strong, positive act of a still-confident, still-creative, still-purposeful people.

Our sanction of this unprecedented step can become a source of national pride and self-respect in much the way building the canal was. It is the spirit in which we act that is so very important. The way we say yes to the treaties, the words we use, can, on the other hand, influence how we stand in the eyes of all Latin America, but it can also influence how we stand in our own eyes, and that, too, I know you will agree, is "in the national interest."

I think of what Theodore Roosevelt might say were he alive today. (I have a small bust of him which looks down on me from the top of a file cabinet as I write this.) An ardent reader of history, he knew the world has its moods. He saw history itself as a force, and the history of our own time and the changes it has brought would not be lost on him. He adored and drew inspiration from the great deeds of the past and was often saddened by the passing of an era before his eyes—the vanishing of the great frontier days of the West for example. But change was inevitable, he knew, and necessary. Change was growth. The true conservative, he once remarked, keeps his face to the future.

He believed down to his boots in a strong Executive, in presidential leadership, and the fact that the treaties reflect the policies and intentions of three prior administrations, in addition to your own, would carry enormous weight with him. Well before anyone else Roosevelt recognized the importance of Alfred Thayer Mahan's thesis (the nation that controls the sea controls the decisive factor in warfare), and so it is hard to picture him dismissing or discounting such testimony to the military value of the treaties as voiced by the Joint Chiefs.

But were he to endorse the treaties, as I am quite sure he would, it would be mainly because he would see the decision as one by which we are demonstrating the kind of power we wish to be. For Roosevelt the canal was a gateway to the very different and uncertain new world of the new 20th century, a world in which the United States had no choice but to play a major part. "We cannot avoid meeting great issues," he said. "All that we can determine for ourselves is whether we shall meet them well or ill."

Mr. President, the Panama Canal is a vast, heroic expression of that age-old desire to bridge the divide and bring people closer together. The task now, it seems to me, is to give the country the conviction that this too is what the treaties are all about.

Sincerely,

David McCullough.

RESOLUTION SALUTING THE WORCESTER PARKS AND RECREATION COMMISSION

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. EARLY. Mr. Speaker, it is with the greatest sense of pride that I share with my colleagues in the House of Representatives, the text of the following resolution adopted by the Massachusetts House of Representatives. This resolution is in recognition of the work done by the city of Worcester Parks and Recreation Commission and the Worcester Area Association For Retarded Children, and congratulates them upon receiving the National Voluntary Service Award.

I would like to take this time to publicly salute these fine organizations on the occasion of this tribute, and I commend them for their ongoing efforts in servicing the needs of the mentally retarded. The Massachusetts House of Representatives resolution follows:

Resolutions Congratulating the Parks and Recreation Commission of the City of Worcester and the Worcester Area Association for Retarded Children Upon Receiving the National Voluntary Service Award.

Whereas, The Worcester Parks and Recreation Commission and the Worcester Area Association for Retarded Children, Inc. have joined together in pioneering and servicing the needs of the mentally retarded; and

Whereas, They competed with contestants from all fifty states and Canada for the National Voluntary Service Award given by the National Recreation and Parks Association, whose membership consists of 18,000 professionals in the parks and recreational field; and

Whereas, At the National Recreational Congress held in Las Vegas, Nevada, on October 3rd, 1977, the Worcester Parks and Recreation Commission and the Worcester Area Association for Retarded Children, Inc. were the recipients of this coveted Award, and are reported to be the first in the Commonwealth to receive such a national Award; therefore be it

Resolved, That the Massachusetts House of of Representatives hereby congratulates the Parks and Recreation Commission of the City of Worcester and the Worcester Area Association for Retarded Children, Inc. upon receiving the National Service Award of the National Recreation and Parks Association and commends them for their efforts in behalf of the mentally retarded; and be it further

Resolved, That copies of these resolutions be forwarded by the Clerk of the House of Representatives to the Parks and Recreation Commission of the City of Worcester and the Worcester Area Association for Retarded Children, Inc.

RESULTS OF QUESTIONNAIRE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. BIAGGI. Mr. Speaker, for the benefit of my colleagues I am pleased to submit the results of my 10th Congressional District 1977 legislative questionnaire. I consider these questionnaires most helpful in formulating my positions on key issues. The response will hopefully provide some insights into the major issues we should address in the next session.

The results follow:

Results of 1977 Legislative Questionnaire

1. Should the Federal government spend more on child abuse prevention and treatment?

Average: 74.5 percent yes, 25.5 percent no.

2. Should the Federal government provide subsidies to parents adopting "hard to place" children?

Average: 65 percent yes, 35 percent, no.

3. Do you support imposition of separate mandatory penalties for persons convicted of crimes against the elderly?

Average: 70 percent yes, 30 percent no.

4. Should the Federal government compensate crime victims for their losses?

Average: 64.5 percent yes, 35.5 percent no.

5. Should pregnancy be considered a temporary disability by employers?

Average: 42.5 percent yes, 57.5 percent no.

6. Should affirmative action programs requiring quotas be abolished?

Average: 68.5 percent yes, 31.5 percent no.

7. Is there too much emphasis on human rights in our foreign policy?

Average: 63 percent yes, 37 percent no.

8. Are present bilingual education programs successful?

Average: 6.5 percent yes, 93.5 percent no.

9. Do you support turning over control of the Panama Canal by the year 2000?

Average: 31.5 percent yes, 68.5 percent no.

10. Should we normalize relations with Cuba?

Average: 37 percent yes, 63 percent no.

11. Should we abandon our relations with Taiwan?

Average: 19 percent yes, 81 percent no.

12. Does the United Nations still serve an important function in the world?

Average: 48 percent yes, 52 percent no.

13. Should the ban on Laetrile be continued?

Average: 30.5 percent yes, 69.5 percent no.

14. Should amnesty be provided for illegal aliens who entered the United States before 1970?

Average: 25 percent yes, 75 percent no.

15. Do you support a comprehensive, cradle-to-grave national health insurance program?

Average: 68.5 yes, 31.5 percent no.

16. Should national health insurance be limited to those with catastrophic illnesses?

Average: 17 percent yes, 83 percent no.

17. Should apartment renters be able to deduct from their income taxes the amount of property tax they pay as part of their rent?

Average: 63.5 percent yes, 36.5 percent no.

18. Do you support a restoration of the death penalty for capital crimes?

Average: 88.5 percent yes, 11.5 percent no.

19. Should Federal employees be able to engage in political activities?

Average: 50 percent yes, 50 percent no.

20. Do you support unionization of armed services personnel?

Average: 4.5 percent yes, 95.5 percent no.

21. Do you support imposing civil rather than criminal penalties for possession of small amounts of marijuana?

Average: 50 percent yes, 50 percent no.

22. Should the outside earnings limitation for Social Security recipients be eliminated?

Average: 61 percent yes, 39 percent no.

23. Should the SST be banned from landing at Kennedy Airport?

Average: 60 percent yes, 40 percent no.

24. Should Saturday mail delivery be eliminated if it will help hold down postal rates?

Average: 53 percent yes, 47 percent no.

25. Do you support financing of Congressional elections with tax dollars?

Average: 48.5 percent yes, 51.5 percent no.

26. Should the U.S. withdraw ground forces from Korea?

Average: 38.5 percent yes, 61.5 percent no.

27. Do you believe the Soviet Union is stronger militarily than the U.S.?

Average: 52 percent yes, 48 percent no.

28. Do you support the restoration of the House Internal Security Committee?

Average: 75 percent yes, 25 percent no.

29. Should the U.S. limit future admissions of foreign medical students?

Average: 81 percent yes, 19 percent no.

TRIBUTE TO THE LATE HONORABLE CARLETON J. KING

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, I was deeply saddened by the news of the passing of my former colleague and close friend, Carleton J. King; and would like to extend my sympathies to his wife, Constance, and their children upon whom the tragedy of his death bears the most heavily.

Carl's legal career was both lengthy and distinguished. He served as district attorney for Saratoga County before coming to Congress in 1960 and returned to private practice upon leaving the Congress in 1974. I had the privilege of serving with Carl in the House of Representatives for almost 11 years. During that time, I knew him as a man who worked tirelessly for the well being of the people of the 39th Congressional District of New York.

Through his talent, energy and sheer genious, he won the respect and admiration of all his professional and personal associates. All those around him learned and benefited from his knowledge and warm personality. He has undoubtedly left a void that cannot be filled.

As a member of the Armed Services Committee, Carl was widely recognized for his leadership in matters affecting our national defense. He was a brilliant defender of our military services which earned him the Chairmanship of the Board of Visitors of the U.S. Military Academy at West Point.

Carl will sincerely be missed by all who have had the occasion to know him and work with him.

DAVID KIRKPATRICK BRUCE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, a very great and dear friend of mine passed away on Monday of this week, David K. E. Bruce.

David Bruce served his fellow man, his Nation, in several capacities.

Calling Bruce a "career diplomat" really applies a one dimensional term to a multidimensioned individual.

David Bruce, in the words of a New York Times editorial, was "a lawyer, author, twice-elected State legislator, banker, soldier, gentleman farmer, wine connoisseur, World War II OSS spymaster, and Marshall plan administrator when President Truman named him Ambassador to France in 1949."

France was only the beginning of Bruce's diplomatic career which saw him serve both Democratic and Republican Presidents alike.

He was a gentle man of breeding who served the public unselfishly, dedicated to international peace and harmony.

I will miss David Bruce and so will the Nation.

My wife Lucy and I extend our heartfelt sympathies to Evangeline, his wife, and their children.

I would like to include in the RECORD at this time editorials from the New York Times and the Washington Post, describing the life and career of David Bruce:

David Bruce, American and European

David Kirkpatrick Este Bruce was proof that American foreign policy could be bipartisan and that the amateur—selected for ability, not campaign contributions—could equal the professional in diplomacy. A lifelong Democrat, he served as ambassador for six Presidents, three of them Republican. President Eisenhower appointed him Ambassador to Bonn despite his campaign contribution and much-sought advice in 1956 to the Democratic Party. His political affiliation was never concealed; His Republican appointments, which he did not seek, were resigned before Presidential campaigns. But in international affairs, he saw only a continuum of national interest in the American search for a peaceful world.

The son of a lawyer and Pulitzer-Prize biographer who became a United States Senator, David Bruce himself had been a lawyer, author, twice-elected state legislator, banker, soldier, gentleman farmer, wine connoisseur, World War II O.S.S. spymaster and Marshall Plan administrator when President Truman named him Ambassador to France in 1949.

Before he finished his ambassadorial functions more than a quarter-century later, he had served in Bonn, London, Peking and at NATO headquarters in Brussels, a record unique in variety and duration as well as distinction. He served Dean Acheson as Undersecretary of State and, in Peking, headed America's first liaison mission to Communist China. Yet his most important task was one of his earliest and one in which he—and the United States—failed. Theodore White called it "Ambassador to a Dream"—the dream of a United States of Europe. Together with Jean Monnet in France, John J. McCloy in Bonn and Dwight Eisenhower, Mr. Bruce sought to catalyze the political union of Western Europe. The instrument was the abortive European Defense Community treaty. Six nations signed, but France, after a four-year debate, refused to ratify despite Mr. Bruce's vigorous efforts as special American representative.

Military and political union remain on West Europe's future agenda, but what has been achieved as a result of that effort in the early 1950's is an economic community of nine nations, known as the Common Market. It has helped to keep the democratic way vitally alive in Europe. In the history of our era, his service to the European idea will always qualify David Bruce not only as a distinguished American but as an eminent European.

David Kirkpatrick Este Bruce

"Each honest calling, each walk of life," James Bryant Conant once wrote, "has its own elite, its own aristocracy, based on excellence of performance." In the calling of diplomacy, David Bruce, who died Monday morning at the age of 79, was very nearly the embodiment of that aristocracy. He was, as Trollope said of Plantagenet Palliser, "a perfect gentleman." That is to say that he was, in the strict dictionary sense, "a man of good breeding, education and manners . . . civilized . . . sensitive . . . a man of independent income who does not work for a living." But that's only to begin with; it doesn't really describe the man, and still less his extraordinary career of public service. It is true that David Bruce did not need to work for a living. And so, while he was from time to time a lawyer, a tobacco farmer, a banker and a business broker with eclectic interests (sugar plantations, race tracks, newspapers, parachute-manufacture, oil and a project for de-nicotinizing cigarettes), he worked almost all of his life for his country.

It began the day he left Princeton in 1917 as a sophomore at age 19 to enlist as a private in the U.S. Army in World War I, and it ended last year when he resigned from his post as American ambassador to the North Atlantic Treaty Organization—at the age of 78. And in between? There is no way to convey a sense of David Bruce's service in those intervening years without at least some brief résumé: Chief of the Office of Strategic Services in Europe in World War II, Assistant Secretary of Commerce, administrator of the Marshall Plan for France, ambassador to France, Undersecretary of State, ambassador to West Germany, ambassador to Great Britain, and the head of the first U.S. liaison office in Peking in 1973. And that's not complete: It doesn't, for example, take into account elective office: Mr. Bruce was a member at different times during his career of *both* the Maryland and Virginia Houses of Delegates.

The defeats and disappointments can be dealt with quickly—the triumphs take longer. There was the unrewarding 16-month tour as the U.S. representative to the Vietnam peace talks in Paris, beginning in 1970, when there was not much disposition on either side to compromise. And there was the shattering of a cherished dream when the French refused to ratify the European Defense Community for which he had labored hard as the American "observer" on an interim committee set up to advance this critical move toward European unity. For such unity as the Europeans have achieved, however, David Bruce deserves large credit. "It was Bruce who first singled out the Schuman Plan—the first realization of European unity—as a vital new idea, and mobilized American diplomacy to support it," wrote Theodore H. White in 1954.

As for the other triumphs, they were mostly quiet and difficult to measure, for they took the form of nothing more spectacular than the consistently effective, professional practice of diplomacy. David Bruce was not an ideologue. He was more often the engineer than the inventor of policy—he made things work. "Diplomacy is the management of international relations by negotiation," he once said. "It is not a system of moral philosophy." For him, the key to it was "the application of intelligence and tact," which he possessed in abundance. Most who knew him would add uncommon charm, intellectual curiosity, cultivation, consideration, patience—and toughness of mind.

In "A Thousand Days," Arthur M. Schlesinger Jr. speaks of the "great confidence" that President Kennedy had in David Bruce's "steadiness of judgment." That's what it came down to, with six Presidents of both parties, over a span of more than 30 years. And that is why his country is so heavily in his debt.

THE AMERICAN MEDICAL ASSOCIATION'S IMMUNIZATION CAMPAIGN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. MAZZOLI. Mr. Speaker, using children's games to publicize public health threats is a time-honored tradition. A version of "Ring Around the Rosie," for example, explained the bubonic plague in 17th century England with various verses referring to symptoms and treatment of the plague. Today, the American Medican Association and its auxiliary are using the game of hopscotch to promote awareness of childhood diseases and the need for immunization against them.

Twenty million children fourteen years or younger have not been adequately immunized against childhood diseases, including polio, measles, German measles, diphtheria, whooping cough, tetanus, and mumps. In light of the national relief experienced when these vaccines were first developed and their present availability, often at minimal cost, the current situation seems ironic.

To fight apathy and misinformation among young parents who never knew the effect of these diseases, the hopscotch campaign is constructed to appeal to children, and through them to their parents. Hopscotch courts are being given an educational twist. Immunization has been substituted for sky-blue on the top of the game and each one of the squares is labeled with a separate disease.

The American Medical Association and auxiliary have developed a kit containing background material on the current status of immunization, model press releases, model editorials both for the print and the electronic media. With commercials, puppet shows, and full-size stencils for permanent hopscotch courts, the American Medical Association has launched an enthusiastic, nationwide efforts.

1977: THE SEEDS OF DEFEAT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. DORNAN. Mr. Speaker, the esteemed defense journal without peer, "Jane's All the World's Aircraft," says it all in the forward to its 1978 edition. I commend to my colleagues' attention this thoughtful, detailed, and frightening analysis of Soviet malignant growth by Jane's editor, Mr. John W. R. Taylor.

The article follows:

1978—"Jane's"

If our planet is subjected one day to the unimaginable horrors of a third World War, 1977 might be recorded as the year in which the seeds of defeat for the Western Powers were sown. This gloomy assessment reflects no abandonment of *Jane's* traditional non-political status, for there would be no victor in such a holocaust. Survivors would never be quite certain that their next mouthful of food was fit to eat, or their next lungful of air safe to breathe. Their first post-war tasks would include disposal of the sixty million dead which computers predict coldly for a nation like the United States, on print-out pages headed 'Calculated Risk.' It is, therefore, vital for all peoples to understand that the fragile coexistence maintained for a generation by balanced East/West military power is being allowed to slip, inch by inch, from our grasp.

We live in an age which considers itself so omniscient that it can learn nothing from history. It is insignificant to many people that the second World War and the more recent conflict between the United States and North Vietnam were ended by demonstrations of the destructive might of the manned strategic bomber. To state this fact will be construed in some quarters as no more than a final, rather pathetic plea for the American B–1, mightiest bomber of all time but so costly that it was rejected deliberately in favour of cruise missiles. It may even seem irrelevant to point out that only one military leader has previously put massive faith in such missiles, and that Britain, in a far from technologically advanced age, had little difficulty in coping with Adolf Hitler's V–1 flying bombs.

Can we be confident that modern cruise missiles, flying at subsonic speed, lacking the discrimination of human control and short of effective countermeasures at this stage of their evolution, would prove immensely more successful? However great or small the threat of cruise missiles might be, now or in the future, the vital ingredient of a deterrent policy is variety in potential means of attack *on both sides.* A great nation that is free to concentrate its technological talents and funds on countering a single threat, rather than three or four vastly differing kinds of attack, is in a happy position.

The Soviet Union has no illusion about this. When discussing further East/West strategic arms limitations, it fought uncompromisingly to restrict US deployment of both the B–1 and the cruise missile. Its leaders must be surprised beyond belief that the US President has disposed of the B–1 without asking any Soviet concession in return. One must, perhaps, be a West European, living within range of the Tupolev's 'Backfire' and Sukhoi Su–19 'Fencer,' to feel apprehensive when such formidable aircraft are ranged side by side with a force of about 1,400 ICBMs, 600 IRBM/

MRBMs, 950 submarine-launched ballistic missiles and 200 older long-range bombers, each capable of annihilating a city in a second of time.

The US Administration argues, with some justification, that even the wealthiest nation can no longer afford to build vast quantities of every conceivable kind of weapon; such profligacy is, in any case, quite unnecessary.

The U.S. Air Force never needed to think solely in terms of an optimum force of 244 B–1 bombers, costing an estimated $28,000 million initially or $100,000 million over their lifetime (equivalent to $100 for every minute which has passed since the birth of Christ or, according to the *Chicago Tribune*, the cost of a few weeks of welfare fraud in New York). Even a hundred B–1s would have compelled the Soviet Union to expend huge sums of money and immense effort on developing, producing and maintaining defences against air attack. Good as its current generation of combat aircraft may be, it is not within sight of a home defence force that could cope with squadrons of B–1s. As a start, it lacks an efficient AWACS to detect and track a low-flying attack and direct fighters towards an interception.

In contrast, America's Aerospace Defense Command has the services of a superb AWACS in the shape of the Boeing E–3A, but only 341 mid-1950s interceptors compared with 2,540 in the Soviet home defence units, many of them new. Another year has passed without any contract for the U.S. Follow-on Interceptor (FOI) needed to replace current F–106s. In the fashionable cover-up political language of the 1970s, key U.S. defence programmes are being 'slipped'. In plain terms, they have been pushed under the carpet for twelve months, out of sight, in the hope that no-one will notice if some of them never re-emerge. The latest programmes described as 'slipped' as this Foreword is being written include those for the U.S. Navy's McDonnell Douglas F–18 Hornet air combat fighter and the U.S. Marine Corps' AV–8B advanced development of the British Harrier V/STOL attack/reconnaissance aircraft.

Initial reports of what will be contained in the U.S. Defense Department's fiscal year 1979 budget proposals suggest that any McDonnell-Douglas F–15 Eagles allocated to the FOI force will have to come from the 729 aircraft intended for Tactical Air Command. Similarly, the U.S. Air Force reconnaissance force is expected to be updated by converting in-service F–111Ds for the task, taking the place of hoped-for RF–15s and *all* reconnaissance RPVs.

In the past, the fact that NATO tactical air forces are outnumbered nearly three to two by Warsaw Pact tactical aircraft in Europe was offset by the higher standards of Western aircraft and training. The advantage is being eroded rapidly. Replacing older aircraft on a one-to-one basis, the Soviet aerospace industry has given its squadrons a 500 per cent increase in both radius of action and weapon load within a decade. At the same time, the amount of advance warning of an impending attack that NATO units can expect, even on the basis of highly efficient satellite monitoring, has diminished from an estimated thirty days to four or five days.

Increasingly it becomes clear that strength must be matched with strength at every level. So-called ultimate weapons have been made far too ultimate for use in anything but a despairing last-ditch situation when a major country is faced with extinction. Most modern confrontations are pitched at a far lower level, and it would be disastrous to possess only thermonuclear weapons with which to deal with them. Nor are such weapons any longer the most terrible in the inventory or under development. During the past year there have been repeated references in the press to America's neutron bomb, described as the ideal 'capitalist' weapon, which eliminates men but leaves property and equipment intact. The USSR, we are told, can match this with Bgas, which swats men like flies sprayed with DDT, by destroying their nervous system. Then there are embryo 'death rays' based on laser technology, and other weapons of equally horrific kinds, straight out of the pages of science fiction but becoming feasible.

The time has come for an honest and practicable scaling down of all weapons of mass destruction. Whether it is feasible to agree to a total ban in any particular category is debatable. Some of the deadliest means of extermination are among the easiest to produce, and a great nation engaged in an all-out struggle for survival might feel justified in using any means to avoid defeat, however terrible. A mutual deterrent policy that works is still the key to co-existence; if approached more rationally, there is no reason why it should not be acceptable economically as well as militarily.

At the present time, on the basis of the initial arms limitation agreements, the USA and the Soviet Union maintain sufficient strategic nuclear weapons to destroy each other several times over—what the military refer to as an overkill factor of three, four or five. The cost is crippling, which is why, for example, the USA cannot afford to pursue all its options and has to sacrifice certain weapons like the B–1 to pay for more than it needs of others.

If the current overkill factor were assessed at, say, four, could it not be reduced within twelve months to three? . . . then two? Each side would retain adequate weapons to "kill the other twice over," but the overall cost would be much reduced, even if a proportion of the saving were switcher to other means of defence. There are few people in the world, East or West, who would find such a step unwelcome, and who knows what might develop eventually from such a display of statesmanlike commonsense?

Had the Soviet Union staged one of its old-style Aviation Day flypasts over a Moscow Airport in July 1977, to mark the sixtieth anniversary of the Revolution, as many people expected and hoped, it would have proved a shattering exeprience for Western observers. The spearhead could have been anything from fifty to a hundred missile-armed "Backfire" supersonic bombers, a similar number of Su–19 "Fencer" long-range attack aircraft, and many hundreds of MiG–23/27 "Floggers" and Sukhoi Su–17 "Fitters"—all with variable-geometry wings. Midstream might have come sufficient MiG–21 "Fishbeds" to darken the sky, ominous formations of missile-armed Tu–16 "Badger", Tu–22 "Blinder" and Tu–95 "Bear" maritime reconnaissance bombers, a huge assault force of Mi–24 "Hind" helicopters, squadrons of Il–76 "Candid" turbofan transports packed with paratroops, a top cover of Su–15 "Flagon" all-weather fighters and MiG–25 "Foxbats", fastest combat aircraft in the world, and a rearguard of types never glimpsed before, passing so quickly and in such abundance that brains seeking to retain myriad details and impressions became saturated and confused. Such a sight could well have made the United States regret that it had been so hasty in cancelling B–1 production; which is one good reason why it did not happen.

Nonetheless, it has been possible once again to glean a considerable volume of new information on Soviet military aircraft this year. 'Backfire' has undergone a particularly thorough re-assessment, in view of the continued controversy that surrounds this bomber, even in Congress, the Pentagon and the backrooms of the CIA. In brief, it continues to look as strategic as ever, and when more can be published about its A–6 'Kingfish' missile, Britain's need for the ADV Tornado interceptor will be utterly apparent. At the present time, the RAF is confident that it could cope with even 'Foxbat' if it had to do so, in view of the lengthy warning period that the UK receives whenever an unidentified aircraft approaches around the North Cape or over Europe. No Soviet military aircraft has ever intruded into British airspace, and some turn back hundreds of miles from the UK coastline. However, Soviet interest in the UK is indicated by the fact that in 1976 RAF 'quick reaction alert' fighters were scrambled on 133 occasions to investigate potential intruders, of which 123 were intercepted and escorted on their way.

A 'Backfire', coming in low perhaps from the West, might present new problems. So might 'Fencer', which has a radius of action adequate to reach most places in England from its bases in Eastern Europe, without recourse to flight refueling. Nor can those responsible for UK defence ignore the threat of sudden saturation by 'Kelt' air-to-surface missiles, mixed with a proportion of more advanced 'Kitchens', launched by a large fleet of 'Badgers' from stand-off range. The Soviet Union has a strange aversion to discarding any aeroplane that can still fly, and it would be all too easy to underestimate the threat posed by such missiles, carried by bombers as old as the US Air Force's B–52s.

DR. LARRY WOODWORTH

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 7, 1977

Mr. LEDERER. Mr. Speaker, I am both saddened and shocked to learn of the untimely death of Dr. Larry Woodworth. We will all miss Dr. Woodworth and especially the newer Members of Congress who knew him only a short time but who have grown to respect and admire him greatly.

When I came to Congress in January, I was assigned to serve on the Ways and Means Committee. Other more senior members of that committee already knew Larry and had worked with him on difficult and complex tax issues for many years. As a new Member, just feeling his way, I depended on Larry's brilliant mind and extraordinary knowledge of our tax code for help and guidance. Larry was always willing and ready to help me understand and decipher the most arcane passages of the Internal Revenue Code.

Mr. Speaker, more importantly and far more significant than his brilliant mind were Larry's human qualities. He was a decent and good man. His life of public service was marked with expressions of friendship and concern for his fellow man. Always with kindness and a smile, Larry dealt for 33 years with the most complex and intricate legislative measures of our time. The combination of his brilliant mind and basic goodness made him one of the most effective members of the current administration.

Mr. Speaker, may I offer my sincere condolences to Larry's wife Margaret; his children, Laurence Sheldon, Joseph Ray, Ester Margaret and Melissa Mary and to the other members of Larry's family.

ENCOURAGING EMPLOYMENT OR UNEMPLOYMENT?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. ASHBROOK. Mr. Speaker, the present administration and the liberal majority in Congress keep pushing for new Federal spending programs that are supposed to fight unemployment. These programs usually result in larger Federal deficits and do little to solve the unemployment problem.

While Secretary of Labor Marshall's decision to do away with hundreds of senseless OSHA regulations is a step in the right direction, the usual emphasis still is on regulation and cosmetic approaches that do nothing to help encourage employment. In point of fact, the emphasis by the liberal majority in Congress seems to be one of discouraging private enterprise through greater regulation and working against investment.

In a recent column in Human Events Louis Rukeyser pointed out 10 ways in how the unemployment rate can be kept high. The liberals seem to be following his steps quite well.

At this point I include the text of his column:

TEN EASY WAYS TO KEEP THE UNEMPLOYMENT RATE HIGH

(By Louis Rukeyser)

How to keep the unemployment rate high—in 10 easy lessons:

(1) Attack business profits at every opportunity. Call them "obscene" and talk about "ripoffs" and stuff like that. Scare the pants off businessmen and investors. Cast them as the enemies of the common man. Nobody loves a "profiteer," so it's good to keep hinting that most business profits are "excess" or "windfall" or worse. Never let on that they are the key to rising living standards.

(2) When you have a problem like the impending bankruptcy of the Social Security system, solve it by greatly increasing the cost of employing new workers. Most people won't realize that you are really putting a surtax on labor, and even if they do that's still better than dealing with the problem directly or creatively. Don't make people nervous by forcing them to think.

(3) Have an energy program that emphasizes conservation rather than production. Play on the hairshirt tendency in modern American life, where people like to be told that they're going to live worse in the future, and it's going to be really good for them. Ignore the importance of increasing supplies both as the only rational long-term solution and the only possible near-term means of boosting economic growth and employment. The unemployed probably won't realize that you're victimizing them.

(4) Safety is popular; who do you know that opposes it? So carry it to ridiculous extremes. Let self-important government regulators go into small and large businesses all over the country with limitless powers and unending fine print. Adjust the height of fire extinguishers and demand changes in just about everything. And if this so escalates business costs that new hiring is diminished, count on the fact that few Americans will make the connection.

(5) Behave the same way about the environment. Nobody is cheering for pollution, are they? So insist that we create a test-tube-pure ecology overnight, banishing the last 1 per cent of filth. Pretend that we could actually do this if industrialists weren't so callous and grasping. Pretend that we can burn lots more coal, for example, without letting down the environment barriers one inch. And if we can't, and if production and employment remain sluggish because of overambitious environmental timetables, that's a mighty small sacrifice—for the employed.

(6) Keep raising the minimum wage, and insist that teen-agers get paid the full minimum. This means, of course, that many will find their actual wage is zero—they won't be able to get jobs, because they won't be worth that price to employers—but everybody will think you are marvelously humane.

(7) Give in to George Meany at every opportunity. He knows best for America, doesn't he? Pass new laws expanding unions' influence. Never, never examine the possibility that their own monopoly powers may already in some cases be excessive. Maybe some Americans won't get jobs as a result, but you'll get a fine rating from the AFL–CIO at re-election time.

(8) Play legislative games with major employers like the auto companies. Give them a standard to meet—a fleet average of 27.5 miles per gallon by 1985—and then, when they're racing to get there, start changing the rules at halftime. Talk about taxing "gas guzzlers" (don't, whatever you do, call them "cars for large families") or even banning them outright. The International Trade Commission and the Bureau of Labor Statistics estimate that such measures would reduce sales and cause a loss of 90,000 jobs, but who read their reports?

(9) Maintain, and enlarge a system of welfare and unemployment benefits that encourages many recipients to reject many jobs.

(10) Give a very low priority to tax incentives for new investment. Why help the rich? The tax system is a disgrace already, isn't it? And if that means a slower growth of the nation's industrial capacity, and thus of its ability to hire new workers—well, the voters aren't Ph.D.'s in economics, are they? You can probably keep on fooling them for years, and complaining about unemployment all the while.

MONTEREY PARK CHAMBER OF COMMERCE ADOPTS CHINESE LANGUAGE PROGRAM

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. DANIELSON. Mr. Speaker, the Monterey Park, Calif., Chamber of Commerce recently extended the welcome mat to a growing number of Chinese-American merchants by conducting a get-acquainted meeting where Chinese was spoken as well as English.

The invitation sent to all merchants was printed in Chinese as well as English, and the Chamber has established a special committee to aid these businessmen and to open lines of communication.

I would like to commend the Monterey Park Chamber of Commerce for its forward looking attitude in welcoming these new merchants in this unique and understanding way.

WILLIAM S. GAUD—IN MEMORIAM

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. GONZALEZ. Mr. Speaker, I was saddened to learn today of the death of William S. Gaud.

Mr. Gaud was a public servant of great distinction and achievement. He was among those who are well known and respected within Government, but who nevertheless are not widely recognized as public figures. Yet here is a man of bold vision and courage, a real innovator, and a fine administrator. Such a man deserves fame to match his merit, and yet the William S. Gauds of this world are quite comfortable without it. For him, it was enough to serve.

Mr. Gaud came into Government with the Kennedy administration, and spent 8 years with the Agency for International Development. It was he who coined the term "green revolution" and he who promoted the widespread use of new, high-yielding food grains. And it was Mr. Gaud who insisted that gaining control of population growth must go hand in hand with development efforts.

Today we are inclined to question whether development is possible, in the terms of the vision that Mr. Gaud had. And yet, had it not been for him, the miseries of the world would have been far greater than they are today. He was a man who brought not just hope, but the reality of better life, to millions upon millions of the poorest people on earth.

I had the privilege of knowing this man. I am profoundly saddened by his passing.

I include in the RECORD the obituary for Mr. Gaud, as published in the Washington Post today:

[From the Washington Post, Dec. 7, 1977]

WILLIAM S. GAUD, FORMER AID OFFICIAL

(By J. Y. Smith)

William S. Gaud, a former administrator of the Agency for International Development who emphasized food production and population control, died Monday of cancer at the Washington Home for Incurables. He was 70.

Mr. Gaud coined the term "the green revolution" to dramatize his belief that the use of new, high-yield kinds of wheat and rice could help the underdeveloped world feed itself. He was equally certain that the breakthroughs in agriculture efforts to control population.

Mr. Gaud joined AID when it was first set up in 1961 at the outset of the Kennedy administration. He was in charge of its operations in the Near East and South Asia until 1964, when he became deputy administrator. From 1966 to 1969, he was administrator.

The increase in food production in this period—particularly in Turkey, India and Pakistan—was astonishing. In 1964, India produced 9.8 million tons of wheat. In 1969, it produced 18 million tons. Pakistan's yield rose from 4 million to 7 million tons in the same five years.

These increases were made possible by the introduction of strains of wheat developed in Mexico under the auspices of the Ford and Rockefeller foundations. The foundations also developed high-yield rice in the Philippines.

Mr. Gaud's contribution was to make them available to the countries that needed them. President Johnson had proclaimed a "war on hunger" and the foreign aid programs were the means by which it was to be fought.

President Johnson announced in 1965 that the United States would finance birth control programs abroad. This was a sharp departure from previous policies.

Mr. Gaud felt that these two efforts—food production and population control—would permit the world to feed itself and avoid massive famines. He did not think that the task would be easy.

The developing countries, he told Congress in 1968, "lack the skills to do the necessary adaptive research. They lack the foreign exchange to import fertilizer. They lack the capital to build fertilizer plants. They lack the facilities and techniques needed to train their people in the new ways."

The United States and other rich countries must fill these needs, he said.

The new grains, he wrote in a letter published in The Washington Post in 1968, would allow the world to meet its "medium term" requirements. He added, "But this is not enough for the long term. Today's rapid rate of population growth must be slowed or people will outstrip even this expanded food supply before the turn of the century.

"To meet the long-term challenge of moderating the population increase, AID gives family-planning programs the highest priority, together with assistance to agriculture."

The 1960s were what one former associate of Mr. Gaud called the "golden era" of cooperation between the United States and India and Pakistan. But foreign aid, as well as many other programs, began to run into increasing difficulties in Congress from critics of the war in Vietnam. Much of Mr. Gaud's tenure as administrator of AID was devoted to trying to preserve the programs in which he was most interested in the face of this criticism.

When he left government, Mr. Gaud became the executive vice president of the International Finance Corporation of the World Bank Group. He remained there until 1974, when he became a consultant to the World Bank and president of the Population Crisis Committee, a private organization that promotes population control.

Robert S. McNamara, the president of the World Bank and the former Secretary of Defense, said yesterday that Mr. Gaud was "one of the most dedicated officers I have worked with in my 17 years in government and international organizations."

Moeen A. Qureshi, Mr. Gaud's successor at the International Finance Corporation, called his death a loss "to the peoples of the developing world for whom he worked so hard and accomplished so much."

Mr. Gaud was born in New York City and earned bachelor's and law degrees at Yale University. After teaching briefly at Yale and then starting a private law practice in New York, he became an assistant corporation counsel for New York City. One of the projects on which he worked was the city's acquisition of control over its subway system.

He served in the Army in the China-Burma-India theater during World War II. There he worked with Dean Rusk, who was secretary of State in the Kennedy and Johnson administrations. It was Rusk who persuaded Mr. Gaud to give up his New York law practice after the war and come to Washington in 1961.

Mr. Gaud's survivors include his wife, the former Eleanor Mason Smith, of the home in Washington; a daughter, Anne Tinker, also of Washington, and a brother, Henry Taylor Gaud, and a sister, Mrs. John Leland, both of Charleston, S.C.

EFFECTIVE OLDER WORKERS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. PEPPER. Mr. Speaker, as chairman of the House Select Committee on Aging, one of my chief concerns has been to ban mandatory retirement. An arbitrary age deadline not only deprives the American people of an effective work force; it also puts an undue strain on the social security system and causes needless poverty and anguish for many elderly persons. For these reasons, I commend my colleagues for having passed, by the overwhelming vote of 35 to 4, H.R. 5383 which bans mandatory retirement in the Federal sector and extends protection from mandatory retirement to age 70 in the private sector.

On the occasion of Eric Sevareid's retirement on his 65th birthday last week, I commented on the great loss this country will now feel without the guidance of such a committed and competent journalist. His absence from the nightly newsstands is an example to us of the needless effect of forced retirement.

For my colleagues' benefit, I would like to insert in the RECORD an article from the Wall Street Journal of December 7, 1977, which further highlights the effectiveness and competency of our Nation's elderly work force:

UNRETIRING WORKERS: TO THESE EMPLOYEES, THE BOSS IS A KID

(By John L. Moore)

CHEVERLY, MD.—Like many American workers, Leo La Fontaine rises before dawn five days a week, dresses, eats breakfast, packs a lunch and drives an hour to his job.

Once there, he puts in another eight hours as a production clerk for his employer, a Pepsi-Cola bottling plant. A peppy, cheerful man, Mr. La Fontaine often draws praise from co-workers for his stamina. One of his bosses, Robert Arsenoff, a vice president, declares flatly that "Leo is a phenomenon."

Leo is also 78 years old. And while Congress debates whether to push the mandatory retirement age back to 70 from 65, Mr. La Fontaine keeps plugging away at the Pepsi plant, where he has spent the last 14 of his 61 working years. "I'll be 79 next February," Mr. La Fontaine says, "and I don't see any reason for quitting as long as I feel good."

A septuagenarian employe is something of a rarity, of course. Most companies don't hire or retain workers over the age of 65, often because management wants to give younger employes a chance for promotion or because labor-union contracts set a mandatory retirement age. Thomas Harper, a Philadelphia management consultant, also notes that companies tend to view elderly workers as a liability since "many of them become less than productive as they grow older."

750,000 STILL WORKING

Yet Mr. La Fontaine is by no means the only extra-senior citizen still on the job. According to the Labor Department, more than 750,000 Americans age 72 and over were employed full or part-time last year. Their ranks include women such as Elizabeth Houlihan, an 80-year-old secretary to Pennsylvania's Secretary of Labor, and men such as 83-year-old Nathan Recht, who spends three or four nights a week waiting on tables at a Miami airport restaurant. And to hear many of them tell it they wouldn't have it any other way.

"Lots of people can sit under a tree and enjoy it—I can't" says Harry Jones a 73-year-old industrial engineer. Mr. Jones has worked at Portec Inc.'s Troy N.Y. steel mill ever since 1968 the year he retired from another job only to discover retirement wasn't to his liking. Today, Mr. Jones vows he won't "hang up my slide rule" for another four or five years.

These older workers say keeping busy isn't the only reason they're reluctant to leave the factory or the office. Aware that many retirees are hard pressed to get by on pensions and Social Security payments, they are also happy to have the financial independence that accompanies a regular paycheck. Indeed, to stay on a payroll, some are even willing to take a cut in salary.

"I COMPLETED THE COURSE"

Mr. Jones, for instance, earns $15,620 a year at Portec, a salary which he says is about 30 percent below the local going rate for industrial engineers. But Social Security payments of $485 a month, plus interest from savings accounts, more than make up the difference. "When I buy a car, I pay cash for it," Mr. Jones says. "I like to pay my bills when they're due." Besides, he adds, "I just love to get that Social Security check. I was working (in 1937) when they started it. I completed the course, and now they're paying me."

(Under the Social Security laws, beneficiaries under age 72 who make $3,000 a year or more have $1 in benefits withheld for every $2 earned above that level. However, job holders age 72 and over draw full Social Security benefits regardless of their earnings.)

Perhaps the dean of American workers is 86-year-old George Kraft, who has been employed by Globe Dye Works Co. in Philadelphia since 1907. When he started, his boss was a Civil War veteran and most of the company's deliveries and shipments were made by horse-drawn wagons.

Until recently, Mr. Kraft worked a five-day week at Globe, rising at 5:15 a.m. and grabbing three different buses in a 40-minute commute to his job as a receiving clerk.

Indeed, he's annoyed that, shortly after he announced he would retire at the end of this year, Globe cut him back to three days a week as part of an austerity move in which several younger workers were laid off.

Thomas Greenwood Sr., Globe's president and the grandson of the man who hired Mr. Kraft, says the company retains the octogenarian because he is a competent, reliable worker. "As long as a man can produce, he can keep his job," Mr. Greenwood explains. He and others make it clear, however, that employers can't afford to coddle older workers. "If they can't produce, we can't keep them," says Wilson Greenwood Sr., Globe's vice president.

As they advance in age, of course, many long-time workers do lose the physical strength and mental acuity they enjoyed in earlier years. Still, sagging productivity isn't necessarily a characteristic of elderly employes. Take Frank Kiernan, a packaging salesman for the Lehigh Packaging Division of Lehigh Press Inc., a New Jersey-based printer and packager.

Now 77 years old, Mr. Kiernan is pursuing what he calls "one of the biggest" deals of his 50-year sales career. Like any salesman with an eye on the competition, Mr. Kiernan is reluctant to divulge details of the pending deal. But John O'Meara, who heads the

Lehigh division, says that because of Mr. Kiernan's enterprise, a pharmaceutical company is on the verge of buying a new Lehigh concept for packaging pills. If the transaction takes place, Mr. O'Meara adds, it would mean a multi-million dollar sale for Lehigh.

It would embellish Mr. Kiernan's already impressive record at the company. In 1975, he was the division's top salesman with a volume of $1.2 million. This year, his sales again are approaching $1 million, and as a result, his boss says, Mr. Kiernan "is a pretty highly paid man."

Despite his success, however, Mr. Kiernan says he rarely devotes more than four days a week to business—primarily because he doesn't want to let work interfere with his golf game. "Would you if you were my age?" he asks.

DEWEY D. STONE

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, it is with the deepest feelings of regret and loss that I stand in tribute at the passing of my valued friend, Mr. Dewey D. Stone.

Mr. Stone was a lifelong resident of Brockton, Mass., but he touched the lives of many across this country and abroad. He is nationally recognized as a supporter of world Jewry, having donated, among countless other contributions, the administration building at the Weizmann Institute of Science in Israel.

The Jewish community has often recognized his philanthropy. He was named "Man of the Year" by the Jewish War Veterans of America in 1953, and later the State of Israel designated its new school of journalism in Jerusalem the Dewey Stone School.

Yet his generosity was ecumenical, extending beyond the Jewish community; with his brother, he donated a science building to Boston University. It is fitting that we all remember Dewey Stone, his friendship, kindness, and generosity.

Though he has passed from this world, he has passed along to those he left a cherished memory of unquestioned admiration.

An article from the Boston Herald American concerning Mr. Stone follows:

BROCKTON.—Services for Dewey D. Stone, 77, industrialist, philanthropist and one of the country's most prominent Jewish leaders, will be held tomorrow at noon in Temple Israel, Brockton.

A lifelong resident of Brockton, he died Saturday at Brockton Hospital.

Born of immigrant parents, he attended Brockton schools and was graduated from Boston University School of Business Administration in 1920.

In his business career, he was the president of the Harodite Finishing Co. of North Dighton, but he was much better known as a public spirited citizen and contributor to the American way of life and world Jewry.

The administration building at the Weizmann Institute of Science in Israel was a gift from Mr. Stone and his wife, Anne (Abrams), who survives.

He also established, with his brother, the late Probate Court Judge Harry K. Stone, a science building at Boston University.

In 1953, he was honored as "Man of the Year" by the Jewish War Veterans of America for his efforts in establishing the state of Israel and the cause of world Jewry.

He was the recipient of many honorary degrees and won many honors from the state of Israel, which, on the occasion of his 70th birthday, named a new school of journalism in Jerusalem the Dewey Stone School.

Active in politics, he was a strong supporter and confidant of President Truman and Kennedy and was influential in affairs involving Israel in the United Nations.

Both he and his wife were active in affairs of Brandeis University, where he was a trustee.

Besides his wife, he leaves a brother, Abraham, of Brockton.

Arrangements were made by the Levine Funeral Chapel, Brookline.

SPECIAL FALL 1977 QUESTIONNAIRE RESULTS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. FISH. Mr. Speaker, because of the timeliness and importance of the many issues that faced the 95th Congress in the closing days of the 1st session, I felt it necessary to poll the 25th Congressional District of New York in a special fall 1977 questionnaire—mailed in early September.

I have just received the final tabulations and would like to make the results a part of the official record, by printing them below. I hope my colleagues in the House will find the following information of interest.

REP. HAMILTON FISH, JR., SPECIAL FALL 1977 QUESTIONNAIRE:

(All answers in percentage)

(1) Do you favor halting construction of the Clinch River Commercial Liquid Metal Fast Breeder Reactor?

Yes	30.4
No	36.8
No opinion	26.0
No response	6.9

(2) Do you favor withdrawing the 33,000 U.S. combat soldiers from South Korea?

Yes	46.7
No	46.6
No opinion	4.8
No response	1.9

(3) Do you favor creating an independent Consumer Protection Agency?

Yes	60.1
No	33.8
No opinion	4.0
No response	2.1

(4) Do you favor creating a special status for illegal aliens who have been in the U.S. since January 1, 1970, to permit them to legally work here for five years?

Yes	21.2
No	72.2
No opinion	4.5
No response	2.1

(5) Do you favor increasing the minimum wage to $2.65 immediately, thereafter indexed to the average hourly industrial wage to an estimated $2.85 in 1979 and $3.15 in 1980?

Yes	47.6
No	46.7
No opinion	3.6
No response	2.1

(6) Do you favor establishing a two-price postage stamp with business mail at 16c and treated as first class, and citizen mail at 13c and not treated as first class?

Yes	25.6
No	68.1
No opinion	4.2
No response	2.2

(7) Do you favor presenting the Senate with a new Panama Canal treaty that would include increased U.S. payments to Panama and substantially reduce U.S. control over the operation and defense of the Canal?

Yes	24.4
No	67.1
No opinion	5.6
No response	3.0

(8) Do you favor placing an 18-month moratorium on the ban of saccharin by the Food and Drug Administration pending further scientific study?

Yes	64.1
No	27.6
No opinion	6.5
No response	1.8

(9) Do you favor denying VA benefits for Vietnam-era veterans whose discharges have been upgraded by the Presidential pardon?

Yes	65.2
No	29.2
No opinion	3.7
No response	1.9

(10) Do you favor denying medicaid payments for abortions except when the life of the mother would be in danger?

Yes	50.6
No	46.2
No opinion	2.0
No response	1.2

(11) Do you favor the handling of an investigation by the House Ethics Committee on alleged payments to Members of Congress by the South Korean Government?

Yes	67.0
No	21.3
No opinion	8.0
No response	3.7

(12) Do you favor reversing the mandatory installation of airbags in all automobiles manufactured beginning in 1981?

Yes	59.2
No	30.6
No opinion	7.3
No response	2.7

(13) In general, how would you rate President Carter's performance in office thus far?

Excellent	4.9
Good	28.4
Fair	38.7
Poor	23.1
No response	4.9

DICTATOR TORRIJOS OF PANAMA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. ASHBROOK. Mr. Speaker, President Carter's push for relinquishing the American canal in Panama has raised much justified opposition. Beginning to get more attention is the issue of Omar Torrijos, the dictator of Panama, and his regime.

The American Council for World Freedom recently released a study on Torrijos. It raises a number of issues that deserve attention. Among these are the lack of human rights in Panama and the use of torture; the Marxist background of Torrijos and people around him; and the involvement of the Torrijos regime in drug trafficking.

At this point I include in the RECORD excerpts of the study.

Torrijos of Panama: Profile of a Dictator

(By George Fowler)

(NOTE.—Nothing in this study is to be interpreted as necessarily reflecting the views of the American Council for World Freedom or an attempt to aid or hinder the passage of any bill before Congress.)

Panama's mercurial dictator, Omar Torrijos Herrera, rehuddled with President Jimmy Carter October 14 in an emergency session held to reassure the U.S. Senate that America's basic interests in the Panama Canal will be guaranteed by the Torrijos regime should the current treaties go through. But immediately upon returning home after the short session in Washington, D.C., Torrijos announced that he had signed nothing——"not even an autograph."

Increasingly, the question is asked: "What about this seeming enigmatic figure? Just who, and what, is General Omar Torrijos?"

Born Feb. 13, 1929, in Santiago de Veragues (115 miles from Panama City), Omar Torrijos Herrera is the son of rural Panamanian schoolteachers who, according to knowledgeable anti-Communists (some still within the country) founded a Communist cell in Veraguas Province. This cell is now considered by these sources as the most powerful and influential in Panama. The current dictator became a member of the "Young Veraguas," a Marxist organization, when he attended the Normal School of the Province of Veraguas. His early formative years were undeniably within the sphere of intimate Marxist-Communist indoctrination.

Soon after Torrijos came to power on Oct. 11, 1968, the late Drew Pearson (who checked with his CIA sources following a tip by a highly placed American then in Panama) identified Torrijos as a member of the Communist People's Party of Panama. The column, headed "Print Panama Junta Pink," ran in U.S. papers Nov. 19, 1968.

Torrijos attended the military academy at San Salvador, El Salvador from Feb. 1947 to Nov. 1951, whereupon he was commissioned a second lieutenant in the Panamanian National Guard, the nation's primary military-police arm. Today, the National Guard ranks just below the Torrijos regime hierarchy in terms of influence; yet, it is said to contain sub-rosa rightist elements which would constitute much of the hope for any eventual government overthrow and retreat from the present Marxist trend.

Just how closely Torrijos holds to his red-tinged indoctrination years is debated by even those who see him as an unqualified disaster for his country and Latin America. Reader's Digest noted that "Omar Torrijos is a moody, unpolished man who is ill at ease with strangers. Both foreign diplomats and impartial Panamanians doubt that he is a Marxist, but he is clearly to the left of the center. Torrijos maintains that Scandinavian socialism is his model, and that he is opposed to the 'social cost'—meaning totalitarian violence—of Communist revolution." In any event, all political party opposition was terminated in 1968, a condition which clearly continues today. . . .

One journalist who was not soothed by Torrijos' balm is Washington columnist and knowledgeable Latin Affairs writer Georgie Anne Geyer. Geyer had mixed results in pinning down the general eyeball-to-eyeball, but from her sources and observations captured a clear picture of the regime while in Panama. Geyer concluded that "Torrijos is at best eccentric, and at worst unbalanced (I personally have seen him at times when he was totally out of control of his sense), that he has run Panama into bankruptcy, that his family is deep in the Latin heroin trade, that there is no process for succession, and that he has anti-American leftists in high positions around him."

For those many Americans who are properly concerned about human rights, Georgie Anne revealed that the State Department's assistant secretary for Latin America, Terence Todman, "told me with admirable candor": "Of course, we're not going to challenge human rights in Panama because we want the treaty."

It should be noted that Freedom House, a liberal New York-based organization, rates the Torrijos regime one of the most despotic on earth. Freedom House rates nations on a scale of one down to seven in the categories of political rights and civil liberties. Panama now rates seven and six, respectively, the same score as Cuba and among the worst in the world.

Dr. Raymond Gastil of Freedom House told us, for example, that "In Chile, there are publications that aren't government line. There are also political parties, admittedly small, and radio stations that express themselves freely. And the Church is quite vocal in Chile. None of these factors apply in Panama."

Dr. Gastil said that Panama has "a quasi-legislature, but it is pretty much facade. We look for competitive politics in a country, and we find little evidence of such in Panama."

Recently, highly respected columnist, Henry J. Taylor, wrote that the head of the Communist party in Panama is a troika: Romulo Excobar Bethancourt (the foreign minister and Torrijos' closest advisor), Marcelino Jaen and Juan Materno Vasquez (chief of the supreme court, now terminally ill with cancer). Taylor noted that Torrijos was originally kept in the dark regarding the coup because of his particularly severe drinking at the time.

Taylor continued: "When the troika achieved putting Torrijos in the presidency, Torrijos made a mistake. He left Panama and went to Mexico City to take in a horse race," whereupon he was deposed by rival Marxists for one day. Torrijos then showed his clout by swiftly reassuming the command which he still shares with his small Marxist-Communist clique. To this day, he enjoys telling crowds (half tongue-in-cheek) that the U.S. Army southern command engineered his short duration exile.

According to knowledgeable sources "troika" head Marcelino Jaen, a lawyer who is married to Torrijos' sister Toya, belongs to the Central Committee of the Communist Party of Panama, and has held party membership for a number of years. He is currently president of the National Legislative Commission, which is termed by anti-regime Panamanians "the Communist-controlled law making body."

Very close to the leadership, and considered the chief planner for Panama's now-chaotic economy, is Ruben Dario Herrera. Sources state that he is a member of the Communist Party, which is known internally as the People's Party. He is said to be one of the regime's "most influential ideologists."

Dictator Torrijos' brother Moises, currently ambassador to Spain, is generally considered as a Marxist-since-youth, and is alleged to be a member of the Central Committee of the People's Party. According to close observers of the Torrijos regime, Moises has a great deal of influence with brother Omar, and in addition coordinates the Mafia-type activities within the country.

Columnist Charles Bartlett has noted that "Geraldo Gonzalez, the former Communist leader who is now Torrijos' vice president, has asserted in recent days that Panamanians would not have had a new treaty if they had persisted in 'the farce which in the past they considered democracy.' He termed elections 'a complex and repudiated system' which divided Panamanians into groups."

Another key figure is Rolando Murgas, considered a People's Party operative and a former "firebrand student leader" and anti-American instigator. He was the author of Panama's new Labor Code, which is considered one of the most important factors in the country's current economic paralysis. According to a report by the Panamanian Committee for Human Rights, "Murgas was later named Minister of Labor, in order to implement the Party's plan of disarticulation of the private sector and government take-over of many private industries. Now a member of the Communist-controlled Legislative Committee."

Perhaps the most ominous of those enjoying inner circle power is Manuel Antonio Noriega, head of the G–2 State Security "torture squads." The Panamanian Committee for Human Rights contends that "the dictatorship of Omar Torrijos has systematically tortured persons who stand against the regime" and that "in general, there is among (a cross section of the Panamanian population) a permanent state of unrest due to the persecutions, threats and arbitrary detentions carried on by the G–2 of the National Guard, which is in charge of the 'national security' of Omar Torrijos' dictatorial regime. Whoever dares to oppose this regime is liable of disappearing, of being tortured or publicly being libeled by the dictator's controlled press."

Torture tactics said to be employed by Noriega's squads include carnal (including homosexual) violations, ice baths in severe freezing temperatures tubs, electric shocks to sensitive parts of the body, and even a bone crushing machine.

One of the more celebrated of the Torrijos regime's alleged atrocities involved the June 9, 1971 disappearance of Father Hector Gallego, a Catholic priest from Colombia, who was active among the Panamanian people and is thought to have emphasized too strongly their human rights limitations. A fellow priest, Father Pedro Hernandez Rabadal, spoke with the French Press Agency in Colombia August 21, 1972 and stated: "The Colombian priest, Father Hector Gallego, 30 years of age, was thrown into the sea from an airplane (actually a helicopter) on June 9, 1971, by order of General Omar Torrijos, head of the Panamanian National Guard." Bishop Martin Legarra of Panama described Father Gallego as "an authentic witness of the gospel" who had been persecuted "for defending the cause of the poor."

Knowledgeable sources continually report that the unwarranted search of homes by the Military Police, another arm of the 8,000 member National Guard, is a regular happening. In addition, it is contended that the reputations of persons adverse to the illegally constituted government are continually under attack by way of the state controlled press and radio (Torrijos will not allow home television in the country), and that the phone calls and mail of those thought unfriendly are monitored.

It is a matter of fact that all political parties were terminated in 1968. The Political Constitution of Panama was proclaimed by the regime in 1972, and ostensibly it allows for the formation and function of independent political organizations. But in effect the National Guard forbids them with the excuse that they have not been regulatd by the government. The only political party that now openly exists is the People's Party, which recognized the Torrijos' regime in 1969, soon after his takeover.

Intimate Panamanian sources charge that professional associations, such as the Movement of Independent Lawyers, the Engineers and Architects Society and others are continually harassed and repressed by the G–2 apparatus. The building and the records of the Panama Business Executive Association were confiscated in January, 1976. At that time, Torrijos forced the expatriation of two former presidents of the Panama Chamber of Commerce. The lack of press freedom is dramatized by the closing of Editora La Verdad, a printing firm that was to publish the independent-minded "La Opinion Publica." The excuse given was that the printers had "on many occasions, printed subversive materials."

The World Bank's computer shows Panama's external debt (as of Dec. 31, 1976) to be $1,408,535,000. The World Bank confirmed that from January 1, 1977 to June 30, 1977, the external debt of Panama increased by $239 million.

Torrijos has systematically created laws that have thrown a great number of private concerns into bankruptcy. Such businesses are placed in the hands of "the workers," a la Cuba, with the inevitable Marxist style cadre taking the leadership. Expropriation of land is, of course, a major part of this Torrijos regime pattern, with the formation of "Asentamientos Campesinos" (rural settlements) which are subsidized by the government and run by rural Marxist political organizations.

In acknowledgment of the strong political position of the National Guard, the Communists have been increasingly infiltrating the Guard, planning to use it as an operational base to broader power. The Guard has taken over fields in the central provinces and sown them with products such as rice, with an eye toward supplanting the private producers. A couple of years ago Torrijos created the "Tomas Herrera Military Institute" and staffed it with Cuban instructors. The apparent plan is to ensure Marxist-Communist indoctrination of the guard cadets, thus ensuring an increasingly ideological leadership.

But the connection appears to be much deeper and more insidious. The National Guard's G–2 is said to work under the close guidance of Cuba. Before relations between the two countries were reestablished, following the Torrijos takeover, G–2 head Noreiga travelled to Cuba for indoctrination.

Since 1970, intimate sources report, all key members of the G–2 department have openly travelled to Cuba for training and orientation in "political security." The G–2 indoctrinees were soon followed to Cuba by delegations of athletes, students from Panama University, union leaders and communal junta leaders. The composition of junketing groups is decided by G–2, working closely with the government-controlled Latin Press offices, which sets the propaganda tone for such trips.

The well known chumminess between Torrijos and Fidel Castro reached its visual peak during the Panamanian dictator's visit to Cuba in January 1976. The Panama American, one of the regime's controlled press organs, editorialized just after the visit: "The joint 'Panama-Cuba' declaration issued in Havana at the conclusion of Brig. Gen. Torrijos' visit to that Caribbean Island, is bound to become an historical document of international impact.

"For the document comprises a clear message directed at all lovers of freedom, as it seeks a unified effort to forcefully combat such social defects as imperialism, colonialism, neocolonialism and racism, which tend to prevent nations from achieving the levels of development and progress in line with human dignity. The joint communique is not a mere manifestation of support to the Cuban and Panamanian revolutions. It comprises a true message of continental projections.

"Thus the motive behind the joint statement goes further. It focuses international problems and the necessity of a unified struggle to eliminate the enemy in the form of 'imperialism' and all other 'isms' that form stumbling blocks in a nation's process of liberation."

Thus, a Torrijos-mouthpiece summation of that meeting between the two Latin dictators.

A pleasant social note regarding Omar and Fidel: Castro regularly supplies his fellow heavy cigar smokers with a supply of the finest Havana blends—in personalized wrappers.

In 1976, there were an estimated 225 Cuban diplomatic personnel accredited to the small Isthmus nation. Some of them, it is contended meet with and advise Torrijos on a regular basis.

The Cuban Embassy also functions as a conduit for North American goods bought in Panama for shipment to Havana and other points. This business is conducted by an outfit known as Transit, S.A., which also specializes in distributing Cuban manufactured goods in Panama. In addition this company, owned by Torrijos' intimate Rodrigo, exports equipment and goods to Cuba which Cubans cannot themselves produce and could not easily obtain without this service. The Cuban Embassy also works closely with G–2 and Latin Press in relation to the ever-increasing traffic of picked Panamanians to Cuba.

It appears beyond denial that the Torrijos regime is functioning as a central conduit for the Latin American narcotics traffic. Informed sources state that it is an absolute fact that members of the Torrijos family are central functionaries in this vile trade. Top sources at the U.S. Drug Enforcement Administration privately confirm the close link between the Mafia's International narcotics complex and key figures of the Panama hierarchy.

The long alleged connection of the Torrijos family and regime with the international narcotics underworld, which we had been investigating during the preparation of this report, broke open last October 13, the day before Torrijos' visit, when Senator Robert Dole (R-Kans.) addressed the matter on the Senate floor.

Dole stated that "It is my understanding that a number of documents now in the possession of the U.S. Drug Enforcement Administration have been 'classified,' which bear directly upon allegations of drug trafficking by General Torrijos. Those documents should be immediately turned over to the U.S. Senate for examination." (They were not, although Senate Majority leader Robert Byrd (D-W. Va.) expressed grave concern regarding their contents.)

Dole continued that he considered his source "to be sufficiently reliable to give me deep concern about the nature of the Panamanian leader with whom we are dealing. Suggestions that he—perhaps in conjunction with Fidel Castro—is involved in an illegal international drug operation is cause enough for concern. The allegation that these drugs are being funneled directly into the United States and that General Torrijos himself may be profiting directly from drug sales, makes the matter all the more serious.

In conjunction with Senator Dole's remarks, Senator James Allen (D-Ala.) asked that two news articles, in line with our own information for this report, be entered into the Record. The Oct. 13 Washington Star stated that "The brother of Panamanian chief of state Omar Torrijos was indicted in New York five years ago on federal narcotics smuggling charges but U.S. authorities have never been able to arrest him, Justice Department sources have confirmed."

The Star quoted its Justice Department sources as saying that the Moises Torrijos indictment "has never been unsealed because we have never found him back in this country to arrest him."

The Star story continued: "The Miami Herald reported yesterday that Atty. Gen. Griffin Bell told President Carter about a variety of allegations that members of Torrijos' family have been involved in smuggling drugs to the United States. Department spokesman Robert Havel confirmed that Bell discussed the matter with Carter on Oct 3."

The other article Sen. Allen entered was by Benjamin Welles in the March 15, 1972 New York Times, which said that Rep. John M. Murphy (D.-N.Y.) "charged today that an investigation into heroin smuggling into the United States had touched the 'highest levels' of the government of Panama."

The Times said that Murphy, "chairman of a House subcommittee on the Panama Canal, named Juan Tack, Panamanian Foreign Minister (and a chief canal treaty negotiator—ed.) and Moises Torrijos Panamanian Ambassador to Spain, as the officials allegedly involved in narcotics."

Welles' article noted that just the day before, March 14, "Mr. Tack ordered the expulsion of three American narcotics agents from Panama within 24 hours" for, in Tack's words, having "intervened in the internal affairs of Panama." Welles noted that "the expulsion followed initial reports two days ago in the syndicated column of Jack Anderson linking Mr. Tack and Mr. Torrijos with narcotics smuggling."

Murphy's subcommittee, the Times stated, "recalled details of two recent drug-smuggling cases that, it contended, involved Mr. Tack and Mr. Torrijos. One concerned the arrest in New York (July 8, 1971) of Rafael Richard, son of the Panamanian Ambassador to Taiwan. Mr. Richard who was 23, was travelling on a diplomatic passport signed by Mr. Tack, which gave him immunity from prosecution.

"At the time of his arrest, he was on his fifth visit to the United States, during each of which he brought about 150 pounds of heroin, the report said."

"The other case involved Joaquin Gonzales, former international transit chief of Tocumen International Airport at Panama, who was indicted in the smuggling of $1 million worth of heroin to Dallas." The Times said that Gonzales was arrested by U.S. authorities Feb. 6, 1971, when he entered the Canal Zone to attend a ball game, and was flown to Texas, where he was tried and sentenced to five years." Mr. Tack exerted strong but unsuccessful diplomatic efforts to have him released," the subcommittee said.

CBS News correspondent Phil Jones disclosed October 15 that his network had "obtained a detailed list of the Drug Enforcement Agency" files that Sen. Dole had requested be turned over to House and Senate investigative committees. Jones said that Congressional sources consider information in the files explosive.

The March, 1974 files, for instance, describe G–2 boss Col. Manuel Noriega as the "bag man" for Cuba's Fidel Castro as well as for Omar Torrijos. Considered by DEA agents as a liaison between Torrijos and Castro, Noriega was "allegedy in charge of setting up bank accounts and laundering narcotics money." 1974 files also contain allegations that Gen. Torrijos' associates "planned to assassinate former Panama President Arnulfo Arias, who was then in exile and threatening to return to Panama."

Correspondent Jones said the March, 1975 files "have information that Torrijos and a Ramiro Rivas were attempting to buy a transportation company as a front to move drugs." February 1975 files indicate that Omar Torrijos' brother Hugo "was using Panamanian Air Force planes to transport drugs."

Human Events (Oct. 29, 1977) said that "Panama's trafficking in drugs is an old story," and the Panama Canal subcommittee in a report published Jan. 2, 1975, quoted a 1971 Bureau of Narcotics and Dangerous Drugs (now part of DEA) report as saying that:

"Panama is one of the most significant countries for the transshipment of narcotic drugs to the United States . . . It is clear that the Republic of Panama has not and is not paying sufficient attention to narcotics enforcement activities to achieve noticeable results. This may be due to high level apathy, ignorance or collusion."

The Torrijos family is incontrovertibly connected to a number of "businesses" in Panama which have long been linked to the drug traffic. Omar Torrijos' older brother Hugo has for years been general director of the government-monopoly gambling casinos in Panama and is connected with "Juliano International," which deals in the sale and rental of gambling machines. It is charged that through "Espectaculos Nacionales S.A.," he controls the prostitution industry in Panama and the white slave market (transporting young women for purposes of prostitution) from Panama to other Latin American nations.

From evidence presented in the March, 1972 draft report of the Panama Canal subcommittee of the House Merchant Marine and Fisheries Committee, and a summary report of Chairman John M. Murphy of New York following a visit to the Panama Canal Zone (Feb. 18–24, 1972) there can be little argument that the Torrijos clan and its top level confederates are deeply involved in hemispheric narcotics and vice activities.

Liberal columist Charles Bartlett, a longtime Kennedy confidante, wrote from Panama City last February: "Rarely in American history has the nation been obliged to contemplate the award of a great prize to a government as deficient as the one now presiding over Panama."

"Drink is Torrijos' personal vice; avarice is the preoccupation of his brothers; brutality is the distinguished feature of his police, and extravagant ineptness is the failing of his economic planners. The regime has put the small nation so deeply in the red (an estimated $1.2 billion) that the canal treaty has no supporters more fervent than the American bankers whose hopes for repayment rest on a revival of faith in the Panamanian economy."

Among the many printed and verbal allegations regarding Omar Torrijos' carnal appetites, his overriding personal problem is his apparent advanced alcoholism. Mr. Bartlett referred to Torrijos' drinking as a vice. . . . He is, with every report, said to be in the advanced stages of alcoholic addiction; the disease-level demands of alcohol upon his psyche and body chemistry dictating to the victim dictator.

Secretary of State Cyrus Vance testified that ratification and approval of the treaties would move us toward a "sound relationship" with the regime. He did not point out that the treaties would remove the current five-miles-on-either-side buffer zone, which to a large degree has deterred mob violence. He did not point out that without a new treaty, and the huge injection of monies it would bring to the regime, the Torrijos dictatorship faces the strong possibility of an early collapse. Should that happen, and with a positive rather than masochistic reaction on the part of the United States, there is a clear possibility of Torrijos being replaced by a more stable and democratic government.

The State Department line behind closed doors and to pro-treaty journalists is that Torrijos stands in the way of a complete Communist takeover of Panama, and that if his regime fails we lose all leverage, short of war. It concludes that, when the dice roll following a Torrijos collapse, our number won't come up, despite the possibilities that an anti-Communist coalition would prevail. Communism's number would inevitably come up, according to this well-known, shopworn State Department analysis.

Hanson W. Baldwin discussed the future in a recent issue of the AEI Defense Review, published by the American Enterprise Institute. Mr. Baldwin who wrote on military affairs for the New York Times (1929–1968) and for the Reader's Digest (1968–1976), is considered one of the prime military-strategic minds of this century.

Mr. Baldwin wrote: "The character of the regime to which we are being asked to turn over the Panama Canal is clear. It does not matter whether Torrijos is a Communist or not; Castro was not a self-proclaimed Communist until he seized power and now Cuba is shackled to Communist doctrines. Torrijos may well have started as a populist who broke the monopoly of the oligarchy that had long ruled Panama, but today he is a beleaguered tyrant, surrounded at the top by men who profess or are extremely friendly to an ideology and to nations which have sworn our undoing."

Baldwin noted that "The Torrijos regime is all the more unstable because of the growing discontent of the masses, upon whom he has attempted to build his power base. His original populist image is wearing thin . . . opposition from students, businessmen, and the middle class, wary of communism, has increased materially in the past few years."

Baldwin reasoned that "If Washington gives him the canal, Torrijos will be a hero for a day and his tenure will be lengthened, but the triumph will be brief. Panama's volatility and instability are here to stay; the political hero of today is the villain of tomorrow. The vacuum left when the United States retreats will be quickly filled by Cuban and Soviet power and influence." Discussing the Panama Canal in relation to the Caribbean Sea-Gulf of Mexico complex, the veteran expert emphasized that the area's security "is vital to our country" and that "unless we are capable of controlling it, we are, indeed, undone."

It is worth keeping in mind Torrijos' answer to a question regarding Panama Canal rights, asked of him at Cuba's Jose Marti Airport at the conclusion of his celebrated visit in January 1976:

"We have the last word. The right to liberation cannot be waived. When and how must be determined. We should realize that we are not in a process of negotiation but in a process of liberation, and one of the means by which liberation is achieved is through negotiation. But neither the people nor its leaders have waived the right to liberation."

To even casual students of 20th century diplomatic history, Torrijos' words would recall the callous Ribbentrop-Molotov Pact of 1939. A major difference is that the Soviet and Nazi negotiators largely confined their less temperate expressions of hatred and contempt to private diaries and conversations. Torrijos, canal treaty opponents maintain, is showing himself openly "warts and all." If we refuse to see the truth, the consequences for the United States and all of Latin America will prove disastrous.

ON TO CAIRO

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. WINN. Mr. Speaker, amidst rhetoric, wars—religion and terrorism—among oil politics and geoeconomics, the search for a lasting peace in the Middle East has been ongoing for years. Suddenly and dramatically—from Jerusalem to Cairo—new and ambitious peace efforts are being initiated, peace efforts which, I believe, will provide substance for later negotiations in Geneva. On the eve of this holy season, the Cairo Conference, conceived with candor and strength, and enjoying the vital participation of the United States, holds out to us momentous hope—the hope of a lasting peace in the Holy Land.

ROMANIA IS WORKING TOWARD WORLD PEACE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. BIAGGI. Mr. Speaker, for the last few years, I have had a good, working relationship with the Ambassador of Romania and have come to respect the people of Romania as industrious individuals seeking a peaceful existence in our turbulent world.

My first involvement with the country was over the issuance of exit visas for their citizens seeking to emigrate to the United States. I had been approached by several constituents who were of Romanian background and sought to have their relatives join them in this country. Both the former Ambassador, Corneliu Bogdan, and the present Ambassador, Nicolae Nicolae, have been most helpful and cooperative. This assistance and cooperation has continued to this day on numerous cases. So impressed was I with their cooperation that I testified before the House Ways and Means Committee earlier this year in support of continuing most-favored-nation status with the country. I believe the Romanian Government demonstrated on numerous occasions their continued interest in the Helsinki accord and in basic human rights for all peoples.

More recently, though, they carried their quest for a peaceful world to the international arena. The Romanian President, Nicolae Ceausescu, played a key role in bringing together Egypt's President Anwar-el Sadat and Israel's Prime Minister Menahem Begin for their historic meeting in Jerusalem. The Sadat visit to Israel may yet go down in history as the critical factor in bringing about peace in the troubled Middle East. It is noteworthy that Romania, a country not usually considered as an international power broker, provided the impetus for the meeting.

For me, it is yet another example of the Romanian Government's desire to live at peace with its neighbors and all countries in the world community. President Ceausescu is committed to a program of growth and industrial development that will bring about a high standard of living for the people of Romania. Such a program is not without its difficulties as recent turmoil in the mining industry indicates.

Similarly, a recent general amnesty for prisoners was not as successful as initially hoped. In trying to bring these individuals back into the mainstream of Romanian society where their labors were urgently needed in factories and in other occupations, it was quickly found that many criminals continued to pursue the occupation they knew best—crime.

Yet in all these efforts, it is clear that the Romanian Government is working very hard to bring its people into an active participation in international political and economic affairs. They have demonstrated that they want to be an instrument of peace in the world and at the same time to provide a better standard of living for the people of their country.

Such bold initiatives and respect for peace and human rights should be encouraged by this country. I hope that this Congress and the administration will look more closely at the Romanian Government's efforts and examine next year the possibilities of extending the most-favored-nation status for a longer period of time. A 3-to-5-year extension is essential to encourage business investment in that country and to assure better economic planning. They have shown themselves to be sincere not only in their treatment of individuals in their own country but in working toward world peace. As long as this attitude and these actions continue, it is imperative that our country respond in an appropriate fashion and support the independent path they have chosen.

Mr. Speaker, for the benefit of my colleagues, I would like to include at this point in the RECORD a copy of an editorial comment by David A. Andelman, which appeared in the New York Times editions for November 27, 1977, detailing the Romanian Government's efforts in the Sadat-Begin meeting and in other international activities.

[From the New York Times, Nov. 27, 1977]

Bucharest Keeps Many Friends

(By David A. Andelman)

BUCHAREST, RUMANIA.—Rumania is becoming the world's consummate go-between. There is none of the drama and dash of a Kissinger shuttle, but in a dozen capitals and in a hundred boardrooms, Rumania has quietly and professionally acquired the reputation as the place to go for a delicate diplomatic initiative or a sensitive business deal.

Last week, Rumanians were euphoric at the visit of President Anwar-el Sadat of Egypt to Jerusalem and at the letter that arrived on the eve of the visit for their President, Nicolae Ceausescu, from Prime Minister Menahem Begin of Israel. Thanks, the note said in effect, for Rumania's good offices, for its role of confidante and conduit for Mr. Begin and Mr. Sadat whose successive visits here in August and October were a back route that smoothed the path from Cairo to Jerusalem.

But the Rumanian connection, as it has come to be known in diplomatic circles in Bucharest and around the world, was already well-traveled—a pathway that for 20 years has provided as many benefits for Rumania and its neighbors, the Soviet Union in particular, as it has for others who have repeatedly taken advantage of it. "To boast about it would be childish," a senior Rumanian journalist with high Communist Party connections said last week. "But yes, events have confirmed our principal position. Yes, I could say our road is the right road."

In the Middle East, the connection goes back to the 1967 war, when Rumania incurred the wrath of the Arab nations and the rest of the Soviet bloc for its open attempts at conciliation at a time when confrontation was the rule. Yet in the course of the 1960's and into the '70's, Rumania's door remained open. The leaders of the Middle East—Syria's Hafez al-Assad, Yasir Arafat of the Palestinian Liberation Organization, Egypt's President Sadat and Israel's Menahem Begin and Golda Meir—all paid court to and confided in President Ceausescu.

For Israel, Rumania was the remaining link with Eastern Europe. It was the only Communist country to retain diplomatic, even cordial, relations with the Jewish state after the 1967 war. For tens of thousands of Rumanian Jews, this evenhanded diplomacy allowed a quiet emigration route to Israel at a time when the Soviet Union, after initially permitting increased emigration during the heyday of détente, had drastically decreased the flow.

For Moscow, the Rumanian policy was at once an irritation and a tool that from time to time was extremely useful. As such, it afforded the Rumanians a measure of security that other members of the Soviet bloc, the Czechoslovaks among them, did not enjoy. "Ceausescu has always operated on the Tito theory that the more friends you have in all camps, the more independent of the Soviet Union you can be," said one Western diplomat who has observed the delicate workings of both President Ceausescu and Josip Broz Tito of Yugoslavia.

The result has been Rumania's injection into a broad range of world forums and imbroglios. It was Rumania, for instance, that tried some early attempts at mediation between Peking and Moscow; it was Mr. Ceausescu who repeatedly sounded out the leadership in Hanoi on possible solutions to the Vietnam war and who retained relations with the junta in Chile while receiving thousands of refugees from the Marxist government the junta deposed. Rumania was the first East European country outside the Soviet Union to open diplomatic and trade relations with West Germany. And last year, President Ceausescu quietly invited Ethiopians and Somalis to Bucharest to try, though so far unsuccessfully, to resolve their confrontation in Africa.

Rumanians, who view themselves as a Latin island in a potentially hostile Slavic sea, emphatically deny that the Soviet Union has had a secret role in any of these initiatives. But all involve areas of vital interest to the Soviet Union, and often the United States as well. In many cases, the interest is more material than diplomatic.

Last year, Rumania quietly founded Delta, a state trading company with offices in the Ministry of Foreign Trade, but, unlike similar entities, with no brass plaque on the door and no full color brochures. For Delta is to politically sensitive trade what President Ceausescu's reception room is to quiet diplomacy. In the last 18 months, deals have reportedly been arranged that have allowed the Soviet Union to buy French wheat and American corn without entering the market directly and driving up the price and have allowed Chilean copper and Israeli oranges to reach Socialist markets. Britain has charged at the United Nations that Rumania has been a conduit for buyers of chrome from Rhodesia, the object of United Nations trade sanctions.

Rumania has always been, and probably will continue to be, an anomaly—a member of Comecon, the Soviet bloc's common market, as well as the Western-dominated International Monetary Fund and the World Bank; a member of the Warsaw Pact but with no Soviet troops stationed on its soil; a rigid police state but with few political prisoners.

At a watershed conference of European Communists in Berlin last year, Rumania joined with the Eurocommunists parties of Western Europe to wrest from the Soviet Union acknowledgement of the right to pursue an independent road to Socialism, something Rumania had sought for 20 years. Since the conference, President Ceausescu has broadened Rumania's diplomatic and economic initiatives. And the Soviet Union, perhaps resigned to the fact that nothing short of an invasion—an unlikely and politically dangerous alternative—could change Rumanian behavior, has acquiesed, for whatever diplomatic or material value the Rumanian connection may hold.

POW TORTURER—JUDAS JOURNALIST TOURS UNITED STATES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 8, 1977

Mr. DORNAN. Mr. Speaker, I commend to my colleagues' attention a shocking recent article by the New York Post's courageous investigative reporter, Mr. William Heffernan. The State Department exhibited incredible stupidity by allowing a top Soviet KGB agent, Wilfred Burchett, to travel freely throughout this country on a propaganda speaking and fund-raising tour under the guise of a foreign journalist. This treacherous "quisling" was heavily responsible for the interrogation and brutal torture of American POW's in both Korea and Vietnam. What a direct and incomprehensible insult to our brave fighting men who survived this torture, not to mention the heart-breaking slap across the face to every child, parent, wife, brother and sister of those who died broken and bleeding in Communist cells.

The article follows:

[From the New York Post, Nov. 17, 1977]

P.O.W. Torturer—Judas Journalist Tours United States

(By William Heffernan)

The ability of Soviet KGB agent Wilfred Burchett to now travel freely throughout the U.S. on a speaking and fund-raising tour can be traced directly back to former Secretary of State Kissinger "as payment for favors received," a State Dept. source has revealed.

Burchett, 66, a Communist newsman who has worked for various publications throughout the world, is known to government officials here as a paid agent of the KGB who was involved in the interrogation and torture of American PWs in Korea and Vietnam.

He is presently, however, traveling throughout the nation presenting his views on college campuses and raising money to further his "future journalistic assignments" in Europe and South Africa.

An investigation by The Post has found that Burchett, who was strictly limited in his travels here in the past, had those restrictions removed on orders from Kissinger's office during the Nixon Administration.

AIDED HANOI

Burchett, it was found, served as a liaison for the Hanoi government during the Vietnam war and was responsible for passing on diplomatic signals that led to the Paris peace talks.

He also conferred with U.S. negotiator Averell Harriman just prior to those talks to present the North Vietnamese position.

Burchett also met with Kissinger in his White House office in October, 1971, to help pave the way for President Nixon's visit to China the following February.

During a recent interview, Burchett acknowledged that he "helped with the Paris peace talks" but insisted he had little to do with Nixon's China trip.

Burchett acknowledges that he was a close friend of both North Vietnam's Ho Chi Minh and China's Chou En-lai and "may have discussed those matters with them." He insists, however, that his role was "minor at best."

RESTRICTIONS EASED

A State Dept. source said, however, that Kissinger "apparently had a different view of Burchett's role." Shortly after the 1971 White House meeting, he added, word came down from Kissinger's office to ease Burchett's travel restrictions in the future.

Prior to that time Burchett was strictly limited in his visits to this country. In 1969, in fact, while covering the UN for an American left-wing newspaper, he was limited to a 10-day visit and travel within a 25-mile radius of Columbus Circle.

On his present trip Burchett has free movement around the nation on a waiver granted by the Dept. of Immigration.

That waiver was given on the recommendation of high-ranking State Dept. officials, who failed to disclose Burchett's KGB background or his involvement in the brainwashing and torture of PWs.

MADE AVAILABLE

Immigration officials have since complained about that withholding of information, saying such data had been made available in previous waiver requests.

A State Dept. source insisted that the decision to withhold that information and push for more liberal travel for Burchett went directly back to the 1971 White House directive.

"You have to understand how the State Dept. works," he said. "Once a suggestion comes down from the White House and becomes part of someone's file, it would be followed blindly until someone else—perhaps decades later—directed that it be changed."

"This was no conspiracy to help Burchett," he added. "This was a typical bureaucratic foulup."

During his present tour, the Communist newsman—who spoke yesterday before the prestigious Nieman Fellowship Society at Harvard—is presenting his views on Eurocommunism, the "coming revolution in South Africa" and other matters of interest to the Soviet bloc.

ON SOUTH AFRICA

During a recent speech to students and faculty at Ripon College, Ripon, Wis. Burchett predicted that the Communist-led revolutionaries in South Africa would soon wage open warfare there.

"South Africa is the very center of the anti-Imperialist struggle," he said. "We've tried many nonviolent demonstrations and tactics and they've all been met with force and violent reactions. Only organizing for armed struggle can get anywhere," he added.

Throughout his tour Burchett has been raising funds to help pay the expenses of his future work in Africa.

He is described in CIA reports as a top KGB propagandist, with close ties with the Chinese Communists and Cuba, who is sent to potential trouble spots.

In testimony before the Senate Internal Security subcommittee, KGB defector Yuri Krotkov identified Burchett as a paid KGB agent he had worked with in Europe and Moscow.

Burchett has also been identified by American, British and Australian PWs from both Korea and Vietnam in sworn testimony as the person who brutally interrogated them, in some cases threatened them with death and who urged many to defect at the end of the war.

Burchett denies those charges, saying that "at best I was mistaken for someone else."

He also claims he is the victim of a smear campaign directed by the John Birch Society which he terms "one of the small prices one must pay to retain one's journalistic integrity while pursuing the truth from the people's side of the barricades."

[From the New York Post, Nov. 17, 1977]

BURCHETT'S U.S. TOUR

Oct. 21: Washington Irving High School, New York City, "The World Struggle Against Imperialism."

Oct. 23: Unitarian Universalist Church, Buffalo, "The World In Crisis."

Oct. 24: State University of New York, Buffalo, "Zimbabwe, Namibia and South Africa."

Oct. 26: University of Ottawa, Canada, "Eurocommunism."

Oct. 28: DePaul Law School, Chicago, open meeting.

Oct. 31: University of Iowa, Iowa City, open meeting.

Nov. 1: Ripon College, Ripon, Wis., open meeting.

Nov. 2: University of Oregon, Portland, "Revolution: A View From the Front Lines."

Nov. 3: University of Washington, open meeting.

Nov. 4: University of San Francisco, "From Vietnam to Angola."

Nov. 7: University of California-Davis Law School, open meeting.

Nov. 8: Stanford University, Palo Alto, ley, "Southern Africa."

Nov. 8: University of California at Berkeley, "Southern Africa. "

Nov. 9: University of California at San Diego, open meeting.

Nov. 10: San Diego State University, open meeting.

Nov. 11: Independent Publishers Forum, Los Angeles, radical politics seminar.

Nov. 13: Atlanta Center for Disease Control, Atlanta, "Health Problems in Vietnam."

Nov. 16: Harvard University, Cambridge, Mass., open meeting with the Nieman Fellowship Society.

Nov. 17: Hampshire College, Amherst, Mass., open meeting.

Nov. 18: Lowell University, Lowell, Mass., "Crisis in South Africa."

Nov. 21: State University of New York, Binghamton, seminar on radical journalism.

Nov. 21: New York City cocktail party, fundraising.

Nov. 22: ABC-TV, New York, "Like It Is" program.

Nov. 23: Howard University, Washington, D.C., open meeting.

Nov. 24: Institute of Policy Study, Washington, D.C., "Eurocommunism."

Nov. 30: Yale University, New Haven, open meeting.

Dec. 4: State University of New York, Westbury, open meeting.

Dec. 7: University of Michigan, Ann Arbor, open meeting.

Dec. 9: National Emergency Civil Liberties Dinner.

Dec. 10: Philadelphia Workers Organizing Committee, public rally.

Dec. 10: University of Pennsylvania, Philadelphia, "Southern Africa and the Struggle Against U.S. Imperialism."

Dec. 12: Guest of honor, American Humanist Society, Rossoff's Restaurant, New York.

HOUSE OF REPRESENTATIVES—*Monday, December 12, 1977*

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (Mr. FOLEY) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
December 12, 1977.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not; for, behold I bring you good tidings of great joy, which shall be to all people.—Luke 2: 10.

O Thou who art the source of light and life and whose glory is in all the world lift our minds from the littleness of our own thoughts to the greatness of Thine that we may learn to live by Thy laws, in Thy light, and with Thy love in our hearts. Help us to celebrate this Advent season with hearts of compassion, deeds of kindly service, and the spirit of good will toward all Thy children.

Bless our Nation with Thy favor and grant that Thy Spirit may dwell in all our hearts this season and all seasons; to the glory of Thy holy name. Amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker on Thursday, December 8, 1977, the Speaker did on that day sign the following enrolled bills:

H.R. 3313. An act for the relief of Mark Charles Mieir and Liane Maria Mieir;

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency; and

H.R. 9378. An act to amend title IV of the employee retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans.

A PLEA FOR AGREEMENT ON SOCIAL SECURITY LEGISLATION

(Mr. **BURKE** of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **BURKE** of Massachusetts. Mr. Speaker, as chairman of the Subcommittee on Social Security and as one of the conferees on the pending legislation, I regret to announce that the conferees broke up Friday night without reaching agreement over a nongermane amendment that was attached to the bill by the other body.

It seems to me that something should be worked out, and that this legislation should be passed before the end of this year. With every day that passes, all we do is aggravate the problems of the elderly of this country. We have failed to send them a message that the social security trust fund will be stabilized into the next century.

I urge all the Members of the Congress to contact the conferees and ask them to get together and work out their differences. If we do not do this, we will just place more worry on the minds of the elderly, who feel that their checks are in jeopardy. The disability insurance fund is about to run out; in fact, it could run out in 1978.

Mr. Speaker, I believe it is incumbent upon us as the elected Representatives of the people to enact this legislation as quickly as possible.

ADOLPH RUPP

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with sadness that I speak today in the House of Representatives regarding Kentucky's beloved Adolph Rupp.

Adolph Rupp, age 76, the winningest college basketball coach in history, died Saturday night, December 10, at Lexington, his hometown and the home of the University of Kentucky, where he coached basketball for 42 years.

The "Baron of Basketball," as basketball fans everywhere called him, retired in 1972, after winning 875 games and 4 national titles as coach of the University of Kentucky Wildcats.

At the University of Kentucky, Rupp had a lifetime winning percentage of 82.5 percent, as his teams lost only a total of 190 games. He and his University of Kentucky Wildcats captured four National Collegiate Athletic Association titles and won the Southeastern Conference crown or tied for it 27 times.

One of Rupp's all-time greats was Frank Ramsey, a constituent of mine from Madisonville, Ky., and a former All-American at the University of Kentucky. Ramsey spoke for all Kentuckians yesterday when he said:

> He was the greatest college basketball coach of all times. He was the man by whom all other coaches were measured, and we are going to miss him.

I extend to his wife and family my sincere sympathy.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

I would like to join with the gentleman today in his tribute. It is my privilege to represent the Third District of Kentucky and I join with the gentleman from the First District in extending our condolences to the family of Coach Rupp and noting for the record the great contributions which Coach Rupp has made, not just to the athletic annals of our Commonwealth, but also to the athletic annals of this Nation and the world because he was a citizen of the world.

I thank the gentleman from Kentucky for speaking on this subject.

AGRICULTURE AND FRAUD IN COMMODITY FUTURES OPTIONS

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, all have taken note of the plight of those engaged in agriculture and their efforts in recent weeks to call the attention of the American people, the Secretary of Agriculture, and President Carter to their situation.

What few seem to realize is that this situation is the type of thing that, unless we can alleviate it to a substantial degree, can lead to a breakdown in the overall economy. We point all of this out in our report on appropriations for the Department of Agriculture, Rural Development, and Related Agencies on pages 22 and 23 of last year's report H. Rept. No. 94-1224) in a paragraph which we entitled, "The Lessons of History." We dealt here in detail with some of the occurrences which caused the bankruptcy which hit those engaged in agriculture and spread to the overall economy and set off the last depression.

Mr. Speaker, it strikes me we are facing the same situation again. Believing this, on October 17 I introduced H.R. 9608 which would provide that the target and loan rates set up in the Agriculture Act of 1977 would increase in direct proportion to increases in the minimum wage or to wages as a result of contracts or increases in the cost of living. This would put agriculture, industry, and labor on the track where each would follow the other.

It is so evident to me that if either of the three goes under, the other two follow. This belief is supported by the history of our Nation.

May I say, Mr. Speaker, that I was joined in this bill by the members of our Appropriations Subcommittee which reviews the agriculture operations each year.

May I add that the chairman of the Committee on Agriculture has asked for a report from the Department as to cost, and so forth, to which I, in turn, have suggested that we make a report as to what the effect will be unless we act to maintain a balance between agriculture, industry, and labor.

All of this has caused me to realize the need to point up a serious situation, which may become worse, because of the serious plight facing agriculture. Many of those engaged in farming as well as others are apt to turn to sales in advance which did lots of damage several years ago when the so-called purchaser merely took bankruptcy when the price went down, leaving the producer the loser.

Because of these recent occurrences, I am today, as a part of my remarks, calling attention to a report of the investigating staff of the Appropriations Committee on the commodity futures option program.

While our investigation is not complete and while all information we obtain will be made available to the Department of Agriculture and the Department of Justice, as well as to appropriate committees of Congress, I feel I should make an interim report to the Congress in the hope that we may thereby prevent at least some losses resulting from fraud which presently exists. The present situation in agriculture makes me feel it is necessary to call these to the attention of the Congress and the people.

For some months now I have been disturbed by published accounts of widespread fraud in telephone sales of so-called commodity options. What are these commodity options? Basically, they are contracts giving the purchaser the right, but not the obligation, to buy or sell a commodity futures contract at an agreed-upon price during a specified period of time. The price of the option, the premium, plus any commissions involved, is the maximum amount the customer can lose on the transaction. If the price moves in his favor, he exercises the option and realizes his profit. If the price goes against his position, he lets the option expire and loses his investment.

But what really are the chances of an option speculator making a profit? Experts say that 7 or 8 out of 10 actual commodities futures transactions—some say more—result in losses to the customer. When the customer deals in options, the loss rate is much greater. Not only must the price of the underlying future move in the customer's direction, it must move sufficiently to cover the cost of the option before the customer is in the money.

And as risky as commodity options are when sold by legitimate dealers to knowledgeable speculators, in the hands of unscrupulous "ripoff artists" they become a catastrophe. Some options firms are "bucket shops"—the order is dumped in a "bucket" and that is the end of it. Dealers may never buy the option for the customer on the assumption—usually correct—that the customer is going to lose anyway. In the rare event that the customer does profit, the dealer can pay him with money from other customers who are not so lucky.

But even if he is not operating a "bucket shop," the unscrupulous options dealer still does not "give the sucker an even break." For example, a dealer may be able to buy a London option—commodity options cannot now be traded on any U.S. exchange—for, say, $2,500 or $3,000; the price varies. However, the unsophisticated American victim might pay twice that amount, or more, to the firm in the United States. For example, one dealer offered a London sugar option to a prospect in the United States for $4,100;

the option in London cost $2,500. The markup—$1,600. Because of this high markup, sugar would have to be moved over 3½ cents a pound before the customer could begin to make a profit; and during the period involved, sugar never moved more than 3 cents a pound.

And the markup frequently is much greater than $1,600; it may be whatever the traffic will bear.

Sales of commodity options, which have become so tainted by fraud that few reputable brokers will touch them, have, almost unnoticed, become an industry handling $1 billion a year. Thousands of Americans have been induced to invest in these highly speculative deals on groundless promises of huge profits. "Boiler rooms" are crammed with as many as 250 salesmen manning long-distance WATS telephones 10 hours a day, "pitching" commodity options to people in all parts of the country. One commodity options firm operator reportedly conceded that "his business depends entirely on persistent phone solicitation of people who typically don't know a commodity option from a commode."

One commodity options firm, started with a $2,000 investment by a broker barred from the securities industry for using customers' securities as collateral to raise loans, now reportedly is a $50 million-a-year business; his telephone bill runs close to $150,000 a month.

Commodity options firms have drawn "pitchmen" from shady land development schemes and confidence men. And although options are not for the "little guy" with a few thousand dollars to invest, more and more "little guys" are being taken by fast-talking salesmen working long-distance telephones from "boiler rooms."

"Horror" stories abound. In Dallas, a diabetic mother of four sold her house and dipped into her savings to invest $65,000 because the salesman promised "you will be wealthy and your future will be secured for life." A retired Wisconsin farmer living in Florida "invested" $12,550 in options. The stories go on and on; only the names and amounts change.

And what is the Government doing to protect its citizens and to stop this infamous traffic? Apparently very little, or at least very little that has been effective.

Historically, commodity options trading has been so corrupt that commodity options finally were banned in the United States by the Congress in 1936. The Congress imposed the ban because of rampant fraud in trading and because of fear that unscrupulous traders would use options to manipulate prices.

But while commodity options trading has been banned on U.S. exchanges since 1936, domestic traders have been allowed to buy options for American customers on the London exchange. These are the "London options" currently being sold in the United States—in such commodities as coffee, sugar, rubber, and copper.

Then, in 1974, the Congress passed and the President signed the Commodity Futures Trading Commission Act of 1974, the 1974 amendments to the Commodity Exchange Act, establishing the Commodity Futures Trading Commission (CFTC). The 1974 amendments continue the flat prohibition against trading options in the traditional agricultural commodities specifically named in section 2 of the Commodity Exchange Act—wheat, cotton, corn, potatoes, soybeans, pork bellies, and the like. However, the 1974 amendments permit trading in options in all other commodities under such terms and conditions as may be prescribed by the CFTC. The 1974 amendments also would allow the Commission to ban commodity options trading entirely.

In November 1976, the CFTC issued a "package" of regulations on options trading. In the ensuing months, the efforts of the Commission to regulate options trading led to a morass of litigation.

In November 1976, the CFTC proceeded against First Commodity Corp. of Boston for fraudulent and deceptive sales practices. The company signed a consent decree agreeing to no further abuses. In August 1977 the firm was still selling options, and had been audited only once since the time of the court action, and that audit had taken place in the spring.

In February 1977, the CFTC charged a Boston firm, Lloyd, Carr & Co., with selling commodity options without being registered. Six months later, CFTC finally ordered the firm to stop selling, and denied it registration. But even this move meant very little—the order was appealed, and the firm continues to sell commodity options.

In August 1977 the U.S. Supreme Court refused to reverse a decision of the court of appeals which prevented CFTC from enforcing its regulations while the issues were being fought in lower court. Rejection of the appeal to the Supreme Court permitted the firms trading in London commodity options to continue doing business as usual until the Court decided whether it would hear the case. Eventually, in November, the Supreme Court declined to hear the case, and in effect upheld the CFTC regulations.

Part of the regulatory package promulgated by CFTC is the segregation rule. The segregation rule requires that a commodity options dealer must keep 90 percent of a customer's premium money in a special account in a bank in the United States. The funds must be kept segregated until the option is exercised or expired. But Federal courts stayed enforcement of this regulation. Meanwhile, the customers continued to lose money. During the summer of 1977, two commodity options firms went bankrupt; they had not segregated customer funds, and owe their clients over a half million dollars. These clients are now general creditors of the bankrupt dealers and must stand in line with all other creditors of the firms to recover their money.

The 1974 amendments preempted the States from regulating the trading of commodity futures and commodity options, and vested all enforcement powers in the CFTC. And CFTC has not been able to deal with the fraud-ridden commodity options industry.

The Congress, in the 1974 amendments to the Commodity Exchange Act, authorized a reparations proceeding. Persons who suffer losses because of violations of the act or the regulations thus were given a "small claims court" type procedure to get their money back—but the amounts involved often are much larger than those in the usual small claims court. But even here the options cases have effectively bogged down the system and aggrieved individuals suffer greater and greater delay in obtaining restitution. Figures released by the CFTC in August 1977 show that reparations claims for commodity options made up about 75 percent of the total claims received. And of 424 cases received at that time, over 300 were still pending. Since that time, of course, the backlog has grown, and CFTC has promulgated a new set of regulations which will permit trading of commodity options on certain approved U.S. exchange.

The Commodity Futures Trading Commission was established only a little over 2 years ago. Because I felt that a general investigation at this time would be beneficial to the detection of emerging problems, I asked the Surveys and Investigations Staff of the Appropriations Committee to make an in-depth study of the Commission. The alarming situation in the field of commodity options which I have just described confirms the desirability of such a review. However, even before the report of the investigative staff is completed, I feel that I should communicate my concern to the Congress.

PRAISE FOR EGYPTIAN PRESIDENT ANWAR SADAT AND ISRAELI PRIME MINISTER MENAHEM BEGIN FOR THEIR COURAGEOUS STEPS TOWARD PEACE

(Mr. NEDZI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NEDZI. Mr. Speaker, I wish to join with those who have praised Egyptian President Anwar Sadat and Israeli Prime Minister Menahem Begin for their courageous steps toward peace in the Middle East. I was honored to be part of the delegation headed by Chairman Melvin Price of the Armed Services Committee which was present in the Middle East to the initiation of this great event and I would like to take this opportunity to insert in the Record the statement issued by Chairman Price on our return.

I concur with Chairman Price's statement that Mr. Sadat's visit to Jerusalem was "one of the bravest acts of statesmanship in my time." I certainly concur with the statement later made by Chairman Price that President Sadat is the No. 1 candidate for the Nobel Peace prize this year.

Our Armed Services Committee delegation visited the Middle East and Africa during the period November 6–22 and it happened that we were in Jerusalem and met with Mr. Begin just after Mr. Sadat's first offer to go to Jerusalem became public. As Chairman Price indicates in his statement, Mr. Begin asked us to take a message to Egypt stating that President Sadat would be welcome in Israel.

Two days later when we met with Mr. Sadat and Chairman Price had delivered the message, I asked Mr. Sadat when he would go to the Knesset. Mr. Sadat replied that would depend on Mr. Begin. He said that he was prepared to go to the Knesset and he was prepared to go to the end of the Earth if it would serve the cause of peace. He said he was prepared to go whenever "they" were ready.

I stated to Mr. Sadat that Mr. Begin says he is ready now. I asked him if he had received an official invitation from Mr. Begin.

Mr. Sadat said, "No, absolutely not."

I think this exchange is interesting because it was just 2 days later that an official invitation was relayed through the good offices of America's embassies.

All of us in our delegation were happy that our group was present to provide a forum through which Mr. Sadat could emphasize the sincerity of his offer and clear up the fact that he was prepared to go without any preconditions.

I would like to express my special thanks to Chairman Price for the leadership he provided to our delegation and for giving the members of our committee an opportunity to learn firsthand about the significant events in a way that would be impossible here in Washington.

Mr. Price's statement follows:

STATEMENT OF CHAIRMAN PRICE

We have just completed what was for me one of the most informative and rewarding fact-finding trips of my 33 years in Congress. In a little over two weeks this delegation talked to six heads of state, examined conditions in some of the very tense areas of the world, and was proud to make a contribution, however small, to the dramatic movement for peace in the Middle East.

We met with Israeli President Menahem Begin the day the news came of Egyptian President Sadat's offer to go to Jerusalem. Mr. Begin asked me to deliver a message to Mr. Sadat that he would personally meet the Egyptian leader and welcome him to Jerusalem. I delivered that message two days later.

Mr. Sadat replied that there had been no official invitation. It was shortly after that that an official invitation was relayed through American embassies.

It is interesting to note that Mr. Sadat met our group in public, with TV and press present, and used the occasion to reinforce the sincerity of his offer. Previous meetings he has held with delegations from our committee have been in private.

Besides Mr. Begin and Mr. Sadat, the delegation had meetings with President Siad Barre, of Somalia; President Kenneth Kaunda of Zambia; President Mobutu of Zaire and President Houphouet-Boigny, of Ivory Coast.

All of these meetings were private and the delegation had many opportunities for frank questioning and candid exchange of views.

The delegation also visited Iran and Kenya and in these countries, as well as most of the others, talked with numerous defense and foreign ministry officials. We also talked with U. S. officials at each stop.

We gathered valuable information about the military balance in the Middle East; reviewed the military requirements of Iran—the number one purchaser of U. S. military equipment; and discussed with several African leaders the situation in the Horn of Africa, where war now rages between Somalis and Ethiopians in the Ogaden. We also got new insights from African leaders about the chances for peaceful governmental changes in Rhodesia and South Africa, and about developments in Angola.

We collected a great deal of information, some of it necessarily sensitive, and plan to provide both classified and unclassified reports for the committee. I believe we will have a very worthwhile report.

I cannot speak for the whole delegation at this time and, therefore, do not want to state specific conclusions. Personally, however, I was particularly impressed by several factors: The sincere desire for peace of many leaders as well as the people one meets at all levels in both the Middle East and Africa; the extent to which Middle Eastern and African leaders look to the United States for leadership; the concern of African leaders about the Cuban presence in Africa; and the great questioning of Soviet aims in Africa.

Finally, I want to add my voice to those who have praised President Sadat for his courageous venture in visiting Jerusalem. I consider it one of the bravest acts of statesmanship in my time. All of us in our delegation join in offering our prayers that his efforts may lead toward permanent peace in that area of the world where so many great religions were born and so many tragic wars have been fought.

CONTINUED DENIAL BY THE SOVIET UNION OF BASIC HUMAN RIGHTS

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, today in two disparate parts of the world—San Francisco and Venice, Italy—meetings are underway on two varied subjects: the arts and labor unions. Unfortunately, both have one thing in common in that they reflect the continued denial by the Soviet Union of basic human rights guarantees to its citizens.

These violations continue notwithstanding commitments made not only by signing the Final Act of the Conference on Security and Cooperation in Europe, but the Universal Declaration of Human Rights and other international convenants on human rights.

It is ironic that we should find such blatant and continuing violations of basic rights at the very time when we are observing Human Rights Day in commemoration of the signing of the Universal Declaration of Human Rights.

Soviet Nobel Prize recipient Andre Sakharov had been invited to the AFL–CIO Convention now underway in California and to the Biennale of Dissent in Italy. He is attending neither.

As Sol Chaiken, a vice president of the AFL–CIO and a public member of the U.S. delegation to the Belgrade Conference, recently pointed out, the AFL–CIO's invitation to Mr. Sakharov and five other individuals was never answered through no fault of Mr. Sakharov.

A similar invitation to Sakharov was sent for the Biennale, but it was returned marked "addressee unknown." It is my understanding that the Italian delegation to the Belgrade Conference has expressed its concern over this incident.

One of the longstanding criticisms leveled at the Soviet Union is that concerning the interference with the rights of citizens to send and receive mail. These incidents would seem to indicate that this situation has not changed.

How the Government of the Soviet Union can manage not to know a Nobel laureate and one of its most prominent citizens is beyond belief.

ADJOURNMENT TO THURSDAY, DECEMBER 15, 1977

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m., Thursday, December 15, 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. WHITEHURST. Mr. Speaker, reserving the right to object, and I shall not object, I will ask the distinguished acting majority leader if he can tell us if there has been any change in the schedule for Thursday.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, the gentleman would answer that question in this way: At this point, the leadership is still hopeful of bringing before the House of Representatives on Thursday, December 15, 1977, the conference report on the Social Security Act, as well as the conference report on the Clean Water Act. The gentleman from Virginia is aware, as the gentleman from Massachusetts (Mr. Burke) indicated earlier today, that there is a disagreement on the vote of the conferees on the social security conference, and there is some question as to whether or not that can be brought up. The leadership, as of this point, is hopeful that the schedule for Thursday will be the social security conference report and the clean water conference report.

Mr. WHITEHURST. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

SALT "LEAKS"—A DIVERSIONARY CONTROVERSY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. Symms) is recognized for 15 minutes.

Mr. SYMMS. Mr. Speaker, I have noted with interest that the administration and other supporters of the proposed SALT–II agreement have been undertaking a self-serving and sanctimonious critique of the so-called SALT leaks.

Some of us who have tried to raise substantive issues and respond to the administration's selective use of "leaking" and "backgrounder" reports to generate support for their proposals have been charged with breaking national security information. Our colleague, Representative Robin Beard, chairman of the Republican Task Force on National Defense, was charged with publicly disclosing information he had received in a classified briefing on SALT. This criticism was made despite the fact that the House Armed Services Committee, on which he serves, has had no SALT briefings since the Carter-Gromyko White House meeting—the meeting given credit for breaking the SALT-II deadlock. Now, I recognize that those who lack substantive arguments in support of their position will undertake such attacks.

But to be frank, I fail to understand how any discussion of the merit of the SALT issues could be considered a breach of national security. Clearly the Soviets know what we are discussing at SALT. So, are the critics concerned that the American people will learn about the terms of the proposed SALT-II agreement? I understood President Carter to say that he has confidence in the judgment of the American people and that we can and should publicly debate the objectives and ramifications of U.S. foreign and defense policies. Certainly, I have more confidence in the judgment of the American people than the self-imbued elitists who profess to know all the answers and who are impervious and indignant with those of us who do not share the confidence of their vision.

I think the crux of the ongoing controversy was recently well expressed in a Wall Street Journal editorial. As the editorial points out, there was no concern expressed about SALT leaks so long as administration sources were directing the leaks and public revelations on SALT represented the administration's viewpoint.

Once the administration's proposals were challenged, even though this was done in a constructive and meaningful way, so that the merits and objectives of SALT could receive the national attention and debate they deserve, administration supporters tried to close off the prospects of a debate by calling for investigations into the "breaches of classified information." The real worry, as the Wall Street Journal pointed out, is not about classified information, "but worry about (Mr. Nitze's) clear-eyed interpretation that there were no Soviet concessions, that the "breakthrough's (at SALT) consisted of U.S. capitulation and that the (SALT) agreement condemns the U.S. to strategic inferiory."

Mr. Paul Nitze, one of this country's most experienced and distinguished statesmen and arms control experts, has borne the brunt of the criticism. Yet his substantive criticisms have gone unanswered, even though the administration has conceded that his facts and figures are essentially correct.

Recently one Member of Congress, Representative ROBERT CARR, quoted in Aerospace Daily, called for "some code of honor from those who are against any agreement—at least among congressional insiders," and that there should be "a complete self-enforced ban on leaking details of SALT status or commenting on third party reports."

Now I assume my colleague who made this suggestion meant the "self-enforced ban" should apply to the supporters of the proposed SALT-II agreement, not just those "who are against any agreement." But he then proceeded to offer viewpoints on the prospects of what SALT might accomplish, and criticism of SALT critics which, in my view not only ran contrary to his proposed self-enforced ban, which were also, in my opinion, biased and distorted. Should supporters of the proposed SALT agreement continue to make such statements, I am confident that those concerned about the inadequacy of the proposed agreement will feel compelled to respond.

At the outset, the major critics of the proposed SALT-II agreement, whom I know, are not opposed to "any agreement." They have offered proposals which they believe would contribute to a balanced and equitable SALT agreement, one that would support "strategic stability," as U.S. policy presently prescribes it, and which would enhance our national security interests. Further, I am not sure what a "congressional insider" is. Perhaps the gentleman who made this point considers himself an "insider," since he states he has spent more time at the SALT negotiations than any other Member of Congress. If that is the case, however, I think he presents a somewhat simplistic view of the SALT negotiations process. Moreover, he should know better when he says:

> . . . the fact is that if a SALT agreement is as effective as I think it will be, Minuteman will not grow in vulnerability.

Mr. Speaker, I think that is an irresponsible statement without any basis in fact whatsoever. And herein lies my criticism. If administration supporters are confident that the SALT agreement we can expect to be submitted to the Senate early next year for ratification is a good agreement, that can stand on its own merits, why do they hold out the illusion that the agreement will, in fact, accomplish something that cannot be accomplished? The blunt fact is that the present generation of Soviet ICBM's are inherently effective silo killers. The guidance improvements necessary to give these Soviet ICBM's the required accuracy are of such a nature that they could not be verifiably restricted through any SALT agreement discussed to date, including the administration's so-called comprehensive March SALT proposals. A top-ranking defense official made this very point in a November 6 backgrounder briefing. Similarly, Secretary of Defense Harold Brown recently on ABC news' "Issues and Answers" acknowledged that, with or without a SALT agreement, the Soviets "by some time in early 1980's, certainly by 1985" will have the capability to inflict credible damage on our silo-based ICBM force.

Congressman CARR criticizes Senator JAKE GARN as presenting inaccurately the terms relating to prohibitions on testing or deployment of new systems. He then states in the Aerospace Daily article:

> It has, of course, been disclosed—not by anyone in the government—that the protocol likely contains a ban on mobile missiles.

I am pleased that the gentleman believes he is staying abreast of administration "leaks," but I recently read an interview with Paul Warnke—a member of the Government—in which he stated that under the new treaty "we will have preserved all our options" for MX. The Aerospace Daily article continues:

> Instead of an 8-year-ban on development of the MX, there only will be a protocol to the treaty limiting deployment and testing of the weapon until 1981.

Next, Congressman CARR tells us that "SALT opponents always leave out the fact that the Soviet silos are more vulnerable than ours." He states, we have made "threefold improvements in (Minuteman) accuracy equivalent to a ninefold increase in numbers. Even before adding the Mk. 12 warhead, we made a 30 percent increase in the CEP. This was like doubling the number of Minuteman."

In reality, however, the Soviets are gaining the capability to destroy between 70 and 95 percent of the U.S. silo-based missile force in a surprise attack and still retain an 80 percent to 90 percent ICBM force residual. By contrast, the United States, with its force structure, could not expect to destroy more than 50 percent to 70 percent of Soviet ICBM's, while totally denying ourselves residual ICBM force capability.

In short, I see no military incentive for the United States to strike first, but clearly from a military standpoint, the Soviets could have such an incentive.

It is true that we might have one-third to one-half of SLBM fleet survive; we might have—without the B-1—half the alert bomber fleet survive, but is that a credible enough retaliatory capability? Would we unleash that force against the Soviet population after a Soviet counterforce attack that took 6 million American lives, and place at risk the 200 million Americans who survived?

I do not know the answer, but I am less confident than the advocates of this so-called minimum deterrence.

I would like to make one final point in this context. My good colleague took issue with Senator GARN's statement that the Soviets have five new ICBM's in R. & D. and that to get five new R. & D. systems one would have to include the SS-17's and the SS-18's. Now he chooses to protect himself by saying he has had the benefit of CIA and DIA briefings. I would point out, without wanting to get into classified information, that Secretary of Defense Brown has himself stated that the Soviets have four new ICBM's in R. & D. I would, therefore, recommend that my colleague review those CIA/DIA briefings more closely next time.

It may, indeed, "be economic stupidity" for the Soviets to constantly build new ICBM systems and they probably should, instead, concentrate on modernization of existing forces. I submit, Mr. Speaker, that if we ban deployment of new ICBM systems, and make it stick, so that the Soviets do not deploy their fifth generation of ICBM's, then force modernization is precisely what we will see. The present fourth generation of Soviet ICBM's enjoy more throwweight than I consider reasonable or necessary for deterrence or defense objectives. As the Soviets continue to make accuracy improvements to their ICBM systems, they will be able to further fractionate their force and increase their number of RV's.

Recently, another group of Senators who have decried SALT "leaks" made public a letter they had written to the President, with their recommendations for a SALT agreement. These Senators appear to fall under the category of "insiders" since they have the benefit of periodic briefings on SALT and thus are current on the status of the negotiations. Again, if there were to be private constructive recommendations why would they be made public in the form of a press release? Moreover, the issues they raise are matters which must be covered in their SALT status briefings.

To illustrate, their letter to the President states:

> Since cruise missiles promise to be a critical part of our retaliatory force in the future, we believe that any final agreement must contain a practical definition of cruise missile range capability which takes into account the manner such missiles are intended to operate in normal flight.

This letter was written on November 29, quite sometime after an administration source had informed the New York Times that the Soviets had agreed to a range definition for the air launched cruise missile. Even though this agreement was touted as a Soviet "concession," it did nothing to extend our coverage beyond 2,500 kilometers, as reportedly recommended by the Joint Chiefs of Staff. The new agreement merely took into account the flight profile of the cruise missile, which is not a straight line, thus targets beyond a 2,500 kilometer perimeter—if we abide by the agreement—would still be beyond our capability.

Another point raised in the letter follows:

> We believe it is fundamentally important to obtain as stringent limits as possible on improvements in Soviet ICBM technology. Unrestrained Soviet development of a new generation of ICBM's or of markedly improved existing missiles would greatly compound our concerns about the confidence that Soviet planners might place in their ICBM threat to our own land-based missile force.

Again, this statement comes back to whether or not we can preserve the security of the U.S. silo-based force. As I pointed out earlier, the Secretary of Defense himself has stated that with or without a SALT agreement that force, by no later than the middle of the next decade, will be vulnerable to a Soviet first strike. Additionally, there has been ample study throughout the Department of Defense to confirm the Secretary's conclusion and I fail to see what purpose such a statement by congressional SALT "insiders" serves, except to mislead the American people about the realistic goals of SALT II and the vulnerability of our ICBM force.

These critics may not believe it is necessary to have or preserve the ICBM leg of the Triad, but they should state so candidly and not attempt to obfuscate the issue.

Mr. Speaker, let me conclude by saying that if the administration and its supporters were not to engage in the selective and tendentious releasing of SALT details which served their purpose, then there would be very little publicly available, for those who are concerned, to criticize. But to the extent that biased and distorted presentations of SALT continue, I am confident that rebuttals thereto will also continue.

THE SMALL BUSINESS DILEMMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. COCHRAN) is recognized for 5 minutes.

Mr. COCHRAN of Mississippi. Mr. Speaker, I received a letter recently from a man back home in Mississippi which illustrates in a very dramatic way some of the serious problems facing a person who tries to operate a small business.

Our Nation has prided itself in the opportunities it affords its citizens to be self-sufficient, to own a business, and to participate fully in the economic system. This sounds great, but it is sometimes only an idle boast, particularly to those who have been frustrated instead of rewarded in their quest for financial success.

I want to quote some parts of this letter to show you what I mean:

> When I discussed my dilemma with friends and relatives that all said write Representative Cochran. I am writing you for your help and advice and to inform you of the difficulty and the unfair rules and laws placed on small businessmen.
>
> Several years ago I started to achieve the great American dream of owning my own business. I opened a small convenience store. Over several years of hard work by my wife and myself we expanded to four stores.
>
> I have always tried to pay my employees well and to give them as many benefits as I could. We paid all our full time employees hospital insurance and paid vacations.
>
> Our work week is 48 hours. When I hired employees I told them what our work week was and how much they would be paid for 48 hours. I started our school age employees at minimum wages and raised them at different intervals. Our full time employees were paid above minimum wage.
>
> Recently I was audited by the U.S. Department of Labor, Wage and Hour Division. [. . . The man they sent] was a very courteous and fine young man doing his job.
>
> I was informed that since I did not enter 40 hours at so much per hour and eight hours at so much per hour in our payroll records, I would have to go back and pay overtime for two years even though I was paying more than minimum wage figuring 40 hours at minimum and eight hours overtime.
>
> We also used part-time students . . . I hired several boys over the years under sixteen years of age. Most of these boys had to work to help support their families.
>
> I was informed that I had violated the Child Labor Law and was subject to a $1,000 fine on each count (nine violations).
>
> I know ignorance of the law is no excuse, but it is impossible for a small businessman to know all the rules and regulations imposed on small business people. Most of us cannot afford professional people to help us in our operation. If I was trying to cheat my employees, I could readily accept this decision by Wage and Hour.
>
> It seems ironic that the federal government is appropriating millions of dollars to give young people jobs and when business people hire youngsters they run the risk of violating "Child Labor Laws".
>
> As a result of this confrontation with the Wage and Hour and so much red tape and assorted federal and state rules and regulations, I decided to end my American dream and sell my business.

To me this is a real tragedy. It is this kind of experience that sours our people on government and the system generally.

I think Congress has to respond to this problem. When I was a teenager, I was lucky and always had some part-time job to help my family make ends meet. And in the summers I managed to get full-time work.

If we cannot help create a better economic environment, unemployment is going to continue to escalate, and no amount of government programs will really help solve the problem.

I'm asking the Small Business Committee of the House of Representatives to make as its highest priority hearings to investigate the realities of our current laws and rules as they are applied to small business and to develop recommendations for exceptions and even repeal of those laws and rules that do us more harm than good.

A commonsense approach to that task would probably put more people back to work than a new multibillion-dollar "public jobs" program such as that being pushed by the administration.

WILL THE TAX CUT BE TOO LITTLE TOO LATE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, it is great to see that the President is finally beginning to see the need for a significant tax cut next year to keep the economy moving in a positive direction, and it is almost certain Congress will heed his request when it is proposed. However, will the proposed administration tax cut be enough to offset the new tax increases that he and his majority party in Congress have already enacted or plan to enact? It does not look like it.

Because of the administration's staggering budget which includes: First, the new social security tax increase, second, the new energy taxes in the energy bill, third, new spending programs costing billions, and fourth, the ever present force of inflation pushing all citizens into higher and higher tax brackets each year—it is estimated that Americans could be faced with an unprecedented $120 billion tax hike over the next 3 years. The anticipated $15 to $20 billion tax cut by President Carter next year will hardly be felt if this estimate comes true.

All of this seems strange from candidate Carter who "promised" in last year's election that "I would never increase taxes for the working people of our country and the lower- and middle-income groups." So far this year, the majority party in Congress has broken nearly all records for imposing new taxes on working Americans.

In this week's Newsweek, Milton Friedman asks some very timely questions in regard to the President's proposed tax cut. Is Congress simply throwing up a "smoke screen" to temporarily pacify the voters? Does it not seem a bit odd to raise taxes on the one hand, and then turn around and offer the Nation a tax cut with the other? Why not stop the tax hike to begin with and then the tax cut would not be needed? Or better yet, why not cut Government spending?

Professor Friedman correctly points out that the "bottom line" to the tax dilemma is not the size of the tax cut, but the size of Government spending. Without a cut in Government spending, the tax cut will be of little value.

It should be obvious that there are only two ways to finance Government activities, by taxing either:

One. Directly—through taxation or borrowing from the people directly, or

Two. Indirectly—through inflation caused by massive Federal spending which leads to large Federal deficits which leads to money creation.

Congress should therefore quit trying to deceive the American taxpayer by taxing through inflation and give the country something of lasting value: a significant cut in Government spending and a balanced budget. Then a tax cut will really be felt by the American people. I trust Mr. Friedman's article will shed additional light on this subject:

TAX SHENANIGANS

(By Milton Friedman)

The President has recommended and Congress is likely to approve;

1. A whopping increase in the social-security tax on wages.

2. Heavy new taxes and substantial increases in existing taxes as part of the so-called energy bill.

In addition:

3. Inflation will automatically raise income-tax rates by pushing individuals into higher brackets, reducing the real value of exemptions and deductions stated in dollars, and artificially overstating income subject to tax through paper capital gains and inadequate depreciation allowances.

4. Accelerating inflation will automatically raise the hidden tax that has been imposed on holders of government-issued money and long-term debt—you would not be wrong to regard the green pieces of paper you carry in your pocket as receipts for taxes paid.

5. President Carter has said he will recommend cuts in individual and corporate income taxes to offset the increases under items 1 and 2. The rumored size of the cuts would, as it happens, just about equal the automatic increase under item 3.

PUZZLES

Query: Why increase taxes on wages (item 1) and then propose to offset the increase by reducing taxes on income (item 5)?

Answer: In order to continue deceiving voters about the true character of social security and thereby increase the fraction of their income they are willing to have the government take in taxes.

Social security is not a system under which "nine out of ten working people in the United States are now building protection for themselves and their families" (as HEW misleadingly describes it). Social security is a system under which nine out of ten working people pay taxes to finance payments to persons not working. There is little connection between the taxes an individual pays and the amount he is entitled to receive.

Promises have outrun resources. The social-security system is in trouble. But it would be far preferable to bring into the open the welfare component of the system by drawing on general revenues than to raise still higher the wage tax—in my opinion, one of the worst taxes on the books.

Query: Why go through the charade of first letting inflation automatically raise income taxes (item 3) and then offsetting the rise by an explicit tax reduction of roughly equal size (item 5)? Congress has been only too willing to provide for the automatic adjustment of its own salaries and the salaries of other government employees for inflation. Why should it not be equally willing to provide for a similar automatic indexation of taxes?

Answer. If you were a Congressman, would you want to give up a system that provides more tax revenue for you to spend, yet at the increase in the effective graduation of the same time lets you vote for tax reduction? In addition, this system has facilitated an increase in the effective graduation of the income tax, thereby continuing the process of imposing heavier taxes on the productive members of society and granting larger subsidies to the unproductive.

Query: Why impose heavy taxes on energy and then propose either to rebate them to consumers or to offset them by other tax reductions?

Answer: The ostensible reason is to promote energy conservation. But that objective would be better served by setting energy prices free and letting the market allocate energy. The real reasons are to transfer control of energy from the market to a government bureaucracy (i.e., to socialize energy), and to redistribute income from some groups to others.

THE BOTTOM LINE

These measures have little to do with the total tax burden on the American people. That burden is measured by the amount that government spends, not by the receipts that are labeled "taxes." If government spends more than it receives in the form of "taxes," you pay the difference—in concealed form.

Neither the President nor the Demorcratic leadership in Congress has proposed to reduce the fraction of your income spent by government. Hence, the bottom line is that President Carter and the Congressional leadership are proposing to raise, not lower, the total tax burden on the American people. The disputes about taxes are important both as a smoke screen and because they will affect who bears the burden.

MS. BARBARA KANTOR: OUTSTANDING PUBLIC OFFICIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues in the House the outstanding career of Ms. Barbara Kantor of Cleveland, Ohio. Until recently, Ms. Kantor held the important and influential position of District Director of the Immigration and Naturalization Service in Cleveland.

During my years in Congress, Mr. Speaker, my staff and I have maintained a close working relationship with Ms. Kantor on immigration issues. She has always been extremely helpful expediting matters relating to my 21st District constituents.

Mr. Speaker, even though Ms. Kantor's presence will be missed, I am pleased that she has accepted a challenging new assignment in Hong Kong. At this time, I would like to ask that my colleagues join with me in extending our best wishes to Ms. Kantor for continued professional success in her new job. Through her dedicated service to our city, she has won the respect, admiration, and friendship of hundreds of people seeking citizenship in America.

HEARINGS ON DEEP SEABED MINING LEGISLATION

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, on behalf of my colleague from Minnesota, Mr. FRASER, and myself, I wish to announce that the Subcommittee on International Organizations and the Subcommittee on International Economic Policy and Trade of the International Relations Committee will hold 3 days of hearings the week of January 23 on H.R. 3350, the Deep Seabed Hard Minerals Act.

This bill was reported by the Committee on Merchant Marine and Fisheries August 9, 1977, and by the Committee on Interior and Insular Affairs November 7, 1977. It has been sequentially referred to the Committee on International Relations for a period ending not later than February 10, 1978, for consideration of such provisions of the bill as fall within the committee's jurisdiction under clause 1(k), rule X.

In an attempt fairly to allocate the limited time available for oral testimony among interested parties, the subcommittees have decided on the following schedule for the hearings:

Day 1: General policy witnesses from the administration, the GAO, and academia;

Day 2: Members of Congress (one hour) and industry witnesses (one hour);

Day 3: Commodities experts (one hour) and nongovernmental organizations (one hour).

Precise dates, times, and locations will be announced later.

The hearings will focus exclusively on the effects of the proposed legislation on the foreign policy and national security of the United States. Issues to be aired include the following:

First. Probable effects of the legislation on the law of the sea negotiations;

Second. The issue of investment guarantees;

Third. The compatibility of licensing arrangements with international law and U.S. foreign policy;

Fourth. Provisions for the protection of the ocean environment;

Fifth. The issue of extraterritorial sovereignty;

Sixth. Reciprocating states provisions;

Seventh. Provisions for an international revenue sharing fund; and

Eighth. Effects of the legislation on the supply of critical minerals and on the economies of current suppliers.

Persons desiring further information should contact the Subcommittee on International Organizations (202–225–2298) or the Subcommittee on International Economic Policy and Trade (202–225–3246).

STATEMENT BY SOL CHAIKIN, PUBLIC MEMBER, U.S. DELEGATION TO THE CSCE CONFERENCE, BELGRADE, YUGOSLAVIA

(Mr. BUCHANAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, I call to the attention of our colleagues the recent statement by Mr. Chaikin at the Belgrade Conference which outlines the recurring violations still facing citizens behind the Iron Curtain:

Statement by Mr. Sol Chaikin, Public Member, U.S. Delegation to the CSCE Conference, Belgrade, Yugoslavia

Mr. Chairman, as we approach the conclusion of our review of implementation of the Declaration of Principles of the Final Act, my delegation wishes to commend further on Principles 9 and 10—concerning Cooperation among States and Fulfillment in good faith of international obligations under international law.

Ambassador Goldberg has already expressed United States views on some important aspects of the implementation of Principle 10, in particular, in his statement on language of the Final Act which asserts: "In exercising their sovereign rights, including the right to determine their laws and regulations . . . (the participating states) will conform with their legal obligations under international law."

Earlier in our review, Professor Hughes also spoke of the implementation of these same principles and noted some difficulties that had arisen in the period since signature of the Final Act.

Like Professor Hughes, I am a private citizen and not a professional diplomat. I am President of a large, well-known national union, and in addition I have the honor and responsibility to be a Vice-President of the AFL–CIO. I represent many millions of the free trade union members of the United States, which together with their families, make up a tremendous body of public opinion in our country. Today I wish to discuss matters falling within the purview of the Final Act that are of direct interest to all of them and, thus, to our Government.

But first let us recall some of the precise language of Principles 9 and 10. It was agreed at Helsinki, in the context of cooperation among states, that the CSCE participants "confirm that governments, institutions, organizations and persons have a relevant and positive role to play in contributing toward the achievement of these aims of their cooperation." In pledging to honor their obligations under international law, the participating states specifically defined their obligations as those "arising from the generally recognized principles and rules of international law and those obligations arising from treaties or other agreements, in conformity with international law, to which they are a party." Moreover, in their promises at Helsinki to fulfill in good faith their obligations under international law, all participants reaffirmed the primacy of their obligations to the Charter of the United Nations.

Mr. Chairman, the American people are looking upon our discussions at Belgrade with the expectation that we can have a frank and full exchange of views on the implementation of the Final Act to date and with the hope that we can agree on further concrete measures to strengthen the CSCE process and its contribution to the overall construction of detente.

In the period since August 1975, my own country, which openly acknowledges its imperfections and seeks to correct them, has endeavored to bring its policies and practices fully into conformity with the Final Act. In this effort, the Congress of the United States has this year enacted legislation to facilitate the issuance of visas to members of communist trade unions. This legislation, I think I do not need to emphasize, has not been universally popular among all of us in the United States. But it is now the law of the land, a solemn obligation of my Government, and it is honored.

I regret to say, however, that on the other hand some of the obligations incurred by the Soviet Union in subscribing to abovementioned precepts of the Final Act do not appear to have been similarly honored.

Mr. Chairman, I have with me a copy of an invitation addressed on September 6 by President George Meany of the AFL–CIO to Academician Andre Sakharov, winner of the Nobel Prize and fearless champion of human rights, and five other Soviet citizens to attend a convention of the AFL–CIO in December. This invitation was sent from Washington to Academician Sahkarov and the other invitees in early September through the ordinary mail. But what has transpired since then is a mystery. We cannot confirm that the invitation ever reached Mr. Sakharov, and neither has Mr. Meany ever received a reply.

After sending these invitations, Mr. George Meany, President of the AFL–CIO, wrote to President Carter asking him help in encouraging the Soviet authorities to issue exit visas for our invited guests and of course to allow them to return home. It is our belief that since we have changed our own visa policies, it remains to be seen whether individuals and groups who are in the mainstream of American democratic thought can effectively invite Russians with whom they wish to meet.

I might add that the American Embassy in Moscow has sent a formal diplomatic note to the Soviet Ministry of Foreign Affairs officially supporting Mr. Meany's invitation to Mr. Sakharov. Yet, uncertainty continues to cloud the question of whether Mr. Sakharov is permitted to receive his mail from Mr. Meany and to dispatch a reply, and whether the visas will be issued.

Now, this appears to be a clear-cut violation of the "Freedom of Transit" guarantees of the Universal Postal Convention and thus a failure to honor obligations under international law and the Final Act. If this is so, and it certainly appears to be, then the obvious result will be for many millions of Americans, to conclude that our unilateral change in visa policy has failed to persuade the Soviet authorities to ameliorate theirs. This could only, in many minds in our own country, cast doubt upon our own efforts to go to great lengths to perfect compliance with the Final Act.

Mr. Chairman, I cite this case not to damage the atmosphere of this important meeting at Belgrade but to attempt to ascertain what has happened to a piece of mail sent from my country to a distinguished citizen of the Soviet Union. If there is an explanation of what has transpired, my delegation would be most eager to hear it. In the meantime, we feel obliged to draw attention to what appears to be a violation of pledges undertaken by all of us in Principles 9 and 10 of the Final Act.

May I conclude by reiterating what has often been stressed here at Belgrade by Ambassador Goldberg—namely that the American people, and certainly this is true of the American workers, will only support the process of detente provided the process is humane and just and if solemn pledges, like those endorsed at Helsinki at the highest level, are truly respected.

I thank you, Mr. Chairman.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Whitehurst) to revise and extend their remarks and include extraneous material:)

Mr. Symms, for 15 minutes, today.

Mr. Cochran of Mississippi, for 5 minutes, today.

Mr. Miller of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. Mazzoli) to extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Whitehurst) and to include extraneous matter:)

Mr. Vander Jagt.

Mr. Whalen.

Mr. Steiger.

Mr. Buchanan in two instances.

Mr. Brown of Ohio in two instances.

Mr. Conable in two instances.

Mr. Hansen in four instances.

Mr. Steers.

(The following Members (at the request of Mr. Mazzoli) and to include extraneous matter:)

Mr. Annunzio in six instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Brown of California in 10 instances.

Mr. Rangel in five instances.

Mr. Reuss.

Mr. Richmond.

Mr. Mazzoli.

Mr. Carney in three instances.

Mr. Baucus.

Mr. Eilberg.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3313. An act for the relief of Mark Charles Mieir and Liane Maria Mieir;

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency; and

H.R. 9378. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for two years, the date on which the corporation first begins paying benefits under terminated multiemployer plans.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following title:

On December 7, 1977:

H.R. 5555. For the relief of Adelaida Rea Berry.

On December 8, 1977:

H.R. 3313. For the relief of Mark Charles Mieir and Liane Maria Mieir;

H.R. 3722. To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978;

H.R. 7738. With respect to the powers of the President in time of war or national emergency;

H.R. 9378. To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for two years, the date on which the corporation first begins paying benefits under terminated multiemployer plans;

H.R. 9418. To amend the conditions for schools receiving capitation grants under section 770 of such Act, and for other purposes; and

H.J. Res. 662. Making further continuing appropriations for the fiscal year 1978, and for other purposes.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 14 minutes p.m.), under its previous order, the House adjourned until Thursday, December 15, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2809. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of December 1, 1977, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 95-268); to the Committee on Appropriations and ordered to be printed.

2810. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2811. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a report covering the period July 1, 1976, through August 31, 1977, on implementation of the Aviation Career Incentive Act of 1974, pursuant to 37 U.S.C. 301a(e); to the Committee on Armed Services.

2812. A letter from the Secretary of Housing and Urban Development, transmitting a report on a study of home inspection and warranty programs, pursuant to section 9(b) of the Housing Authorization Act of 1976; to the Committee on Banking, Finance and Urban Affairs.

2813. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations to govern the program of instructional equipment grants for institutions of higher education, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2814. A letter from the Assistant Secretary of the Interior, transmitting a report on the Departments' study of the El Camino Real, pursuant to section 5(b) of the National Trails System Act; to the Committee on Interior and Insular Affairs.

2815. A letter from the Acting Secretary of State, transmitting a report reviewing various aspects of the U.S. role in maintaining the security of the Republic of Korea, pursuant to section 668 of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2816. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the programing and obligation of funds for Lebanon relief and rehabilitation since funds became available on October 1, 1976, pursuant to section 495C of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2817. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the Agency's allocations of funds appropriated for fiscal year 1978, by country or international organization and by program, pursuant to section 653(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2818. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2819. A letter from the Acting General Counsel, Department of Energy, transmitting notice of a meeting relating to the International Energy Program to be held December 13, 1977, in Paris, France; to the Committee on Interstate and Foreign Commerce.

2820. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmittng reports monthly financial reports of the Corporation for July and August 1977, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2821. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting reports covering the months of July and August 1977, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2822. A letter from the Chief Justice of the United States, transmitting the proceedings of the meeting of the Judicial Conference of the United States held in Washington, D.C., on September 15-16, 1977, pursuant to 28 U.S.C. 331 (H. Doc. No. 95-269); to the Committee on the Judiciary and ordered to be printed.

2823. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended (79 Stat. 915); to the Committee on the Judiciary.

2824. A letter from the President, National Conference on Citizenship, transmitting the audit report of the organization for the year ended June 30, 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2825. A letter from the Comptroller General of the United States, transmitting a report on the Department of Agriculture's inspection of meat and poultry processing plants (CED-78-11, December 9, 1977); jointly, to the Committees on Government Operations, and Agriculture.

2826. A letter from the Comptroller General of the United States, transmitting a report on the Army's proposed close combat armored vehicle team (PSAD-78-11, December 12, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2827. A letter from the Comptroller General of the United States, transmitting a report on credit programs for small farmers in Latin America (ID-77-1, December 9, 1977); jointly, to the Committees on Government Operations, and International Relations.

2828. A letter from the Comptroller General of the United States, transmitting a report on the potential effects of a national mandatory deposit on beverage containers (PAD-78-19, December 7, 1977); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FOLEY (for himself, Mr. Wampler, Mr. Jones of Tennessee, and Mr. Madigan):

H.R. 10285. A bill to extend the Commodity Exchange Act, as amended, for 4 years; to the Committee on Agriculture.

By Mr. GRADISON:

H.R. 10286. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT (for himself, Mr. Alexander, Mr. Thornton, and Mr. Tucker):

H.R. 10287. A bill to designate the proposed new Veterans' Administration hospital in Little Rock, Ark., as the John L. McClellan Memorial Veterans' Hospital, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEACH:

H.R. 10288. A bill to amend title XV of the Public Health Service Act to provide flexibility in the application of national health planning guidelines to rural areas and to areas a disproportionately high proportion of elderly people; to the Committee on Interstate and Foreign Commerce.

By Mr. BOWEN:

H.J. Res. 673. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LONG of Maryland introduced a bill (H.R. 10289) for the relief of Saira Baig, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

363. By the SPEAKER: Petition of the National College of Probate Judges, Chicago, Ill., relative to amendment of the Tax Reform Act of 1976 to eliminate the "carryover basis" for probate assets; to the Committee on Ways and Means.

364. Also, petition of the National Guard Association of the United States, Washington, D.C., relative to policy statements adopted by the organization's 99th General Conference; jointly, to the Committees on Armed Services, and International Relations.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of the House rule X. Previous listing appeared in the Congressional Record of December 5, 1977 (page 37522).

H.R. 7201. May 16, 1977. Armed Services; Judiciary. Increases the amount which the

Secretary of a branch of the armed forces is authorized to pay in settlement of claims against the United States not cognizable under any other provision of law for property damage, personal injury or death caused by a civilian employee of a military department or the Coast Guard, or member of the armed forces, incident to the use of a vehicle of the United States on Government installations.

H.R. 7202. May 16, 1977. Judiciary. Repeals the specified bond amounts in the Miller Act with respect to required surety bonds for public construction contracts. Retains the requirement that such bonds be provided for the protection of all persons supplying labor and material in connection with such contract.

H.R. 7203. May 16, 1977. Judiciary. Transfers responsibility for furnishing certified copies of payment bonds pursuant to the Miller Act from the Comptroller General to the department secretary or agency head of the contracting agency.

H.R. 7204. May 16, 1977. Judiciary. Provides for the issuance of an initial Federal agency decision pursuant to an agency hearing in the event the presiding employee is not available to render such decision. Prohibits agency employees from participating in investigative or litigating functions in connection with a case in which such employee must render a decision. Authorizes agencies to issue subpenas without any other specific statutory authority and requires such agencies to authorize officers to issue such subpenas.

H.R. 7205. May 16, 1977. Judiciary. Amends the Immigration and Nationality Act to authorize the Attorney General and the President to admit certain refugees to the United States. Permits refugees to become permanent residents of the United States upon approval of the Immigration and Naturalization Service.

H.R. 7206. May 16, 1977. Judiciary. Authorizes the Law Enforcement Assistance Administration to purchase a group life insurance policy or policies from private life insurance companies for the benefit of public safety officers.

Sets forth guidelines relative to such group plan.

Establishes an Advisory Council on Public Safety Officer Group Life Insurance composed of the Attorney General, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget.

H.R. 7207. May 16, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax-exempt status to certain computer and fiscal management services which serve social service organizations.

H.R. 7208. May 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 7209. May 16, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit the television broadcasting of programs portraying nudity, obscenity, or explicit sexual activity.

H.R. 7210. May 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to eliminate the five month waiting period which is presently a prerequisite of eligibility for disability insurance benefits and for widow's or widower's benefits on the basis of disability.

H.R. 7211. May 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 7212. May 16, 1977. Judiciary. Establishes a system for settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 7213. May 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 7214. May 16, 1977. Agriculture. Amends the Food Stamp Act of 1964 to transfer all responsibility for the program from the Secretary of Agriculture to the Secretary of Health, Education, and Welfare. Eliminates charges and coupons and substitutes a program of direct payments to households.

H.R. 7215. May 16, 1977. Banking, Finance and Urban Affairs. Amends the Federal Fire Prevention and Control Act of 1974 to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to voluntary fire departments to enable them to purchase firefighting equipment which they cannot afford due to post-1972 inflation.

H.R. 7216. May 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction by volunteer firefighters for their firefighting clothing expenses.

H.R. 7217. May 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 7218. May 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 7219. May 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 7220. May 16, 1977. Ways and Means. Amends the Social Security Act by entitling an Old-Age, Survivors, and Disability Insurance claimant to a reconsideration of the initial decision concerning such claimant's eligibility for benefits. Allows such claimant to request a hearing on such reconsideration determination. Requires that such a hearing be presided over by an administrative law judge and conducted on the record.

Directs the Secretary of Health, Education, and Welfare to appoint administrative law judges to conduct such hearings.

Sets forth criteria requiring the remand of a disputed claim to the appropriate regional commissioner of the Social Security Administration.

H.R. 7221. May 16, 1977. Judiciary. Amends the Indochina Migration and Refugee Assistance Act of 1975 to extend through 1980 funds for the provision of financial, medical, employment, and relocation assistance to refugees from Cambodia, Vietnam, or Laos.

H.R. 7222. May 16, 1977. Government Operations. Establishes the Federal Emergency Assistance and Preparednes Administration to implement and coordinate all Federal disaster assistance and emergency preparedness programs and to collect data to be made available to the public, States and localities respecting the prediction and planning for emergencies and disasters. Extends the Civil Defense Act to September 30, 1980.

H.R. 7223. May 16, 1977. Judiciary. Deems the application of a certain individual for with the Social Security Administration in Social Security Benefits to have been filed 1966.

H.R. 7224. May 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to increase for a five-year period the customs duty on specified hand tools.

H.R. 7225. May 17, 1977. Education and Labor. Repeals the Occupational Safety and Health Act of 1970.

H.R. 7226. May 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide an additional personal exemption for elderly individuals whose spouses have died.

H.R. 7227. May 17, 1977. Ways and Means. Amends the Food Stamp Act of 1964 to limit eligibility. Amends the Social Security Act to revise eligibility requirements and disbursement procedures under Title XVI (Supplemental Security Income Program); to increase the ceiling on Federal social services funding under title XX (Grants to States for services); and to revise procedures for the payment to States for child welfare services programs established under Title IV (Aid to Families with Dependent Children).

Amends Title XVI of the Social Security Act to extend the Supplemental Security Income program to Guam, Puerto Rico, and the Virgin Islands.

H.R. 7228. May 17, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H. R. 7229. May 17, 1977. Government Operations. Establishes the Federal Emergency Assistance and Preparedness Administration to implement and coordinate all Federal disaster assistance and emergency preparedness programs and to collect data to be made available to the public, States and localities respecting the prediction and planning for emergencies and disasters. Extends the termination dates of specified provisions of the Federal Civil Defense Act to September 30, 1980.

H.R. 7230. May 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide the same credit for the elderly to each eligible individual regardless of marital status. Replaces the adjusted gross income limitations for such individuals with a $2,500 earned income limitation for each eligible individual. Eliminates the joint filing requirement for married persons receiving the credit.

H.R. 7231. May 17, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 7232. May 17, 1977. Post Office and Civil Service. Changes the observance of Memorial Day from the last Monday in May to May 30.

H.R. 7233. May 17, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to permit a veteran, who is being supplied with drugs but who is not a patient in a Veterans' Administration facility, to determine whether the drugs will be supplied directly by the Administrator or from a source approved by the Administrator and whether the Administrator shall pay such source directly or reimburse the veteran who will pay for the drugs.

H.R. 7234. May 17, 1977. Judiciary. Provides for the appointment of a special prosecutor to conduct investigations relative to alleged violations of criminal law involving abuse of office fraud against the United States, or obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interests or the appearance thereof.

H.R. 7235. May 17, 1977. Agriculture. Declares the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Establishes the Agricultural Land Review Commission to ,study issue research grants, report and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 7236. May 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for individuals who: (1) install qualified insulation in their residences; (2) install qualified solar heating and cooling equipment in dwelling units used by them, or leased to others as residences; (3) replace the heating system in any dwelling with a reversible, compressible refrigerant system (i.e., a heat pump system); or (4) purchase personal or family electric highway vehicles between 1976 and 1982.

H.R. 7237. May 17, 1977. Public Works and Transportation; Banking, Finance and Urban Affairs. Amends the Disaster Relief Act of 1974 to: (1) specify the disaster-related expenses of individuals or families which will be included and excluded from coverage by Presidential grants; (2) set forth the percentage of each such grant which may be extended by States and local governments for grant administration; and (3) include nursury and pre-school programs within the definition of "educational facilities" for purposes of receiving grants for repair and restoration.

Amends the National Flood Insurance Act of 1968 to establish a flood insurance coverage limit on residential dwelling units for any property and permanent fixtures contained thereon.

H.R. 7238. May 17, 1977. Veterans' Affairs. Declares that service during World War I by any female citizen of the United States as a member of a telephone operating unit of the Army Signal Corps shall be considered active duty in the Army for purposes of all laws administered by the Veterans' Administration.

H.R. 7239. May 17, 1977. Judiciary. Establishes new procedures for the determination of the mental competency of an individual accused of a crime. Authorizes the trial court to commit an accused who is found incompentent to the care of the Secretary of Health, Education, and Welfare. Outlines the procedure required for civil commitment of such persons. Requires an annual review of the danger posed by any accused in the Secretary's custody. Requires discharge if no danger is found and entitles the accused to a hearing if the determination is adverse.

H.R. 7240. May 17, 1977. Judiciary. Permits, and specifies procedures for registration of United States district court criminal judgments imposing fines in other judicial districts.

H.R. 7241. May 17, 1977. Judiciary. Authorizes the Director of the Administrative Office of the United States Courts, in accordance with such regulations as he may prescribe and are approved by the Judicial Conference of the United States, to pay the defense costs of a judge or Federal court employee who is sued for acts performed or omissions made in his official capacity.

H.R. 7242. May 17, 1977. Judiciary. Amends the Bail Reform Act of 1966 to require consideration of the safety of others and the community at large in setting conditions for pretrial release. Stipulates that conditions imposed to that end may not be financial.

H.R. 7243. May 17, 1977. Judiciary. Prohibits the bringing of a civil action in Federal district court on the basis of diversity of citizenship in any State or which a plaintiff is a citizen.

H.R. 7244. May 17, 1977. Judiciary; Merchant Marine and Fisheries. Amends the Canal Zone Code provisions respecting the appointment, duties and service of probation officers.

H.R. 7245. May 17, 1977. Rules. Adds a new rule to the Federal Rules of Criminal Procedure which permits, and sets forth procedures for, appeal of certain sentences by either a defendant or the government on the grounds of clear unreasonableness.

H.R. 7246. May 17, 1977. Post Office and Civil Service. Repeals the Postal Reorganization Act. Reenacts provisions relating to the postal service which were in effect immediately prior to the enactment of such Act.

H.R. 7247. May 17, 1977. Judiciary; Ways and Means. Prohibits a State from imposing a tax on income earned by a non-domiciliary unless the income was earned in that State. Permits the State taxation of income earned by domiciliaries outside the State to the extent that such taxation exceeds the tax imposed by the State in which the income was earned.

H.R. 7248. May 17, 1977. Public Works and Transportation. Prohibits the expenditure of Federal funds for the conversion of highway signs to the metric system unless the Congress specifically authorizes such an expenditure.

H.R. 7249. May 17, 1977. Judiciary. Amends the charter of the Big Brothers of America to include within such organization the Big Sisters International, Incorporated. Renames such organization as the Big Brothers-Big Sisters of America. Restricts the activities of such organization to the United States (previously Canada and the United States).

H.R. 7250. May 17, 1977. Education and Labor. Establishes a community service youth employment program under the Comprehensive Employment and Training Act of 1973 pursuant to which the Secretary of Labor is to financially assist local governments and private nonprofit organizations submitting approved applications. Directs such local governments and organizations to make grants to eligible applicants for projects which will provide public service job opportunities for certain persons over age 18.

Establishes a National Commission on Youth Community Service to assist in carrying out this act.

H.R. 7251. May 17, 1977. Post Office and Civil Service. Specifies civil penalties for persons who continue to engage in conduct which the Postal Service determines constitutes either (1) a scheme or device for obtaining money or property through the mail by means of false pretenses or (2) a lottery, gift enterprise, or similar scheme for the distribution of money or property, and for persons who fail to comply with orders issued by the Postal Service as a result of such a determination.

H.R. 7252. May 17, 1977. Interstate and Foreign Commerce. Amends the Interstate Commerce Act to prohibit common carriers subject to Part I of such act (railroads, and combined rail and water carriers) from establishing a rate for any commodity for export which is different from the established rate for the similar domestic movement of such commodity unless the carrier simultaneously establishes export rates for that commodity from the same point of origin to all port ranges served by such carrier.

H.R. 7253. May 17, 1977. Government Operations. Establishes the Federal Emergency Assistance and Preparedness Administration to implement and coordinate all Federal disaster assistance and emergency preparedness programs and to collect data to be made available to the public, States and localities respecting the prediction and planning for emergencies and disasters. Extends the termination dates of specified provisions of the Federal Civil Defense Act to September 30, 1980.

H.R. 7254. May 17, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

Imposes criminal penalties for violations of this Act.

H.R. 7255. May 17, 1977. Ways and Means. Interstate and Foreign Commerce.

Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act and the Railroad Retirement Act of 1974 to eliminate the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 7256. May 17, 1977. Judiciary. Authorizes the naturalization of a certain individual who lost his U.S. citizenship.

H.R. 7257. May 17, 1977. Judiciary. Declares that certain provisions of the Immigration and Nationality Act are inapplicable to a certain individual.

H.R. 7258. May 18, 1977. Interstate and Foreign Commerce. Creates an Electric Energy Office in the Federal Power Commission to establish and enforce national minimum standards for electric utility rates to be binding upon all utilities and regulatory agencies. Requires that utility rate structures be designed so as to provide lower rates for residential and small business users and to penalize wasteful consumption of electric energy.

H.R. 7259. May 18, 1977. Interior and Insular Affairs. Restores Federal recognition and benefits to the Confederated Tribes of Siletz Indians of Oregon. Provides for the establishment of a tribal government. Directs the Secretary of the Interior to draft lgeislation for the creation of a Siletz reservation in Lincoln County, Oregon.

H.R. 7260. May 18, 1977. House Administration. Amends the Federal Election Campaign Act of 1971 to direct that copies of documents required to be filed with States be filed with the State officer charged with maintaining State election campaign reports.

Revises the period for which copies of such documents must be retained.

Requires that only those portions of filed documents which relate to candidates for election in the State of filing need be preserved.

Authorizes the appropriation of specified sums to the Federal Election Commission for the purpose of reimbursing during 1977 and 1978 State offices with which campaign documents are filed.

H.R. 7261. May 18, 1977. Small Business. Authorizes the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning, and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Center program.

H.R. 7262. May 18, 1977. Small Business. Authorizes the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning, and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Administration to administer the Small Business Development Center program.

H.R. 7263. May 18, 1977. Veterans' Affairs. Provides for a burial allowance of $150 to be paid by the Veterans' Administration: (1) to an State or political subdivision thereof for burying a veteran in any cemetery owned by the State or subdivision if such cemetery or section thereof is used solely for the interment of veterans; or (2) to a person prescribed by the deceased veteran if burial is in a cemetery other than the kind described.

H.R. 7264. May 18, 1977. Interior and Insular Affairs. Establishes the Channel Islands and Santa Monica Mountains National Park and Seashore in California.

Directs the Secretary of the Interior to undertake specified transportation studies.

Establishes the Channel Islands and Santa Monica Mountains National Park and Seashore Advisory Commission.

H.R. 7265. May 18, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 7266. May 18, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 7267. May 18, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for State and local property taxes that are allocable to the construction or improvement of sewage treatment works, even though such benefits tend to improve the value of the property taxed.

H.R. 7268. May 18, 1977. Education and Labor. Increases the dollar amount of contracts to which the Davis-Bacon Act applies and provides for future increases tied to cost-of-living increases. Makes such act applicable only to unskilled laborers. Details the method for computing the "prevailing wage" under the act. Establishes a Federal Construction Appeals Board to hear appeals regarding wage rate determinations under the act.

H.R. 7269. May 18. 1977. Agriculture. Amends the Soil Conservation and Domestic Allotment Act to provide financial assistance to agricultural producers based on farm and ranch conservation plans approved by local conservation districts.

H.R. 7270. May 18, 1977. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified functions of the Department of Health, Education, and Welfare; all of the functions of the Education Division and various educational functions handled by the Departments of Agriculture, Defense, and Interior; the Secretary of Housing and Urban Development; the National Foundation on the Arts and the Humanities; the National Endowments for the Arts and Humanities; and National Science Foundation.

Creates the Federal Interagency Committee on Education and the National Advisory Commission on Education.

H.R. 7271. May 18, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 7272. May 18, 1977. Judiciary; Rules. Requires that the public be given opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 7273. May 18, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 7274. May 18, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 7275. May 18, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 7276. May 18, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited, refundable tax credit to persons age 65 or over for the real property taxes or the rent they pay for their principal residences.

H.R. 7277. May 18, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 7278. May 18, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to stipulate that the trade-in and trade-out values of mariner class vessels acquired by the Secretary of Commerce in exchange for obsolete vessels in the National Defense Reserve Fleet shall be the higher of their scrap value in domestic or foreign markets.

H.R. 7279. May 18, 1977. Public Works and Transportation. Designates the United States Customs Court and Federal Office Building at 1 Federal Plaza, New York, New York, the "Paul P. Rao United States Customs Court and Federal Office Building."

H.R. 7280. May 18, 1977. Veterans' Affairs. Increases from 10 to 12 years the delimiting period for a veteran to complete a program of education.

H.R. 7281. May 18, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farm and soil and water conservation trucks from the highway use tax.

H.R. 7282. May 18, 1977. Ways and Means; Judiciary. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to require that resident aliens reside continuously in the United States for five years to qualify for supplemental security income benefits.

Amends the Immigration and Nationality Act to prevent an immigrant from entering the United States unless a United States citizen (immigration sponsor) agrees to support the immigrant for five years from the date of the immigrant's admission.

H.R. 7283. May 18, 1977. House Administration. Establishes an art bank in the Congress for the purpose of selecting American works of art for display in the House and Senate Office Buildings.

H.R. 7284. May 18, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 7285. May 18, 1977. Armed Services. Entitles members of the uniformed services with four years of service or less to family separation allowances.

H.R. 7286. May 18, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act by directing the Secretary of Health, Education, and Welfare to establish a National Sickle Cell Anemia Institute for the diagnosis, treatment, and prevention of sickle cell anemia.

H.R. 7287. May 18, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 7288. May 18, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 7289. May 18, 1977. Judiciary. Makes the killing of an officer or employee of the Small Business Administration who is performing official duties a Federal crime.

H.R 7290. May 18, 1977. Judiciary. Makes the killing of an officer or employee of the Small Business Administration who is performing official duties a Federal crime.

H.R. 7291. May 18, 1977. Public Works and Transportation. Directs the Secretary of Transportation to designate certain highways in Oklahoma and Texas as part of the National System of Interstate and Defense Highways.

H.R. 7292. May 18, 1977. Post Office and Civil Service. Establishes pay classifications ATC–1 through ATC–9 for Federal air traffic controllers and establishes salary levels to correspond to such classifications. Requires trainees and nonjourneyman controllers to be classified in positions ATC–1 through ATC–8 according to the proficiency required to fill such positions. Requires the classification of journeyman controllers at positions ATC–4 through ATC–9 on the basis of the award of points which reflects the type of facility where such person performs duties and the complexity of the job considering such characteristics as the volume of air traffic and runway configurations.

H.R. 7293. May 18, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 7294. May 18, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individual's income tax liability to the extent it equals a limited portion of the educational expenses incurred for the taxpayer, his spouse and dependents.

Provides for independent studies by the Secretaries of the Treasury and Health, Education, and Welfare on the effects of this Act.

H.R. 7295. May 18, 1977. Post Office and Civil Service. Changes the organizational structure of the United States Postal Service by: (1) transferring the authority of the Board of Governors to the Postmaster General; (2) revising the procedures for adjustment of rates and services; (3) creating a procedure for review of proposed capital investments; and (4) requiring the Postal Rate Commission to submit to the President a separate annual budget.

Prohibits a reduction in the frequency of mail delivery service below the frequency in effect on April 21, 1977.

H.R. 7296. May 18, 1977. Public Works and Transportation. Designates the new Terminal Radar Approach Control Federal Building on Steward Avenue, Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building."

H.R. 7297. May 18, 1977. Post Office and Civil Service. Requires all revenues and fees collected by the Postal Service to be deposited in the general fund of the Treasury of the United States. Requires the Postal Service to describe all operations and provide any other necessary information to Congress when seeking appropriations for its operations before the appropriate congressional committees as required by this Act.

Requires the Postal Service to provide door or curbline mail delivery to all permanent residential addresses receiving such service on or after the date of enactment of the Postal Reorganization Act Amendments of 1976 until September 15, 1977.

H.R. 7298. May 18, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require persons engaged in domestic air transportation to provide financial protection and indemnification for victims of aircraft occurrences in amounts established by the Secretary of Transportation. Directs the Secretary to establish a fund to indemnify victims of extraordinary aircraft incidents as defined in this act when liability for such an incident exceeds the financial protection provided by the carrier.

H.R. 7299. May 18, 1977. Judiciary; Ways and Means. Directs district courts to award court costs to prevailing individual parties in civil actions where (1) an action was brought by the United States or agent thereof and the court finds that the bringing of the action constituted harassment or (2) the court finds that the conduct of the United States or agent thereof which gave rise to the action constitued harassment.

Directs the Tax Court to award costs to individual taxpayers who substantially prevail in a proceeding for redetermination of a deficiency.

H.R. 7300. May 18, 1977. District of Columbia. Restates the charter of the George Washington University, Washington, D.C. in its entirety.

H.R. 7301. May 18, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 7302. May 18, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to bring civil suits in United States district courts for recovery of damages arising from unreasonable or excessive property assessments for the collection of taxes.

H.R. 7303. May 18, 1977. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination on the basis of marital status in (1) public accommodations, (2) public facilities, (3) public education, and (4) federally assisted opportunities. Prohibits such discrimination in housing. Amends the Education Amendments of 1972 to prohibit such discrimination in federally assisted education.

H.R. 7304. May 18, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to increase the amount of a ship construction loan which the Secretary of Commerce may guarantee from 75 to 87½ percent with respect to certain ferry boats.

H.R. 7305. May 18, 1977. Public Works and Transportation. Designates the Federal building located at 202 West Church Street, Champaign, Illinois, as the "William L. Springer Building."

H.R. 7306. May 18, 1977. Ways and Means. Amends the Internal Revenue Code to increase the amounts excludable from gross income as income earned abroad by repealing the provisions respecting such exclusions enacted in the Tax Reform Act and restoring former law.

H.R. 7307. May 18, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 which imposes additional sentences for using or unlawfully carrying a firearm during the commission of a Federal felony to (1) include State felonies and felonies with knives, (2) revise such additional sentences, and (3) prohibit a probationary or suspended sentence with respect to a first, as well as to a subsequent, conviction.

H.R. 7308. May 18, 1977. Judiciary; Intelligence. Establishes procedures for the application, approval, and extension of orders authorizing the use of electric surveillance for foreign intelligence purposes. Permits the Attorney General to authorize emergency employment of such surveillance for 24 hours in the absence of a judicial order.

Requires the Chief Justice of the United States to designate seven district court judges to hear applications for, and grant orders approving, electronic surveillance anywhere within the United States.

H.R. 7309. May 18, 1977. International Relations. Establishes a Bureau of Claims Against Foreign Diplomats within the Department of State to award compensation to persons injured by foreign diplomats and to reimburse local governments for revenues lost because of their inability to collect parking fines from foreign diplomats.

H.R. 7310. May 18, 1977. Education and Labor. Authorizes the Secretary of Commerce upon request by the chief executive officer of a noncontiguous State or territory which has been affected by an interruption in essential maritime transportation for more than five days, to: (1) activate and direct vessels of the national defense reserve fleet to provide such transportation; (2) request any officer, department, or instrumentality of the Federal Government to make available personnel, services, or facilities for use in providing such transportation; or (3) commence a civil action in the appropriate Federal court to terminate such interruption.

H.R. 7311. May 18, 1977. Ways and Means. Amends the Social Security Amendments of 1972, which lowered the age computation point for Old-Age, Survivors, and Disability Insurance (OASDI) benefits for men from age 65 to 62, the age which had previously applied only to women, in order to apply such revision to men who were entitled to OASDI benefits for January 1977 or months thereafter, and who attained age 62 after December 1972, such revision having applied previously only to individuals who became 62 after 1974.

H.R. 7312. May 18, 1977. Judiciary. Confers jurisdiction on the United States District Court for the Southern District of Indiana to hear, determine, and render judgment on a particular claim by a certain individual.

H.R. 7313. May 19, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 7314. May 19, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 7315. May 19, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited tax credit in an amount of $250 for each individual who is at least 65 years of age before the beginning of the taxable year, whose principal place of abode during the taxable year is the principal residence of the taxpayer, and who is not a lodger with the taxpayer.

H.R. 7316. May 19, 1977. Judiciary. Places further restrictions upon interception of communications without court sanction by requiring that either all parties consent or that the interceptor is a party to the communication and reasonably believes that the communication violates State or Federal law.

H.R. 7317. May 19, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 7318. May 19, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 7319. May 19, 1977. Judiciary. Requires certain organizations engaged in lobbying activities to comply with specified registration, reporting, and recordkeeping requirements.

Directs the Comptroller General to develop filing and cross-indexing systems to identify persons and organizations engaged in lobbying activities.

H.R. 7320. May 19, 1977. Ways and Means. Amends the Internal Revenue Code to revise the time requirements and limitation pertaining to deductions of expenses paid to related taxpayers, Subchapter S elections, tax free exchanges in corporate liquidations, income tax credit carrybacks, and income tax returns by certain tax exempt organizations. Expands the class of individuals qualifying as farmers or fishermen for purposes of declarations of estimated tax. Increases the adjustment to basis of property transferred under corporated distributions.

H.R. 7321. May 19, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Federal Aviation Administration to promulgate comprehensive regulations for the control and abatement of noise resulting from the operation of civil supersonic transportation aircraft in the United States at subsonic speed. Stipulates that such regulations, at a minimum, shall require such aircraft to comply with the noise standards prescribed for new subsonic aircraft in effect on January 1, 1977.

H.R. 7322. May 19, 1977. Public Works and Transportation. Authorizes airport operators to prohibit, on a nondiscrimination basis, the operation of any type of aircraft at such airport for the purpose of controlling and abating aircraft noise.

H.R. 7323. May 19, 1977. Ways and Means. Amends title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such title payable to a resident alien only if such alien has continuously resided in the United States for at least two years.

H.R. 7324. May 19, 1977. Judiciary. Authorizes classification of two individuals as children for purposes of the Immigration and Nationality Act.

H.R. 7325. May 23, 1977. Banking, Finance, and Urban Affairs. Amends the Federal Reserve Act and the Federal Deposit Insurance Act to regulate the establishment, operation, and control of bank branches in the United States by foreign banks.

Authorizes the Comptroller of the Currency, the Federal Reserve Board, and the Secretary of the Treasury to administer the provisions of this Act.

H.R. 7326. May 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental insurance program.

H.R. 7327. May 23, 1977. International Relations. Amends the Mutual Educational and Cultural Exchange Act of 1961 to disallow Federal employees to accept grants and other types of assistance provided by a foreign government to facilitate participation of such employees in certain cultural exchange programs.

H.R. 7328. May 23, 1977. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational, research, or service programs; and (2) assistance in carrying out such programs.

Authorizes a five year comprehensive grant to a university qualifying as an "urban grant university" and establishes criteria for such designation.

Creates an Urban University Advisory Council to (1) review, along with the Commissioner of Education, "urban grant university" applications; (2) advise the Commission; and (3) make recommendations to the President and to the Congress.

H.R. 7329. May 23, 1977. Public Works and Transportation. Directs the Secretary of Transportation to establish mandatory operating procedures to reduce noise, conserve fuel, and improve the operational safety of civil turbojet aircraft operating within the United States. Specifies certain operating procedures for aircraft which shall be included in such regulations. Directs the Secretary to study the advisability of requiring the use of new flight instruments in the landing operations of civil turbojet powered aircraft to reduce noise and increase the safety of landing operations and to report the results of such study to Congress.

H.R. 7330. May 23, 1977. Judiciary. Enacts Title 11 of the United States Code to establish a uniform law of bankruptcy. Changes the administration of bankruptcy cases including the determination of claims and allowances. Amends procedures for liquidation and reorganization. Makes provisions for the adjustment of debts of municipalities and individuals with regular income.

Amends Title 28 of the United States Code and the Federal Rules of Evidence as they pertain to the creation and the powers of bankruptcy courts. Provides for a transition period of the bankruptcy court system.

H.R. 7331. May 23, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 7332. May 23, 1977. Interstate and Foreign Commerce. Prescribes criteria for Federal, State, and local agencies regulating electric utilities which would require that rate schedules accurately reflect long-run incremental costs of service and that price differentials for different customers classes reflect actual documented differentials in cost or service.

Prohibits any allowance for recoupment of any advertising costs except if such advertising is designed to discourage energy consumption during peak load periods or to encourage conservation of electricity in general.

Establishes standards for the treatment of fuel adjustment clauses and for the determination of effective dates for proposed changes in rates and schedules.

H.R. 7333. May 23, 1977. Public Works and Transportation. Directs the Administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs.

H.R. 7334. May 23, 1977. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program for research and development of industrial energy conserving technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 7335. May 23, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small business for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 7336. May 23, 1977. Armed Services. Requires defense contracts for an amount exceeding $5,000 to require the defense contractor to report annually the name of each subcontractor who is under any contract with such contractor involving an amount exceeding $5,000. Requires such report to list by State the portion of the total amount of such subcontract which is performed in each State. Requires the Secretary of Defense to compile such information and submit to Congress the names of defense subcontractors and the total amount of all defense subcontractors which are performed in each State.

H.R. 7337. May 23, 1977. Judiciary. Amends the Clayton Act to prohibit specified interlocking corporate management relationships.

H.R. 7338. May 23, 1977. Ways and Means. Amends the Social Security Act to assure that recipients of Aid to Families with Dependent Children (Title IV); Supplemental Security Income (Title XVI); specified programs of assistance to the aged, blind, and disabled (Titles I, X, and XIV); veterans' pensions and compensation; assistance under the Food Stamp Act of 1964 or the United States Housing Act of 1937; and benefits under any Federal retirement or disability program shall not have the amount of such assistance or benefits reduced because of cost-of-living increases in monthly social security benefits.

H.R. 7339. May 23, 1977. Interstate and Foreign Commerce. Prohibits the shipment in interstate or foreign commerce of any fur or leather, raw or in finished form, from animals trapped in any State or foreign country which has not banned the manufacture, sale, or use of leg-hold or steel jaw traps.

Directs the Secretary of Commerce to publish a list of such States and foreign countries.

H.R. 7340. May 23, 1977. Ways and Means. Provides that the income tax treatment of certain transportation expenses between the taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76–453 or any other ruling, regulation or decision reaching the same result.

H.R. 7341. May 23, 1977. Interstate and Foreign Commerce; Judiciary. Amends the Communications Act of 1934 to add a new title which replaces and generally revises provisions relative to the interception of oral and wire communications.

Increases the types of communications which are protected from unlawful interference.

Narrows present exceptions to the prohibitions against interception and/or disclosure of the contents of protected communications.

Revises the types of crimes with respect to which interceptions may be authorized.

Requires prior judicial approval of all authorizations.

H.R. 7342. May 23, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to make operating and real estate loans under such Act available to private domestic corporations and partnerships engaged in farming or ranching.

Provides for congressional authorization of program levels under such Act.

H.R. 7343. May 23, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to make operating and real estate loans under such Act available to private domestic corporations and partnerships engaged in farming or ranching.

Provides for congressional authorization of program levels under such Act.

H.R. 7344. May 23, 1977. Interior and Insular Affairs. Directs the Secretary of Agriculture and the Secretary of the Interior to study the feasibility of a proposed Southern Appalachian Slope National Recreation Area in Georgia, North Carolina, and South Carolina.

H.R. 7345. May 23, 1977. Veterans' Affairs. Increases the rates of: (1) pensions for war veterans with a non-service-connected disability, their surviving spouses and children; (2) dependency and indemnity compensation for parents of veterans who died in active military service; and (3) the monthly rate of death compensation payable to a widow or dependent parent if the payee is a patient in a nursing home or helpless or blind.

H.R. 7346. May 23, 1977. Armed Services. Entitles specified members of the armed forces reserves to retirement pay.

H.R. 7347. May 23, 1977. Judiciary. Allows nationals of Chile who are being persecuted in Chile or are in danger of being persecuted if returned to Chile, and the spouses, children or parents of such nationals to be granted admission into the United States and the status of permanent residents if specified requirements are met.

H.R. 7348. May 23, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to select and acquire land for a national cemetery in Broward County or Dade County, Florida.

Directs the Administrator of the General Services Administration to transfer to the Veterans' Administration without reimbursement or transfer of funds any Government-owned land in the named counties which the Administrator of Veterans' Affairs may determine suitable for a national cemetery.

Directs the establishment of such national cemetery.

H.R. 7349. May 23, 1977. Government Operations. States that the authority of the Comptroller General to have access to documents and other materials upon request under the Budgeting and Accounting Act, 1921 shall not be limited, with respect to the Department of Justice, to materials pertaining to the receipt and expenditure of public funds but shall extend to all such materials in the possession of the Department.

H.R. 7350. May 23, 1977. Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 7351. May 23, 1977. Agriculture. Repeals the Food Stamp Act of 1964. Replaces the existing program with a new program substantially similar, but: (1) eliminates for coupon allotments and makes coupons redeemable for cash; (2) requires national income standards of eligibility to be income guidelines for the nonfarm United States prescribed by the Office of Management and Budget; (3) directs that food stamp applications be included on application forms for other public assistance programs; and (4) directs the Secretary to make contracts or grants for research that will help improve the administration and effectiveness of the food stamp program.

H.R. 7352. May 23, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to set forth the percentage of the total charges which a mortgagee must pay to the Federal Government upon foreclosure of a government-insured mortgage loan.

Restricts the power of the Secretary of Housing and Urban Development to enter mortgage insurance contracts where the mortgagee has already foreclosed upon a specified number of mortgages insured under such Act.

H.R. 7353. May 23, 1977. Post Office and Civil Service. Requires the Civil Service Commission to establish a Special Cost-of-Living Pay Schedule for Federal employees located in any locality. Directs that such schedule shall contain special rates of basic pay representing increases in comparable rates provided by the General Schedule, for the purpose of offsetting the increased cost-of-living of such employees located in each locality.

H.R. 7354. May 23, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to extend the coverage of such Act to individuals 65 or over, and to make unlawful seniority systems and employee benefit plans which require the retirement of individuals 40 or over.

H.R. 7355. May 23, 1977. Armed Services. Revises the pay and allowances of enlisted members of the uniformed services who are appointed officers and warrant officers who are appointed as commissioned officers.

H.R. 7356. May 23, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purposes of developing adequate conservation measures.

Establishes a moratorium on all killing of wolves except as game in areas not protected under the Endangered Species Act, pending the results of such study.

H.R. 7357. May 23, 1977. Rules. Amends the Congressional Budget Act of 1974 to require economic impact statements for every bill or joint resolution reported in Congress and for each rule proposed by any Federal agency to show the effects of such proposed law on specified sectors of the economy. States that statements pertaining to agency rules shall disclose the effects of such proposed rule on State and local governments, small business, and low- and middle-income families.

H.R. 7358. May 23, 1977. Ways and Means. Amends the Internal Revenue Code to require each spouse on a joint tax return to verify by oath or affirmation that such spouse has equal ownership, management, and control of the income, assets, and liabilities of the marriage partnership.

H.R. 7359. May 23, 1977. Interstate and Foreign Commerce; International Relations. Amends the Emergency Petroleum Allocation Act of 1973 to establish a Crude Oil Allocation Office within the Federal Energy Administration. Directs the Office to maintain a current inventory of domestic crude oil reserves.

Requires petroleum and refining companies to make fair and equitable allocation of petroleum products. Prohibits export of domestic crude oil or petroleum products in any year where such products are imported into the United States.

H.R. 7360. May 23, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain farm vehicles from the highway use tax.

H.R. 7361. May 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to exclude work-related expenses of mentally retarded individuals in determining their income for supplemental security income benefit purposes.

H.R. 7362. May 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide that married individuals filing separately shall be taxed at the same income tax rate as unmarried individuals, absent an election to have existing rates for such individuals, apply. Provides that the community income so taxed against individuals in community property jurisdictions shall consist of that income which would be taxed to them as personal income in other States.

H.R. 7363. May 23, 1977, Judiciary. Amends the Immigration and Nationality Act to change the status of Indochinese refugees who entered the United States after March 31, 1975, to that of permanent resident aliens. Permits the Attorney General at his discretion, to change to the status of permanent resident alien specified Indochinese who entered the country prior to such date and children and spouses of persons receiving permanent resident status under this Act.

H.R. 7364. May 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to include outpatient services by a community mental health center among the benefits provided under such title.

H.R. 7365. May 23, 1977. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce; Ways and Means. Amends the Internal Revenue Code to increase the rate of the investment tax credit and to provide tax incentives for the use of coal and the installation of air pollution control equipment in certain electric powerplants and major fuel-burning installations.

Authorizes the Administrator of the Federal Energy Administration to make loans to businesses for the purchase of certain coal-fired equipment.

Amends the Energy Supply and Environmental Coordination Act of 1974 to establish deadlines for coal conversion by certain powerplants. Grants the President authority to declare energy emergencies.

H.R. 7366. May 23, 1977. Judiciary. Allows nationals of Chile who are being persecuted in Chile or are in danger of being persecuted if returned to Chile, and the spouses, children or parents of such nationals to be granted admission into the United States and the status of permanent residents if specified requirements are met.

H.R. 7367. May 23, 1977. Veterans' Affairs. Designates services as a member of the Women's Air Force Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 7368. May 23, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this act.

H.R. 7369. May 23, 1977. Banking, Finance and Urban Affairs. Authorizes the Federal Energy Administrator to make grants to States and localities for the construction, purchase, and installation of solar energy systems in public buildings. Directs the Secretary of Housing and Urban Development to prescribe standards governing the operation of such equipment.

H.R. 7370. May 23, 1977. Interstate and Foreign Commerce. Amends the Department of Transportation Act and the Regional Rail Reorganization Act to revise the time periods during which Federal financial assistance shall be available for rail service assistance programs under such acts.

H.R. 7371. May 23, 1977. Interstate and Foreign Commerce; Ways and Means. Prohibits any person from performing psychosurgery in any federally connected health care facility or such facility from allowing any person to perform psychosurgery.

Imposes penalties for violations of such prohibition.

Authorizes individuals upon whom psychosurgery was performed to bring a civil action for damages against the person performing or the facility in which such psychosurgery was performed.

Establishes the Psychosurgery Commission which shall be empowered to issue subpenas requiring the attendance and testimony of witnesses, to assess civil penalities, and to bring civil actions to restrain violations of this act.

H.R. 7372. May 23, 1977. Banking, Finance and Urban Affairs. Requires any person who makes a federally related mortgage loan to maintain facilities to insure availability of information concerning such mortgages, and to provide adequate notification of foreclosure proceedings.

H.R. 7373. May 23, 1977. Banking, Finance and Urban Affairs. Requires any person who makes a federally-related mortgage loan to maintain facilities to insure availability of information concerning such mortgages, and to provide adequate notification of foreclosure proceedings.

H.R. 7374. May 23, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish and maintain a program to reimburse providers of utility services to certified households and landlords for a percentage of the cost of such utility services.

H.R. 7375. May 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income Program) of the Social Security Act to set benefits under such Title at poverty level. Allows each spouse in an eligible couple to receive such benefits in his or her own right. Reduces from 65 to 60 the age of eligibility for such benefits. Provides for the issuance of duplicate benefit checks where the initial checks are lost or delayed.

Directs the Secretary of Health, Education, and Welfare to establish an outreach program to make information concerning the program easily accessible. Requires that any application for benefits under this Title shall be acted upon by the Secretary within 30 days after it is filed.

H.R. 7376. May 23, 1977. Education and

Labor; Ways and Means. Directs the Secretary of Labor to enter into contracts with national community-based organizations for the provision of employment services, career education, and job opportunities to unemployed persons, particularly youths.

Directs the head of each agency exercising authority under specified programs to give preference to community-based organizations in providing employment services.

Amends the Comprehensive Employment and Training Act to provide year-round work experience to urban and rural youths.

Amends the Internal Revenue Code to allow a tax credit for part of the wages paid to previously unemployed persons during the first 12 months of employment.

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Amends the Comprehensive Employment and Training Act to provide year-round work experience to urban and rural youths.

Amends the Internal Revenue Code to allow a tax credit for part of the wages paid to previously unemployed persons during the first 12 months of employment.

H.R. 7378. May 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to remove the present ceiling on the contribution and benefit base. Increases the primary insurance amount under such Title. Provides full benefits at a reduced age for members of groups with less than average life expectancy. Repeals the earnings test. Requires that Federal employees be covered by Title II. Decreases the number of years a divorced woman must have been married to an insured individual in order for her to qualify for wife's or widow's benefits on his wage record.

H.R. 7379. May 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to provide payment for services performed by professional clinical social workers. Includes outpatient services, community mental health centers, and neighborhood health centers among "qualified providers" under Titles XVIII and XIX. Removes specified limitations which are imposed on coverage of psychiatric and mental health services under such Titles.

H.R. 7380. May 23, 1977. Education and Labor; Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to appoint a Committee on Uniform Adoption Regulations.

Directs such Committee to review current conditions, practices, and laws relating to adoption and to propose to the Secretary uniform adoption regulations.

Directs the Secretary to make grants to States for allocation to State agencies and to public and private nonprofit adoption agencies to assist such agencies in meeting the costs involved in the adoptive placement of children.

Establishes a National Office of Adoption Information and Services. Requires the establishment of a national adoption data, tracking, and analysis system utilizing computers.

H.R. 7381. May 23, 1977. Judiciary. Prohibits commerce in contraband cigarettes.

Defines "contraband cigarettes" as a quantity of more than 20,000 cigarettes, bearing no evidence of payment of applicable State cigarette taxes, which are in the possession of any person other than (1) a person licensed by the State where the cigarettes are found or by the Internal Revenue Service, (2) a common or contract carrier, or (3) a government agent in the performance of duties.

Subjects dealers in cigarettes to such reporting requirements as the Secretary of the Treasury may prescribe.

H.R. 7382. May 23, 1977. Banking, Finance and Urban Affairs. Directs Federal banking regulatory agencies to issue regulations prohibiting a lending institution from making any loan which is to be used to purchase any newly constructed one- to four-family dwelling unit unless such dwelling is to be occupied by the borrower or is to be used by such person for rental purposes.

H.R. 7383. May 23, 1977. Judiciary. Allows, for retirement purposes, credit to certain individuals for specified periods during which they were licensees of the Agricultural Marketing Service in the United States Department of Agriculture.

H.R. 7384. May 23, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7385. May 23, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7386. May 23, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7387. May 23, 1977. Judiciary. Deems a certain individual an immediate relative under the Immigration and Nationality Act so that he may be lawfully admitted to the United States for permanent residence.

H.R. 7388. May 24, 1977. Education and Labor. Extends the provisions of the Service Contract Act of 1965 to professional employees other than executives or administrators.

H.R. 7389. May 24, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to require that apparatus designed to receive any amplitude modulated (AM) or frequency modulated (FM) broadcast be capable of adequately receiving all frequencies allocated by the Commission for AM and FM broadcasting when such apparatus is shipped in interstate commerce, or is imported from any foreign country into the United States, for sale or resale to the public. Specifies that such authorization shall not extend to apparatus designed to receive only AM or FM broadcasts and retailing for less than $15.

H.R. 7390. May 24, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to reduce the minimum age for the receipt of spouse's benefits under such Act from 65 to 60.

H.R. 7391. May 24, 1977. Interstate and Foreign Commerce. Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to eliminate the requirement that States match Federal funds for improvement of nonoperational portions of stations used in intercity rail passenger service and of related facilities and fencing in the Northeast Corridor.

H.R. 7392. May 24, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt certain Federal public works projects from prohibitions against the jeopardizing or taking of endangered species, and the destruction or modification of their habitats.

H.R. 7393. May 24, 1977. Agriculture. Authorizes the Secretary of Agriculture, through the Packers and Stockyards Administration, to monitor sales and transfers of meat and meat food products of forty thousand pounds or more and to require persons involved in such sales and transfers to report information concerning prices and quantities.

H.R. 7394. May 24, 1977. Agriculture. Directs the Secretary of Agriculture, in cooperation with other Federal, State and local agencies, to carry out a continuing appraisal of the soil, water and related resources of the Nation and to develop a national soil and water conservation program, and to report to Congress thereon.

H.R. 7395. May 24, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce; International Relations. Directs the Nuclear Regulatory Commission to cease the granting of licenses or construction authorizations for certain nuclear power plants pending the outcome of a comprehensive study by the Office of Technology Assessment. Requires a five-year independent study of the nuclear fuel cycle by the Office of Technology Assessment with final reports and recommendations to be made to the Congress.

H.R. 7396. May 24, 1977. Agriculture. Amends the United States Grain Standards Act of 1976 to: (1) grant discretion to the Administrator of the Federal Grain Inspection Service to make recordkeeping requirements for transactions and processes not directly related to grain inspection and weighing; (2) reduce fees for activities of the Service in connection with such inspection or weighing; (3) establish a committee to advise the Administrator about implementation of such Act; (4) clarify the jurisdiction of official inspection and weighing agencies; and (5) prohibit any official analysis or certification with respect to specified characteristics of Hard Red Winter Wheat.

H.R. 7397. May 24, 1977. Interstate and Foreign Commerce. Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to eliminate the requirement that States match Federal funds for improvement of nonoperational portions of stations used in intercity rail passenger service and of related facilities and fencing in the Northeast Corridor.

H.R. 7398. May 24, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Heatlh, Education, and Welfare.

H.R. 7399. May 24, 1977. Ways and Means. Restricts the importation of fresh, chilled or frozen beef, goat, and sheep meat to entry under specified tariff classifications, regardless of form, classification as processed, change in tariff classification, executive definition, or entry into the United States through any foreign trade zone and modification in form within the trade zone.

H.R. 7400. May 24, 1977. Merchant Marine and Fisheries; Interior and Insular Affairs. Prohibits the development of hard mineral resources of the deep seabed except under international conventions or pursuant to a license issued by the Secretary of Commerce. Prescribes requirements and imposes limitations on the granting of such licenses by the Secretary.

H.R. 7401. May 24, 1977. Ethics. Requires Members of Congress, specified congressional employees and officials, and candidates for the office of Member of Congress to file a financial disclosure report annually. Specifies the contents of such reports including the source and amount of income, source and identity of gifts received, and identity and value of property held by such persons.

H.R. 7402. May 24, 1977. Judiciary. Amends the Clayton Act to make it unlawful, after December 31, 1980, for any person who owns or controls a pipeline to transport by such pipeline any petroleum, petroleum product, or natural gas which it owns or controls, or has owned, controlled, produced, or refined.

Requires each person who transports by such pipeline any petroleum, product of petroleum refining or natural gas, not later than December 31, 1979, to submit to the Attorney General plans for compliance with this Act.

H.R. 7403. May 24, 1977. Judiciary. Amends the Clayton Act to make it unlawful for any person owning any nonnuclear energy technology to refuse or fail to make it available to any qualified applicant at reasonable rates and on reasonable and nondiscriminatory terms, for use in the development, demonstration, or commercial application of any nonnuclear energy process.

H.R. 7404. May 24, 1977. Judiciary. Grants the Court of Claims jurisdiction to render judgments against the United States upon claims for losses other than lost profits sustained by producers, processors, manufacturers, distributors, dealers, or other persons resulting from the ban on apparel, fabric, yarn, or fiber containing tris phosphate.

H.R. 7405. May 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 7406. May 24, 1977. Banking, Finance and Urban Affairs; Judiciary. Prohibits any United States entity or representative from obtaining copies of, or access to, information contained in the financial records, toll records, or credit records of any customer of a financial institution, communication common carrier, credit card issuer, or consumer reporting agency. Lifts such prohibition if: (1) the records are described with sufficient particularity; and (2) the customer has authorized disclosure, the disclosure is obtained in response to an administrative subpoena, search warrant, or judicial subpcena, or disclosure is in compliance with specified provisions of the Fair Credit Reporting Act. Restricts the use of mail covers and the interception of wire and oral communications for purposes of supervisory observing by communication common carriers and others.

H.R. 7407. May 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require the development and promulgation of standards relating to the rights of patients to be met by health care institutions participating in programs under Titles XVIII (Medicare) and XIX (Medicaid) of such Act.

Enumerates the guaranteed rights of patients receiving care or treatment in such institutions. Establishes enforcement procedures and remedies for patients seeking to vindicate their rights.

H.R. 7408. May 24, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make the provisions, formerly applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 7409. May 24, 1977. Interstate and Foreign Commerce. Directs the Secretary of Transportation to make grants to eligible applicants for projects involving the repair, rehabilitation, or improvement of railroad roadbeds and facilities. Stipulates that the purposes of such grant program are to: (1) reduce unemployment in areas of substantial unemployment; (2) improve severely deteriorated roadbeds and facilities which are a risk to public safety or seriously inhibit freight and passenger service; and (3) improve roadbeds and facilities which meet transportation needs and policies.

H.R. 7410. May 24, 1977. Judiciary. Grants a Federal charter to the National Federation of Music Clubs.

H.R. 7411. May 24, 1977. Post Office and Civil Service. Directs the Secretary of Commerce, in conducting any census or interim survey in which data is collected indicating the ownership of property within the United States, to collect and publish additional data to determine whether such property is subject to foreign ownership. Requires the Secretary in conducting agricultural censuses to publish data indicating the amount and value of agricultural land which is under foreign ownership, owned by financial institutions, and under the ownership of corporations or unincorporated associations having annual sales of nonagricultural goods and services in excess of $10,000,000.

H.R. 7412. May 24, 1977. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to prohibit persons owning or controlling petroleum pipelines from transporting Federal lease petroleum which such person owns or controls or has owned, controlled, refined, or produced.

H.R. 7413. May 24, 1977. Judiciary. Adds Muncie to the places where United States district court shall be held for the Indianapolis Division of the Southern District of Indiana.

H.R. 7414. May 24, 1977. Interior and Insular Affairs; Merchant Marine and Fisheries. Authorizes the Secretary of the Interior or the Secretary of Agriculture to permit the private, noncommercial ownership of excess wild free-roaming horses and burros.

H.R. 7415. May 24, 1977. Public Works and Transportation. Amends the Airport and Airway Development Act of 1970 to direct the Secretary of Transportation to disapprove any airport development project with respect to any proposed airport site unless such airport has been approved by the community or communities to be served by such airport.

H.R. 7416. May 24, 1977. Ways and Means; Banking, Finance and Urban Affairs. Amends the Federal Financing Bank Act of 1973 to require that receipts and disbursements of the Federal Financing Bank be included in the Federal Budget.

Directs such Bank to make commitments to purchase and to purchase specified obligations which are guaranteed by Federal agencies.

H.R. 7417. May 24, 1977. Interstate and Foreign Commerce. Amends the Federal Power Act to direct the Federal Power Commission to establish a program of grants and low-interest loans to encourage the development of small hydroelectric power projects.

Revises licensing requirements under the Act to reduce the maximum annual charges for licenses involving Government dams issued in 1976 and thereafter.

H.R. 7418. May 24, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to regulate, through a comprehensive licensing and inspection scheme, activities related to recombinant DNA.

Requires the establishment of local biohazards committees to participate in the licensing of facilities conducting such activities, and to inspect and monitor such activities.

Establishes the Recombinant DNA Advisory Committee to advise the Secretary of Health, Education, and Welfare in promulgating regulations required by this Act.

H.R. 7419. May 24, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 7420. May 25, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to design and construct on an expedited basis certain flood control facilities on portions of the Big Sandy River, and the Cumberland River, in Kentucky and West Virginia.

H.R. 7421. May 25, 1977. Ways and Means. Amends the Social Security Act to provide that an individual who would be fully qualified at age 62 for benefits under the Old-Age, Survivors, and Disability Insurance program may qualify for disability benefits under such program if such individual has 20 quarters of coverage, regardless of when such quarters were earned.

H.R. 7422. May 25, 1977. Judiciary. Removes the jurisdiction of the United States Supreme Court and the Federal district courts over any case arising out of State statute, ordinance, rule, or regulation which relates to the assignment of public school students to particular schools because of race, creed, color, or sex.

H.R. 7423. May 25, 1977. Judiciary. Amends the Sherman Antitrust Act to impose an additional fine against any person who is convicted of combination or conspiracy in restraint of trade or commerce, or monopolization or attempt to monopolize, or combination or conspiracy to monopolize any part of trade or commerce.

Directs the court to distribute the funds collected by such fine to any person who suffered a direct monetary loss as a result of the illegal act which resulted in the fine.

H.R. 7424. May 25, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to take accelerated amortization deductions for converting to coal and nonfossil heating equipment and for facilities used for research, and for manufacturing equipment certified by the Secretary of the Treasury as energy efficient. Allows taxpayers a limited income tax credit for a portion of their energy source research expenses in those facilities. Imposes a motor fuel efficiency excise tax on automobiles, trucks and automobile buses. Allows a limited income tax for a portion of the user's purchase cost of fuel efficient automobiles.

H.R. 7425. May 25, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make unlawful seniority systems and employee benefit plans which require the retirement of individuals 40 or over.

H.R. 7426. May 25, 1977. Government Operations. Prohibits the employment of chauffeurs and the use of Government motor vehicles for transporting any Government official between dwelling and his place of employment. Exempts from the provisions of this Act: (1) the Chief Justice of the United States; (2) the President and Vice President; (3) specified officers of Congress; and (4) specified officials. States that this Act does not prohibit the operation of a bus, car pool, or van pool system established pursuant to law.

H.R. 7427. May 25, 1977. Veterans' Affairs. Declares that service during World War I by any female citizen of the United States as a member of a telephone operating unit of the Army Signal Corps shall be considered active duty in the Army for purposes of all laws administered by the Veterans' Administration.

H.R. 7428. May 25, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 25 percent of the amount of rent paid by the taxpayer which is equal to the taxpayer's proportionate share of the local and State property taxes imposed on the land and building in which his dwelling is located.

H.R. 7429. May 25, 1977. Ways and Means. Amends the Internal Revenue Code to exempt buses used in local transit systems from the excise taxes on buses, tires, inner tubes and tread rubber.

H.R. 7430. May 25, 1977. Ways and Means. Amends the Internal Revenue Code to increase the amount of the excise tax refunds on gasoline and other motor fuels to local transit systems, and to revise the definition of tax-exempt commuter revenue. Extends the refund of the excise tax for lubricating oil to local transit systems.

H.R. 7431. May 25, 1977. Armed Services. Removes the present restrictions which prohibit the assignment of women members of the Navy to naval vessels not expected to be assigned combat missions on other than a temporary basis or the assignment of such individuals to vessels or aircraft engaged in combat missions.

H.R. 7432. May 25, 1977. Agriculture. Designates the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, the "Carl Hayden Bee Research Center."

H.R. 7433. May 25, 1977. Veterans' Affairs. Requires the Secretary of Defense to pay a lump-sum of $100 to each qualified Vietnam-era veteran, and an additional lump-sum of $400 to each qualified Vietnam-era combat veteran, or to such veteran's survivor if such veteran is deceased.

H.R. 7434. May 25, 1977. Merchant Marine and Fisheries. Increases the appropriations authorized for the Canal Zone Biological Area from $350,000 to $600,000.

Forbids title to, or jurisdiction over, any capital improvements made with such funds, or the land upon which such improvements are situated, from being disposed of to any other entity without congressional approval.

H.R. 7435. May 25, 1977. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 7436. May 25, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to increase to $30,000 over a three-year period the ceilings on the amount of earnings which may be counted for social security and tax purposes.

H.R. 7437. May 25, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce.

Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 7438. May 25, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to (1) increase the penalties thereunder, (2) encompasses State crimes and (3) prohibit a suspended, probationary, or concurrent sentence with respect to a first conviction.

H.R. 7439. May 25, 1977. Ways and Means. Amends the Internal Revenue Code to lower the corporate normal taxes and increase the surtax exemption.

H.R. 7440. May 25, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for dicsclosure of financial records of any customer by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception or oral or wire communications in the course of doing business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 7441. May 25, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to require each television broadcast station licensee to, by contractural agreement, participation in a program with the national television broadcast network with which such licensee is affiliated, which permits such licensee to review, not less than 30 days before the scheduled transmission of a program, any entertainment program material provided by such network which is intended for prime time viewing.

H.R. 7442. May 25, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to require the Federal Communications Commission to regulate the rates, terms, and conditions for pole attachments used for wire communication, in any case in which such rates, terms, and conditions are not regulated by any State authority.

Sets forth the limits for charges by a utility for pole attachments.

H.R. 7443. May 25, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 7444. May 26, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to increase the percentage of the cost of a water or waste project which the Department of Agriculture may fund by grants to local associations. States general formulae for the calculation of grant amounts according to prescribed maximum rates for the project facility use payment made by an average domestic user of an area to be served by a project. Revises the priorities for recipients of project grants.

H.R. 7445. May 26, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain short-haul farm vehicles from the highway use tax.

H.R. 7446. May 26, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance), of the Social Security Act to (1) remove the limitation on the amount of outside income which an individual may earn while receiving benefits under such Title; (2) revise certain eligibility requirements for such benefits; and (3) authorize direct payment to the provider of services to Medicare supplementary medical insurance beneficiaries under certain circumstances.

Amends the Social Security Act and the Internal Revenue Code to allow individuals 65 years of age or older to elect to exempt wages and self-employment income from social security taxation.

H.R. 7447. May 26, 1977. Ways and Means. Amends the Internal Revenue Code to tax the unrelated income of tax-exempt organizations which is derived from farm real property.

H.R. 7448. May 26, 1977. Banking, Finance and Urban Affairs; Government Operations. Amends the Defense Production Act of 1950 to prohibit Federal contracting officers from having specified financial interests in contractors doing business with the agency for which such contracting officer works. Prohibits for specified periods the employment of such officers by contractors with whom such officers dealt in their official capacity. Establishes a Conflict of Interest Review Board to monitor compliance with this Act.

H.R. 7449. May 26, 1977. Banking, Finance and Urban Affairs; Government Operations. Amends the Defense Production Act of 1950 to prohibit Federal contracting officers from having specified financial interests in contractors doing business with the agency for which such contracting officer works. Prohibits for specified periods the employment of such officers by contractors with whom such officers dealt in their official capacity. Establishes a Conflict of Interest Review Board to monitor compliance with this Act.

H.R. 7450. May 26, 1977. Banking, Finance and Urban Affairs; Government Operations. Amends the Defense Production Act of 1950 to prohibit Federal contracting officers from having specified financial interests in contractors doing business with the agency for which such contracting officer works. Prohibits for specified periods the employment of such officers by contractors with whom such officers dealt in their official capacity. Establishes a Conflict of Interest Review Board to monitor compliance with this Act.

H.R. 7451. May 26, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Service Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 7452. May 26, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 7453. May 26, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 7454. May 26, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to include outpatient services by a community mental health center among the benefits provided under such title.

H.R. 7455. May 26, 1977. Judiciary. Directs the United States to pay reasonable litigation costs, including attorney fees, to prevailing defendants in civil actions in which the United States is a plaintiff.

H.R. 7456. May 26, 1977. Interior and Insular Affairs. Amends the Revised Organic Act of the Virgin Islands to empower the Legislature of the Virgin Islands to impose limited customs duties on imports.

H.R. 7457. May 26, 1977. Judiciary; Interior and Insular Affairs. Establishes the Bull Run Watershed Management Unit within Mount Hood National Forest, Oregon.

H.R. 7458. May 26, 1977. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to construct treatment facilities and a regional conveyance system of water from Kaw Lake for non-Federal public members of the Kaw Reservoir Authority, Oklahoma.

H.R. 7459. May 26, 1977. Ways and Means. Amends the Internal Revenue Code to allow owners of real property an income tax deduction for the reasonable expense incurred for the removal of trees required by a government to be removed to prevent the spread of Dutch elm disease.

H.R. 7460. May 26, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain gambling activities conducted by tax exempt organizations from treatment as unrelated business activities.

H.R. 7461. May 26, 1977. Judiciary. Amends the Rules Enabling Acts to empower the Supreme Court of the United States to prescribe general rules of pleading, practice, and procedure for Federal courts upon the recommendation of the Judicial Conference of the United States. Requires the Judicial Conference to publish proposed rules and a list of issues raised by such proposals in the Federal Register, and to accept and consider, before making its final recommendations, timely written comments of such proposals.

H.R. 7462. May 26, 1977. Public Works and Transportation. Amends the Federal-Aid Highway Act of 1976 to establish a ceiling on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1978.

H.R. 7463. May 26, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable to a resident alien only if such alien has continuously resided in the United States for at least five years.

H.R. 7464. May 26, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to extend coverage under such Act to congressional employees.

H.R. 7465. May 26, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to permit the Secretary of Housing and Urban Development to insure mortgages and loans with varying rates of amortization corresponding to anticipated variations in family income on a regular basis.

Amends the Internal Revenue Code to

establish tax-exempt savings accounts which would be available to first-time home buyers, known as individual housing accounts.

H.R. 7466. May 26, 1977. House Administration. Requires the President pro tempore of the Senate and the Speaker of the House of Representatives to install telecommunication devices to enable deaf persons and persons with speech impairments to engage in toll-free communications with Members of Congress.

H.R. 7467. May 26, 1977. House Administration. Requires the President pro tempore of the Senate and the Speaker of the House of Representatives to install telecommunication devices to enable deaf persons and persons with speech impairments to engage in toll-free communications with Members of Congress.

H.R. 7468. May 26, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 7469. May 26, 1977. Merchant Marine and Fisheries; Interior and Insular Affairs. Enlarges the boundaries of Sequoia National Park, California, by including Mineral King Valley.

H.R. 7470. May 26, 1977. Post Office and Civil Service. Entitles a widow or widower of a person drawing a civil service pension to the same annuity to which such widow or widower would have been entitled but for the fact that he or she married the pensioner after his or her retirement from Federal service.

H.R. 7471. May 26, 1977. Judiciary. Establishes the Federal Judicial Nominating Commission whose duty shall be to identify, and recommend to the President the best qualified persons to fill a vacancy whenever one occurs in an office of judge for a United States district court or a United States court of appeals.

H.R. 7472. May 26, 1977. Merchant Marine and Fisheries. Directs the Commandant of the Coast Guard to establish a permanent exhibition aboard the Coast Guard cutter Chautaqua for the purpose of educating the public regarding the present and future mission of the Coast Guard.

H.R. 7473. May 26, 1977. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Energy Supply and Environmental Coordination Act of 1974 to authorize the Administrator of the Federal Energy Administration to make and guarantee loans to assist industries in the purchase and installation of air pollution control devices for coal-fired boilers and heating devices.

Requires that facilities subject to coal conversion orders issued under the Act be given priority consideration.

H.R. 7474. May 26, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to increase percentage payments to States for early and periodic screening, diagnosis, and treatment.

H.R. 7475. May 26, 1977. Judiciary. Requires commencement in the United States Court of Appeals for the District of Columbia circuit of any suit in which one party seeks injunctive relief to avoid compliance with a Congressional subpena.

H.R. 7476. May 26, 1977. Interstate and Foreign Commerce. Establishes mandatory standards for State no-fault benefit plans for the compensation and rehabilitation of motor vehicle accident victims.

Establishes within the Department of Transportation the Standards for No-Fault Benefits Review Panel to evaluate the performance and effect of approved State plans.

H.R. 7477. May 26, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to replace bridges not located on any of the Federal-aid systems. Amends the Highway Revenue Act of 1956 to extend appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Amends the Internal Revenue Code of 1954 to postpone specified excise tax reductions and to increase the excise tax on gasoline, diesel fuels, and special motor fuels.

H.R. 7478. May 26, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emissions standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the act through fiscal year 1980.

H.R. 7479. May 26, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 7480. May 26, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited credit against an individual's tax for the tuition paid by such individual to one or more eligible elementary or secondary education institutions for any of his dependents.

H.R. 7481. May 26, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to reimburse the States for real property tax relief programs aimed at elderly households with incomes of $15,000 or less.

Provides that the amount of such reimbursement shall be a percentage (determined on the basis of the household income) of the tax relief provided multiplied by the aggregate number of households receiving such relief.

H.R. 7482. May 26, 1977. Veterans' Affairs. Stipulates that the recalling to duty and assignment on a full-time basis of any retired member of the Armed Forces to the American Battle Monuments Commission shall not be chargeable against the authorized end strengths and grade limitations of the Department of Defense or the military departments concerned nor to any administrative ceiling established by the Secretary of Defense.

H.R. 7483. May 26, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen, or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 7484. May 26, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen, or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 7485. May 26, 1977. Banking, Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 7486. May 26, 1977. Interstate and Foreign Commerce. Amends the Railroad Revitalization and Regulatory Reform Act to increase the Federal share for rail assistance programs under the Department of Transportation Act, rail service continuation projects under the Regional Rail Reorganization Act of 1973, and the costs of providing mandatory rail passenger service under the Railroad Revitalization and Regulatory Reform Act.

H.R. 7487. May 26, 1977. Public Works and Transportation. Establishes an Office of Ridesharing within the Urban Mass Transportation Administration of the Department of Transportation to coordinate Federal ridesharing programs. Establishes procedures and guidelines for State ride-sharing programs Authorizes financial assistance for ride-sharing programs, and research and demonstration projects.

H.R. 7488. May 26, 1977. House Administration. Directs the Secretary of the Senate and the Clerk of the House to prepare a daily electronic recording which shall include a summary of action taken in the Senate and House Chambers during the preceding day and a list of laws signed by the President during the 35-day period before the day on which such recording is prepared.

Requires the establishment of a toll-free telephone listing to be used to transmit such electronic recordings.

H.R. 7489. May 26, 1977. Judiciary. Repeals provisions stipulating that nothing in certain sections relating to interception of communications shall be construed to limit the power of the President to take measures to protect national security.

Directs that applications for authorizations to intercept communications in connection with specified national security crimes be made to the United States Court of Appeals for the District of Columbia.

Authorizes interceptions of communications with respect to violations of the Foreign Agents Registration Act of 1938 and the Export Administration Act of 1969.

Sets forth time limits and admissibility standards for national security surveillance. Authorizes waiver of notice to persons surveilled.

H.R. 7490. May 25, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit any cost-of-living adjustments to the salaries of Senators and Representatives which take effect before October 1, 1978.

H.R. 7491. May 26, 1977. Education and Labor. Requires the Bureau of Labor Statistics, in compiling unemployment statistics, to classify as unemployed: (1) any farmer who reports a farm net loss on his or her income tax return; and (2) any dependent of such farmer whose sole occupation consists of working 15 or more hours per week on the farm. Requires the Secretary of the Treasury to report the number of such farmers and dependents to the Bureau of Labor Statistics. Requires any Federal programs in which funds are allocated on the basis of unemployment statistics to base such allocations on unemployment statistics compiled pursuant to this Act.

H.R. 7492. May 26, 1977. Veterans' Affairs.

Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 7493. May 26, 1977. Judiciary. Expands the civil and criminal jurisdiction of United States magistrates.

Revises the method for selecting magistrates and requires as a qualification for appointment appropriate bar membership for five years.

Amends procedures for removal of criminal matters from magistrate's court.

H.R. 7494. May 26, 1977. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7495. May 26, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7496. May 26, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7497. May 26, 1977. Judiciary. Declares a certain individual lawfully admitted, and another individual conditionally admitted, to the United States for permanent residence.

H.R. 7498. June 1, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 7499. June 1, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 7500. June 1, 1977. Judiciary. Modifies the prohibition against a bank's or other credit institution's granting of a loan to a bank examiner to permit loans to persons who are authorized to but do not actually examine such institution.

H.R. 7501. June 1, 1977. Merchant Marine and Fisheries; Armed Services. Amends the Maritime Academy Act of 1958 to authorize the Secretary of the Navy to appoint students at maritime academies or colleges assisted under such Act as Reserve midshipmen in the Navy and to commission such individuals as Reserve ensigns upon graduation.

H.R. 7502. June 1, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Department under which the Coast Guard is operating to document the vessel Quoddy Pride, owned by the Washington County Vocational Technical Institute of Calais, Maine, as a vessel of the United States with the privilege of engaging in the American fisheries so long as such vessel is owned by a citizen of the United States and is used for instructing students in vocations related to commercial fishing.

H.R. 7503. June 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 7504. June 1, 1977. Armed Services. Requires the Secretary of Defense, before entering into any contract for more than $100,000 for the performance of any commercial or industrial activity of the Department, to conduct a cost-effectiveness review of such activity to determine whether it should be done by contractor or by Government personnel. Authorizes the Secretary to waive such review under specified circumstances. Directs the Secretary to conduct random audits of such contracts.

H.R. 7505. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to eliminate the deduction from payments to providers of health services for unreplaced blood and provides for payment to providers of health services for processing fees incurred in the replacement of blood.

H.R. 7506. June 1, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make the provisions, formerly applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 7507. June 1, 1977. Veterans' Affairs. Increases the period of veterans' education assistance from 45 to 54 months, and eliminates the delimiting period. Grants eligibility for such assistance to any veteran of World War II, the Korean conflict, or the Vietnam era whose previous entitlement terminated without such veteran's availing himself of all the assistance to which he was entitled.

H.R. 7508. June 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to reduce from 72 to 65 the age beyond which deduction on account of an individual's outside earnings will no longer be made from such individual's benefits.

H.R. 7509. June 1, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline used for farming purposes in an aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 7510. June 1, 1977. Public Works and Transportation. Prohibits the expenditure of Federal funds for the conversion of highway signs to the metric system unless the Congress specifically authorizes such an expenditure.

H.R. 7511. June 1, 1977. Judiciary. Prohibits use or supply of false documentation or information, or birth or immigration documents for purposes of obtaining Federal documents containing an element of identification.

Forbids commerce in such information, documentation, or official documents for purposes of securing a State or local government document containing an element of identification.

Proscribes specified acts relative to: (1) forgery, counterfeiting, or alteration of Federal, State, or local government documents containing an element of identification; (2) interstate or foreign commerce in any such counterfeited, forged, or altered document; and (3) receipt, possession, use, or furnishing of any such document with intent to secure false official identification.

H.R. 7512. June 1, 1977. Veterans' Affairs. Directs the Secretary of Defense to place a plaque and a permanent display of medals, ribbons, and tributes of the Vietnam era on the crypt at the National Cemetery at Arlington, Virginia, reserved for an unknown American serviceman who lost his life in Southeast Asia.

Directs the Secretary to perform the duties required by this Act even though the remains of such serviceman have not yet been placed in the crypt.

H.R. 7513. June 1, 1977. Veterans' Affairs. Directs the Secretary of Defense to place a plaque and a permanent display of medals, ribbons, and tributes of the Vietnam era on the crypt at the National Cemetery at Arlington, Virginia, reserved for an unknown American serviceman who lost his life in Southeast Asia.

Directs the Secretary to perform duties required by this Act even though the remains of such serviceman have not yet been placed in the crypt.

H.R. 7514. June 1, 1977. Veterans' Affairs. Directs the Secretary of Defense to place a plaque and a permanent display of medals, ribbons, and tributes of the Vietnam era on the crypt at the National Cemetery at Arlington, Virginia, reserved for an unknown American serviceman who lost his life in Southeast Asia.

Directs the Secretary to perform the duties required by this Act even though the remains of such serviceman have not yet been placed in the crypt.

H.R. 7515. June 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 7516. June 1, 1977. Government Operations. Limits expenditures of the Government other than those for national defense and security for fiscal year 1978, to an amount which is five percent less than the total of such expenditures for fiscal year 1977. Limits Government expenditures for fiscal year 1978, for compensation of officers and employees of the United States other than those whose employment is directly related to national defense and security, to an amount which is ten percent less than such expenditures for fiscal year 1977.

H.R. 7517. June 1, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by the franchisor.

H.R. 7518. June 1, 1977. Interstate and Foreign Commerce. Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to identify the sales representatives.

H.R. 7519. June 1, 1977. District of Columbia. Amends the District of Columbia Code to remove the automatic disqualification of any person convicted of an offense involving moral turpitude from engaging in the bail bonding business in the District of Columbia.

H.R. 7520. June 1, 1977. Judiciary. Sets forth guidelines relative to State and local government liability and Federal court abstention in civil actions for the deprivation of a constitutional or Federal statutory right, including the right to enjoy one's reputation, by persons acting under color of law.

Renders a prosecuting officer of a State, municipality, or other unit of local government liable for damages or subject to an injunction for failure to disclose material evidence.

H.R. 7521. June 1, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph which has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 7522. June 1, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 7523. June 1, 1977. Ways and Means; Judiciary. Amends Title XVO (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to require that resident aliens reside continuously in the United States for five years to qualify for supplemental security income benefits.

Amends the Immigration and Nationality Act to prevent an immigrant from entering the United States unless a United States citizen (immigration sponsor) agrees to support the immigrant for five years from the date of the immigrant's admission.

H.R. 7524. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include the services of licensed practical nurses under the coverage provided pursuant to such Titles.

H.R. 7525. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare and Title XIX (Medicaid) of the Social Security Act to include the services of licensed practical nurses under the coverage provided pursuant to such Titles.

H.R. 7526. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include the services of licensed practical nurses under the coverage provided pursuant to such Titles.

H.R. 7527. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 7528. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 7529. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 7530. June 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 7531. June 1, 1977. Education and Labor. Amends the administration and enforcement procedures of the Employee Retirement Income Security Act of 1974 to direct the President to establish an Employee Benefit Administration.

Empowers such Administration to perform, among other duties, (1) the functions of the Secretary of Labor under the Employee Retirement Income Security Act and the Welfare and Pension Plans Disclosure Act and (2) such functions of the Secretary of the Treasury under the Internal Revenue Code regarding employee benefit plans and under the Employee Retirement Income Security Act as the President may designate.

Establishes the Pension Benefit Guarantee Corporation within the Administration.

H.R. 7532. June 1, 1977. Education and Labor. Amends the National Labor Relations Act to include agricultural laborers within the definition of "employee."

H.R. 7533. June 1, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 7534. June 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 7535. June 1, 1977. Agriculture. Authorizes the Secretary of Agriculture to distribute, upon request and without cost, up to three packages of seeds per household for use in home gardening to produce food for the personal consumption of the household.

H.R. 7536. June 1, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administration to offer reinsurance against excess losses resulting from products liability claims or completed operations claims against small business concerns.

H.R. 7537. June 1, 1977. Post Office and Civil Service. Sets the postal rate for personal mail of individuals sealed against inspection and mailed in the United States at 13 cents for the first ounce of each piece and 11 cents for each additional ounce for each piece. Permits the Postal Service to adjust such rate annually in proportion to the increase in the Consumer Price Index since the previous rate adjustment but not to an amount exceeding the current rate for first class mail.

H.R. 7538. June 1, 1977. Post Office and Civil Service. Entitled a Federal employee whose position is reduced in grade to have the grade of such position treated as if such reduction had not occurred so long as such position is continued to be filled by such employee without a break in service.

H.R. 7539. June 1, 1977. Veterans' Affairs. Directs the Secretary of Defense to restore the wartime recognition of certain Filipino veterans of the Commonwealth Army and of the United States Armed Forces in the Far East (USAFFE) whose records were subsequently revoked or nullified.

H.R. 7540. June 1, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 7541. June 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deduction for domestic geological and geophysical costs incurred in searching for oil and gas deposits. Allows a deduction for intangible drilling and development costs and domestic geological and geophysical costs in the case of wells for geothermal resources.

H.R. 7542. June 1, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decision making process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 7543. June 1, 1977. Interstate and Foreign Commerce; International Relations. Requires payments to a foreign official in connection with official acts or contracts with foreign governments to be reported to the Office of Foreign Business Practices, established by this Act.

Establishes the Commission of Foreign Business Practices to study the adequacy of measures to prevent improper payments to foreign officials.

Authorizes civil suit for treble damages by any person injured by such improper payment.

H.R. 7544. June 1, 1977. Agriculture. Excludes from eligibility for food stamps under the Food Stamp Act of 1964 any household whose principal wage earner is on strike for the duration of such strike. Excepts a household from this exclusion if it was participating in the food stamp program immediately prior to start of such strike, or if any of its members is subject to an employer's lockout.

H.R. 7545. June 1, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to assist certain totally disabled veterans, including hemiplegics, in acquiring suitable housing units with special fixtures.

H.R. 7546. June 1, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by franchisor.

H.R. 7547. June 1, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 7548. June 1, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7549. June 1, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7550. June 1, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7551. June 1, 1977. Judiciary. Deems a certain individual an immediate relative under the Immigration and Nationality Act so that he may be lawfully admitted to the United States for permanent residence.

H.R. 7552. June 2, 1977. Makes appropriations for fiscal year 1978 to the Treasury Department, the United States Postal Service, the Executive Office of the President, and related agencies.

H.R. 7553. June 2, 1977. Makes appropriations for fiscal year 1978 to the Energy Research and Development Administration, the Department of the Army, the Department of the Interior and related agencies for public works.

H.R. 7554. June 2, 1977. Makes appropriations for fiscal year 1978 to the Department of Housing and Urban Development, to the Federal Disaster Assistance Administration and to independent related agencies.

H.R. 7555. June 2, 1977. Makes appropriations for fiscal year 1978 to the Department of Labor, the Department of Health, Education, and Welfare and related agencies.

H.R. 7556. June 2, 1977. Makes appropriations for fiscal year 1978 to the Department of State, the Department of Justice, the Department of Commerce, the Judiciary and related agencies.

H.R. 7557. June 2, 1977. Appropriates specified amounts for the various components of the Department of Transportation for fiscal year 1978. Appropriate specified amounts for fiscal year 1978 to: (1) the National Transportation Safety Board; (2) the Interstate Commerce Commission; (3) the Panama Canal Zone Government; (4) the Civil Aeronautics Board; (5) the United States Railway Association; (6) the Washington Metropolitan Area Transit Authority; and (7) the National Transportation Policy Study Commission. Sets forth restrictions on the use of funds made available under this Act.

H.R. 7558. June 2, 1977. Appropriates specified sums of money for fiscal year 1978 for specified programs of the Department of Agriculture, the Food and Drug Administration of the Department of Health, Education, and Welfare, and Commodity Futures Trading Commission, and the Farm Credit Administration.

H.R. 7559. June 2, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child of children of each such veteran.

H.R. 7560. June 2, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 7561. June 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 7562. June 2, 1977. Interstate and Foreign Commerce. Amends the Federal Power Act to authorize the Federal Power Commission to take additional steps to improve the efficiency in the generation of electricity and to meet unanticipated shortages. Establishes procedures to eliminate unfair methods of competition and discriminatory rate structures. Requires hearings prior to increases in utility rate schedules.

Establishes procedures for planning of bulk power facilities by electric utilities. Imposes national minimum standards for State-regulated and nonregulated utilities.

Amends the Energy Conservation and Production Act to authorize Federal assistance to State regulatory agencies. Establishes procedures for representation of consumer interests in Federal Power Commission proceedings.

H.R. 7563. June 2, 1977. Post Office and Civil Service. Permits postage-free mailing of correspondence to any Member of Congress by residents of the State or district represented by such Member which is sent to the Member's official business address.

H.R. 7564. June 2, 1977. Judiciary. Authorizes the Law Enforcement Assistance Administration to purchase a group life insurance policy or policies from private life insurance companies for the benefit of public safety officers.

Sets forth guidelines relative to such group plan.

Establishes an Advisory Council on Public Safety Officer Group Life Insurance composed of the Attorney General, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget.

H.R. 7565. June 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction for their commuting expenses on public transportation systems.

H.R. 7566. June 2, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to provide financial assistance to States for major repairs to routes on any Federal aid system which were damaged as a result of the severe winter weather.

H.R. 7567. June 2, 1977. Banking, Finance and Urban Affairs; Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of projects, by means of contracts with public and private employers and institutions of higher education, to: (1) increase employee particiaption in decisionmaking and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Resources Advisory Council to furnish advice and assistance in the administration of such projects.

Authorizes the Secretary to guarantee loans made to small businesses to enable them to participate in projects under this Act.

H.R. 7568. June 2, 1977. Judiciary. Establishes an office of the United States Correctional Ombudsman to: (1) investigate acts of the Bureau of Prisons or the Board of Parole pertaining to the treatment of Federal prisoners or parolees and conditions in certain correctional facilities; and (2) report to Congress on unfair or otherwise objectionable laws relative to corrections.

H.R. 7569. June 2, 1977. Post Office and Civil Service. Requires all revenues and fees collected by the Postal Service to be deposited in the general fund of the Treasury of the United States. Requires the Postal Service to describe all operations and provide any other necessary information to Congress when seeking appropriations for its operations before the appropriate congressional committees as required by this Act.

Requires the Postal Service to provide door or curbline mail delivery to all permanent residential addresses receiving such service on or after the date of enactment of the Postal Reorganization Act Amendments of 1976 until September 15, 1977.

H.R. 7570. June 2, 1977. Agriculture. Amends the Food Stamp Act of 1964: (1) to require the Secretary of Agriculture to establish uniform national eligibility standards for participation in the Food Stamp program; (2) to define household income limits and the amount of household assets which will be permitted in determining eligibility; (3) to stipulate the conditions under which unemployment or underemployment will disqualify an applicant; (4) to establish regulations for the redemption of coupons; and (5) to set the value of a household's coupon allotment and the amount the household must pay therefor.

H.R. 7571. June 2, 1977. Education and Labor. Revises the purposes for which grants may be made under Title I (Financial Assistance to Local Educational Agencies for the Education of Children of Low-Income Families) of the Elementary and Secondary Education Act of 1965. Extends the authority of the Commissioner of Education to make such grants through 1982.

Amends Title VII (National Reading Improvement Program) of the Education Amendments of 1974 to restate the purposes of such program and set forth new requirements for local educational agency reading improvement programs. Extends the Bilingual Education Act.

Establishes a program of grants to State and local educational agencies to assist in the development and operation of programs designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary school levels.

H.R. 7572. June 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (medicare) of the Social Security Act to provide payment for hearing aids, eyeglasses (and related examinations), prescription drugs, and dentures under the supplementary medical insurance program.

H.R. 7573. June 2, 1977. Post Office and Civil Service. Prohibits the U.S. Postal Service from reducing the frequency of weekly mail delivery service below the frequency in effect on March 15, 1977.

H.R. 7574. June 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such act.

H.R. 7575. June 2, 1977. Interstate and Foreign Commerce. Subjects to liability for harm caused by the use of a product any individual engaged in interstate commerce who manufactures or sells a product which is in a defective condition or fails to warn against a dangerous condition to the use or misuse of the product.

Allows any person harmed by a product who is a reasonably anticipated user or consumer of the product to bring an action in "product liability" against the manufacturer or seller of the product.

H.R. 7576. June 2, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to permit the payment of benefits to individuals in publicly operated infirmaries and other publicly operated community residences, without regard to the presently applicable limitation on the number of residents served by such institutions.

H.R. 7577. June 2, 1977. Education and Labor. Amends the Economic Opportunity Act of 1964 to change specified programs including: community actions programs, Headstart and Follow Through programs, the Community Economic Development program, and the Native American program.

Amends the statement of congressional purpose of such act to call for the expansion of programs attacking poverty.

Authorizes appropriations for research and development, for the Headstart program, for the Community Economic Development program, and for evaluation of programs and projects.

H.R. 7578. June 2, 1977. Small Business. Authorizes the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning, and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Administration to administer the Small Business Development Center program.

H.R. 7579. June 2, 1977. Judiciary. Amends the Mann Acts, which prohibits the transportation of females for immoral purposes, to extend coverage to prohibit transportation of any individual for immoral purposes and to increase the penalties specified in such Act.

H.R. 7580. June 2, 1977. Judiciary. Grants the Court of Claims jurisdiction to render judgments against the United States upon claims for losses other than lost profits sustained by procedures, processors, manufacturers, distributors, dealers, or other persons resulting from the ban on apparel, fabric, yarn, or fiber containing tris phosphate.

H.R. 7581. June 2, 1977. Ways and Means. Amends the Internal Revenue Code to provide that income received from nonmember telephone companies shall not be used in determining whether mutual and cooperative telephone companies qualify as tax exempt organizations.

H.R. 7582. June 2, 1977. Appropriations. Amends the Department of Defense Appropriation Act, 1977, to repeal the prohibition of expenditure of funds for claims for nonemergency inpatient hospital care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) when such care was available at a facility of the uniformed services within a 40-mile radius of the patient's residence.

H.R. 7583. June 2, 1977. Banking, Finance and Urban Affairs. Extends the inapplicability of State usury ceilings until 1980 to certain obligations issued to small businesses, agricultural entities, and other concerns by Federal Reserve member banks and their affiliates.

H.R. 7584. June 2, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 7585. June 2, 1977. House Administration. Amends the Federal Election Campaign Act of 1971 to (1) prohibit all political committees other than National, State, or local committees of national political parties from making contributions to candidates or their committees and (2) forbid all political committees from making contributions to other political committees, with the exception of transfer between and among National, State, and local party committees.

H.R. 7586. June 2, 1977. Education and Labor. Directs the Secretary of Labor to establish and maintain in counties with populations under 20,000 a pilot program designed to provide a guaranteed job opportunity to certain county residents from low-income households by partially reimbursing public and private employers for wages paid to certain such individuals, and fully reimbursing such employers for wages paid to certain other such individuals.

H.R. 7587. June 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to employer pension funds, and to allow a deduction to certain individuals who establish modified individual retirement plans when the employer-employee pension contributions are small.

H.R. 7588. June 2, 1977. Interior and Insular Affairs. Confirms a conveyance of certain real property, with respect to all interests of the United States in its surface rights, by the Southern Pacific Railroad Company to a certain individual.

H.R. 7589. June 2, 1977. Appropriates specified sums for fiscal year 1978 to each of the military departments and their reserve components and to the defense agencies for military construction projects.

H.R. 7590. June 3, 1977. Government Operations. Amends the Office of Federal Procurement Policy Act to require the payment of interest on contract payments which are overdue under Federal contracts with small businesses.

H.R. 7591. June 3, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of a firearm to (1) increase the penalties thereunder, (2) encompass State crimes, and (3) prohibit a suspended, probationary or concurrent sentence with respect to a first conviction.

H.R. 7592. June 3, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to make government mortgage insurance available to only those servicemen whose household income does not exceed 95 percent of the median household income for the area.

H.R. 7593. June 3, 1977. Ways and Means. Amends the Social Security Act to provide that, if the delivery day for benefit checks under Titles II and XVI falls on a Saturday, Sunday or legal public holiday, benefit checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 7594. June 3, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 7595. June 3, 1977. Post Office and Civil Service. Forbids the Postal Service from closing any post office for the purpose of: (1) merging the operation of such post office with the operation of another; (2) changing its name or ZIP code; or (3) reducing its services without the approval of a majority of patrons of such post office who respond to a referendum conducted pursuant to this Act. Requires the postmaster of the affected facility in the event such change is planned, to distribute a referendum proposing such action to persons regularly served by such post office and to receive responses during the following 60-day period.

H.R. 7596. June 3, 1977. Judiciary. Authorizes the Administrator of the Law Enforcement Assistance Administration to provide grants and technical assistance to certain units of local government having populations of at least 250,000 for the establishment and operation of programs designed to identify and expedite the prosecution of career criminal offenders. Sets forth requirements for grant applications and limits on payments to any single local government.

H.R. 7597. June 3, 1977. Ways and Means; Banking, Finance and Urban Affairs. Amends the Federal Financing Bank Act of 1973 to require that receipts and disbursements of the Federal Financing Bank be included in the Federal Budget.

Directs such Bank to make commitments to purchase, and to purchase specified obligations which are guaranteed by Federal agencies.

H.R. 7598. June 3, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to increase the annual authorization of appropriations for coal mine health and safety research.

H.R. 7599. June 3, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within 1 year.

Authorizes the continued use of saccharin for 18 months. Prohibits the Secretary from taking any action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin.

H.R. 7600. June 3, 1977. Post Office and Civil Service. Guarantees to those employees in the executive branch of the Federal Government, and to employees of the government of the District of Columbia; who have completed the probationary or trial period, and whose positions are not of a confidential or policy determining character, a prompt evidentiary hearing before an impartial individual before removal or suspension without pay.

SENATE—*Monday, December 12, 1977*

The Senate met at 11 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the Senate now stands adjourned until Thursday, December 15, 1977, at 11 a.m.

ADJOURNMENT UNTIL 11 A.M., THURSDAY, DECEMBER 15, 1977

Thereupon (at 11 o'clock and 5½ seconds a.m.), the Senate adjourned until Thursday, December 15, 1977, at 11 a.m.

EXTENSIONS OF REMARKS

HUMAN RIGHTS DAY SPEECH BY AMBASSADOR ARTHUR GOLDBERG

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. BUCHANAN. Last Friday, in honor of Human Rights Day, the head of our delegation, Ambassador Arthur Goldberg, spoke elequently on the U.S. commitment to human rights and called on other nations to reexamine their compliance with the various human rights documents, including the Helsinki Final Act, signed over the years.

I commend Justice Goldberg's comments to the attention of our colleagues.

TEXT OF SPEECH DELIVERED IN PLENARY BY AMBASSADOR GOLDBERG, DECEMBER 9, TO COMMEMORATE 20TH ANNIVERSARY OF ADOPTION OF UNIVERSAL DECLARATION OF HUMAN RIGHTS

Mr. Chairman, it is altogether fitting that this Belgrade meeting, as you have done, Mr. Chairman, take proper recognition that tomorrow is Human Rights Day. My government and most other members of the United Nations, as well as many groups and individuals, will be observing the 29th anniversary of he adoption of the Universal Declaration of Human Rights, which as I noted in a prior intervention, is incorporated by reference in the final act. Today I would like to suggest that the participating states of the Helsinki accord have a special opportunity to do more than "observe" this event of transcendent importance. Separately and together, we can, if we have the political will, translate the rhetoric of celebration into the concluding document and into actions that will benfit our citizens as individuals and our nations as members of a stable worldwide community.

At the heart of the universal declaration is its recognition that "the inherent dignity and the equal and inalienable rights of members of the human family" lie at "the foundation of freedom, justice and peace in the world." That same concept animates the final act. It is paraphrased in the preamble, detailed in principle 7 and specified in the act's humanitarian provisions.

As a concept, the line between the dignity of the individual and the just ordering of the society in which he lives is an old precept for many of our societies. As a foundation of international order, it is a relatively innovative idea, a vision born of two world wars and the determination to promote justice, liberty, and economic security. The universal declaration speaks of "barbarous acts which have outraged the conscience of mankind" and ties their prevention to the promotion of "friendly relations between nations."

Our conference in Belgrade has been exploring ways in which to deepen those relations, not least through the promotion of the human rights the universal declaration proclaimed. We are approaching the time for action—the drafting of our final document based on this review of our shortcomings as well as the advances we have made and the proposals tabled. It is appropriate to summarize the possibilities and challenges before us.

The United States delegation has consistently adhered to the view that this meeting has been, and is, required frankly and honestly to review the record of the implementation by all of the signatory states, as well as to consider new proposals to further implementation. We also are of the view that we are obligated individually and collectively to reaffirm our determination to fulfill our solemn undertakings in the final act. Further, we firmly believe that we must give adequate consideration to the final act's innovative commitment on respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and we must comply with these provisions. To this end my delegation, joined by others, has sponsored proposal BM/60 reaffirming principle 7 and seven other resolutions emphasizing and endorsing other specific humanitarian measures of the final act.

We should, in the opinion of my delegation, and in fidelity to the final act, also give special and collective acknowledgement to the valuable and privileged, and what should be the protected, role of individuals and organizations in furthering the process of implementation through their public scrutiny of developments and practices in their own and in other signatory countries. This too is the subject of a proposal which we and others have tabled.

And we should also jointly pledge our energetic efforts both to protect the rights of religious believers among our citizens and to facilitate international contact among them, as the final act stipulates.

Our giving of such commitments will be understood around the world as a fresh contribution to the process begun in the universal declaration of human rights and the final act. We all recognize that much of the final act depends for its realization on the unilateral actions of each of our states. In the area of human rights and fundamental freedoms, the initiative, and responsibility for action lies very much at home, subject, however to the type of international accounting we have been seeking in the important review we are conducting at this meeting.

In the United States, the agenda of the unfinished human rights business is not fully realized, although we are proud of our overall record. It includes action on ratification of certain international agreements in the field of human rights which President Carter recently signed at the United Nations. It includes programs—none of them yet perfected, but all of them already solid governmental policy commitments—to advance the equal rights of minorities and the economic security or all citizens. And, finally, it includes the search for better ways to implement the policy, enshrined in such legislation as our Foreign Assistance Act, of promoting "the increased observance of internationally recognized human rights."

The effort the United States is making is a sincere one. We would hope that other nations would, in the same spirit, examine their conduct to see, by way of illustration, whether the right to religious education is truly fostered, whether believers can freely profess and practice their faith, whether opportunities for free association of believers to worship and celebrate their religion are honored in fact as well as words. It is a fact of life that in some nations of Eastern Europe that those conditions do not obtain. This is a matter of grave concern to the United States. One hundred and forty million Americans are identified with Protestant, Catholic, Jewish, Moslem, Buddhist and other religions groups of their own choosing. This is safeguarded by the first amendment to our Constitution which guarantees the free exercise of religion. Our people share the belief of the poet Tennyson, who once wrote that, "more things are wrought by prayer than man can dream of." We regret the fact that grave violations of basic human rights and fundamental freedoms, including freedom of thought, conscience, religion and belief exist in some of the countries of the East.

Fundamental to the pursuit of human rights is the unfettered expression of divergent and peaceful views. Tomorrow, observing an anniversary of great importance to the promotion of human rights, let us not forget those who have been unjustly punished simply for expressing what is characterized as dissent. An number of the signatories of this meeting have such prisoners of conscience.

Tomorrow's anniversary is an important occasion to recommit our conference to advance toward the human rights goals of the final act. As the Secretary General of the United Nations said in his statement on the occasion of Human Rights Day "the protection and promotion of human rights is now among our most urgent priorities. Much has been accomplished over the year, but regrettably much still remains to be done. Disturbing violations in various parts of the world contradict the goals and ideals we have proclaimed not only in the declaration, but in the Charter of the United Nations, and they stand as serious barriers in the way of international peace and security."

We have cited specific cases, categories and countries during the review of implementation at this meeting dealing with significant and regrettable aspects of human rights' violations, and President Carter on December 3 in reporting to our CSCE Commission has cited in great detail both the progress and as the Secretary General of the United Nations has pointed out, the "disturbing violations of human rights which occurred and are still all too prevalent in various parts of the world.

My delegation will make President Carter's report, citing chapter and verse, available to all delegations.

It would be fitting—in the spirit of the day, and of the obligation the final acts puts on each participant—for appropriate authorities to examine again their compliance in light of the universal declaration and the final act and to take appropriate remedial action. And we have a special obligation in this connection in light of the specific human rights and humanitarian provisions of the final act.

We should respond to Secretary General Waldheim's call for "all governments, nongovernmental organizations and peoples in every nation to commemorate the historic occasion we mark today by re-dedicating themselves to securing the fundamental freedoms set forth in the declaration. The final act mandates us to do so.

I have suggested some actions our states can take here in Belgrade and elsewhere to give fitting tribute to tomorrow's anniversary. I can only add that lip service is not real observance of human rights. Actions and practices are the true test of a society's commitment to its ideals. As his excellency, the honorable Lazar Mojsov, President of the thirty-second session of the General Assembly, said in his remarks commemorating this occasion: "The oppression of man and nonrespect for human rights have always been negative omens of social unrest and even international conflict. In the interest of peaceful and progressive advancement to a better, more secure and more just world, the human community as a whole must, once and for all, do away with such manifestations which jeopardize fundamental human rights."

In light of the comments made by delegates representing some of the countries of the East questioning the relationship between human rights and security, the comments by the President of the Assembly and the Secretary General of the UN provide a definitive answer.

As the remarks by Secretary General Waldheim and General Assembly President Mojsov so eloquently point out, peace, security, and human rights are indeed indivisible, and all

those who seek detente must recognize that the detente we seek must have a human face if it is to be effective and enduring.

THE GAO REPORT ON MANDATORY RETURNABLE BOTTLES AND CANS

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. CARNEY. Mr. Speaker, on December 7, 1977, the U.S. General Accounting Office released an official version of its report on the "Potential Effects of a National Mandatory Deposit on Beverage Containers." While the whole issue of beverage container deposits is controversial to say the least, I think it is important to point out some very important facts about this study.

The GAO study is based on old materials. In fact, its authors admit that "this report depends heavily on existing studies for the data used in the economic analysis." The report goes further to point out that "a problem in assessing the effects of the various States' mandatory deposit systems has been the lack of good data on the period before and after implementation of the system."

Therefore, I respectfully submit to my colleagues that careful consideration should be made when weighing this study to determine the extent of its value.

Furthermore, GAO admitted in the study that it "agrees that a mandatory deposit proposal is but one of the options available, emphasizing that it set out to analyze just this one option."

I bring these points to the attention of my colleagues for one specific purpose, and that is that the context of this GAO report not be misinterpreted by the Congress or by the news media. There are other viable alternatives to mandatory deposit legislation that are in place today. These alternatives do not regulate the free market system and some of the results are dramatic, to say the very least.

According to GAO, a national beverage container deposit would reduce litter, conserve energy and save jobs.

The State of Washington—without forced deposits—and now other States, have comprehensive antilitter programs. The Washington program has resulted in a 66-percent reduction in litter. Oregon, with its deposit law, has only effected a 10.6-percent reduction. Even the GAO report claims litter reductions from only 7 to 37 percent with a mandatory deposit.

While GAO says a national deposit would conserve energy, it also adds that many Americans may not return containers. If even a small percentage of Americans did not return containers, the entire forced deposit concept could become counterproductive and wasteful.

GAO says jobs would be created with a national deposit. Even if this were true, any jobs created would be low-paying, unskilled laborers, mostly bottle sorters and handlers at the expense of much higher paying, highly skilled laborers who are more often than not heads of household. GAO even admits that "unemployment problems in specific areas may be severe." In a State like New Jersey, they could be catastrophic.

As you know, the Resource Conservation Committee, at the request of the Congress, has been conducting public hearings and studying the overall solid waste problem in this country. The RCC last week opted to set aside the mandatory deposit issue for now while it studies what to do about the majority portions of solid waste.

I submit to my colleagues that we need new, comprehensive evaluations of all the options at hand in dealing with this country's energy, litter, solid waste, and natural resource problems. The container legislation approach is tunnel visioned. Instead, what we need is a more comprehensive, total program. Cutting out but a small piece will still leave us with the rest of the pie.

LARRY WOODWORTH

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, I have spent four decades in public service, and in all that time, I do not think I have ever met anyone of the caliber of Larry Woodworth. His dedication and devotion to his work was awe inspiring, his gentleness and character, second to none. Larry was a quiet and humble man; he needed no fanfare or applause. His reward was getting the job done, and no one could do it better under circumstances that would try the patience of a saint.

I had the pleasure of working with Larry for 17 years—I, as a member of the House Ways and Means Committee, Larry, as the director of the Joint Committee on Internal Revenue Taxation. He possessed a brilliant mind and ability which were enhanced by a fair and impartial objectivity, an untiring patience, and dedication. I observed him closely for 17 years and these qualities never ceased to impress me.

For a man who had precious little time to give, he always managed to make time. He was always readily available to me, and I found his advice and counsel solid and sound.

Larry was a public servant in the truest sense of the word. For over three decades he served his nation in an exemplary manner. Larry made things work. When we were deadlocked or at an impasse on a sticky tax problem, along came Larry with a solution. I saw him do this time and time again. He was a careful and thoughtful craftsman.

In what spare time he had, Larry involved himself in local community affairs; he served as mayor of Cheverly, Md., from 1959 to 1965, taught Sunday School at the United Methodist Church there, and was active in Boy Scout affairs. For the past year, Larry had been involved as the chief architect of the administration's forthcoming tax reform program.

To say that we hold this man in high esteem is to not say enough. Larry Woodworth was one of the truly great Americans, and our system of government is immeasurably sounder for having had him with us for what was too short a time. We pay him homage and our everlasting gratitude.

My deepest sympathy and that of my wife, Aileen, is extended to Margaret, his gracious and wonderful wife, and the Woodworth children.

DR. LARRY WOODWORTH

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. ULLMAN. Mr. Speaker, I would like to include in the RECORD a particularly perceptive essay on the late Larry Woodworth. The article appeared in the December 9 edition of the Wall Street Journal:

LARRY WOODWORTH: DULCE ET DECORUM . . .

By John Pierson)

WASHINGTON.—Sen. Bob Packwood remembers Larry Woodworth this way.

Last year, as the Senate Finance Committee wrestled with what later became the Tax Reform Act of 1976, Sen. Packwood was wrestling with a more personal problem: He was growing blind. Cataract surgery later restored much of the Oregon Republican's sight. In the meantime, all he could read were brief notes, printed in giant letters by his staff. Reading amendments to the Internal Revenue Code was out of the question.

Then, early one morning, Larry Woodworth, Congress's staff expert on taxes, came to Sen. Packwood's office, unbidden, and explained what the committee would be taking up that day—the law as it was, the law's shortcoming and the possible solutions. Mr. Woodworth came again the next day and the next and every day until the committee had finished with the tax bill, ultimately giving hours of his time to a junior, minority member of the 18-man Finance Committee.

"He didn't try to sell me," recalls Sen. Packwood. 'He just wanted to make sure I was informed."

Mr. Woodworth was then chief of staff of the Joint Committee on Internal Revenue Taxation and chief draftsman of the major tax bills passed by Congress in recent years. When he died Wednesday at the age of 59, he was Assistant Secretary of the Treasury for tax policy and in charge of pulling together the tax revision plan that President Carter has promised to submit early next year.

The Packwood story is revealing of Larry Woodworth in many ways. He was a kind and gentle man. In a town where cruelty often tries to pass for courage, he did numberless little deeds of kindness for Senators, Congressmen, lobbyists, lawyers and reporters.

He was a modest man. Even Mr. Woodworth's chief assistant and successor, Bob Shapiro, didn't know of the Packwood briefings until he read about them in a newspaper. Indeed Mr. Woodworth's passion for anonymity was so great that he refused to allow his biography to appear in the congressional staff directory.

He was fair. Although he had his own dearly-held views about how the tax code could be improved, he took great pains to present all sides of an issue. In fact, liberals, who regarded him as one of their own, sometimes grumbled that at crucial points in his 33 years with the joint committee, Mr. Woodworth failed to come down on the side of "reform." "A lifetime of straddling the fance," observed one liberal last January when President Carter picked Mr. Woodworth for the Treasury post.

Others who knew him well weren't so sure. "I haven't the faintest idea of his views," said Rep. Barber Conable of New York, ranking Republican on the House Ways and Means Committee. "I always felt he was trying to bring out the best in me, rather than explaining himself."

The other thing the Packwood story reveals was Mr. Woodworth's stamina. At a time when one younger member of the staff broke under the physical strain of getting out the tax bill, Mr. Woodworth had the extra strength, day after day, to brief a Senator whose vote was by no means crucial to the outcome.

Over the years, reporters too, came to appreciate this last quality, when, at the end of a grueling day, "Larry," as everyone called him, would patiently reveal the mysteries that had taken place before their often unseeing eyes.

He could have commanded a six-figure salary as a private tax consultant. But he often said that when he retired from the joint committee staff, he'd like to teach. As a matter of fact, Larry Woodworth was one of the finest teachers around.

Several generations of reporters from this newspaper learned their taxes at Larry Woodworth's knee. And through them, one hopes, the public learned something, too.

Some say that Mr. Woodworth's ability to grasp and unravel the complexities of the tax code came from the fact that he wasn't a lawyer. His degrees were in public administration. (When he got his Ph.D. in 1960 from New York University, one of his friends put a sign on his desk: "Old Doc Woodworth, Loopholes Opened and Closed.")

"Public administration" sounds dry enough, but to Larry Woodworth it was science, art and duty. Son of a Baptist minister. Mr. Woodworth seemed to have inherited a strong streak of altruism. With all his responsibilities on Capitol Hill, he still made time to serve for nine years as a member of the town council of Cheverly, Md., the suburban Washington community where he lived, and for six years as its mayor. He also taught Sunday School.

Mr. Woodworth wasn't without faults. He was at best an indifferent administrator. A loving joke among the joint committee staff was: "Anytime you give Larry a piece of paper, keep a copy yourself; he's sure to lose it."

Mr. Woodworth may have lost pieces of paper but he never lost his humor or his devotion to duty.

Dulce et decorum est pro patria mori.

AN HONEST CONGRESSIONAL RECORD

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. STEIGER. Mr. Speaker, the effort to make the CONGRESSIONAL RECORD honest has received wide endorsement. More than a third of the House has cosponsored my resolution, newspapers across the country have backed it in editorials and a number of individuals and organizations which rely on the RECORD have come out in support of it.

One of the most thoughtful endorsements has come from the New York County Lawyers' Association. Richard A. Givens, chairman of the organization's Committee on Federal Legislation, has been kind enough to share a copy of their recommendation with me.

The association stresses the importance of the CONGRESSIONAL RECORD as a legislative history. When changes of substance are permitted, the distortion can alter the interpretation of legislative intent. As the recommendation says:

> In an era of "sunshine" even those not present in the galleries should be able to know what was said in legislative debates.

As a firm believer that the RECORD should conform to its legal mandate as substantially a verbatim report of proceedings, I commend the statement of the New York County Lawyers' Association to all who read the RECORD. By the way, for any who may wonder, this statement is not being spoken, but rather inserted into the RECORD.

The statement follows:

[Report No. F-11]

NOVEMBER, 1977.

NEW YORK COUNTY LAWYERS' ASSOCIATION

RECOMMENDATION: APPROVAL

H. Res. 479, introduced by Rep. Steiger would require that ". . . the body of the Congressional Record . . . shall contain an accurate and verbatim account of remarks actually delivered . . ." The resolution permits extensions and revisions of remarks "limited to the correction of typographical errors" and allows other inclusions not delivered on the floor by unanimous consent, printed after the record of the actual debate, "preceded and succeeded by a printed designation which clearly distinguishes the insertion from verbatim remarks."

This resolution deals with a problem which has long plagued the use of the Congressional Record for such purposes as legislative history to assist the courts as well as for constituents interested in the work of their representatives. The problem was brought to light as early as 1958 by the late Senator Richard L. Neuberger of Oregon. (Neuberger, "the Congressional Record is NOT a Record," N.Y. Times Magazine, April 20, 1958, p. 14.) As stated there, members of Congress may alter substance as well as correcting grammar.

This practice has led some members of the Supreme Court to cast doubt on the weight to be given floor debates in construing legislation on the weight to be given floor delation. *Schwegmann Bros. v. Calvert Distillers Corp.*, 341 U.S. 384, 396 (1951) (Jackson J. concurring, discussed in Canter, "For an Accurate Affordable Congressional Record," N.Y. Times, 9/17/77, p. 22. Specific recent examples are set forth in Steiger, ". . . Read Any Fiction Lately? . . .," N.Y. Times, 8/29/77, p. 27. 4 U.S.C. § 901 provides that "the Congressional Record . . . should be substantially a verbatim report of proceedings . . ." yet this is not now the case as is unanimously conceded.

The inclusion of the matter in the Congressional Record not actually delivered on the floor is not a mere matter of correctness for its own sake. Rather, the legislative process can be affected because constructions can be placed on legislation contrary to the intent of the Congress as a whole. This can become a technique used by lobbyists to influence the governmental process. Compare generally Redman, The Dance of Legislation (1973). For example, lobbyist X may ask Representative Y to make comment Z on the floor to help insure that a pending bill will be construed the way the lobbyist wants if it reaches the courts for interpretation. Representative Y may reply, however: "If I say that, it is certain to provoke a storm of opposition which may lead to an amendment to insure that the bill says the exact contrary of what you want, or it may even lead to the defeat of the entire bill."

The lobbyist may answer, "Well, in that case say something innocuous, and then add these comments to your remarks for the benefit of the Record after the debate. That way, nobody can answer at the time, and if they pick it up all upon reading the voluminous pages of the record, it will probably be too late for anybody to do anything. Besides, the practice is legal." This can have the dual effect of (1) misleading the courts in certain cases where they rely on floor debates, and (2) weakening the legitimate use of floor debates that did occur. In addition, the broadcasting of floor proceedings will create an inconsistent "record" unless the RECORD becomes a true record of what actually transpired.

What are the objections to such a reform? Members of Congress, like attorneys in court, will have to realize that they are speaking for the record. The pressure generated will probably tend to raise the quality of debate in our national legislature.

In an era of freedom of information, the public and the courts should be entitled to truthful information about legislative debates as much as administrative proceedings. In an era of "sunshine", even those not present in the galleries should be able to know what was said in legislative debates. The concept of "sunset" should be applied to the antiquated practice of rewriting history to replace what was actually said with fiction, as in George Orwell's *1984*. Even if a "plain English" rule cannot be applied to legislative debates, the practice of substituting a different composition ought to be eliminated. This is a practice the time for which has come and has now gone.

The "Obey Commission" report, H. Res. 95-651 (1977) makes strides in the right direction, but H. Res. goes further and should be adopted.

We recommend approval of H. Res. 479.

Respectfully submitted,

COMMITTEE ON FEDERAL LEGISLATION,

Richard A. Givens, Chairman, Edward Arkin, Lawrence Randolph Bailey, Jr., Edward Brodsky, Evan A. Davis, Robert John Grimm, Michael D. Hess, Stephen D. Hoffman, Herbert Lebovici, John Edward Meyer, Henry Mittler, Solomon D. Monshine, Peter M. Phillipes, Susan F. Pollack, Sue Prenner, Peter Repetti, John A. Ronayne, Salvatore F. Sangiorgi, Betty Jane Santangelo, Shirley F. Sarna, Louis Norman Smigel, Lisa A. Whitney, Robert W. Wien, Benjamin J. Zinkin, Lawrence X. Cusack, Ex-Officio, Thomas Keogh, Ex-Officio.

THE FULL MARRIAGE ACT OF 1977

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. BROWN of Ohio. Mr. Speaker, on this occasion, I would like to share with you and my colleagues an article written by Herbert Stein which appeared in the Wall Street Journal on December 6, 1977.

Mr. Stein, a former Chairman of the Council of Economic Advisers, is proposing a lighthearted solution—which makes about as much sense as the Humphrey-Hawkins bill—to the nagging political and economic problems we face in America today.

"The Full Marriage Act of 1977" follows and speaks for itself:

THE FULL MARRIAGE ACT OF 1977

(By HERBERT STEIN)

A bill to translate into reality the right of all Americans able, willing and seeking to be married to full opportunity for a meaningful, nondead-end relationship; to assert the responsibility of the federal government to use all practicable programs and policies to promote meaningful relationships, and to clean up the American economic, social and political system in other respects.

This act may be cited as the "Full Marriage and Political Balancing Act of 1977."

General Findings

Sec. 2. (a) The Congress finds that 7% of the persons in the United States over the age of 16 able, willing and seeking to be married are not married, and that the unmarriage rate is much higher for persons between the ages of 16 and 21. This high unmarriage rate imposes serious costs upon the nation, including the following:

(1) Many of the unmarried and all of their mothers suffer severe mental anguish;

(2) Some of the married suffer envy;

(3) Unmarriage contributes to unemployment, since unemployment rates are significantly higher among unmarried males than among married males of the same age;

(4) Unmarriage contributes to inflation, since two can live as easily as one;

(5) Unmarriage contributes to the balance of trade deficit, since unmarried persons have a high propensity to buy small foreign cars, drink foreign wine and attend foreign movies.

(b) The Congress further finds that the operation of the free market assisted only by aggregate fiscal and monetary policies is not adequate to reduce unmarriage. The rate of unmarriage has risen as the money supply and the federal deficit have risen.

(c) The Congress further finds tha achievement of full marriage requires the establishment of goals by the President and the coordinated use of the powers of all agencies of the federal government, along with such private action as may from time to time be found helpful by the Secretary of Health, Education, and Welfare.

TITLE I—GOALS AND GENERAL POLICIES

Sec. 101. (a) The Congress declares and establishes as a national goal the fulfillment of the right of all Americans able, willing and seeking to be married to full opportunities for a meaningful relationship.

(b) The Congress further declares that no provision of this act shall be used to exercise mandatory control over any private citizen except as may be necessary to extract taxes from such citizen to achieve the purposes of this act or as it may be necessary to use powers of the federal government previously authorized or hereafter authorized to achieve the purposes of the act.

Sec. 102. (a) The Congress declares and establishes as an interim goal the reduction of the unmarriage rate for Americans over the age of 16 to no more than 4% and for Americans over the age of 20 to no more than 3%, both goals to be achieved by 1983.

(b) For the purposes of this act the terms marriage and unmarriage are defined by the President of the United States.

Sec. 103. The Congress declares and establishes as a goal the equalization of unmarriage rates among the age, sex, and race categories of the population.

Sec. 104. The Congress declares that it doesn't have the foggiest idea of how to achieve the purposes of this act. Therefore, the President shall submit within 90 days of its enactment and annually thereafter, the Annual Marriage Report of the President, setting forth:

(a) Current and foreseeable trends in births, deaths, marriages, divorces, engagements and disengagements, with an analysis of recent developments;

(b) Annual numerical goals for these variables and others affecting progress toward the interim goal stated in Section 102(a);

(c) The specific programs and policies which the President deems necessary to achieve the goals.

Sec. 105. The President shall be assisted in the preparation of the Annual Marriage Report by a Council of Marriage Counsellors consisting of three members, one of whom the President shall designate as chairman. The three members shall be chosen to represent equally the division of the American population by age, sex, race, religion, marital status, educational attainment and geographic location.

TITLE II—STRUCTURAL REMEDIES FOR UNMARRIAGE

Section 201. The Congress declares that in fishing around for ways to reduce unmarriage no stone shall be left unturned.

Section 202. Within 180 days after enactment of this act, the President shall submit to the Congress a report evaluating the effects on the unmarriage rate of present legal restrictions on polygamy, with such recommendations as he or she considers appropriate.

Section 203. Within one year after the enactment of this act the President shall submit to the Congress a cost-benefit analysis of divorce by unilateral demand, including an estimate of the extent to which the resulting increaso of marriages would exceed or fall short of the resulting increase in divorces, with such recommendations as he or she considers appropriate.

Section 204. Individuals or classes of individuals who consider their marriage opportunities to have been injured by the marriage of American citizens with foreigners may file a claim for relief with the International Trade Commission. If, after a hearing, the International Trade Commission finds that injury has been suffered, it shall submit a report with recommendations for corrective action to the President. Corrective action may consist of:

(a) Limitation of the entry of foreigners into the United States for the purpose of marriage;

(b) Limitation on the departure of Americans from the United States for the purpose of marriage; and/or

(c) Adjustment assistance in the form of a three-week, expense-paid trip for the injured party or parties to the foreign country of their choice.

(d) If the President chooses not to follow the recommendation of the International Trade Commission he shall submit a report to the Congress with an explanation of his decision.

TITLE III—SPOUSES OF LAST RESORT

Sec. 301. It is the purpose of this act to promote marriages in the following order of priority:

(a) Marriages made in heaven.

(b) Marriages arranged spontaneously and directly by the participants,

(c) Marriages arranged through the personals column of New York magazine, and

(d) Marriages arranged by mothers.

Sec. 302. Only if he or she finds that promotion of marriages of the kinds listed in Sec. 301 is inadequate to achieve the purpose of this act shall the President recommend to the Congress legislation authorizing the establishment of a reservoir of spouses of last resort. This proposed legislation shall include the following provisions:

(a) The reservoir shall include not less than 100,000 nor more than 200,000 eligible spouses of last resort. These eligible spouses of last resort shall be full-time employees of the federal government engaged for this purpose in accordance with Civil Service regulations and qualifying for compensation at the rate of a GS-9.

(b) Any unmarried American citizen over the age of 16 shall have the right to claim a spouse from the reservoir, subject to the limitation in Sec. 302(c). The Secretary of Health, Education and Welfare shall establish regulations to provide appropriate eligibility criteria to determine the order of priority of access of any person to the reservoir.

(c) No person who has rejected a bona-fide offer of suitable marriage of the kinds listed in Section 301 shall have the right to claim a spouse from the reservoir within a period of 6 months following that rejection.

(d) Eligible spouses of last resort who have been claimed and married shall be removed from the reservoir but shall be promoted to grade GS-10 and remain employed at that grade for as long as the marriage arranged under this Title shall last.

(e) As the number of eligible spouses of last resort in the reservoir is depleted by marriage, resignation or death the reservoir shall be restored to its initial size by the recruiting of new employes.

TITLE IV—SEPARABILITY

Sec. 401. Whom Congress has put together, let no man put asunder.

Sec. 402. Amen.

THE AMERICAN WAY—A RECORD OF GREAT ACCOMPLISHMENT — INDIVIDUALLY AND AS A TEAM AT UNION OIL

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12 1977

Mr. VANDER JAGT. Mr. Speaker, in recent days, I have had the opportunity to read a very special address that Mr. Fred L. Hartley, chairman and president of the Union Oil Co. of California, delivered last month as he accepted the California Manufacturer of the Year Award. At a time when this great country of ours is confronted with a serious energy situation and at a time when Congress is nearing final decisions on the administration's proposed energy plan, I strongly urge each of my colleagues to read Mr. Hartley's remarks.

I will readily admit that I am somewhat biased—I share fully and completely Mr. Hartley's strong advocacy of our Nation's free enterprise system.

This I have stressed in all my public addresses. It is the cornerstone of my feelings, my belief that our country is great not because of what Government has done for its people but what a free people were allowed to do for themselves under our Government.

But, Mr. Hartley also reveals corporate and social responsibilities that Union Oil has assumed. I think you will be most impressed. I was particularly drawn to that one part of his address when he stated:

> One last point about the corporation and social responsibility. To my mind, the greatest social responsibility a corporation has is to make a profit. If there are no profits, today's jobs are in jeopardy and new investments for new jobs are impossible. If there are no profits, there can be no support of welfare causes, education and the arts and sciences. It's a pretty fundamental issue because profitless private enterprise can only lead to a planned economy such as in the U.S.S.R.

Mr. Hartley, as I indicated, also touches on immense risk investment by his company in seeking and developing new and increased sources of energy. It is a dynamic and impressive record.

In including Mr. Hartley's address which follows, I would particularly point out his closing thoughts when he stated:

> We Americans have in the course of our history learned to do it ourselves. We have struggled. But cannot we learn from our experiences? Have we not progressed to a point where there can be greater trust and confidence, where there is understanding that our technology has been developed for the common good, that we are one nation, with an undivided desire to preserve our personal, our social, and our economic freedoms? And that we must conduct ourselves responsibly—in our schools, our companies, our labor organizations, our civil and governmental institutions including our courts, our Congress, our churches and even the Presidency.

Mr. Hartley's complete address follows:

Remarks by Fred L. Hartley

Thank you, Mr. Hudson, for that kind of introduction and for the honor bestowed upon me in being named California Manufacturer of the Year by the California Manufacturers Association.

Before coming here today, I thought of many things you might like to hear me talk about, or that you might even expect me to talk about. Perhaps the energy bill before Congress, or the problem of growth in California as a result of environmental regulations and permitting, or the increasingly popular subject of the corporation and its social responsibilities.

I have decided to discuss all of these subjects, but only briefly, because I also want to talk to you about some of the accomplishments of the Union Oil Company which I believe led to my being on this platform today.

I am very disturbed by the President's attitude on the energy bill. Deliberately or not, he used misleading figures on October 13 in accusing the oil industry over television of what he termed "war profiteering and the biggest rip-off in history." To substantiate these charges, he said:

"In 1973, for instance, just before the OPEC price rise and the oil embargo, the oil and gas industries had an *income* of $18 billion. Under our proposal, by 1985 their annual *income* would be about $100 billion, an enormous increase.

"What the oil companies and gas companies are now demanding and making some progress is $150 billion. The difference will not encourage increased production of oil. But that difference will come out of the pockets of the American consumers and go into the pockets of the oil companies themselves."

The clear implication of the President's remarks is that the oil companies had profits of $18 billion in 1973 and that those profits would rise to $100 billion by 1985 under the Administration's plan and to $150 billion under the oil industry proposal. In response to queries by the news media, the White House admitted that the President was *not* referring to profits, but instead, to gross revenues from domestic production before subtracting the cost of doing business and before subtracting the federal, state, and local taxes paid by oil companies.

Although clarifying statements were published by some of the news media, the President's highly misleading statement had its intended effect in reinforcing the opinion of much of the public that oil company profits are too high.

On the other hand, Senator John Tower inserted in the Congressional Record an unreleased Federal Energy Administration study which finds that oil company profits are not excessive. *It even suggests that higher profits are necessary!!*

I had wired the President on September 27, pleading for a halt to unwarranted attacks on the oil industry, pointing out:

"Rather than continuing to attack an industry that has, over the past 100 years, found and produced most of the world's low-cost energy, I respectfully urge you to attempt to understand the valid criticisms of your plan and to compromise with the positive suggestions being put forward."

"We, too, are loyal Americans and are as anxious as you to do what is good for the future of our nation. I pray that we both see the good in men so that we may solve our nation's energy problem in peace."

My thoughts apparently were ignored by the President and his aides when he made his ridiculous unsubstantiated remarks on October 13. Fortunately for our country, a majority of our senators have not been swayed by this outburst. It is impossible to predict at this date the final direction of our nation's energy policy, but I believe the Congress will provide a considerable degree of leadership to the Administration.

While it is the oil industry which currently is on the "hot seat" in Washington, those of you who represent other industries have your share of problems with the Administration and the bureaucracy, and should recognize that whatever adversely affects one industry will rapidly affect others.

Our own state of California, despite protestations to the contrary, continues to bedevil industry with conflicting and time-consuming regulations, principally in the environmental field.

Within the past few weeks, for example, construction of two new power plants by PG&E. to produce electricity from geothermal steam has been delayed for probably at least a year because of a jurisdictional tangle between the Public Utilities Commission and the Energy Resources Conservation and Development Commission. Procedural red tape and duplication of jurisdiction are a curse common to all of us. Incidentally, these plants would have produced kilowatts sufficient to supply the electrical requirements of a city of some 200 thousand people, thus reducing the equivalent demand for oil and natural gas.

One last point about the corporation and social responsibility. To my mind, the greatest social responsbility a corporation has is to make a profit. If there are no profits, today's jobs are in jeopardy and new investments for new jobs are impossible. If there are no profits, there can be no support of welfare causes, education and the arts and sciences. It's a pretty fundamental issue because profitless private enterprise can only lead to a planned economy such as in the U.S.S.R.

So much for our nation's problems.

I am honored that the California Manufacturers Association thinks highly of my activities, but obviously, it is not due to any personal, individual achievement, but rather because I have the good fortune to head a company which has made some rather significant contributions to our society.

When you are immersed in the daily work of running a large oil company, you spend your time dealing with the immediate matters at hand, and planning your course for the future. Last week's problem, or triumph, usually doesn't get much attention. So, I must thank you for the opportunity to reflect on a few things Union Oil has done in the recent past which, while not insuring us of a perpetual niche in heaven, might dampen the fires reserved elsewhere for those who stand by and do nothing.

While driving to this luncheon today, I passed a number of Union Oil service stations. It seemed quite natural to see the two pumps on the service island labeled "Super" and "Unleaded."

But, it was only a few years ago that there were no gasoline pumps in California with "Unleaded" or even "Low-lead" labels on them. I'm proud to say that Union Oil was instrumental in changing that. In so doing, we've helped make the air we all breathe a bit healthier. Here's how this came about—

With growing concern about the problem of smog, particularly in this basin where most of us live, the automobile and its exhaust system were identified as among the principal villains.

In 1970, I met with General Motors officials and heard their plans to install catalytic converters in the exhaust systems of their cars to capture pollutants. They would need unleaded gasoline for their 1975 cars, since lead in gasoline would foul the exhaust systems and negate their pollution abatement attempts.

Lead compounds had been added to gasoline since the 1920's to increase the octane rating and prevent engine knock. Lead is the most inexpensive and probably the best gasoline supply extender and octane improver known. It's a kind of commentary on the times that the man who discovered that use was given one of science's highest honors for his achievement—the Chemical Society Gold Medal. Yesterday's heroes don't necessarily fare too well in today's society.

Unleaded gasoline was going to require much more difficult processing at our refineries and would require a lot of time and money. We asked General Motors if they could find a way to live with just a small amount of lead—0.5 grams of lead per gallon versus the standard 3 or 4 grams—while we worked on our capacity to produce unleaded. Thus the idea of "Low-Lead" gasoline was born.

We proposed a "Transition from Leaded to Unleaded Gasoline," to the California Air Resources Board. It called for an unleaded regular of 90 to 91 octane and a leaded premium of 97 octane with not more than one grade of leaded to be offered and not less than one grade of unleaded. Other proposals being discussed at the time would have permitted two grades of gasoline containing substantial amounts of lead, and one unleaded grade. We were fearful that this would practically compel the sale of three grades of gasoline.

Union's proposal permitted only one grade containing lead, presumably premium, and encouraged the use first of a low-lead and, finally, unleaded gasoline suitable for most other cars.

The amount of lead entering the atmosphere would be reduced. At the same time, to install a third set of pumps at service stations for the new unleaded grade of gasoline would cost Union about $80 million—and the industry well over $1 billion—so our proposal had economic as well as environmental merit.

Most other companies went the three-pump route. Instead, we plowed that $80 million into facilities to produce unleaded gasoline at our refineries.

In the summer of 1970, we went ahead to practice what we had been preaching and introduced Low-Lead Regular 76 gasoline. We became one of the first oil companies to sell low-lead as its regular grade.

In January of 1973, the EPA announced that effective July 1, 1974, as anticipated, there would have to be unleaded gasoline available for the 1975 model year cars at 60 percent of a company's service stations and at all stations pumping over 200 thousand gallons per year. We were ready.

On July 1, 1974, Union Unleaded Regular was introduced at most of our retail outlets nationwide, many more than required by EPA regulations. Today, our unleaded gasoline constitutes more than two-thirds of Union's branded gasoline sales, compared with about 20 percent for the rest of the industry.

Our decision to get the lead out—to put $80 million in our refineries instead of gasoline pumps and tanks—was a manufacturing decision with all pluses.

These are not just pluses to Union Oil. For example, if you'll pardon the commercial plug, if you drive a pre-1975 model car designed to run on regular gasoline, Union Oil's unleaded gasoline can save you up to two cents a gallon in decreased maintenance costs—because spark plugs, mufflers, and tailpipes all last longer and the frequency of tuneups is reduced.

Union Oil's concern with the environment, and with producing products which help improve it, was not limited to getting the lead out of gasoline. Our research helped our manufacturing people with a number of breakthroughs in recent years.

One of our most productive activities was the development of one of Union's patented processes called Unicracking. The basic objective was to develop ways of processing heavier and heavier refinery crude oil into high yields of low sulfur transportation fuels and a minimum of high sulfur fuel oil.

I was lucky enough to head the research team that developed that process. It did something else beside cleaning up the crude oil. In simple language, our process converted four barrels of low grade crude oil into five barrels of gasoline and jet aircraft or truck fuels. Incidentally, it took some courage to go from a one and a half barrel pilot plant to a first commercial facility that was ten thousand times larger and entailed an investment of $25 million.

Another manufacturing process, called Unionfining, which has the ability to remove sulfur from gasoline, jet fuel, and diesel fuel was expanded to heavy distillates. With this technology, fuel oil can be produced from high sulfur crude which meets the specifications of utilities compelled by environmental restrictions to use low sulfur fuel oil.

Another patented manufacturing process, called Unisar, also has special significance in our polution-conscious world because it reduces the quantity of highly voliate aromatics present in paint solvents and jet fuel. This means it reduces the amount of smoke emitted by jet planes, and improves the health conditions around those working with paint solvents.

Still another manufacturing process co-developed by Union and the Ralph M. Parsons Company, came into existence a few years ago as clean air standards became stricter.

It is calleld the Beavon process, and, when working in conjunction with other processes, it is possible to recover and convert to elemental sulfur 99.9 percent of the hydrogen sulfide contained in byproduct refinery fuel gases. Prior to the development of the Beavon process, technology had limited us to about 90 to 95 percent sulfur removal.

What does this mean? Well, without hydrogen sulfide removal land conversion plants, including the Beavon process, our Los Angeles refinery would put 320 thousand pounds of sulfur as sulfur dioxide into the atmosphere every 24 hours.

Today, on the average about 400 pounds of sulfur dioxide enters the atmosphere from this phase of our refinery operations. And may I say, that all of this was accomplished without funds, subsidies, or research from the government. Further, *our* activities made new air pollution standards possible—*not* the regulators! ! We are still waiting for Mr. Tom Quinn, chairman of the California Air Resources Board, to present Union Oil Company with a medal.

While our processes are proprietary, we license them to other firms so that people everywhere may benefit from our success. In fact, nearly 600 Union-developed process units are licensed in 30 countries.

Union has done a yeoman's job in helping to clean up pollution, but there's more to being a responsive and concerned company today than that. This country vitally needs more and new energy resources. Let me tell you about one emerging energy resource we took in hand in the early 1960's, and developed it to the point where today, Union is the largest producer of this form of energy in the world.

I'm talking about geothermal energy, one of the cleanest and most exciting energy sources known today. Geothermal energy can be described as a product of nature's own boilers, fed by the natural circulation of water coming in contact with hot rocks in the depths of the earth.

We can harness geothermal energy by drilling wells into potentially productive zones, much as we do for oil or gas, and bring the steam or hot water to the surface. The most practical use for geothermal energy yet found is to spin turbogenerators to produce electricity.

When we became interested in geothermal in the early 1960's, foreign oil imports were plentiful and cheap. Not many people in government, industry, the university, or the public sector were interested in our efforts. We had to develop the technology where virtually none existed. We risked and invested millions of dollars in development and in 1967 became the operator at the Geysers geothermal field in Sonoma County, about 90 miles north of San Francisco.

By 1973, The Geysers had became the largest geothermal development in the world. And, all of this was done without one dime of government funds.

We sell the steam we produce to a most cooperative public utility company; namely, Pacific Gas and Electric Company, which has built generating plants with a capacity of half a million kilowatts of electrical power, enough to supply the needs of a city of half a million people. Four additional generating plants are now under construction and soon The Geysers will have a capacity of over 900 thousand kilowatts—which can serve a city of nearly one million people. Union is searching for more geothermal reserves in the western states, and has made important discoveries in the Imperial Valley and in New Mexico. In the Philippines, acting in concert with the Philippine government, Union has discovered two geothermal fields and is preparing to supply steam for the first 110 thousand kilowatt generating plant, and three additional 110 thousand kilowatt plants are underway.

Experts in government and the geothermal industry believe that there may be a geological opportunity to develop 20 million kilowatts of geothermally powered electrical generating capacity in the United States in the next two decades.

To put this in perspective, it would require about 700 thousand barrels of oil per day to generate this much electricity—nearly the entire daily production of the state of California.

As technological advances are made, we might see several times this capacity in succeeding decades. Development of geothermal energy can be a significant factor in our efforts to make the United States less dependent on oil imports. How soon and how well we can succeed will depend in large part on the elimination of bureaucratic institutional barriers such as I mentioned at the beginning of this talk.

We are also working to find and develop other new sources of energy. Through a subsidiary, we are planning a $45 million project to mine and mill uranium from deposits discovered in Wyoming. It will be sold to customers who will have it processed into nuclear power plant fuel. This project will represent a needed addition to the nation's efforts in meeting growing demands for energy at this time of diminishing domestic petroluem resources.

Last week, we advised members of the U.S. Senate that we were prepared to proceed immediately with a $100 million plus shale oil plant in Colorado providing the energy bill contains adequate incentives. I might add that shale oil can provide energy for much less than imported LNG or natural gas from Alaska's North Slope.

So, as I reminisce with you, I'm proud that our company has made some significant contributions to our society in manufacturing and in energy production and pollution control. But, it's not enough just to solve the technological problems and to make the right management decisions. Just as a successful country needs a dedicated citizenry, so does a successful and forward-thinking company need employees who are motivated, who understand, and who benefit from the system.

At Union Oil, we try to motivate our people, we help them to understand, and we see that they benefit from the economic system which has made this country great. They participate, and so they benefit.

Through our employees profit sharing plan, employees as a group are the largest voting shareholders in Union Oil, owning nearly six percent of the company's total outstanding shares worth about $120 million. The profit sharing plan covers all regular employees with a year of service and employees receive shares of stock in the company without having to contribute anything. Anything monetarily, that is.

Of course, the employee really does contribute. He or she contributes expertise and enthusiasm to make the company succeed. And under our plan the employee gains personally right along with the company's success. I know of no better way to convince society that our economic system is the best than through employee stock ownership.

In closing may I philosophize a little and share a recent experience with you—

It seems to me we've forgotten some pretty fundamental issues that have brought our country into its two hundred and first year.

I was reminded recently when we met with a group from the People's Republic of China at dinner what this country must have been like before we industrialized it and improved our standards of living. We offered the Chinese assistance on a particular problem, but a lady member of their delegation said they didn't want our help. She quoted Chairman Mao as saying, "We must learn to do it ourselves. We must struggle." And I mischievously responded—"Gosh, just like working for the Union Oil Company!!"

We Americans have in the course of our history learned to do it ourselves. We have struggled. But cannot we learn from our experiences? Have we not progressed to a point where there can be greater trust and confidence, where there is understanding that our technology has been developed for the common good, that we are one nation, with an undivided desire to preserve our personal, our social, and our economic freedoms? And that we must conduct ourselves responsibly—in our schools, our companies, our labor organizations, our civil and governmental institutions including our courts, our Congress, our churches and even the Presidency.

Freedom without responsibility is chaos and we see it all around us today. We must fight those forces in our nation who are trying to tear down America so they can have their government-planned and thought-controlled society.

And, lastly, I thank the California Manufacturers Association for this recognition. I accept this bronze sculpture of me not as Fred L. Hartley alone, but on behalf of the 16,000 plus employees of the Union Oil Company of California. For Union Oil, I thank you.

NEEDED—COWBOYS IN TEXAS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. COLLINS of Texas. Mr. Speaker, I just heard from Dub McWhorter who has a ranch 35 miles out of Andrews, Tex. He needs a good ranchhand who will put in a full day's work. Being outdoors from sunup to sundown in weather that is often rough, does not seem to appeal to Americans. This job does not pay as well as relief does for those who live in New York City.

Cattle ranching requires hard work and keeping up everyday with the cows. Many Mexicans want to come across the border and get the job, but they are not allowed a work visa. What will be the answer for the McWhorter Ranch? Here are comments from Dub McWhorter of Star Route Box 54, Andrews, Tex. 79714, in his letter to me:

> We live 35 miles from Andrews, Texas. That puts us in the center of the Permian Oil Basin and makes it almost impossible to find some one to work on Ranches. The younger generation was raised with Oil and do not understand Ranch work. There are 12 Ranches in the country (some are small one man operations) and at the time 4 of them are looking for help. This would employ 10 men. There is no shortage of work in this area, it is a shortage of help.
>
> We have 100 sections of land and run 1,200 cattle. This Ranch has been in the family since 1923 and we have had help problems for the last 20 years getting worse all the time. It has now become a desperate situation. Our problem is not because of low salary, we pay salary plus room and board which equals $725 or a little more per month.
>
> We have advertised at 3 Employment Commissions (Midland and Odessa, Tex., and Hobbs, New Mexico) and the only people to apply for the job were broke and looking for a free meal, they told us this. A qualified Ranch hand does not go to an Employment Commission for a job, instead he will go to the local Sale Barn, Feed Store or Western Wear Store. Although I am having trouble convincing the Employment Commission of this.
>
> We are desperate enough that we have put this ranch up for sale, we cannot fight drought, labor, and the Government redtape all at the same time.

PEG SWEZEY AND SISTER THOMAS FRANCIS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. ROSENTHAL. Mr. Speaker, I would like to take this occasion to call to the attention of my colleagues two people who have consistently and unselfishly worked for the betterment of the Queens Community. They are Margret (Peg) Swezey and Sister Thomas Francis.

These two people also share in the accomplishment and distinction of being the first women to serve on the board of directors of the Queens Chamber of Commerce.

Peg Swezey, through her position as vice president for business loans at the Elmhurst branch of Citibank, has helped to keep small business alive in Queens. As a Newsday article of November 28 quotes her as saying:

> If we are ever going to stabilize Queens and stop business from moving out, then—in this day when rents are going up so dramatically—we are just going to give small businessmen the capability to buy their own place of business. . . . We make the loan, but there is a 90 percent guarantee from the Small Business Administration. This program came into being a few years ago, but a lot of Queens banks have not been getting into it.

Ms. Swezey also has the distinction of being the only woman on the Jamaica Hospital Board of Trustees. In addition she has received numerous community awards from organizations which range from the Queens Boy Scouts to the Long Island City Kiwanis.

Sister Thomas Francis has served as the executive director of St. Johns Queens Hospital in Elmhurst. She is a member of many public and private community groups and is considered a dedicated and enthusiastic worker.

Both Peg Swezey and Sister Thomas Francis have taken it upon themselves to help the residents of Queens, N.Y. On behalf of my constituency I would like to thank them for all the hard work that they have done and wish them the best of luck in all their private, as well as community, endeavors.

JAZZ MUSICIAN RAHSAAN ROLAND KIRK DIES

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. RICHMOND. Mr. Speaker, Rahsaan Roland Kirk was one of America's most outstanding jazz artists. It is with great sadness that we mark his passing as music lovers and professional musicians are left with an enormous void. An article by John S. Wilson in the New York Times, December 7 presents a graphic description of the life and artistry of Mr. Kirk. I commend the following to my colleagues:

RAHSAAN ROLAND KIRK, 41, DEAD; PLAYER OF JAZZ WIND INSTRUMENTS

(By John S. Wilson)

Rahsaan Roland Kirk, the well-known jazz musician who had been nearly blind since birth and nearly immobile since he suffered a stroke in 1975, died Monday at Bloomington (Ind.) Hospital shortly after having given a concert. He was 41 years old.

Mr. Kirk gave two concerts at Indiana University on Sunday night, and was stricken as he and his quintet, the Vibration Society, were leaving Bloomington.

The cause of death was not immediately given.

Mr. Kirk's ability to play two and even three wind instruments at once set him apart from his contemporaries in the jazz world. But it also brought charges that this unusual talent was mere gimmickry.

His primary instruments were the tenor saxophone; the manzello, a straightened saxophone instrument; the stritch, which looks like a huge blunderbuss, and the flute. The saxophone, manzello and stritch were hung around his neck, along with a whistle, while the flute was stored in the bell of the saxophone. His instruments also included clarinet, a shortened song flute that he played with his nose and an electrified, humming "evil box."

Mr. Kirk managed to play three-part harmony with the saxophone, stritch and manzello, and duets with his flute and nose flute. But he disdained the suggestion that all he was offering was a musical trick.

LAUDED AFTER INITIAL SKEPTICISM

"I do everything for a reason," he said. "Nothing is a gimmick. For me to live, I have to do what I feel. I'm not trying to turn music around. I'm just contributing what I think can be done."

Charles Mingus, the jazz bassist in whose group Mr. Kirk played in 1961, was one of the first to be impressed by his unusual talents.

"This man is what jazz is all about," Mr. Mingus declared. "He's real."

After initial skepticism, Mr. Kirk quickly won the approval of jazz critics, who gave him first place in the Down Beat international critics' poll in 1962. And, year after year, they gave him a top position in both the flute and "miscellaneous instrument" categories.

His musical interests were not limited by style or period. He could be conventionally melodic or wildly abstract. He sat in with musicians as disparate as George Lewis, the elderly New Orleans clarinetist, or members of the jazz avantgarde, and he was equally at home in both situations.

Born virtually sightless—he could distinguish light and dark—on Aug. 7, 1936, in Columbus, Ohio, Mr. Kirk was playing saxophone and clarinet when he was 12. One night, when he was 16, he dreamed he was playing three instruments at once.

"The next day," he said, "I went to a music store and tried out all the reed instruments. Eventually they took me to the basement to show me what they called the scrap."

There he found the manzello. It was battered and keys were missing. But the storekeeper did not want to sell it because he felt it was a collector's item until Mr. Kirk "bugged him every day for a week." A year later, the storekeeper, remembering Mr. Kirk's interest in "weird instruments," brought the stritch to his attention.

Through the recommendations of Ramsey Lewis, the pianist, Mr. Kirk made his first recording in 1960. He traveled with Mr. Mingus in 1961, and made his New York debut in 1962 at the Five Spot.

Several years later, he began calling himself Rahsaan Roland Kirk. His actual given name was Ronald, but he never used it. He said that was because he had a series of dreams "which led me to see music even more clearly as a way of setting off vibrations within a person so that he can more deeply feel and recognize his identity and his potential."

"For me," he said, "the name Rahsaan is part of the spiritual process. It sets off vibrations."

HUMAN RIGHTS AT THE U.N.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. RANGEL. Mr. Speaker, the issue of human rights has been placed in the national spotlight by this administration. In order to continue to emphasize the need to insure basic human rights, the U.S. delegation to the United Nations believes it is now an excellent time for the creation of the post of a U.N. High Commissioner for Human Rights. This issue promises to be a challenge for our delegation, but one which, in the end, will raise our stature and respect among peoples everywhere.

Some nations have alleged that our firm stand with regard to this issue is used only for leverage in bargaining. But, on the contrary, I know that this end is a true and sincere wish by the leaders of our country. If the proposal passes and the post of High Commissioner becomes a reality, then without a doubt, an important first step will have been taken in this area of deep concern to us all.

Melissa Wells, a U.S. Representative in the U.N. Third Committee, has eloquently expressed our position in the U.N. with respect to this issue and she also explains in more detail the ramifications of the creation of such a position as High Commissioner on Human Rights. Her comments follow:

U.S. MISSION TO THE UNITED NATIONS,
New York, N.Y., November 22, 1977.

THE UNITED NATIONS AND THE CHANGING TIMES

We are now discussing what may be the key item for the United Nations this General Assembly, Item 76, "Alternative Approaches and Ways and Means within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms." It may be the key because it seems as if the focus of humankind's interest at this moment is increasingly on the question of human rights, and because there is a renewed interest and hope in the United Nations.

If we are indeed at a moment in which we can by imagination and courage take a step forward, and if at this particular moment the goal is to find new ways and means to enjoy human rights and fundamental freedoms, then what we do under this item could have a profound effect. It is not only the substance that we are considering, it is the timing. Now is the moment in which the momentum of hope will be increased, or diminished—in part by what we do here on this item. Will we be courageous enough to accept the challenge of trying something new, of daring to accept the mandate of urgency that is laid upon us by the suffering of millions of people?

The delegation of the United States believes that this is an auspicious moment for creating the post of a United Nations High Commissioner for Human Rights. This post would be an important step forward in the process of promoting and ensuring the rights enumerated in the Universal Declaration of Human Rights and in the International Covenants on Civil and Political and Economic, Social and Cultural.

Our reasons are first, we believe the High Commissioner would possess the visibility and prestige necessary to extend the "good offices" role of the Secretary-General in this important field.

Second, the High Commissioner would help coordinate the activities of the human rights organizations that have been established in recent years.

Third, the High Commissioner would serve to integrate the civil and political, and the economic, social, and cultural rights in the two covenants, and help to interpret the link between the traditional concepts of human rights with the rights of all to have their basic needs met.

In supporting the High Commissioner we realize that the United Nations could create a post which is so weak it might just as well not be established or the opposite—the United Nations could create a post which is too powerful, with a Commissioner who could unduly interfere in the internal affairs of states.

The draft resolution, L. 25, before us can navigate between both these hazards. It is neither too weak nor too strong in our opinion.

The High Commissioner is not being proposed in order to set up an independent investigator. Nothing will be accomplished if the High Commissioner becomes "High Prosecutor" and sets out on a course that leads only to confrontation, condemnation, and coercion. In contrast, the High Commissioner's functions are essentially advisory and basically providing his services to member states at their invitation. The Commissioner's function will be to facilitate or assist compliance by the member states with their Charter commitment to human rights.

Furthermore, the position of High Commissioner as envisioned establishes a position for good offices and coordination. Investigative powers remain in the hands of the Sub-Commission, protected by the 1503 procedures. The most effective work of the High Commissioner will be privately done, in consultation and cooperation with member states.

While it is quite clear the High Commissioner will not have the authority to interfere in the functions and powers of other organs already in existence, the Commissioner's coordination tasks will reduce duplication of effort; for example, through better channeling of information among the various human rights organs.

We would like to remind the Committee of the cogent statement made by the Representatives of Kenya at last Thursday's meeting At that time he said that there was always the risk that a High Commissioner could go beyond his/her mandate and interfere in the internal affairs of states, but if that occurred it would be simply up to a majority of the General Assembly to abolish the post. We wholeheartedly agree with this formulation. The General Assembly will be the strongest, and best check to guarantee that the post of High Commissioner does not exceed its jurisdiction.

The struggle for full human justice and freedom, for peace and security for all persons and all peoples, is a never-ending quest. It demands concentration and the willingness to learn and change. Often we struggle for years to contain injustice, or to right an ancient wrong, or to reduce suffering.

But now the time has come when we can take a step forward for humanity. We happen to be the persons at the right time and place and can participate in an event that opens up new hopes and possibilities.

I think that this debate and this vote is such an opportunity. We of the Third Committee, and of this General Assembly, are able to take a step forward for mankind.

At the outset the High Commissioner will be seen by the world as a symbol of hope and international concern.

Beyond the walls of this building and assembly, a silent humanity is watching and hoping that the United Nations can respond in a new and creative way to the worldwide expectation that we are entering a new era in which human dignity is a major concern, and in which governments and international organizations become agents in the promotion of human rights.

There is usually reluctance in trying the untried, in launching out in a new direction. But, faced with the urgency of the problem, what have we to lose by accepting this challenge? To wait a year, or two, or three, or four, to study more, rather than accept this modest proposal seems to me to be a denial of the urgency of the problem of human rights in the world today. We are beginning to glimpse a common truth—that we live in one world. That rights are interdependent. That freedom and responsibilities are both individual and collective. That no person or nation can be secure or free, until all nations and peoples are free. That we need each other. That we can learn from each other. That every nation and every ideology has something of value to contribute. That free debate and exchange in the United Nations is the most dynamic and powerful source of creativity and testing of old and new ideas.

The important and central debate of the last several years has focused on the relationship between civil and political and economic, social and cultural rights.

The U.S. Delegation has endorsed, on many previous occasions, the concept of interdependence of all rights. One of these is an idea which is reflected in Resolution L 17 which is currently being discussed. We see the High Commissioner for Human Rights as a key next step in the process joining together in a universal vision the economic rights of peoples and nations and the civil and political rights of all persons.

My Government believes that by daring to hope and experiment, we will be able to give more life to the dreams not only of the founders of the United Nations, but to millions of oppressed people.

TEXTILE IMPORTS

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to again express my deep concern over the increasing level of textile and apparel imports and the effect they are having on the health of our domestic industry.

The knitted outerwear industry in our country is being systematically replaced by the overseas production of knitted sweaters, shirts, headwear, gloves, and other items. This industry presently employes some 125,000 people, including spinners and dyers, most of whom are minorities and women and many of whom have limited skills. In addition, there are many thousands of additional jobs among the various suppliers to the knitwear manufacturers. The loss of jobs in this industry alone in the past 5 years total approximately 45,000 direct positions and many thousands of others supporting them. Approximately 36,000 of these have been lost in the beleagured Northeast and several thousand in my State alone.

Over 300 of the 1,200 knitting firms in operation a few years ago have gone out of business during this time and they are continuing to do so at an alarming rate. While the knitted outerwear industry is relatively small—less than 10 percent of total textile apparel sales—it accounts for half of the total textile apparel trade deficit.

While it is obvious that the goal of free trade should be pursued vigorously and undue protectionism must be avoided, there are equally obvious situations in which excesses have been allowed to develop and which must be corrected.

The wool textile industry and textile workers are particularly hard-hit by imports. They have suffered from a long-term decline caused by a high level of imports coupled with reduced domestic consumption. Imports have a far more injurious effect on an Industry with a shrinking market than on a growth industry. The combination of these factors has resulted in the closing of an estimated 130 mills and the loss of 81,000 jobs in the country.

Penetration of wool textile imports has risen from 22 percent in 1968 to an estimated 44 percent this year. Imports of wool fabrics, apparel, and other wool products are rising sharply—they are 38 percent above 1976 levels and 76 percent above 1975 levels in yardage. The U.S. trade deficit in wool products alone this year will be more than $640 million.

Most woolen mills are small and medium-sized businesses which employ from 100 to 500 workers and are usually located where they constitute a principal source of manufacturing employment. Each job in a wool mill creates at least one additional job in support industries such as energy, chemicals, and transportation.

The special trade representative has said that the new agreements with Hong Kong and Korea "have been praised by industry and labor." The textile and apparel industry representatives who participated as advisers in both negotiations have said that they did not accept and agree to the bilateral contracts negotiated. I have been advised that at least one labor adviser was sharply critical of the agreement with Korea.

My legitimate pleas in behalf of my constituents and of these manufacturers who need the help of Congress have been treated with indifference and insensitivity. Requests that meaningful changes be made in the multifiber arrangement have apparently gone unheeded and, if renewed, the MFA will continue to permit excessive growth rates for imports. It is under the very protection of the MFA that this industry has suffered its worse setbacks.

With no assistance in reforming the MFA and with liberal bilateral agreements now behind us we are being told that the textile apparel industry is to be included in the Tokyo round of multilateral trade negotiations in Geneva. This would be catastrophic and would raise real questions about the formulation and conduct of U.S. trade policy. Surely, the annihilation of the knitwear industry would be hastened beyond the present timetable established by previous failures on the part of our Government and serious additional attacks would be launched by our foreign competitors against the rest of the textile and apparel manufacturers.

I am speaking for 2,300,000 employees whose jobs will be further threatened by reductions in tariffs on incoming goods. Nearly 74,000 of these jobs are in Massachusetts and when those jobs are eliminated it will be very difficult to find new places for those employees. Is this not wholly inconsistent with our other efforts to create new jobs and to solve our serious unemployment problem? Many thousands of jobs would be created here at home if we were to reclaim some of the production that we have allowed to go abroad.

The following articles clearly illustrate the critical nature of this problem. I am sure that you will find them of interest; the first attachment is a particularly poignant example of the future of the textile industry if we do not take action now.

SALE BY PUBLIC AUCTION: KNITTING AND SEWING PLANT

Per order of the assignees for the benefit of creditors.

200 sewing machines; 70 knitting machines; cutting, spreading and pressing machines, laundry machinery, plant equipment, 80,000 yards fabrics, 25,000 lbs. yarns.

Re: New Knit Manufacturing Company.

(Manufacturer of Knit Sweaters & Bathing Suits.)

To be sold on the premises—21 Nottingham St., Lowell, Mass., Tuesday, December 13th, starting at 10 a.m.

Inspection: Monday, December 12th, 9 a.m. to 4:30 p.m.

Joseph Finn Co., Inc., Auctioneers, 15 Broad Street, Boston, Mass. 02109.

[From the New York Times, Dec. 4, 1977]

TEXTILE MILLS BATTLE IMPORTS

(By James Barron)

UNION CITY.—The clatter of weavers at work still spreads through William Radhuber's textile mill, which can turn out 100 dozen knitted sweaters a day. But the noise is fainter these days because the orders are smaller, the weavers are fewer and the profits are slimmer.

Like most other New Jersey mill owners, Mr. Radhuber is fighting—and losing—the battle against products imported from the Far East that cost less than garments made here. Threatened, the owners say, by a combination of hard luck and hard times, many are wondering if they will be forced to close their factories.

More than 200 in the New York metropolitan area already have, including 30 in the urban New Jersey area, where unemployment is currently abnormally high.

Textile industry observers agree that the explosive growth of the imported market has radically changed the character of the fad-ridden, seasonal domestic business in the last five years.

Despite the problems of damaged or inferior foreign goods, dock strikes and delays, wholesalers in recent years have come to prefer the cheaper imports. That decision, coupled with relentless pressure from the government to spend billions on safety equipment, has stunted the industry's recovery from the recession of the early 1970's.

Mr. Radhuber's 44-year old family-owned concern, Bergen Knitting Mills, is typical of those affected. "When business was good, we were doing 'gangbusters' here—1,000 dozen sweaters a week," Mr. Radhuber recalled the other day. But he said that his plant was falling "far short" of the 500 dozen a week needed to break even, and was having problems finding labor when work was available.

George Vargish Sr.. president of the National Association of Knitted Outerwear Manufacturers, conceded in a recent interview that "despite our efforts to meet the competition from the Far East, our technology cannot offset the vast differential between the wage rates."

As a result, the foreign mills are supplying the wholesalers and retailers that once did business with the New Jersey mills. Last year, for example, imports increased 34 per cent over 1975, and domestic production declined. This meant that imports of sweaters and women's knit shirts exceeded the total production in this country.

The state's Department of Labor and Industry estimates that 11,000 workers have been laid off in the last five years, trimming the number of textile workers in New Jersey to 23,900, according to seasonally adjusted figures for last October.

The state's knitted outerwear manufacturers appear to have been among the companies hit the hardest by the upsurge in imports. The number of jobs in their segment of the textile industry having dropped from 14,100 in 1973 to 9,700 at present. The clothes they make, which represent 5 percent of all textile-apparel sales, account for more than 50 percent of the textile-apparel deficit, some $1.3 billion of a $2.6 billion total.

But the knitwear companies are not alone. The makers of silk ties and scarves also report a sharp decline in their business and, contrary to the import problems facing the sweater manufacturers, difficulty in exporting their products to Asia.

In addition, according to Arthur O'Neill, an official of the state's Department of Labor and Industry, the effects of the textile industry layoffs spread to related industries, such as dye houses and trucking companies.

Textile union officials added that every plant job lost costs an additional 2.5 other positions.

For the mills that survive, the foreign competition has retarded production in what is said to be the lowest-paying manufacturing industry in the nation.

The mills' lackluster profits, also among the lowest, have been inhibited by recent rapid increases in both the volume of imported goods and the number of exporting countries.

The National Association of Knitted Outerwear Manufacturers, a trade group based in New York City, argues that the foreign mills pay cheap wages and permit working conditions repugnant to the American idea of labor standards, even though they rely on American-designed patterns and make garments identical to those manufactured by New Jersey plants.

The salary in Hong Kong is 78 cents an hour; in South Korea, 39 cents. In New Jersey, the minimum wage is $3.74, and the companies here also are required to maintain retirement benefits and Social Security funds for each worker, something that the Asian mills do not have to do. Nor do the overseas mills hold to the five-day work week. In Taiwan, for example, a seven-day work week is the norm.

The productivity of the foreign mills underscores the fact that the import problem is a relatively new phenomenon in the fad-dominated fashion industry in New Jersey, which a few years ago faced competition only from non-union mills in the South.

As recently as 1968, fewer than 500,000 men's and boys' suits were imported. But in 1976, a total of 3.6 million came from overseas. And imported sports coats, which made up 10 per cent of the market nine years ago, rose to nearly 50 percent last year.

Peter Freund, president of the Peter Freund Knitting Mills in North Bergen, a company that his father founded in 1919, said that such statistics were "the death knell of the industry as we know it."

Mr. Freund's mills, which make sweaters for wholesalers and retailers, employed 300 people 10 or 15 years ago. Today, his roster has been pared to 100 employees, who spend several months a year on unemployment or partial unemployment.

A number of mill owners, including Mr. Freund, and union spokesmen have asserted that the Government is unwilling to intervene to protect domestic manufacturers because of the fear that such action would bring retaliation from abroad. The owners contend that the general textile-apparel industry grows at a rate of 2.5 percent a year, while the Governmenet allows a 6 percent annual increase in imports.

As a result, the owners have asked Robert F. Strauss, President Carter's special representative for trade negotiations, to seek a rollback of 8 percent for each of the next three years on knitted sweaters and shirts imported from Taiwan.

This limit could raise total domestic production by more than 16 million shirts and 10 million sweaters a year, according to Representative Harold C. Hollenbeck, Republican of East Rutherford.

Mr. Hollenbeck and 11 other members of the New Jersey's Congressional delegation contend that the present duties are incapable of protecting American industry, particularly because a significant number of developing nations are working to improve their low-wage textile export capabilities.

These duties and other matters are being negotiated in a series of agreements called bilaterals. At present, one pact with Taiwan is under negotiation, and talks with Japan will start in about 10 days. Similar agreements have been recently concluded with Rumania and Poland.

On the state level, Governor Byrne has asked Carter to urge that essentially the same rollback steps be taken. Mr. Byrne said last month in a letter to the President that such a move could create up to 4,000 new textile jobs in the state.

The extra jobs could restore the comforting sound of productivity and prosperity to the din of the machines in plants like Mr. Radhuber's. At the moment, he hears a note of despair as the shuttles shoot back and forth in their rhythmic creation of sweaters. Mr. Radhuber's plant is running at about 50 percent capacity, a level low enough to make him wonder whether he may eventually find it necessary to close the business his father founded in 1933.

Mr. Radhuber has watched the character of his change radically in the last few years, from a concern that manufactured large runs of everyday garments to a specialty manufacturer that took on orders too complicated for the foreign factories. This is less efficient, he said, adding: "You lose time, bring down sales and volume and price yourself out of reach. First thing you know, you're drowning."

The imports also have forced Mr. Radhuber, as well as other New Jersey textile manufacturers, to adopt methods for survival that involve ingenious strategies and hard-headed management techniques, diversity and a willingness to accept smaller, short-term runs of products.

Mr. Vargish, who is chairman of Vargish Mills in Carlstadt, has faced similar problems. He said that his company had closed plants in Puerto Rico and Union City, increased its top management and added several new product lines—a dramatic change from its specialization in ladies' sweaters of 10 years ago.

But his son, George Vargish 2d, who is also associated with the company, added, "Regardless of how resourceful we try to be, it's a futile struggle. Our business is shrinking."

New Jersey's contribution to textile output has been shrinking almost from the time of the first cotton mill in the state, which was built in Paterson by the Society of Useful Manufactures in the 18th century. Around the time of the Revolutionary War, that city led the state with 25 spinning jennies and 60 single looms, but other towns along the Passaic soon joined the expanding industry.

The first silk mill was opened in 1838, and by 1870 Paterson was making half the silk manufactured in the United States. Forty years later, 300 silk manufacturers in the Paterson area were turning out 40 percent of the silk and ribbon made in the United States.

But then came the strike of 1913, during which 25,000 workers picketed and rioted for increased wages and reduced working hours from 55 a week. Mills with such names as Pelgram and Meyer, Katterman and Mitchell, and Dardy and Wardsworth were quiet at a time when, old-time textile workers now recall with pride, any four-story building near the Passaic River was a mill.

The industry rebounded by 1925, with 691 silk manufacturers and scores of immigrants, many of whom had arrived here from Poland with small looms to compete with the big manufacturers.

Two long-time Paterson weavers, Jacob Laurence and Joseph Waksberg, who is 74, remember those days.

"It was nice," Mr. Waksberg said. "The automatic looms forced weavers to run around the machine, watching if any big knots came up. When a weaver came home, he was pooped out."

Some of Mr. Waksberg's colleageus, who reminisced while sitting around a small round table in Mr. Lawrence's modern apartment house the other day, recalled the grand old days of the textile industry along the Passaic, and told how they came to the city of silk in the 1920's not knowing English. Some of the weavers wanted to go to night school, but were so exhausted that they fell asleep during classes and had to drop out.

Mr. Waksberg concluded sadly: "If the industry was what it was 30 years ago, I could get a day or two of work a week."

PRIVATE SECTOR IS KEY TO JOBS

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, the issue of unemployment has been of major concern for several years, and it is particularly disturbing to those of us representing congressional districts which continue to have large numbers of people unemployed.

While the Congress has attempted to identify legislative solutions to this recurrent problem, we must all realize that, in the final analysis, the private sector is the job-creating sector.

The Santa Rosa Press Democrat, the largest newspaper in the redwood empire, has some realistic views of the Federal Government's attempt to create "full employment" and suggests that the best method to reduce joblessness is to encourage the private sector to invest in new plants and new products. I think my colleagues will find this editorial worthwhile reading.

As my colleagues know, I have strongly expressed myself before on the need to permanently cut taxes that would release more money to the private sector and subsequently provide investment capital for the free enterprise system resulting ultimately in creating more jobs and more purchasing power. This is the way to a stable and prosperous economy.

The editorial follows:

PRIVATE SECTOR IS KEY TO JOBS

When President Carter was campaigning for office, he promised his support for the Humphrey-Hawkins full employment legislation.

When he reached the White House, he took another look at the bill with his economic advisors and became lukewarm toward the legislation.

The bill, which sought to reach a goal of 3 percent unemployment in 18 months, was revised. Even with the addition of 2½ years to the deadline for achieving a 3 percent rate, the bill failed to reach the floor of either house for a vote last year.

Now the bill has been revised again, and President Carter has endorsed it. The goal of 3 percent unemployment remains intact, but still another year has been added to the target date, making it five years. The bill sets as a national aim, "the fulfillment of the right of all Americans able, willing and seeking to work full opportunities for useful paid employment at fair rates of compensation."

Even this watered-down version of the original Humphrey-Hawkins bill is a cruel hoax on the general public. It promises things the federal government can't deliver. The bill offers no specific programs to provide jobs. It directs the President to create a "reservoir of public service jobs" paying minimum wages or higher for those Americans unable to find work.

Presumably, the definition of "useful" employment will be left up to the federal government. Also the determination of who has the "right" to a job.

It is a known fact that among the ranks of the unemployed are many who refuse to take jobs they don't like. They are looking for work which is "meaningful" to them. Can the government promise all such people it will provide jobs they will find "meaningful"? And how does an employer, either private or public, supervise, discipline or terminate an employee who has a "right to a job"?

It reminds us of the latest effort at "full employment" by federal law. That was the Employment Act of 1946, which established "full employment" as national policy and would have "assured" everyone who wanted a job that one would be available. By the time Congress got through taking a realistic look at the bill, it was reduced to a mere statement of policy of achieving "useful employment opportunities for all seeking work."

We think the same thing will happen to the Humphrey-Hawkins bill.

We think the way to reduce the unemployment rate is to encourage the private sector of our economy to invest in new plants and new products, thus producing new jobs. Federal law is not the answer.

INSTALLATION OF UKRAINIAN CATHOLIC ARCHBISHOP OF PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. EILBERG. Mr. Speaker, I am pleased to be able to inform my colleagues of the installation of Bishop Joseph M. Schmondiuk as the third Metropolitan Ukrainian Catholic Archbishop of Philadelphia.

The installation ceremony was held December 1 in the Cathedral of the Immaculate Conception B.V.M., with Archbishop Jean Jadot, Pope Paul's Apostolic Delegate to the United States, officiating at the installation.

The ceremony was followed by a divine liturgy celebrated by Bishop Schmondiuk; Bishop Jaroslav Gabrow, Ukrainian Catholic Bishop of Chicago; and Bishop Basil H. Losten of Philadelphia, who was recently acting bishop of Philadelphia but who is succeeding Bishop Schmondiuk in Stamford, Conn.

Archbishop Schmondiuk, Bishop of Ukrainian Catholics in Stamford for the past 16 years, will be spiritual leader for 180,000 Ukrainian Catholics in the Diocese of Philadelphia, which extends along the east coast, south of New York and east of the Mississippi River.

The new Metropolitan Archbishop attended St. Peter's Catholic School in Philadelphia and is a 1930 graduate of St. Joseph's Prep, also in Philadelphia.

Some 40 prelates of Roman and other rite Catholic churches attended the ceremony. Heading the list of religious dignitaries were John Cardinal Krol of Philadelphia, William Cardinal Baum of Washington, D.C., and John Cardinal Cody of Chicago.

NATIONAL HEALTH GUIDELINES AND THEIR IMPACT ON RURAL HOSPITALS

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. BAUCUS. Mr. Speaker, during the past 2 weeks I have received nearly 10,000 letters from Montanans who are concerned about a single issue. It is, however, not just the sheer numbers of letters that makes this event significant. I often receive large amounts of mail on a single issue, but unlike before, these letters are not preprinted form letters.

They are lengthy, handwritten individual letters from frightened Montanans. The reason for their fear is the possible impact of the national health planning guidelines which were published in the Federal Register on September 23.

If Montana's hospitals tried or were in some ways forced to meet these guidelines, 19 Montana hospitals in isolated, rural areas of my State could be closed and a great many services in our larger hospitals would be reduced or eliminated.

I have devoted a very large share of my time since I was elected to Congress in 1974 working to improve rural health care, and I am more than disappointed by HEW's insensitivity and apparent ignorance of rural needs evidenced by these proposed guidelines.

HEW officials keep telling me that these guidelines could and would not close any Montana hospitals; that there are exceptions for rural areas. There are, in fact, some exceptions, but they are vague and confusing and oral assurance from HEW that rural facilities would not be hurt is not enough.

Furthermore, it is imperative that rural health needs be included in any national health planning. To this end, I have taken the following steps to help insure that the final guidelines are appropriate to Montana's rural health needs:

First. I wrote to Secretary Califano, as did other Congressmen from rural districts, to request that the comment period, which was to close on November 22, be extended. As a result, the comment period was extended to December 9, which gives Montanans and other rural citizens more of an opportunity to offer their comments.

Second. On November 30, I met with Secretary Califano in his office and placed before him the thousands of letters from Montana to show him how much this issue means to my constituents. At this meeting Secretary Califano gave me a copy of a letter about these guidelines he was sending to each Member, which I have reprinted below.

Third. On December 1, I cosponsored a congressional resolution (H. Con. Res. 415) urging Secretary Califano and President Carter not to include in the guidelines any provisions which could directly or indirectly cause the closing of any rural hospitals.

Fourth. Last week I had an HEW official from the regional office in Denver travel with me to six rural communities in Montana to respond to questions about the guidelines and to see firsthand that the health needs of rural Montana are different from the health needs of most other parts of the country.

Fifth. I reintroduced my rural health bill (H.R. 10250) which seeks to eliminate unrealistic Federal certification standards for small rural health facilities. The rural health bill, originally introduced as H.R. 5808 on March 30, 1977, has been revised to provide State nursing boards with a veto over waivers of 24-hour nursing requirements for small rural health facilities.

Sixth. I introduced a bill (H.R. 10251) to provide Congress with a veto power over national health planning guidelines.

I could enclose scores of additional documents further describing this problem in greater detail, but I think the following three will suffice: First, an excerpt of the Montana Hospital Association's November 8 critique of the proposed guidelines; second, comments on the guidelines by the Montana Medical Association; and third, Secretary Califano's latest statement of HEW's position on the guidelines.

[From the Montana Hospital Association, Nov. 8, 1977]

COMMENTS ON POSITION PAPER—NATIONAL GUIDELINES FOR HEALTH PLANNING

(Issued September 23, 1977, by Department of Health, Education, and Welfare)

IMPACT STATEMENT

Preface

The following is the official statement of the Montana Hospital Association regarding the impact the literal application of the National Guidelines for Health Planning would have upon the hospitals and the people being served by the hospitals in Montana.

The projections of hospital bed need estimates were furnished by the Montana Health Systems Agency, Inc. and are contained in the revised draft (November 3, 1977) of the General Hospital Acute Inpatient Services component.

The proposed guidelines purport to provide short-term solutions to problems related to health care costs and quality of care. The guidelines will provide a major Federal input to the plans currently being developed by the Health Systems Agencies, contrary to the mandate contained in Public Law 93–641, which requires that planning be conducted on the local level. These plans, in turn, will be used to control hospital capital expenditures through 1122 review and certificate of need programs. The Health Systems Agencies will be compelled to develop a state health system plan and to make the plan "consistent" with these Federal Guidelines within a five year period. Obviously, if the Health Systems Agencies want to achieve the full designation status as the health planning organization in their health service area, they will accede to the Federal government orders to make the state plan consistent with Federal Guidelines.

It is obvious the National Guidelines were not developed to take into account the unique situation which exists in Montana where an alleged "excess" of beds exists due primarily to the need for many small rural facilities which provide essential services to a sparsely distributed population (750,000 people) contained in the vast area of the state of Montana (147,000 sq. miles). In addition, Montana, as are all northern tier states, is subject to adverse weather conditions which complicate the mobility of the people but is further evidence for the survival of all facilities.

Unless the National Guidelines are changed to more adequately reflect the concerns of health care delivery system in the western part of the United States and unless more authority is given to the local Health Systems Agency to waive the strict and inflexible application of the Guidelines so as to better fulfill the obligation to the needs of the people in the service area, then the HSA should not be forced to develop a state plan which would be unworkable and unacceptable to the people in their service area.

To do otherwise would have detrimental impact upon the health care delivery system in the state of Montana which has traditionally and factually proven to have provided high quality care at a reasonable cost for all of the people of the state.

Hospitals facing complete closure and/or significant reduction of beds due to close proximity to each other and having less than 80% occupancy:

	(1)	(2)
Community Hospital, Anaconda	60	2,164
Dahl Memorial, Ekalaka	16	364
Big Sandy Medical Center	9	353
Sweet Grass Community, Big Timber	17	263
Liberty County, Chester	11	363
Roosevelt Memorial, Culbertson	19	506
Powell County Memorial, Deer Lodge	35	1,450
Rosebud Community, Forsyth	26	611
Chouteau County District, Fort Benton	17	392
Big Horn County Memorial, Hardin	16	694
Livingston Community, Livingston	54	1,828
St. Luke Community, Ronan	25	785
Mission Valley, St. Ignatius	30	913
Toole Valley, Shelby	30	850
Ruby Valley, Sheridan	20	563
Prairie Community, Terry	8	163
Broadwater, Townsend	21	466
North Valley, Whitefish	44	2,016
Poplar Community, Poplar	22	865

[1] Current licensed beds.

[2] Admissions, 1976.

Impact of Guideline II on major facilities

In accordance with Guideline II (less than 80 percent occupancy) examples of change in the number of beds which could be ordered to be accomplished by 1985 in major cities in Montana are as follows:

Great Falls—Reduction of 158 beds.
Missoula—Reduction of 98 beds.
Havre—Reduction of 31 beds.
Billings—Addition of 51 beds.
Butte—Reduction of 136 beds.
Miles City—Reduction of 47 beds.
Libby—Reduction of 17 beds.
Polson—Reduction of 13 beds.
Kalispell—Addition of 22 beds.
Hamilton—Reduction of 5 beds.
Conrad—Reduction of 15 beds.
Bozeman—Reduction of 13 beds .

CONCLUSION

The short-term solutions provided in the proposed National Guidelines for Health Planning have negative long-range effects in Montana. The total accumulative effect of closures and/or reduction of beds on communities must be considered.

Montana's small rural communities will of necessity suffer extensive social and economic losses. Loss of revenue in the community due to the closure of the hospital and loss of income for personnel employed by the facility may in many cases lead to economic collapse of the small rural town.

Closure of hospitals may well mean loss of all medical manpower previously available in the community as physicians generally tend to locate in communities already having an established hospital where they can fully utilize their skills and medical knowledge.

As population shifts occur in the next five to ten years, it may be necessary for some of the closed hospitals to reopen or to have new facilities built in expanding communities. The costs of expansion will far outweigh any savings derived from the closure at the present time and/or the reduction of beds in Montana's hospitals.

The Congressional intent of the National Health Planning and Resources Development Act of 1974 (Public Law 93-641) was designed to establish locally oriented, long-range planning by the very people who live and work in the health service areas, who utilize the services and who are aware of the needs of the area's residents. The Congressional intent was not for centralized federal control of health care throughout the nation. However, this recommended federal policy position contained in the National Guidelines works to the detriment of effective health care planning which should be based upon the health care needs of the people of the area, currently being studied by Health Systems Agencies in every area of the country.

Health services must be developed, prioritized and offered in a reasonable manner taking into account local considerations, local current health care resources, local adverse travel conditions and the ability and desire of the people living in the area to pay for the services.

THE MONTANA MEDICAL ASSOCIATION,
November 17, 1977.

OFFICE OF PLANNING, EVALUATION, AND LEGISLATION, HEALTH RESOURCES ADMINISTRATION, CENTER BUILDING, HYATTSVILLE, MD.

GENTLEMEN: As requested in the September 23 issue of the Federal Register on page 48502, this Association does hereby comment upon the proposed National Guidelines for Health Planning as promulgated by the Public Health Service, U.S. Department of Health, Education and Welfare.

Prior to 1974 when Public Law 93-641 "The National Health Planning & Resources Development Act" was signed into law, it was continually voiced by the federal spokesmen that the law was designed to insure that local health planning would be done on the local level and within very broad parameters to be established subsequently by national guidelines. It is the belief of this Association that the intent of Congress has not been fulfilled in the agency's interpretation of the law, the effect being shown in the guidelines.

It is our opinion after reviewing these proposed national guidelines that the concept of local planning for local needs under Public Law 93-641 is, in fact, not apparent. The guidelines, in actuality, do become federal directives which a local health systems agency must follow in establishing health plans for institutional providers. This, of course, is contrary to the claim that the guidelines would allow sufficient flexibility for each locality to adopt a health plan consistent with the health care needs and peculiarities of that locality; the criteria set forth are rigidly drawn and the limited exceptions to the general guidelines are equally rigid.

This Association is extremely concerned that implementation of these guidelines will result in a reduction of necessary patient care services, particularly in rural areas. The members of the Montana Medical Association are curious as to what statistical basis HEW utilized in reaching the conclusions drawn in the guidelines. The Association is also concerned as to why appropriate groups, associations, etc. were not consulted in development of the proposed guidelines. As stated previously, local planning for local needs is not apparent in the guidelines and we are concerned as to by what authority the Secretary can mandate compliance by HSA's with the guidelines. It is obvious that the guidelines do not take into account change in medical practice due to technological innovations and advancements. Of curious note is how many current HSA's are able to meet the standards set forth in the guidelines. And, what options do remain for local planning by local HSA's if the guidelines, in effect, are mandatory rules of compliance.

The entire thrust of the guidelines definitely emphasizes cost control and ignores additional expenses which would be incurred such as transportation, rental housing, wages lost, etc.; the cost therefore, in reality, being transferred from providers to other segments of society. The guidelines, since being directed towards cost control, are seriously jeopardizing, in Montana, continued operation of several hospitals. Closure of facilities will undoubtedly force severe economic hardship upon communities and, of course, also jeopardize the continued availability of medical care, that is, a physician(s) continuing to practice. The guidelines appear, we feel, to usurp the efforts of both consumers and providers who have worked earnestly drafting Montana's HSA and will perhaps make future efforts in health planning futile.

The members of the MMA seriously question the general hospitals-patient-population ratio of 4 per 1,000 and the basis upon which such statement was made. The occupancy rate of 80% appears unrealistic considering fluctuations in patient utilization of hospitals. In reality, these two guidelines should be considered together and may, in effect, actually be contradictory. The exceptions allowed were obviously not intended nor was consideration given to the state of Montana in their drafting. As a very minimum, of course, assurance is required so that a mechanism is established to allow specific waivers for particular localities.

The obstetrical services guidelines could very well, if adhered to, deplete severely or eradicate completely such services for Montana residents. The figures quoted do not appear to be realistic, again in light of Montana's needs and its realities. Pediatric inpatient services and neonatal intensive care units as mandated by the guidelines would severely deplete, it not completely eradicate, such services for children of this state. The travel time alluded to, etc. therein in discussion for pediatric inpatient services appears totally unworkable within the vast distances of our state. Occupancy rates relative to pediatric inpatient services may, of course, become contradictory relative to numbers of beds "allowed" by the guidelines.

Relative to open heart surgery and cardiac catheterization unit services and the procedures allowed annually there is definitely the indication that now services in this area would not be allowed for Montana in the future. This, of course, would necessitate Montana citizens traveling vast distances to obtain required care; of course, additional expenses by families and patients could very well be significant.

In consideration of guidelines proposed for radiation therapy and computed tomographic scanners the possibility definitely exists that of the seven radiation therapy units established in Montana two would be closed down and again total uncertainty about new services in the future and, travel again becoming apparent for patients and relatives alike. The guideline proposed for CT Scanners appears to indicate, relative to procedures performed, that such equipment should, in effect, not even be located in the state. If such regulation was, in fact, executed for this state, the citizens of Montana would obviously have to undertake considerable travel to other centers for such procedures which obviously would cost more in air fare alone than the test itself. It is believed the guidelines are contrary to the original intent of the Hill-Burton concept on hospital construction, curtailing and/or eradicating specific numbers of beds.

It is obvious that such proposed National Guidelines for Health Planning will have a definite negative effect upon health care in Montana as well as effecting severely social and economic outlay. Adherence to such regulations shall undoubtedly place severe hardship upon the major portion of Montana's population and, in effect, curtail quality medical care.

This Association is totally concerned with the quality of medical care provided to the citizens of our state. We strenuously object and disagree with the guidelines as proposed.

This Association believes such unilateral and arbitrary decisions made at the national level without prior consultation, except via comment of regulations already promulgated, completely usurps the prerogative of individual citizens in their choice of obvious necessities at the local level.

We most sincerely hope you will consider the opinions of this Association in discussions upon the proposed National Guidelines for Health Planning as promulgated in the Federal Register September 23.

This Association respectfully requests an extension of 90 days from November 22 for appropriate comment. It is essential the providers and consumers alike in consultation with the state's Governor develop workable guidelines realistic for each state's needs.

Sincerely,

James K. Cope, M.D.,
President, Montana Medical Association.

The Secretary of Health,
Education, and Welfare,
Washington, D.C., November 30, 1977.

Dear Paul: In September this Department took a major step in our efforts to control rising health care costs and to assure quality health care for the American people. As required by the National Health Planning and Resources Development Act of 1974, the Department published for public comment proposed National guidelines that would establish numerical standards for judging whether specific inpatient medical services and facilities are needed in individual communities.

While State and local planning agencies alone have the authority to review major new capital expenditures for medical facilities and equipment, this Department's effort to provide numerical guideposts is mandated by the National Health Planning Act and is critical to assist States and local communities in providing quality care without unnecessary costs. It should be clear, however, that neither the Act nor the guidelines provide any authority for the Federal Government to close any hospitals or to eliminate any services.

Several members of Congress have expresesd concern about the role of these guidelines under the 1974 Act as well as over some of the specific provisions in the proposed guidelines. In view of the importance of these guidelines and of our activities under the National Health Planning Act, I wanted to provide you personally with background on the purpose of the guidelines, the way the guidelines will be used, and our current thinking on some of the changes we envision as a result of comments we have received.

The National Health Planning and Resources Developemnt Act establishes a complex system that lodges planning decision-making in the hands of local and State planning agencies. The details of the program are set out briefly in the enclosed attachment.

While authority to review proposed new capital expenditures rests solely with the local and State planning agencies, the Act provides an important role for HEW. The Act directs HEW to develop "national guidelines," for the State and local planning agencies. These guidelines must include standards that establish the appropirate supply and distribution of health resources, and they must set goals that "to the maximum extent practicable," are expressed in numerical terms. The law requires local health plans which set out a community's need for medical care services to take into account and be consistent with HEW's guidelines.

But despite the Act's mandate to the Department to issue final guidelines by mid-1976, the previous Administration had not published even proposed guidelines by January, 1977—two years after the Planning Act was passed. Every day of this delay has substantially hampered the ability of the State and local planning agencies to act forcefully, as Congress contemplated, to assure the availability of quality care and to stem unnecessary and excessive increases in medical costs.

While the establishment of the local and State agencies has proceeded, albeit slowly in many cases, the Federal responsibility to provide guidance was simply not being met by this Department until the new Administration took office.

This Administration is committed to make the National Health Planning Act work. We believe the Act provides a major tool to help assure quality care at reasonable cost. In direct response to Congressional urging, we began to produce the guidelines called for by the Act of 1974. In September, we published for comment proposed guidelines that Congress had sought to have published nearly 18 months ago.

We published the guidelines in proposed form to obtain comment, and we are pleased the comment has been spirited. We intend to listen and learn from these comments. Not only have the comments helped us learn, they have also started in earnest a debate that must occur if we are to stem spiralling medical costs. We simply must develop appropriate standards to measure the real need for medical facilities and equipment in this country.

The comments we have received so far have primarily voiced three concerns:

That the proposed guidelines, as currently drafted, might force small rural or community hospitals to close;

That the standard applicable to obstetrical units may be too strict;

That the guidelines will tend to take decision-making out of local hands.

I appreciate these concerns, and I think it is useful to respond directly to each.

Rural and community hospitals.—The guidelines currently provide for exceptions for rural hospitals and exempt such hospitals from the standards if they provide services to patients who would otherwise be more than 45 minutes travel time from a hospital. In response to the comments we have received, we intend to clarify and broaden the exceptions applicable to rural and community facilities when the guidelines are revised. Our objective is to improve access to needed, high quality health care for those living in rural and other under-served areas.

Obstetrical units.—The Department recognizes that the currently proposed standard for obstetrical units may be too strict. We intend to review this standard carefully and to revise it appropriately to take into account the objections that have been raised.

Local control.—Nothing in the National Health Planning Act or in the proposed guidelines would or could take decisions concerning individual facilities out of local hands. The guidelines give local and State agencies national benchmarks to help in drawing up local and State plans. The plans should, and indeed must, recognize special local circumstances and requirements, and the guidelines will provide for recognizing such circumstances.

These guidelines are directed at guiding the development of local plans concerning the organization and delivery of health services. They do not include any Federal authority to close any hospitals, or to eliminate any services. Neither the Act nor the guidelines can require any local Agency, any State Agency, or the Secretary to close any hospital or hospital services.

The planning process established by the National Health Planning Act represents a critical element in our hopes to ensure access to quality health care and to hold down costs. Strong workable national guidelines are critical to that process. We intend to evaluate carefully all the comments received on the proposed guidelines and to revise them in a careful and responsible manner. I would welcome further comments or questions about our current proposals.

Sincerelv,

Joseph A. Califano, Jr.

SPEEDY PASSAGE OF THE HUMAN RESOURCES DEVELOPMENT ACT IS NEEDED TO INCREASE LABOR PRODUCTIVITY AND REDUCE INFLATION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. STEERS. Mr. Speaker, many people in Congress, business, and the academic world have given considerable thought to which approach should be used to combat the continuous threat of inflation. One of the best approaches, in my opinion, is for labor and management to work together in order to combat common problems. It is especially important that both sides see that the increase of productivity is in their common interest. The problem of job dissatisfaction is undoubtedly one of the primary reasons for lagging productivity—a condition which eventually hits every American in the pocketbook through higher prices. Only with increases in productivity, either through technological advances or through better managerial techniques at the workplace, can there be a solid foundation for increased wages.

With these thoughts in mind, I believe that the Members of the House will be interested to read the following interview that appeared in the Washington Star on December 6, 1977. Mr. Sidney Harman, Undersecretary of Commerce, gives his views on how to increase job satisfaction in the American workplace:

Making You Satisfied in Your Work

Question: Just what do you have in mind when you talk about job enrichment?

Harman: It has to do with taking a job which is otherwise routinized, mundane and ordinary and somehow adding to it in a way that makes it a little bit more tasty. If you will, it's the business of doing a better job with a steak, add a condiment or two to it and give the person who has the job some more to do, thus enriching the job, period. That's as far as job enrichment goes, and there's nothing wrong with that. It's just a piece, and in my judgment a relatively small piece, of the total matrix that has engaged my interest.

Q: What else is involved in this total matrix?

A: My concern is with human growth and human development. It arises out of awareness that in an industrial society the world has changed very dramatically over the 50 years or so since Frederick Taylor established the fundamental principles of professional management. And you'll recall at that time that the ideal worker characterized by him would be an ox, a man, a woman, with no personal thought, no personal sense of creativity, no sense of self. The ideal way to design work was to reduce it to the absolute minimum common denominator so that the machine was dominant and the person became subordinate to the machine, or a replacement spare part in the machinery. That probably was right for its time—if by right one is talking about questions of productivity and the growth of the nation. But working people today really are of a different breed. They are younger. They're better educated.

Q: How do you see your position as undersecretary of Commerce helping you advance this cause?

A: Coming to Washington promised me an opportunity to work on a much broader scale, a much wider spectrum than what I'd done in private industry. It also provides the opportunity to quite candidly proselytize my point of view nationally. Everybody in the nation has heard of the inflexibility, the rapacious quality of the bureaucratic life. "Don't be a fool. Don't think that anything can be done that in any way can hope to change that character of government, of bureaucracy." But one of the other opportunities of coming to the department of Commerce provides is the opportunity to determine whether that is truly all that inflexible and all that impervious to change. Everybody talks about the alienation of the people who work with them, the bureaucracies. Everybody talks about how disenchanted they are, how inadequately they function. Everybody puzzles what to do about it. I do think I know something about what can be done about it in any institution because the principles are, as far as I'm concerned, fundamentally applicable throughout society.

Q: What have you done to date with the bureaucracy to humanize the working condition more?

A: I do hope that however this comes out it won't sound patronizing. I have not busied myself running around as the resident evangelist, trying to persuade everybody in government to please listen to my message. Perhaps the first thing is how we staffed this enormous and complex place. Commerce is generally regarded as something of a conglomerate, and my original assignment was to develop a procedure so the secretary and I could select the assistant secretaries for this enormous place. I knew quickly enough that I knew very little about the actual technical work of the department. I determined to hold a series of seminars. We said the purpose of the seminar was twofold: first to let the young undersecretary get a crash course in whatever it was—domestic and international business, science and technology; and second, to help determine in an almost collegial way, who among these altogether well-qualified people would be the best person to nominate as assistant secretary.

Q: What was the reaction to this?

A: People came to those seminars initially with some misgiving. They thought of it perhaps as demeaning, they thought of it as a competitive shootout. But they worked, they truly worked remarkably well. Almost without exception, somebody emerged as a really stunning figure. The very process began a kind of collegial spirit. In a department where it was not at all uncommon to think of it as, if you will, a department store—in which each agency pretty much ran itself autonomously, had very little connection with the other agencies—we began quickly, in this horizontal coordinate of developing a very collegial set of relationships. So almost at the beginning, I think we were under way in changing the character of this place in what was regarded as a rather strange, and initially seen with some skepticism, process. If what you seek is the development of an atmosphere in which each person has the opportunity to grow to his or her maximum potential, you must recognize that that growth is more threatened by intermediate and senior people than it is by an appetite for it on the part of large numbers of workers involved. It is more threatened, for that matter, by supervisors than history or system.

Q: Why is that?

A: Supervisors have struggled to get to that position, and most supervisors have spent a period of their lives subjected to what they regard as the tyranny or the direction of somebody else. Having once arrived here, they aren't all that eager to give it up. However paradoxical it may seem, therefore, if you truly want participation on the part of people, if you want the decision-making process that designs the working lives of people to move from the bottom up, it really better start at the top. Otherwise, it simply will not survive.

Q: How about the more direct elements of the worker, though?

A: Well, this was the horizontal coordinate that I see. Now we can address seriously the vertical coordinate. Some expressions of it. We have a newspaper in the Department of Commerce. There have been many newspapers in the Department of Commerce. Virtually every agency has its own house organ—polished, glossy, traditional stuff. This one isn't that at all. This one is the people's newspaper. It took a little doing before they really believed it, but the administration of the department has nothing to do with the content of the newspaper. But not one word of it was reviewed by anybody at the assistant secretary level or secretary level. Even the name of the newspaper, Comment, was developed by the people. They put together an ad hoc editorial staff. The mandate is clear—it's your paper, put in it what you like. Creative writing, poetry, criticism of the department. Raise questions, use it as a means of dialogue and communication, and have no concern other than those reasonable concerns of decency and taste and human consideration. Beyond that, nothing else.

Aside from the measures mentioned by Mr. Harman, we in Congress have a special role to play in increasing labor productivity. One of the best ways we can help further the goal of lowering inflation through increased job satisfaction is to work hard for the enactment of H.R. 2596, the Human Resources Development Act of 1977, which I have cosponsored. This bill has been considered by the Economic Stabilization Subcommittee of the Banking Committee, where it won my full support, was approved in the full Banking Committee, and is now pending in the Education and Labor Committee. I hope that the efforts of that committee and the Labor-Management Subcommittee, where the bill was referred, will be concentrated on the speedy passage of this important bill.

NATIONAL GROUPS ENDORSE THE PRODUCT LIABILITY INSURANCE TAX EQUITY ACT

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. WHALEN. Mr. Speaker, on October 27 I placed in the CONGRESSIONAL RECORD a statement identifying the cosponsors of the Product Liability Insurance Tax Equity Act, H.R. 7711, and a list of the national trade and professional associations that have endorsed the bill. Today, I am pleased to inform you that the October 27 lists are now outdated.

Several new cosponsors have added their names to the list of Representatives supporting PLITE, bringing the total to 57. Perhaps more importantly, public support for this proposed legislation continues to grow.

In brief, the Product Liability Insurance Tax Equity Act would allow the establishment of self-insurance reserve funds for protection against all or part of one's product or professional liability. The Federal tax code would be amended, to eliminate the present obstacles to self-insurance.

As I have noted in other RECORD statements, the concept of increased use of self-insurance for product or professional liability has been endorsed by the Bureau of Health Insurance at the Department of Health, Education and Welfare and by the recent report of the Commerce Department's Interagency Task Force on Product Liability.

In recent days, I have been informed that H.R. 7711 has gained the added support of the American Institute of Architects, the National LP-Gas Association, the American Metal Stamping Association and the Cast Metals Federation. As before, a large number of individuals and separate companies continue to write to me, also indicating their support for PLITE, but it is my policy not to identify individuals by name.

In previous RECORD statements, I have identified some of the other trade and professional groups, though. Here is a recapitulation of organizations that are publicly supporting my proposal:

American Consulting Engineers Council, American Institute of Architects, Boating Industry Association, Eastern Regional Roller Skating Rink Operators Association, Federation of American Hospitals, Louisiana Hospital Association, National Association of Brick Distributors, National LP-Gas Association, National Machine Tool Builders Association, National Small Business Association, National Society of Professional Engineers, and National Tool, Die and Precision Machining Association.

As you can see, this list is a varied and diverse as is our national economy. It reflects quite well the breadth of support for a change in the tax code to facilitate self-insurance for product and professional liability.

At this point in the RECORD, Mr. Speaker, I wish to insert the texts of several letters I have received recently. None has previously appeared in the public record. The letters follow:

AMERICAN INSTITUTE OF ARCHITECTS,
Washington, D.C., December 8, 1977.
Hon. CHARLES W. WHALEN, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. WHALEN: The American Institute of Architects, the national society for the architectural profession, wishes to express its strong support for H.R. 7711, The Product Liability Insurance Tax Equity Act. The Institute believes that it is in the public interest to develop a mechanism for self-insurance by service professionals and product manufacturers.

Architects have been, and continue experiencing, the same disturbing problem of the other professions with regard to the high cost or unavailability of liability insurance. Rising premiums, and especially the costs of defense below deductible limits, are an ever increasing drain on the profession's income. Some architectural firms and individuals have been forced to proceed without professional liability insurance altogether.

The most disturbing aspects of this situation is the resultant risks to both the architectural profession and to the public. Architects risk the potential of bankruptcy when faced with successful claims if they are uninsured. The public risks the possibility of unenforceable judgments where individual or corporate assets are insufficient. With the greater availability of self-insurance your bill would provide, both risks would be substantially reduced.

In addition, while we accept the bill's dual approach to tax-deductible self-insurance reserves for professional and product liability, the Institute would strongly suggest that, because of their significant legal differences, the legislation should more clearly distinguish between the two areas of liability.

Again we wish to express our support and interest in H.R. 7711, and if you have any further questions in this regard please contact the Institute.

Sincerely,

JOHN M. MCGINTY, FAIA
President.

NATIONAL LP-GAS ASSOCIATION,
Arlington, Va., December 6, 1977.
Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The National LP-Gas Association would like to take this opportunity to urge you to schedule hearings on H.R. 7711, the Product Liability Insurance Tax Equity Act, early in the Second Session of the 95th Congress.

The National LP-Gas Association has as its members both manufacturers of equipment and dealers who install equipment and furnish LP-Gas (propane). Our members, at both levels, have been affected by the developing product liability crisis, both in escalating premiums and in the unavailability of insurance. In a survey conducted of our members in 1976, we found that in the five-year period covered by the survey, premiums increased 170%. This does not take into consideration current increases that will occur as longer term policies expire, or coverage changes when going to greater deductible amounts (one member reported an increase in his deductible from $25,000 to $600,000 in recent years). It is not an overstatement to contemplate an average premium increase of over 200%.

As to solutions, there appears to be no immediate cureall. A number of our members have gone to higher deductibles in an attempt to hold down premium costs. Industry-wide, the NLPGA has had an Ad Hoc Liability Insurance Committee studying this problem for the last year and a half, examining captive insurance plans and other alternatives. Despite these efforts, there appears to be a growing need for statutory relief and Congressman Charles Whalen's H.R. 7711 is a promising ray of sunshine.

That bill would encourage the present trend toward self-insurance through tax deductible contributions to a tax-exempt self-insurance trust fund. Without this kind of an incentive, small, marginal operations often are unable to develop such a fund and may be caught in the product liability squeeze and forced out of business. For these reasons, we urge your Committee to move quickly to consider H.R. 7711 and related legislative proposals to resolve this growing national problem.

Sincerely yours,

DANIEL N. MYERS.

cc: Rep. Charles W. Whalen, Jr.

NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS,
Washington, D.C.
Hon. CHARLES W. WHALEN, Jr.,
Longfellow House Office Building,
Washington, D.C.

DEAR MR. WHALEN: On behalf of our 76,000 members I wish to note our interest in H.R. 7711 as introduced by you and several cosponsors to deal with the serious problem of liability claims and related expenses faced by individuals and firms engaged in the production of products and those providing professional services.

We have reviewed the legislation and related material kindly furnished by your office and we believe that the approach you have undertaken in H.R. 7711 is a very constructive and promising effort to deal with the liability problem on a realistic basis.

As indicated to Mr. Rosenberg of your staff, the National Society of Professional Engineers has been involved for many years in the development and sponsorship of a professional liability insurance program. Through this activity we have accumulated considerable background and experience in cooperation with the administrators of that program, and we would be more than willing to share such of the detailed data as may be helpful in seeking enactment of the kind of legislation you have sponsored. You may be interested in having a quite recent commentary, with statistics, on the increasing professional liability problem as set forth in the enclosed article by one of the officers of the firm which administers the program. These data illustrate better than any words the serious nature of the problem and the need for corrective legislation.

We look forward to working with you through your staff in developing support for consideration of H.R. 7711, and particularly to do what we can to have this matter considered by the Ways and Means Committee during the forthcoming hearings on tax reform legislation.

Sincerely yours,

DELBERT A. SCHMAND, P.E.
President.

AMERICAN METAL
STAMPING ASSOCIATION,
Richmond Hts., Ohio, September 13, 1977.
Hon. CHARLES W. WHALEN, Jr.
House of Representatives,
Washington, D.C.

DEAR MR. WHALEN: Product liability is an issue of great concern to members of the American Metal Stamping Association. Your Special Projects Director, Mr. Mark H. Rosenberg, recently sent AMSA a number of reprints from the Congressional Record which summarize and discuss your recent activities on behalf of those who need quick relief from rapidly rising product liability insurance premiums.

Your leadership is much appreciated! AMSA would like to add our name to the list of National Trade Associations which are interested in the Product Liability Insurance Tax Equity Act (PLITE).

Your bill, H.R. 7711, recognizes the viable role self insurance reserve funds for product liability can play by offering immediate and direct relief to those who are hardest hit by the product liability crisis. As you have noted, PLITE is not in itself a solution. However, it would provide quick relief, so long term solutions can be addressed in a rational manner.

AMSA will be watching H.R. 7711's progress with great interest.

Sincerely,

JON E. JENSON,
Executive Vice President.

NATIONAL ASSOCIATION OF
BRICK DISTRIBUTORS,
McLean, Va., November 29, 1977.
Hon. CHARLES W. WHALEN, Jr.
Longworth House Office Building,
Washington, D.C.

DEAR MR. WHALEN: As we wrote you in our previous letter of August 17, 1977, we stand behind you in support of H.R. 7711 (the Product Liability Insurance Tax Equity Act). We realize that this is not the final answer but feel it is a big step towards protecting small businessmen against product liability problems.

Our own association is now looking into ways that we can help our members out in this question. We are studying the possibility of a trust somewhat similar to a self-insurance, but as you know this is a very costly and time consuming undertaking.

Our membership has requested that NABD keep them informed of the changing facets of legislation regarding product liability so they can advise Congress of their opinion. We will continue to do this and hope that eventually this question can be brought under control.

Sincerely,

WALTER E. GALANTY, Jr.
Executive Director.

NATIONAL ASSOCIATION
OF BRICK DISTRIBUTORS,
McLean, Va., August 17, 1977.
Hon. CHARLES W. WHALEN, Jr.
Longworth House Office Building,
Washington, D.C.

DEAR MR. WHALEN: Thank you very much for sending to my office information regarding the Product/Professional Liability Insurance Issues. I have personally attended many meetings and seminars about product liability and many times find my mind boggled by the number of different solutions submitted on the question. I feel, however, that the PLITE bill you recommend has much merit.

In a recent survey taken of our members, we found that over 90% did not have product liability insurance and of the 10% who had it, most of them thought that the insurance company would pay any claim. On examination, it was found that of the two claims processed for two of our members, one claim was allowed and one was not.

We feel that because of the complexity of the issue, coupled with the fact of very little claims against our members, self-insurance is the most economical way to go and that is why we look favorable on your bill. NABD does not have a product liability insurance trust for its members, but we feel that your bill has much merit and hope it gets the support it needs.

Enclosed are two recent publications of

NABD, both of which cover the product liability question. As you can see, on the legislative report, we even ask our members to contact their congressmen regarding support.

I hope we have done our fair share in this matter and appreciate your comments.

Sincerely,

Walter E. Galanty, Jr.,
Executive Director.

"GO! FIGHTING IRISH"

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. MAZZOLI. Mr. Speaker, normally when my friend and distinguished colleague, the gentleman from Texas (Mr. Pickle) addresses this body, I stand impressed by his sense of timing, his knowledge of the subject, and his insight.

However, the gentleman's remarks in the Record of November 29 fall short of his usually high standards.

The Texas Longhorns might occupy college football's No. 1 spot for the moment, but surely the gentleman from Texas (Mr. Pickle) must know that disaster awaits the Longhorns when they go against my alma mater, Notre Dame, in the 1978 Cotton Bowl on January 2.

The Fighting Irish of Notre Dame—surely, Mr. Speaker, with a name like O'Neill, you must have a warm spot in your heart for anything Irish—last came to Texas and the Cotton Bowl in 1971, at which time they ended a 27-game Texas win streak by a score of 27 to 10.

Now, 7 years later, under the fine leadership of an "Irishman" named Joe Montana, the Irish are returning to the Cotton Bowl. And, all they have to dispose of in 1978 is a mere 11-game winning streak.

From their opening 19 to 9 victory over the current national champs, the Pitt Panthers, the Irish have steadily improved until now they are the premier college football team in the Nation.

The eyes of Texas are upon us. But Irish eyes are smiling.

Go Irish. Beat Horns.

THE YOUNGSTOWN, OHIO, POSTAL WORKERS EXPRESS APPRECIATION

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 12, 1977

Mr. CARNEY. Mr. Speaker, at this time I would like to insert into the Congressional Record a letter from the Youngstown, Ohio, Postal Workers to Members of the U.S. House of Representatives. This letter expresses their appreciation and thanks to all Members of the House who voted for an amendment to H.R. 9346, the "Social Security Financing Amendments of 1977," which deleted mandatory participation of Federal, State, and local government employees in the social security program in 1982.

The letter follows:

Hon. Charles J. Carney,
Rayburn House Office Building,
Washington, D.C.

Dear Sir: We ask you if it would be possible for you to read this letter to all the fine Congressmen who have done us the honor of helping us Federal employees in our crisis of the merger of the civil service-Social Security retirement programs.

We Youngstown, Ohio, Postal Workers want all these fine people to know that we very sincerely appreciate, and thank them for their efforts. May the good Lord give them the strength and guidance to continue their good work, for only in our America could this happen.

Thank you kindly,

Tom McNally.

Youngstown, Ohio.

FORMER CONGRESSMAN CARLETON J. KING OF NEW YORK

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 1977

Mr. CONABLE. Mr. Speaker, I wish to join in the tributes to our former colleague from New York, Congressman Carleton J. King of Saratoga Springs. He served his home area for more than 35 years in positions of increasing importance in local, State, and Federal Government. As a Representative in Congress for 14 years, he was a sound and dedicated legislator who supported a strong national defense and recognized the importance of maintaining strong national fiscal policies as well. Those of us who were his colleagues appreciated his loyalty, responsibility, and courage.

At the time of his death, Carl King continued to exercise a special interest in our Armed Forces as Chairman of the Board of Visitors of the U.S. Military Academy. He also was a consultant to the Veterans' Administration.

Carl King had many good friends in this institution who are saddened by his passing. We all extend our condolences to Mrs. King and other members of the family.

HOUSE OF REPRESENTATIVES—*Thursday, December 15, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Unto you is born this day in the city of David, a Saviour who is Christ the Lord.—Luke 2: 11.

Eternal God, as we bow our heads in prayer in this forum of freedom may there come to us a fresh vision of Thy presence that we may be renewed in body, refreshed in spirit, and reinvigorated in mind for the day's work.

Bless this great country of ours in this hour. Out of differences and discords bring a spirit of unity and harmony that we may work together and live together peacefully, justly, and with good will. Confirm our faith in the principles upon which our Nation was founded and help us to keep them a reality in our own day.

Guide us through these hours and bring us safely to the peace and rest of eventide.

May the Lord bless us and keep us this day and all our days in every way and all the way. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

Mr. RUSSO. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 14, answered "present" 2, not voting 134, as follows:

[Roll No. 776]

YEAS—284

Abdnor
Addabbo
Akaka
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Archer
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Byron
Caputo
Carr
Carter
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Cornell
Cotter
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Devine
Dicks
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fenwick
Findley
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Fountain
Fowler
Frey
Gaydos
Giaimo
Ginn
Gonzalez
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hannaford
Hansen
Harris
Hawkins
Hightower
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Levitas
Livingston

Lloyd, Tenn.
Lott
McClory
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marriott
Martin
Mattox
Mazzoli
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Minish
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Ind.
Natcher
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Pickle
Preyer
Price
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stockman
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Trible
Tucker
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whitten
Wilson, C. H.
Wright
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—14

Brown, Mich.
Conable
Coughlin
Glickman
Goodling
Jacobs
Lloyd, Calif.
Mitchell, Md.
Pritchard
Quayle
Sarasin
Steiger
Treen
Walker

ANSWERED "PRESENT"—2

Johnson, Calif.
Skubitz

NOT VOTING—134

Alexander
Ambro
Andrews, N. Dak.
Armstrong
Ashbrook
Aspin
Badillo
Baucus
Bedell
Beilenson
Biaggi
Bolling
Bonker
Breaux
Brooks
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Cavanaugh
Cederberg
Chappell
Conyers
Cornwell
Dellums
Dent
Derwinski
Dickinson
Diggs
Dingell
Downey
Eckhardt
Erlenborn
Evans, Ga.
Fascell
Fish
Fithian
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Fuqua
Gammage
Gephardt
Gibbons
Gilman
Goldwater
Hanley
Harkin
Harrington
Harsha
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Ichord
Ireland
Jeffords
Jenrette
Kastenmeier
Kemp
Koch
Krebs
Le Fante
Lehman
Lent
Long, La.
Long, Md.
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
Maguire
Marlenee
Mathis
Meeds
Metcalfe
Mineta
Mitchell, N.Y.
Mollohan
Myers, Michael
Neal
Nedzi
Nix
Panetta
Pattison
Pettis
Pike
Poage
Pressler
Pursell
Quie
Richmond
Rinaldo
Risenhoover
Ruppe
Ryan
Santini
Sawyer
Shipley
Sisk
Smith, Iowa
Stokes
Symms
Teague
Traxler
Tsongas
Udall
Van Deerlin
Waggonner
Walsh
Whalen
White
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wydler
Yates
Young, Alaska

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On December 9, 1977:

H.J. Res. 662. Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes.

On December 12, 1977:

H.R. 1904. An act to suspend until July 1, 1980, the duty on intravenous fat emulsion, and for other purposes.

On December 13, 1977:

H.R. 7. An act to authorize a career education program for elementary and secondary schools, and for other purposes;

H.R. 3313. An act for the relief of Mark Charles Mieir and Liane Maria Mieir;

H.R. 5555. An act for the relief of Adelaida Rea Berry;

H.R. 8159. An act to establish uniform structural requirements for intermodal cargo containers subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes; and

H.R. 8422. An act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes.

CONFERENCE REPORT ON H.R. 9346, SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-837)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act, with the following table of contents, may be cited as the "Social Security Amendments of 1977".

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TITLE I—PROVISIONS RELATING TO THE FINANCING OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Sec. 101. Adjustments in tax rates.
Sec. 102. Allocations to disability insurance trust fund.
Sec. 103. Increases in earnings base.
Sec. 104. Effective date.

TITLE II—STABILIZATION OF REPLACEMENT RATES IN THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Sec. 201. Computation of primary insurance amount.
Sec. 202. Maximum benefits.
Sec. 203. Increase in old-age benefit amounts for delayed retirement.
"Sec. 204. Widow's and widower's insurance benefits in cases of delayed retirement.
Sec. 205. Conforming amendments.
Sec. 206. Effective date.

TITLE III—OTHER CHANGES IN PROVISIONS RELATING TO THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

PART A—CHANGES IN EARNINGS TEST

Sec. 301. Liberalization of earnings test for individuals age 65 and over.
Sec. 302. Repeal of earnings limitation for individuals age 70 and over.
Sec. 303. Elimination of monthly earnings test.

PART B—COVERAGE

Sec. 311. Study of universal coverage.
Sec. 312. Coverage of nonprofit organizations which failed to file waiver certificates.
Sec. 313. Exclusion from coverage of certain limited partnership income.
Sec. 314. Employees of members of related groups of corporations.
Sec. 315. Tax on employers of individuals who receive income from tips.
Sec. 316. Revocation of exemption from coverage by clergymen.
Sec. 317. International agreements with respect to social security benefits.
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Sec. 319. Coverage for policemen and firemen in Mississippi.
Sec. 320. Coverage under divided retirement system for public employees in New Jersey.
Sec. 321. Coverage of service under Wisconsin retirement system.

PART C—BENEFIT AMOUNTS AND ELIGIBILITY

Sec. 331. Actuarial reduction of benefit increases to be applied as of time of original entitlement.
Sec. 332. Limitation on retroactive benefits.
Sec. 333. Delivery of benefit checks.
Sec. 334. Reduced benefits for spouses receiving Government pensions.
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Sec. 336. Remarriage of widows and widowers.

Sec. 337. Duration-of-marriage requirement.

PART D—STUDY WITH RESPECT TO GENDER-BASED DISTINCTIONS

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Sec. 351. Annual crediting of quarters of coverage.

Sec. 352. Adjustment in amount required for a quarter of coverage.

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Subpart 2—Amendments to the Internal Revenue Code of 1954

Sec. 355. Deduction of tax from wages.

Sec. 356. Technical and conforming amendments.

Subpart 3—Conforming Amendment to the Railroad Retirement Act of 1974

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Sec. 361. Establishment of Commission.

PART G—MISCELLANEOUS PROVISIONS

Sec. 371. Appointment of hearing examiners.

Sec. 372. Report of Advisory Council on Social Security.

TITLE IV—PROVISIONS RELATING TO CERTAIN STATE WELFARE AND SERVICE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

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Sec. 402. Incentive adjustments for quality control in Federal financial participation in aid to families with dependent children programs.

Sec. 403. Access to wage information.

Sec. 404. State demonstration projects.

Sec. 405. Reimbursement for erroneous State supplementary payments.

TITLE V—MISCELLANEOUS

Sec. 501. Coverage under medicare of certain power-operated wheelchairs.

Sec. 502. Federal Election Campaign Act amendments.

TITLE I—PROVISIONS RELATING TO THE FINANCING OF THE OLD-AGE SURVIVORS, AND DISABILITY INSURANCE PROGRAM

ADJUSTMENTS IN TAX RATES

Sec. 101. (a)(1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) and (2) inserting in lieu thereof the following:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages received during the calendar year 1978, the rate shall by 5.05 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

"(4) with respect to wages received during the calendar year 1981, the rate shall be 5.35 percent;

"(5) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

"(6) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.70 percent; and

"(7) with respect to wages received after December 31, 1989, the rate shall be 6.20 percent.".

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

"(4) with respect to wages paid during the calendar year 1981, the rate shall be 5.35 percent;

"(5) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

"(6) with respect to wages paid during the calendar years 1985 through 1989, the rate shall by 5.70 percent; and

"(7) with respect to wages paid after December 31, 1989, the rate shall be 6.20 percent.".

(3) Section 1401(a) of such Code (relating to rate of tax on self-employment income for purposes of old-age, survivors, and disability insurance) is amended by striking out "a tax" and all that follows and inserting in lieu thereof the following: "a tax as follows:

"(1) in the case of any taxable year beginning before January 1, 1978, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1982, the tax shall be equal to 8.00 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8.55 percent of the amount of the self-employment income for such taxable year; and

"(7) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 9.30 percent of the amount of the self-employment income for such taxable year.".

(b)(1) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(2) with respect to wages received during the calendar year 1978, the rate shall be 1.00 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

"(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 1.30 percent;

"(5) with respect to wages received during the calendar year 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent.".

(2) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 1.00 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

"(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent;

"(5) with respect to wages paid during the calendar year 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent.".

(3) Section 1401(b) of such Code (relating to tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 1.05 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 1.30 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year.".

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 102. (a)(1) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (G) through (J) and inserting in lieu thereof the following: "(G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.65 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,".

(2) Section 201(b)(2) of such Act is amended by striking out clauses (G) through (J) and inserting in lieu thereof the following: (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978,

and before January 1, 1981, (I) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

INCREASES IN EARNINGS BASE

SEC. 103. (a) (1) Section 230(a) of the Social Security Act is amended by inserting "or (c)" after "determined under subsection (b)".

(2) Section 230(b) of such Act is amended by striking out "shall be" in the matter preceding paragraph (1) and inserting in lieu thereof "shall subject to subsection (c)) be".

(b) Section 230(c) of such Act is amended—

(1) by inserting "(1)" immediately before "the 'contribution and benefit base' "; and

(2) by striking out "section." and inserting in lieu thereof the following:

"section, and (2) the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning)—

"(A) in 1978 shall be $17,700,

"(B) in 1979 shall be $22,900,

"(C) in 1980 shall be $25,900, and

"(D) in 1981 shall be $29,700.

For purposes of determining under subsection (b) the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) and to be the amount determined (with respect to the years involved) under that subsection. For purposes of determining employer tax liability under section 3221(a) of the Internal Revenue Code of 1954, for purposes of determining the portion of the employee representative tax liability under section 3211 (a) of such Code which results from the application of the 9.5 percent rate specified therein, and for purposes of computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, except with respect to annuity amounts determined under section 3(a) or 3(f) (3) of such Act, clause (2) and the preceding sentence of this subsection shall be disregarded.".

(c) (1) Section 230 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the contribution and benefit base determined under this section for any calendar year after 1976 for purposes of section 4022(b) (3) (B) of Public Law 93-406, with respect to any plan, shall be the contribution and benefit base that would have been determined for such year if this section was in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change.".

(2) The amendment made by paragraph (1) shall apply with respect to plan terminations occurring after the date of the enactment of this Act.

(d) (1) The second sentence of section 215 (i) (2) (D) (v) of such Act is amended by striking out "is equal to one-twelfth of the new contribution and benefit base" and inserting in lieu thereof "is equal to, or exceeds by less than $5, one-twelfth of the new contribution and benefit base".

(2) The third sentence of section 215(i) (2) (D) (v) of such Act is amended by striking out all that follows "clause (iv)" and inserting in lieu thereof "plus 20 percent of the excess of the second figure in the last line of column III as extended under the preceding sentence over such second figure for the calendar year in which the table of benefits is revised.".

EFFECTIVE DATE

SEC. 104. The amendments made by this title shall apply with respect to remuneration paid or received, and taxable years beginning, after 1977.

TITLE II—STABILIZATION OF REPLACEMENT RATES IN THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 201. (a) Section 215(a) of the Social Security Act is amended to read as follows:

"(a) (1) (A) The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—

"(i) 90 percent of the individual's average indexed monthly earnings (determined under subsection (b)) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),

"(ii) 32 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exceed the amount established for purposes of this clause by subparagraph (B), and

"(iii) 15 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii),

rounded in accordance with subsection (g), and thereafter increased as provided in subsection (i).

"(B) (i) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the calendar year 1979, the amount established for purposes of clause (i) and (ii) of subparagraph (A) shall be $180 and $1,085, respectively.

"(ii) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

"(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year preceding the calendar year for which the determination is made, by

"(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year 1977.

"(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest $1, except that any amounts so established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher $1.

"(C) (i) No primary insurance amount computed under subparagraph (A) may be less than—

"(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in (or deemed to be contained in) this subsection as in effect in December 1978, rounded (if not a multiple of $1) to the next higher multiple of $1, or

"(II) an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this subdivision under subsection (i),

whichever is greater. No increase under subsection (i), except as provided in subsection (i) (2) (A), shall apply to the dollar amount specified in subdivision (I) of this clause.

"(ii) For purposes of clause (i) (II), the term 'years of coverage' with respect to any individual means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to such individual (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by (b) $900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b) (2) (B) (ii) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 or 1974 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year, or of not less than 25 percent of the maximum amount which could be so counted for such year (in the case of a year after 1977) if section 230 as in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change.

"(D) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b) (3) in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the average of the total wages (as described in subparagraph (B) (ii) (I)) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Federal Register the average of the total wages (as so described) for each calendar year after 1950.

"(2) (A) A year shall not be counted as the year of an individual's death or elgibility for purposes of this subsection or subsection (i) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit or benefits to which he was entitled during such 12 months).

"(B) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount for determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

"(i) the primary insurance amount upon which such disability insurance benefit was based, increased by the amount of each general benefit increase (as defined in subsection (i) (3)), and each increase provided under subsection (i) (2), that would have applied to such primary insurance amount had the individual remained entitled to such disability insurance benefit until the month in which he became so entitled or reentitled or died, or

"(ii) the amount computed under paragraph (1) (C).

"(C) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of such individual's subsequent entitlement to old-age insurance benefits or to a disability insurance benefit based upon a subsequent period of disability, or because of such individual's death), the primary insurance amount so computed may in no case be less than the primary insurance amount with respect to which such former disability insurance benefit was most recently determined.

"(3)(A) Paragraph (1) applies only to an individual remained entitled to such disabil-insurance benefit prior to January 1979 and who in that or any succeeding month—

"(i) becomes eligible for such a benefit,

"(ii) becomes eligible for a disability insurance benefit, or

"(iii) dies,

and (except for subparagraph (C)(i)(II) thereof) it applies to every such individual except to the extent otherwise provided by paragraph (4).

"(B) For purposes of this title, an individual is deemed to be eligible—

"(i) for old-age insurance benefits, for months beginning with the month in which he attains age 62, or

"(ii) for disability insurance benefits, for months beginning with the month in which his period of disability began as provided under section 216(i)(2)(C),

except as provided in paragraph (2)(A) in cases where fewer than 12 months have elapsed since the termination of a prior period of disability.

"(4) Paragraph (1) (except for subparagraph (C)(i)(II) thereof) does not apply to the computation or recomputation of a primary insurance amount for—

"(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which occurs the event described in clause (i), (ii), or (iii) of paragraph (3)(A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

"(B) an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recommendation would be made the individual's primary insurance amount would be greater if computed or recomputed—

"(i) under section 215(a) as in effect in December 1978, for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1984, or

"(ii) as provided by section 215(d), in the case of an individual to whom such section applies.

In determining whether an individual's primary insurance amount would be greater if computed or recomputed as provided in subparagraph (B), (I) the table of benefits in effect in December 1978 shall be applied without regard to any increases in that table which may become effective (in accordance with subsection (i)(4)) for years after 1978 (subject to clause (iii) of subsection (i)(2)(A) but without regard to clauses (iv) and (v) thereof) and (II) such individual's average monthly wage shall be computed as provided by subsection (b)(4).

"(5) For purposes of computing the primary insurance amount (after December 1978) of an individual to whom paragraph (1) does not apply (other than an individual described in paragraph (4)(B)), this section as in effect in December 1978 shall remain in effect, except that, effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50. The table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(b) Section 215(b) of such Act is amended to read as follows:

"Average Indexed Monthly Earnings; Average Monthly Wage

"(b)(1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

"(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

"(B) the number of months in those years.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual's benefit computation years may not be less than two.

"(B) For purposes of this subsection with respect to any individual—

"(i) the term 'benefit computation years' means those computation base years, equal in number to the number determined under subparagraph (A), for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the largest;

"(ii) the term 'computation base years' means the calendar years after 1950 and before—

"(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 202(j)(1) or otherwise) the first month of that entitlement; or

"(II) in the case of an individual who has died (without having become entitled to old-age insurance benefits), the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

"(iii) the term 'number of elapsed years' means (except as otherwise provided by section 104(j)(2) of the Social Security Amendments of 1972) the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred earlier (but after 1960), the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

"(3)(A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

"(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

"(ii) the quotient obtained by dividing—

"(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year (after 1976) preceding the earliest of the year of the individual's death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (except that the year in which the individual dies, or becomes eligible, shall not be considered as such year if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such death or eligibility, but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit to which he was entitled in such 12-month period), by

"(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the computation base year for which the determination is made.

"(B) Wages paid in or self-employment income credited to an individual's computation base year which—

"(i) occurs after the second calendar year specified in subparagraph (A)(ii)(I), or

"(ii) is a year treated under subsection (f)(2)(C) as though it were the last year of the period specified in paragraph (2)(B)(ii),

shall be available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

"(4) For purposes of determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under section 215(a) or 215(d) as in effect (except with respect to the table contained therein) in December 1978, by reason of subsection (a)(4)(B), this subsection as in effect in December 1978 shall remain in effect, except that paragraph (2)(C) (as then in effect) shall be deemed to provide that 'computation base years' include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a)(3)(B) as in effect in January 1979) for an old-age or disability insurance benefit, or, if earlier, the year in which he died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year for such purposes.".

(c) Section 215(c) of such Act is amended to read as follows:

"Application of Prior Provisions in Certain Cases

"(c) This subsection as in effect in December 1978 shall remain in effect with respect to an individual to whom subsection (a)(1) does not apply by reason of the individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979.".

(d)(1) The matter in the text of section 215(d) of such Act which precedes paragraph (1)(C) is amended to read as follows:

"(d)(1) For purposes of column I of the table appearing in subsection (a), as that subsection was in effect in December 1977, an individual's primary insurance benefit shall be computed as follows:

"(A) The individual's average monthly wage shall be determined as provided in subsection (b), as in effect in December 1977 (but without regard to paragraph (4) thereof), except that for purposes of paragraphs (2)(C) and (3) of that subsection (as so in effect) 1936 shall be used instead of 1950.

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1936 and prior to 1950 shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20 and prior to 1951; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1949 shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.

The quotient so obtained shall be deemed to be the individual's wages credited to each of the years which were used in computing the amount of the divisor, except that—

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the year immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the year immediately preceding the earliest year used in computing the amount of the divisor and to each year consecutively preceding that year, with any remainder less than $3,000 being credited to the year immediately preceding the earliest year to which a full $3,000 increment was credited; and

"(iv) no more than $12,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.".

(2) Section 215(d)(1)(D) of such Act is amended to read as follows:

"(D) The individual's primary insurance benefit shall be 40 percent of the first $50 of his average monthly wage as computed under this subsection, plus 10 percent of the next $200 of his average monthly wage, increased by 1 percent for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by $1,650 (disregarding any fraction).".

(3) Section 215(d)(3) of such Act is amended (A) by striking out "in the case of an individual" and all that follows and inserting in lieu thereof the following "in the case of an individual who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 220.".

(4) Section 215(d) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) The provisions of this subsection as in effect in December 1977 shall be applicable to individuals who become eligible for old-age or disability insurance benefits or die prior to 1978.".

(e) Section 215(e) of such Act is amended—

(1) by striking out "average monthly wage" each place it appears and inserting in lieu thereof "average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under section 215(a) as in effect prior to January 1979, average monthly wage," and

(2) by inserting immediately before "of (A)" in paragraph (1) the following: "(before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A))".

(f)(1) Section 215(f)(2) of this Act is amended to read as follows:

"(2)(A) If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulation prescribe, recompute the individual's primary insurance amount for that year.

"(B) For the purpose of applying subparagraph (A) of subsection (a)(1) to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts established by subsection (a)(1)(B) for purposes of clauses (i) and (ii) of subsection (a)(1)(A), the amounts so established that were (or, in the case of an individual described in subsection (a)(4)(B), would have been) used in the computation of such individual's primary insurance amount prior to the application of this subsection.

"(C) A recomputation of any individual's primary insurance amount under this paragraph shall be made as provided in subsection (a)(1) as though the year with respect to which it is made is the last year of the period specified in subsection (b)(2)(B)(ii); and subsection (b)(3)(A) shall apply with respect to any such recomputation as it applied in the computation of such individual's primary insurance amount prior to the application of this subsection.

"(D) A recomputation under this paragraph with respect to any years shall be effective—

"(i) in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or

"(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.".

(2) Section 215(f)(3) of such Act is repealed.

(3) Section 215(f)(4) of such Act is amended to read as follows:

"(4) A recomputation shall be effective under this subsection only if it increases the primary insurance amount by at least $1.".

(4) Section 215(f) of such Act is further amended by adding at the end thereof the following new paragraphs:

"(7) This subsection as in effect in December 1978 shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) as in effect (without regard to the table in subsection (a)) in that month, and, where appropriate, under subsection (d) as in effect in December 1977. For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B) as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age or disability insurance benefit or died, or for any year thereafter.

"(8) The Secretary shall recompute the primary insurance amounts applicable to beneficiaries whose benefits are based on a primary insurance amount which was computed under subsection (a)(3) effective prior to January 1979, or would have been so computed if the dollar amount specified therein were $11.50. Such recomputation shall be effective January 1979, and shall include the effect of the increase in the dollar amount provided by subsection (a)(1)(C)(i)(II). Such primary insurance amount shall be deemed to be provided under such section for purposes of subsection (i).".

(g)(1) Section 215(i)(2)(A)(ii) of such Act is amended to read as follows:

"(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—

"(I) the benefit amount to which individuals are entitled for that month under section 227 or 228,

"(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title (including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph), and

"(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 203 (and such total shall be increased, unless otherwise so increased under another provision of this title, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a)(6) and (7) as in effect after December 1978.

The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B); and any amount so increased that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C)(i)(II) of subsection (a)(1) shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Secretary under the last sentence of subparagraph (D)).".

(2) Section 215(i)(2)(A) of such Act is amended by adding at the end thereof the following clauses:

"(iii) In the case of an individual who becomes eligible for an old-age or disability insurance benefit, or who dies prior to becoming so eligible, in a year in which there occurs an increase provided under clause (ii), the individual's primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this title and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (x) of this subparagraph) by the amount of that increase and subsequent applicable increases, but only with respect to benefits payable for months after May of that year.

"(iv)(I) In the case of an individual who is entitled to an old-age insurance benefit that is based on a primary insurance amount determined under subsection (a)(1)(C)(i)(I), such primary insurance amount shall not be increased under this subsection for any year before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 203 relating to deductions on account of work, or, if earlier, the year in which he attains age 65.

"(II) In the case of an individual who is entitled to an insurance benefit under subsection (e) or (f) of section 202 that is based on a primary insurance amount determined under subsection (a)(1)(C)(i)(I), such primary insurance amount shall not be increased under this subsection for any year (except as provided in subdivision (III)) before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 203 relating to deductions on account of work, or, if earlier, the year in which he attains age 65.

"(III) Any increase under this subsection which would otherwise be applied to a primary insurance amount except for the provisions of subdivision (II) of this clause, shall apply to such primary insurance amount if, during any month of the year in which the increase occurs, any individual is entitled to a benefit under subsection (d), (g), or (h) of section 202 based on such primary insurance amount, and such primary insurance amount is based upon the wages and self-employment income of a deceased individual.

"(IV) No primary insurance amount determined under subsection (a)(1)(C)(i)(I) shall be increased under this subsection for any year during which no individual was entitled to any benefit based thereon under section 202 or 223 for any month of such year.

"(V) In any case in which an increase under this subsection which occurs during any year applies to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), and such an increase occurring in a later year does not apply to such primary insurance amount on account of the provisions of this clause, any such increase which occurs in a later year which is applicable to such primary insurance amount shall be based upon such primary insurance amount as previously increased under this subsection.

"(v) Notwithstanding clause (iv), no primary insurance amount shall be less than that provided under section 215(a)(1) without regard to subparagraph (C)(i)(I) thereof, as subsequently increased by applicable increases under this section.".

(3) Section 215(i)(2)(D) of such Act (as amended by section 103(d) of this Act) is further amended by striking out all that follows the first sentence and inserting in lieu thereof the following: "He shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection based on the dollar amount specified in subparagraph (C)(i)(II) of subsection (a)(1) (with such revised primary insurance amounts constituting the increased amounts determined for purposes of such subparagraph (C)(i)(II) under this subsection), or specified in subsection (a)(3) as in effect prior to 1979, and (ii) a revision of the range of maximum family benefits which correspond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 203(a) except for paragraph (3)(B) thereof (or paragraph (2) thereof as in effect prior to 1979)).".

(4) Section 215(i) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) This subsection as in effect in December 1978 shall continue to apply to subsections (a) and (d), as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4)(B) of that subsection (but the application of this subsection in such cases shall be modified by the application of subdivision (I) in the last sentence of paragraph (4) of that subsection)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2)(D) of this subsection as then in effect.".

MAXIMUM BENEFITS

SEC. 202. The text of section 203(a) of the Social Security Act is amended to read as follows:

"(a)(1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215(a)(1) or (4), or section 215(d), as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraph (3) (but prior to any increases resulting from the application of paragraph (2)(A)(ii)(III) of section 215(i)), be reduced as necessary so as not to exceed—

"(A) 150 percent of such individual's primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

"(B) 272 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

"(C) 134 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

"(D) 175 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

"(2)(A) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be $230, $332, and $433, respectively.

"(B) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B)(ii) of section 215(a)(1), with such product being rounded in the manner prescribed by section 215(a)(1)(B)(iii)

"(C) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 215(i)(2)(D)) is to be applicable under this paragraph to individuals who become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the following calendar year.

"(D) A year shall not be counted as the year of an individual's death or eligibility for purposes of this paragraph or paragraph (7) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefits to which he was entitled during such 12 months).

"(3)(A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 202(k)(2)(A)) be entitled to child's insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the basis of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

"(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

"(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230.

"(B) When two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

"(i) the amount determined under this subsection without regard to this subparagraph,

"(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

"(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under the provisions of section 215(i), an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this title (excluding any part thereof determined under section 202(w)) for the month before such effective month (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next higher multiple of $0.10);

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 202(k)(2)(A) was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

"(C) When any of such individuals is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) or as a surviving divorced spouse under section 202 (e) or (f) for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

"(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222 (b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

"(5) Notwithstanding any other provision of law, when—

"(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

"(B) such individual's primary insurance amount is increased for the following month under any provision of this title.

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 202(q)) than the total of monthly benefits (after the application of the other provisions of this subsection and section 202(q)) payable on the basis of such wages and self-employment income for such particular month.

"(6) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 215 (a) (1) or (4), or section 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a) (1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefits base determined under section 230 for the year in which that month occurs.

"(7) Subject to paragraph (6), this subsection as in efect in December 1978 shall remain in effect with respect to a primary insurance amount computed under section 215 (a) or (d), as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies (before becoming eligible for such a benefit), after December 1978, shall instead be governed by this section as in effect after December 1978.".

INCREASE IN OLD-AGE BENEFIT AMOUNTS FOR DELAYED RETIREMENT

SEC. 203. Section 202(w) (1) of Social Security Act is amended—

(1) by striking out "If the first month" and all that follows down through "to such individual" in the matter preceding subparagraph (A) and inserting in lieu thereof "The amount of an old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215(a) (3)) which is payable without regard to this subsection to an individual"; and

(2) by inserting after "such amount," in subparagraph (A) the following: "or, in the case of an individual who first becomes eligible for an old-age insurance benefit after December 1978, one quarter of 1 percent of such amount,".

WIDOW'S AND WIDOWER'S INSURANCE BENEFITS IN CASES OF DELAYED RETIREMENT

SEC. 204. (a) Section 202(e) (2) (A) of the Social Security Act is amended (1) by inserting "(as determined after application of the following sentence)" after "primary insurance amount", and (2) by adding at the end thereof the following new sentence: "If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 215(f) (5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which he was receiving (or would upon application have received) for the month prior to the month in which he died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w)) the number of increment months shall include any month in the months of the calendar year in which he died, prior to the month in which he died, which satisfy the conditions in paragraph (2) of such subsection (w).".

(b) Section 202(e) (2) (B) (i) of such Act is amended by inserting "and section 215(f) (5) or (6) were applied, where applicable," after "living".

(c) Section 202(f) (3) (A) of such Act is amended (1) by inserting "(as determined after application of the following sentence)" after "primary insurance amount", and (2) by adding at the end thereof the following new sentence: "If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 215 (f) (5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which she was receiving (or would upon application have received) for the month prior to the month in which she died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w)) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which she died, which satisfy the conditions in paragraph (2) of such subsection (w).".

(d) Section 202 (f) (3) (B) (i) of such Act is amended by inserting "and section 215 (f) (5) or (6) were applied, where applicable," after "living".

(e) Section 203(a) of such Act (as amended by section 202 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(8) When—

"(A) one or more persons were entitled (without the application of section 202(j) (1)) to monthly benefits under section 202 for May 1978 on the basis of the wages and self-employment income of an individual.

"(B) the benefit of at least one such person for June 1978 is increased by reason of the amendments made by section 204 of the Social Security Amendments of 1977; and

"(C) the total amount of benefits to which all such persons are entitled under such section 202 are reduced under the provisions of this subsection (or would be so reduced except for the first sentence of section 203 (a) (4)),

then the amount of the benefit to which each such person is entitled for months after May 1978 shall be increased (after such reductions are made under this subsection) to the amount such benefits would have been if the benefit of the person or persons referred to in subparagraph (B) had not been increased.".

CONFORMING AMENDMENTS

SEC. 205. (a) Section 202(m) (1) of the Social Security Act is amended to read as follows:

"(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215 (a) or (d), as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j) (1)) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k) (3), shall not be less than that provided by subparagraph (C) (i) (I) of section 215(a) (1) and increased under section 215(i) for months after May of the year in which the insured individual died as though such benefit were a primary insurance amount.".

(b) Section 202(w) of such Act (as amended by section 203 of this Act) is further amended—

(1) by inserting after "section 215(a) (3)" in paragraph (1) (in the matter preceding subparagraph (A)) the following: "as in effect in December 1978 or section 215(a) (1) (C) (i) (II) as in effect thereafter";

(2) by inserting "as in effect in December 1978, or section 215 (a) (1) (C) (i) (II) as in effect thereafter," after "paragraph (3) of section 215(a)" in paragraph (5); and

(3) by inserting "(whether before, in, or after December 1978)" after "determined under section 215(a)" in paragraph (5).

(c) Section 217(b) (1) of such Act is amended by inserting "as in effect in December 1978" after "section 215(c)" each place it appears, and after "section 215(d)".

(d) Section 224(a) of such Act is amended by inserting "(determined under section 215 (b) as in effect prior to January 1979)" after "(A) the average monthly wage" in the sentence immediately following paragraph (8).

(e) Section 1839(c) (3) (B) of such Act is amended to read as follows:

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a) (1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on May 1 of the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals on the following May 1.".

EFFECTIVE DATE

SEC. 206. The amendments made by the provisions of this title other than sections 201(d), 204, and 205(a) shall be effective with respect to monthly benefits under title II of the Social Security Act payable for months after December 1978 and with respect to lump-sum death payments with respect to deaths occurring after such month. The amendments made by section 201(d) shall be effective with respect to monthly benefits of an individual who becomes eligible for an old-age or disability insurance benefit, or dies, after December 1977. The amendments made by section 204 shall be effective with respect to monthly benefits for months after May 1978. The amendment made by section 205(a) shall be effective with respect to monthly benefits payable for months after December 1978 based on the wages and self-employment income of individuals who die after December 1978.

TITLE III—OTHER CHANGES IN PROVISIONS RELATING TO THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

PART A—CHANGES IN EARNINGS TEST

LIBERALIZATION OF EARNINGS TEST FOR INDIVIDUALS AGE 65 AND OVER

SEC. 301. (a) Section 203(f)(8)(A) of the Social Security Act is amended by striking out "a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year" and inserting in lieu thereof "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year".

(b)(1) Section 203(f)(8)(B) of such Act is amended by striking out "The exempt amount for each month of a particular taxable year shall be" in the matter preceding clause (i) and inserting in lieu thereof "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals; for each month of a particular taxable year, shall each be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the exempt amount" and inserting in lieu thereof "the corresponding exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "the exempt amount" and inserting in lieu thereof "an exempt amount".

(c)(1) Section 203(f)(8) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained age 65 before the close of the taxable year involved—

"(i) shall be $333.33⅓ for each month of any taxable year ending after 1977 and before 1979,

"(ii) shall be $375 for each month of any taxable year ending after 1978 and before 1980,

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1979 and before 1981,

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1980 and before 1982, and

"(v) shall be $500 for each month of any taxable year ending after 1981 and before 1983."

(2) No notification with respect to an increased exempt amount for individuals described in section 203(f)(8)(D) of the Social Security Act (as added by paragraph (1) of this subsection) shall be required under the last sentence of section 203(f)(8)(B) of such Act in 1977, 1978, 1979, 1980, or 1981; and section 203(f)(8)(C) of such Act shall not prevent the new exempt amount determined and published under section 203(f)(8)(A) in 1977 from becoming effective to the extent that such new exempt amount applies to individuals other than those described in section 203(f)(8)(D) of such Act (as so added).

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "$200 or the exempt amount" and inserting in lieu thereof "the applicable exempt amount".

(e) The amendments made by this section shall apply with respect to taxable years ending after December 1977.

REPEAL OF EARNINGS LIMITATION FOR INDIVIDUALS AGE 70 AND OVER

SEC. 302. (a) Subsections (c)(1), (d)(1), (f)(1)(B), and (j) of section 203 of the Social Security Act are each amended by striking out "seventy-two" and inserting in lieu thereof "seventy".

(b) Subsection (f)(3) of section 203 of such Act is amended by striking out "age 72" and inserting in lieu thereof "age 70".

(c) Subsection (h)(1)(A) of section 203 of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 70".

(d) The heading of subsection (j) of section 203 of such Act is amended by striking out "Seventy-two" and inserting in lieu thereof "Seventy".

(e) The amendments made by this section shall apply only with respect to taxable years ending after December 31, 1981.

ELIMINATION OF MONTHLY EARNINGS TEST

SEC. 303. (a) Clause (E) of the last sentence of section 203(f)(1) of the Social Security Act (as amended by section 301(d) of this Act) is further amended by inserting before the period at the end thereof the following: ", if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8)".

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits payable for months after December 1977.

PART B—COVERAGE

STUDY OF UNIVERSAL COVERAGE

SEC. 311. (a) The Secretary of Health, Education, and Welfare is directed to undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the extent of the coverage under the old-age, survivors, and disability insurance programs and under the programs established by title XVIII of the Social Security Act. The study shall examine the feasibility and desirability of covering, under such social security programs, Federal employees, State and local governmental employees, and employees of non-profit organizations who are not now covered. The study shall include alternative methods of accomplishing such coverage together with any appropriate alternatives to extending coverage to such employees.

(b) With respect to each major alternative method or proposal included in the study described in subsection (a), such study shall also include an analysis of the changes which would be required in the programs established by the Social Security Act and in any other systems or programs (such as retirement, survivorship, disability, and health programs) affecting the individuals who would be covered under such social security programs under such alternative method or proposal. Such analysis shall include the structural changes required in such programs, the financial impact of such changes, and the effect of such changes on the benefit rights and contribution liabilities of the affected individuals.

(c) In conducting the study required by subsection (a), the Secretary of Health, Education, and Welfare shall consult, as appropriate, with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Civil Service Commission, and those officials shall provide him with such information and assistance as he may require. The Secretary shall also solicit the views of other appropriate officials and organizations.

(d) The Secretary of Health, Education, and Welfare shall submit to the President and the Congress, not later than 2 years after the date of the enactment of this Act, a report of the findings of the study required by subsection (a) together with his recommendations for any appropriate legislative changes.

COVERAGE OF NONPROFIT ORGANIZATIONS WHICH FAILED TO FILE WAIVER CERTIFICATES

SEC. 312. (a)(1) Section 3121(k)(5) of the Internal Revenue Code of 1954 (relating to constructive filing of certificate where refund or credit has been made and new certificate is not filed) is amended—

(A) by striking out "prior to the expiration of 180 days after the date of the enactment of this paragraph," in subparagraph (B) and inserting in lieu thereof "prior to April 1, 1978,"; and

(B) by striking out "the 181st day after the date of the enactment of this paragraph," and "such 181st day" in the matter following subparagraph (B) and inserting in lieu thereof in each instance "April 1, 1978.".

(2) Section 3121(k)(7) of such Code (relating to payment of both employee and employer taxes for retroactive period by organization in cases of constructive filing) is amended—

(A) by striking out "prior to the expiration of 180 days after the date of the enactment of this paragraph" and inserting in lieu thereof "prior to April 1, 1978,";

(B) by striking out "the 181st day after such date," and inserting in lieu thereof "April 1, 1978,"; and

(C) by striking out "prior to the first day of the calendar quarter in which such 181st day occurs" and inserting in lieu thereof "prior to that date".

(3) Section 3121(k)(8) of such Code (relating to extended period for payment of taxes for retroactive coverage) is amended—

(A) by striking out "by the end of the 180-day period following the date of the enactment of this paragraph" and inserting in lieu thereof prior to April 1, 1978,";

(B) by striking out "within that period" and inserting in lieu thereof "prior to April 1, 1978"; and

(C) by striking out "on the 181st day following that date" and inserting in lieu thereof "on that date".

(b)(1) Section 3121(k)(4) of such Code (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of any organization which is deemed under this paragraph to have filed a valid waiver certificate under paragraph (1), if—

"(i) the period with respect to which the taxes imposed by sections 3101 and 3111 were paid by such organization (as described in subparagraph (A)(ii)) terminated prior to October 1, 1976, or

"(ii) the taxes imposed by sections 3101 and 3111 were not paid during the period referred to in clause (i) (whether such period has terminated or not) with respect to remuneration paid by such organization to individuals who became its employees after the close of the calendar quarter in which such period began,

taxes under sections 3101 and 3111—

"(iii) in the case of an organization which meets the requirements of this subparagraph by reason of clause (i), with respect to remuneration paid by such organization after the termination of the period referred to in clause (i) and prior to July 1, 1977; or

"(iv) in the case of an organization which meets the requirements of this subparagraph by reason of clause (ii), with respect to remuneration paid prior to July 1, 1977, to individuals who became its employees after the close of the calendar quarter in which the period referred to in clause (i) began,

which remain unpaid on the date of the enactment of this subparagraph, or which were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph, shall not be due or payable (or, if paid, shall be refunded); and the certificate which such organization is deemed under this paragraph to have filed shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 (which remain unpaid on the date of the enactment of this subparagraph, or were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph) are not due and payable (or are refunded) by reason of the preceding provisions of this subparagraph. In applying this subparagraph for purposes of title II of the Social Security Act, the period during which reports of wages subject to the taxes imposed by section 3101 and 3111 were made by any organization may be conclusively treated as the period (described in subparagraph (A) (ii)) during which the taxes imposed by such sections were paid by such organization.".

(2) Section 3121(k) (4) (A) of such Code is amended by inserting "(subject to subparagraph (C))" after "effective" in the matter following clause (ii).

(3) Section 3121(k) (6) of such Code (relating to application of certain provisions to cases of constructive filing) is amended by inserting "(except as provided in paragraph (4) (C))" after "services involved" in the matter preceding subparagraph (A).

(4) Section 3121(k) (4) of such Code is amended by striking out "date" in subparagraph (B) (ii) and inserting in lieu thereof "first day of the calendar quarter".

(c) In any case where—

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k) (4) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k) (1) of such Code, on or after the first day of the applicable period described in subparagraph (A) (ii) of such section 3121(k) (4) and before July 1, 1977; and

(2) the service so performed does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the waiver certificate which the organization is deemed to have filed is made inapplicable to such service by section 3121(k) (4) (C) of such Code, but would constitute employment (as so defined) in the absence of such section 3121(k) (4) (C).

the remuneration paid for such service shall, upon the request of such individual (filed on or before April 15, 1980, in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full payment of all of the taxes which would have been paid under section 3101 of such Code with respect to such remuneration but for such section 3121(k) (4) (C) (or by satisfactory evidence that appropriate arrangements have been made for the payment of such taxes in installments as provided in section 3121(k) (8) of such Code), be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for payment of the taxes which it would have been required to pay under section 3111 of such Code with respect to such remuneration in the absence of such section 3121(k) (4) (C).

(d) Section 3121(k) (8) of the Internal Revenue Code of 1954 (relating to extended period for payment of taxes for retroactive coverage), as amended by subsection (a) (3) of this section, is amended to read as follows:

"(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where—

"(A) an organization is deemed under paragraph (4) to have filed a valid waiver certificate under paragraph (1), but the applicable period described in paragraph (4) (A) (ii) has terminated and part or all of the taxes imposed by sections 3101 and 3111 with respect to remuneration paid by such organization to its employees after the close of such period remains payable notwithstanding paragraph (4) (C), or

"(B) an organization described in paragraph (5) (A) files a valid waiver certificate under paragraph (1) by March 31, 1978, as described in paragraph (5) (B), or (not having filed such a certificate by that date) is deemed under paragraph (5) to have filed such a certificate on April 1, 1978, or

"(C) an individual files a request under section 3 of Public Law 94–563, or under section 312(c) of the Social Security Amendments of 1977, to have service treated as constituting remuneration for employment (as defined in section 3121(b) and in section 210 (a) of the Social Security Act),

the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs, or with respect to service constituting employment by reason of such request, may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.".

(e) The first sentence of section 3 of Public Law 94–563 (in the matter following paragraph (3)) is amended—

(1) by inserting "on or before April 15, 1980," after "fixed"; and

(2) by inserting "(or by satisfactory evidence that appropriate arrangements have been made for the repayment of such taxes in installments as provided in section 3121 (k) (8) of such Code)" after "so refunded or credited".

(f) Section 3121(k) (4) (A) (1) of the Internal Revenue Code of 1954 (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended by striking out "or any subsequent date" and inserting in lieu thereof "(or, if later, as of the earliest date on which it satisfies clause (ii) of this subparagraph.)".

(g) Section 3121(k) (4) (B) of such Code (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended—

(1) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or"; and

(2) by adding after clause (ii) the following new clause:

"(iii) the organization, prior to the end of the period referred to in clause (ii) of such subparagraph (and, in the case of an organization organized on or before October 9, 1969, prior to October 19, 1976), had applied for a ruling or determination letter acknowledging it to be exempt from income tax under section 501(c) (3), and it subsequently received such ruling or determination letter and did not pay any taxes under sections 3101 and 3111 with respect to any employee with respect to any quarter ending after the twelfth month following the date of mailing of such ruling or determination letter and did not pay any such taxes with respect to any quarter beginning after the later of (I) December 3, 1975 or (II) the date on which such ruling or determination letter was issued.".

(h) The amendments made by subsections (a), (b), (d), (e), (f), and (g) of this section shall be effective as though they had been included as a part of the amendments made to section 3121(k) of the Internal Revenue Code of 1954 by the first section of Public Law 94–563 (or, in the case of the amendments made by subsection (e), as a part of section 3 of such Public Law).

EXCLUSION FROM COVERAGE OF CERTAIN LIMITED PARTNERSHIP INCOME

SEC. 313. (a) Section 211(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) There shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) of the Internal Revenue Code of 1954 to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.".

(b) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.".

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977.

EMPLOYEES OF MEMBERS OF RELATED GROUPS OF CORPORATIONS

SEC. 314. (a) Section 3121 of the Internal Revenue Code of 1954 (definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(s) CONCURRENT EMPLOYMENT BY TWO OR MORE EMPLOYERS.—For purposes of sections 3102, 3111, and 3121(a) (1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.".

(b) Section 3306 of such Code (relating to definitions in respect of unemployment tax) is amended by adding at the end thereof the following new subsection:

"(p) Concurrent Employment by Two or More Employers.—For purposes of sections 3301, 3302, and 3306(b)(1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.".

(c) The amendments made by this section shall apply with respect to wages paid after December 31, 1978.

TAX ON EMPLOYERS OF INDIVIDUALS WHO RECEIVE INCOME FROM TIPS

Sec. 315. (a) Section 3121 of the Internal Revenue Code of 1954 (definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof (after the new subsection added by section 314(a) of this Act) the following new subsection:

"(t) Special Rule for Determining Wages Subject to Employer Tax in Case of Certain Employers Whose Employees Receive Income From Tips.—If the wages paid by an employer with respect to the employment during any month of an individual who (for services performed in connection with such employment) receives tips which constitute wages, and to which section 3102(a) applies, are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), the wages so paid shall be deemed for purposes of section 3111 to be equal to such total amount.".

(b) Section 3111 of such Code is amended by inserting "and (t)" after "3121(a)" in subsections (a) and (b).

(c) The amendments made by this section shall apply with respect to wages paid with respect to employment performed in months after December 1977.

REVOCATION OF EXEMPTION FROM COVERAGE BY CLERGYMEN

Sec. 316. (a) Notwithstanding section 1402(c)(3) of the Internal Revenue Code of 1954, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed—

(1) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

(2) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1954 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding section 1402(c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

(b) Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years ending on or after the date of the enactment of this Act, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of death occurring in or after such calendar year).

INTERNATIONAL AGREEMENTS WITH RESPECT TO SOCIAL SECURITY BENEFITS

Sec. 317. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL AGREEMENTS

"Purpose of Agreement

"Sec. 233. (a) The President is authorized (subject to the succeeding provisions of this section) to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of such foreign country.

"Definitions

"(b) For the purposes of this section—

"(1) the term 'social security system' means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disabiilty; and

"(2) the term 'period of coverage' means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

"Crediting Periods of Coverage; Conditions of Payment of Benefits

"(c)(1) Any agreement establishing a totalization arrangement pursuant to this section shall provide—

"(A) that in the case of an individual who has at least 6 quarters of coverage as defined in section 213 of this Act and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security system of such foreign country may be combined with periods of coverage under this title and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;

"(B)(i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both, and (ii) the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

"(C) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which was completed under this title.

"(2) Any such agreement may provide that—

"(A) an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement; and

"(B) the benefit paid by the United States to an individual who legally resides in the United States shall, if less when added to the benefit paid by such foreign country than the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a) in the case of an individual becoming eligible for such benefit before January 1, 1979, or based on a primary insurance amount determined under section 215(a)(1)(C)(i)(I) in the case of an individual becomng eligible for such benefit on or after that date, be increased so that the total of the two benefits is equal to the benefit amount which would be so payable.

"(3) Section 226 shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

"(4) Any such agreement may contain other provisions which are not inconsistent with the other provisions of this title and which the President deems appropriate to carry out the purposes of this section.

"Regulations

"(d) The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

"Reports to Congress; effective date of agreements

"(e)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress together with a report on the estimated number of individuals who will be affected by the agreement and the effect of the agreement on the estimated income and expenditures of the programs established by this Act.

"(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of the period (following the date on which the agreement is transmitted in accordance with paragraph (1)) during which each House of the Congress has been in session on each of 90 days; except that such agreement shall not become effective if, during such period, either House of the Congress adotps a resolution of disapproval of the agreement.".

(b)(1) Section 1401 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.".

(2) Sections 3101 and 3111 of such Code are each amended by adding at the end thereof the following new subsection:

"(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.".

(3) Section 6051(a) of such Code is amended by adding at the end thereof the following new sentence: "The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by section 3101 and 3111.".

(5) Notwithstanding any other provision of law, taxes paid by any individual to any foreign country with respect to any period of employment or self-employment which is covered under the social security system of such foreign country in accordance with the terms of an agreement entered into pursuant to section 233 of the Social Security Act shall not, under the income tax laws of the United States, be deductible by, or creditable against the income tax of, any such individual.

MODIFICATION OF AGREEMENT WITH ILLINOIS TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN

SEC. 318. (a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Illinois heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1979, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by the Illinois Municipal Retirement Fund on the date of the enactment of this Act if the State of Illinois has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this section, a retirement system which covers positions of policemen or firemen shall, if the State of Illinois so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, as the case may be.

(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of Illinois under subsection (a) of this section, to the extent that it involves services performed by a policeman or fireman in positions covered under the Illinois Municipal Retirement Fund, shall be made effective with respect to—

(1) all services performed by policemen or firemen, in positions to which the modification relates, on or after the date of the enactment of this Act; and

(2) all services performed by such individuals in such positions before such date of enactment with respect to which the State of Illinois has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Illinois repays to the Secretary of the Treasury the amount of such refund within 90 days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

COVERAGE FOR POLICEMEN AND FIREMEN IN MISSISSIPPI

SEC. 319. Section 218(p)(1) of the Social Security Act is amended by inserting "Mississippi," after "Maryland,".

COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN NEW JERSEY

SEC. 320. Section 218(d)(6)(C) of the Social Security Act is amended by inserting "New Jersey," after "Nevada,".

COVERAGE OF SERVICE UNDER WISCONSIN RETIREMENT SYSTEM

SEC. 321. Section 218(m)(1) of the Social Security Act is amended by inserting after "Wisconsin retirement fund" the following: "or any successor system".

PART C—BENEFIT AMOUNTS AND ELIGIBILITY

ACTUARIAL REDUCTION OF BENEFIT INCREASES TO BE APPLIED AS OF TIME OF ORIGINAL ENTITLEMENT

SEC. 331. (a) Section 202(q)(4) of the Social Security Act is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following:

"then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7)) for each month beginning with the month of such increase in the primary insurance amount shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and after the month for which the individual first became entitled to such monthly benefit reduced under such paragraph (1) or (3).".

(b) Section 202(q) of such Act is further amended by adding at the end thereof the following new paragraphs:

"(10) For purposes of applying paragraph (4), with respect to monthly benefits payable for any month after December 1977 to an individual who was entitled to a monthly benefit as reduced under paragraph (1) or (3) prior to January 1978, the amount of reduction in such benefit for the first month for which such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based and for all subsequent months (and similarly for all subsequent increases) shall be increased by a percentage equal to the percentage increase in such primary insurance amount (such increase being made in accordance with the provisions of paragraph (8)). In the case of an individual whose reduced benefit under this section is increased as a result of the use of an adjusted reduction period or an additional adjusted reduction period (in accordance with paragraphs (1) and (3) of this subsection), then for the first month for which such increase is effective, and for all subsequent months, the amount of such reduction (after the application of the previous sentence, if applicable) shall be determined—

"(A) in the case of old-age, wife's, and husband's insurance benefits, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period to (ii) the number of months in the reduction period,

"(B) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 62, by multiplying such amount by the ratio of (i) the number of months in the reduction period beginning with age 62 multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 percent to (ii) the number of months in the reduction period multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the additional reduction period multiplied by $\frac{43}{240}$ of 1 percent, and

"(C) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 65, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 percent to (ii) the number of months in the reduction period beginning with age 62 multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted reduction period, prior to age 62 multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted $\frac{43}{240}$ of 1 percent.

such determination being made in accordance with the provisions of paragraph (8).

"(11) When an individual is entitled to more than one monthly benefit under this title and one or more of such benefits are reduced under this subsection, paragraph (10) shall apply separately to each such benefit reduced under this subsection before the application of subsection (k) (pertaining to the method by which monthly benefits are offset when an individual is entitled to more than one kind of benefit) and the application of this paragraph shall operate in conjunction with paragraph (3).".

(c)(1) Section 202(q)(7)(C) of such Act is amended by striking out "because" and all that follows and inserting in lieu thereof "because of the occurrence of an event that terminated her or his entitlement to such benefits.".

(2) Section 202(q)(3)(H) of such Act is amended by inserting "for that month or" after "first entitled".

(d) The amendments made by this section shall be effective with respect to monthly benefits payable for months after December 1977.

LIMITATION ON RETROACTIVE BENEFITS

SEC. 332. (a)(1) The first sentence of section 202(j)(1) of the Social Security Act is amended by striking out "An individual" and inserting in lieu thereof "Subject to the limitations contained in paragraph (4), an individual".

(2) Section 202(j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to a monthly benefit under subsection (a), (b), (c), (e), or (f) for any month prior to the month in which he or she files an application for benefits under that subsection if the effect of entitlement to such benefit would be to reduce, pursuant to subsection (q), the amount of the monthly benefit to which such individual would otherwise be entitled for the month in which such application is filed.

"(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would (except for subparagraph (A)) be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(ii) If the individual applying for retroactive benefits is a widow, surviving divorced wife, or widower and is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow or widower or disabled surviving divorced wife for any month before attaining the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(iii) If the individual applying for retroactive benefits has excess earning (as defined in section 203(f)) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.

"(iv) As used in this subparagraph, the term 'retroactive benefits' means benefits to which an individual becomes entitled for a month prior to the month in which application for such benefits is filed.".

(3) Section 226(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b) (2) (A), the entitlement of such individual to widow's or widower's insurance benefits under section 202 (e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(l) (4).".

(b) The amendments made by subsection (a) shall be effective with respect to monthly insurance benefits under title II of the Social Security Act to which an individual becomes entitled on the basis of an application filed on after January 1, 1978.

DELIVERY OF BENEFIT CHECKS

SEC. 333. (a) Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"DELIVERY OF BENEFIT CHECKS

"SEC. 708. (a) If the day regularly designated for the delivery of benefit checks under title II or title XVI falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5, United States Code) in any month, the benefit checks which would otherwise be delivered on such day shall be mailed for delivery on the first day preceding such day which is not a Saturday, Sunday, or legal public holiday (as so defined), without regard to whether the delivery of such checks would as a result have to be made before the end of the month for which such checks are issued.

"(b) If more than the correct amount of payment under title II or XVI is made to any individual as a result of the receipt of a benefit check pursuant to subsection (a) before the end of the month for which such check is issued, no action shall be taken (under section 204 or 1631(b) or otherwise) to recover such payment or the incorrect portion thereof.".

(b) The amendment made by subsection (a) of this section shall apply with respect to benefit checks the regularly designated day for delivery of which occurs on or after the thirtieth day after the date of the enactment of this Act.

REDUCED BENEFITS FOR SPOUSES RECEIVING GOVERNMENT PENSIONS

SEC. 334. (a) (1) Section 202(b) (2) of the Social Security Act is amended by inserting after "subsection (q)" the following: "and paragraph (4) of this subsection".

(2) Section 202(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) (A) The amount of a wife's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b) (2)) if, on the last day she was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit, includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(b) (1) Section 202(c) (1) of such Act is amended—

(A) by striking out subparagraph (C);

(B) by adding "and" at the end of subparagraph (B); and

(C) by redesignating subparagraph (D) as subparagraph (C).

(2) Section 202(c) (2) of such Act is amended to read as follows:

"(2) (A) The amount of a husband's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such husband for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b) (2)) if, on the last day he was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(3) Section 202(c) (3) of such Act is amended by inserting after "subsection (q)" the following: "and paragraph (2) of this subsection".

(c) (1) Section 202(e) (2) (A) of such Act (as amended by section 204(a) of this Act) is amended by striking out "paragraph (4)" in the first sentence and inserting in lieu thereof "paragraphs (4) and (8)".

(2) Section 202(e) of such Act is further amended by adding at the end thereof the following new paragraph:

"(8) (A) The amount of a widow's insurance benefit for each month as determined (after application of the provisions of subsection (q) and (k), paragraph (2) (B), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b) (2)) if, on the last day she was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(d) (1) Section 202(f) (1) of such Act is amended—

(A) by striking out subparagraph (D); and

(B) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(2) Section 202(f) (2) of such Act is amended to read as follows:

"(2) (A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (k) and (q), paragraph (3) (B), and paragraph (5) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widower for such month which is based upon his earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b) (2)) if, on the last day he was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(3) Section 202(f) (3) (A) of such Act (as amended by section 204(c) of this Act) is amended by striking out "paragraph (5)" in the first sentence and inserting in lieu thereof "paragraphs (2) and (5)".

(4) (A) Section 202(f) (7) of such Act is amended by striking out "subparagraph (G) of section 202(f) (1)" and inserting in lieu thereof "subparagraph (F) of section 202 (f) (1)".

(5) Section 202(p) (1) of such Act is amended by striking out "subparagraph (C) of subsection (c) (1), clause (i) or (ii) of subparagraph (D) of subsection (f) (1), or".

(6) Section 202(s) (3) of such Act is amended by striking out "Subsections" and all that follows down through "so much" and inserting in lieu thereof "So much".

(e) (1) Section 202(g) (2) of such Act is amended by striking out "Such" and inserting in lieu thereof "Except as provided in paragraph (4) of this subsection, such".

(2) Section 202(g) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) (A) The amount of a mother's insurance benefit for each month to which any individual is entitled under this subsection (as determined after application of subsection (k)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any

State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day such individual was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(f) The amendments made by this section shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months beginning with the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted.

(g)(1) The amendments made by the preceding provisions of this section shall not apply with respect to any monthly insurance benefit payable, under subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act, to an individual—

(A) to whom there is payable for any month within the 60-month period beginning with the month in which this Act is enacted (or who is eligible in any such month for) a monthly periodic benefit (within the meaning of such provisions) based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act; and

(B) who at time of application for or initial entitlement to such monthly insurance benefit under such subsection (b), (c), (e), (f), or (g), meets the requirements of that subsection as it was in effect and being administered in January 1977.

(2) For purposes of paragraph (1)(A), an individual is eligible for a monthly periodic benefit for any month if such benefit would be payable to such individual for that month if such individual were not employed during that month and had made proper application for such benefit.

(3) If any provision of this subsection, or the application thereof to any person or circumstance, is held invalid, the remainder of this section shall not be affected thereby, but the application of this subsection to any other persons or circumstances shall also be considered invalid.

SUBSTANTIAL GAINFUL ACTIVITY IN CASE OF BLIND INDIVIDUALS

SEC. 335. Section 223(d)(4) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof.".

REMARRIAGE OF WIDOWS AND WIDOWERS

SEC. 336. (a)(1) Section 202(e)(2)(A) of the Social Security Act (as amended by sections 204(a) and 334(c)(1) of this Act) is amended by striking out "paragraphs (4) and (8)" and inserting in lieu thereof "paragraph (8)".

(2) Section 202(e)(3) of such Act is amended by striking out "In the case of a widow or surviving divorced wife who marries" in the matter preceding subparagraph (A) and inserting in lieu thereof "If a widow, before attaining age 60, or a surviving divorced wife, marries".

(3) Section 202(e)(4) of such Act is amended to read as follows:

"(4) If a widow, after attaining age 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred.".

(b)(1) Section 202(f)(3)(A) of such Act (as amended by sections 204(c) and 334(d)(3) of this Act) is further amended by striking out "paragraphs (2) and (5)" and inserting in lieu thereof "paragraph (2)".

(2) Section 202(f)(4) of such Act is amended by striking out "In the case of a widower who remarries" in the matter preceding subparagraph (A) and inserting in lieu thereof "If a widower, before attaining age 60, remarries".

(3) Section 202(f)(5) of such Act is amended to read as follows:

"(5) If a widower, after attaining age 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred."

(c)(1) The amendments made by this section shall apply only with respect to monthly benefits payable under title II of the Social Security Act for months after December 1978, and, in the case of individuals who are not entitled to benefits of the type involved for December 1978, only on the basis of applications filed on or after January 1, 1979.

(2) In the case of an individual who was entitled for the month of December 1978 to monthly insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act to which the provisions of subsection (e)(4) or (f)(5) applied, the Secretary shall, if such benefits would be increased by the amendments made by the section, redetermine the amount of such benefits for months after December 1978 as if such amendments had been in effect for the first month for which the provisions of section 202(e)(4) or 202(f)(5) became applicable.

(d) Where—

(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act for December 1978 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202, and

(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 (as amended by this section) for January 1979, and

(3) the total of benefits to which all persons are entitled under section 202 of such Act on the basis of such wages and self-employment income for January 1979 is reduced by reason of section 203(a) of such Act as amended by this Act (or would, but for the first sentence of section 203(a)(4), be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after December 1978 shall in no case be less after the application of this section and such section 203(a) than the amount it would have been without the application of this section.

DURATION-OF-MARRIAGE REQUIREMENT

SEC. 337. (a) Section 216(d) of the Social Security Act is amended by striking out "20 years" in paragraphs (1) and (2) and inserting in lieu thereof in each instance "10 years".

(b) Section 202(b)(1)(G) of such Act is amended by striking out "20 years" and inserting in lieu thereof "10 years".

(c) The amendments made by this section shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after December 1978, and, in the case of individuals who are not entitled to benefits of the type involved for December 1978, only on the basis of application filed on or after January 1, 1979.

Part D—Study With Respect to Gender-Based Distinctions

STUDY OF PROPOSALS TO ELIMINATE DEPENDENCY AND SEX DISCRIMINATION UNDER THE SOCIAL SECURITY PROGRAM

SEC. 341. (a) The Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, shall make a detailed study, within the Department of Health, Education, and Welfare and the Social Security Administration, of proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the program established under title II of the Social Security Act, and of proposals to bring about equal treatment for men and women in any and all respects under such program, taking into account the practical effects (particularly the effect upon women's entitlement to such benefits) of factors such as—

(1) changes in the nature and extent of women's participation in the labor force,

(2) the increasing divorce rate, and

(3) the economic value of women's work in the home.

The study shall include appropriate cost analyses.

(b) The Secretary shall submit to the Congress within six months after the date of the enactment of this Act a full and complete report on the study carried out under subsection (a).

Part E—Combined Social Security and Income Tax Annual Reporting

Subpart 1—Amendments to Title II of the Social Security Act

ANNUAL CREDITING OF QUARTERS OF COVERAGE

SEC. 351. (a)(1) Sections 209(g)(3), 209(j), 210(a)(17)(A), and 210(f)(4)(B) of the Social Security Act are each amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year".

(2) Sections 209(g)(3) and 209(j) of such Act are each further amended by striking out "$50" and inserting in lieu thereof "$100".

(3)(A) Section 209 of such Act is amended by striking out "or" at the end of subsection (n), by striking out the period at the end of subsection (o) and inserting in lieu thereof "; or", and by inserting after subsection (o) the following new subsection:

"(p) Remuneration paid by an organization exempt from income tax under section 501 of the Internal Revenue Code of 1954 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than $100.".

(B) Section 210(a)(10) of such Act is amended by striking out "(10)(A)" and all that follows down through "(B) Service" and inserting in lieu thereof "(10) Service", and by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(b) Section 212 of such Act is amended to read as follows:

"CREDITING OF SELF-EMPLOYMENT INCOME TO CALENDAR YEARS

"SEC. 212. (a) For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year which begins before 1978 shall—

"(1) in the case of a taxable year which is a calendar year, be credited equally to each quarter of such calendar year; and

"(2) in the case of any other taxable year, be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

"(b) For the purposes of determining average indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year which begins after 1977 shall—

"(1) in the case of a taxable year which is a calendar year or which begins with or during a calendar year and ends with or during such year, be credited to such calendar year; and

"(2) in the case of any other taxable year, be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the number of months in each such calendar year which are included completely within the taxable year.

For purposes of clause (2), the calendar month in which a taxable year ends shall be treated as included completely within that taxable year.".

(c) Section 213(a)(2) of such Act is amended to read as follows:

"(2)(A) The term 'quarters of coverage' means—

"(i) for calendar years before 1978, and subject to the provisions of subparagraph (B), a quarter in which an individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with $100 or more of self-employment income; and

"(ii) for calendar years after 1977, and subject to the provisions of subparagraph (B), each portion of the total of the wages paid and the self-employment income credited (pursuant to section 212) to an individual in a calendar year which equals $250, with such quarter of coverage being assigned to a specific calendar quarter in such calendar year only if necessary in the case of any individual who has attained age 62 or died or is under a disability and the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) would not otherwise be met.

"(B) Notwithstanding the provisions of subparagraph (A)—

"(i) no quarter after the quarter in which an individual dies shall be a quarter of coverage, and no quarter any part of which is included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

"(ii) if the wages paid to an individual in any calendar year equal to $3.000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1950 and before 1955, or $4,200 in the case of a calendar year after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967 and before 1972, or $9,000 in the case of the calendar year 1972, or $10,800 in the case of the calendar year 1973, or $13,200 in the case of the calendar year 1974 or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 and before 1978 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

"(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals $3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or $4,200 in the case of a taxable year ending after 1954 and before 1959, or $4,800 in the case of a taxable year ending after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965 and before 1968, or $7,800 in the case of a taxable year ending after 1967 and before 1972, or $9,000 in the case of a taxable year beginning after 1971 and before 1973, or $10,800 in the case of a taxable year beginning after 1972 and before 1974, or $13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974 and before 1978, each quarter any part of which falls in such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

"(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1978, then, subject to clauses (i) and (v), (I) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed $100 but are less than $200; (II) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $200 but are less than $300; (III) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $300 but are less than $400; and (IV) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are $400 or more;

"(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter;

"(vi) not more than one quarter of coverage may be credited to a calendar quarter; and

"(vii) no more than four quarters of coverage may be credited to any calendar year after 1977.

If in the case of an individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1978, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 214(a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.".

(d) The amendment made by subsection (a) shall apply with respect to remuneration paid and services rendered after December 31, 1977. The amendments made by subsections (b) and (c) shall be effective January 1, 1978.

ADJUSTMENT IN AMOUNT REQUIRED FOR A QUARTER OF COVERAGE

SEC. 352. (a) Section 213(a)(2)(A)(ii) of the Social Security Act, as amended by section 351(c) of this Act, is amended by striking out "$250" and inserting in lieu thereof "the amount required for a quarter of coverage in that calendar year (as determined under subsection (d))".

(b) Section 213 of such Act is further amended by adding at the end thereof the following new subsection:

"Amount Required for a Quarter of Coverage

"(d)(1) The amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in any year under subsection (a)(2)(A)(ii) shall be $250 in the calendar year 1978 and the amount determined under paragraph (2) of this subsection for years after 1978.

"(2) The Secretary shall, on or before November 1 of 1978 and of every year thereafter, determine and publish in the Federal Register the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in the succeeding calendar year. The amount required for a quarter of coverage shall be the larger of—

"(A) the amount in effect in the calendar year in which the determination under this subsection is made, or

"(B) the product of the amount prescribed in paragraph (1) which is required for a quarter of coverage in 1978 and the ratio of the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the determination under this paragraph is made to the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for 1976 (as published in the Federal Register in accordance with section 215(a)(1)(D)),

with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest mutliple of $10 in any other case.".

(c) The amendments made by this section shall be effective January 1, 1978.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 353. (a)(1) Section 203(f)(8)(B)(i) of the Social Security Act is amended by striking out "was" wherever it appears and inserting in lieu thereof "is".

(2) Section 203(f)(8)(B)(ii) of such Act is amended to read as follows:

"(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subparagraph (A) is made to (II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.".

(b)(1) The first sentence of section 218(c)(8) of such Act is amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year", and by striking out "$50" and inserting in lieu thereof "$100".

(2) Section 218(g)(1) of such Act is amended by striking out "quarter" and inserting in lieu thereof "year".

(3) Section 218(q)(4)(B) of such Act is amended by striking out "any calendar quarters" and inserting in lieu thereof "a calendar year" and by striking out "such calendar quarters" and inserting in lieu thereof "such calendar year".

(4) Section 218(q)(6)(B) of such Act is amended by striking out "calendar quarters designated by the State in such wage reports as the" and inserting in lieu thereof "period or periods designated by the State in such wage reports as the period or".

(5) Section 218(r)(1) of such Act is amended—

(A) by striking out "quarter" in the matter before clause (A) and inserting in lieu thereof "year",

(B) by striking out "in which occurred the calendar quarter" in clause (A), and

(C) by striking out "quarter" in clause (B) and inserting in lieu thereof "year".

(c)(1) Effective with respect to estimates for calendar years beginning after December 31, 1977, section 224(a) of such Act is amended by striking out the last sentence.

(2) Section 224(f)(2) of such Act is amended to read as follows:

"(2) In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a)) shall be deemed to be the product of—

"(A) his average current earnings as initially determined under subsection (a);

"(B) the ratio of (i) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which such redetermination is made to (ii) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability); and

"(C) in any case in which the reduction was first computed before 1978, the ratio of (i) the average of the taxable wages reported to the Secretary for the first calendar quarter of 1977 to (ii) the average of the taxable wages reported to the Secretary for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).

Any amount under this paragraph which is not a multiple of $1 shall be reduced to the new lower multiple of $1.".

(d) Section 229(a) of such Act is amended—

(1) by striking out "shall be deemed to have been paid, in each calendar quarter occurring after 1956 in which he" and inserting in lieu thereof ", if he", and

(2) by striking out "wages (in addition to the wages actually paid to him for such service) of $300." at the end thereof and inserting in lieu thereof the following: "shall be deemed to have been paid—

"(1) in each calendar quarter occurring after 1956 and before 1978 in which he was paid such wages, additional wages of $300, and

"(2) in each calendar year occurring after 1977 in which he was paid such wages, additional wages of $100 for each $300 of such wages, up to a maximum of $1,200 of additional wages for any calendar year.".

(e)(1) Section 230(b) of such Act is amended by striking out the last sentence.

(2) Section 230(b)(1) of such Act is amended to read as follows:

"(1) the contribution and benefit base which is in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) is made, and".

(3) Section 230(b)(2) of such Act is amended to read as follows:

"(2) the ratio of (A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subsection (a) is made or (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a).".

(f)(1) Effective with respect to convictions after December 31, 1977, section 202(u)(1)(C) of such Act is amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year".

(2)(A) Section 205(c)(1) of such Act is amended by striking out "(as defined in section 211(e))".

(B) Section 205(c)(1) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(D) The term 'period' when used with respect to self-employment income means a taxable year and when used with respect to wages means—

"(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1954 or regulations thereunder (or on reports filed by a State under section 218(e) or regulations thereunder),

"(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

"(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.".

(C) Section 205(o) of such Act is amended by inserting "before 1978" after "calendar year".

(g) The amendments made by subsection (b) of this section shall apply with respect to remuneration paid after December 31, 1977, except that the amendment made by subsection (b)(2) shall apply with respect to notices submitted by the States to the Secretary after the date of the enactment of this Act. The amendments made by subsections (d) and (f)(2) shall be effective January 1, 1978. Except as otherwise specifically provided, the remaining amendments made by this section shall be effective January 1, 1979.

Subpart 2—Amendments to the Internal Revenue Code of 1954

DEDUCTION OF TAX FROM WAGES

SEC. 355. (a) Section 3102(a) of the Internal Revenue Code of 1954 is amended by striking out "or (C) or (10)", and by inserting after "is less than $50;" the following: "and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than $100;".

(b)(1) Paragraphs (1) and (2) of section 3102(c) of such Code are each amended by striking out "quarter" wherever it appears and by inserting in lieu thereof "year".

(2) Paragraph (3) of section 3102(c) of such Code is amended—

(A) by striking out "quarter of the" in subparagraph (A); and

(B) by striking out "quarter" wherever it appears in subparagraphs (B) and (C) and inserting in lieu thereof "year".

(c) The amendments made by this section shall apply with respect to remuneration paid and to tips received after December 31, 1977.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 356. (a) Sections 3121(a)(7)(C) and 3121(a)(10) of the Internal Revenue Code of 1954 are each amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year", and by striking out "$50" and inserting thereof "$100".

(b) Section 3121(a) of such Code is amended by striking out "or" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or", and by adding after paragraph (15) the following new paragraph:

"(16) remuneration paid by an organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than $100.".

(c) Section 3121(b)(10) of such Code is amended by striking out "(10)(A)" and all that follows down through "(B) service" and inserting in lieu thereof "(10) service", and redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(d) Sections 3121(b)(17)(A) and 3121(g)(4)(B) of such Code are each amended by striking out "quarter" and inserting in lieu thereof "year".

(e) The amendments made by this section shall apply with respect to remuneration paid and services rendered after December 31, 1977.

Subpart 3—Conforming Amendments to the Railroad Retirement Act of 1974

COMPUTATION OF EMPLOYEE ANNUITIES

SEC. 358. (a) The last sentence of section 3(f)(1) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "paid before 1978" after "in the case of wages", and

(2) by inserting "and in the case of wages paid after 1977" before the period at the end thereof.

(b) The amendments made by this section shall be effective January 1, 1978.

PART F—NATIONAL COMMISSION ON SOCIAL SECURITY

ESTABLISHMENT OF COMMISSION

SEC. 361. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of two years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both;

(F) the need to develop a special Consumer Price Index for the elderly, including the financial impact that such an index would have on the costs of the programs established under the Social Security Act; and

(G) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

PART G—MISCELLANEOUS PROVISIONS

APPOINTMENT OF HEARING EXAMINERS

SEC. 371. The persons who were appointed to serve as hearing examiners under section 1631(d)(2) of the Social Security Act (as in effect prior to January 2, 1976), and who by section 3 of Public Law 94–202 were deemed to be appointed under section 3105 of title 5, United States Code (with such appointments terminating no later than at the close of the period ending December 31, 1978), shall be deemed appointed to career-absolute positions as hearing examiners under and in accordance with section 3105 of title 5, United States Code, with the same authority and tenure (without regard to the expiration of such period) as hearing examiners appointed directly under such section 3105, and shall receive compensation at the same rate as hearing examiners appointed by the Secretary of Health, Education, and Welfare directly under such section 3105. All of the provisions of title 5, United States Code and the regulations promulgated pursuant thereto, which are applicable to hearing examiners appointed under such section 3105, shall apply to the persons described in the preceding sentence.

REPORT OF ADVISORY COUNCIL ON SOCIAL SECURITY

SEC. 372. Notwithstanding the provisions of section 706(d) of the Social Security Act, the report of the Advisory Council on Social Security which is due not later than January 1, 1979, may be filed at any date prior to October 1, 1979.

TITLE IV—PROVISIONS RELATING TO CERTAIN STATE WELFARE AND SERVICE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

FISCAL RELIEF FOR STATES AND POLITICAL SUBDIVISIONS WITH RESPECT TO COSTS OF WELFARE PROGRAMS

SEC. 401. Section 403 of the Social Security Act is amended—

(1) in subsection (a), by adding at the end thereof the following new paragraph:

"In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section."; and

(2) by adding at the end thereof the following new subsection:

"(i)(1) In the case of any calendar quarter which begins after September 30, 1977, and prior to April 1, 1978, the amount payable (as determined under subsection (a) or section 1118, as the case may be) to each State which has a State plan approved under this part shall (subject to the succeeding paragraphs of this subsection) be increased by an amount equal to the sum of the following:

"(A) an amount which bears the same ratio to $46,750,000 as the amount expended as aid to families with dependent children under the State plan of such State during the month of December 1976 bears to the amount expended as aid to families with dependent children under the State plans of all States during such month, and

"(B)(i) in the case of Puerto Rico, Guam, and the Virgin Islands, an amount equal to the amount determined under subparagraph (A) with respect to such State, or

"(ii) in the case of any other State, an amount which bears the same ratio to $46,750,000, minus the amounts determined under clause (i) of this subparagraph, as the amount allocated to such State under section 106 of the State and Local Fiscal Assistance Act of 1972, for the most recent entitlement period for which allocations have been made under such section prior to the date of the enactment of this subsection, bears to the total of the amounts allocated to all States under such section 106 for such period.

"(2) As a condition of any State receiving an increase, by reason of the application of the foregoing provisions of this subsection, in the amount determined for such State pursuant to subsection (a) or under section 1118 (as the case may be), such State must agree to pay to any political subdivision thereof which participates in the cost of the State's plan approved under this part, during any calendar quarter with respect to which such increase applies, so much of such increase as does not exceed 100 per centum of such political subdivision's financial contribution to the State's plan for such quarter.

"(3) Notwithstanding any other provision of this part, the amount payable to any State by reason of the preceding provisions of this subsection for calendar quarters prior to April 1, 1978, shall be made in a single installment, which shall be payable as shortly after October 1, 1977, as is administratively feasible.".

INCENTIVE ADJUSTMENTS FOR QUALITY CONTROL IN FEDERAL FINANCIAL PARTICIPATION IN AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAMS

SEC. 402. (a) Section 403 of the Social Security Act is amended by adding, after subsection (i) (as added by section 401 of this Act) the following new subsection:

"(j) If the dollar error rate of aid furnished by a State under its State plan approved under this part with respect to any six-month period, as based on samples and evaluations thereof, is—

"(1) at least 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be determined without regard to the provisions of this subsection; or

"(2) less than 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be the amount determined without regard to this subsection, plus, of the amount by which such expenditures are less than they would have been if the erroneous excess payments of aid had been at a rate of 4 per centum—

"(A) 10 per centum of the Federal share of such amount, in case such rate is not less than 3.5 per centum,

"(B) 20 per centum of the Federal share of such amount, in case such rate is at least 3.0 per centum but less than 3.5 per centum,

"(C) 30 per centum of the Federal share of such amount, in case such rate is at least 2.5 per centum but less than 3.0 per centum,

"(D) 40 per centum of the Federal share of such amount, in case such rate is at least 2.0 per centum but less than 2.5 per centum,

"(E) 50 per centum of the Federal share of such amount, in case such rate is less than 2.0 per centum.

For purposes of this subsection (i) the term 'dollar error rate of aid' means the total of the dollar error rates of aid for (I) payments to ineligible families receiving assistance; (II) overpayments to eligible families receiving assistance; (III) underpayments to eligible families receiving assistance; and (IV) nonpayments to eligible families not receiving assistance due to erroneous terminations or denials, and (ii) the term 'erroneous excess payments,' means the total of (I) erroneous payments to ineligible families receiving assistance, and (II) overpayments to eligible families receiving assistance.".

(b) Payments may be made under the amendment made by subsection (a) only in the case of periods commencing on or after January 1, 1978.

ACCESS TO WAGE INFORMATION

SEC. 403. (a) Part A of title IV of the Social Security Act is amended by adding after section 410 the following new section:

"ACCESS TO WAGE INFORMATION

"SEC. 411. (a) Notwithstanding any other provision of law, the Secretary shall make available to States and political subdivisions thereof wage information contained in the records of the Social Security Administration which is necessary (as determined by the Secretary in regulations) for purposes of determining an individual's eligibilty for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved under this part, and which is specifically requested by such State or political subdivision for such purposes.

"(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.".

(b) Section 3304(a) of the Federal Unemployment Tax Act is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

"(16)(A) wage information contained in the records of the agency administering the State law which is necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved under part A of title IV of the Social Security Act, shall be made available to a State or political subdivision thereof when such information is specifically requested by such State or political subdivision for such purposes, and

"(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such information is used only for the purposes authorized under subparagraph (A);".

(c) Section 402(a) of the Social Security Act is amended—

(1) by striking out the word "and" at the end of paragraph (27);

(2) by striking out the period at the end of paragraph (28) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(29) effective October 1, 1979, provided that wage information available from the Social Security Administration under the provisions of section 411 of this Act, and wage information available (under the provisions of section 3304(a)(16) of the Federal Unemployment Tax Act) from agencies administering State unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections; except that the State shall not be required to request such information from the Social Security Administration where such information is available from the agency administering the State unemployment compensation laws.".

(d) The amendments made by this section shall be effective on the date of the enactment of this Act.

STATE DEMONSTRATION PROJECTS

SEC. 404. Section 1115 of the Social Security Act is amended—

(1) by inserting "(a) after "SEC. 1115.";

(2) by redesignating subsections (a) and (b) as paragraphs (1) and (2), respectively; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individuals who are recipients of public assistance, any State having an approved plan under part A of title IV may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In establishing and conducting any such project the State shall—

"(A) provide that not more than one such project be conducted on a statewide basis;

"(B) provide that in making arrangements for public service employment—

"(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

"(ii) such project will not result in the displacement of employed workers,

"(iii) each participant in such project shall be compensated for work performed by him at an hourly rate equal to the prevailing hourly wage for similar work in the locality where the participant performs such work (and, for purposes of this clause, benefits payable under the State's plan approved under part A of title IV of the family of which such participant is a member shall be regarded as compensation for work performed by such participant),

"(iv) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant; and

"(v) appropriate workmen's compensation protection is provided to all participants; and

"(C) provide that participation in such project by any individual receiving aid to families with dependent children be voluntary.

"(2) Any State which establishes and conducts demonstration projects under this subsection may, subject to paragraph (3), with respect to any such project—

"(A) waive, subject to paragraph (3), any or all of the requirements of sections 402(a)(1) (relating to statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income), except that no such waiver of 402(a)(8) shall operate to waive any amount in excess of one-half of the earned income of any individual, and 402(a)(19) (relating to the work incentive program);

"(B) subject to paragraph (4), use to cover the costs of the project such funds as are appropriated for payment to such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individuals participating in such projects under part A of title IV for any fiscal year in which such projects are conducted; and

"(C) use such funds as are appropriated for payments to States under the State and Local Fiscal Assistance Act of 1972 for any fiscal year in which the project is conducted to cover so much of the costs of salaries for individuals participating in public service employment as is not covered through the use of funds made available under subparagraph (B).

"(3)(A) Any State which wishes to establish and conduct demonstration projects under the provisions of this subsection shall submit an application to the Secretary in such form and conatining such information as the Secretary may require. Whenever any State submits such an application to the Secretary, it shall at the same time issue public notice of that fact together with a general description of the project with respect to which the application is submitted, and shall invite comment thereon from interested parties and comments thereon may be submitted, within the 30-day period beginning with the date the application is submitted to the Secretary, to the State or the Secretary by such parties. The State shall also make copies of the application available for public inspection. The Secretary shall also immediately publish a summary of the proposed project, make copies of the application available for public inspection, and receive and consider comments submitted with respect to the application. A State shall be authorized to proceed with a project submitted under this subsection—

"(i) when such application has been approved by the Secretary (which shall be no earlier than 30 days following the date the application is submitted to him), or

"(ii) 60 days after the date on which such application is submitted to the Secretary unless, during such 60 day period, he denies the application.

"(B) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of title IV, the Secretary may disapprove such waiver. The project with respect to which any such disapproved waiver was made shall be terminated by such State not later than the last day of the month following the month in which such waiver was disapproved.

"(4) Any amount payable to a State under section 403(a) on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

"(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to 'unemployment' as that term is used in section 407.

"(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than September 30, 1980.".

REIMBURSEMENT FOR ERRONEOUS STATE SUPPLEMENTARY PAYMENTS

SEC. 405. (a) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized and directed to pay to each State an amount equal to the amount expended by such State for erroneous supplementary payments to aged, blind, or disabled individuals whenever, and to the extent to which, the Secretary through an audit by the Department of Health, Education, and Welfare which has been reviewed and concurred in by the Inspector General of such department determines that—

(1) such amount was paid by such State as a supplementary payment during the calendar year 1974 pursuant to an agreement between the State and the Secretary required by section 212 of the Act entitled "An Act to extend the Renegotiation Act of 1951 for one year, and for other purposes", approved July 9, 1973, or such amount was paid by such State as on optional State supplementation, as defined in section 1616 of the Social Security Act, during the calendar year 1974,

(2) the erroneous payments were the result of good faith reliance by such State upon erroneous or incomplete information supplied by the Department of Health, Education, and Welfare, through the State data exchange, or good faith reliance upon incorrect supplemental security income benefit payments made by such department, and

(3) recovery of the erroneous payments by such State would be impossible or unreasonable.

(b) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

TITLE V—MISCELLANEOUS

COVERAGE UNDER MEDICARE OF CERTAIN POWER-OPERATED WHEELCHAIRS

SEC. 501. (a) Section 1861(s)(6) of the Social Security Act is amended by inserting after "wheelchairs" the following: "(which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual's medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe)".

(b) Section 1842(b)(3) of such Act is amended by inserting after the fourth sentence thereof the following new sentence: "With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s)(6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality."

(c) The amendments made by this section shall be effective in the case of items and services furnished after the date of the enactment of this Act.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS

SEC. 502. (a) Section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is amended—

(1) by inserting "(a)" immediately after "SEC. 328.", and

(2) by adding at the end thereof the following new subsections:

"(b) If an honorarium payable to a person is paid instead at his request to a charitable organization selected by payor from a list of 5 or more charitable organizations provided by that person, that person shall not be treated, for purposes of subsection (a), as accepting that honorarium. For purposes of this subsection, the term 'charitable organization' means an organization described in section 170(c) of the Internal Revenue Code of 1954.

"(c) For purposes of determining the aggregate amount of honorariums received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

"(d) For purposes of paragraph (2) of subsection (a), an honorarium shall be treated as accepted only in the year in which that honorarium is received.".

(b) The amendments made by subsection (a)shall apply with respect to any honorarium received after December 31, 1976.

And the Senate agree to the same.

Amend the title so as to read:

An Act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, and for other purposes.".

And the Senate agree to the same.

AL ULLMAN,
JAMES A. BURKE,
DAN ROSTENKOWSKI,
JOE D. WAGGONNER, Jr.,
WILLIAM R. COTTER,
ABNER J. MIKVA,
JIM GUY TUCKER,
Managers on the Part of the House.

RUSSELL B. LONG,
ABRAHAM RIBICOFF,
GAYLORD NELSON,
W. D. HATHAWAY,
DANIEL P. MOYNIHAN,
CARL T. CURTIS,
BILL ROTH,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are generally described below, except for technical, clerical, conforming, clarifying, and minor drafting changes.

ADJUSTMENTS IN TAX RATES

The House bill contained changes in the social security tax schedule necessary to finance the social security system as modified by the House bill, as shown in table 1.

TABLE 1.—SOCIAL SECURITY TAX RATES—HOUSE-PASSED BILL

[In percent]

Calendar year	OASI [1]	DI [1]	OASDI [1]	HI	Total
	Employees and employers, each				
1977	4.375	0.575	4.95	0.90	5.85
1978	4.275	.775	5.05	1.00	6.05
1979-80	4.300	.750	5.05	1.00	6.05
1981	4.450	.800	5.25	1.30	6.55
1982-84	4.550	.800	5.35	1.30	6.65
1985	4.750	.900	5.65	1.30	6.95
1986-89	4.750	.900	5.65	1.45	7.10
1990 and after	5.100	1.100	6.20	1.45	7.65
	Self-employed				
1977	6.185	0.815	7.00	0.90	7.90
1978	6.010	1.090	7.10	1.00	8.10
1979-80	6.045	1.055	7.10	1.00	8.10
1981	6.700	1.200	7.90	1.30	9.20
1982-84	6.850	1.200	8.05	1.30	9.35
1985	7.100	1.350	8.45	1.30	9.75
1986-89	7.100	1.350	8.45	1.45	9.90
1990 and after	7.650	1.650	9.30	1.45	10.75

[1] By allocation in the law.

The Senate amendment changed these provisions to finance the social security system as modified by the Senate amendment. The tax rates in the Senate amendment are shown in table 2.

TABLE 2.—SOCIAL SECURITY TAX RATES—SENATE-PASSED BILL

[In percent]

Calendar year	OASI[1]	DI[1]	OASDI	HI	Tota
	Employees and employers, each				
1977	4.375	0.575	4.95	0.90	5.85
1978	4.275	.775	5.05	1.00	6.05
1979-80	4.335	.750	5.085	1.05	6.135
1981	4.525	.825	5.35	1.25	6.60
1982-84	4.575	.825	5.40	1.25	6.65
1985	4.750	.950	5.70	1.35	7.05
1986-89	4.750	.950	5.70	1.40	7.10
1990-94	5.100	1.050	6.15	1.40	7.55
1995-2000	5.500	1.200	6.70	1.40	8.10
2000-10	5.950	1.350	7.30	1.40	8.70
2011 and after	6.300	1.500	7.80	1.40	9.20
	Self-employed				
1977	6.185	0.815	7.0	0.90	7.90
1978	6.010	1.090	7.10	1.00	8.10
1979-80	6.010	1.040	7.05	1.05	8.10
1981	6.7625	1.2375	8.00	1.25	9.25
1982-84	6.7625	1.2375	8.00	1.25	9.25
1985	7.125	1.425	8.55	1.35	9.90
1986-89	7.125	1.425	9.55	1.40	9.95
1990-94	7.675	1.575	9.25	1.40	10.65
1995-2000	8.250	1.800	10.05	1.40	11.45
2001-10	8.925	2.025	10.95	1.40	12.35
2011 and after	9.950	2.250	11.70	1.40	13.10

[1] By allocation in law.

The House recedes with an amendment providing a new schedule of taxes to finance the system as modified by the conference agreement. The tax rates in the conference agreement are shown in table 3.

TABLE 3.—SOCIAL SECURITY TAX RATES

[In percent]

Calendar year	OASI[1]	DI[1]	OASDI	HI	Total
	Employees and employers, each				
1977	4.375	0.575	4.95	0.90	5.85
1978	4.275	.775	5.05	1.00	6.05
1979-80	4.330	.750	5.08	1.05	6.13
1981	4.525	.825	5.35	1.30	6.65
1982-84	4.575	.825	5.40	1.30	6.70
1985	4.750	.950	5.70	1.35	7.05
1986-89	4.750	.950	5.70	1.45	7.15
1990 and later	5.100	1.100	6.20	1.45	7.65
	Self-employed				
1977	6.1850	0.8150	7.00	0.90	7.90
1978	6.010	1.090	7.10	1.00	8.10
1979-80	6.0100	1.0400	7.05	1.05	8.10
1981	6.7625	1.2375	8.00	1.30	9.30
1982-84	6.8125	1.2375	8.05	1.30	9.35
1985	7.1250	1.4250	8.55	1.35	9.90
1986-89	7.1250	1.4250	8.55	1.45	10.00
1990 and later	7.6500	1.6500	9.30	1.45	10.75

[1] By allocation in law.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

The House bill would increase allocation to the disability insurance trust fund beginning in 1978. (See table 1 above.)

The Senate amendment would also increase allocation to the disability insurance trust fund beginning in 1978. (See table 2 above.)

The conference agreement modifies the allocation rates to finance the disability insurance program. (See table 3 above.)

CONTRIBUTION AND BENEFIT BASE

The House bill provided for 4 ad hoc increases in the contribution and benefit base for employees, employers, and the self-employed in 1978, 1979, 1980, and 1981. After 1981 the base would be automatically adjusted to keep up with average wage levels in the same way the present-law base is adjusted.

The Senate amendment provided for 4 ad hoc increases in the contribution and benefit base for employees and the self-employed of $600 each, above the level that would prevail under present law, in 1979, 1981, 1983, and 1985. After 1985, the base would be automatically adjusted to keep up with average wage levels.

The Senate amendment also provided for increasing the taxable earnings base for employers to $50,000 for 1979-84 and to $75,000 beginning in 1985. The base would remain at that level until the employee base reached that level, after which time both would be automatically adjusted.

The conference agreement follows the House bill except that no increase in the contribution and benefit base (over present law) is provided in 1978. Table 4 below shows the base for employers and employees under the House and Senate bills and the conference agreement. (Amounts shown under the Senate bill depend, in part, on automatic adjustments and are, therefore, estimates.)

TABLE 4.—CONTRIBUTION AND BENEFIT BASE

Calendar year	House-passed bill	Senate-passed bill		Conference agreement
		Employee, self-employed	Employer	
1978	$19,900	$17,700	$17,700	$17,700
1979	22,900	19,500	50,000	22,900
1980	25,900	21,000	50,000	25,900
1981	29,700	23,100	50,000	29,700
1982	(1)	(2)	(3)	(1)

[1] Automatic thereafter.

[2] Employee base, including $600 increases in 1983 and 1985, estimated to rise to $24,600 for 1982, $26,700 for 1983, $28,200 for 1984, $30,300 for 1985, with automatic increases (as under present law) thereafter.

[3] Remains at $50,000 through 1984; increases to $75,000 in 1985 and remains at $75,000 until employee base reaches $75,000.

Railroad Retirement tier-II.—Under the House bill, the tax base for tier-II of the Railroad Retirement Act for both benefits and tax purposes would be the same as under the automatic-increase provisions of the present law and would not be affected by increases in the social security taxable wage base contained in the bill. Under the Senate amendment the tax base for tier-II of the Railroad Retirement Act would not be affected but the amount of earnings used for computing the tier-II benefit would be the base used for social security benefits under the amended law.

The Senate recedes.

Pension Benefit Guaranty Corporation (PBGC).—The House bill provided that the pension insurance administered by PBGC would not be affected by the ad hoc increases in the wage base under social security. The insured pension amount would increase as it would under automatic-increase provisions of present law.

The Senate bill contained no similar provision.

The Senate recedes.

STANDBY GUARANTEE OF TRUST FUND LEVELS

The House bill provided standby authority for automatic loans to the OASDI trust funds from Federal general revenues whenever the assets of a cash benefits trust fund at the end of a calendar year amount to less than 25 percent of the outgo from the fund in the calendar year. The amount of the loan would be equal to the difference between the year-end balance in the fund and 27½ percent of the year's outgo.

Such loans would automatically be repaid with interest when assets at the end of a year exceeded 30 percent of the year's outgo from the fund. To provide for automatic repayment, there would be temporary social security tax-rate increases of 0.1 percent for employees and employers, each, and 0.15 percent for the self-employed, if at the end of any year after the year the loan was made the reserve level is less than 35 percent and the loan debt exceeds $2 billion. This temporary tax rate increase would go into effect one year later.

The standby loan authority would not be applicable for the HI trust fund.

The Senate amendment contained no such provision.

The House recedes.

REDUCTION IN TAXES FOR CERTAIN EMPLOYERS

The Senate amendment would limit State and local governmental and 501(c)(3) nonprofit employers' social security liability for 1979 to the liability that would be incurred for 1979 under the provisions of present law. For 1980 and after, such an employer's liability (in dollars) would generally be 90 percent of the liability under the law as amended by the bill, but not less than the 1979 liability. In no case would the provision require an increase in liability as compared with the regular provisions applicable to other employers. An authorization for appropriations from general revenues is provided to make up the loss of social security revenue to the trust funds that would result from enactment of the provision.

The House bill contained no such provision.

The Senate recedes.

MODIFICATION OF BENEFIT FORMULA

Both the Senate amendment and the House bill provided for basic changes in the computation of social security benefits for workers reaching age 62 after 1978. Although the provisions of the two bills were very similar, there were differences, described below:

BENEFIT FORMULAS

The House bill provided for a benefit formula producing benefit amounts roughly 5 percent lower than estimated present-law benefits at implementation (January 1, 1979). The formula for relating maximum family benefits to primary insurance amounts (PIA's) has a similar effect.

The Senate amendment benefit formula produced benefit amounts roughly equivalent to 1976 levels—about 2½ percent lower than estimated present-law benefits at implementation. The formula for relating maximum family benefits to PIA's had a similar effect.

The Senate recedes.

TRANSITIONAL PERIOD

The House bill provided a 10-year guarantee of benefit amounts based on the benefit table as of December 1978 in retirement cases.

The Senate amendment provided a 5-year guarantee in retirement cases.

The House recedes.

MINIMUM BENEFIT

Under the House bill, the December 1978 minimum benefit rounded to the next higher dollar (estimated to be about $121) would have been frozen for new beneficiaries. The minimum would have been increased in line with CPI increases only after a worker reached age 62, became disabled, or died.

The Senate amendment was similar except that it would have increased the minimum by CPI increases beginning with the year in which the individual (a worker, his widow, or child) actually became entitled to benefits, rather than from the point at which the worker reached age 62 became disabled, or died.

The House recedes with an amendment under which CPI increases for a worker or aged widow or widower generally would not begin to apply until the earlier of: (a) the first year the worker or aged widow (widower) was paid part or all of the benefits to which he was entitled for that year, after application of the retirement test; (b) the year of attainment of age 65.

SPECIAL MINIMUM

The House bill provided for an increase in the special minimum benefit up to a maximum of $230 a month for a worker ($345 for a couple) with 30 years of coverage under social security. The special minimum is calculated by multiplying $9 ($11.50 under the House bill) times the number of years of coverage (years in which earnings were at least 25% of the contribution and benefit base) in excess of 10 and up to 30—for a maximum multiplier of 20. Years of coverage would be based on the base as increased automatically by rises in average wages (without ad hoc increases as a result of H.R. 9346). Special minimum benefits would be increased automatically by CPI increases in the future.

The Senate amendment contained no such provision.

The Senate recedes.

DELAYED RETIREMENT CREDIT

The House bill provided for an increase in the delayed retirement credit to one-fourth of 1 percent for each month (3 percent per year) for which a worker does not receive a benefits between ages 65 and 72, for persons attaining age 62 after 1978.

The Senate amendment contained no such provision.

The Senate recedes.

DELAYED RETIREMENT CREDIT FOR WIDOWS AND WIDOWERS

The Senate amendment included a provision which would make the delayed retirement credit applicable to widow's and widower's insurance benefits, as well as to the worker's benefit.

The House bill contained no such provision.

The House recedes with an amendment making the change effective with June 1978.

LIBERALIZATION OF THE EARNINGS TEST

The House bill increased the exempt amount under the earnings test for beneficiaries age 65 and over to: $4,000 in 1978; $4,500 in 1979; $5,000 in 1980; and $5,500 in 1981.

The Senate amendment increased the exempt amount to $4,500 in 1978 and $6,000 in 1979 for all beneficiaries.

The Senate recedes adopting the exempt amounts in the House bill and increasing the exempt amount to $6,000 in 1982. These increases would apply only to beneficiaries age 65 and over.

AGE AT WHICH EARNINGS TEST NO LONGER APPLIES

The House bill lowered the age at which the retirement test no longer applies from age 72 to age 65 in 1982.

The Senate amendment lowered the age at which the retirement test no longer applies from age 72 to age 70 in 1982.

The House recedes.

LIBERALIZATION OF THE FOREIGN WORK TEST

The House bill provided for payment of benefits for any month in which a beneficiary engaged in noncovered work outside the United States worked 8 or fewer days in 1978, and 11 or fewer days in 1979 and thereafter.

The Senate amendment contained no such provision.

The House recedes.

STUDIES OF MANDATORY COVERAGE

The House bill required joint studies by the Office of Management and Budget, the Civil Service Commission, the Department of the Treasury, and the Department of Health, Education, and Welfare of mandatory coverage for Federal and State and local employees with reports and recommendations to the President and Congress within 2 years of enactment.

The Senate amendment contained no such provision.

The Senate recedes with amendments which would combine the studies of mandatory coverage of employees of Federal, State, and local governments and nonprofit organizations; would require the Secretary of Health, Education, and Welfare to conduct the study with appropriate consultation with Treasury, the Office of Management and Budget, and the Civil Service Commission.

The managers anticipate that the study will include, in addition to the evaluation of alternative proposals, examination of the following specific items: (1) Analysis of any possible constitutional questions involved in extensions of coverage; (2) review of the extent of State, local and nonprofit coverage under existing law; (3) analysis of the economic impact on State and local governments of mandatory coverage extensions; and (4) an analysis of the feasibility of developing a method of covering Federal employees without increasing their contributions or adversely affecting their benefit rights (except to the extent that any windfall benefit situations may be eliminated).

COVERAGE OF NONPROFIT ORGANIZATIONS

The Senate amendment included provisions to: (1) forgive through June 30, 1977, the social security tax liability of nonprofit organizations that stopped paying social security taxes before October 19, 1976, because they had not filed the proper certificate with the Internal Revenue Service to cover their employees under social security; (2) extend the deadline for filing waiver certificates for organizations that obtained refunds prior to September 9, 1976; (3) permit nonprofit organizations that paid social security taxes while waiting for the Internal Revenue Service to approve their request for tax-exempt status to receive a refund of those taxes in spite of P.L. 94–563 under which the taxes and social security coverage that resulted were validated; and (4) not require nonprofit organizations that received a refund of social security taxes for April-June 1973, to bring their employees under social security coverage.

The House bill contained no such provisions. (The Ways and Means Committee had reported a bill, H.R. 8490 that contained similar provisions.)

The House recedes with technical clarifying amendments.

LIMITED PARTNERSHIP INCOME

The House bill excluded from coverage the distributive share of income or loss received by a limited partner.

The Senate amendment contained no such provision.

The Senate recedes.

EMPLOYEES OF MEMBERS OF RELATED GROUPS OF CORPORATIONS

The Senate amendment provided that a group of corporations concurrently employing an individual would be considered as a single employer if one of the group serves as a common paymaster for the entire group. This would result in such corporations having to pay no more in social security and unemployment taxes than a single employer pays.

The House bill contains no such provisions.

The House recedes with clarifying amendments.

The provision limits the aggregate amount of employment taxes due for any taxable year with respect to an individual concurrently employed by two or more related corporations and compensated through a common paymaster which is itself one of the corporations employing the individual and which would have the responsibility for making payment to the Internal Revenue Service of employment taxes due. The provision is intended to establish a maximum total liability for the related corporations (including the common paymaster) as a group but is not intended to relieve any corporation of ultimate liability for any portion of the total amount of employment taxes due. The provision is not intended to have any effect on the deductibility for Federal income tax purposes of employment taxes or wages payable by a corporation; accordingly, since the corporation for which services are performed is the only one eligible to deduct wages and employment taxes paid with respect to such services, such wages and taxes will not be deductible unless the corporation for which the services are performed reimburses the common paymaster for such payments. For purposes of determining income tax deductions allowable, the conferees expect the Secretary of the Treasury to establish procedures for allocating employment taxes among related corporations establishing a common paymaster.

EMPLOYER TAXES ON TIPS

The House bill included a provision to require employers to pay social security taxes on tips deemed to be wages under the Federal minimum wage law.

The Senate amendment contained no such provision.

The Senate recedes with the understanding that the employer will be liable for the employer social security tax on the tips that are deemed wages, regardless of the amount of the tips the employee reports under section 6053(a) of the Internal Revenue Code of 1954.

COVERAGE FOR CLERGYMEN

The House bill permitted clergymen who filed application for exemption from coverage to revoke their exemption (but only during a limited period of time).

The Senate amendment contained no such provision.

The Senate recedes.

TOTALIZATION AGREEMENT

The House bill authorized the President to enter into bilateral agreements with foreign countries to provide the limited coordinaton of social security systems. Each such agreement would have to be transmitted to the Congress and could not go into effect until 90 days after one House had been in session. During that period an agreement could be rejected by action of both Houses enacting legislation.

The Senate amendment included the same provision except that: Each agreement must be transmitted to Congress with a report on estimated cost and number of individuals affected; an agreement must not be inconsistent with the provisions of title II of the Social Security Act; an agreement could not go into effect until 90 days after both Houses of Congress had been in session during which period an agreement could be repected by action of either House.

The House recedes.

ILLINOIS POLICEMEN AND FIREMEN

The House bill included a provision which would validate earnings erroneously reported for policemen and firemen covered under the Illinois Municipal Retirement Fund.

The Senate amendment contained no such provision.

The Senate recedes with an amendment that coverage for future periods would be provided for the policemen and firemen affected.

WISCONSIN RETIREMENT FUND

The House bill provided that a special coverage provision applicable to members of the Wisconsin Retirement Fund would be applicable to any successor system of that fund.

The Senate amendment contained no such provision.

The Senate recedes.

LIMITATION ON RETROACTIVE BENEFITS

The House bill provided that benefits would not be paid retroactively for months before an application is filed, when such payment results in a permanent reduction of future monthly benefits, effective January 1, 1978.

The Senate amendment was similar to the House provision except that it was effective upon enactment, rather than on January 1, 1978.

The Senate recedes.

DELIVERY OF BENEFIT CHECKS

The House bill required that whenever the delivery date for payment of either social security or supplemental security income checks falls on a Saturday, Sunday, or legal public holiday, the checks would be mailed "and delivered" on an earlier date. Any overpayment that occurs as a direct result of the earlier delivery of checks would be waived and would not be subjected to recovery.

The Senate amendment required in such circumstances that checks be "mailed for delivery" on the earlier date and did not include the waiver of overpayment provision of the House bill.

The Senate recedes with an amendment providing that checks be "mailed for delivery" by the earlier date.

REDUCED BENEFITS FOR SPOUSES RECEIVING GOVERNMENT PENSIONS

The Senate amendment provided that social security dependents' benefits payable to spouses and surviving spouses would be reduced by the amount of any public (Federal, State, or local) retirement benefit payable to the spouse based on the spouses's own work in noncovered public employment. The provision would have been effective with respect to benefits payable for months beginning with the month of enactment, based on applications filed in or after the month of enactment.

The House bill contained no such provision.

The House recedes with an amendment which would provide for an exception for certain people who are already receiving pensions based on noncovered public employment (or who would be eligible for such pension within 5 years of the month of enactment) and who could have expected to receive social security benefits as dependents or survivors under the social security laws as in effect on January 1, 1977. The managers are concerned that there may be large numbers of women, especially widows in their late fifties, who are already drawing pensions, or would be eligible to draw them within 5 years of the date of enactment of this bill, based on their non-covered work and whose retirement income was planned for on the assumption of the availability of full wife's or widow's benefits under social security. Inclusion of this exception to the applicability of the Senate provision, reinforces its prospective nature and avoids penalizing people who are already retired, or close to retirement, from public employment and who cannot be expected to readjust their retirement plans to take account of the "offset" provision that will apply in the future.

A separability clause is included for the exception clause established by the conference agreement so that if it is found invalid the pension-offset as passed by the Senate would not be affected, and the application of the exception clause would not be broadened to include persons or circumstances that are not included within it.

REPEAL OF WORKMEN'S COMPENSATION OFFSET

The Senate amendment repealed the provision of existing law which provides for a reduction in social security disability benefits for persons simultaneously entitled to workmen's compensation payments where the combined payments would otherwise exceed 80 percent of recent predisability earnings.

The House bill contained no such provision.

The Senate recedes.

DISABILITY BENEFITS FOR BLIND PERSONS

The Senate amendment provided for paying disability insurance benefits for blind people who have at least six quarters of social security coverage. The benefits would be paid regardless of the amount of an individual's earnings both before and after age 65 or his ability to work. The Senate amendment also excluded blind persons from the requirements of present law that disability benefits be suspended for any months during which a beneficiary refuses without good cause to accept vocational rehabilitation services.

The House bill contained no such provision.

The House recedes with an amendment which strikes the provisions of the Senate amendment but provides that the amount of earnings under the test of substantial gainful activity (SGA) which would terminate (or suspend for those age 55 or over) a blind individual's benefits would be increased to the monthly exempt amounts for persons 65 and over under the retirement test. The conferees are aware that this establishes a different test of SGA for blind persons than is applied administratively for persons with other disabilities. The conferees do not intend that the new SGA level established for the blind should be applied to other types of disability.

ELIMINATION OF MARRIAGE OR REMARRIAGE AS A FACTOR IN ENTITLEMENT TO, OR TERMINATION OR REDUCTION OF, BENEFITS

The House bill provided that marriage or remarriage would not bar or terminate entitlement to benefits as a divorced spouse, surviving spouse (including those caring for an entitled child), parent, or child, and remarriage would not cause any reduction in aged widow's or widower's insurance benefits.

The Senate amendment did not include such a provision.

The Senate recedes, with an amendment that would retain only that part of the House-passed provisions that would prevent reduction in benefits for widows and widowers who remarry after age 60.

DURATION-OF-MARRIAGE REQUIREMENT

The House bill provided that the length of time a person must have been married to a worker in order for benefits to be payable to the person as an aged divorced spouse or surviving divorced spouse would be reduced from 20 years to 5 years.

The Senate amendment did not include such a provision.

The Senate recedes, with an amendment which establishes a 10-year duration-of-marriage requirement.

EQUALIZATION OF TREATMENT OF MEN AND WOMEN UNDER THE PROGRAM

The House bill contained a number of amendments that were designed to eliminate certain gender-based distinctions from the social security program.

The Senate amendment did not include any such provisions.

The House recedes. It is the understanding of the managers that the entire question of such gender-based distinctions will be included in the 6-month study of proposals to eliminate dependency and sex discrimination provided by this legislation.

ANNUAL REPORTING

The House bill included provisions to simplify implementation of annual wage reporting.

The House provision changes the provisions of the Social Security Act that require the use of quarterly wage data so that only annual data would be needed—employers would no longer have to check off quarters of coverage or report quarterly wages on the forms W-2. It excludes from the definition of wages certain employment wherein the remuneration is less than $100 in a calendar year. State and local employers will continue to report on a quarterly basis but wages will be converted to annual figures.The provision also changes "quarter of coverage" definition so that after 1977 all workers would receive a quarter of coverage for each $250 of wages paid in a year (to a maximum of four quarters of coverage in a year). The amounts measuring a quarter of coverage would increase automatically each year as wages increase.

The Senate amendment contained no such provisions.

The Senate recedes.

NATIONAL COMMISSION ON SOCIAL SECURITY

The House bill provided for a nine-member National Commission on the Social Security Program, appointed by the executive and legislative branches, to conduct a 2-year study including: The fiscal status and adequacy of the trust funds; the scope of coverage, adequacy of benefits, conditions of qualification for benefits (including inequities arising out of marital status, sex, or similar classifications or categories), and quality of administration; the impact of the programs on and relation to public assistance programs, nongovernmental pension insurance programs, other governmental retirement and annuity programs, medical service delivery systems and national employment practices; and alternatives to current programs including, phasing out payroll tax, using general revenues or other financing, mandatory participation in private insurance programs and choice of public or private programs or both.

The Senate amendment did not include a provision comparable to the House provision.

The Senate recedes with an amendment which requires the National Commission to study the need to develop a special CPI for the elderly for purposes of social security cost-of-living increases.

ADMINISTRATIVE LAW JUDGES (HEARING EXAMINERS)

The Senate amendment converted the temporary administrative law judges established by Public Law 94–202 to permanent status under the Administrative Procedure Act.

The House bill contained no such provision, but the Ways and Means Committee has reported H.R. 5723 which contains identical language.

The House recedes.

ADVISORY COUNCIL ON SOCIAL SECURITY

The Senate amendment provided that the Advisory Council on Social Security to be appointed by December 31, 1977, would have an additional 9 months in which to submit its reports. The reports would be due October 1, 1979, rather than January 1, 1979.

The House bill contained no such provision.

The House recedes.

SEMIANNUAL COST-OF-LIVING INCREASES

The Senate amendment provided for semiannual cost-of-living increases in social security and SSI benefits whenever the CPI increased by at least 4 percent over a specified 6-month measuring period (an annual rate of over 8 percent per year).

The House bill contains no such provision.

The Senate recedes.

FISCAL RELIEF FOR WELFARE COSTS

The Senate amendment provided for a one-time payment to the States of $374 million as fiscal relief for State and local welfare costs for fiscal year 1978. Half of such funds would be distributed to each State in proportion to its share of total expenditures under the AFDC program for December 1976, and half would be distributed under the general revenue sharing formula. In those States in which local units of Government are responsible for meeting part of the costs of the AFDC program the fiscal relief payments would have to be passed through to local governments. States would not be required to pass through an amount in excess of 90 percent of the amount of AFDC costs for which the local government was otherwise responsible.

The House bill contained no such provision.

The House recedes with the following amendments. The amount of the one-time payment would be one-half of the amount in the Senate bill, that is, $187 million. Also States would be required to pass through to local jurisdictions the full amount of the payment but not more than 100 percent of the amount of the AFDC costs for which the local government was otherwise responsible.

FISCAL INCENTIVES FOR LOWERING AFDC ERROR RATES

The Senate amendment established a system of fiscal incentives for States which have low dollar error rates (below 4 percent) as measured by the AFDC quality control findings of excess payments.

Under the amendment States which have dollar error rates of, or reduce their dollar error rates to, less than 4 percent but not more than 3.5 percent of the total expenditures would receive 10 percent of the Federal share of the money saved, as compared with the Federal costs of 4-percent payment error rate. This percentage would increase proportionately as shown in the following table:

If the error rate is:	*Incentive percentage* [1]
At least 3.5 percent but less than 4 percent	10
At least 3 percent but less than 3.5 percent	20
At least 2.5 percent but less than 3 percent	30
At least 2 percent but less than 2.5 percent	40
Less than 2 percent	50

[1] The State will retain this percent of the imputed Federal savings.

The House bill contained no such provision.

The House recedes with an amendment which provides that the dollar error rate of aid will include the payments to ineligibles plus overpayments plus underpayments plus the amount which would have been paid as benefits if the case had not been erroneously terminated or the application erroneously denied. The incentive would be based on Federal savings as compared with a 4-percent rate of excessive payments—that is, erroneous payments for ineligibles and overpayments.

ACCESS BY AFDC AGENCIES TO WAGE RECORDS

The Senate amendment specifically authorized State AFDC agencies to obtain wage information from the wage records maintained by the Social Security Administration and the wage records maintained by State unemployment compensation agencies for purposes of determining eligibility for (or amount of) AFDC. The Secretary of HEW would establish the necessary safeguards to prevent the improper use of such information. Effective October 1, 1979, States would be required to request and make use of this wage information either from the State unemployment compensation agency (if available there) or from the Social Security Administration.

The House recedes.

STATE WELFARE DEMONSTRATION PROJECTS

The Senate amendment would authorize certain types of State demonstration projects related to the AFDC program to be implemented if the Secretary did not specifically disapprove the implementation of such projects within forty-five days after the State applies to have the projects approved. In other words, a State could proceed with such projects either when the Secretary approved them, or forty-five days after submitting them to the Secretary if no decision had been reached by HEW within that period.

Under this authority, States would be permitted to conduct not more than three demonstration projects but not more than one on a Statewide basis. Projects involving public service employment would have to meet reasonable standards related to health, safety, and other conditions, could not displace employed workers, would have to be reasonable for the individuals participating, and would have to provide appropriate workmen's compensation protection. Participation in any AFDC recilient would have to be on a voluntary basis.

States would be permitted to waive ordinary statutory rules requiring statewide uniformity, administration by a single agency, and regarding participation in the work incentive program and the disregard of certain amounts of earned income. (Not more than half of all income could be disregarded under the waiver authority, however.)

AFDC matching for these demonstration projects would be limited to the amount the State would have received through AFDC if it had not implemented the demonstration project. In addition the State's general revenue sharing funds could be used to cover the costs of salaries for participants in public service employment which are not covered by AFDC matching.

Once implemented, demonstration projects could continue for up to 2 years unless the Secretary took action to disapprove a State waiver of statutory rules before the end of the 2-year period. The provision would not apply after September 30, 1980.

The House bill contained no such provisions.

The House recedes with an amendment. The conference agreement provides that when a State submits an application it would be required to make a public announcement that such application has been made, make copies of the application available and receive public comments for at least 30 days. The Secretary would also be required to publish a summary of the proposed demonstration project and make copies of the application available. He would receive public comments for at least 30 days after publication of a summary of the proposed project (even if the publication is approved prior to the 30-day period).

The Secretary of HEW could deny applications by a State under this provision any time after receipt of the application, but could not approve an application until 30 days after it has been submitted.

A State would be authorized to proceed with projects submitted under this new authority 60 days, instead of 45 days under the Senate amendment, after the project application is submitted to HEW unless there is a specific disapproval by HEW.

The conference agreement also requires that when AFDC funds are used to pay wages of participants in such projects that the prevailing wage must be paid.

AFDC EARNED INCOME DISREGARD

The Senate amendment changed the earned income disregard so as to require States to disregard the first $60 earned monthly by an individual working full-time ($30 in the case of an individual working part-time), plus one-third of the next $300 earned, plus one-fifth of the remainder. Child care expenses would be subject to limitations by the Secretary and would be deducted before computing an individual's earned income. Other work expenses would not be deducted.

The House bill contained no such provisions.

The Senate recedes.

ERRONEOUS STATE SUPPLEMENTARY PAYMENTS

The Senate amendment provided authorization and direction for the Secretary of Health, Education, and Welfare to reimburse a State for erroneous State supplementary payments administered by them and paid during 1974 to the extent that an HEW audit determines is appropriate on the basis that the incorrect payments for the aged, blind, and disabled resulted from a State's good faith reliance upon erroneous or incomplete information furnished to the States by the Department or from a State's good faith reliance on incorrect supplemental security income payments made by the Department.

The House bill contains no such provision.

The House recedes with an amendment. The conference agreement provides that the Secretary of HEW would rely on findings of an audit by HEW which has been reviewed and concurred in by the Inspector General of the Department to determine the extent of payments under this provision.

VETERANS' PENSION AND COMPENSATION

The Senate amendment provided that the amount of any social security benefits resulting from a cost-of-living increase will not be used to reduce veterans' pension and compensation.

The House bill contained no such provision.

The Senate recedes.

MEDICARE COVERAGE OF DEVICES SERVING THE SAME PURPOSE AS A WHEELCHAIR

The Senate amendment expands the definition of durable medical equipment under the medicare supplementary medical insurance program to include specialized transportation vehicles (such as the *Amigo* wheelchair) designed to "serve the same or similar purpose as that performed by a wheelchair."

The House bill contains no such provision.

The House recedes with an amendment which expands the definition of durable medical equipment to include a power-operated vehicle that may be appropriately used as a wheelchair where such vehicle is determined to be medically necessary and meets safety requirements prescribed by the Secretary.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENT

The Senate amendment provided that a contribution to a tax-exempt organization selected by the payor from a list of five or more organizations named by the government officer or employee would not be treated as an honorarium. It also provided that amounts returned to a payor before the end of the calendar year would not be treated as honorariums. The amendment further provided that honorariums would be treated as accepted in the year of receipt.

The House bill contained no such provision.

The House recedes.

COLLEGE TUITION TAX RELIEF

The Senate amendment modified the Internal Revenue Code to provide an income tax credit for educational expenses (tuition, fees, books, and equipment, but not meals, lodging, nor other living expenses) paid by the taxpayer for the taxpayer or the taxpayer's spouse or dependents to an institution of higher education or a vocational school. The amount of the credit would be limited each year to not more than $250 per student. The credit would apply to expenses paid in taxable years beginning after December 31, 1977; for 1978 only, it would be refundable. The student must be a full-time student working toward a baccalaureate degree or a certificate of required course work at a vocational school. Expenses eligible for the credit would be reduced by tax-exempt scholarship or fellowship grants and by certain educational assistance allowances and education and training allowances.

The House bill contained no such provision.

The Senate recedes.

AL ULLMAN,
JAMES A. BURKE,
DAN ROSTENKOWSKI,
JOE D. WAGGONNER, Jr.,
WILLIAM R. COTTER,
ABNER J. MIKVA,
JIM GUY TUCKER,
Managers on the Part of the House.
RUSSELL B. LONG,
ABRAHAM RIBICOFF,
GAYLORD NELSON,
W. D. HATHAWAY,
DANIEL P. MOYNIHAN,
CARL T. CURTIS,
BILL ROTH,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

THE CHRISTMAS STORY

(Mr. HUBBARD asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous material.)

Mr. HUBBARD. Mr. Speaker, it is thought that today will be the last time we will convene prior to Christmas Day and during the 1st session of the 95th Congress.

It is appropriate that we pause and celebrate the birthday of Jesus Christ. I ask that we jointly turn our thoughts to the famous Christmas story found in the Gospel of Luke, chapter 2, verses 1–14, which reads:

CHAPTER 2

And it came to pass in those days, that there went out a decree from Caesar Augustus, that all the world should be taxed.

2. (*And* this taxing was first made when Cyrenius was governor of Syria.)

3. And all went to be taxed, every one into his own city.

4. And Joseph also went up from Galilee, out of the city of Nazareth, into Judaea, unto the city of David, which is called Bethlehem: (because he was of the house and lineage of David:)

5. To be taxed with Mary his espoused wife, being great with child.

6. And so it was, that, while they were there, the days were accomplished that she should be delivered.

7. And she brought forth her first-born son, and wrapped him in swaddling clothes, and laid him in a manger; because there was no room for them in the inn.

8. And there were in the same country shepherds abiding in the field, keeping watch over their flock by night.

9. And, lo, the angel of the Lord came upon them, and the glory of the Lord shone round about them: and they were sore afraid.

10. And the angel said unto them, Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people.

11. For unto you is born this day in the city of David a Saviour, which is Christ the Lord.

12. And this *shall be* a sign unto you; Ye shall find the babe wrapped in swaddling clothes, lying in a manger.

13. And suddenly there was with the angel a multitude of the heavenly host praising God, and saying,

14. Glory to God in the highest, and on earth peace, good will toward men.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS AT ANY TIME TODAY, SUBJECT TO THE CALL OF THE CHAIR

Mr. WRIGHT. Mr. Speaker, I have a number of requests.

First, I ask unanimous consent that at any time during the remainder of the day it may be in order for the Speaker to declare recesses, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. RHODES. Mr. Speaker, reserving the right to object, and I do not intend to object of course. I seek this reservation however to ask the majority leader if he is in a position to inform the Members as to the program for today and the balance of the 1st session of the 95th Congress.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield. I will be happy to do just that.

After agreement, which I presume will come through the resolution I have just offered, it would be our purpose to offer a resolution for sine die adjournment to take effect upon the conclusion of business today. Then, I will offer a resolution for our reconvening on the 19th of January as well as sundry other resolutions which would permit the House to conduct routine administrative business during that adjournment period.

There will be two items of legislation today before our adjournment. The first is the conference report on the Clean Water Act of 1977 and, second, the conference report on the Social Security Financing Amendments of 1977. Those two constitute the legislative program, and no additional legislation is anticipated.

Mr. RHODES. Mr. Speaker, I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, we obviously are not going to have any report from the Energy Conference today, although it is not impossible that we will have something when the Congress returns on the 19th of January; but is there any plan in today's schedule for consideration of an Emergency Natural Gas Act or emergency legislation similar to that passed during the depth of the natural gas crisis during last winter's bad weather when there were major gas shortages in different parts of the country because gas could not be purchased at the controlled price set by Federal regulations?

I have been told there may be such a piece of legislation offered in the Senate today and under their rules that can be done and perhaps even passed. What happens if we get very cold weather between now and the 19th of January? Is there any possibility we might get such a piece of legislation here today?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, this is the first I had heard about this matter. It was not scheduled on the program. I would suppose if the Senate acted and if there were no difficulty in obtaining a rule for immediate consideration, we might be able to consider it; but the gentleman has thrown me a question that I am not prepared to answer at this moment.

Mr. BROWN of Ohio. I was unaware that we were taking up the sine die adjournment resolution so early today or I would have raised the question privately. The Emergency Natural Gas Act expired last August. Under that act we passed last February, the President had the right to allocate natural gas in the case of a severe gas shortage and purchasers in need had the right to purchase at other than the price set by the Federal Government.

I was informed by Senator JACKSON yesterday, when I tried to offer such a resolution in the conference, that we break out that part of the conference on which the House and the Senate are generally agreed and offer it as a 2-year extension of the Emergency Natural Gas Act. I was informed by Senator JACKSON that such a bill might be offered in the Senate today. If that is the circumstance, rather than have the gas shortage problem this winter and again have to go unprotected in the next month, we might resolve the question today.

Mr. WRIGHT. Mr. Speaker, the gentleman raises a good question. Let us face that if and when the time does come.

Mr. BROWN of Ohio. I regret I had not had an opportunity to discuss it ahead of time with the majority leader.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, would the distinguished majority leader tell us if there are any plans for the consideration in this session of the supplemental appropriations bill which is now pending in the Senate and which contains a number of very important matters, including the B-1 bomber?

Mr. WRIGHT. It is my understanding, if the gentleman will yield, that the Senate is not going to act on that legislation this year.

Mr. RHODES. Mr. Speaker, may I then inquire further from the majority leader as to whether or not there will be any other matters brought up today, other than those involving requests for unanimous consent?

Mr. WRIGHT. I know of none, except for routine matters, or something that might arise of the nature discussed by the gentleman from Ohio. But so far as my knowledge goes, there are only two pieces of legislation scheduled for today, the conference reports that I mentioned earlier.

Mr. RHODES. Mr. Speaker, I thank the gentleman from Texas.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to

the request of the gentleman from Texas?

There was no objection.

CONVENING OF 2D SESSION OF 95TH CONGRESS

Mr. WRIGHT. Mr. Speaker, I send to the Speaker's desk the joint resolution (H.J. Res. 674) relative to the convening of the 2d session of the 95th Congress, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 674

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the Ninety-fifth Congress shall begin at 12 o'clock meridian on Thursday, January 19, 1978.

Sec. 2. That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. section 11), the President shall transmit to the Congress not later than January 23, 1978, the budget for the fiscal year 1979, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022), the President shall transmit to the Congress not later than January 23, 1978, the Economic Report.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SINE DIE ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I send to the Speaker's desk a privileged concurrent resolution (H. Con. Res. 442) authorizing the Secretary of the Senate and the Clerk of the House to receive messages, including veto messages, from the President of the United States during adjournment of the two Houses, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 442

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 15, 1977, they shall stand adjourned sine die.

Sec. 2. During the adjournment of both Houses of Congress as provided in section 1, the Secretary of the Senate and the Clerk of the House, respectively be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS, NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the House, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the 1st session of the 95th Congress, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUESTING THE PRESIDENT TO RETURN TO HOUSE OF REPRESENTATIVES ENROLLED BILL H.R. 7738

Mr. BINGHAM. Mr. Speaker, I call up the concurrent resolution (H. Con. Res. 443) requesting the President to return the enrolled bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, and providing for its reenrollment with technical corrections, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 443

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House of Representatives the enrolled bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency. The Clerk of the House is authorized to receive such bill if it is returned when the House is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the Acting President pro tempore of the Senate in signing it shall be deemed rescinded and the Clerk of the House shall reenroll the bill with the following corrections:

On page 2, line 25 of the engrossed bill, strike out "or" and insert in lieu thereof "and".

On page 3, line 7 of the engrossed bill, strike out "section 5(d)(3)" and insert in lieu thereof "section 5(b)(3)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR MEMBERS TO EXTEND AND REVISE REMARKS UNTIL PUBLICATION OF LAST AUTHORIZED EDITION OF CONGRESSIONAL RECORD

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the Congressional Record on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks; but this order shall not apply to any subject matter which may have occurred or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND EACH SUBCOMMITTEE THEREOF TO EXTEND THEIR REMARKS IN THE RECORD

Mr. WRIGHT. Mr. Speaker. I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee thereof be permitted to extend their remarks in the Record, up to and including the last publication thereof, and to include therewith a summary of the work of that committee or subcommittee.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

STATEMENT ON BEHALF OF AMERICAN FARMERS

(Mr. BOWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BOWEN. Mr. Speaker, I rise to direct some comments to urban America on behalf of our farmers and rural America. I am proud to represent a State that is part of rural America, and my congressional district is among our major agricultural areas.

It is tragic that farmers are forced to protest publicly in order to focus the attention of other Americans on the serious economic crisis facing farmers throughout our Nation.

Urban America must wake up to the fact that because of the American farmer we live in the best-fed and bestclothed civilization in history. Most urban Americans are not aware as they fill up their shopping baskets from supermarket shelves laden with plenty that our farmers receive at most 40 cents of each dollar paid for food and fiber products.

I have lived with farmers' problems all my life, and today's problems are not new. They have been building for several years.

Bad weather, mounting debts, and low prices have pushed many farmers to the brink of financial collapse. Only 4 percent of our population lives on farms, but their survival is essential to the Nation's survival.

Urban Americans should know that one American farmer produces enough to feed and clothe over 50 people. In Russia, one in seven must farm for that nation to subsist. Farm exports in addition significantly reduce our balance-of-payments deficit.

Agriculture is still America's largest single industry. Those of us who have tried to draft and pass sound farm legislation have warned that our farmers must receive a fair return on their work and investment if our Nation is to prosper. I hope that message will now fall on more receptive ears.

HOUSE ACTION ON B–1 BOMBER NOT ANTICIPATED THIS YEAR

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, if I might have the attention of the distinguished majority leader, let me state that subsequent to our previous colloquy on the supplemental appropriations bill and on the B–1, I am now advised that the Senate does have on its calendar the consideration of the B–1, as a part of the supplemental, at 3 o'clock on today. If the Senate should not concur in the House position, obviously a further conference will be required, and if action were anticipated on the floor, I assume a rule will have to be granted subsequent to the outcome of the conference. May I ask the distinguished majority leader if there is a possibility that such action will result in the consideration of the supplemental appropriations bill during the day in the House?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I would just respond to the gentleman that we have not anticipated that action might be completed this year on this matter.

Mr. SIKES. So the gentleman does not anticipate action today in the House upon that matter?

Mr. WRIGHT. The answer is, no, we do not.

THE FARM STRIKE

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, last Saturday in Austin, Tex., I met with farmers and ranchers from all over the State of Texas at a rally at the State Capitol. I know that similar demonstrations and rallies were held in every State and I hope that my colleagues who were in their districts over the weekend took this opportunity to meet with agricultural producers and discuss their problems and possible solutions.

I do not think that it is enough to merely say that we are sympathetic to their situation. Sympathy is not going to make the mortgage payments on the farm. What we need to do is sit down and begin to work out some solutions. Right now, I do not think that anyone has the right answer for insuring that producers receive a fair return. But it is obvious that we cannot continue to depend on the same old programs and approaches. They simply have not worked well enough. I don't know that 100 percent parity is the right answer either, because I simply do not know if we can afford it. But we must afford whatever it takes to help keep the farmers strong.

But I would urge my colleagues who are returning to their districts after this session to meet with the farmers and ranchers in their area so that when we return in January we can begin serious discussions on how we should deal with this problem.

THREE NEW INTERNATIONAL SECURITY ASSISTANCE DEFERRALS AND ROUTINE REVISIONS TO FOUR DEFERRALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–270)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new International security assistance deferrals totalling $806.4 million in budget authority and one new deferral of $3.4 million in outlays for the Antirecession financial assistance fund in the Department of the Treasury.

In addition, I am reporting routine revisions to four deferrals previously transmitted. A deferral for the Emergency refugee and migration assistance fund is increased by $5.8 million in budget authority. Three deferrals of funds provided to the Department of the Treasury are increased by a total of $13.3 million of which $11.9 million is deferred budget authority and $1.3 million is an increase to a deferral which only affects outlays.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *December 15, 1977.*

RECESS

The SPEAKER. The Chair will declare a recess for 20 minutes. For the information of the Members, the Chair will state that the bells will not be rung, and the House will resume its business at 11 o'clock.

The House stands in recess for 20 minutes.

Accordingly (at 10 o'clock and 41 minutes a.m.) the House stood in recess until 11 o'clock a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock a.m.

POINT OF ORDER

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

I move a call of the House.

The SPEAKER. The point of order is not in order, and the Chair is awaiting a rule which will be here forthwith, if the gentleman from California will withhold his motion.

Mr. ROUSSELOT. Mr. Speaker, I would like to move a call of the House.

TRIBUTE TO HON. BARBARA JORDAN

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, it was with a great deal of regret that all of us learned of the announced retirement of our colleague, the gentlewoman from Texas (Miss JORDAN). I know I heard with a great deal of surprise and chagrin the news of her intention to leave this body after 1 more year.

We do not often agree on many issues, but I have a great deal of respect for people who are competent and skilled at their profession and for people who have deep beliefs even though they may be different from mine.

There are so many politicians in life who care only for their reelection and are pragmatic or mercurial in their views toward that end. That certainly could not be said about the gentlewoman from Texas, aside from the fact that she is one of the most brilliant orators in the House.

I am sure we will all miss her, and I am hopeful there is some deep plot we do not now understand that will result in her being elevated to some higher public post in the future. I certainly hope that is the case. We all wish her well.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3199, CLEAN WATER ACT OF 1977

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 95–838) on the resolution (H. Res. 935) providing for the consideration of the conference report on H.R. 3199, to amend the Federal Water Pollution Control Act to provide for additional authorizations, which was referred to the House Calendar and ordered to be printed:

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to consider, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, the conference report on the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, said conference report shall be considered as having been read, and all points of order against said report for failure to comply with the provisions of clause 3, rule XXVIII and clause 2, rule XX are hereby waived.

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 935 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 935?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 935.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of the conference report on the Clean Water Act of 1977, H.R. 3199. The rule grants three waivers of points of order. The first waiver is against points of order arising from a possible violation of section 401a of the Congressional Budget Act. This waiver is necessary, because section 35 of the conference report which deals with agricultural cost sharing provides advance contract authority which is not made specifically subject to amendments provided in appropriation acts.

The second waiver is against points of order arising from the failure to comply with clause 3, of rule XXVIII the so-called "beyond the scope" rule. The last waiver is against points of order arising from a failure to comply with clause 2 of Rule XX which bars any amendment of the Senate providing for an appropriation.

Lastly, the resolution provides that the conference report shall be considered as having been read.

Mr. Speaker, the House passed its version of the Clean Water Act last April by a vote of 361 to 43. The other body passed its version by a vote of 96 to 0 last August and all of the conferees signed the report on this legislation.

This measure authorizes $25.7 billion for fiscal years 1978 through 1982. The majority of these funds will be used for the construction of sewage treatment facilities. The bill sets forth extensions of time for compliance with cleanup standards, because of various problems that the municipalities and industries have encountered since enactment of the 1972 legislation. The conference agreement alters the formula for allocating program funds, insures that rural States will have a certain percentage of the alloted funds, and allows each State to determine the priority to be given federally funded treatment projects. In addition the conference report provides for the retention of Federal control of navigable waters and adjacent wetlands with respect to the disposal of dredging and fill material, but allows for State administration of the program. The report also exempts most farming, ranching, and forestry activities from this permit requirement.

Mr. Speaker, all of my colleagues are aware of the need for this legislation. Since the passage of the Federal Water Pollution Control Act of 1972 there have been numerous factors that have resulted in the delay of reaching its worthwhile goals. This legislation addresses those many problems and is the product of extended negotiation and effort on the part of both the House and the Senate. Therefore, Mr. Speaker, I urge the adoption of this resolution so that we might debate and vote on this matter.

Mr. LATTA. Mr. Speaker, I agree with the statements just made by the gentleman from Illinois. I would like to point out, however, that the report contains a Senate amendment under section 35 providing contract authority that would be subject to a point of order under section 401(a) of the Budget Act. Since section 401(a) bars the consideration of any bill, resolution, or amendment, which provides contract or borrowing authority unless it also provides the same shall be effective for any fiscal year only to such extent, and since section 35 of the report fails to so limit the availability for such borrowing authority, it violates section 401(a) of the Budget Act.

I am advised, however, that the chairman of the Committee on Public Works and Transportation will offer a concurrent resolution correcting this violation immediately following the adoption of the conference report and the gentleman so testified just a couple minutes ago before the Committee on Rules.

Mr. Speaker, I have no requests for time and I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I just want to reiterate what the gentleman from Ohio has said about the Budget Act violation. The conference report has in it provisions which can be construed to provide contract authority in violation of section 401 of the Budget Act, as a result of an amendment of the other body adopted in conference.

I want to clarify with the gentleman from Texas the intent of the House conferees with respect to these provisions of the conference report. The Senate amendment, which was not in the House bill, would appear to provide a substantial amount of contract authority during the next few fiscal years. It does not expressly limit that authority to the amounts provided in advance in annual appropriations act, as required by section 401(a) of the Budget Act. It is my understanding that the gentleman will offer a unanimous-consent concurrent resolution to correct this potential violation immediately following adoption of the conference report.

The concurrent resolution is necessary, I understand, because the Senate amendment was not brought back in disagreement. Consequently, it cannot be amended during consideration of the conference report.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Texas.

Mr. ROBERTS. I want to thank the distinguished chairman of the Budget Committee for his statement. We have a resolution which has been cleared with him, and we are delighted to say that what we want to do is exactly what the law provides. There is some question as to whether that would be a violation, but we do not want any question left. We appreciate the consideration of the distinguished chairman.

Mr. GIAIMO. I appreciate the gentleman's statement and the gentleman's efforts.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further request for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms wil notify absent Members.

The vote was taken by electronic device, and there were—yeas 326, nays 6, not voting 102, as follows:

[Roll No. 777]

YEAS—326

Abdnor
Addabbo
Akaka
Alexander
Allen
Ammerman
Anderson, Calif.
Anderson, Ill.
Annunzio
Applegate
Archer
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Butler
Byron
Caputo
Carr
Carter
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson

Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fowler
Fraser
Frenzel
Frey
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Hawkins
Heckler
Heftel
Hightower
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.

Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kostmayer
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
McClory
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marriott
Martin
Mattox
Mazzoli
Meyner
Michel
Mikulski
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Patten
Patterson
Pease
Pepper
Perkins
Pickle
Pressler
Preyer
Price
Pritchard
Rahall
Railsback

Rangel
Regula
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roybal
Rudd
Runnels
Russo
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Treen
Trible
Tucker
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, C. H.
Wirth
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex
Zablocki
Zeferetti

NAYS—6

Ashbrook
Bauman

Crane
Hansen

Quayle
Rousselot

NOT VOTING—102

Ambro
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Aspin
Badillo
Baucus
Bedell
Beilenson
Biaggi
Bolling

Bonker
Breaux
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Cavanaugh
Cederberg
Chappell

Conyers
Dent
Derwinski
Dickinson
Edwards, Calif.
Fish
Fithian
Ford, Tenn.
Forsythe
Fuqua
Gammage
Gudger

Harkin
Harsha
Hefner
Hillis
Holland
Holtzman
Ichord
Jeffords
Jenrette
Kastenmeier
Kindness
Koch
Krebs
Le Fante
Lent
Long, La.
Long, Md.
Lujan
Luken
Lundine
McCloskey
McDonald
McEwen

Maguire
Marlenee
Mathis
Meeds
Metcalfe
Mikva
Moakley
Mollohan
Myers, Michael
Neal
Nix
Ottinger
Panetta
Pattison
Pettis
Pike
Poage
Pursell
Quie
Quillen
Rinaldo
Risenhoover
Rosenthal

Ruppe
Ryan
Santini
Shipley
Sisk
Smith, Iowa
Symms
Teague
Traxler
Tsongas
Udall
Van Deerlin
Walsh
Whalen
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Yates
Young, Alaska

The Clerk announced the following pairs:

Mr. Wolff with Mr. McDonald.
Mr. Conyers with Mr. Andrews of North Dakota.
Mr. Metcalfe with Mr. Cederberg.
Mr. Neal with Mr. Derwinski.
Mr. Biaggi with Mr. Lujan.
Mrs. Burke of California with Mr. Symms.
Mr. Baucus with Mr. Whalen.
Mr. Traxler with Mr. Armstrong.
Mr. Le Fante with Mr. Ruppe.
Mr. Burleson of Texas with Mrs. Pettis.
Mr. Pike with Mr. Winn.
Mr. Rosenthal with Mr. Pursell.
Mr. Cavanaugh with Mr. Michael O. Myers.
Mr. Lundine with Mr. Burke of Florida.
Mr. Santini with Mr. McCloskey.
Ms. Holtzman with Mr. Dickinson.
Mr. Luken with Mr. Wiggins.
Mr. Ryan with Mr. Rinaldo.
Mr. Risenhoover with Mr. Lent.
Mr. Dent with Mr. Young of Alaska.
Mr. Ambro with Mr. Quie.
Mr. Breaux with Mr. Jeffords.
Mr. John L. Burton with Mr. Marlenee.
Mr. Carney with Mr. Quillen.
Mr. Edwards of California with Mr. Bob Wilson.
Mr. Phillip Burton with Mr. Harsha.
Mr. Chappell with Mr. McEwen.
Mr. Fithian with Mr. Gudger.
Mr. Ford of Tennessee with Mr. Hillis.
Mr. Fuqua with Mr. Forsythe.
Mr. Jenrette with Mr. Fish.
Mr. Kastenmeier with Mr. Andrews of North Carolina.
Mr. Koch with Mr. Aspin.
Mr. Badillo with Mr. Bedell.
Mr. Meeds with Mr. Kindness.
Mr. Moakley with Mr. Walsh.
Mr. Beilenson with Mr. Harkin.
Mr. Bonker with Mr. Gammage.
Mr. Burlison of Missouri with Mr. Ottinger.
Mr. Hefner with Mr. Holland.
Mr. Nix with Mr. Krebs.
Mr. Ichord with Mr. Long of Louisiana.
Mr. Mathis with Mr. Maguire.
Mr. Shipley with Mr. Teague.
Mr. Sisk with Mr. Long of Maryland.
Mr. Mikva with Mr. Tsongas.
Mr. Udall with Mr. Yates.
Mr. Van Deerlin with Mr. Smith of Iowa.
Mr. Mollohan with Mr. Panetta.
Mr. Charles Wilson of Texas with Mr. Pattison of New York.

Mr. STOCKMAN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, I was unable to be on the floor to vote on rollcall No. 777, the rule to take up the clean water conference report. Had I been present, I would have voted "aye."

Mr. ROBERTS. Mr. Speaker, pursuant to the provisions of House Resolution 935, I call up the conference report on the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.

The SPEAKER. The gentleman from Texas (Mr. ROBERTS) and the gentleman from California (Mr. DON H. CLAUSEN) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, I rise in support of the report of the committee on conference on H.R. 3199, the Clean Water Act of 1977.

The conference committee report on H.R. 3199 represents more than 3 years of investigations, hearings, and legislative activity on the Federal Water Pollution Control Act (Public Law 92-500).

On two separate occasions the House passed amendments to the act—each time by an overwhelming vote.

We went to conference with the Senate three times on this legislation—once last year and twice this year. We worked long and hard with the Senate to hammer out our differences. I am pleased to say that we did reach a successful compromise.

We were especially fortunate to have a broad representation from the Committee on Public Works and Transportation on the conference committee. Thirteen members of the committee served on the conference. I think this is especially significant because it was the Commitee on Public Works and Transportation which had developed the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, this is the act which is amended by H.R. 3199. Public Law 92-500 was the product of more than 2 years of analysis and study by the Committee on Public Works and Transportation and is now recognized as a landmark piece of environmental legislation.

I compliment our distinguished chairman, BIZZ JOHNSON, of California, on his leadership in the development of the Clean Water Act of 1977. Also, I must recognize the contributions of the full committee, Mr. HARSHA, the ranking minority member of the committee, and Mr. CLAUSEN, the ranking minority member of the subcommittee. Without the cooperation and insight of these fine gentlemen, H.R. 3199, would never have come to pass.

The water pollution control program cuts across all sectors of our life—the massive construction grant program, the treatment requirements for industries and municipalities, the restoration and preservation of our waters for current and future generations—all of these affect us as a nation.

Because of these far reaching impacts, Congress, in 1972, called for a thorough study of the impacts of meeting or not meeting the goals and requirements of the 1972 act. We recognized that as we proceeded toward meeting the 1977 and 1983 requirements of the act it might be necessary to make adjustments in the law—to assure that our pace of environmental cleanup was a positive effort that did not result in unforeseen and disruptive economic dislocations and impossible technological demands.

In 1972 it was the House that called for the establishment of a national commission to assess the 1983 requirements of the act. The House felt so strongly about the need for a study that it provided for a "trigger mechanism" whereby the 1983 requirements could not go into effect until the Congress received the results of the study and then acted affirmatively on the 1983 requirements. In conference the House provision for a study was retained, but the "trigger mechanism" was abandoned, leaving the act with two sets of requirements—one for July 1, 1977, and another, more stringent set, for July 1, 1983.

The rest is history—the National Commission on Water Quality has completed its study and reported its results to the Congress. Many of the provisions in the conference report are supported by recommendations in the Commission's report.

The conference report addresses a wide range of problems. It is a well thought out effort to streamline the redtape that has hampered the water pollution control program—to recognize the reality of impossible requirements that are pitting industry and Government against each other instead of alining them side by side as partners. In H.R. 3199 we have tried to give the concept of a partnership among the Federal Government, the States, local governments and industry a basis in realty, not just on paper. The provisions of the conference report are needed to maintain a Federal law that is workable and enforceable. The report includes provisions that were recommended and endorsed by the Environmental Protection Agency, several provisions which were included in the recommendations of the National Commission on Water Quality, and others which were developed as solutions to the problems that were thoroughly explored in subcommittee hearings.

For example, the treatment works construction grant program has been subject to a series of stops and starts since 1972. A big problem has been inadequate Federal funding. As a result, about two-thirds of our cities could not meet the law's July 1, 1977, requirements. The conference report addresses this problem in several ways:

Construction grant funds are authorized for 5 years—$4.5 billion for fiscal year 1978, and $5 billion for each of fiscal years 1979, 1980, 1981, and 1982. An allotment formula is provided for 4 years—fiscal years 1978, 1979, 1980, and 1981. In this way, States have an estimate as to how much money will be available to them each year.

The procedures for getting a grant are streamlined, for example, in some circumstances, localities would be able to use ad valorem taxes to meet their user charge requirements and States could get special assistance to manage the grant program, and

Cities that did not meet the 1977 deadline could get a case-by-case extension up to July 1983.

Even though about 85 percent of all industries did meet their 1977 requirements, a good portion of the remaining 15 percent did not meet their requirements for good cause.

The conference report would permit industries that tie-in with municipalities receiving a time extension to get their own extension up to July 1, 1983. Other industries may bet a case-by-case extension up to April 1, 1979.

Over the past few years a major area of contention between the House and Senate has been the Corps of Engineers' dredge and fill permit program. I am pleased to say that we reached a fair compromise on this. Under the provision of the conference report, States may get approval to run their own permit programs. If this is done, the issuance of Federal permits is suspended. Also exceptions are provided for activities such as normal farming, ranching and silvicultural procedures.

Another major problem area was the law's strict requirements for industry that would cost millions of dollars and result only in a little more clean-up of our waters. The conferees wrestled with this problem and developed a fair and workable compromise. Strict requirements are still in effect for damaging pollutants, such as toxics. However, for certain other pollutants, industry may get a waiver.

Mr. Speaker, these are just examples of some of the important provisions contained in the conference report on H.R. 3199. If we are going to cut out the red tape in the Federal water pollution control program, we need these amendments. We have got to bring this effort back where it belongs—on a partnership level among the Federal Government, the States, cities and industry. No one group can afford to go it alone.

The conference report on H.R. 3199 takes care of problems that need to be addressed now and constitutes a major policy review of the act.

Mr. Speaker, much of the legislative history for this bill is included in the statement of managers and it is not my intent to restate that which is included in that document. However, it is important to state for the record the understandings and intentions of the House conferees with regard to some of the matters agreed to in the conference with the Senate. It is for this reason that I join with my colleague, the gentleman from California, who is managing this conference report for the minority (Mr. DON CLAUSEN), in presenting the following statement setting forth the views of the House conferees.

INNOVATIVE AND ALTERNATIVE TECHNOLOGY

Mr. Speaker, the conference report on H.R. 3199 contains a number of amendments at various points, amending several provisions of Public Law 92–500, which comprise a package encouraging development and deployment of innovative and alternative technology in the treatment of wastewater and the conservation of resources.

In combination, sections 9, 12, 13, 15, 16, 17, 20, 28, 37, 38, 49, 60, and 72 represent a major reorientation of the construction grants program. But they do not constitute a major reorientation of the act itself. Section 201(b) of Public Law 92–500, as enacted in 1972, called for municipal treatment technology "including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution."

So the policy has been there, the requirement has been there. But they have not been carried out, largely due to resistance on the part of EPA, the engineering community, State and local government and the private sector. For example, only 12 to 13 percent of construction grant awards have gone for land treatment—one of the alternative technologies—representing less than 3 percent of the funds under the program.

The conferees recognize the problems of inertia and the tendency to cling to the tried-and-true and to avoid risks, and accordingly have structured a comprehensive set of amendments to overcome them.

These include a set-aside of 2 percent of each State's allotment for fiscal years 1979 and 1980 and 3 percent in 1981 to be used to increase the Federal share of eligible project cost to 85 percent from the 75 percent prevailing for conventional technology.

This 2, 2 and 3 percent set-aside is to cover both innovative and alternative technology, with a minimum of one-half of 1 percent restricted to innovative technology as distinguished from alternative technology. The Administrator is directed to develop and issue guidelines which among other things draw a distinction between the two. This is discussed further below.

A certain percentage of the State's allotment is set aside for 85 percent grants for innovative and alternative technology. Those moneys are not exclusive of but rather overlap the 4 percent set aside for alternative or unconventional systems for small communities.

In the process, the Administrator, pursuant to section 49 of the Clean Water Act of 1977, shall develop guidelines for equipment which utilizes energy recovery or the reuse or recycling of resources. The intent of this is to make it clear that the guidelines which apply to cost effective evaluation, section 16 of the Clean Water Act of 1977, include energy recovery and reuse and recycling of resources.

Municipal applicants for financing will be required to demonstrate that such technologies have been studied and evaluated in the process of developing their projects, subsequent to September 30, 1978, to qualify as eligible for assistance. Grants made for such projects will be eligible for assistance even though their life-cycle costs exceed those of conventional techniques provided such conventional costs are not exceeded by more than 15 percent.

Excluded from eligibility for such assistance are collector sewers, interceptors, storm or sanitary sewers or the separation thereof, and major sewer rehabilitation. However, costs of the acquisition of land, otherwise not eligible under Public Law 92–500, will be eligible where the land is to be used for the storage of treated wastewater prior to its application to the land in land treatment systems.

In recognition of the risks involved in encouraging this departure from business-as-usual, the conferees adopted another amendment authorizing grants to cover the total cost of modifying or even replacing systems that do not perform as intended and result in capital or operating and maintenance costs significantly higher than anticipated. This, in effect, constitutes an insurance policy.

States will be permitted to modify their priority lists to give a higher priority to the preparation of construction drawings and specifications, step 2, involving application of innovative or alternative technology, and for projects eligible for combination of step 2 and at step 3, construction, employing such technologies.

Other requirements provide that the administrator must encourage wastewater treatment processes that foster energy conservation, and that applicants must analyze potential recreation and open space opportunities in the planning of treatment works.

The administrator is authorized to provide applicants, the Federal share of whose projects is increased to 85 percent to encourage innovative or alternative technology, additional grants covering the total cost of technical evaluation, training costs, and the dissemination of information.

Several criteria should be relied upon to evaluate the innovative or alternative character of technology. The criteria include cost reduction; improved reliability; energy conservation or recovery; recycling, reclamation, or reuse of effluents or resources; greater efficiency; the beneficial aspects of sludges or effluent constituents; better management of toxic materials; and environmental benefits. Where technology does not meet any of these criteria, the administrator should not consider the technology to be innovative or alternative under these provisions.

When a project involving innovative or alternative technology is constructed, the facility rightly becomes the focus of attention by waste treatment professionals in the public and private sectors, and entails unusual levels of study evaluation and monitoring. To the extent that these factors result in increased costs to the municipalities sponsoring such projects, these costs are also to be reimbursed in their totality by EPA.

The administrator is required to develop and operate a public information program with respect to the recycling and reuse of wastewater, land treatment, and methods for the reduction of wastewater volume.

The Administrator is further required to coordinate with the heads of all Federal agencies with properties using Federal wastewater treatment facilities to develop a program of cooperation for using control systems involving innovative treatment processes developed under the guidelines for municipal systems. In addition, no Federal facilities may initiate construction of new treatment facilities after September 30, 1979, unless innovative technologies are employed. This requirement is subject to waiver by the Administrator of EPA as in the national interest or in the interests of avoiding delay in compliance with a permit issued under section 402 of the act. No such technology is to be required in cases where the costs would exceed the costs of conventional treatment by more than 15 percent.

Finally, the Administrator is required to consult with Federal and State water quality and water supply agencies to develop, within 2 years, a package of legislative recommendations to require coordination between water supply and wastewater treatment plans as a condition of eligibility for funding under this act.

This study will be conducted separately, distinctly, and apart from the administration's review of water resource policy and will stress energy as well as water resource conservation. Special attention should be given the role of all agencies, particularly that of the Corps of Engineers and the Department of Agriculture. Attention should be given in the conduct of the study to the role of 208 agencies in the coordinating process.

As to intent, we want to make it clear that these innovative and alternative technology amendments are in no way intended to substitute for research and development programs under title I of the act. Nor is the funding for title I research to be diminished as a result of construction grant funds' being set aside for innovative and alternative technology.

As to definitions, we cited earlier the section requiring the Administrator to develop guidelines identifying innovative and alternative technologies, which are not synonymous by any means. Concerning which, a few observations:

Innovative technology, as referred to in the conference report, means new and promising technology which has not been fully proven under the circumstances of its contemplated use. The use of demonstrated technologies which eliminate pollution and conserve water resources and energy in places and under circumstances where they have not been tried before and where such use advances the state of the art, is innovative. It would fall between the extremes of unproven technology, and the old conventional methods which have been duplicated and repeated endlessly in this country. We think the key lies in the recognition and acceptance of a certain element of risk, which is why we provide the insurance policy in the form of the authorization for the Federal Government to assume 100 percent of the costs of modifying or replacing systems which fail to perform as intended. These risks are deemed acceptable in light of the potential benefits in terms of environmental enhancement, lower capital or maintenance costs, and reclamation, recycling and use of water which is becoming increasingly costly to provide.

Alternative technology is another matter, differing from such conventional secondary treatment technologies as activated sludge and advanced waste treatment, and includes land treatment, aquifer recharge, water reclamation, and other techniques for eliminating pollution and saving water. By definition these are better known than the technologies in the innovative category, but have not been used to their full potential because of the constraints we have referred to.

Members will note on page 57 of Report No. 95–830, statement of managers language cautions the Administrator in two respects as to implementation of these provisions.

First, in effect, the conferees do not intend to have the pendulum swing from the extreme of little or no consideration of innovative or alternative technologies, on the one hand, to that of an endless series of unnecessary studies, investigations or analyses which are irrelevant to new technology, recycling and reuse of water, or land treatment. We might add that it is further not the intention to require studies of technologies with no realistic potential for being used under the circumstances, such as, for example, land treatment in areas characterized by a high water table, steep slopes, impermeable subsurface rock strata, scant overburden, and intense and prolonged cold. The key criterion will be judgment on the part of the administrator, requiring realistic consideration of available alternatives to conventional technology without resulting in voluminous treatises analogous to the environmental impact statement to prove a negative. Such would merely waste scarce resources and delay the program.

Nor is it the intent to require such considerations in all cases where existing systems are being altered, remodeled, improved or extended. The criterion here should be whether the project is to result in a significant increase in the volume of treated waste from a municipal system, or a reduction in the polluting characteristics of discharges from the works.

A final caution relates to the phasing-in of the requirement, beginning in fiscal year 1979. Our concern is to avoid the disruption of construction such as occurred as a result of the enactment of Public Law 92–500. We fully intend that no step 1 or step 2 work, facilities planning and construction design, respectively, be redone as a result of these requirements, or that projects in process be otherwise delayed. Thus, the requirement for consideration of innovative and alternative technology will apply only to projects for which step 1 planning is undertaken in fiscal year 1979.

TRAINING

With respect to section 10 of the conference report, it should be noted that the Administrator in assisting the States in the development of training facilities is expected to encourage training for on-site treatment systems.

COMBINED GRANTS

Another modification affecting the administration of the title II construction grant program permits the combinaton in a single grant award of step 2 and step 3 grants—covering preparation of construction plans and specifications, and the building and erection of the treatment works, respectively—for projects whose total estimated cost is $2 million or less and the population of the applicant municipality is 25,000 or less.

This provision, section 18 of the conference report, is an outgrowth of the work of the Subcommittee on Investigations and Review, and while seemingly minor in scope should produce substantial benefits in terms of cost savings and acceleration of construction.

Recent EPA data demonstrate that this provision would cover nearly 80% of projects involving 30 percent of funds obligated in any given fiscal year. Assuming an authorization level of $5 billion per year, this provision would affect projects totaling $1.5 billion per year.

If just 6 months were cut off the processing time for each project and we assume an annual interest rate of 7.5 percent and an annual inflation rate of 10 percent, the annual yield in savings would be in excess of $125 million.

CONTRACT ENFORCEMENT

Section 19 of the conference report authorizes the Administrator to provide technical and legal assistance in the admnistration and enforcement of any contract in connection with treatment works assisted under title II of the act, and to intervene in any civil action involving the enforcement of such a contract. This section does not constitute authority for the Administrator or the Environmental Protection Agency to become a party to any contract. This section grants authority to the administrator only after the execution of a contract, and then only at the request of the grantee. Nothing in the section either adds to or detracts from other existing EPA authorities in the precontract or negotiation phase.

RESERVE CAPACITY

Section 21 amends section 204(a)(5) to require the Administrator in determining the amount of reserve capacity to take into account efforts to reduce total flow of sewage and unnecessary water consumption.

The amount of reserve capacity eligible for a grant under title II of the act shall be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 208, or an applicable municipal master plan of development.

For the purpose of section 204(a)(5), section 208, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.

USER CHARGES

Section 22 amends the user charge requirement of section 204(b)(1). The amendment provides that a dedicated ad valorem tax system may be used to collect operation and maintenance costs for the classes of residential users and small nonresidential users, as defined by EPA, where:

The grant applicant uses such dedicated ad valorem system as of date of enactment;

EPA finds that the system of charges results in a proportional distribution of costs to each user class according to each class' contribution to the total operation and maintenance costs;

Industrial users meet the requirement of current law for user charges;

In defining small nonresidential users, EPA shall consider the volume and constituent elements of the waste.

The term "small nonresidential user" encompasses both commercial and industrial users. Examples of such users include warehouses, grocery stores, and small laundromats. Small nonresidential users are to be defined by the administrator according to the volume and characteristics of their discharges. In most cases, where the users' flow into the treatment works per day is equivalent to 25,000 gallons or less per day of sanitary waste, such user will be considered a small nonresidential user for the purposes of this section.

To the extent possible, existing ad valorem tax systems to collect the costs of treatment works should be allowed to continue with a minimum of interference.

A system of charges for residential users may be based on something other than metering, including ad valorem taxes. If the system is something other than metering, the grant applicant must dedicate the funds to operation and maintenance of the treatment works and must notify the residential user as to that portion of his total payment which is allocated to costs of waste treatment services.

INDUSTRIAL COST RECOVERY

It has long been the intent of Congress to encourage participation in publicly owned treatment works by industry. The conferees are most concerned over the impact the industrial cost recovery provision of existing law may have on industry participation on these public systems. Accordingly, the Industrial Cost Recovery Study, section 75, has been incorporated in the conference report, and EPA is encouraged to submit the results of the study as soon as possible so that Congress can take action on any recommendations that are forthcoming.

It is expected that the Administrator will consult with all interested groups in conducting this study and that the study will address at least the following questions:

First. Whether the Industrial Cost Recovery program (ICR) discriminates against particular industries or industrial plants in different locations, and do small town businesses pay more than their urban counterparts? What is the combined impact on such industries of the user charge and ICR requirements?

Second. Whether the ICR program and resultant user charges cause some communities to charge much higher costs for wastewater treatment than other communities in the same geographical area? (Some communities have indicated that disparities in ICR and user charges affect employment opportunities.) Whether a mechanism should be provided whereby a community may lower its user and ICR charges to a level that is competitive with other communities in order to restore parity?

Third. Whether the ICR program drives industries out of municipal systems, the extent and the community impact?

Fourth. Whether industries tying into municipal systems pay more or less for pollution control than direct dischargers?

Fifth. Whether the ICR program encourages conservation, the extent and the economic or environmental impact?

Sixth. Whether the ICR program encourages cost effective solutions to water pollution problems?

Seventh. How much revenue will this program produce for local, State and Federal governments, and to what use will or should these revenues be put?

Eighth. Determination of the administrative costs of this program, additional billing costs imposed, costs associated with the monitoring of industrial effluent for the purpose of calculating the ICR charges, ancillary benefits associated with the monitoring of industrial effluent, procedures necessary to take account of changes in the number of industries discharging into municipal plants, and the impacts of seasonal or other changes in the characteristics and quantity of effluents discharged by individual industries?

Ninth. Whether small industries should be exempted from ICR? How should small be defined? Is there a reasonable floor that can be established for ICR based upon percentage flow?

Finally, the conference report includes a provision, section 24, which will allow municipalities to reduce the industrial cost recovery charge for those industries which reduce their total flow of sewage or unnecesary water consumption. It is expected that the amounts to be paid will be reduced in proportion to the flow reduction achieved.

AUTHORIZATIONS AND ALLOTMENT

Section 30 of the conference report provides authorizations for the purpose of providing 75 percent Federal grants for the construction of municipal waste treatment works. The section authorizes $4.5 billion for fiscal year 1978 and $5 billion for each of fiscal years 1979, 1980, 1981, and 1982.

Section 25 provides that the authorizations for fiscal years 1978 through 1981 are allotted within 10 days after enactment of this legislation. A major change in the act is the provision making the amounts of each authorization subject to appropriations acts. This provision was adopted so as to comply with the Congressional Budget and Impoundment Control Act of 1974. However, it is recognized that making the authorizations subject to annual appropriations acts reintroduces the very uncertainty in the level of funding that Congress had attempted to eliminate in the Federal Water Pollution Control Act amendments of 1972 when it provided for contract authority. Therefore, an allotment is no longer a commitment to fund because, although contract authority is still theoretically available, it no longer has any significant impact on the availability of funds.

The Budget Impoundment and Control Act of 1974 anticipated that, in the absence of effective contract authority, the Appropriations Committees would make available advanced appropriations for those programs which require long-term planning commitments for efficient expenditure of funds. We would therefore hope and expect the Appropriations Committees will, with the support of the President and the Budget Committees, provide advanced appropriations for fiscal years 1979, 1980, and 1981. Only in this way can States and communities know in advance that adequate funds will be available and proceed to plan for construction of needed waste treatment works in an orderly manner.

Section 25, as noted previously, provides for allotment of funds for fiscal years 1978 through 1981. The allotment is to be in accordance with table 3 of House Public Works and Transportation Committee Print No. 95–30. Sums allotted are available for the fiscal year authorized and the next succeeding 12 months. Funds not obligated are reallotted on the basis of the then current fiscal year ratio except none of the reallotted funds are to be allotted to any State that failed to obligate any of the funds being reallotted. Such reallotted funds are in addition to funds allotted to a State in any fiscal year. For the fiscal years 1978, 1979, 1980, and 1981 no State is to receive less than one-half of 1 percent of the total allotment except that Guam, the Virgin Islands, American Samoa, and the Trust Territories are in the aggregate to be allotted not more than 33/100 of 1 percent. A separate authorization of $75 million per year for fiscal years 1978, 1979, 1980, and 1981 is provided for these minimum allowances.

Table 4 of House Public Works and Transportation Committee Print No. 95–30 gives the breakdown of what each State will receive, assuming full appropriations, for fiscal year 1978 $4.5 billion, and for each of fiscal years 1979, 1980, and 1981 $5 billion. The amounts are as follows:

Alabama	$57, 789, 000	$64, 210, 000
Alaska	19, 057, 500	21, 175, 000
Arizona	34, 906, 500	38, 785, 000
Arkansas	33, 808, 500	37, 565, 000
California	357, 804, 000	397, 560, 000
Colorado	41, 341, 500	45, 935, 000
Connecticut	49, 824, 000	55, 360, 000
Delaware	17, 982, 000	19, 980, 000
District of Columbia	14, 368, 500	15, 965, 000
Florida	172, 647, 000	191, 830, 000
Georgia	87, 381, 000	97, 090, 000
Hawaii	35, 676, 000	39, 640, 000
Idaho	22, 284, 000	24, 760, 000
Illinois	233, 743, 500	259, 715, 000
Indiana	124, 551, 000	138, 390, 000
Iowa	58, 288, 500	64, 765, 000
Kansas	39, 613, 500	44, 015, 000
Kentucky	65, 781, 000	73, 090, 000
Louisiana	56, 812, 500	63, 125, 000
Maine	33, 727, 500	37, 475, 000
Maryland	124, 996, 500	138, 885, 000
Massachusetts	132, 939, 000	147, 710, 000
Michigan	185, 877, 000	206, 530, 000
Minnesota	84, 109, 500	93, 455, 000
Mississippi	43, 470, 000	48, 300, 000
Missouri	112, 306, 500	124, 785, 000
Montana	15, 624, 000	17, 360, 000
Nebraska	24, 772, 500	27, 525, 000
Nevada	18, 621, 000	20, 690, 000
New Hampshire	39, 645, 000	44, 050, 000
New Jersey	160, 717, 500	178, 575, 000
New Mexico	17, 185, 500	19, 095, 000
New York	477, 940, 500	531, 045, 000
North Carolina	89, 136, 000	99, 040, 000
North Dakota	13, 981, 500	15, 535, 000
Ohio	290, 947, 500	323, 275, 000
Oklahoma	41, 755, 500	46, 395, 000
Oregon	58, 383, 000	64, 870, 000
Pennsylvania	196, 272, 000	218, 080, 000
Rhode Island	23, 634, 000	26, 260, 000
South Carolina	52, 947, 000	58, 830, 000
South Dakota	16, 798, 500	18, 665, 000
Tennessee	69, 687, 000	77, 430, 000
Texas	196, 353, 000	218, 170, 000
Utah	20, 056, 500	22, 285, 000
Vermont	17, 302, 500	19, 225, 000
Virginia	88, 209, 000	98, 010, 000
Washington	79, 596, 000	88, 440, 000
West Virginia	80, 563, 500	89, 515, 000
Wisconsin	87, 763, 500	97, 515, 000
Wyoming	13, 513, 500	15, 015, 000
American Samoa	2, 772, 000	3, 080, 000
Guam	3, 348, 000	3, 720, 000
Puerto Rico	52, 803, 000	58, 670, 000
Trust Territory of Pacific Islands	6, 885, 000	7, 650, 000
Virgin Islands	1, 701, 000	1, 890, 000
Total	4, 500, 000, 000	5, 000, 000, 000

A minimum allotment of one-half of 1 per centum for fiscal year 1978 is $23,500,000 and for fiscal years 1979, 1980, and 1981 is $25,000,000. Accordingly, as noted earlier, those States receiving less than such amounts could be brought up to the higher amount through the separate authorizations in section 25(c).

Section 25(d) provides that sums made available to the Administrator for obligation between January 1, 1975, and March 1, 1975, shall remain available for obligation until September 30, 1978.

STATE MANAGEMENT ASSISTANCE

Mr. Speaker, the State management assistance provision, section 26 of the conference report is a version of State certification which should be familiar to most Members, since it appeared in legislation which twice passed the House.

This approach represents a House response to problems which surfaced early in the administration of the title II construction grant program and which persist today, a fact documented by the National Commission on Water Quality, the Investigations and Review Subcommittee, and the Subcommittee on Water Resources, of the Committee on Public Works and Transportation.

This provision reflects the need to emphasize and extend the policies in Public Law 92–500 with respect to the role of the States in water pollution control and the efficient administration of the act, and to encourage effectuation of these policies as set forth in section 101(b) and 101(f). Experience has shown that these policies are not only compatible in concept but inseparable in implementation.

There is and has been no doubt that the Environmental Protection Agency has the authority to delegate to the States the authority to carry out certain requirements of the act under sections 201, 203, 204, and 212. Indeed, EPA has begun implementing this authority. But the conferees have recognized that full achievement of the potential for State management and the benefits to be derived therefrom requires further impetus from the Congress in the form of inducements to both EPA and the States.

Accordingly, section 26 of the conference report declares it to be the policy of the Congress that States manage the construction grant program, and also implement the permit programs under sections 402 and 404 of this act. The conference report further provides that 2 percent of a State's construction allocation—but no less than $400,000 per year—be reserved to enable States to equip themselves to assume the authority to manage these programs.

The Administator is authorized to grant to any State from amounts reserved to it the costs of administering any aspect of sections 201, 203, 204, and 212 of this act to the extent that the responsibility for administering them is to be delegated to such State. Once a State has received a grant in connection with the assumption of such delegated responsibility for the construction grant program, it may apply for additional grants from such reserved sums as remain available within the 2 percent setaside for the reasonable costs of administering an approved program under section 208, 402 or 404 of the act as amended.

However, because construction grant funds are involved, it is clearly the intent of this provision that first priority be given to State administration of the construction grant program. This can represent an extensive undertaking, in that the States are authorized to administer any aspect of the sections enumerated. Eligible expenditures include staffing and related expenses of State exercise of resident engineering responsibilities on projects, particularly in smaller communities.

It is the intent of this provision, then, that the funding provided result in an increase in staffing and an expansion of management activity at the State level. Further, the intent of this provision is that the sums provided not be used to reduce the level of Federal or State expenditures to administer water pollution control programs.

It is particularly and specifically not the intent of this provision that construction grant funds be substituted for State program funds under section 106 of Public Law 92-500, for which the annual level of authorization is increased by this legislation to $100 million from $75 million. In combination, these considerations dictate that highest priority in the use of construction grant funds set aside be accorded to State management of the construction grant program.

The Administrator will distribute up to 2 percent of the grant funds set aside in proportion to the functions of the construction grant program that the State is conducting or proposing to conduct. I want to emphasize the prospective aspect of the provision, whereby States can qualify for funding to staff up and otherwise equip themselves to perform functions which they are not currently performing.

Proper State administration of the construction grants program will depend in part on continuity of operation. There is some risk of disruption in that the funds for State administration are allotted yearly. It is incumbent on the Administrator to use the means available to him to assure continuity of operation in State programs from one fiscal year to the next.

I also wish to emphasize that States can qualify for such grants from the 2-percent reservation regardless of whether or not they are implementing the 402 permit program, whether or not they have assumed the State permit program under section 404, whether or not they have a statewide 208 program, or whether or not they have developed the capability to manage construction grants to small communities.

Similarly, States can qualify for such grants without demonstrating a determination to acquire the capability to manage grant awards to small communities. Thus, nothing in this provision shall be construed as authorizing the Administrator to require States, as a condition of eligibility for assistance under this provision, to acquire the capability to become the contract agency for any engineering, design, or construction agreements. It is one thing to strengthen State capability in this and related areas but quite another—totally lacking any basis in the statutory language—to say that States must be required to fulfill or perform the functions.

The availability of reserved construction grant funds for functions in addition to construction grant management is not intended to provide the Administrator a means of inducing States to assume responsibilities under sections 208, 402, or 404 which they would not assume in the absence of the State management assistance provision.

The Administrator is to base the size of the grant made to a State upon the State's capability, or its demonstrated commitment to acquire the ability, to assume responsibilities under title II.

We fully expect EPA to expedite implementation of this provision, long in the process of development and fully familiar to the agency. The committee will monitor the pace and extent of EPA's implementation of this provision and to hold hearings promptly if the circumstances warrant.

I am confident that the procedure of certifying qualified States will effect a more efficient means for expediting the municipal construction program, reduce duplication of effort at Federal and State levels of government, and reduce the needless drain on the resources of EPA.

The State management assistance language in the conference report differs from the original House language to the extent that the procedural requirements for State certification as contained in the House bill was not incorporated. I wish to emphasize that this modification was agreed to by the House conferees in the interests of more rapid assumption by the States of delegated responsibilities for administering the construction grants program. Thus it is manifestly not the intent of the conference substitute that a lesser degree of State management occur, but rather the reverse. It is intended that at least as many States expressing a desire to do so participate in the management of the construction grants program than would have been the case had the more structured certification process been adopted.

REIMBURSEMENT

Section 29 amends section 206(a) of the act to extend from July 1, 1972, to July 1, 1973, the date by which initiation of construction, as defined by the Administrator in 40 CFR 35.890 as in effect on May 1, 1976, on treatment works projects must have occurred in order for such projects to be eligible for reimbursement grants of 50 to 55 percent of project costs. Also, in order to be eligible for a reimbursement grant under this section, a project must have already received a construction grant award under Public Law 660, 84th Congress. Applications for reimbursement for such projects on which construction was initiated between July 1, 1972, and July 1, 1973, must be filed within 90 days after the date of enactment of this section.

AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING PROCESS

Section 208(f)(2) of the act is amended by section 31 to provide that the first 2 years of the operation of any agency designated under section 208(a) prior to October 1, 1977 to conduct an areawide planning process under section 208 shall receive a Federal grant of 100 percent of the costs of the first 2 years of operation.

The committee would like to emphasize that section 208(b)(2)(E) requires agencies to include in their plan a method of financing the plan. Section 208(c)(2)(E) provides that the Administrator shall not accept any designation of management agencies which do not have the authority to raise revenues, including the assessment of waste treatment charges. It is expected that designated agencies, as provided by these sections, will develop a self-sustaining revenue base as soon as practicable. As Congress determines that agencies have had a reasonable opportunity to develop such bases, it will reassess the need for Federal funding. Until such time, however, it is fully expected that there will be continuity in Federal funding for all eligible agencies and that the first grants to agencies will be followed by subsequent grants of up to 75 percent of the costs of developing and operating the continuous management process. Subsection 31(b) specifically authorizes such continuing funding.

IRRIGATED AGRICULTURE

Section 33 of the conference report exempts return flows from irrigated agriculture from all permit requirements under section 402, and recognizes that this activity is not a point source within the meaning of the Federal Water Pollution Control Act.

This action was taken in recognition of a specific recommendation of the National Commission on Water Quality. The problems of permitting every discrete source or conduit returning water to the streams from irrigated lands is simply too burdensome to place on the resources of EPA. However, section 33 assures that areawide waste treatment management plans under section 208 include consideration of irrigated agriculture.

STATE BEST MANAGEMENT PRACTICES PROGRAM

Section 34(a) of the conference substitute amends section 208 of the act to provide for the development and implementation of section 208 programs, administered by the State government, for the regulation of a class or category of activity. For example, programs may be developed for the use of best management practices for various forestry activities or mining activities, including construction and maintenance of forest or mining roads and other forestry and mining activities which lend themselves to regulation through the implementation of best management practices. If a State regulatory program is approved by the administrator and if the State has a permit program approved by the administrator under section 404, then no individual permit is required under section 404 for the activities following best management practices under the section 208 program. The State-level section 208 program applies to activities in all the navigable waters, including those described as phase I waters in the Corps of Engineers 75 regulations.

AGRICULTURE COST SHARING

Section 35 of the conference substitute authorizes the Department of Agriculture, acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, to establish and administer a program to enter into contracts of not less than 5 years nor more than 10 years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality consistent with an approved areawide management plan under section 208.

GRANT ELIGIBLE CATEGORIES

Section 36 amends section 211 of the act concerning the eligibility of collector sewers for Federal construction grant assistance.

The amendment adds two new subsections to section 211 of the act. The first provides that if population density is used as a test of eligibility of a collector sewer for assistance population density shall only be used for the purpose of evaluating alternatives and in determining the needs for the collection system in relation to ground or surface water quality impact. The second provides that no grant may be made under title II from funds for fiscal years 1978 through 1982 for treatment works for control of pollutant discharges from separate storm sewer systems.

eligibility is still in place. Collector sewer eligibility is thus limited to communities

Existing law concerning collector in existence on October 18, 1972, with sufficient existing or planned capacity adequate to treat such collected sewage.

For the purpose of this section, it is recognized that a community qualifying for Federal grant assistance to construct a collector sewer system may be a geographic or jurisdictional area that is less than the municipality which is applying for the treatment works grant.

BUY AMERICAN

Section 39 creates a new section 215 which extends the application of the Buy American Act to any case where Federal construction grant funds for municipal treatment works are used. However, this provision is not to apply in any case where the administration of the Environmental Protection Agency determines, based upon those factors he deems relevant, including available agency resources, that enforcement is inconsistent with the public interest, including multilateral Government procurement agreements, the cost to be unreasonable, or the articles are not reasonably available in commercial quantities of satisfactory quality.

PRIORITIES

Section 40 creates a new section 216 concerning the determination of a treatment works project's priority for funding within a State.

The amendment provides that the determination of priority to be given each category of projects within each State shall be made solely by that State. However, if the administrator after a public hearing determines a project will not result in compliance with the enforceable requirements of the act the project shall be removed from the priority list and the State shall submit a revised list.

For the purposes of this section, the categories of projects for construction of publicly owned treatment works include: secondary treatment, treatment more stringent than secondary treatment as is necessary to meet water quality standards, correction of infiltration-inflow, major sewer system rehabilitation, new collection sewers and appurtenances, new interceptor sewers and appurtenances, and correction of combined sewer overflows.

Also, not less than 25 percent of funds allocated to a State in any fiscal year for construction under this act shall be obligated for major sewer system rehabilitation, new collector sewers and appurtenances, new interceptors and appurtenances, and correction of combined sewer overflows if they are on the State's priority list for that year and are otherwise eligible for funding for that fiscal year.

COST EFFECTIVENESS

Section 41 adds a new section 213 to require that cost-effectiveness guidelines published by the administrator provide for identification and selection of cost-effective alternatives to comply with the objective and goals of the act and sections 201(b), 201(d), 201(g)(2)(A), and 301(b)(2)(B).

This section is to have no effect on the funding and grant eligibility of collector sewers.

MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS

One of the areas of greatest controversy concerning the 1972 amendments was the requirement of secondary treatment for municipal wastes being discharged into the marine environment. The philosophy behind the 1972 amendments mandated uniform requirements on all municipal discharges whether they discharge into lakes, rivers, estuaries or oceans. This was done without a true analysis of the costs and burdens associated with these uniform requirements. However, the 1972 amendments included a requirement for a national commission to study the impacts associated with carrying out the 1972 amendments. In its report, the commission included the following finding on nearshore ocean discharges:

> (1) *Near shore ocean discharges.*—Studies and testimony indicate that any benefit from the uniform application of the 1977 requirements to all ocean discharges may require a disproportionate expenditure of public and private resources if full adherence to the requirements is demanded. It may be better to study and analyze the specific environmental factors with selection of the degree and type of treatment dependent on the analysis and anticipated benefits.

The Commission addressed the problems of a relatively small pot of money having to be stretched a long way. In California alone which has many discharges into the deep marine environment the cost of achieving secondary treatment will be well over $1 billion. This billion-dollar expenditure for treatment for treatment's sake will come at the expense of many municipalities, localities, and small communities which currently did not even have primary treated effluent. Further quoting from the Commission's report:

> If reasonable precautions are followed, large volumes of municipal wastewaters can be discharged into some open coastal waters without undue damage to man's interests or to the ecological balance and productivity of coastal waters.
>
> The public is misinformed about the extent of ocean pollution and the damage to marine life by municipal wastewaters, generally believing the situation to be much worse than scientific studies show.

For all these reasons the conference report includes section 44 which allows for modification of the secondary treatment requirements for discharges from existing deep marine outfalls.

Section 44 amends section 301 to permit the Administrator to grant case-by-case waivers of the secondary treatment requirement to municipal ocean dischargers.

For those communities which can show that existing deep marine discharges require less than secondary treatment a case-by-case waiver is provided. The amendment is the result of recognition that for the western coast of the United States and the coastal areas of its territories natural factors provide significant and in some cases sufficient elimination of traditional forms of pollution from publicly owned treatment works to avoid the necessity of providing secondary treatment.

Any waiver would be reviewed every 5 years and would be granted where an applicant demonstrates that the following eight conditions are met:

The first condition is that there is an applicable water quality standard specific to the pollutant for which the modification is requested. The degree of effluent reduction necessary to meet this standard must be provided as a minimum.

The second condition is that the modified requirements would not interfere with the attainment or maintenance of that water quality which assumes protection of public water supplies and propagation of a balanced indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water.

The third condition is that the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota to the extent practicable.

The fourth condition is that the modified requirements will not result in any additional requirements on any other point or nonpoint source.

The fifth condition is that all applicable pretreatment requirements will be enforced.

The sixth condition is that to the extent practicable the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works.

The seventh condition is that there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

The last condition is that any title II funds available to the owner of the treatment works are to be used to achieve the degree of effluent reduction required by section 201(b) and (g)(2)(A) or to carry out the requirements of this subsection. The referenced provisions of section 201 may require a degree of effluent reduction which is greater than that required under this section of the act as amended. Available title II funds shall be used in this case to achieve the requirements of section 301 as amended before they are used to achieve the requirements of section 201. Uses of funds appropriate to carrying out the purposes of the section might include infiltration and inflow work, interceptor construction and repair, and proper location of outfall lines.

The amendment defines the "discharge of any pollutant into marine waters" as a discharge into deep waters of the territorial sea or contiguous zone or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines are necessary to comply with the second condition described above, and section 101(a)(2) of the act.

Depth is a key factor in determining the amount of circulation in waters of the territorial sea or contiguous zone. Circulation in turn affects the degree to which waste water discharges to these waters are rapidly dispersed. In some instances, depth of water in the territorial seas or contiguous zones in excess of 200 feet is necessary to achieve sufficient rapid dispersion (45 seconds) of waste water and waste water constituents. In some instances, depth of 200 feet is insufficient to provide adequate dispersion. Poor net flashing (stagnation) of a deep basin may cause undesirable vertical cycling of discharges.

Factors determining the amount and rapidity of dispersion of saline estuarine waters are the degree of tidal movement and other hydrological and geological characteristics. In some cases, rip currents and strong tidal movements which contribute to high flushing efficiency in certain bays and estuaries, may provide sufficient circulation. Additional precautions, however, need to be considered in or near the mouths of estuaries due to possible tidal transport of pollutants landward into estuarine areas where they may be retained.

Areas which can meet these conditions include the city of Los Angeles, San Diego, other coastal communities in California, Seattle, Washington, Hawaii, Puerto Rico, American Samoa, the Virgin Islands, and portions of esturarine water, such as Cook Inlet, Alaska, and Puget Sound in Washington.

Since waivers will be granted in the form of a permit under section 402 of the act, States with an authorized permit program may grant such waivers.

Several of the conferees particularly those from California are very concerned with the problems provided by the requirement of this section. During the conference the Environmental Protection Agency was asked to provide the conferees with a description of the ocean outfalls in the State of California which are likely to meet the criteria that the conferees have established. At this point in my statement I would like to include that list of existing ocean outfalls in the State of California:

Cresent City, CA.
Westport, CA.
Mendocino, CA.
Menodcino #2, CA.
Bolinas, CA.
San Francisco (Richmond Sunset), CA.
North San Mateo, CA.
Pacifica, CA.
Montaro, CA.
Granada, CA.
Half Moon Bay, CA.
Davenport, CA.
Santa Cruz, CA.
East Cliff, CA.
Aptor, CA.
Watsonville, CA.
Marina, CA.
Seaside, CA.
Pacific Grove, CA.
Monterey, CA.
Carmel, CA.
San Simeon, CA.
Morra Bay, CA.
Shell Beach, CA.
Pismo Beach, CA.
Avila, CA.
South San Luis, CA.
Golcta, CA.
Santa Barbara, CA.
Montecito, CA.
Summerland, CA.
Carpinteria, CA.
San Buenaventura, CA.
Oxnard, CA.
Port Hueneme, CA.
City of Los Angeles, CA.
City of Los Angeles (Terminal Island), CA
Los Angeles County Sanitation District, CA.
Avalon, CA.
Sunset Beach, CA.
Orange County Sanitation District, CA.
Laguna Beach, CA.
South Laguna, CA.
Dana Point, CA.
San Clemente, CA.
Oceanside, CA.
Encinitas, CA.
Cardiff, CA.
San Diego, CA.
Carlsbad-Buena Vista, CA.

Distance offshore for location of outfall lines is also a factor which must be considered in many situations. In these cases sufficient distance offshore is generally necessary so that adverse water quality conditions will not be created under assumed worst conditions of onshore current and wind based on data derived from historical records.

Greater distance off shore may provide the desired protection during adverse conditions of onshore currents and wind. Geological characteristics such as submarine canyons may also be utilized because of the same advantage of rapid dispersion and desirable circulation.

There are, of course, constituents, such as polychlorinated biphenols—PCB's—which, irrespective of depth, tidal movement, or other factors related to circulation in marine waters, cannot be adequately dispersed because of their persistence.

The conferees expect that the Environmental Protection Agency will carry out this provision in such a way that burdensome requirements are not placed on municipalities. The conference report calls for the Administrator to issue guidelines promptly to carry out the intent of the law. Those dischargers which contemplate being able to meet the criteria established in the law will have 9 months either from the date of enactment of this section or 9 months from the date effluent guidelines are promulgated.

Following the filing of an application for a waiver, the Administrator should discountinue any legal proceeding or enforcement actions which may have been initiated prior to the enactment of section 44.

The conferees expect the Administrator to make a decision promptly on the evidence presented to him and not permit protracted deliberations.

The waivers will be for a period of 5 years. During that period EPA should increase its expertise by conducting studies relating to deep ocean outfalls and the water quality of the receiving waters. The absence of such studies by EPA has hampered the communities' work in this area.

My colleagues from California (Mr. JOHNSON and Mr. ANDERSON) will comment further on this provision.

1977 DEADLINES

The Federal Water Pollution Control Act Amendments of 1972 established a systematic approach for dealing with water pollution from industrial and municipal sources. Publicly owned waste treatment facilities were required to have effluent limitations based on secondary treatment by July 1, 1977, and nonpublicly owned point sources were required to apply best practicable control technology by that same date.

Over the past 5 years significant progress has been made in cleaning our waterways. The Environmental Protection Agency estimates that 85 percent of major industrial dischargers have complied with the law. Many of the other 15 percent have been unable to comply through no fault of their own. Most of those sources which have not complied with the law have negotiated agreements with the EPA that will shortly bring them into compliance.

Because there have been some instances where industries have failed to comply with the law, section 56 of the conference report has included a procedure where the Administrator is given two options to grant an extension of the 1977 deadline until April 1, 1979. The first option authorizes the issuance of an enforcement order requiring a reasonable time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements included in interim compliance schedules. The second option authorizes up to an 18-month extension of the 1977 deadline where the Administrator finds that the discharger acted in good faith; that a serious commitment to achieve compliance had been made; that compliance will occur no later than April 1, 1979; that the extension will not impose additional controls on other sources; that an application for a permit was filed before December 31, 1974; and that the necessary abatement facilities are under construction. It is important to note that the second option allows a person other than a violator, not in compliance with the time requirements of the act, to have an extension of up to April 1, 1979.

Throughout the conference, the House conferees were very aware of the current fiscal problems of the American steel industry. In several instances the House conferees attempted to assist this industry to meet the requirements of the act in a way that would not place great financial stress on the industry causing further plant closings and greater unemployment. We are sorry to say that the House conferees were only partially successful.

The steel industry has had problems with capital formation for several years. In many instances the industry has not been able to modernize and install pollution control equipment at the same time. For that reason many individual facilities negotiated long-term agreements with EPA that carry the compliance date for BPT past July 1, 1977, and in some instances past April 1, 1979. Nothing in this legislation invalidates or in any way affects any orders, decrees, settlements, or other agreements in existence prior to enactment of this legislation pertaining to compliance dates for BPT.

On another matter, the House conferees were less successful. We offered language to the Senate conferees that would have allowed the President, after consultation with the Secretary of Commerce, the Secretary of Labor, and the Administrator of the EPA to exempt any point source or category of point sources, other than publicly owned treatment works, from compliance with the requirements of section 301(b)(1) and of section 301(b)(2) if he determined it to be in the national interest of the United States to do so. Any exemption would have been for a period not in excess of 2 years, but additional exemptions might have been granted for periods of not to exceed 2 years upon the President making a new determination. There would have to be assurances that they would meet interim effluent guidelines and would continue operations at the site in the future. Since the steel industry is of major national interest because of its defense and employment impact, as well as the ripple effect that occurs throughout the economy whenever the steel industry is impacted, the House conferees offered this language to the Senate conferees. This would not have been an automatic extension of environmental controls; a rigorous test had to be applied in each case. The House conferees were attempting to be responsive to the situation as we knew it. Unfortunately the Senate refused to accept this modification.

With respect to municipal requirements, we have not been as successful in reaching deadlines. Present estimates by the Environmental Protection Agency show that approximately one-third of all publicly owned treatment works have complied with the 1977 requirement in a timely manner. The primary fault lies with unavailability of Federal funding and redtape. After passage of the act in 1972 the President impounded half of the funds earmarked for the construction grant program. To compound the lack of funding, the EPA put so much redtape on top of the woefully inadequate funding that many communities simply threw up their hands and refused to deal with the Federal Government.

The conferees wrestled with this problem and came up with an equitable solution that recognizes the present realities of the situation. The conference report provides the Administrator with the flexibility he needs to grant time extensions through modifications of permits. To exercise this modification authority, the Administrator must find either that construction is underway but the facility was unable to be completed prior to July 1 of this year, or that the United States has failed to make financial assistance available in a timely manner. This modification procedure can only be instituted at the request of the owner or operator of a publicly owned treatment works and it must be requested of the Administrator within 180 days of the date of enactment. It is the conferees' intent that any modification should contain a schedule of compliance based on among other things availability of financial assistance from the United States.

This modification shall not extend any later than July 1. 1983, under any circumstances, and the Administrator may make additional requirements of the point source such as interim effluent limitations during time of construction of the treatment works.

Throughout the Nation many industries have contemplated tying into municipal works and have been unable to do so because of the inability of publicly owned treatment works to come into compliance with the law. These industrial dischargers are now, in many instances, out of compliance with the law without fault. Section 45 permits the owner or operator of an industrial source to request a similar time extension as that available to publicly owned treatment works when the owner or operator of that industrial source has a permit issued prior to July 1, 1977, contemplating discharge into a treatment works. Several other criteria were included to insure that the owner or operator was acting in good faith. The owner or operator must show that the point source had an enforceable contract to discharge into a treatment works and there is an application pending for a municipal treatment works reflecting in its engineering and design capacity for that point source.

As in the case with municipal discharges, it is the responsibility of the owner or operator of each point source to apply to the Administrator within 180 days of enactment of this section for the extension. The conferees expect the Administrator to grant such extensions when he finds that the owner or operator of this point source has acted in good faith. Any modified permit issued should contain a schedule of compliance similar to that included in the extension for publicly-owned treatment works including any pretreatment and interim effluent limitations that the Administration deems applicable.

Also, section 56 provides that where EPA finds that an industry cannot meet the requirements for a time extension under section 301(i)(2) as set forth in section 45 regarding industries which contemplate tying into a municipal treatment works, and the Administrator finds that the most expeditious and appropriate means of compliance is for the industry to discharge into a municipal treatment works, upon the industry's request, the Administrator may issue an order requiring the industry to come into compliance at the earliest date practicable, but not later than July 1, 1983, by discharging into a municipal treatment works.

The conferees do not expect the Administrator to make unnecessary demands on owners or operators of point sources. They do expect the Administrator to make permit modification decisions in a timely manner.

No such time modification shall be granted where it is not contemplated that the municipal treatment works will be in operation and available to the point source prior to July 1, 1983.

TOXICS—BAT

The highlight of this bill—the most important and far-reaching amendments are contained in a package of provisions responding to the most critical deficiencies in Public Law 92–500, dealing with toxic pollutants and the 1983 requirements in the act for treatment of industrial discharges.

Taken together, they will result in a major redirection and refinement of the Environmental Protection Agency's regulatory program and inmeasurably improve its capability to achieve the purposes and objectives of the act.

Basically, the problems are diametrically opposed in nature: Underregulation, or the lack of ability to regulate rationally in the case of toxic pollutants, and overregulation in terms of excessive and burdensome regulation in the case of conventional pollutants at costs not even remotely commensurate with environmental benefits in terms of water quality.

The conferees, to address these problems, have adopted a coordinated approach strengthening, on the one hand, regulation of the increasingly evident toxics hazard, while modifying requirements for conventional pollutant control, on the other hand. This is in line with the greater-than-expected degree of water quality already achieved and projected to be achieved once requirements for 1977 have been met.

This approach is fully consistent with the intent of Public Law 92-500, which reflected a recognition at the time of its enactment that the task of achieving its objectives would be compounded by economic, technological, and environmental unknown. The problems which could come into focus only with further study on the basis of operational experience have been under intensive scrutiny over the past 5 years by the National Commission on Water Quality, which was established by the act explicitly for this purpose, and the Subcommittees on Water Resources and Investigations and review of the Committee on Public Works and Transportation in the discharge of their continuing responsibilities.

Members of the House at large are entitled to take pride in the outcome of these undertakings as they can in the conference report on H.R. 3199, which, particularly in the area of toxic pollutants and other industrial treatment requirements, builds on the solid groundwork we laid in this area. In both, the amendments represent the "mid-course corrections" regarded as practically inevitable at the time the act was enacted with establishment of the National Commission on Water Quality.

House Members can also take satisfaction in the fact that the amendments which House conferees were able to negotiate with the Senate were made possible by the continuing support of our committee's efforts by the leadership and the membership now and at the time predecessor bills were considered by the House.

Public Law 92-500 fully intended that toxics be regulated. They have not only polluted drinking water and destroyed both commercial and sport fishing, but in many major water bodies they also constitute a hazard to aquatic environment and public health that has yet to be fully recognized. This problem has been amply documented in up-to-date fashion in a staff memorandum prepared for the committee, an excerpt from which we shall insert in the Record at the conclusion of remarks on this subject.

The principal regulatory mechanism for the control of toxics in Public Law 92-500 as originally enacted was contained in section 307(a), which set forth the requirement for toxic effluent standards to be issued for toxic pollutants identified by the Administrator. Frankly, it has failed.

Procedural requirements have proven insurmountable for the Agency, to the point where only six toxic chemicals—aldrin/dieldrin, endrin, DDT, toxaphene, benzidine and PCB's—have been regulated. Six chemicals in 5 years.

The Agency's problems have included uncertainty with respect to the intended breadth of the regulatory effort, lack of toxicological and biological data for many chemicals, and scientific disputes over what amount of a "toxic" pollutant which can be considered as "safe." But far and away the most severe single problem has been the formal, cumbersome rulemaking process.

The result of the failure to regulate toxics has been litigation leading to the consent decree ratified by the court in NRDC against Train, which in effect was has placed the toxics control program under the administration of the court. The court mandated that effluent guidelines based on Best Available Technology (BAT) be developed for 65 pollutants by December 31, 1979.

The conferees adopted a House-initiated proposal recognizing the inadequacy of existing law which led to the litigation and the validity of the BAT approach to toxics.

Several amendments constitute the toxics provisions.

The 65 pollutants specified in the consent decree have been included on the list of toxic pollutants under section 307 (a) (1). This represents a major step forward in the effort to control the discharge of toxic chemicals into the Nation's waterways.

For each of the 65 pollutants, the Administrator now has until July 1, 1980, to promulgate BAT effluent guidelines on an industry-by-industry basis, with which industry is required to comply by July 1, 1984. These dates represent extensions of 6 months and 1 year, respectively, for promulgation and compliance as prescribed in the consent decree. The Administrator also has the discretion to set more stringent toxic effluent standards on a pollutant-by-pollutant basis for the 65 if BAT is not adequate to protect public health or the environment. Any more stringent standards must be promulgated as soon as practicable, and industry must comply within 1 to 3 years as determined by the Administrator on basis of potential hazard to public health posed by the pollutant in question.

This legislation also authorizes the Administrator to add to or subtract from the toxics list, subject only to a standard of review limiting grounds for challenge to assertions of arbitrary and capricious action on the part of the Administrator.

With respect to chemicals thus added to the list, the Administrator is required to promulgate regulations as soon as practicable, industry compliance is required within 3 years in the case of BAT effluent guidelines and 1 to 3 years in the case of toxic effluent standards. Newly added chemicals may be regulated by section 307 toxic standards, BAT or both.

Members will note that the list of 65 pollutants, which are enumerated in Committee Print No. 95-30 of the Committee on Public Works and Transportation, contains many generic terms covering classes, categories, or families of pollutants, for the purpose of implementing the consent decree. EPA has devised a list enumerating 129 specific pollutants. We shall insert the list of 120 specific compounds in the Record at the conclusion of our comments on BAT toxics.

It must be recognized that a number of generic pollutants, both organic and inorganic, may well contain individual compounds or subclasses of compounds which are not in fact toxic, or which in fact may not be discharged by any industry or point source in more than trace amounts.

In implementing this section it is the intent that EPA will take a realistic approach with respect to classes of pollutants among the listed 65, or classes conceivably to be added by the Administrator under the discretion conferred by this legislation.

Thus, if a compound—or subclass of compounds—on or added to the list proves upon analysis not to be toxic, it is expected that the Administrator will exercise his discretion and drop it from the list. Thus, there would be no requirement for regulation under section 307.

In addition, the Administrator, in his discretion, may determine that certain toxic pollutants—or subclasses of pollutants—are not appropriate for regulation in certain circumstances. For example, the Administrator may use his discretion when equal or more effective protection is already provided with respect to that pollutant by an effluent limitation and guideline promulgated pursuant to other sections of the act or, when the discharge of specific pollutant results from its presence in the intake water; or, where a specific pollutant is present in either insignificant or trace quantities and does not cause or is not likely to cause toxic effects to identifiable organisms affected by the discharge. Such pollutants will, of course, remain subject to regulation under 1977 requirements for best practicable control technology (BPT) or possibly by BAT under the provisions of nonconventional pollutants, a subject which I shall return to later in this discussion.

Due to the nature of toxic pollutants, those identified for regulation will not be subject to waivers from or modification of the requirements prescribed under this section, specifically, neither section 301 (c) waivers based on the economic capability of the discharger nor 301(g) waivers based on water quality considerations shall be available.

In summary, the revisions to the toxics regulatory program contained in the conference report on H.R. 3199 simplify the procedures for identifying toxic pollutants and promulgating regulations according to their characteristics. The discretion exercised by the Administrator is broadened, the procedures less formally structured, and burdens of proof modified to the point where the program may proceed in a more rapid and orderly fashion without further recourse to the courts.

Crisis-by-crisis reaction to the problem of toxics must no longer be the norm, but replaced by an orderly program for adding compounds to the list, with the Administrator fully in charge. It, therefore, would be entirely appropriate for the United States to petition the courts to relinquish jurisdiction over toxic pollutant control under Public Law 92-500, now that the statutory basis has been laid for a workable regulatory program the lack whereof led to the litigation resulting in the consent decree. This is particularly appropriate in view of the large number of potentially toxic chemicals to be addressed by the program and the need for administrative discretion within the revised regulatory framework to carry out the provisions of law enacted herein.

This is the intent of this legislation, an outgrowth of House initiatives by the House conferees.

The regulation of conventional pollutants, characterized by biological oxygen demand, suspended solids, fecal coliform, and pH, is far less subject to unknowns than toxics, and has been characterized by far greater progress under the 1977 requirements for best practicable technology (BPT) than anticipated at the time of enactment of Public Law 92-500 in 1972.

One of the principal findings of the National Commission on Water Quality, charged with the specific responsibility of recommending midcourse correction to the act, was that application of the 1977 requirements would restore a large portion of the Nation's polluted waters to a level of physical and chemical quality to provide for achievement of its objectives.

Measurable progress has already been achieved with compliance by some 85 percent of industry with 1977 BPT requirements—as distinguished from 30 to 35 percent of municipalities—and significant further progress will be assured as further compliance is achieved.

Moreover, the intensified attack on the problem of toxic pollutants made possible by these amendments assures a level of industrial control technology that will provide spin-off benefits by removing substantial amounts of conventional pollutants as well. Thus, progress to date and justifiable anticipation of further progress in the conventional pollutant area militates against preserving the requirements in existing law that bat be required across-the-board for all conventional pollutants. The result would be treatment for treatment's sake, and the unnecessary expenditure of billions of dollars yielding no substantial improvement in water quality.

It would be unconscionable to impose this burden on the economy under any circumstances, it would be even more unconscionable to do so in view of the considerable—and altogether justified—increased burden to be borne by many segments of industry in achieving compliance with the toxic control requirements being strengthened under this legislation, requirements which, as noted, also will contribute to the reduction or elimination of conventional pollutants.

Accordingly, the conferees adopted an approach eliminating the requirement of BAT for conventional pollutants and the substituting a new concept known as best conventional pollutant control technology (BCT) not later than July 1, 1984.

This will apply to conventional pollutants as defined by the Administrator in compliance with the act as amended, generally those pollutants which are naturally occurring, biodegradable, oxygen demanding materials and solids. In addition, compounds which are not toxic and which are similar in characteristic to naturally occurring, biodegradable substances are to be designated as conventional pollutants for the purposes of this provision.

It is important that the Administrator, in classifying various chemicals for the purposes of this and other provisions, discriminate among them on the basis of their environmental effects. For example, color in and of itself may range from an esthetic problem having no environmental consequences to an indication of the presence in the water of the entire range of pollutants: conventional, nonconventional and toxic.

In assessing the need for BCT, the Administrator is required to consider the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived. Essentially, we are talking about removing additional "cheap pounds" of conventional pollutants. Stated another way, BCT imposes a level of control technology which anticipates and accepts the possibility of an increase in stringency beyond BPT, but not resulting in increased costs beyond the "knee of the curve," the take-off point where incremental costs begin to exceed incremental benefits.

Comparison of the costs and level of reduction of such pollutants from the discharge of publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial point sources is appropriate in making these determinations of reasonablness.

Because of the greater-than-anticipated results obtained under 1977 BPT requirements, the appropriate starting point should be BPT as currently promulgated. Guidelines have been promulgated, industry has substantially complied at costs regarded justifiable in terms of benefits, results are being achieved and water quality improved. It is, therefore, not the intent of this provision to launch an unnecessary exercise in development of BAT as a basis from which to scale down to BCT. The Administrator should first examine the adequacy of BPT in terms of the criteria herein established before making any determination that a higher level of treatment be required.

We might add in this connection that an additional justification for this upgrading of BPT as a starting point in devising BCT is rooted in the fact that guidelines promulgated under BPT have been more stringent that we expected originally. Furthermore, in view of the reasonableness of BPT and the anticipation that BCT will not prove substantially more burdensome, the conferees approved the elimination of any economic capability waiver from the requirement for BCT under section 301(c).

However, in recognition of the possibility that BCT may be equal in stringency to BAT for conventional pollutants in a limited number of instances, it is intended that in such cases the waiver provisions of section 301(c) will apply.

As a result of this legislation, Public Law 92-500, as amended, will recognize for the first time a category of nonconventional pollutants, embracing all pollutants not otherwise identified as toxic or conventional. Industry will be required to comply, by July 1, 1984, with applicable guidelines promulgated by July 1, 1981—including any guidelines in existence at the time of enactment of this act. For guidelines promulgated subsequent to that date, industry must be in compliance within 3 years, and in no case later than July 1, 1987.

Unlike the toxics and conventional pollutant control requirements added by this legislation, nonconventional pollutants will be subject to waivers under section 301(c) based on economic capability and section 301(g) based on water quality considerations, the eligibility requirement for this waiver is less stringent than that initially contained in the Senate bill.

A discharger seeking a waiver under section 301(g) must apply within 270 days after enactment of the Clean Water Act of 1977 or within 270 days of the promulgation of the applicable effluent guideline, whichever is later.

If a discharger applies for waivers under both 301(c) and 301(g), he must do so within the same 270-day time period to permit EPA to process both applications in the same period of time and combine the proceedings, as the agency is indeed encouraged to do.

Throughout the development of these BRT-toxics provisions, the House conferees initiating them were guided by an awareness of two objectives: First, the need to focus the provisions of the act on the most critical problems of water pollution control facing the Nation—addressing real problems in a realistic manner—and second, the need to conserve resources in terms of both the regulatory agency and its ability to conduct a regulatory program and the scarce resources of industry and in turn the economy, your managers on the part of the House are confident that if the amendments embodied in the conference report on H.R. 3199 with respect to toxics and other matters of industrial pollution control are administered in the same spirit, we will achieve the goals we all share practically—not punitively—and at the least cost in public and private resources.

LIST OF 129 SPECIFIC POLLUTANTS

COMPOUND NAME

1. *acenaphthene.
2. *acrolein.
3. *acrylonitrile.
4. *benzene.
5. *benzidine.
6. *carbon tetrachloride (tetrachlormethane).

*_Chlorinated benezenes_ (other than dichlorobenzenes):

7. chlorobenezene.
8. 1,2,4-trichlorobenzene.
9. hexachlorobenzene.

*_Chlorinated ethanes_ (including 1,2-dichloroethane, 1,1,1-trichloroethane and hexachlorothane):

10. 1,2-dichloroethane.

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*Specific compounds and chemical classes as listed in the consent degree.

11. 1,1,1-trichloroethane.
12. hexachloroethane.
13. 1,1-dichloroethane.
14. 1,1,2-trichloroethane.
15. 1,1,2,2-tetrachloroethane.
16. chloroethane.

*_Chloroalkyl ethers_ (chloromethyl, chloroethyl and mixed ethers):

17. bis(cholorometheyl) ether.
18. bis(2-chloroethly) ether.
19. 2-chloroethyl vinyl ether (mixed).

*_Chlorinated naphthalene:_

20.2-chloronaphthalene.

*_Chlorinated phenols_ (other than those listed elsewhere; includes trichlorophenols and chlorinated cresols):

21. 2,4,6-trichlorophenol.
22. parachlorometa cresol.
23. *chloroform (trichloromethane).
24. *2-chlorophenol.

*_Dichlorobenzenes:_

25. 1,2-dichlorobenzene.
26. 1,3-dichlorobenzene.
27. 1,4-dichlorobenzene.

*_Dichlorobenzidine:_

28. 3,3'-dichlorobenzidine.

*_Dichloroethylenes_ (1,1-dichloroethylene and 1,2-dichloroethylene):

29. 1,1-dichloroethylene.
30. 1,2-trans-dichloroethylene.
31. *2,4-dichlorophenol.

*_Dichloropropane and dichloropropene:_

32. 1,2-dichloropropane.
33. 1,2-dichloropropylene (1,3-dichloropropene).
34. *2,4-dimethylphenol.

*_Dinitrotoluene:_

35. 2,4-dinitrotoluene.
36. 2,6-dinitrotoluene.
37. *1,2-diphenylhydrazine.
38. *ethylbenzene.
39. *fluoranthene.

*_Haloethers_ (other than those listed elsewhere):

40. 4-chorophenyl phenyl ether.
41. 4-bromophenyl phenyl ether.
42. bis(2-chloroisopropyl) ether.
43. bis(2-chloroethoxy) methane.

*_Halomethanes_ (other than those listed elsewhere):

44. methylene chloride (dichloromethane).
45. methyl chloride (chloromethane).
46. methyl bromide (bromomethane).
47. bromoform (tribromomethane).
48. dichlorobromomethane.
49. trichlorofluoromethane.
50. dichlorodifluoromethane.
51. chlorodibromomethane.
52. *hexachlorobutadiene.
53. *hexachlorocyclopentadiene.
54. *isophorone.
55. *naphthalene.
56. *nitrobenzene.

*_Nitrophenols_ (including 2,4,-dinitrophenol and dinitrocresol):

57. 2-nitrophenol.
58. 4-nitrophenol.
59. *2,4-dinitrophenol.
60. 4,6-dinitro-o-cresol.

*_Nitrosamines:_

61. N-nitrosodimethylamine.
62. N-nitrosodiphenylamine.
63. N-nitrosodi-n-propylamine.
64. *pentachlorophenol.
65. *phenol.

*_Phthalate esters:_

66. bis(2-ethylhexyl) phthalate.
67. butyl benzyl phthalate.
68. di-n-butyl phthalate.
69. di-n-octyl phthalate.
70. diethyl phthalate.
71. dimethyl phthalate.

*_Polynuclear aromatic hydracarbons:_

72. benzo(a)anthracene (1,2-benzanthracene).
73. benzo (a) pyrene (3,4-benzopyrene).
74. 3,4-benzofluoranthene.
75. benzo(k)fluoranthane (11,12-benzofluoranthene).
76. chrysene.
77. acenaphthylene.
78. anthracene.
79. benzo(ghi)perylene (1,2-benzoperylene.
80. fluroene.
81. phenathrene.
82. dibenzo (a.h)anthracene (1,2,5,6-dibenzanthracene).
83. indeno (1,2,3-cd)pyrene (2,3-o-phenylenepyrene).
84. pyrene.
85. *tetrachlorethylene.
86. *toluene.
87. *trichloroethylene.
88. *vinyl chloride (chloroethylene).

Pesticides and Metabolites:

89. *aldrin.
90. *dieldrin.
91. *chlordane (technical mixture & metabolites).

*_DDT and metabolites:_

92. 4,4'-DDT.
93. 4,4'-DDE (p.p'-DDX).
94. 4,4'-DDD (p,p'-TDE).

*_endosulfan and metabolites:_

95. a-endosulfan-Alpha.
96. b-endosulfan-Beta.
97. endosulfan sulfate.

*_endrin and metabolites:_

98. endrin.
99. endrin aldehyde.

*_heptachlor and metabolites:_

100. heptachlor.
101. heptachlor epoxide.

*_hexachlorocyclohexane (all isomers):_

102. a-BHC-Alpha.
103. b-BHC-Beta.
104. r-BHC (lindane)-Gamma.
105. g-BHC-Delta.

*_polychlorinated biphenyls (PCB's):_

106. PCB-1242 (Arochlor 1242).
107. PCB-1254 (Arochlor 1254).
108. PCB-1221 (Arochlor 1221).
109. PCB-1232 (Arochlor 1232).
110. PCB-1248 (Arochlor 1248).
111. PCB-1260 (Arochlor 1260).
112. PCB-1016 (Arochlor 1016).
113. *Toxaphene:
114. *Antimony (Total).
115. *Arsenic (Total).
116. *Asbestos (Fibrous).
117. *Beryllium (Total).
118. *Cadmium (Total).
119. *Chromium (Total).
120. *Copper (Total).
121. *Cyanide (Total).
122. *Lead (Total).
123. *Mercury (Total).
124. *Nickel (Total).
125. *Selenium (Total).
126. *Silver (Total).
127. *Thallium (Total).
128. *Zinc (Total).
129. **2,3,7,8 - tetrachlorodibenzo-p-dioxin (TCDD).

Regulation and Monitoring of Toxic and Hazardous Chemicals Under the Federal Water Pollution Control Act (Public Law 92–500)

(Staff memorandum of Subcommittee on Investigations and Review, Committee on Public Works and Transportation, November 1977)

TOXIC CHEMICALS: A UBIQUITOUS PROBLEM

Toxic chemicals are a very worrisome problem in 20th Century America. They have not only polluted drinking water and destroyed both commercial and sport fishing, but, in many major waterbodies, they constitute a hazard to aquatic environments that is probably only dimly perceived.

Kepone in the James River in Virginia, PCBs in lakes and rivers throughout the country, asbestos in Lake Superior, mercury in the Shenandoah River, hexochlorocyclopentadiene in the Ohio River are all recent highly visible examples of the chemical threat. Additional disclosures undoubtedly lie ahead as more and more scientific information is accumulated. The Safe Drinking Water Act of 1974 calls for the systematic monitoring of water supplies, which probably will contribute much to our body of knowledge and, concurrently, to public apprehension.

Some 30,000 compounds are now in commercial usage. An estimated 700 to 1,000 new ones are being produced annually. Among this vast array of chemicals, 12,000 compounds are already suspected as being toxic, 1,500 are suspected carcinogens, and countless others are considered capable of producing various human health and aquatic species disorders. While the Toxic Substances Control Act of 1976 establishes a program to evaluate new chemicals entering the marketplace, those already being produced present a sizable pollution control problem.

Probably the most disturbing finding by the Subcommittee is that, five years after enactment of the federal water pollution control law, we still do not know what toxic and hazardous chemicals are being discharged into the nation's waters. It is therefore difficult to perceive how these chemicals can be effectively regulated.

THE REGULATION OF TOXIC AND HAZARDOUS CHEMICALS

There are three approaches in PL 92–500 for controlling the discharge of toxic chemicals. The first might be characterized as a pollutant-by-pollutant approach. The authority embodied in Section 307(a) of the Act requires effluent standards for toxic chemicals to be established based on health and safety factors. Specifically, these standards must reflect a pollutant's toxicity, persistence, degradability in the environment, and effect on aquatic organisms.

The Act required the Environmental Protection Agency (EPA) to publish final standards for such toxic substances by January 1974, a deadline that the Agency did not meet. While there are literally thousands of chemicals suspected of being toxic, to date the Environmental Protection Agency has promulgated standards under Section 307(a) for only six: aldrin/dieldrin, endrin, DDT, toxaphene, benzidene, and PCBs.

Finalized in January 1977, some of the standards are being contested in federal court. To a large extent, usage of these six chemicals has either been eliminated or rapidly phased out, although it is a matter of opinion as to whether this has been due primarily to the federal regulatory program or to public anxiety and pressure.

EPA has experienced several problems in attempting to implement the provisions of Section 307(a). There has been uncertainty as to whether the section was intended to address a broad range of toxic chemicals or just a few "really bad actors." There is also a lack of toxicological and biological data for many chemicals. Scientific disputes, both within and outside of the Agency, center around what amount of a "toxic" chemical can be considered "safe."

Another problem encountered in attempting to promulgate toxic standards has been the Act's formal, cumbersome rulemaking process. It has proved to be time consuming, expensive and inconclusive as to the issues. The extent to which economic and technological factors intermix, including the obvious difficulty of achieving compliance by affected industries within one year, has virtually immobilized the Section 307(a) program.

The second mechanism for the regulation of toxic chemicals is to utilize the control

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*Specific compounds and chemical classes as listed in the consent degree.

**This compound was specifically listed in the consent degree. Because of the extreme toxicity (TCDD). We are recommending that laboratories _not_ acquire analytical standard for this compound.

capability inherent in federally approved state water quality standards. This in effect requires a case-by-case evaluation of each discharge into a receiving water.

Theoretically, the discharge of a specific chemical or compound would have to be limited for each discharger to an amount that would not cause the aggregate amount of that chemical in the receiving water to exceed the level permissible by a water quality standard. To support this approach to the toxics problem, the Act requires the EPA, under Section 304(a), to develop water quality criteria by October 1973.

To date, the EPA has published water quality criteria for only 40 compounds. Among these are 15 pesticides, some heavy metals and a number of the more commonly occurring chemicals such as chlorine and phosphorus. While state water quality standards do incorporate much of the available data, they have not resulted in the setting of specific numerical criteria to any great extent. For example, only 10 states include numerical criteria for one or more pesticides. Only 27 states have a standard for cadmium, considered to be a highly toxic metal. In many cases, state water quality standards are narrative in form and simply require that the compound not be discharged in toxic amounts—whatever that may be. Literally thousands of potentially dangerous substances are not currently addressed in state water quality standards.

Often a bioassay is required to determine what constitutes a "toxic amount" of a substance. However, this technique usually provides only an "acute" or short term toxicity standard. Problems from long term, or chronic exposure to organic chemicals and heavy metals, many of which bioaccumulate, tend to be ignored in this rather narrow focus.

The third mechanism for regulating toxic chemicals under PL 92-500 is industry-by-industry, the same way more conventional pollutants are regulated. Effluent limitations (standards) can be established under the authorities in Sections 301, 304, and 306 of the Act. The actual standards must reflect the performance capabilities of essentially two levels of treatment technology. This approach, known as the effluent guidelines program, is complex and has been marked by controversy, legal haggling, and uneven performance.

The two levels of technology are "Best Practicable Technology" (BPT), which was to have been achieved by July 1, 1977, and "best available technology economically achievable" (BAT), for which the deadline is July 1, 1983. In the development of the BPT standards, regulatory emphasis was on conventional pollutants (e.g.: BOD and suspended solids) and toxic substances were generally ignored. Now, EPA is attempting to use the BAT requirement to address the toxics problem—an approach not necessarily specified in the law but which may turn out to be a feasible tactic.

The reasons EPA virtually ignored toxic substances in the first go-round of the effluent guidelines program were the complexity of the task, high costs, the lack of testing methodologies and available data, time constraints, and its stated intention to rely on the Section 307(a) chemical-by-chemical regulatory approach. Thus, EPA developed numerical standards, telling dischargers in various industrial subcategories what they had to do to achieve BPT and BAT for the traditional parameters, such as BOD, suspended solids, and pH, but very little about the control needed for such chemicals as carbon tetrachloride, Kepone, mirex, and others.

What isn't well known is how much removal of toxic substances is achieved by meeting BPT and BAT requirements. EPA officials claim there is such a concurrent benefit. It is recognized that 1977 BPT technologies generally rely on biological processes that are capable of removing certain biodegradable toxic wastes. However, nonbiodegradable chemicals tend to pass through these systems. Carbon tetrachloride, for example, is largely untouched by biological treatment. The non-biodegradable chemicals, such as PCB's, DDT, and chlordane, may be the most environmentally damaging pollutants in industrial waste streams.

Hearing witnesses and officials interviewed by the Subcommittee staff stress the fact that we do not know what chemicals are in most waste streams, and, consequently, we do not know to what extent biological and other types of treatment are removing various toxic compounds. Greater understanding of (1) what is in industrial and other wastestreams, and (2) how much conventional treatment is cleaning up these discharges is of obvious high priority. Otherwise, we will continue to guess about the benefits actually being achieved.

PRESENT STRATEGIES FOR REGULATING TOXICS

Because EPA was not developing a comprehensive list of toxic pollutants, or setting standards for them as specified in the law, two environmental organizations went to court to force EPA to adopt a more aggressive regulatory stance. One objective of the environmentalists was to force EPA to set standards for more than the six chemicals regulated in its initial action under Section 307(a).

In June 1976 the parties to the suit (EPA, the Natural Resources Defense Council, and the Environmental Defense Fund) entered into a Settlement Agreement. The key provision of the Agreement, often referred to as the Toxics Consent Decree, requires the EPA to upgrade its BAT effluent guidelines, Industrial Pretreatment Standards, and New Source Performance Standards to include specific limitations for 65 specified toxic compounds in 21 major industrial categories. Final promulgation of the revised standards must be accomplished on or before December 31, 1979. This will allow a minimum of 3½ years for industry to comply with the July 1983 BAT deadline.

In his testimony before the Subcommittee in the July hearings, EPA Assistant Administrator for Water and Hazardous Materials Thomas Jorling stated: "The effluent guidelines limitations development effort called for in the consent decree is ambitious and comprehensive. It is still too early to know whether or not all the deadlines will be met. To date, however, we have met practically all of the interim milestones and we are optimistic about completing the job on time."

EPA's program to comply with the Settlement Agreement is ambitious—possibly too ambitious. For example, some of the 65 substances specified in the Agreement are one in a family or class of chemicals. Because of this, the list has had to be expanded and now totals 129 compounds. The Agency must develop a specific numerical standard for each substance and incorporate it into the BAT effluent guidelines for, as presently perceived, 399 industrial subcategories. The numerical standards must in turn be included in the discharge permits of an estimated 14,000 factories and plants.

As part of its investigation, the staff has interviewed numerous toxicologists, epidemiologists, chemists, engineers, and other technically trained persons, many of them leaders in their fields. Some of these experts testified before the Subcommittee during the July oversight hearings.

It is probably fair to say that there is a consensus among these individuals that EPA does not have the resources to accomplish the toxics regulatory task within the time frame specified. Regulation will have to be tailored to fit the time and resources available, which is not conducive to quality and reliability in the finished product.

Concern along this line was expressed in a Research and Development publication issued by EPA in early 1977. Discussing the testing protocols for the development of standards for those organic compounds in the Settlement Agreement, the article stated: "In fact, the protocol developed for Effluent Guidelines Division contractors is far from adequately developed and addresses relatively few compounds. It represents a compromise to meet pressing deadlines."

Other observers express skepticism with the toxics' strategy based on the Agency's previous experience in developing BPT and BAT standards, hundreds of which have yet to be issued. Indicative of the difficulty is the fact that BPT–BAT effluent limitations for the organic chemical industry, a major producer of toxic chemicals, were considered so legally indefensible that the Agency withdrew its regulations rather than argue about them in the courts. Of the many guidelines which the Agency did attempt to defend, dozens were remanded for further review.

SCIENTIFIC IMPRECISION—HOW MUCH IS TOXIC?

A central issue in the field of toxicology is the determination of how much of a substance is a "toxic" amount. In large enough amounts, almost any substance can exhibit toxic characteristics. For example, a witness at the July hearings, addressing this question, declared: ". . . if I have an aspirin in my hand and I crumple it up and give you a piece of that, it is very difficult, if not impossible, to discern a medical effect. On the other hand, if you have a headache and I give you two aspirin, it might help it. If I give you 20 aspirin, you are going to be very, very ill, and if I give you 200, you are going to be dead."

Aside from the obvious hazard of acute toxicity, many chemicals are known or suspected to have characteristics of chronic toxicity. Serious questions exist about continuous exposure to small amounts of these substances over long periods of time. Laboratory experiments have shown fish and animal species to develop cancerous tumors, deformations, dysfunction of the central nervous system and various organs, reproductive abornormalities, and even to succumb as a result of various levels of exposure, sometimes relatively low.

Unfortunately, effects on humans cannot be readily extrapolated from laboratory experiments, although untoward effects on other species are taken as a warning of possible implications for man. Regulatory action by the Food and Drug Administration, the Occupational Safety and Health Administration and EPA is often postulated on effects observed in primates, rodents and other animal species.

Adding to the complexity of the task is the imprecision of the human response. Doctors know, for example, that individuals react differently to known medications and a particular reaction is not always predictable without complex testing. Confusion and controversy swirl around our exposure to chemical substances. Use of the artificial sweetener saccharin, and its alleged carcinogenic properties, is a good example of what we face in this field.

The ability to establish "safe levels" for the discharge of toxic chemicals is predicated on the belief that there is some level below which the presence of a given substance is harmless. Unfortunately, this school of thought is not shared by everyone. Some experts charge there are no threshhold limits for toxic materials, that there is a hazard associated with even small exposures.

These people subscribe to the theory that no amount of a known carcinogenic substance should be tolerated. Scientists in this camp generally endorse a "zero discharge" standard for such cehmicals, and applaud the language in PL 92-500 that sets such a goal for all pollutants for 1985.

Further complicating the measurement of health effects from toxic chemicals is the fact that in the real world chemicals are rarely present by themselves. Analyses of various rivers and treated water supplies have shown numerous chemicals to be present, and while each may be at a very low level, synergistic effects may make for a very potent cocktail.

Testimony at the July hearings discussed the results of recent tests of drinking water in several U.S. cities. The amount of toxic chemicals found in these water supplies are known to have caused genetic cell mutations. The full implications of such findings are not yet known. However, as a matter of reference, it was established that the drug industry will end pre-market testing of a possible new drug if similar mutagenic effects are found in the substance being tested.

The inability of scientists to resolve these uncertainties and agree on a regulatory course of action evolves quite naturally from the limited data base and the fact that professional judgments are often heavily influenced by individual and institutional values. To address this first need, to accumulate better data on which to make decisions, can easily take from three to five years time and can cost as much as $500,000 for each chemical. The "value" question will probably confound us forever.

Recalling that there are some 30,000 chemicals in commerce today, any chemical-by-chemical approach to establishing toxicity standards appears rather unsatisfactory unless carefully targeted toward the most suspect substances. Given the limited number of trained and qualified toxicologists in the country, the resources available to establish standards will obviously have to be marshalled on some priority basis. New chemicals entering the market each year will be subject to scrutiny under the Toxic Substances Control Act of 1976. Industry will undoubtedly soak up much of the scientific expertise available if it wishes to continue offering new chemicals into commerce at the present rate of 700-1000 a year.

The ability of a regulatory authority to translate legislated mandates into regulatory procedures is another area of difficulty. Public Law 92-500 contains many words and phrases which, in reality, have defied definition in a manner that satisfies all impacted parties.

One objective of the Act "is to restore and maintain the . . . biological integrity of the Nation's waters," and another is to prohibit the discharge of "toxic pollutants in toxic amounts." Under the requirements of Section 307(a), the Administrator is directed to provide ". . . an ample margin of safety" in imposing controls on toxic discharges.

In hearings on the thermal pollution associated with the generation of electrical power, held earlier this year, the Subcommittee heard testimony on the difficulty of ascertaining what constituted a "balanced indigenous population" in bodies of water. The law specifies that test be applied in protecting aquatic environments. In the final analysis, such decisions become a matter of judgment for the "experts," or the "Administrator." The decision-making dilemma which confronts the thermal pollution regulator equally confronts those charged with the implementation of toxic and hazardous chemical regulatory requirements. What is "an ample margin of safety?" Whose judgment is accepted as to whether a "preponderance of evidence" directs one course of action or another? Obviously, the task is imprecise, highly judgmental, and subject to reevaluation as new data become available.

MONITORING FOR TOXIC AND HAZARDOUS CHEMICALS

The regulation of toxic and hazardous chemicals assumes an ability to detect or monitor their presence. Unfortunately, the ability to do even this is extremely limited. Beyond the sheer number of chemicals to be examined, there is the need to detect contamination at very minute levels: parts per billion, even parts per trillion. In the words of one witness, this is like trying to find ". . . a shot-glass of vermouth in fifty thousand tank cars of gin."

As of April 1977, 309 compounds had been identified in drinking water supplies across the country. As our analysis of water supplies expands, some experts predict that thousands of additional compounds will be discovered. This will not be easily achieved. Monitoring for toxic chemicals requires the use of highly sophisticated analytical equipment, such as electron microscopes, gas-chromatographs, mass spectrometers, and atomic absorption units. This equipment is extremely expensive, with costs ranging as high as $400,000 per unit.

Beyond the initial purchase price, expertly trained chemists are required for proper operation of such equipment. These costs, too, are high. For example, the average cost of analyzing a single water sample to identify the 129 chemical compounds under the Toxics Settlement Agreement is $4000.

Another impediment in the effective use of this equipment is the pace at which such analyses are currently performed. A well trained chemist, using the most sophisticated equipment, can perform 4 to 6 analyses in an eight hour work day. This was one reason for the delay in analyzing samples in connection with carbon tetrachloride spills in the Ohio River basin earlier this year. Because of the limited number of analytical units available, tests were performed over a period of several days. As a result, one major chemical slug had passed the water supply intakes of several cities before anyone realized it.

In addition to the identification of toxic pollutants, tests are required to measure their persistence in the environment and bioaccumulation in human and aquatic species. This second level of analysis often must go on for years and focus on literally thousands of species and bio-systems.

During its review, the staff has been made aware of efforts to develop analytical techniques that constitute "surrogate indicators" and can short cut lengthy, expensive procedures. Certain fish species can be used like canaries were used in coal mines, to flash an early warning of a poisonous substance that may have both acute and long range toxic effects. Even trace levels can be picked up.

It is not always necessary to know the specific collection of chemicals present in an effluent being measured. The important factor is that a biological organism, the fish, is responding to something in the effluent that could inflict broader harm if expelled into the aquatic environment. The use of such surrogate toxic parameters is only one of several analytical techniques showing promise.

The Environmental Protection Agency has provided information to the Subcommittee which indicates limited application of such bioassay techniques in its present monitoring program. While this appears to be a step in the right direction, there is a need to ensure that this approach be vigorously pursued, although this is not to suggest that it is a quick cure to a complex problem.

In addition to the need for improved analytical techniques, there obviously is a need for a more coordinated effort among federal, state, and local jurisdictions in stream monitoring and surveillance. A recent report by the National Academy of Sciences identified serious shortcomings in national monitoring programs. Too much emphasis is placed on day-to-day problems, the NAS report says, with too little attention given systematic programs and policies. The crises situations, such as those involving Kepone and carbon tetrachloride, are the typical pattern.

One witness testifying about monitoring before the Subcommittee charged that "the situation is one of pure chaos and disorder." He added that "important interrelationships in the environment having to do with various toxic and other substances are missed and overlooked."

If the EPA is to shift from a mode of "fire-fighting" to one of long term regulatory enforcement and protection of the environment, substantive changes will have to be made in the Agency's entire approach to monitoring. Additional resources may be required. However, there is strong evidence that presently available resources could be better utilized and move EPA in the direction of achieving these ends.

TOXIC AND HAZARDOUS CHEMICAL SPILLS

A major component of the Federal Water Pollution Control Act's regulation of toxic and hazardous substances is contained in Section 311, "Oil and Hazardous Substance Liability." This section establishes a system for spill response under a "National Contingency Plan," and calls for the assessment of civil and criminal penalties where appropriate. The system, while functional for oil spills, has yet to be implemented for hazardous substances.

Under Section 311, the EPA is responsible for the development of regulations that (1) establish a list of hazardous substances; (2) determine the actual quantities of each substance which must be spilled to be considered harmful; (3) indicate which of the substances on the list are removable; and (4) establish rates of penalties for each substance.

These four sets of regulations have never been promulgated. Until they are, the hazardous substance provisions of Section 311 cannot be utilized. Today no party is legally responsible for reporting a spill of any toxic or hazardous substance to the EPA. The Nation is to a large extent without a national hazardous chemical spill control program. Further, the EPA and the U.S. Coast Guard (with which EPA shares its spill control responsibilities) are prohibited from using the Section 311(k) "revolving fund" to take mitigating actions in those cases where a responsible or liable party cannot be readily identified.

The Environmental Protection Agency has encountered difficulties in its attempts to implement the Section 311 program because of problems in determining what substances are "hazardous" in what amounts and over what period of time. Imposing penalties on spills is dependent on these determinations.

The Agency has tried. In December 1975 it published a proposed rulemaking covering 303 hazardous substances to be brought under the mechanism of Section 311. Its inability to resolve two critical issues caused the Agency to abort this rulemaking action.

One centers on the assessment of liabilities for spill clean-up. Almost all of the hazardous substances listed in the proposed rulemaking were designated as "non-removable." The question was raised as to whether a discharger of a hazardous substance could be held liable for spill clean-up and mitigation costs if, in fact, the substance was "non-removable."

The second issue involved the use of the term "gross negligence," which made the difference of whether high or low civil penalties were imposed. The difference in penalty rates involves millions of dollars and concern was expressed as to whether the higher level of penalties could ever be used.

During its investigation the staff attempted to determine the total number and magnitude of toxic and hazardous chemical spills occurring annually. We were not successful. No one appears to have this information, for various reasons.

First of all, due to the non-implementation of Section 311, no one is required to report a chemical spill to the EPA or to the Coast Guard. (A different situation exists for oil spills.) Additionally, there is no routine monitoring of the nation's waters for most chemicals, especially complex synthetic organic chemicals. The extreme costs and limitations in present analytical capability make this a momentous task.

We do not even have comprehensive information as to what chemicals are stored in land-based facilities along the shores of our rivers and lakes, or what chemicals are being transported on a given water body at a given time. This lack of knowledge compounds the problems of monitoring for spills.

Environmental Protection Agency officials acknowledge that they have no idea of the total number of toxic and hazardous spills that occur. In many instances State water pollution control agencies are notified of spills. The EPA is usually informed of such incidents only on those occasions when a State feels it needs assistance.

On this point, in contrast to the estimated 400 annual spills known to EPA, the State of Pennsylvania alone reported 1,419 spills during the three-year period of 1974–76. Seventy-five percent of them were designated as hazardous or toxic chemical spills. The State of Ohio had over 200 chemical spills in 1976.

Beyond the question of detection, there is the vital need to respond quickly to an identified hazard in a stream or lake. Serious deficiencies exist in Federal, State and local response capabilities, although some States, for example, Pennsylvania, West Virginia, Ohio, and Indiana, have spill notification and response procedures.

The carbon tetrachloride and hexa-octa incidents in the Ohio River basin early in 1977 jeopardized water supplies serving over two million people. In both incidents, EPA, working with information discovered largely by accident, attempted to provide notification of government officials and the public. The Agency's chief vehicle for notification apparently was through the news media. This was unsatisfactory and created an environment of anxiety bordering on panic, with local officials confused and bewildered as to what to do.

In communities along the Ohio River citizens were told to boil their water before drinking it. Some stopped drinking it altogether. Hospitals made emergency arrangements to obtain safe water for patients. A largely chaotic situation persisted. A day after the warning was issued the public was informed that the notice was over a week too late—that the carbon tetrachloride had already passed down the river!

It was apparent that the existing system of spill notification did not work. Compounding the problem of poor notice was the absence of toxicological information necessary to determine whether the chemical did indeed pose a serious threat to the health of the river basin's population. Even when people were informed, they were not really sure what they should do.

The absence of routine monitoring and analysis of streams and of public water supplies creates other problems, as demonstrated in the "hexa-octa" case in Louisville. The dumping of these chemicals into the sewerage system knocked out the wastewater treatment plant, causing over 100 million gallons of raw sewage to be discharged daily into the Ohio River, and thereby threatening downstream water supplies.

As a result, samples from Mt. Vernon, Indiana had to be shipped to EPA laboratories in Athens, Georgia for analysis—a time-consuming process. As the community waited for test results, it ran out of water and supplies had to be trucked in from neighboring communities. Schools and industries closed.

As these incidents demonstrate, reliance on a system of self-reporting of hazardous chemical spills appears to be wholly inadequate. Spills, accidents, and willful polluting acts are going to be with us forever. While it is not possible always to prevent them, there are measures that can be taken to provide a faster, more reasoned response than has hitherto been the case.

Accurate information on chemicals present at industrial and municipal sites along rivers, and in transport, is obviously needed. This would enable development of "early warning" systems to detect selected chemicals. Such systems could also test for the presence of other toxic chemicals on a random basis, providing further control over indiscriminate dumping, or failure to report hazardous chemical spills. Since many hazardous chemicals are not visible or readily detected in receiving waters, these steps would be very beneficial.

The promulgation of Section 311 regulations will not solve the problem posed by chemicals not on the official hazardous substance list. In fact, had the National and Regional Contingency Plans for spill response been operative during the carbon tetrachloride and "hexa-octa" incidents, the EPA would not have been authorized to respond under Section 311 because the two chemicals were not on their original list of hazardous substances.

INNOVATIVE TECHNOLOGY (INDUSTRY)

Section 47 of the conference report adds a new subsection 301(k) which provides that the Administrator—or the State with an approved permit program under section 402, in consultation with the Administrator—may establish an extension of the July 1, 1984, requirements to no later than July 1, 1987, for best available technology economically achievable for pollutants identified in subparagraphs (C), (D), and (F) of section 301 in those cases where existing production capacity is replaced with innovative processes with increased effluent reductions or significantly lower costs. This section should serve as an incentive for industry to develop and implement new processes and techniques for pollution control. The Administrator is expected to encourage industry to take advantage of this section. In doing so, the Administrator must recognize that certain new processes may be proprietary in nature or may be utilized to manufacture chemical products or chemical intermediaries which are proprietary in nature. The benefits which might accrue to the water pollution control effort from this section must not be vitiated by administrative requirements on disclosure of proprietary information. For the purposes of this section industrywide application should be interpreted to include more than one plant and the plants might be a part of the same corporation. Further, if proprietary information is disclosed to the Administrator in a request for a time extension the Administrator is expected to maintain the confidentiality of that information. In those cases where either the request is based upon proprietary information and request is rejected or where a corporation has made the application with the understanding that the process would be utilized at more than one plant owned by that corporation, there clearly is no reason to divulge proprietary information to anyone. Nothing in this section shall preclude a corporation from entering into agreements with other corporations which subsequently utilize the proprietary process. This section is intended to serve as an incentive to develop new processes.

BEST MANAGEMENT PRACTICES FOR INDUSTRY

Section 50 of the conference report provides the Administrator with the authority to control such things as spillage, leaks, sludge disposal practices, and drainage from raw materials not related to the manufacturing process. The guidelines for controlling these types of activities must be included in section 402 permits. It is not intended that the Administrator actually get involved in managing the plant or controlling production processes. Best management practices are aimed at housekeeping activities not directly related to manufacturing. Section 50 provides the Administrator with the authority to prevent such things as the release of carbon tetrachloride into the Ohio River from a chemical plant in West Virginia, and the runoff of Kepone into the James River in Virginia, from occurring in the future.

This section pertains only to those pollutants which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 301(a)(1) and section 311. The Administrator is expected to use his discretion when applying best management practices for substances which will be regulated under section 311.

Whenever possible, the Administrator is to specify alternative control measures that may reasonably be anticipated to achieve the intended results. The Administrator will identify several options with reasonably equivalent pollutant reduction achievement potential and allow each industry to choose the most cost-effective alternative. It is recognized that the most cost-effective alternative may vary from one industry to another, and believe that this procedure should maximize the opportunity for the individual point source to consider such factors as the age and location facilities, and the engineering aspects of applying the requirements to those facilities. If only one option is provided EPA is expected to take these considerations into account.

Moreover, it may be appropriate for the Administrator to allow a point source to substitute control measures other than those specified by regulation where reasonably similar results can be anticipated to be achieved.

PRETREATMENT

Section 54 of the conference report amends section 307(b)(1) of the act to provide that if a toxic pollutant is introduced into a publicly owned treatment works and the treatment by those works removes all or any part of that toxic pollutant and the discharge from that works is not in violation of the effluent limitation or standard which would apply to that toxic pollutant if it were discharged by such source other than a publicly owned treatment works and does not prevent sludge use or disposal by such works in accordance with section 405 of the act, then the pretreatment required by sources actually discharging that toxic pollutant into that publicly owned treatment works may be revised by the owner or operator of those works to reflect the removal of that toxic pollutant by that works. In addition section 309 of the act is amended by adding a new subsection (f) to provide that whenever the Administrator finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 307, he may notify the owner or operator of such treatment works and the State of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within 30 days of the date of such notification, the Administrator may commence a civil action for appropriate relief, including but not limited to a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Administrator shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court of the United States in the district in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with the act. Notice of commencement of any such action shall be given to the State.

Section 405 of the act is amended to require the Administrator to develop and publish regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. These regulations shall identify uses (including disposal) specify factors to be taken into account in determining measures and practices applicable to each such use or disposal (including information on costs) and identify concentration of pollutants which interfere with each such use or disposal. The determination of the manner of disposal or use of sludge is a local determination except that if a guideline has been established for a use it is thereafter unlawful for the owner or operator of a publicly owned treatment works to dispose of sludge from such works for that use except in accordance with the guideline.

Under the amendment to section 307 (b) the Administrator would establish national pretreatment standards for toxic pollutants based on the best available technology economically achievable, or any more stringent effluent standards under section 307(a). Then in applying these pretreatment standards through its pretreatment program, the owner or operator of the municipal treatment works could modify the requirements applicable to individual classes of sources introducing that pollutant into the treatment works to reflect the degree of reduction of that pollutant achieved by the treatment works. The combination of pretreatment and treatment by the municipal treatment works shall achieve at least that level of treatment which would be required if the industrial source were making a direct discharge. Any effluent reduction attained by the treatment works and used to justify a modification of pretreatment requirements must be a permit condition enforceable against the owner or operator of the treatment work.

In promulgating national pretreatment standards the Administrator shall include a provision recognizing the option of the owner or operator to modify the requirements to reflect the degree of reduction achieved by the treatment works. An adequate pretreatment program under section 402(b)(8) may include municipal ordinances or regulations specifying pretreatment requirements and incorporated into the treatment works permit by reference, or pretreatment requirements applicable to specific sources set forth as conditions on the permit.

In promulgating national pretreatment standards the Administrator shall include a provision recognizing the option of the owner or operator to modify the requirements to reflect the degree of reduction achieved by the treatment works in order to avoid treatment for treatment's sake.

In addition to the express criteria of section 307(b), the Administrator in establishing pretreatment standards shall consider the guidelines for sludge disposal or use established under section 405.

It is expected that the Administrator will work with the Economic Development Administration to see that direct EPA loans as well as loan and lease guarantees are provided to eligible plants to offset the costs of installing pretreatment equipment.

Also, section 8 of Public Law 92-500 provides for loans from the Small Business Administration to small businesses for the installation of pollution control equipment. This section has never been fully implemented. It is expected that these loans will be made available to assist in the installation of pretreatment processes to industries such as metal finishers.

It should be noted that on line 7 of section 54(a) which appears on page 28 of conference report 95-830, as filed, should read "that effluent limitation or standard which would be applicable to such". The official documents, as filed, are correct.

OILSPILL LIABILITY

Section 58 extends section 311 of the Federal Water Pollution Control Act relating to liability for discharging oil or hazardous substances to such discharges in connection with activities under the Outer Continental Shelf Land Act or the Deepwater Port Act of 1974 or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States—including resources under the Fishery Conservation and Management Act of 1976.

Earlier in this Congress, the House passed and sent to the Senate legislation (H.R. 6803) authorizing creation of an oil spill superfund. The proposed legislation includes some of the concepts embodied in section 58 with respect to oil pollution but is far more comprehensive. The Senate conferees agreed to early consideration in this Congress of oil spill superfund legislation. In the interim the amendments to section 311 will provide assurance that adequate funds will be available to clean up most oil spills and will provide a basis against which the Senate can consider the superfund legislation.

The House conferees recognize that the amendments to section 311 may be far reaching as they pertain to our international relations with respect to international agreements on pollution beyond the territorial seas. However, we believe that such matters which may still be of some concern in this regard will be subject to further review and consideration in conjunction with the superfund legislation.

It should be noted that section 58 accepts the concept which appears in H.R. 6803, as it passed the House, of the distinction between inland oil barges and other vessels carrying oil for purposes of liability.

MARINE SANITATION DEVICES

Section 59 of conference report amends section 312 of the FWPCA to require secondary treatment of sewage and graywater from commercial vessels on the Great Lakes and to permit the Administrator, upon application by a State, to prohibit the discharge of sewage from vessels into drinking water intake zones. These provisions advance the Congress' concern that effluent from ships and boats not contaminate our waters.

In implementing section 312(f)(4)(B), the Administrator is cautioned to use discretion in establishing drinking water intake zones. This new subparagraph is intended to protect drinking water and not to result in far reaching discharge prohibitions unnecessary to protect drinking water. (The statement of managers contains an error on page 93. It should read 392(f)(4)(B) and not 304(f)(4)(B)).

In this connection, however, we would note that section 312 is intended to require the treatment of wastes from marine vessels without placing an unreasonable, insurmountable burden on boatowners. We regret that, in at least one instance, the Coast Guard has not met this intent.

By regulation, existing vessels are required to have type II marine sanitation devices installed by January 30, 1980. In order to provide an incentive to boatowners to install sanitation devices prior to that deadline, EPA and the Coast Guard have agreed to waive the applicability of that deadline to existing vessels which install a type I device prior to January 30, 1979. Such devices would then be permitted to remain through their useful life. The Coast Guard, however, in a notice published recently, will now require boatowners seeking a waiver to have a purchase order or "other evidence of a firm commitment" of purchase dated on or before January 30, 1978.

This requirement is senseless. The January 30, 1979 deadline for type I devices was established because they would not be available in sufficient quantity and variety before that date. It is pointless, then, to require boatowners to purchase devices that cannot be delivered until up to a year after they are ordered. In addition, the purchase order requirement produces no clean water benefit since the type I devices need not be installed until January 30, 1979. We, therefore, call on the Coast Guard to rescind the January 30, 1978, requirement while keeping the 1979 installation deadline. I am advised that the Environmental Protection Agency is prepared to join in this request.

CLEAN LAKES

Section 62 of the conference report provides that financial assistance to the States will be available to prepare surveys to identify and classify fresh water lakes. Further, the provision mandates that the Administrator will issue biannually information to the States on methods to restore and enhance fresh water lakes.

Funding is provided for fiscal years 1978, 1979, and 1980 at an annual level of $60 million for clean lakes program. It is expected that EPA will request the full amounts authorized. The past record of the agency in implementing this program is dismal and must be corrected.

EPA's proposal to implement this program also requires correction. It is intended that the clean lakes program will provide for a Federal share of 70 percent. The agency has arbitrarily limited the Federal share in all cases to 50 percent. This is unacceptable. In addition, the agency states that preapplication costs incurred by non-Federal applicants cannot be included in the non-Federal share cost of the project. Preapplication costs are to be included in the non-Federal share.

EPA is further proposing that * * * the appropriate areawide or State 208 agency certify the proposed lake restoration plan, or that the particular planning requirements for pollution control be delegated to the clean lakes grantee with the understanding that the final plan be incorporated into any 208 agency plan. Planning would include development, and assure implementation, or ordinances to control septic tank pollution, silviculture runoff, and irrigation return flows. While this coordination is appropriated, this requirement should not be used to needlessly delay the program. EPA is encouraged not to allow this to occur by exploring mandated time requirements for the 208 agency to act on the certification.

Finally, it is expected that EPA will give priority to lakes which offer the potential for use as recreation areas.

ESP ISSUANCE OF PERMITS

Section 65 of the conference report clarifies certain aspects of the EPA authority with respect to proposed permits issued under section 402 of the Federal Water Pollution Control Act by a State with an approved program.

Where a State proposes to issue a permit under section 402, the Administrator has authority to object to the issuance of a permit "as being outside the guidelines and requirements of this act" or in a multistate situation described in subsection 402(b)(5). Such objection prevents issuance of the permit by the State.

Section 65 modifies subsection 402(b)(2) by providing that any objection to the issuance of a permit by the Administrator shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator. In addition, a new subsection 402(d)(4) is added to provide the opportunity for a public hearing on the EPA objection to the issuance of such permit. If the State fails to resubmit a revised permit meeting the objection within 30 days of completion of the hearing, or within 90 days of the date of the objection if no hearing is requested, the Administrator may issue the permit for such source in accordance with the guidelines and requirements of the Act.

New subsection 402(d)(4) provides a means of resolution in the event an EPA objection to a permit leads to an impasse between the State and EPA, leaving the point source without a discharge permit and subject to an enforcement action. The new subsection provides a procedure with a forum for establishing a record on the areas of disagreement between the State and EPA which resulted in EPA's objection and for issuance of a permit by EPA if the State insists on its position and EPA determines not to withdraw its objection to the permit proposed by the State. Authorizing EPA to issue the permit in such an instance is intended as a means to protect the discharger and to provide an opportunity for resolving any remaining disagreements over a permit in the context of EPA's administrative procedures and any subsequent judicial review.

Section 65 is not intended to, nor does it, affect the substantive rights or duties of a State, EPA, or the discharger in the review of and subsequent objection to a State-proposed permit by EPA. This amendment does not modify the existing substantive standard of EPA's review to allow the Administrator to substitute his judgment for that expressed by the State in its proposed permit; EPA may object to a State proposed permit only in a case in which limitations and conditions of the State permit are clearly outside the guidelines and requirements of this act, or in the multi-State situation described in subsection 402(b)(5). The role of the Administrator in reviewing State-proposed permits, analogous to that of a Federal court reviewing the action of the administrative agency, is maintained under this amendment. Once the Administrator has approved a State permit program under subsection 402(b), his role in the NPDES process is limited to reviewing State-proposed permits, providing comments on proposed permits, and exercising the authority to object to issuance of a permit in those cases of a clear failure to conform to the guidelines and requirements of the act, or in the multi-State situation described in subsection 402(b)(5). This process for approval of State permitting programs was included in the act to continue the primary State role in water pollution control and not to establish EPA as a supervisor of State permitting activities.

It should be noted that nothing contained in section 65 eliminates the need for a State certification under section 401 where the permit is to be issued by the Administrator of the Environmental Protection Agency nor the requirements of section 511(c)(1) with respect to discharge of any pollutant by a new source.

PERMITS FOR DREDGED OR FILL MATERIAL

The Department of the Army and the Corps of Engineers have been charged since 1899 with the protection of the navigable waters of the United States. Under the Rivers and Harbors Act of March 3, 1899, no one may perform any work in a navigable water such as dredging, filling, erection of structures or alteration of the waterway unless the work is recommended by the Chief of Engineers and approved by the Secretary of the Army. For many years this authority was exercised only in the interest of protecting navigation and was, therefore, confined to those waters where sufficient navigation was taking place to warrant the exercise of the authority. The method employed to limit the authority in this manner was to consider administratively as non-navigable waters those waters where the jurisdiction was not exercised.

As the years passed and attitudes changed, however, the exercise of this authority has broadened considerably. This broadening has come about in two ways. First, the definition of what is a navigable water of the United States has been expanded by the courts. This has had the effect of increasing the number of waters to which the Corps of Engineers' jurisdiction applies. Second, in recent years the courts have upheld the responsibility—and the duty—of the corps to consider all matters affecting the general public interest when deciding whether or not to issue a permit. These matters include the environment, fish and wildlife, economics, flood control, navigation, and similar considerations. This meant, of course, that the corps could no longer confine the exercise of its regulatory authority to those bodies of water on which a substantial amount of navigation takes place. As a result of these two factors, the broader definition of navigable waters of the United States and the broader range of factors considered when evaluating a permit application, the corps' regulatory activities under the 1899 act have expanded considerably.

In 1972, when Congress passed the comprehensive amendments to the Federal Water Pollution Control Act, it established in section 404 of that act a new permitting authority for the discharge of dredged or fill materials in navigable waters, superseding the 1899 act for these two activities. The Corps of Engineers, in implementing section 404, applied it to the same waters as those over which it exercised jurisdiction under the 1899 act—the navigable waters of the United States. A suit was brought in the U.S.

District Court for the District of Columbia alleging that section 404 was not being interpreted broadly enough and the court agreed, ordering the corps to publish revised regulations correctly interpreting the phrase "navigable waters." *N.R.D.C.* v. *Calloway* (392 F. Supp. 687 1975). On July 25, 1975, the corps published new regulations.

Briefly, these regulations did the following:

Phase I, effective with the notice in the Federal Register, extended permit procedures to traditional navigable waters of the United States and to adjacent wetlands.

Phase II which became effective September 1, 1976, initiated regulation of discharges of dredged or fill material into primary tributaries of navigable waters of the United States, natural lakes greater than 5 acres in surface area and their adjacent wetlands.

Phase III, after July 1, 1977, extended the Corps of Engineers authority to regulate discharges of dredged fill material into other waters generally up to the headwaters, where streams flow less than 5 cubic feet per second.

On July 19, 1977, the Corps of Engineers promulgated revised regulations implementing section 404. These regulations were designed to simplify and clarify the program. Among other things these regulations permitted on a nationwide basis the discharge of dredged or fill material into nontidal rivers and streams above the headwaters and lakes that are less than 10 acres in surface area, provided that certain specified management practices are followed. The regulations also permit the discharge of dredged or fill material for certain bank stabilization activity, minor road crossings, and certain maintenance and repair activities. The regulations also make it clear, as did the 1975 regulations, that plowing, seeding, cultivating, and harvesting for the production of food, fiber, and forest products are not included in the section 404 program. Finally, the regulations provide for the issuance of general permits for activities which are substantially similar in nature, that cause only minimal adverse environmental impact when performed separately, and that will have only a minimal adverse cumulative effect on the environment.

The Committee on Public Works and Transportation was concerned that this program, fully implemented, would prove extremely difficult to administer in an effective manner. More importantly, the Federal Government cannot and should not be expected to assume the entire responsibility for environmental protection. The States and local governments have a significant role to play. Yet an expanded Federal program would discourage the States from exercising their responsibilities to protect water and wetland areas.

For these reasons the committee reported, and the House passed, an amendment to section 404 which defined the Federal role as being limited to traditionally navigable waters and which recognized the responsibilities of the States to regulate other waters and wetland areas. The amendment, recognizing that States might not have the capability to exercise such responsibilities, provided for Federal regulation of these other waters and wetland areas where the Governor of the State and the Corps of Engineers agreed that they should be regulated because of their environmental and ecological importance.

The House provision also provided for the issuance of general permits and excluded from regulation normal farming, ranching, and silvicultural activities, the maintenance of structures such as dikes, dams, and levees, construction and maintenance of farm or stock ponds and irrigation ditches, and Federal projects where an environmental impact statement for the project addressing the impact of the discharge of dredged or fill material has been submitted to Congress in connection with the authorization or funding of the project.

The conference report retains the basic principles of the House amendment. It provides a mechanism whereby the States can regulate the discharge of dredged or fill material into waters other than traditionally navigable waters, and it contains essentially the same exclusions from regulation of various activities.

The conference report gives the Corps of Engineers authority to issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the corps determines that the activities are similar in nature, cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit shall be based on the guidelines set forth in subsection (b) of section 404 and shall include the requirements and standards which apply to activities authorized by the permit. It shall be for a period of not more than 5 years and may be revoked or modified if after opportunity for public hearing the corps determines that activities authorized by the permit have an adverse impact on the environment or are more appropriately authorized by individual permits. Where a general permit has been issued, a person performing an activity covered by the general permit should not be required to obtain permission from the Corps of Engineers before proceeding with the activity. While requiring some degree of notification of the proposed activity to the corps may be reasonable, it would be unreasonable to require that the activity not be commenced until the corps grants its consent. This would defeat the purpose of general permits, which is to avoid individual applications and review.

The conference report also adds a new subsection (f) which provides that the discharge of dredged or fill material: First, from normal farming, silviculture, and ranching activities; second, for the purpose of maintenance—including emergency reconstruction of recently damaged parts—of currently serviceable structures; third, for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance of drainage ditches; fourth, for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters; fifth, for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized; and sixth, resulting from any activity with respect to which a State has an approved program under section 208(b)(4) which meets the requirements of subparagraphs (B) and (C) of such section, is not prohibited by or otherwise subject to regulation under section 404 or 301(a) or 402 of the act—except for effluent standards or prohibitions under section 307. This subsection (f) shall not apply if the discharge of dredged or fill material into the navigable waters is incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced.

In Senate Report No. 95-370 accompanying S. 1529 it is stated that the term "normal silvicultural practice" does not include, for Eastern mixed hardwood forests, clearcutting of timber, or harvesting associated with even-aged management of timber. The House conferees do not agree with this statement and do not consider it to be factually correct.

The Eastern mixed hardwood forests are especially well suited to various management practices such as shelterwood cutting and clearcutting. Even-aged practices such as clearcutting create the widest range of plant communities of any regeneration method and are appropriate for areas where wildlife habitat diversity and water yield are primary objectives.

Perhaps more than any other forest type, Eastern hardwoods require a wider range of cutting methods and cultural methods with prescriptions varied to fit each particular tract. For these reasons the interpretation of normal silvicultural activities should not restrict or constrain the use of a wide range of scientifically proven silvicultural practices. An informative description of these practices is contained in a letter from the Chief of the Forest Service of the Department of Agriculture to Representative JOHN BREAUX and I ask that this letter be printed at the end of my discussion of section 67. We wish to point out that although discharges of dredged or fill material associated with normal silvicultural activities are not to be regulated under section 404, matters such as sedimentation problems resulting from silvicultural activities will continue to be subject to the requirements of section 208 relating to nonpoint sources of pollution.

The conference report establishes a process to allow the Governor of any State to administer an individual and general permit program for the discharge of dredged or fill material into phase II and III waters and historically navigable waters after the approval of a program by the Administrator.

The Administrator must, upon receipt of a program from a State, submit copies of such program to the Secretary of the Army and the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service, who have 90 days from the date of receipt of the program to submit any comments with respect to the program to the Administrator in writing. Within 120 days after the receipt by the Administrator of a program submitted by a State the Administrator shall determine, taking into account any comments received from the Secretary and the Secretary of the Interior, whether such State has certain authority with respect to the issuance of permits pursuant to the program. The authority which the State must have in order for the program to be approved by the Administrator is essentially the same authority it must have to administer a 402 permit program under the act. If, with respect to a State program, the Administrator determines that the State has the requisite authority to carry out the program he shall approve the program and notify the Secretary who shall suspend the issuance of permits for activities covered by the State program. If the Administrator determines that the State does not have the requisite authority to administer the program, he must so notify the State, which notification is to include any revisions or modifications necessary so that the State can resubmit the program for a new determination by the Administrator. The Administrator cannot disapprove a program because he has not completed his review of it—the disapproval must be a positive one that the State does not have the requisite authority.

The waters in which a State may not regulate the discharge of dredged or fill material under a State program approved under section 404 are those waters defined as the phase I waters in the Corps of Engineers 1975 regulations, with the exception of waters considered navigable solely because of historical use.

These latter waters are considered more appropriate for State regulation rather than Federal since they do not support interstate commerce either in their present state or with reasonable improvement. (A State can, however, regulate the discharge of dredge or fill materials into these so-called Phase I waters where it takes over the administration of a general permit issued by the Corps or under an EPA approved section 208 program regulating a class or category of activities).

If the Administrator fails to make a determination with respect to a State program within the 120 days provided, the program is deemed approved and the Administrator must so notify the State and the Secretary who shall suspend the issuance of permits under subsections (a) and (e) of section 404 for activities covered by the State program. Upon notification that a State program has been approved by the Administrator, the Secretary shall transfer any applications for permits pending with the Secretary for activities with respect to which a permit may be issued pursuant to the State program to the State for appropriate action. Also, if a State, after its permit program has been approved, notifies the Secretary that it intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of section 404 with respect to activities in that State, the Secretary shall suspend the administration and enforcement of such general permit with respect to those activities.

Each State which has an approved permit program under section 404 must transmit to the Administrator a copy of each permit application received by the State and a copy of each proposed general permit which such State intends to issue. The Administrator is to provide copies of each permit application or each proposed general permit within 10 days of its receipt to the Secretary of the Army and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to the State on the permit application or the proposed general permit he must notify the State within 30 days, and provide the written comments, after consideration of any written comments from the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, within 90 days after the receipt of the application or the proposed general permit. If the Administrator has notified the State within the 30-day period that he intends to submit written comments the State shall not issue the proposed permit until after the receipt of the comments from the Administrator or after such 90th day, whichever first occurs.

A State may not issue a proposed permit after such 90th day if it has received written comments from the Administrator in which he objects to the issuance of the proposed permit and the proposed permit is one that has been submitted to the Administrator pursuant to section 404(h)(1)(E) or the Administrator objects to the issuance of the proposed permit as being outside the requirements of section 404 unless the State modifies the proposed permit in accordance with such comments. If the State does not resubmit the permit revised to meet the objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of the objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of section 404, as the case may be, for the source in accordance with the guidelines and requirements of the act.

I wish to emphasize that an approved State program is one which is established under State law and which functions in lieu of the Federal program. It is not a delegation of Federal authority. This is a point which has been widely misunderstood with regard to the permit program under section 402 of the act. That section, after which the conference substitute concerning State programs for the discharge of dredged or fill material is modeled, also provides for State programs which function in lieu of the Federal program and does not involve a delegation of Federal authority.

Since it is a State program administered under State law, the National Environmental Policy Act and the Fish and Wildlife Coordination Act are not applicable to actions taken by the State in the regulation of the discharge of dredged or fill material. These two acts apply only to actions taken by Federal agencies. The same is true, of course, with regard to any other Federal statute which is applicable only to actions taken by Federal agencies.

The conference substitute provides that when the Corps of Engineers receives an application for a section 404 permit or proposes to issue a general permit, the Corps is to notify the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service. The Director of the U.S. Fish and Wildlife Service must submit any comments with respect to the application or the proposed general permit in writing to the Chief of Engineers within 90 days. If the comments are not received within this 90-day period, the Corps of Engineers is to proceed with consideration and final disposition of the permit application. The comments which are required to be furnished within the 90-day period are the comments of the Director of the Fish and Wildlife Service and represent the final comments of that agency and of the Secretary of the Interior. For that reason if the authority to make such comments is delegated to a field office of the Fish and Wildlife Service, the comments furnished by the field office will also be in full compliance with the Fish and Wildlife Coordination Act and the memorandum of understanding between the Departments of Interior and Army.

The requirements that the comments be furnished within 90 days and that they be in writing were included to assure that a permit application is not delayed by the Fish and Wildlife Service and the Department of the Interior through various levels of review within these agencies and to assure that the full comments of these agencies are made known and are public information.

New subsection (r) of section 404 provides that the discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of the enactment of this new subsection, is not prohibited by or otherwise subject to regulation under section 404, or a State program approved under that section, or section 301(a) or 402 of the act (except for effluent standards or prohibitincs under section 307) if information on the effects of the discharge is included in an environmental impact statement before the actual discharge of dredged or fill material in connection with the construction of the project and prior to either authorization of the project or an appropriation of funds for construction. Projects which meet the requirement of this provision are not required to have a Federal permit under section 404 nor a State permit where a State is administering a permit program approved by the Administrator. Likewise, where a State does not have an approved program it cannot regulate the discharge of dredged or fill material in connection with such projects under any other provision of State law. Only maintenance dredging activities of the Corps of Engineers are permitted to be regulated by a State where such a Federal project specifically authorized by Congress is involved.

The exemption from the requirement for a section 404 permit granted certain Federal projects in the conference substitute is in recognition of the constitutional principle of separation of powers. Where a project has been specifically authorized by the Congress that authorization should not thereafter be subject to nullification by an executive agency. The conferees have, however, limited the exemption so as to insure that the Congress will have full information on the impacts of the discharge of dredged or fill material associated with a project when it determines whether or not to authorize the project or to appropriate funds for its construction. Only those projects which have received an analysis of the effects of a discharge equivalent to that provided under the guidelines promulgated under section 404(b)(1) prior to authorization or specific funding for activities which would result in the discharge of dredge or fill material are exempt. An environmental impact statement addressing the impact of the discharge, with particular reference to the guidelines promulgated pursuant to subsection 404(b)(1), must have been submitted to Congress prior to either the authorization or the appropriation of funds. Thus Congress is to have the benefit of all the necessary information when it makes a decision. It is emphasized that the failure of a project to meet these requirements will result in the project having to obtain a section 404 permit. It would not require a reauthorization or additional appropriation action.

New subsection (t) of section 404 provides that nothing in section 404 shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of the State, including any activities of any Federal agency, and that each agency shall comply with the State, or interstate requirements, both substantive and procedural to control the discharge of the dredged or fill material to the same extent that any person is subject to its requirements. This new subsection is not to be construed as affecting or impairing the authority of the Secretary to maintain navigation.

This provision was accepted by the House conferees with the understanding that it applies only to maintenance dredging activities involving the discharge of dredged spoil in the navigable waters or into diked disposal areas as fill material. As it was explained in the report of the Senate Committee on Environment and Public Works accompanying the Senate bill its purpose was to overcome the ruling in the case of Minnesota against Hoffman that section 404 exempted the Corps of Engineers from State requirements relating to the discharge of dredged spoil from a Federal navigation project. The amendment was explained in the same terms during the debate on the legislation on the Senate floor and in the conference between the House and the Senate on this legislation.

The conference report differs from the Senate provision in that it provides that it is not to be construed as affecting or impairing the authority of the Corps of Engineers to maintain navigation. This provision is included in recognition of the possibility that there may be instances where State requirements relating to the disposal of dredged spoil may not be compatible with the responsibility of the Corps of Engineers to maintain navigation. It is intended that the Corps will apply for a State permit where one is required and will make every reasonable effort to comply with State requirements. However, where these requirements cannot reasonably be met, the Corps of Engineers has the authority to proceed with measures necessary to maintain navigation:

WASHINGTON, D.C., *October 31, 1977*.

Hon. JOHN BREAUX,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BREAUX: We appreciate the opportunity to respond to the questions you raised pertaining to a definition of normal silvicultural activities, procedures used to determine what system of timber management or harvest method is to be used, and procedures used to protect water quality.

Forest managers have two basic management options available to them for establishing forests and controlling composition and growth: uneven-aged and even-aged management. The normal silvicultural systems to achieve these management options are:

For uneven-aged management:

The selection system of silviculture:

(a) Single tree selection.

(b) Group selection.

For even-aged management:

The clearcutting system of silviculture.

The seed-tree system of silviculture.

The shelterwood system of silviculture.

The selection system of silviculture is the manipulation of a forest for a continuous high-forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of age or diameter classes to provide a sustained yield of forest products. Individual tree selection involves the removal of individual trees rather than groups of trees. In mixed stands, it leads to a increase in the proportion of shade-tolerant species of the forest. Group selection can be used to maintain a higher proportion of the less shade-tolerant species in a mixture than individual tree selection.

The three silvicultural systems for even-aged management are used to manipulate forests for the periodic regeneration of desirable species, the orderly growth and development of trees to a given size in each stand, and progressive development of harvestable stands to provide sustained yield of forest products. Regeneration occurs at or near the time of complete harvest when the stand reaches the desired age or size. Stands are treated between harvests with thinnings, cleanings, or other cultural treatments designed to promote growth and improve quality.

In the *shelterwood system* the mature stand is removed in a series of cuts. Regeneration of the new stand occurs under the cover of a partial forest canopy. The *seed-tree system* involves harvesting nearly all the timber on a selected area in one cut. A few of the better trees of desired species are left, well distributed over the area, to reseed naturally. In the *clearcutting system*, the harvesting is accomplished in one cut of all trees on an area. The area harvested may be a patch, stand, or strip. Regeneration is obtained through natural seeding, through sprouting of trees that were in or under the cut stand, or through planting or direct seeding. All three techniques have the purpose of creating a new, even-aged stand.

The Forest Service believes any of the above silvicultural systems could be considered normal in certain timber stands under certain conditions. The complex aspect of silviculture is the application of the proper system to a specific stand to meet land management objectives taking into account a broad array of resource values and physical and biological factors. What would be appropriate under one set of conditions might not be appropriate under other conditions. Thus, the prime concern is the selection of the silvicultural system which best meets management objectives. To provide further background on the scientific base for the selection of silvicultural systems, we enclose selected papers prepared for congressional hearings in 1976, "The Scientific Base for Silviculture and Management Decision in the National Forest System," "Agriculture Handbook—Silvicultural Systems," and a recent paper by Dr. David M. Smith, Professor of Silviculture, Yale University, "The Scientific Basis for Timber Harvesting Practices."

We understand that the National Association of State Foresters has provided the conferees with the following definition of normal silviculture:

"Definition of normal silviculture activities as all those generally recognized by professional forest managers for the production of timber crops, including site preparation, planting, construction of roads and minor drainage ditches, harvesting methods including clearcutting, prescribed fire, and application of approved chemical pesticides and fertilizers."

We also understand that the Society of American Foresters has provided you and other interested members with a definition of normal silviculture. These definitions will be helpful to you in understanding the broad, recognized usage of the term.

Of particular concern in the Senate Report on S. 1952 is the selection of silvicultural systems for eastern mixed hardwood forests. As presented in our papers prepared for the congressional hearings in 1976, even-aged management practices, such as shelterwood cutting and clearcutting, are especially well suited to many eastern hardwood types because they satisfy the biological requirements of the present stands and maximize many of the resource values. Even-aged practices such as clearcutting create the widest range of plant communities of any regeneration method. These practices are appropriate for areas where wildlife habitat diversity and water yield are primary objectives. Single tree selection, an uneven-aged management practice, leaves the forest with a more undisturbed appearance and is suitable for areas where esthetic and recreational vaues are important. Timber values may be increased by either even-aged or uneven-aged management depending upon the species present or desired and the extent to which other resource values are to be maintained or enhanced. Perhaps more than any other forest type, eastern hardwoods require a wider range of cutting methods and cultural measures with prescriptions varied to fit each particular tract. We believe that the interpretation of normal silvicultural activities should not restrict or constrain the use of a wide range of scientifically proven silvicultural practices, including both even-aged and uneven-aged systems, in any forest or region.

As you can see, our discussion of the definition of normal silvicultural activities involves a discussion of factors used to determine the proper system for a specific stand. On National Forest System lands, specific management objectives are developed through multi-resource land management planning. In addition, generalized guidelines have been developed for broad classes of timber stands. Based then on the management objectives and guidelines and specific resource information, a specific prescription is prepared by a skilled silviculturist in consultation with other resource specialists. This prescription is made by the man on the ground and prepared and carried out to meet management objectives for the area. State and private forest landowners are similarly encouraged to define multi-resource land management objectives for their lands and proceed with specific silviculturally sound prescriptions.

In answer to your third question, the Forest Service has many procedures and activities underway to protect water quality from sedimentation caused by silvicultural practices. A great deal of research effort is directed toward this subject and results in new information, publications, and knowledge that help to guide action programs. Through our cooperative programs with State forestry organizations we provide technical assistance, training, and advice to loggers, forest landowners and others. This includes, for example, helping to develop and encourage best management practices on non-Federal forest lands.

Logging roads and skid trails are generally the greatest source of possible water quality degradation. Therefore, the engineering specifications for road construction and contract provisions that control road and skid trail use are of major importance. These controls need to be carefully drawn to meet specific problems for the area being harvested. On National Forest System lands we provide this close control and encourage similar controls on lands of other ownership.

Methods of logging and access route management that hold soil losses close to geological rates are well known and are included in our specifications and sale provisions:

(1) Do not log in streams;

(2) Build the least temporary access routes and skid trails possible, avoiding steep and unstable slopes;

(3) Locate roads away from streams, the distance depending on slope and soil characteristics;

(4) Design access routes carefully;

(5) Apply erosion-control measures as needed; and

(6) Revegetate all temporary access routes as soon as possible.

The selection of the most appropriate silvicultural system, the careful layout and supervision of the actual road construction and harvest, and the treatment of the area following harvest are key factors in protecting water quality.

The control of discharges of sediment from silvicultural practices is specifically identified in EPA regulations 131.11(J) which were promulgated pursuant to section 208 of P.L. 92-500. These regulations require the identification and evaluation of all measures necessary to produce the desired level of control through the application of best management practices to silviculturally related nonpoint sources of pollution. In addition, the National Forest Management Act of 1976 provides detailed direction for the planning and management of National Forest System lands with emphasis on the protection of watersheds and water quality.

We would be happy to meet with you or others to discuss the scientific base of silviculture and current management practices.

Sincerely,

JOHN R. MCGUIRE,
Chief.

EMERGENCY FUND

Section 69 amends section 504 of the act to authorize the Administrator to provide assistance in emergencies and establishes a contingency fund for this purpose. This fund is to be maintained at a level of $10 million. The Administrator is authorized to provide emergency assistance whenever it is immediately required to prevent, limit, or mitigate the emergency, there is an immediate significant risk to public health or welfare and the environment, and this assistance will not otherwise be provided on a timely basis. The Administrator is required to prepare and publish a contingency plan for responding to emergencies and, at the discretion of the Administrator, emergency assistance provided because of the discharge of a pollutant subject to section 311 of the act may be a removal cost added to liabilities under that section. The cost for emergency assistance provided as a result of the discharge of a pollutant in violation of section 301, 306, 307, 402, or 403 of the act shall be recoverable from the owner or operator of the source of the discharge. The existence of the contingency fund does not in any way affect the liability of the discharger for all damages resulting from the discharge.

Nothing in this section shall be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal law. Also, nothing in this section shall affect any final action taken under such other Federal law, or affect in any way the extent to which human health on the environment is to be protected under such other Federal law.

This emergency section is comparable to the programs carried on by the Corps of Engineers under this section is intended to be implemented.

Nothing is to be done to undermine or delay the use of this authority.

There are several major programs carried on by other agencies under the jurisdiction of the Committee on Public Works and Transportation which deal with emergency relief. These include the Corps of Engineers so called Public Law 99 program and the disaster relief program now in the Department of Housing and Urban Development. Generally, these programs have been successful, because they are not constrained by budgeting considerations. They are used as needed. It is the conferee's intent that the Administrator shall not be encumbered by the Office of Management and Budget in carrying out the provisions of section 69. The Administrator should move immediately where there is need, and concern himself later as to what other agencies might have come in. The key in most cases will be expeditious action to avoid disastrous consequences.

COMBINED SEWER STUDY

Section 70 provides for a study of combined sewer overflow.

Historically, the cities have been left out of Federal assistance programs for the correction of the storm and flood problems of combined sewers. As a result, cities have been left to their own resources. This has meant that combined sewers have been developed to handle only the most frequent storm situation, not the intensive situations. The problem has become more acute with the development of suburban areas. The overflow from these areas is funneled into already overloaded urban treatment works, further exacerbating the problem. The TARP project in the city of Chicago is indicative of this situation. The development of the study authorized in this section is in no way to hinder the ongoing funding of this project.

There is a need for a strong and consistent national policy on this matter, providing adequate Federal assistance for the correction of combined sewers. This study should contain options for the Federal Government to develop a positive role of leadership and financial assistance.

LIMESTONE

The Committee on Public Works and Transportation received written presentations concerning the application of uniform technological controls under the act to discharges of limestone. The issue is whether limestone, because of its chemical composition, should be treated in the same manner as other "rock" substances such as granite, metallic ores, sand, gravel, coal, and traprock. The producers and processors of limestone maintain that limestone can provide certain benefits to water quality and therefore should not be subjected to the same requirements as other substances. The production and processing of limestone is carried out to a large degree by small firms, and concern was expressed as to the economic burden on such firms from controls which the industry claims are unnecessary.

To determine the extent to which these concerns are valid, the Senate Committee on Environment and Public Works in its Report 95-370 directed the Environmental Protection Agency to undertake a review of the application of the technological control requirements to limestone. Specifically, the Senate report stated EPA should consider the effect of limestone in varying concentrations on water quality and the appropriateness of classifying it with other "rock" substances. The House conferees agree that this review should be undertaken by EPA as soon as possible and that it should be completed by July 1978, and a report on the Agency's findings and conclusions submitted to the House and Senate committees.

SECTION 316(a) AND STATE WATER QUALITY STANDARDS

This act is not intended to change the regulation of thermal discharges. An addition, the conferees must disagree with the interpretation of section 316(a) expressed by the Senate Committee on Environment and Public Works on page 8 of their report (S. Rept. No. 95-370, on S. 1952) that section 316(a) of the existing law does not preempt State thermal water quality standards. In adopting section 316(a) as a part of the 1972 amendments to the Federal Water Pollution Control Act, we clearly intended that the section apply to thermal limitations based on State water quality standards as well as technology-based effluent limitations. Therefore, this committee cannot agree with the present interpretation expressed in the Senate report and by the subcommittee chairman in consideration of the Senate amendments to the FWPCA. We specifically note that EPA correctly interpreted the original intent of the effect of section 316(a) on State water quality standards, as set forth in the preamble to EPA's thermal discharge regulations (39 Fed. Reg. 36176 (October 8, 1974) at 36178), that section 316(a) operates to affect effluent limitations based on water quality standards relating to heat. The committee notes that the language of section 316(a) applies to "any effluent limitations proposed for the control of the thermal component of any discharge." This language clearly covers effluent limitations based on water quality standards, as well as effluent limitations based on guidelines or standards under sections 304(b) and 306 of the act. Moreover, section 316(a) covers dischargers "otherwise subject to the provisions of section 301," which includes discharges subject to the provisions of section 301(b)(1)(A) (technology-based limitations), as well as subject to section 301(b)(1)(C) of the act (more stringent limitations based on water quality standards). The purpose of section 316(a)—to provide for site-specific analyses of the impact of thermal discharges—applies to effluent limitations based on water quality standards, as well as to technology-based effluent limitations. In addition, section 303(g), which provides that water quality standards related to heat must be consistent with section 316 of the act, reinforces the intention that the "balanced, indigenous population" standard of section 316(a) be the guiding principle in evaluating thermal discharges. This interpretation tends to avoid unnecessary capital expenditure, and thus needless higher costs to the consumer, while assuring adequate protection of the aquatic environment.

NONCOMPLIANCE FEES

Section 309(d) of the Federal Water Pollution Control Act places broad discretionary power on the administrator to subject persons to civil penalties for violating permits issued pursuant to section 402 as well as for violations of provisions of the act. However, nowhere in the law was it contemplated that civil penalties were to be levied by EPA based upon the theory of recovery from a discharger of all economic gain achieved by noncompliance. Nothing contained in this legislation would change this. In fact, a provision to authorize noncompliance fees was included in the Senate version of the Clean Water Act of 1977, but was specifically rejected in the conference.

Mr. Speaker, permit me to take a moment to call to the attention of my fellow Members my utmost appreciation and thanks to the dedicated members of the Public Works and Transportation Committee staff whose untiring work has been such a vital contribution to the development of this legislation in the last 3 years.

As we all know, the 1972 Water Pollution Control Act included major and unprecedented amendments in a massive undertaking to clean up our Nation's water. Through extensive hearings and investigation, regularly conducted field inspections and discussions with representatives of professional organizations, industries, environmental organizations, and representatives of the Environmental Protection Agency, which has the primary responsibility of implementing the act, the staff has assisted the Members in closely monitoring the act since 1972.

The complexity of the act raised many points of controversy as it cut across all sectors of our life, and the staff has worked diligently to resolve these controversies in a most equitable manner for all parties concerned. Each and every one of the members of the staff has contributed greatly to our efforts to get on with the task of cleaning up the resources of our country. I would like to extend my special thanks to Dick Sullivan, Les Edelman, Errol Tyler, Joan Kovalic, Bill Corcoran, Larry Reida, Gordon Wood, Mike Toohey, and Jeffrey O'Neill.

Mr. Speaker, I urge my colleagues to join in supporting the enactment of this necessary legislation.

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman would yield for a question.

Mr. ROBERTS. I yield to the gentleman from Maryland for a question, and then I will yield to the chairman.

Mr. BAUMAN. I thank the gentleman for yielding.

The gentleman mentioned the great difficulty dealing with section 404 and the Federal jurisdiction over wetlands. I certainly want to compliment the gentleman and the members of the committee for the work that they did. As the gentleman knows, there has been some controversy as to exactly how this new legislation will be applied. I understand that the Federal Government will retain through the Corps of Engineers jurisdiction over navigable waters, but what does "adjacent wetlands" mean? How far will that go? I represent counties where when the tide comes up, a third of those countries could suddenly be adjacent wetlands. I would hope that the States would be able to have delegated to them control over such areas.

Mr. ROBERTS. Wetlands adjacent to traditionally navigable waters remain under Federal jurisdiction. Other wetlands may be regulated by a State under its own program if approved by EPA.

Mr. BAUMAN. But there will be an ability on the part of the Federal Government to delegate to the States control over the adjacent wetlands, next to navigable waters; is that correct?

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

In response to the gentleman's question, wetlands adjacent to traditionally navigable waters will remain under the jurisdiction of the Federal Government with one exception—jurisdiction over historically navigable waters can be assumed by a State if that State so chooses.

In further response to the gentleman's question, I would interpret the word "adjacent" to mean immediately contiguous to the waterway.

Mr. BAUMAN. I thank the gentleman.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I take this time really to state to the House we have a very large program here. We have worked on it 3 years for renewed funding that will amount to an expenditure of $28 billion over the next 5 years that will go to the States and territories for grants for the purpose of cleaning up their pollution problems so that we can have clean water in our streams, lakes, bays, and oceans. During all of this time we have discussed this matter three different times with the Senate. I happen not to have been able to attend this last conference due to illness. I want at this time to commend the gentleman from Texas (Mr. ROBERTS) who handled this conference in a very, very efficient way, along with the total membership of the conferees representing the House and the Senate. Because all of the conferees signed the final report and are in unanimous support, the conference report as worked out is a good conference report, and we will now have a workable act. I think we have improved the original Organic Act of 1972, Public Law 92-500. Many of the matters of concern in this conference report were worked out after Congress received the National Water Commission report. This Commission was chaired by the Vice President of the United States, Mr. Rockefeller. Many of us in the House and the Senate served on that Commission. That Commission worked throughout the United States holding hearings. Much of the information that was gained in those hearings was included in the compromise that was reached between the Senate and the House, and it is here for our consideration today.

We have tried to meet every Member's matters of concern during the conference. We took a long time, and I am sure there will be colloquies involving the chairman of the conference, the gentleman from Texas (Mr. ROBERTS), who is here today to clarify some matters.

But in closing, I would like to congratulate the conferees and the staff of our Public Works Committee for doing a wonderful job in working this out. This morning when we appeared before the Rules Committee the conference report was very favorably received by all present.

Our rule contains the necessary waivers. As required by the rule, we will offer a concurrent resolution which will take care of that matter.

I think all of us here in the House can really get behind this conference report. I hope we have a very fine vote so that we can move forward with this. The States are out of money. There are some 30 of them at the present time. We need the legislation.

The emergency appropriation that was provided in the supplemental is tied up yet and we will not get to conference on that and work out our differences on that until we come back in January, so this is a very important piece of legislation for us to pass today.

Mr. DON H. CLAUSEN. Mr. Speaker, as ranking minority member of the Committee on Public Works and Transportation, the gentleman from Ohio, Mr. HARSHA, is necessarily absent today on committee business. I wish to insert his statement at this point in the RECORD.

STATEMENT OF THE HON. WILLIAM H. HARSHA

Mr. Speaker, I believe that the agreement reached by the Conferees on the amendment to Section 404 is a compromise with which all interested parties should be pleased.

I believe it appropriate to remind the Members that when the 1972 Amendments were enacted, Congress defined the term "navigable waters" to mean "waters of the United States including the territorial seas." The jurisdiction of the 404 program is not something that was established by the courts. The Congress of the United States established that definition.

In my judgment, the problems resulting from the 404 program have resulted not from the definition of "navigable waters" but from the implementation of the program. As many of you may recall, the gentleman from New Hampshire, Mr. Cleveland, and myself offered an amendment to 404 which was intended to address these problems with the program's implementation. Unfortunately the amendment was rejected. However, I believe that the conference substitute does contain not only an improvement on the amendment offered by Mr. Cleveland and myself but will, in fact, result in a simplification of the 404 process while accomplishing the environmental objectives mandated by Congress.

The conference amendment recognizes that the States should be responsible for controlling the discharge of dredge or fill material in State waters that do not involve interstate or foreign commerce. In the past, one of the greatest concerns of allowing the States to assume the 404 program was that they would not be able to implement the program due to a lack of funds. The conference substitute allows for financial assistance under the State Management Assistance Provision which is contained in Section 26 of the Conference Report.

It is the intent of the Conferees that any State permit program for the discharge of dredged or fill material approved by the Administrator must have demonstrated itself capable of accomplishing the same objectives as the Federal permit program. The State program must include enforcement authority comparable to the Federal program, adequate resources including staff and funds, and ensure full and complete coordination with all related Federal, State and local programs. A State permit program must include substantive decision making criteria at least as stringent as 404(b) guidelines, and should provide adequate education for applicants and follow-up procedures to ensure compliance with the permits that are issued.

In addition, it is imperative that the State permit program be fully coordinated with other processes, requirements and program elements that control pollution that alters the chemical, biological and physical integrity of the Nation's aquatic resources.

The amendment recommended by the Conferees also recognizes that the genuine environmental objectives of the 404 program will not be compromised by the exemption of certain activities. These exemptions clarify that the activities that do not involve point source discharges are exempt as well as specifically listed activities that may involve minor discharges that will be controlled by best management practices. The Conferees have clarified that plowing, seeding, cultivating, harvesting, minor drainage and soil and water conservation practices performed on uplands were not intended to require 404 permits.

New Subsection (f) of Section 404 provides that Federal permits will not be required for narrowly defined activities specifically identified in paragraphs A–F that cause little or no adverse effects either individually or cumulatively. To assure that the extent of these exempted activities will not be misconstrued, paragraphs (f)(1) (D) and (E) and (f)(2) provide common sense limitations to protect the chemical, biological, and physical integrity of the Nation's waters. While it is understood that some of these activities may necessarily result in incidental filling and insignificant harm to aquatic resources, the exemptions do not apply to discharges that convert more extensive areas of water into dry land or impede circulation or reduce the reach or size of the water body. For the same reasons, 404 (f)(1)(F) provides that farm and forest roads are to be constructed and maintained in accordance with best management practices, promulgated by the Corps of Engineers, to minimize adverse effects that may occur when water is displaced by fill material. I support these exemptions with one reservation. I am concerned that Federal projects which have a substantial impact on wetlands should not be exempted from the 404 program. However, I was in a minority in my viewpoint on this issue and the Conferees chose to adopt an exemption for all Federal projects which were specifically authorized by Congress if the impacts of the dredge and fill activity were addressed in an environmental impact statement submitted to Congress either prior to the authorization of the project or appropriation of funds for construction. I believe it is appropriate to point out that this provision is limited only to those projects specifically named by Congress in legislation which is enacted by vote of both bodies of Congress. It does not include Federally assisted projects nor projects authorized by Committee resolution. These must still apply for a 404 permit. I would remind the Members that the provision relating to Federally assisted projects was specifically deleted from the Federal projects exemption by the Conferees.

Finally, I would like to comment on the amendment to Section 208 of the Act which would allow certain categories of activities to be regulated under the 208 area-wide management program. The new 208 program is a supplement to the 404 program and is intended to complement and be coordinated with an approved State 404 permit program. The 208 program is not a substitute for the 404 program as most discharges of dredged or fill material require a case-by-case review through a permit process and it is not intended that activities conducted under a best management practice be required to obtain an individual permit. Activities that involve discharges of dredged or fill material that impair the flow or circulation of navigable waters or replace water with dry land will normally require individual permit review. For example, case-by-case permit review is necessary to minimize adverse effects from most channelization and real estate development fills. Moreover, the Conferees agreed that a permit should always be required where toxic substances are involved. A case-by-case permit review would not be required for narrowly defined activities that cause little or no adverse effects either individually or cumulatively, including those activities narrowly defined in 404(f)(1)(A–F).

A State must have a permit program approved under Section 404 and a statewide regulatory program approved under 208(b)(4) before the Administrator can approve any best management practices submitted by the Governor for appropriate activities. Any best management practice must be included in State laws or regulations prior to its final approval by the Administrator.

The Administrator cannot approve best management practices to replace the State's permit review process in its entirety as only certain activities are appropriate for best management practices. A best management practice might be an acceptable method of control for activities that are similar in nature and that cause no more than minimal harm to the environment either individually or cumulatively. Best management practices are appropriate for controlling farm roads, logging roads, temporary mining roads, stock ponds, farm ponds and maintenance of existing fills. Best management practices are not appropriate as the sole means of controlling activities if the impact varies according to location so that the test of "minimal adverse affect" is not met or where advanced permit-type review is necessary to assure that the discharge is conditioned to protect the environment. It is expected that best management practices would be approved only for those activities which are likely by their nature to be conducted in compliance with a management practice.

The 208 agencies should continue to concentrate on areawide management pollution and on non-point sources of pollution that degrade critical aquatic areas rather than attempt to duplicate 402 and 404 permit programs that control point sources of pollution.

The Administrator must ensure that best management practices are specific enough to inform each person conducting an activity what is specifically required of him. Where appropriate, a best management practice would require notice to the designated State agency in advance of discharge.

The Conferees expect that this 208 process will include an activity enforcement program with demonstrated capability and adequate resources.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, as ranking minority member of the Subcommittee on Water Resources, I rise in support of this excellent piece of legislation.

The Federal Water Pollution Control Act Amendments of 1972, Public Law 92–500 which is being amended extensively here, was a truly landmark piece of legislation in which we can take continuing pride. I say that on the part of Members who have since 1963 been a part in our continuing effort to make our water pollution control program one of the keystones of our national effort to enhance our environment.

But I want to say that the perspective gained through long association with the program leads me to the assertion that this legislation is no less an accomplishment than the original 1972 act. In effect, it takes the policies and programs we deemed essential in light of 1972 knowledge—much of it intuitive—and makes those critically needed amendments we now deem essential in light of 1977 knowledge based on 5 years of experience.

This has been history of progress—in some areas far beyond what we considered possible, as in the degree of water quality achieved under requirements for best practicable control technology; and it has been a history of disappointments, as in the case of toxic pollutant control and administration of the grant program for construction of municipal wastewater treatment works.

Before offering further comments on the substance of the conference report, I want to emphasize that it stands as a tribute to bipartisan cooperation on the House Committee on Water Resources and its Subcommittee on Water Resources.

This is reflected in the degree of minority participation throughout the legislative and oversight hearings, subcommittee and full committee markup on this and predecessor legislation, floor action, and the joint statement of legislative intent submitted on behalf of the gentleman from Texas (Mr. ROBERTS), chairman of the Subcommittee on Water Resources who so ably led the House conference delegation, and myself.

Again, before proceeding to discussion of detailed provisions, I also want to emphasize that to a degree many of us had at times felt unattainable, the conference report fully merits the term mid-course correction envisioned when we enacted the 1972 act.

Many of you will recall the concerns, particularly on the House side, that unknown and possibly unacceptable economic and social costs might well result from stringent 1983 requirements for best available technology (BAT). This led to the establishment of the National Commission on Water Quality, charged with evaluating the consequences in their full dimension of meeting or not meeting the 1983 requirements.

Mr. Speaker, that work has been done, and in conjunction with legislative and oversight hearings ranging from deficient administration of the construction grant program to the impossibility of managing the toxic pollutant requirements of the 1972 act, permits the Congress to make the informed decisions embodied in this conference report.

Thus, in many ways, this legislation mandates a redirection of the municipal construction grants program, a reasonable and workable program for the control of industrial discharges widely varying as to the complexity of their control technology and severity of their environmental and health effects, and a revised program of control or outright prohibition of the discharge of toxic materials.

The highlight of the bill—and this statement bears repeating as we proceed with an explanation of the legislation—lies in its treatment of: First, toxic pollutants; and Second, conventional pollutants whose elimination or reduction has already proceeded far beyond expectations.

If any terms sums up our approaches to these two related issues, it is reality, reflecting the informed decisionmaking I mentioned a moment ago.

We know on the basis of an avalanche of information that the prevalence and severity of the toxic pollution problem are far greater than anticipated. Also sadly apparent is the fact that existing law is totally inadequate to the task.

We know, too, with equal certainty, that the 1977 requirements for best practicable technology (BPT) have produced and will continue to produce to an increasing extent a greater degree of water quality improvement than anticipated. Existing law and the manner in which it has been administered have proven more than adequate to the task to the point of calling into question the wisdom of proceeding to more stringent requirements now scheduled to take effect in 1983.

This conference report meets both needs.

In the toxics area, we provide strengthened and streamlined statutory authority for the Environmental Protection Agency to step up its enforcement activity under less cumbersome, time-consuming formal procedures.

In the area of conventional pollutants, we eliminate entirely the requirement for best available technology in 1983 (BAT) and substitute new and less stringent requirements termed "best conventional pollutant control technology" (BCT). This essentially represents an upgrading of BPT to the extent that the increased cost of treatment be reasonable in terms of the degree of environmental benefits.

I might add in this connection that the justification for this upgrading of BPT as a starting point in devising BCT is rooted in the fact that guidelines promulgated under BPT have been more stringent that we expected originally when BPT was considered a stop-off on the road to BAT in 1983.

For industrial discharges other than known toxics and conventional pollutants, we also establish a requirement for BAT, with compliance phased in between 1984 and 1987, and with waivers permitted on the basis of water quality needs and the economic capability of the industrial discharger.

As we have been drafting these amendments, we have never lost sight of the fact that an imbalance has arisen in our clean-up efforts; industry has, at its own expense, achieved 85 percent compliance with 1977 requirements, while municipalities—the public sector—has complied in the range of 30 to 35 percent.

In the municipal construction area, the defiency has stemmed from failure to avert bureaucratic delays and redtape, partially attributable to a related failure to accord to the States their rightful role as partners in the program as envisioned by the 1972 act.

We have therefore adopted amendments designed to smooth out a number of wrinkles which have proven burdensome to our municipalities, and moved across a broad front toward more efficient administration by a provision to enhance State authority and capabilities across the board.

But the problems of the construction grant program also reflect a disinclination on the part of all parties to move in the area of innovative treatment technology and wider use of alternatives to conventional community-wide collection and treatment systems which clean up dirty water and export it to the seas via our rivers and streams.

This has been a concern for a long time, since the early 1970's, in fact, when we had great hopes for progress in technology advancement as a result of the research and development provisions in Public Law 92-500. Those hopes were not fulfilled.

I therefore developed, my fellow House conferees supported, and the conference accepted a package of amendments to foster development and deployment of innovative and alternative technology in the municipal construction field.

I shall not now duplicate our joint House managers' explanation of all the interrelated provisions in this package, but rather briefly summarize them and highlight certain elements for emphasis.

This section authorizes a set-aside of construction grant funds to encourage innovative and alternative technologies. The set-aside of a State's annual construction grant allocation is 2 percent for each of the fiscal years 1979 and 1980, and 3 percent for 1981, to be used to bring grants for the Federal share of project costs up from the standard 75 to 85 percent for new technologies.

One-half of 1 percent is to be used for innovative technologies and the best for alternative, demonstrated technologies. Cost-effectiveness guidelines are to be revised to allow funding of a project which employs innovative or alternative technology, the cost of which is up to 115 percent of the cost of conventional technology.

This section provides encouragement and incentives to communities willing to attempt utilization of innovative and alternative technologies for the treatment of municipal wastewater. And I can say on the basis of sentiment in my own district and the California Water Resources Control Board as amplified by its chairman, John Bryson, that willingness is there. Communities in California and elsewhere have been willing to explore other options when they are presented and promoted.

The advantages of the innovative technology are many. They include acceleration of efforts to meet the long-range objectives and goals of the act, development of simpler options to conventional secondary treatment with concomitant lessening of operating costs and energy consumption, and the facilitation of reclamation and recycling efforts.

Reclamation-recycling facilities and devices and other alternatives to conventional secondary treatment have always been eligible for funding under the act. Included are water reclamation or recycling projects which entail a degree of treatment greater than conventional secondary treatment and projects to transport water which has been subjected to secondary treatment where its disposal does not violate water quality standards.

However, such projects often involve new technology and the risks that the new technology will not work as predictably and acceptably as a more conventional treatment process; possible higher operating and maintenance costs associated with new technology have served as disincentives to adoption of such solutions.

This section would encourage the development of new and alternative technology through three devices. First, it would provide for an increase in the Federal grant for treatment facilities to 85 percent for the construction of such technology.

Second, by setting aside a portion of the construction grant funds allotted to States so that these funds can be used only for nonconventional solutions, expertise and interest in such solutions will be promoted at the State level.

Third, revision of the cost-effectiveness guidelines to permit the funding of new technology projects that are up to 115 percent of the cost of conventional technology will help eliminate the present bias in the guidelines toward conventional secondary treatment.

It is intended that this provision will promote the long-range objectives and goals of the act to include encouraging technology that will lead to the reclamation and recycling efforts so crucial to attaining these ends.

I am convinced that this new departure will yield substantial dividends in advancing technology in the water pollution control field leading to improved water quality at lesser capital or operating costs, or the combination of the two. This can only be achieved if we provide incentives: legislative direction, backup in case of failures, and rewards for excellence.

Colleagues who have also followed the implementation of Public Law 92–500 with anything near the degree of closeness I have may well be concerned that we may see a repetition of the fiasco that followed enactment of the act, when the change in direction sent the train off the tracks and the construction grant program ground to a halt.

I want Members to know that I share these concerns, and personally received assurances from the Assistant Administrator of EPA for Water and Hazardous Substances—while these provisions were still under development—that the construction grant program will not be slowed down as a result of increased emphasis on innovative and alternative technology.

Only on the basis of that assurance did I proceed to introduce my amendments as H.R. 9464 and push for their adoption by the conference. Similarly, the gentleman from Texas (Mr. ROBERTS) and I, in our joint statement of legislative intent, make clear that these provisions will be administered with judgment, without unnecessary studies and evaluations, with no tendency to force innovative or alternative technologies inappropriate to the type of project or the area for which a project is proposed. Only projects for which step 1 grants are submitted after September 30, 1979, will be subject to any requirement for consideration of innovative or alternative technology.

With these assurances, and indeed because of them, I expect this program to be phased in, beginning in fiscal year 1979, to the point where fully one quarter of the funds obligated in fiscal year 1981 will involve such projects.

The opportunities are enormous, as are the benefits. This is particularly true in the case of land treatment and its potential for reuse of water and recapture of what heretofore have been considered pollutants as a nutrient resource.

This is of particular interest to water-short areas such as my own State of California, which has recently established an office of water recycling and others which increasingly will be experiencing water shortages.

Experience at Muskegon, Mich., site of the Nation's largest land treatment project, demonstrates its applicability elsewhere. Testimony from the gentleman from Michigan (Mr. VANDER JAGT) has been most persuasive as to the benefits.

This provision, of course, is not exclusively or even primarily a land treatment provision. No one would go so far as to argue that it is universally applicable in California much less across the Nation. The objective is to move technology forward along a broad front in the municipal treatment area.

I am pleased to be able to report that these provisions are supported by a broad coalition of environmental organizations, including the National Clean Water Campaign, on whose steering committee are representing the Clean Water Action Project, the Natural Resources Defense Council, the Sierra Club, and Environmental Action.

All told, some three dozen national, State, and local environmental groups support this legislation which also enjoys the support of the League of Women Voters and the American Consulting Engineers Council (AEC). In fact the AEC, the Clean Water Action Project—and EPA have been extremely helpful in the development of this approach.

The National Wildlife Federation also was very helpful in its comments, particularly in identifying the open space and recreation potential of alternative treatment systems, which in my view could take the form of tree farming, golf courses, and green belts surrounding cities.

One particularly important provision which should not be handled by EPA in mere routine fashion is the public information program which is intended to counter prejudices, misconceptions, and misundertanding as to the true meaning of innovative and alternative technology.

Far too few, in my judgment, understand the concept of land treatment, for example, which merely means the application of partially treated wastewater to land where absorption by the soil further removes the remaining impurities and the nutrients in the wastewater support anything from ground cover to crops.

Of possibly greatest ultimate impact, however, is the provision requiring a study by EPA and related Federal and State agencies to devise legislative recommendations to require the coordination of water supply and water quality.

A final thought on this subject; a pertinent observation from the standpoint of guidance to the agency, was made recently by T. C. Williams, an engineer from Grand Rapids, Mich., quoting Cardinal Newman:

> A man would do nothing if he waited until he could do it so well that no one would find fault with what he has done.

Throughout hearings and deliberations on this legislation the question of limitations on EPA resources was raised. This problem of resources must be confronted forthrightly. There is potential for conflict between the Agency's manpower and capability to manage the strengthened regulatory program and the objectives of these revisions in terms of a rationally focused effort.

The Agency's mandate is substantially expanded, but in statutory terms permitting—and even mandating—flexibility and sensitivity in dealing with a vast complex of problems varying widely as to severity and amenability to solution.

The principal focus of regulation, as distinguished from public financing of the construction grant program, is industry with all the implications for burdening if not exhausting reserves of private capital.

Therefore, it is not the intent of this legislative effort to best EPA with discretion in the interests of a precisely target series of regulatory activities, and then see this discretion nullified by agency shortcuts and across-the-board regulatory requirements. Constraints on agency manpower and other resources may well prove incentives to such an approach. But it is intended that the Agency bear in mind the potential cost to individual companies, entire industries, and the economy at large to result if the act is not administered as intended by the Congress. As reflected by the conference report on H.R. 3199, these concerns are prominent among those motivating this legislation. Excessive regulation in the name of administrative convenience will not be tolerated. This concern will remain uppermost in mind as the Congress continues to exercise its legislative and oversight responsibilities in this field.

Section 35 of the conference substitute authorizes the Department of Agriculture, acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, to establish and administer a program to enter into contracts of not less than 5 years nor more than 10 years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality consistent with an approved areawide management plan under section 208.

The Secretary is expected to utilize the Soil Conservation Service to carry out this section in those instances where that Service has the capability to do so. Other agencies of the Department of Agriculture are to be utilized where the Soil Conservation Service is not in a position to render the assistance for such reasons as the lack of facilities in the area involved.

There is a large body of litigation growing from Public Law 92-500. The Library of Congress prepared a report setting forth for each section of the water pollution control act a discussion of the case law and litigation history on that section. The report was completed and submitted in September. Because of the utility of this report to all those affected by the act, this report is being printed as Committee Print 95-35. The chairman of the Committee on Public Works and Transportation, Mr. Johnson, is to be commended for this. It will be useful to many people.

The report is House Public Works and Transportation Committee Print 95-35, "Case Law Under the Federal Water Pollution Control Act Amendment of 1977." Mr. George Costello, Legislative Attorney of Congressional Research Service, is to be commended for his efforts on this report. In addition, Roy Richards, John Weber, Larry Eig, and Marianne Filice are to be commended for their excellent efforts. I believe this report will prove to be most useful. A full understanding of Public Law 92-500 can only be achieved by having an understanding of the case law interpreting the public law.

Mr. Speaker, I would be remiss in my comments in this conference report if I did not recognize the contribution to this legislation made by a most important office of this body. I speak of the Office of Legislative Counsel. Specifically, I speak of Mr. Robert L. Mowson and Mr. Arnold I. Havens who have worked with our committee for months on this legislation. The combination of their industry, attention to detail, diligence, and over-all competence in this most complex area of the law is a credit to them and to the Office of Legislative Counsel.

Without the help of Mr. Mowson and Mr. Havens, it would have been most difficult to bring this conference report to the floor in this session. I personally very much appreciate their assistance to me, to my staff and to the Committee on Public Works and Transportation and to the committee on conference.

The members of the Committee on Public Works and Transportation have been assisted in the development of H.R. 3199 in a manner which has again demonstrated that level of ability, diligence, and dedication which we have come to expect from our staff as routine. Certain members of our committee staff deserve special mention for their efforts on H.R. 3199. The leadership by the chief counsel, Dick Sullivan, and the minority counsel, Larry Reida, has assisted us immensely by their coordination of the overall staff effort. In addition, I would like to compliment and express my appreciation to other members of the staff such as Lester Edelman whose combination of knowledge of water resources law and parliamentary procedure is unexcelled. He has been of great assistance to me for many years.

Joan Kovalic and Bill Corcoran contributed greatly to the legislation on the municipal program and the provisions on industrial discharges, respectively. Errol Tyler's expertise on section 404 contributed greatly to the development of this legislation. On the minority staff I wish to express my appreciation to Jeff O'Neill who has participated from the beginning in the development of this legislation and has consistently demonstrated his ability to write clearly, concisely and effectively. Mike Toohey has participated from the beginning in the development of this legislation and has spent a great percentage of his time on two most complex provisions, sections 404 and 208, which have been so difficult to resolve over the last 2 years and his background in water resources, forestry, and planning has served the committee well.

Jack Schenendorf who served most effectively as a staff member to Mr. Cleveland when he was a member of the National Commission on Water Quality has sustained his high level of excellence throughout the development of this legislation. Alise Peyton has done everything expected of a staff member and more. Mr. Speaker, I have saved for last my appreciation for Mr. Gordon Wood, the assistant minority counsel of the House Public Works and Transportation Committee. Mr. Wood, in my opinion, deserves special recognition. He is an expert in the water resources field and has special insight into the water pollution control program establishing him as a valuable counselor not only to the minority but to all of the committee members. His recommendations on the difficult provisions such as the 1983 best available technology requirements and toxic control provisions were the cornerstone of the conferees' agreement. Additionally, Gordon Wood has been of great assistance to me personally, especially with his assistance in developing innovative technology amendments which I and the other House conferees supported, and I would like to publicly say "thank you."

Mr. Speaker, I would like to express my appreciation to the members of the staff of the Committee on Environment and Public Works of the Senate who like our staff have contributed to the excellence of this legislation. Just as the members of the committee on conference conducted long and sometimes difficult sessions to resolve the differences between the two bodies our respective staffs have been involved in similar negotiating sessions for us. Through this process our respective staffs objective always was what is best for the program. Leon Billings who directed the Senate staff efforts, Phil Cummings, Jim Range, John Freshman, Mimi Feller, Sally Walker, Marsha Johnson, and Jackie Schaeffer deserve special recognition.

Mr. Speaker, I believe it most important at this point to congratulate all the conferees who worked under very trying circumstances and were able to reach agreement on one of the most difficult bills on which I have worked. Bizz Johnson, chairman of our full committee, Ray Roberts, chairman of the Water Resources Subcommittee, and Bill Harsha, ranking minority member of the full committee, deserve special credit for their leadership. Serving with them is a privilege. The other House conferees, Mr. Anderson, Mr. Roe, Mr. Breaux, Mr. Ginn, Mr. Oberstar, Mr. Nowak, Mr. Stump, Mr. Cleveland, and Mr. Snyder contributed to the success of this measure. Each conferee brought a special expertise to the negotiations which allowed us to bring to the American people a bill which we can recommend heartily.

Mr. Speaker, I urge approval of the conference report.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. Hammerschmidt).

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the conference report to accompany H.R. 3199, the Clean Water Act of 1977. I would especially like to commend our House conferees for a job well done. They faced a very difficult task in that the House had not adopted a position on so many of the very vital provisions that the Senate brought to the conference. It is no small task that they have been able to return to the House with a bill which I believe all can support.

Mr. Speaker, I am especially pleased that the amendments to the Federal Water Pollution Control Act that are embodied in the conference report recognize the need to make "midcourse corrections" to the ambitious undertaking that Congress embarked the country upon in 1972. The amendments to the best available technology requirement are both reasonable and environmentally responsible. In my judgment, these adjustments will result in better control of the toxic chemicals that find their way into our waterways while also minimizing the problem of "treatment for treatments sake" for those materials for which we have a wealth of knowledge and which can be controlled at lesser levels of treatment than BAT.

I am also pleased that the areawide waste treatment management planning process begun by the 1972 act will be continued. The work being accomplished by these 208 planning agencies will now be a continuous process, constantly being refined and updated. I believe we will find in the future that this work done by these agencies is the cornerstone of the nonpoint source pollution control program.

The funding for the construction grant program that has been included in the conference agreement will provide the Federal commitment needed to assure our communities that they can go forward with plans to construct the facilities necessary to meet the requirement of secondary treatment. We have been remiss in the past in not providing a long term funding commitment. We now have that commitment and in my own State this will mean $33.8 million will be authorized this fiscal year and $37.5 million for the succeeding 4 years.

The absence of this long term funding commitment coupled with the delay in releasing nearly one-half of the money authorized by Congress resulted in only 35-percent municipalities being able to comply with the July 1, 1977 deadline. The House recognized early on that our municipalities needed relief from unachievable deadlines when it passed H.R. 9560 in the 94th Congress. While the deadline passed without the Senate acting we now have legislation which will provide up to 5½ years relief for municipalities. The length of the extension for a community is to be based upon the date Federal funding becomes available.

It is expected that as soon as Federal funds are available municipalities will be on a compliance schedule. I think this is reasonable and reflects the "real world."

Mr. Speaker, I would like to comment briefly on the amendments on section 404, the dredge and fill authority of the corps. I have in the past supported strongly the House position both in committee and on the floor which would restrict the jurisdiction of the Corps of Engineers to traditionally navigable waters. I recognize that the House conferees faced insurmountable opposition to this position. While the provision that was agreed to recognizes that it is the States' right and responsibility to regulate waters other than those traditionally considered navigable, I am concerned that we may still have too much Federal presence. Therefore, Mr. Speaker, I think it will be most appropriate for the Committee on Public Works and Transportation to vigorously monitor the implementation of this new 404 program mandated by Congress to insure that the States are actually able to carry out their responsibility. On the positive side, we will now have for the first time statutory recognition that normal farming, ranching and silviculture activities do not belong in this permit program. These exemptions reemphasize that Congress never intended these activities to be considered discharges of dredged or fill material.

I would also like to thank the House conferees for allowing the Secretary of Agriculture to designate agencies, as deems appropriate, to carry out the agricultural cost sharing program authorized by section 35 of the conference report. I strongly believe that the Agricultural Stabilization and Conservation Service should manage this program and expect that the Secretary of Agriculture will provide for the active participation of ASCS in this new program.

In closing, Mr. Speaker, I highly recommend the compromise worked out with the other body by our House conferees and urge an overwhelming vote in support of the conference report on H.R. 3199, the Clean Water Act of 1977.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Vander Jagt).

Mr. VANDER JAGT. Mr. Speaker, I want to compliment the committee for the outstanding legislation in this conference report. It is a brilliant and far-sighted accomplishment. I find particularly exciting the language encouraging reuse and recycle technology. Land treatment systems for wastewater management utilize this approach and will provide the Nation with clean water at low cost as the Muskegon system has accomplished in my district.

Mr. Speaker, I have several questions for the gentleman from California, my very highly respected colleague, Mr. Clausen, who, with the House conferees, so successfully introduced the recycle language to this legislation.

In the language amending section 202 of the Federal Water Pollution Control Act, the new paragraph (a)(2) increases the Federal grant share for any eligible treatment works or significant portion thereof to 85 percent. A feasibility study is underway in my district which may result in a very substantial project for the recycling of sewage sludge from southeast Michigan. The project would transport raw or partially processed sludge by rail, barge, or pipeline to a digestion facility. The digestion process may include the recovery of methane gas to be used as a fuel for domestic and/or industrial purposes. The digested sludge would then be spread on forest land as a fertilizer and soil conditioner to accelerate hybrid poplar or other tree growth rates or used on farmland to improve crop growth. Am I correct in assuming that this sludge management process, from the point at which the sludge leaves the conventional sewage treatment facility, would be eligible for 85 percent Federal construction grant funding because of its reuse and recycling characteristics?

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will yield, I have discussed the matter with the gentleman from Michigan, and the answer is affirmative, a definite "yes."

Mr. VANDER JAGT. Mr. Speaker, I thank the gentleman from California.

I again commend the gentleman for the extraordinary leadership and insight he has displayed in the development of the language in this conference report.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from California (Mr. Johnson).

Mr. JOHNSON of California. Mr. Speaker, as many of my colleagues know, the House has passed legislation on several different occasions and appointed conferees to meet with the Senate. Unfortunately since 1974 the two committees have never been able to reach an agreement on needed amendments to the basic act. Now Mr. Speaker, I am pleased to say we have before us these much needed amendments.

I would like to congratulate the chairman of the Water Resources Subcommittee, Ray Roberts, for his able and professional job in handling this legislation under difficult circumstances. I would also like to congratulate all the conferees: Glenn Anderson, Robert Roe, John Breaux, Bo Ginn, Jim Oberstar, Henry Nowak, Bob Stump, Bill Harsha, Jim Cleveland, Don Clausen, and Gene Snyder, for their willingness to stay in session and hammer out an agreement even after the House had recessed. This caused many personal hardships on these members and I think that they deserve special recognition for it. I also believe the staff should be commended for their hard work particularly Dick Sullivan, Les Edelman, Joan Kovalic, Errol Tyler, Bill Corcoran, Larry Reida, Gordon Wood, Mike Toohey, Jack Schenendorf, and Jeff O'Neill.

I would also like to express my appreciation to the conferees on the part of the Senate who, as usual, were very capable advocates for the positions they had chosen. I would also like to extend to Senator Muskie, and I know I speak for all the conferees when I wish him a speedy recovery for his recent back surgery.

When Public Law 92-500 was enacted into law over President Nixon's veto, a broad program for controlling water pollution was enacted for the first time. This legislation was hailed as a true milestone in cleaning up our environment. Because of the broadness of its nature and many of its rigid requirements, the bill called for the establishment of a national commission to examine the impacts of carrying out all the mandates of Public Law 92-500. That Commission, Mr. Speaker, reported to the Congress last year with a call for some reasonableness and flexibility in the interpretation and administration of the law. I was honored to serve on that Commission along with the distinguished former chairman, John Blatnik and Bob Jones, as well as the distinguished majority leader, Jim Wright, and the ranking minority member of the Public Works Committee, Bill Harsha, and Jim Cleveland.

H.R. 3199 is essentially a fine tuning of what was passed in 1972 in line with what was called for by the Commission. We have refocused our attention on the areas which have proven to be a persistent problem. During the hearings that we conducted, all groups whether they be citizen, environmental, or industrial, called for a reordering of priorities of our efforts under Public Law 92-500. One of the areas that I am talking about is the control of toxic discharges into the waterways. The provision of the 1972 act to control toxic discharges were simply unworkable. Together with the Senate conferees, we have established a lengthy list of toxic substances that should be controlled either by a complete prohibition or effluent standard establishing a much lower level of discharge to insure that there are no risks to public health and welfare. We have called for the first set of regulations to be issued by mid-1980 on the 65 pollutants called for in the bill. We have also given the Administrator the authority to add and subtract from this list. We expect him to use this authority with discretion. Compliance with this provision must be within 1 to 3 years by all sources with toxic pollutants in their discharges.

If this provision is administered effectively by EPA we can expect to see a vast reduction in the numbers of waters which are currently unusable because of toxic pollutants.

One of the areas of particular concern to those of us from the west coast is the problem of providing secondary treatment for publicly owned treatment discharging into the Pacific Ocean. California has a number of dischargers which use the assimilative capacity of the Pacific Ocean to help them treat their wastes. At this point in my statement I would like to include a list of some of those dischargers:

List of Dischargers

Crescent City, CA, Westport, CA, Mendocino, CA, Mendocnoc No. 2, CA, Bolins, CA, San Francisco (Richmond Sunset), CA, North San Mateo, CA, Pacifica, CA, Montaro, CA, Granada, CA.

Half Moon Bay, CA, Davenport, CA, Santa Cruz, CA, East Cliff, CA, Aptor, CA, Watsonville, CA, Marina, CA, Seaside, CA, Pacific Grove, CA, Monterey, CA.

Carmel, CA, San Simeon, CA, Morro Bay, CA, Shell Beach, CA, Pismo Beach, CA, Avila, CA, South San Luis, CA, Goleta, CA, Santa Barbara, CA, Montecito, CA.

Summerland, CA, Carpinteria, CA, San Buenaventura, CA, Oxnard, CA, Port Hueneme, CA, City of Los Angeles, CA, City of Los Angeles (Terminal Island), CA, Los Angeles County Sanitation District, CA, Avalon, CA, Sunset Beach, CA.

Orange County Sanitation District, CA, Laguna Beach, CA, South Laguna, CA, Dana Point, CA, San Clemete, CA, Oceanside, CA, Encinitas, CA, Cardiff, CA, San Diego, CA, Carlsbad-Buena Vista, CA.

One of the problems with the inflexibility of the 1972 amendments was that these dischargers had to meet secondary treatment requirements on July 1, 1977. Many of us know that to require secondary treatment for these discharges which are in the open, deep ocean is simply treatment for treatment's sake and a waste of the taxpayers' money. In California alone, the cost of applying secondary treatment to all of these discharges is above $500 million. Since we all know that this program does not have unlimited funds, the conferees expect this money will not be used for providing unneeded treatment, but for providing treatment which will enhance water quality.

The conferees have taken a major step by providing for a waiver from the ocean discharge requirement. It establishes an eight-point test which a discharger must meet before the Administrator determines that secondary treatment is wasteful. This test is unfortunately not as straight-forward as many of us would have liked to have seen. However the Administrator is expected to grant waivers from the secondary treatment requirement to an ocean discharger which can show that its discharge is at the appropriate depth required for rapid dispersion of waste, that pretreatment requirements are being complied with, and that toxic substances are not being discharged into the ocean environment. I can assure all of the members from the Pacific coast States that our committee will be keeping careful watch on the EPA's consideration of these waivers to make certain that the dischargers are not paying for treatment for treatment's sake.

Another of the important issues which was addressed over and over again during our hearings was the importance of a Federal funding commitment to the program. The conference report calls for $24.5 billion for the next 5 years. Present projections show that $25 billion over the next 5 years should take care of approximately half the backlog in the program. Also we no longer will be able to use contract authority for the construction grant program. We are hoping that we can work with the Appropriations Committee so that multiyear appropriations can be made. This would insure that States will know how much money they will be receiving and be able to make their long-term plans accordingly.

One of the important issues which came before the committee was consideration of the time requirements in Public Law 92–500; because of the work of the Commission we know now that many of these time requirements simply cannot be met. For instance the secondary treatment requirement of July 1, 1977, has been changed to July 1, 1983 in recognition of the fact that Congress perhaps underestimated the task ahead of them in 1972 in terms of both time and money and also because the program was afflicted with impoundment of large portions of its funds.

On the industrial side, the first requirement is to have best practicable control technology installed and working by July 1, 1977. On the whole, industry has been able to comply. The EPA estimates that 85 percent of the Nation's major industrial dischargers have complied with this requirement. However we do recognize that some sources may be out of compliance through no fault of their own, through equipment manufacturers' strikes or the unavailability of certain equipment or failure of the EPA to publish effluent guidelines and standards in time. For this reason we have provided an extension of the July 1, 1977 deadline to April 1, 1979, only in those instances where the discharger can prove good faith with the law and lack of compliance because of its circumstances beyond the discharger's control.

The other major issue which the conference report has addressed is the 1983 requirement of best available technology economically achievable. This is the most controversial portion of the 1972 amendments because it will require the greatest investment of dollars, both public and private, and in many instances the least benefit.

Our committee carefully considered the 1983 standard and its meaning and importance to the environment. What we did, Mr. Speaker, is establish several new requirements. The first new requirement is for EPA to establish what we have come to call best conventional technology (BCT). Many of the waters of the country will achieve the national water quality goal as a result of the combination of best practicable technology, secondary treatment, and water quality standards. The conferees recognized this and realized that in many instances it will not be necessary to require best available technology of point sources. This new level of technology, best conventional technology, is the equivalent of best practicable technology or something a little bit better, even as far as best available technology in some circumstances.

Its purpose is to control BOD, suspended solids, fecal coloform and acidity in a reasonable manner. We will be watching to make certain that we are not requiring treatment for treatment's sake and causing expenditures of large amounts of money to control small amounts of pollution. A July 1, 1984 date was agreed upon in the conference for compliance with this provision.

One type of pollutant yet to be discussed is that which is neither conventional nor toxic. The conferees have specified a new type of nonconventional pollutant control in many instances because there are pollutants which may not be toxic but they are harmful to the aquatic environment. Any owner or operator of a point source which discharges what EPA will designate as a nonconventional pollutant must have installed best available technology economically achievable not later than 3 years after the standards for the pollutant is set or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987. The conferees recognize the problem that we have had with rigid deadlines in the law so a waiver was established for the nonconventional pollutant requirements. I want to reinforce that this is not a waiver for toxic pollutants, it is not a waiver for conventional pollutants and it is not a waiver for heat. In order to receive a waiver the owner or operator of a point source must prove to the Administrator that it has complied with the 1977 requirements, the requested modification does not result in additional requirements on other sources and the modification does not interfere with the achievement of the national water quality goal. Before granting any such waiver the Administrator must take into account the pollutants persistency, toxicity, chronic toxicity, synergistic propensities and tendency to bioaccumulate.

Another area of concern to the conferees was the control of the way in which toxic materials are handled and stored. We are all too familiar with what happened to the Chesapeake Bay as a result of mishandling of Kepone at a small chemical plant in Hopewell, Va. People were permanently injured, a major fishery in the State of Virginia was wiped out, and severe economic hardship was caused to people who depend on fishing as a livelihood.

For this reason we have included a provision to insure that best management practices are used in storing, and disposing of toxic materials. This is not a blank check to let the EPA owners or operators how to run plants. It is simply a provision that allows the Administrator to give some guidance to industry in their housekeeping practices in order to prevent accidents such as the Kepone tragedy from happening again. The conferees expect the Administrator to use this provision carefully and not make undue demands on sources.

The conferees took an important step in realizing the resource problems of the Environmental Protection Agency by exempting return flows from irrigated agriculture from the section 402 permit program. Again this was in recognition of a specific recommendation of the National Commission on Water Quality. The problems of permitting every discrete source or conduit returning water to the streams from irrigated lands is simply too serious a burden to place on the resources of the Agency. The conference agreement transfers the burden from the 402 permit program to the section 208 areawide planning program.

Over the last several years one of the areas of most controversy in the 1972 amendments was the section 404 permits for the disposal of dredged and fill material. Today, others will go into it in greater depth, however, I just want to say that the provision agreed on in conference strikes a reasonable balance. We have successfully been able to turn the 404 program into a joint State-Federal program. I believe that this provision will go a long way in satisfying most of the problems that we have had. Finally, Mr. Speaker, we have included in the conference report a study of the seafood industry. The conference report requires EPA to conduct a study to determine the effects of seafood process waste into marine waters, and to determine its compatibility. The results of this study are to be reported to the Congress January 1, 1979. The conferees also expect the EPA to study the compatibility of wastes from limestone mining to determine whether or not the existing effluent guidelines are more stringent than necessary to control pollution from these sources.

Again, Mr. Speaker, there are other people who will elaborate on each of these sections more than I. What I have done is just give the tip of the iceberg. This is a complex bill and a great achievement to finally bring to the Floor for a vote today. I urge all my colleagues to support this major amendment to the 1972 act which has incorporated a reasonable approach while moving forward with the goal to make all the waters of the United States of a fishable, swimmable quality.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. Roe), one of the conferees.

Mr. ROE. Mr. Speaker, I rise in support of the conference report on H.R. 3199, the Clean Water Act of 1977.

I want to compliment our Chairman "Bizz" Johnson of California for his steady leadership on this bill. Also, I congratulate Ray Roberts of Texas, who is chairman of the Subcommittee on Water Resources, which developed this initial legislation.

I was privileged to serve as a conferee in 1972 when the Federal Water Pollution Control Act (P.L. 92-500) was developed. It was an especial privilege to serve as a conferee on H.R. 3199, which amends Public Law 92-500.

The 1972 act has been hailed as an environmental landmark. I am confident that the same will be said of the 1977 act.

H.R. 3199 provides for a range of technical and major amendments to the water pollution control program.

I will highlight a few of the significant provisions in regard to the treatment works construction grant program.

Over the past 5 years this program has been subject to a series of stops and starts in funding. To provide some certainty in this process for cities and States that are trying to plan their programs, the conference report provides $24.5 billion for 75-percent construction grants—$4.5 billion in fiscal year 1978, and $5.0 billion in each of fiscal years 1979, 1980, 1981, and 1982. An allotment formula is provided for 4 years.

Also, the conference report clarifies a matter which is of great concern to our States and cities—the ability of the States to establish their own project priority lists and the eligibility of collector sewers for grants.

It was necessary to clarify these matters because of the way the Environmental Protection Agency has implemented these matters. To a significant degree, the conference report provisions on States authority to set priorities and the 75-percent grant eligibility of collector sewers is a restatement of current law.

In addition, a special program of assistance has been provided for States who take on the management of the construction grant program.

Mr. Speaker, I have mentioned just a few of the important provisions of this bill. I urge my colleagues to join me in supporting the enactment of the Clean Water Act of 1977.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Nowak).

Mr. NOWAK. Mr. Speaker, I would like to get a clarification of the eligibility for Federal funding of certain water pollution control projects. I am particularly concerned with the treatment of waste from separate storm sewers and from combined storm water and sanitary sewer systems. The law very clearly makes eligible the treatment of municipal waste "including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems."

Mr. ROBERTS. That is correct; those types of projects are included in the definition of treatment works under section 212 of the current law.

Mr. NOWAK. And under this conference report we are considering today is included a change in the eligibilities, relating to separate storm sewer systems.

Mr. ROBERTS. That is only for the time period authorized in this bill. No grants shall be made during fiscal years 1978 through 1982 for separate storm sewer systems.

Mr. NOWAK. What I want to make clear is our intent in making separate storm sewer systems ineligible during this time period—that it is for this time period only, and makes no final commitment to the eligibility of the treatment of waste for separate storm sewer systems and that it is to have no impact on the eligibility of combined storm water and sanitary sewer systems.

Mr. ROBERTS. The change in eligibilities in this bill relating to storm water treatment is only for separate storm sewer systems and has no impact on the treatment of storm water in a combined sanitary/storm sewer system. Combined sewer overflow is a serious pollution problem which must be addressed in order to meet the enforceable requirements of the act.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire (Mr. D'Amours).

Mr. D'AMOURS. Mr. Speaker, following the colloquy the gentleman just had with the gentleman from New York (Mr. Nowak), I would like to ask the chairman if I am correct in my interpretation of section 36(c) of the act, that although funds are prohibited for the construction of facilities designed to control the treatment of storm waters, Federal funds for the construction of storm drains as part of a separation program in municipalities that have existing combined sewers would still be eligible under this act.

Mr. ROBERTS. I agree with the gentleman, and we make no changes that would affect the illustration he offers.

Mr. D'AMOURS. I thank the Speaker.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. Ginn).

Mr. GINN. Mr. Speaker, I rise in full support of this conference report, for after many months of hearings and deliberations in the House and hard negotiation with the Senate, we have before us strong legislation, which will enhance our efforts to clean up our Nation's waters in a reasonable, efficient, and orderly manner. It provides much needed modifications to the landmark clean water bill which the Congress passed in 1972 and continues the essential Federal assistance to States and municipalities for the construction of modern and sophisticated sewage treatment facilities.

Most importantly, to my mind, it gives meaning to the program which we have undertaken to eliminate completely the discharge of toxic substances in our rivers and streams. As we are all aware the threat to human life and health which these substances pose is immense, but our ability in the past to deal with the situation has been limited. With the enactment of these amendments to the Water Pollution Control Act, we will be making great strides in our efforts to end this toxic threat. As chairman of the House Public Works Subcommittee on Investigations and Review, I intend to watch carefully the implementation of this toxic program, in order to insure that the Congress intent in this regard is met fully.

This conference report, however, is before us today only as a result of the determined and effective efforts of Public Works Committee Chairman Bizz Johnson, and Water Resources Chairman Ray Roberts who, as vice chairman of the conference provided strong leadership for the House conferees and insured that the conference report represented the expressed position of this body. I would like to take this opportunity to commend Chairman Roberts and the other House conferees for their determined commitment to report to the House this session a well-balanced and effective water pollution control bill. This report obviously represents a most successful effort.

There are several points of clarification to the report which I think need to be made for the benefit of the Members.

Section 29 of the conference report amends section 206(a) of the act concerning reimbursement.

This amendment has its roots in oversight hearings conducted by the Subcommittee on Investigations and Review in 1973, 1974, and 1975—these hearings examined myriad problems encountered by localities and States in applying for reimbursement and for treatment works construction grants. It was revealed that deserving communities had been deprived of access to both a 75-percent construction grant or a 50- to 55-percent reimbursement grant because of administrative problems.

Section 209 amends section 206 of the Water Pollution Control Act to correct inequities that have occurred in the implementation of the reimbursement grant program. Section 206(a) provides that any treatment works on which construction was initiated after June 30, 1966, but before July 1, 1972, that meets certain requirements of that section, would be eligible for reimbursement of 50 or 55 percent of eligible project costs.

The cutoff date for qualifying for a 50- to 55-percent reimbursement grant was July 1, 1972. After that a community could not qualify for reimbursement but could receive a 75-percent grant for a new treatment works. The law was not enacted until October 18, 1972. The first proposed regulations implementing section 206(a) were not published until June 23, 1973. Since there was a substantial lapse between the eligibility date in the act, the date of enactment, and the date EPA's definition was published, it is estimated that 107 projects in 24 States, which received a grant under Public Law 660, 84th Congress, which would have otherwise qualified for reimbursement, were declared ineligible.

In essence, these communities were penalized because of the intricacies of the legislative process and EPA's delays in administering the program.

Section 8 of H.R. 3199 corrects this inequity by extending to July 1, 1973, the date by which treatment works projects must have initiated construction in order to be eligible for reimbursement grants.

The term "initiation of construction" as used in this section means the issuance to a construction contractor of a notice to proceed, or, if no such notice is required, the execution of a construction contract (40 CFR 35.890).

It is estimated that $33 million would be required to reimburse these projects. On a national scale this is a small amount of money, but locally, each project's share is significant to each community—especially when one realizes that some of these projects are still undergoing construction. No new money is authorized for these projects, because there is still a substantial balance remaining from the existing authorization of $2.6 billion.

The following is a State-by-State listing of projects that received a construction grant under Public Law 660, 84th Congress, and initiated construction between July 1, 1972, and July 1, 1973. This list was prepared by EPA in September 1977.

ARKANSAS

Imboden.

ALABAMA

Alabama WSPFD.

CONNECTICUT

Connecticut Department of Mental Health.

DELAWARE

Sussex County.

FLORIDA

Green Cove Springs, Jasper, South Bay, Dunedin, Riveria Beach, Hollywood, and Manatee County.

GEORGIA

Port Wentworth, Garden City, Brunswick, Fort Oglethorpe, Commerce, Homerville, Grantville, McDonough, Cairo, Thomaston, Valdosta, Snellville, Donaldsonville, Eastman, Augusta, Woodstock, Lincolnton, Fulton County, Bibb County, Bainbridge, Colquitt, Floyd County, Telen, Edison, McRae, Social Circle, Hazlehurst, Reidsville, Statesboro, Warner Robins, Covington, East Dublin, Waycross, Sandersville, Conyers, and Macon.

INDIANA

Roane County, Cedar Lake, and Grandview.

KENTUCKY

Russell Springs.

LOUISIANA

Shreveport.

MARYLAND

Baltimore.

MISSISSIPPI

Quitman, Biloxi, Prentiss, and Senatobia.

MONTANA

Crow Indian Community, Haure.

NORTH CAROLINA

Bladenboro.

NEW MEXICO

Taos.

OKLAHOMA

Claremore, Chkasha, Oklahoma City, Tulsa, and Celeste.

OREGON

Wallowa, Astoria, and Echo.

PENNSYLVANIA

Orbinson-Rockhill, Chartiers Township, South Fayette Township, Herndon, Pinecreek, Carrolltown, Coopersburg, Bucks County, Upper Allen Township, Lower Saucon Township, Delaware Township, Bethlehem, Ambridge, Berien, Manheim, Hundman, Cambridge Springs, and Lemoyne.

SOUTH CAROLINA

St. Stephen, St. George, Lamar, Moncks Corner, Andrews, and Mullins.

TENNESSEE

Roane County.

TEXAS

Dallas, Granger, and Needville.

VIRGINIA

Wakefield.

WASHINGTON

Northeast Lake Washington, Sedro Valley, Kelso, Milton, Tacoma, and Concrete.

WEST VIRGINIA

Greenbriar, and Raleigh County.

WYOMING

Gilette, and Arpahoe Tribe.

Section 67 of the report includes an exemption from the 404 permit program for the discharge of dredged or fill material "for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters."

It is my understanding that the term "construction site", as used here, refers not only to activities normally construed as construction, such as the erection of buildings, shopping complexes, homes, and apartments, but also to other land-disturbing and excavation activities which are related to agriculture, silviculture, mining, or road construction and result in nonpoint runoff of sedimentation.

In addition, I interpret construction site to include land areas contiguous or adjacent to the actual land-disturbing activity where the sedimentation basins must be placed, since they cannot be located in the precise area where construction of this nature is taking place.

It should be noted as well that in the construction of temporary sedimentation basins for pollution control purposes the material dredged from the basin is used to form the walls of the basin. It is my interpretation that the exemption precludes only the placement of fill material into the navigable waters, and that this process of temporary sedimentation basin construction meets the requirements of the exemption.

Finally, Mr. Speaker, I want to reiterate the point made by Mr. ROBERTS in his statement that the House conferees firmly reject the notion set forth in the Senate report that the clearcutting of eastern hardwoods is not considered normal silvicultural activity. Quite the contrary, I believe that it has been scientifically confirmed that it is not only normal, but when properly applied, it represents the best timber management practices.

Once again, Mr. Speaker, I want to express my appreciation to Mr. ROBERTS for his enlightened leadership in this effort, and to my fellow conferees for their diligence and cooperation in drafting this essential legislation.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I wish to inquire as to the intent of this bill regarding extensions of time for municipalities to meet the secondary treatment deadline in the case where EPA itself may have contributed to the delay.

For example, the city of Philadelphia is carrying out a half-billion-dollar program to improve its abatement facilities.

While Federal funds have been available, EPA has delayed the city by refusing to approve Federal funding for parts of the program which are eligible for such funding; by insisting upon Federal bidding procedures rather than following State and local law as has been the practice; and by refusing to support the city's efforts to solve the difficult problem of sludge disposal on land rather than in the ocean.

Is the intent of Congress that EPA be particularly responsive in granting extensions in such cases as these, when EPA has or may have contributed to the delay?

Mr. ROBERTS. The conference report establishes a procedure whereby the Administrator, on a case-by-case basis, can extend the July 1, 1977 deadline for municipal waste treatment plant construction to July 1, 1983, when construction cannot be completed on time or the United States failed to make financial assistance available in time.

I want to stress that it is our intention that the provision be applied liberally—not in a restrictive, punitive, or arbitrary manner.

I am not in a position to judge each individual case, but I trust that the Administrator of EPA—or the State administrator, in the case where there is a section 402 permit program in the State—will administer the time extension in a manner that will be most concerned about reaching sound environmental results in the most cooperative manner.

Mr. EILBERG. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 5 minutes to the gentleman from New Hampshire (Mr. CLEVELAND), a member of the committee.

Mr. CLEVELAND. Mr. Speaker, before I offer my formal remarks in support of this well-crafted conference report I would like to engage in a colloquy with the gentleman from Georgia (Mr. GINN), who is the very distinguished and able chairman of the Subcommittee on Investigations and Review of the Committee on Public Works and Transportation. The gentleman took the chair of that subcommittee from another very distinguished and able gentleman, the gentleman from Texas (Mr. WRIGHT), who is now the majority leader of this House.

Mr. Speaker, in the course of some of our investigations, we unearthed information that is embodied in much of this conference report. We also learned some lessons. One of the lessons we learned was that part of this water pollution problem is not only the pollution, but part of the problem is the Federal bureaucracy that we have established to attempt to cope with the problem. To be more specific, part of the problem—and a big part, at that—is the manner in which EPA actually administered or attempted to administer the Water Quality Act of 1972. I conceive it to be our task, serving as I do with the distinguished gentleman from Georgia on the Subcommittee on Investigations and Review, to try not only to make this legislation work, but to constantly exercise our oversight function, to be sure that EPA is trying to make it work, too, and is not contributing to the problems as they have so enormously in the past.

Mr. Speaker, one of the sections of this act, section 26, embodies what is known as the Cleveland-Wright amendment, which is the State certification program now euphemistically referred to as the State management assistance program. This legislation resulted from our hearings that clearly revealed the enormous amount of delay that EPA cranked into the system. In spite of this EPA resisted our attempt to enact State certification to give the States a greater role. It was resisted at first by EPA and the environmental groups. I would like to ask the chairman this question: Can I have assurance that, if EPA once again goes back to its old game of trying to delay and write new regulations, which in effect nullify what Congress is trying to do under section 26 our committee will go back into action early in 1978 and try to get some commonsense into EPA?

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Speaker, I do have concurrence of the chairman of the full Committee on Public Works and Transportation that the gentleman can be assured that the Subcommittee on Investigations and Review would move quickly and promptly, in an effort to cause EPA to properly administer the program.

As the gentleman knows, our subcommittee operates on a nonpartisan basis. The gentleman from New Hampshire (Mr. CLEVELAND) has been most cooperative, and he has my full assurance that we will move rapidly in this area.

Mr. CLEVELAND. Mr. Speaker, I thank the subcommittee chairman.

Mr. Speaker, it is my pleasure to note that the majority leader, the distinguished gentleman from Texas (Mr. WRIGHT), is on the floor. The gentleman from Texas was the predecessor of the gentleman from Georgia (Mr. GINN) as chairman of the Subcommittee on Investigations and Review, the subcommittee that laid the groundwork for so much of this legislation which led to our exercise of oversight authority and the enactment of the Cleveland-Wright section 26.

Mr. Speaker, I would be glad to yield to the gentleman from Texas, if he wishes.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, I want to commend the gentleman from New Hampshire (Mr. CLEVELAND) on what he has been saying.

In 1972 this Congress passed what was to have been a crash program. We wanted to clean up the streams of this Nation in a hurry, and we made $18 billion available in the first 3 years for that purpose. But because of the proliferation of redtape and the unnecessarily burdensome regulations that were imposed on this program by the administrative branch of Government—the EPA, in particular—in the first 3 years only 9 percent of that money actually got out to the communities for use in cleaning up the streams.

What the gentleman from New Hampshire is saying cannot be overemphasized. It is important that we have an administration that will make the program work and not burden it with encumbrances and bog it down in a morass of redtape. That is essential to the performance of this program.

Mr. Speaker, I want to commend the gentleman from New Hampshire and the other members of this committee for their diligent, persistent work in trying to cut through that jungle of redtape and needless regulation.

The SPEAKER pro tempore (Mr. BROWN of California). The time of the gentleman from New Hampshire (Mr. CLEVELAND) has expired.

Mr. DON H. CLAUSEN. Mr. Speaker, may I inquire, how much time do I have remaining?

The SPEAKER pro tempore. The Chair will inform the gentleman from California (Mr. DON H. CLAUSEN) that he has 15 minutes remaining.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 3 additional minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I want to thank the gentleman from Texas (Mr. WRIGHT) for his remarks and again compliment him for cosponsoring with me the Cleveland-Wright legislation, because I do think that legislation is going to help clean up our waters and speed up this program.

If the gentleman from Georgia (Mr. GINN) would be kind enough to respond again, I would like to have another assurance from him as chairman of this Subcommittee on Investigations and Review.

One of the problems that the gentleman from Texas (Mr. WRIGHT) and I found in our early investigations, after we passed the 1972 act, was that there was considerable delay. As the gentleman from Texas (Mr. WRIGHT) has eloquently pointed out, nothing happened after we passed the act. In fact we went backward.

This conference report we hope to adopt today is a very substantial and complex piece of legislation. It provides for midcourse corrections, and some new and innovative programs.

If EPA goes back to its old bad habit of bogging this program down with a lot of new regulations and a lot of unnecessary requirements, if there is any sign that this battle against water pollution is being suspended for awhile as they play bureaucratic games down at EPA, can I have the gentleman's assurance as a general proposition that our great subcommittee will go right back in action and try to get EPA to come to its senses?

Mr. GINN. Yes. Mr. Speaker, if the gentleman will yield further, I will be delighted to give him every assurance that we will do that, and we look forward to working with the gentleman in his efforts toward providing constant surveillance and oversight under this act over EPA.

The gentleman has my assurance of that.

Mr. CLEVELAND. Mr. Speaker, I know the gentleman from Georgia (Mr. GINN) has been very active in this area, and I believe some of the first hearings that were held during his time as chairman of the subcommittee involved toxic substances. This is a new program, which will be using the BAT device to cope with toxic discharges. EPA just might go overboard in regulating industry beyond the intent of our BAT and toxics provisions. This concerns me because industry has already assumed the burden of complying—85 percent, I believe—with the 1977 requirements, while municipalities—the much beloved public sector—has achieved only 30 to 35 percent compliance.

If EPA gets overzealous in this respect, and refuses to mend its ways in implementing the working of this section, again and for this purpose, I am sure I can count on the gentleman's cooperation in this regard and hearings will be promptly held.

Mr. GINN. Mr. Speaker, the gentleman is aware of the 5 days of hearings that we have already held on the subject of toxic substances. He is aware of the field hearings we recently held in Kentucky, Indiana, and Minnesota.

We stand ready to continue those hearings and cause EPA to move forward and do what should be done in order to combat toxic substances.

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman. Again, I want to commend the gentleman for filling a big pair of shoes, the shoes of the gentleman from Texas (Mr. WRIGHT). The gentleman from Georgia (Mr. GINN) has done a great job.

I also wish to commend the Subcommittee on Water Resources for the work it did in writing the legislation. Our Subcommittee on Investigations and Review has used oversight to find out what is going on, and trying to bring EPA to a realization of its obligations. The Subcommittee on Water Resources, however did the hard work of writing the legislation.

The Subcommittee on Water Resources is under the chairmanship of the distinguished gentleman from Texas (Mr. ROBERTS). I thank the gentleman from Texas and also my friend, the gentleman from California (Mr. DON H. CLAUSEN), and the entire subcommittee for writing this legislation and implementing some of the recommendations which resulted from the many years of oversight hearings held by our Subcommittee on Investigations and Review. This is the way our congressional system should work, and it is a happy day for all when it works well as it sometimes does.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. CLEVELAND. I am glad to yield to the gentleman from California (Mr. JOHNSON) the distinguished chairman of the Committee on Public Works and Transportation.

Mr. JOHNSON of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this being the largest public works program and one of the most important ones throughout the Nation, I want to assure the gentleman that the Committee on Public Works and Transportation will stay on top of this matter.

The EPA people are right here in town and scattered in regional offices throughout the United States. Therefore, we are going to do a rather extensive job of oversight to make sure that this program works.

Mr. CLEVELAND. Mr. Speaker, I thank the chairman. That is a very reassuring statement.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker. I want to commend the gentleman for the great job he has done in working on these matters.

The report which I just filed contains a lot of the information that the gentleman in the well and the gentleman from Georgia have worked on in their deliberations and their investigations.

Again, Mr. Speaker, I want to commend the gentleman for the work he has done.

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman, and I now proceed to my prepared remarks. As a conferee, as ranking minority member of a subcommittee that laid the groundwork for much of this legislation, and as the author of some of its key provisions, I rise in support of the conference report on H.R. 3199.

This is a good, solid, workmanlike piece of legislation that—if administered as intended—will serve the country well despite its length, the complexity of its provision and the extent to which we are amending the basic act, Public Law 92-500.

I might say that its merits can only be appreciated after some reflection. As a conferee, wrapping up a conference after the breakdown of two previous conferences, I experienced the initial reaction of wonderment that we had managed to produce a bill. I felt pretty good about that.

Next morning, I realized more clearly that it was a pretty good bill. Then I picked up my Washington Post and found that the folks on the environmental fringe—like Environmental Action—thought it was a disaster, and I came to the realization that this bill may achieve true greatness.

In all seriousness, this is a good bill which I support strongly in that it goes a long way toward completing the job we launched in 1972. We can all take pride in it, but without the heady sense of euphoria we felt in 1972 as we bravely set out for the unknown. The merit of this bill lies in the fact that we have a much better idea of what we are doing and what the consequences will be for the environment and the economy.

The areas covered by this bill have been under study—particularly if not exclusively—in the House since the 1972 act was passed. We have the benefit of the findings of the National Commission on Water Quality, on which I served, and indepth investigations by our Subcommittee on Water Resources and our Subcommittee on Investigations and Review.

I want to commend the leadership of the former chairman of the Investigations Subcommitte, my friend the gentleman from Texas (Mr. WRIGHT), now our majority leader, and the gentleman from Georgia (Mr. GINN), his successor on the subcommittee.

Both have been good to work with and responsive to suggestions as to areas of inquiry from the minority as well as the majority, notably in the area of water pollution control grants and toxics.

Equal credit goes to the gentleman from Texas (Mr. ROBERTS), chairman of the Subcommittee on Water Resources, who has been most constructive and cooperative in his willingness to see the factual findings of our investigations given due weight in his legislative hearings and translated into legislative proposal.

The gentleman from Texas (RAY ROBERTS) also did an outstanding job as head of the House conferees in negotiating an agreement with the Senate on this conference report after the collapse of the two previous conferences.

I think we can all take pride in the outcome, stemming from the position taken by the House in 1972. It was the House side that was skeptical about rushing blindly into the stringent regulatory program prescribed for 1983 and wanted the Congress to have a chance to pause, take a deep breath, and see where we were a few years down the road.

It was the House side that insisted on establishing the National Commission on Water Quality to give us a highly professional, coordinated, and orderly mechanism to do just that on an ad hoc basis.

It was the House side that conducted oversight into the breakdown of the grants program for the construction of municipal waste water treatment works. It was the House side that initiated the investigation into the problem of toxics in our waterways and the inability of the Environmental Protection Agency to deal with the problem with the statutory tools provided by the Congress in Public Law 92-500.

Finally, it was the House side that initiated proposals now embodied in this conference report to deal with the problem of toxics, excessively burdensome 1983 requirements for treatment of conventional pollutants discharged by industry, and important reforms in the construction grant program.

If nothing else, this should demonstrate that not all truth, beauty, and environmental enlightenment flow from the north side of Capitol Hill. (Nor exclusively in Washington, for that matter. The great merit and strength of our investigative effort lies in the fact that we listen to the people who have to take our legislative product and try to make it work—the States, the counties, the municipalities, the environmental community in and ouside of Washington, and the professionals in the water pollution control field.)

When we enacted Public Law 92-500, it did not work as intended in many respects. Part of the problem stems from deficiencies in the act itself and part from the way it was administered. Now, with 5 years of hindsight and experience, we have attempted to make our water pollution control program more workable.

There will be fewer excuses this time around for all of us. We have done a much more extensive job in the way of identifying what we think is wrong with the act, taking corrective action, and being a good deal more specific than in the past as to what we want done. EPA, in particular, has had the benefit of both substantial operating experience and opportunity to participate in the development of this bill, especially in the area of BAT and toxics.

The Agency has been around the track a few times and has learned in great detail the intent of these provisions. For all its constraints and problems with manpower and other resources, EPA says it can live with this legislation and make it work.

With all the resources at my command, I intend to see that it does. We can only do so much with legislation. We found that out since 1972. The Agency simply must follow the intent of Congress. If it does not have the manpower and money, it ought to tell us, and it ought to be equally candid and let us know promptly if other problems arise which can be remedied with legislation. Our oversite committee is not going out to a long lunch and I am sure the gentleman from Georgia will bear me out on that.

A number of the provisions in this act will require judgment and sensitivity and common sense in the process of their administration. Innovative and alternative technology is a prime example. The gentleman from California (Mr. CLAUSEN), author of this package of provisions, is to be commended for his initiative as are the conferees for accepting it. I have shared the gentleman's concerns with respect to the failure of EPA's research and development program, and particularly the failure to deliver under the section 104(q) requirement for R. & D. and development of nonconventional alternatives for small rural communities, which I authored in 1972.

I must confess, though, that I am always leery of what can happen to a good idea once it is turned over to a Federal agency—any agency, not just EPA. And I also get worried when I see a concept embraced by an agency with the zeal of the newly converted, as in the case of EPA and land treatment as an alternative means of municipal waste disposal.

I am sure the gentleman shares my concerns and understands that he has certified himself that this provision will be administered sensibly and practically, without forcing communities to accept inappropriate treatment technology or delaying the program. I expect that the Investigations Subcommittee will be backing up both of us in that department.

The same is the case with State management assistance, a version of the State certification program which I authored with the gentleman from Texas (Mr. WRIGHT) and which passed the Congress two times running.

This provides for the delegation to the States of the authority and responsibility to take over the day-to-day operation of the construction grant program and allows the States to use a portion of their grant funds to bring their capabilities in this area up to speed.

EPA has had the authority all along to delegate in this fashion, and indeed has done so to a limited degree. But the intent of this provision is to put the Agency on notice that the Congress expects and insists on a lot more of the same, and is providing the funds to make it happen.

So the statutory language is there, and we will see what EPA does with it. I know the States are ready to go, and I cannot conceive of any justification for denying any State which seeks to participate the opportunity to participate.

These are just some of the concerns I have, and in no way detract from my overall enthusiasm for this legislation. We have done a good job on toxics, an area in which I requested our investigative hearings, and on BAT requirements for conventional pollutants, an outgrowth of the work of the National Commission on Water Quality.

This legislation resolves the controversy over wetlands protection under section 404 of the act, much along the lines of the Cleveland-Harsha amendment which the gentleman from Ohio and I offered 2 years in a row. And I will be frank to say that the conference version represents somewhat of an improvement in that it has a workable State permit program.

I shall now offer some further comment with respect to these and other provisions of the bill based on consultation with the New Hampshire Water Supply and Pollution Control Commission.

First, I want to repeat my earlier observation that the EPA record in implementation of Public Law 92-500 has been one of imposing new requirements as they were developed on ongoing projects with little regard for the extremely disruptive effects and delays that would result. By operating in this manner, EPA produced unwarranted and costly delays of 2 to 3 years in program implementation because of its insistence on subjecting projects to each and every new requirement as it appeared on the scene. This meant, for example, that if new step 1 requirements were established, all projects, regardless of level or stage of progress, had to be halted so that each new requirement could be incorporated in the work. Being aware of this, it is the clear intent of the conference committee that this EPA practice be abandoned and that all projects in the "pipeline" be allowed to go forward to completion of the step 3 process without the imposition of any new regulations which may stem from the 1977 legislation.

In plain language this means once the step 1 plan has been approved by EPA, the project shall then be allowed to go to completion through step 3 without the burden of new legislative and regulatory requirements under this legislation.

Without this assurance, there is no question but delays will follow, thereby preventing States from maintaining the construction schedules which are contemplated by the committee under the equal annual 5-year funding contained in the act.

The assurances given by the gentleman from Georgia (Mr. GINN) and the chairman of the committee (Mr. JOHNSON) that such will not be tolerated had best be heeded by EPA.

It seems hardly necessary to point out that the intent spelled out in the act in terms of the annual appropriations means that EPA must see to it that pollution control projects are not hamstrung by untimely application of new EPA regulations, guidelines, and memoranda which have seriously damaged the construction schedules of the past. Unless this concept is guaranteed, we might as well admit right now that construction and abatement goals set forth in the act simply will fall by the wayside in the same way the dates spelled out in 1972 failed to be met.

Turning now to the intent of certain provisions agreed by the conference committee:

SECTION 4(e)—208 PLANNING

This section, as we know, provides for continued funding for the 208 planning program. It is my understanding that an emphasis of this provision will now be on funding statewide agencies. This is consistent with recent EPA memoranda which assure the States that the next round of 208 funding will, in fact, concentrate on adequately funding statewide agencies.

It should be noted here that the Federal regulation confirmed by the court—specifies that State pollution control agencies have the responsibility for coordinating 208 activities so that they will properly mesh with other program activities covered under the law. This, in turn, will insure maximum effectiveness in use of the funds as well as maximum coordination of work programs, whether performed directly by the State agencies or locally designated agencies.

SECTION 4(f)—CLEAN LAKES

This section provides authorizations for the section 314 clean lakes program. As you will recall, the 1972 amendments to the act also provided appropriations for the clean lakes program which EPA employed in only a limited way. This time it should be made clear that the Congress by once again authorizing funds for the clean lakes program clearly intends that EPA will move forward with measures so that the moneys are usefully obligated.

If EPA is unwilling or unable to manage this program, we might consider transferring the responsibility to the Corps of Engineers.

SECTION 12—INNOVATIVE TECHNOLOGY

This section is designed to stimulate innovative and alternative treatment processes and techniques. As stated, however, in my opening remarks, it is the intention of the conference committee that this not be used to retroactively stall any phase of a project which has proceeded beyond the step 1 stage. At this juncture, I would also remind my colleagues that many States as well as municipalities throughout the Nation must bear their share of the costs and the ultimate risks which innovation entails.

Beyond that, municipalities must face the prospect of shouldering the entire cost of full operation of whatever innovative systems are installed. In view of these circumstances, EPA must employ a balanced approach and avoid mapping courses of action which municipalities and States will be required to follow in attempts at innovation.

It seems quite evident that EPA must not maintain a unilateral policy which it alone implements in this area. The voice of States and municipalities must be heard in this matter so that they will not be subjected to an arbitrary program of achieving innovation merely for the sake of innovation.

If this strikes as unduly alarmist, I call attention to the general memorandum issued by Administrator Douglas Costle on October 3, 1977, relative to land application for sewage. Anyone reading this material cannot escape conclusion that EPA goes overboard in its anxiety to lead the way.

Innovation must be approached with appropriate caution and only after a reasonable demonstration that the innovative techniques being proposed will perform. Otherwise, Federal, State, and local funds could be wasted in experimental projects which later prove to be operationally unsound. The fact that this bill authorizes funds for EPA to compensate advanced technologies which turned out to be too expensive for the localities induced to experiment with them is conclusive proof of this danger.

However, because we encourage innovation and because we recognize there is risk, new subsection 202(a)(3) provides for payment of all of the costs of modification or replacement of facilities which do not meet design performance specifications. This provision, an insurance policy, recognizes there will be risks where technology is pushed ahead.

I recognize, too, that there are risks of forfeiting the benefits of innovation if innovation is not encouraged.

It should also be noted that certain innovative treatment procedures, particularly methods for land treatment, may not be as applicable in certain regions or States such as northern New England where there is nothing but steep slopes, high groundwater levels, hardpan soils, little overburden over ledge, cold climate, and the like. It is not the intention of the conference committee to permit EPA to arbitrarily require in-depth planning studies of these systems when they are known to be not feasible in these areas.

Lest I leave the impression that the New Hampshire position is one of resisting change, let me say that my State was among the leaders in pursuing land treatment techniques when the situation suggests their applicability. Witness the fact that in 1969 the State of New Hampshire designed and constructed a spray irrigation project for Sunapee State Park to protect the waters of Lake Sunapee, a major recreational body of water. On the basis of results achieved at this installation, other similar projects of municipal size were designed and built in the towns of Grantham, Windham, Dublin, and Wolfeboro.

The point to be made is that we do not want to encourage detailed study and documentation of the obvious. EPA has gone far beyond reason in its insistence upon useless but costly and voluminous facility plan investigations. It is about time we put a stop to all of this unnecessary and expensive bureaucratic boondoggling. These remarks under section 12 are also applicable to sections 9, 16, 17, 20, 28, 37, and 49, and wherein requirements to "innovate" are included.

Here again, the expressions of intent contained in the statement of managers and the joint statement of the House floor managers have today assured me that these points are well taken and shared.

SECTION 18—COMBINED GRANTS

This section is intended to expedite construction projects in the smaller municipalities. The combining of steps 2 and 3 will speed up the construction of as many as 80 percent of projects. Many millions of inflation losses and interest dollars can be saved. This is a progressive step which will prove helpful to many State administrators.

SECTION 19—CONTRACT ENFORCEMENT

This provision will enable EPA to render technical and legal assistance to municipalities engaged in litigation; a useful tool which has not been available in the past. The New Hampshire Water Supply and Pollution Control Commission has had to provide services to local government in matters of this kind on occasion from time to time, but was unable to involve EPA which, unfortunately, was not equipped with clearly defined authority to assist in situations of this nature. Nothing in this section adds to or detracts from existing EPA authority in the precontract or negotiating phase.

SECTION 21—RESERVE CAPACITY

This section gives authority to the Administrator to establish capacity limitations with respect to treatment facilities as well as interceptor systems. In carrying out this responsibility, it will be essential that the Administrator be aware of the intent of the Congress as expressed in the language dealing with reserve capacity, which is intended to guarantee sufficient facility capacity to meet future known or anticipated needs.

Under Public Law 92–500 EPA, in recent months has exhibited an inclination to inject growth control and land use control by means of guidelines, regulations and other procedural requirements. PRM 77–8 is an example of the Administrator's attempt to limit EPA participation in collection systems. This trend was carefully discussed in committee and resulted in a specific prohibition in the Clean Water Act which reminds the Administrator not to attempt to use the Water Pollution Control Act as a device for the achievement of low population or industrial growth objectives.

The intent is that the Administrator will, in carrying out his responsibilities under this phase of the statute, be fully responsive to the need for sizing treatment works, interceptors, collectors plus other appurtenances involved in the construction of pollution control projects in order to accommodate for normal growth, as envisioned by State and local jurisdictions.

If we permit EPA a free hand in this area, projects will be so undersized that they will be over-taxed prematurely and the Congress will then be confronted with the prospect of funding plant expansion which should have been avoided in the first instance. The program cost is already high and we cannot allow ourselves to be trapped by unrealistically low growth projections by EPA. Municipalities are not going to absorb the extra cost of capacity over that which EPA will allow but which is truly needed to satisfy future needs. The result will be early obsolescence and the ultimate investment could easily reach twice the present estimates.

I would add in this connection that the conference specifically rejected language limiting reserve capactiy to 10 years in the case of treatment plants and 20 years for interceptors.

SECTION 22—USER CHARGES

As we all know, there has been a substantial amount of dissatisfaction with the user charge provisions contained in Public Law 92–500. Time after time, EPA and those of us who have been in touch with State agencies and municipal constituencies have encountered a plea for the use of ad valorem taxes as a reasonable approach for defraying the cost of waste disposal.

The ad valorem system has traditionally been used by municipalities in furnishing drinking water supplies, sewage treatment, solid waste disposal, plus a host of other activities which municipalities regularly offer their citizens. It appeared only logical that communities be allowed the opportunity to employ this method provided, of course, that the charges are equitably distributed to the consuming public.

SECTION 24—INDUSTRIAL COST RECOVERY

This modification is one which should significantly benefit many small industries throughout the States. I know from our own experience in New Hampshire that the industrial cost recovery features of Public Law 92–500 do not serve to encourage industries to participate in municipal treatment works. This not only results in more treatment plants to monitor, but also exacerbates a shortage of treatment plant operator problems; moreover, it involves industry in an activity for which it has only a secondary interest as opposed to its need to produce a product with some margin of profit.

The exemption which industry can obtain under the 1977 act without exposure to industrial cost recovery obviously will be of assistance to those small industries which do not produce in excess of 25,000 gallons per day of waste flow.

SECTION 25—ALLOTMENT

The return to the policy of allowing States a period of 24 months for commitment of funds is reasonable. Of even greater importance, however, is the decision to fund the construction program for a period of 5 years. This sort of assurance will enable State and local governments to plan more effectively in meeting their obligations under the program.

In our case where New Hampshire participates to the extent of 20 percent of the costs of pollution control facilities, the agency will now have a much more effective tool in advising the legislature of the financial commitment needed to match Federal moneys available for pollution control. This concept, providing EPA does not introduce unforeseen delays in the construction program, will permit steady progress in the construction of sorely needed publicly owned waste treatment plants. Frankly, examining the EPA track record under Public Law 92–500 causes a certain amount of discouragement and disappointment.

The flow of construction grant money has been hampered through burdensome administrative practices with the result that municipal and state agencies have frequently been accused of a poor performance in responding to the program needs. If EPA, under the new legislation, is responsive to congressional intent that situation will improve and we will be able to look forward to a decent amount of progress.

SECTION 26—STATE MANAGEMENT ASSISTANCE

This section of the act, a modification of the Cleveland-Wright provisions, has long been advocated as a means for accelerating the program. The section authorizes the use of 2 percent of each State's allotment (or a minimum of $400,000) for administering construction grant activities under the law.

In this connection, I would like to emphasize the intent of the conference committee that EPA proceed to implement this program of State management expeditiously for States which express a desire and have the ability to participate. It is also intended that EPA will allocate fully the funds necessary to carry out the provisions of this section. Delay in making these funds available will not be tolerated.

Your attention is invited to the fact that the section also provides for grant increases within the overall 2 percent reserved primarily for certification activities. The intent is that programs such as the 208, 402, and 404 would be funded only after the monetary needs for construction administration have been fully funded.

It is further stated that it is the policy of Congress that the States implement the permit programs under sections 402 and 404 of this act. Although States are afforded the opportunity to assume responsibility for these work functions, it is to be emphasized that the intent of the committee is that no State shall be obligated to accept these duties in order to qualify for construction certification duties and funding. Finally, we should all understand and appreciate that this section will permit State pollution control agencies to accept resident engineering responsibilities for small projects at the municipal level.

In New Hampshire this will enable the water supply and pollution control commission to implement the resident engineering responsibilities which were initially granted to the Commission in the 1975 session of the legislature and again renewed in 1977. This aspect alone will prevent many problems and save taxpayers countless millions.

SECTION 31—AREAWIDE PLANNING

This section provides that all 208 agencies which received their first grant prior to October 1, 1977, shall be eligible for 100 percent of the costs of developing and operating continuing areawide waste treatment management programs. In the case of the State of New Hampshire, this will involve a payback of the initial 25 percent matching funds which were advanced by the State. Such funding is subject to an appropriation act.

The section also provides that any grant to a newly designated agency after October 1, 1977, shall be in an amount not to exceed 75 percent. The committee's clear intent is that the 100-percent funding provision will not apply to newly designated 208 agencies.

SECTION 36—GRANT ELIGIBLE CATEGORIES

Paragraph (c) stipulates that no grants shall be made under section 211 of the act for "treatment works for control of pollutant discharges from separate storm water systems." By definition "treatment works" in Public Law 92–500 includes all facilities including treatment plants, interceptors, collector sewers, pumping stations, storm sewer systems, and so forth. The use of "treatment works" in paragraph (c) does not conform to the definition in section 212 of Public Law 92–500.

Hence, it can only mean no grant would be available to a treatment plan for flows discharged from separate storm sewer systems. This section in no way should be interpreted to prevent Federal grants to assist in storm water separation work when that is clearly the most cost-effective means of treating sanitary waste. Any other interpretation would be inconsistent with other provisions of the act.

While State pollution control agencies should continue to have the ability to assist financially in the construction of storm sewer systems under Public Law 92–500, priority for such work will vary in any given State. In the case of New Hampshire the agency would assign a low priority to projects of this nature because of the need to fund treatment plants, interceptors and other related facilities within the available funds appropriated by the Congress.

SECTION 45—MUNICIPAL TIME EXTENSIONS

This section provides for the Administrator, upon application of a permittee, to extend the compliance schedule in the NPDES permits for the publicly owned treatment works.

SECTION 49—IDENTIFICATION AND EVALUATION GUIDELINES

This modification requires that the administrator promulgate guidelines to identify and evaluate innovative treatment processes. However, the conference committee emphasized in the language of the section that the administrator must consult with State agencies along with other interested persons in the development of the guidelines. We expect that the consultation will be more on a partnership level participation rather than an opportunity for EPA to announce in-house achievement of the regulations. Past performance has been to give only perfunctory consideration to the real obligation to allow effective participation.

There is no question concerning the ability and competency which exists at State and interstate levels to offer constructive assistance to EPA, but it has not been utilized properly and to the necessary extent to date. I again would admonish EPA to comply with the intent of the Congress in inviting and accepting State and interstate participation in the program. The amendment to section 101 of the act regarding State participation means what it says.

SECTION 56—1977 DEADLINES

When the Federal Water Pollution Control Act Amendments of 1972 were being developed, Congress made it clear that industrial sources were encouraged to participate in joint municipal-industrial treatment works. This was done to reduce the number of individual sources of discharge to our waters.

Before participating in a joint system industry and municipalities can reasonably be expected to study and evaluate the economic effects of participating. These studies take time. Also, there may be some question whether the municipal system will be viable. Time can be consumed, time which is lost to the industry if the municipal system does not proceed and leaves the industry with the requirement to install best practicable control technology by July 1, 1977.

This situation was recognized clearly by the conferees. I refer to the fourth full paragraph in the statement of managers on page 9 of the conference report (H. Rept. No. 95–30) which follows:

> In any case where an industry planned on, negotiated with, and conducted joint engineering studies with a municipality which planned to construct a publicly-owned treatment works and subsequently decided not to proceed with such a works such industry would be eligible for an extension of its 1977 best practicable technology requirement for a time not to exceed that which elapsed during the negotiations with the municipality and the engineering studies.

In any request for a time extension under the amendment to section 301 of the act set forth in section 56 of the Clean Water Act of 1977, the clear intent of the conferees is that the Administrator recognize this source of delay and give credit for this lost time.

One such example of a company which lost time because of the decision by a municipality not to proceed with a municipal system is Paper Service Mills, Inc. of Hinsdale, N.H. While I cannot comment on all aspects of this situation, it is apparent that this company lost time by participating in a municipal system. The above quoted language of the statement of managers is consistent with the situation my district and EPA is expected to recognize this clear direction for Congress.

SECTION 67—PERMITS FOR DREDGED OR FILL MATERIAL

This is a welcome modification whereby States which have the statutory authority to act in matters dealing with dredge and fill can do so. Token amounts of financial assistance will be available by virtue of section 26 and it is to be hoped that States will undertake to perform this function where their legislatures have recognized the necessity for State action.

It is physically impossible for the Corps of Engineers to handle even normal obligations under section 404. I am told that between time of request and time of action on applications to the corps for fill and dredge activities, for even the simplest tasks, such as placing fill before a cottage at a beach, can consume a minimum of 6 months.

The answer is obvious: Delegate the responsibility to those States which wish to assume it and give them a small amount of financial encouragement to perform the task. The State of New Hampshire is presently operating in this area by State statute and the modest funding available under section 26 will allow this agency to improve its performance and relieve the corps and EPA of an activity which is burdensome.

SECTION 75—COST RECOVERY STUDY

Since there has been considerable discussion and uncertainty concerning the implementation of the industrial cost recovery provision of Public Law 92-500, this section provides for an 18-month moratorium on the implementation of the present provisions while the administrator studies the efficiency of and the need for payment by industrial users of any treatment works for that portion of the cost of the construction allocated to industrial waste treatment. It is the belief of many of the members of the conference committee that the need for the provisions of this section of the original act will be found to be unnecessary.

CONCLUSION

In conclusion, you will recall that after exhaustive study and investigation, the Commission on Water Quality concluded in part, as follows, concerning the institutional aspects of Public Law 92-500 implementation:

Perhaps the major initial delay in launching a new level of construction grants under Public Law 92-500 was virtual inactivity for 15 of the first 19 months because of the absence of final title II regulations. For the first 3 months, obligations were prohibited; during the next 15 months, prospective grantees apparently delayed formulating project applications according to the new requirements until the final rules were known, while being assured the regulations were imminent.

Some projects proceeding under the requirements of Public Law 84-660 (the prior statute) had to be redeveloped to comply with the new act, and there was delay in preparing and approving priority criteria and annual State priority lists. The EPA Deputy Administrator has reportedly admitted that the Agency made a great mistake in not honoring the in the pipeline projects under the old ground rules; to have let them proceed to completion under the prior law, however, might have precipitated a challenge in court. As late as 1975, EPA was stating that some percentage (of projects) for which funding is now being sought was conceived and planned before various requirements of Public Law 92-500 were applicable. In region II, for example, upwards of 75 percent of the applications expected through September of 1977 will involve such projects. EPA has said, issuance of regulations and guidance has been consistently tardy, thereby creating confusion and delay.

Late issuance of regulations was not the only cause for delay. Sometimes, multiple revisions of regulations have occurred. Changes in program requirements have sometimes occurred so many times that EPA regional personnel are reluctant to ask applicants for new or additional information.

Let it be clearly understood that the clear intent and determination of the conference committee is that the delays encountered under Public Law 92-500 not be repeated with this 1977 legislation. It is totally essential that all in the pipeline projects be honored under the existing ground rules.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I want to say to my colleagues that this is a good bill.

As the Members go their diverse ways after the sine die adjournment of this first session, I want to suggest that they take along the conference report and the synopsis because they may be asked by their constituents back home to outline the accomplishments of the first session of this Congress. I want to say that if they will study that, they may find that this bill is one of the greatest accomplishments of the first session.

Mr. Speaker, all of us are indebted to the leadership, to the chairman of the full committee, to the chairman of the subcommittee, and to the ranking minority members on both the full committee and the subcommittee.

Mr. Speaker, Mr. ROBERTS, the chairman of the Water Resource Subcommittee and Mr. CLAUSEN, the ranking minority member of the Subcommittee on Water Resources, the floor managers of this conference report have carefully explained the provisions of the conference report. I shall not attempt to repeat anything they have covered. I will confine my remarks to section 311 which addresses oil spill liability. As everyone knows, this body has already passed comprehensive oil pollution liability legislation, H.R. 6803, commonly known as the superfund bill.

H.R. 6803 was worked out carefully through cooperation of the Committees on Public Works and Transportation and Merchant Marine and Fisheries, two committees on which I serve. While H.R. 3199 addresses a number of issues included in H.R. 6803, the conference report we have before you today is not a substitute for H.R. 6803. I call your attention to the second full paragraph on page 92 of the conference report where the Statement of Managers discusses the amendments to section 311 as follows:

> The Senate conferees are committed to consideration in this Congress of pending legislation authorizing creation of an oil spill superfund. Legislation to create such a fund has passed the House (H.R. 6803) and has been referred to the Senate Environment and Public Works Committee along with a similar bill reported from the Senate Commerce, Science and Transportation Committee (S. 2083).

The conferees on the part of the Senate have expressed clearly their intent to take up in this Congress superfund legislation. I commend them for this and look forward in this Congress to meeting with them again on comprehensive legislation.

The conference report on H.R. 3199 recognizes the difference between inland oil barges and large ocean tankers by setting different liability limits. From the testimony received, it is apparent that the danger of catastrophic spills from inland oil barges is diminished because of their smaller size as compared with other oil bulk carrying vessels. This distinction is recognized in a lesser dollar level of liability being required for inland oil barges.

It has been distressing to me for some time that for every *Torey Canyon* or *Argo Merchant* disaster which occurs on the high seas, that all vessels, in all waters, are included broadly in our corrective legislative language. The differing distinction of the types of vessels and the waters in which they operate was first recognized in H.R. 6803, the "superfund" bill and is included in the bill we have before us today.

The conferees also included other conforming amendments to section 311 which are consistent with the changes that will be made by the superfund bill. These include the definition of "inland oil barge," "inland waters of the United States," and "person in charge."

For the purposes of section 311, the meaning of the term "person in charge" is the same as defined in section 101(u) of H.R. 6803 as passed by the House of Representatives. The term "person in charge" means the individual immediately responsible for the operation of a vessel or facility. There are a number of places in section 311 where a clear reading of the act demonstrates that when the words "owner or operator" appear they should be construed to mean "owner, operator, or person in charge." This was an unintentional drafting oversight. Examples where this error occurred are (b)(6) and (j)(2). The principle addressed by the amendments to section 311 which add the term "person in charge" is carried over from H.R. 6803, and the definition should be considered to be a part of section 311(a) of H.R. 3199. Mr. Speaker, I was the author of this amendment in the committee of conference and believe this clarification of intent is necessary.

At this time, I would like to ask the floor managers if this is consistent with their views?

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding.

The gentleman is absolutely correct. I want to commend him, not only for working on our committee and on the committee of conference, which worked this bill out, but also for working on the original bill in the Committee on Merchant Marine and Fisheries, on which he also served.

Mr. SNYDER. Mr. Speaker, I thank the gentleman.

I ask the distinguished gentleman from California (Mr. DON H. CLAUSEN) whether this is consistent with his views also.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will yield, the gentleman's interpretation, as presented, is absolutely correct.

Mr. SNYDER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, while I am pleased by the amendments to section 311, I must underscore the need to move forward with the superfund bill. It is a vital piece of legislation which will provide the comprehensive authority to insure the protection of our environment from the threat of oil spills. The amendments to section 311 are important but are not comprehensive. The House has provided for the comprehensive legislation that is needed and hopefully the Senate will soon follow suit.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding.

I would like to ask a question that I have in looking over the bill and the report, but first, I want to compliment the committee and the conferees for the job they have done here.

Mr. Speaker, I do have a "Dear Colleague" letter circulated yesterday by the gentleman from Pennsylvania (Mr. WALGREN) to the effect that there is an inflexibility in this which would preclude the EPA from giving any case-by-case extension after April 1, 1979.

I want to know whether that is true.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will yield, with respect to industry, that is correct.

Mr. CUNNINGHAM. Further, in looking at the Digest, it appears that if the industry uses a municipal facility and that municipal facility gets an extension—then that industry does get an extension.

Mr. DON H. CLAUSEN. For an industry which ties in with other treatment works, the extension will be granted; that is correct.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the chairman of the full committee; the chairman of the subcommittee, the gentleman from Texas (Mr. ROBERTS); and, of course, my ranking colleague on the Republican side, the gentleman from California (Mr. DON H. CLAUSEN).

Mr. Speaker, I would like to direct a question to the managers concerning the amendments to section 314 of the act which is the clean lakes program.

In my own district, Albert Lea Lake is severely polluted and is thus a prime candidate for Federal assistance under this program. During the past 30 years, numerous studies have concluded that, in order to substantially increase the quality of the lake, it would be necessary to reduce the level of nutrients that enter the lake from nonpoint source runoff and the present wastewater treatment plant, and to deepen the lake by dredging.

Presently, programs are underway to deepen the lake and to move the discharge point of the treatment plant to a location near the outflow of the lake in order to bypass it. Experimental studies are also underway to control the inflow of nutrients from point sources.

The estimated cost of this program is roughly $3 to $4 million, with both the Minnesota Pollution Control Agency and the State Department of Natural Resources having indicated their approval for this program. I note now that the statement of the managers contains language encouraging EPA to accord priority to lakes with recreational potential. Albert Lea Lake will not only provide recreation for the town of Albert Lea but will also, as a result of the proposed project, create a wildlife and waterfowl area.

I would like to ask the managers if the Albert Lea program is an example of the type of lake that the conferees expect will be given priority under the clean lakes program?

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, the answer is yes, and I am sure that the lake the gentleman refers to will be adequately taken care of.

Mr. HAGEDORN. I thank the gentleman from Texas.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will yield, let me state that I fully concur in the response made by the chairman, the gentleman from Texas (Mr. ROBERTS) and that the gentleman's lake falls within the category we have in mind.

Mr. HAGEDORN. I thank the gentleman.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. FOLEY), the chairman of the Committee on Agriculture.

Mr. FOLEY. Mr. Speaker, I rise in support of the conference report to accompany H.R. 3199, the Clean Water Act of 1977, and want to express my personal appreciation to Chairman RAY ROBERTS and to the other House conferees for their cooperation and assistance in working out matters of mutual concern.

I am particularly pleased, Mr. Speaker, that Chairman ROBERTS' floor statement indicates that the House conferees disagree with the definition of the term "normal silvicultural practices," as provided in the report accompanying the Senate version of this legislation.

Mr. Speaker, as our colleagues are aware, both Houses of the Congress held extensive hearings last year to review forest management practices as the initial step in the development of the National Forest Management Act. At that time the Committee on Agriculture, which I chair, received extensive testimony indicating that the type of forest management practice will vary depending upon the situation which faces the professional manager and that even-aged management, including clearcutting, is a normal practice in each of the areas of the country. Particularly significant, Mr. Speaker, is the fact that the U.S. Forest Service, the Society of American Foresters, which is the national association of forestry professionals, and the National Association of State Foresters, acknowledged to us that clearcutting is well suited for many eastern mixed hardwood species.

Mr. Speaker, by enacting the National Forest Management Act, the Congress made its intention clear that the professional forester should have access to all the tools of his trade, including the use of clearcutting when appropriate. I am convinced that it is very important for the Congress to continue to assure that the interpretation of the term normal silvicultural activities should not restrict or constrain the use of a wide range of scientifically proven silvicultural practices.

Mr. Speaker, I wish also to comment briefly on section 35 of the conference report, which deals with a new subsection (j) to section 208 of the Federal Water Pollution Control Act.

This section was added by a Senate amendment in order to establish a new soil conservation program for the Department of Agriculture in cooperation with the Administrator of the Environmental Protection Agency. As I am sure all of you know, the soil conservation program is administered by the Department of Agriculture. Moreover, under rule X of the Rules of the House, this particular area of concern lies within the jurisdiction of the House Committee on Agriculture. I am, however, happy to report that this particular jurisdictional issue, which confronted the House conferees, has now been worked out with the Committee on Agriculture to the satisfaction of the House Members. Again, I want to commend the chairman, the gentleman from Texas (Mr. ROBERTS), and all of his colleagues on their outstanding work.

Finally, I would like to take this occasion to make the record clear that, notwithstanding the fact that this provision appears in the Clean Water Act of 1977 as an amendment to the Federal Water Pollution Control Act, it continues to be a matter for the primary jurisdiction of the Committee on Agriculture.

I wonder if the chairman of the House conferees would confirm my understanding of this?

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, let me state that the gentleman from Washington (Mr. FOLEY) is indeed correct in that we have no jurisdiction over this and we do not want to change the jurisdiction in any way.

Further, Mr. Speaker, I want to compliment and commend the gentleman from Washington (Mr. FOLEY) the chairman of the Committee on Agriculture in the fact that the gentleman was a substitute conferee during the time we were discussing this amendment, which would have been nongermane in our operation, but which the gentleman handled and handled well. I think it is important to note that not a comma was changed.

Further, we certainly do not have any desire to change any part of this jurisdiction.

Mr. FOLEY. I thank the gentleman very much.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will yield, I too would like to state that I concur with the statement of the gentleman from Texas (Mr. Roberts) in saying that the gentleman from Washington (Mr. Foley) will always be protected in this jurisdiction, and that we have no jurisdiction over it.

Mr. FOLEY. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. Taylor).

Mr. TAYLOR. Mr. Speaker, I too wish to commend the conferees on the manner in which the Federal Water Pollution Control Act has been acted upon by the conference, especially in view of the fact that many of the concerns and anxieties that could have unnecessarily adversely affected agriculture and commerce have been alleviated as a result of the diligent work of the Subcommittee on Water Resources under the chairmanship of the distinguished gentleman from Texas (Mr. Roberts). I commend also the chairman of our full committee, the gentleman from California (Mr. Johnson) and the ranking minority member of the subcommittee (Mr. Clawson) for their diligence in the conference in upholding the position of the House on these matters.

The principle "buy American" was a part of this legislation when it left the floor of the House. The principle of "buy American" provision is to insure continuation and improvement of American technology, and to assure that American workers may participate in this program.

There was a provision in the House that required that any funds expended by grants by the Environmental Protection Agency would be spent on products that were made in America.

I would like to inquire of the distinguished chairman of the subcommittee as to whether the House provision of the "buy American" is contained in the conference report?

Mr. ROBERTS. If the gentleman will yield, the buy America provision is in the bill. We do have a provision that if the cost exceeds 25 percent over what the bid was, the administrator has authority to buy. But the buy America provision is in the bill, and we were able to get the other body to accept it.

Mr. TAYLOR. I thank the distinguished chairman.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, the Alton Box Board Co., of Alton, Ill., operates a 67-year-old paperboard mill and discharges its effluent into the Mississippi River. Following the enactment of the Federal Water Pollution Control Act in 1972, the company developed and submitted to the Illinois EPA a 5-year plan in August 1972 to meet the 1983 requirements of the act. After a delay of 1 year, the Illinois Pollution Control Board approved the plan and work was started.

The 1-year delay in Government approval necessitated corresponding delays in all phases of the project. However, both the Federal and Illinois EPA's approved the 5-year plan which called for a completion date of 1978, with no indication that the NPDES permit would not be renewed to coincide with the plan which had been approved.

On June 20, 1977, the Alton Box Board Co. learned that the U.S. Environmental Protection Agency had determined that the Alton Box Board Co. would not be in compliance with the BPT requirements on July 1, 1977, and that enforcement action would be taken.

The Clean Water Act of 1977 amends the Federal Water Pollution Control Act by adding a new section 309(a)(5)(B) to authorize the Administrator of EPA to extend the date of July 1, 1977, to no later than April 1, 1979, to those who did not meet BPT by the earlier date, where four specific criteria are met:

> (i) That any person who is a violator of, or any person who is otherwise not in compliance with, the time requirements under this Act or in any permit issued under this Act, has acted in good faith, and has made a commitment (in the form of contracts or other securities) of necessary resources to achieve compliance by the earliest possible date after July 1, 1977, but not later than April 1, 1979.

Alton Box Board Co. has from the inception diligently pursued its 5-year program since initial approval of its plan and has spent more than $10 million to date. It has never suspended the program pending the processing or issuance of subsequent required permits. Alton's enormous investment in and diligent implementation of its plan are evidence of its good faith attempts to adhere to the requirements of the law.

Alton Box Board Co. has converted its Alton mill from the use of wood fiber to the exclusive use of "recycled" paper fiber, thus eliminating the discharge of "black liquor" and reduced the volume of discharge into the Mississippi River from 8 to 10 million gallons per day to approximately 3½ million gallons. The effluent is discharged through a diffuser pipe immediately below the Alton dam and tests have proven that it has no environmental impact upon the river. To date, more than 80 percent of the suspended solids and BOD have been removed. Construction began on the final phase of the plan on May 3, 1977, and will be completed in the fall of 1978, which is the earliest possible date for completion. Thus, Alton has made the commitment over a long period of time and currently has signed contracts and construction is under way to meet 1983 standards by the end of next year.

> (ii) That any extension under this provision will not result in the imposition of any additional controls or any other point or nonpoint source.

Alton discharges its effluent through a diffuser pipe directly into the Mississippi River which does not affect any other point or nonpoint source.

> (iii) That an application for a permit under section 402 of this Act was filed for such person prior to December 31, 1974.

The original application for permits was first submitted in 1971, by the Alton Box Board Co. under the Federal Refuse Act of 1899. Upon enactment of the Federal Water Pollution Control Act the application was automatically converted to an application for an NPDES permit.

> (iv) that the facilities necessary for compliance with such requirements are under construction.

Contracts have been awarded for the final phase for a $5 million air activated biological water treatment facility which is now under construction and which, when completed next year, will bring the plant into compliance with 1983 standards.

Mr. Speaker, the joint explanatory statement of the committee of conference states in explaining this section, as it pertains to an industry like Alton Box Board:

> A person who wishes an extension must have made a serious commitment of the necessary resources to achieve compliance as soon as possible after July 1, 1977, but no later than April 1, 1979. Here the Administrator must determine whether purchase orders were executed, land cleared, and engineers and construction workers available, or other steps taken to insure that the job can be completed by the new extended date.

Mr. Speaker, there has never been any question as to whether Alton Box Board Co. has made a "serious commitment." As I have said, they have already spent $10 million and are currently spending an additional $5 million to complete their facility. Whatever EPA does, they will be in compliance with the standards by the end of next year—in fact, they will meet 1983 standards by the end of next year. There is no way that the construction schedule can be advanced, and EPA has not suggested otherwise. All purchase orders have been executed, land cleared, and engineers and construction workers are now on the job, and have been for some time. No one, not even EPA, questions whether the project will be completed on the new schedule, that is, by the end of 1978, fully 4 months before the April 1, 1979, deadline established by this act.

Mr. Speaker, clearly Alton Box Board meets both the letter and the spirit of the law. It fulfills each of the criteria established by this conference report for the purpose of determining when the Administrator of EPA is to extend the July 1, 1977, deadline to April 1, 1979. Would you clarify for me that this legislation is intended to provide a deadline extension in just the type of situation as Alton Box Board presently finds itself?

Mr. ROBERTS. If the gentleman will yield, from the information that he gave me before in the discussion, I think that in the Alton Box situation a time extension certainly would appear warranted and would be covered in this bill.

Mr. FINDLEY. I thank the gentleman.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. Anderson), one of the conferees.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of the conference report on H.R. 3099, the Clean Water Act of 1977.

I want to give my congratulations to my good friend and the chairman of this committee, Congressman Bizz Johnson, of California, whose able leadership was critical to the development of this legislation. Also, I compliment my good friend Ray Roberts, of Texas, chairman of the Subcommittee on Water Resources. It is this subcommittee which laid the groundwork for these necessary amendments.

The bipartisan support of Congressman Bill Harsha, of Ohio, and my California colleague Don Clausen, and their valuable input throughout the long proceedings were also necessary ingredients to this legislation.

There are many significant provisions in H.R. 3199. I would like to comment on just a few of them now.

R. & D. GRANT

Section 8 authorizes the Administrator to make grants for those costs of operating and maintaining a project which received a grant under section 104, 105, or 113, which exceed the operation and maintenance costs for a comparable community using a conventional treatment works. In addition, the Administrator shall review projects such as that in Avalon, Calif., for the purpose of providing operation and maintenance assistance during the period in which such community is studying and making necessary modifications to reduce excessive operation and maintenance costs. Seventy-five percent construction grants under title II of the act are available to assist in making necessary studies and modifications.

USER CHARGES

Section 22 of the conference report permits municipalities to meet the user charge requirement of the act by continuing a system of dedicated ad valorem taxes for residential and small nonresidential users, and user charges for industrial users. In most cases the user charge requirement for industry has been interpreted as metering.

The county of Los Angeles currently uses a metering system for its industrial users. This existing system is not to be interfered with if Los Angeles should choose to take advantage of the additional flexibility provided in this section to use ad valorem taxes for residential and nonresidential users.

The term "small nonresidential user" encompasses both commercial and industrial users. Examples of such users include warehouses, grocery stores, and small laundromats. Small nonresidential users are to be defined by the Administrator according to the volume and characteristics of their discharges. In most cases, where the user's flow into the treatment works per day is equivalent to 25,000 gallons or less per day of sanitary waste, such user will be considered a small nonresidential user for the purposes of this section.

With only small modification, existing ad valorem tax systems to collect the costs of treatment works should be allowed to continue with a minimum of interference. An example of such a system is that presently being utilized by the county of Los Angeles.

DEEP OCEAN DISCHARGE WAIVER

A major provision of this bill is section 44 which would permit municipalities that discharge into deep ocean waters be granted a waiver from the secondary treatment requirement.

There is some confusion as to the meaning of several of the specific terms used in this section. For example, the terms "applicable water quality standards," and "balanced, indigenous population."

One of the conditions of the waiver is that there is an "applicable water quality standard" specific to the pollutant for which the modification is requested.

The law requires States to develop water quality standards according to criteria developed by the Environmental Protection Agency. "Applicable water quality standards" for the purposes of this section are approved State water quality standards. In the case of California, a revision of the State ocean plan would meet this requirement.

The other matter, that needs clarification is the concentration of dissolved oxygen, which is one of the elements controlled by secondary treatment. Dissolved oxygen is measured by biochemical oxygen demand (BOD). Because of the special characteristics of ocean waters, there is no problem of oxygen depletion. BOD is not a relevant pollutant for marine discharges and it is unreasonable to develop a water quality standard for dissolved oxygen.

Therefore, under this provision, a locality could get a modification of the BOD requirement, but a State is not required to go through the meaningless exercise of developing an "applicable water quality standard" for dissolved oxygen for marine waters.

Another waiver condition is that the modified requirement will not interfere with attaining the water quality which assures protection of public water supplies and the protection and propagation of a "balanced indigenous population of shellfish, fish, and wildlife." This term cannot be defined in the absence of a good deal of additional scientific information which may not be readily available.

The House and Senate conferees discussed the meaning of the term "indigenous." It is clear that there was confusion as to how it would be applied to the oceans. An indigenous population is one produced, growing, or living naturally in a particular region or environment and reflecting a healthy population given the presence of man. Emphasis should be placed on maintaining the current indigenous population of shellfish, fish, and wildlife. It is completely meaningless and unreasonable to assess this condition according to any other time period—particularly a historical period such as pre-Columbian times. This term is not to be interpreted in such a manner as to negate the clear congressional intent of this section that waivers be granted.

At the time the waiver decision is made, it is quite possible that neither the State nor EPA will be able to determine the potential long-term effects of the approved level of treatment under the waiver provision. Therefore, the Administrator should make his decision by focusing on the effects projected within the first 5 years. During this period EPA should fund additional studies which will measure the effect.

The decision to grant a waiver will be subject to reassessment at the end of each 5-year period. Over time both the EPA and the locality will be in a better position to evaluate the long-term impacts with the information developed by EPA and by the locality under the required system for monitoring the impact of this discharge on a representative sample of aquatic biota, to the extent practicable. Construction grant money under title II of the act can be used to establish such a monitoring system. Where requested by the locality or State, EPA is to give the locality technical assistance in the design, installation, and operation of such a system.

The requirement under the new subsection 301(h)(7) set forth in section 44 also requires clarification. This provision provides that there will be no new or substantially increased discharges above the volume specified in the permit from the treatment works getting a modification. This provision does not mean that treatment works applying for a modification are to be restricted to the current volume or capacity of their plants. In the interest of continuing the policy of encouraging regionalization, these treatment works may increase their discharges over time, as capacity permits, as long as the pollutant controls are maintained. The volume of discharge may be revised, just as any other permit condition may be altered, as warranted by changes in circumstances.

EPA is to carry out this provision in such a way that burdensome requirements are not placed on municipalities applying for such waivers. The Administrator is to issue guidelines promptly to carry out the intent of the law. Those dischargers which contemplate being able to meet the criteria established in the law will have 9 months either from the date of enactment of this section or 9 months from the date effluent guidelines are promulgated. The Administrator is to make a decision promptly on the evidence presented to him and not permit protracted deliberations. In the interim, it is the responsibility of the Administrator to discontinue any legal proceedings or enforcement actions which may have been initiated prior to the enactment of this provision.

Since this waiver is granted as part of a municipal permit under section 402 of the act, consistent with the provisions of that section, a State with an authorized permit program may grant views under this section.

Included among the discharges eligible for a waiver under this section are the cities of Los Angeles and Avalon, Calif. The following is a listing of other eligible communities:

LIST OF OCEAN OUTFALLS TO TERRITORIAL SEAS AND BEYOND

Cresent City, CA.
Westport, CA.
Mendocino, CA.
Mendocino, No. 2, CA.
Bolinas, CA.
San Francisco (Richmond Sunset), CA.
North San Mateo, CA.
Pacifica, CA.
Montaro, CA.
Granada, CA.
Half Moon Bay, CA.

Davenport, CA.
Santa Cruz, CA.
East Cliff, CA.
Aptor, CA.
Watsonville, CA.
Marina, CA.
Seaside, CA.
Pacific Grove, CA.
Monterey, CA.
Carmel, CA.
San Simeon, CA.
Morro Bay, CA.
Shell Beach, CA.
Pismo Beach, CA.
Avila, CA.
South San Luis, CA.
Goleta, CA.
Santa Barbara, CA.
Montecito, CA.
Summerland, CA.
Carpinteria, CA.
San Buenaventura, CA.
Oxnard, CA.
Port Hueneme, CA.
City of Los Angeles, CA.
City of Los Angeles (Terminal Island), CA.
Los Angeles County Sanitation District, CA.
Avalon, CA.
Sunset Beach, CA.
Orange County Sanitation District, CA.
Laguna Beach, CA.
South Laguna, CA.
Dana Point, CA.
San Clemete, CA.
Oceanside, CA.
Encinitas, CA.
Cardiff, CA.
San Diego, CA.
Carlsbad-Buena Vista, CA.

I wish to emphasize that I do associate myself with the remarks of my colleagues Mr. JOHNSON of California, and Mr. ROBERTS, of Texas, in regard to this provision. I would like to ask a question of Mr. ROBERTS concerning this provision. "Mr. ROBERTS, do you agree that the city of Los Angeles and Avalon, Calif., are intended to qualify for a waiver under section 44?"

Mr. ROBERTS. Yes, it is contemplated that these communities qualify for a waiver of the secondary treatment requirement under section 44.

Mr. ANDERSON of California. Thank you, Mr. ROBERTS.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

The answer to that is yes, but it does not only apply to southern California; it also has application to the entire west coast.

Mr. ROBERTS. The gentleman is correct.

Mr. ANDERSON of California. It applies to the coast of California, Hawaii, Puerto Rico, American Samoa, the Virgin Islands, and estuaries and waters such as Cook Inlet. But I wanted to make sure that the cities of Los Angeles and Avalon were specifically included, also basically the southern coast of California.

Mr. ROBERTS. That is correct.

Mr. ANDERSON of California. I thank the gentleman. I have some additional comments I would like to add at this point pertaining to other specific provisions in the bill.

1977 TIME EXTENSIONS

Section 45 provides that the July 1, 1977, secondary treatment requirement for municipalities may be extended to July 1, 1983, where construction cannot be completed in time or the United States failed to make financial assistance available in time. EPA, or a State with an authorized permit program, may grant the time extension. The owner or operator of a treatment works has 180 days after enactment to file a request for an extension. It is the conferees' intent that any request for a notification should contain a schedule of compliance based on among other things availability of financial assistance from the United States.

Throughout the Nation many industries have contemplated tying into municipal works and have been unable to do so because of the inability of publicly owned treatment works to come into compliance with the law. This has been a problem in southern California. These industrial dischargers are now, in many instances, out of compliance with the law without fault. Section 45 permits such industries to get a time extension up to July 1, 1983, in the following cases:

First, if a permit issued before July 1, 1977, to that source is based upon a discharge into publicly owned treatment works, or;

Second, if such a source had, before July 1, 1977, a contract enforceable against it to discharge into a publicly owned treatment works or

Third, if either an application made before July 1, 1977, for a construction grant for publicly owned treatment works, or engineering or architectural plans or work drawings made before that date for such works, show that the source was to discharge into the public owned treatment works and that the treatment works are presently unable to accept the source without construction and, in the case of a discharge to an existing treatment works, that the treatment works has an extension of its 1977 requirements.

An industry has 180 days after enactment or the filing of a request for a time extension by a municipal treatment works, whichever is later, to request an extension.

No extension can be granted unless the permitting authority finds:

First, that the treatment works can complete construction by July 1, 1983;

Second, that the treatment works will be able to meet secondary treatment and water quality standards when the waste from the contributing industry is received;

Third, the industry and the treatment works have entered into a binding contract providing that the industry agrees to discharge its waste to the treatment plant, and the plant agrees to accept and treat that waste by a certain date;

Fourth, the contract must provide that the industry agrees to pay all user charges and industrial cost recovery charges required under section 204; and,

Fifth, the industry must meet all toxic and pretreatment standards during the period of the time extension.

Because there have been some instances where industries have failed to comply with the law, the conferees have included a procedure where the Administrator is given two options to grant an extension of the 1977 deadline until April 1, 1979. The first option authorizes the issuance of an enforcement order requiring a reasonable time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules. The second option authorizes up to an 18-month extension of the 1977 deadline where the Administrator finds that the discharger acted in good faith; that compliance will occur no later than April 1, 1979; that the extension will not impose additional controls on other sources; that an application for a permit was filed before December 31, 1974; and that the necessary abatement facilities are under construction. It is important to note that the second option allows a person other than a violator, who is otherwise not in compliance with the time requirements of the act, to have an extension of up to April 1, 1979. Also, if EPA finds that the most expeditious means of bringing the industry into compliance is for it to discharge into a municipal treatment works, EPA may issue an enforcement order, upon request of the industry, calling for it to tie in with the treatment works no later than July 1, 1983.

For the purpose of section 45 and 56 industries and cities that pursued their judicial rights in regard to the 1977 deadline are not to be penalized or be considered as having acted in bad faith.

Throughout the conference, the House conferees were very aware of the current capital problems of the American steel industry. The steel industry had had problems with capital formulation for several years. In many instances the industry has not been able to modernize and install pollution control equipment for the reason that many individual facilities negotiated long term settlements that carry past July 1, 1977, and in some instances past April 1, 1979. It is the firm intent of the conferees that nothing in this legislation invalidates or in any way affects any such orders, decrees, settlements, or other agreements in existence prior to the enactment of this language.

PRETREATMENT

Section 54 of the conference report modifies the pretreatment requirements of the act concerning the control of toxic pollutants and the enforcement of any pretreatment standard. Also, provisions are made for the utilization of sludge disposed from a municipal treatment works.

The provision concerning the level of pretreatment required for toxic pollutants specifically allows localities to reduce the level of treatment required by the industrial user, in certain circumstances.

Under this amendment the Administrator would establish national pretreatment standards for toxic pollutants based on the best available technology economically achievable, or any more strinent effluent standards under section 307 (a). In applying these pretreatment standards through its pretreatment program, the owner or operator of the municipal treatment works could modify the requirements applicable to an individual source or individual classes of sources introducing that pollutant into the treatment works to reflect the degree of reduction of that pollutant achieved by the treatment works. The combination of pretreatment and treatment of that pollutant by the municipal treatment works shall achieve at least that level of treatment which would be required if the industrial source were making a direct discharge.

In promulgating national pretreatment standards the Administrator shall include a provision recognizing the option of the owner or operator to modify the requirements to reflect the degree of reduction achieved by the treatment works. An adequate pretreatment program under section 402(b)(8) may include municipal ordiances or regulations specifying pretreatment requirements and incorporated into the treatment works permit by reference, or pretreatment requirements applicable to specific sources set forth as conditions on the permit.

The conferees recognize that some industries as well as individual plants within industries will be called upon to make significant advancements in their levels of pretreatment. In some cases, these advancements will be very costly and could force plant closings. There is a severe danger of this happening within the metal finishing and electroplating industry.

Federal assistance to such plants is available from both the Economic Development Administration and the Environmental Protection Agency. The Administrator is to work with the Economic Development Administration to see that direct EDA loans as well as loan and lease guarantees are provided to eligible plants to offset the costs of installing pretreatment equipment.

Also, section 8 of Public Law 92-500, provides for loans from the Small Business Administration to small businesses for the installation of pollution control equipment. This section has never been fully implemented. It is expected that these loans will be made available to assist in the installation of pretreatment processes to industries such as metal finishers.

Section 54(b) amends section 309 concerning the enforcement of pretreatment standards. The municipality has the primary responsibility to enforce such standards with their constituent industries. EPA is not to unilaterally enforce such standards against the industries.

However, where EPA finds that pretreatment standards are being violated by such industries, the Adminstrator may notify the owner or operator of the treatment works and the State of such violation. If the locality does not begin appropriate enforcement action within 30 days of notification by the Administrator, then EPA may institute a civil suit for appropriate relief, including but not limited to a temporary or permanent injunction against the municipality. In such civil action the owner or operator of the industrial source shall be joined as a party to the action.

Section 54(d) amends section 405 of the act to require the Administrator to issue regulations providing guidelines for the disposal and utilization of sludge. These guidelines shall identify uses for sludge, specify factors to be taken into account in determining the measures and practices applicable to each such use, and identify concentration of pollutants which interfere with each such use or disposal.

The determination of the manner of sludge use or disposal is a local determination. However, once EPA has published guidelines for a sludge use or disposal, it is unlawful for the owner or operator of a municipal treatment works to use or dispose of sludge except in accordance with such guidelines.

FEDERAL FACILITIES

Section 67 of the conference report amends section 404(T) to provide that nothing in the section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activities of any Federal agency, and that each such agency shall comply with the State, or interstate requirements, both substantive and procedural to control the discharge of the dredged or fill material to the same extent that any person is subject to its requirement. However, this new subsection shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation. For example, with regard to the day-to-day dredging of the ports of Los Angeles and Long Beach, this provision means that the Corps of Engineers is expected to make all reasonable effort to comply with State requirements. However, where these requirements cannot reasonably be met, the Corps of Engineers has the authority to, and indeed is expected to, proceed with measures necessary to maintain navigation.

SLUDGE STUDY

Section 71 provides for a study of the utilization of treated sludge. Such a study should include an assessment of sludge disposal and reclamation projects. However, in no case should this study be used as an excuse to delay development and funding of ongoing projects. In particular the Sepulveda, Calif., sludge disposal and reclamation project should be allowed to proceed as planned without further delay. If, however, the Administrator determines such plans require modification, he should so advise the municipalities, in writing as soon as possible, so that necessary changes in the plan may be made.

SEAFOOD STUDY

Section 74 provides for a study by the Administrator to determine the effects of seafood processes which dispose of untreated natural wastes into marine waters. This study is to be submitted to Congress no later than January 1, 1979. This study should include an assessment of the discharges from such canneries into Los Angeles harbor to determine the impact of the discharge of cannery waste into the harbor.

INDUSTRIAL COST RECOVERY

Section 75 of the conference report requires the Administrator to do a study on the efficiency of and the need for the payment by industrial users of any treatment works of that portion of the Federal contribution to the cost of construction of such works which is allocable to the treatment works.

In addition to looking at the impact on communities, the study should include an assessment of the impact of this requirement on selected industries, such as food processors. Such an assessment should include an evaluation of the combined effect on industries of the user charge and the industrial cost recovery payment.

Mr. Speaker, I urge enactment of these necessary amendments.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I was disappointed that the conference rejected the so-called Nelson amendment to the Clean Water Act banning phosphates in cleaning products sold in the Great Lakes Basin States. However, our distinguished subcommittee chairman, RAY ROBERTS, has assured me that he would hold hearings on this important issue next year, and I want to take this opportunity to urge him to do so early in the second session of this 95th Congress.

The Nelson amendment was designed to effectively eliminate point source discharges of phosphorous into the Great Lakes Water Quality Agreement with fill its obligations under the 1972 Great Lakes Water Quality Agreement with Canada.

The 94th Congress enacted the Toxic Substances Control Act which set forth a procedure to investigate and regulate such substances. The Administrator of EPA, Doug Costle, has initiated an investigation of phosphorus which is expected to be completed in March of 1978. A Public Works Committee hearing on phosphorus, reviewing the scientific facts developed by EPA, early next year would be most appropriate and timely.

Questions that should be addressed are: First, whether the phosphate ban in the Great Lakes will have any significant environmental benefits; second, the economic benefits and costs of such a ban—a recent analysis by EPA's region V headquarters in Chicago claims a net savings to taxpayers of $26 million in the eight State Great Lakes region, from a phosphate ban; third, the practicability of a statewide ban; fourth, technological problems encountered in replacing phosphates; fifth, the extent of entrophication in the Great Lakes.

A major portion of Michigan lies within the Great Lakes drainage basin, and only a small portion of each of the other Great Lakes States is located within the basin. Therefore, this study should address the question of limiting the phosphate content of detergents in the entire region.

Moreover, 80 percent of all phosphates produced in the United States are used in fertilizers. The balance—15 percent to 20 percent—are used in a variety of products including foods, vitamins, detergents, sanitizers, and metal surface treatment products. Farmers use the largest amount of phosphate and farms located near bodies of water probably contribute more phosphate to water than does any other source. The amount of agricultural runoff generally is not measurable.

However, since readily available phosphate, usually ortho-phosphate, comprises a major portion of the Great Lakes phosphate load from all diffuse land sources—32 percent to 70 percent—control of diffuse source phosphorus must also be considered.

Today the sewage facilities in the Great Lakes that can meet EPA phosphate effluent objectives—1 milligram per liter—are 64 percent complete and in operation. They will be 100 percent in operation by 1982. They are all funded and in the construction phase. It is assumed that the most effective and least expensive way to reduce the flow of phospate is via the sewage treatment process. Does this approach merit review?

Mr. Speaker, another one of the major issues this conference report addresses is the regulation of toxic pollutant discharges to the Nation's waters. The dissemination of toxics into our environment has been of great concern to me for a number of years as it is to many people nation-wide. As the number of incidences involving the discharge of toxic pollutants into the environment has increased, it has become increasingly obvious that prevention must be the watch word, rather than taking ad hoc measures after a threat to human health and the environment has already been thrust upon us.

The President addressed the issue of toxic chemicals in his environmental message to the Congress last May: "Rather than coping with these hazards after they have escaped into our environment, our primary objective must be to prevent them from entering the environment at all." I share his concern for achieving that objective.

Clearly, section 53 of the conference report is an important first step in this direction with regard to preventing the discharge of toxic pollutants to surface waters of the United States. The Administrator must promulgate effluent limitations for a specific list of toxics and compliance must be achieved by dischargers of such pollutants no later than July 1, 1984. However, the conferees recognize that this list is not all inclusive. There exist many pollutants which are actually or potentially toxic that do not appear on the list. For this reason, the Administrator is specifically authorized under section 53 to add pollutants to the statutorily established list. It is very important that the Administrator use this authority as aggressively as possible if the preventive approach to controlling toxic pollutants is to succeed.

While the Administrator may choose to list pollutants on the basis of other criteria, at a minimum, I urge him to list any pollutant that has evidenced carcinogenic, mutagenic, or teratogenic effects in humans or in laboratory testing, or which has otherwise evidenced a significant degree of toxicity at low exposure levels to aquatic organisms or systems. He should then procede to issue effluent limitations for such pollutants as soon as practicable, as required under section 53 of the conference report.

I am committed to a continuing review of the problems of toxic pollutants in our environment; I know other members of the Committee on Public Works and Transportation are equally committed. This conference report represents an important first step which must be followed by sustained effort as we gain a greater understanding of the effects of toxic pollutants in our environment and develop better means of preventing the further dissemination of toxics.

Finally, Mr. Speaker, section 75, of the Federal Water Pollution Control Act Amendments, as approved by conference committee, requires the EPA Administrator to study the efficiency of and need for the payment of industrial cost recovery (ICR) assessments by industrial users of publicly-owned treatment works. The Administrator, in carrying out this study, should consult with industrial groups most heavily impacted by the ICR requirement, including individual firms in the food processing industry and their representative trade associations. During our hearings on H.R. 3199, we heard from several industrial groups, especially from food processors, that the combination of industrial cost recovery charges and rigid interpretation of the proportionate share concept for collecting operation and maintenance charges from industrial users has resulted in some communities having much higher costs for waste water treatment than other communities in the same geographical area. In written testimony, some communities have advised our committee that such disparities in costs adversely affect local industrial development programs and job opportunities.

It is my further recommendation that the Administrator, in carrying out this study, include in the report to the Congress his best response to each of the following questions, the answers to which will be important to us in our future deliberations on whether or not the ICR requirement should be modified:

First. Has the implementation of the user charge and industrial cost recovery requirements of section 204(b)(1) (A) and (B) resulted in some communities charging much higher costs for wastewater treatment than other communities in the same geographical area? If so, should the Congress provide a mechanism whereby a community may lower its user and industrial cost recovery charges to a level that is competitive with the other communities in order to restore parity? If so, how should parity be restored?

Second. Does the existing law encourage construction of regional publicly owned waste-water treatment facilities? If so, what is the impact on industrial users of such systems compared to industrial users of nonregional systems and those which construct their own waste water treatment systems?

Third. Are recent reports by the General Accounting Office and the Vertex Corp. valid, which show that the benefits of construction and operation of advanced waste treatment systems may not be worth the cost? If so, should industrial users of such systems be required to pay user and industrial cost recovery charges for them?

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Speaker, I rise in support of this legislation. I congratulate the chairman of the subcommittee and the chairman of the full committee, and members of both parties for their participation in this conference report on this difficult piece of legislation.

Mr. Speaker, I have a question I would like to ask of the chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. ROBERTS): The Administrator will have the authority to extend the July 1, 1977 compliance date—under section 56c which amends section 309a of the Act—under certain conditions for certain discharges who have acted in good faith, but the conference report gives no guidance as to the meaning of good faith. Would an industrial discharger, which, subsequent to the issuance of its permit, brought proceedings to modify the permit, or seek a variance, or which participated in other litigation appealing the EPA's effluent limitations and which delayed construction of treatment facilities pending the outcome of such proceedings or litigation, be deemed by reason thereof not to have acted in good faith?

Mr. ROBERTS. If the gentleman will yield, Mr. Speaker, the answer is "No. Good faith should be judged by the reasonableness of the legal position, the uncertainties of the statutory interpretations, the lack of dilatory intent, and other factors."

Mr. DON H. CLAUSEN. If the gentleman will yield, I just want to state I subscribe to the response of the chairman for purposes of legislative history.

Mr. ROBERTS. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Speaker, in section 16(k) of the bill H.R. 3199, as passed by the House, the Corps of Engineers was authorized to delegate to any State, on its request, all or a part of those functions vested in the Secretary by section 404 of the act, and by sections 9, 10, and 13, of the act of 1899, relating to the totally intrastate fresh bodies of water.

The Senate had no such provision, and Senate members of the conference objected to it. After some debate, we attempted to obtain agreement on a compromise designating some one State as a demonstration. This attempt failed, and finally the conferees agreed to provide such an authorization for the Corps of Engineers for the State of Washington only, and for Lake Chelan only.

I would like to ask the chairman to clarify the intent of the conferees, in choosing Lake Chelan in Washington State. Is it correct to say that the choice of Lake Chelan has no significance in itself except that it may constitute a demonstration project for this attempt to eliminate one unnecessary layer of bureaucracy, while still maintaining high standards of water pollution control?

Mr. ROBERTS. The gentleman is correct. We preferred to have it on a nationwide basis but were unable to secure the other body's approval, and this will be a demonstration project.

Mr. McCORMACK. I thank the chairman.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Speaker, I would like to commend the chairman for his work on this bill, as well as the committee. I rise in strong support of it.

I would like to ask a clarifying question. This section 19 of the conference report, which relates to section 203 of the Federal Water Pollution Control Act, provides that EPA or the Administrator can give technical advice to the grantees. There was a remark made by one of the EPA people, and I would like to quote it, to make sure this is not a correct interpretation of the section. He stated "The new section 203(d) authorizes the EPA to represent communities in negotiation of engineering agreements and to supervise the construction on some jobs." It is my understanding that the term "technical assistance" does not allow the EPA to negotiate contracts. Is that true?

Mr. ROBERTS. If the gentleman will yield, I certainly agree with the gentleman from Pennsylvania. There is nothing in section 19 that would give EPA that authority.

Mr. ERTEL. It would be my position and I hope the position of the chairman that it is not intended that the agency act as the grantee's agent man, is it proper for the agency to act as a contractor in negotiation or to provide technical assistance that is normally provided by private engineering and construction firms. The agency is only to give technical assistance basically after the contract has been entered into. Is that correct?

Mr. ROBERTS. I agree with the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in support of the conference report and I would like to commend the chairman of the committee, and the chairman of the subcommittee, as well as the ranking minority members and the managers on the part of the House for bringing back from conference a landmark piece of legislation. This is truly a monumental effort and will set the course of our clean water program for many years to come.

Having said that, however, Mr. Speaker, I must express disappointment at the fact that a very important feature of this bill which the House had in its version has been dropped. The feature that would give the elected Congress the right to veto the rules and regulations adopted by the unelected bureaucracy, was dropped in the conference proceedings. I think that it is unfortunate, because if there is any agency that is well in need of this type of oversight, it is the EPA and the types of rules and regulations they have published over the past years.

This House on many occasions has adopted, by majorities of almost 2 to 1, such legislation for congressional veto of bureaucratic rules. I think it is unfortunate that too frequently when we get into conference with the other body, we have caved in. I think the time is approaching when the other body is going to have to give. I intend to let the American people know their Senators seem to want laws passed by unelected bureaucrats.

If there was a trade in which we got something good out of it, then I am glad we had the opportunity, but I would hope henceforth the Members of the House in conference will dig their heels in. We represent the people of America. They are tired of the bureaucrats.

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, I would say that this amendment was adopted at one point in the conference, and then it was eliminated in the conference, and we could not get it back in, but we did our best.

Mr. LEVITAS. One other point I would like to make, and I know this is only hearsay, but I think the time has come where the Members of the other body need to do their own advocacy and not let their staff assistants handle the legislation. These staff people did not have the burden and inconvenience of running for public office. They do not represent America and the time for unelected staff in the other body playing a major role in conference policy decisions has got to end and that is another matter I plan to inform the American people about on this issue.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I, too, join in commending the committee for its work and leadership and will support this conference report.

I wish to call the attention of the Members to the continuing and critical problems of the steel industry. A mechanic's grease-covered hands are just as important to the economy as an accountant's, but are much harder to make and keep clean. The steel industry by its nature has pollution control problems. It has expended more than $3 billion on pollution control. This capital intensive industry has many old facilities that may be needed in the long-term for our economy and national security purposes. Its profits are at an all-time low. It faces real problems.

I think that unless there is rationality and reasonableness in enforcement, the committee may have to look toward future legislative relief. The municipalities can get extensions on a case-by-case basis under the April 1, 1979, deadline and as I understand it, some industry can as well, but I want to call the attention of the Members to the problems of this critically important industry.

When the House Steel Caucus was formed in September, the Members acknowledged that the caucus would have to deal with a broad range of problems facing the steel industry—including economic and environmental.

This important legislation should assure continued progress in cleaning and maintaining the Nation's water supply. However, I do feel compelled to point out that various provisions of this legislation will create serious problems for the steel industry—more restrictive regulations which will add to the costs of an already cost-burdened industry. Some of the more significant problem areas are:

THE 1977 BPT DEADLINE

The conference report does not face the real problem of the steel industry—the inability to achieve BPT for several years. Testimony before the House Committee on Public Works and Transportation showed that the problems of the steel industry are quite comparable to those of municipal plants, their costs are as great and time schedules for their solutions are equally as long. In spite of steel industry investments of over $3 billion to date for environmental control facilities, in spite of the steel industry spending over $500 million per year to operate and maintain those facilities, the tasks set for completion by July 1, 1977, cannot be completed in the time allotted by the conference report. Municipalities are provided extensions until 1982 or 1983, but the conference report includes no clear means of providing the comparable time required for steel to achieve BPT.

THE 1983 BAT DEADLINE

The conference report extends for 1 year, from 1983 to 1984, the deadline for attaining BAT, and provides limited waivers for "conventional" pollutants. It quite properly puts the emphasis in future controls on toxic pollutants. However, the classification of an extensive new listing of substances as "toxic"—an action not taken in either the House or Senate versions of the bill—and denial of any waiver with respect to these materials can lead to new regulations more restrictive than any previously contemplated.

PRETREATMENT

The conference report provides that the treatment capability of the publicly owned treatment plant be considered in pretreatment requirements. The inclusion of requirements relative to the "toxic" pollutants, however, may take away any incentive or advantage from pretreatment.

BEST MANAGEMENT PRACTICES

Inclusion of practices required as best management practices in NPDES permits, and the requirement that they include consideration of the list of "toxics" will greatly complicate the permit process and monitoring requirement, and may well lead to EPA intrusion into plant operations.

Mr. Speaker, in light of these problems which can affect the steel industry and, we believe, other industries as well, I have some question concerning these provisions and am concerned about their eventual implementation.

I note, Mr. Speaker, that the recent report on the domestic steel industry from Treasury Under Secretary Solomon to the President mentions that the Environmental Protection Agency will conduct a regulatory review to determine the possibility of achieving our goals for a cleaner environment at a reduced economic cost if there are certain changes in the regulatory process. I urge that this study be done within 6 months and that it pay particularly close attention to the economic impact on the steel industry of the new regulations that will spring from H.R. 3199.

The Steel Caucus will also continue to review the necessity for legislative relief from onerous environmental regulations.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, back in 1972 I was a member of the Public Works Committee when it considered this legislation we are extending and modifying today. Subsequently, I was also a conferee on the legislation.

During those long deliberations in committee and in conference, I was concerned with the factors that would be used to assess best practicable control technology, best available control technology and new source standards. My concern was that by imposing these technologies we would perhaps be solving one environmental problem only to create or make worse another by the same action.

For example, to meet effluent limitations, great amounts of energy, particularly electricity, are needed to process, vacuum, heat, cool, pressurize, or centrifuge water in order to remove the effluent before discharge.

To generate that electricity, more coal would have to be mined, creating new demands for more strip mining, and more coal would have to be burned, causing added air pollution and sludge disposal problems.

It appeared at that time then that we would have to look at the balance sheet and make sure that what we would mandate would cause a net environmental gain rather than merely transferring one environmental problem to another area. Recognizing this potential problem, the House insisted that energy requirements be recognized as a factor or basis for setting effluent limitations for existing sources under the requirements for July 1, 1977, and July 1, 1983, and for new sources. That language was agreed to and made part of the 1972 act. The EPA Administrator, therefore, has been required for the past 5 years to take into account energy requirements, as one factor in determining the measures and practices available to comply with sections 304(b)(1)(B), 304(b)(2)(B), and 306(b)(1)(A).

The legislative history clearly shows that the Congress expected the Administrator to consider air pollution impact of increased energy requirements for improved water quality control but also the "full impact of the energy crisis facing the United States."

That crisis has deepened since 1972 making it even more incumbent on EPA to give added consideration to the effect its technology assessments may have on the country's energy needs. I submit to those then who will carry out the congressional intent of this act that cleaning up our Nation's water does not exit in a vacuum removed from other environmental, economic, and energy concerns. I would expect then that the Administrator will be more cognizant, more discerning in tying together the country's environmental and energy needs.

Mr. AMBRO. Mr. Speaker, while I strongly support the major thrust of the Clean Water Act of 1977—the authorization of billions of dollars for the sewage treatment grant program—I am gravely disappointed with several of its other key provisions. I will support this measure because a nay vote would be misconstrued by those who do not fully understand the ramifications of the legislation, but I cannot do so without stating my reservations.

The most injurious section of the conference report is the so-called 404 wetlands provision. The congressional district I represent, which is a part of Long Island and bounded by water on both north and south, will be severely affected by the new provision. Initially, the concern of people interested in protecting the wetlands was that the definition for "navigable waters" might be tightened. The definition remains fundamentally unchanged, but the language of the conference report will almost surely serve to destroy many of our most valuable, ecologically productive systems. In the name of saving time, the U.S. Army Corps of Engineers will now be able to issue "general" permits on a State, regional, or nationwide basis, essentially giving a State control over the wetlands. Without close supervision from either the corps or the Environmental Protection Agency, we will almost certainly see economically expedient activities, such as construction, development, and even some dumping, take precedent over the preservation of the ecological sensitive and valuable wetlands.

Equally distressing is the provision within the conference report to extend deadlines and expand criteria obligations. Several times this year—in the instances of ocean dumping and clean air—we have seen Congress extend deadlines to pacify howling industries. Now we see it once again in this bill. Either the deadlines Congress establishes are meaningful or they are not; apparently to most Members of this Congress they are not. Environmental protection is not a goal to be leisurely attained; it is a prerequisite to our continued existence. Rather than penalizing noncompliers, Congress simply extends deadlines, weakens standards, and then compliments itself for a job well done. Quality of life and life itself are both at stake. How long before Congress begins to behave in a manner that shows signs of a sense of urgency?

Not to end on a pessimistic note, I should add that I am pleased with some provisions of the bill. As stated before, the sewage treatment grant money is essential to cleaning up our water. I am also encouraged by the 75-percent innovative technology provision and the deadlines set for the Environmental Protection Agency to establish standards for toxic substance presence in water. But I cannot help but hope that in the future we will produce legislation that is actually worthy of the title bestowed on this one—clean water.

Mr. LEHMAN. Mr. Speaker, when the House passed H.R. 3199 on April 5, I voted against it because it represented an environmentally unsound approach to solving the problems of water pollution. I am pleased to see that the House version has been substantially modified in conference. While I am not completely satisfied with the final result, I now feel that I can support it because of important changes that were made.

One of my primary concerns was the weakening of the authority of the Corps of Engineers over dredge and fill activities in our Nation's wetlands. The conference report fortunately recognizes the importance of protecting the wetlands. As I mentioned in the House debate on this bill last April, wetlands provide us with $140 billion worth of flood protection and water purification services. I also noted that the wetlands in the United States had diminished by 50 percent over the last 200 years.

Although it is gratifying that the conferees kept the broad jurisdiction of the corps over the wetlands, it was disappointing that they chose to exempt Federal projects from 404 permits. I only hope that this exemption will not cause too much unnecessary damage to our precious wetlands.

I also had serious reservations about the cleanup deadline extensions contained in H.R. 3199. I was concerned that no good faith attempts to comply with previous deadlines would be required before granting an extension. The conference committee has agreed to much stronger language than that originally contained in the House bill, and we will avoid rewarding municipalities and industries for their blatant disregard of Federal mandates.

I realize that the purpose of conference committees it to work out a reasonable compromise between differing versions of legislation. Because the final form of this bill is a compromise, I find that I still disagree with some of the provisions. For example, the decision to give States sole authority over priorities for federally funded projects could well result in wasteful efforts. There should be some assurance that the States have the competence and resources to carry out this responsibility.

Finally, I would like to comment on the oil spill liability provision. This is of special importance to my district in south Florida because of its coastal nature. I strongly support the extension of liability for oil spill cleanup to 200 miles off the coast. I note also that the limits of liability has been raised from $14 per gross ton to $150. This represents a big step in the protection of coastal States which could suffer much damage from oil spills.

Mr. Speaker, I believe I can support this conference report. It is not the best possible bill we could have, but it is a good compromise and a considerable improvement on the legislation which passed the House on April 5.

Mr. WAMPLER. Mr. Speaker, I generally support the "agricultural cost sharing" provisions contained in this conference report. However, had this bill been either jointly or sequentially referred to the Agriculture Committee, I would have preferred more explicit language with respect to the manner in which the Department of Agriculture administers the section 35 program at the local level.

The provisions of section 23 of S. 1952, the Senate version of the Clean Water Act of 1977—Section 35 of the conference report—clearly fall within the jurisdiction of the Committee on Agriculture in my opinion. Conservation activities carried out by the Soil Conservation Service, under the Soil Conservation and Domestic Allotment Act and others, are a primary responsibility of the Committee on Agriculture, and section 35 is similar to ongoing programs, such as the agriculture conservation program and the Great Plains conservation program.

In addition, the Soil and Water Resources Conservation Act, which is an effort to provide better coordination and direction to the conservation activities of the Department of Agriculture, was passed by the House and the Senate and signed into law (Public Law 95-192) on November 18, 1977.

In consideration of these circumstances, the Subcommittee on Conservation and Credit held a public hearing on September 16, 1977, on H.R. 8150, the Agricultural Water Quality Act, which is similar to section 35 of the conference report.

Recognizing the interest of the Committee on Agriculture, the Committee on Public Works has been most cooperative in listening to our comments on those portions of the bill—including portions which might affect eastern hardwood forests—where we have a legitimate interest.

However, I consider that it may still be important to point out that the Agricultural Stabilization and Conservation Service has traditionally handled the administration of programs involving soil conservation practices, insofar as they related to applications, justifications, parceling out of funds, et cetera. Under this system, local ASCS committee members made judgments on entitlements, et cetera, rather than having those decisions made in Washington, D.C., by people unfamiliar with local problems.

On the other hand, the Soil Conservation Service traditionally has provided technical services, verification, and acceptance of projects and managed compliance because of the technical nature of the work performed.

I trust that our Committee on Agriculture will observe closely how this bill and its practices and programs are administered vis-a-vis our current agricultural conservation practices program. After the section 208 program—and perhaps those portions of the section 404 program relating to normal silviculture practices—is implemented, committee oversight hearings would appear to be in order to determine how the program is proceeding toward meeting the needs of farmers, ranchers, and foresters.

Mr. Speaker, I also wish to state that I support the conference report's exemption of normal farming, forestry, and ranching activities from section 404 permits. I want to make it clear, however, that in accepting this approach, I do not accept the conclusions of the Senate committee report concerning even-aged management of eastern mixed hardwoods. In 1972, and again in 1976, Congress held extensive hearings, with expert witnesses, on the subject of forest management and clearcutting. In both cases, Congress rejected the prohibition of, or permit requirements for, clearcutting of eastern mixed hardwoods.

Last year, the Congress rejected a proposal to ban or require permits for clearcutting on the 92,000,000 acres of National Forest timberlands. This year the Senate committee report could be interpreted to ban or require permits for clearcutting on the 254,000,000 acres of eastern mixed hardwood timberlands in both public and private ownership in every State east of the 10th meridian. This could cripple forest management in the Southern States, the Northeast, the Midwest, and the Lake States.

In my State of Virginia alone, there are 12,600,000 acres of eastern mixed hardwoods. Many important hardwood species such as aspen, birch, black cherry, walnut, and hickory are difficult, if not impossible, to regenerate without clearcutting. In Virginia 700,100 board feet of hardwood sawtimber is harvested each year. Much of this lumber is from species that cannot be regenerated without using clearcutting as a silvicultural technique. The House cannot condone the Senate committee report in this regard.

I emphasize that the vast majority of the 20,000 forestry professionals in the United States recognize that clearcutting or even-aged management is an appropriate practice when properly applied. Both the National Association of State Foresters and the Society of American Foresters sent resolutions to the Conferees urging them not to accept the Senate committee report language. I agree with these statements by professional foresters and reject the Senate committee report language on the subject.

In conclusion, I wish to compliment my colleagues Messrs. ROBERTS and CLAUSEN for their hard work in putting this legislation together, as well as for accommodating some of the agricultural interests in this bill which were pointed out to the conferees.

Mr. STARK. Mr. Speaker, I rise in support of the conference report on the Clean Water Act of 1977, and wish to commend the conferees on a job well done. I would also like to comment on my understanding of section 404, subsection (r)—the Federal projects exemption provision.

Subsection (r) provides a limited exemption from Federal and State permit programs for discharges of dredged or fill material to construct Federal projects specifically identified by Congress when authorized. If the procedural and substantive requirements of subsection (r) are satisfied, such discharges shall not require permits under this section, or under State permit programs approved pursuant to section 404 or section 402 of the Clean Water Act of 1977.

The exemption provided by this subsection applies only to discharges that are an integral part of constructing a Federal project which has been reviewed and approved by Congress. Federal projects include only those conducted by a Federal agency and by such contractors as the agency may employ. The conferees did not intend to exempt other discharges which may be associated generally with constructing Federal projects, but which are ancillary to the specific activity submitted to and approved by Congress. For such ancillary discharges, the full section 404 review and approval procedures shall be applied by the Secretary and the Administrator unless other exemptions are applicable. The conferees did not intend to exempt federally assisted projects from the section 404 review. The conferees did not intend to exempt maintenance dredging from the 404 review process.

In order to qualify for the exemption, an adequate environmental impact statement on the project must have been submitted to Congress prior to authorization of the project or appropriation of construction funds and, in all cases, prior to the actual discharge of dredged or fill material at any particular site. The statement must satisfy the requirements of NEPA and include complete information on the effects of the proposed discharge. Moreover, the guidelines developed by the Administrator under section 404(b)(1) must be fully complied with in developing and assessing such information.

Congress must have adequate siting, engineering, and environmental information and analysis on each proposed Federal project, as well as modifications recommended by reviewing agencies, in order to review the available alternatives to and potential adverse impacts of the proposed discharges, to weigh those impacts and alternatives against the benefits of the project. The Administrator will be expected to see that the section 404(b)(1) guidelines are sufficiently explicit to focus attention on those aspects of Federal dredge and fill material discharges that could result in environmental degradation caused by the construction of new projects. And the Administrator must assist other agencies by carefully reviewing draft environmental impact statements to insure that the guidelines are being interpreted and implemented properly.

Mr. DINGELL. Mr. Speaker, I am deeply disappointed in the conference report accompanying H.R. 3199. It is clear to me that the Conference Report weakens the 1972 provision of the Federal Water Pollution Control Act. It is, in my judgment, a step backwards. In particular, I am concerned that the conference report does not clearly use all of the goals established in 1972, but allows a retreat. It also does not provide for the protection established in 1972 for our Nation's dwindling supply of wetlands.

My concern is heightened by the fact that EPA, headed by Mr. Costle, has apparently introduced this legislation. This is the same Mr. Costle who several months ago championed what I consider a strong Clean Air Act. He was quite vocal and vigorous in his effort to enact clean air legislation which would penalize in many cases the auto industry and people who work in the industry. But, he has not been as vocal or vigorous in efforts to enact strong and effective clean water legislation in this Congress. In fact, he has been strangely silent indicating that he is a one issue person and does not want to buck the establishment unless all his associates are firmly behind him. In my judgment, Mr. Costle has let the American people down by failing to point out the vast deficiencies of this legislation.

At the same time, I want to commend my colleagues on the conference for many other improvements in the legislation under the 1972 statute. I only wish that those improvements were sufficient to outweigh some of the weakening positions that Mr. Costle has failed to object to. I am sure that if Mr. Costle had made his views known with vigor, my colleagues would have heeded him.

As former chairman of the Fisheries, Wildlife Conservation and the Environment Subcommittee of the Committee on Merchant Marine and Fisheries and as a current member of that committee, I am heartened at least by the fact that Members did not see fit to amend or in any way affect the Fish and Wildlife Coordination Act which has been a bulwark of protection for our Nation's fish and wildlife since 1958. The legislation quite properly does not do damage to that Act which, of course, is within the jurisdiction of the Merchant Marine and Fisheries Committee and not within the jurisdiction of the Committee on Public Works and Transportation.

In regard to section 404 of the 1972 act as amended by this conference report, I cannot say that I am delighted with the results. I personally do not think that transferring permit authority to the States in this regard is sound. This is not the same thing as a discharge of pollutants from a point source which is covered in section 402 of the 1972 act. This is the dumping of dredge material and fill in our Nation's waterways and most importantly in our estuaries and wetlands which are important to our fish and wildlife resources, and, yes, to pollution control. The States have shown a remarkable penchant toward development of these valuable and irreplaceable wildlife resources. It was not until the 1899 Refuse Act and section 404 that the States began to take heed of the need to protect these valuable resources. It is important, however, to note that the Fish and Wildlife Service will have an opportunity to comment on these permits when issued by any State in the same manner and to the same extent that they do now comment on proposed permit applications under the Fish and Wildlife Coordination Act. The conference report provides at least 90 days for the Fish and Wildlife Service to make their comments known not only to the States but also to the Environmental Protection Agency and, of course, to the public. The legislation does not preclude the Fish and Wildlife Service when it deems appropriate to meet with and discuss and to develop conditions regarding the permit applications. It is particularly important that the negotiation process is not unduly restricted to the 90-day parameter. This is crucial because, as we all know, information about these invaluable wetlands is not always readily available and it will take time in so many instances for the Service to receive the necessary and pertinent information and to make responsible judgments.

In conclusion, I want to say that I again deeply regret that more time was not provided to work out better legislation than is before us today.

Mr. STUMP. Mr. Speaker, as a member of the conference committees on the Federal Water Pollution Control Act amendments, I believe the chairman of the House Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON) and the chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. ROBERTS) should be commended for their leadership in constructing the remedies necessary to correct the conflicting interpretations and unsatisfactory experiences under the existing act. H.R. 3199, as revised and reported by the conference committee, moves to create a balance between environmental needs and economic realities.

In 1972 Congress established a mechanism to evaluate the legislation and to recommend the necessary and appropriate mid course corrections. One of the important corrections is for irrigated agriculture which desperately needed exemption from certain permit monitoring and control requirements. The conference report makes that change by providing that irrigation return flow will no longer be dealt with as a point source discharge of pollution. This change will eliminate the Federal requirement of a NPDES permit without restricting the States from taking action if local conditions require it. Under this section, the Federal initiative in controlling any pollution from irrigation return flows is clearly and correctly focused through the Areawide Waste Treatment Management process. This step should assure, among other things that dry arroyas or local irrigation systems are not confused with the major tributaries and navigable waters of the United States.

In addition, regulatory restrictions of the section 404 Dredge and Fill permit program are removed from the many normal agricultural operations. This action will permit agriculture to continue its operations with reasonable consideration for its use of water.

During a recent trip through my district, I found many of the small communities concerned with the establishment of an efficient sewer system. This bill also provides a practical vehicle to assist these communities in establishing efficient sewer systems at a reasonable cost to the community.

At a time when the Congress of the United States is all too often criticized for being neither responsive to nor responsible in allowing unprecedented excursions by the National Government into the prerogatives of State and local governments, this legislation is a responsive and responsible solution. It is particularly satisfying to support adoption of the conference report on H.R. 3199.

Mr. HARSHA. Mr. Speaker, I believe that the agreement reached by the conferees on the amendment to section 404 is a compromise with which all interested parties should be pleased.

I believe it appropriate to remind the Members that when the 1972 amendments were enacted, Congress defined the term "navigable waters" to mean "waters of the United States including the territorial seas." The jurisdiction of the 404 program is not something that was established by the courts. The Congress of the United States established that definition.

In my judgment, the problems resulting from the 404 program have resulted not from the definition of "navigable waters" but from the implementation of the program. As many of you may recall, the gentleman from New Hampshire, Mr. CLEVELAND, and myself offered an amendment to 404 which was intended to address these problems with the program's implementation. Unfortunately the amendment was rejected. However, I believe that the conference substitute does contain not only an improvement on the amendment offered by Mr. CLEVELAND and myself but will, in fact, result in a simplification of the 404 process while accomplishing the environmental objectives mandated by Congress.

The conference amendment recognizes that the States should be responsible for controlling the discharge of dredge or fill material in State waters that do not involve interstate or foreign commerce. In the past, one of the greatest concerns of allowing the States to assume the 404 program was that they would not be able to implement the program due to a lack of funds. The conference substitute allows for financial assistance under the State management assistance provision which is contained in section 26 of the conference report.

It is the intent of the conferees that any State permit program for the discharge of dredged or fill material approved by the Administrator must have demonstrated itself capable of accomplishing the same objectives as the Federal permit program. The State program must include enforcement authority comparable to the Federal program, adequate resources including staff and funds, and insure full and complete coordination with all related Federal, State and local programs. A State permit program must include substantive decision making criteria at least as stringent as 404(b) guidelines, and should provide adequate education for applicants and followup procedures to insure compliance with the permits that are issued.

In addition, it is imperative that the State permit program be fully coordinated with other processes, requirements and program elements that control pollution that alters the chemical, biological and physical integrity of the Nation's aquatic resources.

The amendment recommended by the conferees also recognizes that the genuine environmental objectives of the 404 program will not be compromised by the exemption of certain activities. These exemptions clarify that the activities that do not involve point source discharges are exempt as well as specifically listed activities that may involve minor discharges that will be controlled by best management practices. The conferees have clarified that plowing, seeding, cultivating, harvesting, minor drainage and soil and water conservation practices performed on uplands were not intended to require 404 permits.

New subsection (f) of section 404 provides that Federal permits will not be required for narrowly defined activities specifically identified in paragraphs A–F that cause little or no adverse effects either individually or cumulatively. To assure that the extent of these exempted activities will not be misconstrued, paragraphs (f)(1) (D) and (E) and (f) (2) provide common sense limitations to protect the chemical, biological, and physical integrity of the Nation's waters. While it is understood that some of these activities may necessarily result in incidental filling and insignificant harm to aquatic resources, the exemptions do not apply to discharges that convert more extensive areas of water into dry land or impede circulation or reduce the reach or size of the water body. For the same reasons, 404(f)(1)(E) provides that farm and forest roads are to be constructed and maintained in accordance with best management practices, promulgated by the Corps of Engineers, to minimize adverse effects that may occur when water is displaced by fill material. I support these exemptions with one reservation. I am concerned that Federal projects which have a substantial impact on wetlands should not be exempted from the 404 program. However, I was in a minority in my viewpoint on this issue and the conferees chose to adopt an exemption for all Federal projects which were specifically authorized by Congress if the impacts of the dredge and fill activity were addressed in an environmental impact statement submitted to Congress either prior to the authorization of the project or appropriation of funds for construction. I believe it is appropriate to point out that this provision is limited only to those projects specifically named by Congress in legislation which is enacted by vote of both bodies of Congress. It does not include federally assisted projects nor projects authorized by committee resolution. These must still apply for a 404 permit. I would remind the Members that the provision relating to federally assisted projects was specifically deleted from the Federal projects exemption by the conferees.

Finally, I would like to comment on the amendment to section 208 of the act which would allow certain categories of activities to be regulated under the 208 areawide management program. The new 208 program is a supplement to the 404 program and is intended to complement and be coordinated with an approved State 404 permit program. The 208 program is not a substitute for the 404 program as most discharges of dredged or fill material require a case-by-case review through a permit process and it is not intended that activities conducted under a best management practice be required to obtain an individual permit. Activities that involve discharges of dredged or fill material that impair the flow or circulation of navigable waters or replace water with dry land will normally require individual permit review. For example, case-by-case permit review is necessary to minimize adverse effects from most channelization and real estate development fills. Moreover, the conferees agreed that a permit should always be required where toxic substances are involved. A case-by-case permit review would not be required for narrowly defined activities that cause little or no adverse effects either individually or cumulatively, including those activities narrowly defined in 404 (f)(1)(A–F).

A State must have a permit program approved under section 404 and a statewide regulatory program approved under 208(b)(4) before the Administrator can approve any best management practices submitted by the Governor for appropriate activities. Any best management practice must be included in State laws or regulations prior to its final approval by the Administrator.

The Administrator cannot approve best management practices to replace the State's permit review process in its entirety as only certain activities are appropriate for best management practices. A best management practice might be an acceptable method of control for activities that are similar in nature and that cause no more than minimal harm to the environment either individually or cumulatively. Best management practices are appropriate for controlling farm roads, logging roads, temporary mining roads, stock ponds, farm ponds and maintenance of existing fills. Pest management practices are not appropriate as the sole means of controlling activities if the impact varies according to location so that the test of "minimal adverse affect" is not met or where advanced permit-type review is necessary to assure that the discharge is conditioned to protect the environment. It is expected that best management practices would be approved only for those activities which are likely by their nature to be conducted in compliance with a management practice.

The 208 agencies should continue to concentrate on areawide management pollution and on nonpoint sources of pollution that degrade critical aquatic areas rather than attempt to duplicate 402 and 404 permit programs that control point sources of pollution.

The Administrator must insure that best management practices are specific enough to inform each person conducting an activity what is specifically required of him. Where appropriate, a best management practice would require notice to the designated State agency in advance of discharge.

The conferees expect that this 208 process will include an activity enforcement program with demonstrated capability and adequate resources.

Mr. DON H. CLAUSEN. Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DON H. CLAUSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 2, not voting 86, as follows:

[Roll No. 778]

YEAS—346

Abdnor
Addabbo
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Archer
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burton, John
Butler
Byron
Caputo
Carr
Carter
Chisholm
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Fountain
Fowler
Fraser
Frenzel
Frey
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harrington
Harris
Hawkins
Heckler
Heftel
Hightower
Hillis
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Levitas

Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Luken
McClory
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marriott
Martin
Mattox
Mazzoli
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien

Oakar
Oberstar
Obey
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Pressler
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz

Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Treen
Trible
Tucker
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Holtzman
Weiss

NOT VOTING—86

Akaka
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Aspin
Badillo
Baucus
Beard, R.I.
Bedell
Beilenson
Bolling
Bonker
Breaux
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Conyers
Dent
Dickinson
Fary
Fithian

Ford, Tenn.
Forsythe
Fuqua
Gammage
Hall
Harkin
Harsha
Hefner
Holland
Ichord
Koch
Krebs
Le Fante
Lent
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McEwen
Maguire
Marlenee
Mathis
Meeds
Metcalfe
Mollohan
Myers, Michael
Neal
Nix
Ottinger

Panetta
Pepper
Pettis
Pike
Poage
Pursell
Quie
Rinaldo
Risenhoover
Roncalio
Ruppe
Ryan
Santini
Shipley
Sisk
Smith, Iowa
Symms
Teague
Traxler
Tsongas
Udall
Van Deerlin
Whalen
Wiggins
Wilson, Bob
Winn
Wolff
Yates

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Anderson of Illinois.

Mr. Burleson of Texas with Mr. Burke of Florida.

Mr. Pike with Mr. Cederberg.

Mr. Santini with Mr. Marlenee.

Mr. Chappell with Mr. McCloskey.

Mr. Breaux with Mr. Michael O. Myers.

Mr. Mollohan with Mr. Harsha.

Mr. Beilenson with Mr. Armstrong.

Mr. Wolff with Mr. Lent.

Mr. Conyers with Mr. Don H. Clausen.

Mr. Metcalfe with Mr. Pursell.

Mr. Neal with Mr. Rinaldo.

Ms. Burke of California with Mr. McEwen.

Mr. Baucus with Mr. Symms.

Mr. Traxler with Mr. Dickinson.

Mr. Risenhoover with Mr. Whalen.

Mr. Phillip Burton with Mr. Forsythe.

Mr. Ryan with Mr. Aspin.

Mr. Shipley with Mr. Quie.

Mr. Burlison of Missouri with Mr. Badillo.

Mr. Hefner with Mr. Krebs.

Mr. Nix with Mr. Roncalio.

Mr. Gammage with Mr. Ichord.

Mr. Holland with Mr. Lujan.

Mr. Carney with Mr. Wiggins.

Mr. Beard of Rhode Island with Mr. Maguire.

Mr. Hall with Mr. Sisk.

Mr. Fuqua with Mr. Bob Wilson.

Mr. Ottinger with Mr. Pettis.

Mr. Fithian with Mr. Udall.

Mr. Fary with Mr. Winn.

Mr. Meeds with Mr. Yates.

Mr. Long of Pennsylvania with Mr. Van Deerlin.

Mr. Koch with Mr. Ruppe.

Mr. Harkin with Mr. Pepper.

Mr. Dent with Mr. Andrews of North Dakota.

Mr. Akaka with Mr. Bonker.

Mr. Bedell with Mr. Cavanaugh.

Mr. Ford of Tennessee with Mr. Mathis.

Mr. Lundine with Mr. Smith of Iowa.

Mr. Panetta with Mr. Teague.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DIRECTING THE CLERK TO MAKE A CORRECTION IN ENROLLMENT OF H.R. 3199, CLEAN WATER ACT OF 1977

Mr. ROBERTS. Mr. Speaker, I send to the desk the concurrent resolution (H. Con. Res. 444) directing the Clerk to make a correction in the enrollment of the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, and ask unanimous consent for its consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection?

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 444

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H.R. 3199 the clerk is directed to make the following correction: in subsection 208(j)(1) of the Federal Water Pollution Control Act as added by Sec. 35 of the conference report insert after the word "contracts" where it first appears the following: ", subject to such amounts as are provided in advance by appropriation acts,".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PAYMENT OF GRATUITY TO MARGARET WOODWORTH, WIDOW OF LAURENCE N. WOODWORTH

Mr. ULLMAN. Mr. Speaker, I offer a privileged resolution (H. Res. 936) providing for payment of a gratuity to Margaret Woodworth, widow of Laurence N. Woodworth, and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 936

Resolved, That there shall be paid from the contingent fund of the House as a gratuity to Margaret Woodworth, widow of Laurence N. Woodworth, a sum equal to the annual compensation which was payable by the House to the said Laurence N. Woodworth as Chief of Staff of the Joint Committee on Taxation. Such annual compensation shall be determined by reference to the monthly rate for such position in effect for December 1976.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Reserving the right to object, Mr. Speaker, I do so to ask the gentleman to explain the resolution.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, I thank the gentleman for yielding.

Larry Woodworth died an untimely death last week. He virtually gave his life to public service. He served with the Congress for 33 years, and I think he touched the lives of more of us and more of the people of this country during his public service as a staff director of the Joint Committee on Taxation than any other public official whom I have known.

Mr. Speaker, a year ago a number of us talked him into moving from the Hill down to the Treasury Department where he became Assistant Secretary of the Treasury for Tax Policy. If he would have stayed, his widow would have been eligible for the bequest that is granted to those who die during their public service with the House of Representatives.

As it is, she is ineligible. This resolution merely makes her eligible for the annual compensation due her under the gratuity that we always give survivors of employees of the House. This would make her eligible on the same basis as if he had stayed here, except based on the salary that he was receiving at the time he left.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I am happy to yield to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, both of my colleagues, the chairman, the gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. Conable) have discussed this matter with me and I am a cosponsor with my two distinguished colleagues on this resolution. I think it is only fair and equitable for the facts are that the deceased worked so diligently and so hard that his death was, in all truth, untimely and was, I am sure, hastened by his responsibilities which we persuaded him to undertake. I would therefore hope that there would be no objection so that this equity may be done.

Mr. CONABLE. Mr. Speaker, I thank the two distinguished gentlemen for their expressions in favor of this measure. Larry Woodworth worked for the Joint Committee on Internal Revenue Taxation for more than 30 years performing in a central capacity and in a manner which I believe earned him the respect of the Members of this body and the other body. He is indeed central in the planning of our tax laws. He was one of the most highly skilled tax experts in this country, and a person who could have made a great deal more money in some other position had he wished to leave the service of the Government.

He pursued his course here with selflessness and with extreme hard work and determination. Under the circumstances, I believe it is entirely appropriate that we make an exception to the rule, because of the length of time he worked for the Congress, because of the fact that he had only just recently left and continued to have a very important role in communication with the Congress.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield further?

Mr. CONABLE. I am happy to yield further to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I would just like to add that I think all of us in appreciation for the more than 30 years he spent here, and for the work that he was doing when he died, would wish to accompany this resolution with our deepest and most sincere condolences to his widow and family.

Mr. CONABLE. I am sure the gentleman from New Jersey expresses the feelings of this entire body.

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

Mr. STEIGER. Mr. Speaker, the tragic and untimely death of Larry Woodworth came as a very real shock to me. It is a loss to all who are concerned with public policy in the United States.

Few men have had the opportunity that Larry Woodworth has had in his lifetime to be a significant partner in the development of tax and economic policy for the United States. Larry was a man of warmth, good humor, sensitivity and tremendous intellect.

For Janie and for me it is a personal loss because of his warmth to us. To the President of the United States and to the Secretary of the Treasury, his service as the Assistant Secretary of the Treasury for Tax Policy was a compliment to the President's efforts in the development of tax reform. He will be difficult to replace.

He played an invaluable role, whether as the Chief of Staff with the Joint Committee on Taxation or as Assistant Secretary, because of his knowledge of the players, knowledge of the code and an incredible breadth of experience and ideas. Larry Woodworth served his community of Cheverly, his church, his family and his country as one of the most distinguished public servants.

Janie joins me in extending our deepest sympathy to his wife, Margaret, and to their children.

The SPEAKER pro tempore (Mr. Evans of Colorado). Is there objection to the request of the gentleman from Oregon?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent and a joint resolution of the House of the following titles:

H. Con. Res. 442. Concurrent resolution providing for the sine die adjournment of the first session of the Ninety-fifth Congress; and

H.J. Res. 674. Joint resolution relative to the convening of the second session of the Ninety-fifth Congress, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5322. An act to provide duty-free treatment for istle.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject matter of the resolution we agreed to a moment ago.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

RECESS

The SPEAKER pro tempore. Without objection, the House will stand in recess until 1:15 o'clock.

There was no objection.

Accordingly (at 12 o'clock and 55 minutes p.m.), the House stood in recess until 1 o'clock and 15 minutes p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Evans of Colorado) at 1 o'clock and 15 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 9346, SOCIAL SECURITY AMENDMENTS OF 1977

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 95-839) on the resolution (H. Res. 937) providing for the consideration of the conference report on the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, which was referred to the House calendar and ordered to be printed:

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider, any rule of the House to the contrary notwithstanding, the conference report on the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, said conference report shall be considered as having been read, and all points of order against said conference report are hereby waived.

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 937 and ask for its immediate consideration.

The Clerk read the resolution.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Pepper) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. Anderson), and pending that I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of a conference report on the Social Security Amendments of 1977 (H.R. 9346). This rule will waive all points of order so that this most important conference report might be considered by the House of Representative.

Mr. Speaker, I need not remind my colleagues that this is one of the most important measures which has ever been before this House because it sustains and insures the hope of millions of Americans, who have no other source of income in their later years except what they derive from social security, that this fund is going to be a solvent fund and what we promised them is going to be delivered to them. This special feature will strengthen the social security system, not just for the immediate future, but far into the next century. While this may entail increases in the tax rates commencing in the coming year and through the last years of the century, and even beyond, the benefits afforded to our citizens dating back to my first years in the Senate during the New Deal era will be guaranteed. Among important provisions of the bill are the increase in earnings allowed for beneficiaries who are 65 years of age and older. This amount will be increased to $4,000 in 1978, and by yearly progressions, to $6,000 in 1982.

Additionally, the retirement income test will be lowered from age 72 to age 70 in the year 1982. Mr. Speaker, I need not hesitate to disclose that my own sentiments are that it would have been far better had we written a more generous provision for the recipients of social security without any diminution in social security benefits, but that will come in time. We shall keep fighting until we do assure that elderly people who are in retirement and who are the recipients of social security will be able to earn all they can when they are in the low-income brackets of our country.

The bill also includes welfare provisions and miscellaneous provisions, such as the duration-of-marriage requirements, which would reduce the period of time to 10 years from the present 20 years. That is a very meaningful provision to many of the people in my part of the country. Now, under this provision in the conference report, if a lady has been married to Husband A for as much as 10 years and then he passes away and she is deriving social security benefits through that husband, if she marries again and is married to Husband B, she will be able to continue to enjoy fully the social security benefits she derived previously under Husband A. That makes it possible for many people who are lonely to find love and companionship in their later years with another person of the opposite sex and insure that they will have a substantial increase in their joint income by their happy union. This will be more fully detailed, I am sure, by the distinguished chairman of the Committee on Ways and Means in further discussions of the conference report.

Mr. Speaker, I know that every Member of this House wishes to pay deserved tribute to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), for the masterful manner in which he has persistently, ably, and wisely represented the House and represented the people of this country in the confirmation of this conference report. This legislation is vitally important to the long-term soundness of the social security system.

I have been asked by citizens, as I am sure many other Members of the House have: Is the social security fund dependable and sound?

My answer to that has been this: that if a Government bond or a dollar of the U.S. currency is good, then the social security commitments made by the Government of our country are going to be explicitly discharged according to the obligation. This bill assures that for many years into the future.

There is an increase in the social security tax, and that is graduated over a period of years. Parity is retained at the 50–50 level of contributions by employers and employees. I think all of us look forward to the time when we may be able to devise a better system of supporting and providing the funds for the social security program than the one in which the burden is put upon the payrolls of employers and upon the employees of this country.

But this is a necessary step in the direction of solvency and the soundness of the fund. These improvements can and will, I am assured, come in due course.

There is, moreover, an increase in the contributions relating to the benefits base that is phased in over 3 years, with no change for 1978 and with automatic adjustments after 1981.

In addition to the provisions I have mentioned, there are three studies authorized by this legislation. We are familiar, of course, with the study required by the Fisher amendment adopted by the House which will look at the feasibility of incorporating Federal employees into the social security system. Another study will be made which will determine precisely what legislation would be necessary to eliminate gender-based discrimination from the social security system. This study should take approximately 6 months, and additional legislation will certainly be recommended on this basis.

Mr. Speaker, it is my understanding that this legislation will commence a 25-year surplus for the Social Security Trust Fund, followed by a gradual decline in the reserves-to-benefits ratio. The able chairman of the Committee on Ways and Means has stated that the 75 year outlook is for a deficit of 1.46 percent, and that is well within correctable limits as demographic changes may dictate.

So, Mr. Speaker, we are offering to the American people, so many of whom depend upon social security for either all or part of their sustenance and support, an assurance that those funds will be available to be paid when they are due. I think we can also express the hope that, since we have made some improvements in this bill, additional improvements responsive to the sensitivity of this Congress to the needs of the people of this country, this legislation will prove more beneficial in the years to come.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. CONABLE), the ranking minority member of the Committee on Ways and Means.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this rule. It is not a bad rule in itself, although it does not reserve to the House the right of a separate vote on the nongermane amendments added by the Senate, some of which are controversial and many of which I believe should not be incorporated in a social security bill of this dimension.

Mr. Speaker, I believe that it would be wise to oppose the rule primarily because the Members should have more time to reflect on what they are doing to the economy of the Nation, to American business and to the American workingman. Also, Mr. Speaker, I think the Members should have time to reflect on the question of tax equity which the American people would like to think is the concern of their public representatives.

It seems to me that we have time to reflect further on the direction social security is taking, and we should take that time. Congress is not going to let the social security system fail. However, any measure like this, which adds a tax burden of this dimension, should be given ample opportunity for full debate and discussion.

We have substantial increases in both the base and the rate taking effect under existing law as of January 1, 1978. The bill adds greatly to that burden in successive years.

Mr. Speaker, the American people are going to be saddened by the extent to which this will affect their livelihoods and the fruits of their labors. In addition, it will discourage employment.

I would like to say that the conference has not done a bad job in trying to find a compromise between the two versions of the bill which were themselves disasters. A compromise between the two disasters is likely to be a disaster also, and that is what I think we have achieved in this monumental and difficult piece of legislation.

For that reason, Mr. Speaker, I hope the Congress will fall back and regroup, take some further time for consideration, and try to find a nontax alternative such as those proposed in the Republican substitute measures, which would reduce the added burden we are placing on the American people at this time.

Mr. Speaker, I yield back the balance of my time.

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair has recognized the gentleman from Illinois (Mr. ANDERSON).

Does the gentleman from Illinois wish to yield time?

Mr. ANDERSON of Illinois. Mr. Speaker, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Does the gentleman from California (Mr. ROUSSELOT) move a call of the House?

Mr. ROUSSELOT. Mr. Speaker, I will be glad to move a call of the House.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 779]

Addabbo
Andrews, N.C.
Andrews, N. Dak.
Applegate
Armstrong
Ashley
Aspin
Badillo
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Blanchard
Bolling
Bonior
Bonker
Breaux
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Cavanaugh
Cederberg
Chappell
Collins, Ill.
Conyers
Crane
Dent
Dickinson
Diggs
Dingell
Drinan
Eckhardt
Edgar
Fary
Fithian
Ford, Tenn.
Forsythe
Fuqua
Gammage
Ginn
Goodling
Hall
Harkin
Harsha
Hefner
Holland
Horton
Ichord
Koch
Krebs
LaFalce
Le Fante
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McDonald
McEwen
McKinney
Madigan
Maguire
Marlenee
Mathis
Mazzoli
Meeds
Metcalfe
Mollohan
Murphy, N.Y.
Myers, Michael
Neal
Nichols
Nix
Panetta
Pettis
Pike
Poage
Pursell
Quie
Rinaldo
Risenhoover
Runnels
Ruppe
Ryan
Santini
Shipley
Shuster
Simon
Sisk
Smith, Iowa
Staggers
Steed
Symms
Teague
Thone
Traxler
Tsongas
Udall
Van Deerlin
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Yates

The SPEAKER pro tempore. On this rollcall 316 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9346) entitled "An act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes."

CONFERENCE REPORT ON H.R. 9346, SOCIAL SECURITY AMENDMENTS OF 1977

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 11 minutes.

Mr. Speaker, I rise in opposition to the rule. This rule, which was approved just before noon today, provides that the conference report shall be considered as having been read and waives all points of order against the conference report.

I oppose this rule for several reasons. First, we are moving much too quickly on this important matter which affects nearly every American. We are being asked to consider a conference report that was filed just this morning. Indeed, the explanation of the conference agreement was made available only late yesterday afternoon. We are taking an unusual step, one which usually requires an extraordinary majority for passage, of considering a rule on the same day as reported from Rules Committee. Like lemmings in their annual rush to the sea, we are being asked to plunge into a new wave of taxes without giving more than 24 hours of thought to the consequences. To move more cautiously would, in my view, be prudent.

Second, I object to the indiscriminate waiver of all points of order on the conference report. Let me detail what this covers. Not only is this a waiver of the 3-day layover rule on conference reports, but it prevents points of order on two important substantive areas. First, in somewhat typical fashion, the other body attached five amendments dealing with welfare programs to the House bill. These are not minor amendments—one provides a $187 million payment to States for fiscal relief. Each of these amendments were, in some form, adopted by House conferees.

I would typically object to any acceptance of nongermane Senate riders, but in this case, I strongly object because of the availability of a more proper vehicle for these amendments. The other body has had, since June 15 of this year, H.R. 7200, a bill making numerous changes in the SSI and AFDC welfare programs. Have they chosen to act on this bill? Did they consider adding their desired welfare changes to our bill dealing with welfare? No, they have tacked on these important changes to our social security bill, a virtually unrelated matter. The House Members having jurisdiction over welfare were not able to consider changes—they were not conferees on the social security bill. I respect the rules of this body. This type of action strengthens my convictions that our rules requiring germaneness are important. Too important to be waived in this case.

A second proper point of order could be raised against this conference report. This concerns a Senate amendment converting temporary law judges to permanent status. The conferees agreed to the Senate amendment, but an objection was raised this morning in Rules Committee by the chairperson of the Subcommittee on Employee Ethics and Utilization, Congresswoman PAT SCHROEDER. This matter falls under her subcommittee's jurisdiction, yet she is not allowed, under the rule now before us, to seek to delete it. The provision is an unwise one, I contend, because it makes an end run around the merit system, allowing temporary employees to be given a permanent job without proving their competence.

Other points of order could be raised against the conference report—violations of the Budget Act, acceptance of matters outside the scope of the conference—but these are the most troubling to me.

Mr. Speaker, I oppose this rule finally because I believe consideration of the social security legislation should be delayed. And not just for a day or for a week to meet procedural obstacles. I would hope that this matter would be delayed until next year so that a more rational economic policy could be developed.

We are being asked to consider the immediate passage of a conference report that will raise $227 billion in more taxes over the next 10 years. At the same time, we are being asked to wait for income tax cuts that are intended to offset the payroll tax increases. In other words, the American taxpayers are not being asked to take the bitter with the sweet, they are being asked to take the bitter now and to wait for the vague promises of tax relief to be realized later. That, I submit, is a fraud upon the American people. Let us consider both measures in the same session of Congress. Let us mesh the two proposals together, or at the very least, consider them at roughly the same time. In this light, I remind my colleagues of the chaos we had prior to adoption of the Budget Act. Spending matters were considered willy-nilly with no overall plan. We have made significant progress in rationalizing that process. We should be mindful of that reform and act accordingly.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, one of these nongermane amendments is called fiscal relief for welfare costs. It apparently appropriates $187 million. As I understand the rule, we are not going to be allowed to vote on that provision separately by making a point of order, as we would normally be able to do under the rules of this House.

Mr. ANDERSON of Illinois. The gentleman is correct.

Mr. FRENZEL. My further understanding is that, of that $187 million, about 20 percent goes to California and about 20 percent goes to the State of New York. Can the gentleman verify those figures?

Of course, we do not have any information on that. And, of course, this rule will waive the 3-day period in which we can usually find something about even these mysterious conference reports.

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman is a distinguished member of the Committee on Ways and Means, which does have within its jurisdiction the bill that I referred to a few moments ago, H.R. 7200. I think in the projections that he has made with respect to those two States, the figures are probably accurate.

Mr. FRENZEL. Mr. Speaker, I must agree with the gentleman that this is an absolute outrage, that we are called upon to vote for a rule and to approve with a single vote five nongermane amendments. Those five amendments represent enormous decisions and enormous sums of the taxpayers' money which we are agreeing to proper consideration being given by this body.

I certainly subscribe to the gentleman's statement. I think the rule should be defeated out of hand.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I understand that the sticking point on the social security conference was indeed the tax credit for education. I take this time to ask the distinguished chairman of the Committee on Ways and Means, if I could have his attention, this question:

I understand that in connection with the social security conference, commitments were made on the tax credit for education, and I would wonder if the distinguished chairman of the Committee on Ways and Means could explain those commitments.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, there were no commitments. Commitments were offered in the process of trying to resolve the issue at an earlier date, but when we finally concluded the matter on last Friday there were no commitments made except this: That I stated that this is an issue which was one that had to be faced up to by the Congress in an orderly manner.

Certainly the chairman of the Committee on Ways and Means was going to attempt to be as responsive to the issue as he could and act appropriately. We will be able to hold hearings and proceed in an orderly manner in the consideration of the alternatives.

Mr. COUGHLIN. Mr. Speaker, could the distinguished chairman of the committee tell me when the hearings will take place? Is it possible that hearings could be held in January on the subject of educational tax credits?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, let me state that I made no commitments beyond what I have revealed.

Mr. COUGHLIN. Mr. Speaker, whether or not any hearings would be held on the subject of a tax credit for educational purposes, is it possible that there is a commitment to bring this to a vote on the floor of the House?

Mr. ULLMAN. No, there was no commitment.

Mr. COUGHLIN. It seems to me, Mr. Speaker, that since this tax credit for education has been under consideration by the Committee on Ways and Means for at least 7 years, to my knowledge, it is high time that it be brought to the floor for a vote.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 2 minutes for the purpose of addressing a question to the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

I have just been informed that in a commentary that was carried this morning on one of the national networks very serious charges of incompetence were made against some of the administrative law judges who are included in the nongermane Senate amendment on which we are waiving a point of order under this rule. Some of those people were challenged as being incompetent, and under this amendment they would be frozen into lifetime jobs at even a higher salary than the one they now enjoy.

I wonder if the committee chairman has heard that report or if any discussion of that matter was had in the conference committee when this amendment was adopted?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, let me inform the gentleman that I did not hear the report. I have no knowledge and no information whatsoever as to the charges that were levied. As far as I am concerned, there is certainly no validity to them at this point.

However, let me say that this is a matter that has been too long delayed. We have fallen too far behind in our hearings. I believe we have now established an orderly procedure for meeting the issue. We have delayed our actions as to the positions of these judges, and this bill merely says that they shall be converted to regular administrative law judges.

Relative to the ALJ provision in the bill, I would like to correct a distortion of our committee report—House Report No. 95-617, part 1—which was made at the Rules Committee this morning. It was stated that we are blanketing-in a bunch of incompetents and that the Ways and Means Committee report so acknowledges this. So for the purposes of the RECORD I would like the full report put in the RECORD to put the legislation in the proper perspective:

CONVERSION OF TEMPORARY ADMINISTRATIVE LAW JUDGES

PURPOSE AND SCOPE

The purpose of H.R. 5723 is to convert to regular Administrative Law Judges (ALJ's) the temporary ALJ's who were appointed under Public Law 94-202 to hear cases under title II, XVI, and XVIII of the Social Security Act through 1978. These hearings officers have been conducting hearings under the provisions of the Administrative Procedure Act (APA) in the same manner as regular ALJ's. It was the intention of your committee in 1975 that they generally would be converted to the same status, tenure, and compensation as regular ALJ's. Moreover, such a development is highly appropriate since they are doing the same work as regular ALJ's in an equally effective manner.

GENERAL DISCUSSION

This legislation is necessary because the Civil Service Commission has disregarded the legislative intent of Public Law 94-202, clearly expressed in the reports of the Ways and Means Committee and the Senate Finance Committee, that these hearings officers would be expeditiously converted to regular ALJ status with "great weight" being given to their extensive experience adjudicating the social security definition of disability. After over 19 months only a handful of hearing officers have been appointed to regular positions and not many more are on the Civil Service Commission current register. The turn down rate of temporary ALJ's by Civil Service is about 50 percent. This has very adversely affected the morale of this group of hearing officers at a time when the backlog of hearings cases is increasing. They are greatly concerned that their appointments will expire before they are qualified by the Civil Service Commission and have reason to feel discriminated against in that they are paid at a lower rate for work comparable to that of regular ALJ's.

One of the principal objectives of Public Law 94-202, signed by President Ford on January 2, 1976, was to make it irrefutably clear that Congress intended that SSI adjudications were under the Administrative Procedure Act and that SSI hearing examiners could hear all types of social security cases. The idea was that the Bureau of Hearings and Appeals in dealing with the "appeals crisis" should not be forced to operate within the straightjacket imposed by the 1973 Civil Service Commission's interpretation which the Ways and Means Committee and ultimately the Congress stated in enacting Public Law 94-202 was inconsistent with the intent of Congress when the SSI program was enacted.

The process of merit selection envisioned by your committee has not and is not taking place. The Civil Service Commission, Office of Administrative Law Judges, appears incapable of making a meaningful assessment of which of the temporary ALJ's would do effective jobs as regular ALJ's. Their current selection procedures are not so much based on a determination of an individual's ability, experience, and skills to do the job of a Social Security ALJ, but are based on (1) his previous GS-grade rating or his "status" as a private attorney as evidenced by the level of the court in which he may have appeared as counsel, and (2) a subjective evaluation of a skeletal rating form circulated to various former employers, judges, and counsel who have appeared before him.

The Civil Service Commission's latest administrative proposal to forestall this legislation does not address the basic reason that the temporary ALJ' are not qualifying for the appointment register—lack of credit for the actual adjudication of social security cases for a substantial period of time. This experience is the most valuable and pertinent in appointing regular Social Security ALJ's but it, contrary to the legislative history, has been substantially ignored.

Your committee regrets that it must bypass the Civil Service Commission's appointment procedures because they are incapable of dealing with this situation. However, the original HEW appointment procedures established in 1974 for the SSI hearing examiners were almost identical to those used by the Civil Service Commission under the APA. Your committee is aware that there is a very small group of ALJ(T)'s and regular ALJ's who are not producing the number and quality of decisions which will enable the Bureau of Hearings and Appeals to meet its statutory responsibilities. Your committee is also aware that no ALJ's have been removed for such reasons even though there have been numerous instances where either singly or in combination the following conduct has existed:

(1) Consistently bad decision writing which prevents proper award implementation;

(2) Lack of documentation of cases so that decisions are chronically decided on insufficient evidence;

(3) Blatant disregard to applicable law, regulation, and Social Security ruling; and

(4) A level of production of cases clearly inconsistent with the workloads and requirements of the Social Security program.

Your committee emphasizes that such conduct by a few individuals is not characteristic of the performance of the corps of Social Security ALJ's who are responding to the continuing appeals crisis in an exemplary manner. Your committee is also fully aware that the ALJ's independence from agency control must be safeguarded in accord with the provisions and spirit of the Administrative Procedure Act but "career-absolute" status is not a license for the complete neglect of a reasonable standard of conduct and job performance. The Chairman of the Civil Service Commission has written in answer to the question whether lack of productivity can be proper cause of adverse action by an agency:

The independence provided by the Administrative Procedure Act (the Commission classifies Administrative Law Judge positions and determines good cause for removal) is to safeguard the decisional process. Thus, apart from his decisional independence, the Administrative Law Judge is an employee of the agency, fully responsible and accountable for his conduct and performance of duty, and adherence to reasonable standards of production, if such standards have been established by the agency . . . "it should be the policy of all agencies to establish and enforce reasonable and realistic standards of performance in terms of work produced and time expended. Programs of this type dealing with standards and more effective case management have been established in a number of State and Federal courts. We are unaware of any impediment, legal or otherwise, to justify withholding the establishment and implementation of like programs from one class of employees."

The committee has been advised of, and supports the Bureau of Hearings and Appeals' position that failure to meet production goals will not be used as a basis of an adverse action, but that such action shall only be taken where an ALJ consistently fails to perform at a minimal level after proper warning is given and reasonable assistance is provided to increase productivity. The committee commends the Social Security Administration for its efforts and the success achieved in increased ALJ productivity but the agency must sustain quality by review of cases and adequate quality assurance.

The Civil Service Commission has indicated that it will take action against deficient ALJ's under the Administrative Procedure Act to remove "for cause" if charges are brought by the employing agency and they are sustained after a hearing. Although the Bureau of Hearings and Appeals maintains that such actions are "difficult and complex" they are in the process of preparing charges in a number of appropriate cases. This action is to be commended and encouraged.

ANALYSIS OF H.R. 5723

H.R. 5723 would provide that the hearing officers appointed under section 1631(d)(2) of the Social Security Act (as in effect prior to January 2, 1976) to hold hearings under the supplemental security income program who had been deemed to be appointed under and governed by the provisions of the Administrative Procedure Act of Public Law 94–202, shall be appointed to career-absolute ALJ positions as if they had been appointed under the Administrative Procedure Act, section 3105 of title 5, United States Code. They would have the same authority and tenure as hearing examiners appointed directly under section 3105 and be compensated at the same rate as Social Security ALJ's (GS-15). All provisions of the Administrative Procedures Act shall apply to them in the same manner as they apply to other Administrative Law Judges. The former temporary Black Lung ALJ's who were appointed as temporary ALJ's under the authority of Public Law 94–202 are fully covered by this provision.

MATTERS TO BE DISCUSSED UNDER RULES OF THE HOUSE

In compliance with clause 2(1)(2)(B) of rule XI of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was ordered reported by voice vote.

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of investigations conducted by the Subcommittee on Social Security and the Subcommittee on Oversight, your committee concluded that it would be desirable to enact this legislation.

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, your committee was advised by the Director of the Congressional Budget Office that since it was the intent of Public Law 94–202 that this conversion take place by this time any additional salary costs would have already been taken account of in the budget.

In compliance with clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made. Enactment of H.R. 5723 would not result in any new budget authority or increased tax expenditures.

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, your committee states that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, your committee states that this bill would not have any inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of the bill: The enactment of H.R. 5723 would not add to the cost of the social security program and should result in some saving to the program since the cost of hiring and training new hearing officers would be required without it.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in further response to the gentleman's query of the chairman of the committee, I think it needs to be said that the Committee on Ways and Means held hearings on this subject, and nothing of that nature of which the gentleman speaks developed during the course of those hearings. The committee did, without objection, report a bill that is designed to do exactly what the Senate amendment does, and it was for that reason the Senate amendment was agreed to.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Squirrelled away in section 371 of the conference report on H.R. 9346, the social security financing bill, is an early Christmas present for about 150 employees at the Social Security Administration: lifetime jobs as GS–15 administrative law judges (ALJ's) starting at $36,171 per year.

There are quite a few reasons why section 107 deserves quick excision from this bill:

First. There is a bill, H.R. 5723, which is identical to section 371. This bill was jointly referred to the Committees on Ways and Means and Post Office and Civil Service. Ways and Means reported the bill as introduced. Our committee amended the bill and had not only a report but two sets of other views upon it. Maybe the fact that we had hearings on the bill had some bearing on this diversity of opinion. Unfortunately, if the House adopts section 371 you would not have a chance to explore these alternatives.

Second. The administration opposes the section.

Third. It is a disservice to all present permanent ALJ's who have met the rigorous testing and experience requirements for their job—18 of the 150 have not even applied for the permanent ALJ slots.

Fourth. It is an unprecedented attack on the merit system. The next time constituents tell you they cannot qualify for a Federal job, tell them you have just voted to give 150 people what amounts to lifetime Federal jobs.

Fifth. It is an unkind job at the Administrative Procedures Act (APA). Congress set up the APA and the independent ALJs who conduct its hearings to assure that due process would be granted to petitioners by qualified and independent people. People who have to be legislated into jobs are not qualified, nor are they very independent. Moreover, we fear the problems which would be caused when, under the toration requirements of the APA, which, to preserve their independence, move ALJ's among the agencies these ALJ's would begin to handle natural gas rate cases, truck route certification cases, or any other administrative action under the APA.

Sixth. It is not going to solve the disability caseload at the Social Security Administration under the SSI program. Take a look at the GAO report entitled "Problems and Progress in Holding Timelier Hearings for Disability Claimants" (October 1, 1976, HRD–76–173) if you think the answers to this problem are simple. A year from now, when your constitutent are still complaining about their SSI case delays, tell them you already solved their problem by giving 150 SSI ALJ's pay increases.

Seventh. We think that getting Congress into the business of giving out civil service jobs in the executive branch deserves a bit more consideration than an end of session amendment in a conference report. We urge you to join us in rejecting section 371 so that the matter may be given its proper and deserved debate in connection with H.R. 5723.

Mr. Speaker, I feel this morning a little bit like the skunk at the garden party. I rise to ask the Members to vote against this rule, and I take this position partially because of this administrative law judge issue we are talking about.

This issue was originally referred jointly to two committees, both the Committee on Ways and Means and the Committee on Post Office and Civil Service. We have just heard the gentleman from Louisiana (Mr. WAGGONNER) refer to what happened in the Committee on Ways and Means on promotion of the temporary administrative law judge issue, but in the Committee on Post Office and Civil Service, after long hearings, we came up with a different solution.

We were very surprised, after we had written the conferees and asked them not to squirrel this section away in the conference report, that the conferees went ahead and did it anyway.

I attempted to get a rule so that we could strike this from the conference report, but we were not able to get it. This section is clearly not germane to the bill as it originally came through the House.

This is an issue that has been present for a long time, and the Members will hear many different things said about it. Let me try to give the Members a little background as to what happened.

As we know, there was a backlog of cases in the Social Security Administration, and so they did appoint these temporary people at GS–14 levels. They can go up to GS–15, if they file and qualify; but like everyone else, many of them have applied, some are now GS–15's and some of them have not even applied.

However, what this bill would do is that it would automatically promote all of them to GS–15's where they are qualified and give them lifetime tenure as administrative law judges.

Mr. Speaker, it would be the first time in the history of this Congress that we have made an end-run around the merit system and promoted people automatically.

A lot of people have said that this is necessary because Civil Service has pushed these people around for a long time. They are right; Civil Service did push these people around for a long time. The only thing is that we now have a new Civil Service Board. We have been working very hard with them. None of these temporary people's tenure run out for another year. Therefore, there is no need to do this in the haste of the last minute. The new Commissioners are working on the problem. They are now going to give the temporaries seven points for their experience as temporary ALJ's.

Mr. Speaker, I think that is going to work out very nicely. Therefore, there is no need for the haste. Those who are qualified will be promoted.

Second, it will not do anything really about the case backlog. It does not add any new numbers whatsoever. It keeps the same numbers. It just gives the temporaries an automatic promotion without any qualification.

Third, there has been some question as to whether or not the people were qualified. Some of them obviously have not felt qualified because they have not even applied for the promotion. Maybe some are and maybe some are not; but if we make an end-run around the merit system and say that all of them automatically become GS–15's, even if some of them may not be qualified and may not be doing a good job, I do not think this House is doing anybody a great favor.

Mr. Speaker, one of the things that has happened in the past was that all of these agencies started to want more and mort supergrades, so this House started to add new supergrades in all sorts of places.

I see this the opening of a new loophole. Many will demand promotions no matter where they come from, and they can always say that if we do not promote them, they will not administer properly. Therefore, we will always have to make an end-run around the Merit System if the bill as it stands now, passes and creates this new precedent.

For example, Mr. Speaker, let us take airports. We can see this coming in airport legislation, with people saying that if we do not promote all the air-traffic controllers, they cannot administer the act properly, so forget the merit systems.

I am dismayed that we did not get a rule which will allow us to make a point of order against this section, thereby allowing the Committtee on Post Office and Civil Service to bring its bill to the floor on a joint referral from the Committee on Ways and Means so that we could discuss it and have the House make a decision about which way it wanted to go on this matter.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to remind the gentlewoman from Colorado (Mrs. SCHROEDER) that the whole thrust of this legislation is to clean up the backlog of over 90,000 disability cases. It was as high as 113,000, and we are trying to pare that down.

It has been the result of the roadblock operation of the Civil Service Commission which has prevented those people who are entitled to hearings from being heard. It is a scandal in this country that we have totally disabled people who never even get a chance to be heard. They leave this world; they die after 18 months or so, and they never get a chance to have their cases acted upon.

Mr. Speaker, I think our moral judgment here was right and that we have to give these people a chance to be heard.

I can agree with a lot that the gentlewoman says. However, the important thrust is to give these people a chance to be heard right now. The Civil Service Commission has blocked them at every turn.

The SPEAKER pro tempore. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

Mr. PEPPER. Mr. Speaker, I yield 1 additional minute to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I might respond to the gentleman from Massachusetts (Mr. BURKE)—and I know he has really been concerned about this matter—that he is right in saying that the Civil Service Commission in the past has given these people the runaround. However, there is a new Civil Service Commission, and they have been working with us. In 10 months we cannot turn everything around, any more than we can turn everything around overnight.

Second, Mr. Speaker, this creates no new positions. It really does not help us with the backlog. It keeps the same number of positions, and promotes them automatically.

Mr. Speaker, I think we should be allowed to deal with that problem on the floor in the future and not in this bill.

Mr. ROUSSELOT. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentlewoman for yielding.

I think the point should be reemphasized that by forcing the House to take the language of the administrative law judge section and to include it in the social security bill, we will be voting, by voting for this rule, to automatically promote people who have not even applied to be promoted.

Mrs. SCHROEDER. The gentleman is correct.

Mr. ROUSSELOT. I think this makes Congress look absolutely silly. We look silly enough often enough without accepting this kind of rule, which is wrong for many reasons. I too urge the House to vote down the rule.

Mr. PEPPER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, the conference report on H.R. 9436, social security financing, would impose greater increases in the social security tax than either the House-passed bill or the Senate-passed bill. I will vote for the rule and for the bill, but only with great reluctance and only because we have been offered no alternative for insuring the continued funding of social security. We all know that the social security tax is indeed a tax, not a form of insurance, and that the tax falls heaviest on lower- and middle-income working people.

I think it is a poor way to make tax policy, to say the least, for the Congress to increase this regressive tax before having any clear idea what kinds of cuts it is going to make in the personal income tax to offset the economic drag of the social security tax increase. We could well end up with tax reform in reverse.

For example, if, to offset the $20 billion increase in social security tax, we enact an across-the-board cut in income tax rates, those who would benefit most are the very ones who pay the smallest proportion of their incomes into the social security system. That kind of income tax cut would be a windfall benefit to those workers—1 out of 10—who do not pay any social security taxes. Worst of all, such a cut will not insure that the money would go back to those paying the increased social security tax, and it could even bring about a redistribution of income from the great majority of working people to those who are in the upper-income groups.

By approving this conference report, we will be passing up a golden opportunity to work some real reform into the social security financing system. Realistically, any such reform will probably involve financing part of the present benefits out of the general revenues of the government. If an income tax cut to offset the increased social security tax is eventually approved, as indeed seems inevitable, we will, in effect, be using general revenues to keep the system solvent. Continuing the pretense that social security is only being funded by means of the payroll tax and not by dipping into the general revenues will fool few people. Unfortunately, however, it will keep Congress in a "straitjacket" as far as developing more rational tax policy is concerned.

In 1975, Congress enacted a temporary earned income credit which, according to the Ways and Means Committee report, is intended "to offset the impact of the social security taxes on low-income persons." Mr. Speaker, the tax increases in this bill are so enormous and will be so burdensome to lower- and middle-income working people that it is way past time to start considering how we are going to give them relief without making the tax structure more regressive.

With that in mind, I am today introducing legislation to make the earned income credit permanent and to expand on that approach by providing an income tax credit which in 1979 and 1980 will equal up to 11 percent of social security taxes paid, in 1980 and 1981 up to 22 percent of social security taxes paid, and in 1983 and thereafter up to 33 percent of social security taxes paid. This credit would be reduced one-half percent for each $500 or fraction thereof by which a worker's income exceeds the wage base subject to the social security tax. A worker now earning $16,500 (the present wage base) or less would receive the full credit—equal to 33 percent of his social security tax. A worker earning $20,000 would receive a credit equal to 29.5 percent of his social security tax, since his earnings exceed the current wage base by $3,500. Under this proposal, workers currently earning over $49,000 would receive no income tax credit in 1977 for social security tax paid. If the employee's income tax obligation is less than the amount of the credit, the difference would be refundable to the employee, as is the earned income credit, and workers eligible for both could elect the larger of the two.

As the wage base subject to the social security tax goes up, so would the maximum dollar amount of the credit. However, the credit would still be reduced at the same rate where earnings exceed the wage base and would always phase out completely when earnings exceed the wage base by more than $32,500. The reason for the gradual reduction of the credit for those whose earnings exceed the wage base is to introduce an element of progressivity and to avoid carrying over the nonprogressive character of the social security tax into the income tax system.

Employers would be authorized by the bill to reduce employees' income tax withholdings by the amount of the social security tax credit, so that the money would never leave the employees' paychecks or the economy.

Mr. Speaker, the original drafters of the social security system envisioned that general revenues would eventually be necessary for social security funding. Many countries with social insurance systems like ours provide for some general revenue funding, and it is time for the U.S. Congress to face its responsibility in this area. My income tax credit is one approach. Our esteemed colleague JAMES BURKE, who chairs the Social Security Subcommittee, has proposed another, which would have employers, employees and the government each pay one-third of the cost of social security. This would not only relieve both employees and employers of part of this tax, but would stimulate economic recovery by reducing employers' costs for labor. A third possibility would be to remove the funding of disability benefits and health insurance from the social security trust fund and pay for them from the general revenues.

So there are several choices, but choose we must. The country should not and, I believe, will not long tolerate continued increases in the social security payroll tax.

Mr. PEPPER. Mr. Speaker, may I just say this word in conclusion. This rule is exactly the rule requested of the Committee on Rules this morning by the distinguished Committee on Ways and Means. I am sure every Member of this House is aware of the obstacles and the problems which have had to be encountered by this distinguished committee of this House in trying to present to us today this conference report which this rule will permit us to consider. So I hope this House will adopt this rule permitting us to vote on the social security conference report, a matter for which we have come back here today from all over the country, and a measure which, if adopted, will mean so much to our fellow citizens.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of the provision in this measure that converts temporary administrative law judges to permanent law judges. I think it is a sound addition to this proposal. The temporaries were created to rid ourselves of the long and heavy backlog that has accumulated on social security disability hearing calendars. The temporaries were appointed to clear that backlog. They are doing work comparable to the permanent administrative law judges. They are not being certified because of the laxity of the Civil Service Commission in addressing itself to this problem. These administrative law judges are urgently needed. The temporaries are doing effective and diligent work in a competent manner. The status problems should have been resolved by the procedures set up under the prior law that was adopted during the administration of President Ford. It has not been done and we are still confronted with a growing case backlog of disability claims waiting to be heard by the Social Security Administration. The only effective way or way to break up this logjam is by this legislation.

The unquestionable need for converting these temporary hearing officers to permanent ALJ status was underscored in hearings on H.R. 5723 before the Committee on Post Office and Civil Service, of which I am a member, and the Committee on Ways and Means.

H.R. 5723, as introduced by the distinguished chairman of the Subcommittee on Social Security, the gentleman from Massachusetts (Mr. BURKE), provides that individuals who were originally appointed as supplemental security income (SSI) hearing examiners under pre-1976 provisions (Public Law 94-202) of title XVI of the Social Security Act be converted to regular administrative law judges.

In hearings before the Committee on Post Office and Civil Service I underscored the fact that the intent of Public Law 94-202—which created the position of temporary hearing officer—was to convert these hearing officers to the same status, tenure, and compensation as regular ALJ's. Expeditious conversion is exceedingly appropriate when we consider, as the material our committee received pointed out, that these temporary hearing officers are executing their duties as effectively and responsibly as regular ALJ's.

Unfortunately, the Civil Service Commission has not provided these individuals the opportunity for security and advancement they were initially promised. After more than 19 months since enactment of the above statute, only a small handful of the 189 temporary hearing officers have been appointed to permanent ALJ positions.

Despite a current backlog of over 83,000 SSI cases awaiting action—a backlog which was much higher but which has been whittled down by the determined efforts of these temporary hearings officers—the Civil Service Commission has failed to recognize the substantial contribution made by these hearing officers.

Presently, we are confronted with a demoralized corps of temporary hearing officers who rightfully feel that they have been discriminated against because they are paid at a lower rate for work comparable to that performed by permanent ALJ's. Their concern is compounded by the fact that they fear their appointment will expire before the Civil Service Commission qualifies them for permanent ALJ status. "Great weight," as Public Law 94-202 intended, has not been given to the extensive experience these proven hearing officers have received in adjudicating social security related disability cases.

As a cosponsor and firm supporter of H.R. 5723, I have consistently urged that we remedy the serious shortcoming suffered by these temporary ALJ's, and have fought attempts to weaken the well-reasoned and equitable provisions of H.R. 5723 as originally introduced.

Accordingly, I urge my colleagues to support this provision of the conference report on H.R. 9346, converting temporary hearing officers to permanent ALJ status. In this manner, we can reinstill confidence and an esprit de corps within this dedicated body of individuals who are now understandably preoccupied with consideration of their uncertain future.

Accordingly, I urge my colleagues to support this rule on this measure in order to remedy this delayed justice for our disabled.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STEIGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 178, nays 175, not voting 81, as follows:

[Roll No. 780]

YEAS—178

Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Annunzio
Applegate
Ashley
Baldus
Beard, R.I.
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Carr
Chisholm
Clay
Collins, Ill.
Corman
Cornell
Cornwell
Cotter
Daniel, Dan
Danielson
Delaney
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fisher
Flood
Florio
Foley
Ford, Mich.
Fowler
Fraser
Gaydos
Gephardt
Giaimo
Gilman
Glickman
Gonzalez
Gudger
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Heftel
Hightower
Howard
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
LaFalce
Lederer
Leggett
Lehman
McCormack
McDade
McFall
McHugh
McKay
Mahon
Mann
Markey
Mattox
Mazzoli
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pepper
Perkins
Pickle
Preyer
Price
Rahall
Rangel
Reuss
Richmond
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Scheuer
Seiberling
Sharp
Sikes
Simon
Slack
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Steers
Stokes
Stratton
Studds
Thompson
Tucker
Ullman
Vanik
Vento
Waggonner
Walgren
Waxman
Weaver
Weiss
Wilson, Tex.
Wright
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—175

Abdnor
Allen
Anderson, Ill.
Andrews, N.C.
Archer
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Caputo
Carter
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Crane
Cunningham
D'Amours
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Flippo
Flowers
Flynt
Fountain
Frenzel
Frey
Gibbons
Goldwater
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hammerschmidt
Hansen
Heckler
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jeffords
Johnson, Colo.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Leach
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Luken
McClory
McDonald
McKinney
Madigan
Marks
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Gary
Myers, John
O'Brien
Oakar
Pease
Pressler
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Robinson
Rousselot
Rudd
Sarasin
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Shuster
Skelton
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steiger
Stockman
Stump
Taylor
Teague
Thone
Thornton
Treen
Trible
Vander Jagt
Volkmer
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wirth
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—81

Andrews, N. Dak.
Armstrong
Aspin
Badillo
Baucus
Bedell
Beilenson
Bolling
Bonker
Breaux
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Cavanaugh
Cederberg
Chappell
Conyers
Dent
Dickinson
Fary
Fithian
Ford, Tenn.
Forsythe
Fuqua
Gammage
Ginn
Hall
Harkin
Harsha
Hefner
Ichord
Koch
Krebs
Le Fante
Lent
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McEwen
Maguire
Marlenee
Mathis
Meeds
Metcalfe
Mollohan
Myers, Michael
Neal
Nix
Panetta
Pettis
Pike
Poage
Pursell
Quie
Rinaldo
Risenhoover
Runnels
Ruppe
Ryan
Santini
Shipley
Sisk
Smith, Iowa
Symms
Traxler
Tsongas
Udall
Van Deerlin
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Yates

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Burleson of Texas against.

Mr. Metcalfe for, with Mr. Pike against.

Mr. Neal for, with Mr. Cavanaugh against.

Ms. Burke of California for, with Mr. Lundine against.

Mr. Baucus for, with Mr. Santini against.

Mr. Traxler for, with Mr. Chappell against.

Mr. Le Fante for, with Mr. Panetta against.

Mr. Risenhoover for, with Mr. Andrews of North Dakota against.

Mr. Ford of Tennessee for, with Mr. Cederberg against.

Mr. Conyers for, with Mr. Forsythe against.

Mr. Nix for, with Mr. Lent against.

Mr. Koch for, with Mr. Marlenee, against.

Mr. Badillo for, with Mr. McEwen against.

Mr. Mollohan for, with Mr. Ginn against.

Mr. Beilenson for, with Mr. Runnels against.

Mr. Breaux for, with Mr. Fuqua against.

Mr. Carney for, with Mr. Pursell against.

Mr. Fary for, with Mr. Winn against.

Mr. Long of Louisiana for, with Mr. Armstrong against.

Mr. Meeds for, with Mr. McCloskey against.

Mr. Van Deerlin for, with Mr. Wiggins against.

Mr. Charles H. Wilson of California for, with Mr. Dickinson against.

Mr. Yates for, with Mr. Burke of Florida against.

Until further notice:

Mr. Aspin with Mr. Gammage.

Mr. Bedell with Mr. Bob Wilson.

Mr. Bonker with Mr. Udall.

Mr. Burlison of Missouri with Mr. Rinaldo.

Mr. John Burton with Mr. Whalen.

Mr. Phillip Burton with Mr. Dent.

Mr. Fithian with Mr. Hall.

Mr. Harkin with Mr. Harsha.

Mr. Hefner with Mr. Ichord.

Mr. Krebs with Mr. Long of Maryland.

Mr. Maguire with Mr. Lujan.

Mr. Ryan with Mr. Mathis.

Mr. Shipley with Mr. Michael O. Myers.

Mr. Sisk with Mrs. Pettis.

Mr. Smith of Iowa with Mr. Ruppe.

Mr. Tsongas with Mr. Symms.

Mr. WEAVER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, pursuant to the provisions of House Resolution 937, I call up the conference report on the bill (H.R. 9346), to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 14, 1977.)

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no such thing as an easy way out of the social security dilemma. There are not going to be any more easy votes on social security. The fund is not insolvent, as a lot of people have said, but there are some decisions that have to be made to keep it from being insolvent, and those decisions are not easy decisions. Those who would tell us that there is some easy way to solve the social security problem are not telling us the way it is.

So we bring before the House a conference report that has been extremely difficult to achieve, but one that I think responsibly faces up to the issues of social security, both short range and long range.

Mr. Speaker, let me give the Members some reasons why they should go home with a vote in support of this conference report.

First, the critical issue is: Are we keeping the fund solvent, or are we letting it go into insolvency?

If the Members vote against this bill, they are voting for insolvency for the social security fund, because that is the way it is going. There are not going to be any easier answers next year than there are now. It puts us in a surplus posture in social security for the next 25 years.

It does away with about 90 percent of the long-range insolvency.

Mr. Speaker, let me give the Members some other reasons for their support. In this conference report we provide a decoupling formula, and that is something that had to be done. If we do not face up to the problem of the cost-of-living formula that is getting us into long-range insolvency, we are going to be in real trouble down the road. In this conference report we resolve the problem of decoupling.

In this conference report we increase the outside earnings limitation from the existing amount of $3,000 to $6,000 over a period of 5 years for those 65 and over. A year ago no one would have thought that we could do that, but, as I say, we are providing for a significant increase in allowable outside earnings. That is something that the Members can take home. That is something the Members ought not to be voting against, believe me, when they go home and talk to their senior citizens.

We are also moving on the issue of exempting altogether our senior citizens from any ceiling on outside earnings by reducing the 72-year age limit to 70. In this bill we are saying that by 1982 anyone who is 70 years of age or older can have unlimited outside earnings and still draw social security benefits.

I would not want to go home and be recorded as having voted against that provision, because that is extremely important to our senior citizens. That is something that none of us thought was possible to achieve even a year or so ago.

There has been a great hue and cry about doing away with the 50–50 or parity in the taxable wage base between employers and employees. In the House version we stood firm on the 50–50 formula. The Senate, however, adopted a higher employer tax, and this was a hard-fought issue. The President was in support of an unlimited employer tax. I was strongly opposed to it.

We won this issue in conference. We have retained the 50–50 formula, and that is an exceedingly important issue. It is a victory for the House, and it is an issue on which we can go home and say to every businessman up and down the street, "We won this battle, and having won it now, we are not going to be faced with it again in the immediate future." That is the message I believe we would all want to take home to the business people of our communities.

We also won the battle against general revenues. As all the Members know, from many sources from the administration on down there had been a big push toward the idea of general revenues. I am opposed to general revenues, and I will have something more to say about that in a minute or two, because I am not satisfied that our existing financing formula is as it should be. But the answer is not general revenues. We won that battle. There are no general revenues for the social security system in this bill.

There are three key issues facing us. They are issues that we must resolve in the not-too-distant future. We have set up very responsible study procedures in all three areas.

One of these issues is, of course, in the area of universal coverage, coverage of Federal, State, and local employees. In the Fisher amendment, which we retained in conference, we have provided a study, and under that study they must report back within 2 years a sound procedure to cover public and nonprofit employees under social security without doing them any harm. That is exceedingly important.

We have retained in the conference report the Jenkins amendment, which sets up a National Social Security Commission that is to look far beyond the issues being studied by the present advisory group. That Commission is going to look at every aspect of the long-range social security problem and come back to us within 2 years with some long-range recommendations.

I intended to appear before that Commission and make some recommendations as to financing, and I will get to that issue in a moment.

Mr. Speaker, a third study has to do with the problem of sexual discrimination. We need an authoritative, far-reaching, all-inclusive study by a competent group; and we have that in this package. That will come back within 6 months so that we can face up to the issue of sexual discrimination in a way that is responsible rather than through the kind of hit-or-miss operations that we have seen going on in the courts.

Mr. Speaker, I do not like the increase in payroll taxes any more than any other Members do. At the present sitting we have no alternative. We have brought before the House a conference report, however, that has no increases in 1978, either in tax or in base.

In 1979 we go back to the House formula on base increases. We have a very minor rate increase. Then after 1982 the usual automatic increases in the base will continue.

However, let me say this: A few years ago there was a great deal of talk of not wanting to go beyond an overall of 10 percent on payroll taxes. I concurred then, and I concur now. My judgment is that we should come back to that figure.

Mr. Speaker, I want to assure the Members of the House today that if we bite a hard bullet now and do the responsible thing and vote for this bill and keep the system in a position of solvency so that we can have time to work in a reasonable and studied atmosphere, it will be the intention of the chairman and of the Ways and Means Committee, if I remain as chairman, to move toward an alternative financing mechanism in social security so that we can back off on social security taxes. That is the way it has to be done. We simply cannot vote down a social security package when the fund is being depleted and go home and say that we have responsibly faced up to our responsibilities in social security legislation. Just keep in mind that a bigger and bigger block of our constituencies are senior citizens who have to depend upon social security as a major part of their retirement program. This bill will make sure that they have benefits when the day comes that they need them.

In addition, this also equally goes for all of those who are working now. They come to me and say, "Will there be funds in the social security system when I retire?"

Mr. Speaker, I want to say that if the Members vote for this bill, they can say, "Yes, there will be funds in the social security system when you retire."

If we vote against this bill and it fails, we cannot go home and say to either the people who are working or to the people who are on retirement and count on that check to keep them living, that we have acted responsibly.

Mr. Speaker, I make a plea to all of the Members. Let us vote for this bill, which is the best that we can achieve. If we put it off until next year, there are not going to be any easy answers then. We have looked at all of them. We have looked at all of the alternatives. Let us not kid ourselves that we can come back next year and find some easy answer. It is not going to be there. We may have to do something even tougher than this if we wait longer.

Therefore, Mr. Speaker, I make a plea that the Members vote for this package now. Then they can go home and tell their constituencies, "The fund is solvent. Those moneys will be there when you retire." The Members can also tell them that the chairman of the Committee on Ways and Means has assured them publicly that he will move as expeditiously as possible, certainly within the next 5-year timeframe, toward adopting a new revenue mechanism whereby we can back off from these major increases, but the problem that some are talking about is down the road, 5 or 6 or 8 or 10 years from now, not now.

But before the big bite takes place I want to assure the Members that we will be able to come in with a better financing mechanism. We will be able then to bring the payroll tax into a more reasonable posture.

So, Mr. Speaker, I rely on the good judgment of the Members to stay with us and vote for the best package it is possible to achieve now and the best package that it will be possible to achieve next year or the following year, and then let us attempt to face up to these long-range issues.

We have the three studies going that will result in many recommendations. We also will have the commitment from the chairman of the committee that we will move to alternative financing.

So I certainly make the plea to the Members: Let us vote for this conference report which is reasonable and which does put the social security system back into a condition of solvency.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Speaker, do I understand the distinguished gentleman in the well to say that under the conference report that neither the tax rate nor the tax base is increased by so much as one penny next year?

Mr. ULLMAN. Not one penny more than existing law.

Mr. ALLEN. In other words, if we do not pass this act today we are not going to impair the revenues that will be going into social security next year by 1 cent; is that correct?

Mr. ULLMAN. That is correct except that we will be failing to face up to the issue of decoupling which is critically important at this time and simply delaying the implementation of outside earnings' liberalization which is very important to the gentleman and all of the rest of us, and failing to do a number of other things that need to be done that are part of this reform package.

Mr. ALLEN. If the gentleman will yield still further, what I am wondering about is why, if this is not going to take care of an immediate financial deficit in the social security fund, and if we are not going to have any more money in that fund next year, why, in other words, if this bill did not pass at this time, why this could not have been delayed until January or February and have it considered in a more orderly fashion and in time to take care of these other things we have to face?

Mr. ULLMAN. I would say to the gentleman, it is simply because the social security system requires a long lead time. The trust funds are getting rapidly to a posture of insolvency and if we do act now so as to begin turning it around, we are going to be in a very serious deficit posture. The Disability Fund may run out of money early as the end of next year. The economy would not have to turn down very much in order to get those funds into total insolvency. It seems to me that this is something that no Member of this Congress can afford to delay because we are running into the very serious chance that that might happen.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The Chair would like to advise the gentleman from Oregon (Mr. ULLMAN) that he has consumed 16 minutes.

Mr. ULLMAN. Mr. Speaker, I yield myself 1 additional minute and I yield to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, because of the differences between the House drawn bill and the Senate bill, there is something that disturbs me, and that is that the Senate provides, as I understand, that an existing civil service retiree's dependent will have an offset of her benefits from the social security system if she is receiving civil service retirement. As I understand, the conferees came back and gave a 5-year moratorium on this, but for those who do not come under the 5-year moratorium, that is during those 5 years they are in effect losing the benefits of the social security taxes that they put in for the early part of the year or during their work period.

Mr. ULLMAN. Only the people who have not had it in the past. The court decision put a lot of new people in. Those people who are newly brought in will come under the offset but those people who were eligible or who will be eligible in the next 5 years will not. Remember, we are only talking about the spouse's benefit. We are talking about a situation where a social security retiree has a wife who gets a spouse's benefit. If that spouse in turn has a Federal or a public retirement income, that will be offset. This was what the Senate amendment provided.

Mr. WHITE. This is strictly for new category people who have never been in it before.

Mr. ULLMAN. The Goldfarb decision made an awful lot of new people eligible for husbands' and widowers' benefits and what this provision does is it keeps the new people from going on, but for those people who were eligible under the old system, we have delayed the implementation of this for 5 years. Anybody who becomes eligible in 5 years, will get an exemption from this inclusion and will be able to draw both.

Mr. WHITE. Let me give the gentleman a quick hypothetical to be sure I understand. A person has worked in private employment prior to going with the Federal Government. He has built up a social security system fund, that is, he has been paying in so he has his quarters in and would be eligible upon his eventual retirement. When that person retires, or say that person dies, his survivor would be entitled to his social security retirement. Does he also have an offset against his social security?

Mr. ULLMAN. For the individual involved, if he had both retirements, it does not impact him at all. He can draw both his public pension and social security.

Mr. WHITE. After 5 years.

Mr. ULLMAN. But we are only talking about the spouse, in a case where the spouse also has a retirement. She worked, and she has a retirement from either the Federal or local government. Her husband retires. She would normally get the spouse's benefit. We are saying she can still get it. If she is eligible at the end of the year or if she becomes eligible within 5 years, she can still get it. So what we have done is delay the implementation to that extent. I think the gentleman will find this has taken care of most of the problems. We fought hard in the conference to eliminate this provision altogether. We could not win, but we modified it in a way that will take away most of the impact and correct most of the inequities that would have resulted.

Mr. CONABLE. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, let us not delude ourselves—or anyone else—on this social security conference report.

The other body has approved it, and apparently there are enough votes in this Chamber to send it to the White House for signature into law. It seems we are faced with a fait accompli.

Even so, it is important for every Member here to understand exactly what a vote in favor of this report really means.

Primarily, it means a monstrous burden not only on the 107 million American taxpayers who already are supporting the social security system, but on all future generations of contributors as well.

For those paying the maximum, it will cost an additional $6,257 over the next 10 years. That averages out to $52 per month per taxpayer over the decade.

In the aggregate, the report will increase payroll levies over the next 10 years by an estimated $227 billion, thus giving it the notoriety, if not the distinction, of constituting the biggest peacetime tax increase in our history. How's that for a budget-balance for the Government, and a budget-buster for the American worker?

Despite this enormous yield in new taxes, the report leaves the social security system actuarially imbalanced—with a long-range deficit averaging about 1.45 percent of taxable payroll. Translated into dollars and taxpayer impact, that means our children and our children's children will have to raise an additional $750 billion plus accruing interest to keep the system going to the middle of the next century.

Second, a vote for the report means a vote to depress the jobs outlook even further, at a time when the unemployment rate continues to hover around 7 percent. Any economist worth his salt will tell you that increasing payroll taxes cuts employment prospects, and it is axiomatic that the more you tax employment, the greater will be the magnitude of unemployment.

In commenting recently on the higher social security levies contemplated by the Congress, a Washington Post editorial writer noted:

> These next few years are going to be a particularly bad time for the Federal Government to impose this kind of tax on labor.

> Because of the very high birth rates in the 1950s and early 1960s, unprecedented numbers of young people will be pouring into the job market. At the same time women are increasingly looking for paid work outside their homes. The proportion of the American population actually holding jobs has never before been as high as it was in November, according to the Bureau of Labor Statistics. But the unemployment rate—still a painfully high 6.9 percent—is evidence that the number who want to work is even higher.
>
> Congress keeps saying that, as a matter of national policy, it wants those people on payrolls. Quite right. But in that case, it does not make much sense to put a stiff and steadily rising, tax on the payrolls.

I happen to agree with the thrust of that editorial. I also believe that a third result of a vote for this report will be a greater clampdown on capital formation. Again, economists tell us we need greater capital formation, not less, yet this conference report gives us a great deal less for many years to come.

Mr. Speaker, we keep hearing our fiscal cheerleaders mouth those familiar buzz words—"capital formation" and "jobs creation"—but when the legislative chips are down, we do little to encourage either, as the history of this legislation shows so well.

The massive payroll taxes embodied in this conference report simply are not necessary. We did not have to take this route to save social security.

More than 4 months ago, some of my colleagues joined me in presenting for the consideration of the Congress a comprehensive, 15-point proposal which would have achieved several important objectives. Most importantly, it would have solved the social security system's financial problems for at least the next 75 years without increasing the tax rate more than 1.2 percent on the employer and on the employee. The proposal also would have made a number of substantive improvements in the equity of the system.

Although several major newspapers praised it editorially, and a number of social security experts thought it worth considering, the proposal was not embraced by the Congress. I suspect, Mr. Speaker, that its lack of acceptance in this body can be traced to an unreasoning fear of its two most controversial points—those calling for social security coverage of Federal civilian employees and for gradual advancement of the eligibility age for full retirement benefits to age 68, starting after the turn of the century and not becoming fully effective until 2011—34 years from now.

Those two points were rejected this year, but I want to make a prediction, Mr. Speaker. I predict that both will return as issues, stronger than ever, in the not-too-distant future.

More than 100 million Americans are covered under social security—mandatorily. Some of them might not want that protection, but they are forced by law to have it. Some 6 million Americans—42 percent of them Federal workers—are not covered under social security.

The ratio is about 17 to 1. And it is becoming increasingly difficult for the "17" to understand why the "1" is not covered. An increasingly enlightened number of those who are mandatorily covered are wondering why, if social security is good enough for them, it is not good enough for a relative handful of government employees, including us. I would think that military employees of the Federal Government, who have been covered under social security for years, also wonder about that.

From our own point of view, it will be increasingly difficult, politically, to continue raising taxes for others and not for ourselves. It also will be increasingly difficult to continue the charade of keeping those who administer the social security system outside its coverage—without a personal stake in its financing.

For those reasons, Mr. Speaker, I believe that the issue of social security coverage for Federal workers is far from dead. It is just dozing, and will be wide awake again soon. Knowledgeable citizens resent the omission of civilian Federal coverage; knowledgeable Federal employees are beginning to realize the benefit to them of inclusion.

I also predict that the House eventually will have to face up to the issue of an advanced eligibility age for full retirement benefits. Americans not only are living longer, they are living longer productive lives. Older people are disenchanted with mandatory retirement policies and in the next century they are likely to be needed in greater numbers in the labor market.

A declining birth rate has assured us of a smaller work force in decades ahead, which means there will be fewer workers contributing to social security while more will be retiring and drawing benefits. The ratio of worker to beneficiaries is about 3 to 1 now. In another generation, it may be 2 to 1.

The demographics are clear, Mr. Speaker, and they point directly toward consideration of this issue. We should be honest about it, and not pretend we have avoided it. We cannot do that.

If we should decide to advance the eligibility age for full retirement benefits, we should make the decision to do it sooner rather than later. The fairest thing we could do, if we should decide to make this move, would be to give affected workers as much advance notice as possible. The most unfair thing would be to make such a decision years from now, when the social security system faces another financial crisis and there is no time for adequate warning.

I will make another prediction, Mr. Speaker. If we do not decide to make such an adjustment, we will be forced to turn to other avenues of financing.

Seven years ago, my Republican colleagues and I on the Ways and Means Committee warned:

> We simply must remember that the income . . . a worker can . . . devote to future contingencies is limited by his ability to meet the immediate needs of his family. If the cost of social security cuts too deeply into daily living requirements, people will begin to make unfavorable comparisons between current costs and distant benefits. If the time ever comes that current workers are unwilling to bear the cost of providing benefits to current retirees, the social security system will be in real danger . . .

That warning, if not prophetic, was at least appropriate.

If we have not reached that danger point yet, we will—by taking the direction of this conference report.

I am convinced that we cannot continue to use the payroll tax to do all that we want to do with social security.

A leading alternative is, of course, the use of mythical general revenues. The Treasury is in heavy deficit, so what we really mean by general funding of social security are huge borrowings by the Treasury, which increase our public debt and ultimately lead to inflation and higher taxes for all.

Another alternative is to treat the medicare program realistically and divert at least half of the taxes now used for that purpose to the old-age, survivors, and disability insurance trust funds. Those two trust funds pay social security benefits based on wage-related contributions. The programs are actuarially based.

This is not the case with medicare. Although part A of medicare, which pays hospital costs, is financed entirely through the payroll tax, the program is not actuarially based. One does not benefit from it according to one's contributions, but according to one's medical needs.

It should be noted that part B of medicare, which pays for physicians' services, never has been financed through the payroll tax. Initially, the cost was borne half through premiums paid by participants and half through general revenues. Now, general revenues account for some 65 percent of part B expenditures.

If general revenues are to be used to help "bail out" the social security system, then I suggest the sound way to do it would be to divert half the medicare taxes to the "real" social security programs, and replenish the hospital trust fund from the Treasury. This would put the OASDI, or cash benefit, programs on a sound financial basis virtually indefinitely, without requiring any tax increases above present law levels.

This proposal was the essential element of the Republican motion to recommit the Ways and Means Committee's social security bill on the floor of the House October 27. The motion failed, 363 to 57.

Nevertheless, I predict that proposal, too, will make a comeback.

One final prediction, Mr. Speaker: I hope no one thinks the proposal for a tuition tax credit, which briefly held up agreement on the social security conference, is dead. It, too, is merely sleeping.

The resolution of the conference dilemma turned out to be another maneuver, oft repeated in the past, to deny the House an opportunity to work its will on the tuition tax credit concept. Its day also will come.

I find it interesting that the same conferees, and the same administration, that decried the tuition tax credit as a sop to some members of the middle class would endorse so warmly a conference report that is so deliberately burdensome to the entire middle class.

Mr. Speaker, I was a conferee but, for the reasons I have indicated, did not sign this conference report.

I believe it has some good provisions. Its decoupling-wage indexing "package" is sound. It also moves in the right direction by improving, ever so slightly, the treatment of widows and divorcees, and for those who have worked many years by updating special minimum benefits under social security at relatively low wages. These provisions were derived from the 15-point proposal, offered by Republicans, to which I referred earlier.

But the total tax load which this report piles on the backs of American taxpayers is unacceptable to me. And I frankly do not believe the Congress will find it tolerable for very long, because our constituents will insure our continued interest in this continuing disaster.

A vote against this bill will not end social security. It will give us a chance to reconsider a major mistake.

Mr. SCHULZE. Mr. Speaker, will the gentleman yield.

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. SCHULZE. Mr. Speaker, the passage of the social security finance bill should be a matter of concern to every Member of the Congress and to the citizens we represent.

This bill is the most expensive peacetime tax increase in American history. Over the next 10 years, the American taxpayer will have to come up with an additional $227 billion as a result of this social security bill.

The impact of the new social security legislation on the typical American family is significant. By 1983 the $10,000 per year wage earner will have paid $131 more as a result of this bill. By 1987 that same worker will have paid a total of $376 more in taxes. The situation is similar for the $20,000 per year wage earner, who by 1983 will have had to pay $328 in additional taxes, and by 1987 will have paid $838 in additional social security taxes.

What makes this burden doubly offensive is the fact that this legislation does not address the long-term ills of the social security system, but merely represents a band-aid approach. We must be able to assure the young people entering the work force today that they will inherit an actuarily sound system.

The 15-point alternative proposal which was introduced by the Republican members of the Ways and Means Social Security Subcommittee, of which I am a member, could and should have been adopted by this body. The proposal addressed itself to the long-term deficiencies of social security and would have: First, made the social security system financially sound for at least the next 75 years with less than a 1.2-percent tax increase over present rates for the 75 year span; second, strengthened the insurance character of the program; third, improved the treatment of women under the program; fourth, made long needed adjustments to reflect changes in living and working patterns of the American people.

We must also be aware of the additional tax burden which could result from passage of the administration's energy proposals. There is a limit as to how much can be squeezed from the American taxpayer.

It will be necessary to cut taxes $20 billion per year for the next 10 years just to maintain the current level of spendable income for the American taxpayer after the passage of this measure.

I believe we, as representatives of the people, owe the American taxpayer an additional look at the possible alternatives to this bill.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the chairman of the Social Security Subcommittee, the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, we have before us today the conference report on H.R. 9346, the Social Security Financng Amendments of 1977. This is the most important piece of legislation we have had before us in this Congress, as it provides for the financial stability of the social security system well into the next century. It provides assurance to the elderly of this Nation that their benefit checks will be forthcoming, and it restores the confidence of the workers of this country that the social security system will continue as a sound and viable institution.

In addressing the problems of financing the system we are faced with the difficult task of increasing revenues. This legislation, H.R. 9364, will perpetuate the present system whereby the cost of social security is divided evenly (50–50) between the employee and the employer. The bill calls for increases in the tax rates and the wage base, beginning in 1979.

Alternative methods of financing the system have been recommended and I think it is incumbent on this Congress to seriously review them. The use of general revenues has been suggested for the medicare program, the disability insurance program, and I have introduced legislation to provide that one-third of the cost of the entire social security program be financed from general revenues in order to mitigate the regressivity of the payroll tax and its dampening effect on the creation of jobs.

The tax burden on the workers of this Nation is becoming onerous and I, therefore, believe that we must begin active consideration of alternative financing methods for social security.

As the chairman of the Social Security Subcommittee, I commend my colleagues for their responsible actions to assure the integrity of the social security system. I caution you that the tax burden is getting too high, and I therefore strongly recommend future consideration of alternative methods of financing the social security system.

Mr. Speaker, I just would like to point out to my good friends who are opposing this bill that the day of rhetoric is over. For 2 years I have been trying to get a bill through this Congress to bring about the stability of the social security system and all we hear is nitpicking, nitpicking on one side or the other.

The whole thrust of this legislation is to assure the elderly of this country that their checks will be forthcoming, that the working men and women of this country who are on the work force today will be able to expect that their social security benefits will be forthcoming when they retire. We have been battling this up and down the road. All I hear is nitpicking and politicking about what the effects of the politicking is going to be.

The truth of the matter is that we have a responsibility in this Congress, a responsibility to enact the funds that are needed to enact the taxes that are needed. Do we hear of anybody who is opposing this bill recommending cutting down on the benefits? Oh, no. Look down through the rollcalls in the RECORDS, down through the years—they have voted for everything. They want to be loved by everybody, but today here we are setting legislation, as the chairman of the Ways and Means Committee has so well pointed out.

A vote against this bill is a vote against the elderly of this country, and that is the way it is going to be classified. A vote against this bill is a vote against the working men and women of this Nation who expect that those benefits will be there when they reach retirement age.

There are no two ways about it; you are not going to be loved by anybody if you vote against this bill. Believe me, you better have your asbestos pants on once that happens.

Mr. CONABLE. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, as I listened to that silver-tongued orator, the chairman of our committee, I almost got confused enough to vote for this conference report, he made it sound so good. As a member of the conference committee we are bringing you today the Carter tax increase bill of 1977, and one can define it no other way, because it is a tax increase bill, make no mistake, and it is the Carter bill. As the gentleman from New York pointed out, it is the greatest tax increase in peacetime history.

Yet, the chairman points out to us that we can go home, and if we get a chance to get a word in edgewise with those working folks, we can tell them all the wonderful things we are doing for them here. Why, we are going to reduce that earnings limitation down to age 70. Now, that is a step in the right direction, but this House voted to eliminate the earnings limitation at age 65.

The chairman, when we were debating that issue, said that is just going to benefit rich folks. Well, I submit that there are rich folks at age 70, so I really do not know what the difference is. But, the House voted to eliminate the earnings limitation at age 65.

The conferees on the part of the House debated that issue, oh gosh, almost 5 or 10 minutes before they receded and accepted the Senate's version. I was constrained to comment during the process of the conference, after receding and receding and receding until our bill was not even recognizable, that I was going to ask Allen Drury to ghostwrite a book for me called, "Recede and Accept," because that is all we were doing.

Nobody has mentioned, or at least very briefly mentioned, all these marvelous welfare benefits. I do not know what that has got to do with social security, because the Ways and Means Subcommittee on Public Assistance sent a bill in June to the Senate to which all of these could have been attached, and as a matter of fact were attached, but was just never sent back here.

Now, you go home and tell those working men and women that you have really done a whale of a job for them. Now, Mr. ALLEN, my friend from Tennessee, asked the most pertinent question here: No matter what happens, whether we pass or fail on this bill today, it is not going to make a bit of difference—not one iota of difference—next year. And, he is right. It is not.

Then, the chairman said, "You go home and tell those people that the chairman of the Ways and Means Committee promises them that, in any event, we are going to change this so that this bite will not be so hard." I submit that if he can do it in 5 years, he can do it now.

As a matter of fact, as the gentleman from New York (Mr. CONABLE) suggested, those alternatives were placed before the Committee on Ways and Means. We are doing so much bullet-biting around here, we might as well bite one now and bring in the Federal employees, cover everybody, raise the age of retirement in 20 years, but do it gently. We could have done that. We could have had a bill. We could have had a good bill, one we could be proud of, and it could be done next year. There is no race to get this bill done. I submit to the Members that when they go home I do not know who they are going to be able to sell this program to, because they are liable to be asked two questions. One, our constituents are going to say, "Mr., Mrs. or Ms. Congressman, did you vote for that massive tax increase?" And if the Members must reply in the affirmative, I hope that their constituents ask them the next logical question, "Do you Congressmen have to pay this tax?" And when the Members tell them, "No," that is when the Members better have asbestos pants on, because they are going to have to be honest and tell them that they do not.

So I would hope that this body would exercise some judgment and turn down this conference report, and let us see if the Chairman of the Committee on Ways and Means can deliver on his promise that we can indeed structure this mechanism in a way that it will not be so onerous on our taxpaying citizens.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, the radical increase in social security taxes is presented to us today in the form of the conference report on H.R. 9346. It will burden the taxpayers of the country and the employers as well with a rapidly rising wage base and rate assessed against those wages.

We are told there is no other way to bail out this faltering program but to throw good money after bad. That timid approach to real reform leaves me cold.

I want to make certain that people retiring are sure of receiving a fair share of their contributions. I do not want to abandon these people to the uncertainties of their future. But neither do I want to saddle future generations with outrageously high taxes when there might be a real answer in true social security financing reform.

We are told, cynically, that the administration cannot offer people an election year tax cut without this 1977 non-election-year tax hike. This is the most callous explanation that I have ever heard. It is the old case of out one pocket, in the other.

The American people should call those Members to account who vote for this tax increase. They are big spenders, not true reformers. And they should remember next year when they are magnanimously bragging about a great tax cut the bitter prelude which they are giving American citizens and businesses today.

I urge a no vote on the conference report so that we can truely reform social security.

Mr. CONABLE. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, I was a member of the social security financing conference, but I also did not sign the report. I can think back to the Congress in 1971 and 1972 that passed a 30-percent increase in benefits to social security recipients in 1 Congress, 10 percent in 1971, another 20 percent in 1972. The latter 20 percent was not accompanied by any tax increase whatsoever, and I voted against that. So I would say to the chairman of our committee that was the tough vote for me. But at that time I predicted the deficits that were coming in the social security program. Had that 20-percent increase only been 10 percent, we would have no deficits today. We would not be on this floor today, because benefit increases far exceeded the cost of living and they were politically motivated, as every Member of this Chamber knows. And so we have the problem that we have today.

Parts of the report we are considering would improve the social security structure substantially, particularly the provision that decouples and overcomes part of the additional problem that was created in 1972. It stabilizes wage replacement ratios in future benefits.

I also approve of freezing the minimum primary benefit and I think it is a step forward to permit widows and widowers over 60 years of age to remarry without losing their benefits, without having to "live in sin" in order to receive their benefits. But I cannot support the oppressive tax increases which this report provides. They represent a potentially dangerous blow to middle-income and self-employed persons in this country, and they clearly would serve as a depressant to capital savings which we do desperately need to reinvigorate our economy. Small businesses are going to be adversely hit, less able to cope with these increases than major corporations.

Many cost figures are being tossed around today in the debate on this report, and I do not want to add to the statistical barrage. But I do think it is important to note that this legislation will cost those wage earners who earn $20,000 at least $838 more per year than under the present law over the next decade, and it will cost those who earn $10,000 a year $386 a year more. To some observers these may not seem to be awesome amounts, but to the wage earners themselves, from whom I have heard in great quantity, they loom large, indeed. For most of them, this bill offers nothing; for all of them it takes away.

Possibly the worst feature of the bill is its drastic increase in the maximum taxable earnings base. This was done based on the uninformed view that it is a wonderful financing method, and that is not the case at all. What really happens is that benefit liabilities for the future are raised, offsetting a large part of the additional revenues that are obtained in the near term. It actually is, to a large extend, a "fly-now-pay-later" approach. The result is to put more of the economic security responsibility of the Nation on the Government and thereby less on the private sector and on individuals.

The most illogical segment of the scheduled increases in the earnings base takes place from 1980 to 1981, when there is a huge jump of $3,800 in 1 year, from $25,900 to $29,700. Half of this actually occurred because of a technical blunder.

When the so-called Fisher amendment to remove Government employees from compulsory coverage was adopted, it carried with it what was supposed to be adequate financing to offset the coverage lost. Part of this financing came incorrectly from a further increase in the earnings base of $1,800 over what the committee originally intended. This should never have been done, because there is no valid relation between the level of the earnings and the coverage of Government employees.

In addition, this bill still leaves the social security fund in a long-term deficit of over $1 trillion when paid over the years ahead. That is based on actuarial estimates that presently call for roughly a 5½-percent increase in the CPI, reduced to 4 percent for the balance of the years ahead. If we can hold inflation in this country to 4 percent, with the Nation's deficit spending going on, it will be a miracle indeed. I do not think anybody believes the rate of inflation will stay at 4 percent or less. These projections are inadequate and inaccurate, and portend even larger deficits in the light of reality.

Those are a few of the problems I see, Mr. Speaker. We could have worked this out in a different way. I cosponsored with the gentleman from New York (Mr. CONABLE) a comprehensive method to solve the social security program's problems which he mentioned. Unfortunately, that was not accepted.

When the full import of this legislation is felt across the country, the words of warning of the Republican Members during the past 7 years about the dangers inherent in rising payroll taxes will finally get the attention they deserve from the American people. Because we then may face a different kind of social security financing crisis—one involving taxpayer revolt.

Mr. Speaker, I urge a vote against the conference report.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, the easy answers for financing social security are all gone. There are no easy answers left. All we are left with are bad alternatives, and I submit to the Members that this conference report is the best of those bad alternatives.

What are our options? Our options are, first, to do what this conference report proposes. This legislation does a number of things that many of you are interested in, and in spite of what some say, it does improve the present social security system. It is a better bill than the House passed and better than the Senate passed.

This does raise taxes, but it raises benefits later for people who pay those taxes, and salaries are going up from which to pay those taxes. I dislike this as much as anyone but it is necessary.

This conference report maintains parity, and many of those who oppose this legislation will admit that has been a big argument. We do not unbalance the employer-employee contributions.

This does not allow Treasury borrowing, and many of the Members who are opposed to this conference report have been opposed to Treasury borrowing. You say it would convert social security to a welfare program and I agree.

The conference report does decouple. It corrects the mistake we made in 1972. It stabilizes the trust fund, because the actuary says that the OASDI trust fund will be stabilized until the year 2030. The DI trust fund will be stabilized until the year 2007, and the combined trust fund will be stabilized until the year 2027. If we do not do this, the DI trust fund will be bankrupt by 1979.

The OASDI trust fund will be bankrupt in 1982. What will you do then? I will tell you what—you will borrow from the Treasury.

Put it off until next year? How many of the Members are going to have nerve next year to raise the tax rate and stabilize the trust fund when it is an election year which we do not have now? Few indeed, because most of you will be trying to save your political hides instead of social security.

Bite the bullet? You will be biting marshmallows then because you will not bite that bullet now. You are going to run from it. How many of you will change your minds between now and January? Few if any.

Mr. Speaker, the second alternative to this is Treasury financing, and Treasury financing is what many Members have been trying to avoid, but that is what you are going to have if you vote against this conference report. If you vote against this conference report today you are casting a vote for Treasury financing of social security when the trust fund goes broke and that is just around the corner. Can you live with that? I think not.

Of course, Mr. Speaker, there is another alternative and that is to do nothing ever. Just consign social security to the tube. Say to hell with it. And I submit that is almost what you are doing if you reject this conference report.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, I was not on the conference committee, but I watched it carefully.

It is unfortunate that the CONGRESSIONAL RECORD does not allow us to reprint Herblock cartoons because this morning's cartoon said it all and said it well.

This is a ticking time bomb. It is a Christmas tree time bomb that this Congress is leaving for the American people if the conference report is adopted.

Mr. Speaker, I most respectfully disagree with those who say that this unwarranted tax increase is needed at this time. It is not.

For those who voted for the House bill, may I suggest that you take a look at the decisions that were made in conference that led me to the conclusion that this conference report is a step backward even from the House's version. The outside earnings limit was reduced from that which was adopted by the House, another significant step backward was taken in terms of equity between men and women in an effort to get rid of gender-based distinctions.

Furthermore, the tax burden imposed is higher than that proposed under the bill adopted in this body.

For those reasons, Mr. Speaker, it seems to me that the American people would be better served by rejecting the conference report and attempting to see whether we cannot convince the Committee on Ways and Means and the Committee on Finance in the other body of the sound alternatives that exist, which do not impose this kind of tax increase.

The conference report is a bad one, Mr. Speaker, and it ought to be voted down.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Speaker, I am voting "no" on both the rule and on final passage of the social security bill today. Since coming to Congress, I have been a strong proponent of the rights of older Americans and the solvency of the social security system. But the Senate and the conference committee have made changes that detract from this bill. This bill is a mess. Since it does not go into effect until 1979—the year after elections—I advocate that we defeat this bill and roll up our sleeves to produce a good bill. Here in a nutshell are some of my objections:

First of all, the taxes in this bill are higher than the House passed version. The rates are higher. Also the earnings limitations has been restored for which I voted to eliminate on the House side. I am disappointed that the sex bias portions of the bill have been taken out. I have received dozens of letters from my constituents outlining their problems in obtaining the social security benefits that are rightfully theirs, but which are denied to them directly or indirectly due to sex.

The House bill eliminated this discrimination. If the House language had been adopted, husbands would not have to prove their dependency upon their wives for financial support; nor would such proof be necessary for widowers to receive benefits for dependent children.

I am also concerned about the changes in veteran's benefits. There exists within the present system a built-in hardship for our veterans. Each time social security benefits increase, veterans benefits decrease. If we are truly looking for reform we should look for long-term solutions to the difficulties veterans encounter with seesawing benefits. A short-term solution to this hardship would be to leave veteran pensions intact.

Another concern I have is that the tutition tax credit portion was taken out, although five other none germane amendments were left in. I am a cosponsor of a bill that would encourage a tax credit for post-secondary students. Also, I think that the actuarial and the tax rates and the tax methods of this bill are not as good as we could have. As I have pointed out above, this bill will not go into effect until 1979, the year after the election, thus we have a full year in which to correct it and I believe a defeat of the bill today would be good so we could go back to the drawing boards.

Finally, the bill does not contain something I have long advocated. Since coming to this Congress, I have voted against every foreign military aid bill based on my experiences while serving in the military and as a Rhodes scholar abroad. I have visited over 40 foreign countries and became convinced that our foreign military aid is a mistake. I have advocated transferring 20 percent of this foreign military aid into a social security effort. This would result in the solvency of the program.

In short, our priorities are wrong. We are taxing and taxing without carefully analyzing our Federal budget. For this reason, I have voted "no" on both the rule and the social security bill today.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, today we will vote on the conference report to accompanying H.R. 9346, the Social Security Financing Amendments of 1977. There are several provisions contained in the conference report which would bring about changes in present law which I have actively sought to correct. As originally passed by the House, this legislation would have phased out the present limitations on outside earnings by 1982. Although the conferees did not agree to this language, they have agreed to increasing allowable earnings to: First, $4,000 in 1978; second, $4,500 in 1979; third, $5,000 in 1980; fourth, $5,500 in 1981; and fifth, $6,000 in 1982 with further increases determined by the state of inflation. The conferees have also agreed that in 1982 the age for those persons subject to the earnings limits will be reduced from 72 to 70. Although this action may not appear to be of great importance to some, for many persons living on a fixed income it will be of great assistance.

This legislation will also prevent a reduction in benefits for widows or widowers aged 60 and over who remarry. Many of our senior citizens were hesitant to remarry after loosing their spouse because they were faced with a reduction or complete termination of their surviving spouse benefits. I am sure that you have all heard of cases where elderly people were faced with living their remaining years alone or "living in sin" as some call it, because they simply could not survive without the income they would lose by remarrying.

We are all aware that the growing problem with the social security system is that as the average life span increases and as benefits of retired workers continue to rise, outgo from the social security trust fund is exceeding income. According to the 1977 annual report of the social security system's Board of Trustees, the disability insurance fund will exhaust its back-up reserves in 1979, and the retirement and survivors fund in 1983, unless Congress makes the necessary financial improvements. Because of this predicament, it is clear that Congress has to make some hard decisions as to the future direction of the social security system so that income to the trust fund will be adequate to meet benefits for recipients.

In view of this, the Congress really has only two options. Either to provide additional income to the social security trust fund or allow the trust fund to be depleted and fail to meet the financial obligation to the millions of Americans now on social security as well as those who have been paying into the program but have not yet reached retirement age. Incidentally, in Pinellas County, Fla., which is my home there are 230,000 people receiving social security benefits, and for many of them this check is their only source of income. As a consequence, this money is kept in circulation. Most of these senior citizens do not hoard their money or hide it away. They spend it. Pinellas County's economy is strengthened by the $50 million in social security benefits received in our county each month. These social security checks are cashed and spent with local merchants for the purchase of those services and items necessary to meet one's daily needs. If the $50 million put into the Pinellas County economy every month, via the distribution of social security checks, were to all of a sudden stop because there were no longer any funds in the social security trust fund, the businessman and his employees would be severely affected, as well as those social security beneficiaries whose income would stop. The basic decision which we have to make is this. "Is the social security program important enough to warrant imposing additional taxes to keep it sound?"

I share the concern expressed by many over the fact that the Federal Government has placed the burden of bailing out the ailing social security trust fund on businesses and working people, but actually, who else is there? These are the very same people who have always paid for every government-sponsored program in the past and who will continue to do so in the future—even those programs which are excessive and wasteful. At least there is little fraud and abuse in the social security program when compared with many other Government programs and the program benefits those with no other sources of income.

We should never ignore the fact that those persons who are now receiving social security benefits were at one time the very same individuals who paid for the educational benefits enjoyed by the current work force and also contributed to the social security benefits of those who retired before they did. As for those of us now working and paying into the social security program, one day we will be the recipient—rather than the financer—of the program and it will be our children and grandchildren who will be supporting the program.

There is no doubt that this bill increases social security taxes, but early in 1978 it is planned to give the American workers and businesses a general tax reduction that will more than offset this social security tax increase.

There are several strong arguments I could use to justify a "no" vote on this conference report. When the original bill was before the House, I voted "aye" on final passage which establishes my support for strengthening the social security trust fund. However, the conference committee has agreed to several nongermane amendments and under the rule providing for consideration of this report we were denied any opportunity to reject those nongermane amendments. Some of these nongermane amendments relate to the welfare program and should not be attached to a social security bill. Social security is not a welfare program and I object to making a social security bill a hostage vehicle for welfare legislation.

However, since the bill will have no effect for more than a year, that is sufficient time to attempt to correct those problems and I intend to support this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, we are being asked to support the social security conference report—a report which is being represented as "insuring the soundness of the social security trust funds far into the future," which includes a huge tax increase. It is interesting to note that the conferees decided not to make the increases effective until after the 1978 elections.

For the highest paid workers, social security taxes deducted from paychecks will triple over the next decade. Social security taxes for the lowest-paid workers will increase 20 percent. Conservative estimates of the cost to American workers amounts to $227 billion in new payroll taxes by 1987, on top of increases already built into the law, and on top of proposed increases in the President's energy tax bill.

Obviously, the incomes of those American workers will increase over the next decade, but will their income triple as these taxes do? Not likely.

Reform of the social security system is imperative, but not by simply squeezing more dollars out of the American taxpayers. This Congress is applying a band aid to a gaping wound by passing this legislation.

The basic principles of the social security system must be reevaluated and restructured to provide more solvency and equity for those paying the taxes and those receiving the benefits.

Responsibility demands that this Congress immediately undertake a constructive overhaul of the social security system—reform that is desperately needed since enactment of the program 41 years ago.

The Republican social security alternative, which we have been prevented from seriously considering, was designed to enable the 34 million Americans who benefit from social security today, and the 100 million who contribute today in the rightful expectation that they, too, will benefit when their time to retire comes, to be confident that the system is operating on a sound and equitable basis.

While I disagree with some provisions, at least the Republican alternative would place the social security system on a sound financial basis for at least the next 75 years, with no increase in taxes beyond those already mandated by law, until at least 1982. After that, taxes would increase a total of 1.5 percent, in three stages, over the 75-year life of the proposal.

The Republican alternative dealt with the long-term demographic problems posed by the changing composition of American society, and recognizes the enormous changes that have taken place in both population profile and in lifestyles since social security was first enacted.

In 1940, only 15 percent of married women held jobs. Today, half of all married women under the age of 60 are in the labor force. The Republican social security alternative included a number of proposals to redress inequities that work against women. The conference report calls for a study.

Mr. Speaker, sooner or later tax support for the social security system must be increased. But to substantially increase the tax in the face of our present economic instability, and with full knowledge that a tax increase will not solve the long-term problems of social security funding, is both foolish and ineffective.

The conference report represents the largest peacetime tax increase of any kind in recent memory, one which imposes massive new social security taxes over the next decade. We cannot continue to raise taxes on employers and employees. The working man and woman has a difficult enough time making ends meet. Employers will be left with only one recourse—raise the price of goods and services, which will only be counterproductive to our attempts to stimulate the economy. Hiring new employees will be discouraged by this program, when it should be encouraged instead.

Sooner or later we will have to reform the social security system, but we must do much more than simply increase taxes. Medicare should be taken out of the social security system, where it doesn't belong. The OASDI program is financed from taxes on covered earnings, because the benefits of the program are always related to the earnings of a worker-taxpayer. This is true even when the beneficiary is a spouse or dependent survivor. The same principle does not apply to benefits under part A of the medicare program. There the amount of the benefits is determined by the hospital and related health care costs of a particular person, and bear no relationship whatsoever to his wages or those of anyone else.

Governmental employees could well be brought into the social security program prospectively without disturbing existing pension rights of present government employees.

These are but some of the far-reaching but essential decisions that must be made if we are to really accomplish what we agree must be accomplished: the reform and solvency of the social security system.

I am sorry the rule was adopted, waiving points of order to the several nongermane amendments added to this already unfortunate legislation. These make an already poor situation even worse.

I hope my colleagues will vote no as I intend to on final passage.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. Mr. Speaker, I have serious reservations regarding the conference report on H.R. 9346, the Social Security Financing Amendments of 1977. Although we need to take steps to insure the fiscal integrity of the social security system, the bill before us is not the best answer to the problem.

Of most concern is the tremendous hike in social security taxes that would result from enactment of this legislation. Both the tax rate and the wage base would be substantially raised. It is estimated that this proposal would mean $42.8 billion a year in new taxes by 1987.

Low- and middle-income wage earners would lose a larger chunk of their salaries. By 1990 the social security tax rate would stand at a full 7.65 percent. This is a heavy burden for working men and women to carry.

Higher income people would experience an even more dramatic jump in taxes. A worker making $25,000 a year, for example, would find his taxes increasing about $600 a year in just 3 years.

American workers are already finding it difficult to make ends meet. Salaries are not keeping pace with inflation and the growing Federal tax bite. H.R. 9346 would mean an even heavier tax load for the people of this country.

The new tax increases would also be a blow to employers. They would be forced to somehow come up with the money needed to meet these additional costs. Small businesses and those with thin profit margins would be hard hit.

Imposition of such an onerous tax burden on our Nation's wage earners and employers would be a serious mistake. It is especially wrong at a time of high inflation and large unemployment. The American people deserve better from the Congress.

The problem is that we have gotten away from the original purpose of social security. Welfare-type programs unrelated to the protection of older Americans have been added to the system. The inclusion of these social welfare programs has been a major factor in pushing the social security system toward financial chaos. It is a mistake to enact the large tax increases proposed in this bill without first taking a hard look at the welfare programs which have caused the fiscal difficulties.

On the bright side, however, a provision adopted by the other body to assess a higher tax on employers than employees was rejected. This would have dried up needed investment capital, added to the unemployment problem and resulted in higher prices for goods and services. Fortunately the traditional 50-50 split is maintained in the conference report.

Another bright spot is in regard to the earnings limitation on social security. Currently, social security recipients are permitted up to $3,000 in annual earnings. Every $2 earned by a recipient beyond that amount results in a $1 loss in benefits.

The conference report would abolish the earnings limitation for those 70 and older. In addition, it would raise the limitation for those 65 to 69 years of age to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, and $6,000 in 1982.

Frankly, I preferred to go even further. I supported a successful amendment in the House that would have provided for a gradual phaseout of the earnings limitation. This seems only fair to our nation's older Americans. Although the conference report does not go as far as I would wish, nevertheless it is a major step forward.

A disappointment, however, is deletion of the education tax credit. This provision would have allowed tax credits of up to $250 a year for parents of children in colleges and vocational schools. Unfortunately it was torpedoed by the Carter administration.

I have supported this concept since first being elected to Congress. In the current Congress I am sponsoring H.R. 165, which would provide an income tax credit of $300 for tuition expenses at an institution of higher education.

The credit would have provided some welcome tax relief to families faced with skyrocketing education costs. Lower and middle income families would have found it especialy beneficial. Its removal from the bill is a great mistake.

All in all, H.R. 9346 is a bad bill. Our citizens should not be subjected to the massive tax increases that it would impose. I strongly urge the defeat of the conference report.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. Coughlin).

Mr. COUGHLIN. Mr. Speaker, once again, I am compelled—out of the conflicting emotions of fair play and frustration—to call my colleagues' attention to the fact that the will of the House has again been thwarted by the leadership and a threatened Presidential pocket veto. We have again been denied a clear-cut vote on the merits of the legislation to provide tax credits for higher education expenses.

As long ago as 1970, I began introducing such legislation in recognition of the growing onerous financial burden on middle-income taxpayers trying to educate their children in colleges and universities. In this Congress alone, there are more than 210 House Members who have sponsored some form of education tax credit legislation.

I want to thank my many colleagues—Democrat and Republican—who have sponsored and worked for this legislation through the years. I thank them also for enduring numerous "Dear Colleague" letters from me on tax credits and want to warn them to expect many more until we are afforded the democratic opportunity for a direct vote.

The senior Senator from Delaware, whose tax credit proposal we gather here today to inter for this session, first introduced his legislation in 1975 as a tax deduction bill and changed it to a tax credit on the advice of the Senate Finance Committee. The Senate has passed education tax credits three times in the past 15 months. In addition to the senior Senator from Delaware's bill's 26 sponsors, a similar piece of Senate legislation based on education tax deductions has 50 sponsors.

Consider this scenario:

Approved by the Senate in four of the last five Congresses, the principle of education tax credits was overwhelmingly approved by the House, 311 to 76, when I forced a vote last September on reserving funds for it in the fiscal 1978 second budget resolution.

Because the distinguished Ways and Means chairman continued to refuse to bring the matter before the House for a vote on the merits, the only way to force consideration was the senior Senator from Delaware's amendment to the social security bill. An earlier commitment to bring the matter to vote in the dying days of the last Congress had been killed by a ruse.

Less than 3 weeks ago, when the House agreed to go to conference on the social security bill, I intended to make a motion which would have instructed House conferees to recede to the Roth tax credit amendment. Knowing this, a member of Ways and Means demanded the "previous question" which cut off the opportunity even to offer the motion.

There then followed an even quainter maneuver in the social security conference in the final days of this session. A suggestion was advanced that the education tax credit amendment be dropped from the social security bill and brought before the House as a rider to a minor bill. This would, of course, be subject to a quiet pocket veto by the President and the issue never would be joined.

A second alternative, a motion to recommit the social security bill with instructions to accept the tax credit provision, also was denied when—defying all practices and traditions and the House calendar—the conference report was given to the Senate to act upon first rather than the House.

Again and again, the rules and practices of the House have been bent, twisted and broken to suit the House Democratic leadership and thwart the will of the majority. In this instance, middle income working Americans again were the victims and again were denied higher education tax credits which would provide a measure of help and tax relief at a time in their lives of the greatest financial stress.

Mr. CONABLE. Mr. Speaker, I reserve the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, every month 33 million Americans draw their social security checks and one-third of them are over 72 years of age. All of those people know that this Congress came back here today from all over America to pass a social security bill that would give the assurance that in the future social security would be solvent and that they will get what we promised them. If the word goes out at the end of this day that, notwithstanding the Senate passing the bill by an overwhelming majority, the House of Representatives defeated it, a wave of fear will sweep through the hearts of every one of those Americans wondering about the future solvency and soundness of our social security funds which are the sole source of livelihood for very many of those people.

This bill does not do everything the elderly would like to have it do. It is not perfect in terms of the taxes that it provides. But we have the future ahead of us, if we keep the funds sound, to improve it from the tax point of view and from the viewpoint of the recipients.

I hope the conference report will be adopted.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, when this measure was up before the House recently, I voted against it on final passage. Now I stand here in support of this conference agreement.

On October 27, 146 Members of this body voted against this bill. Given the urgency of this legislation, I think that number indicated a great reservation about the approach taken in the House measure and the rule we have barely passed, signals other reservations.

But today we have a different bill, a bill which I think is sound and fair.

It will not be popular in the short run. It is a steep tax bill. But it is as sound, and it is as fair, as we could expect, and that is our best guarantee that we can be satisfied with this bill. The alternatives would be to let the social security system go down the drain, and we cannot allow that to happen.

The conference report corrects several matters which I think had caused widespread concern.

First, it removes the provision allowing for general revenues. I had an amendment to the House measure to remove that provision, and it failed by a 196 to 221 vote. The action of the conferees in removing this provision was probably their most significant action. We can now say in all honesty to the American people that the social security system will make it, and will make it on its own. It will not become a needs or welfare program.

Second, the conferees brought relief on the problem of the outside earnings ceiling, but they did not lift the ceiling entirely. This just would have been too costly during the time when the system faces some of its most critical financing problems. I think the conference approach here, again, is fair in that it does what we can without unduly endangering future generations who will rely on social security benefits.

Third, the conferees maintained a provision which was in the original House bill but altered in the Senate. That provision is parity. When we are levying heavy taxes, the only thing we can do is to try to be fair to all sides. I think parity is essential to that sense of fairness, and I am very pleased to see it remain in the Conference bill. In addition, this bill provides for "decoupling," and this provides a consistent wage-replacement ratio.

In passing this bill we can say to the American people that we are putting social security on a sound financial basis for the next 25 to 50 years. Nothing can be more reassuring to the public than taking this strong action. This is particularly important to the many young people who have felt that when their time came the money would not be there.

We are not through. We must begin early next year to address the many problems in the disability system. We will face the issue of universal coverage in 2 years. And we must look at possible steps toward preventing opting out of the system before universal coverage is in place. I do not like the welfare provision in one section of the conference, and I hope we can make other changes in the offset provisions.

But we have come a long, long way.

Mr. Speaker, for months—years—we have been hearing how important it is for us to take the necessary steps to shore up a faltering social security system.

The necessary steps have proved to be difficult ones. They are more difficult now than they would have been 2 years ago, as I tried to do in my subcommittee, when we on the Social Security Subcommittee first made an effort to come up with a concrete bill.

But stunning as this bill is, it is less difficult than the horror which will face us if we do not act now.

Every passing month sees the social security trust funds draining away—to the tune of about $470 million each month in the big OASDI fund. This pace is stepped up from the $269 million average monthly drain in 1976. But it is far less than the $575 million average monthly drain currently predicted for next year. And it is far less than the drain of nearly a billion a month which we will face in 1981 if we do not do something and do it now.

That billion a month—as we might suspect—will completely exhaust the OASDI trust funds if we do not act. And we won't make it until 1981 if all else does not go according to the experts' rather optimistic projections.

The message in all this is simple. It will be a lot harder to deal with this problem then, with a billion a month drain on the trust fund, than it is to deal with it now, with a drain of less than half a billion.

No option in this program is pleasant. We must stand up and take the bad news home now, or we must face the prospect of having the damage of this great system on our consciences for the rest of our lives.

Social security is more than an apple pie program. It is a critical foundation for democracy. Historically, throughout the world, the types of political philosophies most pernicious to democracy have taken root where great numbers of the populace face extreme personal deprivations—or see the threat of extreme deprivation hanging over themselves and their families like Damocles' sword. It was not accident that the United States came forward with a social security system out of the Great Depression of the 1930's.

Social security is not, and was never intended to be, a total retirement plan. It is both much less and much more. It is not a retirement plan but it is an insurance program against extreme deprivation not only in retirement but also in situations of disability or death of the family breadwinners.

Social security also has become an integral part of our national economic picture. A healthy social security system is an incalculable aid to a healthy economy. The sustained economic power of those who receive social security, as well as their reduced need for public economic assistance help to keep the economy up and deficits down. And we could use more of both of those items.

The bill we pass today, therefore, is a tax bill, but it is more than an ordinary tax bill. I hope that we—and the Nation—can keep that foremost in mind.

Mr. ULLMAN. Mr. Speaker, I reserve the remainder of my time.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, in the Social Security Financing Amendments of 1977, Congress had the opportunity to make some sensible changes in our present social security system. H.R. 9346 could have provided us with: First, a sound financial structure that guarantees the benefits we have promised; second, a removal of the earnings penalties for our social security beneficiaries; third, and this could have been done without a tax increase in the next few years and a small tax increase thereafter.

What we have in this bill is an unnecessary, substantial tax increase and enormous raises in the wage base which still leaves us with a 75-year deficit of 1.45 percent of taxable payroll or a staggering deficit of $600 billion-plus. I could not support the House version of this bill because I felt it could only result in decreasing employment and depressing our economy—the conference version is worse.

While we did remove the earnings limitations for retirees aged 70 and over, we are still stuck with earnings penalties for retirees below age 70. The limit is raised in the conference report, but to an inadequate level. The mandatory of earnings limits is a serious flaw in this bill.

As I understand the conference report, it will place a devastating burden on middle-income taxpayers in my district and across the Nation. People in my district, who earn $20,000 a year, now pay about $960 a year in social security taxes. Under this bill, if inflation and wages both raise at 6 or 7 percent, these peoples wages will increase to $35,000 without an increase in real wages. Worse, their social security taxes will increase from $960 to nearly $2,600. That is nearly a tripling of social security taxes for middle-income Americans in the next 10 years.

The House, at least, had a better choice in the Conable-Archer proposal, but chose not to accept it. This proposal would have placed the system within safe actuarial bounds, solved the bulk of the problems and inequities under the current system and would have accomplished this without a tax increase until 1982. While rejecting the bulk of the provisions of the Conable-Archer proposal, the House included many of the gender-based inequities in the House bill. The conference version of the bill, however, throws even these provisions out, by the decision to include them in an HEW study.

The Conable-Archer proposal would have moved us a step closer to universal coverage. The conference version provides us with another study which will only result in delaying universal coverage for possibly another four decades. In my view, universal coverage is of great importance toward assuring good protection, portability, and equality for all American workers.

We may manage to get a bill passed before the end of this session of Congress, but it is not going to appeal to many of my constituents—or me. I cannot support this bill. It lays a heavier burden on my constituents than is necessary, and in fact a heavier burden than was in either the House or the Senate version.

The question is not, as the distinguished chairman has phrased it, one of a vote for or against the system. The question is whether this is the best temporary solution for our social security problems. The answer is, of course, no.

The tax increases are too severe. The earnings limits, which this House voted to repeal, is still with us. Many of the gender-based improvements passed by the House have been removed. The long term cash deficits have not been overcome. We have not stopped double dipping. We have not achieved universal coverage and as a sepcial bonus, we get expensive Senate non-germane amendments.

Other than decoupling, there is not much that is attractive about this bill other than its title. It should be rejected and the committee directed to bring a better bill.

Mr. Speaker, because it has been suggested and noted here that the Republican alternative, the Conable-Archer bill, was superior in all respects to this bill, I insert at this point a description of that bill:

Statement on a New Republican Initiative on Social Security by Congressmen Rhodes, Conable, Archer, Steiger, Ketchum, and Schulze

We believe that the nation's social security system should be restored to financial stability on a long range basis. We owe this not only to the 100 million Americans who support the system and the 34 million who already benefit from it, but to the next generation as well. They deserve no less.

We also believe that a number of longstanding inequities in the system, especially those related to the treatment of women, should be corrected.

We futher believe that the system should be adjusted to changing American life styles, that beneficiaries no longer should be penalized for continuing to lead productive lives, and that we should move closer toward truly universaal social security coverage.

And we believe these desirable goals can—and should—be attained without: (1) altering the basic structure or nature of the system; (2) adding heavily to tax burdens in the future; or (3) requiring any tax increases over the next several years, in light of an uncertain economy and current payroll levies on both employers and employees.

Toward these ends we are presenting, for the consideration of the Congress and the American people, a comprehensive 15-point social security proposal. It would place the system on a sound financial footing for at least the next 75 years, it would solve the immediate financial shortfall in the trust funds, it would strengthen the system's insurance character, and it would correct a number of inequities. It would do all this with no tax increase until 1982 and with less than a 1¼ percent increase through the year 2050.

The proposal does not, it should be emphasized, offer the myth of something-for-nothing. It is realistic. There are prices to pay for the problems it solves. But we feel the prices are reasonable, especially in view of obvious alternatives: (1) a drastic lowering of benefits, (2) a heavy increase in payroll taxes now and in the future, or (3) the illusory use of general revenues, which would require substantial borrowing by the Treasury, an even bigger public debt, and eventually higher taxes and more inflation for all.

Our proposal, which includes a number of "tradeoffs," should be considered as a unit. Its parts—interdependent and not interchangeable—have been blended carefully into a particular whole, and it should be judged as such.

As far as we know, this proposal stands alone. If there is another—to solve the system's financial problems, to correct so many of its inequities, and yet to cost the taxpayers so relatively little—it has remained well hidden from public view.

Specifically, our proposal would:

A. Meet the immediate financial needs of the Social Security Trust Funds by:

(1) Reallocating taxes collected, between the Old Age and Survivors Insurance Fund (OASI), and the Disability Insurance (DI) Fund, which is expected to become exhausted soon if preventive steps are not taken.

(2) Temporarily diverting three-fourths of a Medicare tax rate increase (0.2% per employee and employer) already scheduled to take place next year, to the OASI and DI Trust Funds. This diversion, which would not damage the Medicare Fund, would continue only through 1981.

(3) Permitting any of the three major Trust Funds (OASI, DI and Medicare) to borrow from another if necessary and with appropriate arrangements for repayment with interest. This would be a permanent provision, which should serve as a "fail safe" device against the insolvency of any of the funds.

B. Put the system on a sound financial basis at least 75 years into the future by:

(1) Decoupling the automatic benefit adjustment mechanism (to correct a flaw in the mechanism) and indexing workers' earnings records to wage trends. These changes follow generally the recommendations of both the Ford and Carter Administrations. This proposal would, however, adjust the ultimate benefit level to account for overexpansion that has occurred since the automatic adjustment flaw was enacted. A savings clause would be included guaranteeing that no future retirees would receive lower benefits than they would have received under the present-law benefit formula as it was at the time of the change. (Decoupling and wage indexing would reduce the system's long-range deficit by slightly more than half.)

(2) Advancing gradually and slowly—from 65 to 68—the age at which full retirement benefits would be payable. The adjustment would not begin until 1990 and would not reach maturity until 2001. Each year during that span the full benefit retirement age would be advanced by one quarter year. Workers could continue to retire as early as age 62 but with slightly greater actuarial reductions than at present. Gradual and distant implementation of this change, which is in keeping both with efforts to abolish mandatory retirement policies and with increased longevity and productivity of American workers, is designed to permit orderly retirement planning. (This provision would further reduce the system's deficit, by about 20%.)

(3) Permanently reassigning one-fourth of the Medicare tax rate increase, scheduled next year, to the OSADI Trust Funds. This amount approximately equals additional money which would enter the Medicare Fund

because of other provisions of this proposal.

(4) Increasing tax rates for employees, employers and the self-employed in three stages; 0.5 percent in 1982, 0.3 percent in 1990, and 0.4 percent in 2000. This means that tax rates would rise, under this proposal, less than 1-and-¼-percent over a 75-year span. (The Medicare tax reassignment and the three-stage rate increase would reduce the remaining deficit to less than 0.5% of taxable payroll—an actuarily sound margin.

C. Make four significant improvements in the treatment of women under Social Security, by:

(1) Providing a new benefit—a "working spouse's benefit"—designed to give adequate recognition to wives who work outside the home. The benefit would be equal to (a) the higher benefit amount due either as a worker or the spouse of a worker, PLUS (b) 25 percent of the smaller of those two benefits.

(2) Reducing from 20 years to five years the duration-of-marriage requirement for one spouse to receive a benefit based on the other's earnings record. This provision is designed to remove what many divorcees have come to view as an unfair and arbitrary requirement.

(3) Ending the cutoff or reduction of benefits for beneficiaries who remarry. This provision is included largely because many widows who rewed before reaching age 60, and divorced wives who remarry at any age, lose entitlement to their benefits under current law.

(4) Amending the Social Security Act to remove all remaining sexually discriminatory language.

D. Move the nation's social insurance system closer to the ideal of universal coverage by providing for the participation of all federal government employees, including Members of Congress not otherwise covered, by 1979. The objective is integration of the Civil Service Retirement and Social Security systems without reducing benefits or protection for, or increasing contributions from, participants in either program.

E. Remove the earnings limitation imposed on beneficiaries. Under present law, benefits are reduced and eventually eliminated for earnings above $3,000 per year. (The limitation is adjusted annually.) This proposal would boost the limit to $5,000 in 1978, to $7,500 in 1979, and remove it entirely in 1980.

F. Freeze the minimum primary benefit at its current level of $114.30 per month, but increase the special minimum benefit from a maximum of $180 to $$219, and make it subject (as are other benefits) to automatic annual adjustments in the future. The minimum primary benefit goes, in large numbers, to governmental employees who either "moonlight" or retire early and work just long enough under Social Security to meet minimal eligibility requirements. The special minimum applies only to those who have worked many years at relatively low wages under the system.

G. Limit disability and survivorship benefits to the maximum primary benefit payable to a worker reaching age 62. Under present law, some younger beneficiaries receive benefits substantially higher than those awarded older beneficiaries who have worked longer under the system. This provision would remove that disparity.

This proposal is not being offered as a "trial balloon" or in a partisan spirit.

It is being presented, in light of alternatives already proposed, to reassure the millions of Americans who are concerned about social security that the system not only can be made financially secure, but can be made more equitable for generations to come. And this can be accomplished without imposing unacceptable tax burdens or dipping into the deceptive pool of general revenues.

We hope and trust it will be given serious consideration by our Democratic colleagues in the Congress as well as by the Administration. We are sending copies of the proposal to the President and the Secretary of Health, Education, and Welfare, and are confident they will give it their attention promptly.

The Subcommittee on Social Security of the Committee on Ways and Means is scheduled to begin, Monday morning, the development of legislation dealing with the system's financial problems. We are particularly interested in having our proposal considered in that forum, and stand ready to present it there.

Of all interested parties, we ask only that the proposal be given fair-minded consideration, not in fragmented form, but in its entirety.

The proposal is described in greater detail in a separate document entitled, A Proposal for Financial Restoration and Equity Strengthening of the Social Security System. Our staff members and consultants will be pleased to discuss it in greater detail at your convenience.

This proposal has five general objectives.

First, it would put the social security system on a sound financial footing for at least the next 75 years.

Second, it would strengthen the insurance character of the system.

Third, it would improve the treatment of women under the system.

Fourth, it would make long-needed adjustments in the program to reflect changes in the living and working patterns of the American people.

Fifth, it would move closer to universal coverage, which is appropriate for a nationwide, mandatory social insurance system.

The most important objective of the proposal is, of course, restoration of the financial soundness of the system, which faces an estimated deficit of 8.2 percent of taxable payroll over the next 75 years. This proposal would virtually eliminate the long-term deficit. It also would solve the serious cash-flow problems facing the Social Security trust funds now and in the near future.

One of the two major trust funds—the one providing for payment of disability benefits—is estimated to become exhausted in early 1979 (or possibly late in 1978). This proposal would avoid that contingency, without requiring any increase in taxes over those scheduled in present law, on either employers or employees, until 1982.

PROPOSAL ANALYSIS

The proposal has 15 distinct elements.

Three elements deal with the short-term trust fund problem—by reallocating monies among the funds and by permitting one fund to borrow from another.

Three more deal with the long-range financial deficit of the system, through decoupling-and-earnings-indexing (to correct a flaw in current law and to stabilize future benefit ratios) and through modest tax adjustments and increases between 1982 and 2000.

Four deal with sex discrimination and the treatment of women through: (1) liberalizing substantially the benefit legibility or divorced spouses; (2) providing a new "working spouse's benefit", primarily to give greater recognition to wives who work; (3) eliminating the reduction or cutoff of benefits to widows or widowers who remarry; and (4) removing all remaining sexually discriminatory language from the Social Security Act.

One element would bring the system closer to the ideal of universal coverage, by requiring the participation of all Federal employees by 1979.

Another element responds to a major change in our society—the increasing longevity and productivity of American workers—by advancing slowly and gradually, in the future, the retirement age for full Social Security benefits. This would *not* prevent workers from retiring at age 62 with actuarially-reduced benefits. It *would* move, eventually to 68, the age at which full retirement benefits are payable.

The three final elements are designed to improve equity and strengthen the insurance character of the system by:

(1) Eliminating one of the most unpopular provisions of the Social Security Act—the one that imposes a limit on the earned income of beneficiaries;

(2) Freezing the minimum primary benefit but also increasing the special minimum benefit for those who have worked under the system for many years at low wages and

(3) Providing that benefits for the disabled and survivors may not exceed the maximum benefit payable to a retiree.

I. SHORT-TERM FINANCING

The financial problems facing the system between now and 1982 would be taken care of through: (1) reallocation of Social Security taxes between the Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds; and (2) a temporary reassignment of an increase in the tax rates for the Hospital Insurance (HI) Trust Fund, which already (under existing law) is scheduled to take place next year.

The current OASDI tax rate of 9.9 percent (on employers and employees combined) now is allocated: 1.15 percent for DI and 8.75 percent for OASI. It should be reallocated: 1.5 percent for DI and 8.4 percent for OASI. The increased allocation of 0.35 percent to the DI Trust Fund should be sufficient to prevent it from becoming exhausted by 1979 (as can be expected without a change in the law). Reallocation also should cause both Funds to remain viable at least until 1981.

In order to assure further the viability of these two Trust Funds, and to cover the cost of certain improvements in the system starting next year, part of the scheduled increase in the HI tax rate should be diverted temporarily to the OASDI Trust Funds. Present law calls for an increase in the HI tax rate, starting in 1978, from 0.9 percent to 1.1 percent for each employee, employer, and self-employed person. If three-fourths of this increase, or 0.15 percent per worker and employer, were directed to the OASDI Trust Funds beginning January 1, 1978 and ending December 31, 1981, this would not only bolster those two Funds, but also would permit a three year phase-out of the earnings limitation starting January 1, 1978.

[In addition, one-fourth of the 1978 increase in the HI tax rate (i.e., 0.05 percent for both workers and employers) would be permanently directed to the OASDI Trust Funds after 1981. This would not adversely affect the operation of the HI Trust Fund, because the amount of money involved in the diversion approximately equals the savings to this fund as a result of extending coverage to federal employees.]

To guarantee the financial viability of all three Trust Funds over the next several years, each should be permitted to borrow from another, solely for the purpose of preventing exhaustion and with appropriate arrangements made in each case for repayment with interest.

II. LONG-RANGE FINANCING

(1) The long-term deficit of the system would be reduced by slightly more than 50 percent through a process called "decoupling." plus wage indexing of the earnings record of the insured worker.

Decoupling was made necessary by what has been termed an inadvertent flaw in the 1972 law which adjusts benefits automatically according to annual increases in the Consumer Price Index. Under the present coupled system, the CPI increases are applied both to payments already being paid to those on the benefit rolls and to the benefit formula which is applicable to future beneficiaries. Decoupling would apply the cost-of-living percentage increases only to current beneficiaries.

Decoupling would be accompanied by indexing of a worker's covered earnings record. Virtually all observers of the social security system have agreed that decoupling plus indexing should be accomplished to achieve rational and reasonable benefit levels in the future. There has been disagreement, however, as to the level at which decoupling should take place, and as to whether the earnings record should be indexed to prices rather than wage trends. Both the Carter and Ford Administrations proposed decoupling at current benefit levels and indexing of the earnings record according to wages.

This proposal follows the wage-indexing approach, on the main ground that, for future retirees, it more equitably stabilizes the wage replacement ratio; that is, the relationship between the benefits they receive and the most recent covered earnings on which those benefits are based. The proposal would, however, adjust the ultimate benefit level for the overexpansion that has occurred since the automatic-benefit-increase provision was enacted.

It is an accepted fact that decoupling is made necessary because of a "mistake" in the 1972 amendments to the Social Security Act. The "mistake" has led to overexpansion of benefit levels since that time, and would lead to increasingly exaggerated overexpansion in the future. It seems logical to have the ultimate benefit level adjusted for the overexpansion which has taken place since the "mistake" was made.

Starting just before the "mistake" was made, and continuing to the present time, the cost-of-living has risen 53.0 percent, while Social Security benefits have increased 62.1 percent. Thus, benefits have increased about 6 percent more than the cost-of-living over that span of time (162.1 compared with 153.0 produces a difference of about 6 percent). Accordingly, it is reasonable to decouple at a 6 percent lower level ultimately.

This does not mean that benefits would be reduced for those currently receiving benefits. They would be treated exactly as under existing law. Whenever the cost-of-living (as measured by the Consumer Price Index) advances in a year by 3 percent or more, benefits would continue to be increased commensurately.

Nor does it mean that dollar amounts of benefits paid in the future would be lower than present levels. To the contrary, dollar amounts—as well as the purchasing power of benefits—for future retirees would be higher than present levels.

A major difference between this proposal and the present system is that wage replacement ratios (the relationships between benefits and recent covered earnings on which those benefits were based) would remain stable in the future.

It is important to note that, under this proposal, a savings clause—or guarantee—would be provided so that no future retiree would receive less than he or she would under the present-law formula as it was at the time of the change. In other words, retirees in the future would have their choice. They could take the benefit available under present law at the point of changeover, or they could take the benefit provided under the new method, whichever is larger.

(2) The long-range deficit would be reduced further (by about 20 percent) through a slow and gradual advancement in the retirement age at which full benefits are payable. This proposal would move that age from 65 to 68, by degrees, starting in 2000 and ending in 2011.

When the Social Security system was enacted, 42 years ago, American workers were not living as long as they are now, nor were they as productive for as long a period of time. From time to time, the system has responded to other changes in the working and living habits of the people it serves, and it is reasonable for the system to adjust to these trends also.

It should be borne in mind that the longevity of the American people is expected to continue increasing in the foreseeable future. The birth rate, meanwhile, has declined drastically and may well continue downward (or else remain at a low level) for years to come. This means there will be fewer workers making contributions, but more retirees receiving benefits. In view of such projections, because of the improvement in mortality as well as the physical conditions of older people, and in light of wide-spread dissatisfaction with mandatory retirement, the proposal above can have a generally salutary impact both on the Social Security system and on the social and economic lives of the American people.

It is important to note that workers could continue to retire at earlier ages—62, for example—but with slightly greater actuarial reductions than at present, to take into account the longer period of time over which the beneficiaries could be expected to receive payments.

Under the proposal, the standard retirement age of 65 would be increased by three months (or one-quarter year) each year starting in 2000. By the year 2011, the minimum retirement age for full benefits would have been increased gradually to 68.

A gradual implementation of this change, with a starting date almost 25 years in the future would give people sufficient time to plan for their retirement without severe disruption in any one year, and would permit management and labor to revise employment practices carefully and systematically.

(3) As noted earlier (on page 5), the long range deficit in the OASDI Trust Funds would be reduced further by a permanent reassignment, starting in 1982, of a small portion of the Hospital Insurance tax rate. This redirected rate would equal 0.05 percent for workers and employers.

(4) To further strengthen the financing of the system in future years, contribution (tax) rates for employees, employers, and the self-employed would be increased by 0.5 percent in 1981, 0.45 percent in 1985, and 0.25 percent in 2000. Thus, the net addition to the presently scheduled OASDI tax rates over the next 75 years would be less than 1¼ percent on employees, employers, and the self-employed.

III. TAX TREATMENT OF WOMEN AND SEX DISCRIMINATION

The proposal would make four significant changes in the Social Security Act designed to improve the treatment of women and to remove remaining sex discrimination language.

First, the proposal would reduce from 20 years to 5 years the duration-of-marriage requirement for one spouse to receive a benefit based on the other's earnings record. Under present law, a divorced spouse retains auxiliary benefit rights only if the divorce occurs after 20 full years of marriage. Critics of the system long have contended that this requirement was unfair, arbitrary, and unrealistic in view of social changes.

Second, the proposal would provide a new benefit—a "working spouse's benefit". Under present law a covered worker is always eligible for a benefit based on his or her own earnings record. But if the worker also becomes entitled to an auxiliary benefit, such as a spouse's benefit, he or she is entitled, in essence, only to the higher of the two benefits available. A number of working spouses (especially wives) have found that they would have been as well off financially, as far as Social Security benefits were concerned, if they had never left the home to enter the labor force. To alleviate this problem and to provide greater recognition of the employment record of a working spouse, the proposal would make the following changes:

1. A spouse who is eligible for an auxiliary or survivor benefit, who also worked under Social Security, could receive a new "working spouse's benefit", which would be equal to (A) the larger amount due either as a spouse or as a worker, plus (B) 25 percent of the smaller of the two benefits (but in no event greater than the maximum primary benefit).

2. Any pension or benefit based on governmental employment not covered under Social Security would be cosidered as a primary benefit in determining the amount of the Social Security auxiliary or survivor benefit payable. (This change is designed to remove what amounts to a "windfall" benefit in some cases under present law. For example, if a wife worked under Social Security for her entire career, she would be entitled to a primary benefit based on her own earnings record. If her husband had worked exclusively under a state employee's retirement system, he would be entitled to a pension under that system and also might be entitled to an auxiliary (spouse's) benefit based on his wife's Social Security record. Inasmuch as auxiliary and survivors benefits are based more on social adequacy (or need) than on individual equity, the "windfall" situation described above is not one which the Congress contemplated when it provided for survivors and auxiliary benefits in the first place.)

3. The proposal would end the cutoff or reduction in benefits for widows or widowers who remarry. Under the proposal, benefits would not be terminated because of a beneficiary's remarriage or marriage at any age. Under present law, for example, a widow's remarriage before age 60, or a surviving divorced wife's remarriage at any age, will prevent entitlement to benefits unless the subsequent marriage ends. A number of persons, especially those living in retirement communities, have complained that current law requires them to "live in sin" in order not to lose Social Security benefits.)

4. The proposal also would amend the Social Security Act to remove all remaining sexually discriminatory language. (Example: The terms "husband's benefit" and "wife's benefit" would be replaced by one term, "spouse's benefit."

IV. UNIVERSAL COVERAGE

Universal coverage is a natural and desirable goal of any nationwide, mandatory social insurance system. Although about nine of every 10 American workers now participate in the U.S. social security system, it is increasingly difficult to justify to the "nine" why the "one" is not covered. This is especially true in view of the impact of the Social Security payroll tax on the incomes of contributors.

Public discussion of universal coverage has taken place for many years. It has long appeared that a large majority of Americans favor it, but no action has been taken by the Congress. Many difficulties—legal and administrative—have stood in the way.

But the latest Advisory Council on Social Security stated that despite these difficulties, "it is of great importance from the standpoint of assuring good protection for all workers on an equitable basis that all jobs be compulsorily covered under social security." The Council urged the Congress to move promptly toward that goal.

A major step in that direction would be mandatory coverage for all Federal workers. Integration of the Civil Service Retirement and Social Security systems would be an extremely difficult task, crossing jurisdictional boundaries of major committees in both the House and Senate, and involving many complex technical problems. But integration could be achieved, in an equitable way, within one year.

Therefore, an important objective of this proposal is the immediate enactment of legislation requiring the various committees of jurisdiction to work together over the next year and produce a workable—and equitable—plan for an integrated system, to become effective no later than January 1, 1979.

An integrated system would in no way prevent the continuance of the Civil Service Retirement system as a supplement to Social Security.

V. INSURANCE AND EQUITY STRENGTHENING

To strengthen the insurance character of the system and, at the same time, to provide greater equity, the proposal also would:

1. Eliminate the earnings limitation on beneficiaries. This is probably the most unpopular provision of the Social Security Act. More bills have been introduced to abolish the limitation than to make any other change in the system. During recent public hearings before the Ways and Means Committee's Subcommittee on Social Security, repeal of the limitation was the most widely discussed item. Witnesses pointed out that the limitation enforces the under-utilization of experienced older people and also encourages retirees to adopt artificial work and pay practices. Under this proposal, the limitation would be phased out over a 3-year period, by increasing the annual exempt amount of earnings to $5,000 for 1978 and to $7,500 for 1979, and by removing it entirely for 1980 and thereafter.

2. Freeze the minimum primary benefit at its current level of $114.30 per month, but at the same time increase, now and in the future, the special minimum benefit

Freezing the minimum primary benefit follows a recommendation of the latest Advisory Council on Social Security, and is designed to lessen, and eventually eliminate, certain "windfalls" accruing to persons who work in covered employment for very short periods of time and thus acquire rights to the relatively large minimum, which has been weighted in favor of low-income workers.

In practice, a substantial number of Federal, state, and municipal government workers, outside the Social Security system, have either "moonlighted" or retired early from their regular jobs and worked under Social Security just long enough to obtain the minimum primary benefit.

Ironically, the minimum primary benefit was not established to help those short-term workers, but to assist other workers who had labored long under the system, at low wages. Recognizing that the minimum primary benefit was not serving its basic purpose, the Congress in 1972 added a "special minimum benefit" to better take care of the workers with many years of covered service at relatively low wages.

In so doing, the Congress did not change the minimum primary benefit, which continues to be of greatest value to those who need it least. This proposal would correct that anomaly by freezing the minimum primary benefit while improving the special minimum benefit.

The special minimum is now $180 per month for workers with at least 30 years of coverage. When the $180 figure was adopted in the 1973 Social Security Amendments (effective for March 1974), it was not made subject to the automatic adjustments for changes in prices; if it had been, it would now be $219.

Under this proposal, the special minimum would be increased to $219 in January 1978 and would be subject to automatic adjustment thereafter (as are all other benefits).

3. Provide that benefits for the disabled and survivors never could be based on a primary benefit in excess of the maximum primary benefit for a worker reaching minimal retirement age of 62 in the year of death or disability.

At least partly because of the technical flaw in the automatic-adjustment-of-benefits provision (discussed above), benefits to young and middle-aged beneficiaries may be unduly large—in some cases considerably larger than those awarded to older disabled persons or retirees with much longer earning records (and therefore with greater contribution payments). This disparity in benefit levels (which would be increased if no changes are made) has long been considered inequitable in a national social insurance program. The proposal would end that disparity.

PROPOSAL FOR FINANCIAL RESTORATION AND EQUITY STRENGTHENING OF THE SOCIAL SECURITY SYSTEM

Impact on long-term OASDI Trust Funds' Deficit

Provision	*(Loss or gain) as percentage of taxable payroll*
Decoupling and wage-indexing based on pre-automatic-benefit-adjustment flaw	+4.50
Freezing regular minimum benefit and updating special minimum benefit	+0.07
Increasing the retirement age	+1.65
Limiting disability and survivor benefits to maximum retiree benefits	+0.02
Covering Federal employees	+0.10
Cutting marriage duration requirement for divorcees' eligibility from 20 to 5 years	−0.01
Removing benefit cutoff or reduction for marriage or remarriage	−0.05
Adding working spouse's benefit, with offset for other government pension	−0.45
Ending the earnings limitation	−0.20
3-stage tax increase and HI tax diversion	+2.13
Total Net Effect	7.76
Deficit under Present Law	8.20
Deficit under Proposal	—0.44

NOTE: The system is considered to be within safe actuarial bounds (sufficiently close to absolute balance) if the deficit is no greater than 0.50% of taxable payroll.

SHORT-TERM COST IMPACT OF PROPOSAL ON OASDI PROGRAM

[In billions]

Year	Contributions from Federal employees	Transfer of HI taxes	Increase in OASDI taxes	Cost of change in earnings test	Net cost effect
1978		$2.7		$0.4	+$2.3
1979	$4.0	3.0		1.6	+5.4
1980	4.2	3.2		7.0	+.4
1981	4.5	3.4		7.1	+.8
1982	4.8	1.2	$11.9	7.3	+10.6
1983	5.1	1.2	12.5	7.4	+11.4
1984	5.4	1.3	12.9	7.6	+12.0

ESTIMATED OPERATIONS OF OASDI TRUST FUNDS UNDER PROPOSAL FOR FINANCIAL RESTORATION AND EQUITY STRENGTHENING OF SYSTEM

[In billions]

Calendar year	Total income[1]	Total outgo	Net increase in funds	Funds at end of year
1977	$82.1	$87.7	−$5.6	$35.5
1978	93.5	97.7	−4.2	31.3
1979	107.6	111.3	−3.7	27.6
1980	117.6	126.5	−8.9	18.7
1981	125.8	136.5	−10.7	8.0
1982	145.0	146.4	−1.4	6.6
1983	154.6	156.4	−1.9	4.7
1984	164.6	166.4	−1.8	2.9
1985	175.3	175.8	−.5	2.4
1986	186.8	185.5	+1.3	3.7

[1] Including interest on invested assets.

Note: After 1986, trust funds balance is estimated to increase each year.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, the passage of the social security legislation now before us will have 3 disastrous results: it will place a crushing and well-nigh intolerable burden onto the shoulders of taxpayers and consumers; it will begin a fierce conflict between generations in this country, as the young are asked to pay more and begin to fear they will never regain in old age what they contribute to it; and, finally, it will once and for all confirm in the minds of the American people the serious doubts they have about the capability of the Congress to deal with national problems.

Columnist Tom Wicker of the New York Times recently described this bill as an "economic disaster." He pointed out the following:

> Long-term tax increases totaling $227 billion dollars would be imposed in regular steps between 1979 and 1987. Note that the Congress that voted this body-blow to the American wallet prudently put off the first of the increases until *after* its members try to get themselves re-elected next year.
>
> These payroll tax increases are regressive and severe. Under current law, a worker paying the maximum tax in 1979 would have been hit for 6.0 percent of the first $18,900 of his earnings, or $1,143.45, which is bad enough; under the new bill, a worker at the maximum would pay 6.13 percent on $22,900, or $1,403.77, in 1979. How does a new one-year tax bite of $260.32 grab you?
>
> By 1987, workers and employers will be taxed at 7.15 percent on the first $42,600 of income— $3,045.90 at the maximum. Thus, over the life of the bill, the payroll taxes of persons paying the maximum will be nearly tripled, as will the matching taxes of their employers.

The Wall Street Journal had the following to say about this legislation:

> In essence, the Social Security bill will be but another government program that encourages consumption at the expense of capital formation. That can only mean more inflationary pressure, which creates a vicious cycle by pushing tax rates higher and higher.

This is not just another bill. It has to be regarded as the biggest tax bill of all time. I tell you, Mr. Speaker, the American people will never forgive or soon forget what this bill will do to their families.

The irony of all this is, we don't have to travel this particular route. We are told that it will save the social security system. But what kind of salvation do we purchase with the crippling taxes this bill will impose, with the inflation it will create, with the bitterness it will form in the large, hard-working middle-class, from whom so much is taken and to whom nothing seems to be given, except a heavier tax burden?

Let us not deceive ourselves. This is one issue on which there are partisan views, in which there are partisan differences. Our Republican version of the social security bill would place the social security system on a sound financial basis for the next 75 years. This plan would require no new taxes until at least 1982 and even then only a modest increase of one and one-quarter percent over the remainder of the 75 years. We Republicans have tried five times to cut Federal income taxes in the first session of this Congress. Five times. And the majority has opposed us every time.

The American people are not so easily fooled, Mr. Speaker. They surely are not fooled by the President's rhetoric that he will reduce taxes. This social security tax and those proposed energy taxes will not only take money from the taxpayers but cause inflationary pressures that will reduce the taxpayers purchasing power of what he has left.

Today, on the eve of the 204th anniversary of the Boston tea party, the ancient enemy of the American people—high taxes—is still alive. Two hundred years ago tomorrow the people retaliated by dumping tea into a harbor—next year I predict they will retaliate in the voting booth. We have found there is one thing worse than taxation without representation. It is taxation with representation—of the wrong kind.

We are asked to vote yes for higher taxes and to sidetrack an attempt by Senator ROTH to give tax relief to those sending their children to college.

I call upon members, in the spirit of those colonists who showed their contempt for the King's taxes, to dump this bill, sink it to the bottom, and join with those of us who have a better alternative.

Mr. Speaker, while I have to vote against the social security conference report, I think it important to call to the Members' attention the fact that the report contains several welfare reform provisions which were added in the Senate.

The provisions included would provide fiscal relief to the States and localities, incentives for lowering AFDC error rates, access by AFDC agencies to wage records, and authorization for State welfare demonstration projects.

All four of these provisions are among those contained in the welfare reform bill I introduced 2 weeks ago, entitled the Welfare Improvement and Cost Reduction Act. The only difference is in the amount provided for fiscal relief. The conference report provides $187 million over a 1-year period, while my bill contains $2 billion in fiscal relief for the States and localities over a 2-year period. I would provide more relief for New York State alone than this report provides for the entire country.

Numbers aside, I commend the House conferees for accepting these four provisions. This action represents a significant first step in the direction of legitimate and realistic welfare reform. To be sure, of course, there is still a long way to go, and the bill I have introduced contains many other provisions which would take us a long way toward completing the process. I would do so in a manner that does not alter our current programs. I do not drop the food stamp program; I do not eliminate the SSI program; I do not structurally change the AFDC program.

What we do in essence is to zero in on the administration of our present programs. We provide tools and incentives designed to reduce the error rates. Eliminate the ineligibles, correct structural deficiencies, and strengthen the work options and requirements. We also provide the States with increased opportunities to experiment with alternatives, part of which is provided for in this conference report.

All told, with these reforms in place, my bill would result in net savings of $1.1 billion to the Federal Government and $2.5 billion to the States in the first full year of implementation. In the RECORD at the end of my remarks, I will be inserting a breakdown of the costs or savings for each section of the bill, based in the main on estimates provided by HEW.

We know, of course, that the Ad Hoc Committee on Welfare has accepted the Carter welfare proposal virtually intact. I don't think anyone here expects that action to stand, and rightly so, because the Carter wholesale alteration contains too many imponderables on which we simply do not have sufficient information to construct sound legislation. The bill I have introduced represents a moderate approach that makes improvements in the present system while buying us the necessary time to more thoroughly consider alternatives. I will be reintroducing the bill today with cosponsors, and I welcome any others who may be interested.

WELFARE IMPROVEMENT AND COST REDUCTION ACT OF 1977

Bill Sec. No.	1978	1979	1980	1981	1982
FEDERAL DOLLAR SUMMARY					
Title I:					
101	NC	NC	NC	NC	NC
102	−4	−5	−6	−6	−6
103	0	+40	+43	+45	+47
104	+8	+11	+12	+13	+14
105	NC	NC	NC	NC	NC
Total	+4	+46	+49	+52	+55
Title II:					
201	+7	+7	+8	+8	+9
202	NC	NC	NC	NC	NC
203	NC	NC	NC	NC	NC
204	−9	−9	−10	−11	−12
205 and 206	NC	NC	NC	NC	NC
207	NC	NC	NC	NC	NC
208	−104	−109	−114	−124	−131
209	NC	NC	NC	NC	NC
210	NC	−1,350	−1,890	−1,985	−2,085
211	NC	NC	NC	NC	NC
212	−43	−46	−48	−53	−56
213	NC	NC	NC	NC	NC
214	−35	−40	−50	−60	−70
Total	−184	−1,547	−2,104	−2,225	−2,345
Title III: 301	+100	+150	+200	+200	+200
Title IV:					
401	−23	−24	−26	−28	−30
402	−371	−500	−525	−551	−579
403	−43	−55	−60	−65	−70
404	NC	NC	NC	NC	NC
405	−14	−15	−29	−58	−58
Total	−451	−594	−640	−702	−737
Title V: 501	+1,000	+800	0	0	0
Total	+469	−1,145	−2,495	−2,675	−2,828
[STATE DOLLAR SUMMARY]					
Title I	NA	NA	NA	NA	NA
Title II:					
208	−104	−109	−114	−124	−131
210	NC	−900	−1,240	−1,280	−1,320
212	−43	−46	−48	−53	−56
214	−35	−40	−50	−60	−70
Total	−182	−1,095	−1,452	−1,517	−1,577
Title III	NA	NA	NA	NA	NA
Title IV:					
401	−23	−24	−26	−28	−30
402	−371	−500	−525	−551	−579
403	−43	−55	−60	−65	−70
405	−14	−15	−29	−58	−58
Total	−451	−594	−640	−702	−737
Title V	−1,000	−800	NC	NC	NC
Total	−1,633	−2,489	−2,092	−2,219	−2,314

Code: + = increased cost; − = savings; NA = not available; NC = no identifiable cost change.

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TITLE V—FISCAL RELIEF FOR STATE AND LOCAL WELFARE COSTS

Sec. 501. Fiscal relief with respect to costs of welfare programs.

Mr. ROSTENKOWSKI. Mr. Speaker, the conference report currently before the House is one that deserves the strong support of this body. It represents a very thoughtful compromise of the issues in dispute in this bill—the most complex and important legislative initiative on which we, in this first session, have completed our work. This is, I believe, one of the rare instances in which the product of a conference committee can truly be said to be a better bill than either version that was sent to the conference.

Early in this session, we began consideration of this legislation primarily because of the impending insolvency of two of the three social security trust funds. Yet, during both House and Senate consideration of this emergency financing bill, too much emphasis, in my opinion, was placed on expanding the benefit structure of the program and too little concern was focused on the real problem—assuring the financial stability of the three trust funds. I am pleased to say that I believe the conference committee has carefully addressed this problem and rectified what I believe was a serious weakness in both the House and Senate bills.

One indication of the strength of the conference compromise is that under the House version of H.R. 9346 the OASDI trust fund would have had on hand at the beginning of 1987 an amount equal to only 37 percent of that year's obligations. In the Senate bill, that percentage would have been 44 percent. Under the conference compromise, the OASDI trust fund, in 1987, will have on hand a reserve equal to 60 percent of the projected outgo for that year.

Mr. Speaker, such a result was achieved through a careful adjustment in the rates and wage bases and the willingness of the conferees to forsake benefit expansions at this time in order to assure both today's retirees and those who expect to benefit from the program in the years ahead that the promises of social security protection can be fully relied upon.

Mr. Speaker, we have read much in the press about the dramatic increases in taxes embodied in this bill. I hope everyone will remember, in reviewing the higher contribution rate and base included in this bill, that existing law already includes substantial future adjustments in the rate and base to cover anticipated future financial needs. The appropriate comparison, then, is not with today's social security taxes, but with the increases already scheduled in existing law.

Also we must all keep in mind that any increases in the contribution bases will utimately provide higher benefits to current workers when they retire. For example, the maximum benefit in 1977 of $5,244 will be increased to approximately $9,900 in 1987 as a result of the higher contribution base.

Finally, Mr. Speaker, I would like to address myself to the subject of the hospital insurance fund—the often ignored third part of our social security insurance system. As the result of a poorly structured floor amendment in the House relating to the exclusion of Federal employees from the program, assets in the medicare trust fund would be reduced between 1982 and 1987 by almost $25 billion below the level originally recommended in the Ways and Means Committee bill. Although it was not possible in the conference to restore the actuarial balance of the medicare trust fund to the level incorporated in the Ways and Means bill, every effort that was possible within the scope of conference was exerted to restore financial stability to the medicare program—the main source of financing health care for America's elderly. The long-range stability of the medicare trust fund will inevitably have to be reviewed in the context of any proposed changes in the Federal Government's role in the delivery and financing of health services. In the meantime, let me assure my colleagues that the medicare trust fund has been somewhat strengthened through this legislation and is on firm footing at least through the end of the next decade.

Mr. VANIK. Mr. Speaker, I rise in support of the conference report to H.R. 9346, the Social Security Financing Amendments of 1977. This legislation represents a responsible attempt on our part to assure the actuarial viability of the social security trust funds for many years to come.

Why has the social security fund run into financial trouble? The major culprit is the problem of the recession and the persistently high rate of unemployment which reduced contributions to the social security fund. If unemployment over the past 6 years had remained below 5 percent, a reasonable goal, the fund would have been in surplus by $46.5 billion instead of confronting a deficit.

The first social security benefits were paid in 1940. Since 1950, social security beneficiaries have enjoyed 12 cost-of-living increases:

	(In percent)
September 1950	77
September 1952	12.5
September 1954	13
January 1959	7
February 1968	13
January 1970	15
January 1971	10
September 1972	20
June 1974	11
June 1975*	8
June 1976*	6.4
June 1977*	5.9

*Automatic cost-of-living increases, as provided in the Social Security Amendments of 1972.

Benefit levels this year are 150 percent over 1959. No insurance policy in America recognized inflation and provided a comparable cost-of-living boost.

These cost-of-living increases over the years were never adequately funded. The social security reserves were depleted by the reduced contributions of the recession and this failure to properly fund cost-of-living increases. These higher payouts were not arbitrary; they were necessary to prevent the shift of millions of Americans from social security support to public assistance. It must be acknowledged that the social security fund carried a tremendous burden which substantially belonged to the general fund.

This legislation before us today will increase social security taxes. However, compared to other nations, we are still providing more coverage for less. Thirty-three million people receive monthly social security checks. Most will receive infinitely more than they have paid in. If the average social security retiree lives as little as 2 or 3 or 4 years beyond retirement, he will have received more than his contribution.

In view of increased premiums, why should a young worker accept the social security program? Because social security does more than take care of the retired worker. Its most important task is insuring against loss of family income due to death or disability. Today, monthly payments to widows and families are double the payout to the retired worker. Two-thirds of social security benefits are paid to the family as income insurance rather than to the retiree.

Even with the social security tax increases that we are voting today, the social security and survivors insurance benefits received under this program are the best bargain available to American people at any age.

Mr. JENKINS. Mr. Speaker, I rise to express both a note of optimism and one of caution to my fellow Members.

First, I shall support the report of the conference committee which provides for sufficient revenues to pay the retirement checks to 33 million Americans who are now dependent on social security old age retirement, survivorship, and disability benefits. While I do not like the financing scheme in the House bill, the Senate bill or the conference report, it would simply produce unimaginable chaos and confusion throughout the Nation for this Congress to allow the retirement program to become insolvent.

Essentially, a vote today against this report is a vote for preferred insolvency placing millions of elderly, blind, and disabled Americans in severe and destitute circumstances.

However, I must tell you as emphatically as I did when we debated this bill here on October 26 and 27 that it was a serious mistake not to adopt my amendment which would have provided an alternative financing measure. Every bit of the burden to bail out this system has been leveled on the shoulders of middle-income Americans, self-employed citizens, small and independent business people. My amendment gave them some relief.

Again, I must say that I do not know your people individually, but I would believe that they must feel similar to my people.

These middle-income Americans are deeply upset over the sudden and large added burden to the State property and income taxes; the local service and user charges and the Federal income and FICA taxes. I do not believe that they intend soon to forget our action here.

Finally, I am deeply gratified that the conference report provides for the National Commission on Social Security which I proposed. To most working Americans this high level and nonpartisan independent analysis of social security is the only gleam of hope in this law for a sound and economically affordable system of financing retirement over the long term.

This legislation has been very difficult for most Members. Raising taxes is always difficult and unpopular. It should be said in conclusion that the system will be made solvent while we look for better approaches.

I hope that this action today does not end our struggle with this issue. We must give the problems of social security financing attention next year and the next year to assure the best, safest, and most economical system.

Mr. REUSS. Mr. Speaker, the social security proposal before the House is inflationary and inequitable. It threatens the health of the economic recovery, and will discourage many firms from hiring additional workers. I intend we should rely less on payroll taxes and more on general revenues.

The conference agreement on social security does go a long way toward putting the system on a sound financial basis. There is no doubt that the system is in need of reform. Without some change, the system will be faced with mounting deficits over the next decade. But the urgency of the situation does not justify precipitous action on a bill that creates as many problems as it solves.

Take a hard look at what we are about to enact. Sharp increases in payroll taxes are sure to be reflected in the cost of goods and services. What we do not need is more inflation.

Every time we increase payroll taxes it becomes more expensive to hire a worker. There are already some 7 million Americans looking for work who cannot find it. There is no need to add to that total.

A sharp rise in payroll taxes takes money out of consumers' pockets and leaves unsold goods on merchants' shelves. That is no way to keep a recovery moving. Worse, the increase in taxes will really begin to bite in 1979, when many already expect a downturn in the economy.

And payroll taxes put an added burden on workers who are at the very bottom of the income scale. By putting considerable emphasis on increasing the taxable base, the conference report may mitigate the inequities that come with payroll taxes. But tax rates are already scheduled to rise under present law, and the conference agreement would raise them even higher.

The conference agreement reflects long hours and a delicate compromise. There is an understandable reluctance to put all that effort aside for a fresh start. We are also urged to act quickly so that the administration can set its budget and tax plans in a manner that will attempt to undo the adverse economic impact of the social security bill. What a way to legislate. Why not do it right the first time?

Mr. Speaker, the social security bill should be put over until the next session. A new bill should be drawn up that will restore financial health to the social security system without causing so many unfortunate economic consequences.

Mr. OTTINGER. Mr. Speaker, during earlier House consideration of this bill designed to alleviate the financial problems of the social security system, I stated my grave reservations regarding the increased payroll taxes mandated by this legislation. My overriding concern remains the effect of these increases on the low- and middle-income taxpayers. These workers are the backbone of our Nation. They must not be taxed out of existence.

I am voting for this bill because of the urgent need to protect social security recipients. However, I believe we should consider immediately alternate means of financing social security programs.

I have joined the chairman of the House Social Security Subcommittee, Representative JAMES BURKE in sponsoring legislation to provide relief to middle-income workers. This legislation would cut the social security taxes for employees and employers almost in half, from 6.05 percent to 3.09 percent in 1979, and make up the income loss to the trust funds from general revenues. This would mean more take-home pay for most workers. For example, under the present plan, social security taxes for a worker earning $15,000 a year will be $907.50 in 1979. Under my plan, the tax would be $585; a savings of $322.50.

In addition, this bill would keep the social security trust funds secure and provide a much more equitable distribution of the tax burden. The Social Security Administration estimates this proposal would result in a substantial surplus in the trust funds in 10 years. And at the going rate of interest, the trust funds would earn close to $140 billion during these 10 years, eliminating any need for future increases in taxes.

Mr. Speaker, I also would like to express my disappointment that the final version of this social security legislation does not contain the House-passed provisions regarding the social security earnings limitation. The House bill would have phased out the current $3,000 limit on wages a social security beneficiary may earn without a reduction in benefits. We voted to eliminate the limit entirely in 1982. The bill we are considering today liberalizes the earnings ceiling to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, and the conferees added $6,000 in 1982. The bill also contains a Senate provision which reduces from age 72 to age 70 (effective in 1982) the age at which beneficiaries are no longer subject to the retirement test. While I support these changes, I believe we should eliminate the limit altogether. By not allowing social security recipients to supplement their social security benefits with earned income we are undermining an objective of the Social Security program—to supplement retirement income. The ones who are hurt the most are the lower income retirees since they have greater need to supplement their social security benefits and are unlikely to have investment or other income which is not subject to the earnings limit. Despite passage of this bill today, I plan to continue to press for the elimination of this unfair earnings test.

Finally, Mr. Speaker, I would like to comment on the deletion of the $250-a-year tuition tax credit from this bill. I strongly support tax relief to help families meet their educational expenses. I have cosponsored several bills to provide this desperately needed financial assistance. We must provide assistance to middle-income families who are seldom eligible for grant or scholarship aid and find it increasingly difficult to meet the high cost of education.

A large number of House Members have shown their strong support for this kind of relief by cosponsoring similar measures in the House and by voting for an amendment to the budget resolution to allow enactment of this kind of legislation. This proposal has strong backing in my district as well. In fact, a grassroots organization has been formed to work for passage of this measure. They have my full support for their efforts.

I understand that the Senate conferees agreed to drop the proposal for now rather than hold up any longer passage of this social security bill. Supporters of the proposal promised to be back with it next year and the chairman of the House Ways and Means Committee said the college tax credit will be considered by his committee next year as part of an overall review of the tax system. Once the issue has been considered carefully by this House committee I am confident the need for relief will be clear and this measure will be enacted.

Mr. KEMP. Mr. Speaker, this bill today will raise taxes and the tax rates on the

American people by $227 billion over the next decade. In their haste to ram this tax increase down the throats of the American people the administration and the majority party in Congress have given little thought to the economic consequences of what they are doing. This bill will further depress our fragile economic situation and lead to job loss not job creation.

As I have often said before, when you tax something you get less of it. There are no two ways about that. So here we are preparing to tax employment at a time when the Nation has 7 percent unemployment plus. The result will be more unemployment, with all the political, sociological, and economic problems it will cause. Even now the President is proposing passage of the Humphrey-Hawkins "full employment at any price" bill. Will not demands for further massive public employment programs intensify if we take actions which will increase unemployment in the private sector?

The increasing social security tax rates, from 5.85 on both workers and employers—for a combined rate of 11.7 percent—to 7.65 percent—for a combined rate of 15.3 percent—will increase the wedge between the total cost of hiring a worker and the after tax income of the worker by almost 4 percent. This means that a single worker earning $16,000 per year is virtually in the 50-percent tax bracket—34 percent Federal income tax plus 15.3 percent social security tax, for a combined rate of 49.3 percent. And this does not count State income taxes. In New York State this worker would pay another 10 percent State income tax, for a total tax rate burden at $16,000 of 60 percent. The result will be a loss of initiative and incentive plus a net loss of economic output.

Some may say that this analysis is not correct because employers are paying half of the social security tax bill. But the total cost of employment is not only the worker's salary but all the taxes as well. In other words, it will cost an employer $1.66 to give an employee in New York State earning $16,000 per year an additional $1 take home pay. The Government gets all the rest.

This point was recently emphasized in a report released by joint council 16 of the Teamsters Union in New York City prepared by its chief legislative counsel, Mr. Nicholas Kisburg. In this report on factory earnings the Teamsters said:

> What government extracts from the individual employer irrevocably reduces the amount of money the employees of that employer will be able to secure through union collective bargaining or individual negotiation.
>
> What government extracts in the form of open and concealed taxes from the individual worker simply reduces the amount of money available to the family for food, clothing and shelter.
>
> Having only one source to turn to, the worker attempts to replace the monies expropriated by government by escalating his wage demands on the employer. Thus begins the chain reaction which frequently leads to reduced employment opportunities and, worse, relocation of business.
>
> The simple and ironical fact is that the tax collector does not pay union dues, does not walk the picket line, but is nevertheless the first beneficiary of any wage increases secured by the worker. This perfect stranger gets his cut first, leaving a substantially reduced amount for the family.

Furthermore, we should not delude ourselves into thinking that the increase in the wage base proposed in this bill, from $16,500 to $42,600, will shift the burden of taxation off of moderate income workers. This is because inflation is increasing nominal incomes daily, pushing people into higher and higher tax brackets. Thus a person earning only $12,000 per year now will find himself in the 50 percent combined tax bracket by the 1980s, at present inflation rates. I think there are very few people in this country who believe that a person earning $12,000 per year ought to pay 50 percent of his additional income in taxes. Is it any wonder that many unions have already shifted their primary demands away from higher wages to more nontaxed benefits?

Of course, the social security tax increases before us today will not solve the fundamental problem of the social security system, which is that it is not an insurance or pension system at all, but rather a vast transfer payment from those presently working to those who have retired. Unfortunately, the illusion that it is an insurance or pension system has blinded us to some serious side effects of social security on the economy.

The most important of these side effects is the effect on capital formation. Historically, much of the Nation's real savings, and hence its capital, came as the result of individuals saving for retirement. This motivation, and hence the savings, has gone down steadily over the years as social security taxes and benefits have gone up. The result, as Prof. Martin Feldstein has pointed out, is a reduction in capital formation with which to create jobs and modernize and expand our Nation's plant and equipment.

The present bill will accelerate this trend by motivating employers to cut back on private pension plans. Private pension plans currently provide the Nation with roughly $30 billion in capital per year. The Social Security Trust Fund, by contrast, creates no capital whatsoever because the funds are not invested, merely transferred.

One last point should be raised about provision of the conference bill to give a one-shot payment of $187 million to local governments for welfare costs. I can only assume that this was put in as a sweetener to induce local governments to support this legislation. If this is the tradeoff, it is certainly a one-side trade. According to my estimates, Erie County, New York would get about $1,000,000. In return, every employee and employer in Erie County would have their taxes raised. Since there are roughly 340,000 workers in Erie County earning roughly $3.5 billion per year it means that Erie County stands to lose more than $125 million per year by 1990. And this does not even begin to calculate the effects of inflation, which could easily increase this figure by many millions of dollars.

In conclusion, I must urge my colleagues to oppose this measure and realistically face up to the increasing long term deficit of the social security system along the lines suggested by those of us who want expanded growth in private enterprise and which would not depend on an increase in taxes to bail the system out. Federal employees, millions incidentally, must be included if the system is to be saved, as it must be. We must study all alternative and reform measures while not acting so precipiteously. The long run implications of this tax increase are devastating.

Mr. BIAGGI. Mr. Speaker, it is with a high degree of reluctance that I support this conference report today. Inevitably, legislation of this magnitude is a product of compromise and this bill is no exception. I differ with much of what is being proposed here today. I believe the House-passed bill was far better.

However, the compelling factor which leads me to support it, is the disaster which would strike the elderly of this Nation if social security benefits were to stop. This is not a figment of imagination, but an imminent reality. Based on the most reliable projections, without some new and immediate infusions of funds into the trust fund, it would dry up in the early 1980's.

What would this mean? For 75 percent of our elderly it would mean the loss of their principal source of income. It would result in these seniors after working and contributing faithfully for their retirement years be forced to turn to welfare or other sources of income. The consequences would be tragic and traumatic for all concerned. The specter of seniors without income would be more than the conscience of this Nation could endure.

This legislation is regressive instead of progressive. It places an inordinate burden on employers and employees. Why we continue to fear tapping the general treasury to preserve the Social Security Trust Fund is beyond me. I have joined and will again with the distinguished gentleman from Massachusetts (Mr. BURKE) as a cosponsor of legislation providing a one-third employer, one-third employee and one-third general revenue arrangement for funding the system.

I have also in the past, proposed that a National lottery be established for an additional means of maintaining the system. Either of these approaches would be far better than what we have before us today. The demographic facts of life dictate a change in our thinking about future funding for social security. I have conducted hearings in the House Select Committee on Aging, which identify a rapidly aging population, with a corresponding reduction in the numbers of workers contributing to the system. The leadership of our committee resulted in the passage of H.R. 5383, to curtail mandatory retirement. We saw and still see this as a logical means of helping the system—allowing people to work past 65—contribute to the system, thus insuring its future solvency. Hopefully, this legislaion can be signed into law without further delay.

The continued decline between workers and beneficiaries is the reality we must deal with. A few years ago, it was 4 to 1, today it is 3.2 to 1. By the year

2030, the ratio will approach 2 to 1. The answer to this dilemma is not more taxes on the limited workers but rather to provide a sharing arrangement between payroll taxes and general revenues for future social security trust funds.

Let no one here believe that this legislation represents the alpha or omega with respect to social security reform. It is imperfect but it is necessary, without it we would have unparalleled economic hardships directed against the elderly.

Mr. HARRIS. Mr. Speaker, while it is gratifying that Congress has taken strong steps to shore up the social security program for current and future retirees, I am disappointed that Congress has not developed reforms of the tax rate and wage base aspects of the program.

I believe that ultimately we must take a hard look at how the revenues generated from the social security tax on the employee and employer are truly used and develop a system that supports only retirement. Currently, 1 percent of the social security tax constitutes a contribution for the medicare hospitalization program and almost 1 percent is used for disability insurance. Additionally, out of the employee's and employer's contribution come administrative costs of the social security program, including the construction and rental of buildings and the salaries of personnel.

I am preparing legislation, which I will introduce in January when Congress reconvenes, to make real reforms and lower the tax rate for the employee and employer. It is my view that these "nonretirement" aspects of the social security program should be financed out of general revenues, not employee's salaries. The employee, I think, is willing to provide for his or her future retirement. But by putting other programs in with social security, I think we are misleading people and asking them to accept a payroll tax to finance programs that ought to be supported by general revenues.

OFFSET FOR DEPENDENTS UNFAIR

I oppose the provision, recommended by the Senate, to offset social security dependents benefits received by one spouse by the amount of government—Federal, State, and local—retirement benefits received by the other spouse. In my view, this provision will force serious financial hardship on many retired couples and in November I wrote the conferees urging them to delete the offset language from the bill. We should not try to shore up the social security system by reducing the benefits rightfully earned by people who paid into this system simply because the spouses of these people happened to work for the Government.

It is my understanding that the conferees' amendment provides an exemption to the offset provision for persons who, within 5 years after the date of enactment: First, qualify for or receive a public pension; and second, meet all requirements for receiving spouse's dependency benefits which were in effect on January 1, 1977, but do not now receive them either because they are too young or because their spouses, although eligible, do not yet receive benefits. While this 5-year delay for some people will be of some help, it is not a satisfactory solution.

The apparent rationale for the offset provision is that men who receive public pensions will get some sort of a "windfall" if they are also allowed to receive social security dependent's benefits, and that since they may not be "truly dependent," they must be able to "prove" their dependency in order to get a permanent exemption from the offset provision. Last March, the Supreme Court decided that men need not prove their dependency upon their wives to receive social security benefits—Goldfarb against Califano.

I think it is unfair and discriminatory against men to require only men who receive public pensions to prove their "dependency" or to reduce the benefits that their wives worked for and earned, to help see them through their retirement.

Unfortunately, by waiving the 3-day layover rule for conference report consideration, we have not had sufficient time to fully understand the offset language worked out by the conferees. I hope Congress will take a hard look at these changes in the second session and guarantee Government retirement benefits and social security retirement benefits to people who have earned them and expect to receive them.

CIRCUMVENTING CIVIL SERVICE RULES

I am also concerned about a provision adopted by the conferees that converts 150 "temporary" employees at the Social Security Administration into permanent career, civil service jobs. A bill, H.R. 5723, which is identical to this section of the conference report, was jointly referred to the Committee on Post Office and Civil Service and the Committe on Ways and Means. The Civil Service Subcommittee on Employee Ethics and Utilization, on which I serve, developed and reported a reasonable solution to this problem, giving these employees an opportunity to qualify for career jobs. I believe the action of the conferees violates the merit principles of employment, the foundation of our Federal personnel system and is a disservice to other Federal employees who must compete and qualify for Federal jobs according to standard civil service procedures. Quite frankly, we should not be legislating people into jobs. We either have a merit system or we do not. We should not create an impartial, orderly merit system and then thwart it.

While the social security financing bill is flawed, I must reluctantly vote for it because the State of the fund requires our immediate action, in order to guarantee a secure, predictable retirement for our citizens. Both Houses of Congress have made a commendable effort to shore up social security. I will work in the second session to rectify what I think are mistakes and bring true reform to the program.

Mr. CONYERS. Mr. Speaker, as the social security financing bill, H.R. 9346, comes to a vote, I will support the bill, but with serious reservations.

Social security taxes will be the highest tax paid by two-thirds of the Nation's income recipients, including individuals and families living below the poverty level. These payroll taxes are also among the most regressive, and will become only slightly less regressive in future years as a result of this legislation. They will continue to exact a far greater tax burden on low- and moderate-income earners, as a percentage of earned income, than on upper-income groups. Payroll taxes are regressive in several ways. The ceiling on outside earnings, though raised somewhat, means that retirees who are able and willing to work to derive additional income will continue to lose social security benefits above the earned income ceilings, while retirees who draw income from assets lose no benefits whatsoever. Payroll taxes and benefits, in disregarding retirees' wealth and income derived from assets, serve to perpetuate a system that places a greater tax liability on income derived from labor than on income derived from property.

The increased payroll taxes will place yet another disproportionate burden on low- and moderate-income earners. Employers pass on their additional social security taxes in the form of higher prices and also use these taxes as a reason to suppress demands for higher wages. The inflationary impact of higher prices resulting from increased social security taxes, their depressive effect on the economy, including the prospect of yet higher unemployment, will hit hardest the pocketbooks, wages, and employment of lower-income groups and marginal workers.

The social security financing bill has to be viewed in the larger context of overall Federal taxes, tax expenditures, and spending. It is part and parcel of a pattern of Federal action that is increasing the tax breaks that go to higher-income groups while increasing the liabilities of low- and moderate-income groups.

There are two Federal systems for affecting income distribution in this country. One is direct Federal spending and stimulus programs to cut unemployment that, overall, have a positive redistributive effect on the incomes of the working class and lower-income groups. The other system consists of tax expenditures and payroll taxes that, overall, redistribute income to those groups that should be shouldering a greater burden rather than receiving greater benefits. In fiscal year 1978 tax expenditures will amount to more than $124 billion, nearly 30 percent of total direct Federal spending. These tax credits and subsidies overwhelmingly favor the propertied, upper-income groups, and the corporations. As taxes imposed on workers and low-income families increase, so do tax breaks to the well-off. It is no accident that in the conference on H.R. 9346, the Senate nearly succeeded in coupling increased payroll taxes to yet another tax break for upper-income groups, a $250 a year tax credit for higher education.

The effect of recent Federal tax action along with the Government's failure to achieve full employment and price stability is to deepen the already gross income disparities among citizens. This country urgently needs full employment—the most equitable income distribution system of all—and a decent income maintenance program for those unable to work. What is needed is a thorough reexamination of the impact off all Federal tax and spending programs on income distribution, and fundamental reforms that apportion benefits and burdens equitably and adequately.

Mr. AMBRO. Mr. Speaker, although I voted for the conference report on the bill to provide adequate financing for the social security system, I firmly believe that substantive redrafting of legislation to insure the solvency of the trust funds is needed. The increases in both the taxable wage base and the percentage rate contained in this bill will have so severe an impact on the average American taxpayer and will result in such a huge drain on the economy, generally, that a large Federal tax reduction is a necessity.

When the House of Representatives originally considered this bill, I did not favor the use of money from general revenues to offset the contributions made into the system by the employer and the employee. The specific provisions of the conference report, however, require that we take a second look at the possibility of using general revenue funds for a portion of the money needed by the social security system. Since its inception, the trust funds have been supported on a bipod of employer/employee contributions, but now we must seriously consider instituting a tripod of employer/employee/general revenue funds to support the social security system. A tripod of this nature would give increased stability to the social security system, especially if we could—and we can—devise a practicable formula to use the third leg only when the other two weaken.

I was unhappy with the Ketchum amendment to the original version of this bill, but I supported it, inasmuch as there was no alternative, but the conferees' version of the earnings limitation is simply not responsive to present-day circumstances. I have sponsored legislation dating back to 1975 which would increase the outside earnings limitation to $7,500 immediately—a figure which is more realistic than this bill provides in these inflationary times.

I sincerely hope that the Commission on Social Security created by this bill will be able to make a comprehensive study of the social security system and recommend remedies for the ills of the system so that we will be in a position to draft amendments to this bill in the near future which will be more deliberatively practical to the working man and woman, to the employer, and to the Nation as a whole.

A yes vote on this debatable measure means only that I solidly support the attempts—however hastily conceived—to assure the solvency of the social security trust fund, but I do so with the conviction that this bill desperately needs in-depth review and revision.

Mr. GORE. Mr. Speaker, we are about to make a grave mistake by passing this bill. There is no question about the fact that we must put social security on a firm financial foundation. I support that effort wholeheartedly. However, there are good ways to accomplish that goal and bad ways to accomplish that goal.

The imposition of a highly regressive increase in the payroll tax is the wrong way to strengthen social security. The payroll tax hits hardest at working families and small business and, in general, at those who can least afford to pay it. It is already too high.

Early in this century, when the late Secretary of State Cordell Hull was a young Congressman representing the same district I now serve, he led the fight in favor of the principle of progressive taxation. The reform he championed can be stated quite simply: "Those who can most afford it should be asked to carry a larger share of the tax burden; those who have fewer resources should be asked to pay a proportionately smaller percentage."

This bill does precisely the opposite. That is the reason I opposed it last month and the reason I oppose it again today.

In addition, the taxes imposed by this bill will have an enormous inflationary effect. We are told that this defect will be remedied by next year's reduction in the income tax—a proposal which began as a tax reform.

However, the tandem effect of these two bills will be to shift the entire American tax structure toward a much more regressive system.

As a new Member of this body, I oppose this bill somewhat reluctantly because of my respect for the wisdom and experience of so many of my colleagues who are supporting it and who have labored long and hard to fashion it. Nevertheless, I am convinced that it is an undemocratic, regressive measure, and I intend to vote against it once again.

I insert into the RECORD at this point a column by Mr. Tom Wicker of the New York Times which further discusses the reasons this bill should be defeated:

PAYROLL TAX—UP, UP, UP

(By Tom Wicker)

President Carter seems eager for House-Senate conferees to break their deadlock on the minor issue of a college-tuition tax credit so they can send him a finished Social Security bill in this calendar year. But the American people would be better off if the deadlock lasted long enough for this massive tax bill to be recognized for the economic disaster it is. For example:

Long-term tax increases totaling 227 billion dollars would be imposed in regular steps between 1979 and 1987. Note that the Congress that voted this body-blow to the American wallet prudently put off the first of the increases until *after* its members try to get themselves re-elected next year.

These payroll tax increases are regressive and severe. Under current law, a worker paying the maximum tax in 1979 would have been hit for 6.0 percent of the first $18,900 of his earnings, or $1,143.45, which is bad enough; under the new bill, a worker at the maximum would pay 6.13 percent on $22,900, or $1,403.77, in 1979. How does a new one-year tax bite of $260.32 grab you?

By 1987, workers and employers will be taxed at 7.15 percent on the first $42,600 of income—$3,045.90 at the maximum. Thus, over the life of the bill, the payroll taxes of persons paying the maximum will be nearly tripled, as will the matching taxes of their employers.

The increases are inflationary, since it is an established economic fact that most employers pass on payroll tax increases to the consumer via higher prices. Thus, Congress has voted strong upward pressure on the price level in each of the years from 1979 through 1987.

Despite the general inflationary effect, in some cases, the bill might also work against employment. Some employers might either not hire new hands or reduce their work forces as a hedge against increasing employment costs.

In addition to these effects on inflation and employment, the payroll tax increases will cut heavily into workers' buying power. At one and the same time, Congress has managed a bill that will depress the economy and fuel inflation.

President Carter's plan to cut income taxes to compensate for these effects, even if passed, won't necessarily help that much. Annual income tax reduction will certainly not stop employers from passing weekly and monthly payroll tax increases to consumers; and whether payroll deductions for income taxes can be reduced sufficiently to maintain buying power remains to be seen. Remember that Social Security comes "off the top" of the worker's weekly check; an income tax refund at the end of the year won't put food on the table day by day.

Some may ask, "But what could Congress do? How else could it save Social Security?" Well, it could have "saved" Social Security by doing what other industralized countries do—feeding general fund revenues into tripartite system supported by employers, employees and the general revenues for 25 to 45 percent of their social insurance funding; West Germany has been using 15 to 33 percent general funding since 1891 (I am informed by Alfred Kutzik of the University of Maryland at Baltimore).

Most of the planners of the American Social Security originally envisioned, when doing their work in the 1930's, that sometime in the 1960's it would become necessary to put general fund revenues into the system. What's more, the Federal Government has been matching all medical insurance contributions, to the Medicare system since 1965. Where's the difference in principle? Yet, Congress remains wedded to the myth that to support Social Security with general revenues would convert it to "welfare."

Mr. Carter must know that's poppycock. He proposed unsucceessfully that in years when unemployment exceeds 6 percent, the Treasury should contribute the difference between Social Security taxes actually collected and what they would have totaled at 6 percent unemployment. His later proposal to lower income taxes in compensation for higher payroll taxes would indirectly divert general funds to Social Security financing. Even the original House bill provided for automatic Treasury loans to the Social Security trust funds if they fell below 25 percent of annual outlays; but this sensible beginning step toward general funding did not survive.

Mr. Carter nevertheless is eager to claim the "rescue" of Social Security as a legislative achievement. Since the system is in no immediate danger (whatever alarmists say), payroll taxpayers might welcome instead a veto of this huge, inflationary tax increase and a new start next year.

Mr. PEPPER. Mr. Speaker, each month 33 million persons receive benefit checks totaling over $6.5 billion drawn on social security trust funds. Of the 33 million, over three-quarters are age 60 or over and more than one-third are over 72 years of age. These persons need to be assured that their benefits are guaranteed for years to come. For this reason, I am very pleased that the conferees have acted to get this conference report before us before we adjourn in order to provide this guarantee. I commend the House and Senate conferees for their efforts.

This conference report contains a number of provisions that I have long advocated and which I support strongly.

The "decoupling issue" is addressed in a way that greatly reduces the projected long-range deficit in the trust funds and at the same time provides a wage-indexed formula which allows retirees to share in productivity increases in the economy over their working years and which protects those scheduled to retire in the near future from being disadvantaged because of the formula change.

I am extremely happy to see that the conference report would correct a major injustice in the program by increasing the special minimum benefit for long-term, low-paid workers and including it in future cost-of-living increases. For some reason, this special minimum added in 1972 was about the only benefit not subject to the cost-of-living provisions and has suffered severe erosion as a result of high inflation over the past few years.

I am very pleased to note that the report would increase the present 1-percent credit for delayed receipt of benefits beyond age 65 to 3 percent. This almost "sleeper" provision in the 1972 amendments has not been overly utilized. I believe it contains the potential for helping to alleviate some of the financial problems of the trust funds by encouraging and rewarding persons who are willing and able to continue working to do so. I believe this approach of allowing greater options to people is infinitely superior to any attempt to force people to stay in the work force by increasing the age of eligibility from 65 to 68.

The report provides for an annual increase in the level of outside earnings of the retirement test for those between 62 and 72 at a faster rate than under current law until 1982 and lowers the age from 72 to 70 at which the earnings test is applicable in 1982. While I am happy to see some liberalization of this limitation, I wish that the report would have adopted the House provision or at least the faster increase in the level of the Senate version.

Perhaps one of the most symbolic provisions of this report is the elimination, at least for widows and widowers age 60 or over, of the so-called living-in-sin requirement of present law in order to avoid a loss or reduction in benefits. I only wish that the conferees could have accepted the House version of this provision intact.

While I find many provisions in this conference report that I support, I do have some concerns that I wish to point out. In particular, I am concerned that the standby loan authority from Federal general revenues is not included in this legislation.

In my testimony before the Social Security Subcommittee, I strongly supported the provision in the President's proposal to use general revenues on at least a limited basis. In fact, I support the proposal of Congressman BURKE to make the Federal Government an equal partner in the financing of social security benefits. While the House bill did not adopt either of these proposals, it did have a "safety valve" provision that would have allowed the old age and survivors insurance (OASI) and disability insurance (DI) trust funds to borrow from Federal general revenues whenever the assets of the trust funds drop below 25 percent of annual outgo. In my opinion, such a provision is essential to providing the needed guarantee to social security beneficiaries, both present and future, that the funds are secure and will be there when needed. I have been told that a survey of workers indicated that 60 percent did not believe social security benefits would be there when they retired. In my view, the "safety valve" provision would be a major step in dispelling this disbelief. Hopefully, the provisions now in this conference report will be sufficient to achieve this end.

While there are some other provisions that cause me concern—for example, reduction of benefits for spouses of Government pensioners, no semiannual cost-of-living increases, more rapid tax rate increases than the House bill—I am happy to see that we are taking steps to insure the financial integrity of the social security system and to assure future beneficiaries that their benefits will be paid. While I anticipate and shall work for many improvements in our social security legislation in respect to taxation and benefits this conference report gives us the best bill we can get now, which will mean so much to so many, and I support it.

Mr. McCLORY. Mr. Speaker, I would like to address a point raised by the gentlelady from Colorado, Congresswoman SCHROEDER, and others regarding the provision in the conference report relating to administrative law judges. It appears that under this bill the status of 150 temporary hearing examiners would be adjusted so as to make them permanent administrative law judges. Taking into account the recently passed Age Discrimination in Employment Act amendments—H.R. 5383—which would totally remove mandatory retirement from the civil service, what we would effectively do by adopting the conference report is give life tenure to 150 judges.

The reason that I raise this point is that during debate on the Bankruptcy Act revision—H.R. 8200—the Danielson-Railsback amendment was adopted, thereby removing from the bill the provision which would have given an estimated 100 bankruptcy judges life tenure. The controversy was whether H.R. 8200 as reported out by the Judiciary Committee went too far by creating as many as 100 new life tenured positions. The debate on this issue continues to this day within the committee. The provision in this social security bill would create at least one and one-half times the number of new life-tenured positions as the bankruptcy bill.

Without even going into the myriad of other objectionable aspects of H.R. 9345, I strongly believe that a vote to adopt the conference report would be extremely irresponsible in that it would summarily create such a large number of permanent life-tenured judgeship positions.

Mr. LEVITAS. Mr. Speaker, the only justification for the social security bill before the House today is that it contains my proposal for a National Commission on Social Security which can bring about a complete transition from the present social security mess we now have.

There are some people who would advocate doing nothing, but merely let the social security go bankrupt, as it will, beginning next year. It seems to me that if we have one last chance to change the present system and make it livable and workable, we should try it and not merely let the system bankrupt.

If we simply bankrupt overnight the social security system—something which is totally unconscionable—there are millions of Americans who are retired and at present depend on social security as a supplement to their savings and who will become destitute welfare cases, even though they faithfully paid their social security taxes all their working lives. There are widows and orphans who would become public welfare cases if we bankrupt the program next year, even though their deceased fathers and husbands had paid their social security taxes. Millions of Americans soon approaching retirement, having worked for years and having paid their taxes, would be left out in the cold. We must provide an alternative to this and the only way to go about that task is to thoroughly study the system and make basic changes; to question the payroll tax; to let people opt for private rather than Government coverage; and to eliminate the inequities. Now, with the establishment of the Commission I proposed, the means for change are possible.

However, we cannot go on with the present system any more. This is the end. The American people are fed up with paying more and more regressive taxes into the fiscal pit of social security as it now is operated. This bill provides the first light at the end of the dark tunnel. It provides the first—and possibly the last—hope for making fundamental changes in the social security system and thereby rescuing it in some different form. I am, of course, referring to my proposal, which is now part of this bill, the section which creates a National Commission on Social Security. As I said earlier, the existence of this National Commission is the only justification for the present bill. Without it, neither I nor many other Members would even consider voting for this bill and its increased taxes.

I might point out that if the National Commission does its job properly, as I believe it will, then the social security tax increases, which we have heard so much about and which are scheduled to be phased in during the next number of years, will never be phased in at all. If the National Commission does its job and provides us with a new system, the American people will not ever have to pay the new taxes contained in this bill for several years in the future.

Just what is the National Commission and why must we have it?

The vast and complex social security system cannot be rewritten on the floor of Congress, with the stroke of a pen. It needs careful study to be transformed. A transition is needed to avoid chaos. What took 40 years to mess up will take a few years to clean up. If you are traveling down the highway at 100 m.p.h., you do not slow down by crashing into a bridge. You must make a safe and planned transition. That is what the National Commission on Social Security will do.

Previously, efforts to analyze and change the social security system have been controlled by the bureaucracy. All they have done over the years is rearrange the furniture on the deck of the *Titanic*. Now, we need something different and fundamental. The National Commission on Social Security will be independent of the bureaucracy and will be mandated to consider long-term and fundamental changes and solutions.

In many ways the adoption of the National Commission on Social Security is revolutionary. It is not just another study. It marks a turning point, a milestone. The social security system will never be the same again.

As we all know, social security was enacted in 1936 to meet an overwhelming need. Pensions and annuities used to be rare indeed, and mighty small when they did exist. In civilian life, the average person was on his own. Either he provided for his own old age—something few could do—or he faced such unwelcome alternatives as living in poverty, moving in with relatives willing to support him, becoming a public charge, or continuing to work, despite illness and old age.

But social security was never intended to be a complete retirement plan that would cover all of a person's needs. It was intended to be a supplement, to provide approximately one-third of what a retiree would need to maintain a comfortable standard of living.

Introduced in the early days of the Roosevelt administration, it was designed as an insurance program with mandatory premiums which would maintain actuarial integrity and would provide minimum subsistence. The system was really designed to help rural migrants to urban areas who had no means of providing for their own retirement and who constituted a potential heavy burden on society. A major failing of the concept, in my opinion, is that the supplementary nature of social security benefits has never been adequately publicized and is realized by only a few Americans. All too many people work the bulk of their lives confidently expecting social security alone or in tandem with a pension to maintain them during retirement at their same level of living, and by the time they realize otherwise, it is too late.

Consequently, social security retirement benefits have had to rise over the decades to partially reduce what would otherwise have been a flood of applicants for State and local welfare programs. Instead of providing one-third of a retiree's income, social security for a low-paid worker now gives him about 60 percent of the wages he last got when he was working; those who were making a median wage receive about 40 percent; and the higher-paid obtain 30 percent or less of their retirement income from social security—a progressive benefit structure which to some extent offsets the regressive social security tax on employees.

This rise in benefits far beyond the increase in the cost of living over the past 40 years has obviously resulted in great changes in both the tax rate and the tax base—to the point where over half of the country's taxpayers pay more in social security taxes than they do in income taxes. By way of comparison, the social security tax rate in 1937 was 1 percent on a maximum base of $3,000, giving a total annual tax of $30 or less. These figures have now risen to a rate of 5.85 percent for social security and medicare combined, to a base of $16,500 and to a tax of up to $965.25—an increase of 3,200 percent.

Another way of illustrating this is to take the example of an employee who entered the work force shortly before 1937 and who has paid the maximum social security tax each year since then. His payment into the trust fund last year of $895.05 represented almost 9 percent of the total contribution he has made over the last 40 years—a total of $7,763.10 by the end of 1976, plus a matching sum from his employer.

The National Commission will examine thoroughly our present social security program in all of its aspects and recommend viable alternatives to a system which many experts and a large, concerned portion of the public believe is no longer tolerable.

Specifically, my measure provides for a National Commission of nine citizens, independent of the executive branch, to make a careful and intensive study of the entire subject—not to be confined to the limits of the present program—and to recommend specific proposals for the type of system which will best suit the needs of Americans for the rest of this century and well into the next.

This National Commission of private citizens will travel to all parts of the Nation and, in addition to testimony from experts and economists, will hear from businessmen, retired persons, professionals, widows, working people, single career persons—in short, from every element of our society.

The National Commission's final comprehensive report will set forth findings and recommendations including, but certainly not limited to, the following areas:

First, the adequacy of the fiscal condition of the present social security programs;

Second, any inequities in these programs based upon marital status, sex, or similar classifications or categories; and

Third, possible alternatives to the current programs, including a substitution of the payroll tax by general revenues, mandatory participation in a private insurance program, and a system permitting individuals a choice of public and/or private programs.

Let me emphasize that last part again. The National Commission is mandated to consider alternatives to the present system including letting people have a choice of going to the private sector and buying their own retirement, disability, and survivorship programs. I know many Americans who would even let go what they have contributed to social security thus far if they could only be free to go to the private sector for coverage henceforth.

Other changes which the National Commission will consider include removing the welfare-type programs from social security and handling them in the same way as other welfare programs.

We have a national commitment to a retirement, survivor, and disability benefits program, and we cannot allow that commitment to founder because the existing delivery system has become unsuited to our current and future needs. Our responsibility is to develop an affordable and realistic program to provide true financial security for retirees and for families whose wage earner has died or become disabled.

This National Commission, with its citizen base and high visibility, will get the job done. It is the first time since 1969 that the fundamental questions for fundamental changes are being asked. Even though the present and last administration did not advocate this idea; even though the present and past Secretary of HEW and Social Security Administrator did not want it, the American people did. Now, we have a chance.

The time for rhetoric and bandaid-and-aspirin solutions is past. The time for simply taxing people beyond the breaking point is past. Brave and bold and visionary solutions are needed. This bill with my amendment provides the framework for such solutions. Americans are ready for this approach. A courageous Congress can provide these solutions, and the time for us to do so is now.

Mrs. HOLT. Mr. Speaker, I believe it is important to recall the original purpose of the Social Security Act of 1935. It was to provide a basic retirement system financed with mandatory contributions by workers and their employers. It was not conceived to cover personal tragedies such as death, disability, or ill health.

Over the many years since then, the Congress has added survivors' benefits, disability benefits, and medicare to the program, and has increased both the benefit levels and the taxes to support them.

But Congress over-reached in the normal political fashion. It legislated a growth rate of benefits that could not be matched by revenues from the tax rate.

We started in 1935 with a relatively simple, self-supporting retirement system, but today we have a huge, complex, and fast-growing system that cannot pay for itself unless we do something drastic.

The proposal put before us today is for drastic tax increases, which is the worst possible way to go. I believe we should return social security to that basic retirement system which it was originally intended to be. We should never have tried to cover the broad-range of personal tragedies with the social security program. We have other programs to cover personal tragedies.

Social security, as originally conceived, had one purpose: To provide retirement income for workers who were taxed throughout their working years to pay for these retirement benefits. We should not be raising their social security taxes to support outlays that were never part of the original bargain and should be covered by general revenues.

We should also be extremely concerned about the harmful economic consequences of the proposed social security tax increases on which we must vote today. These tax increases will cause higher inflation and more unemployment at a time when inflation and unemployment are the most critical problems facing our country.

The social security tax is a direct tax on jobs. The portion paid by the employer is a tax on every job, drains away capital that could be used to expand production, and increases the cost of production. This translates into fewer jobs and higher consumer prices. The portion paid by the employee reduces his ability to save and diminishes the pool of capital needed for economic growth.

And I would remind this House that there is no real economic relief to the worker in having the employer pay some share of this tax. The employer ultimately calculates it as part of the total compensation of the worker.

I would also remind this House that the middle-income taxpayer, on whom this legislation would impose a terrible burden, is outraged by the total tax burden he already pays to all levels of government. The income tax legislation of recent years has attempted to relieve low-income families, but nothing significant has been done to relieve middle-income families. To the contrary, inflation induced by loose government fiscal policy has pushed them into higher tax brackets and dramatically increased the tax load they carry.

This social security tax legislation is the third major act of the House this year that would cause serious economic damage. The large increase in the minimum wage will surely cause more unemployment and higher consumer prices. The huge energy taxes proposed by President Carter would be a disastrous blow against our hopes for reducing inflation and unemployment.

What is needed, Mr. Speaker, is a general income tax reduction for all income groups. It should be great enough to cancel out the harmful effects of the higher minimum wage, the new energy taxes, and the higher social security taxes which will surely be enacted by this Congress. But the tax reduction should also do much more. It should be large enough to provide real relief from the inflation we have experienced in recent years.

If we want strong economic growth for our economy, if we want investment in production and the creation of productive jobs, then a general tax reduction is the remedy we should be enacting.

Mr. ROGERS. Mr. Speaker, I rise to express the concern I have about this Nation's social security program, as well as about the method of funding which is proposed to us today.

Over the years millions of Americans have made their plans for retirement in reliance on a fiscally dependable social security system. Now, we find that the ability of the system to meet its obligations is being seriously questioned. Were we not to take action to quell this uncertainty as to the future of the system, we would invite catastrophe of major proportion in the lives of many Americans. The social security system has become so important to us that, if it were to go bankrupt, there could be a loss of confidence in the economy to an extent we have not seen since the Depression of the thirties.

Now, the legislation we are considering today seeks to bail out the social security system by increasing the flow of revenues. The motives of this legislation are unquestionable. We must assure the fiscal integrity of the system. However I am very concerned about the consequences of the rate of taxation which is required to generate these revenues.

Businessmen and employees alike from my district have written to voice their concern over the increased payroll tax.

All in all, I feel that the Congress has no alternative but to adopt the legislation before us. However, I would strongly urge that we not consider the matter of social security financing closed, but rather continue to seek to structure the payroll tax rate and wage base in a manner to lessen or hold steady rather than increase this burden in the future.

Ms. MIKULSKI. Mr. Speaker, the question of a social security system for our elderly is one of great importance to me. People have worked their entire lives, looking forward to the day when they could retire and social security would meet the basic needs of their life. Now the social security system is threatened with bankruptcy. For too many years, we have increased the benefits without adequately increasing the revenues. This year we have heard reports of doom—if something is not done the trust fund will be bankrupt in the early 1980's.

When President Carter introduced his proposal, he suggested that general revenues funds be used at times to supplement the funds. I support this idea. When unemployment is high, there are fewer people contributing to the fund. Using general revenues, in part, was a solution that I agreed with. Yet when the bill was reported from the Ways and Means and Rules Committees, there were certain restrictions placed on amendments from the floor. Only certain predetermined amendments were allowed and there were none to alllow the use of general revenue to augment the trust fund. The House bill would have allowed the trust fund to borrow from general revenues in certain circumstances, which I supported. This has been deleted by the Senate.

At that time, I weighed my vote very hard. Should I vote for the social security bill as reported from committee? My overriding concern was to insure that the elderly that retired would get the benefits that they had paid for and expected. Yet I was concerned about the increased burden on the workers and employers and the economy in general. I finally decided that the responsible vote was to vote for the increases.

Since that time, I have given this matter a lot of thought. I have had many community meetings. By far, the most discussed issue has been social security. The people in our country do not think it is a fair system. They know that there are serious inequities. They are angry. And I think with real cause. The social security system was devised in 1935; the American society and economy have changed enormously in that period of time; yet social security is based on the old assumptions.

I am voting against this conference report because I think we have used stopgap measures too long to "solve" the problems of financing. I think now is the time to do a total overhaul. We need a system whose benefits are determined by how much you pay in. People who work for 35 years and pay throughout the entire time should receive more benefits than the people who meet their minimum quota.

The Supreme Court has ruled that the allotment of benefits cannot be different for men and women. Through the actions of the Congresswoman's Caucus, there is a task force studying this now.

My vote against this conference report is not a vote against paying the retired people of this country, the benefits that are due them, but it is a vote to send the entire bill back to committee and to assure that this system is corrected.

Mr. CLEVELAND. Mr. Speaker, I intend to vote against the rule and the conference report on H.R. 9346, the Social Security Amendments of 1977, as I did against the earlier House version. When I voted against the House bill, my principal objections included a belief that the amounts of the tax rate and wage base increases were excessive and far too costly for the already overburdened American taxpayer.

Unfortunately, the conference report before us today accelerates those tax rate increases even more and retains the House-passed wage base increases except for the typically crafty—and cynical—election year maneuvering which delays the effect of that change until after the 1978 elections.

No one can argue that our social security system is in deplorable financial condition. Nor can one justifiably argue that changes are not needed. It is important not to lose sight of the fact, however, that solutions to the deficit problem are not without their own inherent difficulties. The phenomenal tax increases imposed by this bill will depress our already shaky economy and dig deeper into taxpayers' pockets at a time when they can least afford it. They may well lead to increased speculation that our Federal Government and its attendant costs are out of control. Decreased confidence in the Government's ability to provide sound programs, such as retirement income security, is bound to occur as well.

In anticipation of these problems, in 1976, I asked the Social Security Administration to provide me with some figures on the maximum employee contribution toward social security and the total maximum accumulation of these contributions. The results are startling: amount of wages taxable under the so- An employee who earned the maximum cial security program in each calendar year from 1937 to 1975 would have paid contributions totalling $6,868.05 through 1975. This is taken from a chart which lists maximum contributions at the rate of 1 percent of the $3,000 wage base in 1937, or an annual contribution of $30, through 1975's maximum annual contribution of $824.85 based on 5.85 percent of the wage base of $14,000. At the same maximum total accumulation if the amount of the employee's contribution for each calendar year had been deposited at the end of the year into an account paying interest at 5 percent compounded annually. The accumulated total based on that type of arrangement would have been $11,330.92.

The enormity of the tax hikes for middle-income Americans contained in this bill is illustrated by the fact that beginning in 1979 it will take only 3 years for a worker's taxes—based on maximum contributions—to equal if not exceed those paid by someone who had contributed the maximum amount in taxes from 1937 to 1972, a period of 35 years.

The progressively rising wage base increases, in addition, will impact not only on the rich; but, given present rates of inflation, will cut deeper and deeper into the paychecks of those with average incomes. At the same time, however, there will be a number of lower-salaried persons whose chances of receiving maximum social security retirement benefits will be reduced by the sharp increases in the wage base ceilings.

It is particularly ironic to me that the Carter administration apparently has come to its senses and agreed with congressional Republicans that tax cuts are sorely needed. Unfortunately, ramming through the social security bill will negate any ultimate significant relief that income tax reductions could provide.

Furthermore, one truly beneficial attempt to aid middle-income taxpayers with the increasingly high costs of education, namely, the Roth tuition tax credit amendment was deleted in conference although other nongermane and controversial provisions were retained. The elimination of the tuition tax credit is more than regrettable; it is a nagging sign of the Congress' insensitivity to the very real problem of inflation and the Government's contribution to its impact on hard-working, taxpaying middle Americans.

Mr. COTTER. Mr. Speaker, as a member of the conference committee on the Social Security Financing Amendments of 1977, I rise to urge the support of my colleagues for the passage of this most important legislation.

As you know, the conferees have agreed on the largest social security tax increase in our Nation's history. In 1987, taxes for both employer and employee will be 7.35 percent on a base of $42,900. This base will cover approximately 90 percent of the U.S. wage base.

Raising taxes is never pleasant but this much needed bill assures that both OASDI (2030), and DI (2007) will be funded until the year 2000. Over $227 billion will be raised within the next 9 years.

There are some pleasant surprises. The conferees have agreed to keep parity between employer and employee, and have rejected the use of general revenue funding by removing both the borrowing authority which has been passed by this body, and a Senate amendment to use general revenues to assist local governments and nonprofit organizations.

We have also adopted a decoupling amendment to separate existing benefit increases from benefits of future recipients. Under the conference version, a wage replacement ratio for future beneficiaries will average 43 percent which is well below the 60 percent projected in the present law for the 1980's.

The conferees have put a freeze on the minimum benefit that has been subject to abuse by late entrants into the social security system, and, at the same time, adopted a proposal to limit a spouse's social security payment to a spouse who is receiving a State or local pension, but made this prospective and retroactive for 5 years for women; therefore it will not affect workers who are eligible for retirement.

The retirement test age will be reduced in 1982 from the present 72 to 70, and the earned income limitation has been increased as follows:

1977	$3,000
1978	4,000
1979	4,500
1980	5,000
1981	5,500
1982	6,000
1983	[1]6,000

[1] Plus cost of living.

The conferees have also agreed to decrease the number of years for a spouse to be vested in social security from 20 years to 10.

One hundred and eighty-seven million dollars was given in welfare relief to the States. Connecticut will receive $2.4 million, and a study was mandated on gender-based differences. We have disallowed social security for limited partnerships that were designed just to make partners eligible for benefits and taxed employers on tip income for social security purposes.

The income disregard level for all disabled blind persons has been increased to the same as the retirement test and finally, it was agreed to allow marriage and remarriage to all widows over 65.

I believe that we all have an obligation to our elderly, our disabled, and ourselves to see that this bill is passed before the end of this year. We must assure the beneficiaries that their checks will continue. We must remove the doubt and worry from the minds of our senior citizens who are financially dependent on this income.

Mr. Speaker, I sincerely believe that we must act, and we must act now to establish a sound financial basis which is essential to save the social security trust fund.

I strongly urge my colleagues to vote along with me to see that this is done.

As a member of the Social Security Subcommittee, I would be remiss if I did not tell my colleagues that in the early 1980's I believe both Congress and the President will act to restructure the financial base of social security. By mid-1980's when the full impact of the tax increases are felt, I believe there will be a widespread consensus to restructure the entire social security system. However, given our information to date, this is the best legislation we could responsibly develop.

Mr. BINGHAM. Mr. Speaker, today, on the last day of the 1st session of the 95th Congress, I rise to urge my colleagues to approve the conference report on H.R. 9346, the Social Security Amendments of 1977. While there may be provisions in this complex bill which each of us dislikes, I believe the House-Senate conference committee has produced a remarkably good piece of compromise legislation which the majority of Americans can support. Enactment of the Social Security Amendments of 1977 will insure the soundness of the Social Security Trust Funds far into the future and guarantee that all beneficiaries under the system will continue to receive their social security checks. After approval of this conference report, we in Congress can be proud of what we have accomplished in this first session. If we can come to an agreement on the difficult and controversial financing problems of the social security system, then there is real hope we can effectively deal with the major issues facing resolution in the second session—energy, welfare reform, economic stimulus and employment.

Since H.R. 9346, when enacted, will affect the future of the vast majority of Americans, I want to outline the provisions in this compromise bill crafted by the House-Senate conference committee.

INCREASES IN THE TAX RATE AND WAGE BASE

The bill provides for modest increases—beyond present law—in the social security tax rate on employers and employees, but prudently waits until 1979 to begin putting them into effect.

In addition, it gradually increases—beyond present law—the wage base on which social security taxes are paid, beginning next year, so as to cover 94 percent of payroll by 1981—the system now covers about 85 percent, a drop from 92 percent of payroll covered when social security was first established. The tables below will indicate the changes in tax rates and base this section of the bill provides for:

SOCIAL SECURITY TAX RATES

[In percent]

Calendar year	Present law			Calendar year	Conference agreement				
	OASDI	HI	Total		OASI[1]	DI[1]	OASDI	HI	Total
Employees and employers, each:				Employees and employers, each:					
1977	4.95	0.90	5.85	1977	4.375	0.575	4.95	0.90	5.85
1978-80	4.95	1.10	6.05	1978	4.275	.775	5.05	1.00	6.05
1981	4.95	1.35	6.30	1979-80	4.330	.750	5.08	1.05	6.13
1982-84	4.95	1.35	6.30	1981	4.525	.825	5.35	1.30	6.65
1985	4.95	1.35	6.30	1982-84	4.575	.825	5.40	1.30	6.70
1986-89	4.95	1.50	6.45	1985	4.750	.950	5.70	1.35	7.05
1990-2010	4.95	1.50	6.45	1986-89	4.750	.950	5.70	1.45	7.15
2011 and later	5.95	1.50	7.45	1990 and later	5.100	1.100	6.20	1.45	7.65
Self-employed persons:				Self-employed:					
1977	7.00	.90	7.90	1977	6.1850	0.8150	7.00	0.90	7.90
1978-80	7.00	1.10	8.10	1978	6.101	1.090	7.10	1.00	8.10
1981	7.00	1.35	8.35	1979-80	6.0100	1.0400	7.05	1.05	8.10
1982-84	7.00	1.35	8.35	1981	6.7625	1.2375	8.00	1.30	9.30
1985	7.00	1.35	8.35	1982-84	6.8125	1.2375	8.05	1.30	9.35
1986-89	7.00	1.50	8.50	1985	7.1250	1.4250	8.55	1.35	9.90
1990-2010	7.00	1.50	8.50	1986-89	7.1250	1.4250	8.55	1.45	10.00
2011 and later	7.00	1.50	8.50	1990 and later	7.6500	1.6500	9.30	1.45	10.75

[1] By allocation in law.

Contribution and benefit base

Calendar year	Present law
1977	$16,500
1978	17,700
1979	[1] 18,900
1980	[1] 20,400
1981	[1] 21,900
1982	[1] 23,400
1983	[1] 24,900
1984	[1] 26,400
1985	[1] 27,900
1986	[1] 29,400
1987	[1] 31,200

[1] Estimated.

Calendar year	Conference agreement
1978	$17,700
1979	22,900
1980	25,900
1981	29,700
1982	(1)

[1] Automatic thereafter.

After 1981, wage base is increased in line with wage levels, as is the case under present law.

In agreeing to equal increases in the contribution and benefit base for employees, employers and the self-employed, the conferees rejected the concept of expanding the base for employers faster than for employees advocated by the Senate-passed bill and the President. I would have preferred the idea of limiting the tax burden on employees by expanding the base faster for employers, who can deduct the contributions from their business income taxes, but I can understand the concern the conferees had about the effect such a rapid increase in social security taxes would have on the business community.

The conferees accepted the provisions in the House bill regarding railroad retirement tier II. Under it, the tax base for tier II of the Railroad Retirement Act for both benefits and tax purposes would be the same as under the automatic-increase provisions of the present law and would not be affected by increases in the social security taxable wage base contained in the bill.

Also accepted by the conferees was the House provision dealing with the Pension Benefit Guaranty Corporation (PBGC). It provides that the pension insurance administered by PBGC would not be affected by the ad hoc increases in the wage base under social security. The insured pension amount would increase as it would under automatic-increase provisions of present law.

THE TAX RATE ON THE SELF-EMPLOYED

H.R. 9346 further restores the tax rate on the self-employed to its original level of 1½ times the employee rate, effective beginning in 1981. Since 1972 the rate has been frozen at 7 percent.

REALLOCATION OF FUNDS AMONG THE HI, OASI, AND DI TRUSTS

As you will note by the tables, the bill also reallocates a portion of funds from the hospital insurance (HI) trust fund to the old age, and survivors insurance (OASI) and disability insurance (DI) trust funds to help cover their short-run deficit problems. In addition, H.R. 9346 reallocates funds from the OASI to the DI trust fund which faces a more immediate financial problem than the former. In fact, if the present law is not changed and no reallocations are made, the DI trust fund will be exhausted in 1979 and the OASI trust fund will run out in 1983. Under this reallocation provision, a total of $10 billion in additional revenue will flow to the OASI and DI trust funds by 1983 In the meantime, implementation of various hospital cost containment programs now under active consideration by Congress will improve the financial stability of the HI trust fund.

STANDBY BORROWING AUTHORITY FROM GENERAL REVENUES DROPPED

One provision of the House-passed bill I sincerely regret the conferees dropping is the standby borrowing authority for automatic loans from general income tax revenues to the OASI and DI trust funds. These loans would be provided whenever the trust fund's assets at the end dropped below 25 percent of annual outgo. A temporary payroll social security tax rate increase was included to insure automatic repayment with interest when assets at the end of a year exceeded 30 percent of the year's outgo from the funds. This provision was of special interest to me because it moved in the direction of the concept of supplementing social security funds with general revenues on an on-going basis. I have supported this concept for years along with Congressman BURKE, the chairman of the Social Security Subcommittee and over 140 other Members of the House. A limited version of the supplementing idea was proposed earlier this year by President Carter. It is also supported by major senior citizen organizations.

I would point out to my colleagues who refuse to accept the idea of direct supplements to the trust funds from general tax revenues, that supporting a raising of social security taxes to be followed by partially offsetting cuts in income taxes—contemplated next year—is a type of indirect supplementing with general revenues.

"DECOUPLING"—MODIFICATION OF BENEFIT FORMULA

H.R. 9346 takes care of half of the existing long-range deficit in the OASI and DI trust funds by correcting an error made in the 1972 law providing automatic cost-of-living increases in social security. This law unexpectedly resulted in windfall benefits for many future retirees by overadjusting for inflation in wages and prices in the complicated 1972 benefit formula. When the automatic provisions were enacted, it was expected that future replacement rates—initial benefits as a percentage of latest earning—would remain fairly constant.

However, current projections of the present law show that benefit levels will rise by about 50 percent more than wages over the next 75 years, with most of this increase occurring after the 1990's. So if the law is not changed, certain retirees will receive more in initial benefits than they were last paid in wages and this will lead to continued financial problems for the system. To correct this error in the 1972 law, H.R. 9346 makes several technical changes which results in "decoupling" the system—that is, separating the procedure for granting current retirees cost-of-living increases from the method for calculating initial benefits for future retirees. Beginning in 1979, replacement rates will be stabilized in relation to wage levels. This is accomplished by "wage indexing."

Under H.R. 9346's new formula, each worker's earnings would be updated—indexed—to reflect the increases in average wages that have occurred since the earnings were paid. This adjustment would be done just prior to when the worker reaches 62, becomes disabled, or dies. Under present law, a worker's earnings are counted in actual dollar value. Earnings after age 62 or disability would be counted in actual dollar amounts; cost-of-living increases would apply beginning with age 62, disability or death—not before as under the 1972 law. The new "decoupled" benefit formula produces benefit amounts roughly 5 percent lower than estimated present-law benefits at implementation—January 1, 1979. The formula for relating maximum family benefits to primary insurance amounts (PIA's) has a similar effect. To assure that workers now approaching retirement age will not be placed at a disadvantage, a 5-year transition period is provided. A worker who reaches age 62 after 1978 and before 1984 would be guaranteed a benefit no lower than he would have received under present law as of January 1979.

PARTIALLY FREEZING THE MINIMUM BENEFIT

Regarding another windfall benefit in present law, H.R. 9346 seeks to partially freeze the minimum benefit—paid to those with the minimum required coverage—for future retirees at an amount equal to the value of the minimum benefit which will be in effect in January 1979—estimated to be about $121. Under this compromise provision the $121 minimum is adjusted by CPI increases beginning generally with the year in which the eligible recipient actually became entitled to benefits not before. In the case of a worker or aged widow or widower the CPI adjustments to the minimum would not begin to apply until the earlier of: First, the first year the worker or aged widow—widower—was paid part or all of the benefits to which he was entitled for that year, after application of the retirement test; second, the year of attainment of age 65. Under current law the base amount rises annually with the cost-of-living both before and after benefits are paid.

CHANGES IN THE SPECIAL MINIMUM BENEFIT

Under the bill the special minimum benefit paid to future retirees with long work records at low pay is also frozen but for the initial payment only. Under present law this benefit is equal to $9 times the number of years of coverage a worker has in excess of 10 up to 30; thereafter it is not subject to annual cost-of-living increases. H.R. 9346 would increase the $9 figure to $11.50 and thus the maximum base payment from $180 to $230 effective 1979. It would also provide that the special minimum benefit would be kept up-to-date with future increases in the cost-of-living for both present and future beneficiaries.

INCREASE IN THE DELAYED RETIREMENT CREDIT

I am happy to report the conferees accepted the House provision increasing the delayed retirement credit from 1 percent to 3 percent per year for workers age 62 and older effective after 1978. This means that workers who delay receiving retirement benefits between ages 65 and 72 would have their payments increased by 3 percent for each year they do not take benefits as compared with 1 percent under present law.

Also the conferees included a Senate amendment which would make the delayed retirement credit applicable to widow's and widower's insurance benefits, as well as to the worker's benefit.

INCREASE IN EARNINGS LIMITATION (RETIREMENT TEST)

H.R. 9346 also contains compromise provisions liberalizing certain aspects of social security benefits which many of us have urged for years. The most important change involves the so-called retirement test. Under present law, the amount a beneficiary under age 72 may earn in a year and still be paid full benefits for that year is set at $3,000 with future automatic increases annually as wage levels rise. This bill would increase the set amount for those over 65 only to $4,000 in 1978—from $3,240 to $4,500 in 1979—from $3,480 and in $500 stages annually up to $6,000 in 1982. After that the automatic adjustment provision in present law would take over. The retirement test figure in present law would continue to apply to beneficiaries under age 65. The bill would also eliminate the present monthly measure of the retirement test which allows the payment of full social security benefits for any month in which a person earns no more than one-twelfth of the annual earnings limit—in the case of 1977 this means no more than $250 a month, one-twelfth of $3,000.

The conferees rejected the idea of eliminating the retirement test altogether for those 65 and older as proposed by the Ketchum amendment passed by the House without my support. I strongly feel, as do several major senior citizen organizations, that eliminating the retirement test only benefits a small percentage of social security recipients while its multi-billion dollar annual cost to the trust funds hurts the chance for enactment of much needed general benefit increases for all recipients. I am pleased the conferees dropped this unwise part of the Ketchum amendment.

The conferees also agreed to include the Senate amendment repealing the earnings limitation for individuals 70 and older. Under present law, the earnings limitation does not apply to individuals 72 and older.

STUDY OF UNIVERSAL MANDATORY COVERAGE

The House-passed bill required joint studies by the Office of Management and Budget, the Civil Service Commission, the Department of the Treasury, and the Department of Health, Education, and Welfare of mandatory coverage for Federal and State and local employees with reports and recommendations to the President and Congress within 2 years of enactment. This provision was embodied in the Fisher amendment which overwhelmingly passed the House with my support as a substitute for going ahead with universal mandatory coverage beginning in 1982. The conference committee provision would combine the studies of mandatory coverage of employees of Federal, State, and local governments and nonprofit organizations. It would require the Secretary of Health, Education, and Welfare to conduct the study with appropriate consultation with Treasury, the Office of Management and Budget, and the Civil Service Commission.

The conferees anticipate that the study will include, in addition to the evaluation of alternative proposals, examination of the following specific items: First, analysis of any possible constitutional questions involved in extensions of coverage; second, review of the extent of State, local and nonprofit coverage under existing law; third, analysis of the economic impact on State and local governments of mandatory coverage extensions; and fourth, an analysis of the feasibility of developing a method of covering Federal employees without increasing their contributions or adversely affecting their benefit rights—except to the extent that any windfall benefit situations may be eliminated.

COVERAGE OF NONPROFIT ORGANIZATIONS

The conferees accepted a Senate amendment to: First, forgive through June 30, 1977, the social security tax liability of nonprofit organizations that stopped paying social security taxes before October 19, 1976, because they had not filed the proper certificate with the Internal Revenue Service to cover their employees under social security; second, extend the deadline for filing waiver certificates for organizations that obtained refunds prior to September 9, 1976; third, permit nonprofit organizations that paid social security taxes while waiting for the Internal Revenue Service to approve their request for tax-exempt status to receive a refund of those taxes in spite of Public Law 94-563 under which the taxes and social security coverage that resulted were validated; and fourth, not require nonprofit organizations that received a refund of social security taxes for the April-June 1973, to bring their employees under social security coverage.

REDUCED BENEFITS FOR SPOUSES RECEIVING GOVERNMENT PENSIONS

The Senate-passed bill provided that social security benefits payable to spouses and surviving spouses would be reduced by the amount of any public—Federal, State, or local—retirement benefit payable to the spouse based on the spouse's own work in noncovered public employment. The provision would have been effective with respect to benefits payable for months beginning with the month of enactment, based on applications filed in or after the month of enactment.

The House bill contained no such provision.

The conferees agreed to the Senate provisions with an exception for certain people who are already receiving pensions based on noncovered public employment—or who would be eligible for such pension within 5 years of the month of enactment—and who could have expected to receive social security benefits as dependents or survivors under the social security law as in effect on January 1, 1977. The conferees were concerned that there may be large numbers of women, especially widows in their late fifties, who are already drawing pensions, or would be eligible to draw them within 5 years of the date of enactment of this bill, based on their noncovered work and whose retirement income was planned for on the assumption of the availability of full wife's or widow's benefits under social security. Inclusion of this exception to the applicability of the Senate provision, reinforces its prospective nature and avoids penalizing people who are already retired, or close to retirement, from public employment and who cannot be expected to readjust their retirement plans to take account of the "offset" provision that will apply in the future.

ELIMINATION OF MARRIAGE OR REMARRIAGE AS A FACTOR IN ENTITLEMENT TO, OR TERMINATION OR REDUCTION OF BENEFITS

The House-passed bill provided that marriage or remarriage would not bar or terminate entitlement to benefits as a divorced spouse, surviving spouse—including those caring for an entitled child—parent, or child, and remarriage would not cause any reduction in an aged widow's or widower's insurance benefits. Also, the dependent's benefits of a person married to a disabled worker or to an adult disabled since childhood would no longer be terminated when the disability ends.

The Senate bill did not include such a provision. Conferees agreed to retain only the part of the House-passed provision that would prevent reduction in benefits for widows and widowers who remarry after age 60.

DURATION-OF-MARRIAGE REQUIREMENT

The House-passed bill provided that the length of time a person must have been married to a worker in order for benefits to be payable to her as an aged divorced spouse or surviving divorced spouse would be reduced from 20 years to 5 years.

The Senate bill did not include such a provision.

Conferees agreed instead to establish a 10-year duration-of-marriage requirement for aged divorced spouses and surviving spouses.

EQUALIZATION TREATMENT OF MEN AND WOMEN UNDER THE PROGRAM

The House-passed bill contained a number of amendments that were designed to eliminate certain gender-based distinctions from the social security program, while the Senate did not include any such provisions. I regret to say the conferees agreed to drop the House provisions with the understanding that the entire question of such gender-based distinctions would be included in the 6-month study of proposals to eliminate dependency and sex discrimination provided by the bill.

NATIONAL COMMISSION ON SOCIAL SECURITY

The House had added an amendment to H.R. 9346 providing for a nine-member National Commission on the Social Security Program, appointed by the executive and legislative branches, to conduct a 2-year study including: The fiscal status and adequacy of the trust funds; the scope of coverage, adequacy of benefits, conditions of qualification for benefits—including inequities arising out of marital status, sex, or similar classifications of categories—and quality of administration; the impact of the programs on and relation to public assistance programs, nongovernmental pension insurance programs, other governmental retirement and annuity programs, medical service delivery systems and national employment practices; and alternatives to current programs including, phasing out payroll tax, using general revenues or other financing, mandatory participation in private insurance programs and choice of public or private programs or both. I voted for this amendment.

The Senate did not include a provision comparable to this in its bill.

The Senate conferees agreed to the House's Commission provision with the understanding that it would also study the need to develop a special CPI for the elderly for purposes of social security cost-of-living increases. As a long-time sponsor of such special CPI legislation, I am very pleased about this addition.

SEMIANNUAL COST-OF-LIVING INCREASES DROPPED

On a related matter which I have been advocating for years, the House conferees regretfully refused to agree to a Senate amendment providing for semiannual cost-of-living increases in social security and SSI benefits whenever the CPI increased by at least 4 percent over a specified 6-month measuring period—an annual rate of over 8 percent per year.

REPEAL OF WORKMEN'S COMPENSATION OFFSET

House conferees agreed to accept a Senate amendment repealing the provision in existing law which provides for a reduction in social security benefits for persons simultaneously entitled to workmen's compensation payments where the combined payments would otherwise exceed 80 percent of recent predisability earnings.

DISABILITY BENEFITS FOR BLIND PERSONS

The Senate-passed bill included an amendment providing for the payment of disability insurance benefits for blind people who have at least six quarters of social security coverage with the benefits paid regardless of the amount of a blind individual's earnings. This Senate provision also excluded blind persons from the requirements of present law that disability benefits be suspended for any months during which a beneficiary refuses to accept vocational rehabilitation services. The House bill contained no such provisions. As a cosponsor of legislation similar to this Senate amendment, I joined other concerned Members of the House in urging our conferees to accept this liberalization of the disability benefits law for blind persons. We feel blind persons experience greater ongoing financial problems in seeking permanent employment than other disabled individuals, which require special consideration.

The House conferees agreed to a compromise with the Senate on this matter. The conference committee bill provides that the amount of earnings under the test of substantial gainful activity (SGA) which would terminate a blind individual's benefits would be increased to the same exempt amounts as for persons 65 and over under the liberalized retirement test in another section of the conference committee bill.

EARLY DELIVERY OF BENEFIT CHECKS

House and Senate conferees agreed to a compromise provision requiring that whenever the delivery date for payment of either social security or supplemental security income checks falls on a Saturday, Sunday, or legal public holiday, the checks would be mailed on an earlier date. Also it provided that any overpayment that occurs as a direct result of the earlier delivery of checks would be waived and would not be subjected to recovery.

OTHER SOCIAL SECURITY PROVISIONS

The conference committee bill also limits payment of retroactive benefits to only those cases where the benefits are disability-related or where there was not early retirement.

The measure would require employers of workers receiving below the minimum wage plus tips to be taxed on the portion of tip income which when combined with the workers' salary equals the minimum wage. This employers' tax obligation on tip income would be regardless of the actual amount of tips the employee reports on his or her income tax form.

H.R. 9346 would change the basis for calculating cost-of-living increases for early retirees under social security to place them on the same footing as persons who retire at age 65 or later.

The conference committee bill contains the provisions in the House-passed bill which make further changes in the law with regard to annual wage reporting by employers as a substitute for quarterly reporting. Under these provisions, employers would no longer have to check off quarters of coverage or report quarterly wages on the W-2 forms. State and local employers would continue to report on a quarterly basis but wages would be converted to annual figures. This section excludes from the definition of wages certain employment wherein the pay is less than $100 in a calendar year. Also, it changes the "quarter of coverage" definition so that after 1977 all workers would receive a quarter of coverage for each $250 wages paid in a year—to a maximum of four quarters of coverage in a year. The amounts measuring a quarter of coverage would increase automatically each year as wages increase. Under present law, a worker receives credit for a quarter of coverage for a calendar quarter in which he received at least $50 in wages.

The conference measure would permit clergymen who previously did not elect social security coverage a second opportunity to come under the system as self-employed persons.

The legislation also authorizes the President to enter into bilateral agreements with foreign countries to provide limited coordination of social security systems. Each such agreement would have to be transmitted to Congress together with a report on estimated cost and number of individuals affected. It could not go into effect until 90 days after both Houses had been in session. During that period an agreement could be rejected by the action of either House.

WELFARE PROVISIONS

Finally, H.R. 9346 as reported by the House-Senate conference committee includes four of the five welfare provisions added by the Senate to the House-passed bill and agreed to in amended form by the House conferees.

The first provision is of particular concern to New York State. It is a scaled down version of the immediate welfare costs fiscal relief proposal the State and its representatives have been pressing for. The amount of this one-time payment to States would be $187 million, and States would be required to pass through an appropriate portion of this relief to the local governments who are responsible for meeting part of the costs of welfare. The $187 million represents half of the $374 million in fiscal relief previously approved by the Senate. There are strong indications that the remaining $187 million will be tacked on to a welfare bill, H.R. 7200, when it comes to the Senate floor next January and subsequently approved by the House. New York State's share of the $187 million in H.R. 9346 is estimated to be about $28.3 million with a substantial portion—about $18 million—to be passed through to New York City.

The other Senate welfare amendments agreed to by the conferees include: second, providing fiscal incentives for lowering aid to dependent children overpayment error rates below 4 percent by allowing States to keep part of the savings which would normally accrue to the Federal Government—New York State is not close enough to the 4-percent rate to qualify; third, allowing States access to wage information held by the Social Security Administration and State unemployment compensation offices on AFDC eligibles and recipients starting October 1979; and fourth, authorizing States for 2 years to conduct up to three AFDC welfare employment demonstration projects with voluntary participation by recipients and with the approval of the Secretary of HEW waiving certain statutory rules. A fifth Senate amendment tightening up the earned income disregard under the AFDC program was dropped by the conferees. The Carter administration and representatives from high cost-of-living States such as New York opposed the changes in the earned income disregard.

Taken as a whole, H.R. 9346 as crafted by the House and Senate conferees is an excellent bill. It has its shortcomings as I have indicated, but I strongly urge my colleagues to overlook them and vote in favor of legislation which this year will put the social security system back on a sound financial basis. We can delay such action no longer.

Mr. GIAIMO. Mr. Speaker, I rise in strong support of this conference agreement. The conferees from the Committee on Ways and Means have brought back to us an agreement which restores the financial solvency of the social security system and is consistent with the second budget resolution for fiscal year 1978.

That resolution assumed no social security tax increases in fiscal year 1978 beyond those scheduled under current law. The Budget Committees were concerned that a social security tax increase effective in fiscal year 1978 could retard the economic recovery. The conference agreement before us today delays the new tax increases until fiscal year 1979.

The second budget resolution assumed that outlay savings of $400 million could be achieved in fiscal year 1978 through social security benefit reforms. The conference agreement before us today exceeds that savings target by achieving total savings of $600 million, or $200 million more than the resolution target. I would note that the net savings will be about $400 million because the conferees accepted one-half of the State fiscal relief proposal for public assistance in the Senate bill. The cost of this provision is $187 million in budget authority and outlays.

Although I would have preferred that the conferees defer consideration of this fiscal relief proposal until the Congress considers welfare reform legislation, this appears to be a reasonable compromise. On the other hand, the Senate intends to add the other half of this fiscal relief proposal to the public assistance amendments (H.R. 7200) which the House approved earlier this year. I would warn my colleagues that we included in the second budget resolution the cost of the House-passed bill. While the delay in enactment will change the cost estimate on this bill, inclusion of the remaining fiscal relief funds could cause the cost of the public assistance amendments to exceed the resolution estimates unless savings are found elsewhere.

Over the next 5 years this conference agreement will have a significant impact on the economy. The total increase in revenue will be $52.1 billion. Outlays for social security will decline by a total of $6.5 billion. If tax reductions are not provided elsewhere, these social security tax increases could retard the economic recovery. The administration is cognizant of the potential fiscal drag from this legislation and I expect it to propose appropriate tax reductions next year and in subsequent years.

I urge support for this conference agreement.

Mr. MAZZOLI. Mr. Speaker, I rise in support of the conference report accompanying H.R. 9346, the Social Security Financing Amendments of 1977—though, I must admit, not without some misgiving.

The financial health of the social security system is of vital importance to millions of our Nation's retirees, for whom their social security check is the major source of income.

The need to overhaul and strengthen the social security system's financial structure must be met. It can no longer be delayed. So for these reasons, I support the conference report—albeit reluctantly.

I say reluctantly because I would have preferred to reform the system without relying so heavily on sharp increases in the most regressive of all taxes—the payroll tax.

For example, one sensible alternative would have been to allow the use of General Treasury revenues to shore up the social security trust fund. General revenues derive mostly from the income tax which is progressive and, therefore, is a more equitable means of raising funds.

A second alternative would be to bring Federal, State, and local government employees under social security. Such an effort was made when H.R. 9346 was before the House. It failed because a majority of the House felt this expansion must be preceded by a careful study of all facets of the question. Such a study is mandated by this measure we are voting on today.

Another alternative would have been to transfer certain health and maintenance programs from social security to other agencies of Government.

Mr. Speaker, I support the conference report. The need to insure the system's solvency for the next decade is desperate. Congress must take expeditious action.

President Carter, in his 1978 tax reform proposals, must offer a substantial tax cut to offset the tremendous payroll tax burden placed on middle-income Americans by this measure, however. This is essential.

Mr. MIKVA. Mr. Speaker, the two primary goals of government should be to guarantee the security of the Nation and to guarantee the security of those citizens who are unable to satisfy their own needs because they are too young or too old, dependent or disabled.

H.R. 9346 does not do anything to guarantee our national security, but it does a good deal to guarantee our citizens' security. Passage of this bill guarantees that for the next half century, benefits sufficient to maintain a standard of living that is decent will be provided for the 33 million people presently receiving social security, as well as for the 108 million people now contributing to the system.

In this day of million dollar baseball players and billion dollar bombers, it is sometimes difficult to appreciate the scope and importance of social security to the people of this country. Practically every American is either a beneficiary, a contributor building future protection, or is the dependent of a contributor. Today 93 percent of the people 65 and older are eligible for social security benefits. Ninety-five out of 100 young children and their mothers are protected by the life insurance features of social security, called survivors' insurance. And, four out of five people in the age group 21 through 64 have protection under social security against loss of income due to severe disability. For more than half of these people, the social security system is the only protection they have from retirement, death, or disability. And, even those with other plans could not survive on non-social security benefits alone.

Mr. Speaker, I think securing these benefits are important accomplishments. Today's retired people no longer need to worry that we are considering a return to the county poorhouse as the cornerstone of our senior citizen policy. Tomorrow's retired people can be confident that they will receive benefits at age 65 as they were promised, and that their retirement benefits will be commensurate with their earnings. To protect the fiscal integrity of the social security trust funds as well as the benefits of contributors, the House and Senate conferees have resisted many of the additional benefits sought by various interest groups, and pruned down certain benefits in the law which were going to people who had not contributed their fair share—notably through the elimination of coverage for limited partners and the reform of the minimum benefit structure.

But perhaps the greatest accomplishment of H.R. 9346, Mr. Speaker, is that it sets the stage for a thoughtful and thorough review of the basic social security financing system. Without this bill becoming law, the Disability Trust (DI) fund will run out in 12 to 18 months and the Old Age and Survivors Trust (OASI) shortly thereafter. If that occurred, thoughtful analysis would be impossible and panicky, shortsighted decisionmaking would be inevitable.

The taxes contained in H.R. 9346 have focused national attention on the undesirability of continuing to finance the entire social security system through payroll taxes. Payroll taxes are regressive—striking hardest at low and middle income wage earners while those with high salaries or investment earnings pay comparatively little. Moreover, the payroll tax is a tax on labor. At a time of continuing high unemployment, we cannot afford to increase the disincentives to hire new employees.

I feel strongly that the taxes imposed under H.R. 9346 are too high, and that ways of reducing the tax without postponing benefits or undermining the newfound financial soundness of the system must be explored. Early next year I intend to introduce a bill which will meet those objectives. The bill will remove the Health Insurance Trust fund (HI) which was added in the 1960's and the Disability Insurance Trust fund which was added in the 1950's from the system, and restore it to the single purpose retirement and survivor system created in the 1930's. This change will also mean a reduction in the payroll tax of about one-third for both employer and employee.

The purpose of such a bill would not be to abandon HI and DI, however, but to provide that the funds needed to carry on their functions be obtained from general tax revenues. We know that this is a workable financing system because under current law, nearly 40 percent of HI funds are derived from the treasury.

The key elements to a successful social security system are maintaining an adequate level of benefits, and maintaining the acceptance of those currently working who are paying the benefits of those currently retired. H.R. 9346 fulfills the first of those criteria. Unfortunately, acceptance of the taxes needed to insure adequate benefits is dwindling, as the one-time hidden payroll tax emerges as a regressive and antiemployment tax. In the long run, acceptance may be as crucial a factor in the life of the system as actuarial soundness. I urge my colleagues to vote for H.R. 9346 because it finances promised and well-deserved benefits for the next 50 years. But, I look upon our vote today as a prelude to the decisions we must make in the near future to reduce payroll taxes and restore the system's credibility. If we do not meet that challenge, then we run the risk of generational warfare which will ultimately destroy the system.

CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 781]

Addabbo
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Ashley
Aspin
Badillo
Baucus
Bedell
Beilenson
Bolling
Bonker
Breaux
Brodhead
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Cavanaugh
Cederberg
Chappell
Collins, Ill.
Conyers
Corman
Davis
Dent
Derwinski
Dickinson
Diggs
Drinan
Fary
Fisher
Fithian
Foley
Ford, Tenn.
Forsythe
Fraser
Fuqua
Gammage
Ginn
Hall
Harkin
Harsha
Hefner
Holtzman
Ichord
Ireland
Jacobs
Keys
Koch
Krebs
LaFalce
Le Fante
Lent
Long, La.
Long Md.
Lujan
Lundine
McCloskey
McDonald
McEwen
McHugh
McKinney
Madigan
Maguire
Marlenee
Mathis
Meeds
Metcalfe
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Myers, Michael
Neal
Nix
Nolan
Panetta
Pettis
Pike
Poage
Pursell
Quie
Quillen
Rangel
Rinaldo
Risenhoover
Rose
Runnels
Ruppe
Ryan
Santini
Scheuer
Shipley
Shuster
Sisk
Skubitz
Smith, Iowa
Solarz
Stark
Steed
Symms
Traxler
Tsongas
Udall
Van Deerlin
Vander Jagt
Weiss
Whalen
Wiggins
Wilson, Bob
Winn
Wolff
Yates
Zeferetti

The SPEAKER pro tempore. On this rollcall 317 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

SOCIAL SECURITY AMENDMENTS OF 1977

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, to conclude debate, I yield the balance of the time to the distinguished Speaker of the House (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, how did this bill happen to come before the Congress this year? I want the Members to think about that. How did it come up?

I will tell the Members how it came up. It came up because the liberal lobby and those who are supporters of the Reagan group, the Right Wing of America, so mollified and so frightened the aged of America and the senior citizens, that each one of us who went to any meeting where the senior citizens were present were asked: Is the social security system going down the drain? Did they have something to fear? No. We assured them that they had nothing to fear. We said, "No, this Congress, the Congress of the United States, would never let the social security system go down the drain." Why, we would go into the general fund before we would ever allow that to happen.

I think we are the only Nation in the world that does not dip into the general fund. But, interestingly, the votes are not here for that purpose.

Mr. Speaker, I want to talk to the Democratic Members of this House; 1935 was the year that social security came into existence. Do the Members know what the vote was that day? There was a vote to recommit. And the vote was 97 Republicans voted to recommit, 1 voted for the legislation. And the interesting fact about it is that the philosophy has not changed on the Republican side since 1935.

What did the social security bill do at that particular time? There used to be in America what was called the poorfarm, the poorhouse, the almshouse; and those who had no insurance, no protection, went to the almshouse, to the poorhouse, to be fed and to be harbored. And when one walked by and he looked, he said to himself, "What a disgust to America that we have homes for the poor, the aged, those who have made America great. And what do we do? We put them in a poorhouse."

But we have changed. We came up with a philosophy which changed that. We came up with the philosophy of the Social Security Act.

Mr. Speaker, there are those who have gotten up and who have talked and who have said that the bill is repressive, there is too much tax.

There are those over here who are saying it is regressive, not enough tax, we are not taxing the right people.

Mr. Speaker, the philosophy of the Democratic party has always been to help the needy, to help the downtrodden.

Sure, I have had Members come up to me and say, concerning the social security bill, "Why, I could go to an insurance company and get a policy that would be so much more equitable, and when I reach the age of 65 I can receive so much more money than through social security." That is true. All of us, with our salary, could do that. But what about the unfortunate who cannot go out and get insurance? Who rely on social security as their sole source of retirement income? These people are the object of this legislation. They are the beneficiaries of social security.

I have heard all types of figures thrown around here today. But under the new law, if you earn $10,000 a year, 10 years from now, in 1987, you pay $59.58 more than you do under the present bill.

If you earn $20,000 a year in 1987, you pay $119 more a year in tax than you do under the present bill; if you earn $30,000 a year, you pay $178 more a year than you do now.

On the subject of this tax, let me remind the Members that there are 33 million people on social security—1 out of every 7.

We are leaving here. We are leaving here within a matter of minutes, and there are those of us who are going to go home and visit our clubs and attend Christmas parties; we are apt to have some fellow who makes $50,000 a year come up to us and say, "Thanks. You made my Christmas happy because I didn't get an added tax."

But there will be those of us who may happen to talk to a senior citizen. He or she is going to come up to you and say, "What about my social security? Is is going down the drain?"

If you voted against this, you are going to say, "Well, we are going to do something about this along the line." But what a miserable Christmas that senior citizen is going to have.

I say to the Members on the Democratic side of the aisle that if I have ever seen an issue that is a Democratic issue, it is this issue. This reverts right back to that day in 1935 when the party on the other side of the aisle voted against this issue by a vote of 97 to 1. The leopard does not change its spots.

Mr. Speaker, I ask for a aye vote for the conference report.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

The was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONABLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 189, nays 163, answered "present" 1, not voting 81, as follows:

[Roll No. 782]

YEAS—189

Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Annunzio
Applegate
Ashley
Baldus
Barnard
Beard, R.I.
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Broyhill
Burke, Mass.
Carter
Chisholm
Clay
Collins, Ill.
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
Davis
Delaney
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Fascell
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Fowler
Fraser
Gephardt
Giaimo
Gilman
Glickman
Gudger
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Heckler
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krueger
LaFalce
Lederer
Leggett
Levitas
Lloyd, Calif.
Luken
McCormack
McDade
McFall
McHugh
McKay
Mann
Markey
Marks
Martin
Mattox
Mazzoli
Meyner
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Preyer
Price
Rahall
Rangel
Richmond
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Scheuer
Seiberling
Sharp
Simon
Skubitz
Solarz
Spellman
St Germain
Staggers
Stark
Steers
Stokes
Stratton
Thompson
Trible
Tucker
Ullman
Vanik
Vento
Waggonner
Walgren
Wampler
Waxman
Weaver
Weiss
Whitley
Wilson, Tex.
Wright
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti
Van Deerlin
Whalen
Wiggins
Wilson, Bob
Winn
Wolff
Yates

NAYS—163

Abdnor
Allen
Anderson, Ill.
Andrews, N.C.
Archer
Ashbrook
AuCoin
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burton, John
Butler
Byron
Caputo
Carr
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Flippo
Flynt
Fountain
Frenzel
Frey
Gibbons
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hammerschmidt
Hansen
Holt
Horton
Huckaby
Hyde
Ireland
Jacobs
Jeffords
Johnson, Colo.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leach
Lehman
Livingston
Lloyd, Tenn.
Lott
McClory
McDonald
McKinney
Madigan
Mahon
Marriott
Michel
Mikulski
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Nichols
O'Brien
Pressler
Pritchard
Quayle
Quillen
Railsback
Regula
Reuss
Rhodes
Robinson
Rose
Rousselot
Rudd
Sarasin
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Shuster
Sikes
Skelton
Slack
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steed
Steiger
Stockman
Studds
Stump
Taylor
Teague
Thone
Thornton
Treen
Vander Jagt
Volkmer
Walker
Walsh
Watkins
White
Whitehurst
Whitten
Wilson, C. H.
Wirth
Wydler
Wylie
Young, Alaska
Young, Tex.

ANSWERED "PRESENT"—1

Hightower

NOT VOTING—81

Andrews, N. Dak.
Armstrong
Aspin
Badillo
Baucus
Bedell
Beilenson
Bolling
Bonker
Breaux
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Cavanaugh
Cederberg
Chappell
Conyers
Dent
Dickinson
Fary
Fithian
Ford, Tenn.
Forsythe
Fuqua
Gammage
Gaydos
Ginn
Hall
Harkin
Harsha
Hefner
Ichord
Koch
Krebs
Le Fante
Lent
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McEwen
Maguire
Marlenee
Mathis
Meeds
Metcalfe
Mollohan
Moss
Myers, Michael
Neal
Nix
Panetta
Pettis
Pike
Poage
Pursell
Quie
Rinaldo
Risenhoover
Runnels
Ruppe
Ryan
Santini
Shipley
Sisk
Smith, Iowa
Symms
Traxler
Tsongas
Udall

The Clerk announced the following pairs:

On this vote:

Mr. Hightower for, with Mr. Runnels against.

Mr. Le Fante for, with Mr. Pursell against.

Mr. Carney for, with Mr. Pike against.

Mr. Wolff for, with Mr. Cavanaugh against.

Mr. Metcalfe for, with Mr. Lundine against.

Mr. Neal for, with Mr. Santini against.

Mrs. Burke of California for, with Mr. Chappell against.

Mr. Baucus for, with Mr. Panetta against.

Mr. Traxler for, with Mr. Ginn against.

Mr. Risenhoover for, with Mr. Fuqua against.

Mr. Ford of Tennessee for, with Mr. Andrews of North Dakota against.

Mr. Conyers for, with Mr. Cederberg against.

Mr. Nix for, with Mr. Dickinson against.

Mr. Koch for, with Mr. Lent against.

Mr. Badillo for, with Mr. Marlenee against.

Mr. Meeds for, with Mr. McCloskey against.

Mr. Shipley for, with Mr. McEwen against.

Mr. Burleson of Texas for, with Mr. Ryan against.

Mr. Beilenson for, with Mr. Mollohan against.

Mr. Breaux for, with Mr. Symms against.

Mr. Moss for, with Mr. Wiggins against.

Mr. Fary for, with Mr. Winn against.

Until further notice:

Mr. Aspin with Mr. Gammage.

Mr. Bedell with Mr. Bob Wilson.

Mr. Bonker with Mr. Udall.

Mr. Burlison of Missouri with Mr. Rinaldo.

Mr. Fithian with Mr. Whalen.

Mr. Harkin with Mr. Dent.

Mr. Hefner with Mr. Harsha.

Mr. Krebs with Mr. Ichord.

Mr. Maguire with Mr. Long of Maryland.

Mr. Long of Louisiana with Mr. Lujan.

Mr. Smith of Iowa with Mr. Mathis.

Mr. Tsongas with Mr. Michael O. Myers.

Mr. Gaydos with Mr. Hall.

Mr. Sisk with Mr. Van Deerlin.

Mr. Yates with Mr. Armstrong.

Mr. Burke of Florida with Mr. Ruppe.

Mr. HIGHTOWER. Mr. Speaker, I have a live pair with the gentleman from New Mexico (Mr. RUNNELS). Had he been here, he would have voted "nay." I voted "yea." Therefore, I withdraw my "yea" and vote "present."

Mr. HIGHTOWER changed his vote from "yea" to "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous material on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolutions of the House of the following titles:

H.R. 8212. An act for the relief of Charles P. Bailey;

H. Con. Res. 443. Concurrent resolution requesting the President to return the enrolled bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, and providing for its reenrollment with technical corrections; and

H. Con. Res. 444. Concurrent resolution directing the Clerk to correct the enrollment of H.R. 3199.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6666) entitled "An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) entitled "An act to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 904. An act to provide for the efficient and regular distribution of current information on Federal domestic assistance programs.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1063. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2351. An act to name the new Veterans' Administration Hospital in Little Rock, Ark., the John L. McClellan Hospital; and

S. 2355. An act to extend the Emergency Natural Gas Act of 1977.

The message also announced that the Vice President, pursuant to Public Law 86-42, appointed Mr. HATHAWAY as chairman to the Canada-United States Interparliamentary Conference, to be held in New Orleans, La., February 9 to 13, 1978.

REQUEST FOR IMMEDIATE CONSIDERATION OF S. 2355 TO EXTEND THE EMERGENCY NATURAL GAS ACT OF 1977

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2355) to extend the Emergency Natural Gas Act of 1977 until February 15, 1978.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. DINGELL. Mr. Speaker, reserving the right to object, with the greatest affection and respect for my good friend, the gentlmean from Ohio, a most valuable and useful Member of this House and for whom I have the highest personal regard, I would like to ask him a couple of questions if I could. Is a copy of the bill over here at this time?

Mr. BROWN of Ohio. If the gentleman from Michigan will yield, the bill is here from the Senate. It passed the Senate this afternoon by unanimous consent.

The purpose of the bill is to cover the period between now and the date the Congress comes back on the 19th of January and up until the 15th of February, as we had last year. It would give the President of the United States the authority to allocate natural gas from gas-rich areas to gas-short areas should there be an emergency. It would also give companies the right to purchase natural gas from above the price ceiling in an emergency and also the right to shift gas supplies around to meet emergency needs.

The reason for the request for unanimous consent is that we cannot bring it through the Rules Committee. We do not have time. If we have unanimous consent, we could have an hour of debate on the bill. There seems to be no purpose for that, but the unanimous consent would put this in place and give the President the same right he had last year, shortly after he took office, to protect the country from the possibilities of gas shortages arising from our present gas-pricing policies.

Mr. DINGELL. Mr. Speaker, continuing to reserve the right to object, I did not receive a communication from the administration on this particular proposal.

I would observe further that we have been inquiring with some concern into the status of supplies of natural gas available to pipelines and the need for emergency legislation at this time. In this particular matter the natural gas supplies appear to be in pretty good shape.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Mr. Speaker, continuing to reserve the right to object, yes, I yield to my good friend, the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I can advise the gentleman that Senator GLENN received the support of the administration in the enactment of this legislation by the Senate.

As I am sure the gentleman knows, because the minority is aware of it, the Department of Energy has submitted a report of those pipelines which are better off than they were at this time last year and those that are worse off, and there are several that are worse off. Fortunately those in Ohio are somewhat better off. We have had a milder winter and the supplies are stronger and they have more storage in my particular State. But in some other parts of the country the pipelines that transmit natural gas from the South, from the producing States into the consuming States, do not have as much supply. They maybe are not quite as well off because of the weather circumstances. If we have bad weather under a normal winter they are not expected to curtail as much as last winter. If this winter is as severe as last winter, they would have to curtail further.

Mr. DINGELL. I thank the gentleman.

In the conference with respect to energy there is the question with reference to natural gas as between interstate and intrastate markets, and the question of extension of emergency sales authorities and so forth.

I also would observe that quite frankly the subcommittee which I have the honor to chair, to which this proposal would have been referred through the full Committee on Interstate and Foreign Commerce, has had no chance to make the necessary inquiries or to look into the considerations or inquire into the defects which might exist in the bill. And after this, given the fact that this administration has not communicated with me, and given regrettably the further circumstances that the administration is in favor of this proposal, I will be glad to yield further to the gentleman briefly.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will yield further, let me say to the gentleman that this is the same bill that the gentleman and I combined to pass last year. As the gentleman so well knows, the language of the House version and the Senate version of the House-Senate conference is practically the same except for one small matter, and that is the House version under the emergency proposals invades the intrastate market, which this does not, but I understand in our negotiations in conference the other day the gentleman was willing to give up that point.

I also know the gentleman has been in negotiation all day with a group, which unfortunately does not include anybody from my side of the aisle and I hope that they will come up with an agreement we can support, so we can support the bill.

I read in the Post this morning about the problems of communicating with the administration. I sympathize with the gentleman. He will have to try to solve that. I just want to solve any shortage that might develop between now and the first of January.

Mr. DINGELL. Mr. Speaker, with the utmost esteem for my good friend from Ohio and with the deepest regret and with the understanding that the staff of the subcommittee will be watching this matter with great care and that this is now one of the matters that is in consideration in the conference between the House and the Senate on which negotiations are going forward in the further hope that we can satisfy my good friend from Ohio in getting a bill in which the gentleman will concur, I object.

The SPEAKER. Objection is heard.

Mr. BROWN of Ohio. Mr. Speaker, may I say to the gentleman from Michigan, have a white Christmas.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I do this for the purpose of announcing the program for the week on our return. It is planned that we will return on Thursday, January 19. The House would convene at noon that day. We will have two bills, H.R. 2329, Fish and Wildlife Improvement Act of 1977, with an open rule and 1 hour of debate; and H.R. 7691, the Federal Grant and Cooperative Agreement Act, agreeing to Senate amendments.

It is anticipated that the President's state of the Union message would be delivered on that evening, the evening of Thursday, January 19.

Mr. Speaker, for the edification of the Members and their assistance in advanced planning, I ask unanimous consent to insert in the Record at this point a schedule of House activities for the ensuing year.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

House Schedule for 1978

Thursday, January 19. Congress convenes—State of the Union Address.

Monday, January 23. Receive President's Budget and Economic Report.

Friday, February 10 through Monday, February 13. Lincoln's Birthday District Work Period.

Monday, February 20. Washington's Birthday—Reading of Farewell Address only.

Wednesday, March 15. Committees submit reports to Budget Committee.

Thursday, March 23 through Sunday, April 2. Eastern District Work Period.

Saturday, April 15. Budget Committee reports First Budget Resolution.

Monday, May 15. First budget resolution to be completed and fiscal year 1979 authorization bills to be reported.

Saturday, May 27 through Tuesday, May 30. Memorial Day District Work Period.

Saturday, July 1 through Sunday, July 9. Independence Day District Work Period.

Friday, August 18 through Tuesday, September 5. August Recess District Work Period.

Monday, September 11. All spending measures completed.

Friday, September 15. Second Budget Resolution to be completed.

Monday, September 25. Reconciliation process to be completed.

Friday, September 29. Adjournment target.

Sunday, October 1. Fiscal Year 1979 begins.

RESPONSE TO ALLEGATIONS OF HON. JAMES COLLINS

(Mr. MOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOSS. Mr. Speaker, I take this occasion in order to correct a record which has become clouded as the result of certain allegations by my good friend, the distinguished Member from the State of Texas, the Honorable James Collins. The gentleman from Texas serves as the ranking Republican on the Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee which I have the privilege to chair.

The distinguished gentleman had a field day a week ago trying desperately to leave the impression that I am sitting on a report which if released would prove that his case on natural gas was supported. The gentleman has rarely been in grosser error. I might add that not only has the gentleman been in error but he succeeded in making a couple of rather anxious newspapers who should have known better to take up his cause editorially. I refer to the Wall Street Journal which probably did not know what the facts were and the Washington Star which most certainly should have known what the facts were.

The Washington Star quoted the gentleman from Texas as stating that the alleged subcommittee staff study would "greatly remove the cloud" over industry's natural gas reserve estimates.

Nothing, not a single staff study, or a compendium of studies, could dispel the cloud that has enveloped the industry's natural gas reserve estimates as demonstrated numerous times in studies and congressional hearings.[1] Indeed, the evidence on this point is so persuasive that the Members of this body, with but few exceptions, are agreed as to the need to terminate the oil and gas industry's near monopoly over reserve and other key energy data.

The item referred to by Mr. Collins is not a subcommittee staff study, nor is it even a memorandum from the staff to the chairman or to a member. Rather, it is a memorandum from one staff member to another, reviewing the status of a part of a larger investigation which is still underway, and which I might add, is awaiting a reply from the American Gas Association concerning its large downward revision of previous natural gas reserve estimates.

Notwithstanding, the May 1976 intrastaff memorandum which the Member from Texas wishes me to release provides cold comfort to those who would have us supinely accept industry reserve data as a basis for formulating energy policy.

The memorandum in question concludes and, I quote:

> AGA reserve estimates can only be properly compared with U.S. Geological Survey reserve estimates which constitute the only non-biased, non-industry reserve data available for comparison with AGA data.

The results of this comparison were presented by the staff of the subcommittee nearly 2 years ago in open session. Rather than supporting AGA reserve estimates, the comparison revealed AGA reserve estimates for 153 fields in the Gulf of Mexico to be 3.8 trillion cubic feet or 37.4 percent less than those determined by the USGS.

That being the case I am baffled by the gentleman's insistence that the staff memorandum in question be released, arguing as it does against the integrity of the AGA reserve reporting system which he has repeatedly endorsed.

One wonders why anyone would argue so vociferously for the release of a document that undermines his basic position. There is one possibility. This may be an attempt on the part of my colleague to establish a precedent for the premature release of staff memoranda and other investigatory materials in an effort to destroy the effectiveness of the subcommittee and to render it unable to discharge the responsibilities assigned to it by the House. I should note that the Member from Texas is not seeking access to subcommittee files, a right provided for under House Rules. Rather he asks—and I quote—that information in subcommittee files "be made public if a Member of Congress so requests." I know of nothing more likely to vitiate congressional oversight and investigations than for Members to be permitted to indiscriminately release committee and subcommittee investigatory materials.

But more likely, my colleague from Texas never dreamed that the memorandum would actually be released. That way, the gentleman could have his red herring and eat it too.

I was concerned enough about the House Rules to have recently asked the subcommittee staff to review the memorandum and the precedents of this House, with an eye to the narrow question of public disclosure of this particular memorandum. The staff advises me that the memorandum may be disclosed under our rules chiefly because it does not itself contain proprietary information received in executive session which identifies any one energy company.

Consequently, I am today releasing the memorandum whose disclosure is so eagerly sought by Mr. Collins. The release of this memorandum should in no way be interpreted as meaning that the subcommittee is prepared to accord Mr. Collins the right to unilaterally release subcommittee file material. The release of this document is being undertaken pursuant to established House procedures, to call my colleague's bluff and to dispel any notion that the subcommittee or myself is withholding information of relevance to the House in considering energy legislation.

I am also releasing today two subcommittee staff memoranda relating to this issue. The first reviews the House Rules and precedents applicable to the release of the memorandum sought by the gentleman from Texas. The second reviews the subcommittee's investigations of natural gas reserves, an investigation which to date has culminated in the subcommittee's disclosure of a major discrepancy between industry and previously unexamined geological survey reserve data. Upon obtaining and reviewing the data currently being sought from the American Gas Association you can be assured that we will release this information in an orderly, expeditious fashion.

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[1] The Federal Power Commission, for example, on June 21, 1976, reported that of 29 fields discovered in 1971 and 1972, 5 had not been reported by the AGA at the end of 1974 and 4 fields reported by AGA as 1971–72 discoveries had actually been discovered in previous years, 1 as far back as 1965.

In January 1976 an AGA official in testimony before the Oversight and Investigations Subcommittee admitted not having reported a major new field discovery at the behest of Mobil Oil Corp. The failure to report this one discovery reduced AGA 1974 nonassociated new gas additions by 5.6 percent.

Memorandum

Subcommittee on Oversight and
Investigations of the Committee on Interstate and Foreign
Commerce,
Washington, D.C.

Date: December 12, 1977.

To: Chairman John E. Moss.

From: Tom Greene, Counsel to the Chairman, John Atkisson, Counsel to the Subcommittee Jim Nelligan, Operations Director, John Galloway, Energy Task Force Director.

Subject: Recommendation of the staff with respect to the release of a memorandum dated May 4, 1976 from John Galloway, Special Assistant, to Michael R. Lemov, Chief Counsel.

I. INTRODUCTION

This responds to your request for a review of the legality of releasing to the public a memorandum dated May 4, 1976 from John Galloway, the Special Assistant to Michael R. Lemov, then Chief Counsel, concerning the Subcommittee's natural gas reserve study. As you may be aware, the staff has been troubled by the characterization of this document as one that vindicates the oil and gas industry with respect to charges of reserves underreporting (Washington Star, December 6, 1977; Washington Post, December 7, 1977, p. A–7). In fact, the principal conclusion of this interim staff analysis was that the comparison of American Gas Association reserve estimates with those of company proved reserve ledgers is a "mostly pointless exercise." This conclusion was based upon definitional and other problems which militated against an accurate comparison of the two data series.

The staff understands your request for a review of the legality of releasing Subcommittee records to extend only to the Galloway memorandum. In the recent past, the requests of Mr. Collins have been substantially broader and would certainly involve the release of executive session materials. Additionally, the change in the House rules proposed by Mr. Collins on December 6, 1977 (Congressional Record, H 12727) addressed all non-classified materials within the custody of every committee and subcommittee of the House. While the press has characterized the recent controversy as relating solely to the Galloway memorandum, it was only in his Congressional Record statement of December 6, 1977 (H 12729) that Mr. Collins clearly confined his request to the May 4, 1976 memorandum.

Here we review the legal standard which is applicable to the release of documents such as the Galloway memorandum. It then turns to an application of this standard to the Galloway document. Our analysis concludes that you may employ the authorities delegated to you by the Subcommittee to release this document to the public.

II. THE STANDARD

The Rules of the House provide two principal limitations on the release of committee or subcommittee documents to the public. The first of these is contained in clause 2(e) (2) of Rule XI. This rule provides that committee records shall be "the property of the House and all Members of the House shall have access thereto". The precedents are clear that while a Member may have access to committee files, he may not make copies of such files (Speaker Rayburn, August 14, 1957, pp. 14737–39). Neither may a Member release such records to the public absent authorization by the affected committee or subcommittee (Speaker Rayburn, June 3, 1960, p. 11820). These limitations apply to all committee or subcommittee documents and records.

The second limitation on public release of committee or subcommittee documents applies only to a special category of documents or records, those received in executive session or as if in executive session. Clause (2) (k) (7) of Rule XI provides that "No evidence or testimony taken in executive session may be released or used in public session without the consent of the committee." Traditionally, the consent of the committee or subcommittee for the release of executive session materials is obtained through the vote of the affected committee or subcommittee.

In summary you may release the Galloway memorandum without a vote of the Subcommittee if it is determined that (i) the document does not contain material taken in executive session or as if in executive session and (ii) you have been authorized, as Chairman of the Subcommittee on Oversight and Investigations, to regulate on behalf of the Subcommittee the release of subcommittee records, other than executive session records.

III. APPLICATION OF THE STANDARD

A. Does the Galloway memorandum contain evidence or testimony taken in executive session?

After a careful review of the materials obtained by the Subcommittee pursuant to subpoenas voted in executive session on June 16, 1975, we conclude that the Galloway memorandum of May 4, 1976 does not contain information covered by clause 2.(k) (7) of Rule XI. The staff gave particular attention in its review of the Galloway memorandum to (i) the table which appears at page 1, and (ii) quotes from internal industry documents stating the benefits of reserve manipulation. With respect to the numbers which appear at page 1, the staff concluded that while based upon information obtained by subpoenas issued in executive session, specific information about particular energy companies is not newly presented. Use of aggregate figures assures that the House policies which animate the protection of executive session materials are not violated. Release of aggregate data would not "endanger the national security," Rule XI 2.(g) (2). Neither would release of aggregate numbers "tend to defame, degrade, or incriminate any person," Rule XI 2.(k) (5). It would not even offend the sensitivities of the oil companies involved, since no interested party can be identified within the four corners of the memorandum.

The staff was particularly concerned about quotes from two Union Oil Company memoranda which reflect the rationale and reality of industry manipulation of reserve figures. It has been determined that both of these memoranda were incorporated by the Subcommittee into the public record on June 9, 1975 during the Subcommittee's hearing on natural gas supply in the United States. Since these materials are already public, rerelease of them in the Galloway memorandum does not trigger the executive session rule.

B. If it is determined that the Galloway memorandum does not contain executive session information, are you as Chairman authorized by the Subcommittee to release ordinary Subcommittee records to the public?

Clause 2(e) (2) of Rule XI limits public release of subcommittee records absent the authorization of the subcommittee (Speaker Rayburn, June 3, 1960, p. 11820). The rule is silent as to a specific authorization procedure, or even how authorization is defined.

The consistent rule in this Subcommittee has been that you have the authority to release-ordinary subcommittee records. This is essential to the orderly management of the Subcommittee on a day-to-day basis.

This issue was considered under similar circumstances on September 29, 1975. On that occasion, Mr. Collins of Texas objected that you had released to the public a Getty Oil Company document which was a committee record but not one subject to the executive session rule. With a quorum present, the release by you of a document, not received in executive session or as if in executive session, was fully debated and not disapproved.

Based upon these authorities and precedents, the staff concludes that you have the authority to release a commitee record not covered by the executive session rule.

IV. CONCLUSION

Because (i) you have the authority to release the Galloway memorandum and (ii) it in no way prejudices the competitive position of the oil companies involved, we recommend release to the public.

Memorandum

Subcommittee on Oversight and
Investigations of the Committee on Interstate and Foreign
Commerce,
Washington, D.C.

Date December 12, 1977.

To Honorable John E. Moss, Chairman.

From John Atkisson, Counsel to the Subcommittee, J. Thomas Greene, Counsel to the Chairman, John R. Galloway, Energy Task Force Director, James L. Nelligan, Operations Director.

Subject March 4, 1976, Memorandum from Subcommittee, Special Assistant John Galloway to Subcommittee Chief Counsel Michael R. Lemov.

BACKGROUND

The Subcommittee on June 9, 1975, received testimony from Kenneth C. Anderson, Assistant Director, Bureau of Competition, Federal Trade Commission and Theodore Lytle, Jr., an attorney with the FTC's Bureau of Competition relative to the Bureau of Competition's three-year investigation of the American Gas Association's published reserve estimates.

The testimony of Messrs. Anderson and Lytle focused on a March 25, 1975, memorandum from five attorneys in the Bureau of Competition to the Commission recommending that a complaint be issued against the AGA and eleven oil companies for "concertedly maintaining a deficient natural gas reserve reporting program which influences the price at which producers sell natural gas to intersate pipeline companies."

The complaint recommended by the Bureau of Competition was based in large measure on a comparison of AGA reserve estimates for 20 natural gas fields in the Gulf of Mexico with reserve estimates included in the internal proved reserve ledgers of four companies—Gulf, Union, Continental and Pennzoil for the period 1966–1970.

From 1967 on the Bureau of Competition comparison showed AGA published reserve estimates to be less that those carried in the company books. For 1970 the comparison, for example, showed these AGA estimates to be 24 percent less than those included in the proved reserve estimates of the four companies involved.

On June 26, 1975, the Subcommittee heard testimony from Joseph Mulholland and Joanne Salop, economists with the FTC's Bureau of Economics. Mulholland and Salop took strong exception to the views previously expressed by the Bureau of Competition in faulting the Bureau of Competition's methodology and limited sample size.

In an effort to resolve the issue the Subcommittee subpoenaed certain AGA reserve records and the internal proved reserve estimates of seven natural gas producers who had previously failed to furnish this information to the FTC.

The material obtained by the Subcommittee pursuant to these subpoenas did not resolve the issue because of myriad technical difficulties involved in comparing AGA reserve records with internal company reserve estimates. Those difficulties involved primarily the various definitions employed by the individual companies and the AGA and the fact that whereas AGA estimates were computed on a field-by-field basis the companies computed their reserve estimates on a lease-by-lease basis.

During the process of reviewing the subpoenæd AGA and industry reserve estimates the Subcommittee obtained the previously unreleased U.S. Geological Survey reserve estimates for the entire Federal Gulf of Mexico which it compared with the AGA's estimates for this offshore area. Since both the AGA and the USGS has computed their reserve estimates on a field-by-field basis and since both estimates were relying on essentially the same definition this comparison involved none of the technical obstacles involved in the previously attempted AGA-company comparison.

The results of the staff's AGA-USGS comparison were presented to the Subcommittee in open session on January 21, 1976, by Subcommittee staff member Dr. John Galloway. His comparison disclosed the AGA's year-end 1973 proved reserve estimates for 153 fields in the Gulf of Mexico to be 8.8 trillion cubic feet, 37.4 less than those determined by the USGS.

On May 4, 1976, Dr. Galloway in a memorandum to Michael R. Lemov, Subcommittee Chief Counsel, summarized the results to date of the staff's attempted comparison of the company-AGA reserve estimates for some 39 fields. The memo set forth in considerable detail the difficulties involved in rendering an opinion as to the reliability of AGA reserve estimates based on a comparison with internal company reserve estimates.

The memo, contrary to recent assertions, did not "greatly remove the cloud" over the question of whether natural gas producers are deliberately under-reporting natural gas reserves. The memo rather described the attempted AGA-company reserve comparison as a "mostly pointless exercise", noting that "AGA reserve estimates can only be properly compared with USGS reserve estimates which constitute the only non-biased, non-industry reserve data available for comparison with AGA data."

In recommending against preparation of a report based on a limited comparison of AGA-company reserve data, the Galloway memorandum quoted various authorities on the methodological difficulties involved in making such a comparison. The Galloway memorandum also noted a series of Union Oil Company memoranda that explained how an oil company's tax liability could be reduced by underestimating reserves and noting how Union's tax liability had been reduced as a consequence of its having reduced various reserve estimates.

The Union Oil Company memoranda were a further factor therefore in persuading the staff to employ the USGS reserve estimates for 153 fields as a benchmark in measuring the reliability of AGA reserve estimates as opposed to the 39 field AGA-company comparison.

CONCLUSION

Contrary to the implication of recent allegations the Subcommittee staff did not surpress data that would tend to confirm the validity of AGA reserve estimates. The Subcommittee staff when confronted with its inability to use subpoenæd company reserve estimates as a basis for reviewing AGA reserve estimates completed its investigation on the basis of a comparison of AGA and USGS reserve estimates and reported those findings to the Members in open session nearly two years ago.

Put another way, the multi-use oil company reserve ledgers, dropped out of the equation as a meaningful component of the staff's analysis. We had found another and better way to approach the problem on the basis of the USGS reserve estimates.

MEMORANDUM

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Washington, D.C.

Date: May 4, 1976.

To: Michael R. Lemov, Chief Counsel, cc: Jim Nelligan, Operations Director.

From: John Galloway, Special Assistant.

Subject: Subcommittee Reserve Study.

The Subcommittee staff with the assistance of GAO personnel has completed two separate and distinct comparisons of natural gas reserve estimates. The first involved a comparison of American Gas Association (AGA) reserve estimates with reserve estimates included in the proved reserve ledgers (PRLs) of seven natural gas producers. This comparison shows the following:

	[Number of fields compared]
1967 Company estimates 34.8 percent higher than AGA	23
1968 Company estimates 17.9 percent higher than AGA	27
1969 Company estimates 5.2 percent higher than AGA	36
1970 Company estimates 1.9 percent higher than AGA	40
1971 Company estimates 0.01 percent lower than AGA	44
1972 Company estimates 3.6 percent lower than AGA	51
1973 Company estimates 0.3 percent higher than AGA	56
1974 Company estimates 0.6 percent higher than AGA	62

The second Subcommittee study compared USGS reserve estimates for 153 fields with AGA reserve estimates for the same 153 fields. Here the USGS estimates were found to be 37.5 percent higher than the AGA's.

At first glance there appears to be a conflict between the two studies. The PRL/AGA comparison appears to support the AGA except for the years 1967 and 1968. Neither the 1967 (34.8 percent) nor the 1968 (17.9 percent) difference is particularly significant, however. A 17.9 percent difference in two sets of reserve estimates is not to be unexpected, given the imprecise nature of petroleum reserve estimating techniques. Two series of reserve estimates can easily vary by plus or minus 10 percent. A 20 percent difference between two sets of estimates can result from one set of estimates being 10 percent too high and from the other being 10 percent too low.

The 1967 34.8 percent difference is similarly unspectacular for the following reasons:

(1) By all accounts reserve estimates for a single field (as opposed to a series of fields) prepared by equally competent persons, can vary by as much as 25 percent. Thus, it is necessary to compare a relatively large number of AGA field estimates in order to render a judgment as to the adequacy of the AGA estimates. A 23-field sample is probably not of sufficient size for purposes of rendering such a judgment.

(2) Prior to 1970, the AGA workpapers do not list all of the blocks in each field. Thus, the staff cannot be absolutely certain of the dimensions of the individual fields that were compared in 1967.

(3) One field accounts for over 50 percent of the difference between the AGA/PRL estimates for 1967.

On first glance, the AGA/PRL comparison suggests that AGA reserve estimates are amazingly accurate for the period 1969 to 1974 and only possibly inaccurate for 1967 and 1968.

PRL/AGA COMPARISON VERSUS USGS/AGA COMPARISON

The closeness of the company proved reserve ledger estimates and the AGA estimates as noted above does not undermine the credibility of the more liberal USGS reserve estimates, nor does it shed any light on the reasonableness of AGA reserve estimates. A comparison of company proved reserve ledger estimates with AGA reserve estimates is a mostly pointless exercise. A comparison of AGA reserve estimates with company proved reserve estimates takes for granted the accuracy of the company PRLs.[1]

The FTC's Bureau of Economics was correct in noting that, "In general, the company figures appear to be influenced by many non-geological factors such as tax laws, stock holder relations and executive egos" and that "it is invalid to utilize PRL estimates as a standard of accuracy with which to judge AGA figures." The Bureau of Economics went on to note that company proved reserve ledger estimates "can be expected to vary according to the importance of these non-geological influences both between companies and between years." One of the most significant places of evidence along these lines is included in a 1962 Union Oil Company memorandum that explains how proved reserve ledger estimates can influence company profitability. According to the memorandum:

> The magnitude of the reserve estimates determines the depreciation and depletion rates and thus directly affects profits, taxes, and cash flow.
>
> In any reserve estimate there is a range of values which is reasonable and either the maximum or the minimum can be supported. For the past several years there have been reasons to believe that some of the company reserves are near the maximum values.

The following tabulation shows a comparison of the different estimates and resulting depreciation and depletion rates, income tax liability and cash flow that could have been realized for the year 1960 if the reserves had been reduced to the lowest supportable number in the Coast Division.

The memorandum then gave an example of the savings that would have accrued to Union had a lower reserve figure been used. The memorandum did not recommend that a dual set of reserve estimates be established but it did urge that tax considerations be kept in mind in setting proved reserve ledger estimates. Significantly, a later Union Oil memorandum notes that "the 1962 memorandum [noted above] went into considerable detail of the tax consequences of the reserve estimate and that reserves in Guadeloupe were revised as a result of that analysis."

That is not to suggest, however, that company proved reserve ledger estimates are necessarily conservative. The point rather is that petroleum companies have ample incentive and opportunity to adjust their proved reserve ledger estimates to suit a variety of corporate purposes. As noted by the FTC's Bureau of Economics, "The multitude of uses to which the PRLs are used in calculating reserve totals suggests a variety of possible biases for this data series. While tax considerations suggest a conservative tilt, the use of PLRs for loans and stockholder reports indicates possible pressures for liberalizing the reserves."

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[1] As Jim Nelligan pointed out early on in the study, such a comparison "puts us in the producer's ballpark. We've got to get out of there." Someone, not on the Subcommittee's staff and only slightly more cynical than Jim, told me that AGA and company ledger estimates are probably pretty close because the producers "are smart enough to tell the same lie to both the IRS and the AGA." Possibly that is what a Continental Oil Company attorney had in mind when he told an FTC staff member, according to the latter's sworn testimony, that although there might be evidence of underreporting that the FTC would not be able to prove it. That, of course, was before the Subcommittee staff learned of and obtained a copy of the USGS reserve study.

To summarize, one cannot judge the accuracy of AGA reserve estimates by reference to company proved reserve ledger estimates without tacitly accepting the validity of the company estimates. Professor Paul Root, a leading reserve authority, has criticized the FTC's Bureau of Competition Study for this very reason. According to Professor Root:

"If acceptance of reserve estimates without review of the underlying data is considered to be a questionable step in the AGA reporting procedures, it must be considered to be an equally questionable step in the FTC investigation . . . [A] critical infirmity in the FTC investigation is that the judgmental decisions made by industry personnel who prepared the reserve estimates have been untested or unchallenged. The FTC investigation might be characterized as involving the processing of 'paper reserves'."

Assuming arguendo that company reserve ledger estimates can be used to judge AGA reserve estimates, there are a number of technical problems that weigh against making an accurate comparison. Some of these technical problems included the following: [2]

(1) Form of estimates—AGA estimates were by field. Company estimates were either by lease or reservoir.

(2) Field definition—Staff had to rely on AGA field listings to determine which blocks and leases were in each field.

(3) Definitions of reserves—Reserve definitions vary among companies and between the companies and the AGA.

(4) Lack of data—The great majority of AGA Gulf of Mexico field estimates could not be compared with company reserve estimates since the staff had access to the reserve estimates of only seven companies.

(5) Conversions—The seven companies reported gas reserves at various pressure bases and on wet or dry basis which differs from the AGA.

(6) Field composition—Prior to 1970, the AGA did not list all the blocks in each field; therefore, if during these years a block were dropped or added to a field, we would not be able to correct the company estimates to match. We did do this for 1970–1974.

(7) Working-interest estimates—Most companies' estimates were in this form; if a company had a 50 percent working-interest in a lease, to get the estimate for the entire lease we doubled the company's 50 percent working estimate. In some instances it was not possible to determine the percentage of ownership for particular fields in certain years.

(8) Type of gas—One company did not differentiate between the various types of gas in its reserve ledger. The staff was thus forced to break out the non-associated gas on the basis of some possibly questionable assumptions.

RECOMMENDATION

The Subcommittee report on AGA natural gas reserve estimates should not present any data based on a comparison of company proved reserve ledger estimates with AGA reserve estimates. AGA reserve estimates can only be properly compared with USGS reserve estimates which constitute the only non-biased, non-industry reserve data available for comparison with AGA data. Such a comparison involves, moreover, none of the technical infirmities present in a company/AGA reserve comparison. The report will be so persuasive on this point that no one could possibly fault the Subcommittee for its exclusive reliance on USGS reserve data in making its comparison. As added insurance, however, I suggest sending a letter to the seven natural gas producers whose reserve records we have asking them whether their proved reserve ledger estimates are sufficiently comparable to AGA reserve estimates to permit a comparison between the two sets of reserve estimates. It is my guess the companies will present us with a great number of reasons why such a comparison is not feasible. Attached is a proposed copy of such a letter for Mr. Moss' signature.

If you and Mr. Moss agree with me on the need to limit our comparison to the USGS/AGA reserve estimates, I will proceed with an outline for such a report which can be completed fairly quickly. The bottom line of the report will be the 37.5 percent shortfall in AGA reserve estimates as compared with those of the USGS.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,

Washington, D.C.

PROPOSED LETTER TO PRESIDENTS OF SEVEN NATURAL GAS PRODUCERS

DEAR: The Subcommittee on Oversight and Investigations is in the process of completing a report on the adequacy of American Gas Association published reserve data.

Accordingly, the Subcommittee would appreciate the views of your company as to the comparability in terms of definitions, pressure base, etc., of your reserve ledger estimates as compared to those estimates provided by your company to the AGA, or as published by the AGA in its annual "Bluebook".

The Subcommittee is mindful of the criticisms that have been directed against the making of such comparisons in the past and will seriously review any factors which, in your view, should be taken into consideration in rendering such a comparison.

Thank you for your cooperation.

Sincerely,

JOHN E. MOSS,
Chairman, Oversight and Investigations Subcommittee.

FREE ENTERPRISE WEEK

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, each day we find individuals who inform us that the free enterprise system can no longer provide for the needs of our people. They say the system has failed; that the only answer to our Nation's problems is through more government regulation, more government intervention in our day-to-day lives, and more government management of our businesses.

They, and to a certain extent, the Federal Government, today are largely working under the assumption that competition is bad, profits are evil, and the producers of our society should be taxed and heavily regulated rather than rewarded. As a result our productive economy is becoming a stagnant economy. We have witnessed what the aggregate economic peril a government-managed economy has inflicted upon Great Britain. We are now witnessing the damage it is doing to our own.

All economic wisdom does not reside behind government doors, but I find many of our citizens simply do not know the relationship between economic health, their own high standard of living, and the free enterprise system which gave us both. I find people do not know how the free enterprise system functions and the opportunities available for each of us in it.

With this educational need in mind, I would like to inform the House that I have initiated a Free Enterprise Week in the Sixth District of Louisiana during the week of January 8–14, 1978. It is primarily an educational program that will offer a variety of points to inform and remind our neighbors of the advantages we all enjoy through our economic system. Seminars, civic club programs, essay contests in the schools, local government recognition, television and radio special programs, media advertising, a Free Enterpriser of the Year contest, and a banquet featuring former Secretary of HUD and OMB Director Jim Lynn are key features of Free Enterprise Week. It is a grassroots, neighbor-to-neighbor program to make each of us aware that there is no true freedom without economic freedom, and that the free enterprise system has given us the most goods and services at the lowest prices, the most rewarding job opportunities, and the highest standard of living the world has ever known.

I will report back to the House at the commencement of the second session on the success of the week.

QUESTIONS ABOUT THE SUGAR MESS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 15 minutes.

Mr. MICHEL. Mr. Speaker, in spite of all the talk about legislating in the sunshine, the key decisions surrounding the entire sugar episode this year have been made in secret, either in the White House, the Department of Agriculture, or in Democratic offices on Capitol Hill. It remains for the future to unfold the "by whom, why, and how" these decisions were made.

The salient fact remains, however, that a major sugar bill was enacted without a single public hearing and it is being implemented the same way.

Low prices to producers of sugar and corn, a high level of imports, an illegal payment program proposed by the administrator, a last-minute sugar amendment being added to the farm bill—no hearings being held by Congress on this amendment, multimillion-dollar payments to a handful of Hawaiian corporations, a major mistake in a Presidential proclamation, and failure to correct that error promptly—all add up to the biggest sugar mess in years.

Here, then, are 10 questions that I think the public should have some answers to:

First. Why did the President reject the International Trade Commission recommendation to set quotas at 4.2 to 4.4

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[2] The FTC's Bureau of Competition's failure to recognize many of these technical problems, coupled with careless nature of their work product and their severely limited sample size, probably explains their coming up with radically different results in their company/AGA comparison than did the Subcommittee staff.

million tons after the Commission found that an expected level of 4.8 million tons would be harmful to the U.S. economy?

Second. Who conceived and was responsible for the illegal program which was stopped by my colleagues from Illinois, Mr. **Findley** and Mr. **Madigan**, the GAO, and the Justice Department?

Third. Why should a handful of large corporations in Hawaii receive a $50 million payment called "price support" when no sugar for which that price support is made even exists?

Fourth. Why did the administration withhold effective opposition to the de la Garza sugar amendment to the farm bill?

Fifth. Once the President signed the farm bill, why was there such a long delay—7 weeks—before implementing the new law?

Sixth. Who was responsible for all the "loopholes" in the President's proclamation of November 12, 1977?

Seventh. When the admitted mistakes were made public, why did the President unconscionably delay closing those loopholes?

Eighth. How much Cuban sugar has come into the United States duty-free under this loophole?

Ninth. How could nearly 7 million tons of sugar be imported into the United States in 1977 when the International Trade Commission found damage to the U.S. economy—balance of payments and U.S. sugar industry—at a 4.8 million-ton import level?

Tenth. Why has the Democratic leadership of this body been partners to the error, incompetence, and harm that the Carter administration has done to both the sugar and corn industries in 1977?

Since this mess was created by a Democratic administration and ratified by the Democratic leadership, it seems to me it should be cleaned up by them soon—or else the American people should get a Republican Congress in 1979 to do so.

Mr. Speaker, I believe this is a matter that merits investigation by the General Accounting Office and at this point in my remarks, I am inserting the text of a letter I sent to that Agency today, together with copies of an article from the November 17, 1977, edition of the Wall Street Journal and the December 5, 1977, issue of the Journal of Commerce relating to this sugar problem and its maladministration:

Washington, D.C., *December 15, 1977.*

Mr. Elmer B. Staats,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

Dear Mr. Staats: On November 11, 1977, President Carter signed two Proclamations designed to protect the domestic price support loan program for sugar contained in the Food and Agriculture Act of 1977. These Proclamations imposed higher duties and fees on raw sugar imported into the United States.

In the past few weeks a disturbing circumstance has placed this price support program in jeopardy. A combination of administrative error and Administration delay appears to be thwarting the price support program of the Congress.

The President's Proclamation of increased fees failed to impose fees on sugar refined abroad and imported into the United States as finished, "white" sugar. It has recently come to light that large quantities of this sugar are being imported at prices well below both current market prices and price support loan levels mandated by law.

To date, the Administration has failed to correct this "oversight" in the fee Proclamation (see enclosed newspaper articles). I would appreciate your assistance in determining the effects of this lack of action by the Administration.

Specifically, I would like to know:

1. How much refined sugar has entered the United States since the date of the President's Proclamation, and how this figure compares with previous import levels of refined sugar;
2. What the source of the refined sugar is, and if possible the source of the raw sugar which was processed for import;
3. The expected effect on domestic sugar prices of these imports, both in the next two months and the next year;
4. The loss of the U.S. Treasury from import fees not collected on this sugar;
5. The expected cost to the Treasury in loans made to U.S. sugar processors under the 1977-crop sugar loan program because of depressed U.S. raw sugar prices; and
6. What U.S. industries have benefitted, and by how much, by the availability of large supplies of sugar unaffected by import fees.

I would appreciate your early attention to this request since it seems to me that this situation could have a serious, immediate and detrimental effect on the sugar price support program.

Sincerely,

Robert H. Michel,
Member of Congress.

[From the Wall Street Journal, Nov. 17, 1977]

Carter Proclamation on Sugar Tariff Turns Faces Red

(By Karen Elliott House)

Washington.—President Carter's proclamation imposing tariff increases on foreign sugar is causing a lot of administration faces to turn beetred.

The reason: The document he signed doesn't do what it's supposed to do.

Officials have discovered a gaping hole in the President's new program to protect domestic sugar growers by keeping cheap imported sugar out of the U.S. Unless the legal loophole is plugged, as much as two million tons of unwanted foreign sugar could flood into this country, driving down sugar prices and forcing the government to pay up to $540 million to U.S. sugar growers this year.

"It looks like a bad bust," says James Agnew, an Agriculture Department sugar expert who helped design the program.

"We're studying ways to close the loophole," says Lynn Daft, the White House staff adviser on agriculture, "but I'm not very happy and the President won't be either when he finds out."

This latest foul-up is especially embarrassing because it is the second time the White House has flubbed efforts to help financially ailing sugar growers. The President announced a program to subsidize growers' incomes last spring only to have it declared illegal a few months later. That program was scrapped.

But it won't be so easy to repair this mistake. Indeed, no one is yet certain how to close the loophole. Lawyers for the departments of State, Agriculture, and Justice, as well as attorneys in the Office of the Special Trade Representative, are all working overtime to try to figure out what to do.

"I'm confident the ingenuity of the American bureaucratic mind can come up with something," says one official.

Adds Mr. Daft, "We'll close the loophole. I just want to make sure we do it without causing new problems."

Officials are trying to find some way to patch things up short of asking the President to amend his proclamation. Because the tariff will be collected by the U.S. Customs Office, officials hope they can correct the problem by a directive to customs officials. But, if that doesn't work, Mr. Carter may have to sign another proclamation amending his earlier proclamation. "That won't please him," Mr. Daft said.

No one will publicly say who is to blame, but officials privately accuse the Agriculture Department of a colossal goof. "Agriculture should have caught it, no question" says one critic.

The President signed two proclamations. One, drafted by the Special Trade Representative's Office, imposed a duty of 2.81 cents a pound on imported sugar. The other, drafted by Agriculture Department officials, imposed an additional 3.3-cent-a-pound fee on imports. It is the later proclamation that contains the error.

Under the proclamation, imported raw sugar that costs 10 cents a pound or more would be exempt from the 3.3-cent fee. That's because officials assumed that the 2.81-cent duty, plus the cost of transportation, would be sufficient to raise the price of such sugar to 13.5 cents a pound, the price the administration is trying to achieve for raw sugar through its program. Refining that sugar would add another 3.5 cents to four cents a pound to its cost to a processor such as Coca Cola.

The loophole is that the proclamation doesn't distinguish between raw and refined sugar. So refined sugar also will be exempt from the 3.3-cent fee. This means that refined sugar that costs 10 cents a pound would increase to about 13.5 cents with the import duty and transportation cost. But because it wouldn't have to incur the cost increases of refining, it would cost 3.5 to four cents a pound less than domestic sugar or imported raw sugar that is refined here.

Because current quota limits will allow another two million tons of refined sugar to reach the U.S. without the added tariff, replacing a like amount of domestic sugar the government would have to buy for 13.5 cents a pound, the slip-up could prove very expensive.

So to keep it short and sweet, the government is going to have to find a way to refine the sugar tariff program.

[From the Journal of Commerce, Dec. 5, 1977]

USDA Officials Eying Options To Close Sugar Loopholes

Washington.—U.S. Department of Agriculture officials are eying three possible solutions to one of the recently-discovered loopholes in the administration's Nov. 12 proclamation on new import fees on imported sugar, CNS has learned.

The chief loophole being studied exempts refined sugar from the import fee. President Jimmy Carter's import fee proclamation called for a zero to 3.3 cents-a-pound import fee, in addition to a 2.81 cent tariff. But it did not define separate fees for raw and refined sugar.

Robert Stansberry, who heads USDA's Procurement and Sales Division, told CNS the options top USDA officials are studying as a means of closing the refined sugar gap include charging a flat import fee instead of imposing a variable fee, Mr. Stansberry said he prefers this method over the current variable fee, and said an example would be to charge a flat 50 per cent of value of cargo fee, which is allowed under current law.

Two other options, according to Mr. Stansberry, are imposing a 100.000 short-ton quota on refined sugar imports or adding the refiners' margin to the current import fee scale and then figuring the import fee from that starting point.

Under current import fee calculations, sugar valued at between 6 and 6.67 cents per pound is subject to a 50 per cent ad valorum import fee. However, sugar valued at more than 6.67 cents per pound is subject to a different scale. The import fee of the higher priced sugar is calculated on a 3.32 cents per pound base. For example, if sugar is valued at 8 cents per pound, that amount exceeds the 6.67 cents value by 1.33 cents. The 1.33 cents figure is then subtracted from the 3.32 cents base to arrive at a 1.99 cents import fee.

Deputy director of the USDA Procurement and Sales Division, James Agnew, said while imports of refined sugar now account for only about 2 percent of all U.S. sugar imports, the mere existence of the refined sugar loophole could create a problem, especially if refined sugar imports were increased as a means of circumventing the tariff.

The other loophole, which Mr. Agnew said has not yet commanded much attention at USDA, due to concentration on the refined sugar gap, involves products containing sugar. Mr. Agnew explained that products such as jellies and donut fillings containing large amounts of sugar are not covered under the proclamation's tariff scheme. Mr. Agnew said companies could use the second gap as another means of circumventing the law.

The circumventing could be accomplished, theoretically, by firms simply buying sugar outside the U.S. where it is not subject to import fees, manufacturing highly sugar-based products in a foreign country and shipping the products back into the U.S. Mr. Agnew speculated that the U.S. International Trade Commission (USITC) might be asked to look into this loophole after it investigates the gap on refined sugar.

The USITC is scheduled to look into the refined sugar gap in a series of hearings across the country, beginning Jan. 1-4 in New Orleans.

VERMONTERS GO BY BUS TO WORK—SAVE GAS

The SPEAKER. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 10 minutes.

Mr. JEFFORDS. Mr. Speaker, we are all aware of the current energy situation. Even with the ongoing energy conference, there are many people across the country who doubt the validity of this urgent problem, and who, despite skyrocketing fuel costs, have yet to be convinced that a crisis does, in fact, exist.

Today I would like to recognize six people from my home State of Vermont who have displayed tremendous foresight and patriotism by organizing a transportation system to get themselves and 123 of their coworkers to their jobs. During the awful winter of 1973–74, when fuel was scarce and supplies were dwindling, Mr. Joseph D. Maietta of South Burlington, Vt., discovered that some 40 other people in his area would be willing to ride a bus to work, rather than travel in separate cars. There was no bus running this route at the time, and Mr. Maietta learned that if he could guarantee at least this minimum number of 40 people, the Chittendon County Transportation Authority would provide a special express-run bus to take these people to work. From this start, the transportation pool grew. Five more people followed Mr. Maietta's example, and volunteered to organize pools for their communities. I would like to recognize these people and their accomplishments as well.

Mr. Francis J. Lesperance and 15 other people come from Swanton, Mr. Joseph F. Belanger comes from St. Albans with 15 more, and Mr. Charles W. Pattee comes with 12 commuters from Enosburg. Each of these three groups leases a 15-passenger van to transport them to work in the morning, and home again in the evening.

Mr. Robert Jackman brings 21 people from Montpelier, and 25 people accompany Mr. Robert Sanders from Morrisville to the Essex Junction plant. These two groups have each formed a corporation, and for about $25 per month, they are able to rent a Winnebago bus to get themselves to work much more efficiently than if each traveled that distance alone.

Based on averages of a 250-day work-year and mileage rates of 17 miles per gallon at a cost of 64 cents per gallon of fuel, the totals for this fantastic energy-saving project are as follows: 3 vans, 2 Winnebagoes, and a commercial bus allow 123 people to save 1,824,750 miles of travel per year; 107,338 gallons of fuel per year; and $68,695 per year. Over the last 4 years, this amounts to quite a substantial savings.

Mr. Speaker, I am proud of what my fellow Vermonters have been able to accomplish for themselves and their country. Mr. Maietta's original effort has more than tripled since its birth 4 years ago, and it is continuing to grow. With individual Americans taking this kind of initiative and getting together to save fuel, I feel confident that conservation can make a dent in our ever-increasing gasoline consumption. At this time, I hope my colleagues will join me in congratulating these people for their fine effort, and in encouraging others to follow their remarkable and selfless example.

FARMER DOES NOT WANT SYMPATHY

The SPEAKER. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, in his morning press conference today, President Carter addressed the problem of the economic crisis now taking place in farm country and his reaction to the farm strike now being conducted by the grass-roots American agriculture movement.

The President is reported to have said that the impetus for dissatisfaction throughout farm country comes not from farm legislation or the lack of it, but is due to adverse weather. He then went on to take credit for the 1977 Food and Agriculture Act as landmark legislation and said better prices will be forthcoming. In regard to the farm strike, he expressed sympathy.

Mr. Speaker, I find the President's remarks incredible and most distressing. I am concerned that President Carter has completely missed the purpose and message of the American agriculture movement. It is hard to tell if this is by intent or ignorance. The problems in farm country are so serious, however, that neither is excusable.

We have been in the midst of a farm price, credit and cash flow crisis for well over a year. The statement that most farmers are hard pressed and dissatisfied primarily due to weather conditions is unbelievable. The President states that exports are up. In fact, in terms of real dollars, they are down. He stated that his reserve program will be of help. In fact, farmers throughout the High Plains are not signing up for this money-losing proposition and a sophisticated form of price controls. He takes credit for a farm bill that represents a half a loaf to begin with, when in fact, the administration fought the bill, tooth and nail, every step of the way.

In addition, the administration has refused to use all of the authority in the farm bill that could be of immediate help to farmers. Worse, the Department of Agriculture proposed to run the farm program with a discriminatory and confusing set-aside program that makes no sense at all in wheat country. In fact, it was the set-aside program that provided the final straw that broke the farmer's long-standing patience and led to the strike movement. The administration is asking the farmer to reduce his income 20 percent in order to minimize his losses. That is not a farm program; that is minimum loss blackmail.

What we have left is sympathy. Mr. Speaker, if it is one thing the farmer is sick and tired of, it is sympathy. He cannot take sympathy to the bank.

Last March, in remarks before this body, I warned my colleagues and the administration that farmers in the High Plains were in the midst of a severe price, credit and cash flow crisis. At that time, I said we had two problems: One, to write a good, long-term farm bill; and two, to quickly enact several emergency measures to provide immediate cash flow assistance.

While I was joined by a number of far-sighted colleagues on both sides of the political aisle, unfortunately our efforts proved fruitless. Consideration of these emergency measures was refused and 9 months later a new farm bill still did not meet short-term cash flow needs. As a result, current farm policy has left hard-pressed farmers little alternative but to consider drastic action.

Yesterday, December 14, thousands of farmers who are part of a growing grass-roots organization called American Agriculture began participating in a nationwide strike to dramatize their plight.

One of the primary goals of the American Agriculture Organization has been to attract national attention to the farmer's plight. To some extent, this goal has been reached. The "farm strike" has caught the attention of the columnists, pundits, and media commentators. They have publicized the fact that farmers are in the midst of the worst economic crisis since the "Great Depression." As a matter of fact, no one seems to question the plight of the farmer or his value to our country.

Reporters and broadcasters travel many miles to the high plains to get the story first hand, "way out there." The man whose job it is to produce food and fiber for this country is pictured in almost quaint fashion. The observation has been made over and over again that while official Washington and the news media sympathize with the farmer, the strike will simply not work.

Mr. Speaker, I repeat again that the American farmer is sick and tired of sympathy. The farmer is sick and tired of being sick and tired.

Now, it is true that supermarkets throughout the eastern seaboard and our major metropolitan centers have yet and may not feel the effects of this farm strike. I submit to my colleagues that it is not the issue. I can assure you the effects of this desperate action on the part of farmers is being felt, not in our cities, but in their home communities.

Yesterday my office was in touch with communities throughout my 57-county district. Livestock is not being delivered to the community sale barns. Farmers have parked their tractors on Main Street. Some local merchants are open for business but few, if any, farmers bought merchandise other than family essentials. The strike is having an effect all right; we stand to lose a generation of young farmers and we are experiencing an agri-tragedy in farm country.

No one at this juncture can say for sure what kind of success or failure the American agriculture movement will have. But, what we are seeing take place is an honest, legitimate last-ditch effort on the part of taxpaying citizens, who have given much to this country, to try to stay in business and hold on to their personal lives and wellbeing.

The measure of success farmers have had in the past has many times depended upon how he used adversity to his own advantage. My view is that the President and this administration had better express more than sympathy in regard to this movement. I say this not because of the strike or what its effect may be, but because of the economic and the social consequences that are taking place and are the prime reasons behind this movement.

The message coming from the High Plains for over a year is that our plight is real. The message is that we must inspire a farm policy that is fair with the farmer and that will increase farm income as quickly as possible.

The objectives of those within the American agriculture movement are threefold: equal rights for farmers, human dignity for farm families, and economic justice for the man who has been asked to produce food for this country and for a troubled and hungry world.

I stand in full support of these goals. I think it is important to stress many farm organizations, individual farmers, farm wives and public officials have been working hard for the farmer for many years. However, this American agriculture movement is unique from the standpoint it has been a true grassroots organization. It did not exist 90 days ago. It has involved many folks never before involved in the fight to make Government more responsive.

Last week, I finished a listening tour of my 57-county district traveling approximately 3,200 miles over wheat, feed grains and cattle country. I personally visited with over 4,000 citizens. In courthouse after courthouse, hundreds of citizens took time to express concern, frustration, and anger. Over and over again came the question: "Keith, what does Washington think about this farm strike? Are they paying attention to what we are trying to tell them?" In my view, these folks are not asking for special treatment or making unreasonable demands. They do not want sympathy. What they want is a fair shake from their Government and to be on a par with the rest of society.

Mr. Speaker, several weeks ago, I introduced House Concurrent Resolution 423 to inspire the President to be of assistance to farmers. While the goal of the American agriculture movement is parity prices for farm products, I wish to emphasize that the 1977 Food and Agriculture Act that President Carter signed into law contains discretionary authority for the President and Secretary Bergland to significantly help farmers through this crisis period. All that must be done is to act. I do not consider that too much to expect in the face of the crisis American agriculture faces today.

Today I am reintroducing House Concurrent Resolution 423.

BETTER CONSERVATION, MANAGEMENT AND DEVELOPMENT OF NATION'S WATER RESOURCES IS NEXT MAJOR CHALLENGE FOR CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Don H. Clausen) is recognized for 60 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, one of the lessons of 1977 is that there is a finite limit to our resources. This was a drought year for most of the West, and water conservation measures were resolutely observed in many areas. But most of us recall, not too many years ago, when floods were the problem. And today this body has considered a very comprehensive clean water bill which contains proposals submitted by me to provide incentives for the use of innovative technologies in the treatment of waste water.

So, Mr. Speaker, when we discuss water resources, we have to consider all aspects of that vital resource. We need to consider total water management, taking into account all the requirements and assurances needed to maintain and advance our quality of life.

Now that our "clean water" legislative effort is "wrapped up" for this Congress, I want to serve notice to my colleagues that our next major challenge will be in the area of better conservation, management and development of our Nation's water resources.

This must become a matter of national priority. In order to place in perspective what I mean, I am bringing to the attention of you, my colleagues in the Congress two speeches, which relate to what we are doing in my congressional district in California to move toward this concept of river basin watershed conservancy and management:

Remarks of Congressman Don H. Clausen to the North Coastal Counties Supervisors Association at the 57th Annual Redwood Empire Association Convention, Fort Bragg, Calif.

Today I want to share with you my thoughts on a subject that is vital to all of us—water resource management—and how an approach I am advocating could do more than anything else I can conceive of to make our area of the State of California a much better place in which to live.

I hope to cover a lot of ground with you in what will be something of a departure from the standpoint of an elected officeholder, suggesting not what I can do for you, but something of much greater value: What you can do, and I hope will do, for yourselves and our North Coast Constituency.

What I hope will emerge from this discussion is a multicounty, coordinated approach to the total complex of problems associated with water, our most precious resource.

I envision an arrangement whereby, formally and officially, through a joint exercise of powers agreement, the counties of Humboldt, Mendocino, Lake and Sonoma would address in a comprehensive manner our total needs in terms of ground and surface water, and their management in terms of supply, quality and flood control.

This would represent a continuing exercise in identifying the problems involved, their relationship to each other, and devising solutions to those problems on a joint basis. I think this can be done and must be done.

We have a need and a responsibility to address the flood problem, erosion potential and the low-flow augmentation requirements of the "killer eel."

Memories are short on these issues. We cannot afford to forget 1964 when a 56 foot wall of water—780,000 cubic feet per second—went boiling out to sea at the mouth of the river.

Similarly, we cannot afford to forget the record drought we are now facing in 1977.

I really want to talk today about total water management.

You know my position of long standing. The rivers of the North Coast should be divided into two categories—the Natural River System and the Managed River System.

As I view it, all of our rivers on the North Coast should be designed as the Natural River System category and remain as they are today except the Mad, Eel, and Russian Rivers.

These three rivers have fundamental problems that need to be addressed. They should not be placed in the wild river status and the Mad and Russian already have structures on them. Also, the Eel has the very serious flood, erosion, and low stream flow problems that may require structures.

What I hope to do today is ask you to walk through with what has indeed happened since the big flood of 1964, and hopefully get across to you two basic conclusions: one, the need for such a comprehensive approach is even greater today.

Even more than that, awareness of what is needed and what is really possible and the public understanding essential to political support is incomparably greater. Why? The two extremes of devastating floods and frightening prospects of droughts are fresh in our minds.

Now why do I think this is a pragmatic, realistic assessment today? What's different now? Why wouldn't we just be spinning our wheels?

Well, I mentioned the greater need today, and an improvement at least in our potential ability to get things done. We can dispose pretty quickly of the question of need. The Eel River basin is still subject to flooding. We haven't had anything like the catastrophic flood of 1964 but that doesn't make me complacent. We could have a recurrence. That aside, the lesser levels of flooding we have experienced since and will continue to experience are unacceptable.

I have lived with flooding here in this part of California all my life and I can tell you this: You don't get innured to or blase about the spectacle of nature rampaging out of control particularly when your Congressman as a youngster of 14, in the Eel delta, wallowed in the slit and mud in '37, and observed it again in '55, '64 and '74. It leaves a profound impression—one which none of us should ever forget.

Now, having experienced the major flood of record as recently as 1964, we have run through the worst drought of record.

There's another need or challenge I want to talk about, of a different kind. This one is man-made. The State of California is coming up with a statewide water plan and we have got to make sure our interests are protected. Not narrow, parochial, them-versus-us interests, but the legitimate interest in seeing that we have a say in what affects our communities—and our North Coast. Presumably everybody agrees with that in principle at least.

But none of our counties or municipalities has the political muscle when acting alone to protect those interests. Sure, I'm talking about voting blocs. But more than that, I'm talking about the fact that we can compound that muscle by leadership, putting together a model structure, a working arrangement, a focal point for local leadership to identify problems and propose workable solutions and then—and only then—make the best use of the outside resources that the state or the federal government can make available to us. That we do not have, and that we do need for sure.

Before I get into specific pieces of legislation, though, I want to say that there is an important change in thinking taking place. For example, we're beginning to break out of a lot of boxes at the federal level, seeing problems in their real dimensions and trying to make our legislation broader and get away from the piecemeal approach. Take water resources.

So, a lot of good things are happening, and the whole is greater than the sum of its parts and is a reflection of where we can go from here.

The watershed conservancy program I mentioned could be roughly modeled after an approach adopted in the State of Ohio in the Muskingum and Miami River programs. The structure and details would be worked out by a task force I am recommending that you establish as a one-stop coordinating mechanism with decision-making power on behalf of the jurisdictions you represent. We are blessed with a strong tradition of local government and home rule here in California as you know, and you know I share your feelings concerning the advantages of having the county as the basic unit of general purpose local government. Believe me, the supporting and coordinating role you are uniquely and legally qualified to perform makes us a whole lot better off than states where local government is fragmented into a multiplicity of municipalities and the county serves as little more than an administrative unit.

Of course each of our counties would be responsible for coordinating the input on water problems and needs from the cities, communities, and other political subdivisions of the county, as well as from the unincorporated areas.

With our cities and counties working together, under formal agreements, pooling your resources and your talents, you can strengthen local government, which I consider far preferable to creating a new unit of another level of government. I recommend your structuring a joint exercise of powers agreement on a multi-county basis with each county and their legal staff participating in the drafting of the agreement.

We are all sensitive to the phenomenon whereby an increase in water supply, for example, can lead to development which creates demand eventually exceeding the supply. There is no great mystery about that: We see it in other areas such as highway construction, where an increase in capacity to eliminate congestion serves as a magnet for further congestion, and so on.

A great advantage of the approach I am suggesting would be its tendency to tie in much more tightly the issues of water resource development with others under local government control, but on a basin-wide scale comparable to the scope of the problem.

Just how you would go about the task, once organized, would be your decision. I will offer, though, to put you in touch with any source of information and guidance at the federal level; I know all the players and I have discussed this approach with representatives of all federal agencies involved.

I have also discussed it with the colleges and universities in our district and they have indicated there willingness to cooperate in any fashion possible. For example, Dr. McCrone of Humboldt State University and I have discussed the need for the involvement of faculty and students—particularly of departments like Forestry, Fish and Wildlife—in this effort. I've talked with leaders in community colleges about involving their biology departments. Dr. Diamondopolus of Sonoma State has indicated that their Ecology Department might also be involved. And officials at the University of California at Davis have also expressed a willingness to participate.

In addition officials of relevant federal and state agencies are also excited about the prospects. Some that might make a unique contribution are the Forest Service, Bureau of Land Management, Corps of Engineers, Bureau of Reclamation, the Soil Conservation Service, and the many water resource agencies at the state level, to include the state Fish and Game personnel.

As to what you do, again I won't say specifically. But I will recommend an approach. Use the analogy of the energy situation. We have come to recognize that energy—which really is nothing but another resource, like water—can't be approached by a meat-axe strategy. We waste energy in many ways, and so must conserve in many ways.

In the area of watershed management, any number of programs and approaches can be brought to bear; seeding, sodding and intensified reforestation for erosion control, for example. The list is long and I'm sure you are aware of many of them.

The need is for water to serve the multiplicity of uses in sufficient volume—but not in excess at any one place and time; that's a long way to say "flood"—and it's got to be clean water. So we have had water resource projects, flood control projects, clean water projects. Now we're beginning to merge our efforts. For example, a water pollution control bill that we're in conference with the Senate on gives much greater emphasis to water conservation. You might want to quarrel about the details, the way they go about it, but the trend in thinking itself is constructive. It's healthy.

Several years ago, we incorporated a provision into law to require the executive agencies to take a new look at the methodology for evaluating water projects.

You've heard me say many times that the benefit-cost ratio formula as it is now applied is archaic in the sense that it does not reflect the benefits of projects fully and accurately nor does it even consider benefits the public fully supports. The report we required of the federal agencies is in its final draft form and will be submitted to our Water Resources Subcommittee shortly.

Maybe we can resume a more orderly discussion between the Congress and the Administration on the subject of project selection criteria, and as a result of this effort we may see a possible change to federal law which might be particularly applicable to the Eel River basin. We've been after this for years—a change of methodology and benefit to cost criterion in evaluating projects. I've asked the chairman to schedule hearings on this subject and they're going to be held before the year is out. I think the climate is right.

In the past we have tended to think of all-or-nothing, total solutions, going one way or the other. Big dams, on the one hand, or the totally preservationist approach of wild rivers, on the other. But in my view there can and must be a merging of more than one approach between the two extremes. As I've said before, we have new legislative tools to work with and the Corps of Engineers is in the process of putting them to work.

In 1974, in the Water Resources Development Act of that year, we made it mandatory to consider non-structural alternatives in flood control, and made it possible to pursue such alternatives as an eligible project cost.

This could include as an example floodproofing and a possible relocation of structures in the flood plain area. In addition, it makes it possible to acquire upstream marshland, preserve it from development, and thus preserve its natural capacity to absorb stormwater. Or it can be applied in combination, making it possible to scale down the size of the structure needed so as to minimize its impact on the affected area.

In this connection, the survey resolutions approved by the Public Works Committee at my request authorize the Corps to make a comprehensive analysis of all the flood, land and water-related resource problems in both the Russian and Eel River Basins, which should provide the informational data base for local officials, like yourselves, to consider nonstructural as well as structural flood control alternatives.

While I'm on the subject of legislation, we also have the Water Resources Planning Act of 1974, adopted by my Public Works Committee with its requirements for more refined economic and environmental assessment of projects. We also passed the Water Pollution Control Act Amendments of 1972, the big Clean Water Act which addressed conservation needs to some extent and now may be amended to give this area increased emphasis. We have the Streambank Erosion Control Program, for which an application for a demonstration project for the Eel River is under active consideration in Washington.

In 1976, we made it possible for the Corps of Engineers to create new wetlands in connection with its conventional projects. I can tell you that it would not have been possible for those of us working directly on these problems to get the legislation enacted without support around the country from concerned individuals and organizations like you.

The purpose of the Miami River Basin I have used as an example is a simple one—it is a vehicle through which several county governments have joined together through a joint exercise of powers agreement to make the necessary decisions to manage the water and land resources of the Basin.

The structure of the program is very similar to most American governmental bodies.

Legislative policy making is done by the associated counties acting as a group.

Day-to-day implementation is handled by a staff headed by an executive director who can call upon in-house expertise in various related fields as well as contract with outside experts when additional data or expertise is necessary or desirable.

The Miami Program also includes a judicial component, called a court of common pleas, which functions as a means to resolve controversies, which may arise as well as to oversee the administration of the program in a legal sense.

The Miami approach is beneficial and successful because it does not limit its planning to water and water-related resources for water problems nor to land and land-related resources when it comes to land problems. In the Miami Valley, decisions are made in a comprehensive fashion taking all possible solutions into consideration.

The Redwood Region is rich in brain power and research capabilities. This is particularly true in the various disciplines related to natural resources and it may well be that no similar area can match our own.

The noted expertise in our academic institutions in the fields of watershed management, hydrology, forestry, fisheries, wildlife management, geology and many others is well-known here as well as nationally. We have a vast reservoir of talent to draw upon.

But let's not overlook the similar talent and data we can get from the private and governmental sectors in our own region. From the oceanographic expertise needed to deal with the estuarine areas at the river mouth to the geological skills needed at the uppermost reaches of the basin—we've got what it takes.

As I see it, our only difficult task is to assemble together the best of these minds; allow them to build the most complete and accurate data base on the resources of the basin; and, provide a coordinated planning framework in which they can give us the basis for making wise, farsighted water resource planning, conservation, management and development decisions based upon the most up-to-date information as well as careful understanding of all the competing and compatible goals, interests and needs.

I would like to mention, though, another way in which our conservancy program would be physically as well as philosophically akin to the Miami and Muskingum River Basins approach. That is, in the area of flood control, use of dry dams which might be an appropriate option for the Eel River. A dry dam is just that, a dam with an aperture permitting normal stream flow to proceed unimpeded. There is no impoundment, no mud flats during low flow. They needn't be unsightly. Yet at flood stage, they serve to hold back the surplus water.

The area around the dam, particularly on the upstream side, is maintained in existing ownership and existing land use—agricultural for the most part. Alternatively, and this would be a local decision, it coud be acquired for recreation, open space, park land.

This was done in the Miami River Valley, and with nonfederal funds. I think that might well be considered for federal funding, as are other projects, which would require legislation.

In conclusion, I want to go back to a somber fact, the fact of flooding that has plagued our area from time to time, succeeded at the moment by catastrophic drought. Whatever the problem, whatever form it takes, these will be with us for the foreseeable future. If history teaches us anything, we will continue to have these cycles. When they strike, they are a tragedy. It is difficult to ameliorate the tragedy. But one thing is within the power of you people in this room and myself as your representative in Congress. We need not compound it. We need not add to the tragedy by forfeiting the opportunity to head off more of the same in the future, but rather take advantage of the current public awareness of water management needs and move forward together in a positive and comprehensive manner to address these challenging water problems. Let's move now. Let's get in gear—establish the structure and the relationships. Start building momentum. Give us at the federal level a vehicle to work with and maybe we can supply some of the fuel. But you, the elected representatives of the North Coast will be in the driver's seat.

How about it?

Remarks by Jared Carter

I greatly appreciate the opportunity to discuss with you today the utility of a joint powers agreement as the vehicle by which the North Coast Counties might develop and articulate common policies on water rights issues of significance to the counties represented here. I understand your next item of business is to consider the creation of such an agency. I believe I can best contribute to your deliberations by mentioning the most important water issues I think confront this area, listing some of the considerations I believe must be taken into account in resolving these issues, and outlining what I think are some of the strengths and weaknesses of a joint powers agency as a means of coping with them.

The basic points I want to make can be simply stated:

First: In the very near future California's demand for water will exceed available supply. Most people believe the only reasonable accessible additional supply available to meet San Joaquin Valley and Southern California demands exists in the wild and scenic rivers of the North Coast Counties.

Second: The Governor's Commission to review California Water Rights Law, appointed this last May, will consider whether to recommend repeal of the California Wild and Scenic Rivers legislation as one step necessary to alleviate the foreseeable imbalance in California's water supply and demand.

Third: The North Coast Counties have not actively participated in the work of the Governor's Commission; and they do not have representation on that Commission commensurate with their interest in its possible recommendations.

Fourth: The North Coast Counties are also vitally affected by the regional questions of whether, when, and how the Warm Springs Dam will be built and operated. If the dam is promptly built the counties presently concerned could, by means of a pooling agreement, provide for their respective water demands for at least the intermediate future. If this project is not completed I think it is doubtful that the conflicting interests of Sonoma, Mendocino, and Humboldt Counties in the water supply available from Lake Pillsbury and the Coyote Dam project can be amicably, promptly and inexpensively resolved.

Fifth: A Joint Powers Agency is probably the best available mechanism by which the North Coast Counties can develop and articulate policies relevant to state-wide water issues and work with this area's elected representatives toward acceptance of our policies. A joint powers agency could also work with other local and state agencies and with the Corps of Engineers on such regional issues as the Warm Springs Dam.

Sixth: My last general point is that creation and effective operation of a Joint Powers Agency will not be free from difficulties. The agency will not have any real power to affect the issues it considers, because counties, as such, have almost no power in the field of water rights. Moreover, honest men can differ over the state and regional issues to be considered by the agency and great care must be taken to establish procedures and lines of communication that will assure the agency obtains and retains the respect of its constituency.

Let me briefly elaborate these points:

California Supply and Demand. Almost all state and federal experts agree that California now consumptively uses approximately 31 million acre feet of water annually and that by the year 2000 this amount will increase by 5 or 6 million acre feet per annum. The experts also agree upon a couple of other relevant facts: ground water supplies are being mined—that is, being pumped at a rate that exceeds recharge of underground acquifers—by approximately 1 million acre feet per year in parts of the San Joaquin Valley, and the total supply of water available for consumptive use in California will diminish by approximately 1 million acre feet per year when other Colorado River Basin states fully utilize the Colorado River waters to which they are entitled. These general figures are reflected in reports by the National Water Commission, issued in 1973, the Department of Interior, issued in 1975, and current studies of the State Water Resources Department.

There is an apparent consensus among those in the water business—that is, the state and federal agencies who construct major water development projects and the large distributors and consumers of water—that substantial actions must be taken relatively quickly to alleviate the obvious supply/demand problem that these figures present.

The Governor's Water Rights Commission. In May of this year Governor Brown appointed a commission to review California Water Rights Law. The commission's charge is to evaluate proposals for change in the existing law and to recommend appropriate legislation to the Governor by December 31, 1978. The commission has initially decided to review intensively six topics: appropriative rights to surface water, ground water rights, the legal aspects of water conservation, riparian rights, transfer of water rights and the legal aspects of instream uses.

The commission's recommendations on these topics, whatever they may be, are likely to be controversial for the simple reason that they will deal with issues that have received little recent attention by the California Legislature, while other western states and the National Water Commission have made and recommended rather substantial changes in basic water rights law. Some of the questions that will receive attention are whether to extend the state's control to ground water as well as surface water, what should be the permissible scope of mandatory conservation measures and what enforcement mechanisms are appropriate, what is the proper approach to encourage conjunctive use of surface and ground water, and under what standards, if any, should water rights be separable from land and transferrable to another area of the state.

These issues, and others, will be important to the North Coast. But they do not include the issue likely to be of most interest to us.

On November 10, 1977, at a meeting of the Governor's Commission in Chico, Judge James A. Cobey, a member of the Commission, publicly raised the possibility of amending California's Wild and Scenic Rivers legislation to facilitate the planning and implementation of one or more projects to take North Coast Counties water to the San Joaquin Valley and Southern California. Butte County's Board of Supervisors supported this position. It is my understanding that this approach has substantial support on the Commission and among water users outside our area. S. 346, Senator Ayala's bill, presently pending in the California legislature, would delete that provision of the Wild and Scenic Rivers legislation which prohibits the planning of any Eel River Project for at least 12 years—that is until 1984—and instead would mandate:

"It is the intent of the Legislature . . . that on or before January 1, 1980, the Department of Water Resources should report to the Legislature as to the need for water supply and flood control projects on the Eel River. . . ."

Undoubtedly, proposals for large and expensive projects to transport North Coast water to other parts of the state will be resisted by many on environmental grounds. Perhaps they will be rejected for budgetary reasons at the state or federal level. But they will also receive sympathetic consideration from many responsible people who believe increased water use in California is inevitable and the North Coast affords the only available source of new water.

I don't intend to express a position on that issue. The point I want to stress to this group is that the issue will be considered at the state and probably the federal level with or without our input. We do not have a political or other veto. If the North Coast Counties expect to influence the ultimate decisions on this and other issues I believe we must develop reasonable positions and present them effectively in close coordination with our elected representatives at the state and federal level.

The issues involved are political in the sense that they must be resolved within the governmental process but I do not believe they are partisan in the sense that Democrats and Republicans should approach them differently. Clearly, these matters are of such importance that not every citizen or elected representative will view them alike, but it is reasonable to hope and expect that the North Coast Counties' elected representatives will work constructively together on these matters without regard to their political affiliations.

North Coast Representation on the Governor's Commission. However, development of a North Coast position is not sufficient. The position must be presented to others at every reasonable opportunity. In this regard we have a problem with the Governor's Commission. It does not include a North Coast representative. I think a very strong case could be made for a representative from the North Coast Counties joint powers agency if you create it. I know that Don Clausen and Barry Keene would assist your efforts to have such a representative appointed.

Warm Springs Dam. Let me now turn briefly to a regional issue that might benefit from attention within a joint powers agency—namely, the Warm Springs Project. Warm Springs appears to be progressing as well as can be expected. Road work at the dam site is proceeding. $12 million were provided for this project in the 1978 Corps of Engineers appropriation, even though many federal water projects were rejected by the Carter administration. Only recently the 9th Circuit Court of Appeals refused an injunction pending appeal from the District Court's finding that the revised environmental impact statement is adequate. I understand that the Corps of Engineers is completing its final design and intends soon to request bids and to award a contract for construction of the main dam by April of next year. This would provide a completion date for this 220 million dollar project of 1982 or possibly 1983.

It is really an aside from the subject of my talk, but I want to bring to your attention that the project is not out of the woods. The Warm Springs Dam Task Force, represented here today by Iva Warner, continues to oppose the project. I understand that the Task Force will meet with Huey Johnson, the new Secretary of the Department of Resources, on the 14th of this month in an effort to convince him that the State of California should oppose Warm Springs. If the letter of November 21, 1977 from Assistant Secretary L. Frank Goodson of the Resources Agency to Colonel Adsit of the Corps of Engineers is reflective of state policy, it is possible that the Task Force will have a responsive audience for their December 14th meeting.

In his letter of November 21, 1977 Assistant Secretary Goodson requested the Corps to not solicit bids for dam construction until the state has evaluated anew some seismic and geologic data pertaining to safety of the dam's design. By letter of November 29, 1977 Colonel Adsit has responded to Secretary Goodson to the effect that independent experts have given more than adequate consideration to the points raised by Secretary Goodson and concluded that the dam's design is overly conservative. The Corps requested all of the states' information underlying its newly expressed concern and requested a meeting between state and Corps representatives at 9 A.M. on 9 December at the Warm Springs Dam site to consider the states' points.

The Colonel's letter also says, and I quote:

"In view of the high escalation cost which would result from further delays of the project, the substantial investment to date of approximately 50 million dollars by the federal government on this California project, and the water supply contract with its respective obligations between the Sonoma Water Agency and the federal government which includes a repayment obligation of a portion of the final cost by Sonoma County Water Agency, it is in the best interest of all parties to expeditiously resolve the matters refered to in your letter."

In the recent past Congressman Clausen, Assemblyman Keene and most of the Boards represented here have communicated their support for Warm Springs to the Department of Resources and other state officials. Representative Warnham has recently come out in favor of this project. Renewed expressions of support from the relevant Boards of Supervisors to the new Secretary of Resources could possibly be beneficial in view of the upcoming meetings between state representatives and the Corps.

Such expressions obviously should not await creation of a joint powers agency. Nor am I suggesting that such an agency would have a significant role in developing policy vis-a-vis Warm Springs.

I do think, however, that the agency might assist in the negotiation of a pooling agreement under which the concerned counties can share both the water and the expenses created by both Warm Springs and Coyote Dam.

I have not thought through just what role the agency might play in this regard, particularly if water agencies—and particularly the Sonoma County Agency—are not parties to the joint powers agreement. The water agencies in Sonoma and Mendocino Counties, not the counties, have water rights from Coyote; and it is the Sonoma County Water Agency that has water rights to Warm Springs. Moreover, significant cooperation has already been exhibited between all concerned county and water agency representatives on the preliminary phases of negotiating a pooling agreement.

On the other hand, if a joint powers agency is to be effective in maximizing the common elements of the North Coast counties' positions on significant water issues. I think it has to be at least knowledgeable about the details of the most immediately significant issue confronting our area.

Joint Powers Agency. Let me turn now to the considerations surrounding a joint powers agreement. Under Government Code Section 6500 and following, "public agencies", which includes counties, cities and public districts, can agree to exercise jointly any powers common to them by creation of a separate governmental agency called a joint powers agency. The obvious strength of this approach is that it allows a regional problem to be dealt with regionally without the necessity of further states legislation. The most obvious weakness is that the agency being created cannot be given greater powers than commonly possessed by the agencies creating it. Thus any joint powers agency created by some or all of the counties represented here would have no actual legislative or executive authority to substantially affect the water rights issues confronting the North Coast region.

What the agency could do, however, is serve as a forum for the development of region-wide policy on state-wide water issues affecting the region and make or at least help coordinate input into the state and federal decision making processes concerning these issues. An agency could hire necessary staff and consultants to achieve these purposes and thereby minimize the cost to each of the individual counties. As I have mentioned the agency might also serve as an effective forum for negotiating a pooling arrangement between the counties and agencies directly interested in the Warm Springs project. It could also serve as a source of information and policy formation concerning other water quantity and quality issues that will undoubtedly affect the North Coast region for many years to come.

To me the strongest argument for creating such an agency is that several very important water issues affecting these counties are likely to be decided at the state level whether we like it or not. A joint powers agency appears to be the most readily available and least expensive means of allowing North Coast elected representatives to have an informed input into the decision making process. In the absence of such an agency it is unlikely that the separate Boards of Supervisors will devote a sufficient amount of their time and their counties' staff and money to develop informed positions, with the result that various organized groups that may or may not represent a broad consensus will be left to speak for our area.

Difficulties to be Confronted by a Joint Powers Agency. It is important to understand, however, that creation and operation of an effective joint powers agency will not be easy. The water rights issues that confront this state are issues of great importance about which honest and reasonable men will differ.

It is likely that each of the Board of Supervisors represented here have members with different views on this subject. It is equally clear that the counties to be represented will have interests that vary in certain respects. Moreover, your constituents now have or will have strongly held and varied views on these matters over the next several years, and the balance of opinion may switch from time to time. Some of the obvious questions you must answer in creating such an agency are the following:

Who will be contracting parties to the agency? Only interested counties, or should water agencies as well as counties be parties?

If water agencies are not parties how can their expertise and resources be employed to assist the joint powers agency?

Who should be on the governing board of the agency? Elected supervisors from each of the participating counties, or supervisors plus other selected representatives?

Where should the agency be headquartered? If at one of the county seats, which one? And how should the choice be made?

How should the agency be staffed? Should it hire permanent employees? Should it contract consultants? Should much of its administrative support be provided by one of the existing counties or by employees on temporary assignment?

How should the agency get its money? Only by direct appropriation by each party or should it seek state, federal or other grants?

How should key employees and consultants be selected to assure that no participating county's interests are prejudiced and that conflicts of interest are avoided?

In what manner and how often should the agency report to the public and to the Boards of Supervisors of its constituent counties to assure the broad acceptability of the policies it develops?

I have not thought it appropriate to propose answers to all these issues; however, I would like to leave you with some thoughts.

In my view a joint powers agency can effectively serve the North Coast region in the water rights area only if it acts primarily to assemble all data reasonably relevant to the important water issues confronting this state and this region, solicits and considers all relevant points of view within the North Coast region and develops clear and concise policies to be expressed not only by representatives of the agency but, and more importantly, also by the representatives who are elected from the North Coast region to represent us in the state and federal legislatures. The views of the agency or its staff will not be significant if they differ markedly from those of its constituent Boards of Supervisors or its state and federal representatives. In other words, the agency should primarily perform staff functions for the area's elected representatives at the county, state and national level.

I think the agency will be effective only if it is perceived by all concerned to be competent and fair in the performance of this function. It should not seek "lowest common denominator" positions. Because the agency will have no real power, it must depend for its effectiveness upon the good sense of the positions it evolves and the effectiveness with which it educates and assists the elected representatives of the area.

I think the details of the agency's charter are much less important than the people who comprise it. Its governing board should reflect the significant points of view that are known to exist in the area and should, to the extent possible, be comprised of persons with knowledge of and interest in these subjects.

I've enjoyed speaking to you. Thank you for the opportunity.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, I would like to commend the conferees and to express my support for H.R. 9346, the Social Security Financing Amendments of 1977.

In addition to restoring public confidence that the system will be sound when present contributors become eligible for benefits, the measure shores up the underpinings of the system in ways which are compatible to the spirit of social security as envisioned by the statesmen who established the system more than 40 years ago.

Specifically, the conferees have resisted the temptation to shift funds from general revenues into social security at this time or to establish disproportionate rates for contributions from employee and employer. The bill's three-pronged approach toward insuring adequate funds for the system should bring an immediate reversal in the downward trend and result in a gradual rebuilding of the trust funds. Too, should the funds be restored to an adequate level before 1990 when the last payroll tax under this legislation is scheduled—a jump to 7.67 percent each for employers and employees—that increase could possibly be eliminated or reduced.

In addition to adjusting income to the trust funds through the direct payroll tax, the measure makes two significant changes in the operation of the system.

DECOUPLING

First, H.R. 9346 includes a "decoupling" provision to correct an overadjustment for inflation which Congress enacted in the Social Security Amendments of 1972. Under the 1972 law, automatic cost-of-living adjustments for retirees based on rises in the Consumer Price Index were also reflected in the formula for future benefits. Within a few years, this provision will result in workers drawing benefits in excess of their wages at the time of retirement. I have been concerned with the faulty "coupled" benefit formula for some time, and introduced legislation along the lines of the bill before us today. While my bill would keep retirement benefit levels at today's average replacement ratio of approximately 44 percent of wages before retirement, H.R. 9346 provides a slightly lower average replacement level of 41 percent of wages before retirement.

TAXABLE WAGE BASE FOR CONTRIBUTIONS

Second, the Social Security Financing Amendments of 1977 specify an increase in the taxable wage base for contributions—the amount of earnings subject to social security taxes. Providing for upward adjustments over a 3-year period commencing in 1979, H.R. 9346 restores to the original 1936 levels the percentage of workers who will pay social security payroll taxes on all of their earnings. This provision is almost identical to legislation I introduced in both the 94th and 95th Congresses.

LIBERALIZATION OF EARNINGS LIMIT

An especially notable improvement over present law concerns liberalization in the outside earnings limit for persons aged 65 and older—known as the "retirement test." Today retired persons up to age 72 may earn up to $3,000 in wages or self-employment, above which they lose $1 of social security pensions for each $2 earned, with no limit for those 72 and over.

The bill raises the limit to $4,000 next year and by gradual steps to $6,000 in 1982, after which the limit continues to rise with inflation. Those over age 70 will not be subject to a limit. I sponsored legislation to increase the limit to $10,000 this year, but nonetheless welcome this slight increase.

OFFSET PROVISION

My only reservation about the measure before us today concerns acceptance of the Senate's "offset provision" under which retired Federal, State, and local government workers married to persons covered by social security will have their dependent or survivors social security benefits reduced dollar-for-dollar by the amount of their government pension.

My concern is two-fold: First, while the amendment may eventually prove to be equitable and only deprive persons from receiving social security who can afford the loss, I believe this matter should have been subject to thorough study before becoming law, and I regret it did not follow the normal committee and floor consideration in the House; second, in "grandfathering in" this provision, the conferees exempted for the next 5 years all persons who will become eligible for social security benefits if they could qualify for benefits as of January 1, 1977. Thus, widowers who, until the Supreme Court ruled otherwise this spring, formerly had to prove dependency in order to qualify for survivors benefits will again be discriminated against. Mr. Speaker, I fear this provision will bring us grief.

Mr. Speaker, I doubt that any Member of the House or Senate completely supports every detail of this measure. In my view, H.R. 9346 represents a responsible compromise which will serve well the majority of Americans whose lives at one time or another are touched by the social security system. Again, I commend the House and Senate conferees for bringing out the bill in a timely fashion while surmounting the vast ideological and political disparities which arise whenever social security is considered.

FDA—EPILEPSY

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 60 minutes.

Mr. COLLINS of Texas. Mr. Speaker, today I have called on the chairman of the Oversight and Investigations Subcommittee of the Commerce Committee to review procedures within FDA. I have asked our chairman, JOHN MOSS, if we could specifically review the procedures utilized by FDA in releasing drugs for citizens who want to utilize them. I have become keenly interested in a new drug, sodium valproate, which is being successfully used throughout the world for epilepsy. I do not understand the time consuming procedures within FDA. I realize that by the nature of their work, FDA is always in a controversial position. A few months ago we were concerned with why FDA wanted to take saccharin off the market. Now I am keenly interested in why they will not let a new drug, sodium valproate, on the market for epilepsy for those who request it.

Here are the basic facts on this situation. Sodium valproate was first approved for use in France in 1967. It is now being used by more than 120,000 patients daily in 14 other countries, including England, the European country with the strictest drug laws. There have also been 230 studies and published articles on the drug's effectiveness, but sodium valproate has not been approved for use in the United States.

In 1974, after a year of negotiations with the French company distributing the drug, the U.S. drug company Abbott

Laboratories filed an investigational new drug application with the Food and Drug Administration and has been testing the drug during this 3-year period. On April 15, 1977, at a hearing in Washington before the U.S. Commission on the Control of Epilepsy, physicians, consumers, the drug industry and the Food and Drug Administration testified that sodium valproate is a necessary drug for the treatment of epilepsy and that it has benefited many patients outside of this country for the past 10 years. The decision was reached at this hearing that the only reason sodium valproate was not available in the United States was that Abbott Laboratories had not presented proof of its safety and effectiveness to the Food and Drug Administration.

Following the hearing, Dr. Donald Kennedy, FDA Commissioner, stated in an NBC interview on July 18 that "everything I know derives from the experience of people who are clinically competent and for whom I have great scientific respect, and everything that they tell me suggests that sodium valproate is an excellent drug." At the same time, the FDA requested Abbott Laboratories to submit all available data on sodium valproate to FDA for evaluation of the drug's safe and efficacy by an independent panel of experts, FDA's Neurologic Drugs Advisory Committee.

Abbott Laboratories then presented the additional data and received FDA approval for an expanded study. However, due to the expense of producing and monitoring sodium valproate, the drug company also requested and received permission for a limited study restricting applications for the drug to two patients per neurologist. The drug applications specify restrictions as to age, concurrent therapy and seizure type and are limited as well to those patients who are suffering severe side effects from other drugs or who have attained no point of seizure control with other drugs.

These restrictions place a severe burden on doctors who have a sincere desire to treat their patients with the drug, but are reluctant to apply for it because they do not want to show favoritism for only two epileptic cases of the hundreds they may be treating. Another complication the doctors are unwilling to undertake are the lengthy, time-consuming forms, which include an informed consent to be signed by the patient and his parents, four FDA forms and seven forms for the drug company investigation.

Additional data and a new drug application was submitted to the FDA by Abbott Laboratories on September 22, 1977. The FDA legally has 180 days to approve or disapprove this application. After reviewing the additional data supplied by Abbott, the FDA's Neurologic Drugs Advisory Committee unanimously recommended on October 12, 1977, that FDA approve sodium valproate for marketing in the United States. However, instead of following its usual policy of accepting the advice of its advisory committee, the FDA has failed to act on this unanimous scientific recommendation. Rather, it has asked Abbott to furnish more data.

In the meantime, each day's delay in the release of sodium valproate has denied a very necessary, safe and effective treatment to 2 million Americans with epilepsy, and seizures that could be controlled are going uncontrolled for longer periods of time. The FDA delayed approval of this drug is causing parents of epileptics and their physicians severe anxiety in anticipation of a release date, and many epileptics are going out of the country to obtain sodium valproate. Although Dr. Kennedy has stated his approval and scientific data has been evaluated by FDA's own independent experts who unanimously recommended that the drug be approved, the FDA has not done so. Instead, the Agency has requested more scientific data, a bureaucratic delay in the marketing of a drug which promises hope for epileptics in this country.

HUMAN RIGHTS DAY

The SPEAKER. Under the previous order of the House, the gentleman from New Jersey (Mr. HOLLENBECK) is recognized for 5 minutes.

Mr. HOLLENBECK. Mr. Speaker, when the new Constitution was being debated in 1787, Thomas Jefferson was one of those to express grave misgivings about the absence of a specific listing of the rights guaranteed to American citizens. In a letter to James Madison, Jefferson wrote: "Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular; and what no just government should refuse, or rest on inferences." Madison became convinced of the need for a Bill of Rights, and the authorship of this great national document of freedom has traditionally been attributed to him. In the first Congress, he argued for the necessity of the Bill of Rights by saying:

> If they are incorporated into the constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive.

Madison was indeed prescient in forecasting what has since become our national heritage. Conceptions of the meaning and coverage of the Bill of Rights have expanded dramatically since their ratification on this day in 1791. Debate over the application and definition of these guaranteed rights is as intense today as ever before. However, our national commitment to these principles as ideals has never been stronger. As Madison himself declared in his response to Jefferson:

> The political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free government, and as they become incorporated with the National sentiment, counteract the impulses of interest and passion.

December 10 marked the 29th anniversary of the adoption of the Universal Declaration of Human Rights and thus the beginning of Human Rights Week in the United States. Today we observe the 186th anniversary of our own Bill of Rights. Therefore, it is fitting and appropriate that this day has also been designated as Human Rights Day.

In our life as a nation we have come to acknowledge and respect such basic documents as the Bill of Rights, the Declaration of Independence, and the Constitution as comprising the essential and "fundamental maxims" of our country on the equality, dignity, and basic rights of all men and women.

In the international community, the Universal Declaration of Human Rights serves as this standard. Unfortunately, many governments, instead of accepting the Declaration as fundamental maxim, continually deny or violate the rights which it guarantees to all people. It is tragic that, as we observe the anniversaries of the Universal Declaration and our own Bill of Rights, many throughout the world are being denied the basic human rights which have become commonplace to us. The violation of these rights throughout the Soviet Union, Cuba, Eastern Europe, Southeast Asia, and most of Africa is as prevalent as our own dedication to them is in this country.

For two centuries, the United States has served as a symbol of freedom and democracy. Because of this position, many people in these oppressed nations depend on us for our support and encouragement in their pursuit of these principles. Frequently they suffer punishment because of their enunciation and defense of rights which have traditionally been considered "inalienable" in the United States.

As we observe Human Rights Day, we have the responsibility of reaffirming our dedication to basic human rights and freedoms throughout the world.

SALUTE TO PENINSULA SHIPBUILDERS' ASSOCIATION

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 10 minutes.

Mr. TRIBLE. Mr. Speaker, last Saturday I had the opportunity to participate in the dedication of the Peninsula Shipbuilders' Association new national headquarters in Newport News, Va.

The PSA represents approximately 19,000 production workers at Newport News Shipbuilding. The men and women of Newport News Shipbuilding have written an impressive record through the years as the principal builders of our Navy's ships and as a leader in merchant ship construction.

The Peninsula Shipbuilders' Association is a model of how an independent union can operate and flourish. The union provides sound and responsible leadership and has done an outstanding job of representing its members.

The purchase and dedication of this new national headquarters will allow the PSA to substantially expand the important services the union provides to its members. Certainly a union can do more for its members than just represent them at the bargaining table, and the PSA has taken the lead in providing greater services to the people.

I also think it is significant that the PSA headquarters has a prayer room and a distinguished chaplain, Rev. J. C. Fauntleroy. How many unions or corporations in the country have reserved a space for their members or employees to pause and speak to God? The example set by the PSA should remind us all that faith in God has given this Nation strength and purpose and must always remain an essential part of our national existence.

In conclusion I want to express my best wishes to Elmer Back, Bob Bryant, Andrew Harris, and the men and women of PSA for continued success, and congratulations for a job well done.

SOCIAL SECURITY REFORM?

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. McKinney) is recognized for 5 minutes.

Mr. McKINNEY. I am deeply disturbed by the way in which the conferees, over the past several weeks, have hastily reviewed H.R. 9346, the Social Security Financing Amendments of 1977. In my opinion, the legislation still fails to remedy the long-term financial problems confronting the social security program. It does not contain any of the structural reforms that we know must be forthcoming, as politically unpopular as they may be. Rather, the legislation takes a band-aid approach to the system's difficulties and will not resolve the long-range solvency problems of the social security program.

As has been repeatedly pointed out, and as I have consistently maintained, the social security system is essentially dependent upon the economic growth of our Nation. To raise the marginal tax rates of all Americans by $227 billion over the next decade can only discourage workers and savers and incite taxpayer resistance to the program. In addition, increasing the wage base gives the illusion of trust fund wealth. Certainly more money is pumped into the funds immediately, but revenues generated through wage-base increases must be paid out in later years in the form of higher benefits. Therefore, there is no longrun gain to the social security system. It is my view, that the conference bill cannot help but fuel inflation, stymie capital formation efforts, and prove a dampening effect on employment at a time when the jobless rate is already 7 percent.

Yesterday, I was pleased to learn that the controversial $250 annual college tuition tax credit had been dropped from the social security bill. The impact of H.R. 9346—to practically double the payroll tax, dramatically broaden the taxable wage base, raise the allowable income for retirees and permit automatic loans to the social security trust fund from general revenues—is more than enough to digest in any one piece of legislation. Added to all this, the consideration of a $250-tax credit seemed to be overburdening an already saturated and nonacquiescent social security conference. The tax credit, an amendment introduced by Senator William V. Roth, Jr., is a valid idea and desperately needed by many Americans, but unfortunately, it came at a time and place when it was both inappropriate and mistreated. Perhaps, now, in a more expedient manner, the House Ways and Means Committee and the Senate Finance Committee will give this long-recommended proposal the attention it deserves free of the political constraints of social security reform.

Essentially, H.R. 9346 does not provide the long-range, comprehensive reforms that are needed to restore overall soundness to the social security system and which adequately reflect today's social and economic conditions. Indeed, we are told that the remaining long-range deficit (predicted at $880 billion) will be dealt with when economic and demographic factors affecting the system are better understood. But we know the trends which have placed the current system in jeopardy and which will continue to undermine the program: high rates of inflation and unemployment and the demographic trends of a falling birth rate and increasing longevity. The trends are clear. What is not clear is how long before a comprehensive congressional review is made of the social security program.

Following the stance that additional study of the social security system is required, I joined with my colleagues in deleting the Ways and Means Committee amendment, section 302 of H.R. 8346 and replaced the provision with the Fisher amendment. Section 302 required 6 to 7 million Federal, State, and local government employees plus employees of nonprofit organizations to be covered by social security. The Fisher amendment, offered by Congressman Joseph Fisher, of Virginia, in addition to striking universal coverage, requires a complete and thorough study to be jointly undertaken by the Departments of Treasury, Health, Education, and Welfare, and the Office of Management and Budget on the feasibility and logistics of coordinating social security with existing retirement programs. It should be stressed that the coordination must come about in such a way as not to compromise vested pension rights accrued in other programs.

As originally conceived in 1935, the social security system was intended to be an insurance program for the elderly. Today the system provides a wide range of benefits including, survivor's, disability, hospital, and education payments. While it is apparent that the current structure of the social security system can adequately support the income security programs for the retired and most of the survivors' benefits, it is equally clear that the fund cannot continue to support nonretirement programs. This is not to deny the value of these programs nor the fact that they should be supported by Government funding. However, it is absolutely essential that we examine the entire program to decide whether what was created in the thirties and haphazardly expanded over the years will serve the needs of Americans in the years to come. Or do we need a radically different type of system, one that reflects a less obtrusive role for Government and anticipates reform in welfare, tax, and income policies, and one which anticipates the changing working patterns in our society?

THE FUTURE OF NUCLEAR WASTES

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. Corcoran) is recognized for 5 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, today I have introduced legislation which addresses the crucial issue of adequate nuclear waste disposal. Entitled the "Spent Nuclear Fuel Storage Act of 1978," this measure is intended to provide impetus for the formulation of a long overdue national policy for the disposal of spent fuel taken from nuclear reactors and other high- and low-level radioactive wastes which are byproducts of nuclear fission.

After over 30 years of involvement with nuclear power, the United States has yet to come to grips with the problem of what to do with the materials which result from nuclear reactions. The most immediate problem today is the lack of a storage capability for spent fuel which is removed from the reactor after its energy potential, for the purposes of producing electricity, is depleted.

The President's decision early this year not to reprocess this spent fuel has increased the severity of the dilemma in terms of time, because the reactors around the country—which now number in the sixties—continue to produce this byproduct without sufficient onsite storage facilities. The only offsite spent fuel storage facility operating today is in my congressional district—in Morris, Ill. It is estimated that this facility will be filled to capacity sometime early in the next decade. The storage facilities on the individual reactor sites face similar storage problems in the near future.

The other part of the issue involves the temporary and permanent storage of nuclear wastes other than spent fuel. These byproducts must eventually be dealt with on a permanent basis, regardless of whether or not spent fuel will be reprocessed in the future.

My bill would expedite decisions concerning the temporary storage of spent fuel and the permanent storage of spent fuel and other radioactive wastes, including the selection of sites for storage facilities, the determination of whether the Federal Government should take title to such fuel and such waste, and the amount of storage fees which should be charged. This measure directs the Secretary of Energy, in consultation with the Director of the Environmental Protection Agency, the Director of the Council on Environmental Quality, the Director of the U.S. Geological Survey, and the Nuclear Regulatory Commission, and other appropriate agencies to conduct a study to determine the solutions to the aforementioned problems. The Secretary would be required to submit a preliminary report on the interim storage of spent fuel within 6 months after the enactment of the bill, and a preliminary report on the permanent storage of spent fuel and other high- and low-level radioactive wastes within 2 years after enactment.

Mr. Speaker, the issues of interim storage and permanent disposal of nuclear wastes are, literally, growing problems in America. The legislation which I introduced today provides the needed vehicle for Congress to push for a national policy to cope with the environmental ramifications of nuclear power in the years to come.

DEBIT CARD LOSS LIMITATION IMPERATIVE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, consumer financial tragedies may result if recently proposed legislation is not adopted. Today a consumer using a debit card (a card in which funds are transferred electronically) could lose his life savings if a bank employee debited all the funds from his account or if some other unauthorized access to his accounts occurred. Unlike credit cards, there is no $50 limit on a consumer's liability for losses. Since debit transaction receipts have no signatures, proof that the funds have been stolen is extremely difficult for consumers. Financial institutions have the ability to establish secure computer systems. So far they do not appear to be doing so.

The October issue of the Federal Home Loan Bank Board Journal 77 contains an article reviewing the latest FBI report on crimes against federally insured financial institutions. The article notes that in the category of fraud and embezzlement, there were 4,420 reported violations during the 6 months ending in June 1977, or 65 percent of all types of crimes against insured financial institutions. The article further states:

> However, in recent 6 month periods, total losses from this category of crime have averaged just above $100,000,00 per period, exceeding losses due to robberies, burglaries, and larcenies some 7.7 times.

Bank fraud and embezzlement are one of the ways by which consumers using debit cards could lose their funds.

Another study, a U.S. Department of Commerce report entitled "Crime in Service Industries," indicates that in fiscal year 1976 there were 11,071 incidents of bank fraud or embezzlement resulting in net losses of $175.8 million.

I believe the use of computers in financial institutions contributes significantly to the large increases in fraud and embezzlement, yet computers are essential to electronic banking. Now some financial institutions portray debit card losses occurring only as a result of consumer negligence, yet in discussing computer vulnerability the "Crime in Service Industries" report notes:

> The computer operation of a facility is the area with the greatest crime potential, in dollar terms . . . According to some industry experts, a major share of computer abuse results from carelessness. Employee dishonesty is the second major cause. Remote terminal manipulation is currently a lesser cause, but has the greatest potential.

The report's statistics on computer crimes are frightening when one considers the potential losses to consumers. For instance, the report states:

> Although few cases of computer crimes are documented, it is estimated that for every detected computer crime there are 100 undetected crimes in progress. Furthermore, another estimate indicates that for every five computer related crimes detected, four go unreported. The annual data loss attributed to computer-assisted crime is therefore difficult to ascertain with accuracy. It has been estimated, however, that the loss resulting from average computer-assisted embezzlement is ten times higher than the average $100,000 loss from traditional embezzlement. Dollar loss for one incident has been as high as $5 million, as reported by the U.S. Chamber of Commerce.

Consumers must be protected from the consequences of computer crime. That is why I introduced H.R. 8753, the Consumer Credit Protection Act Amendments of 1977, which provides the first comprehensive consumer protections for electronic funds transfer (EFT) payment systems. One of the most important provisions would limit the loss a consumer could sustain to $50 if unauthorized use of his funds transfer card occurred. This legislation's limitation on liability for losses would protect consumers and provide financial institutions the needed incentive to make their computer systems secure.

COMMENTS ON SELF-INSURANCE FOR PROFESSIONAL LIABILITY

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, the issue of product liability insurance costs and availability has been attracting an increasing amount of attention here in the Congress. A related, and similarly vexing, problem is that of professional liability insurance carried by doctors, lawyers, architects, engineers, and others who offer personal services.

One of the problems affecting both the product and professional liability insurance markets is the fact that the Federal Tax Code currently precludes the establishment of self-insurance reserve funds. Thus, a person or company that cannot afford or cannot obtain commercial insurance coverage is also penalized by tax laws that virtually close off the self-insurance option.

This is a problem not only for those who must "go bare," without any commercial insurance coverage, but also for those who must take policies with high deductible provisions. In the case of many private practitioners, it is now quite difficult to build up enough of a reserve to cover the deductible portion of a future claim.

In order to facilitate the use of self-insurance reserve funds, as one approach to alleviating the present product/professional insurance crisis, I coauthored the Product Liability Insurance Tax Equity Act, H.R. 7711.

On June 14, the bill's chief author, CHUCK WHALEN, placed a statement in the CONGRESSIONAL RECORD, explaining how the bill would help those with professional liability insurance problems. He noted that a Rand Corp. study estimated that between 19 and 25 percent of all physicians practicing in southern California in 1976 did so without any commercial insurance coverage. The best estimate available was that between 10 and 15 percent of all doctors in the country had "gone bare."

He also observed that the cost of endorsed insurance policies for architects and engineers had doubled in 1975. An estimated 25 percent of the architects enrolled in the insurance program dropped out as a result and are presumed to have gone bare.

In the 6 months since H.R. 7711 was introduced, many national trade and professional associations have endorsed the bill, as have hundreds of individuals. Many of the organizations' statements have been placed in the RECORD, including those from the Federation of American Hospitals, the National Society of Professional Engineers, the American Institute of Architects, and the American Consulting Engineers Council.

Today, I wish to call to my colleagues' attention an article that appears in this month's issue of Private Practice magazine. That publication has as its principal audience family practice physicians and other doctors who work on their own or in a noncorporate environment.

The author of the article on self-insurance for malpractice risk is John H. Tovey. He has graduate degrees in law and medicine and has taught tort law, all of which qualifies him as a learned commentator on this subject, in my opinion.

The text of the article follows:

[From Private Practice magazine, December 1977]

PARTIAL RELIEF FROM THE MALPRACTICE CRISIS? IS SELF-INSURANCE A WAY OUT?

(By John H. Tovey, JD, LLM)

Readers of this magazine do not have to be told that there is a malpractice insurance crisis.

The primary solutions for the physician have been put forward in the past: the first has been to transfer all of your property to somebody else, usually a wife, a child, a parent, or a close relative. It is a dangerous solution because it would not work unless both legal and beneficial ownership of the property were vested in the other person completely. This could cause serious financial problems in the event of a divorce. It could also cause similar problems in the event of dishonesty, imprudence, or legal senility. No competent lawyer that I know would suggest it.

The second solution is "going bare" on the theory that lawyers will not sue practitioners who are uninsured. In 20 years of dealing with physicians' legal problems, I have never found this assumption to be valid. Uninsured physicians have been sued and have had judgments recovered against them. The loss has been considerable because the result has usually been to strip the doctor of assets he was accumulating for retirement, protection against inflation, or college expenses. In short, it is economic disaster for all but the very few who are wealthy enough to withstand a large verdict. And experience teaches us that there may be more than one large verdict in one year, let alone in a professional career.

Another problem with going bare is the increasing costs of legal defense which the uninsured doctor must pay himself. These can be very high when you consider that many malpractice trials last for two to four weeks when the injuries are serious. Even a trial of one week can be expensive.

All of which points out a gross injustice: the physician who can get malpractice insurance may take a current income tax deduction for the premiums he pays. This is fine if the insurance is available but it doesn't do him much good if it is not. He can also take a current income tax deduction for settlements, judgments, or legal fees he pays. But this is not worth much if he cannot afford to pay them. What has been needed for a long time is a remedy that would put the uninsured doctor on a par with those able to get insurance.

Realizing this, Congressman Charles W. Whalen, Jr. (Democrat, Ohio) has introduced HR 7711. The bill, the Product Liability Insurance Tax Equity Act of 1977, is currently before the Committee on Ways and Means. Mr. Whalen is pressing for early hearings and for more co-sponsors.

The bill provides that each professional may establish his own personal malpractice liability trust. It also extends the same right to businessmen for product liability claims. And it provides that those who do may take a deduction for Federal income tax purposes for money paid into this trust to pay the cost of legal defense, settlements, or judgments. In other words, it allows the same income tax deduction you would get if you paid for malpractice insurance.

HR 7711 also provides that any income from the trust is also exempt from the income tax. As such, it can grow, tax free, not only by the contributions of the physician but also by any income earned by the trust whether it be in the form of interest or capital gains. And this is important.

But there is a limitation on the tax deduction. It may not exceed the reasonable cost of malpractice in the area where the physician practices. An orthopedist in California might be allowed a deduction of $20,000 or more per year. A similar specialist in Iowa would probably be allowed less. The rationale is the difference in rates, and risks, in the two areas. But this is no more than a reflection of the premiums that people in the two states would pay—if they could find carriers to accept their payments.

What happens if the trust is not depleted by malpractice problems? The funds may be withdrawn, but they are taxable at ordinary income rates in the year of withdrawal. The theory here is that since the physician got an ordinary income tax deduction for his payments, he should be subject to ordinary income tax rates if he recovers his contributions.

Of course, the bill would impose no tax consequences until the surplus funds were withdrawn. The death of the doctor would not trigger any tax consequences. This is important. If a physician dies, his estate remains subject to malpractice claims. But the fund would be there to protect his family and his assets during the limtations prescribed by state law. The exact time varies, but it should be noted that periods of limitations govern the filing of a suit and not the date when the suit is resolved. As such, it is possible for a malpractice trial to be held years after the death of the physican, and many years after the date of the therapy.

As written, the bill is commendable, but it does leave some unanswered questions. Some of these may be resolved by the time it gets to the full House and to the Senate.

The bill provides, in effect, that deductions shall be governed by regulations issued by the IRS. Since the IRS will not issue regulations until the bill is passed, nobody can tell exactly how it will apply.

The bill does not state how the reasonable value of the malpractice insurance shall be determined. This is a real problem in a state where, for example, no anesthesiologists have been able to get insurance for several years. Suppose someone in this specialty could get 100/300 coverage in 1975 for a premium of $10,000 a year. A deduction of $10,000 in 1975 would be reasonable. But how would you measure what would be reasonable in 1978 if no carrier was willing to write any coverage for that year?

The bill does not prescribe how the IRS would differentiate among practitioners who might want different limits of coverage. A young surgeon with few assets and a lot of debts might be content with coverage of $100,000. Another young anesthesiologist in the same situation who expected to inherit money from his parents might feel he needs more. A neurosurgeon with a large family and substantial assets could believe that he needs very high limits which would have a great cost in premiums. What standards would a bureaucrat apply?

The bill allows a practitioner to set up a personal trust. Fine! But it bothers me that there are no guidelines to bar the IRS from setting out arbitrary standards of how these trust funds may be invested. Suppose the IRS decided that they should be invested in government bonds? A physician might feel that these would not offer him adequate protection against the inflation that he knows is going to continue. He might want to invest his trust funds in common stocks, and real estate, or gold and silver among other things. And he'd be right.

The bill does not limit the power of the IRS to mandate reporting requirements. This is significant because the power to mandate unrestricted paper work is the power to destroy a trust. As OSHA and the FDA among others, have proven, the bureaucrats can and do impose excessive paperwork on just about everyone.

A further danger is that some bureaucrat might decide to allow tax-free payments from these trusts only if the payments were reasonable as determined by themselves. They might also decide that a reasonable payment could be made only if the defendant physician or surgeon had followed the type of therapy—including the prescription of drugs—as laid out by a national formulary system.

There are other problems, of course, but I believe that the ones I have outlined deserve the most serious consideration now.

The bill does have weaknesses as it is presently constituted. But I think it deserves support with pressure for some amendments, Mr. Whalen has taken a giant step toward providing some relief. For that, he deserves the thanks of all of us.

JAPAN NOT BEING A "GOOD BUDDY" IN CB RADIO TRADE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, in recent weeks, there have been numerous articles about the efforts of the administration to work with Japan in reducing that country's balance-of-trade surplus by importing more goods from other nations. I strongly support these efforts, since I believe that the current Japanese trade surpluses are creating major disturbances in the world economy.

I would like to explore for a few minutes just one example of how the Japanese economy is geared toward export—and prevents the importation of manufactured goods from other nations. The example is oneof the hottest consumer fad items in recent years, the citizen band radio.

The International Trade Commission is currently considering a petition by American CB transceiver producers for relief from the flood of imports which has hit their market in recent years. I am seriously concerned that these imports may represent perhaps the most blatant attempt yet by a foreign producer to corner our market while denying our industries access to theirs.

Television commercials and newspaper advertisements recently have been filled with offers of CB's at rockbottom prices. Fed by a continuous stream of imports, supply has considerably outpaced demand, and inventories are accumulating at a rapid rate. A few statistics submitted by CB producers to the ITC dramatically illustrate their plight: During the first half of 1977, capacity utilization in the industry stood at an average of 21 percet, down from 55 percent for the same period in 1976. The industry as a whole experienced a meager net profit before taxes of 3.2 percent of sales in the first half of 1976, and then plummeted to a net loss of 38.2 percent in 1977. Finally, employment in the industry has declined by 56 percent over the same 1-year interval.

While the domestic industry is suffering, imports—primarily from Japan—are claiming the lion's share of our market, close to 90 percent according to recent estimates. The volume of imports has increased from about 3 million units in 1972 to 17 million in 1976. Foreign producers as a whole have built up a production capacity which would allow them to supply an estimated three times the world demand for CB's. Morever, there is no question for whom this barrage is intended: The United States is the only market which can absorb large numbers of CB's, accounting for 95 percent of the world market.

Mr. Speaker, what I find most disturbing about this situation is that the Japanese, who produce most of the CB transceivers, prohibit their use within their own country. This effectively shuts off any potential export market for our producers, while our market remains wide open to imports from any direction. It also means that the Japanese have built a massive CB industry for the sole purpose of satisfying demand in the United States. It would be almost impossible to determine whether there has been dumping—since there is no home market price!

I would emphasize that we are not dealing here with the diversion of some modest amount of production for export at competitive prices; virtually all of the resources and production of the Japanese CB industry are aimed squarely at the American market. It is clear that in a case like this, foreign producers must sell at any price, however low and whatever the consequences for American producers.

Mr. Speaker, I submit that any impartial observer would be hard-pressed to characterize these as fair-trading practices. More important, these efforts at any price make a balanced trade policy impossible, and contribute to pressures for restrictionist measures. Trade must be a two-way arrangement; if we open up our markets to foreign producers, we have a right to expect that theirs will be open to us.

I hope that those nations which today are complaining about American pressure to restraint imports will reexamine their own import and export policies before castigating us for taking steps to protect our industries.

THE CLEAN WATER ACT OF 1977, H.R. 3199

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. CARNEY) is recognized for 5 minutes.

Mr. CARNEY. Mr. Speaker, when the Congressional Steel Caucus was formed in September, the members acknowledged that the caucus would have to deal with a broad range of problems facing the steel industry, including economic and environmental.

Today we are considering the conference report on H.R. 3199, the Clean Water Act of 1977. This is important legislation to assure continued progress in cleaning and maintaining our Nation's water supply. However, as chairman of the Steel Caucus in the House of Representatives, I feel compelled to point out that some provisions of this legislation might create serious problems for the steel industry. More restrictive regulations could add to the costs of an already cost-burdened industry.

Some of the more significant problem areas are:

1977 Best Practicable Technology (BPT) Deadline—The conference report does not address the steel industry's problem, namely the inability to achieve BPT for several years. Testimony before the House Committee on Public Works and Transportation showed that the problems of the steel industry are quite comparable to those of municipal plants; their costs are as great and time schedules for their solutions are equally long. In spite of steel industry investments of over $3 billion to date for pollution control facilities, and in spite of the steel industry spending over $500 million per year to operate and maintain those facilities, the steel industry might still be unable to complete the tasks assigned to it in the time allotted by the conference report. Municipalities are provided extensions until 1982 or 1983, but the conference report provides no comparable time extension for the steel industry to achieve BPT.

1983 Best Attainable Technology (BAT) Deadline—The conference report extends for 1 year, from 1983 to 1984, the deadline for attaining BAT, and provides limited waivers for "conventional" pollutants. It quite properly emphasizes future controls on toxic pollutants. However, the inclusion of the new listing of substances as "toxic", and the denial of any waiver with respect to these materials, poses an additional burden on the steel industry which was not previously contemplated.

Pretreatment—The conference report provides, as we had recommended, that the treatment capability of the publicly-owned treatment plant be considered in pretreatment requirements. The inclusion of requirements relative to the "toxic" pollutants might take away any incentive or advantage from pretreatment.

Best Management Practices—Inclusion of practices required as best management practices in national pollutant discharge elimination system (NPDES) permits, and the requirement that they include consideration of the list of "toxics," could greatly complicate the permit process and monitoring requirement.

Mr. Speaker, in light of these problems which can affect the steel industry and other industries as well, the implementation of the Clean Water Act of 1977 is a cause for concern in the steel-producing regions of this country.

The recent report on the domestic steel industry from Under Secretary of the Treasury Anthony M. Solomon mentions that the Environmental Protection Agency will conduct a regulatory review to determine the possibility of achieving our goals for a cleaner environment at a reduced economic cost if there are certain changes in the regulatory process. As chairman of the congressional steel caucus, I urge that this study be completed within 6 months, and that it pay particular attention to the economic impact on the steel industry of the new regulations stemming from H.R. 3199.

Mr. Speaker, the congressional steel caucus will continue to examine all regulations issued by the Environmental Protection Agency to make certain that these regulations do not impose an unnecessary or unreasonable burden on the Nation's hard-pressed steel industry.

Mr. BUCHANAN. Mr. Speaker, as I indicated in my floor remarks when the conference report on H.R. 3199 was being considered, I am very concerned about the effects of this bill on the steel industry and, therefore, as vice chairman of the steel caucus, join its distinguished chairman in expressing these concerns. The steel industry by its nature has pollution control problems. Realizing this fact, they have expended over $3 billion for environmental control facilities.

Despite these efforts, the steel industry will be unable to meet the April 1, 1979 deadline for using the best practical technology for industrial concerns.

While the bill provides for deadline extensions on a case-by-case basis for municipalities, I feel that some provisions must be made for the steel industry whose costs are as great and time scheduled for their solutions are equally as long as municipalities. The conference report includes no clear means of providing the comparable time required for steel to achieve BPT.

The committee may have to use future legislative relief for the steel industry, so long as they are making a good faith effort to comply, to provide for rational enforcement of the clean water laws.

I hope that both EPA and the committee will keep this in mind as they monitor the effect of H.R. 3199 during the coming months.

Mr. WALGREN. Mr. Speaker, as one concerned with the future of the American steel industry, I want to express my reservations about the lack of a flexible approach to the steel industry's water pollution problems in the conference report on H.R. 3199, the Clean Water Act of 1977.

As reported from conference, the bill imposes an absolute deadline of April 1, 1979, for steel industry compliance with best practicable technology for effluent control, with no provision for an extension of deadlines by the Environmental Protection Agency—even on a case-by-case basis.

This is in direct contrast to the treatment of municipal water pollution facilities where, recognizing the financial limitation of local government, EPA is authorized to extend deadlines through 1983 if justified on a case-by-case basis. The act provides no similar recognition of the financial limitation of the steel industry.

Failure to provide for a flexible approach to water pollution deadlines makes it inevitable that jobs will be eliminated by arbitrary standards set without consideration of the steel industry's financial ability to meet environmental requirements.

The April 1, 1979, deadline is impossible for many American steel facilities to meet. Even if the capital were available, the 15 months remaining is not enough time to engineer and construct such facilities.

And the steel industry is now in a capital crunch. The low cash flow caused by foreign imports and expenditure of capital on environmental controls over the past decade have resulted in an industry that must modernize its basic plants to stay alive—and one that has great difficulty raising capital in view of the limited return on investment because of foreign competition.

Many of the Representatives expressing their concern will vote for the water pollution control bill because of the importance of many of its provisions. I want to be clear, however, that I do not believe in the inflexible, statutory deadline as it applies to the steel industry. I would urge the EPA and any other enforcement agency to adopt a flexible, case-by-case approach to the water pollution problems of this industry.

It is not my intent and, I hope, not the intent of the conferees or this Congress to compel the closing of steel facilities which, despite good faith efforts, are unable to meet the inflexible, statutory deadline.

FEDERAL BUREAU OF INVESTIGATION ACT OF 1978

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of California. Mr. Speaker, today I am introducing the Federal Bureau of Investigation Act of 1978, a legislative charter for the Nation's most important law enforcement agency. Ever since the first revelations of FBI domestic intelligence abuses before the Judiciary Committee Subcommittee on Civil and Constitutional Rights several years ago, the call for such a charter has been growing. Now not only the Congress, but the Department of Justice and the FBI, are asking that the FBI be given a legislative statement of policy direction to enable it to undertake essential, publicly recognized and agreed upon functions—nothing more and nothing less.

There are a number of different groups and entities working on similar legislation—the House and Senate Committees on Intelligence are said to be engaged in the process of drafting a charter for all the intelligence agencies in the United States. The Department of Justice has been working on a legislative mandate for the Bureau for some time. And, of course, several bills dealing with reorganization of the Nation's intelligence community already have been introduced and referred to my subcommittee.

But I think this bill serves a special and much needed purpose: It establishes a starting point for discussion of the proper role of Federal law enforcement in this country. This bill starts with the premise that the FBI must be guided at all times by strict adherence to a criminal standard for initiating its investigative efforts. The Department of Justice and the FBI—and others—may feel the FBI cannot carry out its legitimate law enforcement functions on that basis alone. If so, they will have a heavy—and perhaps insurmountable—burden in persuading the American people that departure from that standard is justified. Moreover, to the extent that there are other necessary but noncriminal investigative functions performed by the FBI which are not covered by this bill, we will have to be persuaded of the need for the FBI to perform those functions; appropriate enabling legislation will have to be suggested.

I believe my approach in this bill—a simple statement of the Bureau's authority, with a means for enforcing those limitations—is preferable to the approach taken in previously introduced charters, that is, laundry lists of prohibited activities. The latter will not only be exceedingly difficult to administer but their chance of enactment will be severely lessened by the fact that such bills have been referred to a multitude of committees. Simplicity and a positive approach may be the best and most workable solution.

In any event, I hope from this starting point to work toward the eventual enactment of legislation with which all of us—law enforcement officials, civil libertarians, Members of Congress and, most important, the public—can live. If introducing the bill and holding hearings—which I plan to do in early February—can serve to begin a general public examination and debate on the FBI charter, then I will have accomplished a substantial portion of my goal in drafting this legislation.

The bill follows:

H.R. —

A bill to define the investigative authority of the Federal Bureau of Investigation, to rights under color of Federal law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Bureau of Investigation Act of 1978".

DEFINITION OF INVESTIGATIVE AUTHORITY OF FBI

SEC. 2. (a) The Federal Bureau of Investigation shall have the authority to investigate all acts or omissions that violate Federal criminal law, except as expressly provided by Act of Congress; such investigations shall be initiated only upon a reasonable suspicion, based on specific and articulate facts and rational inference from such facts, that the subject of the investigation has committed, or is committing, a specific act or omission in violation of a Federal criminal law.

(b) The Federal Bureau of Investigation shall have no other authority to investigate or to engage in law enforcement activities except as expressly provided by act of Congress.

CREATION OF CIVIL REMEDIES FOR VIOLATIONS OF RIGHTS UNDER COLOR OF FEDERAL LAW

SEC. 3. (a) Whoever, under color of Federal law subjects any person to the deprivation of any right, privilege, or immunity secured by the Constitution of the United States, or violates section 2 of this Act, shall be liable to the person aggrieved by such deprivation or violation in a civil action for appropriate legal, equitable, and other relief. Such relief shall include money damages at a liquidated rate of $250 a day for each day such deprivation or violation continues, or $2,500, whichever is greater, punitive damages in appropriate cases, and reasonable attorney fees and other litigation costs reasonably incurred.

(b) A person that may recover relief under subsection (a) of this section may also recover that relief in a civil action against the United States, and the liability of the United States shall be joint and several with any persons who are liable under subsection (a) of this section.

REPEAL OF CERTAIN LAWS TO ELIMINATE COLOR OF AUTHORITY

SEC. 4. (a) Chapter 102 (relating to riots) of title 18 of the United States Code is repealed.

(b) Sections 2384 (relating to seditious conspiracy), 2385 (relating to advocating the overthrow of Government), 2386, relating to registration of certain organizations), 2387 (relating to peacetime interference with loyalty, morale, or discipline of military forces), and 2391 (relating to temporary extension of wartime penalty for interference with loyalty, morale, or discipline of military forces) of such title 18 are all repealed.

(c) The tables of chapters for such title 18 and for part I of such title 18 are each amended by striking out the item relating to chapter 102.

(d) The table of sections for chapter 115 of such title 18 is amended by striking out the items relating to section 2384, section 2385, section 2386, section 2387, and section 2391.

(e) (1) Section 2516 of such title 18 is amended—

(A) by striking out "or chapter 102 (relating to riots)"; and

(B) by inserting "or" before "chapter 105".

(2) Section 14(a) of such title 18 is amended by striking out "2384, 2385, 2387,".

(3) Section 241(a) (17) of the Immigration and Nationality Act (8 U.S.C. 1251(a) (17)) is amended by striking out "section 2384 of title 18;".

(4) Section 349(a) (9) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (9)) is amended by striking out "or willfully performing any act in violation of section 2385" and all that follows through "levy war against them,".

(5) Section 8312(b) (1) (C) of title 5 of the United States Code is amended by striking out "2384 (seditious conspiracy)" and all that follows through "2387 (activities affecting armed forces generally),".

(6) Section 3505 of title 38 of the United States Code is amended by striking out "2385, 2387,".

BILL OF RIGHTS DAY, DECEMBER 15, 1977

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. MATTOX) is recognized for 5 minutes.

Mr. MATTOX. Mr. Speaker, among the great documents of Western civilization is one which stands alone in its powerful evocation of individual freedoms and its unalterable guarantees of liberty and justice—the Bill of Rights.

This document, conceived during an era of turmoil and stress and born this day, 186 years ago, has through the centuries proven itself to be a birthright to the free and an inspiration for the oppressed.

The President has proclaimed today, December 15, to be Bill of Rights Day, and I join with him in saluting its authors—those extraordinary men who possessed the insight to articulate what they felt were "inalienable rights"—ones that would not merely survive, but nourish the new republic from its formative years on up to this very day.

Treaties, governments, and politicians have come and gone these last few hundred years, and even the Constitution has been amended dozens of times. Yet through all this, the first 10 amendments to that Constitution have remained unaltered, with nary a comma nor an apostrophe removed.

Is this so remarkable? It seems so in this age of planned obsolescence, of constant change. But the Bill of Rights embodies those qualities of humanity that are eternal, that give substance to the term "human being." It is in this sense that the Bill of Rights is a living thing on its own. Its sturdiness lies in its capacity to grow, to adapt, and in its ability to be interpreted and applied to a wide range of human activity.

Often these constructions generate controversy, particularly at a time when the Federal Government tends to encroach upon the functions of our States and into the lives of our citizens. Nevertheless, through this constant evolution, the Bill of Rights represents the final, impenetrable bulwark against big government and against totalitarianism. Thank God our forefathers were endowed with the ability to be succinct and exact in their expression of these rights—I am afraid to think of what our present-day bureaucrats, with their "newspeak" and legalese, would come up with given the task of writing such a document as the Bill of Rights.

Where else in the world have nations explicitly quaranteed their citizens such power? Where else have governments possessed the confidence in the people necessary to make them masters of their own destiny?

The freedoms of speech, press, religion; the right to keep and bear arms, to be protected from cruel and unusual punishment. Together they represent dignity for all our people. Without them there is no democracy. They need to be protected, cherished and preserved. Because, Mr. Speaker, the day one of these rights is rescinded, that is the moment we are no longer free.

POPULAR BANKER SURVIVES FORCED RETIREMENT WITHIN COMMUNITY HE SERVES

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I thank you for this opportunity to address the House and my distinguished colleagues on a subject of special and ever-present interest to me, namely the deplorable condition of our senior citizens in this country, especially visible when, as frequently occurs, with the full range of their capabilities and experience still intact and useful to our society, they are summarily discharged from their jobs and livelihood, given a pretty trinket to satisfy their colleagues' esteem, and then sent home to a life of social security, loneliness in many cases, neglect and daily struggle to escape starvation, or merely the death of boredom that comes with having to sit around just waiting for death.

As you are aware, the House has recently acted in regard to this important subject of human waste by passing the Mandatory Retirement Act, which I introduced, and which would seek to alleviate some of these injustices and current oversights.

While we await the passage of this important act into law, I am certainly encouraged by those American employers who have taken the lead in offering their employees the protection from mandatory retirement based on age alone.

A poignant example of an employer's understanding that retirement need no longer be age based was brought to my attention recently and I would like to share it with you at this time.

Mr. William J. Schusel, a very knowledgeable and experienced banker of the Miami community has been the victim of forced retirement on two separate occasions. Mr. Schusel was first forced to retire at the age of 67 from a bank in New York. This was not due to any decline in the performance of his important duties but was due to his having reached a certain place on the calendar. Following that retirement, Mr. Schusel made his way to Florida, where many of this Nation's retirees go. Mr. Schusel knew that he was not yet ripe for old age so he took a responsible job with a bank of my area, which made him a vice president. Here Mr. Schusel worked for 10 years more, until, again, at age 77, he was thought to old to continue in spite of the testimony given by his high level of performance. Thus, Mr. Schusel was retired for the second time, yet did not agree with the judgment of his youngers that he should give up the fight to stay active.

Mr. Schusel's proven stamina and intellect, as well as the foresight of the Jefferson National Bank of Miami Beach and its president, Barton Goldberg, he was able to secure another career for himself. Today, at the age of 77, Mr. Schusel is employed as vice president for community relations at the Jefferson National Bank.

So, once again Mr. Schusel's determination and abilities, and not his age, have enabled him to again find employment as a high official of a bank.

The Jefferson National Bank of Miami Beach, and its president and my personal friend, Mr. Barton S. Goldberg, are to be commended for their foresight in offering employment opportunities to individuals on the basis of their capabilities, their experience, and their performance rather than on the basis of their age.

I am proud to be able to insert the following news item, about Mr. Schusel's election to his new post this year, at this point in the RECORD:

SCHUSEL ELECTED

William J. Schusel has been elected Vice President of Jefferson National Bank of Miami Beach. He will be working in Community Relations.

Schusel began his 35 years of banking experience at Chase Manhattan Bank of New York City where, as a Branch Manager, took full responsibility of the entire staff. Prior to his retirement from Chase Manhattan, he was offered a position as Vice President of the Carner Bank of Miami Beach as an Operations Officer. During his ten years there, he organized a Business Development Department increasing customers through his efforts.

Schusel is deeply involved in community activities throughout the area. He is presently serving a two-year term as President of the Biscayne Democratic Club of Miami. He is also a Past President of the Miami Beach Optimist Club and is a recipient of over 40 plaques and citations including the "Good Citizen of the Week" award.

Schusel and his wife, Ruth, reside at the Burleigh House in Miami Beach.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

Mr. WHITE. Mr. Speaker, I was unable to be present last week when the House convened as I was obligated to attend to official business in the 16th District of Texas. I would like to take this opportunity to record how I would have voted on the legislative measures which came before the House during my absence. The rollcall votes I have not included in my summary were calls of the House. I appreciate your attention to this personal matter.

On rollcall No. 747 (November 29, 1977), adoption of the conference report on H.R. 7, to authorize a career education program for elementary. secondary and postsecondary schools for fiscal years 1979 through 1983, I would have voted "yes."

On rollcall No. 748 (November 29, 1977), motion that the House resolve itself into the Committee of the Whole for the consideration of the resolution, H. Res. 827, to disapprove Reorganization Plan Numbered 2 of 1977, I would have voted "yes."

On rollcall No. 749 (November 29, 1977), adoption of the resolution, H. Res. 827, to disapprove Reorganization Plan Numbered 2 of 1977, I would have voted "no."

On rollcall No. 751 (November 29, 1977), preferential motion that the House concur in the amendment of the Senate to the amendment of the House to the amendment numbered 82 to H.R. 7555, the bill making appropriations to the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, I would have voted "no."

On rollcall No. 753 (November 30, 1977), motion on ordering the previous question on the motion to recommit the conference report on H.R. 9375 to the committee of the conference, with instructions to the managers on the part of the House to increase Amtrak funds to $11.5 million, I would have voted "no."

On rollcall No. 754 (November 30, 1977), amendment to the motion to recommit H.R. 9375 to the committee of the conference with instructions to managers on the part of the House to increase Amtrak funds to $18 million, I would have voted "yes."

On rollcall No. 755 (November 30, 1977), motion to recommit the conference report on H.R. 9375 to the committee of the conference with instruction to managers on the part of the House to increase Amtrak funds to $18 million, I would have voted "yes."

On rollcall No. 756 (November 30, 1977), motion to order the previous question on the motion to instruct House conferees on H.R. 9346, the Social Security Financing Amendments of 1977, I would have voted "no."

On rollcall No. 757 (November 30, 1977), preferential motion that the managers on the part of the House at the conference on H.R. 9346 be instructed to insist on section 501 of the bill as adopted by the House, to provide for the liberalization and eventual repeal of the earnings test for individuals age 65 and over under the old-age survivors and disability program of the Social Security Act, I would have voted "yes."

On rollcall No. 759 (December 1, 1977), adoption of resolution authorizing funds for the investigation of Korean-American relations being conducted by the Subcommittee on International Organizations of the Committee on International Relations, I would have voted "yes."

CAPTIVE NATIONS WEEK—1977 HONOR ROLL

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, at the close of each year the National Captive Nations Committee compiles an honor roll listing of those American leaders, institutions, and media that contributed to the success of the annual Captive Nations Week, as provided for in Public Law 86–90. It is my privilege to submit for the RECORD the honor roll for the 1977 Captive Nations Week. In addition, with an eye to the 20th Captive Nations Week observance next July, I submit also the commentary in the International Digest on "Americans Demand More Support for Captive Nations":

CAPTIVE NATIONS WEEK—1977 HONOR ROLL

PRESIDENT OF THE UNITED STATES

Jimmy Carter.

U.S. SENATE

Robert Dole, John Heinz, Thomas J. McIntyre, Charles H. Percy, Harrison (Jack) Schmitt, Harrison A. Williams, Jr.

HOUSE OF REPRESENTATIVES

Joseph P. Addabbo, Glenn M. Anderson, Frank Annunzio, John M. Ashbrook, Mario Biaggi, William S. Broomfield, J. Herbert Burke, James C. Cleveland, Barber B. Conable, Jr., Silvio O. Conte.

R. Lawrence Coughlin, Philip M. Crane, James J. Delaney, Edward J. Derwinski, John D. Dingell, Joshua Eilberg, Millicent Fenwick, Daniel J. Flood, Louis Frey, Jr., Benjamin Gilman.

Marjorie Holt, Frank Horton, Henry J. Hyde, Jack Kemp, Edward I. Koch, Peter H. Kostmayer, Joseph A. Le Fante, Norman F. Lent, Robert McClory, Joseph M. McDade.

Lawrence P. McDonald, Marc L. Marks, Morgan F. Murphy, Henry J. Nowak, Mary Rose Oakar, Richard L. Ottinger, Claude Pepper, John J. Rhodes, Peter W. Rodino, Jr., John H. Rousselot.

Eldon Rudd, Ronald A. Sarasin, Newton I. Steers, Jr., Samuel Stratton, Larry Winn, Jr., Lester L. Wolff, John W. Wydler, C. W. Young, Clement J. Zablocki.

GOVERNORS

Connectiut, Ella Grasso.
Illinois, James R. Thompson.
Massachusetts, Michael S. Dukakis.
Michigan, William G. Milliken.
Missouri, Joseph P. Teasdale.
New Hampshire, Meldrim Thomson, Jr.
New Mexico, Jerry Apodaca.
New York, Hugh L. Carey.
Utah, Scott M. Matheson.
Vermont, Richard A. Snelling.
Virginia, Mills Godwin.

MAYORS

Chicago (Ill.), Michael Bilandic.
Indianapolis (Ind.), William H. Hudnut, III.
Los Angeles (Cal.), Tom Bradley.
Miami (Fla.), Maurice A. Ferre.
New Orleans (La.), Moon Landrum.
Norfolk (Va.), Vincent J. Thomas.
Providence (R.I.), Vincent A. Cianci, Jr.
Rochester (N.Y.), Thomas P. Ryan.
Warren (Mich.), Ted Bates.
Worcester (Mass.), Thomas J. Early.

NEWSPAPERS/MAGAZINES/JOURNALS/REPORTS/ EDITORIALS/ARTICLES/COMMENTARIES

America Ukrainian Catholic Daily.
American Legion Foreign Relations Bulletin.
America's Future.
Anderson (Ind.) Herald.
Atlanta (Ga.) Constitution.
Birmingham (Ala.) Post-Herald.
Boston (Mass.) Herald American.
Buffalo (N.Y.) Courier Express.
Buffalo (N.Y.) News.
Chattanooga (Tenn.) News-Free Press.
Chicago (Ill.) News.
Chicago (Ill.) Tribune.
China Post (Taipei, Taiwan).
Christian Science Monitor (Boston, Mass.).
Cleveland (Ohio) Plain Dealer.
Columbus (Ohio) Citizen Journal.
Dallas (Tex.) News.
Dallas (Tex.) Times Herald.
Denver (Colo.) Rocky Mountain News.
Dorchester (Mass.) Argus-Citizen.
Lee Edwards (Washington, D.C.).
Flint (Mich.) Journal.
Free China Weekly (Taipei, Taiwan).
Gary (Ind.) Post-Tribune.
Human Events (Washington, D.C.).
Indianapolis (Ind.) Star.
Jamaica Plain Citizen (Boston, Mass.).
Kalamazoo (Mich.) Gazette.
Knoxville (Tenn.) News-Sentinel.
Lexington (Ky.) Herald.
Los Angeles (Calif.) Herald-Examiner.
Los Angeles (Calif.) Times.
Louisville (Ky.) Times.
Manchester (N.H.) Union-Leader.
Massachusetts Hyde Park Tribune.
Mattapan Tribune (Boston, Mass.).
Miami (Fla.) Herald.
Miami (Fla.) News.
Muncie (Ind.) Star.
New Orleans (La.) Times-Picayune.
New York News (NYC).
New York Times (NYC).
News World (NYC).
Parkersburg (W. Va.) Sentinel.
Philadelphia (Pa.) Inquirer.
Pilot (Boston, Mass.).
Portland (Oreg.) Journal.
Richmond (Va.) Times-Dispatch.
Rising Tide (Washington, D.C.).
Riverside (Calif.) Press.
St. Louis (Mo.) Globe-Democrat.
St. Louis (Mo.) Post-Dispatch.
San Gabriel Valley (Calif.) Tribune.
Santa Monica (Calif.) Evening Outlook.
Scranton Tribune (Scranton, Pa.).
Shenandoah (Va.) Herald.
Sioux Falls (Iowa) Argus-Leader.
South Pasadena (Calif.) Review.
Spokane (Wash.) Chronicle.
Sunday News-Union Leader.
Spotlight (Washington, D.C.).
Toledo (Ohio) Blade.
Tujouga (Calif.) Record-Leader.
Ukrainian Weekly.
Vancouver (Wash.) Columbian.
Washington Star (Washington, D.C.).
Welch (W. Va.) News.
West Frankfort (Ill.) American.
Wheeling (W. Va.) News-Register.
Whittier (Cal.) Daily News.
Worcester (Mass.) Telegram.

MISCELLANEOUS—STATE LEGISLATURE

Illinois House of Representatives.

INDIVIDUALS

George Meany, Honorary Chairman, National Captive Nations Committee/President, AFL–CIO.

Dr. Lev E. Dobriansky, Chairman, National Captive Nations Committee.

Andrew M. Greeley.

Dr. Ku Cheng-kang (Taipei, Taiwan).

Most Rev. Bishop Basil H. Losten.

Rev. Casimir Pugevicius (Lithuanian Human Rights Commission).

Orest Szczudluk.

Viktors Viksnins.

President Yen Chai-kan (Taipei, Taiwan).

ORGANIZATIONS

National Captive Nations Committee.

American Legion National Convention (Resolution).

Chicago Captive Nations Committee.

Manion Forum.

New York Captive Nations Committee.

[From the International Digest, August-September 1977]

AMERICANS DEMAND MORE SUPPORT FOR CAPTIVE NATIONS

President Jimmy Carter, who has made human rights a centerpiece of U.S. foreign policy, almost became the first president since 1959 and the enactment of Public Law 86–90 not to support the human rights of 1.5 billion people in the 30 captive nations.

Signed by President Dwight D. Eisenhower on July 17, 1959, the law states that "the President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as 'Captive Nations Week'."

The law further states that the President is "authorized and requested" to issue similar proclamations each year "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

But, unlike the five past presidents—Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, Richard M. Nixon, and Gerald R. Ford—President Jimmy Carter did not issue a Captive Nations proclamation until he came under so much political and public pressure that he *had* to do it.

CURIOUS INACTION

In May of this year, ACWF President Dr. Lev Dobriansky, chairman of the National Captive Nations Committee (NCNC), wrote to the President, reminding him of Captive Nations Week in July, and stressing its fundamental compatibility with human rights.

For the next two months, Dr. Dobriansky was in contact with various representatives of the Carter administration and at no time received any inkling that there would not be a presidential proclamation.

In the meantime, many members of Congress called attention to the importance of the 19th Captive Nations Week observance. "The importance of this observance," Rep. Edward J. Derwinski (R-Ill.) said on July 12, "is that it places emphasis on the denial of freedom and human rights to over 100 million non-Russians held captive within the U.S.S.R."

On July 14, Rep. Daniel J. Flood (D-Pa.) told the House that "the captive nations concept and the human rights one are supremely intertwined." He added, "July 17–23, Captive Nations Week, provides us with the forum to discuss human rights, especially while the Belgrade conference on the Helsinki accords remains underway."

On July 15, two days before Captive Nations Week was to begin, Dr. Dobriansky had to leave Washington, D.C. to fly to Cleveland to participate in a panel on detente. He asked NCNC executive director Lee Edwards to follow through on what he believed to be a pro forma statement.

"At approximately 4:30 p.m.," Edwards reported, "the Committee's executive director got through to Greg Treverton, a staff member of the National Security Council, who calmly revealed that there would be no presidential proclamation in 1977. . . .

"The NCNC director protested. He predicted there would be wide-spread disappointment over the President's inaction. Treverton responded that the non-proclamation should not be interpreted as a retreat by the President on human rights or national self-determination. The Captive Nations representative assured Treverton that failure to issue a proclamation would be seen as just that. . . ."

Since 1959 and through 10 Congresses, not only Presidents, but governors, mayors, state legislatures have issued Captive Nations Week proclamations. American organizations and citizens concerned about national security and cognizant of the Communist thrust toward world domination, remember the third week of July in their cities. Clergy observes the week in religious services. Internationally, Captive Nations Week is observed by many free nations.

SUDDEN REVERSAL BY PRESIDENT CARTER

At the midpoint of Captive Nations Week, opposition to the President's inaction mounted in Congress and throughout the nation.

In a sharply-worded letter to the President, NCNC chairman Dr. Dobriansky wrote:

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other communist totalitarian centers are doubtlessly happy and delighted by this generous inaction and certainly will weigh it accordingly.

"For one who is supposedly committed to human rights globally we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in strange contrast to your five predecessors you chose to ignore this traditional annual observance of Captive Nations Week that has consistently given coherent expression to human rights on the scale of over 27 nations held in communist captivity.

"Your indifference to this concrete issue reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy. We are appalled by this indifference. On record, it may be a cosmetic 'first,' but it is also a new low in this basic barometer of our foreign policy course toward the imperio-totalitarian part of the world."

On July 18, Sen. Thomas J. McIntyre (D-N.H.) stated that "we cannot ignore the plight of those formerly free nations now dominated by the Soviet Union." Sen. H. John Heinz III (R-Pa.) told his colleagues that "'it is fitting that we in the Senate should observe Captive Nations Week.

"It is fitting," he said, "because imperialism and colonialism still exist, . . . because despite our own freedom, there are millions of people in Europe, Asia and Africa oppressed by Communist regimes."

Sen. Robert Dole (R-Kan.) sent a telegram to President Carter "urging him to follow the lead of his distinguished predecessors." He said that the "oversight on the part of the White House has grieved thousands of Americans of East European ancestry . . ." "This oversight," he added, "if not corrected, will take on overtones which could seriously undermine the President's credibility in the human rights arena."

Andrew Valuchek, director of minority divisions at the Democratic National Committee, was reportedly among those who issued a special plea to the White House to come forth with a proclamation.

House members, in honor of Captive Nations Week, scheduled a special order July 20 which would have discussed President Carter's refusal to issue a statement.

Finally, at 11:30 a.m., July 20, about one hour before the House began the discussion, and four days into the Week itself, President Carter reversed his decision. A tardy and weakly worded proclamation was issued, designating July 17–23 as Captive Nations Week.

BIGGEST RETREAT SINCE NAPOLEON

To the surprise of American and foreign observers, the statement made no mention of communism, the Soviet Union, Communist China, Communist Cuba, or any of the 30 nations now under communism. It did not even contain the word "totalitarian," a well-known reference to the Soviet Union.

NCNC executive director Edwards called the statement "innocuous, bland, political boilerplate."

In a statement, Dr. Dobriansky said:

"We note that this deplorable misreading of the cause of captive nations follows closely the formation of the inter-agency committee on U.S.-U.S.S.R. relations—the first such governmental agency of its kind.

"We feel compelled to ask: Which is more important to this administration—human rights or relations with the Soviet Union.

"We will be watching very carefully the administration and the White House to determine the answer and how President Carter develops what he himself has called his 'crusade for human rights.'

"His near disastrous inaction on Captive Nations Week suggests that his commitment to his human rights crusade is growing lukewarm if not cold.

"If so, that is tragic news for the hundreds of millions living under communism who look to the U.S. and its leaders for encouragement, inspiration and hope for their individual freedom and national independence."

The Rising Tide wrote that the President's handling of the Captive Nations Week proclamation lends further evidence that his administration is doing everything to assuage the Soviet Union.

The Washington Star said that the President's statement marking the observance was "bland and devoid of allusions to Communist enslavement." "If," it wrote, "the Soviet leaders nurse genuine doubts about Carter's aim in regard to human rights, they should gain confidence from his statement on Captive Nations Week."

Human Events wrote, "This Carter effort to appease Moscow follows a series of other major accommodation moves, including cancellation of the B–1, the scrapping of the production of the Minuteman III missile, the elimination of an upgraded guidance system for the Minuteman II, the end to the hardline Foreign Intelligence Advisory Board, and a move to end the Jackson-Vanik amendment limiting trade with the Soviet Union."

The conservative weekly called President Carter's failure to proclaim Captive Nations Week "the biggest retreat before the Russians since Napoleon's army escaped Moscow in the winter of 1812."

TARNISHED OBSERVANCE

Rep. John M. Ashbrook (R-Ohio) said, "Unfortunately, President Carter's proclamation is weak, vague and useless." He recalled that in his 1959 declaration President Eisenhower "pointed the finger at 'Soviet Communism' as the tyrant."

Calling attention to reports that "the Carter administration might be abandoning free China in order to get closer relations with the oppressors of 800 million people on the Chinese mainland," Rep. Ashbrook said "this would be another setback for the hopes of all peoples throughout the world who love freedom."

Rep. Philip M. Crane (R-Ill.) said, "The 19th observance of Captive Nations Week has been tarnished this year by the very man who has attempted to identify himself with the issues of human rights and dignity."

Rep. Edward J. Derwinski (R-Ill.) stated, "Even though the liberal establishment looked down on Captive Nations Week observances as being obsolete, the facts of life are that there is not any subject that so directly affects world political, geopolitical, and military relations than the issue of the captive peoples and the totalitarian regimes which oppress them."

Rep. Mario Biaggi (D-N.Y.) noted that President Carter's "belated issuance" of a Captive Nations Week statement "represented a significant step backward" in "his announced campaign for human rights." He told the House that "many marches and observances have been conducted around the nation in honor of Captive Nations Week."

Sen. Dole said, "It is somewhat disappointing that the proclamation text was not more affirmative in its reference to the plight of Communist dominated nations. President Carter's proclamation, which appeared to be issued more or less as an afterthought, was much more terse and reserved in tone than those issued in previous years."

CONGRESSIONAL HOMAGE TO CAPTIVE NATIONS

Rep. Lester L. Wolff (D-N.Y.) stated in a House speech, "Let us commemorate Captive Nations Week by saluting the determined peoples of the captive nations in their struggle to obtain the human rights guaranteed to them by the Helsinki accords and international law, and let us spare no effort in assisting those peoples to live once more in freedom."

Rep. Benjamin A. Gilman (R-N.Y.) said that "only by seeking full implementation of . . . the Helsinki accords, and by consistent articulation of this Nation's commitment to the realization by all peoples of their human rights, can we advance the cause of those ideals outlined in our observance of Captive Nations Week."

Rep. Marjorie S. Holt (R-Md.) cautioned against "indulging in an exercise in futility," saying that "as we mark Captive Nations Week . . . let us conduct a self-examination to evaluate whether we are effectively responding to the threat of a totalitarian force that seeks control of the world."

Rep. Larry Winn, Jr. (R-Kan.) said that "by acknowledging Captive Nations Week we are reminding Soviet-dominated Eastern Europeans that we have not forgotten them."

Rep. Peter W. Rodino (D-N.J.) noted that "we cannot forget our commitment to the goal of securing the fundamental rights of all individuals," and that "now we must emphasize the cause of freedom in our relations with other nations until all the peoples of the world may celebrate their successful quest for human dignity and freedom."

Rep. James C. Cleveland (R-N.H) said that "it is very disheartening that the roster of nations under Communist domination grows longer with each passing year." "I am alarmed," he added, "by recent overtures made to several Communist governments, especially the proposals to assume diplomatic relations with Cuba, and to withdraw American troops from South Korea."

Rep. John H. Rousselot (R-Calif.) said that "it is truly unfortunate that America's current foreign policy seems to conflict with our respect for the human rights of the captive nations."

Rep. Millicent Fenwick (R-N.J.) drew the attention of her colleagues to "the tragic situation in the Baltic countries, the Ukraine, other captive nations in Eastern Europe, and in the world," and especially "the plight of the world's latest refugees, the Vietnamese, Cambodians and Laotians."

Rep. Morgan F. Murphy (D-Ill.) said that "the purpose of our Captive Nations Week observance is to express support for all nations held in subjection by the Soviet Union."

Rep. Henry J. Hyde (R-Ill.) suggested that "we should monitor closely the Soviets' compliance with the Helsinki accords."

Rep. Clement J. Zablocki (D-Wis.), chairman of the Committee on International Relations, while supporting efforts toward easing up tensions asserted that "our commitment to these goals does not mean that we accept or condone Soviet oppression over its own minorities or over the peoples of Eastern Europe . . ."

Rep. Peter H. Kostmayer (D-Pa.) said that "we must not limit our words to a single week." "We must," he added, "continue to raise our voices each day on behalf of those who still suffer."

Rep. Richard L. Ottinger (D-N.Y.) said that "extending our deepest sympathy to those oppressed peoples behind the Iron Curtain is only part of our responsibility."

Rep. Eldon Rudd (R-Ariz.) stated that in the spirit of Captive Nations Week, Secretary of State Cyrus Vance should do nothing "to interfere with or weaken in any way . . . our solemn commitment to the people of the Republic of China."

Rep. Ronald A. Sarasin (R-Conn.) reminded the House of a resolution he introduced on March 24, 1977, urging the U.S. not to recognize "the Soviet Union's unlawful annexation of Lithuania, Latvia and Estonia."

Rep. Jack F. Kemp (R-N.Y.) introduced a resolution outlining a "strategy for freedom." This resolution was first suggested, he said, by Russian dissident Vladimir Bukovsky and on behalf of thousands of people "whose courage is unequaled in standing up to the whole totalitarian machinery of the Communist world." In announcing the resolution, Rep. Kemp paid tribute to Dr. Lev Dobriansky, "whose help and leadership" on the Captive Nations issue is "deeply appreciated."

The strategy for freedom includes eight following points:

(1) Make U.S. trade with and economic aid to the Soviet Union dependent on Soviet observance of civil rights agreements;

(2) Demand that Soviet leaders admit observers to their prisons, prison camps, psychiatric hospitals and trials;

(3) Investigate infringement of civil freedom in the Soviet Union;

(4) Obtain free contact between Western groups which seek to bolster the Helsinki accords and similar groups which have spontaneously sprung up behind the Iron Curtain;

(5) Appeal to Moscow at the Belgrade conference as a signatory to the Genocide Convention, for the restoration of Ukraine's Orthodox and Catholic Churches;

(6) Urge the direct signations of Ukraine and Byelorussia, which are members of the United Nations, to the Helsinki accords while advancing the idea of direct diplomatic relations with these non-Russian republics;

(7) Advance the human rights issue by openly exposing all the accumulated cases of Moscow's continuing violation and deprivation of these rights within the USSR; and

(8) Press for accountability in terms of the U.N. Charter, the Declaration of Human Rights, and other legal instruments upholding human rights.

NATIONAL SALUTES TO CAPTIVE NATIONS WEEK

In his Captive Nations Week statement, AFL–CIO President George Meany was critical of "self-delusion," and the West's "blindness or indifference" to captive nations, saying that "there is no more important and burning issue today than that of human rights." He issued "calls for renewed and much stronger advocacy and action for human freedom."

Gov. William G. Milliken of Michigan said that captive peoples in the world "look to the U.S. as the vanguard of human freedom." Gov. Meldrim Thomson, Jr., of New Hampshire, urged "our citizens to observe Captive Nations Week with appropriate ceremonies and activities including strong opposition to the continuation of detente with Communist Russia and Red China."

Gov. Raul Castro of Arizona condemned "the imperialistic policies of Russian Communists," and called upon the American people "to offer prayers and dedicate their efforts for the peaceful liberation of the captive nations."

Vincent A. Cianci, Jr., Mayor of the City of Providence (R.I.), emphasized in his statement the fact that "all the personal freedom that we enjoy is still being denied many of our fellow human beings throughout the world."

THE FEDERAL RESERVE BOARD SELECTION REFORM ACT

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, when President Carter makes his decision in the coming months on the appointment or reappointment of a Chairman of the Federal Reserve Board for the next 4 years, it is important that his decision be based on the merits of each candidate for the position. However, under present Federal law, the President's decision may have to be based on where individual candidates live, rather than on how qualified they are to guide domestic monetary policy and make informed judgments about inflation and unemployment.

As my colleagues know, the Board of the "Fed" is composed of seven Governors, not more than one of whom may be from any 1 of the 12 Federal Reserve Districts. The term of office for the Governors is 14 years, with one person's term expiring every other year. The Chairman is designated by the President every 4 years. Thus, Arthur Burns' second term as Chairman expires next year, pending a decision by the President, but Mr. Burns' term as a Governor will continue until 1984.

The statutory problem facing President Carter is very simple. Should he decide to appoint a new Federal Reserve Chairman from outside the existing Board, he must restrict his choice to individuals from only 6 of the 12 Fed Districts. Under the current situation, an individual from Boise or Sante Fe is eligible for the chairmanship, while an individual from New York or Dallas is not.

While the geographic restriction may help assure diversity on the seven-member Board as a whole, there is no justification for arbitrarily restricting the President's ability to choose the best individual for the job of Chairman.

In 1952, Federal Reserve Chairman William McChesney Martin, who held that post from 1951 until 1970, called for the repeal of the provision that no more than one Governor be appointed from any one district. During that same year, the Joint Committee on the Economic Report, the predecessor of today's Joint Economic Committee, noted:

> If there were a member of the Board from Los Angeles, California, it would not be possible to appoint another member from Seattle, Washington, nearly 1,400 miles away. The removal of the limitation on the appointment of more than one member from any Federal Reserve District would permit more flexibility and make possible meritorious appointments in situations of this kind.

The legislation I am introducing today constitutes a narrower change than what was endorsed by the Joint Economic Report Committee and Federal Reserve Chairman Martin more than 25 years ago. It waives the "geographic rule" only as it applies to prospective Chairmen of the Fed, and continues to assure regional diversity on the Board itself. My bill will simply give President Carter—and all future Presidents—the flexibility they need to choose the most qualified person to chair the Federal Reserve Board.

Given the extremely important role the Federal Reserve Board plays in the formulation and implementation of our Nation's economic policy, it is incumbent upon us to correct any structural deficiencies in the Federal Reserve System. The Federal Reserve Board Selection Reform Act, which I am introducing today, represents a significant and timely improvement in the process of selecting a man or woman who will make critical decisions on matters affecting the American economy.

For the convenience of my colleagues, a text of this legislation follows:

H.R. 10309

A bill to amend the Federal Reserve Act to allow the President to appoint an individual to serve on the Federal Reserve Board whom he intends to designate as chairman who is from the same Federal Reserve district as a current member of the Board

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Reserve Board Selection Reform Act."

SEC. 2. (a) The second sentence of the first paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by striking out "In" and inserting in lieu thereof "Except as hereafter provided, in".

(b) The first paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by inserting immediately after the second sentence thereof the following: "Whenever the President appoints an individual to serve as a member of the Board whom he intends to designate as chairman, then such individual may be selected from any Federal Reserve district.

HUMAN RIGHTS AT BELGRADE

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. Fascell) is recognized for 10 minutes.

Mr. FASCELL. Mr. Speaker, while the United States has been observing the anniversary of the 1948 Universal Declaration of Human Rights this week at home, the American delegation to the Belgrade Conference has been pressing the cause of human rights abroad. That Conference—the first gathering of the 35 Helsinki signatory states to review the implementation of their 1975 accord—has been engaged for the last month in considering proposals to strengthen and speed the process of compliance. More than 80 proposals, of varying degrees of seriousness and specificity, have been offered. The ideas deal with everything from improving the opportunities for small firms to engage in East-West trade to speeding the time and lowering the cost of obtaining permission for the reunification of divided families.

This week, appropriately, the discussion in committee turned to proposals—made by Eastern as well as Western delegations—dealing with the human rights pledges of the signatories. Our European allies are seeking special recognition and respect for the work of individuals, such as the valiant members of the Soviet Helsinki Watch, in promoting implementation of the accord. The Vatican has offered special language to assure the free exercise of religious belief. And the U.S. delegation, ably headed by Ambassador Arthur Goldberg, has put forward a proposed reaffirmation of the importance of the fundamental Helsinki principle on human rights, including the freedom of thought, conscience, religion, or belief.

That U.S. proposal was formally offered by Ambassador Goldberg earlier this month. Monday, December 12, R.

Spencer Oliver—a member of the delegation and staff director of the Commission on Security and Cooperation in Europe—presented it and the reasoning behind it in a thoughtful statement of U.S. human rights concerns. Mr. Oliver also responded ably to some of the Eastern proposals on human rights, noting that a Hungarian proposal on the right to work could be strengthened by incorporating the recognition that—

> No person should be denied a job or fired from a job because he chooses to exercise rights guaranteed by provisions of the Final Act or other international agreements. We are particularly concerned when citizens of any participating State are dismissed from their jobs simply because they applied to emigrate, or because they practiced their religion, or because they exercised simple freedom of speech or assembly.

Such penalties have been imposed on people in Czechoslovakia, Romania, and the Soviet Union, and Mr. Oliver noted that the United States has "taken note of this regrettable practice and protested against it in many other forums, including this one."

But the bulk of his address was devoted to arguing the need for a fresh pledge by the Helsinki signatories to put their original human rights promise into practice. Citing, in particular, the harsh jail sentences given to two Ukrainian Helsinki monitors this year—Mikola Rudenko and Oleksei Tykhy—he pointed out that violations of human rights have preoccupied U.S. policymakers since Secretary of State George Marshall told the United Nations nearly 30 years ago:

> Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people.

Excerpts from Mr. Oliver's address follow. They are an appropriate reminder of the work the U.S. delegation is engaged in at Belgrade and of the concrete way in which our Nation commemorates Human Rights Week:

EXCERPTS FROM REMARKS OF R. SPENCER OLIVER, FOR THE U.S. DELEGATION AT THE BELGRADE CONFERENCE

We believe that this renewed commitment is necessary and appropriate, especially since so much attention here and in other forums has been devoted to the discussion of implementation—or lack of implementation, of the important promises made in Principle Seven. As President Carter, in his report to the Commission on Security and Cooperation in Europe, said a few days ago "The broad principles of Basket One concerning relations among states continue to be better respected than those principles concerning relations between states and their peoples, though genuine security in Europe requires removal of the threat of arbitrary arrest or persecution no less than removal of the threat of war."

We are concerned, therefore, when we observe repeated violations of human rights in certain countries, violations which directly contradict the promises which were made in Helsinki more than two years ago. We are also concerned when some signatory states, whose record on human rights is particularly poor, refuse to even discuss these matters in this important forum. We cannot help but notice the inconsistency of these positions when, for instance, one country two days ago celebrated human rights day by unleashing a barrage of criticism against my country and other Western nations through their official media and propaganda organs, while at the same time holding under house arrest those citizens who wanted to merely assembly peacefully to silently join their friends and colleagues in observance of this important day.

And, Mr. Chairman, we are gravely concerned about the fate of those men and women who have been subjected to harassment, arrest, imprisonment, and exile because they did nothing more than to take seriously the promises made by all of us in Helsinki.

My delegation has mentioned the names of some of these people in the Plenary and in Basket III. As the chairman of our delegation has said, we do not mention names to be confrontational, but merely to illustrate our concerns over lack of implementation of the human rights provisions of the Final Act by certain countries. We have expressed our specific concern for the members of the Helsinki Monitoring Groups because we feel that the treatment they have received should be of direct concern to this Belgrade meeting. We have spoken forthrightly of our concern for the fate of those who sit today in prisons without contact with their families or lawyers, without charges formally against them, in violation not only of the Helsinki Final Act, the Universal Declaration and the Covenants on Civil and Political Rights, but also in violation of rights supposedly guaranteed by their own laws.

There are others, like Mykola Rudenko and Oleksei Tykhy, founders of the Ukrainian Group to Promote Observance of the Helsinki Accord in the USSR, who were given maximum sentences—12 and 15 years loss of freedom, respectively—for merely exercising the rights which Principle Seven guarantees. We could go on and mention other names, other denials of fundamental human rights, including the names of political prisoners, of people who are in prison or exile because they merely sought to practice their religion or to express their opinions or thoughts, or follow the dictates of their conscience. It is sufficient, at this time, however, to say only, as Vice President Mondale said a few days ago when he spoke on behalf of human rights activists, that their lives "are a testament to moral courage like few we will see in our time, and because of their courage . . . because of their unyielding commitment to liberty . . . those who enter the moral conflict . . . all those struggling to be free . . . have companions in every corner of the world today."

HELPING URBAN CONSUMERS UNDER THE PROBLEMS OF OUR NATION'S FARMERS

The SPEAKER. Under a previous order of the House, the gentlewoman from Kansas (Mrs. KEYS) is recognized for 5 minutes.

Mrs. KEYS. Mr. Speaker, on Wednesday, December 14, 1977, the first day of the agriculture strike, I sent letters to the editors of more than 100 of America's largest newspapers explaining why I think the Nation's farmers deserve higher prices for their products. It is my firm belief that one of the main benefits of the strike has been the publicity it has created for the farmers' problems.

The farmers' message is being heard. It has caught the attention of Members of Congress. Equally important is that the message should be heard and understood by urban consumers who buy groceries but have had little knowledge of the farm situation until the national media coverage being given to the current strike and last weekend's farm rallies. I have tried to carry the farmers' message back to Washington to my fellow Members of Congress and to Agriculture Secretary Bob Bergland. It is my hope that the letters to the editors will help carry the message of Kansas farmers to urban residents as well. The text of the letter follows:

WASHINGTON, D.C.,
December 14, 1977.

DEAR EDITOR: As a Member of Congress from Kansas, I would like to share a few observations that may help urban consumers understand the nation's farmers as they make a dramatic plea for help.

Agriculture is unique as a business. Individual families put up the hundreds of thousands of dollars to buy land, combines, tractors, discs, irrigation systems, and truck to farm—all equipment necessary to grow wheat, corn, soybeans, milo, oats and barley which become the food on the shelves in grocery stores across the country. The collective results of these thousands of family farmers add up to one of the biggest industries in this country—greater in capital investment and greater in cash receipts from sales than General Motors, for example.

But it is an industry on the brink of bankruptcy. The gravity of the situation was pointed out in the results of a recent survey of more than 300 Kansas bankers. Those bankers reported that at least 55 percent of their farmer customers lost money last year; 9 percent are in grave financial trouble; and 35 percent required refinancing of their land or other assets to service their loans. The farmer is having to borrow even more money to continue operating today while he hopes for better years in the future. He is the eternal optimist. But that optimism is costing him an overwhelming amount in interest payments on his loans.

If improvement in economic conditions on the farm is not realized soon, the character of American agriculture will change from a family-based operation to a corporate-dominated enterprise. This will be detrimental to the interests of both individual farmers and urban consumers.

The farmer has been caught in the impossible spiral of inflation in producing crops and pulled at the same time by the downdraft of lower prices in the marketplace as he sells his produce.

It is obvious that grocery prices have gone up along with everything else in these inflationary times. It costs $18 for the same bag of groceries that $10 would buy in 1967. But that is not because of the price the farmer is getting. This year the prices received by farmers for their products compared to the prices they must pay for goods they buy reached a 44-year low and the farmer's share of the food dollar has dropped to 38 cents.

Farmers must have a fair return for their investment and labor. We cannot continue to ask the American farmers to carry the whole burden of the risks taken in producing food and fiber for this country and the world. The farmer is the most efficient food producer in the world. He stands ready to produce enough food to feed a hungry world, but we must all share the cost of doing that.

We can no longer take the family farmer for granted. He is becoming an extinct species. The average age of the farmer today is more than 50 years old. Young people who want to farm are unable to because they don't have the hundreds of thousands of dollars to buy machinery and land.

As a country, we have made a commitment to preserve the family farmer because he gives us the most efficient way to produce food. The family farm prevents a large corporation, either domestic or foreign, from controlling food production; and it preserves a rewarding and satisfying way of life.

But the economic trend is working against him. And the consumer will feel the impact eventually if we do not work together to provide a better price for farm products and support a system which preserves the small family farmer.

The farm strike cuts across partisan politics. The plight of farmers has bound them together in an unprecedented attempt to organize to protest their dire economic circumstances. I hope it will also provide the communication and awareness to build a bridge between farmers and consumers. It's a fact—if the family farmer wins, the consumer also wins; if the farmer loses, the consumer also loses.

Sincerely,

Martha Keys,
Member of Congress.

LEGISLATION TO REVISE QUOTAS ON BEEF AND OTHER MEAT IMPORTS

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, the nationwide farmers' strike that began this week clearly demonstrates the seething discontent among farmers all across the country. Outnumbered better than 20 to 1 by other consumers, the producing farmers have now joined the ranks of vocal minorities that are dissatisfied with the manner in which they are treated by the majority. The farmers' strike has gained the attention of the urban majority. At this point, one might ask, What do we do now? There is no single, simplistic solution to alter the economic decline of the American farmer. On the contrary, a number of remedies will be necessary in order to provide the American farmer with a fair return on his investment.

One place to start is with the beef producer. I am introducing legislation today which will revise quotas on beef and other meat imports. I am convinced that depressed domestic cattle prices are directly traceable to both the amount of meat coming in and the way it can come into the United States.

A new Government program is not necessary for profit, but an opportunity for domestic beef producers to compete is needed.

My bill makes three major changes in the Meat Import Quota Act of 1964. First, the bill amends the definition of that meat which falls under the act to include all imports, no matter how processed. Second, the bill reduces the "trigger" for imposition of quotas from 110 to 100 percent of the imports in the 1964 act. This change will remove the heretofore routine allowance of an extra 10 percent of imported beef flooding in each year.

Third, the act currently allows the President to suspend quotas and allow increased import levels if he deems it in the national interest. My bill would allow the President to suspend quotas and decrease import levels if he deemed it to be in the national interest.

I believe this legislation will best serve both the consumer and the producer of beef as it will let the law of supply and demand restore stability to the domestic beef market.

The text of my proposal follows:

H.R. 10367

A bill to amend the provisions of Public Law 88-482 relating to the imposition of quotas on certain meat and meat products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (Public Law 88-482; 78 Stat. 594) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) It is the policy of the Congress that the aggregate quantity of the meat of cattle, goats, and sheep (except lambs), whether fresh, frozen, chilled, cooked, canned or otherwise processed, which may be imported into the United States in any calendar year beginning after December 31, 1978, shall not exceed an amount which bears the same relation to the domestic commercial production of such meat in such year, as the imports into the United States of such meat bore to the domestic commercial production of such meat during the years 1959 through 1963, inclusive.";

(2) in subsection (c) by striking out "110 percent of" each place it appears in paragraphs (1) and (2);

(3) in subsection (d)—

(A) by inserting "(1)" after "(d)";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"(2) The President may suspend any proclamation under subsection (c), or decrease the total quantity proclaimed under such subsection, if he determines and proclaims that the domestic supply of articles described in subsection (a) will be in excess of the amount necessary to meet domestic demand at prices at least equal to the average national cost of production of such articles.

"(3) Any suspension under paargraph (2) or (3) shall be for such period, and any increase or decrease under such paragraphs shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.".

ANNOUNCEMENT AS TO VOTES

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Danielson) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, due to official business of the Committee on the Judiciary, I was compelled to be absent from five rollcall votes on Tuesday, December 6, 1977, and from nine rollcall votes on Wednesday, December 7, 1977. I would like to announce how I would have voted had I been present.

TUESDAY, DECEMBER 6, 1977

Rollcall No. 761. The House agreed to House Concurrent Resolution 432, to assure quality health care for populations in rural areas. I would have voted "yea."

Rollcall No. 762. The House adopted House Resolution 917, the rule under which House Joint Resolution 662—making further continuing appropriations for fiscal year 1978—was considered. I would have voted "yea."

Rollcall No. 763. The House rejected an amendment to the previous amendment to House Joint Resolution 662—providing continuing appropriations for the Department of Labor and Health, Education, and Welfare—that sought to add compromise abortion language to the amendment. I would have voted "yea."

Rollcall No. 764. The House agreed to a preferential motion to recede and concur in Senate amendments Nos. 2, 5, 8, 10, 15, 25, 29, 31, 32, 35, 44, 48, 49-51, and 53, to H.R. 9375—making supplemental appropriations for fiscal 1978. I would have voted "yea."

Rollcall No. 765. The House insisted on its disagreement to Senate amendment No. 43 to H.R. 9375; clearing the measure for Senate action. I would have voted "nay."

WEDNESDAY, DECEMBER 7, 1977

Rollcall No. 767. The House agreed to the conference report on H.R. 9418, to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such Act—clearing the measure for the President. I would have voted "yea."

Rollcall No. 768. The House agreed to the conference report in H.R. 6666, Legal Services Corporation Amendments of 1977. I would have voted "yea."

Rollcall No. 769. The House agreed to consider House Resolution 928, the rule providing for the consideration of the Senate amendments to House Joint Resolution 662, making further continuing appropriations for the fiscal year 1978. I would have voted "yea."

Rollcall No. 770. The House rejected a motion to concur in the Senate amendments to House Joint Resolution 662. I would have voted "yea."

Rollcall No. 771. The House agreed to House Resolution 916, the rule providing for the consideration of S. 1340, to authorize appropriations to the Energy Research and Development Administration for energy research, development, demonstration, and related programs in accordance with section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended. I would have voted "yea."

Rollcall No. 772. The House agreed to the conference report on H.R. 3722, authorizing appropriations for the Securities and Exchange Commission for fiscal year 1978—clearing the measure for the President. I would have voted "yea."

Rollcall No. 773. The House agreed to the conference report on S. 305, to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records and to prohibit bribes—clearing the measure for the President. I would have voted "yea."

Rollcall No. 774. The House agreed to consider House Resolution 929, the rule providing for the consideration of the Senate amendments to House Joint Resolution 662—making further continuing appropriations for the fiscal year 1978. I would have voted "yea."

Rollcall No. 775. The House agreed, with an amendment, to Senate amendment No. 2 to House Joint Resolution 662, concerning conditions under which there may be Federal funding for purposes of performing abortions; returning the measure to the Senate for further action. I would have voted "yea."

REFLECTIONS UPON THE RETIREMENT OF CONGRESSWOMAN BARBARA JORDAN

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

Mr. ROBERTS. Mr. Speaker, I listened with deep regret to the statement by my colleague, BARBARA JORDAN, when she anounced that she did not intend to seek reelection to Congress.

Ms. JORDAN has served her congressional district, the State of Texas, and this Nation with strength, integrity and distinction. Her way was the quiet way. She gained converts for her points of view through persuasion, not harangue. Some of her colleagues did not realize her gentle manner disguised a steel-trap mind and they made the mistake of challenging her. Inevitably, she prevailed. Those who opposed her came to love her.

With her gift of oratory, she could have risen to great heights of power if she had chosen the way of the demagog. She must have had temptations for she cared deeply about the plight of the poor, the jobless, the underprivileged. Their aspirations were her aspirations.

Mr. Speaker, I respect Ms. JORDAN's wish to define her goals and seek new directions. She stands in the first rank of this Nation's leadership, but it is a measure of her greatness that she is stepping back from all that and asking guidance.

Knowing her as I do, Mr. Speaker, I know she will acquit herself with distinction in any endeavor she undertakes. It is my hope, however, that her public service is not at an end. Texas, the Nation and, indeed, the world cries out for the leadership she can give us.

I fervently hope the future finds her back in public service once again. The Nation needs her.

YET ANOTHER U.N. CONDEMNATION OF ISRAEL

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

Mr. SCHEUER. Mr. Speaker, yesterday, the United Nations adopted 14 anti-South African resolutions including one censuring Israel for its economic relations with South Africa. Many commentators on the Mideast scene have observed that the anti-Israel resolution is just another example of the hypocrisy of the U.N. General Assembly.

Rather than add words of rhetoric to this newest of U.N. controversies, I would like to provide my colleagues with an impartial sampling of some of the facts and statistics I have come across in my scrutiny of this issue.

For starters, an examination of South African trade figures is in order. In 1975, the last year for which complete figures are available, South Africa had $14.5 billion in exports and imports. Israel was involved in two-fifths of 1 percent of all of this trade or about $50 million. The South African Foreign Trade Organization in Johannesburg estimates that South Africa's dealings with black Africa total a billion dollars in exports and half a billion dollars in imports annually—about 30 times Israel's trade with South Africa.

The aggregate investment figures do not paint too different a picture. Of more than $19 billion of foreign capital invested in South Africa, only 0.005 percent was invested by Israel. However, the rest of Africa invested more than $400 million in South Africa or almost 500 times the Israeli investment.

It has been suggested that these high trade figures between South Africa and the rest of black Africa are phenomena of the past when the other African nations were under imperial control. However, juxtaposition of the 1975 data against available 1976 data suggests that the economic ties between South Africa and black Africa are growing. In the first 5 months of 1975 South African trade with black Africa was just over $300 million. In the first 5 months of 1976 that figure had grown to almost $400 million.

Data for individual African countries is hard to come by; in fact, the Congressional Research Service, the State Department, the Commerce Department, the World Bank, and the International Monetary Fund all inform me that they have never seen individual African country breakdowns.

However, I have been able to develop a list of 19 black African nations with formal trading relationships with South Africa. It is only logical to assume that the countries with the formal trading relationships with South Africa are the very same countries trading with South Africa.

The following countries all voted yes in yesterday's U.N. resolution despite the fact that they all have formal trading relationships with South Africa: Angola, Botswana, Chad, Congo, Gabon, Ghana, Lesotho, Malagasy, Maurtius, Mozambique, Nigeria, Senegal, and Zambia. Additionally, the following countries either abstained or were absent despite the fact that they, too, have formal trading relations with South Africa: Central African Empire, Ivory Coast, Liberia, Malawi, Swaziland, and Zaire.

The statistics paint an all too clear picture: The very group of countries which voted in favor of a resolution indicting Israel for having economic relations with South Africa actually has far more significant economic ties with South Africa than Israel herself.

There are also several other facts which further document the significance of the economic ties of both black Africa and the Soviet Union, a leading sponsor of the anti-Israel resolution:

There is a joint venture between South African Airways and Air Botswana to charter planes to fly freight between South Africa, Zambia, the Central African Empire, Gabon, the Ivory Coast, and Kenya.

The South African regime is the second largest customer for Mozambique's exports in the world.

Roughly 35 percent of Malawi's imports come from South Africa.

Ten Lockheed Hercules freighters make regular trips from South Africa to both Malawi and the Congo with loads of fresh fruit and maize.

A major industrial company in South Africa has just signed a $2 to $3 million contract with Nigerian interests to set up an engineering firm in Nigeria.

South African engineers are involved in repairing and otherwise supporting black African railroads for such diverse nations as Mozambique, Swaziland, Zambia, and Zaire. Further, airplanes owned by Mozambique and Malawi are serviced in South Africa.

One-third of the entire world's gold supply in 1976, mostly from South Africa, went to the oil-rich Middle East. Countries receiving significant quantities of the 500 tons of gold included Saudi Arabia, Iraq, the Gulf States, and Iran. All of them either voted in favor of or abstained from voting on the anti-Israel resolution.

CBS news and the Washington Post both reported that more than half of South Africa's imports of arms for private sale come from the Soviet Union. In fact, the Post reported that—

> It is estimated that the (Soviet) bloc supplies up to half of South Africa's private weapons, such as Soviet made Baikal shotguns and Czech Brno automatic rifles. They are displayed in arms shops next to American made Colt pistols.

Finally, according to testimony before the Fourth Committee of the U.N. General Assembly, the five major sellers of oil to South Africa—Shell, Mobil, Caltex, Total, and British Petroleum—actually sell OPEC oil to South Africa which South Africa in turn sells to Rhodesia.

Mr. Speaker, the ironies in this recitation are many and obvious, and the bottom line is undeniable. Israel's economic relationship with South Africa is miniscule in comparison with the economic relationships between the black African nations, the oil-rich Middle Eastern nations, the Soviet-bloc countries, and the South Africans.

THE BALANCE(S) OF POWER SERIES: BOOK I—CONCLUSION

The SPEAKER. Under a previous order of the House, the gentleman from Kentucky (Mr. BRECKINRIDGE) is recognized for 5 minutes.

Mr. BRECKINRIDGE. Mr. Speaker, during the last session of Congress, I was privileged to insert a series of articles in the CONGRESSIONAL RECORD, detailing in part the major shift in "The Balance(s) of Power" underway between the Soviet Union and the United States.

The purpose of the Balance(s) of Power series is to present to the administration, the Congress, and to the American people through the libraries across the nation containing the CONGRESSIONAL RECORD, a carefully documented, discussion-provoking set of views prepared by current leading thinkers in the field of national defense, so designed as to stimulate thinking about military trends and where we are headed if the Congress, the administration and the American people do not take the necessary steps to turn us around.

The first insertion in my Balance(s) of Power series appeared in the March 17, 1976, issue of the CONGRESSIONAL RECORD—pages 6980 and 6981. I detailed in that issue my plans to publish a variety of subject areas relating to the U.S.-U.S.S.R. military balance. Today, Mr. Speaker, marks the conclusion of book I of this ongoing and continuing series. Included within this part can be found articles relating to seven broad areas: First, U.S. Strategic Situation; Second, A Panoramic Perspective; Third, Strategic Offensive Balance; Fourth, Strategic Defensive Balance; Fifth, Armed Forces Balance; Sixth, Naval Forces Balance; and Seventh, Tac Air Balance. A list of these articles from March 17, 1976, to November 4, 1977, detailing the number, author, date and subject matter is provided at the conclusion of those remarks.

At this time, I wish to express my deep appreciation to John M. Collins, senior specialist in national defense for the Library of Congress, and to Douglas Mitchell, Mr. Collins' research assistant, for their guidance, assistance and advice in the preparation of selections for the series for the 94th and 95th Congresses. I also want to say that I look forward to continuing to work with them to the extent that their demanding schedules and important duties permit, including preparation of a 1978 U.S.-U.S.S.R. military balance study to update previous reports prepared by Mr. Collins.

The Balance(s) of Power series will continue in the next session, Mr. Speaker, and will concentrate, in book II, on including a look into the balance(s) of the Soviets and the United States in the area of geographic factors, budget, scientific and technological advances, agriculture and industrialization, and the broader perspectives of the balances in Europe, East Asia, Middle East, Indian Ocean, Africa, and Latin America. In each case, the series will relate coverage to the crucial U.S. security interest of survival, physical security, peace, national credibility and freedom of action.

Mr. Speaker, during the course of the series, we have examined many facets of the national defense debate. There is no doubt in my mind that the balance of United States and Soviet military strength is clearly shifting across the board in the Kremlin's favor. That is not an inflammatory statement. It is a straight-forward fact.

In my first CONGRESSIONAL RECORD selection of March 17, 1976, I declared that—

> In the early 1960's, this country still occupied the pinnacle of world power, secure at home and strong overseas . . .
>
> Thereafter, some U.S. Armed Forces improved technologically, but a relative decline in combat power characterizes many others in comparison with the Soviets . . .
>
> For the first time since the American Revolution a competitor has the capability to destroy this Nation if it cares to run the risk . . .

I propose herein to examine each of the subparts contained within the Balance(s) of Power series to elict the salient facts and critical comments made by the authors of the articles.

INTRODUCTION

The enjoyment of enduring freedoms demand the continued strength to uphold them. That strength can take any number of forms, such as the strength of tradition, the commitment to certain ideals, the belief in values which transcend the individual, and the will and determination of a people to prevail. Or strength may be found in more tangible forms, such as productivity, economic growth, or relative stability. A critical area of national strength—and one which lends itself comparatively well to measurement—is military strength. As Adm. Stansfield Turner, presently Director of Central Intelligence, has written in a selection appearing in my balance of power series, the evaluation of military strength—and especially of opposing military strengths—is more than a "numbers game." But let us not therefore turn to the other extreme and disregard the quantitative realities entirely. Numbers can be very revealing of some basic conditions, and even some stark realities:

Is our military power in measurable terms keeping pace with the interests we may be called upon to defend?

Is our military strength sufficiently recognizable to deter potential aggressors?

Are our military capabilities equal to the challenge of any potential adversary?

And are those capabilities in relative growth or decline?

Clearly, there are pitfalls to a side-by-side comparison of weapons inventories, force levels, shipping tonnage, or what-have-you. A rational assessment of the military balance must be based on a look at opposing forces and opposing capabilities. Even that approach must be conditioned by qualitative variations and differences in the respective cultural characteristics and national needs which create military missions of a different profile from one country to another. But qualitative considerations and inherent asymmetries among nations do not obscure and cannot negate the realities of the military balance measurable in terms of usable destructive or combat power.

In my military balance series, several authors have urged caution in the use of unqualified data; and certainly static "snapshots" of the balance of forces can be misleading. But especially if the focus of our attention is on the trends which such figures outline—as my series has attempted, the conclusions reached warrant very careful consideration. On the basis of facts which clearly stand out through all the caveats, I have been forced to conclude that all the people of this country should be as concerned as I am about the ongoing shift in the military balance.

The challenges to the free societies and open governments of this world are many. There are some dangers against which we can only partly guard ourselves; some would, therefore, despair of any hope for exercising control over our destiny. I would argue just the opposite: that it is all the more reason to take those prudent steps which are effective and which do assure our survival as a vital, leading, democratic nation. By this I mean such steps as may contribute to our ability to encourage peace, protect the security of the American people, and maintain American freedom of action in pursuit of our legitimate goals.

SOVIET SUPERIORITY

A clear danger today is the achievement by the USSR of military preponderance. It has been my purpose over the last 2 years, in my balance of power series—as it is the purpose of my remarks today—to present the facts of this emerging imbalance of power which threatens vital U.S. interests.

Over the past years, the Soviet Union has been making steady gains:

First, nuclear weapons and ICBM's designed to attack this country, and in a manner which suggests that such an attack, to them, is anything by "unthinkable."

In strategic missile submarines, where older models nevertheless have a 58 to 41 advantage over the U.S. Fleet.

In its expanding fleet of naval vessels well-armed to challenge American freedom of movement on the high seas as well as in strategic waterways—a freedom of movement, by the way, which we have come to take too much for granted.

In their attack submarines, where 254, many armed with antiship missiles for which we have no counterpart, critically outnumber our 74.

In their new and expanding bomber fleet, featuring the Backfire bombers, which presents an immediate improvement in Soviet Antisubmarine warfare capabilities, and potentially a long-range bombing threat against the continental United States such as has never before existed.

In an ever-growing air force whose ability to intercept penetrating aircraft makes a mockery of our air defenses.

In their mobile missile systems designed to launch a nuclear attack on our NATO allies, who stand undefended against such aggression.

And in their inventory of increasingly modern and capable tanks, now outnumbering U.S. tanks by a ratio of 7 to 1.

During the same time, the number of deployable ground forces in the Soviet Army has grown from a numerical advantage of 2 to 1 over our troops to a present advantage of over 3 to 1.

What all these figures have in common is that the gap in measurable military capabilities is being widened not by Soviet expansion alone but by concurrent U.S. reductions as well.

All these Soviet gains would be cause for concern in any event, because in today's volatile world, any such escalation in armed power adds to our self-destruction potential, contributes to international tension, and creates undesirable pressures on those nations least able to withstand them. But the recent Soviet gains are especially unsettling because they have resulted in some cases in outright Soviet superiority over U.S. forces, and in other cases, in a level of military strength which rivals ours as never before. The net effect is that the Soviet military machine is now in a position to mount a credible threat to U.S. interests in many places and in many ways around the world.

This has become possible, of course, because generous U.S. commitments have been made to friends around the globe; and conversely, because the Soviet methods of encroachment have historically permitted them the advantage of interior lines of communication and the economical role of spoiler.

It is with an eye to just that past pattern that we must now recognize how Soviet capabilities have outgrown the past methods of indirect confrontation. The full potential for Soviet challenge to U.S. security is being realized only now—with the steady and dramatic growth in Soviet military might. More important, especially for those who would see fit to act, is the fact that this growth is going unmatched by the United States; and in some cases, incredibly enough, this growth is going ahead with the explicit blessings of the United States. We are allowing ourselves to be overtaken; and our actions even seem to encourage it.

ARMS CONTROL

Anyone concerned about the escalation of armed power around the world of course must give reasonable attention to the possibility that international stability in general and U.S. security in particular can best be assured by instituting a controlled military relationship between the two superpowers: a relationship in which neither the United States nor the U.S.S.R. could achieve an exploitable margin of armed advantage over the other.

The humane hope for the workability of this arms control solution has very likely contributed to the reticence of responsible American leaders to close the door on further Soviet advances. In the self-evaluation after Vietnam, Americans have become so self-conscious about the possibility of our provocativeness that we have not taken sufficient notice to be provoked ourselves.

There comes a time when the American people must hold their leaders accountable for the results of their experiments with history. That time is now, and the results of the policies known as "essential equivalence" or "parity" must be recognized as unacceptable.

Former Secretary of Defense, Donald Rumsfeld, declared in our February 9, 1977, selection entitled "U.S. Army Force Design," that—

> If the trends of the past 5 or 10 or 15 years—of Soviet military expansion and U.S. contraction—are permitted to continue, we would clearly arrive, at some point, where we could not say that we had sufficiency or rough equivalance. The long and the short of it is that, unless we act now to arrest those trends, the United States would move into a position of inferiority to the Soviet military capabilities.

STRATEGIC OFFENSIVE

In strategic offensive weapons, where the terms have their origins, the Soviet Union has indeed been doing a great deal of "catching up." Since 1972, the nuclear arsenals of the United States and the Soviet Union have been developed within the guidelines of strategic arms limitations which were intended to reduce the threat of nuclear war. In that time, the number of U.S. missiles—including all ICBM's and submarine-launched missiles—has remained constant at 1,610. Corresponding Soviet missiles have increased from 2,024—already then outnumbering ours—to 2,391.

By incorporating the technology known as MIRV (multiple, independently-targetable reentry vericles), the United States gradually improved its nuclear deterrent without building additional missiles. The number of warheads that could be directed to a target grew from 3,858 in 1972 to 6,842 this year. The combined power of those weapons is today over 1,400 megatons.

The Soviets, on the other hand, not only took advantage of a much higher numerical limit on their missile forces, but made modifications to existing facilities and installed modern, large replacements for smaller missiles. Their actions were clear violations of the spirit of the SALT agreement, if not the letter of the agreement as manipulated by Soviet semanticists. The larger size, rocket thrust, and throw-weight of the new Soviet missiles thus acquired have paved the way for them to use the same MIRV technology to deploy as many as 3,475 warheads but now with the explosive power of over 7,200 megatons.

Land-based ICBM's are not the only areas of concern. In submarine-launched ballistic missile, where the Soviet Union and the United States stood at equal numbers at the beginning of the decade, the Soviets now outnumber us by 36 submarines, giving them close to 200 more ballistic missiles than we have for deployment underwater. Soviet gains are continuing not only in number, but in the quality of their systems as well.

These numbers are all too meaningful: The game of catchup has long ended; to maintain otherwise is to delude ourselves.

The numbers reveal not only the growing size of the Soviet threat, but the direct character of that threat. Unlike U.S. strategic offensive forces, structured to prevent aggression, the Soviet missile forces are being designed with the added capability to attack U.S. missiles directly. Although we pray that we will never know from experience, experts in this country are increasingly expressing their convictions that the Soviet missile forces being built today could succeed in nullifying the retaliatory power of U.S. ICBM's.

SOVIET INTENT

These numbers are critical for two more reasons. First, they show that the Soviets reject the idea of equality with the United States as a satisfactory goal. Unless the United States responds with assurance, the Soviet actions will lead them to strategic primacy.

Second, they show that the concepts of mutual deterrence around which our plans for strategic forces and our hopes for arms control were based are not mutually shared by the Soviet Union. Not content just to catch up, the Soviets have been catching up for a reason: to get ahead.

This second conclusion is further supported—and made all the more disturbing by the notable efforts being made by the Soviets in the field of strategic defense: An area of concern virtually abandoned in this country, and considered frivously when considered at all.

The strategy of deterrence which we have embraced, and about which we are supposedly "educating" the Soviets, is based on the idea of mutual vulnerability: "I can make you hurt just as badly as you can hurt me." The name often given to this policy, mutual assured destruction, refers to the assumption that neither side will initiate a nuclear attack on the other so long as he is faced with the high probability of a retaliatory nuclear strike of devastating effect.

As hardened missile silos, quick-reaction bombers, underwater submarines, and now perhaps mobile missiles have decreased the vulnerability of the Soviet means to wage war, the weapons of deterrence have been trained on the will to wage war. The threat of assured destruction, in other words, is against the people and their means of support.

By the ABM treaty of 1972, the United States and U.S.S.R. have agreed for all practical purposes not to use antiballistic missile systems to defend against nuclear attacks.

This means that the populations of our two countries for quite a few years now have been held as hostages, in effect, by the other country, as guarantees against all but the most suicidal of nuclear attacks.

But a change is taking place: Some protection from the effects of nuclear attack is offered by passive defense; and Soviet activities in that area have opened up an important gap in United States/Soviet defensive balance: A "vulnerability gap." By undertaking blast shelter construction, stressing the dispersal and protected construction of industrial plants, and by introducing evacuation plans for city populations, the Soviets are succeeding in making their population and production base much less of a hostage than ours is. Consequently, for the Soviet Union—and only for the Soviet Union—the launching of a nuclear attack is beginning to look less and less suicidal.

STRATEGIC DEFENSE

Among others, 40,000 regular civil defense troops and millions involved in paramilitary programs are working alongside universal training programs to prepare for massive civil defense measures should they be ordered. By making war survival a goal, the Soviets are showing their disdain for mutual assured destruction. Although hard data about Soviet civil defense protection is scarce, shelter and evacuation programs show that the Soviets are doing their best to put disdain into action and make mutual deterrence far from mutual. Leon Goure, of the Center for Advanced International Studies, wrote in our July 28, 1976 article entitled "War Survival in Soviet Strategy," that the Soviet civil defense structure stresses:

> Preservation of industrial production capacities . . . Civil Defense has now become very much a part of the Soviet life, involving all segments of State activities . . .

In fact, we now know that Colonel-General Altunin, Chief of the U.S.S.R. civil defense program, was appointed a Deputy U.S.S.R. Minister of Defense on a par with the other services of the Soviet Armed Forces. The United States has no such counterpart.

The United States, with half its population concentrated in 140 relatively unprotected cities, remains fully vulnerable to a nuclear strike against urban areas. The Soviets, as above points out, project their ability to keep urban losses from nuclear retaliation to a number lower than their casualties suffered during World War II.

Even if Soviet city-dwellers were caught unevacuated in a nuclear showdown, their more even distribution and their smaller proportion of the total population demand a greater number of U.S. nuclear weapons to mount a threat equal to the Soviets' threat against us. Here again, numbers provide an important measure of comparative military strength; and the United States is losing its edge.

AIR DEFENSE

Air defense was an important concern for the United States until 1966, when Soviet reliance on missiles as strategic delivery systems became clear. At that point, we had deployed 67 active and 55 national guard squadrons of interceptor aircraft, and 228 active and 52 national guard batteries of surface to-air missiles.

In keeping with the policy of assured destruction, reflected in the 1972 ABM Treaty, air defenses have since gone into drastic decline, shown by John Collins. Six squadrons each of active and national guard interceptors and a handful of air defense missile batteries stationed in Florida and Alaska now serve only to protect U.S. peacetime air space.

The Soviets by contrast, have reduced only marginally the total number of interceptors, and over the years they have substantially upgraded the quality of their aircraft. The equivalent of 225 squadrons are now available for air-defense missions.

If greater Soviet concern over air defense is to be attributed to the fact that even today, over half the U.S. deliverable magatonnage is accounted for by our aging fleet of B-52's, then we might well ask what equivalent defenses do we have against the building fleet of new Soviet Backfire bombers. Although the Backfire has been defined as nonstrategic in the context of arms limitation negotiations, the capability nevertheless exisits for this "intermediate-range" bomber to strike targets in the United States. The present inventory of over 100 is expected to reach 400 by 1980, thus preventing another threat to U.S. security for which we have apparently chosen not to develop a credible defense. John Collins declared in our September 23, 1976 selection entitled, "United States/Soviet City Defense," that—

> Picket ships, Texas Towers, gap filler radars and the Mid-Canada line line have completely disappeared.
>
> Surveillance still in existence displays technology that, in the main, dates back two decades or more . . .Cutbacks accelerated sharply after ABM was dropped. Present programs will eliminate six ANG F-101 squadrons by the end of FY 1977, reducing interceptor strength to six F-106 squadrons in the Air National Guard and six more on active rolls. All 48 Nike-Hercules batteries assigned to Army Air Defense Command (ARADCOM) were inactivated in FY 1974.

CONVENTIONAL FORCES

In conventional forces, the imbalance between the United States and the Soviet Union continues to grow. Several areas are crucial.

GROUND FORCES

In the wake of Vietnam, deployable U.S. ground forces have declined in number to 575,000, the lowest number of personnel on active duty since the dark, prewar days of 1940. Although it is not foreseen that these forces would be called upon to fight on home soil, as might Soviet counterparts, they are clearly outnumbered for whatever purposes by 1,725,000 Soviet ready ground troop. Over recent years, the Soviets have persisted in building an increasingly large armed force, despite decreasing numbers of conscription-age men. The numbers included in the U.S. Military Establishment as a whole—including active duty, all reserves and national guard, and civilian defense employees—still total less than the active Soviet military services alone.

Because of differences in geographical size and system of government, the discrepancy in manpower levels does not translate directly into competing capabilities; however, by adding to this picture the firepower which has been placed in the hands of the two military forces, we have a clearer indication of the superior power of Soviet ground forces.

Soviet armor, for example, has built up from its 41,000 tanks deployed in 1970 to 45,000 today, including the new and much-touted T-72 medium tank. The United States has responded to this threat by multiplying its inventory of antitank guided missiles, as discussed by Phil Karber in the course of the series. But here again, a potential U.S. gain is lost because, where mobility is needed for ground forces to be employed so that their firepower can be brought to bear, Soviet armored fighting vehicles and personnel carriers outnumber ours almost by 4 to 1.

In artillery also, the disparity between United States and Soviet firepower has been growing to the point that some 5,000 U.S. artillery pieces now compare with about 19,000 Soviet weapons. And these figures do not take into account Soviet multiple rocket launchers and 10,000 additional Soviet heavy mortars, for which the U.S. forces have no counterparts.

Once again, Soviet gains have been matched only by reductions in the U.S. side, so that the flexibility demanded of U.S. forces, whose deployment must meet a variety of contingencies worldwide, is being lost just as much by forfeit as by Soviet ambition. In addition, qualitative improvements in the weapons and training of the Soviet forces are eroding the qualitative edge by which the U.S. forces in the past maintained a credible posture in the face of such numerical odds. This is an intolerable situation, but it is one over which we must reassert control.

NATO

Today 168 Soviet divisions face out against a world which includes only 28 American divisions, including 9 in the reserves and National Guard. Nowhere are those opposing forces in more direct confrontation than in Western Europe, where 24 NATO divisions in the central sector face 51 Warsaw Pact divisions. Of those forces, 27—or over half—are Soviet divisions, so that Soviet forces alone outnumber NATO totals. On the NATO side, the United States contributes five divisions.

For several clear reasons, it is easier for the Soviet Union to dedicate such a number of forces to satellite countries and to maintain them there. But the issue is not ease; it is strength of position, and ultimately survival. If we wish to maintain our commitment to the security of Europe as a vital element of our own security, the shifting military balance is a development which must be recognized and dealt with.

U.S. and NATO strategy in Europe is based on the idea of forward defense. As stated in the series article by our former Secretary Rumsfeld, the success of this strategy depends upon our ability to rapidly reinforce the units already in position in Europe—this same condition, in fact, holds true anywhere we might be called upon to respond militarily in great strength. Therefore, not only is the strength of our reinforcement forces an important factor, but equally so is our ability to transport them to the theater concerned with timeliness. This is a function of our mobility forces—both airlift and sealift—which are superior to Soviet counterparts in most respects. The number of sorties and crossings necessary to effect a reinforcement to NATO, however, raises a serious question about our ability to respond in sufficient time and force. The United States counts 11 divisions available to meet contingencies worldwide. For the Soviets, earmarked for reinforcement in the central sector of Europe alone, and located in geographically contiguous areas, are 21 ready divisions. This imbalance places NATO forces in a much poorer position to absorb attritional losses, which could be the decisive factor in the outcome of a conflict.

NAVAL FORCES

Developments in the balance of naval forces also contribute to a growing shift away from the United States. This is an area where U.S. dominance existed for so long that freedom of movement on the seas became a matter to be taken almost for granted. This is no longer the case.

The carriers around which U.S. naval strike forces were built have become potential targets for Soviet antiship missiles, against which we have little defense and for which we have no equivalent. Soviet attack submarines, although of poorer quality and more vulnerable to detection than U.S. subs, outnumber ours by 180. That is an ample margin to absorb submarine losses, inflict similar losses—which, for us, would be crippling, and leave our fleets increasingly vulnerable, and missing a critical leg of our antisubmarine warfare capabilities.

Soviet shipbuilding over the 12-year period beginning in 1962 produced 1,323 ships of all classes for the Soviet Navy, compared with 302 produced for the U.S. Navy. Consequently, not only submarines, but Soviet surface combatants have come to outnumber U.S. ships, giving the U.S.S.R. a real "blue-water" navy, and an increasing ability to challenge U.S. naval operations worldwide.

Over the long term, for a nation dependent as we are on two great oceans, this shift in the military balance may well be the most ominous.

Adm. Stansfield Turner, Director of the CIA, wrote in our June 9, 1977, selection entitled "The Naval Balance":

> . . . In the past decade the number of U.S. destroyers has dwindled from 205 to 69, carriers from 15 to 13, and antisubmarine aircraft from about 428 to 132. While from numbers alone it might seem that the Soviet submarine fleet that these forces must counter has also weakened—it has shrunk from 370 in 1966 to about 335 today—Soviet nuclear-propelled submarines have increased by 250 percent, from 40 to 140. Also, the number of Soviet submarines equipped with cruise missiles has more than doubled, from 29 to 66. . . .

It is revealing to note, Mr. Speaker, the words of the "father of the modern Soviet Navy," Fleet Adm. Sergey G. Gorshgon, who discussed Soviet naval strategy in our September 27, 1977, selection entitled "Sea Power of the State," and said:

> At present our (Soviet) navy, in its operations against land targets, possesses the capability not only to carry out tasks aimed at effecting territorial changes, but to affect directly the course of the war and even to determine its outcome.

Another Balance(s) author, James Hessman, of the Congressional Budget Office, summed up the options facing Congress on naval strategy in our July 29, 1977, article entitled "Sea Control or Power Projection" that—

> The real option which Congress faces is not between sea control or power projection forces for the Navy. It is between facing reality, or playing politics. If Congress faces up to the facts of the awesome Soviet conventional purpose forces buildup so well documented on page after page of the CBO study, it will have no choice but to fund the Navy for both major missions.

Reevaluation of the doctrine which governs the employment and structure of our naval forces is a constant necessity, but when numerical imbalances reduce U.S. flexibility and limit U.S. options, our highest priority must be to redress that imbalance.

TACTICAL AIR FORCES

Last, in the area of tactical air forces, we find another case in which the measure of Soviet numerical superiority has grown to twice the U.S. force strength, accompanied by qualitative improvements to make Soviet pilots more competitive with Americans.

Soviet active fighter aircraft now number over 3,350, while the U.S. total is less than 2,000. Soviet frontal aviation in the Warsaw Pact countries confront U.S. forward-based units with 1,825 combat aircraft, easily reinforced by 2,000 more in European Russia. As stressed by Colin Gray in the series, these aircraft are no longer deployed simply to defend local airspace, but are being designed for aggressive use in combination with ground forces; to challenge NATO's air superiority; and to penetrate our weaker defenses and attack ground forces and other targets in Western Europe.

The momentum of technological improvements in Soviet aircraft promises a rude awakening to the loss of our well-assured ability to defend and support our ground forces from the air or to mount a successful air attack against critical targets in the European theater.

CONCLUSION

This last example points up again the risks which are building as a consequence of the shift in the military balance: a shift about which I am very concerned, and on the subject of which I will be continuing to introduce important writings. U.S. capabilities can no longer be taken for granted; and to rest on past margins today will have sad consequences tomorrow. Already, our flexiblity is sorely limited by force imbalances and by decisions which have limited the use of those forces.

As both the Warsaw Pact forces and the Soviet Navy, for example, depart from their past defensive postures and acquire increasingly offensive capabilities, the United States is abandoning its only strategic bomber program—the B–1—and is placing its hopes on a weapons system still in development—the cruise missile, whose employment in the strategic or tactical role has barely progressed beyond the conceptual stage.

With the Soviets today taking every opportunity to foreclose further options for us, it is incumbent upon us to do what we can to keep open those options remaining.

Mr. Speaker, these are just some of the facts behind our balance of power with the Soviet Union. The trends are alarming:

Item: We disband armed forces after every war. The Kremlin continues its buildup.

Item: We stress quality at the expense of quantity, while the Soviets strive for both.

Item: We feature firepower instead of manpower. The Soviets feature both.

America's security is now at a crucial crossroad as a direct result of those and similar and dubious policies. We have the potential to turn trends around if the administration, the Congress, and the American people recognize the issues at stake.

Just as numbers alone do not tell the full story, neither will budgetary remedies alone solve our national defense malady. In fact, official U.S. estimates over the past several years have suggested that Soviet outlays for defense equaled a steady 6–8 percent of that country's gross national product (GNP). Recently revised evaluations by CIA, based on better measurement data, now indicate that the share is twice that amount, or 11–13 percent, compared with a projected 5.1 percent for the United States in fiscal year 1977. Other authorities place the Soviet proportion as high as 20 percent.

Mr. Barry Blechman, of the Brookings Institution, pointed out in our April 28, 1976, selection, entitled "Are the Soviets Ahead?"

> . . . there is no doubt about the direction of the trend: the United States is spending less, and the Soviet Union is spending more: and that has been going on for about a dozen years . . . Soviet military capabilities, relative to those of the United States, have improved markedly . . .

But while alternative strategies are being debated, let us get on with positive steps to turn the tide in the shifting balance of power.

John Collins accurately summarized the global strategic situation by stating that America:

> . . . is losing, or has lost, its ability to promote strategic stability, discourage nuclear adventurism, extend a nuclear umbrella over friends and allies, influence foreign perceptions favorably, repress nuclear proliferation, suppress the offensive arms race, and curb financial costs.
>
> If a nuclear war should erupt, concerted efforts to the contrary, we lack credible means to contain the conflict quickly, control escalation, protect our population and production base, or facilitate a salutary settlement.

I could not agree more, Mr. Speaker, and I urge my fellow colleagues, the administration, and the American public to review the complete Balance(s) of Power series as it appears in the CONGRESSIONAL RECORD. In conclusion I should like to present a listing of each selection in our series with the title, author, and date of insertion. This list should make an easy reference tool for the first part of the series. The list follows:

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CITY OF EVANSVILLE, IND., SUFFERS TRAGIC LOSS

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. CORNWELL) is recognized for 5 minutes.

Mr. CORNWELL. Mr. Speaker, on Tuesday evening, December 13, the University of Evansville basketball team lifted off from Dress Regional Airport in Evansville, Ind., in a charter aircraft. They were en route to Tennessee, but they were never to arrive. All of southwestern Indiana and the Nation were stunned when the news of the tragic crash was released.

Young men, coaches, and members of the media will be gravely missed by friends, relatives, and classmates. Many questions have surfaced now, even before the final report by the FAA has been released. In my mind, there is much to be studied in order to make the most convenient and the most used mode of transportation the safest mode of transportation, as well. Tragedies such as this only highlight the need for continued study into public and private air safety awareness. It is my hope that the House Subcommittee on Aviation, and Investigations and Review of the House Committee on Public Works will closely scrutinize existing FAA rules and regulations covering private and charter air service to assure the American public that all that can be done will be done to promulgate legislation to avert more of these unnecessary tragedies. I eagerly await the final FAA findings on this most unfortunate accident.

I join with my constituents from Evansville, Ind., in offering my most heartfelt condolences to the parents, friends, and relatives of those who are no longer with us, but who will live with us forever. It is a grim reminder of what steps must be taken in public and in private to insure that future air transportation tragedies will not take place.

And to the University of Evansville, its president, Dr. Wallace Graves, and its president of the student body, Christopher Weaver, I offer my condolences and all services that I might be able to lend from my office. May God be with each and every person, victim, family, and friend. Your presence will be forever missed.

A list of the casualties of charter plane crash, Evansville, December 13, 1971, follows:

Coach Bobby Watson, Newburgh; Assistant Athletic Director Bob Hudson, Evansville; Sports Information Director Greg Knipping, Evansville; Trainer Mark Kneise, Evansville; Student Manager Jeff Bohnert, Evansville; Student Manager Mark Kirkpatrick, Evansville; University Comptroller Charles Shike, Evansville; Maurice King, Evansville; WUEV sportscaster Marv Bates; Charles Goad, Evansville; Players Warren Alston, Goldsboro, N.C., Ray Comandella, Munster, Ind., Kraig Heckendorn, Cincinnati, Ohio, Mike Duff, Eldorado, Ill., Mike Joyner, Terre Haute, Ind., Kevin Kingston, Eldorado, Ill., Barney Lewis, Goldsboro, N.C., Steve Miller, New Albany, Ind., Keith Moon, Kettering, Ohio, Mark Seigel, Indianapolis, Ind., Greg Smith, Frankfort, Ill., Bryan Taylor, Tell City, Ind., John Ed Washington, Indianapolis, Ind., and Marion A. Winburn, Jeffersonville, Ind.; crew members James Stewart, Bill Hartford, Ty Van Pham, Pamela Smith and, Gaston Ruiz.

CIGARETTE BOOTLEGGING—BIG BUSINESS FOR ORGANIZED CRIME

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. PATTISON) is recognized for 5 minutes.

Mr. PATTISON of New York. Mr. Speaker, on October 21, I introduced H.R. 9667, a bill to eliminate cigarette boolegging by eliminating the tax differential between the States. On November 8, I joined with Congressman BOB DRINAN to introduce H.R. 10066, a related measure.

Both bills grow out of our concern about the problem of State cigarette taxes being illegally avoided by persons who buy cigarettes legally in low-tax States and then sell them illegally in high-tax States. It is estimated that the tax revenue lost each year now totals around $400 million.

On its face, cigarette bootlegging does not sound like a terribly serious offense. But we must not be deceived by first impressions.

In recent years, at least a dozen homicides have been directly related to cigarette bootlegging. Hundreds of honest businessmen have been forced out of the cigarette trade by illegal traffickers. And wage earners and property owners have had to pay higher taxes in order to compensate for the lost revenue.

Perhaps most ominous of all, however, is the fact that a very substantial portion of the cigarette bootlegging business is now controlled by organized crime. The substantial profits made by so-called buttleggers is being reinvested in loan sharking, narcotics, pornography and other enterprises controlled by the mobs.

Of course, almost by definition, discussions of underworld activities must necessarily be somewhat murky. And previous statements I have made, attempting to explain my reasons for concern about cigarette bootlegging, may have reflected this difficulty. However, the cover story in the December 15 issue of Forbes magazine helps bring the issue into very clear focus.

For the information of my colleagues and the public, I wish to insert in the RECORD the full text of James Cook's article on cigarette bootlegging. I think this article does an outstanding public service by showing in easily understood terms just how serious is the threat of organized crimes' involvement in cigarette bootlegging.

As I noted in a statement in the RECORD on October 25, I believe that the only effective way to end this problem is by ending the tax differentials that lead to bootlegging. Increased law enforcement activity will merely weed out the less resourceful criminals, it will not eliminate the very great financial inducements that now lead to bootlegging. This theory is upheld by the evidence presented in the Cook article.

The text of the article follows. After the article, there are two shorter items that appeared as sidebars to the main story:

CIGARETTE BOOTLEGGING: WHO SAYS CRIME DOESN'T PAY?

(By James Cook)

It was late, and he had tickets for the world series that night, so instead of circling around and coming into the city from the north, over the Tappan Zee Bridge, Dave Tobin turned his 1978 Ford Econoline van onto the Goethals Bridge and headed home, for Sunnyside, Queens, by way of Staten Island and the Verrazano Bridge. It was 6:15 p.m. when he stopped at the Verrazano toll plaza. There investigators of the Special Investigations Bureau of the New York State Department of Taxation and Finance flagged him down, opened the back of his van, and found 2,550 cartons of cigarettes Tobin had bought in North Carolina. "If I hadn't been late for that ball game," Tobin told the investigators, "you guys'd never have got me."

At 22, Dave Tobin had been arrested twice for smuggling cigarettes out of North Carolina. This time he'd borrowed a van from a friend, so the state probably couldn't hold on to that, but it did confiscate the entire 2,550-carton shipment that had cost Tobin close to $8,000 in cash. If found guilty he faces a fine and a sentence of as much as four years.

As a three-time offender he would stand a good chance of going to jail, but even if he did, he might well feel it had been worth the risk. He didn't have a job—the SIB men were unable to find that he'd ever worked anywhere—but he could probably have sold those cigarettes for between $4.50 and $5.00 a carton, depending on whether he peddled them himself or sold them to a group of runners for distribution to bars, beauty shops, bowling alleys, office and apartment buildings throughout the city. At such prices he'd have earned maybe $3,000, a return of roughly 40 percent on his $8,000 investment, and you couldn't knock that. Within a few hours, Tobin was free on $350 bail, in time to catch at least part of that game.

For Dave Tobin, and hundreds, even thousands of men like him, crime not only pays, it pays extraordinarily well. Transporting cigarettes from one tax jurisdiction and selling them in another where the tax is higher may not seem like much of a way to earn a living, but when the tax differential goes as high as 21 cents a pack, there is big money to be made. The bulk of it goes not to the Dave Tobins of this world, but to those large, rather amorphous criminal enterprises known as organized crime—the Mafia, the Syndicate, Cosa Nostra.

"Cigarette bootlegging," says Herman Lisnow, deputy controller of Texas, "is probably the most lucrative crime in America today." Its practitioners, both amateur and professional, may have grossed as much as $1.5 billion last year. After deducting the expenses that even criminal enterprises are subject to, they probably netted close to $600 million free and clear. That's nearly as much as Dow Chemical earned last year and two-thirds as much as the six big tobacco companies netted on cigarettes last year.

That $600 million isn't just the lost taxes that the bootleggers pocketed instead of the tax collector. It also includes the normal profit from the legitimate business activities—wholesalers, retailers, vending machine companies, truckers and so on—taken over by organized crime in its pursuit of higher and higher cigarette profits. Legitimate businesses in criminal hands are, of course, often more profitable than they are in legitimate ones; organized crime, for example, does not pay union wages. The proceeds of bootlegged cigarettes are seed money for further criminal investment.

Bootlegging is often dismissed as a crime that affects only small business interests, mainly the wholesalers and retailers. That is the case, thus far, but few experts think its influence will stop there. Once it wins control of the industry's principal markets—and it's well on the way—it will almost certainly turn upon the six giant manufacturing companies that make up the industry: R.J. Reynolds Industries, Inc., Brown & Williamson, Loews Corp., Liggett Group, American Brands and Philip Morris.

Cigarette bootlegging is often dismissed, too, as a victimless crime, only slightly more reprehensible than fishing for dimes in the telephone coin return. In fact, it's anything but. The cost can be reckoned in several ways. Money? The U.S. Advisory Commission on Intergovernmental Relations conservatively estimates that bootlegging cost the American Taxpayer $390 million in 1975 in lost tax revenues—including $72 million in New York, $43 million in Texas, $36 million each in Pennsylvania and Florida. Blood? At least 12 homicides and countless beatings, hijackings and robberies have been associated with bootleg cigarette traffic over the last few years.

Victimized, too, of course, are legitimate business interests. How can a taxpaying businessman compete with a competitor whose costs run 50 percent—and in the case of hijacked cigarettes—even 100 percent lower? He can't, and in New York City, where the bootleggers have already taken over much of the tobacco industry, he hasn't. Over the past decade, half of the tobacco wholesalers in the city and more than a quarter of the licensed retailers—7,000 altogether—have gone out of business. Teamsters Union locals there have lost nearly half of their tobacco and vending-machine membership. All told, more than 2,000 of the industry's 3,200 drivers, salesmen, clerks and warehousemen lost their jobs.

Cigarette bootlegging was once concentrated in New York and the heavily populated states of the Northeast and the Midwest. But no more. It now flourishes wherever there is a significant difference between the tax levels of one state or city and another. The ACIR figures it is a major problem in no fewer than 14 states—those with 50 percent of the total U.S. population, as it happens—and at least a moderate problem in eight others. In states like Washington, Alabama and Arizona, the problem is not organized crime, but tax-exempt military and Indian reservation sales which divert large volumes of otherwise taxable sales from the legitimate market. In other states, the problem is mail order or leakage across state lines into lower-tax areas.

The big tobacco-producing states—North Carolina, Virginia and Kentucky—keep their taxes low to encourage consumption. North Carolina levies only 2 cents per pack. Most of the others have been raising them higher and higher—to discourage smoking and to raise revenue. New York City piles 8 cents on the 15 cents already imposed by the state. Thus, the spread between North Carolina and New York City is 21 cents per pack, the biggest differential in the U.S. In Massachusetts, Connecticut and Florida the spread is almost as big—19 cents. But the bootlegger can prosper on far narrower margins—on the 9 cents that separate Massachusetts from New Hampshire, on the 5 cents that until recently separated Florida and Alabama. There's money to be made and lots of it, and more of it in high-tax states like Massachusetts or Florida than in more moderate ones like Tennessee or Delaware, but for bootleggers as for businessmen, as long as there's some margin somebody's likely to want it.

Precise measures of any one market are impossible. Take New York, the biggest cigarette market in the country. The ACIR study projects bootleg consumption at around 480 million packs annually. Morris Weintraub, publisher of Vending Times, head of the Council Against Cigarette Bootlegging and the U.S.' leading authority on the subject, thinks 554 million packs is more like it. Still another group, the Citizens Campaign, representing all phases of the industry, settled on 750 million.

Until the mid-Sixties, when rising tax rates began to scramble the market, the big urban states consistently consumed more cigarettes, the more rural states consistently fewer than the national average. Since then, the pattern has reversed itself, according to tax records. In 1976, when the national consumption averaged 145.3 tax-paid packs per person, North Carolinians consumed no fewer than 230.2 packs, New Yorkers a mere 124.6, down from 138.5 in 1965. Had New Yorkers gotten religion in the interim? Maybe. It was far more likely, however, that they had begun getting bootleg cigarettes—one out of every four smoked in the state, one out of every two in the city. Nationwide, such "underconsumption" came to 3.7 billion packs last year, equal to 13% of the industry's state-taxed sales.

Experts agree that the cigarette-bootlegging business got going in earnest only 12 years ago, when the state of New York doubled its cigarette tax from 5 cents to 10 cents a pack and set a pattern that revenue-hungry legislators have followed ever since. As the tax went up and the differential between other states and North Carolina, Kentucky and Virginia widened, bootlegging boomed. Ken Ball, assistant chief of law enforcement for the state of Florida, says smuggling in Florida steadily increased as the state tax went from 8 cents to 15 cents to 17 cents, and it increased again when it went up to 21 cents last July. "The profit potential is there," say Ball. "We don't see how they can pass it by."

Bootlegging started with ordinary people on their way back from a Florida vacation picking up a dozen or more cartons in North Carolina to give to their friends. According to Morris Weintraub, of Vending Times, such bootlegging still accounts for some 20 percent of the total volume. The more entrepreneurial amateurs began making regular trips into the South and distributing bootleg cigarettes to a widening circle of customers.

But as the profit grew, the little guy—the semiprofessional—began to be squeezed out. "I was going to get out of this business anyway," one bootlegger who operated out of his bread route told the cops. "A couple of guys stopped me the other day and said, 'Whatever cigarettes you've got, get rid of them, and after that knock it off. This is our territory.' "

As the business grew, cigarettes began moving, not by car, but by trailer truck—as many as 60,000 cartons at a time—on a fairly regular basis up the 500-mile stretch of Interstate 95 between North Carolina and New York. That inevitably brought organized crime into the picture. Fifteen hundred cartons in the back of a car represent an investment of maybe $4,500. But tractor-trailer loads can involve investments of $90,000 apiece and more, and the wholesalers in North Carolina don't sell on credit. They demand cash on the barrelhead, and they get it.

"The average guy hasn't got that kind of money," says Edward Lorch, detective in the Intelligence Division of the New York City Police Department. "So you have to go to the people who have it—the big guys in organized crime. But the big guy is just an investor. It's not like you were getting a loan from the bank. The money just funnels down to somebody else who is running the business, and he won't necessarily be an organized-crime type. He hangs out with all the local wise guys, but he never has direct contact with organized-crime figures. If you're an organized-crime figure, it's very easy to insulate yourself. You supply the money, give it to somebody you trust, and they run the business for you." No strings attached, no papers to sign, but an obligation to pay and repay far more binding than any bank loan or legal contract.

Cigarette bootlegging was in many ways ideally suited to the business talents organized crime had honed over the years moving liquor and narcotics and disposing of stolen goods. Although the distribution channels were different with cigarettes, the basic techniques were the same. In less than a decade, according to Leonard Schwartz, head of New

York's Wholesale Tobacco Distributors, 500 bootleg distribution routes were set up in the city, duplicating the legitimate ones.

What is most remarkable is that it is all done without the support systems legitimate business would consider essential. Even the biggest operations, according to police sources, don't use controllers or computers, and they don't keep inventories. "You'd be surprised at how much people can keep in their heads, or in little black books," says Lorch. "And all the book has in it is 'Joe, 6, Harry, 12.' Never any addresses, last names or phone numbers."

As police surveillance has increased, bootleggers have devised logistical systems with a skill, flexibility and improvisational brilliance few corporate managers could match. When enforcement people began intercepting too many trailer-truck loads on the New Jersey Turnpike, for example, the bootleggers began to break down their shipments in New Jersey and Pennsylvania, in effect warehousing them outside the New York metropolitan area just as the legitimate industry did, and dispersing a shipment among a half dozen cars or vans in 4,000-carton lots into New York's tunnels and bridges within a few hours. "If you lose one of those trailers," says Bev Starkey, chief of the New York City Finance Department's Special Investigations Bureau, "you've lost a huge investment. So you put it in smaller vehicles."

Forthright cartelists that they are, the organized-crime groups attempted to eliminate competition among themselves, dividing the market and conspiring to act jointly to meet their legitimate competition. "There can only be a limited number of operations," says Lorch, "so the market has to be split up—so much is mine, so much is yours. So the large profits come from certain areas to certain people." And those people tend to come from the same crime families that turn up in other criminal activities: Giancana in Chicago, Patriarca in Providence, Bruno in Philadelphia, DeCavalcante in New Jersey, Gambino, Genovese, Lucchese, Colombo in New York.

"When a few businessmen sit down and discuss the problems facing the industry," says Morris Weintraub, "they get indicted for antitrust. When crime families sit down, nothing happens."

"In many cases, they simply impose a tithe," says Ralph Salerno, one of the U.S. leading crime experts and a former New York City cop. "We want a quarter a carton so you can operate here."

These days, Angelo Bruno, named by police sources as the crime boss of the Philadelphia and south Jersey region, is also a cigarette wholesaler (John's Wholesale Distributors) and vending-machine operator (AVM Corp.). He gets 2 cents a carton "commission" on all cigarettes sold by John's and 3 cents a pack on all vending-machine locations controlled by AVM. Thanks to Bruno's salesmanship, according to Pennsylvania's Bureau of Cigarette and Beverage Taxes, John's volume has gone from 40,000 to 230,000 cartons a month in the past 18 months.

The acknowledged pioneer in large-scale cigarette bootlegging was Anthony Granata, now 39, a member of the Colombo crime family. According to a 1972 New York State Investigation Commission report, Granata got into the business with the backing of Vincent and Mario Gigante, of the Genovese crime family. In his heyday, in the late Sixties and early Seventies, Granata ran a $20-million-a-year business. He employed over 30 men, ran a fleet of 16 trucks back and forth into the South on a six-day-a-week basis, and brought 100,000 cartons of cigarettes a week into the New York market. In those days, Granata even had his own "traffic manager" posted on the premises of a major North Carolina wholesaler, Mack Judge's in Weldon. Granata paid his men $100 a trip, plus $95 in expenses, provided false drivers' licenses and plates, and took care of their legal costs if the cops picked them up.

When New York City and State filed for $2.4 million in back cigarette taxes, Granata moved to New Jersey, leaving Joseph Pontillo, now 43, to run the operation in Brooklyn for him. According to the Commission report, Granata and Pontillo jointly financed bootleg shipments and so shared the risks. Pontillo may have tried to take more than his share: Three years ago he was found shot in Brooklyn. Granata is now in jail, not for bootlegging, but for trying to bribe an officer.

No profit-oriented organization—and organized crime is nothing if not that—could fail to realize, of course, that the cigarette bootlegging business could be a lot more lucrative if it could move its illegitimate product into legitimate, higher-priced distribution channels. On a $3.20-carton of North Carolina cigarettes, a bootlegger can easily make as much as $1 a carton in the informal New York market, depending on how many times the cigarettes change hands in moving from wholesaler to consumer. But in the legitimate market, where cigarettes go for anywhere from $5.50 a carton (at discount) to $6.90 (in normal retail outlets,) the same bootleg carton could yield upward of $1.50 in profit.

In legitimate retail stores or vending machines, cigarettes pretty much have to bear New York State tax stamps or reasonable facsimiles thereof. Some of the biggest bootleggers, therefore, have integrated forward into counterfeiting.[1] It's an added cost—another 25 cents or so a carton, according to Morris Weintraub. And counterfeiting is a felony not a misdemeanor, so the risks are greater, but the rewards are greater still. In the legitimate, market, that 30% return on bootleg cigarettes rises to 50%. "We used to think counterfeiting accounted for only 5% of the bootleg cigarette traffic," says the head of the New York State Department of Taxation and Finance, James H. Tully Jr. "But now it looks more like 20%." His staff has found evidence of counterfeiting in 40 states.

The same impulse that led organized crime into counterfeiting would logically lead it to integrate forward into retailing and backward into wholesaling. No surprise, then, that rumors have persisted for years that the bootleggers have taken over the wholesalers in North Carolina. However, they remain rumors. North Carolina's most celebrated dealer, Mack Judge of Weldon, N.C., does a big business in cigarettes—at one time around 8 million cartons a year. Authorities say flatly that Mack Judge, a slim, frail, 55-year-old Tarheel, sells to most of the big organized-crime groups in the country. But is Mack Judge thereby owned or controlled by the mob? Why should he be? Ed Lorch asks. "These wholesalers cooperate with them anyway." But J. Robert Murphy, New Jersey's Deputy Director, Division of Taxation, and former president of the National Tobacco Tax Association, disagree. "They're going to move in and take over," he says, "whether they move in under their own name, or in the name of a nominee."

On their own or through front men, the presence of big-time bootleggers and counterfeiters in the wholesale business has led to a new phenomenon in cigarette distribution, subjobbers, whose numbers doubled in a decade. Traditionally, jobbers were customers of the wholesalers themselves and had tended to concentrate on the smaller, less profitable accounts. Suddenly, they were undercutting the wholesalers' price and stealing their customers. The use of jobbers with bootleg sources has driven many legitimate wholesalers out of business, and confronts those who hang on with a terrible choice: Stay honest and go broke, or stay solvent and join the mob.

"Let's assume as a wholesaler I have to get $5.30 a carton to cover my overhead, taxes, insurance and so on," says the head of one of New York's leading wholesalers. "A jobber [supplied by bootlegging wholesalers] will go to mom-and-pop store and say: 'I have better management, I have better control, I have a cheaper operation. I can get you cigarettes for $5.17.' As a wholesaler I can't live with that price, so they're putting my back to the wall. All right. I meet the jobber's price to hold onto my volume, but I'm not making money. So it comes to a point, when you're not making money and you're weak, they'll either come in and make you an offer you can't refuse and you'll sell. Or you'll join them. Or you'll get out."

A decade ago a wholesaler could count on making 3 cents a carton. Now he is lucky to make a penny. And most wholesalers now sell at the manufacturer's price; they stay alive on the 3.25 percent discounts offered by the manufacturers for prompt payment of bills.

Moving in on the wholesalers is only half of the criminal cigarette game today. The vending-machine business, dominated by organized crime for decades, has enabled bootleggers to leverage their profits even higher. A carton of cigarettes that costs $3.20 in North Carolina, for example, yields an average of $8 a carton in a New York City vending machine. That's the average; some machines in the Big Apple eat dollar bills and give no change. Even deducting the 75 cents a carton in transportation, counterfeiting and distribution expenses involved, the bootleggers end up with a profit of around $4 a carton. If 17% of New York's bootleg consumption goes into vending machines, as it does nationally, the resulting 13 million cartons would yield $50 million annually to organized crime—from vending alone.

This is one reason New York State's tax department has lost its enthusiasm for tax reduction as a means of discouraging rampant bootlegging in New York City. It may be true that bootlegging did not become economic until the tax differential widened to 12 cents in the mid-Sixties. But after a decade of steadily widening profit margins—by counterfeiting, by vending, by the economies of scale—a good many observers fear a tax reduction would serve mainly to encourage organized criminals to expand into other tax jurisdictions: upstate New York and high-tax adjoining states.

As it is, organized crime has already become a major factor in the Midwest and it is gradually becoming so in places like Texas and Florida. The carnage among the wholesalers in Chicago, where there are now only 12 distributors, vs. 54 two decades ago, is even worse than it is in New York. "Within a couple of years," says George Stewart, head of a Midwest tax enforcement group, the Interstate Research Center, "they are pretty well going to control most of the major markets."

So far, none of this turmoil seems to have touched the six giant corporations that make up the U.S. cigarette industry. Their combined domestic tobacco sales were something like $9 billion last year, their net profit around $950 million. Their margins are affected only by the cost of their materials and their competitors' strategies, not by what goes on elsewhere in the distribution system. After all, why should it matter to them who moves their product to market? They still get $2.87 a carton—the price for standard brands to all comers.

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[1] Three companies, Pitney-Bowes, American Decal and Meyercord, dominate the tax stamping machine market. It's maybe a $50-million-a-year business. Their position in the market rests in large part on the presumed foolproof security of their various systems for applying tax indicia. But that presumption is no longer widely shared—not since 1975, when police raided a Bronx warehouse and found 30,000 counterfeit cartons.

Even so, organized crime once tried to force the Great Atlantic & Pacific Tea Co. to sell mob-backed detergent in its New York stores, and racketeers at present have discouraged Kraft from making its own mozzarella cheese for sale to supermarkets.[2] In such a time, the tobacco industry can hardly rest easy at the prospect that one day organized crime may not only control the distribution in its major markets but also begin to move in on the manufacturers themselves.

The big companies are vulnerable to attack in several ways—not least to infiltration from within. Enough uncertainties already exist about the flow of cigarette traffic to cause some law enforcement authorities to wonder whether substantial quantities are not already being diverted into illegitimate channels. For years there have seemed to be more cigarettes in the market than anyone can account for, and any statistician can demonstrate that the three producing states fall well short of supplying the underconsumption of the five big northeastern states, never mind all those other big markets in the Midwest. And if those cigarettes are not flowing in from those other states that consume in excess of the national average—a suggestion that makes nonsense of the economics most experts postulated for the bootleggers—where are they coming from?

Tobacco men like to explain how carefully cigarettes are controlled as they move from manufacturer to market by the controls mandated by federal and state taxation. But the truth is, not all cigarettes are subject to federal taxes, and not all federally taxed cigarettes are subject to state and local taxes. In these facts lie opportunities for massive leakage into illegitimate channels for anybody skillful enough—or highly motivated enough—to attempt it.

There is, for instance, an 8 percent gap—2.6 billion packs—between the number of cigarettes the states impose taxes on and the number the federal government does. The Bureau of Alcohol, Tobacco & Firearms assumes that the difference is "probably" accounted for by sales on military posts and Indian reservations, which are taxed by the feds but are exempted from state and local taxes. But 2.6 billion packs? As many as the entire state of New York, with a population of 18 million, consumes in a year?

The other gap, between cigarette production and cigarette shipments on which federal taxes are paid is even larger: 3.5 billion packs, 10 percent of total production. Most of that supposedly goes into the export market, but the Bureau of Alcohol, Tobacco & Firearms now admits that its export controls are not really adequate. It is currently changing the regulations for its duty-free export warehouses on the Mexican border in an effort to end a $7-million loss in federal taxes on export cigarettes that somehow ended up in the U.S. market anyway. At 8 cents a pack, $7 million comes to 88 million packs, almost as much as the state of Montana consumes annually. Is the Mexican border indicative of what is going on elsewhere in the U.S.? Department of Agriculture officials concede that similar leaks are not at all unlikely along the Canadian border as well.

Are cigarettes, then, being diverted to underworld distributors from stocks that escape the state and federal tax net—cigarettes intended for Indian and military reservations, for export, even for manufacturers' inventories? "We don't rule out the possibility that a scheme could be devised that would encompass that object," says ATF's tax expert Melvin Bruce, "but it would almost certainly require some sort of collusion cn the part of the manufacturer."

But would it? Cigarette inventories are controlled and accounted for at almost every step from production line to market by computers, and these days, when computer criminals can create the most deceptive of corporate illusions—witness Equity Funding—anything seems possible.

An inference is not evidence, and so the case cannot be made that organized crime has already succeeding in finding ways to divert, for its own purposes, substantial quantities of tax-exempt cigarettes. The point is that organized crime has already discovered that cigarettes are one of the most profitable criminal enterprises around. Given that discovery, it can hardly be expected not to try to realize the full profit potential of that business. Inevitably, that would seem to signal a clear and present danger for the manufacturers who control the purse strings of the industry.

One Wins, the Other Doesn't

Robert Satiacum, a strapping 48-year-old Puyallup Indian, is giving the Washington State revenuers fits these days. Satiacum's four smoke shops in Tacoma sell about 1.5 million cartons of cigarettes a year, $6 million worth, and the state isn't collecting a cent on them. Not the 16-cents-a-pack cigarette tax, not even the 5.1 percent sales tax it collects everywhere. It can't. Satiacum, like the operators of some 85 other Indian smoke shops, runs his business on reservation land. Though most of Satiacum's customers are non-Indians, the courts still haven't resolved the taxable status of merchandise sold to non-Indians on Indian lands, so Satiacum prospers.

Satiacum opened his first store in 1971, about the time other Indian tribes began challenging in court the state's right to collect taxes on Indian sales. Satiacum located his stores strategically on reservation land throughout Tacoma, putting the largest downtown, a stone's throw from an off-ramp of the state's principal freeway, Interstate 5. So his customers come onto the reservation for the cheapest cigarettes around.

Satiacum's cigarettes sell for $4 a carton. This saves his customers a dollar or more over what they'd pay elsewhere. "As far as the public is concerned," Satiacum says, "they're not losing money. Since they're the state themselves anyway, they're saving money." That price also gives Satiacum a whopping profit—close to a dollar a carton. Multiply that by 1.5 million cartons a year, and it's clear cigarettes have made him wealthy.

"With my militant attitude," Satiacum deadpans, "I think I'm worth $1 billion." Locally, he is as well known for his activism in Indian affairs as for his business acumen. He has run three times for state office and lost. "I'm an Indian," he says cynically.

Satiacum not only refuses to collect state taxes, he claims he doesn't pay any federal income tax. "The land and resources we gave to the United States was enough to pay for all time," he says. He believes the state cigarette and liquor taxes are unfair and punishing, but as a businessman he wouldn't complain if the cigarette tax went up. "I'd prefer the tax go up to 25 percent," he says.—Ellen Melton.

Manhattan Retailer: Edward H. Snyder

Edward H. Snyder, 74, recently retired after 46 years in the retail cigarette business. Here's why, in his own words: "I had a very fine stand in the office building at 43rd and Fifth Avenue, where the old Brass Rail used to be. The finest customers you could want. We sold cigarettes, cigars, candy and, of course, sundries—razor blades, lighters and things of that sort. Three or four years ago we began to notice a big drop in our sales. At first we thought we'd lost business to Jersey, where the tax was lower. Then we got reports that on Thursdays a panel truck would back up near the building and deliver I-don't-know-how-many cases. Bootleg stuff, they weren't tax-marked.

"Regular customers of mine who had come to my counters for years walked out of the lobby passing me by. It was hard to take. My barber in the building who I went to for I-don't-know-how-many years, he apologized—'Eddie, I can get them cheaper elsewhere.' It's only natural—10 cents a pack, that's 70 cents a week, and more. They couldn't make a profit on it if it was legitimate merchandise because they were selling below cost. The only thing we increased was giving away matches because bootleggers never do that. It's frustrating to give matches for somebody else's cigarettes.

"We started to lose more and more customers. And honestly, it's true: Traffic is our lifeblood. Without it, we lose not only cigarette sales, which constitute 60 percent of our volume, but we lose out in cigars, candy and sundry sales. It wasn't a question of profit margins. You weren't getting somebody buying something to make a profit on. When a person came in for cigarettes, he picked up a piece of candy, some Kleenex. They just didn't come in for anything any more.

"It's the illegitimate places that set the pace. They surround us and undersell us by 85 and 90 cents a carton. There was one man in my building; he brings cigarettes in for the whole office. I supplied matches for them.

"I sold out two years ago for half, maybe two-thirds, of what my business was worth five years ago. After 46 years I couldn't make a decent living out of it anymore."

PEACEMAKER IN FLORIDA'S LAST FRONTIER

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Maj. Tom Garrison of the Florida Game and Fresh Water Fish Commission has long been recognized as one of the leading figures in the game and fish conservation program in Florida's first and finest district. His years of service to the commission have resulted in outstanding achievements by that body and in growing recognition of his own capabilities by the sportsmen of Florida. His activities are well outlined in a column by Colin Moore which appeared in the Pensacola Journal of Wednesday, November 23. I submit it for the Record:

Peacemaker in Florida's Last Frontier

(By Colin Moore)

If the Florida Game and Fresh Water Fish Commission chose regional managers because of their imposing features, one would have to consider Maj. Tom Garrison a wise choice.

The manager of the commission's Northwest Region, Garrison appears to be a human reflection of the rugged country he manages.

Perhaps, the sportsmen, who attend the public meetings he chairs throughout the Panhandle, don't miss the comparison.

He's 6-foot-4 and weighs 250 pounds. His frame is still solid, for a man in his 50s, and his gravelly voice commands attention when he speaks. It's a voice which can and, often does, cut through arguments and brings an intermission to disputes between hunters or fishermen at odds with each others' ideas. His hands match his size and they are often clasped together as he leans over his desk and listens to what sportsmen have to say. He has the look of a somebody.

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[2] Or so an FBI man told a Wall Street Journal reporter last spring. Says a Kraft spokesman: "The story is unverifiable." The A&P case grabbed headlines in the late 1960s.

For 11 years, he has epitomized the commission's presence in the Panhandle. He has won battles for commission positions and given in to public opinion at times when there was room for compromise. It is said of him that he is content with the status quo and he understands his position well: He is not a crusader for change or causes, but a manager of fish and wildlife resources as dictated by the policies of the commission. It is also said Garrison stays out of business which doesn't concern him or his employes directly and avoids controversy whenever possible.

However, although the Panhandle leads the state in the number of hunting licenses sold each year and is third in the number of fishing licenses sold annually, Garrison doesn't do his job in an area that breeds dissidence.

Of the five regions in the state, the Northwest Region is the least affected by the encroachment of industrialization or mass immigration. Consequently, the problems, which are present in the other four regions—problems of pollution and overcrowding—aren't substantial.

"It's been said before, by many others, but the Northwest Region is the last frontier in Florida and it will probably be that way for a long time," says Garrison, a native of Pinellas County who joined the commission in 1959 as a wildlife officer.

"We enjoy the last of the wide-open country and the most valuable part of the state as far as having the quietness and space and clean water for wildlife and fish to fluorish. We owe a lot of gratitude to the timber companies, which open hundreds of thousands of acres to hunters each year and the federal and state governments, which provide additional multiple use recreational areas such as Eglin Air Force Reservation, Tyndall Air Force Base, the Apalachicola National Forest and the Blackwater River State Forest. When it comes right down to it, the value of timberlands in this part of the state has been the salvation of sportsmen and there's no reason to expect the situation to change."

Garrison's assessment of the type of outdoorsmen who inhabit the North Florida area probably is similar to another Florida regional manager's composite.

"We have our communities in which the general philosophy of how to utilize fish and wildlife is better than average," says Garrison. "At the other extreme, we have communities in which the attitudes are very bad and the atmosphere is not favorable to sound conservation practices.

"'Overall, we don't have many major problems with our people. The percentile of law violations is similar to other regions." Garrison worked in the commission's fisheries division before becoming regional manager.

"Last week, I attended a meeting in Pensacola that concerned rebuilding the deer herd in the Escambia River valley," said Garrison. "I think I shocked some folks when I said, 'People are selfish.' Sometimes they'll obey one regulation if it is convenient for them and turn around and disobey another regulation because it suits them to do so at the time. No two people have the same sense of values. Some uphold one rule and then put down another, disregarding the fact that the rule was made for a very good reason.

"That's the dangerous kind of thinking I often witness in this region and it's the kind of thinking that's going to keep the area from reaching its full potential.

"Northwest Florida is dog hunting country. Coon hunters, fox hunters and deer hunters often run their hounds in the same specific areas. Their activities affect bow hunters and gun-toting still hunters and even squirrel hunters and turkey hunters. One of Garrison's main tasks is keeping the various groups out of each others' way as much as possible.

"The bickering between fox hunters and deer hunter, especially, is becoming the predominant controversy in this region," says Garrison. "From time to time, I'm accused of being against hunting with hounds, but I'm not. I am, however, realistic about it. When you have a certain amount of space to use and a certain amount of people using it without interfering with each other, there's no problems. But we're getting more people in the woods every hunting season and there's bound to be trouble sooner or later.

"We'll have more and more areas closed to multiple use simply because of sheer numbers of hunters. My concern is seeing that every group of sportsmen gets treated as fairly as possible.

"Another concern I have is with the landowners. They don't like to be involved in arguments and the simplest way they can avoid them is to close their land to everyone. Hunters have to remember that, most of the time, they're borrowing the land they're hunting on and, if they don't treat it respectfully and don't try to get along with each other, they're going to lose it.

"I don't think we're saturated with dogs, yet, and we won't outlaw dog hunting for a number of years. What will make or break dog hunting is how the hunters themselves react to changing circumstances."

For Garrison, his challenge is leading the region's hunters down the bumpy road ahead.

DISASTER MAY FOLLOW B-1 SCRAPPING

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, for many years the leading authority on naval weapons and ships worldwide has been Jane's Fighting Ships. In more recent years, the same reputation has extended to Jane's projections on aircraft. The careful analysis given by this outstanding organization to weapons systems and expertise continues to justify the confidence which they have long held among the world's policymakers on defense.

The new edition of Jane's "All the World's Aircraft," contains the dramatic statement:

> The fragile coexistence, maintained for a generation by balanced East-West military power, is being allowed to slip, inch by inch, from our grasp.

It is from the pen of John W. R. Taylor, Jane's editor. Mr. Taylor is a noted British aviation writer.

President Carter's decision to scrap the B-1 bomber may have given the Soviets a potentially disastrous lead in air power and sown the "seeds of defeat" for the West, the authoritative survey said, and that the West's edge in aircraft and missiles is being eroded rapidly by new Soviet technology.

"If our planet is subjected one day to the unimaginable horrors of a third world war,'" it said in a foreword to its 1977-78 edition, "1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown."

In an unusually harsh comparison, Jane's said Carter's decision to scrap production of the B-1 bomber in favor of developing the cruise missile was similar to Adolf Hitler's emphasis on V-1 "buzz bombs" in World War II.

"Only one military leader has previously put massive faith in such missiles," Jane's said, "and Britain, in a far from technologically advanced age, had little difficulty in coping with Adolf Hitler's V-1 flying bombs.

"Can we be confident that modern cruise missiles, flying at subsonic speed, lacking the discrimination of human control and short of effective countermeasures at this stage of their evolution, would prove immensely more successful?"

Jane's said if the Soviets had staged one of their old-style Aviation Day air shows last July "it would have proved a shattering experience for Western observers."

"Such a sight," Jane's said, "could well have made the United States regret it had been hasty in canceling B-1 production, which is one good reason why it did not happen."

It said the Soviets are developing a small new lightweight fighter specifically as a defense against the cruise missile.

Jane's called it "small, lightweight and extremely maneuverable." It said it is designed to "provide a defense against cruise missiles and low-flying Western attack planes by employing a combination of AWACS (Airborne Warning and Control System), look-down radar and snap-down air-to-air missiles."

It also said two other types of major new Soviet combat planes had been developed. One is a relatively slow but heavily armored plane and the third is a strategic bomber.

Among new Soviet airborne missiles, according to Jane's, are the so-called "Kitchen" air-to-surface weapon with an estimated range of 180 miles and the "Kingfish" with a 135-mile range.

PERSONAL EXPLANATION

(Mr. KASTEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KASTEN. Mr. Speaker, last week I missed three rollcall votes because my plane from Wisconsin was late in arriving. I wish to state, therefore, for the record, how I would have voted had I been present.

"Yea" on the conference report to accompany H.R. 9418, the Health Professions Education Amendments.

"Nay" on the conference report to accompany H.R. 6666, the Legal Services Corporation amendments.

"Nay" on the vote to consider the rule relating to the continuing resolution.

FBI STILL THE BEST

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the Freedom of Information Act has created serious problems for the American intelligence community, and it has become necessary to divert the attention of thousands of personnel to answer inquiries, most of them from just nosy busybodies, relative to information contained in the files.

Nevertheless the revelation of the contents of some 40,000 pages of FBI records demonstrated that the FBI is, indeed, the best law enforcement-intelligence agency in the world, and it revealed how thoroughly the Bureau, under the guidance of Director J. Edgar Hoover, continuously acted in a manner serving the public interest, as well as the national security of our country.

The Columbus Dispatch in a recent editorial, December 9, 1977, recognized the full professional nature of the Bureau, and I am quoting the editorial, in full, for the benefit of all of our Members, both skeptics and supporters of our intelligence agencies:

[From the Dispatch, Dec. 9, 1977]

FBI INVESTIGATION FULL, PROFESSIONAL

Release of 40,001 pages of FBI records on the assassination of President John F. Kennedy will not quiet all suspicions but it does reveal much about the quality and scope of the government investigation.

A century from now those who want to find a sinister conspiracy behind the tragic killing will no doubt debate the evidence as vigorously as some historians still argue about aspects of President Abraham Lincoln's murder in 1865.

Because time has elapsed and both Lee Harvey Oswald and Jack Ruby are dead, the public is not likely to find out why the president and Oswald both were killed in Dallas. These issues of motivation are critical to the investigation.

What emerges clearly from the declassified FBI documents are several important themes.

First, the agency and its Director J. Edgar Hoover pursued an intense, professional investigation of unprecedented magnitude.

Agents pursued thousands of leads—most of them false—and collected a great variety of information. While most of the data proved unproductive, the FBI had an obligation to pursue every possible lead—and it apparently did.

Second, the FBI documents show occasional spats with other agencies and individuals also pursuing their own investigations.

That the investigators sometimes competed and disputed each other's conclusions should not surprise those familiar with government bureaucracies. Inevitably interagency rivalries and personality conflicts influence the evolution of government policy and programs.

Rather, this competition was healthy. The adversary process ensured that the investigators questioned evidence and their conclusions passed the test of time.

Within two hours of the president's assassination the records show Mr. Hoover believed Oswald committed the crime, and months of checking led the Warren Commission inexorably to the same result.

Release of the FBI documents seems certain to bolster public confidence in that agency's professional approach to criminal investigations.

THE B-1 BOMBER IS NECESSARY, MR. PRESIDENT

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, time and again, the House has expressed itself in a manner that should at least suggest to the President that he was in error when he accepted the advice of those urging phasing out of the B-1 bomber. It is not necessary to repeat all of the facts outlined in the frequent debates here in the House, and I would hope that the President will not follow the route of a "substitute manned bomber," just because it might make him look bad to reverse himself for his error on the B-1.

The Columbus Dispatch in a fine editorial on December 13, 1977, quoted the latest edition of the respected "Jane's," and I am attaching this editorial for the benefit of both the proponents and opponents of the critical B-1 program. It concludes that—

> Next year Congress would be wise to review thoroughly the state of our strategic defenses and, if necessary, resurrect the B-1 project.

[From the Dispatch, Dec. 13, 1977]

BOMBER DECISION DESERVES REVIEW

Foreign criticisms of President Carter's decision to scrap the B-1 bomber deserve careful consideration in the U.S.

The latest edition of "Jane's All The World's Aircraft," which is a respected British survey of armaments, asserts the White House decision may have given the Soviets a potentially disastrous lead in air power and sown the "seeds of defeat" for the West. It says:

"If our planet is subjected one day to the unimaginable horrors of a third world war, 1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown."

President Carter's cancellation of the B-1 bomber in favor of developing the cruise missile, a relatively untried weapon, was similar to Adolf Hitler's unwise emphasis on V-1 "buzz bombs" in World War II, the military survey says.

These comments, unusually harsh in tone, warrant serious evaluation in Congress and the Executive Department where officials have the responsibility for developing weapons systems to maintain American security.

Frankly, we had doubts when Mr. Carter abruptly abandoned the B-1 program in June without at least using the weapons system as a bargaining chip in negotiations with the Kremlin on strategic arms limitations.

And subsequent congressional debate has done nothing to allay the concern that reliance on the subsonic cruiser is an inadequate substitute for the more expensive manned bomber capable of actually penetrating Soviet air space.

The existing B-52, which first flew in 1954, is vulnerable to Soviet air defenses and it cannot deliver the cruise attack missiles as effectively as the B-1 or some other technologically-advanced bomber.

But the strongest argument for a new manned bomber rests on the need to provide insurance against technological breakthroughs which could expose our submarine-launched missiles to a Soviet first strike.

Next year Congress would be wise to review thoroughly the state of our strategic defenses and, if necessary, resurrect the B-1 project.

PALM OIL RESTRICTION THWARTED BY WORLD BANK

(Mr. MOORE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORE. Mr. Speaker, on November 15, 1977, the World Bank approved a $65 million loan to Indonesia, approximately $15 million of which will be used to finance increased palm oil production. On October 3, 1977, President Carter signed Public Law 95-118, legislation authorizing funds for the World Bank and others, but also containing section 901 language which I authored in the House version prohibiting U.S. support for any loan for palm oil production, if it was to be exported and would compete with similar U.S. products, such as soybean oil. President Carter has also stated his intention to instruct U.S. representatives to these banks to oppose such assistance for palm oil production.

I was shocked to learn this loan received the support and vote of the U.S. Executive Director, in defiance of this law and the President's instructions as well. I have protested this vote to the President, and the U.S. Executive Director as being illogical, illegal, and totally unacceptable.

The Department of the Treasury issued a report dated November 15, 1977, used by the Executive Director to rationalize his vote that, in my opinion, draws two ridiculous conclusions. First, that the increased production will be only for Indonesia's domestic consumption, or not for export, and second, that any increased exports will not have any effect on American agriculture. Besides contradictions in the Treasury report itself, USDA figures 3 weeks after the loan was approved concluded that increased palm oil production in Indonesia was designed to increase exports. Indonesia now or in the foreseeable future will consume nowhere near all the palm oil produced. Therefore, any increase in production in Indonesia will mean more palm oil for export, and any additional exports adversely affect American vegetable oil production.

Mr. Speaker, not only is this action deplorable in the sense that it flies in the face of the law and congressional intent, but it also will be perceived by farmers, many of whom are at this moment demanding 100-percent price support for crops competing with palm oil, as an instance where their Government is not adequately considering their interests and thereby justifying their demands. We must strongly protest this occurrence and demand that it not happen again in the future, in order to preserve our free market agricultural system.

PERSONAL EXPLANATION

(Mr. SEBELIUS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, each year, I make it a practice to conduct a summer listening tour of my 57-county First Congressional District of Kansas. However, the tour was delayed this year in order that I not be absent during consideration of the Food and Agriculture Act of 1977, legislation of the utmost importance to the people of the "Big First" District.

Our annual 3,200-mile listening tour covers 60 percent of Kansas and an area larger than the State of Ohio or Pennsylvania. Rescheduling of the tour during these past months was difficult due to the uncertain schedule of the Congress and resulted in my being absent from the December 6 and 7 sessions. Had I been able to be here, I would have cast my votes in the following manner:

H. Con. Res. 432, health planning. Vote "yea."

H.J. Res. 622, fiscal 1978 continuing resolution. Vote "yea."

H.J. Res. 622, fiscal 1978 continuing resolution, Michel amendment to the Mahon amendment. Vote "nay."

H.R. 9375, fiscal 1978 supplemental appropriations, Addabbo motion. Vote "nay."

H.R. 9375, fiscal 1978 supplemental appropriations, Mahon motion. Vote "nay."

H.R. 9418, foreign medical students, adoption of the conference report. Vote "yea."

H.R. 6666, Legal Services Corporation, adoption of the conference report. Vote "nay."

H.J. Res. 662, fiscal 1978 continuing resolution, adoption of the rule. Vote "yea."

H.J. Res. 662, fiscal 1978 continuing resolution, Mahon motion. Vote "nay."

S. 1340, energy research authorization, adoption of the rule. Vote "yea."

H.R. 3722, Securities and Exchange Commission authorization, adoption of the conference report. Vote "yea."

S. 305, unlawful corporate payments, adoption of the conference report. Vote "yea."

H.J. Res. 662, fiscal 1978 continuing resolution, adoption of the rule. Vote "nay."

H.J. Res. 662, fiscal 1978 continuing resolution, Michel motion. Vote "nay."

CONSERVING THE AMERICAN PEOPLE'S HERITAGE IN ALASKA

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD.).

Mr. SEIBERLING. Mr. Speaker, the Alaska Native Claims Settlement Act of 1971 did more than settle the longstanding aboriginal claims of Alaskan Native peoples. It also set in motion a sequence of events which, if carried through by this Congress, may well constitute the most significant single land conservation action in the history of our country.

The 1971 act directed the Secretary of the Interior to withdraw from all other forms of appropriation up to 80 million acres of Federal lands in Alaska—lands owned by all of the American people—and to report to the Congress his recommendations for protecting them as units of the National Park, National Forest, National Wildlife Refuge, and National Wild and Scenic Rivers Systems. In 1973, former Interior Secretary Rogers Morton recommended that some 83 million acres be so designated. These lands are often referred to as the "D-2" lands after section 17(d)(2) of the 1971 act, which is the section authorizing the Secretary's action.

The 1971 act also set a practical deadline of December 1978, for Congress to act on these lands by providing that any of these lands which Congress has not by then chosen for special legislative protection will revert to ordinary public lands status, open to mineral entry and other forms of commercial development.

Congress, of course, has the ultimate responsibility for disposition of the public lands. The Secretary's recommendations, while helpful, are merely guides which Congress may modify. H.R. 39, introduced in January 1977, by the distinguished chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, and cosponsored by myself and some 75 other House Members, enlarged upon Secretary Morton's recommendations, as do the recommendations of the Carter administration which were presented to the Committee by Secretary of the Interior Cecil Andrus in mid-September.

Unlike the lower 48 States, where land use and ownership patterns are already set, Alaska represents an opportunity to protect immense tracts of unspoiled, pristine wilderness of great beauty and variety. There we can create a system of national parks, wildlife refuges, forests, wild and scenic rivers and wilderness areas whose boundaries are not dictated by urban sprawl or the expense of repurchasing former Federal land but by ecological wholeness.

Such action would come just in time. The tide of modern technological development is about to sweep over Alaska. Indeed, H.R. 39 will virtually complete the land allocation process in Alaska which began with the Statehood Act in 1959. The Statehood Act granted the State of Alaska the right to select over 104 million acres of public land (an acreage equal in size to the State of California). This land disposal process was continued by the Alaska Native Claims Settlement Act, which granted Native corporations the right to select about 44 million acres of public land (equal to the size of the State of New York). H.R. 39 would complete this process by setting aside for the future enjoyment of the American people an amount of land equivalent to the total granted to the State and the Alaskan Natives.

Mr. Speaker, I would like to present at this time a status report on the actions taken thus far by the Interior Committee's Subcommittee on General Oversight and Alaska lands in dealing with this monumental legislation. Newly formed in this Congress, the subcommittee, which I chair, has been delegated the task of considering H.R. 39 and other bills related to the Alaska public lands question.

PUBLIC HEARINGS

Mr. Speaker, H.R. 39 deals with important and complicated issues which involve huge land areas, interests of the State, of Native groups and of the entire Nation. The bill deals with the national needs for energy, timber, and minerals, as well as the less easily quantifiable but no less important needs for preserving the majesty of undeveloped lands and magnificent wildlife populations and for developed outdoor recreational space.

In order to meet our responsibility and to assess the public feeling toward these matters, the subcommittee embarked on an extensive series of public hearings. These hearings, designed to permit the widest possible public input, were held in the Nation's Capital and in several major cities in the Lower 48 and in Alaska. Hearings were held in Washington, D.C. (April 21, 22, 25, 28, 29, and May 2 and 3); Chicago, Ill. (May 7); Atlanta, Ga. (May 14); Denver, Colo. (June 4); Seattle, Wash. (June 20); Sitka, Alaska (July 5); Juneau, Alaska (July 7); Ketchikan, Alaska (July 9); Anchorage, Alaska (August 12); and Fairbanks, Alaska (August 20).

In addition, 19 "town meeting" sessions were held in Alaska so that rural Alaskans would have a better chance to present their views. Special briefings were given to the subcommittee by the U.S. Geological Survey and the Bureau of Mines (June 23) and the U.S. Forest Service (July 19), and special hearings were held on the status of land transfers to Alaskan Natives under the Alaska Native Claims Settlement Act (July 21, 22, and September 12).

Mr. Speaker, section 17(d)(2) of the Alaska Native Claims Settlement Act is referred to as the "national interest" provision of the Act, since the establishment of new national parks, national wildlife refuges, national forests, national wild and scenic rivers and national wilderness areas in Alaska will truly benefit the entire Nation. Moreover, since the land is already owned by the Federal Government, it can be done without any initial outlay of money.

The public hearings have demonstrated a broad national interest and concern in the fate of Alaska's public lands and have been exceptionally informative and thought provoking. More than 2,300 witnesses, from 40 States, testified. Many traveled hundreds of miles at their own expense to do so. The witnesses reflected a broad cross section of America. In Alaska itself, well over 1,000 Alaskans testified at the public hearings and town meetings.

A total of 15 members of the Interior Committee—nearly a third of its membership—attended some part of our field trips and field hearings; 14 members went to Alaska.

Our last hearing was held here in Washington on September 15 when the Secretary of the Interior Cecil Andrus and Assistant Secretary of Agriculture Rupert Cutler presented President Carter's recommendations on the bills before us. It was gratifying to receive the administrations' support for the overall thrust and concept of H.R. 39. To quote Mr. Andrus:

> The President and I are totally committed to the early passage of a strong d-2 legislative package.

He further stated that—

> Except for a variation in overall acreage and wilderness acreage recommendations and other more minor amendments, I believe H.R. 39 is in basic agreement with our proposals on the broader issues which we face in this legislative issue.

The administration's recommendations are the culmination of many years of study and research in Alaska by the

Department of the Interior, and demonstrate careful efforts to accommodate private, local, and State concerns and, in Mr. Andrus's words "sensitivity to the resource needs of Alaska and America both now and for the coming years."

Since the end of the hearings, the subcommittee staff, under my direction and in close consultation with majority members of the subcommittee, have assimilated what we have learned and have prepared recommendations for a new text of H.R. 39. These recommendations have been incorporated in Subcommittee Print No. 2, which has been adopted by the subcommittee for the purposes of markup, now scheduled to commence on January 11.

OUTLINE OF MAJOR ISSUES

Mr. Speaker, for those unfamiliar with the Alaska "d–2" lands question, it will be useful to outline the general issues which have been addressed repeatedly throughout our hearing process and the particular issues which we have tried to address in our consideration of H.R. 39 and the preparation of the subcommittee print.

In the meantime, the subcommittee staff and I are continuing to work with Secretary Andrus and Bergland, the State of Alaska's administration and legislative council, national and Alaskan conservation groups, representatives of organized labor and industry, and representatives of Alaskan Natives, to perfect the bill and resolve remaining differences.

CONSERVATION

As those who visited Alaska have seen, wilderness on a vast scale is the singular distinguishing characteristic of the public lands in Alaska. It presents an unrivaled opportunity for experiencing vast areas of land scarcely altered by man's activities. It is this aspect of Alaska's national interest lands which has captured the minds and imaginations of countless Americans. Many may never go to Alaska, but, as many of our witnesses said, they "know it is there"—for themselves and their children. The wilderness character of Alaska's public lands is viewed by many Americans as the last remnant of a national heritage which has all but vanished in the lower 48. As our final frontier, the public lands in Alaska, if protected, would continue to offer Americans the kind of experiences many so vividly described at the hearings. As one New Yorker wrote of a recent visit there—

> Nothing can replace that rare sense of exhilaration: Not profit, not power, not development. . . . There is a place for wonder, imagination, vitality and wild beauty in our lives. For Americans that place is Alaska, both symbolically and in fact.

From the hundreds who testified across the lower 48, it became abundantly clear that there is great concern that some significant part of the scenic, wildlife, scientific, and recreational values that these lands now embody be protected in a way that will assure their availability in a similar condition for generations to come. The overwhelming majority of the witnesses supported H.R. 39.

Alaskan residents, testifying before us, displayed a keen awareness of, and appreciation for, the role these natural resources play in shaping the Alaskan lifestyle. Of the total number of Alaskan residents who testified at the public hearings opinions were divided about evenly on the basic thrust of H.R. 39.

For many, these lands are the drawing card and the justification for remaining in Alaska, despite the higher cost of living, the ofttimes remoteness of their homes, and the severe weather they face. And although there was disagreement on the specifics of the legislation, there was, throughout Alaska, near unanimity on the importance of preserving Alaska's grandeur and undeveloped beauty. Hence the basic issue is not whether those public lands should be protected, but how extensive the protected areas should be, where they should be, and how they should be managed.

SUBSISTENCE USES

It became clear early in our hearings that the subsistence life-style—one dependent on nature for supplying food, clothing and shelter—still plays a large role in the lives of many Alaskans, both Natives and non-Natives. Subsistence uses of renewable resources on the public lands in Alaska represent an integral part of the Native culture and an important source in whole or in part of food, clothing, and shelter for many residents. Moreover, the Congress, in the 1971 Alaska Native Claims Settlement Act, recognized the obligation of both the Federal and State Governments to protect the subsistence lifestyle of the Alaskan Natives.

The subcommittee print would implement that commitment by giving subsistence uses priority and establishing suitable administrative arrangements. Moreover, by protecting and preserving the subsistence resource base in the conservation system units, the subcommittee print would maximize the possibilities for continuation of the option for a subsistence lifestyle for as long as persons engaged in supporting themselves and their families in this fashion continue to choose to do so.

We are aware that the public lands in Alaska have a finite carrying capacity—that their resources cannot support an unlimited number of hunters and other users of wildlife resources. The subcommittee print recognizes the need to prevent overuse of the subsistence resources on public lands.

Clearly connected with these issues is the need to determine which agency should regulate the taking of the wildlife and fish on public lands in Alaska. We heard strong and diverse opinions on this question from the people of Alaska. Some Native groups believe that Federal management is essential if subsistence uses are to be adequately protected. Other witnesses testified that the Alaska State Fish and Game Commission should be responsible. However, a recent decision by a lower State court raises questions about the State's legal ability to protect subsistence uses. Governor Hammond has, however, indicated his administration's power and ability to assume this responsibility.

Two points seem clear: That regulation of hunting and fishing needs to be on a statewide basis, and that the Federal Government has the right to require that management of wildlife resources on Federal lands follow guidelines designed to protect subsistence users, as well as the national interest. The subcommittee print would expressly authorize the State to regulate hunting and fishing on the public lands in Alaska, so long as the State's program for so doing meets certain specified requirements designed to meet the State and Federal Government's responsibilities to protect the rights of subsistence users. Of course, ultimate responsibility over administration of the Federal lands rests with the Federal Government, and our draft language so provides.

SPORT HUNTING AND FISHING

We recognize the great importance in Alaska of hunting and fishing for other than subsistence purposes. This is certainly an important part of the Alaskan lifestyle. Our subcommittee print recognizes this, and in fact goes far to assure the continuation of these activities. By the creation of national wildlife refuges, themselves normally open to sports hunting and fishing, and national parks which are generally open to sports fishing, we not only are protecting the species whose continued viability is essential to the future of wildlife-oriented recreation, but we are also assuring that there will be places where that recreation can take place. Moreover, the subcommittee print expressly authorizes sport hunting and fishing in national park preserves and national forest wilderness areas.

MINERALS DEVELOPMENT

On the question of developing Alaska's mineral potential many persons who testified raised questions as to the effect on our future national security and economic well-being of placing Federal lands in the conservation systems. Somewhere between industry's desire to locate and develop all mineral resources which can be produced profitably and the desire of conservationists to preserve pristine areas of our country, there must be a balance. In seeking that balance, the subcommittee print authorizes a continuing ongoing minerals assessment program on Federal lands, including those within the conservation systems. It draws boundaries of the proposed conservation system units to exclude most of the areas considered to have high mineral potential. And it proposes a clearly defined procedure for determining whether to permit exploration and development of one or more resources on a large portion of the conservation system lands when the national interest so requires.

In fact, this proposal would fill a serious gap in our national minerals policy by providing for an orderly, forward-looking assessment of our national minerals needs and supplies.

Mineral developers naturally would

like to keep all their options open. However, as Secretary Andrus said in his testimony on the administration's proposed amendments to the original bill:

> Why—with all of the area we are leaving open to potential development—should we also invite development and risk the destruction of areas which are important for their beauty, their wildlife, or their ecological and cultural significance? . . . If we err in this decision and exclude some precious and delicate areas from the four systems, these areas could be lost forever . . . But if we err by conserving too much, this can always be changed in the future.

Moreover, the State has already selected under the Statehood Act, or identified for possible selection, lands which it considers to have the greatest oil, gas and mineral potential. Thus the State acquired the Prudhoe Bay oil fields. The Native Regional Corporations, in choosing lands under the Alaska Native Claims Settlement Act, have made selections for similar reasons. In addition to State and Native lands, which will amount to 148 million acres, if the subcommittee print were enacted as is, 82 million acres of public lands would still remain open for multiple uses, including potential mineral development. This means that 230 million acres, nearly two-thirds of Alaska, would be open to multiple uses, and in addition some 55 million additional acres would be open to mineral development to meet clear national needs.

Thus, we can act with some confidence that the future national interest in exploring for and developing oil, gas and other minerals will be adequately served by setting aside appropriate areas for protection until and unless the future national interest in exploring their mineral potential is determined to outweigh their value as wilderness.

In addition, the subcommittee print expressly protects the rights of all owners of valid mining claims, wherever located, including the right to have the access necessary to extract the minerals.

PUBLIC ACCESS

Mr. Speaker, a concern repeatedly expressed to us—especially in Alaska—was the importance of assuring that the lands we set aside for the public not block further transportation between different parts of the State or access by private owners to their lands or prevent the kind of access people in Alaska have enjoyed in the past.

Alaska is unique in its size, in the scarcity of roads, in the ruggedness of its geography, and in its climate. These conditions mean that the traditional use of vehicles such as snowmachines for transportation and subsistence uses and continued access by airplanes and motorboats (already permitted by the Wilderness Act itself) should be permitted to continue where they are already established. The subcommittee print authorizes the continuation of these traditional forms of travel in all areas where they are currently authorized, subject to reasonable regulation to prevent damage to the area.

The subcommittee print expressly protects the rights of the State, Native corporations and private landowners to have rights to cross Federal land as necessary to reach their land. It also authorizes the Secretaries of Interior and Agriculture to allow rights-of-way or similar permits for minor transportation or transmission systems. Finally, it would establish an orderly procedure for determining whether to permit a major transportation system, or hydropower or other generating facility, or for a major utility transmission system, whether needed to meet the needs of Federal, State, or local governments or of private landowners.

IMPACT ON EMPLOYMENT

One concern raised in several hearings, particularly in southeast Alaska, was whether designation of wilderness areas in existing national forests would lead to the loss of jobs in the timber and pulp industries.

After our return from southeast Alaska, we asked the U.S. Forest Service to provide an authoritative statement of the likely effect of wilderness designations upon employment in these industries in Alaska. On July 19, the Forest Service testified that "enactment of H.R. 39 by itself would not likely have a significant negative effect on the current level of employment and income" in southeast Alaska. That is still their opinion.

In fact, all the information available thus far indicates that H.R. 39 allows room for significant expansion of the timber products industries in southeast Alaska. Nevertheless, there still remains in the minds of some a question on the effect of H.R. 39 on the forest products industry in southeast Alaska. Therefore, I have asked the Forest Service to provide us with more detailed information and a report on the effects, if any, the subcommittee print would have on this vital industry. The Forest Service has informed me that it will have this information available by January.

During the hearings in southeast Alaska, I made the statement that I would not support any bill that reduced employment by even a single job in southeast Alaska. That is still my position, and while I do not expect the picture will be changed by the more detailed information, if it is, I will be the first to recommend reductions in the total wilderness acreage proposed for the Tongass National Forest if necessary to assure a supply of timber adequate to support the existing timber and pulp industry.

Many fishermen testified in favor of wilderness designation in southeast Alaska as a way to protect fishery resources, especially salmon spawning grounds which they feel may be degraded through logging or mineral developments. I have been told that 6,400 people are directly employed by the southeast Alaska fishing industry, which in recent years has accounted for 40 percent or more of the total weight of salmon caught in Alaska. Thus certain wilderness designations in southeast Alaska could contribute to protecting jobs in the largest industry in that part of Alaska.

STATE AND NATIVE LAND TRANSFERS

Mr. Speaker, another recurrent theme which we heard in Alaska was the feeling that the Congress and the Federal Government have failed to live up to previous commitments to expeditiously transfer to the State and Natives public lands they have a right to receive under the Alaska Native Claims Settlement Act and the Alaska Statehood Act. Both the State administration and the Native groups urged us to use H.R. 39 as the vehicle to legislatively transfer to them the title to lands which they have selected under these acts.

Interior Department witnesses demonstrated that they are keenly aware of the need for top-level attention to this matter, and for a greatly increased administrative effort directed to carrying out the requirements of the Native Claims Settlement Act. They reported to us that a review of the Department of the Interior's past programs, policies, and actions is well underway, and that they intend to institute an improved and accelerated program of land transfers.

While I have confidence in the good intentions of the administration in this regard, what we on the subcommittee saw and heard in Alaska convinced me that the time has come for Congress to redeem the promises of the Alaska Native Claims Settlement Act and to do so as part of the legislation which will be coming out of our subcommittee.

As to the State of Alaska's entitlements under the Statehood Act, I believe it is accurate to report that many members of our subcommittee agree with me that the time is ripe for transferring those lands which the State has already indicated it wishes to select and to which it is entitled under the Statehood Act.

Accordingly, the subcommittee print contains provisions to transfer title of all validly selected lands to the State and the Native corporations without delay.

Mr. Speaker, the principal forces opposing this legislation are oil companies, who wish to get their hands on the Arctic National Wildlife Range, and mining companies, who are not satisfied that 90 percent of the State's most promising mineralized zones are excluded from the areas covered by the subcommittee print. They want it all. So they have charged that H.R. 39 would "lock up" Alaska's resources.

The fact is that H.R. 39 as revised by subcommittee print No. 2, is an "unlock" bill. By ending the uncertainty as to the status of Federal lands in Alaska and the delays in transferring millions of acres of Federal land to the State and its Native inhabitants, the bill will eliminate three of the greatest roadblocks to Alaska's economic progress.

Under this bill, 75 percent of the land in Alaska can be opened to mineral development, 80 percent of its commercial timber can be made available for logging, 60 percent of the land can be open for sport hunting—and possibly more if the Natives will allow sport hunting on their lands. Moreover, the foundation will be laid for a fantastic increase in Alaska's tourist industry—presently the lowest of any State in the Union.

Mr. Speaker, recorded in the conservation annals of our great country are many outstanding accomplishments which at the time of their inception were not without controversy. Establishment of Yellowstone Park in 1870, the first national park in the world, was not easy. Nor has the creation of the other major park system units been easy. President Theodore Roosevelt was attacked when he created by Executive withdrawal the bulk of our great national forests and similar actions which resulted in establishment of the nucleus of our National Wildlife Refuge and National Park Systems. Yet today these places are visited annually by millions of Americans and treasured by the entire Nation as part of our national heritage. The same holds true for the Alaska lands.

Each generation has its own rendezvous with the land. What we accomplish in this process not only will be a measure of what we Americans are as a people, but will assure to those who follow us on this planet a conservation legacy of permanent and lasting value.

We have taken the administration's recommendation and blended it with the knowledge we gained during our hearings, field trips, town meetings, and discussions in Alaska and the Lower 48 States to develop Subcommittee Print No. 2, and we are working on further refinements to it. We have redrawn boundaries of the conservation systems to protect whole ecosystems while excluding certain known and valuable mineral areas. We have drafted a procedure to open additional areas to mineral development should it be in the national interest as well as procedures to provide both public and private access through conservation areas. We have drafted language to expedite conveyance of lands to the State and Natives. And we have done all this in a way that will preserve the natural treasures of Alaska for ourselves and our descendents.

Following these remarks is an article which appeared in the Anchorage Daily News of August 29, 1977, and which describes the subcommittee's hearing in Anchorage as one Alaskan viewed it.

THE OTHER SIDE OF THE D-2 COIN

(By Mark Hickok)

Don Young sent out a d-2 letter to Alaskans. He wrote, "Your view must be heard . . . I would like to again emphasize the necessity of Alaskans presenting their views during the hearings in the state."

And Alaskans are doing that. Some 300 witnesses spoke before the Congress of the U.S. House Subcommittee on General Oversight and Alaska Lands in Anchorage on Aug. 12.

It brought out the fact, as earlier hearings in the state have, that not all Alaskans oppose H.R. 39, Rep. Morris Udall's bill to create national parks, wildlife refuges, and wild and scenic rivers in Alaska. So far, there has been no clear majority speaking for or against the bill.

In Anchorage, despite the opponents of the Udall bill putting on an expensive media show over a prolonged period, and despite the Anchorage Times news and editorial bias, the little people did not come out in droves to oppose H.R. 39. Perhaps the only thing the opponents of H.R. 39 have done was to create the unnecessary polarization of people involved in what Lydia Selkregg referred to as "due process," the democratic process of making laws.

The halls and hearing rooms of East High School were crowded with far more people than the some 300 witnesses who spoke. There was an atmosphere of enthusiastic anticipation by the participants, both the subcommittee members and the audience.

Considering the pre-hearing statements of Don Young, the state administration, and the Alaska Legislature that no Alaskans would support the Udall bill because H.R. 39 would "lock up" the state, only the anticipation of a good representation was realized by the conservation community.

Certainly, the subcommittee's anticipation of hearing the long promised out-pouring of sentiment opposing H.R. 39 did not occur, nor did the H.R. 39 opponents anticipation of drowning out the conservation voices occur.

The testimony of the elected officials of the state was entirely anti-H.R. 39. One politician, in private conversation, commented that no one in public office would dare testify in favor of H.R. 39 or any major conservation issue, as their constituents would not support them in the next election. The politicians testified in favor of the state's and the Land Use Planning Commission's fifth system plan, which could indicate the suspicion heard by conservationists that the fifth system is a cover for development may have some validity.

Among the elected officials testifying, George Sullivan and Lydia Selkregg requested the Seiberling Committee to redirect its thinking along lines of creating urban recreation areas. Udall suggested that urban recreation responsibilities also rest with the state and municipalities and that the state should consider selecting such lands as well as lands for development. Young claimed the state already had some five million acres of state park land, but the records show he has over-estimated the amount by some three and a half million.

In testimony before the committee, state officials who had vigorously opposed the creation of state parks as a waste of resources, now used those very parks as examples of how capable the state is to properly plan for balanced land uses. Many officials also spoke of the need for a new joint federal-state commission with authority to dispose of federal lands. Seiberling commented, "No way will Congress create a commission to mandate how federal lands will be dispersed. It is a decision of Congress."

In a discussion of wild and scenic rivers, two homesteaders informed the committee that there are people living on some of the proposed wild and scenic rivers. They had no objections to H.R. 39 but requested the committee consider how to deal with those residents who wish to remain on their lands. They are living a subsistance lifestyle, according to the men testifying, and are not interested in additional developments in their area. Udall commented it was not necessarily a problem and could be worked out. He also suggested the state might wish to establish wild and scenic rivers on its own lands as part of its balanced land planning.

Many of the people who testified against H.R. 39 said the parks weren't needed, were too large, too inaccessible, and too expensive to reach. Seiberling responded by asking about Yellowstone in 1872. "It was less accessible then the Gates of the Arctic is now, but last year Yellowstone had two and a half million visitors. Do we know all the resources in the United States now? Should we have held up creating any parks or refuges in the nation until we knew?"

Those testifying for H.R. 39, as did Peter Martin, said no generation has ever criticized a previous generation for setting aside national parks and refuges, or wild and scenic rivers. Ted Burton pointed out that even if all the 114 million acres were placed in the federal systems the rest of the state would still be larger than Texas.

Subsistence again and again was the point of testimony, with conservation witnesses continuously making the plea that those who chose a subsistance life should be offered the opportunity to continue it. The committee members demonstrated great sensitivity to the subject and Seiberling remarked, "The subsistance life-style is the foundation of the villages." He further commented that the intent of Congress in the passage of the Alaska Native Claims Settlement Act had made a commitment to the subsistence lifestyle.

The Seiberling committee is continuing its search for the views of Alaskans. This hearing record closes in 30 days, so anyone who did not have the opportunity to testify in person may mail in their statement. The committee is finding many Alaskans are in favor of H.R. 39, and would like some choices of land use left to future generations.

INTRODUCING LEGISLATION ENABLING THE COAST GUARD TO ONCE AGAIN ASSUME LEAD AGENCY RESPONSIBILITY FOR INTERDICTING SEABORNE DRUGS ON THE HIGH SEAS

(Mr. BIAGGI asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, 1 year ago today the tanker *Argo Merchant* was aground and spewing oil into the Georges Bank fishing grounds off Cape Cod, Mass. This morning's Washington Post recalls vividly those events. The Subcommittee on Coast Guard and Navigation responded by authorizing additional funds for Coast Guard pollution research, prevention, and response. Later the subcommittee reported and the House passed the Comprehensive Oil Pollution Liability and Compensation Act of 1977. Further action on the bill is awaited by the Senate. The subcommittee later journeyed to Cape Cod to observe firsthand the lessons learned in the wake of the *Argo Merchant*.

The subcommittee similarly traveled recently to Florida and the gulf region to investigate the dramatic rise in drug smuggling by vessels from South America, both United States and foreign, including commercial and fishing vessels, recreational craft, and most recently through the use of mother ships lying off our coasts. These frequently fly the Panamanian, Colombian, Honduran, or Bahamian flags or no flag at all. Whatever nationality they claim, they should be denied diplomatic protection as their activities contravene the law of nations. As many as 32 mother ships have been sighted by the Coast Guard this year from Maine to the western Gulf of Mexico. Total pounds of contraband seized may exceed 1 million pounds for this year alone. The principle illegal cargoes carried in their holds include marihuana, hashish, and cocaine.

The ominous portent of this increase in seaborne drug interdiction is significant for several reasons. This subcommittee has investigated possible links between yacht hijacking and boat theft, their interstate and international transportation, reregistration abroad and their subsequent use in the international drug trade. A potential threat is thus posed to the 10 million recreational boat owners in the United States, who may be victimized by organized and amateur thieves participating in these high payoff/low risk ventures. The Drug Enforcement Administration has evidenced a distinct rise in total volume and average seizure of drugs carried by vessels, reflecting a shift from other modes and methods of transport. The resulting high products may be channelled through criminal organizations into other illegal activities such as child pornography, prostitution, automobile and boat theft.

The subcommittee also investigated organized boat theft and marine insurance fraud as part of its overall inquiry into the Coast Guard's role in maritime criminal law enforcement. Annual thefts of private boats have been estimated to exceed $60 million. Law enforcement capability in this area parallels that of automobile theft 20 years ago.

Today I embark on a significant first leg in steering the National Drug Enforcement effort in the direction of seaborne drug interdiction. I am introducing legislation, which for the first time since 1970, will provide criminal penalties for the possession, with intent to distribute, of heroin, cocaine, or marihuana, in the United States, by a U.S. national on board a U.S. or foreign vessel beyond the present customs enforcement zone of 12 miles. These "mother ship" transfer operations frequently occur from 50 to 100 miles offshore, offloading to fast (50 knot) supply boats, which sprint to shore with their illicit cargo.

Case after case has either not been prosecuted or has been dismissed by Federal judges as a result of this glaring loophole in the law.

I move today to fill that void. I am compelled to take this action in light of my life-long devotion to law enforcement, my membership on the Select Committee on Narcotics Abuse and Control and my chairmanship of the Subcommittee on Coast Guard and Navigation. With the successful passage of this legislation the Coast Guard can once again assume lead agency responsibility for interdicting seaborne drugs on the high seas.

HOUSE DELEGATION VISITS IBERIAN PENINSULA AND MIDEAST

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, last month Majority Leader Wright led a House leadership delegation of 15 Members to the Iberian Peninsula and Middle East in order to keep the Congress informed of important events in those areas of the world and to demonstrate our country's interest in democracy and world peace.

It was a bipartisan group in every respect. I was pleased to have been a member of that delegation and I would like to commend the distinguished majority leader for the statesmanship and exemplary manner he displayed in heading our delegation. Our trip was historic in many respects. It was during our meeting with President Sadat that he announced his acceptance of the Israeli invitation to speak before the Knesset in Jerusalem. Similarly, Prime Minister Begin announced the date and details of Sadat's visit while we were meeting with him in Israel. Prime Minister Begin also personally requested the delegation to extend its stay in Jerusalem 1 additional day in order to be his guests in the Knesset when President Sadat gave his speech. Our presence on that historic occasion symbolized American dedication to peace and our vital role in working for a settlement in the Middle East.

Members of the delegation, with appropriate assistance from Embassy staff and Department of State personnel, developed this report. We would like to thank Dennis J. Taylor, who is legislative counsel to the House minority leader and accompanied us on the trip, for his assistance in helping the delegation compile and prepare this report.

Because of the importance of our conversations and their timeliness, I would like to insert the report in the Record on behalf of all the members of the delegation. I urge all my colleagues to read it carefuly:

ARAB REPUBLIC OF EGYPT

U.S. AMBASSADOR EILTS—BRIEFING

In November 1973, the U.S. resumed relations with Egypt after a break of some eight years. Relations have steadily improved, and Sadat has warmly received 319 of the 320 visiting Members of Congress who have come to Egypt over the past four years. The only reason he missed one was because he was in bed with an illness. Sadat's personal warmth and efforts indicate the change in Egypt's attitude toward the U.S. No longer are they making our relations an "either us or them" proposition on Israel. As a result the climate is more conducive to improving relations and trust.

Ambassador Eilts indicated there were three elements to our relationship with Egypt: the political, the economic, and the cultural.

Political

The major part of our political relations with Egypt concerns our peace efforts. The Middle East needs peace, and Sadat seems sincerely dedicated to achieve it. As a result Sadat has received some severe criticism from other Arab states—especially for signing Sinai II. Sadat wants to get to Geneva and has repeatedly expressed his willingness to cut through procedural red tape bogging everything down in order to get to the substantive peace issues at the negotiating table. Syria is the most reluctant holdout on the peace talks, and Sadat is scheduled to go there November 16 for a day of talks with President Assad. Reportedly he wants to press Syria to support movement toward the Geneva Conference.

By way of background to the longstanding differences which exist among the various Arab states, Ambassador Eilts explained that in spite of its "Arabization" since World War II, Egypt traces its own history and independent identity back thousands of years B.C. Egyptians are not shy in letting it be known they consider themselves different from other Arabs. This attitude has become mutual, accounting for some of the differences and tension between Egypt and other Arab states.

In addition, the Ambassador expressed Egypt's concern over the level of U.S. military aid to Israel.

Economic

There are three basic aspects of our economic ties to Egypt. The first is aid. Egypt is one of the largest single recipients of U.S. economic assistance. In each of the last two fiscal years, Egypt has received nearly $1 billion—$750 million a year in economic aid and $200 million a year in P.L. 480 assistance. We are trying to make our aid more effective for the Egyptian economy and needs, and are moving toward project assistance in addition to commodity import loans, P.L. 480 assistance, and other programs.

U.S. Business Investment: Since Nixon's visit Sadat instituted an "open door" policy to attract foreign capital. The People's Assembly enacted legislation in 1974 to aid foreign investment, but the law still needs improving. Egypt does not take a doctrinaire approach to the Arab boycott list: when it benefits Egypt, the boycott list is circumvented. Some "boycotted" companies are investing and doing business in Egypt. In the Ambassador's view, as long as there is a "state of war" in the Middle East, U.S. capital investments in Egypt will not be made in any significant amounts.

Trade: The trend is toward a steady increase with the U.S. Egypt's lack of foreign exchange currency puts it in a difficult position in international trade.

Cultural

Ties continue to improve. The King Tut exhibition was a major event in the U.S. The Fulbright exchange and scientific research programs are ongoing parts of our expanding cultural ties.

Military

Ambassador Eilts stated that Egypt would like U.S. military aid and arms sales. It has purchased some C–130 aircraft already, and an additional fourteen are expected. Egypt has not forgotten that the U.S. Navy cleared the Suez Canal, and two years ago Sadat agreed to allow our ships up to eight visitations per year in the port of Alexandria.

Soviet Relations

Relations between the countries have never been strong under Sadat. Apparently the Soviets had other leaders in mind after Nasser died, and the Ambassador indicated at least some of them are still in jail. Sadat kicked the Russians out of Egypt, and most recently put a moratorium on repaying Russian loans. In 1974 the Russians apparently thought they could bring Sadat to his knees after the war. Figuring that the U.S. could not step in, Russia stopped its military and economic aid. The times were difficult, but Sadat borrowed money from Arab states and did not give in. The lingering resentment against the Soviets is substantial.

Miscellaneous

Sadat is a strong leader, but he faces many tough internal problems. The Egyptian economy is in bad shape, and the country is facing a population crunch. There are 39 million inhabitants, with 1½ million births each year. Cairo was built for 2½ million people and now has an estimated population of 9 million with an additional 2 million workers who commute into the city each day.

The overcrowding is obvious, yet life bustles on for the Egyptians.

Cairo is in a bad state of physical decay and despair. This is due in part to the overcrowding, but also because about 34 percent of the nation's economic resources went for war and defense over the last twenty years.

An interesting phenomenon—born of necessity in the teeming city of Cairo—is the "City of the Dead." A veritable city within a city, the City of the Dead covers nearly one-half the area of present-day Cairo and is where the dead have been buried for the last thousand years. Just as the living are overcrowded, so the dead are jammed into every available space. The bodies are buried in the ground according to the Islamic faith, but in typical Moslem fashion there are mausoleums and various tombs above ground to house the returning spirits. These were built with narrow streets and resemble a town of small homes and walled courts. Tombstones cover every square foot of the courtyards. Due to the overcrowding in Cairo, the poor eventually became squatters in the tombs for lack of other space and the area became known as the "City of the Dead." There is virtually no plumbing, sewage, or electricity and the people survive amidst the worst conditions of squallor and poverty. Now people live and die there without ever really coming outside the countless square miles of the "lost" city, and it is impossible to know exactly how many people actually live there.

DEPUTY PRIME MINISTER KAISSOUNI AND ECONOMIC MINISTERS

Deputy Prime Minister Kaissouni was gracious in thanking our delegation for U.S. aid. He recognized that Egypt is the largest field mission the U.S. maintains (approximately eighty employees) to oversee its economic aid programs and to assist Egypt with its staggering task of economic development. He also noted that U.S. investments in Egypt were increasing and expressed the hope that they would continue to expand.

Congressman Wright indicated that the House is debating OPIC and the question of ensuring overseas investments by U.S. companies. The outcome is uncertain, but considerable sentiment exists to reduce or eliminate OPIC. Wright asked for the Egyptian views, but none were expressed directly. Kaissouni then responded to another question that Egypt would welcome, and indeed benefit from, specific commodity investments. The Egyptians made the point, however, that they welcome investments which not only help bolster their own internal economy, but those which would allow them to increase their exports in order to improve a serious balance of payments problem and lack of foreign exchange currency.

ANWAR SADAT, PRESIDENT

(NOTE: The press was invited, the entire session was filmed, and Sadat used the opportunity to make a major policy announcement.)

Sadat opened his remarks with a statement that he believed President Carter wanted peace and was a man of his word. He urged continued efforts, however, by the U.S. and all interested parties to get momentum back into the peace talks.

In an earlier speech Sadat told the Egyptian people that he would go anywhere in search of peace—even the Knesset. In subsequent interviews, Sadat indicated he might go to Israel if he received an official invitation. Congressman Wright said that he was informed that the American Ambassador in Israel had in his possession a written invitation from Prime Minister Begin to visit Israel and address the Knesset. Wright asked Sadat if he would accept the invitation to go to Israel. Sadat said, "Whenever the invitation arrives, I will be ready to go." (NOTE.—After the meeting Sadat responded to newsmen that he would go "as soon as possible" and would not delay.) Sadat characterized the Arab-Israeli conflict as "seventy percent a psychological problem and thirty percent substantive problem." For that reason, Sadat said he would go to Israel "in order to let us cut through the procedural problem to the substance." He also characterized his trip to Israel as a "holy mission" and did not fear for his safety.

Questions and Answers

Question: Congressman Quillen asked whether Sadat felt that Russia's presence in the Geneva talks would cause Egypt any problems.

Answer: Sadat candidly admitted a strained relationship with Russia, and said he hoped the Soviets would not adopt the same attitude with Egypt at the Geneva talks that they do in bilateral matters. He stated very strongly that he does not fear them and that Egypt will not yield to anything other than its national interest, and that "nothing will impede our moving toward a solution to the peace question."

Question: Is it possible to resolve the Palestine question at Geneva and have a separate Palestinian state?

Answer: There are two main parts to the Palestine question. First is the *political*. The Palestinians are recognized worldwide, even by the U.N. and President Carter. They are a recognized political unit and must have a homeland. Second is the *human* problem, and by that Sadat meant refugees. This great number of refugees must have a homeland. Sadat asked for our help and advice as to how the Palestinian aspirations could be fulfilled without giving them a homeland or state, particularly in light of the issues over the Gaza Strip and the West Bank.

Sadat strongly stated that he did not agree with Israel's position—which he feels they have exaggerated over the last thirty years—that a Palestinian state would be a threat to Israel. He indicated that three of the four Middle East wars have been Israel against *all* Arabs, so how could a small, new state be a threat to Israel? Israel is "armed to the teeth" Sadat said. In fact, he believes that Israel is a threat to all Arab states.

He announced he is going to the Knesset to tell them that he wants peace in the Middle East!

Question: In exchange for the creation of a Palestinian state, would Egypt give Israel the assurance of peace and secure borders?

Answer: Sadat made several points: (1) Israel has the land—it was created by the U.N. and it is now a fact which cannot be denied; (2) Palestinians have been denied land and everything for thirty years—even human rights; and (3) why not a *mutual* recognition in which all rights are secured for all parties—and "we are quite ready" to sign such a mutual agreement.

Question: What will you accomplish in your visit to Syria? Can you persuade the Syrians to negotiate peace in Geneva and to support your visit to Israel?

Answer: Sadat noted that the Arab summit meets once a year, that this a regular, routine meeting with the President of Syria which was scheduled before the question of the Knesset invitation arose and is not related to it. It is "quite natural that we sit together from time to time to discuss the general question" of peace in the Middle East. He said he had no conditions on his meeting in Syria, and that the two leaders "meet as brothers."

Question: Do you have full trust in President Carter and the policies of his Administration?

Answer: Sadat responded "yes." He expressed full confidence, but hoped that Prime Minister Begin has that same trust and confidence. Sadat stated that the Palestinians must be part of Geneva if it is to work. The Knesset talk would be a right step down the road to peace in Geneva and would convince the Israelis that Sadat is sincere. He said that a Palestinian state is not a precondition to the meeting, but there cannot be any real peace without a resolution of the issue because "Palestine is the core and crux of the whole problem." We are going to Geneva to establish a complete peace and we need *all* parties.

Question: Congressman Wright asked whether Palestinians could be present at Geneva as a part of an "inclusive" Arab delegation rather than as a separate unit or party, and particularly without any reference whatever to the P.L.O.

Answer: Sadat said "marvelous," and that he is interested in the approach. Initially he had said he opposed it, but he later agreed to the concept of a unified delegation and now believes it is a marvelous approach.

Question: Wright stressed the apprehensions of Israel over the creation of an autonomous state of Arab Palestinians on its border. Did Sadat see any way in which the aspirations of Palestinian Arabs could ever be accommodated in a way that would effectively guarantee Israel's security against attack from that source?

Answer: Sadat suggested the possibility of a Palestinian state "in federation or confederation with Jordan." But he discounted any reason for Israel to feel threatened, in view of what he called its overpowering military strength. "It is we who are threatened," he said.

Response: Wright observed that the Israelis do feel genuinely threatened and cannot understand why Arab nations regard them as an aggressive threat; while Arab states similarly feel threatened and apparently can't comprehend why Israel is apprehensive. Suggested that this is the ironic result of the long legacy of no direct conversations between the two and suggested that sitting down together calmly and discussing their mutual apprehensions will provide the only avenue to mutual reduction of tensions.

ISRAEL

Wednesday, November 16, 1977.

AMBASSADOR SAMUEL LEWIS

Briefing

Following our arrival in Jerusalem, the Ambassador briefed us in a hotel conference room. He described himself as the "Happy Postman" for the role he played in transmitting the letters between Israel and Egypt that led to this historic visit by Sadat. The main points of his briefing follow.

For 29 years Israeli Prime Ministers have tried to get Egypt to discuss peace. Now Sadat is not just talking about peace, but coming to Israel. The Israelis find it nearly incredible, but are willing to believe it and hope it produces something.

Sadat's visit was viewed as possibly the first break in the Arab/Israeli wall of suspicion and war. No Arab leader has ever been willing to say he will sit down and bargain at the peace table—perhaps they said it to the foreign press for posturing, but none ever said it with any seriousness to their own people. The Sadat visit will not bring peace overnight, but it will give the Israelis hope and show them that they can believe an Arab leader. In coming, Sadat has taken a risk in the Arab world, but so far in this diplomatic dialogue the principals on both sides are playing it very well.

The Knesset voted 83–3 to invite Sadat. This is considered an overwhelming vote—

the three nays were the Communists who oppose the government anyway and their nay votes were merely anti-government. The Knesset acted with a sense of history. Sadat is not just the Egyptian leader, he is an Arab world politician and his coming is "something else."

There are several important facts to understand about Israel. The first is size and scale: proximities and geography contribute a significant amount to the overall situation. Israel feels surrounded and small compared to the Arabs: 3 million against 22 million and the areas of the two sides are equally disparate. Second is the psyche involved, and one needs to understand why the Israelis feel as they do and what makes them tick. One of the major memorials in Jerusalem is Yad Vashem, established by act of the Knesset to remember the six million Jews killed in World War II. Israel retains a bitter and strong collective memory over that event. Also, war has played a strong part in their short national history—some four wars in twenty-nine years. The losses have touched almost every Israeli household, and they have a strong fear of attack. The last aspect is peace. Israel wants peace—a lasting one—not empty words. A call to discuss peace must be followed by sincere negotiations if it is to have any real purpose. Public posturing means nothing. One sign of peace is the change in Sadat's remarks. Last year he said that if one or two million Egyptians die getting their land back, and a million Israelis die, too, then it is worth it. Now he says the life of one Egyptian is not worth the land, and talks of coming to Israel in person!

The U.S. role in Israel is considered vital. Our military assistance is regarded as indispensible. The military support and support of our President—meaning Congress too—is essential. Because our support means so much, everything we do is magnified many times in Israeli minds. Even the slightest political action in the U.S. gets careful Israeli attention.

Israel trusts us and our President, and believes our words of support, but only so far as what we say does not conflict with our own self-interest. There have been times when the U.S. has not kept its word—and the Israelis can cite specific examples. They know that U.S. presidents change and so do conditions: they learned that political lesson. Americans tend to have short political memories, Israelis have long ones.

The Ambassador cited Begin's views—prior to the Sadat development—as believing that Israel should stop making proposals and instead react to Arab proposals.

Saturday, November 19, 1977.

TEDDY KOLLEK

Mayor of Jerusalem

We met the Mayor in the lobby and walked to the Jerusalem Music Center for a short meeting. Along the way the Mayor showed us several projects and explained how things were developing since the "green line" division of the city ended.

He made the point that Jerusalem was a very poor and bad city when it was divided. There was urban blight and decay of the worse sort, compounded by shooting, killing, and nearly all-out war. Under Israel they are trying to build a city of separate interests which lives individually in its own quarters but together in one city. A walk through the old city shows the extensive rebuilding and modernization going on. In addition, the streets are safe for a lone foreigner to walk at any hour of the night. Several members of the delegation staff wandered the streets of the old city on foot—either in small groups or singly—well after midnight with no incidents at all.

Thursday, November 17, 1977.

MOSHE DAYAN

Minister of Foreign Affairs

Following a short welcome, Congressman Wright gave Mr. Dayan a brief summary of the delegation's meeting with and impressions of President Sadat.

Palestinian State:

Mr. Wright asked whether there could be an independent Palestinian state which would not be considered a threat by Israel. Mr. Dayan's reply was extended.

He characterized the Palestinian attitude as "the West Banks is ours, give it back." As far as Israeli national security is concerned, Dayan did not feel they could give up their military facilities in the West Bank and leave themselves with only eight miles from Jordan to the Sea. In addition, it would mean giving up Hebrew University, hospitals, other institutions and important locations like the Mount of Olives and the Wailing Wall. Dayan thought it was "inconsiderable" that Israel hand back the old Jerusalem quarters. Dayan thought Israel should keep its West Bank military facilities—not in order to rule the Arabs there, but to defend Israel. That area does not allow an independent Arab state, and the Arabs should keep their ties to Jordan which have developed over the past few years.

Major issues related to the West Bank include: (1) the question of military installations—can Israel maintain its present facilities in the West Bank, and will Jordan be prohibited from militarizing it, and; (2) Israeli citizen rights on the West Bank, such as the right to buy land (not a taking, but a purchase) in the West Bank area, and have the same rights as in other areas without being treated as "foreigners" by the Palestinians or be required to have visas or be subject to other special conditions.

If the West Bank becomes an independent Arab state, over half the population of Israel and every plane which takes off in the upper half of Israel would be within range of artillery guns or rockets from there. Can anyone assure Israel as to whom will replace Hussein, Sadat or other world leaders? Israel must judge the character and attitude of a country's people as well as the leader. Leaders change, but longstanding attitudes remain an ever-present threat. So far there has been no assurance that the Arab states—or even a new Palestinian state—would not revert back to threat and aggression. Dayan said that these are some of their concepts and solutions, but it is not an ultimatum. Let's go to Geneva and talk about it—let's see if other proposals can be developed which may work. At any rate, let us discuss it and negotiate a settlement.

Dayan said what they want to do is sit down with the Arabs, study the situation and discuss it in order to try and work with them in finding a solution.

Afterthoughts by Dayan

Dayan does not think Jerusalem can be divided on any workable basis. Probably the best way is the way we have it now. There should be no lines or dividing of Jerusalem. Whatever the solution of the West Bank, it should not include a return of Arab refugees to the area.

Sadat's Visit

Congressman Quillen asked what Mr. Dayan thought of Sadat's scheduled visit. Dayan responded, "Great! That will be a very great day." Israel has been waiting for years for face-to-face contact, and now it welcomes the opportunity. Is it the first step toward peace, or just a gesture? We believe it must be more than a mere speech and will press for more substantive private talks and meetings during the visit, but we will not do anything to embarrass our guest.

Peace Prospects

Dayan was asked whether Sadat's visit will harm chances for talks with all Arab countries? He responded that he hoped Sadat would do more than address the Knesset, but would participate in some talks. A speech would not do Israel as much good—even though it is a great step—as some direct talks.

Our delegation pointed out that Sadat had no credentials to negotiate a peace for all Arabs, that he could not do that alone. In addition, the point was made that it would be a grievous mistake to isolate Egypt from the rest of the Arab world by forcing him to discuss peace bilaterally.

Dayan said he did not want to isolate Egypt, but at some point the leaders must talk about something other than the Knesset speech. Dayan said Israel should ask questions about Syria: will Egypt make peace without Syria? . . . because Syria will not make peace without Russia. Dayan stated that the Soviets do not want the West Bank a part of Jordan because they have no influence in Jordan, but on the other hand they would with the PLO.

Dayan believes Sadat wants peace.

IZHAK SHAMIR

Speaker of the Knesset

We paid a courtesy call on the Speaker in his office and were his guests at lunch. Following the meal, Speaker Shamir said that he looks forward to Sadat's visit as a breakthrough and hopes it will bring peace.

Members of the Knesset

The meeting began with mutual courtesies and then evolved into a lively discussion about how the two bodies operated. Our Members were particularly interested in Israel's new economic policy—that has for a main aim the goal of developing an independent economy with adequate growth in order to remove Israel's dependence on its generous supporters (the U.S. and others). Other topics involved salaries, the Communist Party and Geneva peace talks.

YIGAL ALLON

M.K. and Former Foreign Minister

Mr. Allon was extremely articulate and inspired our Members with his energy and dynamic speaking ability. He made the following points:

Due to its small size and population, Israel must have a strategy of strong offensive—even a counter-offensive. The policy is to strike an aggressor in its own land, create a stalemate and go for negotiations.

Israel is the only country which cannot afford to lose a single war. The minute it does, it is lost physically, psychologically and spiritually.

With regard to any future division of territory, Allon believes Israel must hold the high terrain (Golan Heights) which gives it relative security. In connection with the Palestinian issue, he asked pointedly if Sadat had mentioned the possibility of a "federation" within Jordan for Palestinians. He seemed assured by our affirmative reply. Allon believes a critical distinction exists between a "federation" and a "confederation."

"Peace can only come if it serves the best interest of both sides. It will only endure as long as it remains in the best interest of the two sides."

A solution to the peace problem is only found in compromise.

PRIME MINISTER MENAHEM BEGIN

Our meeting was covered by the press for the first few minutes. After arriving, Begin immediately announced that Sadat would come to Israel for his speech to the Knesset on Saturday, November 19, at about 7:30 p.m.

His speech would be Sunday evening, and that arrangements would be made for Sadat to worship at the Aksa Mosque, a sacred shrine of the Moslems. After dismissing the press, Begin retracted the steps which resulted in this historic occurrence.

Begin went out of his way to state clearly that he had *no* intent at all to separate Sadat from the other Arab nations in sending the invitation. To avoid that appearance, he said he had also invited the other Arab leaders. Begin also said he would go to Egypt and spoke as if he knew an invitation had been or would be made.

Congressman Jim Wright summarized our delegation's meeting with Sadat and discussed our impressions and understandings.

Begin said that "this is a very positive development" and we must go carefully and not exaggerate.

The Prime Minister spoke in a very soft voice, in a friendly, matter-of-fact manner, much as a favorite professor would. He got out hand-colored maps and proceeded to show why Israel could not withdraw to its original boundaries. Starting with the historical background, Begin ended with the points we had heard over and over: a sovereign Arab state on the West Bank would make Israel vulnerable to being cut in half by an aggressor, would allow Jordanian guns to threaten over half the Israel population, and give Soviet arms in the hands of South Lebanese terrorists a deeper window into Israel's heartland. This would place Israel in a "mortal danger" Begin said.

Criticizing a recent statement by Brzezinski that the U.S. would come to Israel's aid militarily if it were in mortal danger, Begin asked "Why should Israel have to place itself in a position of mortal danger again?" It already has been in mortal danger numerous times since World War II, and it lost six million people in that last World War. If we did get in mortal danger and war broke out, the U.S. would have to come to our aid. But we do not want the United States to have to fight our war. We want to handle our own battle and exist free from such mortal danger.

Begin recalled Hitler, citing how nothing was done when Hitler spoke his hatred and later nothing was said when the people saw his actions. With Israel's long experience, why shouldn't it take the PLO threats against its existence seriously?

The Sinai is not a big problem and can be negotiated. Begin repeated his hope to sit down with Sadat and talk about the West Bank. Israel will not give up its national security; therefore, it cannot give up the West Bank and let it be militarized.

ADDENDUM

Several members drove to the West Bank area and spoke to four Arab-Palestinian mayors. Contrary to the impressions we got from the Israelis—that everyone was happy—the mayors indicated that the Palestinians maintained a strong sentiment for getting the Israelis back to the pre-1967 borders. They had ancestors on that Israeli-occupied land for over 800 years, and wanted both their land back and a Palestinian state. Elias Freij, Mayor of Bethlehem, suggested the Palestinians could be content with a "demilitarized state"—one without any army or air force. But this question of a Palestinian "homeland" remains a highly emotional sticking point.

REPUBLIC OF PORTUGAL

AMBASSADOR FRANK CARLUCCI

Briefing

Our briefing took place at the Ambassador's residence. The Ambassador characterized the present situation as one of the most difficult periods of Portugal's democratic history.

It is considered a near miracle that Portugal has achieved what it has. In just two years it threw off a 48-year dictatorship, underwent traumatic decolonization and pulled back from the brink of communism. During all this time the army—which toppled the dictatorship—was kept in the barracks. The "transition" from dictatorship to democracy was without any real bloodshed, and free elections have already been held.

The Portuguese are nonviolent, hardworking and friendly people. By and large the population was unprepared for the sudden changes: illiteracy was 30–40 percent, productivity was low, per capita GNP was among the lowest in Europe, and public affairs were largely run by a small number of political leaders and very rich, powerful business interests.

The Angola war was the shock that brought about revolt and change. Young army officers saw more graphically the poor conditions of their country and wondered what they were fighting for abroad. In April, 1974 the army revolted. The young captains and majors had an idea about what they did not want, but no clear notion of what they had to do to improve things or how to do it.

A strong, Moscow-loyal Communist party had been developing. They proceeded to collect power in a very classic fashion: establishing labor union support and control, gaining control of key ministries and getting a hold of public relations divisions of the Government. Just when the Communists had nearly locked up Portugal, they made two fatal mistakes. First, they allowed the zeal of the ultra left to attack the Catholic Church, and they took over the Church's radio station. The Church is extremely important to the people at the grass roots level. Second, the Communists allowed free elections. The military had committed themselves to hold them during their rise to power, and it proved the Communists' undoing. After the elections the Communists were disappointed in the results and tried to annul them by simply ignoring them. There had been a 92 percent turnout for the elections, and there was growing pressure on the Communists from the people for them to turn over governmental control. Eventually attacks were made on regional Communist Party headquarters and the Communists began to give up control.

Following the revolt, the Portuguese turned to the West. U.S. economic aid has increased markedly—up from $15 million in FY 75 to a projected $395 million in FY 78. U.S. military aid has also increased. The Portuguese military was a rabble after ousting the Communists, but President Eanes has acted positively to rebuild it. By developing closer ties with NATO and the formation of a Portuguese brigade the military got a better sense of mission and order. There was also a simultaneous increase in their need for military assistance, both from the U.S. and other NATO allies.

The economy remains in deep trouble. The relative purchasing power of wages continues to decline as inflation and unemployment climb. A major problem was the influx of some 600,000 Angolan refugees—a serious adverse impact on a population of some eight million people. Some modest gains have been made: There has been a limitation placed on nationalization, productivity is increasing and it is now possible to fire workers or have collective layoffs. It is extremely difficult, however, for a minority government to impose an austerity program when the labor unions are controlled by the Communists.

Another major problem for the Government is getting the bureaucracy to function. At present it is virtually stagnant. Also gasoline is about $2.78 a gallon for "super", another difficulty for the economy. Portugal has applied for entry to the Common Market and has been accepted in principle. This is expected to help.

Because the Soares Government is a minority government (38 percent of the Assembly) it is being pressed to the wall by the other political parties who are seizing the opportunity. As a result there could be a parliamentary crisis at any moment. Due to politics and personalities the major "center" elected in the Assembly elections is in danger of leaning to the right and polarizing the political situation. This would happen if the Social Democrats continue to press the Government and seeks support from the far right. The Ambassador discussed these shifting power blocks in some detail.

VASCO DE GAMA FERNANDES

President of the Assembly

We paid a courtesty call on the President and were greeted with warm thanks and praise for the U.S. example and support during Portugal's difficult times.

President Fernandes described the 1975 revolution as one of flowers and songs. The economy, Angolan refugees and other problems persist, but that is normal after casting off a dictatorship of nearly 50 years. In spite of problems four separate free elections have been held.

President Fernandes explained the framework of his Government, and identified the following as the major problems: balance of payments, productivity and Angolan refugees. He ended by asking the Members, "Please don't forget this country—Portugal needs your friendship now.

PRESIDENT EANES

The Congressional members of the delegation met privately with the President in a 45-minute off-the-record briefing. President Eanes answered questions freely about the various options open to his Government and his own preferences under various contingencies. Matters covered in the conversation, relating to internal political maneuvering between Portugal's political parties, were obviously sensitive. Eanes did not hesitate to confide in the delegation certain internal political preferences of his own which he had not yet stated publicly in his own country.

SPANISH STATE

U.S. AMBASSADOR STABLER

Our meeting with Ambassador Stabler was informative and lasted longer than planned. A short synopsis of the Ambassador's briefing follows.

Spain is in a critical adjustment period. The death of Franco November 20, 1975, irrevocably changed the stability that he had imposed. The self-imposed task of moving toward a democracy lay ahead of the new King and leaders.

Initially, there was considerable debate and some differences among the various national factions. Some wanted to destroy the old system and start over, but the military structure which had supported Franco was still pretty much in place and the two largest political parties prevailed in building the "new" on top of, or intermingled with, the old order. In retrospect most veteran observers here are amazed that the Government has been able to achieve what it has in just under one year: national elections, legalization of political parties and new labor unions with the right to strike.

The new Prime Minister, Suarez, has kept the country moving steadily toward democracy. As mentioned, the results have been remarkable and the Spaniards now seem to expect obstacles to be overcome and democratization to proceed apace. In the recent national elections for the Cortes—or Congress—Suarez' photograph was out before the people, and even though he is appointed Prime Minister by the King he was running for a seat in the Cortes to bolster the moderates and it was well understood by the people that a vote for Suarez and his followers was a vote for continued democracy.

In legalizing political parties the new Government took a calculated risk when they also legalized the Communist Party. Ever since the civil war in 1936 the Communists had been the "enemy." It was a little difficult for the old line Army officers—which had been the basis of Franco's support—to accept the Communists as a legitimate and legal political party. The people had the same difficulty to face, but somehow it worked.

Now, as the adjustment or transition period toward democracy continues into its third year there are still some very real problems to face. The present Cortes was elected with a mandate to draw up a new Constitution. The exact relationship between the two Houses of the Cortes is unclear, as is the question of their relationship with the King and Prime Minister. The new Constitution is expected to formalize the relationship and prescribe the duties and powers of the various branches of Government. In the meantime the Cortes is trying to establish its own competence and influence within the governmental process. Governmental leaders are open in their admission that things are less than clear, but express the hope that it will all change under the new Constitution. When the draft is ready, it will be submitted to the people in a referendum.

Over the last several years economic progress has been marked, resulting in a growth of the middle class. Even though the middle class growth began under Franco, the new democracy has fostered it and a natural expansion has continued. The people enjoy their increasing prosperity and relative luxury, and the task of the new Government is not to lose ground, but to expand it further. In spite of the hopes of both the Government and the people, there are serious economic obstacles to continuing the upward trend: rampant inflation (over 30 percent), rising unemployment, and the oil crisis (gasoline is from $1.70 to over $2.00 a gallon). The major labor unions have agreed with the Government to a policy of wage constraint (a 22 percent wage increase instead of over 30 percent) to slow down inflation. Serious economic problems persist and improvement will not be easy. A primary obstacle has been coping with the large oil imports and the reluctance of the Government to pass these increased costs on to the consumers.

The United States has a nearly $1 billion a year trade surplus with Spain. In addition, U.S. companies have nearly $2 billion worth of investments in the country—primarily Ford (a new plant to produce Fiestas) and Dow Chemical.

Another lingering problem is the military. Franco never established a Minister of Defense because he did not want any rival or competition to his supreme command of the military. The Army was the basis of Franco's power, and he kept it under control—even to the extent of keeping the armed forces "lean" and not giving them a lot of equipment and weaponry. The new Government has established a Minister of Defense and is in the process of building it up. This involves giving the military a new, useful role, keeping it strictly out of politics and assuring civilian control.

Some look toward Spain's entry into NATO as the answer to the question of what the Army's new "useful" role should be, but this idea is the subject of considerable debate. Spain was neutral in both World Wars, but many observers do not see that role continuing and expect a shift to NATO. A related military issue is what Spain will do with U.S. military bases when the current treaties expire in 1981. Negotiations are expected to begin in 1980, and should include a discussion of our military assistance sales, science and technology assistance and other programs which total about $1 billion over the last 5 years.

FOREIGN MINISTER OREJA

We paid a protocol visit to the Foreign Ministry and were received by Foreign Minister Oreja. After an informal chat with Oreja, three of his deputies stayed with us for a short question and answer period.

FELIPE GONZALEZ

Secretary General, Spanish Socialist Worker's Party (PSOE)

We met with Mr. Gonzalez at the Ambassador's residence. He is a deputy in the Cortes and also heads the country's second largest party (118 of 350 seats in the Cortes). The meeting consisted of informal questions and answers through an interpreter. Gonzalez appeared young, dynamic and favorably impressed the Members of our Delegation. The following text summarizes the major points made.

Major Differences Between the PSOE and the Majority Party

The majority party—Union of the Democratic Center (UDC)—represents the moderate conservative option and the PSOE the moderate left option. In general, business and the upper classes are identified with the UDC while the PSOE draws support from urban laborers and rural day workers. Gonzalez indicated that the parties are not rigidly divided on a class basis because support for both parties comes from all sectors of society. In fact, he indicated that the middle and lower classes were the swing voters and could go to either party due to the lack of rigid identification or "belonging" exclusively to either party.

The extreme parties are not considered to be major factors because they only polled a collective 16 percent of the popular vote in the recent election.

Bipartisanship

The parties do rise above party on issues of general national interest. Gonzalez indicated his intent to operate that way and cited the Constitution as an example.

Reasons for Scheduled Gonzalez Trip to the United States

His scheduled trip (November-December, 1977) will be his first to America, and he hopes to accomplish quite a bit. First, he does not believe that the United States has any real conception as to just what his Socialist Party is and what the PSOE stands for. He hopes to inform American leaders and the people on the trip so they can make a more rational judgment in assessing his party's positions and actions.

There is an historic link between socialist parties and labor, but he hopes to meet with U.S. companies investing in Spain to remove any concerns or misapprehensions they may have about what his party might do with respect to business interests. His planned visit to Detroit is apparently aimed at meeting with union officials and auto manufacturers—since Ford has established a large facility to produce Fiestas. He also said that now labor unions will be free, and investing companies must realize that they may have to be more "flexible" in dealing with the demands of the unions.

Labor Elections

Gonzalez hopes the scheduled labor elections will break the traditional European labor model, wherein a strong socialist party has a weak labor base and the communist party has a strong labor base. He would hope Spanish unions would be more supportive of the PSOE and avoid strengthening the communist party.

Public Employee Strikes

Gonzalez said he sees a real distinction between strikes by private and public employees. Certainly it is an unclear area, but his remarks indicated a differentiation which would be restrictive of public employee strikes.

There is a current strike by Spanish air traffic controllers. Gonzalez—who was on his way to a meeting with the Prime Minister about it—said that it was a very complicated issue. Formerly the air controllers were under the military and the strike is part of the "adjustment" going on between the workers and their supervisors. He said it was costly and was caused more by the Government's handling of the situation than by wage demands or substantive issues.

Spain and NATO

The PSOE is opposed to Spain's entry into NATO. Gonzalez expressed the view that it would be contrary to their longstanding neutrality, and not in Spain's interest in developing its own defense capability.

HERNANDEZ GIL

President of the Cortes

President Gil received us in an elegant conference room in the Cortes building. Through an interpreter he spoke of the challenges facing the Cortes, and admitted that while he has had "difficult times," he has never had "disagreeable or unpleasant times." By this he meant the road to democracy was not easy or painless, but that it was a labor of love and all elements of Spanish politics were working toward a single goal.

He expressed the same view we heard in our other meetings with Spanish leaders. There is quite a bit of uncertainty about how the Cortes and other branches are to operate and their relationship with each other. This uncertainty is expected to be cleared up by the new Constitution. He indicated an appreciation for our great United States Constitution and the democratic model it represents. Even though Spain has not had any legislative experience in the past few decades, President Gil expressed the opinion that the "spark" still remained alive during that time and members of the Cortes are pursuing their legislative work as though they did have experience. He has obviously pleased with this circumstance and hoped it would continue as a strong basis for Spain's change to democracy.

At the end of the session President Gil had the archivist bring in the original copy of the Spanish Constitution of 1812. In addition to the rules of Spain, the document was signed by Governors of Spanish possessions throughout the New World. The Cortes intends to make a limited number of copies, and President Gil showed obvious pride in stating that one would go to the Library of Congress.

ALVAREZ MIRANDA

President of the Congresso

The name Cortes signifies the combined Spanish legislature, including the Senate and Congresso (or lower body) as two individual bodies. Both Houses have their own separate leadership with a President of the entire Cortes—Hernandez Gil—to preside over joint sessions and perform other duties. Miranda is President of the 350-member Congresso.

Our meeting was extremely brief and informal. We were received in his office, and through an interpreter Miranda praised our democratic example and legacy to the world, especially for the model it shows Spain at this critical time. His short remarks included a fairly strong statement in support of human rights with the implied pledge that he and Spain were fully committed to support those rights for all peoples.

ADOLFO SUAREZ

Prime Minister or President of Government

We met President Suarez in his working residence, a lovely palace on the outskirts of Madrid. Through an interpreter we had a brief opportunity to listen to his views. Suarz is a well groomed, strikingly handsome man and gives the appearance of a good mind and much charisma. The members of our delegation were impressed with him during the visit.

Suarez took considerable time trying to describe the major issues facing his country. He cited many problems, but ranked the economy, political issues, balance of payments and terrorism as among the most serious. He recognized substantial economic problems, such as high inflation and unemployment, unfavorable trade deficits and a lack of productivity.

In describing the transition/adjustment period that Spain is going through Suarez used a very interesting example. He said trying to build a new democratic state out of the old one—without doing any unnecessary violence to established order—was like rebuilding an old house. They want to build new walls, but without cutting off the electricity. They want to install new plumbing, but without cutting off the present water supply or blocking up the old pipes. They want to build a new roof, but without making it impossible for the people to keep living in it during the rebuilding. This was a very graphic way of describing the difficult task the Spanish Government faces: Building a new without completely demolishing the old and creating chaos amidst the rubble.

Suarez was very specific in pointing out that the Spanish people feel a part of this transition and have a real stake in its success. He said there are real problems and there are psychological problems—the real ones are much easier to overcome if the psychological problems are avoided. Involvement of all Spaniards in building the democracy is obviously an important part of the Government's game plan. Even the political parties are working together on national issues during the "pre-constitution" transition period.

In expressing this great collective hope toward solving Spain's problems, Suarez urged the U.S. and others not to do anything to cause harm to this critical mental attitude. Friends should keep a helpful, positive attitude, he urged.

Spain is a country of young people. Suarez said that 70 percent of the population is under 40. Later Embassy staff explained that the young age of the populace was due to the combination of three long standing conditions: (1) Catholic influence against birth control, (2) poverty and (3) poor health care.

GENERAL LEAVE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Ohio, Mr. Carney.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Pursell (at the request of Mr. Rhodes), for today, on account of illness—influenza.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Michel, for 15 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Miller of Ohio), to revise and extend their remarks, and to include extraneous matter:)

Mr. Jeffords, for 10 minutes, today.

Mr. Sarasin, for 10 minutes, today.

Mr. Sebelius, for 10 minutes, today.

Mr. Don H. Clausen, for 60 minutes, today.

Mr. Whalen, for 5 minutes, today.

Mr. Collins of Texas, for 60 minutes, today.

Mr. Hollenbeck, for 5 minutes, today.

Mr. Miller of Ohio, for 10 minutes, today.

Mr. Trible, for 10 minutes, today.

Mr. McKinney, for 5 minutes, today.

Mr. Corcoran of Illinois, for 5 minutes, today.

Mr. Kemp, for 10 minutes, today.

Mr. Skubitz, for 10 minutes, today.

(The following Members (at the request of Mr. Gephardt), to revise and extend their remarks, and to include extraneous matter:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Pease, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Carney, for 5 minutes, today.

Mr. Edwards of California, for 5 minutes, today.

Mr. Mattox, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. White, for 5 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Drinan, for 10 minutes, today.

Mr. Fascell, for 10 minutes, today.

Mrs. Keys, for 5 minutes, today.

Mr. Alexander, for 30 minutes, today.

Mr. LaFalce, for 5 minutes, today.

Mr. Danielson, for 5 minutes, today.

Mr. Roberts, for 5 minutes, today.

Mr. Scheuer, for 5 minutes, today.

Mr. Breckinridge, for 5 minutes, today.

Mr. Cornwell, for 5 minutes, today.

Mr. Pattison of New York, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Skubitz, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,610.

Ms. Holtzman, to revise and extend her remarks on the debate on the bill regarding broadcasting of radio and television, to be inserted in the debate.

SENATE BILL REFERRED

A bill of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2351. An act to name the new Veterans' Administration Hospital in Little Rock, Ark., the John L. McClellan Hospital; to the Committee on Veterans' Affairs.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3199. An act to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION AND ARE READY TO ADJOURN

Mr. WRIGHT. Mr. Speaker, I send to the Clerk's desk House Resolution 938, appointing a committee of two Members to inform the President that the two Houses have completed their business of the session and are ready to adjourn, and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 938

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Texas, the distinguished majority leader, has been kind enough to insert in the Record a list of days we will not be working next year. I appreciate that, but I wonder if the gentleman can also insert in the Record the list of the 200 "must" bills that I understand the Speaker will present to the President tomorrow during a luncheon. I believe I heard something in the media about that. I think that would be a nice addition to our Christmas stocking if all of us could contemplate those 200 bills in the month that we will be away. It would be a magnificent Christmas undertaking.

Mr. WRIGHT. Mr. Speaker, if and when the majority leader receives a list of the 200 bills that would be considered "must" legislation, I would, acting under the leave previously granted, be happy to insert it in the Record. I really do not expect to be receiving such a list today.

Mr. BAUMAN. Perhaps the Speaker could tell the majority leader what is going on with respect to the 200 bills that I heard about on the media this morning. I would like to hear about them; but be that as it may, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as Members on the part of the House to notify the President the gentleman from

Texas (Mr. WRIGHT) and the gentleman from Arizona (Mr. RHODES).

HAPPY HOLIDAYS TO THE MEMBERS

The SPEAKER. The Chair would like to wish all Members and employees a Merry Christmas and a Happy New Year. We will be returning on January 19 of the new year, and I hope that we come back fit and ready for work. The Chair thanks you all.

REPORT OF THE COMMITTEE TO NOTIFY THE PRESIDENT

The SPEAKER. The Chair will receive a report.

Mr. WRIGHT. Mr. Speaker, your committee, appointed to join a committee of the Senate to inform the President that the Congress is ready to adjourn, and to ask him if he has any further communications to make to the Congress, has performed that duty. The President has directed us to say that he has no further communication to make to the Congress.

The SPEAKER. The Chair appreciates the expeditious manner in which the majority leader, the chairman of the committee, has performed his duties.

Does the minority leader, the gentleman from Arizona (Mr. RHODES), have anything to say at this particular time?

Mr. RHODES. Mr. Speaker, I just wish to say that the President also extended his thanks to the Members of the House and wished them all a Merry Christmas and a Happy New Year.

Mr. Speaker, I do the same, especially to my dear friend, the Speaker. I hope that your holidays are full of joy and gladness for you and Mrs. O'Neill, that you come back refreshed, and that we will be able to have a very fruitful 2d session of the 95th Congress under your esteemed and august leadership.

The SPEAKER. I am very grateful for the gentleman's remarks. May I extend my love to your beautiful wife Betty, and may you and your family have a Merry Christmas.

Mr. WRIGHT. I want to thank you for the beautiful job you have done, and I express to you and your wife a Merry Christmas and a Happy New Year.

SINE DIE ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. In accordance with the provisions of House Concurrent Resolution 442, the Chair declares the 1st session of the 95th Congress adjourned sine die.

Thereupon (at 4 o'clock and 39 minutes p.m.), pursuant to House Concurrent Resolution 442, the House adjourned sine die.

COMMUNICATION FROM THE CLERK

WASHINGTON, D.C.,
December 16, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:25 p.m. on Friday, December 16, 1977, and said to contain H.R. 7738, An Act with respect to the powers of the President in time of war or national emergency, which is being returned to the House of Representatives by the President in response to a request by House Concurrent Resolution 443.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

MESSAGE FROM THE PRESIDENT

To the House of Representatives:

Pursuant to House Concurrent Resolution 443, I am hereby returning the enrolled bill H.R. 7738, "An Act with respect to the powers of the President in time of war or national emergency," to the House of Representatives for the purpose of making a necessary technical correction.

JIMMY CARTER.

THE WHITE HOUSE, *December 16, 1977.*

SENATE ENROLLED BILLS SIGNED AFTER SINE DIE ADJOURNMENT

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 904. An act to provide for the efficient and regular distribution of current information on Federal domestic assistance programs; and

S. 1063. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes;

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency;

H.R. 8212. An act for the relief of Charles P. Bailey;

H.R. 9346. An act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, and for other purposes;

H.R. 9794. An act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act; and

H.J. Res. 674. Joint resolution relative to the convening of the 2d session of the 95th Congress, and for other purposes.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did December 16, 1977, present to the President, for his approval, a bill and joint and concurrent resolutions of the House of the following titles:

H.R. 3199. To amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes; and

H. Con. Res. 443. Requesting the President to return the enrolled bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, and providing for its reenrollment with technical corrections.

And on December 19, 1977:

H.J. Res. 674. Relative to the convening of the 2d session of the 95th Congress, and for other purposes;

H.R. 8212. For the relief of Charles P. Bailey;

H.R. 9794. To bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act;

H.R. 7738. With respect to the powers of the President in time of war or national emergency;

H.R. 6666. To amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes; and

H.R. 9346. To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, and for other purposes.

BILLS AND A JOINT RESOLUTION APPROVED AFTER SINE DIE ADJOURNMENT

The President, subsequent to the sine die adjournment of the Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and a joint resolution of the House of the following titles:

On December 19, 1977:

H.R. 3722. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978;

H.R. 9378. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans; and

H.R. 9418. An act to amend the conditions for schools receiving capitation grants under section 770 of such act, and for other purposes.

On December 20, 1977:

H.R. 9346. An act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, and for other purposes.

On December 27, 1977:

H.R. 3199. An act to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.

On December 28, 1977:

H.J. Res. 674. Joint resolution relative to the convening of the 2d session of the 95th Congress, and for other purposes;

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes;

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency;

H.R. 8212. An act for the relief of Charles P. Bailey; and

H.R. 9794. An act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of December 12, 1977, page 38894.

H.R. 7601. June 3, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to require the Secretary of Agriculture to provide for the establishment of escrow accounts for taxes and insurance by borrowers for farm housing.

H.R. 7602. June 3, 1977. Judiciary; Education and Labor. Prescribes exclusive standards and procedures to govern the award of injunctive and other equitable relief in school desegregation cases brought under Federal law.

Creates a national committee composed of citizens from various occupations and backgrounds, particularly individuals who have had experience in school desegregation activities, which is to provide assistance to communities engaged in school desegregation. Creates a Federal Community Assistance Coordinating Council composed of representatives from specified government agencies which shall assist communities engaged in school desegregation in obtaining Federal assistance for programs facilitating desegregation.

H.R. 7603. June 3, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to permit the Secretary of Housing and Urban Development to insure mortgages and loans with varying rates of amortization corresponding to anticipated variations in family income on a regular basis.

Amends the Internal Revenue Code to establish tax-exempt savings accounts which would be available to first-time home buyers, known as individual housing accounts.

H.R. 7604. June 3, 1977. Judiciary. Conditionally admits a certain person to the United States for permanent residence.

H.R. 7605. June 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide that income received from nonmember telephone companies shall not be used in determining whether mutual and cooperative telephone companies qualify as tax exempt organizations.

H.R. 7606. June 6, 1977. Interior and Insular Affairs. Authorizes the Secretary of Agriculture to permit general recreational access and geothermal explorations for six months within the Special Management Area of the Bull Run Reserve, Mount Hood National Forest, Oregon.

H.R. 7607. June 6, 1977. Education and Labor; Ways and Means. Provides, through the Department of Labor, specified adjustment assistance to certain workers adversely affected by the termination of a major government procurement program.

Establishes a Job and Retraining Information Service within the Department of Labor to facilitate the implementation and operation of such assistance program.

Amends the tax credit under the Internal Revenue Code for expenses of work incentive programs to permit a limited credit for wages paid to retrained defense workers.

H.R. 7608. June 6, 1977. Education and Labor. Amends the Emergency School Aid Act to make available certain funds for desegregation programs under such Act to certain territories and possessions of the United States.

H.R. 7609. June 6, 1977. Judiciary. Establishes a Virgin Islands Immigration Commission to review, on a case-by-case basis, the status, circumstances, and character of those aliens residing in the Virgin Islands of the United States who were admitted to the Virgin Islands as nonimmigrants on or before May 12, 1970 and to recommend to the Attorney General whether or not the status of such aliens should be adjusted to that of aliens lawfully admitted for permanent residence.

Directs the Attorney General to review the recommendations of the Commission and to adjust the status of such aliens if he determines that they are admissable.

H.R. 7610. June 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for 25 percent of the amount of rent paid by the taxpayer which is equal to the taxpayer's proportionate share of the local and State property taxes imposed on the land and building in which his dwelling is located.

H.R. 7611. June 6, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to permit the marketing of saccharin and any food additive, drug, and cosmetic containing saccharin for 12 months.

H.R. 7612. June 6, 1977. Post Office and Civil Service. Prohibits the Postal Service from decreasing the frequency of mail delivery service below the frequency in effect for the calendar week beginning May 1, 1977.

H.R. 7613. June 6, 1977. Public Works and Transportation. Requires the preparation of written estimates for work to be performed on aircraft for which the customer is to be charged more than $100.

H.R. 7614. June 6, 1977. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contribution to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such Act for travel expenses, personal equipment for State and local workers, and personnel and administrative expenses.

H.R. 7615. June 6, 1977. Post Office and Civil Service. Abolishes the Postal Rate Commission and stipulates that future postal rate increases be related to increases in the Consumer Price Index. Requires that proposed increases in postal rates which exceed the percentage increase in the Consumer Price Index be subject to congressional review.

Stipulates that changes in the mail classification schedule made by the Postal Service be subject to congressional review.

H.R. 7616. June 6, 1977. Judiciary. Establishes a Competition Review Commission to study the effect of certain laws, regulations, policies, governmental practices, and the competitive structure of major industries on employment, price levels, profit levels, efficiency, quality of goods and services, and the ability of domestic corporations to compete with foreign corporations. Directs the commission to recommend a program of legislative and executive action to the President and Congress which is designed to ameliorate anti-competitive conditions found to be detrimental to the public interest.

H.R. 7617. June 6, 1977. Judiciary. Establishes a Competition Review Commission to study the effect of certain laws, regulations, policies, governmental practices, and the competitive structure of major industries on employment, price levels, profit levels, efficiency, quality of goods and services, and the ability of domestic corporations to compete with foreign corporations. Directs the commission to recommend a program of legislative and executive action to the President and Congress which is designed to ameliorate anti-competitive conditions found to be detrimental to the public interest.

H.R. 7618. June 6, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures.

Establishes a moratorium on all killing of wolves except as game in areas not protected under the Endangered Species Act, pending the results of such study.

H.R. 7619. June 6, 1977. House Administration; International Relations. Authorizes the Secretary of State to accept a statue or bust of George C. Marshall and place it in the Department of State.

Establishes a noncompensated Commission under the direction of the Secretary to select a sculptor and select the size, style, design, and material of such statue or bust.

H.R. 7620. June 6, 1977. House Administration; International Relations. Authorizes the Secretary of State to accept a statue or bust of George C. Marshall and place it in the Department of State.

Establishes a noncompensated Commission under the direction of the Secretary to select a sculptor and select the size, style, design, and material of such statue or bust.

H.R. 7621. June 6, 1977. Public Works and Transportation. Amends the Federal-Aid Highway Act of 1973 to increase the Federal share of the cost of specified railway highway crossing demonstration projects.

H.R. 7622. June 6, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate deductions from supplemental annuities payable under such Act on account of private pensions.

H.R. 7623. June 6, 1977. Interstate and Foreign Commerce. Repeals an act which declares that the regulation and taxation by the States of the business of insurance is in the public interest, and that silence on the part of Congress shall not be construed as a barrier to such regulation or taxation by the States.

H.R. 7624. June 6, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to exclude from income Medicare taxes and premiums paid for hospital insurance benefits for individuals not eligible for Medicare insurance for purposes of determining eligibility for and the amount of assistance of any family under the low-income housing program.

H.R. 7625. June 6, 1977. Veterans' Affairs. Directs the Secretary of Defense to place a plaque and a permanent display of medals, ribbons, and tributes of the Vietnam era on the crypt at the National Cemetery at Arlington, Virginia, reserved for an unknown American serviceman who lost his life in Southeast Asia.

Directs the Secretary to perform the duties required by this Act even though the remains of such serviceman have not yet been placed in the crypt.

H.R. 7626. June 6, 1977. Education and Labor. Amends the Rehabilitation Act of 1973 to authorize appropriations to enforce the prohibition in that Act against discrimination toward qualified handicapped individuals under any program or activity receiving Federal financial assistance.

Stipulates that not less than a third of such authorized expenditures be used for educational purposes.

H.R. 7627. June 6, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to entitle certain disabled spouses of railroad employees to an annuity and to entitle certain spouses of disabled railroad employees to an annuity.

H.R. 7628. June 6, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that the benefits payable to surviving parents of railroad employees shall not be less than those which the parent would have received under the Social Security Act.

H.R. 7629. June 6, 1977. Public Works and Transportation. Establishes a Federal photovoltaic energy utilization program to be administered by the Federal Energy Administrator, for the purpose of providing accelerated procurement of advanced photovoltaic solar electric systems for use by the Department of Defense.

H.R. 7630. June 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the entire amount of the gain from certain involuntary conversions of the principal residences of individuals aged 65 or more shall be excluded from gross income.

H.R. 7631. June 6, 1977. Post Office and Civil Service. Changes the organizational structure of the United States Postal Service by: (1) transferring the authority of the Board of Governors to the Postmaster General; (2) revising the procedures for adjustment of rates and services; (3) creating a procedure for review of proposed capital investments; and (4) requiring the Postal Rate Commission to submit to the President a separate annual budget.

Prohibits a reduction in the frequency of mail delivery service below the frequency in effect on April 21, 1977.

H.R. 7632. June 6, 1977. Post Office and Civil Service. Makes air traffic controllers who are eligible for immediate retirement ineligible for full-time training on the basis of their inability to continue their work as controllers for physical or other specified reasons. Entitles to a civil service pension any employee who is an air traffic controller, who is engaged in providing preflight, inflight, or airport advisory service to aircraft operators, or is the immediate supervisor of such employee if such person is separated from the service after completing 25 years of service or after becoming 50 years of age and completing 20 years of service.

H.R. 7633. June 6, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program and to the compensation of victims of crime.

H.R. 7634. June 6, 1977. Judiciary. Declares three individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7635. June 6, 1977. Judiciary. Directs the Secretary of the Air Force to pay a certain individual retired pay as though he has been retired for physical disability in the grade of a colonel since 1954.

H.R. 7636. June 6, 1977. Makes appropriations for fiscal year 1978 to the Department of the Interior, Department of Agriculture, Department of Defense, Department of Health, Education, and Welfare, and related agencies.

H.R. 7637. June 7, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 7638. June 7, 1977. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 7639. June 7, 1977. Post Office and Civil Service. Repeals the prohibition of the use of recording clocks to record the time of an employee of an Executive department in the District of Columbia.

H.R. 7640. June 7, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 7641. June 7, 1977. Banking, Finance, and Urban Affairs. Declares a national policy on investment in the private sector of the United States economy.

Requires the Council on Wage and Price Stability to deliver to Congress an annual Investment Policy Report which shall include information on levels of capital investment available, trends in such levels, and reviews of economic programs affecting capital investment. Requires the President to submit other recommendations for implementation of the national policy declared in this Act.

H.R. 7642. June 7, 1977. Banking, Finance and Urban Affairs. Establishes ten Regional Capital Development Banks vested with special authority to make loans to, and buy stock in, corporations with assets or given sales not in excess of $10,000,000.

Directs each bank to undertake research and to facilitate exchange of concepts and techniques relating to capital financing of business enterprises and economic development.

H.R. 7643. June 7, 1977. Veterans' Affairs. Provides that the income tax treatment of certain transportation expenses between the taxpayers' residence and place of work shall be determined without regard to Revenue Ruling 76–453 or any other ruling, regulation or decision reaching the same result.

H.R. 7644. June 7, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married person filing a separate return to the amount actually earned by that individual.

H.R. 7645. June 7, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Interstate Commerce Act to establish time limitations during which common carriers by railroad, specified transportation companies, motor carriers, and freight forwarders are required to acknowledge receipt of, and dispose of, claims alleging loss or damage to property.

H.R. 7646. June 7, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide for Congressional review of the Federal Reserve's monetary policy.

Prohibits use of the Federal Reserve System's income for lobbying and participation of Federal Reserve System employees in specified activities which affect personal financial interests.

Directs the Comptroller General to audit the Federal Reserve Board, the Federal Open Market Committee, and all Federal Reserve banks.

H.R. 7647. June 7, 1977. Judiciary. Amends the Clayton Act to repeal the provision which renders a final judgment or decree in a criminal or civil action brought under this Act prima facie evidence against a defendant in a subsequent action brought by any other party, in order to permit the application of the doctrine of collateral estoppel to litigated antitrust judgments.

H.R. 7648. June 7, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals limited, alternative income tax deductions and credits for expenses incurred for the primary, secondary and higher education of themselves and their spouses and dependents.

H.R. 7649. June 7, 1977. Government Operations. Establishes the Federal Emergency Assistance and Preparedness Administration to to implement and coordinate all Federal disaster assistance and emergency preparedness programs and to collect data to be made available to the public, States and localities respecting the prediction and planning for emergencies and disasters. Extends the termination dates of specified provisions of the Federal Civil Defense Act to September 30, 1980.

H.R. 7650. June 7, 1977. Ways and Means; Interstate and Foreign Commerce. Creates a national system of health insurance. Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.R. 7651. June 7, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 7652. June 7, 1977. Judiciary. Deems a certain individual, for purposes of receiving a survivor annuity under the Civil Service retirement system, to have been married to a certain decedent for one year immediately prior to his death.

H.J. 7653. June 7, 1977. Judiciary. Authorizes classification of two individuals as children for purposes of the Immigration and Nationality Act.

H.R. 7654. June 7, 1977. Judiciary. Directs the Secretary of the Treasury to pay a certain sum to a certain corporation to defray the expenses incurred by such corporation in conducting a business administration program at Ft. Dix.

H.R. 7655. June 8, 1977. Public Works and Transportation. Directs the Architect of the Capitol to paint all exterior wood surfaces of the United States Capitol Building.

H.R. 7656. June 8, 1977. Agriculture. Establishes a Commission on the Humane Treatment of Animals to study the treatment of animals.

H.R. 7657. June 8, 1977. Government Operations; House Administration. Directs the installation of telecommunications devices which permit two-way communication of textual messages in alphanumeric form by telephone lines in specified Federal agencies to facilitate communication with such agencies by the deaf and provides assistance in such installations in State and local governmental offices. Permits the installation of such a device in the office of any Member of Congress who requests one. Provides for the installation of such devices throughout the United States for the use of deaf persons wishing to communicate with such government agencies or Members of Congress.

H.R. 7658. June 8, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to assist in acquiring specially adapted housing for those veterans who have a permanent and total service-connected disability due to the loss, or loss of use, of one upper and one lower extremity, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

H.R. 7659. June 8, 1977. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to assist in acquiring specially adapted housing for those veterans who have a permanent and total service-connected disability due to the loss, or loss of use, of one upper and one lower extremity, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

H.R. 7660. June 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 7661. June 8, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1977. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 7662. June 8, 1977. Judiciary. Increases from $950,000 to $1,400,000 the authorizations of appropriations for fiscal years 1979–1981 for the Administrative Conference of the United States.

H.R. 7663. June 8, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Authorizes the continued use of saccharin for 18 months. Prohibits the Secretary from taking any action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin.

H.R. 7664. June 8, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development, acting through the States, to make loans to homeowners to assist them in purchasing and installing qualified solar heating and cooling equipment.

Directs the Secretary to disseminate information concerning recommended standards and types of qualified solar heating or solar and cooling equipment appropriate for use in residential structures.

H.R. 7665. June 8, 1977. Veterans' Affairs. Extends from two to six months the hospitalization, institutional, or domiciliary care period required prior to reduction of the stipend of a pensioner who has no dependents.

H.R. 7666. June 8, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 7667. June 8, 1977. Judiciary. Amends the Immigration and Nationality Act to authorize the Attorney General to waive exclusion or deportation from the United States of an alien who has been convicted of distributing, selling, or possessing marihuana, or of conspiring to distribute, sell, or possess marihuana.

H.R. 7668. June 8, 1977. Veterans' Affairs. Directs the Secretary of Defense to place a plaque and a permanent display of medals, ribbons, and tributes of the Vietnam era on the crypt at the National Cemetery at Arlington, Virginia, reserved for an unknown American serviceman who lost his life in Southeast Asia.

Directs the Secretary to perform the duties required by this Act even though the remains of such serviceman have not yet been placed in the crypt.

H.R. 7669. June 8, 1977. Small Business. Amends the Small Business Investment Act to change the title of the Associate Administrator for Finance and Investment of the Small Business Administration to that of Associate Administrator for Investment. Changes the duties of such office.

H.R. 7670. June 8, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act to extend coverage under the flood insurance program to include losses from landslides.

H.R. 7671. June 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to modify the provisions which qualify an individual who becomes disabled before reaching age 31 for disability insurance benefits under such title.

H.R. 7672. June 8, 1977. Interstate and Foregn Commerce. Amends the Motor Vehicle Information and Cost Savings Act to require the Environmental Protection Agency to compute automobile fuel consumption rate statistics based on actual road tests. Requires that such fuel consumption rates, in addition to the presently required fuel economy label, be affixed in a prominent place on each automobile manufactured after 1976.

H.R. 7673. June 8, 1977. Ways and Means. Provides that the income tax treatment of certain transportation expenses between the taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76–453 or any other ruling, regulation or decision reaching the same result.

H.R. 7674. June 8, 1977. Public Works and Transportation. Designates the Federal Aviation Administration Aeronautical Center in Oklahoma as the "Mike Monroney Aeronautical Center."

H.R. 7675. June 8, 1977. Small Business. Authorizes the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning and development and international market development. Establishes a Small Business Management and Technical Assistance Division within the Small Business Administration to administer the Small Business Development Center program.

H.R. 7676. June 8, 1977. Veterans' Affairs. Permits the Administrator of Veterans' Affairs to discontinue educational assistance to an eligible veteran or survivor or dependent of a veteran if the Administrator finds that the institution of higher learning concerned has failed to enforce its regularly prescribed standards and practices as approved by the appropriate State approving agency with respect to such veteran or person.

Requires the Administrator to provide individual educational and career counseling and other appropriate services to facilitate the education of any veteran or person whose educational assistance has been discontinued under this Act

H.R. 7677. June 8, 1977. Interior and Insular Affairs. Designates the Indiana Dunes National Lakeshore as the "Paul H. Douglas Indiana Dunes National Lakeshore."

H.R. 7678. June 8, 1977. Veterans' Affairs. Stipulates that the recalling to duty and assignment on a full-time basis of any retired member of the armed forces to the American Battle Monuments Commission shall not be chargeable against the authorized end strengths and grade limitations of the Department of Defense or the military departments concerned nor to any administrative ceiling established by the Secretary of Defense.

H.R. 7679. June 8, 1977. Judiciary. Permits actions in Federal court against liability insurers of members of diplomatic missions and their families notwithstanding any defense that the insured is immune from liability, is an indispensible party, or absent certain circumstances, has violated a term of the contract.

H.R. 7680. June 8, 1977. Agriculture. Directs the Secretary of Agriculture to certify that imported honey originates from supplies which are pure and wholesome and that the foreign apiaries and plants in which it is produced comply with minimum standards of sanitation comparable to standards recommended by the Secretary for domestic honey. Directs the Secretary to inspect imported honey to the extent necessary to insure compliance with such standards. Requires that every container of any food product made in whole or in part of any imported honey be labeled as such.

H.R. 7681. June 8, 1977. Small Business. Amends the Small Business Act to direct the Small Business Administration to give special preference with respect to specified subcontracts and government sales and contracts to small business concerns with 100 or fewer full-time employees.

H.R. 7682. June 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 7683. June 8, 1977. Judiciary. Disallows in aggregating member claims for jurisdictional amount purposes in class actions, claims of class members which do not exceed $10. Specifies new notice procedures for class actions.

Establishes, and sets forth procedures for, separate unfair practice class actions for consumer claims.

H.R. 7684. June 8, 1977. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs. Amends the Flammable Fabrics Act to require the Secretary of Commerce to study the necessity and feasibility of establishing Federal standards relating to fire prevention and control.

H.R. 7685. June 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for individuals who: (1) install qualified insulation in their residences; (2) install qualified solar heating and cooling equipment in dwelling units used by them, or leased to others as residences; (3) replace the heating system in any dwelling with a reversible, compressible refrigerant system (i.e., a heat pump system); or (4) purchase personal or family electric highway vehicles between 1976 and 1982.

H.R. 7686. June 8, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 7687. June 8, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7688. June 8, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7689. June 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow unmarried (currently, only married) heads of households to produce up to 200 gallons of wine annually without liability for the Federal excise tax.

H.R. 7690. June 9, 1977. Judiciary. Establishes within the judicial branch a United

States Commission on Sentencing to promulgate sentencing guidelines.

Specifies factors to be considered by a sentencing court in imposing a term of imprisonment.

Requires courts to disclose in open court and in the record reasons for imposing imprisonment.

Sets forth guidelines for court of appeals review of sentences.

H.R. 7691. June 9, 1977. Government Operations. Stipulates the circumstances under which executive agencies are to use procurement contracts, grant agreements and cooperative agreements to reflect a relationship between the Federal Government and a State or local government or other entity.

Directs the Office of Management and Budget to undertake a comprehensive study of alternative means of implementing Federal assistance programs and to determine the feasibility of developing a comprehensive system of guidance for such programs.

H.R. 7692. June 9, 1977. Judiciary. Waives the statute of limitations with regard to the tort claims of certain individuals against the United States arising out of the explosion of certain coal mines on a particular date.

H.R. 7693. June 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt certain wearing apparel and footwear assembled with components made in the United States, from the reduced customs duties normally granted products made abroad from components made in the United States.

H.R. 7694. June 9, 1977. Judiciary. Limits the power of any United States court to issue school transportation orders based on race, color, or national origin.

Stipulates that only a three judge district court may issue a school assignment order based on race, color, or national origin.

Requires the holding of a special hearing where specific findings in relation to such a constitutional violation must be made before a school assignment order may issue.

Stays such school assignment orders until all appeals have been exhausted.

H.R. 7695. June 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax credit for the rent paid for their principal residence.

H.R. 7696. June 9, 1977. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational, research, or service programs; and (2) assistance in carrying out such programs.

Establishes a five year comprehensive grant to a university qualifying as an "urban grant university" and establishes criteria for such designation.

Creates an Urban University Advisory Council to (1) review, along with the Commissioner of Education, "urban grant university" applications; (2) advise the Commissioner; and (3) make recommendations to the President and to the Congress.

H.R. 7697. June 9, 1977. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational, research, or service programs; and (2) assistance in carrying out such programs.

Establishes a five year comprehensive grant to a university qualifying as an "urban grant university" and establishes criteria for such designation.

Creates an Urban University Advisory Council to (1) review, along with the Commissioner of Education, "urban grant university" applications; (2) advise the Commissioner; and (3) make recommendations to the President and to the Congress.

H.R. 7698. June 9, 1977. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational, research, or service programs; and (2) assistance in carrying out such programs.

Establishes a five year comprehensive grant to a university qualifying as an "urban grant university" and establishes criteria for such designation.

Creates an Urban University Advisory Council to (1) review, along with the Commissioner of Education, "urban grant university" applications; (2) advise the Commissioner; and (3) make recommendations to the President and to the Congress.

H.R. 7699. June 9, 1977. Public Works and Transportation. Amends the Airport and Airway Development Act of 1970 to direct the Secretary of Transportation to obligate a certain portion of the funds authorized to be appropriated under such Act for improving air navigation facilities for the purpose of establishing no fewer than 45 automated flight service stations. Defines "flight service stations" as air navigation facilities used to assist pilots in the safe conduct of flight.

H.R. 7700. June 9, 1977. Post Office and Civil Service. Provides for congressional oversight of all rate, fee, and mail classification decisions made by the Postal Rate Commission. Sets maximum size and weight limits for all parcel mail. Abolishes the Board of Governors of the Postal Service and transfers its functions to the Postmaster General.

H.R. 7701. June 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow a $200 income tax deduction for purchase and installation expenses for residential smoke detectors.

H.R. 7702. June 9, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 7703. June 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the special tax treatment provided under the credit for the elderly to individuals who have public retirement system income and who have not attained age 65.

H.R. 7704. June 9, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 7705. June 9, 1977. Interstate and Foreign Commerce. Requires that medical records maintained by programs assisted by the United States or insurance companies engaged in business in interstate commerce be kept confidential and be disclosed only according to this Act.

H.R. 7706. June 9, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to designate the sites of service of General Thaddeus Kosciuszko during the American Revolution as the "Kosciuszko Historic Route."

H.R. 7707. June 9, 1977. Interstate and Foreign Commerce. Directs the Secretary of Commerce to distribute to each food service operation instructions for removing food which has become lodged in a person's throat.

H.R. 7708. June 9, 1977. Interstate and Foreign Commerce; Ways and Means. Amends Title XIX (Medicaid) of the Social Security Act to make children over 18 of parents receiving nursing and home health care assistance under the Medicaid program liable for a specified portion of the expenses of such assistance.

Amends the Internal Revenue Code of 1954 to allow a deduction for payment of any liability for such medical assistance.

H.R. 7709. June 9, 1977. Education and Labor. Amends the Older Americans Act of 1965 to establish a program for the elderly which would provide one hot balanced home-delivered meal five days a week. Provides for a needs assessment of individuals receiving aid under such a program. Directs the Commissioner of the Administration on Aging to develop minimum efficiency standards for furnishing home-delivered meal services.

Limits the amount that may be spent on administration of a State plan for a nutrition program for the elderly to five percent of the funds allotted.

H.R. 7710. June 9, 1977. Ways and Means. Provides that the income tax treatment of certain transportation expenses between the taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76-453 or any other ruling, regulation or decision reaching the same result.

H.R. 7711. June 9, 1977. Ways and Means. Amends the Internal Revenue Code to qualify trusts established for the payment of product liability claims as tax exempt organizations. Allows taxpayers a business income tax deduction for contributions to such trusts only to the extent they exceed the reasonable costs of product liability insurance for the deducting taxpayer.

H.R. 7712. June 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt from customs duties products of the insular possessions of the United States if not more than 70 percent of the products' value is attributable to foreign materials.

H.R. 7713. June 9, 1977. Judiciary. Makes it a Federal crime to willfully injure or destroy, or to attempt to injure or destroy, the trans-Alaska pipeline system.

H.R. 7714. June 10, 1977. Veterans' Affairs. Extends the delimiting period for completing a veteran's education program until such time as the veteran completes or ends the program, if at the close of the ordinary 10-year delimiting period the veteran is enrolled in a program.

H.R. 7715. June 10, 1977. Interstate and Foreign Commerce. Amends the Department of Transportation Act and the Regional Rail Reorganization Act to revise the time periods during which Federal financial assistance shall be available for rail service assistance programs under such acts.

H.R. 7716. June 10, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 7717. June 10, 1977. Ways and Means. Increases to $5,004 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under Title II (Old-Age, Survivors and Disability Insurance Benefits) of the Social Security Act.

H.R. 7718. June 10, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 7719. June 10, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 7720. June 10, 1977. House Administration. Directs the printing of the proceedings of the national encampments of the Italian American War Veterans of the United States, Incorporated as a document of the House of Representatives.

H.R. 7721. June 10, 1977. Judiciary. Grants a Federal charter to the Italian American War Veterans of the United States.

H.R. 7722. June 10, 1977. Veterans' Affairs. Permits the Administrator of Veterans' Affairs to recognize representatives of the Italian American War Veterans of the United States in the preparation, presentation, and prosecution of claims under laws administered by the Administration.

H.R. 7723. June 10, 1977. Judiciary. Directs Federal judges, upon determining that a party or a witness does not speak or understand English with sufficient facility due to a hearing impairment to order that (1) the proceedings be conveyed to such party or witness through an appropriate mode of communication and (2) that the testimony of such an individual be interpreted for the court.

Requires the Director of the Administrative Office of the United States Courts to certify interpreters for the hearing impaired and to prescribe a fee schedule for, and maintain a list of interpreters so certified.

H.R. 7724. June 10, 1977. Ways and Means. Restricts the importation of fresh, chilled or frozen beef, goat, and sheep meat to entry under specified tariff classifications, regardless of form, classification as processed, change in tariff classification, executive definition, or entry into the United States through any foreign trade zone and modification in form within the trade zone.

H.R. 7725. June 10, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to include as an unlawful employment practice discrimination on the basis of physical handicap. States that nothing in this Act shall be construed to require any employer to provide any special services to handicapped employees.

H.R. 7726. June 10, 1977. Judiciary. Directs that an individual charged with an act of terrorism be detained pending trial if a judicial officer determines that release would pose a danger to any other person or to the community.

Deems an act of terrorism a dangerous crime for purposes of the pretrial release provisions of the District of Columbia Code and establishes a person's being charged with such an act as a rebuttable presumption that no conditions placed on his release could reasonably assure the safety of others and the community.

H.R. 7727. June 10, 1977. Ways and Means. Amends the Tax Reform Act to delay its provisions relating to the minimum tax on individuals for 1 year.

H.R. 7728. June 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act amendments of 1972 to authorize the Secretary of Health, Education, and Welfare to develop and carry out demonstration and evaluation projects to evaluate the benefits of computer-based medical information patient care systems.

H.R. 7729. June 10, 1977. Interstate and Foreign Commerce. Amends the Federal Power Commission to establish a program of grants and low-interest loans to encourage the development of small hydroelectric power projects.

Revises licensing requirements under the Act to reduce the maximum annual charges for licenses involving Government dams issued in 1976 and thereafter.

H.R. 7730. June 10, 1977. Interstate and Foreign Commerce. Amends the Federal Power Act to direct the Federal Power Commission to establish a program of grants and low-interest loans to encourage the development of small hydroelectric power projects.

Revises licensing requirements under the Act to reduce the maximum annual charges for licenses involving Government dams issued in 1976 and thereafter.

H.R. 7731. June 10, 1977. Judiciary. Amends the Immigration and Nationality Act to prohibit the admission of any immigrant unless a United States citizen has agreed in writing to sponsor and to provide financial support to such immigrant for five years after entering the United States. Makes such agreement enforceable against the sponsor in the United States district court for the district in which the sponsor resides.

H.R. 7732. June 10, 1977. Agriculture. Authorizes the Secretary of Agriculture to make grants on a matching basis to the States, Puerto Rico, the Virgin Islands, and Guam to provide financial assistance to urban areas for the planting, maintenance and protection of trees and shrubs.

H.R. 7733. June 10, 1977. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to eliminate agricultural credit transactions from such Act. Specifies procedures agencies enforcing such Act shall use in obtaining compliance. Requires the development of model forms and clauses, for use in common transactions describing the transaction in understandable language.

H.R. 7734. June 10, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 7735. June 10, 1977. Education and Labor. Amends the Rehabilitation Act of 1973 to authorize Federal assistance to private, profitmaking agencies and organizations for purposes of conducting research, training, and other activities relating to the rehabilitation of handicapped individuals.

H.R. 7736. June 10, 1977. Education and Labor. Amends the Rehabilitation Act of 1973 to authorize Federal assistance to private, profitmaking agencies and organizations for purposes of conducting research, training, and other activities relating to the rehabilitation of handicapped individuals.

H.R. 7737. June 13, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to require an affirmative vote of the shareholders of an insured institution owning at least two-thirds of its voting stock or voting power before the Federal Home Loan Bank Board may approve the acquisition of control of such institution by any savings and loan holding company or any other company.

H.R. 7738. June 13, 1977. International Relations. Repeals the peacetime authority of the President to regulate foreign economic transactions, under the Trading With the Enemy Act of 1917, after June 1, 1977. Permits continuation of regulations in effect under such Act as of such date. Increases the penalties for violation of regulations under such Act. Authorizes the President to regulate foreign economic transactions when a national economic emergency arising from a foreign source is declared.

Amends the Export Administration Act of 1969 to permit the regulation of exports subject to the jurisdiction of the United States, or exports by persons subject to such jurisdiction.

H.R. 7739. June 13, 1977. Small Business. Directs the head of each Federal agency to prepare a small business impact statement in connection with each rule made by such agency, unless the agency head, with the approval of the Office of Advocacy of the Small Business Administration, determines that such rule will not have a substantial effect on a significant number of small businesses.

H.R. 7740. June 13, 1977. Interstate and Foreign Commerce. Prohibits the use of appropriated funds to carry out any nontherapeutic research on a living human fetus which is outside the womb of its mother or to assist any person in carrying out such research activity.

H.R. 7741. June 13, 1977. Judiciary. Prohibits any person from: (1) carrying out any research activity on a human fetus which is outside the womb of its mother and has a beating heart if the research or the facility in which it is conducted is federally supported; or (2) taking any action to kill or hasten the death of such a fetus in a federally supported facility.

H.R. 7742. June 13, 1977. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational, research, or service programs; and (2) assistance in carrying out such programs.

Establishes a five year comprehensive grant to a university qualifying as an "urban grant university" and establishes criteria for such designation.

Creates an Urban University Advisory Council to (1) review, along with the Commissioner of Education, "urban grant university" applications; (2) advise the Commissioner; and (3) make recommendations to the President and to the Congress.

H.R. 7743. June 13, 1977. Judiciary. Prohibits use or supply of false documentation, false information, or birth or immigration documents of another for purposes of obtaining a Federal document containing an element of identification.

Forbids commerce in such information or documentation for purposes of securing a State or local government document containing an element of identification.

Proscribes specified acts relative to: (1) forgery, counterfeiting, or alteration of Federal, State, or local government documents containing an element of identification; (2) interstate or foreign commerce in any such counterfeited, forged, or altered document; and (3) receipt, possession, use, or furnishing of any such document with intent to secure false official identification.

H.R. 7744. June 13, 1977. Public Works and Transportation. Requires the Secretary of the Army to have dredging and other river and harbor projects done by private contractors if private industry has the capacity to do such work at reasonable prices. Directs the gradual reduction of the Federal dredge fleet as private industry assumes this capability.

Sets forth factors to be considered when comparing the cost of such work by private industry and such work by the government.

H.R. 7745. June 13, 1977. Judiciary. Eliminates the divisions in the western judicial district of Louisiana.

H.R. 7746. June 13, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to make operating and real estate loans under such Act available to private domestic corporations and partnerships engaged in farming or ranching.

Provides for congressional authorization of program levels under such Act.

H.R. 7747. June 13, 1977. District of Columbia. Amends the District of Columbia

Code to apply provisions relating to pretrial release of persons charged with capital crimes only to those defendants charged with first degree murder or forcible rape.

Permits institution of pretrial detention hearings by a judicial officer on such officer's own initiative.

Extends the period after which certain defendants who are detained pending trial must be released.

Expands a judicial officer's authority to order pretrial detention to include detention of a defendant when it appears such person is presently and was at the time of the offense charged on bail or other release for a State or Federal felony.

H.R. 7748. June 13, 1977. Ways and Means. Amends the Tariff Schedules of the United States to increase the customs duty on jewelry and similar boxes lined with fabric.

H.R. 7749. June 13, 1977. Merchant Marine and Fisheries; Science and Technology. Sets forth procedures for implementing the Antarctic Treaty and the Agreed Measures for the Conservation of Antarctic Fauna and Flora.

Stipulates that certain acts including the taking of native animals and plants and the discharge of oil or hazardous substances into waters adjacent to the coast of Antarctica shall be unlawful in Antarctica.

Requires the Director of the National Science Foundation, in consultation with the Secretary of State, to promulgate regulations to implement this Act.

Requires persons planning expeditions proceeding to Antarctica from the United States to notify the Secretary.

H.R. 7750. June 13, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize and direct the Secretary of Health, Education, and Welfare to make grants to designated State agencies to meet part of the costs involved in planning, establishing, maintaining, coordinating, and evaluating programs for comprehensive services for school-age girls, their infants and children.

Specifies the requirements for State plans to qualify for Federal aid under this Act.

H.R. 7751. June 13, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 7752. June 13, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R. 7753. June 13, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a one-year review of all available information respecting the toxicity and carcinogenicity of food additives.

Directs the Secretary of Health, Education, and Welfare to permit the continued use of saccharin for the 18-month period following enactment of this Act.

H.R. 7754. June 13, 1977. Interstate and Foreign Commerce; Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for rural health clinic services pursuant to the program of Supplementary Medical Insurance Benefits for the Aged and Disabled of such Title.

H.R. 7755. June 13, 1977. Ways and Means. Amends the Internal Revenue Code to provide a cost-of-living adjustment to the $15,000 phaseout amount for the disability exclusion.

H.R. 7756. June 13, 1977. Ways and Means. Prohibits the seizure or detention of letter mail in sealed envelopes originating outside the United States except pursuant to a warrant issued upon probable cause supported by oath or affirmation and particularly describing the thing to be seized or detained.

H.R. 7757. June 13, 1977. Interior and Insular Affairs. Dedicates the Indiana Dunes National Lakeshore to the memory of Paul H. Douglas.

Directs the Secretary of the Interior to survey and designate one or more of the following major elements of the lakeshore in his memory: (1) the principal visitor center; (2) the use area near Mount Baldy; (3) the West Beach unit; (4) the connecting parkway for the lakeshore; (5) the Pinhook Bog unit; and (6) the environmental education center.

Authorizes the appropriations necessary to carry out this Act.

H.R. 7758. June 13, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 7759. June 13, 1977. Public Works and Transportation. Prohibits the expenditure of Federal funds for the conversion of highway signs to the metric system unless the Congress specifically authorizes such an expenditure.

H.R. 7760. June 13, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7761. June 14, 1977. Post Office and Civil Service. Permits public school teachers in the Canal Zone up to ten years' credit for civil service retirement purposes for service in public schools in the United States.

H.R. 7762. June 14, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly employ or refer for employment an illegal alien.

Requires the Department of Health, Education, and Welfare to identify illegal aliens who are receiving assistance under the Social Security Act.

Permits the Attorney General to adjust the status of specified illegal aliens to the status of lawful permanent residents.

Imposes penalties for the making of false documents used for entry into the United States.

Directs the Attorney General to establish a larger border patrol force.

Permits the Attorney General to deport aliens who are public charges.

H.R. 7763. June 14, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to disregard cost-of-living increases in social security benefits when determining the amount of a veterans' pension or dependency and indemnity compensation. Requires the inclusion of such disregarded amount in the determination of eligibility and the amount of pension or compensation benefits, within the 12-month period after any amount is disregarded an increase in the level of Veterans' Administration benefits provided an individual occurs.

H.R. 7764. June 14, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the excise tax on tread rubber.

H.R. 7765. June 14, 1977. International Relations. Directs the Secretary of the Interior to convey to the government of Guam, and the government of the Virgin Islands all right, title, and interest of the United States in deposits of oil, gas, and other minerals in the submerged lands conveyed to the governments of such territories pursuant to a specified law.

H.R. 7766. June 14, 1977. District of Columbia. Authorizes the Mayor of the District of Columbia to enter into an agreement relating to the use of airspace with the United Postal Service permitting the Postal Service to build a bridge for postal use between Union Station Terminal and the City Post Office located on North Capitol Street and Massachusetts Avenue, Northeast.

Provides that such construction shall not be inconsistent with the use, maintenance, and operation of any street or alley, and shall not deprive any real property not owned by the United States and administered by the United States Postal Service of easements of light, air, and access.

H.R. 7767. June 14, 1977. Science and Technology. Directs the Administrator of the Environmental Protection Agency to establish an Oil Spill Removal Research, Development, and Demonstration Project. Requires the transfer of similar programs from other Federal agencies to the project. Directs the Administrator to assist educational institutions and small businesses in participating in oil spill removal research programs.

H.R. 7768. June 14, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to direct the Interstate Commerce Commission in the performance of its duties with respect to motor carriers to consider maximum reliance on competitive market forces, the encouragement of new motor carriers, and participation by women and minorities in the motor carrier industry as being in the public convenience and necessity.

Sets forth standards to apply in determining issuance of certificates of public convenience of permits for contract carriers by motor vehicles.

Establishes time limitations during which the Commission must dispose of applications pertaining to common or contract motor carriage.

H.R. 7769. June 14, 1977. Judiciary. Authorizes the Attorney General to change the status of Indochinese refugees who entered the United States after March 31, 1975, to that of permanent resident alien.

H.R. 7770. June 14, 1977. Government Operations. Authorizes the head of any Federal agency to procure property or services for such agency from areas of high unemployment if such agency head determines that bids of offers will be obtained from a sufficient number of eligible concerns to assure that awards will be made at reasonable prices.

H.R. 7771. June 14, 1977. Public Works and Transportation. Amends the Flood Control Act to authorize the Chief of Engineers to furnish the minimum protection necessary to prevent loss of life and property damage caused by lava flow.

H.R. 7772. June 14, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to authorize the Secretary of the Department of Housing and Urban Development to make grants to local governments for the purpose of funding qualified nonprofit neighborhood organizations engaged in activities designed to improve housing and prevent neighborhood deterioration.

H.R. 7773. June 14, 1977. Interior and Insular Affairs. Amends the National Trails System Act to include historic trails, in addition to recreation and scenic trails, within the National Trails System.

Designates the Oregon National Historic Trail and Travelway in the States of Oregon and Washington, as a unit of the National Trails System.

H.R. 7774. June 14, 1977. Interior and Insular Affairs. Amends the National Trails System Act to include historic trails, in addition to recreation and scenic trails, within the National Trails System.

Designates the Oregon National Historic Trail and Travelway in the States of Oregon and Washington, as a unit of the National Trails System.

H.R. 7775. June 14, 1977. Education and Labor; Judiciary. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 7776. June 14. 1977. Education and Labor. Requires the Bureau of Labor Statistics, in compiling unemployment statistics, to classify as unemployed: (1) any farmer who reports a farm net loss on his or her income tax return; and (2) any dependent of such farmer whose sole occupation consists of working 15 or more hours per week on the farm. Requires the Secretary of the Treasury to report the number of such farmers and dependents to the Bureau of Labor Statistics. Requires any Federal programs in which funds are allocated on the basis of unemployment statistics to base such allocations on unemployment statistics compiled pursuant to this Act.

H.R. 7777. June 14, 1977. Merchant Marine and Fisheries. Amends the Great Lakes Pilotage Act of 1960 to limit the liability of United States registered vessel pilots or authorized Association of United States Registered pilots to $1,000 for any injury or damage which results from such pilots' negligence in navigating any vessel in waters of the Great Lakes under United States jurisdiction.

H.R. 7778. June 14, 1977. Judiciary. Amends the Immigration and Nationality Act to prohibit the admission of any immigrant unless a United States citizen has agreed in writing to sponsor and to provide financial support to such immigrant for five years after entering the United States. Makes such agreement enforceable against the sponsor in the United States district court for the district in which the sponsor resides.

H.R. 7779. June 14, 1977. Post Office and Civil Service. Makes Flag Day, June 14 of each year, a legal public holiday.

H.R. 7780. June 14, 1977. Judiciary. Amends the Clayton Act to make it unlawful for any person owning any nonnuclear energy technology to refuse or fail to make it available to any qualified applicant at reasonable rates and nondiscriminatory terms.

H.R. 7781. June 14, 1977. Interior and Insular Affairs. Revises Federal mineral leasing laws to require that the Secretary of the Interior give priority to applicants for coal leases who are not petroleum companies or electric utility companies.

H.R. 7782. June 14, 1977. Interior and Insular Affairs. Revises Federal mineral leasing laws to prohibit companies from acquiring control over more than one of the following energy assets: coal, uranium or other fissionable minerals, or oil or natural gas.

H.R. 7783. June 14, 1977. Interior and Insular Affairs. Revises Federal mining laws to place the mining of uranium on Federal lands under the Mineral Leasing Act of 1920.

H.R. 7784. June 14, 1977. Judiciary. Amends the Clayton Act to make it unlawful, after December 31, 1980, for any person who owns or controls a pipeline to transport by such pipeline any petroleum, petroleum product, or natural gas which it owns or controls, or has owned, controlled, produced, or refined.

Requires each person who transports by such pipeline any petroleum, product of petroleum refining, or natural gas, not later than December 31, 1979, to submit to the Attorney General plans for compliance with this Act.

H.R. 7785. June 14, 1977. Judiciary. Amends the Clayton Act to prohibit specified concentrations of control in the energy-producing industries.

H.R. 7786. June 14, 1977. Interstate and Foreign Commerce. Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to eliminate the requirement that States match Federal funds for improvement of nonoperational portions of stations used in intercity rail passenger service and of related facilities and fencing in the Northeast Corridor.

H.R. 7787. June 14, 1977. Judiciary. Amends the Civil Rights Act of 1968 to allow the Secretary of the Department of Housing and Urban Development to initiate civil actions to enforce the provisions of such Act. Extends from 30 to 60 days the period during which no civil suits may be initiated and the Secretary must make efforts to obtain voluntary compliance with such Act.

Permits courts to award attorneys' fees to prevailing plaintiffs without regard to financial ability to assume such fees.

H.R. 7788. June 14, 1977. Judiciary. Amends the Clayton Act to provide that the existence of a contract between the person alleged to be injured and the defendant need not be proven in order for the person to recover in an action for treble damages under such Act.

H.R. 7789. June 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 7790. June 14, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 7791. June 14, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit.

H.R. 7792. June 14, 1977. Ethics. Restricts the use of franked mail by Members of Congress during election campaigns. Limits the number of pieces which may be sent as franked mail. Expands the advisory jurisdiction of the House Commission on Congressional Mailing Standards of the House of Representatives. Extends the franking privilege of a spouse of a Member who died in office to surviving relatives in the event there is no surviving spouse.

H.R. 7793. June 14, 1977. Interior and Insular Affairs; Merchant Marine and Fisheries. Permits the private, noncommercial ownership of wild burros and horses.

H.R. 7794. June 14, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 7795. June 14, 1977. Judiciary. Declares a certain individual to be a returning resident alien under specified provisions of the Immigration and Nationality Act.

H.R. 7796. June 15, 1977. Banking, Finance and Urban Affairs. Extends assistance for purposes of rehabilitation of historic structures under the following housing programs: (1) Federal insurance of rehabilitation loans program; (2) direct loans for rehabilitation; and (3) urban renewal rehabilitation loan program.

H.R. 7797. June 15, 1977. Appropriations. Makes appropriations for fiscal year 1978 for (1) Foreign Assistance Act activities, (2) foreign military credit sales, (3) migration and refuge assistance, (4) payments to international financial institutions, and (5) the Export-Import Bank.

Sets forth limitations on such appropriations.

H.R. 7798. June 15, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 7799. June 15, 1977. Ways and Means. Amends the Internal Revenue Code to delay, for one year, the implementation of the Tax Reform Act's increased minimum tax on tax preferences for non-corporate individuals.

H.R. 7800. June 15, 1977. Banking, Finance and Urban Affairs. Creates a Solar Energy Development Bank to make long-term, low-interest loans to encourage the use of solar energy in commercial and residential dwellings. Establishes a Solar Energy Fund in the Treasury of the United States to finance the activities of the Bank.

H.R. 7801. June 15, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 7802. June 15, 1977. Judiciary. Amends the Immigration and Nationality Act to authorize the Attorney General and the President to admit certain refugees to the United States. Permits refugees to become permanent residents of the United States upon approval of the Immigration and Naturalization Service.

H.R. 7803. June 15, 1977. Judiciary. Establishes a Small Business Administrative Review Court to review fines, citations, or orders having a dollar value of $2,500 or less by Federal departments or agencies.

H.R. 7804. June 15, 1977. Judiciary. Amends the Mann Acts, which prohibit the transportation of females for immoral purposes, to extend coverage to prohibit transportation of any individual for immoral purposes and to increase the penalties specified in such Act.

H.R. 7805. June 15, 1977. Armed Services. Stipulates that a National Guard technician who: (1) has completed ten years of service in a position in which Guard membership was required; (2) is involuntarily separated from the Guard under honorable conditions; and (3) who continues to meet specified physical fitness standards shall not be required to be a member of the Guard as condition of employment.

H.R. 7806. June 15, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to public and nonprofit private entities: (1) to assist in the operation of projects to provide counseling to pregnant women on their legal rights and the services available to help them carry the fetus to term, and raise and care for the child; and (2) to assist in the development of information about such rights and services, and on family planning and population growth.

H.R. 7807. June 15, 1977. Public Works and Transportation; Agriculture; Education and Labor; Interior and Insular Affairs; Small Business. Amends the Disaster Relief Act of 1974, the Public Works and Economic Development Act of 1965, the Small Business

Act, and the Consolidated Farm and Rural Development Act to provide disaster-type assistance to areas suffering from losses caused by a drought emergency.

H.R. 7808. June 15, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 7809. June 15, 1977. Judiciary. Repeals the requirement of the Jury Selection and Service Act of 1968 that the written plan for jury selection of each United States District Court fix a distance, either in terms of mileage or travel time, beyond which prospective jurors may automatically be excused from traveling for jury duty.

H.R. 7810. June 15, 1977. Judiciary. Revises Federal juror fees and allowances to, among other changes, (1) increase per diem pay and (2) replace set statutory travel and subsistence allowances with standards promulgated by the Director of the Administrative Office of the United States Courts.

Requires employers to preserve employment rights of employees serving Federal jury duty.

H.R. 7811. June 15, 1977. Judiciary. Repeals the provision stipulating that changes in the number, location, and salaries of United States magistrates made by the Judicial Conference of the United States take effect 60 days following their promulgation.

Authorizes, in civil actions in forma pauperis, payment by the United States of expenses for preparing a transcript of proceedings before a magistrate who is serving as a special master.

Amends the Bankruptcy Act to allow full-time and part-time referees in bankruptcy to serve as United States magistrates. Sets forth guidelines relative to the terms and salaries of persons serving in both capacities.

H.R. 7812. June 15, 1977. Judiciary. Amends the criminal jurisdiction of United States magistrates to (1) encompass misdemeanors for which the penalty is a fine of up to $5,000, (2) deny persons charged with petty offenses an election to be tried by a district court; and (3) include petty offenses committed by juveniles.

H.R. 7813. June 15, 1977. Judiciary; Education and Labor. Sets the number of jurors in noncriminal United States district court and District of Columbia Superior Court actions at six.

Reduces the number of preemptory challenges in such cases.

Permits former felons to qualify for Federal jury duty.

Provides Federal employee disability benefits to Federal jurors.

Establishes the use of a voting list in selecting jurors as a presumption that juries so selected fairly represent the community.

Provides for random selection of jurors through electronic data processing.

Directs that district court jurors in Puerto Rico, the District of Columbia, and the Canal Zone be drawn from voting lists.

H.R. 7814. June 15, 1977. Post Office and Civil Service. Requires each Federal agency to establish a flexible scheduling or compressed work schedule program on an experimental basis.

H.R. 7815. June 15, 1977. Veterans' Affairs. Provides that the decisions of the Administrator of Veterans' Affairs on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be subject to judicial review. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 7816. June 15, 1977. Interior and Insular Affairs. Prohibits producers, refiners, transporters, and retail marketers responsible for a specified minimum output of crude oil or the equivalent natural gas or products of petroleum from directly or indirectly taking or acquiring control of mineral leases, or from locating or recording any mineral claim.

Sets forth circumstances under which the Secretary of the Interior may not issue any mineral leases or recognize any mineral claims.

H.R. 7817. June 15, 1977. Public Works and Transportation; Banking, Finance and Urban Affairs; Interior and Insular Affairs. Amends the Public Works and Economic Development Act of 1965 to establish an inland energy development impact program in the Department of Commerce.

Includes among the assistance provided under such program to States, local governments, and Indian tribes which are affected as result of energy development activities: (1) technical assistance; (2) grants for comprehensive growth management and monitoring plans; (3) loans and loan guarantees for required new public facilities and services; and (4) grants for impact crises.

Creates an Inland Energy Impact Fund within the Treasury.

H.R. 7818. June 15, 1977. Judiciary. Deems a certain individual to have fulfilled the 20 years of service requirement for purposes of the administration of retired pay for non-regular service in the United States Army Reserves.

H.R. 7819. June 16, 1977. International Relations. Repeals provisions relating to diplomatic immunity which (1) deem void judicial writs or process issuing against persons with diplomatic immunity, (2) impose penalties for wrongful suit, and (3) exempt servants of diplomatic personnel from immunity.

Extends the privileges and immunities specified in the Vienna Convention on Diplomatic Relations to diplomatic personnel and families from nations which have not ratified the Convention.

Permits the President to grant to diplomatic personnel privileges and immunities more or less favorable than those in the Convention.

Directs any judicial action brought against immune personnel to be dismissed.

Requires such personnel to have liability insurance.

H.R. 7820. June 16, 1977. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to require that comprehensive State law enforcement plans submitted thereunder include, where appropriate, police escort programs for elderly residents of high crime areas.

Directs the Law Enorcement Assistance Administration to conduct a study to determine the effects of denying release to persons convicted of violent crimes against the elderly and of prosecuting juveniles committing crimes against the elderly as adults.

H.R. 7821. June 16, 1977. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to require that comprehensive State law enforcement plans submitted thereunder include, where appropriate, police escort programs for elderly residents of high crime areas.

Directs the Law Enforcement Assistance Administration to conduct a study to determine the effects of denying release to persons convicted of violent crimes against the elderly and of prosecuting juveniles committing crimes against the elderly as adults.

H.R. 7822. June 16, 1977. Banking, Finance and Urban Affairs. Extends from June 30, 1978, until June 30, 1981, the authority of the Secretary of the Treasury to make loans under the New York City Seasonal Financing Act.

H.R. 7823. June 16, 1977. Banking, Finance and Urban Affairs; Ways and Means. Establishes the National Development Bank for the purposes of making long-term, low-interest loans to individuals, State and local governments, and corporations in order to increase employment opportunities and foster public works and low- and moderate-income housing projects.

H.R. 7824. June 29, 1977. Ways and Means. Amends the Social Security Act to provide that an individual who would be fully qualified at age 62 for insurance under the Old-Age, Survivors, and Disability Insurance program may qualify for disability benefits under such program if such individual has 40 quarters of coverage, regardless of when such quarters were earned.

H.R. 7825. June 16, 1977. Post Office and Civil Service. Includes as creditable service for civil service retirement purposes employment by Howard University if such employment is financed directly by Federal funds.

H.R. 7826. June 16, 1977. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 7827. June 16, 1977. Interior and Insular Affairs. Recognizes and vests in the Commonwealth of Puerto Rico all right, title, and interest in and to, and jurisdiction and authority over, the lands beneath the navigable waters within the boundaries of the Commonwealth, and the natural resources underlying such lands and waters.

H.R. 7828. June 16, 1977. Judiciary. Prohibits commerce in contraband cigarettes.

Defines "contraband cigarettes" as a quantity of more than 20,000 cigarettes, bearing no evidence of payment of applicable State cigarette taxes, which are in the possession of any person other than (1) a person licensed by the State where the cigarettes are found or by the Internal Revenue Service, (2) a common or contract carrier, or (3) a government agent in the performance of duties.

H.R. 7829. June 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the amount of outside income an individual may earn without reduction in benefits, to cease the reduction of dependent's benefits because of the excess earnings of the entitled individual, and to remove the limitation on the amount of outside income which an individual may earn after age 70.

Directs the Secretary of Labor to prepare a Senior Citizens Price Index for the computation of cost-of-living increases in benefits.

Eliminates marital status as a factor in the determination of eligibility of specified beneficiaries.

H.R. 7830. June 16, 1977. Judiciary. Amends the Hobbs Act to impose penalties for interfering with commerce by willfully causing property damage of at least $2,000 at or near a factory, construction site, or other place where work or business of an employer or owner is carried on or where such employer or owner transports, stores, or maintains property.

Stipulates that a violation of such provision or of the provision prohibiting interference with commerce through robbery, violent acts, or extortion shall not be nullified or mitigated by certain factors.

H.R. 7831. June 16, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule governing approval of courses for enrollment by veterans receiving educational assistance allowances, and limits application of the rule to proprietary profit or proprietary nonprofit educational institutions. Consolidates existing provisions of the law relating to the certification of courses. Exempts specified kinds of courses from the two-year minimum of operation requirement. Prohibits the execution of powers of attorney for the negotiation of educational assistance allowance checks.

H.R. 7832. June 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 7833. June 16, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 7834. June 16, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 7835. June 16, 197. Government Operations. Directs the Administrator of General Services to convey surplus property, consisting of railroad rails, ties and associated hardware, to the State of Hawaii.

H.R. 7836. June 16, 1977. Ways and Means. Amends the Internal Revenue Code to provide for permanent tax rate reductions for individuals and businesses, and for a permanent increase in the corporate surtax exemption.

H.R. 7837. June 16, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation; and (5) reduce the maximum corporate normal tax rate.

H.R. 7838. June 16, 1977. Interior and Insular Affairs. Amends the Atomic Energy Community Act of 1955 to stipulate that assistance payments provided under such Act are supplemental to any State and local funds to which such recipients would otherwise be entitled. Prohibits funding of school districts which receive assistance under such Act in a different manner from other school districts solely on such basis.

H.R. 7839. June 16, 1977. Armed Services. Extends the special pay provisions for physicians and dentists in the uniformed services until September 30, 1978.

H.R. 7840. June 16, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate deductions from annuities under such Act on account of military pensions, disability compensation or other gratuitous benefits given under any other Acts of Congress.

H.R. 7841. June 16, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide for Congressional review of the Federal Reserve's monetary policy.

Prohibits use of the Federal Reserve System's income for lobbying and participation of Federal Reserve System employees in specified activities which affect personal financial interests.

Directs the Comptroller General to audit the Federal Reserve Board, the Federal Open Market Committee, and all Federal Reserve banks.

H.R. 7842. June 16, 1977. Judiciary. Subjects, with certain exceptions, to the appropriate punishment for the Commission of a criminal act within the special maritime and territorial jurisdiction of the United States persons committing a like act in Antarctica if (1) such person is a United States national or a member of a United States expedition, or (2) such act is committed against property of the United States or against the person or property of a United States national or a member of a United States expedition.

H.R. 7843. June 16, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Eliminates the exception for certain districts having two judges with respect to the requirement that no judge age 70 or over serve as chief judge.

H.R. 7844. June 16, 1977. Public Works and Transportation. Amends the Public Works and Economic Development Act of 1965 to allow the use of any funds appropriated which are available for use with respect to any major disaster to be expended by any Federal, State, or local authority receiving such funds for any loan, grant, or other authorized activity beginning on the date of the declartion of such disaster.

H.R. 7845. June 16, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitations on charitable deductions and investment tax credits taken by cooperations. Allows cooperatives to allocate investment tax credits among their programs.

H.R. 7846. June 16, 1977. Armed Services. Stipulates that a National Guard technician who: (1) has completed ten years of service in a position in which Guard membership was required; (2) is involuntarily separated from the Guard under honorable conditions; and (3) who continues to meet specified physical fitness standards shall not be required to be a member of the Guard as condition of employment.

H.R. 7847. June 16, 1977. Veterans' Affairs. Prohibits denial of employment (except by an employer with no more than ten employees) of any person because of any obligation as a member of a Reserve component of the Armed Forces.

H.R. 7848. June 16, 1977. Interstate and Foreign Commerce. Establishes within the Department of Commerce the United States Design Council to establish standards for excellence in the design of objects and systems, to identify the ways in which marketing may be improved through better design and manufacture, to implement programs to educate entrepreneurs and the public to the value of excellence in design, to make awards for outstanding products, and to conduct specified other activities to encourage excellence in design.

H.R. 7849. June 16, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to convey all right, title and interest (except mineral rights) in certain public lands in Montana to specified occupants of such lands.

H.R. 7850. June 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 7851. June 16, 1977. Judiciary. Declares that, for naturalization purposes, a certain individual shall be held and considered to have met the residence and physical presence requirements of the Immigration and Nationality Act.

H.R. 7852. June 16, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7853. June 17, 1977. Education and Labor. Establishes in the Office of Education a National Student Financial Assistance Data Bank to assist students in identifying public and private sources of financial assistance for higher education.

Directs the Commissioner of Education to (1) collect and assemble all available information pertaining to scholarships, loans, grants, and other financial assistance; and (2) disseminate such information without charge to individuals applying to the data bank.

H.R. 7854. June 17, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to repeal the time limitations on participation in investment insurance by the Overseas Private Investment Corporation and requirements that specified percentages of such insurance be carried by private insurance companies. Permits investment loans and feasibility surveys by the Corporation for the extraction of ore and minerals. Extends the authority of the Corporation to September 30, 1981. Permits the Corporation to adjust the value of an investment, for insurance purposes, to reflect replacement cost. Exempts the insurance of loans to unrelated parties by financial institutions from the requirement that ten percent of the risk be borne by the insured.

H.R. 7855. June 17, 1977. Agriculture. Amends the Agricultural Act of 1949 to specify new formulas for prevented planting disaster payments and cotton farm disaster payments. Directs the Secretary of Agriculture to establish a national program acreage for each of the 1978 through 1981 crops of upland cotton. Requires the Secretary to determine a program allocation factor for each cotton farm and states the formula for the determination of the individual farm program acreage for each crop of upland cotton. Extends specified provisions of such Act and the Agricultural Adjustment Act of 1939 through the 1981 crops.

H.R. 7856. June 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt from customs duties products of the insular possessions of the United States if not more than 70 percent of the product's value is attributable to foreign materials, until the value of such imports reaches a specified annual total. Exempts watch products of the insular possessions of the United States from customs duties. Exempts from customs duties products of such possessions upon re-entry, if applicable duties were previously paid.

H.R. 7857. June 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.A. 7858. June 17, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 7859. June 17, 1977. Agriculture. Extends from June 30, 1977 to September 30, 1977, the provision of the Food Stamp Act of 1964 which disqualifies from eligibility for either food stamps or the Food Distribution Program any recipient of Federal or State supplemental security income benefits for any month during which he or she resides in a State providing State supplemental security income benefits whose level the Secretary of Health, Education, and Welfare has found to have been specifically increased to include the bonus value of food stamps.

H.R. 7860. June 17, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 7861. June 17, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 7862. June 17, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 7863. June 17, 1977. House Administration.

Permits candidates for the House of Representatives who agree to certain conditions allotments for a specified amount of media time.

Reduces the maximum amount which an individual or multicandidate committee may contribute to a candidate for the House of Representatives.

H.R. 7864. June 17, 1977. Ways and Means. Repeals the provision of the Emergency Jobs and Unemployment Assistance Act of 1974 which denies assistance and waiting period credits under the special unemployment assistance program between academic years or terms to certain nonprofessional employees of educational institutions or agencies.

H.R. 7865. June 17, 1977. Judiciary. Grants the Court of Claims jurisdiction to render judgments against the United States upon claims for losses other than lost profits sustained by procedures, processors, manufacturers, distributors, dealers, or other persons resulting from the ban on apparel, fabric, yarn, or fiber containing tris phosphate.

H.R. 7866. June 17, 1977. Post Office and Civil Service. Makes Flag Day, June 14 of each year, a legal public holiday.

H.R. 7867. June 17, 1977. Interior and Insular Affairs. Regulates the relocation of Hopi and Navajo individuals pursuant to Public Law 93-531 (An Act to provide for final settlement of the conflicting rights and interests of the Hopi and Navajo Tribes in certain lands.)

H.R. 7868. June 17, 1977. Education and Labor. Directs the Secretary of Labor to establish and maintain in counties with populations under 20,000 a pilot program designed to provide a guaranteed job opportunity to certain county residents from low-income households by partially reimbursing public and private employers for wages paid to certain such individuals, and fully reimbursing such employers for wages paid to certain other such individuals.

H.R. 7869. June 17, 1977. Post Office and Civil Service. Amends the Postal Reorganization Act Amendments of 1976 to extend to October 31, 1977, the period during which the Postal Service is prohibited from: (1) increasing rates and fees to levels exceeding those in effect on the date of enactment of the Act; (2) offering levels and types of services which are less than those available on July 1, 1976; and (3) closing certain postal facilities which were in operation on July 1, 1976.

H.R. 7870. June 17, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to include physician extender services to the extent recognized under State law.

H.R. 7871. June 17, 1977. Agriculture. Amends the Agriculture Act of 1949 to establish separate reserves of wheat, corn, and other feed grains through storage contracts with producers. Sets loan levels for the 1977 through 1981 crops of wheat and corn. Authorizes the President to establish an International Emergency Food Reserve in this country and to negotiate international agreements with other countries to develop an international system of food reserves for humanitarian food relief.

H.R. 7872. June 17, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7873. June 20, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 7874. June 20, 1977. Judiciary; Merchant Marine and Fisheries; Interstate and Foreign Commerce. Requires the Secretary of the Interior to issue regulations relating to traps and trapping. Sets forth standards for approved traps.

Establishes an advisory commission to advise the Secretary on traps designed or intended for use.

Prohibits trapping on Federal lands where such trapping will adversely affect any species of mammal or bird.

Sets forth a procedure for the application and issuance of trapping permits.

Requires shipping certificates for packages containing specified parts of trapped animals shipped in interstate commerce.

Sets forth criminal penalties for violations of this Act.

H.R. 7875. June 20, 1977. Education and Labor. Exempts residential care facilities from the minimum wages and maximum hours provisions of the Fair Labor Standards Act with respect to the employment of patients.

H.R. 7876. June 20, 1977. Post Office and Civil Service. Provides for congressional oversight of all rate, fee, and mail classification decisions made by the Postal Rate Commission. Sets maximum size and weight limits for all parcel mail. Abolishes the Board of Governors of the Postal Service and transfers its functions to the Postmaster General.

H.R. 7877. June 20, 1977. Veterans' Affairs. Provides for payment of a supplemental tuition allowance to each qualified veteran upon application to the Administrator of Veterans' Affairs.

H.R. 7878. June 20, 1977. Science and Technology. Directs the Administrator of the National Oceanic and Atmospheric Administration to establish a coordinated Federal program of ocean pollution environmental research, development, and monitoring.

H.R. 7879. June 20, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Department under which the Coast Guard is operating to document the vessel Fundy Pride, owned by the Washington County Vocational Technical Institute of Calais, Maine, as a vessel of the United States with the privilege of engaging in the American fisheries so long as such vessel is owned by a citizen of the United States and is used for instructing students in vocations related to commercial fishing.

H.R. 7880. June 20, 1977. Judiciary. Makes it a Federal offense to assault an individual age 62 or older and cause medical damages to such individual of more than $100 paid under title XVIII of the Social Security Act by an instrumentality of the Government of the United States. Specifies a mandatory minimum 30 days' imprisonment for such offense.

H.R. 7881. June 20, 1977. Interstate and Foreign Commerce. Amends the Toxic Substances Control Act to create a Chemical Emergency Response Team within the Environmental Protection Agency to specialize in countering imminent threats to health and the environment posed by chemical substances. Directs the Administrator of the Environmental Protection Agency to develop a contingency plan to deal with such emergencies. Authorize financial assistance for the development of similar State contingency plans.

H.R. 7882. June 20, 1977. Education and Labor; Banking, Finance and Urban Affairs. Amends the Fair Labor Standards Act of 1938 to authorize the Secretary of Labor to investigate any proposed business closing or relocation and to provide assistance to certain employees and local governments affected by such action.

Denies specified tax benefits to a business closing or transferring an operation upon certain findings by the Secretary.

Establishes a National Employment Relocation Administration within the Department of Labor and a National Employment Relocation Advisory Council.

H.R. 7883. June 20, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 7884. June 20, 1977. Ways and Means. Amends the Internal Revenue Code to provide an income tax credit for expenses incurred in the conversion of farm and ranch land into qualified wind erosion control or wildlife habitat areas.

H.R. 7885. June 20, 1977. Veterans' Affairs. Allows to certain persons, but denies to others, entitlement to veterans' benefits due to an administrative upgrading of a less than honorable discharge.

H.R. 7886. June 20, 1977. Interstate and Foreign Commerce. Prohibits the sale of beverage containers without a minimum refund value of five cents. Requires labeling of refund values on all such containers. Prohibits sale of metal beverage containers with detachable openings.

H.R. 7887. June 20, 1977. Education and Labor; Judiciary; Ways and Means. Amends the Employee Retirement Income Security Act, including sections within the Internal Revenue Code, to revise the regulatory jurisdiction of the Department of Labor and the Department of the Treasury with respect to employee benefits plans. Directs the Secretary of Labor and the Secretary of the Treasury to develop a single reporting form and deadline for such plans.

Authorizes Federal courts to render declaratory judgments in certain instances where the Secretary of Labor, the Secretary of the Treasury, or the Pension Benefit Guaranty Corporation fail to take action relative to an employee benefit plan.

H.R. 7888. June 20, 1977. Amends the Federal Rules of Criminal Procedure to allow a Federal magistrate to issue a search warrant based upon sworn oral testimony communicated by telephone or other appropriate means.

H.R. 7889. June 20, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide Medicare benefits for individuals who require total parenteral nutrition (TPN) as a result of intestinal surgery.

H.R. 7890. June 20, 1977. Armed Services.

Removes the present restrictions which prohibit enlisted members of the armed forces on active duty from engaging in a civilian pursuit or business or prohibit members of the Army, Navy, Air Force, or Marine bands from remuneration for furnishing music outside of a military base where such activities are in competition with local civilians.

H.R. 7891. June 20, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit, and for all persons receiving retirement benefits under a public retirement system.

H.R. 7892. June 20, 1977. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to exclude from the requirement of registering as farm labor contractors any farmer, processor, canner, ginner, packing shed operator, or nurseryman who recruits, solicits, hires, furnishes or transports migrant workers on behalf of a farmer whose farm is located within 25 miles, and who receives no monetary consideration (other than reimbursement of actual expenses incurred) for engaging in such activity.

H.R. 7893. June 20, 1977. Banking Finance and Urban Affairs. Amends specified Federal laws to promote energy conserving measures through: (1) utility programs designed to cut heating and cooling costs; (2) Federal grants to low-income families for home weatherization; and (3) secondary financing and loan insurance by specified government agencies for the installation of energy conserving improvements.

H.R. 7894. June 20, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 7895. June 20, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph was or may be transported in such manner as to affect interstate or foreign commerce.

H.R. 7896. June 20, 1977. Ways and Means. Amends the Internal Revenue Code to provide that artistic compositions, copyrights, and the like shall not be included in the estate tax valuation of the creator's estate.

H.R. 7897. June 20, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to regulate, through a comprehensive licensing and inspection scheme, activities related to recombinant DNA.

Requires the establishment of local biohazards committees to participate in the licensing of facilities conducting such activities, and to inspect and monitor such activities.

Establishes the Recombinant DNA Advisory Committee to advise the Secretary of Health, Education, and Welfare in promulgating regulations required by this Act.

H.R. 7898. June 20, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 7899. June 20, 1977. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immmigration and Nationality Act.

H.R. 7900. June 21, 1977. Interstate and Foreign Commerce. Amends the Flammable Fabrics Act to prohibit the manufacture for sale in commerce or the importation into the United States of articles of interior furnishing intended for use in any public facility unless such articles conform with requirements established by the Consumer Product Safety Commission.

Requires the Consumer Product Safety Commission to establish regulations requiring that such articles be made fire-resistant.

H.R. 7901. June 21, 1977. Banking, Finance and Urban Affairs. Amends specified Federal laws to promote energy conserving measures through: (1) Utility programs designed to cut heating and cooling costs; (2) Federal grants to low-income families for home weatherization; and (3) secondary financing and loan insurance by specified government agencies for the installation of energy conserving improvements.

H.R. 7902. June 21, 1977. Banking, Finance and Urban Affairs. States that an otherwise qualified director of a national bank may satisfy the requirement that he own capital stock, having a specified value, of the bank of which he is the director by owning stock (having that same value) of a bank holding company which controls the national bank of which he is the director.

H.R. 7903. June 21, 1977. Banking, Finance and Urban Affairs. Creates, in the Department of Housing and Urban Development, an Office of Indian and Alaska Native Affairs, through which the Secretary of HUD shall carry out functions relating to Indian and Alaska native housing and community development. Creates the Office of Assistant Secretary for Indian and Alaska Native Affairs. Directs the Assistant Secretary to submit certain reports to Congress, and conduct an annual conference on Indian and Alaska native housing.

H.R. 7904. June 21, 1977. Agriculture. Amends the Agricultural Act of 1949 to specify new formulas for prevented planting disaster payments and cotton farm disaster payments. Directs the Secretary of Agriculture to establish a national program acreage for each of the 1978 through 1981 crops of upland cotton. Requires the Secretary to determine a program allocation factor for each cotton farm and states the formula for the determination of the individual farm program acreage for each crop of upland cotton. Extends specified provisions of such act and the Agricultural Adjustment Act of 1939 through the 1981 crops.

H.R. 7905. June 21, 1977. Education and Labor. Amends the Rehabilitation Act of 1973 to set the authorization for appropriations for State grants for vocational rehabilitation services at the previous year's authorization adjusted by fluctuations in the Consumer Price Index.

Extends through fiscal year 1983 the authorization for appropriations for the following purposes: (1) innovation and expansion grants, (2) vocational rehabilitation personnel training, (3) construction and staffing of rehabilitation facilities, (4) the study of comprehensive service needs, (5) vocational rehabilitation services grants, (6) special projects and demonstrations, (7) the National Center for Deaf-Blind Youths and Adults, (8) program evaluations, and (9) the Architectural and Transportation Barriers Compliance Board.

H.R. 7906. June 21, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate deductions from supplemental annuities payable under such Act on account of private pensions.

H.R. 7907. June 21, 1977. Ways and Means. Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 7908. June 21, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 7909. June 21, 1977. Interior and Insular Affairs. Increases the authorization of appropriations for the acquisition of lands within the Sawtooth National Recreation Area, Idaho.

H.R. 7910. June 21, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Authorizes the continued use of saccharin for 18 months. Prohibits the Secretary from taking any action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin.

H.R. 7911. June 21, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from the income tax, pensions paid to retired policemen and firefighters, or to their dependents, widows or other survivors to the extent that such benefits are based on full-time service for a governmental entity.

H.R. 7912. June 21, 1977. Interstate and Foreign Commerce. Prohibits the use of Federal funds to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

H.R. 7913. June 21, 1977. Judiciary. Amends the Mann Acts, which prohibit the transportation of females for immoral purposes, to extend coverage to prohibit transportation of any individual for immoral purposes and to increase the penalties specified in such Act.

H.R. 7914. June 21, 1977. Judiciary. Amends the Mann Acts, which prohibit the transportation of females for immoral purposes, to extend coverage to prohibit transportation of any individual for immoral purposes and to increase the penalties specified in such Act.

H.R. 7915. June 21, 1977. Interstate and Foreign Commerce; Judiciary. Establishes within each Federal agency an independent Office of Consumer Counsel to represent the interests of consumers within and before the agency of which it is a part. Requires the Consumer Counsels to encourage consumer research and distribute consumer information.

Establishes the office of Assistant Attorney General for Consumer Protection and Advocacy within the Department of Justice to coordinate the various Offices of Consumer Counsel and to represent the interests of consumers in the courts.

H.R. 7916. June 21, 1977. Judiciary. Provides for appointment of a special prosecutor relative to alleged violations of criminal law involving abuse of office, fraud against the United States, obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interest or the appearance thereof.

H.R. 7917. June 21, 1977. Armed Services.

Entitles individuals in the armed forces who are entitled to retired or retainer pay and who did not elect to participate in the survivor benefit plan to do so within 270 days after the effective date of this Act.

H.R. 7918. June 21, 1977. Ways and Means; Banking, Finance and Urban Affairs. Amends the Federal Financing Bank Act of 1973 to require that receipts and disbursements of the Federal Financing Bank be included in the Federal Budget.

Directs such Bank to make commitments to purchase, and to purchase specified obligations which are guaranteed by Federal agencies.

H.R. 7919. June 21, 1977. Judiciary. Makes it a Federal offense for a Member of Congress or certain officers of the executive branch of the United States Government to seek or accept any compensation for any services rendered or to be rendered by himself or another in relation to a lobbying communication at a time while he is in office and for a period of 2 years after he leaves office.

H.R. 7920. June 21, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress, with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 7921. June 21, 1977. Post Office and Civil Service. Prohibits the Postal Service from decreasing the frequency of mail delivery service below the frequency in effect for the calendar week beginning May 1, 1977.

H.R. 7922. June 21, 1977. Post Office and Civil Service. Provides for congressional oversight of all rate, fee, and mail classification decisions made by the Postal Rate Commission. Sets maximum size and weight limits for all parcel mail. Abolishes the Board of Governors of the Postal Service and transfers its functions to the Postmaster General.

H.R. 7923. June 21, 1977. Veterans' Affairs. Provides to veterans with a total service-connected disability the right to travel on a space-available basis on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command.

H.R. 7924. June 21, 1977. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 7925. June 21, 1977. Judiciary. Amends the Clayton Act to prohibit specified concentrations of control in the energy-producing industries.

H.R. 7926. June 21, 1977. Interstate and Foreign Commerce. Repeals the prohibition in the Federal Communications Act of 1934 against the coercion of specified practices affecting broadcasting or enforcement of broadcasting contracts.

H.R. 7927. June 21, 1977. Education and Labor; Interstate and Foreign Commerce; Judiciary. Authorizes the Secretary of Health, Education, and Welfare, acting through the Director of the National Institute of Mental Health, to: (1) establish a grant program to support projects which develop methods for the identification, prevention, and treatment of domestic violence; and (2) review existing State laws, practices, and policies relating to domestic violence.

H.R. 7928. June 21, 1977. Merchant Marine and Fisheries. Authorizes the Secretary of Commerce to sell two obsolete vessels to a certain corporation.

H.R. 7929. June 21, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7930. June 21, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain association in full settlement of such association's claims against the United States.

H.R. 7931. June 21, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7932. June 21, 1977. Appropriations. Appropriates funds for the Legislative Branch for fiscal year 1978. Makes supplemental appropriations for congressional operations for fiscal year 1977.

H.R. 7933. June 21, 1977. Makes appropriations to the Department of Defense for expenses, procurement, research and development, the special foreign currency program, and the working capital funds of the military departments and Defense Agencies for fiscal year 1978.

H.R. 7934. June 22, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize the Administrator of the Environmental Protection Agency to approve revisions in State implementation plans which would suspend or eliminate provisions which curtail motor vehicle parking in urban areas.

H.R. 7935. June 22, 1977. Education and Labor. Amends the Labor Management Relations Act of 1947 to require an employer and the representative of such employer's employees, upon entering into any collective-bargaining agreement, to prepare and issue an estimate of the effect of the agreement on the cost of any product or service provided by the employer.

H.R. 7936. June 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals limited, alternative income tax deductions and credits for expenses incurred for the primary, secondary and higher education of themselves and their spouses and dependents.

H.R. 7937. June 22, 1977. Interstate and Foreign Commerce; Ways and Means. Creates a national system of health insurance. Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.R. 7938. June 22, 1977. Post Office and Civil Service. Makes January 15, the anniversary of Martin Luther King Junior's birth, a legal public holiday.

H.R. 7939. June 22, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from the definition of the term "immigrant" those persons entering the United States for a period of not more than one year to perform temporary services or labor if the Secretary of Labor has determined and certified to the Attorney General that there are not sufficient workers available at the aliens' destination who are willing and able to perform such services.

H.R. 7940. June 22, 1977. Agriculture. Repeals the Food Stamp Act of 1964 and replaces the existing program with a new program substantially similar, but, among other things: (1) eliminates charges for coupon allotments; (2) requires national income standards of eligibility to be income guidelines for nonfarm United States prescribed by the Office of Management and Budget; (3) directs that food stamp applications be included on application forms for other public assistance programs; and (4) directs the Secretary of Agriculture to make contracts or grants for research that will help improve the administration and effectiveness of the food stamp program.

H.R. 7941. June 22. 1977. Education and Labor. Increases the dollar amount of contracts to which the Davis-Bacon Act applies and provides for future increases tied to cost-of-living increases. Makes such Act applicable only to unskilled laborers. Details the method for computing the "prevailing wage" under the Act. Establishes a Federal Construction Appeals Board to hear appeals regarding wage rate determinations under the Act.

H.R. 7942. June 22, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 7943. June 22, 1977. Post Office and Civil Service. Prohibits the Postal Service from decreasing the frequency of mail delivery service below the frequency in effect for the calendar week beginning May 1, 1977.

H.R. 7944. June 22, 1977. Ways and Means. Amends the Internal Revenue Code to treat as a scholarship and to exclude from gross income any amount received by a member of a uniformed service under the Armed Forces health professions scholarship program.

H.R. 7945. June 22, 1977. Post Office and Civil Service. Repeals the requirement that Federal employees be mandatorily retired upon reaching the age of 70 years.

H.R. 7946. June 22, 1977. Judiciary. Amends the Indochina Migration and Refugee Assistance Act of 1975 to extend through 1980 funds for the provision of financial, medical, employment, and relocation assistance to refugees from Cambodia, Vietnam, or Laos.

H.R. 7947. June 22, 1977. Interior and Insular Affairs. Permits the State of Hawaii to use the revenue or proceeds from the disposition of specified lands at Land Island, Hawaii, for any public purpose.

H.R. 7948. June 22, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1920, to authorize the Secretary of Commerce to make grants in order to establish a system of public seaports adequate to meet the needs of domestic offshore communities.

H.R. 7949. June 22, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to exempt publicly owned treatment works discharging into open ocean waters from certain effluent standards.

H.R. 7950. June 22, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize States to unilaterally revise clean air implementation plans to suspend or eliminate provisions which curtail motor vehicle parking in urban areas during times of economic hardship.

H.R. 7951. June 22, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize States to unilaterally revise clean air implementation plans to suspend or eliminate provisions which curtail motor vehicle parking in urban areas.

H.R. 7952. June 22, 1977. Education and Labor. Amends the General Education Provisions Act to extend its provisions requiring due process before termination of Federal assistance to local educational agencies to include terminations of aid to State agencies, institutions of higher learning, community colleges, schools, agencies offering a preschool program, or other educational institutions.

Enlarges such due process requirements to include terminations of Federal assistance programs for any reason whatsoever.

Changes existing due process requirements under such Act to a requirement of a finding of noncompliance with a specific Federal law after an administrative hearing.

H.R. 7953. June 22, 1977. Small Business. Directs the head of each Federal agency to prepare a small business impact statement in connection with each rule made by such agency, unless the agency head, with the approval of the Office of Advocacy of the Small Business Administration, determines that such rule will not have a substantial effect on a significant number of small businesses.

H.R. 7954. June 22, 1977. Government Operations. Requires each Federal agency to take steps which will improve the uniformity, speed, and comprehensiveness of such agency's response to citizen complaints and inquiries.

H.R. 7955. June 22, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceedings for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 7956. June 22, 1977. Judiciary. Amends the Golden Nematode Act to extend the authority of the Secretary of Agriculture to destroy tomatoes and potatoes infested with the golden nematode and to compensate the owners thereof to all commercial crops including turf and nursery stock.

H.R. 7957. June 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to allow a State to terminate social security coverage for policemen and firemen without affecting the coverage of other public employees.

H.R. 7958. June 22, 1977. Post Office and Civil Service. Revises provisions prohibiting Postal Service employees from engaging in political activities.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Directs the Commission to investigate violations of this Act.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 7959. June 22, 1977. Ways and Means. Amends the Internal Revenue Code to lower the corporate normal taxes and increase the surtax exemption.

H.R. 7960. June 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 7961. June 22, 1977. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to establish mandatory minimum motor vehicles fuel economy standards for passenger automobiles manufactured in model years 1982, 1983, 1984, and 1985.

H.R. 7962. June 22, 1977. Post Office and Civil Service. Provides for congressional oversight of all rate, fee, and mail classification decisions made by the Postal Rate Commission. Sets maximum size and weight limits for all parcel mail. Abolishes the Board of Governors of the Postal Service and transfers its functions to the Postmaster General.

H.R. 7963. June 22, 1977. Ways and Means. Provides that the income tax treatment of certain transportation expenses between the taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76–453 or any other ruling, regulation or decision reaching the same result.

H.R. 7964. June 22, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to make grants to States and municipalities for the construction of bikeway projects.

H.R. 7965. June 22, 1977. Interior and Insular Affairs. Increases the authorization of appropriations ceiling for development of Perry's Victory and International Peace Memorial, Ohio.

H.R. 7966. June 22, 1977. House Administration. Revises recordkeeping and reporting requirements under the Federal Election Campaign Act.

Restricts persons who may make contributions to a candidate for Federal office to individuals residing within an electoral district in which the candidate seeks election and party committees.

Permits a taxpayer to designate that one dollar of his taxes to be used for public financing of congressional elections.

Entitles candidates for nomination for election or for election to Congress who agree to certain reporting requirements and certify receipt of certain contribution minimums to matching payments for campaign expenses.

Establishes a Congressional Elections Campaign Fund.

H.R. 7967. June 22, 1977. Interior and Insular Affairs. Exempts the Rio Grande project, in the States of New Mexico and Texas, from the acreage limitation provisions of Federal reclamation laws which limit the acreage of irrigable land which may receive irrigation benefits from, through or by means of Federal reclamation works.

H.R. 7968. June 22, 1977. Agriculture. Amends the Federal Crop Insurance Act to increase the capital stock of the Federal Crop Insurance Corporation and to make insurance available to producers of rice, wheat, cotton and certain feed grains wherever they are grown commercially. Provides for a 25 percent Federal subsidy of premiums and removes the ceiling on appropriations. Creates a revolving fund for the Corporation in the United States Treasury and gives the Corporation discretionary borrowing authority.

H.R. 7969. June 22, 1977. Government Operations. Amends the State and Local Fiscal Assistance Act to provide that user fees and service charges collected by States and local governments for public services be counted as taxes for purposes of allocating funds under such Act.

H.R. 7970. June 22, 1977. Interior and Insular Affairs. Designates specified lands within the National Forest System in the State of Virginia as wilderness.

H.R. 7971. June 22, 1977. Interior and Insular Affairs. Validates specified conveyances of specified land in the State of California by a certain corporation, as far as any interest of the United States in such land is concerned.

H.R. 7972. June 23, 1977. International Relations; Interior and Insular Affairs. Requires that all timber harvested from lands owned by the United States and located West of the one hundredth meridian be processed in the United States.

Prohibits the exportation, purchase for exportation, and sale of all unprocessed timber from public lands.

H.R. 7973. June 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 7974. June 23, 1977. District of Columbia. Amends the District of Columbia Code to allow persons in custody under sentence of the Superior Court of the District of Columbia to apply for writs of habeas corpus in Federal courts on the same basis as persons in custody pursuant to the judgment of a State court.

H.R. 7975. June 23, 1977. Education and Labor. Amends the National Labor Relations Act to confer on the district courts of the United States, the District Court of the Virgin Islands, and the United States District Court for the District of the Canal Zone, exclusive jurisdiction to prevent any person from engaging in any unfair labor practice.

H.R. 7976. June 23, 1977. Education and Labor. Amends the National Labor Relations Act to provide that all employees covered by such Act who are members of a bona fide religion which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or so support any such organization as a condition of employment.

H.R. 7977. June 23, 1977. Interstate and Foreign Commerce. Prohibits the use of Federal funds to pay for, promote, or encourage abortions which are not necessary to save the life of the mother.

H.R. 7978. June 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable to a resident alien only if such alien has continuously resided in the United States for at least six years.

Directs the Secretary of Health, Education, and Welfare to establish procedures to prevent payment of benefits to individuals who become ineligible due to their departure from the United States.

H.R. 7979. June 23, 1977. Education and Labor. Amends the Federal Metal and Nonmetallic Mine Safety Act to authorize additional standards to protect the health and safety of miners. Includes provisions to authorize inspections by Federal officials, to require reporting of major accidents, and to establish procedures for enforcement of standards and emergency relief.

Establishes the Office of Assistant Secretary for Mine Safety and Health in the Department of Labor. Transfers regulatory and enforcement authority from the Secretary of the Interior to the Secretary of Labor, to the Secretary of Health, Education, and Welfare, and to the newly established Federal Metal and Nonmetallic Mine Safety and Health Commission.

H.R. 7980. June 23, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from taxable unrelated income, income derived by tax exempt colleges, universities and their wholly owned corporations from the broadcasting of sporting events.

H.R. 7981. June 23, 1977. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate a specified segment of the Delaware River as a component of the National Wild and Scenic Rivers System.

H.R. 7982. June 23, 1977. Education and Labor. Amends the Rehabilitation Act of 1973 to authorize the Secretary of Health, Education, and Welfare to conduct demonstration projects, either directly or by way of arrangement with public or private agencies, for the payment of wage supplements to handicapped individuals who are employed in sheltered workshops or work activity centers which meet certain standards, including any promulgated under this Act by the Secretary jointly with the Secretary of Labor.

H.R. 7983. June 23, 1977. International Relations. Requires that the Hungarian Crown of Saint Stephen and other relics of Hungarian royalty be kept in the United States, unless Congress specifically provides otherwise.

H.R. 7984. June 23, 1977. Education and Labor. Amends the Emergency School Aid Act to extend (1) appropriations for programs under such Act; and (2) the existence of the National Advisory Council on Equality of Educational Opportunity.

H.R. 7985. June 23, 1977. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 7986. June 23, 1977. Judiciary. Sets forth penalties for killing, maiming, or committing specified other acts against members of a national, ethnic, racial, or religious group with the intent to destroy such group.

Expresses the sense of Congress with respect to extradition of persons charged with such an act.

H.R. 7987. June 23, 1977. Post Office and Civil Service. Requires appointments to the position of postmaster at post offices serving a delivery area with a resident population of 5,000 or less to be made from a list of qualified applicants who have resided in the area for at least one year unless no such individual has applied for the position.

H.R. 7988. June 23, 1977. Public Works and Transportation. Amends the Public Buildings Act of 1959 ot require that one percent of any funds appropriated for the construction of specified public buildings be used for artwork for such buildings.

H.R. 7989. June 23, 1977. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 7990. June 23, 1977. Amends the Clean Air Act to authorize States to unilaterally revise clean air implementation plans to suspend or eliminate provisions which curtail motor vehicle parking in urban areas.

H.R. 7991. June 23, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize States to unilaterally revise clean air implementation plans to suspend or eliminate provisions which curtail motor vehicle parking in urban areas during times of economic hardship.

H.R. 7992. June 23, 1977. Interior and Insular Affairs. Amends the National Trails System Act to authorize the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Transportation to conduct studies for the purpose of determining the feasibility and desirability of establishing specified bicycle trails.

H.R. 7993. June 23, 1977. Ways and Means. Amends the Internal Revenue Code to treat as a scholarship and to exclude from gross income any amounts received by an individual under the Armed Forces health professions scholarship program or the National Health Service Corps scholarship program, without regard to whether such individual is receiving training while on active duty or in an off-duty or inactive status, and without regard to whether a period of active duty or other service is required of such individual as a condition of receiving such payments.

H.R. 7994. June 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 7995. June 23, 1977. Banking, Finance and Urban Affairs. Declares a national policy on investment in the private sector of the United States economy.

Requires the Council on Wage and Price Stability to deliver to Congress an annual Investment Policy Report which shall include information on levels of capital investment available, trends in such levels, and reviews of economic programs affecting capital investment. Requires the President to submit other recommendations for implementation of the national policy declared in this Act.

H.R. 7996. June 23, 1977. Banking, Finance and Urban Affairs. Declares a national policy on investment in the private sector of the United States economy.

Requires the Council on Wage and Price Stability to deliver to Congress an annual Investment Policy Report which shall include information on levels of capital investment available, trends in such levels, and reviews of economic programs affecting capital investment. Requires the President to submit other recommendations for implementation of the national policy declared in this Act.

H.R. 7997. June 23, 1977. Banking, Finance and Urban Affairs. Declares a national policy on investment in the private sector of the United States economy.

Requires the Council on Wage and Price Stability to deliver to Congress an annual Investment Policy Report which shall include information on levels of capital investment available, trends in such levels, and reviews of economic programs affecting capital investment. Requires the President to submit other recommendations for implementation of the national policy declared in this Act.

H.R. 7998. June 23, 1977. Banking, Finance and Urban Affairs. Declares a national policy on investment in the private sector of the United States economy.

Requires the Council on Wage and Price Stability to deliver to Congress an annual Investment Policy Report which shall include information on levels of capital investment available, trends in such levels, and reviews of economic programs affecting capital investment. Requires the President to submit other recommendations for implementation of the national policy declared in this Act.

H.R. 7999. June 23, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to exclude wastewaters resulting from commercial processing of seafoods from the definition of "pollutant" under such Act.

H.R. 8000. June 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 8001. June 23, 1977. Judiciary. Declares that in the event of any reorganization, merger, or consolidation of a certain corporation the surviving or successor entity is entitled to continue to use the word "Federal" in its new name.

H.R. 8002. June 23, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8003. June 23, 1977. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8004. June 23, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8005. June 23, 1977. Judiciary. Declares that in the event of any reorganization, merger, or consolidation of a certain corporation the surviving or successor entity is entitled to continue to use the word "Federal" in its new name.

H.R. 8006. June 24, 1977. Ways and Means. Amends Title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act to raise to seven percent for each year of delayed retirement the amount by which an individual's old-age insurance benefits are to be increased on account of delayed retirement.

H.R. 8007. June 24, 1977. Ways and Means. Amends the Railroad Retirement Act and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt individuals suffering from multiple sclerosis from the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 8008. June 24, 1977. Veterans' Affairs. Declares that service during World War I by any female citizen of the United States as a member of a telephone operating unit of the Army Signal Corps shall be considered active duty in the Army for purposes of all laws administered by the Veterans' Administration.

H.R. 8009. June 24, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 8010. June 24, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to stipulate that specified regulations of the Secretary of the Army, acting through the Corps of Engineers, with respect to discharges for dredged or fill material, shall remain in effect for the period ending on the day following final adjournment of the 95th Congress.

H.R. 8011. June 24, 1977. Armed Services. Extends the special pay provisions for physicians and dentists in the uniformed services. Authorizes special pay for officers of the Army, Navy, or Air Force who are designated as optometry officers, optometry officers of the Public Health Service, Army or Air Force officers appointed as veterinary officers, and veterinary officers of the Public Health Service.

H.R. 8012. June 24, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Directs the Secretary to require products containing saccharin to meet certain labeling and advertising requirements.

Authorizes the continued use of saccharin for two years.

Provides for an earlier expiration date for such use if a saccharin substitute is developed.

H.R. 8013. June 24, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 8014. June 24, 1977. Armed Services. Directs the Secretary of Defense to establish a program to make grants to units of local government whose economy is adversely affected by the closure or major realignment of a military base.

H.R. 8015. June 24, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitation on the excise tax credit for State gaming taxes on coin-operated devices from 80 to 95 percent.

H.R. 8016. June 24, 1977. Post Office and Civil Service. Entitles the former spouse of a Federal employee or Member of Congress to a portion of that employee's or Member's annuity, and to a portion of the annuity of any surviving spouse of such employee or Member.

H.R. 8017. June 24, 1977. Interstate and Foreign Commerce. Amends the Railroad Safety Act of 1970 to direct the Secretary of Transportation to issue regulations requiring that the locomotives of all trains be equipped with strobe lights for safety purposes.

H.R. 8018. June 24, 1977. Education and Labor. Amends the National Labor Relations Act to include supervisors in the definition of an "employee" covered by such Act.

H.R. 8019. June 24, 1977. Education and Labor. Amends the National Labor Relations Act to authorize an employer to make contributions to a pooled or individual trust fund established by an employee representative for the purpose of providing or defraying the costs of motor vehicle, homeowners multiple peril, fire, or other insurance benefits for employees, their families and dependents.

H.R. 8020. June 24, 1977. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to consolidate specified existing programs of cooperative forest resources assistance under such Act.

H.R. 8021. June 24, 1977. Agriculture. Repeals the McSweeney-McNary Act of 1928 and amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to substitute for the existing reforestation and forest products research program a new program of investigations, experiments, tests, and other activities necessary to obtain, analyze, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas.

H.R. 8022. June 24, 1977. Agriculture. Authorizes the Secretary of Agriculture, in cooperation with State extension directors, to conduct educational programs for professionals in forestry and related fields disseminating the results of forestry research.

H.R. 8023. June 24, 1977. Ways and Means. Amends the Internal Revenue Code to qualify trusts established for the payment of product liability claims as tax exempt organizations. Allows taxpayers a business income tax deduction for contributions to such trusts only to the extent they exceed the reasonable costs of product liability insurance for the deducting taxpayer.

H.R. 8024. June 24, 1977. Ways and Means. Amends the Internal Revenue Code to qualify trusts established for the payment of product liability claims as tax exempt organizations. Allows taxpayers a business income tax deduction for contributions to such trusts only to the extent they exceed the reasonable costs of product liability insurance for the deducting taxpayer.

H.R. 8025. June 24, 1977. Science and Technology; Ways and Means. Authorizes the Secretary of the Treasury to issue United States energy research and development savings bonds. Establishes the Energy Research and Development Trust Fund in the United States Treasury.

H.R. 8026. June 24, 1977. Post Office and Civil Service. Sets the postage rate for a postal card mailed to the official address of a Member of Congress by a constituent of such Member at an amount equal to the cost of the manufacture, printing, and delivery of such card.

H.R. 8027. June 27, 1977. Banking, Finance and Urban Affairs. Amends the Department of Housing and Urban Development Act to create, in the Department of Housing and Urban Development, an Office of Indian and Alaska Native Programs, through which the Secretary of Housing and Urban Development shall administer all departmental programs relating to Indian and Alaska Native housing and community affairs.

H.R. 8028. June 27, 1977. Interstate and Foreign Commerce, Amends Title XIX (Medicaid) of the Social Security Act to qualify an individual who, although employable, is unable to care for his or her personal needs without assistance as a disabled person eligible for the services of a home health aide.

H.R. 8029. June 27, 1977. Ways and Means. Amends the Internal Revenue Code: (1) to allow the election of a deduction with respect to the amortization, based on a 60-month period, of any qualified facility producing alcohol from coal, wood, waste, or agricultural products for primary use as a motor fuel; (2) to exempt from specified excise taxes the sale of any gasoline or fuel at least ten percent of which is alcohol; and (3) to allow the tax-free withdrawal from bonded premises of distilled spirits to the extent such spirits are alcohol produced by a qualified alcohol-producing facility for primary use as motor fuel.

H.R. 8030. June 27, 1977. Judiciary. Provides that any person, in the special maritime and territorial jurisdiction of the United States, having custody of a child who abuses or neglects that child shall be sentenced to appropriate counseling in the case of nonsexual abuse and to prison in the case of sexual abuse. Imposes on any individual who has knowledge of a violation of this Act a duty to report such violation. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to condition certain grants thereunder on the adoption by the State of criminal penalties substantially the same as provided in this Act.

H.R. 8031. June 27, 1977. Veterans' Affairs. Allows to certain persons, but denies to others, entitlement to veterans' benefits due to an administrative upgrading of a less than honorable discharge.

H.R. 8032. June 27, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 8033. June 27, 1977. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer to treat as a deductible expense not chargeable to capital account any amount paid or incurred by him which otherwise would be taken into account in the amortizable basis of any certified pollution control facility.

H.R. 8034. June 27, 1977. Education and Labor; Judiciary. Amends the Walsh-Healey Act to permit government contractors to have their employees work ten-hour workdays if the employees choose such workday and the resulting workweek does not exceed 40 hours.

H.R. 8035. June 27, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by the franchisor.

H.R. 8036. June 27, 1977. Small Business. Amends the Small Business Investment Act to change the title of the Associate Administrator for Finance and Investment of the Small Business Administration to that of Associate Administrator for Investment. Changes the duties of such office.

H.R. 8037. June 27, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to direct the Federal Power Commission to establish national ceiling prices to allow natural gas companies to receive profits at specified levels. Authorizes higher ceilings in cases of high-cost production and high-cost independent producers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Directs the Commission to establish procedures for allocation of increased costs among user classes.

Imposes additional requirements for exploration and development of Federal oil and gas leases.

H.R. 8038. June 27, 1977. Veterans' Affairs. Makes veterans with less than honorable discharges from periods of war prior to the Vietnam era eligible for review of their discharges under criteria similar to revised standards for veterans of the Vietnam era. Allows certain persons, but denies to others, entitlement to veterans' benefits due to an administrative upgrading of a less than honorable discharge.

H.R. 8039. June 27, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Directs the Secretary to require products containing saccharin to meet certain labeling and advertising requirements.

Authorizes the continued use of saccharin for two years.

Provides for an earlier expiration date for such use if a saccharin substitute is developed.

H.R. 8040. June 27, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965, the Adult Education Act, the National Defense Education Act of 1958, and the General Education Provisions Act to extend certain educational programs.

H.R. 8041. June 27, 1977. Public Works and Transportation. Establishes an emergency federally funded bridge replacement program for bridges located on rural non-federal aid system public roads. Specifies the method by which the Secretary of Transportation shall apportion funds to the States for such program.

H.R. 8042. June 27, 1977. Ways and Means. Amends the Internal Revenue Code: (1) to allow the election of a deduction with respect to the amortization, based on a 60-month period, of any qualified facility producing alcohol from coal, wood, waste, or agricultural products for primary use as a motor fuel; and (2) to allow the tax-free withdrawal from bonded premises of distilled spirits to the extent such spirits are alcohol produced by a qualified alcohol-producing facility for primary use as motor fuel.

H.R. 8043. June 27, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Authorizes the continued use of saccharin for 18 months. Prohibits the Secretary from taking any action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin.

H.R. 8044. June 27, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Authorizes the continued use of saccharin for 18 months. Prohibits the Secretary from taking any action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin.

H.R. 8045. June 27, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcinogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Authorizes the continued use of saccharin for 18 months. Prohibits the Secretary from taking any action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin.

H.R. 8046. June 27, 1977. Interstate and Foreign Commerce. Prohibits any person or State from accepting any interstate off-track horseracing wager.

H.R. 8047. June 27, 1977. Post Office and Civil Service. Entitles the former spouse of a Federal employee or Member of Congress to a portion of that employee's or Member's annuity, and to a portion of the annuity of any surviving spouse of such employee or Member.

H.R. 8048. June 27, 1977. Post Office and Civil Service. Prohibits the closing of any post office serving more than 30 households or the consolidation of any existing rural route without postal patron approval. Prohibits the reduction in mail delivery service in any rural area or town of less than 100,000 inhabitants. Permits the reduction of mail delivery frequency in cities of over 100,000 inhabitants if such proposed reduction is submitted to the Postal Rate Commission.

Requires each post office to be headed by a postmaster and requires at least one post office to be established in each seat of county government.

H.R. 8049. June 27, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to remove disparities in determining benefit basis between men and women. Revises specified prerequisites of eligibility for benefits. Allows the exemptions of individuals 65 years or older from social security taxes. Authorizes payments directly to providers of services under Medicare.

Amends the Internal Revenue Code of 1954 to provide income tax credit for real property taxes and a tax exclusion for interest on savings.

H.R. 8050. June 27, 1977. Judiciary. Directs that a certain individual be allowed credit and be paid additional retired pay for a specified period during which he engaged in activities with the Air Force Reserves.

H.R. 8051. June 27, 1977. Judiciary. Declares five individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8052. June 27, 1977. Judiciary. Confers jurisdiction on the United States Court of Claims to consider and render judgment on any claim filed by a certain individual within a certain time period, respecting the alleged wrongful death of her husband.

H.R. 8053. June 27, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 8054. June 27, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 8055. June 28, 1977. Banking, Finance and Urban Affairs. Limits, to seven percent, the interest charge in connection with any credit or loan transaction entered into after December 31, 1980.

H.R. 8056. June 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 8057. June 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act, the Internal Revenue Code of 1954, and the Railroad Retirement Act of 1974, to set forth procedures for the crediting of an individual's income to calendar years instead of the specific calendar quarters as is now required for the determination of eligibility and amount of benefits.

Sets forth a procedure for adjusting annually the amount of earnings which will qualify as a quarter of employment for eligibility determination purposes.

H.R. 8058. June 28, 1977. Post Office and Civil Service. Provides for the arbitration of disputes between the Postal Service and recognized organizations of Postal Service managerial personnel other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters. Identifies as subject to arbitration under this Act issue relating to pay policies, fringe benefits, and the determination of whether or not a matter is subject to participation by such organization. Establishes an arbitration board to consider a dispute upon the request of the Postal Service or such recognized organization.

H.R. 8059. June 28, 1977. Judiciary. Amends provisions of the Mann Act prohibiting the coercion or enticement of a female younger than 18 years old to travel by common carrier in commerce for immoral purposes to proscribe the transportation in commerce of any person younger than 16 years old for purposes of facilitating sexual contact by any person with such minor.

H.R. 8060. June 28, 1977. Interior and Insular Affairs. Establishes the Office of Water Management and the Independent Water Project Review Board within the Executive branch. Requires the Office to develop a comprehensive water policy and coordinate Federal water authorities. Requires the Board to establish a system for the evaluation of proposed water resource construction projects and to coordinate such projects.

H.R. 8061. June 28, 1977. Public Works and Transportation. Amends the Flood Control Act of 1970 to require the Secretary of the Army, in determining the need for a flood control project, to consider the economic and social impact of not providing such social protection. Sets forth factors for evaluating such impact.

Requires the Secretary of the Army, acting through the Chief of Engineers, and upon a finding that the costs of any flood control project exceed its benefits, to furnish the non-Federal interests affected by such decision with an opportunity to contribute to the project the amount by which the costs exceed the benefits.

H.R. 8062. June 28, 1977. Education and Labor. Amends the Higher Education Act of 1965 to authorize appropriations for, and establish a program of grants to, urban universities for (1) development of urban-oriented educational, research, or service programs; and (2) assistance in carrying out such programs.

Establishes a five year comprehensive grant to a university qualifying as an "urban grant university" and establishes criteria for such designation.

Creats an Urban University Advisory Council to (1) review, along with the Commissioner of Education, "urban grant university" applications; (2) advise the Commissioner; and (3) make recommendations to the President and to the Congress.

H.R. 8063. June 28, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 8064. June 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deduction to any taxpayer engaged in the manufacture, importation, distribution, lease, or sale of any product for contributions to his product liability loss reserve account.

H.R. 8065. June 28, 1977. Banking, Finance and Urban Affairs; Education and Labor. Directs the President to carry out, through private and public nonprofit institutions, a program consisting of projects which either (1) involve labor-management cooperation for the improvement of productivity and quality of work life, innovation in a major feature of employment, increased worker participation in decisionmaking, or profit-sharing or (2) are designed to establish the efficacy of practices maintaining normal employment levels during periods of cyclical downturns in demand through reassignment of workers to specified types of programs.

Directs the Federal Mediation and Conciliation Service and the National Center for Productivity and Quality of Working Life to assist in carrying out such program.

H.R. 8066. June 28, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 8067. June 28, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to: (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport any film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 8068. June 28, 1977. Interstate and Foreign Commerce. Prohibits the shipment in interstate or foreign commerce of any fur or leather, raw or in finished form, from animals trapped in any State or foreign country which has not banned the manufacture, sale, or use of leg-hold or steel jaw traps.

Directs the Secretary of Commerce to publish a list of such States and foreign countries.

H.R. 8069. June 28, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 8070. June 28, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to eliminate age limitations with respect to the requirement that all personnel actions affecting employees or applicants for employment in Federal agencies, the United States Postal Service, or the District of Columbia government be taken without regard to such employees' or applicants' age.

H.R. 8071. June 28, 1977. Interstate and Foreign Commerce. Directs the Institute of Medicine of the National Academy of Sciences to conduct a review of toxic and carcenogenic substances and to report its findings and advisory recommendations to the Congress and the Secretary of Health, Education, and Welfare within one year.

Authorizes the continued use of saccharin for 18 months. Prohibits the Secretary from taking any action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin.

H.R. 8072. June 28, 1977. Veterans' Affairs. Directs the Secretary of Defense to provide for the burial at Arlington Memorial Amphitheater, Arlington National Cemetery, Virginia, of the remains of an unknown American solider who lost his life in the American Revolutionary War.

H.R. 8073. June 28, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to require the appointment of persons to the Commission on Executive, Legislative, and Judicial Salaries every second calendar year beginning in 1978. Requires the President to separately submit pay recommendations for Members of Congress. Stipulates that such recommendations may not take effect prior to the Congress following the Congress during which they were transmitted. Declares that such recommendations shall take effect if not disapproved by resolution of either House.

Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living adjustments for Members of Congress.

H.R. 8074. June 28, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to exclude employers of 25 or less people from coverage under such act.

Revises certain procedures dealing with (1) standards and their promulgation; (2) citations and notices; and (3) enforcement.

H.R. 8075. June 28, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to require the Federal Communications Commission to regulate the rates, terms, and conditions for pole attachments used for wire communication, in any case in which such rates, terms, and conditions are not regulated by any State authority.

Sets forth the limits for charges by a utility for pole attachments.

H.R. 8076. June 28, 1977. Education and Labor; Judiciary; Post Office and Civil Service; Ways and Means. Amends the Internal Revenue Code of 1954 and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to establish separate financing for the disability insurance program of Title II.

Sets forth new procedures for the review of determinations of disability made by the Secretary of Health, Education, and Welfare. Establishes the United States Disability Court to provide judicial review of such determinations.

Amends the regulations governing eligibility for and duration of disability insurance benefits.

H.R. 8077. June 28, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in reimbursement for travel expenses incurred by her family following the kidnapping and killing of her son, a commercial attaché for the Department of State.

H.R. 8078. June 29, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide low-interest construction and mortgage loans for low- and medium-priced housing by permitting member banks of the Federal Reserve System to elect to be paid interest on their funds on reserve in exchange for furnishing such loans.

Permits nonmember banks, savings and loan associations, and other financial institutions to offer deferred-interest loans for low- and medium-priced housing.

H.R. 8079. June 29, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to regulate the use of protective components in consumer electronic equipment which are capable of reducing interference from radio frequency energy.

H.R. 8080. June 29, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 8081. June 29, 1977. Judiciary. Requires the Federal Government to pay the costs (including attorney's fees) of civil actions brought by the Government against the same defendant if the Government fails to raise all of its claims based on substantially the same factual allegations or circumstances against such defendant in the first civil action. Authorizes such defendant to bring a civil action against the United States to recover such costs.

H.R. 8082. June 29, 1977. Interior and Insular Affairs. Establishes the West Lake National Park in the State of Florida.

H.R. 8083. June 29, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to pay benefits to any textile worker who has been totally disabled by byssinosis and to the surviving dependents of any such worker whose death was due to byssinosis.

Sets forth the conditions under which there shall be a rebuttable presumption that a worker's byssinosis arose out of employment in a textile plant.

H.R. 8084. June 29, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available to a person unable to operate a voting machine.

H.R. 8085. June 29, 1977. Veterans' Affairs. Provides for payment of a supplemental tuition allowance to each qualified veteran upon application to the Administrator of Veterans' Affairs.

H.R. 8086. June 29, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 8087. June 29, 1977. Ways and Means. Amends the Internal Revenue Code to exempt light farming and livestock trailers from the highway motor vehicle excise tax.

H.R. 8088. June 29, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to entitle spouses of persons receiving an annuity on account of disability to an annuity at age 60 if the disabled individual would have completed 30 years of service by age 60.

H.R. 8089. June 29, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 8090. June 29, 1977. House Administration. Directs the Librarian of Congress to transfer one of the Gettysburg Address manuscripts to the Secretary of the Interior for the purpose of placing such manuscript on display in Gettysburg National Park, Pennsylvania.

H.R. 8091. June 29, 1977. Interior and Insular Affairs. Expedites the study to be conducted as to the feasibility and suitability of the Mount Mitchell National Park, North Carolina.

Prohibits the Secretary of the Interior from commencing land acquisition for such park until he receives Congressional authorization is received.

H.R. 8092. June 29, 1977. House Administration. Revises recordkeeping and reporting requirements under the Federal Election Campaign Act.

Restricts persons who may make contributions to a candidate for Federal office to individuals residing within an electoral district in which the candidate seeks election and party committees.

Permits a taxpayer to designate $1 of his taxes be used for public financing of congressional elections.

Entitles candidates for nomination for election or for election to Congress who agree to certain reporting requirements and certify receipt of certain contribution minimums to matching payments for campaign expenses.

Establishes a Congressional Elections Campaign Fund from which such payments are to be made.

H.R. 8093. June 29, 1977. Ways and Means. Amends the Internal Revenue Code to impose a 75 percent tax rate on short-term capital gains from the sale of new houses acquired by the vendor for rental or as an investment.

H.R. 8094. June 29, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide for Congressional review of the Federal Reserve's monetary policy.

Prohibits discrimination in the selection of the Board of Directors of the Federal Reserve System.

Prohibits Federal Reserve System officials and employees from participating in specified activities which affect personal financial interests and from lobbying with institutions subject to the regulatory authority of the Federal Reserve System.

H.R. 8095. June 29, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to require the States to establish methods and procedures for safeguarding against unnecessary utilization of health care and services and to conduct medical and independent professional review of health facilities participating in the Medicaid program to determine their compliance with the requirements for participation under that program.

H.R. 8096. June 29, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize the Governor of any State to request that payment for Medicare services rendered by physicians in the State be made in accordance with a single fee schedule applicable throughout such State.

H.R. 8097. June 29, 1977. Interior and Insular Affairs. Renames the Advisory Council on Historic Preservations as the Council on Historic Preservation. States that such Council is to administer specified Acts which relate to the historic preservation responsibilities of the Secretary of the Interior and to promote nominations to the National Register of Historic Places properties proposed for sale, transfer, demolition or substantial alteration as a result of action by any Federal agency.

H.R. 8098. June 29, 1977. Judiciary. Expands the exemption from the copyright laws for performance of dramatic literary works for blind or handicapped persons to increase the number of performances permitted under such exemption, and to allow the performance of works published one year prior to such performance. Permits the same performers or organization to perform the same work more than once under such exemption.

Allows radio subcarriers entitled to transmit performances of dramatic literary works for the blind or handicapped, to make three copies or phonorecords of such performances, or to permit the use of such copies by certain radio subcarriers.

H.R. 8099. June 29, 1977. Interior and Insular Affairs. Authorizes and directs the Secretary of the Interior to annually pump and deliver 100,000 acre-feet of ground water from Federal lands to the Ak-Chin Indian community to enable the community to farm all its practicably irrigable acreage.

Authorizes the Secretary to pay claims of water users other than the Ak-Chin Indian community for any losses incurred by the enactment of this Act.

H.R. 8100. June 29, 1977. Agriculture. Amends the Agriculture Act of 1949 to establish separate reserves of wheat, corn and other feed grains through storage contracts with producers. Set loan levels for the 1977 through 1981 crops of wheat and corn. Authorizes the President to establish an International Emergency Food Reserve in this country and to negotiate international agreements with other countries to develop an international system of food reserves for humanitarian food relief.

H.R. 8101. June 29, 1977. House Administration. Establishes within the Information systems of the Congress an office to compile and disseminate information to the public relating to pending legislative proposals. Directs the Committee on House Administration to establish and administer such system.

H.R. 8102. June 29, 1977. Agriculture. Authorizes the Secretary of Agriculture, through the Packers and Stockyards Administration, to monitor sales and transfers of meat and meat food products of forty thousand pounds or more and to require persons involved in such sales and transfers to report information concerning prices and quantities.

H.R. 8103. June 29, 1977. Interior and Insular Affairs; Public Works and Transportation. Authorizes the Secretary of the Interior to implement specified measures which will encourage the use of transportation modes other than personal motor vehicles for travel to and in national parks.

H.R. 8104. June 29, 1977. Education and Labor. Amends the Fair Labor Standard Act of 1938 to prohibit the employment of blind persons, or persons with impaired sight, at less than the applicable minimum wage under such Act.

H.R. 8105. June 29, 1977. International Relations. Amends the Mutual Educational and Cultural Exchange Act of 1961 to disallow Federal employees to accept grants and other types of assistance provided by a foreign government to facilitate participation of such employees in certain cultural exchange programs.

H.R. 8106. June 29, 1977. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to require such appropriate regulatory agency to conduct biennial examinations of every creditor subject to the requirements of this Act. Calls for public disclosure of specified information obtained in such examinations and for disclosure to consumers of the discovery of apparent substantial violations.

Sets forth a limited exemption from civil liability for creditors in error.

H.R. 8107. June 29, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate from the classes of excludable and deportable aliens those aliens who: (1) are anarchists; (2) are opposed to organized government; or (3) are members or advocates of the Communist or a totalitarian party.

Amends the Subversive Activities Control Act of 1950 to remove the prohibition against the application by a member of a communist organization for a U.S. passport, and the issuance of a passport to such a member.

H.R. 8108. June 29, 1977. Rules. Amends the Employment Act of 1946 to prohibit any Member of the House of Representatives or Senator from serving as a member on the Joint Economic Committee during more than two Congresses in any period of five successive Congresses after 1978.

H.R. 8109. June 29, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1920, to authorize the Secretary of Commerce to make grants in order to establish a system of public seaports adequate to meet the needs of domestic offshore communities.

H.R. 8110. June 29, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt from customs duties products of the insular possessions of the United States if not more than 70 percent of the product's value is attributable to foreign materials, until the value of such imports reaches a specified annual total. Exempts watch products of the insular possessions of the United States from customs duties. Exempts from customs duties products of such possessions upon re-entry, if applicable duties were previously paid.

H.R. 8111. June 29, 1977. Veterans' Affairs. Increases the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans. Increases the allowance for administrative expenses incurred by State and local agencies administering these programs.

H.R. 8112. June 29, 1977. House Administration. Abolishes the Federal Records Council.

H.R. 8113. June 29, 1977. Post Office and Civil Service. Entitles employees of the Bureau of Indian Affairs or the Indian Health Service to an annuity if separated from service after completing 25 years of service or after becoming 50 years of age and completing 20 years of service before December 31, 1989, if such employee is not otherwise entitled to other full retirement benefits and is not an Indian entitled to an employment preference by law.

H.R. 8114. June 29, 1977. Judiciary. Directs the Secretary of the Navy to determine, and the Secretary of the Treasury to pay, the amount to which a certain individual would have been entitled if he had been found permanently incapacitated as a result of an incident of his service as a commissioned officer of the Navy. Declares such individual to have been retired for physical disability.

H.R. 8115. June 29, 1977. Judiciary. Declares four individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8116. June 29, 1977. Judiciary. Declares four individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8117. June 29, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 8118. June 29, 1977. Judiciary. Confers jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of a certain individual.

H.R. 8119. June 29, 1977. Judiciary. Declares six individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act. Declares a specified provision of such Act inapplicable to two other individuals.

H.R. 8120. June 29, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act. Declares a specified provision of such Act inapplicable to four other individuals.

H.R. 8121. June 30, 1977. Interstate and Foreign Commerce; Ways and Means. Sets forth a program to constrain the rate of increases in total acute care hospital inpatient costs. Directs the Secretary of Health, Education, and Welfare to promulgate annually an "inpatient hospital revenue increase limit." Promulgates formulae for the computation of such limit.

Amends the Internal Revenue Code of 1954 to establish an excise tax on charges for hospital services in excess of the limit.

Amends the Public Health Service Act to limit the annual amount of hospital capital expenditures to spending for essential hospital needs.

Establishes a financial incentives program to encourage the discontinuance of unneeded hospital services.

H.R. 8122. June 30, 1977. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to conduct an investigation and study of the use of grain or grain products and wood and other forest products in the development and use of fuels.

H.R. 8123. June 30, 1977. Public Works and Transportation. Amends the Tennessee Valley Authority Act of 1933 to direct the Authority to implement specified rate design policies to discourage wasteful consumption of electric energy. Directs the Authority to establish additional programs designed to assist residential energy conservation and to demonstrate new technologies for cogeneration, burning of coal, solar heating and cooling, and electric storage facilities.

H.R. 8124. June 30, 1977. Public Works and Transportation. Directs the Secretary of Transportation to establish a single system of measuring noise and the impact of noise at airports and areas surrounding airports and to prescribe land uses for such areas which are compatible with such noise levels.

Amends the Airport and Airway Development Act of 1970 to make grants available under such Act for noise compatibility programs with respect to land situated near airports.

Requires the retrofitting or replacement of subsonic aircraft which do not meet existing noise standards. Prohibits the operation of foreign aircraft over the United States which do not meet such standards after 1985.

H.R. 8125. June 30, 1977. Judiciary. Provides for appointment of a special prosecutor relative to alleged violations of criminal law involving abuse of office, fraud against the United States, obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interest or the appearance thereof.

H.R. 8126. June 30, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize States to unilaterally revise clean air implementation plans to suspend or eliminate provisions which curtail motor vehicle parking in urban areas.

H.R. 8127. June 30, 1977. Judiciary; Banking, Finance and Urban Affairs; Armed Services; Government Operations. Prohibits the intelligence activities which interfere with first amendment rights. Limits the jurisdictions of the Federal Bureau of Investigation and the Central Intelligence Agency to criminal investigations and foreign intelligence gathering, respectively. Renames such agencies. Repeals specified statutes relating to the exercise of the first amendment rights of freedom of speech and association. Establishes procedures to investigate law violations committed by Federal officials involved in intelligence activities.

H.R. 8128. June 30, 1977. Judiciary. Makes it unlawful for any person to import, manufacture, sell, buy, transfer, receive, transport, own, or possess any handgun or handgun ammunition. Authorizes the Secretary of the Treasury to exempt certain handguns from this prohibition.

H.R. 8129. June 30, 1977. Armed Services. Authorizes the Secretary of Defense to budget funds for certain specified purposes to assist the Civil Air Patrol. Authorizes the Secretary of the Air Force to give, sell, or lend to the Civil Air Patrol excess property acquired by the Air Force under the Federal Property and Administrative Services Act of 1949.

H.R. 8130. June 30, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to establish as a nonprofit corporation the African Development Foundation. Authorizes the Foundation to make grants, loans, and loan guarantees to any African private or public group, association, or other entity for (1) the support of self-initiated community development efforts; (2) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa; (3) procurement from other sources of such technical or other assistance in cases and manners deemed appropriate by African recipient entities; and (4) such other projects as the Foundation considers appropriate.

H.R. 8131. June 30, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to permit State Medicaid plans to provide medical assistance for qualified former Supplemental Security Income recipients.

H.R. 8132. June 30, 1977. Interior and Insular Affairs. Amends the National Trails System Act by requiring the Secretary of the Interior to study the feasibility of designating the Overmountain Men Victory Trail in the States of Tennessee, North Carolina, and South Carolina, and as a national scenic trail.

H.R. 8133. June 30, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.I. 8134. June 30, 1977. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 8135. June 30, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the programs of Medicare, Medicaid, and Grants to States for Social Services of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

Requires the Commission to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurance and utilization control in such care.

H.R. 8136. June 30, 1977. Ways and Means. Amends the Internal Revenue Code to exempt from taxation certain contributions to profit sharing plans by employers which would otherwise be taxable to the employee merely because a plan includes an arrangement under which the contribution is made only if the employee elects not to receive such contribution in cash.

H.R. 8137. June 30, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to stipulate that a food additive which causes cancer in animals but not man need not be deemed unsafe as a result of causing cancer in animals.

H.R. 8138. June 30, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt certain wearing apparel and footwear assembled with components made in the United States, from the reduced customs duties normally granted products made abroad from components made in the United States.

H.R. 8139. June 30, 1977. Post Office and Civil Service. Sets the postal rate for personal mail of individuals sealed against inspection and mailed in the United States at 13 cents for the first ounce of each piece and 11 cents for each additional ounce for each piece. Permits the Postal Service to adjust such rate annually in proportion to the increase in the Consumer Price Index since the previous rate adjustment but not to an amount exceeding the current rate for first class mail.

H.R. 8140. June 30, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to establish and maintain a clinic for outpatient medical services and treatment in an area comprised of certain counties in northwest Florida.

H.R. 8141. June 30, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act with respect to emergency and disaster loans: (1) to further define specified eligibility conditions, interest rates and repayment requirements; and (2) to declare the sense of Congress as to the kind of personnel employed, and the priorities placed, in the carrying out of the provisions of such Act.

H.R. 8142. June 30, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housng and Urban Development to make loans to assist in purchase and installation of home solar heating and cooling equipment, through a program to be administered by the States.

H.R. 8143. June 30, 1977. Public Works and Transportation. Amends the Airport and Airway Development Act of 1970 to direct the Secretary of Transportation to obligate a certain portion of the funds authorized to be appropriated under such Act for improving air navigation facilities for the purpose of establishing no fewer than 45 automated flight service stations. Defines "flight service stations" as air navigation facilities used to assist pilots in the safe conduct of flight.

H.R. 8144. June 30, 1977. Veterans' Affairs. Allows to certain persons, but denies to others, entitlement to veterans' benefits due to an administrative upgrading of a less than honorable discharge.

H.R. 8145. June 30, 1977. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act to authorize the Federal Home Loan Bank Board to provide for the organization, operation, and regulation of Federal Savings and Loan Associations or Federal Savings Banks.

Amends the Federal Deposit Insurance Act to provide for the conversion of State-chartered mutual savings banks into Federal Savings Banks.

H.R. 8146. June 30, 1977. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act to authorize the Federal Home Loan Bank Board to provide for the organization, operation, and regulation of Federal Savings and Loan Associations or Federal Savings Banks.

Amends the Federal Deposit Insurance Act to provide for the conversion of State-chartered mutual savings banks into Federal Savings Banks.

H.R. 8147. June 30, 1977. Post Office and Civil Service. Sets the maximum workweek for Federal firefighters at 54 hours. Entitles such firefighters to premium pay in lieu of overtime pay equal to up to 25 percent of their basic pay rate.

H.R. 8148. June 30, 1977. Armed Services. Authorizes the Secretary of the Navy to convey to the State of Hawaii specified lands within the Fort Ruger Military Reservation, Hawaii, for educational purposes.

H.R. 8149. June 30, 1977. Ways and Means. Amends the Tariff Act of 1930 to revise customs procedures. Amends the Tariff Schedules of the United States with respect to the importation of alcohol, tobacco, and other articles for personal use. Authorizes appropriations for the United States Customs Service.

H.R. 8150. June 30, 1977. Agriculture. Directs the Secretary of Agriculture to implement a nationwide agricultural water quality assistance program to maintain or enhance the quality of water in rural areas.

H.R. 8151. June 30, 1977. House Administration. Directs the Attorney General, in consultation with the Secretary of Health, Education, and Welfare, to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged. Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places. Requires that a paper ballot be made available to any person unable to operate a voting machine.

H.R. 8152. June 30, 1977. Education and Labor; Interstate and Foreign Commerce. Establishes the Office of Independent Living within the Department of Health, Education, and Welfare to administer grants to establish independent living centers for the disabled.

Requires such centers to provide specified services including: (1) counseling regarding attendant care; (2) health programs; (3) housing and transportation assistance; (4) independent living skills; and (5) legal and economic counseling.

Establishes the Task Force on Independent Living with H.E.W. to review the operations of such Office and of the centers.

H.R. 8153. June 30, 1977. Education and Labor; Interstate and Foreign Commerce. Establishes the Office of Independent Living within the Department of Health, Education, and Welfare to administer grants to establish independent living centers for the disabled.

Requires such centers to provide specified services including: (1) counseling regarding attendant care; (2) health programs; (3) housing and transportation assistance; (4) lindependent living skills; and (5) legal and economic counseling.

Establishes the Task Force on Independent Living with H.E.W. to review the operations of such Office and of the centers.

H.R. 8154. June 30, 1977. Judiciary. Amends the Immigration and Nationality Act to prohibit the admission into the United States of any alien who is likely to become a public charge unless a United States citizen posts a $5,000 bond on behalf of such alien.

H.R. 8155. June 30, 1977. Judiciary. Prohibits as a defense in any proceeding against any person for violation of any law of the United States a claim that such person was under compulsion by a foreign state to act, or fail to act, in violation of such law.

H.R. 8156. June 30, 1977. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other funds for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 8157. June 30, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 8158. June 30, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and

Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 8159. June 30, 1977. International Relations; Interstate and Foreign Commerce; Merchant Marine and Fisheries. Requires that all containers used in international transport meet minimum safety standards as prescribed by the International Convention for Safe Containers. Directs the Secretary of Transportation to prescribe regulations regarding: (1) revocation procedures for safety approval plates on containers which no longer meet such standards; (2) fees associated with approval and examination services for containers; (3) approval of containers and container designs; and (4) examination of approved containers. Authorizes the Secretary to issue detention orders for containers not having valid safety approval plates.

H.R. 8160. June 30, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to (1) make loans to certain cities and counties for the establishment and initial operating costs of clinics for the spaying and neutering of dogs and cats, and (2) make grants for the esablishment of courses to train paraprofessionals in the anaesthetising and spaying and neutering of dogs and cats.

H.R. 8161. June 30, 1977. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to revise interagency coordination requirements with respect to fish and wildlife conservation for approval of federally assisted projects for impoundment, control, or diversion of waters.

Repeals exemptions from such procedures for water impoundment projects where the impoundment has a maximum surface area of less than ten acres, or for programs for land management.

Permits a citizen to bring a civil action in a district court of the United States against persons violating this Act or regulations issued hereunder or against any Federal department for failure to perform its duties under this Act.

H.R. 8162. June 30, 1977. Post Office and Civil Service. Provides for congressional oversight of all rate, fee, and mail classification decisions made by the Postal Rate Commission Sets maximum size and weight limits for all parcel mail. Abolishes the Board of Governors of the Postal Service and transfers its functions to the Postmaster General.

H.R. 8163. June 30, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit, and for all persons receiving retirement benefits under a public retirement system.

H.R. 8164. June 30, 1977. Ways and Means. Amends Title XVI (Supplemental Income for the Aged, Blind, and Disabled) of the Social Security Act to require the Secretary of Health, Education, and Welfare to pay a special housing allowance to each eligible individual whose housing expenses exceed 25 percent of income or $1,200 a year, whichever is less.

H.R. 8165. June 30, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit, and for all persons receiving retirement benefits under a public retirement system.

H R. 8166. June 30, 1977. Ways and Means. Amends Title XVI (Supplemental Income for the Aged, Blind, and Disabled) of the Social Security Act to require the Secretary of Health, Education, and Welfare to pay a special housing allowance to each eligible individual whose housing expenses exceed 25 percent of income or $1,200 a year, whichever is less.

H.R. 8167. June 30, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for hearing aids and dentures under the supplementary medical insurance program.

H.R. 8168. June 30, 1977. Interstate and Foreign Commerce; Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for hearing aids and dentures under the supplementary medical insurance program

H.R. 8169. June 30, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on: (1) articles assembled abroad with components produced in the United States; and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 8170. June 30, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to eliminate review of rates of pay for Members of Congress by the Commission on Executive, Legislative, and Judicial Salaries.

Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living pay adjustments for Members of Congress, and to set the rate of pay for such Members at the rate in effect on September 30, 1976.

Stipulates that any pay increase for Members of Congress shall not take effect until the Congress succeeding the Congress which approves such increase.

H.R. 8171. June 30, 1977. Banking, Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 8172. June 30, 1977. Interstate and Foreign Commerce. Amends the Department of Transportation Act and the Regional Rail Reorganization Act to revise the time periods during which Federal financial assistance shall be available for rail service assistance programs under such Acts.

H.R. 8173. June 30, 1977. Government Operations. Prohibits Government use of any limousine, use of any Government motor vehicle to transport any official between his place of employment and his dwelling place, and Government employment of any chauffeur.

Excepts from this Act limousines for the President, Ambassadors, and specified other persons whose personal safety depends upon the use of such limousines.

H.R. 8174. June 30, 1977. Government Operations. Prohibits Government use of any limousine, use of any Government motor vehicle to transport any official between his place of employment and his dwelling place, and Government employment of any chauffeur.

Excepts from this Act limousines for the President, Ambassadors, and specified other persons whose personal safety depends upon the use of such limousines.

H.R. 8175. June 30, 1977. Veterans' Affairs. Amends the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 to extend from September 30, 1977, to September 30, 1978, the authority of the Veterans' Administration to enter into special pay agreements with physicians and dentists employed in the Department of Medicine and Surgery. Permits such physicians and dentists to enter into new agreements with the Veterans' Administration for additional service upon completion of the initial period, but stipulates that no additional service may extend beyond September 30, 1981.

H.R. 8176. June 30, 1977. Veterans' Affairs. Amends the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 to extend from September 30, 1977, to September 30, 1978, the authority of the Veterans' Administration to enter into special pay agreements with physicians and dentists employed in the Department of Medicine and Surgery. Permits such physicians and dentists to enter into new agreements with the Veterans' Administration for up to four years of additional service in the Department upon completion of the initial period of service.

H.R. 8177. June 30, 1977. Post Office and Civil Service. Permits any individual to send postage free mail matter not exceeding four ounces in weight to his or her representatives in the House of Representatives and the Senate and to the President of the United States.

H.R. 8178. June 30, 1977. Veterans' Affairs. Extends the delimiting period for completing a veteran's education program until such time as the veteran completes or ends the program, if at the close of the ordinary ten-year delimiting period the veteran is enrolled in a program.

H.R. 8179. June 30, 1977. Veterans' Affairs. Prohibits denial of employment (except by an employer with no more than ten employees) of any person because of any obligation as a member of a Reserve component of the Armed Forces.

H.R. 8180. June 30, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to require the appointment of persons to the Commission on Executive, Legislative, and Judicial Salaries every second calendar year beginning 1978. Requires the President to separately submit pay recommendations for Members of Congress. Stipulates that such recommendations may not take effect prior to the Congress following the Congress during which they were transmitted. Declares that such recommendations shall take effect if not disapproved by resolution of either House.

Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living adjustments for Members of Congress.

H.R. 8181. June 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain individuals to compute the amount of the deduction for retirement savings on the basis of the earned income of their spouses.

H.R. 8182. June 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain individuals to compute the amount of the deduction for retirement savings on the basis of the earned income of their spouses.

H.R. 8183. June 30, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain individuals to compute the amount of the deduction for retirement savings on the basis of the earned income of their spouses.

H.R. 8184. June 30, 1977. Interstate and Foreign Commerce; Science and Technology. Requires the Federal Trade Commission (FTC) to promulgate rules relating to the procedures and practices of standards-development organizations, testing laboratories, and certification agencies, and the use of product listings and certificates of approval in marketing.

Establishes an Institute of Standards and Accreditation, within the Department of Commerce, to assist the Secretary and the FTC in carrying out this Act.

Establishes a National Standards Management Board to develop the necessary rules and policies to manage and coordinate national standards-development activities.

H.R. 8185. June 30, 1977. Agriculture. Amends the Agriculture Act of 1949 to establish separate reserves of wheat, corn and other feed grains through storage contracts with producers. Sets loan levels for the 1977 through 1981 crops of wheat and corn. Authorizes the President to establish an International Emergency Food Reserve in this country and to negotiate international agreements with other countries to develop an international system of food reserves for humanitarian food relief.

H.R. 8186. June 30, 1977. Post Office and Civil Service. Provides that the United States Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970.

H.R. 8187. June 30, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime, post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 8188. June 30, 1977. Veterans' Affairs. Permits the Administrator of Veterans' Affairs to discontinue educational assistance to an eligible veteran or survivor or dependent of a veteran if the Administrator finds that the institution of higher learning concerned has failed to enforce its regularly prescribed standards and practices as approved by the appropriate State approving agency with respect to such veteran or person.

Requires the Administrator to provide individual educational and career counseling and other appropriate services to facilitate the education of any veteran or person whose educational asistance has been discontinued under this Act.

H.R. 8189. June 30, 1977. Veterans' Affairs. Directs the Secretary of Labor to provide (1) such comprehensive, coordinated, and interrelated programs as are deemed necessary to facilitate training, readjustment, and rehabilitation, and (2) career, veterans benefits and rights, and personal adjustment and motivational counseling to promote the productive employment of Vietnam era veterans, especially disabled veterans.

H.R. 8190. June 30, 1977. Veterans' Affairs. Directs the Secretary of Labor to provide (1) such comprehensive, coordinated ,and interrelated programs as are deemed necessary to facilitate training, readjustment, and rehabilitation, and (2) career, veterans benefits and rights, and personal adjustment and motivational counseling to promote the productive employment of Vietnam era veterans, especially disabled veterans.

H.R. 8191. June 30, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8192. June 30, 1977. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 8193. June 30, 1977. Judiciary. Deems a certain individual, for retirement purposes, to have served satisfactorily on active duty for six months in the grade of Captain, in the United States Air Force.

H.R. 8194. June 30, 1977. Judiciary. Deems a certain individual, for purposes of determining his entitlement to disability insurance benefits under the Social Security Act, to have filed his self-employment income tax returns for the taxable years 1964 and 1965 prior to the expiration of the time limitation.

H.R. 8195. July 11, 1977. Appropriations. Rescinds the budget authority recommended in the message of the President of May 18, 1977 (H. Doc. 95–158), namely: (1) $87,212,000 of the funds appropriated for the patrol hydrofoil missile program under the Department of Defense Appropriation Act, 1975; and (2) $39,000,000 of the funds appropriated for the completion of the second PHM patrol hydrofoil missile ship under the Department of Defense Appropriation Act, 1975.

H.R. 8196. July 11, 1977. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 to permit the Bank to extend credit to the Peoples Republic of China. Eliminates the avoidance of arms races between countries not menaced by Communist China from the factors considered by the President in determining whether the prohibitions against credit extensions by the Export-Import Bank for defense sales to developing countries should be waived in the national interest.

H.R. 8197. July 11, 1977. Ways and Means. Amends the Trade Act of 1974 to permit the People's Republic of China to participate in United States credit and investment programs.

H.R. 8198. July 11, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on: (1) articles assembled abroad with components produced in the United States; and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 8199. July 11, 1977. Armed Services. Entitles officers of the Army or Navy in the Judge Advocate General's Corps, officers in the Air Force or Marine Corps, who are judge advocates, and commissioned officers of the Coast Guard designated for special duty (law) to special pay. Entitles such individuals to bonuses upon the execution of a written agreement to remain on active duty for not less than three nor more than six years after completion of initial active duty service.

H.R. 8200. July 11, 1977. Judiciary. Enacts title 11 of the United States Code to establish a uniform law of bankruptcy. Changes the administration of bankruptcy cases including the determination of claims and allowances. Amends procedures for liquidation and reorganization. Makes provisions for the adjustment of debts of municipalities and individuals with regular income.

Amends title 28 of the United States Code and the Federal Rules of Evidence as they pertain to the creation and the powers of bankruptcy courts. Provides for a transition period of the bankruptcy court system.

H.R. 8201. July 11, 1977. Ways and Means; Government Operations. Amends the Internal Revenue Code to increase the corporate deduction and the personal exclusion for dividends received. Imposes limitations on increases in corporate tax rates and Federal spending. Provides for the distribution of corporate income tax revenues to registered voters.

H.R. 8202. July 11, 1977. House Administration. Amends the Federal Election Campaign Act of 1971 to (1) permit designated committees to make expenditures for Presidential candidates, (2) exempt from a candidate's contribution limit payments for certain media advertisement by other candidates which advocate election of such candidate, and (3) direct the Federal Election Commission to establish uniform recordkeeping and reporting procedures.

H.R. 8203. July 11, 1977. Banking, Finance and Urban Affairs. Directs the Secretary of Housing and Urban Development to monitor the planning and implementation of public housing construction, rehabilitation, or modernization projects to assure that crime prevention is taken into account in the design of such housing.

Directs the Secretary to make funds available for citizen crime prevention programs.

H.R. 8204. July 11, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1920, to require that vessels, as a condition for engaging in the coastwise trade, be built or rebuilt using only materials of United States origin.

Authorizes the Secretary of Commerce to waive such requirement under specified circumstances.

H.R. 8205. July 11, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to replace bridges not located on any of the Federal-aid systems. Amends the Highway Revenue Act of 1956 to extend appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Amends the Internal Revenue Code of 1954 to postpone specified excise tax reductions and to increase the excise tax on gasoline, diesel fuels, and special motor fuels.

H.R. 8206. July 11, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to employer pension funds, and to allow a deduction to certain individuals who establish modified individual retirement plans when the employer-employee pension contributions are small.

H.R. 8207. July 11, 1977. Education and Labor. Provides that with respect to out-of-State Indian children attending public elementary or secondary schools for whom tuition charge is made, certain Federal assistance payments may be made in the State where such children attend school upon request of the involved States.

H.R. 8208. July 11, 1977. Post Office and Civil Service. Repeals the Postal Reorganization Act. Re-enacts provisions relating to the postal service which were in effect immediately prior to the enactment of such Act.

H.R. 8209. July 11, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to make Federal funds available, on a matching basis, to the county executive of Montgomery County, Maryland, for the purpose of mitigating the health hazard caused by the asbestos found in the public roads, paths, and walkways of the county. Authorizes appropriations of $4,500,000 for this purpose.

H.R. 8210. July 11, 1977. Interior and Insular Affairs. Designates specified lands within the National Forest System in the State of Virginia as wilderness.

H.R. 8211. July 11, 1977. Judiciary. Relieves certain employees of the Department of the Navy of liability for specified amounts due to the United States as a result of overpayments of per diem allowances.

H.R. 8212. July 11, 1977. Judiciary. Directs the Secretary of the Treasury to redetermine the tax liability of a certain individual for the taxable year 1962.

H.R. 8213. July 12, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 8214. July 12, 1977. Interior and Insular Affairs. Enlarges the membership of the Gateway National Recreation Area Advisory Commission.

H.R. 8215. July 12, 1977. Government Operations; Public Works and Transportation. Amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide for the reimbursement of costs to real property owners who prevail in specified condemnation proceedings.

H.R. 8216. July 12, 1977. Veterans' Affairs. Repeals the delimiting period in which an eligible veteran must use his educational benefits.

H.R. 8217. July 12, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to (1) provide extended benefits in States with high unemployment rates and (2) permit an individual to receive emergency compensation even though he failed to apply for or accept suitable employment if the average pay for the position does not exceed 75 percent of the individuals' average weekly wage, as defined by this Act.

H.R. 8218. July 12, 1977. Ways and Means. Amends the Internal Revenue Code of 1954 and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the tax base of OASDI program.

Amends Title II: (1) to revise the method for determining benefit amounts; and (2) to eliminate gender-based distinctions in awarding benefits.

H.R. 8219. July 12, 1977. Public Works and Transportation. Amends the Flood Control Act of 1958 to authorize the Secretary of the Army, acting through the Chief of Engineers, to implement a nonstructural plan for flood damage reduction on the Tittabawassee River at Midland, Michigan, in lieu of structural flood damage reduction, or combination thereof.

H.R. 8220. July 12, 1977. Judiciary. Increases per diem pay and revises subsistence and travel allowances of Federal court witnesses.

H.R. 8221. July 12, 1977. Education and Labor. Amends the Adult Education Act to increase the funds available for Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

H.R. 8222. July 12, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt from customs duties products of the insular possessions of the United States if not more than 70 percent of the product's value is attributable to foreign materials, until the value of such imports reaches a specified annual total. Exempts watch products from such quota. Exempts from customs duties products of the insular possessions of the United States upon reentry, if applicable duties were previously paid.

H.R. 8223. July 12, 1977. Judiciary; Interior and Insular Affairs. Reduces the size of the Bull Run Reserve within Mount Hood National Forest, Oregon.

H.R. 8224. July 12, 1977. Interstate and Foreign Commerce; Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to eliminate the deduction from payments to providers of health services for unreplaced blood and provides for payment to providers of health services for processing fees incurred in the replacement of blood.

H.R. 8225. July 12, 1977. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to permit States to combine their entitlements for rail service continuation subsidies in order to improve rail properties within their respective States or regions.

H.R. 8226. July 12, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 8227. July 12, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to convey to the present owners specified lands in Hennepin County, Minnesota.

H.R. 8228. July 12, 1977. Government Operations. Establishes the Federal Emergency Assistance and Preparedness Administration to implement and coordinate all Federal disaster assistance and emergency preparedness programs and to collect data to be made available to the public, States and localities respecting the prediction and planning for emergencies and disasters. Extends the termination dates of specified provisions of the Federal Civil Defense Act to September 30, 1980.

H.R. 8229. July 12, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to provide eligible veterans with professional readjustment counseling, preventive health care services, and treatment and rehabilitation for alcohol or drug dependence or abuse disabilities.

H.R. 8230. July 12, 1977. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to include rescue squad members in the group of persons eligible for public safety officers' death benefits.

H.R. 8231. July 12, 1977. Small Business; Banking, Finance and Urban Affairs. Amends the Small Business Act to establish the Division of Advocacy, Economic Research, and Analysis within the Small Business Administration. Enunciates a national small business economic policy and requires that the President annually assess the capital needs of small business.

Creates the Small Business Economic Council to advise the President of the impact of Federal programs on small business and to maximize the cooperation between the administration and other Federal departments and agencies.

H.R. 8232. July 12, 1977. Education and Labor. Exempts from coverage under the Farm Labor Contractor Registration Act of 1963 any person who engages in farm labor contracting solely within a 75-mile (currently, within only a 25-mile) radius of his home.

H.R. 8233. July 12, 1977. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to add to the definition of "migrant worker" the requirement that an individual's employment necessitates travel of a kind which prevents such individual from returning to his permanent residence on a daily basis.

H.R. 8234. July 12, 1977. Education and Labor. Exempts from coverage under the Farm Labor Contractor Registration Act of 1963 any person who engages in farm labor contracting solely for the purpose of supplying migrant workers who return each day from their places of employment to their permanent residences.

H.R. 8235. July 12, 1977. Post Office and Civil Service. Prohibits the Postal Service from decreasing the frequency of mail delivery service below the frequency in effect for the calendar year beginning May 1, 1977.

H.R. 8236. July 12, 1977. Judiciary. Renders survivors of rescue squad members killed in the performance of duty eligible for public safety officer death benefits under the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 8237. July 12, 1977. Banking, Finance and Urban Affairs. Extends assistance for purposes of rehabilitation of historic structures under the following housing programs: (1) Federal insurance of rehabilitation loan program; (2) direct loan for rehabilitation; and (3) urban renewal rehabilitation loan program.

H.R. 8238. July 12, 1977. Post Office and Civil Service. Provides for congressional oversight of all rate, fee, and mail classification decisions made by the Postal Rate Commission. Sets maximum size and weight limits for all parcel mail. Abolishes the Board of Governors of the Postal Service and transfers its functions to the Postmaster General.

H.R. 8239. July 12, 1977. Judiciary. Grants a Federal charter to the United States Coastal Cadets.

H.R. 8240. July 12, 1977. Veterans' Affairs. Declares that the term "veteran" includes a person in the active military, naval, or air service who receives an early discharge conditioned upon immediate reentrance of such services.

H.R. 8241. July 12, 1977. Veterans' Affairs. Includes lupus erythematosis among the chronic diseases for purposes of the administration of service-connected disability compensation by the Administrator of Veterans' Affairs.

H.R. 8242. July 12, 1977. Veterans' Affairs. Entitles to hospital and domiciliary care and other medical services any member of the Canadian Armed Forces: (1) who served in armed conflict with an enemy of the United States during World War I or World War II; and (2) who has been a citizen of the United States for at least ten years.

H.R. 8243. July 12, 1977. Ways and Means. Amends the Medicare program of the Social Security Act to authorize the President to enter agreements establishing reciprocal arrangements between such program and the program of any foreign country under which health services are provided.

H.R. 8244. July 12, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitations on charitable deductions and investment tax credits taken by cooperative corporations. Allows cooperatives to allocate their investment tax credits among their patrons.

H.R. 8245. July 12, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 8246. July 12, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to deny exemption from the prohibition against unlawful employment practices to seniority systems which perpetuate the effects of past discrimination.

H.R. 8247. July 12, 1977. Armed Services. Abolishes one of the two present positions of Deputy Secretary of Defense within the Department of Defense. Establishes an Under Secretary of Defense for policy. Renames the present position of Director of Defense for Research and Engineering as the Under Secretary of Defense for Research and Engineering.

H.R. 8248. July 12, 1977. Armed Services. Entitles certain unremarried former spouses of members of the uniformed services to medical and dental benefits under the Civilian Health and Medical Plan of the Uniformed Services (CHAMPUS).

H.R. 8249. July 12, 1977. Education and Labor. Exempts from coverage under the Farm Labor Contractor Registration Act of 1963 any persons who engage in farm labor contracting within a 50-mile (currently, a 25-mile) radius of their permanent place of residence and for not more than 26 (currently, 13) weeks.

H.R. 8250. July 12, 1977. Judiciary. Prohibits the admission of any immigrant unless a United States citizen has agreed in writing to sponsor such immigrant and to reimburse the Federal, State, or local government for financial support or medical treatment provided to the immigrant during the five-year period after entering the United States.

H.R. 8251. July 12, 1977. Ways and Means. Amends the Internal Revenue Code to exclude certain military retirement pay from gross income when such pay is essentially equivalent to a veteran's disability pension which is excludable.

H.R. 8252. July 12, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to define the terms "low income" and "economically disadvantaged," for purposes of specified youth and other special programs, to mean an individual who is a member of a household which has a current gross family income at a rate not in excess of that income level (adjusted for specified differences) determined annually by the Secretary of Labor based upon the most recent lower living standard budget issued by the Bureau of Labor Statistics.

H.R. 8253. July 12, 1977. Judiciary. Requires a petition for removal of a State prosecution to Federal court to include all grounds for removal. Specifies procedures for consideration of such petitions by district courts.

H.R. 8254. July 12, 1977. Ways and Means; Public Works and Transportation. Amends the Internal Revenue Code to impose an excise tax on property transported by carriers on inland waterways. Authorizes the Secretary of the Army to collect a $25 fee for the use of locks along such waterways.

H.R. 8255. July 12, 1977. Judiciary. Declares that specified provisions of the Immigration and Nationality Act shall be inapplicable in the case of a certain individual.

H.R. 8256. July 13, 1977. Education and Labor. Amends the Wagner-Peyser Act to direct the Secretary of Labor to provide technical and management assistance to State public employment offices, establish a national clearinghouse for employment service information in the United States Employment Service, and implement an assistance program for certain State employment office job placement projects.

Directs the Secretary to study the merits of a nationwide job bank system.

H.R. 8257. July 13, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize States to unilaterally revise clean air implementation plans to suspend or eliminate provisions which curtail motor vehicle parking in urban areas.

H.R. 8258. July 13, 1977. Armed Services. Entitles certain unremarried former spouses of members of the uniformed services to medical and dental benefits under the Civilian Health and Medical Plan of the Uniformed Services (CHAMPUS).

H.R. 8259. July 13, 1977. Government Operations; Public Works and Transportation. Amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act to redefine the term "person" in order to exclude persons who are unlawfully present in the United States from entitlement to relocation payments.

H.R. 8260. July 13, 1977. Judiciary. Authorizes the district court to award reasonable attorney's fees and costs to any prevailing taxpayer in any case in which tax liability to the United States is asserted.

H.R. 8261. July 13, 1977. Judiciary. Gives the author of a pictorial, graphic, or sculptural work the right to claim authorship of such work and to object to any distribution or alteration thereof, and to enforce any other limitation recorded in the Copyright Office that would prevent prejudice to the author's honor or reputation during the life of such author and 50 years after death.

H.R. 8262. July 13, 1977. Small Business. Simplifies Government contracting procedures with respect to small businesses.

Establishes Government contract arbitration panels within the Small Business Administration.

Directs Federal agencies to take the apparent low responsive bidder's small business concern subcontracting plan into account in determining the responsibility of such bidder for the award of such contract.

Assigns an employee of the Small Business Administration to each Federal agency.

Establishes the Small Business Procurement Advisory Committee.

H.R. 8263. July 13, 1977. Judiciary. Directs that United States attorneys be appointed and subject to removal by the Attorney General rather than the President.

Eliminates set terms for United States attorneys.

H.R. 8264. July 13, 1977. Interstate and Foreign Commerce. Authorizes the Federal Energy Administrator to establish an energy stamp program to assist low-income households in meeting monthly fuel costs.

H.R. 8265. July 13, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 8266. July 13, 1977. Judiciary. Prohibits use or supply of false documentation, false information, or birth or immigration documents of another for purposes of obtaining a Federal document containing an element of identification.

Forbids commerce in such information or documentation for purposes of securing a State or local government document containing an element of identification.

Proscribes specified acts relative to: (1) forgery, counterfeiting, or alteration of Federal, State, or local government documents containing an element of identification; (2) interstate or foreign commerce in any such counterfeited, forged, or altered document; and (3) receipt, possession, use, or furnishing of any such document with intent to secure false official identification.

H.R. 8267. July 13, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $6,000 the amount an individual may earn without a reduction in benefits and to eliminate the five-month waiting period for disability benefits.

Amends Title II and the Railroad Retirement Act of 1974 to include all types of income in determining deductions from benefits and to eliminate the requirement that individuals be entitled to disability benefits for 24 consecutive months before qualifying for Medicare benefits on the basis of disability.

H.R. 8268. July 13, 1977. Education and Labor; Judiciary. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 8269. July 13, 1977. Education and Labor; Judiciary. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 8270. July 13, 1977. Ways and Means; Interstate and Foreign Commerce, amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public agencies for congregate housing under the United States Housing Act of 1937.

H.R. 8271. July 13, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide Medicare benefits for individuals who require total parenteral nutrition (TPN) as a result of intestinal surgery.

H.R. 8272. July 13, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide Medicare benefits for individuals who require total parenteral nutrition (TPN) as a result of intestinal surgery.

H.R. 8273. July 13, 1977. Agriculture. Amends the Commodity Exchange Act to expand the present Congressional oversight of the Commodity Futures Trading Commission. Requires the Commission to furnish specified items of information, including any information about its own investigations and activities, to any subcommittee as well as to any committee of either House of Congress, or to the chairman of any committee or subcommittee, acting within the scope of the jurisdiction of such committee or subcommittee.

H.R. 8274. July 13, 1977. Public Works and Transportation; Armed Services. Amends the Federal Aviation Act of 1958 to require the Department of Defense, in transporting persons or property by air between a place in the United States and a place outside the United States, or between two points inside the United States, to use air carriers participating in the civil reserve air fleet program to to fullest extent practicable.

H.R. 8275. July 13, 1977. Education and Labor. Authorizes the Secretary of Health, Education, and Welfare to provide Federal financial assistance to employers, labor organizations and public or private nonprofit agencies to establish occupational alcoholism programs for the diagnosis and treatment of alcohol abuse in employed persons.

Authorizes the appropriation of a specified percentage of Federal taxes collected on alcohol to finance such assistance.

H.R. 8276. July 13, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to extend the age limitation before which passenger ships delivered on or after December 1, 1952, can qualify for operating differential subsidies from 25 to 30 years.

H.R. 8277. July 13, 1977. Ways and Means. Amends the Internal Revenue Code to provide for the credit or refund of highway use taxes on motor vehicles which are destroyed through casualty or theft while registered to the taxpayer.

H.R. 8278. July 13, 1977. Interstate and Foreign Commerce. Amends the Department of Transportation Act and the Regional Rail Reorganization Act to revise the time periods during which Federal financial assistance shall be available for rail service assistance programs under such Acts.

H.R. 8279. July 13, 1977. Government Operations. Requires, under the Privacy Act of 1974, Federal agencies maintaining records which identify persons to whom they pertain to disclose to such persons the actual uses and disclosures made of such records when access to such records is granted to such person under that Act. Specifies limitations on disclosures of such records to third parties, on collection, and on maintenance of such information. Requires agencies to reconsider any determination which was made on the basis of erroneous information which has been subsequently corrected.

H.R. 8280. July 13, 1977. Banking, Finance and Urban Affairs. Sets restrictions on Federal Government access to personal information on individuals which is held by consumer reporting agencies, creditors, financial and insurance institutions.

H.R. 8281. July 13, 1977. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to set standards to be followed by depository institutions with respect to the gathering of any information concerning a consumer, including disclosure to the consumer of all types of information which may be collected and all types of institutions which may collect such information.

Requires an electronic funds transfer service to destroy individually identifiable account information 45 days after the date of each transaction.

H.R. 8282. July 13. 1977. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to make specified restrictions on disclosures by credit reporting agencies applicable to independent authorization services who regularly engage in the practice of providing consumer credit information.

Requires credit card issuers to maintain reasonable procedures to prevent disclosures of inaccurate information.

H.R. 8283. July 13, 1977. Interstate and Foreign Commerce; Ways and Means. Directs the Secretary of Health, Education, and Welfare to require each medical-care institution participating in the Medicaid or Medicare program to implement procedures for the maintenance and disclosure of personal medical information.

Prohibits the disclosure of personal medical information by such institutions except for specifically delineated purposes. Allows Federal officials or employees to obtain such information through proper judicial or administrative subpenas.

Includes within the definition of mail fraud the false or fraudulent procurement of personal medical information through the mails.

H.R. 8284. July 13, 1977. Ways and Means. Limits Federal departments, establishments, or agencies in their use of social security account numbers to identify accounts pertaining to individuals.

H.R. 8285. July 13, 1977. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to require a credit grantor to disclose, upon request, specified information to a consumer who is adversely affected by a credit decision. Sets forth procedures to be followed when a consumer disputes the completeness or accuracy of any item of information contained in such consumer's file.

Requires each commercial reporting service to maintain reasonable procedures designed to avoid the disclosure of inaccurate information to third persons and to assure that information maintained in its files is accurate.

Makes provisions for the enforcement of this Act.

H.R. 8286. July 13, 1977. Agriculture; Interstate and Foreign Commerce; Ways and Means. Requires each State, as a condition for the receipt of Federal moneys for public assistance or social services programs, to provide for the privacy of records used in the administering of such programs. Subjects such State privacy laws to the certification of the Secretary of Health, Education, and Welfare as meeting the principles specified in this Act. Requires in accordance with such principles, the provision of access to information by the person subject of such information, the correction and accuracy of such information and the establishment of appropriate remedies and penalties for the enforcement of such statute.

H.R. 8287. July 13, 1977. Ways and Means. Amends the Internal Revenue Code to restrict or prohibit the disclosure of taxpayer return information in matters pertaining to: prospective jurors; State tax enforcement; investigations of prospective Federal appointees; child support enforcement efforts; and Federal enforcement of nontax laws.

H.R. 8288. July 13, 1977. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to establish safeguards for holders of insurance policies against errors of the insurance institution and violation of the privacy of such holders.

Directs the Federal Trade Commission to promulgate regulations requiring specified institutions to make disclosures to policy holders. Specifies which information shall be disclosed.

H.R. 8289. July 13, 1977. Education and Labor. Amends the National Labor Relations Act to (1) stipulate that only bargaining representatives chosen by secret ballot may be deemed exclusive representatives, (2) forbid a labor organization to threaten or impose economic sanctions against any person exercising rights under the Act, (3) institute a strike vote system, (4) deem binding arbitration an exclusive remedy in certain disputes, and (5) permit members of certain religious bodies, or sects to refrain from joining or financially supporting unions.

Amends the Federal Election Campaign Act to prohibit use of any payroll deduction procedure in soliciting and collecting contributions for a segregated campaign fund.

H.R. 8290. July 13, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to establish the Jean Lafitte National Park in Louisiana. Establishes the Delta Region Preservation Commission to advise the Secretary of the Interior on general policies and specific matters related to the planning, administration, and development of such park.

H.R. 8291. July 13, 1977. Ways and Means. Entitles, under the Social Security Act, States whose rates of insured unemployment is at least six percent to partial reimbursement on an ascending sliding scale of unemployment compensation costs incurred above a certain amount.

H.R. 8292. July 13, 1977. Ways and Means. Entitles, under the Social Security Act, States whose rates of insured unemployment is at least six percent to partial reimbursement on an ascending sliding scale of unemployment compensation costs incurred above a certain amount.

H.R. 8293. July 13, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering service in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 8294. July 13, 1977. Ways and Means. Amends the Internal Revenue Code of 1954 with respect to the payment of unemployment compensation to nonprofessional school employees during periods between academic years or terms.

H.R. 8295. July 13, 1977. Ways and Means. Prohibits an increase in hospital personnel and the purchase of new equipment or facilities for use in health care delivery during the 24-month period beginning on October 1, 1977.

H.R. 8296. July 13, 1977. Public Works and Transportation. Requires the Secretary of Transportation to establish a schedule of user charges to be paid by the owner or operator of any shallow-draft cargo vessel using inland waterways.

H.R. 8297. July 13, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make the provisions, formerly applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 8298. July 13, 1977. Ways and Means. Amends the Internal Revenue Code to provide an additional income tax exemption for disabled taxpayers and their spouses and dependents. Allows disabled taxpayers to deduct their personal care expenses where they are not receiving such services from their States under Social Security grants.

H.R. 8299. July 7, 1977. Public Works and Transportation. Amends the Airport and Airway Development Act of 1970 to direct the Secretary to obligate a certain portion of the funds authorized to be appropriated under such Act for improving air navigation facilities for the purpose of establishing no fewer than 45 automated flight service stations. Defines "flight service stations" as air navigation facilities used to assist pilots in the safe conduct of flight.

H.R. 8300. July 13, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule governing approval of courses for enrollment by veterans receiving educational assistance allowances, and limits application of the rule to proprietary profit or proprietary nonprofit educational institutions. Consolidates existing provisions of the law relating to the certification of courses. Exempts specified kinds of courses from the two-year minimum of operation requirement. Prohibits the execution of powers of attorney for the negotiation of educational assistance allowance checks.

H.R. 8301. July 13, 1977. Banking, Finance, and Urban Affairs. Amends the National Housing Act to permit the Secretary of Housing and Urban Development to insure mortgages and loans with varying rates of amortization corresponding to anticipated variations in family income on a regular basis.

Amends the Internal Revenue Code to establish tax-exempt savings accounts which would be available to first-time home buyers, known as individual housing accounts.

H.R. 8302. July 13, 1977. Ways and Means; Public Works and Transportation.

Imposes a three cent-per-gallon fuel excise tax, and a $32 passage fee for locks on inland waterways, upon commercial vessels using those waterways. Conditions such tax and passage fee upon the construction of the Alton lock.

H.R. 8303. July 13, 1977. Ways and Means; Interstate and Foreign Commerce.

Amends Title XI (General Provisions) of the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 8304. July 13, 1977. Public Works and Transportation.

Authorizes the Secretary of Transportation to make grants to airport operators to cover 100 perecnt of the costs of projects to: (1) mark runways and taxiways or to establish a taxiway guidance system; or (2) to purchase and install visual slope indicators.

Authorizes appropriations in specified amounts out of the Airport and Airway Trust Fund for fiscal years 1978, 1979, and 1980 to carry out such grant program.

H.R. 8305. July 13, 1977. Government Operations.

Amends the Office of Federal Procurement Policy Act to require the payment of interest on contract payments which are overdue under Federal contracts with small businesses.

H.R. 8306. July 13, 1977. Post Office and Civil Service.

Changes the organizational structure of the United States Postal Service by: (1) transferring the authority of the Board of Governors to the Postmaster General; (2) revising the procedures for adjustment of rates and services; (3) creating a procedure for review of proposed capital investments; and (4) requiring the Postal Rate Commission to submit to the President a separate annual budget.

H.R. 8307. July 13, 1977. Judiciary.

Declares that a certain synagogue shall not have to pay any amount to the referee's salary and expense fund during the course of proceedings under the Bankruptcy Act.

H.R. 8308. July 13, 1977. Judiciary.

Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 8309. July 14, 1977. Public Works and Transportation; Ways and Means.

Authorizes the project for replacement of locks and dam 26 on the Mississippi River, Alton, Illinois, and Missouri.

Makes certain inland and intracoastal waterways subject to this Act. Authorizes the Secretary of Transportation to study the imposition of any fuel tax on inland waterway users, alternate or supplemental charges, and related matters.

H.R. 8310. July 14, 1977. Education and Labor. Amends the National Labor Relations Act to (1) stipulate that only bargaining representatives chosen by secret ballot may be deemed exclusive representatives, (2) forbid a labor organization to threaten or impose economic sanctions against any person exercising rights under the Act, (3) institute a strike vote systm, (4) deem binding arbitration an exclusive remedy in certain disputes, and (5) permit members of certain religions, bodies, or sects to refrain from joining or financially supporting unions.

Amends the Federal Election Campaign Act to prohibit use of any payroll deduction procedure in soliciting and collecting contributions for a segregated campaign fund.

H.R. 8311. July 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to require automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 8312. July 14, 1977. Judiciary. Authorizes the district court to award reasonable attorney's fees and costs to any prevailing taxpayer in any case in which tax liability to the United States is asserted.

H.R. 8313. July 14, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the taxpayer's age requirement (65 years) and the dollar limitation on the adjusted sales price ($35,000) for the exclusion from gross income of gain realized on the sale of the taxpayer's principal residence.

H.R. 8314. July 14, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction for their commuting expenses on public transportation systems.

H.R. 8315. July 14, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to make operating and real estate loans under such Act available to private domestic corporations and partnerships engaged in farming or ranching.

H.R. 8316. Juy 14, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to treat as earned income remuneration received by an individual for services performed in a sheltered workshop or work activities center in determining eligibility under such Title.

H.R. 8317. July 14, 1977. Post Office and Civil Service. Provides that an unremarried former spouse of a Federal employee who is married to such employee for five years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse of such employee.

H.R. 8318. July 14, 1977. Interior and Insular Affairs. Declares certain New Mexican lands to be held in trust for the Ramah Band of the Navajo Tribe.

H.R. 8319. July 14, 1977. Post Office and Civil Service. Grants civil service retirement benefits comparable to those provided Federal firefighters and law enforcement officers for persons employed by the Energy Research and Development Administration as atomic energy security guards or ERDA couriers. Requires the retirement of such employees when they have attained the age of 55 years and completed 20 years of service.

H.R. 8320. Juy 14, 1977. Interior and Insular Affairs. Authorizes Federal financial assistance for the operation and maintenance of the Theodore Roosevelt Inaugural National Historic Site in Buffalo, New York.

H.R. 8321. July 14, 1977. Interior and Insular Affairs. Authorizes Federal financial assistance for the operation and maintenance of the Theodore Roosevelt Inaugural National Historic Site in Buffalo, New York.

H.R. 8322. July 14, 1977. House Administration. Directs that five regional primaries be held each Presidential election year. Sets forth guidelines for such primaries relative to (1) date, (2) content of ballots, (3) qualifying for placement on ballots, (4) eligibility for voting, and (5) scope of voter choice.

Requires allocation of State convention delegates on the basis of percentage of votes received within the State.

Requires each delegate to vote for the candidate for whom he was appointed until (1) two ballots have been taken, (2) such candidate receive less than 20 percent of votes cast, or (3) such candidate releases him.

H.R. 8323. July 14, 1977. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to extend public safety officer death benefits to members of volunteer ambulance, first aid, or rescue squads.

Makes coverage under the Public Safety Officers Benefits Act retroactive so as to apply to deaths occurring after 1971.

H.R. 8324. July 14, 1977. Interstate and Foreign Commerce. Prohibits the Interstate Commerce Commission from authorizing the abandonment of any rail line or the discontinuance of any rail service for 18 months.

Amends the Department of Transportation Act to stipulate that the Federal share of the costs of rail service assistance programs under such Act shall be 100 percent for the first fiscal year which is more than 18 months after the enactment of the this Act, 90 percent for the second fiscal year, 80 percent for the third and 70 percent for the fourth fiscal year.

H.R. 8325. July 14, 1977. International Relations. Prohibits the obligation or expenditure of any funds for use of United States Armed Forces which is prohibited by specified provisions of the War Powers Resolution. Prohibits the inference of authority to introduce United States Armed Forces into any hostilities from any concurrent resolution or executive agreement which does not specifically provide for such authority. Requires, in the case of an executive agreement, that such agreement, to constitute such authority, be implemented by legislation specifically granting such authority.

H.R. 8326. July 14, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 8327. July 14, 1977. District of Columbia. Establishes the Commission on the Adequacy of the Annual Federal Payment of the District to conduct a one year study of the adequacy of the annual Federal payment to the District of Columbia.

H.R. 8328. July 14, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to permit the Secretary of Housing and Urban Development to insure mortgages and loans with varying rates of amortization corresponding to anticipated variations in family income on a regular basis.

Amends the Internal Revenue Code to establish tax-exempt savings accounts which would be available to first-time house buyers, known as individual housing accounts.

H.R. 8329. July 14, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to extend the coverage for dental services to include any services performed by a properly licensed dentist and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization.

H.R. 8330. July 14, 1977. Veterans' Affairs. Directs the Secretary of Defense to establish a memorial tomb in the Memorial Amphitheater of the National Cemetery at Arlington, Virginia, to commemorate the members of the Armed Forces who lost their lives during the Vietnam era in Southeast Asia and whose remains have never been recovered.

Directs the Secretary to inter in such tomb the remains of an unknown serviceman recovered from Southeast Asia.

H.R. 8331. July 14, 1977. Interstate and Foreign Commerce. Amends the Securities Investor Protection Act with respect to the liquidation of self-regulatory organizations.

Revises the Act to cover (1) the powers and duties of trustees in bankruptcy; (2) special provisions of a liquidation proceeding; (3) advances in a liquidation proceeding; and (4) direct payment procedure in such actions.

H.R. 8332. July 14, 1977. Rules; Post Office and Civil Service. Requires all legislation in the House of Representatives which establishes any civil service or executive branch position with a rate of pay equal to or greater than that for level V of the Executive Schedule to be referred to the Committee on Post Office and Civil Service.

Limits the maximum number of such positions to the number in existence on the date this Act is enacted. Requires the President to transmit to Congress by January 1, 1979, a plan for authorizing executive level positions in the executive branch including the maximum number of such positions. Terminates any authority within the executive branch to employ any executive level position which is in effect on the date of enactment of this Act effective July 1, 1980.

H.R. 8333. July 14, 1977. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 8334. July 14, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 8335. July 14, 1977. Ways and Means. Amends the Internal Revenue Code to require an automatic cost-of-living adjustment in the income tax rates, the amount of the standard deduction, personal exemption, and depreciation deduction, and the rate of interest payable on certain obligations of the United States.

H.R. 8336. July 14, 1977. Interior and Insular Affairs. Establishes the Chattahoochee River National Recreation Area composed of a 48-mile segment of the Chattahoochee River and adjoining lands in the State of Georgia. Authorizes the Secretary of the Interior to acquire property for such recreation area and provides for its development.

H.R. 8337. July 14, 1977. Interstate and Foreign Commerce; Ways and Means. Sets forth a program to constrain the rate of increase in total acute care hospital inpatient costs.

Establishes the limits to be imposed on increases in hospital inpatient charges and reimbursements.

Amends the Internal Revenue Code of 1954 to establish an excise tax on charges for hospital services in excess of the limit.

H.R. 8338. July 14, 1977. Agriculture. Amends the Agriculture Act of 1949 to establish separate reserves of wheat, corn and other feed grains through storage contracts with producers. Sets loan levels for the 1977 through 1981 crops of wheat and corn. Authorizes the President to establish an International Emergency Food Reserve in this country and to negotiate international agreements with other countries to develop an international system of food reserves for humanitarian food relief.

H.R. 8339. July 14, 1977. Ways and Means. Amends the Internal Revenue Code to qualify trusts established for the payment of product liability claims as tax exempt organizations. Allows taxpayers a business income tax deduction for contributions to such trusts only to the extent they exceed the reasonable costs of product liability insurance for the deducting taxpayer.

H.R. 8340. July 15, 1977. Agriculture. Authorizes the Secretary of Agriculture, through the Packers and Stockyards Administration, to monitor sales and transfers of meat and meat food products of 40,000 pounds or more and to require persons involved in such sales and transfers to report information concerning prices and quantities.

H.R. 8341. July 15, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to qualify an individual who, although employable, is unable to care for his or her personal needs without assistance as a disabled person eligible for the services of a home health aide.

H.R. 8342. July 15, 1977. Post Office and Civil Service. Requires the withholding of city income taxes from the pay of Federal employees who are residents of the city or county imposing such taxes.

H.R. 8343. July 15, 1977. Ways and Means. Amends the Internal Revenue Code to reduce the excise tax on private foundations investment income.

H.R. 8344. July 15, 1977. Ways and Means. Amends the Internal Revenue Code to reduce the excise tax on private foundations' investment income.

H.R. 8345. July 15, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary of higher education of the taxpayer, his spouse and dependents.

H.R. 8346. July 15, 1977. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to increase the Federal share of the costs or providing rail passenger service (emergency operating assistance) during a specified period. Removes specified restrictions regarding eligibility for such assistance during such period.

H.R. 8347. July 15, 1977. Veterans' Affairs. Increases the period of veterans' education assistance from 45 to 54 months, and eliminates the delimiting period. Grants eligibility for such assistance to any veteran of World War II, the Korean conflict, or the Vietnam era whose previous entitlement terminated without such veteran's availing himself of all the assistance to which he was entitled.

H.R. 8348. July 15, 1977. Public Works and Transportation. Amends the Airport and Airway Development Act of 1970 to direct the Secretary of to obligate a certain portion of the funds authorized to be appropriated under such Act for improving air navigation facilities for the purpose of establishing no fewer than 45 automated flight service stations. Defines "flight service stations" as air navigation facilities used to assist pilots in the safe conduct of flight.

H.R. 8349. July 15, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 8350. July 15, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provide for the deportation from the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 8351. July 15, 1977. Agriculture. Amends the Agricultural Act of 1949 to extend specified provisions of the feed grain program through the 1981 crops. Sets loan levels, replaces established prices with target prices, and revises formulae for the determination of acreage allotments and disaster and prevented planting payments.

H.R. 8352. July 15, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to permit the Secretary of Housing and Urban Development to insure mortgages and loans with varying rates of amortization corresponding to anticipated variations in family income on a regular basis.

Amends the Internal Revenue Code to establish tax-exempt savings accounts which would be available to first-time home buyers, known as individual housing accounts.

H.R. 8353. July 15, 1977. Interior and Insular Affairs. Amends the Federal Coal Leasing Amendments Act of 1975 to extend for an additional year the deadline for the Office of Technology Assessment study of Federal coal leasing to be undertaken pursuant to such Act.

H.R. 8354. July 15, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 8355. July 15, 1977. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 8356. July 15, 1977. International Relations. Establishes a Commission on Proposals for a National Academy of Peace and Conflict Resolution to study the establishment of such academy and alternative proposals which would assist the Federal Government in promoting peace. Directs the Commission to review the theory and techniques of conflict resolution and the institutions for conflict resolution

H.R. 8357. July 15, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase from 22 to 26 the age until which child's insurance benefits may be paid on the basis of full-time student status, and the age before which a child must have become disabled to qualify for disability benefits.

H.R. 8358. July 15, 1977. House Administration. Provides for the designation of the library of any nationally accredited law school as a depository library upon request of such law school

H.R. 8359. July 15, 1977. Judiciary. Amends the Clayton Antitrust Act to entitle the United States, natural persons, and State attorney generals acting as parens patriae for persons residing within the State to bring civil actions under such Act for injury in fact, whether direct or indirect.

H.R. 8360. July 15, 1977. Judiciary. Permits Federal agencies to award fees and costs of participation of persons who contribute substantially to the agency's decisionmaking process and whose interest in the outcome is comparatively small, or who could not participate but for such an award. Permits courts of the United States to award litigation costs to parties seeking judicial review of an agency's action if such person is afforded the relief sought, an important public purpose is served by such action, and such person's economic interest in the outcome is comparatively small or such person could not bring such action but for such award.

H.R. 8361. July 15, 1977. Interstate and Foreign Commerce. Amends the Railroad Safety Act of 1970 to direct the Secretary of Transportation to establish a Railroad Safety Advisory Committee to make recommendations to the Secretary with respect to rail safety.

Authorizes State agencies to carry out investigative and surveillance activities in connection with railroad safety laws and regulations.

Authorizes such an agency, with respect to violations of railroad safety laws or regulations within such State, to apply to the United States district court in the district where such violation occurred for injunctive relief.

H.R. 8362. July 15, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 8363. July 15, 1977. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 8364. July 15, 1977. Judiciary. Makes the United States liable, through actions in the Courts of Claims, for damages caused by persons entitled to diplomatic immunity if the claimant has no other recourse due to such immunity.

H.R. 8365. July 15, 1977. Interstate and Foreign Commerce. Amends the Hours of Service Act to reduce the hours which a railroad employee may be on duty without at least ten consecutive hours off duty.

H.R. 8366. July 15, 1977. Interior and Insular Affairs. Revises the boundaries of the John Day Fossil Beds National Monument in the State of Oregon.

H.R. 8367. July 15, 1977. Ways and Means. Amends the Tariff Act of 1930 to revise customs procedures. Amends the Tariff Schedules of the United States with respect to the importation of alcohol, tobacco, and other articles for personal use.

H.R. 8368. July 15, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the method of computing OASDI benefits by requiring that the primary insurance amount be based on an individual's ten or fewer years of highest earnings.

Requires the recomputation in accordance with this Act of the primary insurance amount of an individual entitled to OASDI benefits who has wages or self-employment income after 1978.

H.R. 8369. July 15, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 8370. July 15, 1977. Judiciary. Amends the Clayton Antitrust Act to entitle the United States, natural persons, and State attorney generals acting as parens patriae for persons residing within the State to bring civil actions under such Act for injury in fact to business or property as a direct or indirect purchaser or seller or otherwise.

H.R. 8371. July 15, 1977. Judiciary. Declares a certain individual conditionally eligible for naturalization under the Immigration and Nationality Act.

H.R. 8372. July 15, 1977. Judiciary. Deems a certain individual to have satisfied specified provisions of the Social Security Act for purposes of determining his entitlement to disability insurance benefits under such Act.

H.R. 8373. July 15, 1977. Judiciary. Deems the services rendered by a certain individual in the Public Health Service during a specified period as active, creditable service in the Armed Forces of the United States for purposes of determining his entitlement to retired pay.

H.R. 8374. July 18, 1977. Public Works and Transportation; Interstate and Foreign Commerce. Amends the Appalachian Regional Development Act of 1965 to direct the Appalachian Regional Commission to (1) continue assistance at current levels to child development programs under such Act; and (2) conduct a study of such programs with special regard to a procedure to transfer complete sponsorship of such programs from the Commission to State or private agencies.

Directs the Commission to report its findings to the Congress within one year after enactment of this Act. Authorizes appropriations necessary to carry out this Act.

H.R. 8375. July 18, 1977. Judiciary; Education and Labor. Prohibits affirmative action programs regarding discrimination in federally assisted programs, employment discrimination, Federal grantees or contractors, or Federal employment, from requiring quotas. Prohibits a finding of discrimination to be based solely upon the composition of the work force or membership in question. Prohibits relief in certain civil rights actions unless an act of discrimination has been committed. Prohibits any remedy in a civil rights action which establishes quotas. Prohibits requiring employers or contractors to collect data applicable to discrimination except pursuant to discovery procedures.

H.R. 8376. July 18, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to enter into contracts and make grants for the establishment and operation of voluntary Tay-Sachs disease screening, counseling, and information services.

H.R. 8377. July 18, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement.

H.R. 8378. July 18, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $750 the amount of lump-sum death payment allowed thereunder.

H.R. 8379. July 18, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for hearing aids and dentures under the supplementary medical insurance program.

H.R. 8380. July 18, 1977. Ways and Means. Amends the Internal Revenue Code to allow up to a $200 income tax deduction for one half of the expenses incurred for the installation and purchase of a teletypewriter for use by individuals whose sight, hearing, or speech is impaired.

H.R. 8381. July 18, 1977. Public Works and Transportation; Ways and Means. Authorizes the project for replacement of locks and dam 26 on the Mississippi River, Alton, Illinois, and Missouri. Makes certain inland and intracoastal waterways subject to this Act. Authorizes the Secretary of Transportation to study the imposition of any fuel tax on inland waterway users, alternate or supplemental charges, and related matters.

H.R. 8382. July 18, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain unemployed spouses of military personnel a $900 income tax deductions for payments into retirement savings.

H.R. 8383. July 18, 1977. Education and Labor. Amends the National Labor Relations Act to include as employers for the purposes of such Act States and political subdivisions thereof.

H.R. 8384. July 18, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 8385. July 18, 1977. Judiciary. Revises provisions imposing penalties for the commission of rape, including carnal knowledge of a female under age 16, within the special maritime and territorial jurisdiction of the United States to (1) set forth penalties for any unconsented sexual contact or penetration; (2) proscribe sexual contact or penetration with any person under age 16; (3) detail sentencing guidelines; and (4) prohibit introduction of evidence regarding a victim's prior sexual conduct absent a ruling by the court after an in camera hearing.

H.R. 8386. July 18, 1977. Veterans' Affairs. Increases the rates of specified veterans' educational assistance allowances, makes exceptions to the "85–15" and the two-year minimum period of course operation rules, and lowers the disability rating necessary to qualified a disabled veteran for employment and training assistance.

H.R. 8387. July 18, 1977. Banking, Finance and Urban Affairs. Sets forth requirements and restrictions respecting the use of electronic funds transfers by depository institutions.

H.R. 8388. July 18, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Transportation Safety Act of 1974 to require rail or motor carriers transporting hazardous materials to notify the chief executive of any State through which such materials are to be transported at least 24 hours before such shipment.

H.R. 8389. July 18, 1977. Banking, Finance and Urban Affairs. Authorizes the President to present, in the name of Congress, a gold commemorative medal to the widow of Robert F. Kennedy.

H.R. 8390. July 18, 1977. Armed Services. Authorizes supplemental appropriations for fiscal year 1978 for the procurement of aircraft and missiles by the Air Force. Authorizes supplemental appropriations for such fiscal year for research, development, test, and evaluation by the Air Force and the Defense agencies.

H.R. 8391. July 18, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide for Congressional review of the Federal Reserve's monetary policy.

Prohibits discrimination in the selection of the Board of Directors of the Federal Reserve System.

Prohibits Federal Reserve System officials and employees from participating in specified activities which affect personal financial interests and from lobbying with institutions subject to the regulatory authority of the Federal Reserve System.

H.R. 8392. July 18, 1977. Interstate and Foreign Commerce. Amends the Railroad Safety Act of 1970 to direct the Secretary of Transportation to issue regulations requiring that the locomotives of all trains be equipped with strobe lights for safety purposes.

H.R. 8393. July 18, 1977. Interstate and Foreign Commerce. Amends the Department of Transportation Act and the Regional Rail Reorganization Act to revise the time periods during which Federal financial assistance shall be available for rail service assistance programs under such Acts.

H.R. 8394. July 18, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to make additional refuse revenue sharing payments, on a fiscal year basis, to each local government unit in which entitlement lands are located. Sets forth the method for computing such payments based on the acreage of the National Wildlife Refuse System within such unit.

Directs the Secretary to make additional payments to counties wherein certain lands acquired by the United States for the National Wildlife Refuge System, which were subject to local real property taxes, are located. Requires such counties to distribute such payments to local government units which have incurred losses of such taxes due to the acquisition.

H.R. 8395. July 18, 1977. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 8396. July 18, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on annual basis as at present).

H.R. 8397. July 18, 1977. Interior and Insular Affairs. Declares a specified tract of land in Pinal County, Arizona, a part of the Papago Indian Reservation.

H.R. 8398. July 18, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for the electrical fuel surcharges imposed by public utilities.

H.R. 8399. July 18, 1977. Judiciary. Expands Federal Government liability for the acts of its officers who routinely perform investigative, inspection, or law enforcement functions to include certain intentional and ministerial acts.

States that such liability shall be exclusive and preclude any remedy against officers individually.

Directs the Attorney General to pay the attorney fees incurred by such an officer in connection with a criminal investigation into such officer's official actions.

H.R. 8400. July 18, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to authorize the President to enter into agreements establishing reciprocal arrangements between the old age, survivors, and disability insurance program established by such title and the social security system of any foreign country.

Amends the Internal Revenue Code of 1954 to exempt from taxation employment income to the extent that such income is taxed by a country that is a signatory to the agreement.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2829. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of the intention of the Department of Defense to obligate funds available in the Defense Stock Fund for war reserve stocks of bulk fuels, pursuant to section 835 of Public Law 95–111; to the Committee on Appropriations.

2830. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting reports covering the transition quarter and fiscal year 1977 listing the 10 architectural engineering firms receiving the largest dollar total of contracts from the Army in the categories of civil works, military construction, and work for foreign governments, pursuant to section 604 of Public Law 94–431; to the Committee on Armed Services.

2831. A letter from the District of Columbia Auditor, transmitting two reports entitled "Failure of Agencies To Give Timely Notice to ANC's" and "Lack of Enforcement of Health and Safety Requirements at Elderly Feeding Sites," pursuant to section 455 of Public Law 93–198; to the Committee on the District of Columbia.

2832. A letter from the Executive Secretary to the Department of Health, Education, and Welfare; transmitting notice of proposed final regulations governing the National Institute of Education's education and work grants programs, pursuant to section 431 (d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2833. A letter from the Secretary of Health, Education, and Welfare, transmitting a report covering fiscal year 1977 on personal property donated to public health and educational institutions and civil defense organizations under section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and real property disposed of to public health and educational institutions under section 203(k) of the act, pursuant to section 203(o) of the act; to the Committee on Government Operations.

2834. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken in response to the recommendations contained in the 1976 annual report of the National Advisory Council on Adult Education, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2835. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken in response to the recommendations contained in the 1976 annual report of the National Advisory Council on the Education of Disadvantaged Children, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2836. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting the annual report for fiscal year 1977 on the Agency's disposal of foreign excess property, pursuant to section 404 (d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2837. A letter from the Assistant Secretary of Agriculture for Administration, transmitting notice of a proposed change in the Department's computer facilities, pursuant to 5 U.S.C. 522a(o); to the Committee on Government Operations.

2838. A letter from the General Counsel, Copyright Office, Library of Congress, transmitting notice of proposed new records systems, pursuant to 5 U.S.C. 55a(o); to the Committee on Government Operations.

2839. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the judgment funds awarded in docket 22–C to the Lipan Apache Tribe and the Mescalero Apache Tribe of Indians before the Indian Claims Commission, pursuant to section 2(a) and 4 of Public Law 93–134; to the Committee on Interior and Insular Affairs.

2840. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Woodward Associates, Inc., San Diego, Calif., for a research project entitled "Develop and Demonstrate Improved Truck Ladders," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2841. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed technical assistance agreement for the production of certain military equipment in Japan (MC–8–78), pursuant to section 36(d) of the Arms Export Control Act; to the Committee on International Relations.

2842. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting a report covering the month of August 1977 on gasoline service station market shares, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2843. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Guilford Shores, Conn., in response to a resolution of the House Committee on Public Works adopted December 2, 1971; to the Committee on Public Works and Transportation.

2844. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Prairie du Rocher and Modoc Levee and Drainage, Randolph County, Ill., in partial response to a resolution of the House Committee on Public Works adopted June 17, 1948, and to a resolution of the Senate Committee on Public Works adopted July 18, 1957; to the Committee on Public Works and Transportation.

2845. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Elk River and tributaries, Maryland, in response to a resolution of the House Committee on Public Works adopted May 10, 1962; to the Committee on Public Works and Transportation.

2846. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Northeast (Cape Fear) River basin, North Carolina, in response to a resolution of the House Committee on Flood Control adopted October 8, 1945; to the Committee on Public Works and Transportation.

2847. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Girtys Run, Millvale, Pa., in response to section 5 of the Flood Control Act of 1937; to the Committee on Public Works and Transportation.

2848. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Pollys Gut area of the St. Lawrence Seaway, in response to a resolution of the House Committee on Public Works adopted April 11, 1974, and in partial response to a resolution of the Senate Committee on Public Works adopted June 15, 1966; to the Committee on Public Works and Transportation.

2849. A letter from the Secretary of Agriculture, transmitting the annual report on the Food for Peace program for the transition quarter and fiscal year 1977, pursuant to section 408(a) of the Agricultural Trade Development and Assistance Act of 1954; jointly, to the Committees on Agriculture, and International Relations.

2850. A letter from the Chairman, Federal Election Commission, transmitting a copy of correspondence from the Commission to the President, pursuant to section 310(d)(1) of the Federal Election Campaign Act, as amended; jointly, to the Committees on Appropriations, and House Administration.

2851. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of the Federal crop insurance program (FOD–77–7, December 13, 1977); jointly to the Committees on Government Operations, and Agriculture.

2852. A letter from the Comptroller General of the United States, transmitting a report on the need for better management of Department of Defense communications (LCD–77–106, December 14, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2853. A letter from the Comptroller General of the United States, transmitting a report on improvements the Consumer Product Safety Commission should make to speed up the issuance of standards for protecting consumers (HRD–78–3, December 12, 1977); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

2854. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the national liquified natural gas import policy (EMD–78–19, December 12, 1977); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

2855. A letter from the Comptroller General of the United States; transmitting a report recommending improvements in the nonappropriated fund pay systems (FPCD–77–51, December 14, 1977), jointly, to the Committees on Government Operations, and Post Office and Civil Service.

2856. A letter from the Comptroller General of the United States, transmitting a report on opportunities for large savings by altering some inland waterways operations (CED–78–12, December 12, 1977) jointly, to the Committees on Government Operations, (CED–78–12, December 12, 1977); jointly, to the Committees on Government Operations, and Public Works and Transportation.

2857. A letter from the Chairman, Commission on Administrative Review, U.S. House of Representatives, transmitting a report on the legislative uses of computers in State legislatures, pursuant to section 5 of House Resolution 1368, 94th Congress (H. Doc. No. 95–271); Ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted Dec. 13, 1977]

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 8729. A bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes; with amendment (Rept. No. 95–836). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Dec. 15, 1977*]

Mr. ULLMAN: Committee of conference. Conference report on H.R. 9346. (Rept. No. 95–837). Ordered to be printed.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 935. Resolution providing for the consideration of the conference report on the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations (Rept. No. 95–838). Referred to the House calendar.

Mr. PEPPER: Committee on Rules. House Resolution 937. Resolution providing for the consideration of the conference report on (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes (Rept. No. 95–839). Referred to the House calendar

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Report on Allocation of Budget Totals to Subcommittee under Second Concurrent Budget Resolution for fiscal year 1978 (Rept. No. 95–840). Referred to the Committee of the Whole House on the State of the Union.

Mr. WOLFF: Select Committee on Narcotics Abuse and Control. Annual Report for the Year 1977 of the Select Committee on Narcotics Abuse and Control (Rept. No. 95–841). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 10290. A bill to authorize modernization and improvement of the Belle Fourche project and to integrate the project into the Pick-Sloan Missouri Basin program; to the Committee on Interior and Insular Affairs.

By Mr. BEDELL (for himself, Mr. Cavanaugh, Mr. Glickman, Mr. Hughes, Mr. Miller of Ohio, and Mr. Nedzi):

H.R. 10291. A bill to amend title 18, United States Code, to prohibit Members of the Congress from using official congressional stationery in mass mailings for any purpose other than official congressional business; to the Committee on the Judiciary.

By Mr. BRODHEAD:

H.R. 10292. A bill to provide for equal periodic retirement benefit payments regardless of sex, and for other purposes; to the Committee on Education and Labor.

By Mr. BROWN of Ohio:

H.R. 10293. A bill to amend the Emergency Natural Gas Act of 1977 to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high-priority users; and to provide authority for short-term purchases of natural gas; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER (for himself and Mr. Murphy of New York):

H.R. 10294. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation amounts received under certain scholarship programs; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN (for himself, Mr. Emery, Mr. Murphy of Pennsylvania, Mr. Santini, Mr. Patten, Mr. Ketchum, Mr. Lagomarsino, Mr. Cederberg, Mr. Whitehurst, Mr. Hughes, Mr. Bevill, Mr. Butler, Mr. Eilberg, Mr. McCormack, Mr. Derwinski, Mr. Guyer, Mr. Harrington, Mr. Skelton, Mr. Edwards of Oklahoma, Mr. Leach, Mr. Pattison of New York and Mr. Cunningham):

H.R. 10295. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and related purposes; jointly, to the Committees on International Relations, the Judiciary and Public Works and Transportation.

By Mr. COCHRAN of Mississippi:

H.R. 10296. A bill to provide improved home health care services under the medicare and medicaid programs; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. COLLINS of Texas:

H.R. 10297. A bill to amend section 213 of the Housing and Community Development Act of 1974; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONABLE (for himself, Mr. Armstrong, Mrs. Lloyd of Tennessee, Mr. Marriott, Mr. Steers, and Mr. Symms):

H.R. 10298. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. CONABLE (for himself, and Mr. Dornan):

H.R. 10299. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Ways and Means.

By Mr. CONABLE (for himself and Mr. Preyer):

H.R. 10300. A bill to amend section 4940 of the Internal Revenue Code of 1954 to reduce the excise tax based on the investment income of private foundations from 4 percent to 2 percent; to the Committee on Ways and Means.

By Mr. CORCORAN of Illinois:

H.R. 10301. A bill to expedite decisions concerning the temporary storage of spent fuel and the permanent storage of spent fuel and other radioactive waste, including the selection of sites for storage facilities, the determination of whether the Federal Government should take title to such fuel and such waste, and the amount of storage fees which should be charged; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Rules

By Mr. CORMAN (for himself, Mr. Baucus, Mr. Bowen, Mr. Fowler, Mr. Harris, Mrs. Lloyd of Tennessee, Mr. Luken, Mr. Pritchard, Mrs. Spellman, Mr. Steers, and Mr. Whalen):

H.R 10302. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. Breckinridge, Mr. Cornwell, and Mr. Hubbard):

H.R. 10303. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself and Mr. Mattox):

H R. 10304. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORNELL (for himself, Mrs. Heckler, Mr. Badillo, Mr. Bedell, Mr. Bingham, Mr. Conte, Mr. Cornwell, Mr. Coughlin, Mr. Dent, Mr. Drinan, Mr. Eilberg, Mr. Emery, Mr. Ertel, Mr. Fithian, Mr. Flood, Mr. Hughes, Mr. Kostmayer, Mr. Le Fante, Mrs. Meyner, Mr. Murphy of New York, Mr. Murtha, Mr. Nix, Mr. Pepper, Mr. Price, and Mr. Roe):

H.R. 10305. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational program for the purposes of offsetting the differences in State educational costs, and to extend the delimiting period for veterans enrolled in educational programs; to the Committee on Veterans' Affairs.

By Mr. CORNELL (for himself, Mrs. Heckler, Mr. Simon, Mr. Vento, Mr. Walgren, Mr. Yatron, and Mrs. Schroeder):

H.R. 10306. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for the purposes of offsetting the differences in State educational costs, and to extend the delimiting period for veterans enrolled in educational programs; to the Committee on Veterans' Affairs.

By Mr. COTTER:

H.R. 10307. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CUNNINGHAM (for himself, Mr. Taylor, and Mr. Marriott):

H.R. 10308. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 10309. A bill to amend the Federal Reserve Act to allow the President to appoint an individual to serve on the Federal Reserve Board whom he intends to designate as chairman who is from the same Federal Reserve district as a current member of the Board; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EDWARDS of California:

H.R. 10310. A bill to amend section 557 of title 5, United States Code, to provide for the disclosure of agency findings and recommendations in bank chartering and branching proceedings and in other related proceedings and to make the provisions of subsection (d) (relating to ex parte communications) applicable to such proceedings; jointly, to the Committees on Government Operations, and the Judiciary.

By Mr. FAUNTROY (for himself, Mr. Diggs, Mr. Reuss, and Mr. McKinney):

H.R. 10311. A bill to amend the District of Columbia Redevelopment Act of 1945, and for other purposes; to the Committee on the District of Columbia.

By Mr. FISHER:

H.R. 10312. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. FITHIAN:

H.R. 10313. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 with respect to juvenile delinquency in schools; to the Committee on Education and Labor.

By Mr. FORSYTHE:

H.R. 10314. A bill to declare a portion of the Delaware River in Burlington County, N.J., nonnavigable; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENZEL (for himself, Mr. LaFalce, Mr. Spence, Mrs. Lloyd of Tennessee, Mr. Nedzi, Mr. Cederberg, Mr. Ottinger, Mr. Whitehurst, Mr. Flynt, Mr. Cotter, Mr. Regula, Mr. Vander Jagt, Mrs. Pettis, Mr. Barnard, Mr. Hyde, Mr. O'Brien, Mr. Roe, Mr. Coughlin, Mr. Charles Wilson of Texas, Mr. Harrington, Mr. Quie, Mr. Nolan, and Mr. McKinney):

H.R. 10315. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition, to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 10316. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. GUDGER:

H.R. 10317. A bill to provide for the protection of Palmer's Chapel within the Great Smoky Mountains National Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HARRINGTON:

H.R. 10318. A bill to encourage the development of appropriate stabilization programs by the International Monetary Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JEFFORDS:

H.R. 10319. A bill to amend the Federal Crop Insurance Act for the purpose of directing the Secretary of Agriculture to establish a 3-year pilot program to insure losses incurred by farmers and ranchers as a result of certain cattle developing brucellosis, and for other purposes; to the Committee on Agriculture.

By Mr. JOHNSON of Colorado (for himself, Mr. Ketchum, Mr. McHugh, Mr. Edgar, Mr. Seiberling, Mr. Brodhead, Mr. McCloskey, Mr. Vento, Mr. Lagomarsino, Mr. Frenzel, Mr. Ottinger, Mr. LaFalce, Mr. Hyde, Mr. Edwards of California, Mr. Symms, Mr. Jacobs, and Mr. Maguire):

H.R. 10320. A bill to direct the Secretary of Agriculture to conduct a study to determine the probable economic effects of a cessation of Federal assistance which serves to promote tobacco production and the manufacturing and marketing of tobacco products for human consumption; to the Committee on Agriculture.

By Mr. LAGOMARSINO (for himself, Mr. Baucus, and Mr. Krebs):

H.R. 10321. A bill to provide rental assistance under section 8 of the United States Housing Act of 1937 for owners of mobile homes who rent the real property on which their mobile homes are located; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LUKEN:

H.R. 10322. A bill to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. McCLORY (for himself and Mr. Eilberg):

H.R. 10323. A bill to amend sections 301 and 350 of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. McFALL:

H.R. 10324. A bill to amend section 4 of the Federal Mine Safety and Health Act of 1977; to the Committee on Education and Labor.

By Mr. McKINNEY (for himself, Mr. Mazzoli, Mr. Edwards of California, Mr. Fauntroy, Mr. Steers, Mr. Dellums, Mr. Marks, and Mr. Diggs):

H.R. 10325. A bill to permit suits under section 1983 of title 42, United States Code, against persons acting under color of any law or custom of the District of Columbia; to the Committee on the Judiciary.

By Mr. MAGUIRE:

H.R. 10326. A bill to require certain Federal agencies to analyze complaints regarding their delivery of services and benefits and report their findings to Congress; to the Committee on Government Operations.

By Mr. MICHEL (for himself, Mr. Brown of Michigan, Mr. Don H. Clausen, Mr. Collins of Texas, Mr. Derwinski, Mr. Dickinson, Mr. Guyer, Mrs. Holt, Mr. Kemp, Mr. Kindness, Mr. Lagomarsino, Mr. Lott, Mr. Livingston, Mr. Taylor, and Mr. Whitehurst):

H.R. 10327. A bill to amend the Social Security Act to make needed improvements in the program of aid to families with dependent children and to provide fiscal relief for State and local welfare costs; to the Committee on Ways and Means.

By Mr. MILFORD:

H.R. 10328. A bill to amend the Internal Revenue Code of 1954 to provide that the adjusted gross income limitation will apply to all taxpayers eligible for the credit for the elderly and increase the amount of such limitation; to the Committee on Ways and Means.

By Mr. MOFFETT:

H.R. 10329. A bill to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. Lundine, Mr. Ammerman, Mr. AuCoin, Mr. Baldus, Mr. Baucus, Mr. Beard of Rhode Island, Mr. Bingham, Mr. Brademas, Mr. Brown of California, Mr. Carr, Mr. Conyers, Mr. Corcoran of Illinois, Mr. Cornell, Mr. Cornwell, Mr. Corrada, Mr. Downey, Mr. Drinan, Mr. Edwards of California, Mr. Eilberg, Mrs. Fenwick, Mr. Fraser, Mr. Frenzel, and Mr. Gephardt):

H.R. 10330. A bill to provide for a program of projects to promote economic stability by increasing productivity through the better use of human resources in employment, to encourage the development of worker and management capabilities and to improve job security in order to enhance the well-being of workers and the quality of work life; jointly, to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. Lundine, Mr. Harrington, Mr. Hawkins, Mr. Hollenbeck, Ms. Holtzman, Mr. Hughes, Mr. Jeffords, Mr. Jenrette, Mr. Kastenmeier, Ms. Keys, Mr. Kostmayer, Mr. Lederer, Mr. Le Fante, Mr. Lehman, Mr. McHugh, Mr. Markey, Ms. Mikulski, Mr. Mikva, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of New York, Mr. Mitchell of Maryland, Mr. Moakley, and Mr. Murphy of Pennsylvania):

H.R. 10331. A bill to provide for a program of projects to promote economic stability by increasing productivity through the better use of human resources in employment, to encourage the development of worker and management capabilities and to improve job security in order to enhance the well-being of workers and the quality of work life; to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. Lundine, Mr. Nix, Mr. Nowak, Mr. Ottinger, Mr. Patterson of California, Mr. Pattison of New York, Mr. Pease, Mr. Reuss, Mr. Rosenthal, Mr. Roybal, Mr. Sarasin, Mr. Scheuer, Mr. Seiberling, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Walgren, and Mr. Weiss):

H.R. 10332. A bill to provide for a program of projects to promote economic stability by increasing productivity through the better use of human resources in employment, to encourage the development of worker and management capabilities and to improve job security in order to enhance the well-being of workers and the quality of work life; jointly, to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. MONTGOMERY (by request):

H.R. 10333. A bill to amend section 101 of title 38, United States Code, to include within the definition of active military, naval, or air service for purposes of laws administered by the Veterans' Administration any period of inactive duty training during which the individual concerned was disabled or died from a disease; to the Committee on Veterans' Affairs.

H.R. 10334. A bill to provide additional benefits to veterans injured while in treatment at a Veterans' Administration health care facility or in a program of vocational rehabilitation; to the Committee on Veterans' Affairs.

H.R. 10335. A bill to amend title 38 of the United States Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least 1 year would be automatically entitled to dependency and indemnity compensation; to the Committee on Veterans' Affairs.

H.R. 10336. A bill to amend title 38, United States Code, to change the minimum disability rating a veteran must have in order to receive additional compensation for dependents from 50 per centum to 10 percent; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (for himself, Mr. Roberts and Mr. Hammerschmidt):

H.R. 10337. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes; to the Committee on Veterans' Affairs.

H.R. 10338. A bill to amend title 38, United States Code, to provide for a two-step aid and attendance compensation payment system for certain severely disabled veterans; to the Committee on Veterans' Affairs.

H.R. 10339. A bill to amend title 38, United States Code, to increase the rate of compensation payable to veterans who have lost three extremities as the result of a service-connected disability; to the Committee on Veterans' Affairs.

By Mr. NICHOLS (for himself, Mr. Mitchell of New York, Mr. Bennett, Mr. Beard of Tennessee, Mr. Sisk, Mr. Trible, Mr. Leggett, Mr. Badham, Mr. Aspin, Mr. Davis, Mrs. Schroeder, Mr. Won Pat, Mr. Lloyd of California, Mr. Downey, and Mr. Jenrette):

H.R. 10340. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain otherwise ineligible reservists who did not perform active duty during a period of war, and for other purposes; to the Committee on Armed Services.

By Mr. NICHOLS (for himself, Mr. Mitchell of New York, Mr. Montgomery, Mrs. Holt, Mr. Aspin, Mr. Beard of Tennessee, Mr. Davis, Mr. Trible, Mrs. Schroeder, Mr. Badham, Mr. Won Pat, Mr. Lloyd of California, and Mr. Downey):

H.R. 10341. A bill to amend title 10, United States Code, to authorize reserve enlisted members of the Army and the Air Force to retire with 20 years of service; to the Committee on Armed Services.

By Mr. NICHOLS (for himself, Mr. MITCHELL of New York, Mr. SISK, Mr. BROYHILL, Mr. DAVIS, Mr. BEARD of Tennessee, Mrs. SCHROEDER, Mr. TRIBLE, Mr. WON PAT, Mr. BADHAM, Mr. LLOYD of California, and Mr. DOWNEY):

H.R. 10342. A bill to revise the rule for recalculation of military retired or retainer pay to reflect later active duty with respect to later active duty performed between October 1, 1963 and October 1, 1973; to the Committee on Armed Services.

By Mr. NICHOLS (for himself, Mr. MITCHELL of New York, Mr. DAVIS, Mr. BEARD of Tennessee, Mrs. SCHROEDER, Mr. TRIBLE, Mr. WON PAT, Mr. BADHAM, Mr. LLOYD of California, and Mr. DOWNEY):

H.R. 10343. A bill to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967; to the Committee on Armed Services.

By Mr. PEASE (for himself, Mr. HANSEN, Mr. WEISS, Mr. BONKER, Mr. EDWARDS of California, Mr. MATTOX, Mr. STUDDS, Mr. WINN, Mr. BEILENSON, Mr. ABDNOR, Mr. MINETA, Mr. RAILSBACK, Mr. MARTIN, Mr. EDGAR, Mr. PANETTA, Mr. MARKEY, Mr. ANDERSON of California, Mr. LE FANTE, Mr. BADILLO, Mr. LEVITAS, Mr. KOSTMAYER, Mr. BLANCHARD, Mr. DODD, and Mr. WALKER):

H.R. 10344. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

By Mr. PEASE (for himself, Mr. BLOUIN, Mr. OTTINGER, Mr. COTTER, Mr. LAFALCE, Mr. D'AMOURS, Mr. FOWLER, Mr. CAPUTO, and Ms. OAKAR):

H.R. 10345. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

By Mr. PEASE (for himself, Mr. HANSEN, Mr. WEISS, Mr. BONKER, Mr. EDWARDS of California, Mr. MATTOX, Mr. STUDDS, Mr. WINN, Mr. BEILENSON, Mr. ABDNOR, Mr. MINETA, Mr. RAILSBACK, Mr. MARTIN, Mr. EDGAR, Mr. PANETTA, Mr. MARKEY, Mr. ANDERSON of California, Mr. LE FANTE, Mr. BADILLO, Mr. LEVITAS, Mr. KOSTMAYER, Mr. BLANCHARD, Mr. DODD, and Mr. WALKER):

H.R. 10346. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. BLOUIN, Mr. OTTINGER, Mr. COTTER, Mr. LAFALCE, Mr. D'AMOURS, Mr. FOWLER, Mr. CAPUTO, and Ms. OAKAR):

H.R. 10347. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. HANSEN, Mr. WEISS, Mr. BONKER, Mr. EDWARDS of California, Mr. MATTOX, Mr. STUDDS, Mr. WINN, Mr. BEILENSON, Mr. ABDNOR, Mr. MINETA, Mr. RAILSBACK, Mr. MARTIN, Mr. EDGAR, Mr. PANETTA, Mr. MARKEY, Mr. ANDERSON of California, Mr. LE FANTE, Mr. BADILLO, Mr. LEVITAS, Mr. KOSTMAYER, Mr. BLANCHARD, Mr. DODD, and Mr. WALKER):

H.R. 10348. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. OTTINGER, Mr. COTTER, Mr. LAFALCE, Mr. D'AMOURS, Mr. FOWLER, Mr. CAPUTO, and Ms. OAKAR):

H.R. 10349. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Ways and Means.

By Mr. PEPPER (for himself and Mr. RINALDO):

H.R. 10350. A bill making supplemental appropriations for the Inspector General of the Department of Health, Education, and Welfare; to the Committee on Appropriations.

By Mr. QUILLEN:

H.R. 10351. A bill to provide that local governments shall be entitled to payments from the Federal Government with respect to certain Federal lands which were owned or administered by any local government, or by any State, at the time title to such lands was conveyed to the Federal Government; to the Committee on Interior and Insular Affairs.

By Mr. ROBERTS:

H.R. 10352. A bill to amend title 38, United States Code, to clarify the intent of Congress in providing for exemption from taxation of that amount of military retirement pay paid to a veteran equal to the amount of tax-free veterans' compensation or pension benefit to which the veteran is determined to be retroactively entitled but for the receipt of such military retirement pay; to the Committee on Veterans' Affairs.

By Mr. ROBERTS (by request):

H.R. 10353. A bill to amend title 38 of the United States Code to provide certain National Service Life Insurance policyholders an opportunity to double their National Service Life Insurance coverage; to the Committee on Veterans' Affairs.

H.R. 10354. A bill to amend title 38 of the United States Code to provide certain veterans insured under the provisions of section 722(a) of title 38, United States Code (service disabled veterans' insurance), with the opportunity to purchase an additional $10,000 of such insurance; to the Committee on Veterans' Affairs.

H.R. 10355. A bill to amend title 38, United States Code, in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of permanent and total service-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. ROBERTS (for himself, Mr. BRINKLEY, and Mr. HAMMERSCHMIDT):

H.R. 10356. A bill to amend title 38, United States Code, to liberalize the eligibility requirements for home, condominium, and mobile home loans for veterans of the Vietnam era; to the Committee on Veterans' Affairs.

By Mr. ROE (for himself, Mr. LEVITAS, Mr. TUCKER, and Mr. HARKIN):

H.R. 10357. A bill to establish a grant program for safety projects at certain general aviation airports, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROGERS (for himself and Mr. CARTER):

H.R. 10358. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise and strengthen the authority of the Secretary of Health, Education, and Welfare under that act with respect to the distribution and labeling of food, and for other purposes; to the Committee on Interstate and Foreign Commerce.

Mr. SARASIN (for himself, Mr. EDGAR, Mr. FINDLEY, Mr. LUKEN, Mr. NOLAN, Mr. QUIE, Mr. RAILSBACK, and Mr. ROE):

H.R. 10359. A bill to improve the safety of products manufactured and sold in interstate commerce, to reduce the number of deaths and injuries caused by such products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SEIBERLING:

H.R. 10360. A bill to amend the Internal Revenue Code of 1954 to allow, as a credit against income tax, certain amounts of social security taxes paid by an employee, and to make the earned income credit permanent; to the Committee on Ways and Means.

By Mrs. SPELLMAN (for herself, Mr. BARNARD, Mr. MITCHELL of Maryland, and Mr. TSONGAS):

H.R. 10361. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TRIBLE (for himself, Mr. FINDLEY, Mr. HARKIN, Mr. RAILSBACK, and Mr. ROE):

H.R. 10362. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 10363. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting surplus school facilities to efficient, alternate uses, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 10364. A bill to provide grants for pilot early childhood and family educational programs; to the Committee on Education and Labor.

By Mr. VENTO (for himself, Mr. ANNUNZIO, Mr. DOWNEY, Mr. EILBERG, Mr. HARRINGTON, Mr. LAFALCE, Mr. PEASE, Mr. SEIBERLING, Mrs. SPELLMAN, Mr. STEERS, and Mr. WEISS):

H.R. 10365. A bill to promote further the accountability of the Federal Reserve System; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VENTO (for himself, Mr. GILMAN, Mr. LAFALCE, and Mr. MILLER of California):

H.R. 10366. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to require the Nuclear Regulatory Commission to establish and enforce standards for the safe, long-term storage of high-level radioactive wastes, spent fuel rods, and any other radioactive wastes containing transuranic elements; to require the Energy Research and Development Administration to restore the background radiation levels at abandoned uranium mine and mill sites to levels which existed before operations commenced at the sites; to permit the States to establish and enforce nuclear waste storage standards which are more stringent than Federal standards; and for other purposes; jointly, to the Committees on Armed Services, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. ALEXANDER:

H.R. 10367. A bill to amend the provision of Public Law 88-482 relating to the imposition of quotas on certain meat and meat products; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.R. 10368. A bill to amend the Federal Aviation Act of 1958 relating to eligibility for registration of aircraft; to the Committee on Public Works and Transportation.

By Mr. BALDUS:

H.R. 10369. A bill to authorize the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with advice and counseling on management, development, technical information, product planning and development, and for other purposes; to the Committee on Small Business.

By Mr. BENNETT (for himself, Mr. Guyer, Mr. Kindness, Mrs. Lloyd of Tennessee, Mr. Stockman, Mr. Spence, Mr. Walker, and Mr. Whitehurst):

H.R. 10370. A bill to prohibit any act or threat of violence in a labor dispute and any conspiracy to accomplish such act or threat and to impose criminal and civil penalties therefor; to the Committee on the Judiciary.

By Mr. BIAGGI (for himself and Mr. Treen):

H.R. 10371. A bill to facilitate the enforcement by the Coast Guard of laws relating to the importation of marihuana, cocaine, and heroin, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BRINKLEY (for himself and Mr. Glickman):

H.R. 10372. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. BROWN of Ohio:

H.R. 10373. A bill to extend the Emergency Natural Gas Act of 1977; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H.R. 10374. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and without any ceiling on the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mrs. CHISHOLM (for herself, Mr. Hawkins, Mr. Simon, Mr. Blouin, Mr. Corrada, Mr. Zeferetti, Mr. Clay, Mr. Moakley, Mr. Mitchell of Maryland, Mr. Stokes, Mr. Vento, Mr. Baldus, Mrs. Collins of Illinois, Mr. Harrington, Mr. Richmond, Mr. Dellums, Mr. Diggs, and Mr. Carr):

H.R. 10375. A bill to amend title I of the Elementary and Secondary Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mr. DEVINE (for himself, Mr. Rudd, and Mr. Del Clawson):

H.R. 10376. A bill to provide a rule for the consideration of constitutional amendments proposed to the States that would allow the States to rescind ratifications in certain circumstances; to the Committee on the Judiciary.

By Mr. FINDLEY (for himself, Mr. Rostenkowski, Mr. Derwinski, Mr. Guyer, Mr. Bedell, Mr. Sebelius, Mr. Baldus, Mr. Nolan, Mr. Glickman, Mr. Quie, Mr. Andrews of North Dakota, Mr. Baucus, Mr. Blouin, Mr. Leach, and Mr. Ottinger):

H.R. 10377. A bill to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities and to authorize nonmarket economy countries to participate in certain programs of the Commodity Credit Corporation; to the Committee on International Relations.

By Mr. FLOOD:

H.R. 10378. A bill to amend the Clean Air Act to eliminate, with respect to sulfur dioxide emissions, the best available control technology requirement for anthracite coal-burning facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENZEL (for himself and Mr. Leach):

H.R. 10379. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 10380. A bill to terminate the air services agreement between the United States and the United Kingdom (known as the Bermuda 2 agreement), to direct the Civil Aeronautics Board to grant National Airlines permission to operate a Tampa-London air services route, to require that all new international air services agreements be subject to Senate approval, and to insure that the interests of affected air carriers and affected localities are represented at the negotiation of any international air services agreement; to the Committee on Public Works and Transportation.

By Mr. HANSEN (for himself, Mr. Lagomarsino, Mr. Lujan, Mr. Risenhoover, Mr. Schulze, Mr. Luken, and Mr. Burke of Florida):

H.R. 10381. A bill relating to a national referendum on the Panama Canal; to the Committee on House Administration.

By Mrs. HECKLER (for herself, Mr. Goodling, Mr. Murphy of New York, Mr. Gephardt, Mr. Tsongas, Mr. Marks, Mr. Early, Mr. Jenrette, Mr. Badham, Mr. Bafalis, Mr. Bowen, Mr. Burke of Massachusetts, Mr. Caputo, Mr. Cleveland, Mr. Collins of Texas, Mr. Conte, Mr. Crane, Mr. Dan Daniel, Mr. Fish, Mr. Gilman, Mr. Guyer, Mr. Horton, Mr. McDade, Mr. Murphy of Pennsylvania, and Mr. Patterson of California):

H.R. 10382. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

By Mrs. HECKLER (for herself, Mr. Winn, Mr. Emery, Mr. Marriott, Mr. Lagomarsino, Mr. Brown of Ohio, Mr. Lujan, Mrs. Lloyd of Tennessee, Mr. Livingston, Mr. Cunningham, Mr. Mazzoli, Mr. Conable, Mr. Cleveland, Mr. Young of Alaska, Mr. Whitehurst, Mr. Simon, Mr. Flowers, Mr. Harrington, Mr. Huckaby, Mr. Pattison of New York, and Mr. Grassley):

H.R. 10383. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

By Mr. JEFFORDS:

H.R. 10384. A bill to amend chapter 641 of title 10, United States Code, to close the Elk Hills Naval Petroleum Reserve to commercial production, and for other purposes; to the Committee on Armed Services.

By Mrs. KEYS (for herself and Mr. Glickman):

H.R. 10385. A bill providing for payment to cover the cost of storing wheat and feed grains; to the Committee on Agriculture.

By Mr. LEHMAN (for himself, Mrs. Schroeder, Mr. Solarz, and Mr. Howard):

H.R. 10386. A bill to amend title 13 of the United States Code to establish a decennial census procedure, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LIVINGSTON:

H.R. 10387. A bill to amend the Water Resources Development Act of 1974, relating to the hurricane-flood protection project on Lake Pontchartrain, La.; to the Committee on Public Works and Transportation.

By Mrs. LLOYD of Tennessee (for herself and Mr. Duncan of Tennessee):

H.R. 10388. A bill to amend the Department of Energy Organization Act to provide that all full-time temporary personnel of the Energy Research and Development Administration who are transferred under such act shall have the same rights of conversion to permanent full-time status as were granted by section 702(a) to full-time temporary personnel of the Energy Research Centers; to the Committee on Post Office and Civil Service.

By Mr. MOORHEAD of Pennsylvania:

H.R. 10389. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the amount of the personal exemptions and in the zero bracket amount which is the equivalent of the standard deduction of prior law; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself, Mr. Johnson of California, Mr. Biaggi, and Mr. Ruppe):

H.R. 10390. A bill to implement the International Convention for the Prevention of Pollution From Ships, 1973, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. NEDZI (for himself, Mr. Dingell, Mr. Ullman, Mr. Zablocki, Mr. Whitten, Mr. Mitchell of Maryland, Mr. Edgar, Mr. St Germain, Mr. Jones of North Carolina, Mr. Obey, Mr. Cornell, Mr. Kostmayer, Mr. Pattison of New York, Mr. Kildee, Mr. Rosenthal, Mr. Ammerman, Mr. Gore, Mr. Davis, Mrs. Spellman, Mr. Bingham, Mr. Hanley, Mr. Annunzio, Mr. Conable, Mr. Steiger, and Mrs. Heckler):

H.R. 10391. A bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship; to the Committee on House Administration.

By Mr. NEDZI (for himself, Mr. Thompson, Mr. Brademas, Mr. Wright, Mr. Frenzel, Mr. Quie, Mr. Fraser, Mr. Oberstar, Mr. Hagedorn, Mr. Nolan, Mr. Vento, Mr. Stangeland, Mr. Abdnor, Mr. Pressler, Mr. Simon, Mr. Ford of Michigan, Mr. Charles H. Wilson of California, Mr. Price, Mr. Foley, Mr. Bonior, Mr. Blanchard, Mr. Rostenkowski, Mr. Fascell, Mr. Mikva, and Mrs. Schroeder):

H.R. 10392. A bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship; to the Committee on House Administration.

By Mr. OBERSTAR (for himself, Mr. Marks, Mr. Mikva, Mr. Reuss, and Stanton):

H.R. 10393. A bill to restructure the financing of the activities of the Saint Lawrence Seaway Development Corporation; to the Committee on Public Works and Transportation.

By Mr. RODINO:

H.R. 10394. A bill to amend chapter 2, title 18, United States Code, and sections 101 and 902 of the Federal Aviation Act of 1958, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes; jointly, to the Committees on the Judiciary, and Public Works and Transportation.

By Mr. STEERS:

H.R. 10395. A bill to amend title 5, United States Code, to allow any Federal employee to be granted leave without pay for purposes of attending a funeral of an immediate relative; to the Committee on Post Office and Civil Service.

H.R. 10396. A bill to provide mandatory social security coverage for Members of Congress; to the Committee on Ways and Means.

By Mr. SYMMS (for himself and Mr. Milford):

H.R. 10397. A bill to expand the medical freedom of choice of consumers by amending the Federal Food, Drug and Cosmetic Act to provide that drugs will be regulated under that act solely to assure their safety; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 10398. A bill to amend title 38, United States Code, to extend the period of eligibility for veterans readjustment appointments in the Federal Government for veterans of the Vietnam era; to the Committee on Veterans' Affairs.

H.R. 10399. A bill to amend title 38, United States Code, to provide educational benefits, on a prorated basis, to children and spouses of veterans having permanent service-connected disabilities rated at not less than 80 percent, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. EDWARDS of California:

H.R. 10400. A bill to define the investigative authority of the Federal Bureau of Investigation, to create civil remedies for violations of rights under color of Federal law, and for other purposes; to the Committee on the Judiciary.

By Mr. TREEN:

H.R. 10401. A bill to amend the Internal Revenue Code of 1954 with respect to the withholding of income tax from annuity payments; to the Committee on Ways and Means.

By Mr. ZEFERETTI:

H.R. 10402. A bill to provide assistance for the construction, acquisition, and renovation of State and local prison facilities, and for other purposes; to the Committee on the Judiciary.

By Mr. ADDABBO (for himself and Mr. Spence):

H.J. Res. 675. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

By Mr. BLOUIN:

H.J. Res. 676. Joint resolution proposing an amendment to the Constitution of the United States to establish a new procedure for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. EVANS of Colorado (for himself, Mr. Ullman, Mr. McKay, Mr. Sisk, Mr. Anderson of California, Mr. Burgener, Mr. Don H. Clausen, Mr. Johnson of California, Mr. Ketchum, Mr. Lujan, Mr. McFall, Mr. Runnels, Mr. Rudd, Mr. McCormack, Mrs. Smith of Nebraska, Mr. White, Mr. Stump, Mr. Rhodes, Mr. Roncalio, Mr. Baucus, Mr. Leggett, Mr. Thone, and Mr. Steed):

H.J. Res. 677. Joint resolution relating to the excess land provisions and residency requirements of the Federal reclamation laws, as amended and supplemented; to the Committee on Interior and Insular Affairs.

By Mr. JEFFORDS (for himself and Mr. Nolan):

H.J. Res. 678. Joint resolution to enable the United States to organize an international conference on acid rain and snow in the Northern Hemisphere and the effect of such pollutants on world agriculture; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. Heftel, Mr. Udall, Mr. Michael O. Myers, Mr. Metcalfe, Mr. AuCoin, Mr. Blanchard, Mr. Byron, Mr. Conyers, Mr. Dent, Mr. Dicks, Mr. Livingston, Mr. Waggonner, Mr. Treen, Mr. Florio, Mr. Carr, Mr. de la Garza, Mr. Fithian, anl Mr. Studds):

H.J. Res. 679. Joint resolution authorizing the President to proclaim the third week of May 1978 and 1979 as National Architectural Barrier Awareness Week; to the Committee on Post Office and Civil Service.

By Mr. SLACK:

H.J. Res. 680. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mrs. SPELLMAN:

H.J. Res. 681. Joint resolution to authorize and request the President to issue a proclamation designating May 21, 1978 as National Fallen Heroes Day and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BONKER (for himself, Mr. Pease, Mr. Edwards of California, Mr. Dornan, Mr. Dodd, Mr. Mattox, Mrs. Schroeder, Mr. Winn, Mr. Lundine, Mr. Krebs, Mr. Markey, Mr. Cunningham, Mr. Murphy of Pennsylvania, Mr. Rosenthal, Mr. Whitehurst, Mr. Ford of Tennessee, Mr. Edgar, Mr. Cotter, Mr. Fowler, Mr. Pattison of New York, Mr. Glickman, Mr. Hansen, and Mr. Huckaby):

H. Con. Res. 445. Concurrent resolution providing that the President should implement measures to discourage activities which benefit the Government of the Republic of Uganda; to the Committee on International Relations.

By Mr. JEFFORDS:

H. Con. Res. 446. Concurrent resolution expressing the sense of the Congress that the United Nations should convene a World Alternate Energy Conference having as its major purpose the establishment of an International Alternate Energy Commission to facilitate the transfer among countries of information relating to alternate energy sources and to otherwise encourage the use of alternate energy sources; to the Committee on International Relations.

By Ms. MIKULSKI (for herself, Mrs. Boggs, and Mr. Stockman):

H. Con. Res. 447. Concurrent resolution directing the Congress and executive agencies to determine how they may aid in achieving national goals in outer space; to the Committee on Science and Technology.

By Mr. RYAN (for himself, Mr. Aspin, Mrs. Boggs, Mr. Bonker, Mr. Carter, Mr. D'Amours, Mr. Dingell, Mr. Dodd, Mr. Edgar, Mr. Harrington, Mr. Howard, Mr. Hughes, Mrs. Keys, Mr. LaFalce, Mr. Lloyd of California, Mr. Long of Maryland, Mr. Maguire, Mr. Mazzoli, Mr. Mikva, Mr. Moakley, Mr. Nolan, Mrs. Pettis, Mr. St Germain, Mr. Simon, and Mr. Weaver):

H. Con. Res. 448. Concurrent resolution designating May 3, 1978, as Sun Day; to the Committee on Post Office and Civil Service.

By Mr. SEBELIUS (for himself, Mr. Abdnor, Mr. Coleman, Mr. Hagedorn, Mr. Johnson of Colorado, Mr. Stangeland, Mr. Taylor of Missouri, and Mr. Thone):

H. Con. Res. 449. Concurrent resolution to inspire the President and the Secretary of Agriculture to use existing law to achieve parity for farmers and ranchers; to the Committee on Agriculture.

By Mr. SYMMS (for himself, Mr. Guyer, Mr. Duncan of Tennessee, Mr. Coughlin, Mr. Edwards of Oklahoma, Mr. Bedell, Mr. Nolan, Mr. Gephardt, Mrs. Spellman, and Mr. Walgren):

H. Con. Res. 450. Concurrent resolution to promote effective treatment of epilepsy; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H. Con. Res. 451. Concurrent resolution directing the Congress and executive agencies to determine how they may aid in achieving national goals in outer space; to the Committee on Science and Technology.

By Mr. DODD (for himself, Mr. Dornan, and Mr. Mann):

H. Res. 939. Resolution of congratulations to the peoples of Egypt and Israel; to the Committee on International Relations.

By Mr. EDWARDS of California (for himself, Mr. Ammerman, Mr. Beilenson, Mr. Boland, Mr. Bonior, Mr. Brademas, Mr. Brown of California, Mrs. Burke of California, Mr. Carr, Mr. Corman, Mr. Danielson, Mr. Dellums, Mr. Dodd, Mr. Drinan, Mrs. Fenwick, Mr. Ford of Tennessee, Mr. Fraser, Mr. Frenzel, Mr. Hannaford, Mr. Harrington, Mr. Hughes, Mr. Johnson of California, Mr. Koch, Mr. Lehman, and Mr. McClory):

H. Res. 940. Resolution to commend the Norwegian Nobel Peace Prize Committee for its choices in awarding the 1976 and 1977 Nobel Peace Prizes; to the Committee on International Relations.

By Mr. EDWARDS of California (for himself, Mr. McCloskey, Mr. McKinney, Mr. Mann, Mr. Mazzoli, Mrs. Meyner, Ms. Mikulski, Mr. Mitchell of Maryland, Mr. Pease, Mr. Rodino, Mr. Rosenthal, Mr. Simon, Mr. Steers, Mr. Thompson, Mr. Vento, Mr. Waxman, and Mr. Weiss):

H. Res. 941. Resolution to commend the Norwegian Nobel Peace Prize Committee for its choices in awarding the 1976 and 1977 Nobel Peace Prizes; to the Committee on International Relations.

By Mr. EDWARDS of California (for himself, Mrs. Chisholm, Mr. Cornell, Mr. Nolan, Mr. Reuss, Mr. Richmond, Mr. Roybal, Mrs. Schroeder, Mr. Seiberling, Mr. Studds, Mr. Kostmayer, Mr. Clay, Mr. Hawkins, Mr. Badillo, Mr. Moffett, Mr. Downey, and Mr. Rangel):

H. Res. 942. Resolution to commend the Norwegian Nobel Peace Prize Committee for its choices in awarding the 1976 and the 1977 Nobel Peace Prizes; to the Committee on International Relations.

By Mr. FOUNTAIN:

H. Res. 943. Resolution to maximize local nighttime radio service; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP (for himself, Mr. Lederer, Mr. Roe, Mr. McDonald, Mr. Dornan, and Mr. Nowak):

H. Res. 944. Resolution providing for a delegation of Members of the House of Representatives to inspect the Crown of St. Stephen and related Hungarian treasures at Ft. Knox, Ky., or any other location as is necessary; to the Committee on House Administration.

By Mr. MANN (for himself, Mr. Cornell, Mr. Corrada, Mr. Cotter, Mr. Early, Mrs. Fenwick, Mr. Fithian, Mr. Gammage, Mr. Harrington, Mr. Hawkins, Mr. Jeffords, Mr. Krueger, Mr. Marriott, Mr. Miller of Ohio, Mr. Mitchell of New York, John T. Myers, Mr. Robinson, Mr. Sarasin, Mr. Seiberling, Mr. Stokes, Mr. Walgren, Mr. Wampler, Mr. Wolff, Mr. Watkins, and Mr. Satterfield):

H. Res. 945. Resolution relative to customs duties on textile, apparel and fiber products; to the Committee on Ways and Means.

By Mr. MATTOX:

H. Res. 946. Resolution to refer H.R. 10404 to the Chief Commissioner of the U.S. Court of Claims; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CORNWELL:

H.R. 10403. A bill for the relief of John and Margaret Diehl, Julie Eastridge, and Jerome and Betty Davis; to the Committee on the Judiciary.

By Mr. MATTOX:

H.R. 10404. A bill for the relief of Robert Jayson, William Jayson, and Jennie Jayson; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.R. 10405. A bill for the relief of M. Sgt. Grady H. Haynes; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 10406. A bill for the relief of Anthony Low; to the Commitee on the Judiciary.

By Mr. ROBINSON:

H.R. 10407. A bill for the relief of Ling-Yung Kung; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 10408. A bill for the relief of John and Margaret Diehl, Julie Eastridge, and Jerome and Betty Davis; to the Committee on the Judiciary.

By Mr. STEED:

H.R. 10409. A bill for the relief of Lystra Umilta Downs; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 10410. A bill for the relief of Henry F. Lerch, Harold J. Nussbaum, Dolores Murray, and Edward C. Kennelly; to the Committee on the Judiciary.

By Mr. VAN DEERLIN:

H.R. 10411. A bill for the relief of John and Margaret Diehl, Julie Eastridge, and Jerome and Betty Davis; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 10412. A bill for the relief of Frank C. Koper; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

365. By Mr. QUILLEN: Petition of Robert G. Ely, Erwin, Tenn., relative to repeal of the withholding tax law; to the Committee on Ways and Means.

366. Also, petition of James G. Masters, Erwin, Tenn., relative to repeal of the withholding tax law; to the Committee on Ways and Means.

367. Also, petition of Mrs. Carolyn D. Miller, Erwin, Tenn., relative to repeal of the withholding tax law; to the Committee on Ways and Means.

368. Also, petition of Mrs. Jo Ann Parsley, Erwin, Tenn., relative to repeal of the withholding tax law; to the Committee on Ways and Means.

369. Also, petition of Ernest K. Peterson, Erwin, Tenn., relative to repeal of the withholding tax law; to the Committee on Ways and Means.

370. Also, petition of Mrs. Madeline W. Roller, Unicoi, Tenn., relative to repeal of the withholding tax law; to the Committee on Ways and Means.

371. Also, petition of Terry Lynn Roller, Unicoi, Tenn., relative to repeal of the withholding tax law; to the Committee on Ways and Means.

372. By the SPEAKER: Petition of the city council, New York, N.Y., relative to rent control; to the Committee on Banking, Finance and Urban Affairs.

373. Also, petition of the city council, New York, N.Y., relative to human rights in South Africa; to the Committee on International Relations.

374. Also, petition of the International Association of Chiefs of Police, Inc., Gaithersburg, Md., relative to Federal funding of local crime prevention programs; to the Committee on the Judiciary.

375. Also, petition of the International Union of Bricklayers & Allied Craftsmen, Washington, D.C., relative to improvements in the Employee Retirement Income Security Act; jointly, to the Committees on Education and Labor, and Ways and Means.

SENATE—*Thursday, December 15, 1977*

The Senate met at 11 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, we remember with thankful hearts that 200 years ago this day, the new Republic kept its first national day of prayer. We thank Thee for the timely victory at Saratoga which prompted the day of Thanksgiving, for the triumph over privation and suffering at Valley Forge which followed, and for the perseverance which led to Yorktown and the firm establishment of the United States. We rejoice in Thy providential care over this Nation from generation to generation, for the measure of justice and well-being accorded all citizens and for our place in the world today. Grant now Thy grace and wisdom to the President, the Congress, and all in authority over us.

As wise men of old, may we be star-led to the manger-cradle and the place of peace and rejoice evermore in Thy great love. Guide us to that place and time in history when "the Government shall be upon His shoulder: and His name shall be called Wonderful, Counselor, the Mighty God, the Everlasting Father, the Prince of Peace." Amen.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of December 12, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR FROM ARKANSAS

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a certificate of appointment to fill a vacancy caused by the death of the late Senator John L. McClellan, of the State of Arkansas.

Without objection, the reading will be waived, and the document will be printed in the RECORD.

The certificate of appointment reads as follows:

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Arkansas, I, David Pryor, the governor of said State, do hereby appoint Kaneaster Hodges, Jr., a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the death of John L. McClellan, is filled by election as provided by law.

Witness: His excellency our governor David Pryor, and our seal hereto affixed at Little Rock, Arkansas, this 10th day of December, in the year of our Lord 1977.

By the governor:

DAVID PRYOR,
Governor.
WINSTON BRYANT,
Secretary of State.

The ACTING PRESIDENT pro tempore. If the Senator-designate will present himself at the desk, the oath of office will be administered to him.

Mr. Hodges, of Arkansas, escorted by Mr. BUMPERS, advanced to the desk of the Acting President pro tempore; the oath prescribed by law was administered to him by the Acting President pro tempore; and he subscribed to the oath in the official oath book.

[Applause, Senators rising.]

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 15 minutes, with a limitation on any statements by Senators of 3 minutes each, and with no resolutions coming over under the rule.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAKER. Mr. President, I ask unanimous consent that Ralph Cooper, of the staff of Senator HEINZ, have the privilege of the floor during the remainder of the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that staff members Elvira Orly, Jan Olsen, and Peggy Haverstraw have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Allyn Kreps and Susan Pitts have the privileges of the floor throughout the day; and also Peter Turza of Senator JAVITS' office.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Mike Goldberg and Jerry Lindrew of the staff of the Subcommittee on Labor be granted privileges of the floor during consideration of H.R. 5322.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Scott Ginsburg, Laurie Hansen, and Jon Hunzinger of the Subcommittee on Manpower, Poverty, and Migratory Labor, be permitted the privileges of the floor during the consideration of the conference report on social security and the conference report on legal services.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that Mr. Robert Olds of the Armed Services Committee staff be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Christopher Lehman, of my staff, have the privilege of the floor during the consideration of the supplemental appropriation bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EQUAL ACCESS TO COURTS ACT OF 1977—S. 2354

Mr. DOMENICI. Mr. President, I am introducing today for myself and for Senator NELSON a bill which we call Equal Access to the Courts Act of 1977.

Mr. President, approximately 2 months ago, in the course of the debate on the legal services bill, I called to the floor an unprinted amendment.

The purpose of that amendment was to compensate the average American and the small businessman for legal costs in litigation to protect his rights. It was also meant as an amendment which would put skids under arbitrary regulation and rulemaking. Individuals and small businessmen would no longer be forced to knuckle under to arbitrary or capricious interpretations and regulations, because they could not afford to take the matter to court, or to challenge the administrative action.

After a motion to table was voted down by the margin of 55 to 36, this amendment was accepted by the managers of the bill as part of the Senate version of the legal services bill.

However, this bill was sent to conference, and as oft happens, our colleagues in the House would not be persuaded to the wisdom of our inclusion.

Senator NELSON, who acted as chairman of the conference, is also chairman of the Small Business Committee and with the experience and insight the distinguished Senator from Wisconsin possesses in regard to small businesses, he indicated his support for legislation such as the amendment promised and offered suggestions to strengthen and sharpen the purpose and clarity of the language.

The consequence of our collaboration is the legislation introduced today. It is identical in scope to the amendment accepted by the Senate previously other than excluding tort cases from its purview. This exclusion was made as the legal remedies presently available to tort litigants are equitable and fair.

Mr. President, I ask unanimous consent that the bill introduced by Senator NELSON and myself be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2354

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This section may be cited as the "Equal Access to Courts Act of 1977".

(b)(1) The Congress finds that serious inequities and inequalities exist between the Federal Government and certain individuals, partnerships, corporations, and labor and other organizations in terms of the relative ease with which each is able, without suffering extreme economic hardship, to prevail or to secure the vindication of its rights in civil actions and in administrative proceedings.

(2) It is the purpose of this section to diminish such inequities and inequalities by providing for the payment of attorney fees, expert witness fees, and other costs in specified situations.

(c)(1) Section 2412 of title 28, United States Code, is amended to read as follows:

"(a)(1) A judgment for the costs specified in section 1920 of this title, for the reasonable expenses of any witness or expert witness, for the reasonable cost of any study, analysis, engineering report, test or project which the court finds necessary to the litigation of the action, and for reasonable attorney fees, shall be awarded to any party other than the United States which prevails in any civil action (including an action for judicial review of agency action) other than an action in tort, brought by or against the United States in any court having jurisdiction of that action.

"(2) Attorney fees shall be based upon the actual time expended by any attorney of a party and his staff in advising and representing such party, and determined at the usual rate of compensation of the recipient attorney, but not to exceed the lower of the prevailing market rate or $90 per hour.

"(b) In any civil action (including an action for judicial review of agency action) other than an action in tort, brought by or against the United States in which a party other than the United States—

"(1) prevails partially, that party shall be awarded a judgment for costs and fees, as provided in subsection (a), to the extent to which he prevails; or

"(2) does not prevail, that party may be awarded a judgment for costs and fees, as provided in subsection (a) in any case in which the court finds that such an award would be in the interests of justice.

"(c) A judgment for the costs specified in section 1920 of this title may be awarded to the United States in any civil action, other than an action in tort, brought by or against the United States in any court having jurisdiction of that action in which the United States is the prevailing party.

"(d) Any amount awarded for costs or fees shall be in addition to the compensation, if any, awarded in any judgment.

"(e) Any judgment against the United States for costs or fees shall be paid as provided in sections 2414 and 2517 of this title.

"(f) For the purposes of this section—

"(1) 'party' means (A) a small business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (B) an individual, partnership, corporation, or labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the filing of the civil action in question; and

"(2) 'United States' includes any agency or official of the United States.".

(2) The table of sections of chapter 161 of title 28, United States Code, is amended by striking out the item relating to section 2412 and inserting the following: "2412. Attorney and witness fees and costs.".

(d) Subsection (a) of section 2517 of title 28, United States Code, is amended to read as follows:

"(a) Any final judgment, including any final judgment for costs and fees, which is rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of such judgment, by the clerk and the chief judge of such court.".

(e)(1) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"504. COSTS AND FEES OF PARTIES

"(a) A party (other than the United States or any agency or official thereof) shall be paid by any agency conducting an agency proceeding an award for costs and fees incurred by that party in order to participate in that proceeding, if that party—

"(1) is successful in defending against the imposition by such agency of any sanction; or

"(2) is successful, in any agency proceeding in which the agency is the moving party, in opposing the issuance of, or in proposing an amendment to, any agency order which would—

"(A) affect the freedom of such party;

"(B) withhold relief from such party;

"(C) impose a penalty for fine on such party;

"(D) require the destruction, taking, seizure, or withholding of property of such party;

"(E) assess damages, reimbursement, restitution, compensation, costs, charges, or fees against such party;

"(F) require, revoke, or suspend a license of such party; or

"(G) otherwise compel or restrict such party; or

"(3) appeals or seeks judicial review of any agency action and substantially prevails, or is subject to the agency action appealed or reviewed.

"(b) For the purpose of this section—

"(1) the definitions in section 551 of this title apply except as otherwise provided in this section;

"(2) 'award for costs and fees' includes the reasonable expenses of any witness or expert witness, the reasonable cost of any study, analysis, engineering report, test, or project which the agency conducting any agency proceeding finds necessary to the resolution of such proceeding, and reasonable attorney or agent fees based upon the actual time expended by such attorney or agent and his staff in advising or representing any party, such fees to be determined at the usual rate of compensation of the recipient attorney or agent, but not to exceed the lower of the prevailing market rate or $90 per hour; and

"(3) 'party' means a party as defined in section 551 of this title who is also (A) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (B) an individual, partnership, corporation, labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the initiation of the agency proceeding in question.".

(2) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. COSTS AND FEES OF PARTIES.".

(f) The amendments made by this section shall have no effect on or after the day which is three years after the date of enactment of this Act.

Mr. DOMENICI. Mr. President, I am pleased to yield to my good friend, Senator Nelson, from Wisconsin.

Mr. NELSON. Mr. President, I do not want to impose upon the time of the Senate considering the business we must dispose of today.

Mr. President, this measure came before us as an amendment to the legal service bill offered by Senator Domenici, and we discussed it in the Chamber at that time. I made it clear then to Senator Domenici that the concept and the problem that he was addressing himself to needed to be redressed, in my judgment, by legislation.

I have gone through this bill very carefully, and I am pleased to join Senator Domenici in this legislation.

It is perfectly clear to anyone who pays any attention to it that innumerable times, day in and day out through the year, the Federal Government through its legal representative, through its agency, either makes a mistake or misconstrues the law, or misinterprets the law, ends up in court losing the case to great cost and great damage to the individual or the small business involved, and in those carefully delineated circumstances it seems to us that that small business which is defined in the act, or individual whose eligibility is defined in the act, is entitled to have his legal fees and his costs paid by the Government who was mistaken in the action.

Mr. President, I think this is a sound approach, and I would hope that we would be able to act on this legislation next year.

Mr. President, I join today with Senator Domenici to introduce legislation that would reimburse small businesses and individuals for costs and attorney's fees incurred when they prevail against the Government in a case before a Federal court or administrative agency. If enacted, this bill would represent a major step toward redressing the financial imbalance existing when individuals or small businesses find themselves the victims of arbitrary legal actions by the Federal Government.

Under this legislation, a small business concern, as defined in section 2 of the Small Business Act, or an individual, partnership, corporation, or labor or other private organization having assets valued at less than $1 million and annual receipts or income of less than $100,000 in each of the previous 5 years, which prevailed over the Federal Government in a legal or administrative action would be awarded payment of costs and reasonable attorney's fees. Attorney's fees would be awarded both for actions in the Federal courts and actions before the Federal administrative agencies. If the individual or small business enterprise prevailed only in part, it would receive a judgment for costs and fees to the extent of the victory. If the Government should prevail, the legislation lets the court award attorney's fees to the individual or small business enterprise, if the court believed such an award would be in the interests of justice. Tort actions are specifically exempted from the coverage of the bill.

Time after time, when IRS goes after an individual on a tax claim, or OSHA goes after a small business in a health and safety matter, even if the individual or small business prevail, they suffer serious economic damage, because of the attorney's fees incurred. In such a case, there is no reason why the Government should not pay the cost of the person's or businesses attorney, particularly since the taxpayer is already helping to foot the bill for the Government lawyer. This legislation provides simple justice: It would protect an innocent party from economic damage, often economic ruin, when the Government has made a mistake, exceeded its authority or misconstrued the law.

The idea for this legislation is not new. Senator Domenici introduced a bill on this subject in 1976, and in March 1977. The Senate expressed its approval of the concept on October 12 during the debate over the Legal Services Corporation by accepting Senator Domenici's legislation as an amendment to the legal services bill. As floor manager of the bill, I opposed the amendment, because it was nongermane, but I expressed my agreement with virtually everything Senator Domenici said. The Domenici amendment was deleted during the conference on the legal services bill, on germaneness grounds, but with the full recognition that the idea was important and would be explored carefully in hearings next year.

As Chairman of the Small Business Committee, I have long been aware of the deep frustrations and resentment that small business proprietors feel toward the Federal bureaucracy and its regulatory apparatus. Most small business people accept the need for a responsible Federal role to insure the health of workers and safety of the workplace; the preservation of the environment; the purity of food and drugs; and the safety of products in the marketplace. But they believe that too often regulations are trivial and are enforced in an arrogant and arbitrary manner. The horror stories coming out of our regulatory efforts are becoming all too common. In case after case, a Federal bureaucratic blitzkrieg has rolled over innocent victims, causing unjustified damage to large numbers of business enterprises and individuals.

One of the most serious cases occurred almost 4 years ago and involved a Horicon, Wis. company—Marlin Toy Products, Inc. Many of my colleagues will remember this incident, because the House and Senate passed a resolution allowing Marlin to sue the Government for its losses. In 1972, the Food and Drug Administration cited two of Marlin's toys as unsafe. The company conducted a recall at a cost of $95,000 and corrected the toys to meet the FDA's objections. Shortly thereafter, the regulation of unsafe toys was taken over by the newly formed Consumer Product Safety Commission. Just before Christmas, the CPSC published a "banned-products" list that mistakenly included the corrected Marlin toys. The list, which was distributed to thousands of toy shops across the country, caused virtually all of Marlin's customers to cancel their orders. The outcome was a $1.2 million loss to Marlin, which had to lay off all but 10 of its 85 workers—virtually a disaster for the town of Horicon. During the ensuing legal dispute with the Government, in which Marlin discovered it could not sue without enactment of a resolution by Congress, Marlin went out of business. Nicholas von Hoffman wrote a column about this incident that appeared in the June 24, 1974, Washington Post. It explains in more depth what happens when a small company is confronted in a legal battle by the vast resources of the Federal Government, and I ask unanimous consent that it be printed in the Record at the end of my statement.

The Marlin case received national media attention because it exemplified how the Federal Government can force a firm to go out of business when the firm lacks the resources to defend itself. But there are hundreds of examples that never reach the media of small businesses knuckling under to an unfair Government fine or ruling because they cannot afford the time or lawyer's expenses to put up an effective challenge. These businesses might not go under, but their ability to compete is seriously impaired.

That the Government makes serious errors is bad enough. What makes the situation unacceptable is that individuals and small businesses often have no effective way to combat the errors of the

Federal bureaucracy. A small businessman facing what he believes to be an unjust agency order will frequently find that, given the protracted nature of agency proceedings and the skyrocketing cost of legal counsel, it would cost him more money even to win against the Government than to accept the penalty. Inevitably in this situation, the businessman is forced to pay the penalty, rather than fight it, no matter how unjust the agency's action might have been.

Such a result mocks our principles of equal justice and due process. We reject the notion, in the words of the Supreme Court, that the kind of justice a person receives "depends on the amount of money he has." *Griffin* v. *Illinois*, 356 U.S. 12 (1956). These principles have prompted us in the past to provide counsel to indigent criminal defendants and to establish a legal services corporation to assure that important rights of the poor in civil proceedings can be protected. While small business people are not indigent, they may find themselves as powerless as the poor when confronted with the decision whether to oppose the inexhaustible legal resources of the Government.

The consequences of this unjust situation are dangerous and farreaching. Many small businessmen believe that the Federal bureaucracy seeks to enforce its regulations against them precisely because their businesses are small and usually do not have the financial resources to challenge the Government's decision to impose a fine or other sanctions. These beliefs are not figments of the imagination. As Dr. F. M. Scherer, former Director of the Bureau of Economics of the Federal Trade Commission testified in 1976:

> I had not fully realized until I came to Washington how unfairly the burden of Federal regulation and antitrust enforcement falls upon small business as compared to large companies. The corporate giants can and do maintain stables of highly-skilled attorneys to advise them how to stay clear of the law and defend themselves if they nevertheless run afoul. Small firms are less able to afford such counsel, and the law firm they retain typically lack the specialized knowledge needed to cope with a body of statutory, case and regulatory law as complex as Robinson-Patman. As a result, they are more likely to get into trouble and to settle by consent if a complaint is brought. . . . I had also understood little about the value system of government antitrust attorneys. What I have learned since joining the Commission staff is that many attorneys measure their own success in terms of the number of complaints brought and settlements won. In the absence of broader policy guidance, therefore, the typical attorney shies away from a complex, long, uncertain legal contest with well-represented giant corporations and tries to build up a portfolio emphasizing small, easy-to-win cases. The net result of these broad propensities is that it is the little guys, not the giants that dominate our manufacturing and trade industries, who typically get sued."

I believe that the large majority of the individuals employed by the Federal Government to regulate business enterprises are capable and well-meaning. But the bureaucracy does not always reflect the good traits of the individuals within it; often it develops habits and momentum of its own and will take the path of least resistance to justify its existence and assure its own success. If small business proprietors do not have the resources to pose an effective challenge to bureaucratic negligence or arbitrariness, that negligence or arbitrariness will go unchecked. Without legislation like this, the possibility that the bureaucracy may enforce its will in more and more questionable cases cannot be discounted.

The tendency to take action against small enterprises which cannot defend themselves, rather than the corporate giants who can afford a battalion of attorneys, may grow stronger. And a dangerous misallocation of resources can result, since it is the enormous concentration of economic and political power in the hands of a few dominant companies in each industry which most endangers the public interest, not the activities of the small businesses that account for 97 percent of the total number of enterprices in the United States.

There is another aspect to the problem. Some of the legal actions between a Government agency and a small business may create a significant precedent with far-reaching effects. There is a strong public interest in insuring that such disputes are resolved on the merits after thoughtful presentation and consideration of opposing views. We put our faith in an adversary system of justice, believing that advocates on opposing sides will bring out the most powerful arguments in support of their position, making informed resolution of the issue possible. This idea of justice is also mocked by the current situation when small businessmen facing a fine or other penalty decide that compliance is a preferable course to litigation, regardless of the merits of the case, because of the costs involved.

This legislation could radically alter this dismaying situation and help prevent future injustices. Under this legislation, if a small business or individual believes that a governmental effort to impose a penalty or other sanction against him is unjust, he would now have the realistic option of opposing the action. If he were vindicated, he would receive compensation for his costs, including the costs of expert witnesses, and reasonable attorney's fees, measured in terms of the attorney's usual rate of compensation, but not to exceed the prevailing market rate, or $90 per hour, whichever is lower. The legislation would clearly not prompt individuals or small businesses to raise frivolous defenses since they would not receive attorney's fees in such a case. Obviously, the individual or small business concern would have to make a calculation about the advisability of pursuing the action. But permitting attorney's fees to be recovered would enable the decision to be based on the merits of the issue, rather than on the costs of litigation.

In recent years, Congress has repeatedly recognized that the public interest is served when attorney's fees are awarded so that important viewpoints, which would otherwise be lost, can be heard by Federal courts and agencies. In 1975 Congress enacted the Magnuson-Moss FTC Improvements Act, which provided the Federal Trade Commission with authority and funds to make direct grants of financial assistance to individuals and groups who seek to participate in rulemaking proceedings. Last fall we authorized the Environmental Protection Agency to make these kinds of awards in proceedings conducted under the Toxic Substances Control Act. This authority covers adjudications as well as rulemakings.

In addition, Congress authorized Federal courts to make discretionary awards of attorney's fees to successful litigants in actions brought under that act for review of EPA decisions. An attorney's fees provision was included in the Consumer Product Safety Commission Act amendments of 1976. Of course, last year, Congress also passed the Civil Rights Attorney's Fees Award Act to insure that courts would have discretion to pay reasonable attorney's fees to prevailing parties in actions to enforce a chapter of the older civil rights statutes. The more recent civil rights statutes, such as the 1964 act and the 1968 Fair Housing Act, already provided for such awards. A Congressional Research Service analysis lists close to 70 other statutes, on a wide range of subjects, which also depart from the so-called "American rule" which requires a party in a legal action to pay his own attorney's fees, regardless of the outcome. This legislation carries forward the same theme.

The argument will be made that this legislation would have an adverse effect on the enforcement efforts of the Federal regulatory agencies, deterring them from pursuing those cases which do involve violations of the regulations. While the legislation will undoubtedly need substantial fine tuning, in my view this particular concern is unfounded. In a case where the agency seeks to expand its interpretation of the law in an uncharted area and the outcome is uncertain, if the agency is proceeding reasonably, it should not be deterred by the possibility that the individual or small business would receive attorney's fees. Congress should make it clear in these cases that the possible cost of attorney's fees is part of the cost of doing Government business, and a worthwhile investment of funds to resolve an important policy question. But in those situations where the Government agency goes ahead without a strong case against a business; or where it is proceeding carelessly; or where it now imposes a fine, secure in the knowledge that its action will not be challenged because of the cost involved, I would be very happy if the enactment of this legislation caused some chilling effect on Government regulatory efforts.

The Federal regulatory effort includes thousands of Federal employees, trying to enforce 70,000 pages of regulations involving thousands of diverse businesses throughout the country. In an effort of this magnitude, perhaps it is inevitable that there will be cases of Government negligence, perversity and sheer ineptitude. But it is absolutely vital that we hold the Government to the strictest standards of care in its enforcement efforts, deterring those abuses which can be prevented, and providing a mechanism for compensating individuals and businesses for those governmental mistakes which cannot.

The need for this legislation highlights a basic dilemma which the United States faces along with the other industrial democracies. Can we have a powerful national Government to enforce the laws which protect public health and safety and preserve competition in the marketplace, while avoiding a Government which is so powerful, intrusive and arbitrary that it poses a menace to individual and economic freedom? In walking this thin line, we must continually strive for instruments to keep the Government accountable for its actions. This legislation is one such instrument.

EXHIBIT 1

CAVEAT EMPTOR—AND VENDOR, TOO

(By Nicholas von Hoffman)

You might say that politically what they did was like mugging Marcus Welby or evicting The Waltons. Can you imagine an agency of government that would put a toy factory out of business when it was owned by a widow and located near Beaver Dam, Wisc., the mythical small town we all left for the sins and disappointments of the big city?

Ideally Marlin Toy Products, Inc., of Horicon, Wisc., should also have elves working for it instead of the 85 humans company vice president Ed Sohmers says it had before the Consumer Product Safety Commission went into action. Marlin's troubles date from November 1972 when the government informed it that its "Butterfly Flutter Ball" and its "Birdie Ball," both products it had been selling with success and safety for a number of years, were hazardous to children because they contained little plastic pellets infants might choke on if the transparent balls were broken apart.

Marlin took both off the market, swallowed their losses, redesigned the toys without pellets, submitted the modified balls to the commission, which found them acceptable, and then proceeded to market them. The commission, however, failed to remove the products from its new list of banned toys so that the 1973 season was a jolly wipe-out for Marlin.

All last fall Sohmers wrote letters beseeching the commission to rectify the mistake so that stores would stock the toys but the most he could get was a letter saying the mislisting "resulted from an editorial error and will be corrected on the next issue of the list."

Subsequently commission chairman Richard Simpson said he thought that should have been enough but hundreds of thousands of banned toy lists had gone out. Some state consumer agencies had put the toys on *their* lists. Birdie Ball and Butterfly Ball even got dishonorable mentions on the radio.

Yet the government which demands that companies send out letters and telegrams notifying their customers of errors and defects won't do the same thing when it booboos. Had the commission done so Ed Sohmers might not now be saying, "This is going to cost us $600,000 and for our sized business that's death . . . I can't tell you the effect of laying off 85 people in a small town . . . Damn it, I hate to close the doors on these people. Me? I can always get by robbing liquor stores, but not some of the others . . ."

"We wanted justice so we went to the Justice Department but they said 'we only prosecute people,'" says Sohmers who now understands that you may not sue the government for damages unless Congress passes a law allowing you to. No one would introduce such a bill until the Beaver Dam Citizen broke the story and Sen. Helms, the North Carolina right winger, interested himself in the case.

Recently bills have been introduced in both houses but for all this loss and aggravation Marlin isn't your ordinary tale of yawning bureaucratic indifference. This commission has a far better reputation than most commissions around here. Simpson admits the mistake and says his forces are at least willing to consider recommending passage of the law that will allow Marlin to sue. Any other office in this town and they would have said, "Tough luck, Birdie Ball, we're infallible."

Marlin shows that it's not so easy to protect the public, even if you are one of those rare ones who wants to. Simpson, for instance, says it's possible that the toys shouldn't have been put on the list in the first place. The regulations themselves are ambiguously unsusceptible to precise understanding. What does it mean that a toy shouldn't have "sharp" edges? What's sharp? Beyond that no regulation can protect a small child left alone by parents who don't love it wisely enough to watch over it.

This case shouldn't be used as an argument to abolish the commission. In an era when even children's toys are made of exotic materials and by the most advanced technologies no lay person can be an informed buyer without help. Now the question is how can public administration learn to protect the buyer and the seller too.

Mr. NELSON. I commend Senator DOMENICI for the very fine work he has done in developing this legislation.

Mr. DOMENICI. Mr. President, I thank the Senator.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with new reports with the exception of Calendar Order No. 620.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I say to my friend, the majority leader, that we have cleared on our calendar all of the items, and I notice now that we can also clear the item he just identified, Calendar Order No. 620, and I believe there is one other measure that was mentioned to me by the distinguished Senator from Washington (Mr. JACKSON) which has not yet found its way onto the Calendar but which is also cleared for action if the majority leader might wish to do so.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration in executive session of the nominations beginning with new reports without exception and also that the Senate take up the nomination which has been reported from Mr. JACKSON's committee today of Lincoln Moses, of California, to be Administrator of the Energy Information Administration.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of James K. Logan, of Kansas, to be U.S. circuit judge for the 10th circuit.

Mr. DOLE. Mr. President, when President Carter nominated Jim Logan for the 10th Circuit Court of Appeals, he selected a truly outstanding Kansan who will serve with distinction in that position.

Jim Logan has been honored many times as a member of his profession, as a student, educator, and as a public servant. Those of us who know him and his work have come to appreciate the high degree of ability which he brings to any new position he accepts. We know that he will be an outstanding jurist and a tremendous credit to the Federal judiciary.

His path and mine crossed briefly on the political turf of Kansas in 1968 when both of us were candidates for the Senate seat which I now occupy. As candidates seeking our respective parties' nomination for the Senate, we had frequent occasion to see each other at various candidate forums and other public events. As the Democratic primary turned out, I did not have to face Mr. Logan in the general election. However, that campaign gave me an opportunity to get to know him and learn quite a bit about him. At that time he had compiled an impressive record as dean of the Kansas University Law School. Since then, he has been active in other areas, and has added additional distinction to an already impressive career.

PUBLIC SERVICE

His race for public office in 1968 was not the first or the last time Kansans have heard from Jim Logan. At the age of 14, in 1944, he was appointed city clerk of Quenemo, Kans. As city clerk, he worked on the city budget and calculated the local taxes, a rather unusual job for a 14-year-old boy. However, this was during the war and most of the men who would normally perform the task were in the service.

Since then, he has become a prominent member of the Kansas Democratic Party. In 1968, the Kansas Democratic Convention heard him deliver the keynote address. In 1972, he served as the cochairman of the Kansas Committee on the McGovern Commission delegate selection rules. From 1970 to 1973, he chaired the third district Democratic Party. Most recently, he was the Johnson County preconvention chairman for Jimmy Carter, and a delegate to the 1976 national convention.

ACADEMIC BACKGROUND

In addition to his political background, Jim Logan's background in nonpolitical areas recommends him for the 10th Circuit Court. In 1952, he was the first straight "A" graduate in the history of the Kansas University College of Liberal Arts and Sciences. He turned down a Rhodes Scholarship to enter law school at Harvard and was the editor of the Harvard Law Review from 1953 to 1955, graduating from Harvard magna cum laude. Upon graduation from law school, he clerked for U.S. Circuit Judge Walter A. Huxman, a former Governor of the State of Kansas who served his country with distinction for many years on the Federal bench.

Six years after graduation from Harvard Law School, in 1961, he became Dean of the K. U. Law School and served until 1968, when he ran for the Senate. As dean, he made a major contribution to the quality of legal education at the University of Kansas.

After entering private practice, he remained active in legal circles as a member or chairman of various committees of the American Bar Association, the Kansas Bar Association, and the Association of American Law Schools.

In addition to his academic and political endeavors, he is active in a wide variety of civic and public affairs.

Mr. President, Kansas can be proud of this outstanding nominee for the 10th circuit judgeship. I have no doubt that he will serve his country with great distinction.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Robert S. Vance, of Alabama, to be U.S. circuit judge for the fifth circuit.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of John L. Kane, Jr., of Colorado, to be U.S. district judge for the district of Colorado.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of George C. Carr, of Florida, to be U.S. district judge for the middle district of Florida.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Julian K. Fite, of Oklahoma, to be U.S. attorney for the eastern district of Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Edward G. Warin, of Nebraska, to be U.S. attorney for the district of Nebraska.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Alexander O. Bryner, of Alaska, to be U.S. attorney for the district of Alaska.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Michael H. Walsh, of California, to be U.S. attorney for the southern district of California.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Larry R. McCord, of Arkansas, to be U.S. attorney for the western district of Arkansas.

Mr. HODGES. Mr. President, I am pleased that today the Senate has approved the President's nomination of Larry R. McCord to be U.S. attorney for the western district of Arkansas.

I have known Mr. McCord for many years and consider him a close personal friend. I deem it a privilege to have played a small role in his confirmation, and firmly believe that he will serve ably in this position for the people of Arkansas and our Nation. I extend my congratulations to him, his wife Suzanne, and their two children, Jamie and Brent.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of John H. Cary, of Tennessee, to be U.S. attorney for the eastern district of Tennessee.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Rex O. Presley, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of John A. Roe, of Iowa, to be U.S. marshal for the northern district of Iowa.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Harry D. Mansfield, of Tennessee, to be U.S. marshal for the eastern district of Tennessee.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Thomas Arny Rhoden, of Mississippi, to be U.S. marshal for the southern district of Mississippi.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Andrew E. Gardner, of North Carolina, to be U.S. marshal for the western district of North Carolina.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Edward P. Gribben, of South Dakota, to be U.S. marshal for the district of South Dakota.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ENERGY INFORMATION ADMINISTRATION

The assistant legislative clerk read the nomination of Lincoln E. Moses, of California, to be Administrator of the Energy Information Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that three additional nominations that have been reported from the Committee on Human Resources, the Committee on Commerce, Science and Transportation, be considered at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The nominations will be stated.

INSTITUTE OF MUSEUM SERVICES

The assistant legislative clerk read the nomination of Leila I. Kimche, of Maryland, to be Director of the Institute of Museum Services.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

OFFICE OF RAIL PUBLIC COUNSEL

The assistant legislative clerk read the nomination of Howard A. Heffron, of Maryland, to be Director of the Office of Rail Public Counsel.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of Andrew E. Manatos, of Maryland, to be an Assistant Secretary of Commerce.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. COAST GUARD

The assistant legislative clerk proceeded to read sundry nominations in the Coast Guard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the various nominees were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am pleased to support the nominations of two fine Tennesseans and constituents of mine to new positions in the Department of Justice.

Mr. John H. Carey has been selected to serve as the U.S. attorney for the eastern district of Tennessee and Mr. Harry D. Mansfield has been nominated to be the U.S. marshal from the same district.

They follow in a long line of distinguished U.S. attorneys and marshals from that district and I have no doubt that they will uphold that tradition during their tenure.

Having practiced law for 17 years in the eastern district of Tennessee, I can assure them that they will be kept busy. It is a vital and active part of the State that deserves competent and effective attention from the Department of Jusice.

Mr. Cary and Mr. Mansfield seem well suited to their new positions and I gladly support their confirmation.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there continue to be a period for the transaction of routine morning business not to exceed 10 minutes under the same conditions as heretofore stated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, if I could have a moment, I ask the majority leader while here in the Chamber if he will give us some insight as to what we might expect in the course of the legislative day.

LEGISLATIVE PROGRAM FOR TODAY

Mr. ROBERT C. BYRD. Mr. President, I believe that shortly the distinguished Senator from Louisiana (Mr. Long) will be prepared to take up the social security conference report, and he will also be prepared to initiate some action which, hopefully, will take care of the black lung measure which has been in conference between the two Houses for several weeks now.

Thereafter I think we ought to be able to take up the legislation that would extend into the month of February the provisions of the National Gas Emergency Act just to guard against an emergency that might occur before the Congress gets back into session.

Additionally today it is hoped the legal services conference report would be taken up and adopted, and that the clean water conference report would be ready and would be acted upon; and since the Senator is on the floor or near the floor at the moment he may wish to proceed with the matter involving the B–1.

Mr. BAKER. Mr. President, if the majority leader will yield to me briefly, I thank him for that additional insight.

I might add further bits of information that might be helpful to the majority leader in scheduling the day.

The first is there is full clearance on this side to the consideration of the emergency allocation of the Natural Gas Act. I think it is appropriate and there is no objection to proceeding with that today.

On the legal services conference report we have a notation here and it will require a record vote, probably some significant debate, and I am not sure how long it will take.

There is one other item the majority leader alluded to in his closing remarks, and that had to do with the B–1 matter.

I might say, as the majority leader knows, that we have people on this side who are very, very interested in that matter who have canceled and rearranged their schedules to be here today in the event the matter was going to come up, and we very much hope it will be presented to the Senate during the course of the day and before sine die adjournment this afternoon.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

POLICY VERSUS REALITY IN SOUTHERN AFRICA

Mr. HARRY F. BYRD, JR. United States policy toward Southern Africa, over the years, has not been a model of consistency.

On the one hand, our Government has been accused of neglecting Southern Africa because of preoccupation with the Middle East and, earlier, Southeast Asia.

On the other hand, the United States has participated in a United Nations embargo against Rhodesia, attempting to bring down the present government.

By and large, the policy—or lack of policy—until 1977 was characterized by a general lack of concern, with spurts of interventionism.

Since the advent of the Carter administration, however, American policy toward Southern Africa has been characterized by a great deal more action, although not a great deal more wisdom or judgment.

In recent months there have been numerous efforts to push South Africa and Rhodesia toward majority rule. Pressures have been brought against both governments: Limited pressure in the case of South Africa, heavy pressure in the case of Rhodesia.

Recent events in South Africa have focused world attention on the situation in that country. The closing of opposition newspapers, the death of Steven Biko and the subsequent denial of official responsibility in the case have shown the seriousness of the human rights problem in South Africa.

To its credit the Carter administration has resisted the temptation to go along with other members of the United Nations in seeking formal U.N. economic sanctions against South Africa. However, the United States did agree to an embargo on arms trade as a sign of disapproval of South Africa's racial policies and also recalled our Ambassador and our commercial and naval attachés.

But these steps are mild indeed compared to the actions taken in the case of Rhodesia, where the United States has sought much more actively to influence events.

In March of this year the United States halted the importation of chrome from Rhodesia, thus breaking that country's last economic link with the United States. Further, the Carter administration indicated that it intended to close down the Rhodesian Information Office here in Washington.

Subsequently, the administration joined with Great Britain in seeking to force the Rhodesian Government into accepting a plan for shifting to majority rule by the end of 1978.

This so-called "Anglo-American peace plan" required the participation of the terrorist organizations, based outside Rhodesia and headed by Joshua Nkomo and Robert Mugabe, in any transfer of power.

Under the plan, Rhodesia's existing security forces (which are 80 percent black) would be disbanded and would be replaced by a new force made up largely of the terrorist groups under the control of Nkomo and Mugabe.

This is not a plan for majority rule.

Rather, this plan would insure that the future Government of Rhodesia would be in the hands of a minority—black rather than white—but still not representative of the majority of Rhodesians.

It would place in power a group of terrorist murderers who have refused to compromise and who believe that they can win control of the country by force of arms—with the support of the United States.

Prime Minister Smith has rejected this peace plan and has now come forward with a plan which may lead to a transition to a stable majority rule with adult suffrage for all Rhodesians, black and white.

Mr. Smith has begun talks with moderate Rhodesian black leaders concerning a constitutional conference to determine Rhodesia's new government. Bishop Abel Muzorewa, the Reverend Ndabaningi Sithole, and Senator Jermiah Chirau, who represent an estimated 80 percent of Rhodesia's 6.4 million blacks, have reacted favorably to the Smith initiative and talks have been proceeding.

Mr. Smith, in seeking an "internal" solution to Rhodesia's problem, has not closed the door to participation in the new government by guerilla leaders Nkomo and Mugabe.

He stated that the door would be open to "externally based organizations" if they "forsake terrorism and accept that the best thing is to work constitutionally for a peaceful settlement."

Predictably, the Patriotic Front guerrillas have rejected the Smith plan and stepped up their demands that power be immediately turned over to their guerrilla "armies."

The Carter administration, through its spokesman Andrew Young, has scorned the Smith plan and expressed doubt that an internal solution can succeed without participation by the Patriotic Front.

This preoccupation with the extremist point of view is consistent with earlier State Department actions. In October of this year moderate black Rhodesians were denied visas allowing them to visit the United States, while the Rhodesians terrorist Joshua Nkomo was granted a visa and even a meeting with Secretary of State Vance.

The denial of visas to the moderate leaders was not only ill-advised and discriminatory, but also violated the cherished American traditions of free speech and an open market place of ideas.

The present posture of our Government raises serious doubts about its real commitment: Is it a commitment to majority rule or a commitment to a band of militant radicals?

Because of the State Department's policy of supporting the black groups seeking the violent overthrow of the Rhodesian Government, the Carter administration now finds itself in the embarrassing position of being arrayed against the moderate and representative black leaders seeking a peaceful internal solution.

Recent events, however, provide a new chance for the United States to abondon its support of militant radicals and perhaps contribute constructively to a peaceful settlement in Rhodesia.

The present course deserves encouragement.

By dropping its interventionist pressure tactics and indicating support for an internal settlement based on majority rule through universal adult suffrage and free elections, the United States may yet play a constructive role in reaching a peaceful accommodation between black and white Rhodesians.

By indicating its readiness to recognize promptly a new government of Rhodesia, should such be formed as a result of the talks between Prime Minister Smith and the black moderates, and to establish diplomatic and economic relations, the United States would provide great incentive to blacks and whites to settle their differences quickly.

An end to the 10-year-old embargo and a substantial influx of Western investment capital could go a long way toward launching an economically and politically viable state in which both blacks and whites have a stake.

There will be those who will argue that there can be no settlement without the support of the Patriotic Front and the neighboring African states, but if the new government has the support of the vast majority of Rhodesians then support for the guerrilla movement would be likely to fade rapidly.

If blacks and whites in Rhodesia want to settle their differences peacefully and democratically the United States should give its strongest encouragement.

A U.S. policy of encouragement rather than intervention surely would be appropriate for South Africa as well as Rhodesia. In dealing with the whole troubled region of Southern Africa, we should proceed in a spirit of helpful goodwill, not one of meddling and compulsion.

If we follow this principle, there is yet time for the United States to erase the errors of the past and serve as a constructive partner in the effort to build a peaceful and prosperous future for Southern Africa, which for all its problems is a region of great importance and great promise.

(Additional statements submitted and routine morning business transacted will be printed later in today's Record.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. All time for morning business having expired, morning business is closed.

DUTY ON ISTLE

Mr. ROBERT C. BYRD. Mr. President, in an effort to expedite final action on the black lung benefits reform bill, which has been in conference since September, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 526.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I have discussed this matter as well with my friend the majority leader. Under the circumstances, and because of the nature of the problem and the parliamentary situation as we find it, I think this is the best method for handling it, and we have no objection.

Mr. LONG. Mr. President, I ask unanimous consent that Richard Ruge, of the staff of the Joint Committee on Taxation, be granted the privilege of the floor during the debate on the black lung bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5322) to provide duty-free treatment for istle.

Mr. LONG. Mr. President, H.R. 5322 as it passed the House provided for the duty-free treatment of istle. The Senate has already passed the substance of this provision as an amendment to another bill and it has been signed into law.

The Finance Committee used the bill number as a vehicle to report out our actions on social security financing. Since the House then sent the Senate a social security financing bill, there is no need for the Senate to act on H.R. 5322.

Since the committee amendment to H.R. 5322 concerns social security financing and is lengthy, there is no reason to incur the cost of printing it in the Record. I ask unanimous consent that the printing of the Committee amendment to H.R. 5322 in the Record be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1081

(Purpose: To impose an excise tax on coal sales, to establish a Black Lung Disability Trust Fund, and for other purposes.)

Mr. LONG. Mr. President, I send to the desk an amendment in the nature of a substitute, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes an unprinted amendment numbered 1081, to strike out all after the enacting clause and insert in lieu thereof new language.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"Section 1. Short Title.

"This Act may be cited as the 'Black Lung Benefits Revenue Act of 1977'.

"Sec. 2. Excise Tax on Coal.

"(a) In General.—Chapter 32 of the Internal Revenue Code of 1954 (relating to manufacturers excise taxes) is amended by inserting after subchapter A the following new subchapter:

" 'Subchapter B—Coal

" 'Sec. 4121. Imposition of tax.

" 'Sec. 4121. Imposition of Tax.

" '(a) Tax Imposed.—There is hereby imposed on coal sold by the producer a tax at the rates of—

" '(1) 50 cents per ton in the case of coal from underground mines located in the United States, and

" '(2) 25 cents per ton in the case of coal from surface mines located in the United States.

" '(b) Limitation on Tax.—The amount of tax imposed by subsection (a) with respect to a ton of coal shall not exceed 2 percent of the price at which such ton of coal is sold by the producer.

" '(c) Tax Not To Apply to Lignite.—The tax imposed by subsection (a) shall not apply in the case of lignite.

" '(d) Definitions.—For purposes of this subchapter—

" '(1) Coal from surface mines.—Coal shall be treated as produced from a surface mine if all of the geological matter above the coal being mined is removed before the coal is extracted from the earth. Coal extracted by auger shall be treated as coal from a surface mine.

" '(2) Coal from underground mines.—Coal shall be treated as produced from an underground mine if it is not produced from a surface mine.

" '(3) United States.—The term "United States" has the meaning given to it by paragraph (1) of section 638.

" '(4) Ton.—The term "ton" means 2,000 pounds.' ".

"(b) Conforming Amendments.—

"(1) Section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) is amended by adding at the end thereof the following new sentence: 'For the purpose of applying the first sentence of this subsection to coal taxable under section 4121, the words "(otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him)" shall be disregarded.'.

"(2) Section 4221(a) of such Code (relating to certain tax-free sales) is amended by inserting '(other than under section 4121)' after 'this chapter'.

"(3) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by inserting '(other than the tax imposed by section 4121)' after 'chapters 31 and 32'.

"(4) Subsection (b) of section 6416 (relating to special cases in which tax payments are considered overpayments) is amended—

"(A) by inserting '(other than coal taxable under section 4121)' immediately after 'in respect of any article' in paragraph (2), and

"(B) by inserting '(other than coal taxable under section 4121)' immediately after 'with respect to the sale of any article' in paragraph (3).

"(c) Clerical Amendment.—The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter A the following new item:

" 'Subchapter B. Coal.'.

"(d) Effective Date.—The amendments made by this section shall apply with respect to sales after March 31, 1978.

"Sec. c. Trust Fund and Operator Liability.

"(a) Establishment of Fund.—

"(1) There is hereby established on the books of the Treasury of the United States a trust fund to be known as the Black Lung Disability Trust Fund (to which reference is made elsewhere in this section as the 'fund'). The fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it or deposited in it as provided in subsection (b).

"(2) The trustees of the fund shall be the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare. The Secretary of the Treasury shall be the managing trustee and shall hold, operate, and administer the fund.

"(b) Appropriations; Other Receipts.—

"(1) There are hereby appropriated to the fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the taxes received in the Treasury under section 4121, and by operation of section 4952, of the Internal Revenue Code of 1954. The amounts appropriated by this paragraph shall be transferred monthly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the amounts of such taxes received in the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(2) There are authorized to be appropriated to the fund, as repayable advances, such sums as may from time to time be necessary to meet obligations incurred under subsection (a) of section 424 of the Federal Coal Mine Health and Safety Act of 1969. Advances made pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the fund for such repayments. Interest on such advances shall be at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of any such advance, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt. When such average rate is not a multiple of one-eighth of 1 percent, the rate of interest on such advances shall be the multiple of one-eighth of 1 percent nearest such average rate.

"(3) Amounts paid into the fund by a trust described in section 501(c)(21) of the Internal Revenue Code of 1954 (other than amounts paid under subsection (b) of section 424 of the Federal Coal Mine Health and Safety Act of 1969) shall be covered into the fund.

"(4) Amounts repaid or recovered under subsection (b) of section 424 of the Federal Coal Mine Health and Safety Act of 1969 shall be covered into the fund as repayments of amounts erroneously paid out.

"(5) Amounts paid as fines or penalties, or interest thereon, under section 423, 431, or 432 of such Act shall be covered into the fund as miscellaneous receipts.

"(c) Duties of the Secretary of the Treasury.—

"(1) The Secretary of the Treasury shall hold the fund and (after consultation with the other trustees of the fund) shall report to the Congress not later than the last day of March of 1979, and of each succeeding year, on the financial condition and the results of the operations of the fund during the preceding fiscal year (including a detailed statement of the expenses paid out of the fund under subsection (a)(4) of section 424 of the Federal Coal Mine Health and Safety Act of 1969) and on its expected condition and operations during the fiscal year in which the report is made. The report shall be printed as a House document of the session of the Congress to which the report is made.

"(2) It is the duty of the Secretary of the Treasury to invest such portion of the fund as is not, in his judgment, required to meet current withdrawals, including the repayment of advances made under subsection (b)(2). Such investments shall be made in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. The income on such investments shall be credited to and form a part of the fund.

"(d) Payments From Fund.—Section 424 of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:

"'Sec. 424. (a) Amounts in the Black Lung Disability Trust Fund (referred to in this section as the "fund") established under section 3 of the Black Lung Benefits Revenue Act of 1977 shall be available, as provided by appropriation Acts, for—

"'(1) the payment of benefits under section 422 in any case in which the Secretary determines that—

"'(A) the operator liable for the payment of such benefits—

"'(i) has not commenced payment of such benefits within 30 days after the date of an initial determination of eligibility by the Secretary, or

"'(ii) has not made a payment within 30 days after that payment is due,

"'(B) there is no operator who is required to secure the payment of such benefits,

"'(2) the payment of obligations incurred by the Secretary with respect to all claims of miners or their survivors in which the miner's last coal mine employment was before January 1, 1970,

"'(3) the repayment into the Treasury of the United States of an amount equal to the sum of the amounts expended by the Secretary for claims under this part which were paid before April 1, 1978, except that the fund shall not be obligated to pay or reimburse for benefits paid attributable to periods of eligibility before January 1, 1974,

"'(4) the repayment of, and the payment of interest on, advances to the fund under subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977, and

"'(5) the payment of all expenses of operation and administration on and after the effective date of the Black Lung Benefits Reform Act of 1977 (or any other Act determined by the Secretary to contain substantially the same provisions) under this part (other than under section 427(a) or 433), including the administrative expenses incurred by the Department of Labor under this part, the administrative expenses incurred by the Department of the Treasury in administering subchapter B of chapter 32 of the Internal Revenue Code of 1954 and in carrying out its responsibilities with respect to the fund, and any expenses incurred by the Department of Health, Education, and Welfare in connection with the administration of this part.

"'(b)(1) If—

"'(A) an amount is paid out of the fund to an individual entitled to benefits under section 422, and

"'(B) the Secretary determines, under the provisions of sections 422 and 423, that an operator was required to secure the payment of all or a portion of such benefits,

then the operator is liable to the United States for repayment to the fund of the amount of such benefits the payment of which is properly attributed to him. No operator or representative of operators may bring any proceeding, or intervene in any proceeding, held for the purpose of determining claims for benefits to be paid by the fund, except that nothing in this section shall affect the rights, duties, or liabilities of any operator in proceedings under section 422 or section 423. In a case where no operator responsibility is assigned pursuant to sections 422 and 423, a determination by the Secretary that the fund is liable for the payment of benefits shall be final.

"'(2) If any operator liable to the fund under paragraph (1) refuses to pay, after demand, the amount of such liability (including interest), then there shall be a lien in favor of the United States for such amount upon all property and rights to property, whether real or personal, belonging to such operator. The lien arises on the date on which such liability is finally determined, and continues until it is satisfied or becomes unenforceable by reason of lapse of time.

"'(3)(A) Except as otherwise provided under this subsection, the priority of the lien shall be determined in the same manner as under section 6323 of the Internal Revenue Code of 1954. That section shall be applied for such purposes—

"'(i) by substituting "lien imposed by section 424(b)(2) of the Federal Coal Mine Health and Safety Act of 1969" for "lien imposed by section 6321"; "operator liability lien" for "tax lien"; "operator" for "taxpayer"; "lien arising under section 424(b)(2) of the Federal Coal Mine Health and Safety Act of 1969" for "assessment of the tax"; "payment of the liability is made to the Black Lung Disability Trust Fund" for "satisfaction of a levy pursuant to section 6332(b)"; and "satisfaction of operator liability" for "collection of any tax under this title" each place such terms appear; and

"'(ii) by treating all references to the 'Secretary' as references to the Secretary of Labor.

"'(B) In the case of a bankruptcy or insolvency proceeding, the lien imposed under paragraph (2) shall be treated in the same manner as a lien for taxes due and owing to the United States for purposes of the Bankruptcy Act or section 3466 of the Revised Statutes (31 U.S.C. 191).

"'(C) For purposes of applying section 6323(a) of the Internal Revenue Code of 1954 to determine the priority between the lien imposed under paragraph (2) and the Federal tax lien, each lien shall be treated as a judgment lien arising as of the time notice of such lien is filed.

"'(D) For purposes of this subsection, notice of the lien imposed under paragraph (2) shall be filed in the same manner as under subsections (f) and (g) of section 6323 of the Internal Revenue Code of 1954.

"'(4)(A) In any case where there has been a refusal or neglect to pay the liability imposed under paragraph (2), the Secretary may bring a civil action in a district court of the United States to enforce the lien of the United States under this section with respect to such liability or to subject any property, of whatever nature, of the operator, or in which he has any right, title, or interest, to the payment of such liability.

"'(B) The liability imposed by paragraph (1) may be collected at a proceeding in court if the proceeding is commenced within 6 years after the date on which the liability was finally determined, or before the expiration of any period for collection agreed upon in writing by the operator and the United States before the expiration of such 6-year period. The running of the period of limitation provided under this subparagraph shall be suspended for any period during which the assets of the operator are in the custody or control of any court of the United States, or of any State, or the District of Columbia, and for 6 months thereafter, and for any period during which the operator is outside the United States if such period of absence is for a continuous period of at least 6 months.'.

"(e) Effective Date.—This section shall take effect on April 1, 1978.

"Sec. 4. Operator's Trust for the Payment of Black Lung Benefits.

"(a) Establishment of Trust.—Section 501(c) of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"'(21) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"'(A) the purpose of such trust or trusts is exclusively—

"'(i) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts;

"'(ii) to pay premiums for insurance exclusively covering such liability; and

"'(iii) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts; and

"'(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"'(i) the purposes described in subparagraph (A), or

"'(ii) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in subparagraph (A)) in—

"'(I) public debt securities of the United States.

"'(II) obligations of a State or local government which are not in default as to principal or interest, or

"'(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States, or

"'((iii) payment into the Black Lung Disability Trust Fund established under section 3 of the Black Lung Benefits Revenue Act of 1977, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

For purposes of this paragraph, the term "Black Lung Acts" means part C of title IV of the Federal Coal Mine Health and Safety Act of 1969, and any State law providing compensation for disability or death due to pneumoconiosis.'.

"(b) Allowance of Deduction.—

"(1) In general.—Part VI of subchapter B of chapter 1 of such Code (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"'Sec. 192. Contributions to Black Lung Benefit Trust

"'(a) Allowance of Deduction.—There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

"'(b) Limitation.—

"'(1) In general.—The amount of the deduction allowed by subsection (a) for any taxable year with respect to any such trust shall not exceed the amount determined under paragraph (2) or (3), whichever is greater.

"'(2) Current year obligations.—The amount determined under this paragraph for the taxable year is the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to carry out the purposes of the trust described in subparagraph (A) of section 501(c)(21) for the taxable year.

"'(3) Certain future obligations.—The amount determined under this paragraph for the taxable year is the sum of—

"'(A) the amount which is necessary to meet the expenses of the trust described in clause (iii) of section 501(c)(21)(A) for the taxable year, and

"'(B) the lesser of—

"'(i) the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to provide all expected future payments with respect to black lung benefit claims which are approved, including any such claims which have been filed and which have not been disapproved, as of the end of the taxable year, or

"'(ii) twice the amount which is necessary to provide all expected future payments with respect to the greater of—

"'(I) black lung benefit claims filed during the taxable year or any one of the 3 immediately preceding taxable years, or

"'(II) such claims approved during any one of those 4 taxable years.

"'(c) Special Rules.—

"'(1) Determination of expected future payments.—The amounts described in subsection (b) shall be determined by using reasonable actuarial assumptions which are not inconsistent with regulations prescribed by the Secretary.

"'(2) Benefit payments taken into account.—In determining the amounts described in subsection (b), only those black lung benefit claims the payment of which is expected to be made from the trust shall be taken into account.

"'(3 Time when contributions deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a payment of a contribution on the last day of a taxable year if the payment is on account of that taxable year and is made not later than the time prescribed by law for filing the return for that taxable year (including extensions thereof).

"'(4) Contributions to be in cash or certain other items.—No deduction shall be allowed under subsection (a) with respect to any contribution to a trust described in section 501(c)(21) other than a contribution in cash or in items in which such trust may invest under clause (ii) of section 501(c)(21)(B).

"'(d) Carryover of Excess Contributions.—If the amount of the deduction determined under subsection (a) for the taxable year (without regard to the limitation imposed by subsection (b)) with respect to a trust exceeds the limitation imposed by subsection (b) for the taxable year, the excess shall be carried over to the succeeding taxable year and treated as contributed to the trust during that year.

"'(e) Definition of Black Lung Benefit Claim.—For purposes of this section, the term "black lung benefit claim" means a claim for compensation for disability or death due to pneumoconiosis under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 or under any State law providing for such compensation.'

"(2) Clerical amendment.—The table of sections for such part is amended by adding at the end thereof the following new item:

"'Sec. 192. Contributions to black lung benefit trust.'.

"(c) Excise Taxes on Acts of Self-Dealing, Taxable Expenditures, and Excess Contributions.—

"(1) In general.—Chapter 42 of such Code (relating to private foundations) is amended by adding at the end thereof the following new subchapter:

"'Subchapter B—Black Lung Benefit Trusts

"'Sec. 4951. Taxes on self-dealing.
"'Sec. 4952. Taxes on taxable expenditures.
"'Sec. 4953. Tax on excess contributions to black lung benefit trusts.

"'Sec. 4951. Taxes on Self-Dealing.

"'(a) Initial Taxes.—

"'(1) On self-dealer.—There is hereby imposed a tax on each act of self-dealing between a disqualified person and a trust described in section 501(c)(21). The rate of tax shall be equal to 10 percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than a trustee acting only as a trustee of the trust) who participates in the act of self-dealing.

"'(2) On trustee.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any trustee of such a trust in an act of self-dealing between a disqualified person and the trust, knowing that it is such an act, a tax equal to 2½ percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any such trustee who participated in the act of self-dealing.

"'(b) Additional Taxes.—

"'(1) On self-dealer.—In any case in which an initial tax is imposed by subsection (a)(1) on an act of self-dealing by a disqualified person with a trust described in section 501(c)(21) and in which the act is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than a trustee acting only as a trustee of such a trust) who participated in the act of self-dealing.

"'(2) On trustee.—In any case in which an additional tax is imposed by paragraph (1), if a trustee of such a trust refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any such trustee who refused to agree to part or all of the correction.

"(c) Joint and Several Liability.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable, under such act.

"'(d) Self-Dealing.—

"'(1) In general.—For purposes of this section, the term "self-dealing" means any direct or indirect—

"'(A) sale, exchange, or leasing of real or personal property between a trust described in section 501(c)(21) and a disqualified person;

"'(B) lending of money or other extension of credit between such a trust and a disqualified person;

"'(C) furnishing of goods, services, or facilities between such a trust and a disqualified person;

"'(D) payment of compensation (or payment or reimbursement of expenses) by such a trust to a disqualified person; and

"'(E) transfer to, or use by or for the benefit of, a disqualified person of the income or assets of such a trust.

"'(2) Special rules.—For purposes of paragraph (1)—

"'(A) the transfer of personal property by a disqualified person to such a trust shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien;

"'(B) the furnishing of goods, services, or facilities by a disqualified person to such a trust shall not be an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for the purposes specified in section 501(c)(21)(A); and

"'(C) the payment of compensation (and the payment or reimbursement of expense) by such a trust to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the trust shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive.

"'(e) Definitions.—For purposes of this section—

"'(1) Taxable period.—The term "taxable period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earlier of—

"'(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"'(B) the date on which correction of the act of self-dealing is completed.

"'(2) Amount involved.—The term "amount involved" means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that in the case of services described in subsection (d)(2)(C), the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

"'(A) in the case of the taxes imposed by subsection (a), shall be determined as of the date on which the act of self-dealing occurs; and

"'(B) in the case of taxes imposed by subsection (b), shall be the highest fair market value during the correction period.

"'(3) Correction.—The terms "correction" and "correct" mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the trust in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

"'(4) Correction period.—The term "correction period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (b)(1), extended by—

"'(A) any period in which a deficiency cannot be assessed under section 6313(a), and

"'(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the act of self-dealing.

"'(5) Disqualified person.—The term "disqualified person" means, with respect to a trust described in section 501(c)(21), a person who is—

"'(A) a contributor to the trust,

"'(B) a trustee of the trust,

"'(C) an owner of more than 10 percent of—

"'(i) the total continued voting power of a corporation,

"'(ii) the profits interest of a partnership, or

"'(iii) the beneficial interest of a trust or unincorporated enterprise,

which is a contributor to the trust,

"'(D) an officer, director, or employee of a person who is a contributor to the trust,

"'(E) the spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in subparagraph (A), (B), (C), or (D),

"'(F) a corporation of which persons described in subparagraph (A), (B), (C), (D), or (E) own more than 35 percent of the total combined voting power,

"'(G) a partnership in which persons described in subparagraph (A), (B), (C), (D), or (E), own more than 35 percent of the profits interest, or

"'(H) a trust or estate in which persons described in subparagraph (A), (B), (C), (D), or (E) hold more than 35 percent of the beneficial interest.

For purposes of subparagraphs (C)(i) and (F), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph. For purposes of subparagraphs (C) (ii) and (iii) (G), and (H), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267 (c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph.

"'(f) Payments of Benefits.—For purposes of this section, a payment, out of assets or income of a trust described in section 501(c)(21), for the purposes described in clause (i) of section 501(c)(21) (A) shall not be considered an act of self-dealing.

"'Sec. 4952. Taxes on Taxable Expenditures.

"'(a) Tax Imposed.—

"'(1) On the fund.—There is hereby imposed on each taxable expenditure (as defined in subsection (d)) from the assets or income of a trust described in section 501 (c)(21) a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust.

"'(2) On the trustee.—There is hereby imposed on the agreement of any trustee of such a trust to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by the trustee who agreed to the making of the expenditure.

"'(b) Additional Taxes.—

"'(1) On the fund.—In any case in which an initial tax is imposed by subsection (a) (1) on a taxable expenditure and such expenditure is not corrected within the correction period, there is hereby imposed a tax equal to 100 pecent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust.

"'(2) On the trustee.—In any case in which an additional tax is imposed by paragraph (1), if a trustee refused to agree to a part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable expenditure. The tax imposed by this paragraph shall be paid by any trustee who refused to agree to part or all of the correction.

"'(c) Joint and Several Liability.—For purposes of subsections (a) and (b), if more than one person is liable under subsection (a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such persons shall be jointly and severally liable under such paragraph with respect to such expenditure.

"'(d) Taxable Expenditure.—For purposes of this section, the term "taxable expenditure" means any amount paid or incurred by a trust described in section 501(c)(21) other than for a purpose specified in such section.

"'(e) Definitions.—

"'(1) Correction.—The terms "correction" and "correct" mean, with respect to any taxable expenditure, recovering part or all of the expenditure to the extent recovery is possible, and where full recovery is not possible, contributions by the person or persons whose liabilities for black lung benefit claims (as defined in section 192(e)) are to be paid out of the trust to the extent necessary to place the trust in a financial position not worse than that in which it would be if the taxable expenditure had not been made.

"'(2) Correction period.—The term "correction period" means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (b)(1), extended by—

"'(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"'(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable expenditure.

"'Sec. 4953. Tax on Excess Contributions to Black Lung Benefit Trusts.

"'(a) Tax Imposed.—There is hereby imposed for each taxable year a tax in an amount equal to 5 percent of the amount of the excess contributions made by a person to or under a trust or trusts described in section 501(c)(21). The tax imposed by this subsection shall be paid by the person making the excess contribution.

"'(b) Excess Contribution.—For purposes of this section, the term "excess contribution" means the sum of—

"'(1) the amount by which the amount contributed for the taxable year to a trust or trusts described in section 501(c)(21) exceeds the amount of the deduction allowable to such person for such contributions for the taxable year under section 192, and

"'(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"'(A) the excess of the maximum amount allowable as a deduction under section 192 for the taxable year over the amount contributed to the trust or trusts for the taxable year, and

"'(B) amounts distributed from the trust to the contributor which were excess contributions for the preceding taxable year.

"'(c) Treatment of Withdrawal of Excess Contributions.—Amounts distributed during the taxable year from a trust described in section 501(c)(21) to the contributor thereof the sum of which does not exceed the amount of the excess contribution made by the contributor shall not be treated as—

"'(1) an act of self-dealing (within the meaning of section 4951),

"'(2) a taxable expenditure (within the meaning of section 4952), or

"'(3) an act contrary to the purposes for which the trust is exempt from taxation under section 501(a)'.".

"(2) Clerical amendments.—

"(A) Chapter 42 of such Code is amended by striking out the chapter heading and inserting in lieu thereof the following:

"'Chapter 42—PRIVATE FOUNDATIONS;
BLACK LUNG BENEFIT TRUSTS

"'Subchapter A. Private foundations.
"'Subchapter B. Black lung benefit trusts.
"'Subchapter A—Private Foundations'

"(B) Subsections (a)(1) and (b) of section 4946 of such Code are each amended by striking out 'For purposes of this chapter' and inserting in lieu thereof 'For purposes of this subchapter'.

"(C) The table of chapters for subtitle D of such Code is amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"''Chapter 42. Private foundations, black lung benefit trusts.'.

"(d) Technical Amendments.—

"(1)(A) Section 6213(e) of such Code (relating to suspension of filing period for certain excises taxes) is amended—

"(i) by inserting ', 4951 (relating to taxes on self-dealing), or 4952 (relating to taxes on taxable expenditures)' after '4945 (relating to taxes on taxable expenditures)',

"(ii) by inserting '4951(e)(4), 4952(e)(2),' after 4945(i)(2),', and

"(iii) by striking out '4975(f)(4)' and inserting in lieu thereof '4975(f)(6)'.

"(2) Section 6213(f) of such Code is amended by striking out 'or chapter 42 or 43' each place it appears and inserting in lieu thereof 'or chapter 41, 42, 43, or 44'.

"(3) Section 6405(a) of such Code is amended by striking out 'private foundations and pension plans under chapters 42 and 43' and inserting in lieu thereof 'public charities, private foundations, operators' trust funds, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44'.

"(4) Section 6501(e)(3) of such Code is amended by striking out 'or 43' and inserting in lieu thereof '53, or 44'.

"(5) Section 6501(n) of such Code is amended—

"(A) by striking out 'Chapter 42 Taxes' in the caption and inserting in lieu thereof 'Chapter 42 and Similar Taxes', and

"(B) by striking out the first sentence of paragraph (1) and inserting in lieu thereof the following: 'For purposes of any tax imposed by chapter 42 (other than section 4940) or by section 4975, the return referred to in this section shall be the return filed by the private foundation, plan, or trust (as the case may be) for the year in which the act (or failure to act) giving rise to liability for such tax occurred.'.

"(6)(A) Section 6503(g) of such Code is amended by striking 'or section 507 or section 4971 or section 4975' and inserting in lieu thereof 'or section 507, 4971, 4975, 4985, or 4986'.

"(B) Section 6503(g) of such Code is amended by striking out 'or 4975(f)(4)' and inserting in lieu thereof '4975(f)(6), 4985(e)(4), or 4986(e)(2)'.

"(7) Section 7454(b) of such Code is amended by inserting 'or whether the trustee of a trust described in section 502(c)(21) has "knowingly" participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952),' after 'section 4945),' ".

"(e) Publicity of Information.—Section 6104 of such Code (relating to publicity of information required from certain exempt organizations and certain trusts) is amended—

"(1) by inserting '(other than in paragraph (21) thereof)' after 'section 501(c)' in subsection (a)(1)(A), and

"(2) by adding at the end of subsection (b) thereof the following sentence: 'This subsection shall not apply to information required to be furnished by a trust described in section 501(c)(21).'

"(f) Effective Date.—The amendments made by this section shall apply with respect to contributions, acts, and expenditures made after December 31, 1977, in and for taxable years beginning after such date.

"Sec. 5. General Effective Date Reservation.

"Notwithstanding any other provision of this Act to the contrary, no provision of this Act (including any amendment made by any such provision) shall take effect or apply unless an Act, enacted after the date of enactment of this Act, contains a provision, explicitly in satisfaction of the requirements of this section, which states that it is the intent of the Congress that the provisions of this Act shall take effect.".

Amend the title so as to read: "An Act to impose an excise tax on the sale of coal by the producer, to establish a Black Lung Disability Trust Fund, and for other purposes.".

Mr. LONG. Mr. President, the amendment I am offering is the text of what was agreed to by the conferees as the tax title—title II—of the black lung bill.

PROCEDURE

On substantially all points, this agreement follows the Senate amendment to H.R. 4544. However, before I describe the provisions of the amendment, let me take a minute to talk about the procedure we are using. Although the House bill raised revenue and imposed a tax, the House chose to do so by calling its tax an "annual assessment." As a result, some people raised questions as to whether the House bill technically was a revenue bill. Now, I have no doubt that it was a revenue bill and that the Senate acted in accordance with the Constitution when we put the Senate's tax title on that bill. However, in order to ease the concerns that some people have expressed and to avoid any doubt on the subject, it was agreed by the conferees that the tax title—corresponding to title II of the Senate bill—should be passed separately by putting it on a bill that everyone would agree is a revenue bill. That is what we are doing here, today. We have written the effective date of this tax title in such a way that the tax will not go into effect unless the Congress also enacts the benefits portions of the black lung bill. In this way, there will not be a tax unless there are benefits to be paid from those tax revenues and also there will not be a revised benefits structure unless there is a tax to pay for the revised benefits structure.

PROVISIONS OF THE AMENDMENT: TAX ON COAL

Now let me briefly describe what we have in this tax amendment. This amendment imposes a tax on the sale of coal by the coal producer. The tax is imposed at the rate of 50 cents a ton on underground-mined coal and 25 cents a ton on surface-mined coal. However, in no event is the tax to be more than 2 percent of the sales price. On the whole, the agreement substantially follows the Senate bill.

In contrast to the House bill, this amendment makes it clear that the provision is a tax and brings into effect all of the regular procedures for manufacturers excise taxes. For example, this provides rules for situations where the producer uses the coal rather than selling it, such as in the case of integrated electric utilities and a number of steel companies; it provides rules for the time for payment of tax; and it gives the taxpayers the right to sue for refunds of overpayments of the tax. If this were not a tax, then corresponding rules would have to be developed from scratch in this bill.

The second thing that this provision does is to set the rates in the statute. The House bill would have allowed the Secretary of Labor and trustees elected by coal mine operators to set the tax rates and change them from time to time. Only in extreme circumstances has the Congress ever allowed the executive branch or anyone else to establish or vary tax rates, and we had no intention of departing from that very desirable standard in this case. If anyone wants to change the tax rates, then under this amendment they have to come back to the Congress and the Congress has the power to decide.

Third, this provision establishes the idea that there is a limit as to how high the tax should go as a percentage of the value of the product. An ad valorem tax has less of a distorting effect on pricing systems and competition in the marketplace than a flat per-ton tax would have. Also, an ad valorem tax is easier to administer and less expensive, both from the point of view of the taxpayer and of the Government. Basically, an ad valorem tax would not require the taxpayer to keep any records other than the same financial records that the taxpayer keeps now for income tax purposes. The simpler, ad valorem approach was what the Senate passed when it considered the black lung bill before.

Unfortunately, we were not able to get the House to agree completely with the Senate's approach and so we reached the compromise that I described to you, that the taxpayer would pay 50 cents a ton on underground-mined coal and 25 cents a ton on surface-mined coal, but not more than 2 percent ad valorem. All in all, I suggest that this is a good compromise of the differing positions.

BLACK LUNG DISABILITY BENEFITS TRUST FUND

The trust fund provisions are basically the same as those passed by the Senate earlier this year. The revenues from the tax are put into a trust fund. The trustees are the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, with the Secretary of the Treasury as the managing trustee. Although the tax collections are automatically appropriated to the trust fund, payments from the trust fund can be made only in accordance with appropriations acts. The benefits under what is called part C of the black lung benefits program are to be paid out of the trust fund, that is, out of the coal taxes. There is a provision permitting appropriations of "repayable advances" to the trust fund, in order to tide it over the first few years, because in the initial years, the expenditures are expected to be more than the revenues. However, those advances must be repaid, with interest, from the coal tax revenues. This program is not to be supported from the general revenues.

COAL MINE OPERATORS' TRUSTS

The amendment also includes provisions from the Senate-passed bill which provide special rules for trust funds established by coal mine operators to satisfy their obligations under the so-called "responsible operator" provisions of the black lung benefits program. Where a coal mine operator has been designated as the one responsible for payment of benefits to a miner, the coal mine operator will be permitted to fund its obligations in advance through contributions to a tax-exempt trust. These contributions will be deductible, within limits, and the amendment includes safeguards to insure that the money in the trust can be used only for the payment of these black lung benefits.

NIOSH

The last provision in the Senate-passed bill was dropped in conference, because it has already been passed on a separate bill which has been signed into law by the President. That law is Public Law 95-210, relating to rural health clinics. That provision would have allowed NIOSH—the National Institute of Occupational Safety and Health—to obtain information about taxpayers' addresses in order to warn them of health dangers that they may have been exposed to in their jobs. There, too, the Senate's objeective was achieved, even though it turned out that it was not

necessary to achieve it on this particular bill.

CONCLUSION

Mr. President, when the Senate dealt with this bill, the committee report filed by the Committee on Finance was filed with respect to S. 1538. That was debated by the Senate on July 21, 1977. Finally, the House sent us H.R. 4544 and the Senate acted on that bill on September 20, 1977. Because of the procedure that the conferees have agreed upon, we are now acting on a third bill, H.R. 5322. In order to allow people to follow the legislative history of this provision, especially since there will not be a conference report on the tax title of the black lung legislation, I ask unanimous consent to insert in the RECORD, at the end of my remarks, a detailed explanation of the amendment I am offering—that is, the tax title of the black lung legislation. This explanation is substantially the same as the Senate Finance Committee's report on S. 1538.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LONG. All in all, the results of the black lung conference have been quite successful with respect to title II of the Senate bill—the tax title. And I take this opportunity to express my thanks to the senior Senator from West Virginia (Mr. RANDOLPH), for his great work in helping us achieve a compromise so that we could move ahead in this conference.

Mr. RANDOLPH has worked in this field for many years. He has been most considerate and has helped to bring the conferees together on points which have heretofore been irreconciliable. It was in large part because of his moderating influence and ability to bring people together that we have been able to bring this measure to the Senate. I believe the passage of this will assure us that we will have a properly functioning black lung program.

I would also like to thank all the other Senate conferees for their assistance in working on this bill and I hope that we will soon have title I before us—the benefits title—so that we can complete action on the black lung legislation.

Mr. President, I urge the adoption of the amendment.

EXHIBIT 1

BLACK LUNG BENEFITS REVENUE ACT OF 1977

GENERAL EXPLANATION

Tax on Coal (sec. 2 of the bill and new sec. 4121 of the Code).

PRESENT LAW

Present law does not include any Federal tax on coal extraction or sales, as such. (Profits are, of course, subject to income taxation and, in that context, there are several provisions of particular application to coal.)

EXPLANATION OF THE PROVISION

The amendment imposes a manufacturers excise tax on the sale of coal by the producer. The tax is imposed at the rate of 50 cents per ton in the case of coal from underground mines in this country and 25 cents per ton in the case of coal from surface mines in this country. The amount of the tax per ton of coal is limited, however, to 2 percent of the sales price of the coal. This means, in effect, that coal from underground mines which sells for less than $25 per ton and coal from surface mines which sells for less than $12.50 per ton is taxed at a rate of 2 percent ad valorem rather than at a flat rate per ton. This 2-percent ad valorem limitation is intended to prevent the tax imposed by this section from being a disproportionately high percentage burden on lower-priced coal.

Coal is to be treated as produced from a surface mine if all of the geological matter (e.g., trees, earth, rock) above the coal is removed before the coal is mined. Since in some cases a single mine may be yielding coal at one time from surface mining operations and at the same time from underground mining operations, the determination of whether the 50-cent rate (underground mining) or the 25-cent rate (surface mining) applies is to be made with respect to each load of coal and not on a mine-by-mine basis. Furthermore, since operations with respect to a coal deposit may change from surface to underground (for example, where the overburden becomes too difficult to remove as the mining progresses), the rate of tax may vary even with respect to a single deposit of coal.

For purposes of this tax provision, auger mining is to be treated as surface mining.

Most of the rules generally applicable to manufacturers excise taxes, including the collection provisions, apply to this coal tax. However, the following exemptions which apply to other manufacturers excise taxes do not apply to this tax on coal: sales for further manufacturing, for export, for use as supplies for vessels or aircraft, for the use of a State or local government, or for the use of a nonprofit educational organization. Discretionary authority now granted to the Secretary of the Treasury to exempt sales for the use of the United States from this manufacturers excise tax will not be available in the case of this tax.

As under the general rule applicable to manufacturers excise taxes, use by a producer is treated as a sale by the producer.

Under the general rules applicable to manufacturers excise taxes (sec. 4216(a)), where the 2-percent ad valorem rate applies, the tax base for coal sold by a producer (rather than used by the producer, as in a manufacturing process) is the sale price f.o.b. mine (or cleaning plant). This is true even if the producer sells on the basis of a delivered price. Where a producer uses coal mined by the producer in a manufacturing process, the tax base will be a constructive price based on sales made f.o.b. mine or cleaning plant by other producers (sec. 4218(e)). For such a producer, the constructive sale price for purposes of the manufacturers excise tax will normally be the same as the constructive price used by the producer for purposes of determining the deduction for percentage depletion.

This tax does not apply to lignite, which is generally the softest and least expensive of the types of coal.

This exemption is intended to apply to "lignite" as defined in accordance with the standard specifications for the classification of coals by rank of the American Society for Testing and Materials (p. 214, 1976 Annual Book of ASTM Standards, Part 26, D 388).

EFFECTIVE DATES

This tax will apply to coal sold by a producer after March 31, 1978.

2. Black Lung Disability Trust Fund (sec. 3 of the bill)

PRESENT LAW

Present law does not include a trust fund for financing black lung benefits. The Federal Government's share of the costs of the present part C program is paid directly out of appropriations from the general fund of the Treasury.

EXPLANATION OF THE PROVISION

The amendment establishes a trust fund (the "Black Lung Disability Trust Fund") and automatically appropriates to it amounts equal to the revenues from the coal tax described above. In addition, the amendment appropriates to the trust fund any revenues from the penalty taxes imposed on coal mine operators' trusts, described below. Since those taxes are imposed only if certain statutory standards are violated by those trusts, negligible revenues can be expected from that source. Also, the trust fund is to retain reimbursements from coal mine operators whose obligations are paid by the trust fund, as well as earnings on any trust fund investments. Finally, the amendment authorizes appropriations from general revenues as advances to be repaid from later coal tax revenues. Such advances are required since the trust fund's obligations are greatest in the first few years of its existence, while the revenues from the coal tax will be lower at the beginning and will increase as time goes on. It is not intended that this authorization be viewed as permitting advances in excess of what can be expected to be repaid out of the coal tax revenues provided for under the amendment.

The fund is required to pay benefits if there is no "responsible operator," or if the operator is in default, and would be required to pay benefits with respect to all claims in which the miner's last coal mine employment was before January 1, 1970. In cases in which the Government has already paid benefits for periods of eligibility since January 1, 1974, the fund must reimburse the Government for these payments. This, in effect, transfers those costs from the Government to the industry (by way of the trust fund revenues from the tax on coal).

The expenses of the Department of Labor and the Department of the Treasury (and, to a limited extent, where appropriate, the Department of Health, Education, and Welfare) in operating and administering the claims program to be financed through the fund are to be paid by the fund. The fund also is to bear the costs of its own administration, as well as the costs incurred by the Treasury Department in collecting the coal tax and administering the provisions of the Internal Revenue Code with respect to that tax. The annual report of the fund is to include a full accounting of these administrative costs and of the personnel required for administration.

Under the amendment, if the Secretary of Labor determines (in accordance with existing procedures, which provide for administrative and judicial appeals) that a coal mine operator is responsible for the payment of certain benefits, but those benefits have in fact been paid out of the fund, then the coal mine operator is obligated to reimburse the fund. If the operator refuses to reimburse the fund, then a lien is to arise in favor of the United States for the entire amount that the operator is required to repay. This lien attaches to all the assets of the coal mine operator and is given generally the same status as a Federal tax lien. If the operator initiates administrative or judicial appeals as provided under present law, then the lien is not to attach until the termination of the review proceedings.

The amendment authorizes the Secretary of Labor to bring suit in any Federal district court to enforce this lien.

The trustees of the fund are the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare; the Secretary of the Treasury is to be the managing trustee. Receipts of the fund in excess of amounts needed to meet current withdrawals are to be invested only in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. The fund's earnings from these investments are to be credited to and form a part of the fund. The Secretary of the Treasury, in making such investments, is, of course, acting as fiduciary of the fund and is to focus upon the needs of the fund in choosing which investments are appropriate.

Such investments are not to be made unless the fund has sufficient assets to meet current withdrawals, including satisfaction of any obligation of the fund to repay amounts that may have been appropriated from the general fund as "repayable advances". The amendment, in authorizing the Secretary to invest in securities bearing interest at prevailing market rates, recognizes that the interest rates on investments by the fund may be different from the interest that the fund is to pay to the general fund of the Treasury on such repayable advances. By requiring that the fund repay those advances before it is free to make investments, the amendment avoids the possibility of "arbitrage situations" arising from possible differences in interest rates.

Amounts equivalent to the coal tax collections are to be transferred to the fund monthly, on the basis of estimates, with adjustments to be made annually to reconcile previous transfers with net collections.

Other amounts (penalty taxes imposed on operators' trusts, recoveries of amounts from "responsible operators," fines and penalties paid under the Federal Coal Mine Health and Safety Act of 1969, and payments from operators' trusts) are to be transferred as promptly as practical, but in any event not less often than quarterly.

EFFECTIVE DATES

The fund is to be established on April 1, 1978, and to pay out benefits on and after that date.

3. Operators' Trusts for Contingent Liabilities (sec. 4 of the bill and new secs. 501(c)(21), 192, 4951, 4952, and 4953 of the Code)

PRESENT LAW

As a general rule, the income tax law does not give a taxpayer current deductions for amounts set aside in a self-insurance fund to satisfy contingent liabilities which may arise in the future. A coal mine operator who cannot deduct amounts set aside in a trust fund or reserve account for liabilities under black lung benefits laws until such amounts are actually used to pay claims, finds that the operator generally can take current deductions for premiums paid on commercial insurance policies covering such contingent liabilities.[1]

Also under present law, a trust established to provide funds to satisfy contingent liabilities does not qualify for tax-exempt status. Thus, the tax law does not provide an exemption for income on assets set aside by a coal mine operator to satisfy liabilities for black lung benefits. By way of comparison, it should be noted that to the extent income and net short-term capital gain on reserves held under a non-cancellable accident and health insurance policy issued by a life insurance company are required to be added to the reserve in order to satisfy contingent liabilities, the income and gains are not taxed to the insurer.[2]

In general, private employee welfare plans must comply with Federal standards regarding fiduciaries, investments, and self-dealing or other prohibited transactions, pursuant to the Employee Retirement Income Security Act of 1974 (ERISA). Plans maintained for workmen's compensation or disability insurance purposes are not subject to ERISA.

EXPLANATION OF THE PROVISION

The amendment provides (1) income tax exemptions for a qualifying trust used by a coal mine operator to self-insure for liabilities under Federal and State black lung benefits laws and (2) deductions (within certain limits) for amounts contributed to the trust by the operator.

Trusts—Qualifications

The bill adds a paragraph (21) to section 501(c) of the Code, describing certain trusts which would qualify for exemption from Federal income taxation. To so qualify, the trust must be created or organized in the United States exclusively for the following purposes: (a) to satisfy in whole or in part the operator's liabilities for black lung benefits arising under Federal or State statutes;[3] (b) to purchase insurance for the purpose of covering such liabilities in whole or in part; and (c) to pay the administrative and incidental costs of the trust (such as legal, accounting, actuarial, and trustee expenses) incurred in connection with operation of the trust or the processing of black lung claims against the operator.

A section 501(c)(21) trust may pay premiums for insurance to cover the operator's black lung benefits liabilities (1) if the insurance solely covers such liabilities and no other risks or (2) if not, only to the extent of that portion of the premium which has been separately allocated and stated by the insurer as attributable solely to coverage of the operator's black lung benefits liabilities.

The administrative and incidental expenses properly payable by the trust include any excise taxes imposed on the trust under the taxable expenditures provision (discussed below), plus expenses (such as legal fees), reasonable in amount, incurred by the trust in connection with assertion against the trust of liability for these taxes. A section 501(c)(21) trust may not pay any excise taxes imposed under the self-dealing or excess contributions provisions (discussed below) or any excise taxes imposed on trustees under the taxable expenditures provisions, nor may the trust pay any expenses incurred in connection with assertions of liability for such taxes.

The trust must be irrevocable, with no right or possibility of reversion (either of corpus or income) to the coal mine operator (except for the recovery of excess contributions by the operator, as described below, under *Deductions*). The trust must be established and maintained pursuant to a written instrument. the trust instrument must provide that no part of the corpus or income may be used for purposes other than:

(*a*) those purposes described above,

(*b*) certain permitted investments (described in detail below), or

(*c*) payment into the Black Lung Disability Trust Fund or into the general fund of the Treasury.

If the trust qualifies, its income is not taxable to the operator making contributions to the trust,[4] nor is the income taxable to the trust (except to the extent it is subject to the tax imposed by section 511 on "unrelated business taxable income").

Trusts—Status under ERISA

The Finance Committee was informed by the Department of Labor that, in the Department's opinion, a section 501(c)(21) trust would be excluded from coverage under title I of ERISA (the so-called "labor law" provisions) because of ERISA section 4(b)(3), which exempts employee benefit plans "maintained solely for the purpose of complying with applicable workmen's compensation laws or * * * disability insurance laws * * *." The Finance Committee has agreed with this interpretation.

The amendment imposes certain investment limitations and prohibitions on "self-dealing" and "taxable expenditures" which are believed to be appropriate to prevent abuses of section 501(c)(21) trusts.

Investment limitations

Under the amendment, a qualifying trust may invest its funds only in the following: (a) public debt securities of the United States; (b) obligations of a State or local government, other than any such obligation which is in default as to either principal or interest; or (c) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of sec. 101(6) of the Federal Credit Uion Act). The bank or credit union, as the case may be, must be located in the United States. These investment restrictions are intended to preclude speculative or other investments of corpus or income which might jeopardize the carrying out of the trust's exempt purposes and permit the committee to simplify the self-dealing restrictions and avoid the necessity of certain other restrictions to prevent potential abuses.

Under the self-dealing restrictions applicable to these trusts, if a bank or an insured credit union is a trustee of the trust or otherwise is a "disqualified person" with respect to the trust (for example, if it owns or is owned by the coal mine operator maintaining the trust) no funds of the trust may be held or invested in checking accounts, savings accounts, certificates of deposit, or other time or demand deposits in that bank or credit union.

"Self-dealing" prohibitions

The bill prohibits any direct or indirect "self-dealing", a comprehensively defined term, between a section 501(c)(21) trust and any "disqualified person" with respect to that trust.

The following transactions are prohibited by the bill:

(1) the sale, exchange, or leasing of property between the trust and any disqualified person (including certain transfers to the trust of property subject to a lien);

(2) the lending of money or other extension of credit between the trust and any disqualified person;

(3) the furnishing of goods, services, or facilities between the trust and any disqualified person (unless furnished to the trust, without charge, exclusively for proper trust purposes);

(4) payment of compensation by the trust to any disqualified person (except for compensation, not excessive in amount, paid for personal services which are reasonable and necessary to carrying out the trust's permitted purposes); and

(5) the transfer to, or use by or for the benefit of, any disqualified person of the income or assets of the trust.

Payments by a section 501(c)(21) trust for purposes of satisfying the operator's liabilities for black lung benefits arising under Federal or State statutes, or to purchase insurance exclusively covering such liabilities, do not constitute either prohibited self-dealing or taxable expenditures (described below). Similarly, payments by an insurance company for purposes of satisfying the operator's black lung benefits liabilities do not constitute prohibited self-dealing merely because the premiums for such insurance have been paid by the trust. If an insurance company constitutes a disqualified person with respect to the trust, however, the self-dealing rules would prohibit the trust from purchasing any insurance from that company.

For purposes of the self-dealing rules, the term "disqualified person" includes (i) a coal mine operator contributing any amount to the trust; (ii) an officer, director, or employee of the operator; (iii) a trustee of the trust (or any person having powers or responsibilities with respect to the trust similar to those of trustees); (iv) a person owning more than 10 percent of an operator in category (i); (v) a member of the family of any individual described in any of the first four categories; and (vi) any entity in which persons described in any of the first five categories own or hold certain specified percentages of voting power or profits or beneficial interest.

Any violation of the prohibitions against self-dealing transactions gives rise automatically to an initial excise tax on the self-dealer (the disqualified person who violated the restrictions), equal to 10 percent of the "amount involved". In addition, an initial tax (equal to 2½ percent of the amount involved) is also to be imposed on any trustee

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Footnotes at end of article.

or other manager of the trust who participated in the taxable act, but only if the manager participated knowing the act was taxable and if the manager's participation was willful and not due to reasonable cause. In the case of either the trust or the manager, a second level of excise tax at higher rates (100 percent and 50 percent, respectively) is to be imposed if the act is not undone or otherwise "corrected" after issuance of a deficiency notice from the Internal Revenue Service.

"Correction" consists of "undoing" the transaction or (if undoing is not possible) making the trust whole or giving the trust the benefit of the bargain within 90 days after the mailing of the deficiency notice with respect to the first level of tax. For purposes of this sanction, the amount involved is the highest fair market value of the property involved in the transaction during the period within which the transaction may be undone. This provision is intended to impose all market fluctuation risk upon the self-dealer who refuses to comply and to give the trust the benefit of the best bargain it could have made at any time during the period.

The second-level excise tax sanction, imposed only after a notice of deficiency and adequate opportunity for court review and undoing the self-dealing transaction, is intended to be sufficiently heavy to compel voluntary compliance (at least after court review). It is expected that application of this sanction will be rare, but where the parties refuse to undo the transaction, it is expected that this sanction will be applied.

These taxes are treated like income, estate, and gift taxes in the sense that the Internal Revenue Service is required to send deficiency notices to the self-dealer and the trustee who then have 90 days to petition the Tax Court. The usual statute of limitations for assessment applies—3 years unless there is a substantial omission of tax on the return filed by the trust (6-year-statute of limitations) or no return has been filed (assessment at any time). The 90-day period for petitioning the Tax Court and the statute of limitations for assessing and collecting the tax are suspended during any extension by the Service of the time for correcting the self-dealing.

Refund suits for first- or second-level taxes may be brought in the Court of Claims or in a district court (but only if there has been no prior court review of the prohibited act). Also, any refund suit is treated as disposing of all issues relating to any first- or second-level tax arising out of that prohibited act. An opportunity is provided for one court review of a self-dealing transaction, but no more than review.

The provisions in the bill as to "self-dealing" generally correspond to certain of the restrictions imposed on private foundations by section 4941 of the Code. Accordingly, authorized interpretations of the later provision may provide general guidance to interpretation of the self-dealing prohibitions under the amendment.[5]

Prohibitions on taxable expenditures

The bill prohibits any expenditures, payments, or investments by a section 501(c)(21) trust other than for proper payment of (a) black lung benefits, (b) administrative expenses, or (c) premiums for insurance covering liabilities for black lung benefits; for permitted investments of trust funds; or for transfer of assets to the Black Lung Disability Trust Fund or to the general fund of the Treasury.

Any violation of the prohibition against "taxable expenditures" will give rise automatically to an initial excise tax imposed on the trust, equal to 10 percent of the amount of the improper expenditure. Since this tax is payable by the trust, the amendment appropriates to the Black Lung Disability Fund amounts equivalent to any amount collected under this tax, and also under the 100-percent second-level tax, described below. In addition, an initial excise tax (equal to 2½ percent of the amount involved) also is to be imposed on any trustee or other manager of the trust who participated in the taxable act, but only if the manager participated knowing the act was taxable and if the manager's participation was wilful and not due to reasonable cause. In the case of either of the trust or the manager, a second level of excise tax at higher rates (100 percent and 50 percent, respectively) is to be imposed if the improper expenditure is not recaptured or otherwise "corrected" after issuance of a deficiency notice from the Internal Revenue Service.

The same correction and judicial review provisions apply under the taxable expenditures provision as apply under the self-dealing provision.

In light of the investment limitations plus the self-dealing and other restrictions which are imposed under the amendment to assure that funds held by self-insurance trusts are used exclusively for the required purposes, it is contemplated that the Secretary of Labor will give appropriate credit for amounts so held in trust in determining whether an operator satisfies the requirements of section 423 of the Federal Coal Mine Health and Safety Act of 1969, that the operator either qualify as a self-insurer or obtain insurance to cover its contingent black lung benefit liabilities.[6]

Trusts—Returns

A trust qualifying under section 501(c)(21) is required to file annual returns with the Internal Revenue Service pursuant to section 6033. Because such returns would include confidential financial data relating to coal mine operators, the amendment exempts such returns from public inspection under section 6104(b). For the same reason, the amendment exempts applications for exemption under section 501(c)(21) from public inspection pursuant to section 6104(a)(1).

Deductions for contributions to the trust

Contributions by a coal mine operator to a trust described in section 501(c)(21) will be deductible by the operator for Federal income tax purposes under new section 192, but not in excess of the maximum amount as determined under that section for the operator's taxable year. The amendment provides that, as in the case of employer contributions to qualified trusts for contingent pension plan liabilities, the operator's contributions to the section 501(c)(21) trust are deductible with respect to a particular taxable year (subject to a maximum deduction limitation) if actually made during that taxable year or if contributed on account of that taxable year and actually paid to the trust not later than the time prescribed for filing the operator's income tax return for that year (including extensions thereof).

To be deductible, the operator's contribution must be made either in cash or in property of the type which the trust is permitted to hold as an investment (e.g., public debt securities of the United States). If the operator makes a permitted contribution of property, the transfer will constitute a sale or exchange of the property for purposes of the operator's Federal income tax, and the fair market value of the property at the date of transfer will constitute the amount realized. (However, the operator's transfer of such property without consideration will not constitute a sale or exchange of property within the meaning of the self-dealing rules unless the property is subject to a mortgage or similar lien.) A contribution to the trust of the operator's note or other evidence of indebtedness of the operator to the trust does not constitute the making of a contribution by the operator and will not entitle the operator to any deduction.[7]

The operator's deduction for contributions to the trust for the taxable year cannot exceed the *greater* of the following two amounts:

(1) the amount needed for the purposes of the trust described in section 501(c)(21)(A)[8] for the operator's taxable year, reduced by the fair market value of trust assets at the beginning of that taxable year; *or*

(2) the sum of an amount equal to all proper administrative and incidental expenses of the trust for the operator's taxable year, *plus* the lesser of—

(a) the amount needed to fully fund all expected future black lung benefit payments[9] with respect to approved claims and claims filed and pending as of the end of the operator's taxable year, reduced by the fair market value of the trust assets at the beginning of said taxable year, or

(b) two times the amount needed to fully fund all expected future black lung benefit payments[10] with respect to either claims approved or claims filed during any one of the current and three preceding taxable years. Under this alternative, the operator may base the limit either on claims approved or on claims filed (and still pending as of the end of the year), whichever produces the greater contribution limit.

The amounts described shall be determined using reasonable actuarial assumptions not inconsistent with Treasury regulations. It is intended that the amount necessary to provide the expected future payments due to a claim which is pending and not approved will be determined as the amount necessary to provide the payments expected for an approved claim multiplied by the expected approval rate of pending claims. The expected approval rate of pending claims is to be consistent with the approval rate experienced by the Department of Labor or the State workmen's compensation system, depending on where the claim is pending, unless the operator or the Service can show that a different expected approval rate is justified for that operator, based on sufficient experience to justify such a different rate.

The first of these limitations above assures that the operator in any event will be permitted to contribute to the trust and deduct current expenditures in excess of trust assets at the beginning of the year.

The second limitation has two alternatives. The first of these alternatives allows full establishment of the current values of current claims, both those approved and those filed and still pending. However, in order to prevent an operator from taking a disproportionately large deduction in establishing the trust or from skipping contributions for several years for purposes of building a disproportionately large deduction, the second alternative provides that the deductible amount cannot exceed two times the amount needed to fully fund all future payments with respect to either claims approved or claims filed during the operator's current taxable year or any one of the three prior taxable years, whichever produces the largest amount.

If an operator makes otherwise deductible trust contributions which exceed the maximum limitation for that year, the following rules will apply under the amendment with respect to the amount of excess contributions:

(a) An excise tax (under new sec. 4953) equal to 5 percent of the excess contribution will be imposed on the operator.

(b) At the request of the operator, the trust shall repay to the operator an amount not exceeding the excess contribution amount (and that payment shall not constitute either an act of self-dealing or a taxable expenditure), but that repayment to the operator will not avoid the imposition of the excise tax.

Footnotes at end of article.

(c) If the operator does not recapture all of the excess contribution, the remaining excess may be carried over to succeeding taxable years and deducted at that time, subject to the maximum deduction limitation applicable to the particular carryover year.

(d) If any portion of that excess contribution cannot be deducted in the particular carryover year because of the maximum deduction limitation for that year, the 5-percent excise tax will be imposed for that carryover year on the portion that remains in excess. This tax on excess contributions is designed to eliminate the advantage the operator otherwise would have from the fact that the trust's earnings on the excess contribution are exempt from income tax.

EFFECTIVE DATE

The coal mine operators' trust provisions are effective for taxable years beginning after December 31, 1977. These provisions apply to existing trusts as well as those created after this date.

4. General Effective Date (sec. 5 of the bill)

In order to insure that the Congress does not impose the taxes under the black lung legislation without also enacting the revised black lung benefits provisions, the amendment provides that none of the above-described provision is to take effect unless the Congress later provides that they are to take effect.

It is expected that such a provision, "triggering" this bill, will be included in the conference report on the Black Lung Benefits Reform Act of 1977, or equivalent legislation.

FOOTNOTES

[1] Insurance premiums may generally be deducted as ordinary and necessary expenses of a trade or business (sec. 162). Health insurance premiums may be deducted (within limits) as medical expenses by individuals who itemize deductions (sec. 213).

[2] Net long-term capital gain is taken into account in computing life insurance company taxable income but may be wholly or partially offset by special deductions allowed to life insurance companies.

[3] A section 501(c)(21) trust may be organized and operated for the purpose of satisfying the following liabilities of a coal mine operator, and none other: (1) the operator's liabilities on or with respect to claims for compensation for disability or death due to pneumoconiosis arising under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 and (2) the operator's liabilities on or with respect to claims for compensation for disability or death due to pneumoconiosis arising under State statutes. Thus, a liability of an operator with respect to a claim for compensation for the disability or death of a miner arising under a State workmen's compensation law which provides compensation for disability or death due to other causes as well as pneumoconiosis can be satisfied out of a section 501(c)(21) trust only if and only to the extent that the liability is attributable to disability or death due to pneumoconiosis.

[4] A trust will not qualify under section 501(c)(21) if it receives any contributions from an insurance company.

[5] As noted above, it is intended that a bank-trustee may not invest the funds of a section 501(c)(21) trust in the bank's savings accounts, checking accounts, or certificates of deposit, whether or not such investments would be permitted under section 4941 to a bank-trustee of a private foundation.

[6] The provisions of this bill are not intended to derogate from the authority and responsibility of the Secretary of Labor to prescribe regulations under section 423 of the Federal Coal Mine Health and Safety Act of 1969 as to qualification of an operator as a self-insurer for purposes of that statute.

[7] The transfer to the trust of any such evidence of operator indebtedness will constitute an act of self-dealing in that it constitutes an extension of credit between the trust and a "disqualified person" (the operator).

[8] These purposes are to satisfy the operator's liabilities for black lung benefits arising under Federal or State statutes, to purchase insurance exclusively covering such liabilities in whole or in part, and to pay proper administrative and incidental costs of the trust. However, only payments with respect to amounts to be paid by the trust are to be taken into account; payments to be made directly by the operator or through insurance obtained by the operator outside the trust are not to be taken into account.

[9] For purposes of this computation, the term "black lung benefit payments" means payments to satisfy the operator's liabilities for black lung benefits arising under Federal or State statutes, taking into account only payments to be made by the trust, and does not include either payments to purchase insurance covering such liabilities in whole or in part or payments for administrative or incidental costs of the trust.

[10] See footnote 9.

Mr. LONG. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I thank my distinguished chairman for yielding. The distinguished chairman has made a complete statement of what is involved here. I will not add to it.

I do rise for the purpose of asking unanimous consent that Mr. David Swoap, of my staff, be granted the privileges of the floor during the consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, before sending to the desk an amendment, I desire to comment briefly on the situation outlined by the Senator from Louisiana (Mr. LONG). On December 1, House-Senate conferees secured a major breakthrough on financing provisions of the Black Lung Benefits Act of 1977. The proposal being offered by Senator LONG represents a part of the compromise plan developed by the conferees.

The conference had labored more than 5 weeks over differing versions of how to finance black lung benefits. The House proposed an assessment on tonnage mined, while the Senate version sought an ad valorem percentage tax on the price of coal sold. Our compromise contains elements of both approaches. Under the compromise, the financing provisions of the bill are being handled as a separate measure.

It was my privilege to join with Senator WILLIAMS, chairman of our Human Resources Committee; Representative CARL PERKINS, chairman of the House Education and Labor Committee, a principal sponsor of the black lung bill; Senator LONG, chairman of the Senate Finance Committee; and Representative AL ULLMAN, chairman of the House Ways and Means Committee, in agreeing to this plan. The conferees indicated they would move to implement the procedure as quickly as possible.

Representative ULLMAN has stated that once the Senate approves a revenue measure with the black lung financing provisions attached, he intends to bring it to the House and urge its acceptance.

While this process we begin today is taking place, our conference committee will remain in session at the call of the Chair. On approval of the separate financing mechanism by both Houses or assurance that this will occur, the conferees will report the substantive provisions already agreed to back to the House and Senate for final approval.

If the financing measure does not move through the Congress the conference committee can reconvene to consider a different type of financing mechanism, since the bills in conference also contain provisions for financing.

The tax provision calls for assessment of 50 cents per ton on underground coal and 25 cents a ton on surface-mined coal. The compromise provision contains a "cap," or ceiling, stipulating that the effective tax will never be more than 2 percent of the selling price at which such ton of coal is sold by the producer.

With the commitment of the principals involved in the black lung legislation, including our able majority leader, Senator BYRD, it is my belief that a final bill can be sent to President Carter in a timely manner. That is the objective of the Members who have worked so diligently to secure the compromise that was achieved on December 1. This effort, as I stated, is in process today.

I will not go into detail on the financing proposal. It has been outlined by Senator LONG. However, it is important to stress that the proposal will establish on the books of the Treasury a trust fund to be known as the Black Lung Disability Trust Fund. The trustees of the fund shall be the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare. The Treasury Secretary will be managing trustee and will administer the fund. The fund, which will receive taxes from coal tonnage mined, will provide the mechanism under which benefits will be paid to persons affected by the authorizations contained in the black lung measure that is to be reported out of conference.

Mr. President, I am grateful for the kind remarks of the able Senator from Louisiana (Mr. LONG). He has many heavy responsibilities, but he has stayed with us on this effort.

UP AMENDMENT NO. 1082

(Purpose: To provide for the reimbursement of certain amounts paid by coal mine operators.)

Mr. RANDOLPH. Mr. President, I send to the desk an amendment and ask for its immediate consideration. It is an amendment to amendment 1081, proposed by the able Senator from Louisiana.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Randolph) proposes an unprinted amendment numbered 1082 to amendment No. 1081, proposed by the Senator from Louisiana (Mr. Long).

On page 9, line 15, strike out "and".

On page 10, line 4, strike out the period and insert in lieu thereof a comma and the word "and".

On page 10, between lines 4 and 5, insert the following:

"(6) the reimbursement of operators for amounts paid by such operators (other than as penalties or interest) before April 1, 1978, in satisfaction (in whole or in part) of claims of miners whose last employment in coal mines was terminated before January 1, 1970.

Mr. RANDOLPH. Mr. President, I desire to briefly address the subject matter of the amendment. It has been my privilege to confer with the manager of this bill. I believe what we are doing is in concert and he understands the reasoning behind the amendment.

The Black Lung Benefit Reform Act will amend the current part C, so that specific coal mine operators will no longer be responsible for claims based on pre-1970 coal mine employment. Under the current part C program, a number of mine operators have been paying benefits to disabled miners based on coal mine employment which ended before 1970.

Now that we are going to "change the rules" and no longer require responsible operators to pay these claims, the operators who have been paying these benefits in the past should no longer be forced to continue to pay them.

This bill requires that the trust fund assume these payments. But because so few operators actually paid benefits under the old part C—that was the less than 200 claims—and so many operators were not required to pay benefits, it seems only fair to me, and to others, including the able manager of this bill, to reimburse those few operators who paid these benefits in the past, particularly since so many operators did not—and no operator will have to pay these benefits in the future.

In the future, all approved claims based on pre-1970 employment will be paid, as I have indicated, by the trust fund. Accordingly the amendment which I have offered would authorize the trust fund to reimburse the operators who paid the benefits to disabled coal miners who stopped working before 1970.

The trust fund would reimburse these operators the amounts they have paid.

Again, I emphasize that it seems fair and valid—the right thing to do—in view of the fact, that not many operators assumed this obligation.

The Department of Labor, Mr. President, estimates that the cost of this reimbursement will be approximately $1.5 million—no more, they indicate, than $2 million. And this will be a one-time payment. It is a small amount to pay to restore equity in the matter of the benefits to the miners affected by this legislation.

Mr. President, I wish also to express appreciation to the conferees. There were members of the Finance Committee, the Human Resources Committee, the House Education and Labor Committee and the House Ways and Means Committee who worked in the conference on this legislation.

I have been, at times, very discouraged, but always, I have noted that the Senator from Louisiana, early and late, has made himself available for discussion of these matters that are contained in the proposal he presents today. Our able Majority Leader, Senator Byrd, and the distinguished chairman of the Human Resources Committee, Senator Williams, have been a part of these discussions. Those of us who have worked on this legislation are appreciative.

I remind my colleagues in the Senate that it was in 1969 that the first proposal became law to give to those who are suffering from pneumoniosis—black lung—and their widows and children that which we believe they deserve. These are persons who had, really, fueled America and given to us the energy which this country needed then and needs increasingly now.

Then, in 1972, as my colleagues will recall, we came back into this body with amendments to the original act. We had determined, during that period—not one of experimentation, though it had some element of that in it, but of practical application of the law—that the X-ray was not the only test of whether the black lung benefits should be paid. So, we amended the original act to include disabling pulmonary and respiratory ailments.

If these were a part, including X-ray, of a miners condition we would have that further evidence that black lung was present in those miners who had dug the coal and had benefited America by so doing. Now we come, in 1977, acting, of course, on the need to bring this program into what I call its third stage, another refinement stage, improving on the methodology and the benefit program.

I come back to the original words that I spoke, in reference to Senator Long and to those who worked with him. I personally know of what they have done in the effort which is taking place here this afternoon, to handle this very important subject. I thank the Senator from Louisiana for his cooperation and diligent efforts.

Mr. LONG. Mr. President, the senior Senator from West Virginia has been diligent and tireless in seeking to care adequately for those who have suffered from this industrial illness. I am happy to be able to cooperate with him and his colleagues in providing the funds to help pay for this disaster to many American workers. Again, I congratulate the very able senior Senator from West Virginia for the long, hard, and sometimes tedious work that he has undertaken to provide redress of this grievance, and to provide for the care of those who have suffered from this illness.

I have no objection to the amendment, Mr. President.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as amended, of the Senator from Louisiana.

The amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is now on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5322) was passed.

Mr. LONG. I move to reconsider the vote by which the bill passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1083

(Later the following occurred:)

Mr. LONG. Mr. President, I ask unanimous consent that the title to H.R. 5322, which was just passed, be amended as provided for in the amendment that I send to the desk.

The ACTING PRESIDENT pro tempore. Without objection, the title will be so amended.

The title was amended so as to read:

An Act to impose an excise tax on the sale of coal by the producer, to establish a Black Lung Disability Trust Fund, and for other purposes.

Mr. LONG. Mr. President, I ask unanimous consent that the black lung tax bill—H.R. 5322—be printed with the amendments of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would like to take this opportunity to thank the distinguished chairman of the Finance Committee, Senator Long, as well as the ranking minority member of that committee, Senator Curtis, for their splendid cooperation in providing for the financing mechanism of the black lung bill. I also want to thank my distinguished colleague, Senator Randolph, the senior Senator from West Virginia, for his diligent efforts in this regard.

The approval today of this financing section will assure that the black lung bill will be able to be reported from the conference and considered by the Senate and the House at an early date next year.

Approval of the black lung bill will help to complete the process begun back in 1969 to assure just compensation to our old and sick miners who have been afflicted by the dread black lung disease. Since we first addressed this subject over 7 years ago, much has been learned about the diagnosis and prognosis of this disease. We found that many miners who should have received benefits all too often did not receive them or received them after long and costly efforts. Despite our attempts to make working conditions of miners safer, we still have thousands of miners who contract black lung as a result of their occupation.

In the past, I have said that one of the costs which we must bear in order to enjoy our energy-oriented lifestyles is the social costs we owe those who make such a lifestyle possible.

The ultimate passage of the black lung bill will go far in this regard.

HOUSE CONCURRENT RESOLUTION 442—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 442 and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 442) providing for the sine die adjournment of the first session of the Ninety-fifth Congress.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its immediate consideration.

The concurrent resolution was considered and agreed to.

The concurrent resolution reads as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 15, 1977, they shall stand adjourned sine die.

SEC. 2. During the adjournment of both Houses of Congress as provided in section 1, the Secretary of the Senate and the Clerk of the House, respectively be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

CONVENING OF THE 2D SESSION OF THE 95TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 674.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 674) relative to the convening of the second session of the 95th Congress, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the joint resolution will be considered as having been read twice by its title.

Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 674) was considered, ordered to a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the Ninety-fifth Congress shall begin at 12 o'clock meridian on Thursday, January 19, 1978.

SEC. 2. That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. section 11), the President shall transmit to the Congress not later than January 23, 1978, the budget for the fiscal year 1979, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022), the President shall transmit to the Congress not later than January 23, 1978, the Economic Report.

SOCIAL SECURITY AMENDMENTS OF 1977—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 9346 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitations, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection the Senate will proceed to the consideration of the conference report.

Mr. LONG. Mr. President, the conference on the social security bill has reached an agreement which makes significant improvements in the financial soundness of the social security program.

In dealing with the social security provisions of the bill the conferees reached a reasonable compromise between the Senate and House provisions. The main objective of both Senate and House bills was to restore the program to a condition where there will be adequate funding to cover benefit costs for many years into the future, and the bill agreed to by the conferees accomplishes this objective. Both Senate and House bills also included a number of changes in the benefit structure in the program, some of which saved money and some of which would have resulted in increased expenditures. Here, too, the conference agreement represents a compromise between the two positions which has preserved most of the savings and which also includes those benefit improvements which were of highest priority. In particular, the conference agreement will substantially increase the amount of earnings and will reduce to age 70 starting in 1982 the age at which unlimited earnings are permitted.

The Senate bill also included a few provisions designed to improve the operation of our welfare programs and to provide a measure of fiscal relief for State and local welfare costs. Most of these provisions were agreed to with some changes by the House conferees. In the case of the fiscal relief provision, however, the House conferees were unwilling to accept the full amount of $374 million proposed by the Senate at this time, but did agree to a provision which provides half of that amount. The House conferees also adamantly refused to accept a provision which the Senate has passed on several occasions relating to the earned income disregard under the aid to families with dependent children program. This provision, as well as the full amount of the fiscal relief provision, is included in the bill H.R. 7200, which is on the Senate calendar. It is my hope that we will be able to have the Senate act on that bill early next year so that these issues, together with the other items in that bill, can be brought to conference again in the very near future.

The Senate social security bill also included another major provision which the Senate has passed on other occasions providing for a college tuition tax credit. As has happened in the past, the House conferees were completely adamant in their refusal to even consider this proposal. In order to obtain agreement on the social security bill the sponsor of that amendment and the other conferees finally had to agree to drop it from the bill. I would like to make clear, however, that this issue is going to be acted upon again in the very near future and that we will be in conference with the House on it once more to discuss it.

Mr. President, I ask unanimous consent that there be printed at the end of my statement a more detailed summary of the provisions of the social security bill as agreed to by the conferees.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE CONFERENCE AGREEMENT ON H.R. 9346, THE SOCIAL SECURITY AMENDMENTS OF 1977

Financing.—The bill includes a schedule of social security tax rate increases over present law in 1979, 1981, 1982 and 1990 to provide additional financing. Tax rates for the self-employed would be adjusted to restore the original level of one and one-half times the employee rate for the old-age and survivors and disability portion of the tax, effective in 1981. There would be a reallocation of income to the disability trust fund which would have been exhausted in about a year under present law. The tax rate schedule is as follows:

TAX RATES FOR THE SOCIAL SECURITY TRUST FUNDS

[In percent]

Calendar year	Present law					Conference report on H.R. 9346				
	OASI	DI	OASDI	HI	Total	OASDI	DI	OASDI	HI	Total
EMPLOYERS AND EMPLOYEES, EACH										
1977	4.375	0.575	4.95	0.90	5.85	4.375	0.575	4.95	0.90	5.85
1978	4.350	.600	4.95	1.10	6.05	4.275	.775	5.05	1.00	6.05
1979–80	4.350	.600	4.95	1.10	6.05	4.330	.750	5.08	1.05	6.13
1981	4.300	.650	4.95	1.35	6.30	4.525	.825	5.35	1.30	6.65
1982–84	4.300	.650	4.95	1.35	6.30	4.575	.825	5.40	1.30	6.70
1985	4.300	.650	4.95	1.35	6.30	4.750	.950	5.70	1.35	7.05
1986–89	4.250	.700	4.95	1.50	5.45	4.750	.950	5.70	1.45	7.15
1990–2010	4.250	.700	4.95	1.50	5.45	5.100	1.100	6.20	1.45	7.65
2011 and later	5.100	.850	5.95	1.50	7.45	5.100	1.100	6.20	1.45	7.65
SELF-EMPLOYED PERSONS										
1977	6.185	0.815	7.0	0.90	7.9	6.1850	0.8150	7.0	0.90	7.9
1978	6.150	.850	7.0	1.10	8.1	1.0100	1.0900	7.1	1.00	8.1
1979–80	6.150	.850	7.0	1.10	8.1	6.0100	1.0400	7.05	1.05	8.1
1981	6.080	.920	7.0	1.35	8.35	6.7625	1.2375	8.00	1.30	9.30
1982–84	6.080	.920	7.0	1.35	8.35	6.8125	1.2375	8.05	1.30	9.35
1985	6.080	.920	7.0	1.35	8.35	7.1250	1.4250	8.55	1.35	9.90
1986–89	6.010	.990	7.0	1.5	8.5	7.1250	1.4250	8.55	1.45	10.00
1990–2010	6.010	.990	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75
2010 and later	6.000	1.000	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75

There also would be increases in the taxable wage base above present law in 1979, 1980, and 1981. After 1981, the base would be increased annually in line with wage levels as under present law. Under the Conference agreement, as under present law, the tax base would be the same for employers, employees, and self-employed. This is the new taxable base schedule for employers, employees and the self-employed:

Contribution and benefit base

Calendar year:	Under present law	Under conference agreement
1977	$16,500	$16,500
1978	17,700	17,700
1979	[1]18,900	22,900
1980	[1]20,400	25,900
1981	[1]21,900	29,700
1982	[1]23,400	[1]31,800
1983	[1]24,900	[1]33,900
1984	[1]26,400	[1]36,000
1985	[1]27,900	[1]38,100
1986	[1]29,400	[1]40,200
1987	[1]31,200	[1]42,000

[1] Estimated amount under automatic provisions.

Decoupling and new wage-indexed formula.—The conference agreement provides that the automatic cost-of-living increase provisions will in the future apply only to those already on the benefit rolls at the time of each increase. (Under present law, the increases raise the benefit formula for future retirees as well as those on the rolls.) For future retirees, the agreement adopts a new benefit formula under which benefit amounts would be related to the earnings each individual had under social security with an adjustment to reflect changing levels during his working years. The new system would index a worker's earnings to reflect annual increases in average earnings levels up to the second year before eligibility (age 62, death, or disability). The benefit level adopted for the long-term is 5 percent below estimated 1979 levels under present law. Included in the bill is a 5-year guarantee that retirement benefits will not be less than 1979 levels to provide a gradual transition to the new system for workers who will retire from 1979 through 1983. The transition provision will not be applicable to disability and survivor cases. As under present law, benefits would continue to be increased according to the increases in the cost-of-living after a person reaches age 62 or becomes disabled, or in the case of survivor's benefits, after the time of the worker's death.

Minimum.—The present minimum benefit for future beneficiaries would be frozen at its 1979 dollar amount (about $121 for an individual). The minimum benefit would be adjusted for annual cost-of-living increases only after the individual starts receiving it.

Special minimum.—This benefit, provided for long-term, low-paid workers, would be increased. Under present law this benefit is equal to $9 times the number of years coverage a worker has in excess of 10 and up to 30; this benefit is not subject to annual cost-of-living increases. The bill would increase the $9 figure to $11.50, which would provide a maximum payment of $230 a month, and would make the benefit subject to annual cost-of-living increases in the future.

Delayed retirement credit.—Present law provides that retirement benefits are increased 1 percent a year for each year that a worker continues to work beyond age 65 without taking his benefits. The bill would increase this to 3 percent; it would apply beginning in 1982.

Limitation on retroactive benefits.—Under present law a person who files an application after he is first eligible can get benefits for a retroactive period up to 12 months before the month in which the application is filed. However, this can result in some cases in a permanent reduction in his monthly benefit. The bill would eliminate retroactive payments where the result would be a permanently reduced benefit.

Cost-of-living increases for early retirees.—Under present law, a retiree who begins receiving benefits between ages 62 and 65 has his monthly payment permanently reduced on an actuarial basis to take account of the longer period that he will receive benefits. However, when a subsequent cost-of-living increase is effective, the benefit increase is based on his full (unreduced) benefit. The bill would apply to cost-of-living increases the same actuarial reduction that was applied to their original monthly benefit.

Retirement test.—The bill would raise to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981 and $6000 in 1982 the annual amount of earnings a beneficiary age 65 to 72, may have without having any benefits withheld. After 1982, the limitation would be adjusted automatically on the basis of earnings levels as under present law. The retirement test of present law, which is to rise from $3,000 this year to $3,240 in 1978, would continue to apply to beneficiaries under age 65.

The exempt age, which fixes the point at which elderly individuals may receive full benefits without regard to their earnings, would be reduced from 72 to 70 beginning in 1982.

The bill would eliminate the monthly exception to the retirement test—the provision in present law under which full social security benefits are paid for any month in which a person earns one-twelfth of the annual retirement test amount, or less, regardless of total earnings for the year. However, the monthly measure would be retained for the first year in which a worker begins to receive retirement benefits.

Remarried widows.—Under existing law, a widow may receive a social security benefit on her deceased husband's account equal to 100 percent of the benefit he would have received if he were still alive. If the widow remarries and she is age 60 or over when she remarries, she can retain the widow's benefit but at a 50 percent rate instead of 100 percent. The conference agreement would eliminate that reduction to a 50 percent rate when a widow over age 60 remarries.

Divorced wife's benefits.—Under present law a woman can qualify for a wife's benefit on the account of her former husband (or a surviving divorced wife's benefit on the account of a deceased former husband) but only if the marriage lasted at least 20 years. The conference agreement would lower the required duration of marriage to 10 years.

Reduction in spouses' benefits for public pensions.—The bill contains a provision under which social security dependency benefits payable to spouses or surviving spouses would be reduced by the amount of any public (Federal, State, or local) retirement available to the spouse. The reduction would apply only to pension payments based on the spouse's own work in public employment which is not covered under social security. The provision would apply to applications for such dependency benefits in and after the month of the enactment of the bill. To assure that persons who have been counting on these benefits for many years and who are now at or near retirement age will not be adversely affected, the conference agreement includes a transitional exception under which certain individuals will not have their social security benefits as spouses reduced by the amount of their public pension. The exemption applies to those who are already retired under a public pension program (or who will be eligible for such retirement within the next five years) and who also would qualify for spouses benefits under social security under the law as in effect and as administered in January 1977. In the event the courts find it impermissible to afford this protection to those who anticipated receiving their spouses benefits prior to March 1977 without providing it also to those would qualify only as a result of a March 1977 court decision, the bill provides that the entire exception would become inoperative so that the reduction in benefits would be applied in all cases.

Treatment of men and women.—The Conference agreement directs the Secretary of Health, Education and Welfare, in consultation with the Justice Department Task Force on Sex Discrimination, to carry out a detailed study of proposals: (1) to eliminate dependency as a requirement for entitlement to social security spouse's benefits, and (2) to bring about the equal treatment of men and women in any and all respects. In conducting this study the Secretary shall take into account the effects of the changing role of women in today's society including such things as: (1) changes in the nature and extent of women's participation in the labor force, (2) the increasing divorce rate, and (3) the economic value of women's work in the home. The study shall include appropriate cost analyses. A full and complete report shall be submitted by the Secretary to the Congress within 6 months after enactment of the bill.

National Commission on Social Security.—The bill provides for establishment of a bipartisan National Commission on Social Security, composed of nine members—five appointed by the President and two each by the Speaker of the House and the President of the Senate—to make a broad study of the social security program including Medicare. The study would include the fiscal status of the trust funds, coverage, adequacy of benefits, possible inequities, alternatives to the current programs and to the method of financing the system, integration of the social security system with private retirement programs, and development of a special price index for the elderly. The Commission would present its full report to the President and to the Congress within 2 years after a majority of the members were appointed.

Coverage study.—The bill provides for a comprehensive study of the question of expanding coverage under social security by bringing under the system all Federal employees and the remainder of State and local government employees and employees of nonprofit organizations not now covered. The study would include methods of coordinating social security coverage with retirement systems which now apply to the public employees involved. The study would be under the direction of the Secretary of Health, Education, and Welfare who would consult with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Civil Service Commission. The HEW Secretary is directed to complete the study and submit a report with recommendations to the President and to Congres within 2 years after enactment of the bill.

International Social Security Agreements (Totalization).—Included in the bill is a provision which would authorize the President to enter into bilateral agreements with interested countries providing for limited coordination of the U.S. social security system with systems of other countries. The agreements, known as totalization agreements, would eliminate dual social security coverage for the same work in each country covered by an agreement, and would enable individuals who work for periods in each of the countries covered by an agreement to qualify for coordinated benefits in situations where they now are not eligible for benefits in one or both of the countries involved. The United States already has negotiated agreements with Italy and West Germany which could be put into effect under this provision. Each agreement would have to be submitted to Congress for 90 days while it is in session before it could take effect; during that period either the House or Senate could veto the agreement by majority vote.

Disability benefits for the blind.—Blind persons would be eligible for social security disability benefits up to a higher level of earnings than now permitted. Under present regulations, substantial gainful activity (SGA) is measured at $200 a month ($2,400 a year) and earnings over this amount would lead to termination of benefits. Under the bill, the SGA amount would be the same as the retirement test for persons age 65 and over—that is, $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, $6,000 in 1982, and adjusted automatically by increases in earnings levels thereafter. The SGA level for other disabled persons is not changed.

Investment income under limited partnership.—In recent years, a growing number of businesses have advertised limited partnerships as a means of acquiring social security coverage solely through the income on investments in such partnerships. The bill excludes from social security coverage the distributive share of income or loss from the trade or business of a partnership which is received by a limited partner

Annual wage reporting.—Public Law 94–202 enacted in 1976 provided that employers would report their employees' wages for social security and income tax purposes annually on forms W–2 beginning with wages paid in 1978. But the law also required employers to report quarterly wage data on forms W–2 to enable the Social Security Administration to determine whether a worker has enough quarters of coverage to be eligible for social security benefits. The bill would change this so that annual data would be used instead of quarterly data. Under the bill, employers no longer would have to report quarterly data on forms W–2. Under present law a worker generally receives credit for a quarter of coverage for a calendar quarter in which he receives at least $50 in wages. Under the bill, a worker would receive one quarter of coverage (up to a total of four) for each $250 of earnings in a year, and the $250 amount would be automatically increased every year to take account of increases in average wages.

Employees of nonprofit organizations.—The bill contains provisions designed to correct some unintended effects of Public Law 94–563 enacted in 1976 to deal with problems of nonprofit organizations that had been paying social security taxes incorrectly because they had not filed the necessary waivers with the Internal Revenue Service to make the payments legal.

One provision in the bill would forgive back taxes due, up to June 30, 1977, on behalf of nonprofit organizations which ceased paying social security taxes after they had found they were not required to do so, but did not receive a refund of these taxes.

Another provision would extend to March 31, 1978 the period during which nonprofit organizations that had received a refund of social security taxes could file a waiver certificate and list only those employees who had wanted to be covered under social security. Under this waiver, they would owe back taxes only on the listed employees. The right to file such a waiver under Public Law 94–563 expired April 18, 1977.

Taxation of corporations.—The bill provides that a group of related corporations concurrently employing a worker would be considered as a single employer if one of the group serves as a single paymaster for the entire group. This would mean that the group of corporations would have to pay no more in social security and unemployment taxes for a single worker than a single employer pays.

Advisory Council on Social Security.—The bill would change the reporting date for the Advisory Council to be appointed in 1977 from January 1, 1979, to October 1, 1979.

Administrative law judges.—Public Law 94–202 established temporary administrative law judge positions to hear social security, medicare, and supplemental security income cases. The bill would convert these appointments to permanent status.

Benefit payment dates.—The bill provides that social security and supplemental security income benefit checks would be delivered on the preceding Friday if the regular payment date falls on a Monday which is a legal holiday. Under present regulations, checks are delivered on a Friday if the regular payment date falls on Saturday or Sunday.

Coverage of tips.—Under social security, tip income (if over $20 a month) is taxed on the employee alone. Under the bill, the employer will be taxed on tip income up to the amount that combined with the employee's salary equals the minimum wage under the Fair Labor Standards Act.

Clergymen.—The bill would permit clergymen who previously did not elect social security coverage a second opportunity to come under the system as self-employed persons.

Mississippi policemen and firemen.—The bill would authorize social security coverage for Mississippi policemen and firemen who previously were excluded from the system.

Wisconsin public employees.—The bill would authorize a consolidated public employee group in Wisconsin to continue under social security on the same terms which applied to three groups before they were merged into the consolidated organization.

New Jersey public employees.—The bill would add New Jersey to the list of States which are permitted to hold referendums among public employees for divided coverage under social security. Those voting for coverage would be brought under social security; those voting against would remain out of the system.

Illinois police and fire chiefs.—The bill would allow approximately 400 Illinois police and fire chiefs to get credits for past payments into the social security system (and future coverage) even though the applicable law did not permit such payments when they were made.

Railroad retirement system and Pension Benefit Guaranty Corporation.—The bill contains a provision to guarantee that the new social security financing provisions that increase the taxable earnings base would not increase the employer tax liability to finance tier II benefits nor would it increase the amount of those benefits under the railroad retirement system. Tier II benefits are those paid to supplement the tier I payments which correspond to basic social security benefits. Similarly, the bill provides that the ad hoc increases in the earnings base would not increase the maximum amount of pension insured by the Pension Benefit Guaranty Corporation established under the Employee Retirement Income Security Act of 1974.

Wheelchairs.—The bill would permit payment for power-operated wheelchairs under Medicare where the vehicle is determined to be medically necessary and safe.

Fiscal relief for welfare costs.—The bill provides for a one-time payment to the States of $187 million as fiscal relief for State and local welfare costs for fiscal year 1978. Half of such funds will be distributed to each State in proportion to its share of total expenditures under the AFDC program for December 1976, and half will be distributed under the general revenue sharing formula. In those States in which local units of Government are responsible for meeting part of the costs of the AFDC program the fiscal relief payments would have to be passed through to local governments. States would not be required to pass through an amount in excess of 100 percent of the amount of AFDC costs for which the local government was otherwise responsible.

Fiscal incentives for lowering AFDC error rates.—The bill would establish a system of fiscal incentives for States which have low dollar error rates (below 4 percent) as measured by the AFDC quality control findings of incorrect payments.

Under the amendment States which have dollar error rates of, or reduce their dollar error rates to, less than 4 percent but not more than 3.5 percent of the total expenditures would receive 10 percent of the Federal share of the money saved, as compared with the Federal costs of 4-percent payment error rate. This percentage would increase proportionately as shown in the following table:

If the error rate is:	Incentive percentage[1]
At least 3.5 percent but less than 4 percent	10
At least 3 percent but less than 3.5 percent	20
At least 2.5 percent but less than 3 percent	30
At least 2 percent but less than 2.5 percent	40
Less than 2 percent	50

[1] The State will retain this percent of the imputed Federal savings.

The dollar error rate of aid will include the payments to ineligibles plus overpayments plus underpayments plus the amount which would have been paid as benefits if the case had not been erroneously terminated or the application erroneously denied. The incentive would be based on Federal savings as compared with a 4-percent rate of excessive payments—that is, erroneous payments for ineligibles and overpayments.

Access by AFDC agencies to wage records.—The bill specifically authorizes State AFDC agencies to obtain wage information from the wage records maintained by the Social Security Administration and the wage records maintained by State unemployment compensation agencies for purposes of determining eligibility for (or amount of) AFDC. The Secretary of HEW would establish the necessary safeguards to prevent the improper use of such information. Effective October 1, 1979, States would be required to request and make use of this wage information either from the State unemployment compensation agency (if available there) or from the Social Security Administration.

State welfare demonstration projects.—The bill would authorize certain types of State demonstration projects related to the AFDC program to be implemented if the Secretary did not specifically disapprove the implementation of such projects within sixty days after the State applies to have the projects approved. In other words, a State could proceed with such projects either when the Secretary approved them, or sixty days after submitting them to the Secretary if no decision had been reached by HEW within that period.

Under this authority, States would be permitted to conduct not more than three demonstration projects but not more than one on a Statewide basis. Projects involving public service employment would have to pay prevailing wages and meet reasonable standards related to health, safety and other conditions, could not displace employed workers, would have to be reasonable for the individuals participating, and would have to provide appropriate workmen's compensation protection. Participation in any project by any AFDC recipient would have to be on a voluntary basis.

States would be permitted to waive ordinary statutory rules requiring statewide uniformity, administration by a single agency, and regarding participation in the work incentive program and the disregard of certain amounts of earned income. (Not more than half of all income could be disregarded under the waiver authority, however.)

AFDC matching for these demonstration projects would be limited to the amount the State would have received through AFDC if it had not implemented the demonstration project. In addition, the State's general revenue sharing funds could be used to cover the costs of salaries for participants in public service employment which are not covered by AFDC matching.

Once implemented, demonstration projects could continue for up to 2 years unless the Secretary took action to disapprove a State waiver of statutory rules before the end of the 2-year period. The provision would not apply after September 30, 1980.

The conference agreement provides that when a State submits an application it would be required to make a public announcement that such application has been made, make copies of the application available and receive public comments for at least 30 days. The Secretary would also be required to publish a summary of the proposed demonstration project and make copies of the application available.

The Secretary of HEW could deny applications by a State under this provision any time after receipt of the application, but could not approve an application until 30 days after it has been submitted.

Erroneous State supplementary payments.—The Conference agreement provides authorization and direction for the Secretary of Health, Education and Welfare to reimburse a State for erroneous State supplementary payments administered by them and paid during 1974 to the extent that an HEW audit (reviewed and concurred in by the Inspector General of the Department) determines is appropriate on the basis that the incorrect payments for the aged, blind and disabled resulted from a State's good faith reliance upon erroneous or incomplete information furnished to the States by the Department or from a State's good faith reliance on incorrect supplemental security income payments made by the Department.

Federal Election Campaign Act amendment.—The Conference agreement provides that a contribution to a tax-exempt organization selected by the payor from a list of five or more organizations named by the Government officer or employee would not be treated as an honorarium. It also provides that amounts returned to a payor before the end of the calendar year would not be treated as honoraria. The bill further provides that honoraria would be treated as accepted in the year of receipt.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays on final passage of this conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

(Mr. METCALF assumed the chair.)

Mr. CURTIS. Mr. President, I am pleased to rise in support of the distinguished chairman of the Committee on Finance (Mr. LONG) as we consider the report of the committee on conference on the Social Security Amendments of 1977.

Mr. President, may I say first of all that we all owe a debt of gratitude to the chairman for his most able leadership once again shepherding to final consideration one of the most important pieces of legislation since the enactment of the Social Security Act. This bill, which restores the fiscal soundness of the trust funds over the next 30 years, is of critical importance to the many millions of Americans who either receive benefits or contribute to the funds to make those benefits possible. Restoration of the confidence of America in the soundness of this most important program was always in forefront of the distinguished chairman's concern. That we have been able to accomplish that, and to do so in a way that retains the fundamental precepts of the social security program, is clearly attributable to his eminently capable, forthright, careful, and fair approach during the many months in which the Committee on Finance has been considering this issue. We should all be grateful that we have a man of RUSSELL LONG's stature at the helm.

I would like to express my appreciation, as well, to my other colleagues on the Committee on Finance, in the Senate as a whole, and in the House of Representatives for their diligent and thoughtful consideration of this complex issue. We have each made proposals, explored alternatives, quantified various approaches, and tested the numerous premises and constraints which one encounters in the field of social security financing. The bill before you today represents the contributions of many different Members of Congress, on both sides of the Hill, on both sides of the aisle.

And one Member is deserving, in particular, of significant commendation and accolade this afternoon. I refer to the distinguished senior Senator from Delaware (Mr. ROTH). His untiring efforts to secure long overdue tax relief for the many millions of Americans who want to send their children to college—but who may be unable to do so now, because of the rising costs of education and the rising tax burden that Government exacts from them—are a hallmark of legislative dedication and statesmanship. On three previous occasions, the Senate of the United States overwhelmingly has adopted the Roth tuition tax credit and sent it to the House for action. On each such occasion, the House Ways and Means Committee has promised that the proposal would be taken up, that hearings would be held, or that the matter would be allowed to be considered on the House floor. On each such occasion, those assurances have come to naught.

In November, this body again overwhelmingly adopted and sent to the House, as a part of H.R. 9346, the tuition tax credit proposal which the distinguished Senator from Delaware has untiringly advanced. Again, we find, the House Ways and Means Committee is unwilling to let this legislation proceed to the House floor for a vote. Rather than imperil the social security legislation, rather than jeopardize in any way this most important financing measure, the senior Senator from Delaware most graciously, and unselfishly in my opinion, but still fortunately dogged in his determination to bring the matter again before the House next session—has acceded to deletion of this particular amendment from H.R. 9346.

And next year, I hope he is successful. Next year, I hope the House committee will follow through on its promises to let the full House—which I feel confident supports tuition tax credits just as we do—vote on this matter which is of such critical importance to so many millions of taxpaying Americans. I trust the Senate will again give its colleague from Delaware its full measure of support. He deserves it, and he is eminently correct when he says that the concept of tuition tax credits for the hard-pressed middle class—or, for that matter, for members of all taxpaying classes in America—is an idea whose time has come. We should all be grateful for the leadership of the most able Senator from Delaware on this critical issue, for his thoughtful participation on the conference committee, and for his genuine statesmanship and skillful advocacy of a cause in which he deeply and correctly believes.

We have, then, Mr. President, reached agreement on the fundamental principles and details of legislation to reform the financing of the social security system. May I say at the outset that no one is more mindful than I of the wish to find solutions other than simply to increase taxes upon the American people. The American people are almost at the breaking point: We cannot, with all of the abandon of a child in a candy store, continue to pass one program after another, raise one benefit after another, with little or no thought to the final cost. What is happening here today is that, indeed, we are having to pay the piper for the excessive and often somewhat mindless generosities of past Congresses and past administrations—generosities which, I might add, I opposed on the floor of the U.S. Senate in one election year after another.

The fact is, however, that bill must be paid if we are not to break faith with all of those Americans who either now, or will at some time in the future, depend upon the social security system. The disability trust fund, under current projections, is scheduled to be exhausted in late 1978. The OASDI trust fund is scheduled to run dry in 1983. The health insurance trust fund, while having some additional reserves, is still scheduled to be depleted in 1987 or 1988. We must act; we must restore the viability of the trust funds; we must assure the integrity of the social security system for decades to come.

The legislation which is before this body today, therefore, takes several decisive steps, many of which should have been taken a long time ago. First, of course, and perhaps most critical from a fiscal point of view, we undertake decoupling; correction of the defective indexing formula which erroneously was put into the law by the Congress in 1972. Of the current long-range deficit of approximately 8 percent, we can save one-half—approximately 4 percent—simply through the device of decoupling. I would have prefered another method, one that is based upon price indexing rather than wage indexing, but it is most commendable, in my opinion, that we finally have moved to correct this problem that has had so many long-range implications since it was created.

I am pleased and gratified, as well, that the committee of conference has restored the fundamental principle of parity—equal sharing in the costs of social security by employer and employee—which is central to the integrity of this program. Equal funding for social security insures that responsibility will be maintained; that the costs of social security will not be masked: and that the most regressive tax of all—higher prices—will not ensue. It also means that the burden of social security financing will not fall inequitably on some employers just because they happen to have a disproportionate share of employees at higher wage bracket levels.

By retaining parity, we have protected the many universities, colleges, and local governments in the United States which would have incurred a massive tax increase under the bill which originally passed the Senate. We also have protected the working men and women of America from reduced job opportunities, lessened benefits, and other economic effects that inevitably would have followed destruction of parity. Retention of this principle is the most important, and the most desirable, of all of the provisions of this historic legislation.

The bill before you today also carries the sound principle of trust fund financing, not one which either raids or borrows from the general fund. The current and future beneficiaries of this program want to make sure that their dollars are real dollars, are sound dollars—not ones that emanate from the Bureau of Engraving to meet a constantly expanding Federal deficit. To depend upon, or borrow from, the general fund to meet the costs of social security is to depend upon a cupboard that already is bare: The deficit in the general fund for the current fiscal year is estimated to be $61 billion. By retaining trust fund financing, we have kept a promise to the people of America that this program will not be a welfare program; it will not be one that is subject to even greater temptations to raise benefits without raising taxes; and it will not be one that imposes yet another hidden tax: the cruel tax of inflation, through deficit spending. We have met the funding responsibility head on, and it is an historic and long overdue moment for the Congress to say "We are going to make this program whole; we are going to cure its fiscal problems; and we are going to do so in a way that is direct, aboveboard, and free of gimmickry." We should have undertaken this kind of fiscal responsibility long ago.

There are other excellent features of the bill before this body today, Mr. President; the conferees have reached accord on numerous additional features which have long been sought and which measurably will assist the integrity of the respective funds and numerous American citizens. I commend to this body the provisions of H.R. 9346 which:

Revise the earnings limitation, so that persons between the ages of 65 and 69 will have it liberalized and those over age 70 will have it eliminated completely;

Make similar adjustments for the blind;

Increase the delayed retirement bonus;

Mandate a study of the very important question of universal coverage, to be submitted no later than two years from now;

Also review—pursuant to recent Supreme Court decisions—the very critical issues of gender-based distinctions, to reexamine our premises, rather than either simply providing to men what we historically have provided to women, or depriving both groups of needed benefits in an indiscriminate fashion; and

Reduce the duration of marriage requirement, so that a person must have been married to a worker only 10 years, not twenty, to be eligible for benefits as an aged divorced spouse or a surviving divorced spouse.

I am particularly pleased that the conference adopted three amendments which I felt had particular merit: exempting persons who had already retired, or could retire (or, in the final version, who are within 5 years of retirement), from the dependency offset; making widows and widowers eligible for the delayed retirement bonus earned by their respective spouses; and permitting related corporations, of which one serves as a common paymaster and which employ a single individual, to pay the same social security tax that a single employer would pay. These bring a substantial added measure of equity to the social security program.

Finally, there are certain public assistance provisions, such as the work demonstration project and the wage base access authority, that should literally save millions of tax dollars in the more efficient design and operation of our welfare program. These are most desirable accompaniments to our revisions to the Social Security Act.

In sum, Mr. President, the bill achieves a great deal, perhaps far more than we would have hoped than when we began our deliberations last spring.

At the same time, Mr. President, there are some areas in which the bill takes an approach which I would prefer that it not take, or it is deficient in addressing some critical remaining problems, and I want to bring them to the attention of this body. First, while it makes—under current projections—the disability insurance trust fund sound for the next 30 years, and the OASI trust sound for the next 50 years, it still does not have long-range actuarial balance. It still carries a deficit over the next 75 years of approximately 1.45 percent of payroll (compared with the current deficit of approximately 8 percent).

Next spring, we could again be greeted by headlines, when the trustees file their report, that the "social security fund remains in long-range actuarial deficit." There is no reason, in my opinion, why we could not have proceeded to adopt the small additional tax rate increases for the years 1995 and beyond that were in the Senate bill when it was sent to the House. We could have made it actuarially sound. The House refused to do so, and this only means that future Congressess will have to finish the job.

Second, there is much too heavy a reliance, in my opinion, on the wage base, rather than the tax rate, as a means of solving the financing problems of the trust funds. Under the bill before you, the maximum wage base will go up to $42,600 in 1987—compared with the level of $16,500 now. Combined with the tax rate increases, that means someone at the maximum will be paying $3,046 in social security taxes, compared with $965 now. Reliance on the wage base, rather than the tax rate, has two defects: First, it creates its own further financing problems, because benefit increases are triggered by increases in the wage base; and second, and more importantly, it places a massive additional burden on middle-class taxpayers already staggering under other governmental onslaughts—when that burden could be spread out much more equitably, much more evenly, and with less overall harmful effect.

It is akin to having six houses, and asking the resident only of the sixth to meet almost all of the costs of rescuing the social security system. As the Members of this body well know, an alternative could have been adopted which simply relied upon an additional tax of one-half to 1 percent, applied across the board, with no increases in the wage base schedule. I think we will find in the future that this infinitely would have been a better approach.

Third, there were a number of critical public assistance provisions—most notably, the earned income disregard reform—which could have and should have been accepted by the House as a part of this legislation. We should move decisively on H.R. 7200 early in the next session to make sure that these provisions are enacted into law. The American taxpayers deserve, and demand, the kind of real welfare reform that is typified by many of these provisions.

And finally, of course—while I do applaud the fact that we have buckled down and met our responsibility to make this system whole—there is still the fact that we have done almost nothing to examine the system itself, to determine where its eligibility and benefit schedule may be awry, may contain inappropriate liberalizations, or may carry defects or loopholes which need to be corrected. All we have done is to raise taxes—not to revise and revamp the programs themselves. I refer not only to the disability insurance program, which everyone acknowledges is out of control. I refer also to the basic OASI program, and the HI program, which continue to confer benefits to persons in an indiscriminate and sometimes inordinately expensive fashion. What sense does it make, for example, for the age of the children for which a woman automatically qualifies for caretaker benefits in social security is 18, when in public assistance it is age 6, and under the President's welfare reform program it is age 14? What sense does it make for medicare to continue to provide a whole host of benefits to persons who well can afford to take care of themselves?

Our next task, Mr. President, is to address these eligibility and benefit questions with the same tenacity, the same determination, with which we have addressed the financing question. Only in that fashion can we complete the job and meet our responsibility to the American taxpayers. We have asked them, in this legislation, to shoulder the largest tax increase in the history of the social security system. That can very well prove, for many segments of our population, simply to be a burden which they cannot reasonably be expected to meet particularly with the wage base approach which has been taken. We owe it to them, and to future beneficiaries of Americans, to reassess the entire social security benefit and eligibility structure, and to look at all alternative systems, to make sure that our program policies are consistent with rationality—and that our taxation demands are keyed to a careful and detailed analysis of what is, in fact, required to provide a retirement program that is sound and not profligate, that is sensible and not superfluous, to meet the wishes and needs of the American people.

Mr. President, I wish to say just a few additional things.

This is a far better bill than it was when the matter was submitted by the administration. The Senate very wisely rejected the idea of paying social security funds out of general funds. It would be running away from a problem. It would turn a program into a welfare program and would not be good at all.

The Senate also rejected the idea of borrowing from the general fund because that, too, is undesirable, although maybe in a little lesser degree.

Mr. President, I am glad that we kept parity between employers and employees. This is a program for everybody. Employers, as such, draw no benefits. Employees draw benefits and, of course, the self-employed. It is their program. If they have a part in it, and an equal part, they continue to draw their benefits with dignity and with a sense of propriety.

Mr. President, I would be derelict in my duty if I did not point out that this financing of social security is not nearly as good as the Congress could have done. Too often we have raised social security revenue by increasing the wage base. At the present time, the wage base is $16,500 and in the law there are certain provisions for indexing it as costs and prices go up.

But, Mr. President, when we seek to find additional revenue by raising the wage base, we are doing a very unwise thing. We are soaking—and I mean soaking—the middle class.

The taxes under this bill in a few years are going to be very high for people who make $20,000 or $25,000. It is going to be unjustly high and it need not be so.

Mr. President, when we provide the income that we need by raising the wage base, we are applying the burden to one-sixth of the people.

Suppose that one is a landlord who has six houses, has to have more money to operate, and decides to put all of the increase on one tenant, one house. It would be an unbearable load. That is exactly what we do in social security.

A modest tax increase applied to everyone is the right way to raise money for social security. The taxes on the upper brackets are going to be unconscionably high.

Mr. President, someone might say, "Well, if you raise the tax rate, aren't you unfair to the poor?" Not at all.

If the tax rate is 6 percent—it is a little over that—and someone makes $4,000, they pay a lot less than someone that pays 6 percent on $20,000. That is one thing.

Secondly, the Congress, very appropriately, has fixed the benefits in favor of the low income. They get a much better bargain. They get a greater portion of their wages back in social security benefits than the higher paid.

There is a third reason. We have in the tax law what is called the earned income credit, that someone who earns his money, is not on welfare, works hard, gets a credit for 10 percent of his wages up to $4,000.

The individual making $4,000 gets a refundable tax credit of $400. It more than offsets his social security tax. It phases out at $8,000, but the individual making $7,000 gets a check back for $100.

That is in the law. It is there because of the leadership and the foresight and the compasson of the distinguished chairman of the Finance Committee (Mr. Long). But it serves a good purpose.

So this financial burden of ours could have been met by raising the tax rate one-half of 1 percent on employees, and one-half of 1 percent on employers. There would have been some raise, yes. It would have cost $10 for somebody making $10,000 a year. But it would not have been an excessive burden.

The way it is, we have imposed an excess burden on the middle class, particularly, and they will feel it in just a few years.

Mr. President, it does make a difference whether we meet problems fairly or whether we run away from them.

Do you realize, Mr. President, that we are raisng $75 billion of additional revenue in this bill and only $4 billion of it goes for more benefits? $71 billion of the $75 billion of additional revenue has to go to make up past losses. Why? Because in 1972 we raised benefits by 20 percent without adequately providing for them.

Mr. President, I am grateful, and I commend my colleagues for what they have done in turning back the proposal of the administration to pay benefits out of the general fund, or to borrow from the general fund or to soak the employers. That is good.

I am sorry that we are raising too much of this money by extending the wage base and having an excessive burden fall on the few, when a modest burden could have been borne by everyone. However, all in all, we must consider that this is a complex matter—some people did not take the time to understand it fully; that in this case we had to overcome the irresponsible—and I say that advisedly—position and lobbying and campaigning of an administration that was flirting with the welfare of every social security recipient now and those who will be beneficiaries in years to come.

Mr. DANFORTH. Mr. President, will the Senator yield for some questions?

Mr. CURTIS. I am happy to yield.

Mr. DANFORTH. It was my understanding when this bill was before the Finance Committee, and again when it was on the floor of the Senate, that the intention was to create a funding of the social security trust funds so that they would be in actuarial balance for the next 75 years. Is that correct?

Mr. CURTIS. That is correct.

Mr. DANFORTH. Does this bill provide for actuarial balance for the next 75 years?

Mr. CURTIS. No, it does not. It does so for about the first 30 to 50 years.

I am aware that these long-range projections have to be revised as we make changes in the law. But the fact remains that, to my knowledge, this is the first time we have advanced a bill in the face of the knowledge that the long-range financing was inadequate.

Mr. DANFORTH. It is also my understanding that the intent of the Senate when we passed this bill has not in fact been realized and that there will be an imbalance actuarily sometime after the year 2000.

Mr. CURTIS. That is correct.

Mr. DANFORTH. It is also my understanding that the rates that have been adopted are significantly higher than the rates that were adopted by either the Senate or the House during the 1980's.

For example, if the Senator will look at table 3 on page 66, it is my understanding that for the year 1981, the tax rate is higher than the House bill; that for 1982, 1983, and 1984, it is a tax rate that is higher than both the House bill and the Senate bill; that for 1985, it is a rate that is higher than the House bill; that in 1986, 1987, 1988, and 1989, it is higher than the rate that was in either the House bill or the Senate bill; and that in 1990 and thereafter, the rate is higher than the rate that was in the Senate bill.

Mr. CURTIS. Yes. I think it calls for some explanation.

I would be opposed to the conference going beyond their scope. The social security tax is in two parts—the OASDI and the HI, the health insurance. Usually, it is quoted as the combined rate. What the conference did was to take the highest rate of any of the components, in some instances, from either House, and it came up with a combined rate that is higher.

Mr. DANFORTH. However, my point is that what we are doing here is adopting a rate structure which is generally higher than that adopted by the Senate and which, for a number of years, is higher than either the Senate or the House; that despite the fact that we have higher rates, we have not achieved actuarial soundness for the next 75 years, as we set out to do.

Mr. CURTIS. That is correct. A part of the reason why the combined rate in the Senate was not as high as that agreed to by the conference was that under the Senate bill, they would have collected more money from the employers.

Mr. DANFORTH. Certainly, it is true that, so far as the working people of this country are concerned, they are going to be paying higher rates than under either the House or the Senate bill for a number of years, and still they are not going to have the assurance of actuarial soundness when at least some of them get to 65 or are of retirement age.

Mr. CURTIS. I think that is a valid criticism, yes.

Mr. DANFORTH. I am sorry that the chairman is no longer in the Chamber, but I should like to ask some questions and make some observations about a couple of amendments that were adopted by the Senate by overwhelming margins.

One is the amendment that was offered by Senator Roth, providing a $250 tuition tax credit for college students. That was adopted by the Senate by a margin of 61 to 11. Only 11 Senators voted against it.

I wonder whether Senator Long would be able to give me his views on the prospects of either that amendment or the so-called Packwood-Moynihan tuition tax credit proposal, as to whether there is any significant likelihood that these things—I think the Roth amendment has been voted by the Senate on three occasions—ever are going to become law or whether we are going to be wasting our time in the Senate by voting for this amendment.

Mr. LONG. Mr. President, from the point of view of the conference report, the administration did not prevail on two major items that the administration was recommending.

One item was the approach that the Senate did agree to accept by a margin of one vote, with the Vice President breaking the tie, that there be a heavier tax on the employer than on the employee. That was an initiative by the administration—an innovation, one might say, of major dimensions—on which the administration's position was not sustained. The conference agreed to the position of the House and provided for parity of taxation between the employer and the employee.

In addition, the administration had fought very hard for a provision that the funds to pay the benefits be borrowed out of the general fund. The point of view of the Senate was that there was not any general fund to borrow from; that the borrowing just amounted to having a printing press to print money; that you should not finance social security benefits by printing-press money because that was an unsound approach. The House conferees went along with the Senate on this. That represented another major setback in those innovations that were being recommended by the administration.

When we got to this big item of tax credits for education, it was a rider not relevant to the bill itself, but there certainly is precedent for offering a measure of that sort on a social security bill.

The administration and those who supported its position were dug in to the point that they just were not going to yield on this other item where some of us wished to compel them to see it our way.

If we could have persuaded the House of Representatives to see it our way we would have done it, but this is something that we could not do at this point. I am satisfied that before this Congress is over the Senate will again pass something along the line of the Roth amendment, that it will go to the President having been agreed to by the House of Representatives, and that the President will either sign it or veto it. I predict that the probabilities are that, by the time we get through debating this issue and having expressions on both sides, it is going to become law. If it does not become law, it will be because the President has vetoed it and the veto has been sustained.

But we were not able to enact it on this bill. That does not mean that it will not happen. It just did not happen on this particular occasion, but there will be other bills and, frankly, there will be other legislative situations where those who favor this tax credit approach will have more leverage in conference than they had at this point. I would think that if the administration had won on the two items that I mentioned, here would have been a little more leverage for the position taken by Senator Roth and those who voted for his amendment than there was when the administration had failed to prevail on some very big items that it hoped to see added to the social security program.

Mr. DANFORTH. I am encouraged by the Senator's optimism. I wish now to ask the Senator about an amendment which I offered.

Mr. LONG. I think that we could have reached an agreement, that we take something like this is the bill we just passed and send that over to the House of Representatives with the tax credit on it. There was willingness on the part of the House conferees to cooperate in letting that bill pass in this session. If that were the case, we would have every reason to think that under the existing circumstances the bill would have been vetoed, and Senator Roth decided that it would be better to renew the struggle on a measure that had a better chance of becoming law.

Mr. DANFORTH. It is certainly difficult to pass legislation over the opposition of the administration. It is not just the veto power. It is the leverage that the administration has in Congress.

Let me ask the Senator about the amendment that I offered along with a number of other Senators both in the Finance Committee and on the floor. As the Senator will remember, in the Finance Committee my amendment lost by a tie vote, and then on the floor it was adopted by a vote of 57 to 28, and it was an amendment to provide 10 percent of social security taxes for State and local governments and for nonprofit employers. I am very concerned about what happened in the conference to that amendment. I am sorry I was not present on the day that it happened.

But the theory behind this particular amendment was that between now and 10 years from now the social security tax liability for local governments, State governments, and nonprofit employers is going to be increased by $15 billion. That is just too much money to take out of the local school districts, the local hospitals, the Salvation Army, and the Boy Scouts, and we should have offered some relief for them.

That amendment was washed out in conference. The Senator has been here I think 29 years and has a great reputation for knowing how to get things done in Congress. I have been here for 1 year and have no reputation for knowing how to get things done in Congress. I wonder if the Senator could offer me his thoughts as to whether or not this concept, which was adopted by a margin of almost 30 votes on the floor of the Senate, perhaps could be brought back to life in some other form.

Mr. LONG. Of course it can, I say to the Senator. I point out that there was more compelling logic to the Senator's amendment when we were looking at a bill to put a heavier tax on the employer than it did on the employee.

That situation more strongly supported the argument that these State and local governments and nonprofit institutions should be given at least some relief because of very high initial burdens placed on them.

When the tax goes on a parity basis rather than on the basis of putting it on the employer but not on the employee, that in itself is an alternative that places a lesser burden on the employer, and it reduces the need for the type of relief the Senator has suggested.

Of course, the Senator——

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. LONG. If I might say, of course the Senator's amendment had much to recommend it even if you do have parity of approach between two.

Mr. DANFORTH. Let me interject one point just at this point.

The fact of the matter is that, when you ran the figures when you compared the actual tax burden created by the parity approach versus the disparity approach, the tax effect on this group of employers turned out to be almost identical; that is, it was a difference, as I recall, between a $15 billion annual increase by 10 years from now and a $15.2 billion annual increase. So, even under this version of the bill the consequences insofar as the Salvation Army, the hospitals, and the local governments are concerned, are almost exactly the same as they were under the administration's proposal.

Mr. LONG. Yes. I urge the Senator to keep in mind that his proposal was a relatively new legislative proposal which has merit to recommend it, and sometimes we have to pass something of that sort more times than one before it becomes law.

I am sure the Senator will bring his proposal back again and the Senate will back him on future occasions and in due course I anticipate the Senator will have the success that we hope to achieve with his amendment.

One of the problems we were compelled to face was that we had between the Senate and the House some very expensive proposals—so much so that the administration as well as some of those from both Houses were concerned about the potential of a very high additional cost if we took the high-cost amendments of the two bills, and the cost in additional taxes of the relief that the Senator had in mind came into play.

But, may I say to the Senator, he has a worthwhile proposal. It does have a lot of merit to it, and I would urge the Senator that he should continue to pursue it because I believe when the House better understands it, as I believe the Senate does, he will find there will be more support for it.

Social security is not something that is dealt with once and for all by just one bill. We will be voting on social security bills around here as long as we are Members of this body, I would think. We will probably have another significant social security bill at least once every Congress.

I do appreciate the comments of the chairman, and I certainly would on my amendment appreciate any help he could provide in the future when this comes up again. I think it is a very important point.

I would add one thing that really concerns me, and that is the vehemence of the administration's opposition both to Senator ROTH's amendment and to my amendment. I think the nature of the vehemence is more than a dollars-and-cents question. I think it goes to a basic conceptual matter; that is, when I met with Hale Champion, the Under Secretary of HEW, to describe my amendment to him, he said to me point-blank—and I appreciated his candor—that, "we"—I took that to mean the administration—"have no problem in offering financial help to State and local governments and to colleges and universities, and so on, but we would like to do it in a targeted way."

I think that use of the word "targeted" has become a real byword in Washington. I take it "targeted" means that we at the Federal level are willing to help local governments and organizations throughout the country provided we can keep strings on that money, and that the problem with the approach in the amendment that I offered was that it was string-free resources; that it allowed discretion and responsibility to be exercised at the local level and in the local school district. Maybe that is just what we in Washington do not want to happen.

Similarly I noticed an article in the Washington Post in which Secretary Califano criticized the Roth amendment, and he said:

> The most important point is that it is an absolutely incoherent way to make educational policy in this country.

Perhaps the nature of the administration's opposition to Senator ROTH's amendment is that the effect of it was to provide assistance to people who wanted to send their children to college in a way which did not allow the Federal Government to make educational policy through the leverage power of the Federal dollar.

That to me is a very important philosophical question that I think was raised by Senator ROTH's amendment, was raised by my amendment, and which really got us into a hornets' nest insofar as the administration was concerned, including heavy lobbying by very, very high levels of the administration against these two amendments, I think not on the dollars-and-cents effect but on the basis that these approaches are ones which reduce the potential of manipulation by the Federal Government and that, perhaps, the desire, not just with this administration but with almost every administration, regardless of party, is to increase the amount of manipulation that comes from Washington.

(Mr. MELCHER assumed the Chair.)

Mr. LONG. I like the approach the Senator advocated, and also that Mr. ROTH advocated, that you would provide a tax credit which would have the effect of letting the individual decide for himself what he wants to do with his money—rather than to have him go to some Federal office and fill out an application and be told to come back, send the application into Washington, and after while have somebody come back to see him and talk to him about his situation and eventually tell him that he either did get some help or he did not. In either event they will tell him there are strings attached to it, that he will have to do things somebody in Washington wants him to do, contrary to his convictions, in order for him to get the relief proposed.

I personally think it is a good idea to have a tax credit to allow individuals to decide for themselves, just as I think there is a great deal of merit in what the Senator was proposing, in saying that if we are going to pass a big tax increase which is going to impose a burden on State and local governments, that we should do it in a fashion which eases the burden on the State and local governments and on the nonprofit organizations.

If the Senator will continue to pursue his proposal, as it gets to be better known across the country, he will have more support in the House, as he now has in the Senate.

As the Senator has discovered, when one convinces the body of which he is a part that something ought to be done, and then it finally goes to conference, and especially when he has the administration fighting him, the Senator cannot prevail on the other House. This is something which I have been familiar down through the years. I think I have had more familiarity with it than the Senator from Missouri.

However, I think if he will continue to pursue it, continue to pursue the type of suggestion he has generated, since there is a lot of merit to it and it has a lot of support, it will in time come to pass.

Mr. DANFORTH. I thank the Senator.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr LONG. I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. I would like to call attention to the fact that in this social security bill there is also included $187 million in fiscal relief for costs of welfare to the individual States, such as the States of Wisconsin, Maine, Lousiana, New York, each of the States, and this is the first installment in the President's proposal for a reform of the welfare system which involves fiscal relief to the States.

The Senator originally proposed, in accordance with an agreement with the administration, that there be $374 million.

The House proposed to put—agreed to the total sum in principle—but proposed that half be put in the bill and half in the H.R 7200 bill which they expect to receive back from the Senate sometime in the second session, and we agreed to that.

This is an important event It is the first such relief of its kind in the history of the federal system. The fact that it is here very much attests to the fidelity to this purpose and the shared concern of our distinguished chairman, and I would like to stand in tribute to him in expressing the gratitude that I have and, I think, that the State governments and local governments throughout the country have and can appropriately share.

This is not the first time that you have been a good friend of this cause, and I would like so to state and state it at this time.

Mr. LONG. I thank the distinguished Senator from New York.

As he knows, the idea of the House in reducing the figure was that this would take care of us during the first few months, and they would expect to go along with something of this sort to continue the fiscal relief thereafter.

So while there is a reduction from the amount of money the Senate approved we would anticipate that in future legislation the House would go along with continuing it at about the rate that we had agreed to in our bill when we passed it through the Senate.

This is, of course, a credit to the Senator from New York for the fine work he has done in this area. He has been the one who has pressed for this idea.

It was to fulfill a commitment that the administration made, and a promise that the Senator from New York undertook to see that the administration kept, to provide fiscal relief to the States in the welfare area.

I hope the Senator will continue to push for it. I look forward to supporting him in this because I think he is right about it. I just hope the administration will continue to remember that commitments were made along this line. I think the States are entitled to the relief, and that is especially true of the State of New York. The Senator has very ably represented the State of New York, and I think the entire United States has benefited when the Senator proposed the amendment and pursued it thereafter.

I am grateful to the Senator, and I am one of the supporters of his fiscal relief suggestion.

Mr. GOLDWATER. Mr. President, I intend to vote against this conference report measure, but I do not want that to seem a reflection of my feelings toward the chairman, who has been so instrumental in getting a decision on the social security matter.

Mr. President, while this may be a temporary solution, I do not think it is anything like a solution, and I think we will be going through the same rigors and efforts again within the next 10 years.

My personal opinion is that social security has failed, and we would be better off in this country if we pledged to every person who has ever paid a dime into the social security fund that that money would be returned, and then forget about the whole thing. There does not seem to me to be any way to have what we call social security and avoid the politics, every 2 years, of having the House feel that it must make additions to the social security payments regardless of whether the money is there.

This is going to work a terrific burden on the small- and middle-class businessman. It is going to become a burden so great that it will cause the closing of many businesses. In many instances, social security payments will be more than the annual internal revenue bill. So, Mr. President, I wanted to explain my position.

I have tried for years to call to the attention of this country and to the attention of Congress that the social security fund was getting into increasing trouble. My personal opinion is that it is bankrupt, although some argument can be made that it will not be bankrupt for another 4 or 5 years.

But I cannot, in good conscience, go home to face my people and tell them that I voted for a bill that I do not think will help them one bit, but will work irreparable damage to an already overburdened economy which in itself faces trouble.

Mr. President, having explained that, I shall vote against the bill, but I ask unanimous consent to have printed in the Record an article published in this evening's Washington Star in the form of a question-and-answer interview with a Mr. Irwin Schiff of New Haven, Conn. I do not know the gentleman; I have never heard of him before, but what he has said in answer to questions put to him by a Star reporter does make sense, so I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the interview was ordered to be printed in the Record, as follows:

[From the Washington Star, Dec. 15, 1977]

Critic Knocks U.S. Social Security

(Note.—Irwin A. Schiff, a New Haven, Conn., insurance consultant and accountant, is a veteran critic of the Social Security and Internal Revenue systems who has written extensively on those subjects. He was interviewed by Washington Star Staff Writer Ron Snider.)

Question: You've criticized the Social Security system as being bankrupt. Is the new law going through Congress going to help salvage the system?

Schiff: No. Social Security is unsalvageable. First of all, it's not even a system. It's nothing more than a welfare scheme. Money comes in and money goes out. Congress went so far as to try to create the illusion that they were going to increase taxes on the employer. This is purely an indication of the deviousness and the dishonesty of Congress. Social Security taxes are an indirect labor cost. The working man must produce enough to bear the cost of his employment, both direct and indirect, so that these increased Social Security taxes must come out of the hide, or out of the productivity, of labor. So the laborer is going to pay for these taxes either in terms of lower wages or an increased cost for the goods he buys.

Q: Well, regardless of who pays, will the increased revenue help put the Social Security system on a better plane?

A: No. The Social Security system is over. It's a chain letter that's run out of chain. Basically what Congress wants to do is get some more money for one or two years before the system caves in on those already in Congress so they can get a couple more years of office, so they can get their own pensions. The system is totally unsound. The government talks about the trust funds. There are no trust funds. There never were any trust funds because the $46 billion the government says is in the trust funds are nothing else but government bonds. Bonds are simply a way of the government saying we owe ourselves $46 billion.

Q: If there were no politics involved, if you had actuaries in there looking at the Social Security system and they didn't have to worry about public reaction or votes, could they come up with a plan to modify and make Social Security work?

A: No, because if Social Security were an insured plan the way it was presented to the country, it would have to have a fund of over $4 trillion. That almost equals all of the above-ground wealth in this country. There is no way that the system can deliver the benefits that these irresponsible rascals promised. Social Security was really a way that Congress could demonstrate how generous it was going to be every two years; congressmen simply voted increased benefits without bothering to stop to think of the cost. They simply voted more benefits than those people who are working can deliver. Now they don't want to recognize this. Roughly 15 percent of the population is on Social Security and there's no trust fund. Suppose in 1937, when the Social Security system was adopted, it was suggested that 15 percent of our population immediately would begin receiving benefits. Would the system have passed? Of course not.

Q: How was it sold?

A: It was sold on the basis that it was going to be an insurance scheme. As a matter of fact it was sold on the basis that this trust fund would increase so that by the year 1980 the trust fund would reach its full maturity. It was sold on the basis that it was going to be actuarially funded. Now, it is not funded. We now have 15 percent of our population drawing benefits and there is no trust fund. Obviously, if this had been suggested in 1937, it would have been laughed out of existence. The only reason we have Social Security today was that it was declared constitutional on the basis that it was a funded plan. It's unfunded, therefore it's basically unconstitutional, and since it's unconstitutional, nobody has to take any notice of it or the laws passed to support it.

Q: All politicians from the left to the right have endorsed the concept of Social Security. Other countries have had similar plans since the 18th century. Is it feasible that Social Security can be done away with under any circumstances?

A: The reason Social Security was popular is that politicians universally like to play Santa Claus. Politicians are universally devious. Politicians are universally liars. Now there are exceptions to this, but they are the exceptions, not the rule. And that's the way politicians get votes. We have a weak economy today because we have adopted this so-called Social Security. But it's not Social Security, it's social Insecurity. The only way we can be socially secure is to produce as much goods, is to produce considerable goods at low prices. What the Social Security tax does is puts a burden on producers and drives certain producers out of business.

Q: For example?

A: Well, when Grants went out of business 65,000 employees lost their jobs. Now Grant was paying a payroll tax to the government roughly 6 percent of its payroll. Suppose Grant had in the bank, just what it had paid in payroll taxes for the previous five years, could that have staved off its bankruptcy? I think so. There are many businesses that are going bankrupt which if they had their payroll taxes would stay in business. So Social Security is actually throwing people out of work. The Social Security tax is a tax on hiring people. It artificially raises the cost of wages. Now there are many marginal businesses that simply can't afford to pay wages plus the artificial taxes. So they don't hire. What the government does is give nice names to things. In other words, how can I be against Social Security? Well, I want social security, but social security doesn't come by taxing producers and giving nonproducers an incentive not to produce. The government does it with everything. Every time the government wants to raise taxes, they talk about a tax reform package. When the government wants to pay farmers not to grow food, they don't say we want to pay farmers not to grow food, they call it soil bank payments. When the government wanted to have price controls, they called it Fair Trade laws. Who can be against things that are fair and trade. Social Security should be called Social Insecurity because that's what it creates.

Q: Even if Social Security would disappear, the government still would make some move to aid retired people who couldn't survive, who had no income, just as they have welfare payments now. Wouldn't there be some system?

A: The reason why people who are 65 may need Social Security is that the government has been confiscating their earnings all their life through taxation and inflation, so that when they get age 65 they're almost destitute because of government taxation. But assuming the government wasn't swallowing up all this money, people would have it to save on their own. The private charities would have more money, and if somebody needed money they could go to other sources. The point is: Politicians and government can't do anything. All they can do is get in the way of people who produce. Your congressmen and senators are nothing but influence peddlers. It's not their money, they get in the way of producers. Yet they want to create the illusion. It's government, with all their benefits, that has made this country inefficient producers and less competitive with foreign producers. My God, we flooded the country with radios, Singer sewing machines and tractors and cars. Now, because of OSHA because of all these government regulations and taxes and payroll taxes, we've become high cost producers and we can't afford to pay for our imports.

Q: But isn't it true a great majority of the people supports the government policy, and favors the Social Security system, welfare, the Federal Trade Commission, the Consumer Product Safety Commission. They're antibusiness. Where's your support?

A: Right now you have 10,000 of what are known as public information officers in Washington writing every day. These are propaganda officers and what they've done is they've created an illusion. The vast majority of Americans are being deluded by government. Now I'm not relying on the vast majority of Americans, but there are 5, 10, 15 million Americans who know that government is destroying this country, as government destroyed England. So it's the understanding, patriotic American who will react by refusing to pay government taxes that are not legally required. And the message will start to get across to more and more people. The only thing that knowledgeable Americans can do is not give aid and comfort to the enemy and educate other Americans. And that's what I'm doing. I'm going around the country putting on seminars. Now you've got to realize the American Revolution was won because one-third of our population was willing to risk a revolution. They didn't wait to convince the majority of Americans.

Q: And how do you figure these people will come to believe this?

A: Many Americans realize that we're getting very close to where we can have runaway inflation. What I want to point out to the people is that government is totally useless in raising their standard of living. The people may realize that when they see Social Security go bankrupt—because now they suspect government. See, the government can make promises for years. At the original hearings when Social Security was considered in 1935–36, there were people who pointed out that this would not work. And for years these people were maligned and made fun of. And now they're going to be proved right. It took two generation to prove that this chain letter wasn't going to work. And when this collapses—and people are going to see that the government is the Wizard of Oz. That when the screen falls down there's a little funny old man there who doesn't do anything.

Mr. DOLE. Mr. President, last Tuesday Vice President Mondale declared that it would be a major victory if the social security bill were passed this year. As a spokesman for an administration that has proposed more taxes in its first year than any other administration in our history, I imagine that the imposition of a $227 billion tax bill would be classified as a victory.

ECONOMIC TURMOIL

The Senator from Kansas, however, is concerned over the economic impact of this bill. The fiscal drag on the economy resulting from this bill will be serious. The bill before the Senate today will triple the tax bite for middle-income workers. Workers will sharply pay increased taxes for only a promise of increased benefits years from now.

There is no question that the social security trust fund needs an infusion of new money. However, there is considerable risk that economic incentive and traditional growth patterns will be damaged from this enormous income transfer from the working to the nonworking population.

Increases in payroll taxes of this magnitude can expect to have significant macroeconomic effect. In general, payroll tax increases, like personal income tax increases tend to have a restrictive effect on the economy. However, unlike personal income taxes, payroll tax increases are inflationary. The employer portion of payroll taxes tend to be treated as a cost of production by the firms. Increases in payroll taxes on the firm, like other cost increases, place an upward pressure on prices.

BUSINESS CONFIDENCE

A Gallup poll recently released shows that businessmen are nervous and gloomy about our economic future. A whopping 50 percent of those surveyed expect a recession within the next 2 years. Most businessmen expect the Government to do a poor job of managing the economy and fear that rising taxes will cause serious problems.

In light of the new social security tax increases, and the possibility that the useless and onerous energy taxes will be enacted, the country can ill afford to wait for the administration to decide on the composition of a tax reform package. Having listened to the President this morning in the press confernce, it seems quite certain he is not sure what the package will contain. Instead, the administration should pack a package to provide tax relief for both business and individuals. In order to provide the capital to meet the needs of today and tomorrow we must minimize the present tax burden.

CONFERENCE ACTION

Mr. President, having said that, the Senator from Kansas wishes to commend the conference committee, the conferees and the distinguished chairman, the distinguished Senator from Wisconsin, and the distinguished Senator from Nebraska, because the conference committee improved the bill passed by the Senate. The conference adopted in modified form an initiative relating to the removal of the earnings limitation sponsored by the Senator from Kansas and the Senator from Arizona, Mr. Goldwater. Under the conference bill, the earnings limitation ceiling would be removed for Americans over age 70 and phased up to $6,000 for those between the ages of 65 and 69.

EMPLOYER-EMPLOYEE PARITY

The conference committee wisely restored the employer-employee contribution parity. The unilateral employer increase in the wage base as passed by the Senate would have delivered a massive financial blow to the very sector of the economy which is charged with the responsibility of providing sufficient jobs and capital formation.

The bill also initiates decoupling and removes the horrible double indexing of benefits. Decoupling, by itself, would make a substantial reduction in the long-term cost of the social security program.

Fortunately, the conference rejected outright the administration's proposal to use general revenues to support the social security system. This measure, if enacted, would only have hidden the true costs of our social security system. Besides, almost everyone in Government knows that our present $60 billion deficit has not produced any "general revenues."

BILL FAILS TO ADDRESS REAL PROBLEM

Unfortunately, neither the House nor the Senate addressed the real problems of the social security system. In failing to address these issues, the Congress in enacting this bill will be doing a disservice to not only the present beneficiaries but also to the future ones. I fully support corrective action to make the social security system fiscally sound. However, I question whether those who now must bear the burden of financing social security—the working class—should be asked to assume such massive burdens that this legislation would propose. Constantly raising taxes, either through the tax rate or the wage base, is not the only answer to preserve the vitality of social security. The Senator from Kansas believes that we should look to the beneficiary composition, the benefit structure, and the relationship between social security and other pension programs.

The passage of this bill does not mean the Congress can walk away from its duty to improve and refine the social security system. The Senator from Kansas hopes that the Congress and particularly the Senate Finance Committee will begin immediate work on initiatives to relieve the tax burden while preserving the integrity of the social security system.

Mr. NELSON. Mr. President, I regret that the conferees did not agree with the Senate version of the funding of the social security bill, because I think it was a better approach which would not have had such a severe impact upon the vast majority of small businessmen in this country, and all or almost all of the self-employed in this country.

I also regret that we did not accept the House provision which would have used the general funds to guarantee the social security trust funds in the event that any of their reserve ratios went below a certain percentage, because that would have made it possible to have a lower reserve ratio in the fund, and thus also lower tax burdens on both individuals and businesses.

I regret, too, that neither House moved to start transferring the responsibility for paying for the hospital insurance or the disability insurance from the social security trust fund over to the general fund in a phased-in way over a period of years, because, in my judgment, neither of those programs—disability insurance or hospital insurance—should be in the social security program.

If we had done that, we would have been able to have had lower social security tax liability rates and placed the burden of supporting those two programs with general revenues where they belonged.

There is not any doubt in my mind that we will be compelled out of equity and just commonsense to proceed to shift the burden of supporting hospital insurance and disability insurance from the social security trust fund to the general fund, and very soon. I would hope we would start considering that in the next year or so.

I was rather interested—I do not have the rollcalls in front of me—in some of the comments of those who are attacking the social security system here in the Chamber because of the high cost. I believe we will find that those critics all voted in the past for the benefits which are in there, and this year proposed additional benefits which I voted against, which would have increased the burden on the social security fund. I include, for example, the elimination of the earnings limitation that was proposed by the distinguished Senator from Arizona, which would have cost another $1.1 billion a year. Yet he stands on the floor attacking the high cost of the system while taking the credit for voting benefit increases of $1 billion or $2 billion more than under present law, and thus requiring higher social security taxes. Fortunately that particular provision did not prevail in the conference.

I think sometimes the rhetoric we hear here is not justified coming from the sources who produce it when we consider the amendments they proposed or supported to increase the cost of the social security fund either this year, or in past years.

Mr. President, since its enactment, social security has become a vital component of this Nation's social and economic structure. In just over 40 years, social security has grown into a massive program providing retirement, disability, survivor and hospital insurance benefits to some 33 million Americans. To support these benefits, over 104 million Americans contribute payroll taxes to the social security trust funds.

The importance of the social security program to workers and retirees is underscored by the following statistics:

The average monthly benefits are $234 for a retired worker; $262 per month for a disabled worker; and $223 for an aged widow.

Forty percent of all American workers pay more in social security taxes than they do in Federal income taxes.

For about 70 percent of all single beneficiaries and for some 50 percent of all couples, social security benefits are their major source of income ("Major source" of income is defined as at least 50 percent of all annual income.)

One out of every four individual beneficiaries and one couple out of every 12 depend upon social security for their sole source of retirement income. ("Sole source" of income is defined as at least 90 percent of all annual income.)

Right now, the social security programs are in financial trouble, both in the short term and in the longer range. It is necessary to change present law to provide adequate financing for social security, because the social security trust funds do not have current income sufficient to meet the obligations made to beneficiaries, and the trust funds do not have sufficient reserves to carry the social security program for much longer. In 1977 and 1978, the social security trust funds will run a deficit each year of over $5 billion.

Under present law, it is projected that trust fund reserves in the disability insurance program will run out in 1979, and the old age and survivors program will exhaust its reserves in 1983.

The long run, 75-year projection of the social security program also indicates that the present social security cash benefits program is seriously underfunded. The Board of Trustees of the social security program has reported that there is a long term deficit in the old age, survivors, and disability insurance (OASDI) program of 8.20 percent of taxable payroll.

Over the 25-year period covered by the cost estimates, the hospital insurance (HI) program has an average deficit of 1.16 percent of taxable payroll. This is equivalent to $9.3 billion per year based on the 1977 taxable payroll.

To deal with social security's financial problems, the House of Representatives passed a financing bill—H.R. 9346—on October 27, 1977. The Senate also approved a social security financing bill on November 4, 1977. The goal of both of these bills was to provide enough income to meet benefit payments, and to maintain a reasonable balance in the social security trust funds as a contingency reserve to carry the program through a recessionary period. While the House and Senate bills differed as to the precise way in which to put the social security programs in a sound financial position, each House used three basic methods to reduce short range and long range deficits in the social security program:

First. Increase revenues by adjustments in the social security payroll tax and the wage base upon which these taxes are paid.

Second. Adjust social security benefits.

Third. Infuse general revenues directly into the social security programs or authorize the social security trust funds to borrow from Federal general revenues.

1. INCREASING REVENUES

The most fundamental difference between the House and Senate bills is the way in which additional revenues would be brought into the social security trust funds. The Senate and House bills each increase the amount of earnings subject to the employer tax, increase the earnings subject to either the employee or self-employed tax, and increase tax rates for employers, employees, and the self-employed.

The traditional approach to financing the social security cash benefits and HI programs has been to levy an equal tax on employers and their employees. This concept of taxation has become known as "parity." Under the Senate bill, however, the amount of wages subject to social security taxation would have been different for employers on the one hand and employees and the self-employed on the other. The Senate bill thus provided for a temporary break in the "parity" concept by placing a greater share of the social security tax burden on employers, while the House bill raised the wage base equally for employers and employees to finance social security benefits.

Under the Senate provision, the wage base subject to employer taxes would be raised to $50,000 starting in 1979. The employer base would remain at $50,000 through 1984 and then increase in 1985 to $75,000. The base would remain at $75,000 until such time as the employee tax base reached a level of $75,000, in about the year 2002. Thereafter, the two bases would be equal and would rise together in relation to increases in average wage levels throughout the economy.

The Senate and House conferees agreed to accept the House approach in which employers and employees will contribute equal amounts of taxes to the social security trust funds. This approach does adequately fund social security benefits in the future, but in my judgment the unequal employer/employee wage base would have been preferable.

Disparity in the employer/employee wage bases redresses an imbalance in the present law. Many people believe that employees and employers have been treated the same insofar as social security payroll taxes are concerned—that there is a "parity" concept that must be preserved. In fact, employers have always enjoyed an advantage not available to employees, and that is that profit-making employers can deduct their contributions as a cost of doing business when they calculate their income taxes. Employees cannot. In effect, this means that employees have been asked to bear a greater share of the cost of operating the social security programs. By raising the wage base for employers higher than for employees, employers and employees after-tax situations would be more nearly equal.

Furthermore, since future benefits are tied to the employee wage base, raising the employee wage base has cost implications for the future. In social security, today's decisions must be considered in view of their future effect. Since benefits are tied to the wage base on which employees pay into the system, raising employee contributions will mean that higher benefit payments will have to be paid in the future to these high-paid employees. Somewhere down the line workers and employers will have to have their social security taxes raised to pay for these retirement benefits. It has been calculated, for example, that with the House approach benefit payments in the future will cost 0.27 percent of payroll more than the Senate bill over the next 75 years. This additional cost is equivalent to 2.16 billion per year if based on total taxable payroll this year, and it will increase substantially in the future.

Perhaps most importantly, disparity in the employer/employee wage bases avoids increasing the wage base upon which workers contribute social security taxes or increasing the tax rates for all employers and employees.

Right now, employers already pay taxes nationally on 87 percent of all workers' earnings. Therefore, raising the amount of earnings taxed does not represent a major new expense for the vast majority of employers. In many small businesses, 100 percent of the wage base is already covered because each of its employees earn less than $16,000, the amount of earnings subject to social security taxes in 1977.

When the Senate considered the wage base disparity, Senator CURTIS offered a proposal that would have preserved equal employer and employee wage bases by raising tax rates. I opposed that proposal because it would have increased social security tax liability for low- and middle-income workers by a substantial amount, thus further increasing the regressivity of the present payroll tax. A tax rate increase also would impact on small businesses more significantly than increasing the wage base for employers only. This is because a small business would have its entire payroll affected by a tax rate increase, while it would only have to pay additional payroll taxes on workers earning high wages under the unequal employer/employee wage base proposal. Small businesses primarily do not have high-paid workers. The Senate did not accept the tax rate increase plan.

The House bill raises the employee wage base to a greater extent than does the Senate bill. The effect of these wage base increases, imposed by the House—and adopted by the conferees—is that high-paid workers and high income self-employed workers will have much larger increases in their social security tax liability when compared to the Senate bill.

To illustrate the impact that the House and Senate bills and the bill reported by the House-Senate conference committee will have on workers earning the average wage, as well as upon workers earning the maximum amount of wages subject to social security, the following two tables have been prepared:

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING AVERAGE WAGE

	Wage	Taxes under present law	Increase over present law		
			Senate bill	House bill	Conference report
1977	$10,001	$585			
1978	10,812	654			
1979	11,655	705	$10	0	$9
1980	12,486	755	11	0	10
1981	13,281	837	40	$33	46
1982	14,078	887	49	49	56
1983	14,888	938	52	52	60
1984	15,744	992	55	55	63
1985	16,649	1,049	125	108	125
1986	17,606	1,136	114	114	123
1987	18,619	1,201	121	121	130

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING THE MAXIMUM

	Taxes under present law	Increase over present law		
		Senate bill	House bill	Conference report
1977	$965			
1978	1,071	0	$133	0
1979	1,143	$53	252	$260
1980	1,234	54	333	353
1981	1,380	145	566	595
1982	1,474	162	640	656
1983	1,569	207	686	703
1984	1,663	212	731	749
1985	1,758	278	890	928
1986	1,986	383	958	978
1987	2,012	394	1,012	1,034

Mr. President, no matter what proposal or combination of proposals had been adopted to finance social security, this financing legislation would be controversial. The fact is that no one wants to pay more taxes. At the same time, no one wants social security benefits cut back. While I do not agree that the conferees adopted the most and advantageous method to finance future social security benefits, the conferees did take the action necessary to insure the future integrity of the social security system.

Mr. President, I ask unanimous consent that charts comparing present law tax rates, wage base, and reserve ratios in the HI and OASDI funds with the Senate bill, the House bill, and the conference report be printed at this point in the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

COMPARISON OF FINANCING PROPOSALS

	Present law	Senate bill	House bill	Conference report
	Total (OASDHI) tax rate (employer and employee, each in percent)			
1977	5.85	5.85	5.85	5.85
1978	6.05	6.05	6.05	6.05
1979	6.05	6.135	6.05	6.13
1980	6.05	6.135	6.05	6.13
1981	6.30	6.60	6.55	6.65
1982	6.30	6.65	6.65	6.70
1983	6.30	6.65	6.65	6.70
1984	6.30	6.65	6.65	6.70
1985	6.30	7.05	6.95	7.05
1986	6.45	7.10	7.10	7.15
1987	6.45	7.10	7.10	7.15
1988–89	6.45	7.10	7.10	7.15
1990–94	6.45	7.55	7.65	7.65
1995–2000	6.45	8.10	7.65	7.65
2001–10	6.45	8.70	7.65	7.65
2011 and later	7.45	9.20	7.65	7.65
	75-yr average balance			
Percent of taxable payroll	−8.20	−0.18	−1.62	−1.45
	Employee earnings base			
1977	$16,500	$16,500	$16,500	$16,500
1978	17,700	17,700	[1] 19,900	17,700
1979	18,900	[1] 19,500	[1] 22,900	[1] 22,900
1980	20,400	21,000	[1] 25,900	[1] 25,900
1981	21,900	[1] 23,100	[1] 29,700	[1] 29,700
1982	23,400	24,600	31,800	31,800
1983	24,900	[1] 26,700	33,900	33,900
1984	26,400	28,200	36,000	36,000
1985	27,900	[1] 30,300	38,100	38,100
1986	29,400	32,100	40,200	40,200
1987	31,200	33,900	42,600	42,600
	Employer earnings base			
1977	$16,500	$16,500	$16,500	$16,500
1978	17,700	17,700	[2] 19,900	17,700
1979	18,900	[2] 50,000	[2] 22,900	22,900
1980	20,400	50,000	25,900	25,900
1981	21,900	50,000	29,700	29,700
1982	23,400	50,000	31,800	31,800
1983	24,900	50,000	33,900	33,900
1984	26,400	50,000	36,000	36,000
1985	27,900	[2] 75,000	38,100	38,100
1986	29,400	75,000	40,200	40,200
1987	31,200	75,000	42,600	42,600
	OASDI reserve ratio (start of year; in percent)			
1977	47	47	47	47
1978	36	36	37	37
1979	27	27	31	29
1980	18	24	27	26
1981	9	22	25	25
1982	(3)	24	26	30
1983	(3)	27	28	36
1984	(3)	29	29	41
1985	(3)	30	30	45
1986	(3)	36	34	52
1987	(3)	41	37	59
	HI reserve ratio (start of year; in percent)			
1977	66	66	66	66
1978	55	55	55	55
1979	56	48	50	48
1980	53	46	44	45
1981	45	40	34	39
1982	50	44	42	47
1983	50	43	45	50
1984	44	36	42	47
1985	34	25	34	39
1986	20	16	22	29
1987	10	6	15	22

	Present law	Senate bill	House bill	Conference report
	OASDI tax rate (each; in percent)			
1977	4.95	4.95	4.95	4.95
1978	4.95	5.05	5.05	5.05
1979	4.95	5.085	5.05	5.08
1980	4.95	5.085	5.05	5.08
1981	4.95	5.35	5.25	5.35
1982	4.95	5.40	5.35	5.40
1983	4.95	5.40	5.35	5.40
1984	4.95	5.40	5.35	5.40
1985	4.95	5.70	5.65	5.70
1986	4.95	5.70	5.65	5.70
1987	4.95	5.70	5.65	5.70
	HI tax rate (each; in percent)			
1977	0.90	0.90	0.90	0.90
1978	1.10	1.00	1.00	1.00
1979	1.10	1.05	1.00	1.05
1980	1.10	1.05	1.00	1.05
1981	1.35	1.25	1.30	1.30
1982	1.35	1.25	1.30	1.30
1983	1.35	1.25	1.30	1.30
1984	1.35	1.25	1.30	1.30
1985	1.35	1.35	1.30	1.35
1986	1.50	1.40	1.45	1.45
1987	1.50	1.40	1.45	1.45

[1] Includes effect of statutory increase.
[2] Includes effect of statutory earnings base increase.
[3] Funds exhausted.

2. THE SOCIAL SECURITY BENEFIT STRUCTURE

Mr. NELSON. The House and Senate conferees agreed on two major adjustments in the social security benefit structure. One relates to the computation of benefits for new retirees; the other relates to the social security earnings limitation.

The social security conferees agreed on a new procedure for computing benefits for new retirees. Beginning in 1979, benefits would be decoupled to solve the unintended effect in present law that overcompensates for inflation. Social security replacement rates would be established at an amount calculated to be about 43 percent of an average worker's earnings the year before retirement. These replacement rates would be held constant thereafter.

Existing law calls for automatic cost-of-living increases in benefits effective each June and for increases in the tax base (based on changes in wage levels) each January (asssuming that the Consumer Price Index rises by at least 3 percent). Each benefit increase is put into effect by a revision of the table in the law. Thus, each increase applies not only to people entitled to benefits for the month the increase is effective but also to everyone who will become entitled to benefits in the future.

The automatic "cost-of-living" benefit increase mechanism incorporated into the social security program by the 1972 amendments operates exactly as intended for persons on the benefit rolls. Once the initial benefit has been established, it is periodically increased by a percentage which restores its original purchasing power according to the official governmental index of purchasing power—the Consumer Price Index. The social security financing bill proposes no change in this concept.

The "cost-of-living" adjustment mechanism, however, has a peculiar effect on future benefits. This is because increases in the Consumer Price Index increase the percentages in the formula for determining initial benefits in the future. Future benefits, however, are based on earnings which rise, in part, as the result of increases in prices. Thus, wages which were increased to take account of rising prices are multiplied by a benefit formula which was also increased to take account of the same increase in prices.

For an example of how benefits are increased under present procedures, assume a program with a benefit equal to 50 percent of wages. In such a program, wages of $100 would produce a benefit of $50. If wages and prices both rise by 10 percent, the individual who is on the benefit rolls will have his benefit increased to $55 and the person who is still working will have his $100 wage increased to $110. If the benefit formula is left unchanged, both individuals would qualify for a $55 benefit. But under present procedures the benefit formula is also increased to 55 percent and the person who will retire in the future with wages increased from $100 to $110 will get a benefit of $60.50 (55 percent of $110).

Under most reasonable projections of future economic conditions, benefit levels determined by the present-law mechanissm will be much higher than what is necessary to simply adjust for inflation and will represent an ever-increasing percentage of the new retiree's wages in the year before he retires. For significant numbers of people, the benefits payable just after retirement would approach—and in many cases exceed—their wage levels immediately before retirement. It is this part of the current cost-of-living provisions that the bill reported by the conference committee would change.

The starting point for most proposals for dealing with the current long-term deficit of the social security system is a concept called decoupling. Decoupling means that the automatic benefit increase mechanism in present law would continue to apply to keep benefits inflation-proof after a person retires and begins to draw his benefits, but the formula for initially determining benefits at the time of retirement would no longer be automatically increased.

Decoupling by itself would make a substantial reduction in the long-term cost of the program but would also cause a significant reduction in the real value of future benefits. In order to forestall a reduction of this nature, the conference committee bill would provide that future benefits be based on "indexed" earnings, rather than the actual earnings that are used under present law. This procedure involves the adoption of a new automatic mechanism for adjusting the formula for computing initial benefits which is designed to keep replacement rates at about existing levels.

The other major adjustment in social security benefits approved by the conference committee concerns the social security earnings limitation test. Under present law, social security beneficiaries who are under age 72 have their benefits reduced if their earnings exceed a certain amount. This is referred to as the social security retirement cost. It is adjusted annually under present law to reflect changes in average wage levels.

In 1977, the amount which may be earned with no reduction in benefits is $3,000; it will increase to $3,240 in 1978 and is expected to increase to $3,480 in 1979.

Under provisions of the Senate bill, the retirement test levels would have been increased to $4,500 in 1978 and to $6,000 in 1979. After 1979, the $6,000 level would increase automatically as wage levels rise. The Senate bill also reduced the age at which a retired worker may have unlimited earnings to age 70.

The House bill, on the other hand, gradually phased out the retirement test for workers over 65. Under its provisions, the House legislation would have increased the earnings limitation between 1978 and 1981, and then totally eliminated the retirement test for beneficiaries aged 65 to 72. For beneficiaries under 65, the provisions of current law would be maintained.

In resolving the differences between the House and Senate bills, the conferees agreed to increase the earnings limitation for beneficiaries who are over 65 years old and reduce the age at which a beneficiary can have unlimited earnings. The earnings limitation would be increased to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, and $6,000 in 1982. Thereafter, the earnings limitation would be increased annually in proportion to increases in wages throughout the economy. Beginning in 1982, the age at which a beneficiary is no longer subject to the retirement test would be reduced from age 72 to 70. For social security beneficiaries who are under 65, the provisions of present law would continue to be applicable.

3. GENERAL REVENUES

When the social security legislation was pending before the Senate Finance Committee, I proposed that part of the payroll taxes apportioned to support the hospital insurance program be diverted to cash benefits program. This proposal would have prevented the total social security tax rate from going up to such a high level, but it also would have provided the hospital insurance fund with sufficient funding to carry it through the middle of the next decade. In this way, the issue of alternative funding sources for the hospital insurance program could be resolved in the next few years by transferring hospital insurance gradually to the general fund. The same should be done with disability insurance.

In my judgment, a distinction should be made between using general revenues for the hospital and disability insurance programs and using them for the cash benefits program. Cash benefits should and do reflect the earnings of the employee.

Right now, general revenues are used to support a portion of the medical insurance program (part B of medicare). In 1977, general revenues will be used to support 70 percent of the cost of the medical insurance program. And in 1978, general revenues will be used to support about 80 percent of the program.

For these reasons, I believe that Federal general revenues should be used in the future to support the financing of the hospital and disability insurance programs.

WELFARE PROVISIONS

Mr. President, the Senate-passed versions relating to the aid to families with dependent children (AFDC) program. At least one of these provisions—the earned income disregard—would have made a significant substantive change in current Federal AFDC law, specifically concerning the treatment of earned income for AFDC recipients. This change would have had a substantial negative impact on working AFDC recipients.

During the Finance Committee deliberations I opposed the inclusion of any welfare-related provisions with the social security bill. I did this for three reasons: First, because welfare is not in any way related to the financing questions the Congress was attempting to deal with in social security—welfare was not "germane"; second, because an appropriate vehicle for the welfare provisions existed—H.R. 7200, a bill dealing with SSI, AFDC, and child welfare services; and third, because I believe that the Senate should deal with welfare-related matters in and of themselves, not as minor parts of other major legislation which deals with a different subject matter.

The Finance Committee did hold a vote on the question of merging the various welfare provisions found in H.R. 7200 with the social security bill. The committee decided to report two separate bills—one, a social security financing bill; the other a welfare reform bill. The administration supported this approach.

Just before the Finance Committee completed action on social security financing legislation, however, Senator Long and Senator Moynihan together with HEW Secretary Califano developed a compromise package of AFDC provisions, including: Fiscal relief, access to earnings records, quality control incentive payments, and State demonstration projects. Recognizing the need for the States to have some fiscal relief to offset their AFDC costs, the members of the committee accepted this package as part of the social security amendments.

One other welfare provision, which was not part of the compromise, was also attached to the social security bill in committee—earned income disregard.

The House and Senate conferees spent a significant amount of time debating on the Senate's AFDC provisions. The House bill contained no such welfare items, and therefore, the House conferees felt strongly that any AFDC items should not be considered. The Members of the House, however, did show themselves to be eminently reasonable in terms of working out a compromise. I believe the agreements reached by the Senate and House conferees are the best possible, given the circumstances. The conferees took two very important actions. They retained fiscal relief in a modified form and dropped the earned income disregard.

FISCAL RELIEF

The conferees agreed to provide $187 million in fiscal relief to the States. This relief to the States will be based on a formula which takes into account each State's relative proportion of AFDC costs for December 1976 and each State's proportionate share of general revenue sharing. This formula is designed to recognize the tax and fiscal burdens imposed on the States by welfare costs. In Wisconsin, for example, the State will receive 2.3 percent of all funds appropriated under this fiscal relief provision. The 6-month total to be received by Wisconsin will be $4,301,000. This is $374,000 more than the State would have received if the formula had been based solely on population totals.

The Senate bill originally contained $374 million in fiscal relief. In accepting one-half of this fiscal relief, the conferees agreed that the remaining one-half—$187 million—should be considered with H.R. 7200, early next year.

EARNED INCOME DISREGARD

The conferees also agreed to eliminate the earned income disregard provision. I did not support this provision in committee, because the treatment of earned income under the AFDC program is a very important issue, an issue that deserves public hearings and thorough review by the Senate.

The rate at which AFDC benefits are reduced for each dollar earned has a very great bearing on the incentive to work. The Public Assistance Subcommittee in the House found this to be a very complicated and controversial issue. Consequently, the subcommittee has not yet been able to design a proposal that would not adversely affect the working poor, that would have a reasonable work incentive, and that would effectively remove any "high income" workers from the roles.

The administration's new welfare reform proposals place special emphasis on the effect that the treatment of earned income has on the work incentive. The Congress needs to focus on this issue in a responsible way in order to make sure that our welfare programs do provide an incentive to work, while not having unintended detrimental side effects.

The House also agreed to accept a noncontroversial component of the Senate bill, the provision enabling the States to have access to earnings records.

ADDITIONAL IMPROVEMENTS: QUALITY CONTROL INCENTIVE PAYMENTS AND STATE DEMONSTRATION PROJECTS

Quality control incentive payments. The conferees agreed to modifications to the Senate provisions concerning quality control incentive payments and State demonstration projects.

Both the House and Senate conferees decided that the Senate provision, which required the States to conduct quality control activities and which established incentive payments to States for reducing error rates on excess payments to 4 percent or less, had to be modified so as to insure a balanced approach to error rate reduction. The conferees felt that the States should encouraged to reduce their error rates on all errors—including overpayments, payments to ineligibles, underpayments, and erroneous denials and terminations of aid.

Under the provision agreed to by the conferees, the Federal Government will make incentive payments based only on all error rates. The States should take this as a clear signal that underpayment errors and incorrect denials or termination of assistance errors are equally as important and of concern as are overpayment errors.

State demonstration projects. The conferees made several improvements in this new authority for State demonstration projects. Under the conference agreement any State submitting an application to operate such a project would have to, at the time of application, first, make an effective public announcement of their application; second, make copies available to any person requesting a copy of the State's application; and third, accept public comment for at least 30 days.

The Department of Health, Education, and Welfare would be required to immediately, first, publish a notice in the Federal Register of receipt of an application with a summary of the application; second, make copies available to any person requesting a copy of a State's application; and third, receive public comments for at least 30 days. HEW would have a total of 60 days from the time of submission to approve or disapprove the application.

The conferees also specified that any work demonstration project conducted by a State must pay the prevailing wage rates where applicable.

I believe the Senate approach to funding social security was better than the House approach. I regret that we did not accept the House provision for a general fund guarantee of the reserve ratio. I also regret that neither the Senate or House measure began, as we must, to shift the cost of hospital insurance and disability insurance to the general fund.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I would like to take a moment to commend the conferees on what I know has been a very difficult job. Having just returned from touring eight industrial cities, talking to labor leaders as well as business leaders all over the State of Illinois, I know that there is a tremendous concern about this bill. I have never seen so much interest in a social security bill in the 11 years I have been in the Senate. I am sure that this is also true for the distinguished chairman of the Finance Committee, Mr. Long.

I have strongly supported the 50–50 split between employer and employee contributions. It is fair and equitable, and is the best way to proceed. We all know this extra cost has to be borne someplace. To keep that parity between employer and employee is a wise thing.

It is a wise thing, also, that the increase in the wage base will not take effect until 1979. People are worried about economic recovery next year. Right now, our economy is in a perilous situation, and we want to give it every boost that we can. To take another bite out of paychecks and employer costs at this stage of economic recovery would not only be inflationary but also certainly hurt the economy.

For that reason, I was particularly glad to hear the President indicate to the business council last night that he intended to confer, I believe today, with the distinguished chairman of the Finance Committee, Senator Long, about a number of matters.

The President took a position last night at the business council which I was delighted to hear. He feels that we do need a permanent, across-the-board tax cut next year. I hope we can have that just as expeditiously as possible. I hope we do not clutter it up with a lot of debate about reform, which would be highly controversial, and which would delay it's passage. We need the stimulant and we need it soon.

I was opposed to the $50 rebate proposed earlier this year, because it would be temporary. A permanent, across-the-board tax cut will get spending immediately onstream, and I believe people will spend with the confidence that they can count on this income in the future. A $50 bill to every taxpayer did not really make much sense. I had to oppose that. I will, however, work closely with the committee in supporting an across-the-board cut.

I feel that the earnings limitation has been worked out again in a fair and equitable manner. To lower the no limit age to 70 in 1982 and increase the earnings limitations for retirees 65 to 71 to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, and $6,000 in 1982 offers considerable hope that many of those persons who must work after they retire will not be penalized for so doing.

I am also pleased that the bill takes an action which I have long advocated, which is decoupling. Decoupling corrects a flaw in the present law which entitled some individuals to two cost-of-living increases—one as a contributor to the social security system and one later as a beneficiary. Decoupling cuts in half the projected deficits of the system and makes benefits more equitable.

I commend Senator Roth for offering the amendment to provide for a $250 college tuition tax credit. I introduced similar legislation during the 94th Congress and wholeheartedly support this idea. I am satisfied with the conference agreement on this issue, because of my firm belief that Congress will pass a college tuition tax credit bill next year.

I will vote for this conference report. We know this is not going to be a very popular tax increase, but I believe the committee has bitten the bullet. There is no free lunch. There is no easy road. We are going to have to pay for the benefits we receive. I hope every single time we vote another benefit increase we now recognize that there will be a better educated American public as to the fact that someone will have to pay for it. That is why I think the equity, the 50–50 split, is a good thing. The taxpayers in the end have to pay for it either in inflation or in increased deductions. I believe, therefore, that we have to be extraordinarily careful that this burden be borne equitably.

I again commend the tireless work that the committee and the conferees put forth under the leadership of Chairman Long, who has had an undue burden and deserves a great holiday this year.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent for my staff member, Jeff Marston, to be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I support the conference report on H.R. 9346, the social security bill.

When this bill was enacted by the Senate, I opposed it due to the costly and unsound amendments that had been added on the floor. These amendments would have deepened the deficit by more than a half billion dollars and would almost certainly have caused the budget ceiling to be reached. I am happy to see, Mr. President, that the conferees have modified or eliminated many of the costly provisions in the Senate bill, so that it now conforms to the assumptions underlying the congressional budget.

I am also pleased to observe that the conference agreement does not provide for any 1978 tax increase above those scheduled to occur under present law. The congressional budget assumed that additional tax increases in 1978 would be avoided in order to prevent a further slowdown in the already sluggish economic recovery in that year.

Congress has to recognize that this bill imposes large tax increases beginning in 1979. These increases, which will total $78.6 billion through 1983, would, by themselves, undoubtedly have a negative effect on the economy as a whole, which may have to be dealt with by offsetting tax cuts in fiscal year 1979 or later years.

Mr. BELLMON. Mr. President, I have previously stated that special security financing legislation is necessary in order to assure the American people that the social security system is sound. The bill as reported by the conference does correct some serious problems in current law, and at least partially address some concerns which I have expressed concerning the Senate bill. I am especially pleased with the following features of the conference report:

It maintains the remedy for over-indexing of benefits.

It is consistent with the Budget Resolution in that revenue and outlay estimates are consistent with FY 1978 budget assumptions.

It maintains equity regarding the wage base for employers and employees.

It maintains an earnings limitation which is acceptable in terms of costs and which will not primarily benefit those over age 65 with high incomes.

Overall, considering what they had to work with, I feel that the conferees have done an excellent job and I express appreciation to the distinguished chairman of the Finance Committee for this effort. I would be remiss, however, Mr. President, if I did not reiterate some of my concerns that have not been adequately addressed by this legislation:

First. I fear that passage of this bill will take the pressure off Congress and the executive branch to review the benefit side of social security. There is a need for comprehensive review of spouse's benefits and the disability insurance program. The disability program is especially important as it is experiencing run away costs and is subject to widespread abuse. The interrelationships between social security and the supplemental security program also needs to be examined.

Second. I am concerned about the macroeconomic effects of a tax increase of the magnitude of this bill, particularly when coupled with other congressional action this year. Payroll taxes tend to be treated as a cost of production by business and places a strong upward (inflationary) pressures on prices. Thus, these increased taxes will result in reduced levels of GNP, increased unemployment and higher consumer prices. It will be imperative, therefore, Mr. President, that the Congress take appropriate steps to help offset the macroeconomic impact of this legislation.

Third. I am disappointed that greater consideration was not given to the possibility of using price indexing instead of wage indexing for correcting the overindexing problem. Data compiled by the Senate Finance Committee staff show that if a modified price indexing approach were used, we would need only a modest increase over present law in order to fully fund the social security system. Such an approach might have allowed for a more gradual increase in payroll taxes with more acceptable effects on the economy.

Fourth. I am still concerned that only minimal progress has been made in bringing together the numerous retirement systems financed by the Federal Government. It is essential that immediate steps be taken to correlate and integrate these programs.

Fifth. I do not believe, Mr. President, that the fiscal relief to States provisions in this bill reflect a high priority use of Federal funds. While the amount has been cut almost in half (from $324 to $187 million), we still have no assurance that these funds will be used to improve services to AFDC recipients or even used in State welfare programs at all.

Mr. President, as I have indicated, some of the objections which I previously raised concerning this bill have been addressed in conference. Unfortunately, the bill as reported still represents largely a "hasty" fix for social security financing problems. It does not adequately consider the economic and employment consequences of tax increases of this magnitude or possible benefit changes which could reduce future outlays. I intend to introduce legislation in the near future to resolve some of these benefit issues. In view of these facts, Mr. President, I must reluctantly vote against this bill. I realize that the bill will probably pass, and I urge the Finance Committee to give serious attention to the issues which I have raised.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Missouri (Mr. EAGLETON), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR EAGLETON

In 1971, I first became aware of what I considered to be an injustice in the Social Security law whereby a divorced woman must have been married for at least twenty years in order to receive a wife's or a widow's Social Security benefit. In my opinion, this is a serious injustice because a woman who is married less than twenty years may have spent most of her prime working years in the home taking care of the family, and as a result would be left with either no Social Security protection or a very meager benefit based on her own earnings. The law seems especially inequitable in view of the fact that a married woman may become entitled to a wife's benefit only after one year of marriage or to a widow's benefit after having been married for a minimum of nine months.

Therefore, in the 92nd, 93rd, 94th, and 95th Congresses, I introduced legislation that would reduce from twenty to ten years the period of time that a divorced woman's marriage to an individual must have lasted for her to qualify for wife's or widow's benefits. Unfortunately, none of my bills were enacted into law by Congress, but I'm happy to note that the aim or intent of my legislation is included in the Social Security Financing bill that we are presently considering. Therefore, I want to commend the House and Senate conferees on the inclusion of this important provision in the compromise agreement.

Having said that, I want to publicly state my overall displeasure with the high tax increases contained in this compromise bill. I am afraid that this bill raises Social Security taxes beyond the breaking point for the average American worker and employer. In addition, I am also very concerned as to what effect this legislation will have on our nation's unemployment and inflation rates. As my colleagues know, I strongly agree with President Carter who suggested pumping general revenues into the Social Security trust fund in times of high unemployment. However, since Congress did not go along with this proposal, it will now apparently be necessary for President Carter to propose to cut income taxes next year to compensate for this increase in Social Security taxes.

The net effect of this action is that general revenues will be diminished by the amount given back to the taxpayer in the form of a rebate or credit on income taxes, and the money collected from the wage earner in payroll taxes will be deposited into the Social Security trust fund—I submit that this is general revenue funding of the system in a very round about way. The effect of this action on our nation's economy is very uncertain, needless to say. I would like to draw my colleagues attention to an article which appeared in the New York Times of December 13th written by Tom Wicker, entitled "Payroll Tax—Up, Up, Up". The article by Mr. Wicker clearly articulates some of my deepest concerns with this legislation. Because Mr. Wicker's article is so relevant I would like to share his wisdom with my colleagues.

The article ordered to be printed in the RECORD is as follows:

PAYROLL TAX—UP, UP, UP

(By Tom Wicker)

President Carter seems eager for House-Senate conferees to break their deadlock on the minor issue of a college-tuition tax credit so they can send him a finished Social Security bill in this calendar year. But the American people would be better off if the deadlock lasted long enough for this massive tax bill to be recognized for the economic disaster it is. For example:

Long-term tax increases totaling $227 billion dollars would be imposed in regular steps between 1979 and 1987. Note that the Congress that voted this body-blow to the American wallet prudently put off the first of the increases until after its members try to get themselves re-elected next year.

These payroll tax increases are regressive and severe. Under current law, a worker paying the maximum tax in 1979 would have been hit for 6.0 percent of the first $18,900 of his earnings, or $1,143.45, which is bad enough; under the new bill, a worker at the maximum would pay 6.13 percent on $22,900, or $1,403.77, in 1979. How does a new one-year tax bite of $260.32 grab you?

By 1987, workers and employers will be taxed at 7.15 percent on the first $42,600 of income—$3,045.90 at the maximum. Thus, over the life of the bill, the payroll taxes of persons paying the maximum will be nearly tripled, as will the matching taxes of their employers.

The increases are inflationary, since it is an established economic fact that most employers pass on payroll tax increases to the consumer via higher prices. Thus, Congress has voted strong upward pressure on the price level in each of the years from 1979 through 1987.

Despite the general inflationary effect, in some cases the bill might also work against employment. Some employers might either not hire new hands or reduce their work forces as a hedge against increasing employment costs.

In addition to these effects on inflation and employment, the payroll tax increases will cut heavily into workers' buying power. At one and the same time, Congress has managed a bill that will depress the economy and fuel inflation.

President Carter's plan to cut income taxes to compensate for these effects, even if passed, won't necessarily help that much. Annual income tax reduction will certainly not stop employers from passing weekly and monthly payroll tax increases to consumers; and whether payroll deductions for income taxes can be reduced sufficiently to maintain buying power remains to be seen. Remember that Social Security comes "off the top" of the worker's weekly check, an income tax refund at the end of the year won't put food on the table day by day.

Some may ask, "But what could Congress do? How else could it save Social Security?" Well, it could have "saved" Social Security by doing what other industrialized countries do—feeding general fund revenues into tripartite system supported by employers, employees and the general revenues for 25 to 45 percent of their social insurance funding; West Germany has been using 15 to 33 percent general funding since 1891 (I am informed by Alfred Kutzik of the University of Maryland at Baltimore).

Most of the planners of the American Social Security originally envisioned, when doing their work in the 1930's, that sometime in the 1960's it would become necessary to put general fund revenues into the system. What's more, the Federal Government has been matching all medical insurance contributions, to the Medicare system since 1965. Where's the difference in principle? Yet, Congress remains wedded to the myth that to support Social Security with general revenues would convert it to "welfare."

Mr. Carter must know that's poppycock. He proposed unsuccessfully that in years when unemployment exceeds 6 percent, the Treasury should contribute the difference between Social Security taxes actually collected and what they would have totaled at 6 percent unemployment. His later proposal to lower income taxes in compensation for higher payroll taxes would indirectly divert general funds to Social Security financing. Even the original House bill provided for automatic Treasury loans to the Social Security trust funds if they fell below 25 percent of annual outlays; but this sensible beginning step toward general funding did not survive.

Mr. Carter nevertheless is eager to claim the "rescue" of Social Security as a legislative achievement. Since the system is in no immediate danger (whatever alarmists say), payroll taxpayers might welcome instead a veto of this huge, inflationary tax increase and a new start next year.

THE SOCIAL SECURITY FINANCING LEGISLATION, H.R. 9346

Mr. THURMOND. Mr. President, I rise today as a strong supporter of the social security system. In these past months we have been faced with the difficult task of determining the best and most lasting way to sustain the retirement program on which millions of Americans depend.

After numerous hearings and extensive debate we have all come to realize that we have only two choices: We can retain the current financing mechanism, which has proved inadequate in the face of inflation, unemployment, and growing retirement rolls; or we can vote to maintain a financially stable retirement fund through substantial tax increases on many hard-working, over-taxed Americans. After considerable thought, I have decided to vote for the social security financing bill, as a lesser of evils.

In the past a vote for social security legislation has come much easier for many Members of this body. This is the first social security bill which has not been centered on increasing benefits for retirees. However, I consider my vote on this social security bill to be one of the most important I have cast on this subject.

The financial condition of the social security system demands immediate and substantive action. If the Senate rejects this reform proposal in order to retain the status quo, it will indicate to all Americans that, while we recognize the urgency of the social security problem, we are not willing to take the necessary steps and make the hard decisions involved in providing an adequate remedy. Both the social security system and the economy in general would feel the damaging effects.

Mr. ROTH. Mr. President, there is no question that action must be taken to restore financial stability to the social security system. Social security is the first and major ingredient for financial security for most of our senior citizens, and it is absolutely necessary for steps to be taken to restore solvency to the system.

However, I am seriously concerned that this legislation is not the right answer to our social security problems.

It is important to recognize that the solvency of the social security system will not be threatened until at least 1982—5 years from now. A more orderly consideration of this legislation will have no impact on the stability of the social security system and will not affect the benefits of any social security recipients.

I do not believe the Congress spent enough time on this legislation to adequately consider this bill or to explore the whole range of alternatives.

For example, I proposed an amendment to use a portion of any new tax revenues to help the social security system. This amendment could have allocated billions of dollars to the social security trust fund, and reduced the need for social security taxes proportionately.

There are more than 100 million people paying taxes to support the social security system, and my amendment would have provided some tax relief to all of them while still restoring financial stability to the trust fund.

Instead, Congress is settling for a quick-fix of social security by imposing billions of dollars of tax increases on the working men and women of this country.

This bill imposes an additional $227 billion in taxes over the next 10 years, tripling the taxes imposed on the average middle-income worker.

These increased taxes on workers will reduce consumer purchasing power and put a tremendous additional burden on the economy.

In addition, the increased taxes on employers will be passed along to consumers in the form of higher prices.

The net result will be that consumers will have less money to pay for higher-priced consumer goods.

I am seriously concerned that the increased social security taxes, combined with the increased energy taxes, will have a devastating impact on the economy.

This increased tax burden will slow the economy down, resulting in increased inflation and higher levels of unemployment.

I believe Congress must live up to its commitment to our senior citizens. But I fear the higher tax burden will erode the public's support for the social security system.

Mr. WALLOP. Mr. President, the Senate and House conferees of the social security financing bill have worked diligently to reach a compromise. Although their hard work is to be commended, I must voice my disagreement with their decision to delete amendment 1058 from the bill. This amendment would repeal section 224, the workmen's compensation offset provision of the Social Security Act (42 U.S.C. 42a).

In their effort to cut the cost of the social security bill, the conferees deleted an amendment which would correct a gross inequity in the treatment of a minority of disabled workers. Under present law, a worker's monthly social security benefit must be reduced if he is also receiving workmen's compensation. Disabled workers and their families under workmen's compensation are the only category of social security beneficiaries whose benefits are reduced, because of the receipt of nonwork income.

The Finance Committee agreed to accept this amendment, indicating that the committee recognizes the injustice of section 224 and the need to change this law. In the coming year, the Finance Committee intends to examine various aspects of the social security disability programs. I request that the Finance Committee hold special hearings on section 224 and the unintended inequities of this provision. Their efforts to investigate this problem and draft corrective legislation will benefit thousands of disabled workers and end the discriminatory treatment of the workmen's compensation offset provision.

Mr. HATHAWAY. Mr. President, I urge my colleagues to support the social security conference report. No one likes to vote for higher taxes, particularly this bill which has been labeled "the largest peacetime tax increase." I know that it is not popular. However, those entrusted with national office must make the difficult decisions. We must look beyond the next election to the next generation.

The social security trust funds are seriously depleted. If this Congress takes no action, the Old Age and Survivor's Fund will be bankrupt by 1983. The Disability Fund will be bankrupt by 1979.

There is no question that there are huge additional taxes imposed by this bill. However, the trust funds are now in surplus until at least 2030.

We cannot renege on the promises and commitments which have been made to those who are retired and those who will retire.

Acceptance of the conference report will keep faith with the American people.

In a Louis Harris poll which was recently released, 55 percent of the American people felt that "Congress is showing real courage in asking that taxes for social security be raised sharply to save the system." Thirty-one percent opposed the tax increases and 14 percent were undecided. I believe the American people are committed to a social security that provides basic financial protection for the elderly and disabled.

If this is classic liberalism, then I am proud to wear the label liberal.

The system must be protected. As one example, in the State of Maine, 1976 outlays to the State totaled $1.738 billion. Total General Retirement and Disability Insurance, in other words social security, totaled $413 million. That is almost 25 percent of the Federal payments to the State and its residents.

I do not believe that we can allow the people of Maine to lose these essential benefits. Consider these facts:

> Close to 20 percent of the population in Maine are living in poverty or near poverty conditions.
>
> Maine has consistently ranked as one of the lowest average states in per capita income. Most recently, for the period 1973 through 1976, Maine has ranked 43rd, 45th, 42nd, and 44th in per capita income. That is to say, only six other states had lower per capita incomes and these were predominantly Southern states.
>
> Unemployment rates in Maine, historically and consistently, have been greater than the national average. Recent data, for June of 1977, indicated a national unemployment rate of 7 percent; the rate was 9.7 percent for Maine and five of the sixteen counties had unemployment rates in excess of 13 percent.

I cannot watch time and money run out on these people. Social security is essential and I will vote for the taxes to cover the programs which we enact.

I will say in all candor that this bill is not my first choice. I favored general revenue financing initially since I believe it is more progressive. Payroll taxes bear most heavily on those least able to afford them. However, the Senate Finance Committee members did not agree with me.

I then pursued the approach developed by my good friend and colleague Senator NELSON to move toward wage-base disparity. I believe that this cushions the shock on employees, particularly the lower and middle income worker and insulates the small businessman from the steep wage and rate increases which are necessary as we retain parity. The Senate supported this improvement in the social security financing system. But the armies of big business and the legions of the high income employees convinced the House and disparity was rejected.

Either general revenue financing or disparity in wage base would have been preferable to the bill before us.

Another point needs to be made. There are some who will vote for the benefits; for example, repealing the retirement earnings test; yet refuse to vote the taxes to cover that benefit. These are the politicians with an eye on the reelection. I believe the Members of the Senate have greater vision.

I believe the American people support the social security system. I believe that they will accept the taxes necessary to pay for that system. I believe that my colleagues will vote to support that system through the conference report now before us.

Mr. MORGAN. Mr. President, I do not rise in opposition to the conference report on the social security bill, because I do not feel that such an approach would be constructive at this time. The provisions of the bill itself have been fully debated in both Houses of Congress and elsewhere, and it would serve little purpose to go over them again. But I do want to reiterate my objection to our entire approach to social security financing, because I believe it has led to a stopgap bill, which will not do the job. I believe we will be back in 5 years or so to consider more social security financing amendments, despite the fact that the bill we have passed is being sold, nationwide, as a long-term solution to the system's problems.

The biggest step forward that we can take is to stop treating social security as a political football, and to stop engaging in misleading rhetoric as to the purposes and problems of social security. Many people believe social security to be a supplementary pension, while in reality it is more of an insurance plan, the purpose of which is to provide some basic security for the elderly and disabled. This is a significant difference, leading to different policy decisions regarding benefit levels and eligibility, mandatory coverage and financing.

Two aspects of our approach to the social security problem especially trouble me. One concerns the costs of the system, which are rising at almost double the rate of inflation even after the enactment of this bill. This I will return to later.

Another serious problem is the economic and demographic assumptions used for the bill. The following assumptions were used by the Senate: A birthrate of 2.1 children per woman, and a rapidly improving economy reaching 5 percent unemployment, 4 percent annual inflation, and a 1.75-percent increase in real wages by 1983. I ask unanimous consent that the following chart, drawn from the Finance Committee's background material relating to social security, which sets forth these assumptions in detail be entered in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Calendar year	Percentage increase in average annual— Wages in covered employment	CPI	Real wages [1]	Average annual unemployment rate	Total fertility rate [2]
1977	8.4	6.0	2.4	7.1	1,709.9
1978	8.1	5.4	2.7	6.3	1,685.9
1979	7.8	5.3	2.5	5.7	1,662.0
1980	7.1	4.7	2.4	5.2	1,662.9
1981	6.4	4.1	2.3	5.0	1,688.8
1982	6.0	4.0	2.0	5.0	1,714.7
1983	5.75	4.0	1.75	5.0	1,740.5
1984 and later	5.75	4.0	1.75	5.0	[3] 2,100.0

[1] Expressed as the difference between percentage increases in average annual wages and average annual CPI.

[2] Averge number of children born per 1,000 women in their lifetime.

[3] This ultimate total fertility rate is not reached until after 1984.

SOURCE.—Senate Finance Committee, Background Material for Social Security, June 1977, page 95.

Mr. MORGAN. If the Nation holds to these goals, I will be pleased. It certainly would be a big improvement over what we have now. But I am not at all sure we will. We are betting on the success of the economic policies we certainly cannot count on as being effective, and we ignore factors beyond our control, such as the increase in the price of oil we have experienced. At stake is the solvency of the social security system.

If any of our economic assumptions are just a little too optimistic, the result, will be both increased costs and lower revenues for social security.

If we take a slightly less optimistic estimate of 5.5 percent unemployment and 5 percent annual inflation in 5 years, an estimate that is well within the range of possibility, the social security system will be about $50 billion poorer than what we now project in 10 years. So much for our long-term solution.

The past history of such economic projections as those we have used show a discouraging record. Beginning in 1973, the projections have been revised downward, that is, made more pessimistic, until this year. But this year, when Congress was finally deciding it had to take some action, all of a sudden the projections became more optimistic. By using more optimistic projections we understate the problem we are dealing with, thus making it easier to find solutions.

I might have been able to accept these optimistic estimates, if we had a safety factor incorporated. Such a safety factor used to exist; it was about equal to 0.375 percent of taxable payroll. But in 1974 it was dropped. Why? The absence of such a basic precautionary step disturbs me. When coupled with clearly optimistic projections, it is very, very worrying.

Unjustified optimism stands out clearly when one examines the birth rate figures. Last year, an estimate of 1.9 children per woman was used. This year the figure was revised to 2.1. Why? The birth rate in this country has been declining for more than 100 years, and now stands at 1.7. I understand that many experts consider the current level an aberration, and believe it will begin to rise in the near future. But will it rise by 25 percent?

If the assumption that our birth rate will suddenly soar proves false, there simply will not be the work force we are counting on to support the social security system.

We also have to begin to worry about controlling costs. We not only have to worry about current cost projections, but we must stop piling burden upon burden on the system.

Congress has 10 times expanded the eligibility for social security and increased benefits. Seven of these ten times have occurred in election years. We had better realize, with an election year coming up, that every benefit increase requires a corresponding tax increase. We should declare, as the policy of the Senate, that no future benefit increase will be approved unless there is a corresponding tax increase.

We must also be concerned about the costs under existing law. Social security costs are, according to the Finance Committee, going to rise by at least 10 percent annually over the next several years, almost double the inflation rate. There are ways to reduce these costs that are worth considering.

Social security pensions are now, when compared to wages, 35 percent higher than they were in 1972. We might consider using a price-indexed formula instead of a wage-indexed one. A formula of this type would protect the benefits against inflation, but would slowly reduce the replacement rate, that is, the percentage of benefits as compared to preretirement wages. A price-indexed formula of this type need not be permanent. It need only be maintained as long as necessary to make benefits reasonable.

Another possibility is to transfer some of those benefits that bear little relation to contributions out of the social security program. Benefits that do not really relate to contributions include medicare, spouse and dependent benefits, disability insurance, and portions of the formula concerning pensions. These programs are valuable, they serve a good purpose, but they do not belong in the social security system.

Social security was developed to be and was sold to the Nation as a supplementary retirement program. But with the many additions that have been made to social security, the retirement emphasis has suffered. What I am proposing is that we once again emphasize the retirement aspects. The only way this can be done is by reducing the number of functions the social security system itself is supposed to fulfill.

Another approach the Senate should examine is to expand coverage under the system. Social security is a program that serves the general welfare; can we justify excluding large groups of people? Can the system survive if everyone is not included?

But of all the exemptions from social security, the one that stands out is our own. This must be immediately rectified, and I have introduced a bill that would bring the legislative branch into the system. It is not right that those who set the policies of the program, that those who have created it, do not take part. If we are not prepared to join social security, how can we force our constituents to?

In conclusion, I would like to stress how important it is that the Senate take a good, hard, look at the social security system. We need to examine it in every aspect. Social security may be the most important program the government has. Thirty-three million people receive the benefits, and three times that number are currently paying into it, in the expectation of receiving the benefits in the future. We have an obligation to all these people to do a good job at running social security.

We have to come to explicit conclusions concerning the purpose of social security and how we expect it to develop. We have to face and deal with the problems of the system. If we do not do this on our own initiative, the problems of social security will be back with vengeance.

Mr. STENNIS. Mr. President, while I had grave reservations, I voted for the social security financing bill when it passed the Senate. I still have serious questions about this matter but I will vote to adopt the conference report which is now before the Senate.

My vote in favor of this legislation was and is dictated by my concern for the immediate solvency and financial integrity of the system. While the long term prospects of the system under existing law are very pessimistic, we are now confronted by the immediate problem that under current financing provisions and circumstances the social security trust funds almost certainly will be exhausted in the early 1980's. The pending legislation is primarily directed to this immediate problem.

The bleak financing difficulty which social security faces primarily arises from two important factors. In the first place, the number of active workers who are paying taxes to support the system is steadily declining in proportion to the number of beneficiaries. There are now 31 retirees per one hundred taxpaying workers and, shortly after the turn of the century, this will rise to more than 50. Since social security benefits are now being paid from current contributions, it is apparent that the increase in the ratio of beneficiaries to contributing workers necessarily calls for a prompt increase in employer and employee contributions if we are to prevent the system from collapsing of its own financial weight.

The second factor which contributes to the financial problem is the feature of the 1972 law which results in a double adjustment to or double indexing of inflation in determining the amount of benefits to be paid. This indexing problem is being eliminated as far as future retirees are concerned by the pending legislation. I am glad that this necessary corrective action is being taken.

Nevertheless the problems which have accumulated in the past have brought us to the point that we must vote heavy new taxes on both employers and employees to prevent the collapse of the system in the near future. It is on this basis alone that I will vote for the conference report. My support rests solely on the clear and essential need to take immediate action to shore up the system financially.

When the social security bill was before the Senate, I voted against all proposals to add new benefits or to increase existing benefits. I continue to oppose this. Therefore, I am pleased that the bill we are now considering provides no new benefits or general increase in benefits although it does increase the amount which retirees may earn without suffering a loss in payments.

I am also gratified that the conferees agreed to stick with the traditional parity between employer and employee contributions. I believe it would be a serious mistake to depart from the traditional concept that the burden of financing social security benefits should fall equally on employer and employee. While the prospect of requiring the employer to contribute more than the employee might seem attractive on the surface, I believe that it would have negative, unpleasant, and undesirable results in the long run.

The conferees also acted very wisely in ruling out any resort to the general fund of the Treasury to bolster or bail out the system. If we should ever authorize such resort to the general fund this action would assuredly come back to haunt us. We can be certain that once the precedent of raiding the Treasury to finance social security benefits was established the practice would snowball with the result that it would not be too long before we have a welfare rather than a retirement system.

I sincerely regret the necessity of imposing this new and heavy burden on the working people of this country. I voted for the bill only because of the imperative necessity to infuse the system with new financing or see it collapse. The alternative of raising contributions is unpleasant but it is the one course which will keep the system afloat.

There is one matter that I would emphasize very strongly as we consider this conference report. In effect the social security program is now on a pay-as-you-go basis. From this should arise the recognition that the added taxes which we are in the process of imposing are in the nature of a quick fix; all they will do is to pay for benefits provided by existing law. They are not adequate to pay for new or expanded benefits that may be voted in the future. It is imperative that this be fully understood.

When we recognize this, Mr. President, I believe that we will also recognize the great need for present and future restraint in this area. If this is not done then the solvency of the system will almost certainly be again placed in jeopardy in the future. This must not happen.

I say with great emphasis that it is my profound hope that it will be clearly understood that the increase in funding we are now considering will finance only the benefits the law now provides. There is absolutely no room to add or increase benefits without additional funding. It inevitably follows from this that any increase in benefits, expansion of coverage, or new benefits that the Congress may vote in the future must be funded by increases in contributions adopted at the time the new or additional benefits or coverage is provided. In short, Mr. President, all future legislation providing new or added benefits should contain the revenue increases which are necessary to insure that it will pay its own way.

Voting future increased or added benefits without at the same time financing them adequately would be counterproductive at best. At worst, it would sow the seed for the system's self-destruction. I hope that this will be clearly understood by this and future Congresses.

Mr. RIEGLE. Mr. President, it is with the greatest reluctance that I feel I must vote today against the conference report on the Social Security Amendments of 1977.

This bill amounts to the largest peacetime tax increase in U.S. history in the the most unfair tax we have. Under the conference bill, social security payroll taxes will increase by $227 billion over the next decade. This tax increase will retard our country's economic recovery, increase both unemployment and inflation, reduce the income of wage earners, and hurt many small businesses. Contrary to some people's belief, the conference bill will not restore the long run financial soundness of our social security system. Finally, there are other alternatives that can solve the long-term and short-term financing problems of our social security system without unfairly hurting lower and middle income persons and our Nation's economy.

I am first concerned about the unfairness of vast increases in a payroll tax that violates the basic principles of tax equity. Taxation should vary according to ability to pay, yet the social security tax is set at a flat percentage rate, up to a maximum wage base. Individuals making more than the wage base are still taxed on the wage base, and so end up actually paying less as a percentage in social security taxes than lower income persons. Under the conference bill, for example an individual making $100,000 in 1987 will pay only 3 percent in social security taxes, while someone earning $10,000 would pay over 7 percent. Furthermore, the payroll tax does not consider how many dependents a wage earner has, or any special medical or economic problems—the tax is set at the same percentage rate regardless.

Because it uses an unfair tax, this conference bill lays a greater than needed added tax burden on low and middle income persons. A wage earner making $10,000 now, for example—and who, with inflation, would be making about $18,000 in 1987—will see their social security taxes go from $585 this year to $1,331 in 1987—almost a 150-percent tax increase. If the Government is asking for tax sacrifices from middle-income Americans to keep the social security system solvent, the Government must at least ease the tax burden for lower and middle income persons by using a fair, progressive tax, and not the payroll tax.

I am also deeply concerned about the impact of this $227 billion tax hike on our sluggish economic recovery. Unemployment has not dropped over the past 8 months, remaining at the high rate of 7 percent. The rate of growth of our Nation's economy declined from 6.2 percent in the second quarter of this year to 4.7 percent in the third quarter. And yet at this time, with energy taxes and prices sure to increase soon with the President's energy bill, we are proposing to increase payroll taxes in 1979 and beyond by over $200 billion. This is hardly likely to stimulate the confidence—and spending—by consumers and businesses that we need to get our economic recovery moving, and get more people back to work.

By increasing payroll taxes for both employers and employees, the conference bill directly increases employers' labor costs by a vast degree. This amounts to an "Anti-Employment Tax," encouraging businesses to substitute machines for people whenever feasible, and discouraging businesses from hiring additional employees. Large corporations with enough demand for their products will try to increase their prices to cover their higher labor costs, leading to a higher rate of inflation. On the other hand, many labor-intensive businesses—often small, marginal businesses operating in economically depressed communities—will be unable to pass on these additional labor costs. Some will go out of business, increasing unemployment in many economically depressed larger cities and smaller communities.

Mr. President, maintaining a financially sound social security system paying adequate benefits is of the highest priority for me. The current bill, however, is simply a stop-gap measure for the next few years, and does not deal with the long-range financial problem. Under the conference bill, our social security system will still be short over the next 75 years by about 1.5 percent of taxable payroll of what is needed to pay future social security benefits. Furthermore, the bill achieves this much only by cutting back on future benefit increases. Under this bill, senior citizens will receive about $400 million less in benefits in 1978 than they otherwise would have, and about $3 billion less in 1982 than they would under current law.

If we want only a short-range solution for the social security financing problem, there are many better alternatives. Funds could be transferred from the old age and survivors' fund to the disability fund, which faces the most severe short-term financial problem. Or money could be transferred from the currently ample hospital insurance fund to both the old age and disability funds. Another possible alternative is President Carter's proposal to put enough general revenues in the social security funds to make up for the revenue short-fall when unemployment is high and payrolls are low, as they are now. I strongly support this move to begin to use some portion of general funds to finance shortfalls in social security revenues. All of these alternatives would help keep the funds solvent for several years into the future, giving us ample time to develop a sounder and fairer long-term financing solutions.

Over the long run, we should be moving to finance a portion of social security out of general tax revenues. Although our general tax system has many shortcomings and loopholes, and desperately needs reform, it is still much more progressive and fair than the social security tax. Furthermore, with the general tax system we have the advantage of not being forced to artificially encourage, regardless of economic efficiency, the use of machines by business over the use of labor, as we are with social security taxes.

Finally, by funding a portion of social security out of general revenues we can alleviate an unnecessary conflict between needy senior citizens and hard-pressed middle and lower income wage earners—both of whom have pressing needs that we should recognize. There will always be conflicts between different national goals, and we will always face the constraints of limited resources. But the present system artificially forces us to choose between increasing our present inadequate social security benefits, and preventing further increases in an unfair tax on lower and middle income wage earners. Both senior citizens and middle-income persons would be better served if a portion of social security was funded out of general revenues.

Mr. President, I fully realize that in all likelihood the conference report will pass Congress and be approved by the President. But in all good conscience, I could not vote for an unfair tax increase that hurts our economy without resolving the basic problems of financing our social security system. The present bill serves neither the interests of senior citizens nor the public as a whole. We need to make many reforms in our present system of financing social security, and I hope the Congress will look more favorably in the future on the changes I have suggested here today.

Mr. BARTLETT. Today we have passed a revision to the social security financing provisions which will have a heavy impact on both employers and employees into the next century. Although the bill addresses many other matters, its main impact will be as a tax increase proposal. This, when coupled with the already pending energy tax proposals, will amount to the largest tax increase the American taxpayer has been subjected to in 1 year.

There are obviously a number of beneficial provisions in this bill, however, they do not overshadow the impact of the legislation, and are not of a significant enough nature to allow me to support the legislation.

I would like to congratulate the conference committee for its efforts, and point out some of the essential measures that are beneficial:

First. The decoupling provision which was necessitated by previous error on the part of Congress.

Second. The provisions to analyze the discriminatory measures that are presently contained in the system in order to treat men and women equally under the Social Security Act.

Third. The expansion of the earnings limitation provision. Although I have earlier sponsored legislation to completely remove this provision, and I still feel that there is absolutely no necessity to penalize the senior citizen for attempting to earn additional money, the provision to ultimately increase the earnings limitation to $6,000 is a step in the right direction.

The social security system has become the resting place of many programs which are not related to the original intention of assisting senior citizens after retirement. There are many programs which are more related to our social welfare system which have been included under the social security program. It is my belief that to adopt the significant tax increases contained in this legislation without addressing the whole array of benefit programs under social security is sheer folly.

Before we raised the taxes on employers and employees, we should have considered separating out these programs, and making the citizens of this country aware of what they are actually paying for, and who is receiving the benefits.

With this full and complete identification, a substantive debate could have gone on, both in the appropriate committees as well as on the floor of the Senate, and determinations could have been made as to whether certain benefits should have been removed from the social security program, or whether in fact some benefits should be available at all.

There is one interesting example within this legislation of a program which might be far more detrimental to the system, if adopted, than anything we have done so far. This is the study to determine the effect of universal coverage. I do not single this out as the only problem with the legislation, but it is an example of an assumption that has continually been made as to the application of the social security system.

Congress has continually felt that the best direction of the system was to include ever-increasing numbers of previously uncovered employees.

Perhaps the reverse would be more effective. For example, should a Federal retiree, who enters the private sector, thereby becoming eligible for social security benefits, be allowed to draw social security, or even be required to contribute to social security while employed in the private sector.

Certainly the inclusion of Federal, State, and local employees under the Social Security Act would cause an immediate influx of cash to support the system, but it would also drastically increase the number of eventual eligible recipients. This continually expanding universe of recipients has been one of the contributing factors to the fiscal instability of the existing program.

As I stated at the time of the original consideration of this bill by the Senate on November 4, and as I have already pointed out in this statement, the benefits of this legislation do not overshadow the major problem. The tax increase flies in the face of general public attitudes about the system. It in no way resolves the basic problem of ever-increasing demands.

Mr. STEVENSON. Mr. President, unfortunately, the conference committee report perpetuates the popular misconception that social security is a funded pension or insurance annuity system. It is not. It is a system whereby the working population is taxed to pay for the benefits received by retired persons who previously paid social security taxes. Each working generation thus technically "earns" the right to future benefits; however, those future benefits can only be funded from taxes levied on succeeding generations of employees and employers. The taxes called for by this report are so onerous that we could see a day when future generations are unwilling to bear this burden or when the dollars required to support it are so inflated as to be meaningless.

The social security system must be funded adequately. That system is now an income transfer system, and, as such, it should be funded in part from general revenues. The reasons for doing so are compelling.

From an economic standpoint, increasing payroll taxes is the worst way to fight inflation and unemployment which continue to plague our economy. Employers will pass forward increased payroll taxes to the consuming public and will have even less incentive to hire workers, especially at lower economic levels where the unemployment problem is most tragic. Unemployment is now at a level of 40 percent for black youth. First the Congress failed to pass a youth differential minimum wage, which I and other of my colleagues sponsored, and now we raise payroll taxes making it even more expensive to hire marginal workers. I thus find it difficult to equate our rhetoric about reducing unemployment with the two most significant economic measures we have passed this year—the minimum wage and social security bills.

In the next few years the public will realize the crushing tax burden this bill imposes, and the subject will be back. It is a shortsighted Congress that acts irresponsibly this year in order to avoid irresponsible action next year, an election year. That is the only explanation for the haste with which this legislation has been approved, and it is not satisfactory. Next time, and it will not be far off, the Congress should act more deliberately and with foresight and fund social security in part from general revenues, or by other means that are not damaging to the economy and American workers.

TAXING SOCIAL SECURITY TO DEATH

Mr. HATCH. Mr. President, I realize that many of my colleagues today will vote for this massive increase in social security taxes thinking that they will be saving the system. We seldom make things worse purposefully. The harm we do follows from good intentions that are not thought out. We are simply sitting here thinking that the social security system needs more money, so if we raise the taxes there will be more money for social security. Unfortunately for the American people, this line of reasoning is wrong. The amount of money available for social security payments is not a function only of the tax rates, but also a function of the number of jobs in the private sector that are paying into the system. We cannot increase the social security tax on employment by $227 billion over the next decade, as we are about to do today, without substantially reducing the number of new jobs that will be created over the next decade. The result of this massive new tax on employment will be fewer people paying in. We are going to have a system of high rates paid by few people, instead of low rates paid by many people. Instead of breathing new life into social security, we are taxing it to death.

Joint Economic Committee staffers have computed that this $227 billion increase in taxes will mean that the economy will grow over the next decade by $345 billion less. What we are doing here today means a loss of $345 billion in GNP over the next decade. What does it mean in terms of jobs and wages to lose $345 billion in GNP? If all of the lost GNP comes out of jobs, it means that the next decade will see 19 million fewer new jobs. That means 19 million fewer people paying into social security. On the other hand, if all of the lost GNP comes out of wages, it means that the average job will pay $2,760 less than otherwise. Obviously, some of the lost GNP that this tax increase will cause will come out of new jobs and part out of higher wages. If the burden of this tax falls half on new jobs and half on pay raises, it means about 10 million lost jobs and $1,380 less pay raises per job.

Mr. President, you cannot increase taxes on employment and wages and expect to have the same amount of employment and wages. If factors of production responded to taxes in this way, the Government could raise an infinite amount of tax revenues without reducing the production of anything. It would be utopia.

Existing social security tax rate increases already scheduled will raise the taxes on employment by $2.5 billion a year starting in 1978. On top of this we are piling an average of $25 billion more a year for a decade. For many people, social security taxes will triple in the next 10 years. Even people who face more modest increases will be badly hurt, because, for many families, social security taxes are already higher than their income taxes, property taxes, or sales taxes.

These enormous tax rate increases will drive an even larger tax wedge between what a firm must pay to hire a worker, and what that worker gets to take home. This tax wedge increase will discourage both hiring and work effort. It will discourage hiring by raising labor costs. It will discourage work effort by reducing the amount of any overtime pay or wage increase that a worker will be allowed to keep.

The combined effect of these impacts will be to reduce jobs and GNP. Less output will in turn mean higher prices. And higher prices will mean higher taxes, less saving, less investment, less job formation, and so on. The whole process that we are setting off today will produce a higher rate of unemployment that will further undermine the social security system.

I am in favor of social security. But I am not in favor of unemployment. We cannot strengthen social security by increasing unemployment.

The Senate is going to make a bad mistake today, and there is no reason to make it. If instead of raising taxes on employment, we reduced taxes on employment, we would generate enough new growth in GNP that we would not need to raise the social security tax rates. We would not have to do anything but raise the ceilings on the income to which the tax is applied at the same rate that the economy grew. We would not, as we are doing today, have to increase social security taxes as a percent of wages.

The way to save the social security system is to make it more profitable to hire and to work, not less. This Congress has got to learn that when we raise taxes, we also generate disincentives throughout the system. These disincentives reduce the base on which the tax is levied, so we do not get the revenues we expect. On the other hand, when we reduce tax rates, we produce new incentives throughout the system. These incentives make the tax base grow, so we get more revenues than we expect.

Mr. President, I have to vote against this measure to raise the tax on employment by $227 billion, because I believe this measure will seriously damage employment, the economy, and the social security system.

Mr. President, no one who understands the disincentive effects of tax increases, and who also believes in the social security system, as I strongly do, can possibly vote in favor of this measure. It is because I am a strong supporter of social security that I am forced to vote against this measure that will reduce greatly the number of working people paying into the system.

The PRESIDING OFFICER. The question now is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

(Senator HODGES assumed the chair.)

Mr. STEVENSON. Mr. President, on this vote, I have a pair with the Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Idaho (Mr. CHURCH), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I further announce that the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. GRAVEL), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

On this vote, the Senator from Kentucky (Mr. HUDDLESTON) is paired with the Senator from Idaho (Mr. CHURCH). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Idaho would vote "nay."

On this vote, the Senator from Alaska (Mr. GRAVEL) is paired with the Senator from Minnesota (Mr. ANDERSON). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Minnesota would vote "nay."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from New York (Mr. JAVITS) would each vote "yea."

The result was announced—yeas 56, nays 21, as follows:

[Rollcall Vote No. 636 Leg.]

YEAS—56

Baker
Bayh
Bentsen
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Curtis
Danforth
Durkin
Ford
Glenn
Hansen
Hart
Hathaway
Heinz
Hodges
Hollings
Inouye
Jackson

Johnston
Kennedy
Leahy
Long
Matsunaga
Melcher
Metcalf
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Sarbanes
Sasser
Schweiker
Scott
Stafford
Stennis
Stevens
Stone
Thurmond
Weicker
Young

NAYS—21

Abourezk
Bartlett
Bellmon
Biden
Dole
Garn
Goldwater
Haskell
Hatch
Hayakawa
Laxalt
Lugar
McClure
Nunn
Riegle
Roth
Schmitt
Talmadge
Tower
Wallop
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevenson, against.

NOT VOTING—22

Allen
Anderson
Chafee
Chiles
Church
DeConcini
Domenici
Eagleton
Eastland
Gravel
Griffin
Hatfield
Helms
Huddleston
Humphrey
Javits
Magnuson
Mathias
McGovern
McIntyre
Sparkman
Williams

So the conference report was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

Mr. STONE. Mr. President, I voted for the conference report on the social security financing bill reluctantly, because of the insufficient attention given to the work penalties and because of the rather steep and unphased or insufficiently phased increase in required contributions; but I voted for it on the basis that one cannot represent oneself as being for the soundness of the social security fund, and yet vote nay when the only opportunity of the year is presented to make sure that the fund does not go bankrupt.

I certainly hope and urge further study both of the increased required contributions and of the penalties that are still being charged and would still be charged under this conference report for social security recipients who work.

Finally, I would urge my colleagues and the administration to consider, in next year's proposals for tax reduction, that the tax reductions should go, if possible dollar for dollar, to compensate for the increased social security contributions required by this bill, so that the pay envelopes of people who work, younger people who are now called on to support our oldsters, will not be adversely penalized and reduced. It seems to me that the $20 billion plus being suggested for tax reduction could best go to maintain the present purchasing power of the workers who contribute and who will by this bill be required to increase their contributions to social security. That would help us head off the feelings of anger and pain at the increased social security payments by younger people, and it seems to me the best way to use the tax reduction money, on a dollar-for-dollar basis, so that people's purchasing power will be maintained after the increased social security contribution as it was before.

I thank the Chair for permission to make these remarks.

Mr. ROBERT C. BYRD. Mr. President, when the social security financing amendments were considered earlier this year on the Senate floor, I stressed the need for us to act in this session to protect the financial soundness of the social security system. The Senate by its favorable action this afternoon on the conference report on social security has insured that benefits under the system will continue to be secure for the current and next generation of beneficiaries. It is no exaggeration to say that some 33 million retirees, dependents, and disabled persons who are currently receiving benefits under the system owe a debt of gratitude to the distinguished chairman of the Finance Committee who managed the bill on the part of the Senate at the recently completed conference. It is through the dint of his efforts, his untiring efforts, that the conference was brought to a successful completion.

I would be remiss if I were not also to point to the major contribution on every step along the way which has been made by Senator NELSON. On all matters relating to social security he serves the committee, as well as the Senate, as the respected expert. Last, I am pleased to be able to say that there would have been no social security bill this year without the diligent service of Senator CURTIS.

Mr. President, social security is one of the most important pieces of social legislation ever passed by Congress, with almost every American intimately connected with the system in one way or the other. I believe that by our action today to place the social security system on a firm financial footing we have met our collective responsibility to the American people.

I do not underestimate the impact on the American economy of the tax increases the bill will provide. They are expected to be substantial. Tax stimulative measures which will be taken up next year by Congress will certainly need to take these increases into account.

Mr. JAVITS subsequently said: Mr. President, we are today considering the conference report on the social security amendments The Senate version of this bill had included a nongermane amendment on tuition tax credits. This provision was originally debated on the Senate floor on November 4.

My staff picked up, during its normal and routine review of the CONGRESSIONAL RECORD, that my vote on the amendment relating to the tuition tax credits, which appears on page 37156, of the date of November 4, 1977, was apparently recorded—and apparently this is confirmed by the secretary on this side of the aisle—as being in favor of the amendment.

That is incorrect, Mr. President, because it was inherently inconsistent with a speech I made at page 37148 of the RECORD, stating I would vote with Senator KENNEDY, who is recorded as having voted in the negative. I should have been recorded as voting in the negative. I really do not understand how this came about, but these things happen.

Accordingly, I ask unanimous consent that the permanent RECORD be changed to accurately reflect my vote as "no" on the tuition tax credit amendment, rollcall No. 626, appearing on page 37156 of the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I would like to continue briefly.

The vote was 61 to 11, so my change would not matter, making it 60 to 12.

My reason for not being present this morning and not voting on the conference report was the fact that a very close friend of mine died. A memorial service was held this morning at which I had to deliver one of the memorial addresses. Again, my vote was not needed anyhow.

I would like to note, Mr. President, in this same connection, that there is a real problem of college costs, and that it is necessary for us to do some thinking about a solution for really the people of middle income, as contrasted with the people of lower income. The middle class really faces something of a problem. I think it is very wrong to correct it by the tax route, which, in one basket, includes those who can afford to pay the tuition of private colleges. I will apply myself to the need for finding some solution in view of the widespread support for this amendment, which has now been laid over until next year. I will do my utmost, as ranking minority member of the committee which handles such legislation, to come up with some solution which will make sense, and will, at the same time, follow the traditional pattern of our country relating to the capacity to pay.

DEATH OF LAURENCE WOODWORTH

Mr. LONG. Mr. President, I wish to pause a moment in sorrow at the passing of a man who was very special to many of us in both Houses of Congress.

Last week we were all stunned and grief-stricken at the death of Larry Woodworth, who possessed both brilliance of mind and gentleness of soul, an irreplaceable human being.

For over three decades Larry worked for the Joint Committee on Taxation, serving as its chief of staff for 13 years. All of us who serve on the tax-writing committees of Congress leaned heavily on his knowledge and guidance.

Earlier this year President Carter appointed Larry to the post of Assistant Secretary of the Treasury for Tax Policy where he continued his work, under another branch of Government, with the same drive and dedication.

No one knew the tax code more thoroughly and no one was more dedicated to improving and refining that system. It was more than a job to him; it was a mission.

This was a man who could have left Government to accept any one of many high-paying jobs offered to him. He could have become a very wealthy man. But he chose to remain in Government and work himself to an early death because he wanted to make a contribution to his Nation and his fellow man.

Larry was once asked why he did not move into the private sector where he could have, at the very least, tripled his net income. He replied:

> I just wasn't interested. I guess it is because I'm trying to improve the tax laws, and it's more fun than working on a tiny segment of the tax law as I'd be doing in private practice.

In fact, when Larry moved over to Treasury he took a cut in salary.

Larry Woodworth was one of the most dedicated servants of the people that it has ever been my privilege to know. Honesty, integrity, reliability, and truthfulness were traits that Larry possessed in the greatest abundance. This Nation has truly lost one of its finest servants.

Mr. President, I ask unanimous consent to insert in the RECORD at this point some tributes printed about Larry Woodworth.

And I ask my colleagues to join with me in expressing our deepest sympathy to Margaret and Larry's children.

There being no objection, the tributes were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 9, 1977]

LARRY WOODWORTH: DULCE ET DECORUM * * *

(By John Pierson)

WASHINGTON.—Sen. Bob Packwood remembers Larry Woodworth this way.

Last year, as the Senate Finance Committee wrestled with what later became the Tax Reform Act of 1976, Sen. Packwood was wrestling with a more personal problem: He was growing blind. Cataract surgery later restored much of the Oregon Republican's sight. In the meantime, all he could read were brief notes, printed in giant letters by his staff. Reading amendments to the Internal Revenue Code was out of the question.

Then, early one morning, Larry Woodworth, Congress's staff expert on taxes, came to Sen. Packwood's office, unbidden, and explained what the committee would be taking up that day—the law as it was, the law's shortcoming and the possible solutions. Mr. Woodworth came again the next day and the next and every day until the committee had finished with the tax bill, ultimately giving hours of his time to a junior, minority member of the 18-man Finance Committee.

"He didn't try to sell me," recalls Sen. Packwood. "He just wanted to make sure I was informed."

Mr. Woodworth was then chief of staff of the Joint Committee on Internal Revenue Taxation and chief draftsman of the major tax bills passed by Congress in recent years. When he died Wednesday at the age of 59, he was Assistant Secretary of the Treasury for tax policy and in charge of pulling together the tax revision plan that President Carter has promised to submit early next year.

The Packwood story is revealing of Larry Woodworth in many ways. He was a kind and gentle man. In a town where cruelty often tries to pass for courage, he did numberless little deeds of kindness for Senators, Congressmen, lobbyists, lawyers and reporters.

He was a modest man. Even Mr. Woodworth's chief assistant and successor, Bob Shapiro, didn't know of the Packwood briefings until he read about them in a newspaper. Indeed Mr. Woodworth's passion for anonymity was so great that he refused to allow his biography to appear in the congressional staff directory.

He was fair. Although he had his own dearly-held views about how the tax code could be improved, he took great pains to present all sides of an issue. In fact, liberals, who regarded him as one of their own, sometimes grumbled that at crucial points in his 33 years with the joint committee, Mr. Woodworth failed to come down on the side of "reform." "A lifetime of straddling the fence," observed one liberal last January when President Carter picked Mr. Woodworth for the Treasury post.

Others who knew him well weren't so sure. "I haven't the faintest idea of his views," said Rep. Barber Conable of New York, ranking Republican on the House Ways and Means Committee. "I always felt he was trying to bring out the best in me, rather than explaining himself."

The other thing the Packwood story reveals was Mr. Woodworth's stamina. At a time when one younger member of the staff broke under the physical strain of getting out the tax bill, Mr. Woodworth had the extra strength, day after day, to brief a Senator whose vote was by no means crucial to the outcome.

Over the years, reporters too, came to appreciate this last quality, when, at the end of a grueling day, "Larry," as everyone called him would patiently reveal the mysteries that had taken place before their often unseeing eyes.

He could have, commanded a six-figure salary as a private tax consultant. But he often said that when he retired from the joint committee staff, he'd like to teach. As a matter of fact, Larry Woodworth was one of the finest teachers around.

Several generations of reporters from this newspaper learned their taxes at Larry Woodworth's knee. And through them, one hopes, the public learned something, too.

Some say that Mr. Woodworth's ability to grasp and unravel the complexities of the tax code came from the fact that he wasn't a lawyer. His degrees were in public administration. (When he got his Ph.D. in 1960 from New York University, one of his friends put a sign on his desk: "Old Doc Woodworth, Loopholes Opened and Closed.")

"Public administration" sounds dry enough, but to Larry Woodworth it was science, art and duty. Son of a Baptist minister, Mr. Woodworth seemed to have inherited a strong streak of altruism. With all his responsibilities on Capitol Hill, he still made time to serve for nine years as a member of the town council of Cheverly, Md., the suburban Washington community where he lived, and for six years as its mayor. He also taught Sunday School.

Mr. Woodworth wasn't without faults. He was at best an indifferent administrator. A loving joke among the joint committee staff was: "Anytime you give Larry a piece of paper, keep a copy yourself; he's sure to lose it."

Mr. Woodworth may have lost pieces of paper but he never lost his humor or his devotion to duty.

Dulce et decorum est pro patria mori.

[From the Washington Post, Dec. 10, 1977]

LAURENCE NEAL WOODWORTH

For all of its infinite and tedious complexity, the federal tax code maintains a sense of decency and reason. It has a coherent architecture. You might wonder how that happens since, notoriously, every major tax bill is finally enacted in an atmosphere of extreme confusion, haste, passion and anxiety. For the past 15 years one leading reason for the tax system's integrity was the vigilance of Laurence Neal Woodworth, who died this week. He had joined the Carter administration earlier this year as Assistant Secretary of the Treasury for tax policy, but previously he had been the staff director of the Joint Committee on Taxation.

A tax system is a nation's definition of social equity—its answer to the great question of what's fair. In taxation, the large philosophic issues never lie far behind the niggling legalistic details. The role of the congressional staff experts on taxation is not a comfortable one. The tax committees are generally led by tough and strong-willed men; stakes run high, and no bills are more fiercely lobbied. Under weak leadership, the Joint Committee's staff would have been ground to powder long ago between its two masters in the House and Senate. Under Mr. Woodworth, it built a monumental reputation for impartial and authoritative judgment. When, for example, Congress needed an unimpeachable expert for the ugly job of auditing Mr. Nixon's tax returns, it turned automatically to Mr. Woodworth.

To work effectively, the congressional system requires enormous talent and industry among its staffs. Those qualities are very unevenly distributed through the labyrinths of the congressional offices. But the staff of the Joint Committee on Taxation has become an acknowledged model. Mr. Woodworth always left the political decisions to the politicians, and never tried to undercut them with technical obfuscation. But he worked long into the nights after the committee meetings to ensure that the politicians understood the consequences of their votes. Even the most flamboyant of senators was unlikely to press an idea in the face of Mr. Woodworth's warning that it wouldn't work. His death now is a double misfortune to the Carter administration. He was the key figure in the drafting of the President's tax-revision bills. But he was also the administration's principal ambassador to Congress on this delicate subject, and he had earned a degree of trust and respect there that no other person at the Treasury enjoys.

He was a remarkable example of a certain style of public servant—one who is rarely a noted public figure, but who acquires a profound influence through sheer intellectual force and honesty. His subject was one that touches all of us every day. It is an American custom to complain about the tax system's vices while taking its virtues for granted. They are not accidental, but were written into law by a small number of people—among whom Mr. Woodworth was eminent—who labored with learning and skill in pursuit of the just balance between public and private interests.

[From the Washington Post, Dec. 7, 1977]

LAURENCE WOODWORTH, EXPERT ON U.S. TAX LAWS, DIES AT 59

(By Art Pine)

Laurence N. Woodworth, 59, a self-effacing minister's son under whose quiet guidance most of the federal tax laws of the past 15 years were written, died yesterday in a Newport News, Va., hospital.

Mr. Woodworth, who at the time of his death was assistant Treasury secretary for tax policy and President Carter's ranking adviser on tax matters, suffered a stroke during breakfast last Sunday while attending a tax conference at the College of William and Mary in Williamsburg, Va.

Before joining the administration last February, he had spent 32 years on the staff of Congress' Joint Committee on Internal Revenue Taxation, the last 14 years as its director.

That little-known joint committee, whose staff is one of the most respected at the Capitol, drafts all tax legislation for both House and Senate.

Mr. Woodworth, however, was more than a draftsman. Though it pained him to have it said in public, he guided the tax-writing committees of House and Senate at least as much as he followed their direction.

Mr. Woodworth's method, when a major bill came before one of the tax committees, was to consult privately and in advance with the chairman and other leading members, then present the legislation to the committee with a series of "suggestions." His stature and reputation for fairness were such that these suggestions frequently became the law.

He knew the tax code cold, and would sometimes use that knowledge to help a member who became tangled in one of his own proposals. But he would also use it—always politely—to shoot down a member whose proposals he thought excessive.

Mr. Woodworth was fond of reporters as a group, and it became a tradition that after every meeting of a tax committee, he would hold an impromptu news conference to explain what the committee had done. But he wanted almost always to remain anonymous.

House-Senate conferees on the energy tax bill paused in prayer yesterday at the news that Mr. Woodworth had died. House Ways and Means Committee Chairman Al Ullman (D.-Ore.) said in a statement: "In his quiet way, he was as much an influence in shaping tax policy in this country as any committee chairman or Treasury secretary or President in recent memory."

President Carter also issued a statement, mourning Mr. Woodworth as one of the country's "most dedicated public servants."

Mr. Woodworth, who never regained consciousness after suffering the stroke in Williamsburg, had in recent months been working nearly nonstop on the administration's various tax bills, including the "reform" bill that Carter intends to send to Congress for action early next year.

Born in Loudenville, Ohio, on March 22, 1918, the son of a Baptist minister, Laurence Neal Woodworth was a studious man who was fascinated with the tax system and dedicated to tax law.

Frequently working 16-hour days, he led the Congressional Joint Committee on Internal Revenue Taxation to a high degree of professional and nonpartisan performance that ultimately became a standard in both houses of Congress.

It was under his direction that the Committee staff developed its detailed report on former President Nixon's tax returns in 1974—a document that was praised for its thoroughness and fairness by both Democrats and Republicans.

Mr. Woodworth graduated from Ohio Northern University in 1940, and earned a master of science degree in public administration from the University of Denver in 1942.

In 1960, while working for the Joint Committee, he earned a doctoral degree in public administration and economics from New York University.

Often turning down well paying offers from private firms, Mr. Woodworth preferred government service, where he was able to satisfy a long line of sometimes demanding committee chairmen. It was Mr. Woodworth who engineered most of the major compromises on tax legislation in recent years.

As a congressional tax expert, Mr. Woodworth was cited several times for public service, receiving both the Rockefeller Award sponsored by the Woodrow Wilson Foundation and the National Civil Service League award.

In his spare time, he was active in local civic affairs, serving as mayor of Cheverly from 1959 to 1965, and before that as a City Council member for nine years. He told a friend once that after a long debate on a tax bill, "It just does me good to walk around and talk to people about local problems."

He was also active in the Methodist Church, serving as a Sunday school teacher, and in the Boy Scouts.

Survivors include his wife, the former Margaret Bretz, of the home in Cheverly, and four children, Laurence S., of Greenbelt, Joseph Ray, of Albuquerque, N.M., Melissa, of Syracuse, N.Y., and Esther, of the Washington area.

The family suggests that expressions of sympathy be in the form of contributions to the Laurence N. Woodworth Memorial Scholarship Fund at Ohio Northern University, Ada, Ohio 45805.

[From the Washington Star, Dec. 8, 1977]

TREASURY'S WOODWORTH FOUGHT FOR INTEGRITY OF INCOME TAX SYSTEM

(By Lee M. Cohn)

Laurence N. Woodworth, in his quiet way, was furious at Richard Nixon.

Nixon's tax manipulations were deepening the public's cynicism about the federal income tax system. Woodworth had spent his career trying to improve the system and build up public confidence.

So Woodworth and his staff of congressional tax experts put Nixon through the toughest audit in history to prove than not even a president can get away with cheating. Woodworth admitted that the 1974 audit was extraordinarily strict, but his report said:

"So many questions have been raised about the tax returns of the president for these years that the committee believed the general public can only be satisfied by a thorough examination of the president's taxes.

"From the standpoint of the tax system alone, this confidence of the general public is essential since ours is basically a voluntary assessment system which has maintained its high level of effectiveness only because the general public has confidence in the basic fairness of the collection system. . . .

"The staff has not withheld recommendations because of the office of the taxpayer involved."

Documenting dozens of big and little instances of tax cheating, the devastating report by the staff of the Joint Committee on Internal Revenue Taxation concluded that Nixon owed $476,431 in taxes and interest. The Internal Revenue Service, prodded by Woodworth's investigation, billed Nixon for more than $465,000, which the embattled president grudgingly promised to pay.

The integrity of the tax system, which Woodworth considered a keystone of the Republic, had been vindicated, he believed.

Woodworth, 59, died yesterday in a Newport News, Va., hospital after suffering a stroke Sunday while attending a tax conference at the College of William and Mary, Williamsburg.

Following cremation, a memorial service is scheduled for 10 a.m. Saturday at the Cheverly (Md.) United Methodist Church, where Woodworth was an active member and taught Sunday school for many years.

The family requested that expressions of sympathy be in the form of contributions to the Laurence N. Woodworth Memorial Scholarship Fund, Ohio Northern University, Ada, Ohio.

Hoping for new opportunities to strengthen the tax system, Woodworth left Congress after a 33-year career to join the Carter administration as assistant secretary of the Treasury for tax policy. His main assignment was to draft a tax reform program to redeem one of President Carter's basic campaign pledges.

The president has been pulling back from major tax reform, at least for 1978, mainly because he worries about upsetting business leaders and impeding action on tax cuts to spur the economy. Though Woodworth was too loyal to object publicly, he was disappointed.

He intended to keep plugging, as he had for all those years with the joint taxation committee on the Hill. Reformers were always complaining that progress was too slow. Woodworth, counseling patience, was pleased to improve the tax system one slice at a time when broader efforts fizzled.

Carter had called the system "a disgrace to the human race." Since Woodworth was largely responsible for provisions of the Internal Revenue Code, his selection to lead the reform effort drew some criticism. The more general reaction was that he was an ideal choice for the job because he knew so much about the code and where the bodies were buried.

As much more than a tax technician, he had a keen sense of congressional politics and strategy. He probably knew better than anyone else what could be accomplished on tax legislation and what was impractical.

Some White House staffers complained earlier this year that the Treasury's reform proposals were too timid and demanded bolder ideas. As drafting of the program continued, the White House pulled back to milder reform plans than Woodworth had advocated initially.

Although Woodworth had drafted large sections of the Internal Revenue Code, and in that sense was responsible for many of its defects, his authorship did not necessarily indicate his approval. He was a congressional staff man who believed it was his duty to achieve the objectives of the tax-writing committees as effectively as possible.

He would draft legislation he opposed, but insisted on explaining the consequences, including who would be helped or hurt. Members of the tax committees were not allowed to fool themselves or pretend that they did not understand what they had done.

Often this made life difficult for Sen. Russell B. Long, D-La., chairman of the Senate Finance Committee, Rep. Wilbur D. Mills, D-Ark., for many years chairman of the House Ways and Means Committee, and other members of those tax panels. Without looking for fights, Woodworth stood up to them.

Congressional superpowers accepted his independence because they respected his integrity and needed his skills. He often helped devise the parliamentary strategies that made Long and Mills look like wizards.

Woodworth built up the non-partisan staff of the joint committee, which serves both the Senate Finance and House Ways and Means committees, to a unique position of prestige in Congress. The staff's influence matches or exceeds that of the committee members.

Most tax specialists are lawyers, but Woodworth was an economist with a doctorate in that field and in public administration from New York University. He learned all about tax laws by writing them. His education also included a master of science degree in government management from the University of Denver and a bachelor of arts degree from Ohio Northern University.

Woodworth was chief of staff of the Joint Committee on Internal Revenue Taxation (now the Joint Taxation Committee) from 1964 until he joined the Treasury early this year. He had been on the joint committee staff for 20 years before becoming its chief.

Besides drafting and advising on tax legislation, Woodworth, a patient, schoolmasterish person, was a talented educator. As members of Congress and reporters felt themselves sinking into the complexities of tax issues, he rescued them with skillful explanations.

He also conducted wide-ranging tax research and often was required to produce extensive data and analyses at crucial stages of legislative debate. Members of Congress seldom argued with him on matters of fact or interpretation.

Among his professional honors were the National Civil Service League Career Service Award and the Rockefeller Federal Government Public Service Award, both in 1972.

President Carter in a statement, said: "The death of Laurence Woodworth is a personal loss to me, and a loss to our nation of one of its most dedicated public servants."

Rep. Al Ullman, D-Ore., chairman of the House Ways and Means Committee, said Woodworth's "guidance to tax writers over the decades has been enormous. In his quiet way, he was as much an influence in shaping tax policy in this country as any committee chairman or treasury secretary or president in recent memory."

Senate Finance Committee Chairman Long said "the nation has truly lost one of its finest servants."

Woodworth was born in Loudonville, Ohio, the son of a Baptist minister, and lived in Cheverly, where he had been mayor. He also had been president of the Maryland Municipal League.

Surviving are his wife, the former Margaret Bretz, and four children, Laurence, 31, a Treasury employee, of Greenbelt; Joseph, 29, of Albuquerque, N.M.; Esther, 23, of the Washington area, and Melissa, 19, of Syracuse, N.Y.

[From the New York Times, Dec. 8, 1977]

LAURENCE WOODWORTH DIES AT 59; ADMINISTRATION TAX POLICY EXPERT

(By Marjorie Hunter)

WASHINGTON, December 7,—Laurence N. Woodworth, the Assistant Secretary of the Treasury for Tax Policy and chief draftsman of the tax proposals that President Carter plans to send to Congress next month, died today in Riverside Hospital, Newport News, Va. He was 59 years old.

Dr. Woodworth had been hospitalized and unconscious since suffering a stroke Sunday morning in Williamsburg, Va., while participating in a tax conference at the College of William and Mary. A Treasury spokesman said that Dr. Woodworth suffered a 'spontaneous cerebral hemorrhage" this morning.

From the White House to Congress, official Washington praised Dr. Woodworth, an economist, as a talented and dedicated public servant.

PRAISE FROM CARTER

President Carter said: "His understanding of our tax system was matched only by his determination to improve the system and by his patience in dealing with those who knew far less than he."

Representative Al Ullman of Oregon, chairman of the House Ways and Means Committee, announced Dr. Woodworth's death on the House floor. Earlier, Mr. Ullman led the House-Senate conferees in a moment of silent prayer for Dr. Woodworth.

Before joining the Carter Administration early this year, Dr. Woodworth worked for the Congressional Joint Committtee on Taxation for 30 years, the last 14 of them as staff director. In these years he became well-known to and respected by the members of the tax-writing committees, Ways and Means in the House and Finance in the Senate.

"ONE OF THE FINEST"

Senator Russell B. Long of Louisiana, chairman of the Finance Committee, called Dr. Woodworth "one of the nation's finest servants."

"He chose to remain in government and work himself into an early grave because he wanted to make a contribution to his nation and fellow men," Senator Long said today.

For many months, Dr. Woodworth had been working intensely as he supervised the drafting within the Treasury of the tax reduction and revision bill that Mr. Carter plans to submit to Congress. Dr. Woodworth was to have been the Administration's principal witness, just as he was when he spent many days testifying in behalf of the Administration's energy tax proposals.

DEPUTY IS DESIGNATED

It appeared unlikely that the Administration would be able to find someone of equal stature in the tax field who could be ready by February to testify in support of the tax bill, even with quick Senate confirmation. One of Dr. Woodworth's deputies, Donald C. Lubick, a 51-year-old lawyer from Buffalo, was designated Acting Assistant Secretary on Monday.

Dr. Woodworth was President Carter's Principal link to influential members of the Senate and House tax-writing committees.

Indeed, it was because of Mr. Woodworth's intimate knowledge of tax laws and of the Congressional mechanisms for writing such laws that Mr. Carter chose him to help implement a major campaign promise, tax reform.

When he was nominated for the Treasury post, Mr. Woodworth was staff director of the Joint Committee on Internal Revenue Taxation, a committee that assists both the House Ways and Means Committee and the Senate Finance Committee in devising tax policy and writing tax laws.

In his 13 years at staff director, Mr. Woodworth became a widely respected tax expert.

He was a close associate of Senator Russell B. Long of Louisiana, chairman of the Senate Finance Committee, and Wilbur D. Mills of Arkansas, the former chairman of the House Ways and Means Committee, but even their foes on the committees praised his fairness and expertise. Both Senator Long and Repsentative Al Ullman of Oregon, now the Ways and Means chairman, strongly endorsed Mr. Woodworth for the Treasury post.

TWELVE-HOUR WORK DAYS

A prodigious worker, Dr. Woodworth had been working 12-hour days, preparing a tax reform package acceptable both to his new boss, President Carter, and to the men he once served in Congress.

In a recent interview in his spacious office overlooking Pennsylvania Avenue, Mr. Woodworth said that he found his new job "in many ways more confining" than the job he had held at the Capitol.

"There are lots of differences between the two jobs," he said. "But the subject matter, taxes, is the same. On the Hill, I was developing tax material Congress might like and accept. Now, I am not looking first of all at what Congress will accept, though it is needless to say that I take that into account."

One of his major goals, he said, was to simplify tax forms for the average taxpayer, and he had hoped to work on that project as soon as he wrapped up the Administration's tax reform package.

SOME CALLED HIM 'YES MAN'

Some critics had complained that he had been too much of a "yes man" while working with members of Congress on tax matters, that he had followed a policy of "anticipatory surrender" instead of pushing for real tax reform.

"I may be overcautious," he said recently. "But I feel I have made a contribution to tax reform over the years. I am interested in tax equity, but I'm also interested in stimulating business growth."

One of his most laborious and widely praised projects while working with Congress was the 1974–73 study that he and his committee staff made of President Nixon's tax returns. The study, showing that Mr. Nixon had underpaid his taxes from 1969 to 1972 by $476,431.

Watergate the climate that led to Mr. Nixon's resignation as a result of the Watergate scandals.

Dr. Woodworth received a number of job offers from the private sector over the years and could have earned perhaps three times his Government salary had he become a private tax lawyer.

'MORE FUN' IN GOVERNMENT

"I just wasn't interested" he said recently. "I guess it's because I'm trying to improve the tax laws, and it's more fun than working on a tiny segment of the tax law as I'd be doing in private practice."

While the job at Treasury carried a more prestigious title, he took a salary decrease in accepting it. As chairman of the Joint Committee on Internal Revenue Taxation, he would have been making $52,500 a year under a recent pay raise. At Treasury, his salary was $50,000.

Dr. Woodworth was born March 22, 1918, in Loudonville, Ohio, the son of a Baptist minister. He was graduated from Ohio Northern University, received a master's degree in public administration from the University of Denver and a doctorate from New York University.

Before joining the Joint Committee staff in 1944, he worked for the Tax Foundation in New York.

His one hobby was town government, and he served as councilman and later as mayor of Cheverly, Md., a small town in the Washington suburbs.

He was winner of the Rockefeller Award of the Woodrow Wilson School of Government at Princeton University and of the National Civil Service League award for outstanding career service.

He is survived by his wife, Margaret Bretz Woodworth; two sons, Laurence S., of Greenbelt, Md., and Joseph R., of Albuquerque, N.M.; two daughters, Esther M. and Melissa M., both of Maryland; a sister, Esther, of Cleveland; a brother, Hermon, and a grandson.

A memorial service will be held at 10 A.M. Saturday at the United Methodist Church, Cheverly, Md., where Dr. Woodworth taught Sunday School. The family asked that in lieu of flowers, contributions be sent to the Laurence N. Woodworth Memorial Scholarship Fund at Ohio Northern University, Ada, Ohio, 45805.

FEDERAL PROGRAM INFORMATION ACT

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 904.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 904) entitled "An Act to provide for the efficient and regular distribution of current information on Federal domestic assistance programs", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Federal Program Information Act".

DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(1) "assistance" refers to the transfer of money, property, services, or anything of value; the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, mortgage loans, insurance or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling, statistical and other expert information, and service activities of regulatory agencies; but does not include provision of conventional public information services;

(2) "Federal agency" means an agency as defined by section 551(1) of title 5, United States Code;

(3) "Federal domestic assistance program" means any function of a Federal agency

which provides assistance or benefits for a State or States, territorial possession, county, city, other political subdivision, grouping, or instrumentality thereof; any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government; and

(4) "administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

DUTIES OF THE DIRECTOR

SEC. 3. The Director of the Office of Management and Budget (hereinafter referred to as the "Director") shall identify all existing Federal domestic assistance programs and provide information on each such program to the general public through electronic media as authorized under section 5 of this Act and through a printed catalog as authorized under section 6 of this Act.

INFORMATION REQUIREMENTS

SEC. 4. (a) The Director shall prepare and maintain a Federal Assistance Information Data Base (hereinafter referred to in this Act as the "data base"). For each Federal domestic assistance program the data base shall—

(1) identify each such program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Director;

(2) describe the program, the objectives of the program, and the types of activities which have been funded under the program;

(3) describe the eligibility requirements, the formulas governing the distribution of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provide financial information, including the amount of funds appropriated for the current fiscal year or, if unavailable, the amount of funds requested by the President, and the amounts obligated, and the average amounts of awards made in past years;

(5) identify information contacts including the administering office and regional and local offices and their addresses and telephone numbers;

(6) provide a general description of any application requirements and procedures and, to the extent practical, an estimate of the time required to process the application.

(b)(1) Each Federal agency shall furnish to the Director, at such times as the Director may determine, current information on all domestic assistance programs administered by such Federal agency.

(2) The Director shall on a regular basis incorporate into the data base all relevant information received under paragraph (1) of this subsection.

COMPUTERIZED PROGRAM INFORMATION SYSTEM

SEC. 5. (a) The Director shall establish and maintain a computerized information system to provide access to the data base.

(b) The Director, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals wherever available.

(c) The Director, notwithstanding any other provision of law to the contrary, when he determines the efficiency of the information system established pursuant to subsection (a) of this section requires it, may enter into contracts with private organizations to obtain computer time-sharing services including, but not limited to, computer telecommunications networks, computer software, and associated services.

(d) The Director shall insure that the information available under this Act is made available to the public at a reasonable price.

(e) The Director may develop information services to further assist State and local government officials identify or obtain sources of Federal assistance.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 6. (a) The Director shall prepare and publish each year a catalog of Federal Domestic Assistance Programs (hereinafter referred to in this Act as the "catalog").

(b) The Director shall prepare and publish supplements to the catalog as necessary.

(c) The Director may prepare and publish specialized compilations of the information in the catalog by function as necessary.

(d) The catalog shall contain, in such form as the Director determines—

(1) all substantive information on Federal domestic assistance programs that is in the data base at the time that the calalog is prepared;

(2) any other information which the Director considers may be helpful to potential applicants for beneficiaries under such programs; and

(3) a detailed index.

(e)(1) The Director shall make each catalog available to the public at a reasonable price.

(2) There are authorized to be distributed, without cost, catalogs to Members of Congress, Delegates, Resident Commissioners, agencies, State, and general purpose units of local government, federally recognized Indian tribes, Federal deposits libraries, and local repositories designated by the Director.

TRANSFER PROVISION

SEC. 7. The Director is authorized to transfer to the Office of Management and Budget all personnel, books, records, and other documents of the Department of Agriculture of any kind or description which he determines to be principally held or engaged in the operation and function of the Federal Assistance Program Retrieval System (FAPRS).

AUTHORIZATION OF APPROPRIATIONS

SEC. 8 There are hereby authorized to be appropriated $900,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980.

FEDERAL INFORMATION SYSTEMS STUDY

SEC. 9. The Director of the Office of Management and Budget shall conduct a study of existing Federal information systems that provide fiscal, budgetary, and program-related data, statistics, and information on grant awards and shall report to the Congress, within one year from the date of enactment of this Act, his recommendations for appropriate dissemination of Federal financial information, a summary of all executive branch actions taken within the year to consolidate, reorganize, and improve the existing financial information system, and his recommendations for statutory changes necessary to further develop and improve methods for the dissemination of Federal financial information, using modern communications technology.

Mr. MUSKIE. Mr. President, I am always happy to witness the passage of legislation that is designed to simplify the maze of Federal assistance programs for recipients. S. 904 is an important step in that direction in helping potential recipients of Federal grants identify the programs for which they are eligible, and which are best suited to their needs. It will be of special importance to small communities, which cannot afford the kind of professional grantsmanship that is now required to locate sources of Federal funds.

I am pleased to be associated with this legislation, and I commend my colleagues, Senator ROTH and Senator KENNEDY, for their efforts in making this legislation a reality.

FEDERAL PROGRAM INFORMATION ACT

Mr. ROTH. Mr. President, it gives me great pleasure this morning to bring before the Senate S. 904, the Federal Program Information Act, for its consideration and final passage. The bill, which I have sponsored with Senators KENNEDY, MUSKIE, PERCY, CHILES, GRAVEL, and NUNN, returns for final Senate approval after having been considered by the House.

This legislation is of key importance to anyone involved with the use of Federal funds as a source of revenue for important national needs. Indeed, every American citizen will indirectly benefit from the improved access and distribution of program information about Federal programs. For too long, the Federal Government has left the recipient of grants to his or her own devices in identifying sources of Federal funds. This indifference has worked a profound inequity among those eligible to compete for grant awards. Smaller communities, colleges, hospitals, and schools have been put at a serious competitive disadvantage often because they were unaware or ill informed about opportunities open to them.

The skill of locating sources of Federal funds has become a virtual art form in this country today. There is a premium on hustle, sophistication, and specialization. The local official with a hundred other responsibilities has neither the time nor inclination to engage in the game of grantsmanship. The Program Information Act is a giant step forward in achieving basic equity among grant recipients. It is a matter of basic fairness to provide equally to all potential applicants adequate information about Federal grant opportunities. I believe potential beneficiaries have a right to the full, fair, and timely disclosure of program information and that the Federal Government has a responsibility to make such information readily available.

S. 904 provides for the development and maintenance of a central source of information about Federal programs. The information would be published annually in a thoroughly indexed volume. In addition, the data would be continually revised and made accessible to smaller cities, towns or individuals through the use of modern computer technology.

The act requires the disclosure of complete program information including a full description of the program and its objectives, eligibility requirements and restrictions on the use of funds, obligations under the program, identification of appropriate officials to contact, a description of the application process, deadlines, and closely related programs. The information is to be maintained in machine-readable form. A potential applicant will be able to identify programs suited to his particular needs by using a computer to cross-reference needs with available programs. The user would receive a printed summary listing all programs which have funds available for the specified needs of the applicant. The data files would be open to any citizen. Organizations with computer equipment could access the data file and help assure a wide distribution to the public. For example, a State government, timesharing company, or trade association could provide computer access to State and local officials or to other potential applicants using the basic information provided by the Federal Government.

There are more than 1,000 Federal programs with funds available for important national purposes. It is impossible for the local officials to track down these funds through layers of redtape and a maze of administrative channels in Washington without some clue as to what is available. We intend with S. 904 that the Federal Government provide a fair basis for all would-be applicants to locate sources and apply for Federal funds.

The bill represents for me the fruition of nearly a decade of effort to open the door to the public on the hundreds of Federal grant programs. When I first arrived in Washington, no one knew how many programs there were much less where to go to find one. My staff singlehandedly produced a catalog of information identifying programs and how to apply. The Roth catalog, first published as a House document, was continued by the Office of Management and Budget as the Catalog of Federal Domestic Assistance. S. 904 provides for annual publication of the catalog by statute rather than by agency discretion.

The Senate has passed legislation similar to S. 904 to establish a published catalog during four consecutive Congresses. S. 60 passed the Senate in October 1970; S. 718 was passed in September 1972; S. 928 passed the Senate in November 1973; and S. 3281 passed the Senate in June 1976. In each case, the House failed to act on the legislation. This year I am pleased to see that the House has responded favorably and by Senate concurrence with the House-passed bill, this legislation can be forwarded to the President's desk for signature.

The House version of S. 904 which is before us today does not go as far as the Senate-passed version. I am persuaded, however, that the House bill is a giant step forward and provides a basis for future refinements. The area of greatest disagreement between House and Senate versions is over the disclosure of financial information. We had provided in the Senate version of S. 904 for disclosure of draw-down information so that an applicant would know in advance whether funds were available to apply for. We also sought to improve the disclosure of awards after grants have been announced so that State governments and budget officials would know what Federal funds were being spent with their respective States and for what purposes. The legislation calls for a complete study of Federal financial information systems to be made within 1 year by the Office of Management and Budget to determine how information can best be disseminated. Of course, the executive branch already provides postaward information under Treasury circular TC-1082. This system can be improved and made more comprehensive by executive action. Furthermore, there are no legal barriers to improve disclosure about the availability of program funds. This is largely a question of accounting practice, technical capability, and cost. Again, I am hopeful that advances in the executive branch can develop improved methods of disclosure. The Congress will continue vigorous oversight of the development of the program information center within the Office of Management and Budget and will await its rceommendations for refinements in the law.

I am submitting for the Record letters of endorsement for S. 904 which the Subcommittee on Intergovernmental Relations received that highlight the need for improved financial information. I will continue my efforts to upgrade the disclosure and dissemination of Federal program information and assure that State and local governments do not engage in a fruitless exercise.

I submit for the Record a statement supplied by Senator Edmund Muskie. Also, I would like to submit my statements upon introduction of S. 904 last March and during the subcommittee hearing in April.

Today, I particularly want to express my appreciation to Senator Kennedy for his cooperation in this legislation. His interest in improved data systems extends back over a decade. This bill reflects for both of us years of effort to ask the Government to follow a commonsense approach to the disclosure of program information. I also wish to express special thanks to Senator Muskie for the cooperation and guidance that have marked the development and passage of this legislation in the Senate.

Mr. President, I ask unanimous consent that the material to which I have referred may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

National Governors' Association,
Washington, D.C., October 25, 1977.
Hon. Edmund S. Muskie,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Muskie: The National Governors' Association is pleased that S. 904, the Federal Program Information Act of 1977, has received favorable consideration in both the House and Senate.

Governors and their central management staff have been particularly interested in developing a comprehensive fiscal information reporting system. The Governors recently identified this as a necessary reform for improving management of intergovernmental programs.

In view of our interest in a meaningful federal budget information system on grant awards, the Association wishes to express support for the notice requirements for grant and budget information provided by Section 201 of S. 904. The House version of the bill deletes this important provision and in our judgment weakens considerably the value of the legislation to Governors. We urge you to restore the notice requirements of the Senate version before final passage of S. 904.

Sincerely,
Stephen B. Farber.

The National Association
of State Budget Officers,
Washington, D.C., October 28, 1977.
Hon. Edmund Muskie,
Chairman, Senate Subcommittee on Intergovernmental Relations, U.S. Senate, Washington, D.C.

Dear Senator Muskie: The National Association of State Budget Officers has long been concerned with improvements in intergovernmental management of State-Federal programs. The Association's Executive Committee has noted favorably the contribution of S. 904, the Federal Program Information Act, to furthering the worthwhile objective of developing a comprehensive and reliable fiscal information reporting system. As President of the Association, I wish to reaffirm our endorsement of the principles contained in S. 904, to express support for the notice requirements contained in Section 201 and to urge retention of this section in final passage. Thank you for your continuing personal interest in the advancement of intergovernmental management.

Sincerely yours,
Thomas E. LaVelle,
President, National Association of State Budget Officers.

National Conference of
State Legislatures,
Washington, D.C., October 18, 1977.
Hon. Edmund Muskie,
Chairman, Subcommittee on Intergovernmental Relations, Senate Committee on Governmental Affairs, Russell Senate Office Building, Washington, D.C.

Dear Senator Muskie: As President of the National Conference of State Legislatures, I would like to affirm the Conference's support for the Senate version of S. 904, the Federal Program Information Act. We are especially interested in Title II, Section 201 of the Senate bill which provides for the disclosure of federal domestic assistance information to the Governor or State legislature concerning the purpose and amounts of assistance to State and local governments. This section, which is omitted from the House version of S. 904 (H.R. 6257), recognizes the need of state legislatures across the country to have ready access to all information available on federal domestic assistance programs which would affect their state and local governments. It is our hope that this particular provision will remain in the final version of the bill.

The Conference believes that this computerized cataloguing system would be a great asset to state and local governments in readily identifying sources of federal assistance and requirements for specific assistance, in addition to eliminating bureaucratic redtape. This system would also provide timely dissemination of important financial and technical aid that would assure full participation by eligible recipients in federal programs.

The growth of federal assistance programs to state and local governments, whether in categorical grants-in-aid or in shared revenues, dramatically increases the need for accurate and timely intergovernmental program and fiscal information. We believe that the Senate version of S. 904 fulfills this vital need, and we hope that the Senate and House can agree on suitable amendments to bring this important piece of legislation to fruition.

Sincerely,
Fred E. Anderson,
President, National Conference of State Legislatures and President of the Colorado Senate.

National League of Cities,
Washington, D.C., November 18, 1977.
Hon. Edmund S. Muskie,
Chairman, Subcommittee on Intergovernmental Relations, Washington, D.C.

Dear Senator Muskie: I want to express strong support from the National League of Cities' for two provisions of the Senate version of the Program Information Act.

We think it is essential that the amount of funds remaining for award be included in the information available on a grant program. Without this information an interested applicant cannot make a sound decision about whether or not to apply, and the savings in time, energy and money made possible by this service would be seriously jeopardized.

We also think that the Senate authorization of $1.2 billion with annual increments of $500 million, is close to what will be required to effectively implement this program. The House figure, I fear, is simply not enough to do the job right.

Thank you for your efforts on behalf of this legislation; they are appreciated by city officials. If there is anything we can do to assist you, please let me know.

Sincerely,

ALAN BEALS,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., October 24, 1977.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MUSKIE: The National Association of Counties has long supported the concept embodied in the Federal Program Information Act (S. 904 and H.R. 6257). We have testified this past year in support of this legislation before both House and Senate Committees. The dissemination of available information on federal assistance programs will mean more efficient management of the $72 billion disbursed to states, counties and cities in FY '78, and will provide the opportunity for a more equitable dispersement of available resources to all needy jurisdictions regardless of grantsmanship sophistication.

Within the past decade, the federal grants-in-aid system has grown extremely complex, not only in the development of 500 to 1,000 federal assistance programs, but also in the multiple application procedures and requirements established by these programs. Many of our nation's counties do not have the financial and/or manpower resources to participate in this complex system. The data base established by this legislation would eliminate many of the local resources required to seek needed federal financial assistance to meet their jurisdiction's needs.

However, it is crucial that this data base include financial information on funds not already obligated or otherwise committed. Without this information, counties may commit local resources to develop project proposals, expend local monies to hire consultants to conduct costly environmental impact statements, etc., expend local staff time to monitor a proposal through the multiple local, state and federal review process, only to discover that the end result is there are no funds presently available. It would be impossible for a county to recover these costs. Such a situation would not be uncommon or unlikely. To place a financially hard-pressed local government in such a situation is contrary to the intent of this legislation, that is to provide up-to-date and useful information and to encourage active participation and use of federal assistance. Moreover, it would create a disservice to the people these jurisdictions represent.

S. 904, under Title I, Section 102(4), provides that financial information regarding unobligated or otherwise uncommitted funds be included in the data base. The National Association of Counties supports this provision. In addition, we support other provisions provided under the Senate version.

Because of the complexities of the grants-in-aid system, the large number of federal programs and the multiplicity of information carried, financial and otherwise, we support the authorization level established under Section 106 of S. 904.

In addition, we realize that the development of an efficient and workable information system will not take place overnight. It may become necessary to make some modifications in the system as it is developed. For this reason, we realize the need for evaluation and review as the system develops and support Section 203 of S. 904 which provides for reports to Congress on evaluation and review of steps taken to implement this major undertaking.

S. 904 will provide an efficient and useable information system, and will encourage local governments' participation in federal assistance programs. It will eliminate many of the frustrations county governments experience in seeking federal assistance to offset local costs. Moreover, S. 904 will provide a useable information system available to all jurisdictions, regardless of affluence, to better manage its own local resources, as well as more efficient management of federal dollars. Such a system will encourage better government and services for the people we represent.

Our testimony before the Senate Subcommittee on International Relations in support of S. 904 is attached. Should you have any questions regarding our position, please contact either Aliceann Fritschler or Linda Church of our staff.

The National Association of Counties commends the work of your committee and its commitment to a federal information system. We join in your efforts to develop a workable and efficient information system and hope that S. 904 will soon become law.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

[From the CONGRESSIONAL RECORD, Mar. 3, 1977]

FEDERAL PROGRAM INFORMATION ACT

Mr. ROTH. Mr. President, I am introducing important legislation with Senators KENNEDY, MUSKIE, PERCY, and CHILES to improve the availability of information about Federal programs to the general public. This legislation will benefit citizens and communities throughout the Nation by making it easier to match local needs with forms of financial and technical assistance available from the Federal Government.

The Federal Program Information Act would establish a center to serve as a central reference service for information about program purposes, funding availability, application procedures, and program requirements. The center would make use of recent techniques in computer data systems and telecommunications services to provide detailed, up to date, and easily understandable information about Federal programs and assistance to individuals or communities seeking sources of Federal aid. The information would be stored in a computer data bank and distributed to communities and individuals using modern telecommunications equipment. The data base could also be distributed in printed form as a comprehensive catalog or in abridged versions grouped by program function.

GRANTSMANSHIP

The art of Federal grantsmanship—the ability to identify, apply for, and receive Federal grant awards—has become a major impediment to small or disadvantaged communities, school systems, and colleges trying to obtain a fair share of Federal grant money.

There are hundreds of Federal programs which provide financial and technical aid to State and local governments and other eligible recipients, but there is no easy way at the present time to identify the programs and assure full participation by those eligible.

Rural communities, small cities, towns, hospitals, and colleges have been particularly disadvantaged, when trying to compete for Federal grants that require sophisticated applications.

There are more than 1,000 Federal domestic aid programs listed in the Federal Domestic Assistance Catalog. It requires considerable time and effort to select a program which meets the needs of a community. The application process can be long, complicated and costly. Many States and cities spend a considerable amount of money simply to keep abreast of program opportunities and changes. The present situation imposes a heavy administrative burden on those cities and States able to afford a grantsman and it unfairly disadvantages applicants unable to afford full-time professional help in securing Federal assistance funds. Neither situation is satisfactory.

SUNSHINE FOR FEDERAL ASSISTANCE

This legislation will not remove every weakness in the existing Federal categorical aid system. It will not increase the availability of funds; it will not reduce program restrictions; it will not eliminate the application process for aid. However, it will give local budget planners more tools to find the aid which is made available to local governments for special purposes. And, it will give all communities an equal search capacity with which to locate aid.

It is a matter of basic fairness to provide equally to all potential applicants who may be eligible adequate information about Federal grant money. I believe beneficiaries of Federal grant programs have a right to the full, fair, and timely disclosure of program information and that the Federal Government has a responsibility to make such information readily available.

NEED FOR PROGRAM INFORMATION

During the past two decades the dependence of State and local governments on Federal sources of revenues has continued to grow. In 1950 Federal grants to State and local governments totaled $2.2 billion. For fiscal year 1978 the total is expected to exceed $71 billion. As a percentage of general revenues from State and local sources the Federal aid has gradually increased from 10 to 25 percent today.

A large portion of the total amount of intergovernmental aid to State and local governments is in the form of payments to individuals—about 35 percent. Despite the recent trend for general-purpose aid with "no strings attached" such as general revenue sharing and broad-based block grants with no State matching requirements, there continues to be considerable reliance on Federal categorical or special purpose sources of aid. In 1977 categorical grants comprised 73 percent of the total aid to State and local governments.

During the past two decades the number of Federal programs has grown rapidly as well. There are now some 1,040 identifiable Federal programs which make money available to communities and individuals for special projects and development needs. Aid is available in many forms, including direct cash awards, loans and loan guarantees, technical assistance, insurance, scholarships, and donation of surplus property. These forms of assistance require an individual or community to apply directly to the Federal department or agency for the assistance. The entire application process for Federal assistance places a premium on the applicant's familiarity with the Federal programs and his ability to compete with sophisticated professionals whose stock in trade is grant application techniques.

I believe the entire process of applying for aid from the Federal Government is demeaning to the States and their elected local officials. It is unconscionable that information about program funding and availability have remained shrouded in secrecy for years by the Federal Government.

I speak from personal experience of the battle to unlock information about Federal programs. When I first came to Congress 10 years ago no one knew how many programs existed. There was no place that the State and local government officials could turn for full and complete information on Federal categorical programs. I conducted a study in 1968 and 1969 with a small staff to identify and describe for the first time every Federal program by name and department. The product of my investigation was published in 1969 as the fisrt detailed and comprehensive catalogue of domestic assistance programs. The Office of Management and Budget has continued to publish the Catalogue of Federal Domestic Assistance annually pursuant to OMB Circular No. A–89. Today, the Catalog is still the primary resource for program information available to the public.

HELP FOR LOCAL OFFICIALS

With the development of this information system a local official will be able to select a particular community project such as sewer construction, soil conservation, public housing or recreation facilities and request a listing of all Federal programs which make grants for that purpose. The center will furnish applicants with information about who to contact, where to apply, what restrictions are imposed, and whether any funds are available for the program.

The advantage to the use of a computerized catalog is that a local official is guided to the specific programs which have aid for certain purposes. The user does not have to page through the catalog trying to determine what each program offers.

A potential applicant would feed into the computer some basic information on his project needs and he would provide a simple profile of his community. The computer would then furnish a listing of all programs for which the individual meets the basic eligibility criteria. Thus, the local official would use the computer information center to specify what his needs are and he would receive a printed summary of available programs. The computer, will conduct a search in minutes that has often taken hours of the local official's time.

This comprehensive, quick and easy-to-use system offers a significant improvement over the cumbersome methods now in use. The difficulty that people have identifying programs which may prove to be a source of funds is often the most frustrating aspect of applying for Federal aid programs. Many local officials simply do not bother applying in locating funds and the administrative redtape.

The computerized information system which would be established by this legislation could be linked to States and communities throughout the Nation. Telecommunications technology is available today that permits data developed and stored in a central file to be transmitted to almost any other geographic location where there is compatible terminal equipment. If there are no terminals in a community it would be relatively easy to gain access to one in a neighboring community or county. A local official could telephone his request into a distribution center 20, 50, or 200 miles away in order to obtain access through a terminal to the central computer. The request would be processed in seconds and the printed summary of program information can then be mailed back to the outlying community official.

These distribution centers could include many types of Federal agency offices, State government offices, or private organizations. The bill imposes no restrictions on the types of offices which could provide access for the program information. Thus the terminal equipment may be located in a county office, a U.S. Department of Agriculture office. Governor's office, a Congressman's or Senator's office, a university office, a social security office, or a private business office. The intent of the legislation is to make the distribution as broad as possible.

INFORMATION REQUIREMENTS IMPROVED

Information on Federal programs will be collected and stored in a central information bank. This legislation specifies what information should be included.

The bill also requires disclosure of financial information including the amounts of funds appropriated for the current fiscal year, the amounts obligated in past years, the average amount of awards in past years, and current information on the amount of funds not already obligated nor otherwise committed. One of the weaknesses in the present domestic assistance catalog is that applicants often do not know whether any funds are actually still available for a program. The legislation mandates the center to provide accurate information on funds which are neither obligated nor committed and are therefore still available to applicants.

The legislation also provides for publication of the Federal Domestic Assistance Catalog with periodic supplements. The catalog would be published from the information contained in the data base maintained by the center.

ACTION DURING 94TH CONGRESS

The Program Information Act (S. 3281) passed the Senate on June 11, 1976, unanimously by voice vote. The Senate-passed bill (H.R. 14740) was introduced by Representative JACK BROOKS in the House of Representatives, and referred to the House Government Operations Committee. A companion bill (H.R. 13186) was also introduced by Representative CHARLES ROSE during the last Congress. No action was taken by the House, however, and the bill died with the October adjournment of Congress.

KEY PROVISIONS OF PROGRAM INFORMATION ACT

The key provisions of the Program Information Act are as follows:

Section 2 is a definitions section. Assistance is broadly defined to include transfers made to support activities with a general public purpose.

Section 3 establishes a Federal Program Information Center within the Office of Management and Budget and provides for a director.

Section 4 identifies the duties of the director to identify Federal programs and maintain information about them for the public.

Section 5 specifies the information requirements to be maintained for each program in the data base, and requires the director to maintain the data base with accurate and timely information.

Section 6 provides for establishing a computerized information system to provide wide public access to the information about programs in the data base.

Section 7 provides for annual publication cf a comprehensive catalog and specialized abridged versions for programs with similar functions.

Section 8 provides for the transfers to the center of current operation of the Federal Assistance Programs Retrieval System—FAPRS—in the Department of Agriculture and the Catalog of Federal Domestic Assistance in OMB.

Section 9 provides for a 3-year authorization with a total of $2.8 million to be authorized to be appropriated for the development of the center.

REVISIONS IN THE BILL

Several changes have been made in the bill that we are reintroducing today to strengthen its purposes and administrative provisions.

LOCATION OF CENTER

The bill establishes the Office of Management and Budget as the agency with administrative authority. OMB is closely involved in the coordination of intergovernmental relations with State and local governments. The functions of the center would be an important element of the vigorous central management role that OMB is intended to play in Federal-State relations.

FINANCIAL DATA

The information requirement for public disclosure about the availability of funds has been strengthened. The amount of funds requested by the President and the amounts expended in past years have been added as requirements. In addition a section has been added to provide for financial information on current awards identified by amount and geographic location of the recipient. These sections would provide for drawdown information for programs so that local officials will know whether there are actually funds remaining to be applied for. Congressmen, State planning officials, and Federal budget planners will also be able to determine the amounts of aid awarded to a particular jurisdiction or for a particular purpose. This financial information will be a great improvement over the inadequate methods of tracking funds and grant awards that are in use today.

INFORMATION SERVICES

The center will have added authority to develop information services with telecommunications equipment to further assist State and local governments obtain Federal assistance.

CATALOG OF PROGRAMS BY FUNCTION

The bill provides for the publication of an abridged catalog based on programs with related functions. This will permit user catalogs to be developed for programs for education, community development, housing, health, technical assistance, etc.

THE DEVELOPMENT OF FEDERAL INFORMATION SYSTEMS

There have been several experiments in the Federal Government to develop information systems to improve the coordination and management of the intergovernmental aid budget. Unfortunately, these experiments were never given sufficient commitment and direction from managers with government-wide responsibilities.

The most comprehensive was the Regional Management Information System which was developed in 1971 to provide for interagency and intergovernmental tracking of the status of grant applications and the dissemination of information to State and local governments on Federal programs and outlays. Later, a Budget Information System was proposed to provide a geographic and program breakdown of the annual budget. In 1973 the OMB, Census, and the Federal Regional Councils cooperated briefly to develop a computerized system—Socio-Economic Demographic System—to collect socio-economic data which would be shared across department lines.

In 1972 a proposal was made by the Dallas Regional Council to develop a computerized method for collecting Federal grant data from preapplication to award stages and for sharing the information with State and local governments. This plan was known as the Regional Grant Information System and became operational in the Dallas and Boston regions before being discontinued by OMB in 1974.

The most recent computerized information system is the Federal Assistance Programs Retrieval System developed in the Rural Development Service at the Department of Agriculture. FAPRS is a computerized program information system which provides information on Federal programs to local communities on rural development. The data on Federal programs stored in the computer is retrieved by any person or organization, by specifying basic characteristics such as population size and geographic location. These qualifying traits are matched with program eligibility requirements stored by the computer.

The Program Information Act would transfer the FAPRS System to the Program Information Center to be established at OMB and expand the data bank to include all Federal programs.

VALUE TO CONGRESSIONAL OFFICES

The information system envisioned by this bill would provide a valuable resource to congressional office as well as to citizens and State and local officials. Constituents who contact a Congressman seeking information about potential sources of funds for a district project could receive a complete list of programs for which they may be eligible and the amounts of funds remaining in the program yet to be obligated. This list could be provided in a matter of minutes by the congressional office by using simple terminal-printer equipment.

I urge my colleagues to examine this important legislation and support its passage. This bill is an important step in our efforts to make Government more manageable, more effective, and more responsive to the public, and it continues our commitment to open Government.

STATEMENT BY SENATOR WILLIAM V. ROTH, JR., APRIL 5, 1977, AT HEARING ON S. 904, THE FEDERAL PROGRAM INFORMATION ACT

This hearing is convened today to examine the feasibility and desirability of legislation intended to provide computerized access to information about Federal aid programs.

TRUTH IN GOVERNMENT

Last year the Senate approved sunshine legislation to open the door of government in the Departments and the Congress to the public. S. 904 which I have introduced with Senators Kennedy, Muskie, Percy, and Chiles extends our commitment to open government by upgrading public access to program information.

It is a matter of basic fairness to provide equally to all potential applicants who may be eligible adequate information about Federal grant money. I believe beneficiaries of Federal grant programs have a right to the full, fair and timely disclosure of program information and that the Federal government has a responsibility to make such information readily available.

This legislation would revolutionize the government way of doing business with Federal grant programs because it will mean that every citizen from the Mayor of Smyrna, Delaware to the President of Harvard University will have access to the same information about programs and funding availability at the same time.

It is hard to believe that citizens and local officials are prevented today from finding out what grants are available, what purposes they are supposed to serve, and whether funds actually remain for the potential recipient to apply for. But this is often the case.

Truth in government demands that citizens have equal access to information about how government spends their tax dollars. This bill is an important step forward in giving every citizen full and equal access to government information on Federal grants. Open government reforms will be meaningless if the door opens to government jargon, misleading statistics and bureaucratic hieroglyphics about programs. Access to misleading information is worse than having no information at all. We intend with this legislation that for the first time we will be opening not just the door to government but the government books on the dispersal of grant money to states and localities.

This truth in government legislation would establish an information center in the Office of Management and Budget to serve as a central reference service for information about program purposes, funding availability, application procedures, and program requirements. The center would provide computerized, up-to-date information to any-one—individuals, organizations, schools, communities, and local officials—on sources of federal aid and the availability of funds. This will be a tremendous service to local officials.

PROGRAM FRAGMENTATION

One of the central concerns in intergovernmental relations in recent years has been with Federal assistance programs. During the past two decades there has been astonishing growth and proliferation of special purpose aid programs. In 1950 the Federal expenditure for grants-in-aid was $2 billion. This year we will spend more than $70 billion. A comprehensive survey of the actual number of Federal programs just completed by this subcommittee in conjunction with the General Accounting Office shows that there are more than 1200 identifiable Federal programs.

In 1949 the Hoover Commission on government reorganization noted with certain alarm that there was "excessive fragmentation" in the Federal assistance effort to states and local governments. Its report noted that: "There are now at least three separate and distinct grants in the realm of education, at least three in public assistance, and ten in public health." Today, by way of comparison, there are more than 250 identifiable health programs and more than 150 Federal assistance programs for education.

The government has created a grants system intended to help serve our citizens by matching local needs with resources earmarked for special high priority purposes. The performance record in accomplishing this goal has been frustrated for years, however, by the red tape, complexity, and absence of information about assistance opportunities.

Last year in a report by the National Governors' Conference entitled, "Federal Roadblocks to Efficient State Government," the governors expressed their frustration with the needless administrative complexity in Federal grant programs. Program implementation is repeatedly delayed by the long approval process, the absence of program guidelines, a lack of coordination, and excessive paperwork requirements. Many local officials do not even bother trying to locate sources of Federal aid because they have neither the time nor resources to compete with professional grantsmen for limited financial resources. Their return on investment is too low to justify the paper chase with Washington.

The Advisory Commission on Intergovernmental Relations recently completed the most comprehensive examination of the Federal grant system ever conducted. It has made a thorough assessment of Federal grants management and published its findings and recommendations in a volume entitled, "Improving Federal Grants Management." The study documents the areas of weak coordination and management of Federal domestic programs and offers many recommendations for improving intergovernmental relations. The Commission documents major areas of weakness in the communication and consultation between Federal and local officials and recommends that Federal grant information systems be upgraded.

BREAKTHROUGHS IN TECHNOLOGY

Despite the recent history of growth in intergovernmental assistance, we have not witnessed a corresponding improvement in grants management and information systems. The tremendous breakthroughs in information technology of the past decade have not been utilized effectively to improve information systems in Federal grant administration.

It seems incredible that an airline firm can determine whether a seat has been booked for a ten o'clock flight two months in advance, but that the Federal government cannot tell the City of Seaford, Delaware whether there is money available to apply for in developing a community health facility. Yet this is true today.

How is it that any small town bank can provide a detailed record of your personal checking account each month but that the Federal government cannot provide your Governor with an accurate list of grants awarded to the communities in your state? It would surprise me if the number of grants awarded by the Federal government each year exceeds the number of transactions processed by the American Express Co. Yet, American Express can identify each transaction by location, date, and amount. What makes it unreasonable to expect the Federal government to account to the American public with a simple balance sheet of funding transactions showing the balance remaining?

This legislation would modernize the management of Federal assistance grants by providing, in effect, a bank statement on Federal programs to the public. In the absence of a profit motive for efficiency in government, this legislation mandates several management reforms which most businesses have long since adopted for their inventory and accounting departments.

S. 904 would be a giant step forward in improving both the access and the quality of information available to citizens and state and local officials.

The *Catalog of Federal Domestic Assistance* is the primary tool today for local officials trying to locate federal assistance. The catalog contains descriptions of the more than one thousand domestic aid programs. However the information is often outdated by the time a local official tries to use it. The local official must spend hours pouring over indexes, eligibility requirements, and program descriptions.

Once a prospect is identified, the applicant spends more hours preparing an application to document the need for a project. Months later, after the application is completed and processed, the local official may discover that all of the funds for the program have been committed and no funds are available. The time and money spent on the application is completely wasted. The American taxpayer pays twice for the same project—once through the Federal tax dollar to fund the program and again through the State and local tax dollars to pay for the time spent locating and applying for the Federal funds.

This type of Federal assistance using special purpose categorical grants has many shortcomings. Some of the administrative confusion can be reduced by improving the communication and coordination between Federal and local officials. However, the recurring management roadblocks to efficient and equitable distribution of categorical aid argues forcefully for further simplification and consolidation in grant programs.

FINANCIAL TRACKING DEMONSTRATION

For several years I have introduced legislation similar to S. 904 which would require the inclusion of budget information about program funding to be published in the catalog and its supplements. This legislation has passed the Senate four times but has never been approved by the House of Representatives. Throughout this period—now nearly seven years—the Office of Management and Budget has repeatedly raised technical objections against the inclusion of detailed budget information about Federal programs. OMB has never developed a means to overcome the problems of providing up-to-date budget information.

Last year, during hearings on similar legislation, I asked Paul Kugler of the Rural Development Service in the Department of

Agriculture whether he believed it was technically feasible to devise a financial reporting system for Federal programs. Paul is back today and is prepared to demonstrate a working model for a financial reporting system. This system would integrate funding decisions made in each agency into a computerized data system that can be accessed by state and local officials. He has developed this system largely on his own initiative. I am very proud of Paul and his staff for their persistence, determination, and enthusiasm. The model that he will demonstrate today may require considerable refinement before it could be implemented on a government-wide basis. However, the feasibility of such a tracking system has been proven. I congratulate Paul for his ingenuity and dedication. Much of his work on this system has taken place on his own time with very limited resources. In my estimation Paul's efforts exemplify the best in public service.

The disclosure of funding availability and grant awards envisioned by this legislation will reduce the opportunity for political favoritism and inequitable distribution of Federal assistance by opening the entire process to public scrutiny.

The financial tracking system would provide a series of reports which track spending activity and the flow of Federal program funds. The data that would be tracked includes the allocation of program funds, obligations against those allocations, the number and dollar amount of applications that have been accepted by program officials, the outlays that have been made, and the location of the grant recipient by town, city, county, Congressional District, or State. This information could be summarized in reports prepared for use by program managers, budget officers, local officials, citizens, or by Congressmen and Senators.

The information on the availability of funds will be extremely helpful to anyone planning to apply for a grant. Computerized access to program data by local officials will go a long way to assure that time and resources are not wasted in a fruitless search for Federal funds.

Senators and Congressmen will be greatly assisted by these advances in computerized data systems. For the first time, they would be in a position to respond quickly to constituent inquiries about programs for District projects. The access to programs and funding data through a computer terminal located in a congressional office will short cut the tedious and time-consuming telephone search required when looking for a program with funds available.

The computerized program data bank, such as the one demonstrated here today, will be an invaluable resource to the planning and budget process for Federal, State, and local officials. Furthermore, it promises to open Federal budget accounts to public scrutiny for inequities and favoritism.

This legislation is a logical step forward in fulfilling our commitment to open government and in making government more manageable, more effective, and more responsive to the public.

Mr. KENNEDY. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

Mr. GLENN. Mr. President, I send to the desk a bill and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

There being no objection, the Senate proceeded to consider the bill (S. 2355) to extend the Emergency Natural Gas Act of 1977, which was read the first time by title and the second time at length.

Mr. GLENN. Mr. President, I ask unanimous consent that two members of my staff, Len Bickwit and Lyle Morris, be granted privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, this bill is very simple. I think it is needed.

If I might have the attention of my colleagues, I believe we can dispose of it in very short order.

We are aware of the problem we got into last winter during a very severe winter, particularly in the upper Midwestern States. At that time we encountered natural gas shortages that required emergency legislation.

Even after forecasts this fall of a very mild winter, we have already had about 3 weeks of very tough winter weather in the upper Midwest. We had thought that the conferees on the energy conference would have been able to pass a bill by this time which includes emergency gas legislation. But we cannot rely on that now.

The conferees are in agreement that they probably will not be able to complete their work before the holidays. Knowing the vagaries of the weather and not being able to predict it accurately, we feel that this Emergency Natural Gas Act, which we passed earlier in the year but which expired last summer should be reinstituted.

Most people, including many Members of this body, probably are not aware that the emergency authorities that were in the President's hands last winter are not in existence now. So we go into this winter not more prepared, not better able to cope with an emergency situation, but less prepared than we were last winter.

The bill I have sent to the desk—which I believe has been cleared on both sides of the aisle and with all the principals who were interested in the emergency natural gas legislation—is simple. It would reinstitute the old Emergency Natural Gas Act and put it into effect only until February 15. It would reinstitute the authority that we had in the Emergency Natural Gas Act. It would make no changes in it—no amendments, no differences whatsoever. It would put it into effect only until February 15, 1978, with the idea that Congress will be absent until January 19. When we return, we should have a better idea of whether we are in for a tough winter so far as natural gas is concerned.

I hope the bill will be voted on favorably and that he will have no objection to it. The bill would provide additional protection which is needed in this interim period, and a number of States are vitally interested in this.

In introducing this measure, I point out a few things about the subject of Hinshaw pipelines. Senator Johnston and I have talked about this subject, and he is in support of this legislation with the legislative history that I am about to make on it. First of all, although I was not the prime sponsor of the original Emergency Natural Gas Act of 1977, I did participate in its enactment. It was not my intention that the allocation provisions of section 4 of that act were to apply to allocation out of Hinshaw pipelines. I ask unanimous consent to have printed in the Record at this point some legislative history which was made on that act relating to gas flowing through Hinshaw pipelines and other intrastate gas which clarifies the position of those who were more prominently involved.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mr. Johnston. On page 4, subsection (B), the President has the authority to require an intrastate pipeline to transport interstate natural gas from any interstate pipeline to another interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements.

My question is this: Does that power to order transportation of the gas in any way give the President the power to order the sale of intrastate gas or to order an allocation of intrastate gas?

Mr. Stevenson. No, this does absolutely nothing to permit a Presidential allocation of intrastate gas. As the Senator will remember, the Senate earlier today voted down an amendment that would have given the President such authority.

Mr. GLENN. Mr. President, in proposing to extend that act today, it is not my intention that Hinshaw pipelines be covered by the allocation provisions of the act. Further I have been told by Secretary Schlesinger that the administration does not intend to use the legislation which we are considering today to allocate gas out of Hinshaw pipelines. I ask unanimous consent to have printed in the Record at this point a letter from Walter Wurfel, Deputy Press Secretary at the White House, to Senator Johnston outlining the Secretary's position last year with respect to the whole subject to allocation of intrastate gas. He has made clear to me that the statement included in that letter is applicable as far as he is concerned to the administration's activities under the bill we are considering today.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Dear Senator Johnston: Dr. James Schlesinger has asked me to release the following statement and provide it to you. In his words: "It has come to my attention that certain members of Congress from producing states have voiced concern that technical amendments inserted in the conference committee report would be used to allocate to interstate pipelines intrastate gas, produced in a state and sold in traditional intrastate markets in that state. I do not believe anything in the bill authorizes such action and we do not intend to allocate such intrastate gas under the bill."

Sincerely,

Walter Wurfel,
Deputy Press Secretary.

Mr. GLENN. Finally, Mr. President, let me state clearly my intention that the passage of this bill should not pre-empt the conferees on the natural gas provisions of the National Energy Plan legislation in any way. Most specifically, it should not preclude action by the conferees either to include or exclude Hinshaw pipelines from the reach of the emergency natural gas provisions that are contained in the final version of the legislation.

Mr. BAKER. Mr. President, I point out, for the benefit of my colleagues, that the distinguished Senator from Ohio checked with me before this matter was scheduled for action; and I, in turn, checked with the ranking member of our jurisdictional committee, who also agrees that this is an appropriate and desirable economic measure.

This is similar in all respects to the action that was taken at the very beginning of this session of Congress to deal with an emergency situation. I believe it is appropriate that we should do so again today, under these circumstances.

Mr. GLENN. I appreciate the remarks of the distinguished minority leader.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. GLENN. I yield.

Mr. DURKIN. As the Senator from Ohio knows, last year, when this same piece of legislation was on the floor, I entered into a colloquy with the then author, the Senator from Illinois (Mr. STEVENSON).

We in New Hampshire get about 4 percent of our energy from natural gas, but that 4 percent is very vital, and that would be interrupted when there would be interstate pipelines in the western part of the country that had surplus or excess gas.

It is my understanding that the same colloquy that I had with Senator STEVENSON will be included in the RECORD in conjunction with the measure of the Senator from Ohio. I ask unanimous consent that that colloquy be printed in the RECORD as part of the debate on this measure.

I commend the Senator from Ohio for moving on something that could be very important before we reconvene.

Mr. GLENN. I thank the Senator from New Hampshire for his comments.

It is my understanding that any colloquy that occurred which gave illumination to an understanding of the previous legislation, when it was passed originally, would apply to this legislation.

I am not trying to change it in any way; only to reinstitute the act until February 15, 1978, so that we have some protection this winter.

Mr. DURKIN. I did not hear objection, so I gather that unanimous consent has been obtained to insert last year's colloquy in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

UP AMENDMENT NO 13

Mr. DURKIN. Mr. President, I have an amendment at the desk cosponsored by Mr. Hathaway, Mr. McIntyre, and Mr. Abourezk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. Durkin) proposes unprinted amendment No. 13:

On page 5, after line 2, insert the following:

"(3) No order may be issued under this subsection unless it provides for emergency deliveries of natural gas from those pipelines delivering, directly or indirectly, to lowest priority users at the time of the order, and unless the President has determined that emergency purchases under Section 6 cannot be made to meet essential requirements for high-priority uses."

Mr. DURKIN. I thank the Chair.

Mr. President, I offer this amendment because the language of the technical amendment which appears in section (B) at the top of page 5 addresses this problem in a rather general way. The impact of this amendment, my amendment, would be taking into consideration the fact that we are not going to go into the intrastate market.

As I understand it, we are not going to take the gas that is properly available in the intrastate market. Rather, we are going to allocate or reallocate from interstate pipeline to interstate pipeline.

The effect of my amendment is to require that the President take the gas from the pipelines which are serving the lowest priority before moving to those that are serving a higher priority. For example, if one of the pipelines in the West is providing gas for priority 3, 4, 5, or 6, allocation orders would affect the pipelines providing the lower priority gas before ordering a pipeline that was providing gas to a higher priority user. The President would take gas from a priority 5 provider before they went to a pipeline that was providing gas for priority 4. In this way it would prevent what some of us feel would be a problem.

I think it was a mistake that this bill does not allocate gas in the intrastate market, but I think that mistake can be ameliorated to a certain extent by the adoption of my amendment, taking into consideration that otherwise the gas from interstate pipelines such as those serving New Hampshire and New England may be diverted, while some other pipeline in the western part of the country has excess gas that is being given and provided to a much lower priority user for boiler fuel or other such purpose.

The floor manager of the bill indicates that he feels much of that language he has made as a technical amendment at the top of page 5 incorporates my amendment. But if it is the opinion of the floor manager of the bill that my amendment is already incorporated therein, I will urge him to accept it and then we can proceed.

Mr. STEVENSON. Mr. President, I sympathize with the purpose of this amendment. However, the intent is accomplished in section 4(A)(2)(B) on page 5.

The only problem I have with the amendment offered by the distinguished Senator from New Hampshire is that it is so specific and so rigid, that it may be impossible to comply with. The provisions in the bill on page 5 in subsection (B) are intended to require the President, in the exercise of his allocation authority, to take gas from pipelines fairly and proportionately so that one is not required to give more than another, or permitted to serve lower priority customers than the next.

But to say that no order may be issued unless it provides for emergency deliveries from those pipelines delivering to the lowest priority users at the time of the order may be impossible to perform, since the actual facts can vary from day to day.

It also says that the President will have to determine that purchases under section 6 cannot be made to meet essential requirements for high-priority uses before he makes his allocations. That is exactly the intention of the legislation. There is no intention of exercising the allocation authority except in those cases where emergency purchases have failed to produce the supplies of gas that are necessary to serve the highest priority users.

That, too, it seems to me, is unnecessarily tight and burdensome.

For those reasons, and because it is the intention of the bill to require fair distribution of gas from the donating pipelines only after emergency purchases have failed, I hope the Senator will consider withdrawing his amendment. This might prove, in practice, to be an impossible test. I believe the language of the bill as it is written is enough to accomplish the Senator's objective.

Mr. DURKIN. Well, can the Senator elaborate for the record what he means by "disproportionate share"? What does the Senator mean by a disproportionate share?

Mr. STEVENSON. There are colloquies in the record on this subject already. But what the President would do would be to look at the totality of the gas in a pipeline and other pipelines and require each pipeline to basically give up the same percentages. That is what is intended by disproportionate share. They would give up the same proportionate shares of their total gas, and to do that he will have to take some from one and some from another in order to equalize the contributions.

Mr. DURKIN. It is my understanding there are interstate pipelines in the West with excess gas. Would he be required by the Senator's understanding of the language of the intent to take that excess gas from the West before curtailing by an even percentage the gas at the remaining lines?

Mr. STEVENSON. Yes. The language also requires the President to consider the levels of curtailments so that if a pipeline were already in curtailment, the President would not go to that pipeline first; he would go to the pipeline that has the surplus. It is intended to take into account both considerations. In the Senator's situation, if there is a pipeline with a surplus of gas and another pipeline that is in curtailment, he would take the surplus first.

Mr. DURKIN. It is the Senator's feeling and opinion, is it not, that, say, pipeline x has extra gas, he would take all that extra gas, and then the five remaining pipelines would all give up an equal percentage of gas?

Mr. STEVENSON. If they started out on the same level of curtailments.

Mr. DURKIN. What is the Senator's opinion with respect to section (b) as he amended it by his technical amendment this morning? How does that impact on interstate pipelines that are providing several priorities now and are providing more than one priority level?

Mr. STEVENSON. I am not sure I understand the question fully. It is difficult for me to postulate a given situation that is not before us. I cannot tell the Senator what the effect would be on one specific pipeline or another. The President is going to be faced with a situation at a given time and have to make allocations on the basis of the amount of gas that is available to the pipelines and their levels of curtailments, with the end result under this language that they are all going to be treated fairly and those with surplus gas will be the first to lose gas. I cannot tell the Senator which pipeline is going to be affected. Nor can anyone else.

Mr. DURKIN. I gather, then, we really have to take the Senator on faith that each pipeline will be treated fairly. "Disproportionate" is not defined by virtue of any percentage.

Mr. STEVENSON. If the President abuses his authority, there are procedures for hearings and for judicial review established in the bill.

Mr. DURKIN. But, nonetheless, the leeway is such that "disproportionate" is left sufficiently broad so that it seems to me to be analogous to overturning a Federal judge for abuse of discretion or proper use of discretion. There is no effective standard for disproportionate.

Mr. STEVENSON. The President under this provision is required to consider the proportionate shares of deliveries and also the curtailments that result from his allocations. I do not know how to make it more explicit than that. To go further I fear will tie his hands and result in conditions so restrictive that they are impossible to comply with.

Mr. DURKIN. I do not think anyone is trying to tie his hands, but if I can be assured of the intent of the act I will be satisfied. Is it the Senator's understanding that the gas must be taken from the pipelines with a surplus—we understand the West has excess gas—before they start disrupting long-term contracts in other areas of their curtailments in order to spread the I will feel comfortable in withdrawing the amendment and getting on to final passage and getting the bill to the House of Representatives as soon as possible. But we have a problem. Tenneco supplies New Hampshire. We have long-term contracts. New Hampshire industry is taking steps to make sure that they have a sufficient supply of gas for their contracts. I would hate to see that gas diverted to some other area before the gas is taken from the Western and Southwestern pipelines where it is my understanding there is excess gas. If I can have that assurance from the distinguished floor manager, then I do not think there is necessity to press language which could cause difficulties for the President or his designee in carrying out the intent of the act.

Mr. STEVENSON. The Senator has my assurance. It would be unwise and it would be unfair to acquire allocations in the situations that the Senator has postulated. That is not the intention and that will not be the result of this language, first allocation will come from pipelines with a surplus. They will take into acount the proportionate share of allocation contributed by all pipelines and levels of their curtailments in order to spread the burdens equitably after having first used up any surplus gas.

Mr. DURKIN. In other words, will the floor manager indicate his opinion that to act in the manner that I have expressed reservations about would in fact produce a disproportionate result?

It is an easy "yes."

Mr. STEVENSON. The answer is yes.

Mr. DURKIN. I thank the Senator.

Mr. President, in light of the explanation of the floor manager that the excess gas in pipelines will be taken from the West before contracts such as ours at home are interrupted, I withdraw my amendment.

Mr. GLENN. Mr. President, additional cosponsors of this measure are Mr. HEINZ, Mr. HOLLINGS, Mr. JOHNSTON, Mr. MORGAN, and Mr. SCHWEIKER.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the measure.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. RANDOLPH. Mr. President, I use this opportunity not at length but in substance to express genuine appreciation for the continuing leadership of the Senator from Ohio in this area of insuring a sound industrial base in the State of Ohio and the furnishing of needed heating facilities not only for the business sector of his State but also for the men and women who work in the plants. The Senator from Ohio has done a good job, and I commend him.

I support passage of this bill (S. 2355) introduced by Senator GLENN which extends the provisions of the Emergency Natural Gas Act of 1977 to deal with natural gas shortages, should they occur this winter. This legislation expired on August 1, 1977. The legislation before us would extend its provisions until February 1, 1978.

Curtailments of natural gas which began about 6 years ago increased to a point where interstate pipeline deliveries according to the American Gas Association were curtailed nationally last year by an average of 19 percent. This is roughly the equivalent to 1.5 million barrels of oil per day.

In our State of West Virginia natural gas supplies at least 21 percent of our energy needs and over 70 percent of the homes use natural gas.

Many industries dependent on natural gas in West Virginia have, in the past experienced severe curtailments—last winter 11,804 thousand cubic feet of industrial gas.

This year's curtailments are hoped to be less severe—possibly 5,807 thousand cubic feet—due to forecasts of a milder winter.

Any curtailment in gas transmission and distribution are undesirable but if emergency shortages do occur we must, as a Nation be able to respond. We must make sure that priority users receive allocations which will permit them to keep producing. Important among these are the steel and glass industries which could not economically change over in a short period of time to alternative fuel sources. Hardest hit would be the industrial sector producing stone, clay, and gas products, chemical and allied products, and primary metals.

Mr. President, I feel that it is necessary that while Senate and House conferees work to establish new procedures for natural gas pricing that we have a safeguard against unrestricted and unwise curtailments in the industrial sector, while also assuring our residents of continued and adequate amounts of gas for their home heating needs.

Senator GLENN's legislation will extend emergency relief measures enacted last winter which helped us to offset the effects of severe natural gas shortages. I urge my colleagues to support the passage of this extension.

Mr. GLENN. I thank the distinguished Senator for his comments.

Mr. MORGAN. Mr. President, I support the extension of the Emergency Natural Gas Act of 1977.

My State of North Carolina is one of the most vulnerable if a winter such as last year's strikes the Nation again. We are served by but a single pipeline. That is our sole supplier of natural gas.

Last year, when one very cold day followed another, the supply of natural gas available to North Carolina was sufficient to heat our homes, but not sufficient to serve all of our industrial needs.

Owners of plants that use gas in their operations became panicky as the prospect of having to shut down faced them. Many people were threatened with unemployment as gas supplies dwindled. I don't want that to happen again if a protracted cold spell comes again this winter.

Retaining the power of the Government to make emergency allocations and shift gas supplies to where they are needed worst will remove a part of the threat. This action will allow the Government to retain that emergency power.

The portion of the 1977 act which permits the purchase of intrastate gas for transmission through the interstate pipelines is also badly needed by industry. Some of our plants have arranged for alternative energy sources if gas becomes available, but there are some industries in our State which can use no other fuel than gas. The threat that they might have to close in an emergency would be greatly lessened by extension of this section of the Gas Act.

We do not know what this winter will bring. But unless the power to make emergency allocations by the Government is retained and unless the pipelines are given permission to purchase intrastate gas, North Carolina and several other vulnerable States may suffer.

Mr. President, passage of this legislation would do much to remove a threat to the economy and I hope the Senate will act swiftly to approve this extension of the Natural Gas Act.

Mr. GLENN. Mr. President, I ask unanimous consent that the name of the Senator from Maine (Mr. MUSKIE) be added as a cosponsor of this bill, in addition to the others I mentioned a moment ago.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I am prepared to vote on this matter. I will be happy to accept a voice vote.

Mr. STEVENS. Mr. President, I want to make one comment about this bill.

I supported and helped work on it the last time, and I understand the reason why it has been offered now. But the implication is there that if the bill that the administration sought had come out of the conference committee, any possible emergency that arose this winter would have been met by that bill. That is not correct.

I support this bill because it is necessary to help these areas if in fact there is a bad winter and they need additional gas, and this mechanism did work before. But I do not believe the record should have the implication that the administration's bill was not passed. In my opinion, the administration's bill would not have gotten any gas out to meet the emergency had it occurred during this winter period. I say that with due respect to my good friend from Ohio, who I think is entirely in order in seeking the extension of this emergency authority. But I do not believe the implication should be there that had the conference committee succeeded as the administration sought to have the bill framed, this action would have been unnecessary by Congress.

Mr. GLENN. Mr. President, I respond to the Senator from Alaska by saying that it was not my intent to criticize one side or the other in the conference committee. I am not taking sides on that issue. I wish to stay out of that. I know the problems involved there.

If my previous remarks indicated my preference one way or the other, or if this bill addressed one side or the other in the conference committee, I hope I did not give that impression. If I did, I want to correct it. I am only trying to get this authority, which I think the President needs. If the conferees agree on whatever they agree on, then it will be their option to wipe this out at that time—if it were passed in the next few days, for example.

I only want to get this emergency authority in the hands of the President, so that if we do have a tough winter, it can protect us all.

I thank the Senator from Alaska for pointing that out.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Natural Gas Extension Act of 1977".

SEC. 2. The Emergency Natural Gas Act of 1977 is amended as follows:

(a) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "February 15, 1978";

(b) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable";

(c) in section 6(a), by striking out "August 1, 1977" and inserting in lieu thereof "February 15, 1978"; and

(d) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "February 15, 1978".

Mr. GLENN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I compliment the distinguished Senator from Ohio (Mr. GLENN) for his thoughtfulness, foresight, and vision in taking the action today to extend the emergency authority which might be needed in the event of a national emergency before Congress reconvenes in January.

He is to be highly commended, and I am sure that the Senate and the people of the country are in his debt.

Also, while I am on my feet, Mr. President, I compliment the new Senator from Arkansas for the diligence, skill, and equanimity with which he presides over the Senate at this particular time. It is his first day in the Senate. He has just been sworn in a few hours earlier, and he is acquitting himself as a Presiding Officer as any veteran Senator should and would.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Mike Mishoe, of my staff, and Mr. Ken Fish, of the staff of the Committee on Armed Services, be accorded the privilege of the floor today during consideration of all legislative matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86-42, appoints the Senator from Maine (Mr. HATHAWAY) as chairman to the Canada-United States Interparliamentary Conference, to be held in New Orleans, La., February 9–13, 1978.

The Chair, on behalf of the Vice President, appoints the following Senators to be delegates to the U.S.-U.S.S.R. Parliamentary Visit, to be held in Washington, D.C., January 22–26, 1978: the Senator from California (Mr. CRANSTON), chairman; the Senator from Alabama (Mr. SPARKMAN); the Senator from Idaho (Mr. CHURCH); the Senator from Connecticut (Mr. RIBICOFF); the Senator from Minnesota (Mr. HUMPHREY); the Senator from Iowa (Mr. CLARK); the Senator from Iowa (Mr. CULVER); the Senator from North Carolina (Mr. MORGAN); the Senator from Colorado (Mr. HART); the Senator from Vermont (Mr. LEAHY); the Senator from Nebraska (Mr. ZORINSKY); the Senator from Ohio (Mr. METZENBAUM); the Senator from New York (Mr. JAVITS), cochairman; the Senator from Illinois (Mr. PERCY); the Senator from Delaware (Mr. ROTH); the Senator from Connecticut (Mr. WEICKER); the Senator from Vermont (Mr. STAFFORD); the Senator from Virginia (Mr. SCOTT); the Senator from Rhode Island (Mr. CHAFEE); the Senator from California (Mr. HAYAKAWA); and the Senator from Wyoming (Mr. WALLOP).

THE B-1

Mr. GOLDWATER. Mr. President, might I have the attention of the majority leader?

Because both the chairman of the Armed Services Committee and the ranking member of the Appropriations Committee are in the Chamber, I ask about what time we could expect to have the matter of the B-1 brought up?

Mr. STENNIS. Mr. President, if the Senator will yield to me, I just conferred with the floor leader here, and he can speak for me if he wishes.

Mr. ROBERT C. BYRD. Mr. President, no one can speak for the Senator from Mississippi. I prefer that he proceed.

Mr. STENNIS. Mr. President, I just make this point this way. Of course, we are trying to get ready to proceed on the B-1. However, there are complications. I think within 20 to 25 minutes for my part I will have all the information I need to make a recommendation about it, but I cannot do it just now.

Another point I make is if we are going into this by a unanimous-consent vote, we have to reach an agreement, as I see it, to have limited time and vote on all of the items that might be brought up about the B-1, for instance, in the motion to concur with the House of Representatives, and if that did not prevail, then I would have a motion to reject the House's position, and there could be a motion to reconsider, and so forth. If it got to the point of final passage of the report, we would have an agreement on that.

I think those agreements would almost have to all be made at the same time; otherwise, we will not know where we are.

Mr. GOLDWATER. Mr. President, I shall make a further inquiry. Many of us have traveled across the United States for this one matter, and if we had some rough idea of when the subject would be brought up—I do not think it will take long in discussing—it would be of benefit to all of us. We do not like to stay around the Chamber hoping and praying and then wind up without any action.

Mr. STENNIS. I think the Senator must be talking to someone else. I just said that I have been doing everything I can possibly do to get this matter to a place where I can make a recommendation and then others may have other recommendations. This I do not know. But I have in mind trying to reach the point where we can agree on the vote.

Mr. ROBERT C. BYRD. Mr. President, may I substantiate what the distinguished chairman has just said, not that it needs any verification or substantiation from me, but the Senator from Mississippi has just indicated to me that within 20 to 30 minutes he feels he will be in possession of such information as he hopes to have before he makes a decision as to whether or not to proceed. So Senators will not be kept waiting.

Mr. GOLDWATER. That is what I wanted to know, and I thank both the Senators.

PRIVILEGE OF THE FLOOR—H.R. 3199

Mr. MUSKIE. Mr. President. I ask unanimous consent that during consideration and voting on the conference report on H.R. 3199, the following staff members be granted privilege of the floor: John Yago, Leon Billings, Bailey Guard, Richard Harris, Sally Walker, Wes Hayden, James Range, and Hal Brayman from the Committee on Environment and Public Works; Victor Maerki of Senator ROBERT STAFFORD's office; and Mimi Feller of Senator JOHN CHAFEE's office.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR APPOINTMENT OF SPECIAL DELEGATION TO HOST SOVIET DELEGATION

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Authorization for the appointment for a special delegation to host a delegation of members of the Supreme Soviet of the U.S.S.R.

The PRESIDING OFFICER. The Senate will proceed to its immediate consideration.

Mr. CRANSTON. Mr. President, this resolution has been cleared on all sides with the leadership. It follows through on the activities of the delegation that has just been appointed by the Senate to meet with representatives of the Soviet Union who will be here in January, representatives from their Supreme Soviet, and it authorizes those activities and provides funding therefor.

Mr. President, this resolution authorizes the President of the Senate to appoint a special Senate delegation to host a delegation of parliamentarians from the Supreme Soviet of the U.S.S.R. The resolution further stipulates that the expenses of our Senate delegation will be paid from the contingency fund of the Senate and will not exceed $25,000.

Earlier this year, the congressional leadership extended an invitation to members of the Supreme Soviet to visit the United States. The invitation was accepted and I am pleased to announce that on January 22, 10 members of the Supreme Soviet will be arriving in Washington. Mr. President, the delegation consists of 10 distinguished members of the Supreme Soviet, of whom 7 are from the Soviet of the Nationalities and 3 from the Soviet of the Union. The visiting delegates will be:

1. Boris N. Ponomarev, head of delegation; Deputy, Soviet of Nationalities; Chairman, Foreign Affairs Committee, Soviet of Nationalities, Supreme Soviet of the USSR; Alternate Member of the Politburo of the Central Committee of the CPSU; Secretary of the Central Committee of the CPSU.

2. Georgi A. Arbatov, Deputy, Soviet of Nationalities; Member, Foreign Affairs Committee, Soviet of Nationalities, Supreme Soviet of the USSR; Director, Institute of American and Canadian Studies of the Academy of Sciences of the USSR.

3. Victor I. Dovbish, Deputy, Soviet of the Union; Member, Committee on Education, Science and Culture, Soviet of the Union, Supreme Soviet of the USSR; miner from Donbass.

4. Georgi A. Zhukov, Deputy, Soviet of Nationalities; Member, Foreign Affairs Committee, Soviet of Nationalities, Supreme Soviet of the USSR; Political observer of the newspaper "Pravda".

5. Leonid M. Zamyatin, Deputy, Soviet of Nationalities; Member, Foreign Affairs Committee, Soviet of Nationalities, Supreme Soviet of the USSR; General Director of TASS (Telegraph Agency of the Soviet Union).

6. Nickolai N. Inozemtsev, Deputy, Soviet of the Union; Member, Foreign Affairs Committee, Soviet of the Union, Supreme Soviet of the USSR; Director, Institute of World Economy and International Relations of the Academy of Sciences of the USSR.

7. Zoya P. Pukhova (Mrs.), Deputy, Soviet of the Union; Member of the Presidium of the Supreme Soviet of the USSR; Manager textile factory, City of Ivanovo, Russian SFSR.

8. Boris I. Stukalin, Deputy, Soviet of Nationalities, Supreme Soviet of the USSR; Chairman, State Committee of the USSR Council of Ministers on Publishing, Printing and Book Trade.

9. Alexander B. Chakovsky, Deputy, Soviet of Nationalities; Member, Foreign Affairs Committee, Soviet of Nationalities; Supreme Soviet of USSR; Editor-in-Chief of "Literaturnaya Gazeta".

10. Lev B. Shapiro, Deputy, Soviet of Nationalities; Member, Foreign Affairs Committee, Soviet of Nationalities, Supreme Soviet of the USSR; First Secretary of the Regional Committee of the Jewish Autonomous Region.

During that week of January 22, both Senate and House delegates will be afforded an opportunity to engage in frank and informal discussions with their counterparts from the Soviet Union. These discussions may cover a broad range of issues of mutual concern as well as issues that divide our two nations such as the implementation of the Helsinki agreement, arms control initiatives, and developments in the Middle East, Africa, and other parts of the Third World. I look forward to meeting and getting to know all the members of the Soviet delegation and trust that the visit will be both candid and productive.

Mr. President, I ask unanimous consent that the Senate agree to this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 334) was agreed to as follows:

Resolved, that the President of the Senate is authorized to appoint a special delegation of members of the Senate to host a delegation of members of the Supreme Soviet of the U.S.S.R. and to designate the co-chairmen of said delegation.

Sec. 2. (a) The expenses of the delegation, including staff members designated by the co-chairmen to assist said delegation, shall not exceed $25,000, and shall be paid from the contingent fund of the Senate upon vouchers approved by the co-chairmen of said delegation.

(b) The expenses of the delegation shall include such special expenses as the co-chairmen may deem appropriate, including reimbursements to any agency of the Government for (1) expenses incurred on behalf of the delegation, (2) compensation (including overtime) of employees officially detailed to the delegation, and (3) expenses incurred in connection with providing appropriate hospitality.

(c) The Secretary of the Senate is authorized to advance funds to the co-chairmen of the delegation in the same manner provided for committees of the Senate under the authority of Public Law 118, Eighty-first Congress, approved June 22, 1949.

PRIVILEGE OF THE FLOOR

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that my staff member Jan Olson, and the staff member of the Steering Committee, Margo Carlisle, have the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA SELF-GOVERNMENT ACT AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1063. This request has been cleared on all sides.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1063) entitled "An Act to amend the District of Columbia Self-Government and Governmental Reorganization Act", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 490 of the District of Columbia Self-Government and Governmental Reorganization Act, relating to revenue bonds and other obligations, is amended by adding at the end thereof the following new subsection:

"(f) The fourth sentence of section 446 shall not apply to (1) the transfer to a private college or university of funds derived from the sale of any revenue bond, note, or other obligation issued pursuant to an act under this section solely to finance, or assist in the financing of, facilities for such college or university, or (2) the payment (as to either principal or interest or both) of any such bond, note, or other obligation.".

Amend the title so as to read: "An Act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia.".

Mr. ROBERT C. BYRD. Mr. President, I move the Senate concur in the House amendments.

The motion was agreed to.

TECHNICAL CORRECTIONS TO H.R. 7738

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 443.

The Presiding Officer laid before the Senate a message on House Concurrent Resolution 443 requesting the President to return the enrolled bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, and providing for its enrollment with technical corrections.

There being no objection, the resolution was considered and agreed to.

CHARLES P. BAILEY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8212. This request has been cleared with Senator Long with the minority leader and Senator Curtis, and all the way around.

The Presiding Officer laid before the Senate H.R. 8212, an act for the relief of Charles P. Bailey, which was read twice by its title.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to a third reading, was read the third time, and passed.

ORDER INDEFINITELY POSTPONING S. RES. 293

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 556 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum while awaiting papers from the House on the clean water conference report.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary be authorized to meet during the session of the Senate today to consider S. 2300, the Civil Rights Commission Act of 1978.

This request has been cleared all the way around.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAREND REPORT OF THE MINORITY—ORDER FOR PRINTING AS A SENATE DOCUMENT

Mr. BAKER. Mr. President, I ask unanimous consent that my yearend report as minority leader be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE MINORITY

Ten years ago another Senator stood where I stand today and presented to the Senate the traditional end-of-the-year Report of the Minority.

The Minority Leader was concerned about the direction America was going in that troubled year of 1967, when our Nation numbered among its troubles the war in Vietnam, riots in American cities, a six-day war in the Middle East, an alarming increase in violent crime, serious strains in the NATO alliance, and the ominous force of inflation in a "guns and butter" economy.

Senator Dirksen, seeing all of these difficulties and finding little hope of improvement, asked the Senate, as only he could, "Quo vadis? Whither America?"

In the decade that has passed since then, America's path has been strewn with shattered illusions and darkened by near-constant adversity.

The war in Vietnam raged on for eight more destructive years. Two of this Nation's most dynamic leaders were struck down by assassins' bullets, and a third was wounded so gravely he may never walk again.

An ambitious war on poverty was waged and lost by a massive army of bureaucrats, and the casualties of that losing battle included not only the disillusioned and desperate poor but the overburdened middle class, as well.

America learned that there are limits even to the great store of natural resources with which this Nation has been so richly blessed.

Our national economy suffered the worst recession in forty years and the worst inflation in fifty—at the same time. The most traumatic political scandal in our history forced a President of the United States to resign his office—a scandal that shook the foundation of trust on which our system of government is based.

But all through this journey of sorrow, America survived—sustained by the character of our people, the strength of our institutions, and the grace of God.

The leadership of the Nation has changed dramatically in this tumultuous decade. In the past ten years we have been governed by four President, five Vice Presidents and 968 different Members of Congress.

The issues have changed with the years, as well. War has been replaced by its "moral equivalent" as the number one topic of national debate. We have spent most of this year talking about energy, perhaps because the word was hardly mentioned at all a decade ago.

Thanks in no small measure to the strong and steady leadership of Gerald Ford over two and a half crucial years, the heavy atmosphere of unrelenting crisis in our land has been dispelled. The country got back to normal. The Senate has gotten down to an agenda of important work we have neglected too long.

It is this sweeping transition—this changing of the guard, this redirection of interests, this latter-day "return to normalcy"—which, more than anything else, tells the story and defines the importance of the year 1977.

We have, of course, a new President and a new Administration. But the transition can also be vividly seen in the Senate itself.

We have a new presiding officer, our distinguished former colleague from Minnesota, Vice President Mondale.

We have a new Majority Leader, the remarkable Robert Byrd, with whom I have enjoyed a flawless relationship this year, and whose performance has been a model of accommodation, parliamentary skill, courage, and devotion to the Senate above all.

We have a new Majority Whip, the wise and diligent gentleman from California, Alan Cranston. We have even created a new leadership position for the most beloved and admired man in this chamber, Hubert Humphrey.

On this side of the aisle, I am giving the Minority Leader's report for the first time. Ted Stevens has done a truly outstanding job in his first year as Assistant Minority Leader, and I take this opportunity to thank him for the valuable and talented service he has performed this year.

Both Senator Stevens and I are indebted to Carl Curtis for so deftly managing the Republican Conference; to Clifford Hansen, the able Secretary of the Conference; and to John Tower and the Policy Committee for developing some very imaginative and comprehensive policy initiatives this year.

I wish to add a special word of commendation for the freshman class of Republican Senators, who constitute the most promising group of political leaders I have seen in a long time, and who have added immeasurably to both the effectiveness of the Minority and the work of the Senate.

So much has changed, it is as difficult to believe as it is dismaying to report that Republicans in this first session of the 95th Congress have been badly outnumbered. The score this year reads: Democrats 61, Republicans 38, Harry Byrd 1.

But I am proud to report that, despite our numerical disadvantage, the Republican Minority has compiled a record of formidable legislative accomplishment in 1977.

We have exerted a positive force on such major issues as energy development and economic stimulus, and we have performed with equal zeal the important role of ensuring the defeat of legislation that was unwise, unnecessary, uneconomical, or otherwise unacceptable.

The secret to our success has been in the remarkable degree of unity and cohesion that Republican Senators have found this year. As representatives of a political party which has produced its own version of Star Wars in the recent past, we in the Senate have found that there is far more that unites us as Republicans than divides us, and in this unity we have found great strength.

We have used this strength, we hope, constructively. We and our colleagues on the other side of the aisle share many common goals, and while we have our differences on how to reach those goals, we do our best to disagree agreeably.

The Senate has been pulled in a hundred directions this year, with Administration pronouncements and proposals on energy, human rights, economic stimulus, strategic arms limitation, election reform, government reorganization, and more.

But the quantity of issues addressed does not define the quality of the programs. There has been no discernible pattern to these Administration proposals, and one is reminded of Winston Churchill's fabled complaint: "This pudding has no theme."

In both domestic and foreign policy, the Carter Administration seems to have scattered its seeds to the wind, and finds itself after one year's labor with a meager harvest, indeed.

On the issue of energy, despite expert testimony indicating a sizable reserve of domestic oil and gas—a reserve whose recovery will be increasingly difficult and expensive—the new Administration has dismissed the possibility of substantially increasing domestic energy production and has concentrated to an inordinate degree on conservation of resources already at hand.

This energy policy proved ill-conceived and inadequate to the Nation's needs. Energy lobbyists may make a convenient scapegoat but the real reason the Carter energy program ran into trouble is simple enough: it was a bad program eminently worthy of defeat.

Item: To achieve his conservation goals, Mr. Carter proposed some eighty billion dollars in new energy taxes this year, the largest tax increase proposal in the history of the United States.

Item: The ultimate fate of these tax revenues was always something of a mystery. One day the Administration would say the money was to be returned to the people who paid it in the first place—minus a charge for shipping and handling by the Washington bureaucracy.

Another day, the funds were earmarked for a complicated income redistribution plan, with rebates for some but not for others. Still another day, there would be vague hints that this revenue windfall would be used to redeem the President's pledge to balance the federal budget, or to finance new government programs still on the drawing boards.

Item: The only certainty was that little, if any, of this money was to go to increased energy production. Thus the Administration would have given the American people the worst of both worlds—the high price but not the product.

There is little wonder that such proposals met with well-disguised enthusiasm in the Senate. Still, it should be noted that Republicans proved far more responsive to President Carter's call for a national energy policy than our Democratic colleagues were to similar calls from President Ford.

While Democrats in the 94th Congress simply "pigeon-holed" the numerous energy proposals of President Ford in 1975 and 1976, Republicans in the 95th Congress met President Carter more than halfway with a comprehensive energy initiative of our own.

Recognizing the inherent weakness of the Administration approach, but determined to be more than a chorus of nay-sayers, Republican Senators formulated an energy program placing much greater emphasis on production and on the reform of outdated, self-defeating government energy policies.

We proposed a major reform of the archaic system of government pricing regulations for petroleum and natural gas. These regulations have kept energy prices at artificially low levels in a time of sharply increasing energy costs, defeating all efforts at conservation and seriously discouraging new energy production.

We proposed that these government-regulated prices be decontrolled over a period of years, rising only gradually to protect the American family from sudden shocks to its household budget, but giving a clear signal to energy producers that we recognize a higher price must be paid for the higher cost of energy production.

As a safeguard, we also proposed a "windfall profits" tax to insure that a policy to meet a public need did not become a boon to private greed.

Thirty-five of the 38 Republican Senators supported these proposals when the Senate considered legislation on natural gas this year, and with the support of 17 of our colleagues from the other side of the aisle, this sound policy prevailed in the Senate.

It prevailed despite the fact that the Administration opposed the deregulation of natural gas prices, ignoring a campaign promise of Mr. Carter and forcing the Senate into a long and bitter filibuster.

Republicans did support the President's proposal to establish a Cabinet-level Department of Energy this year. But we know that the Nation dare not rely on government efforts alone to solve America's energy crisis.

Unfortunately, we have taken a step toward greater government involvement this year—despite the opposition of 32 Republican Senators—with legislation permitting the Secretary of the Interior to contract for exploratory oil and gas drilling—at taxpayer expense—on the Outer Continental Shelf.

We believe the government has no place in this phase of the energy business, taking risks with the taxpayers' money when private companies are willing, even eager, to pay for the opportunity to take those risks themselves.

But if government control is not the answer, neither is a casual reliance on the private energy industry itself.

Surely the industry has proven itself a remarkably efficient producer, with a handful of corporations controlling—individually and collectively—every phase of energy production from exploration to marketing.

But the price of this monumental efficiency has been a dense concentration of enormous economic power. Perhaps it was unavoidable, given the nature of the energy business with its immense requirements of investment capital, that such an economic concentration would develop.

Under the circumstances, with competition more a theory than a fact with government regulations abounding, with an international oil cartel fixing the price of half the oil we use every day, it can hardly be said that free enterprise exists in the energy industry today.

And yet I believe it is in the restoration of free market conditions, in loosening the grip of the international cartel, in reforming the regulatory powers of government, in increasing competition among domestic energy producers, that the ultimate solution to America's energy problems will be found.

This means allowing the price of energy to rise sufficiently to cover its increasing cost, permit a margin of profit sufficient to stimulate greater conservation, and let the higher price serve as a natural inducement to conservation.

It means moving away from regulated prices, whether they be regulated by government, by a foreign oil cartel, or by a domestic one. It means staying away from arbitrary and artificial taxes on energy use which will only make matters worse.

It means looking to the future, making investments now in research and development that will yield the primary sources of energy in the next century.

It also means maximizing our use of alternative sources of energy already available today—including coal and nuclear power.

There is more coal in the United States than in any other Nation or earth—at least one hundred years' worth. There is technology in existence today which can make coal a versatile, environmentally sound energy resource. There are economic and social advantages in the increased production and use of coal, including a major stimulus to the long-depressed Appalachian region. There is no reason to deny ourselves the benefits of this plentiful fuel source.

Nor is there any reason to deny ourselves the use of nuclear energy, that most basic dynamic of nature which is almost infinite in it potential as an energy resources.

Notwithstanding the Carter Administration's stated plans to facilitate nuclear power development by streamlining licensing procedures, we find this process further behind schedule now than a year ago.

Questions have been raised about the safety of nuclear energy, despite the fact that not one death or serious injury has been related to a nuclear accident at any of the more than 65 nuclear reactors in operation in this country.

The Carter Administration has sought this year to put severe limits on nuclear energy use, despite its enormous promise and despite the rapid depletion of more traditional energy resources.

The President says he is concerned that terrorists might gain access to nuclear fuel and put the safety of the world at risk. Such speculation ignores the impressive record of security associated with nuclear production, and it has failed to dissuade other governments from developing breeder reactors of their own.

If improvements can be made in nuclear safety and security, by all means let us make them. But let us not abandon nuclear energy and all its constructive potential to unjustified fears and irrational demands and other, less careful nations.

At least we can say that the Senate has at last taken the energy issue seriously in 1977, and this alone is a most encouraging sign that it is a problem we can solve before our time runs out.

Another major accomplishment of the Senate this year—and another unfortunate misstep for the Carter Administration—was in the area of economic stimulus.

One of President Carter's first acts in office was to increase the deficit of this year's federal budget by 19 billion dollars, and we have seen the inflation rate rise from 4.5 percent in January to 6.6 percent today.

The President then proposed—and withdrew at the eleventh hour—a $50 rebate plan which failed to address the fundamental cause of our economic problems. In the words of my distinguished coleague Russel Long, it was more like "throwing money out of an airplane window."

Again, Senate Republicans did more than criticize the weakness of the Administration's proposal, devising a comprehensive economic stimulus package of our own.

We recognized, first of all, that the chronic high rate of unemployment in America would not yield simply to a larger infusion of borrowed government money into the national economy.

Republicans knew that a shortage of private investment capital was stifling economic growth and the generation of new jobs, and that the President's decision to increase the federal deficit—to borrow 19 billion more dollars in the private money market—would only make the investment crisis worse.

But the problem was even more complicated than that. Only about 1.5 to 2 percent of the work force was still out of work this year because of cyclical unemployment, the lingering result of the 1975 recession.

As much as 3 percent of the work force was idle in 1977 because of structural unemployment—the lack of job-related skills or the mismatch of skills and labor market demands—or because of induced unemployment, the attractiveness of generous, long-term unemployment compensation benefits.

The other two percent of the roughly 7 percent unemployment rate represents frictional unemployment—a generally brief loss of jobs reflecting the dynamics of a free economy and the changing demands and desires of both employers and employees.

So the objective of the Republican economic stimulus package was to target government activity and resources where the need was greatest, and to initiate a program which could inspire and sustain the confidence of private industry.

Rather than a one-shot $50 rebate, we proposed permanent personal tax reductions of $17.3 billion in fiscal 1977 and 1978, a tax saving of $180 to $210 a year from a middle-income family of four.

We proposed a $3.1 billion youth employment and training program. We proposed a youth differential to the minimum wage, to allow employers to pay a somewhat smaller wage to teen-age workers as an inducement to hire the unskilled, inexperienced young people—particularly those in the inner cities—who only want a chance to work and who have been denied that chance too long.

We proposed a $2.3 billion employment tax credit to encourage private industry to hire people who had been unemployed for more than 26 weeks.

We proposed a two-year, $2.8 billion long-term investment tax incentive for small businesses and small investors.

We proposed a $200 million housing rehabilitation program through the Government National Mortgage Administration.

We proposed a 30 percent investment tax credit on the first $750 of home insulation, to encourage both energy conservation and new jobs in the energy industry.

This package would have created between 1.8 million and 2.3 million new jobs by the end of 1978, reducing the national unemployment rate to 5.5 percent, at a net cost to the government of $21.1 billion. The long-term investment incentives would insure sustained growth through 1979 and beyond.

It is difficult for the minority party to push through a comprehensive legislative package. We do not control the committees. We do not control the legislative calendar. But the roll call votes on those provisions we did get before the Senate demonstrate a fundamental Republican commitment to more and better jobs for the American people.

Thirty-four of 38 Republican Senators voted for the investment tax incentive on April 21. It passed.

Twenty-six Republican Senators voted for an 85 percent youth differential on the minimum wage on October 7. It failed.

Thirty-three Republican Senators voted for the tax credit to hire those unemployed longer than 26 weeks. It lost.

Thirty-five Republican Senators voted in favor of the permanent tax cut on April 27. It was defeated.

The last two measures were defeated by 53 and 56 Democrats, respectively. It seems to me the unemployed worker and the overburdened wage earner in this country should take a good look at these votes and think again about who their friends in the Congress really are.

And when they see the sinister symmetry of 7 percent unemployment and 7 percent inflation, they can also see that the new Administration's economic policies have not yet matched its promises.

Consumers, too, have found the Administration more successful in making promises than in making progress.

Deserting the precedent of the Ford Administration, which required every Federal department and agency to weigh its every decision for its effect on the consumer, the Carter Administration has sought to centralize its consumer activities in a single Consumer Protection Agency, variously known as the Agency for Consumer Advocacy and in its latest incarnation, the Office of Consumer Representation.

The Congress has not acted on establishing a consumer agency this year because more and more members of Congress, on both sides of the Hill and both sides of the aisle, have grown skeptical of the idea that another Federal bureaucracy can solve the problems created by existing bureaucracies.

But there does remain an urgent need to make government, as well as business, more responsive to consumer interests.

We must push ahead with regulatory reform, cutting back the overgrown jungle of federal rules and regulations that have driven up consumer costs in air travel, ground transportation and business in general. We have made progress this year with legislation easing restrictions on the airline industry, but there is much yet to be done.

The American people will not look kindly on a federal bureaucracy that seeks the power to rule their lives, making their decisions on everything from the food they eat to the equipment they put in their cars.

Government assistance and government interference are two distinctly different concepts, and it is the wise public servant who will discern the difference, as the consumer does.

A Senate vote this year on legislation to reform the Occupational Safety and Health Administration demonstrates that Republican Senators perceive that difference far better than some of our Democratic colleagues.

An amendment offered by the distinguished Senator from Kansas, Mr. Dole, would have required OSHA officials to consult with employers about possible job hazards before taking the extreme step of levying fines against them.

Thirty of 38 Republican Senators voted in favor of this amendment; and, with the support of about half of the 61 Democratic Senators, the amendment was agreed to. Unfortunately, this victory for the small businessman was short-lived, as the amendment was later killed in a Democratic-dominated conference committee.

Closely tied to consumer interests are the interests of America's farmers, the miracle workers of the 20th Century. One of the major pieces of legislation passed by the 95th Congress was a new farm bill, the Food and Agriculture Act of 1977.

Although none of us found that legislation perfectly acceptable, and surely no farmer does, it demonstrates our continuing concern for keeping the farmer in business, as an absolutely indispensable foundation for our Nation's economic and social welfare.

Business has not been good for the farmer this year. All farmers, but especially wheat and grain producers, have been caught in a severe inflation at the same time that their crop prices have fallen.

The cost of food has increased, but the profits have not gone to those who work from sunup to sundown in the fields, orchards, and ranches of America.

It would have been helpful, frankly, if the Carter Administration had shown a greater spirit of cooperation and concern as the Congress labored on this year's farm bill. Instead, we worked on that legislation under constant threats of a presidential veto.

Fortunately for the farmer, the final bill was not vetoed.

But even with the new farm bill, the future is not all roses for American farmers. That is not news to the farmers, whose tractors have thundered through many American cities this year in a demonstration of frustration and anger.

Many of these farmers are being forced to refinance their loans or to give up hope of repayment. Some of them are stopping production altogether. Adding to their problems, at least for some, is the continuing uncertainty about the new Administration's water policies in the Western states.

All of these problems can be dealt with, as long as there is trust and mutual respect between the Federal government and the farmers of America. But it is up to the Administration to earn that trust and to merit that respect.

One sure-fire way not to do so is to appoint an Assistant Secretary of Agriculture who would indicate to a group of farm editors that Rhode Island Red chickens are a source of red meat, as one of Mr. Carter's appointees did this year. The farmers of America have good reason, then, to wonder what is being hatched within this Administration.

One thing that was hatched this year, as unrelated to agriculture as possible, was a series of so-called "election reforms," the ultimate result of which would have been to reform the American political system from a two-party system to a one-party system.

With a Democratic Administration proposing these "reforms" and a Democratic majority in the Congress considering them, there is little question which of the two parties stood to gain, and which stood to lose.

The real losers, of course, would have been the American people, for it is the preservation of the two-party system, in the free competition of ideas and candidates, that the vitality and strength of our government must lie.

Fortunately, Republican unity was able to forestall these "reforms" for at least another year.

The President proposed the public financing of all federal elections, including not only Presidential campaigns, but all 535 races for the House and Senate.

Public financing is a noble-sounding idea, fostering the belief that special interests will be rooted out of politics if their campaign donations are no longer required.

But public financing means taxpayer financing. It is the taxpayer who would pay for every Congressional campaign in America, both for the candidate he supports and the candidate he opposes in his own state or district, and also for every other candidate in every other federal election throughout the nation. The total bill for all these races in 1976 came to $114 million.

Although this considerable expense would be placed on the shoulders of the taxpayers, not all special interests would be excluded by these public financing proposals. Specifically, organized labor would be free to supply manpower and other services to the candidates of its choice, although professional associations and even small businesses would be denied that right.

This, of course, gives a tremendous advantage to those candidates supported by organized labor, and it is no coincidence that those candidates are the very Democrats pressing hardest for this particular "reform."

Thirty-five of 38 Republican Senators voted against considering public financing this year, enough to demonstrate that Republicans generally do not favor making the taxpayer foot every campaign bill in every federal election in America.

It should also be enough to convince President Carter that he should preserve the true spirit of bipartisanship which is essential to the success of the Federal Elections Commission and which the last Administration studiously observed.

The President also proposed this year, in the name of reform, politicizing the Civil Service by amending the Hatch Act to permit political donations and campaign activity among government workers.

It took many years to rid the federal bureaucracy of political influence, to ensure that a qualified civil servant in a non-policy making job would not lose that job to the "spoils system" just because he supported the "wrong" candidate in an election.

Putting politics back into the Civil Service makes about as much sense as putting a fox back into a chicken coop after you've spent a good many years chasing him out.

Republicans led the fight against this proposal, and fortunately the Hatch Act is still intact.

The third "reform" proposed by the President called for voter registration by postcard, or, if that was not enough, registration at the polls on election day. The possibilities for election fraud seem almost endless with the post-card registration alone, but whatever possibilities it misses would surely be covered by election-day registration.

Once again, Republicans took the lead in declining this ill-conceived invitation to fraud.

But we also took the lead in proposing some major election reforms of our own, including provisions for much more comprehensive public disclosure of campaign donations and their sources.

In all of these issues—energy, the economy, consumerism, regulatory reform, agriculture, election reform, and more—the Carter Administration has displayed a curious pattern of policy-making, one that often results in proposals which create more problems than they solve.

This style of policy-making is disruptive enough on domestic issues, but is doubly so when applied to foreign policy.

On January 20, the day President Carter took office, the world was at peace. Our relations with the Soviet Union had never been better. We were very close to a new strategic arms limitation agreement.

In the Middle East, our step-by-step diplomacy had won the respect and confidence of both the Arabs and Israelis, and we were well on the way toward permanent settlement of that ancient dispute.

In southern Africa, an American initiative had brought the warring factions much closer to a negotiated settlement that would ensure majority rule, guarantee minority rights, and—above all—avoid bloodshed.

In western Europe, our oldest alliances had never been stronger. In the far east, trade negotiations with Japan were progressing very well, and political negotiations with China were going forward, despite our refusal to betray our old allies on Taiwan.

Our military strength had never been greater, and plans for a new generation of defensive weapons were being laid by the best defense expert to sit in the Oval Office since General Eisenhower.

Where are we now, after almost a year of Carter diplomacy?

Relations with the Soviet Union have been worse this year than at any time in the last decade. The deadline for a new strategic arms limitation agreement came and went on October first, with no agreement in sight.

In the Middle East, we endured a long and dangerous season of strained relations and diplomatic misadventure—threatening our old friend in Israel with "total isolation," in the words of Foreign Minister Moshe Dayan, and bringing the Soviet Union back into the thick of that sensitive situation despite its long history of provocative influence in the region.

In southern Africa, the reckless rhetoric of the new U.S. ambassador to the United Nations stirred the coals of old passions and inflamed an already volatile situation.

In western Europe, we read that our new defense policy is to concede most of West Germany right away in the event of invasion and try to hold France.

In the far east, as the Administration withdraws ground forces from South Korea, Japan watches and wonders if the United States is pulling in its oars in the Pacific.

The leaders of China say their relations with the United States have taken a giant step backward since the Carter Administration came to power.

Our military strength is being called into question following a Presidential decision to scrap the B–1 bomber and stick with a B–52 that is older than most of its pilots and a cruise missile whose effectiveness is being undermined by our own SALT negotiators.

President Sadat of Egypt goes boldly to the Knesset in Israel seeking peace, risking his political career and even his life. It is an act of courage that inspires the world. Today, one day after the convening of the Cairo conference, I wish to congratulate the two brave leaders of Egypt and Israel, and wish them well in the difficult negotiations they have begun. I also applaud the Carter Administration for its role in support of this courageous effort.

But even as we welcome the initiatives which statesmen of the world have displayed in recent weeks, we see that events in the world are slipping from our control and even beyond our influence, and we cannot help but wonder what would have happened if this kind of extraordinary courage had not emerged.

1978 will be a difficult year for the President, for the Congress, and perhaps the country.

Among the hard issues we must face are inflation, jobs, welfare reform, the Middle East, Africa, the Panama Canal and SALT treaties, national health insurance, international trade policy, and many more.

These issues demand the best that is in us. Many of them are issues of historic importance, by which this new generation of leadership may well be judged.

We have a year's worth of experience, a year's worth of working with one another, of learning to live with each other's strengths and weaknesses. But if 1977 has been a year of transition, 1978 may well be a year of trial.

We can only hope and pray we will prove equal to the challenge. This is not an idle hope, for in this chamber and throughout the land there are thoughtful people who care deeply about their country and who believe, as I do, that America is at its best when the challenge is greatest.

It is true the new Administration has made its mistakes this year, and it is the responsibility of the opposition to call the Administration to account for its failures.

But we all live in the same country. We all love it. We all want what is best for it, though we may disagree on what that is.

Ten months ago, I told our new President that I would support him when he was right and oppose him when he was wrong, and hope he was right more often. I promised him I would lead a responsible opposition in the Senate, one that would create as well as criticize.

I have tried to keep that pledge in 1977, and I will do my best to keep it in 1978.

Mr. BAKER. I ask unanimous consent that the report, as is the usual custom, may be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN WATER ACT OF 1977—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on H.R. 3199 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of December 6, 1977.)

Mr. MUSKIE. Mr. President, it is not my impression that final disposition of the Clean Water Act will take much time. I find no disposition to ask for a rollcall vote, so I gather that there is widespread understanding of what the conference has produced by way of the resolution of differences between the House and Senate versions. I think that formal consideration of the conference report should take a minimum amount of time, I say to my colleagues who may be interested in other matters we shall consider, especially my good friend from Wisconsin (Mr. Nelson).

Mr. President, this legislation represents the culmination of 2 years' of effort to extend the Clean Water Act. It represents the midcourse correction that was promised during consideration of the landmark 1972 amendments to the Federal Water Pollution Control Act.

The thrust of this legislation is twofold—first, to improve the tools available to the Administrator of EPA to deal with increasingly complex water pollution problems and, second, to make much more flexible those requirements of the act which would otherwise demand a greater investment in regulatory resources and economic investment than benefits derived from the effluent reductions would achieve.

This bill was not easy to put together. In some respects it was more difficult than the 1972 act because the political environment is very different today than in 1972. But, as in 1972, a good faith effort on the part of both bodies, combined with an intense desire to get this legislation behind us so that the water pollution program could get back on track produced the result.

Mr. President, my complete statement describing the results of the conference report consumes 100 pages. I shall be happy to get into any aspect of this bill that any Member of the Senate would like before we act finally on it. This bill has had careful consideration. I know that, over the months since the Senate first gave consideration to this legislation, because of constituent interests, to one or another aspects of the clean water policy of this country and what this bill would do to that policy. So I am confident that there is widespread understanding of what we have done.

Mr. President, at this point, I wish to express my appreciation to several of my colleagues, Members of the other House, and staffs who have made possible our consideration of this bill today. As some of you know, I was not available, for reasons of health, to participate in the conference as fully as I would have liked. I was unable to be in attendance, but I undertook to follow developments in the conference.

Because I was not present, special gratitude is owed by the Senate to Senators Burdick and Stafford, who committed so many hours in the final days of conference to achieve this result. They were joined by Senators Randolph, Culver, Anderson, Chafee, and McClure, and by Senators Hart, Gravel, Wallop, Dominici, and Baker. And even then there might not have been any bill if the chairman of the full committee, Senator Randolph, had not, in the end, come to the conference and appealed to the House conferees to accept a compromise proposed by the Senate as a means of breaking the final deadlock.

As is so often the case, Senator Randolph's personal powers of persuasion were essential to final agreement.

Mr. President, it is appropriate to recognize the important contribution of Representative Ray Roberts of Texas and his fellow House conferees. Representative Roberts pressed hard for this agreement. His good humor and willingness to compromise made final action possible. The distinguished chairman of the House committee, Mr. Johnson of California, can take great satisfaction in the role Representative Roberts played.

I would also like to recognize the hard work of each of the other House conferees who were untiring in their attendance and participation: Congressmen Anderson, Roe, McCormack, Breaux, Ginn, Oberstar, Nowak; Congressmen Harsha, Cleveland, Clausen, and Snyder, and Congressman Foley. Each of these men made a contribution to this bill and can be proud of their effort to keep the Nation's clean water program on track.

Finally, I would be remiss if I did not recognize the long hours of work of the staff of the two committees. The joint staffs put together recommendations for the conferees which birdged areas of significant disagreement. They worked nights and weekends to develop workable proposals for the conferees' consideration. Each of the staff deserves special recognition from the Senate and the House for their efforts. I would like to specifically mention for the record the following staff: John Yago, Leon G. Billings, Phil Cummings, Sally Walker, John Freshman, Jackee Schafer, Mimi Feller, and Jim Range from the Senate, and from the House, Richard Sullivan, Lester Edelman, Gordon Wood, Bill Corcoran, Joan Kovalic, Jack Schenendorf, Erroll Tyler, and Mike Toohey.

I would like to single out for recognition the House legislative counsel. Mr. Robert Mowson has been working as counsel to the House Committee on Public Works and Transportation for as long as I can remember. He has been counsel to conferences on water pollution since we first began meeting with the House committee in 1963. He has always served as counsel to the conference as a whole and not just to the House. Again this year, in a time of great stress and pressure, Bob Mowson has served us well. But more important, Bob Mowson has continued to write legislation in a straightforward and understandable manner, a fact which all Members of Congress should appreciate. I want to personally thank Bob and his young associate, Arnie Havens, for their help again this year.

Mr. President, in 1972, Congress established as an objective the restoration of the chemical, physical, and biological integrity of the Nation's waters. That is still the objective.

Congress established a national goal of the elimination of the discharge of pollutants. Congress established an interim water quality goal which was to be achieved where possible by 1983. These are still the national goals.

In 1972, the Congress declared it to be national policy to eliminate toxic pollutants in toxic amounts. This bill, unlike the 1972 act, intends to make that objective a reality. And, Mr. President, in 1972, Congress declared that recycling and reuse would be the primary objective of the waste treatment construction grant program. This bill says that the Congress really meant what it said in 1972.

In every respect, the conference agreement underscores the basic thrust of the Senate bill—the application of technology to reduce the flow of waste to streams. However, the cost of high technology, capital-intensive waste water treatment systems is so great that utilization of less costly alternative waste treatment systems must be given high priority for Federal funding.

This is a comprehensive bill, Mr. President. It has nearly 80 provisions. As I said at the outset, it provides the Administrator new tools and, at the same time, provides additional flexibility so that he may maximize his resources for high priority objectives.

Here is a bill which will more sharply focus EPA's limited resources on priority water pollution problems.

Here is a bill which extends our pollution control capability to the limits of the resource jurisdiction of the United States—so that oil and hazardous material spills which threaten our fishery resources can be cleaned up, and the spiller can be forced to pay the cost of clean-up and any damages to natural resources.

Here is a bill which authorizes the Administrator of EPA to require industry to adopt practices which will avoid the Kepone-kind of runoff that has made the James River an ecological disaster.

Here is a bill which extends for 5 years the Federal construction grant program for water pollution and keeps intact the requirement that industries which use these systems pay their fair share of the costs of mantaining those systems.

Perhaps most significantly, Mr. President, here is a bill which includes pervasive requirements to find and apply methods to recycle, reclaim and reuse wastes and waste water. While this was intended in 1972, the 1977 amendments say emphatically that the Congress really means to eliminate the discharge of pollutants as rapidly as possible.

This is not to say that the bill does not ease prior requirements. It does. Deadlines for the next phase of controls have been extended 1 year.

But the ability of the Administrator to get toxics out of water has been measurably improved. And the ability to challenge the level of control required for so-called conventional pollutants has been greatly reduced. At the same time, the water quality impacts of these pollutants will be diminished, both as a result of advanced controls and as a result of improved water quality standards.

The conference did provide a safety valve for other pollutants. Should the Administrator decide to regulate pollutants which are not toxic or conventional, a polluter has a chance under these amendments to prove no adverse environmental effects relating to a particular pollutant, and after making such a showing, escape regulation.

Let me first discuss the concessions which have been made to the practical limitations of the Environmental Protection Agency. This bill directs the Administrator to emphasize the removal of potentially toxic pollutants from waste streams. It directs the Administrator to reduce the discharge of other pollutants about which a great deal is known as rapidly as possible within the constraint of a reasonable relationship between cost and effluent reduction benefits.

The bill does not require that the effluent reduction achieved be equated to the specific water quality benefit because that test is no more realistic in 1977 than it was in 1972. But it does recognize that in establishing limitations for conventional pollutants for categories and classes of industries, the best available technology may not be the most appropriate technology in terms of the relationship of the cost of achieving a particular level of reduction and the amount of reduction actually achieved.

Under the amendments to section 304 effluent guidelines for conventional pollutants are subject to a new cost effectiveness test. Effluent guidelines for toxic and nonconventional pollutants, however, are not subject to any test of cost in relation to effluent reduction benefits or any form of cost/benefit analysis.

This is a fine line. It is one that the conferees believe the Administrator can walk. We are satisfied that he has the capacity to relate cost of effluent reduction to the effluent reduction benefits, and we have provided him with some guidance. The bill provides as a basis comparison of the costs for industry to the costs for municipalities. Clearly, if the cost of achieving a certain level of reduction of conventional pollutants for industry is less than the cost of achieving a similar level of reduction for a community, it would be reasonable. Thus, in the language of the amendments, best conventional control would, and often will, be identical to best available control. The result of the cost test could be a 1984 requirement which is no more than that which would result for best practicable technology but also could result in effluent reductions equal to that required in application of best available technology.

The contrary is not necessarily so. One could well pose a case the cost of achieving a reduction of a conventional pollutant from an industrial category might greatly exceed the cost for the municipal category. In that case, the Administrator might determine such reduction to be unreasonable at this time and thus modify the requirement in accordance with regulatory authority.

It is important to note that the Senate provision which used a complex modification mechanism for making this kind of determination for conventional pollutants has been deleted. The establishment of regulations applicable to conventional pollutants continues to be the effluent guideline approach of the 1972 act.

Thomas C. Jorling, Assistant Administrator of the Environmental Protection Agency for Water and Hazardous Materials, testified before the Committee on Environment and Public Works this past June. He said:

> There will be some industries for which best practicable technology controls for conventional pollutants have achieved all that can reasonably be expected for the immediate future. However, there will be a number of cases where this will not be so. For example, there currently are some industries where the estimated costs of best available technology (BAT) increment of control for BOD is far below even the cost of secondary treatment for municipal systems in terms of cost per pound of pollutant removed. Clearly this is not a hard and fast test of what BAT should be for industry, but it tends to substantiate the point that in some industries additional controls for conventional pollutants can be obtained under BAT for very reasonable costs. Accordingly, the Agency is in the process of reviewing its existing BAT standards for conventional pollutants to insure their overall reasonableness. Where the BAT standards result in additional costs that appear to be unrealistic in light of the associated incremental reductions in pollutant loadings, the standards will be appropriately modified. We believe the Act clearly allows for such a test of 'reasonableness,' especially in the absence of any toxic pollutant problems. As our analysis continues, should we find that the existing legislation does not provide suitable flexibility we will offer appropriate legislative amendments.

Another area of flexibility relates to deep ocean discharges of municipal waste. It has been alleged that a municipality can discharge its waste into ocean waters after something less than secondary treatment without causing any ecological perturbation. Witnesses from Honolulu, Seattle, and Los Angeles have alleged that they have accumulated sufficient evidence to prove no adverse effect on water quality and aquatic ecosystems from such discharges.

The conference provision is identical to the Senate bill in this respect. It does not change the Senate bill in any way. The Administrator should look to the legislative history in the Senate for guidance on this provision.

As was the case in the Senate bill, this provision is intended to provide a very narrow opportunity for certain municipal dischargers, if they can meet a specific burden of proof, to qualify for a modification of the secondary treatment requirement.

Mr. President, a second area of flexibility in this bill deals with the concept introduced by the House which makes a distinction between those pollutants about which we know a great deal—the so-called conventional pollutants—and those about which we are increasingly concerned, the so-called toxic pollutants. The conference bill recognizes a third area of pollutants—the grey area or nonconventional pollutants. It is these contaminants to which EPA can direct only limited, if any, resources in the near future. It is these contaminants about which there is the most to be learned, and it is these contaminants for which industry contends regulation may be inappropriate.

Under existing law, nonconventional pollutants would be subject to the regulatory scheme defined by best available technology—that is, effluent guidelines applicable to classes and categories of industrial dischargers. I did not think that a procedure for modification of the best available technology applicable to these nonconventional pollutants was appropriate or necessary at this time. But the House Conferees insisted that such a procedure be written in the law in order to provide a safety valve for the future, and the Senate concurred in order to obtain action on this legislation.

I suspect that, as a practical matter, most of these pollutants will not be subject to best available technology but, rather, will be regulated as surrogates to conventional and toxic parameters. To the extent that nonconventional pollutants are not specifically regulated by best available technology, the procedure for modification from best available technology is not available. To the extent that they are specifically regulated by best available technology, the modification procedure cannot act to affect any other requirement regarding a conventional or toxic pollutant.

Mr. President, this provision will work to improve both the knowledge of the effects of pollutants and their capacity for regulation. The Administrator may, instead of adding to the toxics list a pollutant about which he has doubt, determine instead that the pollutant should be regulated by best available technology. This determination would then trigger the process by which an industrial class or category would make the kind of investment necessary to prove that the discharge of a particular pollutant will not interfere with the balanced population of fish, shellfish, and wildlife as defined and to show that the pollutant poses no risk to aquatic life, public health, et cetera. However, any doubts as to a pollutant's toxicity should be resolved on the side of protection and margin of safety and therefore listed as a toxic. The changes made to section 307 are to facilitate this discretionary authority.

The procedures for modification place specific burdens on the person seeking the modification, and it is expected that a considerable level of investment and a considerable period of time will be required to make these showings. The result of these studies will add greatly to the level of knowledge of the impacts of pollutants in the environment. Herein lies an important point.

It is not acceptable to allege absence of harm solely on the basis of the loss of the pollutant in the environment. The absence of harm test as specified in this bill, including the secondary treatment modification provision, will require the applicant for modification to show the pathway of the pollutant through the environment and its ultimate disposition in the environment. Only in that way can there be any real demonstration that the discharge of that pollutant will not interfere with a balanced population of aquatic life.

For example, it is possible that a pollutant may be discharged in a freshwater environment and not taken up by any organisms in that environment. However, that pollutant may eventually end up in the ocean environment where more sensitive organisms will be affected.

I only make this point to indicate the extent of the burden which this provision places on the applicant. Any simple allegation that the absence of knowledge is evidence of absence of harm is simply unacceptable. I ask unanimous consent that an article from the December issue of Science which underscores this point be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHEMICAL PLANTS LEAVE UNEXPECTED LEGACY FOR TWO VIRGINIA RIVERS

(By Luther J. Carter)

The tourist passing through Virginia enjoys what for the most part is still a fine scene—the soft outlines of distant mountains, the sweep of lush valleys, and splendid pastoral vistas and riverscapes are all there to please the eye. Indeed, the official slogan "Virginia is for lovers" is credible enough, for, besides the state's natural blessings, relatively little of it has been touched by the kind of industrial development that grossly pollutes or defaces. This being so, it is surprising and disconcerting to learn that three Virginia rivers are now so badly contaminated by toxic substances that well over 300 stream miles have been closed to fishing, or at least to the taking of fish for eating.

One of these rivers is of course the James, on which most commercial fishing is now prohibited from Richmond to the Chesapeake Bay because of contamination by Kepone. But equally remarkable, though little attention has been given to it outside Virginia, is the contamination of much of the Shenandoah River and the North Fork of the Holston River by mercury.

In fact, this latter problem seems of special significance, both with respect to its persistence—which is extraordinary—and to the questions of regulatory philosophy and practice to which it gives rise.

Not all of the Shenandoah River is contaminated, only the South Fork, which many regard as the best of it. Indeed, if it had been the conscious intent of some malevolent force to do mischief to an exceptional natural treasure, the South Fork of the Shenandoah could have served well as the object of such perverse designs.

Flowing over a bed of limestone and frequent ledges, the South Fork runs northward in a series of great loops between the Blue Ridge Mountains on the east and the Massanutten Mountain on the west. For the canoeist or the float fisherman (the South Fork is famed for its smallmouth bass fishing), the scene is ever-changing but is always good and sometimes spectacular, especially when the winding river turns toward the steeply rising slopes of the Massanutten. Along with the rest of the Shenandoah, the South Fork has long been a prime candidate for consideration as part of the national system of wild and scenic rivers, and was so listed in President Carter's environmental message of last May.

Although the Shenandoah was known to have some water quality problems, especially overfertilization from the runoff from farmland and other sources, it was not until this spring that state officials got word that part of the river might be heavily polluted with mercury. On 14 April a delegation from E. I. duPont de Nemours and Company, which has been manufacturing synthetic fibers at Waynesboro, Virginia, since 1929, called on Governor Mills Godwin and Virginia health and pollution control officials and brought the bad news.

Visible if minute globules of mercury had been discovered the previous September in the course of repairing a leaking water pipe beneath the Waynesboro facility's "old chemical building," where mercuric sulfate was used as a catalyst in the manufacture of acetate fiber between 1929 and 1950. Subsequently, analysis of sediment samples taken downstream from the plant in the South River showed that the sediment was heavily contaminated with mercury.

The readings for several samples exceeded 240 parts per million (ppm), compared to readings of less than 1 ppm for sediments tested upstream from the plant. Worse still, the one fish that DuPont had had analyzed for mercury contained 0.86 ppm, or substantially above the Food and Drug Administration (FDA) "action level" of 0.5 ppm which cannot be exceeded in fish that are to be marketed. Although of no legal force in relation to freshwater game fish, which would not be sold commercially in any event, the FDA action level represented a standard by which Virginia health authorities would surely judge whether the fish were too contaminated to be eaten.

The disclosures made by DuPont to state officials were reported skimpily and almost routinely in the Virginia press, but their significance was soon to become more evident. On 6 June Governor Godwin announced, on the basis of sediment and fish samples collected and analyzed by the State Water Control Board (SWCB), that the South River below Waynesboro and the entire South Fork were closed to the taking of fish for eating. The mercury content in bass caught as much as 77 miles downstream from the DuPont plant had been found to be more than twice as high as the FDA standard.[1]

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[1] Actual or potential supplies of drinking water, for which Virginia has adopted a safety standard of 2 parts per billion (ppb), are not threatened. No mercury has been found in samples of either raw or filtered water taken at the town of Shenandoah, 50 miles downstream from the DuPont plant and the only community in the area that gets its water from the river (the limit of the Virginia State Department of Health's detection capability is 0.5 ppb). The SWCB failed to discover the Shenandoah's contamination during the nationwide mercury scare of the early 1970's only because it confined its investigation of this river to the taking and analysis of water samples.

The extraordinary thing about this contamination problem is that it has been 27 years since mercury has been used in any manufacturing processes at Waynesboro, for in 1950 DuPont abandoned the particular acetate production process in which mercuric sulfate served as a catalyst. Moreover, from its sampling of soil and groundwater on the plant site. DuPont is now convinced that, although a few pockets of contaminated soil have been found, no mercury has escaped from the site into the river for many years. (The SWCB's director of enforcement, David S. Bailey, is "guardedly optimistic" that this will prove to be the case.)

As best anyone could tell, most if not all of the contamination of the river had taken place during the 1930's and 1940's as the result of spills of metallic mercury that occurred at the old chemical building. One likely possibility is that some of the spilled mercury was flushed into the river through storm drains. Normally, all mercury was recycled and the volume kept in active inventory, in 75-pound flasks, was never large. Edward T. Ruehl, the Waynesboro plant's manager for health, safety, and environmental affairs, believes that, all told, probably not much more mercury escaped to the river than could be put in a "Volkswagen gas tank."

Thus it seems that a relatively small quantity of mercury which got into the river between 1929 and 1950 has kept the river contaminated for a period of maybe 40 years or longer and may continue to contaminate it for decades to come. Major floods, such as the one that followed Tropical Storm Agnes in 1972, have repeatedly scoured the river bottom but, while some of the mercury in bottom sediments undoubtedly has been moved about, it has not been swept away.

INTO THE NOOKS AND CREVICES

Because of its great weight (it is 13½ times as heavy as water) and its liquid form, metallic mercury seems to find its way into sheltered nooks and crevices—of which the South River, with its irregular limestone bottom, has plenty—and is not easily dislodged. In fact, high concentrations of mercury are still found in sediment samples taken just below the DuPont plant from the natural trap formed by the remnants of a small dam.

Fifteen miles or so downstream from Waynesboro the mercury concentrations in sediments seem to fall off sharply. But they remain at above natural background levels all the way down the South Fork to Front Royal, 130 miles from the DuPont plant, and for at least 30 miles down the Shenandoah's main stem.

Over a period of years and decades, metallic mercury in bottom sediments can be converted at varying rates to ionic inorganic mercury and to organic or methyl mercury, both of which can be easily transported downstream by river currents. Although relatively insolube in water, some metallic mercury does dissolve, and part of this dissolved mercury becomes attached to suspended soil particles and part remains in solution.

But more important to the uptake of mercury by aquatic life is the fact that microorganisms abundant in the sediments can convert virtually any form of inorganic mercury to methyl mercury. In this form mercury is taken up rapidly by aquatic plants and animals and—of particular significance to its potential for attaining high concentrations (especially in older and larger fish)—it is excreted slowly, having a "biological half-life" of months or even years.

It is in its methylated form that mercury is particularly toxic to humans. If ingested in sufficient amount through a heavy diet of fish (as has happened in Japan), methyl mercury can cause Minimata disease, a severe disorder of the nervous system that can be fatal. By good fortune, no cases of Minimata disease are known to have occurred in Virginia, although epidemiological data are too limited to rule out all possibility of instances of mercury poisoning.

The mercury problem in southwest Virginia on the North Fork of the Holston River, which is far removed from the Shenandoah watershed and is actually part of the Tennessee River system, is in some important respects more frustrating to SWCB officials than the one on the Shenandoah.

The essential difference between the two situations is that, whereas there is as yet no evidence that the Shenandoah is being further contaminated by more mercury from DuPont's Waynesboro facility, the Holston is constantly receiving more mercury from the site of the now closed and dismantled chlorine plant which the Olin Corporation of Stamford, Connecticut, operated at the town of Saltville until the spring of 1972. Moreover, the situation at Saltville is such that the inflow of mercury into the river may never be stopped entirely, whatever the plan of remedial action ultimately agreed to by Olin and the SWCB.

Coincidentally, it was in 1950, the year DuPont stopped using mercury at Waynesboro, that Olin (or rather one of its corporate progenitors, the Mathieson Chemical Company) began using mercury at Saltville, which is noted for its huge underlying salt deposit. For the next 22 years, until the plant was finally shut down (partly because of the pollution control requirements that were to be imposed), mercury served as an electrode in the electrolytic process used to break down sodium chloride to produce chlorine and caustic soda.

In contrast to the situation at the DuPont plant, where mercury was needed in relatively small amounts, the Olin plant used it in huge volume, with the electrolytic cells containing more than 1 million pounds of the metal. As was true of chlorine plants elsewhere, this one at Saltville lost mercury in prodigious amounts, although the aim was supposedly to recycle as much of it as possible.[2] Until 1970 and the big nationwide scare over mercury that led to restrictions on the catching or sale of mercury-contaminated fish in nearly a score of states, up to 100 pounds of mercury was lost every day of plant operation. Some of it was lost as vapor, but much of it was lost as liquid mercury spilled on cell room floors or carried away in various waste streams, at least one of which went directly into the river.

Neither Olin nor state health and pollution control officials had been aware of the hazards to human health resulting from loss of mercury to the river. For it was not until the late 1960's that the methylation phenomenon by which mercury is made more readily available to aquatic life was discovered by Swedish researchers. Once the danger was realized, the changes brought about at the Saltville plant as well as at other chlorine plants around the country were remarkable. Losses were reduced to as little as a quarter of a pound of mercury a day.

Nevertheless, the cumulative effect of the reckless practices of the past (the health hazards of mercury vapor at least had long been known) had led to what may be an almost hopeless bad problem of environmental contamination. How much mercury has gone into the river is beyond calculation; all one knows is that the mercury concentration in both sediments and fish are high today and are likely to remain high for decades, if not generations, to come.

Three-fourths of the fish samples taken in July 1976 at six stations along nearly 70 miles of river showed concentrations at least twice as high as the FDA action level. There is in fact evidence that the contamination extends far down the main stem of the Holston to the Tennessee Valley Authority's big Cherokee Reservoir, more than 100 river miles from Saltville. Eight fish collected this past May from the reservoir's far upper reaches all showed concentrations exceeding the FDA limit. While the sample was too small to justify a ban on the eating of fish from the reservoir—in the case of the North Fork such a ban was imposed by Virginia and Tennessee health authorities in 1970—it was an ominous sign.

Mercury continues to enter the Holston both from the site of the old chlorine plant and from the two big "muck ponds" which were used for disposal of the primary waste stream from the Olin complex. The grounds on which the "cell building" once stood contains an astonishing amount of mercury: according to an Olin consultant, there are some 220,000 pounds of it.

Although the mercury is believed to be present in the soil profile to depths of as much as 30 feet, it is also found near the surface. Sizeable globules of it can be seen along the eroded bank of the river, and during this reporter's recent visit there, a small clod taken from the bank virtually at random contained a globule larger than a dime. Anytime the Holston is in flood, significant amounts of the metal are swept into the stream.

Serious as it is, the problem at the old plant site can perhaps be corrected either by excavating the contaminated soil and extracting the mercury, or, as Olin is now proposing, by sealing off the site from the river with a shield of impervious clay and riprapping. (In 1973, Olin tried to clean up the site by removing the top foot or so of soil, but, as is now evident to all, this was pathetically inadequate.) As for the muck ponds, it has become increasingly apparent that this problem can never be fully overcome; anything short of gargantuan engineering remedies, undertaken at costs that might run into the hundreds of millions, may bring nothing better than a modest, perhaps trifling, amelioration.

The ponds, which cover about 120 acres and extend along the river for more than a mile, contain an accumulation of salts and other wastes that is up to 80 feet thick. Although not much water stands in these basins now, enough water enters them from direct rainfall and from runoff from the adjacent mountainside to make for a problem of mercury-contaminated chloride solutions seeping into the river. The discharge of mercury to the river from this source is estimated to average about 100 grams a day, year in and year out. Given the Holston's present grossly contaminated condition, any additional inflow of mercury would be considered intolerable were there any practical means of preventing it. So far, Olin and its consultants have come up with nothing better than a plan to dig a ditch along the mountainside to intercept the surface runoff; but this would at best reduce the seepage into the river by only half, and, if the SWCB staff is correct in its assessment, the reduction would be much less than that.

However severe and pressing the problems at Saltville, the SWCB has generally shown little sense of urgency in dealing with them. Even the matter of finding a prophylactic remedy for the problem at the chloride plant site continues to drag on. "We haven't been balls of fire on this thing," acknowledges Richard Hill, an aide to one of the top SWCB officials. In part, the situation at Saltville seems to reflect the fact that, absent an imminent health threat or economic loss (both present in the Kepone affair), something such as a ban on eating fish from a mercury-contaminated river does not appear to bring a public outcry in Virginia. Scarcely anyone showed up either at the public hearing which the State Department of Health held in 1973 on the Holston ban or at the one it conducted recently on the Shenandoah situation. In light of the sharp decline in fishing on the famed Shenandoah, the poor turnout for the hearing on the ban there—no local officials were present and only two citizens—was astonishing.

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[2] According to the 1976 report of the National Commission on Supplies and Shortages, during the period 1964 to 1973 chlorine plants in the United States required 463 metric tons of mercury annually to make up for losses. This figure was stated as a yearly average for the period, however, and the actual losses after 1970, when production processes were tightened up drastically, were probably much less.

Actually, from a regulatory standpoint, the mercury pollution problem poses several hard questions that deserve the public's thoughtful attention. Especially is this true in the Holston River case where there is clearly an opportunity to go beyond measuring the extent of the contamination and to reduce the sources of further pollution.

For instance, how far should the state go in holding Olin accountable for the problem at Saltville? After shutting down the plant, Olin gave most of its property there to the town and state, and at present retains title chiefly to some mineral rights and to the muck ponds (which it wanted to give away but could not). Although town council members praise Olin for treating Saltville fairly and generously, the company clearly does not feel that it has an open-ended obligation to see that the mess which is created on the Holston is cleaned up.

Although willing enough to assist in trying to seal off the site of the chlorine plant from the river, Olin wants the SWCB and the town to agree that once a plan of remedial action has been approved and carried out, its obligation with respect to the problem will end. Yet there may not be complete assurance that the plan will succeed. Certainly the efficacy of any remedies tried at the muck ponds will be in doubt. Bailey, the SWCB enforcement chief, indicates that, in his view, the burden of ultimate responsibility is Olin's forever. "I don't think it would be in the state's best interest to enter into a final, blanket agreement," he says.

Another question is, should the state expect some compensation from Olin and DuPont for the contaminatoin of the two rivers? In the Kepone episode, the Allied Chemical Corporation, found to have committed gross violations of law, has been ordered to pay the state and federal governments $18.5 million in penalties, including $5 million which go for research on Kepone in the environment; yet the company remains open to millions in damage claims by individuals and to demands by the state in the future for a massive and costly cleanup of the James River if this should be feasible.

As A. H. Paessler, the SWCB's deputy executive secretary, has observed, the mercury contamination of the Shenandoah and the Holston "resulted from no flouting of state or federal law by DuPont and Olin, and neither has been so accused." Nevertheless, as Paessler also acknowledges, the contamination is a fact and those companies are the cause of it. To measure the damage in precise dollar terms would be impossible, but it is clear that the sports fisheris that existed on the Shenandoah and the Holston (the latter was a resource of at least local significance) were of considerable value and that they have been hurt severely. Some informal discussion of the matter of compensation has gone on within the SWCB staff, but there is no sign that it will be pursued.

Closely related to the compensation issue is the question of whether something might be done to rehabilitate the river—or at least shorten the period of contamination. One idea sometimes mentioned is to try to identify and remove some of the more heavily contaminated sediments. The SWCB staff has searched the relevant literature for possibilities, but thus far has found nothing that looks promising.

The agency is now soliciting help in this matter from the Environmental Protection Agency, which so far has left the mercury problem to the state, and from the U.S. Army Corps of Engineers, the Tennessee Valley Authority, and the Oak Ridge National Laboratory. But should any plan for partial rehabilitation of the Shenandoah or Holston be proposed, the question will then surely arise as to who shall pay for carrying it out—the state, the federal government, the company, or all three?

Still another regulatory question raised by the mercury problem has to do with the FDA action level. R. V. Davis, the SWCB's executive secretary, has suggested that the action level perhaps should be raised. Although this suggestion might at first glance be likened to the one somebody once made with respect to Vietnam—declare victory and withdraw—it finds some support in scientific circles.

In Sweden, where extensive research has been done on mercury problems, the action level is twice as high as the one in this country, and some American scientists (such as Peter Krenkel of the Tennessee Valley Authority) believe the FDA limit is needlessly stringent. James B. Kenley, Virginia's commissioner of health, has rejected Davis' suggestion, however. He observes that the action level for mercury is based on "a far larger amount of information and a far lower safety factor" than the action level for Kepone.

In truth, the mercury contamination of the Shenandoah and the Holston appears to have been one of those bad turns of fate about which not much can be done—or at least not much of certain efficacy. But this is not to say that the best response is simply to adjust to the problem and leave the solution to the ages.

Mr. MUSKIE. Mr. President, during the course of debate on this conference report in this and the other body, attempts will be made to bind the Administrator by creating legislative history describing specific situations. The conferees did not examine specific cases for exemptions, extensions or modifications.

The conference report provides a general framework for the Administrator to make judgments. The Administrator should be guided by the framework of the statute and the statement of managers and other appropriate legislative history, and should not feel bound by attempts to legislate by colloquy special cases which are contrary to the letter and intent of the law.

Mr. President, the conference bill is similar to the Senate-passed bill (S. 1952) in many respects. Since the legislative history of the conference report itself is minimal, the conferees expect that the intent expressed in the Senate report be looked to for guidance.

I would like at this point to review several aspects of the conference agreement in order to provide a fuller understanding of the intent of Congress.

TRAINING GRANTS

This section increases the limit of a grant for a training facility from $250,000 to $500,000, exempts any such grant from the priority list requirement of section 204(a)(3), and increases the uses of these funds.

The language which amends section 109(b)(2) of the Federal Water Pollution Control Act is intended to authorize the Administrator in any case where a grant has already been made for a facility to serve two or more States to make an additional grant for individual facilities within any of the participating States. These additional facilities would be supplemental to the multi-State facility. It is not intended that there would be duplication of effort. For example, the States of New Hampshire, Massachusetts, and Maine are planning construction of training facilities within each of their States.

The State facilities would be utilized to train or retrain personnel already operating at treatment facilities. In addition, the six New England States and the State of New York are considering the construction of a regional training facility to be utilized by each of the seven States for the training of new operational personnel. Thus, under this section, the multi-State facility and individual facility in each State could be funded under section 109 of the act if there is no significant duplication of effort.

These authorizations do not provide support for graduate training (master and Ph. D. levels) or State agency fellowships in water quality control curricula as authorized in sections 104(a)(1), 104(g)(3)(A), or 104(g)(3)(B).

Funding authorizations for water quality graduate training grants (masters and Ph. D. levels) to institutions of higher education and State agency fellowships are included in section 104(u)(1).

GRANTS FOR ALTERNATIVE AND INNOVATIVE TECHNOLOGY

The conference agreement emphasizes the need to use alternative technologies instead of conventional secondary treatment plants and encourages the development of new and innovative systems. To accomplish this, the bill requires republication of cost-effective guidelines to reflect the long-term benefits of reclaiming and recycling, creates a special set-aside for rural and lightly populated areas to be used for alternative technologies, and authorizes a special set-asides for increasing to 85-percent grants for the use of alternative and innovative technologies. The bill also includes a provision for extension of deadlines for industries which use innovative technologies.

The conferees intend to underscore the requirements of the 1972 amendments that all of those involved in implementing the program—the Environmental Protection Agency, States, communities, and consulting engineers—direct the program away from the conventional collection and secondary treatment approach and toward the use of alternative technologies, especially those which rely on controlled natural processes, such as land or lagoons or marshes, in order to make use of the nutrients in the waste waters.

More than any other issue concerning the construction grant program, the conferees are concerned with the need to encourage alternative and innovative systems. The problems of small communities coping with expensive capital-intensive waste treatment systems and the wastefulness of discharging valuable nutrient resources to the Nation's waters were stressed throughout the country. The need for new industrial processes which produce no waste was emphasized.

The conference bill, in every possible way, attempts to reinforce the specific statement of the 1972 act with respect to innovation, use of alternatives, and the adoption of policies which would lead to the confined and contained disposal of waste, utilization of the values of waste, and the elimination of the discharge of pollutants to the Nation's waters.

This agreement recognizes that sludge, which is a burden to many communities, can be usefully applied as a soil conditioner, as a source of nutrients, and as a fertilizer. But the agreement also recognizes that often sludge is so contaminated by the chemicals and metals which find their way into municipal waste treatment systems that it is useless. These amendments are intended to reverse the waste of this important resource. The Administrator is expected to heed that emphasis of this legislation.

There is no defense for the practice of dumping all of the waste that this country generates into rivers, lakes, and streams. The 1972 act stipulated that the Nation's fresh and marine waters would not be an element of the waste treatment process. That continues to be national policy. For communities and industries, the discharge of waste directly into the Nation's waters and oceans is permitted only where there will be no interference with attainment and maintenance of that water quality which assures protection of water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water: that is only where ecological balance can be assured. The Agency should expedite promulgation of the criteria in section 403.

Thus, alternative technologies for dealing with waste, particularly land treatment options which will take advantage of the valuable nutrients in the waste stream, and other waste recycling options should become the highest priority for funding under this act wherever these are feasible or available.

The conference agreement provides for a bonus grant, raising the Federal share to 85 percent, for projects which utilize alternative and innovative waste treatment processes.

Sections 9, 12, 13, 15, 16, 17, 21, 28, 37, 38, 39, 49, 60, and 72 of the conference report expand the treatment works construction grant program utilization of innovative and alternative waste water treatment processes and techniques. These sections generally follow a series of provisions in H.R. 9464. They are intended to result in a major reorientation of the construction grant program.

The 1972 amendments redirected the water pollution program to municipal waste treatment alternatives which would lead to the confined and contained disposal of wastes so that pollutants would not migrate to cause environmental pollution. Little was done to achieve this result. The purpose of this and related amendments is to underscore that 1972 intent by providing supplemental assistance for innovative and alternative waste treatment processes which might not otherwise be cost-effective.

The conferees intend that EPA shall require consideration and application of demonstrated alternatives which meet the objectives of section 201 funded from the regular grant program. This supplemental assistance program is intended to force technology so that new and better alternatives which have not been demonstrated can become available. As they are available, funding should come from the regular grant program.

The administration has been provided all of the legislative tools needed to require the utilization of such innovative and alternative waste water treatment processes and techniques.

Care should be taken in the evaluation of grant applications to avoid unnecessary studies, investigations, or analyses which are irrelevant to, and unaffected by, application of new technology, recycle, reuse, or land treatment.

The provisions for increased grants for publicly owned treatment works utilizing innovative and alternative technology has been specifically phased in to avoid delays in ongoing step 1 and step 2 projects. The Administrator is cautioned in promulgation of regulations and implementation of these sections not to cause delays in the construction grant program. The environmental benefits to be realized from these sections on innovative and alternative technology should not be vitiated by such delays.

While treatment works construction grant funds are authorized for 5 years by section 30 of this act, it is to be noted that section 17 provides for increased grants for treatment works using alternative and innovative technology for 3 years only. This provision is not applicable to grants made from funds authorized from either the first or the last year for which grant funds are available. It is expected that Congress will evaluate the program at the same time Congress considers an allotment formula for the grant funds authorized for fiscal year 1982.

While funds to increase construction grants to 85 percent are made available only for fiscal years 1979, 1980, and 1981, it is important to recognize that while 2 percent of the construction grant funds are set aside for fiscal years 1979 and 1980 to carry out this program, 3 percent is set aside for fiscal year 1981. This underscores the intent of Congress to increase the number of projects utilizing innovative and alternative technology. During fiscal year 1981, over 25 percent of new grant awards should utilize such technology.

However, nothing in this section is intended to reduce the current emphasis on funding cost-effective alternatives to conventional treatment under the basic grant program.

It is not intended that conventional processes including advanced biological treatment processes or advanced waste treatment systems utilizing distillation, nitrification, and denitrification or breakpoint chlorination be eligible for the increased Federal share. In addition to improved methods for conventional treatment, innovative technology should include such techniques as nutrient utilization and reclaiming or recycling of water.

The Administrator is expected to coordinate promptly with the other heads of departments, agencies, or instrumentalities of the Federal Government which have jurisdiction over any property or facility utilizing federally owned waste water facilities. The Federal Government is expected to be a leader in the use of alternative and innovative treatment processes and techniques. The cost-effectiveness provision of section 60 is a mechanism for forcing the use of such processes and techniques. Section 60 allows the Administrator to waive the application of such processes and techniques where he determines it to be in the public interest. This authority is not intended to be a means for negating the 15 percent cost-effectiveness provision. The Administrator is not expected to waive this requirement unless there is a clear showing that ongoing projects would be delayed or that important public interest considerations cannot be met.

Several criteria should be relied upon to evaluate the innovative character of technology. The criteria include cost reduction, improved reliability, energy conservation or reclamation, recycling or reclamation of effluents, sludges or beneficial wastewater constituents, better management of toxic materials, and environmental benefits. Where technology does not produce benefits in line with the criteria, the Administrator should not consider the technology to be innovative or alternative under these provisions.

A certain percentage of the State's allotment is set aside for 85-percent grants for innovative and alternative technology. Those moneys are not exclusive of, but can overlap, the 4-percent set-aside for alternative or unconventional systems for small communities.

INDIVIDUAL SYSTEMS

The authority under this provision is to be exercised in accordance with cost-effectiveness guidelines for the construction grants program. Alternatives including septic tanks and other onsite systems, small systems serving cluster households, pressure and vacuum sewers and the like should be compared to determine relative costs and environmental impacts of each. The cost-effective solution should be chosen.

Collection of moneys under this provision for commercial user cost recovery should be carried out in a manner similar to the collection of moneys for industrial cost recovery, subject to all the requirements of section 204, as amended by other provisions of the new amendments. There is, however, no moratorium of this requirement during the period of the industrial cost recovery study, nor does the 25,000-gallon-per-day exemption apply to commercial users of projects assisted under this authority.

USER CHARGES

The compromise on user charges is, in many respects, similar to the Senate-passed bill. It requires each industrial and commercial user of federally assisted waste treatment services to pay its proportionate share of the cost of operation and maintenance of waste treatment. Unlike the Senate bill which required all users to pay operation and maintenance costs in proportion to actual use, this bill has an exception. In those cases in which existing systems on date of enactment already have systems of charges for operation and maintenance costs based on the use of dedicated levies against property values, that system can continue to be applied so long as residential users, as a class, pay no more than the cost of operation and maintenance attributable to that class of use.

The grant recipient must show that this kind of class proportionality exists. Among all classes of users, it must also show that each individual nonresidential user, unless exempt by regulation as a small user, pay its proportionate share. The grant recipient must show that major nonresidential users actually meter their system input as to quantity, strength and constituents of the waste contributed.

The need for these amendments would have been lessened had the Administrator not adopted a policy which permitted partial grants for communities which refused to adopt user charge systems. The Agency's initial determination to make a grant pending adoption of the system was wise. The later determination to make subsequent grants, withholding only a portion for failure to comply, was not. The Administrator is expected to cease to make grants of any kind, to any grant recipient which has not, by the end of the current fiscal year, adopted an approvable user charge system for all its sources. And the Administrator must continue to withhold the remainder of any grant to any community until the modified user charge system is implemented.

The bill contains a Senate provision which indicates that metering is not required for residential users in order to determine exact proportionality. This means that metering is required for nonresidential users. And, it includes a recognition that, in the past and in the future, ad valorem taxes can be the basis for user charge system if such taxes meet the test of proportionality for each user. It is recognized that this will be difficult because property values bear little, if any, relationship to sewage treatment needs. However, if the Administrator is satisfied that proportionality among individual residential or exempt nonresidential users does in fact exist, an ad valorem tax system can be approved.

Finally, the conference agreement includes a requirement that each recipient of waste treatment services be notified as to the cost of the service received. The purpose of this is twofold: First, to create a public understanding of the cost of providing adequate water pollution control; and second, to stimulate conservation.

The conference agreement stresses water conservation as an important public value. This is one reason the Senate insisted on maintaining that where there is a direct relationship between cost and use, there will be the greatest incentive for water conservation.

Finally, the conference compromise keeps in place a basic objective of the 1972 act: the achievement of utility-like management of publicly-owned treatment systems. It is important that these municipal waste treatment systems operate on a utility-like basis. They must begin to develop the capacity to finance their own expansion. They must be self-financing. The Federal Government cannot be forever expected to meet the needs of growing communities. This act does not provide funds for new growth, and it is not likely Congress will provide funds for this purpose in the future.

The 1977 amendments, like the 1972 act, are designed to deal primarily with the backlog of waste treatment needs. It is not intended to deal with the growth needs of communities. Those waste treatment systems which are operating on a utility basis will have the capacity to finance their own growth. Those which are operating on an already overburdened property tax basis will be under constant pressure to seek subsidies for future expansion as the property-tax payers reject increased levies to pay the cost of new development.

In this vein, it should be noted that any system which inequitably distributes operation and maintenance costs among users, in either the commercial or industrial class, or as between those classes and residential users, cannot be approved.

The user charge system should apply to charge back selectively to a source or sources discharging into a publicly-owned treatment works those increased costs in the management of either effluent or sludge caused by the discharge of any toxic pollutant by such source or sources into such publicly-owned treatment works. Thus, for instance, if an identifiable source discharges a toxic pollutant or pollutants which have the effect of preventing a low cost sludge management program such as land spreading and requiring incineration of such sludge, the user charge system shall charge back against the responsible discharge sources the increment of costs over the land spreading systems to carry out such incineration.

The Administrator is authorized to identify "small nonresidential users" which can be exempt from the actual use-user charge requirement. This is intended to provide a mechanism for eliminating small dischargers from the cost of establishing and collecting user charges. The Conference agreement anticipates that these will be commercial and small industrial establishments which contribute only domestic toilet and kitchen waste to the system—or very small quantities of the equivalent of domestic waste.

The Administrator is expected to promulgate these regulations on a categorical rather than volumetric basis in order to avoid forcing each system to pay the cost of making a determination of whether it falls within that category. Small nonresidential users which could be excluded from user charge requirements by regulation are those with smaller flows of essentially domestic waste. Examples would be warehouses, small grocery and dry goods stores, small laundries, museums, and small hotels and motels. Large commercial establishments (e.g., urban trade centers) or "wet commercial establishments" (e.g., photo processing) would require separate metering. Certainly, service stations, repair shops, and other kinds of establishments which have the potential for contributing oil or metals to the system would not. Also, small metal manufacturing shops, printing operations and other nonresidential users which use toxic materials would not be exempt.

It should also be noted that any class or category of industrial or commercial user which has a volume and strength wasteload which in no way correlates to proportionate costs of treatment under an ad volorem tax system, either because of the character of the waste or because of low waste flow relative to the ad valorem tax, should not be determined to be a "small nonresidential" user by the Administrator.

No portion of a grant which has been withheld for noncompliance with this section can be made available unless the Administrator determines that each new requirement of these amendments was complied with prior to enactment.

All recipients being held at the 80 percent payment level as of enactment of this provision must establish an approved user charge system within 1 year of enactment of this provision. Likewise those who apply for grants within 1 year of enactment of this provision must establish an approved user charge system by the end of that year. In both cases the Administrator is to terminate grants of those who fail to establish approved user charge systems by the end of the year. During the one year period it is expected that full payment will be made on grants.

Beginning one year after enactment of this provision, no applicant which has received a grant and has not established an approved user charge system shall receive a substantial grant.

If a system in general fulfills the requirements of the provision as of enactment of the provision, adjustments can be made to the system within the year to make it comply strictly with the requirements of the provision. However, an ad valorem system must be dedicated on enactment for an ad valorem system to fulfill the user charge requirement.

Adjustments can be made within a reasonable time (no more than one year) to achieve full compliance with the requirement of the amendment if the grantee's revenue system in general meets these requirements. Clearly it is intended for example that grantees have an opportunity to adjust their charges to major industries and other large nonresidential users to comply with the proportionality of the requirements of the new amendments. Adjustments may also be necessary to comply with other details, including the requirements for proportionality among user classes, but dedication of revenues must exist on enactment.

INDUSTRIAL COST RECOVERY

The Senate conferees acceded to the House proposal to declare a moratorium on the collection of those costs of treating industrial wastes which under existing law are required to be returned to the Treasury. During the moratorium, a study is to be conducted by EPA of the implications of industrial cost recovery. The study is to be completed within 1 year, with an additional 6 months for Congress to consider the results of that study and take any appropriate action.

This moratorium will accomplish two purposes. First, it will free up any withheld portions of grants to the extent that portions of grants have been withheld solely for the purpose of developing an industrial cost-recovery system. (The bill does not authorize the payment of withheld grants to applicants which have not adopted approvable user charge system.)

The fact that grants will no longer be withheld and that repayment of 50 percent of the cost of treating industrial wastes will be delayed for 18 months in no way removes the requirement that the grant recipient establish a system of industrial cost recovery. The amendment only delays payment to the Treasury (and possibly recovery to the grant recipient if he so desires) for the period of review and 6-month congressional consideration of any findings. At the end of the 18-month period, if Congress has not acted, the community must immediately begin to repay industrial costs, which costs can be spread out over the remaining useful life of the system. In other words, there will be no lump sum payment requirement.

The conferees did agree that any industrial user which contributed the sanitary waste equivalent of 25,000 gallons or less on a daily basis would not be required to repay the Federal share of the grant attributable to treatment for that source. This decision relates in part to the fact that these kinds of industrial or commercial users would ordinarily not construct a separate waste treatment facility—that they are captive to a municipal system. As such, no inequity occurs among communities by the fact that the Federal Government is subsidizing treatment of these users' waste.

It is recognized that the study performed by the Agency may well show that the 25,000 gallons of sanitary waste equivalent is too high, and that the Congress should reduce that amount in order to assure more efficient cost recovery. But no user of a system which contributes the equivalent of 25,000 gallons of sanitary waste or less per day would in any way be liable for any costs occurred prior to a subsequent change in the law.

Also, it is important to note that the 25,000-gallon exemption applies only to the equivalent of sanitary waste and would not be available to any source of waste regardless of quantity which contributes wastes which are toxic or which pass through, interfere with, or contaminate the sludge of any municipal system.

Among the industrial costs which would be required to be recovered would be any costs associated with any federally assisted sludge disposal system. The operation and maintenance of those systems would also be subject to the user charge provision. Both user charges and industrial cost recovery would necessarily reflect any costs incurred by the system for sludge disposal solely because of the failure of an industrial user to remove pollutants which would otherwise contaminate, the sludge, thus making sludge management more expensive.

The Environmental Protection Agency is expected to initiate the study mandated by this amendment as quickly as possible. Among the issues the administrator should address in this review is the exemption in EPA's current regulations of "dry industry" from the industrial cost recovery requirements. The Administrator should look at the size of dry industry sources which are exempt from industrial cost recovery and their contribution to municipal systems.

The General Accounting Office is currently reviewing EPA's implementation of the industrial cost recovery provision of existing law. The conferees expect that this review be completed on an expeditious basis so that it can be made available to the Administrator in ample time to be of use for the study required by this act. The results of this GAO review should be helpful to EPA's analysis of the current program and provide a basis for EPA's study.

Existing law is specific in listing the type of costs which are to be included in the "cost of constructon" for the purpose of industrial cost recovery. This definition has not been changed. The costs of developing a system for industrial cost recovery should be included as part of those contruction costs which the industrial contributors may repay. System development costs would be included under the definition of "construction" in section 212 of the act and are therefore eligible for a 75-percent Federal grant. Such development costs then should be included as part of the cost of construction which a participating industry would be required to repay. Failure to include development costs of industrial cost recovery systems for small grants often results in situations where costs of managing the industrial cost recovery system exceed the revenues derived.

This amendment specifically provides for the inclusion of administrative costs as recoverable costs for the purpose of industrial cost recovery. This amplifies current law which would provide for the recovery of development and other costs which were paid for by a 75-percent Federal grant.

STATE MANAGEMENT ASSISTANCE

The conference agreement adopts the Senate amendment which authorizes the Environmental Protection Agency to assist financially the States to whom he has authorized certain management functions including the construction grant program, the 402 program, the 208 program, and small community grants. These funds would be reserved from the State's yearly allotment of construction grant program's funds. In no case would the funds exceed 2 percent and no State would be eligible for less than $400,000.

The policy of authorizing the States to manage the construction grant program is being implemented by the Environmental Protection Agency under existing statutory authority. California already manages the full program from approval of design to approval of selection among bidders through disbursement of funds. Twenty-eight States have taken over the permit program, and States are carrying on statewide 208 planning. Other States conduct certain portions of the review process in the construction grant program. Because of State resource constraints, they need funds to perform these functions on behalf of the Federal Government.

The bill authorizes the Administrator to distribute up to 2 percent of the grant funds in proportion to the functions of the construction grant program that the State is conducting, whether or not the State has the 402 permit program, whether or not the State manages the permit program, whether or not the State has a statewide 208 program, and whether or not the State has the capability to manage construction grants to small communities. Each of these functions requires manpower and expertise at the State level, and Federal resources should be available in proportion to the amount of the functions conducted and therefore the needs of the program.

This provision is similar to a request by the administration that the bill authorize the Administrator to distribute the funds according to the above criteria.

The purpose of certifying the States and providing commensurate resources is to reduce duplication of effort by State and Federal levels of government, a major complaint in the program; to avoid unnecessary enlargement in the number of Federal personnel needed for program implementation; and to carry out the policy in Public Law 92–500 "to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution."

The Administrator is expected to only make available the full amount when the State has assumed full capabilities. When a State has taken on their full responsibilities, all the funds should not be available unless the State can justify that level of funding.

Sums reserved under this amendment are available for making the type of grants just described for the same period as sums are available from an allotment under subsection (b) of this section, and any grant shall be available for obligation only during that period. Reserve funds that are not obligated by the end of the period for which they are available will be added to the amounts last allotted to a State under section 205 and would be immediately available for obligation in the same manner and to the same extent as such last allotment.

Any reserve funds reverting to a State's general allotment will remain available for a reasonable period of time as determined by the Administrator through regulation before reallotment. In a similar vein, it should be noted that in those cases where a State is granted less than the entire 2 percent of its allotment funds for the purposes of this section, the unobligated funds will revert to the State's general allotment funds as soon as the Administrator determines what percent to grant to any State in any year.

Further, the intent of this provision is that the sums not be used to reduce the level of Federal or State expenditures to administer water pollution control programs as provided in section 106 of the act. However, a grant under this provision may require the reprograming of those amounts of Federal and State funds earmarked for management of municipal facilities construction into other State program elements such as enforcement and monitoring.

Paragraph (d)(2) of this subsection provides that a State assisting the Environment Protection Agency in the implementation of its responsibilities under sections 201, 203, 204, and 212 may receive grants to cover the reasonable cost of that assistance. The activities include infiltration studies, review of preliminary plans to evaluate the size and scope of the project, review of operation and maintenance programs, review of plans and specifications, determination of consistency with section 208 plans and review of priorities.

Technical assistance and information for grantees relate to the activities outlined above.

The Administrator shall determine the size of the grant made to a State based on an assessment of the State's capability to assist with the activities outlined above. The assessment should take into account factors such as the State's capability and performance in reviewing facility plans and design plans and specifications, capacity to provide technical assistance, and availability and adequacy of necessary technically and professionally qualified personnel and other necessary resources.

Further, it is understood that no grant would be made under this provision until the State has demonstrated a commitment to acquiring the capability to manage grant awards to small communities. This would include acquiring the capability to be the contract agency for any engineering design or construction agreements. Most important, the States would have acquired resources to review plans and advise small communities on cost-effective alternatives.

The objective of this policy is to effect a more efficient means for expediting the municipal construction program, the scope and complexity of which has so increased as to make its full implementation at the local level achievable only through reliance on private contractors whose primary objectives may not be minimizing local short- and long-term costs while maximizing environmental benefits.

Two other primary responsibilities in existing law which many States have assumed are the permit program and implementation of statewide section 208 management plans and programs.

Management of the permit program is a difficult responsibility. It requires issuance of permits that are consistent with applicable effluent requirements and water quality standards, review of monitoring reports, and necessary enforcement actions. Each of these activities is resource intensive and requires manpower.

States are finally beginning to assume their responsibilities under the section 208 program. These activities also are resource intensive. A State must integrate the section 303 water quality information, develop best management practices for nonpoint sources, develop plans for siting for industrial and municipal facilities, and review industrial permits and municipal plants to determne their consistency with the 208 effort.

The Congress expects the State to assume more and more of the responsibilities of the water pollution program. It has therefore fashioned a program which increase Federal resources available as responsibilities increase.

GRANT ELIGIBLE CATEGORIES

The conference substitute adds two new subsections to secton 211 of the act. The first provides that if population density is used as a test of eligibility of a collector sewer for assistance, population density shall only be used for the purpose of evaluating alternatives and in determining the needs for the collection system in relation to ground or surface water quality impact. The second provides that no grant may be made under title II from funds for fiscal years 1978 through 1982 for treatment works for control of pollutant discharges from separate storm sewer systems.

The conference agreement deletes the Senate provision which amends section 211 of existing law relating to major sewer rehabilitation and collector sewer eligibility. This leaves in place existing law. Collector sewer eligibility is thus limited to communities in existence on October 18, 1972, with sufficient existing or planned capacity adequate to treat such collected sewage.

By its actions, the conferees reaffirmed the intent of the 1972 act. The purpose of these funds is not to finance the future growth needs of the United States; rather, the purpose is to eliminate the backlog of waste treatment needs with a limited provision for increased capacity to recognize the cost-effectiveness factors and to achieve a balance between the pressures for economic development and the need for environmental improvement.

A community may be a geographic or jurisdictional area less than the municipality that applies for the grant. The determination of what is a community is based in part on occupied residences in sufficient numbers to justify contruction of collector sewers. An existing community for the purposes of section 211 is those residences occupied as of the date of enactment of the 1972 act.

When evaluating the eligibility of collector sewer systems, the Administrator shall bear in mind the preference given to alternative systems for sparsely populated areas by other provisions of the act.

PRIORITIES

The conferees were disturbed by the fact that there seemed to be little relationship between the enforceable requirements of the act and the distribution of public funds for this program.

Again, to underscore that the purpose of the program is to reduce the backlog of waste treatment facilities needs and not to finance the requirements of future growth, the conference agreement specifically requires that State priority lists reflect the enforceable requirements of the act—the deadlines for municipalities and for those industries which will discharge through those municipalities. Any project on the State list which does not comply with this requirement will be removed, and the list shall be revised accordingly.

The Administrator may not approve a grant award for a facility designed to meet new growth. He may only approve a grant for that portion of any facility which meets the specific criteria of this act. Nor may the Administrator approve a grant for a project primarily designed to deliver more waste to a receiving water.

The availability of a 75-percent grant has encouraged the construction of collectors. For example, a town in Wisconsin installed an entirely new collection and treatment system to replace existing septic tanks and ended up spending $500 per household per year for debt service and operation and maintenance. A similar situation in Maine has produced costs of $220 per household per year for debt service and operation and maintenance. In a county neighboring Washington, D.C., the State and the county had proposed to construct a $400 million advanced waste treatment facility whose capacity was at least four times that needed by the existing population. Meanwhile, 43 other cities in that same State which would have gone without funds to construct needed secondary treatment facilities are potentially subject to abatement action for failure to comply with minimum treatment standards.

The sections of the act setting out enforceable requirements include sections 201, 208, 301, 309, 402, and 405. These requirements can normally be met by projects for construction of treatment plants, correction of excessive infiltration and inflow into the sewer system, and/or control of pollutant discharges from combined sewer overflows and bypasses. Construction of collector sewers, interceptor sewers and major rehabilitation of sewers (except where necessary to correct excessive infiltration and inflow) ordinarily would not be necessary to meet the enforceable requirements of the law.

The States are expected to continue to give priority to projects within each category of projects on the basis of the severity of the pollution problem to be corrected and related factors such as the size of existing population to be served.

MODIFICATION OF SECONDARY TREATMENT REQUIREMENT

The Senate-passed bill contained a provision permitting a modification of the secondary treatment requirement for deep ocean municipal discharges. The conference agreement is identical to the Senate-passed bill.

Some communities located along the Nation's coasts have argued that there is no need to require secondary treatment for municipalities which discharge into ocean waters. The Congress determined, after much analysis, that there should be a mechanism by which communities making this argument can test their case in the administrative process. No such contention was made for freshwater discharges. There seems to be general acceptance of the need to achieve a high degree of municipal waste treatment for discharges into the Nation's river, lakes, and streams. But with respect to marine discharges, this bill provides a limited exception.

The Administrator may, on a case-by-case basis, modify the requirements of secondary treatment for marine discharges from publicly owned waste treatment plants where specific conditions are met. Water quality standards must exist for the waters into which the discharge is made and the modification must be limited to pollutants which are covered by those water quality standards. In this case, those pollutants are also limited by the parameters which define secondary treatment. Thus, a waiver could be granted only for the specific effluent parameters which are included in the definition of secondary treatment under existing law. The Administrator would be required to establish an enforceable effluent limit for such works adequate to assure maintenance of ocean ecosystems.

Where applicable water quality standards exist specific to a pollutant in a discharge, the municipal source can apply for a waiver from the secondary requirement for that pollutant if a showing is made that the applicable water quality standard will be maintained, there will not be interference with the national water quality standard for that pollutant, if indirect sources which discharge into that system meet all applicable pretreatment requirements, if no other point or nonpoint source will be required to meet additional requirements because of a modification of the secondary treatment requirement, and if the volume of discharge of the pollutant will not increase beyond that specified in the modified permit for the period during which the waiver is granted.

This provision for modification would be available only to systems which are providing waste treatment services to users which contribute primarily domestic-type wastes or which have sufficient control over industrial input so as to prohibit any 307-type pollutants from entering the system.

Any complex system which is treating wastes for a myriad of industrial and commercial establishments within a metropolitan area could never meet the requirements of this modification procedure unless the control of industrial input was thorough enough to assure that no toxics or other incompatible pollutants pass directly into the ocean environment.

Primary treatment does not deal with these kinds of constituents. Therefore, their presence as an input into municipal waste streams is a prima facie indication that the secondary treatment modification provision is not applicable.

Additionally, the discharger must be able to establish that there is no interference with the attainment and maintenance of water quality which will support a balanced indigenous population of fish, shellfish, and wildlife in all stages of their life cycle. This burden is difficult, but in most cases these outfalls have been in place for many years. Comparative ecosystems exist in nearby ocean waters. Evidence should be available and furnished as a part of an application to determine whether or not the ecosystems which exists in the areas of these outfalls are identical to those which live in unpolluted environments.

There was a great deal of discussion of the term "indigenous" as used in the phrase "balanced indigenous population of fish, shellfish and wildlife." The legislative history reflects an understanding of what is required by this national water quality standard in its application to specific receiving waters.

As in 1972, it was intended that the interim water quality standard be that condition of aquatic life which existed in the absence of pollution. There is no question that man's activities have radically altered receiving water ecosystems in this country and that alteration is continuing at an accelerated pace in many areas. Restoration of aquatic ecosystems which existed prior to the introduction of pollution from man's activities is an important element of the restoration and maintenance of the biological, physical, and chemical integrity of receiving waters. It is an essential aspect of assuring that future generations will have an adequate supply of basic life support resources.

The concept of indigenous does not anticipate the removal of structures from waterways. It does not anticipate the existence of ecosystems which existed in the absence of those structures. But it does fully anticipate the analysis of aquatic populations in terms of man's activities prior to, and subsequent to, pollution.

The secondary treatment modification is not intended to engender the delays created by prior modification provisions such as section 316(a). Procedures are to be as expeditious as practicable. To be approved, applications for modifications must be filed within the time limit provided and must, on their face, provide sufficient justification for granting the application. The burden of demonstrating entitlement to a modification is solely on the application and must be met in the application.

The requirements of section 403, which the Administrator should promulgate immediately, must be met as a condition of the granting of a modification under this provision. It is expected that in evaluating modification applications, the Administrator will pay particular attention to any combined sewer or storm sewer overflows or limitations in treatment plant capacity which result in periodic bypasses. A modification under this provision shall be effective for the full term of the permit.

Mr. President, I ask unanimous consent that a letter I have received from Thomas C. Jorling, Assistant Administrator of the Environmental Protection Agency for Water and Hazardous Materials, on the secondary treatment modification provision be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Environmental
Protection Agency,
Washington, D.C., December 7, 1977.
Hon. Edmund S. Muskie,
Chairman, House-Senate Conference Committee on Amendments to the Federal Water Pollution Control Act, U.S. Senate, Washington, D.C.

Dear Mr. Chairman and Members of the Conference: as you know, there were some unfortunate delays in the EPA implementation of important sections of the Federal Water Pollution Control Act Amendments of 1972. To some extent these delays were due to confusion surrounding the interpretation of the complicated new sections added to the law by those amendments. To avoid similar problems in implementing the 1977 amendments, I am taking the liberty of addressing one of the major amendments of the bills before Congress that covering requirements for municipal outfalls which discharge into deep marine waters—and stating EPA's interpretation of that proposal.

We interpret the provision for modification of secondary treatment requirements for municipal outfalls to limit its application to very special circumstances: those few existing outfalls into very deep waters or very high tide fluctuation areas. Only under these unusual temperature and high energy conditions can conditions exist which allow waters to receive oxygen-demanding wastes without effect on indigenous populations.

In addition, when EPA determines whether modified discharges will interfere with the indigenous population, etc., of an area, we intend to consider the effects of such discharges over the life expectancy of any project that could result from such modification. In other words, our modification decision, even though any modification will be limited to 5 years, would be made on the basis of long term effects, since such chronic effects are of greatest concern in protecting the integrity of the oceans.

The Conference's adoption of the proposed definitons and criteria restricts the possibility of modification under this provision to a limited number of areas: California (list enclosed), San Juan, American Samoa, the Virgin Islands, Honolulu, Seattle, and Anchorage. I would note that this listing does not in any way prejudge the question of whether outfalls in these areas would, in fact, qualify under this section.

Adoption of another, broader set of criteria—which in our opinion the Conferees wisely did not accept—would prompt many municipalities to seek modification of secondary treatment requirements under this provision simply to delay compliance with the law. This would create an extraordinary drain on Agency resources, and effectively suspend secondary treatment requirements for an indeterminate period. Furthermore, because of our limited understanding of the effects of effluents on oceans, decisions would necessarily be highly judgmental and would, of course, be appealable in the courts. The net effect of this process would be a return to the requirement of proof of harm to receiving waters before controls can be required.

Several additional points should be made with regard to our interpretation of the proposed provisions:

1. Modification of secondary treatment requirements is allowed only where applicable water quality standards exist. We will interpret that language, of course, as applying only to standards for the discharge of conventional pollutants regulated by the secondary treatment definition. We will vigorously apply controls on other pollutants, especially toxics, in these circumstances.

2. Our preliminary review indicates there are few ocean outfalls for which any evidence has been accumulated to support an application for modification of the requirements for secondary treatment with regard to biochem-

ical oxygen demand and total suspended solids. Although there are studies that could have the effect of justifying discharges of a higher level of oxygen-demanding substances, we are suspicious of these studies as they relate to discharges of other pollutants associated with municipal discharges. We interpret the action of the conferees to reemphasize the overall objectives of P.L. 92–500 applicable to municipalities.

3. We intend to apply the requirement that the burden of proof be placed on an applicant to show no interference with indigenous population, and we will assure that the criteria developed under section 403 are satisfied as well.

4. Senate provision (e)(6), which in our opinion the Conferees have wisely retained, ties modification to a requirement that a discharge source has acted to eliminate the entrance of toxics into the municipal system. This will permit the recycling and reclamation of water and the confining and containment of pollutants in the future. We will interpret this provision to require facilities planning during the initial time extension to achieve those objectives.

5. We endorse the concept of limiting any modification to flows existing on the date of issuance of such modification. Only in this way will the municipality be induced to do the type of planning and implementation which will achieve the objectives of P.L. 92–500.

It should be noted, Mr. Chairman, that while much attention has been focused on the dumping of sewage sludge into the oceans, which the Congress has voted to terminate by 1981 (P.L. 95–153), a comparable or more adverse impact on ocean waters is caused by the discharge of sewage effluents into the ocean through outfalls. We know little about the effect of continued release of persistent pollutants to the oceans, but we know that oceans are vital to the biosphere that supports all life. Prudence dictates that we apply controls as rigorously as possible in order to protect the oceans. Therefore, any modification of pollution controls applicable to the oceans occasioned by short term needs should and, as we interpret the conference agreement, is quite limited in scope.

Sincerely yours,

Thomas C. Jorling,
Assistant Administrator.

List of Ocean Outfalls to Territorial Seas and Beyond

(California)

Cresent City, Westport, Mendocino, Mendocino No. 2, Bolinas, San Francisco (Richmond Sunset), North San Mateo, Pacifica, Montaro, Granada.

Half Moon Bay, Davenport, Santa Cruz, East Cliff, Aptor, Watsonville, Marina, Seaside, Pacific Grove, Monterey.

Carmel, San Simeon, Morro Bay, Shell Beach, Pismo Beach, Avila, South San Luis, Boleta, Santa Barbara, Montecito.

Summerland, Carpinteria, San Buenaventura, Oxnard, Port Hueneme, City of Los Angeles, City of Los Angeles (Terminal Island), Los Angeles County Sanitation District, Avalon, Sunset Beach.

Orange County Sanitation District, Laguna Beach, South Laguna, Dana Point, San Clemente, Oceanside, Encinitas, Cardiff, San Diego, Carlsbad-Buena Vista.

Mr. MUSKIE. Mr. President, with regard to municipal extensions, the conferees approved a case-by-case extension for municipalities which were unable to meet the July 1, 1977, requirements, in part as a result of recognition of the impact of impounded funds. These extensions are available only to municipalities which would require substantial construction and for which Federal funds were not available, if they agree to establish and maintain an interim compliance schedule.

Of 12,500 treatment plants now in operation, 4,150 or one-third meet the 1977 requirements of Public Law 92–500. These plants serve about 52 million persons. Plants that do not meet the deadline serve about 92 million persons. EPA has provided the following estimates as to ultimate municipal compliance:

EPA estimates the cumulative number of facilities currently in operation that would achieve secondary or more stringent treatment levels:

Fiscal year:	*Meet level*	*Not meet level*
1977	4,150	8,370
1980	4,260	7,260
1985	8,250	4,270
1990	11,200	
1993	12,500	

Although there is no precise estimate of the number of present industrial hookups to municipal wastewater systems, roughly 50,000 industries, most of which are relatively small, is an EPA approximation. Based on a survey this year of major industrial dischargers in the paper industry, the total number of major industries—flow greater than 50,000 gallons per day—in all categories desiring hookups to municipal systems would be in the order of 70 to 100. There is no estimate of potential hookups for the small industries, but EPA believes that several thousand such industries may find hookups to be advantageous.

The purpose of this amendment is to allow the permitting agency to extend the date of compliance for those treatment works, and industries with contracts to tie in to treatment works, which have made all possible good faith efforts to meet the July 1, 1977, deadline and whose failure to do so is primarily the fault of the Federal Government.

For those industrial and municipal sources which are unable to meet this statutory deadline due to their unwillingness to take appropriate actions and spend necessary amounts of money at the earliest possible time, the conferees intend that no extension be granted and that enforcement actions be undertaken under section 309.

In determining whether or not to grant the extension, the permitting agency must consider whether the delays in construction were due to EPA's inability to make available appropriate construction grant moneys promptly or whether the fault lies with the municipalities' unwillingness to move as fast as possible with all available resources toward the achievement of the requirements of secondary treatment.

Subsection 301(i)(2)(A)(iii) would allow an extension in a permit to an industrial discharger proposing to connect to a municipal treatment system if "engineering or achitectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works" indicate such connection and other criteria of the new subsection are met. This test is intended to establish that plans or drawings to discharge to a municipal treatment system were in existence prior to July 1, 1977, and were not concocted after that date merely to frustrate enforcement of the act's requirements. Accordingly, plans or drawings that have been discarded or superseded or submitted in a grant application that was determined ineligible should not be considered sufficient to support an extension. To support an extension, such plans or drawings generally should be those accompanying an eligible grant application.

PROCEDURES FOR MODIFICATION

This amendment establishes a procedure for filing application for a modification of the requirements of the act for secondary treatment for publicly owned treatment works which discharge into marine waters, and for a modification of the best available technology requirement for nonconventional pollutants.

The amendment requires that any publicly owned system or industrial discharger which wants a modification must file his application to that effect with the Administrator within 9 months of enactment of the 1977 amendments (or in the event that EPA has not promulgated effluent guidelines for the pollutant in question, within 9 months of such a promulgation).

The amendment makes clear that the mere application for a modification does not stay any requirement to achieve BAT by the applicant, unless the Administrator determines that there is a substantial likelihood that the applicant will qualify for the modification on the merits of his application. In the case of a modification of the best available technology requirement for a nonconventional pollutant, the Administrator may condition a stay on the filing of a bond or other appropriate security, such as a line of credit, which will assure timely compliance with the requirements for which a modification is sought.

This provision is intended to discourage the use of the modification procedures for delay by dischargers which have no reasonable chance of qualifying for a modification. Otherwise, the exemptions would provide an opportunity to "buy time" and result in failure to meet the deadlines in the act.

Although numerous changes have been made to sections 301 and 304, effluent limitations and guidelines developed pursuant to these sections remain technology-based standards. Except to the extent expressly provided in the statute, such limitations cannot be varied or modified due to the nature or quality of receiving waters.

Whenever judicial review is sought of the Administrator's action with regard to any modification to or waiver or variance from an effluent limitation, it is expected that such review will be in the courts of appeals pursuant to section 509.

INNOVATIVE TECHNOLOGY

States with approved permit programs under section 402 of the act are to make determinations of whether a claim of innovative technology supports an extension in consultation with and pursuant to guidance from the Administrator. This does not supersede, of course, the Administrator's ability under section 402(d) of the act to object to a permit proposed to be issued by such a State on the basis that an extension contained in the permit was improvidently granted by the State under the new section 301 (k).

The Administrator is expected to approve as innovative techniques those systems which provide for productive use of nutrients and reclaiming and recycling water.

BEST MANAGEMENT PRACTICES FOR INDUSTRY

The amendment to section 304, adding a new subsection (e), authorizes the Administrator to publish regulations for ancillary industrial activities of point source dischargers which contribute pollutants designated as toxic under section 307 to navigable waters. For these ancillary activities, the regulations will specify treatment requirements, operating procedures, and other management practices by classes and categories of point source dischargers. Once promulgated, the requirements, procedures, and practices established in the regulations must be included in section 402 permits where applicable, being considered as requirements of sections 301, 302, 306, 307, or 403. Of course, prior to promulgation, the same type of controls could be imposed in permits through case-by-case determinations under section 402(a)(1).

This amendment closes a gap in the current regulation of toxic pollutants through the permit program. Under the Federal Water Pollution Control Act of 1972, management and operating practices to abate the discharge of pollutants may only be imposed in permits indirectly; for example, through sections 402 (a)(2), 401(d), 208(e), or 301(b)(1)(C). Where such direct authority is unavailable, the result may be control of only a part of the total "toxic pollutant picture" for a given industrial site or process. Limiting pollution control in this manner may often serve to undermine overall water pollution abatement efforts. For example, wastes containing toxic pollutants may be removed from a point source discharge by treatment, only to cause another form of water pollution problem due to improper onsite management, storage, or disposal practices.

Under the terms of the amendment, direct regulation of the totality of a toxic pollutant problem through management requirements in permits would be available. Increased water pollution control would be provided for such concerns as site runoff, spillage or leaks, lagoons, sludge or waste disposal, and drainage from raw materials storage, as they relate to the processes of an industrial point source discharger.

The following example serves to illustrate the possible use of the amendment's provisions for control of ancillary industrial activities. In the case of an industrial plant that stores materials in open areas, the permit, in addition to specifying effluent limitations for the point source discharge, could prescribe procedures for the protection of materials from rainfall and runoff, or the collection and treatment of such runoff. The same permit could prescribe methods for the handling and onsite transport of raw materials, waste sludges, lagoons, or byproducts to minimize spillage or accidental release of toxic pollutants that could flow or be washed into navigable waters.

Some recent environmentally devastating incidents underscore the need for this authority:

The carbon tetrachloride spill into the Ohio River was the result of an improper storage practice. Had proper storage practices been specified, that spill might have been avoided.

The toxic chemical mirex from the Hooker Plant in Niagara, which contaminated Lake Erie, was not an intentional discharge. It was a leak. Had the Administrator specified practices to avoid leaks, that also could have been avoided.

The runoff of kepone into the James River from outdoor storage areas could have been prevented.

Effective use of this authority should reduce significantly a major and potentially disastrous source of serious water pollution. Wherever possible the Environmental Protection Agency should specify alternative practices or control measures that will achieve the intended results. In specifying discharge permit conditions, the Environmental Protection Agency or the State should allow the point source to substitute other control measures or practices where equivalent results can be obtained.

It is the intent of the conferees that the Environmental Protection Agency be vigorous in exercising this new responsibility. The pollutants subject to this authority are the most hazardous to water ecosystems and public health.

The new section 304(e) enables the Administrator to specify best management practices in effluent guidelines to supplement effluent limitations in those guidelines under the criteria set forth in the new section. The Administrator has some authority to include best management practices requirements in permits under appropriate circumstances whether or not such practices are specified in effluent guidelines *NRDC* v. *Costle*, f2 (D.C.C. 1977) D.D.C. Nos. 75-2056). This new section does not impair that authority.

TOXICS AND MODIFICATION OF BEST AVAILABLE TECHNOLOGY

The seriousness of the toxics problem is just beginning to be understood. New cases are reported each day of unacceptable concentrations of materials in the aquatic environment, in fish and shellfish, and even in mother's milk. Empirical evidence has shown a statistical correlation between materials in New Orleans' drinking water and cancer mortality rates; Kepone has destroyed the James River, one of America's most productive, and most historic rivers; PCB's are pervasive and have ruined the fishing in the Hudson River and the Great Lakes; carbon tetrachloride is only the most recent material to contaminate the Ohio River; the pesticide endrin has been found in the Mississippi; perhaps worst of all, are the ones we do not know of yet.

The more we find out, the more cause there is for concern. It is imperative that these materials be controlled. The 1977 requirements have made a beginning, but much more is required.

The Congress has reaffirmed the commitment made in 1972 to achieve a second phase of technology based controls on industrial point sources aimed at toxic and potentially toxic materials which remain after achievement of the 1977 requirements. Considerable testimony was taken on the 1983 requirements based upon best available technology, more than on any other subject. The issue was pursued by all committee members in the House and Senate with great interest.

The conference agreement is clear in indicating that requirement based on best available technology in Public Law 92-500, supplemented by earlier limitations under section 307(a), provide the most effective mechanism in the act for dealing with toxic pollutant discharges. Not only is BAT a technology-based requirement as recommended by the National Commission on Water Quality, but it also calls for heavy reliance on advanced technology and in-process controls which are appropriate for dealing with the majority of toxic discharges. More importantly, the nature of the toxics problem is so pervasive that the most effective approach in dealing with it is on an industry-by-industry basis.

Studies over the past year have identified large numbers of pollutants that have known or strongly suspected toxic effects, many of which are carcinogens. Past experience has shown that the only practical way of dealing with such a problem is to examine each industry category or subcategory. In this manner control options can be developed that deal most effectively with the entire waste stream of an industry. This is the approach called for by best available technology.

Another, and possibly more important, reason for maintaining the BAT requirements is that the Agency currently has a major program underway of using BAT to control toxics. Technology-based effluent limitations are being developed which will place limits on toxic pollutants which pose or are likely to pose human health and ecological hazards.

The conference agreement was specifically designed to codify the so-called "Flannery decision", which set forth 65 families of pollutants which are to be regulated by BAT, and EPA has been implementing this consent decree. To take a different course for dealing with toxics at this point would require a major reprograming of EPA resources. Such a delay, whether it be to allow utilization of a different section of the act or in order to implement this section, would only cause confusion and add still more delay to efforts to solve the toxics problem. The discharge of toxic pollutants should be eliminated as soon as possible. Because EPA is already embarked upon a program to control toxics using a proven mechanism, technology-based effluent limitations, and because of the urgency to control toxics, prudent public policy demands that this strategy be maintained.

The conference agreement amends section 301(b) of the act to require that all toxic pollutants actually listed in table 1 of House Public Works and Transportation Committee Print No. 95–30 must comply with effluent limitations which require the application of best available technology no later than July 1, 1984. For all other toxic pollutants, compliance must be achieved no later than 3 years after the limitation is established. For all pollutants other than toxic pollutants or conventional pollutants, compliance with effluent limitations requiring best available technology must be achieved not later than 3 years after the limitation is established or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.

The earliest date for which compliance is required is the same as the date for compliance with the requirements of sections 301(b)(2) (C) and (E); that is, not later than July 1, 1984.

For conventional pollutants, effluent limitations shall be achieved no later than July 1, 1984, which require application of "best conventional pollutant control technology" determined in accordance with regulations issued by the Administrator.

For nonconventional pollutants, the conference agreement amends section 301 by adding a new subsection (g) which authorizes the Administrator—with concurrence of the State—to modify BAT requirements with respect to any pollutant—except toxic pollutants, conventional pollutants, and heat—upon a showing satisfactory to the Administrator that the modified requirements will result at least in compliance with section 301(b)(1) (A) or (C), whichever is applicable, that the modified requirements will not result in additional requirements on any other source and will not interfere with attaining or maintaining water quality which assures protection of public water supplies and protection and propagation of a balanced population of fish, shellfish, and wildlife, and allow recreational activities, in and on the water and will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity—including carcinogenicity, mutagenicity or teratogenicity—or synergistic propensities. If an owner or operator of a point source applies for a modification under new subsection (g) with respect to the discharge of any pollutant, the owner or operator shall be eligible to apply for modification under section 301(c) with respect to that pollutant only during the same time period as the owner or operator is eligible to apply for a modification under subsection (g).

The Administrator is expected to expedite these determinations. Whenever he determines that there is substantial likelihood that a petition for a modification will not prevail on the merits, the conferees expect the Administrator to reject the application so that the process of compliance can begin.

The conference agreement specifically excludes heat—the thermal component of a discharge—from the definition of conventional pollutants and from the category of non-conventional pollutants. This was done to avoid further confusion and delay in the regulation of thermal discharges.

The 1972 act provided a procedure whereby the thermal component of discharges could obtain a modified effluent limitation upon a demonstration of noninterference with the balanced indigenous species of fish, shellfish, and wildlife. That procedure has been utilized; demonstrations are in the process of being made; effluent limitations have been delayed as a result of that procedure. The conferees did not want further delay. The conferees did not want to provide additional opportunities for modification or waiver.

Heat is the one pollutant for which nothing has changed since enactment of the 1972 act. Heat is still subject to best available technology as defined in section 304(b)(2). Heat is still subject to the 1983 deadline.

The conferees are aware of the administrative and judicial implications of modifications of a law as complex as the Clean Water Act. There was only one exception provided in the 1972 act and, in that case, there had been great abuse. More than 100 steam electric powerplants applied for modification of thermal effluent limits. None have yet been placed on a compliance schedule to meet effluent limitations because of extensive delay as a result of this exception. And there is little question that after the adminiistrative process there will be extensive litigation. Heat has become an unregulated pollutant, clearly not the intent of the Congress. The Congress intended that there be a very limited waiver for those major sources of thermal effluents which could establish beyond any question the lack of relationship between federally established effluent limitations and the national water quality standard. That limited exemption has been turned into a gaping loophole.

The cumbersome process which the Agency initiated resulted in part in a decision to avoid any application of 1977 regulatory requirements for steam electric powerplants. There is no basis for that decision in the law. The Agency also concluded that the 1972 act was preemptive with respect to the application of State water quality standards and effluent limits for heat. This is a determination for which there is no substance in law and which is wholly contrary to the committee's long-held view that the States are free to establish any more strict standards of effluent limitations, as specifically set forth in section 510 of the act.

It should be noted that, as was indicated during debate on the Senate floor and as is noted in the Senate committee report, the provisions of this act with respect to any pollutant—heat, a nonconventional pollutant, a toxic or a conventional pollutant—is not preemptive of any applicable State or local requirement standard limitation or deadline.

Even without the State water quality standards/effluent limits question, the delays in section 316(a) would be unfortunate and indefensible. Similar delays under the modifications of this act would be disastrous to this program. The conferees expect the Administrator to establish an expeditious process for determining the validity of applications for exceptions, and to proceed swiftly to enforce effluent limitations applicable to pollutants for which there are no water quality standards or which would clearly interfere with attainment and maintenance of that water quality which provides for the protection of public water supplies and provides for the protection and propagation of a balanced population of fish, shellfish, and wildlife and provides for recreation, in and on the water. Only in this way can these modifications be useful, both to the source which needs to know as early as possible what will be required and to the environment which will benefit from an entire reduction of discharges of pollutants.

The Administrator is required to review, within 90 days, best available technology guidelines for any industrial categories other than the 21 industrial categories subject to NRDC versus Train. When the Administrator completes that review, in the publication of his finding he should promulgate these effluent limits as best conventional pollutant control technology. By the fact of having completed the review, the Administrator will have applied the new cost test and thus any determination as to effluent limits will be a best conventional pollutant control technology determination.

The Administrator's judgment is final unless it is determined that his action was arbitrary and capricious. Congress has given the Administrator a very brief period for review. The Administrator has testified that his standard for conventional pollutants has been similar to that which the new law requires.

It is intended that best conventional pollutant control technology codify that standard. His review of existing best available technology limits should focus on any categories where there is a possibility that best available technology actually requires more than best conventional pollutant control technology. In many cases no change or only a modest change may be required.

The conferees did not expect this review to be exhaustive or extensive. EPA's resources are limited. To direct maximum resources to removal of toxics, pretreatment, enforcement, and proper implementation of the construction grant program, this is intended to be a very limited review. The data on which these best available technology guidelines are based already exists. No new information need be developed. The Administrator must determine whether or not the cost of achieving reductions of conventional effluent bears a reasonable relationship to the amount of effluent reduction achieved. In making this determination, the Administrator is to compare the costs of industrial effluent reduction to the cost of municipal waste treatment.

The Administrator may also evaluate the effluent reduction cost/effluent reduction benefit on other cost bases including comparison with other industries. The Administrator should consider costs of process change as well as end-of-pipe treatment. Where the former is more economical, process change, not treatment, should be the basis for both the effluent limit and the cost comparison.

Best conventional pollution technology effluent guidelines are, from a regulatory standpoint, in most respects identical to best available technology except for the cost test in establishing effluent guidelines. The dates are identical, the procedure for 5-year review and update is identical, and the requirement that the Administrator consider process change as well as treatment techniques in establishing the guidelines is identical. Best conventional technology-based effluent limitations are not subject to a modification on the basis of a plant-by-plant test of economic feasibility (301(c)) receiving water quality (301(g)).

The 1972 act provided an opportunity under section 301(c) for specific sources to obtain a modification of best available technology effluent limitations on a showing that the required effluent limitations were economically unachievable for that particular source and that a modified effluent limitation would represent reasonable further progress toward the goal of elimination of discharge of pollutants.

Like toxic pollutants for which there are no waivers or modifications, there are no potential waivers or modifications for conventional pollutants. An adequate consideration of cost is made at the time of promulgation of the effluent guidelines. The statute specifically relates the economic waiver to those pollutants which remain in the best available technology category and which are not toxic—that is nonconventional pollutants. Because conventional pollutants are no longer in the best available technology category, they are not affected by any waivers or modifications, either on the basis of cost or on the basis of the test of attainment and maintenance of water quality based on protection and propagation of fish, shellfish, and wildlife.

One purpose for establishing a separate category for conventional pollutants was to assure periodic review and revision of the effluent guidelines applicable thereto. Effluent guidelines for best practicable technology were not required to be revised and reviewed because they were a time-limited requirement. Best available technology to be achieved under the 1972 act by 1983 was not intended to be the final degree of control to be applied to existing facilities.

There is and will continue to be a need to press technology to improve the degree of control on both best available technology and best conventional technology. Failure to revise and reissue guidelines on a 5-year basis for best conventional technology could lead to technological stagnation. Worse, available information indicates that growth alone could wipe out the gains made by best practicable technology. Thus, there is no reason to believe that the progress achieved by conventional pollutant control, which will be considerably greater than best practicable technology, will not also be eliminated if the degree of control remains unchanged. Thus, the conferees left in place the requirement that conventional pollutants be updated every 5 years.

The new toxics provision greatly enhances the ability of the Administrator to regulate pollutants which are suspected of having toxic potential. And, the Administrator should add pollutants to the list of toxics whenever he has reason to suspect that they may fall into this category.

The conferees intend the Administrator to have the widest latitude in adding pollutants to the list of toxic pollutants under section 307. He will not be required to justify the relative advantages of listing one pollutant or group of pollutants over another. In determining the toxicity of pollutants, the Administrator must consider the definition of toxic pollutants contained in section 502(13). While he would similarly have latitude in deleting pollutants, no pollutant listed in House Report 95-30 should be deleted without a clear finding that delisting will not compromise adequate control over the discharge of toxic pollutants. Review of the Administrator's action will be in the courts of appeals pursuant to section 509.

Moreover, it should be obvious that the fact that a pollutant listed under section 307(a) has oxygen demanding or other characteristics similar to those of conventional pollutants shall not affect the status of such pollutant as a toxic pollutant.

This provision is not intended to require extensive documentation of toxicity as is the case of toxic effluent standards. It is intended to be more closely akin to the general concept of the 1972 act—that is, that ecological protection will more likely be achieved through the elimination of discharge of all pollutants rather than requiring that the Government bear the burden of establishing a precise relationship between each pollutant in each effluent stream to a particular receiving water quality impact.

The control requirement for any pollutant placed on the toxic list is still best available technology unless the Administrator determines that there is sufficient information on toxicity to establish a separate nationwide effluent standard for that pollutant.

That is an important distinction. The toxic effluent limitation is a best available technology-based control requirement. A toxic effluent standard is a control requirement based on an established relationship between a toxic pollutant and a receiving water/ecosystem impact. A best available technology effluent limitation applies to industrial classes and categories. A toxic effluent standard applies to the pollutant per se, and cannot be exceeded by any source of that pollutant unless the Administrator makes a separate categorical determination. Thus, for example, toxic effluent standards must be achieved by all municipal treatment plants, whereas best available technology limits apply to industrial point source categories.

The conference agreement includes only the list of toxic pollutants for which the Administrator is currently planning to promulgate best available technology effluent limitations for 21 industrial categories. This list, of course, is in terms of families of pollutants. There are within each of those families numerous chemical compounds, all of which are presumed to be listed by statute as a result of listing the family category. This was clearly the intent of the consent agreement which this legislation codifies, and that fact is in no way changed. However, it is not the intent of this amendment, in any way, to restrict the addition of toxic pollutants to that list. The Administrator is expected to expand that list as rapidly as possible to assure maximum regulation of the discharge of potentially toxic pollutants to the aquatic environment.

The Administrator is expected to rely on other evidence of suspected toxicity. For example, there is no question that if a pollutant is determined toxic under the Federal Insecticide, Fungicide, Rodenticide Act, then that pollutant should also be on the toxic list under 307. A pollutant which is determined to be unacceptable in drinking water should be immediately added to the toxic list, because, after all, drinking water is often derived from sources which are affected by point source discharges of pollutants.

There is significant Federal investment in toxicity determinations. The Administrator should not duplicate this effort. He should rely on the efforts of other sections of EPA and other agencies of the Government such as the Occupational Safety and Health Administration and the Food and Drug Administration and outside sources of information. As indicated above, suspicion of toxicity is an adequate basis for adding a pollutant to a list because, after all, such an addition only makes that pollutant subject to best available technology effluent limitations—a control requirement to which it would have been subject prior to these amendments.

These amendments are intended to improve the Administrator's ability to reduce and eliminate the discharge of pollutants. They are not intended to make that process more difficult. In fact, these amendments reduce the evidentiary burden of establishing a toxic effluent standard. While the Administrator will have to carry out further testing and have more than suspicion on which to base his determination, his decision to establish a standard will only be subject to a judicial review test of substantial evidence.

The Administrator is required by sections 301 and 307 to engage in an ambitious regulatory program. In order to carry out this vital effort, it is expected that he will make extensive use of section 308. When using section 308 for this purpose, he will not be subject to the requirements of the Federal Reports Act, 44 U.S.C. 3501–3512.

Once the review of existing best available technology guidelines for conventional pollutants has occurred and any necessary changes have been made, the reviewed and, if appropriate, adequate guidelines will no longer be considered best available technology. Instead, such guidelines will be considered "best conventional pollutant control technology" pursuant to sections 301(b)(2)(E) and 304(b)(4). The variance under section 301(c) accordingly is not available for such pollutants after the review.

As under prior law, implementation of the act need not be delayed pending promulgation of regulations. Under section 402(a)(1), State and Federal permit issuers have authority to implement the requirements of the act in permits whenever pertinent regulations are not in existence at the time of permit issuance. Of course, the Administrator retains authority under section 402(d) to assure that all permits will carry out the purposes of the act—particularly with regard to control of toxic pollutants—and will not prevent timely compliance with any effluent limitations which the Administrator will subsequently promulgate.

PRETREATMENT

The agreement reached by the conferees on pretreatment requires EPA to establish technology-based pretreatment standards under section 307 (b) and (c). The standards will at least include 21 industries and 65 toxic pollutants; additional industries and pollutants may be added later. Where set, national pretreatment standards will be developed by applying best available technology—used for setting direct discharge effluent limits—to the indirect dischargers.

The Agency will encourage local enforcement of the national pretreatment standards initially, and as municipal permits are revised, require a local compliance program as a condition of the section 402 permit. Local compliance programs will be approved by EPA or by the permitting States with EPA review. Where local compliance programs have been approved, local governments will be responsible for enforcing national and local pretreatment standards. And such standards will be conditions on applicable permits. EPA or permitting States will initiate enforcement procedures wherever local governments do not assume enforcement authority and wherever needed to back up local authorities or to protect the environment.

Where a local compliance program is approved, EPA and the permitting States may approve case-by-case modifications of the national pretreatment standards—or local credits—for documented pollutant removals attained by a publicly owned treatment works. To receive a local credit, there must be a demonstration that the pollutant is degraded or treated; credits will not be given for dilution. Such credit approvals will be conditioned initially upon municipal compliance with Resource Conservation and Recovery Act requirements under subtitles C and D, and in 1983 upon the treatment works being capable of making beneficial use of its municipal sludge as established under subsection 405—unless such use is shown to be infeasible. National standards will not permit local credits for pollutants which are bioaccumulative or persistent toxics. Tying local credits to local compliance programs not only provides an incentive for local participation, but more importantly, it provides assurance that the removal levels which justified the local credits will be maintained by a publicly-owned treatment works committed to operating a sound pretreatment program.

In addition to the local credit incentive, Federal encouragement of local pretreatment programs will include, but not be limited to, financial incentives—funding of State and local program development costs through section 106, 201 and 208. Regulatory incentives will include requiring a local compliance program. Construction grant recipients will be required to have user charge programs which, in combination with other revenue sources, are capable of supporting an approved local pretreatment program. All construction grant recipients will be required to have approved local pretreatment programs as a condition of their grants.

The conference agreement requires that States with permit programs approved prior to enactment must conform their programs to the new pretreatment requirements no sooner than 1 year after enactment or, if new State law is required to do so, no sooner than 2 years after enactment. Such States obviously may not be accorded an unlimited time to conform their programs to these new requirements. The Administrator is expected to establish by regulation a reasonable time by which such States conform their programs to these new requirements or face withdrawal of the approval of their permit programs.

INDUSTRIAL DEADLINES

With respect to the industrial program, the Congress recognizes and applauds the significant success that most of the Nation's major industries have attained. And, for those who have begun, made the investment in waste treatment facilities, and complied with the 1977 requirements, there will be significant economic as well as environmental benefits. There will be environmental benefit to receiving waters, and economic benefit to those companies which bought pollution control when pollution control was considerably less expensive than it will be as result of inflationary patterns.

Between 80 and 90 percent of the Nation's industries meet the 1977 requirements of the 1972 act. A good portion of those who do not, have failed for what appear to be legitimate reasons. And about half of those who have failed, according to the Environmental Protection Agency, have not complied because of lack of diligence, lack of good faith, or lack of interest in the success of this program.

As of July 1, 1977, only a small percentage of sources within a few major industrial categories were out of compliance with the 1977 requirements and subject to enforcement actions. Of 4,000 major industrial dischargers, only 633 or 15 percent failed to meet the deadlines. Of these, only 300 are candidates for enforcement. Of the remainder, more than 100-plus are powerplants awaiting 316 exemption decisions; 100 are in adjudicatory hearings contesting legitimate issues; and 100 are tied into municipal systems. Some of the 300 will end up in court if the enforcement order is contested. There are 94 district courts in the country; there is no danger of the courts being overlooked by enforcement actions, and EPA is trying to negotiate enforcement orders without going to court.

For those industrial dischargers not in compliance, the bill provides the Administrator with yet another tool by, in effect, sanctioning what has been a policy of dubious legality with respect to delays in compliance. Three new enforcement tools are provided. First, these amendments provide the Administrator with authority to issue enforcement orders which specify a reasonable time for compliance with final deadline. Current law limits the Administrator to issuing orders of 30 days duration.

Second, these amendments allow the Administrator, at his initiative, to grant a simple extension of up to 18 months to a source whose facilities are under construction but could not have been completed by July 1, 1977. This is simply a codification of the enforcement compliance schedule letter process which the Administrator has used for sources which, in good faith, have tried to comply with the law.

Third, if a source is in violation of the law but does not meet the test outlined above, and the source intends to discharge into a publicly-owned treatment works, the Administrator may grant a compliance order requiring compliance by the earliest practicable date, but no later than July 1, 1983, if the treatment works concurs.

The Environmental Protection Agency has developed an enforcement strategy under current authority to initiate enforcement actions only against recalcitrant major dischargers. Dischargers who miss the July 1, 1977, deadline through no fault of their own will not be subject to enforcement actions; instead, they will receive enforcement compliance schedule letters, stating a specific date by which they must comply with a final deadline and an interim compliance schedule. The conference bill, essentially, codifies this policy.

The act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and in many cases expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this act, that administrative and judicial review are sought on a discharger's own time.

The conferees believe that a case has been made that some relief from penalties must be granted for those sources which have made a good faith attempt to comply with the deadlines in the statute but for justifiable reasons have been unable to do so.

The conferees considered but rejected the alternative in the House-passed bill of providing a case-by-case extension of the deadlines set out in the statute. That alternative was rejected because such a case-by-case extension would not only burden the administrative process but would also provide further opportunity for delay for those sources which are otherwise unable to make a legitimate case for additional time. Consequently, decisions by the Administrator pursuant to this new provision of law should not be the subject of administrative hearings and appeals but, rather, if the Administrator feels he cannot determine that a source meets the requirements of section 309(a)(5)(B) or 309(a)(6), he will immediately proceed under any of the other enforcement options set out in section 309. This authorization of limited flexibility granted to the Administrator will maintain the pressure for compliance while at the same time enabling the Administrator to use his discretion to grant any justifiable extension.

Section 309 is amended to authorize the Administrator to use his enforcement discretion in three new ways in the issuance of administrative orders: First, to require compliance with final permit requirements within a reasonable and expeditious time; second, to require compliance with the requirements of section 301(b)(1)(A) of the act by industrial dischargers meeting specified criteria by April 1, 1979; and third, to require compliance by an industrial discharger not meeting all of the criteria for an extension under the new section 501(i)(2) by discharging its wastes by July 1, 1983, to a publicly owned treatment works that will meet the requirements of section 301(b)(1) (B) and (C) of the act after receiving the wastes from the industrial discharger by July 1, 1983.

These remedies are all at the discretion of the Administrator. No discharger has any right to compel the Administrator to provide a particular remedy. These remedies are in addition to and not exclusive of existing remedies. The Administrator, for instance, in appropriate cases may seek a civil penalty as well as issuing an administrative order. He is expected, however, not to seek penalties in instances from a discharger to which he issues an administrative order under the new section 309(a)(5)(B) as long as the discharger is in compliance with that order, since that new section was designed in part to remove the stigma of noncompliance from dischargers meeting the criteria of that section not in compliance because of circumstances entirely beyond their control. It should be noted that the extensions available to industrial dischargers in administrative orders in the new section 309(a)(5)(B) and in permits in the new section 301(i)(2)(B) are available only to dischargers that have acted in good faith. The Administrator is not expected to grant comparable extensions in administrative orders under the new section 309(a)(5)(A) or (C) to industrial dischargers that have not been in good faith.

It must be emphasized that the Administrator is expected to utilize section 309(a)(6) only in those few cases where the discharger has acted in good faith and the Administrator finds that such means of compliance would result in more rapid and effective reduction of the amount of pollutants discharged than any other alternative means of compliance. The fact that use of a publicly owned treatment works would be less expensive than treatment by the discharger is not relevant to the exercise of the Administrator's discretion to use this enforcement alternative.

In providing the Administrator with additional flexibility to issue enforcement orders where compliance with statutory deadlines would be impracticable, the conferees do not intend to undermine the fundamental concept of strict liability which underlies the act's enforcement provisions. In particular, the Administrator and the courts should not be burdened in enforcement proceedings with determinations of whether a discharger was negligent, not exercising due care, or otherwise at fault.

OIL SPILL LIABILITY

The conference bill makes some changes in the liability scheme for discharges of oil and hazardous substances. The changes made, while limited, are of considerable importance in the overall implementation of this provision.

First, the language of the bill would permit the expenditure of funds from the section 311 fund for the purpose of mitigating the effects of a spill of a nonremovable hazardous substance. The effect of this amendment would be to place the financial burden of protecting persons and property from the harmful effects of discharges of hazardous substances upon those who are responsible for the discharges, and to thereby provide an incentive to such dischargers to take every reasonable step to mitigate the effects thereof.

Under the current wording of the statute, while it appears that such costs can be recovered in cases of discharges of substances determined to be nonremovable, the language is somewhat ambiguous, and the purpose of this amendment is to remove any ambiguity by making clear the intention that such costs can be recovered, regardless of whether the substance is determined to be removable or nonremovable. In addition, the amendment would make clear that the section 311(k) revolving fund could be used to pay for the mitigation effort. Such authority is essential to insure prompt action to protect public health and safety, including, for example, protection of drinking water supplies in the event of a discharge of a hazardous substance.

The bill also removes the total dollar ceiling on liability for oil spills from vessels except for inland oil barges. The ceiling served no useful purpose, inadvertently subsidizing large tankers and thus enhancing their competitive position over smaller vessels. According to testimony, the $150 per-ton limit should be adequate for cleanup of all but the most catastrophic spills. The $14 million limit in existing law is totally inadequate to deal with an oil spill of any magnitude from the size of tanker that is expected to be plying the waters of the United States.

The conference bill establishes a minimum liability for small vessels carrying oil as cargo of $150 per gross ton or $250,000 whichever is greater. For inland oil barges, the liability is $125 per gross ton or $125,000, whichever is greater.

According to testimony from the Coast Guard—the Agency charged with the responsibility for cleaning up oil spills—very often spills from small tankers and other sources are among the most difficult to clean up because they occur in areas where the water is moving and the urgency of the application of cleanup techniques is most pronounced. Additionally, the first cost of any cleanup activity is most costly. The current per-ton limit on smaller vessels is not adequate to provide liability commensurate with the costs of cleanup which have been experienced with such spills.

The Congress is particularly concerned with the soundness of the contingency fund. As a result of the 1970 act, $35 million was appropriated to that fund. Most of that has now been depleted. While there are over $26 million in pending claims and while liability payments and penalties have been returned to the fund, depletion has resulted from cleanup from unknown sources, cleanup where costs exceeded liability, and cleanup of spills where a defense to liability was raised. The new minimum liability for smaller oil tankers and the removal of the upper limit should make the fund more sound.

The conference bill contains a provision which assures that, in most cases, the government can pursue the insurer or the spiller to recover cleanup costs without awaiting final disposition of all third-party damage claims. This provision was adopted as a result of discussions with the Justice Department which indicated that the greatest limit on speedy cleanup cost recovery was the joining of cleanup liability suits with third-party negligence actions. This will no longer be the case.

The conference bill extends authority for cleanup and liability out to the 200-mile limit of the fisheries management zone. The many recent incidents of tanker spills, especially the disaster caused by the *Argo Merchant* off the coast of New England, underscores the immediate need for improved protection from and jurisdiction over marine pollution. The absence of clear legal authority to deal with oil spills beyond the territorial seas is indefensible.

The bill contains language that would permit costs expended by the Federal Government or any State government for the restoration or replacement of natural resources damaged by a spill of oil or hazardous substance to be paid by the contingency fund. This provision authorizes the President, or a State representative to act on behalf of the public as trustee of natural resources to recover such costs. This in an important protection for these natural resources, and this particular provision is fashioned after a similar one in the Deepwater Ports Act.

The Senate committee considered amendments to section 311 to establish liability for damages occurring outside the jurisdiction of any State as a result of an oil spill, including compensation for income loss due to damage to property or natural resources.

The limits for ocean-going vessels are close to the Senate provision in that the outside limit of liability has been removed, thus eliminating the subsidy inherent in a maximum liability for super tankers.

As in the Senate bill, the jurisdiction of the United States to clean up oil spills and assess liability for those spills has been extended to the limits of the jurisdiction of the United States. The language has been modified to reflect the fact that this is an extension of jurisdiction for the purpose of protecting the resources over which the United States exercises jurisdiction rather than an extension of jurisdiction over waters beyond the contiguous zone.

The Senate committee considered amendments to section 311 to establish liability for damages occurring outside the jurisdiction of any State as a result of an oil spill, including compensation for income loss due to damage to property or natural resources. A related amendment creating a new compensation fund covering claims for damages above the spiller's limits of liability and funded by a 3-cent-per-barrel throughput fee on oil not already subject to the fees associated with the existing compensation funds, was also considered. The committee deferred action on these proposals and will consider them as part of the comprehensive oil spill liability legislation, which will be taken up after enactment of this bill. In that context, a provision of liability for damages and a compensation fund which does not preempt State liability requirement will be included in any committee action.

The Senate conferees are committed to consideration in this Congress of pending legislation authorizing creation of an oil spill superfund. Legislation to create such a fund has passed the House—H.R. 6803—and has been referred to the Senate Environment and Public Works Committee along with a similar bill reported from the Senate Commerce, Science and Transportation Committee—S. 2083.

These amendments to section 311 will provide interim assurance that adequate funds will be available to clean up most oil spills and will provide a basis against which the Senate committee can consider the superfund legislation.

The conferees expect that matters raised in this section will be further reviewed in conjunction with consideration of the superfund legislation and of any international agreements on pollution beyond the territorial seas.

The conference agreement is not intended to disrupt the process of negotiation of international environmental protection agreements. It is intended rather to indicate the degree of protection which the United States believes is a minimum.

The massive amount of oil which is being moved on the oceans presents a continuing threat to the capacity of the oceans to generate food and oxygen. There is little disagreement that once polluted to the degree where these resources are in danger, the process may be irreversible. Unlike a lake or a river which man can abandon, the oceans are elemental to man's life support system. Thus, a greater environmental ethic must be applied to protection of ocean resources than might otherwise be applied to inland waters.

The international community needs to understand the importance which the United States places on ocean resources. And the international community needs to understand the limits which the Congress imposes on those international agreements intended to make uniform laws which affect the oceans.

Mr. President, I have, as chairman of the Subcommittee on Environmental Pollution, communicated these deep concerns to Secretary of State Cyrus Vance and Law of the Seas Ambassador Elliot Richardson. I ask unnamious consent that copies of my correspondence on these issues be printed at this point in the legislative history in order that the purpose of these amendments will be absolutely clear.

There being no objection, the letters were ordered to be printed in the Record as follows:

Washington, D.C., *March 22, 1977.*

Hon. Elliot Richardson,
Ambassador,
U.S. Department of State,
Washington, D.C.

Dear Ambassador Richardson: I have written to Secretary of State Vance to express my concerns about certain aspects of the current Law of the Sea Negotiations. I am enclosing a copy of that letter for your information.

I am particularly concerned by the preemptive nature of the Revised Single Negotiating Text with respect to the vessel pollution area. As currently written, this proposal would limit the rights of coastal states, such as the United States, to establish and enforce standards under existing United States environmental statutes. As I stated in my letter to Secretary Vance, many of us have worked long and hard to see these environmental statutes enacted, and I would have serious reservations about a Law of the Sea Treaty which would affect the applicability of those statutes.

As a New Englander, I am sure you understand the importance of adequate protection of both marine and recreational resources. I hope the United States delegation will share my concern in this area as negotiations continue. I wish you and your colleagues the best of success.

Sincerely,

Edmund S. Muskie,
Chairman,
Subcommittee on Environmental Pollution.

Washington, D.C., *March 21, 1977.*

Hon. Cyrus R. Vance,
Secretary of State, U.S. Department of State,
Washington, D.C.

Dear Secretary Vance: I have followed closely, over these last five years, the progress at the Law of the Sea negotiations because of my deep interest in a variety of issues being considered. Since I have been actively involved in the development of U.S. environmental legislation and am the Chairman of the Environmental Pollution Subcommittee of the Senate Committee on Environment and Public Works, I have watched the formulation of the environmental provisions of the Treaty with particular interest.

I would like to bring you up to date on my position on the pollution issues involved in the Law of the Sea negotiations. I think my position is fully supported by the recent series of tanker accidents, the result of which may be long-term damage to marine ecosystems.

I am committed to seeing that this country takes measures to assure that our oceans and well-being do not continue to suffer this harm in the future. To this end, I have introduced legislation which would extend our pollution control jurisdiction out 200 miles, and I have also introduced other legislation to assure that effective standards are adopted for vessels entering United States ports or traveling near our coastline.

The Law of the Sea Treaty should be an instrument to establish a system to eliminate environmental degradation. Certainly such a Treaty should not include provisions which would impede our efforts to move in the direction of sound marine environmental policy. However, the current negotiating text does, in fact, include such provisions.

As such, the Revised Single Negotiating Text in the vessel source pollution area is not acceptabe. In particular, it would pre-empt the rights of coastal states, like the United States, to establish and enforce standards relating to vessel source pollution of coastal areas. Another article would prevent the United States from promulgating national environmental requirements affecting vessels in the territorial sea with respect to design, construction, manning or equipment (and even other matters, such as discharges, if these are covered by international treaty unless coastal state standard setting is specifically authorized). Also, if a vessel were to cause substantial damage to the coast of Maine or any other seaboard state, the United States would not be able to enforce our own domestic laws or international laws against that vessel if the flag state were to commence enforcement proceedings.

If the above vessel source pollution provisions are permitted to remain, they would be inconsistent with existing United States environmental policy; they would be contrary to United States laws including the Ports and Waterways Safety Act and the Federal Water Pollution Control Act; and they could result in more pollution of United States coastal areas and the oceans. While other Members of the Senate and I will want to examine closely all aspects of any final agreed-upon Law of the Sea Treaty and would not, at this point, prejudge what our position on advise and consent to ratification should be, many of us will have serious reservations about the Treaty if the United States will be prevented from establishing and enforcing all standards in its territorial sea—that is, if the Treaty pre-empts existing U.S. environmental legislation. Many of us in Congress have worked long to secure enactment of meaningful United States environmental protection legislation. We would not be prepared to have those years of effort and success pre-empted by less than adequate international treaties.

Finally, with respect to the establishment of a 200 mile economic zone, it seems to me eminently sensible that the United States and other coastal states should have the right to enforce environmental standards for vessels within that economic zone. Such right should be exercisable when any pollution violations occur and should not be limited only to cases of imminent and severe environmental damage (since these are always difficult, if not impossible, to prove). Nor should this right to be subject to preemption by flag states. In the past, our delegation, for reasons which I believe are not defensible, has not been prepared to advocate such extended enforcement. I believe that the United States delegation should insist on the inclusion of this right in the Treaty.

The Law of the Sea negotiations are important to the international community and the United States for a variety of reasons, not the least of which is the protection of the ocean environment. I hope that the United States delegation will vigorously seek the protection of coastal state environmental laws in order to assure fulfillment of that commitment.

Sincerely yours,

EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution.

Mr. MUSKIE. Mr. President, I would hope that in negotiation, either with respect to the Law of the Seas Treaty or any international maritime consultative organization agreements, spokesmen for the United States will view this legislation as the baseline from which they will negotiate and not, as has been the case, in the past, a starting position from which the United States will bargain.

I also hope that U.S. representatives to these negotiations will consult more closely with the Senate to assure that positions taken are consistent with domestic law. I would hope that these consultations take place at a time sufficiently prior to the formulation of a U.S. position so that the advise of the Senate can be meaningful. I, for one, am not prepared to support international agreements, the effect of which would compromise the interest of the United States in protecting ocean resources.

The amendments to section 311 underscore the importance of this section and the need for completion of long-delayed regulatory action with respect to hazardous substances. There is no reason for further delay. While designation of hazardous substances and determination of removability, harmful quantities and rates of penalty are major actions, the Administrator is expected only to make a reasonable effort to make these judgments. These are nationally applicable, before-the-fact decisions and are not expected to reflect the myriad of actual circumstances that may occur.

Judicial review should not unnecessarily prevent implementation of these regulations. Burdensome discovery should not be necessary so long as notice and opportunity to comment was provided. Review should also be consolidated as much as possible.

It is also expected that costs of mitigation actions designed to properly dispose of pollutants removed from the water or shorelines will be deemed costs properly included in section 311(c).

FEDERAL FACILITY COMPLIANCE

The phrase "particular effluent source" in the amendment to section 313 is not intended to suggest any limitation on the President's power under the general exemption provision to exempt any Federal activity, such as the strategic petroleum reserve program, from the requirements described in section 313.

ENVIRONMENTAL PROTECTION AGENCY ISSUANCE OF PERMITS

Section 402(d) as amended provides a process for the issuance of National Pollutant Discharge Elimination System permits by the Administrator after he objects to a State-proposed permit. It is intended that this process be utilized to insure the rapid issuance of an effective, valid permit. The Administrator's action in objecting to a permit would generally not be subject to judicial review since it will always be followed by further administrative action. The final issuance of a permit by EPA would be subject to judicial review pursuant to section 509 (b)(1)(F).

Furthermore, in order to insure the effectiveness of this provision, the Administrator may develop flexible procedural rules to provide for rapid permit issuance. When the record developed by the State is adequate for instance, the Administrator need not provide for public comment or a public hearing. When the record developed by the State is inadequate to support a permit determination by the Administrator, he may remand the permit proceedings to the State with instructions to develop an adequate record or he may develop such record himself.

DREDGE AND FILL PERMIT PROGRAM

The provisions of the conference report dealing with discharge of dredged or fill material amend sections 404 and 208(b)(4) of the act. These amendments are essentially the same approach as taken in the Senate-passed bill, and the Senate report and floor statements at the time of Senate passage are still adequate reflections of legislative intent with respect to this program.

The conference bill follows the Senate bill by maintaining the full scope of Federal regulatory authority over all discharges of dredged or fill material into any of the Nation's waters. It provides for the substitution of adequate State programs for permit issuance by the Corps of Engineers, and for general permits to be issued by the corps or under approved State programs. The bill also provides the exemptions from the permit requirement for certain specified activities as provided in the Senate-passed bill.

The two major changes from the Senate version are a greater degree of specificity about the type of "best management practice" regulation under section 208(b)(4) which qualifies an activity for exemption from the section 404 permit requirement, and a restatement of the exemption for Federal projects.

The conference bill amends section 208(b)(4) to authorize the Administrator to approve statewide regulatory programs to control those discharges of dredged or fill material that are better handled through imposition of best management practice requirements. The section 208(b)(4)(B) program is intended to complement State permit programs approved under section 404. Once a State has an approved section 404 permit program and an approved section 208(b)(4)(B) regulatory program, the Administrator may approve best management practices imposed by the State to control an activity which he determines will have only minor individual or cumulative effects on the aquatic environment. If the Administrator approves best management practices as adequate to control a specific activity without additional permit review, providing a degree of protection comparable to that from section 404(b)(1) guideline review, Federal permits should not be required. Best management practices will not be appropriate as the sole means of control for activities such as channelization and site development fills that can impair the circulation or reduce the reach of navigable waters. Such activities, by their very nature, will continue to require individual attention through a permit review process, as will all discharges involving any toxic pollutant listed under section 307(a)(1).

Of course, best management practices may be required for such activities as permit conditions. It is not expected that the section 208(b)(4)(C) exemption from permit requirements will be available for whole classes of activity, such as silviculture. While the intent of section 208(b)(4) is to encourage States to develop best management practice requirements for all such activities, as part of a general forestry practices act or otherwise, each individual activity or practice must be scrutinized in light of the section 404(b)(1) guidelines and approved by the Administrator before the permit exemption is available.

A section 208(b)(4)(B) is not a substitute for the section 404 program, and the Administrator cannot approve best management practices to replace the State's permit review process in its entirety. This is consistent with the principal that section 208(b) programs generally, at the State or area wide level, do not duplicate the permit programs for point sources under sections 402 and 404, but incorporate them in a broader effort to attain the water quality objective of the act.

The Administrator must assure that an approved best management practice is specific enough to inform each person conducting an activity what is specifically required of him. The conferees expect that any approved section 208(b)(4)(B) program will include an active enforcement process with demonstrated capability and adequate resources.

New subsection 404(r) provides an exemption from the permit requirement for discharges of dredged and fill materials associated with the construction of certain Federal projects. Only fully Federal projects which are specifically authorized by the Congress may qualify for this exemption. Federally assisted projects, such as watershed improvement plans under the Soil Conservation Service, do not qualify even if authorized by name. Projects which are authorized by congressional committee resolution and projects which do not belong to the Federal Government but are financed in whole or in part with Federal funds are not eligible for the exemption. Maintenance of existing Federal projects is not covered by the exemption either.

A Federal project may be exempted from the requirement for a permit under section 404 or an approved State section 404 permit program only if the Congress had adequate information on the effects of the discharge of dredged or fill material at the time of authorization, or at the time of a specific appropriation of funds for the construction involving the discharge. This information must be in the form of an environmental impact statement which specifically addresses the effects of the discharge of dredged or fill material, providing an evaluation of those effects equivalent to that required under the section 404(b)(1) guidelines. It is unlikely that environmental impact statements prepared before the passage of this legislation or promulgation of those guidelines would satisfy this requirement.

The Congress must have adequate siting, engineering, and environmental information and analysis on each proposed Federal project, as well as modifications recommended by reviewing agencies, in order to review the available alternatives to and potential adverse impacts of the proposed discharges. The Administrator will be expected to see that the section 404(b)(1) guidelines are sufficiently explicit to focus attention on those aspects of Federal project dredge and fill material discharges that could result in environmental degradation. And the Administrator must assist other agencies by carefully reviewing draft environmental impact statements to assure that the guidelines are being interpreted and implemented properly.

Mr. President, the Senator from Arkansas, Mr. Bumpers, has written to me as chairman of the conference committee, on the question of Federal projects exemption. I ask unanimous consent that his letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C., *December 14, 1977.*

Hon. Edmund Muskie,
Chairman, Subcommittee on Environmental Pollution, Committee on Environment and Public Works, Washington, D.C.

Dear Ed: I am especially concerned about the effect that the conference report on H.R. 3199 may have on Section 404 of the Water Pollution Control Act. As you know, this provision of law, now codified as 33 U.S.C. Section 1344, places upon the Secretary of the Army, acting through the Chief of Engineers, the authority to issue permits for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Under subsection (c), however, the Administrator of the Environmental Protection Agency is authorized to prohibit or restrict the use of any disposal site for dredged or fill material if he determines that the discharge of such materials at that site will have an unacceptable adverse effect on municipal water supplies, shell-fish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. The Administrator is required to set forth in writing and make public his findings and his reasons for making any such determination.

This provision has played an important part in the orderly development of federal water-resource projects. The power which it grants the Administrator of EPA is especially important in connection with Corps of Engineers projects. In those instances, without subsection (c) of Section 404, the Corps of Engineers would, in effect, be granting itself a permit for the disposal of dredged and fill material. Subsection (c) has provided a valuable check. It has prevented the Corps from being judge in its own cause.

The pending conference report would change this aspect of Section 404 rather significantly. Section 67(b) of H.R. 3199, as agreed to by the conferees, would add a new subsection (r) to Section 404. This new provision would apply to federal projects specifically authorized by Congress. The discharge of dredged or fill material as part of the construction of such projects could not be prohibited by or regulated under Section 404 if certain rather specific conditions are met. If the project is to qualify for this exemption, information on the effects of the discharge, including consideration of the guidelines developed under subsection (b)(1) of Section 404, must be included in an environmental impact statement, and such impact statement must have been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for such construction.

I would like to ask you, as manager of the bill, whether you concur in my construction of subsection (r). The explicit requirement that environmental impact statements include information on the effects of the discharge, including consideration of the guidelines developed under subsection (b)(1) of Section 404, is of course entirely new to the law. It seems clear, therefore, that to qualify for this exemption environmental impact statements prepared before the pending conference report becomes law may well need to be amended or updated, with any amendments or changes going through the customary process of circulation of a draft impact statement.

The depth and quality of discussion of the effects of discharges, including consideration of the (b)(1) guidelines, are crucial to new subsection (r). The filing of an impact statement adequately exploring these issues in depth is a condition precedent to the operation of subsection (r). It is my understanding that until and unless such impact statements, or amendments to statements, are circulated and filed in accordance with the guidelines of the Council on Environmental Quality and other applicable laws and regulations, the Section 404 permit requirements as it existed before the passage of the presently pending bill will remain in full force and effect as to any given project in question.

Your attention to these issues is greatly appreciated. Many thanks for all your courtesies.

Sincerely yours,

Dale Bumpers.

Mr. MUSKIE. Mr. President, the Senator from Arkansas' letter addresses an important issue. The depth and quality of discussion of the effects of discharges, including consideration of the (b)(1) guidelines, are crucial to the operation of new subsection (r). The filing of an impact statement adequately exploring these issues is a condition precedent to the operation of subsection (r). Until and unless adequate impact statements, or amendments to statements, are circulated and filed in accordance with the National Environmental Policy Act and the (b)(1) guidelines, the permit requirements of section 404 which existed before the passage of the presently pending bill will remain in full force and effect as to any given project in question.

The process of review of environmental impact statements by other agencies should provide the same degree of coordination now provided in the interagency review of permit applications.

In addition, I want to stress that any State permit program for the discharge of fill material approved by the Administrator must have demonstrated itself capable of accomplishing the same objectives as the Federal permit program. The State program must include enforcement authority comparable to the Federal program, with adequate resources including staff and funds, and must assure coordination with all related Federal, State, and local programs. A State permit program must include substantive decisionmaking criteria as stringent as the section 404(b)(1) guidelines.

The conferees agreed to adopt the Senate amendment that legislatively clarifies the exclusion of certain activities that do not typically involve point source discharges of dredged or fill material and will be adequately controlled by best management practices and performance standards. The conferees have adopted the Senate's explicit approach for clarifying that plowing, seeding, cultivating, harvesting, minor drainage, and soil and water conservation practices performed on uplands were not intended to require section 404 permits. Such exemptions were provided by the Corps of Engineers' regulations under the current law.

New subsection 404(f) provides that Federal permits will not be required for those narrowly defined activities that cause little or no adverse effects either individually or cumulatively. While it is understood that some of these activities may necessarily result in incidental filling and minor harm to aquatic resources, the exemptions do not apply to discharges that convert extensive areas of water into dry land or impede circulation or reduce the reach or size of the water body. For the same reasons, paragraph (f)(1)(E) provides that farm and forest roads are to be constructed and maintained in accordance with best management practices to minimize any adverse effects that may occur when water is displaced by fill material.

Subsection (t) of section 404 was a provision of the Senate-passed bill which was adopted by the conferees with limited modifications. Subsection (t) clarifies the intent of Congress that the maintenance dredging activities of the U.S. Army Corps of Engineers, as all other Federal activities, should be subject to State permit requirements.

Subsection (t) was offered in the Senate Environment and Public Works Committee by Senator Anderson as a result of varying legal interpretations of the applicability of sections 313 and 404 to dredging activities. The Senate report, page 68, summarizes the past litigation on these provisions. By enacting subsection (t) the Congress will clarify that corps dredging activities are not exempt from State pollution abatement requirements. In fact, under section 404(t) and the amendments to section 313, every Federal activity is subject to State and Federal procedural requirements, including permits, as well as substantive requirements. Activities on federally managed lands are covered as well.

The conferees agreed to three modifications of related Senate-passed provisions. None of these, however, were intended to detract from the basic thrust of subsection (t): The Corps of Engineers, like any other Federal agency, in performing maintenance dredging or undertaking other activities, is to comply with State substantive and procedural requirements. First, the conferees agreed to amend section 313 to provide the President with a procedure to provide limited exemptions for military equipment and vessels from Federal, State, interstate, or local requirements. This provision arises from concerns expressed by the Department of the Navy about the possible application of subsection (t) to military activities, to the detriment of national defense. Only in cases where the Corps of Engineers is performing dredging for access channels for critical military vessels could this authority limit subsection (t) as it applies to maintenance dredging.

Second, the conferees agreed to restrict subsection (t) to State and interstate requirements only, thereby eliminating from the Senate language local requirements.

Third, the conferees agreed to include in the language of subsection (t) the precise language that appears in section 511(a)(1) of the Federal Water Pollution Control Act of 1972:

> This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

The Senate conferees agreed to this provision since this language is part of the current law and was not primarily at issue in the litigation that prompted this provision. It is also not inconsistent with the Senate report on this provision.

The addition of the language from section 511(a)(1) to subsection 404(t) is not interpreted by the conferees as either contradicting, nullifying, or restricting the principal purpose of this provision on the corps; namely, to comply with State water quality standards when dredging.

Those State water quality standards covering turbidity, suspended solids, and other parameters, that are applicable to all other dischargers to public waters, will now be applied to the significant dredging activities of the corps, and all other Federal activities.

The conferees recognize, as was specifically included in the Senate report on this legislation, that compliance with water quality standards by the corps is dependent on the availability of funds for on-land or confined disposal of dredge spoil. We affirm the language in the Senate report that it is the responsibility of the Secretary of the Army to seek funds from the Congress for maintenance dredging to be performed consistent with State water quality standards. The first evidence of the intentions of the corps to comply with section 404(t) of the Clean Water Act of 1977 in good faith will be the expeditious allocation by the Secretary of the Army and Chief of Engineers of funds to local corps district offices for compliance with this provision during the 1978 dredging season, or, if such funds are not available from funds now under the control of the Army, a request to the Congress for a supplemental appropriation to insure that the corps has those funds required to dredge in compliance with State water quality standards.

In summary on subsection (t), the intention of the Federal Water Pollution Control Act of 1972 was not to exempt the U.S. Army Corps of Engineers or any other public or private agency from State water quality standards and the interpretation of section 404 by the courts is at variance with the intent of Congress. In fact, Congress intended that section 404 in the 1972 act would in its initial implementation end the open water disposal of dredge spoil. Quite the contrary has been the case. Section 404(t) of the Clean Water Act of 1977 is clear direction from the Congress to the Corps of Engineers that dredging must be performed in compliance with the same water quality standards and pursuant to the same procedural requirements with which any other dischargers to the Nation's waters must comply.

EMERGENCY FUND

The emergency fund amendment provides general authority for the Administrator of the Environmental Protection Agency to abate environmental emergencies. The authority is not limited to water pollution emergencies. Examples of the kinds of events for which funds authorized by this section might be used include:

Louisville, Ky.: On March 29, 1977, toxic fumes emanating from a sewer line caused several people to faint on the streets of Louisville. It was later determined that the toxic fumes stemmed from a mixture of hexa- and octachlorocyclopentadienes, resulting in the hospitalization of over 10 persons and the closing of the wastewater treatment plant. The plant was forced to divert millions of gallons per day of untreated sewage into the Ohio River for about 2 months until the plant was able to resume its full operation again. The overall cleanup effort included the removal of the chemical contaminant from the sewer line, decontamination of the waste treatment facility, and ultimate disposal of the contaminated sludge. The two organic chemicals are not designated on EPA's hazardous substances regulation, therefore, the 311(k) revolving fund would not have been available for expenses incurred for the cleanup operation.

Kernersville, N.C.: On June 3, 1977, vandals had entered a facility, owned by Destructo Chemway Corp. near Kernersville, N.C., and opened valves on six storage tanks. Approximately 30,000 gallons of waste oil and a mixture of organic chemicals were discharged into an unnamed tributary and eventually entered the Kernersville Reservoir, a 24-acre lake serving as the primary drinking water source for Kernersville's residents and industry. All costs associated with the removal and disposal of the waste oil, which were on the surface of the lake, were charged to the Federal revolving fund under section 311(k) of the Federal Water Pollution Control Act. Other nonoil contaminants remained in solution in the water column and were not removed. These contaminants would pose an imminent threat to downstream water use in the event the reservoir overflows.

Kingston, Tenn.: On March 5, 1973, a transformer owned by General Electric Co., was transported via truck to its new destination. When the transformer started to leak on highway 58 near Kingston, Tenn., the driver of the truck dumped approximately 1,500 gallons of Pyranol near the roadside. Pyranol is composed of a mixture of PCB's and chlorinated benzenes. Because the spill occurred near the top of a hill, a considerable area was contaminated. The contaminated soil was excavated, placed into 11,500 drums, transported and disposed of at a chemical landfill in Texas by General Electric Co. The overall cleanup cost incurred by the company was over $1.7 million. Although PCB's are on the 311 hazardous substances designation list, section 311 of the Federal Water Pollution Control Act is not applicable because the incident did not involve navigable waters of the United States.

Charleston, W. Va.: On February 18, 1977, EPA detected unusually high concentrations of carbon tetrachloride in the Kanawha and Ohio Rivers. It was estimated that 70 tons of carbon tetrachloride had found their way into the rivers. On February 24, 1977, FMC Corp. reported a spill of 5,300 pounds of carbon tetrachloride into the Kanawha River. On March 8, FMC notified EPA of another spill, and again on May 26, FMC experienced a spill of between 200 to 400 pounds of carbon tetrachloride. Carbon tetrachloride is not currently designated on EPA's 311 hazardous substances list—proposed rule.

Hopewell, Va.: A converted gasoline station, owned by Life Science Inc., was used to manufacture kepone at Hopewell, Va. After 16 months of operation, the facility was shut down on July 14, 1975. The kepone was responsible for disabling some of the workers who work at the site. During the operation of the plant, kepone-contaminated effluent was chronically discharged into the James River via Hopewell treatment plant, and it is now found to be spreading in the Chesapeake Bay. In late 1974, the failure of the digesters at the Hopewell treatment plant led to the discovery of relatively high kepone concentrations in the sludge. This kepone-contamined sludge was placed in a specifically constructed storage lagoon where it remains today. Other materials, such as filters, clothing, and activated carbon, which became contaminated during the demolition of the converted gasoline station, were also stored in sealed barrels at the Hopewell sewage treatment plant site. The lagoon sludge, barreled material, and decontamination water still require ultimate disposal in an environmentally acceptable manner.

Oswego, N.Y.: On March 23, 1977, a potential major spill of 1.4 million gallons of waste oil and other chemicals at Pollution Abatement Services (PAS) near Oswego, N.Y., was reported to EPA Previous spills from PAS, a liquid waste disposal company, had occurred in June and December 1976. EPA region II assumed responsibility as on-scene coordinator and activated EPA's treatment trailer. On August 29, 1977, a district court judge in New York granted a preliminary injunction against PAS, enjoining it from further discharge of oil or chemical waste. The judge also directed EPA to remove the contents in two containment lagoons and lower the level in two others to eliminate leakage through the dikes. All costs associated with the removal and disposal of PCB-contaminated surface oil and oily sludge can be charged to the Federal revolving fund under section 311(k) of the Federal Water Pollution Control Act. Removal of other nonoil contaminants, such as chemical waste in 55-gallon drums, could pose an imminent threat upon discharge. Expenses incurred for the removal of these nonoil contaminants cannot be charged to the 311(k) Federal revolving fund because the majority of the contaminants are not designated on EPA's hazardous substances list.

Chicago, Ill.—On April 26, 1974, a chemical storage tank at bulk terminal on Chicago's south side ruptured, discharging silicon tetrachloride. The chemical reacted with the moist air and produced a nausea-inducing, acid cloud which measured from 5 to 10 miles long as it moved across the city. Nine governmental agencies were involved in the incident. State, city, and Federal agencies worked for 8 days to stop the leak, neutralize the spill and transfer the material to another tank.

Pensacola, Fla.: L. & N. railroad suffered a 15-car derailment on the east side of Pensacola's city limits, west side of Escambia Bay. Derailment occurred at 6:30 p.m. CST on November 9, 1977. Two cars of anhydrous ammonia were involved, one car ruptured and one car leaking. Sixteen people were hospitalized, four critical and one dead. One thousand people were evacuated. On-scene decisions were made by a disaster team from air products. Their decision was that they could not patch either tank so they hooked a water hose to each tank, flushed it out, diluted the ammonia and discharged it into the bay. This was not a 311 incident, there was no EPA 311 emergency personnel on-scene and no 311 funds were utilized.

PBB'S IN MICHIGAN

In 1973, a large batch of cattle feed was contaminated by the chemical PBB in Michigan. The result of that contamination and its subsequent dispersal throughout the environment of Michigan has resulted in the contamination of some 9 million human beings with the chemical and the destruction of thousands of head of livestock.

While the responsible chemical was identified in 1974, reaction by the State and Federal officials to prevent the spread of the chemical and to take remedial action was incredibly slow. For example, in January of this year, nearly 4 years after the contamination incident, Government officials are finally beginning to examine whether or not workers engaged in the manufacturing and processing of PBB may be experiencing ill-health effects. If a section 69 had been applicable when the contamination occurred, the spread of this chemical could have been reduced and much of the suffering and economic damage which exists even today could have been avoided.

NONCOMPLIANCE FEES

The conferees deleted a provision in the Senate-passed bill which required the Administrator to assess a noncompliance fee against industrial point sources not in compliance with the requirements of the act after July 1, 1979, in amounts commensurate with the economic benefit of the delayed compliance. A similar provision was contained in the Clean Air Act Amendments of 1977.

The conference committee dropped this provision as unnecessary at this time, for two reasons. First, although there are well over a thousand major sources of air pollution that will not be in compliance with Clean Air Act requirements on July 1, 1979, there are only a few hundred major industrial sources of water pollution that are expected to be in noncompliance with Federal Water Pollution Control Act requirements by that date. This relatively good compliance record appears to make the addition of a new enforcement tool unnecessary at this time. Second, the Agency's current enforcement policy is to seek court imposed penalties for noncompliance with Clean Water Act requirements in amounts commensurate with the economic benefit of delayed compliance, among other factors.

This policy embodies congressional intent on the criteria that should be considered by courts in imposing civil penalties under existing provisions of the act. Successful implementation of this policy by the Agency through the courts may make the provision for administratively assessed, economic benefit fees unnecessary. Subsequent review of compliance under the Clean Water Act, the success of the Agency in implementing its penalty policy through the courts, and the time delay and resource demands of seeking judicially imposed penalties may indicate that the administrative assessment mechanism will become necessary in the future.

The deletion of this provision is in no way intended to affect the Agency's current enforcement strategy.

Mr. President, I ask unanimous consent that a letter and a document outlining EPA's enforcement strategy be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
December 14, 1977.

HON. EDMUND S. MUSKIE,
Chairman, Senate/House Conference Committee on H.R. 3199, U.S. Senate, Washington, D.C.

DEAR SENATOR MUSKIE: You have asked for an elaboration of the Agency's policy with regard to civil penalties under section 309 of the Federal Water Pollution Control Act and section 113 of the Clean Air Act.

The Agency believes that civil penalties should be utilized to deter violations of and to encourage future voluntary compliance with the requirements of the Acts. To achieve these goals the Agency believes that the amount of civil penalties assessed against major industrial sources of pollution must at least remove any economic gain achieved by non-compliance and may have to be larger in some cases.

The assessment of civil penalties in these amounts will result in greater equity in the enforcement of these Acts by insuring that sources which comply with the Acts' requirements in a timely manner do not suffer an economic disadvantage in comparison with those that do not.

Accordingly, it is the Agency's policy to compute penalties in agreed upon settlements in civil cases commenced under the Acts against major industrial sources of pollution by:

1. Calculating the amount of economic advantage secured by non-compliance;
2. Adding appropriate amounts for aggravating circumstances, such as the degree of environmental harm caused by the violation, the degree to which the integrity of the regulating systems created by the Acts is threatened by the violation, and abnormal expenditures by the Agency to secure compliance;
3. Multiplying the sum of (1) and (2) by a percentage reflecting the probability of successfully proving the alleged violation in court; and
4. In extreme cases, by deferring or reducing the penalty in whole or in part, where the immediate payment of the full amount would render it impossible for the source to install the required pollution controls and stay in business.

In cases that are tried rather than settled the Agency would ask the Judge to take the same factors into account, with two exceptions. Since a litigated case would not reach the issue of penalties unless the underlying violations are proved, no discount to reflect probability of success on the merits would be appropriate. Moreover, penalties assessed by judges should be sufficiently higher than penalties to which the Agency would have agreed in settlement to encourage violators to settle.

This policy was established for civil cases under the Federal Water Pollution Control Act in a policy memorandum dated June 3, 1977, a copy of which is attached. That policy now also applies to civil actions commenced under section 113 of the Clean Air Act.

The economic benefit component of civil penalties assessed under section 113 of the Clean Air Act, of course, should not be duplicative of administratively assessed noncompliance penalties under section 120 of the Clean Air Act.

The Agency is currently consulting with the Department of Justice, U.S. Attorneys and State officials around the country to explore various issues and questions which have been raised with regard to the implementation of the policy. Such consultation, together with experience in implementation of the policy over time, will lead to future guidance to elaborate and improve the policy to deter violations and encourage compliance by securing penalties in amounts at least equal to the economic benefit of noncompliance.

If I can be of further assistance in clarifying this policy, please do not hesitate to contact me.

Sincerely yours,

(s) JEFFREY G. MILLER.
MARVIN B. DURNING,
Assistant Administrator for Enforcement.

MEMORANDUM

Washington, D.C. June 3, 1977.

To Regional Administrators.

Subject: Settlement of Section 309(d) Enforcement Cases for Monetary Amounts.

Section 309(d) of the Federal Water Pollution Control Act sets a maximum civil penalty of $10,000 per day of violation. Although the statute sets a maximum, it provides no guidance as to what would be an appropriate penalty for a particular violation. The amount of the appropriate penalty is especially important when the Agency and a violator are attempting to settle a case without litigation. This memorandum is being transmitted in order to provide some guidance on the level of appropriate penalties in settlement.

The first task in determining an acceptable settlement figure is to estimate, as precisely as possible, the monetary judgment likely to result if the case were to proceed to trial. For planning purposes at this stage the assumption is made that the Agency's position will prevail on the merits.

In arriving at the estimated judgment figure, a number of factors should be considered, including the following:

(1) The extent to which the defendant may have profited by failing or delaying to comply,

(2) The degree of harm to the public caused by the defendant's failure to comply.

(3) The willingness of the violation, or the good or bad faith of the defendant in meeting its obligation to comply,

(4) The necessity of vindicating the authority of EPA,

(5) The ability of the defendant to pay the penalties.

Many of these factors will necessarily be quite subjective; as the attachments explain in more detail, however, these are the considerations analyzed by the courts in determining an appropriate penalty.

Perhaps the most important single criterion in estimating an appropriate judgment amount is an analysis of the economic benefit that accrues to the discharger as a result of noncompliance. From this starting point appropriate penalties can then be calculated either up or down depending upon an examination of the other factors listed above.

After determining the approximate benefit of noncompliance to the violator, the estimated judgment figure should be increased by the amount of any economic harm resulting from the defendant's failure to comply.

An extremely important criterion, which may either increase or reduce the estimated judgment figure, is the degree of willfulness connected with the violation, or the good or bad faith of the defendant.

A factor which could increase the estimated settlement amount is the necessity of vindicating the authority of the Agency, This criterion is frequently intimately connected with the concept of willfulness. For example, an intentional flouting of an order issued by the Administrator under subsection 309(a) of the FWPCA would certainly require a more severe penalty than a negligent or unintentional violation.

It should be noted that, in reaching the estimated figure, a best judgment approximation should suffice, rather than the precise economic calculations necessary if the case were to go to trial. After the above calculations have been made and an estimated judgment amount derived, consideration should be given to the likelihood of prevailing on the merits. The probability of success, expressed in percentage terms, should then be multiplied by the estimated judgment figure. The product represents the bottom-line settlement amount; if the discharger insists on a lower figure as a condition of settlement, (except in the "inability to pay" situation mentioned below) the case should proceed to trial. For example, if the estimated judgment is $1 million, and the probability of success 80%, the Region, while free to seek a higher amount, should not settle the case for less than $800,000.

If the minimum settlement figure, derived in the manner described above, appears excessively disproportionate to the defendant's resources, the Region may determine to lower its settlement demand to a more appropriate level. Two points should be noted here. First, such a reduction is discretionary on the part of the Region, and should not, in any event, be tied to the discharger's concept of what is or is not excessively disproportionate. Second, the defendant's financial condition should be considered only from a standpoint of reducing, rather than increasing, the settlement figure.

If an appropriate settlement cannot be obtained, the case should proceed to trial with the Region seeking the maximum permissible penalty. Although the maximum penalty will in many instances far exceed the estimated judgment figure, such a policy is necessary in order to provide an incentive to settle. This is especially true in those cases where the probability of success on the merits is high. For example, assuming an estimated judgment of $1 million, and a 90 percent success probability, the minimum settlement figure would be $900,000. Assume further that the maximum penalty amounts to $5 million. A policy of seeking only the estimated judgment figure ($1 million) in contested cases provides the discharger with a substantial incentive to litigate—exactly the opposite of what we are seeking to accomplish. This anomaly occurs because the company has only $100,000 to lose (up to $1 million from the settlement figure), while standing to save as much as $900,000 as a result of litigation. On the other hand, the discharger is much more likely to settle if it knows from the outset that, if contested, the penalty could be substantially greater than the settlement figure.

The foregoing guidance should prove helpful to you in articulating the approach we have developed and which is generally already in practice. Regional expertise and knowledge of the situation are major factors to be applied by the Region in applying this guidance to specific cases. On large cases likely to attract widespread interest, and particularly on cases involving industrial facilities or situations similar to those encountered in other Regions, the process should be coordinated closely with the Office of Water Enforcement to ensure that similar situations nationally are receiving comparable treatment. While the foregoing guidance should be useful, it does not constitute a substitute for good judgment, timely and open communication between the Regional Office and the Office of Water Enforcement, and a large measure of common sense in apapplying this guidance to actual cases.

STANLEY W. LEGRO.

I assure my colleagues that if any of them would like to raise any point raised in any portion, I would be glad to discuss it at length.

Mr. STAFFORD. Mr. President, one of my principal concerns during the development of the Clean Water Act of 1977 has been the water pollution control problems of small communities in rural America. According to the 1970 census there are 54 million people in this country who live in places of 2,500 or less, some 26.5 percent of the total U.S. population. Because my own State of Vermont is the most rural of all the 50 States (nearly 68 percent of our population is rural), I come by my interest in small communities quite naturally.

However, even the least rural State in America, California, with a 9 percent rural population, nevertheless has 1.8 million people living in communities of 2,500 or less. Pennsylvania, which is thought of as a highly industrialized and heavily populated state, nevertheless boasts the largest rural population in America, some 3.4 million people. I make this point to emphasize that the problems of rural America are not limited to small States, and that the measures suggested by this new law should command the attention of nearly every State environmental agency. The conference report submitted for the Senate's approval today represents a significant step forward in directing the attention and resources of the U.S. Environmental Protection Agency and the States toward the peculiar financial and institutional characteristics of rural communities.

One of the most important features of the national water pollution control efforts that developed from the 1972 amendments to the Federal Water Pollution Control Act was a vigorous and heavily funded construction grant program to assist and encourage municipalities in the abatement of water pollution. For the last 5 years most States have directed their efforts and their allotments of Federal and State funds to the cities and urbanized areas.

This was certainly appropriate, as these areas were afflicted with the greatest pollution abatement problems. However, in the next 5 years we can expect to see States reaching down in their priority list to plan and fund projects in smaller towns and villages. States like Vermont, or West Virginia, or South Dakota, whose rural populations are such a large proportion of their total populations, have already gained some experience in addressing the special problems of smaller settlements which may be of value to future grant applicants in their own States and elsewhere. Very succinctly, the problem seems to be that conventional centralized collection and treatment systems, which offer many economies of scale in densely populated cities, simply do not work and are far too expensive and extravagant for a community of 500, or 2,500, and perhaps even 10,000 people.

In Vermont we can relate several horror stories where the costs per household of the planned conventional system were outrageously expensive, both in connection costs and in annual charges. Communities in other States face similar situations. There has consequently developed in this country a small cadre of concerned and dedicated people who have been searching for and promoting alternatives which might be suitable for smaller, rural towns and villages. They confront, however, an army of consulting engineers, developers, State environmental and health department administrators, and the construction industry, who have been convinced that the only solution is to build a central facility with tendrils of concrete pipe reaching out to capture the wastewater from remote settlements. To the extent that septic systems or other alternatives are used in less densely populated areas they are considered a temporary solution, until the population grows large enough to support a collection system. The availability of grants of up to 90 percent in some States has often encouraged collection and central treatment solutions even where the population density may never justify such a system. The moment of truth comes, however, when the operating and maintenance costs are revealed.

For various reasons, septic tanks and other onsite or cluster-type alternatives have no favor with those who plan and construct pollution control facilities. For the health officials, these systems have been unreliable in the confinement of disease organisms; for the construction industry, there is simply less money to be made in some of these alternatives (or it goes to different sectors of the economy); for the consulting engineers, there is less profit associated with a project that costs less than one that costs more; furthermore, engineering schools simply are not teaching much in the way of how to design alternatives; for the State environmental agencies and for many local officials, it is comforting to know that the Federal EPA will approve a known and proven type of technology; also, they do not have the manpower to seek out or administer alternatives which require additional management resources. Finally, there is a lack of direction or mandate from the Federal agency or the Congress to examine alternatives before approving the funding of conventional secondary plants. EPA has failed to encourage, for example, rehabilitation and repair of septic systems before awarding a construction planning grant.

It is the intent of the conferees in developing a number of new provisions in the Clean Water Act to encourage the Environmental Protection Agency, and the States and local governments, to seek out alternatives which are both more cost effective and provide a greater degree of water pollution abatement than the systems we have been building in the past. The problem of small communities should be seen as a subset of the larger problem of the failure to adopt technologies which achieve the requirements of the act, requirements which were in fact in the statute as far back as 1972: the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, the confined and contained disposal of pollutants not recycled, the reclamation of wastewater and the ultimate disposal of sludge in a manner that will not result in environmental hazards.

One of the provisions to encourage these results, which I sponsored, and which was cosponsored by the chairman of the Committee on Environment and Public Works, Senator JENNINGS RANDOLPH, is section 27, set aside for alternative systems for small communities.

This section directs the Administrator to set aside 4 percent of the allotment to any State with a rural population of 25 percent or more as determined by the Census Bureau. The Administrator is also authorized to set aside not more than 4 percent of the allotment for any other State, at the request of the Governor.

Such sums are available only for alternatives to conventional sewage treatment works for communities having a population of 3,500 or less, or for the highly dispersed sections of larger municipalities as defined by the Administrator.

Alternatives to conventional treatment works are systems different from conventional secondary treatment (particularly activated sludge) and from conventional advanced waste treatment. In passing this measure, the Congress recognizes that conventional systems are too costly for smaller communities. We also recognize the inherent shortcoming of conventional systems. These include sludge production, nutrient and chlorine pollution, high operating costs, waste of water, and excessive energy demands.

Alternatives are, in general, of two types: First, those described in the new section 201(g)(5); namely, "innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial wastes (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution"; and

Second, privately owned treatment works of the type described in new section 201(h), subject of course, to the safeguards and limitations in 201(h), including most especially the requirement that such privately owned treatment works will be properly operated and maintained. This essential requirement is expected to overcome the objections of State health officials and environmental agency administrators. There is every reason to believe that onsite systems, including septic tanks, will meet health and pollution abatement concerns when they are properly designed, operated and maintained in accordance with a communitywide program. They need not be, as they have been, a haphazard or temporary solution.

In general, the Congress expects that the rural set-aside will result in, first, lower operating and capital costs for sewage treatment works in small communities; second, energy and water conservation; and third, elimination of pollution or substantial progress in that direction, for rural communities.

It is anticipated that many of the projects funded by the set-aside will be eligible for an increased grant pursuant to new section 202(a)(2).

The set aside for alternative systems in small communities goes into effect for each fiscal year after October 1, 1978.

At this point, Mr. President, I would like to say a word about two other provisions in the Clear Water Act which are particularly important to Vermonters.

The first, with which I am very satisfied, concerns the allotment of construction grant funds to the States. The conferees agreed to a provision which I sponsored in the Senate-passed bill, authorizing a minimum share for small States. Under the conference agreement, no State will receive less than one-half of 1 percent of the total allotment for fiscal years 1978, 1979, 1980, and 1981. Depending of course on the availability of appropriations, this means that no State will receive less than $22.5 million in fiscal year 1978 and not less than $25 million in the following fiscal years. The allotment formula is a complex amalgam of population and needs in various construction grant categories, and is necessarily an imprecise and imperfect way to distribute funds. However, because of the relatively small amounts involved, the less-populated States would be the ones most disadvantaged by errors or biases in the formula. The minimum allotment is designed to overcome this possibility.

The second notable provision, which is a great disappointment to me, is the exemption from the second 404 dredge and fill permit requirement for congressionally authorized projects. I believe most emphatically that all projects, and perhaps especially specific Federal projects sponsored in the Congress, ought to measure up to the standards designed to protect vital and often irreplaceable wetlands and marine environments from the devastation of pollution and the total obliteration by development or altered land use. I understand and appreciate the need for the Senate conferees to come to an agreement in order to secure an otherwise valuable new law, but I cannot personally support this part of the amendment to section 404, and did not in conference.

I would like at this point to describe what was done to the provision in the water bill dealing with the discharge of dredge and fill material. This section amends sections 404 and 208 to modify the existing program for controlling the discharge of dredged or fill material into waters of the United States. The conference bill amends section 404 to provide authority for EPA to approve State permit programs that EPA determines have demonstrated the capability to replace the Corps of Engineers permit program in phase II and III waters. The conferees agreed to adopt the exemptions and the general permit procedure from the Senate bill to prevent overregulation of activities that have little or no effect on the aquatic environment. The bill includes the clarification that permits are not required for certain normal farming activities such as plowing and seeding which are not discharges of dredged or fill material. It should be noted, however, that permits will continue to be required for those farm, forestry, and mining activities that involve the discharge of dredged or fill material that connect water to dry land including, for example, those occasional farm or forestry activities that involve dikes, levees or other fills in wetland or other waters.

Section 404 is further amended to provide that discharges of dredged or fill material by Federal agencies to construct Federal projects specifically identified by Congress when authorized are not subject to permits under section 404 or under an approved State permit program if the environmental impact statement submitted to Congress includes a complete analysis of the effects of the discharge based on the 404(b)(1) guidelines. The conferees agreed that discharges from any activity conducted with assistance from the Federal Government and maintenance of existing Federal projects will remain under the permit program.

Projects, even though fully financed by the Federal Government, which are authorized under continuing authorities or lump sum appropriation shall be subject to 404 permits not withstanding the issuance by the responsible Federal agency of a programmatic or individual NEPA review document. Only the discharge of dredged or fill material for the construction of a new individual Federal project for which there is an environmental impact statement dealing solely with that project furnished to the authorizing committee prior to specific authorization of that project by the committee and by Congress shall be exempted from section 404 permits. In order for the exemption to take effect, such environmental impact statement must contain a full and complete analysis of adverse effects and alternatives as required by the 404(b) guidelines.

For the purposes of this act, Federal projects are those which are entirely planned, financed, and constructed by a Federal agency in every respect. The committee bill includes a number of important improvements to cut redtape and to expedite decisions on section 404 permits. Among these is a section 67(m) which requires that the Department of the Interior submit its written comments on a section 404 permit application within 90 days of receiving notice from the Department of the Army. I am in agreement with the purpose of this provision which, as I understand it, is to assure that the Fish and Wildlife Service submits within a reasonable time, a specific written analysis of the permit application, together with recommendations thereon, and that the Service's comments be in a form that is publicly available. I also concur in section 67(g), which directs the involved agencies of Government to work out procedures for completing the processing of most permit applications within a total of 90 days. I understand that the agencies have already begun to work out these procedures. I would like to point out, however, Mr. President, that there are going to be a few cases where more than 90 days will be required for the total processing of permit applications, and that it is highly desirable that these cases be resolved at the local level.

There is no intent by the conferees to impose any condition that would automatically or arbitrarily cut off negotiations between any Federal agency and a permit applicant. The conferees intend that the procedures for managing such negotiations, and for the referral of unresolved agency objections to higher authority, be worked out as a part of the interagency agreements developed pursuant to section 67(g).

The conferees have expressed their view that the section 404 permit process is not to be used independent of the provisions of other applicable authorities to force upon non-Federal applicants a requirement for land exchanges. By this, the conferees intend the work proposed within permit applications to be evaluated on its own intrinsic merit. It is not meant by this to absolve any class of permit applicants from the obligation to invest their proposals with environmentally sound design and operational features. Nor do the conferees intend to prevent the Corps of Engineers, or the State permitting agencies from considering the need to incorporate in permit plans desirable provisions for the balanced use and preservation of aquatic resources, including lands or waters which an applicant agrees to set aside for general public benefit. Some State permit processes already recognize these concepts.

Finally, section 404 is amended to assure that all Federal activities comply with all procedural and substantive Federal, State, and interstate requirements. The Secretary is expected to coordinate his authority to enforce Corps issued permits with EPA as EPA is the primary agency responsible for administering the Clean Water Act.

The conferees also agreed to amend section 208(b)(4) to authorize the Administrator to approve statewide regulatory programs to control those discharges of dredged or fill material that are better handled through imposition of best management practice. The 208(b)(4)(B) program is intended to complement State permit programs approved under section 404, but not as a substitute for State permit programs. Once a State has an approved 404 permit program and approved 208 regulatory program, the Administrator may approve best management practices imposed by the State to control those activities which he determines will have only minor individual and cumulative effects on the aquatic environment. If the Administrator approves best management practices as adequate to control a specific activity without additional permit review, Federal permits should not be required. Best management practices will not be appropriate as the sole means of control of activities such as channelization and site development fills that can impair the circulation or reduce the reach of navigable waters. Such activities, by their very nature, will continue to require individual attention through a permit review process, as will all discharges involving toxic substance requirements under section 307.

I have not addressed myself to the numerous changes these amendments make in the control of pollution from industrial dischargers. I know that others, especially Chairman MUSKIE, will cover this aspect with care and competence. I do believe, however, that we have succeeded in devising an industrial pollution control program which will require less in the way of control of additional increments of conventional pollutants where the costs may begin to be prohibitive, but more in the way of control over toxic pollutants or nonconventional pollutants about which we know very little. Under the Clean Water Act of 1977, the Environmental Protection Agency must necessarily turn its attention to these suspect and sometimes virulent forms of pollution in accordance with a comprehensive strategy, rather than on a crisis basis.

In sum, Mr. President, I can confidently say that we have produced a thoughtful and beneficial bill which deserves the support of all our colleagues in the Senate and I encourage the adoption of the conference report on H.R. 3199, the Clean Water Act of 1977.

Mr. President, I would like to join the distinguished chairman of the Subcommittee on Environment and Public Works in what he has said about the excellent staff work on both sides of the political aisle in the preparation and management of the bill and the preparation of the conference report in connection with the clean water bill.

I want to pay particular tribute to my colleagues on the committee and especially my senior partner in this matter, the distinguished Senator from Maine (Mr. MUSKIE), the chairman of the full committee (Mr. RANDOLPH), and my distinguished colleagues on my own side of the aisle, all of whom contributed in great measure to the final product of the Clean Water Act of 1977.

As always when legislation from the House and the Senate differ in their details, it requires a compromise in good faith on the part of colleagues and conferees from both sides to achieve the bill which is in the conference report before us now.

I am sure that nobody is completely satisfied with the bill which we are asking the Senate to accept as the managers on the part of the Senate. This Senator gave up at least one or two issues which he considered to be important in order for us to reach a bill that we could agree upon between the House and Senate conferees and bring here for passage and, hopefully, Presidential signature.

So with admiration and gratitude on the part of this Senator for all of his colleagues who helped prepare the conference report, and to the members of the staff on both sides who helped us so instrumentally in what we have done, I shall yield the floor.

Mr. DURKIN. Mr. President, in accordance with Federal requirements, the city of Manchester has undertaken a $50 million water pollution abatement program, much of which is already constructed. In addition to this program, and in order to fully abate pollution as required by the Environmental Protection Agency, the city must undertake a program to separate storm and sanitary sewers.

In compliance with the law, the city initiated a report which studied the various alternatives for its separation program. Because the city has built over a period of 100 years 200 miles of sanitary sewers, the report indicates that the most cost effective and only solution is separation by means of building a storm drainage system.

However, officials of the New Hampshire Water Supply and Pollution Control Commission feel that wording in section 36(c) of the conference report on H.R. 3199 dated November 28, 1977 (amending the Water Pollution Control Act) may prohibit the use of Federal funds for construction of separate storm sewer systems where separate treatment is not contemplated. Consequent to this interpretation, the Commission has indicated that no State funds will be available for a separate storm water system in Manchester.

In response to a letter from Senator McIntyre and me asking for clarification of the intent of section 36(c), Chairman Jennings Randolph and ranking minority member, Senator Robert Stafford of the Environment and Public Works Committee have written to me:

> The section to which you refer only limits the eligibility of the construction of treatment works for treatment of storm water discharges. The Senate Report 95-370 speaks to this issue:
>
> "This amendment is not meant to restrict the opportunities available to solve pollution problems created by combined sewer overflows or bypasses."
>
> The Conference bill is the same as the Senate bill in this respect.
>
> I hope this will clarify the issue for you.

I see they are both on the floor. They both understand the letter.

I might add that there are other communities besides my home city. I understand there is a problem in Rhode Island and some other problems around the country.

With this clarification, it is clear that communities such as Manchester that want to build are required to build or are building separate storm drainage systems where separate treatment facilities for storm water are not contemplated are eligible for Federal funding under the Clean Water Act of 1977, and there is absolutely no prohibition or conflict with section 36(c).

Thus, the city of Manchester's separation project is eligible for funding. The prohibition on separate treatment plants for storm drainage systems contained in paragraph 36(c) of the conference report is not applicable.

Mr. President, I ask unanimous consent that the letters from Chairman Randolph and Senator Stafford making clear the conferees' intent be printed in the Record, together with letters from Manchester to Senator McIntyre and me, and our joint letter to Chairman Randolph and Senator Stafford.

There being no objection, the material was ordered to be printed in the Record, as follows:

Washington, D.C.,
December 15, 1977.

Hon. John A. Durkin,
U.S. Senate,
Washington, D.C.

Dear John: Thank you for your letter of December 13, discussing section 36(c) of the Clean Water Act of 1977.

The section to which you refer only limits the eligibility of the construction of treatment works for treatment of storm water discharges. The Senate Report 95-370 speaks to this issue:

"This amendment is not meant to restrict the opportunities available to solve pollution problems created by combined sewer overflows or bypasses."

The Conference bill is the same as the Senate bill in this respect.

I hope this will clarify the issue for you.

With kind personal regards, I am,

Truly,

Jennings Randolph,
Chairman.

Washington, D.C.,
December 15, 1977.

Hon. John A. Durkin,
U.S. Senate,
Washington, D.C.

Dear John: Thank you for your letter of December 13th, discussing section 36(c) of the Clean Water Act of 1977.

The section to which you refer only limits the eligibility of the construction of treatment works for treatment of storm water discharges. The Senate Report 95-370 speaks to this issue:

"This amendment is not meant to restrict the opportunities available to solve pollution problems created by combined sewer overflows or bypasses."

The Conference bill is the same as the Senate bill in this respect.

I hope this will clarify the issue for you.

With kind personal regards, I am,

Truly,

Robert T. Stafford,
Ranking Minority Member, Environment and Public Works Committee.

Manchester, N.H.
December 8, 1977.

Hon. Thomas J. McIntyre,
U.S. Senate.
Hon. John A. Durkin,
U.S. Senate.
Hon. Norm D'Amours,
Member of Congress.
Washington, D.C.

Dear Senators McIntyre and Durkin and Congressman D'Amours:

In accordance with Federal requirements, the City of Manchester has undertaken a fifty million dollar Water Pollution Abatement Program, much of which is already constructed. In addition to this program, and in order to fully abate pollution as required by the Environmental Protection Agency, the City must undertake a "separation" program.

In compliance with the law, the City had initiated a report which studied the various alternatives for its separation program. In essence, the report indicates that the most cost effective and *only* solution is separation by means of building a storm drainage system.

The City is unique in that over a period of about one hundred years it built about two hundred miles of "sanitary" sewers. Periodically the City obviously connected catchbasins to the sewer system to handle stormwater. As the City does not have a separate storm drainage system the *only* solution to the separation problem is to construct a storm drain system.

The estimated cost of this separation program is 140 to 200 million dollars over a 10 to 20 year period. The City of Manchester under the current program of 75 percent Federal, 20 percent State of New Hampshire, and 5 percent local funding, has been prepared to share in the allocated costs.

The final Committee of Conference Report on H.R. 3199 amending the Federal Water Pollution Control Act dated November 28, 1977, includes the following language on Page 38, Sec. 36, paragraph (c):

"(c) No grant shall be made under this title from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, 1982, for treatment works for control of pollutant discharges from separate storm sewer systems."

This Section of the Conference Report has been interpreted by officials in the Water Supply and Pollution Control Commission of the State of New Hampshire to mean that no Federal funds would be available for Manchester's separation program which requires construction of storm drains. Therefore, they say, no State funds would be allocated for such an undertaking by the City of Manchester.

If the City of Manchester is required to proceed with separation and is determined to be "ineligible" for Federal or State assistance as extended to the separation efforts of other cities, additional local property tax or user charges of up to $2,500 per person will be required. There is absolutely no possibility for the City to meet the objectives of water pollution abatement under such circumstances.

Certainly we must presume it is not the intent of the Congress to punish the City of Manchester for striving to meet the Federally-mandated standards of clean water in an orderly and efficient manner.

It is our considered opinioin that the State officials have misinterpreted the legislative intent of Section 36, paragraph (c) of the final Conference Committee Report on H.R. 3199.

We would appreciate substantiation of our view by the Committee of Conference before any floor action is taken on the Committee Conference Report.

We are sure you understand our concerns.

Sincerely,

Charles R. Stanton,
Mayor, City of Manchester.
Christos Spiro,
Chairman, Highway Commission.

Washington, D.C.,
December 13, 1977.

Hon. Jennings Randolph,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: We enclose a copy of a letter we recently received from officials of the City of Manchester, New Hampshire, regarding the Conference Report on H.R. 3199 amending the Federal Water Pollution Control Act.

The letter describes a difference of opinion between the State of New Hampshire and the City of Manchester over the interpretation of Section 36, paragraph (c), of the Conference Report, which is seen by the State as forbidding the use of any funds under this title for the construction of separate storm drain piping. The City contends that this is a misinterpretation of the section in question. Because the City is not contemplating constructing a separate treatment facility for storm drainage but is only trying to comply with P.L. 92-500's "separation" requirement, Manchester should not be declared ineligible to receive Federal funds by virtue of this section of the Conference Report.

We would like a speedy clarification of the legislative intent of this particular paragraph in order to determine which interpretation of the disputed paragraph is correct. We request that Senate consideration of the Conference Report be delayed until this matter is clarified. If you believe a colloquy on the Senate Floor in conjunction with consideration of the Conference Report would be useful in settling this issue, we would be pleased to arrange one with you.

Thanks for your attention to this matter.

Sincerely,

THOMAS J. MCINTYRE.
JOHN A. DURKIN.

WASHINGTON, D.C.,
December 13, 1977.

Hon. ROBERT T. STAFFORD,
Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR BOB: We enclose a copy of a letter we recently received from officials of the City of Manchester, New Hampshire, regarding the Conference Report on H.R. 3199 amending the Federal Water Pollution Control Act.

The letter describes a difference of opinion between the State of New Hampshire and the City of Manchester over the interpretation of Section 36, paragraph (c), of the Conference Report, which is seen by the State as forbidding the use of any funds under this title for the construction of separate storm drain piping. The City contends that this is a misinterpretation of the section in question. Because the City is not contemplating constructing a separate treatment facility for storm drainage but is only trying to comply wih P.L. 92-500's "separation" requirement, Manchester should not be declared ineligible to receive Federal funds by virtue of this section of the Conference Report.

We would like a speedy clarification of the legislative intent of this particular paragraph in order to determine which interpretation of the disputed paragraph is correct. We request that Senate consideration of the Conference Report be delayed until this matter is clarified. If you believe a colloquy on the Senate Floor in conjunction with consideration of the Conference Report would be useful in settling this issue, we would be pleased to arrange one with you.

Thanks for your attention to this matter.

Sincerely,

THOMAS J. MCINTYRE.
JOHN A. DURKIN.

Mr. DURKIN. Mr. President, I yield to my good friend from West Virginia.

Mr. RANDOLPH. Mr. President, referring to the situation that Senator DURKIN has brought to our attention, he is correct that correspondence clarifies the matter which was of concern to him and also to Senator MCINTYRE.

We were delighted to respond in a way which insures that not only would the two Senators of that State understand the matter, but more importantly, really, so would the people of the area who are affected. We were delighted to cooperate.

Mr. DURKIN. Once again, I thank the distinguished chairman and the ranking member for his cooperation, because it is very important to our people in Manchester and some other communities around the country.

Mr. RANDOLPH. Mr. President, we have had comment from the able chairman of our Subcommittee on Environmental Pollution. I take this opportunity to express the sincere appreciation for his efforts that I feel personally and as chairman of the Committee on Environment and Public Works. I know this is shared by the ranking member of that committee, Senator STAFFORD, who is in the Chamber. We are grateful for the continuing leadership of Senator MUSKIE in a field which is not always easy of a solution in its various aspects, but one that must have the constant attention that he has given for so long, in constructive ways, to measures to purify the air, to clean the water, and to bring about the stabilization of waste materials in this country.

These are tasks which are very complicated; they are very complex; they are subject not only to differing viewpoints but also ofttimes without the entire story understood, resulting in misunderstandings of people. For that reason it is good that, through the years, we have had not only the advantage but also the compelling leadership and the commitment of the Senator from Maine.

I believe it is important for me to say in connection with this conference report that we have had the matter before us since September of 1976, not September of 1977. So we really have had three conferences on the subject, although one of them was in connection with the public works jobs bill.

Mr. MUSKIE. That is right.

Mr. RANDOLPH. Along the way, we have benefited from the knowledge, experience, and the "stickability" of the Senator from down Maine to his task. I appreciate that, as do all the other members of the committee and all Members of the Senate.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. MUSKIE. I had the feeling, I say to my good friend from West Virginia, that if in future conferences the Senator from Maine could find a way to preside while also being absent from the conference, we could shorten the conference time.

The Senator heard me compliment him earlier on the leadership he demonstrated in the conference, and I say to him personally that I meant what I said. I know how effective he can be when a stalemate seems imminent in getting the conference off dead center and moving. I take this opportunity to underscore and emphasize that point, which I made earlier.

Mr. RANDOLPH. Mr. President, I am very grateful for the thoughtful comment and the generous response made at this time by the Senator from Maine.

Congress first addressed the vitally important issue of water quality protection in 1965. Seven years later the Federal commitment to that concept was substantially broadened and extended under the Water Pollution Control Act of 1972 which became Public Law 92-500.

As significant as those measures were at the time of their adoption, those of us who had a part in fashioning them knew they did not provide all of the answers to the problems at which they were aimed. We were aware that changes and refinements would be required which could effectively be devised only in the light of experience with the program and its impact on the Nation's economy and environment.

The Clean Water Act of 1977, before us for final consideration today, is the product of what we have learned in those intervening years. The more than 50 amendments which it proposes to existing law are the composite result of more than 2 years of intense debate over Federal water policy, culminating with a comprehensive review of the entire water policy, pollution control program this summer by the Environment and Public Works Committee. The final product came after more than a month of give-and-take discussion in conference to work out the wide range of differences between the Senate and House versions of the bill.

Our task was not an easy one and there were times when I frankly questioned whether agreement could be reached in time for final passage of the legislation this year. The fact that we were able to find a common ground between strong and diverse opinions and positions attests, I think, to the overriding commitment of conferees to the objective of ultimate elimination of water pollution and the inherent risks involved in any substantial delay in further progress toward that goal.

The terms on which we agreed constitute a fair, flexible, practical, and workable program for better pollution abatement.

Since many parts of the conference report are similar or identical to those adopted last August by the Senate, you are already generally familiar with them. For that reason, I confine my comments to the key points in the measure.

One of its most significant aspects is its emphasis on the need for development of new and less costly methods of sewage treatment, particularly in sparsely populated areas, as alternatives to the increasingly expensive conventional systems.

This is a matter which has long been of concern to me both in my capacity as chairman of the Environment and Public Works Committee and as a Senator from the Nation's second most rural State. I have seen the fallacy of trying to apply the same treatment yardstick to rural America as to highly urban areas where large and centralized collection and treatment systems can be used effectively and economically.

Because of that concern, I began urging the Environmental Protection Agency nearly 2 years ago to establish an active program for development and implementation of a cost-effective alternative waste water treatment system for use in rural areas.

I gave that concept a high priority in planning for the bill on which we are now ready to act. I introduced or jointly sponsored three provisions in the bill which bear on the subject.

The first of these proposals directs the Environmental Protection Agency to establish a clearinghouse to collect and disseminate information on the types of technology that are available for alternative systems and how they may be applied to various situations.

I believe this provision will be very helpful in assisting the development of this type of approach in various parts of the country to which it is especially suited.

As a further means of encouraging the use of that concept, I sponsored an amendment with Senator STAFFORD which requires specific amounts to be earmarked for alternative systems. For those 34 States in which total population is more than 25 percent rural, the Administrator of the Environmental Protection Agency would be required to set aside 4 percent of their allotted waste water treatment facilities construction grants funds for exclusive use in alternative or unconventional systems in communities of 3,500 population or less.

A major policy change, which I did propose, permits Federal grants for construction of privately owned treatment works where a public body, not the person but a public body applies on behalf of a number of such units where we can be assured that they are properly operated and maintained and will be more cost effective than the central systems, the large massive systems which we have in the cities which are not applicable to the rural sections of the country.

It is not enough just to spend money. We want to spend money intelligently, and that is the reason we are making this change. Grants of this type would be intended to solve pollution problems in the lightly populated areas as I said where conventional collection and treatment systems are not suitable. They are available but they are not suitable. They are not practical. They are not reasonable.

The Appalachian Regional Commission, this Commission which serves 13 States, the State of West Virginia as a whole and parts of 12 other States, has conducted a demonstration program. It has been held in Boyd County, Ky., and we have had the experience of that project, and it indicates that individual and cluster systems are a realistic means of meeting the sewage treatment programs at the rural community level.

So, the small communities are going to benefit also from a provision in the bill which will allow the reduction of time, cost, and administrative redtape by combining the design and construction phases of sewage system projects into a single application and grant procedure where the project cost is under $2 million and planned for areas, as I have said, in the first instance 3,500, and in this instance with a population of under 25,000.

These are the innovative programs. They are the necessary programs. These are the helpful programs as we move with the leadership of Senator MUSKIE and others to this hour.

Similarly, small communities such as those in West Virginia and other rural States will have a strong interest in the section of the bill allowing reservation of up to 2 percent of a State's construction grant allotment, with a minimum of $400,000, for a State to use in administration of any aspect of the construction grant program. This particularly can include developing the capacity and responsibility for managing construction grants for small communities.

Mr. President, one of the most extensively-debated sections of this bill is that relating to the types of facilities which are eligible for Federal assistance under the construction grant program. The Environmental Protection Agency proposed removing collector sewer systems from eigibility. The conferees rejected this recommendation. The bill continues eligibility for collector sewers under existing law.

I recognize that under the existing program there may have been abuses in some States and communities which utilized funds for excessive construction of collector sewers. In many areas, however, it is impossible to build a treatment system without assistance for the total sewer system. I turn to the State of West Virginia as an example. Our State generally has a widely-dispersed population and extensive sewer lines are needed for the system to function. The cost is so high that occasionally sewage plants cannot be built if local funds must be relied on for all of the sewers. Without some Federal assistance for collector sewers, many communities in West Virginia would be unable to participate in the program and would be forced to continue without pollution abatement facilities.

The conferees, as the Senate bill provided, decided to continue collector sewers as an eligible item. Excessive construction of collector sewers will be controlled by other provisions in the bill which restrict the reserve capacity of treatment systems. I refer again to the emphasis on alternative treatment systems to stress that their use should reduce the need for the construction of extensive sewage networks.

I have directed my remarks to the special provisions of the construction grant program as outlined in this legislation because I think it is important that the significance of the changes should be fully understood as we prepare to vote on the bill as a whole.

I stress the vital role of the grant program as a whole in the overall effort to control water pollution and the complete justification and necessity of its continuance as proposed in the measure before us.

As you know, the $18 billion authorized for this purpose in 1972 has been almost totally committed and a number of States had exhausted their funds and were already being forced to mark time while awaiting the new authorization.

By allocating $4.5 billion for fiscal 1978 and $5 billion for each of the 3 following years as this bill proposes, I am confident that we will be able to restore and maintain the program's momentum.

I likewise believe that the formula we have devised for combining factors of population and demonstrable need will insure both equity and effective utilization as nearly as that can be achieved. There are, however, other issues than the grant program which warrant mention in the context of this legislation.

One of the most controversial of them relates to the regulation of disposal of dredge and fill material, resulting from a judicial decision as to the authority and responsibility of the Army Corps of Engineers under section 404 of the 1972 act. That decision resulted in widespread concern that many activities usually considered routine would be prohibited or made extremely difficult because of the complex regulatory procedure set up by the corps unless there was a new statement of congressional intent.

I believe H.R. 3199, in its present form, provides that clarification and necessary direction. It recognizes that there must be no basic gaps in the program for protection of wetlands and waterways from contamination and thus provides a broad program of control and required discharge permits. Parts of the program would continue to be administered by the Corps of Engineers but the bill also assigns States substantial new areas of administrative responsibility.

To facilitate carrying out the routine activities, it exempts from permit requirements normal farming, silviculture and ranching activities and some mining and construction work.

Mr. President, for many years I have been concerned about the effect on the environment of certain activities carried out in the management of forests. I have been particularly distressed by the results of clearcutting of timber and have worked for the adoption of legislation to restrain this practice in national forests. I have personally seen on many occasions the damaging results of clearcutting. One of its most serious consequences is the adverse effect on water quality.

In its development of this legislation, the Committee on Environment and Public Works provided an exemption from the permit process for "normal silviculture activities." This exemption, among others, was endorsed by the Senate and is retained in the conference report.

The committee report on the bill emphasizes, at my urging, that "normal silviculture" does not include clearcutting in eastern mixed hardwood forests. The intent of the committee was clarified in a colloquy with Senator CHURCH during Senate debate on the bill. I believe it is important for any legislation which seeks to protect and enhance water quality to insure proper regulation of those activities which would damage the integrity of our waters. This definition of "normal silviculture activities" does not prohibit clearcutting. Rather, it insures that this method of harvesting timber will be carefully controlled so as to reduce the potential for damage to water quality.

The conferees were asked by Representatives THOMAS FOLEY, chairman of the House Agriculture Committee, to include language in the conference report which would modify and weaken the language of the Senate report. The conferees did not agree to alter the statement in the Senate report. Therefore, it remains the policy of this legislation that clearcutting on eastern mixed hardwood forests is not a normal silviculture activity, and it is subject to the permit requirements of the Act.

As modified, the section 404 program will also allow for general permits on a regional or national basis for various classes of activities. Federal projects authorized by Congress are likewise exempt from permit requirements but only in those instances in which a final environmental impact statement had been prepared and submitted prior to project authorization and appropriation. That environmental impact statement must have included a full assessment of the effect of the specific dredge and fill discharge, evaluated from the standpoint of the section 404(b)(1) guidelines, and a judgment similar to that required in a section 404 proceeding.

I am convinced that those stipulations provide all the safeguards necessary, and that the congressional authorization review will provide at least as broad a basis for determining possible environmental damage as the regular permit procedure. That view is shared by EPA Administrator Douglas Costle, who has said officially that he does not see the exemption as, in any sense, a loophole in the law.

In short, President, I believe the provisions of the bill will significantly improve the operation and administration of the section 404 program without impairing its effectiveness or altering its basic purpose.

Other key provisions of the bill include:

An easing of 1983 "best available technology" requirements for nonharmful pollutants.

Extension of oil spill liability and cleanup requirements to a 200-mile limit and an increase in the maximum spill liability.

A cost-sharing program to assist farmers in meeting requirements for control of nonpoint pollution.

Revision and tightening of the program for control of toxic pollutants.

Allowance for enforcement flexibility for those unable to meet 1977 quality requirements despite good-faith efforts.

As that summary suggests, the legislation combines the creation of new goals and policies with adjustment of some of the old ones in the context of past experience and current realities.

There was expectation, when the 1972 act was adopted, that both municipal and industrial dischargers would by the middle of this year have at least "best practical treatment" technology installed and in operation. Principal dischargers could have attained the uniform secondary treatment requirement. That has not proved to be the case in all instances for a variety of reasons.

Lack of Federal funding was a major stumbling block in the case of the cities. Much of the $18 billion provided under the act was impounded by the White House during the early years of the program. Its subsequent release came too late to make full compliance possible by this year's deadline. As a result of the funding problem and some other extenuating circumstances, only about half of the participating municipalities were able to meet that target date. An extension of up to July 1, 1983, will be permitted under the bill before us for those able to establish extenuation for failing to meet the initial deadline.

Industry's compliance record has been much better. Of the 4,000 major industrial dischargers, nearly 90 percent had installed the "best practical treatment" facilities on schedule, leaving only about 600 in the country short of required standards.

The steel industry is the one notable exception to the general rule in this instance. Less than 50 percent of its facilities have so far been brought to required standards, despite allocation of an estimated 75 percent of its capital spending for environmental improvement in recent years.

The difficulty stems from the need to modernize production facilities as well as the pollution control devices and the lack of enough capital funds to achieve both goals at the same time. That capital shortage may reach the $1 billion mark before long and a Presidential task force is recommending a series of Government actions to help restore the industry's general strength and viability.

Meanwhile, the measure before us recognizes the counterproductivity of insisting on retention of unattainable goals in such situations and the necessity for adjustment of timetables without lessening requirements for eventual compliance.

The measure also provides a degree of flexibility in some other areas. Among the most notable are modification of requirements for application of "best available technology" for discharge of nontoxic pollutants and for secondary treatment of discharges into marine waters where waiving that requirement would not interfere with a specific water quality standard.

In the requirements for the control of toxic pollutants adopted by the conferees, the measure before us largely follows the strategy presently being used by the Environmental Protection Agency under the settlement agreement in the case of the Natural Resources Defense Council against Train. That important case required the development of a minimum degree of control for a specified list of pollutants to be achieved on a definite schedule. The principal way in which the conference report modifies the settlement agreement is to require the publication of effluent limitations based on best available technology at a minimum for the listed pollutants by July 1, 1980, and to specify July 1, 1984, as the latest date for compliance with those effluent limitations.

The legislation follows the settlement agreement in listing 65 pollutants and families of pollutants and declaring that each such pollutant is toxic. In publishing an effluent guideline for a particular industrial class or category of sources, the Administrator may specify limitations for individual compounds or members of families of listed pollutants, or the Administrator may establish a limitation for an entire generic class of a listed pollutant. His judgment in choosing between these approaches is not subject to review.

The Administrator does, however, have some flexibility as to the degree to which any effluent guideline for a particular class or category of sources deals with all the 65 listed toxic pollutants. This is similar to some of the authority provided to the Administrator under section 8 of the NRDC against Train settlement agreement. In writing an effluent guideline, the Administrator is authorized to exclude pollutants which are present in the discharge solely in quantities and concentrations found in the intake water, or which are present in insignificant or trivial amounts.

Flexibility in this area is one of the real strengths of this bill and typical of the basis on which the legislation was conceived as a response to experience under the 1972 act, to conditions of today and to the outlook for the future.

There is another element of the measure about which some explanation is appropriate. The objective of the act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. Toward that end the act and certain provisions of this conference report require attainment of a degree of water quality variously described as that necessary for the protection and propagation of a balanced population or a balanced, indigenous population of fish, shellfish, and wildlife. Such a balanced population is one which would be found in the waters in question in the absence of population. This would mean taking into account the changes major hydrological modifications might make in the population that would otherwise naturally occur. Of course, in determining whether a particular discharge would interfere with the protection and propagation of such a population, the impact of other sources may be considered.

The Administrator is required to publish information on the factors needed to assure attainment of that degree of water quality. I sponsored the amendment requiring this because of the inadequacies of EPA's earlier efforts under section 304(a)(2) of the 1972 law.

The Subcommittee on Environmental Pollution and its exceptionally able chairman, Senator MUSKIE, developed the initial approach to the measure on the basis of hearings.

When the bill came to the full Environment and Public Works Committee, however, there were significant contributions from every member during the markup phase. As always, BOB STAFFORD was extremely helpful as ranking minority member but the proposal we reported also carried the imprint of all of our committee colleagues. Thus, appreciation is due to all—MIKE GRAVEL, LLOYD BENTSEN, QUENTIN BURDICK, JOHN CULVER, GARY HART, WENDELL ANDERSON, DANIEL MOYNIHAN, HOWARD BAKER, JAMES MCCLURE, PETE DOMENICI, JOHN CHAFEE, and MALCOLM WALLOP.

Most of them also served on the conference committee and afforded the strong and informed support necessary to sustain the Senate's position on major issues. In so doing, they performed a service for which I am grateful and for which I think they are due the thanks of the Senate and the country.

Mr. President, H.R. 3199 as we brought it from conference is a balanced, comprehensive, and effective bill. I believe that, properly implemented, it will give a new impetus and momentum to the drive launched 5 years ago for an ultimate end to water pollution.

I hope the legislation will receive the overwhelming approval it warrants as further evidence of the national commitment to that cause.

Let me digress for a moment. Many

people fail to consider the serious problem of solid waste disposal. We have passed legislation on the subject, however, which is now law. I bring it into the discussion now because it is a vitally important part of the all-out war on pollution of all kinds which originated in our committee and has been approved by the Congress. We are going to end what? Open dumping in this country, which is a scourge upon the landscape, adding to the hazards of health. We are going to stop this dumping of solid waste all over America and, in the process, begin turning it into usable material again.

I believe the American people are going to be responsive to what we have done in this area. It was our obligation and responsibility to do it. I am convinced that in doing it we have built at least in part a strong base for a better America.

THE DEFINITION OF NORMAL SILVICULTURAL PRACTICES

Mr. TALMADGE. Mr. President, I am pleased to note from the conference report that the House conferees refused to accept the Senate's definition of normal silvicultural practices in connection with section 404, related to dredging and filling in the waters of the United States.

The Senate committee report on this bill stated that for Eastern mixed hardwood forests, clearcutting timber or harvesting associated with even-aged management of timber and related activities are not to be a normal silvicultural practice.

As I understand it, when the Senate conferees asked that this same language be agreed to in the conference report, the House conferees declined.

This is certainly appropriate. Last year the Congress made its policy position clear in connection with the even-aged management and clearcutting of Eastern hardwoods when it caused to be enacted the National Forest Management Act.

At that time the Congress learned that Eastern mixed hardwoods are especially well suited to management practices such as shelterwood cutting and clearcutting. We also learned that even-aged practices create the widest range of plant communities of any regeneration method. Therefore, the interpretation of normal silvicultural activities should not restrict or constrain the use of a wide range of sound forestry practices.

In order to make clear what normal silviculture should comprise in connection with the management of Eastern mixed hardwoods, I ask unanimous consent that a letter from the Chief of the Forest Service to Congressman JOHN BREAUX be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE,

Washington, D.C., October 31, 1977.

HON. JOHN BREAUX,

House of Representatives.

DEAR CONGRESSMAN BREAUX: We appreciate the opportunity to respond to the questions you raised pertaining to a definition of normal silvicultural activities, procedures used to determine what system of timber management or harvest method is to be used, and procedures used to protect water quality.

Forest managers have two basic management options available to them for establishing forests and controlling composition and growth: uneven-aged and even-aged management. The normal silvicultural systems to achieve these management options are:

For uneven-aged management:

The selection system of silviculture

a. Single tree selection

b. Group selection

For even-aged management:

The clearcutting system of silviculture

The seed-tree system of silviculture

The shelterwood system of silviculture

The selection system of silviculture is the manipulation of a forest for a continuous high-forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of age or diameter classes to provide a sustained yield of forest products. Individual tree selection involves the removal of individual trees rather than groups of trees. In mixed stands, it leads to an increase in the proportion of shade-tolerant species of the forest. Group selection can be used to maintain a higher proportion of the less shade-tolerant species in a mixture than individual tree selection.

The three silvicultural systems for even-aged management are used to manipulate forests for the periodic regeneration of desirable species, the orderly growth and development of trees to a given size in each stand, and progressive development of harvestable stands to provide sustained yield of forest products. Regeneration occurs at or near the time of complete harvest when the stand reaches the desired age or size. Stands are treated between harvests with thinnings, cleanings, or other cultural treatments designed to promote growth and improve quality.

In the shelterwood system the mature stand is removed in a series of cuts. Regeneration of the new stand occurs under the cover of a partial forest canopy. The seed-tree system involves harvesting nearly all the timber on a selected area in one cut. A few of the better trees of desired species are left, well distributed over the area, to reseed naturally. In the clearcutting system, the harvesting is accomplished in one cut of all trees on an area. The area harvested may be a patch, stand, or strip. Regeneration is obtained through natural seeding, through sprouting of trees that were in or under the cut stand, or through planting or direct seeding. All three techniques have the purpose of creating a new, even-aged stand.

The Forest Service believes any of the above silvicultural systems could be considered normal in certain timber stands under certain conditions. The complex aspect of silviculture is the application of the proper system to a specific stand to meet land management objectives taking into account a broad array of resource values and physical and biological factors. What would be appropriate under one set of conditions might not be appropriate under other conditions. Thus, the prime concern is the selection of the silvicultural system which best meets management objectives. To provide further background on the scientific base for the selection of silvicultural systems, we enclose selected papers prepared for congressional hearings in 1976, "The Scientific Base for Silviculture and Management Decision in the National Forest System," "Agriculture Handbook—Silvicultural Systems," and a recent paper by Dr. David M. Smith, Professor of Silviculture, Yale University, "The Scientific Basis for Timber Harvesting Practices."

We understand that the National Association of State Foresters has provided the conferees with the following definition of normal silviculture:

"Definition of normal silviculture activities as all those generally recognized by professional forest managers for the production of timber crops including site preparation, planting, construction of roads and minor drainage ditches, harvesting methods including clearcutting, prescribed fire, and application of approved chemical pesticides and fertilizers."

We also understand that the Society of American Foresters has provided you and other interested members with a definition of normal silviculture. These definitions will be helpful to you in understanding the broad, recognized usage of the term.

Of particular concern in the Senate Report on S. 1952 is the selection of silvicultural systems for eastern mixed hardwood forests. As presented in our papers prepared for the congressional hearings in 1976, even-aged management practices, such as shelterwood cutting and clearcutting, are especially well suited to many eastern hardwood types because they satisfy the biological requirements of the present stands and maximize many of the resource values. Even-aged practices such as clearcutting create the widest range of plant communities of any regeneration method. These practices are appropriate for areas where wildlife habitat diversity and water yield are primary objectives. Single tree selection, an uneven-aged management practice, leaves the forest with a more undisturbed appearance and is suitable for areas where esthetic and recreational values are important. Timber values may be increased by either even-aged or uneven-aged management depending upon the species present or desired and the extent to which other resource values are to be maintained or enhanced. Perhaps more than any other forest type, eastern hardwoods require a wider range of cutting methods and cultural measures with prescriptions varied to fit each particular tract. We believe that the interpretation of normal silvicultural activities should not restrict or constrain the use of a wide range of scientifically proven silvicultural practices, including both even-aged and uneven-aged systems, in any forest or region.

As you can see, our discussion of the definition of normal silvicultural activities involves a discussion of factors used to determine the proper system for a specific stand. On National Forest System lands, specific management objectives are developed through multi-resource land management planning. In addition, generalized guidelines have been developed for broad classes of timber stands. Based then on the management objectives and guidelines and specific resource information, a specific prescription is prepared by a skilled silviculturist in consultation with other resource specialists. This prescription is made by the man on the ground and prepared and carried out to meet management objectives for the area. State and private forest landowners are similarly encouraged to define multi-resource land management objectives for their lands and proceed with specific silviculturally sound prescriptions.

In answer to your third question, the Forest Service has many procedures and activities underway to protect water quality from sedimentation caused by silvicultural practices. A great deal of research effort is directed toward this subject and results in new information, publications, and knowledge that help to guide action programs. Through our cooperative programs with State forestry organizations we provide technical assistance, training, and advice to loggers, forest landowners and others. This includes, for example, helping to develop and encourage best management practices on non-Federal forest lands.

Logging roads and skid trails are generally the greatest source of possible water quality degradation. Therefore, the engineering specifications for road construction and contract provisions that control road and skid trail use are of major importance. These controls need to be carefully drawn to meet specific problems for the area being harvested. On National Forest System lands we provide this close control and encourage similar controls on lands of other ownership.

Methods of logging and access route management that hold soil losses close to geological rates are well known and are included in our specifications and sale provisions:

(1) Do not log in streams;

(2) Build the least temporary access routes and skid trails possible, avoiding steep and unstable slopes;

(3) Locate roads away from streams, the distance depending on slope and soil characteristics;

(4) Design access routes carefully;

(5) Apply erosion-control measures as needed; and

(6) Revegetate all temporary access routes as soon as possible.

The selection of the most appropriate silvicultural system, the careful layout and supervision of the actual road construction and harvest, and the treatment of the area following harvest are key factors in protecting water quality.

The control of discharges of sediment from silvicultural practices is specifically identified in EPA regulations 131.11 (J) which were promulgated pursuant to section 208 of P.L. 92–500. These regulations require the identification and evaluation of all measures necessary to produce the desired level of control through the application of best management practices to silviculturally related nonpoint sources of pollution. In addition, the National Forest Management Act of 1976 provides detailed direction for the planning and management of National Forest System lands with emphasis on the protection of watersheds and water quality.

We would be happy to meet with you or others to discuss the scientific base of silviculture and current management practices.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Enclosures.

SOCIETY OF AMERICAN FORESTERS,
Washington, D.C.

DEFINITION OF THE TERM "NORMAL SILVICULTURE" FOR THE PURPOSES OF INTERPRETING H.R. 3100 AND S. 1952, A POSITION OF THE SOCIETY OF AMERICAN FORESTERS[1]

Silviculture has developed as a science and art for more than 400 years. It is the body of scientific and practical knowledge applied to the management of closed stands of trees, shrub lands, forested grazing lands, taiga and related bogs, and tundra, shelterbelts, protection forests, savannas, desert shrub, pocosins, and man-made forests.

Some degree of manipulation of the forest environment is implicit in any silvicultural action. The forest environment includes but is not limited to the soils, waters, animals, plants, and related geologic features that support, affect, and influence the regeneration, growth, and development of the biological systems.

Normal silvicultural actions follow accepted principles, theories, and practices for enhancing the regeneration, growth, development, and utilization of forests for multiple benefits. Normally accepted silvicultural actions of long standing and worldwide use include:

1. Regeneration of forest stands by various methods, including clearcutting, seedtree, shelterwood, and selection systems, as determined by the silvical requirements of the species, the properties of the site, and ownership objectives.

2. Regulating stand density, tree form and quality, by thinnings, pruning, fertilizers, and spacing of plantings.

3. Regulating genotypes by changing seedbeds, selecting planting stock, planting genetically superior seedlings, introducing exotics, removing undesirable genotypes, changing fertility and soil moisture relations, and affecting succession and competition.

4. Regulating growth rates by controlling the composition and growth of understory species using prescribed fire, chemicals, drainage of surface and ponded water, mechanical removal of slash and litter or their incorporation into the soil, or other techniques.

5. Improving forest productivity for multiple benefits by various techniques, including surface and subsurface drainage, addition of fertilizers, cultivating and shaping the soil, limiting the removal of nutrients, irrigation, and insect and disease management.

6. Regulating the quantity, quality and timing of water yields by timber harvest, size of openings, drainage, terracing, bedding, changing species composition, and vegetation type.

7. Enhancing plant and animal habitat by ponding, stream habitat improvement, drainage, food plots, game and non-game food plantings, timber removals, thinnings, and building access roads and trails.

8. Enhancing visual appearance, recreation enjoyment and aesthetic values by scheduling harvest, building lakes and improved recreation sites, controlling erosion with vegetation, constructing trails and roads for access, and protecting the forest from fire, disease and insects.

9. Improving natural range and savannas by seeding, controlling brush, regulating timber harvest, increasing browse, changing species composition, impounding and regulating water, and amending the soil.

10. Providing environmental amenities by establishing shelterbelts, protection forests, and aesthetic screens.

As indicated, the array of silvicultural actions considered "normal" is very broad. Stand and site characteristics that influence the need for silvicultural action vary from region to region and within regions. The training and experience of the forester, and his understanding of the ecological and economic aspects of the location situation, determine his prescriptions for silvicultural action.

Mr. TALMADGE. Mr. President, second, I would like to include a definition of normal forest practices adopted by the Society of American Foresters, the professional foresters organization.

Mr. President, these documents show beyond question that the House conferees acted wisely in refusing to accept conference report language which would have excluded clearcutting or even-aged management of Eastern mixed hardwoods from any rational list of normal forest management practices:

The National Association of State Foresters urges the Conferees of the Senate House Conference on H.R. 3199 and Section 404 of P.L. 92–500 this session to consider that it is essential to remove unnecessary and negative Federal regulatory burden for millions of private forest landowners. State Foresters are trying to encourage these landowners to grow more trees through positive technical assistance and incentive programs.

The amendments should include:

1. Exclusion of all normal silviculture activities from permit requirements of section 404 or 402, and,

2. Definition of normal silviculture activities as all those generally recognized by professional forest managers for the production of timber crops including site preparation, planting, construction of roads and minor drainage ditches, harvesting methods including clearcutting, prescribed fire, and application of approved chemical pesticides and fertilizers.

We support the direction of Congress under section 208 that individual states, with the involvement of State Foresters, determine when silviculture activities are a significant water pollution problem and develop appropriate abatement programs.

Unanimously approved at meeting of State Foresters in Orlando, Florida, on October 13, 1977. (Sent by mailgram to Conferees on October 13 or 14.)

The Society of American Foresters urges Foresters in Orlando, Florida, on October the members of the House-Senate conference on the 1977 Federal Water Quality Act Amendments (P.L. 92–500) to recognize that even-aged management of eastern hardwood forests, including clearcutting, is one of several "normal" silvicultural activities for this group of forest types. This is in accordance with the silvicultural principles, theories and practices set forth in the Society's "Definition of the term 'normal silviculture' for the purposes of interpreting H.R. 3199 and S. 1952."[1]

The Society further suggests that any concern for water quality resulting from this or any other silvicultural system is properly addressed in accordance with Section 208 of the Federal Water Quality Act.

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Rhode Island (Mr. CHAFEE).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CHAFEE

Among several issues resolved during our conference deliberations on the Clean Water Act of 1977, one issue was of particular interest to me and several of my colleagues. I am talking about the exemption from Section 404 permits for certain Federal projects. Section 67, subsection (r) provides a limited exemption from Federal and state permit programs for discharges of dredged or fill material to construct Federal projects specifically identified by Congress, when authorized or funded. If the procedural and substantive requirements of subsection (r) are satisfied, such discharges shall not require permits under Section 404, as amended, or under state permit programs approved pursuant to this section. The conferees did not intend to exempt Federally assisted projects or maintenance of existing Federal projects from the section 404 review.

The exemption provided by this subsection applies only to discharges that are an integral part of constructing a Federal project which has been reviewed and approved by Congress. Federal projects include only those conducted by a Federal agency and by such contractors as the agency may employ. The conferees did not intend to exempt other discharges which may be associated generally with constructing Federal projects, but which are ancillary to the specific activity submitted to and approved by Congress. For such ancillary discharges, the full section 404 review and approval procedures shall be applied by the Secretary and the Administrator unless other exemptions are applicable.

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[1] Approved by the Council of the Society of American Foresters, September 29, 1977. A position of the Society of American Foresters expires three years after the date of its adoption unless after thorough review, its continuance is approved.

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[1] Approved by SAF September 29, 1977.

In order to qualify for the exemption, an adequate environmental impact statement on the project must have been submitted to Congress prior to authorization of the project or appropriation of construction funds and, in all cases, prior to the actual discharge of dredged or fill material at any particular site. The statement must satisfy the requirements of the National Environmental Policy Act and include complete information and analysis, consistent with the requirements of sections 403 and 404, on the effects of the proposed discharge. Moreover, the guidelines developed by the Administrator under section 404(b) (1) must be fully complied with in developing and assessing this information.

Congress must have adequate siting, engineering, and environmental information on each proposed Federal project, as well as on modifications recommended by reviewing agencies, in order to review the available alternatives to and potential adverse impacts of the proposed discharges, and to weigh those impacts and alternatives against the benefits of the project. The Administrator will be required to see that the section 404 (b)(1) guidelines are sufficiently explicit to focus attention on those aspects of Federal dredged and fill material discharges, in the construction of new projects, that could result in environmental degradation. And the Administrator must assist other agencies by carefully reviewing draft environmental impact statements to ensure that the guidelines are being interpreted and implemented properly.

In reviewing a proposed Federal project, which includes the discharge of dredged-or fill material, several factors must be considered. Among these are the effects of such discharges on the aquatic biota, wildlife, shellfish beds, and fishery areas (including spawning and breeding areas). Possible changes in the ecosystem diversity, productivity, and stability must be considered. Effects of disposal on recreation and esthetic values are to be studied. Adverse impact on municipal water supplies and groundwater systems must be identified. These are only a sample of the effects to be considered in preparing the environmental impact statement required for an exempted project.

I look forward to working with the distinguished Chairman (Senator Randolph) and the able Ranking Minority Member (Sen. Stafford) of our Environmental and Public Works Committee, and especially with the Chairman (Sen. Grave) and Ranking Minority Member (Sen. Domenici)of the Water Resource Subcommittee, to develop a thorough process of Committee review for each Federal project and accompanying environmental impact statement for which an exemption from the 404 permit program is sought. A great deal of responsibility is being placed in our Committee to insure that these Federal projects, including discharges of dredged or fill material which are an integral part of these projects, will be conducted in an environmentally sound manner. I would hope that other Committees which have jurisdiction over Federal projects would also adopt strong review procedures for this new provision.

Mr. HANSEN. Mr. President, in June during consideration of the Clean Air Act Amendments of 1977, I stated that I believed that one of the greatest environmental crises that this Nation could experience would be if the lights were to go out in New York City. I made such a statement because, to my way of thinking, some of the actions contemplated in the Clean Air Act amendments appeared at odds with the need for America to achieve a degree of energy independence.

It is my belief that there are some hard lines to draw, some difficult choices to make in the energy area, but we must make those choices and we must make them now or face the type of crisis which confronted New York City on July 13 of this year.

Recently there appeared in the December issue of Harper's magazine a case study of one aspect of the environmental movement. In a detailed analysis of the controversy involving Storm King Mountain in New York State, the author sees the seeds of the energy problems with which we are now faced. In conclusion, he asks "Where is the power going to come from to meet the needs of the next decade and the next generation?" It is a question well worth considering.

Mr. President, I recommend this article to my colleagues and ask unanimous consent at this time that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENVIRONMENTALISM AND THE LEISURE CLASS

(By William Tucker)

Four years ago, while I was working at the Bergen Record, a suburban newspaper in Hackensack, New Jersey, a press release crossed my desk from the Scenic Hudson Preservation Conference, a small group with headquarters on Madison Avenue which, by its own advertisement, had been working for more than ten years to "save Storm King Mountain."

Although I had grown up in the New York area, I hadn't been living there much during the 1960s, and my memory of the whole Storm King incident was hazy. The most I could recall was the image of a majestic, looming mountain somewhere along the Hudson, a threat by Consolidated Edison of New York to do something terrible to it, and the recollection of protesters and entertainers strumming their guitars and parading in boats until the apparition had somehow been exorcised.

I doubt if I could have identified the Con Edison proposal as a pumped-storage plant. If I had been asked, I probably would have said it was a nuclear plant. I did not know at the time how many other people, including some of the principals of the controversy, would have responded in the same way.

Yet I was getting awfully suspicious about environmentalists. Their solutions to problems had an inordinate amount of impracticality about them, more than they would have tolerated in their own lives. The environmentalists in any given area seemed very easy to identify. They were, quite simply, members of the local aristocracy, often living at the end of long, winding country roads. They had learned the lessons of conspicuous consumption and had allowed a certain amount of genteel rusticity to enter their lives. Instead of imitating Greeks and Romans, they seemed to be patterning themselves after the English gentry.

The environmentalists knew the language of energy and ecology, and could describe a future filled with windmills and with bright sunshine radiating "inexhaustible energy." Yet one never got the impression that these people were planning to be part of it. The "soft energy" of the future was a vision offered to persuade people to forgo the nastier, more vulgar realities of the "hard energies" of the present. I knew this was mostly a lot of nonsense. Solar electrical generating stations would be massive installations, hiding acres upon acres from the sunlight. Storage problems could prove insurmountable. Solar heating on a large scale could mean rebuilding half the homes in America. When I questioned the environmentalists closely, I found these details rarely intruded upon their vision. "Have faith" was the rejoinder, while economics and matters of sheer quantity were dismissed. "We certainly can't go on the way we're going now" was the comment I heard over and over again. It was difficult to tell just which, if any, of these people really knew what they were talking about.

There was another thing that disturbed me about environmentalism. That was the way it always seemed to favor the status quo. For people who found the present circumstances to their liking, it offered the extraordinary opportunity to combine the qualities of virtue and selfishness. When the first environmentalists were showing up at town meetings arguing against new apartment houses, shopping centers, or whatever, it seemed obvious that they were acting out of the universal human impulse which makes people respond to incursions on their surroundings by saying, "Put it somewhere else." Like everyone, the environmentalists wanted to be left with the illusion that they lived alone in nature without the assistance of other people. They had simply refined their arguments with talk about "ecosystems," "rare, endangered species," and "carrying capacities."

That was before everyone else began catching on to the possibilities of environmentalism. From 1972 to 1974, "protecting the environment" became the favorite argument in the endless debates over new development in the suburban area of Rockland County, New York, where I was reporting. People who would starve to death if they couldn't drive their cars to the supermarket were opposing new road construction because "fossil fuels are disappearing" and "we aren't going to be using cars anymore."

And really, there was nothing in it that was logically inconsistent with the tales of the original environmentalists. Nothing these first country prophets had said ever had much to do with sacrifice or self-restraint. If tweedy people living at the end of country roads with fireplaces in their living rooms could protect their "environments," why couldn't tacky people living in pink-and-gray houses at the end of cul-de-sacs do so as well? "Environmentalism" always seemed to work in favor of the people who were already established in "the environment." I didn't realize how true this was until I learned that a group of middle-class whites in Newark had been able to block a highly controversial low-income housing project by bringing a long series of challenges to the project's environmental impact statements.

In the course of about six months, I saw several garbage-recycling projects and an experiment in pollution-free burning of coal blocked by local residents who were "protecting their environment." It was easy to see that people who talked about "environmentalism" were not terribly concerned with things like recycling, conservation, and biology.

With all this in mind, I decided it might be worth taking a long look at the incident which is considered the "birthplace of the environmental movement," the Storm King Mountain controversy. I admit I started my investigation with certain anticipations. I expected to find a project that had been opposed by a small but determined group of wealthy people. This turned out to be correct. What I didn't expect to find was the degree to which the opponents of the project had managed to commandeer public opinion and win supporters among people whose best interests might have been served by supporting the plant. Among these was the entire government of the city of New York.

What is most astonishing is that the whole issue is still alive, miraculously embalmed in the deep-freeze storage of the court system. The crowds have departed, the newspapers have stopped covering the story, and no more than a few people can remember even the sketchiest details of the issue. Only Con Edison and its little band of determined opponents remain in deadlock, struggling far into the night.

The chronicle as it comes to us now is really a historical saga. The written record would probably fill a wall of bookcases. I have read the *New York Times* file on the subject, the Bergen *Record* file (which includes most AP dispatches), and several books relating to the subject; I have visited the Storm King area many times, and interviewed close to forty people who played major roles in the controversy. Yet most of the testimony from the fifteen years of court cases and Federal Power Commission hearings is known to me only through excerpts and newspaper reports.

Nevertheless, there is a consistent pattern in the Storm King Mountain controversy, one which, I think, offers an answer to the big question—Why has this particular plant stirred up so much opposition?

The question has long tantalized nearly all the participants. One can see editorial writers, utility executives, residents of the Storm King area who favored the plant, and even the environmentalists themselves reaching for an answer over and over again. I wasn't able to make more than a few vain stabs at it until this year, when I went back and finished a book I should have read in college, *Thorstein Veblen's Theory of the Leisure Class*. There, in a slim fourteen-page chapter called "Industrial Exemption and Conservatism," I found an explanation of "environmental" behavior which I believe goes far beyond the issues at Storm King Mountain. It bears most specifically upon our present industrial crisis—the prospect of fossil-fuel shortages, the conversion to new technologies, the support for "no-growth" economics, and the general future of the industrial system.

I believe the Storm King Mountain controversy contains a story that has never been adequately told but has enormous bearing on the future of our economic system. It is offered here in the hope that, once understood, it will not have to be repeated on a large scale.

THE CHRISTMAS-LIGHT DEMAND

The leisure class in great measure sheltered from the stress of those economic exigencies which prevail in any modern, highly organized industrial community. The exigencies of the struggle for the means of life are less exacting for this class than for any other; and as a consequence of this privileged position we should expect to find it one of the least responsive of the classes of society to the demands which the situation makes for a further growth of institutions and a readjustment to an altered industrial situation.—Thorstein Veblen, "*The Theory of the Leisure Class*."

In 1962 Consolidated Edison Company, the sole supplier of electricity to New York, was the giant of the industry. The company had some of the most skilled and innovative engineers in the business, and was generally regarded as the most progressive utility in the country. This was hardly a matter of chance, because whatever problems occurred in the utility industry were sure to happen first in New York City.

In the 1950s Con Ed had experienced almost nothing but major changes. The capital-short years of the depression and the diversion of resources during World War II had left the utility almost a generation behind in construction of new generating plants. In 1952 the company had eleven power stations, all of them in New York City and all but three built before 1933. They could produce a peak output to meet a demand of 3.3 million kilowatts.

But the arrival of new energy-consuming technologies—particularly air-conditioning—was changing the entire pattern of electrical consumption in New York City. Throughout the history of the utilities industry, peak demands always occurred at night. Right through 1957, the biggest strain on Con Ed's system occurred when midwinter lighting and heating demands were at their highest. Old-timers in Con Ed's control command could fondly remember a time when the annual peak usage occurred on Christmas Eve, when tree lights and toy trains put the largest demand on Con Ed's generators.

But by the early 1950s it was obvious that the city's systems were on the verge of enormous changes. Daytime peaks, particularly during the summer air-conditioning season, were growing in gigantic leaps and would soon be overtaking winter nighttime demands. Carrying summer loads was soon going to be the utility's biggest challenge.

Con Edison responded with actions that can only be called appropriate. In the late Fifties the company contracted with the Allis-Chalmers Corporation to build a 1 million-kilowatt coal-burning plant—later to be nicknamed "Big Allis"—that would be more than twice the size of an existing plant, yet would hold off the rising peak demands for only four years.

At the same time, Con Ed ignored the conservatism of other utilities and began developing a nuclear technology. The only atomic generating stations had been built by the U.S. government, and other utilities were avoiding the risks of pioneering in the field. But Con Ed did not have time for such caution. The company bought an abandoned riverside park at Indian Point in upper Westchester County and contracted with General Electric to build, for $140 million, the first privately owned nuclear station in the world. Indian Point would provide only 237,000 kilowatts—less than the next year's projected increases in demand—but would open the way for larger efforts in nuclear technology.

On June 26, 1957, with both Big Allis and Indian Point One still in construction, the company passed a watershed. During the mid-afternoon of an extraordinarily hot day, Con Ed's demand rose to 3.5 million kilowatts. It was the first time a daytime peak had surpassed the annual nighttime peak, and it also put Con Ed over its own capacity. Electricity had to be imported from Long Island and New Jersey over lines that were originally built so Con Ed could sell power to neighboring utilities. All during the long afternoon, Con Ed executives sweated it out at the Manhattan control center, praying that the improvised system would work. Over the next three years, demand would grow at an average rate of 300,000 kilowatts per year.

Big Allis and Indian Point One came on line as scheduled, but the exasperating situation of "peak demands" was leaving Con Edison and other utilities playing a losing hand. New generating capacity was going to have to be added almost continually, yet this capacity would remain idle during most of the year. It was like building an extra wing on a house to accommodate a guest who visited only at Christmas. There were extraordinary inefficiencies in building and maintaining generators whose average "load demand" over the entire year was only about 55 percent of their full capacity.

The problem is that electricity must be used as it is generated. It cannot be stored in normal generating systems. The only proven method of storage—then and now—is "pumped storage," a system whereby water is pumped from a lower to an upper reservoir during off peak hours and released during peak hours to create hydroelectric power.

A few utilities had built pumped-storage plants during the 1940s, and 50s, but they were clumsy, costly affairs. Two separate water tunnels were required—one for pumping, the other for generation. Then, in 1960, engineers perfected a reversible turbine that could serve as both pump and generator. One tunnel could be used for both purposes, cutting construction costs nearly in half.

Several utility companies in areas where mountains and rivers would make pumped-storage systems feasible started exploring the new techniques. Con Ed did not make a deliberate investigation, but in 1961 one of its executives received a call from a manager at Central Hudson Gas and Electric in Newburgh, who said his company had been investigating what appeared to be two excellent pumped-storage sites on opposite sides of the Hudson River within five miles of Newburgh. The first, below Breakneck Ridge on the east bank, would suit Central Hudson, but the second, just south of Storm King Mountain, was too large for the Newburgh utility. It might, however, be on a scale required by the New York City company.

Con Ed made its own investigation of the Storm King site and found it was highly suitable for pumped storage. The generating plant could be tucked into a small inlet in the Palisades Interstate Park just south of Storm King. An upper reservoir for drinking supplies had already been developed about two miles behind the mountain. It belonged to the village of Cornwall, which lay just north of Storm King. The village would probably be happy to have the reservoir put on the tax rolls, and could be furnished with new wells by the company for about $3 million.

Working covertly to avoid land speculation, the utility acquired most of the property around the upper reservoir during the spring and summer of 1962. Then, in July, Con Ed broke the news to political officials in Cornwall, Mayor Michael Donahue was delighted—almost overwhelmed—at the idea of having the huge enlargement of the upper reservoir on the tax rolls. The benefits to the community would be enormous.

On September 27, 1962, village officials and Con Ed made a joint public announcement of the new plant, which they predicted would win quick approval from village residents and from the Federal Power Commission, the licensing agent. In his first interview with the press, Mayor Donahue, a Cornell-educated veterinarian who had grown up in Cornwall, noted, "There's no chance that the building will reduce the aesthetic qualities of the area" because it would be located "on the waterfront, not on the hills."

Five miles downstream however, a part-time resident on the east bank looked out the front window of his mountain retreat, one of many luxurious second homes in the area, and found a different view of the matter. William Osborn, an engineer whose family owned 2,000 acres and a mountainside castle, and who served as president of the Hudson River Conservation Society, realized that he would have a clear view of the transmission lines that Con Ed was planning to string across the river to connect the Storm King plant to its circuits in Putnam and Westchester Counties. Osborn called a few of his neighbors in similar mountaintop hideaways and found that they too were upset about the plant, which would be visible from several lookouts on the east side of the river. Osborn, whose brother Frederick was a commissioner of the Palisades Interstate Park, was soon on the phone to Con Ed to see if it couldn't be persuaded to make a few slight changes in the layout of the plant.

At the time, "ecology" was an obscure discipline found only in a few biology textbooks, "conservation" was a movement whose main impetus had occurred around the turn of the century, and "environmentalism" was a word that didn't even appear in the dictionary. But most people familiar with the history of the Storm King Mountain controversy rightly consider William Osborn's phone calls to his mountaintop neighbors as the birth of the environmental movement.

HUDSON RIVER VISTAS

The scenery along the Hudson River's 130-mile length from New York to Albany can hardly be characterized in a few simple phrases. Nor can its long history. Both are notable for their diversity.

The Hudson's scenery ranges from the rocky columns of the Palisades at the lower end to the dreamlike vista of the Catskills along its upper reaches; from the beauty of mountainside farms to the leaden industrial shores of Haverstraw and Newbaugh Bays. The latter are two of the larger industrial centers that sprang to life during the early nineteenth century, when the Hudson became the main thoroughfare for most of the new nation's commerce.

Between them lies a stretch that has remained largely untouched. These are the Hudson Highlands. Here, for a length of fifteen miles, the mountains rise straight from the water's edge like the burly shoulders of huge animals. The stretch is the point where water from a preglacial lake broke through on its way to the Atlantic. It is the only breach in the Appalachian Chain, and thus forms a natural pathway from the Eastern coastline to the hinterland of the American continent, making the Hudson the nation's first main highway.

The highlands offered few footholds for commercial and industrial settlement, however; they served instead as a retreat for the wealthy. During the Revolution, they housed the biggest concentration of Tories in the thirteen colonies. As New York City prospered in the early 1800s, some of the area's most successful citizens began trekking up the Hudson to find solace on riverfront properties. The east bank of the river had been "estate country" ever since the Dutch made their first land grants along its shores while the west bank remained "Indian country," and was first settled only by small farmers who were willing to risk confrontations. As the nineteenth century progressed, the distinction remained. The Astors, the Goulds, the Vanderbilts, the Roosevelts, and the Rockefellers all took up residence on the east bank, while the western shore remained in the hands of small farmers except for the large holdings of the Harriman family in Orange and Rockland County utilities.

The highlands were the scene of some of the more elaborate attempts to mimic European nobility. A succession of wealthy stockbrokers and businessmen built mountainside castles in the region. Some proved drafty and uninhabitable, and were succeeded by less ambitious but still impressive second homes. Eventually, many of the great estates became unmanageable and were sold to charitable institutions. But the little colony of wealth in the highlands persisted. A group of artists and admirers of the past clustered around it, and an aristocratic, inward-looking community was formed, with the hamlet of Garrison as its center.

In the cities to the north and south, the story was different. Commerce declined, and industries deteriorated or departed. A wave of urban-renewal projects in the 1950s sent displaced blacks moving from city to city along the river looking for homes.

In the period of 1955–61, two strking incidents occurred within ten miles of each other on either side of Storm King. A group of wealthy activists moved an eighteenth-century mansion piece by piece all the way from Peekskill to Garrison after the federal government threatened to tear it down. It became the Boscobel Restoration, a minor tourist attraction. On the other side of the river, Newburgh was also briefly in the news. Exasperated by the number of welfare recipients moving into the community, the city manager, Joseph Mitchell, announced that all able-bodied welfare clients would have to perform city jobs to receive their payments. The directive was quickly overturned in the courts, but city officials said it had highlighted the community's economic plight.

Less than a year later, Consolidated Edison of New York arrived on the scene with a proposal to spend $115 million to build a pumped-storage plant at the base of Storm King Mountain.

An advance in technical methods, in population or industrial organization will require at least some of the members of the community to change their habits of life . . . ; and in doing so they will be unable to live up to the received notions as to what are the right and beautiful habits of life—The Theory of the Leisure Class.

Right from the beginning, Con Edison was willing to compromise. It may have been their biggest mistake.

When Osborn made his objections known to Con Ed, the utility quickly agreed to move the plant around to the north side of the mountain, so that, instead of lying within the narrow gorge of the highlands, the plant would be facing the dilapidated scenery of Newburgh Bay, and sitting almost atop the burned-out ruins of Cornwall's abandoned waterfront. The company also agreed to run the power lines through an underwater cable beneath the Hudson. The relocation of the plant would mean a slightly longer tunnel, but it would also put the generating station within the village of Cornwall, which would make local residents even more willing to welcome the project. The additional expense would raise the total cost to only $121 million. Osborn registered his satisfaction, Cornwall was even happier about the plant, and the matter seemed settled. But not quite.

Other owners of weekend homes and small estates on the east bank of the highlands were unhappy about the transmission lines, which, in some cases, would run near to or over their properties. If Con Ed was submerging its cables under the river, why couldn't it bury the lines near their properties as well? Con Ed executives replied that burying all the wires would run the costs far beyond acceptable levels for its New York City and Westchester customers. The estate owners were not satisfied.

As they voiced their complaints, they heard that they had counterparts across the river in a little colony of about twenty-five families of wealthy New York City businessmen and attorneys with summer and weekend homes behind Storm King These "weekenders" and "mountain people," as they were known in Cornwall, lived around a private compound developed in the 1880s by James Stillman, the president of National City Bank and one of the organizers of the Consolidated Gas Company, the forerunner of Con Ed. Stillman had been regarded as a nouveau riche when he tried to gain entrance to Tuxedo Park, the exclusive community at the other end of Orange County. Rebuffed, he expanded his family holdings at Storm King and started his own private community. Many of the current residents are descendants of the original families, although one of the reigning patriarchs, Chauncey Devereux Stillman, had moved further north, to Columbia County, where he kept a set of four-in-hand coaches and raised peacocks on his property.

The "mountain people" were also unhappy about the new plant. A parade of bulldozers and construction workers threatened havoc for their quiet weekend retreats. Some would lose property holdings around the upper reservoir. In addition, the plant would mark a kind of symbolic invasion of their privacy.

The "estate country" people made contact with the "mountain people," and together they talked about the possibilities of blocking the plant. One of the Cornwall people, Stephen Duggan, was a senior partner in the blue-chip Wall Street law firm of Simpson, Thacher and Bartlett. Duggan felt that if the group could harass Con Ed for a while, the economics would change and the company might give up the project. The Cornwall Stillmans polled their relatives and found they were nearly all opposed to the plant.

Benjamin Frazier, a Garrison antique dealer who had led protest marches in front of the Boscobel mansion when the federal government had wanted to tear it down, felt the same technique might work at Storm King. Alexander Saunders, a Garrison resident, felt a case could be made for keeping industry out of the area, even though in 1964 he would move his own family business, a small tool-and-die factory, from Yonkers to the highlands. The group found its ranks joined by another activist, Leopold Rothschild (not a *real* Rothschild), a well-connected New York City attorney who liked to hike in the Storm King area and had been active in conservation groups since an attempt to oppose construction of the George Washington Bridge in 1927.

They decided to attend Cornwall Village meetings and express their views, but soon found themselves facing almost unanimous public hostility. There were even a few threatening phone calls. Mayor Donahue, although quietly appalled that the "mountain people" might try to block the plant, made several efforts to mediate. Years later, when I visited his home, he told me of the time when he was invited "up the mountain" to a cocktail party where the Storm King project was to be discussed. "Nobody said much during the entire afternoon," he recalled, "but toward the end a retired West Point general took me aside and said, 'Look, we've got it nice and peaceful up here, why do you want to spoil it?' I bit my tongue and didn't say anything, but what I wanted to say was 'What about all the little people down there in the village who need this plant? Did you ever think about them?' "

Things did not look promising for the fledgling opponents during the early months of discussion, but in April 1963 Con Ed made a bad mistake. In its annual report, the utility printed an artistic rendering of the proposed pumped-storage plant. In an effort to highlight the technical aspects, the artist drew the plant larger than its actual size. As one writer would later describe it, the drawing showed "a portion of Storm King mountain missing, like a slice removed from a tub of cheese." Rothschild wrote letters of protest to both Governor Rockefeller and John B. Oakes, the editorial-page editor of the *New York Times*.

Rockefeller, an aristocrat among aristocrats, made the half-serious suggestion that if the group didn't want the plant they should buy the mountain. (His brother, Laurance Rockefeller, was later to use the family money to buy the Breakneck Ridge site from Central Hudson.) Oakes, however, was more responsive. On May 29, 1963, the *Times* ran its first editorial on Storm King, asserting that "it is almost as bad to plunk down a couple of power installations right in the heart of one of the most stunning natural regions in the Eastern United States, Storm King Mountain" as it would be to put a power plant in the middle of Central Park. The paper had proudly taken its stand. It has not wavered one iota from its original position over the succeeding fifteen years.

Duggan, Rothschild, Saunders, and their associates spent the rest of the summer looking for checkpoints where the plant could be temporarily delayed. The village had waived a referendum on selling the upper reservoir, so they asked that the vote be held. The result was a 499-25 defeat in 1964.

The only other possibility was the Federal Power Commission, which would be licensing the plant under its authority to regulate all hydroelectric projects. The little group of opponents discovered the deadline for filing for appearance at the FPC hearings had already passed, but through Rothschild's connections they were put in touch with Dale Doty, a Washington, D.C., attorney who had sat on the FPC during the 1950s and had once persuaded it to reject a dam proposed in Wisconsin because it would ruin recreation for the area. Doty was eager to argue a case before the FPC in which scenic and conservation values would be an issue.

On the evening of November 8, 1963, Rothschild met with representatives from four national conservation groups in the living room of the Westchester home of Carl Carmer, a popular historian who had written a book on the Hudson. Together they set up the Scenic Hudson Preservation Conference, an alliance of conservation groups that would devote itself to the Storm King case. Carmer was named honorary chairman, and Rothschild was elected president.

Through a combination of Doty's influence and the FPC's desire not to ignore any of the issues, Scenic Hudson was granted permission to appear at the license hearings even though the deadline had passed. Doty felt that a case could be made on the basis of the FPC's responsibilities to consider the total impact of the plant. He felt scenic values should play a part. For Rothschild, Saunders, Carmer, and Duggan, it was chiefly a matter of keeping the plant from going ahead on schedule. When the FPC hearings opened in Washington on February 25, 1964, they and their little band of followers from Garrison and Cornwall were waiting to speak in their turn.

> As population increases, and as man's knowledge and skill in directing the forces of nature widen . . . the habitual methods of carrying on the life process of the group as a whole, no longer give the same result as before. . . . If the scheme according to which the life process . . . was carried on under the earlier condition gave approximately the highest attainable result . . . in the way of efficiency or facility . . . then the same scheme of life unaltered will not yield the highest result attainable . . . under the altered conditions.—The Theory of the Leisure Class.

Con Ed officials believed that the huge, 2 million-kilowatt pumped-storage plant at Storm King would offer three major advantages to its electrical system.

First, it would solve the problem of peaking power at bargain rates. For an investment of only $121 million, Con Ed woud be able to increase its current capacity of 5.5 million kilowatts by more than 33 percent, enough to carry it through to 1969. Building the same capacity with fossil fuel or nuclear plants would cost more than $200 million.

Second, the Storm King plant would create greater efficiencies in Con Ed's existing systems. Instead of adding new generating capacity, it would use existing capacity more efficiently. Coal- and oil-burning plants could be operated at higher levels and would consume less fuel per kilowatt, just as cars burn gas more efficiently at fifty-five miles per hour. Con Ed would be able to retire four of its oldest, least efficient plants. This would be doubly important, since the oldest plants were the worst contributors to air pollution, a growing public concern.

The third advantage was reliability, an increasingly important concern among utilities in the early 1960s. As generating plants became bigger and as transmission lines stretched longer, the possibility of widespread power failures was increasing. Ordinary steam-driven plants could not cope with emergencies because it took from fifteen to thirty minutes to stoke them up to higher capacity. But a pumped-storage plant, with enormous quantities of water sitting behind simple sluice devices, would be a godsend in an emergency. The Storm King plant could go from zero to 2 million kilowatts of power in less than a minute. The man-made waterfall could be used to restart other generators after a widespread power failure. The plant could prevent some blackouts and limit the effects of others.

Fifteen years later, New York City public officials would have done well to remember the reliability promised by the Storm King plant. The city had suffered two major blackouts in twelve years, the second leading to widespread looting and costing the city more than $1 billion. But by 1977 hardly any political officials could recall more than a few sketchy details of what Storm King had been all about. And none could remember that the city itself had been the major opponent of the project for nearly ten years.

A CONFLICT OF INTERESTS

The FPC hearings added many novel aspects to what had formerly been a staid and pro forma proceeding. The members of Scenic Hudson presented their arguments under Doty's examination. Rothschild warned that the transmission lines running down the east bank of the highlands would cut a "raw scar" into the landscape. Saunders went even further. "This historic area will be permanently defaced," he warned. The plant would "set a precedent for other projects," while "crisscrossing the area with overhead power transmission lines would destroy many beautiful views."

Carmer made the most eloquent summation of Scenic Hudson's position:

"We believe that ugliness begets ugliness and that nature's beauty, once destroyed, may never be restored by the artifice of man. . . . We would offer the peace and healing our river gives, as it has always given, to those who seek its waters for respite from the tension of their lives. . . . The real question is whether the river's national importance shall be sacrificed to these enterprises which would change the shoreline, lower high peaks [sic], destroy groves of trees. . . . The Hudson answers a spiritual need more necessary to the nation's health than all the commercial products it can provide, than all the money it can earn."

Carmer's interpretation of Hudson River history was a limited one. It ignored the river's combined role as the first highway of the nation's commerce, the birthplace of the steamboat, the home of one of the nation's first railroads, and the breeding ground for many of its first industries. The suggestion was that the river would now serve only as "respite from the tension of [the] lives" of people who presumably made their living elsewhere. The same kind of reinterpretation of history was taking place along the river, where the interest arising from the Storm King case was bringing suggestions from conservation groups that power boats be banned on the river and no house worth less than $50,000 be built on its shorelines.

The hearing officer, Edward B. Marsh, took their testimony into account, and in June 1964 recommended to the full five-member commission that the plant be granted a license. Con Ed had proposed to turn the rotting waterfront area into a park, and Marsh noted that recreation in the area would actually be improved. He said the plant would not affect the scenery of Newburgh Bay, but found sympathy with the argument that the transmission lines would despoil scenery in the highlands. He told Con Ed to find an alternative route that would take the lines behind the mountains at Breakneck Ridge. Marsh called the project "an exceptionally fine pumped-storage site" and suggested that Con Ed might even consider enlarging the reservoir to 12 billion gallons for storage of 3 million kilowatts of electricity.

But by the time Marsh was issuing his recommendations, it was obvious that the approval of the Storm King plant was not going to be a routine matter. The New York newspapers had discovered the issue and already, on the pages of every city newspaper (there were then seven), the "Storm over Storm King" was brewing.

> The fact that the usage, actions, and views of the well-to-do leisure class acquired the character of a prescriptive canon of conduct for the rest of society gives added weight and reach to the conservative influence of that class. It makes it incumbent upon all reputable people to follow their lead.—The Theory of the Leisure Class.

As soon as the New York newspapers woke up to the controversy in the early months of 1964, they lined up almost unanimously against the plant. Con Ed, after all, did not have a glowing reputation in New York City. For one thing, the utility made the mistake of charging people for the amount of electricity they used, whereas the other utility, the New York City Water Department, charged according to fixed "frontage" charges that allow residential customers to consume unlimited amounts of water while extra costs were hidden on the tax rolls. Then, too, Con Ed was constantly digging up the streets to get at its hard-to-service underground lines. Its slogan was "Dig We Must for a Growing New York," and in 1965 *Fortune* magazine was to label it "the company you love to hate." So the discovery that Con Edison was planning to "destroy" a beautiful historic mountain somewhere up the Hudson certainly came as no surprise.

The issue was particularly suited to the practices of editorials. Reporters who visit the scene of a controversy are often forced to trim their sails and adjust their preconceptions. Finding, for example, that an entire village of 3,000 people—indeed, almost an entire county of 200,000 people—was in favor of the project was bound to give some pause. Over the years many extremely balanced stories questioning the "scenic" objections to the plant were filed from Cornwall. But editorial writers are under no such constraints. They can proceed without too much attention to details. In the case of Storm King, two fundamental misconceptions emerged: that Newburgh Bay was virgin territory rather than a declining industrial area, and that it was the highlands themselves that were threatened. What is interesting to note is that there was never any question about the economic advantages of the plant.

"Beauty over Electricity," proclaimed the *Herald Tribune* in a May 10, 1964, editorial which stated:

"The Hudson Highlands are . . . a great scenic asset for all the people. And despite the great virtues of Con Edison's cheaper power, the fact remains that this industrial project (for all the intended landscaping works) will detract from nature's beauty. . . . It is well and good that Con Ed wants to bestow so many benefits. . . . But an undefiled Storm King Mountain is worth more than cheap electricity."

The *Times* offered its own summation on May 23, 1964:

"We do not dispute Con Ed's experts to the effects that this is probably the most economic and efficient means of supplying the next increment of power to meet New York City's constantly growing needs. If the required power plant is not erected at Cornwall but at some other place of less notable scenic and historic interest, doubtless the consumers of New York will have to pay more than they would otherwise pay for their power. We think this choice should be faced frankly; and we also think that in the present instance, preservation is worth the price."

The possibility of there being other sites for the pumped-storage plant was occurring in other people's minds, and at one point a reporter asked Rothschild if he was making any attempt to help the utility find a different location. Rothschild wasn't: "That's their problem," he said.

HOLDING ACTION

A complete review of the examiner's report would ordinarily take the full FPC about four months, but the mounting pressure of public debate was having its effect. The FPC did not issue its final decision until March 1965, nine months after the original recommendation. By then Scenic Hudson had changed its tactics and was mounting a many-sided campaign. The editorials in the New York newspapers had given the opponents of the project a strong indication that there was fertile territory to be mined among the city's celebrity-conscious media. Pete Seeger composed a ballad in honor of the mountain. James Cagney and Aaron Copland went on record against the plant.

In August 1964 the conservationists, as they were being called, hired Selvage, Lee, and Howard, a small Fifth Avenue public relations firm that had just finished trying to persuade the American public to take a more tolerant view of Portuguese colonial polices in Angola. James Cope, one of the more ambitious account managers, found himself immediately attracted to Rothschild and his group.

Cope arranged a favorable story for publication in *Readers Digest*. He also hit upon the idea of a "sail-in" around Storm King. On September 7, 1964, all seven New York newspapers carried broad coverage of the "waterborne picket line" protesting the plan. The *Times* noted that "fifty yachts, led by the *Westerly*, flagship of the New York Yacht Club," paraded from the Highlands Yacht Club in Garrison to Storm King, with "Commodore Chauncey Devereux Stillman, whose family gave the Black Rock Forest [behind Storm King] to Harvard in the 1920s," in command. Aboard the *Westerly* were Rep. Robert R. Barry of Westchester and State Sen. R. Watson Pomeroy of Dutchess County. "Opponents say the power plant will leave an enormous gash up Storm King and will set a precedent for deflement of the historic valley," noted the *Times*. The sail-in made *Newsweek*, and within weeks forty conservation organizations were offering assistance. The fight to "save Storm King" was becoming a national issue.

Senator Pomeroy was soon able to create an even more favorable publicity platform for the opponents of the plant. He offered his New York State Legislature Committee on Natural Resources as a forum for Scientific Hudson. The pretext was legislation on the development of the Hudson, but a reporter at the scene noted that "it became obvious that [the] purpose was to give those people opposed to the . . . project an opportunity to express their views for the national press."

The Pomeroy Committee hearings inaugurated a pattern which was to succeed over and over again as a delaying tactic for Scenic Hudson. Initiated *after* the official FPC hearings had been closed, their aim was to petition the commission to "reopen" the hearings to permit the presentation of "new evidence," which was placed on the record under highly favorable circumstances. Con Ed's attorneys, of course, were not allowed to cross-examine witnesses before the Pomeroy Committee. When the "new evidence" was later subjected to stiff scrutiny, much of it proved to be fraudulent or nonsensical. But after the hearings had been closed yet again Scenic Hudson would return with more "new evidence" and ask for further reopenings.

The Storm King project has *never at any time* been disapproved or rejected by any court or licensing agency in the federal or state government. It has simply been delayed and delayed over and over again by agency and court decisions to reopen the hearings in order to consider "new evidence." In the entire fifteen years of the controversy, through literally tens of thousands of pages of transcript, the Federal Power Commission has never finished hearing all the evidence.

The star witness at the Pomeroy hearings was Alexander Lurkis, a recently retired chief engineer with the New York City Bureau of Gas and Electricity. Although the papers never mentioned it, Lurkis had been hired several months before as a paid consultant for Scenic Hudson on technical matters. He became Scenic Hudson's mouthpiece on "alternative" forms of generating electricity.

Lurkis shocked the hearings by testifying that Con Ed could produce adequate peaking power through "gas turbines," actually jet engines driven by the hot exhaust gases which Lurkis said could be run with Con Ed's "surplus natural gas."

As it happened, Con Ed had no "surplus" natural gas. Federal price controls were already upsetting natural-gas distribution, and utilities were being rationed by the FPC. Con Ed had recently lost an appeal for more gas rations before the U.S. Supreme Court.

But there was another problem. Although gas turbines are very good for restarting downed generators, they would not be as useful as Storm King in supplying emergency power. Con Ed board chairman Harland C. Forbes wrote the *New York Times:* "Mr. Lurkis . . . completely ignored the value of the Cornwall project's ability to provide immediately available operating reserve which cannot be furnished by jet-engine equipment—a matter of extreme importance in maintaining reliability of our electric service to the people of New York City."

In fact, Lurkis's testimony proved so full of holes that Scenic Hudson eventually withdrew it after Lurkis had been cross-examined by Con Ed's attorneys before the FPC two years later. But the testimony led to a reopening of the hearings, and that was probably its main purpose.

The second issue raised at the Pomeroy hearings involved fish kills. Con Ed was already installing screening devices at Indian Point after encountering large fish kills there, but witnesses before the Pomeroy Committee said the problem at Storm King would be different. They noted that eggs and larvae from spawning fish would escape any kind of screening devices, and be sucked into the plant. It was a good point, and Con Ed quickly offered to spend $175,000 to study the problem. But within days the newspapers were carrying statements about how "the Atlantic striped-bass population which spawns in the Hudson will be destroyed for all time."

Robert Boyle, an editor of *Sports Illustrated*, became a participant, forming the Hudson River Fishermen's Association, consisting of the two dozen or so commercial fishermen who still made a part-time living from the river, with "sports fishermen" like Boyle to handle the public-relations aspects. There was a certain irony here, since sports fishermen had long since destroyed major stocks in almost every river and stream in the Northeast, and the federal and state governments were annually spending hundreds of thousands of dollars for restocking so that they could continue their pastime. Con Ed also made an offer to restock the river if there was any significant damage to fish life. The opponents again were not satisfied.

But the Hudson River Fishermen soon found themselves facing a formidable obstacle which might be called "nature." Although it was not widely known, scientists were aware that there were tremendous mortality rates in the river, and killing large amounts of eggs and larvae would not necessarily mean disaster for the population. A single female striped bass lays up to 5 million eggs—enough to renew the river's entire stock. Only one egg in 1,000 ever survives to maturity. But such sophisticated understanding of nature's ways didn't tone down the opposition to the plant.

On March 9, 1965, the FPC approved the license for the Storm King plant in a 3-to-1 vote. Despite the acrimony, the impression remained that the conservationists had made important contributions in the hearings and that the utility was making every effort to accommodate them. If compromise had been the goal, there would have been enormous achievement. But the conservationists' purposes were quite different, and their success was to take a much different form.

The exigencies of the general economic situation . . . do not readily produce, in the members of [the leisure] class, that degree of uneasiness with the existing order which alone can lead any body of men to give up views and methods of life that have become habitual to them. The office of the leisure class in social evolution is to retard the movement and to conserve what is obsolescent.—The Theory of the Leisure Class.

Scenic Hudson immediately filed an appeal with the Second Circuit of the U.S. Court of Appeals, arguing that the FPC should reopen the hearings for more testimony on scenic values, fish life, and alternative sources of energy. Con Ed officials responded by charging that the opponents had "given up trying to defeat the plant on its merits" and were "trying to drag the project into a long war of attrition in the courts."

In any case, the FPC review had already taken far longer than expected, and, with the court case still pending, it was obvious that Storm King was not going to be on line in time to meet the growing power needs. So in November 1965 the utility announced that it would move up plans for a second nuclear plant at Indian Point. The project would cost $90 million but would generate only 800,000 kilowatts—less than half the capacity of Storm King. For New Yorkers, electricity was going to be more expensive.

The dramatic power failure in the Northeast on November 9, 1965, illustrated the dangers of widespread blackouts. Con Ed officials said that Storm King could have shortened the blackout by restarting other generators, but the incident stirred little support for the plant.

Scenic Hudson, for its part, was taking the final step into the big leagues of public relations by hiring Rod Vandivert, a Long Island advertising salesman, as its full-time public-relations director. Vandivert started going after Con Ed executives with a mixture of scorn and sarcasm that was to characterize the conservationist attack for many years. This year I visited Vandivert at his oceanfront home in a small, exclusive community on Fire Island. A big, shambling man with a firm handshake, he wore baggy dungarees and had a patch over his right eye when I saw him.

"We engaged in a technique you might call 'overstatement,'" Vandivert explained. "We learned how to do things like calling in stories to the newspapers on deadline so they couldn't get Con Ed's reaction until the next day, or several days later. The newspapers were very responsive. I remember dictating editorials over the phone to them dozens of times. All along, I think Con Ed was really the underdog in this thing."

I asked Vandivert if he ever thought that Scenic Hudson could simply drag the project on and on through continual rehearings and court delays so that Con Ed would finally give up. "Oh, I'd say we thought it about every third day," he said cheerfully.

The Court of Appeals took only until December 29, 1965, to throw out the first FPC license as "incomplete" and order a reopening of the hearings. The decisions, still regarded as the original landmark of environmental law, ruled that scenic and environmental issues must be considered in large projects, and that Scenic Hudson could intervene on behalf of the "public interest," even though its members had no economic standing in the case. Vandivert, for one, was willing to believe that the publicity campaign had played a part. "Court decisions aren't made in a vacuum," he told me. "Judges read newspapers."

FOUR YEARS OF HEARINGS

The second round of FPC hearings lasted for almost four years. When they began on November 14, 1966, Lyndon Johnson was President and the country was just entering the full-scale conflict in Vietnam. By the time the FPC issued its final decision on August 19, 1970, the Kent State shooting had already occurred, and Richard Nixon had been President for nineteen months. Yet this decision was also eventually remanded for further hearings by the Court of Appeals.

I will not attempt to go into anything more than an outline of the proceedings, but it must be noted that the FPC examiner and the commission itself took extraordinary pains to compile an exhaustive record on every aspect of the case. Scenic concerns, the threat to fish life, alternative forms of energy, and aesthetics of the Hudson were all discussed almost to the point of irrelevancy. At one point, the hearing examiner, Ewen G. Simpson, had to decide whether the upper reservoir would disrupt a scenic vista from a point twenty miles way. By the time the hearings were over, Con Ed had spent $15 million on studies and attorneys' fees, while Scenic Hudson had spent $1 million (the organization had managed to tap a foundation supported by the estate of Andrew Mellon).

Before the hearings began, Con Ed announced that it could bury the entire plant on the Cornwall waterfront, raising the cost to $169 million. They said that would solve the scenic problems, although Scenic Hudson continued to argue against a visitors' booth on the site. But the new plan created other problems. The Catskill Aqueduct, which carries 40 percent of New York City's water supply, runs under the mountain, and Scenic Hudson immediately claimed that it would be endangered. Con Ed offered to pay the entire cost of relocating the aqueduct 400 feet below the plant, but nothing definite was settled and negotiations dragged on between the city and the utility.

Throughout the hearings, reporters from the *Times* (now one of only three remaining newspapers) gave accurate and unbiased coverage, but the editorial page remained heavily confused on the issues. At one point, it was "discharges from the tailrace tunnels" that endangered fish life. At another, it was "thermal pollution." And despite the plans for an underground plant, the facility remained "on" Storm King Mountain, and wouldn't move to "near" Storm King Mountain until 1969.

The issue of air pollution also became a point of contention at the hearings. Scenic Hudson claimed that Storm King would actually produce more air pollution because they said the power to pump the water up the mountain at Storm King would have to come from fossil-fuel plants within New York City. They said the one-third loss of energy in the pumped-storage process would mean a 50 percent increase in fuel burning. Con Ed had long noted that it could buy off-peak power from neighboring utilities, and that in the long run Storm King would be pumped by nuclear plants. But the notion that Storm King would produce "more air pollution" slowly started to become an accepted fact.

The New York City government had also become involved in air pollution before the FPC hearings, and in early 1966, Mayor John V. Lindsay set up a special Task Force on Air Pollution to negotiate with Con Ed. After several months of studying the problem, the task force decided that Con Ed was correct in its contention that Storm King would mean less air pollution. It signed a memorandum of understanding with the utility, agreeing to back construction of Storm King and help the company appeal to the FPC for more natural gas. In exchange, Con Ed would spend millions of dollars in cleaning up stack emissions, and would promise not to build any more fossil-fuel-burning plants in the city.

The city thought it had struck a good bargain, but the *Times*, in a May 19, 1966, editorial, remained unhappy:

"We deplore the unwarranted concession . . . to [support] a giant hydroelectric plant on Storm King Mountain. Some experts believe that this would increase rather than decrease air pollution here . . . Why should New York City for the first time inject itself into the controversy now, particularly when the Scenic Hudson Preservation Conference promised to present expert engineering testimony of the availability of ample other power sources?"

The "experts" on air pollution, of course, were also Scenic Hudson.

On May 23, 1967, Simpson closed the hearings after listening to over 5,000 pages of testimony. They did not stay closed for long.

First, Scenic Hudson wanted to "correct" Lurkis' "expert" testimony, which had been refuted by Con Ed's cross-examination. Scenic Hudson petitioned to present another "alternative" plan, and its request was granted.

Its proposal, presented through attorney David Sive, representing the Sierra Club in the case, was that Con Ed should build a third nuclear generator of about 1 million kilowatts. It didn't say where. The remaining 1 million kilowatts needed in Con Ed's system would be supplied by turbines burning kerosene. There was nothing unusual at the time in conservationists proposing nuclear plants as the solution for energy problems. During the 1960s, the Sierra Club and other environmental groups supported nuclear energy as the best form of power generation.

On August 7, 1968, almost a year after the closing arguments had been presented, Simpson issued the first of three favorable reports on the plant. He said there was no alternative for equally reliable power for New York, and that the hazards to fish life would be minimal. While acknowledging that the mountain was "a surpassing scene," he noted that "it must be said that Storm King does not exist in an environment of untouched natural beauty as in the idyllic past, but rather is all but irrevocably associated with the present realities."

Responding quickly, the *Times* said: "[The] findings on the scenic effects are at odds with the virtually unanimous opinion among conservationists and nature lovers, who have no economic interest other than the preservation of a majestic national heritage." The paper found the conclusions on fish life suspect because Simpson said the plant should be monitored after it was constructed.

One week later, Con Ed officials announced they might have to consider putting a nuclear plant in Long Island Sound, on an island near New Rochelle. The *Times* said that proposal must also be regarded "with great reserve" because of fish kills and radioactive wastes. Where New York City's power was coming from was obviously someone else's problem.

"Even in cases where one recognizes the substantial merits of the case for which the innovator is spokesman . . . still one cannot but be sensible of the fact that the innovator is a person with whom it is at least distasteful to be associated, and from whose social contact one must shrink. Innovation is bad form."—The Theory of the Leisure Class.

Less than two months later, New York City became the major opponent of the plant. On October 28, 1968, Deputy Water Resources Commissioner Robert Clark petitioned for a reopening of the hearings, saying that the negotiations over the water tunnel "had not been fruitful." It is difficult to assess exactly what happened, but it is interesting to note that when the New York City Democratic boss Carmine DeSapio was convicted on corruption charges in 1970, he was found guilty of attempting to exact bribes from Con Ed officials in exchange for permission to build over city water lines.

While the city was joining the ranks of the "nature lovers" opposed to the plant, the economic scenery around New York City was taking a turn for the worse.

In 1962, when Storm King was proposed, Con Ed officials said they thought they would have to provide 7.15 million kilowatts of power by the summer of 1969. The entire increase in demand could be met through Storm King. As the summer months of 1969 rolled around, Con Ed's seven-year-old predictions were coming in right on the button. The city set a midsummer peak record of 7.26 million kilowatts—only 4 percent above Con Ed's original predictions.

The only trouble was, power wasn't there to meet it.

Indian Point Two was supposed to come on line by 1969, but the Westinghouse Corporation had failed to meet its deadline. (What with fish kills and environmental suits, the plant was not put into operation until 1974.) Con Ed contracted to buy 915,000 kilowatts of peak-power from other utilities—the most expensive way to provide electricity—but was still left with only a 14 percent reserve margin, well under the industry standard of 20 percent.

On July 31, 1969, the troubles began. Big Allis fouled temporarily after the installers of a new turbine forgot to remove some insulating equipment. Under the increased strain, two older plants scheduled to be retired by Storm King also broke down. In a matter of hours, more than 20 percent of the utility's power was gone.

For the next two weeks, New Yorkers began to experience what quickly became known as the "power crisis." Air conditioners were turned off, manufacturing plants cut their schedules, businesses closed down. While people throughout the country were celebrating the first moon landing, New York City turned into a sweltering steambath.

Charles F. Luce, a former Undersecretary of the Interior who had just taken over as board chairman of Con Ed, said the problems were due to "a feeling on the part of the public that even though a particular new power plant were not built, somehow the needed power would be provided." He asked for "a better general public understanding that there must be additional power and that . . . we cannot provide it without some impact on the environment."

Vandivert, now being quoted regularly after every statement by Luce, almost as if Scenic Hudson had become Con Ed's alter ego, saw the problem differently, claiming that opposition to Storm King "is not a narrow conservation battle. It's really the public interest versus the big brother or big daddy approach of Con Edison, which assumes we should let it tell us what is good for the public." Scenic Hudson had obviously assumed the task of representing the public on power and energy as well as conservation.

By early 1970, Storm King was still far on the horizon, and Con Ed told the city it would have to build another oil-burning plant in Astoria. City officials were livid. Robert N. Rickles, head of the Department of Air Resources, called air pollution "already an intolerable public health problem." Jerome Kretchmer, head of the Environmental Protection Administration, said the battle over the Astoria plant would be "much deeper than the struggle at Storm King." But it was obvious to some city officials that power plants had to go somewhere, and the Mayor's Interdepartmental Committee on Public Utilities voted 3–2 in favor of Astoria.

But while city officials were voting to accept more air pollution, the corporation counsel's office was throwing in the city's lot with the nature-lovers of the Hudson. On February 12, 1970, after a previous rebuff, the city once again petitioned for *another* reopening of the hearings on a "non-quantifiable yet nonetheless real hazard to the aqueduct."

Was the city simply interested in protecting its aqueduct? It seems unlikely, for, when examiner Simpson allowed a second reopening of the hearings in May 1970, city attorneys quickly said that they were opposed to the plant, whether it endangered the aqueduct of not, because of *scenic* considerations. "The city's concern is for the environment as well as economics," corporation counsel J. Lee Rankin told the FPC. "When we speak of preserving the area, the city is not talking about a superficial or cosmetic job; rather it seeks assurance that an area of exceptional natural beauty be preserved for future generations just as it is."

The *Times* rejoiced that "New York City thus joins the battle waged for years by Scenic Hudson Preservation Conservationists against utility incursions on the river." But, strangely enough, the *Times*, had harsh words for Attorney General Louis Lefkowitz, who was trying to block the opening of Indian Point Two after trial runs produced kills of 120,000 fish a day in January and March. "The right answer, given the imperative role Indian Point now plays in meeting metropolitan power demands," said the same editorial, "is not to shut it off precipitously but to see that its plant deficiencies are corrected. Proper steps are already being taken by the Atomic Energy Commission."

Potential fish kills at Storm King were intolerable, but real fish kills at Indian Point, where the problems were complicated by thermal pollution, could be corrected. In addition Indian Point Two, which was built in place of Storm King, was "imperative," while Storm King was unnecessary. It obviously took the skilled eye of a conservationist to be able to make such distinctions.

THE POWER CRISIS

Things turned out to be much worse than anticipated during the power crisis of 1970. In May, Indian Point One was closed by a defective cooling pipe. Indian Point Two was still far from completion. Then, on July 21, Big Allis went down for extensive repairs immediately projected to last through midwinter. Con Ed had begun installing gas turbines over the winter as a substitute for Storm King; by mid-July one of the turbines had also failed, and Con Ed's total capacity was below the previous year's peak. The result was a summer in which voltage reductions and power failures became almost a daily occurrence. Even rush-hour subways didn't have enough power.

In its scramble for power, Con Ed paid premium prices, importing electricity from as far away as Canada, New England, and the Tennessee Valley Authority. Con Ed's profits, already at the lowest rates of any utility in the country, were getting lower. When another heat wave struck in September, voltage reductions were put into effect for the fifteenth time, and a blackout hit a sixty-five-block area in Queens. The *Wall Street Journal* quoted a Canadian woman who was cutting short a visit to Forest Hills. "You can have New York City," she said. Apparently others agreed. The steady exodus of manufacturing firms and corporate offices was suddenly turning into a rout. From 1969 to 1976, the city, now widely regarded as "unlivable," was to lose 650,000 jobs. Other factors certainly contributed, but the shambles of Con Ed's power system and its soaring rates didn't help. Nothing ripples through an economy more completely than the costs of energy.

On August 19, 1970, the full five-member FPC finally reached its decision to grant a second license for the pumped-storage plant at Storm King. It was Con Ed's one note of optimism for the entire summer. Still, in the midst of the power crisis, the *Times* took the trouble to be gravely disapproving: "Essentially nothing about the plan has changed in the seven years since Con Ed first proposed [it]," said the editorial, without considering that the whole plant would now be built underground. "We are glad that Scenic Hudson intends to carry on the fight in the courts."

Indeed, the possibilities of appeals seemed endless.

Six months after the 1970 power crisis, seven litigants were appealing the FPC's Storm King license to the Second Circuit Court of Appeals. They were the Scenic Hudson Preservation Conference, the Sierra Club, the Wilderness Society, the Izaak Walton League of America, the Audubon Society, the National Parks and Conservation Society—and New York City.

City attorneys must have been dazzled by the company, for, by March 1, 1971, they were telling the Court of Appeals that the project "would be worse from an air-pollution standpoint than construction of additional plants in the city," and were calling the Hudson Highlands "a national treasure" where it would be unlawful to license any site unless there was "a mandate that the site chosen be exactly restored" to its natural state.

But on October 22, 1971, the Court of Appeals upheld the license by a 2-1 vote, and by June 19, 1972, the U.S. Supreme Court had refused to review the decision. A challenge in the state courts followed.

Finally, in August 1973, after more than ten years of effort, the project was suddenly completely free of license requirements and litigation. City officials were furious. Grasping at straws, they took the only possible remaining action and cancelled their ten-year-old agreement to allow the village of Cornwall to tap the aqueduct as part of the plan to replace the upper reservoir. That took another year to overturn in the courts.

Neither had Scenic Hudson run out of "new evidence." On the day of the final state-court decision, Albert Butzel, its new attorney, made a solemn and foreboding statement. "New and revealing evidence has been uncovered which raises serious questions about the viability of this proposed plant and the citizens' need for it," said Butzel. "The evidence is so convincing that the Scenic Hudson group will petition the FPC to reopen the entire case." Butzel said the "new evidence" concerned "fuel cells" which were "just on the horizon."

But in truth the arguments about "alternative sources of power" were wearing a bit thin, particularly since Con Ed was so strapped for power that it was using its peak-load gas turbines for base-load generation, burning fuel at about half its normal efficiency. And so, Scenic Hudson decided to concentrate its best efforts on the fish study that had been made by Con Ed from 1965 to 1968 at a cost of $450,000.

The report, supervised by a panel of high officials from the New York State Department of Conservation, the New Jersey Fish and Game Division, and the Bureau of Sports Fisheries and Wildlife and Bureau of Commercial Fisheries, both divisions of the U.S. Department of the Interior, had found that the plant would draw in no more than 3 to 4 percent of the total number of eggs and larvae that drifted past during the May–July spawning season. Hydrological studies showed that the plant would suck in 4 percent of all the water that passed by the plant each day.

Assuming an even distribution of eggs in the river would mean that about 4 percent of the eggs passing each day would be taken into the plant. Assuming that *all* those eggs would be killed (there was plenty to suggest they wouldn't be) meant that 4 percent of all the eggs that passed the plant would be killed. A fair percentage of eggs was spawned below Storm King and never passed the plant, so the final estimate was a 3.6 percent mortality rate of all eggs and larvae. Since 99.9 percent of all eggs and larvae died before maturity under *natural* conditions, the conclusion was that the plant would have no effect on the total fish populations.

Scenic Hudson, however, wasn't satisfied. They decided there was a "fatal flaw" in the analysis. The "flaw" was that the panel of scientists and federal and state officials had "forgotten" that the river was tidal. The group said that the eggs and larvae would be "washing back and forth" in front of the plant and would have "more chance of being caught." The Scenic Hudson members found a hydrologist who said that the river sometimes washed back and forth ten times in front of certain places in New York Harbor. They decided to multiply 3.6 percent by ten, arriving at a mortality rate of 36 percent.

The whole argument, of course, was a lot of sophisticated nonsense. The study had considered all the tidal movements and arrived at an average figure for the net downstream flow of the river. Once the average was known, it wouldn't matter if the river washed back and forth 10, 50, or 100 times, as long as the *net* flow had been determined correctly. The point was that *the plant could take in only so much water per day.*

It is easy to imagine the problem causing some consternation in a fifth-grade math class, but it is difficult to see this logic finding acceptance before such bodies as the Atomic Energy Commission and the U.S. Court of Appeals. Nevertheless, it did.

Scenic Hudson had its "rebuttal" to the fish study. The problem was to get it on the record. But with their multiplying contacts in government and uncritical treatment in the press, this was a relatively simple matter. The target became Dr. Philip Goodyear, a marine biologist in the AEC who was strongly sympathetic to Scenic Hudson's cause and had been a guest speaker at a fund-raising dinner of the Striped Bass Fund, the financial arm of the Hudson River Fishermen's Association. Dr. Goodyear believed—undoubtedly with sincereity—that the three projected Indian Point plants, plus Storm King, would have significant effects on the river's fish life. Whether Goodyear acted with scientific integrity in the Storm King affair will have to be judged from the record.

Scenic Hudson's connection to Goodyear was Sen. Abraham Ribicoff of Connecticut, also sympathetic to its cause. (Since Connecticut was getting many of the corporate headquarters leaving New York City, he certainly had no reason not to be.) In October 1973 Ribicoff delivered the FPC fish study, plus Scenic Hudson's critique, to the AEC and asked for an evaluation "within two months." Dixy Lee Ray, chairman of the AEC, said it would take at least six months, but, as arranged beforehand, the report arrived on Goodyear's desk at Oak Ridge Laboratories after only two. "It was a situation where they knew what pitch was coming to them and we knew what hit was coming back at us," Vandivert explained to me.

By mid-December, a "preliminary report" was back in Ribicoff's hands. Dr. Goodyear confirmed that the report was "in error" by ignoring the tidal movement, but did some fast footwork to show that "compensating errors" made the figures correct anyway. He then went on to make his own monumental error by deciding that the entire annual kill of 3 percent of all the eggs and larvae in the river would occur *each day the plant was in operation.*

"If [the estimated removal of 3 percent of eggs and larvae] is applied over a period as short as ten days, nearly 25 percent of the larvae population would be withdrawn," he reported. "If the daily removal estimate [is applied] over the entire seven-week [spawning] period . . . then approximately 75 percent of the annual hatch might be destroyed." The "daily" estimate, of course, was actually an *annual* estimate.

Ray attached a letter that was as long as the report itself, warning Ribicoff to "use caution in drawing conclusions" because of the probable absence of completely adequate data." After reviewing the report, she added sardonically that she continued to believe that a critical analysis of this problem would take a minimum of six months." But the cat was already out of the bag, and so by December 1973 Scenic Hudson was back in business. Within days, a letter was printed in the *New York Times* stating that "the Atomic Energy Commission has reported that the Storm King hydroelectric power project might destroy 75 percent of the annual hatch of striped bass in the Hudson River." Sen. Edward Kennedy asked the FPC for a "brief and worthwhile delay" because of the impending "destruction of 75 percent of the striped bass" off the coast of Cape Cod. Ribicoff sponsored an "information meeting" on the report, and a Congressional hearing was eventually arranged. The testimony was inconclusive, but the environmentalists simply declared themselves the winner and carried the "new evidence" back to the Court of Appeals. The court ordered the FPC once again to reopen the hearings for a new study on fish life in the Hudson.

VICTORY OF ATTRITION

The "brief and worthwhile" delay has cost Con Ed $20 million—one-sixth the original cost of the plant. The money was spent for a third major fish study which took four years to complete, involved seven major universities and scientific institutions, and came to essentially the same conclusion reached by Con Ed's lone scientists more than ten years before—that about 4 to 5 percent of the eggs and larvae would be entrained by the plant, and that the total fish population would not be affected.

Two observations show that there may be something to the utility's side of the story. The three Indian Point plants now take in more water than the Storm King plant would, yet after nearly three years of operation AEC scientists admit that there is no evidence that any portion of the river's fish population has been affected. (The amount of fish scraped off the screening devices each day would fill an average bucket.)

There are other pumped-storage plants in operation, and they have fish problems of a different sort. At the Muddy Run plant in Philadelphia, the problem is that eggs and larvae drawn into the plant quickly produce sizeable fish populations in the upper reservoir. Their numbers can get to be a problem, and Philadelphia Electric allows fishing on the upper reservoir to keep them under control.

All this hardly matters now. The "long war of attrition" predicted by Con Ed executives in 1965 has been fought and lost. Con Ed's finances fell apart in early 1974—a direct result of the high costs of buying outside power, the utility's enormous tax burden (25 percent of its revenue from customer billing goes to taxes), the overwhelming expenses of having to buy low-sulfur oil for city generation, and the resistance to rate inceases. The quarterly dividend was cut, and Con Ed's stock—already known as a "widows and orphans" holding (median shareholder, a fifty-year-old woman)—dropped to the floor. "We wanted them to go into receivership so that even we could buy them out—then they would be a true public utility," said Vandivert. But instead the New York State Power Authority authorized the purchase of two uncompleted plants, and Con Ed managed to avoid bankruptcy.

The Storm King plant, of course, could probably have prevented the July 13 blackouts. John B. Oakes, now senior editor of the *New York Times*; Walter Brown, director of the National Electric Reliability Council; and Rod Vandivert all agree on that. After all, that was what the plant was *designed* to do. City officials investigating the power failure said they were amazed to learn that "the generating capacity was available, they just couldn't bring it up in time." Con Ed, of course, had been saying that for fifteen years. The city investigation found that the crucial loss of power didn't occur until the last two lines from the north failed because they became overloaded carrying 2 million kilowatts. The lines from Storm King, which were to run along the same corridor, were to be designed to carry 2 million kilowatts.

But there is hardly a political official in New York who even remembers what the whole Storm King controvesy was about. Ed Koch, the leading candidate for mayor, said the problem at Storm King had been "thermal pollution," and didn't know the city is still the major opponent, nor did Paul O'Dwyer, who has now been City Council president for four years. He said the plant hadn't been built because "Pete Seeger and the environmentalists all over the country didn't want it." (He is undoubtedly right.) State Assemblyman Andrew Stein, who has made a political career out of attacking Con Ed, said about Storm King: "I'm against nuclear plants. I think we should keep the ones we have, but I don't think we should build any more." Stanley Steingut, the Brooklyn Assemblyman who is Speaker of the State Assembly, also told me that Storm King was "a nuclear plant."

What is most remarkable is that Scenic Hudson itself now appears to be the city's expert on the matter. When I called Dr. Carolyn Broncato, staff director of the Mayor's Special Committee on Inquiry into Energy Failures, she admitted she remembered nothing about Storm King, but said, "If you want to know more about Storm King, call Al Butzel." When I talked with Carol Bellamy, who will probably succeed O'Dwyer as president of the City Council, she said that "the person to see on that would be Dave Sive" (the Sierra Club attorney).

Even Norman Cousins, the editor of *Saturday Review*, who voted in favor of Storm King as chairman of the Mayor's Special Task Force on Air Pollution, remembered vaguely that the problems had something to do with "radiation." When I asked him what he remembered best about the environmental opponents, he had one clear recollection: "They had a lot of lovely ladies working for them."

By virtue of its high position as the avatar of good form, the wealthier class comes to exert a retarding influence upon social development far in excess of that which the simple numerical strength of the class would assign it. Its prescriptive example acts to greatly stiffen the resistance of all other classes against any innovation, and to fix men's affections upon the good institutions handed down from an earlier generation.—The Theory of the Leisure Class.

And so we are brought to the point where we can legitimately ask, What in God's name has been going on in New York City for the past fifteen years?

The answer, I believe, can only be understood in terms of Veblen's analysis of leisure-class behavior. It was obvious to anyone willing to look that the opposition was coming from the petty aristocrats of the Hudson Valley who were annoyed that their solitude was being invaded by the advancing society. There was nothing terribly new about this. The Hudson River Railroad laid its tracks right across the front lawns of Washington Irving, John J. Audubon, and William B. Astor in 1842. All were upset, but eventually agreed to yield in the name of the public good. Yet in the Storm King case this did not happen. The question is, Why?

Both critics and defendants of the plant have always assumed that anyone standing in the way of progress could only be acting out of financial self-interest, and that, once a money interest was disproved, the opponents would have to be accepted at face value. The *Times* expressed this so perfectly in defending the conservationists in its August 8, 1968, editorial that it is probably worth repeating: "[The FPC examiner's] findings on the scenic effects are at odds with the virtually universal opinion among conservationists and nature lovers, *who have no economic stake other than the preservation of a majestic national heritage*" (my emphasis).

Veblen, who found this interpretation of leisure-class opposition to progress naive, wrote:

"When an explanation of this class conservatism is offered, it is commonly the invidious one that the wealthy class opposes innovation because it has a vested interest, of an unworthy sort, in maintaining the present conditions. The explanation here put forward imputes no unworthy motive. The opposition of the class to changes in the cultural scheme is instinctive, and does not rest primarily on an interested calculation of material advantages; it is an instinctive revulsion at any departure from the accepted way of doing and of looking at things—a revulsion common to all men and only to be overcome by the stress of circumstances."

But what about the newspapers and the politicians, who are presumably responsible for informing the public and acting in its interest—why were they so completely taken in by sophistries and the publicity gestures of the "environmentalists"?

Here is Veblen's answer:

"Since conservatism is a characteristic of the wealthier and therefore more reputable portion of the community, it has acquired a certain honorific or decorative value. It has become prescriptive to such an extent that it is imperatively incumbent on all who would lead a blameless life in point of social repute [to share these views]. Conservatism, being an upper-class characteristic, is decorous; and conversely, innovation, being a lower-class phenomenon, is vulgar."

This is the puzzle that no one in the entire controversy was ever able to quite figure out. Voting to "save Storm King" gave each of the participants in the political arena the chance to participate in a noble cause, to share an aristocratic vision. It wasn't a matter of money, it was simply a question of good taste. The effort might require of a person that he gaze upon the litter of industrial ruins on Cornwall's waterfront and see "a landscape rich in beauty and history," but isn't selectivity the key to being an aristocrat anyway? It wasn't money that was being passed out aboard Commodore Chauncey Devereux Spillman's yacht as it passed Storm King Mountain on that September morning. It was respectability.

The environmental vision is an aristocratic one, conjured at the point where an idyllic past blends nicely with an imaginary future. It can only be sustained by people who have never had to worry much about their security. They are, in Veblen's term, "industrially exempt" from the normal fluctuations of the economic system.

Nuclear energy, for example, was part of that vision when it was a "bright promise" in the 1960s, but now that the realities are here it looks problematic. Tom Wicker writes in the *New York Times:*

"In three decades of experience with nuclear power, the radioactive waste disposal problem has yet to be resolved. Plant decommissioning costs and problems are not fully known. Nuclear power has grown vulnerable to shortages, breakdowns, and poor productivity; the Federal Power Commission reported 229 plant-months of delay for such reasons at 24 reactors in 1974. The amount of electricity actually produced has averaged, overall, only 55 to 57 percent of full potential."

The litany could easily be made about any new technology. Nothing in the industrial system is "fully known" until it has been done a few times. The "55 to 57 percent" figure is a familiar one, however—it is the average production for the entire electrical industry, due to the problems of peak-load demands. In actual operation, nuclear plants have been slightly more reliable than fossil-fuel plants.

But Wicker has a brighter vision:

"Solar energy, by contrast, is available everywhere, has no public opposition and offers no safety or environmental hazards. It is highly suitable for such low-quality energy demands as space and hot-water heating, while to use electricity produced by nuclear fission for such homely needs is an expensive form of overkill."

Solar energy, of course, has the advantage of not being a reality as yet. A small-scale solar electrical station would be enough to scare the wits out of any environmentalist (one square mile of collectors for a town of 30,000 people with little hope for reducing its size through technological improvements). In any case, if all the country's heat and hot water were produced from solar energy, the demand for electricity would decrease by less than 5 percent.

But the message here is clear, and it should not be obscured by the facts. Nuclear energy is "hard" and "dirty" and involves nasty realities of life. Solar energy, on the other hand, is "soft" and "clean." It is most notable for the *lack of effort* it promises. The future will hold no more grubby realities such as digging coal out of the ground or drilling for oil—no more handling of dangerous materials. There will be nothing to do but sit back and watch the windmills revolve and the sun shine. The correct word for the environmental vision is not *clean* or *soft*. It is *genteel*.

It is also a vision that will call us to disaster.

Veblen's great fear was that, as innovation fell behind under the retarding influence of the leisure class, society would split into two extremes—the permanently wealthy and the permanently poor. Each would be even more resistant to change for its own reasons:

"The abjectly poor, and all those persons whose energies are entirely absorbed by the struggle for daily sustenance, are conservative because they cannot afford the effort of taking thought for the day after tomorrow; just as the highly prosperous are conservative because they have small occasion to be discontented with the situation as it stands today."

Veblen predicted that this polarization in society would lead to the loss of the entrepreneurial classes, which operate under what he called the "instinct of workmanship." The result would be permanent stagnation.

THE LIMITS TO "NO-GROWTH"

There is no doubt that much of our response to the present industrial crisis is being formulated by the leisure class marching under the banner of "environmentalism." This is not to say that we do not face enormous and critical environmental problems and that there are not enormous numbers of people who are dedicated to trying to solve them. My quarrel is with the political "environmentalism" that offers no reasonable alternatives but proposes solutions which entail delaying or abandoning present, feasible, and proven technology and "waiting for" solutions that are "soft," "attractive," and "just on the horizon."

The leisure-class environmentalists will be perfectly content to leave things the way they are, regardless of the economic consequences, since, as Veblen notes, "at any given time this class is in a privileged position, and any departure from the existing order may be expected to work to the detriment of the class rather than the reverse. The attitude of the class [is] to leave well enough alone."

The fundamental environmentalist assumption is that we can "stop growth," at least until the "right" solution to our technological problems comes along. This is foolishness. "Stopping growth" simply means falling behind, with all the economic consequences. It is only the accumulation of social wealth from previously successful technologies that makes it possible to introduce new technologies. The people of New York City will find this out when they realize that they cannot easily turn the clock back and adopt pumped-storage technology. In the 1960s the plant could have offered enormous savings. Now it would cost $1 billion; the people of New York City can hardly afford it."

The great misconception about "stopping growth," is the assumption that things will stay pretty much as they are. They will not. The stagnation of the industrial system will not keep the numbers of the poor from growing. On the contrary, the universal historical experience has been that people do not limit family size until they have achieved a measure of social security. The only way this can be achieved is by the continuing expansion of the industrial system. "No progress" doesn't mean "no growth," and those countries, such as China and India, that have spent the longest periods of their history struggling under the changeless mores of an entrenched leisure class are hardly noted for their achievements in population control.

The great appeal environmental solutions offer is that they can be worn like a badge of success. To say that one is an "environmentalist," or that one favors "no-growth," is to say that one has achieved enough well-being from the present system and that one is now content to let it remain as it is—or even retrogress a little—because one's material comfort under the present system has been more or less assured.

To quote Veblen:

The institution of a leisure class, by force of class interest and instinct, and by precept and prescriptive example, makes for the perpetuation of the existing maladjustment of institutions, and even favors a reversion to a somewhat more archaic scheme of life (*my emphasis*).

Environmentalism has presented itself to us as a form of "science," but it only borrows the language of science to serve its purposes. It is not scientific, either in its origins or its method. It could easily turn anti-scientific, and already has in many instances.

Yet there is no doubt that the environmental vision is winning widespread acceptance and is having an enormous effect on our economy. The Edison Electric Institute, the research arm of the utilities industry, is now warning that large portions of the country face widespread power shortages and blackouts within the next few years because the introduction of nuclear technology is not going ahead on schedule. Environmentalists' opposition and regulatory delays have brought new construction almost to a standstill. Power reserves will fall below 20 percent around the Great Lakes by 1979, and in the Southeast by 1981. By 1986 reserves will have dwindled to 1.4 percent in North Dakota, Minnesota, and Nebraska, to 3.2 percent in New England and New York State, and to 10.1 percent in Illinois, Missouri, and Wisconsin. The nuclear-reactor industry says it is already facing "enormous erosion of skills" and "technological regression" simply because there is no work available in building new plants.

"We're going to see a crisis atmosphere," John O'Leary, deputy secretary of the new Department of Energy, said recently. "By the mid-1980s, we may have very severe economic consequences as a result of our improvident attitudes of the late 1970s."

Yet environmental opposition is now working to hinder not only nuclear-plant construction, but also off-shore oil drilling, importation of liquid natural gas, coal-mining, gasification of coal, hydroelectric plants, and practically every conceivable form of producing energy.

Where is the power going to come from to meet the needs of the next decade and the next generation?

The environmentalists say there are alternative means available.

Mr. BAKER. Mr. President, I would like to congratulate my fellow conferees on completion of their major legislative effort to review the Federal Water Pollution Control Act. Their work is the cumulation of efforts which began with the effort of the National Commission on Water Quality to address any deficiencies in the act. This long sought midcourse correction will be of benefit both to the environment and those effected by the law's provisions.

The Water Act is an unusually complex and comprehensive law that deals with a wide spectrum of water quality problems. It therefore has had and will continue to have major impacts on many sectors of the U.S. industry and economy. This fact makes the conference agreement a most important step in the continuation of our national efforts, which we began in 1972 to clean up the Nation's waters. The breadth of the law's impact also has relevance to the fact that most of the important provisions in this bill are hard fought compromises, the result of long hours spent by the conferees. There were many major differences of opinion between the House and Senate as to what the correct approach to a particular water quality problem ought to be. These differences have been dealt with in a most responsible manner by the conferees with the final result being a reasonable bill that will, over the years, eliminate our water pollution problems while at the same time making allowances for other important economic and social problems. This balancing has not been an easy task and I congratulate each of my fellow conferees for their hard work.

I would particularly like to recognize the hard work and leadership of the subcommittee's chairman Senator MUSKIE and its ranking minority member, Senator STAFFORD, in the passage of this bill

As I have noted, there are many provisions of major importance in this bill but I would particularly like to single out a few for comment as part of my statement.

The conferees have resolved the longstanding controversy that has engulfed the section 404 permit program for discharges of dredged or fill material. The solution presented in the Senate bill was adopted with only minor changes.

First, the conference bill retains the comprehensive jurisdiction over the Nation's waters exercised in the 1972 Federal Water Pollution Control Act to control pollution to the fullest constitutional extent. A permit program will continue to regulate dredged or fill material discharged into all our Nation's waters. However, the Administrator is authorized by amendment to section 404 to approve State permit programs to assume the primary permitting responsibility for protecting those lakes, rivers, streams, swamps, marshes, and other portions of the navigable waters that lie outside the corps program in the so-called phase I waters. After approval of a State permit program for phase II and III waters, the corps will continue to administer the section 404 permit program in those waters which are used, or are susceptible to use to transport interstate commerce, including all waters subject to the ebb and flow of the tide, and including any wetlands adjacent to these waters.

Second, conferees adopted the Senate amendment to section 404 that clarifies the exclusion of activities that do not involve point source discharges, such as plowing and upland conservation activities, and exempts others that may involve discharges or other placement of dredged or fill material that will be successfully controlled by management practices and performance standards imposed through the section 208 program. An amendment to section 208(b)(4) is designed to strengthen the section 208 statewide regulatory programs that will control the minor discharges exempted from section 404 and that will control nonpoint sources of pollution originating from materials placed outside the navigable waters.

The conferees believe that the State permit programs will continue to afford the best protection from potentially harmful discharges as the wide diversity and unique values of the Nation's aquatic resources will continue to require a case-by-case assessment of harmful effects. Permits shall continue to be required for any discharge that alters or modifies the specific uses of a body of water and that impairs the flow or circulation or reduces the reach of such waters. For such discharges, best management practices could be approved only for inclusion in permits issued by the State program approved under section 404, but would not be appropriate for approval as a replacement for the permit process. Similarly, discharges containing toxic substances addressed by section 307 will continue to require permits.

The conferees agreed to adopt the approach taken by the Senate in the Senate-passed bill with respect to activities performed by the farming, forestry and mining industries. First, the conference bill clarifies the exclusion of activities that do not involve point source discharges of dredged or fill material, such as plowing, seeding, cultivating, harvesting, and upland conservation and minor drainage practices. The conference bill also responds to testimony received in both the House and Senate committee hearings on the section 404 question by specifically exempting other farming, forestry, and mining practices that do involve minor discharges of dredged or fill material such as stock and farm ponds, logging roads, temporary mining roads, and farm roads. It is expected that these activities, while exempt from permit requirements, would still be subject to section 208 including the best management practices approved by EPA and imposed through a statewide regulatory program.

The section 208 agencies should continue to concentrate on areawide management of pollution and on nonpoint sources of pollution that degrade surface and groundwaters rather than attempting to duplicate the point source permit programs under sections 402 and 404.

Third, the bill contains a narrow exemption for the construction by Federal agencies of new projects that are specifically identified in the authorization passed by Congress if Congress is provided with a final environmental impact statement that includes a detailed analysis of the adverse effects of the project as required by the section 404(b) guidelines. The purpose of this narrow exemption is not to relieve certain Federal projects from substantive compliance with the Clean Water Act, but rather the intention is to avoid costly delays for Federal construction of environmentally sound projects after they have been authorized by Congress.

Fourth, unnecessary regulation, delays and redtape should be avoided by the use of general permits for discharges that have minimal impact and by the direction to Federal agencies to accelerate interagency coordination during permit review.

The conferees also have clarified the direction which the sewage treatment grants program should be headed. The conference agreement does this in two ways. The first agreement specifies those types of projects that should be eligible for Federal funding. Additionally the bill provides 4 years of funds for this major public works program. Hopefully, the resolution of the questions concerning eligibilities and the assurance of funds over the next few years will be the help and incentive that the States have needed to really make this program accomplish the goal of cleaning up our municipal wastes.

Finally, I am pleased that the conferees were able to resolve most of the controversial issues surrounding the toxic substances question. Recent information received by the Congress from the National Commission on Water Quality and certain other sources have revealed that the toxics question must be dealt with quickly. The conferees have heeded these suggestions and reached agreements on the important provisions related to the control of toxics. The conference agreement in this area is comprehensive and complex but it is a reasonable approach that places the proper burden on both industry and Government to get this important cleanup action begun.

Mr. WALLOP. Mr. President, I am pleased with the conference report on the Clean Water Act of 1977, which is now before the Senate. I am pleased with the substance of the act and the positive effects it will have upon my State of Wyoming, and I am grateful to have had the opportunity to serve as a conferee and to have had some part in the act's formulation. But the benefits which will surely be derived from these amendments are not parochial in nature. Wyoming will benefit because agriculture will benefit from a shift away from permit requirements, and the institution of cost sharing for management alternatives. Wyoming will benefit because municipalities will benefit from increased funding for the construction of treatment works, and the realization that State programs must be provided with a minimum allocation in order to function effectively. We will all benefit because the amendments maintain the Act's goals and standards so that our water resources will remain pure for the use and enjoyment of future generations. Finally, Wyoming will benefit because business will benefit through the application of reasonable timetables and requirements for the installation of only that pollution control equipment which is necessary for the attainment and maintenance of water quality.

Recent Federal actions affecting western water resources have not been good news for the West. The University of Wyoming was fortunate enough to have a professor named Frank Trealease who taught generations of students the practical theorem in water law, that:

> Water runs downhill and toward money.

Recent Federal actions appear intent on altering that theorem to read:

> Water runs downhill or in any direction the Federal Register so orders.

I believe that the Clean Water Act of 1977 will be a refreshing change in that pattern. Though not perfect, these amendments accommodate the needs of States, municipalities, agriculture, industries, and environmentalists. This legislation does not weaken the purpose of the law; it only provides the degree of flexibility and the pragmatic modifications that 5 years of experience have proven necessary.

Municipalities in Wyoming, and throughout the country will find that this act at last provides adequate annual funding for the construction of municipal waste treatment works. That funding will be for a sufficient number of years so that planning can be undertaken. The act authorizes $4.5 billion for fiscal year 1978, and $5 billion for fiscal year 1979 through 1982.

These provisions represent a significant increase in funding for Wyoming. Wyoming was the first State to run short of funds for the construction of municipal waste water treatment works in 1976. Funds allocated to Wyoming were inadequate to provide money for even those communities on our priority list. In fiscal 1976, Wyoming received less than $3 million. This amount would be insufficient to fund a single treatment works in one of our larger communities or in our communities experiencing rapid growth due to energy impact.

The formula is such that if the full amount is appropriated, Wyoming will receive not less than $13.5 million in fiscal 1978, and $15 million in subsequent years. This is almost 5 times the amount of Wyoming's previous allotment.

An additional $75 million is authorized for a "small State supplement" so that no State would receive less than one-half of 1 percent of the total allotment. Under existing law, small States such as Wyoming have encountered difficulty in operating a program of priorization and administration at the State level. The small State supplement, if appropriated, will bring Wyoming's total construction grant allotment to $22.5 million per year for 1978 and $25 million for each fiscal year 1979 through 1981. If only a portion of the small State supplement is appropriated, Wyoming, because of previous funding inequities, will receive a greater percentage of the appropriation than any other State.

In addition to funding authority, provisions of the Clean Water Act of 1977 make other changes of interest to Wyoming municipalities. Due to the lack of the necessary Federal financial commitment, municipalities had no hope of complying with the July 1, 1977, deadline for the installation of secondary treatment works. The conferees agreed to authorize the administrator to grant time extensions up to July 1, 1983. These extensions will be granted on a case by case basis by the administrator, provided that new construction by the municipality is required, and could not reasonably be completed in time, or the necessary Federal financial assistance has not been made available.

The conferees also agreed on two set-aside provisions which are of particular interest to Wyoming. In rural States, at the request of the Governor, up to 4 percent of a State's allocation will be made available for construction of alternatives to conventional sewage treatment works in municipalities with populations of less than 3,500. The second provision requires a set-aside of a half percent of each State's allotment to raise the Federal grant share from 75 to 85 percent for those municipal projects which utilize innovative processes and techniques.

In response to testimony received from State agencies, including Wyoming's Department of Environmental Quality, the Senate, and to a lesser extent the House, realized the necessity of earmarking funds for administration and manpower necessary to establish a meaningful, efficient, and effective program at the State level. The conferees agreed on a provision similar to the Senate proposal. It authorizes the reservation of up to 2 percent of a State's construction grant allotment, but no less than $400,000, for use by the State in administering any aspect of the construction grant program. These funds may be increased to assist in the administering of the 402 permit program, statewide 208 planning, and responsibility for managing construction grants for small communities.

The Conference Committee also adopted a Senate sponsored amendment which should be of particular interest to very small communities in Wyoming. The provision permits the awarding of grants for the construction of privately owned treatment works where a public body applies for the grant on behalf of a number of the works, and will assure that the treatment works are properly operated and maintained. This amendment is designed to assist extremely small rural communities where public ownership of the treatment works is not feasible, and the private system would be more cost-effective than collection and central treatment of wastes.

Agriculture, and in particular irrigated agriculture, should be particularly pleased with some provisions of the Clean Water Act of 1977. The conferees agreed to remove return flows from irrigated agriculture, from the definition of the term point source. In addition, the administrator will be prohibited from requiring permits for this type of discharge.

This amendment corrects what has been a discrimination against irrigated agriculture. Return flows, composed of water which had been applied to crops through irrigation, were subject to permit requirements. Farmers in areas of the country which were blessed with adequate rainfall were not subject to permit requirements on their rainwater run-off, which in effect had been used for the same purpose and contained the same pollutants. Only the manner of application differed.

The Clean Water Act contemplates effluent limitations. However, irrigation that permits will generally regulate pollution from point sources by imposing return flows, like rainwater run-off, are more effectively addressed by management practices which are not generally available in NPDES permits. By placing the responsibility to address irrigation return flows in the local planning process under section 208, the conferees envisioned a program which could utilize management practices rather than permit requirements, ensure that the practices will be tailored to local conditions, remove the possibility of conflict between section 402 and 208, and provide for the consideration of cumulative effects.

While I may take credit for sponsoring this amendment, I cannot take credit for its logic. The Environmental Protection Agency's regulations of July 5, 1975, originally excluded irrigation return flows from the necessity to obtain a permit. EPA recognized that these sources were not of the type which could be effectively controlled through a permit process. Only after a decision against the EPA in NRDC against Train, did the EPA begin to implement the permit program against irrigated agriculture. Their regulations would have required general permits to be administered through general permit program areas. Wherever possible, these areas were to be identical to 208 planning areas. This was nothing more than a circuitous approach to the use of management practices in addressing discharges from irrigated agriculture. Yet, irrigated agriculture was to bear the burden of permit requirements due to the definitional deficiencies of the act. This amendment will remedy that problem.

Recognizing that the implementation of agricultural management practices to improve water quality will be an expensive proposition, the Senate conferees were successful in retaining a provision in the bill for agricultural cost sharing. This section authorizes $200 million in fiscal 1979, and $400 million in fiscal 1980 for Federal cost sharing to implement long-term soil conservation practices for improving water quality under section 208. The Federal cost share could be as high as 50 percent of the total project.

To reduce administrative cost and avoid duplication, or the establishment of additional bureaucracy, the program will be administered through the Soil Conservation Service, or other agencies which the Secretary of Agriculture deems appropriate. There should be no mistake, the conferees agreed that the function of this cost-sharing program is to provide financial assistance to reduce nonpoint, agricultural sources of pollution, utilizing soil conservation practices which improve water quality. It is not intended to be a duplication or extension of existing programs which have as their purpose increased production. It is of course hoped by the conferees that these projects will also have positive, if indirect, effects on production.

Agriculture should also benefit from amendments to section 404 of the Act. Though the conferees did not retreat from the section's broad jurisdiction, the amendments which were adopted should help to solve many of the problems resulting from the corps' implementation of the section. At the same time, I do not believe that the amendments reduce the effectiveness of the wetlands protection effort. They provide for the delegation of the permit program to the States, properly preempt many activities from permit requirements, and require speeding of the permit process. The conferees worked with the corps and the Environmental Protection Agency to insure that the amendments are carefully worded to provide protection from harmful activities, while reducing unnecessary government interference.

The conferees agreed to adopt the Senate amendment on particular exclusions from permit requirements. This legislatively clarifies the exclusion of certain activities that do not involve point source discharge and that will be adequately controlled by management practices. The amendment clarifies that normal farming, ranching and silvicultural activities such as plowing, seeding, cultivating, and harvesting, as well as minor drainage and soil and water conservation practices performed on uplands, were not intended to require 404 permits. The amendment also excludes from permit requirements, discharges of dredged or fill material in conjunction with the following activities that will cause little or no adverse effects either individually or cumulatively:

First, the construction or maintenance of farm and stock ponds or irrigation ditches; second, the construction or maintenance of farm or forest roads, or temporary roads for moving mining equipment so long as they are constructed and maintained in accordance with practices which minimize adverse effects that may occur when water is displaced by fill material; and third, the maintenance and emergency reconstruction of currently serviceable structures such as dikes, levies, dams, and bridge abutments.

The conferees also adopted an amendment to exempt certain Federal projects from permit requirements. Subsection (r) of section 404 will provide a limited exemption from Federal and State permit programs for discharges of dredges or fill material to construct Federal projects specifically identified by Congress when authorized. If the procedural and substantive requirements of subsection (r) are satisfied, these discharges shall not require permits under this section, or under State permit programs approved pursuant to section 404 or section 402 of the Clean Water Act of 1977.

The exemption provided by this subsection applies only to discharges that are an integral part of constructing a Federal project which has been reviewed and approved by Congress. Federal projects include only those conducted by a Federal agency and by such contractors as the agency may employ. The conferees did not intend to exempt other discharges which may be associated generally with constructing Federal projects, but which are ancillary to the specific activity submitted to and approved by Congress. For such ancillary discharges, the full section 404 review and approval procedures shall be applied by the Corps of Engineers and the administrator unless other exemptions are applicable. The conferees did not intend to exempt federally assisted projects from the section 404 review.

In order to qualify for the exemption, an adequate environmental impact statement on the project must have been submitted to Congress prior to authorization of the project or appropriation of construction funds and, in all cases, prior to the actual discharge of dredged or fill material at any particular site. The statement must satisfy the requirements of NEPA and include complete information on the effects of the proposed discharge. Moreover, the guidelines developed by the administrator under section 404(b)(1) must be fully complied within developing and assessing such information.

Congress must have adequate siting, engineering, and environmental information and analysis on each proposed Federal project, as well as modifications recommended by reviewing agencies, in order to review the available alternatives to and potential adverse impacts of the proposed discharges, to weigh those impacts and alternatives against the benefits of the project. The administrator will be expected to see that the section 404(b)(1) guidelines are sufficiently explicit to focus attention on those aspects of Federal dredge and fill material discharges that could result in environmental degradation caused by the construction of new projects. And the administrator must assist other agencies by carefully reviewing draft environmental impact statements to ensure that the guidelines are being interpreted and implemented properly.

The conferees also agreed to provide for State delegation of section 404. This can be accomplished either through the State's assumption of the 404 permit program, or through State assumption of a combination approach, utilizing both a 404 permit program, and a program of management practices for certain dredge and fill activities under section 208. Such a State program will be one which is established under State law and which will function in lieu of the Federal program. It is not a delegation of Federal authority.

The 208 program is a supplement to the 404 program and is intended to complement and be coordinated with a State 404 permit program. It is not a substitute for the 404 program as most discharges of dredged or fill material not specifically excluded will still require a case-by-case review through a permit process. Activities that involve discharges of dredged or fill material that impair the flow or circulation of navigable waters or replace water with dry land will normally require individual permit review. For example, case-by-case permit review is necessary to minimize adverse effects from most channelization and real estate development fills. Moreover, the conferees agreed that a permit should always be required where toxic substances are involved. A case-by-case permit review would not be required for narrowly defined activities that cause little or no adverse effects either individually or cumulatively, including those activities narrowly defined in paragraphs (A–F) of subsection (f) of section 404.

The conferees also agreed that a State must have a permit program approved under section 404 and a statewide regulatory program approved under 208(b)(4) before the administrator can approve the best management practices submitted by the Governor for appropriate activities.

The administrator cannot approve best management practices to replace the State's permit review process in its entirety as only certain activities are appropriate for management practices. A best management practice might be an acceptable method of control for activities that are similar in nature and that cause no more than minimal harm to the environment either individually or cumulatively. Management practices are appropriate for controlling farm roads, log roads, temporary mining roads, stock ponds, farm ponds, and maintenance of existing fills. Management practices will not be appropriate as the sole means of controlling activities the impact of which varies according to location or where advanced review is necessary to assure that the discharge is conditioned to protect the environment.

Management practices might be appropriate for activities that have no more than minor impact, individually or cumulatively and where an approved State permitting agency agrees that permit review is not necessary and that the best management practice will adequately protect the environment. Best management practices are not appropriate for activities that vary in their impact from one ecosystem to the next.

The 208 agencies should continue to concentrate on areawide management of pollution and on nonpoint sources of pollution that degrade critical aquatic areas rather than attempt to duplicate 402 and 404 permit programs that control point sources of pollution.

The administrator should ensure that best management practices are specific enough to inform each person conducting an activity what is specifically required of him. The conferees expect that this 208 process will include an enforcement program with adequate resources.

The third important improvement in section 404 will provide for a reduction in redtape and delay. The amendment provides that the Corps of Engineers, which operates the 404 permit program, will enter into agreements with the administrator of the Environmental Protection Agency, and the secretaries of the Departments of Commerce, Agriculture, Interior and Transportation, as well as the heads of other appropriate Federal agencies, to minimize to the maximum extent practicable, duplication, needless paperwork and delays in the issuance of under section 404 permits. The agreements will be developed to assure that to maximum extent practicable, decisions with respect to applications under section 404 will be made within 90 days.

The conferees accepted an amendment which will reassure the State that it is the policy of Congress that the Clean Water Act will not be used for the purpose of interfering with State water rights systems. I sponsored this amendment with Senator HART on the floor of the Senate. This amendment came immediately after the release of the Issue and Option Papers for the Water Resource Policy Study now being conducted by the Water Resources Council. Several of the options contained in that paper called for the use of Federal water quality legislation to effect Federal purposes that were not strictly related to water quality. Those other purposes might include, but were not limited to Federal land use planning, plant siting and production planning purposes. This "State's jurisdiction" amendment reaffirms that it is the policy of Congress that this act is to be used for water quality purposes only.

The amendment simply states that it is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this act. It also states that it is the further policy of Congress that nothing in this act will be construed for the purpose of superseding or abrogating rights to quantities of water which have been established by a State.

This amendent is not intended to create a new cause of action. It is not intended to change present law, for a similar prohibition is contained in section 510 of the act. This amendment does seek to clarify the policy of Congress concerning the proper role of Federal water quality legislation in relation to state water law. It should be clear. Legitimate water quality measures authorized by this act may at times have some effect on the method of water usage. Water quality standards and their upgrading are legitimate and necessary under this act. The requirements of section 402 and 404 permits may incidentally affect individual water rights. Management practices developed through State or local 208 planning units may also incidentally affect the use of water under an individual water right. It is not the purpose of this amendment to prohibit those incidental effects. It is the purpose of this amendment to insure that State allocation systems are not subverted, and that effects on individual rights, if any, are prompted by legitimate and necessary water quality considerations.

This amendment is an attempt to recognize the historic allocation rights contained in State constitutions.

It is designed to protect historic rights from mischievous abrogation by those who would use an act, designed solely to protect water quality and wetlands, for other purposes. It does not interfere with the legitimate purposes for which the act was designed.

The amendment speaks only—but significantly—to the rights of States to allocate quantities of their water and to determine priority uses. It recognizes the differences in types of water law across the Nation. It recognizes patterns of use.

When Wyoming became a State and the Congress ratified our constitution in the Act of Admission, that constitution stated then and states today:

> The water of all natural streams, springs, or lakes or other collections of still water within the boundaries of this State are hereby declared to be the property of the State.

Water quality and interstate movement is an acceptable Federal role and influence. But the States historic rights to allocate quantity, and establish priority of usage remains inviolate because of this amendment. The Water Pollution Control Act was designed to protect the quality of water and to protect critical wetlands in concert with the various States. In short a responsible Federal role.

The business and industrial community as well should find relief in the Clean Water Act of 1977. For the most part, unrealistic requirements and nonattainable deadlines have been altered to reflect our years of experience with the act. But these amendments, while helping industry, do not detract from the environmental goals of the act, or significantly impair the effectiveness of its regulatory scheme. The Clean Water Act of 1977 is a bill which both industrialist and environmentalist alike can view with some optimism.

The 1972 act requires industrial pollution sources to install what has been defined by the EPA as best practicable control technology by 1977, and best available control technology by 1983. However, the EPA had not been granted the discretion to provide flexibility in these requirements, or to take into consideration the costs of compliance, the quality of the receiving waters, or other special circumstances.

The conferees agreed to a provision authorizing up to an 18-month extension of the 1977 deadline where the administrator finds that the discharger acted in good faith and has made a serious commitment to achieve compliance with the best practicable control technology requirements of the act. The extension will only be granted if compliance will occur no later than April 1, 1979, and the extension will not require the application of additional controls on other sources.

The conference amendment relating to the 1983 requirements is more complicated. It deals separately with toxic pollutants, known harmful substances, conventional pollutants, those nontoxics which we know a great deal about, and for which water quality standards are usually established, and so-called nonconventional pollutants, those about which we know very little. The conferees agreed to provide a 1-year extension, until July 1, 1984 for conventional pollutants. Toxics and nonconventionals would be required to be under control by July 1, 1984 or within 3 years for a newly identified substance, but in no event later than 1987 for nonconventionals. The administrator of the EPA may then modify the requirements for nonconventional pollutants if it were determined that the modification would assure protection of public water supplies, and the protection and propagation of a balanced population of fish and wildlife, as well as allowing recreation in and on the water.

The Clean Water Act of 1977, taken as a whole, expands the role of local 208 planning in the water quality effort. As I have previously stated, we have provided cost sharing provisions for the implementation of agricultural management practices, and provided 208 programs with dredge and fill management responsibilities. The bill also provides continued funding for these 208 programs, of $150 million for each of fiscal years 1977 through 1980. Agencies which were designated after 1975 will be granted an additional year in which to submit their 208 plans. Federal grant amounts under this program will be 100 percent for the first 2 years of a program's operation for the purposes of plan development, and 75 percent for cost incurred in each succeeding year.

In summary, I believe that the Clean Water Act of 1977 is one of the soundest, sanest pieces of legislation to come out of this Congress. It does not compromise environmental goals, nor does it confuse them by injecting unrelated issues. It gives back to the State the flexibility to take more responsibility for its own waters. It relieves agriculture and industry of irrelevant or unnecessary burdens. It provides municipalities with essential funding for treatment facilities, and agriculture with 50/50 matching grants to clean up nonpoint source pollution. It preserves the State's jurisdiction over water quantity allocation. It provides positive incentives and positive programs, and fewer coercive clauses. It does not foster the confusing proliferation of agencies or the unnecessary promulgation of guidelines and regulations.

I commend the conference report on the Clean Water Act of 1977 to my colleagues and ask for their support of its prompt passage.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Alaska (Mr. Gravel).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GRAVEL

I am pleased that the conference committee completed its work on the Clean Water Act this year so that municipalities, industry and federal, state and local government can go about with their efforts to reduce and eventually eliminate the pollution of the Nation's waters. The committee report is by and large a good one. Its major accomplishment is to provide a continuum of congressional commitment to the proposition of a clean environment. Hence, the "mid-course" correction has been a fine-tuning, not a major overhaul.

The conference report does many favorable things. The report recognizes a principle that the EPA should have embraced long ago—that there are alternative methods of treatment of domestic waste other than massive secondary treatment plants, and the massive commitment of funds necessary to construct and maintain them. There is a firm statement now that the Federal Government must police its own operations so as to comply with existing environmental laws. There is recognition of the problem of toxics as the major health and environmental concern, and a realization that in some cases the principle of "treatment for treatment's sake" is an unacceptable concept. In all, the conference helps to fix the focus of the environmental efforts of government so that pollution control agencies can fix the problems of municipal and industrial discharges. This is but some of the evidence of the rational and constructive measures taken by the conference.

I would comment on three actions taken by the conference: those in the area of federal facilities compliance; compliance of the seafood industry; and modifications from the requirement of secondary treatment for conventional pollutants emanating from municipalities.

Industry is reportedly 90 to 95 percent in compliance, or in progress towards compliance, with the 1977 requirements. Municipalities are well under way towards meeting the requirements of the act. It has become increasingly obvious that in many areas the prime violator of environmental laws has been the federal government itself. Throughout the country, federal facilities fail to meet federal standards, let alone state requirements. This situation has led to the de facto establishment of a double standard that is unacceptable for environmental and economic reasons. Pollution from any source is still pollution; the discharge of a pollutant from a federal facility is none the less harmful because it is under the auspices of the federal government. Discharges from federal facilities should not be exempt from meeting standards set by state and local authorities for the control of pollutants. There is nothing sacrosanct about federal wastes. Thus, the federal government, with certain limited national security interests, will have to comply with the substantive and procedural requirements of federal, state, and local water pollution laws.

During the discussion of the section pertaining to the discharge of dredge and fill materials, a major effort was mounted to exempt all Federal projects. I opposed this effort, and am still in opposition to exempting the Federal Government from any such requirements. However, it became necessary to compromise, and the result was a very limited exemption from section 404 for specifically authorized projects for which there is an adequate environmental impact statement which appropriately addresses the concerns of the effect and mitigating actions necessary to be taken by virtue of the discharge of dredge and fill materials. These must be Federal projects, and the Federal EIS must address the discharge question in the same way as if a 404 permit were required. As I view it, the exemption merely eliminates duplication—it in no way eliminates the necessity both to address the problem and provide mitigation. The EIS will come before the appropriate committees, and it is contemplated at least by the Senate Environment and Public Works Committee that the problem of discharges of dredge and fill will be adequately handled, or the Congress will know that they are acting on a project that will harm the environment.

Two other things should be kept in mind. Guidelines for the preparation of impact statements will have to be updated to accommodate these concerns. The Senate Public Works Committee has jurisdiction over such matters, and it should be expected that that jurisdiction will be exercised to assure compliance with our concerns. Of course, hearings on federally authorized projects will be expected to receive testimony on the adequacy of the particular EIS on the question of dredge and fill materials. In addition, the exemption for Federal projects does not go to the requirement that State and local substantive and procedural requirements be met.

Congress has authorized a study of the seafood industry to determine whether there are grounds for relief from the EPA guidelines for the industry. The study will be of a one year duration, with several parties participating in consultation with the EPA. The Senate bill, and colloquies that took place on the floor of the Senate between Senator Chafee and I and among Senators Muskie, Stevens and I on the fourth of August clearly state the purposes and direction of the study. There is no reason to restate those conversations and understandings. I have been pleased already by the spirit of cooperation from the EPA in this regard. At least in this case, a study will not be an offhand dismissal of a thorny problem.

Finally, a word about the municipal modification procedure. The conference report accurately reflects my concerns about the requirement that certain coastal communities should provide secondary treatment of conventional pollutants when natural action of the receiving body eliminates the need to do so. The conference report mentions several communities that might be likely to qualify for the modification provision. When I introduced the measure I did not intend to limit the application of the provision to Anchorage, Seward, and a few other cities. I intended to allow any city that can meet the geographical requirements to come forward and attempt to prove their case. (That might even include communities currently under schedule to provide traditional secondary treatment.) That is my understanding of the conference's intention as well. I can understand the EPA's concerns about the administrative burden this provision might place on the agency, but I might remind my friends at the agency that we should not legislate unreasonably so as to accommodate an agency. There are a number of communities that have been and will be subjected to administrative burdens way beyond their financial and administrative capacity because of the need to comply with the secondary treatment requirement. With this modification procedure for coastal communities that qualify, and the other provisions in the bill for alternative and innovative technologies, as well as recycle capabilities, the Congress has announced its intention to put some sense into the treatment of municipal wastes.

The modification procedure, then, guarantees to no one that modifications will be granted; it denies no coastal community with the qualifying geographical characteristics the right to show its ability to meet the other conditions of the provision.

The provision applies to communities with discharges into the waters of the territorial seas and the contiguous zone or into saline estuarine waters where there is strong tidal and other hydrological action. There is a recognition that depth is a factor. The conference report clearly states the importance of depth with regard to the territorial seas and the contiguous zone; emphasis is not placed on depth with regard to saline estuarine discharges, but rather on tides and currents and flushing action which act to remove pollutants from large bays and estuaries.

The conditions that an applicant must demonstrate ability to meet are forthright. They are geared to protection of the water body from toxics and violations of water quality in the area of the discharge. To the extent practicable, monitoring of a periodic nature should occur to assure against water quality violation. Modifications will be granted in 5-year increments as a further protection. Pretreatment requirements will be enforced.

In essence, the provision says that there are areas which may be able to show that the discharge of conventional pollutants from a municipal sewage system can be made without secondary treatment and without harm to the environment. If this concept is adopted in regulations promulgated by the agency, we can assure a reasonable approach to sewage treatment in coastal communities while not violating the environment, or the fabric of the act. I will watch closely to see that the provision is implemented in the manner in which I proposed it and the conference adopted it.

I would like to remind my colleagues of the Herculean efforts of Senator Muskie in steering the Clean Water Act off the rocks and shoals of deadlock earlier this year onto a course that ultimately led to a comprehensive measure that will provide the greatly needed direction to the Nation's efforts at providing clean water. During the voyage to passage of the measure by the committee, then the Senate, then the conference, the seas were not always tranquil. But Senator Muskie, with the assistance of Senators Stafford and Burdick and Chairman Randolph, once again delivered. The committee and the conferees deserve a great deal of credit for their determination to arrive at a good bill. I particularly appreciate the efforts of the staff of the committee in working with me on a number of provisions that are important to my State and me.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Minnesota (Mr. Anderson).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Anderson

As a member of the Subcommittee on Environmental Pollution of the Senate Environment and Public Works Committee, I have several comments I would like to make about the development of the Clean Water Act of 1977, particularly the federal facility compliance, permits for dredged or fill material, and marine sanitation devices sections of the conference report.

It is a remarkable achievement in my judgment that the Senate has before it today for final passage the Clean Water Act of 1977. The Senate and the nation owe a debt of thanks for the dedication and diligence of our Subcommittee chairman, Mr. Muskie; our Chairman, Mr. Randolph; the ranking minority member of the Subcommittee, Mr. Stafford; and the staff of the Senate Environment and Public Works Committee for completing a lengthy series of hearings, extensive markup sessions, floor consideration, and a difficult conference committee in less than 7 months on such a complicated and controversial piece of legislation.

My colleagues should be aware that the Environment and Public Works Committee not only has completed the entire legislative process on the Clean Water Act of 1977 in a very short period of time, but also that the Committee was involved during markup of this bill with an arduous conference on the Clean Air Act, and, during the Conference on the Clean Water Act, several conferees were also members of the Energy Conference Committee.

I am pleased that the father of the Clean Water Act, and most of the major federal environmental statutes, our colleague, Ed Muskie, is here on the floor today to manage this conference report. Senator Muskie without question is responsible for the basic thrust and content of this legislation and the previous congressional actions to preserve and protect the natural resources that we absolutely depend on in this country. I have had the honor and pleasure this year to closely observe Senator Muskie on both the air and water pollution bills. His knowledge, commitment, energy, and dedication to clear air and clean water is without equal.

In the absence of Senator Muskie from most of the latter conference committee sessions, Senator Burdick chaired the conference. The Senate and the Environment and Public Works Committee were exceedingly well-served by him. I want to add my appreciation to Senator Burdick for assuming a most difficult assignment and discharging it well.

Since becoming a member of the Environment and Public Works Committee in January, apart from my involvement in the Public Works Employment Act and the Navigation Developemnt Act, I have devoted considerable time and effort to the Environmental Pollution Subcommitttee's consideration of the Clean Air Act and Clean Water Act. Senator Muskie has assembled a dedicated and experienced staff to whom I am most grateful, especially for this legislation; Leon Billings, John Freshman and Sally Walker, and, Phil Cummings, Dick Harris, Bailey Guard, Jackie Schafer, and Jim Range of the Committee staff.

In the Senate Environment and Public Works Committee report on S. 1952 and during the floor debate on the Clean Water Act of 1977 on August 4, I stated in some detail my own views on this legislation, the importance of clean water to the people of Minnesota, and indicated the background of the several amendments I offered to this legislation that the Senate adopted, most importantly on provisions relating to dredging by the Corps of Engineers, the Clean Lakes Program, and marine sanitation devices. I do not intend to reiterate this information at this time to any great extent, but do want to make very brief comments about several aspects and sections of this conference report.

As a member of the conference committee, I am pleased with the conference report, especially in light of the wide divergence between the House and Senate bills on many of the most significant sections. The Clean Water Act of 1977 as submitted by the conference committee is worthy of support by my colleagues and when enacted should be signed into law by the President.

I very much regretted, Mr. President, that the Senate conferees were forced to drop the provision in S. 1952 offered by Senator Nelson to limit the amount of phosphorous in detergents sold in the eight Great Lakes states. Senator Nelson made a compelling case to the Senate on August 4 for this amendment and it was added to the bill by an overwhelming margin, with no opposition from members from the Great Lakes states. Despite the logic of this provision, an endorsement by the Environmental Protection Agency, the support of every scientific body concerned with the quality of the Great Lakes and the endorsement of a clear majority of the members of the House of Representatives from districts within the Great Lakes drainage and the Governors of the Great Lakes states, the House conferees were unwilling to accept the phosphate detergent provision or a modified, more limited version of it.

I remain confused as to why the manufacturers of household detergents oppose this provision since they must manufacture phosphorous-free products at present for over 35 million potential customers in this country. The House conferees were not able to provide any real justification for opposing the Nelson amendment, except that no hearings had been held in the House on the proposal. While I regret that the Clean Water Act does not include a provision to regulate the sale of phosphate detergent in the Great Lakes, I am encouraged that Representative Roberts has committed the House Public Works and Transportation Committtee to hearings early in 1978 on this legislation.

The provision in the Clean Water Act of 1977 that I offered in Committee and have followed with the greatest interest is subsection (t) of Section 404. One of the long-standing concerns of the State of Minnesota and several other states has been the environmental impacts of dredging by the Corps of Engineers in navigable waterways.

In Minnesota, the Corps of Engineers dredges annually approximately 2 million cubic yards of bottom sediments from the Mississippi River and another 100,000 cubic yards from Duluth-Superior Harbor. The water quality impacts associated with this massive removal and subsequent disposal of bottom sediments are often of great significance. The Senate report and my remarks on the Senate floor on August 4 detail the history of administrative and legal efforts by the Minnesota Pollution Control Agency, and joined in legal action by six other states and several environmental organizations, to insure that dredging by the Corps of Engineers is conducted in compliance with state water quality standards and other substantive and procedural requirements.

The amendment in S. 1952 to Section 404 on compliance by federal agencies with state, interstate, and local substantive and procedural requirements, which I authored, was carefully considered by the conferees in its own right and as an issue in the conferee's amendments to Section 313 and 404 of the statute. While the original language of my amendment was modified in three respects at the request of the House conferees, neither I nor the Senate conferees accepted any amendment that detracts or dilutes the purpose of this provision in the Senate bill, that, the Corps of Engineers must obey the same state standards that any other discharger must obey. I have listened to the floor manager's description and explanation of the conferees action on this provision, which is now labeled subsection (t) of Section 404 and agree with his analysis of this section. However, since the statement of managers is primarily devoted to other issues in Section 404, I have several comments on this provision so it is clear in the legislative history of this subsection what the conferees and Congress intend by subsection (t).

In the description of Section 404(t) the floor manager explained the language the conferees accepted to Section 313 regarding exemptions from non-federal control of dredging related to military equipment and vessels. The Department of Navy raised this issue with the conferees because of the possible interpretation of the requirements on federal agencies engaged in dredging of waters adjacent to military installations. At no time did any representative of the Department of Defense raise any concern about this provision regarding maintenance dredging in commercial waterways. The Corps could request a presidential exemption for dredging they propose to conduct that is strictly military in nature, however, that is not the situation that I brought to the Environment and Public Works Committee's attention or prompted the *Minnesota* v. *Callaway* litigation. It is the judgment of the Senate conferees that maintenance dredging for commercial vessels on the Mississippi River or any other waterway is not subject to the exemption adopted in Section 313.

Mr. Muskie also described the limitation of subsection (t) to state and interstate requirements, not local, which I believe is very clear and the language added to subsection (t) from the present language in Section 511(a)(1) of the Federal Water Pollution Control Act of 1972 regarding the importance of the Corps of Engineers maintaining navigation on the nation's waterways. I believe the burden is now clearly on the Corps to comply with state water quality standards and that the addition of the language from Section 511(a)(1) merely restates the present law, that the Corps does have a responsibility for maintaining navigation that can be cited if necessary.

I am somewhat uneasy that the Corps of Engineers could read subsection (t) and interpret the last line, the language from 511 (a)(1), as controlling. I believe that it is not at all the case. Clearly the intent of the conferees for Section 404 (t) of the Clean Water Act of 1977 is to change the way the Corps of Engineers operates when it dredges millions of cubic yards of bottom sediments each year at dozens of sites in many states. Compliance with appropriate water quality standards is the basic mandate and direction from the Congress to the Corps. The conferees recognize that constraints can and do exist that will preclude compliance in every instance, especially in the dredging seasons shortly after enactment of this provision. But overall, the burden is clearly on the Corps to make every effort in every project to dredge in compliance with the same standards private dredgers and other dischargers must adhere to.

Mr. President, the last comment I desire to ask about the impact of subsection (t) concerns subsection (r) of Section 404, the federal project's exemption Subsection (r) results from provisions in both the House and Senate bills that specific federal projects that have satisfied the requirements of the National Environmental Policy Act of 1969, need not apply for and receive a 404 permit. The conferees did not discuss this provision applying to ongoing maintenance dredging activities by the Corps. In addition, while subsection (r) includes language exempting eligible federal projects from Section 404 permits, whether issued by the Corps or by the state program delegation authorized by the amendment to Section 404, this language deals with the Section 404 permit program itself not any state regulations, requirements, or standards that could be applied to a federal activity. The subsection (r) language does not mention state authority or regulations as activities that could not be applied to federal projects, through the 404 permit program and should not be interpreted consequently as limiting subsection (t).

Mr. President, I have one final comment, concerning the amendments to Section 312, marine sanitation devices. I offered several amendments to Section 312 that the conferees adopted nearly identically to the Senate version. One provision requires that greywater be treated hereforward by marine sanitation devices and another that these devices on commercial vessels using the Great Lakes meet secondary treatment requirements. The latter amendment to Section 312(c)(1) requires, under a new subparagraph B, that the Administrator of the EPA establish standards and regulations to implement the secondary treatment requirement, including a reasonable time period for its implementation. The inclusion of "greywater" to the definition of "sewage" in Section 312(a)(6) does not expressly state a time period for the implementation of the treatment of greywater. It was my intention when I offered these amendments and my interpretation of the Conference Committee report that the EPA will enact regulations both to establish a time period for new and existing vessels to have operable marine sanitation devices to treat greywater, and, to produce an effluent of a quality equal to or better than secondary treatment.

Mr. HELMS. Mr. President, I join my colleagues, including the distinguished chairman of the Agriculture, Forestry and Nutrition Committee, in an effort to correct some misconceptions regarding even-aged management in southeastern forests that has appeared in report language accompanying "clean water" legislation.

First, I think it is important to point out that the Congress held extensive hearings, with expert witnesses, on the subject of forest management and even-aged management, often referred to as clearcutting. At every opportunity the Congress has rejected the prohibition of, or permit requirements for, clearcutting of eastern mixed hardwoods. The Senate specifically rejected an amendment prohibiting clearcutting of eastern mixed hardwoods when it was offered during full Senate consideration of the National Forest Management Act of 1976.

The Senate did this with good reason, for the clearcutting process is part of the practice of even-aged management and is certainly a normal silviculture practice in eastern mixed hardwoods in North Carolina and other States. Even-aged management involves a series of improvement cuts in the rotation cycle of timber harvesting which is culminated by a clear cut for regeneration purposes. Through decades of scientific observation and experimentation, forest managers and conservationists have found that this timber harvesting practice—and it is only one of several techniques used today—is usually the best one for insuring maximum regeneration of some of our most valuable commercial tree species such as Douglas fir, southern pine, and lodge polepine, as well as hardwood species.

These trees require a lot of sunshine to grow well. Foresters call them shade-intolerant. In areas where the trees were planted at the same time, and therefore are the same age, clearcutting is usually the least costly, most efficient harvesting method. It also disturbs the environment the least, for it requires fewer roads. With this technique, lumber production costs are cheaper and so are reforestation costs, and the clearcut areas quickly grow new ground cover, providing browsing for wildlife.

Indeed, nature was the original clearcutter. Overgrown, overmature forests were cleared out by fire, landslides, wind, and insect invasion. Today, man does a better job by systematic rotation of his harvests and by cleaning up his logging debris and replanting the forests for a new harvest later on.

The opponents of clearcutting and even-age management are well intended, if not always well informed. However, the facts are that forest management has used these practices as silvicultural tools in ways that are completely responsible and environmentally sound. Opposition to these practices is not founded upon sound theory and often amount to emotional and uninformed outbursts against the forest industry.

It is my understanding that research performed on the effects of clearcutting —including eastern mixed hardwoods— has indicated little effect on soil erosion or streamflow if clearcutting is properly carried out. Two reasons why clearcutting of eastern mixed hardwoods has relatively little effect on erosion and streamflow are: First, such sites possess a very high proportion of established regeneration onsite before the cutting takes place. Regeneration on such sites burgeons after clearcutting; and second, since eastern hardwoods are deciduous, they do not transpire during a good part of the year. During these months it makes little difference to streamflow whether trees are cut or left standing. These two effects may indicate that clearcutting of eastern mixed hardwoods has a less serious effect than clearcutting of other forest types.

Also, Mr. President, foresters and even the Environmental Protection Agency generally agree that improperly constructed roads, rather than logging, are the principle cause of increased soil erosion from timber harvest operations on steep topography. Other conditions being equal, a forest managed under a selective cutting system may actually result in more erosion than one under even-aged management utilizing clearcutting. This is because, under a selection system, there will be a significantly larger area of land disturbed annually to harvest a given volume of timber. In addition, more miles of roads are left open, continuously used, and maintained; thus increasing the risk of soil erosion from the road surface.

Mr. President, when the Senate held hearings on this subject last year a very distinguished silvicultural scientist from my State offered his valuable and expert testimony. I ask unanimous consent that the testimony offered by Dr. John W. Duffield, professor of silviculture, Department of Forestry, North Carolina State University at Raleigh be printed following my remarks.

Dr. Duffield points out very effectively just how important even-aged management is to sound forestry and to protection of our natural resources, including clean water. This scientific testimony offers proof that clearcutting of southeastern hardwoods is, indeed, a normal silvicultural practice in North Carolina.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of Dr. John W. Duffield, Professor of Silviculture, Department of Forestry, North Carolina State University, Raleigh, N.C.

Mr. Chairman, I am John W. Duffield, Professor of Silviculture in the School of Forest Resources of North Carolina State University. I am presenting the following remarks at the invitation of the Chairman.

Most of my career as a professional forester has been in biological research and teaching, starting in the Northeastern United States—with the title of junior forest ecologist—then California, the Inland Empire, the Pacific Northwest, and since 1963, in the Southeast. I have also studied forests, for periods of several months, in the American Southwest, Australia, New Zealand, and Yugoslavia. This experience has impressed me with the diversity of forests in our country and with the need to match this diversity with flexibility in the application of silvicultural treatments.

Because of my background and interests, I believe it is appropriate for me to limit my remarks to the silvicultural aspects of the legislative proposals under discussion. As a general comment, I consider that S. 3091, introduced by Senator Hubert Humphrey, is a sound approach to the objective of protecting our forest resources and their many uses in that it mandates, specifically in section 3, guidelines for silviculture practice adapted to local conditions. This approach is, in my opinion, much more appropriate to the diversity of our American forests than the blanket prescriptions proposed in S. 2926 introduced by Senator Jennings Randolph.

Because S. 2926 deals in detail with silvicultural matters, I prefer to confine my comments to pertinent sections of this bill. The definitions comprising Section 3 are fundamental; one of the most important is that of the eastern mixed hardwood forest. This term, used frequently, is defined as "deciduous hardwood forests east of the 100th meridian, except those forests consisting principally of one or more of the following kinds of trees: aspen, paperbirch, or cottonwood." The three types of forests mentioned are obviously not mixed. The implication of the definition is that all other deciduous hardwood forests east of the 100th meridian fall under the bill's strictures against even-aged management or conversion to coniferous stands. Some examples, drawn from a single state—North Carolina—illustrate the silviculture consequences that would follow enactment of the bill as drafted. Old-field, pure, even-aged stands of yellow poplar, not at all uncommon on the mountains of North Carolina, would be forced into treatments unsuited to their age structure. Extensive stands of pin cherry, which followed the logging and burning of spruce-fir stands at high elevations could not be reconverted to coniferous forests. Pure even-aged stands of river birch which have invaded abandoned streamside fields in the Piedmont, would have to be handled on an uneven-aged basis, totally unsuited to the ecological situation. Much the same is true of old-field stands of sweetgum in the coastal plain.

Examples such as these could be cited for state after state in the region east of the 100th meridian. They illustrate the inapplicability of the blanket prescriptions which flow from the definition of the "eastern mixed hardwood forest", and more importantly, the inappropriateness of blanket prescriptions for the complex forest of half a continent. The "eastern mixed hardwood forest" is an abstraction which blankets the complexity suggested by the fact that more than 50 hardwood or hardwood-conifer forest types have been described east of the 100th meridian.

The analysis which in the Congressional Record-Senate for Feb. 4, 1976, follows the text of S. 2926 brings out clearly the inconsistencies written into the bill. An effect of the bill, as stated in section A of the analysis will be the requirement of "greater use of uneven-aged management". The next sentence holds that the "result will be a long rotation high quality timber forest filled with large trees." The forest so described is precisely the sort of forest which does not result from uneven-aged management. A forest "filled with large trees" is obviously one which offers little space for the younger age classes. Such a forest may correspond to a virgin forest, but not to a managed uneven-aged forest. Moreover, the only feasible way to achieve a forest "filled with large trees" is by even-aged management.

The drafters of the bill and of the analysis appear to conceive of the uneven-aged forest as corresponding to the "natural" forest, whereas in fact, a managed uneven-aged forest is more artificial than an even-aged forest, since the former requires more frequent silvicultural treatment to maintain the uneven-aged condition. "Natural" forest regeneration is predominantly by catastrophe—blow-down, fire, insect or disease attack—either by large areas or group-wise. Clearcutting was not an invention of the timber barons.

These obvious biological errors lead one to question the silvicultural competence of the drafters. The good intentions expressed by the drafters are evident; I believe there is general agreement that:

Unsightly clearcuts are an aesthetic insult which should not be tolerated.

Excessively large clearcuts—a characterization which cannot be defined for the forests of the entire territory of the United States, nor for the entire area of the eastern hardwood forests—have adverse effects on wildlife and the appearance of the forest.

Cutting shoulld be carefully controlled near stream courses.

Cutting and road building should be carefully adapted to topography and soil stability.

The public investment in forest management should be protected by the exercise of prudence in restricting these investments to productive and stable soils.

It is desirable that the national forests include a wide diversity of forest types and conditions.

It is highly questionable that these objectives could be assured by detailed prescriptive legislation covering the diverse forests of the United States even if such prescriptions were to be drawn up by individuals with a fundamental understanding of forest biology and forest management. Indeed such individuals would not make the attempt.

Some section by section comments on S. 2926, taken from a detailed analysis of the silvicultural aspects of this bill are as follows:

Sec. 7(a) The general sense of this subsection, namely that no single system dominates in the national forests is to be applauded in that it leaves scope for the exercise of professional judgment in silviculture. The exception, namely that selection management should dominate in the eastsern mixed hardwood forests, is a clear case of special pleading without biological warrant. For example, the enforcement of selection management in the mixed hardwood stands of the Monongahela National forests would tend to reduce the less tolerant components of these stands, such as yellow poplar, black cherry, and the oaks, and lead to the formation of stands dominated by sugar maple.

Sec. 7(c)(1) This sub-section mandates nationwide standards for clearcuts and even-aged cuts. If nationwide silvicultural prescriptions are considered appropriate, one may ask why they are not appropriate for all silvicultural systems, including selection. The implication of this sub-section is that even-aged management poses hazards to the forests but that uneven-aged management does not. The deteriorated condition of most of the eastern mixed hardwood forests is massive testimony to the destructive effects of selection of the largest and best trees, leaving inferior individuals and less valuable species to reproduce. This process cannot fairly be called uneven-aged management; it has most certainly been uneven-aged mismanagement.

By contrast, clearcuts made, for example, in the Bent Creek Experimental Forest, in the 1930's as demonstrations of what were then considered undesirable practices, have regenerated superior mixed hardwood stands, whereas selectively cut stands in the same forest have failed to develop regeneration adequate in quantity or quality.

Sec. 8(d) This provision would prevent the salvage of immature stands heavily damaged by fire, insects, disease, or climatic catastrophes. Its consequence would be to saddle the national forests with increasing areas of understocked stands, unsightly and constituting fire hazards.

Sec. 10(a) The first paragraph would have the effect of leaving many of the degraded mixed hardwood forests in their present unsatisfactory state of understocking with desirable hardwood species. There is no merit in refraining from conversion of degraded mixed hardwood forests to hardwood forests of higher aesthetic, environmental, and economic value.

The second paragraph should be considered in relation to Sec. 4(a)(4) of this bill, which would provide that "timber sales from national forest lands are made only from . . . lands which are capable of regenerating a commercial stand of timber." Many areas of land in the eastern United States will be capable of growing a commercial stand of timber only if they are stocked with conifers. Many stands of mixed hardwoods which have succeeded old field or planted pines on degraded and abandoned farm land have no prospects of producing commercial yields. Yet these same sites can offer considerable recreational, watershed, aesthetic, and economic values if they are converted, totally or partly to coniferous or mixed hardwood-conifer stands.

The overall effect of the proposed highly restrictive limitations on conversion would be to prevent the Forest Service from using the knowledge of soil-species relationships, bought by research, to develop healthy productive stands adapted to the soils they grow on. Another general effect of this section is to set up a highly artificial picture of "natural" forests as consisting of either conifers or hardwoods when, as a matter of record, many of the forests now referred to as the "eastern mixed hardwood forest" contained an appreciable conifer component, but were converted to hardwood stands by "high-grading" the conifers. Many forest uses would be best served if the eastern hardwood forests were restored to this truly "mixed" condition.

Mr. SCHWEIKER. Mr. President, the Federal Water Pollution Control Act Amendments are the result of a long, hard road of congressional action, in committees on the floor of both Houses, and in conference. I congratulate the members of the conference committee for tackling such a difficult job and resolving many sincere disagreements in this deeply complex bill.

However, I would like to take a moment to address myself to one particular aspect of this legislation and its possible effect on a major industry in my State whose future has been of such great concern to me and many of my colleagues. I refer to the American steel industry. This conference report will certainly pass with little opposition, because it is so wide-ranging and deals with so many vital water quality issues. But I would be remiss if I did not voice my serious concern over the impact this legislation might have on steel at the very time when many of us in Congress are fighting to keep the steel industry alive and reverse the terrible setbacks American steel is suffering.

Based upon discussions with members of the steel industry, I am concerned that the April 1, 1979 deadline for compliance with best practicable control technology may be impossible to attain or financially beyond reach in certain cases. The Members of this body are well aware of the desperate financial plight of the steel industry. Many steel firms are reporting little or no earnings and have exhausted their ability to borrow funds. Cash flow does not permit even minor modernization in many cases, and may well prove insufficient to pay for major water pollution control installations on the schedule mandated by this legislation.

Pennsylvania has 150,000 wage earners employed in steel. As we are painfully aware, under the circumstances facing our steel industry, few U.S. facilities can compete on an equal footing with those built much more recently in foreign nations, like Japan, with Government assistance. We have seen the recent closing of Alan Wood Steel and other units near Philadelphia, and the Bethlehem Steel Johnstown plant's struggle for survival. Thousands of jobs have already been lost to the combined impact of unfair foreign competition, obsolescence, and the unwillingness of the White House to vigorously address itself to this critical problem.

Unreasonable increases in environmental costs can harm our efforts to give the steel industry a new lease on life. Of course, necessary public health standards are proper and desirable, and I do not mean to quarrel with the need for environmental protection. But with the conditions I have described facing my colleagues in so many areas of the country, such as Ohio, Alabama, Indiana, and California, I think we in Congress should make it clear that wise environmental regulation means taking full account of the needs of our economy, our workers, and the plight of our steel industry.

For example, I am specifically aware that mills of Jones & Laughlin Steel Corp. in western Pennsylvania, employing about 16,000 steelworkers, face additional water quality projects costing about $100 million for the achievement of best practicable water control technology. These same mills also face air quality costs of about $200 million in the next 4 years.

Therefore, Mr. President, I would like to go on record today as indicating my reservations over the section of this conference report dealing with water quality standards for industry, and my disappointment that it fails to more specifically take into account the very unusual and special problems of our struggling steel industry. It appears to me this might well call for future remedial action by the Congress, if indeed the failure to address steel separately does set back the efforts underway to assure American steel's survival. While many good features of the Water Pollution Control Act Amendments argue for its passage, I felt I should warn my colleagues of the possible future problems we may well yet face in regard to balancing the economic survival of the steel industry against environmental factors.

Mr. HEINZ. Mr. President, the joint conference committee, by completing its work on the amendments to the Federal Water Pollution Control Act of 1972, has done a commendable job in compromising a difficult and contentious issue. The final bill comes close to resolving the existent problems and areas of disagreement between industry, public treatment works and the Federal mandate. The conferees have shown a sincere desire to reach a balance between corporate financial ability and a clean environment.

However, the bill fails to deal adequately with one of the main problems facing the steel industry today; that of insufficient capital. This problem is of critical importance since it raises the question of the very survival of the American steel industry. In my home area of western Pennsylvania a severe capital shortage is being felt by the major steel companies which have older coke, iron and steel works. We are all aware of the severe cutbacks in the Johnstown area and to the west in the Mahoning Valley. Jones & Laughlin and United States Steel in the Pittsburgh area have been forced to cut back on their work forces; and in the eastern part of the State we have just recently seen the closing of Alan Wood Steel and other units near Philadelphia.

These steel companies have reported little or no earnings and have reached or come close to the limit of their ability to borrow more funds. Modernization to become competitive with Japanese and other foreign steelmakers is out of the question while capital expenditures are severely cut back.

Pennsylvania, with approximately 150,000 of its wage earners employed in the steel industry, can only lose if Federal requirements inflict additional capital expenditures on them in the near term without consideration of expansion, modernization and especially, sustained, profitable operation. Although Pennsylvania will probably be the hardest hit State, since the steel industry is fairly concentrated within its borders, it is not unique and I am sure my colleagues can attest to that fact.

Consider specifically Jones & Laughlin Steel Corp. J. & L. employs approximately 16,000 workers in the Pittsburgh and Aliquippa areas. At present, they are struggling to complete environmental projects in both air and water that will cost nearly $300 million, one-third of which is for water pollution controls. There is no feasible way for the company to find this amount of capital in the next 3 years and still survive as complete, integrated mills. Even this forced spending schedule, however, is illegal under this bill and the amended Clean Air Act. The simple fact is that there is no way some part of the industry, J. & L. in particular, can meet the demands of these acts in their present capital positions.

The administration's steel plan partially recognizes this problem in its recommendation that EPA review its environmental recommendations to reduce economic costs and remove barriers and rigidities that inhibit modernization. What that means is a mystery at this point, and we can only hope that it turns out to mean something for the steel industry.

The administration has also recognized the tremendous cost of installing pollution control facilities, and is prepared, I am told, to recommend appropriate tax incentives in its tax reform plan due early next year. My own preference in this regard is legislation permitting the companies to deduct these expenditures in the same year they are made rather than amortize them over a longer period. I have introduced legislation to this effect—S. 1276—and have recently written the President, along with Senators RANDOLPH, PERCY, ALLEN, and DANFORTH urging him to accept this proposal.

The many good parts of the amendments to Public Law 92-500 demand its passage, but I fear that the effect of the bill will be to further endanger communities and cities that are dependent upon the continued survival and prosperity of steel. We must watch the implementation of this legislation carefully to insure that this is not the result.

Mr. MORGAN. Although I support the conference report's exemption of normal farming, forestry, and ranching activities from section 404 permits, I think we should make it clear that in adopting this approach we do not intend to accept the conclusions of the Senate committee report concerning clearcutting of eastern mixed hardwoods.

The committee report could be interpreted to ban or require permits for clearcutting on the 254,000,000 acres of eastern mixed hardwood timberlands in both public and private ownership in every State east of the 100th meridian. This could cripple forest management in the Southern States, the Northeast, the Midwest, and the Lake States.

Many important hardwood species such as aspen, birch, black cherry, walnut, and hickory are difficult, if not impossible to regenerate without clearcutting.

The supply of these hardwoods is vital to the furniture industry of my State, which supplies the overwhelming majority of furniture sold in the United States.

Again and again, the Congress has rejected the idea of banning hardwood clearcutting, or of requiring permits for it.

In 1972, and again in 1976, Congress held extensive hearings, with expert witnesses, on the subject of forest management and clearcutting. In both cases Congress rejected the prohibition of, or permit requirements for, clearcutting of eastern mixed hardwoods. The Senate specifically rejected an amendment prohibiting clearcutting of eastern mixed hardwoods when it was offered during full Senate consideration of the National Forest Management Act of 1976.

Last year, the Congress rejected a proposal to ban or require permits for clearcutting on the 92,000,000 acres of national forest timberlands.

Finally, I emphasize that the vast majority of the 20,000 forestry professionals in the United States recognize that even-aged management is an appropriate practice when properly applied. Congressman BREAUX, the conferee from Louisiana, asked the Forest Service to respond to the questions raised by the Senate committee report concerning clearcutting of eastern mixed hardwoods. Chief McGuire of the Forest Service responded by saying: "Even-aged management practices, such as clearcutting, are especially well suited to many eastern hardwood types." Chief McGuire advised against an interpretation of normal silvicultural activities that would restrict the use of a wide range of scientifically proven silvicultural practices including clearcutting in all regions of the country.

I do not believe we should allow committee report's language to lead to an interpretation which the Congress has consistently rejected.

Mr. CULVER. Mr. President, I am pleased to see the Senate act today on the conference report accompanying H.R. 3199, the Clean Water Act of 1977. I am hopeful that both Houses will approve this legislation without further delays, and I want to commend my fellow conferees for their dedicated attention to this important measure.

One of the major water quality issues which has long been of concern to me is the urgent need to reduce nonpoint source pollution. It is widely recognized that our Nation's water quality goals will not be met in many lakes, streams, and rivers without accelerated attention to the problem of controlling agricultural and silvicultural runoff, which may be so severe as to overshadow current water quality improvements from the control of untreated municipal and industrial discharges. It has been estimated by the U.S. Soil Conservation Service (SCS), for example, that cropland is responsible for at least 50 percent of the total sediment entering our inland waterways. Over 400 million acres of cropland contribute 2 billion tons of sediment annually to our streams, lakes, and rivers.

Effective water quality related soil conservation practices will both conserve our valuable topsoil and abate further degradation of our water. Existing soil conservation programs have simply not addressed the problem of nonpoint source pollution and, frankly, have contributed to poor water quality in many instances. In fact, the General Accounting Office recently reported that existing programs are too production oriented, do not emphasize areas with serious water pollution, and do not foster participation on a geographically related basis. It is possible to conserve soil within limits necessary for continued production of food and yet not meet our water-quality standards. As an example, many soil conservation practices which improve agricultural productivity contribute only marginally toward curtailing soil erosion. Though conservation practices which enhance agricutural output are needed, we also need to finance those conservation efforts which are specifically premised on improvements in water quality.

The Committee on Environmental and Public Works, of which I am a member, has recognized the serious problem of nonpoint source pollution ever since the landmark Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) were passed. To begin reducing pollution from these sources, Congress established an areawide local planning mechanism under section 208 of Public Law 92-500. Under this provision, the Governor of each State must identify each area within his or her State which has significant water quality problems and subsequently must designate an agency for developing a regional plan for enhancing water quality. Among its primary responsibilities, the areawide management agency must establish local procedures for controlling nonpoint source pollution. This planning process is to assure the necessary local arrangements for implementing coordinated decisions to achieve our water quality goals. In accordance with this process, guidelines for regional "best management practices" have been identified by the EPA for reducing agricultural runoff. Such conservation measures must be compatible with water quality goals and should be the most effective projects for preventing soil erosion. Because of the variability of sources and geography, no one best management practice will be applicable to all activities. They must be tailored to local needs, and local expertise will be utilized in the final selection.

This year the Environmental Pollution Subcommittee conducted several field hearings to review the progress under section 208. At the hearing in Iowa, which I chaired, and at others in Colorado and Minnesota, we received considerable testimony on the success of the local planning efforts under section 208 and on the future requirements of this program. At the hearing in LeMars, Iowa, members of several farm organizations and environmental groups praised the section 208 areawide planning process at the local level and clearly documented the need for financial assistance to help institute the conservation practices identified as best management practices for abating water pollution.

These conservation measures are a costly endeavor and place a major burden on the average landowner. The National Water Quality Commission, for instance, estimates that presently these rural water quality projects could cost as much as $12 billion nationally. To help farmers comply with water quality goals pertaining to nonpoint source pollution, a system of technical and financial assistance for implementing the appropriate soil conservation practices is essential. Without such an arrangement, it will be difficult for farm operators and owners to install these practices voluntarily.

During consideration of the legislation before us now by the Committee on Environment and Public Works last summer, I offered an amendment, which was approved, to help landowners and operators in rural areas finance the cost of implementing the appropriate conservation measures under section 208 of the Federal Water Pollution Control Act. In order to carry out this cost sharing program $200,000,000 is authorized for fiscal year 1979 and $400,000,000 for fiscal year 1980.

Under this Senate-approved provision, the Secretary of Agriculture, acting through the Soil Conservation Service, with the concurrence of the Administrator of the Environmental Protection Agency (EPA), is authorized to enter into long-term contracts with farm operators and owners for the purposes of installing practices to reduce nonpoint source pollution. Only those soil conservation projects identified under section 208 as best management practices are eligible for funding, and the Federal cost share may be as high as 50 percent.

These rural clean water projects are designed to address a major deficiency of current soil conservation programs in their emphasis on land with the most severe water-degrading soil erosion problems. These funds will not be used for practices instituted by one or two operators in a particular area when broader participation is needed to reduce runoff. Under some watershed, hydrologic, or geologic conditions, water quality goals cannot be achieved unless a high percentage of the pollution source is given appropriate treatment. Accordingly, the section 208 management agencies are to assure an appropriate level of participation by landowners and operators in the area before funding becomes available. Additionally, these funds are to be made available only to those areas which have approved management plans under section 208.

Under this cost-sharing provision, the Secretary is authorized to carry out these rural clean water projects through the local soil conservation districts. These conservation districts are uniquely equipped to help plan, manage, and implement portions of the State- and areawide water quality management plans, particularly those related to the control of pinpoint pollution. They are legal subdivisions of State government, directed by locally elected or appointed commissioners or directors. In most areas, they have been active in the development of 208 water quality management plans and have been particularly involved in the identification of best management practices for nonpoint source pollution control. Providing these districts with the authority and ability to assist with the implementation at the local level will achieve the most efficient use of funds and resources possible.

In addition, the Secretary of Agriculture is to give priority to those areas that have the most significant and adverse problems with nonpoint source pollution. Funds appropriated under this provision will likely not be dispersed evenly throughout the Nation. The intent of this requirement is to limit the application of the program to carefully selected priority project areas.

The heart of this program is the authority for the Secretary of Agriculture to enter into contracts of not less than 5 years nor more than 10 years with cooperating owners and operators of non-Federal rural land. These long-term contracts will be entered into only upon the assurance that the necessary soil conservation practices will be properly established and maintained. Such contracts will help guarantee that the Federal investment will result in the control of agricultural runoff. A project participant will be required to pay back Federal moneys plus interest in the event that the contract is violated during its term.

The conference committee essentially approved the Senate-passed cost-sharing rural water quality program except for a few minor changes. The Secretary of Agriculture has been given greater flexibility to designate other agencies to administer this program in those instances where the soil conservation districts do not exist. The local soil conservation district, where one exists, is to have the primary responsibility for implementing the clean water projects at the local level. Otherwise, another local agency may be designated. The conferees also agreed that the function of this cost-sharing program is to reduce nonpoint source pollution, and that it is not intended to be a copy or extension of existing soil conservation programs in the Department of Agriculture.

The Senate proposal named the Soil Conservation Service as the administering agency, and the conferees retained that provision, adding the phrase "and such other agencies of the Department of Agriculture as the Secretary may designate." This will allow the Secretary to designate other agencies in the Department of Agriculture to assist SCS in its administration of the program.

The conferees decided to strengthen the possible local and State administration of this program. With this change, the Secretary will, where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer this program.

To clarify the establishment of priorities for assistance among individual landowners or operators, the conference committee authorized the soil conservation districts, with the local departmental representatives to address this issue. Districts can relate to critical water-quality problems as identified in the 208 plan as a source of guidance for priorities.

It is intended that funds appropriated under this program are to remain available until expended. This will let individuals who participate in this program know that funding will be made on a long-term basis and will be available throughout the life of their contract. Additionally, due to the magnitude of the task nationwide and the limited funds available, these funds should be used on private lands only. Both of these points were intended to be included in the conferee's report, however, through an oversight they were omitted. I have checked with both Houses and the conferees agree that these points should be made a part of the legislative history on this act and given the same weight as the statement of managers.

Mr. President, I believe the changes made by the conference committee are worthwhile and do not diminish the full objective of this provision. It has an areawide water quality focus to reduce soil erosion and, therefore, efforts under this program must meet different requirements from those that have guided us in the past. I encourage my colleagues to approve this legislation.

Mr. MOYNIHAN. Mr. President, I wish to congratulate the conferees and the distinguished chairman of the Environment and Public Works Committee for successfully negotiating the clean water amendments reported to the Senate today. The conference report contains a sound compromise in all respects. The conferees, in my opinion, did an admirable job in balancing environmental and economic considerations.

Industrial dischargers who are not in compliance with the 1977 standards will be treated sternly, but fairly. The new law will recognize good faith efforts by industry by granting an extension to industrial dischargers that have made an honest attempt to comply with the 1972 law. The conferees should be commended for working out this approach and for resisting attempts to provide general exemptions or extensions for the 1977 deadlines.

The amended provision for the 1983 treatment requirements also reflects a rational approach to environmental-economic tradeoffs. The conference report recognizes that the enormous costs required to implement best available technology may result in marginal environmental benefits. Exemptions from BAT are now provided when the discharger can demonstrate that the benefits and costs of treating conventional wastes do not support the implementation of further treatment.

Some people have characterized the above changes in the law as concessions to industry. That characterization is inappropriate; the new provisions are manifestations of a congressional realization that water treatment as a goal, rather than an action to attain a goal, may not always be in the Nation's interest. The indiscriminate imposition of the 1977 treatment standards made a great deal of sense: the majority of waste from point dischargers was treated and major gains in water quality were achieved as a result of these expenditures. The benefits of the next step, the 1983 standards, are not so great, but the costs are. The conferees recognized that it is time to reinstate the conceptual connection between treatment and environmental quality into water quality legislation.

The conference report preserves the tough stance that the Congress had taken on toxic pollutants and on the protection of wetlands. There is no room for compromise here: toxics must be controlled and our wetlands must be protected. The conferees should again be congratulated for keeping section 404 almost intact and for providing the impetus for an active toxic control program.

An area of great concern to me was the administrative burden that was imposed on localities by the 1972 law. Localities were not permitted to use ad valorem taxes to collect funds for operating publicly owned sewage treatment plants. I argued during our committee markup against this provision as arbitrarily constraining the local implementation of the law. I am, therefore, pleased that the conferees agreed to an amendment that will permit the use of ad valorem taxes. This new provision is of great importance to local governments, such as Suffolk and Nassau Counties in New York, whose sewage treatment projects would have been jeopardized by the old law.

The conferees also recognized the inordinately large administrative burden of the industrial cost recovery provisions. In some municipalities the administrative cost of recovery would have exceeded the recoverable costs. The provision of a 12-month study of industrial cost recovery and a 25,000-gallon-per-day exemption is a wise one. It will be particularly beneficial for large urban areas with several very small businesses, such as New York City, where industrial cost recovery from all dischargers makes little sense.

Mr. RIEGLE. Mr. President, section 69 of the conference report on H.R. 3199 contains what I believe to be an essential tool to cope with chemical emergencies that have plagued this country over the last several years.

The chemical industry has grown by leaps and bounds in the last decade. With sales in excess of $100 billion per year in this country alone, this gigantic industry is responsible for nearly 10 percent of our gross national product.

While chemicals obviously present great benefit to society, our reliance on chemicals has also brought with it grave emergencies which threaten human health and the environment. For example, since 1968 at least 30 food contamination incidents caused by chemicals have resulted in losses of nearly $100 million. Twenty-four States have been involved, stretching from one coast to the other. Kepone, PCB's, "octa," and BCME have all become code words for human suffering and economic catastrophy.

Earlier this year, I chaired hearings of the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation to examine the facts surrounding the widespread contamination of food and the environment by the chemical PBB. While this contamination was restricted largely to the State of Michigan, it is merely indicative of those kinds of problems which affect a large number of States. The extent of contamination in Michigan is overwhelming. Of 9½ million residents in the State, fully 9 million have been estimated to contain PBB residues in their systems.

During the 4 days of hearings we held in Michigan, witnesses detailed an incredible story of bureaucratic lethargy and inaction in coping with this catastrophe. While the contamination took place in 1973, and the responsible chemical was identified in 1974, only now are we beginning to understand the full import of the health effects of this disaster. In January of this year, nearly 4 years after the incident occurred, the National Institute of Occupational Safety and Health finally began to examine the occupational implications of the manufacturing and processing of PBB.

In light of this incredible record, it is with great interest and enthusiasm that I note section 69 of the conference report on H.R. 3199, which establishes an emergency fund to deal with the release into the environment of any pollutant or other contaminant. It is precisely this type of need that motivated me to introduce S. 1330, which would establish a chemical emergency response team to deal with chemical disasters. S. 1330 was adopted, in nearly identical form, as title II of S. 1531, which was reported by the Committee on Commerce, Science, and Transportation in May. Unfortunately, a jurisdictional dispute between the Environment Committee and the Committee on Commerce, Science, and Transportation arose with respect to title II. An agreement was reached between our committees, however, whereby a similar provision would be inserted in the Federal Water Pollution Control Act amendments now before us, thus negating any need to retain title II in the Commerce Committee bill.

In early October, I wrote to the conferees on H.R. 3199 urging them to adopt a number of key changes I though important in order to provide in section 69 of H.R. 3199 what I had sought to accomplish in title II of S. 1531. Through the cooperation of the distinguished senior Senator from Maine and other conferees, my suggestions have been incorporated in the product now before us. I ask unanimous consent that my letter of October 11 to the conferees on H.R. 3199 be printed the RECORD.

I applaud the Senate conferees—especially the distinguished Senator from Maine—for their work in this area.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 11, 1977.

DEAR CONFEREES: One of the things that keeps cropping up in the country is the high number of chemical contamination emergencies and food poisoning incidents, that the government is being asked to respond to. The Kepone tragedy in Hopewell, Virginia, the polyvinyl chloride catastrophe which killed a substantial number of workers at the Goodyear plant and the PBB contamination incident in Michigan resulting in tens of millions of dollars in damages, are only a few examples of the rise of manufacturing highly toxic substances.

Since the Commerce Subcommittee on Science, Technology, and Space held extensive hearings in Michigan last spring to examine the PBB incident, it has become increasingly clear that the Federal Government must step up its efforts, to quickly and effectively respond to chemical emergencies. The establishment of an emergency fund under Section 17 of H.R. 3199 is certainly a good start. I heartily applaud the authors of this section of the bill, and urge that it be accepted by the conference.

While Section 17 of the House bill is certainly a step in the right direction, our experience in examining the PBB incident in detail leads me to conclude that a number of changes would make it an even more useful tool. Thus, I would suggest that the conferees may want to consider the following:

(1) There are many resources which now exist at the state and local level which could be of considerable benefit in responding to toxic substance emergencies. Local physicians, toxicology labs, police forces, and others could all provide extremely useful services in responding to emergencies. I would thus urge that EPA be required to undertake a survey of these public and private resources to ascertain the extent to which they could be helpful in responding to disaster of a chemical nature.

(2) Since a response capability requires that timely notice be given, I would also urge that EPA establish a reporting system among state and local authorities to enable rapid discovery and dissemination of emergency information.

(3) While it may be difficult to do any advance planning with respect to specific emergencies, it does seem useful to spell out the manner in which appropriate officials will respond to chemical emergencies. The development of "contingency plans" at both the state and federal levels should aid in promoting a rapid response. I suggest that consideration be given to providing funding to the states to help them create this capability.

(4) Since chemical and pollution emergencies frequently affect the responsibilites of a number of federal agencies, it is extremely important that these agencies be incorporated into the response mechanism. Consequently, I would urge you to make provisions in the bill for a corporative effort among the agencies of the Federal Government.

Again, let me congratulate the work you have done on this bill. I would very much appreciate any consideration you can give to the suggestions that I have made for improving the emergency response capabilities of EPA.

Please feel free to contact me if I can be of further help.

With best wishes.

Sincerely,

DONALD W. RIEGLE, Jr.,
U.S. Senator.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take this opportunity to commend the distinguished Senator from Maine, Mr. Muskie, and the distinguished Senator from Vermont, Mr. Stafford, the managers on the part of the Senate, upon the adoption of the conference report on H.R. 3199, the Clean Water Act.

As the Members of the Senate are well aware, there have been few issues more difficult or more complicated to resolve than those surrounding the clean water bill. The attempt to balance the legitimate and often conflicting interests of the public in protecting the environment for the future while permitting necessary continued development has been truly herculean. The very fact that it has taken 2 years to achieve this balance is clear evidence itself of the magnitude of the task involved. Thanks to the expertise and dedication of Senator Muskie and Senator Stafford, however, the near impossible has been achieved and the Clean Water Act will shortly become a reality.

Mr. President, I would be remiss if I did not also single out the distinguished chairman of the Environment and Public Works Committee, Senator Randolph, for his outstanding contribution to this legislation as well. But for his dedication and diligence we would not have been able to act on this conference report today. His persuasiveness and articulateness are well known and led the way toward acceptable compromise in the face of almost irreconcilable conflict. The people of this country certainly owe to him, as well as to the other Senate conferees, a profound debt of gratitude.

THE CROWN OF ST. STEPHEN

Mr. CURTIS. Mr. President, the Crown of St. Stephen should not be returned to the present Government of Hungary. If it is returned it will be an insult to freedom-loving Hungarians all over the world.

This crown was a gift from Pope Sylvester to King Stephen. It marked the occasion of Hungary turning to Christianity in about the year 1000 A.D. Later on, King Stephen was made a saint. This crown has great significance to a true government of Hungary, to the Hungarian people and to all who adhere to the Christian faith.

In 1944 when the armies of Communist Russia were about to overrun Hungary, this crown was turned over to the American military forces who prevented it from being turned over to the Communists.

Some months back, President Carter announced his intention to return the crown to Hungary in spite of the fact that they have a Communist government. Several bills have been introduced in the Congress to resist this. A court action is now pending and unfinished to determine whether or not the President can return this crown. In spite of all this the Department of State today announced that they were going ahead with the delivery of the crown to the present Government of Hungary on January 6 or 7, 1978.

Mr. President, this is an outrage. It is an arrogant move prior to the determination of the issues by Congress and by the courts. It is an excess in the use of executive power. It is morally wrong. I hope that President Carter will reconsider this rash action.

Mr. MUSKIE. Mr. President, there is another matter at the desk to be called up.

Mr. LONG. Mr. President, will the Senator yield to me?

Mr. MUSKIE. I yield.

EMPLOYEE STOCK OWNERSHIP

Mr. LONG. Mr. President, I was pleased to learn that the employees of a Stockton, Calif., company, Pacific Paperboard Products, have been able to acquire ownership of their company through the use of an employee stock ownership plan (ESOP).

This is extremely significant in that approximately 1,000 jobs were preserved through the ESOP. Had the employees not been able to effect this transaction, the company would probably have been liquidated by the parent company, resulting in a loss of these jobs, a dramatic increase in the level of unemployment in the Stockton, Calif., area and a great loss of tax revenues in the locality.

This California ESOP is particularly gratifying because the U.S. Government assisted in the venture. Responding to strong congressional support for the ESOP concept, the Economic Development Administration (EDA) made low interest, long-term funds available to the employees to facilitate their purchase of the company for which they work. We made it possible for them to be the company.

In five pieces of legislation over the past 5 years, Congress has expressed its commitment to the ESOP concept as a means of providing employees with access to stock ownership in their company. These are as follows:

First. The Regional Rail Reorganization Act of 1973 (Pub. L. 93-236) which would have permitted ConRail to utilize an ESOP as part of its financing program, thereby enabling it to repay at least a portion of its indebtedness with pretax dollars;

Second. The Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) which formally recognized ESOP as an employee benefit plan and established criteria for its adoption and administration;

Third. The Trade Act of 1974 (Pub. L. 93-618) which as part of the relief package being established for companies that are members of foreign trade-impacted industries, provided that some preference would be given for assistance to such companies which adopt an ESOP;

Fourth. The Tax Reduction Act of 1975 (Pub. L. 94-12); and

Fifth. The Tax Reform Act of 1976 (Pub. L. 94-455) which established, and expanded, the availability of an investment tax credit for employers that adopt an ESOP and which are otherwise eligible for the investment tax credit.

Mr. President, under these five pieces of legislation, ESOP has grown and expanded; employees of hundreds of companies throughout the United States are beginning to acquire an ownership interest. With this comes an awareness that it is now their company whose success is affected by their labor.

Development of ESOP is critically important to this country's economic health, especially in light of the staggering amount of new capital formation which we will require in the future and the disproportionate distribution of stock ownership that exists today. One of the leading banks in the United States estimated last year that we will require over $4½ trillion of new capital formation in the next decade. Clearly, some new vehicle must be developed to provide that additional capital.

To date, no one has developed totally accurate figures on the distribution of stock ownership in the United States. One of the most conservative reports, entitled "Stock Ownership in the United States: Characteristics and Trends," was prepared by the Wharton School of Economics and contained in a U.S. Department of Commerce publication called "Survey of Current Business."

The Wharton study, and I repeat that it is conservative in this regard, reflected that the top 1 percent of the wealthholders in the United States in 1971 directly owned more than 50 percent of the outstanding stock value in the country.

Clearly, some program which gives the remaining population greater access to stock ownership would help promote this necessary capital formation. I feel that ESOP could be of tremendous benefit both in facilitating the creation of more capital and in the creation of more capitalists.

If there has been any weakness in the development of ESOP, it has been the lack of funds or credit available to employees who wish to use the ESOP mechanism to acquire an ownership interest in their company. Lending institutions have been cautious about extending credit or committing funds for a concept which has been in its embryonic stage. Although this reticence is somewhat understandable, it has impeded the growth of ESOP. However, the participation by EDA in the Pacific Paperboard project reflects a growing interest in ESOP on the part of that agency. I wish that other agencies, like the Small Business Administration (SBA) and the Farmers Home Administration (FmHA), would follow the lead of the EDA and get involved.

Mr. President, the EDA has participated in similar ESOP-oriented projects in the past. In 1975, the EDA assisted employees in South Bend, Ind., in acquiring ownership of South Bend Lathe. In 1976, also with EDA support, employees acquired ownership of Rich-SeaPak Corp., in St. Simon's Island, Ga., and ownership of Okonite Co. in New Jersey.

These projects were all made possible by EDA grants of funds under title IX of the Public Works and Economic Development Act of 1965. However, the EDA has other programs through which funds could be made available to support employee stock ownership, either through direct loans or loan guarantees. This would also be true for the SBA and FmHA.

I would like to see these agencies commit some creative thought to how they can participate in the development of this critically important concept. Continued support by Federal agencies should, in turn, encourage private lending institutions to participate on a greater basis, thereby broadening the access to stock ownership for employees.

Mr. President, I might also point out that the November 27, 1977 edition of the Washington Post contained an article about the adoption of an ESOP by Allied Plywood Corp. in Alexandria, Va., and the use of the ESOP to acquire ownership of that company by its employees. The company is quite small, and, as reflected in the article, is already benefiting from the adoption of the ESOP in terms of employee incentives and motivation. This is a clear example of how an ESOP can be creatively used to benefit employer and employees alike.

CORRECTIONS IN THE ENROLLMENT OF H.R. 3199

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 444, directing the Clerk to correct the enrollment of H.R. 3199.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 444) the Senate proceeded to consider the concurrent resolution.

Mr. MUSKIE. Mr. President, briefly, the purpose of this resolution is to correct by interpretation, I suppose, an implication in the clean water bill that was not intended.

The House Parliamentarian is of the opinion that in connection with the cost-sharing program that deals with agricultural pollution the conferees wrote in some contract authority. That was not our intention. It is not our intention to bypass the appropriations process.

The House of Representatives, because of the opinion of its Parliamentarian, introduced this concurrent resolution for the purpose of correcting the record in that respect.

So, since that reflects what the conferees actually intended, I urge that the Senate agree to this resolution.

The concurrent resolution was agreed to.

Mr. MUSKIE. I thank the Chair.

Mr. NELSON. I wonder if the Senator from Maine would yield for a brief question on the conference report we just adopted.

As the Senator knows, in 1963 the Senate passed, with the support of the Senator from Maine, an amendment in the water bill at that time—I think it was 1963—to eliminate the use of phosphates in cleaning agents or reduce their amounts, and then again this year I offered an amendment to the water bill to eliminate the use of phosphates because of the deleterious effect they had on the Great Lakes as a body of water, they being the most serious agent in terms of causing eutrophication, and the Senator from Maine did support that.

It was adopted by an overwhelming margin, but the House would not agree in conference to accept that amendment, although we have passed it twice, if not three times—twice that I recall.

I had understood, although I was not there, that there was some discussion in the conference with respect to holding hearings in both houses on the proposal to prohibit the use of phosphates in the watershed of the Great Lakes. I do not recall whether the chairman was present at that time or not.

Mr. MUSKIE. I was not, but the staff has briefed me on what took place.

May I say the basic problem in conference was that there was disagreement as to the data that bore on the magnitude of this problem in the Great Lakes basin and the contributing causes, so I would like to assure the Senator for myself on the Senate side that we will take another look at the basic data, and I know the Senator will cooperate in undertaking to develop it, and see where we go from there.

I think unless we can establish basic underlying data in a way that is pretty convincing, it would be difficult to persuade the House in another conference. I think we ought to begin at the beginning to look at the underlying data, and when we are ready, if the data indicate it, go to hearings possibly. We will certainly not drop the issue. It is a question of how we pick it up again in order to resolve it.

The Senator from Idaho was in attendance at the conference, and maybe he could add to what I have said.

Mr. McCLURE. I would underscore what the Senator from Maine said. I was one of the conferees and did take part in those conversations, and I think the Senator from Maine is correct. It is going to take some persuasion of House Members as to the basic facts, and I think the Senate committee will be very interested in looking at that basic data to determine what then should be our next move in terms of dealing with this issue.

I would say to the Senator, too, that the act to which these amendments are directed, and these amendments themselves as they are implemented, have an effect upon the problem itself, and the data base, as a result, changes because of the application of the Clean Water Act and the role the activities in pollution abatement play under that act, irrespective of any other mandate with respect to phosphates particularly or separately.

So I think there will be a need for us to look at the basic data, a need for the committee to develop a better information base of what kind of impact current activities are having on the existing law and under these amendments upon the whole question of phosphate pollution. It is not only in the Great Lakes area but in the remainder of the United States.

I am sure the committee will do that. I would cerainly add my own assurances to the Senator that insofar as I am concerned, as far as this one Senator is concerned, we will be undertaking a review of that information.

Mr. MUSKIE. May I say additionally that we will undertake immediately to ask the EPA to give us a report for the purpose of gathering and collating the data bearing upon this issue and this problem so we can have the benefit as early in the year as possible of EPA's input as we consider what steps we ought to take to go from where we are.

Mr. NELSON. May I say to the Senator, when I first introduced that amendment in the past, in 1963, I was satisfied, based upon conversations with scientists who had not done the studies but were extrapolating from their knowledge of how much phosphate was going into the Great Lakes, that certainly there was serious damage and acceleration of eutrophication going on as a consequence, without having a very carefully studied data base to measure the amount or measure the effect.

Since 1972, the statistics I have looked at, based upon the studies made, at least to me, are compellingly persuasive, and I appreciate the comments of the Senator from Idaho and the chairman of the committee, Senator Muskie.

I would hope we could have a chance, at the convenience of the committee, to have the EPA and those who did the Great Lakes studies present their data so that we have it in the hearing record because if, in fact, the studies are correct, it is a very, very serious matter involving the largest collection of fresh water in a chain of lakes anywhere on the face of the Earth.

It has been persuasive enough, the data that have been accumulated over the years, so that the city of Chicago has banned the use of phosphates except for certain measured amounts for industrial and commercial use; the State of Minnesota has done the same, as has the State of New York. So you now have a huge city and two States, all bordering the lakes, which have viewed it as serious enough to ban its use there.

Of course, they are using alternative detergents that work very well. I personally would have hoped the soap and detergent industry would have enough feeling of corporate responsibility toward the welfare of the country and the protection of this great body of water to voluntarily stop selling detergents with phosphates in them in the watershed of the Great Lakes. But obviously they do not or have not thus far, even though they are the same companies that are selling the substitute detergents that are being used very effectively in Minnesota, Chicago, and New York anyway.

Mr. MUSKIE. I appreciate that comment. I assure the Senator we will pursue it.

We are interested not only in the overall impact of phosphates on the Great Lakes, but the sources. I take it agricultural runoff is one of the sources, and how effectively we can deal with that source is a question.

I take it that most, if not all, of the waste treatment plants operating in the Great Lakes basin are taking phosphates out. I do not know how effectively or to what extent that has reduced the problem. Maybe in some cases poor operation is subverting that benign influence on the problem. But in any case let us get all the parameters of the problem and all the data base as refined as we can, and maybe we can find a base that can give us House as well as Senate support.

Mr. NELSON. I might say to the Senator from Maine that many of the same scientists who had thought in 1970 and 1971 that treatment of the wastes and extraction of the phosphate in the plant would be effective have concluded that the answer is to keep it from getting into the plant in the first place. They consider in these studies, which they would be prepared to present, that the factor of the phosphates in detergents is critical to stopping the deterioration of the lakes.

Mr. MUSKIE. It may well be, may I say to the Senator. All we really need is to have the same kind of examination of the problem on the House side as we give it on the Senate side so that when we get into conference again on this issue, if we ever do, at least as to the basic data they will be in agreement so that we will not have to face arguments about whether or not there is a problem that needs to be dealt with.

Mr. NELSON. I thank the Senator from Maine.

Mr. President, what is the pending business?

The PRESIDING OFFICER. There is no pending business.

LEGAL SERVICES CORPORATION—CONFERENCE REPORT

Mr. NELSON. Mr. President, I submit a report of the committee of conference on H.R. 6666 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. RIEGLE). The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for appropriations for additional fiscal years, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 30, 1977.)

Mr. NELSON. Mr. President, the conference agreement on the Legal Services Corporation Act Amendments of 1977 passed the House of Representatives on December 7, 1977, by a vote of 235 to 110.

The conference report was signed by all 10 conferees of the Senate and all 7 conferees of the House of Representatives.

The conference agreement is substantially similar to the bill passed by the Senate on October 12, 1977, by a vote of 77 to 15. The conference agreement, like the Senate-passed bill, extends the Legal Services Corporation Act authorization for 3 years, through the fiscal year ending September 30, 1980. The conference agreement authorizes the appropriation of $205 million for fiscal year 1978 and such sums as may be necessary for the two succeeding fiscal years. And, the conference agreement preserves the Senate-passed restriction on the use of Corporation funds with respect to the undertaking, by grant or contract, of broad general legal or policy research unrelated to representation of eligible clients.

The Senate-passed bill would have authorized legal services programs to use Corporation funds in cases or proceedings relating to the desegregation of any elementary or seconday school or school system. There is a prohibition on such activities under the present law, and the House has voted to retain the current prohibtion on several occasions. Because of this situation, the conference committee agreed to clarify present law, but not to expand it.

Other provisions adopted by the House-Senate conference committee are described hereinbelow.

CONFERENCE REPORT PROVISIONS

Membership of the Board of Directors (sec. 3 and sec. 11).—The conference agreement changes the requirements of present law respecting the composition of a local recipient's board of directors and the composition of the Legal Services Corporation's Board of Directors.

Under present law and Corporation regulations, a local recipient's governing board must be composed of at least one-third eligible clients, or representatives of eligible clients. At least one member is to be an eligible client.

The conferees adopted a Senate provision which would amend current law by providing that representation of eligible clients on recipient boards of directors be increased from at least one eligible client to at least one-third of the membership of such boards and such eligible clients may also be representatives of associations of organizations of eligible clients.

Under present law, the Legal Services Corporation Board of Directors is required to be appointed so that no more than 6 of the 11 members are members of the same political party and so that a majority are members of the bar of the highest court of any State. The conferees agreed to change the requirements for the composition of the Board of Directors.

The Senate bill provided that at least three members of the Corporation's Board of Directors be eligible clients and that membership of the board be generally representative of the organized bar, significant segments of the client community, attorneys providing legal assistance to eligible clients, and the general public. The conferees agreed to a substitute provision in which the membership of the Board of Directors is to be appointed so as to include eligible clients and be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public.

It is the conferees' intent that at least two members of the Board be eligible clients and that at least one be appointed at the earliest possible date. Client representation on the Board will assure that the community of eligible clients will have a voice in the development of Corporation policies, thereby helping to make the Corporation more sensitive to the needs of those whom they serve.

THE SUNSHINE ACT (SEC. 4)

The conferees adopted a measure included in both the House bill and the Senate amendment which subjects the Corporation and each State advisory council to the provisions of the Government in the Sunshine Act. (Title 5 U.S.C. sec. 522(b).)

Under current law, all meetings of the Corporation are required to be open to the public unless two-thirds of those Board members present vote that an executive session should be held. The House and Senate agreed that there is not adequate justification for the Corporation's board to operate under one set of sunshine rules, while every other agency receiving Federal funds operates under another.

Adequate safeguards in the Sunshine Act would permit the Legal Services Corporation Board to meet in executive session in every instance in which an executive session would be appropriate.

CHALLENGES TO REPRESENTATION OF CLIENTS (SEC. 6(a))

The House bill and the Senate amendment each prohibit challenges to the authority of legal services programs to provide representation in a particular case or to a particular client during a legal proceeding. Although no provision in current law prohibits such collateral challenges, the courts have repeatedly declared that challenges to the authority of the legal services program to provide representation are irrelevant to the resolution of the client's case and should not be raised in that forum, but rather should be taken up with the agency providing funding.

Accordingly, the conference agreement adds a new provision to the Legal Services Corporation Act that provides that no question of whether representation is authorized under the act, rules, regulations, or guidelines promulgated pursuant to the act, shall be considered or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient.

The conference agreement also provides for a process by which questions concerning the appropriateness of representation can be referred to the Corporation for review and disposition, and clarifies the appropriateness of judicial review of such disposition. An appeal process to the Corporation is not specified in present law.

Under the conference agreement, an aggrieved party is authorized to refer questions concerning a client's eligibility to the Corporation. The aggrieved party is not required to do so, however; this is discretionary with the aggrieved party. The Corporation is to review and dispose of any question referred to it promptly, and take appropriate action. This procedure does not preclude judicial review of the Corporation's action or inaction where available under applicable law.

HIRING OF LOCAL ATTORNEYS

Current law requires that a local legal services program give preference in hiring attorneys to qualified persons who reside in the community to be served.

The Senate legislation exempted a recipient from the hiring preference if the recipient certified that the position requires specific legal expertise or language proficiency and that no qualified local attorney is available, but provides that in no case may a program give preference to a person which is not consistent with Federal laws respecting discrimination in employment. Because the Corporation's guidelines on hiring preferences provide for the above exemptions, as well as certain other exemptions in which the hiring of nonlocal attorney is deemed beneficial to the client community, the conferees elected to retain existing law.

LEGAL FEES AND COSTS (SEC. 8)

The House bill included a provision which would have mandated that a court award legal costs and fees to a successful defendant under certain conditions. The House provision required a court to determine, sua sponte, whether the "principal" reason the action was commenced or pursued was to harass the defendant or to abuse the legal process. Costs and fees were to be awarded to a successful defendant where the court made such a finding.

The conferees felt that the House provision would have a chilling effect on legal services programs in the undertaking of meritorious legal claims. Therefore, the conferees agreed to retain the present requirement that an aggrieved party raise the question of cost and fees on his own, and that the defendant establish that the "sole" purpose the client brought or pursued the case was to harass the defendant or to abuse the legal process. If the party establishes these facts, then the court is required to assess legal costs and fees against the Corporation.

LITIGATION BY THE LEGAL SERVICES CORPORATION (SEC. 6(b))

Under present law, the Corporation may not participate in litigation on behalf of clients other than itself. When the Corporation filed an amicus brief in the Bakke case, a question arose as to the propriety of permitting the Corporation to file such a brief. While clearly permitted to do so under present law, the conferees adopted a provision that would preclude the Corporation from filing an amicus brief in a case such as Bakke in the future.

Under the conference agreement, the Corporation will be permitted to undertake litigation when the Corporation is a party to such litigation, in instances where a recipient is a party to the litigation, and when a recipient is representing an eligible client in litigation in which the interpretation of the Legal Services Act or a Corporation regulation promulgated thereunder is an issue.

SUPPORT CENTERS (SEC. 5)

Current law requires that the Corporation undertake directly, and not by grant or contract, research, training and technical assistance, and clearinghouse information activities. Both the House bill and the Senate amendment remove this restriction and permit the Corporation to fund such activities directly or by contract or grant.

The conferees agreed to a restriction in the House bill, however, which would place a limitation on the amount of money the Corporation can expend on such activities to 10 percent of its total appropriation for any fiscal year. As a further limitation, the conferees agreed to accept the Senate provision which would prohibit the undertaking by grant or contract of broad general legal or policy research unrelated to representation of eligible clients.

Funding these various activities by grant or contract may prove more economical or effective than adding staff to carry out the activities within the Corporation, and thereby prevent unnecessary growth of an in-house bureaucracy.

APPOINTMENT OF LEGAL SERVICES ATTORNEYS (SEC. 6 (C))

Both the House bill and the Senate amendment provide that a legal services attorney shall not be appointed by a court unless the attorney is compensated on the same terms as a member of the private bar in the court before which he or she is appearing. Some courts have abused legal services programs and attorneys by appointing legal services attorneys without compensation although they do compensate members of the private bar in similar cases. Such practice is inconsistent with congressional efforts to expand legal assistance to poor people, because federal funds are being used to supplant, rather than to supplement, local funding for legal services for poor people.

ACTIVITIES OF STAFF ATTORNEYS (SEC. 7)

The conferees adopted a provision changing the restrictions under which Legal Services staff attorneys may participate in political activities.

The conference agreement would subject staff attorneys to the same provisions of the Hatch Act which are applicable to Legal Services Corporation, state and local employees. The House bill also included language prohibiting partisan political candidacies by staff attorneys. The conference accepted this provision.

Under current law, Legal Services attorneys are the only group of citizens in the country prohibited from holding nonpartisan positions such as membership on school committees, library boards, and boards of education. Under the conference agreement, such persons are authorized to be candidates for non-partisan offices, but they would not be eligible to run for a partisan position. The current prohibition restricting the use of Corporation funds for political purposes or for political activity by legal services program employees during working hours is not modified by this amendment.

ELIGIBILITY FOR LEGAL SERVICES (SEC. 9(A))

Current law provides that evidence of a prior determination that an individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation, shall result in his disqualification as an eligible client. The House bill provided that any evidence that a person's lack of income results from unwillingness to seek or accept employment, without good cause, may be a disqualifying factor. The Senate amendment provided that factors relating to financial inability to afford legal assistance shall include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an appropriate employment situation.

The conferees agreed to language providing that evidence of a prior determination of an individual's unwillingness to seek or accept an appropriate employment situation may be considered as a factor relating to such individual's financial ability to afford legal assistance. Unlike current law, however, such prior determination will not automatically disqualify a client. Other later considerations, such as an intervening illness, may be considered as relevant to an applicant's current need for legal assistance.

PRIORITIES (SEC. 9(b))

Existing law requires the Corporation to establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance.

The Senate bill modified this provision by requiring that recipients, consistent with goals set by the Corporation, adopt procedures for determining and implementing such priorities taking into account the relative needs of eligible clients including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal service or special legal problems, including elderly and handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers and persons with limited English-speaking abilities. The Senate amendment further provided that appropriate training and support services be provided in order to assist these persons. The House provision is identical to the Senate language, but includes in its list of persons with special difficulty of access to legal services or special legal problems only handicapped and elderly persons.

The conferees adopted the House proposals, but made clear that the two enumerated groups were not intended to be an exclusive listing, but merely illustrative of those groups which may have special legal problems or difficulties of access to legal services.

In order to provide the Congress with information on the establishment and implementation of the new priorities section, the conferees accepted a Senate amendment requiring that the annual report of the Corporation include a description of the services provided pursuant to the priorities section.

ELIGIBLE CLIENTS SPECIAL NEEDS ASSESSMENT STUDY (SEC. 13)

The Senate bill includes a model projects section which authorized the Corporation to make grants or contracts to develop and operate model projects to expand or improve the deliveery of legal services to segments of the client community with special difficulties of access to legal services or special legal problems.

The conferees agreed that the Corporation shall conduct a study on whether eligible clients who are veterans, native Americans, migrant or seasonal farmworkers, persons with limited English-speaking abilities and persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services have special difficulties of access to legal service or special legal problems which are not being met, and that appropriate recommendations be made and implemented to deal with these problems. The Corporation is to submit the report and accompanying recommendations not later than January 1, 1979.

In receding from its provision on model projects, the Senate conferees did so with the understanding that authority for such projects already exists in sections 1006(a)(1) and 1007(g) of the Legal Services Corporation Act of 1974. The Corporation may implement any recommendations in its report under the authority of sections 1006(a)(1) and 1007(g).

LEGISLATIVE AND ADMINISTRATIVE ADVOCACY (SEC. 9(C))

Current law provides that no corporation funds made available to recipients shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative body unless such activities are undertaken in conjunction with the representation of an eligible client, or where a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto.

The House bill adds to the list of legislative and executive actions which the recipients are restricted from influencing "State proposals by initiative petition." The conference agreement includes this provision.

The conferees also agreed that an employee of a recipient (paralegals and similar types of employees), other than an attorney, may represent an eligible client in an administrative or legislative proceeding. The use of paralegals and similar employees in appropriate situations would be consistent with the goal of delivering legal services efficiently and effectively.

The House bill specified examples of the types of representation (testifying, drafting, or reviewing measures, or making representation to an agency, body, committee, or member) that may be made by legal services programs in response to a request from a legislative or administrative body or member thereof. The Senate conferees agreed to this provision, but noted that the representations enumerated in the bill are those which are already implicit in current law. This provision in no way precludes a recipient from responding to a general request directed to a recipient by a governmental body or member thereof.

The House bill provided that a legal services program may engage in legislative and administrative advocacy with respect to a measure directly affecting the activities of the recipient program, the Corporation, or (if the local Board votes to take a position on a particular subject) eligible clients. The Senate receded with an amendment, which provides that a recipient may make representations on a measure directly affecting the activities under the Legal Services Act of the recipient or the Legal Services Corporation. This amendment does not permit, without request, the type of advocacy on matters of general concern to poor persons, which would have been authorized under the deleted House language.

LIMITATIONS ON THE USE OF CORPORATION FUNDS (SEC. 10)

The conferees agreed to continue certain limitations on the use of Corporation funds, while agreeing to remove or modify others.

The law currently provides that no Corporation funds may be used to provide legal assistance with respect to any fee-generating case except in accordance with guidelines promulgated by the Corporation. Questions arose under this language, however, as to the appropriateness of undertaking statutory benefit cases such as SSI and social security cases.

The conferees agreed to a Senate amendment which permits legal assistance in a free-generating case in which a client seeks only statutory benefits and where appropriate private counsel is unavailable, and in other situations where authorized by Corporation guidelines. Legal services attorneys have developed an expertise in administrative law cases involving statutory entitlements such as social security and supplemental security income cases, not commonly possessed by attorneys in private practice, as these types of cases generally provide for a small fee and tend to be extremely complex.

Current law prohibits the use of legal services funds for criminal representation. Both the House bill and the Senate amendment provide an exception, however, to authorize legal assistance to a person charged with a misdemeanor or lesser offense in an Indian tribal court. The conferees adopted this provision because legal services attorneys who have an expertise in Indian matters should have the authority to provide representation to such defendants. The defense in these cases may involve a working knowledge of Indian tribal law and customs with which private attorneys are unfamiliar.

The conferees agreed to repeal the prohibition on the representation of juveniles. Current law prohibits the provision of legal assistance to persons under 18 years of age except at the request of the minor's parent, a court of competent jurisdiction, or in certain other limited situations. The complexity of the current statute has caused uncertainty among recipients as how to interpret the law, and they therefore have refrained from handling such cases, in fear that they may be subject to disciplinary sanctions.

The conferees, after considerable debate, decided to continue the prohibition on the preparation of briefs, pleadings, or similar documents, or participating in any other way in any judicial or administrative practices involving school desegregation cases. Though the Senate had voted to repeal the prohibition on cases involving school desegregation, the House conferees were instructed by a vote of 230 to 186 to insist on retaining the prohibition. However, the Senate offered and the House accepted new language which provides that the prohibition does not prevent a legal services attorney from providing legal advice to an eligible client concerning the state of the law, the individual's status and responsibilities under it, how to obtain other representation, or from making a direct referral to another attorney or organization providing assistance in desegregation cases .

Under current law, funds are prohibited from being used to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of legal assistance to eligible clients in accordance with guidelines promulgated by the Corporation. The House approved and the Senate conferees accepted a provision which clarifies this prohibition so as to prohibit the use of Corporation funds to initiate the formation of or act as an organizer of any association, federation, or similar entity, while making clear that a legal services program may provide legal assistance to an eligible client who intends to form or organize such an entity and seeks assistance from the recipient.

The conferees agreed to provide an exception in current law involving the prohibition on the expenditure of funds with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States. The House bill repealed the prohibition in its entirety. The Senate amendment modified existing law to permit legal assistance in a civil case arising out of the Military Selective Service Act where a client alleges wrongful denial of his status as a conscientious objector prior to July 1, 1973. The conferees agreed to retain existing law, but to permit legal assistance in those cases in which an eligible client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law. This date was chosen because it was the first day following the expiration of the last military draft.

OTHER PROVISIONS

The conferees adopted an amendment (section 16) proposed by both Houses that an independent hearing examiner be appointed, when requested, to conduct a hearing for purposes of determining whether financial assistance under the act shall be terminated, suspended, or denied.

The conferees accepted a House provision (section 15(b)) which provides that its appropriation shall be paid to the Corporation in annual installments. This provision is consistent with an arrangement made by the Legal Services Corporation and the Department of the Treasury for disbursement of the Corporation's fiscal year 1978 appropriation. Pursuant to that agreement, the Department of the Treasury has issued an irrevocable letter of credit to the Corporation. The appropriation is shown as fully obligated on the accounts of the Treasury Department, although the Corporation draws on the funds only as needed. The rules, regulation, and reporting requirements governing the usual letters of credit issued by Federal agencies for other programs are inapplicable to the letter of credit issued to the Corporation.

Mr. President, following my remarks, I ask unanimous consent that a letter to me from Mr. Thomas Ehrlich, President of the Legal Services Corporation, be included in the RECORD. The letter concerns the matter of the Corporation's policy respecting its annual appropriation.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. The conferees accepted a Senate amendment clarifying (section 2) the congressional intent respecting the scope and purpose of the legal services program by specifying that the program is intended to assist in improving opportunities for low-income persons consistent with the purposes of the Economic Opportunity Act of 1964, as amended.

The conferees agreed to a Senate amendment providing (section 12) that the principal local bar association (if one exists) of the community to be served will be notified at least 30 days prior to an approval of any grant application, contract, or any other project initiating a legal assistance program, and requires that notification of the initiation of legal assistance in a local community include the solicitation of comments and recommendations.

The conference agreement also provides (section 14) a time limitation during which the Corporation must permit the General Accounting Office (GAO) access to Corporation papers, property, or documents which are necessary to facilitate its annual audit. The Corporation is required under the conference agreement to retain such documents for 3 years from the date of initial possession of custody, unless otherwise requested by GAO.

Mr. President, the conference substitute retains the essential elements of the Senate bill which was adopted on October 12. It strengthens the Legal Services Corporation in its attempt to provide efficient and effective legal services to poor persons. I move its adoption.

EXHIBIT 1

LEGAL SERVICES CORPORATION,
Washington, D.C., November 30, 1977.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor, Senate Human Resources Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR NELSON: You have asked the Legal Services Corporation to comment on the effects of Section 15 of the Legal Services Corporation Act Amendments of 1977, on our investment practices. The language of this provision is consistent with the arrangements that we have made with the Department of Treasury for the disbursement of our Fiscal Year 1978 appropriation.

In response to a request from Senator Hollings, the Corporation has not invested its FY 1978 appropriation. Instead, we have entered into an agreement with the Department of Treasury for disbursement of the appropriation. Pursuant to that agreement, the Department of Treasury has issued an irrevocable letter of credit to the Corporation. The appropriation is shown as fully obligated on the accounts of the Treasury Department, although the Corporation draws down funds only as needed. The funds appropriated continue to be available to the Corporation until expended, and the rules, regulations, and reporting requirements governing the usual letters of credit issued by federal agencies for other programs are inapplicable to the letter of credit issued to the Corporation.

The agreement preserves the independence of the Legal Services Corporation from control by the Executive Branch, and assures that federal funds will not be withdrawn before needed. I hope this information is of assistance to you.

Cordially,

THOMAS EHRLICH.

Mr. JAVITS. Mr. President, I support the conference report, and hope that the Senate will approve it today. I express my appreciation to the many Members who had very grave questions about the continuance of the Legal Services Corporation, but were finally persuaded that the activity was desirable enough so that even with their reservations, they allowed the action which extended it to take place.

With one notable exception the bill the Senate conferees bring back from our conference with the House of Representatives is substantially the same as the bill approved in this body on an overwhelming vote of 77 to 15.

Senator NELSON has already outlined the agreed-upon bill and hence I shall only highlight a few of the important provisions contained in H.R. 6666.

Mr. President, the Legal Services Corporation activity and the legal services rendered to the poor, it seems to me now, on the basis of experience since Lyndon Johnson's declaration of the war on poverty, very clearly indicate that the poor value dignity even more than money, and that that is the hallmark of why this has been, by all odds, the single most significant innovation in the struggle against poverty in terms of Senate action in that field. Its continuance, therefore, is most welcome.

Mr. President, I wish to comment on only one aspect of the conference report. It relates to the existing law which prohibits legal services lawyers from taking desegregation cases. When the Human Resources Committee considered the original subcommittee bill I moved the amendment to repeal this egregious provision. I explained that its repeal would not in any way prejudge the merits of a party's claim that a school or school system was segregated. Repeal of the prohibition meant solely that poor people would have the access as well as the right to a lawyer in such cases. In my view, this was a matter of elementary justice; of equal access under law for the poor to redress grievances by working within our legal system. By a vote of 10 to 3 the full Human Resources Committee upheld my position and the amendment to repeal the prohibition was agreed to.

When S. 1303 reached the Senate floor, some felt we had gone too far and that the existing prohibition should be restored to the Senate bill. Accordingly, the distinguished Senator from Oklahoma (Mr. BARTLETT) offered an amendment to reinstate the prohibition. Speaking in opposition to the amendment, I said:

> If we really are going to give the poor the feeling that they, just as anyone else, can have a lawyer as a way in which to orient them away from the poverty syndrome, they cannot be denied a lawyer in respect of what is considered a violation of basic constitutional rights, if proven in the courts and courts act.

I went on to say:

> I believe that the hands of the Legal Services Corporation should be freed, and that is all we are doing It is not as to any specific kind of redress, and nobody guarantees that any such suit will be won, but simply that the poor man should have the same right as the one better able to take the case into court.

When the matter reached the Senate floor, there was quite a contest, and, by a vote of 38 to 55, the Senate decided to sustain that position. The House conferees, however, had been instructed by the full House to insist on language in their bill which reinstated the existing prohibition. Though we debated this particular section of the bill for a long period of time, I found the House conferees to be almost totally immovable—they just would not accept the Senate's position, stating that it would jeopardize the conference report in the House.

In the end, the Senate was forced, reluctantly and by a close vote, to recede with an amendment to permit counseling and advising a client with respect to his or her rights and responsibilities. Needless to say, I was deeply disappointed at this result. Clearly, the margin by which the Bartlett amendment was defeated in this body was the same as the margin by which instructions were given to the House conferees. But, Mr. President, we were really perched on the horns of a dilemma: either recede or have no bill—it was that simple. So the Senate conferees receded.

I would ask my Senate colleagues who sustained their committee's position on this section, and who felt as strongly as I did, to try to understand the position in which Senate conferees found themselves in the conference. We really could do no better and still have a bill this year. So I hope that Senators will support this report.

Mr. President, these are just a few other provisions in the conference report I wish to address.

With respect to the support centers, which were a bone of contention on this floor and a part of the compromise reached between the committee and a number of Senators, the Senate bill language remains intact. We persuaded House conferees to recede on this matter because we felt it our duty to defend the Senate bill and, thus, prohibit the Corporation from contracting out for general research purposes where the research does not involve representation of eligible clients. There was concern, which by the way I personally did not share, that the back-up centers could become seedbeds of social agitation unless limitations were placed on such activities. The committee accepted the amendment offered by the Senator from Utah (Mr. Hatch) and insisted that House conferees recede, which they did finally.

Mr. President, one other aspect of this matter engaged a considerable amount of the conferees' time, and that was a very laudable effort by the Senator from Idaho (Mr. McClure) to make very clear in the law the situation respecting a litigant represented by a Legal Services recipient, that is; a Legal Services entity in a particular place, whose right to receive representation by the Legal Services entity in question had been challenged, and whether or not this should be open to collateral attack or whether it should be an incident of the proceeding itself. The concern was expressed to the committee during our hearings on S. 1303 that there were numerous instances where the question of a client's eligibility for representation by a legal services recipient was raised during the course of the subject proceeding. The judgment of the committee was that such questions were collateral in nature and should not interrupt ongoing proceedings.

The Senator from Idaho (Mr. McClure) was concerned that the provisions of the bill which prevented such collateral attacks had the effect of slamming the door on judicial review of Corporation decisions on questions of client eligibility for representation. The committee explained that it was not our intent to cut off any existing avenues of judicial review; that we wished only to prevent such collateral questions from being raised during the course of a case and needlessly and repetitively delaying proceedings on the principal matter. The courts had ruled, furthermore, that questions of eligibility should not be raised during a proceeding in a client's case and are not relevant to the resolution of that case—that they are a matter between the Corporation and the recipient.

I would like, now, to yield to the Senator from Idaho, so that we may make it clear of record exactly what he did and exactly what the conference did, and what is the resulting situation.

Mr. McCLURE. Mr. President, I thank our distinguished colleague from New York for yielding and for giving me the opportunity in this colloquy, to strengthen the legislative record and history of the enactment of this conference report, because it is an important concern of a number of people, not just this Senator from Idaho.

I would like to ask one question of the Senator from New York. As the Senator knows, H.R. 6666 would give the Corporation initial jurisdiction for determining whether a representation decision in a given case complies with the provisions of the act.

Some of us had serious reservations over this type of delegation. However, we reluctantly accepted it on the basis of written and oral representations comparable to that contained in the Senate report. I quote:

> Following such complaint and exhaustion of administrative remedies, an aggrieved person or entity may seek judicial review of any provision of the Act or regulations, or of a Corporation ruling.

As the Senator knows, the Legal Services Corporation claims exemption from the Administrative Procedures Act. As the Senator may also know, the Executive Secretary of the Administrative Conference has stated that it is an open question whether decisions of the Corporation on representation issues would be reviewable in a judicial forum absent the caveat which was added to this bill at my request.

I therefore feel it is doubly important for the record to show that it is the intention of Congress, as expressed by the new section 1006(b)(1)(B) of the act, that determinations made by the Corporation on representation questions be appealable to Federal courts to the same extent and in accordance with the same rules that comparable decisions of other Government entities are appealable under the APA.

Does this comply with the understanding of the Senator from New York?

Mr. JAVITS. First, let me say, Mr. President, that it was my understanding that the Senator from Idaho offered his amendment in order to preserve the right of judicial review available under existing law, not to create new review opportunities. Let me assure him that this provision of the bill is intended solely to prevent issues such as eligibility from being raised in the course of a case in which a recipient is representing a client. Such questions have been raised from time to time since the inception of federally funded legal services, and courts that have been asked to rule upon them have uniformly held that such issues are irrelevant to the resolution of a client's case and should not be raised in that forum. Courts have said that such issues should be taken up with the agency providing funds.

In this respect, I note the cases of Jacobs against Board of School Commissioners of the city of Indianapolis, 349 Federal Supplement 605, decided in 1972, and dismissed as moot and on other grounds by the Supreme Court, and also the case of Mayfield against the Denver District Court decided in Colorado in 1973.

The first sentence of the section to which the Senator refers is thus declaratory of existing law as it has been enunciated by the courts. It was decided because we believe that repetitive litigation of this issue is a needless drain of Federal funds to provide representation for poor people and a waste of time for already heavily burdened courts.

With respect to the question of judicial review, the last sentence in the provision makes clear that existing law on judicial review of corporation decisions is unaffected. We have not closed any existing avenue and we have not opened any new avenues for review. Thus, the provision neither adds to nor detracts from the authority of a court to review a corporation decision.

I might add furthermore it is my understanding that applying the usual rules of standing and justificability, a number of courts have reviewed corporation decisions in the past and the same kind of decisions will remain subject to judicial review in the future. So really we have not done anything to preclude the existing available opportunities for review which I thought was the basis of Senator McClure's original concern, to wit, that in the bill as reported by the Human Resources Committee we had inadvertently thrown a roadblock upon the existing avenue for judicial review of a corporation decision. If there was any such idea that is now disposed of.

Mr. McCLURE. Mr. President, I appreciate the remarks of the Senator from New York and I appreciate his willingness and cooperative attitude in regard to this entire question. It is a very difficult one for us to thread through the thicket of legal decisions and determinations and the passions of people on both sides of the question at various times.

I might only expand briefly on the legislative history of this provision.

As the Senator from New York realizes, and has stated, I had prepared an amendment to S. 1303 which would have struck section 6(a) of that bill on the grounds that it would leave the Legal Services Corporation as the sole and final arbiter of its own jurisdiction.

Senator Nelson took issue with this and he graciously provided us with a copy of the report with the following language:

> Under this amendment, persons or entities feeling aggrieved by alleged noncompliance of legal services programs or their employees with the Act's rules, regulations, or guidelines, *will be required first to complain directly to the Corporation.* Following such complaint and exhaustion of administrative remedies, an aggrieved person or *entity may seek judicial review of any provision of the Act or regulations, or of a Corporation ruling.* The amendment does not change existing law with respect to judicial review of Corporation action; but it does help to ensure

that any legal challenge, to the maximum extent possible, is resolved on its merits rather than delaying the provision of legal assistance to eligible poor people under the Act.

Now, this language suggests to me a recognition and, indeed, a guarantee on the part of the sponsors of the bill that judicial review does currently exist in the case of an appeal of a representation question. Furthermore, it suggests to me that it exists in such a form as to constitute a reasonable remedy to charges that the Legal Services Corporation is not complying with legislative mandates. Otherwise, there is no remedy.

Very knowledgeable people, including the Executive Secretary to the Administrative Conference, are suggesting that this point has, up till now, been in question. But no Federal agency should be the final arbiter of its own decisions. I think we will all agree on that much.

The assertion that it is not readily available to the extent and in the manner available to appellants dealing with other agencies would contradict the language which I have just read and would, it seems to me, represent a deliberate deception on the part of the committee staff. I hope that the Senator from New York agrees that the language in the committee report is appropriate legislative history.

Mr. JAVITS. Certainly, the committee report is appropriate legislative history.

Mr. McCLURE. I thank the Senator.

Mr. JAVITS. Then the key word that the Senator used was the word "seek," that they seek judicial review, and there are the words spoken by Senator NELSON that we are not creating a new remedy but we are certainly not cutting one off.

Mr. McCLURE. I thank the Senator from New York.

Mr. JAVITS. I thank my colleague very much. I appreciate fully his cooperation in this matter.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished Senator from Wisconsin, Mr. NELSON as well as the distinguished senior Senator from New York, Mr. JAVITS, who have so skillfully managed the Legal Services bill.

We as Americans are rightfully proud of our system of justice as administered in the United States. But as fine as any judicial system may be it is only as good as the justice it renders to our least fortunate subjects.

Continuation of the Legal Services bill will assure that our poor will be able to receive such assistance.

THE B-1 BOMBER

Mr. ROBERT C. BYRD. Mr. President, the Senate, I believe, has about accomplished all that it is going to do today and for this session, the adjournment resolution already having been adopted.

Earlier today, the leadership indicated that the Senate would take up the social security financing conference report, the legal services conference report, the clean water conference report, and that the Senate would act to extend the emergency authority dealing with natural gas crises that possibly could develop between this date and the time Congress returns, and that the Senate also might take up the matter involving the B-1.

All the foregoing matters have been taken care of, including the black lung problem which I mentioned earlier, with the exception of the issue involving the B-1.

The distinguished manager of the conferees, the chairman of the Armed Services Committee, the chairman of the Appropriations Subcommittee that handled the supplemental appropriation—or at least that part of the supplemental appropriation involving the B-1—will be making a statement; but I should state that, in my opinion, the Senate will be proceeding no further than we have gone and that the B-1 matter will go over until January.

I say this based on my conversations with the distinguished Senator from Mississippi [Mr. STENNIS] and based on my conversations with the Speaker of the House. I called Speaker O'NEILL earlier to inquire as to what the House would do if the Senate should proceed with action on the B-1 today, and he informed me that statements had been made in the House earlier today to the effect that no action would be taken in the House on the B-1 today or in this session.

I related that information to the distinguished chairman of the conferees, Mr. STENNIS; and based on that information and other circumstances, I believe it is his judgment that the Senate should not proceed with this matter at this time and that it should go over until January.

Mr. BAKER. Mr. President, this morning, shortly after the beginning of the session, my good friend and colleague the distinguished majority leader and I had a colloquy about the activities the Senate was likely to engage in during the course of the day. At that time I indicated to him, as he will recall, that we on this side of the aisle hoped most fervently that we would be able to deal with the supplemental appropriations bill and particularly the B-1 bomber issue.

As I pointed out in that colloquy, we have a number of Senators on this side who have substantially rearranged their schedules, who have the strongest convictions with respect to the necessity of going forward with the construction of the B-1 bombers, the next two in particular, and we urged the majority leader to try to bring this matter before us today. I regret, therefore, that it is not the judgment of the majority that that should be done.

Mr. President, we have good attendance. It is my understanding that only four Members are missing on this side of the aisle—only four absentees—which is remarkable at this hour on the last day of the session, when we are about to adjourn sine die.

It is an issue of grave national importance, and I had hoped that we could go forward and consider this matter at this time—not simply because of the inconvenience to a great number of Senators but because it is of extraordinary importance to all of us.

I am happy, however, that there is no effort to deal with this matter piecemeal and that the whole issue will be reserved for final determination next year.

What it means is that $7 billion will not be appropriated in the supplemental appropriation bill this year; and, frankly, I regret that.

Mr. President, fully understanding that, I must say now that I feel certain that there will be a thorough and energetic debate on the whole issue of national security—and the B-1 bomber in particular—when we reconvene next year.

So I thank the majority leader for explaining in detail, as he has just done, his position and the views of the majority in that respect; and I register my disappointment and my distress that we are not able to address that issue at this time, before we adjourn sine die.

Mr. CRANSTON. Mr. President, I should like to express my regret that we are not going to vote on the supplemental appropriation and thus will not have opportunity to come to grips with the issue of the survival of the B-1 bomber.

I fully understand the decision. I have been in touch throughout the day with the distinguished Senator from Mississippi. I think it will be good news for people who presently holds jobs in which they work on the B-1, because obviously the program will not be terminated today and they will not be discharged on Christmas Eve. A decision will come in January.

Having said that, I wish to stress that I do not support the B-1 bomber because of jobs. I support it because of my strong belief that it is essential to our national security and, most of all, to preserving peace through the triad concept of being able to survive any first strike in three ways, by which we could strike back with a devastating second blow. I never would support a military program simply because of jobs, because there are better ways and more productive ways for people to be working if they are not absolutely needed in national defense programs.

I am encouraged by the fact that the decision has been put off, because it is evidence—at least, as I interpret it—of the strength of those who support the B-1. I believe it is quite possible that those of us supporting the B-1 would have won a victory today in the Senate, as supporters won a victory not long ago in the House, had the matter come to a vote today.

I recognize that the decision is made by the opponents of the present approach to the B-1 because of their concern that they might not have carried the vote today.

Also, as the Senator from Mississippi, the distinguished chairman, stated, since the House will not act today no matter what we do, there was less reason for the Senate to act today, and the decision can go over until January.

I recognize that were all Senators present and voting today it would not be quite as likely that the supporters of the B–1 would win. However, I think a trend is moving in the direction of support for the B–1 for a variety of reasons, and I am not at all distressed about a delay in the vote because I think by the time we come to the vote some time early in 1978 a clear majority of the Senate might by then be convinced that it would be wise to postpone this decision to terminate the B–1 program, and complete the fifth and sixth B–1 bombers. This would keep the B–1 bomber team in place while the decision is made in a matter that has arisen since the original decision by the Carter administration to drop the B–1 and go to the strategic air-launched cruise missile.

Following that decision, it became apparent that SALT negotiations with the Soviet Union were leading to restrictions on the range of the cruise missile. That led, in turn, to the realization that restricted range would mean that a certain target could not be reached by the cruise missile and that, therefore, we presumably need what is now termed a penetrating bomber.

The decision as to what plane will be the penetrating bomber will be made sometime next year, presumably.

I received assurances from the Armed Services Committee that when that matter is taken up next spring, presumably, the B–1 along with the FB–111H, a competitive plane, along with any other approaches, will receive full consideration.

In order to receive that full consideration, the maker of the B–1 needs to keep a production and technical team in place to compete effectively with the FB–111H and any other alternative.

I have discussed this matter with the Secretary of Defense. He recognizes the legitimacy of the need, first, to continue spending money until there is a rescission—if there is a rescission; and second, the legitimacy of the need of the B–1 producer to keep its team in place to the degree necessary to enable it to compete on a fair and equal basis.

Thus, with the rescission decision now delayed, it seems to me that the case is even more compelling that when we come to a decision sometime in January that that decision be made in the light of the need to keep a B–1 team in place in terms of production capacity and keep the B–1 in the competition and to make sure that whatever funds are necessary for that purpose are made available in order to insure that when the decision is made as to the penetrating bomber, we have the best possible plane for that purpose, whether it be the B–1 or the FB–111H, or some other plane.

We also now have in abeyance the decision as to whether the B–1 should be carried forward for its original purpose, which was to be the third leg of the triad for deterrance purposes. The other two legs, of course, are missiles in silos and missiles in submarines. This leg would be missiles in B–1 bombers.

As long as we have the Triad in place, it would seem very unlikely that any opponent would risk a first strike against us because they would know they could not knock out enough of our varied retaliatory forces to insure that we could not respond. That is the way we keep the peace presently in the nuclear age.

While the decision will come somewhat later, I look forward to that moment with increasing confidence, although with no flat predictions, of course, as to the outcome. It is still an uphill fight, but it is a fight that might have been won today—the evidence is that it would have been now—and a fight that may be won when we meet again on this matter in 1978.

THE JOHN L. McCLELLAN HOSPITAL

Mr. BUMPERS. Mr. President, in just a moment I shall propound a unanimous-consent request. Before doing so, I wish to say it has been cleared with the chairman of the Veterans' Affairs Committee and by the majority and minority leaders.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of S. 2351 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object, and I do not expect to object, I say to the Senator from Arkansas that there is someone here who has been waiting for quite a bit of time. Something has come up on this B–1 bomber. And in order to facilitate this Senator, I ask the Senator from Arkansas does he have an extended matter at this time?

Mr. BUMPERS. It will take approximately 1 minute.

Mr. STENNIS. That is a high score.

To that, I do not object.

Mr. BUMPERS. I say the Senator from Mississippi is a cosponsor and he will be more than happy.

The PRESIDING OFFICER. (Mr. (MOYNIHAN). Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2351), to name the new Veterans' Administration Hospital in Little Rock, Arkansas, the John L. McClellan Hospital.

There being no objection, the Senate proceeded to consider the bill.

Mr. BUMPERS. Mr. President, I send to the desk the names of 78 Senators who are cosponsors of this bill.

Mr. President, I further ask unanimous consent that any Senator who has not signed as a cosponsor be given the opportunity to do so for 24 hours after the adjournment today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cosponsors are as follows:

Mr. Bumpers, Mr. Eastland, Mr. Hodges, Mr. Abourezk, Mr. Allen, Mr. Anderson, Mr. Baker, Mr. Bartlett, Mr. Bayh, Mr. Bellmon, Mr. Bentsen, Mr. Biden, Mr. Burdick, Mr. Harry F. Byrd, Jr., Mr. Robert C. Byrd, Mr. Case, Mr. Chafee, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Culver, Mr. Curtis, Mr. Danforth, Mr. DeConcini, Mr. Dole, Mr. Durkin, Mr. Eagleton, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Goldwater, Mr. Gravel, Mr. Griffin, Mr. Hansen, Mr. Hart, Mr. Hatfield, Mr. Hayakawa, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Huddleston, Mr. Inouye, Mr. Jackson, Mr. Javits, Mr. Johnston, Mr. Kennedy, Mr. Laxalt, Mr. Leahy, Mr. Long, Mr. Lugar, Mr. Magnuson, Mr. Mathias, Mr. McClure, Mr. McGovern, Mr. McIntyre, Mr. Melcher, Mr. Metcalf, Mr. Metzenbaum, Mr. Morgan, Mr. Muskie, Mr. Nunn, Mr. Packwood, Mr. Pearson, Mr. Pell, Mr. Percy, Mr. Randolph, Mr. Ribicoff, Mr. Riegle, Mr. Sarbanes, Mr. Sasser, Mr. Schmitt, Mr. Schweiker, Mr. Scott, Mr. Sparkman, Mr. Stafford, Mr. Stennis, Mr. Stevens, Mr. Talmadge, Mr. Thurmond, Mr. Wallop, Mr. Williams, and Mr. Young.

Mr. STENNIS. Mr. President, if the Senator will yield, I highly commend him for his measure.

Mr. BUMPERS. Mr. President, I shall just take a moment to say that as to the Veterans Administration hospital, for which money has been appropriated, which is to be built in Little Rock, Ark., and on which ground will be broken hopefully in 1978, this bill will name that hospital the John J. McClellan Hospital.

Senator McClellan told me when I first came to the Senate that there were only two items that he wanted to see be brought to fruition before his term in the Senate expired, and one of them was the appropriation of the money and the construction of this veterans hospital in Little Rock.

Everything was completed, the money was appropriated, the Veterans' Administration had agreed to build the hospital there and everything was completed except the breaking of the ground, and it is most regrettable, of course, that Senator McClellan could not live to see that happy day.

But I thought in recognition of and of his efforts over so many years to see this great hospital built, the finest tribute the Senate and Congress could pay would be to name this hospital, which will alleviate so much suffering, after a man who was indeed concerned about the suffering of those people who have served this country so well.

Mr. President, I yield to my colleague, Senator Hodges.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HODGES. Mr. President, my presence here, unfortunately, is due to the death of the great Senator John L. McClellan. I think it is most fitting that this hospital be named for Senator McClellan and in his memory so that the citizens of Arkansas will long remember his extensive and distinguished service and the many good things he did for our State.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration replacement hospital to be constructed adjacent to the University of Arkansas Medical Center in Little Rock, Arkansas, for which funds have heretofore been appropriated by the Congress, is hereby designated as the "John L. McClellan Hospital". Any reference in any law, regulation, document, record, map , or other paper of the United States to such building shall be considered to be a reference to the John L. McClellan Hospital.

THE BOMBER

Mr. HAYAKAWA. Mr. President, I, too, would like to express my regret that the discussion of the B–1 has been postponed. So many of us in our party have traveled long distances to be here this 1 day to argue this matter, so I look forward with great pleasure to arguing it in January, but I hoped it could have been done today.

I would like to point out, in expressing my regret, however, that when the President canceled the B–1 program, he also stated that the B–1 would remain as an option for the next few years. This is of some concern, because we cannot have the option of the B–1 without building airplanes 5 and 6, the matter which is before us now.

We must realize that termination of the B–1 program, through the elimination of these two planes, will preclude full-scale production, should it be required, for 5 years or more.

Besides keeping our options open, planes 5 and 6 would be of invaluable service for experimentation and testing. Here again the President has expressed his desire to complete the research and development program on the B–1. The information to be obtained from this program is very important to the development of many future U.S. military aircraft, and the failure to construct 5 and 6 will mean the B–1 research and development will not be completed.

Here is a very important matter to be tested, the structural tests, weapons integration, performance under a wide range of flight conditions, development of cruise missile launch technology, and so forth.

One of the most important research and developmental tests remaining to be conducted on the B–1 will evaluate the aircraft's ability to withstand high intensity bursts of radio wave-like electromagnetic energy that are produced over vast areas by high altitude nuclear explosions. B–1 No. 4 has never been protected against this effect. It is quite different electrically from aircraft Nos. 5 and 6, and 5 and 6 are the ones now at issue and, therefore, I would hope when we come to the discussion of this matter later on we would go into this matter of the experimental results to be derived from 5 and 6, and that we can discuss them more fully.

May I close by saying I am grateful to the distinguished Senator from Mississippi for his courtesy in giving me every chance to muster our forces to have a full discussion of this. I only regret it was not possible to go through with it at this time. However, I look forward to debating the issue with all my colleagues again in the future.

I thank the Senator.

Mr. TOWER. Mr. President, I too am disappointed that we failed to act on the B–1 funding matter today. I know a number of Senators rearranged their schedules to be here for this extremely important matter. I canceled engagements in Texas to come back.

I am, therefore, sorely disappointed, and I am perhaps all the more so because in my travels over my State in recent weeks I find a great deal of concern about the strategic posture of the United States vis-a-vis that of the Soviet Union with specific questions being asked me frequently about the cancellation of the B–1, particularly in that it was a unilateral decision made at a time when we were engaged in strategic arms limitations talks with the Soviet Union.

We have also seen growing comments in the press about the consequences and ramifications of the B–1 cancellation, a notable account having recently appeared in Jane's All the World Aircraft, which says that failing to produce the B–1 will strike a strategic imbalance between the United States and the Soviet Union.

This is an enormously important matter, one that we should deliberate on carefully.

I hope we will act on it at the earliest opportunity in the next session.

Mr. President, evidence continues to mount which reflects that the decision made by the President of the United States earlier this year not to proceed with production of the B–1 strategic bomber was a grave and serious mistake. In announcing and justifying his decision, President Carter ignored realities in the strategic balance between the United States and the Soviet Union which cannot be reconciled with the irrefutable strategic arms requirements of the United States for the remainder of this century.

At the outset, I would point out to my colleagues that it is indeed seldom that I feel compelled to adopt a position on the floor of this body with regard to the national defense that is contrary to that espoused by my good friend, the distinguished chairman of our committee, the Senator from Mississippi. However, it remains my firm conviction that the magnitude of the President's error portends consequences of the gravest nature for the future of American military strength. And it is American military strength which must today and for the foreseeable future bear the burden of sustaining peace and security in our world.

There are three aspects of the President's decision which continue to be particularly disturbing to me which I would today reiterate for my colleagues.

The first involves the new administration's reevaluation of Soviet air defense capabilities, which is a crucial factor in determining how long we can continue to rely on the penetrating capability of the B–52. This is a highly technical matter. It requires a careful assessment of projected Soviet air defense systems and a thorough analysis of how well the B–52 will be able to perform when confronted with these systems.

I am extremely skeptical toward the assurances offered by the administration as to how long we will be able to rely on the B–52 to serve as a manned penetrating bomber. The Committee on Armed Services gave evidence of a similar skepticism by endorsing earlier this year the development of a so-called mixed bomber force that would include a follow-on manned strategic bomber in our arsenal to perform at least in part the missions intended for the B–1. There is overwhelming evidence that some sort of manned bomber that can penetrate future Soviet air defenses is an absolute requirement for our strategic forces. Yet, the administration has equivocated on this vital point and avoided addressing itself to how it proposes to meet this future need.

The Secretary of Defense gave an initial endorsement to the feasibility of studying a modification to the FB–111 for this purpose. Subsequently, however, the President of the United States effectively muddled the position of his administration on this proposal, thereby inferring a lack of interest in the FB–111 program. This was a deliberate effort to solidify wavering opposition to the B–1 in the House.

This occurred, some may recall, just prior to a vote on the House floor as to the disposition of B–1 production funds for the current fiscal year. It is now my understanding that there will be no funds requested for such an alternative manned bomber in the forthcoming defense budget request for fiscal year 1979.

This sequence of events has confirmed in my mind the utter confusion within the administration as to our country's strategic needs. I do not believe the Congress and the American people will permit President Carter to ignore indefinitely the military realites posed by future Soviet air defense systems.

Second, the President and the Secretary of Defense have both emphasized the high costs of producing the B–1. The total program estimates for a reduced fleet of 150 B–1 bombers would have been $15.3 billion beyond that already spent at the time of the President's decision. The unit cost of each aircraft would have been about $100 million. But as the administration has attempted to define the costs of what it refers to as the "cruise missile option" and the so-called cruise missile carrier program, the comparative costs have been largely ignored.

It has not been possible for our committee to precisely define a projected cost for a standoff cruise missile carrier program, but preliminary estimates show that the program unit cost of such an aircraft would be about $93 million each.

The total program cost for such a system could easily be as high as $16.5 billion to include 114 aircraft. These figures are difficult to nail down, however, because the administration does not seem to know what its specific plans are for the deployment of the cruise missile system. But it is highly significant that though the B–1 was allegedly canceled because it was too expensive, the alternative program of so-called cruise missile carriers could very well cost the Government even more, with capabilities far inferior to those of the B–1.

Third, the President's decision to cancel the B–1 ignores the threats to the future integrity of the so-called strategic triad. There is presently raging within the Pentagon a heated debate that addresses the present and future vulnerability of our land-based ICBM systems. A major investment in a new, mobile ICBM, the so-called M–X, may well prove to be necessary to insure our ability to retaliate against a nuclear attack.

While the sea-based arm of our strategic force remains the most secure, the field of underwater detection technology is a high research priority in both the Soviet Union and the United States. The ASW capabilities of both sides can be expected to improve substantially, and though there is no foreseeable threat to the SLBM force, we must not be unprepared for developments which could diminish the security of our undersea forces.

The cruise missile is a new and largely untested system, but it must be assumed that such low-flying, relatively slow vehicles could be destroyed with the properly designed air defense system. The ability to do this, I must add, is well within the state of the art of air defense radar and missile technology.

Thus, the third aspect of the President's decision which disturbs me is that it ignores both existing and developing threats to the other legs of the strategic Triad, threats which we must be prepared to meet by retaining the flexibility afforded only by the manned strategic bomber.

It is my concern that the risks associated with such a major shift in our strategic force structure have been seriously understated by this administration.

In summary, the Carter administration has offered an astoundingly weak and unconvincing case to support its decision to cancel production of the B–1 bomber. Even worse, the responses given to even the most fundamental questions posed by members of our committee have shown evidence that the future of the strategic posture of the United States is in serious disarray. The administration has failed to responsibly address itself to the facts which bear out the need for a new manned bomber. It has espoused rhetoric which advertises the cruise missile as a substitute for manned aircraft, which even the most elementary analysis can show is simply not the case. Nor was it ever intended to be.

This environment of uncertainty and disarray has only been exacerbated by the manner in which the SALT negotiations have been conducted in Geneva. Repeated leaks and disclosures from those involved in the negotiations have generated an uneasiness among the public that could adversely affect the manner in which any forthcoming salt agreement is received by the American people.

This uneasiness is spreading even today as more and more people in this country come to realize how incredible it is that the President of the United States made a unilateral decision to cancel a major U.S. strategic weapons program without requiring a single concession from the Soviets at the Geneva negotiating table.

Mr. President, we are at a critical point in our Nation's history in that we must lay the groundwork today for the future course of our strategic forces. This administration has exhibited no leadership in this vital area. This administration has given no coherent direction to the future of our strategic posture. This administration has offered no realistic solutions to the undeniable strategic military challenge which now confronts the free world. Lamentably, Mr. President, it has done but one thing—and that is to commit a grievous error by making a foolish and shortsighted decision that ignores the hard realities before us today.

I urge my colleagues not to ignore these same realities which have been overlooked by the administration. I urge that the Senate support the expenditure of these previously authorized and appropriated funds in order that the development program for the B–1 strategic bomber might continue.

Should the Congress succeed in denying the President the authority to impound these funds, I earnestly hope he will reconsider his previous decision and permit the Air Force to proceed expeditiously with production of the B–1.

Mr. GARN. Mr. President, during the past weeks, many Members of Congress have expressed grave concern relative to the effectiveness and survivability of the strategic triad and our overall strategic posture. This growing concern stems from concessions offered by the United States in the current SALT negotiations as well as the failure to proceed with our own strategic systems.

You are aware that I strongly encouraged the President for production of the B–1 bomber. Unfortunately, President Carter announced on June 30 that he was canceling B–1 production and in its place we would rely on cruise missiles. Of particular concern is the administration's lack of comment in relation to the current SALT negotiations. Even more alarming was the subsequent action in desiring to rescind the fiscal year 1977 funds for building the B–1 test aircraft Nos. 5 and 6. This is because events since the June 30 announcement have made it clear, even to our Commander in Chief that an effective manned penetrator option must be retained as a part of our strategic force.

Despite the unilateral decision by President Carter to terminate the B–1 production program there continues to exist today the requirement for a manned penetrating bomber in our strategic TRIAD of defense. This fact has been emphasized repeatedly by President Carter, Secretary of Defense Brown, and the Department of the Air Force following the cancellation decision. This if further emphasized by the DOD efforts in adding a sizable quantity of money in Fiscal Year 1978 and 1979 to improve the B–52's penetration capability. The Department of Defense has even proposed buying reworked versions of the FB–111, to add to its penetration capabilities in the late 1980's and 1990's.

The requirement for a manned bomber has not gone away with the Carter decision, and it is still a fundamental factor in strategic planning for the following reasons:

It forces large expenditures of adversary resources to counter the penetration bomber capability. These are resources that might otherwise be concentrated on negating other elements of the TRIAD.

It provides full assurance of coverage of hard targets, deep inside enemy territory.

It provides real time onsite damage assessment of primary and secondary targets.

President Carter on June 30, 1977 made two points in his decision to discontinue plans for production of the B–1. First, "the existing testing and development program now underway on the B–1 should continue to provide us with the needed technical base in the unlikely event that more cost-effective alternative system should run into difficulty. Continued efforts at the research and development stage will give us better answers about the cost and effectiveness of the bomber support system, including electronic countermeasures techniques." The President's second point was:

But this is a matter that is of so very great importance, and if, at the end of a few years, the relations with the Soviets should deteriorate drastically, which I don't anticipate, then it may be necessary for me to change my mind. But I don't expect that to occur."

The B–1 base production should remain a realistic option. If the President does change his mind, we will have the continuity of manufacturing skills, the subcontractor team, and the ability to meet in a timely and cost-effective fashion the option to restart. Procurement of planes 5 and 6, as the House has voted to do, will allow us flexibility while we evaluate the yet unproven cruise missile development and the outcome of SALT II.

In order to see why the manufacturing base for B–1 must be kept viable for the next 2 years until SALT II is reviewed and approved by Congress, several factors must be considered:

Fifty-four percent of the total U.S. nuclear throw weight is carried by bombers.

SLBM's do not have a hard target kill capability.

Minuteman force is estimated to be highly vulnerable to a new series of Soviet ICBM's by early-mid 1980's.

B–52's average 16 years in age, some as old as 25 years; estimated to be highly vulnerable by mid 1980's because of size, speed, age.

Soviets have 10,000 to 12,000 radar guided air defense systems; the United States has virtually none.

Soviets have eight times more medium range bombers than the United States.

Soviets have twice the throw weight as the United States.

Soviets have 94 percent more nuclear tonnage than United States.

Soviets have 78 percent more SLBM submarines than United States.

Soviets have 51 percent more ICBM's than United States.

Soviets have four new strategic missile

systems in production and four more in R. & D.

Soviets are developing a new super Delta submarine for deployment.

Soviets are producing the Backfire bomber at a rapid pace—approximately 200 or more already produced/deployed.

Backfire bomber has more range than B–1 and 8 percent more range than B–52, with one refueling.

Soviet cruise missiles—three or four versions are deployed; United States cruise missiles: ALCM–A is canceled, ALCM–B is in R. & D.; Tomhawk is in R. & D. and would not be operational until approximately 1982.

The B–1 is the most thoroughly tested aircraft ever flown—over 811 flight test hours and over 25 hours at supersonic speeds.

Costs, studies, recommendation, and other factors:

Although individual cost of each B–1 seems high, its mission effectiveness/cost effectiveness are higher than all alternatives.

GAO told Chairman Stennis—and apparently no one else—than for threat envisioned for the 1980's, the B–1 was more cost effective than B–52's, FB–111's and wide body cruise missile carriers. If anything, the threat envisioned has worsened.

SecDef and Chief of Staff Air Force last spring acknowledged higher cost effectiveness of B–1.

SecDef's recommendation to President was for a MIX of B–1's and cruise missiles—not for cruise missiles without the B–1.

The Joint Chiefs of Staff recommended that the cruise missile be used in conjunction with a manned penetrating bomber.

FB–111H and B–1 costs, 20-year life cycle costs are estimated at $17 billion for the FB–111H versus $13 billion for the B–1 by House Appropriations Committee study.

Wide body cruise missile carriers would have to be complemented by some kind of penetrating bomber—the combined cost of which would easily exceed the B–1 program.

747 today costs about $40 to $42 million a copy.

Additional costs for racks, computers, BMP, guidance and control, communications and defensive measures will result in a 747/CMC which was estimated by DOD to cost $92 to $98 million unit cost.

Continuing B–1 production would result in an average cost of $85.9 million per aircraft—noting that comparisons are for money to be spent in the future.

Where the TRIAD stands:

ICBM's. From now until the early to mid–1980's the U.S. force appears viable. It becomes vulnerable as the new, high accuracy generation Soviet ICBM's are deployed as announced by SecDef. By L982–L985, as high as 80 to 90 percent of U.S. ICBM's will be vulnerable.

The U.S. answer is the mobile MX just now being put into R. & D. OMB has recently recommended only $160 million and slipping Full Scale Development (FSD).

SLBM's. First U.S. Trident submarine is proceeding very slowly and most likely will not be completed until 1981—Program continues to slip. Has already suffered overrun of about $400 million. Current SLBM's do not have a hard target kill capability. Soviet Union has more SLBM's and SLBM submarines than United States. If the TRIAD is not maintained, Soviet Union resources required for air defense against B–1/cruise missile/SRAM combination would probably be diverted to work on submarine vulnerability problem. If successful within next 8 to 10 years, United States could be in serious jeopardy.

Manned bombers. As B–52 fleet continues to age, they must be replaced.

For near time frame until about 1982, they are estimated to remain capable of beating Soviet Union Air Defenses. New Soviet efforts with SS–10 could drastically change the balance, requiring introduction of a high speed, near-supersonic, on-the-deck penetrator, to force Soviet expenditures on a broad range of defensive problems involving MX, Trident, cruise missiles and the B–1 itself. Any manned aircraft having strategic missions must have the following characteristics—whether a B–1, B–52, wide body transport, et cetera:

Prelaunch survivability.

Hardening against nuclear effects (Blast, EMP, et cetera).

Penetrate close enough to launch or drop weapons.

Large enough to carry effective load.

Self-capable to penetrate defenses and protect itself.

Weapons accuracy sufficient to kill target.

The FB–111H has been proposed as a candidate for the penetrating bomber role, although it is a less capable aircraft and almost as expensive as the B–1 would have been. However, President Carter has stated that he did not cancel B–1 production just to build a less capable bomber for the penetrating role.

These are important considerations when evaluating the need for B–1 bomber planes 5 and 6:

First. President Carter stopped the B–1 in favor of cruise missiles which must also penetrate pronounced enemy defenses (without the benefit of defensive avionics) and which have not undergone the extensive testing that the B–1 has accomplished.

Second. Continuing aircraft 5 and 6 provides the time necessary to be absolutely sure that the cruise missile concept can adequately fulfill the role intended for the B–1 bomber.

Third. From all accounts of the SALT II agreement and the U.S. concessions in the agreement, the United States is accepting range limitations on the cruise missile. The full impact and final SALT agreement is not known and until these considerations are quantified, a B–1 production option is necessary.

Fourth. The United States gave up the B–1 strategic capability with no like concessions from the Soviets.

Fifth. Retaining the production option while finalizing SALT II is the most reasonable course of action.

Perceptions are crucially important, and I am concerned about the clear signal we are sending to Moscow concerning the strength of our TRIAD—both now and beyond. With the Soviets developing and deploying new weapons at an undiminished rate, the time has come to reconsider the practice of unilateral arms restraint.

Mr. President, I believe the President made a very drastic decision last June when he stopped production of the B–1 bomber. Events since that time have only confirmed my judgment, particularly in light of what the senior Senator from California mentioned in what we are doing in SALT.

The President talked about making the cruise missile a substitute for the B–1. As a pilot, I know that is not possible. You simply cannot turn a B–1 or exchange it for a cruise missile. The range limitations that have been placed or proposed of 2,500 kilometers on air-launched missiles, and 600 kilometers on sea-launched or ground-launched cruise missiles, make those almost ineffective, so the combination, in my opinion, is eliminating one leg of the TRIAD.

We are slowing down the decision on the R. & D. funds on the MX mobile missile; the Trident is in difficulty and is running great cost overruns, and I believe that the combination of these decisions is seriously weakening the entire TRIAD. But I am not going to go any further on that today other than to say that I more strongly believe it was a mistake to eliminate the B–1.

I am going to, however, talk about something else that is not brought up too much. I believe the President of the United States is violating the Impoundment Control Act. Several years ago Congress was very upset with President Nixon, because Mr. Nixon refused to spend some money appropriated by the Congress of the United States.

As a direct result of those impoundments and rescissions, Congress passed Public Law 93–344 in 1974 which tried to correct this situation and let the executive branch of Government know that Congress has the power to appropriate money and the President cannot rescind those funds without the agreeement of Congress.

So when the President announced that he did not want the B–1 continued in production, that was for fiscal 1978 funds, and he, in addition, sent a rescission order to the Congress saying he wanted to deappropriate or rescind the remaining funds to build aircraft 5 and 6 out of 1977 funds.

First of all, I think it would make sense for this President or any other not to issue stop-work orders until such time as he finds out if the Congress does agree. I think there was a deliberate subversion of Congress' authority in this matter.

I also use as an example Minuteman III. He issued a stop-work order on further production of Minuteman IIIs in the 1977 buy.

It happened that under the terms of this law both the House and the Senate must agree with the rescission. It must be a positive agreement. They must take action to agree with that rescission. If it is not done within 45 days, the law is very specific. It says:

> Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless within

> the prescribed 45-day period the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded.

It is not ambiguous. It is not like a lot of laws we write. It says when 45 days of continuous session of the Congress end and the Congress has not acted, the President must obligate those funds.

So he sent up his rescission order on Minuteman III. The House of Representatives specifically disagreed with the rescission.

I sent a telegram signed by 14 other Senators from this body saying:

> Mr. President, the House of Representatives has disagreed. It is costing $.5 million a day every day that you delay.

Weeks went by. We passed the 45 days on the 13th of October. Finally, the President acknowledged that Congress disagreed with him. He obligated the funds. The Minuteman III production line is back in operation.

However, there was $105 million of funds left for Minuteman III construction in 1977. Because of the President's exceeding his authority, issuing a stop-work order before he found out whether Congress agreed, $58 million of that $105 million is being spent in start-up costs. Rather than getting 50 more ICBMs, we are getting 30.

Simply as a matter of fact—and it has not been published—the President, who is so interested in saving money on these weapons systems, because he did not abide by the Impoundment Control Act, cost the taxpayers of this country $58 million for nothing, for absolutely nothing.

Now we have the same situation on the B-1. We can argue all we want to about what the House did last week or whether we take it up today or not. The 45-day period under this act expired on October 4. Now I am sure that in the Justice Department they can probably find some attorney over there who, by dribbling out some obligated funds for close-down costs, they can say they technically are complying with this law. But the spirit of the law is certainly not being complied with, and I want to make that point very strongly.

Regardless of who is for the B-1 or against or whether we should continue 5 and 6 or not, the fact of the matter is the Impoundment Control Act of 1974 is very clear, and the President of the United States is subverting it.

Richard Nixon was on TV a few weeks ago and talked about how he thought he was above the law, and President Carter gave a speech and said that no President is above the law, and I agree with President Carter.

So I suggest he and his staff ought to read the Impoundment Control Act, and those funds should be obligated.

I ask anybody on the Senate floor to read the act, and there is not any ambiguity in it. The 45-day period expired.

Beyond this argument, I am going to go to another section which talks about the General Accounting Office. The Comptroller General is expressly empowered, through attorneys of his own selection, to bring a civil action in the U.S. District Court for the District of Columbia to require such budget authority to be made available for obligation.

Now, we will just see about that. I am going to press the Comptroller General to follow the law and to look into filing civil suits against the administration for not following it. Again, we can argue all we want to about the arguments for and against the B-1, but this Congress did pass an Impoundment Control Act in 1974, and President Carter had better read it and abide by the letter of that law, and not just the spirit. Those funds under 5 and 6 ought to be obligated now. They should have been obligated 2 months ago, because this Congress did not take action during that 45-day period.

The **PRESIDING OFFICER**. The Senator from Arizona is recognized.

Mr. **GOLDWATER**. Mr. President, I yield to my friend from North Dakota.

Mr. **YOUNG**. Mr. President, I understand there will not be a vote on the B-1 until January. I would have strongly favored taking up the B-1 today, especially since the report from London by the editor of Jane's "All the World's Aircraft" was published in the news.

Mr. President, how far are we going to go in this country in unilateral disarmament and waste of taxpayer money? The taxpayers have put up with a waste of over $12 billion of canceled programs in the last 10 years. I would like to just enumerate these programs for everyone to understand what we are doing when we cancel the B-1 program.

Mr. President, through fiscal year 1977 the Congress has appropriated $4.4 billion for the B-1. When we add this to the $5.3 billion that was spent on the ABM system, $1.5 billion that was spent on the B-70 aircraft, and $1.0 billion that was spent on the SST, the total amounts to $12 billion.

I am sure most of my colleagues are familiar with recent comments that were made by the editor of Jane's "All the World's Aircraft" in an Associated Press article dated December 7, 1977. I have followed with interest the aircraft and ship articles that Jane's has published for many years. They are reowned in their accuracy in describing the ships and aircraft of the various nations of the world as well as the numbers of ships and aircraft the various countries have in their inventory. The comments of Mr. John W. R. Taylor, editor of Jane's, are very persuasive in favor of the B-1 program.

Mr. Taylor appropriately points out that cancellation of the B-1 program in favor of the older B-52 bomber and the new cruise missile severely weakens not only the position of the United States but of our Western allies. I hope that all of our Members will have had the opportunity to read this article before they vote today. Mr. President, I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JANE'S EDITOR SAYS B-1 DECISION MAY DOOM THE WEST

LONDON, December 7.—President Carter's decision to scrap the B-1 strategic bomber may help bring about a Western defeat if a general nuclear war breaks out, according to the editor of "Jane's All the World's Aircraft" in a preface to the 1977-78 edition.

The editor, John W. R. Taylor, writes in the authoritative annual that rejection of the bomber, which Mr. Carter considered too costly, may endanger the military balance that has prevented war between the two major powers for a generation. The new 900-page edition, is being published tomorrow by Jane's Yearbooks of London.

The Soviet leaders "must be surprised beyond belief that the U.S. President has disposed of the B-1 without asking any Soviet concession in return," Mr. Taylor wrote. "If our planet is subjected one day to the unimaginable horrors of a third world war, 1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown."

President Carter decided earlier this year to cancel the B-1 program, after four test planes had been built. He said that the United States armed forces should rely on the older B-52 bomber and the new cruise missile. The Senate then voted to cut off funds for new B-1's, but the House voted yesterday to appropriate money for two more test planes. The Senate must now vote again on the issue.

CITES MISSILES' LIMITED ABILITY

Mr. Taylor said that cruise missiles, which travel slower than the speed of sound, were incapable of jamming enemy defense radar and were intended primarily for use against undefended targets.

Only one military leader in history, Adolf Hitler, has put his confidence in such a weapon, wrote Mr. Taylor, who is a world aviation authority. And that device, the V-1 missile that was known as the "buzz bomb" caused Britain little difficulty in World War II, he said. Mr. Taylor suggested that Mr. Carter's unilateral action probably was the reason the Soviet Union did not stage its usual display of air power at celebrations in October marking the 60th anniversary of the Russian revolution.

Mr. Taylor said that perhaps only West Europeans, living within range of two powerful Soviet aircraft, the Tupolev bomber, known in the West as the Backfire, and the Sukhoi Su-19 attack plane, felt strongly apprehensive when their own aircraft were ranged alongside the Soviet arsenal. That force includes about 1,400 intercontinental ballistic missiles, 600 intermediate- and medium-range missiles, 950 submarine-launched missiles and 200 older long-range bombers, "each capable of annihilating a city in a second of time," he wrote.

DEFENDS LIMITED B-1 PRODUCTION

Mr. Taylor said the United States did not need to base its B-1 decision on a previously estimated full fleet of 244, with an initial cost of $28 billion. "Even 100 B-1's would have compelled the Soviet Union to expend huge sums of money and immense effort on developing, producing and maintaining defenses against air attack," he wrote.

The editor warned that the United States also was delaying replacement of its interceptors and other aircraft, while the Soviet Union had given its squadrons a 500 percent increase in both radius of action and weapon load within a decade. "At the same time," he said, "the amount of advance warning of an impending attack that NATO units can expect, even on the basis of highly efficient monitoring, has diminished from an estimated 30 days to four of five days."

Mr. **YOUNG**. Mr. President, the news media have indicated recently that our arms strategists are tending to advise the President and the Congress that we should retain our current strength and capability and not proceed with improved weapons for the future. As evidence of this trend I ask unanimous consent to have printed in the RECORD an article by syndicated columnists, Evans and Novak, that appeared in the Washington Post on December 9, 1977.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE "FIXED THEOLOGY" OF CARTER'S ARMS ADVISERS

(By Rowland Evans and Robert Novak)

A White House task force of scientists, whose members and findings reflect the administration's dominant arms-control philosophy, has recommended that President Carter kill Defense Department plans for full development of the proposed MX mobile missile.

What makes this recommendation remarkable is a top-secret Defense Department study in October rejecting the possibility that *any* arms-control agreement could conceivably protect the U.S. land-based Minuteman missile—a finding fully endorsed by Secretary of Defense Harold Brown. Moreover, new tests show the Soviet SS–18 missile to be more accurate than ever, further increasing the vulnerability of U.S. Minuteman silos.

Why, then, would a panel of distinguished scientists not urge the President to move rapidly toward deployment of a mobile missile? Because the key figures on the task force subscribe to a fixed theology of arms control that deplores any new weapons system as a destabilizing sin and preaches that striving for U.S.-Soviet strategic parity is no salvation.

The makeup of the task force was guaranteed to oppose the MX, reflecting the arms-control theology prevailing among the White House officials who selected the panel. This, in fact, is what the current SALT debate is about: Can national safety be found in a policy that automatically bans new weapons, or through a policy that insists on strategic parity?

The MX panel was headed by chemist John Deutch, chief scientist for the Energy Research and Development Administration (ERDA) who is respected by hard-liners. But the mild-mannered Deutch is not assertive enough to win against the stacked deck: Richard Garwin (IBM), Wolfgang Panofsky (Stanford), Marvin Goldberger (Princeton) and Saul Buchsbaum (Bell Laboratories), all physicists, and Engineer Jack Ruina (MIT). All are ardent arms controllers.

The stacked deck, with Garwin on top as the ace, foretold the outcome. During the week of Nov. 28, a report went to the President's desk denying urgent need to do anything about the vulnerability of Minuteman silos. The scientists claimed that the Air Force, instead of seeking deterrence, is pushing the MX for a war-fighting, war-winning capability.

Accordingly, the task force reached its verdict: It is premature to begin full-scale development of the MX in fiscal year 1978–79 as proposed. At the Pentagon, this recommended delay is viewed as a ploy to kill the MX, already delayed two years from the original Ford administration scheme.

Yet without a mobile missile, there will be no secure land-based leg in the U.S. retaliatory triad (land-sea-air). A recent test of the Soviet SS–18 suggests, according to Defense officials, a dramatic break-through in accuracy further threatening the Minuteman. Even before the news of this test, the October Defense Department study presented bleak news for its top-secret readership.

While supporters of the Carter administration's SALT proposals had boasted that they could limit the big Soviet missile system to guarantee security of the Minuteman, the Defense Department report emphatically disagreed. Nothing in the SALT proposals could prevent the Soviet Union from achieving enough accuracy to destroy the Minuteman force.

Soon after reading this report, Secretary Brown—not permitting direct quotation—talked bluntly to reporters Nov. 6: "People who say we have to have Minuteman survive are going to have a hard time with lots of SALT agreements . . . a SALT agreement that will ensure the survivability of Minuteman is very different from any that has ever been discussed by both sides."

Yet, more than two weeks later, a leading congressional SALT enthusiast was putting out precisely the opposite information. Rep. Bob Carr (D-Mich.) an observer at arms-control negotiations in Geneva, told Aerospace Daily on Nov. 23 that "if a SALT agreement is as effective as I think it will be, Minuteman will not grow in vulnerability."

If the Minuteman is not vulnerable, there is no need for the MX in the view of the arms-control lobby. So, Sen. Thomas McIntyre (D-N.H.), a leading congressional foe of the MX, signed a Nov. 29 letter to the President from like-minded senators declaring it is necessary to limit Soviet missile development to protect the Minuteman.

But the invulnerability that the senators want through negotiated limitations on Soviet missilery is deemed unattainable by Brown and his experts. Their alternative is the MX mobile missile, but that violates the theology of arms controllers in the Senate, in the administration and now on the President's special scientific task force. It is Jimmy Carter who must consider whether these theologians know where the nation's safety lies.

Mr. YOUNG. Mr. President, there is every evidence that the Soviet Union is continuing to develop new weapons systems with greater accuracy and capability than their present weapons and they are refusing to agree in SALT negotiations to limitations on such development and deployment of these new weapons in their forces.

If we continue with the trend that is so apparent in canceling of the B–1 program and slowing down the development of our other defense programs, there will be no doubt that the advantage will lie in any future negotiations with the U.S.S.R. I know that all of us want a strategic arms agreement, but we would be highly dissatisfied, to say the least, if such agreement were reached that left this country as a second-rate power subject to our bending to the will of the U.S.S.R. as the one single first-rate power in the world.

Mr. President, history is full of examples of the principle that a nation must negotiate from strength rather than weakness. The editor of Jane's "All the World's Aircraft" has sounded the alarm and indicated the consequences if this country does not sustain its position as a first-rate power equal to the Soviet Union.

The issue before us today is the rescission of $462.0 million of fiscal year 1977 appropriations. This money will not affect the Congress decision to terminate production of the B–1, but will allow the full development of the B–1 including the building and testing of the seven development aircraft. The continuation of the full development of the B–1 will provide a more logical and complete basis for decision concerning a follow-on bomber. The Defense Department and the administration must face up to the replacement of the aging B–52 in the near future if the bomber leg of the strategic triad is to be retained in our deterrent forces.

I urge my colleagues to support the distinguished Senator from California's (Mr. HAYAKAWA) motion to agree with the action of the other body not to rescind the money for the B–1 when it comes to a vote. I regret the vote on the B–1 will go over till January.

Mr. GOLDWATER. Mr. President, during the many years I have served in this body and have had the signal honor to serve with the distinguished Senator from Mississippi, I think this is probably on the very few times we have ever disagreed. Yet I find myself having to admit that I was in agreement with him when the action first came up about a month and a half or 2 months ago. But things have happened since that time, Mr. President, that have caused me to change my mind, and I so informed my friend from Mississippi, that I was going to plead on behalf of the B–1.

I think this is another indication of what is happening to the United States in the eyes of the world, with a President who cannot make up his mind. He reminds me of a Mexican jumping bean: You put it on a hot platter and it jumps, and never comes down in the same place twice.

He said he was not going to go ahead with the B–1 bomber. That was a campaign promise, and I have to admire him for keeping that campaign promise; it must have been a tough one to keep.

But, Mr. President, we have not had any follow-on. We have had no sound reasoning from the White House as to why he wants to stop the B–1. We have had no suggestion from the President as to what he would substitute in the way of a pentrating bomber; and I might say for the information of my colleagues, if they do not understand that term, a penetrating bomber flies about 200 to 300 feet above the ground, not 50,000 feet, and at that speed it flies at mach 0.85, which is 650 miles an hour.

The equipment we have today, the B–52, cannot take that kind of punishment. I have a little inside knowledge on this subject; I have flown both aircraft, and while the B–52 can be flown at about 350 miles an hour at low altitude, it takes a terrible beating from the turbulence flying that low and that fast.

The Senator from Utah (Mr. GARN) put the subject very well, and put it on the President's back to do something about the action the Senator from Utah had charged him with.

The reason why I have become more vitally concerned since talking with my friend from Mississippi some time ago is that there is not only a report from our own strategic institute, but there is also a report from London placing this country in a different position without the B–1. When bodies like that, particularly the London-based strategic institute and the editor of "Jane's All the World's Aircraft," makes a statement like that, it has got to cause people concerned with the military position of this country to be worried. They are seldom wrong; they have been the bible on weaponry for many years.

Then, when I sat in a discussion with Senator JACKSON and Mr. Vance, the Secretary of State, I began to worry about what we were giving away in the SALT talks. I read one day in a newspaper at home that Dr. Brown, the Secretary of Defense, had made some further suggestions as to the limitations of our cruise missiles.

Mr. President, I repeat what I have said before: It will not be long before our negotiators in the SALT talks will give away the only weapons system we have left on the boards today that the Russians really fear, and that is the cruise missile.

Those things, Mr. President, cause me to take a strong stand on this floor in support of the action taken by the House, so that we can proceed with these two extra bombers. Not that they will make a fleet; they will not. I could even argue against them, because we do not need them for test purposes; we have enough test aircraft, but I think the time is close at hand when the President will have to make up his mind concerning the safety of our country. We either move for a new strategic bomber, or stand absolutely naked in this world as far as strategic forces are concerned.

It will take us 4 to 8 years to modify all the B–52's, and even then it will not be a bomber worthy of the modern name. The President is going to be forced to do that, in my opinion, and may be forced to do it very shortly, because the SALT talks, in my humble opinion, will either be concluded, and this body will not approve what they conclude with, or they will just fall on their face, due to the fact that our negotiators were not up to the task when they were there before, and they are not up to the task now.

I think it is necessary, therefore, that we keep at least a skeleton staff on at the factories that are making parts for this bomber, that we keep them close together. There are some 8,000 people involved, and I repeat what the senior Senator from California said: I would not be tempted for one moment to vote for any weapon because it involves jobs. As far as I am concerned, those 8,000 people can go home. But, as far as I am concerned in the next breath, we need them to build the bombers; we need them there when the President is forced to change his mind and go ahead with the construction of a bomber that will make our fleets modern and superior to those of the potential enemy.

Mr. President, I have prepared additional remarks on this subject. I know the hour is getting late. I know many Senators traveled, as I did, and as the junior Senator from California did, all night long getting here from the western part of the United States, expecting to vote on this issue. I fully understand the reason for not voting today, but I wish sometimes the other side of the aisle would have that consideration for us poor Republicans when we know darn well we do not have the votes, but there is nothing we can do about it. Here we find them without the votes, wanting to back up a little bit.

It is all right with me, because as far as I am concerned it is a victory for the side that wants the B–1.

When the President made his decision last June not to produce the B–1, I said he was wrong and that such a decision was not in the best interest of our national security. Nothing has happened since that time to cause me to change my mind. The Senate should recede to the House on this point and the administration should be directed to build these two aircraft.

Mr. President, let us examine what has taken place in the strategic area since last June.

A most important issue is the ongoing SALT II negotiations which, in their present state, are unlikely to result in a treaty that the Senate will ratify. Thus far in its negotiations with the Soviet Union the administration has made at least two serious blunders.

First is our unilateral declaration that 2500 kilometers would be a satisfactory range for the cruise missile, without a specific understanding of what the operational range would be. Even though the administration has stated the cruise missile will be the "senior partner" in our future strategic force, the Department of Defense is currently struggling to insure that its requirement for a definite operational range is protected.

It is terribly ironical that on the one hand, the administration has elected to rely on cruise missiles in the future, while on the other hand, the steps it has taken during the SALT negotiations on the range of the cruise missile make one wonder. A situation like this hardly inspires confidence and certainly it does not reflect a coordinated strategic policy within the administration.

Second, President Carter made a mistake by unilaterally giving up the B–1 when he could have used it first for bargaining leverage at the negotiating table. As things stand now, we really have no negotiating leverage other than cruise missile range and number of cruise missile carriers. Here we have apparently already agreed to a limit of 120 cruise missile carriers, which pretty well determines the total number of cruise missiles we will have. Yet, during our hearings this summer on the fiscal year 1978 supplemental bill, strategic air command witnesses and members of the joint strategic target planning staff were unable to tell us what impact such a force would have on the SIOP. In fact, no senior member of the Department of Defense or National Security Council from the Carter administration prior to the President's decision ever bothered to receive a briefing on the SIOP and examine how such a cruise missile oriented force would work.

Thus far, the United States' performance at the SALT II negotiating table reflects a very serious lack of understanding of how to deal with the Soviet Union. Our negotiators are too eager to make concessions early or of a magnitude not required.

Mr. President, there are other factors that bear on the need to proceed with the production of these two B–1's.

We are facing two serious deficiencies in the 1980's. The first will occur when our present B–52 bomber capability will be seriously degraded as Soviet air defenses improve and expand. The second will occur when our own land-based ICBM force becomes unacceptably vulnerable to Soviet ICBM's as their SS–18's and SS–19's are brought on line.

In my opinion, we are not doing the right thing in either research and development or procurement to overcome these two deficiencies. Production of the B–1 and a return to the original MX development schedule is the way to assure that these deficiencies will not be realized.

Mr. President, there are also international political reasons for building these two aircraft.

For the immediate future, beginning production of these two aircraft now could have a favorable effect on the ongoing SALT negotiations by providing bargaining leverage that our negotiators are now so sorely lacking. The net result could be a treaty more equitable to the United States and one that the Senate could ratify.

Additionally, the Soviet Union is put on notice that throughout the period of the protocol of any SALT II treaty, we will have the continuous option of increasing B–1 production if required. The ongoing production of these two aircraft will provide visible evidence that the United States has a significant option ready at hand and that possibly the Soviet Union, by its adherence to the terms of any protocol or treaty, could have an influence on the total number of B–1's built.

Beginning now facilities additional production that could be funded in the fiscal year 1980 budget. While it is possible to start cold in fiscal year 1980 and still make a 1986 IOC for the 65th B–1, such a start assumes the entire production team of skilled people would be immediately available for rehire. That is an assumption I cannot accept since it is totally unreasonable to expect these skilled craftsmen to be around and available. Anyone in the aircraft business will tell you that a reliable and competent production team is not put together overnight.

Mr. President, contrary to what some say, it is not a waste of $462 million to build these two aircraft. It is a justifiable expense that buys us a badly needed option for our strategic force structure. In fact, if the Senate believes that a 747-type cruise missile carrier is less expensive than what we were going to pay for each B–1 under the original program, it should examine our research and development Subcommittee hearings on the fiscal year 1978 supplemental bill. In response to a question for the record, DOD indicated that each 747-type cruise missile carrier would cost about $93 million. This is hardly a less expensive system than the B–1 and certainly it is far less capable.

Finally, Mr. President, I reiterate that proceeding with these two aircraft will give us additional leverage at SALT II and will greatly enhance the chances of the administration giving us a treaty we could ratify.

I urge the Senate to recognize the need to proceed with this program.

Mr. STENNIS. Mr. President, I shall not detain the Senate, but a very, very few minutes, maybe not over 2 or 3.

Yesterday, last night, and today I did what I could, with the help of others, in trying to get this matter to a vote. But, as is always true when a great deal is to be done in a short time on an important matter, it is very difficult to get fully prepared.

I have been around the B–1 bomber program a good while, and we have had many votes about it before this year; and then this year we have had an unusual number, and I voted in the Appropriations Committee as well as the Armed Services Committee, and I am really disappointed that this matter could not be decided today.

I think it is a highly important matter, and, frankly, it is none too good a situation to see a matter of this importance and consequence decided, at the very least, as a part of a very large bill.

Mr. President, I would like to have quiet in the Chamber, if I may.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. So, Mr. President, I was saying that this matter is of such consequence I hate to see it decided in a hurried vote as a part of a much more voluminous bill. This bill carries over $7 billion for other matters.

In spite of real efforts to be here, though many came and had to leave, with others making a special effort to be here, this is not too wholesome a time this afternoon, with almost one-fourth of the membership necessarily away, to take this important vote.

The main matter now in my mind, and I say this with all deference to the House and its membership, is that they said they were not going to take up this bill on this day or in this week. They really had other highly important matters. That fact made it clear to me that we could not settle anything today on this matter, I thought, because there would have to be further consideration of the matter. One House can never finalize a bill.

As evidence of preparation, I was thinking very strongly that we would have a vote, until we learned of the situation in the House. I had already sent out a Dear Colleague letter, trying to summarize briefly on one page the high points of what was involved.

But things went the other way. I believe it would be a more wholesome thing for the country, and its defense as a whole, for us to decide this matter in January, I hope, with a good debate on it in each body, and then reach a decision.

Just for the record, I state that the money we are talking about today is what I call old money. We have already left the B–1 money out of the 1978 budget. The President has said he is not going to recommend any procurement funds for the 1979 budget, which makes it almost conclusive that there will not be anything voted for deployment of the B–1 bomber.

We have already voted a very liberal sum for continued research and development on the B–1. As an advocate of the B–1, I think the sound position is to say, "Well, as to this old money we will rescind it" and that is what the amendment says and it is all it says, "And with the President's assurance and his written statement that the B–1 is still a part of the options before him and others, we will save time in the long run by moving along and making some choices among alternatives and get weaponry on the way which will better fortify our position."

That is why I have been urging that we settle this whole issue in a proper way.

I will not go into the facts of this matter at this time. It is carried over without prejudice, of course, as far as our proceedings today are concerned. I hope it can come up when we will not have the pressure of time so we can debate the issue and get a vote on the B–1 matter, not as part of a voluminous bill which has other things in it which some might vote for in the other part of the bill rather than the B–1 issue alone.

I thank those who have been so considerate, those on the other side of my position on this matter, and I thank the leadership, too, for their long patience as we gathered these facts from the people at the Pentagon, the civilian secretaries, the uniformed men, and so on. Even the President of the United States has been trying to get the facts out where we could proceed. Mr. President, I yield the floor.

REJECTING THE RESCISSION OF FISCAL YEAR 1977 PROCUREMENT FUND FOR THE B–1

Mr. HELMS. Mr. President, I disagree with the distinguished Senator from Mississippi (Mr. STENNIS), chairman of one of the committees on which I serve. Frankly, I never feel comfortable when I do not agree with him entirely.

I will say, Mr. President, that I am disappointed that the vote on the B–1 obviously will not be conducted this afternoon, because I think the American people need to have some reassurance from Congress, specifically the Senate, that we have the defense capability of this Nation before us constantly.

Mr. President, I strongly support the position of the House on maintaining production capability of the B–1 bomber. The President's decision to cancel the B–1 amounts to a unilateral concession to the Soviets in the midst of ongoing negotiations on strategic arms limitation. Under the circumstances, this decision is unfathomable. It may be that the President's advisers thought that a show of supposed "good will" on the part of the United States would enhance the negotiating process. I frankly do not understand that kind of reasoning; but let us, for the sake of argument, give it the benefit of the doubt. What has it accomplished in the intervening months?

The answer, Mr. President, is nothing. In fact, it has apparently weakened our bargaining position, and made us more desperate to achieve an agreement at any cost, while the Soviets have conceded virtually nothing. We know enough about the U.S. negotiating posture to see both the general outlines and the particular details of the agreement. There is no need to go into specifics this afternoon, because the detailed criticisms of such capable and objective analysts as Paul Nitze, T. K. Jones, Fred Ikle, John Lehman, and Seymour Weiss have already received wide publicity. But the sum, however, is clear: we are coming closer and closer to an agreement which is neither symmetrical, nor balanced in terms of opposing forces, nor equivalent in terms of supporting strategies appropriate to the contrasting geographic situations of the two superpowers. There is even doubt that key elements of the proposed agreement will be verifiable.

So if we examine the strategic advantages that accrue to the United States as a result of the cancellation of the B–1, if we ask what it has gained for us, the answer, I repeat, is nothing. The disadvantages, however, are enormous. Only a week ago, the editor of "Jane's All the World's Aircraft," published in London, placed the consequences in a context far more stark than anyone in the United States has so far dared. "Jane's" is noted for its objectivity and its impartial analysis. The publication is not affected by the political pressures and image-building of Washington, D.C. And "Jane's" says simply that the President's decision may doom the West.

Writing in the new edition of the authoritative yearbook, Mr. John W. R. Taylor, the editor of "Jane's," says:

> If our planet is subjected one day to the unimaginable horrors of a third world war, 1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown.

Mr. President, I ask unanimous consent that an article from the New York Times, December 8, 1977, entitled "Jane's Editor Says B–1 Decision May Doom the West," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, we have a chance, however, to give ourselves a reprieve. We have seen that the President's decision to cancel the B–1 has gained us nothing; I think we must also admit that it would be politically difficult for the President to turn around on the decision on his own initiative. What we must do today is to provide him the political base in Congress to assure him that Congress will support the continuation of the B–1 now that it has been demonstrated that the cancellation has not helped our strategic objectives in SALT. The House has already acted to give him that support; the Senate must do the same to give him a graceful way out.

Mr. President, I think we should also recognize that our decision here today should basically be a decision to keep our production capability open. The funds we are talking about here would procure two B–1's; it is not a total commitment to the whole program. It would be just plain foolish to phase out these aircraft—it would cost an estimated $700 million to terminate procurement on these three alone. But for an estimated $300 to $400 million more, the taxpayers will get sophisticated bomber aircraft, and maintain production lines so that we can move to rapid procurement of additional aircraft when needed. If our relations with the Soviets continue to deteriorate, we must maintain that option.

Indeed, even if the present SALT proposals are accepted, we will need to have that option. Authoritative reports say that the U.S. negotiating team has accepted serious range limitations on the cruise missile. Yet President Carter, in canceling the B–1, said that we could rely on the cruise missile for strategic defenses and, therefore, we did not need the B–1. It would follow, therefore, that if we can't rely on the cruise missile to the maximum extent, then we need the B–1.

Mr. President, the B–1 bomber is designed to penetrate into the enemy's defense system and threaten its very heartland. It is a far more formidable weapon than our aging B–52's. It can fly faster than the speed of sound. It can penetrate enemy territory at tree-top level. It can fly as high as 50,000 feet. It has the longest range of any bomber ever designed and refuel in midair, if necessary, with existing military tankers. Moreover, it can withstand the effects of nuclear blasts, evade enemy radar, and jam enemy radar systems.

By contrast, the B–52's are now more than 25 years old, and even with expensive retrofitting, will not be able to match the performance of the B–1.

Mr. President, a lot has happened since June when the President made his decision to halt the B–1. We have the unique opportunity to rethink this decision and to assure our strategic security for years to come.

EXHIBIT 1

[From the New York Times, Dec. 8, 1977]

JANE'S EDITOR SAY'S B–1 DECISION MAY DOOM THE WEST

LONDON, December 7.—President Carter's decision to scrap the B–1 strategic bomber may help bring about a Western defeat if a general nuclear war breaks out, according to the editor of "Jane's All the World's Aircraft" in a preface in the 1977–78 edition.

The editor, John W. R. Taylor, writes in the authoritative annual that rejection of the bomber, which Mr. Carter considered too costly, may endanger the military balance that has prevented war between the two major powers for a generation. The new 900-page edition is being published tomorrow by Jane's Yearbooks of London.

The Soviet leaders "must be surprised beyond belief that the U.S. President has disposed of the B–1 without asking any Soviet concession in return," Mr. Taylor wrote. "If our planet is subjected one day to the unimaginable horrors of a third world war, 1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown.'

President Carter decided earlier this year to cancel the B–1 program after four test planes had been built. He said that the United States armed forces should rely on the older B–52 bomber and the new cruise missile. The Senate then voted to cut off funds for new B–1's, but the House voted yesterday to appropriate money for two more test planes. The Senate must now vote again on the issue.

CITES MISSILES' LIMITED ABILITY

Mr. Taylor said that cruise missiles, which travel slower than the speed of sound, were incapable of jamming enemy defense radar and were intended primarily for use against undefended targets.

Only one military leader in history, Adolf Hitler, has put his confidence in such a weapon, wrote Mr. Taylor, who is a world aviation authority. And that device, the V–1 missile that was known as the "buzz-bomb," caused Britain little difficulty in World War II, he said. Mr. Taylor suggested that Mr. Carter's unilateral action probably was the reason the Soviet Union did not stage its usual display of air power at celebrations in October marking the 60th anniversary of the Russian revolution.

Mr. Taylor said that perhaps only West Europeans, living within range of two powerful Soviet aircraft, the Tupolev bomber, known in the West as the Backfire, and the Sukhoi Su–19 attack plane, felt strongly apprehensive when their own aircraft were ranged alongside the Soviet arsenal. That force includes about 1,400 intercontinental ballistic missiles, 600 intermediate- and medium-range missiles, 950 submarine-launched missiles and 200 older long-range bombers, "each capable of annihilating a city in a second of time," he wrote.

DEFENDS LIMITED B–1 PRODUCTION

Mr. Taylor said the United States did not need to base its B–1 decision on a previously estimated full fleet of 244, with an initial cost of $28 billion. "Even 100 B–1's would have compelled the Soviet Union to expend huge sums of money and immense effort on developing, producing and maintaining defenses against air attack," he wrote.

The editor warned that the United States also was delaying replacement of its interceptors and other aircraft, while the Soviet Union had given its squadrons a 500 percent increase in both radius of action and weapon load within a decade. "At the same time," he said, "the amount of advance warning of an impending attack that NATO units can expect, even on the basis of highly efficient monitoring, has diminished from an estimated 30 days to four or five days."

Mr. DOLE. Mr. President, I was disappointed to learn that the Senate will not be voting on the B–1 today. I know many of my colleagues made a special effort to be present for the debate and vote on this very important matter.

Mr. President, today the Senate was to have determined whether or not our Government should keep the B–1 manned bomber as a practical option in our strategic triad defense. The Senator from Kansas would like to note that this is the same option that President Carter stated he would maintain until the role and type of a manned penetrating bomber is finally decided and until the cruise missile has, in fact, proven itself.

A NECESSARY DETERRENT

Mr. President, the Senator from Kansas has supported the development of preliminary procurement of the B–1 in the past. In May of 1976, during consideration of authorizations for procurement, I expressed judgment that the B–1 is a necessary element of our strategic deterrent and that would help insure the Nation's essential second-strike capability. Mr. President, I continue to maintain this position today.

MAINTAINING THE TRIAD

As most of us realize, the triad concept states that the United States will maintain three independent, but interdependent strategic nuclear forces consisting of land-based missiles, sea-launched missiles, and manned strategic bombers. Each of these components supports and complements the others in an attempt to complicate an enemy's defense planning and reduce his ability to launch a successful strike against the United States. If we diminish or eliminate any one "leg" of this three-prong defense system, we place a greater burden on the other two and increase our vulnerability.

Our strategic policy is designed to deter nuclear war, to discourage conventional acts upon Western Europe or elsewhere, and to defend against coersive diplomacy. It is also designed to conclude any future wars on terms acceptable to the United States. Mr. President, the triad system is an essential basis for this policy, and the B–1 bomber, I am convinced, is an essential component of the triad that must be developed to its fullest potential.

A WEAK TRIAD

Mr. President, in recent months we have repeatedly been warned by experts that our Minuteman missile force is becoming increasingly vulnerable to the improved Soviet first-strike capability. The MX missile, a ground-launched missile expected to strengthen the triad, is years away from production. With respect to our submarine-launched ballistic missile component of the triad, it has been reported the delivery of the first of our Trident submarines will be delayed until 1981.

Then we have the manned bomber, the B–1, whose fate will be determined by this congressional body today. Far from being an "outmoded weapon system," the B–1 remains a reliable component of our overall defense network. Of the three components of the triad, the manned bomber remains the most flexible and controllable system. In the ever-increasing nuclear environment, these qualities are particularly important.

IMPORTANCE OF THE MANNED BOMBER

In the final analysis, a manned bomber is the most accurate, proven military system. In fact, it is the only U.S. weapon system that has actually been used under combat conditions, where it demonstrated its effectiveness and capabilities.

Mr. President, the Senator from Kansas believes it is vital that the manned bomber be retained as a principal component of the triad.

The question as to why we should revive the B–1 program can be answered very easily in light of the uncertainties surrounding the SALT II negotiations. Mr. President, it is no secret that the SALT II talks are not doing very well. Every day we read in the newspapers that the negotiations are not in favor of the United States. Why should we further jeopardize our position in the SALT talks by discontinuing the B–1 program?

Mr. President, we do not know what will happen to the strategic balance of power in the coming years. Because of this uncertainty, the Senator from Kansas is convinced that we must insure, for the American people, an effective national defense—the B–1 bomber can help provide that capability.

OUR NATIONAL DEFENSE

Mr. President, it is difficult to plan for a nation's future security when there is such a variety of professional opinions about the nature and size of our defense needs. A nation's strategic weapons force is something you plan for, hoping never to have to utilize it. And the only real test of your planning success rests with the ultimate ability to stabilize peace, or to win a final victory in wartime. It is not a pleasant responsibility.

Mr. President, this is an issue that goes beyond simple consideration of costs or special interests—it is an issue that bears directly on national survival. My own reasoning, and that of many of my colleagues leads to the conclusion that our defense interests are best served by maintaining our manned bomber system.

Mr. President, as in the past the Senator from Kansas strongly supports the action of our colleagues in the House to keep the B–1 as a practical option in our strategic triad defense.

RECOGNITION OF THE CITY OF MEMPHIS, TENN., AS THE HOME OF THE BLUES

Mr. HAYAKAWA. Mr. President, it is a shame to devote our closing minutes and hours in the Senate to deliberation of a dreadful subject such as the B–1 bomber, the cruise missile, and other instruments of destruction. I would like to close the session on a happier note, with two resolutions. They happen to do with jazz, with music. I am happy to announce that Senators BAKER and SASSER are joining me in sponsoring this resolution.

The resolution is as follows:

Whereas, the seeds of the Blues came from the work songs and "field hollers" of the American Negro throughout the South and

Whereas, these songs and "hollers" eventually coalesced in unwritten form, into melodies, and

Whereas, these melodies came to be sung in urban centers by those freed from the unjust yoke of slavery, and

Whereas, these songs struck a responsive chord in the hearts of many, and came to be known as "Blues", and

IN THE SENATE OF THE UNITED STATES

Whereas, William Christopher Handy, himself the son of a former slave and a classically trained musician, began to document these blues by writing musical arrangements of them, so that the melodies and structure of the "Blues" could be performed and enjoyed by others and preserved for posterity, and

Whereas, W. C. Handy composed a "Blues" song for E. H. Crump's 1909 mayoralty campaign, and eventually published it in Memphis in 1912, under the title "Memphis Blues", and

Whereas, the publication of "Memphis Blues" by Handy Music Co. of Memphis "crystallised the music into a coherent form, using the twelve-bar structure by which it is still best known", and

Whereas, W. C. Handy continued to compose and arrange the Blues while living for many years at 659 Jennette Street, Memphis, and encouraged and supported others in the same endeavor, thereby earning for himself the title of "Father of the Blues", and

Whereas, the City of Memphis has been the birthplace or starting place for hundreds of notable performers, composers, arrangers and publishers of the blues, such as Gus Cannon, Furry Lewis, Memphis Minnie, Memphis Slim, Lil Hardin, Alberta Hunter, B. B. King, Bukka White, Roosevelt Sykes, Frank Stokes, Will Batts, Will Shade, Little Lara Dukes, Ma Rainey II, Sun Smith, Charlie Banks, Mose Vinson, Big Sam Clark, Sonney Blake, Jim Jackson, Robert Wilkins, Nathaniel Beauregard, Joe Dobbins, Houston Stackhouse, Joe Willie Wilkins, L. T. Lewis, Son Burse and countless others, and

Whereas, the City of Memphis has become known throughout the world as the fertile ground from which this uniquely American musical form finally and definitely presented itself to music lovers everywhere:

Be it therefore resolved: that the City of Memphis, Tennessee, be officially proclaimed by this body as

"THE HOME OF THE BLUES"

a title it has for decades unofficially held and richly deserves.

Mr. BAKER. Mr. President, I take this opportunity only briefly to congratulate the distinguished Senator from California for his perceptive evaluation of one of the many merits and assets of a great city. I am sure Memphis is as grateful to him for this recognition as I am to him for bringing it to our attention. I would like to associate myself with his remarks.

Mr. HAYAKAWA. I thank the Senator from Tennessee.

Mr. HELMS. Mr. President, inasmuch as Tennessee was once part of North Carolina, like the distinguished Senator from Tennessee I want to be associated with the remarks of the distinguished Senator from California.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 335), recognizing the city of Memphis as "the home of the blues."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 335) was agreed to.

The preamble was agreed to.

Mr. HAYAKAWA. I am very grateful to the Senator from North Carolina.

Mr. BAKER. Mr. President, I might say, if I may, for a moment, I was in North Carolina recently, where I lavished on my audience great praise for the distinguished Senator from North Carolina, which he richly deserves. In the course of things, I tried hard to disavow the allegation that he makes regularly, that all of us in Tennessee are those who were expelled from North Carolina.

RECOGNITION OF "MEMPHIS SLIM" AS AMBASSADOR AT LARGE OF GOOD WILL OF THE UNITED STATES

Mr. HAYAKAWA. Mr. President, this resolution is also cosponsored by Senator BAKER and Senator SASSER. It deals with a famous jazz musician known as Memphis Slim. The resolution reads in part as follows:

Whereas, on the 3d day of September 1915, there was born in Memphis, Tennessee a boy—Peter Chatman—who was destined to become a great folk and blues artist, and

Whereas, this same lad became very early in life, proficient at piano, singing the Blues, and song-writing, winning recognition and high honors from the start, and

Whereas, he spread his wings at an early age, far and wide, capturing the attention of music-lovers everywhere and causing sensations in Chicago and New York, and

Whereas, he became know all over our nation and thereafter the entire world, as "Memphis Slim", and

Now therefore, in recognition of his position in our nation as entertainer, authentic folk and Blues artist, spreading good cheer throughout a world that can use a little more good cheer,

We, the Senate of the United State of America resolve and proclaim that Memphis Slim has earned and does indeed have, the title of "Ambassador-at-large of Good Will of the United States," and with this title go the good wishes of our people everywhere.

Also with this title go the good wishes of the Senate.

I ask unanimous consent for immediate consideration of the resolution.

Mr. ROBERT C. BYRD. Reserving the right to object, the Senator has cleared the resolution on this side of the aisle. I state that I have no objection.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 336) recognizing "Memphis Slim" as ambassador at large of good will for the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 336) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas, On the 3d day of September 1915, there was born in Memphis, Tennessee a boy—Peter Chatman—who was destined to become a great folk and blues artist, and

Whereas, This same lad became very early in life, proficient at piano, singing the Blues, and song-writing, winning recognition and high honors from the start, and

Whereas, He spread his wings at an early age, far and wide, capturing the attention of music-lovers everywhere and causing sensations in Chicago and New York, and

Whereas, He became known all over our nation and thereafter the entire world, as "Memphis Slim", and

Whereas, In 1959 he received standing ovations for his performances at the Newport Folk Festival and at Carnegie Hall, and

Whereas, He then proceeded to take Paris by storm; and one by one the cities of Europe, Africa and Asia, continuing to this present day as an artist of international calibre, and

Whereas, He, Memphis Slim, representing the pinnacle of musicianship, has worked tirelessly and continuously in presenting the finest programs of his chosen profession, in a manner of which the United States can be justly proud, and

Whereas, He has in the course of his life all over this world, conducted himself in courteous, gentlemanly, fashion, and continued to be an admirable representative of this country, winning high honors for his music everywhere,

Now therefore: In recognition of his position in our nation as entertainer, authentic folk and Blues artist, spreading good cheer throughout a world that can use a little more good cheer,

We, the Senate of the United States of America resolve and proclaim that Memphis

> Slim has earned and does indeed have, the title of 'Ambassador-at-large of Good Will of the United States,' and with this title go the good wishes of our people everywhere.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Chair cannot forfend noting that we have just congratulated a blues singer for spreading good cheer.

Mr. HAYAKAWA. I thank the Chair.

AMENDMENT OF PARAGRAPH 6(j) OF RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

> A resolution (S. Res. 337) amending paragraph 6(j) of rule XXV of the Standing Rules of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, by way of explanation of this resolution, it amends the action that was taken earlier this year by the Senate in reorganizing its committee system so as to permit Mr. HATHAWAY and, I believe, Mr. MATHIAS, to continue to serve another year on the Intelligence Committee. Under the legislation that was passed earlier this year, which bears the name of the distinguished Senator from Illinois (Mr. STEVENSON), it would have been necessary for Mr. HATHAWAY to have given up his membership on either the Small Business Committee or on the Intelligence Committee at the close of the present session. But in view of the fact that he is the chairman of the Intelligence Committee's Subcommittee on Budget Authorization and that that committee has done a pioneering job this year in reviewing a line-by-line review of every item in the intelligence community's budget for fiscal year 1978, something that has never been done before, and in view of the fact that that committee needs his continuing talents on the committee, I have offered this resolution today, after discussing it with Mr. HATHAWAY and urging him, of course, to stay on the committee for another year.

I have offered this resolution which would repeal our earlier action only to the extent that it would allow Mr. HATHAWAY to retain his membership on both of those committees and also allow Mr. MATHIAS, on the Republican side, the same privilege.

Mr. BAKER. Mr. President, I join with the majority leader in urging that the Senate adopt this measure. For some time, now, we have discussed the possibility of arranging for both the distinguished Senator from Maine and the distinguished Senator from Maryland to remain on the Intelligence Committee because of their special situations and special obligations, and special opportunities to be of further service. I am delighted that the difficulties have been worked out in this manner. I think it is not only an appropriate way to handle this special circumstance, but will add significantly to the value of the Intelligence Committee's future activities. I am happy to join the majority leader in urging its adoption.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. I have cleared this resolution with Mr. STEVENSON and have cleared it with Mr. CANNON, the chairman of the Committee on Rules. I have talked with most of the members of the Democratic Steering Committee today, those members I have been able to contact, and all of these members are unanimous in believing that it is important that this resolution be passed which will enable Mr. HATHAWAY to continue his chairmanship for another year and prevent the interruption of the changing chairmanship which would otherwise occur if it were not for the enactment of this resolution.

Mr. STEVENSON. Mr. President, I commend the Senator from Maine for his willingness to serve another year as chairman of the Intelligence Committee's Subcommittee on Budget Authorization and endorse this resolution which enables him to do so. I am pledged to police the Senate reorganization and would ordinarily be reluctant to support such a concession for fear of inviting more and a repetition of the indulgences which necessitated reorganization. This resolution, however, not only permits Senator HATHAWAY to continue his work on the Intelligence Committee; it does so on terms that were granted to other members on other committees. They were given this Congress to complete their work and make their choice of committees to give up. It would not be fair to do less for Senator HATHAWAY, and his work is important.

Mr. President, under the leadership of the Senator from Maine, the Intelligence Committee, on which I also serve, has recently concluded a pioneering effort in reviewing a line by line review of every item in the intelligence community's budget for fiscal year 1978. The product of that effort was a report made which enables each member to know precisely how much is being spent for intelligence efforts and what those efforts will be during the coming months.

Never has such an effort been attempted. It demonstrates that the secret intelligence activities of the Government can be subject to responsible congressional scrutiny without jeopardizing the confidentiality of highly sensitive operations vital to our national security.

Mr. President, it is important that the budget authorization process go forward for 1 more year without the interruption of a change in chairmanship. We are all breaking new ground in our intelligence oversight responsibilities. The process of education alone has been an enormous task, requiring many days of briefings, inspections and hearings and markups. It would be a mistake to jettison the unique expertise of the Senator from Maine, who has devoted great amounts of his time and energy to this task prematurely.

The Executive is now in the process of responding to numerous requests which the Senator's subcommittee has levied months ago for reports, fuller explanations and responses to intelligence budget changes and recommendations desired by the committee and the Senate. Committee follow-up to these first Executive responses will benefit from the knowledge of the Senator from Maine. The Executive is also in the process of implementing reorganization of the intelligence community, and the Senator's knowledge of the arcane intelligence budget will be of value to the Senate as it attempts in this session to fashion legislative charters for the intelligence community.

So, I endorse this resolution, Mr. President. It provides a limited exception to the provisions of Senate resolution 4 by permitting his service on four committees for 1 additional year. But this sets no precedent. It was done in other instances. It is appropriate and warranted in this case by the importance of the continuity to the Senator's work on the Intelligence Committee. I understand that this resolution has the approval of the Senate's leaderships.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to as follows:

> *Resolved*, That paragraph 6(j) of rule XXV of the Standing Rules of the Senate is hereby amended by striking the word "first" and inserting in lieu thereof the word "second".

Mr. ROBERT C. BYRD subsequently said: Mr. President, I move to reconsider the vote by which Senate Resolution 337 was adopted earlier.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are various nominations which have been reported earlier today from the Committee on the Judiciary, the Committee on Banking, Housing, and Urban Affairs, the Committee on Governmental Affairs, and the Committee on Human Resources. I believe that these have been cleared on the other side of the aisle.

Mr. President, I ask unanimous consent that the Senate go into executive session to consider these nominations and that the 1-day rule be waived.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving

the right to object, and I will not object, as usual the distinguished majority leader has correctly reflected our consultation on this matter and we are pleased to report that the nominations have been cleared by the relevant and responsible Members on this side, and we have no objection to proceeding to their consideration.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The nominations considered en bloc are as follows:

DEPARTMENT OF JUSTICE

Louis G. Villaescusa, Jr., of California, to be U.S. marshal for the central district of California for the term of 4 years vice Gaylord L. Campbell, term expired.

Donald J. Kindt, of Ohio, to be U.S. marshal for the northern district of Ohio for the term of 4 years vice Robert G. Wagner, term expired.

Mack Burton, of Arkansas, to be U.S. marshal for the western district of Arkansas for the term of 4 years, vice Lee R. Owen.

Robert M. Thompson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years, vice Leonard E. Alderson, resigned.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Carlisle Edward Pratt, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice Orman W. Ketcham, retired.

Frederick Howard Weisberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice Charles W. Halleck, term expired.

POSTAL RATE COMMISSION

Simeon Miller Bright, of West Virginia, to be a Commissioner of the Postal Rate Commission for the term expiring November 22, 1982, vice Paul A. Miltich.

EXPORT-IMPORT BANK OF THE UNITED STATES

Thibaut de Saint Phalle, of New Jersey, to be a member of the Board of Directors of the Export-Import Bank of the United States, vice R. Alex McCullough, resigned.

NATIONAL SCIENCE FOUNDATION

Joseph Mayo Pettit, of Georgia, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1982, vice Robert Henry Dicke, term expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc and that they be shown in the RECORD as having been considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to reconsider en bloc the votes by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

DONALD J. KINDT

Mr. METZENBAUM. Mr. President, I rise today to urge the confirmation of Donald J. Kindt, of Mansfield, for the post of U.S. marshal for the northern district of Ohio.

I have known Mr. Kindt for many years and can personally vouch for his capabilities as an administrator. For all of his adult life, he has been in public service, including a term as director of personnel for the Ohio Department of Transportation, one of the largest agencies in Ohio State government, with more than 12,000 employees under his immediate jurisdiction.

He is a devoted family man and a man who has proven his love of country by the sacrifices he made as an infantryman in the U.S. Army in Korea where he was awarded the Bronze Star for his courage.

When it became known that Mr. Kindt was being considered for this important post, my office was deluged with letters of recommendation from throughout the State of Ohio. The depth of feeling was evident in these letters. Running through all the letters were words such as ability, leadership, commonsense, integrity, honesty, and dedication.

The words were never more aptly used than in reference to Donald Kindt. I urge my colleagues to vote to confirm his appointment, an appointment that will do credit to the Department of Justice, the State of Ohio, and the United States of America.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSPENSION OF PARAGRAPH 6 OF RULE XXXVIII RELATING TO NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that paragraph 6 of rule XXXVIII of the Standing Rules of the Senate, relating to proceedings on nominations, be suspended with respect to nominations unacted upon during the present session, except those nominations enacted upon by the Committee on Energy and Natural Resources, and the status quo of nominations not to be affected by the sine die adjournment of the 1st session of the 95th Congress, except for those nominations unacted upon by the Committee on Energy and Natural Resources.

Mr. BAKER. Mr. President, reserving the right to object, I must say that it is not possible for me to submit to those Members on this side the question of clearance of a unanimous-consent agreement of this type. Therefore, it is with reluctance, but nonetheless necessary, that I object, and I do now object.

The PRESIDING OFFICER. Objection is heard.

APPEARANCE OF THE SECRETARY OF THE SENATE AS AMICUS CURIAE

Mr. ROBERT C. BYRD. Mr. President, I sent to the desk a resolution on behalf of myself and Mr. BAKER, and I ask that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 338) authorizing the Secretary of the Senate to appear on behalf of the Senate as amicus curiae in certain cases challenging the constitutionality of the legislative veto.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 338) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

SENATE RESOLUTION 338

Whereas, the Constitution vests in the Congress the power to make all laws which shall be necessary and proper for carrying into execution the powers vested in Congress and all other powers vested by the Constitution in the Government of the United States or in any department or officer thereof;

Whereas, the Congress has determined, in some instances, that it is necessary and proper that laws contain provisions commonly known as a "legislative veto"; and

Whereas, the constitutionality of legislative veto provisions is challenged in *Atkins, et al.* v. *United States*, now pending before the Supreme Court of the United States, No. 72-214, on petition for writ of certiorari, and in *Chadha* v. *Immigration and Naturalization Service*, now pending before the United States Court of Appeals for the Ninth Circuit, No. 77-1702: Now, therefore, be it

Resolved, That the Secretary of the Senate is authorized and directed to take the necessary steps to appear on behalf of the Senate as amicus curiae in *Atkins, et al.* v. *United States* and in *Chadha* v. *Immigration and Naturalization Service* in order to defend the constitutionality of the legislative veto provisions involved in such cases and the power of Congress to make all laws as it shall determine to be necessary and proper for executing its constitutional powers.

SEC. 2. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the Supreme Court of the United States and to the United States Court of Appeals for the Ninth Circuit.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR CERTAIN ACTION BY OFFICERS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, notwithstanding sine die adjournment of the two Houses, the President of the Senate, the President pro tempore, the Deputy President pro tempore, or the Acting President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled, and that the Secretary of the Senate be, and is hereby, authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR RECORD TO REMAIN OPEN UNTIL 7 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open until 7 p.m. today for Senators to introduce statements, petitions, memorials, bills, and resolutions, if they so wish.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

FARMERS' AND RANCHERS' MESSAGE TO THE COUNTRY

Mr. MELCHER. Mr. President, I am aware of the grave message American agriculture is sending to the country. Here is my response to them.

Farmers and ranchers of America—though there are not many of you left—thousands of surviving American agriculture producers came to Washington last Saturday with tractors, trucks and pickups.

As a Senate advocate for the 2½ million American farm and ranch operators I welcomed those of you who came to our Nation's Capitol to protest low commodity prices. I join with you in that protest and have waited all of the 9 years I have been in Congress for your case to be made here—where so many decisions and policies are adopted which affect the prices you receive for your products that supply both American consumers and increasingly supply consumers around the world.

It is a gift of God that in America you can grow food and fiber in abundance. But it is only through your toil and sweat and at your own risk that you bring from the Earth the annual abundance of food and fiber that is America's great asset. Yet here in Washington in almost all policymaking instances, your prices are damaged in ways that hurt you, cripple you financially, and in too many cases Government policies set the high costs that you must pay to stay in business, putting you in the hole with the bankers.

Saturday was a cold, blustery day—and the woolen clothing I wore along with my sheepskin coat were the products of a vanishing American resource. Our sheep numbers have declined from 33 million in 1950 to 12 million this year while Americans become more reliant on lamb and wool imports.

Round steak choice grade, yield two, cost us $1.30 per pound this weekend from steers for which you received less than 40 cents per pound—so we get a bargain and you have a loss from what has become a high risk venture—feeding of livestock. On January 1 this year we had 123 million head of cattle in the United States, so many as to make you and me scratch our heads about why we import 2 billion pounds of red meat from foreign countries that do not have our abundance. Yet that is the policy established here in Washington by our own representative government.

American grain, produced in surplus and consumed around the world more than ever before, is sold at prices below cost of production to countries that have set much higher prices on their own products. Grain-short Arab oil countries set their price on oil at $14 per barrel—500 percent of the price in 1972—and buy our wheat at 50 percent of 1974 prices. Almost all beef-producing countries refuse to buy beef from us but our trade policy is to buy beef from them when we do not need it. As a result, you, the livestock producers, suffer from a depressed market.

Costs of $3.50 per bushel for wheat, and $2.10 per bushel for corn are documented by numerous land grant colleges. But under administration pressure Congress set much lower price support loan levels which quickly become the world price and you go broke because your costs are hard and the market is soft.

We are told by the administration that food costs need to be stabilized to hold down inflation. They tell us consumers cannot stand any more inflation but that is exactly what has happened to you, as you well know. Inflation has driven farm and ranch production costs so high that your operations are sinking.

In 1970 total production costs for America's agriculture producers was $44.4 billion and rose to $81.7 billion in 1976.

You know it in your pocketbook, and collectively on the producing end you have almost doubled your bank mortgages from $53 billion to $102.1 billion in the same 6-year period. And during that time there are 202,000 fewer of you producing as total numbers of American farmers and ranchers shrunk from 2,954,000 to 2,752,000.

It is apparent that total production of agricultural products has not dwindled from fewer producers but has increased. When the calendar rolls out 1977 these statistics will be even more staggering. But greater efficiency from fewer farm and ranch operators does not save your economic hide.

Your costs, which have almost doubled, have not been matched by increased commodity prices.

Wheat prices of 1970 at $1.33 per bushel compare to $2.00 this July. Corn in 1970 at $1.33 per bushel now sells for $1.91. Choice steers at Omaha in 1970 at 30 cents per pound now bring 40 cents.

For American consumers 1970 food costs were 17.3 percent of the total disposable income. That percentage dropped to 16.3 percent in 1972 and 1973, and then went back up to 17.1 percent in 1975. But it fell again in 1976 to 16.8 percent and is running at 16.8 percent now. That is no more, and for most families less, than is spent owning and running the family car or cars. Food costs for Americans are at a lower percent of total disposable income than any other developed country in the world.

The plight with which you struggle is not just your problem. It is America's problem. Our whole economy suffers. And that suffering is not addressed adequately by our Government. You are not organized but you must be in a country where virtually every segment of our economy is organized. You sell in a competitive world while agricultural producers in other countries such as the European Community are either protected against imports or are favored by one-sided government-negotiated exports to us such as cattle or beef from Australia, New Zealand, or Mexico.

The imbalance between your costs and the prices you receive is entirely heartless for you and your families and is destructive of a stable American economy. This imbalance must be understood by the public and addressed by the Government.

Your protest is real, and without better prices your production cannot continue. The stage is set for further economic disaster to you and the rest of us. Before it is too late we must resolve the inequity of commodity prices.

I am glad that some of you came to Washington and that others of you went to cities throughout the country last Saturday. You and I know the national economy is in bad shape because the agriculture economy has been pulverized.

Your message is loud and clear. Correct the farm price situation before it is too late. America cannot be on the move until American agriculture is made solvent again.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AMERICAN LEGION SPEAKS ON THE PANAMA CANAL ISSUE

Mr. SCOTT. Mr. President, within a few months after the Senate reconvenes we will probably be called upon to pass upon the treaties negotiated between the executive departments of our government and the Government of Panama. In this connection, the National Commander of the American Legion, in the December issue of the American Legion magazine, has again expressed his opposition to ratification. As some Senators may not have read the national commander's statement. I ask unanimous consent that it be printed in the Record for the information of the Senate.

There being no objection, the statement was ordered to be printed in the Record as follows:

We Have Again Studied the Treaty; We Still Say "No"

Why is The American Legion so vehement in its opposition to the Panama Canal Treaty? Does it want to alienate all of Latin America? Does it want to invite sabotage against the canal? Does it really believe the canal is still vital to U.S. security?

The questions have dogged me in my first months as your national commander. I believe I should use this forum to reply so every American Legion member understands our position before Senate debate.

First, our opposition is directed at the treaty, not at the people of Panama. The American Legion has consistently supported fair and equitable payments to Panama for the canal, generous social and material assistance for its people and constant modernization of the canal for the economic and military well-being of the entire Western Hemisphere.

Debaters avoid these economic and security factors.

Isn't it disturbing that although this treaty has been negotiated by four U.S. administrations, the text was not made public until the eve of the gala signing ceremony at the White House? We were treated to a spectacle in which virtually every hemisphere chief of state signed a protocol for a treaty they had not read!

Subsequently, it became apparent that Washington and Panama City did not even agree what the text meant. Worse, the controversy has centered on circumstances under which the United States could exercise its military might to protect the canal and the hemisphere. President Carter and President Torrijos finally met and announced that they agreed on the interpretation of the treaty's vague language—but they did not clarify the language in the treaty.

An "understanding" between two heads of state is fine, but it lacks the force of law. What happens when Mr. Carter and/or Gen. Torrijos have left office? The American Legion does not believe such questions should rest on a reed called "understanding."

In 1975 alone, 14,000 ships transited the canal. Forty-five percent of these voyages originated in the United States. These ships were loaded with the agricultural and manufactured exports vital to our balance of trade and payments. Any increase in tolls by Panama could have devastating effect on the world market position of the American farmer, laborer, businessman. The Mississippi Valley, Plains States and the east coast are vulnerable.

Should the canal ever be closed to U.S. ships, the Commerce Department estimates a $932 million jump in the price of U.S. exports, a $583 million jump in the price of imports. The impact would be chaotic.

On military issues there have been honest differences of opinion between highly qualified men who have debated the importance of the canal, but none has denied that loss of the canal in a time of emergency could be disastrous. Yet the very provisions of the treaty that are supposed to guarantee our right of intervention are those that cause anguish among left-wing Panamanians.

It's true that our biggest aircraft carriers cannot transit the canal. But 95 percent of U.S. fighting ships can, including powerful nuclear forces. There's a lot more to the Navy than its giant flattops.

And what about Panama, this government headed by Gen. Torrijos?

His friendship for Castro is disquieting. His henchmen and propagandists have flayed the United States for years with phoney "colonialism" charges. Yet who has advertised the human rights survey of Panama by the respected Freedom House? That survey ranks Panama as the most dictatorial regime in the Hemisphere.

When Torrijos seized power in Panama in 1968, the country had a debt of $167 million. Today it owes over $1.5 billion and there has been precious little improvement in the lot of the average Panamanian. Under the treaty, the United States—in addition to huge annual payments to Panama—would encourage banks to loan Torrijos another $300 million.

Faced with all this, we are asked to endorse:

1. Surrender of control over a vital waterway built by American ingenuity and American money on land fairly purchased by the United States.
2. Surrender of all defense rights within 22 years, sooner should Panama exercise full sovereignty.
3. Surrender of U.S. sovereignty over the canal and the Canal Zone and the exposure of the human rights of U.S. citizens to Torrijos' law.
4. Granting veto power to Panama over any potential U.S. plan to build another Atlantic-Pacific canal anywhere in Central America.
5. Acceptance of nebulous language—backed by imprecise personal agreements—that U.S. warships would have priority use of the canal during any emergency.

The American Legion cannot endorse such a treaty. We pray that the Senate shares our fears.

FISHERY CONSERVATION ZONE TRANSITION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9794.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 9794) entitled "An Act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act", and concur therein with the following amendment:

In lieu of the matter inserted by the Senate amendment, insert:

Sec. 3 (a)(1) Section 2 of Reorganization Plan Numbered 4 of 1970 (relating to the National Oceanic and Atmospheric Administration, 84 Stat. 2090) is amended to read as follows:

"(e)(1) There shall be in the Administration a General Counsel and five Assistant Administrators, one of whom shall be the Assistant Administrator for Coastal Zone Management and one of whom shall be the Assistant Administrator for Fisheries. The General Counsel and each Assistant Administrator shall be appointed by the Secretary, subject to approval of the President, and shall be compensated at a rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

"(2) The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

"(3) The Assistant Administrator for Coastal Zone Management shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

"(4) The Assistant Administrator for Fisheries shall be responsible for all matters related to living marine resources which may arise in connection with the conduct of the functions of the Administration.".

(2) Subsection (a) of section 15 of the Coastal Zone Management Act Amendments of 1976 (15 U.S.C. 1511a) is repealed.

(b) Section 5316 of title 5, United States Code, is amended by striking out paragraph (140) and inserting in lieu thereof the following new paragraphs:

"(140) Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

"(141) Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

"(142) Assistant Administrators (3), National Oceanic and Atmospheric Administration.

"(143) General Counsel, National Oceanic and Atmospheric Administration."

(c) Section 5108(a) of Title 5, United States Code, is amended by striking out "3293" and inserting in lieu thereof "3301".

Mr. STEVENS. Mr. President, I am disturbed that the House of Representatives saw fit to delete our right to confirm one of the appointments in the National Oceanic and Atmospheric Administration. We do need this bill passed. There is a time problem involved. I intend to take up the subject again next year with my good friend from South Carolina. It was at his request that we seek the clearance of this House amendment at this time with the understanding that I feel the Senate should not allow this to be a precedent, that we are going to permit the House to delete our powers of confirmation which have been previously established by prior law. I move that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ROUTINE MORNING BUSINESS

(Routine morning business transacted and additional statements submitted today are as follows:)

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate, messages from the President of the United States submitting the nomination of Louis G. Villaescusa, Jr., of California, to be United States marshal for the central district of California was received on December 3, 1977, and was referred to the Committee on the Judiciary.

On December 9, 1977, messages were received submitting sundry nominations, which were referred to the appropriate committees.

On December 8, 1977, a message was received withdrawing the nomination of Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation.

On December 12, 1977, messages were received submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received during adjournment are printed at the end of today's proceedings of the Senate.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Alvin Harry Gandal, of Maryland, to be a Commissioner of the Postal Rate Commission, which was referred to the Committee on Governmental Affairs.

PRESIDENTIAL APPROVAL

A message from the President of the United States stated that on December 13, 1977, he had approved and signed the following act:

S. 1131. An act to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes.

REPORT ON INTERNATIONAL SECURITY ASSISTANCE DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 135

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, and the Committee on Finance, jointly, pursuant to the order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new International security assistance deferrals totalling $806.4 million in budget authority and one new deferral of $3.4 million in outlays for the Antirecession financial assistance fund in the Department of the Treasury.

In addition, I am reporting routine revisions to four deferrals previously transmitted. A deferral for the Emergency refugee and migration assistance fund is increased by $5.8 million in budget authority. Three deferrals of funds provided to the Department of the Treasury are increased by a total of $13.3 million of which $11.9 million is deferred budget authority and $1.3 million is an increase to a deferral which only affects outlays.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *December 15, 1977.*

MESSAGES FROM THE HOUSE

At 11:08 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 674. Joint resolution relative to the convening of the second session of the Ninety-fifth Congress, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests concurrence of the Senate:

H. Con. Res. 442. Concurrent resolution providing for the sine die adjournment of the first session of the Ninety-fifth Congress.

H. Con. Res. 443. Concurrent resolution requesting the President to return the enrolled bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, and providing for its reenrollment with technical corrections.

At 4:53 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

The message also announced that the House agrees to House Resolution 938, a resolution that a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 3199. An Act to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The **PRESIDING OFFICER** laid before the Senate the following communications, which were referred as indicated:

EC-2410. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals for the month of December 1977, pursuant to the Congressional Budget and Impoundment Control Act of 1974 (with accompanying papers); pursuant to the order of January 30, 1975, jointly referred to the Committee on Agriculture, Nutrition, and Forestry; the Committee on Appropriations, the Committee on Armed Services; the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance; the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on Human Resources, and the Committee on the Judiciary.

EC-2411. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions, to authorize U.S. Marshals to serve warrants under the Act, and for other purposes (with an accompanying paper); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2412. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on Public Law 480 activities for fiscal year 1976 and the transitional quarter (with an accompanying paper); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2413. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the reapportionment of the appropriation "Salaries and Expenses", Agricultural Stabilization and Conservation Service, on a basis which indicates the necessity for a supplemental estimate of appropriation (with an accompanying paper); to the Committee on Appropriations.

EC-2414. A communication from the Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) (Military Personnel Policy), transmitting, pursuant to law, a report on aviation career incentive pay for the period July 1, 1976 through August 31, 1977 (with accompanying papers); to the Committee on Armed Services.

EC-2415. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on the nature, location, and estimated cost of sixteen construction projects proposed to be undertaken by the Air National Guard (with an accompanying paper); to the Committee on Armed Services.

EC-2416. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on a study of home inspection and warranty programs, as of June 1977 (with accompanying reports); to the Committee on Banking, Housing and Urban Affairs.

EC-2417. A communication from the

Chairman of the National Market Advisory Board, transmitting, pursuant to law, a report to the Securities and Exchange Commission entitled "Next Steps to be Taken to Facilitate the Establishment of a National Market System", as of December 6, 1977 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

EC-2418. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report, for the months of June, July, and August 1977 on the average number of passengers per day on board each train operated, and the ontime performance of each train operated (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC-2419. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting pursuant to law, a report for the months of July and August, 1977, on the total itemized revenues and expenses of each train operated (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC-2420. A communication from the Assistant Secretary of Interior, transmitting, pursuant to law, a report on the department's study of the El Camino Real Trail (Florida) (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2421. A communication from the Chief, Forest Service, Department of Agriculture, transmitting, pursuant to law, a report on the Classification, Development Plan, and Boundaries for the Flathead Wild and Scenic River in Montana (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2422. A communication from the Acting General Counsel, Department of Energy, reporting, pursuant to law, a voluntary agreement and plan of action to implement the International Energy Program (with an accompanying paper); to the Committee on Energy and Natural Resources.

EC-2423. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on gasoline service station market shares, August 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2424. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on Sales of Refined Petroleum Products, August 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2425. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC-2426. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, a report on AID, November 1977 (with an accompanying report); to the Committee on Foreign Relations.

EC-2427. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "A Better Way for the Department of Agriculture to Inspect Meat and Poultry Processing Plants," December 9, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2428. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "The Army's Proposed Close Combat Armored Vehicle Team," December 12, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2429. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Credit Programs for Small Farmers in Latin America Can be Improved," December 9, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2430. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Potential Effects of a National Mandatory Deposit on Beverage Containers," December 7, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2431. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on November 8, 1977, which would provide additional compensation for the Chairman of the District of Columbia Board of Elections and Ethics, and for other purposes (Act 2-106) (with accompanying papers); to the Committee on Governmental Affairs.

EC-2432. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 25, 1977, which would order the closing of a north-south public alley in Square 2558, bounded by Champlain Street, 18th Street, California Street, Kalorama Road, and Florida Avenue, N.W. (Act 2-110) (with accompanying papers); to the Committee on Governmental Affairs.

EC-2433. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report of disposal of excess property, fiscal year 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2434. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on the Education Professions, 1975-76 (with an accompanying report); to the Committee on Human Resources.

EC-2435. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, Final Regulations for Part 171—Instructional Equipment Grants for Institutions of Higher Education (with accompanying papers); to the Committee on Human Resources.

EC-2436. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period November 16 through November 30, 1977 concerning visa petitions which have been approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying papers); to the Committee on the Judiciary.

EC-2437. A communication from the Chief Justice of the United States, transmitting, for the information of the Senate, a report of the proceedings of the Judicial Conference of the United States, September 15-16, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC-2438. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, the intent to obligate $44.7 million of funds available in the Defense Stock Fund for war reserve stocks of bulk fuels; to the Committee on Appropriations.

EC-2439. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), Department of the Army, transmitting, pursuant to law, a report of the Army architect-engineer contracts awarded to the 10 A-E firms receiving the largest dollar total of contracts in the categories of civil works, military construction and work for foreign governments (with an accompanying report); to the Committee on Armed Services.

EC-2440. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the National Trails System Act by designating the Lewis and Clark Trail, located in portions of Missouri, Kansas, Nebraska, Iowa, South Dakota, Montana, Idaho, Oregon, and Washington as a component of the National Trails System (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-2441. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Woodward Associates, Inc., San Diego, California, for a research project entitled "Develop and Demonstrate Improve Truck Ladders," (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-2442. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a follow-up report on the recommendations of the National Advisory Council on Adult Education (with an accompanying report); to the Committee on Governmental Affairs.

EC-2443. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a follow-up report on the recommendations of the National Advisory Council on the Education of Disadvantaged Children (with an accompanying report); to the Committee on Governmental Affairs.

EC-2444. A communication from the General Counsel, Copyright Office, Library of Congress, transmitting, pursuant to law, a report on recorded documents file (with an accompanying report); to the Committee on Governmental Affairs.

EC-2445. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report covering personal property donated to public health and educational institutions and civil defense organizations, October 1, 1976, through September 30, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC-2446. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, submitting, pursuant to law, a report on disposal of foreign excess property (with an accompanying report); to the Committee on Governmental Affairs.

EC-2447. A communication from the Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, a report on change in computer installation processing systems or records (with an accompanying report); to the Committee on Governmental Affairs.

EC-2448. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report on "Failure of Agencies to Give Timely Notice to ANC's," and a report on "Lack of Enforcement of Health and Safety Requirements at Elderly Feeding Sites," (with accompanying reports); to the Committee on Governmental Affairs.

EC-2449. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Consumer Product Safety Commission Needs to Issue Safety Standards Faster" (with an accompanying report); to the Committee on Governmental Affairs;

EC-2450. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The New National Liquefied Natural Gas Import Policy Requires Further Improvements" (with an accompanying report); to the Committee on Governmental Affairs.

EC-2451. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Opportunities for Large Savings By Altering Some Inland Waterway Operations" (with an accompanying report); to the Committee on Governmental Affairs.

EC-2452. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Federal Crop Insurance Program Can Be Made More Effective" (with an accompanying report); to the Committee on Governmental Affairs.

EC-2453. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Methods of Setting Pay for Nonappropriated Fund Employees Should Be Improved" (with an accompanying report); to the Committee on Governmental Affairs.

EC-2454. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Management of Defense Communications Would Reduce Costs" (with an accompanying report); to the Committee on Governmental Affairs.

EC-2455. A communication from the Chairman of the United States Civil Service Commission, transmitting a proposed amendment to a bill to amend Title 5, United States Code, to provide for retention of grade and pay for certain employees and other purposes (with an accompanying paper); to the Committee on Governmental Affairs.

EC-2456. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on certain published regulations regarding various aid to education programs administered by the Department (with an accompanying paper); to the Committee on Human Resources.

EC-2457. A communication from the Assistant Secretary of Interior for Indian Affairs, transmitting, pursuant to law, a report on a proposed plan for the use and distribution of the judgment funds awarded in Docket 22-C to the Lipan Apache Tribe and the Mescalero Apache Tribe of Indians before the Indian Claims Commission (with an accompanying paper); to the Select Committee on Indian Affairs.

EC-2458. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report on correspondence which it has sent to the Office of Management and Budget (with accompanying papers); to the Committee on Rules and Administration.

PRESENTATION OF PETITIONS

Mr. BAKER. Mr. President, I have received petitions requesting repeal of the Federal withholding tax from my constituents, Mr. and Mrs. Terry Lynn Roller of Unicoi, Tenn. Mr. and Mrs. Roller have requested that I present their petitions to the Senate, and I now submit them for appropriate referral.

The PRESIDING OFFICER. The resolutions will be received and appropriately referred:

POM-427. A petition to repeal the withholding tax law; to the Committee on Finance.

POM-428. A petition to repeal the withholding tax law; to the Committee on Finance.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

POM-429. A bill enacted by the City Council of Baltimore, Maryland, requesting adoption of S. 1882 and H.R. 9410; to the Committee on Human Resources.

POM-430. A concurrent resolution adopted by the Legislature of the State of Mississippi; to the Committee on Foreign Relations:

"SENATE CONCURRENT RESOLUTION No. 502

"Whereas, on September 7, 1977, President Jimmy Carter of the United States of America and Brigadier General Omar Torrijos Herrera of the Republic of Panama signed two treaties relating to the Panama Canal Zone; and

"Whereas, these treaties provide for the complete relinquishment of American control of the Panama Canal Zone by the year 2000; and

"Whereas, these treaties will place the Canal Zone under general Panamanian jurisdiction six months after the instruments of ratification are exchanged; and

"Whereas, the Hay-Bunau-Varilla Treaty in 1903 provided that the United States would have perpetual possession, use and control of the Canal just as if "it were the sovereign of the territory"; and

"Whereas, as one of the most strategic man-made waterways in the world, the Panama Canal is a vital link in the defense of the United States and the Western Hemisphere; and

"Whereas, $387,000,000 was spent and American lives were lost in constructing the Canal; and

"Whereas, the United States' net investment in the Panama Canal operation is over $5,000,000,000; and

"Whereas, the free flow of the commerce of the United States and other nations depends on the Panama Canal being open and properly operated; and

"Whereas, 14 United States military bases are located within the Canal zone; and

"Whereas, the continued, rightful control by the United States over the Panama Canal is needed to maintain the peace and security of the Canal Zone, which is located on a politically unstable part of the world; and

"Whereas, two-thirds of the members of the United States Senate must consent to these treaties before they can be effective; and

"Whereas, our Mississippi Democratic Senators James O. Eastland and John C. Stennis have led the fight against the adoption of the Panama Canal treaties by the United States Senate and should be commended for their leadership in this regard:

"Now, therefore, be it resolved by the Senate of the State of Mississippi, the House of Representatives concurring therein, That we do hereby applaud the foresight and leadership of our United States Senators from Mississippi in opposing the Panama Canal treaties, and do hereby give Senator James O. Eastland and Senator John C. Stennis a vote of confidence for taking the lead in opposing the Panama Canal treaties,

"Be it further resolved, That copies of this Resolution be forwarded to the United States Senators from Mississippi, the Honorable James O. Eastland and the Honorable John C. Stennis, and to the Secretary of the United States Senate."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

S. 2352. An original bill to amend the Internal Revenue Code of 1954 and the Employee Retirement Income Security Act of 1974 to make compliance with Federal employee benefit plan requirements easier by eliminating dual Treasury Department and Labor Department jurisdiction over certain requirements and reducing the number of reports and other paperwork required, and for other purposes (Rept. No. 95-613).

By Mr. SASSER, from the Committee on Governmental Affairs, without amendment:

H.R. 5054. An act to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia (Rept. No. 95-614).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 339. An original resolution authorizing increased allotment for consultants for the Committee on Environment and Public Works; referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. ROBERT C. BYRD. Mr. President, as in executive session, on behalf of the Senator from Washington (Mr. MAGNUSON), I report favorably from the Committee on Commerce, Science, and Transportation sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of December 6, 1977, at the end of the Senate proceedings.)

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON), from the Committee on Commerce, Science, and Transportation:

Andrew E. Manatos, of Maryland, to be an Assistant Secretary of Commerce.

Howard A. Heffron, of Maryland, to be Director of the Office of Rail Public Counsel.

(The nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD (for Mr. WILLIAMS), from the Committee on Human Resources:

Leila I. Kimche, of Maryland, to be Director of the Institute of Museum Services.

(The nomination from the Committee on Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD (for Mr. EASTLAND), from the Committee on the Judiciary:

Robert M. Thompson, of Wisconsin, to be U.S. Marshal for the Western District of Wisconsin.

(The nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Lincoln E. Moses, of California, to be Administrator of the Energy Information Administration.

(The nomination from the Committee on Energy and Natural Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, on Tuesday the Senate Committee on Energy and Natural Resources approved the nomination of Dr. Lincoln E. Moses to be the first Administrator of the Energy Information Administration. Prior to action on the nomination, the committee held a hearing at which Dr. Moses testified. I ask unanimous consent that his statement to the committee be printed in the Record at this time.

I also ask unanimous consent that the biography and financial statement of Dr. Moses, together with a letter from the Acting General Counsel of the Department of Energy indicating the divestiture actions required to be taken by Dr. Moses pursuant to the Department of Energy Organization Act be included in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Lincoln E. Moses

Mr. Chairman and Members of the Committee:

It is a privilege to appear before you as the Administration's nominee for Administrator of the Energy Information Administration.

My background is briefly as follows: I am a lifelong Californian who was educated at Stanford University. My career has been spent largely in the application of statistics in various disciplines, including social sciences, biology and medicine. Curiously, I have done no serious work in economic statistics, but my undergraduate work included training in accountancy and economics. Thus, I began as a theoretical statistician, but probably should be thought of now as a statistician of the data analystic type.

I have had no connections with the energy industry as employee, or consultant; my only financial relations with the industry (other than as a consumer of gasoline, electricity, etc.) consist in the ownership of certain securities, of which I shall divest myself, if confirmed, before taking office.

My conception of the task of the EIA is to develop and publish trustworthy information about energy in its many connections. Information is needed by the Administration, by the Congress and by the many diverse segments of the public who are concerned with energy issues. I suppose that the incumbent in this position must take alarm if he should find himself criticized from only one corner of the energy field.

Reliable data are needed about many energy sources: oil, gas, coal, electricity, uranium, solar and yet others, and for each of these energy sources, information is required about some or all of: resources, reserves, development, production, transportation, distribution, market structures, end use, and conservation. Arranging to deal successfully with this entire matrix will be a challenging task (and too large to accomplish all at once).

Among the early priorities which I see are: (1) estimation of oil and gas reserves, (2) establishing systems for data validation and for model validation, (3) end use measurement, and (4) financial resporting.

If appointed, I expect to bring into the EIA a large measure of statistical expertise. I speak here not of my own personal background but rather of my intention to increase the number of expert statisticians on the staff, and to make use of advisory committees in which statistical expertise is well represented. I further expect that the judicious use of scientifically drawn samples will be very important to the operations of EIA. Not every question, particularly not every regulatory question, is answerable by samples; but samples can greatly enhance the development of carefully audited data; they can enable the accurate measurement of the uncertainties of estimates; and they can aid in producing timely reports. Thus, I expect to see advantages to the work of EIA accruing from the studied use of sampling methods as appropriate.

Another expectation I have is to infuse a certain openness into the energy information area. Some have advocated an adversary process with respect to economic modeling and forecasting. Although I am unable to say whether that idea is precisely correct, the notion of intellectual competition is in keeping with the spirit of openness to public scrutiny and expert criticism which I hope will lead to a strong, sound energy information system within reasonable time.

In closing let me say that I regard the mission of the Energy Information Administration to be a non-political one. Finding wise and practical ways of dealing with the many problems in the energy area will be assisted by having facts which can be depended upon. Developing such facts demands a disinterested approach. It also provides abundant professional challenge.

Lincoln E. Moses, Professor of Statistics

Address: 830 Escondido Way, Stanford, California 94305; (415) 329-0229.

Born: December 21, 1921, Kansas City, Missouri.

Citizenship: U.S.A.

PERSONAL

Education: Midland School, 1932 to 1935; San Bernardino High School, Graduate 1937; Stanford University, A.B., 1941 (Social Sciences); Stanford University, Ph.D., 1950 (Statistics).

Ph.D. Title: An Iterative Construction of the Optimum Sequential Decision Procedure When the Cost Function is Linear

Employment: Assistant Professor of Education, Teachers College, Columbia University, 1950 to 1952; Assistant Professor of Statistics, Department of Statistics and Department of Preventive Medicine, Stanford University, 1952 to 1955; Associate Professor of Statistics, Department of Statistics and Department of Preventive Medicine, Stanford University, 1955 to 1959; Professor of Statistics, Department of Statistics and Department of Preventive Medicine, Stanford University, 1959 to present; Executive Head, Professor, Department of Statistics, Professor, Department of Preventive Medicine, Stanford University, 1964 to 1968; Associate Dean, Humanities and Sciences, Stanford University, 1965 to 1968; Dean of Graduate Studies, Stanford University, 1969 to 1975.

Professional Activities: Member, Special Review Team, Research Grants Review Branch, Division of Research Grants, National Institutes of Health, 1963 to 1969; Member of Subcommittee on Halothane of Committee on Anesthesia of NAS-NRC, 1963 to 1968; Consultant to San Mateo County Mental Health Services, 1964 to 1968; Member of Committee on Statistics, Division of Mathematics, NAS-NRC, 1965 to 1966; Member of Committee (to study Biostatistics Program) for Dean of Graduate School, University of Washington, Seattle, 1964 to 1969; Visiting Lecturer in Statistics (sponsored by Institute of Mathematical Statistics) 1963 to 1966; Subpanel on Health Effects of Environmental Pollution, Environmental Pollution Panel, President's Science Advisory Committee, 1964 to 1965; Member, Automated Multiphasic Screening Committee on Study Design; Kaiser Permanente Foundation, 1965 to 1970; Member Health Care Systems Study Section, Health Services and Mental Health Administration, 1970 to 1972; Member, Graduate Record Examination Board and its Executive Committee, and Chairman of its Research Committee, 1971 to 1975; Member, Panel on Alternative Approaches to Graduate Education (joint with Council of Graduate Schools and GRE Board), 1972 to 1973; Member, National Manpower Advisory Committee's Subcommittee on Professional, Scientific and Technical Manpower, 1973 to 1974; Member, Visiting Committee to Department of Statistics, Harvard University, 1974—; Member, Council for the Progress of Nontraditional Study 1974 to 1975; Association of Graduate Schools in the AAU, Vice President 1973 to 1974, President 1974 to 1975; Committee on a Study of National Needs for Biomedical and Behavioral Research Personnel, 1974—; Member, Institute of Medicine (NAS-NRC), 1975—: Member, Analysis Advisory Committee, National Assessment of Educational Progress, 1974—; Member, Environmental Health Advisory Committee, (Advisor to Administrator), U.S. Environmental Protection Agency, 1974—; Member, Committee on National Statistics, NAS-NRC, 1976—.

Publications of Lincoln E. Moses

PAPERS

"Non-parametric statistics for psychological research," Psych. Bull. Vo. 49:2, 1952.

"A two-sample test," Psychometrika, Vol. 17:3, 1952

"Iron therapy in pregnancy, a comparison of various modes," Calif. Medicine, 1954 (with Robert W. Devoe).

"The time factor in inhibition of lymphoid tumor development by injection of marrow cell suspension into irradiated C57BL mice," J. of Natl. Center Inst., Vol. 15, 1955 (with H. S. Kaplan, M. B. Brown, S. Nagareda, B. B. Hirsch).

"Unequal visual acuity as related to anisometropia," Archives of Ophthalmology, Vol. 54, 1955 (with A. Jampolsky, B. Flow, F. Weymouth).

"Some theoretical aspects of the lot plot sampling inspection plan," J. Amer. Statist. Assoc., Vol. 51, 1956.

"Method for thyrotropic hormone using thyroid uptake of radiophosphorus," Endocrinology, Vol. 58, 1956, (with F. Greenspan and J. Kriss).

"Statistical theory and research design." A chapter in Annual Review of Psychology, Vol. 7, 1956.

"Weight gains in the first four weeks of infancy: a comparison of three diets," Pediatrics, Vol. 18:3, 1956 (with Ruth T. Gross).

"Some comments on the design of a clinical high oxygen experiment and statistical discussion," Proceedings of the Highland Park Conference on Exper. Approaches in Radio therapy, Research in Radiology, (ed. by H. S. Kapan), pp. 67-69 and 169-181; NAS-NRC publication No. 571 (1958).

Signed Appendix in: John Josse, A. D. Kaiser, and Arthur Kornberg, "Enzymatic Synthesis and Deoxyribonucleic Acid VIII. Frequencies of Nearest Neighbor Base Sequences in Deoxyribonucleic Acid." Jour. of Biological Chemistry, Vol. 236, 1961. pp. 864-875.

"Use of Wilcoxon test theory in estimating the distribution of a ratio by Monte Carlo Methods," Annals of Math. Statist., Vol. 33, 1962.

"Rank tests of dispersion," Ann. of Math. Statist., Vol. 34:3, pp. 973-983, 1963.

Biological complexity and radiosensitivity," Science, Vol. 145: 3627, 21-25, July 1964 (with H. S. Kaplan).

"Cerebral and cephalic blood flow in man: basic considerations of the indicator-fractionation technique," Dynamic Clinical Studies with Radioisotopes, (ed. by Knisely, Tauxe and Anderson). Office of Tech. Services, Dept. of Commerce, Washington, D.C. 1964, (With Leo A. Sapirstein), pp. 135–152.

"One sample limits of some two-sample rank tests," J. Amer. Statist. Assoc., Vol. 59, 645–651 (1964).

"Confidence limits for rank tests," Technometrics 6, 257–60 (1965).

Health effects of environmental pollution, Appendix Y2 of Restoring the Quality of Our Environment (with J. L. Whittenberger and others). Report of the Environmental Pollution Panel, President's Science Advisory Committee, 1965.

Signed appendix to "Circadian Periodicity, Adrenal Corticosteroids, and the EEG of Normal Man," J. Psychiat. Res., Vol. 4, 83–84 (1966).

"Scaling Data on Inter-Nation Action," Science, Vol. 156, 1054–59 (with Brody, R. A., and others) (1967).

"Reliability of Psychiatrists' Ratings in Community Case Finding," Amer. Journal of Public Health, Vol. 57, No. 12, December 1967 (with Goldfarb. A., Downing, J., and Leighton, D.).

"Reliability of Newly Trained Raters in Community Case Finding," Amer. Journal of Public Health, Vol. 57, No. 12, December 1967, (with Goldfarb, A., Downing, J. and Leighton, D.).

"Truncation and censorship," International Encyclopedia of Social Sciences, The Macmillan Company and The Free Press, 196–201 (1968).

"Institutional differences in post-operative death rates," JAMA, Vol. 203, No. 7, 492–494 (with F. Mosteller) (1968).

Chapters 1, 2, 5, 6, 8 of Part IV of the National Halothane Study, National Institutes of Health, Bethesda, Md. (co-author of Chapters 1, 5, 6, 8) (1969).

Invited discussion in Issues in Human Development (ed., Victor C. Vaughan III, M.D.), Supt. of Documents, 204–205, (1971).

"A validity study using the Leighton instrument," Amer. J. Public Health, Vol. 61, No. 9, 1785–1793 (with A. Goldfarb, C. Y. Glock, R. W. Stark, and M. L. Eaton). Sept., 1971).

"Statistical aspects of population research," Bull. Internat. Statist. Inst., Vol. 44:1, 175–180 (with Byron W. Brown, Jr.). (1971).

"The response of graduate enrollment to placement opportunities," Science, Vol. 177, 494–497. (1972).

"Safety of Anesthetics" (with F. Mosteller), pp. 14–22. Statistics: A Guide to the Unknown, Ed Tanur, et al., Holden-Day. San Francisco 1972.

"The Research Program of the GRE Board," Proceedings, Fourteenth Annual Meeting, Council of Graduate Schools in the United States, 1974, pp. 5–7.

"Some thoughts about assessing adequacy of the fineness of a grid of monitoring stations," Environmental Health: Quantitative Methods, Proceedings of a Conference on Environmental Health, SIAM publications, 1977, pp. 248–257.

BOOKS

Elementary Decision Theory (with H. Chernoff). John Wiley and Sons, 1959.

Tables of Random Permutations (with R. V. Oakford). Stanford University Press, 1962.

MAJOR REVIEWS

G. Herdan, "Statistics of therapeutic trials," J. Amer. Statist. Assoc., Vol. 51, 1956.

Lewis F. Richardson, "Arms and insecurity," and "Statistics of deadly quarrels," J. of Conflict Resolution, Vol. 4, 1961.

John E. Wash, "Handbook of nonparametric statistics," Ann. Math. Statist., Vol. 36:2, 1965.

MEMBERSHIPS, AND SO FORTH

Biometric Society (member Regional WNAR Committee, 1965–68, President WNAR, 1969).

American Statistical Association (member of Council, 1966–67) (Fellow).

Institute of Mathematical Statistics (member of Council, 1966–69) (Fellow).

Sigma Xi; Phi Beta Kappa; Fellow of John Guggenheim Memorial Foundation, 1960–61. L. L. Thurstone Distinguished Fellow, University of North Carolina, 1968–69; International Statistical Institute; Fellow of Center for Advanced Study in the Behavioral Sciences, 1975–76.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $40,823.

Listed securities—add schedule, $45,673.

Accounts and notes receivable:

Due from relatives and friends, $5,771.

Real estate interests—add schedule, $134,900.

Personal property, $17,000.

Life insurance—cash value, $1,000.

Other assets—itemize:

Capital account as limited partner in Berkeley Sauna, $7,000.

Total assets, $252,167.

LIABILITIES

Real estate mortgages payable—add schedule, $10,045.

Total liabilities, $10,045.

Net worth, 242,122.

In addition to the above, my wife has been trustee for her sons of properties shown as per attached schedule.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers. clients, and customers. None.

SCHEDULE OF SECURITIES

	Shares	Price (Sept. 23, 1977)	Value
Asarco	168	15¾	2, 646
A.T. & T	140, 535	62⅝	8, 766
Bethlehem Steel	75	19⅝	1, 472
Eaton	45	36½	1, 642
General Motors	30	68⅞	1, 166
Honeywell	1	44¾	48
IC	33	22⅞	755
Republic Steel	12	22⅛	266
Safeway	89	47⅜	4, 216
Santa Fe Industries	30	36⅞	1, 106
Southern Pacific Co	167	35¼	5, 887
Standard Oil, California	193	40⅜	7, 792
Texaco	30	28⅛	844
Union Pacific	30	48¾	1, 462
United States Steel	33	29	957
Total			39, 023
Seatrain convertible bond ($10,000)		66½	6, 650
Total			45, 673

REAL ESTATE INTERESTS

House: 270 Corte Madera Road, Portola Valley, CA, $90,000.

Trinity County, CA, one-half interest in 11 acres, $3,000.

Riverside County, CA, one-third interest in 280 acres, $14,000.

Sonoma County, CA, 3 acres, $7,900.

Long Ridge Ranch, 20 shares (=20 acres), $20,000.

Total real estate interests, $134,900.

MORTGAGES

Home: 274 Corte Madera Road, $10,048.

Schedule of assets of sons of Mary Louise Moses on which she is registered as custodian.

A. 800 shares, Ametek, Inc. at 31¼ $25,000, 27 Sept. 1977.

B. 6 shares, SCU Inc. at 20½ $123.00, 27 Sept. 1977.

Transfer of (B) to Franklin S. Coale, Jr. and of ¼-shares of (A) to Franklin and Kenneth (who are no longer minors) is in process.

2. Are any assets pledged? (Add schedule.) None.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes, 1973 return. Audited, and no additional payment was required.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Moses, Lincoln Ellsworth.

Position to which nominated: Administrator, Energy Information Administration.

Date of birth: 21 Dec. 1921.

Place of birth: Kansas City, Mo.

Marital status: Married.

Full name of spouse: Mary Louise Price Moses.

Names and ages of children: Katherine Moses, 33; James Moses, 30; William Moses, 28; Margaret Moses Siegel, 25; Elizabeth Moses, 20; Franklin Coale,* 23; Kenneth Coale,* 22; David Coale,* 20; James M. Coale,* 20.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees:

San Barnardino JC, 1937–9, AA, 1939.

Stanford Univ., 1939–41, AB, 1941.

Stanford Univ., 1947–50, Ph.D., 1950.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

United States Civil Service Commission (San Francisco & New York) 1942.

Position: Rating Examiner and Recruiting Repr. (CAF5,7) U.S. Naval Reserve (Supply Officer), 1943–46.

War Assets Administration (San Francisco) 1946–7, Administrator (CAF–9,11), Assistant Professor of Education, Teachers College 1950–52; Asst. Prof. (1952–5–; Assoc. Prof. (1955–9); Professor (1959–1977) of Statistics, Stanford University.

While a professor at Stanford, I served in administrative roles:

Associate Dean, Humanities & Sciences, 1965–8: Dean of Graduate Studies, 1969–75.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Phi Beta Kappa; Sigma Xi; AB with great distinction; Guggenheim Fellow (1960–1); L.L. Thurstone Distinguished Fellow, Univ. of North Carolina (1968–9); Fellow, Center for Advanced Study in Behavioral Sciences (1975–6); Fellow, Institute of Math, Statistics; Fellow, American Statistical Association.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

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* Wife's sons.

Organization, Office held (if any), and Dates.

American Assoc. Univ. Profs., None, 1949–1977.

American Statistical Assoc., Member of Council, 1947–1977.

International Stat. Institute, None, ?–1977.

Institute of Math. Stat., Member of Council, 1950–1977.

Biometric Society (WNAR), President (1969), ?–1977.

Common Cause, None, 1973(?)–1977.

Sierra Club, None, 1967–1977.

Fellowship: Reconciliation, None 1977.

American Civil Liberties Union, None 1948–1977.

Audubon Society, None 1970(?)–1977.

Friends Committee on Legislation, None, 1954–1977.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. See 3 pages attached.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I will take leave without pay from Stanford.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Yes. I expect to return to Stanford.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

I was told at the outset that I would be expected to serve two years. I expect to serve for that period.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

There are none.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

I hold certain listed securities, shown on my financial statement. I am willing to sell any of them.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated:

There are none.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

There are no such activities, other than writing to elected representatives.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

See two above.

INCOME STATEMENT 1 JAN. 1977 TO 27 SEPT. 1977

SALARY

Lincoln	$33,111
Mary Louise	3,830
Total	36,941
Interest	$1,940
Dividends	1,720
Rents	4,200
Royalties	138
Consulting	775
Total	45,714

DEPARTMENT OF ENERGY,
Washington, D.C., December 9, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for an opinion as to the effect of the conflict of interest provisions contained in Title VI of the Department of Energy Organization Act (Pub. L. 95-91) on the financial holdings of Lincoln E. Moses, who has been nominated to be Administrator of the Energy Information Administration in the Department of Energy.

Section 602(a) of the Department of Energy Organization Act ("Act") prohibits supervisory employees of the Department of Energy from knowingly receiving compensation from, holding any official relation with, owning the stocks or bonds of, or having any pecuniary interest in, any energy concern. "Energy concern", defined in Section 601(b) of the Act, is described in terms of entities "significantly engaged in the business" of a variety of activities related to energy production, distribution, sale, research and development, as well as entities engaged in such research and development functions pursuant to DOE-funded programs irrespective of whether they otherwise are engaged in such "business." The precise boundaries of that term are currently being explored. Nonetheless, it is possible to make some initial determinations with respect to identifying energy concerns within the meaning of the statute.

As you know, a list of the financial holdings of Mr. Moses has been provided to the Committee. If confirmed, Mr. Moses will divest the following interests in energy concerns in connection with his assuming the position of Administrator of the Energy Information Administration.

CORPORATION

ASARCO; Bethlehem Steel; Santa Fe Industries; Southern-Pacific Company; Standard Oil of California; Texaco; Union Pacific; United States Steel, and Seatrain.

The list of energy concerns required by Section 601(c)(1) of the Act is presently being prepared and will be published upon completion. At that time it may be determined that additional financial holdings of Mr. Moses may have to be divested.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

ERIC J. FYGI,
Acting General Counsel.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Thibaut de Saint Phalle, of New Jersey, to be a member of the Board of Directors of the Export-Import Bank of the United States.

(The nomination from the Committee on Banking, Housing, and Urban Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD (for Mr. WILLIAMS), from the Committee on Human Resources:

Joseph Mayo Pettit, of Georgia, to be member of the National Science Board, National Science Foundation.

(The nomination from the Committee on Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constitutional committee of the Senate.)

Mr. ROBERT C. BYRD. Mr. President, for Mr. WILLIAMS, Committee on Human Resources, and as in executive session, I also report favorably sundry nominations in the Public Health Services which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 29, 1977, at the end of the Senate proceedings.)

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

Simeon Miller Bright, of West Virginia, to be a Commissioner of the Postal Rate Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Carlisle Edward Pratt, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia.

Frederick Howard Weisberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia.

By Mr. EASTLAND, from the Committee on the Judiciary:

Mack Burton, of Arkansas, to be U.S. Marshal for the Western District of Arkansas.

Donald J. Kindt, of Ohio, to be U.S. Marshal for the Northern District of Ohio.

Louis G. Villaescusa, Jr., of California, to be U.S. Marshal for the Central District of California.

(The above nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LONG, from the Committee on Finance:

S. 2352. An original bill to amend the Internal Revenue Code of 1954 and the Employee Retirement Income Security Act of 1974 to make compliance with Federal employee benefit plan requirements easier by eliminating dual Treasury Department and Labor Department jurisdiction over certain requirements and reducing the number of reports and other paperwork required, and for other purposes; placed on the calendar.

By Mr. KENNEDY:

S. 2353. A bill entitled the "Indian Cyclone Rehabilitation Act of 1977"; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself and Mr. Nelson):

S. 2354. A bill to provide for equal access to courts; to the Committee on the Judiciary.

By Mr. GLENN (for himself, Mr. Heinz, Mr. Hollings, Mr. Johnston, Mr. Morgan, Mr. Schweiker, Mr. Muskie, Mr. Randolph, and Mr. Sasser):

S. 2355. A bill to extend the Emergency Natural Gas Act of 1977; considered and passed.

By Mr. CLARK:

S. 2356. A bill for the relief of Margaret Duff; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for Mr. Sparkman) (by request):

S. 2357. A bill to repeal sections 1735 and 1736 of the Revised Statutes (22 U.S.C. 1199); to the Committee on Foreign Relations.

By Mr. DOMENICI:

S. 2358. A bill to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands; to the Select Committee on Indian Affairs.

By Mr. PACKWOOD:

S. 2359. A bill for the relief of Chong Hui Schrein; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 2360. A bill to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act; to the Committee on Finance.

By Mr. ROBERT C. BYRD (for Mr. Magnuson, for himself, Mr. Pearson, and Mr. Long) (by request):

S. 2361. A bill to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 39, United States Code, "Transportation"; to the Committee on Commerce, Science, and Transportation. Subsequently the referral of the bill was changed to the Committee on the Judiciary.

By Mr. NELSON (by request):

S. 2362. A bill for the protection of the employees and persons assisting the employees of the U.S. Small Business Administration; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 2363. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives to encourage the creation and growth of new and innovative firms; to the Committee on Finance.

By Mr. ABOUREZK:

S. 2364. A bill to provide parity to farmers and to prevent interruptions in the supply of food to American consumers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROBERT C. BYRD (for Mr. Eagleton):

S. 2365. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety; to the Committee on Human Resources.

By Mr. ROBERT C. BYRD (for Mr. Anderson):

S. 2366. A bill for the relief of Keum Sun Lee; to the Committee on the Judiciary.

By Mr. NELSON:

S. 2367. A bill to declare a national policy on small business and free enterprise, and for other purposes; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 2368. A bill to amend the Public Health Service Act to provide for a national program of medical injury compensation insurance; to the Committee on Human Resources.

By Mr. ROBERT C. BYRD (for Mr. Anderson) (for himself and Mr. Humphrey):

S. 2369. A bill to provide Federal assistance for the control of Dutch elm disease; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JACKSON (for himself and Mr. Magnuson):

S. 2370. A bill to remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROBERT C. BYRD (for Mr. Anderson):

S. 2371. A bill to amend title 39 of the United States Code to provide that pledge reminders of charitable organizations may be mailed at third class rates; to the Committee on Governmental Affairs.

By Mr. ABOUREZK:

S. 2372. A bill to amend the Indian Self-Determination and Education Assistance Act; to the Select Committee on Indian Affairs.

By Mr. INOUYE (for himself and Mr. Matsunaga):

S. 2373. A bill to provide for the establishment of a Division of Minority Mental Health Programs; to the Committee on Human Resources.

By Mr. ROBERT C. BYRD (for Mr. Magnuson) (for himself, Mr. Long, and Mr. Pearson) (by request):

S. 2374. A bill to amend the Interstate Commerce Act to establish expeditious Interstate Commerce Commission procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ABOUREZK:

S. 2375. A bill to establish an administrative procedure and guidelines to be followed by the Department of the Interior in its decision to acknowledge the existence of certain Indian tribes; to the Select Committee on Indian Affairs.

By Mr. BAKER (for Mr. Mathias) (for himself and Mr. Sarbanes):

S. 2376. A bill to authorize withholding from salaries disbursed by the Secretary of the Senate and the Architect of the Capitol for contributions to certain charitable organizations; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 2377. A bill for the relief of Muradali P. Gillani; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. Matsunaga):

S. 2378. A bill to increase the amount of funds available for Native American employment and training programs; to the Committee on Human Resources.

By Mr. EASTLAND:

S. 2379. A bill for the relief of Jesusa Novario Romero and Antonio Angeles Romero; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for Mr. Magnuson, for himself and Mr. Pearson) (by request):

S. 2380. A bill to amend the Intervention on the High Seas Act to implement the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973; to the Committee on Commerce, Science, and Transportation.

By Mr. JAVITS:

S. 2381. A bill for the relief of Joseph J. Martin; to the Committee on the Judiciary.

By Mr. TOWER:

S. 2382. A bill to amend the Internal Revenue Code of 1954 to provide tax reform for small businesses; to the Committee on Finance.

By Mr. DURKIN:

S. 2383. A bill to amend the Tax Reform Act of 1976 to delay for one year the effective date of changes in the exclusion for sick pay; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. Stafford, Mr. Talmadge, Mr. Randolph, Mr. Stone, Mr. Durkin, Mr. Matsunaga, Mr. Thurmond, Mr. Hansen, and Mr. Williams:

S. 2384. A bill to amend title 38 of the United States Code in order to provide a security pension program for nonservice-connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in need, and for surviving children of veterans of a period of war who are in need; to provide for annual automatic cost-of-living adjustments in the security pension program; to prevent reductions in security pension benefits solely attributable to costs-of-living increases in social security benefits; and for other purposes; to the Committee on Veterans Affairs.

By Mr. ROBERT C. BYRD (for Mr. Humphrey, for himself, Mr. Leahy, Mr. Clark, Mr. McGovern, Mr. Pearson, Mr. Melcher, Mr. Young, Mr. Curtis, Mr. Bellmon, Mr. Domenici, Mr. Church, Mr. Eastland, Mr. Morgan, Mr. Hollings, Mr. Matsunaga, Mr. Burdick, and Mr. Culver):

S. 2385. A bill to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities and to authorize nonmarket economy countries to participate in certain programs of the Commodity Credit Corporation; to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, jointly, by unanimous consent.

By Mr. LONG:

S. 2386. A bill to amend the Shipping Act, 1916, as amended, to provide for the prompt and effective implementation of certain equal access, pooling, rationalization, apportionment and related reciprocal ocean transportation agreements entered into between carrier of the flags of the United States and of the nations with which we trade and to provide immunity for such agreements from the application of the antitrust laws; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 2387. A bill to extend for 1 year the authority of the Commissioner of Education to waive provisions of title I of the Elementary and Secondary Education Act for certain local educational agencies; to the Commission on Human Resources.

By Mr. ABOUREZK (for himself, Mr. Humphrey, Mr. Kennedy, Mr. Inouye, Mr. Matsunaga, Mr. Hatfield, Mr. Stevens, Mr. Gravel, and Mr. Goldwater):

S.J. Res. 102. A joint resolution relating to American Indian religious freedom; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 2353. A bill entitled the "Indian Cyclone Rehabilitation Act of 1977"; to the Committee on Foreign Relations.

DISASTER ASSISTANCE FOR INDIA

Mr. KENNEDY. Mr. President, late last month one of the most devastating cyclones of this century struck the coastal States of southern India, leaving in its wake a massive trail of destruction and an incredible loss in life. The final toll is almost beyond comprehension—

with some 20,000 presumed dead, over 2 million made homeless, and close to $700,000,000 in lost crops and damage.

Emergency relief needs have now largely been met through the urgent action of the Government of India, with the active support of many voluntary agencies, including several American agencies. To date, the United States has provided, in support of these efforts, nearly $3 million in immediate relief assistance. However, the full scope of longer term rehabilitation and reconstruction needs have yet to be established by the Government of India.

But there can be little doubt today that they will be massive. And it is equally clear that they will likely exceed the scope and the availability of funds currently authorized under the international disaster assistance provisions of the Foreign Assistance Act.

It is for this reason, Mr. President, that I am introducing today a special bill to remove any obstacle that may exist in the current authorizing language of the Foreign Assistance Act that might inhibit our ability to provide a significant contribution to the longer term rehabilitation and reconstruction programs in southern India. It will also give the President greater flexibility in responding to disaster needs, once they are fully assessed.

This is a working bill, to begin the legislative process. The precise dollar amount will be defined during the appropriations process, after the Government of India has established its needs and the United States has determined what it can most appropriately contribute.

I am hopeful that the Foreign Relations Committee will urgently consider necessary legislation to clear the way for a substantial U.S. contribution to help the disaster victims in southern India.

Mr. President, I ask unanimous consent that the text of my bill, as well as the latest situation report prepared by the Agency for International Development on the disaster in India, be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Cyclone Rehabilitation and Reconstruction Act of 1977".

SEC. 2. Chapter 9 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 495E. Indian Cyclone Rehabilitation and Reconstruction.—

(a) The Congress, recognizing that United States assistance to alleviate human suffering caused by natural disasters is an important expression of the humanitarian concern and tradition of the people of the United States, affirms the willingness of the United States to provide assistance for rehabilitation and reconstruction of the disaster-stricken areas of southern India.

"(b) There is authorized to be appropriated to the President such sums as may be necessary to provide a United States contribution to the rehabilitation and reconstruction programs for the disaster-stricken areas of southern India.

"(c) Not later than 30 days after the date of enactment of appropriations to carry out this Section, and at the end of each quarter thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programming and obligation of funds under this Section.".

[From the Department of State, Agency for International Development, Washington, D.C., Situation Report No. 5, Dec. 1, 1977]

INDIA—CYCLONES

DATA

Date: November 12, November 19, November 22–23.

Location: Tamil Nadu State, Andhra Pradesh State, Kerala and Karnataka States.

Intensity: Winds of about 60 miles per hour; "tidal" wave in Andhra Pradesh 19 feet high, 50 miles long, 10 miles wide, speed of 120 mph.

People Affected:

Tamil Nadu—officially 510 dead; 165 missing; at least 317,000 homeless (figure probably much higher).

Andhra Pradesh—officially 10,519 dead; 4,000 missing; 2,000,000 reported homeless; some 65 villages devastated of which about 21 washed away; over 7,000,000 in 2,300 villages affected (i.e., lost property).

Kerala—80 dead; 62 missing.

Karnataka—not reported as yet.

Note: press reports indicate that more than 20,000 people have been killed.

Damage:

Tamil Nadu—352,000 houses damaged; 510,000 acres (estimated) crops damaged; road, rail, power, and telecommunications networks heavily damaged; 25,000 head cattle lost; value of damage about $130 million.

Andhra Pradesh—about 2,750,000 acres crops damaged; value estimated at $353 million; reported widespread damage over 250-mile stretch of coastline; damage to government buildings and electric installations estimated at $20 million; over 350,000 houses in Guntur District destroyed; 250,000 cattle lost; 700,000 other farm animals lost; total damage valued at about $750 million.

Kerala—27,000 houses damaged/destroyed; 36,000 acres crops destroyed; 51,000 acres crops damaged; 600 fishing vessels damaged and many lost; damage estimated at $10.3 million.

Karnataka—not reported as yet.

GENERAL SITUATION

(First Cyclone—Tropical Cyclone 21–77)—

On November 12, 1977, a cyclone originating in the Bay of Bengal struck the central coast of Tamil Nadu State in southern India. Hardest hit by the resulting floods were the areas of East Tanjore, Dindiqul, Vedasandur, and Chidambaram. Apparently people had heeded early warnings and moved to higher ground, thus limiting the number of casualties.

20,000 acres of paddy were totally destroyed and another 190,000 acres of paddy 25–75% damaged in the area which is called Tamil Nadu's "rice bowl of the South." Ironically, the storm filled reservoirs and tanks with enough water to irrigate a new crop of paddy which could replace the damaged one. A new crop could not, however, be harvested before next soring.

(Second Cyclone—Tropical Cyclone 22–77)—

On November 19, 1977, a second cyclone, which had been expected to hit Tamil Nadu, instead struck the central coast of Andhra Pradesh State in the Krishna-Godavari Delta. Lack of much advance warning accounts for the large numbers of deaths. Twelve to twenty-foot high waves engendered by the storm destroyed some 65 villages about 21 of which were completely washed away. Damage was heavy in the city of Guntur where roofs were blown off warehouses, exposing the contents to ten hours of steady rain.

About 1,500,000 acres of paddy were damaged in Andhra Pradesh. About half of the crop had been harvested and not all of this was lost. Spice, tobacco, sugar-cane and cotton crops were also damaged. Banana plantations were a total loss. There is fear that flooding by sea water will raise the salinity of the soil and spoil it for cultivation. Normally, cyclones cause flooding upstream which brings topsoil to lower areas, but, in this case, downstream flooding left saline silt in low areas. Reclamation of agricultural land will probably be a major element of rehabilitation both in Andhra Pradesh and Tamil Nadu.

Previous crop predictions for South India had been quite optimistic but these may have to be revised following this disaster.

Bamboo and thatch, the local building materials, are in short supply after wave damage.

(Third Cyclone—rejuvenated Tropical Cyclone 21–77)—

Passing into the Arabian Sea, this cyclone gained strength and turned landward again. It moved northward along the western coast lashing northern Kerala State and the Lakshadweep Islands before hitting the Karnataka coast just north of Mangalore on November 23, 1977.

The island of Kiltan was almost submerged and coconut palms, the products of which are the main source of revenue for inhabitants of the Lakshadweep Islands, were heavily damaged. Many of the inter-island boats were lost.

ACTION TAKEN BY THE GOVERNMENT OF INDIA (GOI) AND BY THE STATE GOVERNMENTS

The first stage of relief in Tamil Nadu—rescuing the marooned, feeding and sheltering the homeless, restoring skeleton public transport and utilities—has been completed. The second stage of rehabilitationg the homeless has begun. Money and utensils, instead of food, are being distributed since market supplies are returning to normal.

The government of Gujarat has announced the allocation of $23,256 (Rs 200,000) from the Chief Minister's Relief Fund for flood victims in Tamil Nadu.

Andhra Pradesh has released $17,442 (Rs 150,000) from the state Chief Minister's Relief Fund. Manpower and supplies have been diverted to the affected areas. Some 200 relief camps have been set up to shelter about 200,000 people. The Chief Minister has requested $227 million (Rs 227 crores; 1 crore=10 million Rupees approximately $1 million) in assisance from the central government.

The state government of Kerala has requested $5 million from the central government.

Prime Minister Desai has released $23,256 (Rs 200,000) from the Prime Minister's Relief Fund.

The GOI has advanced $5,814,000 (Rs 5 crores) to the state governments of Tamil Nadu and Andhra Pradesh. Medicines, blankets, cloth, and utensils worth $58,140 (Rs 500,000) have also been released from central relief stores.

The Central Social Welfare Board of the Ministry of Social Welfare held a meeting with UNICEF and voluntary agencies to discuss relief needs. Continuing needs are for potable water, clothing, utensils, medications (cholera vaccine and gastrointestinal medicines), and temporary shelter.

The Indian Army, Navy, and Air Force have been mobilized to airdrop food to marooned people and to assist in emergency medical efforts. Helicopters making about 50 sorties per day have dropped approximately 10 MT of food. Some 20 medical teams are operating in Andhra Pradesh along with almost 200 civilian teams.

The Army has been given primary responsibility for the following tasks in order of priority: dispose of bodies and carcasses; inoculate victims; disinfect water sources; provide drinking water; supply medicine and clothing to victims; clear up debris and restore communications.

The Indian Red Cross is very active in the relief ecorts. It is planning to take responsibility for the care of 80 villages around the towns of Guntur and Vijayawada.

ASSISTANCE PROVIDED BY THE U.S. GOVERNMENT

While the GOI has not requested direct assistance from the United States, the Indian Government does welcome assistance from the voluntary agencies already engaged in relief work in the affected areas. The USG has, therefore, provided:

$25,000 to the Cooperative for American Relief Everywhere (CARE) in order to provide clothing, temporary shelter, and refugee camps for cyclone victims.

Authorization for the transfer of PL 480 Title II commodities from regular voluntary agency programs to emergency programs. The value of these commodities is approximately $300,000;

Cash grants to assist the voluntary agencies already active in southeastern India; CARE will receive $1,158,960; Catholic Relief Services (CRS) $595,260; and Church World Service (CWS) $115,653 for a total of $1,869,873. These grants will provide temporary shelter, clothing, blankets, cooking utensils, food, and medicines for cyclone victims.

$200,000 to the International League of Red Cross Societies (LICROSS).

Total USG assistance to date—$2,394,873.

ASSISTANCE PROVIDED BY U.S. VOLUNTARY AGENCIES

The American National Red Cross has contributed $50,000 through the International League of Red Cross Societies.

The Baptist World Alliance has contributed $10,000 to the Samavesam of Telugu Baptist Churches for relief in Tamil Nadu and Andhra Pradesh. American Baptists, a BWA affiliate, have donated $12,000 to the same organization.

CARE is transferring 1,300 tons of PL 480 soy-fortified bulgur, vegetable oil, and bulgur to relief operations in Tamil Nadu (areas of Madras, Trichi, Pudukottai, Nagappatinam, Madurai, and Tirunelveli) and Andhra Pradesh.

A CARE-operated bakery in Andhra Pradesh is turning out 7 to 8 MT of bread per day (50,000 rations) which is to be airdropped to cyclone victims. Another food processing plant in Guntur, which has been recently constructed by CARE/UNICEF/AID, is producing 18 to 20 MT of Mukuru (glucose biscuits) per day for distribution.

CARE is distributing blankets and clothing as well as foodstuffs to some 75,000 cyclone victims in Tamil Nadu and some 80,000 in Andhra Pradesh. Funds allocated for this purpose amount to $280,000.

CARE has also temporarily transferred many field personnel to the disaster sites, and permission has been received from the government to assist in rebuilding up to 340,000 houses.

The Comunity Development Foundation/Save the Children Federation will send $1,000 to the British Save the Children fund to help finance the British volag's shipment of medicines to India. In addition, $5,000 has been contributed to the Save the Children Alliance which groups the Save the Children Funds of the U.S., U.K., Canada, Norway, and Denmark.

CRS is transferring 77 tons of PL 480 rice to relief programs in the following cities in Tamil Nadu: Salem, Tanjore, Kumbakonam, Madurai, Dindigul, and Trichi. CRS will also distribute 3,500 tons of food received from the Food Corporation of India and food from its own stocks.

CRS has allocated $100,000 for emergency expenditures and Caritas/India, CRS's counterpart, has released $35,797 (Rs 310,000) for purchase of clothing, medicines, blankets, utensils, and temporary shelter for victims in both Tamil Nadu and Andhra Pradesh. In addition, 731 cartons of medicine valued at $488,000 have been released from CRS stocks.

CWS/LWR, via their counterpart agency, Church's Auxiliary for Social Action (CASA) are establishing feeding centers in Tamil Nadu and Andhra Pradesh to serve prepared meals to approximately 70,000 victims for 7 days. P.L. 480 Title II commodities will be used on a non-replacement basis. Other relief includes clothing, medicines, 1 million water purification tablets, utensils, and pumping out wells.

CWS has cabled $35,000 to CASA.

The Foreign Mission Board of the Southern Baptist Convention has cabled $10,000 to the American Baptist Mission in Tamil Nadu and the India Baptist Mission has sent $5,000 for relief in Andhra Pradesh.

Medical Assistance Programs International has donated $2,500 in cash and medical and hospital supplies to its Indian contact, the Emmanuel Hospital Association.

The Salvation Army has contributed $9,090.

The Seventh-day Adventist World Service has sent 75,000 lbs. of clothing, 500 first-aid kits, and 1,200 lbs. of blankets to Tamil Nadu. SAWS has also remitted $64,500 in cash for the emergency.

The World Relief Commission has made cash contributions to the following groups: $2,500 to the Evangelical Fellowship of India Council on Rehabilitation; $2,500 to the Society for Economic and Vocational Assistance; $35,000 to the Brethren Church in Andhra Pradesh.

World Vision International has allocated $125,000 and two pallets of medical supplies. Its personnel in India is working with relief teams of the Church of Southern India, the Baptists, the Lutherans, and the Salvation Army.

Total U.S. Volag Assistance Reported to date—$1,250,387.

ASSISTANCE PROVIDED BY THE INTERNATIONAL COMMUNITY

The Office of the United Nations Disaster Relief Coordinator (UNDRO) has announced the following contributions (cash unless otherwise noted) to the emergency relief effort:

Australian Catholic Relief—$11,000.

Australian Prime Minister—$50,000.

Australian Red Cross through the International League of Red Cross Societies (LICROSS)—$11,236.

Belgian Red Cross through LICROSS—$5,634.

Canadian Catholic Organization for Development and Peace through Caritas—$50,000.

Canadian Government through LICROSS—$200,000.

Canadian Red Cross through LICROSS—$20,000.

Caritas Belgium—$10,000.

Caritas Denmark—$5,000.

Caritas Germany—$85,000.

Caritas Netherlands—$61,302.

Caritas Switzerland—$23,255.

Catholic Fund for Overseas Development (UK)—cash, medicines—$14,240.

Danchurchaid to Lutheran World Federation (LWF)—$24,590.

Federal Republic of Germany, Government (planned in conjunction with Caritas, Diakonisches Werk, and German Red Cross) to Prime Minister's Relief Fund, Tamil Nadu State, Andhra Pradesh State, supplies, airlift—$884,956.

Finnish Red Cross through LICROSS—cash, supplies—$24,212.

French Red Cross—7 tons baby food—(Not reported).

Holy See—$25,000.

International Confederation of Free Trade Unions—$1,000.

Japanese Red Cross through LICROSS—$4,000.

Oxfam to field representative—$127,273.

Netherlands Government through LICROSS—$205,761.

Netherlands Red Cross through LICROSS—$20,576.

New Zealand Red Cross through LICROSS—$4,902.

Norwegian Church Relief to LWF—$36,360.

Norwegian Red Cross through LICROSS—$91,575.

Save the Children Alliance—100 tons clothing, 200 tons food—Not reported.

Secours Catholique Français—$10,150.

Swedish Government to Swedish Red Cross—$209,205.

Swedish Red Cross through LICROSS—$52,301.

United Kingdom Christian Aid—1 land rover—Not reported.

United Kingdom Government, Save the Children Fund, voluntary agencies—vehicles, drugs, water purification tablets, freight—$109,091.

United Kingdom Government—cash to GOI, medicines, airlift—$121,814.

United Kingdom Government to British Red Cross—$454,545.

United Kingdom Government to UNICEF—$45,454.

United Kingdom Red Cross—supplies, 2 land rovers—Not reported.

United Kingdom Save the Children Fund—medicines—$1,596.

UNDRO to UNICEF—$20,000.

UNICEF emergency allocation for local purchase of 68,120 blankets; 100,000 sets infants' garments; 25,000 saris; and cooking utensils—$225,000.

World Council of Churches to Indian affiliates—$35,000.

World Federation of Trade Unions—$10,000.

Total assistance from the International Community reported to date—$3,291,528.

By Mr. DOMENICI (for himself and Mr. NELSON):

S. 2354. A bill to provide for equal access to courts; to the Committee on the Judiciary.

(The remarks of Mr. DOMENICI when he introduced the bill are printed earlier in today's proceedings.)

By Mr. GLENN (for himself, Mr. HEINZ, Mr. HOLLINGS, Mr. JOHNSTON, Mr. MORGAN, Mr. SCHWEIKER, Mr. MUSKIE, Mr. RANDOLPH, and Mr. SASSER):

S. 2355. A bill to extend the Emergency Natural Gas Act of 1977; considered and passed.

(The remarks of Mr. GLENN when he introduced the above bill appear earlier in today's proceedings.)

By Mr. ROBERT C. BYRD (for Mr. SPARKMAN) (by request):

S. 2357. A bill to repeal sections 1735 and 1736 of the Revised Statutes (22 U.S.C. 1199); to the Committee on Foreign Relations.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. SPARKMAN, and by request, I introduce a bill and ask unanimous consent that a statement by Senator SPARKMAN, together with attachments be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. SPARKMAN

By request, I introduce for appropriate reference a bill to repeal sections 1735 and 1736 of the Revised Statutes (22 U.S.C. 1199).

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated April 22, 1977.

S. 2357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1735 and 1736 of the Revised Statutes (22 U.S.C. 1199) are repealed.

APRIL 22, 1977.

HON. WALTER F. MONDALE,
President of the Senate,
U.S. Senate.

DEAR MR. PRESIDENT: Sections 1735 and 1736 of the Revised Statutes (22 U.S.C. 1199), parts of which go back to the middle of the nineteenth century, authorize suits against United States consular officers for damages as a result of willful neglect or failure to perform in timely fashion any duty imposed by law or by order or instruction pursuant to law. Suit is similarly authorized for any willful misfeasance or abuse of power, or any corrupt conduct in office.

In 1972 Section 1735 was amended as part of a general law to eliminate surety bonds for Federal employees (P. L. 93–210, 86 Stat. 207). The Government now acts as a self-insurer and stands in the place of a commercial surety should a consular officer be sued under this law. Consular officers, but for Sections 1735 and 1736, would be in the same position as other Government employees with respect to personal liability for acts in their official capacity. The Department believes that there is no valid Governmental reason at this time to single out consular officers for special liability, but that general standards for when official immunity applies, and when it does not, should law against consuls for immigration decisions in exercise of the discretion conferred on them by the Congress indicates that it could apply. A number of recent suits under this be used as a means of harassment.

Section 1736 also contains criminal provisions for malversation and corrupt practice in office. The Department believes that these matters are adequately covered by provisions in Title 18 of the United States Code and that it is inappropriate to have a separate criminal statute on these matters applicable solely to consular officers.

For reasons set out in the preceding paragraphs, the Department considers 22 U.S.C. 1199 to be an anachronistic measure which places American consular officers abroad in undue jeopardy. Repeal of 22 U.S.C. 1199 would place consular officers in the same position as other Government employees with respect to personal liability for acts in their official capacity and criminal liability for corrupt practices.

Enclosed for the consideration of the Congress is a draft bill which provides for the repeal of 22 U.S.C. 1199. The Office of Management and Budget has advised that there is no obligation to the presentation of this proposal to the Congress.

Respectfully,
DOUGLAS J. BENNET, Jr.,
Assistant Secretary
for Congressional Relations.

By Mr. DOMENICI:

S. 2358. A bill to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands; to the Select Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I send to the desk for appropriate reference, a bill to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands.

This is a relative small area of land, 4,848.13 acres and abuts the Pueblo Grant to the South. Since time immemorial this land has been regarded by the Zia people as Zia land. It contains several very significant religious sites, and has been used as a community grazing area for as long as the oldest members of the Tribe can remember. In 1938 the Bureau of Land Management took over the land and fenced it and the Pueblo has used it since that time on the basis of successive yearly permits.

The tribal people did not have any reason to believe that the land was not tribal land and in their minds they were using it as tribal lands when the fence was erected. It should be noted, that the land claimed is not occupied by any other persons and no entities have any business interests which would be affected.

Mr. President, the tribe has had an anthropological study completed on this land which shows that the tribe has used this land for generations.

It is my hope that the appropriate committee will hold hearings on this proposal early next year so the documentation the tribe has gathered can be presented to members of the committee. I believe that this information will show that the title to this land should be transferred to the Pueblo of Zia.

By Mr. MOYNIHAN:

S. 2360. A bill to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act; to the Committee on Finance.

Mr. MOYNIHAN. Mr. President, I am today introducing, on behalf of the administration, a bill intended to settle a longstanding dispute between 28 States and the Department of Health, Education, and Welfare arising out of numerous claims for social services rendered under the several titles of the Social Security Act that authorized such services prior to October 1, 1975, when the current title XX took effect.

The claims and disputed payments to be settled by enactment of this legislation came to $2.4 billion. After meticulous negotiations between representatives of the affected States and a team of senior HEW officials, led by Secretary Califano, Under Secretary Champion, and Deputy Under Secretary Eidenberg, all parties concerned have agreed to full and final settlement in the amount of $532 million. This will result in the dropping of disputed claims by the States and by the Federal Government. It is a complete and final agreement, intended to bring to a close a costly and protracted series of claims, counterclaims, and lawsuits.

The present title XX program represents a marked improvement over the previous social service titles under which these disputes arose in a series of misunderstandings, abuses, and apparent manipulations so well chronicled by Dr. Martha Derthick in her brilliant small book "Uncontrollable Spending for Social Service Grants" published by the Brookings Institution.

It is now time to complete the transition from those programs to title XX, and passage of the present legislation, and implementation of the agreement it embodies, will have that salutary effect. It is a step forward for American federalism, and I congratulate all concerned on their success in bringing us to this point. As Senator from one of the affected States, and as chairman of the Subcommittee on Public Assistance, I look forward to early enactment of this bill.

Mr. President, I ask unanimous consent that an HEW background paper and a table outlining the recent settlements be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEW BACKGROUND PAPER

In the late 1950s the Congress authorized Federal matching under the welfare titles of the Social Security Act (titles I, X, XIV, and XVI) not merely for the traditional money payments by the States to "welfare" recipients but also for the State costs of social services provided to certain classes of the poor. At first these services, to be matchable, had to be provided by the State welfare agency and had to be provided only to current cash payment recipients (1957). Later, the State welfare agencies were authorized to purchase services from other public agencies and simultaneously were authorized to provide those services (with Federal matching) to former and potential cash assistance recipients (1962). Still later, the law was amended to allow the State welfare agency to purchase these services from private agencies (1967).

All these changes took place in the context of the "old" cooperative Federal-State welfare relationships. There were no Federal regulations governing these programs published in the Federal Register before 1969; a Federal Handbook was used for guidance by the States in interpreting the law.

As late as 1969, about 85% of the $354 million claims under the Social Services program was for salaries and expenses of the employees of the Single State Agency who were engaged in the traditional case work services. Only about 15% was for purchased services and most of this was for day care. However, about this time there were a number of things that took place which changed this picture.

HEW became very active in 1969 and 1970 in encouraging States to integrate the delivery of social services through agreements with other agencies, and through the formation of umbrella agencies. Social Services funds were seen by the State agencies as well as by HEW staff as a source, not limited by a ceiling on appropriations, to provide the "glue" money to bring available resources together in an integrated services system, which would greatly expand the availability of services to poor people. The general thrust was to put the Single State Agency in the position of being able to coordinate and expand diverse resources to provide effective services to current, former and potential recipients of Financial Assistance.

This effort toward an integrated services system was greatly encouraged by the provisions of the Act which made former and potential recipients of financial assistance, as well as current recipients, eligible for services.

Against this background, certain State governors and State budget agencies, spurred by fiscal crises, saw an opportunity to utilize Federal funds as a substitute for scarce State resources.

They were encouraged in this by management consultant firms that helped them prepare State Plan Amendments, and purchases of services agreements, and to develop claims in an effort to gain Federal matching for expenditures of other agencies. A variety of techniques was employed, including: estimating expenditures, sampling for eligibility, and determination of eligibility after the fact.

The first State to prepare plan amendments and develop claims did so on the basis of approved plan amendments. The next State to submit claims did so on the expectation that its plan amendments would be approved effective back to nearly a year before. The amendments were subsequently disapproved, and that disapproval is now the subject of a hearing before an Administrative Law Judge. However in the meantime, other States quickly developed amended State plans, and filed claims, and the pressure built to have all such claims expeditiously repaid.

As a result of the heightened expectations by States—even before the claims had been reviewed and approved or disapproved—estimates of the Federal share of FY 1973 social services expenditures ballooned from $1.3 billion submitted by the States in May 1972, to $4.8 billion in August of 1972. That prompted the Congress to set a ceiling of $2.5 billion on social services expenditures for FY 1972.

Meanwhile, HEW requested and received from OMB and the Congress the authority to hire 427 additional personnel to help it improve the management of Public Assistance Programs, and specifically to review the allowability of Public Assistance claims before they were paid. All claims for Social Services received special scrutiny because of the tremendous size of the claims, and because many included unexplained adjustments for prior periods. Payment of retroactive claims began to be deferred until field reviews could be made.

In the course of the review of these claims, questions were raised about the interpretation of Sections of the Act and the Federal Regulations. When a memorandum from SRS attempted to answer some of these questions, a number of States objected to elements of the document, and eventually 13 States filed suit to set aside the interpretations.

Concurrently, the Congress enacted the SSI program in 1972, and consolidated the social services program for adults in a new Title VI of the Social Security Act, and the social services Regulations once again underwent revision. One outcome of the various pressures, both financial and regulatory, was the enactment in 1974 of Title XX of the Social Security Act, as a new, comprehensive social services authority with a $2.5 billion ceiling. Under the new Title, States retained broad authority for determining the kind of social services to be provided, and the relative mix of such services within their borders.

Finally, some of the court action has resulted in District Court decisions, and a request by HEW that the Justice Department file appeals. Virtually all of the issues raised by these changing circumstances remain unsettled at this time.

PROPOSED SETTLEMENTS BY STATE

[In millions]

State	Claimed payment due from HEW (1969–75)	Proposed payment	U.S. claims against States dropped
Alabama			$1.0
Alaska			.7
Arizona			5.2
Arkansas	$3.8	$2.2	
California			1.5
Connecticut	38	22	6.0
Florida	28.7	11	29.1
Georgia	.7	.3	6.0
Idaho	1.1	.6	
Illinois	87.3	32.1	188.4
Kentucky			2.4
Louisiana			16.7
Maine	2.2	1.3	
Maryland	24.7	14.3	
Massachusetts	142	75	
Michigan	57.1	32.6	8.4
Minnesota	49.4	28.6	4
Missouri			.2
New Jersey	1.3	.7	
New York	914	214.4	490.0
Ohio	15.1	5.7	5.0
Oklahoma			13.8
Pennsylvania	4.2	1.6	2.8
Rhode Island			1.2
Tennessee	.004	.0015	.5
Texas	92.7	34	34.7
Washington	32.8	19	5.6
Wisconsin	65	36.5	6.3
Total	1,560	532	830.0

By Mr. ROBERT C. BYRD (for Mr. Magnuson, for himself, Mr. Pearson, and Mr. Long) (by request):

S. 2361. A bill to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 39, United States Code, "Transportation"; to the Committee on Commerce, Science, and Transportation.

Mr. ROBERT C. BYRD. I introduce today, at the request of the Interstate Commerce Commission, on behalf of Mr. Magnuson, for himself, Mr. Pearson, and Mr. Long, a bill to revise, codify and enact, without substantive change, the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation."

I ask unanimous consent that the letter of transmittal and the explanation and justification of the legislation be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Interstate Commerce Commission,
Washington, D.C., December 2, 1977.
Hon. Warren G. Magnuson,
Chairman, Committee on Commerce, Science and Transportation, Washington, D.C.

Dear Chairman Magnuson: Enclosed with this letter is a copy of H.R. 9777, a bill "To revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, Transportation," and the accompanying draft report of the House Committee on the Judiciary dated October 27, 1977.

Section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976 requires the Interstate Commerce Commission to submit to the Congress, within two years (by February 5, 1978), a proposed modernization and revision of the Interstate Commerce Act and a proposed codification of all Acts supplementary to the Interstate Commerce Act.

The Law Revision Counsel of the House of Representatives is responsible for the continuing recodification of the entire United States Code. Members of his staff have been working together with Commission staff for the past year to prepare the codification of the Interstate Commerce Act and related statutes. H.R. 9777 is the result of these efforts thus far.

H.R. 9777 restates the Interstate Commerce Act and related laws in comprehensive form. In this bill, simple language has been substituted for awkward and obsolete terms, and superseded, executed, and obsolete statutes have been eliminated. The bill does not bring about any substantive changes in the law.

No compliance bill to H.R. 9777 has yet been introduced in the Senate. I believe that such introduction might facilitate earlier consideration of this important legislation, and for that reason I respectfully request that you introduce H.R. 9777 as a Senate bill.

Sincerely yours,
A. Daniel O'Neal,
Chairman.

By Mr. BENTSEN:

S. 2363. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives to encourage the creation and growth of new and innovative firms; to the Committee on Finance.

VENTURE CAPITAL TAX REFORM ACT

Mr. BENTSEN. Mr. President, I am today introducing the Venture Capital Tax Reform Act to encourage the creation of new and innovative firms that are indispensable to a healthy, competitive economy.

Economic growth in our Nation depends upon the availability of a sufficient supply of capital for the risk-takers and entrepreneurs who have the initiative to start new businesses and to develop imaginative new ideas. That capital—often referred to as venture capital—is in short supply these days. Five years ago there were 418 underwritings of companies with a net worth of less than $5 million, underwritings that generated over $900 million in venture capital. In 1976, the number of such underwritings decreased to 38—about 9 percent of the 1972 figure.

Many products, unheard of a few years ago, which now benefit our daily lives, were developed by small innovative businesses. Minicomputers, semiconductors, hand-held calculators, and sophisticated lifesaving medical devices are but a few examples. The companies that created these products provided new jobs for our growing work force, provided competition to established firms, and increased exports to help with our balance of trade.

There are many causes for the decline of innovative firms, but the Venture Capital Tax Reform Act, which I am introducing today, would do much to alleviate the problem.

My proposal has six major provisions:

Favorable tax treatment would be provided to a new category of stock which would be referred to as "venture capital stock." The favorable treatment would take the form of tax deferral on certain gains and liberalized deductions on certain losses. These incentives will encourage the flow of desperately needed capital to risky new enterprises.

Stock option incentives would also be made available for "venture capital stock" to attract competent management.

The net operating loss carryforward of existing law would be increased to 10 years for new firms.

The existing limitation on investment interest deductions in our tax law would be repealed in order to encourage entrepreneurs to enter new fields to create new jobs and provide greater competition in our economy.

To provide greater cash flow for successful ventures, the corporate surtax exemption would be increased from the present level of $50,000 to $100,000.

To increase the availability of institutional funds for smaller firms, large pension managers would be prevented from holding more than 5 percent of the outstanding stock of most large companies.

Mr. President, it is essential that the problems of venture capital be specifically addressed during consideration of tax reduction and tax reform legislation next year. I have introduced my proposals to provide a starting point for discussion of these issues during the Ways and Means Committee and Finance Committee tax hearings. There is no question that the formulation of fair and effective tax incentives to encourage venture capital is a difficult task. However, with the input of the Treasury Department and outside experts, I am confident that provisions along the lines that I have suggested can be incorporated in the 1978 tax changes.

Mr. President, I would now like to describe these proposals in greater detail.

First, tax incentives would be provided to encourage individuals to invest in venture capital investments which are often very risky but provide a great deal of promise for our economy. These incentives are needed to increase the availability of external investment capital for innovative firms which will become the "new IBM" or the "new Xerox."

Under my proposal, a taxpayer who invests in qualified "venture capital stock" would be eligible to deduct as much as $100,000 of losses from such investment against ordinary income. This compares to the present limitation of only $3,000 on the capital losses that can be offset against ordinary income and the $50,000 limitation on deductible losses for so-called section 1244 stock.

In addition, under my proposal, gain from the sale of qualified "venture capital stock" would qualify as a nontaxable exchange provided the gain was reinvested within 2 years of sale in other qualified "venture capital stock."

Under existing law, the owner of a successful new business who sells out to a major corporation and takes stock in the big business has to pay no taxes until the stock is sold. On the other hand, if he sells his business to his children or to his employees or to another small business, he is taxed on any gains he realizes. In other words, our tax laws encourage venture capitalists to sell their firm to a large corporation.

My proposal would remedy this inequity by allowing a venture capitalist to sell a business without an immediate tax liability if the proceeds of the sale are reinvested in a new venture.

Venture capital stock is narrowly defined to limit the amount of revenue loss to the Treasury. Under my bill, "venture capital stock" would be defined to include stock issued by newly formed, domestic, unaffiliated corporations engaged in manufacturing, research, or extraction. The favorable treatment would be limited to the first $5 million of stock issued by that firm. Furthermore, favorable tax treatment would apply only if the stockholder held such stock for at least 10 years.

Second, this bill would provide favorable stock option treatment for employees of new ventures. Today it is difficult for an entrepreneur with a new idea to attract good management because new firms cannot afford the high salaries paid by larger companies. In addition, risky ventures cannot offer the long-term job security provided by established companies.

My bill would appeal the changes enacted in the 1976 Tax Reform Act with respect to stock options for qualified "venture capital stock."

Prior to the 1976 Tax Reform Act, no income was recognized on the grant to a corporate employee, or on his exercise of, a qualified option to receive employer stock. The stock acquired by the exercise of the option was a capital asset in the hands of the employee and the income realized from the eventual sale of the stock was generally treated as long-term capital gain or loss.

By contrast, the value of a nonqualified stock option constituted ordinary income to the employee if the option itself had a readily ascertainable fair market value at the time it was granted to the employee. If the option did not have a readily ascertainable value it would not constitute ordinary income at the time it was granted; when the option was exercised, however, the spread between the option price and the value of the stock at that time constituted ordinary income to the employee.

Thus, qualified options had this advantage: an executive was not required to pay any ordinary income tax on the value of the option as such when the company granted it to him, or on any "bargain element" which may have existed if and when he decided to exercise the option and purchase stock in the company. The bargain element is the excess of the fair market value of a share of stock over its purchase price. The employee was only required to pay tax when he sold the shares purchased under the option.

Further, if he held the shares for at least 3 years—as required for the option to remain qualified—he was entitled to pay tax at capital gains rates on the full amount of his gain over the price which he originally paid.

Although an employee did not have to pay tax under the qualified stock option rules at the time he exercised the option and received stock worth more than he paid for it, the bargain element was treated as an item of tax preference in the minimum tax.

Under the 1976 Tax Reform Act, if an employee receives an option which has a readily ascertainable fair market value at the time it is granted, this value—less the price paid for the option, if any—constitutes ordinary income to the employee at that time.

On the other hand, if the option does not have a readily ascertainable fair market value at the time it is granted, the value of the option does not constitute income to the employee at that time, but it would be taxable to the employee only when the option is exercised. The ordinary income recognized at that time is the spread between the option price and the value of the stock—unless the stock is nontransferable and subject to a substantial risk of forfeiture.

Current law unduly penalizes key employees of smaller companies who often must sell optioned stock at the time of option exercise in order to pay the required tax, yet are unable to sell the stock obtained from exercising the option due to the limited or illiquid market for the stock. My bill would reinstate the favorable pre-1976 stock option treatment for new risky ventures to enable these firms to attract and motivate key employees. Innovative companies require appropriate incentives to attract capable management away from the high salaries and long-term security provided by mature companies.

Third, this bill would increase the net operating loss carryforward for new businesses. For the first 10 years of operation of a new business the period over which net operating losses may be carried forward and deducted against profits would be increased from the present limit of 7 to 10 years. New enterprises are generally more dependent on internally generated capital for growth and the current limit on the net operating loss carryover can have an adverse effect on growth. Since new businesses are frequently unprofitable for their first few years, operating losses incurred in these early stages often cannot be recovered in the carryforward period now permitted. Thus, although well established companies can usually utilize the net operating loss deductions, newer enterprises often cannot. My proposal would help eliminate this tax inequity.

Fourth, the existing limitation—generally $10,000 plus net investment income—on investment interest deductions would be repealed. Repeal of this very counterproductive limitation would encourage entrepreneurs to enter new fields—with borrowed funds—to bootstrap their way up. This change will facilitate the ability of entrepreneurs to raise capital to start a new business which can provide many new jobs and provide competition to the established firms. Investment interest expenses are real out-of-pocket expenses and should be deductible, particularly since this would encourage competition in our economy.

The present limitation discriminates in favor of persons with established wealth compared to new entrepreneurs. For example, a person who receives interest income of $100,000 per year from a trust is entitled to an investment interest deduction of $110,000. In comparison, a young entrepreneur with no interest income is limited to only $10,000 of investment interest deduction. Furthermore, our tax laws impose no limitations with respect to loans for the purchase of private airplanes or yachts but impose limitations on investment loans even though the establishment of a new business creates many new jobs for our economy.

The original purpose of the investment interest restriction was to prevent the conversion of ordinary income into capital gains. However, now that large capital gains are subjected to a tax of over 49 percent, such a limitation on interest deductions is counterproductive.

Fifth, to provide greater cash flow for successful ventures, the existing corporate surtax exemption of $50,000 would be raised to $100,000.

Under existing law, the first $25,000 of corporate income is taxed at a rate of 20 percent and income from $25,000 to $50,000 is taxed at a 22-percent rate. Corporate income in excess of $50,000 is taxed at a rate of 48 percent. These rates expire at the end of 1978. Under prior law, the first $25,000 of income was taxed at a rate of 22 percent and income in excess of that amount was taxed at 48 percent.

More favorable tax treatment for small business would provide additional capital for reinvestment and expansion of successful ventures.

Sixth, in order to diversify equity investments, large pension managers would be prevented from holding more than 5 percent of the outstanding stock of most large companies. Investments in companies with a capitalization of less than $150 million would not be subject to this limit.

One of the serious problems facing venture capitalists today is the inability of a successful venture to go public once it has grown to a sufficient size. The declining number of individual investors and the tendency of large institutions to ignore smaller firms has contributed to a shortage of funds for public offerings of well-managed firms supplying good products or services. A diversification requirement for pension managers would help spread equity capital and at the same time protect the safety of pension plan benefits.

Such a 5-percent limitation already applies to most insurance companies via New York State law, and many other pension managers have voluntarily adopted it. Several of the Nation's leading bankers have stated that 5 percent is their working rule for good market liquidity.

Today, private pension assets are managed by a relatively small number of financial institutions. Just one New York City bank manages $25 billion of assets, including $15 billion of pension assets. One-fifth of all pension assets—about $63 billion— are managed by just seven banks. There have been instances in which these pension managers tended to concentrate their investments in the stock of the same few companies. This creates a potentially dangerous investment situation for pension plan participants. If one of this very small group of pension managers decides to sell a major investment, on a bit of disturbing news, and other pension managers attempt to follow, they find that the "gate" suddenly gets very narrow. This situation can result in a very substantial reduction in the price of the stock to the detriment of countless American workers and retirees. Greater safety of pension assets can be insured if pension investments are reasonably diversified and decisionmaking is spread over a larger number of advisers.

A 5-percent limit is clearly not restrictive. There are over 2,000 different common stocks on the exchanges—1,150 common stocks on the New York Stock Exchange and 1,118 common stocks on the American Stock Exchange—for pension managers to choose from. In fact, the New York State insurance law specifically prevents insurance companies from holding more than 5 percent of the outstanding stock of a company. Thus, all major insurance companies in the country substantially comply with this rule. Several large banks have a self-imposed 5-percent holding rule, including Continental Bank, Wells Fargo Bank, Northern Trust Co., and Chemical. Furthermore, an executive of Citibank, which has one of the Nation's largest bank trust departments, has stated:

> If we held more than five percent of a company's stock, we'd be concerned that we could become locked in. That five percent limit is our working rule for good market liquidity.

This rule would simply insure that all large pension managers follow the example that some of the best pension managers have adopted voluntarily.

This proposal will not solve all of the problems associated with concentration of pension investments and concentration of pension management. However, the proposal is a constructive step to curb some real abuses and will help diversify pension investments.

Mr. President, I would like to provide some examples which illustrate the importance of venture capital to our entire economy.

Venture capital was essential in the creation of transistors. It is the transistor which made possible the large central computer industry and the military instrumentation industry. The development of the minicomputer industry depended on the availability of venture capital. The minicomputer industry not only provides substantial jobs and tax revenues but has also been a major factor in improving the productivity of industry. Everyone is familiar with pocket calculators. Pocket calculators are solely the product of American technology and venture capital.

A venture capital enterprise funded by risk investments developed the know-how for miniaturized semiconductors called MOS's. With this know-how and technology an entire new industry was created and America still leads the world in this field. The total initial risk capital investment was relatively small, especially when compared to recent total industry sales.

Indeed, venture capital has had an important impact on any number of high-growth industries—semiconductors, minicomputers, all kinds of other computer-related products, hand-held calculators, automatic editing typewriters, CATV, hifis, new medical instruments and a wide variety of others.

Even frozen orange juice was developed through venture capital. A great many jobs have been brought back to the United States from Japan through the development of the small chips that are used in hand-held calculators, and this type of advance is now being applied to electronic watches. These were developments by small companies that were not subject to the restrictions of a large company environment and could attract the bright young scientist, production manager and marketing people to move the product into the marketplace. And it is also the result of venture capitalists who were willing to risk their capital to build new companies to better serve the public.

We cannot maintain a healthy, competitive and growing economy unless there is enough capital available for the risktakers and entrepreneurs who want to develop their ideas into businesses.

In addition, we must avoid encouraging investors to sell new ventures to large firms.

The Federal Trade Commission's 1975 report on mergers and acquisitions states:

> As in the previous years, acquired firms that fell into the smallest asset size class accounted for the highest proportion of recorded acquisitions. Acquisitions of firms in the under $1.0 million and unknown asset size class represented 935, or 76.1 percent of the total number of recorded completed and pending acquisitions. For many of the acquired companies in this category, asset figures were unavailable—most likely because the acquired company was quite small. The $1.0–$9.9 million asset size class had the second highest proportion of acquired companies (11.5 percent).

Limitations on the ability of private investors in successful small businesses to sell their shares to other investors have resulted in large companies being able to take over successful small companies at a discounted price because the businesses and their individual owners have little alternative in meeting their financing and liquidity needs. This is a major force increasing concentration and diminishing competition in the American economy today.

Very often mergers are a legitimate means of developing liquidity. Frequently, a growing business needs the capital and management expertise of a larger partner for continued growth. On the other hand, many mergers in the past 5 years have resulted from an environment that offered the small businessman no alternative methods of acquiring capital and liquidity.

Mr. President, the Venture Capital Tax Reform Act will provide a more favorable economic climate for the creation and growth of innovative firms. It will help remove artificial incentives for new firms to sell out to giant corporations.

The key building blocks for the emerging innovative company are capital and management. Without adequate incentives for both, the ongoing formation of these vitally important businesses will simply not happen.

By Mr. ABOUREZK:

S. 2364. A bill to provide parity to farmers and to prevent interruptions in the supply of food to American consumers; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ABOUREZK. Mr. President, today I am reintroducing the bill that I introduced last week which would direct the Secretary of Agriculture to increase price supports to producers of most of the major crops and feedgrains to at least 100 percent of parity. This new version adds cattle to the list of "commodities" that are covered by the bill and further stipulates that the Secretary suspend foreign meat imports until such time as domestic cattle prices reach the 100 percent of parity level. It is no secret that our domestic cattle producers are being threatened with economic extinction. It is just another example of producer efficiency that has resulted in an oversupply situation which has depressed market prices received by cattle raisers to a level far below the costs of production. If we allow the alarming trend of cattle ranch failures to continue, the independent cattleman will soon be a thing of the past.

Our food producers have stood by patiently and watched as other threatened industries have been "bailed out" by the Federal Government. The situation is no less desperate today in agriculture than it was in any of those other industries. That is why, Mr. President, that I feel we can do no less than give our full consideration to this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assesmbled, That this Act may be cited as the "Emergency Farm Act of 1977."

SEC. 2. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed to make available through loans, purchases, payments, or other operations, price support to producers for each of the 1977 through 1981 crops of corn, cotton, peanuts, rice, tobacco, wheat, barley, oats, rye, grain sorghum, soybeans, sugar, wool, mohair, milk, and honey at a level of not less than 100 per centum of the parity price for such commodity, unless a majority of the producers of any such commodity voting in a referendum conducted by the Secretary of Agriculture vote to exempt such commodity from the provisions of this Act. The Secretary is also hereby authorized and directed to make available, through purchase agreements, price support to domestic cattle producers for the years 1977 through 1981 at a level of not less than 100 per centum of the parity price for all cattle produced and sold for use in this country or for export abroad. The Secretary is further directed that, until such time as domestic cattle prices are brought to the 100 per centum level, he shall suspend all foreign meat imports into this country.

By Mr. ROBERT C. BYRD (for Mr. EAGLETON):

S. 2365. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety; to the Committee on Human Resources.

COSMETIC SAFETY AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I introduce a bill for Mr. EAGLETON and I ask unanimous consent that a statement by Mr. EAGLETON, together with the bill and an attachment, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR THOMAS F. EAGLETON

Today I am introducing the Cosmetic Safety Amendments of 1977. My interest in this legislation began in 1973, when I first introduced a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety. Again, in 1975, I introduced a cosmetic safety bill, and late in 1976, the Senate passed that bill with minor amendments.

The purpose of these bills, and the one I am introducing today is to prevent unreasonable risk of injury resulting from the use of cosmetic products. The need for this legislation has not lessened, and indeed has been highlighted by recent studies pointing to cancer risks associated with cosmetic use.

Virtually every American family uses cosmetic products of one kind or another, since the term includes everything from lipstick and mascara to toothpaste and shaving cream. Most consumers purchase this wide range of products under the mistaken assumption that they are required to be screened to eliminate potential health hazards. As reported in the April 1973 issue of FDA Consumer, a Food and Drug Administration survey of consumer attitudes revealed that 31.7 percent of those polled are of the view that the law requires manufacturers of cosmetics to test their products prior to marketing them; 50.8 percent think that premarket testing is required some of the time; and only 5.4 percent are aware that the law imposes no testing requirements whatsoever.

The Federal Food, Drug, and Cosmetic Act of 1938 confers extensive regulatory authority on the Food and Drug Administration with respect to safeguarding the public against health hazards in food and drugs, but only very limited powers for FDA respecting cosmetics.

The FDA is currently authorized to act with respect to cosmetics in only two areas: (1) when the cosmetic is "adulterated," that is, the cosmetic or its container is composed of some poisonous or deleterious substance; or it contains any filthy, putrid or decomposed matter, or it is packed in an unsanitary manner and has become contaminated; and (2) when the cosmetic is "misbranded," that is, when its labeling is false or misleading, or fails to contain information required by law, such as the name and location of the manufacturer or the quantity of the contents.

Should a cosmetic be determined to be either adulterated or misbranded, the Food and Drug Administration has the authority to seize the product. This after the fact approach, which allows enforcement to proceed primarily on a case-by-case basis, permits potentially injurious products to be sold, with consumers as the guinea pigs.

Recent safety questions with respect to hair dyes highlight the inadequacy of FDA's current regulatory authority. Several years ago, Dr. Bruce Ames, a biochemist at the University of California at Berkeley, developed a new screening test which indicated that some hair dyes may be responsible for cancer and birth defects. Recently, the National Cancer Institute issued a preliminary report of its findings that rats and mice develop cancer when hair dyes are ingested. Mr. President, I ask that the text of a December 5, "New York Times" editorial on the hair dye question and cosmetic safety in general be printed at this point in the Record.

A 1976 report of an FDA advisory review panel charged with studying and evaluating the safety and effectiveness of certain antimicrobial products which are sold as over the counter drugs, concluded that certain ingredients in these products could not be included in the "generally recognized as safe" category and therefore should not be used in drug products until their safety is definitely established. Significantly, the panel noted that some of the ingredients in question are also commonly used in cosmetics, but that due to the lack of regulatory authority over cosmetics, nothing could be done to require that their safety be shown or that their use be restricted. Thus, the panel came to the anomalous conclusion that the federal government has a legal responsibility to protect consumers against risks posed by drug products of questionable safety, but has no authority to safeguard the public against risks stemming from the incorporation of the same substances in cosmetics.

In the last several years, the FDA has made a commendable beginning effort to reduce cosmetic-related health hazards and to provide consumers with more and better product information when they buy cosmetics. Just last month, FDA regulations requiring that the labels of cosmetic products list the ingredients contained therein, and further, to require that any manufacturer who fails to substantiate the safety of any of his cosmetic products must include the following statement on the label: "Warning: The safety of this product has not been determined," went into effect. In connection with the latter requirement, the former Commissioner of FDA advised manufacturers that substantiation of the safety of a product may be accomplished through "(a) reliance on already available toxicological test data on individual ingredients and on product formulations that are similar in composition to the particular cosmetic, and (b) performance of any additional toxicological and other tests that are appropriate in the light of such existing data and information. Although satisfactory toxicological data may exist for each ingredient of a cosmetic, it will still be necessary to conduct some toxicological testing with the complete formulation to assure adequately the safety of the finished cosmetic." Despite this well-intentioned regulation, FDA has candidly acknowledged that the safety substantiation regulations are essentially unenforceable under present law, since the agency has no authority to inspect, or to require the submission of, the data upon which manufacturers base their claims of safety.

In addition to these regulatory initiatives, the FDA has undertaken a voluntary program in concert with representatives of the cosmetic industry which consists of:

(1) Registration by all cosmetic manufacturers with the FDA, supplying the name and address of the company and the names of the cosmetic product it manufactures.

(2) Submission on the FDA by the manufacturer of the formula for each product, to be kept primarily for use by physicians treating individuals who are injured by a particular cosmetic;

(3) Submission to the FDA by manufacturers, distributors, of cosmetic products of "verified" reports of adverse reactions to each product.

These three voluntary programs have had mixed results. It is true that manufacturers of 95 percent of all cosmetic products have registered, but a great many of the smaller companies have failed to do so. Formula data for about 70 percent of the products on the market have been submitted but only 2 percent of the manufacturers have provided FDA with reports on adverse reactions suffered by consumers.

It is clear that additional legislative authority is needed in this area. The bill which I am proposing represents a long overdue redefinition of the government's responsibility for insuring that cosmetic products offered for sale to the public are safe. The basic thrust of the bill is to assure that cosmetic products undergo adequate safety testing prior to being placed on the market, and to provide the Food and Drug Administration with adequate information and regulatory authority to enforce the provisions of the law in a uniform manner.

A brief summary of the bill follows:

(1) Title I of the bill sets forth procedures for the safety substantiation of cosmetics and cosmetic ingredients, placing the burden on manufacturers for safety substantiation prior to commercial distribution, as well as a continuing burden on manufacturers to substantiate the safety of their products while on the market. The FDA would be authorized to require the submission of this safety test data, or to require specific testing when necessary to assure safe cosmetics. FDA would be given the specific authority to prohibit the inclusion of certain ingredients in cosmetics, require additional labeling, limit amounts of certain ingredients, or ban a cosmetic if necessary to protect the public health. Title I also provides that FDA's good manufacturing practice regulations for cosmetics would have the force of law, (2) for retention of the present exemption for pure soap, and (3) for the deletion of the hair dye exemption from the adulteration provisions of the Act. Title I further provides for citizen civil suits, civil monetary penalties, and modification of the standard of strict criminal liability for a violation of the Act.

(2) Title II requires manufacturers to register with FDA, to submit formulas for cosmetic products to FDA, and to periodically forward consumer complaints about adverse reactions to cosmetic products to the FDA. This title would make mandatory the present voluntary programs, and would broaden FDA's inspection powers to include records bearing on whether a cosmetic may be adulterated or misbranded. It would also authorize FDA to administratively detain suspect products pending seizure. Finally, title II provides an early warning safety provision, requiring registration of new cosmetic products unlike types of cosmetics previously marketed, and of ingredients not previously used in cosmetics.

(3) Title III of the bill provides clear authority for FDA to require ingredient, cautionary, and information labeling of cosmetics under the Federal Food, Drug, and Cosmetic Act.

(4) Title IV provides a procedure for informal notice-and-comment rulemaking, subject to direct review in a United States Court of Appeals. This allows for an expedited regulatory procedure.

Mr. President, I ask that the text of the bill and editorial be printed in the RECORD.

The bill and editorial ordered to be printed in the RECORD are as follows:

S. 2365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Cosmetic Safety Amendments of 1977".

TITLE I—COSMETIC SAFETY

SEC. 101. Chapter VI of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 361 et seq.) (hereinafter referred to as the Act) is amended to add a new section as follows:

"COSMETIC SAFETY

"Cosmetics Deemed Adulterated

"SEC. 604. (a) A cosmetic shall be deemed to be adulterated under section 601(a), if—

"(1) its safety has not been adequately substantiated prior to and during the commercial distribution of the cosmetic; or

(2) requirements applicable to that cosmetic by or under subsection (c) of this section have not been met; or

"(3) it is a banned cosmetic; or

"(4) it is deemed unsafe under subsection (c)(5).

"Cosmetic Safety Substantiation

"(b)(1) The safety of a cosmetic shall not be considered adequately substantiated unless—

(A) on the basis of all data and information relating to the safety of the cosmetic it can reasonably be concluded that the cosmetic is safe under the conditions of use prescribed in the labeling of the cosmetic, or under such conditions of use as are customary or usual;

"(B) such data and information are contained, or referred to, in records maintained by the manufacturer or the distributor who is designated under section 605 (b)(1)(D) as responsible for maintenance of such records respecting that cosmetic; and

"(C) all data and information maintained in accordance with subparagraph (B) are submitted to the Secretary when he shall, by regulation, so prescribe, or upon his written notice or the written notice of a person designated by the Secretary for such purpose.

"(2) The data and information referred to in paragraph (1)—

"(A) shall include full reports of specific testing conducted by the manufacturer or his designated representatives in animals or humans by such methods as are methodologically adequate and reasonably applicable to determine the potential of the cosmetic for—

"(i) toxicity,

"(ii) sensitization, and

"(iii) irritation,

under such conditions of use as are prescribed in the labeling of such cosmetic, and under such other conditions of use as may be reasonably foreseeable except that, in lieu of conducting such tests, data and results of published scientific tests in animals or humans which are methodologically adequate to determine the potential of the cosmetic for toxicity, sensitization and irritation may be substituted; and

"(B) may include published scientific literature or unpublished data and information in the possession of the manufacturer or distributor relevant to the cosmetic and the cosmetic ingredients.

"Cosmetic Safety Regulations

"(c)(1) Whenever the Secretary finds, on the basis of all available information, that such action is necessary to assure the safety of any cosmetic, or class of cosmetic, he shall by regulation or order require such additional specific testing as he deems necessary to protect the public health, including testing of the cumulative and synergistic effects of such cosmetic, or class of cosmetics.

"(2) In requiring specific testing under paragraph (1), the Secretary shall by regulation provide that such testing be conducted by the manufacturer or manufacturers of such cosmetic or class of cosmetics, or by qualified persons independent of such manufacturer or manufacturers.

"(3) Whenever the Secretary finds that such action is necessary to protect the public health and safety, he shall:

"(A) prohibit the cosmetic from bearing or containing any substance which may render it injurious to users or limit the quantity of such substance in or on the cosmetic; or

"(B) require appropriate labeling pursuant to section 602; or

"(C) ban such cosmetic; or

"(D) require any combination of measures authorized in subparagraphs (A) and (B).

"(4) The Secretary may declare a proposed regulation issued under paragraphs (1) and (2) to be effective upon its publication in the Federal Register and until the effective date of any final action taken respecting such regulation if he determins that making such proposed regulation so effective is necessary to reduce or eliminate a significant hazard to any segment of the public associated with the use of the cosmetic which is the subject of the regulation. If the Secretary makes a proposed regulation so effective, he shall as expeditiously as possible give interested persons notice of his action under this subsection, promptly provide reasonable opportunity for an informal hearing and written expression of views, and thereafter, as expeditiously as possible, either affirm, modify, or revoke such proposed regulation.

"(5) A cosmetic shall be deemed adulterated—

"(A) for any use which will or may result in ingestion of all or part of such cosmetic or cosmetic ingredient if the cosmetic or cosmetic ingredient is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of chemicals liable to be ingested by man, to induce cancer in man or animal, and

"(B) for any use which will not result in ingestion of any part of such cosmetic or cosmetic ingredient if, after tests which are appropriate for the evaluation of the safety of such cosmetic or cosmetic ingredient, it is found by the Secretary to induce cancer in man or animal.

"Definitions

"(d) As used in this section the term—

"(1) 'toxicity' refers to the short-term or long-term capacity of a cosmetic to produce personal injury or illness to human beings or experimental animals through ingestion, inhalation, or absorption through any body surface;

"(2) 'sensitization' refers to the capacity of a cosmetic to cause, following one or more prior nonreactive exposures, on normal living tissue through an allergic or photodynamic process, an injury to the original site or other sites;

"(3) 'irritation' refers to the capacity of a cosmetic on immediate, prolonged, or repeated contact with normal living tissue, to induce a local inflammatory reaction; and

"(4) 'testing' refers to the process of measuring, in terms of objective standards (as established by the Secretary in consultation with public and private individuals appropriately qualified by training and experience), the capacity of a cosmetic to cause illness or injury.

"Citizen's Civil Actions

"(e) (1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action for mandatory or prohibitory injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case or controversy—

"(A) against any person who is alleged to be in violation of this section or of any regulation issued under this section; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this section which is not discretionary with the Secretary.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(2) No civil action may be commenced—

"(A) under paragraph (1) (A) of this subsection—

"(i) prior to sixty days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or

"(ii) if the Attorney General or the Secretary has commenced and is diligently pursuing judicial proceedings or administrative action with respect to such alleged violation,

"(B) under paragraph (1) (B) of this subsection, prior to sixty days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

"(3) In any action under this subsection, the Attorney General or the Secretary may intervene as a matter of right. The decision and rulings of the court, in any judicial proceeding commenced under this subsection, shall not be a bar to the institution of any judicial proceeding or administrative action by the Secretary against a party to such judicial proceeding, nor shall any factual finding by such court be determinative as to any fact in any subsequent judicial proceeding or administrative action, unless the Secretary is a party to the proceeding under this subsection.

"(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including a reasonable attorney's fee, based on the prevailing rates for such services, and expert witness fees) to any party, whenever the court determines that such an award is appropriate.

"(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

"(6) Nothing in this subsection shall require the disclosure of any trade secret information or any other confidential information relating to cosmetics during discovery or at any time or place other than that which may be prescribed by the court.

"Defenses and Representations

"(f) Compliance with this section (1) shall not be an absolute defense in suits for product liability and (2) shall not denote certification by the Secretary that any cosmetic or cosmetic ingredient is safe. Any representation in labeling or advertising that creates an impression of certification shall be deemed misbranding.".

GOOD MANUFACTURING PRACTICES

SEC. 102. Section 601 of the Act (21 U.S.C. 361) is amended by adding at the end thereof of the following new subsection:

"(f) If the methods used in, or facilities and controls used for its processing do not conform to, or are not operated or administered in conformity with, current good manufacturing practices, as determined by regulations issued by the Secretary.".

CONFORMING AMENDMENTS

Definition

SEC. 103. (a) Section 201 of the Act (21 U.S.C. 321) is amended by adding the following new subsection at the end thereof:

"(z) For the purposes of sections 604 and 605, the term 'commercial distribution' means any distribution outside the establishment manufacturing the product for sale, for promoting future sales (including distribution of free samples of the product), or for measuring consumer acceptance through market testing."

Amendment to Section 303

(b) (1) Section 303(c) of the Act (21 U.S.C. 333) is amended by striking the period at the end thereof and inserting at the end thereof the following: "; or (6) for having violated section 301 (a) or (c) with respect to a cosmetic because the cosmetic is deemed adulterated under section 604(a), or misbranded under section 602 (g), (h), or (i), if such person establishes a guarantee, in a form and under such conditions as are established by the Secretary by regulation, to the effect that the person from whom he received in good faith the article complied with the requirements of section 604(a), section 605, or section 602 (g) and (h).".

(2) Section 301(h) of the Act (21 (U.S.C. 331) is amended by inserting "or in section 303(c) (6).", immediately following 303(c) (3),".

Provided Acts

(c) (1) Section 301(e) of the Act (21 U.S.C. 331) is amended by striking the word "or" before "519" and by adding a comma and "or 604" after "(519)".

(2) Section 301 of the Act is further amended by adding a new subsection as follows:

"(s) The maintenance or submission of any required data, information, records, or reports, which contain any false or misleading information or that omit any material information.".

Adulterated and Misbranded Cosmetics

(d) (1) Section 601(a) of the Act is amended to read as follows:

"(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users, or if it is or may be injurious to users, under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual, or if it is deemed adulterated under section 604(a).".

(2) Section 601(e) of the Act is amended to read as follows:

"(e) If it is, or it bears or contains, a color additive which is unsafe within the meaning of section 706(a). This paragraph shall not apply to any hair dye other than any eyelash dye or eyebrow dye.".

(e) Section 602(e) of the Act is amended by striking "as defined in the last sentence of section 601(a))" from the second sentence and inserting "(other than any eyelash dye or eyebrow dye)" in lieu thereof.

CIVIL AND CRIMINAL PENALTIES

SEC. 104. (a) Chapter III of the Act (21 U.S.C. 331, et seq.) is amended by adding at the end thereof the following new section:

CIVIL PENALTIES

"SEC. 308. (a) Any person who is found by the Secretary, after written notice and an opportunity for a hearing, to have committed an act prohibited by section 301 of this chapter with respect to any cosmetic, shall be liable to the United States for a civil penalty of not more than $10 000 for each violation constitutes a separate offense for such purpose. The amount of such civil penalty shall be determined and assessed by the Secretary, or his delegate, by writen notice.

"(b) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such assessment and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The finding of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2) (e) of title 5, United States Code.

"(c) If any person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secreary shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

(b) Section 303(a) of the Act is amended to read as follows:

"Penalties

"(a) Any person who violates a provision of section 301 shall be imprisoned for not more than one year or fined not more than $10,000, or both; except that such penalties shall apply to any individual who violates a provision of such section 301 with respect to cosmetics or who causes a violation of such section 301 to occur with respect to cosmetics, only if such individual knowingly, willfully, or negligently violates, or causes the violation of, such provision."

EFFECTIVE DATE

SEC. 105. (a) The provisions of this title shall take effect October 1, 1978, except as provided in subsection (b).

(b) The legend required to be placed on the label of a coal-tar hair dye by the proviso of section 601(a), prior to the enactment of this Act, shall continue to be required until the Secretary issues regulations under section 602 prescribing different requirements.

TITLE II—REGISTRATION AND COMPLIANCE

SEC. 201. Chapter VI of the Act (21 U.S.C. 361, et seq.) is amended by adding at the end thereof the following new section:

"REGISTRATION OF COSMETIC PROCESSORS

"SEC. 605. (a) (1) On or before December 31 of each year, every person who owns or operates an establishment engaged in processing a cosmetic shall register with the Secretary his name, principal place of business, and the location of each such establishment, in such manner and form as the Secretary shall prescribe by regulation.

"(2) Every person required to register under this subsection shall, within ten days after commencing operation of any additional establishment, register such additional establishment with the Secretary.

"(3) Every person required to register under this section shall promptly notify the Secretary if he ceases to process cosmetics in any establishment unless such cessation is temporary.

"Registration of Cosmetic Lists

"(b)(1) Every person required to register under this section shall, for each such establishment, include as part of such registration the following information regarding any cosmetic which is in commercial distribution—

"(A) a list of each cosmetic processed in each such establishment by brand name or names;

"(B) the class of cosmetics (as prescribed by the Secretary by regulation) of each such cosmetic;

"(C) a list of each ingredient used in each such cosmetic in descending order of predominance by weight, showing the percentage of each such ingredient: *Provided*, that a flavor or fragrance may be designated as such if the manufacturer or distributor of such flavor or fragrance has separately submitted a registration statement containing a list of ingredients used in such flavor or fragrance which the requirements of this section;

"(D) the name and principal place of business of the person who is to be responsible, with respect to each such cosmetic, for the maintenance of records relating to safety substantiation required to be kept by section 604(b), and the location of such records; and

"(E) summary information on such cosmetic relating to hazards from accidental ingestion or misuse of such cosmetic (which information shall be based upon such investigations as are necessary to identify such hazards) and, where appropriate, information on antidotes or treatment.

"(2) The Secretary may also require the submission by any person required to register under this section of the following information concerning any cosmetic in commercial distribution if he finds that such submission is necessary or appropriate to carry out the purposes of this Act—

"(A) a quantitative list of the ingredients of any cosmetic,

"(B) a list of all cosmetics that include a particular ingredient or fall within a particular cosmetic class or for any particular use;

"(C) representative samples of the labeling or all labeling of any cosmetic or class of cosmetics.

"(3) The Secretary may by regulation require that information required by subsections (2) (A), (B), and (C) be included as part of an annual registration.

"Changes in Registration Information

"(c) If, at any time, material information submitted by any person required to register under this section is no longer accurate, such person shall file with the Secretary, within ninety days after the date on which such information is no longer accurate, such amendment or amendments as may be necessary to make the information accurate.

"Notification of New Cosmetic

"(d) The Secretary shall, by regulation, provide that any person required to register pursuant to this section who proposes to offer for commercial distribution a cosmetic—

"(1) which contains any ingredient which has not previously been used in cosmetics registered pursuant to this setcion, or

"(2) which is proposed to be used in an application for which such cosmetic was not previously offered for commercial distribution shall, within twenty days before the date on which such cosmetic is first offered for commercial distribution, give the Secretary notice of the proposed commercial distribution of such cosmetic, along with a list of the ingredients used in such cosmetic and information as to its intended use as prescribed in the labeling thereof.

"Inspection, Reporting, and Recordkeeping

"(e)(1) Every establishment required to register under this section shall be subject to the inspection and reporting requirements of section 704.

"(2) Every person required to register under this section shall maintain records of all information submitted to the Secretary under this section. Such information, and other records relating to such information, may be inspected or required to be submitted under section 704.

"Availability of Information

"(f)(1) No officer or employee of the United States shall disclose any information revealed to, or otherwise obtained by, the Department or any of its representatives, under subsections (b) and (c), which information is exempt from mandatory disclosure pursuant to section 552 of Title 5 of the United States Code, by reason of its constituting trade secrets or commercial or financial information that is privileged and confidential.

"(2) Information submitted to the Secretary in compliance with requirements of paragraph (d)(2) of this section shall be retained by him as confidential trade secret information until the date on which the cosmetic to which such information applies is offered for commercial distribution.

"Filing of Adverse Reactions

"(g) The Secretary shall require every person required to register under this section to file with him information regarding every report of any adverse reaction received by such person which may have resulted, or is alleged to have resulted, from the use of a cosmetic processed by him, thirty days after the end of the calendar quarter in which such report was received. Each such person shall maintain, for at least five years from date of receipt all such reports, all information regarding such adverse reaction.

"Definitions

"(h)(1) As used in this section the term—

"(1) 'process', 'processed', or 'processing', with respect to cosmetics, includes the manufacturing, preparing, packaging, or labeling of a cosmetic, except that such term shall not include persons whose activities with respect to cosmetics are limited solely to transportation or storage of cosmetics or retail sales of cosmetics to consumers:

"(2) 'name' shall include in the case of a partnership the name of each partner, and in the case of a corporation the name appearing on the corporation's charter or certificate of incorporation and the name of each principal corporate officer and director and the State of incorporation;

"(3) 'owns or operates' means any person who owns, operates, leases, or controls any establishment used in processing a cosmetic:

"(4) 'establishment' means the premises, building, structures, and facilities used in processing cosmetics; and

"(5) 'adverse reaction' means any allergic reaction or other bodily injury associated with or contemporaneous with the use of a cosmetic.".

INSPECTION AND REPORTING

SEC. 202. Section 704(a) of the Act (21 U.S.C. 374) is amended by adding at the end thereof the following new sentence: "In the case of persons manufacturing, processing, preparing, packaging, labeling, or holding a cosmetic (1) inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities, but excluding those financial, sales, pricing, personnel, and research data not bearing upon whether the product may be adulterated or misbranded) bearing on whether a cosmetic may be adulterated or misbranded or on whether there has been a violation of section 301; and (2) the owner or operator of any establishment which may be inspected under this section shall, upon written notice from the Secretary, submit such information to him. The district courts of the United States shall have jurisdiction to enforce requests under the preceding sentence and to require access to such information upon application of the Secretary or the Attorney General, in an action brought in any district wherein the person or establishment involved is found or transacts business.".

ADMINISTRATIVE RESTRAINT AND SEIZURE

SEC. 203. (a) Section 304 of the Act (21 U.S.C. 334) is amended by adding at the end of the following new subsection:

"Administrative Restraint

"(h)(1) If during an inspection conducted under section 704 of an establishment or a vehicle, a cosmetic which the officer or employee making the inspection has reason to believe is adulterated or misbranded is found in such establishment or vehicle, such officer or employee may order the cosmetic detained for a reasonable period which may not exceed twenty days unless the Secretary determines that a period of detention greater than twenty days is required to institute an action under subsection (a) to seize the cosmetic, in which case he may authorize a detention period of not to exceed thirty days. A detention order under this paragraph may require the labeling or marking of a cosmetic during the period of its detention for the purpose of identifying the cosmetic as detained. Any person who would be entitled to claim a cosmetic if it were seized under subsection (a) may appeal to the Secretary a detention of such cosmetic under this paragraph. Within five days of the date an appeal of a detention is filed with the Secretary, the Secretary shall, after affording opportunity for an informal hearing, by order confirm the detention or revoke it.

"(2)(A) Except as authorized by subparagraph (B), a cosmetic subject to a detention order issued under paragraph (1) shall not be moved by any person from the place at which it is ordered detained until—

"(i) released by the Secretary, or

"(ii) the expiration of the detention period applicable to such order,

whichever occurs first.

"(B) A cosmetic subject to a detention order under paragraph (1) may be moved—

"(i) in accordance with regulations prescribed by the Secretary, and

"(ii) if not in final form for shipment, at the discretion of the manufacturer of the cosmetic for the purpose of completing the work required to put it in such form.".

Seizure of Any Adulterated or Misbranded Cosmetic

(b) Section 304(a)(2) of the Act is amended (1) by striking out "and" before "(C)", and (2) by striking out the period at the end and inserting in lieu thereof a comma and the following: "and (D) any adulterated or misbranded cosmetic.".

CONFORMING AMENDMENTS

Prohibited Acts

SEC. 204. (a) Section 301(j) of the Act (21 U.S.C. 331) is amended by changing the period at the end thereof to a comma, and by inserting the following immediately after such comma: "or any formula data entitled to protection under section 604(f).".

(b) Section 301 of the Act (21 U.S.C. 331) is further amended by adding the following new paragraphs:

"(s) The movement of a cosmetic in violation of an order under section 304(g) or the removal or alteration of any mark or label required by the order to identify the cosmetic as detained.

"(t) The failure of any person to register, or to submit information, when required to do so under section 605.".

Misbranded Cosmetics

(c) Section 602 of the Act is further amended by adding at the end thereof the following new paragraph:

"(l) If it was processed in an establishment which was not registered as required under section 605, or if information concerning it is not submitted or maintained as required under section 605, or if information concerning it is not submited as required under section 704.".

Imports

(d) Section 801(a) of the Act (21 U.S.C. 381(a)) is amended by inserting "(1)" immediately after "(a)" and adding at the end thereof:

"(2) The Secretary shall refuse entry of any cosmetic offered for importation into the United States which has been processed in any establishment other than an establishment registered pursuant to section 605.".

EFFECTIVE DATES

SEC. 205. Every person who owns or operates an establishment engaged in processing a cosmetic shall first register pursuant to section 605 of the Federal Food, Drug, and Cosmetic Act on the first day of the third month after regulations promulgated under section 605 of the Federal Food, Drug, and Cosmetic Act take effect. All other provisions of this title shall take effect upon enactment.

TITLE III—COSMETIC LABELING

SEC. 301. (a) Section 602 of the Act is further amended by adding at the end thereof the following new subsections:

"Cosmetic Ingredient Labeling

"(g) (1) Unless labeling affixed to or within the package in a manner that renders such labeling visible or readily accessible to prospective consumers at the point of retail sale bears—

"(A) the common or usual name of the cosmetic, if any, and

"(B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient in the order of decreasing predominance by weight, except that fragrance and flavor may be designated as such without naming each ingredient. The Secretary may, by regulation, require labeling of ingredients which are part of flavor or fragrance if he deems such disclosures to be in the public interest.

"(2) Subject to such conditions as the Secretary may by regulation provide, this subsection shall not apply to incidental additives that are present in a cosmetic in insignificant levels and which do not have any technical or functional effect in such cosmetic.

"(3) Subject to such conditions as the Secretary shall by regulation provide, labeling shall include a statement indicating that additional information shall be made available on request.

"Warning and Other Labeling

"(h) Unless its label or labeling bears adequate warnings against use where it may be hazardous to health, or such warnings or information as the Secretary may by regulation require with respect to use which the Secretary has determined to be necessary for the protection of the public health or appropriate as a guide to use.".

EFFECTIVE DATE

SEC 302. The amendments made by this title shall be effective on the first day of the thirteenth calendar month following the month in which this Act is enacted.

TITLE IV—GENERAL PROVISIONS CONCERNING COSMETICS

SEC. 401. Chapter VI of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, is further amended by inserting at the end thereof the following:

"GENERAL PROVISIONS CONCERNING COSMETICS

"Poison Control Information

"SEC. 606. (a) The Secretary shall establish a system for making publicly available, through poison control centers and other appropriate means, the summary information collected under section 605(b)(1)(E) relevant to hazards from accidental ingestion or misuse of cosmetics and antidotes or treatment. Such system shall assure that such information is available at any time to persons (including physicians, hospitals, clinics, and poison control centers) who request such information to aid in treatment of indivduals who may be injured as a result of the ingestion of, contact with, or exposure to, any cosmetic. The system shall also include a continuing program by the Secretary to inform physicians, hospitals, clinics, and poison control centers, and other persons to whom such information may be useful, of the availability of such information and the methods by which it may be obtained at any time.

"Small Business Assistance

"(b) The Secretary shall cooperate with the Small Business Administration with respect to applications (under section 7(b)(5) of the Small Business Act, as amended (15 U.S.C. 631 et seq.)) for loans to assist affected small business entities to comply with requirements under sections 604 and 601(f). The Small Business Administration shall request the Secretary to review each such application. The Secretary shall evaluate each such application and shall report thereon to the Administrator (or to the bank or lending institution involved) within sixty days after the date of receipt thereof. Each such report shall include the Secretary's conclusion as to whether such proposed additions to or alterations in, the applicant's plant, facilities, or methods of operation are appropriate to enable or to assist the applicant to comply with requirements under sections 604 and 601(f).

"Effect on State Law

"(c)(1) It is declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof, insofar as they may now or hereafter provide for information on the label or in labeling of a cosmetic which is in addition to or different from information required on the label or in labeling by or under section 602 of this Act, except as provided in this section.

"(2) Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for oral presentation of views, exempt from the provisions of paragraph (1) (under such conditions as he may impose) a proposed safety requirement described in such application, where the proposed requirement—

"(A) imposes a higher level of performance than the Federal standard,

"(B) is required by compelling local conditions, and

"(C) does not unduly burden interstate Commerce.

"Procedures and Judicial Review

"(d)(1) Proceedings to issue, amend, or repeal a regulation under this chapter shall be conducted in accordance with the procedures prescribed by section 553 of title 5 of the United States Code.

"(2) In the case of any regulation under this chapter any interested person (including a consumer or consumer organization), who may be adversely affected by such regulation may, at any time within sixty days after the regulation is issued by the Secretary, file a petition with the United States Court of Appeals for the District of Columbia, or for the circuit wherein such person resides or has the principal place of business, for judicial review of such regulation. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based his regulation as provided in section 2112 of title 28 of the United States Code. For purposes of this subsection, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation reviewed, all information submitted to the Secretary with respect to such regulation, proceedings of any advisory committee with respect to such regulation, any hearing held with respect to such regulation, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation, as being relevant to such regulation.

"(3) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary in a hearing or in such other manner, and upon such terms and conditions, as the court may deem proper. The Secretary may modify his findings, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original regulation, with the return of such additional evidence.

"(4) Upon the filing of the petition under subsection (3) of this section, the court shall have jurisdiction to review the regulation of the Secretary in accordance with subparagraphs (A), (B), (C), and (D) of paragraph (2) of section 706 of title 5 of the United States Code. If the court orders additional evidence to be taken under subsection (4) of this section, the court shall also review the Secretary's regulation to determine if, on the basis of the entire record before the court pursuant to subsection (3) and (4) of this section, it is supported by substantial evidence. If the court finds the regulation is not so supported, the court may set it aside.

"(5) With respect to any regulation reviewed under this section, other than a regulation made effective upon publication in the Federal Register pursuant to section 604(e)(2), the court may grant appropriate relief pending conclusion of the review proceedings, as provided in section 705 of such title 5.

"(6) The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

"Advisory Committees

"(e) The Secretary may appoint advisory committees to assist in the administration of this chapter. Any such committee shall consist of members who are individuals appropriately qualified by training and experience. Not less than one-third of the members of any committee shall be representatives of consumer interests. The Secretary shall prescribe by regulation the procedures to be followed by such committees and shall assure that each committee provides, to the maximum extent practicable, an opportunity for any interested person to submit data and views on all matters considered by the committee. All meetings of the committee shall be open in accordance with the requirements of the Federal Advisory Committee Act.".

SEC. 402. The provisions of this title shall take effect on the date of enactment of this Act.

[From the New York Times, Dec. 5, 1977]

CLEANSING THE COSMETIC LAWS

It's enough to make the hair turn gray. A debate over the possibility that some hair dyes may contain a dangerous ingredient has revealed a dangerous loophole in Federal law. Even if every expert in the country agreed that the dyes present a major hazard, the Government would be powerless to remove them from the market.

The hair dyes under suspicion are the "permanent" variety, not color rinses or semi-permanent dyes that last through only a few shampoos. Most of the permanent dyes contain a chemical—known as 2,4-diaminoanisole (2,4 DAA) or 4-methoxy-m-phenylenediamine—that helps impart a bluish hue to hair colors ranging from black to ash blond. About 20 million Americans use dyes containing this ingredient. The industry contends there is no good substitute; other substances are unstable and gradually turn the hair brassy red. Thus, a $250-million-a-year business feels dependent on 2,4 DAA.

The National Cancer Institute, in a preliminary report, has found that rats and mice develop cancer when large doses of the substance are fed to them. Other tests have shown that the chemical penetrates when it is applied to the skin of laboratory animals. Hence the possibility arises that hair dyes may penetrate the scalp and cause cancer in humans. The industry, however, disputes the significance of these findings, arguing that the substance does not cause cancer when it is merely applied to the skin of animals, only when it is fed to them. Further, surveys of cancer victims and of beauticians who work with the hair dyes have found no connection between the dyes and cancer. The tests of both sides have been challenged on technical grounds and Government investigations continue.

But the controversy has revealed a bizarre twist of law that needs attention, as does the entire position of the Government toward cosmetics. When Congress passed the Food, Drug and Cosmetic Act of 1938 it knew that hair dyes sometimes cause skin irritations. To prevent their prohibition on this count, it specifically sanctioned their sale provided they carried a warning about possible irritation. A Federal court read this to mean that a hair dye bearing that warning could not be banned for *any* reason of safety. Today, even if the Food and Drug Administration recognized a major health hazard it could do no more than order a rewrite of the warning label.

In re-examining this issue, Congress would do well to consider the law's approach to all cosmetics. Whereas food additives and drugs must now be proved safe in extensive tests before they can be sold, the burden of proof concerning a cosmetic is entirely the Government's. This presumption may have been sound when cosmetics were perceived as merely something applied to the skin, but the effects of some ingredients on or under the skin, as well as near the mouth, eyes and other sensitive areas, have come periodically under suspicion.

Yet as the law stands, the F.D.A. often does not know what safety tests have been conducted by manufacturers and it lacks authority to find out. The agency's small cosmetics unit cannot review all of the tens of thousands of products offered. In recent years, the F.D.A. banned or restricted the sale of several cosmetic ingredients on the market, including hexachlorophene, an antibacterial agent used in soaps, skin creams and deodorants, which was found to cause brain damage; vinyl chloride, an aerosol propellant identified as a carcinogen, and mercury compounds used as skin bleaching agents or preservatives. With the help of independent physicians, the F.D.A. has found some evidence that hair dyes may cause many more allergic reactions than had been realized.

Probably, cosmetics should not be marketed until their ingredients have been demonstrated as safe in animal tests. The industry is currently sponsoring a review of thousands of ingredients and will make the findings public. That is a welcome step. However, because even "safe" ingredients have been known to interact in harmful ways and because manufacturing processes can introduce dangerous impurities, consideration should also be given to some procedure for requiring the testing of finished products. Individual companies already test their own products—although how extensively is not known. Clearly, the F.D.A. should have the authority to obtain the industry's data to assess suspect products or selectively to assure itself that testing is adequate. The present system, as the hair dye controversy suggests, poses not only greater risks but greater political difficulties as it disrupts industries, jobs and consumer habits. The item to clear up the blemishes is before the makeup goes on.

By Mr. NELSON:

S. 2367. A bill to declare a national policy on small business and free enterprise, and for other purposes; to the Committee on Governmental Affairs.

A VOICE FOR SMALL BUSINESS IS NEEDED IN THE WHITE HOUSE

Mr. NELSON. Mr. President, even though there are more than 13 million small businesses in our country today—who employ more than half of all American workers and produce more than half our gross national product—there is no voice for small business in the White House to advise the President on how economic policy affects small business.

Every major new direction in economic policy developed in the White House, and every major piece of legislation enacted by Congress, affects small businesses in special ways that differ from the effects on big business. But seldom are the small business effects taken into account. In the administrative and legislative process, the voice of big business is heard through their Washington representatives. In congressional hearings, in procedures before regulatory bodies, and in administration policymaking, large businesses have an effective input. In all processes—ERISA, OSHA regulations, environmental regulations, tax decisions, energy—big business is heard from through their lobbyists, their legal counsel, and their trade organizations.

But the voice of small business is rarely, if ever, effectively heard. Since economic and social policies developed in the White House have a significant impact on small businesses, this is a serious omission that weakens the quality of our policymaking mechanism.

To correct this, I am introducing a bill today that will give small business a permanent and effective representation in the White House.

This bill will establish in the Executive Office of the President an Advisory Council on Small Business and Free Enterprise, which will have an impact on Presidential economy policy equivalent to that already exercised by the Council of Economic Advisers. It will require the President to submit to Congress an annual Report on Small Business and Free Enterprise and to create a Cabinet-level coordinating group to coordinate the Government's programs which affect small business and our free enterprise system.

This will have a tremendous impact for the better on small business and our economy.

When the President and his economic advisers get together today to develop economic policy, they often overlook the effect of their decisions on the small business community and the millions of Americans who depend on small business for their jobs and their livelihood.

The President has good economic advisers, but none of them has any statutory responsibility or any incentive to examine the needs of the small business sector when considering policy alternatives, and none represents the small business community when the President and his advisers weigh the costs and benefits of different actions.

The Council of Economic Advisers, for example, consists of three academics who are topnotch when it comes to recommending budget and monetary policies to fight unemployment and inflation. But who is standing at the President's right hand to point out the impact of their recommendations on small business? And if a decision taken on economic policy threatens to put thousands of small businesses on the auction block, who can yell before it is too late?

The Secreary of the Treasury, who comes from the business community himself, advises the President on tax policy. But there is not one single individual in the Treasury Department who is charged with examining the effect of our tax system on competition and small business. We can get good estimates of the revenue effects of tax policy from Treasury, but we can't get one iota of information on how many small businesses might be hurt critically by a proposed tax or on how taxes affect economic concentration. If no one is advising the Treasury Secretary on this, how can he advise the President?

Even the Small Business Administration, as hard as it may try, has only limited access to the White House and can't effectively contribute to the economic policy decisions made in the Oval Office by the President and his closest advisers.

So, when economic policy is made, too often it is made without an examination of its potential impact on small business.

When taxes are proposed, too often they are proposed without any information about how they will help or harm small business.

When regulations are written, too often they are written without any examination of their cost for small business.

The "National Small Business Policy Act of 1977" which I am introducing today will correct these deficiencies in economy policy development. The bill has three major provisions.

First, it will create an Advisory Council on Small Business and Free Enterprise in the Executive Office of the President. This Small Business Council will have three members, just as the CEA does, who will be responsible for recommending overall policy toward small business and economic competition to the President. The three members will be appointed by the President with the advice and consent of the Senate, and will be entirely independent of the Small Business Administration or any other agency so that they can make recommendations on every aspect of policy that affects small business without having to protect any particular programs or defend any special turf.

The Small Business Council will be charged with "formulating and recommending national economic policy to promote small business and free enterprise, to increase competition and reduce the concentration of economic resources, to eliminate monopoly and other anticompetitive market structures, to improve the performance of markets, to increase the efficiency and equity of the economy, and to increase the availability of capital and other resources for small businesses."

The Council will have the responsibility with the SBA for gathering and publishing information on small business. It will evaluate the effect of Government programs on small business, determine the availability of resources to small business, and recommend national economic policies to foster small business and free enterprise.

The Council will have wide-ranging responsibility over almost every aspect of our policy toward small business and free enterprise, just as the Council of Economic Advisers now has wide-ranging responsibility over the macroeconomic performance of the economy.

Second, every January the President would submit to Congress a "Small Business and Free Enterprise Report," paralleling his current "Economic Report" but focusing on the economic issues that affect our free enterprise system, the efficiency of our Nation's markets, and the strength of our small business sector. The report will make recommendations and will be reviewed by the Senate Select Committee on Small Business and the Small Business Committee of the House, each of whom will report recommendations to the Senate and House and to the committees having jurisdiction over policies and programs that affect small business.

The submission of a report on small business and free enterprise will give Congress and the President an opportunity to review all of the Government policies and programs that have an impact on small business in one fell swoop, rather than going at it piecemeal and without any coordination.

Finally, the act will establish an Executive Coordinating Group on Small Business Policy and Programs. This coordinating group will bring together the Small Business Council, the Administrator of the Small Business Administration, and other top members of the Government, including a number of Department Secretaries, to coordinate the Government's policies and programs that affect small business.

The coordinating group members will have to develop and submit data on how their programs affect small business, prepare an inventory of all the resources available in their department or agency, and coordinate their activities.

This is a very important provision, because we do not now have a mechanism for coordinating small business programs across agencies or even for collecting data on how programs affect small business.

Altogether, Mr. President, this bill will be a major step forward for our Nation's small businesses. It will, for the first time, put a voice for small business and the free enterprise system right in the White House, where much of our economic policy is made and where the small business impact should first be considered.

Since the Small Business Committee took over responsibility for Small Business Administration legislation this year, we have passed a number of bills that establish new and innovative programs. We have taken a creative role in helping develop programs to preserve and strengthen small business.

The White House, too, can be a source of creative ideas to preserve and strengthen our small business sector and our free enterprise system. We have a President who comes from a small business background, but even he needs good analysis and good advice on how government policies and programs affect this vital sector of our economy.

The creation of a Presidential Advisory Council on Small Business and Free Enterprise would give the President this source of analysis and advice. It is urgently needed.

This legislation has been endorsed by the National Small Business Association and by the President of the Independent Business Association of Wisconsin, Mr. Bruno Mauer. Mr. Mauer has told me that the creation of a Small Business Council would be an "effective way of getting direct small business input into the White House."

I ask unanimous consent that a letter to me from the National Small Business Association be printed in the RECORD at this point, along with the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Small Business Policy Act of 1977."

DECLARATION OF POLICY

SEC. 2. The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means consistent with its needs and obligations and other essential considerations of national policy, and to take such actions as are necessary, to implement and coordinate all Federal department, agency and instrumentality policies, programs and activities in order to protect the economic interests of small business concerns; to provide an economic climate conducive to the development, growth and expansion of small business and free enterprise; to establish incentives to assure that adequate capital and other resources at reasonable costs are available to small business concerns; to reduce the concentration of economic resources and expand competition; and to provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small business concerns.

REPORT OF THE PRESIDENT ON SMALL BUSINESS AND FREE ENTERPRISE

SEC. 3. (a) The President shall transmit to the Congress not later than January 10 of each year a Report on Small Business and Free Enterprise which shall (1) examine the current role of small business in the economy, (2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy and each sector of the economy, (3) identify economic trends which will or may affect the small business sector and the health of the free enterprise system, (4) examine the effects on small business and free enterprise of policies, programs and activities of the Federal departments, agencies and instrumentalities, identify problems generated by such policies, programs and activities, and recommend legislative and administrative solutions to such problems, and (5) recommend a program for carrying out the policy declared in section 2 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Free Enterprise, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 2 of this Act.

(c) (1) The Report on Small Business and Free Enterprise, and all supplementary reports transmitted under subsection (b) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

(2) Each Committee, in addition to its other duties and responsibilities, shall—

(A) make a continuing study of matters relating to the Report on Small Business and Free Enterprise;

(B) study and evaluate policies, programs and activities of the Government in order to further the policy of this Act; and

(C) as a guide to the several Committees of the Congress dealing with legislation relating to the Report on Small Business and Free Enterprise, not later than April 1 of each year file a report with the Senate or the House of Representatives, as the case may be, containing its findings and recommendations with respect to the recommendations made by the President in the Report on Small Business and Free Enterprise, together with such other recommendations as it deems advisable.

PRESIDENT'S ADVISORY COUNCIL ON SMALL BUSINESS AND FREE ENTERPRISE

SEC. 4. (a) There is hereby created in the Executive Office of the President an Advisory Council on Small Business and Free Enterprise (hereinafter called the "Council"). The Council shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, and each of whom shall be a person who, as a result of his or her training, experience, and attainments, is exceptionally qualified to analyze and interpret the effects of economic developments on small businesses, to appraise programs and activities of the Federal Government in the light of the policy declared in section 2, and to formulate and recommend national economic policy to promote small business and free enterprise, to increase competition and reduce the concentration of economic resources, to eliminate monopoly and other anticompetitive market structures, to improve the performance of markets, to increase the efficiency and equity of the economy, and to increase the availability of capital and other resources for small businesses.

The President shall designate one of the members of the Council as Chairman.

(b) The Council is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for the carrying out of its functions under this Act, without regard to the civil service laws and the classification Act of 1949, as amended, and is authorized, subject to the civil service laws, to employ such other officers and employees as may be necessary for carrying out its functions under this Act, and fix their compensation in accordance with the Classification Act of 1949, as amended.

(c) It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Annual Report on Small Business and Free Enterprise;

(2) to gather and publish timely and authoritative information, in cooperation and coordination with the Administrator of the Small Business Administration, concerning the position of small business in the economy and economic developments and economic trends, both current and prospective, which do or may affect small business and free enterprise; to analyze and interpret such information in the light of the policy declared in section 2 for the purpose of determining whether such developments or trends are interfering or are likely to interfere with the achievement of such policy objectives; and to compile and submit to the President and Congress studies relating to such developments and trends;

(3) to appraise the various programs and activities of the Federal Government, as they affect small business and free enterprise in the light of the policy declared in section 2, for the purpose of determining the extent to which such programs and activities are contributing, and the extent to which they are not contributing, to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to determine and evaluate the availability of capital, labor, management, and technological resources to small businesses; to determine and evaluate emerging trends in the availability of such resources to small businesses; to assess Federal Government policies and programs and other economic circumstances which affect small businesses in order to determine their impact on the availability and cost of capital and other resources for small businesses; and to make recommendations to the President with respect thereto;

(5) to develop and recommend to the President national economic policies to foster and promote small businesses and free enterprise and to maintain and increase the strength of small business in each economic sector;

(6) to make and furnish such studies, reports, and recommendations with respect to matters of Federal Government economic policy and legislation which affect small business and free enterprise as the President or Congress may request.

(d) In November of each year, the Council shall make an annual report of its activities and the activities of the Coordinating Group, established under section 5 of this Act, during the previous fiscal year.

(e) In exercising its powers, functions, and duties under this Act—

(1) the Council may constitute such advisory committees and may consult with such representatives of business, agriculture, labor, State and local governments, and other groups as it deems advisable;

(2) the Council shall cooperate and coordinate its activities with the Chief Counsel for Advocacy of the Small Business Administration, when appropriate; and

(3) the Council shall, to the fullest extent possible, utilize the services, facilities, and information (including statistical information) of other Federal Government departments, agencies, and instrumentalities as well as of private research firms, in order that duplication of effort and expense may be avoided.

EXECUTIVE COORDINATING GROUP ON SMALL BUSINESS POLICY AND PROGRAMS

SEC. 5. (a) Within 30 days after enactment of this Act, the President shall constitute an Executive Coordinating Group on Small Business Policy and Programs (hereinafter called the "Coordinating Group"). The Coordinating Group shall consist of the Administrator of the Small Business Administration; the members of the Advisory Council on Small Business and Free Enterprise; the Secretary of Treasury, Secretary of Commerce, Secretary of Labor, and Secretary of Agriculture, or their designees who serve at a level no lower than that of an Assistant Secretary; the Chairman of the Board of Governors of the Federal Reserve, or his designee who serves as a Governor; the Chairman of the Securities and Exchange Commission and Chairman of the Federal Trade Commission, or their designees who serve as a Commissioner; the Assistant Attorney General for Antitrust; and the Chairman of the Council of Economic Advisors, or his designee who serves as a Member.

(b) The Chairman of the Coordinating Group shall be the Administrator of the Small Business Administration.

(c) The Coordinating Group shall meet at least quarterly and at the call of the Chairman.

(d) It shall be the duty and function of the Coordinating Group—

(1) to advise and assist the Council in the performance of its duties and functions;

(2) to coordinate and improve the effectiveness of all policies, programs and activities of the Federal Government which have an impact on small business or free enterprise;

(3) to prepare an inventory of the resources available to small business throughout the Federal Government and to update such inventory annually;

(4) to facilitate the making available of such data and information as is requested by the Council or the Administrator of the Small Business Administration from Federal departments, agencies, and instrumentalities, and such data and information collected by the departments, agencies and instrumentalities from State and local governments and private sources as is requested by the Council or the Administrator;

(5) to review and coordinate the data and information collecting activities of the Government from small business so as to minimize the burdens of such activities on small business concerns; and

(6) to make recommendations for improvements in the relationship between the Federal Government and the private sector that will or may strengthen small business and free enterprise.

(e) The Council shall make available to the Coordinating Group such specialists, experts and other employees as may be needed to assist the Coordinating Group in the performance of its duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. To enable the Council to exercise its powers, functions, and duties under this Act, there are authorized to be appropriated such sums as may be necessary.

EXECUTIVE LEVEL OF COUNCIL CHAIRMAN

SEC. 7. Section 5313 of title 5, United States Code, is amended by adding the following new paragraph:

"(24) Chairman, Council on Small Busines and Free Enterprise.".

EXECUTIVE LEVEL OF COUNCIL MEMBERS

SEC. 8. Section 5315 of title 5, United States Code, is amended by adding the following new paragraph:

"(114) Members, Council on Small Business and Free Enterprise.".

NATIONAL SMALL
BUSINESS ASSOCIATION,
Washington, D.C., December 6, 1977.

Hon. GAYLORD NELSON,
Chairman, Senate Small Business Committee,
Washington, D.C.

DEAR SENATOR NELSON: the National Small Business Association enthusiastically applauds your efforts to ensure the establishment of a small business voice in the White House. Through enactment of your proposed legislation, small business would have, for the first time, effective and continuing representation in the White House and at the Cabinet level, when major economic policy is initially developed.

NSB has noted on several occasions that a major stumbling block in the formulation of sound and equitable small business programs has been the chronic lack of an adequate statistical barometer of the economic status of small business in the economy. We strongly feel that a Small Business Advisory Council, serving in the capacity of a statistical collection center, could develop the types of data needed for the small business indicators so essential in the development of any economic program.

President Carter has previously endorsed the types of proposals currently embodied in your legislation, namely, the importance of more effective small business representation, and the need for accurate and up-to-date information about the small business community. In response to an NSB poll in the fall of 1976, President Carter stated:

"As President, I will see that small business has a strong voice in the White House and personally work to stimulate a new wave of scientific and technological creativity which will create new businesses, new jobs, new markets and get America back on the move. My administration would develop statistical yardstick formulas to measure the relative growth of small business in relationship to other sectors of the economy . . ."

In light of the vast importance of the small business community to the economic wellbeing of this country, we fully support this initiative that would put the small business voice where it will be most effectively heard.

We once again commend you for your innovative and long-overdue proposals.

Sincerely,

HERBERT LIEBENSON,
Staff Vice President, Government Affairs.

By Mr. INOUYE:

S. 2368. A bill to amend the Public Health Service Act to provide for a national program of medical injury compensation insurance; to the Committee on Human Resources.

NATIONAL MEDICAL INJURY COMPENSATION INSURANCE ACT OF 1977

Mr. INOUYE. Mr. President, today I am introducing the National Medical Injury Compensation Insurance Act of 1977. This bill would establish a system for compensating medically induced injuries on a no-fault basis. The objective would be to create an alternative to our ailing and failing system of tort law for handling medical injuries. The Department of Health, Education, and Welfare would administer the system, providing professional liability insurance to health care providers who chose to participate. Any patient who suffered an adverse outcome as the result of medical or diagnostic intervention by a participating health care provider would have the option of filing a claim for health care and income support benefits.

When this bill was first introduced in 1975, it was against a backdrop of incipient calamity for the health professions. The price of medical malpractice insurance was beginning to soar, and major liability insurers were beginning a pullout that threatened to leave thousands of physicians uncovered. In the ensuing months, policy cancellations, doctor strikes, and hospital shutdowns plagued several of the more acutely affected States.

Much has happened between then and now to make the present backdrop one of relative calm. State governments, professional associations, and other organizations have sought actively to assess and resolve the malpractice insurance crisis. As of August 1976, all 50 States had enacted legislation in this area. Twenty-seven States had authorized the creation of joint underwriting associations on an emergency standby basis. Thirty-four States had modified evidentiary and/or procedural rules of tort law to stem the litigative tide. In the meantime, the National Association of Insurance Commissioners initiated a 12-month study of closed claim files in order to garner data sorely needed by health policy analysts. State and county medical societies, as well as independent practitioner groups, have formed physician-owned insurance companies to ease the coverage crunch, and an AMA-supported reinsurance company has provided these ventures with backup resources. Finally, a growing number of hospitals have converted to self-insurance schemes as an alternative to fiscally burdensome commercial plans. Here in Washington, for instance, the Children's Hospital National Medical Center decided last spring to self-insure rather than face a 900-percent premium increase that would have boosted its insurance bill to $2.3 million.

This combination of public and private initiatives has probably helped encourage private insurers and reinsurers to continue part of their underwriting activities. Although the price of coverage is high in many areas of the country (hovering, for instance, around the $40,000 level for group V physicians in southern California), the problem of unavailability appears to have been forestalled. For the time being, then, the pressing exigencies of a year ago seem to have abated.

But in spite of this abatement and in spite of the plethora of remedies being applied in the various States, the Federal Government should not settle overhastily into a passive role. For two important reasons, the continuing attention of the U.S. Congress to the malpractice problem and its impact on our national health care system may still be in order.

First, there is no telling yet whether the solutions being tried by the States will prove effective. The viability of a self-insurance or reinsurance scheme, for example, cannot be judged after only 1 year. Only about 8 percent of the ultimate claims cost arising under a malpractice liability insurance policy are known at the end of the actual period of coverage. In fact, it takes 6 years before 90 percent of the loss occurrences have surfaced. In addition, the demands placed upon liability insurance pools have been growing startlingly over the last few years. According to testimony received by Senator KENNEDY's Health Subcommittee during its malpractice hearings in 1975, the average severity of malpractice claims is increasing at a rate of 14.5 percent per year, and the frequency of losses per doctor is growing at an annual rate of 12 percent. Unless the claim deterrents enacted by various States prove dramatically effective, this trend is likely to continue, if not accelerate. Still another test of the yet untested solutions to the insurance crisis may be in the offing this spring when many existing liability policies expire. Whether an insurance shortage will again materialize, and whether a new crop of uninsured physicians can be absorbed into the new coverage arrangements remain unknown. In short, the malpractice insurance situation may be as volatile now as it was 2 years ago. If this is so, it would be premature of the Congress to remove itself from the area at this first sign of abatement. There should be an ongoing effort to frame backup solutions to the malpractice problem in the event that State efforts prove inadequate. I am hopeful that the Senate will review the present bill as part of that ongoing effort, using it as a vehicle for further exploration of the issue.

My second reason for reintroducing this bill is that it highlights an aspect of the malpractice problem that many State solutions have tended to slight—the needs and rights of the injured patient. By establishing a no-fault system of compensation, the proposal gets away from the destructive focus of the tort system. Instead of pitting the patient By establishing a no-fault system of compensation, the proposal gets away from the destructive focus of the tort system. Instead of pitting the patient against his doctor in a resource-wasting legal battle, the proposed system would concentrate on timely medical treatment and efficient long-term maintenance. The present tort-with-liability-insurance system cannot achieve these objectives; or is it meant to. And what the system is meant to do—that is, decide who is to blame for an untoward medical event—is often as impossible as it is irrelevant.

Consider, for example, the patient who enters the hospital for a minor operation and who awakens after surgery to find that his arms are paralyzed. The surgical team, genuinely perplexed, disavows any negligence. The patient cannot attest to any negligence; all he knows is that he no longer has the use of his arms. In court, he produces undisputed statistical testimony of experts that when limb paralysis occurs in the type of operation he underwent it is attributable to negligence 70 percent of the time. Is there any way for the tort system to deal fairly with this sort of case? It would not be fair to impute negligence to the surgical team when their performance may well have been part of the non-negligent 30 percent. But neither would it be fair to leave the patient uncompensated for an injury that may have been negligently induced. Perhaps because the patient's loss seems so egregious, or perhaps because the hospital is better situated than the patient to spread the cost of his losses, many courts and juries have been willing to decide in the patient's favor on the basis of numerical odds alone. Using the doctrine of res ipsa loquitor, they have held that the statistics "speak for themselves."

From the standpoint of equity, though, there is not a satisfactory resolution of the issue, and its common recurrence should prompt us to rethink our approach to compensating medical injuries. We should be asking whether a fault standard makes sense in a world where certain injuries are unavoidable, their causes are often unknown and unknowable, and their immediate treatment is imperative.

It, therefore, disturbs me to see so many solutions to the malpractice problem being adopted in disregard of this need for fundamental change. Many States have made not only the passive choice to adhere unquestioningly to the tort system, but also the regressive choice to take away features of the system which favor the patient. Legislators have recognized, for example, that the res ipsa loquitor doctrine disserves the conscientious members of the medical community. But they have not recognized that its absence would disserve patients like our paralysis victim.

Thus, instead of rejecting the fault system as a system which cannot fairly decide whether the doctor or the patient should win, they have rejected res ipsa loquitor as a doctrine which produces the "wrong" winner. Several States have now prohibited the use of res ipsa where the only evidence of negligence is statistical. This may help solve the malpractice insurance problem by reducing the number of cases being lost by doctors, but it merely trades one unfair outcome for another, denying our hypothetical patient the compensation to which he may be entitled.

The same regressive effect is observable in other solutions with which the States are now experimenting. Thirty-three States had by August 1976 revised their statutes of limitation for malpractice claims in order to shorten the notorious "long tail" of claims arising under an insurance policy. But in some instances, these changes could unfairly deny malpractice victims their day in court. If a physician fails to diagnose cancer in a patient and the condition is not discovered for another 2 years, a statute of limitations that has been running since the date of misdiagnosis rather than from the date of discovery may foreclose the patient's right to recover. The insurance actuary may feel relief at this outcome, but his relief is purchased at dire cost to the health care consumer.

A similar measure that disserves the patient's interest is the statutory ceiling on malpractice awards. Several States have established an upper limit—ranging anywhere from $100,000 to $500,000—on indemnification for medical injuries. The patients who will be affected by this are relatively few—3 or 4 percent of all compensated claimants, to judge from preliminary data in the NAIC report—but they will also tend to be those who are most severely injured and most in need of extended medical care. Courts in Illinois and Idaho have declared that limits on malpractice liability are unconstitutional, but in at least one State, Ohio, a $200,000 ceiling has survived judicial challenge.

This may bail out the various insurers that are still reeling from million-dollar verdicts, but who is going to bail out the injured patient whose medical needs persist long after his medical bills have depleted his $200,000 award? A more constructive approach—and one which might generate the same or greater cost savings—would be to provide for periodic payments of injury compensation. Rather than imposing arbitrary limits which bear no relation to the patient's needs, and rather than allowing juries to bestow windfalls on malpractice plaintiffs, we should consider a system which would pay benefits for as long as justified by actual persisting needs, and no longer. I would like to see the States seeking this sort of solution in fact, instead of settling for the solution in appearance that we are now seeing.

This calls to mind yet another trend in the search for solutions which bears reexamination if our real concern is with the needs of the health care consumer. Faced with unaffordably high premiums, a growing number of physicians—exactly how many is not known—have chosen to take the drastic step of dropping all of their insurance coverage. It has been estimated that as many as 19 of every 100 active physicians in California have taken this course. By "going naked," they hope to become less attractive targets for trigger-happy, indemnity-seeking lawyers. Physicians can hardly be blamed for coming to this private solution to their troubles, but their action as much deprives the valid plaintiff as it does the bogus plaintiff of a source of compensation.

Perhaps a more hopeful deterrent to spurious or fraudulent claims will be the increased resort by physicians to countersuits for malicious prosecution. To the glee of the medical profession, this has begun to occur with greater frequency in recent months, serving notice to lawyers that ambulance-chasing is no longer a cost-free activity. I would only caution here how important it is that this development be kept in the proper perspective. Unscrupulous attorneys, like incompetent physicians, no doubt exist, but they are only a small part of the problem. According to the 1973 report of the HEW Secretary's Commission on Malpractice, by far the greater number of malpractice suits are brought in good faith. We must now allow valid interest of injured patients to be obscured by the sound and fury of the clash between the professions. And we should take care not to deal with the faults of the professions in a manner which may in reality penalize only the patient.

For all of these reasons, I would like to see a revived dialog at the Federal and State levels on more comprehensive approaches to the malpractice problem. I am reintroducing the no-fault bill in the hope that it will provide a focus for part of that dialog, directing legislative attention to the fundamental question of what should be the societal objectives of a compensation system.

I am convinced that a good system should serve three objectives. First, it should actually aim to compensate injuries. The present system seems more geared, whether by accident or intent, to prevent compensation whenever possible. Ignorance, intimidation, and impecuniousness prevent many—perhaps most—injuries from entering the claim stream. After studying two community hospitals, the HEW Secretary's Commission estimated that 7.5 percent of all hospital admittees sustain medical injuries in the course of their treatment. Of this population, only one-fifth were patients who were probably injured as the result of negligence and who could therefore hope to recover anything under tort law. And this fraction would be reduced considerably further before one would arrive at the tiny proportion of medically injured persons who actually muster the resolve and wherewithal to seek and receive compensation. Some people see this screening effect as a desirable way to hold down the aggregate cost of medical injuries. But the screen merely hides the real cost to society. The injuries impose social costs regardless of who pays for them. And when they fall upon an individual who cannot afford the price of timely treatment and rehabilitation, society eventually incurs the double cost of paying for his welfare support and losing his output as a potentially productive individual. The failure of the tort system to make fast and adequate compensation available is therefore an inefficient means of dealing with medical injuries.

Moreover, the system is inefficient even where it does make compensation. Looking only at premiums and not at investment income, malpractice insurers took in about $1.5 billion last year, but only about 20 percent of this vast sum will ever reach the pockets of malpractice victims. The remainder will be expanded on the industry's overhead, marketing, sales commissions, legal fees, associated litigative costs, and profits. This strikes me as a gross mistargeting of resources, particularly when we recall where much of the $1.5 billion has come from. A large part of it has been paid by patients, to whom physicians pass on their insurance expenditure. (In California, this passthrough among anesthesiologists amounted in 1975 to about $11.50 per patient contract.) And part of it is in effect subsidized by Government, since premium costs are deductible business expenses for income tax purposes. In brief, then, compensatory functions are poorly served by the tort system, reaching too few at too great a cost.

A second objective of any medical injury compensation system should be to grant relief and assistance to injured claimants as quickly as possible. Where physical impairment has occurred, the emphasis should be on immediate medical intervention to prevent further deterioration and to provide therapeutic services. And where death befalls the patient—as happens in about 16 percent of all reported malpractice incidents—a delay in compensation may have truly catastrophic consequences for his or her survivors. It, therefore, seems a particularly indefensible shortcoming of the present system that delays of several years are commonplace. The NAIC's August report indicated that nearly 40 percent of all paid malpractice claims take more than 2 years to reach disposition once they are reported. The average time required for cases that are settled during trial is about 38 months. And 2 years ago, claims which proceeded all the way to verdict in a jury trial took twice that time.

The third objective of a system for handling medical injuries should be to insure a high standard of quality for health care. It should effectuate standard procedures for monitoring health care providers and for detecting, disciplining, or retraining deficient practitioners. It is generally estimated that about 5 percent of the Nation's 380,000 physicians can be classified as professionally incompetent, yet only about 0.1 percent of them have been disciplined in any fashion over the past decade.

As I see it, then, our existing approach to the problem of medical injury fails on all three of the systematic criteria I have put forth. A system like that contained in the Medical Injury Compensation Insurance Act would come far closer to achieving the desired social objectives. Compensation would be forthcoming automatically to persons who suffer adverse consequences from medical treatment. Delay would be reduced since the establishment of fault would be unnecessary and since claims would be determined and processed administratively. Substandard practitioners would be identified through review of loss records, and quality health care would be enhanced through requirements that participating providers meet prescribed national licensing standards, enroll in professional standards review organizations, submit to periodic relicensing examinations, and confirm surgical decisions with consulting physicians.

There are only a few differences between this bill and the version introduced as S. 215 in the 94th Congress. The major change relates to the mode of financing the no-fault plan. The earlier version would have created a medical injury compensation insurance fund financed entirely through premiums paid by subscribing health care providers. Although the Health Subcommittee has not received a reliable projection of the total cost of a no-fault system, it is possible that provider premiums would afford too small a pool for compensating all of the medical injuries that would be eligible under no-fault. Nor would it be fair to call upon the health professions to serve as the insurer of all recipients of health care. For these reasons, the bill now limits the premiums charged under no-fault, and section 1702 provides that the difference between total premium receipts and total disbursements from the fund be financed from general revenues. An alternate financing mechanism worth evaluating would be to shift to a general social security type of tax paid by all taxpayers. Although this option has not been written into the bill, I believe it too should be considered by the Senate in the deliberations which lie ahead.

Aside from this and some lesser changes the bill essentially matches its predecessor. I do not doubt that some of its provisions may yet call for refinement and informed revision. Designing a no-fault scheme inevitably raises complex and problematic questions—what is a compensable injury? What tort options should remain? How can benefits be kept fiscally manageable? Deliberate study and resolution of these and other issues by the Senate should be placed on the agenda of this bill's consideration, so I do not wish to represent my proposal as a flawless construction capable of instant implementation. I do, however, wish to represent it as the sort of approach that has tremendous promise as an equitable, comprehensive, and long-term response to the malpractice problem. Its consideration by the Congress will inject into the public malpractice debate some significant concerns that are now being callously ignored, and its adoption will constitute an enlightened reform of our approach to medical misadventures, benefiting patients, health care providers, and others whose interests have been so long mishandled.

Mr. President, I ask unanimous consent that the text of my bill and a bill summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Medical Injury Compensation Insurance Act of 1977."

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Public Health Service Act.

"TITLE XVII—NATIONAL MEDICAL INJURY COMPENSATION INSURANCE

"PART A—NATIONAL MEDICAL INJURY COMPENSATION INSURANCE PROGRAM

"Sec. 1801. Participation; insurance coverage.
"Sec. 1802. Medical Injury Compensation Insurance Fund.
"Sec. 1803. Premiums; terms of insurability.
"Sec. 1804. Eligibility for participation.
"Sec. 1805. Conditions of participation.
"Sec. 1806. Termination of participation.
"Sec. 1807. Reporting of claims.
"Sec. 1808. Insurance benefits.

"PART B—PAYMENT OF CLAIMS FOR NO-FAULT BENEFITS

"Sec. 1811. No-fault benefits.
"Sec. 1812. Beneficiaries of no-fault benefits.
"Sec. 1813. Limitation on no-fault benefits.
"Sec. 1814. Payments of no-fault benefits.
"Sec. 1815. Procedures for determination of no-fault benefits; appeals.
"Sec. 1816. Time limitations on filing of claims for no-fault benefits.
"Sec. 1817. Effect of filing for no-fault benefits on tort recovery.

"PART C—GENERAL PROVISIONS

"Sec. 1821. Definitions.
"Sec. 1822. Medical Injury Compensation Insurance Administration.
"Sec. 1823. Regulations.
"Sec. 1824. Advisory Council on Medical Injury Compensation.
"Sec. 1825. Professional standards review organizations.
"Sec. 1826. Payment of attorney's fees.
"Sec. 1827. Penalties.

"PART D—MINIMUM NATIONAL STANDARDS FOR STATE LICENSURE OF HEALTH PROFESSIONALS

"Sec. 1831. Minimum national standards for State licensure of health professionals.
"Sec. 1832. State programs for licensure in accordance with this part.
"Sec. 1833. State licensure requirements."

AMENDMENT OF PUBLIC HEALTH SERVICE ACT

SEC. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XVII—NATIONAL MEDICAL INJURY

"PART A—NATIONAL MEDICAL INJURY COMPENSATION INSURANCE PROGRAM

"PARTICIPATION; INSURANCE COVERAGE

"SEC. 1801. (a) The Secretary shall establish and implement a program of national medical injury compensation insurance.

"(b) In carrying out such program, the Secretary shall, in accordance with the provisions of this title, enter into contracts with physicians and other health professionals and with health care institutions which choose to participate in such program to provide insurance coverage under this title.

"(c) Insurance coverage provided by any contract entered into pursuant to this title shall include—

"(1) insurance benefits for the insured against loss resulting from tort liability as provided in section 1808, and

"(2) no-fault benefits for any beneficiary of such contracts as provided in section 111,

respecting injury suffered as a result of the provision of health care services by the insured.

"MEDICAL INJURY COMPENSATION INSURANCE FUND

"SEC. 1802. (a) To carry out the medical injury compensation insurance program authorized by this title, there is established in the Treasury of the United States a Medical Injury Compensation Insurance Fund (hereinafter referred to as the 'fund') which shall be available, without fiscal year limitation—

"(1) for making such payments as may, from time to time, be required under this title, and

"(2) to pay the necessary administrative expenses of carrying out the insurance program under this title.

"(b) The fund shall be credited with:

"(1) premiums which may be paid or collected pursuant to section 1803, and

"(2) such amounts which are hereby authorized to be appropriated as may be necessary to maintain the fund in a condition adequate to meet its liabilities and defray expenses associated with the administration of the insurance program under this title.

"SEC. 1803. (a) The Secretary shall, after consultation with the Advisory Council on Medical Injury Compensation, established under section 1824, prescribe by regulation—

"(1) chargeable premium rates for insurance coverage under this title,

"(2) appropriate loss-deductibles for tort liability,

"(3) appropriate limitations of coverage, and

"(4) other general terms of insurability,

which he shall incorporate in contracts entered into under this tiitle.

"(b) Premium rates shall be established at a level deemed reasonable by the Secretary and shall in no event exceed for any class of health professional established by the Secretary under subsection (c) the average level of premium rates paid by such class from 1973 to 1975, inclusive, except that such level may be adjusted from time † time to take account of real dollar fluctuation.

"(c) Premium rates shall be uniform among insureds, except that the Secretary may classify physicians and other health professionals by type of practice and percentage of time devoted to such practice in a manner which reflects risk exposure and may vary the rates among such classes of professionals.

"ELIGIBILITY FOR PARTICIPATION

"SEC. 1804. (a) The Secretary shall make insurance available under this title in only those States which he finds have established programs—

"(1) for the licensure of health professionals, in accordance with part D, and

"(2) for the licensure of health care institutions, in accordance with regulations of the Secretary,

and in only those areas for which Professional Standards Review Organizations have been designated pursuant to section 1152 of the Social Security Act.

"(b) No health professional or health care institution shall be eligible for insurance under this title unless such professional or institution has submitted satisfactory evidence of initial licensure and, where appropriate, renewal of such licensure in accordance with a program described in paragraph (1) or (2) of subsection (a) in the State or States where such professional practices his profession or the State in which such institution is located.

"(c) No physician shall be eligible for insurance under this title unless he agrees—

"(1) to have the health care services which he provides reviewed by the Professional Standards Review Organization (designated pursuant to section 1152 of the Social Security Act) for the area in which he provides such services, without regard to whether such services are provided in institutions,

"(2) with respect to health care services provided individuals who are entitled to insurance benefits under title XVIII of the Social Security Act, to accept payment for the provision of such services on the basis of an assignment in accordance with the provisions of section 1842(b)(3)(B)(ii) of such Act, and

"(3) with respect to the performance of any surgical procedure specified in regulations of the Secretary, to consult with, and obtain the recommendation of surgery by, such appropriately qualified specialists as may be required by such regulations, prior to the performance of such procedures.

"CONDITIONS OF PARTICIPATION

"SEC. 1805. (a) Participation in the insurance program established under this title shall be conditioned upon continued compliance with the requirements for eligibility described in section 1804.

"(b) Each insured under this title shall furnish to the Secretary such information as may be necessary to determine whether payment is due on any claim made under this title and the amount of any payment which may be due with respect to such claim.

"(c) (1) Each insured under this title shall inform any patient of such insured of the existence of any injury which is compensable under section 1811 and of the fact of its compensability through the insurance program established under this title.

"(2) In the event that any insured fails to inform such patient within thirty days after he knew or reasonably should have known of such injury and such patient does not file a claim for no-fault benefits within the period required by section 1816, because he has not been so informed, such insured shall be liable to compensate such patient in an amount equal to the amount such patient would have been entitled to recover if he had filed a timely claim.

"(3) (A) A suit may be instituted under paragraph (2) at any time.

"(B) Nothing in this subsection shall be construed to affect the tort liability of any insured.

"TERMINATION OF PARTICIPATION

"Sec. 1806. (a) A contract of insurance under this title may be terminated—

"(1) by the insured at such time and upon such notice to the Secretary and the patients of such insured as may be provided in regulations, except that notice of more than three months shall not be required, or

"(2) by the Secretary at such time and upon such reasonable notice to the insured and the public as may be provided in regulations, and in accordance with subsection (b).

"(b) The Secretary shall not terminate any contract for insurance under this title, except upon a finding—

"(1) that the insured is not complying substantially with the conditions of participation described in section 1805,

"(2) that the insured has failed to pay the applicable premium within a reasonable period of time after it becomes due or is not compying substantially with any other term of such contract,

"(3) that the insured has knowingly made, or caused to be made, any false statement or misrepresentation of a material fact for use in applying for insurance or in determining whether payment of no-fault benefits or tort damages is due under this title, or

"(4) that the insured has provided services which are unnecessarily harmful to the patients of such insured or are of grossly inferior quality.

"(c) Any termination shall be applicable with respect to health care services provided after the effective date of such termination, except that insuranec coverage may continue for up to thirty days after such termination with respect to services to patients which are a continuation of a treatment begun prior to the effective date of such termination.

"(d) Where a contract under this title with an insured has been terminated by the Secretary, the Secretary may not enter into another contract with such insured unless the Secretary finds that the reason for the termination has been removed and that there is reasonable assurance that it will not recur.

"(e) Any individual aggrieved by any action of the Secretary pursuant to this section shall be entitled to a hearing and to review in accordance with the provisions of section 1815.

"REPORTING OF CLAIMS

"Sec. 1807. (a) (1) The Secretary shall report all claims for no-fault benefits filed under this title and all tort actions instituted respecting health care services provided by a physician or other health professional to the State agency in the State in which such professional practices his profession.

"(2) The Secretary shall report such claims and actions respecting health care services by a health professional to the Professional Standards Review Organization designated under section 1152 of the Social Security Act for the area in which such professional practices his profession.

"(b) Where there are an unusually high number of claims and actions respecting the health care services provided by an insured, the Secretary shall investigate the nature and cause of the injuries for which such claims are made and actions are instituted and the findings of such investigation shall be reported as provided in subsection (a). The Secretary shall also take in consideration such findings in determining whether it is appropriate to terminate the insurance contract with such insured.

"INSURANCE BENEFITS

"Sec. 1808. (a) The insurance program established under this title shall provide insurance benefits to insureds which benefits shall consist of compensation for loss incurred as a result of tort liability.

"(b) Loss incurred as a result of tort liability shall consist of all damages recoverable under the tort law of the State in which a tort action is brought applicable to injury resulting from the provision of health care services.

"(c) Insurance benefits under this title shall not include compensation for loss incurred as a result of a failure to comply with the provisions of section 1805(c).

"PART B—PAYMENT OF CLAIMS FOR NO-FAULT BENEFITS

"NO-FAULT BENEFITS

"Sec. 1811. (a) The insurance program established under this title shall provide no-fault benefits to beneficiaries of contracts entered into in accordance with such title which benefits shall consist of compensation for loss from any injury suffered as a result of health care services provided by an insured to such beneficiary, to the extent provided in section 1813.

"(b) No-fault benefits shall be paid to beneficiaries without regard to fault on the part of the insured.

"BENEFICIARIES OF NO-FAULT BENEFITS

"Sec. 1812. (a) Beneficiaries of no-fault benefits provided for in any contract entered into with an insured under this title shall be—

"(1) any patient of such insured, and

"(2) any survivor of a patient of such insured who has died as a result of health care services provided by such insured.

"(b) Claims for no-fault benefits may be filed by (1) beneficiaries, or (2) legal representatives of such beneficiaries.

"LIMITATION ON NO-FAULT BENEFITS

"Sec. 1813. (a) The no-fault benefits provided to a beneficiary by the insurance program established under this title shall consist of compensation for loss from injury determined in accordance with regulations of the Secretary, but limited to—

"(1) in the case of a patient, economic loss, including—

"(A) all reasonable expenses necessarily incurred for medical and other health treatment,

"(B) all reasonable expenses necessarily incurred for medical and vocational rehabilitation services,

"(C) all reasonable expenses necessarily incurred in obtaining services in lieu of those the patient would have performed for the benefit of himself or his family if he had not been injured, up to $800 per month, and

"(D) loss of earnings, including—

"(i) loss of gross income as calculated in accordance with subsection (b), and

"(ii) all reasonable expenses of a patient for hiring a substitute to perform self-employment services, thereby mitigating loss of income, or for hiring special help, thereby enabling a patient to work and mitigate loss of income,

up to an amount which, when added to such patient's other sources of continuing income equals $2,000 per month, and

noneconomic loss, including pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage recoverable under tort law applicable to injury resulting from the provision of health care services (but not including punitive or exemplary damages) up to a limit of $2,000 per month, or

"(2) in the case of a survivor,

"(A) loss of income of a deceased patient which would probably have been contributed to a survivor, if such patient had not sustained the fatal injury, and

"(B) all appropriate and reasonable expenses necessarily incurred by a survivor, after a patient's death resulting from injury, in obtaining services in lieu of those which the patient would have performed for the benefit of such survivor if he had not sustained the fatal injury,

reduced by expenses which the survivor would probably have incurred but avoided by reason of that patient's death resulting from injury: *Provided*, That in no case shall (i) the amount of compensation for loss described in subparagraph (A) exceed an amount which, when added to such survivor's other sources of continuing income equals $2,000 per month, or (ii) the amount of compensation for loss described in subparagraph (B) exceed $800 per month, and

"(C) loss (as defined in paragraph (1)) suffered by the patient prior to his death for which such patient did not otherwise receive compensation.

"(b) Loss of earnings of an individual shall be calculated by determining the probable income of such individual for the period for which he incurs such loss and reducing the amount of such income by an amount equal to—

"(1) any income which such individual earns from substitute work,

"(2) any income which such individual would have earned in available substitute work he was capable of performing but unreasonably failed to undertake, and

"(3) any income which such individual would have earned by hiring an available substitute to perform self-empolyment services but unreasonably failed to do.

"(c) In determining economic loss under this section all benefits and advantages (less reasonably incurred collection costs) that an individual receives or is entitled to receive from Social Security (except those benefits provided under title XIX of the Social Security Act), workers' compensation, any disability or health insurance, and all other benefits (except the proceeds of life insurance) received by or available to an individual because of the injury shall be subtracted from the gross amount of loss.

"PAYMENT OF NO-FAULT BENEFITS

"Sec. 1814. (a) There shall be paid from the Medical Injury Compensation Insurance Fund to each beneficiary of no-fault benefits under this title such benefits as such beneficiary is entitled to receive under this title.

"(b) No-fault benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as loss is sustained.

"(c) A claim for no-fault benefits shall be paid without deduction for the benefits or advantages which are to be subtracted from the gross amount of loss in calculating economic loss in accordance with section 1813, if such benefits or advantages have not been paid or provided to such claimant prior to the date the no-fault benefits claim is paid. The Secretary is thereupon entitled to recover reimbursement from the person obligated to pay or provide such benefits or advantages or from the claimant who actually receives them.

"(d) The right of any individual to any future payment under this part shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this part shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

"PROCEDURES FOR DETERMINATION OF NO-FAULT BENEFITS; APPEALS

"SEC. 1815. (a) (1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual filing a claim under this part within sixty days of the date on which such claim is filed. Upon request by any such individual who makes a showing in writing that his rights may be prejudiced by any decision the Secretary has rendered, he shall give such individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such decision must be filed within such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

"(2) Decisions of the Secretary under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (d).

"(b) For the purpose of any hearing, investigation, or other proceeding authorized or directed under this title, or relative to any other matter within his jurisdiction hereunder, the Secretary shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any territory or possession thereof. Subpenas of the Secretary shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpenas setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

"(c) In case of contumacy by or refusal to obey a subpena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.

"(d) Any individual, after any fiscal decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (a) hereof which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of such individual to submit proof in conformity with any regulation prescribed under this title, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision shall be reviewable the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

"(e) The findings and decision of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under section 24 of the Judicial Code of the United States to recover on any claim arising under this title.

"TIME LIMITATIONS ON FILING OF CLAIMS FOR NO-FAULT BENEFITS

"SEC. 1816. (a) An initial claim for no-fault benefits for loss from injury may be filed by a patient not later than 18 months after such patient knew or reasonably should have known of such injury and that such injury was a result of the provision of health care services. If no-fault benefits have been paid for such loss, a claim for further benefits may be filed not later than one year after the last payment of benefits.

"(b) An initial claim for no-fault benefits for loss from injury may be filed by the survivor of a patient not later than the longer of one year after the death of such patient or 18 months after such survivor knew or reasonably should have known that the injury resulting in death was a result of the provision of health care services. If no-fault benefits have been paid for such loss, a claim for further benefits may be filed not later than one year after the last payment of benefits.

"(c) If a beneficiary is under a legal disability when the right to file a claim first accrues, the period of his disability is not a part of the time limited for filing of a claim.

"EFFECT OF FILING FOR NO-FAULT BENEFITS ON TORT RECOVERY

"SEC. 1817. (a) No claim for no-fault benefits of any beneficiary under this title shall be accepted for filing by the Secretary unless such beneficiary or his legal representative agrees, in writing, that no tort action will be instituted or prosecuted against the insured with respect to the injury for which no-fault benefits are claimed.

"(b) In the event such beneficiary or his legal representative does institute or prosecute such action he shall be considered to have breached such agreement. The Secretary is authorized to sue for damages for such breach. The amount of liquidated damages for breach of such agreement shall be the amount of any damages recovered by such beneficiary or representative in such tort action.

"PART C—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 1821. As used in this title—

"(1) The term 'insured' means an individual identified by name as an insured in a contract entered into under section 1081.

"(2) The term 'patient' means an individual to whom an insured provides health care services.

"(3) The term 'survivor' means an individual identified in the wrongful death statute of the State of domicile of a deceased patient as one entitled to receive benefits by reason of the death of another individual.

"(4) The term 'legal representative' means an individual who would be entitled to institute a tort action on behalf of another individual, according to the law of the State of domicile of such other individual.

"(5) The term 'health professionals' means physicians, dentists, clinical psychologists, pharmacists, optometrists, podiatrists, nurses, nurse mid-wives, physicians assistants, dental auxiliaries, and any other classes of professionals prescribed by the Secretary in regulations.

"(6) The term 'health care institutions' means health care facilities and health maintenance organizations within the meaning of regulations promulgated under section 1122 of the Social Security Act.

"(7) The term 'injury' means physical harm, bodily impairment, disfigurement, or delay in recovery.

"(8) An injury 'results' from the provision of health care services when it is more probably associated in whole or in part with the provision of such services than with the condition for which such services were provided.

"(9) The term 'condition' means the state of health of the patient prior to the provision of health care services.

"(10) The term 'without regard to fault' means irrrespective of fault as a cause of injury.

"(11) The term 'health care services' means the rendering, as well as the omission, of any care, treatment, or services provided within the course of treatment.

"(12) The term 'State' means a State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

"(13) The term 'State agency' means the department, commission, board, or other agency of a State which is charged by the law of that State with the administration of laws and regulations regarding licensure of health professionals.

"MEDICAL INJURY COMPENSATION INSURANCE ADMINISTRATION

"SEC. 1822. (a) There is hereby established within the Department of Health, Education, and Welfare an office to be known as the Medical Injury Compensation Insurance Administration.

"(b) The Secretary shall perform the functions authorized by this title through the Medical Injury Compensation Insurance Administration.

"REGULATIONS

"SEC. 1823. The Secretary shall have authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

"ADVISORY COUNCIL ON MEDICAL INJURY COMPENSATION

"SEC. 1824. (a) The Secretary shall establish and appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, an advisory council to be known as the Advisory Council on Medical Injury Compensation (hereinafter referred to as the 'Council'). The Council shall advise, consult with, and make recommendations to, the Secretary with respect to (1) the preparation of any regulations prescribed in accordance with this title, and (2) the implementation and administration of this title.

"(b)(1) The Council shall be composed of fifteen members. The members shall be appointed by the Secretary and shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Not less than seven members shall be persons who are not health professionals.

"(2) The term of office of voting members of the Council shall be six years, except that—

"(A) of the members first appointed to the Council, five shall be appointed for terms of two years and five shall be appointed for terms of four years, as designated by the Secretary at the time of appointment; and

"(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

A member may serve after the expiration of his term until his successor has taken office.

"(3) The Chairman of the Council shall be selected by the members from among their number. The term of office of the Chairman of the Council shall be the lesser of three years or the period remaining in his term of office as a member of the Council.

"(c)(1) Except as provided in paragraph (2), the members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

"(2) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.

"(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

"(d) The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Council.

"PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"SEC. 1825. (a) Any agreement entered into by the Secretary with a qualified organization designating it a Professional Standards Review Organization under section 1152 of the Social Security Act shall provide that such organization perform the applicable review and other functions described in title IX of such Act with respect to the health care services provided by physicians who agree, pursuant to section 1804, to have such services reviewed by such organization.

"(b) The provisions of part B of title XI of the Social Security Act shall apply to the health care services provided by any physician who agrees, pursuant to section 1804, to have such services reviewed as provided by such section.

"(c) The Secretary shall make payments to Professional Standards Review Organizations equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organizations in carrying out or preparing to carry out the duties and functions required to be performed under this section.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"PAYMENT OF ATTORNEYS' FEES

"SEC. 1826. (a) In addition to no-fault benefits or tort damages paid by the Secretary out of the Medical Injury Compensation Insurance Fund established by section 1802 to or for the benefit of any claimant or plaintiff to whom such payment is due the Secretary shall, if the claimant or plaintiff was represented by an attorney, pay out of such Fund, a reasonable fee (based upon actual time expended), established on the basis of regulations of the Secretary, to compensate such attorney for the services performed by him in connection with such claim or action to recover such damages.

"(b) No part of such no-fault benefits or tort damages may be applied in any manner as attorney's fees in connection with such claim or action to recover such damages.

"(c) Any attorney who charges, demands, receives or collects for services performed by him in connection with such claim or action to recover such damages any amount in excess of that paid by the Secretary under subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $10,000, or imprisonment for not more than one year, or both.

"(d)(1) Except as provided in paragraph (2), with respect to a claim for no-fault benefits filed by a claimant for which payment is not due under this title, the Secretary shall, if such claimant was represented by an attorney, pay out of such Fund, a reasonable fee (based upon actual time expended), established on the basis of regulations of the Secretary, to compensate such attorney for the services performed by him in connection with such claim.

"(2) No payment shall be made under paragraph (1) with respect to any claim found by the Secretary to be fraudulent or frivolous.

"PENALTIES

"SEC. 1827. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any claim for any benefit or payment under this title,

"(2) knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefits or payment,

"(3) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for insurance under this title, or in any proceeding concerning the termination of any contract of insurance under this title, or

"(4) in the case of a health professional or health care institution, knowingly and willfully makes or causes to be made any false statement or representation respecting the participation of such professional or institution in the insurance program established under this title,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"PART D—MINIMUM NATIONAL STANDARDS FOR STATE LICENSURE OF HEALTH PROFESSIONALS

"MINIMUM NATIONAL STANDARDS FOR STATE LICENSURE OF HEALTH PROFESSIONALS

"SEC. 1831. (a)(1) Within two years of the date of enactment of this part, the Secretary shall, in consultation with appropriate professional organizations, and in cooperation with any recognized national professional testing organization or organizations, develop and establish national standards for the licensure of health professionals and prepare appropriate examinations for the initial licensure and appropriate procedures for the subsequent renewal of such licensure (which shall be required periodically, but at least once every six years). Such standards shall include satisfactory performance, as defined by the Secretary, on an initial examination, demonstration of written and spoken proficiency in the English language in a manner approved by the Secretary, and compliance with such other requirements as are determined to be appropriate for the evaluation of competence to practice the health professions.

"(2)(A) A health professional licensed to practice his profession in any State shall be deemed to have complied with the appropriate procedures for renewal of his license required by this section if he has complied with the procedures established by any appropriate professional organization and certified by the Secretary in accordance with subparagraph (B).

"(B) The Secretary shall certify the procedures for renewal of licenses under this part, established by any appropriate professional organization, except upon a finding that such procedures are not adequate to assure appropriate continuing competence to practice the health professions. If the Secretary fails to certify any such procedures he shall publish in the Federal Register a statement of the reasons for such action.

"(3)(A) The requirements of this part with respect to licensure shall not apply to any health professional in any State who has been given a license to practice his profession in such State prior to the date upon which the provisions of this part take effect in such State, except that any such professional shall, after the provisions of this part take effect in such State, be subject to the requirements of this part respecting renewal of licenses.

"(B) Procedures for the removal of licensure prescribed under this section shall not, so far as they are applicable to health professionals who are licensed to practice their professions in any State on the date of enactment of this section, require the taking of an examination as a condition of relicensure. Nothing in this paragraph shall be construed to preclude a State or appropriate professional organization from establishing such procedures as it deems necessary for the relicensure of health professionals.

"(b) The Secretary shall periodically, but not less often than once every two years, review the national standards (including the examinations and certifications) established pursuant to subsection (a) and shall, in a manner consistent with such subsection, revise such standards as appropriate to assure that such standards are adequate for evaluation of competence to practice the health professions.

"(c) Prior to the establishment or revision of the national standards, pursuant to this section, the Secretary shall publish a notice in the Federal Register and afford all interested parties a reasonable opportunity to present their views by oral and written submission. The final action of the Secretary in establishing and revising the national standards shall be subject to judicial review in accordance with section 1832(d)(3) in the United States Court of Appeals for the District of Columbia Circuit.

"STATE PROGRAMS FOR LICENSURE IN ACCORDANCE WITH THIS PART

"SEC. 1832. (a)(1) A State may establish a program for licensure of health professionals in accordance with this part.

'(2) A State licensure program is in accordance with this part only if it meets or exceeds all of the national standards and complies with the provisions of section 1833. A State program 'meets' the national standards only if the substance of the State program requirements is the same as, or the equivalent of, the corresponding requirements of the national standards. A State licensure program 'exceeds' the national standards only if it includes requirements which are the same as, or equivalent to, the corresponding requirements of the national standards, and imposes additional requirements which are reasonably necessary to assure competent health professionals, and which are not inconsistent with the national standards.

"(b) Upon the establishment of a program, pursuant to subsection (a), in any State, the State agency may submit to the Secretary a certified copy of such program, together with all relevant information which is requested by the Secretary. Within one hundred and twenty days after the Secretary receives a copy of a State, licensure program established under subsection (a), the Secretary shall make a determination whether such State has established a licensure program in accordance with this part.

"(c) The Secretary shall periodically, but not less often than once every three years, review each State licensure program which has been determined under subsection (b) to be in accordance with this part to determine whether such program is still in accordance with this part. To facilitate such review each State agency shall submit to the Secretary periodically all relevant information which is requested by the Secretary.

"(d)(1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

"(2) The Secretary shall notify in writing the Governor and the State legislature of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

"(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within sixty days from the date on which the determination made by the Secretary is published in the Federal Register.

"STATE LICENSURE REQUIREMENTS

"SEC. 1833. No State licensure program shall be considered to be in accordance with this part unless such program meets the following requirements—

"(1) each licensing State which has a licensure program which meets the national standards, as determined by the Secretary under section 1831, shall provide that a health professional licensed to practice his profession in any other State which has a licensure program which meets the national standards, as determined by the Secretary under section 1831, shall be deemed to be qualified for licensure in such licensing State; and in the case of any licensing State which has a licensure program which exceeds the national standards, as determined by the Secretary under section 1831, such licensing State shall provide that such a health professional shall be deemed to be qualified for licensure in such licensing State upon compliance with the additional requirements imposed by the licensure program of such licensing State;

"(2) no State shall establish any requirement for licensure of health professionals which requires that the individual applying for licensure reside in such State for a designated period of time prior to such licensure;

"(3) each State shall apply the requirements of its licensure program equally to all individuals who apply to be licensed as health professionals in such State, whether they have received an education in such profession in the United States or in a foreign nation; each State licensure program shall have only one set of licensure requirements and no State shall license (including issuance of temporary, partial, limited, institutional, and conditional licenses) any individual to practice such profession unless such individual has met all of the requirements of its licensure program; and

"(4) the State agency of each State shall notify the Secretary of any denial of licensure or relicensure to any health professional.".

BILL SUMMARY

The National Medical Injury Compensation Insurance Act would establish a no-fault system of compensation—similar to Worker's Compensation—for injuries suffered as the result of health care services. Under the bill, the Secretary of Health, Education, and Welfare would enter contracts with health care providers—professionals and institutions—who chose to participate in the program. The providers would pay an annual premium to a Medical Injury Compensation Insurance Fund and would in turn receive no-fault coverage for their patients as well as federal medical malpractice insurance for themeselves. As conditions of participation, they would be required to comply with standards of licensure and relicensure established by the Secretary. In addition, physicians would agree to accept review of their services by Professional Standards Review Organizations, to accept as full payment in Medicare cases the level of reimbursement assigned by the federal government, and to obtain concurring opinions from specialists prior to the performance of surgical procedures.

For the duration of provider's participation in the program, any of his patients who sustained an injury as a result of the provider's health services would be entitled to file a claim—within a prescribed time limit—with a Medical Injury Compensation Insurance Administration in HEW. If his injury were deemed treatment-induced, he would be compensated within certain limits, for medical expenses, injury-related income loss, and pain or inconvenience. (The program would, however, be a secondary insurance program; that is, any benefits the patient received from the compensation plans like health insurance, sick leave plan of Worker's Compensation would be deducted from the benefits due under this program). Determinations would be made by the Secretary—who would be empowered to subpoena any revelant witness or materials. If appealed by the patient, determinations would be reached through an administrative hearing or, thereafter, by judical review in the federal courts. If he chose to do so, the patient could still seek recovery of damages through a malpractice suit instead of seeking Medical Injury Compensation benefits. However, the initiation of one process—either the no-fault or the malpractice process—would disqualify the claimant from seeking recovery through the other. Participating providers who were sued would be covered by federal malpractice insurance for damages awarded the plaintiff.

In the case of a provider who accumulated unusual recods of losses, whether in the no-fault or the tort systems, the Secretary would investigate the provider's professional performance. If it were found that the services provided in those cases had been seriously deficient or irresponsible or that patients had been unnecessarily harmed, the Secretary would be authorized to terminate the provider's participation in the Medical Injury Compensation program.

Except in these instances or in the cases of providers who failed to pay their premiums or comply with eligibility requirements and other regulations, no one's participation would be terminated.

By Mr. ROBERT C. BYRD (for Mr. ANDERSON, for himself, and Mr. HUMPHREY):

S. 2369. A bill to provide Federal assistance for the control of Dutch elm disease; to the Committee on Agriculture, Nutrition, and Forestry.

DUTCH ELM DISEASE CONTROL ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I introduce a bill for Mr. ANDERSON, for himself and Mr. HUMPHREY. I ask unanmious consent that a statement by Mr. ANDERSON, together with attachments and the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ANDERSON

I am today introducing legislation aimed at improving and focusing our Federal commitment in combatting the nation's most serious shade tree problem: Dutch Elm disease. Since 1930 when Dutch Elm disease (DED) was first discovered in this country, the federal involvement has been one of half-hearted interest. Money was spent for tree removal from the emergency relief fund during the depression but no comprehension approach has ever been developed to eradicate the disease.

Many communities, already hard pressed in performing local services, are unable to finance the necessary control measures. In a report released earlier this year by the U.S. Forest Service it was shown that local communities that take no action to control Dutch Elm disease may have to spend four times as much on tree removal over a 15 year period as other equivalent-sized cities and towns spend during the same period on programs to combat the spread of the disease.

While many persons may be familiar with the tragic loss of elms in the Twin Cities area of Minnesota, this disease is by no means a Minnesota problem. Only the states of Florida, Louisiana, New Mexico, Arizona, Utah, Nevada, Washington, Hawaii and Alaska have escaped infestation. The incidences of DED is highest in the Northeast where 12 states have lost 75 percent of the elms within their municipalities. The Dutch Elm bettle and the deadly disease which it carries are rapidly moving westward. Of the 16 affected states west of the Mississippi River, 12 have lost less than 25 percent of their elms and 9 states have lost less than 5 percent.

According to a recent USDA study, the percent of trees killed is closely related to the length of time DED has been present in a state. In states where the disease was first reported during the past ten years an average of 95 percent of elms still remain. In states where the disease was first reported from 21 to 30 years ago, an average of only 32 percent of the trees are left.

The loss we are discussing is not only the esthetic value of the trees but the reduction in property values associated with the loss of shade trees. Losses also occur in urban wildlife and in microclimates.

In order to check the interstate spread of this disease, insure proper sanitation and assist in reforestation a comprehensive Federal approach is necessary. S. 2369 authorizes a 3 year $250 million program which emphasizes public education to insure early detection and treatment and is a complement to local and state efforts rather than a replacement for their efforts.

Governors from Dutch Elm disease infected states will be able to apply for matching grants for any dollars spent by state or local governments. After the first year, states' match may not exceed the average state expenditure for the previous three years in order that states who were active before the Federal program came into existence will be rewarded. Matching funds will be available to county and local governments, business organizations and private individuals for tree removal, safe disposal of wood to check the spread of disease and reforestation with healthy disease resistant trees. Individuals who choose to participate must agree to remove all diseased trees unless a qualified forester determines that removal of the tree is unnecessary.

Since earlier detection is dependent upon an aware population, clearinghouses will be authorized in each state so that all may benefit from information among the states. Presently, the most effective combatant for checking the spread of Dutch Elm disease is tree removal and sanitation. Although great care must be taken that the beetle is destroyed, I believe that these field-giants can still be put to active use. My legislation includes a research program to investigate the use of these wood fibers without spreading the disease.

The USDA reports that if a city undertakes a control strategy early on 55 to 85% of a city's elms can be saved. Budget savings in control and disposal costs alone can amount to between $20,000 and $80,000 for a 1,000 tree unit or between 16 and 63% of the no control option.

A federal effort is needed now to assist and encourage local efforts. Our cities' trees, the catalyst of clean air, are too precious a resource to squander away.

I ask that the Dutch Elm Control Act of 1977, a section by section analysis and an informative article from the Minneapolis Tribune be printed in the Record.

The bill and attachments ordered to be printed in the RECORD, are as follows:

S. 2369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dutch Elm Disease Control Act of 1977".

Sec. 2. The Congress finds that—

(1) shade trees are essential to a clean, healthy environment and to the esthetic quality of the urban areas of the Nation;

(2) the elm tree is one of the most prized shade trees in the United States;

(3) the plant disease commonly known as Dutch elm disease is responsible for the loss and destruction of thousands of elm trees in this country each year;

(4) Dutch elm disease continues to spread, all but nine States having been infested with such disease, and the resulting losses each year are extensive; and

(5) Federal support and coordination of State programs to control the spread of the disease are essential if the disease is to be effectively controlled.

Sec. 3. As used in this Act—

(1) The term "Secretary" means the Secretarys of Agriculture.

(2) The term "State" means the several States and the District of Columbia.

Sec. 4. (a) The Secretary is authorized to assist the States in combating Dutch elm disease through a program of matching grants for use as provided in this Act.

(b) Grants made available under this Act may be used by a State solely for the purpose of combating Dutch elm disease through a program of financial assistance for State programs, for local governments, business organizations, and private individuals.

(c)(1) Any State which has been infested with Dutch elm disease shall be eligible for grants under this Act upon application therefor by the Governor of the State.

(2) Any grant made to a State under this Act shall be subject to the condition that the State agree to expend an amount equal to the amount of the grant for the same purposes for which the grant is to be used. The matching funds of the State may be made up of funds from any source except funds made available to the State under any Federal-State revenue sharing program.

(3) No State shall be eligible for such a grant in any year after the first year in which grants are made available under this Act unless the amount of funds, exclusive of funds made available under this Act, to be expended for the control of Dutch elm disease by such State in such year is equal to or greater than the average amount expended by such State for such purpose during the three preceding years.

(d) A State may make funds available to any local government, business entity, or individual of such State in such manner as the State may determine, except that—

(1) all such funds must be used for the purpose of removing trees infested with Dutch elm disease, the safe disposition of the wood from such trees after their removal, and the replacement of the infested trees with healthy, disease resistent trees;

(2) where funds are made available to any business entity, organization, or individual, not more than an amount equal to 50 percent of the cost of the removal of the infested trees, the disposition of the wood from such trees, and the replacement of the infested trees with healthy, disease resistant trees on the property of such entity, organization, or individual, may be paid with funds made available under this Act;

(3) where funds are made available to any business entity, organization, or individual for the removal of trees infested with Dutch elm disease located on the property of such entity, organization, or individual, such entity, organization, or individual must agree to the removal of all trees on such property so infested unless it is determined by the appropriate State forester that the removal of all such trees is unnecessary to prevent the spread of the disease or is impracticable under the circumstances; and

(4) all funds made available must be strictly accounted for in such manner as the Secretary shall prescribe.

Sec. 5. Funds under this Act shall be allocated among the States by the Secretary on the basis of the severity of the Dutch elm disease in such State, on the basis of the effort of each State in combating such disease and on the basis of such other relevant factors as the Secretary deems appropriate for determining the fair and equitable distribution of the funds; except that in no year shall more than one-third of the total funds available for allocation be allotted to any single State.

Sec. 6. None of the funds made available under this Act may be used to compensate any person for any damage suffered to any property as the result of or in connection with the removal of any tree or the planting of any tree as a replacement for any tree removed.

Sec. 7. The Secretary shall conduct a program of research designed to develop ways in which wood from diseased trees can be used without the threat of spreading the disease to other trees. The Secretary may carry out such a program through the States, colleges and universities, and by such other means as he deems most effective.

Sec. 8. (a) The Secretary shall carry out a program of information and education throughout the United States regarding the identification of Dutch elm disease and the various and most effective means of combating the spread of such disease. As a part of such program, the Secretary shall furnish such technical advice in connection with combating Dutch elm disease as may be requested by local governments, business entities, organizations, and individuals.

(b) The Secretary shall also provide financial assistance to aid the States in establishing a clearinghouse through which information will be provided regarding programs being carried out in the United States for the control of Dutch elm disease and the effectiveness of such programs.

Sec. 9. The Secretary shall submit to the Congress, within sixty days after the end of the first year of operation of the program provided for in this Act and annually thereafter a written report reviewing the effectiveness of such program together with such comments and recommendations for improvement of the program as he deems advisable.

Sec. 10. (a) There is authorized to be appropriated for the purpose of carrying out sections 2 through 6 and section 9 of this Act during the fiscal year beginning October 1, 1978, the sum of $70,000,000, for the fiscal year beginning October 1, 1979, the sum of $80,000,000, and for the fiscal year beginning October 1, 1980, the sum of $90,000,000.

(b) There is authorized to be appropriated for the purpose of carrying out sections 7 and 8 of this Act during the fiscal year beginning October 1, 1978, and for each of the two succeeding fiscal years the sum of $10,000,000.

(c) Funds appropriated to carry out the provisions of this Act for any fiscal year shall remain available until expended.

SECTION-BY-SECTION ANALYSIS: DUTCH ELM DISEASE CONTROL ACT OF 1977

Section 2. Findings: Shade trees are essential. The elm tree is one of the most important shade trees in the U.S. Dutch Elm disease is destroying thousands of elm trees each year throughout the U.S., Federal support and co-ordination of relevant State programs is essential to effective control of Dutch Elm disease.

Section 3. Definitions. "Secretary" means Secretary of Agriculture. "State" means the several states and the District of Columbia.

Section 4. (a) Authorizes the Secretary to establish a matching grant program to assist states in combating Dutch Elm disease.

(b) Requires program of financial assistance to county and local governments, business organizations, and private individuals.

(c) (1) The Governor of a Dutch Elm disease infested state is to make application for grant funds.

(2) Grants are conditioned on the State's providing dollar for dollar matching grants. The matching funds of the State may be made up of funds from any source except funds made available to the State under a Federal-State revenue sharing program.

(3) After the first year of grant availability, States must spend at least as much money as the average of the three preceding years to be eligible for Federal funds during any given year.

(d) States must determine the manner of distribution to local governments, business entities, or individuals in the state, except that—

(1) all funds made available must be used to remove Dutch Elm disease infested trees, safely dispose of the wood after removal of the tree, and replace the infested trees with healthy, disease resistant trees;

(2) no more than 50 percent of the costs for removing, disposing, and replacing infested trees incurred by business entities, organizations or individuals with respect to trees on their property can be paid under the Act (no limit for local governments);

(3) where funds are potentially available to a business entity, organization, or individual for removal of infested trees on their property, the potential recipient of funds must agree to the removal of all infested trees from the property unless it is determined by the appropriate forester that removal of all the trees is unnecessary to prevent the spread of the disease or impracticable under the circumstances; and

(4) all funds made available must be strictly accounted for in such manner as the Secretary shall prescribe.

Section 5. The Secretary is to allocate funds among the states according to the severity of the disease in each state, the effort of each state in combating Dutch Elm disease, and on the basis of other relevant factors leading to fair and equitable distribution as determined by the Secretary; except that no one state shall receive more than 1/3 of the total funds available for allocation in any one year.

Section 6. Funds available under the Act may not be used to compensate persons for damage to their property as the result of, or in connection with, the removal of any tree or replacement of any tree removed from the property.

Section 7. The Secretary is to conduct a research program designed to develop ways to use wood from diseased trees without spreading the disease to other trees. The Secretary may carry out this program through the States, educational institutions, and other means he deems effective.

Section 8. (a) Directs the Secretary to carry out an information and education program throughout the U.S. regarding the identification of the disease and the most effective ways of combating its spread. The Secretary is to furnish technical advice in connection with combating the disease as requested by local governments, business entities, organizations, and individuals.

(b) The Secretary is to provide financial assistance to the States to establish clearinghouses for educational information provided through Dutch Elm disease program.

Section 9. The Secretary must submit annually to Congress, a written report reviewing the effectiveness of the program along with comments and recommendations for the program's improvement.

Section 10. (a) Authorizes appropriations for carrying out sections 2 through 6 and section 9 of the Act during the fiscal year beginning October 1, 1978 of $70, for the fiscal year beginning October 1, 1979 of $80, and for the fiscal year beginning October 1, 1980 of $90.

(b) Authorizes $10 to be appropriated to carry out section 7 and 8 for the fiscal year beginning October 1, 1978, and for each of the two succeeding fiscal years.

(c) Funds appropriated to carry out the provisions of this Act for any fiscal year shall remain available until expended.

[From the Minneapolis Tribune, Aug. 14, 1977]

ST. PAUL LOST ELM TREES THROUGH APATHY

(By Joe Rigert)

(EDITORS NOTE.—This is the first of several articles the Tribune will publish in the next few days on the extent and problems of Dutch elm disease in Minnesota.)

The battle to save the elms is lost in St. Paul.

Within a couple of years or so, most of the trees probably will be gone, premature victims of public apathy and political inaction.

The disaster comes just 16 years after the state's first case of Dutch elm disease was spotted in St. Paul, the capital and second largest city. The disease hit 39,000 trees this year, forcing the city to shift partly from a control program to a logging operation, while depriving the city of much of its charm, comfort and character.

As the trees come down, streets like prestigious Summit Av. stand half naked and people fire the recriminations that accompany defeat in war. With tree losses this year almost double the predictions, the city will be left with less than half of its 70-year-old green canopy.

"The city should have been better prepared," said Stephanie Rynne of the Summit area's Ramsey Hill Association. "We've known about the disease for over a decade."

University of Minnesota experts say now that 80 to 90 percent of the city's elms probably will be gone in two or three years. The experience in other cities, after more than half of the elms were lost, supports that prediction.

The outlook for Minneapolis, which will lose 26,000 trees this year, is more uncertain, although not very reassuring. The same university experts say that this city may be just a year or so behind St. Paul, faced in 1978 with the devastating loss suffered across the river.

But 80 percent of the elms will remain in Minneapolis at the end of this year, and city tree experts insist that they still have a fighting chance to control the disease spread by tiny bark beetles.

In St. Paul, however, even the city's "tree" official concedes that 70 percent of the elms may be gone in two years. The disease won't spread as fast from now on, says head arborist Tom Karl, because the trees no longer are lined up like soldiers for the attacking beetles. Heavy losses have thinned their ranks.

Even as the trees have withered and died, city government has delayed—and delayed again—over the removal of the dry hulks that act as a breeding ground for millions of elm-bark beetles.

Last year, in an effort to save money, the city called three times for new bids from private tree-removal contractors. This year, the city pushed up the price of tree removal by tying the wages of such companies to union scales. When the bids came in too high, the city created a lower-paid new job and invited new proposals.

The result of all this has been to delay the work of private contractors each year until late summer or early fall—long past the needed early start for an effective disease-control program.

What the delays have done is provide time for possibly two generations of bark beetles to breed in the diseased trees and fly on to healthy elms, carrying the fungus that clogs the "veins" of the good trees.

The city, mostly with the use of its own crews, has removed only 5,200 (13 percent) of the diseased elms so far this year. Last December, the city had 10,000 elms still to be removed for that year.

Ward Stienstra and Mark Ascerno described the problem last week in a search for bark beetles on Summit Av. The scientists pointed to trees that had just been hit with the disease, dead trees where the beetles had bred and gone, a pile of elm branches where they found beetles beneath the bark.

At one home, they talked to a woman who was reluctant to see the removal of the seven diseased trees from her yard, even though there was no hope for them. "I can see the beauty in them," she said, comparing their leafless features with winter trees.

Stienstra and Ascerno were asked if St. Paul could slow the spread of the disease. Stienstra, a plant pathologist, and Ascerno, an expert on insects, said no. It was too late.

David French, another plant pathologist and the state's leading authority on Dutch elm disease, took essentially the same view later, although he said the city might save the elms longer in some neighborhoods. If those predictions were not gloomy enough, epidemiologist Robert Shrum calculated that 90 percent of the trees will be lost in two years. Shrum is an expert on disease trends.

Why did St. Paul get hit so hard? The experts blame it on failure of the city in recent years to identify and remove all of its diseased elms, failure of the politicians to provide necessary money and failure of the public to support an adequate control program until it was too late.

French emphasizes the need for public cooperation; foresters can't combat the disease alone. The people, he said, must see to it that their private trees are removed promptly when they become diseased. They also must get rid of elm firewood, which makes ideal breeding territory for the bark beetles.

Such efforts can slow down spread of the disease, allowing time to plant other trees, but they will not eliminate the malady, because there are no known cures.

Once the disease catches on, experts say, it doubles and triples its toll each year, until the explosion hits the city. After almost a decade of minor impact, that's what happened in St. Paul—the incidence rose from 6,000 trees to 20,000 to 39,000 in three years. That's also when the public became alarmed, but that's when it was too late.

According to the experts, a successful control program calls for prompt removal of 95 to 98 percent of the diseased elm trees, including debris or firewood. Chemical treatment, if applied annually, may help to ward off the disease, they say, but it generally fails to penetrate the entire tree, leaving some limbs vulnerable to infection. Under ideal conditions, a city would remove all diseased elms by April 1 and July 15, to prevent the emergence of two generations of bark beetles after those dates.

Then other diseased trees would be removed during the rest of the summer, as they were spotted, to head off the escape of still a third generation of beetles.

At the same time, root systems would be separated or chemically treated to keep the disease from traveling underground from diseased to healthy trees.

Tom Karl maintains that St. Paul was effectively spotting and removing bad trees, but couldn't stop beetles coming from inaccessible bluffs or river bottoms and couldn't keep people from hoarding elmwood. This made ultimate disaster inevitable, regardless of the city's efforts.

When the disease reaches a certain level, Karl said, it is impossible to stop. And when the number of dying trees reaches a certain number, he added, it becomes physically impossible to remove them in a timely manner.

As it is now, Karl said, some people look upon the city as their enemy, taking away their trees under a quota system. The people paint over the signs that mark trees for removal, argue that the trees will recover, challenge the right of the city to intrude on their property.

Karl remains hopeful that the city will be able to save a third of its elms, maintaining them the way others were preserved until the onslaught came. The university experts say this is no longer possible, that even a reduction in the beetle population won't make much difference because of the "overkill" capacity of the present numbers.

Ascerno flipped one of the beetles—a mere one-eighth of an inch long—from under the bark of a branch big enough to support 1,800 of them. The tiny insect was gone in an instant, possibly headed for one of the healthy trees still left on Summit Av.

St. Paul officials hope that private contractors will be ready this week to begin removing 225 diseased trees a day, at which rate they would finish the job by next April, when a new beetle breeding season begins.

Karl is philosophical about the unpleasant prospects: "The trees were going to die sooner or later anyway."

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2370. A bill to remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JACKSON. Mr. President, I am today introducing a bill to amend section 4 of the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558d). The Volunteers Act authorizes the Forest Service to expend $100,000 of its regular appropriations to reimburse volunteers for incidental expenses which they incur. The present limitation of $100,000 restricts the use of additional citizens who wish to participate in this popular program. This bill will remove this limitation and, it should be added, will not necessitate any additional appropriations.

The volunteers in the national forest program has been a notable success. Even with its limitations, the Volunteers Act has enabled the Forest Service to utilize the valuable resources of American volunteer workers to enhance the environment, and to develop the rich resources of the national forests.

The Forest Service has found there are thousands of conservation-minded citizens who, through individual initiative or organizations, stand ready to assist the Forest Service in its work. Furthermore, Forest Service experience with the program shows a return of over $10 in terms of work value received for every dollar expended. In fiscal year 1974, a total of 7,255 volunteers gave 148 years of work toward the Forest Service mission. The appraised value of the work accomplished by these volunteers was $698,503. The fiscal year 1975 report shows that some 6,473 individuals donated 250 years of work at an appraised value of $1,154,814. For fiscal year 1976, plus transition quarter, 11,676 persons volunteered 341 years of work valued at $2,338,606.

One of the many successful activities is the volunteer host program which provides visitor services in national forest recreation areas. In my own State of Washington this impressive campground host program is a joint venture between the Forest Service and the Washington State Chapter of the Good Samaritan Club. Initiated in 1975, volunteer assistance in 1976 involved seven campgrounds on four national forests in Washington. The volunteers help maintain facilities, man entry stations, answer questions and train campers by explaining rules and good camping techniques. Their presence has substantially reduced vandalism, theft, joy riding by locals and similar problems.

Unfortunately, there are far more opportunities to use volunteers in Forest Service programs than can currently be utilized. Given the current necessity to control Federal spending, the vast amount of conservation work to be accomplished on the national forests, and the availability of volunteers who only need reimbursement for out-of-pocket expenses, it is believed that volunteers offer the Forest Service a most useful and cost-efficient method of accomplishing some of its work. The proposed amendment would enable the Forest Service to utilize significant additional opportunities afforded by citizens who desire to volunteer their services. It should be emphasized, however, that these volunteers will not replace regular Forest Service employees who are responsible for conducting the work of this agency. In fact, the Forest Service is already operating under severe personnel ceiling constraints which, I feel, must be raised if they are to fulfill their responsibilities to Congress and the American people.

Mr. President, I ask unanimous consent that the text of this bill, together with a letter I requested from the U.S. Forest Service Chief, John McGuire, regarding the Volunteers Act, be inserted at this point in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558d) is amended by striking out ", but not more than $100,000 shall be appropriated in any one year".

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., November 23, 1977.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: This is in response to a request by Mr. Denny Miller of your staff for information concerning the Volunteers in the National Forests Program.

The Volunteers in the National Forest Act authorizes the Forest Service to recruit interested individuals for volunteer service in Forest Service activities and to expend $100,000 of regular appropriations for reimbursement to volunteers for incidental expenses they incur.

The Volunteers in the National Forest Program have been tremendously successful. Thousands of conservation-minded citizens, through individual initiative or organizations, have indicated willingness to assist the Forest Service in its work. In FY 1974, a total of 7,255 volunteers contributed 148 man-years of work valued at $698,503 toward the Forest Service mission. In FY 1975, 6,473 individuals donated 250 man-years of work at an appraised value of $1,154,814 and in FY 1976, plus the transition quarter, 11,676 persons volunteered 341 man-years of work valued at $2,338,606. Forest Service experience with the program shows a return of more than $10 work value received for every dollar expended.

Typical of the many successful activities is the "Volunteer Host" program which provides visitor services in National Forest recreation areas. Such services include distributing information to visitors, assisting in maintaining campgrounds free of litter, and orienting visitors to the attractions of the forest. This has been well received by the public. For example, in campgrounds where Volunteer Hosts have been assigned, Forest Service officials report significant reduction in vandalism, litter, and unruly behavior and greater compliance with camping rules and regulations.

There are more opportunities to use volunteers in Forest Service programs than can currently be utilized. The $100,000 limitation restricts the size of the volunteer program. For FY 1976 and 1977, our field offices requested more than twice the amount of authorization that was available. This indicates that we are losing opportunities to utilize volunteer services. For example, in FY 1976, 60 people from the Izaak Walton League volunteered to help with clean-up and trail work in the Hell's Canyon area of the Wallowa-Whitman National Forest in Oregon providing they were reimbursed for expenses. Unfortunately, the authorization limitation prevented our acceptance of this offer. We also would like to expand the Volunteer Host Program into more campgrounds but cannot because of the authorization limitation. We are pleased with the outstanding accomplishments of the program and we are hopeful that we will have the opportunity to use additional volunteers in the future.

Reimbursement of volunteer expenses is charged to the Forest Service function or activity which benefits from the volunteer help. The net result of the volunteer program is a savings rather than an additional cost to the Federal Government.

We appreciate your interest in the Volunteers in the National Forest Program and hope that expansion of the Program will prove to be feasible.

Sincerely,

JOHN R. MCGUIRE,
Chief.

By Mr. ROBERT C. BYRD (for Mr. ANDERSON):

S. 2371. A bill to amend title 39 of the United States Code to provide that pledge reminders of charitable organizations may be mailed at third class rates; to the Committee on Governmental Affairs.

Mr. ROBERT C. BYRD. Mr. President, I introduce a bill for Mr. ANDERSON, and I ask unanimous consent that a statement by Mr. ANDERSON, together with the bill, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ANDERSON

I am pleased to introduce S. 2371, a bill which will assist legitimate charitable groups in reducing the administrative costs of fundraising and thereby permit a greater percentage of donor dollars to be used for charitable purposes.

It is a common practice among charities to solicit donation pledges in connection with a fundraising event and, subsequently, mail pledge reminders to persons who earlier agreed to contribute. However, under current U.S. Postal Service regulations, these pledge reminders from charities come within the definition of "bills" and must be sent at first-class mail rates instead of the non-profit bulk rate that these groups use for all other mailings. As a result, thousands of dollars collected for worthy causes is used up on extra postage.

S. 2371 allows qualified, non-profit organizations to mail presorted, zip-coded pledge reminders at the bulk rate. In addition, since delayed delivery of pledge reminders reduces the rate of return, S. 2371 requires first-class handling for this type of mail, assuring quick receipt by the pledgor.

This legislation is not intended as an alternative to the sound financial management that must be required of all charities to reduce administrative costs. Nor will the bill lower the postal rates for non-profit organizations' mailings generally. Rather, S. 2371 will increase the amounts of funds available to charities for their worthwhile purposes by reducing a fixed expense—postage costs—incurred in this type of fundraising project.

Of course, an effect of S. 2371 will be to reduce Postal Service revenues. However, I am sure my colleagues will agree that the lost revenue is insignificant compared to the benefits to the recipients of the funds raised by these charitable organizations from the decreased fundraising costs that will result from this bill.

A look at representative, well-run, and well-known charities demonstrates the beneficial effect of S. 2371. For example, each Labor Day weekend, Jerry Lewis puts on a 24-hour telethon to raise funds for the Muscular Dystrophy Association (MDA). Pledge reminders are sent out to persons all across the country who call in during the 24-hour period. In 1976, $359,000 was spent on first-class postage to mail the pledge reminders. In 1977, $398,000 was spent for the same purposes by MDA. Had S. 2371 been in force during the past two years, MDA would have saved more than $638,000 in postage costs. In my judgement, this money would have been better spent on the much needed research funded by this fine organization than the 0.0027% loss in revenue it would represent for the Postal Service's annual budget.

Other causes would benefit as well. The National Campaign Director of The Arthritis Foundation estimates that passage of S. 2371 could result in immediated savings of $10,000 and in even more substantial savings in the future.

S. 2371 is prompted in part by the impact of present postal regulations on Project Concern, Inc., a San Diego based, international non-profit medical and dental assistance program that since 1961 has provided medical services to millions of very deserving people in our own country and around the world. Project Concern annually sponsors 175 Walks for Mankind around the country, including Minnesota, where next May the 9th Annual Twin Cities Walk is scheduled. Since adopting the walk fundraising technique in 1969, Project Concern has sponsored nationally more than 2,500 walks and over the years 1½ million Americans, mostly high school age young people, have walked an average of 20 miles to raise funds for the good works of Project Concern.

Project Concern has consistently and successfully held down its fundraising costs so as to use the maximum percentage of their donor dollars for medical services. Last spring, however, $110,000, 4% of Project Concern's pledged contributions from the spring, 1977, Walks for Mankind, was spent on first class mailing of pledge reminders. S. 2371 would have reduced this group's mailing costs by $91,700. Last year $91,700 would have supported Project Concern's entire medical service program in Appalachia and the operating costs of the Project's program with the Navajo Indians in Arizona and New Mexico.

This legislation should be analyzed with regard, first, to the benefits it conveys to the recipients of hardearned funds by charitable organizations and, second, to the minimal loss of revenue to the Postal Service. I ask my colleagues to support S. 2371 as a gift to the donating public to assure that a greater percentage of funds they generously give to charitable organizations goes for its intended purpose.

I include the text of S. 2371 in the RECORD.

The bill was ordered to be printed in the RECORD as follows:

S. 2371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) (1) Except as provided in paragraph (2), in the administration of this title, any qualified pledge reminders (as defined in paragraph (3)) of a qualified nonprofit organization (as defined in former section 4452(d) of this title) which are mailed in bulk (within the meaning of former section 4452(e) of this title) shall qualify to be entered and mailed as third class mail in accordance with the provisions of former sections 4451 through 4453 of this title at the rates provided under subsection (a) for matter mailed under former sections 4452(b) and (c) of this title.

"(2) Qualified pledge reminders mailed in bulk shall be handled as first class mail (within the meaning of former section 4251 of this title), but at the rate provided in paragraph (1), if the organization—

"(A) sorts the quaified pledge reminders by zip code before mailing, and

"(B) pays a fee (in an amount equal to the fee paid by a qualified nonprofit organization for a permit to mail matter under former sections 4452(b) and (c) of this title) for a permit to have such reminders so handled.

"(3) For purposes of this subsection, the term 'qualified pledge reminder' means any notice sent in the form of a bill or statement of account which serves as a reminder to any person of the pledge of a contribution (which, if paid, constitutes a charitable contribution (within the meaning of section 170(c) of the Internal Revenue Code of 1954)) to an organization but only if such pledge was made in connection with an identifiable fund-raising event of that organization.".

(b) The amendment made by subsection (a) shall apply to any mail matter mailed on or after the date of the enactment of this Act.

By Mr. ABOUREZK:

S. 2372. A bill to amend the Indian Self-Determination and Education Assistance Act; to the Select Committee on Indian Affairs.

Mr. ABOUREZK. Mr. President, I am today introducing an amendment to the Indian Self-Determination and Education Assistance Act, Public Law 93–638, I consider this measure as singularly important to the future course of Indian affairs. The amendment is necessary to insure that Congress original intent in passing the Indian Self-Determination Act is successfully implemented.

The act states that it would "permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. (Sec. 3 (b).)" Since the act was passed in 1975, and the regulations published over 1½ years ago, Indian people throughout the Nation have encountered problems and barriers to the assumption of control over Bureau of Indian Affairs and Indian Health Service programs. The Senate Committee on Indian Affairs conducted oversight hearings to investigate these problems with the implementation of Public Law 93–638. One of our hearings, held in Albuquerque, N. Mex., generated testimony from over 30 Indian tribes and tribal organizations. On the basis of Indian testimony and information gathered directly from IHS and BIA, it became clear that the intent of Congress has been frustrated because there has been no transfer of control in the actual implementation of the act. Rather, control has been retained by the agencies through a combination of factors. The agencies have incorporated into the contracts their identification of priorities and policies rather than allowing tribes to make the determination. Further, tribes are severely restricted by having to formulate their policy determinations within the narrow parameters of the current programs and budget allocations of the agencies. Duplications of effort, excessive paperwork, and inhibitions against long-term planning in the contracting process have seriously undercut the intended tribal control.

Tribes seeking contracts have undergone excessively long delays in receiving approval or their applications were disapproved because of a cited lack of fund a step which has left the tribes without redress, since it is not grounds for a formal declination appeal. Even after contract approval, the tribal services and programs have been fiscally disrupted by the agencies reimbursement voucher system of payment. Taken together these and other factors have frustrated the clear intent of Congress.

As a response to these significant problems, I am proposing an amendment designed to address the range of problems brought out in our hearings and to bring about the transfer of control over these services which Congress originally intended. The amendment leaves the present structure of Public Law 93–638 intact. It adds as a new option, however, the opportunity for tribes to elect to develop a comprehensive tribal plan for the administration and delivery of the total range of government services for which they are eligible under presently existing law. The Secretary of the Interior is authorized and directed to provide a consolidated single grant to implement these tribal plans. The intent is to greatly simplify the excessive paperwork generated by the contracting process and to allow for the necessary flexibility in local policy determinations by the tribes. Application of this comprehensive tribal plan, single grant process, would also greatly enhance the local management capabilities of the tribes and enable them to engage in long-term planning. Finally, the bill would solve many of the detailed procedural problems which the tribes have encountered.

Mr. President, the Federal policy of Indian self-determination has been adhered to by the past three Presidents of the United States, enacted into law by the U.S. Congress with the passage of Public Law 93-638, and unequivocally supported by the American Indian Policy Review Commission. Yet, even today the Indian has little true self-determination. We must insure that our policies are not idle rhetoric. With the passage of this bill, we have the opportunity to see the fruition of our intent and our promises honored. Gentlemen of the Senate, I urge your support for this bill so that we may together truly put an end to the Federal paternalism of the past.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indian Self-Determination and Education Assistance Act is amended by adding at the end thereof the following:

"TITLE III—ELECTION TO RECEIVE BLOCK GRANTS

"BLOCK GRANTS

"SEC. 301. Any Indian tribe or tribal organization entitled, under this Act, to enter into contracts with the Secretary of the Interior or the Secretary of Health, Education, and Welfare, or to receive grants from any such Secretary, for the purpose of enabling such tribe or organization to plan, conduct, and administer programs and projects for, and provide services to, Indians, or to carry out certain functions, authorities, and responsibilities previously carried out by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, may elect to receive a single grant in each fiscal year in lieu of such grants or contracts authorized in the foregoing titles of this Act.

"(b) The Secretary of the Interior, in consultation with the Secretary of Health, Education, and Welfare, is authorized to make such grants provided for in subsection (a) of this section to each Indian tribe or tribal organization having an approved plan submitted in accordance with this title.

"PLANS; APPROVAL

"SEC. 302. (a) The Secretary of the Interior shall not provide financial assistance under this title for any fiscal year, in the way of a single grant for such year, to any Indian tribe or tribal organization unless such tribe or organization submits to the Secretary a plan for providing or carrying out, during such fiscal year, any one or all of such programs, projects, functions, activities, or services referred to in section 303 of this title. Such plan shall be in such detail as the Secretary deems necessary and shall set forth a comprehensive program which meets the objectives of this title, including a description of the programs, projects, functions, activities, and services to be carried out or provided by such tribe or organization from the proceeds of such grant. No program, project, function, activity, or service not otherwise authorized by section 303 of this title shall be approved for inclusion within any such plan.

"(b) The Secretary of the Interior shall not provide financial assistance under this title unless the Indian tribe or tribal organization seeking such assistance certifies that it will comply with the provisions of any such plan so submitted.

"(c) (1) The Secretary of the Interior shall provide financial assistance to any Indian tribe or tribal organization to carry out the plan submitted by such tribe or organization upon determining that—

"(A) the plan is consistent with the provisions of this title;

"(B) the Indian tribe or tribal organization submitting such plan has demonstrated maximum effort to implement the provisions in such tribe or organization's prior year's plan, if any.

"(2) The Secretary of the Interior shall not disapprove any plan because of the percentage of funds devoted to a particular program, project, function, activity, or service authorized by section 303 of this title.

"PROGRAMS

"SEC. 303. No program, project, function, activity, or service shall be included in any plan submitted pursuant to this title unless such program, project, function, activity, or service is a program, project, function, activity, or service which is within the purview of the foregoing titles of this Act, or is a program, project, function, activity, or service which is substantially similar to such program, project, function, activity, or service so within such purview.

"SANCTIONS

"SEC. 304. (a) The Secretary of the Interior shall not disapprove any plan or amendment without first affording the Indian tribe or tribal organization submitting the plan reasonable notice and opportunity for a hearing.

"(b) If the Secretary of the Interior receives a formal allegation from an affected member of a tribe or tribal organization that the tribe or organization operating under a plan pursuant to this title is administering such plan in a manner so as to constitute a failure to comply substantially with any provision of such plan, and such allegation is supported by substantial evidence, the Secretary shall, after due notice and an opportunity for a hearing to such tribe or organization, determine whether the allegation is true. If the Secretary determines such an allegation to be true, the Secretary shall notify such tribe or organization that no further payments will be made to such tribe or organization under the plan (or, in his discretion, that further payments will be limited to programs under or portions of the plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Secretary shall make no further payments to such tribe or organization under the plan (or shall limit payments to programs under the plan not affected by the failure).

"(c) Whenever the Secretary determines, after notice and opportunity for a hearing, that any such tribe or tribal organization is materially failing to carry out the purposes and intent of this Act, the Secretary is authorized to revoke such tribe or organization's plan, in whole or in part, and to the extent necessary and appropriate not make any further payments to such tribe or organization under this title pursuant to such plan, and he is authorized to notify such tribe or organization to return to him all or any part of the unexpended sums paid under this title during that fiscal year pursuant to such plan or part thereof so revoked.

"CONTINUATION OF SERVICES

"SEC. 305. (a) In any case in which the Secretary of the Interior has taken an action under section 304 of this title which results in vital services not being provided to individuals who were the beneficiaries of such services under such plan, the Secretary of the Interior shall take such action as may be necessary to provide for the continuation of such services for the fiscal year covered by such plan.

"(b) The provisions of section 5(d) shall not be applicable to any financial assistance provided pursuant to this title.

"PAYMENTS

"SEC. 306. Payments made pursuant to this title may be made in installments, and shall be made in advance, with necessary adjustments on account of overpayments or underpayments as the Secretary may determine.

"AUTHORIZATIONS

"SEC. 307. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"(b) In any fiscal year in which the amounts appropriated pursuant to subsection (a) of this section available for this title plus amounts appropriated pursuant to any other provision of Federal law available for this title are insufficient to pay in full the total amounts required to carry out plans approved by the Secretary of the Interior under this title, the Secretary of the Interior shall prepare and submit a statement of the amounts necessary to carry out such plans. The statement shall be included in a report to be submitted to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives which shall constitute a budget estimate within the meaning of section 201(a) (5) of the Act of June 10, 1921 (31 U.S.C. 11(a) (5)).".

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2373. A bill to provide for the establishment of a Division of Minority Mental Health Programs; to the Committee on Human Resources.

MINORITY MENTAL HEALTH PROGRAM ACT OF 1977

Mr. INOUYE. Mr. President, today Senator MATSUNAGA and I are jointly introducing legislation which would amend the Community Mental Health Centers Act of 1963 in order to establish within the Alcohol, Drug Abuse and Mental Health Administration an identifiable Division of Minority Mental Health Programs.

The primary legislative mandate of this division will be the development of knowledge about the Nation's minorities' ability to cope with and adapt to society's stresses and . . . the application of this acquired information to ongoing efforts to provide services to our minority consumers. The Division will also actively explore the effects of racism upon our various institutions. Consistent with one of the recent specific recommendations of the President's Commission on Mental Health Preliminary Report to the President (September 1, 1977), the Division will similarly be expected to aggressively emphasize the "training of (a) minority mental health workers, (b) researchers from minority groups, and (c) persons serving bicultural and bilingual groups." In our judgment, the accomplishment of these mandates will require both long-term institutional support programs, as well as innovative demonstration project grants.

Presently there is established within the National Institute of Mental Health a center for minority mental health programs administered under the division of special mental health programs. This Center has been in operation for the past 6 years and, in our judgment, with minimal staff and financial resources has made remarkable strides in focusing upon the oftentimes truly unique mental health needs and resources of our Nation's minority populations. To date, the center has funded at least 77 research projects and 25 training projects, including rather major grants to each of the four traditional mental health professional disciplines. In fact, this summer I had the special opportunity of having Ms. Sally Ruybal, one of the American Nurses' Association's minority fellow interns, serve in my office. The center now funds six prototype research and development centers which are presently addressing a broad range of research issues in various parts of our Nation directly relatting to our Black, Asian and Pacific American, Hispanic, and Native American populations.

Our minorities presently represent approximately 17 percent of our Nation's total population, but, unfortunately, all indications are that these individuals still continue to suffer from the stresses of prejudice and racism. Their income levels, housing conditions, educational attainments, and health predicators are substantially below that of our Nation as a whole. Many experts also have continually emphasized that although there is a disproportionately high level of schizophrenia, alcoholism, and drug abuse in these populations, the actual number of minority mental health professionals and behavioral scientists remain distressingly low, with a resulting reliance on excessive institutionalization in mental health facilities.

From the preliminary evidence that the center for minority mental health programs already has developed, there seems no question that the development of a comprehensive minority mental health strategy, especially with the resulting emphasis on developing an adequate number of minority mental health professionals, would be a highly effective means of addressing many of our Nation's social problems. However, the real question is whether we as a nation are willing to commit the resources that such an effort would require. In our judgment, the time has come to do this.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minority Mental Health Program Act of 1977".

Sec. 2. Title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended by redesignating part E as part F and inserting after section 231 the following:

"PART E—MINORITY MENTAL HEALTH PROGRAMS

ESTABLISHMENT OF DIVISION

"Sec. 232. (a) The Secretary shall establish within the Alcohol, Drug Abuse and Mental Health Administration an identifiable administrative unit to be known as the Division for Minority Mental Health Programs (hereinafter referred to as the 'Division').

"(b) The Secretary, acting through the Division shall—

"(1) support programs with regard to the delivery of mental health services to minority populations, including demonstration projects;

"(2) develop a plan to increase the minority population's mental health manpower;

"(3) study the effects of racism upon minority and majority institutions and individuals;

"(4) develop systems to assist minority populations in adapting and coping with the effects of racism;

"(5) develop special and innovative training programs aimed at the elimination of institutional racism;

"(c) The Secretary, acting through the Division, may carry out the provisions of subsection (b) by making grants to, or entering into contracts with professional associations, nonprofit entities, or State or local agencies.

"(d) There are authorized to be appropriated to carry out the provisions of this part $40,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980."

By Mr. ROBERT C. BYRD (for Mr. Magnuson, for himself, Mr. Long, and Mr. Pearson) (by request):

S. 2374. A bill to amend the Interstate Commerce Act to establish epeditious Interstate Commerce Commission procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROBERT C. BYRD. Mr. President, I introduce today for Mr. Magnuson, at the request of the Interstate Commerce Commission, and on behalf of Mr. Magnuson, for himself, Mr. Long, and Mr. Pearson, a bill to amend the Interstate Commerce Act to establish expeditious Interstate Commerce Commission procedures, and for other purposes.

I ask unanimous consent that the text of the bill, the letter of transmittal and the explanation and justification of the legislation be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended as follows:

Sec. 1. Subsections (5), (6), (7), (8), and (10) of section 17 are deleted and the following subsections are substituted therefor:

"(5) (a) This subsection applies to a matter before the Interstate Commerce Commission involving a carrier other than a rail carrier providing transportation subject to the jurisdiction of the Commission under this part. Where a matter involves both a nonrail carrier and a rail carrier providing transportation subject to the jurisdiction of the Commission under this part, the provisions of subsection 17(10) shall apply.

"(b) In a proceeding under this subsection, after the parties have had at least an opportunity to submit evidence in written form, they may be given an opportunity for briefs, written statements, or conferences of the parties. A conference shall be chaired by a division, an individual Commissioner, an employee appointed under section 3105 of title 5, a board, or a designated employee.

"(c) A division, individual Commissioner, employee appointed under section 3105 of title 5, employee board, or employee designated to make an initial decision in a matter related to carriers which this section applies shall submit the initial decision to the Commission in writing after all evidentiary proceedings related to the matter have been completed. The initial decision shall include:

(1) specific findings of fact;

(2) specific and separate conclusions of law;

(3) an appropriate order; and

(4) justification of the findings of fact, conclusions of law and order.

A determination by the entire Commission in the first instance is not an initial decision within the meaning of this subsection.

"(d) The Commission or a division may void the requirement of an initial decision under this subsection and may require the matter to be considered by the Commission or the division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance, or that it is required for the timely execution of its functions. When the requirement of an initial decision is voided, the first determination by the Commission or division shall include the elements required by paragraph (c) of this subsection and may be appealed pursuant to subsection 17(6)(e).

"(e) Before an initial decision becomes an action of the Commission, the Commission, a division, or a board acting pursuant to subsection 17(6)(b), may review the initial decision on its own initiative on the record on which it is based or on further hearing, and shall review an initial decision if an appeal is filed under subsection 17(6).

"(6)(a) Copies of an initial decision shall be served on the interested parties, including persons referred to in subsection 205(e) of this act if the proceeding involves a motor carrier subject to the jurisdiction of the Commission under part II of this act. An initial decision becomes an action of the Commission on the 20th day after it is served on the interested parties, unless:

(1) an appeal of the initial decision is filed by an interested person during that 20 day period, or by the end of an extended period (not to exceed 20 days unless extraordinary hardship would result) in authorized by the Commission or an individual Commissioner, division, or employee or appeal board; or

(2) the Commission or an individual Commissioner, division, or employee or appeal board stays the initial decision.

"(b) An employee board may not decide an appeal from an initial decision unless its determination of the appeal is not subject to any further appeal under the Commission's rules. However, the Commission may establish rules to permit designated appeal boards, composed of either Commission members, or employees other than those who have participated in the taking of evidence or determination of the decision under appeal, or both, to review appeals of an initial decision (or the first decision in a proceeding under subsection 15(7), 15(8), 216(g), 218(c), 307(g), 307(1), or 406(e) of this Act) of an employee board, employee appointed under section 3105 of title 5, or other designated Commission employee. Commission rules may also provide that certain decisions or categories of decisions, including appeal board decisions, shall become administratively final, unless a discretionary application for administrative review is granted pursuant to subsection 17(7).

"(c) An initial decision may be reviewed on the record on which it is based or on further hearing. If an initial decision is reviewed pursuant to subsection 17(5)(e), it shall be stayed pending final determination of the appeal, and it is an action of the Commission only after the final determination is made.

"(d) Other than as provided by this section, review of, or appeal from, an initial decision shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under section 557(b) of that title.

"(e) Where the Commission has rendered the first determination of any matter, or when a division has rendered a first determination after the requirement of an initial decision has been voided, appeals shall be governed by this paragraph. An appeal may be filed by an interested party within 20 days after it has been served or by the end of an extended period (not to exceed 20 days unless extraordinary hardship would result) if authorized by the Commission, division, or an individual Commissioner. The Commission, division, or an individual Commissioner may stay the decision pending a final determination under this paragraph and rules may be established to limit the grounds for appeal. A determination on appeal under this paragraph may not be further appealed under this paragraph or subsection 17(7).

"(7) Except as provided in subsection 17(6)(e), when the division, individual Commissioner, or employee or appeals board determines an appeal under subsection 17(6), its determination may be reviewed by the Commission, upon the filing of a petition for administrative review. This petition may only be granted upon a showing that:

(1) the action involves a matter of general transportation importance; or

(2) the action would be affected materially because of new evidence or changed circumstances.

If the petition is granted, further hearing or reargument may be ordered. Under this paragraph, an interested person may petition for review, including rehearing or reargument, within 20 days of service of the decision on appeal, subject to such regulations as the Commission may establish. The Commission may stay an action pending a final determination under this paragraph.

"(8) The Commission, division, or appeal board may at any time on its own initiative because of material error, new evidence, or substantially changed circumstances:

(1) reopen a proceeding which is administratively final under subsection 17(9)(c),

(2) grant rehearing or reargument, and

(3) change a prior action.

A reopened proceeding may be assigned to an employee board, appeal board, division, or an employee appointed under section 3105 of Title 5, if further hearing is necessary, under such regulations as the Commission may establish. Regulations may also be established for interested parties to petition for reopening of an administratively final action.

"(9)(a) An action of the Commission, division, or employee or appeal board under subsections 17(5)-(8) is effective on the 30th day after service unless the Commission provides otherwise.

"(b Once an action becomes effective under paragraph (a), it remains in effect under its own terms or until suspended. The Commission or a division may change, suspend or set aside any such action on notice. Notice may be given in a manner determined by the Commission. A court of competent jurisdiction may enjoin or set aside any such action.

"(c) A court action to enforce, enjoin, or set aside an administratively final decision, order, or requirement of the Commission may be filed on or after the date on which the action is served, pursuant to the provisions of law which are applicable to such suits.

"(d) Notwithstanding any other provision of law, a decision, order, or requirement of the Commission shall be administratively final for purposes of judicial review when interested parties have exhausted their right to appeal under section 17(6). However, when the entire Commission has rendered a determination in the first instance, when a division has rendered a first determination after the requirement of an initial decision has been voided, or when a review of an initial decision has been rendered, the action of the Commission shall not be deemed administratively final if an appeal under subsection 17(6)(e) or a petition for administrative review under section 17(7) is filed. In such instance, a court of competent jurisdiction shall not commence a review of the Commission action while the appeal or the petition for administrative review is pending."

SEC. 2. Subsecton (9) of section 17 is renumbered subsection (10).

SEC. 3. The amendments provided in this act shall become effective 180 days after enactment. During this 180-day period, the Commission shall establish final rules to implement the provisions of this act.

WASHINGTON, D.C.,
December 12, 1977.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMEN MAGNUSON AND JOHNSON: As you know, the Railroad Revitalization and Regulatory Reform Act of 1974 (the 4–R Act) made a number of changes in the procedures of the Interstate Commerce Commission. Most of those changes were limited to the Commission's regulation of railroads, since the House Interstate and Foreign Commerce Committee, which reported out the underlying House bill, has jurisdiction over only one mode of surface transportation—railroads. Jurisdiction over the Commission's regulation of the other modes of surface transportation rests with the House Public Works and Transportation Committee. This has meant that many of the procedural reforms brought about by the 4–R Act have not been extended to cover proceedings involving motor carriers, domestic water carriers and freight forwarders.

One of the reforms enacted by the Congress in the 4–R Act was the adoption of new Commission hearing and appellate procedures, which are now contained in section 17(9) of the Interstate Commerce Act. As is explained more fully in the Explanation and Justification accompanying the legislation proposed here, the Commission is of the view that section 17(9), while beneficial in some respects, is not entirely satisfactory. Accordingly, rather than recommend that section 17(9) be made applicable to non-rail areas of regulation—as we did to the 94th Congress—we are of the opinion that the present proposal should be enacted instead to cover non-rail areas of regulation.

Several observations are pertinent to this requested legislation, which I will briefly note here.

First, the proposal is designed to eliminate the interpretive and administrative problems which we have encountered with section 17(9), without compromising the benefical reforms brought about by that section; particularly the elimination of multi-layered administrative appeals which were required under pre-existing law—and still are required in non-rail areas of regulation.

Second, the proposed legislation, in contrast to section 17(9), does not include statutory time limits on administrative actions. This does not reflect any desire by the Commission to avoid time limits, and we remain committed to them. However, we believe that they are best achieved by the agency itself, and, as is discussed in the Explanation and Justification accompanying the bill, we have already taken important steps in this direction.

Third, the proposed bill covers only non-rail areas of regulation, despite our belief that it is preferable to section 17(9) and could as well cover railroads. We have approached the matter this way only in the hope of avoiding a joint Committee referral in the House of Representatives, and because the matter is much more urgent in the non-rail area since *no* reforms have been enacted in that area. We believe that it may be appropriate on a future occasion to recommend that the present proposal be extended to cover rail regulation.

Fourth, I would note that the Commission's Staff Task Force on Improving Motor Carrier Entry Regulation—whose report and recommendations to me are now actively under consideration by the Commission—stated that the Commission should give a high priority to seeking appropriate amendments to section 17 in the non-rail area. We agree with the Staff Task Force on this point, and believe that enactment of this proposed legislation would be a highly important part of our overall effort to streamline motor carrier regulation.

At a time when the regulatory mandate of the Commission is under scrutiny both within and outside the agency, we believe that the measure proposed herein, if enacted, would be a significant step toward regulatory reform. Accordingly, we request your early introduction and consideration of this measure.*

Sincerely yours,

A. DANIEL O'NEAL,
Chairman.

EXPLANATION AND JUSTIFICATION

GENERAL PURPOSES OF THE LEGISLATION

The reduction of regulatory lag is an essential goal of regulatory reform. One of the most promising methods of accomplishing this task is the reform of Interstate Commerce Commission procedures, including the elimination of unnecessary multi-layered levels of administrative review. To a limited extent, this has been accomplished for rail carriers by section 17(9) of the Interstate Commerce Act, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976. However, that section affected only rail carriers, and no legislative streamlining of procedures applying to motor carrier, water carrier, pipeline, and freight forwarder cases has yet been adopted.

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*Commissioner Christian is of the opinion that it would be preferable to extend the 4–R Act procedural reforms, which are now contained in Section 17(9) of the Interstate Commerce Act, to non-rail areas of regulation. She does not believe that Section 17(9) has presented any major administrative problems, and believes that the few problems which have arisen should be addressed by proposed technical amendments to be applicable to all modes. Moreover, she is of the view that many of the beneficial reforms of Section 17(9)—particularly in the area of time limits on administrative action—are not fully incorporated in the proposal advocated by the majority.

In the previous Congress we recommended that this problem be solved merely by extending the provisions of section 17(9) to all modes of transportation. Upon re-examination, we are of the view that a better approach is to recommend that new and different procedures be adopted for non-rail carriers.

While section 17(9) achieved the desirable goal of effecting various procedural reforms, it has caused problems both in interpretation and administration. These have resulted from lack of clarity in the section as now written. Two examples are as follows:

Under section 17(9)(b) of the Interstate Commerce Act as amended, exceptions to an initial decision may be filed within 20 days "or within such further period (not to exceed 20 days)" as authorized. In view of the fact that section 17(9)(e) allows 90-day extensions of *any* time limit, there is a question as to the meaning of the parenthetical phrase just mentioned.

Section 17(9)(h) of the Interstate Commerce Act as amended by section 303 provides that an order of the Commission shall be final on the date it is served. Taken literally, this language would mean that the order is final even if an administrative appeal is still available. Since the only evident purpose of this subsection was to make an otherwise administratively final decision final on the date served, rather than on the date entered, the language appears to be inadequate to achieve that purpose. In our view the amendments proposed here for non-rail carriers would cure the interpretive and administrative problems which we have encountered in section 17(9).

Before proceeding with a section-by-section analysis of our proposal, two further observations of a general nature appear warranted. First, the amendments do not include statutory time limits for administrative actions. This by no means indicates a desire by the Commission to depart from the time-limit concept. We continue to believe that internal agency time limits are appropriate, and that it is our responsibility. However, we believe this is best achieved by the Commission itself. This is particularly true in the area of motor carrier regulation, where the volume of proceedings is so great that it is necessary to have a degree of flexibility which is difficult to achieve under statutorily-imposed deadlines.

We have already taken some important steps in the direction of establishing time limits in non-rail areas of regulation. As explained more fully in the attached press release, a program of time limits was implemented by the Commission on October 1st of this year. This program will be continually evaluated, expanded, and updated as circumstances warrant. Also, it is possible, although we have not yet considered the matter fully, that our rules implementing this legislation if enacted should include time limits on administrative actions.

A second matter to which we would invite your attention is that the proposed legislation would cover only non-rail areas of regulation and would not repeal existing section 17(9). We have approached the matter this way for tactical reasons only, having to do with the split of jurisdiction over our functions between the House Committee on Public Works and Transportation and the House Committee on Interstate and Foreign Commerce. Any bill dealing with both rail and non-rail matters would have to be jointly referred to both Committees. Since we are most interested in having this bill considered and acted upon as soon as possible, our view was that a proposal which required referral only to the Public Works Committee could be handled more expeditiously. Of course, the urgency of this matter is greater in the non-rail area because section 17(9)—although not entirely satisfactory from our viewpoint—is nevertheless in place in the rail area and achieves some of the objectives of the proposed legislation. However, we do believe that this proposal is preferable to section 17(9), and we anticipate that it may be appropriate on a separate occasion to recommend either a bill or an amendment to this bill for consideration by the Interstate and Foreign Commerce Committee which would repeal section 17(9) and bring railroads under the present proposal.

SECTION-BY-SECTION ANALYSIS

Section 1 of this proposed legislation would repeal subsections (5) through (8) and subsection (10) of present section 17, and replace them with an entirely new set of sections. Section 17(5) sets out what constitutes an initial decision. It makes clear that a first determination by the entire Commission is not an initial decision for purposes of appeal. Like the rail provisions of current section 17(9), it permits the Commission or a division to void the requirement of an initial decision where a question of Commission policy, a new or novel issue of law, or a matter of general transportation importance is involved, or where the proceeding requires expedited treatment. In such proceedings the "first determination" is made by either the full Commission or an appropriate division, and appeals are subject to section 17(6)(e). Section 17(6)(e) provides for a discretionary appeal of any Commission decision in the first instance or division decision when the requirement of an initial decision has been voided. In either instance the Commission or division retains the discretion to stay the first determination. Once this first appeal is decided, there is no further right to appeal or petition for administrative review. Any decision on appeal under this subsection becomes administratively final when served, whether or not it reverses the previous Commission or division decision.

In contrast, section 17(5)(e) provides for the automatic review of an initial decision when an appeal is filed. Under section 17(6)(e), the filing of an appeal to an initial decision automatically stays the effect of the decision until the appeal is decided. In the absence of an appeal, the Commission may review the initial decision on its own initiative, and a stay is discretionary.

Section 17(6)(b) gives the Commission authority to establish regulations to permit appeal boards, composed of Commissioners and/or employees, to review certain types of initial decisions and issue administratively final determinations in certain situations. This provision is modeled after current Senate Bill No. 1720. By permitting a reduction in the appeals backlog on more routine decisions, the Commissioners would have more time to concentrate on entire Commission and division cases involving basic policy considerations or new questions of law. This would also increase the Commission's flexibility to handle its work load expeditiously.

Section 17(7) provides a discretionary level of review after the appeal of an initial decision has been determined. Such an appeal, designated a petition for administrative review, is directed to the entire Commission, and it may only be granted on a clear showing of material new evidence, changed circumstances, or general transportation importance. The discretion to file such a petition rests with the parties. A stay of the effectiveness of the prior decision is left to the Commission's discretion. A petition for administrative review of initial decisions of a division may not be filed since a mandatory appeal under section 17(6) to the Commission is provided. This parallels the treatment of division decisions where the requirement of an initial decision is voided, except that the appeal of an initial decision of the division results in an automatic stay. In either case, one level of review by the entire Commission after the decision of a division should be sufficient. Moreover, any administratively final decision may be reopened under section 17(8).

Based upon the 4–R Act, section 17(8) provides a safety valve for the Commission to change an administratively final decision where change is warranted because of material error, new evidence, or substantially changed circumstances. It permits the Commission to act promptly to obviate the need for unnecessary litigation and expense to the parties. The section permits the Commission to assign a reopened proceeding and grants the Commission discretion to establish rules permitting parties to petition for reopening.

Proposed section 17(9)(a) permits Commission orders to become effective after 30 days unless otherwise provided. Sections 221(b), 315(d), and 416(c) of the act generally provide for a minimum 30-day period before Commission orders become effective. The 4–R Act permits orders to become effective within 30 days or less, necessitating the use of compliance dates where more than 30 days are necessary. Although this section could track the language of present section 17(9) the proposed language provides the Commission with maximum flexibility.

Section 17(9)(c) provides the parties with a definite date for calculating time with regard to petitions seeking judicial review of administratively final actions of the Commission, while section 17(9)(d) defines administratively finality for purposes of judicial review. It acts to delay court consideration of proceeding where the filing of a discretionary appeal or petition for administrative review continues Commission jurisdiction over what would otherwise be an administratively final action. This approach is consistent with current Commission and court practice and the concepts of discretionary petitions for administrative review and reopening of administratively final decisions. Practically, it will permit the Commission a last review, if the narrow grounds are shown, without the need to request leave of the reviewing court. This could reduce the number of Commission proceedings ultimately appealed to the courts, and provide a definitive time for court appeal, thereby eliminating the present need and extra cost of duplicative Commission and court appeals.

Section 2 of the proposal would redesignate present section 17(9) as section 17(10). The purpose of this is merely to gather all non-rail-related sections in one place.

Section 3 of the proposed legislation would set an effective date of 180 days after enactment, and require the Commission to adopt rules within that time. We believe that this would be a reasonable time for the Commission, the industry, and the bar to adjust to the changes brought about by the legislation.

By Mr. ABOUREZK:

S. 2375. A bill to establish an administrative procedure and guidelines to be followed by the Department of the Interior in its decision to acknowledge the existence of certain Indian tribes; to the Select Committee on Indian Affairs.

Mr. ABOUREZK. Mr. President, one of the greatest needs in the field of Indian law today is for a clearcut and uniform method to be used in determining which Indian tribal groups are to be included within the Federal-Indian relationship. Failure on the part of the United States to acknowledge the existence of certain Indian tribes has not been premised on grounds of law, justice, or equity, but rather has been due to a lack of clarity and consistency in those Federal laws and regulations relating to the standards and criteria upon which this relationship should be based. This uncertainty has left many tribal groups otherwise eligible for services without adequate governmental assistance.

The bill which I introduce today establishes an administrative procedure and sets forth guidelines to be followed by the Department of Interior in response to petitioning Indian tribes seeking an acknowledgement of a Federal relationship. This bill is not the complete solution to the confusing issues of law and fact involved here nor is it an attempt to totally resolve significant underlying policy questions which need to be worked out over a longer period of time. Rather, the intent of this bill is to indicate a process for determining tribal existence and thereby fulfill a longstanding Federal responsibility, the neglect of which is documented in the American Indian Policy Review Commission's report. The criteria specified in this bill which will be applied by the Interior Department in evaluating all petitions from tribal groups have been carefully developed in the context of the history of the Federal relationship.

It is important to note that this bill is primarily concerned with three things: First, it directs the Secretary of the Interior to establish a separate office within that department for the purpose of resolving the questions of the legal existence of certain Indian tribes. Second, the bill gives congressional guidance to the Executive Department on what the Federal policy should be in addressing the issue. And third, the bill expands the Secretary of the Interior's authority to reestablish relationships with certain Indian tribal groups. The Interior Department has been making a serious attempt to do so through the process of administrative regulation and I commend the administration's policy of starting with a clean slate and refusing to be bound by confusing and conflicting statements of the past. However, it will be several months before those regulations are adopted and implemented and even then it is unlikely that the regulations will encompass within the Federal-Indian relationship the majority of those Indian tribal groups who need assistance the most.

This bill continues to base acknowledgement of tribal existence upon the establishment of a government-to-government relationship. It does not initiate a process for identifying all Indians in the United States, but does establish a mechanism for determining which Indian tribal groups are to be included within the Federal-Indian relationship. Questions involving such areas as the status of a tribe relative to surrounding States, the range of services to be delivered, the definition of tribal membership, and the issue of a land base will be the subject of negotiations which can take as long as necessary.

This bill, as circulated for comment in draft form, has been criticized, because it does not direct the Secretary of the Interior to establish a reservation for all newly acknowledged tribes, including placing lands in trust. However, in terms of the policy issue at stake here, that issue is not a necessary provision and the reservation status of tribes shall be the subject of a case-by-case determination.

Further, I would like to respond to certain alarmist fears regarding the number of tribal groups who will fall within the scope of this act. It is my opinion that rather than doubling or even greatly increasing the Federal Government's tribal service population, only a relatively small number of tribes will eventually meet the specified criteria. Based on our intensive study of the matter, we have concluded that most of the tribes with petitions on file are very small groups composed of only several families. Although there are larger groups who may qualify, the proof of direct Indian descent as official membership criteria will necessarily and, correctly, restrict actual Federal service eligibility.

There have also been fears that this bill will encourage many tribes whose existence has not been previously acknowledged by the Federal Government to assert land claims under the Indian Non-Intercourse Act. However, the Senate Select Committee on Indian Affairs, which I chair, has researched this question and feels confident that nearly all such claims have already been identified and this bill will not result in identification of additional tribes who will then file land claims. Further, a determination that a petitioning group is a tribe within the scope of this act does not at all affect such a group's right to assert a claim under the Non-Intercourse Act, nor is it intended to. Federal court decisions have shown that if a tribe has a claim under the Non-Intercourse Act, the status of the tribe will be determined in the judicial processing of the claim.

Finally, I would like to emphasize that a bill of this nature is long overdue. The Federal Government has seriously neglected its responsibility on this matter literally for generations, and it is time to afford an opportunity to Indian tribal groups to resolve once and for all the issue of whether they are a distinct tribe and should be so treated by the United States.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

The Congress, after careful study of the history of American Indian policy, finds that:

(1) There are numerous Indian tribes who have not been accorded a Federal relationship, including the services and protections provided pursuant to the Federal-Indian trust responsibility. This failure to acknowledge a Federal relationship with these tribes has not been premised on grounds of law, justice, of equity, but rather has been due to a lack of charity and consistency in those Federal laws and regulations relating to the standards and criteria upon which this relationship should be based.

(2) Failure on the part of the United States to acknowledge a Federal relationship with certain Indian tribes has created confusion regarding eligibility for governmental services, such uncertainty leaving many tribes otherwise eligible for services without adequate governmental assistance.

(3) In order to equitably determine which Indian tribal groups are to be included within the Federal-Indian relationship, an administrative procedure and policy guidelines to be followed by the Department of the Interior in its decision to acknowledge the existence of certain Indian tribes must be established. This acknowledgement must continue to be premised upon the establishment of a government-to-government relationship with Indian tribes.

(4) Any mechanism established by Congress must be based upon carefully developed criteria which will afford petitioning tribal groups an opportunity to resolve once and for all the issue of whether they are a tribe and should be so treated by the United States. Such Congressional action shall not entail a diminishment of services and assistance to those tribes whose existence is already acknowledged.

Sec. 3. As used in this Act, the term—

(1) "Indian" means a member of or a descendant of any North American Indian tribal group or Alaska Native village.

(2) "Secretary" means the Secretary of the Interior.

Sec. 4. (a) There is hereby established within the Department of Interior a special investigative office (hereinafter referred to in this Act as the "Office"), the duties of which are set forth below in section 4(b). The Office shall be headed by a Director who shall be appointed by the Secretary, and who shall be compensated at the rate provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. § 5314). The Director is authorized to appoint and fix the compensation of such employees as may be necessary to carry out the functions of the Office.

(b) It shall be the function of the Office, among others, to—

(1) contact, within the 12-month period following the date of enactment of this Act, all known Indian tribal groups in the United States whose existence has not been previously acknowledged by the Department of Interior, including those listed in chapter 11 of the American Indian Policy Review Commission Report. The Office shall inform all such tribal groups of their right to petition for an acknowledgement of tribal existence by the Federal Government, and shall report the results of its efforts in connection therewith to the appropriate committees of the Congress, the Secretary, and the Assistant Secretary for Indian Affairs; and

(2) solicit statements from unacknowledged tribal groups, provide necessary technical assistance for the preparation of those statements, investigate the petitioning tribal group's historical background and Indian identity for verification purposes, report findings of such investigation to the Secretary, assist tribes in the organization and enrollment of their members, and refer tribal concerns to the appropriate departments or agencies of the Federal Government.

(3) review all petitions for acknowledgement of tribal existence presently pending before the Bureau of Indian Affairs and to allow the petitioning group to revise the petition if necessary to satisfy the guidelines specified in this Act. The priority date of the amended petition shall be that of the original filing date.

(c) After receiving any petition for acknowledgement of tribal existence, without regard to the form thereof, the Office shall offer technical assistance to the group to investigate its status. Such investigation shall at least include attention to the definitional factors set forth in section 5 of this Act. All correspondence received by the Bureau of Indian Affairs from unacknowledged tribal groups shall be directed to, and routed through, the Office.

(d) Within two years of receipt of an Indian tribal group's petition, the Office shall submit a written preliminary report to the petitioning Indian group. Upon receipt of this report, the group shall have sixty (60) days to respond, including an opportunity to present oral argument to rebut the evidence relied upon. The Office shall have thirty (30) days after petitioner's response to prepare a final report to be submitted to the petitioner and the Secretary, such report to be published in the Federal Register. The Secretary shall endorse or reject the findings of the Office contained in such report within six (6) months following the receipt by him of such report.

(e) If the Secretary determines, on the basis of such report, that any such group is an Indian tribal entity within the purview of this Act, the Secretary shall designate such group as a federally acknowledged Indian tribe. Upon the publication by the Secretary of that fact in the Federal Register, such tribe shall be entitled to all the rights, privileges, immunities, benefits, and other services to which other federally acknowledged Indian tribes are eligible to receive by reason of their status.

(f) Any determination by either the Office or the Secretary that a group is not an Indian tribe shall be made in writing to the petitioning group and shall specify why the group does not conform to the definitional factors in section 5 of this Act. Any decision by the Secretary shall be reviewable in the United States District Court with the burden of proof on the United States to establish that the petitioners do not meet the criteria specified in this Act. Legal fees shall be paid by the United States to any petitioning group whose tribal existence is affirmatively determined as a matter of law and fact by the court.

(g) A denial of any petition shall not preclude an Indian group from resubmitting a petition at any time in the future.

(h) Upon certification by the Secretary that a group is an Indian tribe, the tribe shall develop a membership roll. The process of determining the roll shall entail public notices, the formation of tribal committees to hear individuals' claims of direct tribal descent of a specified degree, and written statements of enrollment certification which must be recorded by the Bureau of Indian Affairs as well as by the tribe. At the request of the tribe, the Office shall provide technical assistance for the development of a membership roll.

(i) Annual budget requests for appropriations for any fiscal year from the Department of Interior shall state the funds which have been directed to servicing those tribes whose existence was acknowledged in the preceding fiscal year.

SEC. 5. (a) The following definitional factors shall be relied upon by the Office and the Secretary in determining whether a group is an Indian tribe for the purposes of this Act. The group shall conform to factors one and two and at least one additional factor—

(1) the group has been identified as "Indian, Native American, or Aboriginal" consistently and for a protracted period of time, but in any event for a period of no less than 44 years. Such continuing Indian identity may include identification as a division of, combination of, or confederation with, other specific Indian tribes. Evidence to be relied upon in determining the group's continuing Indian identity shall include but not be limited to any of the following:

(A) repeated identification as Indian by Federal authorities;

(B) longstanding relationships with State governments based on identification of the group as Indian;

(C) repeated dealings with a county, parish, or other local governments in a unique relationship based on the group's Indian identity;

(D) identification as Indian by records in court houses, churches, or schools;

(E) identification as Indian by anthropologists, historians, or other scholars;

(F) identification as Indian in newspapers and books;

(G) any other evidence deemed relevant by the Office or the Secretary.

(2) the group exhibits evidence of a longstanding tribal governmental influence or authority over the members of the group. This evidence shall show that the group has exercised political influence or authority over its members through a tribal council or other structure which the group has used as its own form of government or as a means to determine its membership. Such evidence shall include traditional social of political structures or organizations unique to American Indians.

(3) the group utilizes an identified American Indian language or shows other clear indications of Indian cultural retention.

(4) the group has held collective rights in tribal lands or funds, whether or not it was expressly designated a tribe.

(5) the group has been treated as an Indian tribe by other Indian tribes or groups. This factor shall be evidenced by written statements from presently acknowledged tribes stating that they have related to the unacknowledged tribal group for purposes connected with any inter-tribal activity.

(6) the group has had treaty relations with the United States, particular States, or pre-existing colonial or territorial governments. "Treaty relations" shall include any formal relationship based on a government's acknowledgement of the Indian group's separate or distinct political status. Satisfaction of this criterion shall be prima facie evidence of tribal existence.

(7) the group has been identified or referred to as an Indian tribe or designated Indian by an Act of Congress or Executive Order which provided for, or otherwise affected or identified the governmental structure, jurisdiction, or property of the tribal group in a special or unique relationship to the Federal Government. Designation of a group as Indian by such Act of Congress or Executive Order shall be prima facie evidence of tribal existence.

(b) The Secretary shall have the authority to acknowledge any group which he determines is Indian.

SEC. 6.—Upon enactment of this Act, the Secretary shall publish in the Federal Register a list of all Federally acknowledged Indian tribes, such list to be updated and published annually.

SEC. 7.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. BAKER (for Mr. MATHIAS, for himself and Mr. SARBANES):

S. 2376. A bill to authorize withholding from salaries disbursed by the Secretary of the Senate and the Architect of the Capitol for contributions to certain charitable organizations; to the Committee on Governmental Affairs.

Mr. BAKER. Mr. President, I introduce a bill for Mr. MATHIAS (for himself and SARBANES) and I ask unanimous consent that a statement by Mr. MATHIAS be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MATHIAS

I was chairman of the 1976 Combined Federal Campaign for the U.S. Senate. My most vivid recollection of that appeal for support is the degree to which the appeal went unheeded. I was concerned that the poor Senate showing resulted from my chairmanship but was comforted when I reviewed the long Senate tradition of dismal participation. One of the strongest reasons for that poor record is that the Senate does not allow payroll deductions for contributions. Experience with the Campaign has shown that the good intentions of contributors are not matched by the money they have available when we approach them on a one-time basis. The payroll deduction allows the Campaign to capitalize on those good intentions by spreading a contribution out over the whole year.

Today I am introducing with my distinguished colleague from the State of Maryland (Mr. Sarbanes) a bill to allow contributions to the Combined Federal Campaign to be made by payroll deduction for employees of the Senate and the Architect's office. The House has already done this.

One of the most hackneyed dodges in the American language is, "I gave at the office." I hope that with passage of this bill more of us on Capitol Hill will be able to so state with clear conscience. After all, the CFC benefits more than 130 local, national and international social agencies. In your hometowns industry contributes faithfully to the Community Chest. In Washington, we are the industry and we must do our share. We can provide this opportunity for generosity the same way those industries provide it, with continuing and relatively easy contributions from each paycheck.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2378. A bill to increase the amount of funds available for Native American employment and training programs; to the Committee on Human Resources.

Mr. INOUYE. Mr. President, I am introducing today a bill that will provide an increase in funds for the Native American employment and training programs authorized under title III, section 302 of the Comprehensive Employment and Training Act of 1973. Under the present legislation, section 302 receives 4 percent of the total funding for title I, general population programs. It is the intent of the measure I am now submitting to increase that figure to 5 percent.

On May 27, 1977 the Senate passed an amended version of H.R. 6138, the Youth Demonstration Projects Act of 1977. Included in that act was a proposal offered by Senator MATSUNAGA and myself that would make Native Hawaiians eligible for benefits awarded to Native Americans pursuant to title III, section 302 of CETA; this amendment was accepted in House conference on June 16, 1977.

I was greatly pleased by the passage of this measure both because it represents further recognition of Native Hawaiians as aboriginal inhabitants of our Nation and is an attempt to address many of the problems and needs of the Hawaiian people which until now have been all but ignored. Historical and social circumstances have worked to an end that Native Hawaiians today find themselves, similar to the Indian and Native Alaskan populations, confronted by a severe crisis of identity and survival.

Foreign encroachment on their land has caused a staggering reduction in their numbers and a progressive dilution of their culture. A growing alienation from their noble past as well as an inability to completely reconcile native culture and tradition with modern age values and practices has left the Native

Hawaiian a stranger in his own land and helped to relegate him to the lowest rung of our social hierarchy. Native Hawaiians are disproportionately represented in the population among those who are recipients of public assistance, and who are incarcerated in correctional institutions. According to the 1970 Hawaii State Census count, 14 percent of Native Hawaiian families had family incomes of under $5,000 and 30 percent had incomes between $5,000 and $9,999.

With their inclusion in CETA legislation, Native Hawaiians, with the Federal Government's help, can begin themselves to change these statistics for the better. Section 302 of title III requires that special comprehensive employment and training programs be established for Native Americans including such programs as on the job training, work experience, skill and classroom training, and public service employment. Steps have already been taken by the Hawaiians to plan and implement a CETA strategy which will emphasize the importance of education and will focus on training and placing Native Hawaiians in technical, managerial, and paraprofessional areas within the labor force. Through this new labor resource Native Hawaiians will be assisted who would otherwise have no alternative to their present depressed situation.

The Department of Labor's Division of Indian and Native American Programs that administers section 302 funds has informed me that some $2 million will be necessary if the Hawaiian's new jobs program is to be as effective as it should. In fiscal year 1975 there were some 133 prime sponsor organizations funded under title III, S. 302, serving large populations of Indians and Native Americans.

As that figure of 2 years ago has substantially increased the Department of Labor has estimated that without an increase in the funding level of section 302 the inclusion of Native Hawaiians in this legislation—there are approximately 150,000 Native Hawaiians in the State of Hawaii—would result in a 10-percent increase in the funding levels for other S. 302 prime sponsors. A concern for this prompted a resolution to be submitted at the recent convention of the National Congress of American Indians recently held in Dallas, Tex., which stated:

> Whereas, The National Congress of American Indians understands the intent of the Congress in making Native Hawaiians eligible for benefits under Title III, Section 302 of the Comprehensive Employment and Training Act (CETA);
>
> Whereas, The National Congress of American Indians, does not dispute the right of Native Hawaiian people to receive these employment and training funds, however, these funds should not come at the expense of Indian and Alaskan Native people;
>
> Now, therefore be it resolved that, The National Congress of American Indians recommends the funding be increased for all Native Americans under Section 302 from 4 percent to 5 percent, thereby allowing sufficient increase to provide $2.6 million for Native Hawaiians.

Mr. President, it has not now nor ever will be the Hawaiian people's intention that their benefits should come at the expense of other needy peoples especially those who culturally, spiritually, and in terms of historical and social circumstances, share a common bond with the Native Hawaiian population. An increase of section 302 funds from 4 percent to 5 percent of CETA title I funding will insure that this does not happen. It is with the intention that both the Native Hawaiians and the Indian and Alaskan Natives be fairly and justly treated that I submit this measure which has been endorsed by the Executive Committee of the National Congress of American Indians.

I am hopeful that this bill will meet the fast approval of the appropriate Senate committee, the full House of Representatives, and United States Senate and the President.

Mr. President, I seek unanimous consent to have printed in the Record the text of the bill I have introduced today.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302 (g) of the Comprehensive Employment and Training Act of 1973 is amended by striking out "4 percent" and inserting in lieu thereof "5 percent".

By Mr. ROBERT C. BYRD (for Mr. Magnuson, for himself and Mr. Pearson) (by request):

S. 2380. A bill to amend the Intervention on the High Seas Act to implement the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973; to the Committee on Commerce, Science, and Transportation.

Mr. ROBERT C. BYRD. Mr. President, I introduced for Mr. Magnuson, for himself and Mr. Pearson, by request of the Department of Transportation, a bill to implement the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973.

Mr. President, I also ask unanimous consent that the text of the bill and the letter of transmittal be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Intervention on the High Seas Act (88 Stat. 8, P.L. 93–248) is amended as follows:

(1) Section 2 is amended to read as follows:

"Sec. 2. As used in this Act

"(1) 'a substance other than convention oil' means those oils, noxious substances, liquified gases, and radioactive substances—

"(A) enumerated in the protocol, or

"(B) otherwise determined to be hazardous under section 4(a).

"(2) 'convention' means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto;

"(3) 'convention oil' means crude oil, fuel oil, diesel oil, and lubricating oil;

"(4) 'Secretary' means the Secretary of the department in which the Coast Guard is operating;

"(5) 'ship' means—

"(A) a seagoing vessel of any type whatsoever, and

"(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

"(6) 'protocol' means the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973, including annexes thereto; and

"(7) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States."

(2) Section 3 is amended by—

(A) striking the word "oil" and inserting in lieu thereof the phrase "convention oil or of the sea or atmosphere by a substance other than convention oil"; and

(B) striking the word "Convention" and inserting in lieu thereof the phrase "convention, the protocol".

(3) Section 4 is amended by—

(A) inserting the words "human health," between the words "limited to," and "fish" and designating the existing section as subsection (b);

(B) adding a new subsection (a) as follows:

"(a) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall determine when a substance other than those enumerated in the protocol is liable to create a hazard to human health, to harm living resources, to damage amenities, or to interfere with other legitimate uses of the sea."

(4) Section 10 is amended by adding a new subsection (c) as follows:

"(c) With respect to intervention for a substance identified pursuant to section 4 (a), the United States has the burden of establishing that, under the circumstances present at the time of the intervention, the substance identified pursuant to section 4 imminent danger analogous to that posed by a substance enumerated in the Protocol."

(5) Section 13 is amended—

(A) in subsection (a) by striking the period at the end of the subsection and inserting in lieu thereof the phrase "and article II of the protocol and may propose amendments to the list of substances other than convention oil in accordance with article III of the protocol."; and

(B) in subsection (b) by striking the words "annexes thereto" and inserting in lieu thereof the word "protocol".

(C) by adding a new subsection (c) as follows:

"(c) The President may accept amendments to the list of substances other than convention oil in accordance with article III of the protocol."

(6) Section 15 is amended by inserting the words ", the protocol," between the words "convention" and "and".

Sec. 2. This Act shall be effective upon the date of enactment, or upon the date the protocol becomes effective as to the United States, whichever is later.

The Secretary of Transportation,
Washington, D.C., September 13, 1977.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith a proposed bill,

"To amend the Intervention on the High Seas Act to implement the Protocol Relating to Intervention on the High Seas in Cases of

Marine Pollution by Substances Other Than Oil, 1973."

As stated in the title, the proposed bill amends the Intervention on the High Seas Act (88 Stat. 8, P.L. 93–248), which implemented the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

The Intervention on the High Seas Act permits the United States to take necessary action involving foreign vessels on the high seas, to prevent danger to its coastline or related interests from pollution or the threat of pollution of the sea by crude oil, fuel oil, diesel oil, or lubricating oil. In this proposal, these oils are defined as "convention oil" to distinguish them from other oils covered by the protocol.

The Intervention on the High Seas Act enabled the Coast Guard to take rapid action in the Argo Merchant grounding off Nantucket in December 1976. The protocol and the proposed legislation would enable the United States to take similar prompt action with regard to vessels that contain a hazardous substance other than "convention oil."

The protocol extends the right of intervention to incidents involving the threat of pollution by certain additional substances, and includes pollution to the atmosphere as well as to the sea. Annexed to the protocol is a list containing the substances for which intervention is authorized if the requisite danger to the coastline or related interests is present. The protocol does not preclude intervention with respect to an unlisted substance. However, for an unlisted substance the intervening nation is required to establish that, under the circumstances present at the time of intervention, the unlisted substance could reasonably pose a danger equivalent to that of a substance listed in the protocol.

The proposed legislation gives the President the authority to accept changes to the list of substances in accordance with procedures outlined in the protocol.

The protocol will become effective 90 days after 15 nations have ratified it. Our proposed amendments to the Intervention on the High Seas Act will become effective on that same date or upon the date of enactment, whichever is later. Currently only 2 nations have ratified or acceded to the protocol, due in part to the fact that the list of substances contained in the annex was not established until November 21, 1974 at the 2nd Session of the Marine Environmental Protection Committee of the Inter-Governmental Maritime Consultative Organization and publication of the list in foreign languages has been delayed. The protocol will be transmitted to the Senate for advice and consent in the very near future.

The existing Act provides that the revolving fund established under section 311 (k) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(k)), is available for actions taken by the Secretary thereunder. Since the Intervention on the High Seas Act became effective, intervention action has been taken only in the Argo Merchant incident and it is difficult to predict the effect of this amendment on government expenditures. However, because intervention actions will be infrequent, such additional costs as may be incurred will not have a significant inflationary impact.

It is recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that enactment of this proposal would be consistent with the Administration's objectives.

Sincerely,

Brock Adams.

By Mr. TOWER:

S. 2382. A bill to amend the Internal Revenue Code of 1954 to provide tax reform for small businesses; to the Committee on Finance.

SMALL BUSINESS INVESTMENT INCENTIVE ACT OF 1977

Mr. TOWER. Mr. President, I am today introducing the Small Business Investment Incentive Act of 1977 to encourage investment in small business and to reduce small business tax rates.

The very survival of the small entrepreneur is severely challenged today.

One of the most serious obstacles to the health of small business is Federal tax policy which discourages savings and capital formation.

Although it has been more than 2 years since the economy emerged from the recession, there is a low rate of investment in the United States in new plant and equipment. The distressing fact is that the level of capital investment in the United States is still lower than it was in 1974.

The decline of investor confidence in stocks has made it increasingly more difficult for small firms to raise equity capital. This forces small business to bank financing. But in the best of times interest rates that banks charge small firms are normally several points higher than the prime rate given the large customers. When money becomes tight the first to be cut off are the smaller customers.

The plight of small business may be seen in the estimate that the small firms will need up to $500 billion in new capital investment in the 10-year period ending in 1985 but will fall short of that mark by about $100 billion. If this short fall is to be avoided, the tax burden must be eased on small firms.

The Small Business Investment Incentive Act attacks this problem by encouraging capital formation through tax reform. This program will also create new jobs and reduce unemployment.

The objectives of this bill will be achieved through investment incentives and tax reduction. The need for tax relief for small business was recognized in the study of small business prepared by the Small Business Administration pursuant to title II, Public Law 94–305 which was an outgrowth of my proposal in 1975 for a National Commission on Small Business. That report noted that:

Earnings that would otherwise be retained for use in the business are eroded by taxation.

There is a bias against small business created by the complexities of the tax system.

Small business has a special need for long-term, venture, and equity capital which can be met through tax reform.

The bill I am introducing today follows a number of the recommendations of this study.

Title I contains investor tax incentives to increase the availability of capital to small business. For example, investors would be permitted to postpone recognition of gain on their small business investment if "rolled over" into a similar investment within 2 years. The limit on the deductibility of losses in small business stock would be increased from $25,000 to $50,000. In addition, title I allows guarantors of small business obligations to deduct their losses and permits small business once again to offer stock option plans to attract high-quality management.

Title II, the most important tax reduction provision, would increase the corporate surtax exemption from $50,000 to $100,000. The Tax Reduction Act of 1975 temporarily increased the surtax exemption from $25,000 to $50,000 and reduced the tax on the first $25,000 of income from 22 percent to 20 percent. These changes were continued through 1977 by the Tax Reform Act of 1976. The surtax exemption increase in my bill would encourage capital formation for smaller enterprise through the retention of earnings.

Other tax reduction provisions include liberalization of the additional first-year depreciation allowance from $10,000 to $20,000 to encourage capital expenditures by small concerns, an increase in the minimum accumulated earnings credit, and a special 10-year loss carryover provision applicable only to small business.

In the 93d Congress, I introduced a similar measure, the Small Business Tax Reform Act of 1974. Some of its provisions have been enacted. Others are included in this bill. I have pursued this course to promote the health and continued success of the bedrock of our economic system—the small businesses which comprise 97 percent of all business concerns, 43 percent of the gross national product, and 58 percent of the private work force. It is my firm intention to continue in this regard, and I would urge my colleagues to lend their support.

Mr. President, I ask unanimous consent that the bill and the section-by-section analysis be printed in the Record at this point.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Small Business Investment Incentive Act of 1977".

TITLE I—INVESTMENT INCENTIVES

Sec. 101. Sales of Interests in Small Concerns.

(a) In General.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"Sec. 1041. Sales of Interests in Small Concerns.

"(a) Nonrecognition of Gain.—If an equity or proprietary interest in a small concern is sold, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the taxpayer's sale price exceeds the cost of replacement property purchased by the taxpayer within 2 years from the date of such sale.

"(e) Statute of Limitations.—If during a taxable year a taxpayer sells an interest in a small concern at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the

Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase property within the period specified in subsection (2), or

"(C) a failure to make such purchase within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) Holding Period.—Section 1223 of such Code (relating to holding period of property) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) In determining the period for which the taxpayer has held replacement property, the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale or exchange of an interest in a small concern, there shall be included the period for which such interest had been held as the date of such sale or exchange."

"(b) Definition.—For purposes of this section—

"(1) Small concern.—The term 'small concern' means a small business as defined in the Small Business Act and in the regulations promulgated thereunder by the Small Business Administration.

"(2) Replacement property.—The term 'replacement property' means an equity or proprietary interest in a small concern.

"(c) Limitations.—

"(1) Acquisition status; holding period.—Subsection (a) shall apply only to the gain attributable to the sale of an interest which was, at the time it was acquired, an interest in a small concern and which has been held by the taxpayer for at least 60 months.

"(2) Stock redemption.—Where the interest sold is evidenced by stock of a small concern, subsection (a) shall apply only to a sale of stock which, if such stock had been purchased by the issuing corporation, would have been treated as a redemption within the meaning of paragraphs (1), (2), and (3) of section 302(b).

"(d) Basis of Replacement Property.—The basis of replacement property shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one item of replacement property is purchased, such reduction in the basis of the replacement property shall be applied to each such property in chronological order of purchase. The amount of the reduction applicable to each item of property shall be determined by multiplying the maximum gain not to be recognized pursuant to subsection (a) by a fraction the numerator of which is the cost of each replacement property and the denominator of which is the total cost of all replacement properties.

(c) Clerical Amendment. The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of interests in small concerns.".

Sec. 102. Losses on Small Business Stock.

(a) Increase in Maximum Amount of Losses.—Section 1244 (b) of the Internal Revenue Code of 1954 (relating to limitation on application of section 1244) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) $50,000 (not more than $25,000 of which is attributable to stock acquired before the date of the enactment of the Small Business Investment and Tax Reduction Act of 1977), or

"(2) in the case of a husband and wife filing a joint return for such year under section 6013, $100,000 not more than $50,000 of which is attributable to stock acquired before such date.".

(b) Definition of Section 1244 Stock.—Section 1244 of such Code (relating to losses on small business stock) is amended by redesignating subsection (e) as (g) and by inserting after subsection (d) the following new subsections:

"(e) Plans Adopted After Enactment of Business Investment and Tax Reduction Act of 1977.—In the case of a plan adopted after the date of the enactment of the Small Business Investment and Tax Reduction Act of 1977—

"(1) paragraph (2) of subsection (c) shall be applied by substituting—

"(A) $750,000 for $500,000 in subparagraph (A), and

"(B) $1,500,000 for $1,000,000 in subparagraph (B),

"(2) paragraph (1)(A) of subsection (c) shall be applied by substituting 'five years' for 'two years';

"(3) paragraph (1)(C) of subsection (c) shall not apply with respect to a prior offering of section 1244 stock under a plan adopted on or before such date, but in applying paragraphs (2)(A)(i) and (2)(B)(i) of subsection (c) there shall be taken into account the amount of such prior offering which is outstanding on the date of the adoption of the plan; and

"(4) for purposes of paragraph (1)(C) of subsection (c), options to acquire stock held by employees of the corporation (and unissued stock necessary in case of the exercise of such options) shall not be considered to be a part of a prior offering which is outstanding.

"(f) Notice of Offering and Adoption of Plans.—A corporation which during the taxable year makes an offering of its stock which it believes to fulfill the requirements of subparagraphs (A), (B), and (C) of subsection (c)(1) shall—

"(1) include, on its return for such year, a statement that such offering has been made and the date on which the plan for such offering was adopted, and

"(2) include a copy of such plan with such return.".

Sec. 103. Bad Debt Deduction for Guarantors of Obligations of, and Lenders to, Small Business Corporation.

(a) Guarantors of Obligations of Small Business Corporations.—Section 166 of the Internal Revenue Code of 1954 (relating to bad debts) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

"(g) Guarantor of Certain Noncorporate Obligations and Obligations of Small Corporations.—

"(1) In general.—A payment during the taxable year by the taxpayer (other than a corporation) in discharge of part or all of his obligation as a guarantor, endorser, or indemnitor of—

"(A) a noncorporate obligation; or

"(B) an obligation of a corporation which (at the time such obligation was incurred) was a small business corporation,

the proceeds of which were used in the trade or business of the borrower shall be treated as a debt becoming worthless within such taxable year for purposes of this section (except that subsection (d) shall not apply), but only if the obligation of the borrower to the person to whom such payment was made was worthless (without regard to such guaranty, endorsement, or indemnity) at the time of such payment.

"(2) Small business corporation.—For purposes of paragraph (1), the term 'small business corporation' means a corporation the equity capital of which does not exceed $1,500,000. For purposes of the preceding sentence, the equity capital of a corporation is the sum of its money and other property (in an amount equal to the adjusted basis of such property for determining gain), less the amount of its indebtedness (other than indebtedness to shareholders).".

(b) Definition of Nonbusiness Debts.—Section 166(d)(2) of such Code (relating to definition of nonbusiness debt) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) a debt arising from a loan to—

"(i) one or more individuals, or

"(ii) a corporation which at the time such loan is made is a small business corporation (as defined in subsection (g)(2)),

the proceeds of which are used in the trade or business of the borrower or borrowers.".

Sec. 104. Special Reserve for Equity Losses of Small Business Investment Companies.

(a) In General.—Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"Sec. 251. Reserves for Losses on Equity Investments of Small Business Investment Companies.

"(a) General Rule.—In the case of a taxpayer which is a small business investment company operating under the Small Business Investment Act of 1958, in lieu of any deduction for capital losses under section 165 with respect to losses arising out of the sale or exchange of stock in a small business (within the meaning of section 2 of the Small Business Act (15 U.S.C. 632)), there shall be allowed (at the discretion of the Secretary) for any taxable year a deduction—

"(1) for a reasonable addition to a reserve for losses which may arise out of equity investments in a small business concern, and

"(2) for the amount of any reduction in the suspense account required by subsection (c)(2)(A).

"(b) Opening Balance.—The opening balance of a reserve described in subsection (a)(1) for the first taxable year for which the taxpayer maintains such a reserve shall, under regulations prescribed by the Secretary, be determined as if the taxpayer had maintained such reserve for the preceding taxable years.

"(c) Suspense Account.—

"(1) In general.—Each taxpayer who maintains a reserve described in subsection (a)(1) shall, for purposes of this section, establish and maintain a suspense account. The initial balance of such account shall be equal to the opening balance described in subsection (b).

"(2) Adjustments.—At the close of each taxable year the suspense account shall be—

"(A) reduced by the excess of the suspense account at the beginning of the year over the reserve described in subsection (a)(1) (after making the addition for such year provided in such subsection), or

"(B) increased (but not to an amount greater than the initial balance of the suspense account) by the excess of the reserve described in subsection (a)(1) (after making the addition for such year provided in such paragraph) over the suspense account at the beginning of such year.".

(b) Clerical Amendment.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 251. Reserves for losses on equity investments of small business investment companies.".

Sec. 105. Qualified Stock Options for Small Concerns.

Subsection (b) of section 422 of the Internal Revenue Code of 1954 (relating to qualified stock options) is amended by inserting after "subsection (c) (7)" the following: "or is granted by a small business concern (within the meaning of section 2 of the Small Business Act, as determined by the Administrator of the Small Business Administration)".

Sec. 106. Effective Date.

The amendments made by this title shall apply with respect to taxable years beginning after December 31, 1977.

TITLE II—TAX REDUCTION

Sec. 201. Increase of Surtax exemption.

(a) In General.—Section 11(d) (1) of the Internal Revenue Code of 1954 (relating to surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$100,000".

(b) Conforming Amendment.—Section 12 (7) of such Code (relating to cross-references relating to tax on corporations) is amended by striking out "$50,000" and inserting "$100,000" in lieu thereof.

Sec. 202. Increase in Additional First-Year Depreciation Allowance.

Section 179(b) of the Internal Revenue Code of 1954 (relating to dollar limitation on property eligible for additional first-year allowance) is amended—

(1) by striking out "$10,000" each place it appears and inserting in lieu thereof "$20,000"; and

(2) by striking out "$20,000" and inserting in lieu thereof "$40,000".

Sec. 203. 10-Year Carryover of Small Business Net Operating Losses.

(a) 10-Year Carryover Period.—Section 172(b) (1) of the Internal Revenue Code of 1954 (relating to years to which loss may be carried) is amended—

(1) by striking out "(C), (D), (E), and (F)" in subparagraph (B) and inserting in lieu thereof "(C), (D), (E), (F) and (H)"; and

(2) by adding at the end thereof the following new subparagraph:

"(A) In the case of a taxpayer carrying on a trade or business as a small business concern (within the meanings of section 2 of the Small Business Act) determined as of the close of the taxable year, the portion of a net operating loss sustained in such trade or business shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss.".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to losses sustained in taxable years beginning after the date of the enactment of this Act.

Sec. 204. Increase in Minimum Accumulated Earnings Credit.

Section 535 (c) (relating to accumulated taxable income) is amended by striking out "$150,000" each time it appears and inserting in lieu thereof "$200,000".

Sec. 205. Effective Date.

The amendments made by this title shall apply with respect to taxable years beginning after December 31, 1977.

Section-by-Section Analysis of Small Business Investment Incentive Act of 1977

INVESTMENT INCENTIVES

Sec. 101—Establishes new Section 104 to allow the sale of a small business interest without recognition of gain if "rolled-over" into a similar investment within two years. Basis is carried over. Extended statute of limitations is provided requiring notice to the IRS before the statute begins to run. Provides for tacking of holding periods. The mechanics of this deferral would be similar to the existing deferral of gains from the sale of a personal residence or an involuntary conversion. The gain would be subject to tax when the qualifying equity interests were sold with no reinvestment of the proceeds. The availability of this tax deferral would encourage investors to commit their funds to small business on a long-term basis.

Sec. 102—To encourage equity investment, this section eases the limitations on deductibility of losses in small business stock (§ 1244 Tax Code), and broadens application of § 1244. This would permit individuals owning a small business stock to deduct losses up to $50 000.

Sec. 103—Restores § 166(f) which was deleted by the Tax Reform Act of 1976, and broadens it to include small business corporate obligations. The section allows non-corporate guarantors of small business obligations to deduct against ordinary income payments made in discharge of their guaranty.

Under current law, a non-corporate guarantor may only deduct payments made when the principal obligor defaults as a short term capital loss. This section restores the ability of these guarantors to deduct such payments against ordinary income. Additionally, application of the section is broadened to include obligations of small business corporations as well as non-corporate obligations.

Small businesses are very often required by lending institutions to have a guarantor on loans to the business. This would make it more attractive for individuals to guarantee such loans and increase the ability of small businesses to obtain financing.

Sec. 104—Allows Small Business Investment Companies to establish a reserve for losses in their equity investments.

Current law allows small business investment companies to reduce income by set aside in a reserve for losses from debt investments. SBIC's cannot however, similarly reduce income by establishing a reserve for losses on equity investments. This provision would provide further incentive for equity investments by small business investment companies which were created by Congress in 1958 as a new investment vehicle to serve as a source of private financing for small business. Recent studies have shown that small business investment companies have not been as effective a source of long-run financing for small businesses as was originally hoped.

Sec. 105—Restores pre-1976 Tax Reform Act rules for qualified stock option plans, but only for small businesses.

This permits a small business to attract experienced management employees by offering attractive stock option plans under which the employee does not incur any tax liability until the security is actually sold or otherwise disposed of. Gain would then be taxed as a capital gain.

TAX REDUCTION

Sec. 201. Increases corporate surtax exemption from $50,000 to $100,000.

Under present law all corporate profits above $50,000 are subject to the corporate income tax. The surtax exemption increase would encourage capital formation for smaller enterprise through the retention of earnings.

Sec. 202. Allows small businesses to claim additional first year depreciation by raising the limit from $10,000 to $20,000.

By raising this depreciation bonus, the cash flow of small businesses would be increased. Firms would be able to generate more internal capital for modernization and expansion.

Sec. 203. Allows small businesses to carry over losses for a 10 year period instead of the present seven years. It is now possible to carry a net business operating loss forward to be offset against income for the 7 following years. The SBA study indicates that many small businesses sustained operating losses on a recurring basis. This is particularly true of new businesses. Losses in several consecutive years often cause the carry forward period for early years to expire before the losses can be offset in full against income. This would correct the deficiency in the present law.

Sec. 204. Increases minimum accumulated earnings credit from $150,000 to $200,000.

Under current law the retention of earnings by corporations beyond a reasonable amount for anticipated business expenses is taxed as a dividend. It is presumed that accumulation of up to $150,000 is reasonable. This would increase by $50,000 the amount that a firm could accumulate without exposing itself to the tax penalty.

Small businesses are particularly affected by the accumulated earnings tax. The tax is generally applied to small closely-held corporations and makes it difficult for such businesses to raise capital or to accumulate capital out of earnings. The accumulated earnings tax also prevents small corporations from accumulating a cushion of liquid assets to protect against business failure in times of economic fluctuation.

By Mr. DURKIN:

S. 2383. A bill to amend the Tax Reform Act of 1976 to delay for 1 year the effective date of changes in the exclusion for sick pay; to the Committee on Finance.

Mr. DURKIN. Mr. President, today I am introducing a bill to postpone for another year the elimination of the sick pay exclusion. Action by Congress eliminating this income exclusion has caused hardships for many people. I believe that this 1-year extension will give Congress an opportunity to fully review its decision and take action which is consistent with fairness to those who are already burdened by an inability to work due to illness.

In the Tax Reform Act of 1976, Congress repealed the sick pay exclusion and made the repeal retroactive. It quickly became apparent that the Congress had made an unwise decision in applying the change retroactively and this mistake was corrected so that the provision takes effect in the tax year 1977.

But that necessary correction does not change the basic problem: Did the Congress act fairly in deciding to eliminate the sick pay exclusion?

The sick pay exclusion serves a very special group of taxpayers—those who are collecting benefits because they are forced to be absent from work due to illness or injury. This is a particularly trying time for a family—a time of severe financial worries as well as worries about the medical condition.

The law as amended has seriously limited the ability of people who are receiving sick pay from claiming the tax exclusion. Only those who are under 65, have retired on disability, and are totally and permanently disabled are eligible.

These are not the only people who need the sick pay exclusion. The effect of illness and injury on an individual and his family is profound, regardless of whether the condition is permanent. And the resulting loss of income may be equally devastating for those who are not totally and permanently disabled.

I feel strongly that elimination of the sick pay exclusion was an ill-advised and unwarranted decision. In urging the Senate to adopt this 1-year extension, I feel that we should take the opportunity to review our previous action. This issue should be referred to the Finance Committee and given full consideration. I believe that on the balance, a recommendation will come out of the committee to restore this exclusion.

I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (f) of section 505 of the Tax Reform Act of 1976 (relating to effective date for changes in exclusions for sick pay) is amended by striking out "December 31, 1976." and inserting in lieu thereof "December 31, 1977.".

By Mr. CRANSTON (for himself, Mr. STAFFORD, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. THURMOND, Mr. HANSEN, and Mr. WILLIAMS):

S. 2384. A bill to amend title 38 of the United States Code in order to provide a security pension program for non-service-connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in need, and for surviving children of veterans of a period of war who are in need; to provide for annual automatic cost-of-living adjustments in the security pension program; to prevent reductions in security pension benefits solely attributable to cost-of-living increases in social security benefits; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' AND SURVIVORS' INCOME SECURITY ACT, S. 2384

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee I am privileged to introduce the Veterans' and Survivors' Income Security Act, a bill which is cosponsored by Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, and Mr. HANSEN, that is, by all the members of the Senate Committee on Veterans' Affairs, and by my good friend and colleague Mr. WILLIAMS. I am particularly pleased with this unanimous, bipartisan support for this vitally important measure, and wish particularly to thank the distinguished chairman of our Subcommittee on Compensation and Pension, the Senator from Georgia (Mr. TALMADGE), for his extremely valuable support, counsel, and assistance in this effort.

This bill would provide for the first comprehensive restructuring of the pension program for needy wartime veterans who are disabled by reason of non-service-connected disability, and needy surviving spouses and children of wartime veterans, in almost two decades.

MAJOR PROVISIONS OF THE BILL

Mr. President, the major provisions of the Veterans' and Survivors' Income Security Act would:

First, establish a new program of security pension benefits payable monthly to wartime veterans who are permanently and totally disabled by reason of non-service-connected disability, or who are 65 or over, with the following annual rates, reduced by the amount of the veteran's annual income, or by the income of a dependent spouse or child which is reasonably available to the veteran:

Veteran without dependent spouse or child	$3,200
Veteran with one dependent (spouse or child)	4,128
Veteran in need of regular aid and attendance without dependents	5,299
Veteran in need of regular aid and attendance with one dependent	6,227
Veteran permanently housebound without dependents	3,976
Veteran permanently housebound with one dependent	4,904
Increase for each additional dependent child	660

Second, establish a new program of "security pension" benefits payable monthly to surviving spouses of wartime veterans, with annual rates for permanently and totally disabled surviving spouses and those who are 65 or over, equal to those applicable to veterans, with rates for surviving spouses in need of regular aid and attendance equal to those for veterans, and with an increase for each additional dependent child equal to that payable to a veteran for a dependent child. The applicable annual rates, reduced by the amount of the surviving spouse's annual income, are as follows:

Permanently and totally disabled surviving spouse, or one who is age 65 or over	$3,200
Permanently and totally disabled (or age 65 or over) surviving spouse with one dependent child	4,128
Surviving spouse with one child age 6 or under, or a helpless child	4,128
Permanently and totally disabled (or age 65 or over) surviving spouse in need of regular aid and attendance	5,299
Permanently and totally disabled (or age 65 or over) surviving spouse in need of regular aid and attendance with one dependent child	6,227
Increase for each additional dependent child afer the first	660
Other surviving spouse without dependent child	2,144
Other surviving spouse with one dependent child	2,766

Third, require that all income from whatever source derived be counted, for purposes of determining basic income eligibility and the amount of the security pension payable, subject to the following exclusions:

Payments under chapters 11, 13, and 15, compensation for service-connected disability or death, dependency and indemnity compensation for service-connected deaths, and pension for non-service-connected disability or death, respectively;

Gifts;

Amounts equal to amounts paid for last illness and burial expenses for a veteran;

Amounts equal to amounts paid for last illness and burial expenses for a spouse;

Fire insurance proceeds;

Profit from the sale of real or personal property other than in the course of a business;

Amounts in joint accounts acquired by reason of the death of the other co-owner;

$780 of earned income plus one-half of all earned income in excess of $780; and

Amounts equal to amounts exceeding $100 paid out for unreimbursed medical expenditures for the preceding year.

Fourth, require net worth determinations of a veteran, surviving spouse, or surviving child, including the net worth of any dependent for whom the veteran or surviving spouse is receiving increased security pension, but excluding from the net worth of any child amounts reasonably set aside for educational and other vocational goals, with security pension payments to be denied or discontinued if the net worth is such that some portion thereof could reasonably be expected to be used for the support of the veteran, surviving spouse, or surviving child.

Fifth, require the VA to increase security pension rates annually by the same percentage and at the same time as social security cost-of-living increases.

Sixth, require the VA to redetermine the amount of security pension to which a person is entitled at the same time that social security benefit rates are increased in such a way that no person in the security pension program will suffer a reduction in security pension attributable to a cost-of-living increase in social security benefits, or other Federal program which provides for automatic annual cost-of-living increases in accord with the social security automatic "indexed" increase.

Seventh, allow persons in the current pension program to remain under the terms and conditions of that program, or to elect to receive security pension if they are eligible.

Eighth, allow persons in the "old law" pension program, or who receive pensions based on service during the Spanish-American War or earlier periods of war, to continue in those programs or to elect to receive security pensions if they are eligible.

BACKGROUND

Mr. President, the original impetus for a thorough reworking of the pension program was provided by the testimony of the VA in June 1973, that the current pension program contained "inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructured."

During the 93d and 94th Congresses, the Committee on Veterans' Affairs—under the chairmanship of my predecessor, Senator Hartke—conducted extensive investigations, held hearings, and reviewed studies by the VA on the pension program. On December 9, 1975, the committee favorably reported S. 2635, a comprehensive reform measure. That bill was passed unanimously by the Senate on December 15, 1975, but the House did not act on it in the 94th Congress.

Since December 15, 1975, the Congress has passed three laws providing cost-of-living increases in pension rates: Public Law 94–169, enacted December 23, 1975; Public Law 94–432, enacted September 30, 1976; and Public Law 95–204, enacted December 2, 1977.

None of these measures addressed the question of pension restructuring. However, section 404(a) of Public Law 94–432, the Veterans and Survivors Pension Adjustment Act of 1976, declared it to be the sense of the Congress that the existing pension program—

> (1) does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;
>
> (2) has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and
>
> (3) subjects many pensioners annually to reductions in their pensions.

The Congress also declared, at that time, that it lacked sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners and their families upon which to estimate the costs of existing and alternative pension programs; and, in section 404(b) of Public Law 94–432, it directed the VA to conduct a thorough and comprehensive study of existing and alternative non-service-connected pension programs and to submit its report and recommendations to the Congress on October 1, 1977. This report has not yet been submitted, although we have repeatedly stressed our great need for it.

Mr. President, I ask unanimous consent that the text of correspondence on this subject with the Administrator of Veterans' Affairs and the Director of OMB be printed in the RECORD at the conclusion of my remarks prior to the text of the bill.

The PRESIDING OFFICER. It is so ordered.

Mr. CRANSTON. Mr. President, throughout this session, the staff of the committee has worked assiduously to prepare this legislation for introduction, though hampered by the lack of the pension study report. It was our plan to introduce pension reform legislation with an effective date in fiscal year 1978; and the committee laid substantial groundwork for this in our March 15, 1977, recommendations to the Budget Committee for function 700 (Veterans' Benefits and Services) and in the concurrent resolutions on the budget for fiscal year 1978.

At a meeting of the committee on July 15, 1977, members of the committee again expressed their interest in the pension study underway at the VA and their commitment to thoroughgoing restructuring of the pension program, emphasizing that the cost-of-living increase in pension rates then approved—now enacted as Public Law 95–204—was intended as a stopgap measure only. At that time, we fully expected to introduce and proceed in this session of Congress with a measure to provide for a new pension program under which automatic annual benefit increases would be keyed to the rise in the Consumer Price Index to protect needy veterans and survivors against inflation and against pension reductions attributable solely to cost-of-living increases in their social security benefits. We also envisioned a pension restructuring measure that would equalize benefits between equally needy veterans and survivors and provide a basic amount sufficient to remove veterans and their families who are dependent on pension income from poverty levels of subsistence.

The VA has advised the committee that the report mandated by Public Law 94–432 and due on October 1, 1977, was submitted to the Office of Management and Budget more than 2 months ago, but has not been able to provide assurances to the committee as to the date of its eventual submission to the Congress. The administration's failure to provide the findings of the VA's year-long study and its recommendations based thereon has seriously handicapped the committee during this session. Moreover, as I pointed out in debate on the floor on October 19, 1977, on the GI Bill Improvement Act of 1977, the committee found it necessary to request the Congressional Budget Office (CBO) to reestimate the anticipated 5-year cost of the draft version, after receiving a memorandum from CBO stating that earlier estimates, on which we had placed reliance in preparing the legislation, were in error.

Reluctantly, we determined that the bill should not be introduced with an effective date in fiscal year 1978 in the absence of acceptable cost estimates, and we determined to postpone introduction pending the receipt of such cost estimates from CBO, with confirmation by the VA.

COST ESTIMATES

The following estimates of the incremental costs of the bill over current policy using CBO economic assumptions and projections were received from CBO in early December:

[In millions]

Fiscal year 1979	$385.9
Fiscal year 1980	374.8
Fiscal year 1981	408.5
Fiscal year 1982	506.5
Fiscal year 1983	624.1

The committee also requested CBO and the VA to prepare estimates of the incremental costs of the bill using OMB economic assumptions and projections. These estimates are as follows:

[In millions]

	CBO	*VA*
Fiscal year 1979	$385.4	$390.6
Fiscal year 1980	386.6	391.7
Fiscal year 1981	445.2	446.8
Fiscal year 1982	545.8	553.1
Fiscal year 1983	654.7	685.3

I am very pleased that, because these estimates are so close, we now have reasonable assurance of the reliability of the CBO estimates.

In view of the substantive provisions of our bill, which would improve benefits to the majority of veterans and surviving spouses receiving pension, these estimates are, we believe, within acceptable limits.

In addition to requesting confirmation from the VA as to the CBO cost estimates, the staff of the committee has carefully followed the development by OMB's Special Studies Division of a long-range computer model simulating the anticipated characteristics of the pension population over the next 25 years. At our request, this model was used to prepare comparisons between the expected total costs of the current program at 5-year intervals between 1980 and 1995 and the expected total costs over the same period, of the bill which we are introducing today.

OMB, using its own economic assumptions, has estimated the total costs in current dollars of the years indicated. "Current dollars of the years indicated" are calculated to reflect the estimated increase in the Consumer Price Index which is assumed to continue throughout the period 1980–95.

Mr. President, I ask unanimous consent that a table reflecting the OMB estimates be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMB ESTIMATES OF TOTAL COSTS IN CURRENT DOLLARS OF THE YEARS INDICATED

[In millions]

	1980	1985	1990	1995
Current program (maximum)[1]	$3,112	$4,248	$5,517	$7,432
Current program (intermediate)[2]	2,971	3,691	4,395	5,492
S. 2384	3,091	3,616	4,303	5,484

[1] This estimate assumes that the current program would be adjusted in the future so that all pension payments would be increased in accordance with the rise in the Consumer Price Index.

[2] This estimate assumes that the current congressional practice of adjusting the maximum benefit and the annual income limitations to accord with the rise in the CPI would continue, without changing the formula used to calculate actual benefit payments.

Mr. CRANSTON. Mr. President, it should be noted that OMB's estimate of "total costs" do not include the cost of the pension program for surviving children, because there are insufficient data upon which to estimate these costs. However, it is reasonable to assume that the costs shown for "current program" would be many hundreds of millions higher, if surviving children were included, but the costs shown for S. 2384 would be only slightly increased.

Mr. President, an examination of this table indicates that the difference between the expected long-range maximum total costs of the current program and the Veterans' and Survivors' Income Security Act would be sizable. The two sets of figures shown for "current program," are very different. The "maximum" costs assume that the present pension program would continue more or less in its present form except that all the benefit amounts payable under that program would be "indexed"—increased annually in accordance with the Consumer Price Index—instead of the current practice of increasing only the maximum benefits payable and the annual income limitations, and providing "adjustments" for the intermediate rates through the application of the formula.

In my view, Mr. President, this would be a highly likely change in the present program—but not a desirable one. The probability of this occurring, if pension reform is not enacted, is underscored by the success of the recent amendment—No. 1580—to the Social Security Financing Act, H.R. 9346, offered by the Senator from New Hampshire (Mr. McIntyre). That amendment would have undermined the need-based principles of the present program by permitting pension dollars in the future to be paid to persons whose aggregate incomes are far above the minimum standard of need, with concomitant increased costs totaling billions of dollars within a decade. Yet it would have done little or nothing to restructure the pension program along equitable lines. This amendment was dropped in the conference report on H.R. 9346 adopted today by both Houses, but its favorable reception on the Senate floor, and the many pending House bills which are similar indicate that the pressure for such passthrough measures could well become irresistible in the next few years.

That is why, Mr. President, I am confident that the "maximum" total costs shown in the OMB table provide a far more reliable indication of what the expected long-range costs of the current program will be if reform is not achieved than do the "intermediate" costs, which were estimated by assuming continuation of the present system of increasing—through congressional enactments—the maximum rates and the annual income limitations, with adjustments in the "rate-decrement-income limitation" formula.

Another development in the Congress not unrelated to the pressures which brought about the amendment of the Senators from New Hampshire is the pressure for an unrestricted, non-need-based World War I pension. In the other body, a majority of the Members voted to increase both the first and second concurrent resolutions on the budget for fiscal year 1978—House Concurrent Resolution 214 and House Concurrent Resolution 341—by $500 million and $700 million, respectively, in an effort to show their support for the concept of unrestricted non-need-based World War I pension.

Mr. President, the estimated costs of unrestricted pensions—even if limited to World War I veterans and survivors—would increase the budget allocations under Function 700 (Veterans' Benefits and Services) far beyond what is reasonable or equitable for wartime veterans and survivors. The estimated 5-year costs for certain of these measures are in the billions, and for a service pension for all veterans in the tens of billions annually.

In view of these pressures and the inordinate costs which they would, if successfully exerted, generate, it is imperative to achieve a restructuring of the pension program which will provide substantial increases in benefits for those in greatest need and eliminate the other inequitable features of the current program which have created these quite understandable pressures.

The long-range estimates prepared by OMB indicate that the enactment of our bill would result in cost savings beginning in the mid-1980's, which would be substantial in later years—rising to almost $2 billion by 1990. However, all estimates are based upon assumptions, and they are accurate only to the extent that the assumptions are valid. The data base used by each of these agencies—CBO, VA, and OMB—is known to be inadequate with respect to a most important aspect, that is, the data used to estimate the probable number of veterans and surviving spouses becoming eligible for pension, together with estimates of their probable income, in each future year. Therefore, all of the estimates are possibly higher than they would be if better information about the expected income of potential future pensioners could be compiled by the VA and the Bureau of the Census.

Also, these estimates do not include any offset to net governmental costs resulting from cost decreases in Federal welfare programs such as Supplementary Security Income or food stamps. Given the large number of pensioners receiving such assistance, there is no doubt that the net Federal cost savings resulting from enactment of the new pension program would be sizable.

RECENT DEVELOPMENTS

Mr. President, recently there have been two legislative developments which have substantial implications for our efforts to enact meaningful pension-reform legislation. The first of these, which I have already discussed, was the overwhelming adoption on November 3, 1977, by the Senate of amendment No. 1580 by the Senator from New Hampshire (Mr. McIntyre) to H.R. 9346, the Social Security Financing Act. Although I opposed that particular amendment because of the inappropriateness of amending a social security bill for this purpose and the inequities involved in the "passthrough" concept, and am pleased that it was dropped in the conference report we are adopting today, I wholeheartedly agree with the Senator from New Hampshire (Mr. McIntyre) that the present pension system—which results in many hundreds of thousands of pensioners receiving a reduction in pension due to social security cost-of-living increases, even though Congress enacts a cost-of-living adjustment in the pension rates—is not equitable. The bill we are introducing today solves the problem addressed by the Senator's amendment by ensuring that no person receiving benefits under the new security pension program would ever suffer a reduction in pension attributable to a social security cost-of-living increase.

Second, on November 30, 1977, Mr. Montgomery, the chairman of the Subcommittee on Compensation, Pension, and Insurance of the House Veterans' Affairs Committee, introduced H.R. 10173, the Pension Improvement Act of 1978. In many ways, this bill is similar in concept to the previous pension-reform measure of the 94th Congress, S. 2635, which was not acted on by the House, and to the bill we are introducing today. Mr. Montgomery's staff and our staff have had rather extensive discussions and exchanges of materials on this legislation over the past several months. I believe that none of the differences between H.R. 10173 and my bill are irreconcilable, and I congratulate Mr. Montgomery for his initiative.

DISCUSSION OF NEW SECURITY PENSION PROGRAM

NEW INCOME STANDARD APPROACH

Mr. President, under the current pension program, a maximum payment rate is set for veterans and surviving spouses who have no other income, and for persons who do have other income, that rate is reduced according to a rate-decrement-income limitation formula—one of great complexity and considerable inequity when applied to certain situations—to determine the amount of pension payable, based on their countable income.

The maximum payment under the current pension program, as increased by the 6.5-percent increase just enacted in Public Law 95-204, to be effective January 1, 1978, is $2,364, payable monthly, for a veteran who has no dependents and no other income—$1,596 for a surviving spouse. A veteran with one dependent and no other income cannot receive more than $2,544 annually, with $60 added annually for each of up to two additional dependents. Therefore, a veteran who has a spouse and two children, and does not have any other income receives the sum total of $222 per month for the support of himself and his family—$2,664 per year, far below the national minimum standard of need which was $3,930 for a two-person household in the most recent data published by the Department of Labor; and the pension amount is not increased regardless of how many more than two children the veteran has.

Mr. President, the existing law provides even less adequately for a surviving spouse. If she has no other income and has two children to support, she receives a maximum pension payment from the VA of $185 per month, or $2,220 per year.

Is it any wonder that many disabled or elderly wartime veterans, and their surviving spouses, are forced to turn to income-assistance and in-kind programs such as Supplementary Security Income and food stamps merely to survive?

The benefits payable to pensioners who do have other income are determined by the rate-decrement-income limitation formula that is literally so complicated that only a very few people understand how it works. When Congress enacts a cost-of-living increase applicable to the current pension program, the complexities of this formula are such that the actual percentage increase in the interim rates may be more or less than the percentage increase in the maximum rates and the annual income limitations. Moreover, use of this formula approach has meant that, especially in recent years, the aggregate incomes of pensioners who have outside income have not increased commensurately with increases in the Consumer Price Index, thus frustrating the obvious intent of the Congress in providing cost-of-living increases for them, especially in those situations when the pensioner's total income is composed of VA pension plus social security, both of which Congress intends to be increased according to the rise in the Consumer Price Index.

On the other hand, features such as the exclusion from income of 10 percent of all retirement income, the exclusion of all of a veteran's spouse's earned income, and the minimum pension provision have tended, singly or in combination, to permit the payment of pension dollars to persons whose outside income is well above the national minimum standard of need.

The new income standard approach changes this complicated and inequitable system to provide a simplified method of determining the amount of security pension payable, and to insure that no wartime veteran who is permanently and totally disabled from non-service-connected causes, or who is 65 or over, will be forced to live at poverty subsistence levels. The income standard is set above the poverty guidelines developed and published by the Department of Labor, and will assure that all eligible veterans and survivors receive a pension commensurate with their need.

Under the new income standard approach, persons who have no outside income would be entitled to receive the maximum amounts. For persons who do have other income, the pension income standard would be reduced dollar for dollar—except for certain exclusions—so that such persons would receive security pension as a supplement to their other income. In this way, the aggregate income for a veteran who has no outside income would be identical to that of a similarly-circumstanced veteran who does have some outside income.

The income standard for a veteran or surviving spouse who has one dependent would be substantially increased in our bill to be 1.29 times the basic standard, a ratio derived from the "poverty level guidelines" developed and published by the Department of Labor. This ratio in current pension law is 1.07 for veterans and 1.20 for surviving spouses. These ratios are far too low to account for the increased cost of supporting a two-person household.

Moreover, the income standard for each category would be increased by $660 for each additional dependent child. This amount is far more clearly related to the actual cost of supporting a dependent child than are the present levels, as increased by Public Law 95-204, effective January 1, 1978. Under the current pension program, a veteran who has no spouse is entitled to $168 per year, maximum, for the first child, $60 per year, maximum, for the second and third child, and nothing for any additional children. A surviving spouse is somewhat better off; one with no outside income receives $312, maximum, per year for each child, with no limitation on the number of children for whom additional pension is paid.

Mr. President, the Veterans' and Survivors' Income Security Act would substantially increase the income standards applicable to either a veteran or a surviving spouse who has one dependent, and who also has additional dependent children, by increasing the annual income standard by $660—$55 per month—for each additional dependent child, and the income standards for veterans who are in need of regular aid and attendance or housebound, so that the following would be the income standards applicable to persons in different categories:

Veteran with a spouse (counted as one dependent	$4,128
Veteran with a spouse and one child (counted as two dependents)	4,788
Veteran with no spouse and one child (counted as one dependent)	4,128
Veteran in need of aid and attendance with a spouse (counted as one dependent)	6,227
Veteran in need of aid and attendance with a spouse and one child (counted as two dependents)	6,887
Veteran in need of aid and attendance with no spouse and one child (counted as one dependent)	6,227
Veteran who is permanently housebound and who has a spouse (counted as one dependent)	4,904
Veteran permanently housebound who has a spouse and one child (counted as two dependents)	5,564
Veteran permanently housebound with no spouse and one child (counted as one dependent)	4,904
Add (for a veteran in any of the above categories) for each additional dependent child	660

The concept of an increased dependent's allowance is carried forward in the provisions applicable to surviving spouses.

TREATMENT OF OUTSIDE INCOME

Mr. President, a need-based income maintenance program, if carefully constructed, must take into account the other income available to the potential recipient. Although all veterans eligible for pension have, in my view, earned their right to a basic income standard through their wartime service, many veterans also have income available to them from savings, retirement plans, social security, or, in the case of some veterans, income of their dependents. Thus, in our Veterans' and Survivors' Income Security Act, all income available to the veteran or survivor is considered in determining the appropriate amount of security pension required to bring his or her aggregate income up to the income standard allowing only those exclusions which are consistent with a need-based system.

The security pension program, unlike the present program, contains few exclusions from annual income. The allowable exclusions generally represent extraordinary, non-recurring income, such as fire insurance policy proceeds, and one-time expenses, such as expenses for a last illness and burial.

Two of the exclusions, however, are different. The first of these allows for the exclusion of $780 of earned income plus one-half of any earned income over $780. This exclusion, in the case of a veteran or surviving spouse with one or more dependents, would apply to all of the earned income of the dependent members of the family group. This exclusion, by allowing a veteran or survivor, or their family, to have the benefit of the higher aggregate income resulting from the employment of one or more dependent members of the family, without being terminated from the security pension program, is intended primarily to benefit persons in two quite different situations.

The first situation is that of a catastrophically disabled veteran who has a spouse who works, and perhaps two or three children to support. The earned income exclusion will benefit this family by allowing the veteran to continue to receive security pension until the spouse's earnings reach the cutoff point, or break-even point. If the veteran with two children in this situation were in need of aid and attendance, the cutoff point would be reached when the spouse's earned income exceeded $15,873. For a fairly typical situation, assume that the spouse earns $9,000 per year. This family would be entitled to receive security pension at the annual rate of $3,437, so that their aggregate annual income would be $12,437. Thus, the earned income exclusion would provide a work incentive in such a situation since the family would be substantially better off than if the spouse did not work.

A second situation which comes readily to mind is that of the person 65 or over who has retired from full-time employment, but who has a part-time job or, perhaps, works for a few months each year. Assuming that such a veteran earns $1,500 a year, has a dependent spouse with no income, and receives retirement income of $3,000 per year, he would be entitled to receive security pension at the annual rate of $768, thus making the aggregate income of the couple $5,268. In this case, the veteran would have the satisfaction as well as the additional income that gainful employment provides.

A second exclusion has an entirely different premise, and is derived from the provision in the current pension program that permits the exclusion from annual income of amounts equal to such amounts paid out by a pensioner for unreimbursed medical expenditures as are deemed unusual. The VA has interpreted "unusual" unreimbursed medical expenditures as those in excess of 5 percent of the person's annual income.

This exclusion, designed to ameliorate the severe pressures which unusual unreimbursed medical expenses would impose upon veterans and survivors receiving pension, has been carried forward in our bill in another form, with the intention that it operate equitably for all veterans and survivors receiving security pension. Our new program would provide for the exclusion of an amount equal to the amount exceeding $100 of the veteran, surviving spouse, or surviving child's unreimbursed medical expenditures. For example, assume that an elderly veteran pensioner must spend—and is not reimbursed for—$500 in 1 year for medical care for himself and his family. The following year he would be entitled to an exclusion of $400 of his outside income, which would mean an increase in pension benefits.

Mr. President, the provision of a $100 "deductible" means that pensioners with different amounts of annual outside income will be treated more equitably. For example, with the present 5-percent exclusion, a veteran with $1,000 of annual outside income need only expend $50 for unreimbursed medical bills before benefiting from the exclusion in current law, whereas a veteran with $2,500 annual outside income must expend $125. With the $100 deductible, each begins to benefit from the exclusion at the same point.

However, in order to avoid subsidizing expenditures for treatment from non-VA sources when VA-operated facilities are reasonably available, my bill encourages veterans to use VA-operated facilities. Thus, if the veteran lives in an area where VA facilities are reasonably available, the VA would be directed to notify such a veteran, in any year following a year in which the exclusion has been allowed, that adequate services of the same kind are readily available to him or her at a VA facility. If the services continued to be available to the veteran, no exclusion would be permitted thereafter for expenditures incurred for such treatment more than 30 days after the VA had notified the veteran.

The provision for the exclusion of an amount equal to the amount of unreimbursed medical expenditures in excess of $100 is in accord with the principles of a need-based income maintenance system, and it is intended to be administered with a view toward assisting veterans, their survivors, and their families, to obtain adequate health care.

Mr. President, the exclusions to which I have referred would apply to veterans, surviving spouses, and surviving children, who would become entitled to security pension if there is no surviving spouse, or if the surviving spouse is ineligible by reason of income.

The treatment of income in my bill also differs from the current pension program in that the income of a veteran's dependents, for whom he or she is receiving increased security pension, which is reasonably available to the veteran, would be treated as the veteran's income for purposes of determining the amount of security pension. This differs from current law, which allows for the exclusion of all of a spouse's earned income, or $1,200, whichever is the greater, and does not treat as income to the veteran income received by a dependent child which is reasonably available to the veteran.

Similarly, in my bill, the income of a surviving spouse's dependents for whom the surviving spouse is receiving increased security pension, and which is reasonably available to the surviving spouse, would be treated as the income of the surviving spouse.

ANNUAL INCREASES IN INCOME STANDARDS

Mr. President, the Veterans' and Survivors' Income Security Act would provide for annual automatic increases in the income standards. The percentage increase would be the same as that adopted for social security benefits, supplementary security income benefits, and other Federal programs, which is based on the applicable rise in the Consumer Price Index, and would insure that the pension entitlement of persons covered under the new security pension program would not decline in value because of inflation.

NO REDUCTION DUE TO SOCIAL SECURITY INCREASES

Mr. President, I wish to turn now to a feature of the Income Security Act which I regard as absolutely crucial. Under the current pension program, it is possible for a person who is entitled to social security benefits and who is also entitled to receive pension payments to suffer a reduction in his or her pension benefits which is solely attributable to a cost-of-living increase in social security benefits. Since 1974, social security benefits have been automatically increased annually by a percentage derived from the applicable rise in the Consumer Price Index. This increase takes place annually in July. Because of a special rule found in section 3012(4) of title 38, the law relating to veterans' benefits, the increase in social security benefits is not "counted" as increased income to the pensioner until the end of the year. Therefore, such a person receives the full benefit of the July social security cost-of-living increase for 6 months, but in the following January, when his or her annual pension entitlement is redetermined, the person may well suffer an actual reduction in pension benefits, leaving the person less well off with respect to the actual value of his or her aggregate income. Congress has somewhat ameliorated the adverse impact of this system for most pensioners by enacting, in recent years, annual cost-of-living increases in pension rates. But because of the complex rate-decrement-income limitation formula used to determine a person's pension entitlement, the cruel effect of the Government's "giving with one hand and taking away with the other" cannot be fully eradicated, and many pensioners annually suffer actual reductions in their pension benefits as well as a decrease in the purchasing power of their incomes.

This problem would be resolved, for persons electing security pension, first, by automatically increasing the security pension income standards annually at the same time, and by the same percentage, as social security is increased, and, second, by requiring the VA to "count" the social security increase at that time. Thus no person could suffer a reduction in security pension attributable to a social security cost-of-living increase, and such a person's aggregate income—social security benefits plus security pension benefits—would rise annually in accordance with the percentage reflecting the increase in the Consumer Price Index.

Mr. President, the first annual automatic increase in security pension benefits would take place in July 1979; and our bill requires the new income standards to be published in the Federal Register at the same time as the new social security rates are published.

An example of how a person electing security pension would be benefited by these provisions is as follows. If the veteran pensioner is receiving monthly social security benefits of $225 per month in June 1979, and his security pension benefit is $42 per month, his aggregate monthly income is $267. Assuming that in July his social security benefit payment rises to $238, reflecting a 5.9-percent increase, at the same time, the annual security pension income standard would rise from $3,200 to $3,389 (by the same percentage). His security pension entitlement would be determined by subtracting $2,856—his new social security annual rate—from $3,389, and dividing the result by 12. His monthly security pension amount would now be $44, so that his monthly aggregate income would be $238 plus $44, or $282, an increase of the full 5.9 percent over his previous aggregate income—exactly the result which makes sound economic and public policy, and common sense, and which I believe the Congress wishes to occur.

NET WORTH DETERMINATIONS

Again, consistent with the principles of a need-based system, the Veterans' and Survivors' Income Security Act, as does current law, provides for the denial or discontinuance of security pension if it is determined that the veteran's net worth is such that it is reasonable for some portion thereof be used for the veteran's support. Under our bill, the net worth of a spouse or dependent child is also subject to such a determination, except that the Administrator is expressly directed to exclude from a child's net worth amounts reasonably set aside for the child's education or other vocational objectives. Similar net worth determinations—with a similar exclusion from a child's net worth—would be required for a surviving spouse or surviving child. Under current VA regulations, net worth determinations do not include the value of a recipient's home or reasonable personal effects. Nothing in our bill is intended to change this regulation.

SURVIVING SPOUSES

Mr. President, the provisions in the Veterans' and Survivors' Income Security Act relating to surviving spouses are substantially different from those in the current pension program. Although the basis requirements of eligibility relating to marriage are the same, the security pension program substantially increases to $2,144 the annual income pension payable to a surviving spouse who has no other income; and if such a surviving spouse has one dependent, the applicable standard would be $2,766, with $660—the same amount applicable to a veteran—for each additional dependent child.

If the surviving spouse, however, is permanently and totally disabled—using the same standard of disability that applies to a veteran—or is 65 or over, the annual income standard would be the same as that for a veteran, $3,200, and $4,128 if such a surviving spouse has one dependent child. In addition, the benefit rates for surviving spouses in need of regular aid and attendance are equalized. And if the surviving spouse has a child age 6 or under, or a helpless child of any age who became helpless before reaching the age of 18, the applicable annual income standard is the same as that for a veteran with one dependent, $4,128. In each situation, the annual income standard applicable to a surviving spouse who has more than one dependent child would be increased by $660 for each such child, the same dependent's allowance applicable to veterans. The annual income standards applicable to surviving spouses in various categories are thus as follows:

Permanently and totally disabled or age 65 or over surviving spouse, $3,200;

Permanently and totally disabled or age 65 or over surviving spouse with one dependent, or surviving spouse with child age 6 or under or helpless child, $4,128;

Permanently and totally disabled surviving spouse in need of regular aid and attendance, $5,299;

Permanently and totally disabled surviving spouse in need of regular aid and attendance, with one dependent, $6,227;

Other surviving spouse, $2,144;

Other surviving spouse with one dependent child, $2,766; and

Increase for each additional dependent child, $660.

As in the case of a veteran, the annual security pension rate would be reduced dollar for dollar by annual income, with such income subject to the same exclusions as are applicable to veterans; and pension eligibility would be subject to net worth determinations similar to those applicable to veterans.

By equalizing benefit rates for surviving spouses who are permanently and totally disabled or who are 65 or over, we address one of the harshest inequities of the current pension program; and by allowing a surviving spouse who has a helpless child, or a child 6 or under, to receive security pension at the same rates applicable to a veteran, we are recognizing the clear and powerful need of persons in these situations for income maintenance. It is consistent with the principles of a need-based system to treat similarly circumstanced persons similarly, as these provisions for equalizing benefit rates would do; and it honors the memory of the deceased veteran, on the basis of whose service the survivor is entitled, to provide an income standard for the needy survivor sufficiently above the national minimum standard of need to prevent the survivor from having to turn to social welfare programs merely to survive.

SURVIVING CHILDREN

Mr. President, the current pension program also provides separate pension entitlement for the surviving children of deceased wartime veterans in cases where there is no surviving spouse or the children are not in the custody of a surviving spouse. These are the so-called children alone—somewhat of a misnomer since these children are not "alone" in terms of adult supervision.

Under current law as amended by Public Law 95-204, effective January 1, 1978, the amount for each child will be $61 per month, or $732 per year, subject only to an annual income limitation of $3,080, which is determined by excluding all earned income of the child. If there is more than one such child, the applicable monthly amount is increased by only $26—$312 per year—for each child, and the total amount is divided in equal shares for each child. If, for example, there are three children, each would be entitled to receive $37.67 per month ($452 per year).

Mr. President, it is not consistent with the principles of a need-based system to penalize needy children because there happen to be more than one; nor is it consistent to allow the payment of pension dollars to persons not truly needy.

The bill which I am introducing today sets an annual income standard of $660 for each surviving child, reduced by the amount of the child's annual income and subject to the same exclusions as the income of veterans and surviving spouses, including the earned income exclusion—$780 plus one-half of all earned income over $780. This is both equitable and reasonable; and, although the income standard for one child is less than the benefit level for one child in the current pension program, the income standard is not reduced merely because there is more than one child. Moreover, the earned income exclusion would allow a surviving child to retain all of his or her earned income up to $780 per year. By increasing the amount which a second or third child could receive, we have established an income standard which bears a relationship to the cost of a child's support. In situations where there are two or more children, the amount payable for each "child alone" would be generally higher under the new program.

OPPORTUNITY TO ELECT SECURITY PENSION

Mr. President, the effective date of the Veterans' and Survivors' Income Security Act would be October 1, 1978. From that date forward, all persons applying for pension benefits would be covered under the new security pension program. Persons with applications pending on that date, and those receiving pension under current law or "old law", would be entitled to elect security pension if they so desire, but such an election would be irrevocable. No person currently receiving pension, however, would be forced into the new system if it were more advantageous to him or to her to remain under the current program. There is no question, Mr. President, that there are persons receiving pension under current law—or "old law" whose nonpension income would exceed the income standard, and for whom the new program would provide no advantage. These pensioners may continue to receive benefits under the current pension programs as long as they meet the eligibility requirements of those programs. The bill also provides the same options for any veteran, surviving spouse, or surviving child receiving pension based on service during the Spanish-American War—or an earlier period of war, in the case of certain survivors—that is, to elect, irrevocably, security pension if he or she finds it advantageous to do so, or to continue under the present programs.

Mr. President, except for the provisions I have just discussed, relating to the closing of the current pension program to new applicants and the opportunity of participants in the current program to elect to receive security pension, no provision of the bill we are introducing will in any way modify provisions of existing law with respect to pensioners under the current program.

INCOME AND NET WORTH REPORTING

Mr. President, consistent with the principles of a need-based income maintenance system, our bill would include a requirement that veterans and surviving spouses receiving security pension report to the VA annually on the income they received during the previous year, their estimated income for the following year, and their net worth, including a report on the income and net worth of any dependents for whom the person is receiving security pension. The bill also provides for such reports by surviving children.

However, our bill exempts from this annual reporting requirement pensioners without dependents whose entire nonpension income is derived from a Federal retirement program, such as social security or railroad retirement, and who have filed at least one such annual report.

In addition to the annual reporting requirements, prompt reports as to any changes in income or net worth are required, as in current law, as well as prompt reports on changes in the status of any dependents.

The rule found in section 3012(4), of title 38, relating to reductions and discontinuances in pension entitlement because of changes in income and net worth, would be amended by the bill, but only with respect to participants in the new security pension program. Under current law, such changes do not affect pension entitlement until the end of the calendar year in which the changes occur. Under the Veterans' and Survivors' Income Security Act, the effective date of a reduction or discontinuance of security pension by reason of a change in income would be the end of the month in which the change occurs.

ADMINISTRATIVE PROVISIONS

Mr. President, the administrative costs of the present pension program are considerable. Under current law, the minimum amount of pension payable is $5 per month; and, because of the rate-decrement-income limitation formula, more and more pensioners each year receive a monthly $5 pension payment. This provision costs more to administer than its value to the recipient. Our bill provides that persons participating in the security pension program whose annual benefit payment would be less than 4 percent of the annual income standard applicable to a veteran who has no dependents may be paid less frequently than monthly. In 1979, for example, this provision would affect any pensioner under the new program entitled to receive less than $128 per annum. It is not anticipated that this change will adversely affect any person who relies substantially on the pension program for income maintenance; but it is anticipated that it will reduce the overall cost of administration.

In addition, the definition of "pension" in section 101(15) would be slightly changed by our bill. Under current law, "pension" means, among other things, a monthly payment; our bill alters this so that "pension" would mean a periodic payment.

COMMENTS INVITED

Mr. President, I believe, and I think that the members of the committee agree, that this bill will provide the basis for much thoughtful interchange on the veterans' and survivors' pension program in the weeks ahead. I will welcome your comments and suggestions, and I hope you will share them with me, as we work together in this Congress to accomplish one of the Veterans' Affairs Committee's major goals.

HISTORY OF VETERANS' PENSION PROGRAM

Mr. President, Congress has compiled a most admirable record in providing for veterans' benefits and services. The historical development of veterans' pension programs illustrates that Congress has become increasingly sensitive to the plight of needy wartime veterans and their needy survivors.

Throughout America's 220-year history, wars have claimed the lives of many. Millions have rallied to the aid of their country during times of turmoil. Since the War of Independence, America has remembered these brave citizens who have risked their lives in defense of their country. Pensions to veterans and their survivors have been one expression of this Nation's gratitude and its sense of obligation.

Veterans whose bravery characterized the fight for independence were the objects of the Nation's first pension bill. In 1818, President Monroe, himself a veteran of the Revolutionary War, signed into law a measure providing benefits to needy veterans who had served 9 months or more during the Revolutionary War period.

The administrations of Presidents Jackson and Van Buren witnessed extended efforts on behalf of the Revolutionary War patriots. Widow pensions were authorized.

The War of 1812 did not spark the nationalist fervor produced by the Revolution. Mired in sectional conflict which inhibited the development of national pride, the Nation did not grant pensions to veterans of that conflict until the 1870's when, again, need plus wartime service determined entitlement.

The veterans of the Mexican War also waited for pensions. The sectional ills which plagued this country in the decades following the Mexican War prevented the passage of a comprehensive pension program. But upon a return to "normalcy" the Nation remembered; the 1870's evidenced a pension program instituted designed to help the destitute. And in 1890, Benjamin Harrison signed into law a measure which extended pension benefits to the needy veterans of the Civil War.

Mr. President, within 20 years following the Spanish-American War, veterans and surviving spouses were extended pension benefits. Though immersed in World War I, the Nation sought to express gratitude for their service to our country.

World War I resulted in pension measures within a decade. President Hoover recognized the Nation's obligation to the warriors of the trenches and signed into law a bill which provided pensions to veterans of the Great War. Again the determinative factor, after a showing of qualifying service, was need.

In the midst of the depression President Roosevelt requested and received measures which repealed pension legislation for Spanish American and World War I veterans. To replace these programs F.D.R. issued 41 Executive orders in the area of veterans' affairs. The New Deal established the mechanisms to relieve those needy veterans whose valiant services had protected this country in time of war.

World War II vets, their widows, and dependents were extended benefits as well. Later, Congress extended pension benefits to Korean war veterans and to needy non-service-connected disabled veterans of the Vietnam era. Thus, after each war, the Nation has remembered its obligation to veterans and dependents in need who have faithfuly served their country.

Mr. President, until 1959, the veterans' pension program employed an all-or-nothing determination of eligibility. Needless to say, this particular feature of the system resulted in drastic consequences to those whose allowable income increased above the determined eligibility limits. In 1959, the Congress extensively researched the pension system. This study revealed the continued need for a pension program. It was also apparent that the structure of that program had created inequities. As a result a revision was undertaken which produced the pension structure as we know it today.

In 1959, Mr. President, the Congress decided that the variations in the amounts of pension entitlement required graduation in amounts of pension entitlement. Believing that the pension should be responsive to the needs of those served, the Congress sought to take steps to correct the inequitable deficiencies inherent in the all-or-nothing pension structure. For example, the old system failed to correlate the number of dependents for whom a veteran was responsible with the amount of pension for which he was eligible.

To rectify the anomalies, Congress attempted to adjust the pension entitlement to correspond with the individual pension recipient's income. A three-tier structure replaced the one-level benefit. In this manner, it was hoped, cognizance could be given to the varying degrees of need characterizing individual recipients.

To protect those pensioners whose pension entitlement might be reduced by the new program, a grandfather clause permitted those on the rolls to continue their eligibility under old law subject, of course, to the requirements of that law.

Thus, enactment of Public Law 86–211 in 1959 gave credence to the philosophy that a pension ought to be reflective of the needs of individual recipients. The graduated levels of pension eligibility represented clear expressions of Congress' desire that need would be determinative of pension entitlement. As such, Public Law 86–211 was a major step toward the creation of a benefit program truly based upon need.

Mr. President, in 1964, faced with a prospective increase in social security benefits, Congress amended the revised pension law by authorizing an exclusion of 10 percent of all payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs in determining the "annual income" of the pensioner. Thus, in addition to a general rate increase, the 10-percent exclusion provided for in Public Law 88–664 generally assured that no individual pensioner would be adversely affected because of the contemplated social security increase. At the same time Congress also created another exclusion, and provided that a spouse's earned income would not be counted in determining a veteran's outside income and that a spouse's unearned income would only be counted in excess of $1,200.

In 1967, Congress provided an average overall cost-of-living pension increase of 5.4 percent in Public Law 90–77. The following year in 1968, in Public Law 90–275, Congress again increased pension rates and also provided for a $200 increase in the maximum annual income limitations to mitigate against prospective pension loss which would result because of the 13-percent increase in social security benefits that year. The same act also replaced the three-level system of pension rates with a multilevel increment system. Under the previous three-level system, a slight increase in outside income often could result in a disproportionate decrease in a veteran's pension. The enactment of a 20-plus increment system of $100 graduations was designed to permit a more orderly and gradual reduction in monthly benefits whenever there was an increase in outside income.

In 1970, in enacting Public Law 91–588, Congress again agreed to reduce projected adverse effects on pensioners because of that year's 15-percent increase in social security benefits. It raised the current maximum annual income limitations by $300 and increased most current law pensions through an increase in the rates.

Mr. President, under earlier pension laws, despite increasing refinements, the structure of the pension system was such that small increases in outside annual income could result in a sharp drop in pension or a person's being dropped from the pension rolls completely. The problem became particularly acute whenever there were increases in social security, other retirement benefits, or other countable income under the current pension program. Veterans complained that whatever social security increase Congress gave with one hand it took back in reduced pension with the other. More important, the reduction in a veteran's pension was often greater than the increase in social security benefits producing a loss of aggregate income for the veteran or his survivor. As the foregoing indicates, congressional response to the problems over the years has generally been to adjust pensions and increase the maximum annual income limitations which in effect has accomplished somewhat of a "pass along" of social security increases or other increases of like amount.

In 1971, in response to social security increases that year, Congress enacted Public Law 92–198 which not only increased the pension rates and the maximum annual income limitations but also adopted a new formula approach to the payment of pensions. Intended to prevent the net loss of aggregate income for any pensioner who continued to qualify for a pension and who received an increase in outside income, the formula specified a maximum monthly rate for each group within designated income categories. Under the formula, each individual's monthly benefit is computed by reducing the maximum rate by a specified number of cents for each dollar by which the maximum income level for that group is exceeded.

Because of 1972 social security increases, approximately 20,000 pensioners—consisting of 14,200 veterans and 5,800 survivors—were scheduled to be dropped from the pension rolls on January 1, 1973, the effective date of annual revision of entitlement to pension income. Concerned about the effect of social security amendments on pensioners the Committee on Veterans' Affairs held hearings on September 12, 1972, to consider legislation to ameliorate the adverse impact of social security increases on pensioners and to adjust for continuing inflation. Subsequently, the committee unanimously ordered reported S. 4006 which would have increased maximum annual income limitations by $400—the approximate amount of the average social security increase—and would have increased the base pension rates by about 8 percent.

The measure unanimously passed the Senate in the closing days of the sesssion on October 11, 1972, but the House was unable to consider pension legislation prior to sine die adjournment.

Mr. President, during the 93d Congress, the committee examined a number of approaches for adjusting the pension system. In testimony before the Subcommittee on Compensation and Pensions on June 18, 1973, representatives of the Veterans' Administration asserted that there were a number of "inconsistencies, inequities, and anomalies" in the present pension system. They advocated that there be a thorough examination and complete revision of the system which they asserted they believed could be developed quickly, but did not offer any formal draft of legislation to accomplish this.

Subsequent to the hearings on June 18, 1973, the Senate and House Committee staff members met with representatives of the administration in an attempt to reduce the suggestions of the testimony to a more concrete form. At the meeting, it was obvious that there was a serious lack of the pertinent data which Congress would need to make any rational determination of the shape of any proposed new pension system. In general, this information was not forthcoming during 1973, nor did the committee receive a formal draft proposal. Accordingly, while agreeing to investigate further the entire pension system, the committee concluded that action was needed on an immediate cost-of-living measure and introduced legislation (S. 275) to accomplish it.

S. 275 was ultimately enacted as Public Law 93-177 and provided for a 10-percent increase in the rates effective January 1, 1974.

In signing Public Law 93-177, on December 6, 1973, the President stated:

> While this bill is a step in the right direction, more can be done—and should be done. As I mentioned in my message to the Congress on national legislative goals on September 10, 1973, full reform of the Veterans' Administration pension program is necessary. The program is currently fraught with inconsistencies, inequities, and anomalies which cannot be corrected unless the entire framework of the program is restructured.
>
> This administration regards the following principles as vital to a realistic and equitable VA pension program:
>
> VA pensioners should have some regularized way of receiving cost-of-living adjustments in VA pension payments tied to automatic increases now available to social security recipients.
>
> The VA pension program should be restructured to assure that additional income flows to the neediest pensioners. This objective would involve raising VA payments to those pensioners who receive less total income than adult welfare recipients under recent amendments to the Social Security Act. In addition, a family's total income should be considered in determining the amount of pension needed.
>
> Veterans and widows should be treated equally with regard to income and pension payments.

In his message on veterans of January 28, 1974, the President repeated the foregoing and stated that he would propose legislation.

On March 15, 1974, the administration submitted a formal draft legislative proposal. The transmittal letter stated:

> The enclosed draft measure would (1) fill the gap between the resources available to a veteran and his dependents and a national minimum standard of need; (2) treat veterans and widows equally with regard to income and benefit amount; (3) eliminate the inequities arising from exclusions of income—consideration of family income as a whole; (4) contain an automatic cost-of-living adjustment working simultaneously with that applicable to social security and eliminate the lag in adjusting pension for increase in income; (5) provide benefits which guarantee a minimum income of $166 per month for a single person and $249 per month for a person with one dependent; and (6) provide a hold-harmless provision to permit present recipients of pension to continue receiving benefits under the present provisions of law with a 4-percent rate increase and thereafter, automatic cost-of-living increases.

Mr. President, on receipt of the administration's formal reauest, the committee intensified its efforts to obtain relevant information from the VA with which to assess the full impact of this proposal.

It soon became apparent that the VA lacked basic timely information in detail. Further, the Veterans' Adminstration lacked sufficient analytical staffing and did not have an advanced computer model necessary to make an adequate analysis of its own proposal, let alone the possible variations being considered by the committee. These inadequacies continued throughout 1973 and 1974. A series of six memoranda were exchanged with the VA. Each memorandum occasioned delays by the VA; some information was submitted months beyond the committee's requested deadlines. From information then currently available to the committee, it was apparent that the actual proposals made by the VA would be unduly restrictive and unacceptable in operation. Few of the veterans or surviving spouses in need of pension could qualify under the new system submitted by the Veterans' Administration.

For example, if the pension system proposed by the Nixon administration had been applied to the population of veterans and surviving spouses then receiving VA pensions, almost two-thirds would have been ineligible for receipt of pension under the new system. Parenthetically, Mr. President, it should be noted that under the proposal we submit today, exactly the opposite would very probably be true; approximately two-thirds would be eligible for security pension benefits. Accordingly, it was obvious then that variations had to be considered and additional information was necessary before the committee could proceed with any pension restructuring.

Meanwhile, given the uncertainties and the unanswered questions, the committee believed that it was necessary to proceed with an interim cost-of-living measure in order to protect VA pensioners from the continued toll of inflation.

Thus, Congress enacted S. 4040, the Veterans and Survivors Pension Adjustment Act of 1974 as Public Law 93-527. In addition to providing an average 12-percent increase in the rates of pension and a $400 increase in the maximum annual income limitations, Public Law 93-527 also directed the Administrator of Veterans' Affairs to carry out an original study of the needs and problems of veterans and their widows 72 years of age and older. The statute directed the study to include a profile of the current income characteristics of such veterans and their widows describing the proportion and amount of such income from all sources, and the average cost for all necessities such as rent, food, medical care, and other items. The study was also to evaluate the adequacy of the present expected mortality rates of such pensioners.

Mr. President, with each succeeding pension adjustment enacted into law and each study of the pension program, it was becoming increasingly clear that the entire pension system needs to be overhauled if it is to be fully responsive to the needs of our veterans and their survivors. The stopgap approach of responding to social security increases and tinkering with the pension rate decrement system actually just distorts the formula and further prevents it from working properly. Thus, our neediest pensioners are not receiving adequate benefits while at the same time in some cases, other pensioners are receiving pensions under questionable circumstances. Further, thousands of veterans and surviving spouses each year complain bitterly about pension reductions even following congressional action which increases rates and annual limitations.

Accordingly, staff activity was intensified at the beginning of the 94th Congress to obtain adequate relevant information from the Veterans' Administration in order to restructure the entire program.

Previously, on November 11, 1974, then Chairman Hartke sent a detailed letter to then Administrator Roudebush noting the many problems the committee had encountered in obtaining adequate accurate information, and relaying particular concern that an adequate computer simulation model be developed which could predict with greater assurance the operation and effect of various alternative pension reform proposals.

That letter noted problems in obtaining information on a timely basis and cited a study by the Congressional Research Service conducted at committee request concluding that the chief problems of the Veterans' Administration in responding to committee inquiries concerning pension restructuring were:

> Inadequate analytical staff in the Veterans' Administration devoted to VA pension reform effort (a potentially solvable problem).
>
> Inadequate data (only partly amenable to solution).
>
> Competing computer models, which are by themselves only partially capable of answering committee concerns.
>
> A tangled administrative structure which now seems incapable of resolving these problems and making timely responses to Committee inquiry.

In response, Mr. President, Administrator Roudebush indicated that he had directed that the Veterans' Administration proceed rapidly with the development of a more sophisticated computer simulation model capable of producing information long desired by the committee. In the interim, additional information for which an advanced computer simulation model was not necessary, was requested during the early part of this year. On April 1, 1975, the Administrator informed the committee that the long awaited new computer simulation model was operational. The committee then requested considerable information to be processed by the computer simulation model in a series of memos dated April 11, May 19, June 3, and June 25. Generally the bulk of the information requested was promptly supplied by the Veterans' Administration with the material requested in the last memo received by July 15, 1975.

On July 22, 1975, the Veterans' Administration transmitted its "Study of the Needs of Older Veterans and Widows," as required by section 8 of Public Law 93-527, which provided:

> The Administrator of Veterans' Affairs shall carry out an original study of the needs and problems of veterans and their widows seventy-two years of age or older. The study shall include (1) a profile of the current income characteristics of such veterans and their widows, describing the proportion and amount of such income from all sources and the average necessary for all necessities such as rent, food, medical care, and other items; (2) an evaluation of the adequacy of the present veterans pension system to meet the needs of such veterans and their widows; and (3) actuarial information concerning the present expected mortality rates of such veterans and their widows.

The law further directed that a report of the results be furnished the President and the Congress together with any recommendations for legislative or administrative action to improve the present program of pension benefits for such veterans and widows.

The required study was transmitted to the committee on July 22, 1975 and printed as Senate Committee Print No. 16, 94th Congress, 1st session.

Mr. President, graphic evidence that the current pension system is not fulfilling its objectives can be found in that study of the needs of older veterans and widows. The raw data produced by the study has been of great value to the committee. This data revealed, for example, that large numbers of veterans and widows had incomes below the poverty level; 30 percent of the veterans and nearly 37 percent of the widows interviewed reported they could not afford all the food they need; 25.1 percent of the veterans and 20.9 percent of the widows could not afford to pay for all the medical attention they need; and nearly 36 percent reported problems concerning adequate housing.

This study and the continued exposure of anomalies and inequities inherent in the present pension program combined to argue forcefully and persuasively for fundamental restructuring.

The committee then formulated S. 2635, introduced by then Chairman Hartke and cosponsored by most members of the committee. The Veterans' Administration, however, did not support S. 2635. It testified that the bill incorporated many of the concepts present in its draft proposal submitted the previous year, but it opposed the bill for the reason that the 8 percent cost-of-living increase in titles II and IV of the bill as reported exceeded the Ford administration's hold-the-line-at-5-percent policy. On December 15, 1975, S. 2635 passed the Senate unanimously; however, it was not acted upon by the House and died with the adjournment of the 94th Congress.

Since that time Congress has passed three rate adjustment measures: Public Law 94-169, providing for an 8-percent increase; Public Law 94-432, providing for a 7-percent increase; and Public Law 95-204, providing for a 6.5-percent increase. These rate increases were necessary to offset the decline in purchasing power attributable to inflation, but they did nothing in themselves to promote pension reform and they did not address the problem inherent in the rate-decrement-income limitation formula which results in hundreds of thousands of pensioners suffering reductions in pension each year.

Nevertheless, Mr. President, it should be acknowledged that the present pension program has not served us badly over the years. The difficulties experienced today are often the result of circumstances outside the initial basic design of the program itself. In large part, the present pension program has been a progressive one which has in the main aided those needy veterans and survivors for which it was designed. Increasing legislative refinements in recent years, as previously discussed, have mitigated many problems which developed or became apparent during the operation of the program. But when the current pension program was first enacted into law in 1959, it was impossible to gauge the very rapid increases in the Consumer Price Index and increases in social security payments which would occur in the succeeding years. These changes have distorted the basic formula system and together with various statutory income exclusions have produced today's very evident inequities.

The result is that today similarly circumstanced pensioners with identical outside incomes but from different sources can receive radically different pension benefits. And, although the number of cases is not excessive, the fact that veterans may receive pensions, even where their spouses have incomes in excess of $20,000 a year, strikes heavily at the principle of a need-based pension program and, at best, is an unwise allocation of available tax dollars under the pension program.

Continued tinkering with the current formula system with periodic enactment of pension adjustment laws has not resulted in proportional increases which accurately reflect the varying needs of veterans and surviving spouses. That is, larger increases have gone to less needy pensioners while the neediest have received smaller increases which continue to leave them substantially below acknowledged poverty levels.

These problems inherent in the current program intensify with continuing changes in the Consumer Price Index and resulting periodic rate adjustments. This in turn makes it increasingly difficult, if not impossible, to meet fully the objectives of an equitable need-based pension program by simply adjusting the current formula system.

CONCLUSION

Mr. President, there seems now to be a broad bipartisan consensus in the Congress that a major reform of the veterans' pension program is necessary. But we have not yet heard from the Carter administration. Their views will be forthcoming in the next 4 to 6 weeks with the submission of the President's budget for fiscal year 1979 and the convening of our February 3 hearing. I am very hopeful that we will receive an enlightened, equitable response from the administration and that Max Cleland, our fine Administrator of Veterans' Affairs, will be permitted to assume a critically needed role of leadership in our efforts to achieve the kind of fundamental, equitable pension reform in the 95th Congress which is represented by the bill we offer today.

I urge my colleagues and the administration to give this bill careful study with a view toward making any further improvements and passing this legislation early next year.

I want to assure my colleagues and all veterans that the committee and I are firmly committed to this course and will move forward prudently but with great determination. I am confident we will be successful.

In closing, I would like to express my gratitude to my fellow members of the Committee on Veterans' Affairs for their enormous patience and great cooperation during this session, and to the hardworking members of their staffs, especially Bobby Avary of the staff of the chairman of the Subcommittee on Compensation and Pension, the Senator from Georgia (Mr. Talmadge). The preparation of this legislation has required intensive work by committee staff over many months. I am deeply grateful to Mary Sears, who worked so tirelessly in preparing this legislation, Jon Steinberg, Ed Scott, Michael Burns, and Jack Wickes. I am also deeply grateful to Garner Shriver and Gary Crawford of the minority staff, who worked so very closely with us throughout this developmental process, Hugh Evans of the Office of Legislative Counsel, Nina Shepherd of CBO, Judith Selvidge of OMB, and John Mears, Charlie Peckarsky, John McCloskey of the VA, as well as the veterans' service organizations who provided very valuable assistance and counsel.

Committee on Veterans' Affairs,
Washington, D.C., August 25, 1977.
Hon. Max Cleland,
Administrator of Veterans' Affairs,
Veterans' Administration,
Washington, D.C.

Dear Max: On August 3, 1977, the Senate passed H.R. 7345, the Veterans and Survivors Pension Adjustment Act of 1977, to provide for an increase of approximately 6.5 percent in pension rates for needy non-service-connected disabled veterans and their survivors, and in the rates for surviving parents receiving dependency and indemnity compensation. Although the House has not yet had time to act on the Senate amendment to this bill, we expect prompt action after the recess.

The members of the Committee, at a meeting on July 15, 1977, expressed great interest in the pension study mandated by Public Law 94–432 now underway at the Veterans' Administration particularly in view of the Committee's continued concern with comprehensive structural reform of the pension program. I believe that the VA study will receive widespread attention and thorough analysis by the veterans' organizations and by the press, and I know it will be most helpful to the Congress (and to this Committee) as it considers the first comprehensive reform of the veterans' and survivors' pension program since 1959.

It would therefore be most helpful if you would provide the Committee with an appraisal of the VA's progress in making this study and whether it will be submited on or before October 1, 1977, the date specified in section 404(b) of Public Law 94–432.

With warm regards,
Cordially,
Alan Cranston, *Chairman.*

Veterans' Administration,
Washington, D.C., September 1, 1977.
Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This will acknowledge your letter of inquiry concerning the pension study mandated by Public Law 94–432.

Your inquiry is receiving attention by my staff and a response will be furnished as soon as possible.

Sincerely,
Max Cleland, *Administrator.*

Committee on Veterans' Affairs,
Washington, D.C., October 18, 1977.
Hon. Max Cleland,
Administrator of Veterans' Affairs,
Washington, D.C.

Dear Max: On August 25, 1977, I wrote to you expressing the interest of the Veterans' Affairs Committee in the pension study mandated by Public Law 94–432, which was to have been submitted to the Congress on or before October 1, 1977. At that time, I requested an appraisal of the VA's progress in completing the study and asked whether it would be submitted by October 1.

I have not as yet received any response to this letter other than an interim acknowledgement dated September 1, 1977.

As you know, the equitable restructuring of the pension program is a major priority of this Committee in the 95th Congress. In order to fulfill our commitment to this end, I regard it as essential to have the benefit of your findings and recommendations. In addition, the analysis and evaluation of existing and alternative pension programs, together with the data you have compiled during the year-long investigation, will be invaluable to the Committee as it pursues its objective of an equitable program.

In the light of our desire to work with the VA to achieve what I believe to be a common purpose, I hope you can understand my concern, and the concern of the other members of the Committee, that the study has not yet been submitted to the Congress. Therefore, I would be most appreciative if you would promptly advise me of the current status of the report and provide a firm date for its submission to the Congress. We have been advised informally that a month's delay would be necessary. I very much hope you will be able to provide assurance of our receipt of the report not later than November 1.

Please also advise the Committee of the firm date for submission of the equally overdue DIC study report, mandated by Public Law 94–433.

With warm regards,
Cordially.
Alan Cranston, *Chairman.*

Veterans' Administration,
Washington, D.C., November 2, 1977.
Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in response to your letter of October 18, 1977, concerning the current status of the pension study mandated by Public Law 94–432. I fully appreciate your concern in this matter, as well as that of the other members of the Committee.

As you know, we have been working diligently to complete the pension study, and the Executive branch coordination process. As soon as that is completed, we will, of course, transmit it immediately to the Congress. We anticipate that this will be accomplished within the next few weeks.

With respect to the dependency and indemnity compensation study mandated by Public Law 94–433, we are in the final stages of the coordination process and expect to transmit it to Congress shortly.

Sincerely,
Max Cleland, *Administrator.*

Committee on Veterans' Affairs,
Washington, D.C., December 7, 1977.
Mr. James T. McIntyre, Jr.,
Acting Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

Dear Jim: I regret having to bring to your attention the fact that the Office of Management and Budget is presently delaying submission to the Congressional Committees on Veterans' Affairs of three statutorily mandated reports beyond their due dates. These reports have been prepared by the Veterans' Administration and were submitted to OMB for clearance.

The delays being encountered in the OMB-clearance process are now seriously impairing the work of this Committee, including its budget planning responsibilities under the Congressional Budget Reform Act of 1974. It is essential that these reports be cleared and submitted to the Congress as rapidly as possible. The reports required by law are as follows:

1. Section 117(a) of Public Law 94–581, the "Veterans Omnibus Health Care Act of 1976", requires the Chief Medical Director of the VA's Department of Medicine and Surgery to accomplish and submit to the Congressional Committees on Veterans' Affairs, a report of a study "to determine the short-range and long-range direction of the [VA's] hospital and medical program . . . with reference to the increasing age of the eligible veteran population." This report was, by statute, due on October 21, 1977, and is of direct and important relevance to a hearing which the Committee will hold on January 11, 1978, on long-term care in the VA. We need to have that report and provide it to the witnesses well in advance of the hearing in order to get their comments on it.

2. Section 204 of Public Law 94–433, the "Veterans Disability Compensation and Survivors Benefits Act of 1976", directs the VA to carry out a thorough study of the dependency and indemnity compensation (DIC) program to measure and evaluate the adequacy of benefits and to determine whether such benefits should be based on the former military pay grade of the deceased veteran. The report on this study was due on October 1, 1977, and is now more than two months overdue. The Committee needs to review this report and make important policy judgments regarding the DIC program before making its fiscal year 1979 recommendations to the Budget Committee on March 15, 1978.

3. Section 404 of Public Law 94–432, the "Veterans and Survivors Pension Adjustment Act of 1976", requires a comprehensive study by the VA of the needs-based pension program, with a report thereof due on October 1, 1977. This report, also now more than two months overdue, is to include recommendations regarding alternatives to the present program. The recommendations as well as the underlying data supporting them are absolutely essential to the Committee as it works on one of its major priorities for the second session of this Congress—thorough going restructuring of the pension program. Hearings are planned on this important issue for February 3, 1978. The significance of this report to the work of the Committee cannot be overemphasized. The Committee has already encountered serious difficulties in receiving reasonable cost estimates from the Congressional Budget Office in part because data compiled by the VA in making this study are unavailable.

In addition, by letter dated June 20, 1977, I requested the official agency views of the VA on S. 1693, the "Veterans Health Care Amendments Act of 1977", and have yet to receive the agency's report on section 4 of that bill. That section would authorize the expansion and improvement of the VA's treatment and rehabilitation programs for alcohol and drug dependence of this Committee's Subcommittee on Health and Readjustment on that legislation, the VA's witness declined to comment on that section of the bill because it would provide new authority for the VA to enter into contractual relationships with non-VA facilities and programs in the community. Before taking a position on any matter relating to VA-community relationships, the VA wanted to review and respond to the National Academy of Sciences' study of the VA health-care system which had raised important issues regarding the relationship of VA facilities to community health-care programs. The VA submitted its response to the Academy's study on September 22, 1977. There should, therefore, be no reason for the Administration further to withhold or delay its report on this legislation. Although this provision passed the Senate as section 303 of H.R. 5027 on September 9, 1977, it is still very important that the VA's report be submitted.

Since January of this year, I feel that the Office of Management and Budget has generally played a constructive role—a role of assistance not only to the President but to the various agencies of the executive branch and the Congress as well. However, the current delays which OMB is causing with regard to the submission of the reports discussed above hark back to the practices of previous Administrations which reflected poorly on OMB and were extremely detrimental to cooperation between the executive and legislative branches and to the overall efficiency and effectiveness of the Federal government. I feel certain that you will not want this situation to be replicated by your Administration.

Therefore, I urge you to take immediate action to ensure that the Committee will receive these reports no later than December 16, 1977.

Sincerely,

ALAN CRANSTON, *Chairman*.

S. 2384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' and Survivors' Income Security Act".

TITLE I—SECURITY PENSION FOR VETERANS AND SURVIVORS

SEC. 101. (a) Chapter 15 of title 38, United States Code, is amended by—

(1) redesignating subchapter IV as subchapter V and by renumbering sections 560, 561, and 562 as sections 571, 572, and 573, respectively; and

(2) inserting after subchapter III the following new subchapter IV:

"Subchapter IV—Security Pension for Non-Service-Connected Disability or Death

"§ 561. Security pension for veterans of a period of war

"(a) The Administrator shall pay to each veteran of a period of war who meets the service requirements of this section, and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct, security pension at the rate prescribed by this section.

"(b) If the veteran is unmarried (or married but not living with or not reasonably contributing to the support of such veteran's spouse) and has no child to whose support the veteran is reasonably contributing, security pension shall be paid to the veteran monthly at the annual rate of $3,200, unless the veteran is entitled to security pension at the rate provided by paragraph (1) of subsection (d) or by subsection (e) of this section, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child to whose support the veteran is reasonably contributing, security pension shall be paid to the veteran monthly at the annual rate of $4,128, unless the veteran is entitled to security pension at the rate provided by paragraph (2) of subsection (d) or by subsection (e) of this section. If such a veteran has two or more such dependents, the rate shall be increased by $660 for each dependent in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to section 564(b)(1) of this title, the annual income of the veteran's spouse and dependent children to whose support the veteran is reasonably contributing.

"(d)(1) If the veteran is in need of regular aid and attendance, the security pension payable to the veteran under subsection (b) of this section shall be $5,299, reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the security pension payable to the veteran under subsection (c) of this section shall be $6,227. If the veteran has two or more dependents the annual security pension rate shall be increased by $660 for each such dependent in excess of one. The rate payable shall be reduced, subject to section 564(b)(1) of this title, by the amount of the annual income of the veteran's spouse, if the veteran is living with or reasonably contributing to the support of such spouse, and the annual income of any dependent child or children to whose support the veteran is reasonably contributing.

"(e) If the veteran has a disability rated as permanent and total, and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for the aid and attendance rate under subsection (d) of this section, the security pension payable to the veteran under subsection (b) of this section shall be $3,976, reduced by the amount of the veteran's annual income, and the security pension payable to the veteran under subsection (c) of this section shall be $4,904, plus allowances for additional dependents, reduced by the amount of the veteran's annual income and, subject to section 564(b)(1) of this title, the annual income of such dependents.

"(f) A veteran meets the service requirements of this section if such veteran served in the active military, naval, or air service—

"(1) for ninety days or more during a period of war;

"(2) during a period of war, and was discharged or released from such service for a service-connected disability;

"(3) for a period of ninety consecutive days or more and such period began or ended during a period of war; or

"(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.

"(g)(1) The Administrator shall provide that, for the purpose of determining whether or not a veteran is permanently and totally disabled, ratings for service-connected disabilities may be combined with ratings for non-service-connected disabilities.

"(2) Where a veteran, by virtue of this section, is found to be entitled to a security pension, and is entitled to compensation for a service-connected disability, the Administrator shall pay such veteran the greater benefit.

"(h) Notwithstanding subsections (b), (c), (d), and (e) of this section, benefits under this section may be paid less frequently than monthly where the amount of the annual benefit would be less than four percent of the maximum annual rate payable to a veteran under subsection (b) of this section.

"§ 562. Security pension for surviving spouses of veterans of a period of war

"(a) The Administrator shall pay to the surviving spouse of each veteran of a period of war who met the service requirements of section 561 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, security pension monthly at the annual rate prescribed by this section.

"(b)(1) If there is no child, or if no child is in the custody of the surviving spouse, security pension shall be paid to the surviving spouse monthly at the annual rate of $2,144, reduced by the amount of the surviving spouse's annual income.

"(2) If there is a surviving spouse and a child in the custody of the surviving spouse, security pension shall be paid to the surviving spouse monthly at the annual rate of $2,766. If the surviving spouse has two or more children in the surviving spouse's custody, the annual security pension rate shall be increased by $660 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to section 564(b)(2) of this title, the annual income of any child or children in the custody of the surviving spouse.

"(c)(1)(A) If there is no child, or if no child is in the custody of the surviving spouse, and the surviving spouse is permanently and totally disabled, security pension shall be paid to the surviving spouse monthly at the annual rate of $3,200, reduced by the amount of the surviving spouse's annual income.

"(B) If such surviving spouse has one or more children in the custody of the surviving spouse, security pension shall be paid to the surviving spouse monthly at the annual rate of $4,128, plus $660 for each child in excess of one, and reduced by the amount of the annual income of the surviving spouse and, subject to section 564(b)(2) of this title, the annual income of such child or children.

"(2) If there is a surviving spouse and the surviving spouse (A) has one or more children six years of age or under, in such surviving spouse's custody, or (B) has one or more children who, before attaining the age of eighteen years, became permanently incapable of self support and depends upon the surviving spouse for over one-half of such child's support, security pension shall be paid to the surviving spouse monthly at the annual rate of $4,128. If such surviving spouse has two or more children in such surviving spouse's custody, the annual security pension rate shall be increased by $660 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to section 564(b)(2) of this title, the annual income of any child or children in the custody of the surviving spouse.

"(d)(1) If a surviving spouse who is entitled to security pension under subsection (c)(1)(A) of this section is in need of regular aid and attendance, the annual rate of security pension payable monthly to the surviving spouse under such subsection shall be $5,299, reduced by the amount of the surviving spouse's annual income.

"(2) If a surviving spouse who is entitled to security pension under subsection (c)(1)(B) of this section is in need of regular aid and attendance, the annual rate of security pension payable monthly to the surviving spouse shall be $6,227. If such surviving spouse has two or more children in the custody of the surviving spouse, the annual security pension rate shall be increased by $660 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to section 564(b)(2) of this title, the annual income of any child or children in the custody of the surviving spouse.

"(e) No security pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—

"(1) before (A) March 4, 1917, in the case of a surviving spouse of an Indian War veteran, (B) January 1, 1938, in the case of a surviving spouse of a Spanish-American War veteran, (C) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, (D) January 1, 1957, in the case of a surviving spouse of a World War II veteran, (E) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, or (F) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran;

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(f) Notwithstanding subsections (b), (c), and (d) of this section, benefits under this section may be paid less frequently than monthly where the amount of the annual benefit would be less than the amount specified in section 561(h) of this title.

"(g) As used in this section and section 563 of this title, the term 'veteran' includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.

"§ 563. Security pension for surviving children of veterans of a period of war

"(a) The Administrator shall pay to each surviving child, not in the custody of a surviving spouse eligible for security pension under section 562 of this title, of each veteran of a period of war, who met the service requirements of section 561 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, monthly security pension at the annual rate of $660, reduced by the amount of each child's annual income.

"(b) Notwithstanding subsection (a) of this section, benefits under this section may be paid less frequently than monthly where the amount of the annual benefit would be less than the amount specified in section 561(h) of this title.

"§ 564. Determinations with respect to annual income; income exclusions

"(a) In determining annual income under this subchapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective or whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

"(1) payments under this chapter and chapters 11 and 13 (except section 412(a)) of this title;

"(2) donations from public or private relief or welfare organizations;

"(3) amounts equal to amounts paid by a spouse for the expenses of a veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

"(A) the veteran's just debts,

"(B) the expenses of the veteran's last illness, and

"(C) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(4) amounts equal to amounts paid—

"(A) by a veteran for the last illness and burial of the veteran's deceased spouse or child, or

"(B) by a spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such a veteran;

"(5) proceeds of fire insurance policies;

"(6) profit realized from the disposition of real or personal property other than in the course of a business;

"(7) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(8) $780 of all earned income not otherwise excluded by this section plus one-half of the amount of income which exceeds $780 of (A) the earned income of the veteran, the veteran's spouse and children, if any, for whom the veteran is receiving increased security pension under section 561 (c), (d), or (e) of this title, (B) the earned income of the surviving spouse and the surviving spouse's children, if any, for whom the surviving spouse is receiving increased security pension under such section 562 (b), (c), or (d) of this title, or (C) the earned income of a surviving child receiving security pension under section 563 of this title; and

"(9) amounts equal to amounts paid in the previous calendar year by the veteran, the veteran's spouse, the surviving spouse, or by or on behalf of the surviving child for unreimbursed medical expenditures which exceed $100, to the extent that the Administrator determines, under regulations which the Administrator shall prescribe, that such expenditures were reasonably necessary for the health needs of—

"(A) the veteran,

"(B) the veteran's spouse or children for whom the veteran receives increased security pension,

"(C) the surviving spouse,

"(D) the surviving spouse's children for whom the surviving spouse receives increased security pension, or

"(E) the surviving child or children;

but if the Administrator has determined that adequate services of the same kind as those for which an exclusion had been granted in a previous year were readily available at a facility operated by the Veterans' Administration, expenditures for such health-care services incurred more than 30 days after the Administrator has notified the veteran, surviving spouse, or surviving child, as appropriate, of the Administrator's determination shall not be taken into consideration in determining the amount excludable under this clause, if the Administrator further determines that such services continued to be available during the period in which such expenditures were incurred.

"(b) In determining annual income under this subchapter, (1) where a veteran is living with or reasonably contributing to the support of such veteran's spouse or children, the income of such spouse and children which is reasonably available to or for the veteran shall be considered as the income of the veteran, and (2) where a surviving spouse has custody of a child or children, the income of such child or children which is reasonably available to or for the surviving spouse shall be considered income of the spouse.

"(c) A veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

"(d) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar amount.

"§ 565. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of security pension under section 561 of this title when the corpus of the estate or estates of the veteran, the veteran's spouse, if any, and the veteran's child or children, if any, for whom the veteran is receiving increased security pension under subsection (c), (d), or (e) of section 561 of this title, is such that under all the circumstances, including the consideration of the veteran's income, it is reasonable that some part of the corpus of such estate or estates be consumed for the veteran's maintenance, excluding from the corpus of the estate of such child or children reasonable amounts set aside for educational or other similarly worthwhile vocational purposes.

"(b) The Administrator shall deny or discontinue payment of security pension under section 562 of this title to a surviving spouse when the corpus of the estate or estates of the surviving spouse and the surviving spouse's child or children, for whom the surviving spouse is receiving increased security pension under subsection (b), (c), or (d) of section 562 of this title, is such that under all the circumstances, including the consideration of the surviving spouse's income, it is reasonable that some part of the corpus of such estate or estates, excluding from the corpus of the estate of such child or children reasonable amounts set aside for educational or other similarly worthwhile vocational purposes, be consumed for the maintenance of the surviving spouse.

"(c) The Administrator shall deny or discontinue payment of security pension under section 563 of this title when the corpus of the estate of the surviving child is such that under all the circumstances, including the consideration of the child's income, it is reasonable that some part of the corpus, excluding reasonable amounts set aside for educational or other similarly worthwhile vocational purposes, be consumed for the maintenance of the surviving child.

"§ 566. Election of security pension benefits

"Any veteran eligible for pension under section 521 of this title, any surviving spouse eligible for pension under section 541 of this title, any child eligible for pension under section 542 of this title, and any veteran, surviving spouse, or child eligible for pension under section 9(b) of the Veterans' Pension Act of 1959 may elect at any time to receive security pension under this subchapter in lieu of pension payable to such veteran, surviving spouse, or child under such section. An election to receive security pension under this subchapter shall be irrevocable."

(b) The table of sections at the beginning of chapter 15 of such title is amended by striking out.

"Subchapter IV—Army, Navy, Air Force, and Coast Guard Medal of Honor Roll

"560. Medal of honor roll; persons eligible.
"561. Certificate.
"562. Special provisions relating to pension."

and inserting in lieu thereof

"Subchapter IV—Security Pension for Non-Service-Connected Disability or Death

"561. Security pension for veterans of a period of war.
"562. Security pension for surviving spouses of veterans of a period of war.
"563. Security pension for surviving children of veterans of a period of war.
"564. Determinations with respect to annual income; income exclusions.
"565. Net worth limitation.
"566. Election of security pension benefits.

"Subchapter V—Army, Navy, Air Force, and Coast Guard Medal of Honor Roll

"571. Medal of honor roll; persons eligible.
"572. Certificate.
"573. Special provisions relating to pension."

(c) Subsection (a) of section 503 is amended by striking out "In determining annual income under this chapter," and inserting in lieu thereof "In determining annual income under subchapters II and III of this chapter,".

(d) Section 504 is amended by striking out "and III" and inserting in lieu thereof a comma and "III, and IV".

(e) Section 506 is amended by—

(1) inserting after subsection (a) the following new subsection (b):

"(b) As a condition of granting or continuing a pension under section 561, 562, or 563 of this title, the Administrator—

"(1) may require from any person applying for, or in receipt of, a pension thereunder such information, proofs, or evidence as the Administrator desires in order to determine the annual income and the corpus of the estate of such person and of each spouse and child for whom the person is receiving or is to receive additional pension;

"(2) shall require that any such person, other than a person who has no such spouse or child and whose entire income is derived from a Federal retirement program, if such person has been paid pension under section 561 or 562 for a period of one year or more, file each year with the Veterans' Administration (on the form prescribed by the Administrator) a report showing the total income which such person (and any such spouse or child) received during the preceding year, the corpus of the estate of such person (and of any such spouse or child) at the end of that year, and such person's estimate for the then current year of the total income such person (and any such spouse or child) expects to receive and of any expected increase in the corpus of the estate of such person (and of any such spouse or child), "(3) shall require that any such person promptly file a revised report whenever there is a material change in the estimated annual income of such person (or of any such spouse or child) or a material change in such person's estimate of the corpus of the estate of such person (or of any such spouse or child); and

"(4) shall require that any such person promptly notify the Administrator of any change in the dependency status of any spouse or child on whose account such person is receiving additional pension."; and

(2) amending subsection (b) by striking out "or 542" and inserting "542, 561, 562, or 563" in lieu thereof and by redesignating such subsection (b) as subsection (c).

(f) Section 507 is amended by inserting "or IV" after "subchapter II".

(g)(1) Paragraph (1) of section 511(c) is amended by striking out "section 521" and inserting in lieu thereof "section 561" and by striking out "World War I." and inserting in lieu thereof "a period of war.".

(2) Subsection (c) of section 511 is further amended by inserting at the end thereof the following new paragraph:

"(3) Any veteran who was entitled, prior to the effective date of the security pension program provided for under section 561 of this title, and who elected, prior to such effective date and pursuant to paragraph (1) of this subsection, to receive pension under section 521 of this title may elect to receive security pension under section 561 of this title in lieu of pension under such section 521. Such an election shall be irrevocable.".

(h)(1) Subparagraph (A) of section 512(a)(3) is amended by striking out "521" and inserting in lieu thereof "561" and by striking out "World War I." and inserting in lieu thereof "a period of war.".

(2) Paragrapn (3) of section 512(a) is further amended by redesignating "(B)" as "(C)", and by inserting after subparagraph (A) the following new subparagraph:

"(B) Any veteran who was entitled, prior to the effective date of the security pension program provided for under section 561 of this title, and who elected, prior to such effective date and pursuant to paragraph (1) of this subsection, to receive pension under section 521 of this title may elect to receive security pension under section 561 of this title in lieu of pension under such section 521. Such an election shall be irrevocable.".

(i) Section 521 is amended by inserting at the end thereof the following new subsection:

"(i)(1) No veteran who makes application for and becomes entitled to pension on or after the effective date of the security pension program provided for under section 561 of this title may be paid pension under this section.

"(2) Any veteran who made application for pension under this section prior to such date may be paid pension under this section if (A) the Administrator determines, after such date, that such veteran is entitled on the basis of such application to a non-service-connected disability pension, and (B) such veteran elects to receive pension under this section in lieu of security pension under section 561 of this title.".

(j) Section 532 is amended by inserting at the end thereof the following new subsection:

"(e) Any surviving spouse eligible for pension under this section, shall, if such surviving spouse so elects, be paid pension at the rates prescribed by section 562 of this title, and under the conditions (other than the service requirements) applicable under that section to surviving spouses of veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(k) Section 533 is amended by inserting "(a)" before "Whenever" and inserting at the end thereof the following new subsection:

"(b) Any child eligible for pension under this section shall, if such child so elects, be paid pension at the rate prescribed by section 563 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to children of veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(l) Section 534 is amended by inserting at the end thereof the following new subsection:

"(d) Any surviving spouse eligible for pension under this section, shall, if such surviving spouse so elects, be paid pension at the rates prescribed by section 562 of this title, and under the conditions (other than the service requirements) applicable under that section to surviving spouses of veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(m) Section 535 is amended by inserting "(a)" before "Whenever" and inserting at the end thereof the following:

"(b) Any child eligible for pension under this section shall, if such child so elects, be paid pension at the rate prescribed by section 563 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to children of veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(n)(1) Paragraph (1) of subsection (d) of section 536 is amended by striking out "541" and inserting in lieu thereof "562" and by striking out "World War I." and inserting in lieu thereof "a period of war.".

(o) Section 537 is amended by inserting "(a)" before "Whenever" and inserting at the end thereof the following new subsection:

"(b) Any child eligible for pension under this section shall, if such child so elects, be paid pension at the rate prescribed by section 563 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to children of veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(p) Section 541 is amended by inserting at the end thereof the following new subsection:

"(g)(1) No surviving spouse who makes application for and becomes entitled to pension on or after the effective date of the security pension program provided for under section 562 of this title may be paid pension under this section.

"(2) Any surviving spouse who made application for pension under this section prior to such date may be paid pension under this section if (A) the Administrator determines, after such date, that such surviving spouse is entitled on the basis of such application to a pension, and (B) such surviving spouse elects to receive pension under this section in lieu of security pension under section 562 of this title.".

(q) Section 542 is amended by inserting at the end thereof the following new subsection:

"(d)(1) No surviving child not in the custody of a surviving spouse who makes application for and becomes entitled to pension on or after the effective date of the security pension program provided for under section 563 of this title may be paid pension under this section.

"(2) Any surviving child, not in the custody of a surviving spouse eligible for security pension under section 562 of this title, who made application for pension under this section prior to such date may be paid pension under this section if (A) the Administrator determines, after such date, that such surviving child is entitled on the basis of such application to a pension, and (B) such child elects to receive pension under this section in lieu of security pension under section 563 of this title.".

(r)(1) The first sentence of subsection (c) of section 571 (as redesignated by subsection (a)(1) of this section) is amended by striking out "562" and inserting in lieu thereof "573".

(2) The second sentence of subsection (a) of section 572 (as redesignated by subsection (a)(1) of this section) is amended by striking out "560" and inserting in lieu thereof "571".

(3) Subsection (b) of section 572 (as redesignated by subsection (a)(1) of this section) is amended by striking out "562" and inserting in lieu thereof "573".

(4) The first sentence of subsection (c) of section 572 (as redesignated by subsection (a)(1) of this section) is amended by striking out "562" and inserting in lieu thereof "573".

(5) Subsection (a) of section 573 (as redesignated by subsection (a)(1) of this section) is amended by striking out "561" and inserting in lieu thereof "572".

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Paragraph (15) of section 101 of title 38, United States Code, is amended by striking out "monthly" and inserting in lieu thereof "periodic".

Sec. 202. Clause (4) of subsection (b) of section 3012 of title 38, United States Code, is amended to read as follows:

"(4) by reason of change in income or corpus of estate shall be the last day of the calendar year in which the change occurred, except that such effective date shall be the last day of the month in which the change occurred for persons receiving payments under section 561, 562, or 563 of this title;".

Sec. 203. (a) Chapter 53 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates and income exclusions

"(a) Whenever in any calendar year after 1978 benefit amounts under title II of the Social Security Act are increased by a percentage effective with any month as a result of a determination made under section 215(i) of such Act, each of the dollar amounts in effect for such month for security pension benefits payable under sections 561, 562, and 563 of this title, and the dollar amount shown in subsection (a)(8) of section 564 of this title, as specified in such sections or subsections, or as previously increased under this section, shall be increased by the same percentage (and rounded in such manner as the Administrator deems appropriate), effective with respect to security pension benefits payable for months after such month; and such dollar amounts so increased shall be published in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act to be published therein by reason of such determination.

"(b) Notwithstanding the provisions of section 3012(b)(4) or any other provision of this title, whenever the rates of security pension payable under sections 561, 562, and 563 of this title are adjusted in accordance with subsection (a) of this section, the Administrator shall recompute the amount of annual security pension payable to each veteran, surviving spouse, and surviving child, who is also entitled to receive payments under any other Federal program, the rates of which are adjusted as a result of a determination made under section 215(i) of the Social Security Act. Any such recomputation shall be made on the basis of the annual rate of payments payable to a veteran, surviving spouse, or surviving child under such other Federal program, as increased by the determination made under section 215(i) of the Social Security Act; and the recomputed rates of security pension shall become effective beginning with the first month in which the increase in security pension and the increase in payments under such other Federal program are both effective.".

(b) The table of sections at the beginning of chapter 53 of such title is amended by inserting

"3112. Annual adjustment of certain benefit rates and income exclusions."

below

"3111. Prohibition of certain benefit payments.".

(c) Notwithstanding the provisions of section 3012(b)(4) of title 38, United States Code, or any other provision of such title, the Administrator shall compute the amount of annual security pension payable to each veteran, surviving spouse, and surviving child who is receiving pension on the effective date of this Act, and who elects to receive security pension under the amendments made by this Act, in any case in which such person is also entitled to receive payments under any other Federal program, the rates of which are adjusted as a result of a determination made under section 215(i) of the Social Security Act, by determining the annual rate of payments to such veteran, surviving spouse, or surviving child under such other Federal program as increased by the most recent determination made under section 215(i) of the Social Security Act, if such person elects security pension within six months of the effective date of this Act.

TITLE III—EFFECTIVE DATE

SEC. 301. The amendments made by this Act to title 38, United States Code, shall become effective on October 1, 1978.

By Mr. ROBERT C. BYRD (for Mr. HUMPHREY, for himself, Mr. LEAHY, Mr. CLARK, Mr. McGOVERN, Mr. PEARSON, Mr. MELCHER, Mr. YOUNG, Mr. CURTIS, Mr. BELLMON, Mr. DOMENICI, Mr. CHURCH, Mr. EASTLAND, Mr. MORGAN, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. BURDICK, and Mr. CULVER):

S. 2385. A bill to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities and to authorize nonmarket economy countries to participate in certain programs of the Commodity Credit Corporation; to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, jointly, by unanimous consent.

THE AGRICULTURAL TRADE EXPANSION ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I introduce a bill for the Senator from Minnesota (Mr. HUMPHREY), for himself and others, entitled "The Agricultural Trade Expansion Act of 1977." I ask unanimous consent that a statement by Mr. HUMPHREY, together with the bill, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

We are at a crossroads in our policymaking regarding the export of agricultural commodities.

We have the choice of being satisfied with our current levels of agricultural exports or deciding to push ahead to expand into new markets.

The bill I am introducing today, The Agricultural Trade Expansion Act of 1977, is designed to make this nation fully competitive in international markets with the principal grain exporting nations of the world: Canada, Australia, and Argentina.

Our trade deficit and its pressure on the dollar make it imperative that we move more aggressively into international marketing of our farm commodities instead of sitting back and remaining the residual supplier of the rest of the world.

We must press vigorously to eliminate every obstacle to expanded food trade.

The Agricultural Trade Expansion Act of 1977 would achieve two important objectives. The first would be to establish an intermediate credit program under the Commodity Credit Corporation. The second objective would be to lift existing restrictions on the ability of the CCC to extend participation of its programs to nonmarket economy countries.

This bill does not create a concessional or giveaway program. It is designed solely to maximize our farm exports on a commercial basis. As such, it should not cost the American taxpayer one cent.

The purpose of this first portion of the bill, the intermediate credit program, is to give our CCC the ability to offer credit terms of up to ten years. At the present time, the CCC is able to provide credit only for up to three years.

All available evidence indicates that Canada, Australia, and Argentina are able to provide credit in excess of three years. Because of this lack of capacity to offer more favorable terms, I believe that we are losing sales to our competitors.

We should recognize the fact that financing facilities have become an established and recognized part of international trade in farm commodities. Financing is important simply from the standpoint that it is desirable not to utilize all of one's capital investment at the outset. Countries want and expect financing terms as a part of a transaction. Our competitors are making inroads into our markets because we are not matching them.

By writing the intermediate credit provision into law, we will be bridging the gap that currently exists between the present CCC program and Title I of Public Law 480 ("Food for Peace"). The PL 480 program authorizes concessional credit over a period of 20 to 40 years as opposed to the CCC program of up to three years at commercial rates of interest

The second portion of this legislation would establish the eligibility of nonmarket economy countries to participate in CCC credit programs. I am taking this approach because I believe that these countries are where our significant market advances can be made in coming years. We must begin to export to these countries or we will lose these important markets to competing nations, thereby continuing our historic position as a residual supplier.

None of these nonmarket economies will be getting a free ride. And all of them will be required to meet stringent CCC tests for credit worthiness. If these rigid standards cannot be met, then credit simply would not be offered.

Let me make my position very clear. Trade in commodities is a world of its own that cannot be turned on and off because of changes in the political climate. In agricultural production, it is impossible to suddenly shut down the assembly line. And agricultural production in the United States is the envy of the world, accounting for the predominant dollar-value of our exports, while at the same time assuring adequate supplies for our own people. The exporting of farm commodities can and should be looked upon, not only as very good business, but also as a unique sector of trade that only benefits other people, thereby having a definite potential to improve our international relations. The United States only suffers a worsening of its trade balance when we put restrictions on sales of farm commodities to other nations which then turn around and buy elsewhere in the world.

The bottom line of this legislation is our desire to put our CCC at the same competitive level with our principal competition in the world food marketplace—Canada, Australia, and Argentina. While this bill will not immediately reverse the discouraging conditions facing our farmers, it will be a promising and significant step in the right direction.

I believe that there is wide support for this bill. I am pleased that Senators Leahy, Clark, McGovern, Melcher, Pearson, Hollings, Young, Curtis, Bellmon, Domenici, Morgan, Matsunaga. Church, Culver, Eastland, Burdick, have joined me in offering this legislation.

I ask that the text of the bill be printed in the RECORD.

The bill was ordered to be printed in the RECORD as follows:

S. 2385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Agricultural Trade Expansion Act of 1977."

SEC. 2. Section 4 of the Food for Peace Act of 1966 (80 Stat. 1538; 7 U.S.C. 1707a) is amended to read as follows:

"SEC. 4. (a) Commercial sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its Export Credit Sales Program.

"(b) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation. The provisions of Public Law 664, 83d Congress, as amended (68 Stat. 832, 46 U.S.C. 1241(b)), shall not apply to sales financed pursuant to this subsection.

"(c) There are hereby authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation annually for its actual costs incurred or to be incurred under programs undertaken under this section."

SEC. 3. Notwithstanding any other provision of law denying nonmarket economy countries eligibility to participate in programs of the Government of the United States, such countries shall be eligible to participate in any program carried out by the Commodity Credit Corporation (other than under the Agricultural Trade Development and Assistance Act of 1954) under which credit or credit guarantees or investment guarantees are extended, directly or indirectly.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill I introduced for Senator HUMPHREY relating to expanding agricultural trade be referred jointly to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. LONG:

S. 2386. A bill to amend the Shipping Act, 1916, as amended, to provide for the prompt and effective implementation of certain equal access, pooling, rationalization, apportionment, and related reciprocal ocean transportation agreements entered into between carriers of the flags of the United States and of the nations with which we trade and to provide immunity for such agreements from the application of the antitrust laws; to the Committee on Commerce, Science, and Transportation.

Mr. LONG. Mr. President, U.S. foreign ocean commerce presently faces, in the form of malpractices committed by certain carriers, a problem which is of a magnitude sufficient to see the demise of the participation of U.S.-flag vessels in our ocean foreign trades; this is an immediate and real threat which must be recognized and dealt with in a prompt and effective manner. This memorandum will attempt to outline, in brief terms, the nature of the problem and the solution offered by this bill.

I. MALPRACTICES

Malpractices, such as rebating, are matters which are peculiar to the foreign trades of the United States. This results from the fact that carriers in our trades, through regulation under the Shipping Act, 1916, are required by law to publish their tariffs and to adhere to the rates so published. In most non-U.S. trades, such regulation does not exist and carriers effectively are free to charge what the traffic will bear paying such commissions, rebates, or other allowances as may be appropriate or necessary to obtain the business. Under such a nonregulated system, carriers may negotiate individually and secretly with shippers in a manner entirely foreign to our concepts of common carriage.

The issue of malpractices, generally, is one which was recognized by the Alexander committee report which was a prelude to the enactment of the Shipping Act, 1916. The latter statute made unlawful certain defined types of deferred rebates and also required that all shippers or receivers, equally situated, be thereby precluding, in theory, the private deals which exist in some non-U.S. or foreign-to-foreign trades.

Competitive forces coupled with difficulty—actually, impossibility—in enforcing the concepts of our legislation have allowed rebating to remain a severe and destructive practice in some U.S. ocean trades. This was recognized by the report of the Celler committee in 1962 which outlined the variety of rebating practices which had been engaged in by many foreign-flag carriers in our export and import trade. The fact remains that despite all such disclosures, there has been no effective means devised to enforce—through regulation—the prohibitions against malpractices contained in our laws. However, in recent years, pooling and related agreements—most notable those in the United States/Latin American trades—have demonstrated their effectiveness in eliminating malpractices.

With the growth of containerization, our trades have seen extreme over-tonnaging with attendant growth of malpractices adopted to fill the surplus tonnage. The seriousness of the problem was pointed up by the September 10, 1976, press release issued by R. J. Reynolds Industries, Inc., in which Reynolds announced that—

> Its investigation had concluded that more than 19-million dollars in possibly illegal rebates had been paid by its shipping subsidiary, Sea-Land Service, Inc., to shippers, consignees and forwarding agents during the period 1961 through 1975.

Although Reynolds referred to the rebates as "possibly illegal," the fact of their apparent illegality is best demonstrated by the $4 million settlement of civil penalties effected between Sea-Land and the Federal Maritime Commission.

There have been similar disclosures of malpractices engaged in by other common carriers in our foreign ocean commerce. It is necessary, however, that we recognize the manner in which these incidents have been discovered in order that there will be no confusion as to the obvious futility in attempting to police such practices under the present law.

Disclosures of rebating practices have not resulted, in any significant instances, from policing, public or private, performed under the Shipping Act, 1916. On the contrary, the information apparently has come to light following special audits performed by U.S. corporations to tighten their corporate accounting procedures. These U.S. companies, under our laws, have found it necessary to report those audits to the SEC and other regulatory agencies, causing disclosure of rebates by U.S. shippers and receivers as well as by carriers such as Sea-Land.

Meanwhile, there is and will remain, in the absence of effective legislation, a "dark side of the moon" in which malpractices will continue without check or systematic discovery by our regulatory agencies; that is, non-U.S. companies—carriers, shippers, and receivers—are not subject to our SEC/auditing requirements and will be able to continue, unabated, such malpractices.

In this connection, it must be understood that either the shipper or receiver of the cargo may arrange, under the purchase contract, to retain control over the designation of the ocean carrier. Thus, where a product is sold by a U.S. manufacturer to a foreign consumer, the latter may negotiate, where it is to its advantage, to retain control over the selection of the ocean carrier. A foreign ocean carrier then can arrange to pay an undisclosed and unlawful rebate, abroad, to the foreign receiver to ensure that the cargo will move on the vessel of that carrier. The complete transaction will be such that the U.S. manufacturer will pay the ocean freight to the foreign carrier—whose use has been dictated by the receiver abroad—and that carrier, in turn, will rebate a portion of the freight to the receiver as compensation for having secured this cargo. The transaction need not produce a single piece of paper available in this country which would in any manner disclose the existence of the rebate. It would not be revealed to the U.S. manufacturer, nor to the U.S. agents for the foreign carrier, all elements being consummated abroad, completely safe from discovery by U.S. authorities.

Our present system is one which cannot enforce, effectively, the legal theories under which we attempt to regulate our foreign commerce; the obvious detriment to U.S. carriers and to U.S. shippers and receivers is apparent. It is essential that we undertake steps to remove this self-imposed discrimination against our own interests.

If a trade is over-tonnaged to the extent that 20 or 30 percent of the capacity of the carrier vessels is unoccupied, any individual carrier which is in a position to obtain substantially better utilization through selective malpractices, particularly rebates, will have a better financial result despite the fact that a portion of its cargo is carried at a net rate less than that filed in its tariff. A U.S. flag carrier subjected to FMC/SEC regulation, as Sea-Land Services discovered, will be required to be an "honest" carrier and will be denied an opportunity to compete for cargo moving through the rebating device. The simple fact is that the divergence between the regulation of companies based in the United States and those based abroad precludes our laws from being effectively and evenly enforced; there is no device under which this country is going to be able to obtain a substantially different result as a matter of pure law enforcement.

II. THE PROPOSED LEGISLATION

A. IN GENERAL

The proposed legislation seeks to validate pooling, equal access, and rationalization agreements. None of these are unlawful under the present Shipping Act, 1916, but the regulatory impediments which have been created under that statute have largely frustrated the ability of the carriers to utilize these devices to afford effective competition which will avoid the problems to which we have referred. Carriers which have been engaged in trades with countries whose national policy fosters the implementation of such agreements have been repeatedly faced with inability to obtain prompt approval of such agreements from the Federal Maritime Commission.

This need not be a reflection of a deficiency on the part of the Commission so much as the failure of the laws under which it operates to recognize the political and economic changes which have taken place in the world in the more than 60 years since the enactment of the Shipping Act, 1916, which have given rise to the development of the Communist Bloc nations, the downfall of the colonial empires and the concurrent rise of the Third World or developing countries.

This has been further complicated by the ever more introspective view which the Department of Justice has sought to take of the antitrust laws and their relationship to and impact upon our foreign ocean commerce. We would only point out, parenthetically, that the Department of Justice has never undertaken an effective prosecution of an antitrust violation by a foreign ocean carrier. These companies can merge, agree, and otherwise act with complete impunity while all activities of their U.S.-flag counterparts remain subject to Department of Justice scrutiny.

B. DETAILED ANALYSIS OF THE PROPOSED LEGISLATION

First. The opening and enabling paragraph: The legislation permits, without prior Federal Maritime Commission approval and subject to the conditions imposed, the establishment of cargo pooling, equal access, rationalization and/or apportionment agreements only where U.S.-flag carriers are participants receiving a share of the trade equivalent to that of the reciprocal nation.[1] Such agreements, involving national flag carriers, are entirely normal and commonplace in non-U.S. trades. The agreements would not be discriminatory as the concept would apply equally to all our trading partners, that is, United States-Soviet trade, United States-Brazil trade, and so forth. It is further provided that agreements falling within the categories described will be both lawful and free of any cloud created by our antitrust laws.

Second. Subparts (1) and (2) of the proposed legislation: The bill provides for freedom of entry and participation in the trades by U.S. flag, reciprocal flag and third flag carriers, either as independent carriers or as parties to the agreements.

Third. Concluding paragraphs of the proposed legislation: As has been indicated, the impediment to agreements of this nature has been the inability to obtain their prompt approval by the Federal Maritime Commission. Under the proposed bill, the agreements and any amendments will become effective within 30 days after filing with the Federal Maritime Commission and will remain lawful and effective until there has been a final determination that an agreement in some manner violates the statute.

The section continues by providing for very substantial civil penalties for violation of the statute. These penalties together with the damage and reparation provisions of the Shipping Act, 1916, are to be the exclusive penalties and/or remedies to which the parties are subjected for violation of the statute, to the exclusion of the antitrust laws.

III. THE SOLUTION OFFERED

Malpractices cannot be extinguished solely by any legislative device which this country would be prepared to enact on a unilateral basis. At the same time, if our carriers are given the freedom to deal with their counterparts in the nations with which we trade, the problem can be minimized, if not entirely eliminated. Thus, once carriers reach, by mutual, negotiated agreements, fixed prorations of trades, equal access to cargoes, scheduled participation in profits and/or rationalized limitations on services, the incentive to grant rebates largely disappears. It does not serve the interests of a carrier which, for example, may have a 40 percent right of participation in a trade to increase, through malpractices, such as rebates, its carryings to 50 percent where, in addition to the cost of the rebate, it will—under the pooling agreement—be required to pay a substantial part of the additional revenue—based on the full tariff rate without rebate—to the other participants in the pooling agreement.

This is simply a reflection of the nature of the rebate and the cause of the problem, that is an effort by a carrier to improve its competitive position and carryings through the granting of an unlawful secret discount to certain selected shippers or receivers.

At the same time, such agreements retain for the benefit of our commerce and the shippers and receivers in our trades, a healthy competitive stimulus to the carriers, through the net revenue residuals which are retained even by overcarriers in pooling agreements, to seek, within reasonable competitive limits to maximize their own carryings. Similarly, the service provisions and penalties for noncompliance which are essential parts of the agreements insure maintenance of efficient and regular service.

These desirable goals have been achieved in trades utilizing such agreements without undue increases in transportation costs. As Chairman Dashbach of the FMC recently noted, a communication from the Department of State to the Commission pointed out:

> The evidence does not support the apparent belief by the FMC that Latin American cargo reservation measures have been anti-competitive. The Department of Justice Study of the regulated Ocean Shipping Industry shows that from 1965 to 1975, ocean freight rates increased by 34 percent in the U.S./Brazil and Argentina trades, even though Brazil and Argentina implemented comprehensive cargo preference regimes during this period. This average rate increase of only 3.4 percent per year, during a period of both general inflation, and, particularly, of the price of bunker fuels, compares very favorably with the concurrent 14.9 percent average annual rate increase in the North Atlantic trades, where cargo preference does not exist.

IV. CONCLUSION

The proposed bill does not represent a substantial departure from the basic concepts of our laws, but only recognizes the legitimate interests of this country and of our trading partners in maintaining their merchant fleets, at least to the extent that they do not unduly inhibit the viability of those fleets through unrealistic regulation which prevents them from meeting the conditions which exist in current world trade. The bill, accordingly, serves to promote the goals established for the U.S. flag fleet by the Merchant Marine Act of 1936.

This proposed legislation is intended to provide an effective long term solution which will expressly empower the Federal Maritime Commission, as a matter of national maritime policy, to permit action by ocean carriers that will have the effect of limiting tonnage in a particular liner trade where necessary to insure competitive and economic stability. From the carriers' standpoint, this is becoming increasingly critical as the capital cost of bottoms and shore-side facilities continues to escalate at an exponential rate. Likewise, stability and predictability in the trades themselves will redound to the benefit of importers, exporters, and the consumer.

The Shipping Act, 1916, is a statute which has existed without needed improvements or revisions to meet changing conditions in the real world of international transportation. The present proposed bill is a step toward correcting a major omission which gravely affects our maritime industry.

By Mr. PELL:

S. 2387. A bill to extend for 1 year the authority of the Commissioner of Education to waive provisions of title I of the Elementary and Secondary Education Act for certain local educational agencies; to the Committee on Human Resources.

Mr. PELL. Mr. President, I am introducing today a bill which would give 13 school districts in the country, including that of my home town of Newport, R.I., the opportunity to administer for an additional year compensatory education programs funded under title I of the Elementary and Secondary Education Act in a manner different from that authorized by law.

Congress, in the Education Amendments of 1974, authorized the National Institute of Education to conduct demonstration programs in a limited number of school districts. It was our hope that such demonstrations would show improved ways of operating title I programs. Thirteen districts, including Newport, have participated in these demonstrations for the last 2 years. Their experiences, which were reported to the Subcommittee on Education, Arts, and Humanities by the National Institute of Education, will prove extremely valuable to the subcommittee, as it seeks to reauthorize the title I program.

This reauthorization process will not, however, be complete until some time next year. If the Congress does not act until the summer of 1978, and the Office of Education must then interpret any changes made to title I and issue regulations based on such changes, these 13 districts could be placed in a position of uncertainty and potential administrative and programmatic disruption.

The bill I am introducing today would allow these 13 districts to continue their demonstration projects through fiscal year 1979. This will give the Congress and the Office of Education sufficient time to act in passing and implementing a revised and extended title I. And it will prevent the possibility that these 13 districts might have to revert to the old law for fiscal year 1978, when it is possible that a new law might enable them to continue their innovative practices in 1979.

By introducing this legislation, I do not intend to predict the direction that title I legislation may take. We will have to continue studying the practices adopted by these demonstration districts very carefully, to determine which might be usefully made part of the basic law.

However, as that determination will take some time, I do not believe that these districts should suffer needlessly. The bill I introduce today will assure that this will not happen.

By Mr. ABOUREZK (for himself, Mr. HUMPHREY, Mr. KENNEDY, Mr. INOUYE, Mr. MATSUNAGA, Mr. HATFIELD, Mr. STEVENS, Mr. GRAVEL, and Mr. GOLDWATER):

S.J. Res. 102. A joint resolution relating to American Indian religious freedom; to the Select Committee on Indian Affairs.

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[1] Where U.S.-flag carriers are not such participants, a proposed agreement would remain subject to the requirement of prior approval by the Federal Maritime Commission.

AMERICAN INDIAN RELIGIOUS FREEDOM

Mr. ABOUREZK. Mr. President, I am today introducing a joint resolution with the cosponsorship of my colleagues Senators Humphrey, Kennedy, Inouye, Matsunaga, and Hatfield. This resolution will set forth a clear policy of religious freedom for traditional American Indians, Native Alaskans, and Native Hawaiians. Indian traditional and religious leaders, some of whom have come a long way to be here today, urgently requested us to present this action. My colleagues and I honor them, and urge you to support their basic right to religious belief and practice.

One of the most fundamental precepts in the founding of our country is the freedom of religion. Indians have an inherent right to the free exercise of their religion. That right is reaffirmed by the U.S. Constitution in the Bill of Rights, as well as by many State and tribal constitutions. The practice of traditional native Indian religions, outside the Judeo-Christian mainstream or in combination with it, is further upheld in the 1968 Indian Civil Rights Act.

LACK OF A POLICY HAS RESULTED IN CONTINUING INFRINGEMENT

However, in recent years, there have been increasing incidents of abrogation of the religious rights of American Indians. New barriers have been raised against the pursuit of their traditional culture, of which religion is an integral part.

It is clear that these incidents did not result from a Government policy to abridge the religious freedom of Indians. Rather, events were allowed to occur, because there was a lack of Government policy

Lack of knowledge, unawareness, insensitivity, and neglect are the keynotes of the Federal Government's interaction with traditional Indians' religions and cultures. This state of affairs is enhanced by the perception of many non-Indian officials that because Indian religious practices are different than their own, they somehow do not have the same status as a "real" religion.

Yet, the effect on the individual whose religious customs are violated or infringed is as intense as if he had been Protestant, Catholic, or Jewish.

HOW DID THIS INFRINGEMENT COME ABOUT?

It came about through the enforcement of policies and regulation based on laws which are basically sound and which the large majority of Indians strongly support. These laws often embody principles such as the preservation of wilderness areas and the preservation of endangered species for which Indians have actively fought, literally generations before the non-Indian became convinced of their importance.

But, because these laws were not intended to relate to religion and because there was a lack of awareness of their effect on religion, Congress inadvertantly neglected to fully consider the impact of such laws on the Indians' religious practices.

It is only within the last decade that it has become apparent that such laws, when combined with more restrictive regulations, insensitive enforcement procedures and administrative policy directives, in fact, have interfered severely with the culture and religion of American Indians. Federal law has interfered with the free exercise of native religions in three general areas.

LACK OF ACCESS TO SACRED SITES

The first is restrictions in space or where Indians are denied access to a physical location. There are certain sites, a hill, a lake, or a forest glade which are sacred to Indian religions. Ceremonies are often required to be performed in these spots. To deny access to them is analogous to preventing a non-Indian from entering his church or temple. Most of these sites not in Indian possession are owned by the Federal Government and a few are on State lands. Federal agencies such as the Forest Service, Park Service, Bureau of Land Management, and others have prevented Indians in certain cases form entering onto these lands. The issue is not ownership or protection of the lands involved. Rather, it is a straightforward question of access in order to worship and perform the necessary rites.

Further, there is the question of cemeteries which were in use at the time of Federal subjugation. In some instances, these lands were put under Federal supervision, because they were Indian cemeteries. Yet, today the same tribes cannot bury their religious and political leaders there. Surely, there is no overriding reason to deny Indians the right to inter their dead in sanctified ground. There is no reason why revised regulations and enforcement procedures could not allow access for religious purposes and still follow the intent of these laws.

RESTRICTION ON USE OF SACRED OBJECTS

The second major area of Federal violations is the restrictions of substances. To the Indians, these natural objects have religious significance, because they are sacred, they have power, they heal, they are necessary to the exercise of rites of the religion, they are necessary to the cultural integrity of the tribe and, therefore, religious survival or a combination of these reasons. To the Federal Government, these substances are restricted, because the non-Indian has made them scarce, as in endangered species, or because they pose a health threat to those who misuse them, as in peyote.

The Federal court system has shown that this apparent conflict can be overcome with the institution of well thought out exceptions. Although, acts of Congress prohibit the use of peyote as a hallucinogen, it is established Federal law that peyote is constitutionally protected when used by a bona fide religion as a sacrament. Yet, a lack of awareness or understanding of the law has led some Federal officials to confiscate sacramental substances. Things which have never been prescribed by law, such as pine leaves or sweet grass, have been confiscated by Federal officials who were suspicious that they were some form of drugs. Even worse, medicine bundles sealed by religious leaders and worn by Indians for health, protection, and purity are never to be opened by them or handled by others. Although containing only legal substances, these medicine bags or bundles have been opened by customs officials searching for drugs, thus making them unclean and valueless.

Another example of overzealous officials is the confiscation of turkey feathers and the feathers of other common birds which are legal for all Americans to possess, but which are taken with fear that they might be from some endangered bird.

Even the most ardent conservationist does not understand the necessity of preserving eagles and hawks as well and as deeply as a traditional Indian. Yet, prohibiting the possession and exchange by Indians of feathers on one's family for generations, or the use of feathers from a bird shot by non-Indian ranchers, or poisoned by non-Indian pesticides does not help preserve endangered species. It does prevent the exercise of American Indian religions. Although the enforcement problems create more difficult administrative issues and require more careful consideration of regulation changes in this area, it is possible, with work, to both uphold the intent of the laws and allow for religious freedom. It is anticipated that where necessary, tribal representatives will be able to institute self-enforcement procedures designed to insure that any exception to general regulatory laws surrounding access to sites, use of sacred objects, et cetera, will be confined to tribal members actually participating in the religious exercise or event.

INTERFERENCE IN RELIGIOUS EVENTS

The third and final area of concern is actual interference in religious events. In some instances, those who interfere have good motives or are merely curious. These instances include being present at ceremonies which require strict isolation. One case even extended to circling the ceremony in small aircrafts. Unlike the other areas, some of these incidents happen, because of Federal omissions, rather than actions. In areas where the Federal Government has a duty to act or is the only law enforcement at the site, they have failed to protect Indian religions from intrusions.

In other instances, it is the Government official who directly interferes. Historically, Indian ceremonies have been misunderstood. The Ghost Dance, a visionary nonactivist rite, was the provocation for massive bloodshed by the Army which believed it to be inciting violence. Even today, certain symbolic portions of the Sun Dance which deal with fertility and the cycle of life are banned. The prejudice involved officials' belief that it was "sinful" in Christian terms. Such misunderstanding is analogous to attributing the taking of communion to cannibalism.

This direct Federal interference in the religious ceremonies imposes upon one religion, by Government action, the values of another. Such action is a direct threat to the foundation of religious freedom in America. It comes far too close to an informal state religion.

HOW CAN WE RESOLVE THE PROBLEM?

America does not need to violate the religions of her native peoples. There is room for and great value in cultural and religious diversity. We would all be poorer if these American Indian religions disappeared from the face of the Earth.

Much can be done to prevent the destruction of Indian religions. For instance, several States have already taken supportive action. During the eagle feather crisis of 1974, many Oklahoma State officials issued statements of support. Montana went beyond rhetoric to pass a State resolution setting forth the policy of free exercise and protection for Indian religions. The State of California has enacted the Native American Historical, Cultural, and Sacred Sites Act of 1976 which takes giant strides in overcoming the problems of access. Unfortunately, to date, with the exception of sporadic efforts by a few individuals, the Federal Government's lack of policy has allowed infringements of religious rights to continue.

Incidents such as the recent bowhead whale controversy, where the State Department without consultation with the tribes made decisions on subsistence bowhead whale hunts upon which Eskimo lives, culture, and religion depend, have made it clear that this is a particularly good time to pursue this important effort to clarify the Federal policy. The Indian traditional and religious leaders rightfully regard a clear Federal policy as a crucial matter which must be resolved if the Indian culture and religion is to survive. The foundation for a coordinated and comprehensive implementation of this policy can be established quickly and the goals achieved with little difficulty once the commitment on the part of the Congress and the Administration has been demonstrated.

It is time for a clear statement from Congress and the President that America stands forthright on the question of religious freedom. It is time to examine laws, regulations, and enforcement procedures to insure that such a statement becomes a reality.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered the be printed in the RECORD, as follows:

S.J. RES. 102

Whereas the freedom of religion for all people is an inherent right, fundamental to the democratic structure of the United States and is guaranteed by the 1st Amendment of the United States Constitution;

Whereas the United States has traditionally rejected the concept of a government denying individuals the right to practice their religion and, as a result, has benefited from a rich variety of religious heritages in this country;

Whereas the religious practices of the American Indian (as well as Native Alaskan and Hawaiian) are an integral part of their culture, tradition and heritage, such practices forming the basis of Indian identity and value systems;

Whereas the traditional American Indian religions, as an integral part of Indian life, are indispensable and irreplaceable;

Whereas the lack of a clear, comprehensive and consistent federal policy has often resulted in the abridgement of religious freedom for traditional American Indians;

Whereas such religious infringements result from the lack of knowledge or the insensitive and inflexible enforcement of federal policies and regulations premised on a variety of laws;

Whereas such laws were designed for such worthwhile purposes as conservation and preservation of natural species and resource but were never intended to relate to Indian religious practices and, therefore, were passed without consideration of their affect on traditional American Indian religions;

Wheras such laws and policies often deny American Indians access to sacred sites required in their religions, including cemeteries;

Whereas such laws at times prohibit the use and possession of sacred objects necessary to the exercise of religious rites and ceremonies;

Whereas traditional American Indian ceremonies have been intruded upon, interfered with and in a few instances banned:

Now, therefore, be it resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express and exercise the traditional religions of the American Indian, Eskimo, Aleut and Native Hawaiian, included but not limited to access to sites, use and possession of sacred objects and the freedom to worship through ceremonials and traditional rites.

And be it further resolved, that the various federal Executive Agencies responsible for administering such laws are directed to evaluate their policies and procedures in order to determine appropriate changes which may be necessary to protect and preserve American Indian religious cultural rights and practices.

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Colorado (Mr. HASKELL) and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 123, a bill to amend the Social Security Act to provide for the payment of services by psychologists, and for other purposes.

S. 394

At the request of Mr. CULVER, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 394, the Bridge Replacement and Rehabilitation Act of 1977.

S. 1780

At the request of Mr. DOMENICI, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1780, the Elementary and Secondary Optional Consolidation and Reorganization Act.

S. 1860

At the request of Mr. ROTH, the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1860, the Tax Relief Act of 1977.

S. 1954

At the request of Mr. CURTIS, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1954, a bill to repeal the estate tax carryover basis provisions of the Tax Reform Act of 1976.

S. 2009

At the request of Mr. DOMENICI, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 2009, the home care services bill.

S. 2162

At the request of Mr. WALLOP, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 2162, the Jackson Hole scenic area bill.

S. 2193

At the request of Mr. ROBERT C. BYRD, for Mr. ANDERSON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2193, a bill to amend the Communications Act of 1934.

S. 2300

At the request of Mr. BAYH, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2300, the Civil Rights Commission Act of 1978.

S. 2309

At the request of Mr. STEVENS, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2309, a bill to amend title 38, United States Code, to provide that a member of a Reserve component of the Armed Forces shall not be denied certain employment, because of membership in such Reserve component.

SENATE JOINT RESOLUTION 101

At the request of Mr. DOMENICI, the Senator from Texas (Mr. BENTSEN), the Senator from North Carolina (Mr. HELMS), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Joint Resolution 101, a joint resolution to authorize the President to issue a proclamation designating a Memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year.

SENATE RESOLUTION 323

At the request of Mr. DOLE, the Senator from Indiana (Mr. LUGAR) and the Senator from Georgia (Mr. NUNN) were added as cosponsors of Senate Resolution 323, condemning the human rights violations in Communist Cambodia.

SENATE RESOLUTION 324

At the request of Mr. HOLLINGS, the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of Senate Resolution 324, relating to the reduction of customs duties on textile or apparel or fiber products.

SENATE RESOLUTION 326

At the request of Mr. KENNEDY, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of Senate Resolution 326, to amend the Standing Rules of the Senate to require that reported bills and amendments containing or extending tax expenditure provisions be referred to the Committee on Appropriations and the committees having legislative jurisdiction over the subject matters involved.

EXECUTIVE AMENDMENT NO. 9 (EX. 95–1)

At the request of Mr. HOLLINGS, as in executive session, the Senator from Minnesota (Mr. ANDERSON), the Senator from Georgia (Mr. NUNN), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of amendment No. 9 intended to be proposed to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Ex. 95–1).

SENATE RESOLUTION 339—ORIGINAL RESOLUTION REPORTED AUTHORIZING ALLOTMENT FOR CONSULTANTS FOR THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 339

Resolved, That Section 2 of S. Res. 157, first session, Ninety-fifth Congress, agreed to June 14th, 1977, is amended by striking "$3,900.00" and inserting in lieu thereof "$7,000.00."

SENATE CONCURRENT RESOLUTION 61—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO RURAL HEALTH CARE

(Referred to the Committee on Human Resources.)

Mr. HATHAWAY submitted the following concurrent resolution, which was referred to the Committee on Human Resources:

S. CON. RES. 61

Whereas the Notice of Proposed Rulemaking regarding National Guidelines for Health Planning filed by the Secretary of Health, Education and Welfare on September 23, 1977 (42 F.R. 48502–48505), has generated great public concern that the guidelines may impose unrealistic performance requirements upon small, rural hospitals;

Whereas many small, rural hospitals provide local communities with medical care of a kind and a quality that are not readily available at less accessible metropolitan hospitals; and

Whereas quality health care at a reasonable cost for populations in rural areas is a priority of the Federal Government: Now, therefore, be it

Resolved by the Senate (The House of Representatives concurring), That it is the sense of Congress that the national health planning guidelines should include sufficient flexibility to allow a health systems agency to recognize special characteristics in rural areas and, on the basis of those special characteristics, to establish a health systems plan that varies from the national guidelines, in order to provide necessary health care services to rural residents.

Mr. HATHAWAY. Mr. President, I wish to introduce a concurrent resolution to assure quality health care for populations located in rural areas.

This resolution was generated by the publication on September 23, 1977, of proposed national health planning guidelines by the Department of Health, Education, and Welfare pursuant to the National Health Planning and Resources Development Act. The act requires the Secretary to issue guidelines which include standards respecting the appropriate supply, distribution, and organization of health resources. The guidelines must also include a statement of national health planning goals consistent with statutory priorities. These goals must be expressed in quantitative terms to the maximum extent practicable. Local health plans must take into account and be consistent with the national guidelines.

When the proposed guidelines were issued in September, I was pleased to see that the current administration was committed to implement the national health planning law. The previous administration was sorely delinquent in this regard. Since the law mandated the issuance of final regulations by mid-1976, the publication of proposed guidelines by the current administration is clearly a step in the right direction.

I fully support the goal of the guidelines to reduce unnecessary health expenditures. I am concerned, however, that in its effort to achieve this goal, the Department failed to give adequate and realistic consideration to the needs of residents of rural areas. The proposed guidelines may well be detrimental to these very people whom the National Health Planning Act is intended to serve. In their current form, the guidelines would likely pose a severe hardship on sparsely populated rural areas, and would be potentially contrary to the statute on which they are based.

When Congress passed the Health Planning Act in 1974, we recognized the need for greater access to medical care for residents of underserved areas. Consequently, we gave statutory priority to programs for the provision of primary care services for medically underserved populations, especially those in rural or economically depressed areas. There are still severe shortages of medical services and health personnel in many rural areas. While national totals may indicate sufficient numbers of hospital beds, physicians, and the like, figures for rural areas clearly show a continuing inadequacy of health facilities and services. In Maine, for example, there are 70 communities which lack adequate coverage by physicians, according to Federal standards.

Many health professionals have already expressed grave concern that hospitals in small communities would be forced to close down if the proposed standards were mandated. I share this concern, and agree that the proposed guidelines are unrealistic for many communities. For example, the guidelines propose, among other things, less than 4 short-term hospital beds per 1,000 persons in a community; a bed occupancy rate of at least 80 percent for all short-term hospitals in a community; and at least 500 deliveries annually in any obstetrical unit in a community of less than 100,000 persons. These standards clearly do not reflect the reality of life in rural America.

The guidelines include stated exceptions intended to provide flexibility based on varying conditions in different areas. However, I do not believe that the attempt has been successful. In this regard, it is important to note that Secretary Califano has admitted the need for revision and expansion of the exceptions applicable to rural and community facilities.

Mr. President, the Congress has been attempting to insure access to quality medical care for all Americans. The most recent effort, of course, is the Rural Health Clinics Act, signed by President Carter on Tuesday, which will facilitate medicare and medicaid coverage for rural health clinic services. This legislation, which I cosponsored, represents a significant step forward in improving health care delivery in rural areas.

It would be very unfortunate, especially at this time, to reduce access to hospital care by rural Americans, by imposing guidelines which do not reflect the conditions and needs in rural America. It is essential that any national guidelines take into account the variances of need in different locales, rather than relying solely on national averages.

The concurrent resolution which I am introducing today recognizes these concerns and expresses the sense of Congress that the national health planning guidelines should include sufficient flexibility to accommodate the health care needs of rural Americans. I urge my colleagues to support this measure.

SENATE CONCURRENT RESOLUTION 62—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO A WORLD ALTERNATE ENERGY CONFERENCE

(Referred to the Committee on Foreign Relations.)

Mr. ROBERT C. BYRD, for Mr. HUMPHREY, submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 62

Whereas increased dependence on fossil fuels, particularly oil and natural gas, when existing supplies are rapidly being depleted, is costly to developed and developing countries both environmentally and economically;

Whereas the uncontrolled spread of nuclear power carries environmental risks due to waste pollution and the possibilities of accidents, or material diversion;

Whereas both developed and developing countries can benefit from research on and development of alternate sources of energy;

Whereas encouraging the use of alternate, nonconventional or renewable sources of energy, including solar energy, wind, biomass waste materials, and alcohol fuels, can alleviate some of the pressure placed on all countries to satisfy rising energy demands;

Whereas no international agency presently exists which assists countries to exchange information and technical assistance concerning energy-related problems, which disseminates information relating to alternate energy sources, or which promotes the use of alternate energy sources; and

Whereas such an agency could markedly assist developing countries to close their energy gap and increase their standards of living; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States should encourage the United Nations to hold a World Alternate Energy Conference in 1980 to consider ways to meet the world's energy needs through the development and use of alternate energy sources. The goal of the Conference should be the establishment, under the auspices of the United Nations, of an International Alternate Energy Commission, comparable to the International Atomic Energy Agency, which would encoruage the worldwide use of alternate energy sources by assisting in the dissemination of information and by other appropriate means.

Mr. ROBERT C. BYRD. Mr. President, I submit for Mr. HUMPHREY a concurrent resolution relating to a World Alternate Energy Conference. I ask unanimous consent that Mr. HUMPHREY'*s* statement on the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

I join my good friend, Congressman Jeffords, in offering a Concurrent Resolution calling on the United Nations to focus resources on the use of solar and alternate energy. Congress has spoken clearly and forcefully during the past three years regarding the need for an aggressive program to utilize solar energy domestically. The President's energy program reflects that new priority, I believe, in calling for the demonstration and use of both solar thermal and solar electric systems on numerous Federal structures.

But, the energy crunch we face here is not unique. Rising energy prices and looming shortages are worldwide phenomena. At the same time, we and our neighbors have discovered that there are no easy answers to the coming energy supply shortfall. All conventional fossil energy forms have unattractive features—they are either in short supply, expensive or environmentally disruptive. The exception is solar and other so-called alternate energy systems.

The United States is ahead of much of the world in seeking to explore and exploit these alternate systems. And, we will benefit from that lead in the future. Yet, we have an obligation, as well, to ensure that the fruits of solar and alternate energy systems are made available across the world. This is not the time for smugness or insularity.

For that reason, I've joined Congressman Jeffords in offering this Resolution. It specifically calls upon the United Nations to convene a World Alternate Energy Conference in 1980. The Conference would be designed to explore alternate energy options—to assess how quickly and in what quantities those energy forms could supplement and substitute for conventional energy forms.

In addition, the Conference would be designed to establish an International Alternate Energy Commission—an entity solely committed to the promotion of these energy systems worldwide.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business has scheduled a hearing for Thursday, January 5, 1978, on the administration of the Interstate Land Sales Registration, and its impact on small intrastate land developers. The hearing will take place at 10 a.m. in room 424, Russell Office Building.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY

Mr. NELSON. Mr. President, the Subcommittte on Antitrust and Monopoly of the Senate Small Business Committee will hold hearings on December 19, 20, and 21, 1977 on Government patent policy.

The hearings on December 19 and 21 will be in 1318 Dirksen Senate Office Building and on December 20 in 6202 Dirksen Senate Office Building at 10 a.m. each day. A list of witnesses is available from the office of the committee.

CANCELLATION OF HEARING

Mr. NELSON. Mr. President, I wish to announce that the hearing of the Select Committee on Small Business, scheduled for January 9, 1978 in St. Paul, Minn. on the problems of small business of the upper Midwest has been canceled.

S. 242—CLASS I EQUIVALENCY AND S. 1812—FAMILY FARM ACT

Mr. METCALF. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Public Lands and Resources Subcommittee of the Senate Committee on Energy and Natural Resources.

The hearing is scheduled for January 30, 1978, in room 3110 of the Dirksen Senate Office Building commencing at 10 a.m. Testimony is invited regarding two measures before the subcommittee. The first bill, S. 242, would provide for consideration of the comparative productive potential of irrigable lands in determining nonexcess acreages under Federal reclamation laws. The second measure is S. 1812, a bill to supplement and clarify the Federal reclamation laws, to promote the settlement of family farmers in Federal irrigation projects, to provide for acreage equivalency between class I lands and lands of lesser productive capability, and for other purposes.

For further information regarding the hearings you may wish to communicate with Mr. Russell Brown of the subcommittee staff on extension 224–2366 Those wishing to testify or who wish to submit a written statement for the record, should write to the Public Lands and Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington. D.C. 20510.

ADDITIONAL STATEMENTS

TRIBUTE TO SENATOR McCLELLAN

Mr. INOUYE. Mr. President, on November 28 the Senate lost a most respected Member. Senator McClellan was a great and distinguished legislator whose integrity, wisdom and dedication will be sorely missed.

His tireless efforts to bring public and private misconduct to light are legendary. As chairman of the Senate's Permanent Subcommittee on Investigations he broke all Senate records in the number of investigations he spearheaded, hearings he held and witnesses he heard.

Before coming to the Senate, I, like millions of my fellow citizens, knew and admired the public side of Senator McClellan through his well-publicized probes into labor union corruption. But I later had the distinct pleasure of serving under his chairmanship on the Senate Appropriations Committee and seeing other aspects of his character.

He was a man of spartan habits, often described as aloof and known to few on an intimate basis. But one could not help but be impressed by his fairness, diligence, and the high standards of personal integrity and conduct he established for himself and expected of others. And on occasion there would be a break in his stern exterior and a surprising ray of light would shine through, giving a glimmer of the depth of his passions. It is said, for example, that he would break into tears at the suggestion that he might use his political position for personal gain. Certainly for a man so dedicated to his work and to public service, such an accusation more than any other must have cut to the heart.

It was a privilege to serve in the U.S. Senate with Senator McClellan and I mourn his passing. But I am confident that his high devotion to public service will live on in these distinguished legislative halls and will continue to provide guidance and inspiration for all of us.

LEGISLATION WITHOUT RECOMMENDATION

Mr. THURMOND. Mr. President, as a member of the Antitrust and Monopoly Subcommittee of the Committee on the Judiciary, I would like to register my deep concern about S. 1874, the Illinois Brick legislation recently reported out by the subcommittee.

This legislation would reverse Illinois Brick, decided on June 9, 1977. In this 6 to 3 decision, the U.S. Supreme Court decided that offensive use of passing on a price fixer's overcharge would be limited to direct purchasers. The direct purchaser could sue, but indirect purchasers, with some exceptions, could not sue. Some years ago in 1968, the same Court in Hanover Shoe ruled out defensive pass-on as a defense to the price fixer. In that case the Court did not permit the price fixer to defend on the basis that the plaintiff had passed on the price-fixing overcharge to indirect purchasers in the distribution chain. The proposed legislation would also reverse Hanover Shoe.

On occasion we find the cure to be worse than the illness. The bill now before the full Committee was reported without recommendation. This unusual action concedes that the cure in its present form is at least inadequate. The problems facing the full committee are perhaps not insolvable, but they are deceptively tough. I am well aware that the subject matter of Illinois Brick and Hanover Shoe cases is highly complex and difficult. This conceded level of difficulty serves as a warning to require us to move very carefully. The logic escapes me of moving quickly with quick fix legislation. Such a course may well lead us to create more problems than we solve. Also, such a philosophy would set a bad precedent, for I believe it will ultimately, in this and other cases, lead to drafting the final bill on the floor of the Senate.

The Illinois Brick decision is a highly complex one. The bill before the committee presents even more of a dilemma. Illinois Brick poses two problems. They are easy to identify, but hard to solve. These two problems are the risk of duplicative damages and the impossible complexities of apportioning damages throughout an entire chain of distribution. As I read Illinois Brick, the Supreme Court is saying that introducing these uncertainties and complexities into cases will weaken rather than strengthen antitrust enforcement. It seems to me that anyone who would overturn this decision has the heavy burden of either solving these two problems, or proving that they do not exist. To overturn Hanover Shoe at the same time certainly raises the added question of what further effect will such a move have on enforcement of our antitrust laws.

The committee must address these problems. As Judge Harold Tyler—a distinguished former Federal judge—observed on October 6, 1977, quite bluntly, before the Subcommittee on Monopolies and Commercial Law, House of Representatives:

> It seems important to note that none of the existing drafts [including the current draft of S. 1874] available to me purport to address the problems [of duplication and complexity] which the Supreme Court quite carefully and precisely indicated that it has with the existing law.

Judge Joiner, U.S. district judge, Detroit, Mich., made similar comments before our subcommittee. Professor Areeda of the Harvard Law School in testifying before the subcommittee of the House of Representatives also said much the same thing.

The subcommittee chairman has stated that "substantial improvement" was made in the original bill. This so-called improvement, however, relates to the whole new set of problems that are raised by the bill regarding the law of standing. They are in addition to the problems identified by the Supreme Court. Even this limited "improvement," however, is hardly sufficient to solve new problems of the subcommittee's own creation. As Judge Tyler noted, even the revised draft suggests "a serious problem having to do with the law of standing to sue under section 4."

It would be premature to state that these problems can never be solved. I intend to devote whatever time it takes in trying to find a solution. However, the full committee should be on notice that it has its work cut out for it, and that any solutions will require great study, work, and assistance. We must seek the counsel of the experts who appeared before the subcommittee and others such as Judge Taylor and Professor Areeda who have never appeared before our subcommittee on this legislation.

Mr. President, I ask unanimous consent that the statement of Prof. Phillip Areeda before the House Judiciary Committee on September 16, 1977, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF PHILLIP AREEDA

For the record, my name is Phillip Areeda. I am a Professor of Law at Harvard University, where I specialize in antitrust law. I have written *Antitrust Analysis* (2d ed. 1974) and will publish in January, 1978, with a coauthor, the first several volumes of *Antitrust Law*, a treatise on that subject.

I have been invited by your staff to testify about the Supreme Court's decision earlier this year in the case of *Illinois Brick Co.* v. *Illinois* (and the earlier case of *Hanover Shoe Co.* v. *United Shoe Mach. Corp.*, from which it is derived) and about the proposed corrective legislation H.R. 8359. I can summarize my views with four very short points.

I.

First, *Illinois Brick* and *Hanover Shoe* create the unsatisfactory result of (A) denying any recovery to many truly injured persons, while (B) granting the exclusive right to sue the middlemen who, in many cases, will either (i) sue and obtain windfall gains or (ii) not sue and thereby allow some defendants to retain the evil fruits of their antitrust violations. Because I consider these results unfortunate, I believe that corrective legislation should be considered. Whether any particular legislative proposal should be enacted is a different matter.

II.

Second, H.R. 8359 has great capacity for mischief. It would allow recoveries by anyone "injured in fact, either directly or indirectly." That language could do far more than overrule *Illinois Brick*. It also will certainly generate extensive litigation about the standing of shareholders suing those who injure their corporations, landlords or licensors suing those who injure their tenants or licensees, patients suing those who injure their hospitals, franchisors suing those who injure their franchisees, and suppliers suing those who injure their customers. Such plaintiffs are now, in the main, correctly denied standing. The Bill appears to alter those results by allowing standing to those injured indirectly and stressing the existence of injury in fact, no matter how remote and no matter how better situated to sue is a more proximately injured person.

To be sure, anyone thus granted standing must still prove his damages, but the shareholder can, after all, translate any specified injury to the corporation into an injury "per share" and thus readily calculate his harm. There remain, however, good reasons why he should not be allowed to sue the person who injured the corporation.

There are some arguments for allowing some such plaintiffs to sue in some circumstances, but certainly not without careful consideration. H.R. 8359 thoughtlessly upsets the law dealing with such plaintiffs.

(Furthermore, legislation expressed in terms of negating indirectness as a grounds for denying recovery could be unsettling in the same way.)

III.

Third, H.R. 8359, and some other proposals as well, do not necessarily accomplish their objective of overruling *Illinois Brick*. To say that those indirectly injured may sue (or to say that recovery should not be denied for the reason that the plaintiff did not deal directly with the defendant) does not address the rationale of the *Illinois Brick* decision and therefore would not guarantee a different result. The Supreme Court did not deny standing to the *Illinois Brick* plaintiffs *because* they were indirect purchasers. The Court rested not on indirectness but on the difficulties of tracing damages and of avoiding duplicate recoveries. The proposed legislation does not reject those grounds for denying a recovery. Thus, the proposed legislation may be so narrow as not to accomplish its purpose while so broad as to cause mischief.

(I recognize of course, that the courts would try to understand and to implement what they take to be the Congressional will, no matter how badly expressed. But this failure of the various Bills to address the problems troubling the courts is my final point.)

IV.

Fourth, the proposals now being considered do not give the Supreme Court the help that it said that it needed. The Court was by no means happy with its *Hanover* and *Illinois Brick* results, but felt driven there by the difficulties of tracing damages down-the-line in the distribution chain and by the grave dangers of duplicate recoveries (each trebled). To escape those difficulties, it adopted the simple solution of allowing the first purchaser to recover the full amount of a defendant's illegal overcharge. Now that solution may be too simple. But Congress, it seems to me, would not responsibly fulfill its role in the law-making process if it merely replaced the Court's simple solution with an equally simple negative that failed to address the problems the Court felt it could not handle.

A responsible legislative process would focus on the two problems the Court identified and find ways to solve them. The proposed legislation seems either to deny the existence of those problems or to sweep them under the rug by telling the courts to try harder to solve them on their own.

Perhaps, careful thought will persuade you of the wisdom of that approach. But any such conclusion must emerge from deliberate study of the tracing and duplication problems. It ought not to be the initial premise.

Those general observations conclude my prepared statement. I shall be happy to elaborate these points or to address any others that the Committee may wish to raise.

CONTINUING RESOLUTION—DISTRICT OF COLUMBIA

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Maryland (Mr. MATHIAS).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MATHIAS

CONTINUING RESOLUTION—DISTRICT OF COLUMBIA

Mr. President, I can say only one good thing about the present continuing resolution which will provide Fiscal Year 1977 funding levels until September 30, 1978 for the District of Columbia and that is that at least it removes the month-to-month uncertainty under which the City of Washington has functioned since October 1. Let's not be misled, however, by our action on this resolution into believing that the City can actually function for the remainder of FY 78 without further appropriations action by the Congress. There is an absolute necessity for our prompt action in the very beginning of the next session of the Congress to provide funding tailored to the City's needs for Fiscal Year 1978. Let me list a few of the City's activities that must be accommodated beyond the action we have taken:

The mandatory increase in payments for debt service;

The metrobus and rail subsidies;

Costs of city-wide elections; and

Increases in unemployment and disability compensation and Medicaid payments.

And there are many other programs and projects which must be funded by further appropriations action to provide continuity of services in the City. Also, of course, there is the City's building program, most notably the new construction start for the University of the District of Columbia which will not go forward without further action by the Congress.

Therefore, I think it is important that the legislative record show that we do not intend that our passage of this continuing resolution be our final action in supplying the necessary funding needs for the City for the remainder of this fiscal year.

HUMAN RIGHTS IN EL SALVADOR

Mr. KENNEDY. Mr. President, last July I wrote to Secretary of State Vance to express my deep concern about the general human rights problem in El Salvador and specifically the threat of the right-wing "White Warriers Union" to kill immediate and systematically any Jesuit priests found in that country after July 20. Since then, the State Department has been in frequent contact with my staff about the steps taken by the President of El Salvador, Carlos Humberto Romero, not only to assure the safety of the Jesuits, but to improve the distressing human rights situation in that country.

Mr. President, I ask unanimous consent that my letter of July 22 and three letters subsequently received from the State Department be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, it is clear that economic, social, and political rights remain inadequately protected in that country. But it is also clear that the persistent pressure for improvement from the administration is beginning to encourage steps in the right direction.

Last August, I emphasized on this floor the obstacles to basic social and economic rights in this tiny, poor, densely populated country. In fact, at the root of many of the present violations of civil and political rights is the social and economic problems of grossly unequal land distribution in El Salvador. During his administration President Molina had attempted to address this problem by promoting an "Agrarian Transformation," a mild land reform. In November 1976, the Government-dominated legislature substantially modified the law, in effect postponing agrarian reform indefinitely. While serving in former President Molina's cabinet, President Romero was allegedly a staunch opponent of the agrarian reform. This government's 5-year plan is yet to be released.

In the light of the legislated commitment to basic human needs, it is essential for AID to assess seriously and dispassionately the Romero administration's commitment to agrarian reform and to the participation of the poor in development. This will be a crucial issue in El Salvador.

There are some who suggest that President Romero is constrained by reactionary elements within his country from making many more human rights improvements. I am not persuaded that this is the case, although I can understand why human rights opponents would like us to believe that the constraints are substantial. El Salvador is not the first and will not be the last country in which such warnings are sounded with insufficient evidence to bear them out.

Of particular importance recently has been the controlling U.S. vote in the Inter-American Development Bank (IDB) on a proposed $90 million loan for construction of a hydroelectric dam at San Lorenzo. The State Department has indicated that U.S. support for this project has been predicated on further improvements in the human rights situation in El Salvador.

The San Lorenzo project is now approved, on the basis of still tentative improvements in the human rights situation. It would have been wiser policy to reserve this key decision until we could review the findings of the Inter-American Commission on Human Rights, which will visit El Salvador early next year.

The main advantage of deferring this decision would be the continued leverage this would give us to encourage a deepening of the commitment to human rights in El Salvador. Disturbing incidents of abuses have continued. There have been at least 16 disappearances of human rights advocates since President Romero took office last July. Amnesty International reports that on November 3, the National Guard tortured the parish priest of Ocicala, Father Miguel Ventura, as well as the sacristan and two catechists. After President Romero ordered them released, the army detained another catechist of the parish, Sr. Fabio Argueta, whose whereabouts remain unknown and whose life may be in danger. I strongly hope that Sr. Argueta will be located and also released unless legally charged.

I am particularly concerned about the potential effect on civil and political liberties of a new "Law for the Defense and Safeguarding of the Public Order." This law, enacted on November 24, after the San Lorenzo project was approved, threatens to seriously restrict the right to dissent and freedom of the press in El Salvador. Article 15 of the law makes it a crime punishable by 1 to 3 years in jail to disseminate anywhere "biased or false information designed to disrupt the constitutional or legal order, the country's peace and security . . ." In turn, it may now become illegal to publish or send out of the country information on government-related human rights violations.

It is incidents such as these which remind us of the need to carefully review the situation before undertaking further assistance and support to El Salvador. I commend Secretary Vance and his assistants for their conscientious efforts in this regard, and I hope they will encourage President Romero to effect further improvements. An early step should be to pursue President Romero's offer of last September to all those who have left the country to return "whenever they so desire." A Presidential amnesty would be a positive action in this connection, particularly one which includes such important political exiles as former Presidential candidates Ernesto Claramount and Napoleon Duarte, the leader of the Christian Democrats. I look forward to further close consultations with the administration on how we can best further human rights in El Salvador, as well as the rest of the hemisphere. We have made some progress. We can make more.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., July 22, 1977.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR CY: I am deeply concerned by War Order Number Six of the White Warrior Union, vowing to kill immediately and systematically any Jesuits found in El Salvador after July 20th. As you know, these right-wing terrorists have claimed responsibility for repeated bombings of the Catholic University of San Salvador and for the killing last May of Father Alfonso Navarro Oviedo, in apparent revenge for the assassination of Foreign Minister Borgonovo.

These are unfortunately only examples of persecution of the Church by the Salvadoran National Guard and right-wing military groups, against the backdrop of continued repression of the Salvadoran peasantry. Among the many priests expelled, denied reentry or obliged to flee are two Americans, Father Bernard Survil and Father John Murphy. Of even greater concern are the alleged killing and torturing of priests and other servants of the parishes, and the hundreds of killings in San Salvador and Aguilares since the beginning of this year.

I know and greatly welcome the fact that you have shared this concern, given U.S. Government representations in both San Salvador and Washington and your meeting with American religious leaders earlier this month. Given blatant human rights violations and the assistance the United States has given El Salvador—over $174 million since 1946, and over $11 million in economic aid for the next fiscal year—I believe we should have no apology for pursuing these concerns with the Salvadoran Government.

I therefore urge that you consider a direct high-level appeal to President Romero on behalf of the church community in El Salvador, following up Deputy Assistant Secretary Arellano's special mission to San Salvador on July 11th—with a view to investigating the torture and the killings, and preventing them in the future. I also ask that you urgently ascertain whether American priests remain in El Salvador, where lives might be threatened by right-wing terrorists.

Over time, I would hope that we and other like-minded countries in the hemisphere could use our official ties and economic assistance to bring the Salvadoran Government to contain the White Warrior Union and other terrorist groups, and remedy the underlying social and economic injustices in that country.

My thanks for your attention to this matter.

Sincerely,

EDWARD M. KENNEDY.

DEPARTMENT OF STATE,
Washington, D.C., August 5, 1977.

Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: The Secretary has asked me to reply on his behalf to your

July 22 letter concerning the recent threat of a terrorist group, the White Warrior Union, to kill Jesuits remaining in El Salvador beyond July 21.

Your letter states that you are aware of various representations made by the United States Government in both San Salvador and Washington on this matter, as well as Secretary Vance's meeting with American religious leaders in early July. Please be assured that in our conversations with the Government of El Salvador concerning the threat, as when addressing other human rights issues in that country, we have been both quite direct and candid in emphasizing both the depth of our concern and the potential ramifications for our bilateral relations with El Salvador.

As you know by now, the Government of El Salvador took measures to protect the Jesuits and their institutions, against the terrorist threat. The July 21 deadline passed without incident. As of the beginning of August, no harm has come to the clergymen.

President Romero, who assumed office on July 1, has acted to show the new regime's intention to improve relations with the religious community, political opposition, and other elements of Salvadoran society by opening a dialog with them. We understand that a joint Church-State commission has been formed to address the differences existing between the religious community and the Government of El Salvador. We are also aware of steps being taken by President Romero within the Government structure to stem actions by officials which would constitute harassment or intimidation of clergymen in El Salvador. Through his statements to the press and the public, President Romero has emphasized his policy to combat terrorism of any type—rightist or leftist—and has expressed his plans to pursue socioeconomic reform which is really the crux of dealing with El Salvador's myriad of problems.

The United States Government will be watching closely the evolution of the human rights situation under the new President. We have made clear that our policy stances in various fora, including international financial institutions, will depend importantly upon our assessment of human rights conditions in El Salvador, as will be the case in our relations with other countries. Since Deputy Assistant Secretary Richard Arellano's trip, the Department of State's Human Rights Coordinator, Patricia Derian, has also gone to El Salvador. She met with a broad spectrum of individuals and groups, including President Romero, the Archbishop of San Salvador, the Provincial Head of the Jesuits, Christian Democratic Party leaders, and private sector members of both the Salvadoran and American communities.

With respect to whether American priests are in El Salvador and whether their lives are endangered, we are contacting the U.S. Embassy in San Salvador to ascertain this information. Naturally, we will transmit their reply to you forthwith.

If you have further questions, we will be glad to try to answer them. The Country Officer for El Salvador is E. Hicks, on 632-8148.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C., October 13, 1977.
Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: As indicated in our August 5 letter regarding El Salvador, we requested our Embassy to obtain information concerning American priests presently in that country. The list given below was provided by the office of the Archbishop of San Salvador:

PRIESTS

Dennis Saint Marie.
William Gibbons.
Paul Schindler.
Kenneth Meyers.
Paul Sommer.
John Spain.
John Halbert.
Ronald Michels.
Flavian Mucci.
Isaac Callichio.
Walter Vanchine.
Jose Rossi.
Guido Villatarie.

NUNS

Rosemary Smith.
Dorothy Kazel.
Martha Owen.
Christine Rody.
Cynthia Drennan.
Lorena Schelte.
Margarita Schete.
Joan Petrick.
Ana Maria Martaman.
Madaline Doresey.
Patricia Maher.
Patricia Haggerty.
Alice Rohn.

None of the American clergy in El Salvador is Jesuit. The U.S. Embassy has no information indicating that the priests and nuns listed have received threats or face danger of physical violence or expulsion.

If you have further questions, we will be glad to try to answer them. The Country Officer for El Salvador is E. Hicks, on 632-8148.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C., October 21, 1977.
Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: Members of your staff have recently discussed with representatives of the Department the human rights situation in El Salvador since the advent of the new Government in that country. As was requested, the following is a depiction of some of the recent positive developments cited on that occasion, along with a summary of the context in which they have occured.

During the past year or so, El Salvador has experienced increasing internal socio-political unrest, complicated by strained relations with the United States. The basic source of this situation is the disparate economic structure of El Salvador and the political repression traditionally used to protect that system. More immediately, there have been events exacerbating divisiveness among the varied sectors of Salvadoran society and between the Government of El Salvador and certain groups.

Among others, the following occurrences have contributed to the tensions within El Salvador in recent months:

1. Kidnappings and/or assassinations by extremists on the left and the right. These have included the murder of three priests and the killing of three principal members of the wealthy class, notably the Salvadoran Foreign Minister.

2. A controversial presidential election and evidences of fraud, which resulted in mass arrests, some deaths, and the exile of opposition political leaders. A state of siege, suspending certain constitutional rights such as freedom of speech, assembly and private correspondence, was imposed.

3. The disappointment of campesinos over an abortive land reform program which was to reduce some of the inequities of land tenure and rent arrangements.

4. Increased activism by clergymen advocating various socio-economic reforms for the rural masses especially. A growing estrangement between the Catholic Church and the Government of El Salvador, manifested in the deportation of over a dozen priests.

5. Excessive actions by security forces when conducting operations against suspected subversives, against squatters or against demonstrators.

6. Increased pressures from some of the military and the wealthy class for more rigorous retaliation against leftist terrorists.

7. Strained relations with the United States over human rights in general and treatment of Americans in particular.

With these events as backdrop, the United States has sought to evoke improvements in the human rights situation in El Salvador which deal both with immediate problems and the longer range task of reforming that country's socioeconomic structure along more equitable lines. Various instruments have been used to this end. Emissaries (Assistant Secretary for Human Rights Derian, Deputy Assistant Secretary Arellano, Director of the Central American Affairs Office Matthews) have been sent to discuss the situation. Secretary of State Vance conveyed his concern by letter to the previous President of El Salvador. Congressional hearings have been held to elucidate as much as possible the facts concerning alleged human rights violations. U.S. support for a hydroelectric project important to El Salvador's economic development has been reserved, pending improvements in the human rights situation. Meanwhile, the U.S. Embassy in El Salvador has consistently conveyed the concern of both the U.S. Government and people over alleged human rights violations.

Since President Carlos Humberto Romero's administration was inaugurated on July 1, there have been actions and statements manifesting his attempt to ameliorate the human rights situation in El Salvador.

Some of the recent positive developments under Presdent Romero are the following:

1. The new administration inaugurated on July 1 has not extended or reimposed the suspension of guarantees previously in existence.

2. Protective action was taken in the face of a rightist terrorist threat to the Jesuit community in El Salvador.

3. President Romero is seeking to establish a dialogue with diverse sectors of Salvadoran society and has named a Commission, headed by the Vice President, to open a dialogue with leaders of the Catholic Church.

4. Freedom of assembly has been restored and at least three public demonstrations have occurred without harassment or adverse action by the police;

5. The new Administration has given us assurances with regard to treatment of American citizens who may be arrested, and these were scrupulously honored in the single subsequent case which is known to have occurred.

6. President Romero has stated that political exiles can return to El Salvador, and at least two are known to have done so without harm or harassment;

7. President Romero has sponsored draft legislation to enable the penal system better to deal with terrorism on a criminal basis and thus forestall resort to extra-legal means.

8. One leftist newspaper, closed during the previous administration's suspension of guarantees, has been permitted to reopen and regularly publishes material critical of the Government;

9. On September 12, President Romero ordered that all persons henceforth arrested be remanded to court immediately; and

10. In the face of recent violence by the extreme left, including the assassination of the Rector of the National University, President Romero has stated that only legal means will be used in the investigation and pursuit of those responsible.

11. As he promised President Carter in their September meeting, President Romero has invited the Inter-American Human

Rights Commission of the OAS to visit El Salvador in order to see firsthand the human rights situation in that country.

While these are encouraging steps, the situation remains one in which we see a need for continuing human rights improvement. Your interest in the advancement of human rights is well known and appreciated and we trust that this information will be useful to you.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Asisstant Secretary for Congressional Relations.

WHY LOCKS AND DAMS 26 MUST BE REPLACED

Mr. STEVENSON. Mr. President, in the welter of controversy about the issue of user charges on commercial water carriers as would be imposed by H.R. 8309, the Navigation Development Act, which the Senate will take up in January, there has been an understandable tendency to overlook a second major title of the bill which authorizes the construction of a replacement for locks and dam 26 on the Mississippi River. This locks and dam is one of a series of such structures built on the Upper Mississippi River to stabilize the river for purposes of flood control and navigation. The pools thus created behind the dams provide a superb environment for recreational boating and an improved habitat for fish and game, particularly for the millions of water fowl that use the flyway of the Upper Mississippi Basin annually.

Locks and dam 26 is located at Alton, Ill., at the key intersection on the inland waterway system. All traffic to or from the lower Mississippi and Illinois Rivers originating at, or destined for, the Missouri, the Ohio or the lower Mississippi Rivers must pass through locks and dam 26. It is not an overstatement to say that locks and dam 26 is the gateway into and out of an area that is both America's breadbasket and its industrial heartland.

The present facility, with only a 600-foot main lock and a 360-foot auxiliary lock, is too small to handle the existing traffic, let alone projected increases. Twenty percent more tonnage transits locks and dam 26 annually than goes through the Panama Canal each year. Last year, on the average, a tow had to wait half a day to get through locks and dam 26 and some had to wait as much as 2 days. Traffic which flows with little delay through the rest of the locks on the upper Mississippi and the Illinois Rivers backs up at locks and dam 26. Even under the most conservative projections of future traffic, the theoretical capacity of the present locks will be reached within the 8- to 11-year period it would take to construct a replacement facility. I should add that calculations of theoretical capacity envision a constant stream of traffic through the locks, thus failing to take into account the ebbs and flows of daily traffic, much less seasonal variaations. The actual capacity of locks and dam 26 is undoubedly something less than the theoretical capacity and will, in all likelihood, be reached several years before a replacement could be completed, even if it were authorized today.

Title I of H.R. 8309 authorizes the construction of a replacement for locks and dam 26 at a site recommended by the Corp of Engineers several miles downstream from the existing structure. The new dam would have a 1,200-foot lock to permit tows to pass through with less delay and to increase capacity substantially.

In addition to problems relating to inadequate capacity, locks and dam 26 has suffered extensive deterioration through the years. It was built nearly 40 years ago with a life expectancy of 50 years. The structure was constructed on wood pilings driven in sand and there has been excessive settling and shifting. The river bed immediately downstream from the dam has been scoured out nearly to the depth of the foundation piling. The site selected by the Corps of Engineers for a replacement dam would provide a solid foundation on rock.

Several proposals have been made for rehabilitation of the existing locks and dam 26. The fundamental flaw of all of these proposals is that rehabilitation would cost approximately as much as replacement with a new lock and dam, a situation that was described by Maj. Gen. Ernest Graves, Director of the Civil Works Division of the Corps of Engineers at a Senate hearing last year. General Graves described the severe deterioration of the existing structure and said:

> The only way to arrest this trend is to carry out a complete rehabilitation of the existing structure. This would be just as costly as the Chief's recommended plan for replacement and would not have the safe, rugged foundation of a new dam. If we continue to spend whatever funds are necessary for repairs, we are confident that we could keep the dam from failing. However, it would be a constant, difficult, and costly fight, which would almost certainly result from time to time in major traffic delays.

Moreover, rehabilitation of the existing locks and dam 26 would do nothing to solve the problem of inadequate capacity to meet the demands of increasing traffic. The combination of lack of capacity and deteriorated condition makes a compelling case for authorizing a replacement.

This is the course that was followed by the House in passing H.R. 8309. Indeed, it is consistent with the action taken earlier this year by the Senate on S. 790, which also authorized the construction of a replacement for locks and dam 26, but which contained a user fee provision that proved unacceptable to the House.

Our inland waterways provide a transportation system for bulk commodities that is the envy of much of the world. The replacement of locks and dam 26 is essential if we are to make effective use of this system. The controversy over user fees should be resolved so that work can begin on this vital project.

EXHIBITION OF TREASURES OF EARLY IRISH ART

Mr. KENNEDY. Mr. President, over the past few years, Americans have had the opportunity to see some magnificent art exhibitions of archeological treasures from other lands. I think particularly in this connection of the exhibitions of art treasures from the People's Republic of China and from Egypt. These visiting exhibitions have been enormously successful and have received enthusiastic receptions from the people and rave reviews from the art critics.

Now, for the first time in this country, citizens and visitors to five cities, including New York, San Francisco, Pittsburgh, Boston and Philadelphia, will be able to view a remarkable collection of ancient Irish art.

The exhibit is currently on display at the Metropolitan Museum of Art in New York City, where it is playing to huge crowds and has become one of the most popular exhibitions the museum has ever held.

Americans are well aware of the fine literary, musical and architectural contributions of the Irish. Few of us, however, are as aware of the remarkable artistry of ancient Irish craftsmen, as revealed in the Ardagh Chalice or the Tara Brooch. These are among the brightest highlights of the current exhibition, which includes works dating from the Bronze Age to the 15th century.

Perhaps the most brilliant exhibit in the show is the Book of Kells, the world-famous illuminated manuscript of the Gospels that has been called the supreme achievement of Irish Celtic art. In a recent issue of the Smithsonian magazine, Alfred Friendly states that:

> The Book of Kells stands to Celtic Art as Chartres to Gothic cathedrals, or the Sistine Chapel to Renaissance painting.

Mr. President, I hope that as many Americans as possible will be able to enjoy this extraordinary exhibition as it visits the various regions of the Nation over the next 2 years. To acquaint Members of the House and Senate fully with the exhibition, I ask unanimous consent that the following material may be printed in the RECORD: Articles by Desmond Rushe in the New York Times, by Benjamin Forgey in the Washington Star, by Carl R. Baldwin in the New York Times Magazine, and by Wendy A. Stein in the European Community magazine, and the article by Mr. Friendly in the Smithsonian magazine.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 7, 1977]

"THERE IS MORE TO IRELAND THAN VIOLENCE"

(By Desmond Rushe)

DUBLIN.

Those Irish who think about it at all are quietly delighted that some 70 treasures of early Irish art are to travel abroad. The collection, scheduled to go on display at New York's Metropolitan Museum of Art on Oct. 15, and later in San Francisco, Pittsburgh, Boston and Philadelphia, is the first of its kind ever to leave the country, and it is of major significance.

Encompassing a 3,000-year period and rich in design, skill and esthetic beauty, it is representative of a highly important civilization. It will trace to their infancy the roots that produced the sap from which the Irish heritage of today has drawn much of its nourishment, and a great deal of the general approval for letting the treasures travel derives from the fact that, it is to be hoped, the current widely held image of Ireland and the Irish will be corrected.

This is the image of violence, conflict, bombs, bullets and bloodshed, and it has been created by a small and almost totally rejected fanatical fringe. The early art exhibition will recall times of exquisite felicity with which, on the more profound levels of heart, soul and mind, the modern Irish might be more validly identified—times when the country had its Golden Age, was described as a land flowing with milk and honey and was known throughout Europe as the Isle of Saints and Scholars.

The items come from the collections of the National Museum of Ireland, the Royal Irish Academy and Trinity College, Dublin, and each, in its own way, is priceless. When the American exhibitions were announced, there was some dissent, but the protests represented little more than a pebble dropped into a sea of acquiescing calm. The ripples were tiny and quickly petered out.

Muriel McCarthy, for instance, considered the whole project "a deplorable idea." As assistant librarian at Marsh's Library, which, incidentally, dates from 1701 and is the oldest public library in Ireland, she commented on the few treasures now left in the country and expressed fears of possible loss or deterioration, particularly relating to fragile illuminated vellum carrying the weight of more than a thousand years.

Another protester acidly described sending the collection abroad as "the prostitution of our national heritage for a little international sociability," and before the noncontroversy disappeared from the letters columns of newspapers, Leonidas Panas, professor of art at the University of Lowell, Mass., became a non-Irish dissenter.

Items such as the Book of Kells and the Ardagh Chalice should not be sent to the United States, he wrote "because they transcend the normal meaning of art and are too precious to the history and culture of Ireland to be away from their home and to chance some unfortunate accident or incident." Professor Panas pointed out that other celebrated national exhibitions—Tutankhamen and Russian icons, for example—never included the most revered and precious works of their cultures, and he concluded, "Imagine Irish concern if these treasures were in New York during the recent blackout."

Irish faith in the efficiency of American public utilities may have been dented by the blackout, but only slightly. Certainly Professor Frank Mitchell of Trinity College and the Royal Irish Academy, coordinator of the exhibition, was not unduly perturbed. He does, he says, appreciate the sincerity of the dissidents and understand their concern, but he is quite happy with the safety and security measures the host museums will take.

The collection Professor Mitchell and his fellow experts have put together starts with Bronze Age objects dating from around 2000 B.C. and progresses through the La Tene, Early Christian and Hiberno-Viking periods to the late medieval times of the 14th century A.D. Care has been taken to illustrate the achievements of early Irish civilization in its evolving phases, and although most attention may focus on the sublime art works of the Golden Age, which was centered on the eighth century and produced such treasures as the Ardagh Chalice and the Book of Kells, the gold ornaments of the Bronze Age abound with loveliness and interest.

Indeed, the Bronze Age collection in the National Museum of Ireland is, possibly, the finest in Europe. In the early period of European metallurgy, the prosperity Ireland enjoyed found expression in the widespread production of gold ornaments; and in sun disks (lanulae, collars, rings and the like, the astonishing skill in design, intricacy, delicacy and craftsmanship are often as remarkable as in much later objects that are now internationally celebrated.

It was, however, in the Golden Age that Irish art work reached the peak of its magnificence. Having earlier remained untouched by the conquering legions of the Roman Empire, Ireland also escaped the fifth-century invasions of Europe by the barbarians, and its monasteries, risen to positions of considerable power and wealth, were able to commission works of sublime beauty in chalices and shrines, crosses and croziers and illuminated vellum gospel books.

While much of Christian Europe fell asunder at the hands of the barbarians, work went on in Ireland uninterrupted, and soon Irish monks were busy in Britain and on the Continent re-Christianizing and bringing enlightenment. Irish monasteries became great schools of learning to which thousands of scholars flocked from abroad, and the age was realistically golden. It ended when the Viking raids began early in the ninth century, and it never returned, although the Hiberno-Viking period from roughly A.D. 800 to A.D. 1200, continued to produce a wide range of extraordinarily beautiful works. The marvelous Cross of Cong belongs to this age.

The exhibition will, then, cover a fascinating spread in the history of Irish civilization and, perhaps, direct the thoughts of viewers away from the tragic image attaching to the Ireland of 1970.

"Apart from being an art occasion of the highest importance," Professor Mitchell says, "we want people to know that there is more to Ireland than violence. The collection represents a civilization at least as high as that anywhere else in the world as far as artistic standards go. We hope to implant in the American mind the idea that Ireland can create more than bombs and bullets."

Aside from its artistic and antiquarian aspects, the collection's history teems with stories of drama, romance, superstition, insensitivity, ignorance and human interest. Scarcely an item is without a background of myth and mystery, like the seventh-century Book of Durrow, which, before it was finally rescued for posterity in the 17th century, held the attribute of having a cure for sick calves. The calves were supposed to speedily regain their health on drinking water that had been poured over it.

And then there is the Brian Boru Harp, which belongs to the exhibition's Late Medieval period. It is credited with being the oldest in existence, and part of its mythology is that it was associated with King Brian Boru, who led the Battle of Clontarf in 1014, which finally overthrew Danish power in Ireland. It is said to have been presented to an unnamed Pope, who presented it to an unnamed English king who, in turn, presented it to an unnamed Irish nobleman. In the last century, the antiquarian expert George Petrie placed the year of its manufacture in 1400, but many preferred to stick to the colorful Brian Boru tradition, and so the harp retains the name of a heroic Irish king.

Some years ago, it was restored by Trinity College in a painstaking scientific process and, for the first time in centuries, it was played once again and its music was sweet and mellow. Then it was stolen from its Trinity display case and after months of tense waiting, was recovered from a County Wicklow quarry. Now it is mute and will remain so.

But in its superb craftsmanship and in the aura of fact, fable and antiquity that surrounds it, it offers a glimpse, admittedly limited and tiny, of a collection of which it is a relative infant—of gold collars worn by pagan kings and gold lock rings worn by their queens, and dazzling artistic elegance of chalices and shrines, the infinitely patient skill of monk illuminators, and traces of Viking influence in still-exquisite objects made when Ireland's Golden Age had ended.

[From the Washington Star, Oct. 21, 1977]

A Worthwhile Wait for 3,000 Years of Irish Art

(By Benjamin Forgey)

New York.—"Treasures of Early Irish Art," which opened last week at the Metropolitan Museum of Art, is a small show of small objects that covers 3,000 years of history and includes three or four unarguable masterpieces of world art.

And don't people know it. The crowds are large on weekdays at the museum. On weekends, be prepared for a long wait.

The combination of small objects and lots of people is an awkward one. To see the objects properly one must see them up very close, ideally, in some instances, much closer than the exhibition cases will allow. And, since the wonder of some of these small pieces is the unbelievably intricate decorative patterns executed in minute detail, it also requires persistence and time to look at them.

When I visited the exhibition on Tuesday, patience was the rule. Small lines would form at some of the more outstanding exhibits such as the "Tara" brooch, a virtual encyclopedia of 8th-century metalwork decoration in a circle less than four inches in diameter. However, everyone seemed willing to wait, and to allow those ahead of them time enough to strain their eyes in appreciation.

The wait is invariably worthwhile. How could it be otherwise? For most of us this really is the one chance in a lifetime to see the thing itself, especially the manuscripts that are the undeniable stars of the show. In the centuries succeeding St. Patrick's conversion of Celtic Ireland to Christianity, the Irish monasteries became the important conservers of the faith. Scribes and illustrators working for these monasteries, and somewhat later, those in Scotland and northern England, created an unprecedented new art. This was the period, too, of the "Tara" brooch and the almost equally astonishing Ardagh chalice.

To create this new art, Irish and Anglo-Saxon artisans drew upon various sources and models from elsewhere in Europe, and molded them into a style of awesome, kinetic, decorative complication whose only rival in the history of art is the Islamic Arabesque at its very best. A 13th-century quotation on the wall at the entrance to the exhibit catches something of their spirit: "Here . . . you will make out intricacies, so delicate and subtle, so exact and vivid, that you might say that all this was the work of an angel, and not of a man."

They are in fact indescribable, but obviously worth waiting in line to see, for no color reproduction (certainly not those in this exhibition's catalogue, which is informative and inexpensive—$7.95, 222 pages—but egregiously off in color reproduction) can come very close to the effect of the original. How one wishes one could look for hours at a volume of the Book of Kells, turning from page to page, allowing the eyes to follow the endless baffling and mischievous connections ribbons and swirls, and letting the mind drift in an effort to imagine just what spirit prompted these amazing artists to do so wonderous a thing. Alas, four pages and a few precious minutes is what we're allowed.

Two of the four volumes the Book of Kells is now packaged in stayed home, in the Library of Trinity College in London, a sensible precaution on the part of the Irish. G. Frank Mitchell, president of the Royal Irish Academy, prefaces the catalogue with this sobering statement: "Only a very few of Ireland's early treasures have survived, and almost all that have are included in the present exhibition."

The first pieces in the exhibition—two thin gold discs, hammered and incised with simple circular motifs and a cross—were made in Ireland during its early Bronze Age, about 1,800 B.C., and it is suggested that these body ornaments were associated with a cult of the sun. The exhibit, in about 70 objects, traces Irish history through the Bronze Age, the Celtic period, the early Christian era, the period of Viking invasions, and the late Middle Ages, by which time the great Irish inspiration in the visual arts had long passed.

The patient, mulling, modern crowd in this small show of ancient and mysterious things is in itself a bemusing scene, and one that becomes increasingly familiar. It confirms again the fact that we are living in a golden age of international museum exhibitions.

In any case, the opportunity this exhibition offers—to see in an hour or so 3,000 years of Irish art and to see first-hand a few pages from a couple of the more magical books ever made on this earth—will not be repeated in most of our lifetimes, if ever. The exhibition will be on view at the Metropolitan through Jan. 15. Then it will travel to San Francisco, Pittsburgh, Boston and Philadelphia.

[From the New York Times magazine,
Oct. 9, 1977]

WONDERS OF IRISH ART

(NOTE.—Miraculous manuscripts and masterworks of metal—from the Bronze Age to the Middle Ages—have been sent from Ireland for a lustrous show, opening this week at the Metropolitan Museum.)

(By Carl R. Baldwin)

It's a long way from Tipperary—not to mention Dublin—but some of Ireland's foremost art treasures have made the trip and this week will go on view at the Metropolitan Museum. Seventy objects, ranging from armlets and shields of the Bronze Age, a trumpet and a boar from the Roman era, shrines, brooches, crucifixes and manuscripts from Early Christian to Gothic times, have been lent by the National Museum of Ireland, Trinity College in Dublin, and the Royal Irish Academy for an exhibition that will tour the U.S. for more than a year after it closes at the Metropolitan on Jan. 15.

For all the luster and refinement of the objects of bronze, silver, enamel and gold, the triumphal arch of the exhibition is undoubtedly the illuminated manuscripts of Early Christian times, including the greatest of all Irish manuscripts, the Gospel Books of Durrow and Kells. Though these wondrous books are monuments of creative art, they are also valuable and vivid evidence of the special importance attached to the writing and decoration of sacred texts in this illustrious period of history.

In the first centuries of the Christian era in Ireland the collecting of books by monasteries, and their multiplication and preservation by handwritten transcription, was a crucial pedagogical function, an essential part of the "curriculum" of each monastery. With reliable copies of the Old and New Testament, of special books needed for the celebration of the mass, and of those inspiring lives of the Irish saints—St. Patrick, St. Brigid and St. Columba—whose miracles could be attested to, say the ancient authors, "not by the two or three witnesses required by law, but by hundreds of witnesses"—the role of the Irish monastery as a teaching institution could be carried out with vigor. And what a teaching institution it was! Although the annals of the period speak of continual wars between kings competing for dominion over the various regions of Ireland, the monasteries, from the sixth through the eighth centuries, maintained themselves as enclaves of relative calm, so that students from Britain and the Continent hastened to leave their own war-torn regions and flocked to Ireland for edification. As Bede, the preeminent historian of the eighth century, and an Englishman, wrote of Irish academic hospitality: "The Irish willingly received them all, and took care to supply them with food, to furnish them with books, and to provide them with their teaching, all free of charge." Having been instructed on these generous terms in Ireland, students then made their way back to England and the Continent, to disseminate and maintain Irish standards of discipline and studiousness, of calligraphy and manuscript decoration.

But beyond the educational importance of the monasteries and their writing workshops, books in Ireland played an unusual role, for they were often closely linked with the lives and deeds of saints and therefore thought to be imbued with extraordinary powers. If we trust the historians of this early period—and those authors assure us that their accounts are based upon "well-established facts"—we must reckon with Gospel books dictated by angels, books that avert plague and insure victory in time of war, and even, in one remarkable case, with an unauthorized copy of a Bible which precipitated a dreadful battle. The story of this last event—whether "established fact" or legend—is so characteristic of the potency of books in medieval Ireland, that it deserves to be retold.

It happened in this way: Columcille, or Columba, a saint of the sixth century A.D. who founded many monasteries in Ireland after the death of St. Patrick, one day prevailed upon a bishop by the name of Finnian to lend him a fine Bible recently arrived from Italy. The understanding was that the book would be read, but not transcribed. Columba, however, enthralled by the beauty of the book, set about copying it secretly in a pitch-dark room, light being provided by pinpoints of illumination from the five swiftly moving fingers of his right hand. Informed by a spy of Columba's deed, Finnian objected strenuously, and, in what must be deemed one of the earliest "copyright infringement" disputes on record, claimed ownership of the copy. Columba, in lawyerlike tones, asserted that "Finnian's book has not decreased in value because of the transcription," and that the bishop had no right "to extinguish the divine things the book contains" by a prohibition against copying. The case was brought before King Diarmaid, who settled the dispute with the apt dictum "To every cow her calf, and to every book its copy," and ordered Columba to return the copy to Finnian at once. Columba, in an eruption of unsaintly and injudicious wrath, denounced the judgment and the judge, and proceeded to declare war upon the king (the ancient authors do not quite explain how it is that this holy man kept a private standing army!). Some scholars believe that Columba carried his unauthorized (and still unreturned) copy into battle, and that this manuscript provided the tactical edge needed for victory: The saint's followers prevailed unscathed, and decimated the king's men. Some saint, and some book! The surreptitiously copied manuscript, nicknamed *cathach* (the battler), is thought by some observers to be that very Cathach of St. Columba which now holds pride of place in the library of the Royal Irish Academy in Dublin (it did not make the trip to America), and which a modern scholar has described as constituting "the pure milk of Irish calligraphy."

One of the monasteries founded by Columba in the sixth century was Dearmach, or Durrow, a name meaning "the plain of oaks." It is described in records of that early time as a place renowned for its books and learning, "a devout city with a hundred stone crosses." It was the birthplace of the earliest great Irish Gospel book with full-page decorations, the Book of Durrow, in the mid-seventh century A.D. There is a tantalizing postscript to the book, called a *"colophon,"* which states that the manuscript was written by Columba himself, and completed in 12 days. This assertion is not believable, since the style of the book's handwriting postdates the time of Columba's death, but the *colophon* does suggest that the Book of Durrow was copied from earlier books penned by the nimble-fingered saint, including, perhaps, that celebrated "battler" for the faith, the Cathach of St. Columba. Like many of the books linked in some way with Columba, the Book of Durrow was thought to possess magical properties, and, in particular, to be blessed with inks and colors that were immune to damage by water. As late as the 17th century, a scholarly visitor to the monastery at Durrow stood idly and confidently by while the manuscript's custodian immersed the book in water in order to prepare a medication for cattle (this action had a certain poetic appropriateness, since the wealth of the early monasteries was not reckoned in currency, but in cattle). The scholar reported some time later that "I saw the cattle returned thereby to their former pristine state, and noted that the book received no loss" (unhappily an inaccurate report, since water damage may be remarked on a number of the manuscript's folios).

Parallels to a previous and concurrent tradition of metalwork are visible throughout the decoration of the Book of Durrow. For example, the book's first page of abstract ornament, called a "carpet page," shows linked circles filled to their rims with closely packed spirals, as in the brooches and chalices of the period (superb examples of these in the exhibition are the eighth-century Tara brooch and Ardagh chalice). These objects of adornment and ritual of the Early Christian period, in turn, were inspired by pre-Christian metalwork of the so-called La Tène style—a link to the "pagan" past of Ireland which tells us much of the pragmatic and ecumenical approach of this early time, where artistic "conversion" was undertaken with a decent respect for the estimable qualities of the "pagan" artists and artisans.

An oddity of the Book of Durrow is that the Gospels follow the order established by St. Jerome in the fourth century A.D. (Matthew, Mark, Luke, John), but the symbolic depictions of the Evangelists follow an older scheme (Matthew, John, Luke, Mark)—one of many "holdouts" of the early Irish church against the standards and procedures of the Church of Rome. As a result, the lion which symbolizes St. Mark finds itself snarling at the beginning of the Gospel of St. John (causing some writers to slip and refer to a non-entity, "the lion of St. John"). The alert ferocity of the creature, conjured up by the lashing tail, the twisted metallic ridges of the body, and its enclosure between tensely wrought interlace patterns, is well suited to an alleged "fact" of biology as then understood by Christian theologians: lion cubs were born blind and dormant, and lay still for three days until aroused "by the voice of the father"—about as apt a metaphor of Christ's Resurrection after three days of "sleep" in the tomb as could be wished.

Toward the close of the eighth century A.D., the monasteries of Ireland, and of those island outposts in other lands founded by Irish missionaries, such as Iona, off the coast of Scotland, and Lindisfarne, off the coast of "Northumbria" (northern England), experienced the trauma of invasion and looting by the dreaded Northmen, or Vikings. The monastic texts of the time speak, with outrage and despair, of church treasures sacked and scattered to the winds, of precious books tossed from high promontories into raging seas. It should be noted, however, that some of the invaders, although uncomprehending and destructive of books written in a strange tongue on the subject of an alien faith, were suitably appreciative of Irish metalwork: If Scandinavian museums today boast excellent examples of early Irish art, it is because discriminating Vikings took objects home with them, adapted them to their own purposes, and later ordered them buried with themselves and other treasured belongings in grave sites. Strange and wonderful are the ways of museum acquisition!

Some think that the great Gospel of Kells was begun in the embattled monastery of Iona, and then removed to safety at Kells in the wake of the destruction of that outpost by the Vikings in 806 A.D. Others hold that it was written and decorated entirely at Kells, and was inspired by the refugee of Iona, who hoped that the book would serve as a bulwark of the faith against the Viking threat. Like many of the most revered manuscripts of the early period, the book was at a later point furnished with a well-wrought metal shrine, called a *cumdach*, a safe enclosure for transporting or displaying the manuscript, but from which it could be removed for reading. The shrine and the book it enclosed were stolen from the church treasury in the early 11th century, allegedly by a "Dane" (a Viking who had settled in Ireland). The shrine was disposed of by the thief, and the book was buried. Upon recovery of the book and apprehension of the suspect, the king of the region judged the case (with what procedural safeguards for the accused we know not), found the suspect guilty, and, with community approbation, ordered his execution. Apt and appropriate punishment, no doubt, for one who would dare to steal what the chroniclers of that day called "the chief relic of the Western World."

The Book of Kells is huge in format, in thickness and in the population of its hundreds of pages with decorated letters seemingly beyond number ("about 2,000" is one scholar's rough estimate). The theory that the manuscript was conceived as an emblem of embattled Irish Christianity in a time of Viking invasion appears to be supported by the extraordinary "Chi-Rho" page: Those giant letters, which look to us like X and P, are the letters of the Greek alphabet which abbreviate the name "Christ." The Chi-Rho monogram was emblazoned on the shields of warriors in the early Byzantine Empire as a magical and protective device—rather like the Irish conception of the *cathach* carried into battle.

The artist or artists of Kells, living and working in accordance with the laws and values of a monastic community, avoided in their art anything that evoked earthly anatomies or actions. In this respect, Irish art is sharply opposed to the Early Christian art of the Mediterranean, and is even somewhat at odds with the traditions in the Irish-founded monastaries of northern England, where a lively curiosity about the issue of representing bodily structure, modeled in light and shadow, occasionally crept to the surface (as in certain pages of the great Gospel Book of Lindisfarne, a northern English work of the early eighth century, now in the British Museum). Take, for example, the depiction of the Evangelists in the Book of Kells. How does a medieval Irish artist interpret legendary Mediterranean authors? He depicts them, first, in terms of their symbols (man, lion, calf, eagle) on a separate page. Then, coming to their human forms, he imagines them as monkish scholars in their writing rooms, holding razor-sharp pens and closed books. They are ceremonially robed, as if writing were sacred ritual—these are no agile "shirtsleeved" authors, such as are seen in Mediterranean Gospel books of the time. And they sit frontally and motionless, pressed flat against the surface of the page and hemmed on all sides by a decorated frame which appears aggressive and elastic, invading every particle of space within its borders. In the St. John page the artist doubles the human image, giving us, outside of the thick and weighty frame, an extra head (nearly missing as a result of clumsy trimming in the 18th century), and extra pairs of hands and feet. Where is the body that goes with these extremities? Perhaps the Evangelist's outer torso is the frame, and so the inner Evangelist is a child of the frame, just as the Gospel book itself is an offspring of the discipline provided by the monastery of Kells against the irregularities of man and nature. Or perhaps, as the art historian O. K. Werckmeister has suggested recently, the gigantic enclosing figure is not a "double" of the interior Evangelist at all, but a fusion of the images of God the Creator, holding the framed image as if it contained the world, and Christ crucified, with fragmentary limbs outstretched. If this suggestion is sound, one must marvel at the liberties taken by the artist of Kells in substituting a scholarly Evangelist holding his book for depictions as portentous as the Creation and the Cross. Does the artist of Kells mean to imply that the essence of creativity, and of passion, lies in the act of writing—and perhaps, too, in the act of decorating a sacred book with pictures.

And then consider what the artist does when the text reaches the events connected with the Crucifixion. He declines to represent that scene, either because its component of earthly physicality is alien to his artistic tradition, or because the scene, at this period in history, presented knotty theological problems better avoided, such as how material paint can properly represent not only the human, but also the divine, nature of Christ. Instead, in rendering the fateful words of the Gospel, "And then they crucified Christ between two thieves," the artist manipulates the "abstract" forms of the words themselves to convey the drama and emotional impact of their message. He splits the words apart into a giant X (intentionally recalling the Chi-Rho monogram) and "torments" the letters above the X into twisted shapes; and in the left margin he paints a lion, its mane streaming like molten metal, its mouth lifted in a mighty roar of agony and anger.

Not everything in Kells, however, is fraught with religious import. In fact, there is something like a surreptitious book of irrelevancies within the Gospel Book, and this parallel work, consisting of hundreds of curiously decorated letters or punctuation marks, or tiny scenes separated from letters, reveals the preoccupations of the artists nearly as well as the full-page decorations clustered about the beginning of each of the four Gospels. Here, we can observe such impertinencies as strutting roosters, hybrids of men and women and beasts, and interlaced chains of birds devouring birds, fish devouring fish. Among these nondoctrinaire depictions is a painting of a horse and rider tucked into the concluding folios of the Gospel according to St. Matthew. With his arms and hands cloaked, as if in a giant insect's wing, the rider appears to point the way with a large, bare foreleg, sniffed at by the horse, whose lower legs disappear in deference to the adjacent line of sacred text. But neither horse nor rider has anything to do with the neighboring words of scripture, in which Christ predicts His impending arrest, Crucifixion, and Resurrection. These portentous lines would seem to call for sterner stuff by way of illustration, but the artist of Kells, in these intermediate pages, relishes an artistic liberty, a limber imagination, which is sometimes heralded as "modern" in its individuality. The term, however, may be misleading: How many modern artists have been in a position to express their idiosyncratic fantasies on one page, and the collective ideals of an epoch on another?

For a "last word" on the beauties of early Irish manuscripts one must turn back to the 12th century A.D., and to the remarks of a Welsh scholar by the name of Giraldus Cambrensis. Although it is apparent that his prime purpose in writing "The Topography of Ireland" was to express satisfaction at the "improvements" in manners and customs wrought by the English invasion effort of King Henry II of England (the scholar's employer at the time), Giraldus is clear-headed and sharp-eyed enough to provide us with a matchless description of the quality of early Irish art. Of the Gospel Book of Kildare, a manuscript now lost, which, by the sound of the author's words, must have been a twin to the Book of Kells, Giraldus had this to say:

"If you observe these pages superficially, and in the usual careless manner, you could imagine them to be daubs, rather than careful compositions—expecting to find nothing exquisite, where in truth, there is nothing which is not exquisite. But if you apply yourself to a more close examination, and are able to penetrate the secrets of the art displayed in these pictures, you will find them so delicate and exquisite, so finely drawn, and the work of interlacing so elaborate (while the colors are so well blended, and still so fresh), that you will be ready to assert that all this is the work of angelic, and not human, skill. The more often and closely I scrutinize them, the more I am inspired, and always find them new, discovering fresh causes for increased admiration."

As a result of the extraordinary pilgrimage of these treasures from their native land, the "close examination" recommended by Giraldus will now be possible for a goodly number of modern amateurs across the breadth of America. *Quid plura*? as the ancient authors liked to say after recounting a miracle: "Need I say more?"

[From European Community magazine, November-December 1977]

"IRISH LEGACY 1500 BC/1500 AD"

AMERICAN EXHIBIT MARKS FIRST TIME EARLY TREASURES DISPLAYED OUTSIDE IRELAND

(By Wendy A. Stein)

The legacy of the past, carried by precious works of national art, does much to shape the identity of a people. When a country entrusts this patrimony to another, it is a great expression of goodwill, and presents a rare opportunity for increased mutual understanding. Despite the close personal, economic, and political ties that exist between Ireland and the United States, most Americans have never had the opportunity to appreciate the rich cultural heritage of Ireland. It is a major source of America's heritage as well, not only for the millions of Irish-Americans, but also because early Christian Ireland influenced all medieval Europe. Now people on this side of the Atlantic can deepen their awareness of Irish national character as it was expressed by her artists spanning 3,000 years of history.

It is the first time ever that these major treasures documenting the achievement of early Irish civilization have gone on display outside Ireland. The exhibition, *Treasures of Early Irish Art, 1500 BC to 1500 AD*, assembles masterpieces from The National Museum of Ireland, The Royal Irish Academy, and Trinity College, Dublin. It is currently on view at The Metropolitan Museum of Art in New York, where it will remain until January 15, 1978, and then travel to museums in four other American cities: M. H. de Young Memorial Museum, San Francisco (February 21–May 21, 1978); Museum of Art, Carnegie Institute, Pittsburgh (June 28–September 24, 1978); Museum of Fine

Arts, Boston (October 24–January 21, 1979); and Museum of Art, Philadelphia (February 26–May 27, 1979). (The assistance of Aer Lingus [Irish Air Lines] was a major factor in bringing the exhibition to the United States.)

The objects selected precede the age of any transatlantic exchanges: They were all made before Columbus sailed for America. Yet they show a precedent for Ireland's membership in the Common Market, for they do reflect relations between Ireland and Western Europe.

As early as 700 BC, Ireland was engaged in active trade. Evidence for this commerce is provided by the discovery in Britain and France of lovely hair ornaments made in Ireland, similar to the lock rings in the exhibition. These appealing gold baubles for holding a lock of hair in place must have been imported by prosperous merchants. Other kinds of jewelry of this age have been found in Germany and Scandinavia, bearing witness to wider economic contacts.

About 400 years later a new group of settlers came to Ireland, bringing a new language, style, and civilization to the island. These were the Celts, a group of people that originated around the upper Rhine and Switzerland, and subsequently spread not only over most of Europe but even as far as modern Turkey. When they came to Ireland, they brought cultural connections from this wide area. Their warrior society immortalized heroes who wore massive neckrings called torcs, like the magnificent example from Broighter in Northern Ireland. Unusual as it is, its spiral decoration and construction share features with Cletic artifacts from Belgium and Britain.

When Christianity was introduced into Ireland about the Fifth Century AD by Saint Patrick and others, new international links were established, both with the Papal seat in Rome and with the monastic centers of the Near East. A powerful missionary movement then reached out from Ireland to northern Britain, and a brillant shared culture was formed whose artistic products are among the world's greatest masterpieces. The objects from this golden age of Irish art—such as the Tara Brooch, the Ardagh Chalice, and the Cavan Brooch—all fuse the native Celtic tradition with patterns learned from foreign peoples, from Germanic tribes to Mediterranean monks.

This was also the time when the Book of Kells was made, a manuscript of awesome complexity and intimate droll wit. It is a luxurious illuminated copy of the four Gospels written in Latin on vellum, a material like parchment made from calf skin. About 150 calves gave up their skins for the making of this book, a considerable investment in an economy based on cattle. The expense of the manuscript also included the import of pigments from places as distant as Afghanistan, but more valuable still was the investment of painstaking labor, skill, and devotion of the monks who created it. The decoration of this book represents a culmination of the international influences in early Christian Irish art. This style also spread with Irish missionaries and scholars to the Continent and influenced the artists and teachers at the court of Charlemagne. The impact of this vibrant period of Irish intellectual history did not end there, but continued in the mainstream of medieval European cultural development. America is the direct heir to this later European tradition that the Irish did so much to shape.

Into the midst of this scholarly and creative civilization the Vikings burst like a storm—looting Irish monasteries, killing their inhabitants, and stealing their treasures to take back to Scandinavia. This was a different kind of international exchange. Nevertheless, in time the Vikings' presence in Ireland became less turbulent, and they contributed to the economy of the land, founded the first cities at Dublin, Waterford, and Cork, and influenced artistic production as well. The patterns made of knotted and coiling animals that decorate the shrine of St. Patrick's bell are related to Scandinavian models. Similar patterns are also on the Cross of Cong, which was made to enshrine and display a fragment of the True Cross sent to Ireland by the Pope in 1119. Such an object provides yet again an example of the diverse and wide-ranging international relations of Irish art.

The objects in this exhibition are not only historical documents providing evidence of a particular national group. Seen in the original, these treasures transcend the context that produced them to stand as masterworks of mankind. The incredible technical virtuosity that produced the Tara Brooch, the balance of shape and detail in the Ardagh Chalice, the intricate mesmerizing patterns so patiently inscribed into the Book of Kells—to see these is to wonder at human skill and imagination. Although they tell us much about Ireland and Western Europe in prehistoric and medieval times, these Irish treasures are captivating for all people, and Americans are fortunate to have this chance to enjoy them for a while. The full force of the impact that the exhibition "Treasures of Early Irish Art" at the Metropolitan Museum in New York has had on the United States could scarcely have been foreseen even by EC Commissioner Richard Burke, whose brainchild the whole spectacular undertaking was almost two years ago.

The first indication of the possibility that such an exhibition, embracing a rich display of the relics of early Irish civilization, was to take place came when a statement was issued on behalf of Burke, then minister for education in the National Coalition Government, in early February 1976. The opening paragraph read: "After consultation with the provost of Trinity College, Dublin, and the president of the Royal Irish Academy, I have, on behalf of the Government, invited the two institutions to mount jointly an international exhibition to consist of manuscripts and objects of art in their possession or on loan to the National Museum."

In the course of the following year the selection of the items which would cross the Atlantic, and the planning in advance of the safeguards which the value of irreplaceable national treasures demands, involved all the special expertise and cooperation of the experts in the National Museum, Trinity College, and the Royal Irish Academy.

"Ireland paying tribute to the American people for the generous help she has received throughout the past 200 years" is the reason for the exhibition given in the introduction to the catalogue. And as Burke said in the beginning, "It is my earnest hope that this exhibition will make a notable contribution to a happier and truer image of Ireland than the one too often propagated at the present time. In mounting it, the organizers wish to persuade as large a public as possible to look beyond our contemporary troubles to the record of a rich and ancient civilization which has left sufficient evidence behind it to make possible one of the most splendid exhibitions to be held anywhere in modern times."

[From the Smithsonian magazine, August 1977]

Great Book of Kells in Shining Exhibit of Ancient Irish Art

(By Alfred Friendly)

(Note.—A multitude of medieval monks created a book so glorious it seemed the work of angels, now to be seen in U.S. cities for the first time.)

"Here you may see the face of majesty, divinely drawn, here the mystic symbols of the Evangelists . . . Fine craftsmanship is all about you, but you might not notice it. Look more keenly at it and you will penetrate to the very shine of art. You will make out intricacies, so delicate and subtle, so exact and vivid, that you might say that all this was the work of an angel, and not of man."

The writer was the medieval Norman-Welsh historian Giraldus Cambrensis (c. 1146–1223) and what he might well have been describing is a masterpiece produced 400 years before his time, the *Book of Kells*. A modern art historian, Bruce Arnold, calls it "the supreme achievement of Irish Celtic art." Kenneth Clark (Smithsonian, August 1977) calls its ornamental pages "almost the richest and most complicated pieces of abstract decoration ever produced, more sophisticated and refined than anything in Islamic art."

Its first viewers, eighth- and ninth-century Irish monks to whom it was probably displayed on occasions of great solemnity and festivity, regarded it as magic. So also will anyone who sees it today, so compelling is its artistry, its lavishness, its grandeur and the profound sense of mystery surrounding it. How, one asks, could such a joyful, wildly colorful, explosively imaginative volume have ever emerged from the cold Celtic mists, from the gloom of the Dark Ages?

For the very first time in America, viewers in five cities will be able to see the *Book of Kells*, the pearl in the crown of an exhibition of Irish art treasures from the Bronze Age to the 15th century. It will open at the Metropolitan Museum in New York on the 15th of this month, remaining there until January 15, 1978, and then will be shown in San Francisco, Pittsburgh, Boston, and Philadelphia, for approximately three months in each city.

Included also are such magnificent pieces as the intricately wrought eighth-century Ardagh Chalice of gold, glass, silver enamel and bronze gilt, the most perfectly preserved such object of any origin surviving from the Middle Ages, and the equally superb Tara Brooch (both p. 73) of silver, gold, bronze, copper, glass and amber, from a period perhaps 50 or 75 years earlier than that of the *Book of Kells*.

The *Book of Kells* is the most breathtaking item in the exhibition. It consists of the four Gospels and certain other preliminaries—canon tables, introductions, summaries and Hebrew name lists—usual to volumes of the kind at the time of its creation, about A.D. 800 or somewhat before. It is by no means the earliest of these decorated manuscripts of Celtic monasteries in Ireland, Scotland and England. Many of these so-called "Insular" manuscripts preceded it as, for example, the magnificent *Book of Durrow* (Ireland) dating from about 670 and equally glorious *Lindisfarne Gospels* (from the monastery on Holy Island off the Northumberland coast) completed in the early eighth century. But the *Book of Kells* is the largest, the most ebulliently decorated and the finest of the genre.

It now consists of 340 folios (double-page spreads, thus constituting 680 pages) averaging 13 by 9½ inches; originally, before it was badly clipped by some ancient binder, the pages were probably an inch or so larger in each dimension. It is known to have been in the monastery of Kells, a great medieval religious center 37 miles northwest of Dublin, at the beginning of the 11th century when there was a report of its theft for the sake of its wrought gold binding. It was found months later, its cover wrenched off and with it probably several of its pages. From missing portions of its text it can be estimated that it originally consisted of about 370 folios.

It remained at Kells until the middle of the 17th century when Cromwell's cavalry was quartered in the church and the governor of the town sent it to Dublin for safety. A few years later it was presented to Trinity College Library where it has since remained.

Initially it was bound in one giant volume. In 1953 it was rebound into four volumes, each roughly corresponding to the four Gospels. Of these, the second, Mark, and the fourth, John, are included in the American exhibition.

ITS ORIGIN A MYSTERY

Its origin remains a matter of conjecture—whether it was written in the mother of the northern monasteries on the island of Iona, off the west coast of Scotland, founded by the Irish Saint Columba (the most widely accepted view), or at Kells itself, at Lindisfarne or some other English or Pictish (Scottish) monastery is arguable.

Mlle. Francoise Henry, an authority on the Insular decorated manuscripts, distinguishes three scribes who wrote the text, in majuscule Latin letters in the so-called "Irish script" and using a mixture of St. Jerome's *Vulgate* and earlier Latin texts. They committed more than a fair share, even for the time, of mistakes and omissions, a failing that did not seem to bother them overly; after all, the volume was kept in a monastery sacristy for altar display on special ceremonial occasions, a book of beauty to be hallowed for itself.

The scribes carefully left space for the illustrators around the margins for initial letters and—what is particularly delightful—for embellishments within the 17 to 19 lines of text on each page. It is thus full of a number of conceits. Mlle. Henry points out, for example, that a scribe would write above a word a letter that he had omitted, not because he had forgotten to set it down originally or because he had insufficient space in the line, but because the addition would constitute an ornament and indeed an excuse for an embellishment, in the form of a little animal curled around the superscribed letter.

Also, the scribes made a game or feat of ingenuity by the use of what is called "turn-in-the-path" or "head-under-the-wing," occasionally indicating the ends of lines not with a conventional sign but by crowds of little figures or animals, sometimes gesticulating to the readers where he should next turn his eye. The figure at the end of the fourth line (p. 68) is perhaps of this category. Note also the little flower or clonelike designs at the end of more than half of the total lines on the page, suggesting that the scribe could not bear to leave a margin without some sort of joyful decoration.

While the scribes worked on setting down the text, additional sheets of vellum were handed out to various artists in the scriptorium for full-page illustrations, to be assembled at the proper places in the completed work. These are the great glories of the *Book*: introductory pages to each of the four Gospels with portraits of the Evangelists; opening pages to each section with fantastically conceived winged "beasts" that symbolized the four authors, a man for Matthew, a lion for Mark, a calf for Luke, and an eagle for John. Other fully illustrated pages include three illustrations of the life of Christ, the Incipits (illuminated text pages at the beginning of each Gospel), the "carpet page," the Chi-Rho page (p. 66), six additional pages of illustrated text and the canon-table arches.

The pigments used by the artists were of vegetable, animal and mineral origin. Curiously, no gold was employed, although there was gold to be had in Ireland; a bright yellow of orpiment (arsenic trisulfide) was used instead. More amazing still, the ultramarine came from lapis lazuli, the source of which (until the secret of its preparation as pigment came to Europe in the 12th century) could not have been closer than Afghanistan It would have been as costly as gold.

In the full-page illuminations, in the portraits, the depictions of Christ's arrest and the temptations at the pinnacle of the temple, and in the borders and the initial letters, the intricacy of the decoration staggers the viewer—the spirals, interlacings, arabesques, convoluted floral designs and grotesque human and animal figures entwined therein.

The full complexity of the patterns, the miniaturization and the fineness of line and color discrimination can be appreciated only under a magnifying glass. Yet, as far as is known, the magnifying glass was not invented until the Renaissance. It has even been suggested that the artist of one or more of the pages must have been nearsighted—for his work, a benign optical defect that was itself a magnifier.

The portraits, the episodes in Jesus' life, the "beasts" of the Evangelists, the representation of angels, were standard subjects of religious illustrations since earliest Christian times. So, too, some of the other smaller illustrations are widely known in Christian iconography: the cross, of course; the peacock as the symbol of Christ; the fish as the acronym (ICTHYS) of the Greek for "Jesus Christ, Son of God, Savior"; human figures in reverential pose; snakes, thought of not as symbols of evil but, since they shed their skins, of resurrection; and perhaps even some birds and animals feeding on fruit as metaphors for Christian's partaking of the Eucharist.

But from figures of deep reverence and religious symbolism, one turns to a welter of border decorations and insertions in the text that appear not merely secular but wildly pagan; many are downright hilarious.

What is one to make of these endless anthropoid, floral, faunal, geometrical and superimaginary monsters? The simplest explanation is that they must have derived from the sheer exuberance and playful imagination of the artists. Yet would a group of Celtic monks, laboring in stony, hermetic retreats, dealing with the most reverential of all texts, and themselves totally dedicated to prayer, poverty and the glorification of God, have been inclined to playfulness and a delight in nonsensicality? Would they have drawn so much as one line without a holy purpose in mind? The more one studies the pages, the more one is mystified.

There are few depictions and decorations in the *Book of Kells* that do not appear at one place or another in other Insular manuscripts. The distinction of the *Book of Kells* is their sophistication and abundance, their greater elaboration and, above all, the emphasis on human figures portrayed both reverentially and in ornamental, often humorous contortions.

The problem for the art historians is the identification of the sources from which those illustrations derive. Some are obvious: early Christian pictures and manuscripts found their way to Iona and its daughter monasteries from Christian enclaves in England dating from the Roman occupation, while others came from Rome. Some scholars profess to see Coptic, Byzantine and even pre-Christian Egyptian influences. Depiction of animals in carvings and metalwork was common to the Irish art from early days, and the fanciful spiral ornamentation seen on the Chi-Rho page can be found in Irish and Celtic art as far back as the Iron Age. Even so, there are elements in the Insular manuscripts and particularly in the *Book of Kells* that seem unique, as if from another world.

In its totality, the *Book of Kells* stands to Celtic art as Chartres to Gothic cathedrals or the Sistine Chapel to Renaissance painting: epitome and climax.

THE AGRICULTURE POLICY ACT OF 1977—S. 2218

Mr. STONE. Mr. President, it is my understanding that the Commerce Committee is interested in examining the bill I have introduced, S. 2218, the Aquaculture Policy Act of 1977.

Although I appreciate the interest of the Commerce Committee, I do not think that the Agriculture, Nutrition, and Forestry Committee should share concurrent responsibilities with the Commerce Committee on this bill according to Senate rule 263(b) 2.

I do feel that recognition of the Commerce Committee's interest should be given. In order to expedite consideration of S. 2218, though, I would prefer that sequential jurisdiction be given to the Commerce Committee instead of a concurrent jurisdiction.

SOUTH DAKOTAN TALKS COMMON SENSE ABOUT ACREAGE LIMITATION PROPOSALS

Mr. ABOUREZK. Mr. President, the New York Times, the Washington Post and the Wall Street Journal, among others, have all printed editorials on the Interior Department's proposed regulations for the sale of excess land in reclamation projects. Frankly, these major dailies have demonstrated an almost complete misunderstanding of the situation. Recently, the Belle Fourche, S.D. Daily Post, which serves an area including the Nation's oldest reclamation project, printed an editorial that spoke to the issue directly and simply I think that everyone concerned with this issue should read this editorial and carefully consider its recommendations. I ask unanimous consent that the text of the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

160 Acres Isn't Enough

(Reprinted from the Belle Fourche, S.D., Daily Post, Laurence Weyler, Publisher.)

We hope that this matter of the 160-acre limitation on land under federal water projects get resolved pretty soon, because the arguments are getting a little confusing.

We are constantly being reminded of the danger to the family farm and the need to prevent the development of corporation farming. At the same time we are smothered with complaints of excess government control and regulation and how the 160-acre limitation is stifling survival.

Then we read stories about how one California corporation controls 100,000 acres of 160 acre-land. We see complaints about the provision that requires the owner of the land to live within 50 miles of his holdings.

We hope that a little commonsense creeps into the picture when revisions of the 160-acre limitation are discussed.

Granted that there should be some flexibility in the figure because 160 acres in the Belle Fourche project are not going to produce what 160 acres will turn out in California's Imperial Valley, but someone should not forget the original intent of the project was to provide workable homesteads for the little man. It's time the user pays for the water, but the American public footed the major part of the bill for most of those projects and has provided, in effect, a subsidy for those users. If those users are going to draw the subsidies they should reconcile themselves to the fact that someone is going to establish some rules.

Granted the 160-acre limitation became obsolete many years ago, and granted that there have been some rather generous interpretations of the regulations. The problem never got out of hand, however, until someone got greedy and tried to overdo. As usual, when these things happen, everyone is going to pay the bill for that greed.

We don't see anything wrong with a reasonable acreage limitation. We think the original intent of the law was sound and that the intent of those rules should be kept in mind—the benefits of those Federal projects should accrue to family farm operations. There should be reasonable flexibility in the rules, and they should be enforced so that when someone buys one of those units he knows what he's buying and doesn't have to spend the rest of his life trying to find a way to circumvent the regulations.

This is a problem that strikes close to home. We want to see the Belle Fourche valley farmers with holdings large enough to provide an adequate living. We sure don't want to see the valley farms owned by four or five people who live in Arizona or California.

HOUSING AND COMMUNITY DEVELOPMENT BUDGETS

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Maryland (Mr. Mathias).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Mathias

In the past I have criticized the parsimony of both the Nixon and Ford Administrations when their housing and community development budgets proved inadequate to our needs. To my regret, President Carter is proving to be just as stingy as his predecessors in his budget targets for the cities of America who look to the Department of Housing and Urban Development. And, since I have never held my fire when I found my own party inadequate to great purposes, so I do not propose to remain silent now while a Democratic Administration sells the people in our cities short.

The Federal role in the "plight of our cities" has been a subject of discussion among policymakers since the early 1960's. Declining populations, declining economic base, deteriorating physical plant, increasing dependent population, rising crime and unemployment, deteriorating quality of public education—all of these trends have been documented over the years. And a variety of federal responses has been tried with varying degrees of success. The New Frontier brought us the Office of Economic Opportunity; the War on Poverty brought us the Model Cities Program, Head Start and the Neighborhood Youth Corps. The early 1970's saw a freezing of many of those programs that brought money and expertise to poverty areas, particularly in cities. The nation's social conscience had been overwhelmed by the size and complexity of problems of the poor and the unemployed. We had come to the realization that there were no easy answers.

Many of the dedicated people, who had displayed such enthusiasm for those federal urban aid efforts, were profoundly disillusioned with the slow pace of change and what they saw as the neglect by the national leadership of urban problems. Further complicating matters, the Vietnam War diverted the nation's attention and resources from problems here at home. Those who live in cities, particularly the poor, were most discouraged. They thought that our national leaders had sold them out. And the rallying point of citizen participation, known as "maximum feasible participation" became, in the words of my colleague from New York, Senator Moynihan, a "maximum feasible misunderstanding."

Today we have ended our involvement in the war in Southeast Asia. Watergate is behind us. We can now return to the more pressing and immediate situation in many of our cities. Those trends in cities I have cited here have not changed. If anything, they have worsened for many mayors and urban administrators. Once again, the subject of city decline has become a popular topic of national theorizing and conversation.

The White House has scheduled a well-publicized Conference on National Growth and Economic Development for the end of January. The purpose is to develop a national consensus on the nature of our urban problems as well as to make recommendations to the President on specific steps he should take to improve the plight of our cities.

In addition to this effort, the President has established a cabinet-level "Urban Regional Policy Group", chaired by HUD Secretary Harris. This group has been working since last March to develop a coordinated "package" of programs to aid urban areas experiencing decline in their tax base, deterioration of their housing stock, loss of revenue-producing population and business, and the like.

Quite obviously, the programs of the Department of Housing and Urban Development will play a major role in such an "urban package".

It is, therefore, disturbing to read reports of proposed major cutbacks in the HUD fiscal year 1979 budget. The White House and the Office of Management and Budget apparently believe that a balanced budget must be achieved at the expense of our nation's cities. The President, I am told, has directed the HUD Secretary to almost halve her budget request for the next fiscal year. I find this very disturbing.

Urban administrators, who depend on HUD housing and community development programs to house those who have no other housing choice and to revitalize cities' physical plant which is rapidly deteriorating, need help now.

The HUD budget proposal for fiscal 1979 does not mandate a wild-eyed spending spree. Rather, it contains some modest housing innovations that have been needed for some time.

For example, HUD proposed to target mortgage interest subsidies to inner-city neighborhoods that have been neglected by conventional lenders because of their location. HUD has also proposed an interest subsidy program to stimulate the construction of rental apartments for lower income and working-class families who have been priced out of the housing market by inflation.

Now this kind of a program is clearly on target. One only need look at the low rate of apartment construction starts for the past two years and the unbelievably tight housing markets in so many of our cities to appreciate the soundness of Secretary Harris' proposal.

Other basic HUD programs which have proved their usefulness, such as rental assistance payments, public housing, and housing rehabilitation loans are also apparently on the White House chopping block.

HUD's proposed 1979 budget contemplated a $4.6 billion funding level for the Community Development Block Grant Program; $900 million for the Urban Development Action Grants; $125 million for Sec. 312 low interest rehabilitation loans; and $100 million for the Sec. 701 comprehensive planning program. OMB is insisting that each of these programs be held to the same level as the present fiscal year. Those funding levels are essentially those of the Ford Administration which Mr. Carter, during his election campaign was quick to describe as "benign neglect" of our cities.

HUD's Section 8 housing assistance program was scheduled to move into high gear in the coming fiscal year, financing up to 550,000 housing units. The budget-cutters at OMB and the White House, however, want to cut this program in half. This would cut back subsidized housing production to its initial level of three years ago.

The entire HUD budget for the present fiscal year is $9.1 billion. This represents 2 percent of the total federal budget for this fiscal year. If the White House has its way with the HUD budget for fiscal year 1979, that percentage will remain virtually the same.

Equally disturbing to me are reports that a HUD request for direct operating subsidies and rent supplements for so-called "troubled projects" has been turned down by the Office of Management and Budget. These are apartments for low and moderate income families which are in most cases located in cities where rental revenues are unable to keep pace with rapidly rising operating costs. These apartment buildings were built by church and other non-profit groups to house the poor.

The potential for large-scale displacement of residents of those buildings and the hardship which it brings to families must concern all of us. This is the possible effect of such a budget denial by OMB. The displacement of low income residents from such buildings is almost certain to lead to financial difficulties for their sponsors and eventually to abandonment of the buildings. The President need only recall his October visit to the South Bronx in New York City to appreciate the physical, economic and social havoc caused by large-scale residential building abandonment. I urge him to reconsider his position on this most important HUD issue.

The secondary mortgage market also plays an important part in subsidized housing production. Through the Government National Mortgage Corporation, Section 8 mortgages are purchased in the secondary mortgage market. This "take-out" of Section 8 mortgages is essential if developers are to continue to finance and build Section 8 low and moderate income housing units. Yet, I understand that OMB has sharply curtailed this program, too.

These proposed reductions in the first real HUD budget of the new Administration are indicative of a mind-set in the White House of fiscal conservatism. A balanced budget apparently is the overriding concern of the Carter Administration, never mind who suffers in the process. In this case lower income families will take it on the chin from the budget boys. Personnel at the Office of Management and Budget seem to believe the simplistic notion that an income transfer mechanism can solve the most complex problems of our nation's poor. It is argued that if we assure the poor of a minimum level of income in lieu of decent housing, the housing market will automatically respond by providing decent housing at a place and price they can afford. But the woeful inadequacy of the present housing market and its inability to meet the needs of millions of non-poor, middle income renters and buyers shows us that the income transfer idea will not work.

The Administration attitude toward the HUD appropriation is particularly disturbing because the President has stated that the nation's cities are "America's No. 1 economic problem" and he campaigned on a platform to focus federal aid on those cities. In the summer of 1976, candidate Jimmy

Carter pledged to a U.S. Conference of Mayors meeting in Milwaukee that he would adopt an urban policy based on mutual trust, mutual respect and mutual commitment between the city governments and the federal government. He pledged an urban policy that would be responsive to the multi-faceted needs of American cities—their needs for coordinated economic development, their needs for housing, and their needs for services that would sustain the people in that housing.

On March 4 of this year, HUD Secretary Harris, appearing before the Senate Housing Subcommittee, in good faith emphasized that her Department would become the primary link in the implementation of this new urban policy. Secretary Harris said, "I envision a new beginning for Americans in the realm of housing and urban development. It is a beginning . . . that is based on realistic objectives derived from knowledge of both our resources and our need. It is a beginning that will call upon the good in our nation and its people so that together we can meet the challenge that is before us today."

I fear, however, that Secretary Harris' faith in the good in our nation and its people is being undermined by the expediencies of zero-based budgeting, a concept President Carter would have difficulty explaining to a mother and her children living in a crowded ghetto without money and without hope.

A CHRISTMAS GHOST: PUMPED STORAGE CHAMPIONED BY ENVIRONMENTALISTS

Mr. **MUSKIE.** Mr. President, the many twisted arguments against the Dickey-Lincoln hydroelectric power project on the St. John River in my State are sometimes amusing, sometimes saddening and occasionally so outrageous that I am forced to speak against them.

One such argument has surfaced in the form of pumped storage, touted recently as an environmentally sound alternative by the Boston region of the EPA. EPA should know better. I hope it does. If it does not, I worry about our environmental future.

Pumped storage, of course, is a method of producing power within a system by using excess capacity at times of low demand to pump water uphill to a holding reservoir. Then at times of peak demand, some of the energy is reclaimed by allowing the water to fall from the reservoir through generating turbines. In some cases, it is a practical generating method.

The EPA's comments on the Dickey-Lincoln project, and news reports which followed their release, both pointed to a pumped storage site near Caratunk, above the Kennebec River.

EPA, and the press, demanded to know why this site had not received more study. After all, they claimed, the site would produce more peaking power than Dickey-Lincoln for what they were certain would be less environmental cost.

In the first place, it has been studied, first in the early 1960's when Dickey-Lincoln was first seriously considered. In the draft environmental impact statement on Dickey-Lincoln, a section of appendix I is devoted to analyzing pumped storage, including the Caratunk site.

Let me for a moment merely mention the fact that the water level of the upper reservoir would fluctuate every day by 90 to 100 feet, and by as much as 140 feet. Let me only mention that the lower reservoir, Wyman Lake, would fluctuate every day by 6 feet. Let me only mention that the Federal Government never has been in the business of building pumped storage facilities for private utility companies.

The key objection, conveniently and dishonestly ignored in recent reports, is this: there is no power in New England to store. Building a pumped storage facility would mean building a new baseload powerplant, fired by coal, oil or nuclear power. Now where is the environmental benefit of pumped storage?

In fact, the Army Corps has estimated it would require one third of the total power generation of a new nuclear plant to run a storage facility at Caratunk. Why so much? Because you only get back two-thirds of the power that you use in a pumped storage facility. So the Caratunk facility, which would produce more power than Dickey-Lincoln, would actually cost us 2.5 billion kilowatt hours a year to generate 1.7 billion kilowatt hours of energy for peak demand. And it would only cost us $300 million, if the Government were interested in the first place.

Now where is the power benefit from that?

Dickey-Lincoln combines peaking power, intermediate power and pumped storage to produce its energy. In addition, regulating the water flow of the St. John River would increase energy production downstream. We could reclaim part in the pumped storage feature of the project.

And the entire argument ignores the crucial flood control aspect of the Dickey-Lincoln Dam. The floods will not go away, even if Dickey-Lincoln does.

Mr. President, one aspect of the pumped storage argument being advanced by environmentalists is particularly disturbing. I have devoted a substantial portion of my life and my energy to promoting the cause of a clean, healthy environment. Those of us committed to environmental protection have succeeded because we never attempted to hide the truth. We always described the consequences of our proposals. We have succeeded in part because we forced others who would harm the environment to describe the consequences of their proposals. Collectively we made a judgment on the facts.

It is a disservice to the cause of environmental protection, and a sad reflection on those who advance the argument, to pretend that what is advanced here is any more than a Christmas ghost which will disappear like a wisp of smoke under the howling wind of environmental objections should Dickey-Lincoln not survive.

I further believe it is irresponsible for those who would call themselves environmentalists to proclaim pumped storage as an environmental savior in the Maine case when it was environmental opposition which killed what some considered to be the most environmentally responsible pumped storage proposal in history—the Storm King project on the Hudson River.

The story of how the project was killed, and by whom, was eloquently told by William Tucker in the November 1977, issue of Harper's magazine.

I ask unanimous consent that his analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ENVIRONMENTALISM AND THE LEISURE CLASS

(By William Tucker)

Four years ago, while I was working at the Bergen Record, a suburban newspaper in Hackensack, New Jersey, a press release crossed my desk from the Scenic Hudson Preservation Conference, a small group with headquarters on Madison Avenue which, by its own advertisement, had been working for more than ten years to "save Storm King Mountain."

Although I had grown up in the New York area, I hadn't been living there much during the 1960s, and my memory of the whole Storm King incident was hazy. The most I could recall was the image of a majestic, looming mountain somewhere along the Hudson, a threat by Consolidated Edison of New York to do something terrible to it, and the recollection of protesters and entertainers strumming their guitars and parading in boats until the apparition had somehow been exorcised.

I doubt if I could have identified the Con Edison proposal as a pumped-storage plant. If I had been asked, I probably would have said it was a nuclear plant. I did not know at the time how many other people, including some of the principals of the controversy, would have responded in the same way.

Yet I was getting awfully suspicious about environmentalists. Their solutions to problems had an inordinate amount of impracticality about them, more than they would have tolerated in their own lives. The environmentalists in any given area seemed very easy to identify. They were, quite simply, members of the local aristocracy, often living at the end of long, winding country roads. They had learned the lessons of conspicuous consumption and had allowed a certain amount of genteel rusticity to enter their lives. Instead of imitating Greeks and Romans, they seemed to be patterning themselves after the English gentry.

The environmentalists knew the language of energy and ecology, and could describe a future filled with windmills and with bright sunshine radiating "inexhaustible energy." Yet one never got the impression that these people were planning to be part of it. The "soft energy" of the future was a vision offered to persuade people to forgo the nastier, more vulgar realities of the "hard energies" of the present. I knew this was mostly a lot of nonsense. Solar electrical generating stations would be massive installations, hiding acres upon acres from the sunlight. Storage problems could prove insurmountable. Solar heating on a large scale could mean rebuilding half the homes in America. When I questioned the environmentalists closely, I found these details rarely intruded upon their vision. "Have faith" was the rejoinder, while economics and matters of sheer quantity were dismissed. "We certainly can't go on the way we're going now" was the comment I heard over and over again. It was difficult to tell just which, if any, of these people really knew what they were talking about.

There was another thing that disturbed me about environmentalism. That was the way it always seemed to favor the status quo. For people who found the present circumstances to their liking, it offered the extraordinary opportunity to combine the qualities of virtue and selfishness. When the first environmentalists were showing up at town meetings arguing against new apartment houses, shopping centers, or whatever, it seemed obvious that they were acting out of the universal human impulse which makes people respond to incursions on their surroundings by saying, "Put it somewhere else." Like everyone, the environmentalists wanted to be left with the illusion that they lived alone in nature without the assistance of other people. They had simply refined their arguments with talk about "ecosystems," "rare, endangered species," and "carrying capacities."

That was before everyone else began catching on to the possibilities of environmentalism. From 1972 to 1974, "protecting the environment" became the favorite argument in the endless debates over new development in the suburban area of Rockland County, New York, where I was reporting. People who would starve to death if they couldn't drive their cars to the supermarket were opposing new road construction because "fossil fuels are disappearing" and "we aren't going to be using cars anymore."

And really, there was nothing in it that was logically inconsistent with the tales of the original environmentalists. Nothing these first country prophets had said ever had much to do with sacrifice or self-restraint. If tweedy people living at the end of country roads with fireplaces in their living rooms could protect their "environments," why couldn't tacky people living in pink-and-gray houses at the end of cul-de-sacs do so as well? "Environmentalism" always seemed to work in favor of the people who were already established in "the environment." I didn't realize how true this was until I learned that a group of middle-class whites in Newark had been able to block a highly controversial low-income housing project by bringing a long series of challenges to the project's environmental impact statements.

In the course of about six months, I saw several garbage-recycling projects and an experiment in pollution-free burning of coal blocked by local residents who were "protecting their environment." It was easy to see that people who talked about "environmentalism" were not terribly concerned with things like recycling, conservation, and biology.

With all this in mind, I decided it might be worth taking a long look at the incident which is considered the "birthplace of the environmental movement," the Storm King Mountain controversy. I admit I started my investigation with certain anticipations. I expected to find a project that had been opposed by a small but determined group of wealthy people. This turned out to be correct. What I didn't expect to find was the degree to which the opponents of the project had managed to commandeer public opinion and win supporters among people whose best interests might have been served by supporting the plant. Among these was the entire government of the city of New York.

What is most astonishing is that the whole issue is still alive, miraculously embalmed in the deep-freeze storage of the court system. The crowds have departed, the newspapers have stopped covering the story, and no more than a few people can remember even the sketchiest details of the issue. Only Con Edison and its little band of determined opponents remain in deadlock, struggling far into the night.

The chronicle as it comes to us now is really a historical saga. The written record would probably fill a wall of bookcases. I have read the New York Times file on the subject, the Bergen Record file (which includes most AP dispatches), and several books relating to the subject; I have visited the Storm King area many times, and interviewed close to forty people who played major roles in the controversy. Yet most of the testimony from the fifteen years of court cases and Federal Power Commission hearings is known to me only through excerpts and newspaper reports.

Nevertheless, there is a consistent pattern in the Storm King Mountain controversy, one which, I think, offers an answer to the big question—Why has this particular plant stirred up so much opposition?

The question has long tantalized nearly all the participants. One can see editorial writers, utility executives, residents of the Storm King area who favored the plant, and even the environmentalists themselves reaching for an answer over and over again. I wasn't able to make more than a few vain stabs at it until this year, when I went back and finished a book I should have read in college, Thorstein Veblen's Theory of the Leisure Class. There, in a slim fourteen-page chapter called "Industrial Exemption and Conservatism," I found an explanation of "environmental" behavior which I believe goes far beyond the issues at Storm King Mountain. It bears most specifically upon our present industrial crisis—the prospect of fossil-fuel shortages, the conversion to new technologies, the support for "no-growth" economics, and the general future of the industrial system.

I believe the Storm King Mountain controversy contains a story that has never been adequately told but has enormous bearing on the future of our economic system. It is offered here in the hope that, once understood, it will not have to be repeated on a large scale.

THE CHRISTMAS-LIGHT DEMAND

> The leisure class is in great measure sheltered from the stress of those economic exigencies which prevail in any modern, highly organized industrial community. The exigencies of the struggle for the means of life are less exacting for this class than for any other; and as a consequence of this privileged position we should expect to find it one of the least responsive of the classes of society to the demands which the situation makes for a further growth of institutions and a readjustment to an altered industrial situation. The leisure class is the conservative class.
>
> —THORSTEIN VEBLEN,
> The Theory of the Leisure Class.

In 1962 Consolidated Edison Company, the sole supplier of electricity to New York, was the giant of the industry. The company had some of the most skilled and innovative engineers in the business, and was generally regarded as the most progressive utility in the country. This was hardly a matter of chance, because whatever problems occurred in the utility industry were sure to happen first in New York City.

In the 1950s Con Ed had experienced almost nothing but major changes. The capital-short years of the depression and the diversion of resources during World War II had left the utility almost a generation behind in construction of new generating plants. In 1952 the company had eleven power stations, all of them in New York City and all but three built before 1933. They could produce a peak output to meet a demand of 3.3 million kilowatts.

But the arrival of new energy-consuming technologies—particularly air-conditioning—was changing the entire pattern of electrical consumption in New York City. Throughout the history of the utilities industry, peak demands always occurred at night. Right through 1957, the biggest strain on Con Ed's system occurred when midwinter lighting and heating demands were at their highest. Old-timers in Con Ed's control command could fondly remember a time when the annual peak usage occurred on Christmas Eve, when tree lights and toy trains put the largest demand on Con Ed's generators.

But by the early 1950s it was obvious that the city's systems were on the verge of enormous changes. Daytime peaks, particularly during the summer air-conditioning season, were growing in gigantic leaps and would soon be overtaking winter nighttime demands. Carrying summer loads was soon going to be the utility's biggest challenge.

Con Edison responded with actions that can only be called appropriate. In the late Fifties the company contracted with the Allis-Chalmers Corporation to build a 1 million-kilowatt coal-burning plant—later to be nicknamed "Big Allis"—that would be more than twice the size of an existing plant, yet would hold off the rising peak demands for only four years.

At the same time, Con Ed ignored the conservatism of other utilities and began developing a nuclear technology. The only atomic generating stations had been built by the U.S. government, and other utilities were avoiding the risks of pioneering in the field. But Con Ed did not have time for such caution. The company bought an abandoned riverside park at Indian Point in upper Westchester County and contracted with General Electric to build, for $140 million, the first privately owned nuclear station in the world. Indian Point would provide only 237,000 kilowatts—less than the next year's projected increases in demand—but would open the way for larger efforts in nuclear technology.

On June 26, 1957, with both Big Allis and Indian Point One still in construction, the company passed a watershed. During the midafternoon of an extraordinarily hot day, Con Ed's demand rose to 3.5 million kilowatts. It was the first time a daytime peak had surpassed the annual nighttime peak, and it also put Con Ed over its own capacity. Electricity had to be imported from Long Island and New Jersey over lines that were originally built so Con Ed could sell power to neighboring utilities. All during the long afternoon, Con Ed executives sweated it out at the Manhattan control center, praying that the improvised system would work. Over the next three years, demand would grow at an average rate of 300,000 kilowatts per year.

Big Allis and Indian Point One came on line as scheduled, but the exasperating situation of "peak demands" was leaving Con Edison and other utilities playing a losing hand. New generating capacity was going to have to be added almost continually, yet this capacity would remain idle during most of the year. It was like building an extra wing on a house to accommodate a guest who visited only at Christmas. There were extraordinary inefficiencies in building and maintaining generators whose average "load demand" over the entire year was only about 55 percent of their full capacity.

The problem is that electricity must be used as it is generated. It cannot be stored in normal generating systems. The only proven method of storage—then and now—is "pumped storage," a system whereby water is pumped from a lower to an upper reservoir during off-peak hours and released during peak hours to create hydroelectric power.

A few utilities had built pumped-storage plants during the 1940s, and 50s, but they were clumsy, costly affairs. Two separate water tunnels were required—one for pumping, the other for generation. Then, in 1960, engineers perfected a reversible turbine that could serve as both pump and generator. One tunnel could be used for both purposes, cutting construction costs nearly in half.

Several utility companies in areas where mountains and rivers would make pumped-storage systems feasible started exporing the new techniques. Con Ed did not make a deliberate investigation, but in 1961 one of its executives received a call from a manager at Central Hudson Gas and Electric in Newburgh, who said his company had been investigating what appeared to be two excellent pumped-storage sites on opposite sides of the Hudson River within five miles of Newburgh. The first, below Breakneck Ridge on the east bank, would suit Central Hudson, but the second, just south of Storm King Mountain, was too large for the Newburgh utility. It might, however, be on a scale required by the New York City company.

Con Ed made its own investigation of the Storm King site and found it was highly suitable for pumped storage. The generating plant could be tucked into a small inlet in the Palisades Interstate Park just south of Storm King. An upper reservior for drinking supplies had already been developed about two miles behind the mountain. It belonged to the village of Cornwall, which lay just north of Storm King. The village would probably be happy to have the reservior put on the tax rolls, and could be furnished with new wells by the company for about $3 million.

Working covertly to avoid land speculation, the utility acquired most of the property around the upper reservior during the spring and summer of 1962. Then, in July, Con Ed broke the news to political officials in Cornwall. Mayor Michael Donahue was delighted—almost overwhelmed—at the idea of having the huge enlargement of the upper reservior on the tax rolls. The benefits to the community would be enormous.

On September 27, 1962, village officials and Con Ed made a joint public announcement of the new plant, which they predicted would win quick approval from village residents and from the Federal Power Commission, the licensing agent. In his first interview with the presss, Mayor Donahue, a Cornell-educated veterinarian who had grown up in Cornwall noted, "There's no chance that the building will reduce the aesthetic qualities of the area" because it would be located "on the waterfront, not on the hills."

Five miles downstream however, a part-time resident on the east bank looked out the front window of his mountain retreat, one of many luxurious second homes in the area, and found a different view of the matter. William Osborn, an engineer whose family owned 2,000 acres and a mountainside castle, and who served as president of the Hudson River Conservation Society, realized that he would have a clear view of the transmission lines that Con Ed was planning to string across the river to connect the Storm King plant to its circuits in Putnam and Westchester Counties. Osborn called a few of his neighbors in similar mountaintop hideaways and found that they too were upset about the plant, which would be visible from several lookouts on the east side of the river. Osborn, whose brother Frederick was a commissioner of the Palisades Interstate Park, was soon on the phone to Con Ed to see if it couldn't be persuaded to make a few slight changes in the layout of the plant.

At the time, "ecology" was an obscure discipline found only in a few biology textbooks, "conservation" was a movement whose main impetus had occurred around the turn of the century, and "environmentalism" was a word that didn't even appear in the dictionary. But most people familiar with the history of the Storm King Mountain controversy rightly consider William Osborn's phone calls to his mountaintop neighbors as the birth of the environmental movement.

HUDSON RIVER VISTAS

The scenery along the Hudson River's 130-mile lenght from New York to Albany can hardly be characterized in a few simple phrases. Nor can its long history. Both are notable for their diversity.

The Hudson's scenery ranges from the rocky columns of the Palisades at the lower end to the dreamlike vista of the Catskills along its upper reaches; from the beauty of mountainside farms to the leaden industrial shores of Haverstraw and Newburgh Bays. The latter are two of the larger industrial centers that sprang to life during the early nineteenth century, when the Hudson became the main thoroughfare for most of the new nation's commerce.

Between them lies a stretch that has remained largely untouched. These are the Hudson Highlands. Here, for a length of fifteen miles, the mountains rise straight from the water's edge like the burly shoulders of huge animals. The stretch is the point where water from a preglacial lake broke through on its way to the Atlantic. It is the only breach in the Appalachian Chain, and thus forms a natural pathway from the Eastern coastline to the hinterland of the American continent, making the Hudson the nation's first main highway.

The highlands offered few footholds for commercial and industrial settlement, however; they served instead as a retreat for the wealthy. During the Revolution, they housed the biggest concentration of Tories in the thirteen colonies. As New York City prospered in the early 1800s, some of the area's most successful citizens began trekking up the Hudson to find solace on riverfront properties. The east bank of the river had been "estate country" ever since the Dutch made their first land grants along its shores while the west bank remained "Indian country," and was first settled only by small farmers who were willing to risk confrontations. As the nineteenth century progressed, the distinction remained. The Astors, the Goulds, the Vanderbilts, the Roosevelts, and the Rockefellers all took up residence on the east bank, while the western shore remained in the hands of small farmers except for the large holdings of the Harriman family in Orange and Rockland County utilities.

The highlands were the scene of some of the more elaborate attempts to mimic European nobility. A succession of wealthy stockbrokers and businessmen built mountainside castles in the region. Some proved drafty and uninhabitable, and were succeeded by less ambitious but still impressive second homes. Eventually, many of the great estates became unmanageable and were sold to charitable institutions. But the little colony of wealth in the highlands persisted. A group of artists and admirers of the past clustered around it, and an aristocratic, inward-looking community was formed, with the hamlet of Garrison as its center.

In the cities to the north and south, the story was different. Commerce declined, and industries deteriorated or departed. A wave of urban-renewal projects in the 1950s sent displaced blacks moving from city to city along the river looking for homes.

In the period of 1955–61, two striking incidents occurred within ten miles of each other on either side of Storm King. A group of wealthy activists moved an eighteenth-century mansion piece by piece all the way from Peekskill to Garrison after the federal government threatened to tear it down. It became the Boscobel Restoration, a minor tourist attraction. On the other side of the river. Newburgh was also briefly in the news. Exasperated by the number of welfare recipients moving into the community, the city manager, Joseph Mitchell, announced that all able-bodied welfare clients would have to perform city jobs to receive their payments. The directive was quickly overturned in the courts, but city officials said it had highlighted the community's economic plight.

Less than a year later, Consolidated Edison of New York arrived on the scene with a proposal to spend $115 million to build a pumped-storage plant at the base of Storm King Mountain.

An advance in technical methods, in population, or in industrial organization will require at least some of the members of the community to change their habits of life . . .; and in doing so they will be unable to live up to the received notions as to what are the right and beautiful habits of life.—The Theory of the Leisure Class

Right from the beginning, Con Edison was willing to compromise. It may have been their biggest mistake.

When Osborn made his objections known to Con Ed, the utility quickly agreed to move the plant around to the north side of the mountain, so that, instead of lying within the narrow gorge of the highlands, the plant would be facing the dilapidated scenery of Newburgh Bay, and sitting almost atop the burned-out ruins of Cornwall's abandoned waterfront. The company also agreed to run the power lines through an underwater cable beneath the Hudson. The relocation of the plant would mean a slightly longer tunnel, but it would also put the generating station within the village of Cornwall, which would make local residents even more willing to welcome the project. The additional expense would raise the total cost to only $121 million. Osborn registered his satisfaction, Cornwall was even happier about the plant, and the matter seemed settled. But not quite.

Other owners of weekend homes and small estates on the east bank of the highlands were unhappy about the transmission lines, which, in some cases, would run near to or over their properties. If Con Ed was submerging its cables under the river, why couldn't it bury the lines near their properties as well? Con Ed executives replied that burying all the wires would run the costs far beyond acceptable levels for its New York City and Westchester customers. The estate owners were not satisfied.

As they voiced their complaints, they heard that they had counterparts across the river in a little colony of about twenty-five families of wealthy New York City businessmen and attorneys with summer and weekend homes behind Storm King. These "weekenders" and "mountain people," as they were known in Cornwall, lived around a private compound developed in the 1880s by James Stillman, the president of National City Bank and one of the organizers of the Consolidated Gas Company, the forerunner of Con Ed. Stillman had been regarded as a nouveau riche when he tried to gain entrance to Tuxedo Park, the exclusive community at the other end of Orange County. Rebuffed, he expanded his family holdings at Storm King and started his own private community. Many of the current residents are descendants of the original families, although one of the reigning patriarchs, Chauncey Devereux Stillman, had moved further north, to Columbia County, where he kept a set of four-in-hand coaches and raised peacocks on his property.

The "mountain people" were also unhappy about the new plant. A parade of bulldozers and construction workers threatened havoc for their quiet weekend retreats. Some would lose property holdings around the upper reservoir. In addition, the plant would mark a kind of symbolic invasion of their privacy.

The "estate country" people made contact with the "mountain people," and together they talked about the possibilities of blocking the plant. One of the Cornwall people, Stephen Duggan, was a senior partner in the blue-chip Wall Street law firm of Simpson, Thacher and Bartlett. Duggan felt that if the group could harass Con Ed for a while, the economics would change and the company might give up the project. The Cornwall Stillmans polled their relatives and found they were nearly all opposed to the plant. Benjamin Frazier, a Garrison antique dealer who had led protest marches in front of the Boscobel mansion when the federal government had wanted to tear it down, felt the same technique might work at Storm King. Alexander Saunders, a Garrison resident, felt a case could be made for keeping industry out of the area, even though in 1964 he would move his own family business, a small tool-and-die factory, from Yonkers to the highlands. The group found its ranks joined by another activist, Leopold Rothschild (not a *real* Rothschild), a well-connected New York City attorney who liked to hike in the Storm King area and had been active in conservation groups since an attempt to oppose construction of the George Washington Bridge in 1927.

They decided to attend Cornwall Village meetings and express their views, but soon found themselves facing almost unanimous public hostility. There were even few threatening phone calls. Mayor Donahue, although quietly appalled that the "mountain people" might try to block the plant, made several efforts to mediate. Years later, when I visited his home, he told me of the time when he was invited "up the mountain" to a cocktail party where the Storm King project was to be discussed. "Nobody said much during the entire afternoon," he recalled, "but toward the end a retired West Point general took me aside and said, 'Look, we've got it nice and peaceful up here, why do you want to spoil it?' I bit my tongue and didn't say anything, but what I wanted to say was 'What about all the little people down there in the village who need this plant? Did you ever think about them?' "

Things did not look promising for the fledgling opponents during the early months of discussion, but in April 1963 Con Ed made a bad mistake. In its annual report, the utility printed on artistic rendering of the proposed pumped-storage plant. In an effort to highlight the technical aspects, the artist drew the plant larger than its actual size. As one writer would later describe it, the drawing showed "a portion of Storm King mountain missing, like a slice removed from a tub of cheese." Rothschild wrote letters of protest to both Governor Rockefeller and John B. Oakes, the editorial-page editor of the *New York Times*.

Rockefeller, an aristocrat among aristocrats, made the half-serious suggestion that if the group didn't want the plant they should buy the mountain. (His brother, Laurance Rockefeller, was later to use the family money to buy the Breakneck Ridge site from Central Hudson.) Oakes, however, was more responsive. On May 29, 1963, the *Times* ran its first editorial on Storm King, asserting that "it is almost as bad to plunk down a couple of power installations right in the heart of one of the most stunning natural regions in the Eastern United States, Storm King Mountain" as it would be to put a power plant in the middle of Central Park. The paper had proudly taken its stand. It has not wavered one iota from its original position over the succeeding fifteen years.

Duggan, Rothschild, Saunders, and their associates spent the rest of the summer looking for checkpoints where the plant could be temporarily delayed. The village had waived a referendum on selling the upper reservoir, so they asked that the vote be held. The result was a 499–25 defeat in 1964.

The only other possibility was the Federal Power Commission, which would be licensing the plan under its authority to regulate all hydroelectric projects. The little group of opponents discovered the deadline for filing for appearance at the FPC hearings had already passed, but through Rothschild's connections they were put in touch with Dale Doty, a Washington, D.C., attorney who had sat on the FPC during the 1950s and had once persuaded it to reject a dam proposed in Wisconsin because it would ruin recreation for the area. Doty was eager to argue a case before the FPC in which scenic and conservation values would be an issue.

On the evening of November 8, 1963, Rothschild met with representatives from four national conservation groups in the living room of the Westchester home of Carl Carmer, a popular historian who had written a book on the Hudson. Together they set up the Scenic Hudson Preservation Conference, an alliance of conservation groups that would devote itself to the Storm King case. Carmer was named honorary chairman, and Rothschild was elected president.

Through a combination of Doty's influence and the FPC's desire not to ignore any of the issues, Scenic Hudson was granted permission to appear at the license hearings even though the deadline had passed. Doty felt that a case could be made on the basis of the FPC's responsibilities to consider the total impact of the plant. He felt scenic values should play a part. For Rothschild, Saunders, Carmer, and Duggan, it was chiefly a matter of keeping the plant from going ahead on schedule. When the FPC hearings opened in Washington on February 25, 1964, they and their little band of followers from Garrison and Cornwall were waiting to speak in their turn.

> As population increases, and as man's knowledge and skill in directing the forces of nature widen . . . the habitual methods of carrying on the life process of the group as a whole, no longer give the same result as before. . . . If the scheme according to which the life process . . . was carried on under the earlier condition gave approximately the highest attainable result . . . in the way of efficiency or facility . . . then the same scheme of life unaltered will not yield the highest result attainable . . . under the altered conditions.—The Theory of the Leisure Class

Con Ed officials believed that the huge, 2 million-kilowatt pumped storage plant at Storm King would offer three major advantages to its electrical system.

First, it would solve the problem of peaking power at bargain rates. For an investment of only $121 million, Con Ed would be able to increase its current capacity of 5.5 million kilowatts by more than 33 percent, enough to carry it through to 1969. Building the same capacity with fossil fuel or nuclear plants would cost more than $200 million.

Second, the Storm King plant would create greater efficiencies in Con Ed's existing systems. Instead of adding new generating capacity, it would use existing capacity more efficiently. Coal- and oil-burning plants could be operated at higher levels and would consume less fuel per kilowatt, just as cars burn gas more efficiently at fifty-five miles per hour. Con Ed would be able to retire four of its oldest, least efficient plants. This would be doubly important, since the oldest plants were the worst contributors to air pollution, a growing public concern.

The third advantage was reliability, an increasingly important concern among utilities in the early 1960s. As generating plants became bigger and as transmission lines stretched longer, the possibility of widespread power failures was increasing. Ordinary steam-driven plants could not cope with emergencies because it took from fifteen to thirty minutes to stoke them up to higher capacities. But a pumped-storage plant, with enormous quantities of water sitting behind simple sluice devices, would be a godsend in an emergency. The Storm King plant could go from zero to 2 million kilowatts of power in less than a minute. The man-made waterfall could be used to restart other generators after a widespread power failure. The plant could prevent some blackouts and limit the effects of others.

Fifteen years later, New York City public officials would have done well to remember the reliability promised by the Storm King plant The city had suffered two major blackouts in twelve years, the second leading to widespread looting and costing the city more than $1 billion. But by 1977 hardly any political officials could recall more than a few sketchy details of what Storm King had been all about. And none could remember that the city itself had been the major opponent of the project for nearly ten years.

A CONFLICT OF INTERESTS

The FPC hearings added many novel aspects to what had formerly been a staid and pro forma proceeding. The members of Scenic Hudson presented their arguments under Doty's examination. Rothschild warned that the transmission lines running down the east bank of the highlands would cut a "raw scar" into the landscape. Saunders went even further. "This historic area will be permanently defaced," he warned. The plant would "set a precedent for other projects," while "crisscrossing the area with overhead power transmission lines would destroy many beautiful views."

Carmer made the most eloquent summation of Scenic Hudson's position:

"We believe that ugliness begets ugliness and that nature's beauty, once destroyed, may never be restored by the artifice of man. . . . We would offer the peace and healing our river gives, as it has always given, to those who seek its water for respite from the tension of their lives. . . . The real question is whether the river's national importance shall be sacrificed to these enterprises which would change the shoreline, lower high peaks [sic], destroy groves of trees. . . . The Hudson answers a spiritual need more necessary to the nation's health than all the commercial products it can provide, than all the money it can earn."

Carmer's interpretation of Hudson River history was a limited one. It ignored the river's combined role as the first highway of the nation's commerce, the birthplace of the steamboat, the home of one of the nation's first railroads, and the breeding ground for many of its first industries. The suggestion was that the river would now serve only as "respite from the tension of [the] lives" of people who presumably made their living elsewhere. The same kind of reinterpretation of history was taking place along the river, where the interest arising from the Storm King case was bringing suggestions from conservation groups that power boats be banned on the river and no house worth less than $50,000 be built on its shorelines.

The hearing officer, Edward B. Marsh, took their testimony into account, and in June 1964 recommended to the full five-member commission that the plant be granted a license. Con Ed had proposed to turn the rotting waterfront area into a park, and Marsh noted that recreation in the area would actually be improved. He said the plant would not affect the scenery of Newburgh Bay, but found sympathy with the argument that the transmission lines would despoil scenery in the highlands. He told Con Ed to find an alternative route that would take the lines behind the mountains at Breakneck Ridge. Marsh called the project "an exceptionally fine pumped-storage site" and suggested that Con Ed might even consider enlarging the reservoir to 12 billion gallons for storage of 3 million kilowatts of electricity.

By the time Marsh was issuing his recommendation, it was obvious that the approval of the Storm King plant was not going to be a routine matter. The New York newspapers had discovered the issue and already, on the pages of every city newspaper (there were then seven), the "Storm over Storm King" was brewing.

"The fact that the usage, actions, and views of the well-to-do leisure class acquire the character of a prescriptive canon of conduct for the rest of society gives added weight and reach to the conservative influence of

> that class. It makes it incumbent upon all reputable people to follow their lead."
>
> —The Theory of the Leisure Class

As soon as the New York newspapers woke up to the controversy in the early months of 1964, they lined up almost unanimously against the plant. Con Ed, after all, did not have a glowing reputation in New York City. For one thing, the utility made the mistake of charging people for the amount of electricity they used, whereas the other utility, the New York City Water Department, charged according to fixed "frontage" charges that allow residential customers to consume unlimited amounts of water while extra costs were hidden on the tax rolls. Then, too, Con Ed was constantly digging up the streets to get at its hard-to-service underground lines. Its slogan was "Dig We Must for a Growing New York," and in 1965 *Fortune* magazine was to label it "the company you love to hate." So the discovery that Con Edison was planning to "destroy" a beautiful historic mountain somewhere up the Hudson certainly came as no surprise.

The issue was particularly suited to the practices of editorials. Reporters who visit the scene of a controversy are often forced to trim their sails and adjust their preconceptions. Finding, for example, that an entire village of 3,000 people—indeed, almost an entire county of 200,000 people—was in favor of the project was bound to give some pause. Over the years many extremely balanced stories question the "scenic" objections to the plant were filed from Cornwall. But editorial writers are under no such constraints. They can proceed without too much attention to details. In the case of Storm King, two fundamental misconceptions emerged: that Newburgh Bay was virgin territory rather than a declining industrial area, and that it was the highlands themselves that were threatened. What is interesting to note is that there was never any question about the economic advantages of the plant.

"Beauty over Electricity," proclaimed the Herald Tribune in a May 10, 1964, editorial which stated:

> The Hudson Highlands are . . . a great scenic asset for all the people. And despite the great virtues of Con Edison's cheaper power, the fact remains that this industrial project (for all the intended landscaping works) will detract from nature's beauty. . . . It is well and good that Con Ed wants to bestow so many benefits. . . . But an undefiled Storm King Mountain is worth more than cheap electricity.

The Times offered its own summation on May 23, 1964:

> We do not dispute Con Ed's experts to the effect that this is probably the most economic and efficient means of supplying the next increment of power to meet New York City's constantly growing needs. If the required power plant is not erected at Cornwall but at some other place of less notable scenic and historic interest, doubtless the consumers of New York will have to pay more than they would otherwise pay for their power. We think this choice should be faced frankly; and we also think that in the present instance, preservation is worth the price.

The possibility of there being other sites for the pumped-storage plant was occurring in other people's minds, and at one point a reporter asked Rothschild if he was making any attempt to help the utility find a difference location. Rothschild wasn't: "That's their problem," he said.

HOLDING ACTION

A complete review of the examiner's report would ordinarily take the full FPC about four months, but the mounting pressure of public debate was having its effect. The FPC did not issue its final decision until March 1965, nine months after the original recommendation. By then Scenic Hudson had changed its tactics and was mounting a many-sided campaign. The editorials in the New York newspapers had given the opponents of the project a strong indication that there was fertile territory to be mined among the city's celebrity-conscious media. Pete Seeger composed a ballad in honor of the mountain. James Cagney and Aaron Copland went on record against the plant.

In August 1964 the conservationists, as they were being called, hired Selvage, Lee, and Howard, a small Fifth Avenue public relations firm that had just finished trying to persuade the American public to take a more tolerant view of Portuguese colonial policies in Angola. James Cope, one of the more ambitious account managers, found himself immediately attracted to Rothschild and his group.

Cope arranged a favorable story for publication in *Reader's Digest*. He also hit upon the idea of a "sail-in" around Storm King. On September 7, 1964, all seven New York newspapers carried broad coverage of the "waterborne picket line" protesting the plant. The *Times* noted that "fifty yachts, led by the *Westerly*, flagship of the New York Yacht Club," paraded from the Highlands Yacht Club in Garrison to Storm King, with "Commodore Chauncey Devereux Stillman, whose family gave the Black Rock Forest [behind Storm King] to Harvard in the 1920s," in command. Aboard the *Westerly* were Rep. Robert R. Barry of Westchester and State Sen. R. Watson Pomeroy of Dutchess County. "Opponents say the power plant will leave an enormous gash up Storm King and will set a precedent for defilement of the historic valley," noted the *Times*. The sail-in made *Newsweek*, and within weeks forty conservation organizations were offering assistance. The fight to "save Storm King" was becoming a national issue.

Senator Pomeroy was soon able to create an even more favorable publicity platform for the opponents of the plant. He offered his New York Legislature Committee on Natural Resources as a forum for Scenic Hudson. The pretext was legislation on the development of the Hudson, but a reporter at the scene noted that "it became obvious that [the] purpose was to give those people opposed to the . . . project an opportunity to express their views for the national press."

The Pomeroy Committee hearings inaugurated a pattern which was to succeed over and over again as a delaying tactic for Scenic Hudson. Initiated *after* the official FPC hearings had been closed, their aim was to petition the commission to "reopen" the hearings to permit the presentation of "new evidence," which was placed on the record under highly favorable circumstances. Con Ed's attorneys, of course, were not allowed to cross-examine witnesses before the Pomeroy Committee. When the "new evidence" was later subjected to stiff scrutiny, much of it proved to be fraudulent or nonsensical. But after the hearings had been closed yet again Scenic Hudson would return with more "new evidence" and ask for further reopenings.

The Storm King project has *never at any time* been disapproved or rejected by any court or licensing agency in the federal or state government. It has simply been delayed and delayed over and over again by agency and court decisions to reopen the hearings in order to consider "new evidence." In the entire fifteen years of the controversy, through literally tens of thousands of pages of transcript, the Federal Power Commission has never finished hearing all the evidence.

The star witness at the Pomeroy hearings was Alexander Lurkis, a recently retired chief engineer with the New York City Bureau of Gas and Electricity. Although the papers never mentioned it, Lurkis had been hired several months before as a paid consultant for Scenic Hudson on technical matters. He became Scenic Hudson's mouthpiece on "alternative" forms of generating electricity.

Lurkis shocked the hearings by testifying that Con Ed could produce adequate peaking power through "gas turbines," actually jet engines driven by the hot exhaust gases which Lurkis said could be run with Con Ed's "surplus natural gas."

As it happened, Con Ed had no "surplus" natural gas. Federal price controls were already upsetting natural-gas distribution, and utilities were being rationed by the FPC. Con Ed had recently lost an appeal for more gas rations before the U.S. Supreme Court.

But there was another problem. Although gas turbines are very good for restarting downed generators, they would not be as useful as Storm King in supplying emergency power. Con Ed board chairman Harland C. Forbes wrote the New York Times: "Mr. Lurkis . . . completely ignored the value of the Cornwall project's ability to provide immediately available operating reserve which cannot be furnished by jet-engine equipment—a matter of extreme importance in maintaining reliability of our electric service to the people of New York City."

In fact, Lurkis' testimony proved so full of holes that Scenic Hudson eventually withdrew it after Lurkis had been cross-examined by Con Ed's attorneys before the FPC two years later. But the testimony led to a reopening of the hearings, and that was probably its main purpose.

The second issue raised at the Pomeroy hearings involved fish kills. Con Ed was already installing screening devices at Indian Point after encountering large fish kills there, but witnesses before the Pomeroy Committee said the problem at Storm King would be different. They noted that eggs and larvae from spawning fish would escape any kind of screening devices, and be sucked into the plant. It was a good point, and Con Ed quickly offered to spend $175,000 to study the problem. But within days the newspapers were carrying statements about how "the Atlantic striped-bass population which spawns in the Hudson will be destroyed for all time."

Robert Boyle, an editor of Sports Illustrated, became a participant, forming the Hudson River Fishermen's Association, consisting of the two dozen or so commercial fishermen who still made a part-time living from the river, with "sports fishermen" like Boyle to handle the public relations aspects. There was a certain irony here, since sports fishermen had long since destroyed major stocks in almost every river and stream in the Northeast, and the federal and state governments were annually spending hundreds of thousands of dollars for restocking so that they could continue their pastime. Con Ed also made an offer to restock the river if there was any significant damage to fish life. The opponents again were not satisfied.

But the Hudson River Fishermen soon found themselves facing a formidable obstacle which might be called "nature." Although it was not widely known, scientists were aware that there were tremendous mortality rates in the river, and killing large amounts of eggs and larvae would not necessarily mean disaster for the population. A single female striped bass lays up to 5 million eggs—enough to renew the river's entire stock. Only one egg in 1,000 ever survives to maturity. But such sophisticated understanding of nature's ways didn't tone down the opposition to the plant.

On March 9, 1965, the FPC approved the license for the Storm King plant in a 3-to-1 vote. Despite the acrimony, the impression remained that the conservationists had made important contributions in the hearings and that the utility was making every effort to accommodate them. If compromise had been the goal, there would have been enormous achievement. But the conservationists' purposes were quite different, and their success was to take a much different form.

> The exigencies of the general economic situation . . . do not readily produce, in the members of [the leisure] class, that degree of uneasiness with the existing order which alone can lead any body of men to give up views and methods of life that have become habitual to them. The office of the leisure class in social evolution is to retard the movement and to conserve what is obsolescent. Thorstein Veblen, "The Theory of the Leisure Class."

Scenic Hudson immediately filed an appeal with the Second Circuit of the U.S. Court of Appeals, arguing that the FPC should reopen the hearings for more testimony on scenic values, fish life, and alternative sources of energy. Con Ed officials responded by charging that the opponents had "given up trying to defeat the plant on its merits" and were "trying to drag the project into a long war of attrition in the courts."

In any case, the FPC review had already taken far longer than expected, and, with the court case still pending, it was obvious that Storm King was not going to be on line in time to meet the growing power needs. So in November 1965 the utility announced that it would move up plans for a second nuclear plant at Indian Point. The project would cost $90 million but would generate only 800,000 kilowatts—less than half the capacity of Storm King. For New Yorkers, electricity was going to be more expensive.

The dramatic power failure in the Northeast on November 9, 1965, illustrated the dangers of widespread blackouts. Con Ed officials said that Storm King could have shortened the blackout by restarting other generators, but the incident stirred little support for the plant.

Scenic Hudson, for its part, was taking the final step into the big leagues of public relations by hiring Rod Vandivert, a Long Island advertising salesman, as its full-time public relations director. Vandivert started going after Con Ed executives with a mixture of scorn and sarcasm that was to characterize the conservationist attack for many years. This year I visited Vandivert at his oceanfront home in a small, exclusive community on Fire Island. A big, shambling man with a firm handshake, he wore baggy dungarees and had a patch over his right eye when I saw him.

"We engaged in a technique you might call 'overstatement'," Vandivert explained. "We learned how to do things like calling in stories to the newspapers on deadline so they couldn't get Con Ed's reaction until the next day, or several days later. The newspapers were very responsive. I remember dictating editorials over the phone to them dozens of times. All along, I think Con Ed was really the underdog in this thing."

I asked Vandivert if he ever thought that Scenic Hudson could simply drag the project on and on through continual rehearings and court delays so that Con Ed would finally give up. "Oh, I'd say we thought it about every third day," he said cheerfully.

The Court of Appeals took only until December 29, 1965, to throw out the first FPC license as "incomplete" and order a reopening of the hearings. The decisions, still regarded as the original landmark of environmental law, ruled that scenic and environmental issues must be considered in large projects, and that Scenic Hudson could intervene on behalf of the "public interest," even though its members had no economic standing in the case. Vandivert, for one, was willing to believe that the publicity campaign had played a part. "Court decisions aren't made in a vacuum," he told me. "Judges read newspapers."

FOUR YEARS OF HEARINGS

The second round of FPC hearings lasted for almost four years. When they began on November 14, 1966, Lyndon Johnson was President and the country was just entering the full-scale conflict in Vietnam. By the time the FPC issued its final decision on August 19, 1970, the Kent State shooting had already occurred, and Richard Nixon had been President for nineteen months. Yet this decision was also eventually remanded for further hearings by the Court of Appeals.

I will not attempt to go into anything more than an outline of the proceedings, but it must be noted that the FPC examiner and the commission itself took extraordinary pains to compile an exhaustive record on every aspect of the case. Scenic concerns, the threat to fish life, alternative forms of energy, and aesthetics of the Hudson were all discussed almost to the point of irrelevancy. At one point, the hearing examiner, Ewen G. Simpson, had to decide whether the upper reservoir would disrupt a scenic vista from a point twenty miles away. By the time the hearings were over, Con Ed had spent $15 million on studies and attorneys' fees, while Scenic Hudson had spent $1 million (the organization had managed to tap a foundation supported by the estate of Andrew Mellon.)

Before the hearings began, Con Ed announced that it could bury the entire plant on the Cornwall waterfront, raising the cost to $169 million. They said that would solve the scenic problems, although Scenic Hudson continued to argue against a visitors' booth on the site. But the new plan created other problems. The Catskill Aqueduct, which carries 40 percent of New York City's water supply, runs under the mountain, and Scenic Hudson immediately claimed that it would be endangered. Con Ed offered to pay the entire cost of relocating the aqueduct 400 feet below the plant, but nothing definite was settled and negotiations dragged on between the city and the utility.

Throughout the hearings, reporters from the Times (now one of only three remaining newspapers) gave accurate and unbiased coverage, but the editorial page remained heavily confused on the issues. At one point, it was "discharges from the tailrace tunnels" that endangered fish life. At another, it was "thermal pollution." And despite the plans for an underground plant, the facility remained "on" Storm King Mountain, and wouldn't move to "near" Storm King Mountain until 1969.

The issue of air pollution also became a point of contention at the hearings. Scenic Hudson claimed that Storm King would actually produce more air pollution because they said the power to pump the water up the mountain at Storm King would have to come from fossil-fuel plants within New York City. They said the one-third loss of energy in the pumped-storage process would mean a 50 percent increase in fuel burning. Con Ed had long noted that it could buy off-peak power from neighboring utilities, and that in the long run Storm King would be pumped by nuclear plants. But the notion that Storm King would produce "more air pollution" slowly started to become an accepted fact.

The New York City government had also become involved in air pollution before the FPC hearings, and in early 1966, Mayor John V. Lindsay set up a special Task Force on Air Pollution to negotiate with Con Ed. After several months of studying the problem, the task force decided that Con Ed was correct in its contention that Storm King would mean less air pollution. It signed a memorandum of understanding with the utility, agreeing to back construction of Storm King and help the company appeal to the FPC for more natural gas. In exchange, Con Ed would spend millions of dollars in cleaning up stack emissions, and would promise not to build any more fossil-fuel-burning plants in the city.

The city thought it had struck a good bargain, but the Times, in a May 19, 1966, editorial, remained unhappy:

> We deplore the unwarranted concession . . . to [support] a giant hydroelectric plant on Storm King Mountain. Some experts believe that this would increase rather than decrease air pollution here. . . . Why should New York City for the first time inject itself into the controversy now, particularly when the Scenic Hudson Preservation Conference promised to present expert engineering testimony of the availability of ample other power sources?

The "experts" on air pollution, of course, were also Scenic Hudson.

On May 23, 1967, Simpson closed the hearings after listening to over 5,000 pages of testimony. They did not stay closed for long.

First, Scenic Hudson wanted to "correct" Lurkis's "expert" testimony, which had been refuted by Con Ed's cross-examination. Scenic Hudson petitioned to present another "alternative" plan, and its request was granted.

Its proposal, presented through attorney David Sive, representing the Sierra Club in the case, was that Con Ed should build a third nuclear generator of about 1 million kilowatts. It didn't say where. The remaining 1 million kilowatts needed in Con Ed's system would be supplied by turbines burning kerosene. There was nothing unusual at the time in conservationists proposing nuclear plants as the solution for energy problems. During the 1960s, the Sierra Club and other environmental groups supported nuclear energy as the best form of power generation.

On August 7, 1968, almost a year after the closing arguments had been presented, Simpson issued the first of three favorable reports on the plant. He said there was no alternative for equally reliable power for New York, and that the hazards to fish life would be minimal. While acknowledging that the mountain was "a surpassing scene," he noted that "it must be said that Storm King does not exist in an environment of untouched natural beauty as in the idyllic past, but rather is all but irrevocably associated with the present realities."

Responding quickly, the *Times* said: "[The] findings on the scenic effects are at odds with the virtually unanimous opinion among conservationists and nature lovers, who have no economic interest other than the preservation of a majestic national heritage." The paper found the conclusions on fish life suspect because Simpson said the plant should be monitored after it was constructed.

One week later, Con Ed officials announced they might have to consider putting a nuclear plant in Long Island Sound, on an island near New Rochelle. The *Times* said that proposal must also be regarded "with great reserve" because of fish kills and radioactive wastes. Where New York City's power was coming from was obviously someone else's problem.

> "Even in cases where one recognizes the substantial merits of the case for which the innovator is spokesman . . . still one cannot but be sensible of the fact that the innovator is a person with whom it is at least distasteful to be associated, and from whose social contact one must shrink. Innovation is bad form."—The Theory of the Leisure Class.

Less than two months later, New York City became the major opponent of the plant. On October 28, 1968, Deputy Water Resources Commissioner Robert Clark petitioned for a reopening of the hearings, saying that the negotiations over the water tunnel "had not been fruitful." It is difficult to assess exactly what happened, but it is interesting to note that when the New York City Democratic boss Carmine DeSapio was convicted on corruption charges in 1970, he was found guilty of attempting to extract bribes from Con Ed officials in exchange for permission to build over city water lines.

While the city was joining the ranks of the "nature lovers" opposed to the plant, the economic scenery around New York City was taking a turn for the worse.

In 1962, when Storm King was proposed, Con Ed officials said they thought they would have to provide 7.15 million kilowatts of power by the summer of 1969. The entire increase in demand could be met through Storm King. As the summer months of 1969 rolled around, Con Ed's seven-year-old predictions were coming in right on the button. The city set a midsummer peak record of 7.26 million kilowatts—only 4 percent above Con Ed's original predictions.

The only trouble was, power wasn't there to meet it.

Indian Point Two was supposed to come on line by 1969, but the Westinghouse Corporation had failed to meet its deadline. (What with fish kills and environmental suits, the plant was not put into operation until 1974.) Con Ed contracted to buy 915,000 kilowatts of peak-time power from other utilities—the most expensive way to provide electricity—but was still left with only a 14 percent reserve margin, well under the industry standard of 20 percent.

On July 31, 1969, the troubles began. Big Allis fouled temporarily after the installers of a new turbine forgot to remove some insulating equipment. Under the increased strain, two older plants scheduled to be retired by Storm King also broke down. In a matter of hours, more than 20 percent of the utility's power was gone.

For the next two weeks, New Yorkers began to experience what quickly became known as the "power crisis." Air conditioners were turned off, manufacturing plants cut their schedules, businesses closed down. While people throughout the country were celebrating the first moon landing, New York City turned into a sweltering steambath.

Charles F. Luce, a former Undersecretary of the Interior who had just taken over as board chairman of Con Ed, said the problems were due to "a feeling on the part of the public that even though a particular new power plant were not built, somehow the needed power would be provided." He asked for "a better general public understanding that there must be additional power and that . . . we cannot provide it without some impact on the environment."

Vandivert, now being quoted regularly after every statement by Luce, almost as if Scenic Hudson had become Con Ed's alter ego, saw the problem differently, claiming that opposition to Storm King "is not a narrow conservation battle. It's really the public interest versus the big brother or big daddy approach of Con Edison, which assumes we should let it tell us what is good for the public." Scenic Hudson had obviously assumed the task of representing the public on power and energy as well as conservation.

By early 1970, Storm King was still far on the horizon, and Con Ed told the city it would have to build another oil-burning plant in Astoria. City officials were livid. Robert N. Rickles, head of the Department of Air Resources, called air pollution "already an intolerable public health problem." Jerome Kretchmer, head of the Environmental Protection Administration, said the battle over the Astoria plant would be "much deeper than the struggle at Storm King." But it was obvious to some city officials that power plants had to go somewhere, and the Mayor's Interdepartmental Committee on Public Utilities voted 3–2 in favor of Astoria.

But while city officials were voting to accept more air pollution, the corporation counsel's office was throwing in the city's lot with the nature-lovers of the Hudson. On February 12, 1970, after a previous rebuff, the city once again petitioned for *another* reopening of the hearings on a "nonquantifiable yet nonetheless real hazard to the aqueduct."

Was the city simply interested in protecting its aqueduct? It seems unlikely, for, when examiner Simpson allowed a second reopening of the hearings in May 1970, city attorneys quickly said that they were opposed to the plant, whether it endangered the aqueduct or not, because of *scenic* considerations. "The city's concern is for the environment as well as economics," corporation counsel J. Lee Rankin told the FPC. "When we speak of preserving the area, the city is not talking about a superficial or cosmetic job; rather it seeks assurance that an area of exceptional natural beauty be preserved for future generations just as it is."

The *Times* rejoiced that "New York City thus joins the battle waged for years by Scenic Hudson Preservation Conservationists against utility incursions on the river." But, strangely enough, the *Times* had harsh words for Attorney General Louis Lefkowitz, who was trying to block the opening of Indian Point Two after trial runs produced kills of 120,000 fish a day in January and March. "The right answer, given the imperative role Indian Point now plays in meeting metropolitan power demands," said the same editorial, "is not to shut it off precipitously but to see that its plant deficiencies are corrected. Proper steps are already being taken by the Atomic Energy Commission."

Potential fish kills at Storm King were intolerable, but real fish kills at Indian Point, where the problems were complicated by thermal pollution, could be corrected. In addition, Indian Point Two, which was built *in place* of Storm King, was "imperative," while Storm King was unnecessary. It obviously took the skilled eye of a conservationist to be able to make such distinctions.

THE POWER CRISIS

Things turned out to be much worse than anticipated during the power crisis of 1970. In May, Indian Point One was closed by a defective cooling pipe. Indian Point Two was still far from completion. Then, on July 21, Big Allis went down for extensive repairs immediately projected to last through midwinter. Con Ed had begun installing gas turbines over the winter as a substitute for Storm King; by mid-July one of the turbines had also failed, and Con Ed's total capacity was below the previous year's peak. The result was a summer in which voltage reductions and power failures became almost a daily occurrence. Even rush-hour subways didn't have enough power.

In its scramble for power, Con Ed paid premium prices, importing electricity from as far away as Canada, New England, and the Tennessee Valley Authority. Con Ed's profits, already at the lowest rates of any utility in the country, weer getting lower. When another heat wave struck in September, voltage reductions were put into effect for the fifteenth time, and a blackout hit a sixty-five-block area in Queens. *The Wall Street Journal* quoted a Canadian woman who was cutting short a visit to Forest Hills. "You can have New York City," she said. Apparently others agreed. The steady exodus of manufacturing firms and corporate offices was suddenly turning into a rout. From 1969 to 1976, the city, now widely regarded as "unlivable," was to lose 650,000 jobs. Other factors certainly contributed, but the shambles of Con Ed's power system and its soaring rates didn't help. Nothing ripples through an economy more completely than the costs of energy.

On August 19, 1970, the full five-member FPC finally reached its decision to grant a second license for the pumped-storage plant at Storm King. It was Con Ed's one note of optimism for the entire summer. Still, in the midst of the power crisis, the *Times* took the trouble to be gravely disapproving: "Essentially nothing about the plan has changed in the seven years since Con Ed first proposed [it]," said the editorial, without considering that the whole plant would now be built underground. "We are glad that Scenic Hudson intends to carry on the fight in the courts."

Indeed, the possibilities of appeals seemed endless.

Six months after the 1970 power crisis, seven litigants were appealing the FPC's Storm King license to the Second Circuit Court of Appeals. They were the Scenic Hudson Preservation Conference, the Sierra Club, the Wilderness Society, the Izaak Walton League of America, the Audubon Society, the National Parks and Conservation Society—and New York City.

City attorneys must have been dazzled by the company, for, by March 1, 1971, they were telling the Court of Appeals that the project "would be worse from an air-pollution standpoint than construction of additional plants in the city," and were calling the Hudson Highlands "a national treasure" where it would be unlawful to license any site unless there was "a mandate that the site chosen be exactly restored" to its natural state.

But on October 22, 1971, the Court of Appeals upheld the license by a 2-1 vote, and by June 19, 1972, the U.S. Supreme Court had refused to review the decision. A challenge in the state courts followed.

Finally, in August 1973, after more than ten years of effort, the project was suddenly completely free of license requirements and litigation. City officials were furious. Grasping at straws, they took the only possible remaining action and cancelled their ten-year-old agreement to allow the village of Cornwall to tap the aqueduct as part of the plan to replace the upper reservoir. That took another year to overturn in the courts.

Neither had Scenic Hudson run out of "new evidence." On the day of the final state-court decision, Albert Butzel, its new attorney, made a solemn and foreboding statement. "New and revealing evidence has been uncovered which raises serious questions about the viability of this proposed plant and the citizens' need for it," said Butzel. "The evidence is so convincing that the Scenic Hudson group will petition the FPC to reopen the entire case." Butzel said the "new evidence" concerned "fuel cells" which were "just on the horizon."

But in truth the arguments about "alternative sources of power" were wearing a bit thin, particularly since Con Ed was so strapped for power that it was using its peak-load gas turbines for base-load generation, burning fuel at about half its normal efficiency. And so, Scenic Hudson decided to concentrate its best efforts on the fish study that had been made by Con Ed from 1965 to 1968 at a cost of $450,000.

The report, supervised by a panel of high officials from the New York State Department of Conservation, the New Jersey Fish and Game Division, and the Bureau of Sports Fisheries and Wildlife and Bureau of Commercial Fisheries, both divisions of the U.S. Department of the Interior, had found that the plant would draw in no more than 3 to 4 percent of the total number of eggs and larvae that drifted past during the May–July spawning season. Hydrological studies showed that the plant would suck in 4 percent of all the water that passed by the plant each day. Assuming an even distribution of eggs in the river would mean that about 4 percent of the eggs passing each day would be taken into the plant. Assuming that all those eggs would be killed (there was plenty to suggest they wouldn't be) meant that 4 percent of all the eggs that passed the plant would be killed. A fair percentage of eggs was spawned below Storm King and never passed the plant, so the final estimate was a 3.6 percent mortality rate of all eggs and larvae. Since 99.9 percent of all eggs and larvae died before maturity under natural conditions, the conclusion was that the plant would have no effect on the total fish populations.

Scenic Hudson, however, wasn't satisfied. They decided there was a "fatal flaw" in the analysis. The "flaw" was the panel of scientists and federal and state officials had "forgotten" that the river was tidal. The group said that the eggs and larvae would be "washing back and forth" in front of the plant and would have "more chance of being caught." The Scenic Hudson members found a hydrologist who said that the river sometimes washed back and forth ten times in front of certain places in New York Harbor. They decided to multiply 3.6 percent by ten, arriving at a mortality rate of 36 percent.

The whole argument, of course, was a lot of sophisticated nonsense. The study had considered all the tidal movements and arrived at an average figure for the net downstream flow of the river. Once the average was known, it wouldn't matter if the river washed back and forth 10, 50, or 100 times, as long as the net flow had been determined correctly. The point was that the plant could take in only so much water per day.

It is easy to imagine the problem causing some consternation in a fifth-grade math class, but it is difficult to see this logic finding acceptance before such bodies as the Atomic Energy Commission and the U.S. Court of Appeals. Nevertheless, it did.

Scenic Hudson had its "rebuttal" to the fish study. The problem was to get it on the record. But with their multiplying contacts in government and uncritical treatment in the press, this was a relatively simple matter. The target became Dr. Philip Goodyear, a marine biologist in the AEC who was strongly sympathetic to Scenic Hudson's cause and had been a guest speaker at a fund-raising dinner of the Striped Bass Fund, the financial arm of the Hudson River Fisherman's Association. Dr. Goodyear believed—undoubtedly with sincerity—that the three projected Indian Point plants, plus Storm King, would have significant effects on the river's fish life. Whether Goodyear acted with scientific integrity in the Storm King affair will have to be judged from the record.

Scenic Hudson's connection to Goodyear was Sen. Abraham Ribicoff of Connecticut, also sympathetic to its cause. (Since Connecticut was getting many of the corporate headquarters leaving New York City, he certainly had no reason not to be.) In October 1973 Ribicoff delivered the FPC fish study, plus Scenic Hudson's critique, to the AEC and asked for an evaluation "within two months." Dixy Lee Ray, chairman of the AEC, said it would take at least six months, but, as arranged before hand, the report arrived on Goodyear's desk at Oak Ridge Laboratories after only two. "It was a situation where they knew what pitch was coming to them and we knew what hit was coming back at us," Vandivert explained to me.

By mid-December, a "preliminary report" was back in Ribicoff's hands. Dr. Goodyear confirmed that the report was "in error" by ignoring the tidal movement, but did some fast footwork to show that "compensating errors" made the figures correct anyway. He then went on to make his own monumental error by deciding that the entire annual kill of 3 percent of all the eggs and larvae in the river would occur each day the plant was in operation.

"If [the estimated removal of 3 percent of eggs and larvae] is applied over a period as short as ten days, nearly 25 percent of the larvae population would be withdrawn," he reported. "If the daily removal estimate [is applied] over the entire seven-week [spawning] period . . . then approximately 75 percent of the annual hatch might be destroyed." The "daily" estimate, of course, was actually an *annual* estimate.

Ray attached a letter that was as long as the report itself, warning Ribicoff to "use caution in drawing conclusions" because of "the probable absence of completely adequate data." After reviewing the report, she added sardonically that she continued to believe that "a critical analysis of this problem would take a minimum of six months." But the cat was already out of the bag, and so by December 1973 Scenic Hudson was back in business. Within days, a letter was printed in the *New York Times* stating that "the Atomic Energy Commission has reported that the Storm King hydroelectric power project might destroy 75 percent of the annual hatch of striped bass in the Hudson River." Sen. Edward Kennedy asked the FPC for a "brief and worthwhile delay" because of the impending "destruction of 75 percent of the striped bass" off the coast of Cape Cod. Ribicoff sponsored an "information meeting" on the report, and a Congressional hearing was eventually arranged. The testimony was inconclusive, but the environmentalists simply declared themselves the winner and carried the "new evidence" back to the Court of Appeals. The court ordered the FPC once again to reopen the hearings for a new study on fish life in the Hudson.

VICTORY OF ATTRITION

The "brief and worthwhile" delay has cost Con Ed $20 million—one-sixth the original cost of the plant. The money was spent for a third major fish study which took four years to complete, involved seven major universities and scientific institutions, and came to essentially the same conclusion reached by Con Ed's lone scientists more than ten years before—that about 4 to 5 percent of the eggs and larvae would be entrained by the plant, and that the total fish population would not be affected.

Two observations show that there may be something to the utility's side of the story. The three Indian Point plants now take in more water than the Storm King plant would, yet after nearly three years of operation AEC scientists admit that there is no evidence that any portion of the river's fish population has been affected. (The amount of fish scraped off the screening devices each day would fill an average bucket.) There are other pumped-storage plants in operation, and they have fish problems of a different sort. At the Muddy Run plant in Philadelphia, the problem is that eggs and larvae drawn into the plant quickly produce sizable fish populations in the upper reservoir. Their numbers can get to be a problem, and Philadelphia Electric allows fishing on the upper reservoir to keep them under control.

All this hardly matters now. The "long war of attrition" predicted by Con Ed executives in 1965 has been fought and lost. Con Ed's finances fell apart in early 1974—a direct result of the high costs of buying outside power, the utility's enormous tax burden (25 percent of its revenue from customer billings goes to taxes), the overwhelming expenses of having to buy low-sulfur oil for city generation, and the resistance to rate increases. The quarterly dividend was cut, and Con Ed's stock—already known as a "widows and orphans" holding (median shareholder, a fifty-year-old woman)—dropped to the floor. "We wanted them to go into receiverships so that even we could buy them out—then they would be a true public utility," said Vandivert. But instead the New York State Power Authority authorized the purchase of two uncompleted plants, and Con Ed managed to avoid bankruptcy.

The Storm King plant, of course, could probably have prevented the July 13 blackout. John B. Oakes, now senior editor of the *New York Times;* Walter Brown, director of the National Electric Reliability Council; and Rod Vandivert all agree on that. After all, that was what the plan was *designed* to do. City officials investigating the power failure said they were amazed to learn that "the generating capacity was available, they just couldn't bring it up in time." Con Ed, of course, had been saying that for fifteen years. The city investigation found that the crucial loss of power didn't occur until the last two lines from the north failed because they became overloaded carrying 2 million kilowatts. The lines from Storm King, which were to run along the same coridor, were to be designed to carry 2 million kilowatts.

But there is hardly a political official in New York who even remembers what the whole Storm King controversy was about. Ed Koch, the leading candidate for mayor, said the problem at Storm King had been "thermal pollution," and didn't know the city is still the major opponent, nor did Paul O'Dwyer, who has now been City Council president for four years. He said the plant hadn't been built because "Pete Seeger and the environmentalists all over the country didn't want it." (He is undoubtedly right.) State Assemblyman Andrew Stein, who has made a political career out of attacking Con Ed, said about Storm King: "I'm against nuclear plants. I think we should keep the ones we have, but I don't think we should build any more." Stanley Steingut, the Brooklyn Assemblyman who is Speaker of the State Assembly, also told me that Storm King was "a nuclear plant."

What is most remarkable is that Scenic Hudson itself now appears to be the city's expert on the matter. When I called Dr. Carolyn Broncato, staff director of the Mayor's Special Committee on Inquiry into Energy Failures, she admitted she remembered nothing about Storm King, but said, "If you want to know more about Storm King, call Al Butzel." When I talked with Carol Bellamy, who will probably succeed O'Dwyer as president of the City Council, she said that "the person to see on that would be Dave Sive" (the Sierra Club attorney).

Even Norman Cousins, the editor of *Saturday Review*, who voted in favor of Storm King as chairman of the Mayor's Special Task Force on Air Pollution, remembered vaguely that the problems had something to do with "radiation." When I asked him what he remembered best about the environmental opponents, he had one clear recollection: "They had a lot of lovely ladies working for them."

By virtue of its high position as the avatar of good form, the wealthier class comes to exert a retarding influence upon social development far in excess of that which the simple numerical strength of the class would assign it. Its prescriptive example acts to greatly stiffen the resistance of all other classes against any innovation, and to fix men's affections upon the good institutions handed down from an earlier generation.—The Theorv of the Leisure Class.

And so we are brought to the point where we can legitimately ask, What in God's name has been going on in New York City for the past fifteen years?

The answer, I believe, can only be understood in terms of Veblen's analysis of leisure-class behavior. It was obvious to anyone willing to look that the opposition was coming from the petty aristocrats of the Hudson Valley who were annoyed that their solitude was being invaded by the advancing society. There was nothing terribly new about this. The Hudson River Railroad laid its tracks right across the front lawns of Washington Irving, John J. Audubon, and William B. Astor in 1842. All were upset, but eventually agreed to yield in the name of the public good. Yet in the Storm King case this did not happen. The question is, Why?

Both critics and defendants of the plant have always assumed that anyone standing in the way of progress could only be acting out of financial self-interest, and that, once a money interest was disproved, the opponents would have to be accepted at face value. The Times expressed this so perfectly in defending the conservationists in its August 8, 1968, editorial that it is probably worth repeating: "[The FPC examiner's] findings on the scenic effects are at odds with the virtually universal opinion among conservationists and nature lovers, who have no economic stake other than the preservation of a majestic national heritage" (my emphasis).

Veblen, who found this interpretation of leisure-class opposition to progress naive, wrote:

> When an explanation of this class conservatism is offered, it is commonly the invidious one that the wealthy class opposes innovation because it has a vested interest, of an unworthy sort, in maintaining the present conditions. The explanation here put forward imputes no unworthy motive. The opposition of the class to changes in the cultural scheme is instinctive, and does not rest primarily on an interested calculation of material advantages; it is an instinctive revulsion at any departure from the accepted way of doing and of looking at things—a revulsion common to all men and only to be overcome by the stress of circumstances.

But what about the newspapers and the politicians, who are presumably responsible for informing the public and acting in its interest—why were they so completely taken in by sophistries and the publicity gestures of the "environmentalists"?

Here is Veblen's answer:

> Since conservatism is a characteristic of the wealthier and therefore more reputable portion of the community, it has acquired a certain honorific or decorative value. It has become prescriptive to such an extent that it is imperatively incumbent on all who would lead a blameless life in point of social repute [to share these views]. Conservatism, being an upper-class characteristic, is decorous; and conversely, innovation, being a lower-class phenomenon, is vulgar.

This is the puzzle that no one in the entire controversy was ever able to quite figure out. Voting to "save Storm King" gave each of the participants in the political arena the chance to participate in a noble cause, to share an aristocratic vision. It wasn't a matter of money, it was simply a question of good taste. The effort might require of a person that he gaze upon the litter of industrial ruins on Cornwall's waterfront and see "a landscape rich in beauty and history," but isn't selectivity the key to being an aristocrat anyway? It wasn't money that was being passed out aboard Commondore Chauncey Devereux Stillman's yacht as it passed Storm King Mountain on that September morning. It was respectability.

The environmental vision is an aristocratic one, conjured at the point where an idyllic past blends nicely with an imaginary future. It can only be sustained by people who have never had to worry much about their security. They are, in Veblen's term, "industrially exempt" from the normal fluctuations of the economic system.

Nuclear energy, for example, was part of that vision when it was a "bright promise" in the 1960s, but now that the realities are here it looks problematic. Tom Wicker writes in the New York Times:

"In three decades of experience with nuclear power, the radioactive waste disposal problem has yet to be resolved. Plant decommissioning costs and problems are not fully known. Nuclear power has grown vulnerable to shortages, breakdowns, and poor productivity; the Federal Power Commission reported 229 plant-months of delay for such reasons at 24 reactors in 1974. The amount of electricity actually produced have averaged, overall, only 55 to 57 percent of full potential."

The litany could easily be made about any new technology. Nothing in the industrial system is "fully known" until it has been done a few times. The "55 to 57 percent" figure is a familiar one, however—it is the average production for the entire electrical industry, due to the problems of peak-load demands. In actual operation, nuclear plants have been slightly more reliable than fossil-fuel plants.

But Wicker has a brighter vision:

"Solar energy, by contrast, is available everywhere, has no public opposition and offers no safety or environmental hazards. It is highly suitable for such low-quality energy demands as space and hot-water heating, while to use electricity produced by nuclear fission for such homely needs is an expensive form of overkill."

Solar energy, of course, has the advantage of not being a reality as yet. A small-scale solar electrical station would be enough to scare the wits out of any environmentalist (one square mile of collectors for a town of 30,000 people with little hope for reducing its size through technological improvements. In any case, if all the country's heat and hot water were produced from solar energy, the demand for electricity would decrease by less than 5 percent.

But the message here is clear, and it should not be obscured by the facts. Nuclear energy is "hard" and "dirty" and involves nasty realities of life. Solar energy, on the other hand, is "soft" and "clean." It is most notable for the lack of effort it promises. The future will hold no more grubby realities such as digging coal out of the ground or drilling for oil—no more handling of dangerous materials. There will be nothing to do but sit back and watch the windmills revolve and the sun shine. The correct word for the environmental vision is not clean or soft. It is genteel.

It is also a vision that will call us to disaster.

Veblen's great fear was that, as innovation fell behind under the retarding influence of the leisure class, society would split into two extremes—the permanently wealthy and the permanently poor. Each would be even more resistant to change for its own reasons:

> The abjectly poor, and all those persons whose energies are entirely absorbed by the struggle for daily sustenance, are conservative because they cannot afford the effort of taking thought for the day after tomorrow; just as the highly prosperous are conservative because they have small occasion to be discontented with the situation as it stands today.

Veblen predicted that this polarization in society would lead to the loss of the entrepreneurial classes, which operate under what he called "the instinct of workmanship." The result would be permanent stagnation.

THE LIMITS TO "NO-GROWTH"

There is no doubt that much of our response to the present industrial crisis is being formulated by the leisure class marching under the banner of "environmentalism." This is not to say that we do not face enormous and critical environmental problems and that there are not enormous numbers of people who are dedicated to trying to solve them. My quarrel is with the political "environmentalism" that offers no reasonable alternatives but proposes solutions which entail delaying or abandoning present, feasible, and proven technology and "waiting for" solutions that are "soft," "attractive," and "just on the horizon."

The leisure-class environmentalists will be perfectly content to leave things the way they are, regardless of the economic consequences, since, as Veblen notes, "at any given time this class is in a privileged position, and any departure from the existing order may be expected to work to the detriment of the class rather than the reverse. The attitude of the class [is] to leave well enough alone."

The fundamental environmentalist assumption is that we can "stop growth," at least until the "right" solution to our technological problems comes along. This is foolishness. "Stopping growth" simply means falling behind, with all the economic consequences. It is only the accumulation of social wealth from previously successful technologies that makes it possible to introduce new technologies. The people of New York City will find this out when they realize that they cannot easily turn the clock back and adopt pumped-storage technology. In the 1960s the plant could have offered enormous savings. Now it would cost $1 billion; the people of New York City can hardly afford it."

The great misconception about "stopping growth," is the assumption that things will stay pretty much as they are. They will not. The stagnation of the industrial system will not keep the numbers of the poor from growing. On the contrary, the universal historical experience has been that people do not limit family size until they have achieved a measure of social security. The only way this can be achieved is by the continuing expansion of the industrial system. "No progress" doesn't mean "no growth," and those countries, such as China and India, that have spent the longest periods of their history struggling under the changeless mores of an entrenched leisure class are hardly noted for their achievements in population control.

The great appeal environmental solutions offer is that they can be worn like a badge of success. To say that one is an "environmentalist," or that one favors "no-growth," is to say that one has achieved enough well-being from the present system and that one is now content to let it remain as it is—or even retrogress a little—because one's material comfort under the present system has been more or less assured.

To quote Veblen:

"The institution of a leisure class, by force of class interest and instinct, and by precept and prescriptive example, makes for the perpetuation of the existing maladjustment of institutions, and even favors a reversion to a somewhat more archaic scheme of life."

Environmentalism has presented itself to us as a form of "science," but it only borrows the language of science to serve its purposes. It is not scientific, either in its origins or its methods. It could easily turn anti-scientific, and already has in many instances.

Yet there is no doubt that the environmental vision is winning widespread acceptance and is having an enormous effect on our economy. The Edison Electric Institute, the research arm of the utilities industry, is now warning that large portions of the country face widespread power shortages and blackouts within the next few years because the introduction of nuclear technology is not going ahead on schedule. Environmentalists' opposition and regulatory delays have brought new construction almost to a standstill. Power reserves will fall below 20 percent around the Great Lakes by 1979, and in the Southeast by 1981. By 1986 reserves will have dwindled to 14 percent in North Dakota, Minnesota, and Nebraska, to 3.2 percent in New England and New York State, and to 10.1 percent in Illinois, Missouri, and Wisconsin. The nuclear-reactor industry says it is already facing "enormous erosion of skills" and "technological regression" simply because there is no work available in building new plants.

"We're going to see a crisis atmosphere," John O'Leary, deputy secretary of the new Department of Energy, said recently. "By the mid-1980s, we may have very severe economic consequences as a result of our improvident attitudes of the late 1970s."

Yet environmental opposition is now working to hinder not only nuclear-plant construction, but also off-shore oil drilling, importation of liquid natural gas, coal-mining, gasification of coal, hydroelectric plants, and practically every conceivable form of producing energy.

Where is the power going to come from to meet the needs of the next decade and the next generation?

The environmentalists say there are alternative means available.

A CURRENT ASSESSMENT OF SOVIET-AMERICAN RELATIONS

Mr. MUSKIE. Mr. President, 30 years ago, George Kennan, under the pseudonym X, wrote an article in the magazine Foreign Affairs which had a deep impact on Soviet-American relations. Ambassador Kennan has remained one of the country's foremost analysts of the Soviet Union. Recently, he presented to the Council on Foreign Relations a most cogent assessment of the current status of United States-Soviet relations. I commend to my colleagues his call for a special effort to think freshly about problems in Soviet-American dealings. I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

A Current Assessment of Soviet-American Relations

(By George F. Kennan)

Before we move to the substance of this evening's discussion, I have to note a certain symmetry in the dates that relate to this occasion. It was just 60 years ago, as we are all aware, that there came into being the political regime in Russia with which we are now concerned. And it was exactly at the half-way point of that span of time—30 years ago—that I chanced to deliver, also at a meeting of the Council on Foreign Relations, a talk on this same subject which became the basis for an article in the magazine Foreign Affairs signed by the pseudonym X. This article, as many of you will recall, attained a certain melancholy notoriety and has dogged my footsteps ever since, like a faithful, but unwanted and somewhat embarrassing animal.

I trust this occasion will not have similar consequences; but this coincidence of chronology naturally leads me to reflect on the changes that have occurred since that year of 1947 in the background against which Soviet-American relations have had to proceed. The Russian political scene was then dominated by a single great personality—a man whom Churchill very aptly called a "crafty giant"—a man of enormous political-tactical genius—a formidable opponent on anyone's terms, but one who in a portion of his psychic make-up was paranoic and whose combination of paranoia with cruelty and political mastery had then served to create one of the great totalitarian monstrosities of our time: a personal despotism as ruthless and far-reaching as anything the modern world has ever known. By 1947 this despotism had already cost the Soviet peoples several millions of lives. And it had not stopped at the old Russian borders but had been extended—and this with our tacit blessing—to nearly one-half of the remainder of the European continent. And no one could be sure, in 1947, that it would stop there. The danger was not one of further military conquest. (Actually, it never has been that.) The problem was that Western Europe, still dazed, shaken and jittery from the effects of the Hitlerian conquest, did not know what to expect. Its peoples lacked confidence in themselves. They had a tendency to rush for safety to the side of whoever they thought was likely to win in the end. They would have been quite capable of throwing themselves into the arms of their own Communist Parties—to commit suicide, as my friend Bohlen used to say, for fear of death—if they gained the impression that those Communist Parties represented the wave of the future. And to this had been added the fact that the Moscow center, and Stalin personally, enjoyed at that time a total monopolistic control over the world Communist movement—a control which meant that any success by any Communist Party anywhere in seizing power within its own country had to be regarded as equivalent in its effects to a military conquest by the Soviet Union.

It is enough to cite these circumstances, I think, to make clear the magnitude of the changes that have occurred in this 30-year interval. The Soviet Union remains, of course, an authoritarian state—much as was the pre-revolutionary Tsarist Russia; but there is very little to be seen today of the terror that prevailed in Stalin's time; and the regime is headed by a moderate, in fact, conservative man; a man who, whatever other failings of outlook he may have, is a man of the middle, a skilled balancer among political forces—a man confidently regarded by all who know him as a man of peace.

Moscow's monopoly of authority over the world Communist movement has been thoroughly disrupted—so much so that even in the case of those Communist parties that still ostensibly recognize the Soviet leadership, the lines of authority leading from Moscow are tenuous and incapable of bearing much weight. It is a case where the semblance of authority can be retained only by the sacrifice of much of the reality.

And finally, in place of the anxious, jittery Western Europe of 1947 we now have an area which is unquestionably the seat of some of the most successful civilization, economically and socially, that the modern world has to show. The change, to be sure, has not been complete. People have not fully overcome the trauma of two world wars. Many still lack confidence in themselves, see dangers on every hand, require to be reassured periodically, like frightened children. This situation has its military implications, and plays a part, of course, in Soviet-American relations. But it cannot be compared in seriousness and danger to the situation we faced in 1947.

Now all these changes, and others I might cite, have run in the direction of an improvement in the objective possibilities for a better Soviet-American relationship. This does not mean, of course, possibilities for a complete normalization of those relations. For that there remain too many obstacles, historical, psychological and ideological. There has always been, and remains today, an area in which no complete political intimacy is possible, where interests must remain competitive and in part conflicting.

But there is also another area, an area in which interests largely coincide and limited collaboration is possible. In the light of the changes we have just had occasion to note, this latter area has ended, slowly but steadily, to grow. And where sensible efforts have been put forward on both sides to take advantage of this situation where people have tried, in other words, to create a balanced, business-like and realistic relationship between two very disparate political systems—the results, given patience and persistence, have not been discouraging. This was true, among others, in the period of the Nixon-Kissinger detente. Progress was made in a number of fields which was more than negligible and from which both sides are continuing to benefit today. The fact that these achievements were somewhat over-dramatized, that they lead to unreal expectations, and gave rise to some disillusionment when these expectations were not met, should not blind us to their positive residue.

Nevertheless the effort to pursue a balanced and useful middle course in the relationship with Russia has never been an easy one for American policymakers to follow; and one of the main reasons why this has been so difficult is that seldom, if ever, have we had an adequate consensus in American opinion on the nature of the problem and the most promising ways of approaching it.

Prior to the late 1940's—prior, that is, to the Korean War and the death of Stalin—the difficulty seemed to come primarily from the left: from people who had a naive, over-trusting, overidealistic view of what was then Stalinist power—people who thought it really possible for this country to ingratiate itself with the Stalin regime by various one-sided gestures of confidence and generosity and reproached our government for not doing so. It was, incidentally, against this sort of Left-wing deviation that the X article and the policy of containment, were directed.

But since Stalin's death, the opposition to an even-handed and realistic policy toward Russia has tended to come from the opposite end of the political spectrum: from people who were unable to see the curious mix of the negative and the positive, of the discouraging and the hopeful, in the Soviet political personality—people who could see only the negative, and who feared the consequences of anything less than a total rejection and hostility from our side. There has never been a time in these last 25 years, it seems to me, when this opposition has not made itself felt. There has never been a time when American statesmen concerned to find and develop a constructive middle-ground in relations with Russia have not felt their efforts harassed from that direction.

And the harassment has not been minor in intensity or in power. Every administration has been to some extent afraid of that hard-line opposition. It has behind it the power of chauvinist rhetoric as well as that of strict military logic. It has the capability of hurling at any and all opponents the charge of being "soft on Communism"; and however meaningless this phrase may be, it is a formidable weapon in a society unhappily vulnerable to the power of the slogan.

In the heyday of the Nixon-Kissinger detente, this opposition was almost silenced—partly by Mr. Nixon's formidable credentials as a hard-liner, which bewildered many critics; and partly by Henry Kissinger's diplomatic fireworks, which dazzled them. But the resulting silence was one of frustration, not of acceptance. When Watergate drained the authority of this political combination, the opposition broke forth once again with redoubled strength and violence. It has raged over the entire period from 1975 to the present. It sufficed to knock out the 1974 trade agreement and to lower the level of Soviet-American trade. It sufficed to delay the approach to a new SALT Agreement. And it has achieved today, against the background of a new administration and a somewhat unstructured Congress, a power it never had before. It now claims to have—and for all I know it does have—the power to veto any Soviet-American agreements in the military or the economic field that do not meet with its requirements; and such are its requirements that I come increasingly to suspect that this means in effect: any conceivable agreements at all.

I have made my best efforts to understand the rationale of this opposition. Many of the bearers of it are my friends. I know them as honorable people. I do not suspect, or disrespect their motives.

It is clear that we have to do here with a complex phenomenon, not a simple one. This body of opinion embraces some people whose trouble seems to be that they are unaware of the changes to which I referred a few moments ago as between 1947–1977, who talk of the problems of Soviet-American relations in terms identical with those used at the height of the Cold War—who sometimes seem in fact unaware that Stalin is dead.

Then, there are others whose emotions have been aroused over the question of Human Rights or Jewish emigration and who would like to see American policy directed not to an accommodation to Soviet power as it is but to the changing of the very nature of the Soviet regime.

More important, however, than either of these are the people who view the relationship exclusively as one of military rivalry—who see in it no significant values or issues or possibilities other than ones relating to the supposed determination of the Soviet leadership to achieve some sort of decisive military ascendancy over the NATO coalition—and this, of course, with the most menacing and deadly of intent. These include outstandingly the military planners, whose professional obligation it is to set up a planner's dummy of any possible military opponent, to endow that dummy with just the motivation I have described, and then to treat it as if it were real. But this group also includes many non-military people who, accepting this dummy as the reality, lose themselves in the fantastic reaches of what I might call military mathematics—the mathemathics of possible mutual destruction in an age of explosively burgeoning weapons technology.

Like many of the rest of you, I have made my efforts to understand the arguments of these military enthusiasts. I have tried to follow them through the mazes of their intricate and sophisticated calculations of possible military advantage at various future points in time. I have tried to follow them in their recital of the letters and numbers of various weapons systems, some real, some imagined, their comparisons of the reputed capacities of these systems, their computations of the inter-actions of them in situations of actual hostility.

I come away from this exercise frustrated, and with two overpowering impressions. The first is that this entire science of long-range massive destruction—of calculated advantage or disadvantage in modern weaponry—has gotten seriously out of hand; that the variables, the complexities, the uncertainties it involves are rapidly growing beyond the power of either human mind or computer.

But my second impression is that there is a distinct unreality about this whole science of destruction—unreality, that is, when you view it as the plane on which our differences over policy have to be resolved. I doubt that we are going to solve our problems by trying to agree as to whether the Russians will or will not have the capability of "taking out" our land-based missiles at some time in the 1980s. I doubt that this is the heart of the problem. I suspect that something deeper is here involved. And if I had to try to define that deeper something, I would have to say that it is the view one takes of the nature of the Soviet leadership and of the discipline exerted upon it by its own experiences, problems, and political necessities.

There are basically two views of leadership: two ways in which it is seen in this country. In one of these views, the Soviet leaders appear as a terrible and forbidding group of men—monsters of sorts, really, because lacking in all elements of common humanity—men totally dedicated either to the destruction or to the political undoing and enslavement of this country and its allies—men who have all internal problems, whether of civic obedience or of economic development, essentially solved and are therefore free to spend their time evolving elaborate schemes for some ultimate military showdown—men who are prepared to accept the most tremendous risks, and to place upon their people the most fearful sacrifices, if only in this way their program of destruction or domination of ourselves and our allies can be successfully carried forward.

That is one view. In the other view, these leaders are seen as a group of quite ordinary men, to some extent the victims, if you will, of the ideology on which they have been reared, but shaped far more importantly by the discipline of the responsibilities they and their predecessors have borne as rulers of a great country in the modern technological age. They are seen, in this view, as highly conservative men, perhaps the most conservative ruling group to be found anywhere in the world, markedly advanced in age, approaching the end of their tenure, and given to everything else but rash adventure. They are seen as men who share the horror of major war that dominates most of the Soviet people, who have no desire to experience another military conflagration and no intention to launch one—men more seriously concerned to preserve the present limits of their political power and responsibility than to expand those limits—men whose motivation is essentially defensive and whose attention is riveted primarily to the unsolved problems of economic development within their own country. They are seen as men who suffer greatly under the financial burden which the maintenance of the present bloated arsenals imposes on the Soviet economy, and who would like to be relieved of that burden if this could be accomplished without undue damage to Russia's security and to their own political prestige. They are seen, finally, as men who are, to be sure, seldom easy to deal with, who care more about appearances than about reality, who have an unfortunate fixation about secrecy which complicates their external relations in many ways, but who, despite all these handicaps, have good and sound reason, rooted in their own interests, for desiring a peaceful and constructive relationship with the United States within the area where that is theoretically possible.

I would submit that it is these two conflicting views of the Soviet leadership that lie at the heart of the conflict between those in our government who are attempting to make progress in our relations with the Soviet Union and those who are attacking this effort from the Right. And the burden of what I have come here today to say is that I think we can no longer permit this great conflict of outlook and opinion to go on in so large degree unreconciled as it has gone in recent years—that the moment has come when we can no longer carry on safely or effectively in our relations with the Soviet Union without the creation of a much wider consensus of opinion behind our policies of the moment than anything we have known in this recent period.

We stand, as you know, at a crucial point in Soviet-American relations. The expiration of the 1972 SALT Agreement has confronted us with fundamental decisions. Either we move forward, boldly, confidently, and imaginatively to the creation of a new relationship with that country in the military field, or we deliver up ourselves and the rest of the civilized world to the appalling dangers of a nuclear weapons race totally out of control—a development devoid of any visible hopeful end, devoid of any imaginable end at all other than a wholly disastrous and apocalyptic one.

But our ability to pursue the more hopeful of these alternatives is today seriously jeopardized by lack of the consensus to which I just referred. The opposition now being brought to bear against the efforts of the President and the Secretary of State to carry forward negotiations in the field of the limitation of armaments has reached a degree of intensity that seems to me to exceed anything we have known in the past. Powerful efforts are being made—the tendency of which is not to bring about the failure of ratification of instruments already negotiated (nobody could object to that as a matter of procedure) but to discredit the very process of negotiation, and this at a very early stage. People are being attacked not for what they are known to have done in the negotiating process but for what they are presumed capable of doing—presumed capable on the basis of rumor or of calculated leak. They are being attacked, in other words, not for their actions but for their supposed intentions.

I am not questioning the motivation for these attacks. I can conceive that it may be, in many instances, of the highest. But I find myself wondering whether effective negotiations can be conducted in the face of opposition of this nature, particularly when we, as well as our Soviet counterparts, are being assured daily that the people who carry forward this opposition have not only the political power to torpedo any agreements or understandings that might realistically be arrived at, but also the firm intention to do so. Negotiating policy it seems to me cannot be effectively made or implemented against such a background.

And this present moment is one at which we simply cannot afford to have the force and momentum of our policy lamed in this manner. The stakes are too high. The penalties of failure are too serious. The implications of such a failure would carry even farther than just the prospect of an unlimited weapons race. A breakdown of the relationship on the military level could not fail to have—indeed, has already had to some extent—effects on other levels as well. And here, too, we have—and the world has—too much to lose to permit such a failure to occur.

We face in this coming period a tragically high probability of deepening crises in Southern Africa and in the Middle East. It may well be that the peace of the world will depend, as these crises develop, on the ability of the American and Soviet governments to remain in close communication, to give each other reasonable reassurance as to their intentions, and to coordinate their actions with a view to preventing local conflicts from growing to global dimensions.

Beyond this, we have the fact that these coming years are bound to see extensive changes in political leadership at the Soviet end. Nothing could be more unfortunate, surely, than that a new and inexperienced team of leaders should come into power in the Soviet Union confronting what would appear to be a blank wall of hostility and rejection at the American end—a situation in the face of which they would see no choice but to look for alternatives other than those of good relations with the United States. This is no time to foreclose other people's options, and particularly not the options of people new to the experience of power and obliged to define new lines of policy that may represent commitments for many years to come.

These, then, are the reasons why it appears to me as an inescapable necessity that we should move promptly and resolutely to the achievement of a more workable consensus behind our policy toward the Soviet Union to take the place of the resounding disagreements that affect, and threaten to paralyze, the formulation and execution of policy in this field today.

I realize, of course, that it is easier to call attention to the need for such a consensus than to chart out the ways in which it could be achieved.

I realize, too, that behind a certain portion of this critical opinion there are commitments of an emotional or political or professional nature which are unlikely to be overcome by appeals to mere reason, and which will have to be confronted, as a political problem, by the responsible political leaders.

But in another portion of this spectrum we have to do with sincerely held and rational opinions, with conclusions drawn from what people believe to be the facts—from the spectrum of facts, supposed facts, that they now have before them, and I wonder whether, in the case of these people in particular, approaches and devices could not be found—approaches and devices of a basically intellectual nature which would help us importantly, and possibly even decisively, to get on with the solution of this problem. The problem is, after all, a cognitive one; and there is no reason why men of good will should not be able to come to some elements of agreement on the implications for policy of a given body of factual material if they can be brought to a common acceptance of its validity.

And here there are, as I see it, two requirements. First of all, I would propose that we lay aside completely, at least for the moment and for purposes of this exercise, the whole question of the military relationship and all the arguments about who could conceivably do what to whom if their intentions were of the nastiest; and that we elevate our vision, at least for the time being, to the question of the real nature and situation of the particular foreign power we are dealing with.

And then, starting with that resolution, it seems to me that I can see in my mind's eye a series of private gatherings in which would be included not only high-level policy-makers of the moment but leading figures of this opposition as well as possibly a few of the others of us who are interested in Russian affairs—gatherings where we would come together not primarily to discuss matters among ourselves—not to air our prejudices and convictions on the basis of our present knowledge and our present ignorance, but where we would all listen humbly to what could be told to us by the most experienced and knowledgeable people who could be found in the respective fields—I avoid the word "expert" because it implies something more narrow than what I have in mind.

What I am thinking of, in other words, is a certain process of re-education in the realities of Soviet power and leadership—a common effort on the part of all of us who have been prominently involved in this debate—a process in which we would check our existing views at the door, together with our hats, and would listen and ask questions and try to get a new view of the facts before we drew conclusions. I suspect that in an experience of this nature, designed not to promote the clash of old views but to make possible the common development of new, more realistic and more up-to-date ones, we would come closer than in any other way to the composing of our differences.

And there is room for this, I assure you, because no more in the Soviet Union than anywhere else have things been standing still. There are available to us today masses of new factual material on conditions in the Soviet Union—material which, given the rather low state of Soviet studies in our country, have scarcely been digested by the scholars, much less by the policy-makers, the critics, and the old-timers in this field of expertise. And in this latter category, I include myself, I am much aware that it is exactly fifty years ago this year that I entered on my own career as a so-called Russian expert, and I think that because of this long preoccupation with the subject—not despite it, mark you, but precisely because of it—it is time that my ideas, too, were taken thoroughly apart and put together again with relation, this time, to the present scene, and not to all the memories I cherish, and all the anecdotes I have been accustomed to telling, about the earlier years.

Such seminars would not, I think, serve their purpose unless they were the product of very high-level initiative and enthusiasm within the Administration. But if that initiative and enthusiasm were there, the institutional facilities to organize and accommodate them would not be hard to find.

That, gentlemen, is the burden of the song I have come to sing this afternoon. I am suggesting that the angry controversies over policy towards Russia that are now marring our public debates and threatening the success of any and all American policies towards that country are not to be solved within the terms of the argument as it is now being conducted—that a solution lies only in a common act of humility—only in the confession that none of us knows too much about what we are talking about—only in the willingness to stop at this point and to learn a little more before we shout each other down. Only in this act of humility will we find the way to a future of Soviet-American relations that offers hope rather than horror.

MUSIC UNDER BOSTON

Mr. KENNEDY. Mr. President, growth of the arts depends on the strong support and cooperative efforts of Government, local planning groups, and private industry.

A unique example of such cooperation is the program, Music Under Boston sponsored by the Massachusetts Bay Transportation Authority and coordinated by ArtiCulture, a local arts planning agency. The program allows volunteer entertainers—both young and old—to perform their varied music in Boston subway stations for the benefit of rush-hour commuters, as well as MBTA employees.

Not only do the participating musicians gain needed exposure, and even some financial payment, but the people of Boston are given an opportunity to enjoy the talents of local artists free of cost. Of equal importance, in being exposed to the riches provided by the arts, local residents will hopefully increase their interest in and support for local arts groups and cultural institutions.

December's issue of Boston Today includes an article by Kimberly McCarthy which describes the very imaginative Music Under Boston program. I urge my colleagues to take note of this effort, which not only benefits young artists, and increases the arts awareness of area residents, but has the added benefit of enriching the quality of life in the city.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MUSIC UNDER BOSTON

(By Kimberly McCarthy)

No, you are not hearing things. That really was Vivaldi's Concerto in A minor you heard while waiting for the train in the Harvard Square subway station. Thousands of commuters at the Park Street and Government Center Stations have been hearing music too.

That might have been violinist David Hayden playing Vivaldi. He and other volunteer performers are part of the Music Under Boston program sponsored by the Massachusetts Bay Transportation Authority and coordinated by ArtiCulture, an arts planning agency. The entertainers perform weekdays during rush hours.

Why would a musician want to play for a crowd that rushes off every few minutes?

"Well, I guess basically I do it because I like people and want to add something to their day," David said.

Playing his violin for passing crowds is not all that new to him. Young David played for crowds in Harvard Square several years ago.

Money is another reason for performing in the subway program. "On opening day I made 94 dollars," David recalled. "But that was the first day, I don't expect to earn that much again."

Young performers are not the only ones filling the stations with music. 65-year-old Fred Peterson says his family and doctor think it's a wonderful idea to "go down and play his music and just have fun."

"When I get depressed I just get out my fiddle and things get better," Mr. Peterson said. "Sometimes if you put all your emotions into your instrument, beautiful music happens. Maybe I can play some nice music for those people in the subway."

Music Under Boston is the first organized program of its kind anywhere, but Mr. Peterson remembers other less organized performances. "When I was growing up in Germany, the really good musicians would go from backyard to backyard just playing for enjoyment. That's why I want to play, not for money but for fun."

Not only do single performers participate in the program for fun, money or exposure, but bands and duets are also scheduled.

David Johnson and Gary Mermel are a pair of serious New England Conservatory students who seem oblivious to the madhouse around them when playing their music.

David says the crowds have not been much of a problem. "At first it was hard to concentrate with people rushing all around, but you get used to it. Usually commuters stand away from us and listen while waiting for the train. Occasionally they will come up and talk about the music."

Richard Russell was one of those commuters listening to Gary and David play. Mr. Russell said he enjoys the program. "Sometimes if I've had a difficult day at work or just felt a little blue, hearing that music puts me in better spirits."

What kind of public reaction has the MBTA received?

"They love it!" said Jeanne Luppen, MBTA director of Music Under Boston. "There has been such a positive reaction from the public that the program will probably go on indefinitely."

The public is not the only group pleased when music greets them in the morning. MBTA employees at the stations are happier too. Complaints have dropped since the program began.

The music that commuters hear ranges from Classical to Country Western. There is even a place for those who are not musically inclined. Clowns and mimes are used for special events. ArtiCulture is the agency which schedules these musicians. Anyone wishing to play has to be registered with ArtiCulture. To find out details about the program and registration, contact the agency at 547-2541.

SCHWEIKER TO INTRODUCE HMO LEGISLATION

Mr. SCHWEIKER. Mr. President, as the ranking Republican on the Senate Subcommittee on Health and Scientific Research, I rise to announce my intention to introduce legislation to revitalize and further encourage the development of Health Maintenance Organizations.

One of the most pressing issues facing this Nation today is the skyrocketing cost of health care. Last July I introduced a comprehensive measure to encourage containment of hospital costs. The new HMO legislation I intend to introduce will go even further to curb sharply rising health care costs.

As my colleagues are aware, Health Maintenance Organizations are prepaid health plans in which members make fixed regular payments entitling them to the variety of services provided by the organizations. Since payments are made in advance, there is an economic incentive for HMOs to maintain the health of their members and also to avoid costly and unnecessary treatment. Traditionally, physicians and other providers of health care have profited from illness; in an HMO system, they profit from health.

HMOs have now had the time to prove their cost savings abilities. We know that HMOs can achieve overall cost savings of from 10 to 40 percent. According to a new HMO census, inpatient hospital utilization under Health Maintenance Organizations is only 488 days per thousand per year—compared to a national average of over 900 days under the traditional fee-for-service system. Physician vists under HMOs are 3.8 per member per year, compared to 5.1 visits of HMOs. The more information we get on HMO performance, the more certain we can be of their cost savings potential.

Since 1971, Federal HMO policy has been ragged and confusing. The Health Maintenance Organizations Act of 1973 was designed to encourage the development of HMOs through Federal grants and loans, and through a number of devices to help HMOs compete with more traditional health systems in the health insurance marketplace. However, it became apparent that the 1973 act contained too many restrictions which kept HMOs from being financially viable. A long implementation process, regulations that made the original law unworkable, and years of inattention by the Department of Health, Education, and Welfare all kept the HMO movement from getting off the ground as it should have.

For years the HMO movement foundered badly. But thanks to the perseverance of all who are dedicated to this innovative prepayment concept, a very difficult beginning became a constructive, educational foundation. After studying the HMO concept and becoming convinced of its potential, I was pleased to introduce the HMO amendments of 1976, which were signed into law last December. That legislation freed HMO's from a number of restrictive regulations that hampered their ability to compete in the health insurance market. It made real progress in the areas of benefits restrictions, open enrollment, community rating, and dual choice. I will always be grateful for the support of the American labor movement, the business community, the insurance industry, and the HMO's themselves for their unique effort to help pass one of the historic pieces of health legislation of this decade.

Now, 1 year after the signing of the 1976 amendments, we believers in the HMO movement have many reasons to be encouraged. The number of converts to the HMO concept is growing. The debate on cost containment has convinced many more people that structural reform must come through the kind of positive incentives offered by HMO's—incentives which make the health care system more self-regulating with a minimum of Government oversight. HMO's offer real hope for badly needed competition in the health care industry. I am particularly pleased that the administration has made HMO development a high priority.

However, it is now clear that HMO's will not be able to achieve their true potential under existing law. Only about 6 million Americans now belong to HMO's. There has only been a 5.2-percent increase in HMO enrollment over the past year. A number of new steps are necessary to encourage their development, assure their financial independence, improve the administration of the program by HEW, and insure that HMO's will not be abused by health care profiteers. Through this new legislation, I propose that we seize the opportunity for the meaningful health care reform offered by HMO's and move further to encourage their development.

We need a revitalization of the Federal HMO program The administration's announced priorities on HMO's are an essential and encouraging step. But equally, if not more important, is new legislation—legislation that will correct past mistakes, overcome present difficulties facing HMO development, and create a climate for future growth.

The new HMO bill I intend to introduce will give the administration new tools to implement a positive HMO policy. It will encourage HMO development with a more flexible and well-funded program. It will provide more technical expertise for new plans and strongly discourage fraud and abuse. The bill I introduce will reflect the views and interests of everyone dedicated to HMO development; labor, business, the HMO's themselves, and health care insurers. I will do everything I can to make it a bipartisan effort.

More specifically, my bill will contain the following key elements:

1. Removal or substantial extension of the time limitations on federal authorizations for HMO development, burying once and for all the idea that HMOs are simply an experiment;

2. Broader discretion for the Secretary of HEW in the financing, development, and qualification of HMOs;

3. A new purpose clause for the HMO Act;

4. Increased funding for grants and loans to developing HMOs;

5. Provisions for continued federal funding of HMOs, even after they achieve federal qualification, for purposes of expansion or new development;

6. Removal of impediments to the use of HMOs by Medicare and Medicaid programs;

7. Extension of the protection currently provided to group enrollees in the event of an HMO bankruptcy to individual enrollees;

8. Provisions to deter fraud and abuse, and self-dealing among HMO sponsors, owners, and directors;

9. An exemption for HMOs from the Health Planning Act;

10. Authorization for a more unified HEW administration of the program outside the Assistant Secretary's office.

In addition, my legislation will attempt to meet the pressing needs of viable HMO's for additional capital. New facilities and other capital equipment should be available to HMO's where it will enhance their financial independence and cost savings abilities. I will examine this important issue and look to the availability of local financing, loan guarantees, and the like and will attempt to devise an appropriate congressional response which is fully sensitive to the cost containment issue.

Mr. President, these are the key elements of my proposal for a new stage to the HMO movement. A number of other ideas deserve further study, and I am anxious to hear the suggestions of all persons concerned and affected by HMO development.

I look forward to the cooperation of my colleagues in the House and the Senate, as well as that of the administration, in passage of this legislation to fully implement this important health care reform.

AD HOC LOW INCOME HOUSING COALITION VIEWS

Mr. BROOKE. Mr. President, recent press reports indicate that the Carter administration is proposing to reduce the level of Federal assistance to low-income housing in the fiscal year 1979 budget for the Department of Housing and Urban Development. I hope that these press reports prove to be inaccurate and that President Carter will heed the message contained in a letter to the President from the Ad Hoc Low Income Housing Coalition which was sent this week. The coalition wrote on behalf of 56 public interest organizations representing a broad spectrum of housing advocates.

The coalition's letter observes that a HUD budget in the range of $29 to $39 billion (which are the figures used in these news reports) would mean a level of subsidized housing for low-income families and the elderly which is below that of the Ford administration and the early years of the Nixon administration. In fact, the letter indicates that such a budget would permit less than two-thirds of the number of subsidized housing units authorized in the last year of the Ford administration, when HUD approved almost 500,000 subsidized housing units.

It would be tragic for thousands of low-income families and poor elderly persons if President Carter were to propose a HUD budget at levels below those requested by the previous administration.

I urge the President and my colleagues to carefully consider the views of the Ad Hoc Low Income Housing Coalition which recognizes the urgent need for decent housing for low-income families and for revitalization of our older city neighborhoods. Mr. President, I ask unanimous consent that the text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AD HOC
LOW INCOME HOUSING COALITION,
Washington, D.C., December 10, 1977.
President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We write to urge your immediate and personal attention to a major policy question facing your administration as you prepare your budget for fiscal 1979. This is the level of federal assistance to be provided for low income housing and the related programs of the Department of Housing and Urban Development.

Recent press reports state that the Office of Management and Budget has "recommended" to HUD that it resubmit its budget for 1979, with an approved total of less than $30 billion in budget authority, and that no new initiatives will be approved. If these reports are accurate, your administration will be substantially reducing the level of federal commitment to meeting the housing and community development needs of low income people.

Last year, the outgoing Ford Administration requested $29.7 billion in budget authority for HUD. Your February revision raised this to $39.2 billion. Both provided for 400,000 subsidized housing units and for some other new initiatives, though relatively modest ones.

A HUD budget for 1979 in the range of $29-39 billion represents a deep cut in real terms. It will mean that hopes for new and effective solutions to the problems of our neighborhoods will be dashed or deferred. It will mean that there will be no effective ways to help most of the low income people now being displaced by the revitalization of urban neighborhoods. It will mean no assistance to elderly home owners, unable to heat their homes or pay their taxes. It will mean no jobs for people who could have put their skills to work in restoring our housing stock or providing new homes for our growing population. It will mean that hundreds of thousands of people now living in federally subsidized housing will be displaced, through no fault of their own, because HUD will be incapable of providing the operating subsidies and other assistance needed because of rising utility and other costs.

Worst of all, a HUD budget in the range of $29-39 billion, most of which is allocated to subsidized housing, will still hold HUD-subsidized housing at levels below those which prevailed during the three years before the housing moratorium imposed at the beginning of President Nixon's second term. It will permit less than two thirds of the amount provided during the last year of the Ford Administration, when HUD approved almost 500,000 subsidized housing units—the highest level in history.

We recognize that federal resources are limited and must be used wisely. The HUD programs that are threatened with curtailment meet present needs, provide employment as well as shelter and improved communities, and are, as well, an investment in the future. Their high price tag is in part because of this. The federal government manages its housing investments much as individuals do: paying over a number of years rather than all at once. But it budgets them very differently, including in HUD budget authority the total run-out costs in the year in which the investment is made.

Had we made the necessary investments of federal funds to maintain and improve our housing stock during the 1950s and 1960s, we would have fewer needs today. Failure to fund housing and community development programs adequately today will mean greater costs in the future. These higher costs—in human as well as in dollar terms—must be weighed along with the federal financial commitments incurred in subsidizing housing.

Last October, the Ad Hoc Low Income Housing Coalition, on behalf of almost 40 public interest organizations, wrote you urging that HUD-subsidized housing programs for low income people be doubled in the coming fiscal year. We recognize that there may well be fiscal constraints which prevent adoption of this recommendation. But we cannot conceive of any realistic evaluation of all the factors involved which would justify reducing the level of federal commitment to low income housing programs and other measures needed to fulfill the 1949 commitment to "a decent home and a suitable living environment for every American family."

The OMB recommendation on the HUD budget must be rejected.

Sincerely,

CUSHING N. DOLBEARE,
Chairperson.

For:

Ruth Clusen, President, League of Women Voters of the U.S.

Aaron E. Henry, Chairman, National Rural Housing Coalition.

Mathew H. Ahman, Associate Director, National Conference of Catholic Charities.

Women's Lobby, Inc.

Dorothy Height, National President, National Council of Negro Women.

Rev. Clifford Atkinson, Chairperson, Interreligious Coalition for Housing.

Esther R. Landa, National President, National Council of Jewish Women.

M. Carl Holman, President, National Urban Coalition.

Jesse Gray, Chairperson, National Tenants Organization.

United Auto Workers.

David M. Madway, Director, National Housing Law Project.

Ronald H. Brown, Deputy Director, National Urban League.

Robert J. Corletta, President, National Center for Urban Ethnic Affairs.

Walter L. Smart, Executive Director, National Federation of Settlements and Neighborhood Centers.

Ad Hoc Coalition on Housing for the Elderly.

J. Elliott Corbett, Department of Church/Government Relations, United Methodist Board of Church and Society.

Lucille Gorham, Director, Citizens for Fair Housing (Baltimore).

Earle K. Moore, Chairman, Committee on Housing and Urban Development Community Service Society (New York).

James H. Harvey, Executive Director, Metropolitan Washington Planning and Housing Association.

Vincent P. Quayle, Director, St. Ambrose Housing Aid (Baltimore).

Dr. Arthur J. Katz, President, National Association of Social Workers.

Clay L. Cochran, Executive Director, Rural America.

Edward L. Holmgren, Executive Director, National Committee Against Discrimination in Housing.

Don Reeves, Legislative Secretary, Friends Committee on National Legislation.

James R. Stormes, S. J., Jesuit Social Ministries.

Peter A. Bell, Greater Upstate Law Project (N.Y.).

Leon Shull, National Director, Americans for Democratic Action.

John Atlas, Editor, Shelterforce.

Kathleen F. O'Reilly, Executive Director, Consumer Federation of America.

Dr. Francis J. Butler, Associate Secretary, Department of Social Development, U.S. Catholic Conference.

American Association of Homes for the Aging.

Stanley F. Knock, Jr., Board of Global Ministries, National Division, United Methodist Church.

Nancy E. LeBlanc, Director, MFY Legal Services (New York).

Anthony R. Henry, National Housing Representative, American Friends Service Committee.

Ron Pasquariello, Director, Catholic Conference on Ethnic and Neighborhood Affairs.

Paul Davidoff, Executive Director, Suburban Action Institute.

Housing Research Group, Center for Study of Responsible Law.

Albert E. Erickson, Director, Lutheran Housing Coalition.

Robert E. McKay, Director, Citizen's Planning and Housing Association of Boston.

Charles H. Dorsey, Jr., Executive Director, Legal Aid Bureau, Inc. (Baltimore).

Leon Wiener, President, National Housing Conference.

Robert Gross, Director, New Hampshire Legal Assistance.

Harold O. Wilson, Executive Director, Housing Assistance Council.

Pat Morrisey, Coordinator, Essex County (N.J.), Housing Coalition.

Ronald B. Atlas, Legal Director, N.J. Tenant Organization.

Joan Pransky, Attorney, Essex-Newark Legal Services Housing Unit.

Frank Hutchins, Director, Newark Tenant Union.

Gilbert B. Beck, Senior Housing Attorney, Onondaga Neighborhood Legal Services, Inc., (Syracuse, N.Y.).

James C. Sturdevant, Director, Housing Law Task Force, Legal Services of Connecticut.

Frank E. Steiner, Executive Director, Michigan Committee on Law and Housing.

Sylvia Govan, Executive Director, Columbia Point Alcoholism Program (Boston).

Phyllis Sallowe-Key, President, East Orange Tenant Organization.

Thomas S. Dubel, Executive Director, Chemung County Neighborhood Legal Services, Inc. (N.Y.).

Elinor Williams, Save-Our-Neighborhood Columbia Point Committee (Boston).

Mary Jane Patterson, Executive Director, Washington Office, United Presbyterian Church.

Sandra Pettit, Legal Aid Foundation of Los Angeles.

STATEMENT OF SENATOR EDMUND S. MUSKIE ON THE DEATH OF LAURENCE N. WOODWORTH

Mr. MUSKIE. Mr. President, the untimely death of Laurence Woodworth shocked and saddened me. The country will feel the loss of his expertise, skill, and energy.

Larry Woodworth was already on Capitol Hill when most of us arrived. His decision to leave here after 33 years to write the President's tax reform proposals was a personal opportunity for him. It was also an opportunity for the country to see real improvements in the system. Larry's death will not stop that work, nor diminish the opportunity. But the fight for tax reform will be different without this quiet, effective advocate.

The most serious loss, I believe, was Larry's talent for putting the complexities of the Tax Code into terms that all Americans, particularly the 535 who vote here, could understand. We could never honestly hide behind ignorance, though some of us sometimes might have been tempted to do so.

I hope each of us will pause during the holidays to remember what Larry spent his life working toward. It is a job of enormous proportions. It will be no easier now that Larry is gone. But perhaps his memory will strengthen our resolve.

FEDERAL PROGRAM INFORMATION ACT

Mr. KENNEDY. Mr. President, the Senate has the opportunity again today, as it has twice in the past, to overwhelmingly approve legislation that will bring Federal domestic assistance into the computer age. The bill establishes a Federal Program Information Center in the Office of Management and Budget to serve as a single, comprehensive source of timely information on all Federal domestic assistance programs.

I originally introduced this legislation in 1966 when it became apparent that communities across the country were swamped with massive amounts of information generated by the Federal Government. And in that decade since the legislation was first introduced, domestic assistance programs have increased dramatically, until, in fiscal year 1976, the annual expenditure for these programs topped $60 billion. Today, there are over 1,000 Federal programs, administered by 52 separate agencies, that provide financial and technical aid to State and local governments and other eligible recipients.

These programs all have different regulations, different requirements for eligibility, different application forms, and different deadlines. In many instances, State and local governments have simply been ovrwhelmed; and many potential beneficiaries have been denied access to this assistance by virtue of the difficlty of learning about Federal programs and applying for them on time.

The General Accounting Office quite candidly reported to us that:

> The Federal Government has no single source of complete information on the type and availability of Federal assistance programs for State and local governments. Because of the proliferation of such programs, State and local governments have devoted considerable time and effort to identifying, keeping informed of, and availing themselves of Federal assistance. Despite these efforts, many State and local officials do not learn of available Federal assistance, or learn of it too late to apply.

The tragedy of this information gap is that a community seeking to build a hospital, a school, or a sewage treatment plant, may spend months just trying to identify Federal programs for which they are eligible. Many States and large cities have been forced to spend a considerable amount of money maintaining Washington representatives to keep abreast of changes in Federal programs. Smaller cities and towns that cannot afford full-time Federal relations personnel are penalized by receiving less than their fair share of Federal funds.

Every congressional office knows the problems these communities face. Caseworkers spend countless hours working with local officials trying to unravel the Gordian knot of Federal assistance programs.

We in the Congress have received thousands of letters and phone calls supporting any reform which would make our assistance programs understandable and accessible. We have a chance today to respond to those pleas with a center that can provide simple, quick, effective answers.

Using modern technology, the Federal program information center will develop a computerized system to facilitate the wide dissemination of program information by use of remote computer terminals. A potential applicant would feed into the computer some basic information on his project needs and would provide a simple profile of his community. The computer would then furnish a listing of all programs for which the individual meets the basic eligibility criteria. This system offers a major improvement over the cumbersome methods now in use.

Countless Americans these days are questioning the capacity—and sometimes the willingness—of the Federal Government to place people's interests ahead of the bureaucracy's interests. Despite the remarkable advances that have been made in the computer and telecommunications fields, the Federal Government has failed to make full use of these technologies to provide the most effective service for our State and local governments.

I strongly urge my colleagues to support this bill, a bill that will move us closer to the goal of reducing government redtape and insuring that Federal funds are distributed fairly and efficiently.

BOSWELL IN SEARCH OF MATCHING FUNDS

Mr. MATHIAS Mr. President, today as the first session of the 95th Congress ends and as another year draws to a close, I would like to take a moment to reflect on the immutable aspects of our lives as politicians—to explore the rewards and satisfactions of political life that don't alter from session to session, or from year to year, or even for that matter from century to century.

Recently, I reread a passage from "Boswell for the Defence" in which Boswell describes making a visit to a Scottish member of Parliament living in London. The visit took place on March 22, 1772, and yet, across a span of more than 200 years and 3,600 miles of water, it is remarkable to see how little the pleasures and pains of political life have changed.

James Boswell writes:

> I breakfasted with Dempster, whom I found as agreeable and as friendly as ever, improved much in speaking English, and appearing to be as happy as I could wish him. Parliament . . . had acustomed him to manly employment and I could see he was really satisfied with his situation. He is conscious of acting with honour and fidelity and spirit, and he feels himself happy in having a share in the great deliberations both as to this nation and the Empire of India. He said he would not give up the enjoyment of the two sessions which he had sat in Parliament for any consideration. . . . He kept out all company till we had taken a hearty draught of free and friendly conversation. But then I saw a specimen of his inconveniences; for in came Angus Lairds, speaking with a most uncouth tone, and beings of other disagreeable kinds, to all of whom he was obliged to be very courteous.

Like Dempster, despite occasional "inconveniences", I too am "happy to have a share in the great deliberations . . . as to this nation."

A special element of my satisfaction as a politician derives from the knowledge that, as popularly elected legislators, we are all part of a continuum—we are participants in the process that produced our democratic institutions and which still refines them.

Without such chroniclers of their times as James Boswell, however, our pleasure in the practice of politics would be infinitely less informed. Boswell's little vignette of the life of an 18th century parliamentarian is a delightful reminder of the eternal verities of political life.

Boswell's witty political observations are, of course, barely the tip of the iceberg of the Boswell Papers. The collection contains documents that span 3 centuries and provides a rich and variegated guide to Scottish feudal life. These papers are a treasure trove not just for literary historians, although they are certainly that, but for scholars in many other disciplines as well. And, for the likes of me, the 10 volumes of Boswell's Journal that scholars engaged in The Yale Editions of the "Private Papers of James Boswell," have edited are a source of continuing pleasure and enlightenment.

It is, therefore, extremely gratifying to learn that the National Endowment for the Humanities (NEH) has provided a new grant to the Yale Editions of the Private Papers of James Boswell which should enable the project to complete the Catalogue of the Boswell Papers and the final volumes in the trade edition of the Journal.

This second award from NEH provides an outright grant of $143,657 which will support the project for another year-and-a-half. In addition to this grant, NEH has also offered $75,000 to match gifts to the project on a one-to-one basis, and has given the project 3 years in which to raise its $75,000.

NEH's earlier award to the project for for $110,408. Made in January 1975, it was intended to help support the project until April of this year. But, because Project Director Frederick A. Pottle, sterling professor of English emeritus, and his dedicated associates are as meticulous in their budget management as they are in their scholarship, the initial NEH grant was husbanded so skillfully that it lasted until August.

The National Endowment for the Humanities deserves great credit for making these grants. They are a major contribution to one of the most important scholarly endeavors of any age. The Yale Editions of the "Private Papers of James Boswell have more than justified the confidence these grants imply. I am sure that every Member of the U.S. Senate believes, as I do, that these NEH grants are money well and wisely spent. I am confident that the project will have no trouble raising the $75,000 it needs to qualify for matching NEH funds. It is, after all, a very small investment measured against the dividends it will pay.

In his "Life of Johnson," Boswell reports that Dr. Johnson use to quote "with great warmth" these words of Aristotle: "Educated men are as much superior to uneducated men as the living are to the dead."

Publication of the Catalogue of the Boswell Papers and the final volumes of the Journal will be a significant contribution to the education of mankind. I am grateful to the National Endowment for the Humanities for making this possible. I am grateful to the small band of dedicated scholars at Yale for making this possible. And I am grateful to those educated men and women who will surely come forward now to insure the matching funds necessary to bring this great undertaking to fruition.

Mr. President, I ask unanimous consent to have printed in the Record an article by Israel Shenker, which appeared in the New York Times on July 15, 1975, conveys the flavor of this remarkable scholarly project far better than anything I can say.

There being no objection, the material was ordered to be printed in the Record as follows:

[From the New York Times, July 25, 1975]

Boswell's Life a Thriving Industry at Yale

(By Israel Shenker)

(The Yale editions of the private papers of James Boswell, "The Boswell Factory," Frederick A. Pottle, chairman; Frank Brady, F. W. Hilles, H. W. Lieoert, Thos. Quinn, Irma S. Lustig, Harriet Chidester, Rachel McClellan.)

New Haven, July 24.—In the Boswell Factory—room 331–A of Yale's Sterling Memorial Library—the casement windows are flung open to catch the breeze. A sudden gust lifts a batch of handwritten notes which are to be used in a forthcoming installment of the chronicle of James Boswell, the great 18th century biographer.

The papers swirl in disarray, then settle slowly to the floor. Another gust lifts a final sheet and it floats magestically before fluttering to rest. "Irma," Prof. Frank Brady calls, "It's just under your foot."

This project has long been down-at-heel, limping along on $10,000 a year, and about four years ago the factory almost closed. Then Dr. Irma S. Lustig decided to apply for a grant from the National Endowment for the Humanities. She drafted an application and called Yale's Professor Emeritus Frederick A. Pottle, the factory's boss, for his approval.

"I told you I'm going up to Maine," he said. "I have to plant peas. Besides, it's humiliating to ask for money."

He finally agreed to have a look, then to lend a hand and the National Endowment for the Humanities has now given the Yale Boswell Editions $110,408 to support operation until March 31, 1977.

"But we're still a shoe-string edition," said Professor Brady, "every piece of paper used twice, every pencil counted."

He spends his summers at the factory, and the rest of the year teaching at City University of New York. Professors Brady and Pottle are collaborating on the second volume of a biography of Boswell. Professor Pottle—who is 77 years old—having written the first.

"Boswell was like all the rest of us, only more so," said Professor Brady. "He drank a lot, but so did everybody else in the 18th century. He ran around with women, but so have others since the 18th century. I'm rather fond of him." "Of course Boswell's drinking and his sexual excesses show considerable weakness," noted Professor Pottle. "Fundamentally he's a good man—his morals were generally very good, but his behavior was very bad. One of the things that pleases me most and impresses me most is his complete truthfulness. He seems unable to tell a lie and he can't even deceive himself."

Boswell's "Life of Johnson" was the biographer's monument to honesty and art, and Christopher Morley, the late essayist, called its author "the greatest biographer who ever lived . . . the greatest of all self biographers."

"We probably know more about Boswell than we know about any other 18th century figure," said Professor Brady, "He is very much like Norman Mailer in some ways—a man who swims in print. The two men have the same acuity of perception—you get a very sharp idea of what people are like."

Boswell was born in Edinburgh in 1740, and died in 1795. His passions were literary, bibulous and libidinous, and he wavered firmly between principles and debauchery, new resolve and renewed debauchery.

Friendship with Samuel Johnson was the great event of his life, but his superb reporting also delivered great portraits of other central figures such as Voltaire, Rousseau, Oliver Goldsmith, and Sir Joshua Reynolds.

He was a compulsive keeper of records—journals, memoranda, register of letters, record of books sold, book of company (guests received), book of liquors (drinks dispensed), and expense accounts ("Maid for sitting up for me"—1 shilling, "dancing pumps"—8 shillings 6 pence). Even when Boswell wrote to give his own heart away, he asked for the letter back.

His heirs were scandalized by his confessions, and led the world to believe that nothing survived. And yet a question remained: did Boswell's executor write that material "had been burned in a mass of papers" or "buried in a mass of papers"?

LETTERS SOUGHT

In 1920, Yale's Prof. Chauncey B. Tinker asked publicly if anyone knew of Boswell letters in private hands. He received an anonymous note: "Try Malahide Castle." There—guarded by a Boswell descendant—he found what he described, in heady frustration, as "the Valley of Rubies."

But he failed to get the gems. Then a Lt. Col. Ralph Heyward Isham set patiently to work, and finally—for a good sum—winkled the great Boswell collection from the hands of Malahide's master, Boswell's great-great grandson, Lord Talbot.

More manuscripts turned up in a box that was supposed to contain croquet equipment, and two chests of Boswelliana were discovered in a Malahide outbuilding. Then a Scottish professor, searching the estate of one of Boswell's executors, found—in sacks, bundles and bags—over 1,600 more letters.

Eventually Colonel Isham took title to everything, and when he ran short of funds he sold out to Yale, which paid $500,000 with money from Paul W. Mellon, and from McGraw-Hill as an advance against royalties.

The publishing company—awarded rights to publish the Boswell works—pays Yale a royalty of only three per cent, which is less than the office costs of producing the printer's copy and reading proofs.

MILLIONS VOLUMES SOLD

The world sale of the trade edition has been well over a million volumes. What gave the books "larger" circulation, as Professor Pottle noted, may have been prurience about Boswell's confessions and publicity about the discoveries.

But what gave them "large" circulation was that Boswell was a great literary artist, a distinctly modern writer. To edit his work said Professor Pottle, "is to be connected with a new or emergent work of literature."

Boswell's descendants censored his frankness with India ink and the factory has been assiduously deciphering the original state. Infrared light was no help, but sometimes pristine Boswell beckoned through when the manuscript was held up to less exotic illumination.

By extrapolating from peaks and valleys protruding beyond obliterations, much has been reconstituted. "The deleting strokes are generally pretty symmetrical," said Professor Pottle. "They go up and down like a wave." He often finds Boswell bobbing unscathed, brown ink beneath the carbon spume.

"N's and r's are impossible," said Professor Brady. "You never know whether it's 'ever' or 'even.' "

CODE WORDS USED

Boswell often crowded words into illegible propinquity, and he sought translucence behind a screen of primitive code: Latin words that even mediocre scholars could grasp, a V standing for the Latin "voluptas," and Greek letters as well.

The letter π, which is usually used in other circles, stood for "pleasure," and Boswell wrote that he had shared π with Ysteb Htims—a prostitute whose name can be recovered by reading it backward.

For a time he kept notes in rudimentary Italian, inventing words such as "solitariamente" (for single or only) and "armeo" (instead of "esercito," for army).

Marion S. Pottle, the professor's wife, is the principal specialist at cryptanalysis, and she works in the Beinecke library on the definitive Boswell catalogue. Some of her treasures are tiny scraps of script, mounted on gauze, which she tries to fit together like a jigsaw puzzle.

Originals are stored at the Beinecke. Photostats of the entire Boswell collection—except locks of hair—are in the factory and in Room 331–C, which is shared with the [Horace] Walpole Factory and is therefore known as the Bospole room.

No book is published without Professor Pottle's intense, almost anguished, scrutiny. He is a perfectly gentle tyrant, taming the smallest clue into relevance, and showing the hand of the master in writing the narrative large.

One series of volumes—the annotated Boswell journals—has been emerging since 1950. Ten have come out. Four to go.

They all have individual scholars as editors, and Professor Pottle as final authority and co-editor.

Volume 12 will include the text of what the factory calls "The Extraordinary Johnsonian Tacenda" (a Latin word meaning "things not uttered"), an account of Boswell's interview with Mrs. Desmoulins, who lodged in Johnson's house, about Johnson's sexual life.

JOHNSON'S BRINKMANSHIP

Mrs. Desmoulins tells how Mrs. Johnson repelled Dr. Johnson's advances, and how Mrs. Desmoulins responded to them. Never in history, she said, was there anyone

* * * * *

Dr. Johnson—but he mastered them with consummate brinkmanship.

There is also a research edition blossoming with scholarly minutiae, and Professor Pottle estimates that the two volumes thus far published will be joined by about 38 more.

He has worked on Boswell for 52 years, and thinks the factory could wrap up the great Scot in another 20 years—given sufficient money.

Dr. Lustig: "The reason it takes so long is that it's a scrupulous operation."

Professor Brady: "It has to funnel through Pottle."

Dr. Lustig: "He won't relent."

Professor Brady: "He says he never wants to publish anything he doesn't understand, and lots of scholars pass over things."

UNFINISHED ESSAYS

"There's nothing I'd rather do than Boswell," said Professor Pottle. "I have a number of unfinished essays on Shelley, but these things in Boswell are more absorbing."

Stray material is still turning up, and the factory is of two minds about it. "If any more comes I'm going to burn it," said Professor Brady in jest. "We already have too much."

He and his associates hope that one day the great Mountain of Rubies—the Johnson-Boswell letters—will be discovered.

There would be a celebration in the factory (which has outlived an attempt to dignify it as the Boswell Scriptorium—a copying room in a medieval monastery). "I'd stay drunk for a week," said Professor Brady.

Noted Dr. Lustig: "Mr. Pottle would say 'Great,' and keep on working."

That would be in character, quite unlike the outrageous suggestion he once made when he looked up from behind his green eye shade and suggested—with the tone of a man who could not believe what he was saying: "Let's make up a footnote. Nobody will ever know."

NEW HOUSING FOR LOWER INCOME GROUPS CAN HELP CREATE NEEDED JOBS NATIONALLY

Mr. STONE. Mr. President, in the November 17, 1977 issue of the American Banker, Mr. Arthur H. Courshon, chairman of the Washington Federal Savings and Loan Association of Miami Beach, Fla., discusses a creative proposal to use savings and loan institutions to promote construction of housing for low and moderate-income individuals.

Under this proposal, a small Federal contribution and a new type of mortgage instrument would allow private financial institutions to use their substantial resources and expertise to finance many low- and moderate-income units. Since these are not good private investments at present, the Federal budget must bear the major burden for their financing.

The indirect benefits of this proposal are also significant. An increase in housing construction would have a strong impact on America. New housing construction creates additional jobs and promotes a healthy economy. The jobs created by this plan would result in increased tax revenues. There is no question that efficient economic stimulus costs the Government must less than, and is preferable to. creating public service jobs.

This article presents new ideas to provide adquate financing for low and moderate income housing. This problem and that of high unemployment become more difficult for Government to solve as pressure mounts to balance the Federal budget. Therefore, new ways must be explored to increase private investment.

Mr. President, I ask unanimous consent that this article be printed in the RECORD. I commend it to my colleagues' thoughtful consideration.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Banker, Nov. 17, 1977]

NEW HOUSING FOR LOWER INCOME GROUPS CAN HELP CREATE NEEDED JOBS NATIONALLY

(By Arthur H. Courshon)

Construction of housing for lower income groups can help create badly needed jobs in the country, and the savings and loan industry can be the vital link between the government's commitment to make that happen and the need to do it on a fiscally sound basis.

But the first step must be for the Administration to understand the extent of the housing industry's offset on our national economy.

The housing industry's problems have always been the problems of the general economy—and therefore the problem of whichever Administration is sitting in the White House. When an economic recovery has turned things around, it has been the housing industry that has often led that recovery.

Study after study shows that for every 100,000 additional units of housing produced, nearly double that number of jobs are created. And most of that does not even take into account a second layer of economic stimulus and jobs created because of increased need for furniture, appliances, and various services purchased by housing consumers.

We are not—as is popularly believed—a nation that depends entirely on the automobile as its primary economic barometer. In peacetime, housing is the single industry that has the most direct impact on employment and the U.S. economy.

It is tragic then, that the multi-billion dollar savings and loan system in this country has not been used to its fullest extent to help provide financing for construction of housing for low and moderate income families—and jobs.

One of the most effective means of building that housing and providing those jobs could be an indirect government tax relief subsidy used through the savings and loan industry.

One of the most influential spokesmen for housing in Congress has said that the right kind of housing program stimulus can create nearly one million new jobs, with an impact on the Federal budget of only about $500 million.

That's $500 for each new job, a paltry sum when compared to estimated costs to the government of $25,000 per job for some public works job, $16,000 per job for highway jobs and $8,000 per job for public service employment.

By the effective use of the savings and loan system and taking into account additional tax revenues that go along with the creation of new jobs, the impact on the Federal budget could be even less.

The potential benefits to be gained—better housing for low income groups and more jobs—make this an attractive program indeed.

Establishing a new type of mortgage loan, to be used by the savings and loan industry, should be one of the first steps. That new loan type can be designed to encourage financing for low income families directly by the S&L industry itself, rather than making it a budget consideration of the Federal government.

And it can be done in a fashion that makes these new loans a safe and sound investment, and not an undue risk to the lending institutions, their shareholders, or the Federal Savings and Loan Insurance Corporation.

A third element of the plan must be to insure that interest rates on the loans are low enough to enable the low income borrower to carry the debt—while at the same time making it a sound investment for the balance sheet of the lending institution.

There is a way that each of those critical elements of the program can be met.

The Federal Home Loan Bank Board, either through law or regulation, could create a new, permissible class of loan limited to a house or apartment with a certain square footage.

That upper limit must insure that the unit meets the needs of low income families, such as perhaps a 1,500 to 2,000 square foot limit. Just what is required could be worked out in much greater depth, taking into account family size and location of the property, later.

This special new class of loan would be limited to borrowers whose income did not exceed a certain level.

The Bank Board, in conjunction with the Department of Housing and Urban Development could set that limit consistent with what it feels is a tangible limit for what could be called "low income" borrowers.

Certainly there are already many studies that go into detailed classifications of low income families, already being used for existing low and moderate housing programs at HUD.

This new class of loan would also be fully insured by the Federal Housing Administration or some other agency of the government. Just where insuring authority and responsibility would fall could be determined by HUD and the Bank Board. The full insurance would be critical to making the loans safe for private lenders, and not just the creation of a loss on the balance sheet.

A ceiling should also be placed on the interest rate allowed for those new loans, perhaps of around 4½ percent.

In the case of new housing, the FHLBB regulations might also permit the loans to self amortize over a 40 year period.

The incentive for savings and loan associations to make such loans should be that all income derived from this special class of loan be tax free to the lending institution. To a savings and loan industry watching taxes rise to nearly 30 percent while other types of lenders pay an effective tax of only about half that, the tax break would hold considerable attraction.

We might find that the results would be dramatic. The savings and loan system—with all of its resources and experience as the primary housing lender in this country—would be armed with a new instrument, fully insured by the Federal government, and which has tax free income.

That tax break would also apply to any subsequent holders of the mortgage to facilitate a secondary market in the instruments.

Because the new loan would be fully insured by the Federal government, S&L would be making qualifying loans to the low income segment of the population—many times in inner city areas—without creating an unsound or unsafe portfolio asset.

The tax free income generated for the savings and loan industry could assist in building the industry's reserves to further protect the underwriting of the FSLIC.

That strengthening of savings and loan reserve positions is critical. Ever since the late 1960's when the thrift industry was stuck with a much higher tax burden, the capital base of the industry has been in rapid decline.

Study after study of savings and loan association capital adequacy has shown the direct link between the declining reserve positions and the growing portion of income taxes paid by S&Ls.

The savings and loan industry has lost what once was an indirect subsidy in the form of a very low tax base. That tax structure was there for a purpose, however, to help the system build its capital base. That aid was eventually returned in the form of mortgage financing to the public.

By creating a new qualifying mortgage with tax free income, the savings and loan system could be allowed to increase its liquidity potential. These mortgages could be sold to increase the loans to the general public on a "without recourse" basis.

The investors in turn would be purchasing an asset fully insured by the Federal government, whose income would be tax free to the holder of the loan paper.

And that would have a yet another benefit. S&Ls, in order to continue the massive support to the housing industry, would not be entirely at the mercy of disintermediation. The new instrument would provide an additional source for S&L to bring in money to continue ongoing mortgage lending.

The full Federal insurance will take the savings and loan industry out of the regulatory cross fire when it comes to inner city lending.

Associations that do make loans in certain blighted areas are subjecting themselves to taking on unsafe and unsound investments that endanger the associations standing with Federal regulations against such practices.

Associations that are more prudent in developing a loan portfolio, face the criticism that they are involved in redlining.

The country should face up to the fact that this practice is not the right way to use the savings and loan industry to support housing for low income families.

The right way is to use its potential by allowing it to make loans to the low income families that meet the needs of those groups, that create jobs, and that do not run the risk of destroying the Federal Savings and Loan Insurance Corporation.

That means these loans should be insured by an instrumentality of the Federal government, other than FSLIC. It would be up to the Administration to set any limits on the amount of insurance to be issued on these loans, as needs change.

This program is not, however, a carte blanche for savings and loan associations to flood the country with tax free housing programs for low income families. The Federal government, most likely through HUD or the FHLBB, would set up the annual insurance limits, to control the need for housing, employment, or the use of additional tax income for the Federal Treasury.

One point is not debatable. The interest rate must be kept very low, or the program will not reach the borrowers that need the aid most.

The incentive for lenders to keep the interest rates low is the tax free status of the loans. That makes it an indirect government subsidy. But if the homes are not built by private financing, and jobs are not created the same way, the government subsidy will be much greater.

The stimulus to the economy by creating the new housing produces new income for the Treasury that more than offsets the subsidy of having tax free mortgage interest on this specialized form of loan. The exact spot the interest rate ought to rest is of course open to discussion. The 4½ percent mark is only a suggestion, as is the 40-year amortization period.

The savings and loan industry's potential in this area has been sadly underestimated. This $450 billion industry is making close to 70 percent of the mortgage loans now in this country. Surely an industry with that kind of economic clout can go a long way toward helping to solve the economic problems of this country, as well as the social problems of unemployment and inadequate housing for the disadvantaged.

Administrations up until this time have rightfully been concerned with a safe and sound savings and loan industry—to protect shareholders and the FSLIC. But based on changing economic conditions, the S&L industry has either aggressively promoted housing, or severely restricted its home lending. And it has done so not just out of economic necessity, but also because of the outmoded legal structure of the savings and loan system itself.

Most of what this country has come up with to promote housing for the low income segment has been through HUD's subsidy, housing grant, and public housing programs.

But that has not been enough, and has been too expensive. The evidence is plain in many urban neighborhoods. Congress in 1968 concluded that there is a need for production of 600,000 housing units for the low income segment each year—a goal that is far from being met.

But a program that could meet the needs can be developed using the resources of the vast savings and loan system.

That program could provide low interest financing for the poor, jobs for the unemployed, help for the neighborhoods, and a strengthened capital adequacy picture for the savings and loan industry.

ON THE DEATH OF JOHN McCLELLAN

Mr. MUSKIE. Mr. President, John McClellan's death is a loss to the country, and a personal loss for those of us privileged to know him.

John spent more than 40 years in the Congress and 35 in the Senate. They were years of distinguished service to his State, his country and his fellow Americans.

Most Americans know him as the man who led the Senate investigations into union corruption and the TFX scandal; as the strong and influential chairman of the Senate Appropriations Committee; as an expert on criminal law who worked many years to fashion a new criminal code.

But his constituents in Arkansas also knew him as a superior representative who worked hardest for their needs. The lives of the people of Arkansas are better today for his efforts.

I sometimes did not agree with John McClellan's political philosophy or sense of the proper direction for the country. But our differences were on questions of policy only.

From my first years in the Senate, I found him a fair-minded, honorable man. The Subcommittee on Intergovernmental Relations, which I chair, was established during John's chairmanship of the Government Operations Committee. I always valued his advice, even when his thinking did not agree with mine.

More recently, I had the opportunity to work closely with John in the past 3 years as the Senate Budget Committee began its work. I found him a strong ally in the committee's work, and his support was invaluable.

The Budget and Appropriations Committees were potential adversaries. His insightful leadership helped make them effective partners in the struggle for fiscal responsibility.

It is sad that John will not witness the enactment of major criminal code reform, nor help see the Budget Committee through its future tests.

The Senate will miss him, as will I.

BALTIMORE'S RENAISSANCE

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Maryland (Mr. MATHIAS).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MATHIAS

BALTIMORE'S RENAISSANCE

Mr. MATHIAS. Mr. President, the City of Baltimore has had a fascinating and significant history since its founding 248 years ago. It has seen good times and bad times, times of pessimism and times of hope, times of peril and times of tranquility, times of solemnity and times of jubilation. The Baltimore seaport which actually took root in 1706 at the northernmost reach of the Patapsco River's Middle Branch, was different from the two earlier attempts to establish a Baltimore town in Maryland—one on the Eastern Shore, the other in what is now Harford County. The new Baltimore was located on sheltered waters far inland. It stood at the apex of a vast hinterland which was to become the agricultural and industrial heartland of our young nation. It was located near many fast-moving streams where grain milling prospered and grew.

By 1758 an enterprising Irishman named James Stevenson had set up shipping operations in what is now the Fells Point section of Baltimore City, and began moving grain by ship to cities both to the north and south of Baltimore, to the West Indies and to South America. Throughout the next century, the City of Baltimore grew up around this new inland seaport, as its location became more and more strategic to the developing nation beyond the Appalachians. By 1812, Baltimore was the country's fourth largest city and its location astride the main north-south post road of the young nation made it an ideal target for British attackers who sought to cut off the new capital at Washington from the rest of the nation. Every informed American knows what happened at the Battle of North Point and at Fort McHenry.

Later, naval architects and shipwrights at Fells Point built the United States Navy's first frigate, the U.S.F. *Constellation*, and the Baltimore Clippers which dominated merchant shipping on the North Atlantic and brought the world to the foot of Broadway. Next the age of steam connected the westernmost outpost of the New World, the Village of St. Louis, with the Old World, as the Baltimore and Ohio Railroad brought its overland tracks down to the water's edge at the Port of Baltimore. In the 1850 census, Baltimore ranked second in population, passing Boston and Philadelphia.

Historically, the City of Baltimore's destiny has been inextricably bound to the great seaport on the Patapsco. And that historic tie endures to this day.

Since World War II, Baltimore has seen a renaissance under the leadership of four imaginative and progressive mayors—Thomas J. D'Alesandro, Jr., Theodore R. McKeldin, Thomas J. D'Alesandro III and William Donald Schaefer. As a result of their dynamic leadership, a new city is rising along the historic waterfront. Yet, today Baltimore is less a city of glass and steel and concrete, than one of communities, neighborhoods and individuals intensely proud of their heritage and accomplishments.

Mr. President, the new spirit of Baltimore is chronicled in three recent articles which have come to my attention. One, from the London Economist, describes Baltimore's highly successful rebuilding and revitalization program; a second from the Washington Post, by James Young, a Baltimorean and former member of my staff, captures the essence of Baltimore from afar, and a third from the Baltimore Sun by a native son, Gwinn Owens, imparts a Baltimorean's pride in his hometown.

These three articles are as follows:

[From the Economist, Oct. 1, 1977]

BALTIMORE AWAKE!

"I don't have any feelings about Baltimore", complained one businessman recently to the city's chamber of commerce. Nor, it seems, have many others, despite the city's efforts to revive itself. Companies are still reluctant to locate plants and offices in Baltimore, which in turn erodes the base—jobs—on which the whole attempt at renewal must rest. While buildings were mushrooming in the first half of this decade, 41,000 manufacturing jobs were lost.

Twenty years ago Baltimore was declining from wartime heights of vitality, when its port and its industrial capactiy gave it strategic importance. It was not a financial centre, nor a cultural one. It had a respected newspaper, the morning Sun, but its circulation of less than 200,000 in a city of nearly a million made it, as its staff lamented, "the country's best unread paper". Nor had Baltimore ever been a town for night life, with the single exception of "The Block", a garish row of strip joints and then the only place in the East where the girls could "work heavy", as they referred in the trade to taking it all off.

With the inner harbour falling into disuse, the abandoned warehouses and decaying piers added to the air of stagnation. Travellers along the Washington New York axis called the city "Washington's Brooklyn", and were much relieved when the interstate highway system tunneled underneath Baltimore harbour, allowing them to avoid the town completely.

Perhaps because of the harbour tunnel bypass, even nearby Washingtonians are unfamiliar with the changes in the face of Baltimore. In the late 1950's a newly formed group of regional business leaders known as the Greater Baltimore Committee declared that the downtown decay must end. They talked the city into making a large plot of valuable land available for an office complex, which meant condemning not only Baltimore's most famous restaurant, Miller Brothers, but also the city's own new parking garage. The result was Charles Center, a grouping of offices, shops and a cinema.

Hardly was One Charles Center (designed by Mies van der Rohe) finished when the redevelopment of the inner harbour began. The warehouses and docks, which jutted almost into the business district, were demolished to make way for a pentagonal office tower, a science museum, an apartment house for the aged, playing fields and walkways. Of the original buildings, only the News-American newspaper and the McCormick spice factory, which sometimes mingles the scent of cinnamon with more familiar maritime smells, remain.

Until recently, it never much bothered Baltimoreans that their city rivalled Philadelphia for the honour of most belittled city in the East. They are in some ways an insular people. They have a strong sense of neighbourhood and clan—the Poles and Greeks in the east Baltimore area of Highlandtown, the Lithuanians just west of downtown, the Italians in a central enclave called, of course, Little Italy. Each group has its characteristic restaurants and grocers, even its own radio programmes. Baltimore also speaks a dialect all its own. The name of the town is, variously, "Bawlamer" or "Bawlteemore". Its predominant religion is "Calf lick", and its top political office is the "morality".

The sense of locale that gives Baltimore much of its considerable charm is also in part responsible for its most successful experiment in urban renewal, "homesteading". Under this programme, the city acquires abandoned houses and sells them for one dollar each to people who are willing to rehabilitate them and live in them for at least 18 months afterwards. Rehabilitation costs are currently averaging over $25,000, and the city will furnish loans at below market interest rates. With 333 houses homesteaded by the end of 1976, the programme is now so popular that Baltimore has started to make whole blocks available, and has resorted to a lottery to cope with demand.

Typically, these houses draw middle class white couples into the poorer areas. In theory, this should halt housing blight, enriching the neighbourhoods and fostering an atmosphere of improvement generally. In practice, it may produce class antagonisms if the upgrading of houses leads to real estate speculation, as it has in other "revitalised" American cities. Baltimore's population is about half black, largely poor blacks.

At the end of July unemployment in Baltimore stood at 9.1 percent, compared with a nationwide average of 6.9 percent. The renewal of downtown has done little to reduce the joblessness endemic to older industrial cities. So, again in conjunction with the Greater Baltimore Committee, the city is at last embarking on a campaign to lure industry to the area. The campaign, inspired by Pittsburgh's recent success in creating an image attractive to manufacturers, will pit Baltimore against the other eastern seaports of Philadelphia, New York and Norfolk. It will focus on businesses, both domestic and foreign, related to or requiring shipping facilities, because these are the ones that generate the most secondary employment. But success in the campaign may depend on whether Baltimore markets itself as a single metropolitan region, or includes itself with Washington in a kind of megalopolis: a move which could either earn the city more attention, or more humiliation.

[From the Baltimore Sun]

BALTIMORE: THE LONG CLIMB UP FROM NOWHERESVILLE

(By Gwinn Owens)

BALTIMORE, for all of its genuine physical and social advances in the past decade, remains America's most maligned city, the joke-town of the U.S.A. It doesn't matter that we who live here experience the sheer delight of its people, its achievements, its variety, its vitality and its uniqueness. We know it, but no one else does, and until they do, we will not attract culture, money or people.

Let me start out with a piece of useful trivia. I've long had the feeling that Baltimore's descent into Nowheresville began sometime around the early 1940's. To support that contention I did a little research, and it is illuminating, to say the least. In the 15-year period from 1926 to 1940, no less than 15 Baltimoreans appeared on the cover of *Time*. By Baltimoreans I include those who were working here or, for one reason or another, were closely identified with the city. After 1940 there is not single Baltimorean on the cover of *Time* until 1963. From 1963 through 1973 there were 10, but six of these were Spiro T. Agnew and three were Sargent Shriver (who is only marginally a Baltimorean). If you subtract Agnew and Shriver, the score comes out to 15 Baltimoreans in the 15 years, 1926–1940, none in the 22 years from 1941 throngh 1962.

In June of this year I took my first trip to Atlanta to attend a broadcast editorial writers conference. The visit was a shock and a revelation. America's most publicized city is a wasteland compared to Baltimore. Why, then, does the whole nation flock to Atlanta? One of the speakers at our conference was city planner Larry Halprin, who extolled some of his achievements in (I believe) San Francisco, Spokane and Seattle. One of the audience rose to ask him what he thought of Atlanta. His reply: "A terrible city." This led me to believe this was a man who knew a good city from a bad one, so I asked him what he thought of Baltimore. "Baltimore," he said, "is a mess." I asked him how long since he'd been there. "At least ten years," he replied.

There was a man, a city planner to boot, who knew Baltimore only from its physical and cultural nadir of a decade or so ago. The question has to be raised: Why didn't he know more about Baltimore? This was only the beginning of Atlanta-shock. One of the editorial writers, when I spoke of my home city, said "I always think of Baltimore and Newark the same—cities with nothing but problems."

The insults come from other sources. The *Sunpapers* have nurtured me one way or another all of my life. I still like to think of them as great newspapers. A year ago I was co-author of a book published by Putnam. The reviews were mostly very good, but the worst review of all was in *The Sunday Sun*. When I complained to my Putnam editor, he advised me: "Don't worry—nobody in the publishing world gives a damn what the Baltimore *Sun* says. It's just not an important newspaper."

Now let me quote a portion of a paragraph from "A Heartbeat Away," the best-selling story of Agnew's downfall by Washington Post reporters Cohen and Witcover:

"Even by Maryland standards the city [Baltimore] stood alone. It even had its own accent—or accents—and it was the city that saw no future in Babe Ruth, that horrified even Edgar Allan Poe, and whose major literary figures, H.L. Mencken and Ogden Nash, were eccentrics. The city was forever playing the role of dead-end kid."

Can you imagine such monstrous misinformation, such garbage coming from reporters in that quagmire known as Washington? The fact is, however, that millions of people read this offal and believe it.

As I suggested above, the big question is why. Here I have to say that a great deal of Baltimore's trouble is Baltimoreans. This is the land where the apostles of smallthink, of badtaste, of secondrate, seem to be forever in control. Let me cite a monstrous example. Some 15 years ago I worked on an expose of the zoning commissioner of Baltimore county. It turned out he accepted $12,500 from Food Fair "for consulting work in Pennsylvania" while cheerfully rezoning county land for Food Fair shopping centers. The zoning commissioner was fired in disgrace, as he deserved. The area vice president for Food Fair did better. He has a magnificent monument, the Joseph Rash Athletic Fields in the Inner Harbor. God Almighty! Who is responsible for naming this garden spot for the procuror of free food for Spiro T. Agnew? Why not Thurgood Marshall Field? Lefty Grove Field? Home Run Baker Field? Brooks Robinson Field? Theodore R. McKeldin Field?

Baltimore seems to take pleasure in smothering its history—not the "Flag House" type of history that means nothing outside of Baltimore, but its history that stirs the interest of outsiders. Ten years ago I suggested that Hopkins Plaza (an utterly meaningless name in a city with too many Hopkins already—it's merely because it's adjacent to Hopkins Place) be changed to H. L. Mencken Plaza. It is adjacent to the Sunpapers corner where he worked, and it's our "Hyde Park Corner" where people speak their minds, a practice Mencken thoroughly endorsed. My idea made its way through the City Council, the Park Board, but was shot down when Merc-Safe protested that it would cost them $175,000 to shift from Hopkins to Mencken (Merc had just moved into its new building). My next proposal would have been to rename Center Plaza, Ogden Nash Plaza and Charles Plaza, Dos Passos Plaza. These were world-famous men who nonetheless chose Baltimore.

This is also the city of the mealy-mouth. Fourteen years ago when the Chamber of Commerce and the Port Authority gave their support to the B&O-C&O merger it was under condition that the word "Baltimore" be included in the combined corporate name. This became a legal part of the agreement. But the new leadership has simply ignored this through a loophole that is probably not legal if anyone in Baltimore has the guts to challenge it. The B&O still exists, as does the C&O, but under a nickname "Chessie System" and a holding company, Chessie System Inc. Any lawyer who cannot reverse such a blatant violation of a written agreement ought to go back to law school.

I could go on and on, about our gutless bankers (a Baltimore industrial leader told me he has to go to New York for money because Baltimore bankers don't believe in Baltimore business), our powerless congressmen (Why did we let the State Department rule out for the forseeable future any and all service between BWI and London? We're the only city in the United States that lost the service it was already entitled to.)

Everything I have said may seem based in the zeal of civic pride. That, of course, is part of it, but fundamentally I am an economic determinist. Baltimore needs not just payrolls from companies based in Kansas City or Oshkosh, but economic power in its midst. But why do people, talent, corporations, culture, come to a city? Because they want to enjoy where they live and that means being proud of where they live. There is no point in telling Baltimoreans this is a great city—they know it. We have to tell the world, and the world, at this point, doesn't give a damn.

Now I'd like to make two original, practical suggestions. We have been through the stupidity of "Charm City" and the ultra-stupidity of "Baltimore than you know." Yet I am not one to sneer at nicknames or slogans if they are not excessively contrived and have some validity to the situation at hand. What is true about Baltimore? That's very obvious. For some reason, our people love festivals. The City Fair is the best example (perhaps the largest urban event in history), but the Preakness Festival does almost as well, the Fells Point Festival and the Oktoberfest suffer only from success—they are too crowded. Just call it a festival and Baltimoreans will turn out. We are truly and honestly "The Festival City"—a name full of joyful connotations. Charm won't turn people on, nor will the gamble that a city has "... more than you know," but festivals do draw.

Obviously, I have to end this with a plan for action. I have one, and it's very simple. The insults, the jokes, the criticisms, continue to plague Baltimore, sending us two steps backward for every step we take forward. I would form a committee—with some money—to meet each individual critic head-on. If Larry Halprin says "Baltimore is a mess," invite him here. Let him see the Inner Harbor, walk through Charles Center, visit the B&O Museum, the Cone Collection, Fells Point, Union Square, Washington Hill, the Walters Gallery, eat a crab cake at Thompson's Sea Girt, some oysters at Faidley's, a whole meal at Marconi's or Haussner's, let him experience this city with all of his five senses. Do the same for the *Sports Illustrated* writer who called this "a grimy, workingman's town," or for Mark Russell, the comedian who amuses Washingtonians with Baltimore jokes "The best thing about Baltimore is the tunnel under it"). Bring the editors of the Washington *Post*, The New York *Times, Time, Newsweek*, the network executives here for a visit. Until the moguls of the media see us for what we are, the positive impression will never filter down to the country as a whole. We have to accomplish a 180-degree turn from Nowheresville, U.S.A., to a city that is chic, not-to-be-missed.

Despite his occasional highhandedness, we have the best mayor of this century in Don Schaefer. We now will have a powerful business organization in the new Greater Baltimore Committee. We have a core of enlightened citizens, both black and white. What are we waiting for?

[From the Washington Post, Oct. 31, 1977]
1977]

GOING HOME TO BALTIMORE

(By Jim Young)

Of all the people who daily swarm into Washington to help or divert the course of the nation, there is no stranger band than the few hundred who commute by train from Baltimore, only 45 miles away on the map, but a psychological distance equal to that of Denver or Seattle.

This diverse group of men and women includes young and old, black and white, lawyers, scientists, environmentalists, clerks, lobbyists, interns, congressional aides, flacks, regulators, administrators and a White House aide or two, each of us tied by career to Washington.

We would be a cross-section of this town's workers, except for one thing: None of us has chosen to live in it. We have stuck with Baltimore, even though we must come to the District to do our jobs.

To be able to go home to Baltimore, we commuters choose to endure up to three hours of travel a day, victimized by the vagaries of the railroads and the growing pains of Metro. We have seen Union Station misused as a visitor's center, just in time for the end of the Bicentennial, and no doubt will see it reconverted to a train station one of these years. We have ridden in heated railroad cars in the summer and unheated cars in the winter. Stranded in the Baltimore Tunnel, we have missed suppers or dates, and we have missed appointments while the lobotomized voices of Metro politely told us things were being corrected as quickly as possible.

We have compounded the uncertainties of Washington commuting by adding the uncertainties of Amtrak and Conrail. Conrail, stuck by the Congress with continuing commuter service, provides pre-World War I cars that actually have working fans in their ceilings. The only source of replacement parts is other cars of equal venerability.

Amtrak, which honors our commuter tickets on some of its trains, has its own style. For instance, there was the day we walked the last 200 yards to Union Station because the electrically powered engine had been switched to a track that was not served by overhead wires.

We sit still for this (or, when there are no seats, we stand for it) because each of us feels that Baltimore gives us something that Washington never will.

With a metropolitan area now reaching out past Columbia to Frederick farmlands and deep into a Virginia that is doing its best to ignore the phenomenon, Washington seems unwilling or unable to come to terms with its metropolitan essence. It is first a national capital—and only then a city. We need only compare it with Paris, London or Tokyo to see the difference.

You can add to this the turnover of officialdom, both in government and out, which superheats the Montgomery County housing market and makes it impossible for a major segment of the population to have any continuing policy role in the development of the community. Indeed, the short-termers may care little for that, keeping emotional ties to their city of origin or abandoning them altogether in careers that hop from place to place.

We have the alternative of a separate city, which we can go home to each evening.

Baltimore has a geographical raison d'être (its port), ethnically diverse mini-cultures and a varied economy. Its identity as a city predates Washington's—and so does that of many of its neighborhoods.

Baltimore's renewal began many years ago and the urban homesteading and reinvigoration of central Washington has two cycles of precedent there.

Perhaps most important for the commuters, however, is the ability to re-enter daily a different world, where the alphabet soup of federally oriented conversation is unknown, where problems have human rather than statistical form, and where people don't give parties in honor of people they have never met.

Baltimore even has its own dialect, its native dish of crabs and beer and a talent for spawning sui generis politicians ranging from Theodore McKeldin to Hyman Pressman to Spiro Agnew to Andy Easter, who used to campaign in an Uncle Sam suit.

To sum up, Baltimore, with all the problems of any major city, has for us the character of home, which Washington, single-focused and changing with the political winds, cannot provide.

Baltimore, however, has a new problem, now on the far horizon but getting larger. The problem is Washington. Even now, Baltimore business spokesmen are beginning to talk of our town's possibilities as a "bedroom" community for Washington. Our ranks gradually increase on the train platform. A local newspaper now carries trendy Washington gossip as if it mattered to anyone north of the Capital Beltway. They're even working on improvements to the railbed.

We look on in horror at the prospect of our good little thing getting out of hand, drafting plans for guerrilla action to sabotage this trend before it matures. We wish to maintain our daily duality, and don't want to have federal pay scales and the progress of legislation become the backyard conversation of two cities rather than one. We might urge a hasty decentralization of the federal establishment, with the balance moved to Alexandria, or perhaps a legal challenge to the cession of the District of Columbia.

But it would be far better for Washington to become a city in its own right, in spite of, rather than because of, the national government, to give up its sprawl and to continue development as a place to call home.

Rational traffic patterns, diversified business, stiffer parking restrictions and the panoply of revitalization moves, plus a championship major-league sports team—these would help, for starters. They may sound like a large order, but it can be done. Look at Baltimore.

POCKET VETO STATUS

Mr. KENNEDY. Mr. President, a number of colleagues have asked me in recent days about the status of the pocket veto issue, in light of the forthcoming sine die adjournment between the first and second sessions of the present Congress.

One aspect of particular concern has been the loose talk in recent days in connection with the tuition tax credit issue, to the effect that a graceful exit from the controversy might have been to shift the tax credit from the social security bill to a minor tariff bill, which could then have been quietly pocket-vetoed during the adjournment. But that avenue was not open.

Under the decisions of the U.S. Court of Appeals for the District of Columbia Circuit in *Kennedy* v. *Sampson* 511 F.2d 430 (1974) and the U.S. District Court for the District of Columbia in *Kennedy* v. *Jones*, 412 F. Supp. 353 (1976), a pocket veto has been ruled unconstitutional duradjournments with a Congress—such as, during adjournments within a session or during the sine die adjournment between the first and second sessions of a Congress. Thus, a pocket veto would be invalid during the forthcoming sine die adjournment.

Under the present law, therefore, a pocket veto can be validly used only during the final sine die adjournment at the end of the Congress. In all other cases, legislation disapproved by the President must be returned to Congress in the normal manner, giving Congress an opportunity to override the veto.

Mr. President, I ask unanimous consent that a statement I made on this issue last year and accompanying materials may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Congressional Record, Apr. 26, 1976; page 11202]

Resolution of the Pocket Veto Controversy

Mr. Kennedy. Mr. President, on April 13, 1976, the Department of Justice announced that it would no longer oppose the lawsuit I had brought to settle the scope of the President's pocket veto power under article I, section 7, clause 2 of the Constitution.

Henceforth, according to the decision made by President Ford, a pocket veto will be used only during the sine die adjournment of Congress at the end of its second session. During all other adjournments—including intrasession adjournments, such as the recent Easter recess and the summer adjournment, and the intersession adjournment between the first and second sessions of a Congress—the President will use a normal or return veto, not a pocket veto. That is, the President will return the bill to Congress, so that Congress will have the opportunity to override the veto.

According to the Department of Justice announcement, the only requirement for the use of normal vetoes during an adjournment is that the Senate or House must designate officers to receive a vetoed bill during the adjournment. In recent years, the Senate and House have routinely made such designations during adjournments and the practice will certainly continue.

President Ford's recent action is a generous and complete vindication of the rights of Congress and its role in the enactment of Federal legislation, and I welcome the President's decision.

The current controversy began in 1970, when President Nixon used a pocket veto to nullify the Family Practice of Medicine Act during the 5-day Christmas recess of Congress that year. In August 1974, in a lawsuit I initiated, the U.S. Court of Appeals for the District of Columbia Circuit ruled that this pocket veto was unconstitutional. See *Kennedy* v. *Sampson*, 511 F.2d 430 (1974).

President's Ford's recent action involves a second law suit I had brought, which was pending before Judge John J. Sirica in the U.S. District Court for the District of Columbia. That suit concerned a pocket veto by President Nixon during the intersession adjournment of Congress in January 1974, and a pocket veto by President Ford during the 31-day intrasession adjournment for the congressional elections in November 1974. The Department of Justice has filed a statement with the court consenting to the entry of a judgment in my favor in this litigation, and Judge Sirica has now ordered the judgment to be entered.

Over the years, many Senators and Congressmen have supported the effort to limit the use of the pocket veto. In particular, Senator Sam J. Ervin, Jr. of North Carolina was especially active in defending the role of Congress in this area, and I am pleased to pay tribute at this time to his strong leadership in protecting this important aspect of the legislative prerogatives of Congress under the Constitution. I also commend the Senate and House leadership for their strong support during the litigation and for the effective steps taken to insure that the pocket vetoes in question could be successfully challenged in the courts.

I think I speak for many members of both the House and Senate in saying how pleased I am that this decades-old controversy between Presidents and Congresses over the scope of the pocket veto power is now finally ended.

Mr. President, I ask unanimous consent that the Department of Justice announcement of April 13, 1976, the Department's statement filed the same day in the District Court, and the order of Judge Sirica of April 21, 1976 may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Department of Justice—April 13, 1976

The Department of Justice announced today that it will no longer oppose a suit questioning the scope of Presidential authority to use the pocket veto.

Attorney General Edward H. Levi said the action was based on a Presidential decision concerning the use of the pocket veto.

Vetoes are provided for in Article 1, Section 7 of the Constitution.

That section requires the President to act on a bill within 10 days. Sundays excepted. He may sign it into law. Or he may return it with his objections to whichever chamber it originated in, which constitutes the usual, or "return," veto. If Congress remains in session and the President does not act within 10 days, the bill becomes law.

A "pocket" veto occurs when the President fails to sign a bill within that period and the Congress, by its adjournment during that period, prevents its return. It takes its name from early references to a President putting unwanted legislation in his pocket.

The present suit was filed January 29, 1974, by Senator Edward M. Kennedy (D. Mass.), raising the question whether two bills passed by Congress but not signed by the President had become law.

One of the bills amended the Urban Mass Transportation Act of 1964 to permit buses purchased under that Act to be used to provide charter bus services. The time for Presidential approval of that bill expired during an intra-session adjournment of Congress.

The other bill amended the Vocational Rehabilitation Act by extending the authorization of appropriations for certain programs for the handicapped for one year, making certain changes in federal programs for blind persons, and providing for the convening of a White House Conference on Handicapped Individuals. The time for Presidential approval of that bill expired during an intersession adjournment of Congress.

The substantive provisions of these bills have been superseded by subsequent enactments.

The Attorney General said, in announcing the Department's position, that:

"President Ford has determined that he will use the return veto rather than the pocket veto during intra-session and intersession recesses and adjournments of the Congress, provided that the House of Congress to which the bill and the President's objections must be returned according to the Constitution has specifically authorized an officer or other agent to receive return vetoes during such periods."

[U.S. District Court for the District of Columbia, Civil Action No. 74–194]

Statement

Edward M. Kennedy, Plaintiff, versus Thomas M. Jones and Jack M. Eckerd, Defendants.

Defendants hereby consent to the entry of a judgment as prayed for in the supplemental complaint and in plaintiff's motion for summary judgment.

Respectfully submitted,
Rex E. Lee,
Assistant Attorney General,
Earl J. Silbert,
U.S. Attorney,
Stuart E. Schiffer,
Attorney, Department of Justice Attorneys for Defendants.

[U.S. District Court for the District of Columbia, Civil Action No. 74–194]

Order

Edward M. Kennedy. Plaintiff, versus Thomas M. Jones and Jack M. Eckerd, Defendants.

The Court having considered the plaintiff's supplemental complaint and plaintiff's motion for summary judgment, and the entire file in this case, and the defendants having filed a statement of consent to entry of judgment with the Court on April 13, 1976, it appears to the Court that the plaintiff is entitled to entry of judgment.

It is therefore this 21st day of April, 1976,

Ordered that plaintiff's motion for summary judgment be, and the same hereby is, granted; and it is

Further ordered that judgment be entered for the plaintiff in the above entitled matter.

John J. Sirica,
U.S. District Judge.

THE 75TH ANNIVERSARY OF INMAN MILLS

Mr. THURMOND. Mr. President, I would like to call the attention of my colleagues to an important event which is now taking place in my State. Inman Mills, of Inman, S.C., is celebrating its 75th anniversary.

Inman Mills is one of the most successful manufacturing operations in the textile industry. The company has 4 separate plants in Spartanburg County with an aggregate of 2,500 looms, 103,000 spindles, and 5,000 open-end spinning units. It employs 1,700 workers. Despite the fierce competition from larger companies, it has preserved its independence, maintained the high quality of its products, and won wide recognition for sound management and high productivity.

What makes the Inman story all the more remarkable is the extent to which it has been dominated by the members of one family. Inman Mills has had only three presidents in its history, and they have all had the same name—James A. Chapman. These three men—grandfather, son, and grandson—have one after the other faced and surmounted all the challenges that three-quarters of a century could provide. In this endeavor they have been ably assisted by various other family members, notably including Robert H. Chapman, the brother of the second James Chapman. Seldom do we see so much talent and initiative passed so unerringly across the generations. It is a heritage of which not only the Chapmans but everyone connected with Inman Mills can be proud.

It is no exaggeration to say that Inman Mills shows the free enterprise system at its finest. Success has not been achieved at the expense of the individual worker or the community. Rather, the management of Inman Mills has a consistent record of responsible and humane concern for both. Wages at Inman have always kept ahead of industry standards.

Working conditions, too have seen steady improvement. Inman can claim the first completely air conditioned cotton mill in the world. As a result, it is hardly surprising that the company has enjoyed excellent labor-management relations over the last three decades.

In addition, the Inman-Riverdale Foundation, founded by the Chapmans in 1946, diverts 5 percent of the company's before-tax profits to the use of schools, churches, and deserving students. More than $650,000 has been distributed in this way.

Mr. President, the textile industry is of vital importance to my State. The anniversary celebration now underway is one in which all South Carolinians can join with enthusiasm. I take this opportunity to extend to everyone at Inman Mills my sincere congratulations on the achievements of the past and to express my wishes for continuing and increasing success in the years ahead.

Finally, Mr. President, a number of newspaper articles have appeared recently giving further information about the history of Inman Mills. This subject is both interesting and instructive. In order that my colleagues may learn more about it, I ask unanimous consent that several representative articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Greenville (S.C.) News, Oct. 20, 1977]

"Family" Mill Turns 75

(By Scott Sunde)

INMAN.—Despite two world wars and the Great Depression, Inman Mills has continued to turn out textile products.

And unlike the route some other Piedmont textile operations have taken, Inman Mills has remained a family-controlled operation. This week the firm will celebrate 75 years in business—75 years of family operation.

As James A. Chapman Jr., president and treasurer of Inman Mills, puts it: "There's been three generations of us at the mill."

BEGUN BY GRANDFATHER

He remembers how it all began.

"My grandfather started getting a group together in the early 1900s. My grandfather—he was a lawyer—came down here and got a group together. He started all of this going with $150,000 cash.

"Now that wasn't much money—even then. He borrowed it from relatives and friends from here in Spartanburg County.

"The first mill opened in 1902. It was a very modest operation. It only had about 1,500 spindles and 400 looms."

But in a few years, he recalled, his grandfather managed to pay the firms for the machinery he bought to open the first mill in Inman.

And Inman Mills continued to grow. In 1928, Chapman's father and grandfather agreed to run a bankrupted mill in Enoree. Later that mill became part of the firm.

Nearly 20 years ago, the family-controlled business bulit a new mill in Inman. That was Spartanburg County's first new mill since 1925, according to Chapman.

Later the firm built a new mill in Enoree.

Today, Inman Mills operates four plants employing 1,700 persons. Its major products are apparel fabric and carpet yarn.

The growth, however, wasn't all easily accomplished. For example, in the late 1930s and early '40s, the mills had labor problems,

Inman employees were unionized then, Chapman says. "There were a few other plants here in the county with unions. We didn't like our uniqueness (of having a union) very much."

The plants had not one but two unions. Those were the years when the AFL and CIO were different union federations and battling each other for representation rights.

Inman Mills' labor problems eventually resulted in a strike during the war, Chapman says.

"After all the dust settled, our people voted the union out. They voted them out by a majority of three to one."

Through it all, Inman Mills managed to survive as a family operation.

"There's a few of us hanging on. We just like being independent."

And the future?

"We hope that somebody will be around here 75 years from now. We are small when you compare us to the giants, but we have a spot in the market place."

To celebrate its 75th anniversary, Inman Mills will have open all its mills for tours at 2-5 p.m. Sunday.

[From the Spartanburg (S.C.) Herald, Oct. 24, 1977]

Inman Mills Grew up With County

Inman Mills, Spartanburg County and the Chapman family have been synonymous with textiles since 1902.

But the family's roots go even deeper in the Carolinas—back to 1812 when they came south from Connecticut.

The story of Inman Mills begins with the late James A. Chapman, founder.

Pages of history are still being written as the third and additional generations of Chapmans celebrate Inman Mills 75th anniversary. This weekend.

James A. Chapman was reared by aunts and uncles around Spartanburg and Union after the deaths of his parents when he was three years old.

He graduated from Wofford College in Spartanburg. With the help of his uncles he attended Harvard Law School where he graduated Magna Cum Laude in 1886.

For a time he practiced law in New York. He later moved to Middlesboro, Ky.

Around the turn of the century, Chapman became intrigued by textile mills being built in the Spartanburg area.

In 1901 he managed to raise what was then an almost unattainable sum, $150,000 in cash. With this he bought some 600 acres near Inman and built his first plant.

The mill began operation in 1902 with 400 looms and 15,000 spindles.

For the first 15 years it was a struggle, but growth came quickly.

By 1909, Chapman was able to double the mill size, increasing productivity to 33,000 spindles and 840 looms.

In 1916, he was joined by his son James and for 20 years the two-man team headed the company's operation. The younger Chapman was named mill superintendent at age 24.

In 1928, a second four-floor addition was made to the original plant, increasing total production capacity to 48,000 spindles and 1,368 looms.

Also in 1928, the Chapmans were asked to take over management of Riverdale Mills at Enoree. Built originally in 1883 as Enoree Manufacturing Co., the plant had a history of unprofitable operation under a succession of owners and managers.

The Chapmans acquired control of the Enoree plant in 1934. In 1954 the plant was fully merged with the Inman Mills company.

The second James A. Chapman was elected president and treasurer of Inman Mills in 1937 after the death of his father in 1936.

The new president was joined by his brother, Robert Hett Chapman, as vice president and assistant treasurer.

Robert was elected board chairman of Inman Mills in 1964. He served in this capacity until his death in 1975.

Under the second James A. Chapman, Inman Mills launched a major modernization and expansion program, beginning in the early 1950s. Chapman died in 1964. He was succeeded as president and treasurer of the company by his son, James A. Chapman, Jr.

Now under the third generation of Chapmans, the mills' family successor, James A. Chapman Jr. says, "Inman was the first carded yarn textile mill in the country to have its carding, spinning and spooling and warping facilities completely air conditioned and refrigerated.

"Inman Mills has accelerated its modernization program, and the company's plants are among the most efficient in the world."

The first major building expansion in the 1950's was construction of the Saybrook plant, named in honor of the Connecticut area settled in 1635 by a multi-great-grandfather of the family. The plant represented an investment of $5 million.

In 1959, Inman Mills undertook a 10-year expansion and modernization program highlighted in 1966 by construction of the Ramey Plant at Enoree which cost around $7.5 million.

The Ramey Plant is located west of U.S. 221, and just a half mile from the Riverdale Plant. The old and the new had come together.

Chapman, Jr., born in 1921, is a graduate of Davidson College. He worked at Pacific Mills before coming to the Riverdale Plant in 1946, and was made superintendent in 1947. He was president of the Southern Textile Association in 1955–56 and was president of the South Carolina Textile Manufacturers Association in 1972–73.

He was president of the South Carolina State Chamber of Commerce in 1964, and has honorary degrees from Wofford and Presbyterian Colleges.

Other members of the family, now reaching to the 12th generation, have joined Inman Mills operations throughout the years.

This weekend is a very special time for Inman Mills as the family celebrates the 75th anniversary of the company.

All the plants will have Open House from 2 to 5 p.m. Sunday.

To begin the celebration, there was a tour of the plants at Enoree Friday morning. This was followed by an old-fashioned country luncheon served in the basement of the Enoree Baptist Church.

The formal celebrating will come to an end Monday with a luncheon at 12:15 p.m. in the arena of Spartanburg Memorial Auditorium.

But that's just the formal program. The real celebration has been Inman Mills' progress through three-quarters of a century, and there are no plans to stop now.

[From the Charlotte (N.C.) Observer, Oct. 22, 1977]

Renovation Makes an Old Mill Just as Modern as Tomorrow

ENOREE, S.C.—Veteran employes remember when a fog of cotton dust clouded the carding room at Inman Mills' ancient Riverdale Plant, and heat pursued millworkers through the dog days of summer.

But, they say, air conditioning, dust-control equipment and other innovations have brought improvement in working conditions in the latter part of Inman's 75-year history.

"I've seen the mill in the good times and bad times," recalls J B. Waldrop of the firm's Inman division. "I can remember when the mill had windows and was terribly hot and we'd be wet when we came out after work."

Waldrop, whose grandfather, mother and father, sons and daughters all work for Inman, says improved equipment has brought a revolution since the early 1950s.

He quickly adds, "I've worked for good people all my life."

As the firm celebrates the 75th anniversary of its 1902 founding with an open house at its four Inman and Enoree plants this weekend, the evolution of textile plants is most visible at its Riverdale plant.

At the Riverdale plant, whose looms once were powered by the Enoree River that flows beneath the brick facility, the old and the new coexist in a single structure.

Built by a predecessor company in 1888, the plant is an oddity that made Ripley's Believe-It-Or-Not newspaper column because visitors can enter any of its four levels from the ground, because of the hilly terrain.

Despite its turn-of-the-century facade, the Riverdale mill "is as modern as tomorrow," according to James A. Chapman Jr., the patrician 56-year-old president who followed his father and grandfather in the company's leadership.

Chapman told a press conference Friday Inman has pumped $4 million into the Riverdale plant over the past six years to make it as up-to-date as any in the industry.

Some $1 million has been invested in clearing the air and computerizing the troublesome carding room where cotton bales are opened and fibers blended.

Open-end spinning now combines three yarn-making steps in one process, a technical innovation that Inman's newest plant, the $8 million Ramey plant, can't match.

Chapman said the company opted to upgrade the Riverdale facility rather than to replace it with a newer plant as "a question of economics."

Several other mill owners, making their own economic decisions, have chosen to shutter old plants and consolidate their activities in more up-to-date facilities.

Enoree's economy is dominated by the mill, as it has been since the era when the firm built and owned all its employe housing. It still owns 28 homes and provides for most community recreation through a foundation.

Although many family-owned mills in the industry have fallen along the wayside, Chapman speaks confidently of Inman's future despite such challenges as surging textile imports.

"We stay lean and hungry, as you've got to do to survive in this business," says Chapman.

"There's no reason Inman can't be around to celebrate its 100th anniversary."

[From the Spartanburg (S.C.) Herald-Journal, Oct. 23, 1977]

An Anniversary of Significance

Inman Mills' celebration of its 75th anniversary is, in a real sense, an observation of the textile industry's immense role in Spartanburg County and the state.

Many times it has been said, in terms of economy, that "when textiles sneeze. South Carolina catches pneumonia."

Industrial diversification has come to the Palmetto State during the past couple of decades—much of it among textiles themselves. Still, the yarn-twisters and the fabric-weavers are known as our "umbrella" industry.

Inman Mills is symbolic of the major place textiles have in the community life of Spartanburg County.

The firm is, with proper pride, family-owned—founded by the grandfather of the current president, James A. Chapman, Jr. Two of his brothers, Joe and Marshall, and a cousin, Robert H. Jr., are executives.

Two other brothers are highly successful in other pursuits, Robert F. Chapman is a federal judge; Hugh Chapman is chairman of the board of C&S Bank in South Carolina.

The company operates plants in the southernmost part of the county at Enoree, and others at the home base of Inman.

Its four plants include one among the oldest—Riverdale at Enoree, which was built in 1883—and others among the newest.

Riverdale once made Robert Ripley's famous "Believe It Or Not." The mill has four floors, each of them a ground floor because of the steep hill on which the plant was built. A sizeable stream runs underneath the building. Once, in the days of the T-Model, a road ran alongside the stream.

For generations, the Chapman family has given this country strong and good leaders. In church, education, community, business and public affairs, their presence is notable and beneficial.

Lou Parris, Herald-Journal reporter, who toured the Inman Mills facilities, was much impressed by the genuine friendliness between top executives and employees at every level.

To all of them on this 75th Anniversary: many happy returns!

[From Textile News, Oct. 24, 1977]

One Man's Mill and How It Grew

The South had survived the defeat of the Civil War (1865), the ravages of Reconstruction (1875), the era of Redemption (1885) in which the Redeemers were southerners who wanted to build a New South, and northern and foreign capitalists who wanted to exploit such opportunities as offered, or as could be made.

Then, there was the period of the unbelievable land give-away. Not the "40 acres and a mule" offered freed slaves, but a new federal land policy toward southern states. In 1861 there were about 47,700,000 Federally owned acres in the public-land states of the South. This was about one-third of their total area. In 1876 an act was passed by the United States Congress repealing all limitations on sales of Federal lands and they were opened to unrestricted cash entry and wild speculation. Special trains were run to bring in land speculators who came stampeding to get their share or more, if possible. Rich timber lands and mineral areas were gobbled up by Yankee money and European purchasers. The going price was 4 acres for one dollar.

One member of Congress bought more than 100,000 acres in Louisiana, a group of Chicagoans bought close to 200,000; a Michigan firm acting as brokers selected and purchased nearly 700,000 acres of pine land; a purchaser from Grand Rapids acquired more than 600,000 acres in Louisiana. In the ten years, 1877 to 1888, more than 5,692,259 acres of Federal lands were sold in southern states. Out of this total only some 350,000 acres were bought by Southerners. The balance went mostly to Northern and English speculators.

Twenty years later a govenment forestry expert labeled exploitation of all the acreage by lumber interests as the "most rapid and reckless destruction of forests known to history." A hundred years later, this generation (1977) can add the words, "and most permanent."

State legislatures were equally eager to sell state-held land. More than 9½ million acres were sold to British speculators. The price for all this was 25 cents an acre more or less. One and a half million acres along the Louisiana Gulf-Coast to the Texas border were sold in 1882 to an English syndicate at 12½ cents to 75 cents an acre. This sale to the British-owned North American Land and Timber Company, Ltd. proved to be a bonanza to the British and of some benefit to the Gulf-Coast South because Seaman A. Knapp of Iowa was employed to head the operation. He introduced rice planting and production with methods used on upland prairies for wheat. That system, applied to rice planting, placed Louisiana, in just five years, as the leading rice producing state.

This was the era, also, of the great railroad speculation. In 1880 southern states east of the Mississippi had only 13.259 miles of rails and that was narrow gauge. But in the years 1881 to 1890, one hundred and eighty new railroad companies started operation in southern states east of the Mississippi. Then smaller companies were swallowed by bigger companies. The Richmond Terminal Company launched a movement of consolidation of small railroads and wound up with the largest system in the South. Later, switching over to standard gauge, it became the basis for J. P. Morgan's empire.

President of the Richmond Terminal Company was a former Tennessean named John Inman, one of the founders of the Tennessee Coal, Iron, and Railroad Company and of the New York Stock Exchange. His success in New York business circles was described as "from broker's clerk to Fifth Avenue Mansion," and his methods earned him the sobriquet of "Southern Carpetbagger" in Wall Street. But John Inman gathered and merged railroads in the South, and, where railroads were laid, cotton mills were located.

In the South in 1880 there were 161 cotton mills, in 1890 there were 239, and by 1900 there were 400 despite the Panic of 1893 that wiped out many industries and companies and bankrupted cotton planters. It was one of the most vicious depressions ever known. The textile industry of the South, however, felt the '93 Panic hardly at all. Geared to great extent for coarse yarn fabrics for the markets of the Orient, southern mills continued to operate and continued to undersell their northern competitors. One historian said they "out-Yankeed the Yankees.

In the Carolinas, Georgia and Alabama, the number of spindles rose from 422,807 in 1880 to 3.7 million in 1900. Between 1880 and 1900 the number of operatives in those mills increased from 16,741 to 97,559; the number of bales of cotton consumed from 182,349 to 1,479,006; the capital invested in cotton mills rose from $17.3 million to $124.5 million.

South Carolina, the last southern state to be Redeemed, made a fast recovery. Employees in textile mills increased from 8,071 in 1880 to 30,201, in 1900; the payroll of $1.5 million in 1880 rose to $5 million in 1900. Most of the new mills were equipped with more up-to-date machinery than those in the older textile regions such as New England, and the return on investment in southern cotton mills in 1900 greatly exceeded that of cotton factories in the North, according to the United States Census.

Into this climate of growth came James A. Chapman to organize a cotton mill. Over six feet tall, well proportioned, he was a handsome and an engaging man who made plans and carried them out. His ancestral background was many, many generations of educators, ministers, patriots.

James Alfred Chapman was orphaned when he was only three, and he was raised by uncles and aunts who lived in the Spartanburg and Union areas. He was a graduate of Wofford College (1883) and Harvard Law School where he graduated Magna Cum Laude in 1886. He practiced law in New York City, married Rachel Buchanan McMaster of Winnsboro, South Carolina (1899) and established his law business in Middlesboro, the coal and iron area of Kentucky.

But Spartanburg County, South Carolina, and the growing textile industry enticed him with his wife, his two young sons and his daughter.

Apparently he had no difficulty in organizing his mill, the first textile mill of the area to be north of the Southern Railroad. About 600 acres of land was purchased from his brother and his uncle and J. R. and B. F. Brown. The latter two took 60 shares of common stock in exchange for their portion of the acreage. The land lay along the right-of-way of the railroad being built from Spartanburg to Asheville, and a nice ploy resulted in a railroad stop for the textile mill to be named for railroad tycoon, John Inman.

J. A. Chapman was a financier as well as a lawyer. He invested $20,400 in preferred stock and $5,800 in common stock in Inman Mills. His family invested $400 in preferred and $24,600 in common; his uncle, Alfred Foster, took $10,000 preferred and $24,000 common stock; local investors of the area took $15,200 in preferred and $52,700 common. W. B. Smith Whaley & Company, textile engineers who designed the building, took $1,500 common stock; Carey, Bayne and Smith, building contractors, took $10,000 common; John Hopkins Oil Company took $1,000; Southeastern Lime and Cement, $1,000; Wm. M. Bird and Company, $500 common. Textile machine builders and suppliers including American Card Clothing, C. E. Riley and Company, T. C. Entwistle Company, Easton and Burnham Machine Company, A. T. Atherton Machine Company, Saco-Pettee Machine Shops, Stephen A. Jenks, Albert A. Jenks, LeRoy Fales and Warren Fales made up $74,100 of preferred stock. The mill was to be all electrically operated, and it was Entwistle who furnished, as agent, the huge steam engine to generate the power.

This financial strategy followed the traditional southern textile finance pattern: local investors plus vendors. The latter willing to buy stock in order to have inside track on the business. The Inman exception to the usual pattern is that no commission house was approached for finance and none is included as stockholder.

Years later, in an interview with Broadus Mitchell, Chapman said that there were instances of bad practices among commission houses but most had disappeared by then. It is probably true, whether participation by commission houses in financing cotton mills was damaging or beneficial, it was necessary and that the industry owes its establishment as much to them as to any other factor.

Inman Mills have never sold through a commission house. The vendors who originally purchased stock were bought out by Chapman as rapidly as possible, in a matter of a very few years.

Inman Mills was issued a charter to operate under laws of South Carolina on January 16, 1901. The charter authorized common capital stock of $200,000 to be issued. On the following December 4, 1901, stockholders of Inman Mills elected the following directors: A. H. Foster, T. C. Duncan, A. H. Twichell, James R. Gibson, James A. Chapman. The latter was elected president and treasurer, positions he held until his death in 1936.

At the December 4, 1901, meeting, an increase in capital stock of $50,000 and an issue of preferred stock of $250,000 was voted to raise the mills capitalization to $500,000.

The mills' machinery and equipment was purchased from General Electric Company, Saco-Pettee Machine Shops, Woonsocket Machine Company, Fales and Jenks Machine Company, and Crompton and Knowles Loom Works. By 1902, 15,000 spindles, 400 plain looms, produced carded yarn sheeting which was shipped to New York on consignment. In 1904 Joshua L. Bailey Company became selling agent for Inman Mills.

When establishing his mill, Chapman, the founder, had every consideration for his employees. A well laid-out-village was built near the mill. One of the first structures was a chapel that cost $730.50 for the use of all religions. James Chapman, Jr., current president of Inman, says, "It was right behind the house where I was born." A manse was furnished free of charge for a minister and an annual contribution was made, a custom that still prevails, toward the minister's salary. Sunday School was held regularly and, by 1906, had an attendance of 200.

In 1907 the mill's success brought about an expansion of spindles to 19,421, and upped the looms to 500. By then the mill had 191 employees, none under the age of twelve. One hundred and ninety three children were enrolled in the school in which the mill had invested $8,000. One hundred and fifty of these enrollees were in regular attendance.

Inman was then consuming 2,732 bales of cotton a year and its annual production was evaluated at $300,000. Its sheeting was of good quality and was in great demand. To keep up with orders, it was necessary to run longer hours or an additional shift. August Kohn, columnist for the Charleston (S.C.) News & Courrier, wrote (1907), "There are very few cotton mills in this state that run at night. . . . As a matter of fact, if the mills wanted to run at night, they could not do so on account of the lack of labor. These few mills that do run at night pay the help from 10 to 20 percent more for night work than day work and, even for this additional inducement, they are unable to get any considerable amount of night help. . . .

"Within the last few days Inman Cotton Mill has started to run part of its machinery at night. . . . Inman Cotton Mill pays 15 cents per side for its night spinning."

A young man or woman can readily run 10 sides, he said. A weaver could operate from 8 to 10 plain looms (non-automatic).

James Chapman founded his mill, but he also ran it. There is the story of a new hand in the spinning room who asked his foreman, "Who is that great big man in the Panama hat that comes through here so often?" Of course, it was Chapman, the Founder and the Boss, but who was at the same time a reticent, shy person. He had a legal mind of steel, and a big heart as soft as putty. The youngster, toddling by his father's side on the daily trips through the mill, was his young son, James, known, then, to the mill workers as "Little Jim."

During summer vacations from high school, Jim Chapman (the second) worked as a machinery erector. Later, after he had graduated from Wofford College, and after he had studied engineering at Cornell, he came back to the mill to work under Gordon Cobb, then superintendent. In 1916 Cobb decided to leave for another job and told Chapman, the President, he wanted to recommend a good man to take his place.

"Who is he?"

"Your son, Jim," was the answer.

"Oh, pshaw," he said. The Inman President whirled his chair around, turning his back on Cobb. He wanted no further discussion.

Later, he suggested to young James that he hold things together until he could find a replacement for Cobb. Some months later, on his 24th birthday, Chapman said to his son, "How does it feel to be Superintendent?" He had given him the chance, and Jim had made good.

Years later, James, then called "Mr. Jim" recalled that it felt fine to be superintendent at 24, in the year 1917. He said, modestly, "Prosperity covered my mistakes and the job was not as burdensome as on today's standards: one shift operation, producing 39″, 72 x 76 4¼ yard goods using one warp and one filling. I took to raising chickens to keep myself occupied." In that, too, he was successful, winning many silver trophies and blue ribbons from various County Fairs.

In 1920 James Chapman married Miss Martha Marshall of York. They had five sons, three of whom made textiles their business.

In 1923 the young James Chapman was elected president of the Southern Textile Association, the leaders in textile mill operation on the superintendent level. Later he was president of the South Carolina Cotton Manufacturers Association, the state association of top-executive level.

In May, 1935, following the decision of the Supreme Court on the Schechter case invalidating the National Industrial Recovery Act and likewise all codes under which industry operated, the Print Cloth Group of the Cotton Textile Institute, in a meeting in Spartanburg, South Carolina, announced that by unanimous decision it would continue the code program. T. H. Webb, president of the American Cotton Manufacturers Association, appointed a self-governing committee that recommended no change be made in the conduct of the cotton textile business. Young James Chapman was one of the eleven textile executives appointed to that committee.

Ten years later when the Cotton Textile Institute inaugurated an industrywide public relations program, Jim Chapman was appointed to its Committee on Public Relations.

In 1959, he was elected president of the American Cotton Manufacturers Institute, a position he considered a call to a high responsibility, the welfare of the entire American textile industry. It was a position he held with honor and integrity; and he was the only South Carolinian to hold all three of the top honorary and distinguished positions of leadership in the textile industry.

The executive-superintendent team of Chapman & Chapman brought new success to Inman. In 1920 the mill had 40,000 spindles and 1,000 looms. In 1924 automatic looms replaced nonautomatic, more floor space was added, then the two-shift around-the-clock-operation was started.

In 1928 the Chapmans were asked to take over management of the ailing Riverdale Mills, located at Enoree some forty miles away. Years later "Mister Jim" Chapman told the Riverdale employees that, had they seen the plant in its run-down condition before taking the job, they would never have gone into the venture. Under Chapman management and with cooperation of the people of Enoree, the Riverdale operation was successful. In 1934, James A. Chapman and his associates acquired control of the mill.

In 1936, upon the death of James A. Chapman, the founder of Inman, his son, James A. Chapman, Jr., became president-treasurer. He dropped the Jr. from his name at that time and never used it again. So, today, when we see the name, James Chapman, Jr., it is the grandson of the founder—and will be used that way from now on.

When James A. Chapman succeeded his father as president-treasurer in 1936, he had been nominal head of the mill for quite a long time. Inman Mill and Riverdale had survived the crash of the stockmarket, 1929, the great Depression of the early 1930's, the general strike of 1934, and the Blue Eagle. In 1937 James Chapman's brother, Robert Hett Chapman, joined Inman Mills as vice-president and assistant treasurer.

He attended Wofford College for two years and graduated in Mechanical Engineering from Cornell University in 1917. During World War I he served in the Navy and afterwords went with J. E. Sirrine of Greenville. He was head of the Mechanical Engineering department and a partner in the firm where he left to come to Inman. He had designed and supervised the construction of steam plants all over the Southeast. In 1918 Bob Chapman married Miss Sadie Lipscomb of Gaffney, South Carolina. They had a son for the textile business.

When the Fair Labor Standards Act covering all industries engaged in interstate commerce became effective October 24, 1938—thirty-nine years ago—it stipulated a minimum wage of 25 cents per hour and 44½ maximum hours per week before time-and-a-half-pay. The schedule was to increase at intervals over the years. At the time of enactment, most cotton mills were paying more than the minimum rate and voluntarily were upholding the forty-hours-maximum week. Robert Chapmain was appointed as an employer representative, to the Textile Industry Committee No. 1. This committee rendered most valued service and, after public hearings following their report, made recommendations for 32½ cents minimum wage. Approved by the Administrator Elmer F. Andrews, it became effective in 1939. This rate of pay actually applied to only 120,000 of the 365,000 cotton textile workers as mills had already voluntarily brought wages to above that level. Robert H. Chapman's contribution to the industry by his service on the special Committee No. 1 has resulted in 30 years of relative quiet in labor-management affairs in the textile industry as wage rates have increased continuously on a basis considerably exceeding the legal minimum.

Robert Chapman was Chairman of the Board of Trustees of the J. E. Sirrine Textile Foundation which works with Clemson College. He was also Chairman of the Inman-Riverdale Foundation.

In 1939 a new cloth room was added at Inman. Spindles were increased to 48,000 and all the 1,368 looms were automatic, made by Draper.

Another James Chapman came to Inman in 1946. The grandson of James Chapman, the founder, became superintendent of the Riverdale Plant in 1946. It was not because he was grandson of the founder, or son of the Boss, but because he was able and willing. James Jr. worked at Pacific Mills for three years following his graduation from Davison College in 1943. He was well prepared in background and in practical work-knowledge to enter the family company.

So again we see an executive-superintendent team of Chapman & Chapman, headed toward greater success for Inman Mills. In 1952 to 1960, Inman kept pace with the machine developments and improved technology introduced by machine builders. The time had come to completely modernize and keep modernized or to go for broke. The Chapmans voted to modernize and stay in business.

Spindles were increased to 56,000 at Inman. Riverdale was merged with Inman (1954). New and wider automatic looms at Inman cut the total to 992, new spinning cut the number of spindles to 43,600 but increased production. The new plant, Saybrook, was completed with 30,000 spindles and 460 looms.

James A. Chapman died in 1964—a few weeks after he and his family had an employees picnic. Wade Buchanan, overseer of the card room, took a picture of the Chapman boys to commemorate the occasion.

James Chapman, Jr. (actually the III) succeeded his father as president and treasurer of the Inman Mills. James Jr. had grown with the industry and proved to be the type of business leader identical to his predecessors. In 1955–56 he was president of the Southern Textile Association. Later, 1972–73, he was president of South Carolina Textile Manufacturers Association, and the South Carolina State Chamber of Commerce.

By now this company had grown to the point where numbers of spindles and looms did not represent production compared to earlier years. New, wider looms increased production. New type spinning cut the number of spindles but increased production; so with modernization, production increased with lower per unit cost.

The Ramey plant was added to the Inman Mills. A new carpet plant has been added. Diversification is in the picture.

Today at Inman there is quite a line-up of Chapmans in the management field. James A. Chapman, Jr., President and Treasurer: Robert H. Chapman, Jr., Vice-President, a Clemson man, and a cotton man who worked with Cannon Mills and in the cotton brokerage business before joining Inman; James' brother, Marshall Chapman, Vice-President, he is a Clemson graduate and worked at Cannon Mills and in New York before joining Inman; another brother, Joe Chapman is Technical Manager. He graduated from Clemson in 1948 and worked for Springs Mills before joining Inman. Robert H. Chapman III is on a training program and, guess what? There is another James G. Chapman, IV knocking at the door.

The Chapman family still runs the $7.8 million mill investment that employs 1,700 employees. It is the only cotton mill started by one man that in 75 years has had only 3 presidents, each with the same name; James A Chapman, the Founder; James A Chapman, the Second; James A. Chapman, Jr., the current President.

If hard work, integrity, knowledge of the business and understanding of one's fellow man may be called a "dynasty", this is it.

[From the Textile News, Oct. 31, 1977]

INMAN MARKS 75TH ANNIVERSARY

INMAN, S.C.—Inman Mills, parent facility of a large and thriving Spartanburg County multi-plants textile manufacturing operation, is celebrating its 75th anniversary.

Starters for the festivities who recently staged public open house receptions at all plants, including parent Inman and subsequent Saybrook, located in this upper Spartanburg County industrial and "peach country" community, and Ramey Plant, Carpet Yarn Unit and Riverdale Plant at Enoree, lower Spartanburg County.

New plant and expansion investments aggregating many millions of dollars have marked the progressive presence of these mills on the South Carolina textile scene.

Inman-Riverdale Foundation, founded in 1946, has bestowed 118 scholarships and gifted more than $650,000 to churches, schools and students. Five per cent of Inman's profits before taxes go to the Foundation.

President-treasurer of this three generations Chapman family operation is James A. Chapman, who moved up to the chief chair in 1964. James A. Chapman, founder, was 1909–1936 president-treasurer; and second generation James A. Chapman held these offices, 1937–1964. The parent plant was founded in 1902.

The history of the Chapman's industrial ingenuity and service and of the mills constitute one of the oldest and most eventful in the annals of Spartanburg County textiles.

Total employment of the plants is around 1,700.

Their chief products are apparel fabrics and cotton yarns in wide variety.

"There's been three generations of us (the Chapmans) at the mill", present president Chapman proudly points out. "We are small when you compare us to the giants but we have a spot in the market place. We just like being independent."

Additionally, the Chapmans have been active in many fields of civic and educational endeavor and substantial foundation service other than Inman-Riverdale Foundation.

The second James A. Chapman held a special distinction as the only man to serve as president three well known textile industry organizations: Southern Textile Association, South Carolina Cotton Manufacturers Association and American Cotton Manufacturers Institute.

Modesty marks the Chapmans, the same as their many decades of firmly established close and warm relations with employes.

The fact is that they and their mills are widely known in the textile industry and its market place where they "have a spot".

After all, they've had it for 75 years.

A HISTORIC TRANSFER ARRANGED BY EDWARD PISZEK

Mr. MUSKIE. Mr. President, on November 2, 1977, a widely disparate group met in Philadelphia to witness the transfer of nearly 400 rare documents from the Polish Government to a group of Hasidic Jews in America.

The transfer was arranged by Edward Piszek, president of Mrs. Paul's Kitchens. Mr. Piszek has long been involved in public service, and is a personal friend.

Mr. Piszek's willingness to volunteer his time, energy, and considerable talent to this cause is no more than those of us who know him have come to expect. Saying that does not diminish our respect or appreciation for his untiring work in behalf of others.

John Cardinal Krol spoke at the ceremony on November 2, and provided us with a fascinating history of the relationships between the Polish and Jewish people. As he says, it "is not without blemish." Cardinal Krol also summarized the importance of the Philadelphia meeting, saying it "reflects the best and most noble tradition of the Polish people." So does Ed Piszek's work to make the transfer possible.

Mr. President, I ask unanimous consent that Cardinal Krol's remarks, and a New York Times article from the November 3, 1977, issue, describing the meeting, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY JOHN CARDINAL KROL

Presentation of a collection of religious books and manuscripts to the Hasidic Lubavitcher Group at Independence Hall, Philadelphia, on November 2, 1977 at 11:30 a.m.

RARE IF NOT UNIQUE CEREMONY

We witness a rare, if not unique ceremony—the presentation by a Christian gentleman of Polish ancestry, Mr. Edward J. Piszek, of an irreplaceable collection of religious books obtained from the Polish Regime, which ideologically is committed to the eradication of all religions, to an American Hasidic Lubavitcher Group of Jews.

WHY?

This presentation evokes two questions. Why should Mr. Piszek be so concerned with the preservation of this valuable collection of Jewish religious books and manuscripts? Why should a Polish Regime committed to the total abolition of religion, release to and through Mr. Piszek, this collection of religious books and manuscripts?

THE ANSWER

I suggest that the answer to both questions is in the one thousand year history of relations between the Polish and Jewish peoples.

Jewish history in Poland dates to the very beginnings of Poland's history as a nation 966 AD. That history, like the history of any nation, is not without blemish; not without shameful violation and repression of rights; not without sorrow and not free of bloodshedding.

However, the fact is that not only did the Jewish people find refuge from persecution in Poland, but they enjoyed a privileged status. This is evident from the fact that some of the early coins in Poland had Jewish inscriptions.

The great influx of Jews came into Poland in the 11th and 12th centuries. Jewish communities developed and flourished, and their contributions to the cultural and economic development in Poland were invaluable.

In 1264, King Boleslaus—the Pious—enacted the celebrated charter—the Statutes of Kalisz which guaranteed equal protection of the law to all and specifically to the Jews, with a guarantee of freedom of worship, with sanctions for anyone who would desecrate a Jewish synagogue, religious school or cemetery. The Book of Jewish Knowledge refers to this statute as the "celebrated charter—the only one of its kind in the history of Christendom."

When the Jews fled the "Black Death" persecution in the West in the XIV century, King Casimir affirmed the Kalisz Charter and welcomed a new flood of Jewish refugees as integral members of the Polish community.

In 1414, Paul Wlodkiewicz, Rector of the Catholic University of Krakow, submitted a memorandum to the Council of Constance, in which he averred the right of non believers to worship in their own fashion. The principles of civil and religious liberty expressed in the Kalisz statutes and the Wlodkiewicz memorandum provided a healthy climate for religious worship and culture, and provided a welcome shelter for all persons persecuted for their religious beliefs.

It should be noted that the principles of civil and religious liberty expressed in the Statutes of Kalisz and the Wlodkiewicz memorandum were articulated with clarity, 700 and 550 years later respectively in the II Vatican Council's declarations on relations with Jew and on Religious Freedom. These principles found their way into the Pacta Conventa, which proclaimed for the first time anywhere in Europe constitutional guarantees of religious worship for all citizens.

King Sigismund II enhanced the tradition of Jewish civil rights in Poland by granting the Jewish communities practical autonomy under the direction of a body of local notables and rabbinical courts. At the apex of the pyramid was a "Council of the Four Lands" which could legislate and adjudicate according to the Jewish laws. This arrangement gave the Jews the nearest approach to self-government since the Sanhedrin of antiquity.

During the cossack revolt and the Tartar invasion, Poland was ravaged and the Jews were the special targets of invaders. During the Russian and Swedish invasions, Jews were singled out for harsh treatment, not only by the invaders, but regrettably by some Poles who suspected some Jews of being in league with the enemy. In this case, insecurity led to intolerance with the result of unrelieved disaster. When Poland lost its independence in 1795, the condition of the Jews, like that of the Poles, depended upon the dispositions of the occupying forces. When after the first World War, Poland regained its independence, Jews were accorded minority rights.

Even though the spirit of the Kalisz statutes was at times marred by invaders, and at times by some Poles, the Jewish community flourished and developed and became the largest and most significant Jewish cultural center in the world. Warsaw was renowned for its Talmudic, rabbinical and teacher training seminaries and schools. Yiddish and Hebrew periodicals were produced in Jewish publishing houses, and outstanding writers and leaders made lasting contributions to Jewish culture and life.

In the II World War, Poland lost 15 of her 35 million inhabitants. No ethnic group bore the fury of Hitler's hatred more than did the people in Poland and especially the Jews. The vast majority of the Six Million Jewish victims lived in Poland.

It is the tradition of binding ties between Polish and Jewish peoples that provides the answers to the two questions: Why does a Christian gentleman of Polish ancestry, attempt the seemingly impossible task of obtaining from a Polish Regime, ideologically committed to the total abolition of all religions, an irreplaceable collection of Jewish religious books. I can only suggest that both Mr. Piszek and the Polish Communist Regime are living up to the very noble one thousand year tradition of relations between the Polish and the Jewish people.

MY PRESENCE AT THIS EVENT

I am grateful for the invitation to witness this presentation. As a Catholic religious leader of Polish ancestry, I am pleased with and applaud the efforts of Mr. Edward J. Piszek for his concern and for his efforts in behalf of the Jewish Hasidic Lubavitcher community. By his action, he exemplifies Christ's command of love of neighbor, and also continues the noble tradition of Poles of living with peace and harmony with their Jewish neighbors.

At the same time, I am pleased to commend the Hasidic Lubavitcher goups of Jews for their fidelity to a common legacy which we share. We live in a climate of secular and atheistic humanism. It is a joy to acknowledge that Jesus and Paul sprang from the deepest soil of Jewish history, and that the Catholic Church is born out of Israel's loin.

We recall the Jewish legacy to humankind and the indebtedness of our civilization and our religion to the Jews.

The first legacy is a firm belief in one personal God who is the Master of all creation, and who has the right to impose his laws and commandments upon all.

The second legacy is the Bible—the Torah, which is the source of the first formulations of social justice which provides us with a moral code—a moral rectitude governing man's relation with his God and with his fellow men.

The third legacy is the doctrine of man's immense and incomparable dignity as expressed by the Psalmist: "What is man that you should be mindful of him. . . . You have made him little less than the angels and crowned him with honor and glory. You gave him rule over the works of your hands, putting all things under his feet" (Ps. 8, 5–7).

The fourth legacy is the doctrine of moral choice. God gave man mastery over His world, through the divinely given capacity to "Choose Good and Reject Evil." This reality of man's freedom of choice contradicted the old pagan philosophies of fatalism, disguised and adopted by Karl Marx under the name of economic determinism. This divergent outlook on man's freedom of choice is a principal cause of the radical and irreconcilable division between the free world and the world of communism today. This doctrine of moral choice carries with it social implications. The command "Thou shalt love they neighbor as thyself" provides the concept of the solidarity in human relations, and the concept of a moral law applicable to societies as well as individuals.

The presentation of this collection of religious books and manuscripts reflects the best and most noble tradition of the Polish people, and at the same time highlights the legacies of the Jewish cultural and religious heritage.

Today, I pay tribute to Mr. Edward J. Piszek for continuing a noble Polish tradition and for giving our communities an example of sympathetic concern and solidarity in human relations.

I pay tribute also to the Hasidic Lubavitcher group of Jews for their interest and efforts in preserving Jewish legacies—religious and cultural, and for giving witness to the joys of living a life of faith—a life of fervent love of, and dedicated service to God, the Creator, Master and Ruler of the Universe and of all life.

[From the New York Times, Nov. 3, 1977]

Hasidic Feat: Simple as Aleph, Beth, Gimel

(By Israel Shenker)

Philadelphia, Nov. 2.—This was not one of your garden variety historic events at Independence Hall, such as a meeting of the Continental Congress or the signing of the Declaration of Independence.

Today, some bearded Hasidic Jews met here with representatives of Poland's Communist-atheist Government in the presence of a Roman Catholic Cardinal and a consul general from Israel, with which Poland does not have diplomatic relations. The ceremony was made possible through negotiations conducted by a manufacturer of nonkosher frozen seafood.

It was as simple as aleph, beth, gimel.

When the Polish Government turned over crates filled with 130 handwritten books and 240 rare printed books, Rabbi Abraham Shemtov, local representative of the Lubavitch Hasidic movement, was the first to open a volume. He declared it to be in the handwriting of the third and sixth Lubavitcher Rabbis. After looking at the text a moment, he lowered his head and, his red beard quivering, kissed the open page.

"Pardon me for getting emotional," he said.

These were all works lost in the flight of the sixth Lubavitch Rabbi from the Nazis, in 1940. He came to America with only part of his library. "The missing books were all thought to be lost, burned, destroyed," Rabbi Shemtov said.

But the Lubavitchers discovered them in a Warsaw library and tried unsuccessfully to persuade the Polish authorities to restore them to their rightful owner, Menachem Mendel Schneerson, the seventh Lubavitch Rabbi and son-in-law of the sixth, who died in 1950.

About three years ago, Rabbi Shemtov went to Edward J. Piszek, the founder-president of Mrs. Paul's Kitchens, the seafood company, and asked him to help. Mr. Piszek, a patron of the arts who is a trustee of the New York Public Library, has nurtured good relations with Poland. Some years ago he donated medical equipment to Warsaw and, as he said, "helped put tuberculosis to bed in Poland."

"They knew I was a friend of theirs," he said, "and I told them they could do something that would be good for both sides. Here I am, a Christian American of Polish descent who put himself on the line for something his Jewish brothers believe in. The Lubavitchers are like Jesuits—these are their records, and they mean a lot to them."

Rabbi Shemtov went to Warsaw twice to identify the Yiddish and Hebrew handwriting of successive Lubavitch leaders, and Mr. Piszek used all his charm. "There were times," Mr. Piszek recalled, as he stood here today with Rabbi Shemtov, "when the rabbi called me every day and said, 'Where are the books?' "

"Correction," the rabbi said. "Three times a day."

The first public sign that anything was going on came earlier this week in quarter-page advertisements in The New York Times, The Washington Post, The Chicago Tribune, The Los Angeles Times and two Philadelphia dailies. The text began:

"We thank the Polish authorities and our friends in Poland for their efforts. . . ." It was signed "Philadelphia Friends of Lubavitch."

In his brief address to the small group gathered here, John Cardinal Kral, who is of Polish descent, spoke of the Polish Government's dedication to the eradication of religion. He acknowledged that Poland's attitude to Jews had been "not without blemish, not without shameful violation and repression of rights, not without sorrow and not free of bloodshed."

He also cited instances when Polish Governments had extended protection to Jews, and he hailed "the very noble 1,000-year-history of the Polish and Jewish peoples."

James A. Michener, author of "The Source," also spoke, and praised the Polish Government for having "the wisdom and generosity to set these books free."

From Philadelphia, the books will go to the movement's headquarters in Brooklyn, geographically distant from the former seat in the Byelorussian village of Lubavitch but hardly removed in tradition and ritual.

The Lubavitchers, now in many countries, go back to a group of believers who attached themselves to a disciple of Hasidism's founder, the Baal Shem Tov (Master of the Good Name), an 18th century mystic who taught that a simple man who prayed sincerely was better than a Talmudic scholar whose heart was cold.

SOVIET'S MORE VULNERABLE TO NUCLEAR ATTACK THAN THE UNITED STATES

Mr. PROXMIRE. Mr. President, I would like to draw the attention of every Senator to an important article which appeared in a recent issue of the National Review. This article effectively debunks some of the recent hysteria about Soviet civil defense efforts.

During the past year, many commentators have suggested that Russia has embarked on a major program to protect its population and industry from the threat of American nuclear attack. This program, according to some, could upset the strategic balance by negating the American deterrent threat. This line of reasoning holds that increased dispersal and protection of population and important industrial facilities would allow the postattack survival of the Soviet Union as a major industrial power. These critics further suggest that unless the United States initiates a crash civil defense program, we will find ourselves subject to Soviet nuclear "blackmail."

The National Review article demonstrates the absurdity of these fears. Written by Ellsworth Raymond, a former economic research analyst at the U.S. Embassy in Moscow, and a professor emeritus of Russian Affairs at New York University, this article points out that the Soviet Union is, if anything, more vulnerable to attack than the United States. Essential industries are highly concentrated in a small number of gigantic facilities, and transportation systems are, at best, primitive. Population, like industry, is highly concentrated in densely populated cities, making it similarly vulnerable to attack.

This article supports conclusions drawn by the Joint Committee on Defense Production after a year-long review of civil and industrial defense programs. The committee also found reports of massive Soviet programs to protect population and industry to be greatly exaggerated.

Mr. Raymond's article presents further evidence that the civil defense "scare," like the earlier bomber and missile gaps, is based on erroneous information. Mr. President, I ask unanimous consent that the full text of the National Review article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the National Review, Nov. 25, 1977]

Could Russia Survive a Nuclear Attack?

(By Ellsworth Raymond)

If Soviet-American nuclear war ever erupts, vulnerability to hydrogen bombing can mean the difference between victory and defeat. The Soviets argue that Russia would suffer smaller bombing losses because of its immense territory and dispersed industry and population. Actually, Russia may be more vulnerable to hydrogen bombing than America. Let's start with city size.

Since 1928, when serious Soviet industrial growth started, over 100 million peasants have moved into Russian cities to work in the newly built factories. But the Kremlin never built enough city housing for the hordes of peasant migrants, so more people were squeezed into the same space. In the average city apartment, each room is occupied by a different family, all unhappily sharing the apartment's kitchen and bathroom.

So Soviet cities are small in land area, about half the size of U.S. cities with equal populations. Many more people would be killed by one hydrogen bomb hitting Moscow, for example, than by one bomb hitting New York.

Russian railways are also very vulnerable. With an area two and a half times that of the United States, the USSR has only two-fifths as much railway footage. Because trains can operate during the frigid Russian winters, when rivers freeze and roads are snow-bound, rail lines are the backbone of Soviet transport, hauling four-fifths of all internal freight: In European Russia the rail network is fairly dense, but in Soviet Asia there are only solitary lines.

Russian military writers admit the bombing of bridges and junctions could paralyze railways, and therefore say that in wartime freight and fuel must move largely by road and pipeline, not by rail. Yet the USSR has only one-tenth the road network of the U.S. and one-fifth as many trucks. Most American highways are paved, while the majority in Russia are dirt lanes, which in rainy seasons turn into seas of mud. Less than a dozen long-distance paved highways exist in all of European Russia; Soviet Asia has only three.

Soviet oil pipelines are still in their infancy, totaling only one-sixth the length of those in the United States. Furthermore, most American long-distance pipelines are underground and thus are partially protected from bomb explosions, whereas, to save time, most Soviet lines are laid on the ground or in shallow ditches. Highly visible, they wind across the Russian steppes like defenseless worms.

Soviet military theory assumes that World War III will be shorter than World War II, yet will last long enough to require huge wartime manufacture of munitions. America's war-potential industry is fairly well dispersed in a number of small factories, many of them located in suburbs or even in rural areas.

Despite Russia's vast size, its industry is not dispersed. Moscow and Leningrad, the two largest cities, together contain one-sixth of all Soviet industry. Both there and elsewhere, much of the war industry is jammed into a small number of gigantic plants: Russia thinks huge factories are more efficient, and it likes to flaunt huge industrial showplaces.

During World War II, half of the Soviet artillery was produced in just four factories, one of which was in Moscow. Half of the tanks came from two Ural factories in the cities of Nizhni Tagil and Chelyabinsk. One of every ten wartime airplanes came from Novosibirsk, the Siberian Chicago. Every third shell fired by the Red Army was encased in steel smelted at Magnitogorsk in the Urals, Europe's biggest steel mill. Half of Russia's WW II explosives were made by the Chirchik nitrate plant in south-central Asia. The nearby Chimkent lead factory bragged that its metal went into nine of every ten Red Army bullets. All this dependence on big plants was revealed by postwar boasting in the Soviet press.

Since the war these giant plants have been expanded and new industrial monsters built. Today the Soviet Union operates the four largest hydroelectric and the five largest steam power stations in the world, all built since Stalin. Two are located in Siberia, two in the Volga valley, and five in the Ukraine. Taken together, these mighty nine produce one-eighth of all Soviet electric power.

The Brezhnev regime recently built a Ukrainian blast furnace which smelts one-tenth of all the USSR's iron. Right now Russia is completing the Kama truck plant, another Siberian hydroelectric power station, and the Leningrad atomic power station, each of which will be the largest in the world. Either Brezhnev expects no nuclear war, or his industrial construction is insanely reckless.

Hitler lacked the long-range bombers to destroy Russian industry and railroads during World War II. America, however, has plenty of bombing equipment.

OMA NEGOTIATIONS ON SHOES

Mr. MUSKIE. Mr. President, the United States recently concluded historic negotiations with the Taiwanese and Koreans to limit the import of nonrubber footwear into this country. The resulting agreements at last give the American footwear industry a chance to compete fairly in the marketplace.

William Scanlon of the Boot and Shoe Workers Union attended the talks as an advisor to the U.S. negotiators. It was his judgment that the agreements carry "more potential for the American footwear industry than we'd been able to win in 20 years of battle to save jobs."

He described the talks in an entertaining and insightful article in the November 1977 issue of Leather & Shoes magazine. I commend it to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

OMA Negotiations Behind Closed Doors—An Exclusive Eyewitness Report

(By William Scanlon)

Note.—The recent orderly marketing agreements with S. Korea and Taiwan, by now, have been well discussed, argued and analyzed. However relatively few people within the allied industries know the true 'inside' story that went on prior to the signing of these somewhat abstruse accords. William Scanlon, representing the Boot and Shoe Workers' Union and the United Shoeworkers of America, AFL–CIO at these delicate bargaining sessions, relates a personal tale of setback and satisfaction that went into the formulation of these trade agreements.)

It was one year, four months and six days since the opening of the first International Trade Commission hearing on an Escape Clause case that gave the American shoe industry a favorable decision by allowing that it was being damaged by too many imported shoes.

From President Ford, however, the decision got the industry complete inaction. Now, in May, 1977, five months after the ITC's second finding of damage to the industry, here was a team actually in the field and involved in direct negotiations with the governments of Taiwan and South Korea. When President Carter had acted on the ITC's second finding he had directed that the shoe industry and government solicit "voluntary" quotas from these two countries whose 1976 exports to the U.S. were greater than those of any other nations.

So, there were no real hammer-on-anvil directives to get quotas. Whatever came out of the talks was to be voluntary on the part of the two target countries. In this quest for orderly marketing agreements, the whole ball game was up for grabs.

Here was the lineup. The Government's negotiating team led by Stephen Lande and made up of representatives from State, Commerce, Treasury, and Labor; a group of shoe industry advisors and a labor advisor representing the concern of the industry's two unions; the Taiwan Shoe Manufacturers Association, the Korean Shoe Manufacturing Association, the governments of these two countries, the two groups of Americans representing the volume footwear dealers and the retail shoe interests. This was the heavy artillery. When the line was drawn, the U.S. Government team was right in the middle of the opposing forces.

At first look it seemed that the American footwear industry was out-gunned. Here on the home turf of the "enemy" the industry people were seemingly alone. Both the Volume Footwear people and the National Retailers Association were quite at home with their Korean and Taiwanese business partners. Here were people making big money on shoes exported to the United States. They were determined that nothing was going to upset that arrangement. Very early on we saw the workings of the American-Taiwan and American-Korean network beginning to operate. Eddie Atkins, a retailer's representative and a longtime opponent of quotas and tariffs, stood in the doorway of Haneda airport in Tokyo as we arrived.

He was waiting for his Japanese agents to further his trip to Seoul where the talks would open the next day. Remembering the numbers of Japanese, Taiwanese, and Koreans at the Washington ITC hearings we got the feeling that Atkins and his side of the case was going to have great moral support in this arena.

Ultimately, the fact that the Government's team was able to develop agreements cutting Korean imports to the U.S. by 11 million pairs, Taiwan by 22 million pairs, in the first period of a four period term, was an emphatic win in the face of the determined opposition it faced. Too, it was more proof of the reasonableness of both ITC decisions in the escape clause cases.

How was the battle fought? From what we could see of it, the fight was staged in hotel rooms. Day long sessions with their opposite numbers followed long evening social events staged by the Korean and Taiwanese negotiators for our team. With these ended, the team came back to the hotel dragging with exhaustion, whereupon we would get a full briefing on the day's events. That done, the arguments began.

Categories, shifting, spacing, export-import dates, style factors of vinyl, vis-a-vis polyurethane, definitions of vulcanizing, cementing, bonded warehousing to get around shipping date restrictions, TSUS numbers and definitions again, manipulation of payments through Swiss banks to disguise tricky billing practices used to hide overvaluation and underpricing of shoes to get around category limitations with the differences made up by later adjustments with the Swiss banks. All the tricks in the multinational handbook came out in these late night sessions. These round robins often went to 5:00 a.m. giving everyone but a few hours of sleep and thought alignment before the formal talks started all over again.

We didn't know what opportunities were given the Eddie Atkins, Frank Rooney, Larry McGourdy, and Norman Mercer group to argue with Lande's team. There wasn't enough time in the day to have accommodated them and us in our advisory roles. But they were getting their points across in some way.

Evident, too, was the fact that Taiwan and Korean negotiators in their respective sessions, were well aware of the presence of the two opposing forces on the scene to advise our negotiating team.

A reception at the home of the U.S. Embassy's Commercial Attache, one evening, had brought us all together in one room with Kim Sun Kil, the chief Korean negotiator. This "party" developed into a retrial of the ITC hearing in Washington five months before. Standing in a circle, faces wreathed in social smiles, arguments were swapped toe-to-toe. All this to the great delight of Kim Sun Kil, who said to the group, "So, even your people are split on this imports question!"

At one point in the debate, Larry McGourdy, a representative of Melville Shoe, was asked by someone why American manufacturers with superior expertise and advantages could not manage to get U.S. labor costs competitive with Korean costs. His response was that his company was pretty close to doing that . . . had actually reached the point where American labor costs were only 50 cents higher than Korean costs. Next question, naturally, was "How have you done this?" His answer, apparently a serious one, was, "We are working with Haiti on this." So, the impression was given that one American shoemaker is lowering his labor costs close to home!

Norman Mercer, agent for an American import operation called "Impassa" stepped to the fore and claimed credit for having brought a big American rubber footwear maker into the imports fold. He gave the group the same old heart-rending story of the poor U.S. consumer being the ultimate victim of any cutback whatsoever in the volume of footwear from Korea to the U.S. He implied that the culprit was the American shoeworker whose greed for higher wages had brought about the need to trade with Korea and other low wage countries.

He was quickly told of the shopping experience our group had that afternoon which had produced several pairs of the very jogger type shoes Mercer had mentioned as a boon to the American consumer. The shoes, bearing brand names like John Havlick, Puma, Addidas, were sold to us at a flat $4 a pair in a Korean retail shoe store! How, it was asked can a $4 pair of shoes in a Korean retail store command prices of $29.95 and up when they are brought to the U.S.?

Why this huge difference in price? It isn't shipping costs. It isn't high duty. It isn't distribution costs. Is it then the extreme and very profitable markup taken by the retailer? Is the difference between the $1.40—$2 cost at a Korean factory, and the American selling price of 15 times this cost, an actual reflection of the cost of doing business with Korea?

If the reduction in Korean exports of footwear to the U.S. is going to hurt anyone in the next four years, it won't be the "poor American consumer" for whom Mr. Mercer wept. The consumer seems to be paying through the nose as it is. It's going to be the retailer and his supplier. These people are going to have to live with fewer pairs of Korean shoes to overprice.

We didn't see much of the volume footwear group after this quasi-social confrontation. So, we don't know how they kept up their pressure on the negotiators. When we left the Embassy that evening, there was a feeling among all of us that the Commercial Attache of our Embassy was opposed in principle to our purpose in being there.

Speaking with other Americans in Seoul during these talks, we learned something of the Korean side of the coin. Koreans have the positive belief that they are about to reach the point of economic achievement which will soon take them out of the role of a developing nation. Naturally, they are disturbed about the possibility of losing the physical support of American ground troops whom they feel are a bulwark to the country's growing industrial economy.

Koreans, are, on the other hand, philosophical about what happens to them . . . about what happens if America does cut back shoe imports. Resignation is one expression of this philosophy. They say, "What real difference will shoe export cuts mean to us who have been kicked around for 6,000 years by the Mongolians, the Japanese, the Chinese, and others? We've survived everything the world has thrown at us . . . we'll certainly survive cuts in our U.S. shoe exports. And, besides, there are other markets we can go after".

But philosophy or not, the Koreans were hard-nosed bargainers. We left Seoul without an agreement and were to return there twice more before an agreement was reached. We now headed for Taiwan and its capitol city, Taipei, to meet the Taiwanese.

And meet them we did. First there were the agents on hand to meet their American clents, actually to welcome them to Taiwan. They have a most impressive way of doing this with Chinese food and hot rice wine. Not even the physical deterrent of having to use chopsticks could keep us from enjoying the Chinese banquets laid on by our hosts, a Chinese shoe manufacturer and his son with whom some of our group had had, or was having, dealings.

Then there was the dinner by the Taiwan Shoe Manufacturers Association, whose president Mr. Y. T. Wong, was also the negotiator for the Taiwanese government in the Orderly Marketing talks. For purposes of protocol, I suspect, Y. T. Wong did not attend this dinner. It was a carefully orchestrated affair at which each manufacturer had an opportunity to have at each one of us with arguments against cutbacks. They had not only arranged the seating so that a Chinese and an American would sit together, but the Chinese kept rotating from table to table and from American to American proposing toasts and presenting arguments.

A few of the young Chinese were aggressively and articulately opposed to any cutback of footwear from Taiwan to the U.S. Bashfulness was not one of their shortcomings. Together they drove hard to get their feeling across to us. So, the very pleasant dinner was laced with the spice of debate.

Then, again, in this new country, we began the exhausting routine of staying up all night in endless discussion with our government team after its long day of negotiation with Mr. Y. T. Wong and his group. This was a repetition of what we'd done in Korea. Here, I must say that I have great admiration for Stephen Lande and every one of his entourage from State, Commerce, Treasury, and Labor. They were cool under pressure, reasonable in argument, in full control of their tempers under the trying circumstances of 18 to 20 hour days, and most of all, patient with all of us in these grueling after hours sessions.

On May 17 the team informed us they had reached an agreement with Taiwan. Taiwan would reduce its exports to the U.S. by 21 percent in the first year beginning in June. This was 34 million fewer pairs than they had shipped in 1976. In each of three successive years they would be allowed to increase the shipments by 3 million pairs to a maximum, in 1980-81, of 131 million pairs. This added 3 million pairs to be a normal factor of growth in the market. The agreement covered all non-rubber footwear except paper disposable footwear, wool felt liners, and zoris.

The agreement included a side letter with the full force and effect of the pact itself, to limit the shipment of uppers to the 1976 figures. Taiwan, said the letter, had no intention of disrupting the American market with increased uppers shipments, nor to undermine the effectiveness of the agreement on non-rubber footwear.

Korea followed with its agreement to cut U.S. shipments by 11 million pairs in the first year of the four year pact. They got the same growth factor of 3,000,000 pairs in each of three years following the first year. Korea also wrote a side letter of agreement not to increase exports of leather work shoes other than at a moderate rate to be agreed on by the U.S. as a result of monitoring shipments. Unless careful monitoring of each point of each agreement is carried out on a regular basis, neither of the agreements will be of more than token usefulness.

There is work to be done, therefore, for the next four years on the monitoring front.

Stephen Lande and his people had whipped its agreements into acceptable temporary shape. A feeling of relaxation began to be felt. None of us of the advisory group was especially overjoyed with the results. But I think there was a consensus that a start of major importance had been achieved.

From the viewpoint of American labor in the footwear industry, for instance, nothing but a flat and total barring of all shoe imports, after our 20 years of losses to them, would have made us rejoice. But the reality of the situation made us realize the practicability of what we'd won . . . more potential for the American footwear industry than we'd been able to win in 20 years of battle to save jobs.

There's little point in telling the world that American footwear labor had pointed out in 1958, Cassandra-like as it turned out, the development of the very situation we had come to the Orient to correct in 1977. If the American shoe industry had applied its considerable talent, very evident on this trip, to leading off the imports problem in 1958, our trip would not have been necessary in 1977.

It was interesting to meet the U.S. shoe technicians who now live and work in Taiwan, Korea, and other places showing these people how to produce shoes salable in America. There's Mike . . . the ex-Haverhill shoemaker who does his job here for Melville Shoe. Mike's in Taiwan today and will be in Brazil or somewhere else in the low-wage world tomorrow imposing a kind of quality control over workers who earn $7 a day in 98 hour work weeks making shoes for "the poor American consumer."

Then, in Korea, we met Armand, a Canadian shoeworker from Montreal who does this same kind of job for H. H. Brown, an American shoe manufacturer heavily involved in importing footwear. Armand talked of spending his time between Korea and Bogota, Colombia on his job.

Because one of our advisory group members was fortunate enough have a Taiwan agent who was interested in getting his client into one, we visited a shoe factory, the Fu An Industrial Corp., in Sanchung City, a 15 minute Mercedes-Benz ride from our Taipei hotel. This was a suburb of Taipei where one would rarely see American tourists. It was here that we saw how Taiwan shoeworkers earn their living and compete with American shoeworkers. In a dirty grey concrete block building, three stories high, Mr. H. F. Ong presides over the operation with the resounding title of the Fu An Industrial Corp. In the middle of an area teaming with people who seemed to be living in the streets, the factory stood alongside other similarly drab buildings. Alleys ran off the main road at right angles and small shops and selling activities lined every foot of the streets.

Fu An was special. Out of the street floor of the building oozed a stream of tannery wastes. Two skinny, mangy-looking dogs tied to stakes paid no attention to the stinking ooze, nor to us, as we picked our way around it and climbed a flight of stairs to the second floor of the building. Up the stairs, and out of the direct aroma of the tannery, the good smell of leather cleaned the air until we reached the shoe factory floor and its overpowering smell of cement. This was a work area populated by women workers cementing soles to uppers.

At the feet of each woman, right in front of her machine, there seemed to be a child sitting, some free to move about, others confined to boxes or bamboo pens. The children were probably from one to three years old. There they sat impassive, immobile, inactive without so much as a simple toy to district or amuse them. They watched mother work as they got indoctrinated for their own futures.

A verse that said something about the drudgery of shoeworking in Lynn, MA's early factories, has the line about ". . . Hannah at the window binding shoes". This came to mind with a lot sharper impact than Hannah's fate had made as I watched the children sitting on the factory floor. One child, a girl, sat in a bamboo pen as though she were a run down mechanical doll. Her eyes were terribly crossed. She sat docilely by her mother's machine where she had probably been sitting since early morning.

There was a police dog on a long leash hanging around the work area. He barked ferociously at us and lunged toward us to the limits of his leash. What his role was in the factory we didn't learn. But we formed some conclusions of our own.

These workers live in the factory. They eat and sleep there. For their 14 hour day they earn up to the equivalent of 50 cents an hour. The work week is seven days. Taiwan law says they are to have two days off each month. They rarely take this time. The work day is officially 10 hours and for the additional 4 hours they work they earn a bonus for the added production made in the extra hours. Overtime is an unknown word . . . they need a union. But the concept of unionism is a dirty one in Taiwan. These are the low-wage competition for American shoeworkers.

I thought of the speech one of the American importers had made at that Korean reception at the U.S. Embassy, citing his deep concern for the "poor American consumer who would suffer from footwear cutbacks." I think that this very "poor American consumer," who could see how, and with whose lives, his bargain shoes from Taiwan were made, would be the first one to say, ". . . let's not continue to exploit these women and their kids. If this is the way it's got to be, I don't want any part of the shoes they make."

But Mr. Ong was a very friendly man. He served us tea, offered us cigarettes, and got immediately down to business with our colleague in the advisory group who was, it appeared, on a busman's holiday and riding the business-as-usual bus.

Another member of the advisory group, also a shoe manufacturer in the U.S., saw one of his company's shoe boxes in this factory. How it got there, or why, we didn't learn. But it was evident that this factory had at one time or another made the shoes that were packed in that box . . . and in how many thousand of other similar boxes?

In spite of its almost 18th century appearance and equipment, Fu An Corp. was a going operation. One of the workers told us that they had just completed a shipment of 40,000 pairs of army boots to Kuwait.

Some of the members of our group went individually to other shoe factories. Two men went to Pusan where one reported seeing an operation turning out 100,000 pairs a day. This was the Sami-Iwa Co., Ltd.

The story of these negotiations could go on in endless interest and significant detail. There is little room to tell it all in one article. This much, at least has now been told with many of the subtle nuances of self interest and dedication suggested.

For myself, as the representative of the American shoe industry's two labor unions, I was honored to have been part of the advisory group. The members of the group were excellent companions, great to be with under the intimate conditions of the three weeks of frantic traveling from country to country imposed on us. Each member of this group proved to be sharp, knowledgeable and articulate. They were a good complement to the government team. Together, their tireless efforts accomplished more for the American shoe industry in three weeks than had heretofore been achieved in many years . . . a good beginning.

Now, it is up to the shoe industry itself to build on this beginning. A new era of progress for American shoemaking and for the thousands of American shoeworkers, whose lost jobs can be restored, can be a reality.

There is much work to be done; particularly in preventing importers from increasing their purchases from other low-wage nations. This method of offsetting the small gains made in Korea and Taiwan has to be stopped by further negotiations with other countries found to be injuring the domestic shoe industry.

HUMAN RIGHTS AND THE SUPPRESSION OF DISSENT

Mr. PROXMIRE. Mr. President, on December 2 the New York Times ran an article entitled "Soviet Workers Tell of the Hazards of Complaining." Although this particular article emphasizes domestic issues within the Soviet Union rather than international questions of human rights, the injustice it finds could concern either subject and could be found throughout the world.

Above all, this article illustrates the fallacy of believing that simply because we do not hear an outcry there is none being made. The President of the United States has made the guarantee of basic human rights a national commitment. When a government will not let its internal criticism see the light of day, the commitment of this Nation to human rights becomes a commitment to insure that these voices are heard.

Mr. President, I want to remind my colleagues not to forget this responsibility, and urge them to support President Carter's initiative. In addition, I urge immediate ratification of the Genocide Convention as one essential step toward the creation of any effective human rights policy.

I ask unanimous consent that the New York Times article I refer to be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Soviet Workers Tell of Hazards of Complaining

(By David K. Shipler)

Moscow, December 1.—What happens when a Soviet worker asks for a raise, or complains about safety violations on the job, or uncovers corruption among his employers?

The chances are he will be insulted, reprimanded, or dismissed and, if he persists, confined to a mental institution, according to a group of workers who say they have been persecuted for exercising what they call "the right of complaint."

Half a dozen of these workers gathered the other day in a small apartment on the southern edge of Moscow to tell their stories to American correspondents. It was a rare event in this country, for these were not dissidents seeking political freedom or Jews to emigrate to Israel.

They were ordinary workers—among them a waitress, a coal miner, a locksmith and a housing-maintenance man—who seemed basically loyal to the Soviet system and who had dutifully reported wrongdoing to every conceivable agency of the Government and the Communist Party before turning, as a last resort, to the Western press.

What they had to say revealed a pervasive contempt in Soviet society for workers' safety and interests, a widespread tolerance of embezzlement and corruption and intense friction at times between employees and their bosses.

Their stories cannot be verified because of the Soviet Union's practice of refusing comment on criticism. But the workers insisted that their experiences were common, and that the places where they all first met each other—the reception rooms of the Central Committee of the Communist Party, the prosecutor's office and the Supreme Soviet; the nominal parliament—were filled every day with at least a hundred people who had come to Moscow in the faulty belief that higher authorities might listen to them sympathetically.

The leader of the growing group is Vladimir A. Klebanov, a 45-year-old coal miner from the Donets Basin who found trouble when, as a shift foreman, he became concerned about the safety of his men.

Because of what he called his mine's "unrealistically high plan" of coal production, miners often had to work 12-hour days instead of the normal six hours, he said. As a result, they became tired and careless, he said, and accidents took the lives of 12 to 15 people a year and injured 600 to 700 in his mine alone.

The authorities kept the deaths and injuries as secret as they could, he charged, and refused to investigate the causes. For his complaints, he said, he had been dismissed after 16 years in the mine and then had been sent to a psychiatric hospital for four and a half years.

Nadezhda V. Kurakina, worked for 25 years as a waitress in a Volgograd restaurant run by the local party organization.

"Fidel Castro was in our restaurant," she said. "Comrade Brezhnev, Kosygin—I served all of them."

Mrs. Kurakina said she had discovered that the restaurant administrators were stealing crockery by reporting it broken and then docking the salaries of waitresses they accused of breaking it. She said she had first written letters but had not gotten any response, so she had complained at an open meeting of restaurant workers.

She had been dismissed, she said, and her husband had also lost his job. The party secretary of the Volgograd region, whom she had served for 20 years, would not even see her, she said. Nor did higher officials in Moscow want to hear her complaints.

She lost her pension and was unable to find other jobs, she said. As in all these cases, her dismissal was noted in her "work booklet," a passport-like document she must show wherever she applies for work. As a result, no agency, factory, office or retail outlet will employ her or anyone else who had been dismissed on such grounds.

Anatoly N. Poznyakov, a thin, bespectacled epileptic, worked as a locksmith for 75 rubles, about $103, a month at Moscow's Institute of Biochemistry. When he asked for a raise, "they insulted me crudely," he said. When he appealed to the local party organization, he reported, he was told that he had apparently forgotten that his destiny in life was to eat from a pig's trough.

Angry, he continued his protests and was dismissed from his job. At the age of 39, he receives only about $28 a month for his disability, and lives on his mother's small pension of about $62 a month. It is not enough, but when he asked for help from the Academy of Sciences, which oversees the institute, an official told him: "If you can, live. If you can't, die."

Valentin T. Poplavsky, 44, worked for a factory in Klimovsk, near Moscow, as a supervisor of maintenance in workers' housing. He said that officials had used factory funds to finance drunken parties, and when a woman employee complained, he had been ordered to write a false criticism of her in her record.

When he refused, he said, the factory's party organization admonished him, the county prosecutor warned him that if his accusations could not be proved "we'll take the strongest possible measures against you" and he was finally dismissed from his job. Because of the entry in his work booklet, he said, he cannot find another position.

Shagen A. Oganesyan, a 37-year-old Armenian, was an engineer at an agency in Yerevan that repaired and renovated electrical plants. Elected to the People's Control Commission to guard against corruption, he took his job a bit too seriously, checking to see that work paid for had actually been done.

He found that about half of it had not been, that the money had simply disappeared. His insistence in reporting the irregularities, he said, had caused rejection of his application to go to Poland on a job and his transfer to a lesser post. He had then quit in protest.

According to case histories compiled by the group, psychiatric hospitals are often used as a weapon by the authorities against stubborn complainers. Picked up by the police, workers are frequently subjected to "conversations" with psychiatrists and sometimes given jail sentences of 10 to 15 days for "hooliganism," they said.

Sitting around the living room, they were fired with an outrage seldom seen in political dissidents, many of whom abandoned faith in the system long ago. By contrast, these are people who still seem startled by the emptiness of the rhetoric they have heard from the country's leaders.

"Our unions don't defend our rights," said Mr. Klebanov, the miner.

"Our unions aren't like Western unions," said Mr. Poznyakov, the locksmith.

"Our unions have no power," said Mrs. Kurakina, the waitress.

In all these voices there ran the sound of amazement.

ALCOHOL FUELS AND ALEXANDER GRAHAM BELL

Mr. BAYH. Mr. President, during the last several months many of us in the Senate have been seeking to develop incentives for the production of alcohol fuels from our farmland and forest land and from other abundant or renewable domestic resources. I was pleased to learn today that our enthusiasm for this idea was shared more than 60 years ago by Alexander Graham Bell.

This morning's Washington Post contains an article by Joanne Omang which quotes the eminent Mr. Bell's farsighted observations about the potential of alcohol fuels. I would like to have the article printed in the Record for all of my colleagues to share.

There being no objection, the article was ordered to be printed in the Record, as follows:

Mr. Bell Had A Solution to Energy Crisis

(By Joanne Omang)

Alexander Graham Bell, who invented the telephone, the airplane aileron and the three-wheel airplane undercarriage, among other things, predicted the coming energy crisis in 1917. He also proposed a solution.

The prediction was unearthed (last week) by scholars at the American Telephone and Telegraph Co. who recalled that a Washington scientist, W. King Hubbert, won a Rockefeller Public Service Award for his prediction of an energy crisis. Hubbert made his prediction in 1948, 31 years after Bell made his.

"There is one obstacle to further advance" of society, Bell had told the graduating class at the District of Columbia's McKinley Manual Training School on Feb. 1, 1917. "The increasing price of fuels necessary to work machinery.

"Coal and oil are going up and are strictly limited in quantity. We can take coal out of a mine, but we can never put it back. We can draw oil from subterranean reservoirs but we can never refill them again. We are spendthrifts in the matter of fuel and are using our capital for our running expenses.

"In relation to coal and oil, the world's annual consumption has become so enormous that we are now actually within measurable distance of the end of the supply. What shall we do when we have no more coal or oil?"

Bell, who died in 1922 at the age of 75, answered that question with a proposal that is causing increasing controversy and interest today. Burn alcohol, he said.

"Alcohol makes a beautifully clean and efficient fuel . . . we can make alcohol from sawdust, the waste product of our mills . . . from cornstalks, and in fact from almost any vegetable matter capable of fermentation. Our growing crops and even weeds can be used. The waste products of our farms are available for this purpose, and even the garbage from our cities."

Hubbert, told of Bell's remarks, called it 'beautiful. Of course," he added, "I never claimed responsibility for the idea of a coming shortage, which was common at that time. I just put the figures together and they turned out to be fairly accurate. I haven't been embarrassed yet."

AMERICAN CITIES

Mr. BROOKE. Mr. President, I shall ask unanimous consent that an address recently given by Assistant Secretary of HUD for Research and Policy Development, Dr. Donna Shalala, be printed in the Record. The speech was given before the Joint Center for Environmental Studies, a group recently formed under the leadership of Maryland State Representative Larry Young. Mr. Young, also urban affairs director of the Izaak Walton League, has been working since early this year to firmly establish JCUES, and in so doing, has attracted a board of directors of unusual ability and representative of diverse viewpoints but who bring together the common objective of solving urban environmental problems. One of my staff members, Dr. Meg Power, serves on the advisory board of JCUES, a group likewise composed of talented men and women who have joined Larry Young with their commitment and dedication.

Dr. Shalala was introduced by a former staff person of mine, Joseph E. McMahon, now with the Westinghouse Electric Corp. who spent 5 years working with John Doar and Franklin Thomas at the Bedford-Stuyvestant/D. & S. Corp., the urban community development corporation conceived by the late Robert F. Kennedy, in close cooperation with my distinguished colleague, Senator JACOB K. JAVITS.

Dr. Shalala charts the direction that this Nation must take as we try to improve our urban environment. Our housing problems and urban deterioration continue unchecked. Innovation, vision, and full implementation of Government and private sector development programs must move ahead, and Dr. Shalala points out some of the visions and the efforts we will need.

Mr. President, I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD. as follows:

ADDRESS BY DONNA E. SHALALA, ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

I came to speak about America's cities. More specifically I came to talk with you about the commitment my department is making to revitalize our cities.

For more than three decades—continuing to this day Americans have been fleeing their cities. There is little question about the reason for this exodus—for those who can afford to move—they went to the suburbs in search of a better living environment.

As one of my friends put it—"I want to live in a place where I can smell the grass and see the stars."

Making cities livable again—places where people want to move back is not so easy.

Indeed some writers have suggested that as our understanding of urban problems has grown our "confidence in our ability to frame solutions has declined."

The theme as echoed in official Washington is somewhat different but it also stresses the limits of what the federal government can do. The *New York Times* recently reported that "the underlying philosophy is that Federal dollars . . . can have only a marginal impact on reversing the urban decay . . ."

Although, as you will hear, I have my own views on how this philosophy is shaping the federal role. it is important to note that just because the federal government does not think it is easy to win, it does not mean that we are not going to play the game.

For at the very same time that this low-key view of urban policy is emerging in academia and in Washington, the federal government is in the process of shaping a new urban policy. and HUD is taking a central role in the process.

HUD is emerging as more than just a housing agency; it is becoming an urban-focused agency. We are beginning to live up to our middle name: housing and *urban* development.

It originally appeared that the current administration would emphasize national policies with urban impacts, such as welfare reform and aid to the educationally disadvantaged, rather than designing programs and policies specifically targeted at distressed cities and regions.

That has changed, perhaps because of the recognition that a different approach could not address the needs of these areas in any efficient way.

The White House is concerned with formulating an explicit urban policy which focuses directly on cities and regions with serious economic and fiscal problems, and HUD has been given a lead role in the formulation of this urban policy.

Because many federal agencies formulate policy that has an urban impact—sometimes positive, too often negative—the administration decided to bring together representatives from the relevant agencies, HUD, Labor, Commerce, Treausry, and HEW, and EPA to form the Urban and Regional Policy Group. HUD Secretary Harris is the group's chairperson, with the title "urban convenor." The group is charged with the responsibility for making specific policy proposals to the White House. Many of these proposals will be submitted by the end of the month.

Part of HUD's role within this group is to serve as an urban advocate. For example, we have already been asked to submit to the White House a statement about the urban impact of the Tax Reform proposal, and we are in the process of framing a general format for evaluating the urban impact of federal policies.

Although you may think it is a trivial accomplishment for HUD to produce an urban impact analysis of major legislative packages of other agencies, it is a significant step in developing our role as an urban agency.

No other federal agency has as its primary concern the well-being of cities and urban areas. At best, their policies are only coincidentally beneficial to the cities—and at worst, seriously biased against them.

As a result of HUD's new responsibility, the new federal role toward cities will be concerned not only with reducing implicit anti-city biases in other programs but also with developing programs whose prime objective is to aid urban areas.

A number of the new policies and programs are in varying stages of the policy but all are explicitly targeted to needy urban areas.

While targeting creates problems—those of choosing the appropriate eligibility criteria or formula and having these criteria survive the political process without being diluted—the emphasis on targeting aid to jurisdictions, and to projects within eligible jurisdictions, is potentially the most efficient approach to reaching troubled cities.

In the past, there was not sufficient political support to harness federal resources to the ailing cities except in the context of increasing resources to all jurisdictions.

General Revenue Sharing and Community Development Block Grants are cases in point.

Indeed, central cities may be relatively worse off than they were without General Revenue Sharing because sharing may have given a competitive advantage to healthier suburbs, metropolitan areas, and regions.

Furthermore, General Revenue Sharing coincided with declines in categorical aid which focused more directly on the central cities. Block Grants, on the other hand, actually made some central cities absolutely worse off than they had been under the previous scheme of categorical grants because of the phase-down of the "hold harmless" provisions of the original Block Grant formula.

It is noteworthy that one of the few policies which has been relatively effective at targeting monies to central cities is the counter-cyclical revenue sharing program. Under it, aid was distributed on the basis of absolute levels of unemployment—a moderately good indicator of secular decline—rather than on the basis of cyclical changes in unemployment rates.

Now the tides have turned—regional decline seems to arouse more concern than central city decline—and HUD and the Federal government are moving ahead with a number of policies explicitly targeted to secularly declining areas.

Because of the anti-city bias of the original Block Grant formula, HUD is about to implement a dual formula in which a community may chose to receive its allocation based on either the original formula or a new formula which takes into account two additional things: the age of the housing stock and "growth lag."

The use of the dual formula will increase allocations to major central cities such as New York, Baltimore, Philadelphia, Atlanta, and Denver. But the greatest number of gainers, in absolute and percentage terms, are cities like Yonkers, Bayonne, Pontiac, and Berkeley—cities that have in the past decade been undergoing the problems common in the large central cities.

HUD's experience in revising the Block Grant allocation formula has served as a guide in its current efforts to develop eligibility criteria for the new Action Grants program—familiarly known as UDAG. This program is the cornerstone of the 1977 Housing and Urban Development Act—which has just been signed into law. It is funded at $400 million for the first year.

Unlike Block Grants, a jurisdiction must apply for an action grant, and the only jurisdictions that may apply are those in cities and urban counties determined eligible by HUD.

HUD is charged with providing a decent home and a suitable living environment for all Americans. To me, a suitable living environment means a place where an individual can live in decent, clean, safe, and healthy surroundings and have personal and economic well-being and opportunity. Because of our mission, HUD must view the urban environment from a people-oriented perspective. We must ask: What are the effects of the mismanagement of natural resources and the man-built environment on urban people and their communities. And what we can do working with these people to prevent and remedy negative effects.

President Carter in his message to the Congress on the environment emphasized the harsh effects of air and water pollution upon urban citizens, but he went on to say that it will take more than stopping pollution to make our cities the congenial, livable places they ought to be. He stressed the importance of neighborhood preservation and specifically directed Secretary Harris to expand the urban homesteading program.

These broad perspectives and responsibilities require HUD to become involved with such diverse and critical environmental issues as:

Neighborhood revitalization and reinvestment;

Urban economic development;

Historic preservation;

Urban design;

Energy and natural resources conservation;

Air and water pollution;

Noise abatement;

Natural disaster mitigation;

Building access to the handicapped, and

Residential and personal safety.

Responding to the mandates of the National Environmental Protection Act, HUD is now active in environmental impact assessment and environmental planning assistance. And we are working to make sure that HUD-assisted projects are begun only after their physical, social, and economic impacts are fully considered.

Aware of the potential cost and time delays that can result from these considerations, HUD is looking into ways of speeding up the assessment process by approaching it from an area-wide rather than a project-by-project direction. We also are moving to assure that Federal actions will grow out of careful planning at all levels—metropolitan, areawide, and local.

Among our important research and demonstration programs, there's one—funded at about $1 million per year—that supports HUD's environmental and land use policies and aids local officials in meeting their increased environmental responsibilities. Very practically, this program provides guidance manuals and information on environmental impact assessment, noise abatement, air and water quality, and growth policy and development.

HUD has also been charged by Congress with the development and implementation of energy performance standards for new construction, and it has joint responsibility with the Department of Energy for a demonstration program to investigate the practical application of solar energy in residential heating and cooling. What we learn should contribute significantly toward residential energy conservation and toward reducing pollution in the cities.

Even these few remarks on solar energy lead me to say a few words about the environmental problem most critical to our well-being: our extravagant use of energy and our delay in moving from fossil fuels toward reasonable energy alternatives.

As you know, last April the President sent to Congress a comprehensive package of energy proposals. They are now moving toward passage, but some are meeting stiff resistance. This is cause for real concern. It is crucial that we meet the goals outlined by President Carter if we are to move out of the deeply troubling situation the nation faces today in the energy area.

But insofar as his program relates to residential energy conservation, things look good. The President has set an objective of bringing 90 percent of American homes up to a standard level of energy efficiency by the year 1985. To do so, he has proposed several substantial incentives, including an expanded weatherization program for low-income persons and a tax credit that will offset the costs of installing in one's home certain energy-conserving improvements like insulation, caulking, weather-stripping, clock thermostats, and the like. These proposals we can expect to see signed into law.

The Department of Housing and Urban Development has not normally been thought of as an environmental protection agency. But very soon the whole country will begin to recognize what the Joint Center for Urban Environmental Studies and the Sierra Club already have recognized—that the environmental problems of the near future are the problems of the city. At that point the role of HUD becomes central. HUD's responsibility to the urban environment has only begun, but I think we have begun well.

I have not always worked at HUD, and I have not always lived in Washington. All of this is very new to me. Born in Cleveland—one of your bigger and better cities, if I do say so myself—I now think of myself as a New Yorker—in exile, as it happens—as someone who does not *want* to live in the suburbs. My idea of a really great living environment is Manhattan Island. But like the friend whom I quoted at the beginning of this talk, I too want to see the stars.

It will not be easy to manage from the 57th Street crosstown bus, but with the help of people like you, deeply involved in the urban environment, with the help of what the administration is planning, and with what we are doing at HUD, I think the residents of all cities can now have real hope. The stars are there; together we can see them.

THE FULL MARRIAGE ACT OF 1977

Mr. MUSKIE. Mr. President, Herbert Stein presented us a holiday treat which should not be overlooked in an eagerness to complete our work for 1977. I ask unanimous consent that his article in the December 6, 1977, edition of the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FULL MARRIAGE ACT OF 1977

(By Herbert Stein)

A bill to translate into reality the right of all Americans able, willing and seeking to be married to full opportunity for a meaningful, nondead-end relationship; to assert the responsibility of the federal government to use all practicable programs and policies to promote meaningful relationships, and to clean up the American economic, social and political system in other respects.

This act may be cited as the "Full Marriage and Political Balancing Act of 1977."

GENERAL FINDINGS

Sec. 2 (a) The Congress finds that 7 percent of the persons in the United States over the age of 16 able, willing and seeking to be married are not married, and that the unmarriage rate is much higher for persons between the ages of 16 and 21. This high unmarriage rate imposes serious costs upon the nation, including the following:

(1) Many of the unmarried and all of their mothers suffer severe mental anguish;

(2) Some of the married suffer envy;

(3) Unmarriage contributes to unemployment, since unemployment rates are significantly higher among unmarried males than among married males of the same age;

(4) Unmarriage contributes to inflation, since two can live as easily as one;

(5) Unmarriage contributes to the balance of trade deficit, since unmarried persons have a high propensity to buy small foreign cars, drink foreign wine and attend foreign movies.

(b) The Congress further finds that the operation of the free market assisted only by aggregate fiscal and monetary policies is not adequate to reduce unmarriage. The rate of unmarriage has risen as the money supply and the federal deficit have risen.

(c) The Congress further finds that achievement of full marriage requires the establishment of goals by the President and the coordinated use of the powers of all agencies of the federal government, along with such private action as may from time to time be found helpful by the Secretary of Health, Education and Welfare.

TITLE I—GOALS AND GENERAL POLICIES

Sec. 101. (a) The Congress declares and establishes as a national goal the fulfillment of the right of all Americans able, willing and seeking to be married to full opportunities for a meaningful relationship.

(b) The Congress further declares that no provision of this act shall be used to exercise mandatory control over any private citizen except as may be necessary to extract taxes from such citizen to achieve the purposes of this act or as it may be necessary to use powers of the federal government previously authorized or hereafter authorized to achieve the purposes of the act.

Sec. 102. (a) The Congress declares and establishes as an interim goal the reduction of the unmarriage rate for Americans over the age of 16 to no more than 4 percent and for Americans over the age of 20 to no more than 3 percent both goals to be achieved by 1983.

(b) For the purposes of this act the terms marriage and unmarriage are defined to mean marriage and unmarriage as defined by the President of the United States.

Sec. 103. The Congress declares and establishes as a goal the equalization of unmarriage rates among the age, sex, and race categories of the population.

Sec. 104. The Congress declares that it doesn't have the foggiest idea of how to achieve the purposes of this act. Therefore, the President shall submit, within 90 days of its enactment and annually thereafter, the Annual Marriage Report of the President, setting forth:

(a) Current and foreseeable trends in births, deaths, marriages, divorces, engagements and disengagements, with an analysis of recent developments;

(b) Annual numerical goals for these variables and others affecting progress towards the interim goal stated in Section 102 (a);

(c) The specific programs and policies which the President deems necessary to achieve the goals.

Sec. 105. The President shall be assisted in the preparation of the Annual Marriage Report by a Council of Marriage Counsellors consisting of three members, one of whom the President shall designate as chairman. The three members shall be chosen to represent equally the division of the American population by age, sex, race, religion, marital status, educational attainment and geographic location.

TITLE II—STRUCTURAL REMEDIES FOR UNMARRIAGE

Sec. 201. The Congress declares that in fishing around for ways to reduce unmarriage no stone shall be left unturned.

Sec. 202. Within 180 days after enactment of this act, the President shall submit to the Congress a report evaluating the effects on the unmarriage rate of present legal restrictions on polygamy, with such recommendations as he or she considers appropriate.

Sec. 203. Within one year after the enactment of this act the President shall submit to the Congress a cost-benefit analysis of divorce by unilateral demand, including an estimate of the extent to which the resulting increase of marriages would exceed or fall short of the resulting increase in divorces, with such recommendations as he or she considers appropriate.

Sec. 204. Individuals or classes of individuals who consider their marriage opportunties to have been injured by the marriage of American citizens with foreigners may file a claim for relief with the International Trade Commission. If, after a hearing, the International Trade Commission finds that injury has been suffered, it shall submit a report with recommendations for corrective action to the President. Corrective action may consist of:

(a) Limitation of the entry of foreigners into the United States for the purpose of marriage;

(b) Limitation on the departure of Americans from the United States for the purpose of marriage; and/or

(c) Adjustment assistance in the form of a three-week, expense-paid trip for the injured party or parties to the foreign country of their choice.

(d) If the President chooses not to follow the recommendation of the International Trade Commission he shall submit a report to the Congress with an explanation of his decision.

TITLE III—SPOUSES OF LAST RESORT

Sec. 301. It is the purpose of this act to promote marriages in the following order of priority:

(a) Marriages made in heaven,

(b) Marriages arranged spontaneously and directly by the participants,

(c) Marriages arranged through the personals column of New York magazine, and

(d) Marriages arranged by mothers.

Sec. 302. Only if he or she finds that promotion of marriages of the kinds listed in Sec. 301 is inadequate to achieve the purpose of this act shall the President recommend to the Congress legislation authorizing the establishment of a reservoir of spouses of last resort. This proposed legislation shall include the following provisions:

(a) The reservoir shall include not less than 100,000 nor more than 200,000 eligible spouses of last resort. These eligible spouses of last resort shall be full-time employes of the federal government engaged for this purpose in accordance with Civil Service regulations and qualifying for compensation at the rate of a GS-9.

(b) Any unmarried American citizen over the age of 16 shall have the right to claim a spouse from the reservoir, subject to the limitation in Sec. 302(c). The Secretary of Health, Education and Welfare shall establish regulations to provide appropriate eligibility criteria to determine the order of priority of access of any person to the reservoir.

(c) No person who has rejected a bona fide offer of suitable marriage of the kinds listed in Section 301 shall have the right to claim a spouse from the reservoir within a period of 6 months following that rejection.

(d) Eligible spouses of last resort who have been claimed and married shall be removed from the reservoir but shall be promoted to grade GS-10 and remain employed at that grade for as long as the marriage arranged under this Title shall last.

(e) As the number of eligible spouses of last resort in the reservoir is depleted by marriage, resignation or death the reservoir shall be restored to its initial size by the recruiting of new employes.

TITLE IV—SEPARABILITY

Sec. 401. Whom Congress has put together, let no man put asunder.

Sec. 402. Amen.

FLOOD INSURANCE PROGRAM

Mr. PROXMIRE. Mr. President, I would like to submit for the RECORD, a copy of the decision rendered by Judge Aubrey E. Robinson, U.S. district judge, in the case of the National Flood Insurers Association versus Patricia Roberts Harris, Secretary, Department of Housing and Urban Development.

Judge Robinson ruled Dec. 9 on the challenge brought by the National Flood Insurers Association to HUD's proposed shift from a part A to a part B flood insurance program.

His decision clearly upholds Secretary Harris' action: "The crux of this lawsuit is whether the Secretary's determination to convert to a part B program comports with 42 U.S.C. The court is persuaded that it does."

Judge Robinson ordered judgment for Secretary Harris, and denied motions by the National Flood Insurers Association for a temporary restraining order or preliminary injunction, or a stay pending appeal.

Mr. President, I hope this decision will end the dispute that has threatened the effective operation of our national flood insurance program. We need a strong flood insurance program. I hope that HUD will now be able to get on with the job Congress has given it.

I ask unanimous consent to have printed in the RECORD the aforementioned decision.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

[Civil action No. 77-2028]

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NATIONAL FLOOD INSURERS ASSOCIATION, PLAINTIFF V. PATRICIA ROBERTS HARRIS, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DEFENDANT

ORDER

In accordance with the Memorandum filed herewith, it is by the Court this 9th day of December, 1977,

Ordered, that the Motion of the Housing Research Group of the Center for Study of Responsive Law for Leave to File a Brief *Amicus Curiae* Opposing the Motion of the National Flood Insurers Association for a Temporary Restraining Order or Preliminary Injunction be and it is hereby GRANTED and the brief shall be filed herein; and it is

Further ordered, that Plaintiff's Motion for a Temporary Restraining Order or Preliminary Injunction be and it is hereby DENIED; and it is

Further ordered, that judgment shall be entered for Defendant herein; and it is

Further ordered, that Plaintiff's oral application for a stay pending appeal be and it is hereby DENIED.

AUBREY E. ROBINSON, Jr.,
U.S. District Judge.

[Civil Action 77-2028]

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NATIONAL FLOOD INSURERS ASSOCIATION, PLAINTIFF V. PATRICIA ROBERTS HARRIS, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DEFENDANT

MEMORANDUM

This is an action for declaratory and injunctive relief in which plaintiff, a voluntary, unincorporated association of 132 private property insurance companies, challenges a proposed Government takeover of the private insurance aspects of the National Flood Insurance Program pursuant to the National Flood Insurance Act of 1968, 42 U.S.C. § 4001, *et seq.* The matter came before the Court for hearing on plaintiff's motion for a temporary restraining order or preliminary injunction. Given the nature and circumstances of the case, the Court deems it appropriate to consider plaintiff's application for both preliminary and final relief and to enter a ruling with respect thereto. For the reasons discussed below, the Court finds that there exists no basis for granting a preliminary or permanent injunction in this action and that the declaratory judgment sought is improper. The Court is persuaded that there are no genuine issues of material fact and that defendant is entitled to judgment as a matter of law.[1]

The National Flood Insurace Program (the "NFI Program") was established pursuant to the National Flood Insurance Act of 1968 (the "NFI Act"). Since June 6, 1969, plaintiff, the National Flood Insurance Association (NFIA"), has participated with the United States Department of Housing and Urban Development ("HUD") in a cooperative government-industry joint venture under part A of the NFI Act. 42 U.S.C. §§ 4051-4056, providing a national program of flood insurance coverage and sharing with HUD in the financial risk of flood insurance losses. NFIA is an incorporated joint underwriting association and under the 1969 contract, flood insurance policies are issued in the name of NFIA, marketed by NFIA, and serviced by NFIA, through agreements with independent local property agents, brokers and regional servicing companies. The insurance aspects of the flood program under NFIA's management have not been successful. The 1969 contract has been renewed anually since its inception. The present contract expires effective December 31, 1977.

In 1976, NFIA and HUD began to suffer disagreements concerning the administration of the NFI program. Specific problems involved the general authority of the Secretary of HUD to construe the terms of the Standard Flood Insurance Policy, HUD's prior control over NFIA operational expenses, the accuracy of the financial data NFIA was generating, NFIA's refusal to agree to competitive bidding on the service contracts it awarded, and the data processing services provided NFIA. Negotiations toward a new HUD-NFIA agreement began in October 1976 and continued for almost four months.[2] In April, 1977, HUD announced its intention to maintain the 1969 contract and to supplement the contract with regulations. HUD issued proposed regulations on June 9, 1977. NFIA took the position that the proposed regulations were invalid and on July 5, 1977, notified HUD that NFIA would not renew the 1969 contract for another term.[3]

In light of the impasse reached with NFIA, HUD issued on July 29, 1977, a Request for Proposals ("RFP") soliciting entities prepared to participate in the NFI program under either part A or part B of the NFI Act. At the same time, negotiations between NFIA and HUD continued. Negotiations broke down again on August 16, 1977, when NFIA rejected HUD's insistence upon prior approval of NFIA's operating expenses.

Aware of the inability of HUD and NFIA to agree on an extension of the 1969 contract, the House Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs held hearings on the negotiations on September 7 and 8, 1977. Members of the subcommittee reiterated the Congressional preference for a part A program and their desire that HUD and NFIA reach an agreement. Negotiations between the parties resumed in late September, 1977.

In the meanwhile, three bid proposals to participate in the NFI program under a part B framework had been received by HUD in response to the FRP issued July 20, 1977. The best offer was determined to be Electronic Data Systems Federal Corporation ("EDS") and further negotiations were entered into between HUD and EDS. On September 23, 1977, the last day for submission of bids in connection with the RFP, NFIA tendered to HUD a proposed agreement indicating a willingness to continue as risk-bearer under a Part A program pursuant to the terms therein.

On October 19, 1977, HUD and NFIA reached tentative accord as to a number of the problems with respect to operation of the joint venture. This "agreement to agree" was written up but was, however, never signed by the parties.

On November 2, 1977, in light of the course of the negotiations with NFIA and of the projected cost savings contained in the EDS

Footnotes at end of article.

proposal, the Secretary of HUD determined that the operation of the NFI program would be materially assisted by the Federal Government's assumption of the operational responsibility for flood insurance. This determination was submitted to Congress in the form of a report.[4] The report indicates HUD's intention to contract in a part B framework with EDS, promises no diminution in the use of insurance agents and brokers and insurance adjustment organizations in the NFI program, and contains descriptions of EDS' functions which are essentially ministerial. In mid-November, the Chairman of the Senate and House Committees responsible for HUD expressed support for the Secretary's decision.[5]

Thirty days having passed since the report to Congress, and no adverse Congressional action having been taken, the Secretary may implement the proposed conversion to a part B program at any time. EDS' part B proposal expires on December 31, 1977. NFIA filed the instant lawsuit November 29, 1977, seeking to enjoin any action by HUD in connection with the proposed takeover.

Plaintiff's Complaint frames two general issues: whether the Secretary's decision to convert to a part B program satisfies the legal requirements of the NFI Act and whether the proposed contract with EDS is permissible under the terms of the Act. This Court approaches these issues from the standpoint of considering both preliminary and final relief.

With respect to preliminary relief, this Court is not persuaded that NFIA has met any of the standards articulated in *Virginia Petroleum Jobbers Association* v. *Federal Power Commission*, 259 F.2d 921, 925 (D.C. Cir. 1958). Leaving the merits aside, the Court finds no showing of irreparable injury on these facts. The loss which plaintiff confronts is not the sort of loss recognized as necessitating interim relief. See *Virginia Jobbers* at 925; *Sampson* v. *Murray*, 415 U.S. 61, 88 (1974). Further, the Court concludes that any harm to NFIA would be more than outweighed by the injury to the interests of the Government if an injunction is granted. Potential disruption to the NFI program would be intolerable. For the same reason, the public interest militates against any delay in the implementation of the proposed part B program.

With respect to the merits, this Court concludes that the actions of the Secretary have been within her authority under the NFI Act and do not amount to either an abuse of discretion or an error of law. The Court is mindful that its review in the present case is limited. *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402 (1971). With respect to the report submitted by the Secretary to Congress per 42 U.S.C. § 4071, this Court will not evaluate the substance of that report or substitute its judgment for that of the Secretary or the Congress. See *National Association of Government Employees* v. *Schlesinger*, 397 F.Supp. 894 (E.D. Pa. 1975), *aff'd*, 523 F.2d 1051 (3d. Cir. 1975). The Court is satisfied that the contents of the report meet the requirements of § 4071 (b)(1)-(4). That is enough.

The crux of this lawsuit is whether the Secretary's determination to convert to a part B program comports with 42 U.S.C. § 4071(a). The Court is persuaded that it does. The Court is aware of the strong Congressional preference for a part A program. However, § 4071(a) allows the Secretary to convert from part A if the Secretary determines that operation of the flood insurance program as provided for in part A "cannot be carried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption" of operational responsibility.[6] While NFIA emphasizes the first clause of § 4071(a) and points to ostensible success of the NFI program under its management, what is crucial in this case is the second clause of § 4071(a) and the "materially assist" provision. On these facts this Court cannot say that the Secretary's determination that conversion to part B would materially assist the NFI program is clearly erroneous or without a rational basis. In light of the course of the negotiations between HUD and NFIA and the disagreements between the parties, and given the necessity of an operational NFI program, the Secretary's decision does not appear arbitrary or capricious. Nor is the Court persuaded that the Secretary applied an incorrect standard in reaching her determination. That determination appears supported on the record in this action and the legislative history of the NFI Act does not compel a different conclusion.[7]

Finally, this Court is not convinced that the proposed contract with EDS violates the terms of either 42 U.S.C. § 4071 or § 4082. HUD proposes to utilize only government employees or insurance entities with respect to the insurance aspects of the part B program and proposes to employ EDS in a ministerial capacity. The Court is satisfied with these representations and any challenge to the functions which EDS performs appears premature.

In conclusion, the Court determines that the Secretary has acted within her authority under the NFI Act and that her actions have a rational basis, are not based upon an impermissible and invalid interpretation of the statute, and are not clearly erroneous. Judgment for defendant is, therefore, in order.

One other issue remains. At hearing in this matter, counsel for plaintiff made oral application to the Court for a stay pending appeal in the event the Court was disposed to rule against plaintiff's position. Counsel for HUD opposed such a stay. The Court deems it proper to rule with respect to the oral motion and for the reasons indicated herein with respect to plaintiff's showing under *Virginia Jobbers*, the Court determines that a stay is inappropriate.

AUBREY F. ROBINSON, Jr.,
U.S. District Judge.

December 9, 1977.

FOOTNOTES

[1] This memorandum opinion shall constitute the Court's findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

[2] In January 1977, HUD and NFIA concluded a Tentative Draft Agreement, which was published in the Federal Register, and which resolved some of the issues in dispute between HUD and NFIA.

[3] At the same time, NFIA offered HUD a new agreement based upon the Tentative Agreement and indicated a readiness to continue negotiations.

[4] See 42 Fed. Reg. 58569.

[5] See Attachment O to affidavit of J. Robert Hunter, submitted as part of Defendant's papers in opposition to Plaintiff's motion.

[6] 42 U.S.C. § 4071 provides:

(a) If at any time, after consultation with representatives of the insurance industry, the Secretary determines that operation of the flood insurance program as provided for under part A cannot be carried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption, in whole or part, of the operational responsibility for flood insurance under this chapter (on a temporary or other basis) he shall promptly undertake any necessary arrangements to carry out the program of the flood insurance . . . through the facilities of the Federal Government, utilizing, for purposes of providing flood insurance coverage, either—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States.

(2) officers and employees of the Department of Housing and Urban Development and such other officers and employees of any executive agency . . . as the Secretary . . . may from time to time agree upon . . . or

(3) both . . .

(b) Upon making the determination referred to in subsection (a) of this section, and at least thirty (30) days prior to implementing the program of flood insurance . . . through the facilities of the Federal Government, the Secretary shall make a report to the Congress and such report shall—

(1) state the reasons for such determination,

(2) be supported by pertinent findings,

(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

(4) contain such recommendations as the Secretary deems advisable.

[7] Despite the Congressional preference for a part A program, there is equally strong concern expressed in the legislative history for continuity in the provision of flood insurance. It is that concern which is behind § 4071's allowance for conversion to a part B program and this Court cannot say that the actions of the Secretary are in derogation of that concern.

TRIBUTE TO SENATOR JOHN L. McCLELLAN

Mr. BAYH. Mr. President, it is with deep sadness that we mark the passing of a friend and colleague, John L. McClellan. His death is not only a great loss to the peope of Arkansas where he led a distinguished public service career of half a century, but the Congress and the Nation have lost a farsighted and able leader of high standards.

I have been one of the privileged few to serve with Senator McClellan on both the Senate Judiciary Committee and the Senate Appropriations Committee. It is from this unique vantage point that I gained insight into the dedication, integrity, and fairmindedness so characteristic of Senator McClellan.

His outstanding service on the Senate Judiciary Committee is marked with an impressive list of legislative accomplishments which include the Omnibus Crime Control Act of 1968, the Safe Streets Act of 1970, and most recently his relentless pursuit of a complete reform of the U.S. Criminal Code, which when enacted, will stand as a lasting tribute to Senator McClellan.

As chairman of the Senate Committee on Appropriations, Senator McClellan gave effective leadership for proper funding of the many important programs which touch the lives of virtually every American. At the same time he constantly sought to improve Government efficiency and eliminate wasteful spending. As chairman of the Appropriations Committee, he undoubtedly held one of the more difficult committee assignments, but it was here that Senator McClellan demonstrated his fair and equal treatment of all committee members, including those with views different from his.

I found his pursuits on both the Judiciary and Appropriations Committees were marked with unquestioned integrity along with diligence and determination. Further, this great elder statesman was always ready to provide advice and counsel to the new committee members.

So it is with great personal sadness and loss that I mark the passing of the great American and great leader of the Senate. His fellow citizens of the great State of Arkansas, who six times elected him to the U.S. Senate, have suffered a great loss, as has the Nation. While he will be greatly missed, the many personal deeds and legislative accomplishments will long foster the memory of John L. McClellan, truly a dedicated and deepy respected public servant. I extend my deepest sympathy to Mrs. McClellan and the other members of the family.

NOTICE OF A DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for a determination under rule 43 which would permit staff members to participate in a program cosponsored by a foreign educational organization, the Konrad Adenauer Foundation of the Federal Republic of Germany, and by the Center for Strategic and International Studies of Georgetown University, December 3–10, 1977.

The proposed itinerary includes: Departure from Washington, D.C., December 3 for Bonn, West Germany; travel from Bonn to West Berlin on December 8; and return to Washington, D.C., on December 10.

It has been determined that participation by the following Senate staff members in the program in West Germany, at the expense in part of the Konrad Adenauer Foundation, to discuss "National Security Policy and Decision Making," is in the interest of the Senate and the United States:

Jeff Record, Legislative Assistant for Military Affairs, to Senator Sam Nunn.

Dr. Charles A. Stevenson, Professional Staff Member for National Security Questions, to Senator Culver.

FROM THE ASHES—THE NATO SCOUT

Mr. GOLDWATER. Mr. President, a difficult issue that has faced the Department of Defense over the past few years has been that of planning for new weapons that can be used interchangeably by all of our NATO allies. Most agree that our collective military strength could be increased without increasing cost if we could standardize on equipment provided to the armed forces of the NATO partners.

Mr. Hyman Fine, who until his retirement a year ago was a professional staff member for the Research and Development Subcommittee, recently wrote an article that appeared in the October issue of the Armed Forces Journal.

Mr. Fine proposes developing a new Scout helicopter which could meet the requirements of both the U.S. Army and those of our NATO allies. I feel the ideas set forth by Mr. Fine merit consideration and they may be useful in getting the Army's Scout helicopter program off dead center.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FROM THE ASHES—THE NATO SCOUT

(By Hyman Fine)

It is a well known fact that the Army has not been able to sell the Congress on a new scout helicopter for the past six years, including fiscal year 1978. To learn what went wrong, and what can be done to set it right, let us examine the history of the program.

As counsel to the Research and Development Subcommittee of the Senate Committee on Armed Services, from 1970 through mid-1976, I wrestled almost every year with the justification submitted by the Army in support of a variety of scout helicopters. The Army did not improve the chance for approval by changing the basic system characteristics during these years. Even the name was changed from Aerial Scout to Advanced Scout Helicopter (ASH) and now Interim Scout Helicopter (ISH).

I believe that there is a need for a new scout helicopter, but that the way to sell it in the Pentagon and to Congress is not as a sophisticated and expensive weapon system. It can be sold as an affordable vehicle, with a minimum of equipment needed to perform its primary scout mission, without weapons, compatible with the performance of the Advanced Attack Helicopter (AAH) and the Utility Tactical Transport Helicopter (UTTAS), and built to meet a set of requirements established jointly by the United States and its NATO allies.

Before considering a plan for a NATO Scout, let us examine the history of the Army Scout Helicopter program to learn what lessons there are from the unsuccessful past. Perhaps the first time the Congress did the most thorough and constructive job of helping the Army properly organize its approach to a scout helicopter was during the fiscal year 1975 budget review.

Prior to that time, for FY 1974, the Army requested $1.0 million to support issuance of a Request for Proposal for an Aerial Scout late in the fiscal year. The Senate Armed Services Committee, sustained by the Congress, denied these funds as being premature.

The Army requested $6.0 million for FY 1975 to begin development of the Aerial Scout, as it was then called. The Army stated that a task force had been established to examine three possible approaches: (1) a modified version of an existing Army helicopter; (2) a military adaptation of a current U.S. or foreign airframe; (3) a completely new development. The potential candidates identified for the various alternatives were:

French Aerospatiale SA 341.
Gazelle.
Italian Agusta 109.
British Westland Lynx.
German MBB Bo—105.
Bell DH—222.
U.S. Army OH–58.
U.S. Army AH–1G.
U.S. Army OH—6A.

The Senate Armed Services Committee (Report No. 93–884, page 101), supported by the Senate and House, denied funds to begin development because the results of the task force study, the recommendations of the Army, and decision by the Department of Defense would not be made until the end of FY 1975. Therefore, no funds would be needed to start development until the Congress had reviewed the results of the study and considered the recommendations of the Department for FY 1976. The committee was open minded about the three alternatives but did point out that a completely new development would be the most costly and take the longest time to obtain.

The Army requested $10.7 million for FY 1976 and $8.8 million for the three month transition period. The Senate Armed Services Committee (Report No. 94–146, page 85) recommended deletion of all these funds except $0.7 million for FY 1976 and $0.2 million for FY 1977 to support in-house efforts. This was done because the Army "had not finally approved the characteristics of the new scout nor determined if a new development or an off-the-shelf helicopter will satisfy the requirement." Final actions of the Congress provided $3.5 million for FY 1976 and $6.5 million for FY 1977 which later were carried over to support the FY 1977 program for Target Acquisition and Designation System (TADS) and Pilot Night Vision System (PNVS) under the AAH program.

The budget for FY 1977 complicated the program even more than before. The request for $26.0 million, as originally proposed, was to initiate simultaneous development of the helicopter and install mission equipment comprising the ASH weapon system. The committee report stated that after the budget was submitted, the Army with Secretary of Defense approval, completely revised the program (this alone normally jeopardizes favorable Congressional consideration) to delay start of helicopter development until FY 1978. The full $26.0 million was to be used instead to begin development of only the mission equipment. This consisted of TADS and PNVS. The House Armed Services previously had deleted the entire $26.0 million because the program was completely up in the air at that time.

The Senate Armed Services Committee had worked closely with the Army to help establish the most effective way to pursue TADS development on a competitive basis, but to be done under the AAH program (Report No. 94–878, page 89). The Committee recommended, with Army concurrence, that $24.0 million for TADS development be deleted from the ASH program, with most of it being transferred to the AAH program to enable the AAH Program Manager to conduct the prototype competition. The TADS development was required to retain compatibility with ASH requirements. The remaining $2.0 million was left in the ASH program to support operation of the Army program office, including preparation of plans for an FY 1978 RFP.

The new Scout helicopter, previously identified as the Advanced Scout Helicopter or ASH, was not proposed for FY 1978. Instead, the Army requested $18.3 million for development of ISH, the Interim Scout Helicopter. In denying these funds, the House Armed Services Committee stated (Report No. 95–194, page 64) "The Army was directed in FY 1977 to formulate a definitized plan for the Advanced Scout helicopter. While the committee supported the requirement for the ASH, there was serious concern over the ambiguity that the Army demonstrated in definitizing the system. In the absence of TADS and PNVS, and an Army plan for the ASH, the committee believes that the proposal to equip an existing helicopter with an electro-optical system to provide an ISH capability is premature."

The Senate Armed Services Committee (Report No. 95–129, page 82) denied the proposed Interim Scout and directed that the $18.3 million be used to begin development of a fully capable ASH. Subsequently, the House and Senate conferees provided only $3.0 million which the Army advised was all it could practically use to start an ASH program in FY 1978. This would allow establishment of a program office and issuance of RFPs. This action turned out to be academic because the House Appropriations Committee, later sustained in conference with the Senate, denied all the funds as being premature.

To date, no acceptable program has been proposed and if there is a basic lesson to be learned, it is that the proposal must be sound and convincing enough to be acceptable to the Congress as well as to the Secretary of Defense. And the need grows more acute each year because the present scout helicopter fleet is old and growing older. The OH–6 and OH–58 helicopters will be unable to keep up with the speed and performance capabilities of the new UTTAS and AAH systems.

This brings me back to my proposal for a NATO Scout Helicopter. In this period of tightened Defense spending, with the FY 1979 budget exercise in the Pentagon taking on more than usual ominous tones, the possibility of a new program getting off the ground is doubtful. The chances for a new NATO ASH would be enhanced if one considers the following:

1. The President has strongly endorsed increased U.S. military commitments to NATO and has expressed his support of standardization and interoperability of military equipment.

2. Secretary of Defense Harold Brown, has echoed these views, and the FY 1979 budget is reported to include a major increase in the program to evaluate new foreign weapons for possible adoption by U.S. forces.

3. If the U.S. and its NATO allies can agree upon a common requirement for a scout helicopter, this would provide an important opportunity for a joint competitive development program leading to co-production by U.S. and Europe.

NATO Transatlantic teams consisting of airframe, engine, transmission and other subsystem manufacturers would participate in a competitive prototype development program.

Two Transatlantic teams would be selected by a NATO source selection board to design and build a number of prototypes which would be matched in a flight competition. The winning team would complete development and test of the helicopter. Co-production between U.S. and European companies would provide employment and work for all countries involved consistent with the quantities which each country would buy for its own forces. Creation of such NATO Transatlantic teams would be quite easy since there are at least three helicopter manufacturers on each side of the Atlantic who are highly experienced in this technology. Furthermore, this provides a rare opportunity because both European and U.S. technology is essentially equivalent so that technology transfer would not be an issue as it has been in other programs.

4. The NATO Scout Helicopter would be designed as an austere, low cost system with enough speed and agility to perform its mission in concert with the AAH, UTTAS and European helicopters of comparable performance capability. It would have only essential navigational and communications equipment needed for all weather operations, with provision for target location and designation equipment. It would contain no weapons or ordnance provisions although provision for space and weight could allow this as an option by individual countries.

5. The economical and operational benefits of standardization, and interoperability would be very substantial and should serve to overcome any significant difficulty encountered by the participants in agreeing upon a common set of performance requirements. Logistic requirements will be minimized and combat effectiveness will be greatly improved.

6. It will establish another important precedent for NATO cooperation, which is needed to demonstrate that there is no divisiveness within the Alliance.

I am convinced that this approach will work, and I urge the Army, the Department of Defense, the Congress, labor and the U.S. helicopter industry, as well as their European counterparts to give this proposal their most urgent and serious consideration. I understand that the Army has included a line item in the FY 1979 budget request for the ASH. These funds would be appropriate to initiate a NATO ASH program.

I have discussed this idea with friends at responsible levels of most of these U.S. organizations and with representatives of our NATO Allies. Their reactions are encouraging.

Clarence A. Robinson, Jr. European AWACS in the August 11 issue of Aviation Week and Space Technology, put his finger on the pulse of this major issue by quoting NATO officials who stated that "The U.S. has only a couple of years to demonstrate to the European nations that an exchange in technology, coproduction and licensing will work to everyone's benefit. Beyond that time, the walls will be up in Europe, and it will become very difficult."

Another opportunity like this may be a long time in coming or may not come at all.

THE JUSTICES SLAM THE DOOR

Mr. METZENBAUM. Mr. President, the November 12, 1977, issue of the Nation magazine carried a thought-provoking article on the rising barriers to citizens' access to the Federal courts. The article, entitled "The Justices Slam the Door," was written by Ralph Nader and Girardeau A. Spann. I consider it a thought-provoking article, and I ask unanimous consent that it be printed in the Record in its entirety.

There being no objection, the article was orderd to be printed in the Record, as follows:

The Justices Slam the Door

(By Ralph Nader and Girardeau A. Spann)

When Bill Richardson learned that the CIA was funded through a secret budgetary process whereby money appropriated for use by innocuous government agencies—perhaps the National Endowment for the Arts or the Civil Rights Commission—was in reality given to the CIA to finance covert operations, he recognized that this funding process violated the public accounting requirement of Article I, Section 9, Clause 7 of the Constitution. But when he tried to tell the Supreme Court about it, the Justices would not listen. They would not even give him his day in court. They said that no matter how blatant the CIA's alleged constitutional violation, Mr. Richardson was not the kind of person from whom they wanted to hear any complaints. Why? Bill Richardson was an ordinary citizen—a taxpayer. People of such little consequence are not permitted to present their constitutional grievances to the courts.

Ned Wolf fared no better. He chose TWA's "Getaway Tour" for his London vacation because its advertised discount price included hotel accommodations for fourteen days, but when Ned landed in London, his hotel turned out to be 350 miles away in Dumfries, Scotland. Although TWA's little deception violated a provision of the Federal Aviation Act, when Ned sued to recover some of the money he had paid, he too was thrown out of court. Citizens cannot sue to enforce that law, even if they are overcharged in violation of it.

Bill Richardson and Ned Wolf are just two of the many victims of the Burger Court's newest technique for implementing its political ideologies. Rather than ruling on the merits of controversial cases, and thus perhaps incurring criticism from the press and legal commentators, the Court now simply refuses to listen to them. The Burger majority employes an array of highly technical and little understood legal doctrines systematically to close the doors of the federal courts to citizens whose constitutional and civil rights are being violated by illegal government and private actions. Moreover, because it is so technical, this process has gone largely unnoticed by the general public. While many of the Court's substantive decisions continue to draw widespread condemnation, the damage done by its access rulings is far more serious. It is bad enough to tell citizens that their legal claims are without merit, but when they are told that their claims will not even be heard, the resulting frustration and distrust can burst the seams of our legal system, forcing recourse to dangerous, extralegal alternatives.

Remedial legislation is urgently needed, but the esoteric nature of access issues has made the task especially difficult. Because the offensive decisions do not purport to deny citizens of their rights, but speak only in terms of standing, or abstention, or other legal doctrines, it is difficult to generate and focus the public anger that would result if the true nature of the Court's rulings were apparent. Therefore, the well-orchestrated response of a sophisticated citizenry will be needed to reverse the Burger Court's regressive rulings. Citizens will have to learn the technical language that the Court is now speaking. The decisions that have been most obstructive to citizen access fall into five general categories, and corrective legislation is now needed in each of those areas.

The most graphic example of the Burger Court's constriction of access is provided by its decisions denying standing to citizen plaintiffs. Standing, a legal term for the right to present an issue to the courts, is granted only to plaintiffs who are injured in some way by the actions they challenge. In theory, injury is a prerequisite because it implies a stake in the outcome that is viewed as necessary to motivate adequate presentation of legal issues in the adversary context upon which our legal system so heavily depends. In reality, however, standing restrictions rarely serve a useful purpose because no plaintiff would undertake the expense and inconvenience of a lawsuit if he had nothing at stake. Until recently, therefore, standing was a little discussed requirement, but the Burger Court has now seized upon it as a device for ignoring the pleas of plaintiffs whom it does not wish to hear.

For example, in the 1975 case of Warth v. Seldin, the Court held that minority plaintiffs who were the victims of housing discrimination lacked standing to test the constitutionality of a restrictive zoning ordinance that kept them from living in a suburb of Rochester, N.Y. Thus the Court could deny those plaintiffs the protection of the Fourteenth Amendment without even considering the controversial constitutional issues related to restrictive zoning. Similarly, in Simon v. Eastern Kentucky Welfare Rights Organization (1976), the Court denied standing to indigent plaintiffs who were unable to afford the high costs of medical care, and who sought to enforce tax laws which would remove important tax benefits from hospitals that refused to give them free emergency care. It may seem obviously untenable to pretend that the plaintiffs in those cases did not have enough at stake for standing, but that is what the Burger Court held.

Bill Richardson's case, *United States* v. *Richardson* (1974), reveals an even more bizarre perversion of the doctrine. Mr. Richardson was denied standing to challenge the CIA's secret budget simply because his stake as a taxpayer was no larger than that of any other citizen. It follows, according to the rule announced in *Richardson*, that the more people who are injured by illegal government actions, the less likely it is that anyone will have standing to challenge those actions. As the Court frankly admitted, the constitutionally suspect funding process at issue in *Richardson* will now be allowed to continue because no other conceivable plaintiff will ever have a stronger claim to standing. The message is clear: the Supreme Court does not want certain social-change or politically controversial cases on the federal dockets; therefore it refuses to entertain them. This is an inexcusable abdication of judicial responsibility which Congress should not ignore.

Senators Kennedy and Metzenbaum, as of this writing, plan to introduce a bill that attempts to restore order to the realm of standing by prohibiting dismissal based upon that doctrine as long as the plaintiff is likely to benefit from a successful suit. The bill also specifically grants taxpayers standing to challenge illegal use of public funds or property, and it precludes dismissal based on the assumption that many citizens share an equal stake in the outcome of a suit. The bill does not create any new rights but it does allow citizens to invoke rights under existing laws. Rep. Herbert Harris (D., Va.) is preparing a similar bill for introduction in the House.

President Carter has condemned the abuse of standing requirements and endorsed broader citizen standing legislation, but Justice Department officials—who frequently use standing as a defense, even when the challenged government actions are of questionable legality—threaten to oppose the bills. If the President cannot rebuff this opposition, Congress should not hesitate to act over the Justice Department's resistance. Prompt enactment of remedial legislation is essential if we are to get the courts back into the business of preventing illegal conduct and protecting citizen rights.

The second problem area created by the Court's access decisions relates to class actions. Class-action lawsuits are the only practical method of redress for consumers who suffer small monetary or other injuries as a result of improper corporate activities. When a company overcharges millions of individuals a few dollars each, no single customer has the incentive to undertake an expensive lawsuit to recover damages. As a result, the company is able to retain enormous profits to which it is not entitled. The advantage of class actions is that they allow many small claims to be aggregated in one economically feasible lawsuit. However, a series of Supreme Court decisions has placed such severe restrictions on the maintenance of those suits that in most instances they are of little practical utility. Corporations therefore enjoy a virtual immunity from liability for their actions, provided that they are careful not to provoke a criminal prosecution.

The Supreme Court's decision in *Snyder* v. *Harris* (1969), and *Zahn* v. *International Paper Co.* (1973) eliminated class actions in areas where $10,000 or more must be at stake for federal jurisdiction to apply by requiring that each individual claim, rather than the aggregate amount, reach $10,000. This, of course, undermines the whole purpose of class actions, which is to allow compensation of small claims. Moreover, in *Eisen* v. *Carlisle and Jacquelin* (1974), the Court priced many of the remaining class actions out of existence by requiring plaintiffs to pay the postage, printing, advertising and other costs necessary to notify the class members of a pending suit before the class action might proceed. Since the plaintiff's claim in *Eisen* was for $70, he was understandably reluctant to advance the $225,000 necessary to notify the 2.25 million members in his class-action suit. The same problem will exist in nearly every other significant class action.

The need for remedial legislation in this area is obvious. The Federal Trade Commission Improvements Act, H.R. 3816 and S. 2188 would, if enacted, facilitate class actions seeking damages for violation of FTC trade regulations and consent orders. While that is a good starting point, what is really needed is comprehensive legislation that would both allow class members to aggregate claims in order to satisfy the $10,000 jurisdictional requirement and to let plaintiffs maintain class actions without first paying prohibitively high notice costs.

The third problem area relates to implied causes of action. Ned Wolf was not able to recover for TWA's deceptively advertised London tour plan because recent Supreme Court decisions have sharply cut back on the recognition of implied civil causes of action arising from the violation of criminal and administrative laws. Although TWA's actions violated a provision of the Federal Aviation Act, no cause of action was implied because that provision did not expressly authorize civil enforcement suits. Until recently, the trend had been toward expanded recognition of implied causes of action, even in the absence of express Congressional authorization, because implied causes of action not only allow victims of unlawful conduct to sue for compensation but also increase law enforcement and deterrence.

In 1975, the Supreme Court reversed this trend, however, when, in *Cort* v. *Ash*, it refused to allow a shareholder suit brought to compel corporate officers to repay the illegal campaign contributions that they made in violation of a criminal statute. That decision was especially unjustifiable because no conflict whatsoever existed with any federal regulatory scheme. Moreover, the benefits of supplemental private enforcement of campaign financing laws would have been substantial. It is time for Congress to respond by enacting legislation declaring that citizens have an implied civil cause of action against wrongdoers who injure them in violation of criminal or administrative laws or regulations, except in rare instances where implication of a private civil remedy would seriously interfere with some superseding federal policy.

The fourth area in which the Supreme Court's decisions have been particularly deplorable relates to the enforcement of individual constitutional rights under the Civil Rights Act of 1871. That law was enacted to provide citizens with a readily available federal forum in which to redress the deprivation of their constitutional rights by state officials. But as in the area of standing, the Court has refused on procedural grounds to adjudicate many important cases. This time, the technical doctrine employed has been abstention—a doctrine rooted in our notion of federalism which prohibits federal courts from deciding a case if its ruling would interfere with an ongoing criminal prosecution in some state court. However, the Supreme Court has extended the doctrine of abstention to noncriminal cases and has applied it even when a state proceeding is commenced after a federal suit has been filed. This means that if a theatre owner, for example asks a federal court to enjoin enforcement of an unconstitutional obscenity statute, or black ghetto dwellers sue to enjoin discriminatory arrests under an unconstitutional anti-loitering ordinance, state officials need only prosecute in state courts under the challenged statutes and the federal courts must step aside. With characteristic reverse logic, the Burger Court's decisions have created an incentive for state officials to enforce, rather than rewrite, unconstitutional state laws.

S. 35 and H.R. 4514 are bills that address these abuses by forbidding abstention unless a state *criminal* prosecution is commenced *before* the filing of a federal court suit. The bills also prohibit an abstention that is designed to allow state courts to rule on questions of state law before the federal courts rule on constitutional questions—another delaying technique on which the Supreme Court has relied in order to discourage recourse to federal courts.

The final access problem area is the inability of members of the public to receive compensation for their participation in government proceedings. In *Alyeska Pipeline Service Co.* v. *The Wilderness Society*, a 1975 case concerning construction of the Alaska pipeline, the Supreme Court held that the plaintiffs, who won an important environmental case benefiting the public at large, could not recover the attorneys' fees expended in that case. However, since the plaintiffs were doing a job that should have been done by a government agency, attorneys' fees should have been taxed to that agency, which was a defendant in the suit. The ultimate effect would have been to spread the costs among the citizens who benefited from the victory. The 94th Congress responded to *Alyeska* by enacting the Civil Rights Attorneys' Fees Act of 1976, providing for court-awarded attorneys' fees in some cases, but that Act solves only part of the problem. Additional legislation is still needed to help finance public participation in the administrative law process.

Inability to recover attorneys' fees in proceedings before administrative agencies has skewed the entire administrative process. Business concerns have enough at stake to foot high bills for lawyers, accountants and expert witnesses, but consumers are in a more difficult position. As in the class-action situation, a single consumer rarely has enough of a financial stake to warrant the expenditures necessary to insure that consumer interests are adequately presented to administrative agencies. Consequently, financial constraints limit access of consumers and citizens to the administrative process just as surely as restrictive standing decisions have limited their access to courts.

S. 270, sponsored by Senators Kennedy and Mathias, and H.R. 3361, sponsored by Representatives Koch and Rodino, attempt to remedy the inherent financial inequality existing between consumers and industry. Those bills allow agencies, in their discretion, to award to citizens reasonable costs of participation in agency proceedings in amounts that correspond to the degree of assistance that they provide the agency. The bills also allow citizens who substantially prevail to recover their costs in judicial review proceedings. These bills are essential to meaningful public participation in government decision making, but they are still bogged down in the Judiciary Committees of both House and Senate.

The country is witnessing the behavior of a Supreme Court majority that, not content merely to rule against citizens who assert individual and consumer rights, also insists upon keeping those citizens out of the judicial process altogether. If a sheriff stood at the courthouse door and forcibly prevented citizens from entering to present their grievances, the public outcry would generate page-one headlines. The Burger Court's restrictive decisions have accomplished the same thing many times over by denying citizens with meritorious claims their day in court. In pursuit of its ideological purposes, the present majority has shown a remarkable indifference to the traditional role that the judiciary has played in safeguarding the fundamental rights of those who have nowhere else to turn. The Court has also ignored its primary constitutional responsibility to protect those rights—a responsibility that should have been placed far above banal political considerations. In issuing its restrictive decisions, the Court has repeatedly challenged Congress to act if it disapproves of the trend toward limiting citizen involvement in the governmental process. If citizens are to continue jousting with public officials who often champion special interests rather than the public weal, Congress must provide them with lances to pierce the bolted courthouse doors.

READING IS FUNDAMENTAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Missouri (Mr. EAGLETON) and the article attached thereto.

The PRESIDING OFFICER. Without objections, it is so ordered.

STATEMENT BY SENATOR EAGLETON

In 1975, I authored an amendment to title VII of the Elementary and Secondary Education Amendments of 1974, authorizing federal funds to pay one-half the cost of inexpensive book distribution programs for children. The impetus for this legislation stemmed from the Reading Is FUNdamental Program, operated at the time with private support.

In my view, the success of these inexpensive book distribution programs is well worth noting. They have succeeded in stimulating an interest in reading beyond that simulated through the school curriculum. The ingredients leading to success appear to be self-selection of books and ownership of books. The latter has an added value in bringing books into the child's community and thereby involving parents. While increased reading motivation will clearly not solve the entire problem in our country, I believe it is a giant step forward. I commend to my colleagues the following article on the RIF program from the most recent issue of American Education.

The article ordered to be printed in the RECORD is as follows:

TO OWN A BOOK

(By Sam Zuckerman)

For Paul, an Illinois third grader just home from a day of school, the title book tucked between his math text and spiral notebook marked a milestone in his life. The book was not a hardcover volume that had been borrowed from the local library or a textbook to be used for an assignment. It was a paperback that Paul himself had selected to read and it was the first book he'd ever owned. Putting the book on his bed, Paul changed into old clothes so that he could join some neighborhood pals in a game of touch football. But, before he went outside, Paul did something he'd never done before: He read the first five pages of the paperback *just for the fun of it.*

Earlier that afternoon, Paul and his classmates had filed into the school library. They had been told ahead of time that the visit would be more than a browse through the shelves. Their teacher, Mrs. Davis, had spent time during their last three reading hours asking each child what books he or she owned. Three or four of the youngsters had even brought in books.

Once they were inside the library, the children noticed two tables laden with several hundred paperback books, spine sides up. Some titles were easily read from a distance: *The Charlie Brown Dictionary, Charlotte's Web, The Borrowers, Winnie the Pooh, Guinness Book of Records, Frederick Douglas Fights for Freedom,* and *Arrow Book of Sports Stories.*

Mrs. David told the group, "You can select one book from the tables to keep for your very own." "Any book?" a child asked. Mrs. Davis answered affirmatively and, in a matter of seconds, 28 pairs of hands began picking through the books. The youngsters examined the covers, leafed through the pages, and weighed the selection of one book against another. A few made on-the-spot choices and took them over to Mrs. Davis or the librarian, but the majority of the third graders patiently sampled among the heap and thoroughly checked out both tables before deciding which book to lay claim to. Like Paul, many of them had never before owned a book. Both Mrs. Davis and the librarian stayed well in the background, ready to answer questions but careful not to interfere with any decision-making.

Paul's classmate Anita, an avid viewer of the television program "Little House on the Prairie," finally chose a paperback based on that series. Pictures of the TV characters were on the cover. For Renee, a blossoming writer who had already written two stories, words held a special fascination. Not surprisingly, she selected *First Dictionary*, exclaiming, "Now I can find more words to make stories." Four other third graders huddled in a corner, proudly passing around their new books: *The Day Daddy Stayed Home, The Amazing Mumford from Sesame Street, The Little Brute Family,* and *The Hungry Thing.*

THE PLEASURE STRATEGY

Behind the giveaway atmosphere and the grab for books lies a sound educational strategy. Those piles of paperbacks on the two tables are really part of a reading-motivation program built upon the idea that, if a child is allowed to select and keep a book instead of just borrow it or have a narrow choice, reading can become a pleasure to be pursued independently.

For too long, the teaching of reading skills was thought to be mainly a matter of technique. The idea behind the thinking was clear enough: If only the right teaching methods were perfected, then Johnny should learn to read. Increasingly, however, reading professionals are recognizing that motivation is the linchpin of any successful instruction program, reading or otherwise. Even the most ingenious technique in the world will run smack into a wall if the student lacks incentive. Technique, then, is not all; there must be motivation on the part of the learner.

To make reading fun—that is, stimulating children to read not so much to please their teachers or fulfill an assignment but because they themselves find pleasure in it—becomes the foundation on which a reading motivation program is built. Somehow reading materials need to be provided for the children if they are to discover books as a source of pleasure. When this happens, the floodgates are opened wide.

In 1975, Congress recognized the value of this approach to reading with enactment of the Federal Inexpensive Book Distribution Program for Reading Motivation, appropriating $4 million for the program in 1976. The Inexpensive Book Program matches, dollar for dollar, money that has been raised locally to purchase books for school reading-motivation projects.

Last September the U.S. Office of Education contracted with Reading Is Fundamental, Inc. (RIF) to administer the program nationally. Previously, RIF had pioneered the technique of distributing inexpensive books to children to stimulate their enthusiasm for reading. Originally begun by Mrs. Robert S. McNamara in 1966 as a pilot program in Washington, D.C., RIF today encompasses hundreds of reading-motivation projects across the country. But, in taking on the administrator role in the Inexpensive Book Program, RIF is involved in a new kind of arrangement that will affect reading-motivation projects in hundreds of communities because, for the first time, large-scale federal funding is available to supplement local resources.

The arrangement means several things to educators and reading professionals. It represents the chance to add a motivation component to school reading programs. Public agencies and private nonprofit groups wishing to operate reading-motivation projects are now eligible to apply to RIF for federal funds to buy program books. This in turn offers schools substantial purchasing power should they want to establish a motivation program as a supplement to their reading curriculum.

The logistics behind the RIF program are relatively simple. Schools or school systems sponsor most of the RIF local projects in the Inexpensive Book Program. Because the program is flexible, the role played by schools or districts can range from direct administrative responsibility to cooperation with an independent group of community volunteers. If, for instance, a reading specialist on the school district staff is coordinating the local RIF project, then he or she often works with an organization of volunteers outside the school system. The volunteers, usually parents of children attending the schools, undertake the project planning and operations. In fact, many educators value reading-motivation programs precisely because they draw parents into the schools for a constructive purpose. Whatever the form of the local RIF project, the aim is clear; building links among reading, books, and pleasure.

HOW THE PROGRAM WORKS

RIF has identified seven key elements of a good reading-motivation program and made them standard for projects participating in the Inexpensive Book Distribution Program. Accordingly, RIF . . .

Gives books to children. The program's definitive feature is its distribution of low-cost books to children. This feature distinguishes a reading-motivation project from, say, the special children's activities of a public library. Past experience with motivation programs has convinced the RIF staff that pride of ownership is the catalyst that helps children discover that reading can be pleasure.

Permits the child to choose the book. If a youngster makes the choice, then the book will have a deeper personal meaning for its owner than a book assigned from school or loaned. What surprises many teachers who watch their students pick over the paperback piles is that most prefer to take their time and check out most every book.

Builds related activities around the distribution. The children select their books on what RIF calls "distribution day," but the day is really the climax of a continuous chain of motivational activities, before and after. Leading up to the day are activities that build up the children's sense of anticipation, and afterward they are encouraged to investigate their new possessions.

One elementary school in Georgia offered a prize to the class with the best ideas promoting book distribution. With that added incentive, the students pitched in and came up with posters, bookmarks, banners, cheers, songs, hats, flags, tee shirts, skits, and other ingenious devices. The day before book distribution, the whole school held an RIF rally, with cheerleaders and specially worded cheers. Later in the day, the sixth graders presented a play about RIF and another group led a songfest. On distribution day, a group of students dressed up as storybook characters and acted as hosts and hostesses.

Once the books have been selected, motivational activities tend to focus on special reading periods. In one junior high, the project director reports, the noise level is so low during these times that the ring of a telephone sounds like a fire alarm.

Involves parents in the project. Since a child's learning hinges a good bit on development of reading skills, parents have an intensely personal stake in encouraging their children to read. Parents are also the natural home-school link in any reading-motivation program. Moreover, when parents do become involved, they are more apt to encourage reading at home. Parent involvement, then, is a must in any RIF project.

Organizes a special committee to select books. Each reading-motivation project has its own committee to oversee the selection or ordering of program books. The committee, usually three or more people, should reflect the community and represent the interests of parents, librarians, teachers, school officials, and area residents. The more balanced the representation, the better chance to have books that appeal to the various tastes of the community's children.

Provides a wide variety of books. A youngster's chance to select a book is wasted unless there is a wide selection from which to choose. The books should span the whole range of elementary reading levels, from the easiest reader to those that challenge a youngster's mind. To give children genuine alternatives in subject matter and reading level, the Inexpensive Book Distribution Program requires that projects have on hand considerably more books than the number of children served by the program.

Provides a minimum number of books for each child. Giving a youngster one paperback to keep does not guarantee that he or she will discover reading for pleasure. Therefore, RIF projects must arrange for each child to attend several distribution days over the course of a school year, selecting a book each time. With three opportunities as a minimum and campaigns built around each, the odds for interesting a young person in reading, the RIF staff feels, are considerably increased.

IS MOTIVATION AN EFFECTIVE TOOL?

Motivation, an abstract quality, is difficult to identify and measure. How, then, can the effectiveness of a strategy like inexpensive book distribution be determined if motivation is its primary goal? Assessment of the RIF projects is based on a mixture of indirect quantitative measures such as use of public or school libraries and local commercial sales of children's books and of nonquantitative measures such as the observations of individuals participating in the program. Teachers, for instance, may report after a RIF distribution day that their students are doing more recreational reading.

RIF's 11 years of success with the free book distribution technique is in itself strong evidence that the method can motivate children to read. In 1972, evaluators of one RIF project—the Houston, Texas, Independent School District program supported in part by ESEA Title I funds—checked out that project's ability to meet three goals: stimulation of the children's interest in books, promotion of recreational reading, and encouragement of pride in book ownership. The evaluators sent survey forms to the project's children and parents and to teachers, curriculum coordinators, and principals of the involved schools. In many cases extensive personal interviews were conducted.

Among the findings, 65 percent of the program children surveyed said that they had bought books for their own personal pleasure after participating in the school's program. Further, 71 percent of the parents indicated that they had bought books for their children because of the youngsters' newfound interest in reading. All 13 curriculum coordinators surveyed said that children in their schools had noticeably increased their recreational reading.

These results are confirmed by what other RIF projects around the country have reported. One school administrator in Kentucky noted that his school district's project has turned "insecure, troublesome, unmotivated nonreaders into confident, enthusiastic, successful readers," progress that any reading teacher would envy. But, the administrator reports, the dividends have also been realized outside of reading classes. "School social workers, classroom teachers, principals, parents, speech therapists, and special-service staff members have seen changes in the children that can be traced back to the RIF project."

An educator in Texas has described RIF as "the only program that is addressed to the affective domain"—that is, the way a child feels about reading. In providing books written for all levels of reading ability and on multiple subjects, RIF is helping to make reading part of a child's lifestyle.

But, given these plus marks for the RIF program, it nonetheless is true that any motivation program has its limits, too. Motivation is an essential element of reading education, but it is no panacea. Reading difficulty is a complex social phenomenon, and its roots are a tangle of social, cultural, and psychological factors. Or to put it another way, lack of motivation may well be a cause of a child's reading problems, yet it is seldom the sole cause.

The school can offer resources like a motivation program to strengthen a youngster's skills. However, it should be understood that such resources can only supplement—not substitute for—quality education. The RIF inexpensive Book Distribution Program will not solve a community's larger problems. What it can do is supply an ingredient that is too often missing in the community's students: motivation to read. As in the case of Paul, a student needs to find out that reading is not only something that has to be done. It can be fun, too.

REVIEW OF LEGISLATIVE ACCOMPLISHMENTS OF THE SELECT COMMITTEE ON INDIAN AFFAIRS AND PLANS FOR 2D SESSION OF THE 95TH CONGRESS

Mr. ABOUREZK. Mr. President, in its deliberations on Senate Joint Resolution 4, the Senate, in its wisdom, recognized the need for a full, albeit a temporary, Select Committee on Indian Affairs. Thereafter, the Committee on Rules and Administration saw fit to provide the newly established Select Committee on Indian Affairs with sufficient funds to secure a highly trained staff experienced with the unique issues affecting Indian people.

Mr. President, as chairman of this committee, I would like to take this opportunity to share with my colleagues the major accomplishments of the Indian Affairs Committee during this 1st session of the 95th Congress and to emphasize that through the efforts of this committee, the Congress has made a start at fully meeting its responsibilities to the Indian people.

Let me begin by very briefly reviewing the justification for the establishment of a Committee on Indian Affairs and then discuss how the Select Committee on Indian Affairs has begun to address the needs which it identified.

Under the Legislative Reorganization Act of 1946, the House and Senate Committees on Indian Affairs which had been in existence since the early 1800's were abolished. Legislative and oversight jurisdiction over Indian matters were at that time vested in Subcommittees of the Committees on Public Lands in the House and Senate. Although several important pieces of legislation affecting Indians were enacted during the next 30 years, this subcommittee arrangement failed to provide a truly adequate forum of legislating appropriate solutions to problems affecting Indian people. Indian legislation could no longer be reported to the floor of the Senate directly from a full Indian Affairs Committee, and legislative jurisdiction over over Indian affairs was fragmented in a number of committees. In the Congress, there were more than 10 committees in all responsible for Indian affairs, a situation which resulted in a disjointed and haphazard treatment of Indian affairs.

While the need for consolidated legislative jursidiction and oversight responsibilities for Indian affairs in a separate committee represented sufficient justification for the establishment of a separate Committee on Indian Affairs, certain developments at the beginning of this year pointed to an immediate need for the legislative capacity to resolve significant Indian-related issues of national importance.

The American Indian Policy Review Commission (AIPRC) established pursuant to Public Law 93-580, submitted more than 100 legislative recommendations to the Congress in May of 1977. The AIPRC was specifically directed by the Congress to review the entire history of Federal-Indian relations as well as the present status of Indian affairs and formulate comprehensive recommendations designed to not only resolve conflicting and inconsistent Federal policies but also to point out a direction for the future. The Organic Act establishing of the American Indian Policy Review Commission required that the appropriate committees in the Senate and the House report to their respective bodies on each of these recommendations within 2 years.

In the first business meeting of the select committee, the committee staff was directed to analyze the legislative recommendations of the American Indian Policy Review Commission report and tentatively identify areas of priority which could form the committee's basic legislative program. In subsequent committee meetings, these areas of priority were fully discussed and agreed upon by the committee. Examples of such priority questions included: First, economic development and natural resources protection of Indian reservations; second, revision and recodification of title 25 of the United States Code; third, development of recognition standards and procedures for nonrecognized Indian tribes; and fourth, reorganization of the Federal administration of Indian affairs.

In addition, a growing number of specific legislative proposals in the area of Indian affairs were identified for early congressional action—these included the Indian Child Welfare Act (S.

1214), Indian Community Colleges Act (S. 1215), amendments to the Indian Self-Determination Act, and the requirements for an annual report on Federal Indian programs to be submitted by the Secretary of the Interior.

The Select Committee on Indian Affairs has also identified and acknowledged a responsibility for traditional or non-AIPRC related legislative and oversight needs in Indian affairs. These include a wide variety of issues addressing long overdue needs of individual tribes in such areas as water rights settlement legislation, petitions for restoration of previously terminated tribes, and fulfillment of longstanding U.S. commitments to transfer various lands in trust for a number of tribes.

Adding to the complexities in Indian affairs which the Congress must face and which the Indian Affairs Committee has begun to address is the resolution of Indian claims for land taken in violation of the Indian Trade and Intercourse Act in the late 1700's and early 1800's. Most widely known are the Passamaquoddy and Penobscot Indian claims in Maine. Similarly, the Catawba Tribe has asserted a claim in South Carolina, the Wampanoag in Massachusetts, Narragansett in Rhode Island, and the Oneida in New York. The committee is attempting to identify a reasoned and principled legislative approach to such situations. The interests and responsibilities of disparate groups must be considered in sensitive negotiations resolving these claims.

SPECIFIC LEGISLATIVE AND OVERSIGHT ACCOMPLISHMENTS

In the 1st session of the 95th Congress, the committee reported out 22 bills, all of which passed the Senate. A backlog of individual tribal legislation has been largely cleared up and several far-reaching legislative proposals implementing specific AIPRC recommendations have been enacted in the Senate. I have submitted with this statement a complete listing of all committee bills indicating their relative status.

I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABOUREZK. Mr. President, one example I would like to bring to your attention is the Indian Child Welfare Act. This bill establishes standards for the placement of Indian children in adoptive and foster homes and authorizes the establishment of family development centers on reservations. The standards included in the bill provide much needed protection for the rights of Indian children and should bring a halt to abusive practices of some State and private child agencies regarding the placement of Indian children in nonIndian institutions and homes. The Senate bill has been referred to the Interior and Insular Affairs Committee in the House where early action is indicated.

The Indian Community College Act which provides administrative operating support for Indian community colleges on approximately 20 reservations has also been favorably reported out of committee and passed by the Senate. Such support is absolutely necessary if these institutions are to continue to provide their reservation communities with extremely valuable higher-education services. This bill has been referred to the Education and Labor Committee in the House where a parallel proposal also awaits committee action. Again, indications are that the House Education and Labor Committee will place this proposal on its agenda early next year.

Oversight hearings regarding significant problems in the administration of Indian affairs have been held and the follow-up committee staff work has resulted in the preparation for introduction of a number of bills which will implement still other priority Policy Review Commission recommendations. The need for this legislation was extensively documented in the AIPRC final report and, again, through hearings conducted by the Select Committee.

I am today introducing a number of such legislative proposals, including: First amendments to Public Law 93-638, Indian Self-Determination Act—these amendments would implement a new and much needed provision in this law which was intended to bring about a transfer of control over the Bureau of Indian Affairs and Indian Health Service services from the Federal Government to Indian tribes. The amendments authorize and direct the Secretary's of Interior and HEW to award a consolidated single grant to each tribe which submits a comprehensive plan for the administration of some or all contractable BIA and IHS services. This single grant mechanism will eliminate the need for individual contracts which, under existing law, tribes are required to enter into for each individual service they desire to administer. Excessive paper work, red tape, and other contract procedures will no longer be necessary. Further, each tribe will be entitled to administer the single consolidated grant with much more flexibility and to design a tribal plan to actually address the needs on each reservation rather than follow the dictates of Federal contracting officials. Finally, the amendments include technical clarifications needed in the law.

Second. A legislative requirement that the Secretary of Interior submit to the Congress an annual report evaluating and documenting the total range of Federal services presently being provided to Indian tribes has also been introduced. For the first time Congress, the public, Indian tribes, and even the executive branches will have available not only information on what the Federal Government is actually doing in the area of Indian affairs, but also an estimate of the tribal needs for such services. The law will require the Secretary to estimate tribal needs in categories such as road construction, housing, natural resource inventories, et creta, and, in parallel column in the annual report, indicate the level of Federal services presently being provided to meet these needs.

Third. Legislation designed to give policy guidance and direction to the Secretary of the Interior regarding the issue of so-called nonrecognized Indian tribes. The Federal Government has been guilty of serious neglect in responding to petitions of tribal groups seeking an acknowledgment of their status as legitimate successors in interest of Indian tribes who have never been brought into the Federal-Indian relationship. The AIPRC established that in most instances the absence of the Federal determination of tribal status has been due to typical bureaucratic procrastination rather than responsible evaluation or legal judgment. However, this policy, of neglect has magnified administration problems leading to conflicting treatment of such groups by the different Federal agencies. The legislative proposal I am introducing sets forth clear guidelines by which an administrative determination of tribal status can be made and directs the Secretary of Interior to take action within set timetables.

Parallel legislation authorizing and directing the Secretary of Interior to act on petitions from tribal groups who were subjected to the termination of their trust relationship is now being prepared for introduction early next year. As a matter of record, the Congress has repudiated the termination policies of the past and specifically restored the Federal relationship of the Menominee Tribe of Wisconsin and, most recently, the Siletz Tribe of Oregon. General legislation authorizing restoral of tribal status under the law to these few tribal groups who have survived will eliminate the need for costly individual legislative efforts on their part.

Fourth. Finally, I am introducing a Senate Joint Resolution directed at clarifying Federal policy relative to the religious rights of Indian traditional groups. Representatives of traditional Indian religious societies have sought to protect their rights, to have access to sacred religious sites, to make use of a variety of natural substances and wildlife in the practice of their religion and to secure privacy for sacred ceremonials. Infringement of these rights have consistently occurred due to enforcement of conservation laws which simply failed to take into account their impact on such Indian religious and cultural practices. While our resolution does not attempt to specifically amend existing legislation, it does call for examination of relevant Federal laws and procedures for the purposes of making appropriate changes in their administration. This fundamental question of Federal policy represents an issue all Americans can readily understand and support. I hope that expeditious action on the resolution will lead to securing the exercise of those rights on the part of all Federal officials.

Although specific legislative proposals are still in the preparation phase, the necessary research and drafting is well underway on the Federal Indian law, title 25, United States Code, recodification and revision project which the committee has undertaken as a priority recommendation of the AIPRC. Several chapters are available in draft form and comments from the public and executive department agencies regarding these draft chapters will be solicited. A comprehensive recodification bill is the objective of the committee and estimates are that such a bill will be available in early summer.

Indian tribal participation in the Federal domestic assistance program system has also been identified as a priority matter. The AIPRC report extensively documents the variety of obstacles which now exist for tribes who seek assistance under these programs which are designed to support local units of government in the delivery of basic services. Committee oversight hearings have made it clear that a combination of legislative approaches must be devised to address divergent statutory and regulatory obstacles to full tribal participation in the total range of these local governmental assistance programs. We anticipate that continued staff research should result in legislatively clarifying tribal program eligibility status and establishment of a coordinating administrative mechanism early this coming year.

Finally, the committee is also considering a legislative proposal designed to address certain legal obstacles to tribes and States interested in entering into compact or intergovernmental agreements. The AIPRC recommended that legislation which would attempt to define or change the jurisdictional relationship between the tribes and States or counties would be inequitable, and unworkable. As documented in the AIPRC report, past attempts by the Congress to legislatively resolve such questions have proved their ineffectiveness. The great variety in the administrative and logistical capacities of Indian tribes and the differences in existing relationships which they now have with local governments are such that no single blanket legislation could ever adequately resolve existing jurisdictional problems nor fairly distribute the assignment of local governmental responsibility.

For these reasons, the AIPRC recommended that no such blanket legislative proposals be adopted but that the responsible solution to resolving such jurisdictional disputes between Indian tribes and local units of government would be in the direction of compacts or intergovernmental agreements which could be tailored to the situation or the status of each tribe. Such compacts could be freely modified by either tribe or State if a change circumstances called for it.

Additional research by committee staff has identified existing Federal statutes which call into question the authority for such compacts to the extent that they may require a transfer of jurisdiction from the tribes to the States or vice versa, in some subject areas. For example, if tribes and States should agree to share responsibility over the commitment of mental patients to State institutions, Federal law would pose an obstacle toward any such sharing of jurisdictional responsibilities. To cure this obstacle, the legislative proposal being considered by the committee would simply provide general authority for such compacts notwithstanding any conflicting provision of Federal law or self-limitation to jurisdiction over Indian matters found in State enabling acts. This authority would be coupled with a provision making available Federal support to States and tribes as needed to meet the governmental responsibilities addressed in such compacts. In most cases, the potential for local revenue raising efforts to pay for Government services provided on Indian reservations is limited. Since Indian matters are first of all a Federal responsibility, it is appropriate that Federal support be made available for such services.

Taken together, these legislative proposals to implement major recommendations of the AIPRC report constitute a very considerable achievement. All represent needed revisions and updating of Federal law and policy as called for by the AIPRC. We are confident that these legislative proposals after they have been refined sufficiently through the committee process and modified in response to public testimony will be readily adopted by the Senate.

Mr. President, as chairman of the Select Committee on Indian Affairs, formerly Chairman of the American Indian Policy Review Commission and chairman of the Indian Affairs Subcommittee during the 93d and 94th Congresses, I believe I have acquired more than a passing familiarity with questions of Federal Indian policy.

I can sympathize with those who may find themselves confused over Indian affairs issues. Many of the legal and policy questions in this field are complex, requiring considerable knowledge and experience to understand and place them in proper perspective.

Yet, lack of coherent policy based on a knowledgeable and balanced perspective has resulted in the past in the adoption by Congress of proposed solutions which have proved to be unwise, inequitable, and, literally, unworkable. In some instances, such as the allotment and termination legislative areas, attempts by Congress to simplistically resolve Indian issues have only compounded the problem.

As you can see from the above survey of the select committee's activities during the past year, we are on the brink of bringing to resolution some very fundamental issues which go to the heart of our Government's responsibilities in Indian affairs. Nearly all of these legislative proposals represent initiatives which are the result of years of effort by the Congress and the Indians themselves. Although the legal and policy propoals are sometimes themselves complex, I am convinced that they are all well thought out, balanced, and most importantly, form a fair, consistent, and workable policy framework.

Mr. President, for the benefit of our colleagues who may still find Indian affairs a confusing field, let me emphasize that there is a single comprehensive and easily understood policy at work here. I refer to the policy of self-determination which incorporates the goal of economic self-sufficiency for Indian tribes. This is a policy and objective wholeheartedly shared by every Indian tribe in this country and has been officially adopted by the last three Congresses.

Simply stated, the policy of self-determination stands for the right of Indian people to choose for themselves, free of Government domination and paternalism, the direction which they will take. Government support for this policy entails support of those means which will best assist Indian tribes in achieving economic self-sufficiency which in turn is the only practical way of moving away from total dependence on the Federal Government.

I submit, Mr. President, that taken singularly or together, the legal and policy initiatives identified by this committee are premised on the policy of self-determination. This legislative program which the committee has adopted works toward the objective of Indian self-sufficiency. Further, this is an objective which, when combined with a balanced and evenhanded legislative policy, is deserving of total bipartisan support in the Congress.

Mr. President, the creation of a temporary Select Committee on Indian Affairs under Senate Joint Resolution 4 represented a major step forward in the Senate's approach to Indian affairs. By this move, the Senate has provided an adequate forum for legislating appropriate solutions to problems affecting Indian people. I believe that through its efforts, the Select Committee on Indian Affairs has thus far enabled the Congress to begin living up to its responsibility to protect the legal status of Indian people and to preserve and enhance their rights and assets. It is my hope that the Senate will see fit to continue viewing the Select Committee on Indian Affairs as an appropriate vehicle for meeting this congressional responsibility.

EXHIBIT 1

LEGISLATIVE ACTIVITY IN THE 1ST SESSION, 95TH CONGRESS

During the 1st session 50 bills, 2 Senate joint resolutions, 2 Senate resolutions, 4 House bills and 1 House joint resolution were referred for consideration to the Select Committee.

MEASURES ENACTED INTO LAW

Public Law 95–5 (S.J. Res. 10): To extend the period of time in which the American Indian Policy Review Commission must submit its final report and to increase the authorization of appropriations for such Commission.

Public Law 95–64 (H.J. Res. 239): To amend the statute of limitations provisions in sec. 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians.

Public Law 95–68 (H.R. 4992): To amend the Indian Financing Act of 1974 by revising the appropriations authorization for the Indian business development program.

Public Law 95–69 (H.R. 4585): An act to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes.

Public Law 95–103 (S. 1377): To extend the time for commencing actions on behalf of an Indian tribe, band, or group.

Public Law 95–133 (S. 667): To declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

Public Law 95–191 (H.R. 6348): A bill to convey to the Ely Indian Colony the beneficial interest in certain Federal land.

Public Law 95–195 (S. 1560): To restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

MEASURES ACTIVELY CONSIDERED

S. 482, Mr. Domenici and Mr. Schmitt: Directing the Secretary of the Interior to acquire for the Zuni Tribe the Zuni Salt Lake; allowing Tribe to have an aboriginal land claim heard by the Court of Claims; and authorizing Tribe to purchase and exchange lands in New Mexico and Arizona.

Passed the Senate on May 3; the House Subcommittee on Indian Affairs and Public Lands has approved for full Committee action.

S. 660, Mr. Bartlett and Mr. Bellmon: Authorizing the Secretary of the Interior to negotiate agreements with the Cherokee, Choctaw and Chickasaw Nations of Oklahoma regarding their interests in the Arkansas Riverbed.

Passed the Senate on June 30; the House Interior Committee in markup session on November 30 voted to recommit the measure to Subcommittee.

S. 661, Mr. Bartlett and Mr. Bellmon: Reinstating the Modoc, Wyandotte, Peoria, and Ottawa Tribes of Oklahoma to Federal recognition and supervision.

Passed the Senate on November 3; hearings have been conducted before the House Subcommittee on Indian Affairs and Public Lands.

S. 773, Mr. Bartlett: Authorizing the Wichita Tribe of Oklahoma to have an aboriginal land claim heard by the Indian Claims Commission.

Passed the Senate on May 5; House Interior Committee has reported a companion measure in the House.

S. 785, Mr. Cannon and Mr. Laxalt: Declaring that certain lands owned by the United States be held in trust for the Paiute and Shoshone Indians of the Fallon Indian Reservation; providing for transfer of certain existing water rights and providing for the development of an irrigation system.

Passed the Senate on October 17; no action yet in the House.

S. 838, Mr. Abourezk: Authorizing the Court of Claims to reconsider the case of the taking of the Black Hills of the Great Sioux Reservation by waiving the defense of res judicata.

Passed the Senate on May 3; House Interior Committee has reported a companion bill to the House.

S. 947, Mr. Bartlett: Transferring five acres of Federally owned land to the Creek Nation of Oklahoma.

Passed the Senate on June 9; no action yet in the House.

S. 1214, Mr. Abourezk, Mr. McGovern, Mr. Humphrey, Mr. Haskell, Mr. Burdick: Establishing standards to govern the placement of Indian children or adoptive care settings.

Passed the Senate on November 4; no action yet in the House.

S. 1215, Mr. Abourezk, Mr. Burdick, Mr. Gravel, Mr. DeConcini, Mr. Jackson, Mr. Goldwater, and Mr. Domenici: Authorizing basic operating grants to tribally controlled community colleges; authorizing construction funds for the Navajo Community College.

Passed the Senate on November 4; the Advisory Study Group on Indian Education of the House Committee on Education and Labor has conducted hearings on a companion bill.

S. 1291, Mr. Bartlett: Transferring 107 acres of Federally owned land in Oklahoma to the Cheyenne-Arapaho Tribes of Oklahoma.

Passed the Senate on June 9; no action yet in the House.

S. 1509, Mr. Domenici and Mr. Schmitt: Providing for the return to the United States of 11.6 acres of land presently owned by the Indian Pueblos of New Mexico to be held in trust for them by the United States.

Passed the Senate August 5; the House Interior Committee has ordered the measure favorably reported to the House.

S. 1582, Mr. DeConcini and Mr. Goldwater: Making available a temporary water supply for the Ak-Chin Indian Community in Arizona until a permanent supply can be delivered.

Passed the Senate October 11; the House Interior Committee has ordered the measure favorably reported to the House.

H.R. 2719, Mr. Lujan: Authorizing the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico to pay operation and maintenance charges on certain Pueblo Indian lands.

Passed the Senate, amended, on November 3; returned to the House.

AUTHORIZATION FOR DEPARTMENT OF COMMERCE TO RETAIN TITLE TO AND JURISDICTION OVER A CERTAIN TRACT OF LAND

Mr. HASKELL. Mr. President, I am introducing legislation authorizing the Department of Commerce to retain title to a tract of land near the National Bureau of Standards in Boulder, Colo.

The citizens of Boulder raised $63,000 to purchase this undeveloped acreage. It was then transferred to the Federal Government with the understanding and hope that it would be protected in its natural state.

The General Services Administration has now declared the land excess, and intends to offer this open space for sale to private commercial interests. Presumably there could be industrial development on the site.

Mr. President, I think that it is very important the conditions accompanying the gift of this land be honored. To do otherwise would spoil a beautiful natural setting contrary to the present wishes of the city officials and many people in the Boulder area.

I ask unanimous consent that the text of the bill be printed in the Record at this point and that the bill be jointly referred to the Committee on Commerce and Committee on Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, title to and jurisdiction over the following described tract of land at the National Bureau of Standards site at Boulder, Colorado, shall be transferred to, or retained by, as the case may be, the Department of Commerce until such time as Congress shall, by law, otherwise provide:

All that portion of the NW¼ of the SW¼ and that portion of the SW¼ of the NW¼ of section 5, township 1 south, range 70W of the 6th PM line westerly of Broadway. The N½ of SW¼ and the N½ of SE¼ and all that portion of the SE¼ of the NE¼, of section 6, township is, range 70W of the 6th PM, line westerly of broadway, except all that portion of the N½ of the SW¼ line within Koehler Reservoir as described in book 982, page 492.

THE PROPOSED COMPREHENSIVE TEST BAN WILL NOT BE RATIFIED

Mr. McCLURE. Mr. President, at present, the U.S. negotiating team is hard at work in Geneva seeking to negotiate a ban on the testing of all nuclear weapons. The objective is to achieve a treaty providing for a Comprehensive Test Ban (CTB). Regretably, I have learned that the United States is being ill-served by our current negotiating posture. Indeed, should our negotiators be successful in achieving a treaty in the context of our current negotiating guidelines, they will have succeeded in making the world far more dangerous for the United States.

Although the details of our negotiating posture are of a complex technical character, the fundamental flaw in our negotiating posture is simple. The U.S. negotiating posture will unequally limit verifiable underground nuclear tests. That is, the limits of verification on underground nuclear tests by any of the means which have been proposed will make it possible for the Soviet Union to continue to conduct a nuclear test program up to militarily significant levels of explosive yield without a significant chance of detection. The Congress would not support a clandestine nuclear test program in violation of a treaty, so the United States would be enjoined from further testing. Unless the content of a future agreement is changed to correct this compelling inequality, I am confident that such a treaty will be vigorously opposed, and ultimately defaulted in the Senate.

A recent essay has been published in the fall, 1977 issue of Strategic Review by one of the Nation's leading experts on nuclear weapons, Donald R. Westervelt. This thoughtful and informative essay explicates the fundamental problems of a CTB, and provides useful guidance to the Congress on this complex subject. I ask unanimous consent that the text of Dr. Westervelt's essay be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

Candor, Compromise, and the Comprehensive Test Ban

(By Donald R. Westervelt)

IN BRIEF

(The United States and its allies rely on a stockpile of thermonuclear weapons for their security. High confidence in that stockpile results from a strong technology base, which in turn depends on a continued research, development and test program. An important assumption underlying the U.S. commitment to a Comprehensive Test Ban (CTB) has been that the CTB would affect stockpile confidence equally in East and West, and therefore not affect the strategic balance. This assumption is false. In the Soviet Union the necessary technology base can be maintained and stockpile problems corrected by testing at yields so low as to be unobservable. Under a CTB, similar tests would not be carried out by the United States, and our technology base and stockpile confidence would erode while those of the USSR would not. If further limitations on testing are desired by the Carter Administration, it should seek a compromise short of a CTB. It should not restrict testing in the United States to levels below those that must be presumed available to the Soviet Union in its closed society, taking into account the best estimates of the U.S. verification capability. Prohibitive activities should be defined in terms of externally observable phenomena. A compromise of this kind would at least partially accommodate the security problems peculiar to nuclear weapons states. It would also lead to an equitable sharing of risks and benefits among all states—nuclear and non-nuclear, parties and non-parties alike.)

In a speech in May 1976, Jimmy Carter proposed that "The United States and the Soviet Union should conclude an agreement prohibiting all nuclear explosions for a period of five years whether they be weapons tests or so-called 'peaceful' nuclear explosions, and encourage all other countries to join." He went on to describe the (as yet unratified) 150-kiloton threshold test ban treaty (TTBT) as "a wholly inadequate step beyond the limited test ban."

On the question of verification, Mr. Carter asserted that "Our national verification capabilities in the last twenty years have advanced to the point where we no longer have to rely on on-site inspection to distinguish between earthquakes and even very small weapons tests." "Very small" was not defined further, but the apparent implication was that no tests the Soviets might conduct under the proposed Comprehensive Test Ban (CTB) could significantly and adversely affect U.S. national security. Within days of his inauguration as President, Mr. Carter announced that he intended to work immediately toward a CTB, and he initiated an interagency study to that end.

President Carter's principal arms control negotiator, Paul C. Warnke, is publicly committed to verifiability as a sine qua non of any arms control agreement. Presumably Mr. Warnke is equally committed to the President's desire to see an end to nuclear testing. But close examination shows that commitments to verifiability and, simultaneously, to a CTB are irreconcilable; compromise thus cannot be avoided. What follows is an explanation of why some continued testing—even if it is severely limited—is essential to the security of any nuclear weapons state, and why the minimum essential testing can be continued by the Soviet Union under any kind of test-ban agreement, but not by the United States unless such tests are specifically exempted from prohibition. It is also suggested how the United States might proceed if limits on testing and preservation of national security are judged to be equally valid goals.

THE CTB AS A NATIONAL OBJECTIVE

The goal of a Comprehensive Test Ban has been an *idée fixe* at home and abroad for roughly two decades. So it remains, although the main alleged benefit from such an agreement has changed, present emphasis being on nonproliferation. Any compromise of the goal of a CTB, in the eyes of those who believe in its linkage to nonproliferation objectives, will naturally be deemed to prejudice those objectives.

A value judgment is involved: It has become fashionable to attach such overriding importance to the problem of nuclear weapons proliferation that any action having even a hypothetical link to its solution is considered by many to be desirable, no matter what its cost in other areas. Such costs have often been unrecognized initially; when they have been articulated later, policy has responded and concessions have—reluctantly—been made.

The CTB is a case in point. The costs to the United States of a CTB have not been fully disclosed. More importantly, it has not been explained that there are technical and political factors operating that will effectively exempt the Soviet Union from those costs, and that this must eventually lead to greatly diminished security in the West. Nor has it been made clear that this asymmetry can be substantially alleviated by altering the declared U.S. policy, and adhering in negotiations to a suitably revised policy.

Dr. Michael M. May[1] and Dr. John C. Hopkins[2] have argued persuasively that a CTB is not in the interest of the United States, even if it is perfectly verifiable; their arguments rest largely on the inevitable decline of U.S. nuclear weapons technology under a CTB and the resulting reduction in confidence in our deterrent forces. Dr. May points out that—

> For the foreseeable future, our relationship with the Soviet Union will involve a mixture of cooperation and deterrence. We must in particular continue to rely on nuclear forces. . . . We may not like this, but short of a verified complete nuclear disarmament we have no choice.[3]

He continues:

> A complete nuclear test ban will not help in that situation . . . its consequence would be to introduce some unmeasurable uncertainty in our deterrent ability without in any reliable way lessening the threat that either side poses to the other. This hardly seems a wise kind of arms control.[4]

CTB advocates tend to discount this argument. A typical statement is the following:

> Any diminution of confidence in the reliability of a nuclear stockpile should operate with comparable effect on all nuclear powers that are parties to the Treaty, and hence a CTB could be a stabilizing factor which would actually enhance the existing state of mutual deterrence.[5]

The allegation of symmetry in effects on stockpile confidence is an essential element of much CTB advocacy, yet it is demonstrably false for reasons that have heretofore not been adequately explained. Since this allegation is false, the remainder of the quoted statement, which is seldom the subject of further analysis (and none is attempted here) is merely a non-sequitur. A CTB at this time would not, in fact, be a stabilizing factor. It would not enhance mutual deterrence; rather it would lead inevitably to a bias in favor of the Soviet Union that the United States could most likely not overcome. In the words of Dr. Harold Agnew,

> Unless really meaningful reductions are agreed to by the U.S.S.R. both in nuclear delivery systems and in conventional forces, I would oppose any further restrictions on nuclear testing. . . . to me a limit on testing without a real SALT and MBFR agreement would eventually be disastrous for the free world.[6]

Why then has a CTB so long survived as a declared national objective of the United States? Why has momentum toward this objective increased under the Carter Administration when MBFR is reportedly in limbo, SALT is facing impediments, and massive nuclear missile as well as conventioned weapons deployments are under way in the Soviet Union? President Carter, in his September 29, 1977 news conference, said: "I recognize that progress on SALT leads to further progress on a comprehenive test ban . . ."; this statement, like Agnew's, suggests that test restrictions and the regulation of arms are interdependent with the former subordinate to the latter.

THE POLICY DILEMMA

For many years "It has been the consistent policy of the United States to support the conclusion of a CTB in an adequately-verifiable agreement."[7] This policy suggests that there should all along have been a corollary policy; to develop, with a CTB in view, a stockpile of "wooden weapons," which could be defined as weapons requiring no technology base or tests for their maintenance or replacement. Many unclassified sources, however, demonstrate that the United States does not now have such a stockpile and that, in fact, just the opposite is true.[8] (The feasibility and desirability of building such a stockpile, and the time and cost to do so, are issues to long ignored by both sides in the CTB debate.)

The United States, further, has defined "adequate verification as that which would reduce to an acceptable level the risk that clandestine test programs of military significance could be conducted under a CTB."[9] However, according to Donald Brennan, "No criteria have been given, or are at all likely to be given, for what would constitute adequately verified.' "[10] Brennan continues:

> Repetition of the standard incantation goes on and on. It enables the Government to pose as if it favored a CTB without really coming to a collective decision whether it does or not. The incantation is not quite an outright lie, but it is certainly dishonest to a degree that I find unworthy in any government, most especially my own . . . I should rather see the Government adopt the position advocated by May, and forthrightly disavow any intention of participating in a CTB, in preference to continuing the sham of favoring an "adequately verified" CTB.[11]

Brennan is correct in his criticism, yet his list of alternatives is not complete; it is not an either/or choice we face but rather a compromise necessitated by technical realities.

Advocates of a CTB consistently question the military significance of clandestine tests the Soviet Union could conduct under such a treaty. A typical statement is that of Halperin et al.:

> Clandestine testing would be limited to detonations of a few to several kilotons—with great effort warheads of a few tens of kilotons might be involved. It is a startling and important fact that no one seems to suggest a way in which even unlimited clandestine testing by the Soviets at this level could shift the strategic balance in any significant way.

To this point their statement has not been publicly challenged, but these CTB advocates go on:

> In effect, if the United States agreed to halt all tests while permitting the Soviet Union to test below the threshold of, for example, 20 kilotons—no important strategic effect is foreseen. Thus, if the test ban is desirable, it is desirable without regard for the problem of cheating, or the problems of inspecting for cheating.[13]

This view is wholly incorrect; for the reasons mentioned above, and explained in later sections, such testing could and almost inevitably would lead to a dramatic change in the strategic balance, favoring the Soviet Union, within a few years.

The statements quoted here illustrate a policy dilemma. Failure to resolve this dilemma has frustrated allies and friends of the United States, and has led to charges of insincerity, duplicity or worse, aimed at both superpowers in such negotiating bodies as the Geneva Conference of the Committee on Disarmament (CCD), and in such sounding boards as th United Nations and the unsuccessful 1975 Non-Proliferation Treaty Review Conference. As Brennan puts it—

> No such (verification) criteria are possible that would not either result in essentially defining a CTB as unacceptable, on the one hand, or in allowing a CTB in which abstention by the Soviets (among others) from all tests of potential significance cannot be verified on the other.[14]

The dilemma is real, and the results is that the United States is in a predicament. We

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Footnotes at end of article.

reached the predicament in the usual way—by making mistakes. A choice has to be made. The basic one, of course, is between the alternatives of continuing to pursue the objective of a CTB, inadequately verified according to our own definition, or of lowering our sights toward a more modest agreement that can be adequately verified, while recognizing and accepting the resulting political costs. Secondary choices arise if the latter alternative is selected, involving the precise form of verifiable agreement to be reached. The immediate question, however, concerns the first alternative. Is it one that we can safely consider at all? I have already suggested that it is not.

THE ORIGINS OF THE PRESENT PREDICAMENT

The United States is in a predicament on the Comprehensive Test Ban issue because it made mistakes, two of which were of fundamental importance. As May observed, whether we like it or not, most of the U.S. defense posture today, and that of our allies, is based on a stockpile of nuclear weapons in whose performance we have high confidence. We face a potential adversary similarly armed. Deplorable as the present situation is in the view of many sincere and concerned people, the way we got into it is less relevant to this discussion than the fact that we are in it. It follows that national policy regarding nuclear weapons testing must recognize this reality, as well as the problems we face in extricating ourselves while preserving a deterrent capability as long as it is needed. We cannot turn back the clock to the age of nuclear innocence, by ourselves or with the help of others. We can, however, endeavor to back the scorpions out of the bottle, with all the care that such an enterprise demands. A CTB, as May points out, would be counterproductive as a component of this effort, because it would raise serious problems of instability.

It is argued by CTB advocates that the United States possesses 30-odd warheads each for the 219 major Soviet cities, but how is this relevant if destruction of these cities can only be at the cost of our own? Our reported 8,500 strategic warheads are distributed among a small number of relatively large weapons systems, and a flaw—should one develop—in a single major system could profoundly alter the qualitative characteristics of our deterrent forces structure. Edgar Ulsamer has already described such a problem; it developed in the original Polaris SLBM system.[15] A major problem in the more modern Poseidon system could reduce U.S. forces by some 5,000 warheads, and deprive us of what most observers regard as the most stabilizing element of the strategic Triad. (It is worth noting here that there is clearly a strong correlation between strategic doctrinal preferences and attitudes regarding the CTB: the CTB is more acceptable to those who continue to maintain that populations are legitimate—perhaps the only legitimate—targets in a nuclear war, or who favor a posture of "minimum deterrence." Such views are not shared by this author.)

What were the mistakes that "boxed-in" the United States on the CTB issue? First, and this mistake was shared by many states—including particularly those labeling themselves "nonaligned"—the problem of controlling nuclear weapons tests was explicitly divorced from the larger problem of disarmament.[16] It should have been clear that the subjects are inseparable. Reliance on nuclear weapons for their security by major powers can only be lowered by genuine progress in the reduction of arms, conventional as well as nuclear. This, in turn, can result only from political progress leading to lessened dependence on the threat or use of force in the conduct of affairs between states. The nuclear weapons states (NWS), in fact, maintained their position on the importance of this linkage longer than those pressuring them to abandon testing as a "step toward disarmament," but by 1962 the separation of the issues in the multilateral negotiating arena was practically complete. That arena, however, is only one facet of the real world in which the nuclear weapons states live, and conflict between declaratory policy and substantive action was inevitable. The declaratory policy could have been altered much earlier, and today's predicament avoided, if the technical facts had been clearly recognized; but they were not. That was the second mistake.

What the United States did instead was misdirect its public interests, and to a large extent its private concerns, about the risks involved in a CTB. The United States wanted only to obtain adequate assurance that other parties could not test, clandestinely, under a CTB. Actions by the other principal party, the Soviet Union with its rigidly closed society, were the primary, if not the only, expressed concern. If this concern could be satisfied, then—we alleged—a CTB must be advantageous.

A much more serious problem, however, involves not only what the Soviets *could do* under a CTB, but also what the United States *could not do;* with the virtually absolute self-verification imposed by our open society, the United States could do no testing at all, and this is critically important.

It is at least arguable that clandestine development of new weapons under a CTB by either of the major nuclear powers is unlikely to affect the strategic balance in a major way. The real problem, however, involves the effect of a CTB on the strategic balance when, under such an agreement, one side (the Soviet Union) can maintain high confidence in its stockpile, while the other (the United States) cannot. This confidence can be maintained by the Soviets without question, under the circumstances described by Halperin *et al., but it cannot be maintained with no testing at all.* It is clear that the resulting asymmetry should have been the major CTB concern from the outset, but even now it has not been fully explained to the American public or to the Congress.

THE PROBLEM OF STOCKPILE CONFIDENCE

In spite of a highly developed nuclear weapons technology (or more likely because of it), significant problems have emerged in the U.S. weapons stockpile in the past, and we must prudently expect them to occur in the future.

Recognition of these problems, as well as their solution, has depended above all on the existence of a competent nuclear weapons technology, and that competence can be maintained only with continued testing.[17] It is not unlimited testing that is needed; permitted levels of yield and effort could be substantially less than they are today, but they cannot be zero. Given a competent technology base, many identified stockpile problems do not require specific tests for their solution; experience based on other tests may suffice to provide well-founded, professional answers. On the other hand, other problems occur that can be solved only through testing. The essential point is this: Both the maintenance of the necessary technology, and virtually all of the occasional specific tests needed for correction of recognized stockpile problems, can be accomplished in the yield range which is dismissed by Halperin *et al.*—and by many others—as having no significance for the strategic balance. This statement is explained further in the next section; the explanation supports the opposite view, that "much could be achieved by tests which fall into a yield range below the existing estimates of the threshold of a verification system." This remark was made by United Kingdom Ministry of Defense Representative Dennis Fakley in 1976 at an informal meeting with experts of the Conference of the Committee on Disarmament.[18]

Mr. Fakley describes that threshold as "a few tens of kilotons," taking into account potential detection/identification capabilities as well as the effects of low-coupling geologic media and possible evasion techniques. The U.K. statement correctly stresses the importance of tests in that yield range for four main purposes, first of which is "the maintenance of stockpiled weapons in an entirely safe yet serviceable condition." The U.K. estimate of a few tens of kilotons is supported by the analysis of Professor of Seismology Bruce A. Bolt,[19] when his factors for emplacement effects are used, and both are more liberal than the twenty-kiloton figure used by Halperin *et al.* and are probably more realistic.[20]

The asymmetry of concern here results from the fact that in the United States treaties are the supreme law of the land, and an alert public and investigative press would not tolerate violation of that law. Therefore the United States would do no testing under a CTB. However, in the Soviet Union treaties are not self-enforcing; they do not become law unless there is the passage of domestic enacting legislation (which was never done, for example, in the case of the Limited Test Ban Treaty of 1963). Even should such legislation be passed, there exists no process through which a voiceless Soviet public could force compliance.

According to Professor Zigurds Zile[21] of the University of Wisconsin School of Law, nothing in the Soviet legal system could operate to secure enforcement of an agreement whose violation would be unobservable from outside its territory; compliance could only be expected if it were determined by the highest Soviet authorities to be in their own interests (the role of the occasional defector cannot be discounted, but it is a slender reed on which to depend when vital national security matters are at stake on both sides). The problem is further compounded by recent disclosure of a parallel—and secret—legal system in that country, dealing with matters classified as "political."

Thus test activities unobservable from outside the Soviet Union, which include virtually the entire range the United States would consider necessary for basic technology maintenance and stockpile repair, would be subject to no internal constraint. Soviet abstention from such tests would have to be taken on faith by the West.

TECHNICAL EXPLANATIONS

There is, as implied earlier, a specific reason why tests in the low-yield range are of critical importance. It has to do with the way nuclear weapons are built. It is now widely understood that thermonuclear weapons—the ones of greatest importance when one is discussing the strategic balance—are designed on the principle of using energy from a fission device, to trigger a fusion or fusion-fission reaction.[22] A fission device may involve the use of high-explosive components to convert the fissile core from a subcritical configuration to the supercritical configuration required to provide a nuclear chain reaction. The design of thermonuclear weapons is severely constrained by the requirements of the specific delivery systems for which they may be intended, but at the same time it must meet safety requirements arising from the presence of the high-explosive. Safety under any credible accidental condition, and even under deliberate attack by revolutionary or terrorist forces, must be assured. All of these things require extensive testing.

But the entry into stockpile of a fully tested weapon is not the end of the story. Michael May notes that "Weapons are like any other hardware (actually worse than most, because the materials that have to be used are often chemically unstable or radioactive) in that they occasionally have to be repaired, and they will eventually have to be

Footnotes at end of article.

replaced. Replacements will likely be different from the originals because available materials change, as do safety and economy requirements." [23]

Stockpile problems do occur, and they cannot be ignored. Historically, the resolution of such problems, particularly those that have arisen early in a weapon's stockpile life, has been accomplished on the basis of nuclear tests whose yields have been in the range of a few tens of kilotons or less (tests in the lower range being in fact the more frequent).

The kinds of problems encountered have been described by the then Assistant to the Secretary of Defense, Atomic Energy, Dr. Carl Walske.[24] As he pointed out, they have generally made it necessary to change the design of the nuclear assembly system of the warheads in question in some important way. Stockpile problems, he testified, had resulted from developing metallurgical or mechanical problems, or from stricter standards of nuclear safety. In one case not mentioned by Walske, the United States placed a new weapon in its deployed stockpile with high confidence during the 1958–1961 moratorium on testing. This confidence was based on extensive and complex calculations, supported by elaborate non-nuclear testing that appeared to confirm those calculations. Not until 1963 was a nuclear test worked into the post-moratorium schedule to confirm the performance of this weapon; it was found to be totally inadequate and an additional test was necessary during its redesign. The successful redesign effort, as demonstrated by this test, provided assurance that the stockpile deficiency had been fully resolved.

As noted earlier, not all stockpile problems that are identified require a nuclear test for their resolution. They may, however, in some cases be recognized in the first place primarily on the basis of other tests conducted in the continuing Research, Development and Test (RD&T) program, and professional judgments leading to their solution may be based on the results of such tests. The question of nuclear weapon safety deserves special attention in this regard.

Nuclear weapons have been involved in accidents. Palomares, Spain, was the location of one such accident, in which—because of a collision between a B–52 bomber and a KC–135 tanker during a refueling operation—both planes crashed and four B–28 bombs (megaton-range thermonuclear weapons) fell to the earth. Two of the bombs suffered detonation of their high-explosive on impact with the ground; as a result, highly toxic plutonium was scattered widely, although no nuclear reaction occurred.

That no nuclear reaction occurred, which would have gravely complicated the clean-up operation and would have killed or at least severely threatened the health of those nearby, is a result of one of the design criteria for U.S. nuclear weapons: they must be "one-point-safe" in any credible accident or attack (there must be no nuclear yield, for example, if they are struck by a bullet that detonates the high-explosive). The one-point-safety requirement, as noted above, places severe restrictions on weapons design, and it is the cause of significantly more tests during their development than would otherwise be needed.

An important development has taken place recently that will further increase nuclear weapons safety: the development of an "insensitive high-explosive" (IHE). It would have been greatly preferable if no explosion at all had occurred during the Palomares incident; use of IHE in modern designs will successfully eliminate this problem. Its use, however, requires nuclear testing, again in the unobservable range of yields (at least unobservable, were the tests conducted in the Soviet Union), even when the purpose is a retrofit of existing stockpile weapons.

Safety tests are an integral part of the development of new weapons, but full understanding of the one-point-safety characteristics of a deployed weapon has, on occasion, been developed only after it has been stockpiled, as a result of other—seemingly unrelated—tests in the continuing RD&T program. And, in addition, safety criteria have sometimes been modified or reinterpreted after a tested weapon has entered production. In all such cases, successful redesign and the confidence achieved by actual tests of the new designs have made it possible to state that the stockpile deficiencies have been corrected. The new designs are tested because, in spite of the sophistication of available calculations and of non-nuclear laboratory tests, final assurance as to their safety and performance *cannot* be guaranteed without nuclear testing.

This statement is critically important to the thesis, advanced earlier, that some continued nuclear testing is essential for a nuclear weapons state, yet it is precisely here that candor must be compromised by classification. Two points, however, can be made: (1) Nevada Test Site test explosions often deviate significantly from their intended yield; [25] and (2) there is no single or simple explanation for the not-infrequent failure of nuclear test results to confirm expectations based on calculation and non-nuclear tests, but rather a multiplicity of causes, not all of which are fully understood. If it were otherwise and the problem were capable of solution with present technology, there would be no reason for this article.

As John Hopkins puts it, "the basic argument for not stopping testing is that the present stockpile requires experts for its maintenance and *experts cannot stay proficient without an R&D program that includes full-scale nuclear testing*." [26] Continued testing at the yield levels discussed here, even with the most optimistic estimates of future detection and identification capabilities, would be available to the Soviet Union without any possibility of external observation under a CTB, but not to the United States. Such testing would permit the Soviets to maintain high confidence both in their ability to recognize stockpile problems and to fix them while the United States could not. Thus there is no way to "reduce to an acceptable level the risk that clandestine test programs of military significance can be conducted under a CTB," by the Soviets or by other states having similar political systems. The ability to fix problems in the stockpile of one side, while the other is unable to do so, cannot be dismissed as having no significant effect on the strategic balance and therefore on stability. The millenium in which we no longer need our weapons stockpile has not yet arrived; until it does the United States must maintain the technology on which that stockpile depends.

THE NEED FOR ALTERNATIVES

The concerns described here are the fundamental, although heretofor unarticulated, reasons why an absolute CTB cannot safely be accepted by the United States, at least until the world is a very different place. While this should be acknowledged, at the same time there would seem to be an obligation for the United States to replace its declaratory objective of a CTB with something else that is consistent both with its commitment to arms control objectives and with basic national security. This obligation is inseparable from a parallel obligation on the part of the non-nuclear weapons states (NNWS) that are vocal advocates of a CTB: to recognize the special problems faced by the NWS and to refrain from demands whose costs to those states—particularly to those in the West and their allies—would far exceed the cost to the NNWS of a limited continuation of testing. (A step toward such recognition apparently has been taken by Sweden. In its recent draft treaty for a CTB, there is provision for a "phasing-out" period for testing by the NWS. Such phasing out, for example, could allow time for a transition to the "wooden stockpile" mentioned earlier, if that should be found to be desirable and feasible.) [27]

The United States, further, should link any steps to be taken toward such a revised test-ban goal tightly to reductions in levels of forces, both nuclear and conventional. The simplest goal would be that of a finite, but substantially reduced, threshold. Quotas are another possibility that has often been suggested. Either one, or a combination of the two, has advantages, but also serious verification shortcomings. There is an alternative proposal to be considered: The revised treaty objective should embrace fully the verification issue; it should involve a treaty that defines what is prohibited explicitly (there exists no generally accepted definition of a "nuclear explosion"); and that definition should be in terms of appropriate phenomena observable outside the territories of the nuclear states parties by other nuclear states parties, using their home-based national technical means. (Teleseismic observation and identification of hydrodynamic effects are suggested as the most appropriate criteria to be considered in the definition of prohibited activities; very large non-nuclear explosions would in this proposal require consultation and perhaps observation.) Activities that are not observable according to the agreed criteria, which could be designed to ensure fairly equivalent latitudes for the necessary programs on the two sides, would not be considered violations, and legally binding "safeguard" provisions in the United States could assure that U.S. activities are not asymmetrically constrained by over-zealous bureaucrats, as they are sometimes reported to be under the TTBT.

The role of the "Detection Club," the combined teleseimic efforts of the non-nuclear weapons states, parties or not, would appear in this concept to be secondary, but actually the Club would play a vital part in providing assurance to the rest of the world as well as to itself that "superpower collusion" was not frustrating the treaty objectives. The role of the Detection Club could be expanded in the context of a multilateral treaty (the pros and cons of which have not been sufficiently analyzed), if there should come into existence the kind of Global Cooperative Seismic Network proposed by Dahlman and Israelson,[28] having a capability to improve significantly on the ability of the NWS to monitor treaty compliance by each other. It should be noted, however, that even the most optimistic view of the Network's potential leaves a margin for undetectable tests within the Soviet Union that is adequate for the purposes described in this article—even though such tests would be precluded in the United States. Thus the basic argument for a compromise is unaffected by the Dahlman-Israelson proposal. An effective global system could result in a compromise at a lower level, but tests at that level would continue to be of great military significance. The Global Cooperative Seismic Network does not, of course, now exist.

The problem posed by evasion under such a treaty would be reduced compared to that under a CTB. There could well be cases where elaborate and/or costly steps were taken to reduce signals from an event large enough to be observed in the absence of such steps, so that they are below the observable level (which technically might be considered to be elision or elusion rather than evasion). Such incidents should be fairly rare; they could in principle be conducted by any party, so the risk is in theory (less so in reality) somewhat symmetrical;

Footnotes at end of article.

and they should have demonstrably less effect on the strategic balance than would the unilateral complete abstention from testing by the United States that would be the result of a Comprehensive Test Ban. (The possibility of more complex evasion schemes at fairly high yields was, and continues to be, a major concern to many in connection with the 150-kiloton TTBT. Having once accepted that risk, the United States is likely to accept it again.) The intractable peaceful nuclear explosion (PNE) issue would be partially defused, because essential technology could be maintained by both sides, under this proposal, instead of only the one benefiting from its closed society, and greater stability would result.

If the United States moves to a policy objective such as that described here, it can do so with a clear conscience, in that U.S. internal policy based on real security issues need no longer be in conflict with that declared to the world. In doing this there is a political price; a compromise of the Comprehensive Test Ban objective will not appeal to those for whom a CTB has for so long been an obsession. But there should also be a political benefit resulting from the honesty implicit in this approach, particularly if it is linked to greater recognition of the security-assurance needs of the non-nuclear weapons states. If the United States becomes technologically incompetent, it cannot credibly offer the security assurances that are, in the last analysis, the most important alternatives to proliferation.

OBJECTIONS TO A REVISED TEST BAN POLICY

Some critics will object to the proposed compromise because it would be possible to continue the development of small theater nuclear weapons—an argument that points up the illogic sometimes present in CTB advocacy. Madame Alva Myrdal, once head of the Swedish delegation to the CCD, has been particularly outspoken on this issue, as well as in her advocacy of a CTB. In response to a question on the "mini-nuc" issue posed by Mme. Myrdal at the CCD, Ambassador Hainworth of the United Kingdom deftly replied with another question:

> It must be obvious from all that the Swedish and other seismological experts have said on this subject . . . that the testing of such small-yield devices underground could not be detected or identified seismologically from outside the territory of even a medium-sized state. Yet the Swedish statement . . . suggested that the development of such miniaturized nuclear weapons might be a matter of such seriousness and concern that a state might feel that its supreme interests had been jeopardized. My question is: how would the Swedish Government, or indeed any other government, establish the fact that such weapons had been developed, tested, and deployed? Surely this is exactly the sort of issue which shows just how important it is to insure that a comprehensive test ban should be adequately and effectively verified.[29]

But, of course, at this yield level it cannot be verified. A statement abjuring the development of such weapons, made by any country of reasonable size (including Sweden), would have to be taken on faith by others. This example demonstrates the necessity for some balance of risk, and some acceptance of compromise, by all states. The risk that the non-nuclear weapons states would perforce accept under a CTB is minuscule compared to that which they expect the United States to accept; under the proposed compromise the risk to the United States would be incomparably less, while that to the non-nuclear weapons states would hardly increase at all.

Those who are convinced that enhanced prospects for nonproliferation would flow from and be the principal benefit of a Comprehensive Test Ban are also likely to find the proposed compromise less than completely satisfactory. But continued testing that eventually is limited only to programs necessary to maintain a technology and necessary stockpile confidence on the part of the nuclear weapons states is a far cry from the present state of affairs, and this goal could be regarded as a major contribution to global stability. It can also be argued that gradual loss of confidence in its weapons by the United States would increase pressure on some of our allies to provide for their own nuclear defense. Continued testing at the levels suggested here might serve as an excuse for a state that had decided, for other reasons, to develop nuclear weapons; it is hard to see how it could contribute significantly to those reasons.

Finally, it will be argued that a compromise taking any of the forms discussed is discriminatory, on the one hand, or that it actually "legitimizes" proliferation, on the other. But these arguments must be evaluated in the context of the Non-Proliferation Treaty, which already acts as a CTB for the NNWS parties, while a third of the world's nations stand aloof from its restrictions (but demand its benefits). It does not require delicate logic to make the distinction between the two intransitive uses of the verb "discriminate": discriminate between and discriminate against. Not to discriminate between NWS and NNWS in the context of a treaty limiting nuclear testing, in terms of what the treaty permits each to do, or prohibits their doing, is either to discriminate wildly against the NWS in view of the technological problems discussed in this article, or to legitimize similar activities by all parties. This illuminates a major argument for restriction of test-ban treaties to NWS parties: they share common problems and should be capable of commonly agreed upon solutions. These solutions are bound to differ from those available to the NNWS for their own problems, but they should be accepted in good faith by those states so long as there is general and genuine progress in a worldwide effort to reduce dependence on arms. If this progress occurs, a multilateral test-ban treaty is irrelevant, but a compromise treaty meeting the basic security needs of the NWS—all of them—is an important component of that progress. If it does not occur, all talk of the importance of limitations on testing is pure rhetoric. India apparently understands this, but she had many tutors, and probably has even more students.

THE IMPERATIVE OF TESTING FOR THE NWS

On September 27, 1977, Soviet Foreign Minister Andrei Gromyko, in a speech to the United Nations, proposed a moratorium on underground weapons testing for "a certain period of time" with only the United States, Great Britain and the Soviet Union as participants. (The earlier Soviet public position had insisted on participation by France and the People's Republic of China.) "Peaceful" explosions were not to be suspended, however. A continuing obstacle in the American-Soviet-British negotiations on an underground test ban has been Soviet insistence on an exemption to permit underground testing and application of "peaceful" nuclear devices. The West has opposed this exemption, although at one point President Carter allowed in a press conference that, in his view, the Soviets could be permitted their planned river-diversion project using nuclear explosions for excavation.

The Soviet position changed on November 1, when President Leonid Brezhnev, opening the celebration of the sixtieth anniversary of the Bolshevik Revolution, said: "We are ready to come to an agreement to the effect that, along with banning for a definite period all tests of nuclear weapons, a moratorium would be announced on nuclear blasts for peaceful purposes." President Brezhnev further proposed a halt to production of "new weapons" by all nations and reduction of "new weapons" by all nations and reduction of existing stockpiles.

The implied linkage among the several elements is laudable, but the advantage to the Soviets of a complete ban on explosions, spelled out in this article, remains. The peaceful nuclear explosion (PNE) program would be invaluable to a nuclear weapons state having only this means to preserve its technological infrastructure and stockpile, but the United States no longer has such a program and prospects for its revival are dim. However, the policy change announced by Brezhnev costs the Soviets little. First, because the term "moratorium" implies future resumption of PNE activities by the Soviets, and second because, as we have seen, they can maintain their technology, and therefore stockpile, indefinitely, PNE's or no.

Michael May points out that "Nuclear explosives, if used in war, could destroy Western civilization. But the tests which made this outcome possible have long since been done."[30] Neither continued testing nor cessation of testing can alter this fact. The current level of testing, in the short run, is a major factor in preserving relative stability between rival nuclear-armed states. If real arms control (i.e., disarmament) efforts succeed, new weapons to meet new threats may no longer be needed. Even so, the old weapons will remain long after a way is found to diminish their numbers, and it is a doubtful proposition that loss of confidence in those weapons will increase stability and decrease the prospect of their use. Just the opposite might reasonably be expected, even if stockpile degradation were to affect the weapons of both major powers. But under a Comprehensive Test Ban, that cannot be considered the most likely result—there is no basis for any belief that stockpile degradation will be symmetrical.

The United States cannot afford to take that kind of chance with the security of its citizens, nor of others depending on us for their own security. The U.S. declaratory policy favoring a Comprehensive Test Ban, adequately verified, is a mistaken policy. President Carter in his May 12, 1977 news conference, said: "We don't want to cover up mistakes." The President has demonstrated an ability to change his mind when new facts are presented: hopefully he will do so in the case of the Comprehensive Test Ban, while at the same time adopting a new goal—however distant—that is feasible and consistent with the security of this nation.

FOOTNOTES

[1] Michael M. May. "Do We Need a Nuclear Test Ban?," *Wall Street Journal*, June 29, 1976.

[2] John C. Hopkins. "Why Not Stop Testing?," *Bulletin of the Atomic Scientists*, April 1977, pp. 30–31. See also S. T. Cohen and William R. Van Cleave, "The Nuclear Test Ban: A Dangerous Anachronism," *National Review*, July 8, 1977; and Edgar Ulsamer, *Air Force Magazine*, May 1977.

[3] May, op. cit.

[4] Ibid.

[5] In "Prospects for a Comprehensive Nuclear Test Ban Treaty," Staff Report prepared for the use of the Subcommittee on Arms Control, International Law and Organization of the Committee on Foreign Relations, U.S. Senate, 92nd Cong., 1st Sess., 1971.

[6] Excerpts from a letter from Dr. Harold M. Agnew to Congressman Jack F. Kemp, April 19, 1977. Dr. Agnew is Director of the Los Alamos Scientific Laboratory and Chairman of the General Advisory Committee of the Arms Control and Disarmament Agency.

[7] Statement by Ambassador Joseph Martin, Jr., United States Representative to the Conference of the Committee on Disarmament, CCD/PV. 580, 1972, pp. 27–35.

[8] This point is made explicitly, for example, in May and Hopkins, op. cit., and in Dr.

Agnew's letter, op. cit. In its comments to Senator Muskie on Senate Resolution 67 (May 30, 1973), the AEC states that the "path of advanced technology is not one to be abandoned lightly and certainly not without adequate assurances that national security will not be degraded."

[9] Martin, op. cit.

[10] Donald Brennan, "A Comprehensive Test Ban: Everybody or Nobody," *International Security*, Summer 1976, Vol. I, No. 1, pp. 92–117.

[11] Ibid.

[12] Morton H. Halperin, Herbert F. York, M. L. Goldberger, Herbert Scoville, Jr., Frank A. Long, George B. Kistiakowsky, Adrian Fisher and George W. Rathjens, quoted in the chapter, "Scientists in the Political Arena" in Bruce A. Bolt, *Nuclear Explosions and Earthquakes*, San Francisco: W. H. Freeman & Co., 1976, pp. 226–227. Emphasis added.

[13] Ibid.

[14] Brennan, op. cit.

[15] Ulsamer, op. cit.

[16] For a history of this abdication, see Chapter III of Alva, Myrdal, *The Game of Disarmament*, New York: Pantheon Books, 1976; see also, Thomas Halsted, "Why No End to Nuclear Testing?" *Survival*, (March/April 1977.

[17] Hopkins, op. cit.

[18] Mr. Fakley further stated CCD/492, April 21, 1976) that "The maintenance of stockpiled weapons in a safe but serviceable condition is of vital importance whilst such weapons continue to exist. Like all other types of hardware, nuclear weapons age; in fact they tend to age more rapidly than most other weapons because of the characteristics of the special materials used in their construction. From time to time they have to be repaired and this frequently requires one of the components to be replaced. These replacements are likely to be somewhat different from the originals if only because available materials have changed and because safety and security requirements have been made more stringent. The changes involved are usually small but it cannot be ascertained whether or not they are significant without nuclear testing." His argument closely parallels May's.

[19] Bolt, op. cit.

[20] Swedish experts recently have suggested that hard-rock emplaced explosions of about one kiloton could now be detected, located and identified by a feasible international cooperative monitoring system. See O. Dahlman and H. Israelson, *Monitoring Nuclear Explosions*, New York: Elsevier, 1977, p. 355. These authors are associated with the National Defense Research Institute in Sweden.

[21] Private conversation. See also Zigurds L. Zile, Robert Sharlet, and Jean C. Love, *The Soviet Legal System and Arms Inspection*, New York: Praeger, 1972.

[22] Ted Greenwood, George W. Rathjens, and Jack Ruina, "Nuclear Power and Weapons Proliferation," *Adelphi Paper No. 130*, Winter 1976, pp. 2–6.

[23] May, op. cit.

[24] Mr. Carl Walske, Jr., "Prospects for a Comprehensive Nuclear Test Ban Treaty," hearings before the Subcommittee on Arms Control, International Law and Organization of the Committee on Foreign Relations, U.S. Senate, 92nd Cong., 1st Sess., July 22–23, 1971, p. 106.

[25] H. F. Coffer and G. H. Higgins, "Nuclear Explosions for Oil and Gas Stimulation and Shale Oil Recovery," *Proceedings of the Southwestern Legal Foundation*. "Exploration and Economics of the Petroleum Industry," Volume 6, reproduced in Dahlman and Israelson, op. cit., p. 288. According to Coffer and Higgins, fully one-third of the NTS explosions fail to produce at least two-thirds of their expected yield, and a quarter fall below one-half of the expectation. This level of unpredictability is unacceptable.

[26] Hopkins, op. cit. Emphasis added.

[27] According to Dahlman and Israelson, "Nuclear weapons have so far been developed under the condition that unlimited testing can be carried out. We have, however, the strong feeling that nuclear weapons could be designed to maintain their long-term reliability without testing." Op. cit., p. 338.

[28] Ibid., pp. 341–355.

[29] CCD/PV. 625, August 28, 1973.

[30] May, op. cit. One can only speculate on the adjective "Western."

NORTH CAROLINA'S BUDGET AMENDMENT

Mr. MORGAN. Mr. President, I have often addressed this body on the need to stop the dangerous trend toward ever-increasing deficit spending. I have subscribed to President Carter's goal of balancing the budget as early as possible. I feel that this is an attainable goal. I feel that we should review each tax or appropriation bill with this in mind, and I feel we must do this or risk a very uncertain economic future.

I am proud to be able to tell the Senate that the great State of North Carolina has seen fit to do at the State level what I am urging to be done at the Federal level. On November 21, 1977, the people of North Carolina approved in a referendum, an amendment to the State Constitution requiring that total expenditures in North Carolina do not exceed total receipts for any fiscal year.

Now this simple addition to the State Constitution has actually been in the General Statutes of North Carolina for some time, but I note with pride the fact that North Carolinians have deemed it proper to make this provision more permanent by its inclusion in the State Constitution.

Again I urge the Senators to consult their constituencies to see if support for such a move at the Federal level is desirable. I feel that North Carolina has taken a great step toward fiscal responsibility and I hope that we can make an effort here to achieve a similar result.

I ask unanimous consent to have printed in the Record the amendment passed by North Carolina for the consideration of the Senate.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment

Article III, Section 5(3) of the Constitution of North Carolina is amended by adding thereto a second unnumbered paragraph as follows:

"The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter."

HUMAN RIGHTS IN NICARAGUA

Mr. KENNEDY. Mr. President, last August Senator Church and I moved to terminate all military assistance and supply to Nicaragua, whose national guard has been one of the worst violators of human rights in the hemisphere. We did not press the issue to a vote at that time, but I undertook to keep a close watch on the situation and to continue to work with the administration in pressing for human rights improvements in that troubled country.

There have been some improvements and some setbacks in the Nicaraguan human rights situation since then. On September 19, President Somoza lifted the state of siege which he had imposed in late 1974. He thereby ended press censorship and the prohibition of political rallies, restored the right of habeas corpus, and transferred security cases from military to civilian courts. These actions were not unrelated, I believe, to the strong criticism of human rights violations in Nicaragua expressed over the previous months in both Houses of Congress. I ask unanimous consent that a summary of these encouraging developments, prepared for me by the State Department on September 22, be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, on the other hand, I must remind my colleagues that President Somoza has failed to reform or replace the system of police courts. While reports of mass killings of Campesinos in the countryside have tapered off, rough treatment of peasants continues. In addition arbitrary detention and torture of individuals appear to continue with instances of such treatment increasing in urban areas. These are the most serious sources of human rights abuses—including reports of summary executions, torture, arbitrary imprisonment, confiscation and destruction of private property—highlighted in the July 1977 report on Nicaragua by Amnesty International. I ask that an October 5 communication from its Secretary-General, Martin Ennals, to President Somoza be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KENNEDY. Mr. President, last October, there were further violent outbreaks between the National Guard and the Sandinista National Liberation Front (FSLN), which have caused enoromous suffering to hundreds of innocent civilians in the rural areas of Nicaragua. Reports indicate that the FSLN has been strengthened by increasing anti-Somoza sentiment in the country, with violent disruption compounded by Government incompetence and National Guard brutality. I commend to my colleagues, in particular, an article by Alan Riding in the New York Times, which I ask to be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. KENNEDY. Mr. President, I call upon the Nicaraguan Government, out of common decency, to correct continuing human rights abuses and to take early positive action on the recommendations presented in the amnesty report and in Mr. Ennals' letter.

I fully endorse his suggestion that President Somoza document his actions by granting full access to Nicaragua by an impartial human rights organization, such as the Inter-American Commission on Human Rights.

There have been continued reports of human rights violations and violent outbreaks against the Somoza regime. I have received reliable reports—including an affidavit signed by three doctors who conducted the post mortem—that on August 26 Raul Gonzalez Almendarez, a Nicaraguan agronomist, was bludgeoned to death in Esteli by members of the national guard. In June 1976 his brother Noel was seized in Jalapa by the national guard, which brutally tortured him over the next several weeks. After being hospitalized, he was visited by the Chief of State Security, Gen. Samuel Genie Anaya, who reportedly informed him that his detention and torture was the result of a "simple mistake."

Last September, in the context of extremely tentative human rights improvements, the administration decided to sign the fiscal year 1977 Foreign Military Sales (FMS) Financing Agreement with Nicaragua. I strongly regretted that decision at the time. I must reluctantly conclude that subsequent events have not justified the decision to sign the military aid pact. I ask that the State Department letter of October 6, explaining its decision, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. KENNEDY. Mr. President, it is clear from this letter that this action only gives the administration the option to disburse credits appropriated for fiscal year 1977 and that it does not commit the United States to grant any FMS credits to Nicaragua.

I appreciate the State Department's explicit assurance that "Approval of specific (FMS credit) requests will be contingent on continuing human rights improvements." I have made clear to the Department, however, that I could not support even the limited step of keeping fiscal year 1977 FMS credits available, because—

Serious problems remain in Nicaragua's human rights record, despite some improvement in September;

It is bad precedent to appear to reward what are still superficial human rights adjustments with military assistance to a repressive government; and

In any event, fiscal year 1978 FMS credits have been appropriated and are also available.

It is therefore my strong hope that the administration will not approve any military supply and will not disburse any military assistance to Nicaragua. Should there be substantial improvements in its human rights performance, including a process of real democratization, I for one would be receptive to providing more economic assistance designed to meet basic human needs of the Nicaraguan people. While I have my doubts as to whether AID funds in Nicaragua are indeed fulfilling basic human needs, economic aid can and should be the "carrot" that is used to encourage human rights improvements.

John Goshko and Karen DeYoung are to be complimented for their report in the October 25 issue of the Washington Post on the decisionmaking which led to the administration's positive action on FMS credits and its negative action on economic aid to Nicaragua. I ask that it also be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. KENNEDY. Mr. President, its central message is confusion in the formulation and execution of U.S. human rights policies. We must at all costs avoid "mixed signals" on human rights. Signing the military aid pact with Nicaragua has hindered other administration efforts—sincere efforts—to begin to disassociate the United States from the repressive Somoza regime.

I have been heartened by indications of greater care and sensitivity in more recent administration decisions on aid to Nicaragua from international institutions. Last month, it approved affirmative votes for three World Bank and Inter-American Development Bank (IDB) projects meeting basic human needs in Nicaragua; a U.S. abstention on $500 million in Canadian funds for construction of a Somoza Dam; and deferral of three loans not justified by either basic needs or human rights improvements. All cases of deferral involved the Inter-American Development Bank, where we have a controlling vote.

The approved loans were $10 million for a potable water supply project, $3 million for rural sanitation—both from the World Bank—and $16 million from the IDB for rural health stations and centers. The deferred loans were $32 million for roadbuilding, $6 million for animal husbandry, and $16 million for agricultural research.

These more recent decisions demonstrate how it is possible to relate effectively our foreign aid decisions to the objectives of basic human needs and human rights. They demonstrate that we can assist projects of direct benefit to the rural poor, while basing our decisions for other economic projects on improvements in the recipient's human rights policies and practices. Most importantly, human rights need not and should not be made hostage to military supply and assistance from the United States.

Perhaps the most important element in the human rights/economic development nexus is that aid funds should be used to stimulate community organization. Strong local co-ops and organizations provide a means for the Campesino to market his or her crop at a fair price and, hopefully, a method by which the Campesino can participate in the economic and political life of the country. After all, the best protection for human rights comes from an organized citizenry aware of its rights.

I believe that our experience with Nicaragua over the past 4 months underlines three key principles for future U.S. policy:

First. To the maximum extent possible, the United States should use economic and political, not military, incentives in furthering our human rights objectives. I remain opposed to FMS credits to Nicaragua—just as I do to such credits for any repressive regime unless there are overriding national security reasons for granting them.

Second. The United States should strongly support the recommendations of Amnesty International for improving the human rights situation in Nicaragua. But beyond this, we should persistently encourage development of a more open democratic process in that country, which is essential to forestalling increasingly violent repression of political opposition. It is high time for a meaningful political dialogue between the Somoza regime and its democratic opposition.

Third. Decisions on foreign military assistance should not be isolated from decisions on foreign economic assistance. I would like to think that if both decisions were made in relation to each other last September, the administration would have approved some economic assistance from AID, made some contingent upon improved human rights performance, and would not even have maintained the option of disbursing fiscal year 1977 FMS credits to the Somoza regime. I believe the value of this approach is indicated by our November decisions on economic assistance through international institutions.

At the outset, Mr. President, I expressed my desire to continue to work with the administration for human rights improvements in Nicaragua. I welcome the careful and detailed consultation which we have conducted on this issue in the past. It is clear that in some important respects our judgments have differed, but our objective remains the same: The betterment of human rights and welfare in a country which has long had intimate ties with the United States.

EXHIBIT 1

RECENT DEVELOPMENTS IN NICARAGUA

On September 19, President Somoza announced the Cabinet decree lifting the state of siege (martial law) which had been imposed in late 1974 immediately after a successful terrorist attack which ransomed prominent hostages for jailed guerrillas, a million dollars and transportation to Cuba.

The decree was a significant step since it ended press censorship and the prohibition of outdoor political rallies, restored the right of habeas corpus, and transferred pending and future security cases to the civilian courts. As an immediate result of the lifting of the state of siege, our Embassy reports that the largest circulation newspaper in the country, La Prensa, owned and published by opposition leader Pedro Joachim Chamorro, responded immediately to restored freedom of press by publishing on September 19, previously censored stories and opening paper for airing individual grievances. On September 20, La Prensa published previously censored pastoral letter of January under the heading, "The Censored Pastoral" with lead-in describing its impact in the U.S. translation of Senator Kennedy's August 5 statement on military assistance to Nicaragua is published in entirety as well as a separate story under banner headline, "Kennedy: Eye on Nicaragua." Also published were: policy statement by P. J. Chamorro's opposition political movement, UDEL, an article on how censorship was applied arbitrarily and for apparent political reasons, and examples of previously censored stories. According to FBIS, Cesar Rivas of Managua Radio Corporation in his September 20 commentary took President Somoza and the GON censors to task for the use of censorship. Translation indicates Rivas strongly decried the use of censorship to prohibit "reports that denounce irregularities by a Minister or other official of the regime. That is simply an outrage and affront to intelligence, civic spirit and truth."

Our Embassy has further reported that at least some of the remaining political detainees charged with the insurgent-related activities had already been turned over by military authorities to the civilian courts for indictment or release. Our Embassy added that several habeas corpus actions were already being prepared.

The number of reported incidents of serious misconduct by the Guardia Nacional referring to events since February of this year has markedly declined. Our Embassy is aware of several occasions this year on which President Somoza cautioned National Guard officers against violations of human rights in their counter-insurgency operations.

Terrorist activities by the Sandinista Liberation Front, which has described itself as a Marxist-Leninist revolutionary organization, have continued, but on a more sporadic and reduced basis than was the case a year or two ago. There has been an apparent sharp decrease of incidents involving the FSLN in rural areas, and an apparent increase in such incidents in urban areas of Nicaragua.

EXHIBIT 2

LETTER TO PRESIDENT SOMOZA IN RESPONSE TO THE LIFTING OF THE SUSPENSION OF CONSTITUTIONAL GUARANTEES AND MARTIAL LAW

Gen. ANASTASIO SOMOZA DEBAYLE,
Presidente de la Republica, Palacio Presidencial, Managua, Nicaragua.

YOUR EXCELLENCY: With this letter we wish to express our recognition and appreciation of the lifting on 19 September of martial law and the suspension of constitutional guarantees as essential measures for the improvement of the human rights situation in the Republic of Nicaragua. At the same time, however, we wish to reiterate our concern that many of the human rights violations documented in our July 1977 report on the Republic of Nicaragua related only indirectly to the suspension of guarantees and the rule of marital law. These abuses—including torture and summary executions—occurred under the aegis of the exceptional measures only to the extent that these measures, such as the suspension of habeas corpus and the imposition of censorship, obscured and isolated the actions of the Executive, through the security forces, from other branches of government and from the public. It is the view of Amnesty International, therefore, that further measures are needed to insure the full restoration of the human rights of all Nicaraguan citizens.

The human rights issues raised in the report concerning the system of Police Courts—including prisoners of conscience and serious maltreatment—related least to the suspension of guarantees. It should be stressed that the conclusions and recommendations regarding the Police Courts concern the very nature of that system as well as its practical application. As the Police Court system forms part of the Executive rather than the Judicial branch of government the function of the Police Courts will presumably continue unaffected by the renewal of constitutional guarantees unless special measures are taken toward their reform, or suppression.

Similarly, we did not find that abuses reported in rural areas were directly linked to the suspension of guarantees, and we can not consequently assume an immediate amelioration of conditions will occur there with the restoration of these guarantees. It must be restated that the situation of small farmers in the rural areas has been and continues to be Amnesty International's area of greatest concern in Nicaragua. Despite our requests for information on the situation of the 303 campesinos detained by the National Guard in the Northeast between May 1975 and January 1977, cited in Appendices 5a and 5d of the Report, no official government information has been received indicating that any campesinos who were in fact detained in the Department of Zelaya during the period, were brought before the military courts to testify or were indicted. We hope that free movement of impartial international observers into these rural areas will now be possible, and that more detailed official government information on reported individual cases of human rights volations will be made available.

We feel consequently compelled to repeat all of the recommendations originally made in our report referring to political imprisonment of campesinos and other problems affecting the rural population which result from actions of the Nicaraguan National Guard:

1. That prisoners who have not been indicted by the military or civil courts be immediately released;
2. That local military commanders in the countryside be requested to account for reported detentions of campesinos within their regional jurisdiction;
3. That rural detention camps maintained by National Guard headquarters, as well as the National Guard installations at Rio Blanco, Waslala, Siquia, Amatillo, Ococona, Macuelizo, Dudu and Kilala be opened to inspection;
4. That exhaustive investigations be undertaken from the highest level into reports of summary executions, torture and arbitary imprisonment, as well as into such matters as the arbitrary confiscation, occupation and destruction of private property;
5. That local military commanders be prosecuted under military or civil law for abuses committed by forces under their immediate commands, and that the direct perpetrators of such acts be prosecuted.

As was specified in our report, prisoners who were recognized to be in the custody of the military courts were considered to be a minority of the overall population of political detainees in Nicaragua. Amnesty International's concern for these prisoners has concentrated primarily on the evidence that most of these prisoners were severely tortured, and that no measures have been taken by authorities to either investigate allegations of torture or to sanction those guilty of such abuse.

Further concern was expressed in the report that neither the structure nor the procedure of the military courts offer guarantees for fair trial and the due process of law. We would hope that with the lifting of martial law and the suspension of guarantees, those prisoners previously in the custody of the military courts have been given into the custody of civil courts for trial, and that prisoners sentenced by the military courts will now have the opportunity to present appeals to the higher civil courts. Any information you may be able to provide in this respect would be greatly appreciated.

Finally, we would like to take this opportunity to urge that the restoration of constitutional guarantees, and the lifting of martial law be accompanied by an invitation by the Government of Nicaragua to an impartial international human rights-organization—possibly the Inter-American Commission on Human Rights—to send a delegation of observers to Nicaragua, in order to document the developments in the human rights situation after 19 September.

We believe it essential that such a delegation should be offered the following facilities by the Government of Nicaragua:

i. the full cooperation of the national and local, civil and military authorities;

ii. access to records of the hearings of the military courts during the suspension of guarantees;

iii. access to places of detention including the Carcel de la Aviacion, the Carcel Modelo de Tipitapa and the Oficina de Seguridad Nacional;

iv. the opportunity to speak freely to prisoners in the above-named places of detention;

v. freedom of movement in the countryside.

With the full cooperation of the Government of Nicaragua, such a delegation would be able to accurately assess the progress in the human rights situation in the Republic of Nicaragua which we hope and expect to observe in the near future.

We would very much appreciate receiving the response of your government to these comments and proposals.

Your respectfully,
MARTIN ENNALS.
Secretary General.

EXHIBIT 3

[From the New York Times, Oct. 30, 1977]

IN NICARAGUA, THIS MAY BE THE TWILIGHT OF THE SOMOZAS

(By Alan Riding)

MANAGUA, NICARAGUA.—After 41 years of absolute rule, the Somoza family is losing its grip on Nicaragua. Leftist guerrillas have won the backing of non-Marxist groups and have started an open struggle to topple the regime. A power struggle has erupted within the ruling elite. President Anastasio Somoza Debaye is recovering from a recent heart attack and the Somozas are no longer assured of the automatic backing in Washington.

As heir to a political fiedom and business interests General Somoza is not about to accede to demands that he step down, but the family rule has probably never been more challenged since the President's father, Gen. Anastasio Somoza Garcia, seized power in 1936.

Last week, with the guerrillas keeping up their attacks and influential church, business and political groups adding their voices to the growing demand for change, General Somoza responded defiantly: "I will not carry on a dialogue under threat of assaults, violence and pressure."

For the United States, the situation has important implications. Successive American administrations have seen the Somoza regimes as protection against Communism throughout Central America and the Caribbean and have therefore tolerated their excesses. Today, General Somoza remains the dominant political figure in the fractious group of countries that lie between Panama and Mexico. But United States officials also recognize that the alternative to the Somozas is no longer necessarily Communism and they now must choose between trying to sustain a shaky dictatorship or promoting a moderate and peaceful solution to the conflict that is increasingly troubling Nicaragua.

The Carter Administration's policy toward Nicaragua is still unclear. Earlier this year, Washington harshly criticized the violation of human rights in Nicaragua and threatened to suspend economic and military aid if the situation did not improve. After General Somoza lifted martial law on Sept. 19, the Administration signed its annual military agreement with Managua, although no American funds have yet been released.

Despite pressure from Somoza sympathizers in Congress and in the Pentagon, however, the Carter Administration has not moved to bolster General Somoza during the latest threat to his regime. In a country long overshadowed by the United States, even a seemingly disinterested "handsoff" attitude would be interpreted as a definite policy.

Certainly, the West Point-educated General Somoza has always used Washington's support for his regime to intimidate domestic opponents and impress the military regimes of the rest of Central America. Any evidence that Washington is willing to contemplate change in Nicaragua would therefore produce political shock-waves throughout the region.

Ironically, for fear of alienating Washington, General Somoza has been unable to respond to the new offensive against his regime by declaring a state of siege and unleashing a wave of repression against his opponents. Instead, the traditional strongman has appeared indecisive as the political initiative has slipped from his hands.

The key element in the equation is the general's health. During the two months he was bed-ridden at the Miami Heart Institute following a heart attack late in July, both his friends and foes began mobilizing to fill the political vacuum in case he did not recover, all of them apparently agreed that the successor should not be the President's son, Maj. Anastasio Somoza Portocarrero.

On his return to Nicaragua, General Somoza therefore moved first against the new power centers emerging within the ruling group, dumping Cornelio Hueck after 20 years as secretary-general of the official Liberal Party and even arresting Gen. Ivan Alegret, one of several senior National Guard officers who showed "excessive" ambition during the President's absence.

But with General Somoza under doctors' orders to work only three hours per day, opponents of the regime also felt that the moment had come for political change. And leading the offensive were the guerrillas. The Sandinist National Liberation Front, named after Gen. Augusto Cesar Sandino who fought United States intervention here in the late twenties, has combatted the Somozas sporadically since its creation in 1962 after the Cuban revolution. Until recently, it was dominated by Marxists willing to fight a "prolonged popular war" in order to achieve a Communist victory here. This year, however, the Sandinists revised their strategy—the committed Marxists broke away from the main organization in protest—and began working more closely with "bourgeois" opponents of the regime, ranging from so-called "Radical Christians" and leftist intellectuals to conservative lawyers and dissidents from the Liberal Party. The guerrillas' new objective was also ideologically more modest: to overthrow General Somoza through a "popular insurrection" and to call free elections.

Coinciding with the military offensive launched by the guerrillas on Oct. 13, in which for the first time non-Marxists joined the fighting ranks, a political campaign against the Government was also initiated, with an unlikely coalition of academic, business and church interests calling for a "national dialogue" to bring about much-needed reforms.

One group of 12 prominent Nicaraguans, including the millionaire owner of a supermarket chain and an aristocratic lawyer, even praised the "political maturity" of the guerrillas and warned that the Sandinists must participate in any "national solution". Significantly, many of the guerrillas who have been captured or have been publicly identified belong to wealthy Nicaraguan families. Their participation has apparently played a role in radicalizing the country's middle and upper-classes against the regime.

But while the immediate pressure is for political reform, there is also evident need for measures to improve the living conditions of Nicaragua's 2.3 million inhabitants who suffer from levels of illiteracy, poverty, malnutrition and unemployment that are high even by Latin American standards. Until now, General Somoza has been unwilling to make these concessions. His difficulty is therefore whether to risk appearing weak by giving into outside pressure or to risk further alienating key groups by remaining inflexible.

EXHIBIT 4

DEPARTMENT OF STATE,
Washington, D.C., October 6, 1977.
Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: We very much appreciated the consultations my staff had with your office this week on Nicaragua and understand the concerns you have on this question. To confirm what was said to Mr. Kalicki, we are signing the FY 77 Foreign Military Sales Financing Agreement at this time in order to preserve our options for the future use of these funds.

This decision was made in view of the diminution of charges of serious human rights abuses by the Nicaraguan National Guard over the past months and particularly in view of the termination of the state of siege on September 19. This should result in the restoration of the rights of habeas corpus, outdoor assembly and termination of censorship and military court jurisdiction over those charged with insurgency—related crimes. Early reports indicate that there is some progress in these directions.

As is the case with all countries with which the United States has a military sales financing agreement, each purchase and delivery of specific items under the agreement is subject to State Department review. Although the FY 77 FMS Credit Agreement has now been signed, requests will be subject to a case by case review. This review of Nicaraguan government requests for specific commodities will take into consideration the human rights situation prevailing at the time and the progress Nicaragua has made on following through on the implementation of the lifting of the state of siege. Approval of specific requests will be contingent on continuing human rights improvements.

We will continue to be in touch with your staff as the situation evolves and further decisions are made.

Sincerely,
DOUGLAS J. BENNETT, JR.,
Assistant Secretary for Congressional Relations.

EXHIBIT 5

[From the Washington Post, Oct. 25, 1977]

U.S. DECISIONS SEND NICARAGUA 'GARBLED' RIGHTS MESSAGE

(By John M. Goshko and Karen DeYoung)

With only 2.2 million people and a land area no bigger than Iowa, the republic of Nicaragua is the sort of country that normally gets dumped into the dusty, attic corners of Washington's storehouse of overseas concerns.

Yet, Nicaragua—and some other tiny backwaters of Central America and the Caribbean—has become a proving ground where the Carter administration is undergoing a trial-and-error test of its ability to translate a concern for human rights into an effective instrument of U.S. foreign policy.

Essentially, it's a carrot-and-stick approach that to use U.S. financial aid as a lever of pressure and persuasion on the military regimes that control many of the region's countries. In theory, a government that violates the rights of its people will find the spigot turned off, while those who ease up on repression can expect a sympathetic hearing for their aid requests.

Since Central America is a collection of client states heavily dependent on U.S. trade and aid, it would seem to be the perfect laboratory for the successful use of these tactics. But, as Washington has been finding out, what looks logical when spelled out in a position paper isn't really that easy in practice.

That was vividly underscored late last month by a pair of State Department decisions involving Nicaragua—decisions so outwardly confusing and contradictory that they seemed to border on the bizarre.

First, the administration decided to move ahead with approval of a military-assistance agreement whose practical effects would be to strengthen the forces holding the reins of dictatorship in Nicaragua.

Then, it turned around and withheld a sizable chunk of nonmilitary aid whose purpose was to help ease the poverty in Nicaragua.

To diplomats and human rights activists, such decisions are clues to Washington's foreign policy direction. In this instance, though, even the most astute State Department watchers were left bewildered about what had happened.

Some concluded that the decisions signaled a retreat from human rights activism, one dictated by pressures from Nicaraguan government supporters in Congress. Others simply saw it as proof that the administration, for all its hymns to the human rights cause, doesn't really have a policy to match its rhetoric.

However, extensive interviews with many of the officials involved tell a different story. Basically, it's one of the difficulties involved in trying to crank a new, still loosely defined concept like human rights into traditional diplomatic decision-making.

Attempts to apply political pressure did figure in the Nicaragua situation. So, too, did the rivalries of government agencies and their conflicting ideas about what best serves U.S. interests.

There were traces of the "clientism" that sometimes makes some diplomats identify more with the country they are dealing with than their own government. There were philosophical disagreements about the meaning and purpose of foreign aid, and there was the attitude of many in Congress and the foreign service establishment that human rights considerations are an unworkable intrusion into traditional diplomacy.

But, while all these factors were present in the Nicaragua decision, they weren't the most important elements. In the end, the decision basically was dictated by the rules that Congress has decreed for playing the aid game.

These rules establish different procedures for the ways military aid and nonmilitary aid are approved. As a result, when the administration tried to apply its carrot-and-stick methods to the Nicaragua case, it unexpectedly found itself in what one participant describes as "a situation where what should have a straight line got bent into a pretzel."

"Our intention was to use aid to send a warning message to the Nicaraguan government," the source says. "But we suddenly discovered that the rules prevented us from using the logical stick to beat the Nicaraguans—military aid—in that way."

"So," he concluded, "we were left trying to dance our way out of the situation by reversing the logical order—using military aid as the carrot and humanitarian aid as the stick. There's no question that the message we were trying to send got garbled as a result, but we did the best we could given the constraints under which we had to work."

Complicating the situation was Nicaragua's position as the touchstone of human rights controversies in Central America. For 44 years, the country has been the personal fiefdom of the family of current president Anastasio Somoza; and, as the man behind the longest running show among Latin American dictatorships, he excites very strong passions in Washington.

Human rights partisans charge that Somoza and his main instrument of power, the Nicaraguan National Guard, have conducted a systematic repression campaign that has included the killings of thousands of opponents.

However, Somoza also has a lot of friends in Congress and other influential places in Washington. His supporters have been so outspoken in his defense that the anti-Somoza forces refer to them collectively as the "Nicaragua lobby."

Last summer, the two groups collided when congressional foes of Somoza tried to block a $2.5 million authorization to sell U.S. arms to Nicaragua on favorable credit terms. The effort failed, partly because of lobbying by Somoza's partisans and partly because the State Department promised not to sign the agreement until the human rights situation in Nicaragua showed signs of improvement.

That then put the ball in the hands of the State Department, or more specifically, of Deputy Secretary of State Warren M. Christopher. In the words of a National Security Council official, "Christopher is Mr. Human Rights—the guy who basically makes almost all the final decisions in these cases."

Technically, Christopher's writ extends only to cases involving nonmilitary, economic and financial assistance. Decisions on military aid are supposed to be made by Secretary of State Cyrus R. Vance.

However, because of Vance's frequent absences from Washington, many of the military decisions—some sources estimate 40 to 50 per cent—fall to Christopher. Nicaragua was an instance where Christopher had to make the calls.

The mechanisms that Christopher uses in making a decision are different in the military and economic assistance areas. On the nonmilitary side, he has set up a body known in the State Department as the Christopher Group.

Its function is to consider the granting or withholding aid to countries with human rights problems. Basically, says one participant, "it's a means of sorting out the guerrilla warfare disputes between the human rights people, the area officers who deal with the country on a geographic basis and the representatives of other agencies with an interest in the matter."

Where military aid is concerned, there is no parallel formal mechanism—primarily because of the need to involve agencies and considerations that don't figure in nonmilitary aid. While rights are factors, they have to compete with national defense, military alliance commitments and arms sale and export policy considerations.

These factors are shepherded up the State Department bureaucracy under the direction of Lucy Wilson Benson, under secretary for security assistance. Ultimately, they are referred either to Vance or Christopher for a decision.

By late September, both mechanisms had brought to Christopher the need for decisions on the military pact and other aid to Nicaragua.

Reinforcing the need for some action was the fact that Somoza had just loosened the screws a notch in his country by lifting a three-year "state of seige" that had suspended all constitutional guarantees. The problem was to find some means of recognizing the gesture while still making clear that the State Department wanted to see even more improvement.

Normally, department sources agree, that would have been done by holding back on military aid and going forward with economic assistance. The problem, though, was that, under Congress' mandate, the military aid authorization, which applied to the 1977 fiscal year, would expire unless the agreement was signed by the end of September.

As Benson notes: "We had to decide whether we were going to throw this weapon away or try to preserve it as an instrument for future leverage."

The result was Christopher's decision to sign the agreement as a means of keeping it alive. But he added a stipulation that no sales or transfers of arms would be made until there was further evidence of human rights improvement.

"That's something a lot of people have failed to grasp," Benson says. "All we did was keep the agreement on the burner as a basis for further negotiation. But Nicaragua hasn't received so much as a single bullet under that agreement."

The next step came on Sept. 27 when the Christopher Group met on what to do about a proposed package of more than $12 million in nonmilitary loans and grants for Nicaragua. Information provided by reliable sources has produced this picture of what happened in the meeting:

Sally Shelton, a deputy assistant secretary for Latin America, described Nicaragua's internal situation as "a mixed bag." She noted that while reports of killings and torture continued to come out of Nicaragua, the lifting of the state of siege also had produced some improvements such as greater freedom for the press.

Shelton and others noted that, unlike the military aid authorization, the funds for economic assistance could be carried over into the next fiscal year without being lost.

She, Robert Pastor of the National Security Council and Mark Schneider, deputy assistant secretary for human rights, recommended that part of the aid package be granted as an encouragement to Somoza and part be withheld for the time being to spur further improvements.

That drew a strong objection from Jessica Tuchman, also of the National Security Council. She argued that it was administration policy not to use aid aimed at directly helping the needy as a political weapon.

After hearing everyone out Christopher said he was "very troubled" by the Nicaragua situation and added: "I feel we are out as far as we want to be in Nicaragua." In the end he decided that, except for some small grants to nongovernmental organizations, the bulk of the aid package would be held back for the time being.

Tuchman interjected that she wished to be recorded as opposing the decision because she felt that "in the name of promoting human rights, we are denying assistance to the needy."

Christopher responded that we were "postponing" assistance to the needy, not denying it. With that action he added he felt that the United States had given the Somoza regime "a big enough signal for the time being."

However, his words seem more than a little over-optimistic in the light of the confusion subsequently generated by the decision. If no one else seems to have understood the point of the message, one participant concedes, there are grounds for supposing that Somoza didn't either.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Benjamin R. Civiletti, of Maryland, to be Deputy Attorney General vice Peter F. Flaherty, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at the hearing which will be scheduled in the future.

AMERICAN AGRICULTURE MOVEMENT AND MONITORING BY THE ASCS

Mr. DOLE. Mr. President, the American farmer is in serious economic trouble. He is expressing this through a movement called American agriculture.

I met with many of the members of this movement in Topeka, Kansas, and also in Washington, D.C.

I have discussed farm issues, policies, and problems with them, and can understand why they are frustrated. They do not want sympathy; they want a fair price for their crops, livestock and other farm products.

Farmers in this movement have been exercising their right of free speech and assembly. Extreme actions have been kept to a minimum.

It is distressing to hear today that farmers are now concerned that the USDA is monitoring their activities.

Farmers are calling and telling me the Agriculture Stabilization and Conservation Service (ASCS) has been ordered to monitor the American agriculture movement.

I do not feel this activity is appropriate and sure believe it should be stopped immediately.

I sent a telegram today to Secretary of Agriculture Bob Bergland asking for information and action. The telegram states my views and my request to the Secretary. The telegram stated:

> Mr. Secretary, I have received calls from farmers concerning reports that the Agricultural Stabilization and Conservation Service (ASCS) has been ordered to monitor the activities of the American agriculture arm strike movement.
>
> Farmers report to me that ASCS employees are sending names, places, and dates relating to the strike to your office in Washington.
>
> This type of unprecedented surveillance activity reminds me of police state tactics and is not appropriate for ASCS employees.
>
> Surely such actions do not foster unity and harmony between farmers and their government.
>
> I don't believe the ASCS monitors other farm organizations activities.
>
> I would appreciate an immediate reply about what your office has requested from the ASCS and ask that if the ASCS has been ordered to monitor the American agriculture

movement that an order be issued immediately to stop this activity.

I am hopeful Secretary Bergland will stop the harassment of the American agriculture movement immediately. Farmers do not deserve this unprecedented action on the part of the Carter administration.

A TRIBUTE TO SENATOR JOHN L. McCLELLAN

Mr. EASTLAND. Mr. President, divided only by the Mississippi River, which extends the entire length of Mississippi and Arkansas, there is a consanguinity of peoples and interests that has existed during the history of both States. Nowhere has the consanguinity been exhibited more than in the personal warmth and friendship which has traditionally existed between the Senators of these States. They have been melded by a homogeneous people with common ideals and a common philosophy. A street expression used in both States is "neighbors just across the creek."

In August 1942, both John McClellan and I were nominated in the Democratic primary of our States for the office of U.S. Senator. Neither of us had opposition in the general election. We came to Washington at the same time and were sworn into the Senate together. Since that day—January 3, 1943—a warmth sprang up between us that grew with the passing years. In these 35 years of mutual association, I suppose there might have been a few occasions when our votes have differed but, if so, I cannot remember it.

On the Judiciary Committee, which we both served, there was never a single instance in the 20-odd years of association on which we differed on any subject. John McClellan was known on the committee as a work horse. He rewrote our copyright laws, our patent laws, and the first vast codification of our Criminal Code.

Early in his career, Senator McClellan became a member of the Appropriations Committee and, at the time of his death, was chairman of the Senate's most prestigious and powerful committee.

When John came to the Senate, Arkansas was known as the most flood-prone State in the American Union. It not only had the Mississippi River, but it had the White, Arkansas, and the Ouachita focusing their flood waters into the limited area of east and southeast Arkansas. It is a tribute to John McClellan that those days of flood plague are gone. They are part of the history of the State and, controlled as they are today, the rivers constitute Arkansas' greatest assets.

His interests were varied. I recall Senator McClellan's first crusade was to change the discrimination for tax purposes between the community property States and the rest of the Union. Arkanas bordered community States and the discrimination in taxes was obvious for all in Arkansas to see, but McClellan alone, carried this fight to remove this discrimination and, while he was not a member of the Finance Committee, his efforts were capped by a victory, I believe in 1946. The scroll goes on. Thirty-five years of service and 35 years of constant, painstaking labor in spite of the tragedies that befell him during his service here.

His oldest son died in North Africa during World War II. When this son's body was returned from North Africa for reburial in Arkansas, another son was killed almost simultaneously as his brother's funeral. Just a few years later, his third son was killed in an airplane crash. I know of no Senator that has ever suffered such tragedy and travail. While sadness and loss are part of the human experience, John carried a burden that would have broken all but the strongest of men.

A measure of his character is the manner in which he triumphed over tragedy and fashioned a career of service that honors the memories of his loved ones even as it honored Arkansas and America. All through his sadness, his wife, Norma, stood staunchly by his side.

I could not say more than what I said on the day of his death. Arkansas has lost their most distinguished son, and I have lost one of my warmest friends.

THE NATION'S NONFUEL MINERALS POLICY

Mr. McCLURE. Mr. President, the December 8, 1977, publication of the North Idaho Press reported on an address given by Assistant Secretary of Interior Joan Davenport. In her remarks, the Assistant Secretary announced the formation of a Cabinet level committee by the President to review the Nation's nonfuel mineral policies. The Interior Department should take note that Congress, by its passage of Public Law 91–631, created the Mining and Minerals Policy Act of 1970. This act provides a clear direction for our minerals policy for the Interior Department to administer.

I ask that the entire text of the North Idaho Press article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTERIOR OFFICIAL DRAWS WRITER'S IRE

(By Nancy Lee Hanson)

Among the speeches given at the Northwest Mining Assn's annual convention held in Spokane Dec. 2 and 3, probably the one which created the most interest was that given at the luncheon Friday by Joan Davenport, the new assistant secretary of the U.S. Dept. of the Interior.

Mining officials and mining organizations were quick to criticize the Administration's selection of Miss Davenport for the Interior Dept.'s division of energy and minerals. They were unhappy with the nomination because her background, which is primarily statistical and environmental, includes nothing having to do with the use of public lands for energy or minerals.

Mining people at the convention said her prominent and wealthy family in the east had contributed generously to the Carter campaign and her appointment was the reward.

She spoke to a skeptical audience. And her speech was not entirely professional. It was not particularly well written, contained several grammatical errors, misuses of words and had what seemed like an overabundance of sentences like, "We must keep the lines of communication open," which was repeated three times. Later it sunk in that she had read the same page twice.

Miss Davenport said she was happy to announce President Carter will create a cabinet level committee to review the nation's nonfuel mineral policies, which Interior Secretary Cecil Andrus will head. It will be composed of 13 cabinet secretaries, federal agency directors and senior presidential advisors. Miss Davenport will assist in coordinating and managing the interagency study.

The only individuals not on the committee, it seems are those who know the most about the subject—mining people.

"Among other things, this committee will examine Federal actions affecting the health of the American mining industry," she said. "Personally, I am enthusiastic about the possibilities of this study. For the first time, this Government will focus its full attention on our mining industry and our mineral supply picture to determine the adequacy of our Federal policies."

A government employee in the mining area remarked after the luncheon, "She makes it sound as if this is the first time such a committee has existed. They have been created many times before."

Miss Davenport also announced President Carter has created an interagency task force on copper because, "The Dept. of the Interior is deeply concerned about the welfare of the domestic mining industry." There are no mining people on that committee either.

Miss Davenport then talked about the Administration's mining bill, which would repeal the 1872 Mining Act. She denied the majority of licenses and leases would be issued competitively, saying only lands which have been mapped and assessed by the U.S. Geological Survey or the Bureau of Mines would be classified as suitable for competitive bidding. She said most of this had been done.

The 1872 Mining Act should be repealed, she said, because the Act does not serve the small miner or prospector in today's world." Her example was the companies in Wyoming holding thousands of claims to search for uranium, something they said was impossible with small holdings. She said the small miner prospecting on a few claims was no longer relevant today.

Apparently she believes that searching for all types of minerals is done in the same way.

One of her points, which could be valid, was about one individual's complaint made during government hearings that one quarter of the public lands in Wyoming had been acquired by speculators who ignored the law. "The small miner is not being helped by such activities," she said. This way of acquiring land would be eliminated by the proposed mining bill.

It is her belief (but not that of the mining industry,) that the bill includes the basic principles the industry considers essential for any effective mining law.

When she said, "I don't believe we have any problems—the Administration and the mining industry—that can't be solved to our mutual satisfaction if we will make up our minds to talk with each other," the skepticism of the audience was obvious.

Miss Davenport repeated several times that Secretary Andrus' and her doors would always be open and they would welcome telephone calls for a discussion of each side's ideas. But one couldn't help thinking that they would do what one always does with children—listen and then do exactly what she and the Secretary thought was best for the mining industry.

In a press conference held that morning, R. J. Bruning, special assistant for minerals to Miss Davenport, used some of the same sentences and words as were in her speech.

It appears he must have written at least some of it.

It is hard to understand, then, why he allowed her to say, "The secretary's efforts on behalf of the mining industry when he served as Governor of Idaho for six years are well known." She was interrupted in mid-sentence by a wave of laughter that rolled over the room. Miss Davenport appeared shocked and Bruning grim.

It is incredible that someone so totally lacking the qualifications for such a responsible and technical position, one that will affect the lives of every citizen for years to come, was appointed by a born-again president.

Miss Davenport, who is just 14 years away from being a teenager, spoke to a room filled with mining people ranging from intelligent to brilliant with a total of thousands of years of experience in the mining field. President Carter owes us all an explanation.

SENATE HEARINGS ON S. 1974—THE REGULATORY FLEXIBILITY ACT

Mr. CULVER. Mr. Prseident, on October 7, 1977, I chaired a hearing of the Judiciary Committee's Subcommittee on Administrative Practice and Procedure on S. 1974, the Regulatory Flexibility Act. Senator GAYLORD NELSON and I introduced this bill in August and it now has 27 additional cosponsors.

I appreciate the cooperation which the chariman of this subcommittee, Senator JAMES ABOUREZK, has given me in scheduling these hearings and in soliciting expert comment on the bill. I will be working closely with Senator ABOUREZK as the legislative process moves forward.

The principle underlying the Regulatory Flexibility Act is that in some cases regulations can and should be tailored to the size and resources of those being regulated.

In brief, the Regulatory Flexibility Act directs Federal agencies to study the economic impact of compliance with new regulations on small businesses, small organizations, and individuals before those regulations are issued. It also requires a review of existing regulations in light of this impact. If the agency finds that a uniform set of requirements applying to small and large concerns alike would place a disproportionate burden on small enterprises, it must determine whether less burdensome reporting and compliance requirements should be developed for the small concerns.

Over the next few months, Senator NELSON and I will be studying the hearing record and working with interested groups and individuals both inside and outside Government in an effort to evaluate and refine S. 1974. I anticipate chairing further hearings on the bill early next session for the purpose of receiving agency comments on the bill.

At this time I would like to provide the Senate with a summary of the major issues, as I see them, raised at the October 7 hearing. I hope that my colleagues will find this summary useful in evaluating the bill at this stage of its development and I welcome any comments and suggestions that they might have.

The summary follows:

DISCUSSION OF MAJOR ISSUES RAISED AT HEARING BEFORE THE SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE OF THE SENATE JUDICIARY COMMITTEE ON S. 1974, THE REGULATORY FLEXIBILITY ACT

Witnesses presest: Senator Gaylord Nelson, Chairman, Senate Select Committee on Small Business;

Dr. Milton Kafoglis, Professor of Economics, University of Florida;

Mr. Carl A. Beck, representing the Small Business Legislative Council. Past President of the National Small Business Association, current member of the Executive Committee of the Board of Trustees of the NSBA and Chairman of the Business Advisory Council on Federal Reports. Accompanied by Mr. Herb Liebenson, Staff Vice President—Government Affairs, SBLC;

Dr. Thomas O. James, Treasurer, Chatham College, Pittsburgh, Pennsylvania. Representing the National Association of College and University Business Officers. Accompanied by Mr. M. J. Williams, Director of Special Programs, NACUBO;

Mr. James D. "Mike" McKevitt, Washington Counsel, National Federation of Independent Business. Accompanied by Mr. William Dennis, NFIB;

Mr. Warren Buhler, Director, Commission on Federal Paperwork. Accompanied by Mr. Michael McGinn, Deputy Director, Commission on Federal Paperwork.

Written testimony submitted by Mark Schultz, Regulatory Affairs Attorney, Chamber of Commerce of the United States.

Issue 1—Do agency regulations of general and uniform applicability discriminate unfairly against small businesses, small organizations, or individuals?

Discussion—The resolution of this question is central to S. 1974. There is a general presumption in a democratic society that people should be treated equally by their government and that special exemptions should not be granted to any group without establishing very good reasons for doing so. When a group seeks an exemption it generally has the burden of establishing that the exemption is justified.

All witnesses before the Subcommittee were asked whether small businesses, small organizations and individuals are in need of special treatment in the area of government regulation. Each provided evidence that "uniform" treatment under regulations does not always result in what could be considered "equal" treatment.

This phenomenon was illustrated by examples of regulations that impose the same total cost of compliance on both small and large firms. Mr. "Mike" McKevitt provided extensive documentation on how uniform requirements result in a higher cost per unit of output on the small firms, placing them at an economic disadvantage. In such cases, "equal treatment" in no sense leads to equal impact and certainly does not protect equal opportunity to compete in the marketplace.

Senator Nelson provided the Subcommittee with instances from recent Small Business Committee hearings of how uniform regulations impose unequal burdens on small concerns. Some examples were:

A pension plan in Montana with 12 members was subject to precisely the same informational and regulatory requirements as a national plan with 843,000 members;

An elderly couple in Arizona, owners of a literal "mom and pop" auto business, testified that they spend an average of 15 hours a week preparing federal reports.

Mr. Carl Beck told the Subcommittee of a small telephone company in Iowa, serving 1,232 customers, which has to comply with all the rules and regulations of the larger telephone companies. This company has had to hire Washington attorneys, CPAs and engineers to present its problems to the Federal Communications Commission.

While more extensive documentation and evaluation will be needed, the October 7 testimony supported the hypothesis that general and uniform regulations discriminate against small concerns. These witnesses also felt that a systematic evaluation of regulatory impact is necessary to develop rules that provide "equal" or "neutral" treatment of enterprises being regulated.

The witnesses stressed that they are not seeking special advantages from exemptions or special requirements, but wish to equalize the relative impact of federal regulations. It may even be useful to add a specific provision to the bill making it clear that the bill does not authorize or require agencies to grant any exemption or set lesser standards that go beyond the need to equalize the burden of federal regulations on different-sized concerns.

Issue 2—Do federal agencies have the capability to carry out the kinds of impact analyses required by S. 1974?

Discussion—Both I and several witnesses raised a number of questions concerning barriers to effective assessment by a federal agency of the impact of regulations on different-sized concerns. Technical questions concerning the state of the art in economic analysis and administrative questions concerning agency resources and possible delays in rulemaking must be answered before the Congress can realistically assess the changes in our rulemaking procedures proposed by S. 1974.

Dr. Milton Kafoglis, who recently served as a senior economist on the staff of the Council on Wage and Price Stability, pointed out that agency capabilities vary widely, depending on the number of industries affected by their regulations and their history of addressing this question of regulatory impact. Agencies which have jurisdiction over a small number of industries could perform such impact assessments with relative ease. Agencies with jurisdiction over many industries, as in the case of the Environmental Protection Agency or the Occupational Safety and Health Administration, would find the job much more difficult. Dr. Kafoglis pointed out, however, that both EPA and OSHA recently have demonstrated improved capability in economic impact analyses.

Mr. Warren Buhler made the point that, in general, agencies currently lack the necessary expertise to meet the impact analysis requirements of S. 1974; but without the requirements the bill sets forth, agencies will be much less likely to develop the ability to assess the costs they impose on society. He argued that as long as the federal government concerns itself only with holding down the budget costs of developing and implementing rules and ignores the costs on others of complying with those rules, the total cost to society will be larger than it would be if we put more effort into establishing fair rules in the first place.

Addressing this question from another perspective, Mr. McKevitt and Senator Nelson cited a number of examples of current regulations containing exemptions for small businesses or setting different standards for small enterprises than for larger ones. Senator Nelson provided the subcommittee with an extensive list of cases where agencies have issued such "tiered" regulations. He pointed out that this list, prepared by the Congressional Research Service, was not an exhaustive review of such rules but represented a sampling of the actions of various agencies in this respect.

These examples demonstrate that agencies do have some capacity to make assessments of differential impact of alternative approaches to implementing the laws under their jurisdiction and that they feel that such considerations can and should be taken into account in rulemaking.

A number of witnesses said that they viewed S. 1974 as a bill to insure that agencies do systematically what some now do on an ad hoc basis. While the burden on federal agencies would be greater under S. 1974, agency capability to perform these impact analyses currently exists to some degree and an enhancement of that capability is likely to require statutory encouragement, together with sufficient budgetary resources.

Issue 3—How can exemptions or different standards of compliance for small concerns be effected without jeopardizing protection of public health and safety or other socially desirable objectives?

Discussion—The authors of S. 1974 have made clear on a number of occasions that the bill is not intended to eliminate any requirements which are necessary to fulfill the intent of the law. It is designed to eliminate superfluous red tape and other unnecessary costs.

The Subcommittee asked each witness to address this question of how the provisions of S. 1974 might adversely affect the public interest, such as in the area of health and safety regulations.

All witnesses indicated that their interpretation of S. 1974 was consistent with the authors' expressed intent. They noted that the point at issue was the distinction between good and bad ways to implement the law, rather than whether or not the law should be implemented effectively. Several different examples and perspectives were offered on this point. Among these were:

Regulations with reporting requirements in excess of that needed to determine compliance with the intent of the law often work at cross purposes with that intent. Dr. Thomas James pointed out that, for small concerns, meeting these information and reporting requirements can absorb so large a share of the available time and resources that the objective becomes one of filling reports rather than meeting the law's intent. In such cases, less burdensome reporting requirements could increase our ability to achieve socially desirable objectives.

Many regulations require the reporting of information in a form that is inconsistent with normal recordkeeping practices. Often regular records, as they are or with minor modifications, could provide adequate information. Small concerns, in particular, lack the sophisticated records necessary to comply with government information requests. This often occurs because small concerns are not consulted during the rulemaking process. If agencies consulted with small as well as large concerns during the rulemaking process, adequate information requirements could be developed which imposed much less burden on small concerns without jeopardizing the relevant social objective.

Many regulations require technical standards; i.e., certain technologies must be employed in order to comply with the regulation. This often imposes a fixed cost on anyone who has to comply with the standards, thus imposing a greater per unit of output burden on small concerns than on large concerns. A standard which required a certain level of performance in meeting objectives would allow the adoption of least cost technology while achieving the same ends.

Agencies often write rules that they do not have the resource to enforce uniformly. At times this results in selective enforcement based on ease of prosecution rather than severity of offense. "Tiered" regulations, establishing objective priorities for achieving maximum social benefit, may increase both the enforceability of rules and the equity of enforcement.

It appears from the hearing that the provisions of the Regulatory Flexibility Act can and should be applied to regulations that affect health and safety as well as regulations affecting strictly economic objectives. It may be necessary, however, in order to insure that these provisions are not misapplied, to make more explicit in the bill that protection of the health and safety of the public must take precedence over the impact of such regulations on small concerns.

Issue 4—S. 1974 presently applies to all agency regulations, even those regulations that affect *only* small businesses, small organizations or individuals. How would the procedures outlined in the bill apply to these regulations since there is no uniform compliance standard from which to exempt small concerns nor from which a different standard could be set? Should these regulations be exempted from the bill's impact?

Discussion—While the question of how S. 1974 might be applied to regulations affecting only small concerns or individuals was not spelled out by the witnesses, all agreed that such regulations should not be exempt from the kind of analysis the bill would require. Dr. Kafoglis pointed out that "regulatory flexibility can be viewed as involving lesser or higher standards on a relative basis, but it can also be viewed as establishing the appropriate level of regulation."

Other witnesses emphasized the inability of small concerns and individuals to participate effectively in the rulemaking process. Although one would suspect that agencies issuing regulations which impact only small concerns or individuals would be especially sensitive to that impact, this does not appear to be the case in many instances. The result often is the promulgation of regulations directed specifically at these groups which make it next to impossible for them to comply with the requirements or take advantage of any benefits that programs are designed to offer.

While some modification of the bill might be needed to address regulations affecting only small concerns or individuals, it appears that greater sensitivity and attention to the needs and special characteristics of these groups are needed, whether they are affected as part of a heterogenous population or a homogenous one.

Issue 5—S. 1974 would require that the federal government obtain more detailed information on the impact of federal regulations on small businesses and other small concerns. How could agencies get the necessary information without creating still another layer of reporting requirements for the groups which the bill is intended to benefit?

Discussion—Mr. McKevitt stated in his concluding remarks at the hearing that "the most difficult problem presented by S. 1974 will be the accumulation of data on which to base the analyses required."

Several approaches to solutions to this problem were suggested. These included:

Greater efforts by government to assimilate the data and other information it already has concerning small businesses and organizations;

Sample survey techniques designed to provide objective information on industry characteristics;

Use of "typical" firm models based on sample data;

Increased representation of small concerns, through regulatory advisory groups, the Small Business Administration, or other appropriate ombudsmen.

There was a general recognition by the witnesses that some new costs for small concerns would probably result from the need for better impact analyses. This was accompanied by a conviction that the increased cost could be more than offset by reductions in the cost of complying with ill-considered regulations. This, of course, would depend upon the agencies using the additional information to write regulations that are, in fact, less burdensome.

The Chamber of Commerce pointed out that "the critical problem today is that the federal government sees information as a 'free good'—and, for all practical purposes, it is a free good for government. However, it is anything but free for the business community."

Dr. Kafoglis and Mr. Schultz both suggested that one way to help insure that information requests are reasonable and directed at obtaining only necessary information is to conduct such information-gathering within agency budgets rather than allowing agencies to transfer most of the burden to respondents. They argued that this would lead to more careful research design and more efficient use of information since agencies could be held accountable for the costs generated by their information-gathering requirements.

Issue 6—Do agencies currently have the legal authority to set different compliance standards or grant exemptions from a general standard for small firms? Or is agency discretion limited to varying the means by which uniform requirements of law are met?

Discussion—None of the witnesses at the October 7 hearing claimed the expertise necessary to answer this legal issue. It is a significant issue about which the agencies should have a great deal to say when they file their comments on the bill.

This issue raises the significant subject of whether the problems which result from the uniform application of federal laws occur because Congress passes laws which are categorical in their requirements. If agencies have the discretion only to minimize the paperwork burden for complying with these categorical requirements, better impact analysis may have only a marginal effect on reducing the social cost of regulations.

Issue 7—S. 1974 encourages agencies to grant exemptions or set different standards for compliance on the basis of size. Are there bases other than size, such as a history of previous compliance, upon which to grant exemptions or set different standards for compliance?

Discussion—The October 7 hearing and other evidence demonstrated that there may be a number of workable and productive criteria upon which to establish regulatory "tiers." Since some of these, such as performance criteria, apply to large as well as small concerns, it is not clear how much criteria might be incorporated into S. 1974.

Some performance criteria, such as the OSHA provision prohibiting fines against inspected workplaces with nine or fewer nonserious first instance violations, have been used with apparent success. It will be necessary to evaluate existing law and agency practice to determine whether size should be the sole or principal basis for granting exemptions and setting different standards for compliance under legislation to encourage regulatory flexibility.

Mr. President, this summary is not meant to be an exhaustive examination of the issues raised by S. 1974. Much work remains to be done in the months ahead and many other issues will require extensive study. I believe, however, that the record already established on S. 1974 clearly demonstrates the need for Congress and the Administration to attempt to correct some of the problems created by government regulation.

I am encouraged by the interest that has been shown by the President and by several of his cabinet members in seeking remedies for excessive and inflexible regulation. The proposed Executive Order currently being considered by the President indicates that there is a strong common ground upon which to base a mutual effort to improve the rationality and equity of government activities in the private economy and in the private lives of all citizens. I am hopeful and confident that we can move forward together in this effort.

TRIBUTE TO SENATOR JOHN L. McCLELLAN

Mr. HASKELL. Mr. President, as a freshman Senator I was privileged to share my first term in Congress with John McClellan's last. His sense of duty, integrity, and legislative ability were a constant source of inspiration to me. Personally I only knew him a few years but I had known of him through the decades of McClellan-chaired hearings and McClellan-sponsored legislation.

He was indeed a national figure. He never neglected the special needs of his home State in his pursuit of national issues but pursue them he did. Americans, in turn, recognized his efforts on our behalf to be inspired by conviction rather than political ambition. We came to think of him as a champion of our interests, a guardian of our trust.

His tenacious pursuit of those who would abuse this trust was legend. In the early 1950's he was among the first to publicly condemn the late Senator Joseph McCarthy's handling of the Army-McCarthy hearings conducted by the Senate Subcommittee on Investigations. Later, as chairman of the subcommittee, he probed the activities of organized crime, labor racketeering, military service clubs, missiles defense contracts, banks, and registered mail; the list is endless—18 years worth of significant and thorough congressional investigations.

His exposure of crime and depredation resulted in impressive legislation including the Organized Crime Control Act of 1970, the Omnibus Crime Control and Safe Street Acts of 1968 and 1970 and, of course, the revision and reform of the U.S. Criminal Code.

More recently, as chairman of the Appropriations Committee, he exercised effective leadership and fiscal responsibility.

This Thanksgiving, John McClellan returned to his native Arkansas to announce his plans to retire at the end of his sixth term in the U.S. Senate—a remarkable 36-year tenure. A few days later, at the age of 81, he died in his sleep at his home.

Senator McClellan chose to begin his retirement announcement with a quote from Scripture:

> To every thing there is a season, and a time for every purpose under heaven.

How appropriately the verse describes the life and passing of John L. McClellan. His accomplishments were legion but his great achievement was that to which we all aspire—a life of contribution and purpose.

NUCLEAR ENERGY

Mr. McCLURE. Mr. President, the continuing debate between Congress and the administration concerning the future of nuclear energy has resulted in a better understanding of the proposed nuclear export legislation, S. 897. It is essential that the reliability of the United States as a supplier of nuclear fuels and systems be firmly established in the free world. Without such reliability, we face a future of greatly increased foreign proliferation of both nuclear fuels and facilities for fuel enrichment and reprocessing, combined with a serious weakening of our own domestic nuclear energy capability. To insure such a reliability and to forestall nuclear proliferation, I will continue my strong support for the Clinch River breeder reactor project and the Barnwell reprocessing plant.

My colleague from Idaho recently addressed a meeting on nuclear energy concerning the relationship with world peace. His remarks present the factual basis for a continued strong nuclear energy development program within the United States, combined with a nonproliferation policy based on a reliable U.S. capability for meeting the legitimate nuclear energy needs of the free world. So that the full Senate may have the opportunity to review his persuasive arguments, I ask unanimous consent that the full text of Senator Church's prepared remarks, "Nuclear Energy and the Prospects for Peace," delivered on November 30, 1977, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Nuclear Energy and the Prospects for Peace

On April 7 of this year, President Carter announced the Administration's nuclear energy strategy. Under the new policy, the U.S. would (1) defer indefinitely nuclear fuel reprocessing; (2) terminate our planned demonstration breeder reactor; (3) seek alternate fuel cycles to the plutonium cycle; and (4) promote the exclusive use of conventional nuclear power plants here and abroad, and provide guarantees of sufficient quantities of enriched uranium to fuel them. By deferring nuclear fuel reprocessing and the introduction of breeder reactors, the Administration sought to avoid entering the plutonium stage of nuclear energy development.

More than half a year has now elapsed since this new policy was declared. It has been marked by rising public resistance to all types of nuclear energy within the United States and around the globe. Recently, in France, some 25,000 protestors clashed with police as they marched on the construction site of the Super Phenix, France's 1200 megawatt breeder reactor. English protestors have delayed the planning for new nuclear power stations in their country, and there is a full-scale inquiry into reprocessing light water reactor fuel at Britain's Windscale. In West Germany, there is currently a moratorium on building any new plants, while that country tries to solve the problem of nuclear waste management.

In light of these much publicized events, what has really happened? Is the plutonium genie actually being stuffed back in the bottle? Let's inspect the record.

Three major objectives marked the Administration's effort to divert other nations away from plutonium: it tried to stop the West German sale of the complete nuclear fuel cycle, including reprocessing and enrichment facilities, to Brazil; to halt the French sale of a reprocessing plant to Pakistan; and to prevent the Japanese from reprocessing spent fuel at Tokaimura. The results? The West German-Brazilian sale will be consummated—with all the reprocessing, enrichment and other sensitive technology included. The French, as planned, will sell the reprocessing plant to Pakistan, while, after a series of moves primarily designed to save face for the United States, the Japanese will operate their reprocessing plant at Tokaimura. Thus, the three major objectives of the Administration's anti-plutonium initiative have all failed to materialize.

Other, less noticed reversals are even more telling. Five Western European nations: France, Germany, Belgium, Italy and the Netherlands, recently signed a series of agreements for joint research and development of fast breeder reactors and the formation of a group to market them worldwide. The pacts seem to be a complete rejection of the Carter Administration's proposal to delay development of breeder reactor technology.

Similar examples abound, and I will briefly mention a few. This past October, West Germany began operating its first fast breeder research reactor and, together with The Netherlands and Belgium, is constructing another 300-megawatt prototype breeder. The British have two research breeders already operating in Scotland and a 1,300-megawatt commercial breeder under design. The Soviet Union operates a 350-megawatt breeder, the BN350, and is now building a 600-megawatt one, the BN600, about the size of the demonstration plant we had intended to build at Clinch River. France, of course, has been operating its prototype breeder, the 250-megawatt Phenix, for several years, and is now constructing its 1,200-megawatt commercial breeder, the Super Phenix. As for Japan, while American attention was focused on our futile attempt to persuade that government to forego reprocessing at Tokaimura, we all but ignored the fact that, just two and a half weeks after Carter's nuclear message, Japan's 50-megawatt Joyo test breeder reactor went critical. Japan's next step is construction of a 200-megawatt prototype, Monju—which is already in the planning stage.

Moreover, several other countries are going ahead with reprocessing. West Germany intends to build a large reprocessing and storage center in Lower Saxony. France has contracted to reprocess Japanese spent fuel at LaHague and is holding talks with West Germany, Switzerland, Sweden and Austria on similar contracts, at an estimated price of $2 billion. The French are asking that substantial sums be paid "up front," so that the money may be used to increase threefold the LaHague plant's current capacity of 800 tons per year.

Ironically, the Administration's policy of opposing the completion and use of our own reprocessing plant at Barnwell, South Carolina, hands the French a golden opportunity to pre-empt commercial reprocessing, permitting them to charge high prices and big "up front" fees for their services. Japanese utilities, for their part, are taking steps to get out from under these onerous French charges. They already have begun discussing arrangements with the Japanese Ministry of International Trade and Industry for site selection and feasibility studies on another Japanese reprocessing plant to handle their own fuel, one with a capacity of 1,500 tons per year, over seven times the size of their present plant at Tokaimura.

It is not difficult to understand why these countries are pushing ahead with reprocessing and the breeder, despite our official opposition. As I have pointed out before, these governments look upon nuclear energy and the breeder as their only hope of achieving some semblance of energy independence. We, in the United States, greatly underestimate the degree to which the 1973 Arab oil embargo and the subsequent 600 percent increase in the price of oil affected other major nations. Our country still produces almost 60 percent of its own oil needs, even though there is much reason to be concerned about our rising imports. But imagine our anxiety if we had to import 80% or 90% of our fuel. What if our import bill for foreign oil this year was not $45 billion, but $100 billion? What if our policies abroad were hostage to the demands of a handful of foreign governments whose interests differed from our own? Yet that is exactly what other countries face. Japan, France and Brazil, for example, import 90 percent of their fuel, primarily in the form of oil from the Middle East.

The Carter Administration wants these countries—and all others as well—to continue to rely on conventional nuclear reactors, fueled by enriched natural uranium. We have proposed an international fuel bank which would act as a repository for enriched uranium, supplied by major producers. Presumably, this fuel could be drawn upon by importers in the event that their normal source was cut off. The hope is that such a fuel bank might provide greater assurance of an uninterrupted fuel supply, and thus reduce the incentive for importing nations to build uranium enrichment or reprocessing plants with which to produce their own fuel, facilities which could also be used to fabricate nuclear weapons.

The idea is not new. In 1953, as part of his "Atoms for Peace" proposal, Dwight D. Eisenhower suggested the same concept, asking that nuclear fuel be contributed to his proposed International Atomic Energy Agency "to be allocated to serve the peaceful pursuits of mankind." Although the IAEA was established in 1957, the United States had by then lost interest in an international fuel bank, favoring instead our own bilateral contracts for supplying nuclear fuel to importing nations. As long as we remained a reliable bilateral supplier, we enjoyed dominant influence in regulating and safeguarding the sale of nuclear fuel. But of late, the United States has itself undermined the confidence foreign purchasers reposed in us. During its review of nuclear policy, the Administration suspended licenses for the export of enriched uranium. Confidence in our reliability as a supplier was shattered.

The result was predictable. Activities mushroomed to break our hold on fuel enrichment services. Other governments were moved to build their own uranium enrichment facilities and reprocessing plants, the better to guarantee themselves a dependable supply of nuclear fuel in the future. There are estimates that, within two to five years, the leadership role of the United States in the global development of peaceful nuclear energy will begin to fade, due to the spread of uranium enrichment and reprocessing plants. President Carter in the best of faith has sought to divert the world away from this dangerous course, with all its pitfalls for nuclear weapons proliferation, the concept of an international fuel bank has been revived. But even if we succeed in establishing such a fuel facility, it cannot provide a lasting solution to our dilemma. For the proposal, much as I welcome it, much as I will support it with my voice and my vote, is inherently flawed. It depends upon deposits of natural uranium adequate to meet world demand.

This just isn't in the offing. As for our own resources, the most optimistic forecast—that of the Ford Foundation—assumes there will be far more recoverable uranium discovered in this country than intensive exploration has yet indicated. The Ford study estimates a 3.7 million ton reserve figure. But other studies by federal agencies, including one conducted by the National Academy of Sciences, hold that the known and probable reserves of uranium in this country total only 1.8 million tons. Such a quantity would provide only one-half of the nuclear fuel required by the United States alone between now and the end of the century. Even if the Ford Foundation prediction proved true, it is still apparent that the United States would be unable to produce, from its own natural uranium deposits, a sufficient supply of enriched uranium to meet our own needs and those of our foreign customers, besides. So, if we take the most optimistic of forecasts, the policy of conventional reactors is based on a false premise.

To be sure, large quantities of natural uranium are to be found outside the United States, notably in Canada and Australia. Doubtlessly, other deposits will be discovered and developed. Nevertheless, as measured against the projected worldwide growth curve of nuclear energy, the argument is not whether there will be enough to last, but rather, how long it can last. Like oil, natural uranium is a depletable resource. From the standpoint of the great majority of countries endowed with neither fuel, of what use is it to exchange one dependency for another?

In the long run, these governments must look beyond conventional reactors and a diminishing supply of natural uranium. The breeder program is the only technology now on the horizon which holds out the promise of relief from an unremitting dependence upon foreign-held fuel supplies. The singular advantage of the breeder is that future models, on the basis of known technology, should produce more fuel than they can consume. And, so you have one real possibility for solving the energy crisis that will expand 100-fold the supply of natural uranium.

Furthermore, alternate energy sources are simply too uncertain. With the spectre of oil beginning to run out, and the price exploding in 1985, countries cannot be expected to shelve their self-sustaining nuclear programs while waiting for some dramatic breakthrough in solar energy. Nor can they rest their future on the energy to be derived from the wind, the waves, or geothermal heat. Our hearings have brought the best experts. We have funded alternatives to the hilt. Coal can help. We should develop these sources of power to the utmost, but at present, all of these alternatives, combined with the expanded use of coal, appear to fall short of the mark. For now at least, the answer these countries see is the breeder, with its self-generating fuel stock and its promise of energy independence for their core industrial base. That's the way they see it . . . we must contend with in embracing the realities of the world we live in.

That is why I believe the President was mistaken in vetoing the Clinch River Breeder Reactor Project. By refusing to build a breeder, while other nations proceed to do so, we not only retreat from reality, but we are bound to lose our leadership role in shaping the global control system which the use of plutonium fuel demands. After all, we must share the same world with other nuclear nations, and we should strive with them to make it safer. No escape can be found in abandoning to foreign governments the development and application of breeder technology.

As the sole reliable supplier of enriched uranium, we once exercised great influence over the development of nuclear energy for peaceful use. By becoming unreliable, we have increased, rather than diminished, the risk of weapons proliferation. The international fuel bank is an effort to again create a dependable source of nuclear fuel for conventional reactors under multilateral auspices; to keep the enriched uranium under tight safeguards; and to prevent the diversion of the spent fuel for bomb-building purposes. In making its proposal, the Administration correctly recognizes the existence of the front end of the nuclear fuel cycle and the need for a global mechanism to manage it. All I would add is that we adopt parallel polices that will recognize and safeguard the back end of the nuclear fuel cycle, as well.

Such parallel policies would call for an international system to safeguard the shipment and peaceful use of plutonium fuel. The system should offer developed and developing countries alike assured access to both enrichment and reprocessing services within the context of these safeguards. Instead of promoting monopoly profits for those governments that elect to sell reprocessing services, thereby encouraging purchasing countries to build their own facilities, we should be working to internationalize these operations in regional fuel cycle centers. This is the best way to separate the commercial nuclear fuel cycle from weapons manufacture while, at the same time, accommodating the legitimate energy needs of non-weapon states.

Any strategy to control nuclear weapons proliferation must include the marketplace and embrace the whole nuclear industry, both here and abroad. In recent years, the United States has effectively curtailed sales of our products abroad because of our growing concern over nuclear weapons proliferation risks—U.S. reactor sales have dropped precipitously in the last five years. Only one was sold in 1976. Other countries, notably France and West Germany, have rushed into the breech to fill those orders. During the same five-year period, their sales have dramatically increased, reaching nine reactors in 1976. What else could we expect? Every stage of nuclear power, from the conventional reactor to the reprocessing plant to the fast breeder requires a huge investment difficult if not impossible to recover if sales are restricted to domestic markets. Further, the smaller the country, the greater the need to export.

As a result, it is all the more important that the United States become the leader in establishing international guidelines for safeguarding the whole of the nuclear fuel cycle in a framework that permits export sales by all suppliers.

S. 897, the nuclear export bill now in Congress, must reflect this requirement. As you know, its initial formulation ignored the existence of the back end of the nuclear fuel cycle, as well as other countries' nuclear plans, and could well have precluded exports of any kind by the United States. In both the Energy Committee and Foreign Relations Committee, I worked to amend the bill in quest of procedures which would wed the realities of the marketplace with the goal of nonproliferation. It has been much improved and I would like to take a fresh look at it and since it was put over, I want to take that look.

Why should we manacle our industry in a manner that will not advance the goals of nonproliferation? Rather, our purpose should be to give our industry access to the world marketplace under internationally agreed upon standards.

I do not mean to suggest that what I am proposing is a system free from risk. Far from it. Serious risks attend the use of nuclear power, and they cannot be ignored. The most pressing problem today is demonstrating that an environmentally safe method can be devised for the final disposal of nuclear waste. Again, I favor an international control system linked to reprocessing. But until that can be accomplished, interim storage of domestic spent fuel at federal repositories, akin to the plan anounced by the Administration, makes eminently good sense. So it's not all black. There are features in this moving in direction we could all applaud.

While there are legitimate concerns about nuclear power, for the most part our fears about weapons proliferation are misdirected. Commercial nuclear facilities have not been the route taken by those governments that have desired to build the bomb. As in the case of India, bombs have come from conventional research reactors and small chemical separation facilities designed for this specific purpose. And these can be developed quickly by any country.

If non-proliferation is truly the goal, our decision not to build a breeder reactor in this country is far removed from the example we really need to set. For the nuclear weapons that endanger the world today, those that the whole human race has most reason to fear, are to be found in the burgeoning arsenals of this country and the Soviet Union. Both countries live in the shadow of these weapons, whose power is so great that we lose count in the Kafkaesque game we play of how many times each of us can destroy the other—and much of the world besides. This is the overriding threat to our survival, and it is here—in the field of nuclear arms control—that we must concentrate our efforts and set the example for the world.

Yet on the horizon looms another threat, subtler but just as real. The world is running short of energy—we appear perilously close to that time. As energy is the basis for the world's economic well-being, it may well hold the key to future peace or war. The possibility that nations will embark on military adventures to secure sufficient energy will increase as supplies dwindle and living standards stagnate or decline. The world could be reduced to internecine warfare for generations to come.

I believe it is within the capacity of the United States to contribute significantly to the future energy resources available to the world, and to materially reduce potential tensions that could lead to future hostilities.

But to do so, we must distinguish between nuclear weapons and nuclear power, between atoms-for-war and atoms-for-peace, for they are not the same. To know the difference and act accordingly is indispensable, if ever we are to succeed.

AN HISPANIC VIEW OF WELFARE REFORM

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD the recent testimony of Mr. Ricardo Zazueta, national director of SER/Jobs for Progress, Inc., to the House Ways and Means Committee on the Hispanic Perspective on Welfare Reform. This testimony, by a group that has assisted over 124,000 persons to find jobs over the last 11 years, identifies the very difficult problems in adequately reaching our Spanish-speaking population in Federal job creation legislation, particularly when in 1976 Spanish-speaking youths suffered a 23.1-percent unemployment rate. One of Mr. Zazueta's important suggestions is the need for far greater emphasis on developing expanded bilingual training and instruction efforts in order to create meaningful jobs for this particular group of unemployed. I trust that my colleagues will find these important and constructive observations very helpful in the next few months as we review the President's welfare reform proposal.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

HISPANIC PERSPECTIVE ON WELFARE REFORM

Mr. Chairman and Distinguished Members of the Committee: I would like to preface my remarks on Welfare Reform with our special thanks to this prestigious Committee for allowing our organization to testify before you on issues confronting thousands of families of Hispanic origin in the United States and its legal territories.

SER/Jobs for Progress is the largest employment and training program in the United States serving the Hispanic unemployed, underemployed, and economically disadvantaged. During our eleven year history, we have assisted over 124,000 persons to prepare for, secure, and retain meaningful and productive jobs. Many of our clients during this period have been welfare recipients who were attempting to improve their lives by acquiring new and more marketable employment skills. Although we are proud of our record over the past decade of service, we are aware that our services have not always been totally successful. Inadequate resources to implement programs for the poor, a lack of government commitment to fully employ all individuals capable of working and the stigma of being poor and culturally different in America, all prevented many poor people from retaining permanent jobs.

In our in-depth research of the plight of the Hispanic community in the United States and the present welfare system, three important facts about poverty and poverty programs have continued to emerge:

1. Poor people in the United States, and particularly the Hispanic poor work and desire to work. The main reason for their poverty is that when they are given the opportunity to work they are not paid enough to move out of a poverty status.

2. The welfare system in the United States encourages greater dependency on itself, destroys the work incentive, and debilitates the traditional family structure.

3. If the welfare system in the United States is to become more equitable and less dehumanizing, a total restructuring of the present system is essential, a strong emphasis being placed on the provision of jobs in the private sector.

Mr. Chairman, in reviewing the various welfare reform proposals that have been developed over the past several years, it has become obvious that the proposal developed by the Carter Administration represents a significant and bold departure from previous piecemeal attempts to improve on the present welfare system. The welfare reform program proposed by President Carter calls for an all out recognization of the Federal, State, and local agencies which are responsible for the delivery of services to the poor. More importantly, the President's welfare reform proposal represents a significant change in the underlying philosophy of the welfare system. President Carter's firm commitment to create decent jobs for the poor, to provide an adequate guaranteed income for poor persons who cannot provide for themselves, and to restore some stability in the families of the United States driven apart by the present archaic welfare laws, all represent significant changes from previous ineffective and more punitive welfare reform proposals presented to the American people by prior Administrations.

Mr. Chairman, to insure that this ambitious and far reaching proposal is implemented equitably for all poor persons in the United States and that the new welfare program which emerges will become more effective in serving persons with cultural and linguistic differences, our organization will offer several suggestions to this committee to consider during their deliberations of new and amended legislation. Our hope is that these recommendations will be accepted in a positive and constructive way and that our suggestions will receive adequate attention by President Carter, the Secretary of the Department of Health, Education, and Welfare, Mr. Joseph Califano, the Secretary of the Department of Labor, Mr. Ray Marshall, and this Committee.

For the purpose of brevity, Mr. Chairman, my testimony today before this committee will focus on those areas of the welfare reform proposal that specifically address employment and programs for the poor. This is the area in which SER/Jobs for Progress has considerable expertise and, as I mentioned in my opening remarks, it is the area that provides the greatest hope for alleviating proverty in America. It is our belief that if the welfare reform program contains adequate resources and a strong commitment to put the poor to work at a decent living wage, a significant reduction in poverty and human deprivation can be expected.

Therefore, briefly, Mr. Chairman, SER/Jobs for Progress, on behalf of the Spanish-speaking community, offers the following recommendations:

1. The Administration and Congress, in finalizing the welfare reform program, should commit sufficient resources to the creation of jobs for the poor. To our knowledge, $5.9 billion will be dedicated to creating jobs and training opportunities through CETA and WIN. This seems to be only a moderate commitment of resources when compared to the overall cost of maintaining these families on public assistance, to say nothing of the loss of human talent to our country, which can never be measured in dollars and cents.

2. The Administration, in dispersing job creation and training funds, must devise a more equitable system for dispersing funds to the various sectors of the country. The plan shows that 4.7 billion dollars or 16.8% of the total jobs programs will be distributed to the West. In comparison, 10.5 billion or 37.6% will go to the South, 6.4 billion or 23.2% to the North Central States, and 6.27 billion or 22.4% to the Northeastern States. As you all know, the rural agricultural economies of the West are being eroded and replaced by more technologically advanced urban centers. This has led to the continued displacement of thousands of Hispanics who have, for years, toiled on ranches and farms to feed the American people. A broad gap is developing in the West between the skills of the Hispanic poor and the skill levels required to compete in urban job markets. As the cities in the East continue to decline in population, due to overcrowded conditions, a significant population increase is occurring in the West. Many of the new arrivals in the West possess marketable job skills and are able to secure the better jobs available. This population shift and increased competition has led to additional displacement of Hispanic workers.

3. By implementing the welfare reform package, the Administration and Congress must provide equitable employment services to both the unemployed and the underemployed. The President's proposal, as presently drafted, stresses that manpower training and public service jobs will be provided to the unemployed who are willing and able to work. As I mentioned earlier, Mr. Chairman, Hispanics in this country have always worked and worked very hard. The problem has been that these hard working Americans were not paid enough to get out and stay out of a poverty status. By serving the unemployed, at the expense of the underemployed, the Administration will be punishing a large segment of poor people who have worked and struggled all of their lives to make a decent living for themselves and their families. This we feel would be a grave mistake.

4. In enacting the legislation for the welfare reform, the Congress should designate Community Based Organizations (CBO's), with demonstrated effectiveness, as the principal vehicle for providing employment and training services to the poor. The ability of these community groups to reach out to the poor and provide them with productive jobs and meaningful training is a matter of public record. In virtually every case, Community Based Organizations have surpassed CETA Prime Sponsors, local welfare agencies, and public employment services in placing the unemployed and economically disadvantaged into permanent jobs. The present draft of the welfare reform proposal makes the provision for the Secretary of Labor to contract for services directly with Community Based Organizations, if it is shown that Governors and other locally elected public officials are unable to provide adequate jobs and training opportunities for the poor. For the record, Mr. Chairman, I would like to share some important facts about the history of locally elected official in providing jobs for welfare recipients under CETA. As of June, 1977, CETA Prime Sponsors had enrolled a very small number of welfare recipients into the Public Service Employment program funded under Titles II and VI of the Comprehensive Employment and Training Act (CETA). Of the total 313,841 people who were employed in public service jobs under CETA Title II, only 5.5% were A.F.D.C. recipients and only 8.6% of the participants received public assistance of any kind. In addition, to the total 371,429 people employed under CETA Title VI, only 8.1% were A.F.D.C. recipients and

only 7.3% of the participants, had received other types of public assistance. This is compared to 16.1% and 10.8% respectively under Title I. In analyzing the placement rate for welfare recipients and other types of public assistance recipients, it became obvious that these participants had a much lower chance of securing employment after CETA participation than other CETA participants did. For example, as of the end of June, 1977, A.F.D.C. recipients represented only 4.7%, 5%, and 9.5% of the total unsubsidized job placements under Titles II, VI and I respectively. These statistics indicate that CETA Prime Sponsors have been unable to effectively outreach those most in need of services. If they were brought into the program they had a minimal chance of getting a permanent job after training or public service employment.

5. When implementing the new welfare program, every effort should be made to provide bilingual training and instruction for those people who are unable to communicate effectively in the English language. Persons with linguistic and cultural differences have long suffered discrimination in jobs and public services due to language and cultural barriers. The Hispanic poor in the United States, as a result have had the double disadvantage of being both poor and culturally different in a society which has very little sympathy for either poverty or cultural differences. If the new welfare program is going to overcome some of these barriers, which have prevented hard working people from having a fair chance to improve themselves, adequate provisions for employing bilingual and bicultural staff must be made part of the law. SER/Jobs for Progress, therefore, recommends that bilingual/bicultural staff, instruction, and training be available to those poor people who need these services to secure permanent and adequate paying jobs.

6. Finally, Mr. Chairman, SER/Jobs for Progress would like to recommend that an interim census be taken as a part of the welfare reform program. This way a better count can be made of the number of persons who will be eligible for the various services to be offered. Virtually, every census, including the most recent, has undercounted the number of poor people and minorities residing in the United States. The U.S. Bureau of the Census, estimated that persons of Hispanic origin were undercounted by 1.5 million persons during the 1970 Census. Our estimate of the undercounting is much greater. This proposed special Census will provide the Congress and the Administration with an updated data base for making decisions on the funding level for each program and the dispersement of these funds across the country.

In closing, Mr. Chairman, I would like to reveal some startling statistics which, I am sure, will interest you, as well as Mr. Hawkins and Mr. Rangel, since you represent a sizeable Hispanic constituency. In 1976 the Hispanic population in the U.S. suffered a staggering 11.5% rate of unemployment. Black Americans are not alone in their concern with regard to youth unemployment. But consider for a moment the alarming rate of over 14% unemployment for Black youth; then consider that in 1976, 44% of all persons of Spanish origin were under 18 years of age; and then consider that Spanish speaking youths between the ages of 16 and 19 suffered a 23.1% unemployment rate. Surely if outrage was the reaction to the 14% Black youth unemployment rate, complete shock is the reaction of the Hispanic constituency in this nation to this statistic. It is our intention to closely watch the implementation of the new welfare program and to speak out loud and clear if it is not being implemented in a fair and effective manner.

I would like once again to express our sincere thanks to the members of this Committee for allowing us the time to make our views known to you. If I can answer any questions on these and other matters of welfare reform, I will be happy to do so. Thank you.

UTILITY RATES

Mr. SASSER. Mr. President, there was an interesting article in the December 7 issue of the Wall Street Journal written by Mr. Byron Klapper which I hope all of my colleagues had a chance to see. The article deals with some rather controversial issues related to the unique economic powers of certain utility companies located in regions where cheap power is scarce. In order that my colleagues may have the benefit of further evidence in support of strengthening the power of the Federal Government to order utilities to cooperate in providing the best possible service to consumers, I ask unanimous consent that this article be printed in today's RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SASSER. Mr. President, I am proud to say that the citizens of my State have the benefit of some of the cheapest power sold in the country. Not only is this of great direct value to consumers and industries in Tennessee, but the existence of low-cost power makes Tennessee an exceptionally attractive place to build a plant or to locate a business. The economic outlook for my State has only been improved by this fact, especially as we watch the cost of energy steadily increase.

Mr. President, the Tennessee Valley Authority has been able to provide this relatively cheap power for decades largely because it oversees a fully interconnected and coordinated power system. Power and resources are, as a matter of due course, allocated throughout the TVA region according to the most efficient formula which can be devised. There is not a need to have the Federal Government intervene between utilities in my State, because all of the utilities under TVA in Tennessee and their customers already enjoy the full benefits of interconnection, wheeling, pooling, and other techniques used to make the generation and transmission of electric power more efficient and less costly.

But it is disturbing to read that, in other parts of the country, consumers suffer from power rate increases which could be avoided if existing power facilities were more efficiently used. I find it especially disturbing that such efficiency is prevented because of anticompetitive conditions. Mr. Klapper's article reveals a need to protect wholesale customers of power who are isolated within the exclusive jurisdiction of a large power company upon which it is wholly dependent. This protection must come from the Federal Government, which has jurisdiction over transmission or sale of bulk power. It would appear that in the absence of such Federal protection, private companies' profits, not efficient use of facilities, is the primary concern.

It is particularly revealing, for example, to find that the residents of a Florida municipality have voted to buy power directly from the surrounding private utility because of continuous wholesale rate increases that utility has been charging to the city power system while refusing to wheel power to the city. It alarms me to hear a city's mayor charge that private utility companies aim to "take over" municipal power distributing systems by charging discriminatory, high rates, to those municipal utilities, which have no alternative source of power.

I believe it is the responsibility of Congress to protect wholesale consumers from anticompetitive practices of power companies concerned only with profits. If the Congress refuses to accept the full measure of that responsibility, then I would hope that the Federal Energy Regulatory Commission will exercise whatever power it has to assure that wholesale customers of power are not subjected to discriminatory rate-setting and other cost-increasing practices of utility companies which have monopolistic control over them.

EXHIBIT 1

POWER PLAY: CITIES PROTEST ELECTRIC-RATE DIFFERENCES CHARGED BY THE INVESTOR-OWNED UTILITIES

(By Byron Klapper)

When Alcan Aluminum Corp. closed its obsolete Riverside, Calif., mill last year, 1,000 jobs were lost in an area already suffering from high unemployment. One of the reasons it wasn't worthwhile to modernize the mill, according to a company spokesman, was a recent boost in its electricity bill.

Alcan bought its power from the city-owned utility, which, in turn, obtained electricity in bulk from Southern California Edison Co. Riverside went to court where it joined with three other cities to fight the tentative $16 million rate increase granted Southern California Edison by federal power authorities.

Riverside's still-pending complaint is similar to scores of actions being brought by cities against investor-owned utilities that supply almost all the cities' power. The charge is that the city-owned utilities are having to bear a heavier share of rate increases than large companies served by investor-owned utilities under retail contracts. As a result of this discrimination, the cities say, they are losing their ability to compete for industry. And some are even coming under pressure to sell city-owned utilities that have helped support sagging municipal budgets.

Investor-owned electric companies counter by arguing they must have higher rates to meet soaring plant-construction costs and to protect their bond ratings. A utility's bond rating, which influences the interest rate on its borrowings, is threatened if the ratio of debt to earnings rises above certain levels. Lower ratings increase the cost of financing expanded power-supply capacity.

RATE DIFFERENCES CONCEDED

Certainly, there are differences between the rates charged municipalities and big corporate customers, the investor-owned utilities concede. But they deny the price gap is their fault or that they are trying to squeeze the cities' utilities out of business. Rather, they say, the differences are due to the fact that wholesale power rates are set by federal regulators, while retail rates are fixed by state commissions.

That is cold comfort for the city-owned utilities that account for about 14% of electric customers nationwide. They range from the Los Angeles Department of Water & Power, which generates and sells power to 1.1 million customers, to the municipal utility of Seward, Kan., with 43 metered customers, according to the American Public

Power Association. Most of the city utilities buy power in bulk at wholesale rates and then distribute this electricity throughout their municipalities. They don't pay dividends to stockholders nor are they subject to federal taxes or local property taxes. And they can borrow money for any generators or transmission lines at lower tax-free bond rates.

Such savings are often passed on to municipal customers through lower electric bills. But as the power suppliers are raising their fees to the cities—with the approval of rate-setting authorities—the savings are disappearing.

For example, Indiana & Michigan Electric Co., a unit of American Electric Power Co., charges Anderson, Ind., 22 percent more for bulk power than it charges a local General Motors Corp. plant as a retail customer, according to Anderson city officials. Riverside, Calif., says its wholesale cost averages 15 percent more than large companies just outside the city limits pay Southern California Edison. "That," says Maurice Smith, assistant city manager, "puts us at a competitive disadvantage."

SUBSIDIES INTRODUCED

Half a dozen companies have rejected Riverside as a relocation site in the 20 months since Southern California Edison raised its rate, for a loss of 1,500 potential jobs, Mr. Smith says. Meanwhile, companies in the city with problems similar to Alcan's were weighing whether to modernize or pull up stakes. To dissuade them from following Alcan and leaving, Riverside's city council has voted to absorb part of the rate increase and to subsidize the electric bills from other city-utility revenue. As a result, rates for large companies now match or are lower than Southern California Edison's in nearby areas even though this means red ink for the city-owned utility. Because of the subsidies, Riverside's power utility had a $330,000 deficit last year, its first.

Even without paying subsidies, city budgets have been disrupted by rate increases affecting their utilities. The Chicago suburb of Naperville says a 50 percent rate boost in its wholesale electric costs three years ago wiped out utility profits earmarked for the city budget, forcing a $400,000 cut in the city's general services. Naperville and five other cities responded with a $37.5 million suit against their supplier, Commonwealth Edison Co., in federal court charging price discrimination and violations of antitrust laws. Commonwealth Edison has denied the accusations.

It reached the point in Vero Beach, Fla., where residents complaining of high electricity bills voted to have Florida Power & Light Co. take over the municipal power system. However, the proposed $42.7 million sale became stalled in hearings of the Federal Power Commission (recently renamed the Federal Energy Regulatory Commission) when a staff member of that agency found that Florida P&L may have been the cause of the rising power costs at Vero Beach. FPC economist Gordon T. C. Taylor charged Florida P&L with "anti-competitive conduct" by refusing to sell bulk power to cities, and by denying them use of its transmission lines to buy cheaper power elsewhere. Florida P&L says the accusations are without foundation and are based on an incomplete review of the situation." An administrative-law judge for the agency is expected to rule on the matter early next year.

American Electric Power has stirred a similar hornet's nest in cities served by its operating units. In a recent annual report, American Electric said it won't make new commitments to municipal customers because of the high cost of financing generating plants. Such costs can't automatically be passed on to the cities because of the regulatory procedures. It also refused to renew long-term contracts with several cities, serving them instead on a day-to-day basis because, it said, it can't guarantee long-term power supplies.

TAKEOVER ACCUSATION

"What they're really after is to take us over," says Mayor William Fryback of Bluffton, Ind., referring to his city's utility that buys 95 percent of its power from American Electric. "We battle them hard on rate increases and cause them aggravation," Mr. Fryback says. "They'd like to get us out of the way."

Last May, FPC administrative-law judge Samuel Kanell found that American Electric "frustrates any effort to encourage new industry or commercial activity" by its municipal customers. He ruled that the company can't pick and choose among customers and ordered it to report on how it would deal equitably with projected power shortages in the area it serves. That isn't the final say on the matter, though, since American Electric can protest the findings before the full commission.

Until recently, federal regulators refused to consider price-discrimination complaints in municipal-rate cases. They argued that state commissions fly retail rates and that they lack jurisdiction over state actions. That left cities without any place to go but the courts, until July 1976, when, in a case involving Conway Corp., the Supreme Court said the FPC had jurisdiction under the Federal Power Act to hear such cases and could "effect a remedy."

Many city officials see the so-called Conway decision as offering them nothing more than a forum for their grievances. They complain that the commission is bogged down in red tape, often taking three years or more to act on rate cases. And they note that it took the agency nine months after the decision to publish procedures for hearing price-discrimination cases.

Moreover, the commission sees its role as a limited one in such cases. In a policy statement last March, the FPC said it could adjust rates within a "zone of reasonableness," which may not end price discrimination. And it said it couldn't deal with past losses or damages to municipal systems.

Cities are optimistic, however, that the price-discrimination issue may soon be decided in Congress, where a Senate-House conference committee is debating the proposed National Energy Act. A section of the proposed measure says that if the cost of serving wholesale and retail customers is the same, rates to those customers shouldn't vary. Says a member of the House Energy and Power subcommittee, "It's designed to take care of price-squeeze situations by federal legislation."

REED IRVINE: HAIRSHIRT FOR A BIASED MEDIA AND THE PUBLIC'S FRIEND

Mr. HELMS. Mr. President, Reed Irvine is founder and chairman of Accuracy in Media, a public interest monitoring group dedicated to fairness and accuracy in reporting.

For more than 8 years, Accuracy in Media has worked diligently to insure that the American people get the truth in press and media coverage of news events. In doing so, AIM and Mr. Irvine have become—and I quote no less authoritative a source that Mr. Charles Seib, ombudsman for the Washington Post—

> Well known in the editorial offices and executive suites of the "New York-Washington axis"—The Washington Post, the New York Times, the networks and Time and Newsweek.

Mr. Irvine has become well known, Mr. President, because of his hard pursuit of the truth, and for holding the media to standards of fair play that otherwise might not be observed.

That there is a need for Mr. Irvine's work is obvious. Almost daily, the major media distort news events, often according to the ideological bias of the writer or editor or newscaster. Or stories of merit are ignored, while other stories of little or no merit are given wide coverage.

Mr. Seib says:

> AIM takes the position that the media have exercised their vast power in a biased and dangerous way. Its avowed mission is to correct that bias, to save the press from itself.

Mr. President, a free society needs a free press. But a free press, as Mr. Irvine recently pointed out, "does not guarantee a free society. Unfortunately, history indicates that a free press may contribute to its own destruction and to the destruction of all other freedoms.

"There is some reason to question whether or not we have gone too far for our own good," Irvine says, wondering whether we may not have created a monster which may destory "many of the freedoms we cherish, including freedom of the press."

Mr. President, I share Mr. Irvine's concern that a media able to operate unchecked is open to potentially dangerous abuse of freedom. That is why I applaud Mr. Irvine and AIM in their fight to insure that the fourth estate is ever mindful of its responsibility to present the truth in a fair way.

Nor am I alone in my appreciation of Mr. Irvine and AIM. None other than Mr. Charles Seib himself has grudgingly admitted a need for Reed Irvine and AIM.

Mr. Sieb tells us:

> It sticks in my craw, but I'll say it: Irvine and his AIM are good for the press.
>
> The same logic that says the institutions of government require a vigilant and critical press must also say that the press needs vigorous criticism, including the Irvine brand.
>
> He is our carbuncle, and his function is to keep us in a state of healthy discomfort.

Mr. President, I believe my colleagues would benefit from a reading of Mr. Seib's article.

Mr. President, I ask unanimous consent that the article, "Media's Full-Time Watchdog," by Charles Seib, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Additionally, Mr. President, I am sure that my colleagues would be interested in just why Mr. Irvine is the media's hairshirt and the American public's friend.

In a recent article, entitled "Canal Treaty: No Secrets Needed," Mr. Irvine takes the media to task for ignoring the fact that Panamanian Chief Treaty Negotiator, Dr. Romulo Escobar Bethancourt, had repeatedly stated in public that Panamanian interpretations of key elements of the recently negotiated treaties differed sharply with U.S. interpretations.

As Mr. Irvine points out, only after my distinguished colleague from Kansas, Mr. Dole, released a State Department cable to the same effect did the media pick up the story, and only then because Senator Dole released what was stated to be a "confidential" telegram.

Mr. Irvine is right, Mr. President, for taking the media to task for its lack of diligence and judgment in recognizing a good news story. But then, so many other good news stories about the Panama Canal treaties still remain to be looked into. Perhaps the only remedy is for someone to stamp "confidential" on each story, for the media to pay attention.

Mr. President, I ask unanimous consent that the column entitled, "Canal Treaty: No Secrets Needed," by Reed Irvine be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Exhibit 1

Media's Full-Time Watchdog

(By Charles B. Seib)

One recent departure from the federal payroll will cause no joy in Mediaville. Reed Irvine has taken early retirement from his $44,000-a-year job with the Federal Reserve Board to devote full time to his own aggressive brand of press monitoring.

Irvine's name is not familiar to most customers of the news business, but it is well known in the media. It is particularly well known in the editorial offices and executive suites of the "New York-Washington axis"—The Washington Post, The New York Times, the networks and Time and Newsweek.

Irvine is the founder, chairman and driving force of Accuracy in Media, better known as AIM. It bills itself as a media watchdog devoted to "accuracy and fairness in reporting on critical issues facing America."

AIM takes the position that the media have exercised their vast power in a biased and therefore dangerous way. Its avowed mission is to correct that bias, which it sees as having a decided leftward lean. In the process, it reveals a tilt of its own to the right.

Irvine started AIM eight years ago. In its early days it was a shoestring operation, making its points mainly in a torrent of letters to the editor.

Several years ago, I reported that AIM's budget was about $60,000 a year. Now it is over $200,000 a year, and one staff member predicts it will soon cross the $250,000 mark. AIM does not disclose the source of its funds, except to say that they come mostly as small contributions from individuals.

Irvine puts pressure on the press in a variety of ways. He continues to be a prolific writer of letters to editors. He also writes a weekly column that he says is used "more or less regularly" in about 80 papers.

He has bought stock in The Post, The Times and ABC, CBS and RCA (which owns NBC) and regularly attends stockholder meetings. There, he engages corporate brass in discussions of their shortcomings as AIM sees them. While these confrontations seldom are given much attention in the press, Irvine uses them to good effect in his semimonthly newsletter, AIM Report.

AIM's main public exposure is through paid newspaper ads, a device Irvine uses both to get his points across and to raise funds. Sometimes the ads severely test news executives' commitment to a free and open press.

Early this year, when The Post printed an AP story on an AIM conference instead of a UPI story that stressed attacks on the media and The Post, Irvine had an ad prepared. It featured the UPI story, with the word "CENSORED" blazoned across it. The Post swallowed hard and accepted the ad, which included an AIM fund-raising pitch.

More recently, Irvine tried to place an ad criticizing The Post's coverage of Orlando Letelier, a former Chilean cabinet minister who was murdered. The ad charged The Post with a "whitewash" in a report on documents found in Letelier's briefcase.

The Post rejected the ad, claiming that it contained inaccurate, unsubstantiated and possibly libelous statements. The New York Times and The Washington Star also refused to carry it and it eventually appeared in the Eastern edition of The Wall Street Journal, slightly expurgated.

AIM now has a full-time staff of five, plus some part-time help, but the voice of AIM is still the voice of Reed Irvine. The ads, the letters, the AIM Reports and, of course, his signed column, all bear his stamp.

The AIM Reports probably give the best indication of his interests. Recent ones have dealt with Panama (AIM claims the press has been disgracefully soft on the treaties), articles on Cuba and Russia in National Geographic and allegations of press neglect of Communist atrocities in Southeast Asia.

Going beyond his specific concerns, Irvine's concept of the role of the press in a free society probably was stated best in a speech last fall to Missouri journalists. He put the question: "Is it true that the freer the press is the more secure will all our freedoms be?"

His answer was no. "No society is truly free without a free press, but the existence of a free press does not guarantee a free society. Unfortunately, history indicates that a free press may contribute to its own destruction and to the destruction of all other freedoms."

In other words, a free press is necessary but dangerous if misused. And is it being dangerously misused? Irvine thinks so: "There is some reason to question whether or not we have gone too far for our own good, perhaps creating a monster which may [destroy] many of the freedoms we cherish, including the freedom of the press."

So Irvine and his colleagues are, in their view, out to save the press from itself. They are going about it zealously, ingeniously and, if the increased budget is any indication, with growing support.

To what effect? It sticks in my craw, but I'll say it: Irvine and his AIM are good for the press.

The same logic that says the institutions of government require a vigilant and critical press must also say that the press needs vigorous criticism, including the Irvine brand.

He is our carbuncle, and his function is to keep us in a state of healthy discomfort.

Exhibit 2

Canal Treaty: No Secrets Needed

(By Reed Irvine)

Senator Robert Dole set off a storm on Oct. 4 when he released the text of a confidential, limited distribution telegram that had been sent to the Department of State by the U.S. embassy in Panama.

The telegram revealed that Carlos Lopez Guevara, one of Panama's treaty negotiators had taken issue with official U.S. interpretations of the new Panama Canal treaties.

In testimony before Congress, administration spokesmen had contended that the United States would retain the right, under the treaties, to intervene in Panama even after the year 1999 if the neutrality of the canal were impaired or threatened.

Administration spokesmen had also indicated that the treaty provided that U.S. warships would be given priority in transiting the canal in time of war, avoiding long delays.

The confidential telegram said that Lopez Guevara did not agree with either of these interpretations. He was quoted as saying:

"Intervention is simply forbidden by international law. Panama cannot agree to the right of the United States to intervene."

He also said that the treaty provision assuring U.S. naval vessels of "expeditious passage" did not mean that they would be given preferential treatment.

The Washington Post put the story of the leaked telegram on page one, saying: "The campaign to win Senate approval of the Panama Canal treaties was given a severe jolt yesterday by disclosure of a document indicating that Panama does not recognize U.S. claims to future military rights in the canal."

Senator Dole was criticized by State Department spokesman Hodding Carter and by some in the media for having released a confidential telegram. Walter Cronkite of CBS implied that this was akin to the release of the top-secret Pentagon papers by Daniel Ellsberg, pointing out that Dole had criticized that.

The irony is that the contents of the telegram were really not secret. Panama's chief treaty negotiator, Romulo Escobar Bethancourt, had made the same points publicly in Panama weeks earlier. Sr. Escobar Bethancourt on Aug. 19 said publicly that in the treaty negotiations Panama had successfully rejected the U.S. effort to assert the right to guarantee the neutrality of the canal.

On Aug. 24, he said that "expeditious passage" for U.S. naval vessels in time of war did not mean that our ships would go to the head of the line.

These statements were public, but they were ignored by the major media. Human Events, a conservative weekly published in Washington, reported them in its Sept. 17 edition, which came out more than three weeks before Dole released his bombshell. Escobar Bethancourt outranked Lopez Guevara, moreover.

Therefore it was no secret that the Panamanian negotiators interpreted key provisions of the treaties very differently from U.S. officials. However, if Senator Dole had given a speech in which he made this point on the basis of Escobar Bethancourt's public statements, it is unlikely that the news media would have even reported his speech. It is also likely that he would have been ignored if the telegram that he released had been unclassified instead of being classified "Confidential."

There is a feeling in government circles that the only sure way to get the media to pay attention to something is to classify it "secret" and then leak it.

The sad fact is that our newsmen for the most part failed to recognize that what Escobar Bethancourt was saying publicly was very significant and that the public had a right to know about it. It is unfortunate that the Panamanian official position became newsworthy only when our embassy labeled it "confidential."

SECRETARY OF COMMERCE JUANITA KREPS SPEAKS ON EDUCATION

Mr. HOLLINGS. Mr. President, on December 8, the Honorable Juanita Kreps, our distinguished Secretary of Commerce, delivered a most eloquent address on the occasion of the inauguration of Dr. James B. Holderman as president of the University of South Carolina.

I was privileged to be in attendance that day and was very impressed with her insights into education and its importance in our society today. Secretary Kreps speaks with a certain knowledge on this subject, having served with distinction as a leading educator for many years before joining President Carter's Cabinet. It is her solid academic background and deep commitment to public service that have made Secretary Kreps so effective in her new position, and it was these qualities that were especially reflected in her remarks in Columbia, S.C.

I think my colleagues would take particular pleasure in reading what the Secretary had to say, and I ask unanimous consent that her remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

INAUGURAL ADDRESS BY SECRETARY OF COMMERCE JUANITA M. KREPS

Governor Edwards, Mr. Marchant, Dr. Holderman, distinguished guests.

Today marks a major step forward for this University, for higher education, for the common good. It is important on such an occasion to reassert the worth of what we are about, and to do so with pride.

Accordingly, I shall spend these few minutes in praise of higher education. I do so not only because the record of education's achievement is spectacular, but also because education's potential stretches to even greater heights.

By whatever measure we employ, the gains that flow from education are unmistakable: improved technology, higher productivity, and rising standards of living; greater understanding of other peoples and cultures: a heightened sensitivity to balance and to distortions. Indeed, progress is so wedded to education that knowledge has become synonymous with advancement, and learning with the good life.

But though the value of education is widely appreciated, it remains underreported. As a nation, we measure and record progress in other areas with regularity and in exquisite detail. Each day our newspapers note that one thing or another has risen or fallen.

For education, we do not do this. And that is unfortunate, for as a nation we depend for our view of how well we are doing—relative to other nations, to others in our own society and to previous generations—on numbers.

Moreover, the government uses these same numbers in the formulation of its policies. Numbers tell the government when to speed up the economy and when to slow it down; they determine the allocation of public expenditures. Numbers tell us whether we are underemployed; whether we are going about our business efficiently.

But these numbers by themselves have no normative or moral content.

Moreover, by relying on them to tell us how well off we are, we run certain risks. The first risk is that the assumed correlations between the numbers and the general welfare may not exist. A second is that through our devotion to measurement we may bias policymaking toward only those considerations that can easily be reduced to numbers, while excluding from our welfare calculus those determinants of happiness and justice that are less readily quantifiable.

This latter risk has, I fear, been realized, at least in part, in the case of education.

If we are to redress the imbalance in our public priorities, we must reexamine the supposed correlations between what we measure and what we value. We must recognize that the indices we rely on to mark progress are not and were never meant to be comprehensive measures of personal or social well-being. In particular, we need to accord greater importance to the sometimes difficult-to-measure impact of education.

Historically, educators have been reluctant even to entertain the notion that a cash value could be put on their product. Intellectual discipline, the exercise of reason, and the cultivation of the esthetic sensibility are not things that lend themselves easily to dollar denomination. Moreover, the pleasure and satisfaction the scholar derives from such pursuits have reinforced the notion that education is its own reward—a notion which historic levels of academic remuneration have done nothing to undermine.

Fortunately, we economists, being a crass lot, have rejected this view of things. Though the data are not cited as often as GNP growth or the trade balance, economists have demonstrated beyond doubt that there is a positive correlation between how much a person has learned and how much that person is able to earn. Moreover, it is a simple exercise in economic reasoning to proceed from that theorem to its corollary, which is that education raises the earning prospects not only of the individual but of the whole community.

Economic activity is not a zero/sum game, a matter of one citizen wresting income from a fixed pool of wealth at the expense of another. When one citizen's income rises, several results follow. Demand for goods and services increase, and with it demand for labor. The tax base of the community is increased, and with it the amount of funds available for public purposes, among them education. In this manner the economic benefits of education are distributed and compounded.

I need not dwell on this point before this audience. But I would like to stress the fact that the economic benefits of education have particular relevance to this time and to this place.

Let me start with this place. If you accept, as I do, the proposition that education is the most important determinant of economic well-being, then it follows that South Carolina has yet a few miles to go.

According to 1975 data, the State of South Carolina had a lower per capita income than any state in the country except Mississippi. Further, South Carolina's position had worsened in the preceeding five years. In 1970, the State had been fourth from the bottom in per capita income, ranking ahead of only Mississippi, Alabama and Arkansas.

Interestingly, these data correlate very closely with per pupil expenditures on public education. One can argue over the direction of causality—whether low education expenditures lead to low income, or the other way around—but one cannot argue that the two do not go hand in hand.

Further, if education has been an important determinant of income levels—both individually and regionally—in the past, it is likely to be so to an even greater degree in the years ahead. There are two reasons why this is so.

The first is the effect of increased specialization. Once upon a time, a rudimentary education and a modicum of common sense sufficed to do most of the jobs. In that world, an education was a privilege and a pleasure but not always an advantage in the marketplace.

But that world is fast disappearing. Today, there are fewer and fewer jobs for which common sense is adequate qualification. And even those tend to be the jobs that pay the least, and return the least in tax revenues to the state. More and more, employment demands specialized knowledge and skills. To be without such knowledge is to be condemned to the rear guard of economic progress.

Secondly, the importance of education has been and will continue to be enhanced by the extraordinary growth in the percentage of our GNP that is accounted for by service industries.

The recent economic resurgence of the South has been remarkable and encouraging. Much of that growth has been attributable to the migration of manufacturing enterprises to what has been a low-cost labor market. As a transitional development, this migration has been immensely beneficial to the South. But the future growth sector of the overall economy is not going to be in manufacturing, but in services. In the future, low labor costs can bring factories, but they will not bring the South a commensurate share of the nation's rising income. To claim that share, the South must equip its indigenous population with the knowledge and expertise it will need to compete with the world across the entire spectrum of economic activity.

Thus it will be for the South, and for education's particular relevance to this place.

Consider also the fact that education is of particular importance at this time.

The strength of our democracy lies in the fact that it rests on the consent of the governed. The question: for what is that consent given?

It was once true that deciding what we wanted was a fairly simple matter; Did we want a protective tariff? Did we want to build the Cumberland Road? Did we want an income tax? Did we want to be able to buy alcoholic beverages? These were issues everyone could understand. Everyone's opinion was not the same, but everyone was able to decide where his or her interest lay, and to vote accordingly.

But today we face issues of bewildering complexity: Should Congress have a say in the Federal Reserve Board's open market interventions? Do we want price controls or an excess profits tax? And if the latter, what kind of excess profits tax?

Today the problem the individual faces is not how to express his self-interest but how to figure out where his self-interest lies. For the truth is, the complexity of our affairs has been increasing more rapidly than our analytical capabilities.

There is danger here. The foundation of our democratic form of government is the notion that individuals voting their self-interest will produce the greatest good for the greatest number. The system has not always worked perfectly. But historically, its failures have occurred where the citizens' rights to express their self-interest have been thwarted.

Today the danger is of a different order. What is threatened is loss not of the citizens' rights to express their self-interest, but of their ability to identify that interest.

The business of managing our government has become so complex it is often unclear even to the experts where the course of one's interest lies. We face the spectre of a despotism in which the despot is not a usurper, but ignorance.

From this dilemma, there will be no easy escape. For there is little in the record of recent history to suggest that our affairs will become anything other than more complex. If an avenue of escape exists, surely it lies in education, in closing the gap between what we know and what we need to know.

This is a high charge, and a difficult one. For the sum of human knowledge is ever expanding. But if no one can today embrace all knowledge, we can aspire at least to the rational habit, and to the process of reasoned inquiry. I am reminded of the remarks of William Johnson Cory that used to be contained in the bulletin of Duke University:

"You go to a great school not so much for knowledge as for arts and habits; for the habit of attention, for the art of expression, for the art of assuming at a moment's notice a new intellectual position, for the art of entering quickly into another person's thoughts, for the habit of submitting to censure and refutation, for the art of indicating assent or dissent in graduated terms, for the habit of regarding minute points of accuracy, for the art of working out what is possible in a given time; for taste, for discrimination, for mental courage and mental soberness."

We may never be able to measure the value of these habits and these arts. You will not see the number of Americans acquiring them reported monthly or quarterly in the newspaper. You will never turn on your radio and hear, "The Commerce Department reported yesterday that the Nation recorded a six percent increase in wisdom and discernment."

Still, we must never forget that it is precisely that increase in wisdom and discernment that underlies the progress we can measure and announce; that it is in this splendid institution with its renowned leadership that we can gain such wisdom.

Thank you for inviting me to share this glorious day with you and your new President.

TRIBUTE TO ADOLPH F. RUPP

Mr. FORD. Mr. President, the people of Kentucky and our Nation were saddened this past Saturday to learn of the death of Adolph F. Rupp, the basketball coach at the University of Kentucky for 42 years and the winningest collegiate coach in history. Coach Rupp died at the age of 76 after a long illness and his death marks the passing of not only a great Kentuckian, but a great American as well.

Under Coach Rupp, the university's basketball teams won 879 games, 27 Southeastern Conference championships and the National Collegiate Athletic Association tournament four times. His reputation was worldwide. Eleven times Coach Rupp made overseas basketball coaching clinic trips for the U.S. Government. Coach Rupp once said that his biggest thrill came the year he helped coach the United States to the 1948 Olympic championship. Five of those 10 squad members were members of the Kentucky team that won the 1948 NCAA tournament.

Coach Rupp was a legend in his own time. I am privileged to have known and counted him as a friend, and on behalf of the U.S. Senate, I extend our sympathy to his wife and family.

In the past few days many people have paid tribute to Coach Rupp. In the December 13 edition of the Washington Post, Sports Columnist Dave Kindred, himself a former Kentuckian, wrote an especially thoughtful and moving essay that captured the true essence of Coach Rupp's spirit and philosophy, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

THE RIGHT MIXTURE OF LOVE, HATE KEPT RUPP ON TOP

That curmudgeon of a coaching genius, Adolph Rupp, was 70 years old when he stopped a basketball practice at the University of Kentucky. Some poor sinner had hesitated momentarily on a layup, allowing the shot to be blocked. Before there was Wooden, before McGuire, when Smith and Knight and Crum were babes, there was Adolph Rupp. And even at 70, in his last season, the sight of a blocked layup moved him to anger, sarcasm and inimitable theatrics.

"You get the ball like this"—in the khaki shirt and trousers that was his practice uniform forever, Rupp held his hands waist high, hefting an imaginary basketball which he raised slowly overhead as he spoke again to the sinner—"and then you say, 'Our Father Who art in Heaven, hallowed be Thy name, Thy kingdom come, Thy will be done, I am now going to shoot the damned basketball!' "

We hope our lives will be whole. There is a time for dying, a time when we have loved well and been loved, a day when our best work is finished. It makes sense that way, death does, and so it seemed good somehow that Adolph Rupp would die only minutes after Kentucky beat Kansas the other night. Death stole him from cancer's pain at 76 and the basketball game was undeniable evidence of the wholeness of his life.

Born of 19th-Century German immigrants who wrested survival from the dust of Southeast Kansas, Rupp played basketball in the early '20s at Kansas University. Kentucky hired him in 1930. In 42 seasons he won 82 per cent of his games by creating teams that were models of simplicity and fire. They took hold of the ball and ran like hell. They won national championships and endured point-shaving tragedies.

Rupp's career was epic. In a poor, rural state, he created an eternal wellspring of pride, the blessed Wildcats, and Kentuckians loved him for it. In turn, he gave them his life and it was good that the latest Kentucky team, coached by one of his old players, was ranked No. 1 in the country the night he died. It beat Kansas, 73–66.

The old man would have liked that. He had no patience with obvious namby-pambies who believed that playing well was reward in itself, that winning didn't really matter. "Why in hell do they keep score then?" Rupp said. He always worried about winning. "My stomach feels like I've swallowed a bottle of lye," he said one night before Kentucky played a patsy. "You'd think that after 40 years I'd get used to it, but I haven't." Kentucky won by 15.

His efforts to assure victory were mighty and unforgettable. "Rupp was unique," said Bill Spivey, one of his All-Americas. "He wanted everybody to hate him—and he succeeded. He called us names some of us had never heard before." The resulting fear, or loathing, worked two ways. Either the player quit or he worked twice as hard. "Those that stayed wanted to show Rupp we weren't the dirty names he called us," Spivey said.

The practice floor was Rupp's stage. He once thought Bob McCowan, a guard, dribbled too much. "McCowan," the coach thundered. Practice stopped, as if the Great Coach in the Sky had spoken. The arena was church-quiet. "McCowan, if you want to keep the ball, we'll just give you a ball to take to your room and you can sleep with it. But for now, will you by damn pass the ball?"

A center, Art Laib, timidly pursued a rebound. Rupp's Kansas-plains twang filled the air. His great fleshy ear lobes wiggled in time with his indignation. Sarcasm was the tone when Rupp said to Laib, "What's a nice Christian boy like you doing in a place like this?"

Beyond Rupp's ferocious ability to motivate players and his early realization that running was the way to win, he made basketball important not only in Kentucky but across the country by the power of his robust personality. He set records for vanity that will not soon be surpassed.

When asked in 1930 why he, a high school coach, should be hired ahead of 70 other applicants for the Kentucky job, he said, "Because I'm the best damned coach in the nation." And what was the secret to Kentucky's 1948 and '49 national championships? "That easy" Rupp said. "It's good coaching."

Newspapermen loved him. If a reporter had nothing to write about, he could always call Rupp, who liked to see his name in print. "Why, I'd put the center jump back and take off the backboards and net. Just leave the hoop. And raise the hoop five feet," Rupp once said to a New York writer who asked how the game could be improved. One of Rupp's players heard the outlandish suggestion and asked if Rupp meant it.

"Hell, no," Rupp said. "But anything for a column."

Rupp's appetites were large, whether the coach was hungry for attention or chile. "Gawdammit, what do you mean, writing that I 'wolfed" down my chili?" he said to an offending writer. Even as he spoke, Rupp wolfed down chili, the spoon disappearing into the darkness of his throat. Working on a steak, Rupp was ruthless. He said you could sort the prospects from the suspects by watching them eat.

"Why, if a boy is aggressive with his eating, then he's going to be aggressive on the basketball floor," Rupp said. "Lordy, you should have seen Cliff Hagan!" Rupp poked at his eight-ounce filet. "See this? Hagan would have eaten this in three bites—chomp, chomp, CHOMP!"

Rupp sometimes favored a liquid diet. "I'd check the pantry to see how the bourbon was doing," he said. His last year at work, a tired old man, Rupp sat at courtside before practice. His eyes dropped shut.

"The legislature should pass a law," he said, awakening with a smile, "that at 3 o'clock every afternoon, any basketball coach who is 70 years old gets a shot of bourbon. These damned bouncing, bouncing, bouncing basketballs are putting me to sleep."

But he didn't want to retire. At 69, he said, "Retire? Why, what would I do? Time would hang heavy on my hands. It's the competitiveness I like—taking a bunch of boys and seeing what I can do with them. These young squirts come in as coaches at other places, and they say they're going to put an end to Rupp and Kentucky. Well, we'll see about that."

His friend, Happy Chandler, the former Kentucky governor and U.S. Senator, once asked him, "Why Adolph? Do you want to die on the bench?" And Rupp said, "I can't think of any place better."

Though he threatened to fight the university's mandatory retirement-at-70 rule, Rupp finally gave in. He was a wealthy man with interests in cattle, land and tobacco. In retirement he yet appeared at coaching clinics, made speeches and, for a while, and his own television show. He kept an office in Memorial Coliseum, the 11,500-seat gymnasium his success built, and Kentucky gave him an easy chair in the front row at the dazzling 23,000-seat palace they opened last year. It's name: Rupp Arena.

A year and a week ago, Rupp sat in the living room of his home. Silver trophies given him in recognition of his coaching genius were scattered around the room. "I've got 40 more under my bed," he said. A tiny chair near the fireplace, left there for the happy times when his grandson visited, held a plaque certifying Rupp's induction into basketball's Hall of Fame.

Rupp talked for an hour. As he could be cantankerous, so could he be charming. He said he once stopped along a back road to buy a country ham and gave the store owner a check. "I signed it in big letters, Adolph F. Rupp, and said proudly to the owner, 'Do you know who that is?' The old guy looked at the check and looked at me and said, 'Well, sir, I'm a-hoping it's you.' "

The cancer was in Rupp then and he said so, but he asked that it not be written in the newspaper, "Just say I'm awful weak," he said. His voice, once thunder, was a whisper, "I'm as happy as I'll ever be. And I'm not a bit bitter about anything."

Walking his guest to the door, Rupp moved slowly, limping a bit. He'd had three operations in three years. It was a cold day and snow covered Rupp's yard. "It's been one of the worst winters I can remember," Rupp said. "I'm looking forward to the spring."

GSA'S MASTER BUILDER

Mr. SASSER. Mr. President, I wish to call to the attention of my colleagues an excellent article in the October 23 Washington Post about Joel W. "Jay" Solomon, the Administrator of the General Services Administration.

In just a few short months on the job, Jay Solomon has brought the GSA alive, injecting his personal enthusiasm and style into a job that others might consider to be thankless. Mr. Solomon's keen business sense is matched only by his deep appreciation for fine art and objects of beauty. Our Nation certainly benefits greatly from having a person of Jay Solomon's depth at the head of the GSA.

The Washington Post story also speaks well of Rosalind Solomon, an outstanding artist who has been an equal partner with her husband in all aspects of his life as a public servant. Their two children, Joel, Jr. and Linda, are themselves quite interested in politics and have devoted many of their efforts in recent years to election campaigns.

Mr. President, I commend this article to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GSA's MASTER BUILDERS IMAGES AND IDEALS

(By Sarah Booth Conroy)

For years, the General Services administrator was the bogeyman in good-design circles. The General Services Administration was the one who came in the night and tore down nice old buildings and came in the day and put up ugly new ones.

GSA got the blame for putting exit signs, clocks and neo-moderne water fountains where they disfigured ornate paneling and sculptured stone pillars.

GSA was blamed for acres of GI-green desks and filing cabinets. Say GSA, and most people thought of the Rayburn building or FBI headquarters.

In the six months or so since Jay Solomon was appointed to the $52,000-a-year top job at GSA, he has gone, as they say in his native Tennessee, "a piece" toward building a new reputation for the giant agency of 36,000 employees that spends about $5 billion a year.

GSA—the largest of the independent federal agencies—buys and doles out federal supplies, constructs and manages federal buildings, runs the computer and telecommunications services, preserves national records (including those at the Archives and the presidential libraries), and makes plans for the functioning of the government in a national emergency. Solomon, unlike previous administrators, attends the President's Cabinet meetings and reports to the President in a weekly two-page summary, and in other ways.

So far, those who deal with him agree that he's a nice man. He likes modern art and ancient buildings, and he doesn't play hide-and-seek with the press and the public the way some of his predecessors often did.

The first time he shook them up with his up-and-at'em ways was during presentations in a competition for the Old Post Office Building remodeling. A third of the way through the briefing, Solomon complained, "But I've never seen the Old Post Office. How do I know what they're talking about?" He grabbed a nearby reporter and off everyone went to the old building on Pennsylvania Avenue.

He insisted on walking through the building, climbing up into the dirty, dusty clock tower. And he listened to the complaints about the building by some FBI employees who were then quartered there.

His staff says he insists on having everything explained to him before he'll sign off on anything. He hasn't missed a dedication of a federal art project since he came to the office, getting First Lady Rosalynn Carter (once) and Joan Mondale, the Vice President's wife (several times), to come along with him as well. He seems to enjoy public appearances and does them well. He has a good bit of the show-biz pizzazz he learned in his years running a chain of movie theaters.

It may only be that he has a soft, Chattanooga-way of speaking and the courtly manners that make Southern men so charming. Though his name is Joel, he goes by his nickname Jay because his son is called Joel. He has an easy, friendly way about him, as though he's hungry to make friends. He likes to talk about what he's doing and obviously keeps up with it all.

It's far too early to say that Solomon is considered Santa Claus among architects, artists, and preservers. His first Christmas isn't even here. But it's hard to find anyone who can think of anything to crticize him about. John McGinty, president of the American Institute of Architects, for instance, calls Solomon "dynamic." McGinty cheers Solomon for being "certainly more actively involved in the operations of the public building service than in the procurement of paperclips at the federal supply service."

McGinty says he is encouraged by Solomon's "sensitivity to good design, his support of the art and architecture program and the public advisory panels, and his concern for the impact of federal buildings on local communities." McGinty adds, of course, that he hopes Solomn keeps up the good works.

James Biddle, president of the National Trust, also adds that he likes what Solomon says and "hope he succeeds in conserving our great public buildings."

Put it this way: A man can't be all bad whose prime requisite for a Washington apartment was that it accommodate his curved dining table/desk/sculpture by avant-garde artist/craftsman Wendell Castle.

Just because he comes from Tennessee doesn't mean he's just learning about art. He and his wife are long-time collectors. He's got a Castle desk at home in Chattanooga and in the subleased, two-bedroom (but with a sunken tub) Washington apartment; he's got a Castle chest as well. Not to mention ceramics by Charles Count, a life-size Jim Collins sculpture of a woman in copper, brass and lead—and several walls of 6-foot-high mural/photographs of rather decadent dolls by a fine professional photographer who happens to be his wife.

Their real art and craft collection is at home in Chattanooga, in the contemporary house they built 23 years ago that hangs on the side of a hill. They keep the house—and Rosalind Solomon's photographic studio—open, though he's only had a chance to get home once since he took office.

Back in 1968, the Solomon's began furnishing every office of his company, Arlen Shopping Centers, the nation's largest shopping-center development firm, with contemporary crafts and paintings by artists of the Chattanooga region. This week in cooperation with Joan Mondale, the voice of the administration's art conscience, he added to three GSA supply stores a $28,000 selection of handmade craftwork from Appalachia: ashtrays, wastepaper baskets, lamps and such. Solomon was right there the minute the first ashtray went on sale and he was back again the next day to show potter Mondale the collection.

"Rosalind doesn't like me to say it, but she was really responsible for introducing me to arts and crafts," Solomon said the other day, showing a visitor their apartment. "Every weekend, we'd go visit another studio or craftshop to select something for the offices. We had a very good time."

His office here in the 1912 General Services Building at 18th and F Street NW is the second-biggest office in government, originally intended as a hearing room. The joke goes that while Harold Ickes had the office when he was Secretary of the Interior, Postmaster General James Farley measured it and had his built a foot larger on every side.

The administrator's old dining room, which has now been turned into an office for three people, is said to be where the Teapot Dome Scandal was hatched. Solomon has replaced the rug, which matched the ceiling medallion's, to the consternation of some of the old-timers, and added original artists' models of artworks commissioned for public buildings. Solomon several years ago commissioned a large work of art by Jim Collins of Tennessee for the front of his firm's building in Chattanooga.

He liked to say that the door of his office is literally always open. "I don't have anything to hide; everybody is always welcome to sit in on any meeting they want to." Some of his staff said they thought he just felt lonesome in that huge echoing Tudor-paneled office. Solomon doesn't care much for the executive desk, the fancy Knoll chairs and the big conference table of his predecessor He prefers to run most meetings from the comfortable couches in front of the fireplace, the ultimate government status symbol.

The Solomons believe their feeling for art and people was broadened by Rosalind Solomon's years of work with the Experiment in International Living. She was director of the Southern regional office. Both of their children and Mrs. Solomon have lived with families abroad, and their home has practically been a hostel for international visitors. Old participants still turn up to see them.

It was on an Experiment trip to Japan that Rosalind Solomon began to take photographs, with an Instamatic camera. Today, her photographs hang not only in his office and their homes, but in the Bibliotheque Nationale de Paris and in New York at the Metropolitan Museum and the Museum of Modern Art. She will exhibit here at the Sander Gallery in February. Her photographs, including those shown here, are all copyrighted because she hopes eventually to have them published as a book.

Solomon, who seems immensely proud of his wife's work, says his part in her photography "is to give people cigarettes to get them to pose for her."

Rosalind Solomon is a rather reticent woman who seems to be rather shy on the other end of the camera. On the other hand, she is obviously a woman with her own opinions and her own career, though just as obviously extremley fond of her husband and interested in what he's doing. She's the sort of woman who, when leaving for a few days of work in her Chattanooga atelier, calls from the airport to find out what her husband's going to do for supper. Solomon says his wife and daughter "have educated me on woman's work. I'm all for it. I know I'm not sending Linda to Northwestern to learn how to sweep floors."

The family's other consuming interest is, of course, politics. The Solomons met on a blind date at a Democratic Convention in 1952. They were married in 1953. Their two children, Solomon says, "really got us involved with Jimmy's campaign, and talked me into taking this job." Rosalind Solomon said she thought about moving to Washington "for about an hour, and then said yes."

The children had worked before in the senatorial campaign of James Sasser (D-Tenn.), who heads the Governmental Affairs Subcommittee, GSA's overseer. The family last year contributed a total of $3,632 to Sasser's campaign. Both Joel Jr., 23, now an environmentalist in Driggs, Idaho, and Linda, 21, now a journalism student at Northwestern University in Illinois, worked for Sasser, who introduced them to Carter.

In 1974 Joel worked for presidential assistant Hamilton Jordan, when Carter was chairman of the National Democratic Campaign Committee. During the Carter presidential campaign, Solomon and his wife each gave $1,000 to Carter and helped raise other money for him. Solomon was

Democratic precinct chairman and a member of the Hamilton County Democratic executive committee as well. He and his wife remain close Carter friends.

Before Solomon came to GSA and Washington, he was chairman of the board and cheif executive of Arlen Shopping Centers Co. and a top officer in Arlen's related companies. Arlen owns and manages 184 shopping centers, residential complexes, office buildings and communities.

At Solomon's Senate confirmation hearings, it was brought out that Solomon owned about 300,000 shares of stock worth $900,000 in Arlen. The firm leases space to GSA in 13 buildings, paying Arlen about $1 million a year. Before his Senate confirmation, Solomon agreed to resign from Arlen and pledged not to take part in Arlen/GSA lease agreements, turning them over to his deputy. He was confirmed unanimously.

Solomon got his start through his father's Tennessee movie-theater chain, established in 1912. He still remembers working five nights a week, when he and Rosalind were first married. Solomon joined his father's firm after graduating from Vanderbilt University in Nashville in 1942.

In Chattanooga, the Solomons were busy in civic work. Solomon was chairman of the Chattanooga Housing Authority and a board member for 14 years. Like Rosalynn Carter, he was interested in mental health, serving as president of the local association. He also worked with the Jewish Welfare Federation and the Opera Association.

In Washington, the Solomons have been settling in by going to concerts every Sunday at the Phillips Gallery or the National Gallery. "Sometimes, when Jay is home early enough, we just walk over to the Kennedy Center," said Rosalind Solomon, "and take our chances on tickets." They try to see almost all the art shows in town. He bicycles often and walks to and from work every day.

Obviously Solomon isn't the first influence for good design in GSA. The Art in Architecture project has had previous time of blooming at GSA under years of prodding from career GSA officer Karel Yasko. The architectural competition for the Old Post Office remodeling was well under way before Solomon was confirmed.

But now that the Office of Management and Budget is looking into GSA's procedures for the first time since 1948, it seems to be high time that GSA looked to the repairs and remodeling of its own corporate structure.

Solomon likes to think he's made a start. He championed the selection of an innovative architectural design by Arthur Cotton Moore for the restoration of the Old Post Office Building, in response, he said, to a specific request from Carter to "look out for that building."

He upped to one-half of one per cent the amount of money GSA will allot for art in federal structures. He also worked out a way to allot a percentage of the repair cost on older buildings to add art objects.

Solomon has hired eight or nine women for high posts in GSA, including a black woman as a GS-18, the third-highest post held by a woman in the government.

He has worked unusually hard to try to get new architects to design government buildings, recently calling a conference on the subject of architectural selection.

Solomon says he favors multi-use federal office buildings, not only so they can earn their keep and be better city neighbors, but also so they will be more saleable if the government outgrows its need for them.

And he greatly favors the establishment of a National Design Center in the Old Pension Building, to be a showcase of American architecture and design. He and his wife have been to French, British and Scandanavian national centers, and he thinks the United States should have one, too.

His current pet accomplishment is in finding a tenant for the New York Custom House. "I really believe it's a shame to preserve these great historic buildings and then leave them empty for vandals. We need to put them back into use." He has also returned hundreds of acres of unneeded federal land to the states and territories for parks.

Solomon says he is "trying to open up GSA, make it more responsive to people, in and out of government." At least he's going about the job with great enthusiasm, and as they say in Tennessee, with a whoop and a holler.

Most of us hope it's catching.

CHILDREN, THE INNOCENT VICTIMS OF UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, there is a growing tendency among those who have advocated bankrupt economic policies to defend the results by arguing that intractable unemployment—currently bouncing around the 7 percent official level—is really alright.

These apologists for failure tell us that 4 percent unemployment in the 1950's is equivalent to 7 percent today. They tell us that, for some reason, women, youth, and minorities who compose more of the labor force today are inherently less employable, but that primary white, male breadwinners are doing fine. Finally, they let us know in no uncertain terms that the 90-plus percent of the people with jobs are more worried about inflation—which they believe is exacerbated by fuller employment—than with jobs for the unemployed.

I totally reject this line of thinking. If we can't have stable prices and full employment, there we've admitted defeat for free enterprise.

I would like to point out that the most overlooked sector of our population that is suffering because of unemployment, is our children.

There has been a major debate in this country about the virtue of equality. Now, I am not a great philosopher, but I understand the gist of the debate is that we should not commit ourselves to the overly ambitious objective of "equality of result," which is a product of individual endeavor, but instead to "equality of opportunity." It agree with this, and have argued that the opportunity to work if one wants to should not be denied.

But for children growing up in deprived circumstances is the greatest denial of equal opportunity in America. If, during the critical formative years, they only experience conditions of hunger and stress, they cannot begin to think creatively about the possibilities for their future, and in any case, they will be denied the tools to fulfill it.

One of the greatest deprivations for millions of children is living in families where the parents cannot find work. Professor Harold W. Watts of the Social Science Research Center of Columbia University, and a member of the Carnegie Council on Children, has done excellent research on this phenomenon. It is of utmost importance that my colleagues study the problem and comprehend this chief source of family instability and decay.

Professor Watts tells us that unemployment means, among other things, lack of income with severe consequences on children. It causes a low "self-concept" in parents who don't fit into our economy, and this sense of worthlessness is transferred to children. And finally, it "trains for failure." We all know that children emulate their parents who are role models. But what if all they see is someone the system rejects? What if they have no exposure to successful coping and personal advancement?

Mr. President, I ask unanimous consent that a summary of findings prepared at my request by Professor Watts be printed in the Record.

There being no objection, the summary of findings was ordered to be printed in the Record, as follows:

UNEMPLOYMENT AND CHILDREN

INTRODUCTION

The Carnegie Council on Children is a small commission created by the Carnegie Corporation of New York, an educational foundation, to undertake a five/year study of what American Society is doing to and for children. I write as a member of the Council, in line with the Council's policy of making its materials available to all interested parties. I am also Professor of Economics and Director of the Social Science Research Center at Columbia University.

The children to whom the Council has paid particular attention are those from conception to around age 9—as we sometimes put it, from "minus nine to plus nine." Our major findings and policy recommendations are contained in a book released September 12 called All Our Children: The American Family Under Pressure, written jointly by Dr. Kenneth Keniston, Chairman and Executive Director of the Council, and by the other Council members, including myself.

The Council has not generated original scientific data. Instead we have tried to perform a different role. We have assembled, sorted and assessed the often fragmented research on children in the United States, the experience of those working with children and the history of childhood.

THE ROLE OF UNEMPLOYMENT IN CHILDREN'S LIVES

Unemployment plays a crucial and tragic role in children's lives, and is rarely emphasized by people who study and care about them. This conclusion is part of a larger concern of the Council with the neglected "ecology" of childhood.

It is somewhat surprising that anyone should have to defend the proposition that unemployment, to paraphrase the old poster, is not healthy for children and other living things. It ought to be taken as a given, that in a democratic society, citizens are free to realize their ambitions as long as those do not hurt others. Surely no one has suggested that working hurts others. It should be clear that for all citizens, whether adults or children, asking for the removal of obstacles to the use of one's head and hands is hardly a dangerous or revolutionary demand.

1. Unemployment and Poverty: Family economic stability, achieved for parents, is crucial to the way they raise their children, and unemployment is one of the most severe threats to a family's economic support. It is almost tautological to say it amid all the talk about welfare programs, but unemployment is a major cause of poverty. Many families are poor simply because their major wage earner or earners are unable to find work for major portions of each year.

As the Council points out in All Our Children, of all age groups in America, children are the most likely to be poor. In 1974, more than 17 million American children were living below our figure of half the median. For children, being poor means something more than eating simple meals and living in crowded quarters. The chances of dying in the first year of life are approximately two-thirds greater for the poor than for those living above poverty levels. To cite a simple matter taht middle-income families take for granted, low-income children aged six to eleven have an average of 3.4 decayed and unfilled teeth, but high-income children an average of only .7. Poor children (from families with incomes below $5,000) were four times more likely to be in "fair or poor" health in 1974 than children in families with incomes over $15,000—and the ratio has not changed substantially since. Yet although poor children are more often in poor health, they are only half as likely as high-income children to have seen a doctor in the past year. In Massachusetts, in 1971, 61 percent of children in foster care came originally from families with incomes under $5,000; only 6 percent came from families with incomes over $10,000. (Again, we have no reason to think the situation has changed much since then.) In the 1960's, among all students in the brightest 20 percent of their age group, those in the economically poorest 20 percent had only one-fifth the chance of attending college of those who came from families in the wealthiest 20 percent. Bright, well-off children, in other words, were five times more likely to attend college than poor children who were just as smart.

Now consider the special case of children who are not white. Here the statistics become truly chilling. Children in black families are four times more likely to be poor than white children; Native American children suffer even more terrible odds. In large metropolitan areas and in the rural South, the infant mortality rate for minority children is almost double that of whites. Nutritional deficiencies are over three times more common among black children (32.7 percent overall) than among white children. In South Dakota, Native American children are ten times more likely to be placed in foster care than other children. Where other types of data are available, they show the same trends; for example, minority children enter foster homes in disproportionate numbers, and they are more likely than their white counterparts to remain in the care of the state without being returned to their families or adopted.

2. A Special Linkage: The Pressure of the Future. Unemployment has a double effect on families. Not only is there the loss of income (which may be partly made up by public funds at substantial expense). In addition, the family undergoes a loss of self-respect and a loss of control in managing their affairs which is not lost on their children. The change in the parents' outlook on life not only changes the immediate situation of the children, but changes the children's outlook on what they are going to do with their own lives as grownups.

The Council has concluded that in important ways parental unemployment, particularly when it is sustained, makes a massive contribution to what could be called training for failure. Unemployment teaches children a covert lesson about their own futures. The children of chronically-unemployed parents as the Council says in All Our Children, are smart enough to sense from an early age that the world of mainstream America defines them and their parents as no-good inadequate, dirty, incompetent, and stupid. This sense of self, constantly reinforced, in fact is an accurate perception of the messages our society gives these children.

At school such children often do poorly and are labeled "culturally deprived" by professionals or "stupid" by their classmates. Their parents are referred to as down-and-out good-for-nothings, a disgrace to the community, or—less cruelly but probably no less hurtfully—problem parents. Handicapped children may find themselves the objects of doubly handicapping messages: they are made to feel, on the one hand, that they cannot do things because of their physical condition and, on the other, that they are somehow to blame for not "overcoming" their fixed condition. Parents and children absorb these images, often reluctantly accepting them as true, and because the children find their models of the future in those closest to them, they draw unhappy conclusions about their own adult fate.

What would you want to be when you grow up? is not just a game grownups play with children; it is a serious aspect of the present during every day of childhood. At the heart of childhood play is constant imitation of adult roles, as if to try them on for size. The three year old struggling to learn how to tie her shoelaces is already thinking of the day when she will grow up and go to school, and her parents are thinking beyond that to what kind of future she can reach for as an adult. School, once she gets there, is built on deep-running institutional assumptions about her future; thus she, and her peers, are classified and sorted by means of grades and tests and "tracks"—whether vocational or liberal arts, problem student or gifted, or the more subtle rankings and hierarchies that are vivid in the minds of every person in the classroom, including the teacher. ("She's a winner." "He's dumb, but what can you expect? Look where he comes from.") Ideas about a child's future can open doors, or they can present impenetrable walls to achievement.

Expectations are at the center of this process. People willingly—and, for the most part, readily—learn skills they see they are going to be able to use. Conversely, they do not learn—or they quickly forget—what they do not believe is going to be functional or relevant to their life's pattern. Many of the insults and injuries of poverty and race can be overcome by a child who foresees a reasonable chance for a good life as an adult. But without that vision of a good life, founded on the child's perception of the actual lives and achievements of the adults he knows best, he is likely to expect failure of himself just as the world expects it of him.

Statistical surveys document the special danger of the foreclosure of the future that affects nonwhite Americans. Black unemployment has been twice that for whites ever since World War II. In 1976 the Bureau of Labor reported unemployment of 39 percent among black teen-agers in the inner cities, compared to 16 percent for whites of the same age. And survey after survey has shown that blacks with the same education consistently earn far less than whites: for example, college graduates who were family heads in 1974 had a median income of $19,500 if they were white, only $14,000 if they were black.

Of course black children, Mexican Americans, Puerto Ricans, and Native Americans do not read these statistics—but they don't have to. The most crucial facts for them are daily experience. And when daily experience shows a black, Mexican American, Puerto Rican, or Native American child that the adults with whom he lives, no matter how capable, have difficulty in gaining education and work, what can he conclude about his own future? Why should he remember what he learns in school when the process has no real use for him?

Full Employment and Parental Working Condition. Social change in this country in various ways is working in the direction of realignments in the tensions between working and family life. The Council has taken this up in its considerations of expanded job opportunities for women and in its call for wider experiments with working arrangements such as "flextime" that allows parents to adjust their hours of work outside the home around some of the demands of their family responsibilities.

Unemployment is a crucial factor in slowing or accelerating these reforms, which would enhance parents range of choices over the time they can spend with their children. Clearly, these adjustments are likely to be a great deal easier in an economy with a strong demand for labor. Employers are unlikely to change much when they can get all the employees they want on their terms—and they will have more incentive to change when unemployment in the labor supply is reduced to fractional levels.

4. Unemployment and Welfare Reform. Methods for ensuring an adequate level of income for families are currently of great public concern. It is becoming increasingly clear that existing transfer payment mechanisms are becoming more and more expensive, difficult to operate, and politically unsupportable.

The core of the welfare "problem", of course, is that welfare funds are being used to replace earnings.

To be sure, there is a definite role for transfer payments to reinforce low incomes, even in an economy with full employment and even for people who are employed—the so-called working poor. But income support transfers cannot be themselves insure that families have adequate incomes when they are required to make up for the money that people would rather be earning themselves.

5. Unemployment and Other Social Services. All families, whether rich or poor, need services at various stages of their lives, whether for baby sitting, housekeeping, child care, early education, and routine health care of for more urgent health emergencies or foster care. Clearly, these services are important parts of the life of a successfully-functioning family, and in economic terms, purchasing or providing them involves the allocations of resources. In an economy with substantial unemployment, productive resources are being wasted, which in turn means that there are fewer resources to allocate to the services families and children must have. Full employment therefore is a crucial ingredient in efforts to give families a greater choice of high-quality services. Providing and producing services at the levels families need takes an economy that is not running on only three cylinders.

WHAT TO DO

The Carnegie Council on Children's recommendations about how the nation should handle unemployment are part of recommendations for a national child and family policy that will involve a comprehensive program of jobs and income supports. Such a policy would require that parents able to work do so, and would assure a decent, if modest, net income for all families with children. It would guarantee a job to all heads of households and provide income supports for those who either cannot work or whose job opportunities, even with a job guarantee, fail to produce an income adequate to family needs. This policy views the care of young children as a legitimate work choice for parents, and would assure a "living income" to a parent who makes that choice. And it would be addressed to the needs of all American families and children, not merely those who are stigmatized as inadequate by the fact of their unemployment or poverty.

CONCLUSION

To sum up, many children are excluded from the mainstream of U.S. society. Traditional U.S. efforts to help have placed a heavy reliance on schooling. But as the Council concludes, "Unless we as a nation also confront the economic deprivation that we know to lie behind much of this exclusion, many of the billions of dollars we today spend on remedial, corrective, or compensatory programs of those who bear its scars will treat the symptoms, not the cause, of a deeper disease. We must also attack the causes of the deprivation—the lack of jobs for those who can, should, and want to work, and the lack of a minimal income for those who cannot work, or should not have to, and even for many who do. If our society is determined that the family is to remain the basic institution for rearing children, and if all children are to have a chance to develop and use their potential, then it is necessary for the economic status of American families to be more secure."

The section of "All Our Children: The

American Family Under Pressure," addressing the need for full employment, follows:

FULL EMPLOYMENT

Most Americans work for their living and prefer it that way. It could scarcely be otherwise in a society so firmly rooted in the work ethic. Indeed, in any society, work and human dignity are inseparable. Earning a living is virtually synonymous with being defined as an adequate person, and failure to earn a decent income has adverse effects on the adults themselves, on their ability to be effective, caring parents, and on their children's image of them and of themselves. Unemployment, low wages, and discriminatory barriers to employment that affect parents are directly translated into harmful effects on their children. Young children, whether or not they understand what their parents do, form an impression of whether the work world esteems their parents. A parent does not have to say a word to communicate a feeling of helplessness, powerlessness, worthlessness, or futility to a child. Everything we know about children suggests that, to a substantial degree, they grow up to think of themselves in relation to the world much as their parents do. When children absorb their parents' sense of worthlessness or powerlessness, they often exhibit what psychologists call "low self-concept." Low self-concept is often viewed as a strictly individual pathology caused by the "failures" of the family; we believe that more often it is caused by the pathology of the labor market.

JOBS AND A DECENT INCOME

With children in the forefront of our minds, therefore, we believe that a family policy in the United States must provide all parents with the opportunity to choose employment at decent wages, and that jobs must be flexible enough to take into account certain fundamental demands of family life. Parents who might be restricted to full-time child care if they had to live by the ordinary demands of the familiar forty-hour week should be able to find at least minimally satisfying part-time jobs or jobs on flexible schedules. It is consistent with almost any interpretation of American traditions and values to insist that parents' efforts to secure an adequate income for their family not be thwarted by the brute fact that there are no jobs for them.

The goals of a jobs component of a family policy must be to make employment available, fair, and humanly possible—available, that is, to anyone who wants it, open at every level to all groups of Americans, and accommodating enough so that it is possible for adults to work at the same time that they are being parents. (Flexible work practices are further explored in Chapter 6.)

We do not believe that the entire task of reinforcing deficient incomes can or should be accomplished by giving parents jobs; we also recommend below policies aimed at reducing some of the inappropriate pressures on parents to seek employment outside the home. Jobs are, of course, only one component of a sound family policy. But the denial of jobs to people who are ready, willing, and able to work is a tragic waste of their potential and of the social and economic benefits their work would produce for the society. When families enjoy economic security from productive work, the social dividends reach far into the future, when children reach adulthood and can make their own contribution.

We believe that with conscious and sustained effort it would be possible, over the next decade, to combine a full-employment strategy with a system of income supports so as to yield almost all American families with children a minimum income of at least half the current median in any given year—the line most Americans consider the true poverty line. To be effective, both parts of this program must work together: full-employment strategies must be combined with income supports, for each one of these reaches certain families that the other cannot.

Since World War II, this country has frequently tolerated a rate of unemployment far too high, often well above that of other industrial democracies. The heavy penalty this imposes on great numbers of Americans, as we have said, can mark their children for the rest of their lives.

Who is "unemployed"? There is, of course, the obvious group of people seeking jobs and unable to find them, officially estimated at 7.3 percent of the labor force in January, 1977. The actual figures, however, tell only a small part of the story. Official unemployment at any time counts only those willing and able to work who have sought work in the last four weeks and were employed less than one hour in the previous work. Many more are willing and able to work but have been discouraged from seeking jobs by outright discrimination or lack of opportunities.

Defining the ideal of truly full employment is tricky. To begin with, there is always bound to be a certain amount of what economists call "frictional" unemployment as firms go out of business, seasonal jobs dry up, or workers search for different jobs. Second, if the number of jobs increases far beyond the number now considered to be in the labor force, the size of the labor force would also be likely to increase as people currently not seeking work were encouraged to do so by the increased ease of finding work.

Should a full-employment program predicated on the right to a job guarantee jobs to second—or third and more—job seekers in a given household? This would be a gargantuan task for the nation to undertake. To be realistic, and since heads of household are the one group of earners most relevant to families with children, we have limited our proposals specifically to that group.

The United States should make it a goal of the highest national priority to reduce unemployment for heads of households to 1 or 1½-percent range, the general unemployment rate must come down as well, probably to something in the range of 3½ to 5 percent.

Even with unemployment down to these levels, there will still be parents from time to time and place to place who want to work to support their families but cannot find jobs in the marketplace. These are most likely to be low-skill, low-income workers, always the most vulnerable to unemployment and its damages. Therefore, we believe that the United States must back up its commitment to children and families with a second plank in its full-employment policy; namely, to provide publicly guaranteed work for at least one parent in every family that contains a child—work that is safe, stable, full-time, and at wages no lower than half the average wage for full-time industrial workers for that year.

In late 1974, the average such wage was about $184 a week, or nearly $9,600 a year. Half this wage, which is what we propose as a minimum for these back-up jobs, would be $4,800—that is, $92 a week or $2.30 an hour, which is the current minimum wage. In a strong full-employment labor market such as we had in the late 1960's, there is not a tremendous call on this back-up, but it should be available to any family head who has been without employment for over three months.

Literally millions of American children would be affected if national policy took this definition of full employment seriously. In concert with an income-supplementation policy as described below, full employment would mean that virtually no child in America would grow up in a family with significantly less than the amount of money required to "get along."

It is very clear that the federal government is able to make choices that drastically affect the number of jobs available in the nation. Its tools for reducing unemployment consist in large part of fiscal and monetary policies that put more money into circulation, either by lowering taxes or by borrowing money to increase federal expenditures. The greater purchasing power that is produced by increased government spending indirectly creates more jobs. We are not recommending greatly increased deficit spending on a permanent basis. At full employment, or at the approximation we have established as a goal, the government will be taking in more taxes to cover expenditures. We do, however, advocate deficit spending when the economy is operating far below capacity, as it was in 1976.

Government can also increase employment by designing tax policies that give businesses an incentive to hire more people; it can undertake economic development programs; and, finally, the government itself can simply create more jobs in such areas as preventive health and protecting the environment—which is, of course, the most direct use of federal spending to lower unemployment.

Current policy includes elements of all these approaches but seldom if ever in the cause of achieving full employment and never on a wide, interlocking scale. Fiscal policies to stimulate private-sector demand, such as the 1975 tax cut, typically are adopted only in times of recession. Their contribution to a full-employment economy is offset, over time, by their equal and opposite countermeasures—fiscal and monetary policies that curb any resulting inflation by increasing unemployment. Furthermore, such measures by themselves in no way ensure improved allocation of jobs to areas of chonic unemployment, such as the inner cities. On the record so far, the best the Keynesian "new economics" can offer is not a full-employment policy but a seesaw employment policy, helping check cyclic ups and downs in the economy by trying to keep unemployment neither too far above nor too far below the rate considered "normal," which is too high to meet our criterion for a full-employment economy. This is not to suggest that fiscal, monetary, or tax policies do not have an important role to play, but simply that by themselves they are not an adequate approach to full employment.

Another means through which government can and ought to encourage fuller employment is economic development programs to increase available work in areas where there are high concentrations of unemployed persons, such as the inner cities. In such programs, government creates incentives for new industry to move in and establish an ongoing operation that will be self-supporting.

But probably the most direct way to reduce unemployment, and one of the most effective, is the creation of jobs by government action. This can take many forms, from laws and regulations that encourage self-employment to federal grants for school districts to hire consultants. To many people, "job creation" smacks of leaf-raking and boondoggling. But in fact, one student of such programs has remarked that the most successful job-creation program in American history is operated by the Department of Defense. In addition to employing millions of soldiers, sailors, and marines, the Department of Defense hires hundreds of thousands of civilians as part of its management and planning functions. Contracts for the production of military goods and materials, for weapons research, and for "basic research" that might eventually lead to military applications have directly provided millions of jobs to Americans, and have indirectly stimulated the entire economy. So it is clear that the public sector already operates enormous numbers of programs that have a job-creating and employment-stimulating effect. For example, the decision to divert federal taxes on gasoline to the Highway Trust Fund, which in turn underwrote the construction of the interstate highway system, used public tax monies not only to build roads but to support a vast construction industry, with indirectly stimulating effects on the steel industry, the concrete industry, the automobile industry, engineers, surveyors, planners, and so on.

TWO MILLION JOBS THAT LAST

Mr. BELLMON. Mr. President, over the last few months, we have heard much talk of tax cuts which may be needed to stimulate the economy. The unemployment rate has stayed at around 7 percent for the last 8 months with only insignificant fluctuations. The teenage and minority unemployment rates have remained strikingly high. The rate of growth of real GNP has fallen from 7.5 percent in the first quarter, to 6.2 percent in the scond, and 4.7 percent in the third.

Mr. President, my point is that this sluggishness was anticipated and a remedy proposed by the Senate Republican conference in a program proposal entitled, "Two Million Jobs That Last." This report was transmitted to the Senate nearly one year ago, on February 2, 1977.

In that study, we noted the tendency for slow growth caused by:

(1) Changes in demographic characteristics of the workforce—greater participation by hard to employ labor force segments;

(2) Recent experience with high rates of inflation;

(3) New Government requirements restricting economic decisions by business and labor; and

(4) Low investment in productive capital over the last ten years which reduces economic growth and adds to future inflationary pressures.

At that time the report estimated that even a 6 percent rate of growth at real GNP for 1977 would only reduce the unemployment rate to 7 percent by the fourth quarter of 1977. In fact we have experienced a 6 percent growth rate of real GNP over the first three quarters of 1977, and are, in fact, experiencing the expected 7 percent unemployment rate.

Mr. President, at that time the Republican conference suggested a two-prong approach to stimulating the economy through tax reductions. First, the report proposed a permanent personal tax reduction effective April 1, 1977. This would have reduced the unemployment rate below what it would otherwise be by 0.2 percent points in 1977 and by 0.5 to 0.6 percentage points by the end of 1978. The cost was $5 billion in 1977 and $13 billion in 1978. But now we hear talk of $25 billion required to achieve the same goals. By acting 1 year ago, we could have purchased better impact at a lower cost. Furthermore, the reduced unemployed would have begun paying dividends through reduced deficits.

Second, the report proposed a permanent corporate rate reduction costing $2 billion in 1978. Such a reduction at that time would have placed us further along in our quest for increased capital formation and subsequent future growth of output and employment.

Mr. President, there is little we can do now to change this omission. I raise the point for two reasons. First, to remind my colleagues of the wisdom of the Republican conference suggestions and offer credit for foresight for which credit is due. Second, Mr. President, I raise the issue to illustrate the economic fact that a well-timed economic policy can be less expensive and more effective than policy actions delayed.

LEGAL SERVICES CORPORATION REAUTHORIZATION

Mr. KENNEDY. Mr. President, I am gratified by the Senate's approval of the Legal Services Reauthorization which we worked out in conference with the House. I think the act strengthens the Legal Services Corporation, making it better able to represent its clients.

This is vitally important. The Legal Services Corporation tries to insure that the poor have their day in court, that they get that to which they are legally entitled. In this country the law has been made a turnkey for a better life, so we must see that the most vulnerable are adequately served.

I am especially pleased to see that this bill contains provisions which emphasize that Legal Services Corporation recipients must work out procedures to serve those who have problems getting to legal services offices, and those who have special legal problems. The elderly and the handicapped are particularly mentioned in this group. These people have not been adequately served in the past. Now that situation should change. The Legal Services Corporation will also undertake a study of other groups which may have difficulties getting to legal services offices, or which may have special legal problems. If it finds that these groups are underserved, it must devise procedures for serving them. These groups include migrants, those with limited English-speaking abilities, veterans' and Native Americans.

Mr. President, I must note that the reauthorization continues to forbid legal services lawyers from representing otherwise eligible clients in school desegregation suits. In the Senate we voted by a large majority to repeal this restriction. But the House insisted on maintaining it. The provision prevents people from getting an adjudication by our judicial system of whether their constitutional and statutory rights have been violated. It also prevents the parents of handicapped students, and those who are in bilingual programs, from being represented when a remedy is being devised. It is most unfortunate that this restriction has remained in the authorization. I can only hope that when this program is again reauthorized, this distressing mood will have changed.

Mr. President, on the whole, though, I believe that we have worked out a good bill. We have a 3-year authorization at levels sufficient for the corporation to implement its mandate; we have client representation on the boards of the national and local corporations. The bill protects legal service lawyers from differential burdens in court appointed cases, and allows for representation of juveniles, and representation in some selective service cases.

I am pleased to see this legislation pass through Congress.

ABORTION

Mr. BAYH. Mr. President, on December 7, the House and Senate completed action on House Joint Resolution 662, a continuing resolution for the Departments of Labor and Health, Education, and Welfare.

This resolution provides funding for these departments until September 30, 1978, the end of the current fiscal year, at the level previously agreed upon by the conferees on the fiscal year 1978 Labor/HEW appropriations bill and includes compromise language on the emotional issue of the use of Federal funds for abortion, ending a more than 5-month deadlock between the two Houses of Congress on this item. The enactment of this resolution allows program initiatives in the $60 billion fiscal year 1978 Labor/HEW bill to go into effect and ends the uncertainty throughout the country regarding funding of important projects in every State and the payment of salaries to employees of the Departments included in the bill.

During the protracted negotiations on abortion, the Senate maintained that there should be as few restrictions as possible on the use of Federal funds for abortion and the House preferred extremely restricted use of Federal money for this purpose. The final language which was contained in House Joint Resolution 662 reads as follows:

> *Provided*, That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.
>
> Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.
>
> The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced.

This language speaks to the issue in four instances. First, it repeats the language which was adopted in last year's Labor/HEW appropriations bill permitting the use of Federal funds for abortion in cases when the life of the mother would be endangered if the pregnancy were carried to term. In other words, if the woman might die if the pregnancy were completed, an abortion could be performed with Federal funds.

Second, the language would permit the use of Federal funds if abortions are necessary for the treatment of the victims of rape or incest when the incident is promptly reported to a law enforcement agency or public health service. It is the clear intent of this language to include medical procedures for victims of rape or incest after the fact of pregnancy has been established.

Third, abortions would be permitted if the woman's physical health would suffer severe and long-lasting damage if the pregnancy were allowed to continue, and that such damage is certified by two physicians.

Finally, the language repeats a portion

of last year's conference report permitting Federal funds to be used for drugs or devices which prevent implantation of the fertilized ovum and for medical procedures necessary for the termination of an ectopic pregnancy.

Even though this language would permit more abortions than would be allowed under the language adopted last year, the Senate made several significant concessions to the House. Reference to permitting an abortion in cases where the fetus would suffer health damage was eliminated. This particular concession is extremely difficult for me to accept. There are over 2,000 genetic diseases. Some of these disorders which result in certain death or extreme debilitation are able to be detected by the use of a process called amniocentesis. This is true in the heart-rending case of Tay-Sachs, but there are still genetic diseases such as Huntington's disease that have no foolproof test to determine if and when it is present. However, in all cases involving the possibility that the fetus will suffer a severe genetic disorder, the language will do nothing to provide a woman eligible for medicaid the option of choosing whether or not to proceed with the pregnancy.

In addition, by including the word "physical" to describe the type of health damage a woman must face in order to be eligible for Federal funds for abortions, the possibility of coverage for mental disorders has been abandoned. I would assume that the only mental disorders which would be covered by the language would be those that have the additional manifestation of physical damage to the health of a woman.

It has been my position from the beginning that a prohibition on the use of Federal funds for abortion does not belong on an appropriations bill. It is clearly legislation. Further, adoption of a prohibition on the use of Federal moneys for this purpose will not put an end to abortions in this country. All it will do is make it difficult or impossible for poor women to be able to choose a medical procedure that the Supreme Court has decided is the right of all women. It says that if you can pay for this procedure you may elect it, but if you cannot, and do not fall under our exceptions, you may not use Federal funds for an abortion.

Even though I support language in House Joint Resolution 662 as the best possible compromise at this time, I do continue to believe that every poor woman should, if she so chooses, have access to an abortion performed under safe conditions. Hopefully, in future years it will not be necessary to continue to compromise the lives of poor women. They deserve better treatment by the Federal Government and I will be working to see that they receive it. The issue of abortion is a deeply religious and moral one. It should not be decided on the basis of financial status.

Mr. LUGAR. Mr. President, each year at DePauw University, a small liberal arts college in Greencastle, Ind., hundreds of students participate in an extraordinary service program which is worthy of our special consideration.

Approximately one-half of the university's 2,200 students volunteer to share their time and talents to assist church-related agencies, inner-city housing authorities, and facilities for emotionally and physically handicapped persons. Last spring this service program was recognized by the Governor's Committee on Voluntary Action as the largest of its type in the State of Indiana.

The project is designed to work through the student living units, creating a healthy amount of competitive spirit and camaraderie. At the beginning of each school year, living units are paired for a specific service project. A representative from each unit is selected to serve as captain throughout the project's planning and implementation. The crews provide needed services including carpentry, painting, roofing, and general cleanup work.

The success of DePauw's program is due in no small part to the creativity and personal efforts of its director, Chaplain Fred Lamar. Under his guidance, two teams of 45 persons will travel to the Episcopal Mission of St. Stephen, Lake Izobal, Guatemala in January of 1978. These teams will construct medical and religious facilities and provide medical and dental care for the residents of the Guatemalan earthquake zone.

Since the program's inception 4 years ago, thousands of persons have benefited from the labors of DePauw students. Churches have been repaired, classrooms painted, campgrounds cleared, and buildings constructed. I am grateful for the opportunity to pay tribute to the students and directors who have participated in this outstanding service program. It is an excellent example of the commitment and concern displayed by our Nation's college students.

STERILIZATION REGULATIONS

Mr. KENNEDY. Mr. President, HEW has recently published proposed sterilization regulations for comment. The Medical Tribune has published an extensive series on this subject which provides important background for those wishing to comment to HEW. I, therefore, ask unanimous consent to print these articles in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD as follows:

[From the Medical Tribune, Aug. 10, 1977]

CONGRESSIONAL PROBE OF ABUSE LOOMS: CONSENTEES TO STERILIZATION: HOW MANY TRULY UNDERSTAND?

I have asked for and received information about sterilization from ——— (*name of clinic or physician*). When I first asked for the information, I was told that the decision to be sterilized is completely up to me. I was told that I could decide *not* to be sterilized. If I decide *not* to be sterilized, *my* decision will not affect my future care and I *will not* lose any help or benefits from programs or projects receiving Federal funds that I am or may become eligible for.

I talked to ——— (*name of responsible person(s)*) about sterilization. —— (she/he/they) discussed it with me and gave me a chance to ask questions and answered them for me.

I have read all of this booklet. I agree that it is a true description of what was explained to me by ——— (*name of staff member*) of ——— (*name of clinic*) and that all my questions were answered to my satisfaction.

Federal consent forms inform patients that benefits are not threatened, but 72-hour waiting period is criitcized as far too short and designation of "responsible person" as counselor means a doctor could fill role.

As sterilizations burgeoned under Medicaid in the last decade, monitoring of the all-important informed consent mechanism has tended to get lost in the general shuffle of paperwork and financial squabbles. Obscured, too, were charges of less-than-fully informed consent by members of minorities. Now, in the wake of a government report giving credence to such charges, the question of a broad pattern of sterilization abuse is being raised. In a series of special articles Medical Tribune is reporting on the entire issue.

AMERICAN INDIAN WOMEN NOT FULLY INFORMED, GAO STUDY FINDS

(By Allan Chase)

WASHINGTON, D.C.—A Congressional investigation of all federally-funded sterilizations for the last decade has been called for amid these developments:

A Government Accounting Office probe has been unable to document whether the basic elements of informed consent were even presented orally, much less conveyed adequately, to thousands of American Indian consentees in spot checks of only four Indian Health Service regions. Nor was it evident that the Indians were properly assured that they would not lose welfare benefits if they declined to be sterilized.

The GAO itself has admitted that it failed totally to conduct personal interviews on this question.

HEW has responded to the GAO probe report with what Indian critics call a series of toothless promises and directives to improve the informed consent mechanism.

The Congressional probe was called for by Rep. Robert A. Young (D.-Mo) who told Medical Tribune he is requesting that the GAO investigate all federally funded sterilizations per se and hysterectomies (for the purpose of sexual sterilization) because "the entire issue of who is being sterilized with federal funds, and for what reasons, demands Congressional action. I think that our government is not fully aware of the extreme sensitivity of the sterilization issue, and the vast possibility for abuse within the government-funded sterilization programs."

"I am disturbed," he said, "by reports of Medicaid hysterectomies on 15-year-old girls, [for example]. Although such extreme operations on a child might be occasionally warranted, I believe some Congressional [overview] would insure that our government is not guilty of infringing on our own citizens' human rights. It is not possible that the issue of coerced or forced sterilization, supposedly resolved by the decision of federal Judge Gerard Gesell [in Relf vs Weinberger] in 1974 is still alive. . . . I want to be assured that sterilization guidelines established for the protection of poor people subsequent to Judge Gesell's decision are being carefuly folllowed."

SUPPORT FROM QUAKERS

Immediate support for a Congressional investigation came from the Friends (Quakers') Committee on National Legislation. It declared the probe was "needed in order to begin the moral effort to conform federal performance with existing sterilization regulations," citing "continuing reports of disproportionate numbers of sterilizations among Indian women."

Transformed from an almost exotic procedure to an operation of major numerical proportions with the advent of Medicaid in 1966, surgical sterilizations are believed to have increased five-fold in the last 11 years—to the point where 2 million of the procedures, about half of them on females, are now estimated to be done annually.

In the intervening years, a number of shocking, albeit isolated cases of sterilization abuse have been documented, notably in the class action stemming from the sterilization of the Relf sisters of Alabama, aged 12 and 16 years old at the time and apparently ignorant of what was happening to them. In his landmark decision of 1974, Judge Gesell also found that "an indefinite number of people have been improperly coerced into accepting a sterilization operation under the threat that various federally supported welfare benefits would be withdrawn."

In other words, female patients in particular were reported either not to have received the proper assurance that benefits would *not* be withdrawn if they didn't approve the operation, or else their fears overrode written or oral assurances to the contrary, and having not "talked out" the matter adequately because of cultural, language and comprehension barriers, they simply signed.

It was early in 1975, at the request of Sen. James Abourezk (pronounced Aboorisk) (D.-S. Dak.), that the GAO undertook its "sample" review in the IHS regions surrounding Aberdeen, S. Dak.; Albuquerque, N.M.; Oklahoma City, Okla., and Phoenix, Ariz. The review showed that for the fiscal years 1973–76, 3,406 female and 142 male sterilizations were performed in the four regions. And federal regulations and guidelines dealing with the informed consent of the patients may have been almost universally ignored since evidence (written summaries, etc.) other than the signed consent forms themselves was lacking to vouchsafe compliance. Many of the forms were originally unavailable and some were defective, too, failing to inform the patient, for example, that she could simply withdraw from the whole matter.

The GAO also found that 36 female minors had been sterilized, 13 of them after the HEW moratorium on sterilizations under the age of 21 had been declared in April 1974.

Sen. Abourezk declared later, in a letter to HEW Secretary Joseph Califano that "statements by numerous Indian people indicate that many . . . have undergone sterilization . . . out of fear of losing federal benefits or because of some other strong feeling of coercion. A simple statement of the patient's rights is not always significant to counteract such fears. Indian people have very distinct cultural and religious differences as well as language barriers."

It seems clear that the GAO might have resolved equivocations about the consent non-compliance by going directly to the consentees. However, quoting a Medical Tribune article (Feb. 25, 1976) in which investigators found that cardiac surgery patients were unable to recall, four to six months later, more than one-third of what their doctors had told them in taped conversations prior to surgery, the GAO concluded that "such an effort would not be productive."

In any case, HEW dragged its feet on a response to the GAO report, made in November 1976. The answer was more than four months late. The law requires a response within 60 days.

ENFORCEMENT HELD CRITICAL

And although Sen. Abourezk declared he was "extremely pleased to read that HEW has concurred with the over-all recommendations of the GAO," he reminded HEW Secretary Califano that "such recommendations will only be as good as their enforcement procedures."

The GAO report still leaves unanswered charges by such Indian leaders as Dr. Connie Uri of Los Angeles, a Cherokee physician, and Marie Sanchez, the Northern Cheyenne Tribal Judge, that medically unjustified hysterectomies are being routinely performed in IHS centers for the sole purpose of sterilization, and that Indian women have actually been in the midst of prolonged labor when they were given and signed consent forms for post-partum sterilizations. Also unanswered: Such basic questions as how many pregnancies the Indians in the four-region review had prior to sterilization, and their outcomes.

As a possible harbinger of future action, Rep. Young has already introduced a measure in the House that would revise the Foreign Assistance Act to prohibit the use of International Development Act funds for sterilization as a means of family planning, and would bar any attempts to force any person to submit to sterilization.

[From the Medical Tribune, Aug. 24, 1977]

Pro-Hysterectomy Stance, Consent 'Failings' Hit

(By Allan Chase)

Since Medicaid began funding upwards of half of all U.S. sterilization procedures in 1966, hysterectomy has become the third most common operation in this country and tubal ligation ninth. Despite guidelines that were written at the time to safeguard medical indigents, especially women, from sterilization abuse, despite a 1974 federal judgment that the guidelines for informed consent were being ignored, and despite a recent determination by the General Accounting Office that informed consent procedures are violated in federally funded programs serving American Indians, the Department of Health, Education, and Welfare itself remains a major infringer of the right to informed consent. HEW "plugs" hysterecotomy as an acceptable mode, too.

The GAO probe requested recently (MT, August 10) by Rep. Robert A. Young (D-Mo.) may help quantify and evaluate the current sterlization epidemic (the current estimate is 2 million a year, including males); the 638,000 tubal ligations done in 1975 represented nearly a ten-fold increase over the 1965 figure of 69,000, and is double the mere 319,000 appendectomies done in 1975. And abdominal and vaginal hysterectomies climbed from 505,000 in 1965 to 725,000 in 1975; the rate was 66.8 per 100,000 females in 1975, compared with 51.4 in 1965.

HIGH NUMERICAL RANK

Only biopsies (1,017,000) and D & Cs (977,000) outrank hysterectomies in number.

In 1974, Federal District Judge Gerhard Gessell found that HEW guidelines, set up to prevent sterilization abuse were being widely ignored. In federally funded family planning centers, "an indefinite number of poor people have been improperly coerced into accepting a sterilization operation under the threat that various federally supported welfare benefits would be withdrawn unless they submitted to irreversible sterilization," the judge ruled. Under court order, HEW drew up a new set of guidelines.

Since then, two studies of sterilization have both found that these 1974 guidelines were almost universally violated. One was a mailed questionnaire the American Civil Liberties Union sent to 154 teaching hospitals in 1975–6. The more recent one was the aforementioned GAO survey.

The questionnaire sent to the hospitals brought 51 responses. Based on what the respondents indicated, the directors of the ACLU study concluded that "in the absence of any enforcement by the HEW, the sterilization guidelines are being widely ignored, if not deliberately evaded."

In response to the GAO findings of guideline violations, HEW promised to tighten its compliance machinery. As an example of how it was now assuring informed consent, the department presented four informed consent pamphlets, each bearing the over-all title of "Your Sterilization Operation" but with different subtitles: "Laparoscopic Tubal Ligation," "Vasectomy," "Post-Partum Tubal Ligation," and, finally, "Hysterectomy." Much expert attention has been drawn to the hyster-sterilization booklet.

Dr. John McLean Morris, Chief of Gynecology at Yale University, described it to Medical Tribune as "a booklet advocating or at least recommending, hysterectomy for sterilization. My own opinion, and I think that of most doctors, is that there should be at least one clinical indication for hysterectomy [other] than sterilization alone." The HEW pamphlet, Dr. Morris says, "does not discuss any of the medical reasons for hysterectomy." In his view, "Hysterectomy is not indicated for multiparity."

YALE REVIEW PROCEDURE

At Yale, where the review committee maintains a list of every operation done, said Dr. Morris, "If you find that a doctor has taken out three normal uteri in 25-year-old girls, you'll want to know what the hell he is doing and why he's doing it. This type of review makes everyone, including me, more aware of the consequences of performing either unnecessary or inadequate operations."

According to Dr. Kenneth Ryan, Chief of Obstetrics and Gynecology at Harvard, "The HEW booklet gives the impression that hysterectomy is an acceptable form of surgery for sterilization in the absence of any other gynecological disease or disorder—and that for the patient who doesn't want to have periods, and is afraid of cancer in the future, it is a reasonable procedure to do." Dr. Ryan told Medical Tribune that in cases where sterilization is the sole reason for surgery, the HEW booklet neither stresses nor even "gives adequate information on the point that hysterectomy is probably an excessive maneuver for someone considering other kinds of alternatives [such as tubal ligation]."

COMPLICATING PROBLEMS?

In his view, the HEW publication "puts the HEW squarely, in making a medical determination, with those physicians who feel that hysterectomy is a reasonable procedure for sterilization in the absence of complicating problems such as excessive bleeding, pain, fibroids, and subclinical lesions."

Nancy Stearns, staff attorney at the Center for Constitutional Rights and an authority on informed consent, told Medical Tribune that "There is no possibility of this HEW booklet being legally acceptable as an instrument of informed consent, since the most critical piece of information is missing—and that is that hysterectomy should never be used for simple sterilization."

Former President of the American College of Surgeons, Dr. Charles McLaughlin, has observed that to perform a hysterectomy solely to sterilize a woman is "like killing a mouse with a cannon."

Is HEW Perpetuating Mal-Sterilization?

In a continuing series, Medical Tribune is reporting on the legitimacy of current sterilization practices among the nation's medically indigent. Already, the issue has prompted a critical government report and calls for a Congressional investigation of all federally funded sterilizations performed in the last decade. In the latest report, HEW's own role in possibly widespread sterilization abuse and grave charges by a medico-ethnic leader are examined.

"Genocide" Charged by Indian M.D. Investigator

(By John Elliott)

Los Angeles.—The sterilization of American Indians in Indian Health Service facilities with allegedly less-than-fully-informed consent is coming under renewed attack by Indian groups and government investigators. Some flatly call it "genocide."

Fully 20% of the already decimated population of native American women of childbearing age have been sterilized in the 51 IHS hospitals, mostly in the western United States, according to Indian estimates.

Dr. Constance Redbird Uri, a Choctaw-Cherokee physician now a full-time law student at the Whittier College School of Law in Los Angeles and leader of the group Indian Women United for Social Justice, accuses the U.S. government and the IHS of attempting to solve the "Indian problem" once and for all with a massive campaign of surgical sterilization.

"I believe the U.S. government is practicing genocide on the Indian people," she told Medical Tribune. "Whether they are doing this consciously or not, I cannot say. They are doing it nonetheless."

Of the fewer than one million Indians extant—there were 13 million in 1800, before they were cut down by war the incursion of settlers, and disease—the IHS provides health care to about half. Of these 500,000 care recipients, half are between the ages of 15 and 45 years—childbearing age. Dr. Uri estimates that at least 25,000 of these women have been permanently sterilized in the IHS facilities.

REQUEST FOR A NEW WOMB

She first became aware of the growing number of sterilizations being performed on Indian women in 1972 when an Indian patient asked her for a womb transplant. "I have heard of kidney transplants," the woman wailed, "and I want to know if you can give me a new womb." At age 20 the woman, then an alcoholic, had been hysterectomized for contraceptive purposes. Her two children had been placed in foster homes and her doctor felt that she should have no more. But several years later, her drinking problem overcome, the woman had remarried and, with her new husband, wanted more children.

Soon Dr. Uri encountered more cases of very young girls sterilized by IHS physicians. The girls were denounced as "polluters" for having borne children at an early age. In one case, she noted, a woman was hysterectomized to prevent discharge problems caused by the relaxation of outlet tissue pursuant to two childbirths. To explain why a simple anterior repair was not done, Dr. Uri said, the physician told her that "the Indian woman's tissue is different" and such a repair would be impossible.

Noting that thousands of sterilizations were performed in just four IHS regions during fiscal years 1973–76, Dr. Uri calculates that at such a rate, the IHS could wipe out all pureblood Indian races in less than 15 years."

"All the pureblood women of the Kaw tribe of Oklahoma have now been sterilized. At the end of this generation the tribe will cease to exist!" she says.

Dissatisfied with the GAO's explanation in a recent report (see accompanying article) that it didn't interview the patients personally because a study had shown that patients can't recall very much of the informed consent process after time has passed (MT, February 25, 1976), Dr. Uri has undertaken her own private research into the experiences of sterilized Indian women. "They remembered everything about the procedure," she reports, "even where they were sitting when the doctor talked to them, what he was wearing, everything, even months later. Indian women are not stupid. They may seem reluctant to communicate at times, but these are proud women and they often feel castrated by the sterilization procedure."

Dr. Uri tells of interviewing well over 1000 sterilized Indian women. All but one of them, she found, was influenced in her decision to be sterilized by an IHS doctor—only one had made the choice on her own. "The doctors will threaten to have the woman's welfare benefits taken away," says Dr. Uri incredulously. "Then they'll tell her how much fun sex will be after the fear of having children is removed, and they'll advocate sterilization as a cure for any number of medical and non-medical ailments. And the women have great faith in their doctor—they do as they're told." The fear of "subtle reprisals" against a woman's people, her reservation, is an invidious and powerful tool in repressing expressions of dissatisfaction," laments the Indian activist.

Perhaps the most startling example of abuse among the 51 IHS hospitals has taken place at the Claremore (Oklahoma) Hospital. Records for 1973 reveal that 194 sterilizations were performed there that year on Indians, one out of every four admitted to this 58-bed hospital. Furthermore, four tubal ligations were performed on women under 20 years old and 13 hysterectomies were performed on women under 30, including one on a 22-year-old. And it was at Claremore that a doctor averred that Indian tissue was medically different from his own.

"I just don't understand these doctors who want to sterilize us," declares Dr. Uri, herself the granddaughter of a physician. "It causes such psychological damage. Often the consent is obtained when a woman is admitted for childbirth, even while she's still groggy from anesthetics. The doctor's role should be to provide options for his patients, but IHS doctors provide no options. You spend more time just deciding whether to buy a house or car than the mandated 72 hours women have here to mull over permanent sterilization. Confused people can shoot their whole future in a moment. I ask you, what harm is done to the state if you let a woman have more time to think?"

In sum, she believes that the entire U.S. population has been sold a tragic lie about irreversible contraception.

Concludes Dr. Uri: "As the Cheyenne will tell you, the strength of the Indian nation is in their women. No matter how straight your arrows, no matter how strong your bows, no matter how brave your warriors, no nation is defeated until the hearts of the women are on the ground. When the women give up, you are in trouble."

YOUR STERILIZATION OPERATION: HYSTERECTOMY

Notice: Your decision at any time not to be sterilized will not result in the withdrawal or withholding of any benefits provided by programs or projects receiving Federal funds.

This consent booklet has been prepared as a sample by the U.S. Department of Health, Education, and Welfare. It describes one of several sterilization pocedures used in current medical practice and is a suggested format that fulfills the Federal requirements for informed consent.

This particular booklet is intended for use only in cases for which sterilization is the primary purpose of the hysterectomy procedure.

HEW's hysterectomy handout omits medical reasons for such an excessive sterilization mode, say experts.

[From the Medical Tribune, Sept. 7, 1977]

Sterilization: The Legacy and the Lack of Watchdogs

The question of possible sterilization abuse has been raised in Medical Tribune's special series, focusing so far on government and ethnic reports, the law's intent and current HEW policies. Presented here are early historic antecedents of the sterilization movement and a startling report on Medicaid monitoring.

Mediciad Monitoring of Hysterectomy Abuse Seen Inadequate

(By John Elliott)

Washington, D.C.—In 1976, federal funds financed nearly 100,000 surgical sterilizations, most of them in women and 67,101 of them under Medicaid. Medical Tribune has examined an elaborate monitoring system set up within the Medicaid Bureau to detect and crack down on possible abuses. The check shows that the system is hopelessly inadequate. Almost nothing is happening. Hysterectomy sterilizations, though endorsed by HEW via a special booklet (MT, August 24), apparently aren't monitored at all.

"I don't recall ever finding any suspicious trends in sterilization procedures after an analysis of monthly reports received here from our regional offices," says Dr. Paul Willging, Deputy Director of the Medicaid Bureau. One major reason that substantive abuses are almost never uncovered, Medical Tribune finds, is that the monitoring system functions merely as an administrative "checkpoint Charlie," seldom going afield and seldom reaching the provider level.

"There is some question about the ability of Medicaid to monitor anything, never mind sterilizations," is the way David Becker, an attorney with the HEW general counsel's office puts it. He adds, however that "we do try to be as rigorous as possible in insisting that the states follow the federal sterilization regulations."

Those regulations stipulate a 72-hour waiting period after consent and evidence that consentees are at least 21 years of age, are not mentally incompetent, and are fully informed—orally and in writing. But there is no investigation or monitoring from the top or middle echelons of the Medicaid system. Instead, top officials passed Medical Tribune to state and regional levels when asked about monitoring. And officials at these levels passed queries on down the line. Ultimately, enforcement is the states' responsibility, officials explained. The inadequacy of the monitoring becomes clear at the gut level. In New York city, for example, part of Medicaid Region II, a staff of 18 in the Medicaid, Fraud and Abuse section of the New York Social Services Department, must sift data covering all sorts of medical procedures from 6,000 providers. Concentrating on possible over-billers and specific procedural errors in the paper blizzard, there is little chance that these workers will spot a clue to abuse of informed consent.

NO COMPLAINTS?

"We would have the ability to monitor sterilization if things got out of hand," maintains Cynthia Cohen of the New York City office, "but we haven't had any complaints lately so we don't worry about it much." Of the current backlog of 350 varied Medicaid investigations, none involves sterilization.

In New Jersey, also in Region II, the front-line troops engaged in enforcement of federal sterilization regulations are the individual fiscal agents who process Medicaid reimbursement claims. Their instructions? Don't pay any claims that aren't accompanied by the proper consent forms with signatures in the right places.

Local Medicaid offices *are* required to perform random routine checks on providers. Between ten and 50 claims must be randomly investigated annually in each region, according to the Medicaid central office. But again, these are unreal investigations. No individuals are questioned. No physicians or patients are interviewed. The purpose is solely to identify broad trends of noncompliance, usually signified by errors in completing the consent forms, such as misplaced or incorrect signatures.

In Region II, no abuses have been uncovered since early 1975, when it was discovered that all of New Jersey was using an unsatisfactory consent form.

On a special report form, known as form 120, regional Medicaid offices keep track of basic sterilization data—number done, type, age of patient, etc. This audit report is submitted monthly to the central Medicaid Bureau in Washington. At the same time, noncompliance information is relayed back to the State Department of Social Services. For specific violations, federal funds are withheld. But hysterectomies apparently are not in the monitoring system at all, though many of the estimated 750,000 annual hysterectomies performed nationally are Medicaid hysterectomy sterilizations.

The Medicaid Bureau does an informational analysis at regular intervals to seek out trends of possible abuse. But since the analysis is based on superficial regional data, what could it be expected to find? In sum, the judicial consent mandate is unenforced.

TODAY'S TREATMENT OF THE POOR LINKED TO EARLY EUGENICS MOVEMENT

(By Allan Chase)

NEW YORK.—The social tragedy implied in recent findings of possibly coerced sterilization and related abuse did not develop in an historical vacuum—and from the beginning, physicians were involved. The current state of affairs traces to interactions of movements ranging from eugenics to fascism. Not the least of the reasons for the ideologic involvement of physicians was underscored by the report on American and Canadian medical education made for the Carnegie Foundation by Abraham Flexner in 1910. Said the introduction to the Flexner Report: "For the past 25 years there has been an enormous over production of uneducated and ill-trained medical practitioners . . . due in the main to the existence of a very large number of commercial schools."

These diploma mills produced the vast majority of American doctors, and their graduates were neither taught, nor prepared to learn for themselves, the vast differences between the pseudoscientific cult of eugenics and the important new biological science of genetics. Short-changed on life sciences, the doctors—like most American lawyers, legislators psychologists, philosophers, historians, journalists and social reformers—were for more than half a century to be easy prey to the egoinflating dogmas of Galton's eugenics. Few understood that eugenics is an elitist effort to advance human strains that the elite consider suitable, and weed out the "unsuitable," whereas genetics deals with the biochemical and physical realities of heredity and variation in living organisms—just the opposite.

WORLDWIDE MOVEMENT

The world sterilization movement came into being in London on August 11, 1891, when Sir Francis Galton, in an address to the Seventh International Congress of Hygiene and Demography, called for an attack on the fertility of what he termed the "overgrowth of population." As Galton's closest disciple, Karl Pearson, noted in his four-volume life of the founder of the cult of eugenics, "Galton is here foreshadowing the sterlization of those sections of the community of small civic worth, which has since become a pressing question of practical politics."

By 1930, when Pearson wrote these words, thanks to Galton's call and the efforts of Charles Benedict Davenport and other founders of the American eugenics movement, compulsory sterilization laws had become very practical politics in this country. By then, 30 of the (then) 48 states had enacted eugenic sterilization laws, starting with Indiana in 1907. The laws mandated sterilization of individuals whom the eugenicists labeled "hereditary" criminals, people with epilepsy, people who got low IQ tests scores, patients in state institutions for the mentally retarded, and other wards of the states.

The man who started it all, Sir Francis Galton, was a medical school dropout, Victorian racist and dilettante in the sciences. He was above all an enemy of democracy who spent most of his long lifetime counterfeiting "biological laws" to justify the wide gap between poverty and affluence in his native England.

Galton repeatedly wrote that people were rich because their blood overflowed with the inherited stuff that made for wealth; people were poor because they were born of inferior blood polluted with the biologic determinants of what Galton called "pauperism." While most well-educated British physicians spoke for sanitary reforms and other social measures of preventive medicine, Galton insisted that the preventable disease and disorders of poverty in Victorian England—from tuberculosis and measles to defective vision and low classroom test scores—were all due to the hereditary biologic and moral defects of the poor themselves. Galton wrote that the majority of mankind was composed of hereditary "mediocrities and ineffectives," of whom the most dangerous were the poor. He declared his own war on poverty by calling for the prevention of the breeding of the poor themselves.

ACTIVITIES IN AMERICA

No sooner was the American eugenics movement launched officially than it formed, in 1911, its powerful Committee to Study and to Report on the Best Practical Means of Cutting Off the Defective Germ-Plasm in the American Population. This was always referred to, by its leaders, simply as the Sterilization Committee. Members included the future Nobel Laureate in medicine, Alexis Carrel, and the Johns Hopkins professor of biometrics, Raymond Pearl. The great Harvard physiologist Walter B. Cannon was recruited for the committee by Davenport, his former Professor of Zoology and coauthor of Cannon's first published paper. Professor Davenport's second-in-command at the Eugenics Record Office, Harry H. Laughlin (Sc.D., Princeton), was secretary and de facto director of the sterilization committee.

The final report of the blue-ribbon committee considered and rejected "general environmental betterment," from improved nutrition and housing to better schools and better living, as a solution to the genetic problems of America. Their studies, the experts reported, "prove conclusively that much social inadequacy is of a deep-seated biological nature, and can be remedied only by cutting off the human strains that produce it." The ten major classes of hereditary race polluters were listed in order of their degree of menace. They were: (1) The Feeble-Minded Class. (2) The Pauper Class. (3) The Inebriate Class. (4) The Criminalistic Class. (5) The Epileptic Class. (6) The Insane Class. (7) The Asthenic [lacking in strength] Class. (8) The Diathetic [constitutionally susceptible to specific diseases, such as the infectious and deficiency diseases] Class. (9) The Deformed Class. (10) The Cacaesthetic [having defective sense organs, "as the blind or the deaf"] Class.

Unless these ten classes of Americans with hereditary defective germ-plasm (genes) were sterilized, said the pseudo-experts, crime and insanity would increase, overcrowding our prisons and asylums; our public schools would be packed with genetically ineducable and feeble-minded [mentally retarded] epileptics; and the nation's public welfare costs would bankrupt all solvent taxpayers. The panel's final report also attacked birth control. What bothered the eugenicists most about birth control was the fact that the college-educated and other affluent classes made ample use of such contraceptives as were then available, thereby depriving the American genepool of their germplasms for intelligence and wealth.

[From the Medical Tribune, Sept. 14, 1977]

STERILIZATION: THE ROOTS, THE BUDS . . .

In a series of reports, Medical Tribune has found that wide sterilization abuse may exist among the medically indigent. Amid allegations of overutilization, safeguards to insure that the federal informed consent mechanism is working as mandated by the courts seem lacking. The installments below report on current reaction in Washington, D.C., and continue an examination of the procedure's historic ties to the eugenics movement.

LAWMAKERS, HEALTH OFFICIALS REFLECT LITTLE CONCERN

(By John Elliott)

WASHINGTON, D.C.—Legislators and government health officials in Washington reacted variously with bureaucratic aplomb, indifference, or guarded concern to Medical Tribune reports of overpromoting and undermonitoring of sterilization procedures by the federal government. It is apparent that official concern over sterilization has waned since the clamor for federal guidelines in 1974, a result of the landmark Relf case, in which flagrant abuse was uncovered.

After repeated requests, Secretary of Health, Education, and Welfare, Joseph Califano declined to comment on sterilization and possible shortcomings of the Medicaid monitoring system operated by his department.

Dr. Julius Richmond, Assistant Secretary for Health in HEW did respond, but with an irrelevant platitude. "Voluntary sterilization is, in my opinion, a socially acceptable method of family planning," he said, "as long as it is performed with the informed consent of the individual."

"According to recently published reports," he added, "sterilization is becoming an increasingly popular form of family planning in the United States. As for hysterectomy, there are other procedures that are simpler and safer; therefore I do not regard it acceptable primarily for sterilization." An official HEW pamphlet dignifies hysterectomy as an acceptable mode of sterilization, without other medical indications, though it does indicate other operations may be simpler and safer. Says a spokesman for Dr. Richmond. "As long as there are physicians in this country who use hysterectomy for the sole purpose of sterilization, we must provide a means of informed consent. If we didn't have this pamphlet, and avoided full disclosure of the benefit and the risk, we'd be in bad shape."

WE TAKE NO POSITION

A spokesperson for the House Subcommittee on Health, headed by Rep. Paul Rogers (D-Fla.), took an ostrich-like posture. "We have no jurisdiction over sterilization. We plan no legislation. We take no position," she reported. "You'll have to check with whoever has jurisdiction over that issue if you want a statement."

Dr. Larry Horowitz, a special advisor to Senator Edward Kennedy's Senate Subcommittee on Health and Science, admitted that the committee had not been following sterilization since 1973. At that time, the Kennedy committee was instrumental in developing guidelines that now govern federally-funded sterilizations. But today, Dr. Horowitz concedes that he would be "speaking from a totally uninformed position if he were to comment on an Oversight, headed by Rep. John E. Moss (D-Calif.), is oddly enough the House body most closely concerned with sterilization abuse. The Moss committee has been investigating unnecessary surgery, including the boom in hysterectomies which has occurred in the past several years. A special representative for the Moss committee reports that the hyster-sterilization issue has been "reopened for examination, although no action is intended within a year."

MT'S SERIES IN REVIEW: MAJOR POINTS CAPSULED

Thus far in the sterilization series:

A Government Accounting Office report has revealed that there is no evidence that proper informed consent procedures were met in the sterilization of thousands of American Indians in a spot check of just four of 12 Indian Health Service regions.

Dr. Connie Uri, a Choctaw-Cherokee physician in Los Angeles has charged that the IHS is practicing genocide on the Indian people. She claims that fully 25 percent of all Indian women of childbearing age have been sterilized in IHS facilities.

Strong evidence suggests that HEW guidelines set up to prevent sterilization abuse are being widely ignored. In addition, HEW appears to be "selling" hysterectomy in an official consent booklet that ignores the necessity of medical indications to validate the procedure for sterilization.

An elaborate monitoring system set up by the Medicaid Bureau within HEW, has been found to be totally inadequate in its watchdog task of preventing abuse in sterilizations performed with federal funds.

An historic chain of connection has been traced from Sir Francis Galton, who called for the sterilization of "those of small civic worth," in 1891, to the American post-war eugenics movement, which was to involve many prominent U.S. citizens.

Abuses occur even in New York City, which has adopted a model sterilization statute.

MDs HELPED EXPLODE EARLY CONCEPTUAL BIAS, AND YET . . .

(By Allen Chase)

By the early part of this century, dogmas of the pseudoscientific cult of eugenics had spawned an elitist ideology in the U.S. and statutory sterilization of "defectives" to go along with it (MT, Sept. 14). Biologically under-educated American physicians were not immune to the eugenics cult and its ascribing—through a blue-ribbon "Sterilization Committee"—of underachievement to inferior genetic endowments sterilization laws. "The State," Hitler wrote in Mein Kampf in 1924, "must proclaim as unfit for procreation all those who are afflicted with some visible or hereditary disease or are carriers of it, and practical measures must be adapted to have such people rendered sterile."

In 1927, the Weimar republic passed a law permitting the voluntary sterilization of German women whose lives were threatened by pregnancy. When Hitler took power in 1933, this non-punitive law was replaced with an act—derived quite frankly from the Model Eugenical Sterilization Law published by Davenport's Eugenics Record Office in 1920—which called for the forced sterilization of the sick, the crippled, the blind, the deaf, the alcoholics, the epileptics, and the mentally retarded.

THE "HITLER CUT"

Under the voluntary therapeutic sterilization law of Weimar Germany, less than 500 German women—about 85 a year—were sterilized between 1927 and 1932. After 1932, forced sterilizations became so common in Nazi Germany that in the popular vernacular a sterilization operation quickly became known as a *Hitlerschnitt*—literally "Hitler cut," but actually a play on the word for Caesarean section, *Kaiserschnitt*. Two million Germans were found by the local Eugenic Courts that administered the Nazi sterilization code to be either afflicted with "some visible hereditary disease or are carriers of it," and were forcibly sterilized. This made for an average of 165,000 Germans sterilized annually for being "unfit."

Hitler had not only realized Galton's dream of extending the American eugenic sterilization laws to Europe; he had also done what British and American eugenicists had been demanding for more than a generation by "going public" and extending the horror of forced sterilization to two million non-institutionalized Germans living at large. Not until a decade after the fall of Hitler's Reich were the American eugenicists able to achieve the forced sterilization of the poor in equal numbers in this country.

EUGENICS RECORD OFFICE

(Committee to Study and to Report on the Best Practical Means of Cutting Off the Defective Germ-Plasm in the American Population.)

WORKING COMMITTEE

Bleecker van Wagenen, Chairman; W. H. Carmalt, Everett Flood, H. W. Mitchell, H. H. Laughlin, Secretary.

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Medicine—L. F. Barker.
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History—James J. Walsh.
Public Affairs—Irving Fisher.
Religion and Morals—Newell Dwight Hillis.

Expert advisers to "Sterilization Committee" of 1913 included two revered medical figures: Harvard Physiology Prof. Walter Cannon and the Rockefeller University surgical giant, Alexis Carrel, a Nobel prize winner.

[From the Medical Tribune, Sept. 21, 1977]

PASSING THE WORD ON STERILIZATION: 1937 TO 1977

(Has a racist sterilization rationale been passed on to this generation? If so, are blacks direct or indirect victims? MT's special series turns to published literature and black clinicians for an answer.)

(By Allan Chase)

Today's attitude of acceptance with regard to apparent sterilization abuse (MT, Sept. 21) may trace back to a climate of opinion created decades ago by popularizers who envisioned the procedure as a socially useful tool. Some analysts feel that the prosterilization generation gap between the Depression and postWorld War II was bridged, and a credulous public effectively swayed, by such "modern" eugenicists as H. L. Mencken, Elmer Pendell and William Vogt.

Back in 1937, Mencken apparently appropriated as his own the 1926 plan of Margaret Sanger to give low IQ scorers and other "social inadequates" $25 to $100 bonuses if "such polluters of the race" agreed to be sterilized. In "Human Breeding and Survival," a popular 1947 paperback, Guy Irving Burch and Pendell lauded the putative humorist for "basing sterilization on social criteria such as criminality, low earnings, poor health and lack of education."

This, the first of the major postWar Malthusian eugenic and sterilization tracts, endorsed by then U.S. Attorney General Tom C. Clark, went on to call for compulsory sterilization of Americans on welfare, "persons who are in bad health," "habitual criminals," and other "defective or socially inadequate" types. Burch and Pendell also proposed a U.S. Foreign policy, shaped by the United Nations, seeking adoption of laws that would "actually lead to sterilization of all persons who are inadequate, either biologically or socially, and encourage the voluntary sterilization of normal persons who have had their share of children." Otherwise, they reasoned, there would be a population explosion and food riots.

"SUBNORMAL CLASSES" TARGET

"Human Breeding and Survival" was a reprint of a 1945 monograph published by the privately funded Population Reference Bureau. Coauthor Burch was its director as well as a vice-president of the American Eugenics Society. Pendell, an economist, was a member of the board of Birthright, Inc., née the New Jersey Sterilization League, which in 1948 took over the lists of eugenicist Eugene Gosney's dormant Human Betterment Foundation and reorganized itself as the Human Betterment Association.

The Burch-Pendell viewpoint was soon echoed. In a biology textbook still used today, Prof. Garrett Hardin of the University of California urged the sterilization of people with low IQ scores and speculated that "more spectacular results could be obtained by preventing the breeding of numerous members of the subnormal classes higher than the feeble-minded."

PERIODIC CUMULATIVE GRAND TOTALS OF PERSONS STERILIZED UNDER STATE LAWS ACCORDING TO THE CATEGORIES COVERED BY THE LAWS, AND BY SEX, GATHERED FROM VARIOUS SOURCES

	Mentally ill	Mentally retarded	MR percent of CGT	Epileptic	Others	Male	Female	California total alone	Cumulative grant total	California percent of CGT
For the period 1907 up to—										
Jan. 1, 1921	2, 700	403	12. 5		130	1, 853	1, 380	2, 558	3, 233	80. 0
July 1, 1925						3, 307	2, 937	4, 636	6, 244	74. 0
Jan. 1, 1929	6, 246	2, 938	31. 7	55	21	4, 624	4, 845	6, 298	9, 522	66. 0
Jan. 1, 1932						5, 613	6, 532	7, 548	12, 145	62. 0
Jan. 1, 1935						8, 573	11, 363	9, 931	20, 021	49. 6
Jan. 1, 1938						11, 628	16, 241	12, 180	27, 869	44. 0
Jan. 1, 1941	18, 552	16, 622	46. 0		704	14, 900	20, 978	14, 568	35, 878	41. 0
Jan. 1, 1946	21, 311	22, 153	49. 0		1, 663	18, 830	26, 297	17, 835	45, 127	39. 0
Jan. 1, 1951	23, 466	26, 858	51. 0		1, 909	21, 250	30, 983	19, 698	52, 233	38. 0
Jan. 1, 1956	26, 047	30, 101	51. 6		2, 137	23, 368	34, 917	19, 962	58, 285	34. 0
Jan. 1, 1961	27, 592	32, 287	42. 0		2, 283	24, 474	37, 688	20, 041	62, 162	32. 0
Jan. 1, 1964	27, 917	33, 374	52. 4		2, 387	24, 716	38, 962	20, 108	63, 678	31. 6

Note: Annual averages of operations for the periods: 1907–21 (230), 1921–30 (849), 1930-41 (2,273), 1941-51 (1,636), 1951-61 (993), 1961-64 (505). Unpublicized institutional sterilizations, performed since 1907 in several States, had reached a grand total of 63,678 by 1964. Annual averages peaked in the 1930's. Typical patient through the years is mentally retarded female.

In *Road to Survival*, a 1948 best-seller, William Vogt also praised the Sanger-Mencken sterilization bonus plan, writing that "since such a bonus would appeal primarily to the world's shiftless, it would probably have a favorable selective influence." It was far better, Vogt added, for society to pay "permanently indigent individuals . . . $50 or $100 rather than support their hordes of offspring that, by both genetic *and social* inheritance, would tend to perpetuate this fecklessness."

Thousands of literate Americans took Vogt's Malthusian and sterilization preachments to heart. Their number included the wealthy manufacturer of Dixie Cups, Hugh Moore. No sooner did Moore read Vogt's book than he was to devote the rest of his life to putting Vogt's preachments into action.

When Burch's Population Reference Bureau went broke, Moore reorganized it, and helped raise its budget to $400,000 by 1966. Moore took over the Human Betterment Association, became its president in 1964, changed its name to the Association for Voluntary Sterilization, Inc., and raised enough money to hire a professional staff. Dr. H. Curtis Wood, Jr., the Philadelphia obstetrician who became president of Birthright, Inc. in 1948, remained as president of Human Betterment Association when it succeeded Birthright, Inc., and served as medical consultant to AVS until 1973, now began to make over 100 lecture, radio and television appearances a year as spokesman for the AVS. In these talks, Dr. Wood's message was the one he put in writing in 1973: "People pollute, and too many people crowded too close together cause many of our social and economic problems. . . . The welfare mess cries out for solution, one of which is fertility control [sterilization]." Dr. Wood is still on the AVS board.

LARGE AID GRANT

The AVS campaign was so successful that, when Moore died in 1972, the organization survived without his considerable help. According to its 1976 financial statement, AVS received the $1,696,393 from the federal Agency for International Development (AID) to set up sterilization programs overseas. Meanwhile, the literature of the AVS continued to advocate sterilization as a sound answer to the waste of "billions more of our tax dollars . . . on relief," and also "the critical need to control the population explosion.

The years 1960 through 1970, during which both the live birth rate and the fertility rate in the U.S. declined by 26 percent, saw the start of the present sterilization boom. Sparked by the preachings of Burch, Vogt, Moore and other malthusians, it caused many people to seek voluntary sterilization. Simultaneously, more and more physicians started to advise sterilizations and even hysterectomies.

The results of the first, or voluntary and privately funded phase, of the sterilization trend were clear by 1965. In 1965 alone, a total of 69,000 tubal ligations were performed on noninstitutionalized American women, as well as an even greater number of vasectomies on American men.

By 1975, tubal ligations had increased 433 percent, to 368,000 per year, and the total number of all male and female sterilizations performed annually was estimated to be over 2 million. Not all of the post-1965 sterilizations, however, were privately funded.

In 1966 that, under Title XIX of the Social Security Act, the U.S. began funding sterilizations of the working and welfare poor. Charges soon arose that federal and local guidelines for the protection of poor women and men from coerced sterilizations and other forms of sterilization abuse were inadequate.

Then came the upsurge in federally funded procedures, and in 1974, the Federal District Court finding that an "indefinite number of poor people have been improperly coerced into accepting a sterilization operation under the threat that various federally supported welfare benefits would be withdrawn unless they submitted to irreversible sterilizations."

STERILIZATION: NO COLOR LINE, BUT A POVERTY LINE

(By John Elliott)

Are black Americans, as some studies suggest, particularly hard-hit victims of sterilization abuse at the hands of white physicians? Unable to agree on this question, most population researchers, black health officials, and concerned MDs are sure of one thing—poor Americans, black and white, are more likely to be sterilized than those who do not live below the poverty level.

"Traditionally, the medical profession has had contempt for the poor," Dr. John L. S. Holloman, a black physician and former head of the New York City Health and Hospitals Corporation, told Medical Tribune, "They have had contempt for those who have been regarded as teaching material. Physicians have traditionally been trained at the expense of poor people. This charity concept of medicine has been subliminally taught to most physicians."

Dr. Donald Sloan, of Metropolitan Hospital, a large city hospital in New York, confirmed this statement. "We're a city hospital, so most of our patients are poor," he said. "They are considered chattle by the physicians here. We practice on the poor so we can operate on the rich. Hysterectomies and simple tubal ligations are performed all the time just for the practice."

Several studies add fuel to the racial debate surrounding sterilization. One study by Dr. Carl W. Tyler Jr., of the Family Planning and Evaluation Branch of the Center for Disease Control in Atlanta, deals specifically with the sterilization of minors. Dr. Tyler found that black women under 21 years of age were sterilized with greater frequency than white women in the same age group. More important, he found that welfare recipients under 21, regardless of race, were more likely to be sterilized than those not on welfare.

PRINCETON STUDY

A 1970 study by Dr. Charles Westoff, of the Office of Population Research at Princeton University, largely corroborates these findings. "The lower the socioeconomic class, the higher the incidence of sterilization in both blacks and whites," said Dr. Westoff. "The reason for this is that welfare recipients are the individuals most likely to come in contact with clinic establishments where they would get sterilization counseling, particularly if they already have two or three children."

However Dr. Roger Rochat, a colleague of Dr. Tyler at the CDC in Atlanta, questions the Tyler findings. "Dr. Tyler's work was federally funded and aimed at federally subsidized clinics which treat only poor women. This might tend to bias the results," he said.

Other experts cite more insidious reasons for the sterilization of the poor. Dr. Holloman raises the possibility that, as in the past, sterilization is being used as a tool for controlling "undesirables." He adds: "We cannot solve our problems by making people expendable and destroying them, a task some physicians feel is their duty. Compulsory sterilization is not the answer to any of our social ills."

Dr. Westoff's 1970 Princeton study offers the most recent data about the racial distribution of sterilization, although his findings are seriously flawed because only white subjects were interviewed. In that study, where only age is held constant, researchers found that black and white sterilization rates are approximately the same. The major difference cited by the study is that among blacks, 95 percent of sterilizations are performed on women, while among the white population surveyed, the procedures are split 50–50 between the sexes.

Several further analyses have been made based on the data collected by Dr. Westoff and his colleagues. Dr. Rochat in his own study based on the Princeton data, has reached several different conclusions. He found that, when blacks and whites are matched for income, education and number of children, sterilizations are equivalent no matter what the socioeconomic level. Dr. Rochat believes that the relatively early age at which welfare recipients complete their desired family size, accounts for the apparent higher rate of sterilization.

As with every phase of the sterilization investigation, the scanty racial data can very often confuse and mislead. Most experts agree, however, that the poor are sterilized at a greater rate than the nonpoor.

[Medical Tribune, Sept. 28, 1977]

COUNSELING CURBS UNWISE STERILIZATION

(By Allan Chase)

Early next year, investigators working for CREST—the Collaborative Review of Sterilization organized by the Center for Disease Control—will seek and interview large cohorts of sterilized women in a continuing follow-up. One question each will be asked periodically reads: "Since you were last interviewed, have you gone to your physician or hospital to ask about having your tubes untied so that you can get pregnant again?"

That question may seem absurd to the medically sophisticated, but there are indications that many women—and men—agree to sterilization without realizing the procedure is irreversible. CREST is particularly interested in answers from women who have undergone federally-funded sterilization, because the panel wants to gauge the effectiveness of HEW regulations which make informed consent a prerequisite to such operations.

Critics have charged that these regulations are not adequately enforced and not easily comprehensible to many lay people.

What proportion of the more than a million male and female sterilizations performed annually are subject to such charges of inadequately informed consent will not be known until about 1980, when the CREST study is fully operational. In the meantime, the federal General Accounting Office is studying government-funded abortions for evidence of abuse, but, rather than contacting patients, is confining itself to scrutiny of hospital records.

In some cities, such as Los Angeles and New York, Judge Gerhard Gesell's seminal 1974 decision in *Relf v. Weinberger* (MT, Aug. 10,24) resulted in significant advances in the presurgical counseling of sterilization patients. The Los Angeles Regional Family Planning Council, an intermediary federal and state funding agency, set up 12-week courses for sterilization counselors. Phyllis Paxton, R.N., who designed the courses, was aware from the start of "the vast gap between what we think goes into verbal messages and what is actually received. This is where training in counseling is as important as skill in foreign languages. This is also why sterilization counselors are not certified by the Council until after they are observed at work with patients during site visits."

Paxton believes that "for the average patient, I would say that at least two to three months of counseling is required before he or she is sterilized. This is particularly true for the woman who is thinking of having a postpartum sterilization. I've had patients who have had painful experiences during labor, and who have been coerced into having postpartums and ended up being really sorry since."

Sterilization counselors trained in this program are now at all Los Angeles County Hospitals, and at university medical centers and private hospitals in the region. At the LA County-USC Medical Center, one of the largest in the area, the average time spent in counseling sterilization patients is two hours. This includes the showing of a film on the specific sterilization procedure recommended for the two to five patients in each counseling group, which is followed by one hour of counseling. The patients are then given a four- or five-question test on the risks, benefits and permanence of the procedure. If they pass, they are allowed to sign the consent forms, which like the tests and the counseling are in English or Spanish.

Under a new regulation at the California center, if a woman is under 25, and has less than three living children, she has to be seen and interviewed by 2 members of the medical staff at separate interviews, either of whom can, and at times do, refuse sterilization to some women. The reason for this regulation, Dr. Robert Israel told MT, is that "women who were sterilized between the ages of 20 to 30 are the major group who then want to have their tubes 'untied.' So far, none of the women sterilized at this center after the new counseling system was set up, have come back asking for sterilizations to be reversed."

In New York, the special advisory committee set up by the city's Health and Hospitals Corporation—which operates the municipal hospitals—found the HEW guidelines to be inadequate. It proposed more stringent regulations, which were published in April, 1975. These new regulations, called not only for counseling by nonphysicians as well as the physicians involved, but also for a 60-day waiting period between the signing of consent and surgery. The HEW guidelines call for only a 72-hour waiting period. The new city guidelines were attacked by the Association for Voluntary Sterilization, Inc., and other groups, and by the time they were adopted later in the year the waiting period had been cut to 30 days. But the rigid counseling and auditor-witness requirements remained, as did a rule that initial consent can't be elicited during hospitalization for childbirth or abortion.

The twice-postponed new California state regulations, now due to be applied starting Dec. 1, call for a 14-day waiting period. Many California doctors, including Dr. Israel, oppose this longer period. "A 14-day waiting is too long," he told MT. "I think that the New York City 30-day waiting period is ridiculous because many of these patients will conceive. I'm not talking about private patients. But here we have a large population of illegal aliens from Mexico. If we don't get them while they're here—while the getting is good—we're in trouble."

While sterilization data for 1976 have not yet been compiled, the records do show that where a total of 1735 sterilizations were done in 1974 in New York's municipal hospitals, there was a 22% drop to 1,355 in 1975, when the new guidelines were revealed. In the only national survey of the HEW guidelines made since they were published in April, 1974, the American Civil Liberties Union questionnaire mailed to OBGYN chiefs of 154 teaching hosiptals a year later, (MT, Aug. 24), the 51 responses suggested to the study's author, Elissa Kraus, that "in the absence of any enforcement effort by the HEW, the sterilization guidelines are being widely ignored, if not deliberately evaded." The study also indicated, she said, that, in the 51 hospitals that responded, "there is a lack of understanding as to what constitutes adequate explanation of surgical procedures and purposes."

Subsequently, a number of unpublished and public government studies, including the 1976 GAO survey of sterilizations in the Indian Health Service facilities (MT, (Aug 10), have suggested that the violations of the HEW guidelines are even worse than the ACLU study suggested.

There are unmistakable signs, however, that the many civic and ethnic groups opposed to the shortcomings of both the federal regulations and their enforcement are not prepared to wait for the 1980 findings of the CDC sterilization programs to help them change both. Now in litigation are many individual and class actions brought by these groups. Especially notable is Madrigal et al v. Gulligan et al, a civil rights action field in the Federal District Court of Central California by 10 Mexican-American women against the directors and staff of the USC-LA County Medical Center and various state officials. The women claim various sterilization abuses were committed against them between June, 1971, and March, 1974. Eight of the women charge that their consent to sterilization was first elicited when they were admitted for childbirth or during labor. Four of the plaintiffs charge that they were sterilized without their consent.

PRIVATE PATIENT STERILIZATIONS NOT MONITORED

(By John Elliot)

Based on figures gathered from the Association for Voluntary Sterilization (AVS); an independent research firm, IMS America Limited; and the U.S. Department of Health, Education, and Welfare, an estimated 945,000 Americans, men and women, sought and paid for voluntary sterilizations in 1976. An informal survey of physicians, described by AVS as commonly performing voluntary sterilization for their private female patients, reveals a unique profile of those who seek sterilization services.

"The individuals who come to me or who are referred to my office for sterilization procedures are intelligent. They have, for the most part, given careful consideration to the operation," reports Dr. Richard Soderstrom, of the Mason Clinic in Seattle, Wash.

'The average patient who sees me about a sterilization procedure is between 30 and 35 years old with two children," says Dr. Don Edgerton, of Davenport, Iowa. "They have considered their situation carefully."

Informed consent, the hottest issue in the sterilization debate, seems of less importance in the private sector than in federally-funded procedures.

"We use the regular informed consent forms which are based on the HEW regulations," said Dr. Edwin Bronstein, of the Georgia Medical College in Atlanta. "We require all our patients to receive counseling from social workers specially trained in sterilization counseling."

Dr. Jordan Phillips, of the University of California, Irvine, Chairman of the American Association of Laparoscopists, seemed unconcerned with possible informed consent difficulties. "We use the standard HEW forms," he said.

"The HEW regulations are extremely cramping," added Dr. Edgerton.

All the physicians questioned expressed a willingness to sterilize women who had no children, who had never been married and who were under 21 years of age, as long as they felt the patient had approached her decision in a reasonable and responsible manner.

"We discourage some patients," said Dr. Bronstein, "but as long as the law is complied with, we will sterilize any woman."

"I often discourage patients who request sterilization," reported Dr. Soderstrom. "When a woman comes to me who is either very young, or has never married and has no children, and requests a sterilization, I will sterilize her if her request seems well thought out."

As for a monitoring system to check for possible abuse in the private sector, no such system appears to exist. Even the Blue Shield system has been found to be inappropriate as a watchdog.

"We don't keep any records at the central office," said Tom Mura, of Blue Shield in Chicago. "Frankly we just wouldn't need any sort of monitoring information in order to do business."

A strong peer review process, it seems, is the only way to insure against sterilization abuse among the private sector.

"In the end," said Dr. Donald Sloan, Director of Psychosomatic Medicine at Metropolitan Hospital in New York, "it is the conscience of each individual physician that must insure against abuse of the rights of the patient."

SENATOR BAKER'S REMARKS ON WELFARE REFORM

Mr. BELLMON. Mr. President, welfare reform has been identified as a major national goal. In view of this national concern and debate over this issue, I ask unanimous consent to include in the RECORD remarks made by our distinguished minority leader, the Honorable HOWARD H. BAKER JR., before the Institute for Socioeconomic Studies in New York City.

As indicated in this presentation, Senator BAKER and I are working on a bill which will take a different approach to welfare reform than that proposed in the Carter plan. The Carter plan proposes to tear up the present system and replace it with a new one. Unfortunately, we have no assurance that the Carter plan will work better administratively, even though it will cost a great deal more than current programs. The approach which Senator BAKER and I will propose will build on the strengths of the present system, correct weaknesses, and improve services at considerably lower cost than the Carter plan.

The issues raised by Senator BAKER are vital to a serious examination of the welfare system and I ask unanimous consent that the text of his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TEXT OF REMARKS OF THE HONORABLE HOWARD H. BAKER, JR.

There is in America today a quiet crisis which threatens to explode in anger and in violence at any time and at the slightest provocation.

It is more than an economic crisis, although the sinister symmetry of high unemployment and high inflation lies at its heart.

It is more than a sociological crisis, although it involves tens of millions of Americans whose persistent failure to lead independent, successful lives is an indictment of our whole social system.

It is, more than anything else, a crisis of the human spirit. It is a crisis in the heart of the father who cannot support his family. It is a crisis of the mother who cannot feed or clothe or house her children well. It is the crisis of the child who faces the bleak prospect of a life of fear and desperation and joblessness and crime and punishment.

And it is a crisis not only for those who live in poverty and despair, but also for those of us who live in prosperity and comfort.

We face the stern and demanding test of restoring economic stability and finally achieving true social justice in the United States of America.

We have learned, at last, that these are not two problems, but one—and one we must solve without any further delay.

The blackout in this city last summer demonstrated with awesome destructive power how desperate some of our citizens have become, how isolated they have become from the mainstream of our society, how much they have become strangers in their own land, how profoundly and consistently our system has failed to provide the initiative and the skills they need to live successfully in America.

This problem transcends any narrow concern of the ideologue. The liberal and the conservative have an equal stake in its solution, and neither can claim the crisis solely as the other's fault or the other's responsibility.

I noticed an editorial in the New York Times a few weeks ago that suggested that it would be wise to attack the problem of high unemployment separately from the problem of urban decay.

Although we may be obliged on occasion to deal with the symptoms of each of these issues individually, I believe that there is no way to solve the twin dilemmas of unemployment and the decline of the cities, without a productive and optimistic economic infrastructure. The only way to encourage that optimism, that in turn stimulates investment and productivity, is by creating the conditions for steady and stable economic growth and social stability.

What ever kindles hostility among nations and within populations, whatever the roots of racism may be, it can surely be said that a solution to those problems is infinitely more difficult and probably impossible unless the system requires a large labor pool . . . a body of workers that adequately reflects the level of population . . . unless there is a sense of permanence about the underlying health of the economy . . . and unless we demonstrate the political and social competence to deal with its sea changes without casting millions of people into hunger and despair. The first to suffer that hunger, the first to be swept by that despair, are always the weakest, and those who have been historically deprived of the fruits of their labor. We cannot afford to ignore or fail to remedy the consequences of that racism that has stalked our national life from its very beginings. More than a century after the Civil War, more than a decade after the great victories of the struggle for civil rights, our cities' ghettos are packed with social dynamite. The staggering forty percent unemployment rate among young black people and the unemployment rate of fourteen percent of all black Americans is intolerable, if only because it's morally, politically, and socially unaffordable.

When we talk about unemployment statistics and about hunger and about the welfare syndrome, we sometimes hide behind the numbers. A "rate" declines . . . or a "curve" expands . . . or we go from seven million unemployed to six million nine hundred thousands . . . the trouble with statistics like that is that they obscure the fact that we're talking about people . . . about individual human beings . . . the fact that there are millions of them . . . doesn't for a solitary minute reduce the anguish of each human soul stunted in growth and deprived of the possibility for meaningful survival. The simple fact is that those individuals are bewildered, frustrated and angered by the image of the good life as advertised in living color on the nation's television screens: that image has nothing to do with the aimless lives they live on the streets of our large cities, and they have little reason to believe that it will be more than a television picture to them or to their children.

At the same time as this new "under class" boils in resentment at their displacement from what they cannot help but see as the national feast, millions of other Americans are equally frustrated by the rising costs of government welfare programs, at the same time as their own paychecks are eroded by inflation and as they feel increasing uncertainty about their own ability to hang on to the good things of life.

One recent poll indicates that the American people believe that they will be worse off ten years from now than they are today. That kind of defeatism is self-fulfilling and its manifestations are clearly seen in the stock market, in faltering capital investment, in an unhealthy balance of trade and in a labor force that is literally split in two; those who have the skills necessary to operate the levers of an advanced economy and those who don't! Our largest problem . . . our largest secular sin, is the fact that we have so many of the latter. Let's not fool ourselves about the nature of the problem. There are jobs available. Good jobs . . . well paying jobs, and many of them are going begging. The trouble is that they are in the wrong place for those who need them and they demand skills that we have failed to provide to millions of men and women who wish nothing more than to do a good day's work for a good day's wages. Millions of unemployed Americans want jobs—not welfare handouts. There are dozens of illustrations of that desire. When Western Electric Company in Oklahoma City advertised that it would hire fifty-eight workers on a Monday morning, two thousand men and women stood in line . . . many of them all night long . . . in the desperate hope that they would be among those chosen for the available jobs.

For too long we have locked these men and women and their children into a recurring cycle of dependency. We have watched the welfare system grow into a labyrinth of new programs to accommodate their larger and larger burden of a population unable to find work and unable to train themselves for the work that is available. The welfare system is not an entity unto itself. It's an expression of what's wrong with American society. Welfare is a mirror that reflects the dark side of a great success story. Perhaps that's why we find it difficult to think clearly about its function, about what it can do and what it can't do.

We don't need or want a welfare system that perpetuates and extends dependency from one generation to the next. Neither do we wish to emplace a system that enlarges the welfare structure; That's one of the problems I have with President Carter's sweeping proposal. If it is enacted, more than thirty million Americans will find themselves receiving welfare related checks from the federal government and that signifies to me a society in decline. That is not the kind of reform that I believe the great majority of the American people will tolerate. Let us examine the welfare system and the conditions that have fostered its growth. Let us take those measures that will improve the performances of the services it renders and let us create an economic and social climate in which its impact will be diminished and reduced.

We have invested many years and billions of dollars in the welfare system. It has many faults and the necessity for improvement is dramatic and demanding. But the impulse to eradicate the structure in an attempt to improve the results is symptomatic of the "Let's start all over" school of government. I believe that we should strengthen the system rather than throw it out. Let us take steps to remedy its inequities, to tie the system closely to opportunities for productive work and to relieve state and local governments of some of the fiscal burden they now bear.

In fact, today's welfare benefit programs powerfully undermine incentive to find work—to earn money. Keep in mind there are not just a few such programs. Research sponsored by the institute for socioeconomic studies has uncovered 182 federal income transfer programs at least partly designed for income maintenance. They involve 250 billion dollars in appropriations.

Cut off points and benefit reduction rates are part of many of them. Earning added income can severely penalize the welfare family. Because of the way welfare benefits overlap, an extra dollar of earned income can mean loss of *more* than a dollar of benefits. We must eliminate once and for all the outrageous discrimination against intact families in most states. No element of the present program better illustrates the gap between intent and outcome than the incentive that now exists for fathers to abandon their families.

We must end the senseless inconsistency in eligibility criteria among the many states. While continuing to recognize differences in costs of living throughout America, we, nevertheless, should establish standardized asset limitations and deductions from earned income. We must set a minimum and maximum benefit range so that no one receives federal assistance below a specific floor nor above a certain ceiling. For example, we should consider a national minimum of at least sixty percent of the poverty line and a maximum of at least one hundred percent of the poverty line.

We must help the states and localities responsible for administering welfare programs. For too long, they have been called upon to shoulder the preponderance of the increased cost burden. We can relieve that burden by substantially increasing the Federal match for AFDC to a potential ceiling of ninety percent. Under the terms of a bill that I plan to introduce with Senator Henry Bellmon of Oklahoma, New York City and other communities in the state would save at least half of their present share of AFDC costs.

But the most important thing we can do is to call on the great private American institutions to play an increasingly active role in providing the jobs and training that will assist and encourage the poor to move on to the mainstream of productive economic activity.

No one has all the answers to a problem that has haunted American society for decades. The issues of high unemployment and equitable welfare costs and solutions must be debated and resolved in the public forum. I intend to cooperate to the fullest extent with President Carter in achieving meaningful reform of the welfare system. We will sometimes differ in emphasis and approach. That is part and parcel of the process. But those differences are just as important as our shared objectives in shaping the end result.

I must suggest this evening that the President's proposal for 1.4 million pubic service jobs in the context of his welfare reform package is at best an expensive placebo and at worst a long stride down the road to organized make work. Public service jobs have their place. But they are band aids for the wounded, not cures for the disease of structural unemployment. The scale of the President's proposal almost assures most of the participants another dead end, instead of a genuine opportunity to participate in the productive life of the Nation.

I believe that the President of the United States and the leaders of both parties in Congress should convene a national employment conference of America's leading business institutions. (The so-called fortune 500.) The chief executive officers of those companies and of America's major labor unions must be asked to formulate a plan whereby unemployed and untrained workers would be introduced into the labor force in larger numbers than ever before, and in the context of training programs that would assure them that these new jobs could lead to increasingly significant opportunities.

The United States Government should make an effort to meet the national employment emergency with a program of major tax incentives designed to stimulate business commitment to introducing millions of Americans into meaningful and productive work.

There is no reason why each of the major companies should be unable to absorb a substantial number of potential trainees and employees. A variety of initiatives can be taken individually and collectively by a broad based group of business and community leader. But these initiatives will occur only if government offers a helping hand, only if Washington listens as well as speaks. A national labor exchange linking jobs to applicants from every part of the country might be developed in the context of travel subsidies for those who are willing to pull up stakes to make a new life. We should encourage people to go where the jobs are, at the same time as we plant the seeds for new economic growth where our working population lives.

We tend to forget in Washington that there are enormous resources of creativity and competence in the cities and towns across this country. Helping to create circumstances in which those resources can be put to work is the most important job the Federal Government can do. Here in New York, the Bedford Stuyvesant Restoration Corporation in Brooklyn, has worked steadily and effectively since its foundation 11 years ago under the sponsorship of Senators Robert Kennedy and Jack Javits, to improve the community itself and to create new businesses and new jobs for the people who live there. Of course they have only scratched the surface of the problem, but one major American corporation, IBM, has located a major facility at Bedford Stuyvesant. That experiment proved so successful that IBM decided last month to put up still another plant in the Bedford Stuyvesant area . . . a direct result of an effective working relationship between a community enterprise concerned with developing and utilizing community resources and a business that has linked its economic interests to its corporate citizenship.

I believe that if President Carter issues the call for a national employment conference, we will see the seeds planted for a multitude of similar relationships between business interests and local community services.

Let us lay the problem before those who have the most to gain from a solution. Let us help them to achieve local and regional answers to a national crisis in accord with local and regional needs, desires, aspirations and capacities.

Senator Bellmon and I intend to offer legislation that would create a jobs voucher program and a major expansion of job creation tax credits. But that is only a small part of what's needed. Our major efforts should be in the active encouragement of business and organized labor to develop the programs that we need to eliminate the problem of endemic unemployment, and to tell us the legislative framework that they need to get the job done.

A national employment conference is only a first step. I would hope that it would result, among other things, in the creation of a broad based jobs commission to monitor and implement the conference's recommendations. Such a commission might be similar in organization to the national commission on water quality, which has had major influence in the improvement of the environment. In that particular case, five members of the House of Representatives, five members of the U.S. Senate and five public members, appointed by the President of the United States, provided the impetus for a realistic and effective implementation of environmental goals. Certainly the employment crisis is worthy of an effort of even greater dimensions.

I have intended this evening to convey my belief that the problems we face are soluble, if we put our faith and trust in the ability of the American people to determine their own destiny.

I don't believe that there is a single blueprint or a magic wand that would solve all of our economic and social problems. Too often such blueprints are drawn in Washington with a precision that fails to reflect the essential untidiness of a process in which large numbers of people must contend with large social issues. I believe that untidiness is the mark of a creative and innovative people. If we remove the constraints of over regulation and if we develop new institutions and new mechanisms where the people live and where the people work, to do the people's will, the statistics that trouble us as harbingers of social upheaval will change for the better. I know that we're not going to place seven million, or two million of the unemployed into productive work overnight no matter how good our intentions, or how total our commitment. But let's make a meaningful beginning.

What we must avoid above all else is the creation in the United States of what Disraeli called more than a century ago . . . "two Englands," the rich and the poor. In our time and in this land, there is no room for "two Americas." Advancing media technology has brought and will continue to bring social injustice and human despair into the homes of every one of us, no matter how cushioned we may be from the personal pain of standing in an unemployment line or waiting at a welfare center. In the past, there have been many silent tragedies played out in social silence. We knew nothing of them and so, to some of us, they simply didn't exist. But in 1977, we cannot permit the untrammeled growth of an American underclass. Of course, there have always been the underprivileged among us (whether we have seen them or not) but there has also always been room at the top, in the middle and on every rung of the ladder along the way.

If this is in part a myth, it is a myth that must become the truth for today and tomorrow. If we are to end this quiet crisis of alienation and despair, we must respond to those who cry out . . . "we're Americans, too . . . we belong" . . . with the recognition that they are and that they do.

A VIEW OF NEWS BROADCASTING

Mr. RIEGLE. Mr. President, in recent days, the pioneer all-news Washington area radio station WAVA was sold by its owner, Arthur Arundel, and will operate in the future with a new programing format. In a recent article, Mr. Arundel had some reflections on the broadcast industry born of his own experiences, and I want to share those thoughts with my colleagues and other readers of the Record. The following remarks appeared in the Fauquier Democrat, Warrenton, Va., on Thursday, November 17, 1977, and I ask unanimous consent that they be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Straight Ahead—A View Of News Broadcasting

(By Arthur W. Arundel)

To people in Washington over the years it has probably always seemed that their own times were the worst, the pressures on leadership and the burdens of power never greater. We journalists here, along with government leaders, have not always been immune from exaggerated notions of our self-importance to the national destiny.

But stone age man probably also thought that he bore in his hands the fate of all living things when he invented the hatchet, as did Martin Luther when in another time he declared that with gunpowder man had finally developed the ultimate weapon.

And less than a century ago, leaders in Britain, then the world's leading power, were appalled at the burden of human survival they carried when Lord Kitchener first used the machine gun to mow down the hordes of the Mad Madullah in the Sudan.

SINCE VIETNAM

It has been different in Washington since Vietnam, perhaps our last ground war, and Watergate. In the quieter, laid back early months of President Jimmy Carter, visible and newsmaking military combat seems all the more on the way to being replaced by the weapons of nuclear warfare. In nuclear energy man is equally capable of either limitless good or of quickly flattening civilization to a pile of dust and rubble.

So perhaps people in Washington today are indeed not just another generation consumed with indulging their own self-importance. We all, politicians and journalists alike, possess human frailties. But our generation also possesses the capacity by the mere pressing of a button to change all of human destiny. There is something less in this than Armageddon, but there is also more than Chicken Little seeing the sky falling.

After some 20 years here with CBS news and all-news broadcasting in Washington, I am now selling all-news WAVA to move on into new fields of journalism and public affairs. I am moving into a new home in beautiful Fauquier County where the air is clean and clear for all things—breathing, dreaming and speaking. But from the experience I have a few thoughts on the shape of broadcasting and broadcast journalism.

THE VAST WASTELAND

Many will remember FCC Chairman Newton Minow's much publicized reference to television 15 years ago as a "vast wasteland." He was right about that then and, while we can be proud of the occasional rays of brillance in broadcast news and specials, he would be right about that today. Television programming continues to sink toward the lower common denominators of the public taste.

And even as television has replaced radio as the nation's principal live entertainment medium, radio has made a shotgun marriage to become essentially the promotional loudspeaker of the record industry.

Going across the radio dial today, from classical to rock music stations, modern radio can be measured as little better than a glorified jukebox, spitting out just so much news and public service material as will keep Federal Broadcast regulators off its back. There are brilliant exceptions, WMAL radio here and three all-news stations among them, in Washington.

RATINGS TYRANNY

The most frustrating part of my own 20 years experience in both television and radio has been to see this industry sinking measurably deeper into lockstep with the audience ratings numbers.

It is not that TV has not changed; it is that new and imaginative programming is strangled in its birth by the tyranny of the ratings. Over these years of putting WAVA all-news on its feet, I have awakened at night feeling much like those people in the recent book and film about broadcasting, "Network," who one evening threw windows to shout, "I'm mad as hell, and I'm not going to take it any more."

We have an extraordinary thing in this country with private broadcast station ownership. In most of the rest of the world, radio and television is owned and programmed by the government. Yet out of our very stupid failure to do better with private ownership, we are inviting our own government to move into the gap with its now growing support of Public Broadcasting networks and educational television and radio stations. It may be heresy to think such thoughts, but if private ownership does not get off its tail and do better by the native intelligence of the American people, then the government is going to do it for us. And that would be worse.

ALL-NEWS RADIO

WAVA made its break from the cacophony of radio music to begin something we then called "all-news" broadcasting in this Washington area in January 1962. It seemed to me then a simple enough idea, with some 40 radio stations here doing news on the hour, that there ought to be one place on the dial where you could just push a button and get the news anytime.

Advertisers laughed at the idea. It was a long gamble as the young new owner with all the family eggs in one basket was told then that no one would listen to continuous news. But we made it. And, with success, the concept gradually spread to other stations across the nation. The imitation was flattering.

Then six years later, The Washington Post announced that it would change its WTOP to all news. We didn't need that much flattery, the Post company possessing the huge combined network news, audience promotion and financial resources of the area's largest daily newspaper, Washington's CBS television station, Newsweek magazine, as well as Washington's most powerful 50,000 watt radio station.

Yet WAVA and WTOP together survived six years of all-news competition. Then two years ago, WRC radio entered all_news here backed by the added resources of NBC television and radio. These two corporate network giants became good tough competition for independent WAVA. It made all of us work harder.

But looking at our success in all-news radio now, I have realized one very special thing which helped make all-news radio succeed and which challenges it today.

It is that all-news was born here in the high exhilaration of the early 1960's with John F. Kennedy and grew in years of nearly continuous national anguish with the Cuban missile crisis, assassinations, Vietnam, Lyndon Johnson's withdrawal, more Vietnam, Nixon, China and Watergate.

If Jimmy Carter means quieter times he also means people are recovering from a prolonged state of something like national war nerves. It is better for the country if slower for the news daybook.

Reports of the death of all-news are premature. It simply presents a sharp new challenge to all-news broadcasters to adapt all-news radio to quieter times. It can be done.

NEW IDEAS

We find, and I found at WAVA, that everything has not yet been discovered. The horizon, we have learned, is not the boundary of the world. Somebody is always finding out that it isn't and being very successful by doing what he believes in.

The star I have tried to follow in this game, Edward R. Murrow, once said that "the trouble with broadcasting in this country is that it underestimates the native intelligence of the American people." But I have found that broadcasting in fact still lives more by the advice of the late H. L. Mencken who said that "nobody ever went broke underestimating the taste of the American people."

There are innovators and there are cowards in this industry, and they may be identified largely by which advice they follow. If you reach for the stars at least you won't get a handful of mud.

Perhaps if WAVA's success says anything, it is that opportunity for new things is still out there and that you don't have to drop to the next lowest common denominator of the public taste to prove it. If there is pride, even arrogance in that, there is also truth.

Once in a while in this industry we have got to put a principle before a buck, to reach for our dreams as journalists and play to the higher grounds of the native intelligence of the American people. Each man owes something more than a paycheck to the upbringing of his own profession.

SENATOR CLARK ADDRESSES THE ANNUAL MEETING OF THE ARMS CONTROL ASSOCIATION

Mr. BIDEN. Mr. President, I ask unanimous consent to have printed in the Record a speech which Senator Dick Clark will deliver tomorrow at the annual meeting of the Arms Control Association regarding SALT and call it to my colleagues attention.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Senator Dick Clark

I am fortunate to be able to appear before this distinguished group today since prospects for arms control appear brighter now than they have for years.

In fact, we have had very few arms control achievements to date. The arms control atmosphere which began dramatically with the Limited Test Ban Treaty of 1963 has diminished with the passage of time.

We can hope—and do our best to ensure—that this bleak period for arms control is behind us. Due to the President's personal interest, new life has been breathed into arms control.

At his initiative, the United States and Soviet Union are now exploring a number of arms contol initiatives. For example, there appears to be a reasonable prospect of military stabilization in the Indian Ocean. One can hope future agreements will actually reduce the outside naval forces in that ocean region.

The negotiations for a Comprehensive Test Ban are also progressing, and there is a reasonable prospect that the United States, Soviet Union and Great Britain can agree on a draft treaty to be submitted to the Conference of the Committee on Disarmament in 1978. I expect that this treaty will stop both nuclear weapons tests and so-called "peaceful" explosions—a long-standing problem. Earlier this year, however, the Committee on Foreign Relations held hearings on the proposed Threshold Test Ban and Peaceful Nuclear Explosions Treaties. Witnesses representing all points of view were unanimous in their judgment that the United States should not engage in a comprehensive ban which does not prohibit "peaceful" nuclear explosions. That concept has now been embraced by the executive branch, and, as you know, Chairman Brezhnev has indicated the Soviet Union would be willing to have a moratorium on "peaceful" nuclear explosions, together with a ban on weapon tests.

Most importantly of all, the Strategic Arms Limitation Talks in Geneva appear to have reached a point at which agreement will soon be possible. Certainly, I would expect SALT to be concluded within a few months, unless something goes seriously awry.

Today I would like to focus on SALT in my talk to you. Let me state my central contention at the outset: We have a stronger case for SALT than we have so far succeeded in publicly projecting. We have a broad base of support in the United States. The key to our awakening this broad constituency is ourselves.

Specifically, I contend that we in the arms control community have failed to frame the debate and, thereby, have forfeited this advantage to the critics. Second, we have permitted the false impression to arise that our approach to national security issues is less realistic than the approach of the critics. Third, we have failed to make clear the national security advantages of SALT. Fourth, we have failed to show the weakness of the contentions of the critics. Finally, we have failed to make clear the danger to our nation which would arise if there were no SALT agreement.

Let's look at each of these in turn.

If there is merit in arms control—and I believe strongly that there is—the American public has had scant opportunity to understand that advantage in recent years. The arms control community has not been visible enough on a number of key issues. Furthermore, we have, all too often been on the defensive. Unless those who understand and support arms control are active and effective, the public discourse on these vital issues will be narrow and ill-informed. Under such conditions, we would have little reason to expect national decisions supporting arms control.

If our most pressing current arms control concern—a SALT II treaty—is to be ratified, and if SALT III is to be a serious effort, which will actually accomplish significant things, those who care for arms control and who understand how arms control can enhance our national security objectives must be involved, now and in the period ahead. We must move now to reframe the debate so that the public can appreciate the advantages SALT offers to our national security. I am here to ask your support in this effort.

In the past, advocates of strategic arms control have not done a good enough job of establishing the terms for the debate. We have left the terms of reference to those who prefer to see arms limitation as the enemy of our security. I see no reason why we should allow the opponents of arms control to determine the issues of the debate on arms control by default.

An example of this was the confirmation hearings for Paul Warnke as Director of the Arms Control and Disarmament Agency and SALT negotiator. Nearly everybody in this audience knows Paul Warnke and his record as an extremely tough negotiator. He believes strongly in preserving American interests and takes a very positive view of arms control as a means of advancing those interests. He has the backing of the President and the Secretary of Defense.

And yet, during the confirmation hearings, and on the floor, his detractors were far more effective than this friends in shaping the debate. Though in the end he was confirmed by a solid majority, I am bothered by the extent to which we, as his supporters, permitted his career to be debated on the terms chosen by his opponents. This is a political advantage we cannot continue to give to the critics of SALT and of arms control.

Let me say at the outset, as a member of the Senate Foreign Relations Committee, I am not prepared to stand aside and allow the terms of this debate to be determined by those more vocal than myself. Nor do I believe it is right to permit selective criticism, accompanied by a steady trickle of leaks of classified information, to prejudice the public understanding of these issues, and to preempt our opportunity to stimulate discussion of issues we think are vital to this issue.

We have allowed what is essentially a debate over the fundamental strategic interests of this nation to be distorted by those who are hostile to the objectives of arms control. The result is that many people believe that arms control is the enemy of our security instead of an effective and necessary way to reinforce our security.

The critics argue that SALT II is too restrictive, that it seriously limits United States military programs. That, simply, is rot. I will support SALT II if it comes to the Senate in the form I anticipate, but I must tell you frankly that I will do so without any certain sense that SALT II is a significant achievement toward controlling the arms race. Simply put, SALT II, like SALT I and Vladivostok, still allows the two sides to move ahead with most of the programs under way. Accordingly, SALT II will be an achievement meriting public support. But SALT II is a good—rather than great—achievement. We would be deluding ourselves in thinking otherwise. We will not really have a significant SALT agreement until both sides are willing to cross over that painful threshold which requires reductions and constraints which actually curtail favored and approved programs in a meaningful way.

All too often, the critics of SALT have done a disservice to public understanding by focusing selectively on narrow, hardware issues, neglecting those provisions which benefit the United States and brushing aside the broader military and political advantages of SALT. Fears are being fed by simplistic ratios and projections of strategic threats and by far-fetched, alarmist and unrealistic scenarios which overlook the distinction between a fantastic, paranoid nightmare on the one hand, and the military planner's "worst plausible case" on the other. Verification issues in particular have lent themselves to demagogy, when they should be discussed as difficult and complex matters.

Opponents of arms control have consistently poor-mouthed and downgraded our very substantial, capable, flexible, and durable nuclear forces. They propagate these distortions in spite of the testimony of the President, the Secretary of Defense, the Joint Chiefs of Staff and the intelligence community. These self-defeating distortions can help neither our negotiators nor our allies. All too often, they poison the climate of the domestic debate with half-truths and untruths—and degrade the credibility of our deterrent. The critics of SALT imply thereby, that our security is only to be guaranteed by more and more military weaponry.

Defining his view of national security, Robert McNamara wrote recently:

"We still tend to conceive of national security . . . almost solely as a state of armed readiness: A vast, awesome arsenal of weaponry. But . . . if one ponders the problem more deeply, it is clear that force alone does not guarantee security, and that a nation can reach a point at which it does not buy more security for itself simply by buying more military hardware. . . . There is a point at which an additional dollar of defense simply no longer buys an additional dollar's worth of security . . . is the ultimate objective somehow to armor-plate the entire planet? The question is grotesque. And yet, not any more so than the premise on which much of the world's thinking about security appears to be based." (International Security, Fall 1977)

Of course, much of the debate will center on hardware issues. As President Eisenhower's science adviser, Dr. George Kistiakowsky, a creator of the atomic bomb and a man who understands the horrors the nuclear age can entail, noted in his important recent article, "Is Paranoia Necessary for Security?" (New York Times, November 27, 1977):

"Part of the answer (to the difficulties of SALT) has to do with the technicalities of missile performance, and with differences between the strategic doctrines and negotiating tactics of the two sides."

He goes on to point out, however that:

". . . another, and perhaps major reason, (in the attitudes of SALT) is to be found in the domestic politics of arms control. Once again, as so often in the past, there are powerful voices in this country, urging intensification of the Cold War and rejection of efforts at moderation—efforts that are construed as serving Moscow's aggressive designs."

A former ambassador to the Soviet Union, George F. Kennan, wrote in last Sunday's Washington Post, of his efforts to understand the arguments of military enthusiasts about strategic arms:

"I come away from this exercise frustrated, and with two overpowering impressions. The first is that this entire science of long range massive destruction—of calculated advantage or disadvantage in modern weaponry—has gotten seriously out of hand; . . .

"But my second impression is that there is a distinct unreality about this whole science of destruction—unreality, that is, when you view it as the plane on which our differences over policy have to be resolved. I doubt that we are going to solve our problems by trying to agree as to whether the Russians will or will not have the capability of "taking out" our land-based missiles at some point in the 1980s. I doubt that this is the heart of the problem. I suspect that something deeper is involved. And if I had to try to define that deeper something, I would have to say that it is the view one takes of the nature of the Soviet leadership and of the discipline exerted upon it by its own experiences, problems and political necessities."

What Kistiakowsky and McNamara and Kennan are saying is that the debate must not be limited to narrow and merely technical conceptions of SALT and national security; nor should the debate be driven by paranoia about the Soviet Union.

What we must do instead, I believe, is put the debate on a new, clearer, and more realistic footing. While not for a moment neglecting the hard technical issues, we should make sure that people realize that these are not the only issues. We must view SALT in terms of its contribution to our overall national security, seeing not just numbers of delivery vehicles on each side, but also the relevant strategic incentives, constraints and interests on both sides. We must not see SALT as freezing either nation in awkward positions but as a step in a process from which both parties gain in their security.

We must enter the debate forcefully and maintain a tenacious and continuing involvement in SALT II and later SALT efforts. Otherwise, we will find ourselves going into battle each time a treaty or agreement comes around to rally support largely because what is in hand is better than the alternative. Once we do this, I'm convinced, the broad national constituency in our union for SALT will be activated.

The members of the Arms Control Association must understand that the Senate cannot carry alone the burden of consideration of SALT. The Senate will not get ahead of the American people on SALT—and no one can expect otherwise in a democracy.

But once the national support for SALT becomes apparent in a properly framed debate, neither will the Senate fall behind the American people on SALT.

This brings me to my second major point: we must reject the implication that arms control is less tough-minded than the critics' view. Ours is the realistic and the practical view.

Our calculations about nuclear deterrence show more realism and a better understanding of how nations behave than the estimates of those who glibly attribute a first-strike or war-winning strategy to the Soviet Union. As our former ambassador to Germany, Martin Hillenbrand, wrote recently about the American deterrent:

"If one looks for absolute assurance and certainty, one will always be fearful that we have somehow fallen short of perfection. Likewise, from the Soviet point of view, to be deterred does not require absolute certainty that an attack on the West would inevitably escalate into a strategic nuclear exchange. What is required is a sufficient degree of uncertainty about the potential development so that the ultimate risk cannot be taken . . . I do not want to suggest that the Soviet leadership thinks in terms of the calculus of probability, but some rudimentary application of this highly sophisticated logic must lie in the minds of any rational leadership, including an anxious Soviet leadership. Whatever else may be said about that gerontocracy, no one has yet accused it of rashness or a propensity for precipitate action." (International Security, Fall 1977)

I think Ambassador Hillenbrand's remarks make good, common sense. We all remember what happened to Hiroshima with a single, small atomic bomb, yielding less than 20 kilotons. By comparison, each side can now create thousands of Hiroshimas on the territory of the other. And nothing can be done to deny that terrible power to us. I find it more than a little ludicrous when people suggest that the Soviet leadership would find a far more devastating retaliatory attack acceptable—economically, politically, or militarily.

Much of the effort to generate fear about SALT is based on the fact that we have only a dim view of Soviet nuclear strategy and of Soviet intentions, now and in the future. Soviet writings permit contradictory interpretations. This permits all kinds of fantasies to pass for knowledge. Although, over the long term, I foresee no breakthrough in our imperfect knowledge of Soviet strategy and intentions, a proper SALT agreement and the SALT process itself can help bound, even reduce, these uncertainties.

It should be obvious that equitable arms control agreements aid strategic nuclear planners to reduce these uncertainties. If you know the size and shape of a potential adversary's forces for some period into the future and you can verify the reliability of this information, then clearly your own calculations become much simpler. If you can negotiate a stable strategic balance and mutually avoid or restrain destabilizing initiatives, you not only have the security advantages of such an agreement, you reap significant planning benefits—and avoid needless programs and expenditures.

Thus, while I can agree with the alarmists that we do not fully understand Soviet strategy and intentions, I do not agree with the suggestions that we must therefore expect the Soviets to act contrary to their own national or party interests. I have no doubt that the Soviet leadership wants to stay in power and that they want to preserve their political system, their economic status, and their territorial integrity. So long as the Soviets have these real and tangible interests, I doubt their willingness to risk these fundamental values in the forlorn hope that, by some miracle of planning, a nuclear war can be won, in the sense that they will escape major retaliatory destruction. In my judgment, the opposite view is nonsense, and we should say so plainly.

There is further ground on which I would challenge the realism of many SALT critics. Somehow, these critics seem to believe that we must "win" this negotiation with the Soviet Union; that we must "out-fox" the Soviet negotiators and obtain terms which enhance our strategic advantages and undermine theirs, and, failing this, that we should forego a treaty.

This is either naive or deceitful. Certainly, it is a fundamental principle of diplomacy that you cannot negotiate an agreement which is clearly prejudicial to the interests of one of the negotiating parties. In the case of SALT, if one side can't live with the contract, then it won't be concluded. In short, we cannot change the strategic balance in our favor through negotiations. Nor are we going to "give away the store" in unsuspecting concessions to the Soviets.

Even if one were able to gain a strategic advantage at the bargaining table, the other party would shortly awaken to this and either violate the agreement or renounce it. No treaty we can possibly negotiate will reduce the Soviets or us to an inferior position. As Paul Warnke emphasizes, you must begin with the recognition that you are striving for an arms agreement which is fair, which is balanced, which has equal restrictions on both sides, and which provides equal security for both nations.

Our rejection of the fantasies of nuclear war-fighting, our appreciation of SALT as a tool to our military planners, and our more practical expectations of the opportunities and pitfalls of the bargaining process, demonstrate our realism and practicality.

The failure of the public to appreciate this is due to our own lack of energy and assertiveness, not to the skill of the critics.

The same is true about our case for the current SALT package under negotiation. Our case for the emerging agreement is stronger than we have appreciated, more commanding of broad public support than we had realized.

After all, the fundamental test of SALT is whether it serves our national interest, primarily our national security interest, broadly understood. We need not and should not argue that a SALT agreement is the millenium. Once we demonstrate clearly that a SALT accord is a means of enhancing our vital national defense; once we show, as such, SALT is a far less dangerous and less costly option than an unregulated arms race; once we make it clear that arms controls are not opposed to national security, but rather bolster it, then the American public and the Senate will rally to its support.

The package under negotiation promises to enhance our national security in several ways.

For the first time in strategic arms control, there will likely be a reduction of deployed weapons. Some 300 fewer Soviet missiles and heavy bombers will be aimed at the United States. This may not be the sizable reduction many of us would like to see, but it is nevertheless a significant achievement and clearly in our national security interest.

The agreement will provide for equal aggregates of strategic nuclear forces on both sides. This accomplishes the objectives defined in 1972 for SALT II. It, too, is an important achievement, when you consider the difficulty of achieving this type of equality between forces which are responsive to different geopolitical circumstances and different technological capacities. When you consider that the Soviet Union faces four nuclear forces on or within reach of its borders, this becomes an even more significant accomplishment.

The expected limitations on missiles with multiple, independently targetable re-entry vehicles (MIRVs), and particularly the sublimit on MIRVed ICBMs are important steps to a more stable balance. A limit to Soviet land-based MIRVs will force them to a greater proportion of MIRVs at sea and to thereby rely on a more balanced, more survivable, and more stable force than in the past.

The agreement will tell us just how many missiles in each category to expect the Soviets to build. This will curb the strategic guessing game that leads to uncertainty, worst-case estimates, and hedges.

By putting limits on these systems which concern us the most in the eight-year treaty, and by putting the limits on our systems which concern the Soviets the most in the three-year protocol, the SALT package is shrewdly conceived to enhance our bargaining leverage in the next round.

Depending on the final content of the protocol, the agreement may ban their mobile missile which is ready for deployment and may delay the development of the fifth generation of Soviet ICBMs.

These are all sound, understandable arguments for SALT. Taken together, they make a compelling case that SALT II is assuredly in our national interest.

It is not enough, however, to have a positive case. Presenting our case positively is the most important thing, but we must also deal with the criticisms in a serious and forthright way. We must disabuse the public of any notion that SALT would affect our national security adversely.

To begin with, we must make it clear that the press reports indicating the United States has conceded too much to the Soviet Union are the product of highly selective leaking which focuses on these features of the negotiating document that bind the United States in some form or other. People should remember the cynicism of this effort when the final document itself becomes available, because it will then be clear that the Soviets have come a long way toward meeting our security interests by binding themselves to certain provisions. But let me address some specific charges:

On the question of Minuteman vulnerability—it has been alleged by the critics of arms control that the levels for MIRVed ICBMs in this agreement have been set too high, so that the Soviets could destroy a large portion of our Minuteman ICBM silos. First of all, those who make this charge have failed to be completely frank and acknowledge that Minuteman missile silos are vulnerable in any case and that they would be even more vulnerable without SALT II. The critics are not being exactly candid in stressing what has long and intentionally been the smallest part of our deterrent force while ignoring our large and durable bomber and submarine-based delivery vehicles.

Even now, there is considerable disagreement over just how vulnerable Minuteman is now and how vulnerable it will be in the future. Even if vulnerability can be demonstrated at some future point, it is hard to translate that threat into something bearing upon the real world. To be confident of eliminating our Minuteman force, an adversary must deliver on each silo two re-entry vehicles with precise timing, and with near-perfect reliability and accuracy. I find it very hard to believe that any Soviet military official or leader would stake the future of the regime, the Soviet economy or the Russian people on a technically perfect attack involving some 2,000 separate re-entry vehicles and 300 or so missiles which even then would not touch our sea-based retaliatory forces or our bomber forces. To seriously propose such a scenario is to enter the realm of mystic philosophy.

In the final analysis, we can conclude that Minuteman vulnerability is a matter which cannot be resolved by SALT. Of course, SALT can help. It certainly will not increase Minuteman vulnerability. If steps are needed to deal with the vulnerability matter, they should be taken independently of SALT in the context of our decisions on our strategic programs. I do not expect that SALT will hinder that process in any serious way.

One final note on this—the poverty and narrowness of this brouhaha over Minuteman vulnerability in the SALT context can be seen in the proposed solution—the MX. This proposed mobile missile would give much greater throwweight and more and more accurate warheads in each deployed missile than in our existing Minuteman III. Thus, the MX program would increase the hard-target threat to the Soviet Union under the guise of decreasing the hard-target threat to us.

How could the Soviet Union fail to react as our hard-liners would expect us to do under the same circumstances? Three hundred MX's could in theory destroy virtually all of the Soviet ICBMs. Soviet planners thus face the possibility that three hundred MX's, a fraction of one leg of our Triad, could, in 30 minutes, destroy 70 percent of their strategic forces in a first strike. This would put a hair-trigger on nuclear war in a period of crisis, because the Soviets would be faced with a choice of using their ICBMs or losing them The MX would increase the Soviet's targeting problem, but one could imagine theorists who would project a theoretical threat capable of destroying the MX force. Even if the MX were to reduce the threat to Minuteman, it might well increase the threat to our society, by increasing the invitation to attack our heartland and increasing the devastation of any such attack. To really reduce the threat and enhance stability, you need a really mobile missile—like a submarine.

Related to the vulnerability issue is the question of Soviet heavy missiles, that is, ICMSs with a large lift capacity or throwweight which gives them the ability to carry numerous MIRVs. What bothers people is that the so-called heavy missiles have over doubled the throwweight of standard missiles. The Soviet SS–18 has 15,000 pounds of throwweight, as compared to the 7,000 pounds of the SS–19. Though the Soviets are having difficulties with their MIRV program and though it is not clear they will MIRV all of these heavy ICBMs to their maximum extent, I think the more important considerations are accuracy, reliability, and the practical utilization of throwweight. We should remember that, beyond a certain point, additional throwweight provides diminishing returns. With technological advances and miniaturization, massive throwweight is not necessary to secure potent forces. For this reason, informed analysts conclude that the totality of MIRVs missile forces is a far greater concern than the MIRV potential of the super-heavy missile. Accordingly, a ceiling on MIRVed ICBMs is at least as great an achievement as tight reins on the MIRVing of heavy ICBMs—which are limited in total numbers now and will stay limited.

As to the reported 2,500 kilometer range limitation on air-launched cruise missiles, critics are now charging that this prevents complete coverage of Soviet targets, if the cruise missiles are fired from stand-off bombers outside Soviet airspace. This criticism seems founded on the assumption that not only must each leg of the Triad in itself be capable of saturating the Soviet target system, but that even each component of each leg of the Triad must be capable of doing so. Here we have another case of holding the emerging agreement up to a false and irrelevant standard and then finding it wanting on the basis of such a standard.

In response, I would quote a recent and unanimous report of the Senate Armed Services Committee, which says:

"In a mixed force . . . manned penetrating bombers combined with aircraft carrying cruise missiles would be able to reach 100 per cent of the target base."

The report concluded that reasonable range limitations "would not diminish the military effectiveness of our bomber force."

Of course, if we need greater range in later years, we can insist upon greater range in later negotiations. Any cruise missile range limit agreed to in SALT II will be in the three-year protocol, not the eight-year treaty. So, in effect, range will be an open issue. If, for reasons now hard to imagine, we decide that our cruise missile carriers will not be able to get much closer to the Soviet Union than the English Channel at some future point, we still have the option of considering deploying a longer range cruise missile. We should also, in that event, consider sacking a goodly number of those who have designed our strategic force for us.

Regarding the issue of the Soviet Backfire bomber, it is ridiculous that this has been allowed to play such a central role in the debate. Fundamentally it is irrelevant to the strategic balance and has been from the moment it was brought up. My inclination is to say: "Yes, on a straight-line, high altitude, sub-sonic mission, this small payload plane could hit targets in the United States—and so what." Compared to a Soviet strategic force of 2,500 missiles and heavy bombers with some 4,500 warheads, the addition of a couple of hundred Backfires arriving a few hours after the exchange serves only, as Winston Churchill said, "to make the rubble bounce."

A word is in order about the Soviet civil defense program, of which SALT critics have made so much. This subject has been under intense scrutiny in the intelligence community and the Congress for nearly two years.

Studies confirm that, while the Soviet programs are larger than their American counterparts, as they have been for over thirty years, their utility in limiting widespread and devastating damage from a major nuclear attack is dubious even under ideal conditions. It is worth remembering that we gave up a major civil defense effort in the 1960s because our studies indicated that, even at prohibitive cost, you could purchase only ineffective protection. This cost-benefit ratio has become even poorer with the qualitative and quantitative development of offensive missile forces in the last decade.

Ultimately, I think, it is logical to assume the opponents of SALT will fall back on charges that verification of the SALT agreements will be inadequate. This appears to be the case from the Warnke confirmation hearings and from recent allegations about Soviet violations of the interim offensive weapons agreement.

As for verification, it is one of SALT's firmest critics—Paul Nitze—who this year set forth what I think are the proper guidelines when he told the Senate Armed Services Committee (February 28, 1977, p. 203):

> "I have always taken the position that the significance of verification is to be related to the significance of the thing you are verifying. If it is not very important, it doesn't make that much difference. In other words, it is the product of the strategic importance of the things being limited and the verifiability of the limitation which is important, not just absolute verifiability."

The point then is that you don't have to be able to verify the most minute details. What you need to be able to do is confirm any development that would reveal significant Soviet cheating. That I am convinced we are fully capable of doing.

Despite obstacles here and in Geneva, there is a reasonable chance that the negotiators will conclude a SALT agreement which we can readily and responsibly defend because it will be in the national security interests of the United States. To argue, as some critics, do, that it does not achieve President Carter's March proposals misses the point. We cannot dictate Soviet interests to the Soviets any more than they can dictate our interests to us. We should not let arguments of this kind undercut the merits of the agreement.

We must puncture the notion that SALT is, as the games theorists say, a "zero-sum" game in which the gains of one side are precisely proportional to the other side's losses. Nothing could be further from the truth. Our security will benefit from a SALT agreement; so will the Soviet Union's and so will world security.

Finally, we must understand the dangers to our nation of a failure to achieve a new SALT agreement. We must combat the idea that the world will be a safer place if there is no SALT agreement. To do this, we must describe the consequence of no SALT treaty.

Briefly, and without speculating too much, the failure to sign or ratify an acceptable accord could have any or all of the following outcomes:

It could call into question and perhaps lead to termination of the very useful strategic arms dialogue we have been conducting with the Soviets now, for a decade.

It could engender a strategic arms race more furious than we have seen to date, producing more provocative and destabilizing weapons.

It could stimulate the spread of nuclear weapons to countries about to cross the nuclear threshold if they conclude from the Soviet-American example that nuclear weapons do increase usable military power and diplomatic leverage without accompanying disadvantages and penalties.

It could jeopardize the continuance of existing arms control agreements related to outer space, the seabed, ballistic missile defenses and nuclear weapons tests, some of which are already under pressure from technological innovation.

It could increase the mathematical probability of nuclear war, whether or not such a war is planned or desired.

It could reduce the opportunity for verifiable strategic arms control agreements, as technology carries the arms race more and more in the direction of so-called "gray-area-systems" which are difficult to locate, count and evaluate with the present verification techniques.

It could increase the burden of defense spending in our own and other countries.

It could eliminate the possibility of mutually controlling dangerous new weapons technologies.

It could cast an added pall over the already difficult problem of Soviet-American relations, perhaps, eventuating a return to the confrontations of the high Cold War period.

And finally, it could reduce or remove the possibility of success in other arms control efforts, such as chemical weapons control, a comprehensive Test Ban Treaty, or the Mutual and Balanced Force Reduction talks, where the cooperation of the two superpowers is essential to progress.

I do not wish to make a gloomy prognosis. But we cannot ignore, as the opponents of strategic arms controls seem to, that SALT is inescapably linked to many other elements of the international scene, either practically or symbolically in terms of the atmosphere for cooperation.

However, I do not believe this dark picture will be realized. It is within our power to prevent its occurrence. There is a new awareness, I think, of what it takes to win on the issue of arms control.

The advocates of strategic arms limitation have learned that, however good, these measures do not sell themselves in a climate of opinion still partly paranoid or at best ambivalent, where simplistic and narrow attacks on SALT can successfully exploit long-standing fears. We have learned that to support arms control effectively means much more than a reasonable discussion among reasonable people, but requires a recognition of—and a willingness to join in—the frankly political nature of the ratification process. We have come to understand that the effort to dampen and then shut off the nuclear arms rivalry must be buttressed by a thorough knowledge of the technical complexities of weaponry, of the strategic balance and of the negotiating process.

We have seen that we cannot confine ourselves to a definition of national security restricted to military and hardware issues but instead must broaden the debate to include all of the factors that influence our security and the security of the world we inhabit. We have realized how important it is to demonstrate that strategic arms controls are in our best national security interest, that the threat of open-ended arms racing constitutes a real threat to the continuation of civilization as we know it, and that nuclear arms control is not soft-headed, foolish or weak, but realistic, necessary and wise.

The challenge to SALT has been presented, and as we have seen today, there are sound and realistic answers to those challenges. We know that there are inherent weaknesses in the arguments of the SALT critics, and that there are considerable strengths to our arguments that SALT has clear national security advantages. We know further that the alternative to SALT II—no SALT—is untenable. We have a solid and supportable case.

Now, we must go out and make that case.

A TRIBUTE TO JOHN McCLELLAN

Mr. GRAVEL. Mr. President, I would like to join my colleagues in expressing deep sorrow at the passing of the distinguished Senator from Arkansas, John McClellan.

I admired him as a man who had the courage of his convictions and a personal sense of responsibility for the Nation's welfare. His 35 years in the Senate were a record of service to the principles in which he believed and the people he represented.

It was John McClellan in the early 1950's as ranking Democrat on the Permanent Subcommittee on Investigations who led the walkout on Senator Joseph McCarthy for his abuse of power as subcommittee chairman. When John McClellan became the subcommittee's chairman in 1955, his first action was to write a set of rules for congressional inquiries. Thus, he made sure to protect any witnesses from McCarthy-type tactics in the future and demonstrated his commitment to fairness and respect for individual citizens' rights.

It was also John McClellan as chairman of the Permanent Subcommittee on Investigations who tackled crime in organized labor.

His concern for the Nation's welfare was underscored by his commitment to creating conditions that would restore greater respect for authority. Landmark anticrime legislation, the Omnibus Crime Control and Safe Streets Act of 1968 and 1970, the Organized Crime Control Act of 1970, and finally the monumental revision of the U.S. Criminal Code are the results of John McClellan's commitment to law and order and his concern for the welfare of his fellow citizens.

It was John McClellan, chairman of the Appropriations Committee, who remained committed to fiscal conservatism. It is not an easy task and almost always a thankless one to be the "no" man when it comes to Government spending. John McClellan was fair, but he remained tightfisted with the taxpayers' money.

John McClellan's concern for the Nation and his commitment to principles was equaled by his commitment to represent the people of his home State, Arkansas. While we may point to any number of great achievements, John McClellan believed his greatest accomplishment to be the development of the Arkansas River navigation system which bears his name. The Arkansas Senator secured the $1.2 billion Federal funding to launch tremendous new economic growth and prosperity at home.

I consider it a privilege to have known John McClellan. His passing is a loss to the Senate and the Nation he loved so much.

I extend my sincere sympathy to his beloved wife and family and respectfully suggest that they may take comfort in knowing that his example will live on in the Senate.

THE ESCALATION OF THE BALANCE OF NUCLEAR TERROR

Mr. ABOUREZK. Mr. President, a terrible new escalation of the balance of nuclear terror may be taking place at this moment concealed from the world, and the American people, in the heart of Africa. Tragically, this international subterfuge has come about with the apparent knowledge, and perhaps even the support, of our own Government.

I refer to the charges raised by veteran diplomatic correspondent Tad Szulc in an article prepared for Penthouse magazine, in which he makes a strong case to demonstrate that the West German Government has taken over Shaba Province in Zaire to develop and test both the deadly cruise missile and the intermediate range ballistic missile.

This testing appears to be in utter disregard for the spirit of the 1954 Treaty of Brussels, which forbids the production by West Germany of "long range missiles and guided missiles" on German territory. It is apparent that by roping off an area of Africa as big as Colorado for these tests that the Bonn government planned to circumvent and violate the spirit of that treaty.

Not only has the German Government through its apparent dummy Orbital Launch and Rocket Corp. (OTRAG) kept the German people from the true knowledge of the deadly missile development, but our own Government has, at the very least, kept the American people from knowing of the program.

Equally disturbing author Szulc raises the point that the United States may have made available to the West Germans the technological know-how for the deadly cruise missile and the IRBM. Only last December 7, the NATO Defense Minister's meeting was told by Defense Secretary Harold Brown that "the United States has made no commitment not to transfer cruise technology to its European allies."

Mr. President, if it is in the interests of the American people to rearm the West Germans with the deadliest weapons mankind has yet devised, I submit that this is a serious decision that ought to have been the subject of the widest possible debate. Since this issue raises the question of nuclear holocaust, since it raises the question of the spread of nuclear delivery capability, since it raises the question of whether the SALT talks may be undermined, it is of urgent import to every human being on this planet, and not only the American taxpayers.

Next January 8, it will be exactly 60 years since President Woodrow Wilson stood under this very dome and told a joint session of the Congress of his dream for world peace in his famous address on the Fourteen Points. I think it is instructive that we hark back to his remarks on that occasion. For it was his first point that called for "open covenants of peace openly arrived at, after which there shall be no private international understandings of any kind, but diplomacy shall proceed always frankly and in the public view."

Let us also recall the famous fourth point, in which President Wilson appealed for "adequate guarantees, given and taken that national armaments will be reduced to the lowest point consistent with domestic safety."

Mr. President, the Members of this distinguished body 60 years ago failed to heed the warning and the vision of President Wilson. Historians will tell of the tragic result of that failure for centuries to come. Now, I believe, we have a new opportunity, and not only an opportunity but an obligation, to proceed to bring this matter out into the open, into the light of day.

We need more than just an investigation of the extent of American involvement in this matter. We need more than a demand that this tragic new escalation of the arms race be halted. We need to seize the initiative now for peace, for a peace arrived at in the light of day, not for this continued balance of nuclear terror built up increasingly in the dark by men who mistakenly believe their national prestige depends upon having the ultimate weapons of terror. We must ask ourselves how much longer the taxpayers of the great powers can go on being harvested by their governments to feed the military monster.

In an age when we have atomic overkill so staggering that sane men everywhere wonder what keeps proliferation and escalation rolling, those who make their dirty little secret treaties in the heart of darkness should be the first to be called to account.

Today Bonn is demanding the cruise missile. Tomorrow it may be Poland or some other nation. France and Britain are already hard at work on it. And the day after tomorrow who will it be: Brazil? South Africa? India?

Mr. President, we should commend Tad Szulc and Penthouse magazine for this article which exposes the distinct possibility of further escalation of the arms race through secret arrangements to test the ultimate weapon of terror. They have made a great contribution to the cause of putting truth on the public record and, therefore, I ask unanimous consent that Mr. Szulc's article for Penthouse be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ZAIRE

(By Tad Szulc)

With the knowledge and approval of the United States, West Germany is secretly testing the cruise missile—potentially the most deadly weapon of the nuclear age—and the Intermediate Range Ballistic Missile (IRBM) at huge proving grounds in eastern Zaire in the heart of Africa. This program is in deliberate disregard of international agreements on the limiting of West German rearmament—specifically, the 1954 Treaty of Brussels.

Carter administration officials have privately confirmed that both the Central Intelligence Agency and the Bundes Nachrichtendienst (BND), its West German counterpart, have played a crucial role in this program through the recruiting of American-trained scientists and political coordination in Kinshasa, Bonn, and Washington. Kinshasa, formerly Leopoldville, is Zaire's capital.

Zaire, known until 1971 as the Congo, is one of Africa's largest countries, and it is rich in copper and uranium, the latter being the principal element in the development of nuclear energy. Both Zaire's location and wealth have made it a highly strategic part of Africa, and for that reason it has been Washington's favored client state since it won independence from Belgium seventeen years ago.

Under the corrupt and inept administration of President Mobutu Sese Seko, however, Zaire has been tottering for years on the edge of virtual bankruptcy and political collapse, notwithstanding vast American economic and military assistance during these years. This state of affairs, plus West German and U.S. pressures, have resulted in Mobutu's agreement, in 1976, to turn over roughly one-tenth of his territory, a 100,000-square-mile area (the size of the state of Colorado) to the West Germans for their missile program in exchange for annual payments of $50 million and deliveries of small arms by Germany to his disorganized army. The proving grounds are located in the Shaba (formerly Katanga) Province.

Nominally, the German Operations in an approximately rectangular forbidden zone along Lake Tangyanika in the east are run by what Bonn euphemistically describes as a "private company" for purely scientific purposes. But there is massive evidence, as will be seen below, that the whole West German military-industrial complex is behind this enterprise and that the Bonn government is the ultimate recipient of the missilery produced in Zaire.

The secret cooperation by the United States in the Zaire undertaking through the supply of cruise-missile and other advanced technological know-how constitutes another aspect of the deepening American involvement in Africa. But, essentially, this is a back-door approach to West Germany's rearmament on the most dangerous level: unable to help Bonn develop advanced missilery on German territory for political and legal reasons, the United States has been doing so clandestinely through Africa since the closing years of the Nixon administration.

Bonn had long wanted its own cruise missile (both France and Britain are in advance stages of development). But since the United States has not thus far been willing to provide the actual cruise-missile weaponry to Germany, the Germans decided to develop it themselves. That they had U.S. cooperation in this endeavor was, in effect, confirmed by American Defense Secretary Harold Brown when he told the NATO Defense Ministers' Meeting last December 7 that "the United States has made no commitment not to transfer cruise technology to its European allies."

The Zaire situation is one of the most closely held secrets in Washington, D.C. Although American officials acknowledge publicly that West Germany is experimenting with "rockets" in Africa, they go along with Bonn's cover story that the Zaire project is nothing more than research on weather satellites. No United States participation is officially admitted. This article is based on information obtained in private discussions with highly reliable sources, who have access to most of the relevant knowledge, in Washington as well as in Western Europe. In Washington some of the information was made available because of the concern on the part of certain individuals that the United States is engaged in improper activities in the context of the Zaire situation.

Specifically, the West German missile production and test are in direct and flagrant circumvention of the 1954 Treaty of Brussels, which places clearly defined limits on German rearmament. Aside from the prohibition on the manufacture of nuclear, chemical, and biological weapons, the Brussels Treaty—signed on Bonn's behalf by the late Chancellor Konrad Adenauer—forbids the production on German territory of "long-range missiles and guided missiles." This is spelled out in Paragraph 4 of Annex III of the Brussels Treaty. Neither Defense Secretary Brown nor anyone else in the December NATO meeting made the slightest public reference to these treaty limitations.

This treaty was conceived by the Western powers as a guarantee against excessive rearmament by West Germany after she was admitted to the North Atlantic Treaty Organization (NATO), and the decision was made to let her develop modern armed forces. Only nine years had elapsed since the Nazi defeat in World War Two, and, quite naturally, the European allies were nervous about the notion that Germany would once again become a danger to them. Europeans have long memories, and they remember how Germany moved to rearm herself after losing World War One. By 1954 the Germans were already on their way to becoming an economic power in Europe, and NATO felt that while Germany should have an army, there must be safeguards. Thus Germany committed herself under the Brussels Treaty not to produce strategic bombers, certain types of naval vessels, and biological, chemical, and nuclear weapons.

However, the Brussels agreement had a flaw: its phrasing did not rule out the German production of missiles *outside* of German territory. Perhaps at the time no one thought that this would be possible, and perhaps it was a deliberate loophole not to foreclose German options in the future; it cannot be ruled out that at the apogee of the Cold War with the Soviet Union the idea of loopholes was not wholly distasteful to the United States. Besides, according to officials, there is in the treaty a "classified" section that may allow for such contingencies.

In any event, the work going on today in Zaire is obviously designed to equip West Germany with the most sophisticated delivery systems for missiles with conventional or nuclear warheads.

Although there are no indications that Bonn is developing actual nuclear weapons—the Bonn government has signed and ratified the Non-Proliferation Treaty banning the production of such arms—the acquisition of such a delivery capability may well be the first step in the direction of West Germany's going nuclear some day if it judges such action necessary.

And West Germany's neighbors on both sides of the Iron Curtain—France in the West and East Germany, Poland, and the Soviet Union—are deeply concerned and even suspicious about a missile-delivery capability in Bonn's hands. Rightly or wrongly, these countries—particularly the Communist ones—tend to link the Zaire program with the existence, in Germany, of a small plant that reprocesses spent uranium from nuclear power plants into plutonium, which is the core element of nuclear weapons. The same concern extends to the agreement under which West Germany is developing a $10 billion nuclear-industrial complex in Brazil, ranging from the prospecting of uranium to its enrichment, the construction of power reactors, and the installation of a plutonium-reprocessing facility. Even the United States is upset over the German-Brazilian deal because of its plutonium-production aspects, but the Carter administration has failed to dissuade the two governments from pursuing it. Washington, of course, does not wish to see a nuclear capability in a Third World country.

Both the Zaire testing and the deliveries of small arms by West Germany to Mobutu have led France to raise these matters with Bonn in an urgent manner and on a high level in the mid-1970s. Paris had asked Bonn to explain clearly the nature of the Zaire activities, but French officials are known to be unconvinced about the German cover story on weather satellites.

The Soviet ambassador in Kinshasa has delivered a formal protest to the Zaire government, but, not surprising, he has received no satisfactory reply. The Polish government is equally upset, and officials in Warsaw have been talking privately about acquiring a nuclear capability for Poland—with Soviet assistance—if West Germany went nuclear.

Bonn, for its part, has been very defensive about the whole Zaire matter. Not only has it been insisting on the scientific nature of the project and on the private character of the company that runs it, but also it has gone to the lengths of allowing a West German television crew into the forbidden zone to film a story about the project. Predictably, the film did suggest that the Germans in Shaba were busily preparing their area for weather-satellite experiments.

However, American experts dispute the need of an area as large as Colorado for testing weather satellites. But the cruise missile and especially the IRBM do require a vast operational area so that they can be recovered within the proving grounds after the launch.

Curiously, Bonn has allowed glaring contradictions to affect its Zaire cover story Thus a photographic blowup of a cruise missile was displayed at the 1977 air show at the Le Bourget, near Paris. There was no explanation as to where, when, or how the Germans had produced a cruise missile. American specialists who studied the photograph have concluded, however, that the missile was flying over what appeared to be African terrain.

Knowledgeable informants in Washington, speaking privately, do not buy the German cover story. I have been told flatly that the cruise missile is being tested in Zaire and that preparations are underway for IRBM launches. Officials also said that West Germany has already developed four or five cruise-misslie prototypes that have flown over the leased Shaba enclave.

Still in private, officials in Washington have said that the Zaire enterprise represents a colossal international deception. Bonn, they said, not building missiles on its own territory, has not violated the letter of the Brussels Treaty. But doing it in Africa certainly violates the spirit of the 1954 pact.

There are major international implications in the German missile program. The Soviet Union, for example, may well take the view that a German missile-delivery capability would alter the strategic balance in Europe. It may demand that the German missiles be counted under the ceilings being negotiated in the current phase of the Strategic Arms Limitation Talks (SALT) between the United States and the Soviet Union.

Up to now, the ceilings have applied only to American and Soviet missiles—in 1969 the Russians had agreed not to count French and British nuclear weapons under SALT—but the German developments may change this situation. The United States stores nuclear warheads in West Germany for its own forces under what is known as the "double key" arrangement, meaning that Bonn has to agree to the use of atomic weapons located on its territory by American forces. But the Soviet fear is that West Germany, with its own delivery capability, may prevail in an emergency on the United States to be allowed to use American nuclear warheads on German missiles.

The most troublesome is the cruise missile. This is a missile, that was perfected by the United States in the early 1970s and is launched with a nuclear head from a "mother" launcher, such as a bomber or a submarine. The cruise missile, with its own engine and guidance systems, can be fired at a target with extraordinary precision. It is the ultimate guided missile, which has the additional advantage of following the contours of the terrain with its own guidance mechanism. It was the introduction of the cruise missile that deadlocked the Soviet-American SALT discussions since 1974 although, in the latest round of talks, the United States has agreed on limiting the range of the new weapon. There are extraordinary security measures surrounding the Shaba testing area (which lies between Lake Tanganyika in the east and a north-south line at 26° 55″ of longitude in the west; the boundaries are delineated in the north by the river Lukuga and in the south by the tenth parallel along the Zaire-Zambia border).

The lease contract, signed on March 26, 1976, between the Zaire government and OTRAG (a German acronym for "Orbital Launch and Rocket Corporation") constitutes an unprecedented waiver of sovereignty for the twenty-four-year duration of the contract. OTRAG, a West German service corporation operating the test site on behalf of German defense contractors, may act in the area "as if it were sovereign," according to an American government legal expert. The only similar situation in the world currently exists in the 1903 Panama Canal Treaty.

Article Two of the contract provides that Zaire "expressly and without restrictions grants to OTRAG the right to take all measures that it deems necessary for the exercise of full and complete power in the territory" and undertakes to draft implementing legislation. Furthermore OTRAG enjoys exclusive "disciplinary" powers over all its personnel and their families, who thereby are not subject to Zaire laws and law enforcement.

The same article establishes the "permanent" closing by the government of air space over the leased territory to all aircraft except OTRAG's and the Zaire Air Force's. OTRAG is also free to construct airports wherever it pleases in the leased zone.

Article Three, a provision without parallel in international law, vests in OTRAG the decision as to which persons may live in the enclave. Undesirable persons may be kept out by OTRAG. The government, likewise, has taken the obligation to "evacuate," if so requested by OTRAG, all persons, including Zaire citizens, whom OTRAG does not wish in its territory. Such persons are to be "kept away" from the zone by the Zaire government. The government is also responsible for maintaining security for all OTRAG facilities and personnel if the company's operational needs require such precaution.

Finally, Article Three provides that no "observations"—in writing or through photography—may be taken in the forbidden zone without OTRAG's authorization.

The official German claim that the sole purpose of the Shaba operation is to develop cheaper weather satellites and the insistence that OTRAG is a "private company" are contradicted by the 1976 contract, as they are by new evidence that identifies two powerful West German military-industrial complex consortia as the driving force behind the overall Zaire project.

The opening section of the contract, which the Germans never made public, declares that OTRAG "needs a vast operational area lending itself to the launching into the atmosphere and space of payload missiles and to all activities in every domain that, directly or indirectly, are related to it."

There is no mention of weather satellites in this contract, and only in its final section does it refer to OTRAG's commitment to place it in orbit—free of charge—an experimental reconnaissance satellite for the Zaire government. As an American expert remarked to me, "I can't see why Mobutu needs a recon satellite unless he thinks he can spot Angolan guerrillas with it—and this is nonsense."

Should Zaire wish to have its own communications satellite, however, OTRAG, according to the contract, is prepared to launch it into space at a 20 percent discount from the price it charges its other "clients" for placing space vehicles into orbit. These provisions appear to be intended to "sweeten" the deal for President Mobutu, in the opinion of American experts.

But the real giveaway of the German project appears in the section of the contract dealing with OTRAG's payments to Zaire. Thus Article Five provides that Zaire will receive $50 million annually in lease payments after OTRAG receives its full remuneration for the launching of a payload rocket from a "client."

OTRAG's "clients" are not identified in the contract, but it is obviously improbable that cruise missiles or IRBMs would be purchased by private companies. And the identity of OTRAG's technological backers—and that of its real clients—makes it quite clear what the Germans are doing in Shaba.

The principal consortiums engaged in the production of the missiles being tested in Zaire are the German aircraft company Dornier, which provides the airframe, the German Messerschmidt company, of World War Two fame, providing the engines, and the French Thompson-CSF company, which builds the navigational-guidance systems for the German missiles. What remains unclear is why a French company is involved in this secret deal when one considers the French government's deep concern over the German circumvention of the Brussels Treaty.

According to highly placed Western European informants, OTRAG is producing the cruise missile and the IRBM for the West German consortium formed by the Messerschmidt, Belkov, and Blaum companies, the principal defense contractors in the German Federal Republic. At the proper time, it is believed, the missiles will be turned over to the West German armed forces.

And there are other strange aspects concerning OTRAG. Although Bonn claims OTRAG is a private company, it enjoys full tax exemption in West Germany. As an operating company with control and command functions in Zaire, it is puzzlingly divided into three divisions.

The "headquarters" division is located in Neu-Isenburg, a city near Frankfurt. According to reliable informants, it is this division that works in direct liaison with the BND, the West German intelligence service. This is where the whole Zaire operation is being coordinated.

Under OTRAG's reorganization early in 1976, before the final contract with Zaire was signed (an earlier contract had been signed in December 1975), two separate divisions were created. One was OTRAG, AG, concentrating on operations and research, and the other was OTRAG, S.A.-Africa, with offices in Vaduz in the principality of Liechtenstein. Vaduz is a tax haven for multinational corporations and, clearly, a convenient channel for a concealed flow of funds for the Zaire project.

OTRAG's president, the man who signed the contract with Zaire is Dr. Lutz T. Kayser, a mysterious figure described as a top missile expert. Dr. Kayser reportedly had worked in the 1960s for the National Aeronautics and Space Agency (NASA), at the height of its space program, but this affiliation is not shown in curent NASA records. The agency says that its employment records are stored at the federal archives center in St. Louis, Mo. CIA officials have refused to provide any background on Dr. Kayser, although the CIA routinely keeps files on foreign missile experts. One CIA official explained privately the refusal: "This is too sensitive to discuss."

American officials, speaking privately, have indicated that there is a strong possibility that the United States has made available to West Germany the required technology for the cruise missile and IRBM projects under the so-called Program of Cooperation (POC). This is a secret program (dating back to the late 1950s) under which highly classified military technology is provided to NATO allies, including West Germany. In some instances, POC operations have been conducted between the Pentagon and NATO defense ministries and top military commands, bypassing the State Department in Washnigton and foreign ministries in the European capitals.

In general, West Germany's entry into the Zaire picture has solved some problems for the United States in terms of keeping the Mobutu regime afloat. Because of congressional strictures, American military aid to Zaire has been kept down to a small volume. In the fiscal year that ended in October 1977, the United States gave Zaire $28.5 million in "nonlethal" military equipment, including a C–130 transport aircraft. The plane was authorized after guerrillas from Angola had attacked the Shaba province in March, not far from the German proving grounds. The proposed figure for the current fiscal year is $17.5 million, although the State Department had originally wanted it to be $30 million.

Thus the Germans have picked up the slack. During 1977 West German transport planes belonging to a "private company" (an American official commented that this company "is as private as the CIA's Air America was in Vietnam") have delivered several million rounds of 9-mm ammunition and an unknown number of submachineguns to Zaire. At the height of this airlift, around September 1977, there were three weekly flights of this type.

To provide the appearance of noninvolvement, the Carter administration has also encouraged other Western European governments to come to Mobutu's aid. In March, French aircraft flew Moroccan troops to Zaire to help Mobutu fend off the guerrilla attacks from Angola because his own army was disintegrating.

Since July 1977, French, Belgian, and Moroccan advisers have been attached to the Zaire army, which is undergoing a major reorganization after its catastrophic performance in the spring.

To a large extent, however, the Europeans—acting with American blessings—are beefing up Mobutu's strength as much for his internal survival as for defense from abroad. Though the Mobutu régime is widely recognized as highly inept and corrupt, the conventional wisdom in Washington and Western Europe is that there is no real alternative to him. The fear is that he may be replaced by an anti-Western leftist leadership.

But there is no assurance that, given the volatility of the Zaire situation, he can keep power for an extended period, With inflation running at a 70 percent annual rate and with unemployment spreading, violent strikes erupted in 1977 in Kinshasa and Lubumbashi in the Shaba "copper belt." Besides, Mobutu is totally broke. Zaire's external debt is $3 billion, and a consortium of American banks, led by New York's Citibank, has been thus far unable to refinance an urgently needed $250 million credit line for Mobutu. There is the danger of Zaire's defaulting on its debt, and even the international Monetary Fund can no longer allow Mobutu to draw on new funds (except for oil imports and as compensation for the extremely low copper prices this year). Much of the fund's help to Zaire in 1976 and 1977 resulted from American pressure.

Under the circumstances, Mobutu seems to look for salvation in the Shaba deal with the Germans. The $50 million annual payments from OTRAG are highly appetizing to Mobutu, who hopes for additional German assistance.

For the Germans the 1976 contract is an ideal arrangement. The lease on the Shaba territory runs until the year 2000, and no Zaire government—neither Mobutu's nor his successors—can cancel the contract. From a German viewpoint, the cost in terms of payments to Mobutu is negligible. The investment in the facilities in the Shaba proving grounds—air strips, launching ramps, housing and a hospital for OTRAG personnel—is calculated at around $300 million, but most of it comes directly or indirectly from the West German defense budget (although the budget does not show it). OTRAG personnel in Zaire enjoys full diplomatic privileges and immunities, another indication that this is a West German government operation.

The question, however, is whether the Western public opinion is prepared to stand still for this extraordinary new dimension in German rearmament and for the American involvement in it.

WHO'S WRONG—RALPH NADER OR THE VOTERS?

Mr. HANSEN. Mr. President, Mr. Ralph Nader has released another report on the U.S. Congress, revealing to American consumers those of us who are "the best" and those of us who are "the worst." The report will quicken the loss of Mr. Nader's credibility as the "spokesman of the American consumer."

Nothing better illustrates this point than an article by Mr. Stewart Lytle that appeared in a recent issue of the Birmingham Post-Herald. The article notes that both of the very distinguished Senators from Alabama, Senators SPARKMAN and ALLEN, scored very poorly with Mr. Nader, yet both are enormously popular with Alabama voters. Since voters are all consumers, some might consider the situation paradoxical where consumers consistently reelect Senators who, according to Mr. Nader, continually vote against consumer interests.

The article explains that, in fact, there is no paradox. The issues facing Government leaders are many-faceted and as such, have no clearly right or clearly wrong answers, as some would have us believe.

Decisions regarding natural gas deregulation, automobile airbags, and nuclear power, for instance, all involve questions of price, supply, demand, safety, and other variables. The effects of these decisions on consumers are both short and long range and are sharply debatable. Yet Mr. Nader often tends to ignore this, autocratically declaring where the "interests of consumers" lie and branding anyone who disagrees with him an enemy of the people. Thank goodness the voters have learned to penetrate this shallow point of view.

As for the "consumer interest," it is obviously the person back home who is in the best position to determine where that is—not Ralph Nader and not some Government bureaucrat insulated both literally and figuratively from the real world of consumers.

It requires no political wizardry to understand, if voters sense that their Senator or Representative consistently sides against them, they would hardly return him or her to office the following election. Who's wrong, Ralph Nader or the voters? The two highly respected Senators from the great State of Alabama answer that question daily with the tremendous services that they perform day in and day out for Alabamians and all Americans.

Mr. President, I ask unanimous consent to have Mr. Lytle's article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Birmingham Post-Herald, Dec. 5, 1977]

Sparkman Only Inch Ahead of Allen in Nader Consumer Book

(By Stewart Lytle)

Washington.—Ralph Nader thinks Sen. James B. Allen is little better than the black-hooded hangman of consumer justice. Sen. John J. Sparkman has a long way to go before Nader will call him a "friend of the consumer," but he is doing better.

In this year's ratings of consumer votes, Allen voted as Nader wanted only seven times out of 40 chances. Sparkman improved on his last year's record, which Nader described as even more "anti-consumer" than Allen's, by voting with Nader 15 times.

Since voters are consumers, has Nader sealed the fate of both men?

If Sparkman decides to run again, the voters might consider giving him another term, but only because the nation's foremost "consumer advocate" would prefer having even Sparkman over Gov. George C. Wallace.

With Allen there's no hope. Nader sees the junior senator as hopelessly under the influence of big business.

Nader is not likely to affect Allen's future. Not only can Allen stay in the Senate as long as he wants, but he is probably the state's most popular politician in recent history.

Thus, either the people of Alabama are badly misinformed, which is unlikely considering the mass of information published about Allen and his voting record each week, or the self-proclaimed consumer advocate is wrong.

It is very possible Nader is wrong—not about how Allen voted, but about what the consumer interests really are.

This should not be interpreted as meaning Allen is decidedly pro-consumer. Too often he has carried the water for big business and industry, as when he filibustered several times a measure that gave the Justice Department more power to fight monopolistic tendencies and price fixing in big business.

But just because he declares himself a consumer advocate or even because he won a big fight with General Motors over the Corvairs, Nader should not be allowed to decide for all of us what the consumers' interests are.

In some of the complex issues before Congress, it is not always clear how the consumers would be best served. Here are some examples taken from the list of 40 votes Nader used to determine if members of congress were for or against consumers.

Nader believes it would be in the best interest of the consumer if Congress required the automakers to install airbags in cars. Sparkman voted for airbags, Allen didn't.

Clearly it would be safer for all cars to have better protection devices, but Nader must know that anything the carmakers add from an fm-radio to airbags make the car cost more. Is it in the consumers' interest to have cars cost more? Or is it in their interest to be given a choice between better protection and lower cost?

Nader says keeping the price of natural gas regulated by the government is best for consumers. Ask those consumers who went cold last winter because there was not enough natural gas whether they would rather pay more for gas and be warm.

Allen voted for deregulation, Sparkman was against it.

Nader thinks it is in the best interest of consumers to have campaigns for Congress financed by the government. Since taxpayers are consumers too, and it would be the taxpayers who would finance the campaigns, the consumers' interest would also seem a bit fuzzy here.

Allen opposed public financing of congressional campaigns, while Sparkman favored it.

Nader fears nuclear power because he thinks it unsafe. Thus, he considers any vote to help expand nuclear power as anti-consumer. On the two votes relating to nuclear power he used for the senators, Allen voted against Nader twice and Sparkman voted against him once.

It would seem in these days of skyrocketing utility bills, the consumer's interest would lie with cheaper sources of power. Once built, nuclear power plants are cheaper than all other sources of power except hydroelectric.

If anything, Nader's ratings serve as a guide to the liberals' point of view on most issues. Thus, we may conclude that Sparkman is conservative, but not as conservative as Allen.

Only on issues of government reform did Allen's votes match Nader's views. Allen cast four of his seven "right" votes for such measures as limiting outside income and the size of campaign contributions for senators.

Five of Sparkman's "right" votes were also on such issues.

TRIBUTE TO SENATOR McCLELLAN

Mr. STEVENS. Mr. President, it was with great personal sorrow that I learned of the death of the distinguished and respected Senator from Arkansas, John McClellan. It is written that "The days of our age are threescore and ten; and though men be so strong that they come to four-score years, yet is their strength then but labour and sorrow. . . ." In the past week we have all been reminded of both the great personal tragedies and the outstanding public service of this wise and honorable man.

I was privileged to serve with the Senator from Arkansas on two committees: Government Operations and Appropriations. Under John McClellan those committees were run in the best tradition of the Senate: Free and open discussion was encouraged and we operated by consensus not coercion. In his work in Congress, Senator McClellan broke fresh ground because he had the courage to go ahead without asking whether others were following. He had no need for divided responsibilities in which some seek to be safe from ridicule because he had been granted a faith which required no confirmation and a firm contact with reality.

Two years ago, Senator McClellan and Norma accompanied me and several other Members of the Senate on a rather extensive trip to Alaska. After watching him work with and speak to Alaskans, there was no doubt in my mind as to why the people of Arkansas had selected John McClellan to represent them for more than a generation in Washington. He was a man from the people and for the people. Had he wished, John McClellan could have been elected to the Senate as easily from Alaska as from Arkansas. He was a man worthy of the highest ideals of this Nation who will be sorely missed by all whose lives he touched.

TRIBUTE TO LAURENCE WOODWORTH

Mr. TALMADGE. Mr. President, I join the Senate in mourning the passing of Dr. Laurence N. Woodworth. Dr. Woodworth was one of the Nation's leading experts on tax legislation and related economic matters, and he will be greatly missed by Congress and the administration.

He was a dedicated servant and his assistance and guidance in developing tax policy for the Nation was invaluable to the Senate and particularly to committees which deal with tax legislation. In my service on the Senate Finance Committee and the Joint Committee on Taxation, I came to know and respect Dr. Woodworth as a true professional in the performance of his duties and a fine gentleman.

I extend my heartfelt sympathy to his wife and children.

RURAL HEALTH IN ARKANSAS

Mr. BUMPERS. Mr. President, the University of Arkansas for Medical Sciences had had an intense and growing interest in the health needs of rural communities in Arkansas.

Arkansas has an extreme health manpower shortage at the present time. According to an American Medical Association survey, as of December 31, 1974, Arkansas ranked 48th among the 50 States in physician-population ratio. Arkansas has 92.4 physicians for 100,000 people. The national average is 169 physicians for 100,000 people.

The Public Health Service has declared 23 counties in Arkansas areas of critical medical shortage.

Arkansas is also faced with a problem of extreme maldistribution of physicians and other health manpower. At the present time there are 1950 patient-care physicians working in the State. Approximately one-half of these physicians are located in Sebastian and Pulaski Counties, where only 20 percent of the State's people live.

Recognizing the extreme shortage of physicians in rural areas, the University of Arkansas is attempting to influence physicians to locate in the small towns of Arkansas through several programs.

When the State failed to get Federal support for an area health education centers program, it proceeded to develop the program on its own. Six area health education centers have been established in various parts of the State in the last 4 or 5 years, opening up more than 30 new residencies. National statistics show that a doctor is likely to establish his practice in the community where he does his residency, and until recently there were no opportunities for residencies outside Pulaski County.

Another program started by the medical school was recently described in the November 21, 1977, edition of the American Medical News. The Arkansas Practice Opportunities Familiarization Program introduces communities in Arkansas to medical school graduates. The program for junior and senior medical students includes sessions in health-care delivery systems in Arkansas and a weekend bus tour of three to five communities throughout the State for students and spouses.

Mr. President, I commend the University of Arkansas for this innovative approach to attracting physicians to rural communities and ask unanimous consent that the article from the American Medical News be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARKANSAS SMALL TOWNS LURE SOON-TO-BE MD'S WITH COMMUNITY TOURS

Arkansas is one of the last strongholds of legendary Southern hospitality.

"The townspeople, they're waiting for you with open hands. They'll say, 'you're not married? Here, take my daughter, and everything else,' " observed a native and student at the local medical school.

The towns dotting Arkansas' Ozark mountains have a particular interest in maintaining this cordial image. Many have been designated by the Dept. of Health, Education, and Welfare as medically underserved and physician shortage areas, yet have built hospitals and nursing homes with the hope that physicians would settle in the community.

The U. of Arkansas College of Medicine (UAMC) also has a stake in having its graduates remain in the states to practice. Such commitments would not only please the legislature, but also aid those students in need of loan forgiveness—attainable only by practicing in a community with less than 6,000 people, according to the terms of certain state-funded scholarships.

The Arkansas Practice Opportunities Familiarization Program is the College of Medicine's brainchild that introduces the physician-hungry communities to soon-to-be MDs.

The program has three parts. The first is a Berlitz-type immersion session on Arkansas. In one evening, junior and senior medical students learn about the state's health care delivery systems, health planning, demography, topography, geography, industry, agriculture, and recreation.

The third session is a follow-up discussion on the second and most important part, a weekend bus tour of three to five communities throughout the state.

During the last weekend in October, a Greyhound Trailblazer took some 25 juniors, seniors, and some of their spouses to four towns in North-central Arkansas, a roundtrip of 400 miles.

They were plied with everything from homemade biscuits topped with cream gravy to the local Jaycees' hard-sell spiel.

Such hard sell speeches, however, were not necessary. The students already were sold on remaining in Arkansas and raising their families in a rural setting. At issue for them was the size of the towns and what limitations small size puts on the practice of modern medicine.

UAMC Junior Richard Hayes said, "The statistics show that our graduates—who are originally from small towns—go back to small towns, but they go back to slightly bigger small towns than their homes—and so will I."

The Saturday stops on the tour illustrated his point.

Clarksville, first on the agenda, has a population of about 8,000 and a nearly new county hospital.

The local approach to recruitment was low-key. Two of the town's five physicians met with the student's in the Johnson County Hospital cafeteria to describe their practice and personal lifestyle.

"We have everything in equipment that you can imagine for a population base of 40–50,000, even though we don't have that big a population," Royce West, MD, told the gathering.

"For example, we have a satellite coronary care unit, monitored from Fort Smith (second largest city in Arkansas) 24 hours a day.

"There are good schools here, a small college, hunting, fishing. It's country living, but not rural medicine."

Added Jack Patterson, MD, president of the county medical society, "You can make as much money here as you want, but you have to work for it." Both told the students that there is room for more MDs in Johnson County, "whether they become associates of ours, doesn't matter."

"What's important, though, about choosing a place to practice," said Dr. Patterson, "is, can you practice good medicine and are you happy living there."

After an intensive question and answer period with these physicians about the facilities and availability of specialists, the students toured the hospital, were given lunch, and sent on to Waldron, Ark.

While the students were responsive to the recruitment pitch in Clarksville, most appeared bored and disappointed with Waldron.

Waldron has a population of 2,000 and is located in a dry county that has 44 churches, mostly Baptist.

Th oldest physician of the three who practice in the county met with the students before they all had coffee and cookies with the Ladies Aid and civic leaders in an old war memorial building.

Where the Clarksville physicians had a take-it-or-leave-it attitude that seemed to say that practicing medicine in their town was an exciting challenge backed with modern facilities, Waldron's lone doctor representative, who has a daily patient load of 40–60 people, implored the students to overlook his town's bad points and hope for the best when practicing there.

In Clarksville, the students were urged to join a group practice in order to have the time to enjoy the rural life they were opting for. In Waldron, the three practitioners were emphatically in solo practice.

The students were unimpressed. Said one third-year student, "When you're trying to convince a bunch of young people to come to your town, you don't send your oldest doctor to come to talk to them," and allow the young ones to completely ignore them.

Of course, the difference in recruitment techniques depended on the economy of the town, which must pick up the bill for everything but the bus. It also depended on the imagination and energy of the civic leaders.

Van Buren's presentation, for example, was "impressive," said the students, even though the majority felt that at 12,000 it was too big and too near "metropolitan" Fort Smith.

Groups of students were matched up with local couples, who became their host through Sunday morning.

The students initiated Van Buren's new motel and were treated to a big Sunday breakfast, which they ate with their host couple. The hosts then took their charges on personalized tours of the community. A walk-through of the hospital ended the stay in Van Buren.

Said third-year student Jim Ashabranner, who has participated in the tours since they started last year, "The individual tours of the hospital and town was something we haven't seen before. It was a nice touch, well done."

Had the students been polled that weekend, Morrilton, their last stop, probably would have won the most new residents.

Morrilton's 7,000 people live near Petit Jean State Park, a rural resort, yet have immediate access to Little Rock via a major interstate highway.

Most of the towns' leading citizens, including the pastor and deacon of the First Baptist Church, the president of the bank, and local politicians, turned out for the UAMC welcome luncheon.

Following the tour of the hospital facilities and talk with the town doctors, the students gathered in a hall with all the citizens who wanted to meet them earlier, but who could not be accommodated in the restaurant at lunch.

Besides the small talk with members of the Garden Club, the students participated in an event that drew them even more to the town.

The U. of Arkansas at Fayetteville Razorbacks had won that day. So the townspeople were in the mood "to call the hogs," the state university's unspellable football cheer. Led by the bank president, some 60 people yelled "sooee, pig, pig, pig," several times. With that out of their system, the students boarded the bus once more for Little Rock to go back on call.

"I enjoyed seeing the hospital," said senior Jim Perkins. "The hospital I'm going to practice in is going to have to have a good operating room and modern facilities.

"I've made a decision to settle in a town like Morrilton. I'm selfish about my time and the way I want to live. I don't want to kill myself by the time I'm 55 in order to provide quality health care in a rural area," said junior Reggie Henderson.

All such opinions are considered valuable feedback for both the schools and the communities. The information is used for planning future tours by the Director of the UAMC Office for Community Affairs, Bill North.

"We had a difficult time on the first trip. We only had seven students and three spouses, who experienced some arm-twisting from the dean. It was cold and trying to rain. I've seen better morale at wakes. But on Sunday night, they all seemed up to go on the next one," North said.

"Last year by the end of trip number four, we had about 198 students (some repeaters), who had visited some 15 communities," North said.

"One of the things we've learned," he added, "about the trips and scheduling is football. If a school is playing either at Little Rock or Fayetteville, we don't go."—JUDY ALSOFROM.

FARM STRIKE

Mr. DOLE. Mr. President, on Saturday, December 10, 1977, a substantial number of farmers expressed in a rather dramatic way in State capitols and in the Nation's Capitol their concern over the farm crisis which they and their families are experiencing. Today, December 14, not only are they calling attention to their plight but they will "strike" to help redress their grievances. I heard the appeals being made by members and representatives of the American Agriculture Movement last Friday in Topeka, Kans., and last Saturday here in Washington, D.C.

Following is a list of their "demands" presented to me at their Saturday rally:

> One hundred percent parity for all domestic and foreign used and/or consumed agricultural products.
>
> All agricultural products produced for national or international food reserves shall be contracted for at 100% parity.
>
> Creation of an entity or structure composed of agricultural producers to devise and approve policies that affect agriculture.
>
> Imports of all agricultural products which are domestically produced must be stopped until 100% parity is reached. Thereafter, imports must be limited to the amount that American producers cannot supply.
>
> All anouncements pertaining to any agricultural producing cycle shall be made far enough in advance that the producer will have adequate time to make needed adjustments in his operation.
>
> Unless these demands are met by midnight, December 13, 1977, we will strike.

I have discussed farm issues, policies, and problems with them, and can understand why they are frustrated. They do not want sympathy; they want a fair price for their crops, livestock, and other farm products.

To their credit, they have repeatedly stated that they do not want a Government handout. They deserve the gratitude of all Americans for calling attention to the seriousness of the situation on the farms and in rural America. Since we cannot have a healthy national economy without a healthy agricultural economy, all Americans, particularly consumers, have a vital interest in the issues of concern to farmers.

I do not endorse a strike. I did not support the meat boycott by consumers in 1973. Neither did I support the soybean export embargo in 1973 nor the grain export moratorium in 1975. I do, however, feel that we have a real responsibiilty to do what is feasible in helping farmers everywhere achieve parity.

I assured the representatives of the American Agriculture Movement that the Senate Agriculture Committee will hold field hearings within the next 30 days where they can present in a more formal manner specific ideas for action by the Congress and the administration.

In the meantime, I urge the administration to move more speedily in implementing existing legislative provisions. I am concerned about the lethargic manner in which the Carter administration has addressed the most serious farm situation that has confronted our Nation since the days of the Great Depression. It is not enough for the administration to say it is sensitive to farm problems or to the needs of hungry people overseas: Sensitivity means nothing unless it is translated into action. This lack of action in the form of implementation of constructive programs and policies by the administration has prompted the angry mood being expressed by farmers in their tractorcade.

I have been especially concerned that the Canadians, the Australians, and virtually all our competitors seem to have done a better job in marketing their farm products in world markets than we have. World trade in wheat and coarse grains this marketing year (July–June) is estimated at 149.5 million metric tons, up from 144.5 million metric tons last season. We need a more aggressive export policy to capture a greater share of this increased world trade.

I sincerely believe that the best way to assist farmers in their escape from the vicious cost-price squeeze, which they are experiencing, is through an aggressive export effort which will increase the U.S. share of world trade with consequent benefits on market prices.

MORE AGGRESSIVE EXPORT POLICY NEEDED

Let us together review some of my recent recommendations to the Carter administration—proposals with which I feel you will agree.

We need a more aggressive and realistic export policy to better meet the competition that we are facing in world markets. We must not be residual suppliers. The following recommendations, if implemented, will help both the farmers' income and the economy of the entire Nation:

First. Commit additional CCC credits immediately.—In a letter of October 20, 1977, to President Carter, 16 of my colleagues on the Senate Agriculture Committee and I asked that the administration double the funding level of $750 million for CCC credits, announced on August 18, 1977. On November 17, 1977, Secretary Bergland announced that the CCC credit allocation of $750 million would be increased to $1.5 billion. This increase, if committed promptly, should help U.S. farm exports more readily compete with credits offered by Canada, Australia, and others in world grain and other commodity markets.

The CCC credit program, as Secretary Bergland has testified, "make money for the Government" since the interest rates received by CCC are higher than the rates paid by them to the U.S. Treasury for money. The repayment record also has been excellent. I am pleased that the administration has now responded to the need for additional CCC credits and I urge that these new credits be committed as lines of credit for our overseas customers at an early date in order to maximize export opportunities.

Second. Expand Export-Import Bank credits.—On September 8, 1977, I wrote the President of the Export-Import Bank, asking that the Eximbank's farm commodity export policy be revised. I suggested that the meager $70 to 95 million financing of argricultural exports in recent years be increased to at least $500 million annually. Farm exports, which annually represent over 20 percent of total U.S. exports, deserve a more equitable share of the $6 to $10 billion of annual U.S. export financing. If farmers do not get a better break from Eximbank in the near future. I will introduce legislation in the next session of Congress to accomplish that objective.

Third. Support CCC credit legislation.—Moreover, I invite the administration to support my bill and that of Senator HUMPHREY to authorize CCC credits to such nonmarket economy countries as the People's Republic of China, the Soviet Union, and Eastern European countries such as East Germany and Czechoslovakia. In my views, credits to the Soviet Union would be contingent on increasing the numbers of those desiring to emigrate.

I also oppose extending such credits to Vietnam, North Korea, Cambodia, Laos, and Cuba. I will work with the administration to obtain legislation which will provide "intermediate" CCC credits so that we can take advantage of export opportunities that require credits with terms longer than the current maximum of 3 years.

Fourth. Better use of food for peace.—Another important export tool that is not being sufficiently utilized is the Public Law 480 or food for peace program. This legislation was signed by President Eisenhower back in 1954. During the last 23 years, with bipartisan support, over $30 billion worth of farm commodities have been exported under its provisions. The great value of this program, in terms of lives saved and new markets developed, is impossible to comprehend. It is one of the great practical humanitarian steps of this and any other generation.

In a letter to Secretary Bergland, I recommended that $1 billion worth of grain and other farm commodities be exported under title I of Public Law 480 to help meet the food needs of developing countries in fiscal year 1978. The administration was nearly a month late in announcing their fiscal year 1978 allocation of only $800 million worth of commodities. This allocation compares with the Ford administration's allocation of September 22, 1976, of $866 million worth of commodities for fiscal year 1977.

A year ago, title I agreements for $311 million worth of farm commodities representing almost 2 million metric tons were signed in October and November. On November 16, 1977, most of my colleagues on the Senate Agriculture Committee joined me in a letter to Chairman TALMADGE asking for committee hearings on the unusual delay in Public Law 480 programing this fiscal year. Additionally, I have asked President Carter to personally intervene to obtain immediate resumption of Public Law 480 programing and shipments which are still delayed. Only two agreements (Egypt and Guinea) have been signed since the new fiscal year began on October 1, 1977.

I am concerned that the Public Law 480 leadership in the Carter administration is good at conducting seminars and appointing task forces but appear to be a bit short on their capability to execute programs that are timely and meaningful to American farmers, as well as to hungry people in developing countries. Starving and hungry people do not eat seminars or option papers. Yesterday's hungry people cannot eat twice as much tomorrow.

Fifth. More attention to market development.—I would like to see the administration spend less time at international commodity agreement conferences and direct more of their resources into market development activities. The USDA-industry cooperator market development program is not receiving the attention that it should be getting. There is far less real activity by these programs in world markets than there was 10 years ago.

We need to be carrying the message to overseas markets more vigorously than is being done that we are not only a dependable supplier but that we have the widest range of commodity qualities of any exporting country in the world. We should follow up these messages by servicing more adequately the markets in which we sell.

Sixth. Use of Public Law 480 to improve storage and handling facilities.—I urge the administration to make use of existing authority provided under section 104 (b)(1) of Public Law 480 to write into title I agreement provisions for the generation of foreign currencies to be made available to the Secretary of Agriculture to fund projects in Public Law 480 recipient countries to improve storage, handling, and distribution of farm commodities. This would materially assist in the consumption, distribution, and reduction of waste of food. Such facilities would be used for both Public Law 480 and commercial imports as we have seen demonstrated in India in the past following U.S. assistance provided that country for storage facilities.

Seventh. Implement legislation enabling importers to store purchases in United States.—Also, I urge the administration to implement immediately the provisions of legislation that I sponsored to enable commercial grain importing countries to purchase U.S. grain, and store it in the United States for 12 months or longer for subsequent export without export restraints or controls.

Eighth. Geneva trade negotiations.—Further, I would urge that the administration's trade negotiators in Geneva not be "mousetrapped" into any agreements that would work to the detriment of U.S. farm exports. I believe that we must not give away easier access to U.S. markets for industrial goods or agricultural commodities by reduced tariff or nontariff barriers without attaining greater access to the markets of the world for U.S. agriculture. Greater access to world markets is the most important objective for U.S. agriculture. Both industrial and farm items must be brought along together as the trade negotiations proceed. We must not be the forgotten relatives as we were during the Kennedy round.

SUMMARY OF RECOMMENDATIONS

In summary then, I would like to urge the administration to facilitate farm exports by:

First. Committing the additional CCC credits immediately to lines of credit so that export opportunities do not slip away;

Second. Increasing Public Law 489, title I, $1 billion worth of commodities, up from the $800 million annouced for fiscal year 1978 and speed up programing immediately;

Third. Expanding Eximbank financing of farm commodities from the $75 million allocated to finance cotton to Japan to at least $500 million for the export of farm commodities;

Fourth. Supporting CCC credit legislation to provide financing of commodities to better meet competition in countries such as the People's Republic of China, the Soviet Union, and certain Eastern European countries;

Fifth. Supporting with adequate resources and new ideas a more vigorous market development effort;

Sixth. Making the most of the U.S. agriculture efficiency and gain concessions for U.S. farm exports in the Geneva trade negotiations;

Seventh. Using Public Law 480 to improve storage and handling facilities for U.S. grain and other commodities imported in developing countries; and,

Eighth. Implementing legislation enabling commercial grain importers to purchase U.S. grain and store it in the United States for subsequent export.

In addition to my recommendations to stimulate exports, I urge the Secretary of Agriculture to use the disaster reserves provision of the new farm bill. This section permits him to purchase wheat, feedgrains, hay or other livestock forages for disposition in disaster situations where CCC stocks are not available at locations where they may be economically used. During the current period of low prices it seems prudent for the Secretary to use his authority to acquire such stocks which would be of great value in case of natural disaster.

Seizing opportunities for greater domestic demand and utilizing export authority is extremely important to farmers. Recent failures have been reflected in prices received at lower levels. I have suggested administrative actions and sponsored legislation which would help farmers achieve parity for their commodities. It is my contention that farmers would today be in a much better mood and financial condition if the Carter administration would have moved quickly to reflect the true situation. Let us have less rhetoric and position papers and more constructive action.

MARK McCLOSKEY

Mr. MOYNIHAN. Mr. President, I rise to speak to the memory of my old and dear friend, Mark McCloskey. His death last month saddened those who loved him, and were loved by him, including especially my family and me. Words are somehow inadequate to describe this wise and wonderful man. I may say without any exaggeration that few on this Earth are endowed with the gift of friendship so abundantly as he was—the gift of giving it and the gift of nurturing it.

I had the privilege of delivering his eulogy at his funeral in New York City's Calvary Episcopal Church. I ask unanimous consent that the eulogy be printed in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

EULOGY BY DANIEL PATRICK MOYNIHAN AT THE MEMORIAL SERVICE FOR MARK McCLOSKEY

"This house." Mark McCloskey would declaim as he raised his glass at a friend's table, and because he was "blessed and had the power to bless" a transubstantiation of sorts would occur. A place where one lived became a seat. Family acquired dimensions in time: reaching back, going forward. Friends attained to an estate in their own right, a fixed and dependable circumstance of one another's lives.

This was his gift: to make connections. Between persons and between persons and places, such that no one touched by him was ever again wholly alone.

This was his vocation, also made, as with all the great commitments of his life, with the utmost care, followed by perfect fidelity, and ever growing understanding. Before anyone else, I think, of his age he sensed the anomic disintegration that threatened this, the great city of the Western world. We were indeed becoming a dust of individuals. To somehow make connections in spite of this was the central social challenge of the time. He saw this early and gave the whole of his long and wonderfully full life to helping others hold onto something. Showing how. Hence his beloved Tenth Avenue and the teeming life of the tenements of Hell's Kitchen. He never let that leave him. It was his way of saying to others: Only connect.

He lived so long a life and such a full one that many of us, ourselves no longer young, only knew him as rather an old man and then in time an even older one. One was never finally able to decide whether the New York of his youth truly existed, or whether he had imagined it because it ought to have done. Tallyrand said that those who had not known the Old Regime in France would never understand the *douceur de vivre*. So it must be for anyone who never knew the New York of Mark McCloskey's youth as he described it in his old age.

What a grand old age it was. I have cited Yeats once, I will do again: his line from *Land of Heart's Desire:* "A land where even the old are fair. and even the wise are merry of tongue." Mark McCloskey never ceased sharing his wisdom and his merriment with others. This was a choice he made and in a certain sense imposed on his own family who perforced were asked to share more of him with others than they might have wished on their own to do. All the more is our debt to his house.

A simple enough statement, and yet it seems odd to think of him as in any way apart from his family, especially as in any way separate from his wife Winifred from whom he was truly inseparable so long as she lived.

In 1917, as America entered the war, he wrote to her from Princeton where he was thinking of joining the Army, as shortly thereafter he did. His letter describes a relationship that continued for most of half a century.

"DEAR WINNIE, this is the hardest letter I have had to write in a long time. . . . You do not know how hard it would be for me to be away from you for a year. That is the only thing that holds me back. The college degree is but a label—if you have not grown correspondingly what does the degree represent? Men in England are in their elemental stages now. War does debase men. I in all probability would be put in some London "hut" as an assistant. A handshake and a smile and a few words from my heart would perhaps be all I could give to each of the men I met. . . . The work might bridge me over from boyhood to my manhood—it might sober me so as to make me a real first man to give help to others. Sweetheart, I love you. From my soul I say I do. I don't want you to tell me to do what I think is best. I want you to sit down and think it out. You will say you can't, but if ever you have had to—let it be now. You must keep absolutely nothing to yourself. Think clearly just how you stand. You are equally responsible for me. I can say no more than that I love you—All that it implies and has ever meant goes with it. God bless you!

"Your devoted boy,

"MARK McCLOSKEY."

God blessed them both in their life together and all the thousands on thousands of us whose lives touched theirs. He was truly our brother in Christ and even as we pray for his soul we look to his intercession in the world to come as we looked to him in the world he now has left.

WHAT IS RIGHT WITH AMERICA

Mr. ROBERT C. BYRD. Mr. President, the junior Senator from Alabama, Senator ALLEN, is necessarily absent as he is filling commitments in Alabama which he made some months ago. In accordance with his request, I ask unanimous consent that the following statement by Senator ALLEN be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ALLEN: "WHAT'S RIGHT WITH AMERICA" ESSAY CONTEST—1977 WINNERS AND RUNNERS-UP

In 1975 I sponsored an essay contest on the subject of "What's Right With America" for all 12th grade students in Alabama's public and private high schools.

The quality of all of the entries in that contest so impressed me that I decided to make the contest an annual event. The 1977 contest ended on November 1 and winners and runners-up were selected and prizes awarded after Thanksgiving.

One of the few rules established for the contest limited the essays to 200 words. I felt that this would be a challenge to the students, because some of the world's greatest thoughts have been expressed in fewer than 300 words: The Lord's Prayer contains 66 words, the 23rd Psalm has 118 words, and the Gettysburg Address was expressed in 267 words.

In sponsoring this contest, it is my hope to offer a forum for Alabama's junior citizens who I think are quite representative of other young people in America, to express themselves on what they feel to be the strengths and virtues of our system of representative Government and the state of affairs in our Nation as we begin our third century of existence.

The more than one thousand essays which poured into my office this year confirms my belief that the vast majority of our young people feel a great sense of optimism and faith in the future of our country. America's youth has always been its most valuable resources and I strongly believe that today's young men and women have the potential to cure many of today's problems and that they will lead our Nation to greater heights in the years ahead.

We have read of polls which show a supposed credibility gap between the American people and their Government and of a lack of confidence by the American people. Well, the polls evidently failed to take into consideration the views of America's young people as expressed by these some one thousand Alabama high school seniors. I believe that my enthusiasm will be shared by anyone who reads these essays, and in order to give at least a sample of the views they contain, I ask unanimous consent that the four winning essays and the six runners-up in the 1977 "What's Right With America" contest be printed in the RECORD.

WINNERS

First Place: $100 U.S. Savings Bond—Gary Farris, Deshler High School, 811 Volunteer Drive, Tuscumbia, Ala. 35674.

Second Place: $75 U.S. Savings Bond—Cherry Lynn Martin, Huffman High School, 200 Sam Pate Drive, Birmingham, Ala. 35215.

Third Place: $50 U.S. Savings Bond—Lana Buckner, Carroll High School, 66 Endl Avenue, Fort Rucker, Ala. 36360.

Fourth Place: $25 U.S. Savings Bond—Jeff Jennings, B. B. Comer High School, 18 Tuskegee Street, Sylacauga, Ala. 35150.

RUNNERS-UP

Elizabeth Burton, Springwood School, 1432 North 7th Avenue, Lanett, Ala. 36863.

Paul Froede, Houston Academy, 1804 Berkshire Drive, Dothan, Ala. 36301.

Shawn Patrick Henrikson, Robert E. Lee High School, 604–A Avenue D, Gunter Air Force Station, Ala. 36114.

Susan Keith, Alliance Christian School, 1352 Springville Road, Birmingham, Ala. 35215.

Lisa Spencer, Daleville High School, Route 2, Box 86, Daleville, Ala. 36322.

Lisa Williamson, Litchfield High School, 1109 Hoke Street, Gadsden, Ala. 35903.

WHAT'S RIGHT WITH AMERICA

(Gary Farris, Deshler High School,
Tuscumbia, Ala.)

FIRST PLACE

Today, people across the globe are being continuously denied basic human rights by powerful, tyrannical governments who could care less about civil injustices carried out in their country. However, one nation is consistent in world standing as a known leader in helping the needy and returning basic human dignity to the lowest and poorest citizens of the world. These traditional attitudes and beliefs have existed in America for the past two hundred years, Through revolution, civil war, depression, racial conflict, and the world wars this nation has continued to uphold its time-honored reputation. Many times it would have been easy for the United States to turn her back on someone in her own interests, but she was always there to back up her commitments. America has indeed been blessed with numerous riches, all of which have been enjoyed by nations throughout the world. Basic kindness is in the blood of America, and when it dies, America dies along with it.

WHAT'S RIGHT WITH AMERICA

(Cherry Lynn Martin, Huffman High School,
Birmingham, Ala.)

SECOND PLACE

Just think of the tragedy of teaching children not to doubt, because to doubt is only to seek the truth. What is right with America is the spirit of individuals seeking the truth. America owes its discovery to that spirit. Without men seeking truth this country would not have been settled. The search for truth is what makes this country free.

If everyone had believed that the world was flat, the entire Western Hemisphere would have remained occupied only by the people whom Columbus called Indians. It took courage to sail into the unknown. America's roots are those of a search for truth.

America would never have been settled if it had not been for the rejection of accepted doctrine by Englishmen, who could not believe that the King's religion must be their religion. This country was settled by men who would not conform. Neither should its present citizens be anything but individuals who refuse to be forced into society's mold.

Americans continue to cling to their right to be individuals. They cling to their privilege to disagree. Most importantly, they continue to search for the truth.

WHAT'S RIGHT WITH AMERICA

(Lana Buckner, Carroll High School, Ozark,
Ala.)

THIRD PLACE

Americans are the most fortunate people in the world today. They possess by birth what many people spend their entire life striving to achieve—freedom. The numerous freedoms they receive are a result of the United States being a democracy.

The people make up a democracy. A democratic country is as fruitful and successful as the diversity of people who compose the land. The early people of America brought with them a love of freedom, which is the basis of our government today. From this love of freedom, they derived the Declaration of Independence, which declares that "all men are created equal," and they have the right to "life, liberty, and the pursuit of happiness."

Everyday Americans are enjoying the freedom and privileges that the founding fathers had the foresight to establish. Americans reap the benefits from freedom of religion, freedom of education and freedom of choice which are guaranteed by our form of government.

Grover Cleveland summed up what is right with America when he said, "The suffrage which executes the will of free men is yours; the laws and the entire scheme of our civil rule from the town meeting to the state capitals and the national capital is yours".

WHAT'S RIGHT WITH AMERICA

(Jeff Jennings, B.B. Comer High School,
Sylacauga, Ala.)

FOURTH PLACE

America's democratic form of government is what's right with America. In our country's form of government the people hold the power of the government and it is conducted only by their consent. Americans have dignity, and the worth of every individual means a great deal to the nation. Our government is the "government of the people, by the people, for the people." The equality of all men in our nation contributes to the system which we have; therefore, every individual is very important to our nation. Our country's faith in majority rule and minority rights is the most outstanding concept of democracy and the most vital part of our government, because it stresses the individual worth, rights, and dignity of our people and the nation as a whole. That's what's right with America!

WHAT'S RIGHT WITH AMERICA

(Elizabeth Burton, Springwood School,
Lanett, Ala.)

America, magnetic and controversial, the place for new ideas and dreams to be born. We are right in striving for equal opportunities, even though we are critiiczed for not doing it soon enough. We are right in advocating human rights throughout the world, even though we receive hostility for doing so. We are right in moving toward peace for all nations, even though we are accused of not attending to our own affairs. We are right in assuming responsibility for the hungry, even though we are criticized for not giving enough. We are right in fighting for all the things we believe in, because if we do not, the things we believe in will be no more. We are right in accepting criticism gracefully, even though the critical ones are those who do nothing. We are right in pursuing the good, for as long as we are in pursuant we will never be wrong.

WHAT'S RIGHT WITH AMERICA

(Paul Froede, Houston Academy,
Dothan, Ala.)

Football is one example of what is right with America. Sometimes before a game, when I'm standing at attention as the flag runs up the pole, I'll look over at the other team, and see them saluting the same flag I salute, respecting the same country I respect. It's something to be proud of, to know that we are free enough to pit our forces against each other, body against body, and still love the same country to the degree of dying for it, side by side. The competition of the game is analogous to our party system. The analogy can be described as two teams, both vying for the most points, moving the ball to different sections of the field, trying to put their ball in the end zone. Finally when the game is over, the players overlook their injuries and reach out in friendship to shake the hand of the minute-ago opponent, knowing their battle was only temporary, and that their Americanism is always.

What's Right With America

(Shawn Patrick Henrikson, Robert E. Lee High School, Montgomery, Ala.)

In a world of ever increasing corruption of political leaders, America remains great, because the majority of our national, state, and local leaders still hold truth, honesty, and high morals to be more important than personal glory and wealth. In addition, our leaders improve our country by coming from all walks of life and from all economic levels; whereas, the leaders of other countries usually come from political backgrounds and upper socio-economic brackets. Many foreign leaders are self-appointed or gain their positions by right of birth; therefore, they do not truly represent the people of their nation. Our leaders are "of the people and by the people;" thus, representing the people as they work "for the people". The moral standards and priorities of our leaders, the diverse backgrounds of our leaders, and our American inheritance of democratically-elected leaders make our country great and assure us of the continuance of that greatness.

What's Right With America

(Susan Keith, Alliance Christian School, Birmingham, Ala.)

What's right with America?—Her people. America's citizens are her greatest asset, for they have formed her government, shaped her history, and molded her into what she is today—a truly great nation.

The pilgrim searching for religious freedom, the colonial soldier shivering at Valley Forge, the pioneer pushing westward into a harsh and unknown land, the inventor seeking to improve the quality of man's life, the twentieth century soldier fighting on unknown soil, the scientist experimenting to find an answer to man's questions, and the parent guiding his child in the light of God's word have each played an important role in the growth of our country from a newly-independent group of thirteen states to a nation of 220 million people two hundred years later. This growth would have been impossible without the sacrifice of the American people. Americans have sacrificed their time, their money, and their lives for the country they love.

In these times of doubt and disillusionment America's people stand as a shining example of true patriotism. Though times have often been difficult, Americans have been and continue to be the backbone of a free nation.

What's Right With America

(Lisa Spencer, Daleville High School, Daleville, Ala.)

Sir Winston Churchill once described democracy as "the worst form of government except for any other that has been tried". The American political system is founded on the principle of democracy. Our basic belief is that man is able to rule himself. Even while mistakes are made by the people in a democracy, the past two hundred years in the United States have shown that a democratic government can bring about the highest degree of individual freedom and progress known to man. No other government has succeeded as well in emphasizing the dignity and importance of each individual. Therefore, the American democracy, though it may have imperfections, is still unsurpassed by any other system of government in the world.

What's Right With America

(Lisa Williamson, Litchfield High School, Gadsden, Ala.)

First and foremost what is right with America is Americans. Everything that America is, was or ever will be is because of the actions and beliefs of the American people. Time and time again the American people have proven themselves worthy of the patriotism they claim in America. It was Americans who wrote the Constitution and assured everyone here those unalienable rights of life, liberty, and the pursuit of happiness. Although it was Americans who enslaved people, it was also Americans who freed them, gave them citizenship, and the right to vote.

Americans do not limit their good works to America. After two world wars Americans have helped beaten and torn countries to rebuild; they have sent not only financial aid, but, in many cases, food and clothing also. Every time mother nature chooses to inflict a disaster upon this earth in some form or fashion American aid is there.

The American people are truly America's greatest asset. No matter the circumstance, they always seem to be there to help. There are many great things about America, but like the Constitution and the Bill of Rights, they all link back to the people. Americans are truly one thing right with America.

SENATE NEEDS EARLY OAS REPORT OF HUMAN RIGHTS CONDITIONS IN PANAMA

Mr. STONE. Mr. President, at hearings on October 13 of Senate Foreign Relations Committee on the proposed new Panama Canal treaties, my colleague, Senator CASE (pages 9-45 to 9-46) said:

> I am disappointed in the reports so far from the Secretary of State in regard to the condtion of human rights in Panama. It does not seems to me to meet the requirements of the statute or the Congressional intent with which it was passed. I intend to pursue that myself.

That date's hearing summary pointed out that Senator CASE asked the Department of State to give the Foreign Relations Committee an updated report on human rights conditions in Panama.

On October 11, 1977, before the House International Relations Committee, the respected and prestigious civil rights attorney, David Carliner, expressed concern about that day's statement by William P. Stedman, Deputy Assistant Secretary of State for Inter-American Affairs, who said:

> It is gratifying that on September 13 the Panamanian government invited the Inter-American Human Rights Commission to visit Panama to investigate the varous charges of human rights violations which have been made and to report its findings. Torrijos promised that if any political prisoners were found, they would be released.

Mr. Carliner commented:

> Incidentally, although the Inter-American Human Rights Commission has completed its visit, its report is not likely to be published for a few months, and even then, only if Panama or the Council of the Organization of American States authorizes publication.

Mr. Carliner is a board member and associate treasurer of the International League for Human Rights. That oganization includes such present and past honorary president and vice presidents as Roger N. Baldwin, Rene Casin, Gunner Myrdal, Fenner Brockway, Jan Papanek, and Andrei D. Sakharov. On November 28, the Lawyers Committee of the International League for Human Rights wrote to the Organization of American States as follows:

NOVEMBER 28, 1977.

Re Panama.

Mr. CHARLES MOYER,
Inter-American Commission on Human Rights, Organization of American States, Washington, D.C.

DEAR MR. MOYER: I am an attorney at law and a member of the Lawyers Committee of International Human Rights. I am sending this letter on behalf of the International League for Human Rights.

We have reviewed a considerable amount of material and have conferred with several individuals who are familiar with the human rights situation in Panama. Based upon the foregoing, we have reason to believe that there are violations of human rights in Panama which warrant investigation by the mission which your organization will be sending to Panama. What follows is a brief summary of those alleged violations, together with copies of several supporting documents and references to other printed materials which are not annexed but which can be furnished at your request.

On the island of Coiba it is reported that there exists a penal colony where prisoners are allegedly subjected to inhumane treatment.

In Panama City is Carcelo Modelo, where prisoners are detained after arrest. Conditions there are reportedly brutal. Torture is reported to be practiced there as a matter of routine, particularly upon political prisoners.

The National Guard appears to be beyond the reach of the law. Arbitrary arrest, torture and illegal detention by the National Guard appear to prevail throughout the country.

Political prisoners can be held without trial for a period of 15 years.

With the exception of the recent debates preceding the plebiscite which ratified the Treaty, public assembly has been severely curtailed. Political parties and professional and labor organizations which oppose the government are prohibited. News dissemination is subject to government approval, and in some instances broadcasts have been interrupted and newspapers closed down for presenting anti-government views.

Many political opponents of the government have been exiled. Some have reportedly been assassinated; others have disappeared without explanation.

The constitution adopted in 1972 guarantees most basic freedoms and due process of law. In practice, none of the constitutional guarantees applies to political prisoners.

Article 277 of the constitution establishes General Torrijos as the "maximum leader" giving him full power for six years to make all major executive, judicial and military appointments.

Three cabinet decrees promulgated in 1969 are applied independently of the constitution. Decree 341 prohibits public meetings in Panama City and Colon. Decree 342 authorizes detention without trial for 15 years. In a recent statement made on November 12, 1977, the President of Panama publicly admitted that this practice is "not right." (New York Times 11/13/77). Decree 343 imposes self-censorship upon all forms of media.

In support of the foregoing, I have annexed copies of the following documents which should be studied carefully for factual details not fully set forth in this letter:

1. Manuscript of Leopoldo Aragon describing conditions at Coiba.
2. Statement of Leopoldo Aragon of his intention to immolate himself in protest against violations of human rights in Panama.
3. Letter dated 9/20/77 from Rose M. Aragon.
4. Letter (undated) from the Panamanian Committee for Human Rights to Amnesty International.
5. Statement of Antonio Poore dated September 15, 1976.
6. Resolution of the Inter-American Press Association (dated October 1977) and Report of its Committee on Freedom of the Press and Information concerning Panama.
7. Excerpt from New York Times article (11/13/77, p. 1) containing an admission by General Torrijos that holding political prisoners without trial is "not right."

Reference is made to Volumes I and II published by the Panamanian Committee for Human Rights in 1976, particularly Chapters 1 and 5.

Reference is also made to the testimony of Rose Marie Aragon and Winston Robles before the Senate Foreign Relations Committee on October 12, 1977, and the testimony of Winston Robles and Eusebio Marchosky before the House Subcommittee on Foreign Operations of the Committee on Appropriations on March 30, 1977. This testimony is quite detailed and informative as to alleged human rights violations which have occurred and reportedly continue.

We are still endeavoring to obtain further relevant information. If successful, we will forward such information to you.

It is respectfully requested that the onsite investigation to be conducted in Panama be directed to the reported violations referred to herein.

Very truly yours,

RICHARD NADELMAN,
Lawyers Committee.

Mr. President, as a member of the Senate Foreign Relations Committee, I, too, have found the representatives of the State Department less than candid on human rights abuses in Panama. I take this occasion to call upon the Organization of American States to send us their report on their November 29 to December 7 factfinding mission to Panama as early as possible.

PANAMANIAN INVOLVEMENT IN INTERNATIONAL DRUG TRAFFICKING?

Mr. DOLE. Mr. President, I feel the time has come to comment on the lack of cooperation I have received in my efforts to secure information on the possible involvement of Panamanian General Omar Torrijos in drug-trafficking operations. My efforts to gain copies of U.S. Drug Enforcement Administration files on this matter, through legitimate and customary channels, have met with delay and excuse at every turn. It is one of the best examples of "stonewalling" that I have had the misfortune to experience.

It has now been a full 2 months since I first filed a "freedom of information" request for copies of specific DEA files. To date, not so much as a single paragraph from those files has been provided to me by DEA officials, despite their repeated verbal promises that my request could and would be complied with. Let me briefly review the events surrounding this case.

EFFORTS TO SECURE INFORMATION

Mr. President, the Members of this body will recall that, on October 13 of this year, I advised the U.S. Senate of certain allegations I had received of direct involvement by Gen. Omar Torrijos and other members of his regime in drug trafficking in the United States and elsewhere. I suggested that these charges, if true, could prove relevant to the Panama Canal treaty issue. Certainly, the credibility and the personal integrity of General Torrijos and his colleagues would bear upon their reliability as Panama's guarantors of the new treaty; and, since ratification of these treaties would definitely strengthen the political and financial status of the Torrijos regime, it is important for us to know in advance if we will be bolstering a corrupt government which facilitates the transport of illegal drugs to our own shores. For that reason, I stated that the Justice Department should make its findings on this matter known immediately to Congress, prior to consideration of the treaties.

The following day, October 14, I filed a "freedom of information" request with the Drug Enforcement Administration, requesting access to 45 specific files which allegedly contain information on Torrijos' involvement with the drug-trafficking operations. At the request of the Administrator, I did not release those 45 file codes to the public media.

One week later, on October 21, I sent a second letter to DEA Administrator Bensinger containing excerpts from documents that were represented to me as copies of documents in DEA files. Those excerpts made specific reference to Omar Torrijos as being involved with narcotics and contraband traffic. I asked the Administrator to confirm the authenticity of those documents, and to advise me in writing as to whether the reports on Torrijos had been verified or disproven by DEA investigators. I have never received a response to that letter.

On October 26, I met with DEA Administrator Peter Bensinger on this matter. He advised me that some of the files in question had been turned over to the Senate Intelligence Committee. Mr. Bensinger further advised me that before any of the files could be turned over to me, they would have to be screened for removal of any information which might endanger national security or violate personal privacy rights. I acknowledged this, and reaffirmed my "freedom of information" request for those documents.

A phone call to my office on November 8 from the DEA Administrator's office advised me that I could expect to receive approved documents during the week of November 13. A week later, another phone call from the Administrator's office informed me that the documents would not be forthcoming as promised. This was attributed to special difficulties in securing all of the information I had requested. At that time, the Administrator's office was unable to advise just when I might receive the first delivery of some of the files I had requested.

Consequently, in accordance with established procedures under the Freedom of Information Act, I filed a formal appeal with the U.S. Attorney General on November 18. I advised the Attorney General at that time that I considered the information I had requested from the DEA clearly releasable under the Freedom of Information Act, and requested his review of the case. I also requested a written response from the Attorney General within 20 working days. Those 20 days have now elapsed without an official response to that appeal.

I also want to emphasize that it has been a full 2 months since my initial "Freedom of Information" request was submitted.

WHY THE DELAY?

Mr. President, it seems totally unreasonable that, at the end of 2 months, the U.S. Drug Enforcement Administration has not even been able to provide me with sanitized versions of the files which they agree I am entitled to under the Freedom of Information Act. And I think their delay and uncooperativeness on the matter can only fuel public suspicion about what those documents may say about the involvement of Panamanian General Omar Torrijos and his colleagues in illegal operations.

As a member of the U.S. Senate who is being asked to pass judgment on proposed Panama Canal treaties, I think I am at least entitled to a direct denial of my request if these files are not to be provided to me. Instead, the administration seems determined to extinguish the matter through procrastination and excuses. If this is their strategy, then they must accept the consequences of public opinion and Senate reaction.

Mr. President, I hope that the U.S. Drug Enforcement Administration, and the Department of Justice, may yet see fit to cooperate and comply with my legitimate request for access to files containing information on General Torrijos' involvement with drug-trafficking operations. But I have yet to see any evidence of an earnest effort on their part to facilitate my investigation of the matter.

WELFARE LEGISLATION

Mr. JAVITS. Mr. President, on Tuesday, December 13, the distinguished minority leader gave an address to the Institute of Socio-Economic Studies in New York City. I believe that Senator BAKER's incisive and thoughtful discussion of welfare reform as it relates to structural unemployment, demands an equally thoughtful consideration by Members of the U.S. Senate.

Mr. President, I offer Senator BAKER's address, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TEXT OF REMARKS OF HONORABLE HOWARD H. BAKER, JR.

There is in America today a quiet crisis which threatens to explode in anger and in violence at any time and at the slightest provocation.

It is more than an economic crisis, although the sinister symmetry of high unemployment and high inflation lies at its heart.

It is more than a sociological crisis, although it involves tens of millions of Americans whose persistent failure to lead independent, successful lives is an indictment of our whole social system.

It is, more than anything else, a crisis of the human spirit. It is a crisis in the heart of the father who cannot support his family. It is a crisis of the mother who cannot feed or clothe or house her children well. It is the crisis of the child who faces the bleak prospect of a life of fear and desperation and joblessness and crime and punishment.

And it is a crisis not only for those who live in poverty and despair, but also for those of us who live in prosperity and comfort.

We face the stern and demanding test of restoring economic stability and finally achieving true social justice in the United States of America.

We have learned, at last, that these are not two problems, but one—and one we must solve without any further delay.

The blackout in this city last summer demonstrated with awesome destructive power how desperate some of our citizens have become, how isolated they have become from the mainstream of our society, how much they have become strangers in their own land, how profoundly and consistently our system has failed to provide the initiative and the skills they need to live successfully in America.

This problem transcends any narrow concern of the ideologue. The liberal and the conservative have an equal stake in its solution, and neither can claim the crisis solely as the other's fault or the other's responsibility.

I noticed an editorial in the New York Times a few weeks ago that suggested that it would be wise to attack the problem of high unemployment separately from the problem of urban decay.

Although we may be obliged on occasion to deal with the symptoms of each of these issues individually, I believe that there is no way to solve the twin dilemmas of unemployment and the decline of the cities, without a productive and optimistic economic infrastructure. The only way to encourage that optimism, that in turn stimulates investment and productivity, is by creating the conditions for steady and stable economic growth and social stability.

Whatever kindles hostility among nations and within populations, whatever the roots of racism may be, it can surely be said that a solution to those problems is infinitely more difficult and probably impossible unless the system requires a large labor pool . . . a body of workers that adequately reflect the level of population . . . unless there is a sense of permanence about the underlying health of the economy . . . and unless we demonstrate the political and social competence to deal with its sea changes without casting millions of people into hunger and despair. The first to suffer that hunger, the first to be swept by that despair, are always the weakest, and those who have been historically deprived of the fruits of their labor. We cannot afford to ignore or fail to remedy the consequences of that racism that has stalked our national life from its very beginnings. More than a century after the Civil War, more than a decade after the great victories of the struggle for civil rights, our cities' ghettos are packed with social dynamite. The staggering forty percent unemployment rate among young black people and the unemployment rate of fourteen percent of all black Americans is intolerable, if only because it's morally, politically, and socially unfavorable.

When we talk about unemployment statistics and about hunger and about the welfare syndrome, we sometimes hide behind the numbers. A "rate" declines . . . or a "curve" expands . . . or we go from seven million unemployed to six million nine hundred thousands . . . the trouble with statistics like that is that they obscure the fact that we're talking about people . . . about individual human beings . . . the fact that there are millions of them . . . doesn't for a solitary minute reduce the anguish of each human soul stunted in growth and deprived of the possibility for meaningful survival. The simple fact is that those individuals are bewildered, frustrated and angered by the image of the good life as advertised in living color on the nation's television screens: that image has nothing to do with the aimless lives they live on the streets of our large cities, and they have little reason to believe that it will be more than a television picture to them or to their children.

At the same time as this new "under class" boils in resentment at their displacement from what they cannot help but see as the national feast, millions of other Americans are equally frustrated by the rising costs of government welfare programs, at the same time as their own paychecks are eroded by inflation and as they feel increasing uncertainty about their own ability to hang on to the good things of life.

One recent poll indicates that the American people believe that they will be worse off ten years from now than they are today. That kind of defeatism is self-fulfilling and its manifestations are clearly seen in the stock market, in faltering capital investment, in an unhealthy balance of trade and in a labor force that is literally split in two; those who have the skills necessary to operate the levers of an advanced economy and those who don't! Our largest problem . . . our largest secular sin, is the fact that we have so many of the latter. Let's not fool ourselves about the nature of the problem. There are jobs available. Good jobs . . . well paying jobs, and many of them are going begging. The trouble is that they are in the wrong place for those who need them and they demand skills that we have failed to provide to millions of men and women who wish nothing more than to do a good day's work for a good day's wages. Millions of unemployed Americans want jobs—not welfare handouts. There are dozens of illustrations of that desire. When Western Electric Company in Oklahoma City advertised that it would hire fifty-eight workers on a Monday morning, two thousand men and women stood in line . . . many of them all night long . . . in the desperate hope that they would be among those chosen for the available jobs.

For too long we have locked these men and women and their children into a recurring cycle of dependency. We have watched the welfare system grow into a labyrinth of new programs to accommodate the larger and larger burden of a population unable to find work and unable to train themselves for the work that is available. The welfare system is not an entity unto itself. It's an expression of what's wrong with American society. Welfare is a mirror that reflects the dark side of a great success story. Perhaps that's why we find it difficult to think clearly about its function, about what it can do and what it can't do.

We don't need or want a welfare system that perpetrates and extends dependency from one generation to the next. Neither do we wish to emplace a system that enlarges the welfare structure; that's one of the problems I have with President Carter's sweeping proposal. If it is enacted, more than thirty million Americans will find themselves receiving welfare related checks from the Federal Government and that signifies to me a society in decline. That is not the kind of reform that I believe the great majority of the American people will tolerate. Let us examine the welfare system and the conditions that have fostered its growth. Let us take those measures that will improve the performances of the services it renders and let us create an economic and social climate in which its impact will be diminished and reduced.

We have invested many years and billions of dollars in the welfare system. It has many faults and the necessity for improvement is dramatic and demanding. But the impulse to eradicate the structure in an attempt to improve the results is symptomatic of the "Let's start all over" school of government. I believe that we should strengthen the system rather than throw it out. Let us take steps to remedy its inequities, to tie the system closely to opportunities for productive work and to relieve State and local governments of some of the fiscal burden they now bear.

In fact, today's welfare benefit programs powerfully undermine the incentive to find work—to *earn* money. Keep in mind there are not just a few such programs. Research sponsored by the Institute for Socioeconomic Studies has uncovered 182 Federal income transfer programs at least partly designed for income maintenance. They involve 250 billion dollars in appropriations!

Cut off points and benefit reduction rates are part of many of them. Earning added income can severely penalize the welfare family. Because of the way welfare benefits overlap, an extra dollar of earned income can mean loss of *more* than a dollar of benefits. We must eliminate once and for all the outrageous discrimination against intact families in most States. No element of the present program better illustrates the gap between intent and outcome than the incentive that now exists for fathers to abandon their families.

We must end the senseless inconsistency in eligibility criteria among the many States. While continuing to recognize differences in costs of living throughout America, we, nevertheless, should establish standardized asset limitations and deductions from earned income. We must set a minimum and maximum benefit range so that no one receives Federal assistance below a specific floor nor above a certain ceiling. For example, we should consider a national minimum of at least sixty percent of the poverty line and a maximum of at least one hundred percent of the poverty line.

We must help the States and localities responsible for administering welfare programs. For too long, they have been called upon to shoulder the preponderance of the increased cost burden. We can relieve that burden by substantially increasing the federal match for AFDC to a potential ceiling of 90 percent. Under the terms of a bill that I plan to introduce with Senator Henry Bellmon of Oklahoma, New York City and other commodities in the state would save at least half of their present share of AFDC costs.

But the most important thing we can do is to call on the great private American institutions to play an increasingly active role in providing the jobs and training that will assist and encourage the poor to move on to the mainstream of productive economic activity.

No one has all the answers to a problem that has haunted American society for decades. The issues of high unemployment and equitable welfare costs and solutions must be debated and resolved in the public forum. I intend to cooperate to the fullest extent with President Carter in achieving meaningful reform of the welfare system. We will sometimes differ in emphasis and approach. That is part and parcel of the process. But those differences are just as important as our shared objectives in shaping the end result.

I must suggest this evening that the President's proposal for 1.4 million public service jobs in the context of his welfare reform package is at best an expensive placebo and at worst a long stride down the road to organized make work. Public service jobs have their place. But they are band aids for the wounded, not cures for the disease of structural unemployment. The scale of the President's proposal almost assures most of the participants another dead end, instead of a genuine opportunity to participate in the productive life of the nation.

I believe that the President of the United States and the leaders of both parties in Congress should convene a national employment conference of America's leading business institutions. (The so-called fortune 500) The chief executive officers of those companies and of America's major labor unions must be asked to formulate a plan whereby unemployed and untrained workers would be introduced into the labor force in larger numbers than ever before, and in the context of training programs that would assure them that these new jobs could lead to increasingly significant opportunities.

The United States Government should make an effort to meet the national employment emergency with a program of major tax incentives designed to stimulate business commitment to introducing millions of Americans into meaningful and productive work.

There is no reason why each of the major companies should be unable to absorb a substantial number of potential trainees and employees. A variety of initiatives can be taken individually and collectively by a broad based group of business and community leaders. But these initiatives will occur only if Government offers a helping hand, only if Washington listens as well as speaks. A national labor exchange linking jobs to applicants from every part of the country might be developed in the context of travel subsidies for those who are willing to pull up stakes to make a new life. We should encourage people to go where the jobs are, at the same time as we plant the seeds for new economic growth where our working population lives.

We tend to forget in Washington that there are enormous resources of creativity and competence in the cities and towns across this country. Helping to create circumstances in which those resources can be put to work is the most important job the Federal Government can do. Here in New York, the Bedford Stuyvesant restoration corporation in Brooklyn, has worked steadily and effectively since its foundation eleven years ago under the sponsorship of Senators Robert Kennedy and Jack Javits, to improve the community itself and to create new businesses and new jobs for the people who live there. Of course they have only scratched the surface of the problem, but one major American corporation, IBM, has located a major facility at Bedford Stuyvesant. That experiment proved so successful that IBM decided last month to put up still another plant in the Bedford Stuyvesant area . . . A direct result of an effective working relationship between a community enterprise concerned with developing and utilizing community resources and a business that has linked its economic interests to its corporate citizenship.

I believe that if President Carter issues the call for a national employment conference, we will see the seeds planted for a multitude of similar relationships between business interests and local community services.

Let us lay the problem before those who have the most to gain from a solution. Let us help them to achieve local and regional answers to a national crisis in accord with local and regional needs, desires, aspirations and capacities.

Senator Bellmon and I intend to offer legislation that would create a jobs voucher program and a major expansion of job creation tax credits. But that is only a small part of what's needed. Our major efforts should be in the active encouragement of business and organized labor to develop the programs that we need to eliminate the problem of endemic unemployment, and to tell us the legislative framework that they need to get the job done.

A national employment conference is only a first step. I would hope that it would result, among other things, in the creation of a broad based jobs commission to monitor and implement the conference's recommendations. Such a commission might be similar in organization to the National Commission on Water Quality, which has had major influence in the improvement of the environment. In that particular case, five members of the House of Representatives, five members of the U.S. Senate and five public members, appointed by the President of the United States, provided the impetus for a realistic and effective implementation of environmental goals. Certainly the employment crisis is worthy of an effort of even greater dimensions.

I have intended this evening to convey my belief that the problems we face are soluble, if we put our faith and trust in the ability of the American people to determine their own destiny.

I don't believe that there is a single blueprint or a magic wand that would solve all of our economic and social problems. Too often such blueprints are drawn in Washington with a precision that fails to reflect the essential untidiness of a process in which large numbers of people must contend with large social issues. I believe that untidiness is the mark of a creative and innovative people. If we remove the constraints of over regulation and if we develop new institutions and new mechanisms where the people live and where the people work, to do the people's will, the statistics that trouble us as harbingers of social upheaval will change for the better. I know that we're not going to place seven million, or two million of the unemployed into productive work overnight no matter how good our intentions, or how total our commitment. But let's make a meaningful beginning.

What we must avoid above all else is the creation in the United States of what Disraeli called more than a century ago . . . "two Englands," the rich and the poor. In our time and in this land, there is no room for "two Americas." Advancing media technology has brought and will continue to bring social injustice and human despair into the homes of every one of us, no matter how cushioned we may be from the personal pain of standing in an unemployment line or waiting at a welfare center. In the past, there have been many silent tragedies played out in social silence. We knew nothing of them and so, to some of us, they simply didn't exist. But in 1977, we cannot permit the untrammeled growth of an American underclass. Of course, there have always been the underprivileged among us (whether we have seen them or not), but there has also always been room at the top, in the middle and on every rung of the ladder along the way.

If this is in part a myth, it is a myth that must become the truth for today and tomorrow. If we are to end this quiet crisis of alienation and despair, we must respond to those who cry out . . . "we're Americans, too . . . we belong" . . . with the recognition that they are and that they do.

REPORT TO THE PEOPLE OF MISSISSIPPI FOR 1977

Mr. STENNIS. Mr. President, as the end of the 1st session of the 95th Congress approaches, it becomes my privilege once more to make a report to the people of Mississippi. My purpose is to tell them of some of the matters on which I have been working this year, and which I think may be of particular interest to them.

This report also gives me the opportunity to thank the people of Mississippi for the trust placed in me as Senator, and for the gratifying way in which they have given me their assistance, encouragement, and support. My thanks also go to the other members of the Mississippi delegation in Congress for their cooperation and helpful teamwork in various legislative matters. My office staff, although relatively small, has worked hard and effectively, I believe, on your behalf, and I appreciate their diligence and loyalty. The committee staffs with whom I work are also due my thanks.

This year has been, of course, the first year for a new President, and the new cabinet secretaries and new agency heads who have accompanied him into office. As is inevitable, it has been necessary to have what might be called a familiarization period during which the members of the new administration have learned to know each other, and to become acquainted with Congress.

In a sense it has been a testing period also, during which those in the new administration have tested their relationships with Congress, and have established their concepts of where the dividing lines are between matters that can be undertaken unilaterally within the executive branch, those that are more properly within the prerogatives of Congress, and those that must be worked out cooperatively between the two branches. This orientation period appears to be over, and a working relationship is being established that promises to be effective in the future. I trust this will be the case. Confrontations within Government may sometimes be necessary, but as a general rule they are not conducive to effective and timely actions.

Looking back to the beginning of 1977, I would define the three foremost domestic problems facing our Nation as inflation, unemployment, and the need for a strong national energy policy. As the year reaches the end these three remain our greatest problems, although progress is being made. Inflation has been dampened somewhat, although it is still too high, and it is necessary for the Government to temper all its actions with the fact that inflation is the greatest single threat to the prosperity of the average American family.

Some progress is being made as to unemployment, also. Programs established by legislation are getting underway and effects are being felt. Major relief in providing jobs, however, must come within the private sector, through business expansion. The present period of business growth began about 31 months ago, and historically, such growth periods tend to last much longer, so the prospects for the coming year look bright for more business investment and more jobs, barring unforeseen world or national events.

Progress has been made also toward agreement on and implementation of a national energy policy. I will discuss these steps elsewhere in this report, in more detail. What has been done is a start, at least, in what has been vitally needed and what must be pursued forcefully in the years to come.

Domestic problems are not all we must cope with, of course. The world changes around us, and our Nation must adapt to those changes, as well as attempt to influence them for the best. How to influence them is what makes up foreign policy, and this has been a somewhat trying year so far in this regard. The relationships between nations are volatile, and sometimes unpredictable in terms of our own strong persuasions and deep-seated beliefs. We can demonstrate our beliefs by attempting to set an example, which we do quite well, although not without our own failures. We cannot, however, impose our standards on others, just as we cannot impose upon them our form of government.

I view our foreign policy endeavors in the coming year as extremely important. The President has set in motion a great many initiatives in this field—perhaps more than should have been undertaken simultaneously. How well they are carried forward in the next year will have potentially profound effects for perhaps many years, and the Senate will have heavy responsibilities in meeting its share of this task.

So again, as is the case in looking back at any year, there are accomplishments in government to view with satisfaction, and other matters which must be improved on in the future. Nevertheless it has been a year of constructive effort. Of the occurrences of the year, and of the work of the Congress that I consider of most interest to Mississippians, I submit this report, under several headings, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT

ENERGY MATTERS

The Congress quickly approved the President's recommendation that a new Department of Energy be established. This newly created agency is still being organized and consolidated. It inherited formidable and extensive powers from the Federal Power Commission, the Energy Research and Development Administration, the Federal Energy Administration, and other agencies.

The President sent to the Congress a comprehensive national energy plan which included a wide collection of conservation and regulatory programs as well as tax and nontax incentives and disincentives. The House and Senate passed widely divergent versions of the President's plan. The differences are now in a Senate-House conference and will not be resolved this year.

There are a number of major areas of disagreement between the Senate and the House in the energy legislation which has been passed separately by them. Some of the more important issues which are in conflict are mentioned below.

The Senate voted to remove price controls from (or to deregulate) "new" natural gas and declined to extend regulation to intrastate gas. The House adopted the President's recommendation by voting to raise the price of natural gas while keeping it under control and to extend regulation to intrastate markets.

The House voted approval of the crude oil equalization tax at the wellhead and to rebate this tax to the public. The Senate rejected this tax. The Senate and House both voted for modified versions of the tax on the industrial use of oil and natural gas. However, there are sharp differences in these versions with the House bill being more comprehensive.

I believe that this country must have a definite, positive and affirmative energy program. Therefore, I hope that early next year the conferees will agree on a plan which can be adopted and approved by both the Senate and the House, and which will serve the national interest and promote the national welfare in this critical field.

THE NEW FARM BILL

The new Farm Bill passed by Congress in September is one of the most important bills considered by the Senate this year. Agriculture is the largest industry in the United States. Together with the industries that support it, farming accounts for a fourth of our gross national product. The number of people working in agriculture equals the combined employment of the steel and automobile industries, plus all workers in transportation industries.

The productivity of American agriculture is a matter that basically concerns every citizen of the nation, and further is a key factor in the survival of many of the people who live in the hungry nations of the world where food requirements exceed production.

The bill as it was signed into law contained a number of compromises between Congress and the President, who had threatened to veto a bill that did not meet certain criteria he proposed. It will result in improved farm programs in comparison with the present ones, but in a bill of such broad scope it is inevitable that there are aspects that do not fully satisfy all who are engaged in agriculture or involved in the legislation.

It is a bill to cover four years, beginning next year. I particularly welcome the fact that target prices, the floor prices at which crops will be supported, are to be set at the cost of production. This does not guarantee a profit to the farmer. It just means that what he harvests he need not sell at a loss.

I suppose no farmer ever harvests as much from his acreage as he hoped he might when he planted it. He is fortunate when he can harvest a reasonable expectation—his average yield over recent years. Too frequently he may get much less than that, because of the vagaries of weather and the onslaughts of insect pests and other hazards. With all these factors working against him it is not too much to ask that what he is able to raise be sold at what it cost him, and not at a loss. For profits he is still going to have to look to his own skill, good luck with weather, and a good world market price.

I say world market price because of the importance of exports in disposing of our agricultural production. Conversely, of course, to much of the rest of the world access to American grain, at least in bad crop years elsewhere, is absolutely essential. Our export markets are needed to maintain a reasonable balance of trade, they are needed by the farmers so they can continue the present policy of maximum production, and they are needed by American consumers because maximum production means lower unit prices to domestic users. The P.L. 480, Food for Peace provisions of this bill are an important part of export marketing.

Also important is the provision for establishing farmer held wheat reserves, using extended loans. Given the vagaries of the world climate in recent years, and steady demands of the export market, it is prudent that we establish a reserve. It protects our people, and it protects the farmers against export embargoes that might otherwise be considered if carryover stocks become dangerously low. It goes without saying that when you create reserves you must also create safeguards against destroying market prices by dumping reserves, which is done in this bill by triggers geared to the loan levels.

Extending farm commodity programs for four years is proper, for farmers need to know where they stand for a reasonable number of years ahead. The farm disaster programs, which come into play when drastic drought or floods affect farming areas, are extended two years. They need evaluation and revision and ultimately are expected to be replaced by comprehensive crop insurance programs.

The food stamp program is included in the Farm Bill only because it is administered by the Department of Agriculture. The Senate bill would have extended the program for only two years. That certainly is long enough, in my view. There is disquiet in the nation about this program because of extensive abuses. It was a minor program when it started, and it became open-ended and ran away with itself. However, in conference the four-year extension proposed by the House was accepted. The bill does remove food stamp eligibility above certain income levels by using standard deductions, and efforts are made to reduce fraud and abuse by increased penalties.

The bill does away with the requirement that recipients pay cash for part of their stamp allotment. This change, recommended by the administration, raises grave doubts in my mind, and members of the Senate were divided in their views on this. Food stamps started out as a means of bringing balanced nutrition to families of limited means. It has now gone full circle to join the welfare system as a payment in lieu of cash. It is just another means of income redistribution, and we might as well recognize it as such.

Congress is going to have to come back to this subject, and go over it again very thoroughly, preferably next year.

One of the difficult things about farm legislation is that it is not well understood by many citizens, particularly those in large urban areas, who are so heavily represented in the House of Representatives. Good farm legislation is important to every consumer, perhaps more so to him than the farmer himself. I wish all consumers knew that the farmers are their allies, not their adversaries. I wish they all knew that there is nothing in this bill for the beef producers, for example, who are trying to ride out an extremely difficult market cycle, and their degree of success is going to be very important to the public. I am afraid that long after this bill became law there will still be many, many people who believe farmers get paid for not growing crops; many people who believe that the high retail price they pay for food is going into the farmers' pockets; and too few people who realize that the farmers' return on investment is much less than in other industries.

The farm commodity support programs are good for the consumers, for they protect the source of their food supplies. They protect the farmers against catastrophic market conditions, and put him on his own, like any other businessman, when it comes to making profits. The 1977 Farm Bill insures that these programs will continue for another four years.

WATER RESOURCES PROJECTS

In my capacity as Chairman of the Public Works Subcommittee of the Senate Appropriations Committee it is my responsibility each year to see that a bill is brought before the Senate to provide the annual appropriations for Federal water resources projects. This requires extensive hearings, where testimony is received from the Corps of Engineers, the Bureau of Reclamation, and the Tennessee Valley Authority. Then public witnesses, either individual citizens or civic organizations, present their views, pro or con, on each of the projects under consideration.

The Subcommittee then presents a proposed appropriation bill to the full Appropriations Committee, and the bill then goes to the floor, where I am the floor manager for the legislation until its passage. Thereafter we must go to conference with the House to resolve differences and it is my duty to lead the Senate conferees in the conference discussions, and to bring back the conference report to the Senate floor for final passage.

This year this procedure was unusually complex and difficult. Soon after assuming office President Carter announced a list of water projects which he stated he intended to stop as being economically unsound or environmentally undesirable. The list was established and the announcement made without any consultation with Congress, where many of the listed projects had been under consideration and careful study for several years. The many interested members of Congress were understandably surprised at the precipitous action, and some felt that the President had received inadequate and sometimes erroneous advice from inexperienced but zealous staff appointees with preconceived opinions.

In any case the President had committed himself publicly, and a confrontation appeared inevitable when he announced that he would veto any appropriation bill that contained money for these particular projects.

The House acted first, as it does on all appropriations bills, and not only appropriated money for all the projects on the list, but also voted to start a substantial number of new projects as well. This was the situation faced by the Senate Public Works Subcommittee when it met to prepare the Senate bill.

It has been my experience that in a confrontation between the President and the Congress little is gained. Vetoes may or may not be overridden, but time is lost and the projects suffer. Then the procedure may have to be repeated the following year. It is much better to try to work something out that both parties can live with, and get on with the construction of needed projects.

In the Subcommittee we established a set of criteria which had to be met by a project in order to receive funds for fiscal year 1978, and applied it to all the projects on the President's list. Those that did not fully meet the criteria would not be eligible for funding until fiscal 1979. We also agreed that there would be no additional new construction projects started in the coming year. Planning of some new projects, however, was approved and funded.

On this basis we brought the bill through committee and to the floor. The situation was complicated because the bill contains the appropriations for the Energy Research and Development Administration, as well as water projects, and the neutron warhead and the proposed Clinch River breeder reactor were items of strong controversy. After strenuous debate the bill was passed, and I took it to conference with the House. Again there was considerable debate, but in the end the House conferees agreed that it would be best to adopt the Senate bill, which we believed the President might agree to sign. The conference report was agreed to by the House and Senate, and the President did in fact sign the bill, although he repeated his objections to some of the water projects in the bill.

One of the projects on the President's list was Tallahala Dam, which is to provide flood protection below the dam and water supply for Laurel. This project met the criteria in the Senate subcommittee and remained in the bill, as signed, to be funded for construction with $5 million for fiscal year 1978.

I was particularly pleased with the outcome of discussions on the Tennessee-Tombigbee Waterway. This great project was on an originally long list of projects which the President questioned, and on which he sought further information. A public hearing on the Tennessee-Tombigbee was held by the Executive Branch, and the economic and environmental justification thoroughly analyzed. Based on this careful examination the President agreed that the project has full approval and shall proceed as scheduled. This should ensure the progress to completion of this vital regional project.

The Tennessee-Tombigbee was budgeted for $157 million. The House added $7 million and the Senate $8 million more, to a total of $172 million, which is the full capability of the Corps of Engineers for fiscal 1978.

I receive regular progress reports from the Engineers on the Waterway. I am glad to say that the recent reports show that fine progress is being made, and I have verified this by personal visits on the ground. The recent bids, especially for excavation, have been lower than hoped for. This means that other contracts can be let sooner than planned, and some parts of the project are being moved forward as much as two years on the schedule. Highway bridge construction by the State is on schedule, so that the Waterway work is not delayed in any way. The progress of the Tennessee-Tombigbee, and the clarification of its fully approved status are very gratifying.

I am pleased also that many other Mississippi projects were funded in this bill. We provided substantial increases for the flood control work in the Yazoo River Basin, and the first money was included for planning the Yazoo River navigation project. Increases were made for the Mississippi River main levees and for the navigation channel work. Further project studies on the Gulf Coast were funded, and maintenance money provided for harbors. For TVA, $17.6 million was provided for the Bear Creek system in East Mississippi and Alabama. Many other smaller but also vital projects were funded in the bill.

This has been the most difficult appropriations bill for water resources projects that I have encountered since becoming Subcommittee Chairman years ago. I am very gratified that the situation has been resolved and that our Mississippi projects are proceeding on and ahead of schedule.

MISSISSIPPI ARMY AMMUNITION PLANT

As Chairman of the Senate Armed Services Committee and as Acting Chairman of the Defense Subcommittee of the Senate Appropriations Committee, I worked long and hard this year, with the help of others, to remove legislative restrictions on and to secure additional funds for the construction of an Army ammunition plant at the National Space Technologies Laboratory in Hancock County. Although $45 million had been approved by the Congress in 1975 for the construction of the ammunition plant, a provision of the law prohibited the use of this money for the construction of new ammunition plant facilities except in areas where existing ammunition plant facilities were being closed or where production had been curtailed. This was not the case, of course, in Hancock County. The Army testified that of the 91 sites they examined, the Bay St. Louis facility was the most cost-effective. We were successful in getting the Congress this year to review the situation and to approve an additional $8 million for construction of the facility as well as to remove the restriction on the $45 million previously approved, making a total of $53 million available to begin construction of the plant in Hancock County. Construction will begin early next year.

The Mississippi Army Ammunition Plant is an essential element in the Army's program to modernize and upgrade this country's capability to produce military ammunition. There is a strong need to modernize our ammunition production capability. Ammunition is the backbone of our land forces in Europe.

The Mississippi facility will mark the beginning of a new concept of ammunition production. Rather than have parts of the ammunition produced at several sites, shipped to and assembled at yet another site, the Mississippi plant will handle the entire manufacturing and assembly operation at one site. This promises a tremendous cost savings to the Federal government and, thereby, to the American taxpayer.

In addition to construction employment to build this $400 million facility, this ammunition plant I believe will create 1,000 to 1,500 new jobs in the area. The facility would employ 2,000 to 3,000 people should military requirements call for maximum production. I am extremely pleased with the additional jobs that will be created for Mississippians and the long-term benefits that this new plant will bring to the area.

FORESTRY PROGRAMS

Our forests are of course one of our best resources in Mississippi, and forest products are among our leading industries. It is natural therefore that over the years I have taken a very strong interest in forestry matters, such as the Forestry Incentives Act of 1973.

The demand for wood in the United States is expected to double in the next 30 years, and most of it is going to have to be grown on small, privately owned non-industrial tracts. To accomplish this end, a Federal program of incentives was essential.

In 1972, I introduced the Forestry Incentives Act, and it was signed into law in August, 1973. It provides cost sharing of 75 percent by the Federal government for planting seedlings and for timber stand improvement. The first money became available in February, 1974, and the program has been very effective and successful in Mississippi.

Later in 1974 the State Legislature passed the "State Forest Resource Development Program," which is financed from timber severance tax. The two programs complement each other very well, and I think that it is safe to predict that within a few years over a million acres of our forest land will have been planted, or the timber stand improved. The State Forestry Commission and its staff is providing very efficient leadership, through county foresters, in making Forestry Incentives a success.

One of the problems involved has been the reluctance of the administration to budget the Federal funds for Forestry Incentives. Consequently Congress has had to add the money, and there were subsequent efforts by the administration to rescind or defer the money. The efforts were always prevented by Congress, but they meant delays in funding which sometimes caused all or part of a planting season to be missed.

This year Congress again added $15 million to the Agriculture Appropriations Bill for Forestry Incentives for fiscal year 1978, and also directed that $7.5 million in previously appropriated funds be obligated as well. I feel that in this current fiscal year, which began October 1, we can build up confidence in the stability and continuity of the program which has so often been shaken by administration resistance. Once this has been done we can seek a higher level of annual funding, perhaps to $25 million, and can expand the program to meet the demands for food products that must be met in the future.

Another necessary action to increase wood production and the effectiveness of forest management is to increase forestry research. This is an effort which must be shared between industry, the Forest Service, and the State colleges and universities that conduct forestry instruction at the graduate level.

The latter is a very important part of the research effort. In 1962 I was the co-author of legislation on cooperative forestry research, together with then Congressman McIntire of Maine. The resulting research has become known as the McIntire-Stennis program.

Under this program research in forestry-connected endeavors is carried out at 61 state universities and land grant colleges throughout the nation. The research is carried out by graduate students, working under professionally qualified supervision. It is financed on a 50-50 cost sharing basis, half by the Federal funds, which are runing about $9 million a year now, and half from State or industry funding. This has been an extremely successful program. It has the enthusiastic support of the universities, industry, and the Department of Agriculture, which administers the program. I am confident that it will continue to grow and prosper, and as one of its founders I am proud of its success. Ultimately it must become equal in magnitude to the very substantial research efforts in the Federal forest laboratories, and I intend to continue to seek the necessary increases in annual funding.

The Federal forestry research is at a stage where it needs new legislative authorizations and guidance. In May of this year I co-sponsored, with Senator Hubert Humphrey a bill to accomplish this. The bill is now under consideration by the Senate Committee on Agriculture and Forestry.

The passage of comprehensive forestry legislation in the last two Congresses establishing national forestry policies, and the passage of time since the basic law on forestry research, make it very appropriate that the research legislation be brought up to date.

The bill Senator Humphrey and I introduced will be an additional title to the Forest and Renewable Resources Planning Acts of 1974 and 1976.

The bill will repeal the McSweeney-McNary Act of 1928, which has served well as basic authority for research on forestry, but needs to be broadened in some ways and made more specific in others, in order to meet the objectives established by the legislation of recent years.

The Renewable Resources Planning Act requires specific processes for assessment, program, and planning purposes, and our bill provides for research to improve those processes. It is also aimed at the expanding scope of multiple-use forest management for environmental purposes, and it recognizes the growing importance of forestry research to meet urban needs.

The bill gives the Secretary of Agriculture better flexibility and broader authority in cooperative research efforts and the acceptance of contributions thereto, it stresses weather, climatic, and other environmental conditions as they affect forests, and it recognizes the great importance of rural community fire protection.

The McIntyre-Stennis grants will continue In addition, this bill will specifically authorize the Secretary to make competitive grants for forest and rangeland research, and permit him to involve selected sources across the scientific community. By competitive grants is meant not only a dollar comparison, but the inclusion of qualitative factors.

This bill will strengthen forestry research that is aimed at the objectives set forth in the Forest and Rangeland Renewable Resources Planning Act. It will help to show the nation how to attain the growth in forest productivity that we know we must have in the foreseeable future, and it will improve research management and cooperation.

I am confident that in the coming session this new forestry research bill will be passed by the Senate, and I am hopeful that the House will also act and that the legislation will become law in 1978.

THE NATCHEZ TRACE PARKWAY

The increased rate of construction on the Natchez Trace Parkway is encouraging, although I will not be satisfied until a firm plan is adopted to complete the entire length in a period of five years.

This year, for the first time in many years, the administration included money for the Natchez Trace in the annual budget request. The amount of $29.2 million was requested for fiscal year 1977, and was appropriated by Congress.

In preceding years the Department of Interior consistently declined to request money for the Parkway, and in fact resisted the efforts of Congress to appropriate money to keep construction progressing.

In spite of this resistance however, with the help of others I have been able to add money for the Natchez Trace each year. In the last three years a total of $26.1 million has been added by the Senate Appropriations Committee, and approved by the Senate. In each case it was necessary to surrender a part of the amount, which was larger than in the House bill, in conference. We were able to keep a total of $20.2 in the three years, and the construction has been progressing well.

This year the Senate added another $8 million through my amendment for construction in fiscal year 1978, and this was agreed to by the House.

Further there is a commitment from the Carter administration that they will submit requests in 1979 and 1980 for $26.7 million under the Bicentennial Land Heritage Program. This is a nationwide effort to improve facilities in the National Parks, and I am certainly pleased that the Natchez Trace Parkway will share in the program.

The progress is good, but there is much work to be done, in Tennessee and Alabama as well as Mississippi. I intend to continue to press for a five-year plan to fully complete the Natchez Trace.

APPALACHIAN COMMISSION PROGRAMS

Portions of 13 states are included in the area covered by the Appalachian Regional Development Act of 1965. Within that area, the Appalachian Commission sponsors programs to further economic development, education, and health care.

As the 1965 Act was originally passed, Mississippi was excluded, but by an amendment which I sponsored in 1967 the 20 northeast counties became eligible to participate in these programs. Since then over $61 million in Appalachian Commission money has been spent in our State, with matching funds coming from other Federal programs and from State and local sources.

About a third of the money has been spent in education, and another third in community facilities, for the most part for water and sewer facilities. A sixth went for health projects, and the rest for child development, recreation, and transportation. In addition there have been substantial investments in highways, especially access highways for economic development purposes.

Also the 1965 act authorized socalled Appalachian development highways, which are major highways linking population centers in the Appalachia area, and connecting with the Interstate Highway System. Because Mississippi and Alabama were not included in the original act we did not receive an allocation of development highway mileage. However, after considerable effort this was rectified three years ago. Now a development highway under Appalachia programs is authorized, and will run from Huntsville through Tupelo, and join I–55 west of Oxford.

The budget requests for Appalachian program money are sent to the Senate Public Works Appropriations Subcommittee, of which I am chairman. We hold hearings and recommend to the Senate the amounts to be appropriated for the various programs. In this way I have an opportunity to see that the programs are adequately funded, and to monitor the way in which the appropriated money is expended.

Within the 20 county area many fine vocational and technical education facilities and health care facilities have been provided, as well as other projects intended to stimulate the economy and enable the people to take full advantage of the additional economic opportunities presented. These authorizations and the funding of them are important to our State and will continue to receive my attention and strong support.

NAVY SHIPBUILDING PROGRAM

Our Navy today stands at a critical turning point in its history. Having witnessed a steady decline in the number of ships in commission, both the Navy and the Congress must wrestle with the question of what kinds of ships will be built in the future.

As our first line of defense, our Navy must be flexible in order to fulfill its double mission of providing military superiority and presence overseas, as well as keeping the oceans open for commercial and military traffic of all kinds.

I am convinced that in the areas of really vital concern, our Naval forces today are superior to any in the world, but we must face the fact that Russia is now a major naval power. We must take prompt and decisive action to provide our Navy with the ships, weapons and weapons systems necessary to fulfill its missions.

Our Senate Armed Services Committee this year authorized, and Congress has appropriated, funds for 18 new ships. In so doing we gave the Navy several choices and insisted that both the Navy and the Administration make basic and fundamental decisions as to the course they desire to follow with respect to future ships.

However, we must keep in mind that we cannot build a modern Navy merely by passing bills and appropriating money. We must have naval and civilian executive officials who will make decisions and then wisely use the money the taxpayers and the Congress have provided.

Shipyards utilizing innovative techniques and dedicated workers and management will be needed to build the Navy of the future. Certainly Ingalls Shipbuilding in Pascagoula will play a significant role in this process.

Primarily because of the success of the Spruance Class destroyer program, I have a strong belief that Ingalls Shipbuilding will be successful in obtaining a reasonable level of new business. Ingalls has now completed preliminary work and will be in the competition for the contract to build the DDG–47. This ship has a hull and propulsion system based on the Spruance destroyer, but incorporates brand new weapon systems.

Another possible off-shoot from the Spruance construction program is being given consideration for development of an air-capable DD–963 with extended accommodations for additional helicopters and possibly aircraft with short take-off and landing capabilities.

Additionally, this shipyard is interested in major ship conversion programs such as the updating of the DDG–2 class of guided missile destroyers, a program that is ideally suited to Ingalls because of its extensive destroyer experience and capability.

I will continue to lend my full support to providing funds necessary to build the Navy of the future and utilize the proven capability of our privately owned shipyards.

THE CONGRESSIONAL BUDGET PROCESS

The Congressional Budget Act of 1974 established for the first time procedures by which Congress can establish its own limitations and priorities on Federal expenditures, independently of the budget submitted by the President each January. These procedures have been put into use gradually, and are now in full use for the present fiscal year.

Under the Act Congress must pass two budget resolutions each year, one in May and one in September, establishing a budget for the upcoming fiscal year which begins 1 October. The first resolution, made after reviewing the President's proposed budget, estimates Federal revenues for the year, and sets limits on the size of the various appropriation bills. After the latter are passed during the summer, and expected revenues again estimated, the second resolution is adopted either reaffirming or revising the earlier resolution. This establishes a binding ceiling on expenditures and a floor on anticipated revenues.

As the new system became fully operational, the process established clearly that the system can be effective, but the full potential of this process has not been realized. In September the Senate adopted the Second budget resolution for fiscal year 1978 accepting and confirming federal outlays and expenditures of $458 billion and a deficit of more than $61 billion. The public debt was projected at $775 billion.

My vote for the resolution was an endorsement of the new budgetary process, but not an endorsement of such a huge deficit and public debt. The Congress must do a better job in holding down the deficit in future years and working toward a balanced budget. However, we must not let ourselves fall victims to thinking that simply because a proposal comes under the arbitrary ceiling, that in itself is sufficient justification for its approval. The limits so set should be considered as ceilings on spending, rather than both a ceiling and a floor. The best way to reduce the federal deficit and bring about a balanced budget is to keep the expenditures as far below the ceiling as possible.

If diligently supported over the years these procedures will bring about a balanced budget. Frankly, this will take several years, but the new system is sound.

An issue which has been extensively debated in Congress this year is the question of the amount of user charges to be imposed on barge traffic on inland waterways. The Senate and the House have both passed bills addressing this question, but they differ substantially, and the differences had not been brought to a vote on the floor of the Senate when the session ended. I anticipate that the matter will be brought up again early in the next session.

User charges have been under consideration for several years, and heretofore the debate has been whether any such charges shall be imposed. I have opposed them as being inflationary and expensive to the average American consumer, to whom they would necessarily be passed on by the barge line operators, who operate in a highly competitive business.

Now, unfortunately, the question has become not whether such charges are proper, but how much they shall be. This has been brought about by a combination of circumstances which include the urgent need to replace a lock and dam near St. Louis, and the President's announcement that he will not permit this unless user fees are imposed on barge traffic on all waterways.

In my view the two issues are separate and one should not be made hostage to the other. It is a matter of general agreement that Lock and Dam 26 at Alton, Illinois, is dangerously obsolete, and that it must be replaced because it is a vital link in traffic moving on the Mississippi River and the Illinois Waterway, which goes to Chicago and the Great Lakes. The President has said, however, that he will veto a bill to authorize its replacement unless it is accompanied by user charges.

Obviously the imposition of user charges is too weak to stand on its own feet as an issue, and Lock and Dam 26 is being used as leverage to pass a measure which would otherwise not have the necessary votes.

The need for Lock and Dam 26 is so urgent that both the Senate and the House have passed bills authorizing a replacement and imposing user charges. The Senate bill, which I voted against, has charges that will become very large over the next several years. The House bill is much more moderate, using a tax on diesel fuel, initially 4 cents a gallon on diesel fuel, increasing later to 6 cents. I intend to support this moderate charge.

In the next session the Senate will consider the bill passed by the House. The Senate supporters of high user charges will attempt to so amend the House bill. Whether they will be successful cannot be predicted, but I will oppose the effort. Little is known of the economic effects of waterway user charges, but they can be profound, especially on grain movements for export and farm production in general. It is prudent to start with a low charge, under such circumstances, although I would prefer to see none at all.

The bitter controversy over user charges and Lock and Dam 26 has delayed consideration of a number of other authorizations for water resources projects. Included are three in Mississippi: the deepening of Gulfport Harbor, periodic dredging in the Yazoo River, and a study of stream flooding in the Buffalo River-Bayou Pierre area. These three have passed the Senate but are not in the House bill. I am hopeful that they can be added when the House bill is debated in January or February.

APPROPRIATIONS FOR MISSISSIPPI PROJECTS

Elsewhere in this report, in my discussion of committee work in the Senate, I mention my membership and responsibilities on the Appropriations Committee, and comment on the fact that this gives me an opportunity to participate in specific appropriations that directly affect Mississippi. I thought you would be interested if I were to list those items in appropriation bills passed this year.

Of course every such bill, whether it be for education, health, housing, highways, and so forth, contains lump sums which are divided between the states by various formulas which are set forth in the authorization bills. In that sense there are thousands of appropriation items that affect Mississippi. However, there are many that pertain particularly to our state, and to which I gave individual attention as the various bills were agreed upon in committee and passed on the Senate floor. The partial list below will probably contain items that are of some direct interest to each Mississippian who may read this report.

The first appropriation for the new Army Ammunition Plant in Hancock County.

$15 million for the Federal Forestry Incentives program.

McIntyre-Stennis Cooperative Forestry Research at Mississippi State increased.

Fire Ant program funded.

Increased funding for rural water grants and loans, and rural housing loans.

$100,000 increase for the Oxford Sedimentation Laboratory.

Two appropriations, $29.2 million for fiscal 1977 and $8 million for fiscal 1978 for the Natchez Trace Parkway.

$1.8 million to finish the National Battlefield Highway in Vicksburg.

A new fish and wildlife research unit at Mississippi State.

$3.5 million for the Rural Fire Protection Program run by State Forestry Commissions.

Increased money for magnetohydrodynamics research at Mississippi State. This is a new process for direct conversion of heat to electricity.

$770,000 for the Gunboat Cairo at the Vicksburg National Military Park.

$5 million for special assistance to schools impacted by the Tennessee-Tombigbee Waterway.

Two appropriations for highway bridges crossing the Tenn-Tom Waterway: $15 million for fiscal 1977 in the Economic Stimulus Appropriations in May, and $20 in Transportation Appropriations for 1978. With the $35 million appropriated last year this makes a total of $70 million.

Public works appropriations

$172 million for the Tennessee-Tombigbee Waterway.

$5 million for Tallahala Dam.

$22 million for the Yazoo Basin.

Increased funding for Mississippi River levees and channel.

$5 million increase for Appalachian programs, and $6 million increase for Appalachian highways.

$17.6 million for the TVA Bear Creek water project in East Mississippi and Alabama.

Soon after the beginning of the year the hearings will begin on the appropriations for fiscal year 1979, and the items of importance to Mississippi will again be receiving my close attention.

COMMITTEE WORK

The discussions above have dealt primarily with matters of direct concern to Mississippians. These, together with individual problems or endeavors brought to my attention by constituents have taken a large part of my time and effort this year, as they always do. In addition, however, I have other legislative duties, as does every Senator. Each of us speaks for his State in matters of national importance, and each has a part of the responsibility for the formulation of legislation dealing with these matters.

This work is for the most part carried out in committees. When a bill is proposed by a Senator, or received as a recommendation from the administration, it is referred to the Senate committee that has jurisdiction over the subject matter of that particular bill. The committee holds hearings, obtaining the views of citizens, interested organizations, and the appropriate agencies of the Executive Branch. The facts are established, and in committee deliberations the final form of the legislation is worked out, with differences of opinion being decided by majority vote of the committee members. When the bill is sent to the full Senate for debate and vote on passage, it is normally accompanied by a committee report that explains the committee reasoning in resolving the various aspects involved in the bill. In the debate on the bill, the committee chairman serves as the floor manager, and when the bill goes to conference to reconcile differences between the Senate bill and the comparable bill passed by the House, the committee chairman is the leader of the Senate delegation on the conference committee.

Senators are allowed to belong to only two major committees, and they become specially knowledgeable of the subject matter handled by those particular committees. I welcome my committee work as an opportunity to participate in formulating legislation that by serving our nation well also serves the State of Mississippi. I believe that I am fortunate in my own committee assignments, in that many matters of direct interest to our State, as well as to the nation, come under their jurisdiction.

A Senator may be chairman of only one major committee, and of course to be a chairman at all, he must be quite senior in terms of length of service in the Senate and must be a member of the majority party. I am privileged to serve as Chairman of the Armed Services Committee, a major committee of the Senate, which deals with all military matters involving preparedness, the protection of the American people, and the security of the free world. As Chairman, a position I have held since 1969, I am involved in many national policy matters because the subjects with which my committee is concerned are so broad and are so vital to our nation.

To date this year over 60 bills or resolutions were referred to the Committee. The committee has considered and reported to the Senate 17 bills and thousands of nominations of military officers and civilian officials for appointment or promotion.

Each year the major work of the Armed Services Committee is the annual military authorization bill. This bill authorizes the funding for the procurement of military weapons and research and development and authorizes the manpower levels for the active forces, reserves, civilians working in the Department of Defense, and military student training loads. After months of defense, and military student training loads. After months of detailed examination and investigation of the facts, the committee presented a bill to the Senate for its consideration. As Chairman, I endeavor to see that no money is wasted and that a strong national defense is ensured for our security.

The committee reviewed a budget request of $35.8 billion. Hundreds of items were scrutinized carefully over a 4-month period. The committee and 5 of its subcommittees held a total of 52 hearings compiling a hearing record of 10 volumes totaling 7,016 pages. After 14 meetings to mark up the bill, the committee approved a bill totaling $35.9 billion. After two days of important debate in the Senate, including votes on six amendments, the Senate passed the bill 90–3. It was my job and privilege to serve as floor manager of the bill and to serve as chairman of the conference in formulating agreement between the Senate and House bills. After seven conference sessions and approval of the Senate and House on a final bill, the bill was signed into law by the President.

The United States has the ability to protect its vital interest by prevailing in the major areas that might test her military strength. I feel that the military authorization bill for this year will provide the nation with the strength we need for the present and into the future.

In an associated matter of great importance, as Chairman of the Armed Services Committee, I became aware of a problem that presents a clear and distinct danger to our military establishment and discipline—military unions.

Military unions, in my opinion, are inconsistent with the military chain of command. A soldier cannot serve two masters—his military commander and a union. Military unions are also incompatible with the discipline necessary for a strong military. Finally, military unions would interfere with the readiness of our forces.

The committee held extensive hearings on this subject and unanimously reported to the Senate a composite bill to outlaw military unions. It combined the ideas of a bill introduced by me and by another bill submitted by Senator Thurmond. Let me point out that this is not an anti-union bill. Labor unions have contributed greatly to our nation but they have no place in the military.

The bill would make it unlawful for a member of the active or reserve forces to join a military union or to solicit or maintain membership. It would be unlawful for a union to enroll military members, to solicit or accept dues, to negotiate or bargain with the government for military members or to represent military members in grievance proceedings. It would prohibit any military or civilian official from the Department of Defense from negotiating or bargaining with a military union or for allowing government property to be used for union activities. Finally, it would prohibit any individual from bargaining on behalf of military members or organizing or carrying out a strike involving military members against the government.

The bill does not prohibit membership in military and veterans associations so long as they do not espouse any of the prohibited objectives. It would also not interfere with the right of military members to join civilian unions in their off-duty employment. This bill would, however, make dual-status civilian technicians employed by the Reserves and National Guard resign from their civilian unions.

The Senate approved this bill in the form as worked out in our committee by a vote of 72–3, after defeating all amendments offered on the Senate floor. It is now before the House of Representatives for its consideration. I have urged them to address this issue with utmost speed.

The Senate Appropriations Committee is the second major committee on which I serve. I value this assignment particularly, for it affords special opportunity to participate in the very early stages of allocating funds to specific programs and projects, many of which are particularly important to Mississippians. I chair the Public Works Subcommittee of the Appropriations Committee, as I mentioned previously, and I am a member of four other subcommittees. Those on which I serve deal with the money for funding the programs for agriculture, environmental and consumer protection matters; defense; housing, space, science and veterans and transportation. Membership on these subcommittees also permits me to serve on the conference committees which resolve appropriation differences between House and Senate bills, and which have much to do with the substance of these bills as they are signed into law. Committee work is demanding, but in my judgment the time is well spent. All of my committee assignments, especially the work of the Appropriations Committee, give me a chance to look out for the interests of Mississippians in the formulation of national programs. I am pleased to have the opportunity to serve on these committees.

APPRECIATION TO THE NEWS MEDIA

Mr. President, during this past year this Senate has labored long and hard in seeking solutions to the many problems before our nation. Quite often we get so wrapped up in our duties here that we fall short on telling our constituents what we are doing and how it will affect them.

I for one am extremely thankful for the excellent service the Mississippi news media renders to the citizens of my home state in this regard. Certainly many worthwhile news stories have been printed and aired during this year that have helped the people we represent interpret our actions and understand the reasons for these actions.

In this regard, I would like to express my personal appreciation to the Mississippi newspapers that help keep our citizens informed.

Daily newspapers in Mississippi:

Biloxi—Daily Herald; South Mississippi Sun.
Brookhaven—Daily Leader.
Clarksdale—Press Register.
Cleveland—Bolivar Commercial.
Columbus—Commercial Dispatch.
Corinth—Daily Corinthian.
Greenville—Delta Democrat-Times.
Greenwood—The Commonwealth.
Grenada—Daily Sentinel Star.
Hattiesburg—The Hattiesburg American.
Jackson—Clarion-Ledger: Jackson Daily News.
Laurel—Leader-Call
McComb—Enterprise-Journal.
Meridian—Meridian Star.
Natchez—Natchez Democrat.
Oxford—Oxford Eagle.
Pascagoula—Mississippi Press Register.
Starkville—Daily News.
Tupelo—Tupelo Area Daily Journal.
Vicksburg—Vicksburg Evening Post.
West Point—Daily Times Leader.
Yazoo—Yazoo Daily Herald.

Weekly newspapers in Mississippi:

Aberdeen—Examiner; News Herald.
Ackerman—Choctaw Plaindealer.
Amory—Advertiser.
Ashland—Southern Advocate.
Baldwin—News.
Batesville—Panolian.
Bay St. Louis—Sea Coast Echo.
Bay Springs—Jasper County News; Coast Buyer's Guide.
Belmont—Belmont-Tishomingo Journal.
Belzoni—Banner.
Biloxi—Biloxi Press; The North Biloxian; Keesler News.
Booneville—Banner-Independent.
Brandon—Rankin County News.
Bruce—Calhoun County Journal.
Burnsville—The Burnsville Informer.
Calhoun City—Monitor-Herald.
Canton—Madison County Herald.
Carrollton—The Conservative.
Carthage—Carthaginian.
Charleston—Sun/Sentinel.
Clinton—News.
Coffeeville—Courier.
Collins—News-Commercial.
Columbia—Columbian Progress.
Columbus—Golden Triangle Advertiser.
Crystal Springs—Meteor, Inc.
DeKalb—Kemper County Messenger.
Drew—Sunflower County News.
Durant—News; Plaindealer.
Edwards—The Edwards Hummer.
Ellisville—Progress Item.
Eupora—Webster Progress-Times.
Fayette—Chronicle.
Flora—Banner County Outlook.
Forest—Forest Advertiser; Scott County Times.
Fulton—The Itawamba County Times.
Gautier—Gautier Independent.
Gloster—Wilk-Amite Record.
Grenada—Grenada County Weekly; Grenada Lake Herald.
Gulfport—Gulfport Star Journal; The Pictorial Review.
Hazelhurst—Copiah County Courier.
Hernando—North Mississippi Times.
Holly Springs—The Marshall Messenger; South Reporter.
Houston—The Times Post.
Indianola—The Enterprise-Tocsin.
Iuka—Tishomingo County News.
Jackson—Jackson Advocate; Mississippi Enterprise; Northside Sun; Reporter; Southside Guide.
Kosciusko—Star-Herald.
Leakesville—Greene County Herald.
Leland—Leland Progress.
Lexington—Lexington Advertiser; Holmes County Herald.
Liberty—Southern Herald.
Long Beach—Gulf Coast Weekly.
Louisville—Winston Co. Advertiser; Winston Co. Journal.
Lucedale—George County Times.
Lumberton—Lamar County Head Block.
Maden—News-Press.
Macon—Macon Beacon.
Magee—Magee Courier.
Magnolia—Magnolia Gazette.
Marks—Quitman County Democrat.'
Meadeville—Franklin Advocate.
Mendenhall—Simpson County News.
Meridian—Miss. Memo Digest.
Monticello—Lawrence County Press.
Morton—Morton-Pelahatchie Advertiser; The Home Maker.
Mount Olive—Tribune.
Nettleton—Nettleton News.
New Albany—Gazette.
Newton—Newton Record.
Ocean Springs—The Record.
Okolono—Messenger.
Olive Branch—Olive Branch Tribune.
Oxford—LafaShopper News.
Pass Christian—Tarpon Beacon.
Pearl—The Pearl Press.
Petal—The Petal Journal.
Philadelphia—Neshoba Democrat.

Picayune—Pearl River Journal, Picayune Item.
Pontotoc—Progress.
Poplarville—Poplarville Democrat.
Port Gibson—Port Gibson Reveille.
Prentiss—Prentiss Headlight.
Purvis—Lamar County News.
Quitman—Clarke County Tribune.
Raleigh—Smith County Reformer.
Raymond—Hinds County Gazette.
Richton—Richton Dispatch.
Ripley—Southern Sentinal.
Rolling Fork—Deer Creek Pilot.
Cardis—Southern Reporter.
Senatobia—Tate County Democrat.
Southaven—Whitehaven Press.
Summit—Summit Sun.
Taylorsville—Signal.
Terry—Headlight.
Tunica—Tunica Times-Democrat.
Tupelo—Lee County News.
Tylertown—Tylertown Times.
Union—Appeal.
Utica—Advertiser.
Water Valley—North Miss. Herald.
Waynesboro—Wayne County News.
Wiggins—Stone County Enterprise.
Winona—Winona Times.
Woodville—Woodville Republican.
Yazoo City—Peoples Press.

Each week during the session, I produce a radio and television report to the people of Mississippi in which I attempt to discuss those issues pending before the Senate at that time. I would like to express my appreciation to those radio and television stations that perform this valuable public service.

Radio Stations:
Aberdeen—WMPA.
Amory—WAMY.
Canton—WMGO.
Columbia—WFFF.
Columbus—WACR; WCBI; WMBC.
Greenville—WDDT.
Greenwood—WGRM.
Grenada—WRIL.
Gulfport—WROA.
Hattiesburg—WHSY.
Houston—WCPC.
Indianola—WNLA.
Iuka—WVOM.
Jackson—WWUN.
Jackson—Mississippi Radio News.
Kosciusko—WKOZ.
Laurel—WAML; WNSL.
Lexington—WXTN.
Magee—WSJC.
Meridian—WOKK.
Mississippi State—WMSB-FM.
Natchez—WNAT-WQNZ.
Pascagoula—WCIS; WPMP.
Picayune—WRJW.
Poplarville—WRPM.
Pontotoc—WSEL.
Senatobia—WSAO.
Starkville—WSSO.
Tupelo—WELO; WJLJ.
Vicksburg—WQBC.
West Point—WROB.
Winona—WONA.
Television Stations:
Biloxi—WLOX.
Columbus—WCBI.
Hattiesburg—WDAM.
Jackson—WJTV; WLBT.
Meridian—WHTV; WTOK.
Tupelo—WTWV.

CONCLUSION

In this report to the people of Mississippi I have limited my remarks to a relatively few subjects that I thought might be of particular interest to you. There are many other bills that affect our citizens, and many other matters that are of intense interest to some Mississippians. Space has not permitted covering them all, but I want you to know that they, also, have had my interest and attention, especially when you have written to me or talked to me about them.

Looking back at the year, Congress and the new administration have accommodated to a reasonable degree. Some good legislation has resulted, though not as much as I had hoped. However, the groundwork has been laid for a constructive second session of the 95th Congress, next year. A great deal of committee work and fact finding has been done on bills that have not yet been brought to the floor, and of course these bills retain their active status from one session to the next of the same Congress. Only after the election of a new Congress does the legislative process have to start over again.

The coming year will bring new challenges, and some that are not new but are old problems, with which the Nation and the Congress are familiar, but for which adequate solutions have not been established.

I firmly believe that the worst problem that faces our Nation is the constant practice by the government of spending more than its income each year. Clearly, this simply has to stop. A balanced budget can be attained, but it will take determination and tenacious effort over a period of several years, and many actions that will not be pleasing to portions of the population and therefore will be opposed by their representatives in Congress. Nevertheless, it is essential to control government spending to the level of government income, and it can be done.

We are still dependent on foreign oil, and on the face of it this is not sensible and it cannot be permitted to continue indefinitely, leaving us at the economic mercy of foreign producers. Steps have been taken. More are necessary, for this problem is with us for the years to come. The price of energy independence is not going to be a pleasant one, but the alternatives are unacceptable if they are viewed realistically.

We are having our own domestic problems in the wise development of our vast natural resources. The last decade has seen a rapid rise of concern about environmental matters, and unfortunately some overreaction to this concern by portions of the public, the Congress, and the courts. Laws passed by Congress, and the interpretation and construal of the laws by the courts have brought about some incongruous situations never contemplated. One example is the Endangered Species Act, where the presence of one variety of a tiny darter fish would halt an almost completed multimillion dollar TVA project. Another is where one variety of sandhill cranes has held up an essential highway project in Mississippi, and may cost the taxpayers millions to purchase refuge lands.

These laws have to be reviewed and changed. In the process of doing so Congress must be more explicit in its legislation. Some of the lawmaking has simply been too vulnerable to various interpretations in courts, and this must be improved in the future.

There is much work to be done in 1978, and I look forward to it with anticipation. Strengthened by the support and confidence of the people of Mississippi, I will dedicate myself wholeheartedly to that work. I want to do it the way you want it done. You will help me if you continue to give me your suggestions and constructive criticisms.

It has been a pleasure for me to have this opportunity to make this report to the people of Mississippi about my work in the Senate in 1977. I thank you for your part in it, in guiding and assisting me, and I extend every good wish for 1978.

EXCESSIVE PAPERWORK IN THE BANKING INDUSTRY

Mr. MORGAN. Mr. President, I recently received a copy of an editorial from the American Banker, entitled, "A Profits-to-Paperwork Ratio." I think the editorial is worth sharing with my colleagues and with the public via the RECORD.

The editorial argues that the paperwork burden of Government regulation of the banking industry—already the most regulated component of our economic structure—has reached an intolerable level. Not only has the cost of compliance with the myriad of Government regulations soared, but the time and energy required on the part of bankers has also grown enormously. Consequently many banks, according to the editorial, "are beginning to abandon functions that otherwise might serve the community, because it is not worth it to follow up with necessary regulatory procedures."

Bankers themselves are the first to agree that governmental regulation of the banking industry is essential to the economic health of our country. No one quarrels with that. But what bankers, and many small and not-so-small business people throughout the country do take issue with is the steady trend toward requiring more and more detailed information which simply ends up in some bureaucrat's or congressional staffer's file "unread, unused, and unremembered." I also strongly take issue with that trend, and I hope that those of us on the Banking Committee can take the lead in reducing rather than adding to the paperwork burden of the banking industry.

I ask unanimous consent that the editorial be printed in the RECORD.

There being now objection, the editorial was ordered to be printed in the RECORD, as follows:

A PROFITS-TO-PAPERWORK RATIO

Every once in a while an individual statistic teaches us more than all the generalities. This has happened recently with regard to bank paper work required by governmental units.

Banks are subject to more reports and regulations than almost any other industry. Yet when one well run bank with a high return on assets reported that its net income before taxes was $16 million, while its cost of paper work to meet regulations was $1 million, this brought the whole point home.

Here is a bank of over a billion dollars in assets, working all year to generate a return on stockholder's equity. And its cost of simply filling in the reports required by the state, the Federal Reserve and the Federal regulators involved in banking cost it one dollar out of every 16 of pre-tax profits. It is a hard percentage to accept, and it makes bankers wonder where the industry is going.

In part this rise in costs of paperwork is due to developments that bankers themselves brought about.

Just as the ill-fated first attempt at the Real Estate Settlements and Procedures Act was a result of the abuses of a handful of banks and thrifts in mortgage closings, each new report is the result of some practice of a few banks that leads to more paperwork and new onerous procedures for all.

A legacy of the Bert Lance affair is more paperwork, for example, as the regulators and examiners try to insure that the practices followed in that case are not repeated.

But the result is not only heavy cost to banking but tremendous consumption of bankers' time and effort that might better be directed elsewhere.

Many bankers report, for example, that because of new regulations and forms that must be filled out on virtually everything that a bank does, it impossible to finish a day's work without breaking some law or other.

Others find they get so involved in paperwork that they simply have decided to abandon functions that otherwise might serve the community, because it is not worth it to follow up with necessary regulatory procedures.

This is the sad state of affairs. It helps explain why so many bankers find ironic humor in the joke that the least believed statement in America today is "I'm from the Government, I'm here to help you."

But on the other side of the coin, bankers recognize that the industry must be subject to procedures that insure the safety of bank deposits. It also must make sure that the tremendous power given to bankers is used for the community in which each bank operates and for the nation and the economy as a whole.

Some harassed bankers wish a compromise could be achieved so that the paperwork demanded of them would be limited to the meaningful parts of the examination and regulatory process and that the procedures that involve deep examination into the letter of the law rather than its spirit could be eliminated.

It is frustrating for bankers to devote hour after hour to meeting requirements on spelling out what they have done and how they have done it, only to find that the material ends up in a file, unread, unused and unremembered.

In this era of zero based budgeting, in which we look at operations of businesses and banks and try to see if the old procedures as well as the new ones are really necessary, maybe it is time for zero based budgeting on bank reports, too.

We would be likely to find that while some of the new reports are necessary and valuable for safe banking, some of the traditional ones taken for granted can be eliminated. The savings would help cover the cost of new requirements.

When well run banks find that one-sixteenth of pre-tax income is absorbed in filling out reports, something needs to be done. This is just too much dedication of bank resources to one small segment of the industry's operations.

AREA PLANNING GUIDES

Mr. WALLOP. Mr. President, the National Forest Service released three preliminary area planning guides for the southern and central Rocky Mountain, and the Great Plains areas, in July of this year. Public comment was solicited and is now being evaluated, and the final area planning guides are expected in February.

These guides are aimed toward determining a program direction for the planning areas, based on an assessment of national, regional, and local demands and needs for national forest resources. The program direction will become in turn the area plan, to provide a common management direction to individual Forest Service land managers.

Several area guides are now in operation throughout the Nation; however, these three area guides are the first ones to formally incorporate the concept of key values. The Forest Service has informed me that the idea of key values grew out of a Wyoming study undertaken in 1971 by a group of nationally recognized scientists. Entitled "Forest Management in Wyoming," that study determined that the key values of wildlife, recreation, and scenic beauty were paramount in the Rocky Mountain region, and these key values should be considered as part of every management decision. Since then, the Forest Service claims it has informally incorporated this key value concept into all of its land management decisions for these forests. Rather than prohibiting other kinds of land uses, the Forest Service feels that consideration of these values during each management decision will enhance all resource values. For example, the Forest Service considers how a particular timber operation will affect wildlife, scenic beauty, and recreation, and strives to preserve those values as much as possible within the scope of the timber operation. My office was assured that key values have not, should not, and would not inhibit traditional multiple-use activities in the forest—they are meant only to be taken into account in determining the best means to carry out multiple-use activities.

Nevertheless, there has been much concern voiced to the Forest Service and to my office regarding this key value concept. The people of Wyoming and nearby States are justifiably concerned that key value consideration will cripple or prohibit traditional land use activities in the national forests. In spite of the Forest Service's explanations to the contrary, I can appreciate and share their concerns. A Forest Service handout which was available at area planning guide workshops painted a quite different picture of the key value concept. That memorandum stated:

> In developing the action plan all resource potentials would be considered, and within the constraints of the key values objectives, other resource outputs such as water production, board feet of timber, or livestock forage would be identified as spinoff or secondary effects. *In no case would secondary outputs be permitted to have a negative impact on any of the key values.* So what does all this mean? It means that when tradeoffs between two or more resources are necessary, key value objectives are always prominent.

Another example of this kind of interpretation is found in the Great Plains Area Planning Guide. On page 49, that publication states:

> All National Forest System lands will be managed with wildlife as a key value. This means that when conflicts arise which cannot be mitigated at reasonable cost, wildlife will take precedence.

I think it is understandable that forest users and legislators are confused and worried about the futures of our national forests. Under the key value concept as described here, a timber sale, grazing lease, water project or mining operation which has a negative impact on key values would not be permitted. While it is well known that timbering, for example, often can be a wildlife management tool, it is all too obvious that timbering will not always enhance wildlife. The Central Rocky Mountain Area Planning Guide also lists wilderness as a key value. I do not see how traditional multiple use activities are always going to enhance wilderness. While wilderness has a fine and necessary role to play in this Nation and our national forests, it is not the only wise use of the central Rocky Mountain area. Other activities which do not necessarily enhance wilderness must continue.

The Forest Service has received thousands of comments from concerned citizens of my State and elsewhere regarding these problems with the area planning guides. I am pleased to see so much public involvement, and I hope the Forest Service will consider and implement all good suggestions. When doing so, it should recall that the National Forest system is designed to manage five major resources: timber, water, forage, wildlife, and recreation. While some areas should and will be managed primarily for their wilderness characteristics, the vast majority of our forest lands must continue to be devoted to multiple and sustained uses. To borrow from a Forest Service publication:

> The philosophy behind good forest management is utilitarian and democratic. It recognizes the need for all segments of forest users rather than just one. It motivates foresters toward managing public and private lands in a way that will benefit the most people. It defines a forest that benefits the most people as a planned land stewardship where all resource uses and services are geared to keep the forest healthy, secure, enjoyable, and productive.

The Wyoming Resource Coalition, on behalf of its members associations, has submitted the following comments and suggestions on the three preliminary planning guides to which I have been referring. I believe this statement sums up succinctly the feelings of many on this issue, and contains some excellent suggestions. The concerns of this group and many others need to be addressed promptly, so that the final area planning guides can address future planning priorities clearly, without ambiguities, and in response to all the needs of this Nation.

I ask unanimous consent that the text of this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Wyoming Resource Coalition,
Cheyenne, Wyo., October 28, 1977.

Mr. Craig W. Rupp,
Regional Forester, Forest Service, U.S. Department of Agriculture, Lakewood, Colo.

Dear Mr. Rupp: Attached is a statement of the combined views of the member associations of the Wyoming Resource Coalition. Comments and analysis contained herein pertain to the preliminary Area Planning Guides for: The Southern Rocky Mountains, the Central Rocky Mountain Area, the Big Horn Mountains, and the Black Hills portion of the Great Plains Area Planning Guides. Our membership emphatically endorses the principles of full multiple use/sustained yields of National Forest values and potentials. Area planning guides that embody the multiple use/sustained yield principles of the Act of 1960 are therefore acceptable to the Coalition.

Since the Area Guides presented stress certain key value outputs and subjugate important multiple uses to these key values, it is apparent that full multiple use-sustained yield management will be cast adrift upon the waves of indecision and inactivity. These are complex times with difficult and perplexing problems confronting management of resources and services derived from the National Forests. These complexities require that, forest principles, letting the character and nature of the area help determine the appropriate use or uses to be applied to specific areas. To broadly state, for whatever rationale, that certain key values will predominate over large areas is very simplistic and a return to the conditions that existed prior to the enactment of the Multiple Use/Sustained Yield Act of 1960.

To prioritize certain National Forest resource uses over other resource uses is simply a repeat of the *older dominant use theory* that was found unusable and scrapped at an earlier time. Dominant use, as would key values, envisions a grand scheme wherein broad policy directives would dictate which uses or management practices are to be applied to National Forest lands. We believe the Forest Service by this time should realize that such narrow approaches to managing National Forest values is to manage by omission rather than to face the complexities of the times which call for comprehensive and intensive analysis of all the issues concerning public land management.

The emphasis of scenic values, recreation, wildlife and wilderness is at the expense of other fundamental National Forest resource potentials of the National Forests—The Multiple Use/Sustained Yield Act of 1960 and the principle thereof. (We refer specifically to the following sections of P.L. 93–378 as amended by P.L. 94–588; Section 2, (3); Section 3, (d) (1); Section 4, (5) (A, B, C, D, E); Section 6, (C) (1 & 2), (9) (B), (K); Section 9.)

These above-cited excerpts of the 1974 Forest and Rangeland Renewable Resources Planning Act as amended by the National Forest Management Act of 1976, clearly call for the management of full multiple use/sustained yield resource outputs on the National Forests.

The preliminary area planning guides for Region 2 are poorly done and should probably be rewritten. The language is frequently vague, and there is insufficient data to sustain the stated conclusions. The issues appear simplistic and seem to have been arbitrarily limited to seven for each planning guide.

The lack of important factual data to support conclusions derived lends credence to the need for the Forest Service to begin anew. The member associations of the Coalition would welcome the opportunity to participate with the Forest Service and other interested conservation and preservation groups, in the preparation of a comprehensive program to support and complement the principles of the Forest and Renewable Resources Act as amended by the National Forest Management Act. We believe it important for us to offer positive assistance as well as constructive criticism of this program plan. We would appreciate an opportunity to meet with you soon to discuss our offer of assistance.

Respectfully yours,
DEAN T. PROSSER, Jr.,
Acting Chairman,
Wyoming Resource Coalition.

On behalf of the following organizations: Wyoming Stock Growers Association, Associated General Contractors of Wyoming, Wyoming Farm Bureau Federation, Wyoming Mining Association, Wyoming Wool Growers Association, Outdoors Unlimited, Inc., Wyoming Public Lands Council, Petroleum Association of Wyoming, Wyoming Timber Industry Association.

cc—Dr. Rupert Cutler, Assistant Secretary of Agriculture; Hon. John R. McGuire, Chief, U.S. Forest Service; Wyoming Congressional Delegation: Congressman RONCALIO, Senators HANSEN & WALLOP, The Honorable Ed Herschler, Governor of Wyoming, The Honorable Richard D. Lamm, Governor of Colorado.

COMMENTS ON CENTRAL ROCKY MOUNTAIN AREA AND THE SOUTHERN ROCKY MOUNTAIN AREA PLANNING GUIDES AND THE BLACK HILLS AND BIG HORN MOUNTAIN PORTIONS OF THE GREAT PLAINS AREA PLANNING GUIDES

I. *Key Values:* The program direction for the area (1980–2020) emphasizes the so-called "Key Values" of wildlife, recreation, scenic beauty and wilderness. *WE STRONGLY OPPOSE THIS KEY VALUE DESIGNATION.* The true key values for this area are water, timber, range and minerals. We feel there is sufficient existing wilderness. Aggressive multiple-use management programs for the renewable resources listed above, and practical access for reasonable development of the non-renewable resources will enhance the forest visitor's experience for a wide variety of recreational pursuits, as well as contributing a "fair share" to our citizens' commodity needs. The distinction between citizen *needs* and *desires* has not been made. Accurate definitions must be formuated; and amenity and commodity *needs* must be accurately and validly quantified in terms which can be dealt with through a sensible system of public land management. As such, the program direction emphasizing scenery, wildlife, recreation and wilderness should be scrapped, new directions should be drawn, and management objectives should be made more realistic. Program direction should also include comprehensive cooperative management programs among the various federal and state management agencies involved with programs in the area.

II. *Issues:*

(1) RECREATION FACILITIES

The appropriate role of the Forest Service is to provide developed recreation facilities and to adopt an aggressive system of recreation management for lands under Forest Service jurisdiction. Emphasis should be placed on a well-planned transportation system which *fits* with recreation needs and commodity uses. Motorized recreation, including driving for pleasure, is extremely important to this area, and a key to recreation management is cooperation with those who are in the "business of forest management". The land manager should take the lead in information service programs which help create understanding and cooperation in a productive multiple-use forest.

The growth of campground facilities on private land near national forest lands and national parks certainly fills a need. Perhaps the extension or establishment of trail heads nearer to adjacent private lands would encourage the development of campgrounds to alleviate pressures on the Forest Service campground facilities.

Recreation use and livestock management programs are not at issue under a true multiple-use concept, nor should potential conflict be elevated to "major issue" status unless Key Value concept is used. Without meat, recreation experiences would diminish for the majority. Good management in all areas, including adequate planning for livestock allotments and developed recreation facilities, will alleviate most problems before they start. Livestock and wildlife use of Wilderness is also traditional and part of the "heritage of American wilderness". Animal use should predominate in Wilderness and man should be duly understanding of that fact. Man in Wilderness, after all, is a "visitor who does not remain".

Hard evidence is lacking to substantiate a compatibility problem between livestock and recreation use. To unilaterally exclude or displace one use in favor of another use seriously undermines the intent of the Multiple Use-Sustained Yield Act of 1960. The Forest Service appears to be trying to expedite solutions to situations by adjuration.

(2) WATER

National forest lands should be used for improved water yield to the maximum extent possible. The arid climate of this area makes usable water yield the single most important area value. All other management programs suffer without adequate water. Manipulation of the vegetative cover and storage and distribution systems are crucial to good water management. Water is the limiting factor in the area and water programs should be paramount.

The Area Planning Guides fail to identify specific programs to increase water yields during periods of projected increases for local area use. Another problem is that downstream commitments are not tied into the total water picture. The original Organic Act of 1897 calls for the direct yield of water from the National Forests. The water issue is not adequately covered in the Guides.

(3) THE GRIZZLY BEAR

The objectives for grizzly bear management in terms of habitat and population are chiefly to remember that "people needs are paramount to bear needs" on unrestricted public lands. The Endangered Species Act dictates how management agencies will deal with most basic grizzly problems. National park management offers the grizzly a haven. Designated habitat is adequate in the national park and designated wilderness systems. The Forest Service programs should consider and be consistent with management programs of all other interested agencies in the interests of a comprehensive management effort, whether they relate to grizzlies, water or anything else. Perhaps the key phrase is: The system should make good sense!

(4) THE ELK

The objectives for elk in terms of habitat and related herd size have long been an issue in this area. Habitat and population can more easily be dealt with if good multiple use/management programs are in place. There will be an adequate, sensible National Forest and grassland transportation system for hunter access and forage production programs; there will be timber management programs to enhance elk habitat with forest openings and edge protection; and there will be adequate water management programs which will benefit *all* wildlife. Elk hunters, recreationists and ranchers would all benefit from cooperative multiple use programs.

The acquisition of big game winter range for the stabilization of big game herd size would require the purchase of additional lands from the private sector. The private land owner, who provides winter range, is in most cases better able to manage his lands for full forage production. The Forest Service, on the other hand, is prone to accept lower forage outputs.

The stated objectives of moderately increasing elk herd size and substantially increasing deer populations through management and improvement of winter habitat could just as easily be handled on a "business as usual" basis. These programs, if not already underway, should be started immediately.

With winter habitat considered the single most limiting factor to populations of deer and elk in the Southern Rocky Mountains, it appears that unless an increase in the quality and quantity of winter habitat is obtained, deer and elk herds must be stabilized to match the ability of the National Forest lands to maintain these animals.

Whether or not wildlife should be a key value or not for the Rocky Mountain area hasn't been properly justified by the presentations made in the area guides.

(5) WILDERNESS

The Central Rocky Mountain Area comprises some 8.5 million acres of national forest lands; 23.5% of this land area, 2.0 million acres, is currently part of the National Wilderness Preservation System. The preliminary Area Planning Guide recommends that by 1985 there be a total of 4.2 million acres of wilderness, which would place a total of 49.4% of National Forest acreage in a very limited single use category. The outputs by time period table on page 33 of the Preliminary Central Rocky Mountain Area Planning Guide shows that by 1985 a total of 16.8 million visitor days per year is planned for the 1985 level of use. Wilderness use represents 1.7% of the total visitor days for a year. Does a 1.7% of the total visitor days per year in 1985 justify setting aside 49.4% of the land area in the Central Rocky Mountain Area for wilderness usage only?

The issue properly addressed should be: "Should additional area be added to the present wilderness system in the Central Rocky Mountains?"!

Increases in Wilderness from 1.1 million acres to a level between 3.6 million and 4.8 million acres in the Southern Rocky Mountains appear to be unwarranted in view of the low amount of actual Wilderness visitor days. It is surprising to find that an agency of the United States representing the citizens of this country can arbitrarily, without proper and full public involvement, set target levels for Wilderness acreage. The total acreage of Wilderness should be set only after thorough, exhaustive, on the ground investigations have been conducted to assure quality Wilderness. Quantity of Wilderness as an objective is unsophisticated for the times in which we exist.

To recommend substantial increases in the size of the Wilderness System in the Southern Rocky Mountain area cannot be justified in view of response of the RARE II Program wherein 8–1 were opposed to further increases in Wilderness. The Forest Service in Region II by recommending large increases in Wilderness is reflecting the views of a few in the present administration who favor Wilderness expansion, discounting local impacts in the West. Wilderness expansion is incompatible with local social and economic needs of communities.

To state that the Southern Rocky Mountains are to be the nation's playground is overly simplistic and fails to recognize full multiple use potentials of the area. Recreation is just a part, not the total resource output, of the National Forests in Colorado and Wyoming.

(6) TREE MANAGEMENT

Tree management, semantically, fails to fully describe the developed science of silviculture and forest management. The management practices relating to wildlife and recreation values are management sciences in their own right, requiring intensive study and oversight. The coordination of certain silvicultural activities with other multiple-use values of our National Forests can be achieved within the Forest Service through interdisciplinary planning programs. In no manner should the Forest Service attempt to drop current timber management plans which are based on multiple use-sustained yield management of the forest and timber resources.

This issue, for thoroughness, must address the subject of timber management directly. Vague references to managing trees by way of enhancing scenic, recreation and wildlife values is an abdication of responsibility in fulfilling the intent of the National Forest Management Act of 1976.

The statement that poor growing conditions, excessive mortality, and difficulty of management also limit timber availability, is a statement and shouldn't be taken to indicate a final conclusion. There are excellent timber growing sites in the Southern Rocky Mountain area. Land withdrawals seem to be closing in on accessible timbered areas and yet there is a tremendous potential for forest growth to be obtained on National Forest lands outside of the Wilderness System. The problem is one of the Forest Service allowing vast amounts of timber to be wasted annually. Current mortality is far greater than stated here. Mortality is in excess of 600 million board feet per year. Total growth annually is approximately 1.5 billion board feet. To harvest only 220 million board feet annually is to doom the forests to a waste of about 1.1 billion board feet annually at some future date.

The Forest Service still fails to recognize that there is a tremendous growth potential of wood in the Southern Rocky Mountains and to "maintain timber supplies for local wood-using industries" is an abdication of responsibilities. Enlightened and aggressive forest management policies must be presented for the future. The present form of political-silviculture is an expense that our society can no longer afford to bear. The knowledge and tools are available to meet future timber and wood needs; all that is needed is a solid commitment. Tree management-timber management, call it what you like, has been given a solid go-ahead under the RPA and National Forest Management Act. We believe it's up to the Forest Service to get out from behind the defenses of innuendo and perform professionally.

6(a) MOUNTAIN PINE BEETLE

Under professional and intensive forest management, the Forest Service role in controlling the Mountain Pine Beetle infestation would be apparent. To stand back and reflect on what actions to take, as has been happening, is not going to solve the problem. The presence of an established front range forestry industry could have helped this situation greatly. As it is now, individual treatment of infested trees will prove to be expensive and discouraging when one realizes the cost to benefits of this kind of substitute program.

The front range Mountain Pine Beetle problem is representative of the type of problems that will occur in our forests in an unmanaged condition. Colorado has had a history of insect infestation in the spruce type through the 1940's and 50's. A diligent and thoughtful effort must be made to keep a young and healthy forest on the lands of the National Forest system in the Southern Rocky Mountains. Political expediency to further short term problems has no place in the long term commitment of growing of trees.

(7) MINERALS, GAS AND OIL

Every study which has been conducted during the past several years by government and industry has reflected that the United States is becoming progressively more dependent on foreign sources to supply its requirements of mineral resources. Out of 32 basic mineral resources needed to sustain the U.S. standard of living 14 are imported at a percentage of more than 75% of consumption, and 9 are imported at a percentage of more than 50% of consumption. As such, these reports also indicate an ever-increasing dependency on a greater number of minerals and an increasing percentage of parts of such minerals. With continuing restrictions on availability of federal lands for mineral exploration, this trend cannot be reversed.

There have been four studies conducted on the national level within the last two years which reflect that there are moderately high restrictions or withdrawals on 75% of the federal lands for leasable minerals and 68% for locatable minerals. These numbers reflect the composite of all federal land managing agency decisions as they cumulatively have an adverse effect on the mining industry.

Out of the 14 million acres of federal lands managed by the U.S. Forest Service in Colorado, approximately 54% will be restricted or withdrawn from mineral entry because of Wilderness and Primitive classifications coupled with lands inventoried in RARE I and RARE II programs. Such restrictions will tend to reduce the $982 million per year mineral production from the state, which has a direct employment of approximately 12,500 mining personnel, plus administrative and support personnel.

The Bureau of Mines has studied the surface impact of mining from the years 1930 to the present time. Reliable information is not available prior to 1930; however, disturbed acreage was relatively minimal because of the characteristically small mining operations and small earth moving equipment available to miners. Between the years 1930 and 1971, 3.65 million acres were disturbed by all forms of mining activities, constituting 0.16% of the U.S. surface. By 1975, 1.64 million of these acres or 42% had been reclaimed. Eighty percent (80%) of the lands disturbed in 1971 had been reclaimed by the year 1975. These statistics will place the level of surface disturbance through mining in its proper perspective.

An issue that the Forest Service has failed to address is the need to develop these important resources on National Forest lands. Reference is made only to the need for energy minerals. There is also a need for non-energy minerals which should not be overlooked.

One of the unique aspects of mineral resources is that more often than not, they cannot be located and inventoried in the same manner as renewable surface resources. Even after thorough evaluation indicates areas may not have potential for mineral development, the possibility for discovery and development still exists. This may sound like a paradox, but new exploration, interpretation, theories, and methods make this possible. In other words, the target being sought is so small in comparison with the area being evaluated, the odds are over 10,000 to one against finding a good ore body.

We believe that this serves to explain why the public lands should be kept open to mineral entry. Large areas are needed for the exploration phase. Exploration causes a minimum of disruption and damage and is compatible with other uses. Regulations controlling the effects of exploration have been promulgated by the Forest Service and are currently undergoing development by the U.S. Bureau of Land Management.

We are concerned about the continual erosion of public lands available for mineral exploration and development and the subsequent effect on our nation's well being. Domestic mineral availability and the dependence on foreign imports of raw materials is a theme that has been repeated time and again by members of the mineral industry and others. Our concern with the long-term mineral needs of the nation has not diminished.

Public lands should be used in as many beneficial ways as their resources permit. No area should be closed to exploration for minerals or to mining in the absence of a compelling national interest. Lands previously withdrawn from entry under the General Mining Laws should be reviewed periodically and, absent a higher national interest, such lands should be restored to mineral entry.

We believe that this serves to explain why the public lands should be kept open to mineral entry. Large areas are needed for the exploration phase. Exploration causes a minimum of disruption and damage and is compatible with other uses. Regulations controlling the effects of exploration have been promulgated by the Forest Service and are currently undergoing development by the U.S. Bureau of Land Management.

(8) LIVESTOCK USE

As the preliminary planning guide indicates, for over 100 years, farming and ranching have been the area's economic mainstay. If recreation and wildlife uses are developed as planned, livestock grazing on forest lands will surely be affected.

Even though farming and ranching may be overshadowed at the present time by mineral development, there is a real need to preserve the agricultural economic base.

The economic affect of restricting livestock grazing on forest lands should be evaluated. 47.8 percent of Wyoming is Federal land. Wyoming livestock operators depend on Federal lands to put together a viable economic unit. If use of Federal lands for grazing is drastically curtailed, many operators cannot continue in the livestock business, thus taking their private lands out of agricultural production also, and resulting in economic losses to the community.

In 1975 approximately $239 million worth of cattle, calves, sheep, and wool was marketed in Wyoming.

The American consumer has come to expect an abundant supply of food and fiber at reasonable prices. If the western livestock operator cannot use Federal lands for grazing the American public will be the ultimate loser.

The stated objective to "resolve livestock and recreation conflicts" would appear to mean that livestock grazing AUM's will be "adjusted" to provide for increased winter sports and developed recreation. Since a large percent of the area is Federal land, the remaining percent of State and private land would be forced to support the increased wildlife and recreation.

With no predator control allowed in Wilderness areas and with limited water development, grazing of livestock would be effectively halted, regardless of the objectives of the Forest Service area planning guides.

Restrictions on livestock grazing to accommodate the "key values" could mean that some operators could not continue in the livestock business. Subsequently, their private lands might be taken out of agricultural production. If that occurs, several communities would suffer substantial economic losses since many are dependent upon the livestock industry. County governments would also lose their income from the federal grazing fees. There could be regional impacts as well.

Another loser could be the American consumer, who has come to expect an abundant supply of food and fiber at reasonable prices. If livestock men in the West cannot use federal lands for grazing, the ultimate loser could very well be this nation's consuming public.

III. *Current Situation:* Many broad generalizations are made in this section which appear to be based upon assumptions or gleaned from literature left uncited. Without a bibliography of source materials, the reader is left with no option but to accept the guide data at face value.

IV. *Program Direction:* The program direction for the area (1980–2020) emphasizes the so-called "key values" of wildlife, recreation, scenic beauty and wilderness. We strongly oppose this key value designation. We believe the true key values for this area (and all public land areas) are water, timber, range and minerals. We feel there is sufficient established wilderness. Aggressive multiple-use management programs for the renewable resources listed above, and practical access for reasonable development of the nonrenewable resources will enhance the forest visitor's experience for a wide variety of recreational pursuits, as well as contributing a "fair share" to our citizen's commodity needs.

By recommending large increases in Wilderness, the Forest Service in Region II is reflecting the views of a few in the present administration who favor wilderness expansion. Wilderness expansion is incompatible with local social and economic needs of communities.

To state that the Southern Rocky Mountains are to be the nation's playground is overly simplistic and fails to recognize full multiple-use potentials of the area. Recreation is just a part, not the total resource output, of the National Forests in Colorado and Wyoming.

V. *Program Outputs*: One thing is appallingly evident in this Area Guide document: there are no losers! No consideration is given to the day-to-day user conflicts, or the tradeoffs which inevitably must be made. We see only that there is plenty for everyone if the area is properly managed. This may well be true, but this would be hopelessly idealistic and naive if we "bought it". Every day new conflicts surface, new legislation finds its way to the hopper, new lawsuits and appeals are filed and new areas of controversy are found. The land manager's job these days does not involve land management; it deals instead with attempted resolution or management of conflict. Insofar as the program outputs deal with policy proposals, i.e., "this is what we'd like to see happen", they are fairly reasonable. However, in terms of the realities of national forest management, they don't stand a chance! The Area Guides documents are so bland as to be meaningless, and if such planning is to become custom, it must at least include the political realities.

We have taken issue with the "Key Value Concept". We do not agree with your conclusion . . . "that the term 'Values' was not synonymous with 'Importance'." We are sure this is not the way the concept would be interpreted by those not familiar with the details of the concept. We suggest that the mining of an ore deposit would be the highest and best use for the small amount of surface used relative to the benefits to the Nation and its citizens.

The rehabilitation of disturbed areas cannot take place until mining operations are finished. In the case of many metal mines, this can be several decades.

The withdrawal of lands from mineral entry within or adjacent to access already established appears to be contrary to keeping surface disturbance to a minimum.

Exploration and mining can be compatible with most other land uses. As much of the public land as possible should be administered under multiple use. A multiple use administration system permits flexibility under changing needs and priorities for all of the available resources. The multiple use concept can work to the benefit of the American people as a whole.

GENERAL COMMENTS

VI: *Objectives:* None of the objectives as shown on the graphs can be verified. The most likely result will be a continuance of maintenance of the present level of routine duties. The number of acres to be treated to enhance scenic values, wildlife habitat, and recreation falls too short of the total necessary to sustain harvesting levels of 200 million board feet plus per year.

Under land management planning the text of Guides makes reference to the economic impacts of recreation, but fails to match up or account for the benefits of having thriving wood products, livestock and mineral-gas industries in the socio-economic big picture.

Rural community dependence upon the natural resources of the surrounding lands is a proven factor. State, private and Federal lands all contribute to local community stability in the form of product sales and employment. National Forest programs that fail to recognize the importance of the local situations over Eastern or other outside pressures is a failure to understand and to cope with these pressures.

There are, as of 1976, 390,000 persons living in Wyoming. A large percentage of these people are highly dependent upon rural communities. National Forest management policies that impact local situations can never really be properly justified. The social resource units described fail to tie land management objectives to definite National Forest boundaries and responsibilities, or would call for the reorganization of local Forest Service management units to match the social resource units.

Increases in wilderness appear to be unwarranted in view of the low amount of actual wilderness visitor days. The total acreage of wilderness should be set only after thorough, exhaustive, on-the-ground investigations have been conducted to assure quality wilderness.

The issue properly addressed should be: "Should additional area be added to the present Wilderness system in Region II?"

RESEARCH AND DEVELOPMENT INTO PASSIVE SOLAR SYSTEMS

Mr. DURKIN. Mr. President, one thing has increasingly become clear during the deliberations on this year's energy legislation: All of the energy taxes, all of the energy regulatory programs, and all of the energy reorganizations are merely stopgap measures. We will not wean ourselves from our foreign oil addiction without significant breakthroughs in energy technology. The decisions on energy research, development, and demonstration we make today are the ones by which our children ultimately will evaluate our Nation's creativity and will to cope with the new energy reality.

Passive solar systems are one technology which deserve an extensive research, development and, most importantly, a demonstration effort in the future. Passive systems are those with few, if any, moving parts. They offer the chance of improved efficiency at lower cost. The Energy Research and Development Administration's efforts to develop passive systems, discussed during the debate on S. 1340 last June 13, have been notably deficient.

That is why I ask unanimous consent that a paper by Dave Magnon of the Kalwall Corp., Manchester, N.H., to be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURKIN. Mr. President, it was part of a presentation to the New England Solar Energy Association. This brief discussion of the merits of passive solar energy will provide my colleagues with an idea of the advantages this approach may hold. It shows that passive solar systems are valuable even in frosty New Hampshire.

Obviously, solar energy must be applied in different regions and to different situations in a wide variety of ways. Only through diversity will citizens ranging from New Hampshire to New Mexico be able to free themselves from the stranglehold of the oil octopus. This article highlights one approach which deserves the Energy Research and Development Administration's full attention.

EXHIBIT 1

PASSIVE AND CONTROLLABLE—PASSIVE SOLAR SPACE HEATING: TWO CASE STUDIES

With advent of the current Energy Crisis, the solar industry has grown at an amazingly accelerated pace, its main object being to discover and provide a viable alternative to using expensive—and expendable—fossil fuels for space heating. That growth is evident in the unprecedented amount of research, development and implementation in the field of solar assisted space heating, and is physically manifested in a great variety of components and systems that are being manufactured and marketed.

Any attempt to understand specialized types within that profusion must be preceded by the task of sorting out and placing at least generalized categories into some form of meaningful perspective. Therefore, in order to define Passive and Controllable Passive systems, it is perhaps most advantageous to first construct a scale against which the myriad types can be measured and understood clearly.

Consider a *Scale of Solar Complexities* that begins with the simplest forms of solar utilization and progresses, by degrees, toward more complex applications. Envision it as a continuum, or number line, that develops from a value of One to a value of Ten (see attached diagram). The lowest numbers represent the "softest" technological approaches. The scale then proceeds through various levels of increasingly intensive technical, capital, and materials input, culminating with the approaches that are the most complex. As the numerical values along the scale increase, then, the combinations of components and systems begin to reflect greater initial costs, longer payback periods, greater on-going maintenance investments, and significantly less operating efficiencies.

Appearing at the beginning of the scale, Passive and Controllable Passive solar space heating techniques are characterized by their close dependence on the principles of the greenhouse effect, thermosyphoning, and thermal mass storage. Passive systems make use of some form of "solar window" oriented toward the south in order to intercept the greatest possible amount of solar radiation (insolation). As the rays of sunlight pass through the glazing layer(s), their potential heat energy is converted to sensible heat and is absorbed by the air behind the orifice.

Some form of heat absorbing material (thermal mass) such as concrete, stone, slate, or containerized water is placed in close proximity to the solar gain mechanism, and also absorbs direct heat energy. Then, via convection (air movement), conduction, and radiation, heat is made available to the "required" spaces.

The unique characteristic of Passive solar systems is that they are able to provide the homeowner with a substantial amount of solar heat gain at a minimum expenditure. They function relatively autonomously, utilizing extremely little conventional power input since they have few, if any, mechanical, moving parts (except for some form of movable insulation, perhaps, which is usually removed and replaced at appropriate times by the building's owners). Initial costs are low, as are long-range expenditures for system maintenance and repairs. The overall simplicity of design and function of such systems determines that they are generally "more efficient" than more complex systems.

On the basis of these observations, it can be recognized that passive forms of solar utilization potentially provide a greater number of Btu's per dollar invested than other forms of solar utilization for space heating (see *Scale of Solar Complexities* below). This quality is demonstrated in the Seny Lake residence in Canterbury, New Hampshire. Designed by Don Booth of Community Builders, Inc. with solar engineering assistance by Drew Gillett (formerly of the Kalwall Corporation and now with Brookhaven National Laboratory's technology transfer program), the structure makes use of the Kalwall Corporation's SOLAR FURNACE, a passive solar heat gain system.

The Lake home design is based upon the principles of *sound energy conservation*. The longest axis runs east-west to ensure that the 1100 Ft.^{2} building has maximum exposure to the south. The solar system consists of 192 Ft.^{2} of double-glazed Sunlite fiberglass reinforced polyester as its "solar window", with blackened water-filled fiberglass tubes placed behind it as its thermal mass storage medium. In addition, the same southfacing wall contains 304 Ft.^{2} of thermopane glass windows. Dark gray slate flooring tiles, set into the top of a built-in window seat, act as additional thermal mass to store the conventional solar heat gain. The heat energy obtained through these apertures functions in conjunction with an electrical resistance baseboard heating system.

The building has a calculated heat loss of 67 X 10^6 Btu/season, and a potential solar heat gain of 32 X 10^6 Btu/season, and therefore a solar space heating assist of 48%. The house shows a payback period, based on amortized mortgage payments and heat savings dollars, of 9.33 years for the glass windows and 7.5 years for the Solar Furnace configuration.

Of similar interest is the Sweeney residence, designed and constructed by Richard Sweeney of Weare, New Hampshire. Engineering assistance was provided by Tom Minnon of the Kalwall Corporation. Although the solar space heating system operates primarily according to passive principles, it does make use of minor mechanical input in the distribution mode, and must therefore be defined as a "controllable" passive system (see Scale of Solar Complexities).

A traditionally shaped Saltbox Colonial, this 1950 Ft.^{2} New England home has 80 Ft.^{2} of south-facing insulated window glass, and a southerly exposure roof sloped at 58°N. It was designed with emphasis on the principles of energy conservation as key parameters.

The structure's solar collector is a 500 Ft.^{2} Sunwall I "skyroof"—a highly insulated ("U" = .46) transluscent sandwich panel which utilizes the attic space behind it as a thermal storage "heat sink". From there, a blower moves the heat via ductwork to the basement where it is both absorbed by the concrete foundation and slab and allowed to thermosyphon to the upper levels. A differential thermostat, which has a nighttime set back mode for reduced energy consumption, performs the system's control function, initiating the oil-fired furnace when back-up heat becomes necessary.

The Sweeney structure has a heat loss of about 128 X 10^6 Btu/season, and a heat gain through the solar systems of more than 81 X 10^6 Btu/season. During the winter of 1976–1977, nearly 65% of the house's heating requirement was gained from solar. The saltbox's payback period for glazing is approximately one year, and 3.4 years for the "skyroof" system.

It can be concluded from these two case studies that passive and controllable-passive solar space heating systems are economically viable alternatives to conventional fossil fuel consumption. The fact that they are operating in an area of the United States which is far from being ideal for the utilization of solar energy substantiates the idea that solar energy for space heating is cost-effective.

(The scale was not reproducible.)

REPORT TO THE SENATE ON THE WORK OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUYE. Mr. President, as the 1st session of the 95th Congress draws to a close, it is appropriate to report to the Senate on the work of the Senate Select Committee on Intelligence.

I have had the honor to serve as chairman of the committee since it was formed on May 19, 1976. The Senate, in its Resolution 400, assigned to the committee a broad range of duties, all of which were designed to carry out rigorous oversight of the intelligence activities of the U.S. Government. After a period of a year and a half, I am of the opinion that Senate Resolution 400 provides the necessary scope and the workable means for exercising vigilant legislative oversight over the intelligence activities of the United States.

In recent years the intelligence community, particularly the CIA and the FBI, have been the targets of suspicion and abuse. There is no question that a number of abuses of power, mistakes in judgment and failures by the intelligence agencies, have harmed the United States. We, of course, hope that these abuses are behind us and will not occur again. These events did not happen in a vacuum. In almost every instance, the abuses that have been revealed were a result of direction from above, including Presidents and Secretaries of State. Further, in almost every instance, some Members of both Houses of Congress assigned the duty of oversight were knowledgeable about these activities.

The recent Helms case illustrates this pattern. If Mr. Helms should be subject to public blame, as some contend, then others in higher authority in both the executive branch and the Congress should also share the blame.

Every organization, whether Congress, the White House, the CIA, corporations, universities, or churches, is made up of men and women with their full share of excellences and failures. With the exception of a very small number who broke the law or failed in their trust, we owe a great debt to our intelligence community. It is made up of men and women of unusual dedication and ability who serve our country under the most difficult of circumstances. We can be proud that they have come through the trials of the past several years with a clearer sense of purpose and with a strengthened belief in the value of a life of service to our Nation.

The intelligence community has been in a turmoil over the past few years. It has been the subject of a number of congressional inquiries, internal investigations and intense criticism from the press and the public. With the support of the President and under the firm direction of Stansfield Turner, the intelligence community is in the process of creating a new organizational structure which should lead to more efficient coordination of its worldwide activities and a better overall intelligence product. It is my view that the intelligence agencies of the United States are now functioning under strict guidelines set forth by the President and the National Security Council, which lay out clear missions, limitations and accountability, as well as rigorous oversight by both the House and the Senate. While many improvements and reforms are called for, it is my evaluation that the present quality of the work of the U.S. intelligence community is good, and shows every sign of becoming better.

I firmly believe that under our constitutional system, the license for the executive branch to undertake secret intelligence activities requires a full awareness of the nature and detail of these activities by the legislative branch. The abuses of power by the intelligence agencies revealed over the past few years make it clear that the executive branch should not be authorized to undertake secret intelligence activities unless the legislative branch, through its appropriate committees, is fully knowledgeable and concurs in the purpose of such intelligence activities.

The necessity for a large and extensive secret intelligence system imposes great demands upon our open Democratic constitutional society. Secret intelligence activities, by their very nature, require that only a delegated few in the Government, in both the executive and legislative branches, have detailed knowledge of the overall activities of our intelligence agencies. I am convinced after my period of first-hand observation that much of the information produced by our intelligence system is not only useful but necessary to the Nation's security and well-being.

It is perhaps not surprising that as chairman of the Select Committee on Intelligence I have read my share of spy novels and books on the world of intelligence. There is one passage written by John Le Carré in an introduction to a book entitled "The Philby Conspiracy" that I find of almost daily pertinence to those of us who serve on the committee.

> * * * no secret service can be more clearheaded than its government. Everything rests upon a clearcut statement of requirements by those who formulate the nation's policy. If the secret services is properly used, it is a fighting arm, an extension of Government policy. But in times of dismay and national corruption it sinks swiftly into intrigue, slovenly security and interdepartmental rivalry.

The proper balance between maintaining the secrecy of information provided to it by the executive branch, and the right of the public to know what its Government is doing in its name has not been an easy issue for the Select Committee on Intelligence. Section 11 of Senate Resolution 400 gives to the select committee the right to full and complete information about all intelligence activities. No other legislature in the world has this right to secret information. The insistence that activities executed in the name of the United States by the executive branch shall be known, approved, or modified by the legislature, and the courts, as appropriate, has enabled the American republic to survive as a vigorous, free society. In a Democratic society some kinds of secret activities may not be possible because the circle of those who must know of the activities is relatively large. Our constitutional system of checks and balances and of shared responsibilities between the branches demands shared knowledge as well.

One requirement for effective oversight is the certainty that the Senate as a body has confidence in its delegated oversight committee. The committee must reflect the views of the Senate as a whole and should not favor the policies or predispositions of those who may be in power at any given time. The present membership of the committee reflects the full spectrum of Senate views from left to right. We are a non-partisan committee. As chairman, I have made it a rule, which the President, Director of Central Intelligence Stansfield Turner, and each of the executive branch agencies understand, that whatever information is conveyed to me will be shared with every member of the committee. On occasion this sharing process may have caused some contemplated activities to be dropped. Such a result is a function of the oversight process.

The obverse of Congress' right to access to information is its duty to protect the valid secrets of our country and to disclose validly classified information only in accord with an agreed-upon rational process of consultation. The committee has made use of the process and thus far it has worked well to the satisfaction of both the Legislature and Executive that it is a fair and reasonable procedure.

In the past, one of the reasons given for not sharing sensitive information with the Congress is the fear that the Congress would not be able to keep confidences given to it. Without question, unauthorized disclosures have come from Congress in the past and it is reasonable to expect they will occur in the future. It is also quite clear that in the past most disclosures of sensitive information have come out of the executive branch, including, on occasion, deliberate leaks from the highest authorities. Sometimes these leaks of information were intended as feelers to test public opinion—or in the worst cases, for narrow political purposes.

I am satisfied that the Senate Select Committee on Intelligence has demonstrated that it has the discipline necessary to protect the valid secrets of this country entrusted to it. We have met the challenge of proving that Congress can and will, with educated awareness of the substance and its fragility, with proper authority, and through reasonable procedures, keep the valid secrets entrusted to its care. We have done this in such a way that makes it possible for the most sensitive information to be available to each of the 100 Senators that make up the Senate.

As the Senate knows, the authorization bill and its report, which contain some of this country's most fragile and precious secrets, has been available to every Senator under the security provisions of Senate Resolution 400. Further, this committee has made its reports available to other standing committees and other individual members as appropriate.

In view of the demonstrated success of the formula for the handling of classified material and the process of determining the disclosure of valid national security information, I recommend to the leadership and the Senate as a whole that the formula contained in Senate Resolution 400 be extended for all classified information provided to the Senate. I think this provides the requisite balance between the right of access and the corresponding duty to protect our Nation's secrets.

The committee has just completed work on a unique joint effort with the executive branch on an executive order which will serve as an interim measure, as well as a blueprint for permanent statutes, which we hope will be passed sometime in the next year. Since July, committee members and staff have worked with the executive branch in the writing of this executive order. This joint effort marks a commitment on the part of President Carter and the committee to work as closely as possible to set forth clearly the principal missions and purposes of our national intelligence system, and to provide for its governance under the Constitution and the laws.

I am convinced that the most important work of the committee lies ahead—the passage of the statutory charters and guidelines which will place all the principal aspects of intelligence work under the governance of the Constitution and the law.

The committee intends to recommend passage of a legislative charter which will contain a number of separate titles. The first title is a general charter authorizing the scope of our national intelligence activities. It focuses responsibility for national intelligence activities upon the director of our national intelligence system, giving him the authorities necessary for the effective management and coordination required by our vast and diverse national intelligence system. It authorizes by statute—rather than by executive order—intelligence activities for the United States, but unlike the now obsolete National Security Act of 1947, it specifically authorizes the collection of intelligence and covert action. The bill, however, is not a blank check for the intelligence community. Detailed procedures are provided for the review of clandestine activities. Certain forms of covert action are prohibited. For example, the employment of members of the clergy or journalists for intelligence purposes is barred.

By establishing clear responsibility and accountability, and by defining what the intelligence community can and cannot do, the first title of the national act is intended to insure that intelligence activities are properly and effectively directed, regulated, coordinated, and administered and that these activities do not infringe upon individual rights protected by the Constitution and the laws of the United States. In addition to this general charter, there are, as separate titles, specific entity charters for the National Security Agency--NSA, the Central Intelligence Agency—CIA, and the counterintelligence activities of the Federal Bureau of Investigation—FBI. Further, there are titles which deal with the limitations upon intelligence activities which affect Americans overseas as well as in the United States.

During its work on charters over the last year and a half, the major issue that has faced the committee concern the question of balancing between detailed specifications of what may or may not be done, and the need on the part of the intelligence agencies for a degree of flexibility to meet exigent circumstances.

I am certain that the public hearings held by the committee over the next few months on charters will be of considerable national interest, particularly those hearings which deal with the relationships between the press and academics and the intelligence community. I have come to the conclusion that no intelligence agency should be involved with working journalists. The problem of the flowback of propaganda to the United States is a far greater danger than any benefits which might accrue from the services that a journalist working for an intelligence agency might be able to perform.

It is this kind of balancing question measured against the practical details of intelligence needs that lies at the heart of meaningful oversight. One of the limitations that our constitutional democratic government imposes upon intelligence activities is the constraint imposed by the mores of our own society. We in America value a free and open press. This deeply held value must be reflected in legislation defining the limits upon the use of journalists by the intelligence community.

The major underlying premise for the committee's work is that the most sensitive national security questions including secret intelligence activities can be resolved by our constitutional system and through regular constitutional processes. Full congressional awareness of the nature, extent, and details of intelligence activities and a process of rigorous oversight by an intelligence committee in both the House and the Senate is now a practical reality.

While Congress has taken significant steps to fulfill its constitutional role and responsibilities to share in the governance of all activities of the U.S. departments and agencies including their secret activities, effective means have not yet been devised to enable the courts to meet their constitutional responsibilities. Recent espionage cases, and the recent Helms decision underline the difficulties the Justice Department and the courts have in the consideration of secret national security questions. It is clear that our judicial system must develop a better system of proceedings for classified intelligence matters or secret national defense or foreign policy questions. It will not be an easy task. The dangers of creating a star chamber must be avoided on the one hand; on the other hand, the vital national secrets should be protected from unnecessary disclosure.

The committee intends to include in its statutory charters for intelligence activities provisions to enable the courts to address more effectively cases involving classified information. In the next few months, hearings will be held calling upon the best advice that the legal profession can give: from the Justice Department, and other departments and agencies, the courts, the law schools, from the bar associations, and from interested public groups and individuals. The courts must be given the procedural means to do their part in the constitutional process. When this task is completed, we will have enabled the three branches to fulfill their duties in the area of secret national security matters and will have largely removed the "national security loophole" which has so strained our constitutional system.

Much attention has been focused upon the shadowy, glamorous, and necessary world of secret agents. But by far the most significant and useful portion of our intelligence community is in the analyses and estimates they provide to our national leadership both in the executive and the Congress and the solid information they give to our executive departments and agencies. It is in this area that the Select Committee on Intelligence, I believe, will be able to serve the rest of the Senate in the future as a conduit to other committees and individual Senators to do their assigned tasks. Senate Resolution 400 already places a duty upon the select committee to provide other committees, individual Senators, and the Senate as a whole, with information that comes to it which may also be of benefit to them.

For example, the committee has been engaged in the past year on a study of the verification capabilities of the intelligence community. It is obvious that an authoritative objective study of our verification capabilities will be of use to the Senate when it takes up consideration of any future SALT treaty. The committee's study is being prepared with that duty and with that service in mind.

The intelligence community is now in a state of transition. The familiar romantic world of spies and counterspies, while still a vital necessity, is less central to our needs than our new technological means of collection. Without question, the U.S. Government now has a vastly larger and more detailed data base of information with which to understand the world than a decade or two ago. There has been an information explosion in the world of intelligence just as there has been in other sectors of our society and Government. It is not surprising, therefore, that the greatest need for improvement lies in the area of assuring more cogent analysis of this vast and burgeoning body of knowledge.

Further, there is a need for more rigorous analysis of political, economic, and cultural problems. This is not to say that military questions are less important; rather, it is only to assert that at the present time, the major problems and opportunities that face the United States are increasingly political, economic, and cultural in character. One area that the committee has been examining over the past year is the quality of our forecasts of worldwide crops and other vital materials and resources such as soil. It is problems of this kind that the Select Committee on Intelligence has been pressing the intelligence community to focus its efforts to improve the quality of its analytic work.

A very good example of the need for this new focus on a more universal approach to analysis, is in the area of arms control. I do not intend to diminish the great advances that have been made in analysis of military weapons intelligence. We have moved in the past 30 years from information derived primarily from spies to information gained largely from technical means: the U-2, satellites, and other technological marvels. The possibility for far more certainty about military events and for making more reasonable judgments about nuclear deployments is now greater than ever before. There is, for example, a direct correlation between the possibility of arms control agreements and the degree of verification that agreements will be observed. Our so-called national technical means of verification, that is, our satellites, made the SALT I agreement a reality, and further SALT agreements a real possibility. Without such means of acquiring accurate reliable military information, we would still be in an atmosphere dominated by fear and uncertainty—an atmosphere which characterized the early fifties, preparing for all-out war rather than seeking ways to reduce unnecessary arms.

But as we have come to know with more certainty, the nature and disposition of potential enemy forces, and as the doubts about the exact nature and quality of weapons capabilities recede, the questions of why military forces are assembled and for what reasons and purposes they might be used become more critical. Great advances have been made by our intelligence agencies in the hard areas of quantifiable information, but the so-called soft areas: the policies, the economics, the behavior patterns of men and nations, deserve far more attention and the application of many of the methods used for hard subjects. Yet, the very fact that we are coming to grips with these questions, and that our attention is focused on this area is directly attributable to the improving quality and sophistication of our intelligence system. We have moved from a preoccupation with the fearful questions of mere survival to serious considerations of ways to devise political or economic means of resolving fundamental differences between such rivals as the Soviet Union or China. In this respect, the growth and increased importance of our intelligence system over the past 30 years has served to strengthen the possibilities of a continuing peace. And it has done so even as it has increased its abilities to detect quickly any movements by potential enemies toward war.

Although there is no specific rule in Senate Resolution 400, I have chosen to resign at the end of this session as chairman. I am doing so because I believe rotation of chairmanship is the best way to assure the combination of close detailed work with the agencies and a vigilant attitude toward their activities can be maintained. I am resigning because I believe it is important for the Senate and for the intelligence agencies who are under the charge of the select committee to have overseers who come to the issues as I have come to them—with an open, fresh and relatively objective point of view, so necessary for the important task of oversight. An aware, yet detached point of view is necessary because the world of intelligence activities, as John Le Carré so cogently observed: "* * * spill over into almost every area of public life; its viability depends upon our tolerance, upon our money and to a sizable extent, upon our complicity."

I would like to establish a precedent which would be reflected in an amendment to Senate Resolution 400, which would require a regular rotation of chairmanship, as well as a limitation of the number of years members of the committee may serve, which is already in the Senate resolution. In my view, the chairman of the Committee on Intelligence should not serve more than a 2-year term. It is my considered opinion that this system of rotation of members and chairmanship will serve to create a growing body of better informed Senators, as well as a legislative constituency that can speak authoritatively on the needs of the intelligence community.

As the first chairman of the permanent intelligence oversight committee, I have found the task to be challenging, demanding, and extremely interesting. I do not give up this chairmanship without regrets. But I think it is vital to insure that the chairman be objective and impartial. I believe one reason for the failure of congressional oversight in the past years was that too close a relationship developed between the intelligence agencies and their overseers.

Because the committee began without any precedents and in a virtually unknown area, everything the committee has done has been a pioneering effort. I think we have accomplished much in these first years.

In summary, for the first time, we have had a full and complete annual authorization for intelligence activities. We have examined in detail all of the intelligence activities of the United States, including a line-by-line review of the most sensitive activities such as covert action.

Effective oversight of the intelligence community requires the regular review of covert action projects and what are called sensitive collection programs. The committee has devised a pattern of reviews on a quarterly basis, as well as a case-by-case review of all covert action programs approved by the President prior to their implementation.

Perhaps the most effective means of oversight is the authorization process. The power of the purse is the legislative body's most compelling means of working its will. In covert action, for example, the committee, in its last authorization, voted on each project, yea or nay. This process of voting on detailed specific activities was carried out in every area of intelligence activity.

The committee has had very heavy responsibilities but has earned the respect of the executive branch and the intelligence agencies. In fact, the President, at our meeting with him at the White House on August 4, commended the committee for its record of security saying that it was better than any other part of the U.S. Government.

The members have worked hard and I think we now have a staff of outstanding quality which is respected for its abilities and performance throughout the Government.

I thank my vice chairman, Senator BARRY GOLDWATER for sharing the burden with me in the difficult yet gratifying work of this committee. We have worked closely together on every committee issue and I have gained much from his counsel and views.

I want to commend the work done by Senator BIRCH BAYH, who will be the next chairman of this committee, for the consistent and careful efforts made to protect the rights of Americans as they may be affected by intelligence activities. Senators MORGAN, GARN, MOYNIHAN, CASE, and CHAFEE have worked with Senator BAYH in this vital area.

Senator HATHAWAY has performed the very difficult task of putting together the first annual authorization for intelligence activities that has ever been presented to Congress. It required months of hearings and an unusual devotion of time. This first authorization is the result of the time and effort of Senator HATHAWAY and his Subcommittee on Budget Authorization, Senators WALLOP, HART, and MATHIAS.

Senator DEE HUDDLESTON as chairman and Senator CHARLES McC. MATHIAS as vice chairman of the Charters and Guidelines Subcommittee have been working with Senators BAYH, STEVENSON, BIDEN, GARN, and LUGAR over the past year and a half, writing the legislation for the governance of the intelligence agencies. Senators HUDDLESTON and MATHIAS have worked carefully and effectively with the executive branch. It is our expectation that in most respects the draft statutory charter will have the full support of the executive branch. The 1947 National Security Act provided an inadequate statutory base for the intelligence activities of the United States. One reason for its inadequacies was that the legislative branch was not significantly involved in the drafting of those authorities for intelligence activities. President Carter and Vice President MONDALE have told the committee at several meetings that the best interests of the country will be served by working as closely as possible in this very difficult area of national policy.

Senator STEVENSON and his Subcommittee on the Quality of Intelligence have done outstanding analytic work on the product of our national intelligence system. The vice chairman of the Quality Subcommittee, Senator CASE, and Senators HART, MOYNIHAN, LUGAR, and WALLOP have supported this subcommittee ably. The subcommittee laid the foundations for use by other committees, other individual Senators, and the Senate as a whole, of intelligence information germane to the Senate's legislative duties. It is our hope that the work of this subcommittee can be expanded with the view in mind of enabling the Senate as a whole to make the decisions it must make on the basis of the best possible fact and analysis.

Senator BIDEN has been working on the difficult question of secrecy with his subcommittee, Senator PEARSON, as vice chairman, and Senators HATHAWAY, HUDDLESTON and CHAFEE. It is our hope that in the coming year comprehensive legislation can be introduced to deal fairly and effectively with the problems of classification of national security information which has bedeviled the U.S. Government for decades.

The burdensome task of investigations has been undertaken by Senator MORGAN and his Subcommittee on Special Investigations, with Senators GOLDWATER and I serving with him. Senator MORGAN's subcommittee has established a pattern of careful, rigorous investigation which has served the committee and the Senate well.

The committee as a whole has taken on responsibility for examining major questions such as the oversight of covert action. It is my expectation that the committee will continue to do so because of the obvious value that comes from the sharing of views and experience that a broadly based committee such as ours can offer.

I thank the majority leader, Senator ROBERT BYRD, and the minority leader, Senator HOWARD BAKER, for the confidence and support they have given to me and the committee while I have been chairman.

It has been a privilege and an honor to serve the Senate as chairman of this important committee at the time of its creation.

COLLEGE TAX CREDITS

Mr. ROTH. Mr. President, as you are well aware, my legislation to provide a tax credit to help offset college tuition costs has created a considerable amount of controversy in the past few weeks. Public awareness of the need for this legislation has increased substantially, and a number of issues have been raised. I believe legislation to provide college tax credits is an idea whose time has come, and I am confident that legislation to provide tax relief to the millions of parents struggling to send their children to college will be enacted into law in 1978.

The legislation I have introduced, the College Tuition Tax Relief Act (S. 311), provides tax credits for education expenses paid by an individual for himself, his/her spouse, and dependents. To be eligible for the credit, an individual must be a full-time student at an institution of higher education, including a vocational school. The amount of the credit is to be $250 the first year, increasing in stages to $300 the second year, $400, and then $500.

My college tax credit amendment has passed the Senate three times in the last 15 months. In August 1976, the Senate adopted the college tax credit as an amendment to the tax reform bill by a 68-to-20 vote. The House conferees refused to accept the amendment on the tax reform bill, and House leaders gave Chairman LONG and I their commitment they would give the House the opportunity to work its will on this provision on a separate bill.

Subsequently, the Senate added the amendment to a tariff bill by a 62-to-21 vote in September 1976. However, a member of the Ways and Means Committee objected to a unanimous consent agreement to go to conference on the bill and no action was taken.

In September of this year, the Senate (by a vote of 59-to-25) and the House (by a 311-to-16 vote) reduced the revenue levels in the second budget resolution by $175 million to allow room for the college tax credit.

The Senate then adopted the college tax credit as an amendment to the social security bill on November 4, 1977, by a 61-to-11 vote.

Increasing college costs, higher prices, and a growing tax burden are making it more and more difficult for qualified middle-income students to go to college. According to the statistics, there is a growing number of qualified students who are prevented from obtaining a higher education, because of increasing costs.

In the past few years, the cost of a college education has skyrocketed. According to the College Entrance Examination Board, the average annual total cost of a public university has increased more than 40 percent in the past 5 years, from $1,782 to $2,906. For a private university, the average annual total cost has increased over 35 percent, from $2,793 to $4,811. And according to a New York Times survey, the total annual costs at many colleges and universities are as high as $7,000.

Tuition costs will continue to increase. If a parent has a 1-year-old baby today, it has been estimated that it will cost $47,000 to send that child to a public university and $82,000 for a private university in the 1990's. For a student entering college next fall, the total cost will be $17,500 for a public university and $30,000 for a private college.

These increasing costs are a primary reason why college attendance has declined in the past few years. The U.S. Census Bureau reports that there has been a significant decrease in the percentage of 18- to 24-year-old dependents attending college full time. In addition, U.S. Census Bureau data shows that families are especially hard hit right now because many of them have more than one child of college age at the same time. These families face the difficult problem of educating two or more children over an 8- to 10-year period.

Middle-income families are especially hard hit by the increasing college education costs. There are millions of families today who are neither affluent enough to afford the high cost of college nor considered poor enough to qualify for the many different Government assistance programs which their taxes make possible.

As a result, college attendance of middle-income students has declined substantially in the past few years. Between 1969 and 1974, college attendance for children of middle-income families declined at a rate of 22 percent, while enrollment for lower- and higher-income students remained fairly stable.

Mr. President, we are rapidly approaching a situation in this country where only the very affluent and the very poor will be able to attend college, and I am convinced that action must be taken to ease the financial plight of middle-income families.

Despite the claims by the administration and other opponents of this legislation, this legislation will not provide benefits merely to "wealthy doctors, lawyers, and businessmen." In fact, nearly 90 percent of the college tax credit benefits will go to those earning less than $25,000 a year. According to an analysis of my bill by the American Council on Education, a group representing 1,500 public and private colleges, 32 percent of the benfits would go to those earning less than $10,000, 56.6 percent of the benefits would go to those earning between $10,000 and $25,000 a year, and only 11.4 percent would go to those earning more than $25,000.

A breakdown of the benefit distribution is shown on the following chart:

DISTRIBUTION OF COLLEGE TAX CREDIT BENEFITS

Income:	*Percent of benefits*
$0 to $6,000	9.7
$6,000 to $7,500	7.6
$7,500 to $10,000	14.7
$10,000 to $15,000	31.4
$15,000 to $25,000	25.2
$25,000 plus	11.4

As this chart clearly shows, the college tax credit provides relief to middle-income families, those who are not eligible for the many Government assistance programs already on the books.

These Government aid programs have increased substantially over the past 10 years, but they are aimed almost exclusively at lower-income students and are denied to middle-income students. For example, as of January 1975, less than 4 percent of the basic educational opportunity grants, the main Federal college assistance program, went to families earning more than $12,000 a year.

I strongly support financial assistance programs for lower income families, and I do not believe that the enactment of college tax credits would lessen Congress' commitment to these assistance programs. But we must not lose sight of the fact that the families who are paying the taxes to finance these programs are themselves finding it more and more difficult to educate their own children.

As a New York Times editorial has said, the difficulty that these parents are having in sending their children to college suggests:

> Outright disaster for the vast majority of American middle-class families in the $12,000-$20,000 range who are considered too affluent for federal or state scholarship aid.

The editorial goes on to urge the Federal Government:

> To open its eyes to a clear and present danger—that college gates are being shut to increasing numbers of able, middle-class young people on economic grounds alone. Nothing less is at stake than the future of an open, upward-mobile democratic society.

The administration and other opponents of college tax relief now claim that if any increased financial aid is to be given, it should be in the form of a Federal grant, based on financial need.

An expanded system of Federal grant is not the solution for the financial burdens of the middle class. America was built on hard work and perseverance. We cannot and should not sap the productive energies and self-reliance of our working people with more and more Government aid programs. Rather, let us build on the spirit that made America great by enabling our working people to keep more of what they earn to pay their own bills and not the Government's.

I believe there is something fundamentally wrong in the growing concept that working American taxpayers should come to Washington to apply for Government aid programs financed by their own taxes. Rather than "helping" people by requiring them to fill out detailed forms, baring their personal finances and pleading poverty in order to receive a portion of the money they have already paid in taxes, Congress should allow taxpayers to keep a larger portion of their own income to spend on education expenses.

Working Americans, caught in the middle, do not want a Government handout. They merely want to keep more of what they earn to spend on such basic American rights as a college education for their own children.

I believe there is clear and vital need for the adoption of this legislation. I realize that many Members of Congress are concerned about the revenue impact of this legislation—which according to the Joint Committee on Taxation, begins at $175 million in fiscal 1978 and increases to $1.9 billion in fiscal 1981 when the full $500 tax credit is in effect. If the credit remains at $250, the revenue impact would stabilize at $1.2 billion.

But how much more expensive is it to deny millions of young Americans the

the United States Congress take steps to reconstitute the draft of physicians into the military in order to insure adequate military medical care of the active military and their dependents and retired military and their dependents; and

c. That the Department of Defense and the United States Congress immediately consider the hiring of civilian surgeons and physicians on a contract basis, in order to insure adequate medical care for active military and their dependents and retired military and their dependents; and

d. That the Department of Defense immediately investigate the current distribution of military physicians on the various military installations throughout the United States in order to determine whether the military hospital at Fort Sill, Oklahoma, is adequately staffed in comparison to other Army hospitals in the continental United States; and

Be it further resolved that certified copies of this resolution be forwarded to the Secretary of the Department of Defense, the Secretary of the Army and the Representatives to the United States Congress in the State of Oklahoma.

AVERELL HARRIMAN AS THE AMBASSADOR AT LARGE

Mr. PELL. Mr. President, the noted columnist Mr. C. L. Sulzberger recently proposed in an article published in the New York Times that Gov. Averell Harriman be accorded the special title of the Ambassador at Large in recognition for the extraordinary contribution he has made as an envoy and statesman. Now, there are several Ambassadors at Large, but Mr. Sulzberger proposes that Governor Harriman be given the unique honor of being the Ambassador at Large, a rank comparable to the five-star rank of General of the Army that various military officers have attained through the years.

I heartily endorse this proposal and earnestly hope that President Carter will so honor Governor Harriman. Although Governor Harriman is not a career diplomat, I can think of no one who better exemplifies the kind of personal and professional traits required of the true diplomat. Governor Harriman has been associated with more great foreign policy endeavors than any man alive today, and it is wholly appropriate to pay tribute to his many accomplishments by creating this new rank and according it to him now.

With the creation of such a new rank and by according it for the first time to someone of the stature of Governor Harriman, a splendid model and standard of achievement and public service would be established for all career and non-career Ambassadors in the future. Effective diplomacy is, in a very real sense, our country's first line of defense; and it is thus fitting that those who excel in the practice of diplomacy should be honored in a manner comparable to their military counterparts.

Mr. President, I ask unanimous consent that Mr. Sulzberger's fine article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE AMBASSADOR AT LARGE

(By C. L. Sulzberger)

PARIS.—Only two officers in American history have been granted the military rank of General of the Armies. Technically, the first to be so honored was John J. Pershing, as of Sept. 4, 1919, although the U.S. World War I commander never wore more than four stars.

In fact, George Washington was given the title by Congress in 1799, even if no record exists that the appointment was ever made. It is one of history's oddities that the award was formalized posthumously only on Oct. 11, 1976.

There have, of course, been several officers who were Generals of the Army. Of them, those who wore only four stars on their shoulders were U.S. Grant (as of July 25, 1866), W. T. Sherman (March 4, 1888) and P. H. Sheridan (June 1, 1888).

Those who wore five stars were G. C. Marshall (Dec. 16, 1944), D. MacArthur (Dec. 18, 1944), D. D. Eisenhower (Dec. 20, 1944), H. H. Arnold (Dec. 21, 1944) (subsequently changed in 1947 to "General of the Air Force"), and O. N. Bradley (Sept. 20, 1950).

Four naval officers were given equivalent five-star grade of Fleet Admiral: W. D. Leahy (Dec. 15, 1944), E. J. King (Dec. 17, 1944), C. W. Nimitz (Dec. 19, 1944) and W. F. Halsey (Dec. 11, 1945). Of all these top United States officers the only living survivor is Gen. Omar N. Bradley.

I cannot understand why an equivalent highest honor has never been conceived for another career service of the United States, the State Department's Foreign Service. There have indeed, since Philip Jessup was first awarded the title on March 14, 1949, been 17 men ranked as ambassador at large. Five still hold the title: Ellsworth Bunker, Arthur J. Goldberg, Elliot Richardson, Gerald Smith and Marshall Shulman.

But this is not comparable to the military rank. It implies that a distinguished American civilian is working for his Government in a broad capacity deserving protocol and public recognition. It does not imply—as in the armed forces—that the diplomatic honor tops off a lifetime of professional public service. No present ambassador at large is a career man—although all are unusually able patriots.

The point is important. One man alive today should be singled out for special civil equivalence to the exceptions to the normally highest military rank: that is Averell Harriman. He is not a career diplomat but, Lord knows, he has been devoting his life to public service for over forty years, has held numerous Cabinet, ambassadorial, gubernatorial and Presidential advisory posts and is the oldest active elder statesman.

Harriman, now 86, is a physical miracle. Despite the fact that he fractured a hip two years ago, he has no limp and takes brisk walks for exercise. In every respect he is a generation younger than his birth certificate testifies. I attended his anniversary party 25 years ago (along with Dean Acheson, General Eisenhower and a fistful of dignitaries) while Harriman wandered about saying: "I can't be sixty; I won't be sixty; I refuse to be sixty."

He wasn't—any more than he is 86 today. President Carter continually calls on him for counsel and help—if always discreetly and on the sidelines. I suspect Harriman probably does as much truly *effective* work per week right now as a great many high officials on the Government payroll (even if the latter are of notably less distinction).

In foreign policy terms he has without question involved in more and more varied problems than any other American in our country's history: Britain, France and Russia during World War II; China, Vietnam, Africa, the Marshall Plan, Greece, Turkey, the third world, the Common Market—et cetera and including such problems as nuclear disarmament, energy and the Panama Canal.

If Presidents want his advice—which six of them have, at various times—they have asked it—either directly or indirectly. And there he is, still available, and on request, frequently consulted and used by and for the Carter Administration.

Harriman is—and since New Deal days has been—a vigorous and partisan Democrat. But, east of Sandy Hook and west of Hawaii, Harriman is nonpartisan.

It is high time—though he successfully "refused to be sixty" and now refuses to be 86—that he be given the honor he merits. George Washington, so much too late, and Pershing, more in a burst of national conceit than merit (vis-a-vis Eisenhower who commanded armies rather than an army), were awarded unique military titles.

Harriman, in his far-ranging field, has done well, devotedly, and with fervent, sincere success. He deserves the signal distinction of being named—and by acclamation—*the* ambassador at large.

CITIZENS AND BUSINESSES NEED RELIEF FROM GOVERNMENTAL PAPERWORK

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Maryland (Mr. MATHIAS).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MATHIAS

Among the complaints which come to me as a member of Congress, none is repeated more often than the burden of paperwork that the federal government is imposing upon the people of this country. It is not only a burden but it is becoming a positive evil, because it's contributing to the rising cost of living.

When unnecessary labor has to be expended to complete government forms, that labor sooner or later becomes a part of the cost of producing goods or services. This means that the resulting costs of those goods and services are higher than necessary. As a result, when the consumer goes to the marketplace to buy goods and services, he is forced to pay more than he should. I believe government should bear a part of the responsibility for this aspect of the rising cost of living.

Of course, in all fairness, this is not a purely federal problem. State governments, county governments, city governments—each have their own sets of forms. Citizens and business with relationships to these levels of governments are also required to fill out forms, as well as those required by the federal government. Congress has not been unaware of this problem. In fact, we appointed a committee to do something about it, but that committee, I regret to say, has so far submitted a report which is 2,200 pages long. That, in itself, is enough to say about the committee.

I believe we have to do something more effective. That's why I have introduced a bill to deal with one form of this evil—the complex area of state taxation of interstate commerce.

Now, that sounds like a complicated subject, but actually it deals with the problems a small businessman faces with a store or business located near a state line serving customers on both sides of the line. He is required to fill out forms in two states. Some sidered appropriate to keep the canal open and operating.

STATUS OF CANAL ZONE EMPLOYEES

On September 26, Representative ROBERT J. LAGOMARSINO inserted in the CONGRESSIONAL RECORD a statement by Alfred J. Graham, president of the Canal Zone Central Labor Union and Metal Trades Council, AFL-CIO. In his statement, Mr. Graham dealt with political and security, as well as labor matters, and criticized the treaties on several different grounds. He stated that he was dissatisfied with the lack of treaty provisions that would resolve the dual citizenship problem; that employees now engaged in Canal Zone operations which would become DOD functions might lose their Washington, D.C., paybase and Canal Zone leave benefits; that he considered the Panamanian Government an oppressive regime and that U.S. citizens remaining in Panama to operate the canal were concerned with the prospective loss of their civil rights under it; that, under the neutrality treaty, the United States could find itself in the position of forcing an ally to desist from attempting to impede the passage of an enemy warship through the canal; that, as leader of the free world, the United States should conclude a treaty only with a "Constitutional Government in Panama"; and that he was convinced the canal would be in Communist hands by "shortly after the year 2000", if not sooner.

Each of these points is subject to refutation. For example, the treaty has provisions which assure that the U.S. citizens who are in Panama for purposes of the canal treaty will be treated as U.S. citizens for purposes of the treaty despite the fact that some of them may be considered to be Panamanian citizens under Panamanian law. This means that they will be entitled to enter and leave Panama on a U.S. passport and the other documentation required by the treaty and will be entitled to all of the rights, privileges and immunities provided for U.S. citizens under the treaty and its related agreements.

The treaty, of course, does not address the status of private U.S. citizens who may be in Panama or seek to enter Panama for purposes other than the Panama Canal treaty and who may be considered Panamanian citizens under its law. Panama may treat such persons born in the Canal Zone as Panamanian citizens, for it is a well-recognized principle of international law that each nation has the right to establish its own criteria for citizenship under its law.

Under the Panama Canal Treaty, in general the terms and conditions of employment for current employees who will be employed by the new Commission will be no less favorable than those now in effect. The Secretary of the Army has assured current employees that they will keep the tropical differential and the present leave system and will suffer no reduction in pay.

The Panamanian Government, while authoritarian, has a legal basis in the constitution of 1972, which, moreover, guarantees common basic rights and freedoms to all Panamanians. At the same time, however, political or other activities which are deemed to be aimed at the overthrow of the regime are not permitted. Until the year 2000, under the terms of the treaty, all U.S. citizen employees and their dependents are assured basic civil rights in Panamanian courts similar to those that apply in U.S. courts, as well as other benefits and protections similar to those enjoyed by other U.S. Government employees overseas.

The neutrality treaty insures passage through the canal of the warships of all nations at all times. But the canal waters are only to be 3 miles under the new treaty, as they are presently. Outside of that area such vessels would be fair game.

No one can predict what the world political situation will be in the year 2000. However, one of the most important elements of the regime of neutrality, which the United States has the right to maintain permanently, is that no nation but Panama will operate the canal or maintain military forces and military installations in Panama after 1999. Panama favored this provision as much as we did as explicit proof that it will not come under foreign domination in the future.

ARMY DOCTOR SHORTAGE

Mr. BARTLETT. Mr. President, our military services are facing a shortage of physicians which is projected to continue well into the 1980's and which may reach a critical level in the next couple of years. In testimony before the Senate Armed Services Committee earlier this year, the Defense Department estimated that by the end of this year the uniformed services will be 8 percent below the authorized strength of medical doctors with the U.S. Army being short 13 percent.

By 1984, the Army still expects to be 14 to 25 percent below the level of active duty physicians required to maintain its nonmobilization readiness requirement. The Army's ability to mobolize doctors in case of war is even more constrained. The Army projects doctor levels in 1980 approximately 60 percent below that authorized for the Army National Guard and 75 percent below that authorized for the U.S. Army Reserve. At the same time, the number of USAR medical doctors in the Individual Ready Reserve will have declined 60 percent since 1973. In each of these cases, the trends continue downward.

This massive military doctor shortage endangers our Nation's ability to field an effective fighting force in time of war. It also endangers maintenance of an all-volunteer Army in time of peace because it reduces medical services to military personnel and their dependents, both retired and on active duty.

To help my colleagues understand the impact of the shortage of military physicians, I ask unanimous consent that a resolution I have received from the city of Lawton, Okla.—which is near the Army post at Ft. Sill—be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 77-125

(A resolution of the City Council of the City of Lawton expressing the city's urgent concern over the current status of medical benefits available to the retired military personnel and their dependents in the Lawton-Fort Sill community; and urging and recommending that the Department of Defense and United States Congress take appropriate actions to immediately remedy the deficiencies in the medical care system for military retirees and their dependents.)

Whereas, over 12,000 retired military personnel and their dependents reside in the Lawton-Fort Sill community, and make a significant contribution to the social, economic and political well-being of the City of Lawton; and

Whereas, the City Council, and all residents of the community are vitally concerned over the health and welfare of retired military personnel and their dependents; and

Whereas, Fort Sill and its medical facility, Reynolds' Army Hospital, have recently found it necessary to drastically curtail medical care for military retirees, due to shortage of military physicians and trained medical personnel; and

Whereas, the Department of Defense (DOD) and the various branches of the Armed Forces through recruitment and reenlistment programs consistently and steadfastly assured retired military personnel that they would receive guaranteed medical care during their retirement years; and

Whereas, despite repeated assurances of adequate medical care during retirement, curtailment in medical benefits have occurred, which have a particularly devastating economic effect upon older veterans and their widows; and

Whereas, it is clearly apparent that the CHAMPUS program promulgated by the United States Congress as a substitute for military medical care for retirees has serious defects which work additional hardships on retired military personnel; and

Whereas, it has been the experience of the retired military personnel of the Lawton community that the CHAMPUS program, is the same as presently constituted, does not provide an effective and adequate medical coverage due to a shortage of civilian doctors in the Lawton community and the unrealistic requirements which must be met before medical expenses are covered under CHAMPUS; and

Whereas, the City Council of the City of Lawton desires to express its concern to D.O.D. and the United States Congress concerning the plight of military retirees and their dependents residing in the Lawton-Fort Sill community.

Now, therefore be it resolved by the City Council of the City of Lawton that the City of Lawton strongly and urgently requests that the following recommendations be immediately addressed by the Department of Defense and the United States Congress to-wit:

a. That the medical expense and procedures covered under CHAMPUS be increased in order to insure that all normal medical procedures and tests are covered thereby; that the United States Congress immediately restore CHAMPUS coverage to the 90 percentile method of computing medical charges; that procedures be immediately instituted to reduce the service time for claims and payments under CHAMPUS; that instructions and claim forms promulgated under the CHAMPUS program be simplified; that CHAMPUS be extended to include dental care; and

b. That the Department of Defense and

> Under the treaties, Panama will receive payments which more fairly reflect the fact that it is making available its major natural resource, its territory, but the treaties require no new appropriations, nor do they add to the burdens of the American taxpayer.

The payments are to come out of the revenues generated by the operation of the canal. Acceptance of the principle that they should be established on such a basis was a major concession to our point of view by the Panamanian negotiators who had sought, on the other hand, payments far higher than could be supported from canal revenues.

TREATY APPROVAL PROCESS

On September 21, Representative ROBERT J. LAGOMARSINO inserted in the CONGRESSIONAL RECORD an editorial from the Ventura County, Calif., Star-Free Press entitled "Why the Rush?" The editorial asked why President Carter had given conclusion of a Panama Canal Treaty precedence over other items demanding his attention; why the signing ceremony had been held so soon; why approval of the treaties should not be subject to an "election"—presumably, a popular referendum is meant—in the United States; and whether, in the event of a civil war in Panama, the United States would be obliged to send in troops to save General Torrijos "in order to save the canal?"

As the editorial correctly points out, negotiations had been going on for 14 years. It is difficult to see how our interests would have been served by their further prolongation, once mutual agreement was reached on the basic points at issue. Certainly, we would have been accused of bad faith had we attempted to draw them out for an additional period.

Though it is now apparent that the Senate will not vote on the treaties until early next year, at the time the treaties were signed it seemed possible that the Senate would vote in the fall. In any case, there is no necessary relationship between the date of signature of a treaty and the time of the Senate's consideration of it.

It is not the custom in the United States to hold popular referendums in order to approve treaties. Rather, in accordance with our Constitution, the people's will is expressed by their representatives in the Senate.

The United States has primary responsibility for defending the canal during the treaty period but has no interest in intervening in Panamanian affairs. Conceivably, our responsibility for canal defense could result in action by U.S. troops should civil disturbances break out in Panama at some time; however, the objective of the U.S. action would be to protect the security and neutrality of the canal, not to influence the outcome of an internal struggle for power. Moreover, the parallel with Vietnam cited in the editorial is specious, since both treaty opponents and proponents would agree that the continued efficient functioning of the canal is an important U.S. interest that must be protected.

INDIGENOUS COMMUNIST PARTY INFLUENCES

On September 23, Representative DANIEL J. FLOOD of Pennsylvania inserted in the CONGRESSIONAL RECORD an article by the Washington columnist Allan C. Brownfield, entitled "The Canal Treaty and the Growth of Communist Influence in Panama." In this article, Brownfield alleges that Communist influence in the Panamanian Government is widespread; that the Panamanian Communists seek to eliminate U.S. bases in the Canal Zone; that the Soviet Union recently concluded "a potentially major trade and economic agreement with the Panamanian Government"; and that, once the treaties are approved, the Panamanians will bring pressure on the United States to eliminate our military presence altogether.

The Panamanian Communist Party does not function legally in Panama. It is permitted to remain in existence, but this Government toleration depends on the party's maintaining good behavior in the Government's eyes. It consists of only about 500 members and maintains a very modest profile. It does not participate either formally or informally in the Government, nor, to the best of the State Department's knowledge, are any leading government officials members of the party. Its actual influence on the Government of Panama is marginal.

Article IV of the Panama Canal Treaty provides a basis for defense of the canal by the United States and Panama acting in cooperation with each other, while establishing a U.S. right to act unilaterally if necessary to defend the canal. An agreement in implementation of that article describes U.S. rights to station, train, and move military forces. U.S. base rights and the legal status of U.S. defense personnel in Panama are also provided for under this status of forces agreement. Panama has a good record of adhering to its international obligations, even to a treaty which has been objectionable to it virtually from the beginning. There is no reason to believe that its behavior would be any different regarding a treaty which is much more responsive to its major concerns.

The "major trade and economic agreement" between the U.S.S.R. and Panama does not, in fact, exist. A Soviet trade mission visited Panama on July 19, 1977, and held discussions about increased Soviet-Panamanian economic and trade relations. No formal agreement was reached, however, and there has been no further activity of note. A number of Latin American countries have trade agreements with the U.S.S.R., and the recent Soviet initiative toward Panama does not seem to merit any particular attention.

CANAL USE BY BELLIGERENT NATIONS

In his 20th speech on the Panama Canal Treaty, reported in the CONGRESSIONAL RECORD of October 27, Senator ALLEN raised certain questions regarding the United States-Panama Protocol of an Agreement concerning neutrality signed October 10, 1914. He expressed concern that this protocol was being terminated by the new Panama Canal Treaty.

The 1914 Protocol deals with the application to Panama and the Canal Zone of the principles of international law concerning the rights and duties of belligerent nations and neutral nations during wartime. It does not relate to the principle of neutralization of the Panama Canal embodied in the 1901 Hay-Pauncefote Treaty between the United Kingdom and the United States, or to the rights of belligerent vessels to transit the canal.

Under the pre-U.N. Charter law of war, belligerent warships could not renew their supply of fuel in the ports of the same neutral state until a minimum period of 3 months has elapsed from the time of their previous refueling—article 20 of Hague Convention No. XIII (1907). The 1914 United States-Panama Protocol provides that, for these purposes, when Panama and the United States are neutral in a conflict between other nations, the ports of the Canal Zone and the ports of Panama shall be treated as being ports of the same neutral nation. Specifically, the Protocol states:

> That hospitality extended in the waters of the Republic of Panama to a belligerent vessel . . . shall serve to deprive such vessel of like hospitality in the Panama Canal Zone for a period of three months, and vice versa.

The protocol is terminated by the new Panama Canal Treaty because, upon entry into force of that treaty, the Canal Zone will cease to exist as a separate jurisdictional entity. Thus, the 1914 Protocol, which addresses the use of ports in "the Panama Canal Zone" would have no further application.

At the conclusion of my remarks, I will offer further comments on the use of the canal by belligerent nations.

U.S. DEFENSE OF THE CANAL

In his 22d speech on the Panama Canal Treaty, reported in the CONGRESSIONAL RECORD of November 1, Senator ALLEN alleged that General Torrijos interpreted the treaty and the statement of understanding between the United States and Panama of October 14 to mean that he had the sole right to decide when American troops could come in to defend the Canal. General Torrijos himself might be the aggressor, Allen added, and, in those circumstances, would not, of course, summon U.S. troops.

Article IV of the neutrality treaty provides that the United States and Panama "agree to maintain" the canal's neutrality. This general formulation permits each country unilaterally to decide upon and take the steps it considers necessary to insure that the canal remains open and secure. The neutrality treaty does not stipulate that Panama and the United State jointly "agree to maintain" the canal's neutrality. Where joint action is contemplated, the treaty so specifies—and it does not do so in this instance.

It is highly unlikely that Panama would attack the canal. Panama has the paramount interest in keeping the canal open and operating effectively and is committed to the maintenance of the canal's neutrality. If, however, Panama should be unable or unwilling to uphold its commitment to maintain the canal's neutrality, the right of the United States to carry out its commitment would remain and the United States would be free to take whatever measures it con-disabilities as their normal children will later simulate in their classes.

During the semester three additional workshops are held. Nancy Criss, a second-grade teacher at the Hamilton School, said, "Teachers and children will have to adjust to having handicapped children in the class. This program is essential for all of us."

Children in Doris Stedman's second grade were more considerate of others in the classroom and more free to talk about handicapped people. She noted that one child described his retarded cousin. "Because the children experienced this program," she added, "they are not afraid to talk about handicapped brothers, sisters and relatives. For some children, they were proud of the accomplishments of their handicapped relatives, for the very first time."

Teachers have incorporated the program into the instructional flow of their classrooms. Children write stories and read books about handicapped people and some write letters to the handicapped guests who have visited their classrooms. Teachers have arranged an exchange program with the multi-handicapped children at the Meeting Street School, and children who finish their work in regular classes can work with handicapped children in the special classes in the school.

Parents of normal children respond with equal enthusiasm. Mrs. Bookbinder, who expected that the program would be received poorly at the Hamilton School, recalls a phone call from a parent who complained that the program should not be held in the school unless every child could participate.

Although the program was initially supported by a Federal grant, it was not refunded for this school year. "We were not given a second grant because new directives under P.L. 94–142 require that programs provide 'direct service' to handicapped children," Mrs. Bookbinder noted. However, the parents at the Meeting Street School feel that the program does indeed provide "direct service" to their children, especially since relationships between their handicapped children and normal children have been extremely positive as a result. These parents contacted the Rhode Island State Department of Education, and money for this year's program came directly from the state, in conjunction with a $2,000 grant from the State Association for Retarded Citizens.

"At the beginning we had a difficult time getting just one school district to agree to our working in just one of their schools," she said, "Now we are deluged with requests."

With mainstreaming of handicapped children on the rise, said Joyce Perhac, one teacher. "We're going to get involved whether we like it or not. Through this program I and my normal children learned that working with the handicapped child will not be as difficult as everybody thinks it might be."

EVALUATING THE ARGUMENTS AGAINST THE NEW PANAMA CANAL TREATIES—II

Mr. HUMPHREY. Mr. President, in a previous statement to the Senate, designed to correct some misperceptions, I evaluated some of the arguments raised against the Panama Canal Treaties.

Today, I would like to continue this process, by responding to a number of additional concerns which have been expressed in the CONGRESSIONAL RECORD over the past 3 months.

PANAMA AND CUBA

On September 23, Representative ROBERT K. DORNAN of California, in an Extension of Remarks, criticized the State Department for asserting that Gen. Omar Torrijos of Panama is not really closely alined with Cuba's Fidel Castro. The distinguished Representative invited the Department to "explain away" a recent exchange of telegrams between the two Latin leaders.

It is correct that, while returning to Panama from the United States after having signed the treaties, General Torrijos sent Castro, by radio, a message of greeeting and appreciation for Cuba's support for Panama on the canal issue. However, Panama's relations with Cuba at the present time might best be described as "correct," without being particularly cordial or close. The staff of the Cuban Embassy in Panama now totals 25 to 30, a substantial reduction from the 1975–76 figure of 40 to 50. Despite allegations that Cuba has provided arms, training, and assistance to the Panamanian National Guard, there is no evidence that such is the case. When General Torrijos visited Cuba in January 1976, he expressed admiration for Cuba's material accomplishments under Castro but added, "Cuba has found its road to socialism but that road is not Panama's." I might add that numerous groups of American businessmen who have traveled to Cuba have also expressed admiration for a number of social accomplishments of the government of Fidel Castro.

During the canal treaty negotiations, General Torrijos consulted frequently with the Presidents of Venezuela, Colombia, Costa Rica, and Mexico. He met with them together on August 5 and 6, for a final consultation before reaching agreement in principle with the United States on August 10. These countries—not Cuba—are the ones with which General Torrijos has maintained the closest contact on the negotiations in recent years.

SOVIET INFLUENCE

On September 20, Representative LARRY McDONALD of Georgia inserted in the CONGRESSIONAL RECORD a column by Otto S. Scott that had appeared in the San Diego Union. Entitled "The Parallel Between Two Canals," the column referred to the alleged demand by the Soviet Union in 1919 for the internationalization of the Suez and Panama Canals and argued that—

> Transfer of the [Panama] canal will open the gate to Soviet expansion and usher scenes of disorder and intrigue to this hemisphere virtually unknown since it achieved continental solidarity and ended its Civil War.

The neutrality treaty includes a provision which specifies that after Panama assumes responsibility for the canal at the end of the century, no foreign nation will be allowed to operate the canal or to station troops or maintain military bases in Panama. Panama has thus formally committed itself not to invite in another foreign power to "replace" the United States, nor does it have any reason to do so. Panama's goal for decades has been to achieve greater control over its own destiny, not to trade U.S. influence for some other foreign influence. As regards the fear that an unfriendly power might nevertheless push its way into Panama, it should be noted that the United States would be in a position under the neutrality treaty to act to maintain canal neutrality which includes the prohibition against foreign operation or bases. Moreover, the United States and Panama are allies under the Rio Pact, so the impression that Panama would be a defenseless target for foreign intrigue and expansion is wholly unwarranted.

This argument, moreover, is based on unwarranted assumptions regarding the present Panamanian regime headed by General Torrijos. He has made it clear that he wants Panama to develop in accordance with its own needs and traditions and not in accordance with any foreign model. Panama's relations with Cuba and the Communist countries are not close; neither the Soviet Union nor Communist China maintains an embassy in Panama. On the other hand, ever since achieving independence, Panama has had very close political and economic ties with the United States and is an ally of ours under the Rio Pact. United States-Panamanian ties will be even closer under the new treaties, since the two countries will be working in long-term partnership to operate and protect that canal. The danger of Communist or other unfriendly influence in Panama would be far greater if we attempted to maintain the status quo. Moreover, not only in Panama but also in other countries sympathetic to Panamanian aspirations, such an attempt would provide grist for Communist mills and strengthen the position of anti-American forces.

PAYMENTS TO PANAMA

On September 21, Representative ROBERT J. LAGOMARSINO of California inserted in the CONGRESSIONAL RECORD an editorial from the Camarillo, Calif., Daily News entitled "Pay To Be Kicked?" The editiorial argues that the Senate should reject the treaties because "we are being blackmailed by a two-bit dictator" and asks why we should pay $50 to $60 million annually until the year 2000 "for the privilege of being kicked out?"

In negotiating the treaties, the United States did not respond to pressure, but recognized that changing circumstances required basic changes in our treaty relations with Panama. We are acting, instead, to preserve and protect our continued use of the canal. We tried to reconcile the fundamental interests of the two parties: our interest in continued access to the canal, and the strong desire of the Panamanian people to have control over all their country's territory. The alternative—maintenance of the status quo—would be the unilateral assertion of American power, unnecessary for our objective, continued access to the canal, and without regard to the legitimate concerns of the Panamanians. Adopting such an alternative would seriously weaken our moral position in the world and would not be the best measure of assuring our security interest in the canal for the future. Given the vulnerability of the canal to sabotage, adhering to the status quo could well result in the defeat of our primary objective of an open and efficiently functioning canal.

In response to the charge that we are paying the Panamanians to take the canal, Secretary Vance pointed out on September 26:

the 3M board to limit the company's public disclosure of illegal campaign contributions (which were made before he joined the company).

Although Mr. Peterson's name frequently surfaces when Cabinet openings occur (he was mentioned as a possible Secretary of State or Secretary of the Treasury in the formative days of the Carter Administration), he professes to be content on Wall Street.

"I haven't a single thought of doing anything but staying in the [securities] business," he said yesterday.

Adding to his happiness, he said, was his famliy's satisfation with life in New York. His wife has earned a master's degree in clinical psychology at New York University, he said, and is currently studying for her Ph.D.

Two sons are in college, one at Dartmouth and the other at Bucknell. A younger son and daughter attend the Dalton School, and an older son attends a school for the retarded in San Francisco.

"My family did not find Washington at all times a great place to live," said Mr. Peterson, who lives in an apartment on Gracie Square. "But we find New York a great city."

Born in Kearney, Neb., on June 5, 1926, Mr. Peterson attended the Massachusetts Institute of Technology for two years, then earned his Bachelor of Science at Northwestern University, graduating summa cum laude. He earned a masters' degree in business at the University of Chicago.

Last August, he was hospitalized for major surgery because of a cranial tumor that was benign and involved no neurological damage.

Although he says that Wall Street has won his heart, Mr. Peterson retains some ties to Washington. He served as chairman of a blue-ribbon commission that recommended late last year substantial pay raises for top Federal officials, including members of Congress.

He also is active in various international and domestic organizations, and last June was named chairman of the United States Council of the International Chamber of Commerce.

TRIBUTE TO SENATOR JOHN L. McCLELLAN

Mr. RANDOLPH. Mr. President, the passing of John McClellan has left an understandable void in the hearts of his many friends and colleagues. It is with great sadness that we testify to the loss of a comrade, a good man, and an outstanding legislative leader.

He had invested more than a half-century of his life in serving the people, and America is the better for it. John McClellan was without a peer in his broad knowledge of government, and particularly in the processes of budgeting and appropriations.

Throughout his Senate career, he maintained an investigative zeal which won the admiration of all who were privileged to work with him. His firm belief in a strong national defense earned him universal respect. His encyclopedic knowledge of our military establishment and its needs, was both persuasively and eloquently presented.

I feel a personal loss as I join my colleagues in expressing tribute to this gallant American. Our grief is lessened by the fact that John McClellan's achievements over many years have set a standard of excellence and dedication to public service which will be remembered and followed for decades to come.

Mary and I shall continue to trust that his wife Norma, who was a strong helpmate, will be sustained by the faith John exemplified and in which she shared.

HELPING CHILDREN TO LEARN TOGETHER

Mr. PELL. Mr. President, I would like to share with my colleagues today a news story about an interesting and important new educational program designed to assist handicapped children and nonhandicapped children to get more out of the time they spend together in school.

As Federal legislation, principally the Education for All Handicapped Children Act, moves into place throughout the country, more and more handicapped children will be placed in regular classrooms, a concept known as mainstreaming. With that placement will come the challenge and the opportunity for handicapped and nonhandicapped children to learn, work, play, and live together for 6 or 7 hours each day. The task of learning in school is difficult enough for any student without adding complications, and simply to place a handicapped child in an educational situation where the vast majority of his or her peers have no experience with handicapped children poses some difficult problems in terms of understanding, respect, and learning to be friends.

A new project in Rhode Island called "Understanding Children with Special Needs" focuses on helping schoolchildren learn to be better friends and classmates with handicapped children. This project promotes understanding by giving nonhandicapped children firsthand experience of what it feels like to have a handicap, and this sensitivity training seems to be working well.

This program was the brainchild of Alice Cassidy, who is the assistant director of the Meeting Street School, a school for multihandicapped children in Rhode Island. I have had the opportunity to visit the school on many occasions and to meet with Alice, Nancy D'Wolf, and other members of the school's staff and the parents of its students, but each time you step through those doors, you are filled with a sense of optimism and hope because of the very special and fulfilling work that is carried on in the classrooms.

This project helps to extend that work into the community which surrounds the school, indeed into all of Rhode Island. It is a model project and one which I hope other schools will emulate. In order to share its concepts with my colleagues, I ask unanimous consent that the article, "Showing Normal Pupils What It's Like To Be Handicapped," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Showing Normal Pupils What It's Like To Be Handicapped

(By Barbara Aiello)

East Providence, R.I.—When handicapped children enter classrooms with normal children, the disabled child often feels tense and conspicuous while the nondisabled majority are often anxious about how to treat a child in a wheelchair, or a blind, deaf or retarded classmate.

With the trend toward the "mainstreaming" of handicapped children well established, such problems are on the rise and educators have begun to recognize the need for the careful orchestrating of the quality of life in classrooms where handicapped children are included with their normal peers. One such plan, "Understanding Children With Special Needs," is operating in Rhode Island.

The program is the brainchild of Alice Cassidy, associate director of the Meeting Street School for multihandicapped children, and was developed here in response to requests by parents of the handicapped children who attend.

"These handicapped children must function in typical neighborhoods," said Susan Robin Bookbinder, the project director. "It seems they had a difficult time making friends because so few normal children understood them."

As a result, the program also became part of the curriculum for normal children at the Hamilton Elementary School in North Kingstown. Normal children participated in a one-semester course that consisted of eight two-hour sessions conducted by Mrs. Bookbinder and her staff of trained parents.

For these sessions Mrs. Bookbinder designed a series of simulated activities to introduce children to disabilities, share the variety of materials such as Braille books, hearing aids, artificial limbs, braces, wheelchairs, crutches and canes with the children, and their regular class teachers, and invited disabled people to speak to each class.

The preparation takes many forms. Children spend part of the session with sandbags attached to their wrists to simulate what it is like to wear braces. With a partner, children eat a snack of cupcake and juice while blindfolded, watch a cartoon with the sound turned off, and walk down school halls with their ankles tied together.

"Many retarded children have difficulty walking," said Mrs. Bookbinder, who has taught deaf-blind children and emotionally disturbed as well as normal children. "So we have the children simulate this disability. Later we discuss how it felt to be stared at when doing the very best you can." Sessions also deal with cerebral palsy and other orthopedic handicaps.

It is not uncommon at the two schools involved to see third-grade children maneuvering wheelchairs and walkers or carrying canes down school corridors, or to see second-graders changing batteries in hearing aids while working with Braille writers. "We follow the simulations with experiences with devices and appliances used by handicapped people, and associations serving the handicapped have been extremely generous in lending us all sorts of things," Mrs. Bookbinder said.

After the children experience being blindfolded, they learn some basic Braille, peruse Braille books, and write in Braille with specialized equipment. They use chess and checkers sets and card games designed for the blind. During the sessions on orthopedic handicaps, physical therapists demonstrate therapy procedures and permit the children to use the equipment for an extended period in their classrooms.

After the children have used a variety of appliances, handicapped people visit the classrooms to talk with the children and answer their questions.

During these visits the children want to know the details of specialized equipment and the causes of a visitor's particular disability. Then the children ask about pets, sports and the hobbies and interests of the guest.

The program also includes preparation for the regular class teachers, and prior to classroom sessions, teachers participate in two workshops where they experience the same

Old Glory. The constitution and governmental structure are patterned on the American system, but, after 130 years of independence, it's still largely pattern and not practice.

Physically, Liberia is a hot, harsh and often brutal land, deluged by more than 200 inches of rain a year.

And it is a land where ignorance, poverty and disease are realities. Statistics are imprecise in Africa, but about 90 per cent of the 1.6 million people are illiterate, annual per capita income is around $300 and the most virulent diseases known to man thrive here, cheating the average Liberian of almost 30 years' life expectancy, in comparison to Americans.

During World War II, an airfield was built by the United States, and, in the 1950s, a deep-water port was financed by U.S. funds. Its existence made it practical to mine Liberia's rich iron ore deposits, thus finally allowing the beginning of a modern Liberian economy.

Liberian exports in 1938 were reported at less than $2 million; that rose to $30 million in 1953 and to $405 million two years ago.

DESCENDANTS OF SLAVES

Most Liberians are indigenous Africans, members of the 20 or so tribes which have lived for centuries on the coast and in the interior of this Ohio-sized nation, growing barely enough rice to live on and clustering in villages where they speak native dialects and practice various forms of animism.

In contrast, Monrovia and several other coastal cities are the domain of the descendants of freed American slaves who returned to Africa in the 19th Century.

While the term is no longer fashionable, these people are known as Americo-Liberians and number 50,000 at most. The political and economic base is broadening now, but Americo-Liberians have run Liberia since their descendants bought the right to settle in Monrovia from native chiefs for about $300 in trinkets and beads.

Monrovia now is tattered and worn, its antebellum-looking buildings reminiscent of a coastal town in the South that never recovered from the Depression.

The city's population has doubled to about 250,000 in 10 years. Most of the newcomers are tribal people moving to the city, and, with few skills and little education, are compelled to live in squalor.

The shantytowns are dank, crowded, unsanitary, with rusting zinc-roofed hovels. Water is polluted but people drink it anyway. Trash is strewn at random.

Monrovia's slums have swelled so fast their presence has created pressures on the government to do something about them. Low-cost housing is being built, although not rapidly enough, and the administration of President William S. Tolbert is trying to curb the flow to Monrovia by apportioning half the national budget to development in the interior.

But "things take time," as Liberians are fond of saying, which suggests the conditions are right for a Peace Corps program.

Liberians often say that "Peace Corps [volunteers] don't eat money," which is a high form of praise and expression of trust in a country where the national pastime has been to "eat" money.

Also, the Peace Corps, because of volunteers' high visibility, has helped create a favorable impression among Liberians toward the United States. "I just want [to] go see that place, one time," Liberians will say frequently. Many of them find a way, especially college students.

To its credit, the Peace Corps has responded to the positive climate it has fostered by expanding its programs into areas of health, rural development and agriculture.

But it is shortchanging volunteers, like the practical nurse assigned to Webbo, by inadequately supporting them and thus creating senseless frustration.

BENEFITS OF COLONIZATION

This is particularly disturbing because Liberia looks as if it is finally going to join the 20th Century. Outsiders familiar with this country would be justified in skepticism, but there has been a great change in attitude by Liberians.

My frame of reference is 1966–67, when I was a Peace Corps volunteer here and William V. S. Tubman was president. He ruled from a $26 million executive mansion overlooking the city.

While his spending priorities can be questioned, Tubman had virtues, among them a fine sense of irony. He used to rebut critics from newly independent African nations by suggesting that, unlike them, Liberians never enjoyed the benefits of colonization—and he had a valid point.

When the British and French pulled out of neighboring African countries, they left schools, roads and reasonably well-trained civil servants.

No such infrastructure was developed in Liberia. The American Colonization Society, which sponsored the return-to-Africa movement, did support the settlers with about $2.5 million over a 50-year period, hardly sufficient to build a nation in a jungle from scratch.

Liberia is most noted for its widespread corruption and its parodying of American ways, with an inflated sense of status. For example, a high school in the central part of Monrovia is named the College of West Africa, and, in reality, the Richard M. Nixon Institute is a private elementary school.

But Liberians seem to have their feet more firmly on the ground today than a decade ago. It's a pity, then, when vital problems are crying out for solutions here, that Peace Corps volunteers tend to view the agency which sponsors them as an obstacle to getting the job done.

PETER G. PETERSON

Mr. PERCY. Mr. President, for the benefit of the many friends in Washington of Sally and Pete Peterson who may have missed the Tuesday, November 29 feature article in the New York Times, I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. PERCY. I have known Pete Peterson for many years, both in private life and in the years of our public service in Washington. It was his high degree of competence that enabled me to leave Bell & Howell with a clear conscience to run for public office. He joined the company first as executive vice president, became president and later chairman of the board. His friendship has meant a great bit to me and my family over the years and I rejoice in every success achieved by my friend who, in his everlasting credit, refused to click his heels on Pennsylvania Avenue some years ago and who continues to excel in a brilliant career on Wall Street.

[From the New York Times, Nov. 29, 1977]

EXHIBIT 1

ENGINEER OF A WALL ST. MERGER— PETER GEORGE PETERSON

(By Michael C. Jensen)

Barely four years into a new career as an investment banker, Peter G. Peterson yesterday became the prospective chairman and president of the combined securities firms of Lehman Brothers and Kuhn Loeb & Company. Since the Wall Street landscape is littered with securities firms that could not make a go of it in an increasingly competitive environment, Mr. Peterson, who engineered the merger from his seat atop Lehman Brothers, seemed justified in appearing satisfied with his accomplishment.

For the 51-year-old former Secretary of Commerce and ex-chairman of Bell & Howell, it was a landmark in his third major career.

As the chief executive of not one but two of Wall Street's prestigious, old-line houses, the new boy on the block has outmaneuvered and apparently outhustled some of his competitors.

"We're delighted about it," Mr. Peterson said yesterday of his new acquisition. Typically, he was preparing to fly today to Paris and Munich, where he planned to meet with the international staffs of the two firms, and with his European partners and then, it was hoped, to pick up some new business.

"A lot of people predicted that my leaving Washington [in 1973] would result in a serious case of the bends," he said in a telephone interview, "but there hasn't been a bit of decompression."

President of Bell & Howell, Mr. Peterson's star has been rising since the early 1950's. A vice president at the age of 27 of McCann-Erickson, an advertising agency, he was tapped for the presidency of Bell & Howell, the big camera company, only seven years later.

He subsequently moved up to the chairmanship of that company, and then, early in 1971, he was named to President Richard M. Nixon's White House staff in Washington.

In Washington, Peter George Peterson was an exception among the somewhat colorless men who surrounded President Nixon. He was a favorite guest at Georgetown cocktail and dinner parties, and counted among his close friends such liberal enemies of the Administration as Mary McGrory, the newspaper columnist.

Although he was somewhat of a maverick, Mr. Peterson's power and prestige in Washington grew. After serving as the President's expert on foreign trade, he was named Secretary of Commerce in 1972.

However, as his political enemies multiplied, he was eased out of the Cabinet and given an assignment as a roving trade envoy. The problem, insiders said, was that he had run afoul of Nixon's two key advisers, H. R. Haldeman and John D. Ehrlichman.

Mr. Peterson had been a business protege of Senator Charles H. Percy, Republican of Illinois, at Bell & Howell, and was a close friend of Secretary of State Henry A. Kissinger while in Washington.

Joining Lehman Brothers in June 1973 as vice chairman, he left Washington before the Watergate affair had begun to destroy the Nixon Administration.

Lehman Brothers was venerable but financially troubled, and Mr. Peterson set about reorganizing it. Two months after arriving, he was named chairman, with the authority to pare the staff and reorder priorities.

Although Mr. Peterson was new to Wall Street, he was not a stranger to some of its inhabitants. While he was in Washington, for instance, Mr. Peterson's holdings were administered in a blind trust by Felix G. Rohatyn, a partner of Lazard Freres & Company and later chairman of the Municipal Assistance Corporation.

DIRECTOR OF MINNESOTA MINING

As an investment banker, Mr. Peterson began to acrue some of the perquisites of his position and in mid-1973 he became a director of the Minnesota Mining and Manufacturing Company. Subsequenty, he was the only director to vote against a resolution of limited to Peace Corps volunteers; it also involves the dedicated personnel of American voluntary agencies and others who are working closely with rural—and urban—poor people overseas in carrying out development activities in true people-to-people partnerships.

The Post article also provides a provocative insight into the kinds of problems that beset America's volunteer workers in the field overseas when their efforts are viewed as self-contained rather than as part of a larger effort. I am deeply disturbed that a lack of small-scale, low-cost but critically important material support should impair some of our volunteers' efforts. Similarly, I am concerned that within a foreign economic assistance budget of some $6 billion annually we are unable to provide our lowest cost workers overseas an adequate minimum living allowance.

This kind of penuriousness, attempting to obtain a useful and valued human resource at bargain basement cost, completely overlooks the increasing importance of people-to-people efforts within the totality of U.S. development assistance efforts under the new directions, first contained in the Foreign Assistance Act of 1973 and subsequently reaffirmed and strengthened. These people are doing more than carrying out the humanitarian mission of bringing in an immediate, physical dimension, a measure of America's concern to the people of the less developed world. They are also translating into practical terms the development strategies and policies adopted at high levels of government and thus can indeed be a key means for change in traditional societies. They provide the human brains and muscle that can more effectively transform money voted by this Congress into actual accomplishments: Improved practices by small farmers and increased food production; new and better health care and sanitation practices; and more opportunities for off-farm employment, especially for rural women. As a result of these new emphases in foreign assistance, never before in the history of American foreign aid has the people-to-people approach been as significant a part of the mainstream of the development effort.

Mr. President, I am convinced that at this critical juncture Congress and the administration must be concerned with the optimum use of these valuable American human resources, both in the Peace Corps and working through private voluntary agencies. It seems to me that what is needed is a mechanism that will insure that programs are given their rightful emphasis as valuable development efforts and do not fail as the result of nonavailability of critical material support or because a relatively inexpensive project in dollar terms does not attract sufficient attention of program administrators concerned with "the big picture."

Adequate attention must be given to having "people intensive" assistance development activities work effectively and in complement to our more traditionally Government-funded and staffed assistance programs. As the Peace Corps experience to some extent has shown, and as is reinforced by the experience of private voluntary agencies, a better mechanism would probably operate best outside the mainstream of official U.S. Government channels. At the same time, I believe that such a mechanism is a necessary part of making our total development assistance effort more meaningful, effective and directly related to the target groups, and more likely to have a lasting beneficial effect in the countries of the developing world.

Mr. President, I ask unanimous consent that the Washington Post article by Mr. Keller be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PEACE CORPS IN LIBERIA: FRUSTRATION, LITTLE SUPPORT

(By Mike Keller)

MONROVIA, LIBERIA.—Four months after he made the grueling 17-hour bus trip to the remote village of Webbo, the 26-year-old Peace Corps practical nurse packed his belongings and returned here, frustrated in his attempt as the first outsider to offer health services in that remote part of the world.

The motorcycle which had been promised to the former Army nurse for work in the neighboring villages never showed up.

The medical supplies he had brought with him lasted about a month. He scrounged more in a nearby village, but even a hefty supply of chloraquine doesn't last long in a nation ravaged by malaria.

The greatest frustration, however, was that in the four months he was in Webbo, no one at the Peace Corps office in Monrovia responded to his messages, let alone made provisions to supply him with the essentials to do his job.

Since his return to Monrovia, he has been teaching at the U.S.-built hospital, but he plans to leave Liberia this month, a year before his two-year tour of duty is supposed to be over.

The most disturbing element of these experiences is that they typify the complaints Peace Corps volunteers in Liberia have about programing and placement.

"You're looking for some direction and support when you're here and you're not getting it," the disgruntled volunteer said.

The irony is that the Peace Corps has contributed significantly to Liberia's development, and today, when a first-rate grassroots assistance program probably would flourish, Peace Corps morale is bad and the dropout rate among volunteers is estimated at 30 per cent or higher.

An entire group of 11 rural development volunteers recently went home early. An education group of 67 volunteers which arrived early this year had shrunk to 51 six months later.

Such problems obviously are not entirely new to the Peace Corps, but after 15 years of operation in Liberia, the agency ought to have a better handle on the situation.

FUNDS REDUCED

At bottom, of course, the problems can be traced to money; in eight years, the Peace Corps budget has shrunk by nearly 20 per cent.

In 1969, the budget was $102 million; the current operating budget is $82.9 million, which translates into $15,000 per volunteer.

Of that amount, $1.1 million is spent directly on the 240 or so volunteers in Liberia. That's about $4,600 a year, or less than $400 a month per volunteer for everything—food, housing, clothes, medical support, transportation, furniture, electricity or kerosene, vacation allowance and incidentals.

By contrast, in-country support for a technician with the Agency for International Development costs between $75,000 and $80,000.

Volunteers don't want that level of support by any means; they frown upon those technicians because their inflated lifestyles impede their rapport and effectiveness here.

Volunteers, however, do feel monthly allowances for housing, food and incidentals are too low.

When gripes about this reached the embassy, Ambassador W. Beverly Carter ordered a cost-of-living survey. Allowances then were raised to $198 a month in Monrovia and $188 up-country, a $15 increase, but still $45 under what the survey showed to be the minimum for volunteer support.

The Peace Corps staff has its share of problems, of course, and one of them is the enormous turnover both in Liberia and Washington headquarters.

About a dozen administrative officers have come and gone in Liberia in the last two years. The Peace Corps country director, Dennis M. Lucey, resigned in October, citing frustration with Washington as a major reason.

Washington didn't seem too keen on Lucey either, and several Washington administrators described the Liberia program under Lucey as a "trouble country" for the Peace Corps.

Frequent staff turnover, both overseas and in Washington, has been deliberate. There's a provision in the agency's enabling legislation known as "the five-year flush." The intent is to ensure that the agency doesn't turn into a stodgy bureaucracy, but it also has deprived the Peace Corps of continuity and memory.

In Liberia, the level of staff support to volunteers has eroded so badly, but ever so gradually, that no one today realizes that the Peace Corps used to do things differently.

EDUCATION BUDGET UP

How effective the Peace Corps has been can be seen in the existence of a new breed of Liberian—young, serious-minded and bent upon uplifting their society—many of whom were taught and influenced by Peace Corps teachers.

More than 3,000 of these volunteers have spent two years apiece in Liberia since 1962, most of them as teachers in schools in the interior. When the volunteers first arrived, Liberia's education budget was $2.4 million and 708 schools were in operation. In 1975, the most recent year for which figures are available, there were 6,246 schools in Liberia, 190,799 pupils attending them and a budget of $12.5 million.

In an educational system geared to rote learning, there was no attempt to develop independent and creative thought. The consequences have been disastrous, a waste of potential talent that a developing nation cannot afford.

Despite these obstacles, and often despite their own lack of teaching experience, most Peace Corps volunteers proved themselves ingenious at improvising teaching materials and methods.

An American involved with education in Liberia for 10 years said, "Many very fine students will say that sometime in their past they have had a volunteer teach them. Especially if they're originally from small towns in the interior, because volunteers have been the only ones, by and large, who have gone back there and really enjoyed it."

AMERICAN INFLUENCES

Liberia is not an easy place to comprehend for Americans with little or no previous cross-culural experience. There simply are too many American trappings here, so the uninitiated often judge and relate to this society on American terms.

English is the official language, the American dollar is the official currency, and the Liberian flag could almost be mistaken for staff study analysis intended, presumably, as a long-awaited comprehensive study of the user charge issue.

Obviously, many aspects of such a change in national policy have not been dealt with either by the C.B.O. or other researchers to a satisfactory extent. The inadequacy of available studies is illustrated in the C.B.O. assessment, based on a Department of Transportation study of intermodal impacts of user charges, that imposition would reduce farmers' profits on corn by about 1 to 3 percent per bushel—"if, for example, corn prices are $3 per bushel." At this writing, the price of corn on November 14 was $2.17 per bushel, a significant difference to any farmer.

There have been no thorough studies of the effect of waterway user charges on farm income, on the cost of living, on energy supply and energy security, on regionally differential employment and income levels, on U.S. imports and exports, on coordination of water transportation with land modes, on intermodal competitive equity, or on other pertinent areas of national policy subject to impact. In the absence of those studies, it can only be concluded that Congress would be taking a leap in the dark by embracing the concept of cost-recovery user charges on the Nation's inland waterways as embodied in pending Amendment No. 1460 to H.R. 8309, the Navigation Development Act, now scheduled for Senate consideration in January 1978.

NUCLEAR WASTE MANAGEMENT, S. 2189

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Maryland (Mr. Mathias), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Mathias

During the first session of the 95th Congress, I have introduced two bills dealing with the growing nuclear waste management problem facing our country and the world. Those bills, S. 63 and S. 2189, were offered to provide a framework for discussion of this vital issue and some alternative approaches.

Recently, a report was published which demonstrates the need to continue thorough congressional monitoring of governmental programs in this area and, if necessary, to restructure and reorganize them. That report, "An Analysis of the Back End of the Nuclear Fuel Cycle With Emphasis on High-Level Waste Management," was prepared for the Office of Science and Technology Policy (OSTP) by the Jet Propulsion Laboratory of the California Institute of Technology in Pasadena, California.

The report summarizes the results of that research project. In the words of the Project Manager, Dr. Thomas D. English, "we have examined the programs and plans of the U.S. government for the 'back end of the nuclear fuel cycle' to determine significant technological or regulatory gaps and inconsistencies."

This report, published on August 12, 1977, provides additional evidence of the need for our deep concern and vigilance. S. 2189 presents a unique opportunity in the coming session of the 95th Congress to examine some of the findings of this report and look to the near future for solutions. The Governmental Affairs Committee, of which I am a member, now has a greater responsibility than ever to ask the difficult and troubling questions related to nuclear waste management programs. I urge my colleagues to continue their interest in this subject and trust that they will take note of the summary of the report.

The attachment ordered to be printed in the Record is as follows:

Summary

The disposal of radioactive materials produced by nuclear reactors has emerged as a major factor in the public acceptance of nuclear power. The problems of waste disposal cannot be considered in isolation. They are intimately connected with the nature of the fuel cycle as a whole, and in particular with the decision as to whether spent fuel rods are to be reprocessed, stowed-away for possible future reprocessing, or thrown-away irretrievably.

Section I of this report describes the nature of the nuclear spent fuel recycle and waste disposal issues, in addition to the implications of various light water reactor fuel cycle options. Section II describes the complex inter-relationship of Federal, State and private sector decisions on the viability of commercial reprocessing. The economic and resource implications of various decision paths are also discussed. In Section III, the programs of the Federal Government for disposal of high-level waste from commercial reactors are examined in order to determine regulatory and technological gaps and inconsistencies. Section IV discusses the influence of Federal, State and municipal regulatory action on waste management. In addition, the results of an examination of the regulatory requirements for military and commercial high level waste management are presented. Section V brings together our conclusions. The principal function of the appendixes, contained in Volume II, is to describe the present reprocessing and waste management programs of EPA, ERDA and NRC.

To summarize our findings, it appears to us that the following matters are important:

(1) SPENT FUEL RODS

The accumulation of spent fuel rods at reactor sites should be limited, since a continuation of present practices into the indefinite future would constitute a de facto form of nuclear waste disposal. Analysis should be carried out and plans should be formulated for the development of both centralized spent fuel pools and centralized passive spent fuel storage facilities in order to make the "stowaway option" a viable alternative. In addition, methods and schedules for the ultimate disposal of spent fuel rods need to be developed in order to make the "throwaway option" a real alternative.

(2) FEDERAL PROGRAM

The resources devoted to high-level waste management by NRC and EPA have been inadequate in view of the critical roles these agencies play in developing standards, criteria and regulations. The budgets of these two agencies have recently been increased substantially. However, we question whether the resources available to these two agencies are commensurate with their responsibilities. There appears to be a lack of an adequate platform for systematic discussion of the sufficiency of the scientific data base for geologic disposal. An important outcome of such discussion would be the development of decisions as to what parameters should be monitored, and for how long, during the test phase of a specific repository site. In addition, there appears to be a need for improved coordination of the nation's high-level nuclear waste program. One method of providing better coordination would involve formation of a high level interagency committee for nuclear waste management. This committee could provide a mechanism for resolving issues, and could fulfill the function of coordinating the activities of the Federal agencies concerned with nuclear waste processing, packaging, transport, and disposal. Another approach might be to appoint a single individual from, for example, the Executive Office of the President, to serve as a focal point for the nation's high-level nuclear waste management program.

In light of President Carter's decision to defer reprocessing indefinitely, the schedule for operation of a repository for commercial high-level waste by 1985 should be re-examined and revised. In addition, the timing of the promulgation of NRC siting criteria for high-level waste disposal sites, and the site selection activities of ERDA should be revised to make them compatible.

(3) REGULATIONS

NRC is mandated to license both commercial and military high-level waste repositories. NRC has not decided whether to require either site selection review and/or construction licenses for these repositories. We believe that assumptions of these responsibilities by NRC could hasten the ultimate development of these repositories. In the area of pilot plant retrievable repositories for high-level waste, NRC plans to license commercial but not military pilot plants. Extending NRC's licensing authority to include military pilot plant repositories would eliminate this inconsistency.

(4) ALTERNATIVE FUEL CYCLES

Alternative fuel cycles should be systematically studied from the standpoint of reducing the problems associated with waste disposal, proliferation and safeguards.

THE PEACE CORPS AND "PEOPLE INTENSIVE" FOREIGN ASSISTANCE

Mr. HUMPHREY. Mr. President, an article concerning the Peace Corps in Liberia appeared in the Washington Post on Sunday, December 12.

It was written by Mike Keller, an editor with the Honolulu Advertiser, and a former Peace Corps volunteer.

The article raises a number of points that are very significant to consider during the writing of a new Foreign Assistance Act, a task which the Foreign Assistance Subcommittee is now facing. Although principally concerned with the frustrations and disappointments of Peace Corps volunteers, and to some extent of the Peace Corps itself, the article provokes in my mind a number of questions that have relevance to broader aspects of American aid to less developed countries overseas.

First, the article puts into sharp focus the vital significance of the human element in providing foreign assistance, something that is often overlooked when considering development strategies and funding levels. The article underscores the significant impact that the American men and women who are Peace Corps volunteers can and do make on the lives and attitudes of people in all walks of life they come in contact with, and the kind of image of the United States and of us as Americans that is created.

I can think of no better way that the United States can express the natural interest and sympathy of the American people in the problems of poor people trying to improve their lives, than through the efforts of American men and women who have set aside a part, large or small, of their lives to live and work alongside poor people of less developed countries. This is, of course, not vide terminal facilities, which usually necessitates voter-approved local bond issues.

Federal expenditures on the inland waterways navigation system totalling approximately $5 billion from 1824 through 1976 are appropriately noted by the C.B.O. as unimpressive when compared with Federal outlays for rail and highway facets of the national transportation system. However, in an attempt to dramatize expenditures on inland waterways by juxtaposing Federal subsidies as a percentage of annual freight revenues for the various commercial modes, the C.B.O. is particularly misleading. The conclusion drawn is that Federal subsidies are annually equal to about 42 percent of all bargeline revenues compared with 3 percent for railroads. The incongruity in such a "Catch 22" dramatization of Federal subsidies is that it penalizes the inland waterway transportation mode for holding down freight rates in a highly competitive and highly efficient transportation sector, while rewarding the railroad industry for significantly higher rates and notoriously inefficient management.

The C.B.O.'s ranking of subsidies as a percent of expenditures by users in fiscal 1974, 1975 and 1976 (Table 7) is of questionable accuracy and relevance for two other reasons. First, the C.B.O. concedes that "the major portion of the (railroad) freight subsidy in the three years * * * is interim aid to the bankrupt eastern railroads prior to formation of ConRail." Obviously, a plethora of subsidy and subsidy-effect programs—ranging from flood control works along river valley rail lines, to Amtrak payments used to improve trackbeds used by both freight and passenger trains, to any number of special tax advantages—are not included in the C.B.O. formula. Grudgingly, the C.B.O. concedes that if just Federal payments to the railroad retirement fund and loans at below-market interest rates uncertain to be repaid are included in its definition of subsidies, the subsidy portion of railroad user expenditures would be 6 percent—or, in the C.B.O.'s dramatic way of illustration, 100 percent more than the staff paper indicates in Table 7.

Secondly, C.B.O. data for the three fiscal years shows that as a percent of expenditures by inland waterway users subsidies declined by 6 percent from 1974 through 1976 while subsidies as a percent of railroad freight revenue increased 200 percent. Subsidy and subsidy-effect legislation for railroads enacted since ConRail, according to The Wall Street Journal, may foreshadow "a persisting pattern of governmental assistance" to the mode that could exceed $20 billion in the next decade. Conversely, the long-term trend in Federal expenditures for shallow-draft waterways is one of decline. For each $10 of Federal expenditures in 1960, 2¼ cents was expended on shallow-draft waterways, whereas by 1975 only 1¼ cents was so expended.

FINDING NO. 2: THE COMPETITIVE IMPACT OF ENDING THE WATERWAY SUBSIDY

To either defend or question the reliability of the two studies of potential user charges-induced traffic diversion requires acceptance of a number of assumptions that may or may not be correct. Although C.B.O. offers some caution against the superficiality of the highly assumptive reports cited, its acceptance of the widely varying 7.1 to 15 percent diversion estimate argues the inference of a monolithic inland waterway transportation structure. Attempts to predict traffic diversion on individual river segments are handly adequate in assessing the impact on an extremely diverse and competitive transportation mode—not only do 76 percent of the more than 1800 bargeline companies own fewer than nine vessels, as the C.B.O. cited, it should be pointed out that only 9 percent own 30 or more vessels.

So the significance and relevance of traffic diversion may not be so much in the percentage of industry-wide loss but in the individual companies affected. As a basically rural transportation mode, many barge companies are readily identifiable as a sizable local employer and major contributor to small, riverside community economies.

Another omission or oversight that offers compelling evidence of the need for more adequate study of the traffic diversion issue is the absence of consideration of the variability of operation and maintenance cost-recovery taxation levels from year to year. Were a portion of construction costs also recovered at pre-ordained levels annually, the impact during construction periods would be profound—driving away traffic that might normally use the river and thus increasing the tax burden on those who continue to use it. Neither study cited by the C.B.O. addressed these important aspects of cost-recovery user charges. Nor for that matter did they address the rationality of the cost-recovery principle, which applies to no other Federal taxation on transportation modes.

The C.B.O.'s assertion that "the waterway subsidy makes it possible for barge operators to hold down rates at levels low enough to divert 10 to 15 percent of cargo that might otherwise move by rail, truck or pipeline" is salvable due to the C.B.O.'s "might" caveat. Given the massive bulk of so many commodities moved by uniquely suited barge transportation, some commodities might not move at all in the absence of that mode. Studies indicate that no more than half of commodities shipped on the inland waterways are efficiently adaptable to rail movement.

In fact, raw materials transported to manufacturers by inland waterway commonly go to market as higher-priced finished materials by railroad or truck, at premium rates. Both the trucking industry and pipeline interests seem compatible with such an intermodal relationship. As for railroad interests, it should be noted that their anger over water-compelled freight rates reflects not simply competition lost to waterway carriers but rates compelled by the mere availability of an alternative mode—increased rail freight rates would apply to shippers who had no intentions of using the water mode.

On the other hand, it may not be overly cynical, given the history of railroad rate making, for the inland waterway mode, once handicapped by user charges, to anticipate an initial attack of predatory rate competition from the railroads, intended to raise again once the competition is incapacitated.

FINDING NO. 3: ENERGY CONSERVATION AND REGIONAL ECONOMIC DEVELOPMENT

Relative energy use among the transportation modes does vary greatly. Huge tows going downstream on the Lower Mississippi may require only 217 BTUs per ton-mile on vast stretches, for example, while a freight train crossing the Continental Divide with a dwarfish load might require 10 times as much energy per ton mile. Nevertheless, the C.B.O. energy intensity table is misleading in that it relies on innovative and infrequently used unit trains for railroad energy consumption figures; is incomplete in that it excludes authoritative studies such as the Peat Marwick Mitchell report of July 1976, showing inland waterway transportation averages 272 BTUs per ton mile compared with railroad requirements of 687 BTUs per ton mile; and is incorrect in that Table 8's most dramatic figure for barge energy consumption has subsequently been revised downward by the Aerospace Corporation, the source for the Oak Ridge study, to a more realistic 379 BTUs per ton-mile for inland water freight. The C.B.O.'s indication of relative parity among the rail and inland water modes is not borne out by the facts. At the least, it is an oversimplification of even the studies cited.

Energy efficiency of the inland waterway freight mode is pertinent to increased national energy concerns not just because of the mode's peculiar energy use advantage. Adherents of cost-recovery user charges would penalize an energy-efficient transportation mode as a method of promoting traffic diversion to more energy-intensive modes—in other words, any energy conservation on the part of the barge industry encouraged by or resulting from traffic loss would be more than offset by increased energy demands of alternate carriage. Even more importantly, it is of questionable wisdom, in a time of energy instability and seasonal inadequacy, to de-emphasize a transportation mode of which something over 60 percent of its annual freight is energy related. In the C.B.O.'s breakdown by commodities on the Mississippi River System, for example, energy—coal, crude oil, gasoline, residual oil and distillate fuel—accounts for 43.7 percent of the total. Anticipation of large-scale industrial conversion to coal should merit greater attention to, and emphasis on, such an energy-efficient delivery system.

Granted, regional economic development as a national goal may have lost some of its attraction in suburbanized policy-making centers increasingly dominated by service industry and management-oriented academic theorists. Still, the relationship of inland waterway development to regional economic development is undisputedly a correlative and historic relationship. Much of the modern inland navigation system that has evolved since the 1930's is identified with previously disadvantaged river valley regions. Today about 42 percent of all tonnage borne on the rivers and the Great Lakes originates in the Appalachian Region and the South. It may be of no little significance that in a 20-year period corresponding with a massive expansion of the waterway transportation system, Federal expenditures for farm price supports fell from $3.5 billion in 1955 to $.15 billion in 1974.

Regional surveys by the Ohio Valley Improvement Association, the University of Louisville, the Tennessee Valley Authority and the American Waterways Operators over the past 25 years indicate without question that access to inland waterway transportation has been a major component of the industrial site-selection process. While the economic maladies of the community selected may not have weighed heavily on industrial altruism in all cases, it can be said that in many instances development of inland waterway navigation made it feasible to locate in an economically depressed community.

The C.B.O.'s suggestion that business loans and public work grants "are obviously more precise than a nationwide subsidy" for attracting industry and employment represents a philosophy of governmental assistance subject to extraordinary and on-going debate. Federal direct payment programs presumably could be an alternative to economic displacements resulting from dismemberment of the inland waterways system. Those of a bent toward Federal aid as a "bootstrap" principle of government responsibility feel that the amount of money devoted to the waterways is vastly less than what would otherwise have been paid out in regional assistance. Unlike more direct grants, a small expenditure of taxpayer money for waterways generates massive outlays in industrial expansion and enables the affected localities to earn their own living at higher standards, thus creating a healthy tax base.

A LONG-NEEDED STUDY IS STILL AWAITED

The preceding critique of the Congressional Budget Office's three major findings is not intended as a point-by-point rebuttal or confirmation of the numerous estimates and assumptions derived from previously published reports. Neither was the C.B.O.

The job of creating such an academy will not be easy. There will be those who would argue that such an institution would be another academic boondoggle, or too costly to maintain. But it is my opinion that the cost of such a school will be insignificant when compared with the benefits of its future potential for accomplishment, not to mention the comparative cost of some of our strategic weapons.

Today, more than ever before, I believe that rational self-interest, relative cost, and simple logic require us to make intensive efforts to explore and implement new directions in preventing and resolving conflict situations. Economic stability is at stake, as well as personal security and safety, better neighborhoods, and progress in social justice.

Perhaps George Washington did not have these same goals in sight when he spoke of the need for a "proper peace establishment," nor Benjamin Rush in 1792 when he urged the creation of a "Peace Office." Conflict, of course, changes and reflects our social dynamic. It is part of living and dying and is precisely why the thrust toward peaceful solution to conflict is at least as old as the United States.

Woodrow Wilson's campaign for the League of Nations, the Kellog-Briand Pact of 1928 which put the United States on record as opposing war as an instrument of policy, and Franklin Roosevelt's call for cultivating a "science of human relationship—the ability of peoples of all kinds to live together and work together in the same world, at peace," are manifestations of this deep American thrust.

S. 469 was sponsored by Senators JENNINGS RANDOLPH, MARK HATFIELD, and SPARK MATSUNAGA. H.R. 2651, an identical bill, was sponsored by Representative Andrew Young of Georgia—now U.S. Ambassador to the United Nations—and nine cosponsors. The legislation calls for the creation of a commission to be jointly appointed by the Speaker of the House, the President, and the President pro tempore of the Senate, to study the feasibility of a National Academy for Peace and Conflict Resolution and prepare a report detailing its findings and conclusions, including recommendations as to appropriate further legislation.

The creation of the 1-year study Commission at a relatively low cost of $500,000 represents a major step toward the goal of a U.S. Academy for Peace and Conflict Resolution.

The campaign organization whose single goal is the establishment of a federally sponsored institution to train and do research in non-violent methods of conflict resolution, called the National Peace Academy Campaign, or N-PAC, was formed in 1976. Since then it has served to coordinate and mobilize public and private support behind the legislation calling for the creation of a study commission now, and for the actual establishment of a peace academy in the near future.

N-PAC will disband as soon as a U.S. Academy for Peace and Conflict Resolution is properly established, and it will donate any surplus funds to a Peace Academy endowment.

I support this legislation and the work that the National Peace Academy Campaign Organization is doing to further public awareness on these issues. I call upon every American to support this nonpartisan cause which will greatly enhance our abilities to cope with conflict today and in the future.

This is an idea whose benefits will affect us all on a daily basis. It is a small step, and a necessary one. It is realistic, and it is now time that we moved forward with it. As I stated back in 1960, prior to the creation of the Arms Control and Disarmament Agency, "The truth is that we have never seriously, massively, intensively tried to put our scientific and technological capabilities to work to create the technical basis for a world security system, or a force for peace."

Security today is more than arms control. Conflict itself is more than war. Conflict is, moreover, both domestic and international in its origins, effect and solutions. We need to focus our talents and resources and commit ourselves, both practically and symbolically, to causing peace.

I would like to end my remarks here with another excerpt from 17 years ago when I addressed the Senate on the need for an Arms Control and Disarmament Agency:

> The American people are more than willing to pay the billions requested by the President for arms; indeed, we are willing to invest far more than that, and for the present we shall be forced to do so. There is yet no escape from the arms race.
>
> How much more eagerly our people would support an investment in the creation of an alternative to the arms race.
>
> Our people are eager to get on with the creative, humanitarian projects that we have so long dreamed of, eager to plow into the works of peace the dollars we are now pouring into the works of war.
>
> We are not going to find security in the arms race.
>
> We are not going to surrender to totalitarianism.
>
> There is just one way to save ourselves, and in so doing to save the world's people and the generations yet unborn from unimaginable suffering. We must take steps, and giant steps, bold steps, to break through toward genuine world security. No responsibility will rest more fatefully on the next administration than the task of leadership in this great undertaking.

Conflict is inevitable. We must deal with it in a sensible and just way. The National Academy for Peace and Conflict Resolution is a vehicle to begin this movement in the right way. I commend to my colleagues the thoughtful consideration of this proposal, not just as a piece of legislation, but as a serious obligation.

WATERWAY USER FEES

Mr. BARTLETT. Mr. President, the Congress is on the verge of adopting some form of waterway user fees, and the question seems to have evolved at this point to the amount of the fee. For years, there has been a constant debate over the general subject, and the 95th Congress marks the first successful effort by the waterway user fee forces to promote successfully such a program.

During the 5 years which I have been in the Senate, I have participated in a number of floor debates and hearings on the subject, and I have continually opposed the imposition of these fees based, in part, on the fact that there is a severe lack of accurate information.

Numerous organizations, governmental and private, have produced various types of analyses, but no detailed economic study has yet been produced. The subject may, in fact, be so complex that an accurate prognosis may be impossible.

The Congressional Budget Office has released a staff paper entitled "Financing Waterway Development: The User Charge Debate." CBO has not represented this study as a final and complete analysis of the effect of user charges, however, I believe it is a good example of why Congress should withhold a decision on this matter until an attempt to develop accurate information is authorized.

The National Waterways Conference, Inc. has prepared a summary analysis of the major points of the CBO staff paper. Obviously, the conference has a vested interest in the question of waterway user fees, however, the points that they raise about the CBO study are substantial arguments in favor of caution on the part of Congress.

Mr. President, I ask unanimous consent that a copy of the analysis prepared by the National Waterways Conference, Inc. be printed in the RECORD.

I realize that some of my colleagues have cited provisions from the CBO study as support for the user fee, but I hope that they will make an unbiased review of the materials provided by the conference and consider it in light of the inadequacy of information that is available to Congress.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE CBO'S FINDINGS ON WATERWAY USER CHARGES ILLUSTRATE THE NEED FOR MORE DETAILED RESEARCH

The Congressional Budget Office staff paper, "Financing Waterway Development: The User Charge Debate," utilizes available studies to support three findings relating to what the C.B.O. defines as "major issues" in the user charge controversy. Under analysis, the findings tend to be misleading or obfuscatory and occasionally derived from incorrect data or questionable assumptions.

While the C.B.O. did not recommend enactment of inland waterway user charges per se, its findings indicate an intellectual restraint culminating in a bias toward user charges. The following critical analysis of the staff findings is intended to put this issue in a more proper perspective.

FINDING NO. 1: WATERWAYS AND SPECIAL BENEFITS

In the context of its report, the C.B.O.'s description of inland waterway users as "the only freight carriers who pay no part of building or maintaining their rights of way" implies that the Federal government alone has financed creation of a 15,000 to 25,000-mile inland waterway transportation system Nature is due a great deal of credit. And, not inconsequentially to those involved, the U.S. Water Resources Council determined that non-Federal interests provide 7 percent of construction costs and 8 percent of operation and maintenance costs of in-channel navigation improvements—a figure suggestive of highway matching funds programs. In fact, Federal river and harbor project authorizations commonly require local entities to probe, that kids use a little pot or alcohol, but it's no big deal," said Dr. Mitchell S. Rosenthal, president of the Phoenix House Foundation, drug-rehabilitation organization.

"In the midst of that quiescence, to have a very potent psychoactive drug become suddenly widely available is very dangerous" he said.

WIDE USE SEEN

At Phoenix House, 17 of the last 20 admissions to a program for adolescents said they were PCP users, and Dr. Rosenthal estimated 30 to 40 percent of city high school students use the drug.

A survey undertaken by Phoenix House said that one residential drug treatment center found 22 of its last 50 admissions had used PCP, and that Harlem Hospital was seeing three or four toxic reactions to PCP in its emergency room each week.

Users, called "dust heads" say small doses produce intoxication like alcohol, and sensations of peacefulness, self-confidence and floating. Medical journals say higher levels produces numbness, convulsions, and comas.

"They become really whacked-out," said Capt. John P. Keane, head of the Queens narcotics division of the Police Department. Another symptom is greatly increased irritability.

According to an article in the Journal of the American Medical Association, "unpredictable destructiveness" may result, with stimulated users "running aimlessly, performing bizarre actions, and striking bystanders."

In California, two convicted murderers said they believed PCP-use made them violent. Medical journals record instances of heavy use leading to suicide attempts.

"Sometimes," admitted John, a 16-year-old in the Phoenix House program for drug abusers, "if you take it when you have an attitude, that attitude stays with you until the dust goes away."

Another adolescent in the program, a 13-year-old named Jay, said he had smoked some marijuana with angel dust with friends.

"All of a sudden, we started kicking garbage cans, breaking windows, and bothering people," he said. Jay said he and his friends did not normally behave in this manner.

PCP-poisoning victims, and doctors, have described undesirable symptoms produced by dust as "bad trips" and "bummers," in some ways similar to those produced by LSD.

Overdoses are more common because, as with many illegal drugs, purchasers have no way of knowing the purity or potency of what they are buying. Generally, the PCP is purchased as an ingredient in the marijuana.

"Some of the biggest overdoses are when a kid starts to get caught with a cigarette," said Dr. Rosenthal, who made a gulping motion, "and then he swallows it."

Despite the risks, "dust" is increasingly popular, according to Captain Keane of the narcotics division. More than 100 arrests have been made for sale of PCP in Forest Park in Woodhaven, Queens, alone but "it hasn't even put a dent in the problem," he said.

Last month the police closed three underground laboratories and arrested 58 persons involved in manufacturing the chemical, but Captain Keane says its use is still widespread. Users says that $10 worth of PCP-laced marijuana is enough to give hallucinations to 20 smokers.

THE NEED FOR A NATIONAL PEACE ACADEMY

Mr. **HUMPHREY.** Mr. President, I share with many of my colleagues in both the Senate and House a sense of satisfaction and encouragement over the progress now being made on legislation to establish a study commission on a U.S. Academy for Peace and Conflict Resolution.

It is an idea whose time has come. Such an academy would greatly contribute to national security needs and domestic justice through systematic study, the training of specialists, and providing information to governmental leaders in nonmilitary resolution of domestic and international conflict.

Our country has a long history of establishing new institutions to meet changing national security requirements and the challenges of changing domestic circumstances.

The Federal Mediation and Conciliation Service, which grew out of limited beginnings in 1921, has contributed greatly to labor relations in the United States and the peaceful resolution of labor-management disputes. The Community Relations Service established by the Civil Rights Act of 1964 has contributed to the reduction of racial and community conflict in this country.

During the past 15 years a number of private organizations, such as the American Arbitration Association, have actively entered dispute and conflict situations in communities and institutions such as schools, colleges, and prisons, acting as impartial third party intervenors. These groups have gained substantial experience with the theory and methods of peacemaking and reconciliation in the area of rising demands for social justice.

A U.S. Academy for Peace and Conflict Resolution would gather and focus new knowledge on the theory, process and methods of achieving peace and justice on the international as well as the domestic level. It would provide new alternatives to power confrontations as a means to resolve international conflict. This is in accord with national security requirements in an age of strategic weaponry and global interdependence.

The preliminary judgment of experts in conflict resolution is that new methods and approaches can best be developed independently, but in cooperation with existing structures. Nowhere in the United States are the skills which would be taught and applied by a national center for conflict resolution currently sponsored or conducted by private or public sectors in sufficient magnitude. The need is great, but the mechanisms which are being utilized to partially meet this need are scattered, poorly funded, lacking in sufficient credibility and visibility. The Peace Academy represents a new frontier in the practical social sciences. Just as business management or the computer sciences did not exist as academic or experiential disciplines a few decades ago, the field of peacemaking is a new science brought on by the ever increasing interdependence and shrinking resources which make conflict such an inevitable part of our lives. The fact that nearly 100 existing academic fields now have conflict sections as ongoing professional study groups is indicative of the need for centralized and focused resources for this practical and highly important field.

Since 20 years ago, when I first initiated legislation calling for the creation of what is now the Arms Control and Disarmament Agency, there has been all too little progress toward the limitation of arms or any clear and credible recognition of the many alternatives to the use of arms. The creation of ACDA brought important sanction to an entirely new field.

Between 1935 and 1977, over 140 separate and distinct legislative initiatives have been made to establish a peace office, institute or academy, sponsored by representatives of all sides of the political spectrum. Finally, last June, a major step forward was taken when the Senate passed legislation, S. 469, to create a study commission on a U.S. Academy for Peace and Conflict Resolution.

Former President Dwight D. Eisenhower once characterized the "military-industrial complex," coupled with a lack of organized support from an alert and knowledgeable citizenry, preventing what he believed to be necessary in compelling a proper meshing of the "machinery of defense with our peaceful methods and goals." Now, both of these conditions have changed. Recognition of global interdependence has had a widespread impact in all sectors of our society, and peace has become recognized as everyone's concern.

Just recently, the Washington Post printed on the front page the comment by Egyptian President Anwar Sadat that one of his major motives in going to Israel was to give the peace process a "new momentum and to get rid of the psychological barrier that, in my idea, is 70 percent of the whole conflict." It is important to note that third party mediation and other conciliatory methods were far more successful than diplomatic or enforcement techniques had been in working toward the peace settlement which we all are seeking in the Middle East.

The proliferation of nuclear weapons, mounting terrorism, and a general increase in violence at local community, national and international levels, make the establishment of a national institution devoted to research and training in nonviolent conflict resolution a matter of national and global interest.

The current bill, now before the International Operations and Post Secondary Education Subcommittees of the House, would provide for the creation of a commission to evaluate the various proposals for a National Peace Academy and, after 1 year, to make appropriate recommendations to Congress. Although the appointment of the commission would not guarantee the eventual establishment of a National Peace Academy, it is a necessary first step. Much homework must be done to insure the effectiveness of any future plans for student selection, curriculum development, practical training, physical plant options, intergovernment coordination, and community input. Only a commission can thoroughly evaluate and utilize the value of this necessary input.

Mr. President, because of the dangers this drug poses to unwitting teenagers and the urgency of the situation, I ask unanimous consent that certain relevant and highly informative articles on PCP abuse be printed in the Record at this point. These include a Time magazine article from its publication dated December 19, 1977; a Chicago Tribune article of December 14, 1977, by Mark Starr; and an article appearing in the New York Times of November 10, 1977, by Matthew Wald.

There being no objection, the articles were ordered to be printed in the Record, as follows:

BEHAVIOR

PCP: "A TERROR OF A DRUG"

Angel dust is the most common name. It is also known as goon, busy bee, crystal, hog, elephant tranquilizer and superjoint. By any name, phencyclidine (PCP) is the most dangerous drug to hit the streets since LSD became widely available a decade ago. Its use is growing rapidly; a National Institute on Drug Abuse (NIDA) study found that nearly a third of the young patients reporting to drug-treatment centers have tried PCP and one-fifth used it regularly. Angel dust has been linked to hundreds of murders, suicides and accidental deaths—214 last year in the Detroit area alone. Says a Boston drug hotline worker about new PCP users: "They don't know what they're getting into. They think it's just some easy high. Man, are they surprised!"

A user in California walked into a house that he had picked at random, killed a baby and stabbed a pregnant woman in the stomach. Under influence of the drug, a man in San Jose, Calif., tore out both his eyes with his bare hands. In the Chicago area, more than a dozen cases of drownings have been attributed to PCP use: victims lose a sense of direction and space and cannot fight their way out of the water.

The effects of the drug are so unpredictable that users call it "heaven and hell." Irrational or violent action is typical of chronic users, but even dabblers are not immune to sudden rages. A small dosage of PCP can produce a high that resembles drunkenness and can lead to anything from euphoria and a sense of bouncing to depression and hallucinations. Larger doses can bring convulsions, psychosis, uncontrollable rage, coma and death. "It's a real terror of a drug," says NIDA Director Robert DuPont. "Everything people used to say about marijuana is true about angel dust."

Developed in the 1950s as an anesthetic, PCP was banned for human use after tests showed erratic side effects, and it is now legal only as a tranquilizer for monkeys and apes. It can be snorted as a powder, injected as a fluid or swallowed as a pill. But usually the drug is dusted or sprayed over parsley, mint leaves or marijuana and smoked. Some dealers doctor low-quality marijuana with it. Others simply sell it to naive youngsters as LSD, THC (the active ingredient in marijuana), mescaline or even cocaine.

One reason for the rapid proliferation of PCP is that the drug is cheap and available. For $100, a handy amateur can manufacture PCP worth $100,000 on the street. "It's a terribly easy thing to do," says Hugh Shanahan, a federal Drug Enforcement Agency official in Los Angeles. "It requires no sophisticated equipment. Even someone without a chemistry background can do it." Thus PCP is churned out in hundreds, possibly thousands of makeshift labs around the country, often in remote areas, where there is less chance that its telltale ether odor will be detected.

Though police often track down these producers through tips from shocked and disgruntled PCP users, they have another way of finding the labs. Some solvents used in turning out PCP are so volatile that L.A. police have zeroed in on several labs simply by following up fire-department reports of suspicious explosions.

PCP may require an entirely different enforcement program. Officials who were trained to cope with limited imports of natural drugs are now facing an array of new synthetics that can be easily concocted at home. Some 20 variations of PCP are probably already on the streets, most of them perfectly legal because authorities have not got around to banning them. "We're heading into a new, dangerous era," says Dr. Mitchell Rosenthal, head of Phoenix House, a drug-free program in New York City. "The natural substances—opiates and so forth—are not going to be the problem of the future."

Government planners are belatedly mapping a campaign to educate the public about the dangers of angel dust. But one official is frankly puzzled about how to approach PCP users. Says he: "It's hard to understand why people are taking PCP. They don't take it to get high. They don't take it to make sex better. They take it to zonk themselves out. In a way, it's a disguised death wish."

[From the Chicago Tribune, Dec. 14, 1977]

PCP Makes Drug Scene Here Worse

(By Mark Starr)

On the street, they call it "dust," "hog," "tic," and "tac."

The police have taken to calling it the "white man's heroin."

What it is is PCP, an animal tranquilizer—and a main reason Chicago-area experts dispute federal studies that show drug use among teen-agers has stabilized.

In Chicago, say experts here, the situation is getting worse.

"The youngsters seem to be getting more and more involved, particularly with this PCP," says Harold Thomas, commander of the Chicago Police Department's youth division. "And PCP has properties that make it one of the most dangerous drugs at all."

That's on top of a basic commitment to marijuana use that Frank Folkers, a city-wide drug consultant to the Chicago Board of Education, terms "staggering."

"Marijuana is the youth drug," he said. "You can't even discuss it without risking turning the kids off.

"All they want to know from me is when is it going to be legalized. They're beyond decriminalization already.

The drug problem here is aggravated by several factors:

Teen-agers are far more likely today to use a mixture of drugs and to combine drugs with drinking.

The quality of street drugs appears to be worsening.

PCP, which has become the "in" drug in the last several years, supplanting pills, is easy to manufacture, difficult to police, readily available on the streets, and easy to consume and conceal.

Patterns of drug use have become more sophisticated.

Randy Webber, drug information coordinator for Alternatives, Inc., a North Side center for drug treatment, prevention, and education, says the wholesale mixing of drugs reflects a certain attitude.

"Kids aren't really interested in what they're taking," Webber said. "They gobble stuff haphazardly because all they want is to get high. The object is to get messed up any way you can.

"And the way they use liquor on top of it is like a condiment or extra flavoring. They don't even think of it as a dangerous drug. It's just like putting salt and pepper on a steak."

Current statistics reveal that about 50 per cent of drug overdoses are cases of mixed use of drugs and alcohol.

In addition, Webber says, the quality of street drugs as determined by Alternatives' drug analysis program is deteriorating steadily. He says the "ripoff rate" involving adulterated drugs or substances that are not drugs at all is approaching 70 per cent.

The advent of PCP compounds most of the traditional problems. For example, its components are not federally regulated and thus they are easily purchased and the drug easily manufactured.

In addition, only small quantities of PCP are required for a "high" and it can be consumed in any manner [in a drink or laced into a marijuana cigaret], making detection extremely difficult.

"They can smoke it in a marijuana cigaret, figuring nobody's going to bother with them for one lousy cigaret," said Thomas, "but what they're actually smoking may have the chemical potential of 20 marijuanas."

PCP produces dangerous symptoms, including loss of muscular control, often resulting in recurring episodes, sometimes months later.

Even more frightening, PCP has been linked with episodes of psychotic violence.

Drug experts here are trying not to sound panicky, but they fear that what is already called a PCP "epidemic" in California is beginning to penetrate Chicago in the same proportions.

Those familiar with drug activity in the Chicago area are alarmed at the "anything goes" nature of drug traffic among teenagers. A new hot item called "tees in blue" combines a synthetic narcotic with an antihistamine and is selling briskly on the South and West sides.

"I really don't want to sound alarmist," said Webber, "but it's clearly going to get worse here before it gets any better."

[From the New York Times, Nov. 10, 1977]

Youths' Use Of "Angel Dust" Stirs Concern

(By Matthew L. Wald)

"Angel dust," an inexpensive additive that can induce violence and psychosis, has found its way into the marijuana cigarettes of thousands of adolescents in New York City over the last six to eight months, according to health officials.

Teen-agers in search of strong, cheap highs, are also looking for substitutes for "oust," including deodorants and insecticides, which they spray on marijuana.

A hallucinogen also known as "zombie dust," "elephant tranquilizer" and "busy bee," the drug, phencylidine, or PCP, was developed in the 1950's as a tranquilizer, but rejected for human use after tests caused violent behavior and convulsions in human patients.

The substance is occasionally used to sedate primates and is now widely available in marijuana.

Unlike marijuana itself, about which medical experts are divided, doctors agree that PCP is a very dangerous drug.

"The tragedy is that most people experience angel dust as some unusual form of marijuana, and associate it with the benign patters of marijuana, but it's anything but that—it's a real terror of a drug," said Dr. Robert L. Dupont, director of the National Institute on Drug abuse.

Drug rehabilitation workers, startled by the swift spread of the white-crystalline powder, fear it comes at a time when parents and others have dropped their guard against marijuana.

"We have a population which believes the drug abuse problem is not what it used to

U.S. SUPPLIED FOOD ASSISTANCE

The United States supplied Mozambique with $20 million in food assistance last year. More recently, a Mozambican delegation went to the United States to discuss various projects with bankers.

According to a diplomatic source outside Mozambique, the bankers were impressed by the limits the Mozambicans placed on foreign involvement.

They said here are sectors where we are interested in your technology and in partnership, and here are others where we do not want your technology, where we will exploit our resources on our own," the source said.

There are those who insist that the Government is intent on guarding the national identity of its revolution. When Mr. Machel recently saw off 1,200 secondary school pupils to Cuba, where they would be studying, he thanked Mr. Castro but then pointed out that Mozambican teachers would be going with the students to help them "preserve their Mozambican personality."

Some observers say that Mozambique appears to be developing strong ideological alliances with many of the newer, smaller and non-European Communist states, such as Vietnam and Cuba, whose experiences are closer to those of Mozambique.

"It is 60 years that we have been waiting for the new man to be born in Moscow," said one young Mozambican. "It is a long pregnancy and perhaps a miscarriage, but maybe in Cuba, in Vietnam or here, he will still come."

IMMEDIATE FEDERAL ACTION NEEDED TO HALT PCP ABUSE

Mr. PERCY. Mr. President, I have called on the Carter administration to take immediate action to halt the accelerating abuse of the illicit drug phencyclidine (PCP), commonly known as angel dust.

In letters to Attorney General Griffin Bell and White House Special Assistant for Health Issues, Dr. Peter G Bourne, I have urged the Federal Government to immediately restrict the availability of PCP by reclassifying it among those drugs with the highest potential for abuse.

I am also calling for a White House conference to be promptly convened to focus the Nation's attention on this growing health menace and to give direction to the Federal efforts. National leadership on this problem is long overdue.

The latest statistics from the National Institute on Drug Abuse show new evidence of surging PCP abuse by teenagers in major cities across the country. Enough facts are already in to warrant strong Federal action. We know that the average age of youngsters trying this drug is lower than that associated with any other psychedelic drug. We know that in numerous studies PCP has proven to be more debilitating than LSD or mescaline. We know that the drug's low cost is escalating its use. In short, we know enough about this drug now that not to act would be to ignore a national menace.

PCP has only recently become a drug of choice among junior high school and high school students. Doctors warn that it is the most dangerous drug ever to achieve such widespread acceptance. PCP is known to seriously disrupt behavior, causing unpredictable, violent aggression, paranoia, severe anxiety, and depression. Although 93 deaths related to PCP abuse have been reported since 1974, authorities believe that hundreds more have gone unreported.

PCP is extremely dangerous because there is a thin line between getting "high" and accidental overdoses that may endanger human life. The vast majority of fatalities associated with PCP, however, are due to its behavioral toxicity and result in unexplained murders, drownings, and suicides.

PCP is easy to manufacture because its ingredients are readily obtainable. Hundreds of clandestine labs have appeared around the Nation. The drug's tremendous profit margin—$125 worth of chemicals can produce $100,000 in street sales—has reportedly attracted an increasing involvement by organized crime.

There is a clear pattern of accelerating PCP abuse. Specifically:

The number of juveniles trying PCP virtually doubled from 1976 to 1977, according to the National Institute of Drug Abuse;

An as-yet undisclosed study by the Philadelphia Psychiatric Center completed in August 1977, on 2,750 teenagers in drug centers in 39 States, revealed that 32 percent of them had tried PCP. The average age of first-time use was 14.5 years old. Two hundred children were chronic users taking PCP three or more times a week.

One New York City drug abuse treatment center reports that, over the last several months, 44 percent of its last 50 admissions were PCP related.

While only 13 percent of all hallucinogens mentioned in drug emergencies were PCP related during the summer of 1973, the percentage rose to 43 percent during the last 3 months of 1976.

In the first half of 1977, 22 out of 28 hallucinogen laboratories raided by DEA were manufacturing PCP.

A 5-milligram dosage sells for $1 and can get more than one person high. This low cost, coupled with peer group pressure in schools to be "tough enough" to handle the drug, has led to substantially increased demand. Reports cite children as young as 9 and 10 years of age experimenting with it.

PCP can be inhaled, swallowed, or smoked when sprinkled on marijuana or other substances. It appears as a tablet, capsule, or powder.

The Federal Government currently classifies PCP under schedule III of the Controlled Substances Act of 1970, meaning that it has a recognized medical use and is not highly restricted. The Drug Enforcement Administration (DEA) has proposed to upgrade that classification to schedule II, which would still allow for PCP's medical use but recognize its high potential for abuse.

But, even though the liquefied form of PCP has an accepted medical (veterinary) use, the powdered and tablet forms of PCP have no recognized medical uses. I support the DEA proposal to reclassify the liquefied form in schedule II but have strongly urged that the powdered and tablet forms—most commonly found among teenagers—be classified in schedule I. In this way, the full weight and force of local and Federal Government can be brought to bear to suppress the illicit production and distribution of PCP.

Moreover, the DEA does not cover the more than 30 compounds of the PCP family—such as Pyrrolidine, PCE, and PHP—which are now not even subject to Federal control, even though they are often as dangerous as PCP. These substances are also becoming more readily available.

Once classified under schedule I, law enforcement officials would be required to elevate PCP to a priority comparable to that assigned to heroin.

This step is vital because PCP is in several respects as dangerous as heroin. Lt. John Hinchy, chief of the Chicago Police Department's narcotics division, has warned that "PCP has become the heroin of the suburbs."

The scope of PCP abuse is national. For example:

Chicago: The number of PCP-related hospital emergency room admissions in the metropolitan area increased by 30 percent for the first 4 months of 1977 compared with the same period in 1976.

Metro-Help, a privately operated drug hotline service, reports that in fiscal year 1976, 6.2 percent of its calls involved PCP. By September 1977 the number of calls had risen to 10.2 percent.

Detroit: A $4 million a year ring reputedly financed by organized crime figures was raided by police recently. The ring was making up to 20 pounds of PCP weekly to sell at $4,000 a pound.

San Diego: An official estimates nearly one-third of the city's 126 overdose deaths in 1976 were PCP related.

Baltimore: PCP has been linked to five deaths in 1976. This year there was a 200-percent increase in the number of PCP users admitted to a State-supported drug treatment program.

New York City: In 1977, police in Queens closed three underground labs with an estimated annual production of $12 million and arrested 50 persons. An explosion in one PCP laboratory in a private home killed an operator and injured his assistant. Since September, 17 of the last 20 admissions to the Phoenix House adolescent drug rehabilitation program in New York City have admitted to using PCP regularly.

San Francisco Bay area: Police suspect as many as five San Francisco murders in 1976 were linked to PCP. Some 20 to 30 PCP overdose cases were treated daily in the East Bay area. Local San Jose police seized 70 grams of PCP in the first quarter of 1975, 125 grams during the same period of 1976, and 4,000 grams during the first quarter of 1977.

Washington, D.C.: Since 1974, 1,000 young people have been treated for schizophrenia at St. Elizabeths Hospital. During one 2-year period, PCP was the center's leading cause of admissions. About one-fourth of the PCP patients returned to the hospital 1 year later with schizophrenic psychoses in the absence of drug abuse.

priest; Frelimo leaders say that even this was a mistake since the Constitution prohibits capital punishment.

There were severe dislocations, which in terms of individual dramas were sad. The privileges of the settlers were curbed dramatically. Medicine was nationalized and most of the 130 doctors who had confined their practice almost exclusively to the settler community left. Now white patients must wait their turn with the rest of the population at clinics staffed by foreigners committed to Frelimo.

GENTLE AUTHORITARIANISM

Rental properties were nationalized although all residents were permitted to keep private dwellings and, in a concession to privilige, were also allowed to maintain holiday villas at beaches or in the mountains.

On the other hand, nightclubs were closed and, as a Portuguese who has sent his family away while he cleans up his affairs said: "We cannot live like this. There is no wine, nowhere to go, the life we had has ended." A woman formerly from Goa, also eager to leave, said: "They have done good things, but the schools are now for everybody, and if I stay who will my daughter marry?"

* * * of privileges, but no one complained of outright repression. A Western diplomat commented, "About the worst you can say is that there is gentle authoritarianism."

Recently President Machel made a speech saying that there was no place in Mozambique for neutral journalists, which was explained as meaning that news judgments had to be made in terms of education and consciousness-raising and that journalism was seen as a tool in the mobilizing process. The press is active and there are many publications, all of which seek to inspire rather than criticize.

MOZAMBIQUE IS VIEWED AS AFRICA'S BEST HOPE FOR THE FLOWERING OF SOCIALISM'S "NEW MAN"

(By Michael T. Kaufman)

MAPUTO, MOZAMBIQUE.—The idealistic left, in Africa, Europe and America is now looking to this country as it once looked to Ghana, Algeria and more recently Tanzania as fertile ground for the nurturing of socialism's "new man."

At universities around the continent, African students talk increasingly and admiringly of Mozambique and of the country's leader, Samora Machel, a 44-year-old former hospital orderly who, like the Government he directs, was shaped during a 10-year guerrilla war against Portuguese colonial forces.

At the same time, scores of mostly young, mostly Marxist men and women from the developed world are arriving here as they once did in Accra, Algiers, and Dar es Salaam to participate in the social innovations through which Mozambique's Government is seeking to transform this country of 10 million people into a nonracist, nontribal, nonexploitative and self-reliant society.

SWEDES, AMERICANS, AND CHINESE

There are Swedish doctors, Scottish journalists and American teachers among the hundreds who have come more or less as individuals. There are also, of course, many Cuban, North Korean, Chinese, Russian and Eastern European technicians who have come here under government agreements.

But it is largely the influx of Westerners that serves to underscore Mozambique's particular role in testing the idea that the seeds of scientific socialism can flower in Africa without repression or economic chaos.

The Ghana of Kwame Nkrumah, which once symbolized that hope, foundered as ambitious schemes outpaced meager resources and civilian corruption gave way to military coups. Then Algeria had its unity shattered by political skirmishing and economic production levels fell. More recently in Tanzania, despite the moral exhortations of President Julius K. Nyerere, income-redistribution plans and rural collectives have failed to advance the modest dream of having the nation feed itself.

But if enthusiasm has waned in other places, it is palpable here. The experience of Mozambique is only two years old and any instantaneous readings of revolutionary change are subject to revision. Still, there is evidence that the degree of mobilization and national purpose attained here is great and may be more durable than anything black Africa has known.

"ABSENCE OF REPRESSION"

"I write these letters home," said Barbara Baker, a 34-year-old New Yorker who left her job at Bronx Community College to teach in an adult education program here. "The letters are all about the grass roots organization going on, the process of ongoing education in offices and factories, the lack of any racial hostility, the politeness, the absence of repression and I know that back home it must sound like a fairy tale. Sometimes I think it is a fairy tale, but it is true."

Certainly the cohesion witnessed during a two-week visit to Mozambique was remarkable in terms of black Africa. Although most of the Portuguese have left, the degree to which whites, blacks and Asians live together was striking.

In much of Africa whites and blacks often use the same restaurants but they do not always share the same tables. Here they do. Throughout the continent the sight of black nannies holding white infants is common, but only here has this reporter seen white women holding the black children of their friends.

It is clear that President Machel's Government enjoys popularity and support. Since independence there have been no open splits within the leadership of the country's only party, called Frelimo, which is an acronym for Front for the Liberation of Mozambique.

LESSONS LEARNED IN WAR

The Frelimo leaders are proud of what they feel is Mozambique's singular experience in Africa and they attribute it to lessons learned in the armed struggle against the Portuguese.

Mr. Machel himself has said that the "thing history will remember us for is not defeating colonialism but learning how to use the armed struggle as a mechanism for changing the mentality of the people."

In the course of the war, Frelimo established schools, hospitals and conducted political education in concrete ways to encourage those who have skills to pass them on to those that do not.

They also evolved the concept of the "dynamizing" group which today is the basic structure of social mobilization.

SERVE AS CHEERLEADERS

Each factory, each hospital, each school and each state farm or collective has such groups of workers or students, who are elected and who serve roughly as cheer leaders or counselors.

For example, in Maputo's central hospital, there are weekly meetings of patients and staff at which problems are discussed.

Maria Salghetti, the chief of nursing, explained that patients may, and have, raised complaints about food or cleanliness. The problems are discussed and analyzed. It is then up to the dynamizing groups to encourage their colleagues to work more efficiently to solve them.

The groups are also concerned with the personal problems of their colleagues. If a man is drinking excessively or is often absent from work, the group looks into the problem.

"Most often all that is necessary is for the group to talk with the man or woman but sometimes when attitudes do not change it is necessary for people to go for re-education," said the nurse, a white who served with Frelimo during the war.

Such groups have succeeded in imposing an appearance of movement and orderliness in the country. A second factor that contributes to the so far unusual development of Mozambique stems from the country's geography.

The land is bordered in the south by South Africa, and to the west by Rhodesia. During the later years of Portuguese control the economy was closely tied to those of its white-ruled neighbors.

Mozambique's leaders now express total commitment to the cause of majority rule in Rhodesia.

TRADE TIES TO SOUTH AFRICA

Despite frequent private comments from Mozambicans deploring the inability of the Rhodesian nationalists to settle their differences or to plan for a new society, the Government has provided training camps for Rhodesian guerrillas, which has prompted raids by Rhodesian forces. Mozambique also closed its border with Rhodesia, stopping the rail links between Salisbury, the Rhodesian capital, and the Mozambican ports of Beira and Maputo. This has cost the country almost $200 million a year in transit fees and duties.

However, Mozambique's relationship to South Africa is different, with trade and commercial links very much intact. The Government regularly expresses its indignation at apartheid, but South African technicians help staff its ports and most spare parts come from South Africa.

There is a widespread recognition not only among the leadership but among the population that while the South African Government may be hateful, it is a necessary trading partner and, perhaps more importantly, a powerful technological force with far greater military muscle than Rhodesia.

This contradiction has forced a certain pragmatism both in programs and polemics.

South Africa is real, its power is real, no one here expects us to precipitate suicidal confrontations," said an official in the planning ministry. "On the other hand we are striving to develop a society that, in time, will not be dependent on any foreign sources for either our technology or skills."

REACH COLONIAL PRODUCTION LEVEL

The official said Mozambique's goal was to increase production by the end of the decade to the highest levels reached during the colonial period. He added by the end of the century Mozambique would be manufacturing its own tractors.

This pragmatism extends as well to the country's foreign relations, particularly with Communist countries. During the guerrilla war, Mr. Machel went to Peking and, like many leaders of liberation groups, was offered military assistance if he renounced Soviet support. Alone among African liberation groups, Mozambique's guerrillas were able to obtain Chinese help while retaining Soviet support.

The Soviet Union is supplying and training the army. The East Germans are active in the Information Ministry. The Cubans have the most visible presence with agricultural and technical teams. There are North Koreans as well and the Swedes have given the most aid to the country.

Relations with the United States are cool but improving. President Machel's talk with President Carter at the United Nations was given less press coverage than his meetings with Cuba's Leader, Fidel Castro, and Jamaica's Prime Minister, Michael Manley. Some resentment still remains over United States support for Portugal during the guerrilla conflict and diplomatic ties were slow to be established after independence.

developing African nations have failed: creating a sense of discipline without outwardly turning the country into an armed camp.

No one here contends that a social paradise has been attained or that such a prospect is imminent. Certainly the revolution here has encountered enormous problems involving shortages of skilled manpower, goods and capital. And refugees arriving in Portugal have spoken bitterly of racism, indiscriminate arrest and food shortages.

Bordered by both Rhodesia and South Africa, Mozambique has real enemies close at hand. Still, there is a widespread confidence that rests on national mobilization and self-sacrifice and that is exceptional in the experiences of independent black Africa.

During a 3,000-mile-tour that this correspondent just completed the signs of social transformation and grass-roots involvement in development efforts appeared regularly.

Recently, for example, this large modern capital city was pummeled by a bizarre hailstorm. The early summer torpor of coastal southern Africa suddenly broke and cold, fierce winds whistled while balls of ice the size of lemons and tangerines fell in a barrage that killed four people and hospitalized hundreds.

Half an hour after the storm began it was over, and half an hour after that groups of citizens were in the streets sweeping up the glass and fallen tree limbs and building barricades around downed electric wires. There were teams of neighbors, of high school students, of factory workers. The next day workers in industrial plants and commercial offices began donating a day's wages for a reconstruction fund. Within two days the debris had disappeared.

A young Mozambican, proud of the city's response, was drinking coffee at the luxurious Polana Hotel overlooking the Indian Ocean.

"In two years of independence," he said, "we have had everything—floods, hail, an outbreak of bubonic plague and Rhodesian invasions. All that is missing is rivers of blood and the slaughter of the firstborn. But if these come we can handle them also."

The Government's approach to political dissent and personal freedom is governed by a paramount need for discipline. Members of Frelimo, the only party, which led the 10-year war against Portugal, insist that free debate and discussions are encouraged at party meetings though no criticism is permitted outside.

Despite its difficulties, the Government of Mozambique appears to have united the people and concentrated their energies in a way that is unusual for the third world and singular for Africa. Often the most impressive evidence lies in small details. In the deepest bush men and women salute visitors with the raised arm gesture of Frelimo. Clearly these country people were proclaiming, "I am Mozambican," a show of national identity that is rare on a tribally fragmented continent.

THE MEN WASH CLOTHES TOO

On the banks of rivers, in addition to the usual team of women washing clothes, there were men washing clothes, something this reporter has not seen in 23 other African countries. Such activity seems to stem from Government educational campaigns against polygamy and other cultural forms of male dominance.

At a small communal village a 12-year-old boy with two years of schooling stood before a blackboard teaching 45 elders, men and women, to read. At another new settlement residents showed off the neat four-room adobe and thatch houses they had built cooperatively in neat rows. Proudly they pointed to the outhouses behind each house, saying that the Government had showed them how to build them and why they were needed.

In another region a team of paramedics was inoculating the population against smallpox, tetanus and tuberculosis. They were part of a campaign that began a year ago in which such teams set out at the southern border with Tanzania intending to work their way south, vaccinating everyone. So far, the Ministry of Health reports, more than three million of the population of 10 million have been treated.

Everywhere there were meetings—of peasants on state farms, of women, of schoolchildren, many of them to discuss the elections for village and district assemblies.

As singular as all this was, what was even more striking to a visitor was the absence of men in uniform or men with guns. As in the case of the Maputo cleanup, the efforts in the countryside appeared to stem from pride and not coercion.

A sign painted on many schools and public buildings throughout the country says, "Let us turn our whole nation into a school where we can learn from each other." So far, at least, the sentiment seems more than rhetoric.

In neighboring Rhodesia it has long been an article of faith among many white leaders that any transition to majority or black rule will inevitably lead to a white collapse of the country's complex technological structure. White Rhodesians often paint pictures of plummeting production, vandalism and chaos as black masses take over from whites. In Zaire, for example, when the Belgians left what was known as the Congo and a long period of political turmoil began, roads became overgrown by jungle, inventories were depleted and never replaced, factories ground to a halt. In another former Portuguese territory, Angola, where civil war continues, distribution systems faltered and elevators broke down, with no one to repair them.

Here in Mozambique, despite the departure of 250,000 Portuguese settlers—the people who ran industry, the civil service and the large plantations—nothing so drastic has happened. Phones, railroads and airlines work. Abandoned stores and factories are being run, admittedly at reduced levels of production, but nevertheless by workers' committees with the aid of relatively few foreign experts.

EDUCATION WAS NATIONALIZED

There are many problems of distribution and cars and trucks are sorely needed, but there is no apparent hunger and the periodic shortages of things like beer and canned goods—hardly necessities for most of the rural population—are no worse than in many African states that have been independent for years.

Discussing the more negative side of the ledger, Joaquim Brum, director of the Ministry of Economic Planning, concedes that there are awesome difficulties as the country embarks on a socialist course. With 70 percent of the population under age 18 and with illiteracy estimated at more than 90 percent, there is an overwhelming need for skilled people, not just doctors and engineers but mechanics who can repair motors and people who can drive cars.

The filling of such needs is the first priority of the Government, and its first move was to nationalize education, which under the Portuguese was private and largely reserved for the children of settlers. Even though there are few teachers, primary education is obligatory and a school is often administered by a teenager, with higher-grade pupils teaching lower grades.

Another difficulty is that the Portuguese left behind them a highly capitalized and developed economic structure that is largely irrelevant to the needs of the people. There are factories that produce perfumes, but there are not enough textile plants and many people in the countryside wear rags.

It is an irony that the Portuguese, the first to colonize Africa and the last to leave it, did not really begin investment on a large scale until after World War II, when the sun of colonialism began to wane elsewhere and as a result there are good roads that were built to encourage Portugese immigration, and Maputo shares with Abiidjan, in the Ivory Coast, the distinction of being the most modern and built-up cities in black Africa. But this creates problems.

EVENTUAL USEFULNESS FORESEEN

"We have a building here that was almost completed before independence," said Mr. Brum. "It has 35 stories of luxury flats of 10 rooms each. What are we going to do with it? We thought of turning it into offices, but we found that because the elevators are built for residential needs, a worker who arrived at the building at 6 in the morning would not get to his office until four hours later. Now, if we don't complete the building it will be lost and ruined. If we do it we'll use capital that should go for clinics, schools, housing."

The cost of maintaining such extravagance while also attempting extensive investment in the countryside has burdened official planners. On the other hand, as Mr. Brum noted, some of the inherited investment could become useful eventually and there is an obligation to protect these things simply because they are here.

The answer so far to the problems of maintaining the costly inheritance has rested largely with the discipline that is so evident. The gardens of the rich Portuguese who fled are being trimmed by neighborhood people, but no one has commandeered their pleasure boats from drydock or squatted in their beach villas. There are no taxis in Maputo and hitchhiking is prevalent. Sharing of resources has been made an act of patriotic duty.

"At the basis of all our economic and social plans is discipline," sair Mr. Brum. The development of this unity stems from the singular liberation struggle waged by the Frelimo guerrillas for 11 years against a force of 70,000 Portuguese. Unlike similar movements in Angola and Rhodesia, Frelimo was able to fuse nationalists elements within a single command and evolve an ideology and program that went beyond mere independence.

Starting with 250 men who slipped across into Tanzania to begin training for armed struggle, Frelimo grew to a force of 20,000 that, even before the collapse of Portuguese colonialism, had occupied three northern provinces where schools, hospitals, and agricultural collectives were established.

Through women's groups, youth movements and worker meetings the ideas of Frelimo were implanted. It was not enough to end colonial control. What was necessary was to use armed struggle as a mechanism with which to change the consciousness of the people. The struggle, the leaders repeated, was not against whites, for racism and tribalism are divisive and black racism should not be the answer to white racism.

WAR: "WONDERFUL UNIVERSITY"

Today those northern provinces are regarded as the most progressive in the country, and President Samora Machel, who was a hospital orderly when he became one of the original fighters, often says it is a pity that the coup in Portugal came when it did in 1974, for had the war continued the entire country might have been transformed sooner. "Armed struggle," he said, "is a wonderful university."

When the colonial administration withdrew, in any case, a Frelimo government with a defined program already existed. Though there were nightmares in the settler community, there was no bloodbath. In fact, according to both Frelimo leaders and Western diplomats only two people were executed—two black men sentenced to death by a people's court of 6,000 for murdering a white

School Girls Buried in Common Grave—Heavy Destruction in Rhodesian Raid

(By Ian Christie)

Maputo, Mozambique, November 29.—The pages of a blood-spattered school book fluttered in the breeze at the edge of a mass grave. In the bulldozed hole lay the bodies of 20 young girls, their ages between 10 and 14.

They had been sitting in their classroom when the Rhodesians attacked last week. It was hard to see exactly how they died. On the face of one pretty teen-ager there were the marks of tears that had streamed down her cheeks. On the face of another, the black skin had been burned off, leaving only the white flesh underneath.

They were among at least 100 who died in the largest attack the Rhodesians have launched into Mozambique. At the Chimoio hospital about 14 miles away 600 wounded, more than 200 in a serious condition, were being treated for burns from incendiary bombs, bullets and shrapnel.

The full death toll in this attack—only a few miles south of the scene of last year's Hyazonia massacre in which hundreds of unarmed civilians were slaughtered—is still unknown.

I personally counted 70 bodies, mostly women and children, when I visited the scene over the weekend. A doctor at the Chimoio hospital told me that 10 people had died there, and survivors said that at least 20 were unaccounted for, some of whom may have dragged themselves away into the bush and died there from their wounds.

The Rhodesian government, in its announcement of the raid, claimed 1,200 were killed.

The camp, belonging to guerrilla forces of Robert Mugabe's Zimbabwe National Liberation Army, was completely destroyed. Mugabe and Joshua Nkomo of the Zambia-based Zimbabwe African People's Union, both oppose Rhodesian Prime Minister Ian Smith's attempt to reach a settlement with moderate nationalist leaders inside Rhodesia.

Rhodesian forces used Mirage fighter bombers, Canberras and Hawkers Hunters in the attack, inflicting the main damage by bombs and rockets, according to Mozambique defense experts.

The camp included a hospital; a school; stores for food, clothing and medicines; a repair yard and transport depot. Most had taken direct hits from bombs. One was riddled with machine-gun fire from a helicopter gunship.

Located 40 miles from the Rhodesian border to the north of Chimoio, the camp was used by guerrillas as a transit point. Some of the bodies I saw were those of guerrillas, but the majority were women and children.

In the hospital grounds nearby, the bodies of eight men lay beneath a cashew nut tree. They had been dragged from a mobile clinic and shot in the back of the head. The rear door of the clinic, with a large red cross painted on it, squeaked eerily on its hinges as we walked past.

A further grim testimony to the slaughter was the corpse of a man with his hands tied behind his back. His leg had been shot off just below the knee. He had apparently been tortured in an effort to find out where the senior guerrilla commanders were.

If that was one of the principal objectives of the attack, and observers believe it was, then it misfired. At the time, the guerrillas' political and military leaders were in Mozambique's capital, Maputo, attending a meeting with President Samora Machel.

Washington Post correspondent Caryle Murphy reported the following from Johannesburg:

Apart from reviving the flagging morale of white Rhodesians, the strikes against guerrilla sanctuaries in Mozambique were seen by diplomats here as an effort by Smith to buy time at a point where he is about to enter into negotiations with moderate black leaders on a settlement leading to majority rule.

Perhaps more important, according to diplomatic observers, the strikes seemed designed to demonstrate to various black Rhodesian groups that the Rhodesian government forces could be valuable to them.

None of the three moderate black leaders—Bishop Abel Muzorewa of the United African National Council, Ndabaningi Sithole of the African National Council and Jeremiah Chirau of the Zimbabwe United People's Organization—has an army.

Any settlement with Smith would mean that the black moderates would have to depend on the Rhodesian security forces for protection. The security forces are 60 per cent black.

Muzorewa, however, condemned the Rhodesian strikes and called for a week of mourning for the victims of "these massacres." Some of his aides privately acknowledged, however, that the strikes have demonstrated the weakness of the guerrilla forces.

In Zambia, the government-owned Zambia Daily Mail angrily asserted that "it will be difficult to imagine even under the most forgiving black leader that whites would have any place in Rhodesia after the massacre of Mozambique."

Smith, the editorial said, "had planted such damning seeds of racial hatred which even time will not be able to heal."

Both the United States and Britain have condemned the Rhodesian raids as a major escalation of violence that has complicated efforts for a peace settlement.

Rhodesian Raids Devastate Refugees

(By David B. Ottaway)

Chimoio, Mozambique.—Rhodesian incursions deep into this newly independent "frontline" nation are creating havoc for tens of thousands of civilian refugees from the Rhodesia war living in camps along Mozambique's western border.

Mozambican authorities have just asked the United Nations to step up assistance to cope with an additional 6,000 to 10,000 refugees who have reportedly fled from rearbase and transit camps belonging to the Zimbabwe People's Army, the main nationalist guerrilla force, following the latest Rhodesian incursion. The guerrila force takes its name from the African word for Rhodesia.

The plight of the Zimbabwean refugees is one of the least publicized aspects of the Rhodesian war. This is partly because they live in remote camps that are difficult to reach even in the dry season.

It is also partly due to the Mozambique governments' effort to keep outsiders, even international agencies like the U.N. High Commission for Refugees from visiting the camps. No foreign relief officials, not even doctors, are stationed in the camps, according to Western diplomatic sources. Only in the past couple of weeks has Mozambique allowed reporters to visit the camps.

While the Rhodesians insist they are only hitting camps of the Zimbabwe People's Army, each raid seems to leave death and destruction among the civilian refugees as well.

It is not clear whether this is deliberate Rhodesian policy or an "accident of war." Some international refugee officials say part of the problem lies in the failure of Rhodesia's nationalists to clearly separate the civilian population from the guerrilla camps.

There are already about 35,000 refugees settled in three U.N.-assisted and Mozambican-run camps. The largest is at Doroi, about 20 miles northeast of here, housing nearly 18,000. It is a short distance from the main guerrilla camp the Rhodesians occupied and largely destroyed on Nov. 23-24.

Local authorities told three Western correspondents who were scheduled to visit Doroi last week that it was no use going now. The refugees were all hiding in the bush during the day for fear of more Rhodesian attacks, they said.

"Many have been traumatized by the attacks," explained one local official. "They don't want to talk even to us without their own leaders being present. They think we may be spies for Smith"—Rhodesian Prime Minister Ian Smith.

The refugees still return to Doroi camp at night, he said, but they have given up planting their fields just as the rainy season is getting under way. The result is expected to be a food shortage, as exists in the other official refugee camps.

The white-minority Rhodesian government has termed the November incursion—Rhodesia's biggest—a spectacular success, with as many as 3,000 casualties inflicted on the main nationalist guerrilla force.

The Mozambicans say the main victims were noncombatant women and children living in transit or reception camps.

The death toll is still mounting as more wounded refugees die in the hospital here and in the port city of Beira and in Tete City, 220 miles to the north. The latest official estimates are that about 100 refugees were killed in the Nov. 23–24 attack on the Mecombezi guerrilla camp outside this Portuguese-built colonial town and nearly 250 at another camp at Tembue in Tete Province. The number of wounded is put at 700.

The latest U.N. report on Mozambique says that 1,500 persons had died as the result of Rhodesian raids, two-thirds of them Zimbabwean refugees, as of June. The toll is now fast approaching 2,000.

The difficulties international relief officials can have working here were illustrated just after the latest Rhodesian raids. The U.N. high commissioner for refugees, E. Q. Blavo, was escorted by two government officials to Chimoio only to be barred entrance by local authorities who wanted guerrilla leaders to approve his visit first.

The United Nations is providing about $2 million in assistance to the Zimbabwean refugees this year and budgeting around $3 million for 1978. Sweden and private church groups gave another $1.4 million in aid this year.

No outsider seems to know how many civilians are located in the guerrilla transit and rearbase camps but estimates reach as high as 30,000. U.N. assistance already is being provided to about 35,000 refugees here.

Some outside observers believe the Mozambican government is not altogether happy with the presence of so many civilians in the guerrilla camps. They note that the Front for the Liberation of Mozambique (Frelimo) that now rules this nation carefully separated civilian and guerrilla populations located in Tanzania during its 10-year struggle against the Portuguese. The civilian camps were run by Tanzania and the military ones by Frelimo.

The Zimbabwe African National Union, the nationalist faction based in Mozambique, seems to prefer having the dependents of the guerrillas in camps they can continue to control directly.

Some international relief officials also say the official refugee camps should be moved much farther from the border to protect them from the Rhodesian raids. Others, noting the Rhodesians' ability to penetrate with helicopters and jets more than 100 miles into this country, doubt there is any absolutely safe haven for the refugees anywhere in Mozambique.

Mozambique Seems To Have Gained Discipline Without the Martial Air

(By Michael T. Kaufman)

Maputo, Mozambique.—In slightly more than two years of independence, this Marxist state seems to have succeeded where so many major one into Mozambique to be officially acknowledged by Rhodesia, ended yesterday, a communique said.

SMITH PLANS MEETING

The Rhodesian command said ground and air forces, acting "in the interests of self-defense," smashed the guerrillas' main base camp at Chimoio, 54 miles across the border and a second camp at Tembue, 132 miles inside Mozambique in the northwestern province of Tete. It said Rhodesian casualties in the raids were one killed and eight wounded.

[The Mozambican press agency, accusing the Rhodesians of a "slaughter," said more than 80 people, mostly women and children, were killed in the Rhodesian attacks on a guerrilla transit camp near Chimoio. Reuters reported from the Mozambican capital. The Mozambican account said that the Rhodesian attack against the second camp had been repulsed, with five Rhodesian soldiers killed.]

The raids ended as Prime Minister Smith was making plans to meet with Rhodesian-based black leaders. Nationalist leaders who are conducting a guerrilla war against the white-minority Government from outside Rhodesia denounced the Smith proposals and vowed to continue fighting.

The military command said Rhodesian troops had not clashed with Mozambican troops. "The aims of these combined air and ground actions were successfully achieved," the military said.

"Large quantities of war materiel, including weapons, vehicles, ammunition, fuel, buildings and documents were destroyed," it said.

Intelligence sources said both of the camps were strategic bases for guerrillas of Robert Mugabe's Zimbabwe African National Union, largest of the two guerilla armies fighting to topple the Smith Government.

Officials said they believed Mugabe has about 9,000 men, more than 3,500 in Rhodesia and the rest in Mozambique. If 1,200 guerrillas were killed in the raids, it would mean he has lost more than a fifth of his forces in Mozambique.

The second guerrilla army, the Zimbabwe African Peoples' Union headed by Joshua Nkomo, is estimated to have about 3,000 men, several hundred inside Rhodesia and others in neighboring Zambia.

Mozambique closed its 800-mile border with Rhodesia in March 1976.

In the first raid against Mozambique in August 1976, Rhodesian troops destroyed what they called a terrorist camp 25 miles inside the country, killing 340 persons, including 300 guerrillas. Mozambique claimed it was a refugee camp and said up to 1,000 persons were killed.

In other raids in October 1976 and again early this year, few guerrilla casualties were reported but troops brought back truckloads of arms and ammunition and said they had destroyed tons of other equipment before withdrawing.

AGREEMENT ON TALKS

Mr. Smith said last week that he had agreed to the principle of one-man, one-vote elections, a major demand of the nationalists, in return for guaranteed safeguards for the country's 268,000 whites.

Bishop Abel Muzorewa, the Rev. Ndabaningi Sithole and Chief Jeremiah Chirau, the three nonmilitant, Rhodesia-based nationalist leaders, have given qualified acceptance to the Prime Minister's proposed talks. Initial discussions were expected next week to lay the groundwork for a formal constitutional conference leading to elections.

The white population, which has held political power since the country became a self-governing colony of Britain in 1923, is outnumbered more than 20 to 1 by the largely disenfranchised blacks. In 1965, Rhodesia broke away from Britain on the issue of black majority rule.

The three local black nationalist groups are believed to have the support of more than 80 percent of Rhodesia's 6.4 million blacks, but they do not have direct control over the guerrillas. The Smith Government is said to foresee a settlement that would allow what officials describe as properly supervised elections, producing the country's first black government. Officials say they also hope the present Government security forces will be kept intact to continue operations against guerrillas and to safeguard minority interests.

Eighty percent of Rhodesia's regular forces are black, but they are led by whites.

SCENE OF FIGHTING

The following dispatch, written last week in a Mozambique town that has no communications, reached Nairobi, Kenya, yesterday.

Chimoio, Mozambique (UPI)—For two days, beginning Wednesday morning, bombs could be seen exploding in the area of the guerrilla base camp 18 miles outside town.

The first attack was by Rhodesian jets, followed by helicopter gunships.

According to guerrillas who survived the raid, airborne troops alighted from the helicopters and fired at residents of the camp. The guerrillas said the Rhodesians remained in the camp two days.

A large Mozambican column reportedly attempted to fight its way to the base but was driven off by aerial bombardment.

HOSPITAL TREATS 650

By the evening of the first day, survivors of the attack, most of them wounded but not seriously, had begun streaming into Chimoio, which has a rudimentary hospital. About 650 were being treated at the hospital.

The Mozambican column was said to have reached the camp after the Rhodesians left. Members of the force said they had found 100 bodies there, among them boys and girls in their early teens who had been receiving indoctrination in the camp.

Mozambican officials said the full casualty toll might take weeks to determine. They said the dead are spread out over a wide area of dense forests.

UNITED STATES, BRITAIN CONDEMN RAIDS BY RHODESIANS

WASHINGTON, November 29.—The United States and Britain condemned today the recent Rhodesian military attacks on guerrilla bases in neighboring Mozambique as harmful to peace prospects in that part of the world.

Separate statements expressing concern over the Rhodesian challenge to the "territorial integrity" of Mozambique were made in Washington by the State Department and in London by Foreign Secretary David Owen.

Hodding Carter 3d, the State Department spokesman, said that the raids Rhodesian forces conducted against two guerrilla bases between last Wednesday and Sunday had greatly increased bitterness among black nationalists and complicated British-American peace efforts.

The raids began the day before Prime Minister Ian D. Smith of Rhodesia announced a readiness to open talks with black nationalist leaders living inside the country on an eventual shift to black-majority rule with safeguards for the white minority.

PERIOD OF MOURNING

SALISBURY, Rhodesia, November 29.—Bishop Abel Muzorewa, the black nationalist leader who is widely believed to have the greatest black civilian support inside Rhodesia, issued a statement today condemning the Rhodesian raids into Mozambique as a massacre.

According to his public relations aide, D. C. Mukome, the bishop, who heads the United African National Council, will not attend negotiations with the Smith Government until after Dec. 8, which he has set as the end of a period of mourning for "the people massacred in Mozambique."

Mr. Mukome said, however, that the talks would still take place in the near future.

Bishop Muzorewa said in his statement that the people killed in the Rhodesian raids were "for the most part men, women and children who fled from the land of their birth to seek asylum in Mozambique."

Rhodesian military sources said, meanwhile, that the raids had crippled the black insurgency. The Rhodesian military command announced yesterday that the raids had killed more than 1,200 guerillas, which would be more than 20 percent of the forces the guerrillas are estimated to have in Mozambique.

A RAIDED CAMP IN MOZAMBIQUE BURIES VICTIMS

MAPUTO, MOZAMBIQUE, November 28.—Smoke was still rising from smoldering ruins at a Rhodesian guerrilla transit camp over the weekend when a group of reporters reached it from Maputo.

Most of the buildings of the camp, about 40 miles from the Rhodesian border, had been hit by bombs from Rhodesian Air Force planes, which flew repeated missions over the area beginning last Wednesday morning. One building was riddled with machine-gun fire, apparently from one of the helicopter gunships that had carried Rhodesian troops to the camp.

On the grounds of the camp hospital, the bodies of eight men who had been shot in the back of the head still lay beneath a cashew tree. They were among the 100 people killed during the Rhodesian attacks on the camp, a complex of the Zimbabwe People's Army. However, most of the victims whose bodies could be seen at the camp were women and children.

The Rhodesian military command had said that its forces killed 1,200 guerrillas during raids on two camps in Mozambique between last Wednesday and Sunday.

At the camp the reporters visited, a mass grave had been bulldozed for the bodies of 20 girls apparently between the ages of 10 and 14. They had reportedly been sitting in their classroom when the Rhodesians attacked. At the edge of the grave the pages of a blood-spattered schoolbook fluttered in the breeze last weekend when the reporters arrived.

Near the mobile clinic of the camp, they saw a woman sitting on the ground with an arm curled protectively around a child. Both were dead.

KILLED IN HIDING PLACES

In the camp's administrative center, down the road, the legs of a man and a woman protruded from a large oil drum, which had been riddled with bullets. They had apparently crawled inside to hide.

Reporters counted 70 bodies on the grounds of the camp. A doctor at the hospital at Chimoio, a town 18 miles away, said that 10 people had died there, and survivors said that at least 20 were unaccounted for.

Six hundred people who had been wounded were being treated at the Chimoio hospital. More than 200 were said to be in serious condition.

Mozambican Defense Ministry experts said the air attacks were carried out by Mirage fighter-bombers, Hawker Hunters and Canberras. No building was left intact in the camp, which included a school, stores for food, clothing and medicines, a repair yard and transport depot.

One of the principal objectives of the Rhodesian attack was believed to have been to kill the senior guerrilla commanders. But at the time, they were in Maputo attending a meeting with Mozambique's President, Samora Machel.

the Department of Education Act of 1977. In hearings before that committee, my distinguished colleague from Oklahoma, Senator Henry Bellmon, offered testimony concerning the need for a separate Cabinet-level Department of Education.

Senator Bellmon has been a leader in education in the Senate and as Governor of the State of Oklahoma. As his testimony so ably sets out the issues to be considered, I wish to call his remarks to the attention of the Senate and the administration as this legislative proposal receives further consideration.

Mr. President, I ask unanimous consent to have printed in the Record the testimony by the distinguished Senator from Oklahoma.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Senator Henry Bellmon

Mr. Chairman, I appreciate the opportunity to offer brief remarks concerning S. 991, the bill to establish a separate Department of Education. My view is that this is significant legislation which is necessary in order to reverse the present neglect of educational policy and program matters, to consolidate Federal education activities now scattered among several agencies under one roof, and to revitalize the important relationships between Federal and State education officials. It is a move which President Carter has promised but has not yet taken, and it is fitting that the Senate should undertake its own initiative. The establishment of a separate Department of Education is solidly supported by the educational community in Oklahoma and elsewhere.

I believe that it makes a good deal of sense at this time to draw together in one structure all education functions. We have scattered our efforts unwisely. Within the DHEW organization, we have given priority consideration to problems of welfare and health, thereby allowing education to stagnate. We are presently undergoing a critical re-examination of the role of education in this country, yet we do not have an appropriate vehicle for the development and implementation of new directions. We have serious and deteriorating problems of relationship between State and Federal roles, and we need to halt the pronounced sense of drift which has become apparent in the U.S. Office of Education.

As I understand S. 991, it proposes to bring together in one organization the educational functions administered by U.S.O.E. and by other Federal agencies so that they may be more effectively organized and implemented. There is one caution I wish to offer the Committee as it studies this proposal. The creation of a separate Department of Education must not become an opportunity for bureaucratic self-aggrandizement. There is no reason to expand the bureaucratic work-force in order to demonstrate administrative effectiveness and equal importance with other departments. We have sufficient resources at work in the education function at the Federal level; what we need to do is to consolidate, motivate, and energize these resources to give the education mission greater impact. In the version of this bill which the Committee finally reports, I hope that restraints upon the growth of bureaucracy are clear. Without such safeguards, it would be easy for agencies surrendering functions to retain vacant job slots for subsequent use. If past experience is any guide, the danger of creating new but unessential positions is real. We must avoid duplicating the obstructions to action which the present DHEW superstructure provides.

Establishment of a separate Department of Education would prevent many of the administrative problems which have resulted from the consolidation mandated by P.L. 93-380. This consolidation combined Titles II, III, and V of ESEA, Title III of NDEA, the Nutrition and Health Program, and the Drop-Out Prevention Program into a new Title IV. It became law in August, 1974. Today, more than three years later, U.S.O.E. has not yet re-organized itself fully to deal with that consolidation, even though the States have had to re-structure themselves. Within U.S.O.E. the newly-created Division of State Educational Assistance Programs has yet to be staffed.

Mr. Chairman, I cite this example because it demonstrates how administrative organization at the Federal level can impede legislative intent. It is of particular concern to me because S. 1780, the "Optional Educational Simplification Act", which was introduced by Senator Domenici, myself, and others, would depend upon effective administration at the Federal level for part of its success.

Mr. Chairman, those of us who are concerned about improving the state of education in this country owe the authors of S. 991 and the members of this Committee a vote of thanks for taking the initiative to move the issue of reorganization to a conclusion. Your efforts are appreciated and they promise to yield much that is of benefit to educators and to the general public.

RHODESIAN RAIDS ON MOZAMBIQUE

Mr. HUMPHREY. Mr. President, the U.S. Government has rightly condemned recent Rhodesian military attacks in neighboring Mozambique "as harmful to peace prospects in that part of the world."

Newspaper accounts tell the pathetic story of young girls being bulldozed into mass graves and people being tortured to reveal the location of guerrilla leaders. The Rhodesian Government claims that some 1,200 blacks were killed during the raid.

In September, two members of my Foreign Assistance Subcommittee staff visited a United Nations supervised refugee camp in Mozambique, not far from the camp which was attacked near Chimoio. They found no evidence of guerrilla training at the camp they visited, but found over 17,000 people, mostly young men and women who fled the war zones in Rhodesia. The living conditions in the camp were pitiful, but the many refugees with whom the staff members talked were genuinely grateful to have escaped from Rhodesia to what they felt the security of Mozambique.

In light of the recent incident near Chimoio, I believe it is vital to impress upon the Ian Smith government in Rhodesia the disgust of the civilized world with this action. Perhaps this action makes it easier for us to understand the demands of the Patriotic Front that the present Rhodesian armed forces be dismantled prior to independence. Africans in Rhodesia must be gravely concerned, as evidenced by Bishop Abel Muzorewa's strongest condemnation of the raids, as to whether or not a genuinely fair election on a one-man-one-vote basis can be conducted with the present Rhodesian forces in control. Frankly, these raids call into question Smith's announced plans to hold talks on majority rule with internal African leaders.

It is evident that the pressure from the Patriotic Front has persuaded Smith of the need for a negotiated settlement. The Anglo-American proposals for a settlement in Rhodesia clearly recognize that all parties—internal African leaders and the Patriotic Front—must be involved in the negotiations if there is to be a just and lasting settlement. The proposals also recognize the need for an impartial force to police the transition period, a need underscored by these raids. Without these preconditions, the struggle for genuine independence is most likely to continue.

In light of the tragedy associated with the raids into Mozambique, I would strongly urge the administration to make available emergency food aid and other humanitarian assistance through the United Nations to alleviate the suffering of refugees.

Furthermore, I think this is an appropriate time to reconsider our policy toward Mozambique. We have diplomatic relations with Mozambique, and President Machel has been cooperative with Anglo-American efforts to resolve the Rhodesian situation. I believe we made a mistake when the Congress prohibited direct economic aid to Mozambique, and an even bigger mistake when it was announced that our Government would vote against loans to Mozambique in the international financial institutions.

I think Congress needs to understand that the present prohibitions on aid to Mozambique severely undercut the capability of the United States to respond to the political events and economic needs in that part of the world.

According to the staff of the Foreign Assistance Subcommittee who visited Mozambique in September, the Government is making very strong efforts to develop its rural areas and provide its citizens with basic economic inputs. It has the commitment to meeting the basic human needs of its people, which is consistent with the new directions mandate of our bilateral aid legislation.

Mr. President, I ask unanimous consent that articles from the November 29, November 30, November 12, and November 14 issues of the New York Times, and the November 30 and December 13 issues of the Washington Post, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record as follows:

Rhodesia Reports Killing 1,200 in Raids

Salisbury, Rhodesia, November 28.—The Rhodesian Government said today that it had carried its fight against black nationalist guerrillas deep inside Mozambique last week, killing at least 1,200 persons, smashing two guerrilla bases and destroying much war materiel.

The raids, supported by air attacks, began last Wednesday, the day before Prime Minister Ian D. Smith announced that he was prepared to concede the principle of full voting rights for Rhodesia's black majority as a basis for negotiating a settlement with black nationalist leaders living inside the country. The military operation, the fourth our population; we denied ourselves the full potential of women and blacks, to the extent we did that, we are a poorer nation.

Therefore, as I address myself today to the economic development of the Third World, and to the fact that the role of women in that development has been largely neglected, I do so with humility.

We haven't done so well ourselves. But we have learned. And I hope that what we have learned can be of use to the less developed nations. Things have changed for North American women. I believe the efforts and example of our women in recent years cannot fail to advance the rights and role of women everywhere.

With that preface, let me give you some facts about women in the developing world today.

Women are responsible for forty to eighty percent of all agricultural production in the less developed countries.

Women are directly responsible for the health and nutrition of their families.

Women are the first, and frequently the only, teachers of the young.

Women are fifty percent of the partnerships that produce children and hence are critical to the planning and implementation of a population program.

These are facts that are basic to the prospects for economic development of less developed countries. Yet they are facts that have been dimly perceived and largely ignored in practice.

Let us explore, for a moment, the issue of women and agricultural development.

We know that if agricultural production in the Third World is not significantly increased there will be malnutrition and starvation on an increasingly massive scale within the next two decades.

We also know that not only are women responsible for a major portion of agricultural production, but their burden is becoming heavier. The lure of the city and cash-producing work is drawing the men away from the farms. The women remain behind to work the land, tend the livestock and raise the children.

It is estimated that some thirty percent of rural families in the Third World are now headed by women. A 1969 census showed that in Kenya alone about 525,000 households had women at the helm.

But what is being done to improve their position or give them the training that would increase agricultural productivity?

Not much.

In nearly all developing countries, agricultural training is given to men only. The result is male instructors who turn their attention to male farmers. The wives, daughters, and hired female laborers are ignored.

Women are additionally handicapped in their efforts to get more from the land they work because of their generally "inferior" social position and the fact that they rarely have legal status, access to credit, or property rights.

The conclusion can be only too clear: If agricultural production and productivity are to increase, development planning in the Third World must give an equal place to the women—particularly rural women.

If rural women have been ignored in agricultural planning, they have fared better—but not much better—in another critical field of Third World development: the planning and implementation of health and nutrition programs.

No country can develop economically if most of its people are undernourished or sick.

Four fifths of all Third World people have debilitating intestinal parasites.

One hundred million children under five there are always hungry.

Fifteen million children there die each year from the combination of infection and malnutrition.

In the United States the caloric requirement of a typical working woman is about 2100 calories per day. Most North American women receive what they need.

A typical woman working in agriculture in the Third World, because she is smaller, requires about 1700 calories per day. She gets about 1500. In many developing countries, women eat what the men leave.

These are sobering statistics. If something is to be done about them it is surely the rural women—those closest to these problems, who will have to do it.

In some cases, because of the depths of their poverty, there is little they can do to improve nutrition and diminish disease.

But in many, many cases malnutrition and disease are the result of ignorance.

The fact is, miracles could be wrought with simple changes of diet and food habits if women only had the knowledge to make these changes.

Nutrition specialists in Africa, for example, have found that there is almost no village where women cannot find the right food for their families, or the right combinations of food, if they know what to look for.

A few greens, frequently found growing wild . . . a few beans . . . an occasional egg. A mixture of these ingredients, prepared so it can be spoon fed, and fed daily, can save a child's life.

Public health workers in Malaysia noticed that Chinese children there were surviving and Malaysian children were dying, despite the fact that the same food was available to both. When the situation was investigated it was discovered that Chinese mothers understood the importance of diet—particularly of protein—and the Malaysian women did not.

In short, a small amount of elementary nutritional education can make the difference between life and death.

Fortunately, some governments in the developing world are beginning to recognize the importance to economic development of nutrition education for rural women.

I recall, for example, a recent trip I made to Ghana and a village I visited up-country.

A village girl had received some training in nutrition from a government extension agent and had persuaded her village friends to plant a kitchen garden outside the local clinic.

They had introduced spinach into that garden and called it "clinic weed."

During the visit, the women sang a song for my benefit. I won't try to sing it for you today, but I can tell you that it extolled the wisdom of planting corn at reasonable intervals, just as it extolled the wisdom of having children at reasonable intervals.

It was a nifty little program and a perfect example of what can be done if you get the information to the people who can do the most with it—the rural women.

If a little information and training can accomplish miracles in nutrition, it can also accomplish miracles in health.

In most of the Third World, women provide whatever health education and care there is. An African proverb says, "Educate a woman and you educate a family." That ought to become a motto for all developing countries and for all of us who are trying to help them.

But if a woman lacks elementary education—if she does not understand how or why disease occurs or how it is transmitted—she has no understanding of the importance of keeping food covered or water clean.

If she has no notion of what viruses or bacteria are, she has little incentive to observe even the most elementary sanitation precautions.

Yet, the single major cause of disease in developing countries is related to the failure to observe elementary household and village sanitation.

But in the Third World, health education for village women has barely begun. Health and nutrition planners are only beginning to recognize and work with a self-evident fact: If a countrys' economic development hinges on the health of its people and if most of the people are rural, women must be brought fully into the mainstream of health plans and programs throughout the third world.

We all know that as long as population growth equals or exceeds economic growth, standards of living cannot improve.

That has begun to happen, for example, in Nigeria and Ghana. Because of its burgeoning birth rate, Nigeria has been forced to become a food importing nation. Fortunately the country has the money from oil to pay for the food. Ghana hasn't been so lucky.

But what these countries are experiencing may well be the wave of the future, if population growth is not better controlled—and soon. If that is to happen, women must play not only their traditional role, but a new one.

We know that fertility rates begin to fall when two things happen:

First, when a women is able to nourish her children properly and keep them healthy, thus assuring that they survive to adulthood, only then are couples in poor countries apt to believe that they dare limit the size of their families.

And second, fertility will decline when the educational level of parents rises. The educational level of the father is important. But that of the women is more so. In Latin America, for example, studies indicate that women who have completed primary school will average about two children fewer than those who have not.

And yet, here again, when it comes to education, women in the developing world get very short shrift.

Most of the literate people in the world today are male. Women comprise nearly two thirds of the world's illiterate population. More than a half billion women cannot read or write. Between 1960 and 1970 the number of illiterate women increased by forty million.

Development planners have emphasized the centrality of education to economic development. But it is long past time that we start finding the ways to educate Third World women to the limit of their great potential. For it may well be that the future of the Third World rests predominantly with them.

I have been pleased to note the emphasis the Partners of the America have placed on the role and importance of women.

Under your aegis home economists from Louisiana have worked with rural women in El Salvador to help increase their income through the fabrication of handicrafts, using local materials such as sisal and coconut fibers.

Nutrition specialists from Oregon, under your sponsorship, are working together with their professional counterparts in Costa Rica in the development of audio visual education to be used in rural areas.

Women on the altiplano of Bolivia now have better opportunities to learn to read as a result of a school construction program conducted by the Utah-Bolivia Partners. With teaching materials developed by Brigham Young University, those who are already literate can teach their neighbors to read.

I commend you for your work on behalf of women.

I commend you for your efforts to build a partnership with the people of the Third World.

I salute you for your efforts to liberate human beings from disease and malnutrition, poverty and ignorance, so that their full potential can be realized in a better world for all of us.

NEED FOR A SEPARATE DEPARTMENT OF EDUCATION

Mr. DOMENICI. Mr. President, the Senate Committee on Governmental Affairs is currently considering S. 991, of 2.9 million, and legislation authorizing funds for the Energy Research and Development Administration's national security programs.

Legislation enacted to benefit our senior citizens includes an elderly tax credit of an additional $35, appropriations of $59 million for employment of older persons, legislation funding home health demonstration and training projects for the elderly, and laws to cut down on fraudulent medicare and medicaid programs which in effect harm our senior citizens.

This Congress has also passed and enacted laws for our small businessmen, including legislation to greatly increase the Small Business Administration's ability to assist small businesses, and legislation cutting taxes by $34 billion over 3 years and giving business tax credits for new empoyees hired in 1978 and 1979. Also passed was legislation exempting small farms from certain OSHA practices which have unfairly burdened small businesses.

This session we also passed significant legislation to stimulate the economy, including legislation to create 600,000 jobs, mostly in the construction industry, under the public works program, a law establishing a Youth Adult Conservation Corps—which creates about 203,000 jobs and training programs—a law extending unemployment compensation, legislation extending the number of public service jobs which will benefit the communities, as well as legislation amending the Fair Labor Standards Act.

Also, during this year we have passed, and the President has signed into law, an omnibus GI Bill Improvement Act, which will benefit millions of veterans.

Mr. President, I believe there are two major reasons for the impressive record logged by the 1st session of the 95th Congress—the activism generated by President Carter throughout the executive branch, and the legislative skill and leadership of Majority Leader ROBERT BYRD.

President Carter lost no time demonstrating that he intends to be an activist and courageous President, and if there is no shortage of problems to attack, he has shown there is also no shortage of solutions to advance. His leadership and courage in making the hard decisions necessary to develop a national energy plan are an indication of his ability to meet problems head on with constructive proposals which serve as a working basis for achieving solutions. For example, President Carter has also proposed extensive and long-needed welfare reform and health care reform, only two of the difficult issues he has committed his administration to grappling with.

President Carter has consistently shown his willingness to work long and hard, in order to assure that his promises are kept. It is this energy and ability which have helped move needed legislation through the Congress. If President Carter's first year in office is any indication of what lies ahead for the remainder of his first term, I believe we are in for one of the most productive and constructive legislative periods in our history.

This prediction is buttressed by the organizational ability and exemplary leadership of Majority Leader ROBERT BYRD, ably assisted by Senator ALAN CRANSTON, the majority whip, who have shown extraordinary skill and diligence in scheduling and moving legislation effectively and efficiently. Senator BYRD has demonstrated that the legislative process need not be haphazard, that it can move expeditiously without hindering full and fair consideration of measures under study.

But perhaps most impressive about Senator BYRD's leadership is his determination that the Congress will be an equal partner in Government with the executive branch. For too long, the story of Congress has been one of power gradually eroded by an encroaching executive branch. As the Presidency has grown in power and influence, the Congress had declined. Coequality existed only in civics books, not in real life.

However, in recent years the Congress has regained some of its powers. This has been accomplished through such enactments as the War Powers Act, the Impoundment Control Act, and the Congressional Budget Act, establishing the new congressional budget process which, for the first time, has given Congress the mechanism to fulfill its Constitutional obligation of controlling the budgetary process.

But strength does not spring merely from laws; it must also spring from respect—respect for the Senate as an institution. As Majority Leader, Senator BYRD has insisted that the executive branch deal with the Senate as a partner, not as a stepchild. In turn, President Carter has shown that he considers the Congress a working equal partner, and that he is willing to deal with the Congress on an even basis.

Senator BYRD's willingness to speak out on behalf of the Senate and the Congress, matched by his ability to be firm when necessary, has earned the respect of the administration and the American people. And President Carter's commitment to macthing solutions with problems, and his commitment to working with Congress in these efforts, has earned respect on Capitol Hill and all across this land. In my judgment, the outstanding record of the first session of the 95th Congress is only the beginning of what the Senate and the administration can accomplish with the leadership and cooperative spirit so vividly demonstrated by President Carter and Majority Leader BYRD over the past year.

ADDRESS OF JOHN GILLIGAN, ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. PERCY. Mr. President, John Gilligan, Administrator of the Agency for International Development, delivered an address last month in Santo Domingo to the Partners of the Americas 1977 International Convention that I believe is worthy of my colleagues' attention. Mr. Gilligan points out some facts that have only recently been given the emphasis they deserve in our development programs. Mr. Gilligan says in his speech that women are responsible for a major portion of the agricultural production in developing countries. He states that some 30 percent of rural families in the Third World are now headed by women. Women are also directly responsible for the health and nutrition of their families and are the first, and frequently the only, teachers of the young. Their involvement is critical in stemming population growth. And Mr. Gilligan acknowledges that despite these facts, the role of women in development has in the past been largely ignored in both bilateral and multilateral development programs. Congress has mandated that AID give particular attention to programs which tend to integrate women into the national economies of the developing countries, thus improving their status and assisting in the total development effort. I am pleased to see Mr. Gilligan take a vital and personal interest in carrying out the mandate and hope to hear of further advances in this area in the future.

I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY THE HONORABLE JOHN J. GILLIGAN

I am pleased and honored to address this gathering.

I am not a stranger to the work of the Partners of the Americas. As Governor of Ohio I served as Honorary Chairman of the Ohio Partners and took an active interest in the exchanges between the citizens of Ohio and those of the state of Paraña in Brazil.

As you know, two other governors have been actively involved with the work of the Partners. One is now the President of the United States. Another is governor of the state of Michigan, the Honorable William Milliken, who will address you later in this convention.

Today I would like to discuss with you what I consider to be one of the most important—and neglected—aspects of economic development.

I would like to discuss with you the role of women in the economic life of the Third World.

For I believe that it may well be women, not men, who will be the decisive force in seeing to it that the world's poor have enough to eat, drink clean water, eat nourishing food, live to adulthood and become literate.

I believe that survival and social development in the Third World may well depend more on the women than the men.

Frequently when we speak of economic development we think of such matters as the transfer of technology, the development of trade policies and the exploitation of natural resources—all of which, of course, are essential.

But in doing so, we tend to minimize the fact that the real key to economic development is people. The most important resource within the borders of any nation is its men and women.

From the beginning of our history the United States recognized that our people were the heart of our land. We were the first nation to perceive that education for all our children was a key to our social and economic growth.

Despite that fact, until recently we denied ourselves the full talents of more than half and to make the affidavit of support a legally enforceable financial obligation. Recent discussions with GAO staff currently performing work concerning alien abuse of the SSI program tend to confirm that GAO's previous position and approach to solving this problem remain valid.

SSA

The Social Security Administration believes that H. R. 7200, if enacted, would present certain administrative difficulties. Commissioner Cardwell advises me that present law only requires imputing income in cases where the SSI recipient *lives with* the person from whom income is imputed (usually a spouse or parent). This would not necessarily be the case for an alien and sponsor, who might well live in separate parts of the country. Also, if the sponsor refused to furnish information concerning his income and resources, the alien could be disadvantaged for actions beyond his control. SSA, therefore, finds that making sponsors' affidavits legally binding is the preferable approach.

INS

The Immigration and Naturalization Service also believes legislation is needed making the affidavit of support a legally enforceable contract. It also suggests that aliens who do become public charges within 5 years be deportable regardless of whether benefits have to be repaid.

(Attached please find copies of inquiries I made to INS and SSA and their responses.)

CONCLUSIONS

Because the disadvantages of imputing sponsors' income and resources to aliens far outweigh the advantages, I believe it would be inappropriate to enact this particular provision in H. R. 7200 at this time.

Legislation should be enacted now, however, to protect the financial integrity of the SSI program. In this regard, I urge consideration by the Finance Committee of a residency requirement of 3 to 5 years for SSI eligibility—primarily because of its ease of administration—pending the enactment of more comprehensive legislation that would necessarily involve amending the Immigration and Nationality Act, which would have to be handled by the Judiciary Committee. I intend shortly to introduce separate legislation to rectify deficiencies in the Immigration and Nationality Act, along the lines suggested in alternatives III and IV above. I would certainly welcome your joining with me in that effort.

I have taken the liberty of informing Senator Curtis of my thoughts in this regard. I sincererly hope this information will be helpful to you in considering H. R. 7200. Whatever assistance I or my staff may offer in connection with your Committee deliberations will gladly be provided.

Warmest personal regards,

CHARLES H. PERCY,
U.S. Senator.

EXHIBIT 1

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., November 1, 1977.

Hon. CHARLES H. PERCY,
Committee on Governmental Affairs,
U.S. Senate.

DEAR SENATOR PERCY: Enclosed are statistics we developed in conjunction with your April 20, 1977, request concerning aliens that receive Supplemental Security Income benefits before they have been in the United States 5 years (newly arrived aliens).

A staff member on the Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs, asked that we provide you this information at this time for assessing H.R. 7200 provisions concerning aliens. Should you have any questions concerning the enclosed material, please call Mr. Michael Zimmerman of my staff on 301-594-4025.

Our report in response to your April 20, 1977, request will be issued in the near future.

Sincerely yours,

GREGORY J. AHART,
Director.

Enclosure.

Estimated number of newly arrived aliens receiving supplemental security income and estimated amount of benefits paid annually

[Dollars in millions]

State [1]	([2])	([3])
California	12, 027	$31. 6
Florida	12, 342	19. 5
Illinois	2, 980	4. 5
New Jersey	3, 718	5. 4
New York	6, 444	11. 3
Total	[4] 37, 511	[4] 72. 3

[1] We estimate that about 4,450 newly arrived aliens were receiving SSI in 20 other States. However, for these States, our sample was not large enough to provide statistically reliable data by State.

[2] Estimated number of newly arrived aliens receiving SSI.

[3] Estimated amount paid annually to newly arrived aliens.

[4] At our request, SSA assisted us in identifying aliens in its SSI quality assurance files for the period July 1 through December 31, 1976. These files represent a statistical sample of about 23,000 SSI recipients selected randomly from about 4.2 million recipients receiving benefits during this period. On the basis of this data and other information obtained, we estimate that our statistics on the total number of newly arrived aliens receiving SSI is accurate within plus or minus 6,787 and that the total amount of benefits paid aliens during this period is accurate within plus or minus $14.9 million at the 95 percent level of confidence. The estimated amount paid annually to newly arrived aliens includes Federal Supplemental Security Income benefits and federally administered State supplementation.

Estimated number of newly arrived aliens receiving SSI according to length of time between entry into the United States and application for SSI [1]

Length of time	([2])	([3])	([4])
Less than 1 month	3, 035	8	8
1 month to 6 months	12, 399	33	41
6 months to 1 year	8, 169	22	63
1 year to 3 years	12, 049	33	96
3 years to 5 years	1, 499	4	100
Total	37, 511	100	---

[1] These estimates are based on aliens receiving SSI benefits in California, Florida, Illinois, New Jersey, and New York. We have not determinet the statistical reliability of these estimates.

[2] Estimated number of newly arrived aliens receiving SSI from July 1 to December 31, 1976.

[3] Percent of total.

[4] Cumulative percent of total.

NOTE.—All figures in this table refer to aliens who applied for SSI within 5 years of arrival.

Comparison of newly arrived aged aliens over 65 when they entered the United States with national estimate of these aliens receiving SSI between July 1 and December 31, 1976

Entry date [1]	([2])	([3])	([4])
July 1, 1972 to June 30, 1973	11, 228	3, 323	29. 6
July 1, 1973 to June 30, 1974	11,042	5, 025	45. 5
July 1, 1974 to June 30, 1975	12, 051	3, 451	28. 6
Total	34, 321	11, 799	----

[1] The information to make this analysis was only available for these periods.

[2] Aged aliens who entered the United States—Based on 1975 Annual Report: Immigration and Naturalization Service, P. 53.

[3] Estimated number receiving SSI—We have not determined the statistical reliability of these estimates.

[4] Percentage receiving SSI.

NATIONAL ENERGY PLAN

Mr. DURKIN. Mr. President, because the tremendously complex national energy plan is still under study in conference committees, there may be a tendency for observers to conclude that the 1st session of the 95th Congress has not been productive. In fact, both Houses of Congress have had extraordinarily productive sessions during the 1st session of the 95th Congress, with a record unmatched since the first year of President Franklin Roosevelt.

The Senate alone, under the skilled leadership of Senator ROBERT BYRD and Senator ALAN CRANSTON, and in conjunction with the legislative initiatives of President Carter, passed 684 measures as of December 1. This impressive record was accomplished during 171 days of session, encompassing 1,131 hours, which included the first all-night sessions in a decade. The Senate also reported 633 measures, and during the session 203 public bills were enacted into law.

A brief review of some of the legislation underscores the achievements. Important environmental legislation enacted includes amendments to strengthen the Clean Air Act, strip mining legislation, funding for the Marine Research and Sanctuaries Act—which includes prohibitions on ocean dumping—a tanker safety law, and a law authorizing funding for marine mammal protection programs.

To assist law enforcement officials, several significant measures have been passed and signed, including a law authorizing funding for the battle against drug dealers over the next 3 years, an appropriation of $647 million for the Law Enforcement Assistance Administration, and legislation authorizing funds for 4 years for Federal juvenile justice programs, and for the Runaway Youth Act for 3 years.

Our national defense was strengthened when the President signed into law during the 1st session of the 95th Congress a $109.8 billion national defense appropriation, authorizations for troops levels then used sophisticated statistical techniques to arrive at overall estimates.

Mr. President, these dollar figures are probably low, because they do not include medicaid payments. Enrolling for SSI generally makes an alien automatically eligible for medicaid.

SSI is a Federal-State welfare program which distributes over $6.4 billion annually. The program provides payments for low-income persons who are aged, blind, or disabled. Individuals are eligible for payments of up to $177.80 monthly. Current law permits aliens legally admitted for permanent residence to begin collecting SSI 30 days after arriving in the United States if they otherwise qualify.

The American taxpayer simply cannot be expected automatically to support persons who have never contributed significantly to the American economy. The abuses by some aliens and their sponsors reflect badly on the overwhelming majority of aliens who add so very much to our society and seek nothing more than the opportunity to become U.S. citizens. By abuses, I mean instances where aliens enter the United States holding affidavits of support from American sponsors, but soon enroll for welfare nevertheless.

Many aliens apparently apply for welfare at the urging of their American sponsors who are often relatives and intend to use welfare payments as part of the family income.

As revealed earlier this year in a CBS-TV "60 Minutes" exposé, sponsors often openly admit to signing an affidavit of support for an alien while intending to enroll the alien for welfare soon after arrival.

In one case, a New York City psychiatrist signed an affidavit promising to support her elderly mother if admitted into the United States. Six months after obtaining permanent resident status, the mother applied for $154 a month in assistance from the New York City Department of Social Services, because she said her daughter could no longer support her.

When H.R. 7200, the Public Assistance Amendments of 1977, reaches the Senate floor for consideration, I will propose changes to correct abuses of the SSI program by aliens. These will include a 3- to 5-year residency requirement for SSI eligibility and a requirement to make sponsors' affidavits of support legally enforceable. It is time to place the responsibility for an alien's support squarely on the shoulders of the person who promises support—the alien's sponsor—not the American taxpayer.

Mr. President, I ask unanmious consent that a letter on this subject which I wrote to my distinguished colleague, Senator LONG, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., August 1, 1977.

HON. RUSSELL B. LONG,
Chairman, Committee on Finance,
Washington, D.C.

DEAR RUSSELL: Public and Congressional concern regarding aliens who receive Supplemental Security Income (SSI) has prompted the introduction of several bills to correct this apparent misuse of government funds. One such bill—H.R. 7200—passed the House of Representatives on June 14, 1977, and was referred to your Committee on June 15, 1977. Section 115 of the bill provides that the income and resources of an alien's sponsor would be imputed to the alien for the period for which the sponsor has pledged to be financially responsible for the alien, but not to exceed 3 years. This provision would not be applicable in cases where the alien is eligible by reason of disability or blindness which occurred after entry into the United States, and it would be prospective in that it would apply only to new applicants for SSI benefits.

While I agree that timely action should be taken to restrict aliens' eligibility for SSI and other public assistance programs, I am concerned that Section 115 of H.R. 7200 will cause administrative complications and will not effectively resolve this problem.

As you are aware, other legislative proposals are currently before the House Committee on the Judiciary, the House Committee on Ways and Means, and your Committee that would have some impact on newly arrived aliens on SSI. For the most part, each of these proposals employs one or more of the following approaches:

(1) Impute sponsors' income and resources to aliens in determining SSI eligibility.

(2) Establish residency requirements for SSI eligibility, except where eligibility results from causes arising after entry.

(3) Make the sponsor's affidavit of support a legally enforceable financial obligation.

(4) Redefine the term "public charge" in the Immigration and Nationality Act to include a person who is a recipient of public assistance or welfare payments.

As discussed below, the merits and/or disadvantages of all of these proposals should be carefully weighed before final action is taken:

I. IMPUTING SPONSORS' INCOME AND RESOURCES

ADVANTAGE

Aliens will not receive SSI payments or will have their SSI payment reduced when the sponsor has sufficient income to support the alien.

DISADVANTAGE

1. This alternative only covers the SSI program and does not address Medicaid, AFDC, and State and local public assistance programs.

2. Administrative difficulties may arise in attempting to determine the sponsor's available income and resources.

3. This plan has the potential for leaving some legally admitted aliens with no means of support: they would be ineligible for SSI and yet have no legal recourse for enforcing the sponsor's affidavit of support.

4. The assistance burden may be shifted to States which do not impute a sponsor's income.

5. This alternative enforces immigration law regarding public assistance through the Social Security Act, and therefore may involve a jurisdictional problem with the Judiciary Committee.

II. SSI RESIDENCY REQUIREMENT OF 3 TO 5 YEARS

ADVANTAGES

1. This is the best alternative for ensuring that newly arrived aliens will not receive SSI shortly after arriving.

2. It is also the easiest approach to administer.

DISADVANTAGES

1. This alternative only covers the SSI program. It does not cover AFDC, Medicaid, or State and local public assistance programs.

2. The burden of public assistance for newly arrived aliens might be shifted to the States which are prohibited from establishing residency requirements.

3. Administrative difficulties may arise when determining, for example, if the conditions causing an individual to become eligible occurred after entry into the United States.

III. MAKING THE AFFIDAVIT OF SUPPORT LEGALLY ENFORCEABLE

ADVANTAGES

1. The sponsor would be contractually obligated to support aliens.

2. Sponsors would only agree to support aliens to the extent of their available resources.

3. State and local assistance programs could recover from the sponsor benefits provided to the alien.

DISADVANTAGES

1. The Immigration and Naturalization Service and the State Department will have to more closely verify the affidavit of support when it is prepared to ensure that, if a claim against the sponsor becomes necessary, the sponsor will have sufficient resources to satisfy the claim.

2. Difficulties may arise in determining responsibility and administering penalties for failure to meet obligations pursuant to the affidavit of support. However, these difficulties should not be greater than those of any other civil contract and deportation of the alien is available as the ultimate sanction.

IV. REDEFINING "PUBLIC CHARGE" IN THE IMMIGRATION AND NATIONALITY ACT

ADVANTAGES

1. All assistance programs, State and Federal, will be covered.

2. The burden of assistance will not be shifted to the States and local governments.

3. Immigration policy will be enforced through the Immigration and Nationality Act and not through the Social Security Act.

4. Aliens will be reluctant to abuse the various assistance programs because the Immigration and Nationality Act subjects him to deportation for becoming a public charge.

DISADVANTAGES

1. The financial integrity of the SSI program would not be as well protected as under the residency alternative because newly arrived aliens would receive some assistance before the Immigration and Naturalization Service could take appropriate action under the Immigration and Nationality Act. (Note: A redefinition of "public charge" combined with a residency requirement would eliminate this disadvantage.)

EXECUTIVE DEPARTMENT RECOMMENDATIONS

In April 1977, as the Ranking Republican on the Senate Governmental Affairs Committee charged with overseeing the efficiency and economy of federal government programs, I asked the General Accounting Office, the Social Security Administration, and the Immigration and Naturalization Service to provide their views on legislation which might be enacted to prevent aliens who are aged, blind, or disabled at the time of arrival into the United States from receiving public assistance—particularly SSI benefits. The responses are relevant, to wit:

GAO

Past GAO studies of newly arrived aliens on public assistance recommended that the Congress correct this problem by amending the Immigration and Nationality Act. In an earlier report entitled "Need to Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law" (GGD-75-107 dated July 15, 1975), GAO had recommended that the Congress amend the Immigration and Nationality Act to redefine "public charge" as "public expenditures directly supporting immigrants unable to earn an adequate living, irrespective of whether the immigrants are legally liable to repay the public support" ment of expenses of foreign travel by the United States Government.

[6] The outside earned income limitations of Rule 44 currently are being challenged in United States District Court for the District of Columbia in *Laxalt et al* v. *Kimmett et al.*

[7] Note the effective dates: paragraphs 1 through 5, 11 and 12 are in effect now; paragraphs 6 through 10 take effect April 1, 1978.

[8] S. Res. 110 originally provided that the designated employees could not solicit funds. However, S. Res. 188 (agreed to June 13, 1977) amended Rule 49 to allow these employees to solicit funds. For an explanation of the change, see the accompanying report No. 95–241.

[9] Note that existing regulations on the use of the mailing frank predate S. Res. 110. These regulations and the statutory provisions are found in a separate pamphlet available from the Ethics Committee.

[10] This rule reiterates Senate Resolution 534, 94th Congress, September 8, 1976.

[11] As amended by S. Res. 265 (95th Congress, 1st Session, agreed to September 29, 1977).

[12] Old Rule 44 remains in effect through calendar year 1977 (S. Res. 265).

[13] The Select Committee has reported S. Res. 319 which, if agreed to by the Senate would treat acceptance of travel expenses separately.

[14] As amended by S. Res. 188 (95th Cong., 1st session, agreed to ——, 1977).

EXTENDING THE DEADLINE FOR ERA

Mr. BARTLETT. Mr. President, there is a note of irony in the latest strategy of some advocates of the equal rights amendment. Facing near certain failure of the amendment to be ratified within the 7 year period established by Congress, proponents of the amendment have now asked Congress to extend the ratification period for an additional 7 years.

From the outset of their campaign to amend the Constitution, advocates of the ERA have assured us that their sole objective is to secure for women "equality of rights under the law." However, some of these advocates have now made it clear they are unwilling to accept equality of rights under the laws governing constitutional amendments.

The hypocrisy of this appeal for more than equal treatment for the equal rights movement has alienated even many of the original supporters of the ERA, and undermined even further the prospects for ratification of the amendment.

In order to restore a sense of fairness to this important national debate, I believe it is incumbent upon Congress to reject immediately the appeal for a 7 year delay of the ratification deadline. Such a delay would not only be unfair, but unnecessary, and certainly of questionable legality.

The request for a 7-year extension of the ratification period is based solely on the claim that the additional time is necessary for appropriate consideration of the proposal by the States. However, a review of the action of the states since Congress passed the Concurrent Resolution on the Equal Rights Amendment in 1972, clearly demonstrates that every State in the union has had sufficient time to study the amendment. The proposal has been considered and voted upon repeatedly in a number of States. In fact, floor votes have been conducted by both houses of the legislatures in all but three States.

It is also important to note that support for the ERA has declined rather than increased, with the passage of time. For example, 30 of the 35 States which have ratified the amendment did so within a year after its passage by Congress. In the last 4½ years, only five states have ratified the amendment and, during that time, three States have rescinded their ratification.

It is evident then that the States have had ample opportunity to study this issue and to express their will.

If States which have failed to ratify the amendment are given additional time to reconsider their position, then surely those States which have ratified the amendment would be granted the right to reconsider their position as well. In this case, it is quite conceivable that, after an extended period, the amendment might be ratified by even fewer than the present 35 States.

Beyond the matter of whether the States truly require more time to consider the amendment is the overriding question of whether an extension can be legally granted by Congress.

This question is addressed and, I believe, answered clearly by the precedents established in the constitutional amendment process. Article V of the Constitution provides that amendments shall be proposed when they are deemed necessary.

According to the ruling of the U.S. Supremt Court, in Dillon against Gloss (1921), such amendments "should be considered and disposed of presently" so that ratification occurs "within some reasonable time after the proposal." The Supreme Court has further ruled, in Coleman against Miller, (1939), that a "reasonable time" is that period of time in which "ratification reflects the contemporaneous views of the people." With every proposed constitutional amendment of the last 50 years, Congress has provided its own definition of a reasonable time for ratification—a period of 7 years.

It may even be argued that this period of time is more than reasonable, in that no constitutional amendment in history has required as much as 4 years to be ratified. The average period of time required for the ratification of the 26 has been less than 14 months. The 19th amendment, guaranteeing women the right to vote, required only 14½ months to be ratified.

However, advocates of the equal rights amendment now suggest that 14 years is a reasonable period for ratification.

One need only recall the circumstances of the 18th amendment on prohibition to see absurdity of this claim. Only 14 years separated the passage of prohibition and its repeal by the 21st amendment. Far from maintaining a consistent, contemporaneous position over the 14-year period, the States expressed two entirely contradictory positions.

I believe the precedence established by previous amendments clearly demonstrates that the equal rights amendment has been allowed a reasonable time for ratification by the States, and that a 7-year extension of this period would represent a blatant subversion of the intent of article V of the Constitution and the rulings of the U.S. Supreme Court.

Mr. President, our conclusion must be that no justification, legal or otherwise, exists for Congress to grant an additional 7 years for the ratification of the ERA. We must insist that the principles which have applied to previous constitutional amendments apply equally to this proposal—a position which should certainly be appreciated by the advocates of the ERA, whose avowed goal, after all, has been merely equal treatment under the law.

WELFARE AND ALIENS

Mr. PERCY. Mr. President, the U.S. General Accounting Office (GAO) recently supplied me with figures showing that aliens cost the Nation's welfare system $72 million a year in five States alone. Much of this amount is abuses of the system.

I spoke of this report on a previous occasion in this Chamber. Since that time, the GAO has clarified the figures in their report, and I wanted to be sure that my distinguished colleagues have the most up-to-date information available. I ask unanimous consent that the clarified report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, highlights of the report include the following:

> An estimated 23,603 aliens currently collect Supplemental Security Income (SSI) who enrolled within 1 year of arrival in the United States.
>
> Of all aliens over 65 entering this country between July 1, 1972, and June 30, 1975, one out of three was collecting welfare payments under the SSI program by the end of 1976.

In a five-State breakdown of the SSI program alone:

> In California, 12,027 aliens collect a total of $31.6 million annually under the program.
>
> In Florida, 12,342 aliens collect $19.5 million annually.
>
> In Illinois, 2,980 aliens collects $4.5 million annually.
>
> In New York, 6,444 aliens receive $11.3 million annually.
>
> In New Jersey, 3,718 aliens receive $5.4 million annually.

In these five States alone, over 37,000 aliens collect SSI welfare payments of $72.3 million annually.

Experts agree that nearly all of these aliens qualify because of age or previous disability, not because of disabilities sustained in this country.

These estimates resulted from a 6-month study of the SSI program which I requested in April. It was conducted by the General Accounting Office with assistance from the Immigration and Naturalization Service in the Department of Justice and the Social Security Administration in the Department of Health, Education, and Welfare. GAO experts analyzed over 23,000 individual cases and

$10,000 or more which he owned at any time during the preceding year;

(e) the identity of each trust or other fiduciary relation in which he held a beneficial interest having a value of $10,000 or more, and the identity if known of each interest of the trust or other fiduciary relation in real or personal property in which the Senator, officer, or employee held a beneficial interest having a value of $10,000 or more, at any time during the preceding year. If he cannot obtain the identity of the fiduciary interests, the Senator, officer, or employee shall request the fiduciary to report that information to the Comptroller General in the same manner that reports are filed under this rule;

(f) the identity of each liability of $5,000 or more owed by him, or by him and his spouse jointly, at any time during the preceding year; and

(g) the source and value of all gifts in the aggregate amount or value of $50 or more from any single source received by him during the preceding year.

2. Except as otherwise provided by this section, all papers filed under section 1 of this rule shall be kept by the Comptroller General for not less than seven years, and while so kept shall remain sealed. Upon receipt of a resolution of the Select Committee on Standards and Conduct, adopted by a recorded majority vote of the full committee, requesting the transmission to the committee of any of the reports filed by any individual under section 1 of this rule, the Comptroller General shall transmit to the committee the envelopes containing such reports. Within a reasonable time after such recorded vote has been taken, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the committee, such envelope may be opened and the contents thereof may be examined only by members of the committee in executive session. If, upon such examination the committee determines that further consideration by the committee is warranted and is within the jurisdiction of the committee, it may make the contents of any such envelope available for any use by any member of the committee, or any member of the staff of the committee, which is required for the discharge of his official duties. The committee may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Comptroller General shall report to the Select Committee on Standards and Conduct not later than the 1st day of June in each year the names of Senators, officers, and employees who have filed a report. Any paper which has been filed with the Comptroller General for longer than seven years, in accordance with the provisions of this section, shall be returned to the individual concerned or his legal representative. In the event of the death or termination of service of a Member of the Senate, an officer or employee, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such death or termination of service.

3. Each Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, and each officer or employee of the Senate who is compensated at a rate in excess of $15,000 a year, shall file with the Secretary of the Senate, before the 15th day of May in each year, the following reports of his personal financial interests:

(a) the accounting required by rule 42 for all contributions received by him during the preceding year, except that contributions in the aggregate amount or value of less than $50 received from any single source during the reporting period may be totaled without further itemization; and

(b) the amount or value and source of each honorarium of $300 or more received by him during the preceding year.

4. All papers filed under section 3 of this rule shall be kept by the Secretary of the Senate for not less than three years and shall be made available promptly for public inspection and copying.

5. This rule shall take effect on July 1, 1968. No reports shall be filed for any period before office or employment was held with the Senate, or during a period of office or employment with the Senate of less than ninety days in a year; except that the Senator, or officer or employee of the Senate, may file a copy of the return of taxes for the year 1968, or a report of substantially equivalent information for only the effective part of the year 1968.

APPENDIX C

KEY DATES UNDER SENATE CODE OF OFFICIAL CONDUCT

December 31 (each year). Quarterly reports due (filed with the Ethics Committee) of individuals who perform Senate services and are compensated by a source other than the government. (Rule 49(b))

December 31 (1977 only). Any unofficial office account which existed prior to April 1, 1977 must be closed out. (Rule 46; S. Res. 110 (313(e))

January 1 (1978). Rule 48, "Franking Privilege and Radio and TV Studios," takes effect.

January 1 (1978 only). For the first public financial disclosure under Rule 42 covered persons report personal property, real property and patent right holdings as of January 1, 1978. Report is due before May 15, 1978. (Rule 42 as amended by S. Res. 265)

January 1 (1978 only). Blind trusts not approved by the Ethics Committee as "qualified blind trusts" by May 15, 1978 must be dissolved to disclosed identity and value of holdings as of January 1, 1978. (Rule 42 as amended by S. Res. 265)

January 1 (each year). Covered persons should begin to record information for the calendar year so that they make public disclosure, by May 15 of the following year, of income; other than earned income; gifts; gifts of transportation; honorariums; securities and commodities futures transactions; purchase, sale or exchange of real property; payments of more than $5,000 from a source other than the government, etc. (Rule 42 as amended by S. Res. 265)

January 1 (each year). Each Senator's office should begin to record information needed for annual disclosure of mass mailings under the frank. First report due February 1, 1979 for calendar year 1978. (Rule 48(3))

April 1, 1978. Rule 45, paragraphs 6–10 (conflict of interest) take effect, limiting outside business and professional activity and post-Senate employment as a lobbyist.

April 15 (each year). Senators' public reports (filed with the Secretary of the Senate) are due disclosing receipts and expenditures of contributions used for official expenses. (FEC regulations 113.4 and 113.1(b) and Rule 46)

March 31. Quarterly reports due of individuals who perform services. (Rule 49(6))

May 14 (1978 only). Covered persons' confidential personal financial reports (filed with the Comptroller General) and contributions and honorariums public reports (filed with Secretary of the Senate) for calendar year 1977 under old Rule 44 are due.

May 15 (1978 only). Public financial disclosure under Rule 42 (filed with Secretary of Senate) is due, reporting real and personal property, debts, patent rights etc., as of January 1 1978.

May 15 1978 (1978). Covered persons' financial disclosure reports are subject to audit by the Comptroller General after this date. (Rule 42)

May 15 (each year). Employee reports to Senators on outside employment are due; Senators must review for conflict. (Rule 45 (3))

June 30 (each year). Quarterly report due of individuals who perform services. (Rule 49(6))

September 30. Quarterly reports due of individuals who perform services. (Rule 49 (6))

October 15 (each year). Senators public reports (filed with the Secretary of the Senate) are due disclosing receipt and expenditures of contributions used for official expenses. (FEC regulations 113.4 and 113.1(2) and Rule 46)

December 31 (each year). Quarterly reports due of individuals who perform services. (Rule 49(6))

January 1, 1979. Rule 44, outside earned income limitations, take effect.

January 3, 1979. Rule 50, prohibiting discrimination in Senate employment, takes effect.

February 1, 1979 (& each year). First annual registration due of mass mailings made under the frank during the previous calendar year. (Rule 48(3))

May 15, 1979 (& each year). Confidential filing of the individual federal tax return (with the Comptroller General) is due. (Rule 42(6))

May 15, 1979 (& each year). Full public financial disclosure report under Rule 42 (filed with Secretary of the Senate) is due.

APPENDIX D: TEXT OF FEDERAL ELECTION CAMPAIGN ACT PROVISION ON EXCESSIVE HONORARIA

(2 U.S.C. 441i)

§ 441i. Acceptance of excessive honorariums.

No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or

(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

FOOTNOTES

[1] The original effective date of October 1, 1977 prescribed by S. Res. 110 was changed by S. Res. 265 (agreed to September 29, 1977). For an explanation see Report No. 95–448.

[2] All reporting individuals are urged to retain in their possession copies of their filings as once these documents are delivered to GAO the Comptroller is not authorized to open the envelopes or to permit the reporting individual to have access thereto.

[3] The blind trust provision was added by S. Res. 265 (considered and passed September 29, 1977) which came about as a result of a study by the Governmental Affairs Committee on the desirability of allowing the use of blind trusts. A report on the results of that study is currently being prepared.

[4] The Ethics Committee has reported a resolution (S. Res. 319, Report No. 95–586) which would treat travel expenses separate from the gift rule. Basically, rather than limit acceptance of such expenses, a public report would be submitted any time an outside individual or organization pays for them.

[5] See also the provisions of Rule 47 relating to lame duck foreign travel and reimburse-

employee receive reimbursement for the same expense more than once from the United States Government. No Member, officer, or employee shall use any funds furnished to him to defray ordinary and necessary expenses of foreign travel for any purpose other than the purpose or purposes for which such funds were furnished.

"3. A per diem allowance provided a Member, officer, or employee in connection with foreign travel shall be used solely for lodging, food, and related expenses and it is the responsibility of the Member, officer, or employee receiving such an allowance to return to the United States Government that portion of the allowance received which is not actually used for necessary lodging, food, and related expenses.

Effective date: January 1, 1978.

Rule 48, "Franking privilege and radio and television studios

"1. A Senator or an individual who is a candidate for nomination for election, or election, to the Senate may not use the frank for any mass mailing (as defined in section 3210(a)(5)(D) of title 39, United States Code) if such mass mailing is mailed at or delivered to any postal facility less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office or the individual is a candidate for Senator.

"2. A Senator shall use only official funds of the Senate, including his official Senate allowances, to purchase paper, to print, or to prepare any mass mailing material which is to be sent out under the frank.

"3. (a) When a Senator disseminates information under the frank by a mass mailing (as defined in section 3210(a)(5)(D) of title 39, United States Code), the Senator shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed.

"(b) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered, and a description of the group or groups of persons to whom the mass mailing was mailed.

"4. Nothing in this rule shall apply to any mailing under the frank which is (a) in direct response to inquiries or requests from persons to whom the matter is mailed; (b) addressed to colleagues in Congress or to government officials (whether Federal, State, or local); or (c) consists entirely of news releases to the communication media.

"5. The Senate computer facilities shall not be used (a) to store, maintain, or otherwise process any lists or categories of lists of names and addresses identifying the individuals included in such lists as campaign workers or contributors, as members of a political party, or by any other partisan political designation, (b) to produce computer printouts except as authorized by user guides approved by the Committee on Rules and Administration, or (c) to produce mailing labels for mass mailings, or computer tapes and discs, for use other than in service facilities maintained and operated by the Senate or under contract to the Senate. The Committee on Rules and Administration shall prescribe such regulations not inconsistent with the purposes of this paragraph as it determines necessary to carry out such purposes.

"6. (a) The radio and television studios provided by the Senate or by the House of Representatives may not be used by a Senator or an individual who is a candidate for nomination for election, or election, to the Senate less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which that Senator is a candidate for public office or that individual is a candidate for Senator.

"(b) This paragraph shall not apply if the facilities are to be used at the request of, and at the expense of, a licensed broadcast organization or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

Rule 49,[11] "Political Fund Activity, Definitions"

"1. No officer or employee of the Senate may receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election, of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to two assistants to a Senator, at least one of which is in Washington, District of Columbia, who have been designated by that Senator to perform any of the functions described in the first sentence of this paragraph and who are compensated at an annual rate in excess of $10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if such assistant files a financial statement in the form provided under rule XLII for each year during which he is designated under this rule. The Secretary of the Senate shall make the designation available for public inspection.

"2. For purposes of the Senate Code of Official Conduct—

"(a) an employee of the Senate includes any employee whose salary is disbursed by the Secretary of the Senate; and

"(b) the compensation of an officer or employee of the Senate who is a reemployed annuitant shall include amounts received by such officer or employees as an annuity, and such amounts shall be treated as disbursed by the Secretary of the Senate.

"3. Before approving the utilization by any committee of the Senate of the services of an officer or employee of the Government in accordance with section 202(f) of the Legislative Reorganization Act of 1946 or with an authorization provided by Senate resolution, the Committee on Rules and Administration shall require such officer or employee to agree in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate. Any such officer or employee shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation he is receiving as an officer or employee of the Government.

"4. No Member, officer, or employee of the Senate shall utilize the full-time services of an individual for more than ninety days in a calendar year in the conduct of official duties of any committee or office of the Senate (including a Member's office) unless such individual—

"(a) is an officer or employee of the Senate,

"(b) is an officer or employee of the Government (other than the Senate), or

"(c) agrees in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate.

Any individual to whom subparagraph (c) applies shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation which such individual is receiving from any source for performing such services.

"5. In exceptional circumstances for good cause shown, the Select Committee on Ethics may waive the applicability of any provision of the Senate Code of Official Conduct to an employee hired on a per diem basis.

"6. (a) The supervisor of an individual who performs services for any Member, committee, or office of the Senate for a period in excess of four weeks and who receives compensation therefor from any source other than the United States Government shall report to the Select Committee on Ethics with respect to the utilization of the services of such individual.

"(b) A report under subparagraph (a) shall be made with respect to an individual—

"(1) when such individual begins performing services described in such subparagraph;

"(2) at the close of each calendar quarter while such individual is performing such services; and

"(3) when such individual ceases to perform such services.

Each such report shall include the identity of the source of the compensation received by such individual and the amount or rate of compensation paid by such source.

"(c) No report shall be required under subparagraph (a) with respect to an individual who normally performs services for a Member, committee, or office for less than eight hours a week.

"(d) For purposes of this paragraph, the supervisor of an individual shall be determined under paragraph 12 of rule XLV.

Effective Date: Paragraph 1, May 2, 1977 Paragraphs 2 through 6, April 2, 1977.

Rule 50, "Employment Practices"

"No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

Effective Date: January 3, 1979.

APPENDIX B: TEXT OF OLD RULE 44

Rule 44, "Disclosure of Financial Interests"

(Continues in effect until January 1, 1978)

1. Each Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, and each officer or employee of the Senate who is compensated at a rate in excess of $15,000 a year, shall file with the Comptroller General of the United States, in a sealed envelope marked "Confidential Personal Financial Disclosure of (name) ____________ __________________________", before the 15th day of May in each year, the following reports of his personal financial interests:

(a) a copy of the returns of taxes, declarations, statements, or other documents which he, or he and his spouse jointly, made for the preceding year in compliance with the income tax provisions of the Internal Revenue Code;

(b) the amount or value and source of each fee or compensation of $1,000 or more received by him during the preceding year from a client;

(c) the name and address of each business or professional corporation, firm, or enterprise in which he was an officer, director, partner, proprietor, or employee who received compensation during the preceding year and the amount of such compensation;

(d) the identity of each interest in real or personal property having a value of nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt or accrual of which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee.

Effective Date: Paragraphs 1 through 5 and 11 and 12, April 2, 1977.

Paragraphs 6 through 10, April 1, 1978.

"2. No Member, officer, or employee shall engage in any outside business or professional activity or employment for compensation which is inconsistent of in conflict with the conscientious performance of official duties.

"3. No officer or employee shall engage in any outside business or professional activity or employment for compensation unless he has reported in writing when such activity or employment commences and on May 15 of each year thereafter so long as such activity or employment continues, the nature of such activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.

"4 No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

"5. A Member, notwithstanding the provisions of rule XII of the Standing Rules of the Senate, may decline to vote, in committee or on the floor, on any matter when he believes that his voting on such a matter would be a conflict of interest.

"6. No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall (a) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (b) permit that individual's name to be used by such a firm, partnership, association or corporation; or (c) practice a profession for compensation to any extent during regular office hours of the Senate office in which employed. For the purposes of this paragraph, 'professional services' shall include but not be limited to those which involve a fiduciary relationship.

"7. No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicity held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as—

"(a) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, if such service is performed without compensation;

"(b) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees of the Senate, or their families, if such service is performed without compensation; or

"(c) a member of the board of a corporation, institution, or other business entity, if (1) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate, (2) the amount of time required to perform such service is minimal, and (3) the Member, officer, or employee is not a member of, or a member of the staff of any Senate committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

"8. An employee on the staff of a committee who is compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.

"9. If a Member, upon leaving office, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, he shall not lobby Members, officers, or employees of the Senate for a period of one year after leaving office.

"10. If an employee on the staff of a Member, upon leaving that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position.

"11. For purposes of this rule—

"(a) employee of the Senate' includes an employee or individual described in paragraphs 2, 3, and 4(c) of rule XLIX;

"(b) an individual who is an employee on the staff of a subcommittee of a committee shall be treated as an employee on the staff of such committee; and

"(c) the term 'lobbying' means any oral or written communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include—

"(1) a communication (i) made in the form of testimony given before a committee or office of the Congress, or (ii) submitted for inclusion in the public record, public docket, or public file of a hearing; or

"(2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion.

"12. For purposes of this rule—

"(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

"(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee:

"(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

"(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

"(e) the Secretary of the Senate is the supervisor of the employees of his office;

"(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

"(g) the Majority and Minority Leaders and the Major and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;

"(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

"(i) the Minority Leader is the supervisor of the Secretary for the minority and the Secretary for the Minority is the supervisor of the employees of his office.

Rule 46, "Prohibition of Unofficial Office Accounts

"1. No Member may maintain or have maintained for his use an unofficial office account. The term 'unofficial office account' means an account or repository into which funds are received for the purpose, at least in part, of defraying otherwise unreimbursed expenses allowable in connection with the operation of a Member's office. An unofficial office account does not include, and expenses incurred by a Member in connection with his official duties shall be defrayed only from—

"(a) personal funds of the Member;

"(b) official funds specifically appropriated for that purpose;

"(c) funds derived from a political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)); and

"(d) funds received as reasonable reimbursements for expenses incurred by a Member in connection with personal services provided by the Member to the organization making the reimbursement.

"2. No contribution (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall be converted to the personal use of any Member or any former Member. For the purposes of this rule 'personal use' does not include reimbursement of expenses incurred by a Member in connection with his official duties.

Effective Date: April 2, 1977. No receipts into such accounts after April 2, 1977; and no expenditures after December 31, 1977.

Rule 47, "Foreign Travel

"1. Unless authorized by the Senate (or by the President of the United States after an adjournment sine die), no funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) shall be received for the purpose of travel outside the United States by any Member of the Senate whose term will expire at the end of a Congress after—

"(a) the date of the general election in which his successor is elected; or

"(b) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the second regular session of that Congress.

"2. No Member, officer, or employee engaged in foreign travel may claim payment or accept funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) for any expense for which the individual has received reimbursement from any other source; nor may such Member, officer, or transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, or (4) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent;

"(g) the term 'income' means gross income as defined in section 61 of the Internal Revenue Code of 1954;

"(h) the term 'political contribution' means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

"(i) the term 'political expenditure' means an expenditure as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

"(j) the term 'relative' means, with respect to a person required to file a report under this rule, an individual who is related to the person as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, fiancé, fiancée, or who is the grandfather or grandmother of the spouse of the person reporting;

"(k) the term 'security' has the meaning set forth in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b); and

"(l) the term 'transactions in securities and commodities futures' means any acquisition, transfer, or other disposition involving any security or commodity future."

Rule 43,[13] Gifts

"1. (a) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $100 during a calendar year directly or indirectly from any person, organization, or corporation having a direct interest in legislation before the Congress or from any foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics. In determining whether an individual has accepted any gift or gifts having an aggregate value exceeding $100 during a calendar year from any person, organization, or corporation, there may be deducted the aggregate value of gifts (other than gifts described in subparagraph (c)) given by such individual to such person, organization, or corporation during that calendar year.

"(b) For purposes of subparagraph (a), only the following shall be deemed to have a direct interest in legislation before the Congress:

"(1) a person, organization, or corporation registered under the Federal Regulation of Lobbying Act of 1946, or any successor statute, a person who is an officer or director of such a registered lobbyist, or a person who has been employed or retained by such a registered lobbyist for the purpose of influencing legislation before the Congress; or

"(2) a corporation, labor organization, or other organization which maintains a separate segregated fund for political purposes (within the meaning of section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)), a person who is an officer or director of such corporation, labor organization, or other organization, or a person who has been employed or retained by such corporation, labor organization, or other organization for the purpose of influencing legislation before the Congress.

"(c) The prohibitions of subparagraph (a) do not apply to gifts—

"(1) from relatives;

"(2) with a value of less than $35;

"(3) of personal hospitality of an individual; or

"(4) from an individual who is a foreign national if that individual is not acting, directly or indirectly, on behalf of a foreign corporation, partnership or business enterprise, a foreign trade, cultural, educational or other association, a foreign political party or a foreign government.

"2. For purposes of this rule—

"(a) the term 'gift' means a payment, subscription, advance, forebearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member, officer, or employee is to be honored, provided such individual receives no other gifts that exceed the restrictions in this rule, other than a suitable memento, (6) meals, beverages, or entertainment consumed or enjoyed, provided the meals, beverages, or entertainment are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employed of such spouse or dependent in recognition of the service provided by such spouse or dependent; and

"(b) the term 'relative' has the same meaning given to such term in paragraph 7(j) of rule XLII.

"3. If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph 1, such Member, officer, or employee shall, upon learning of the nature of the gift and its source, return the gift or, if it is not possible to return the gift, reimburse the donor for the value of the gift.

"4. (a) Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States.

"(b) Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 12 of rule XLV) to participate in any such program. Prior to the beginning of any such program, the chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program.

"(c) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

Rule 44, "Outside Earned Income"

"1. During the period of service in a calendar year of a Senator, or of an officer or employee of the Senate compensated at a rate exceeding $35,000 a year and employed for more than ninety days in a calendar year, the aggregate amount of the outside earned income of such individual for such period shall not exceed 15 per centum of—

"(1) the aggregate amount of the salary of such an officer or employee disbursed by the Secretary of the Senate during such period; and

"(2) in the case of a Senator, the aggregate amount of base salary paid to Senators and disbursed by the Secretary of the Senate for that period.

"2. (a) A Senator shall not receive honoraria in excess of $1,000 for each appearance, speech, or article.

"(b) An officer or employee of the Senate covered by paragraph 1 shall not receive honoraria in excess of—

"(1) $300 for each appearance, speech, or article, and

"(2) $1,500 in the aggregate in any one calendar year.

"(c) Notwithstanding the limitations under paragraph 1 or 2(b)(2), any Senator, officer, or employee may accept honoraria in excess of the amount allowed in paragraph 1 or 2(b)(2) but not in excess of $25,000, if he donates such honoraria to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954 and if no tax benefits accrue to such Senator, officer, or employee for such donation.

"3. (a) For purposes of this rule, the term 'outside earned income' shall, subject to the provisions of subparagraph (b), mean any income earned by an individual (other than the salary received as a Senator or officer or employee of the Senate) which is compensation received as a result of personal services actually rendered.

"(b) For purposes of subparagraph (a), the term 'outside earned income' does not include—

"(1) advances on books from an established trade publisher under usual contract terms;

"(2) royalties from books;

"(3) proceeds from the sale of creative or artistic works;

"(4) any 'buyout' arrangement from professional partnerships or businesses which is reasonably related to the fair market value of the partnership or business interest in the enterprise at the time of the sale of such interest, payable within a reasonable period of time, and not related to future services or profitability of the enterprise;

"(5) income from family enterprises, if the services provided by the Senator, officer or employee are managerial or supervisory in nature, necessary to protect the interests in the family enterprise and do not consume significant amounts of time while the Senate is in session; and

"(6) distributive shares of partnership income if the distributive share received represents not more than a pro rata return on the capital invested in the partnership and the services provided by the Senator, officer or employee are managerial or supervisory in nature, necessary to protect the interests in the partnership, and do not consume significant amounts of time while the Senate is in session.

Effective Date: January 1, 1979.

Rule 45, "Conflict of Interest"

"1. A Member, officer, or employee of the Senate shall not receive any compensation,

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Footnotes at end of article.

"(ii) the previous trust instrument is amended, or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of clause (3)(C) of this subparagraph and a trustee is (or has been) appointed who meets the requirements of clause (3) of this subparagraph; and

"(iii) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party, and the category of value of each such asset at the time it was placed in the trust is filed and made available to the public as provided under clause (5) of this subparagraph.

"4. (a) Each individual required to file a report under paragraph 1(a) for any calendar year shall file such report with the Secretary of the Senate not later than May 15 of the next year.

"(b) Each individual required to file a report under paragraph 1(b) for a portion of a year shall file such report with the Secretary of the Senate on the last day he occupies an office or position described in paragraph 1 during such year.

"(c) Each individual required to file a report under paragraph 1(c) shall file such report with the Secretary of the Senate not later than the thirtieth day following the day on which such individual first fulfills the filing requirements of such paragraph during such year on May 15 of that year, whichever is later.

"(d) A copy of each report filed under subparagraphs (a), (b), and (c) shall be provided to the Select Committee by the Secretary of the Senate.

"(e) Each Senator and each individual required to report under paragraph 1(c) shall cause his financial disclosure statement to be filed as a public document with the Secretary of State (or, if there is no Office of Secretary of State, the equivalent State officer) in the State which the Senator represents or in which he is a candidate for the position of Senator.

"(f) The Select Committee may grant one or more reasonable extensions of time for filing any report but the total of such extensions shall not exceed ninety days.

"(g) The Comptroller General shall provide assistance in completing any reports required under this rule when requested by a Member, officer, or employee of the Senate.

"5. (a) Except as provided in this paragraph, the Secretary of the Senate shall make each report filed with him under this rule available to the public within fifteen days after the receipt of such report, and shall provide a copy of any such report to any person upon a written request.

"(b) The Secretary of the Senate shall require any person receiving a copy of any report under subparagraph (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and to pay a reasonable fee in any amount which the Secretary of the Senate finds necessary to recover the cost of reproduction or mailing of such report excluding any salary of an employee involved in such reproduction or mailing. The Secretary of the Senate may furnish a copy of any such report without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public.

"(c) Any report received by the Secretary of the Senate shall be held in his custody and made available to the public for a period of seven years after receipt by the Secretary of the Senate of such report. After such seven-year period the Secretary of the Senate shall destroy any such report.

"(d) The Select Committee shall review all financial statements filed pursuant to paragraph 1 to determine whether such statements are filed in a timely manner and are complete and in proper form.

"(e)(1) The Comptroller General shall, under such regulations as he may prescribe, and which are approved by the Select Committee, conduct, on a random basis, audits of approximately 5 per centum of the reports filed with the Secretary of the Senate (other than those filed by a Member of the Senate).

"(2) The Comptroller General shall, during each six-year period beginning after December 31, 1977, audit at least one report filed by each Member of the Senate, except that no such audit shall take place during the calendar year such Member is up for reelection.

"(3)(A) In conducting an audit under clause (1) or (2), the Comptroller General is authorized to request that the Select Committee issue a subpena to require the production of books, papers, and other documents.

"(B) The Comptroller General may use outside consultants to assist him in his responsibilities under this subparagraph.

"(4) The Comptroller General shall transmit the findings of each audit to the Select Committee and the individual being audited.

"6. (a) Each individual who is required to file a financial statement under paragraph 1 for any calendar year shall file with the Comptroller General, in a sealed envelope, a report containing a copy of the returns of taxes, declarations, statements, other documents, and amendments thereto, which he, or he and his spouse jointly, or any fiduciary (regarding income received on behalf of such individual), made for such year in compliance with the income tax provisions of the Internal Revenue Code of 1954. Such report shall be filed not later than the date on which such individual is required to file a financial statement under paragraph 1.

"(b) Except as otherwise provided by this paragraph, all papers filed with the Comptroller General under this paragraph shall be kept by the Comptroller General for not less than seven years, and while so kept shall remain sealed. Upon receipt of a resolution of the Select Committee, adopted by a recorded majority vote of the members of the Select Committee, requesting the transmission to the Select Committee of any of the reports filed by an individual under this rule, the Comptroller General shall transmit to the Select Committee the envelopes containing such reports. After such recorded vote has been taken, but prior to the transmittal to the Select Committee of the envelopes containing such reports, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the Select Committee, such envelope may be opened and the contents thereof may be examined only by members of the Select Committee in executive session. If, upon such examination, the Select Committee determines that further consideration by the Select Committee is warranted and is within the jurisdiction of the Select Committee, it may make the contents of any such envelope available for any use by any member of the Select Committee, or any member of the staff of the Select Committee, which is required for the discharge of his official duties. The Select Committee may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Comptroller General shall report to the Select Committee not later than the 1st day of June in each year the names of Senators, officers, and employees who have filed a report. Any paper which has been filed with the Comptroller General for longer than seven years, in accordance with the provisions of this paragraph, shall be returned to the individual concerned or his legal representative. In the event of the death or termination of service of a Member of the Senate or an officer or employee of the Senate, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such death or termination of service unless the Select Committee directs that such papers be returned at a later date.

"(c) Notwithstanding the provisions of subparagraph (b), the Comptroller General, after giving notice to the individual being audited, may examine the material filed pursuant to this paragraph for the purpose of conducting an audit as required under paragraph 5(e).

"(d) Whenever in any criminal case pending in any competent court in which a Member, officer, or employee of the Senate is a defendant. or in any proceeding before a grand jury of any competent court in which alleged criminal conduct of the Member, officer, or employee of the Senate is under investigation, a discovery order of such court is served upon the Comptroller General directing him to appear and produce any reports filed pursuant to this rule, the Comptroller General shall—

"(1) within a reasonable time prior to appearing in response to such discovery order of such court, notify the individual whose report is requested of the receipt of the discovery order of such court.

"(2) if such report is in a sealed envelope, unseal the envelope containing such report and have an authenticated copy made of such report, replace such report in such envelope and reseal it, and note on such envelope that it was opened pursuant to this clause in response to a discovery order of such court, a copy of which shall be attached to such envelope, and

"(3) appear in response to such discovery order of such court and produce the authenticated copy so made.

For purposes of this subparagraph, the term 'competent court' means a court of the United States, a State, or the District of Columbia which has general jurisdiction to hear cases involving criminal offenses against the United States, such State, or the District of Columbia, as the case may be; and the term 'discovery order' includes a subpena approved by a competent court.

"(e) The Select Committee on Ethics shall promulgate regulations and procedures to insure the confidentiality of tax returns and tax return information examined by the staff of that committee pursuant to subparagraph (b) above. Such regulations shall include the sanction of dismissal for any employee who knowingly and willfully communicates to any unauthorized person information derived from any confidentially filed tax return or tax return information examined pursuant to subparagraph (b) above.

"7. As used in this rule—

"(a) the term 'commodity future' means commodity future as defined in sections 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5);

"(b) the term 'Comptroller General' means the Comptroller General of the United States;

"(c) the term 'dependent' has the meaning set forth in section 152 of the Internal Revenue Code of 1954;

"(d) the term 'earned income' means outside earned income (as defined in rule XLIV) and any salary disbursed to an individual by the Secretary of the Senate;

"(e) the term 'employee of the Senate' includes any employee or individual described in paragraphs 2, 3, and 4(c) of rule XLIX;

"(f) the term 'gift' means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

"(3). (a) For purposes of subparagraphs (e) through (h) of paragraph 2, an individual need not specify the actual amount or value of each item required to be reported under such subparagraphs, but such individual shall indicate which of the following categories such amount or value is within:

"(1) not more than $5,000,

"(2) greater than $5,000 but not more than $15,000,

"(3) greater than $15,000 but not more than $50,000,

"(4) greater than $50,000 but not more than $100,000,

"(5) greater than $100,000 but not more than $250,000,

"(6) greater than $250,000 but not more than $500,000,

"(7) greater than $500,000 but not more than $1,000,000,

"(8) greater than $1,000,000 but not more than $2,000,000,

"(9) greater than $2,000,000 but not more than $5,000,000, or

"(10) greater than $5,000,000.

"(b) For the purposes of subparagraph (e) of paragraph 2, if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list the date of purchase and the purchase price of the interest in the real property instead of specifying a category of value pursuant to subparagraph (a) of this paragraph. If the current value of any other item required to be reported under subparagraph (e) of paragraph 2 is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value but such individual shall include in his report a full and complete description of the method used in determining such value.

"(c) (1) For the purposes of subparagraphs (a) through (c) of paragraph 2, the individual need only report the source, not the amount, of any earned income over $1,000 or gifts over $100 ($250 in the case of transportation, lodging, food, or entertainment) received by a spouse or minor dependent, and if gifts of over $500 received by an adult dependent, but with respect to earned income, if his spouse or minor dependents are self-employed in his or her own business or profession, only the nature of such business or profession need be reported.

"(2) For the purposes of subparagraph (a) (3) and subparagraphs (e) through (j) of paragraph 2, a reporting individual shall also report the interests of the spouse or dependents of that individual if such interests are within the constructive control of the reporting individual. For the purposes of this subparagraph, an interest is in the constructive control of a reporting individual if the enhancement of the interest would substantially benefit the reporting individual.

"(3) No report shall be required with respect to the interests of a spouse living separate and apart from the reporting individual.

"(d) (1) Except as provided in clause (2), each reporting individual shall report, in accordance with the provisions of paragraph 2, the identity of the holdings of and the identity of the source of income from a trust or other financial agreement from which income is received by, or with respect to which an equity interest is held by, such individual, his spouse, or any of his dependents.

"(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of

"(A) any qualified blind trust (as defined in clause (3)); or

"(B) a trust—

"(i) which was not created directly by such individual, his spouse, or any of his dependents,

"(ii) with respect to which such individual, his spouse, and any of his dependents have no knowledge of the holdings or sources of income of the trust, and

"(iii) with respect to which such individual has requested the trustee to provide information with respect to the holdings and sources of income of the trust and the trustee refuses to disclose the information,

but such individual shall report the category of the amount of income received by him, his spouse, or his dependents from the trust under paragraph 2(a) (3).

"(3) For purposes of this subparagraph, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any of his dependents has a beneficial interest in the principal or income, and which meets the following requirements:

"(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

"(i) is independent of any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

"(ii) is not an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

"(iii) is not a relative (as defined in paragraph 7(j)) of any interested party.

"(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Select Committee on Ethics.

"(C) The trust instrument which establishes the trust provides that—

"(i) except to the extent provided in subclause (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

"(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

"(iii) the trustee shall promptly notify the reporting individual and the Select Committee on Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

"(iv) the trust tax return shall be prepared by the trustee or his designee and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return) shall not be disclosed to any interested party;

"(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by paragraph 2(a) (3) of this rule but such report shall not identify any asset or holding;

"(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset and which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by a interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

"(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, included obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

"(D) The proposed trust instrument and the proposed trustee shall be approved by the Select Committee on Ethics.

For purposes of this subparagraph, the term 'interested parties' means a reporting individual, his spouse, and dependents if the reporting individual, his spouse, or dependent has a beneficial interest in the principal or income of a qualified blind trust and the term 'broker' is used as defined in section 78 of title 15, United States Code.

"(4) An asset placed in a trust by an interested party (within the meaning of clause (3)) shall be considered a financial interest of the reporting individual, for the purposes of any conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

"(5) (A) The reporting individual shall file within thirty days after a qualified blind trust is approved by the Select Committee on Ethics a copy of—

"(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

"(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under paragraph 3(a), with the Secretary of the Senate.

"(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Select Committee on Ethics of the identity of each such asset and the category of value of each asset as determined under paragraph 3(a).

"(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

"(i) notify the Select Committee on Ethics of such dissolution, and

"(ii) file a copy of a list of the assets of the trust at the time of such dissolution and the category of value under paragraph 3(a) of each such asset with the Secretary of the Senate.

"(D) Documents filed under subclauses (A), (B), (C) of this clause shall be made available to the public in the same manner as a report is made available under paragraph 5 and the provisions of paragraph 5, as appropriate, shall apply.

"(E) A copy of each written communication with respect to the trust under clause (3) (C) (vi) of this subparagraph shall be filed by the person initiating the communication with the Select Committee on Ethics within five days of the date of the communications.

"(F) Any trust which is in existence prior to the effective date of this rule shall be considered a qualified blind trust if—

"(i) the Select Committee on Ethics determines that the trust was a good faith effort to establish a blind trust;

one, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promise of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is public trust.

(H. Con. Res. 175, 72 Stat. B 12.)

XI. ENFORCEMENT

S. Res. 338, as amended, establishes formal procedures in the event of a complaint against a Member, officer or employee. A sworn complaint is a statement of facts within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct or any other rule or regulation of the Senate relating to performance of duties as Members, officers or employees of the Senate. Whether the procedure is initiated by a sworn complaint or the Ethics Committee acts on the basis of information otherwise obtained, the matter may result in a formal investigation if the Ethics Committee finds, upon vote of four members, that there is substantial credible evidence which provides substantial cause for the Ethics Committee to conclude that a violation of some seriousness and within the jurisdiction of the Ethics Committee has occcurred. The results of such an investigation, with any recommendations, are to be reported to the Senate.

The Ethics Committee is authorized to publish necessary regulations, interpretative rulings and advisory opinions, and, upon written request of a Member, officer or Senatorial candidate, must issue advisory opinions in certain circumstances.

APPENDIX A: TEXT OF RULES 42 THROUGH 50

Rule 42,[11] "Public Financial Disclosure"

"Rule XLII

"PUBLIC FINANCIAL DISCLOSURE

"1. (a) (1) Each individual who for a period in excess of ninety days during a calendar year is a Senator or an officer or employee of the Senate who is compensated at a rate in excess of $25,000 a year, shall file a report containing a full and complete financial statement for that calendar year.

"(2) Each employee designated under rule XLIX to handle campaign funds during any calendar year shall file a full and complete financial disclosure statement for that calendar year.

"(b) Each individual described in subparagraph (a) who during any calendar year ceases to occupy an office or position described in such subparagraph shall file a report containing a full and complete financial statement for that portion of such year beginning on January 1 and ending on the date on which he ceases to occuy such office or position.

"(c) Any individual who seeks nomination for election, or election, to the office of United States Senator shall file in any year in which such individual has—

"(1) taken the action necessary under the law of a State to qualify for nomination for election, or election, or

"(2) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election, or election, to such office,

a report containing a full and complete financial statement for the preceding calendar year.

"(d) The Secretary of the Senate shall submit annually to the Select Committee on Ethics (hereinafter referred to as the 'Select Committee') a complete list of Members, officers, and employees of the Senate who are required to file a report under this paragraph and shall submit at the close of each calendar quarter a list of individuals required to file such report who have begun or terminated employment with the Senate or been designated pursuant to rule XLIX.

"2. Each individual shall include in each report for each calendar year for which he is required to file a report under paragraph 1 a full and complete statement, in such manner and form as the Select Committee shall prescribe, which contains the following:

"(a) (1) The amount and the identity of each source of earned income (exclusive of honoraria) received during such calendar year which exceeds $100 in amount or value;

"(2) the identity of the source, the amount, and the date, of each honorarium received during such calendar year and an indication of which honoraria, if any, were donated to a charitable organization pursuant to paragraph 2(c) of rule XLIV; and

"(3) the identity of each source of income (other than earned income) received during such calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount of value of such item of income is within:

"(A) not more than $1,000,

"(B) greater than $1,000 but not more than $2,500,

"(C) greater than $2,500 but not more than $5,000,

"(D) greater than $5,000 but not more than $15,000,

"(E) greater than $15,000 but not more than $50,000,

"(F) greater than $50,000 but not more than $100,000, or

"(G) greater than $100,000.

"(4) For purposes of clauses (1) and (3), any gift described in subparagraphs (b) and (c) of this paragraph shall not be considered as income.

"(b) The identity of the source, a brief description of, and the value of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more provided by any one source other than a relative during the calendar year except that any food, lodging, or entertainment received as part of the personal hospitality of any individual need not be reported.

"(c) The identity of the source, a brief description of, and the value of all other gifts aggregating $100 or more from any one source other than a relative during the calendar year unless, in an unusual case, a waiver is granted by the Select Committee.

"(d) (1) Gifts with a fair market value of less than $35 need not be aggregated for the purposes of subparagraphs (b) and (c) of this paragraph.

"(2) In aggregating gifts for purposes of subparagraphs (b) and (c) of this paragraph, the reporting individual may deduct from the total value of gifts received from any source during the calendar year the total value of gifts given by the reporting individual to that source during the calendar year, except that, if gifts with a fair market value of less than $35 received from that source are not aggregated, gifts with a fair market value of less than $35 given to that source may not be deducted.

"(e) (1) The identity and category of value of each item of real property held, directly or indirectly, during such calendar year which has a fair market value in excess of $1,000 as of the close of such calendar year; and

"(2) the identity and category of value of each item of personal property held, directly or indirectly during such calendar year in a trade or business or for investment or the production of income which has a fair market value in excess of $1,000 as of the close of such calendar year.

"(f) The identity and category of value of each personal liability owed, directly or indirectly, which exceeds $2,500 at any time during such calendar year.

"(g) The identity, date, and category of value of any transaction, directly or indirectly, in securities or commodities futures during such calendar year exceeding $1,000, except that (1) any gift to any tax-exempt organization described in section 501(c) (3) of the Internal Revenue Code of 1954 involving such a transaction need not be reported, and (2) any transaction solely by and between the reporting individual, his spouse, and dependents need not be reported.

"(h) (1) The identity, date, and category of value of any purchase, sale, or exchange, directly or indirectly, of any interest in real property during such calendar year if the value of the property involved in such purchase, sale, or exchange exceeds $1,000 as of the date of such purchase, sale, or exchange, except that (1) any gift to any tax-exempt organization described in section 501(c) (3) of the Internal Revenue Code of 1954 involving such a transaction need not be reported, and (2) any transaction solely by and between the reporting individual, his spouse, or dependents need not be reported.

"(2) For the purposes of subparagraph (e) (1) of this paragraph and clause (1) of this subparagraph, the identity of an item of real property shall include the number of acres of property (if there is more than one acre), the exact street address (except with respect to a personal residence of a reporting individual), the twon, county, and State in which the property is located, and if there are substantial improvements on the land, a brief description of the improvements (such as 'office building').

"(i) Any patent right or any interest in any patent right, and the nature of such patent right, held during such calendar year.

"(j) The identity of all positions held as an officer, director, trustee, partner, adviser, proprietor, agent, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, and any educational or other institution.

"(k) A description of, the parties to, and the terms of any contract, promise, or other agreement between such individual and any person with respect to his employment after such individual ceases to occupy an office or position described in paragraph 1, including any agreement under which such individual is taking a leave of absence from an office or position outside of the United States Government in order to occupy an office or position described in paragraph 1, and a description of and the parties to any agreement providing for continuation of payments or benefits from a prior employer other than the United States Government.

An officer or employee of the Senate required to file a report under paragraph 1 shall include in this report the identity of any person, other than the United States Government, who paid the reporting individual compensation in excess of $5,000 in any of the two calendar years prior to such calendar year and the nature and term of the services the reporting individual performed for such person. The preceding sentence shall not require any individual to report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any

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Footnotes at end of article.

any candidate for the Senate or other Federal office. However, two assistants to each Senator (one of whom must be in Washington, D.C.) who are compensated at a rate in excess of $10,000 per year may perform those functions.[8] These individuals are nevertheless subject to criminal laws which prohibit solicitation or receipt of campaign contributions in Federal buildings (18 U.S.C. 603) and from other Federal employees (18 U.S.C. 602). Also, employees are prohibited from making contributions directly or indirectly to Congressional candidates (18 U.S.C. 607).

Forms for designating employees to handle campaign funds are available from the Ethics Committee and are to be filed with the Secretary of the Senate. Employees designated are subject to the financial disclosure requirements of Rule 42, regardless of their salary level.

Use of Frank on Mass Mailings

Rule 48, effective January 1, 1978, prohibits a Member or candidate for the Senate from using the frank for any mass mailing within 60 days before any primary or general election in which he is a candidate.[9] "Mass mailing" is defined the same as in the franking law and regulations (39 U.S.C. 3210 (a) (5) (D)) but does not include mailings in direct response to inquiries or requests. An example is a form letter used to respond to numerous inquiries or requests concerning an issue of widespread interest. "Mass mailing" does not include news releases or communications to Members of Congress or Federal, state or local government officials.

Only official funds of the Senate can be used for preparing franked mass mailings. And all mass mailings must be registered no less frequently than annually with the Secretary of the Senate. The first registration deadline is February 1, 1979 and will cover all mass mailings during calender year 1978. Some Members may prefer to register mailings as they go out, and this is acceptable practice. The registration information and copies of the matter mailed will be available for public inspection and copying. Forms and instructions for these registrations will be available from the Ethics Committee.

Use of Senate Computer Facilities

Senate computer facilities cannot be used to store or process address lists of campaign workers, contributors, or other partisan groups. The Committee on Rules and Administration is to formulate user guides and regulations to govern this subject.

Use of Radio and TV Studios

Senators and candidates for the Senate are prohibited from using the Senate or House radio and television studios within 60 days of a primary or general election in which they are a candidate. A narrow exception permits use of the studio at the request and expense of a licensed broadcast organization or tax exempt organization.

VI. RULE 46: PROHIBITION OF UNOFFICIAL ACCOUNTS

Members may not maintain or have maintained for their use "unofficial office accounts". No funds may be received or deposited to such existing accounts after April 1, 1977, and payments from such accounts must cease by December 31, 1977.

Members' personal funds may be used to pay official expenses. Such personal funds may include honoraria. Accounts may also be maintained to receive Senate reimbursements for official expenses.

Reimbursements by an organization for necessary expenses in connection with services by a Member (speaking engagement, fact-finding, participation at conferences, and the like) may be accepted. This provision ties in with the "necessary expense" exception in connection with the acceptance and reporting of gifts under Rules 43 and 42 which is discussed elsewhere in this Manual (see "Disclosure" and "Gifts").

An account may also be maintained to receive "funds derived from a political committee." The Ethics Committee has construed this to permit payment of official expenses only by a Member's campaign committee from excess campaign funds. Exception has been taken to that ruling and it will therefore be reconsidered by the Committee.

In-kind contributions of materials, equipment and services to a Member for use in the operation of his office are prohibited. For example, office furniture or equipment cannot be accepted just as the money to purchase same cannot. Donation of an automobile for travel in a Member's home state, a research service for use in a Member's committee work, or space and facilities in a private law firm to do casework, have been held to violate the prohibition against unofficial accounts. This prohibtion does not extend to items for, which adequate consideration is given by the Member. And the Ethics Commitee has ruled that it also does not prohibit the time honored practice of accepting volunteers in a Member's office. The Committee is continuing to interpret the prohibition against unofficial office accounts and may conclude that additional exceptions were intended by the Senate.

Rule 46 prohibits the conversion of campaign contributions to personal use by Members and former Members.

Members are cautioned that provisions of Rule 46 overlap with the Federal Election Campaign Act and raise questions under the Internal Revenue Code.

Because of the complexity of unofficial accounts, the Ethics Committee is arranging for preparation of an accounting manual to assist Senate offices in operating under Rule 46.

VII. RULE 47: FOREIGN TRAVEL

Acceptance of travel expenses from foreign governments or foreign organizations is discussed under "Gifts".

Rule 47 limits "lame duck" travel by Members. Unless special authorization is received, a Member cannot use United States Government funds to travel outside the United States after the date of the general election in which his or her successor is elected; or, if not a candidate for re-election, the date of the general election in which his or her successor is elected, or the adjournment sine die of the second regular session of the Congress in which his or her term expires, whichever occurs first.

A Member, officer or employee cannot claim payment from the United States Government for any expense of foreign travel which is paid for by another source.

U.S. Government funds furnished to defray ordinary and necessary expenses of foreign travel may not be used for any other purpose. And any unused funds provided by the United States Government for foreign travel must be returned.

VIII. EMPLOYMENT PTACTICES

Effective January 3, 1979, Rule 50 prohibits discrimination in Senate employment on account of race, color, religion, sex, national origin, age or state of physical handicap.[10] The rule does not limit a Member's traditional prerogative to hire individuals based on political or geographic considerations.

The Committee on Governmental Affairs and other committees are considering procedures for handling employment discrimination complaints.

IX. PART-TIME OR PER DIEM EMPLOYEES

Most of the Code provisions that apply to employees apply only to those compensated at a rate in excess of a specified salary and who perform services for the Senate for more than 90 days in a calendar year. This is the case with financial disclosure (Rule 42), limitations on outside earned income (Rule 44), and certain of the restrictions on conflicts of interest (paragraphs 6, 7 and 8 of Rule 45).

The restrictions of Rule 43 on acceptance of gifts and paragraphs 1, 2, 3, 4, and 10 of Rule 45 on Conflicts of Interest apply to all officers and employees, regardless of salary level and days actually worked.

Government (non-Senate) employees on detail and individuals who perform services for the Senate (volunteers, contractors etc.) full-time for more than 90 days in a calendar year must agree in writing in advance to adhere to the Code of Official Conduct.

The Ethics Committee can waive application of any of the provisions of the Code to an employee retained on a per diem basis in "exceptional circumstances for good cause shown."

The supervisor of an individual, who performs services for the Senate for more than 28 days, and who is paid for this service by any source other than the U.S. Government, must report this fact to the Ethics Committee on a form available from the Committee (1) when the individual begins this work, (2) at the close of each calendar quarter while he or she continues to work, and (3) when the individual stops this work. No report is required if work averages less than 8 hours a week. The report must identify who is paying for the services and the amount or rate of compensation.

X. OTHER CONDUCT STANDARDS

The Code of Official Conduct contained in Senate Rules 42 through 50 is not the sole standard for conduct of Members, officers and employees of the Senate.

There are laws, rules, regulations and precedents which govern their conduct.

The Ethics Committee considers the Preamble to Senate Resolution 266, 90th Congress, 2d Session, pertinent:

Resolved, It is declared to be the policy of the Senate that—

(a) The ideal concept of public office, expressed by the words, "A public office is a public trust", signifies that the officer has been entrusted with public power by the people; that the officer holds this power in trust to be used only for their benefit and never for the benefit of himself or of a few; and the officer must never conduct his own affairs so as to infringe on the public interest. All official conduct of Members of the Senate should be guided by this paramount concept of public office.

(b) These rules, as the written expression of certain standards of conduct, complement the body of unwritten but generally accepted standards that continue to apply to the Senate.

Also pertinent is the Code of Ethics for Government Service adopted by concurrent resolution July 11, 1958:

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including office-holders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to any-

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Footnotes at end of article.

III. OUTSIDE EARNED INCOME

Explanation of Limitation

On January 1, 1979[6], Rule 44 will place limitations on the amount of outside earned income that may be received by a Member, or an officer or employee who is compensated at a rate of more than $35,000 per year, and works for the Senate more than 90 days in a calendar year.

Essentialy, these individuals will not be able to earn in excess of 15% of their Senate salary from outside sources.

Honorarium Limitations

In the case of honoraria, further limitations are imposed. Members cannot receive honoraria in excess of $1,000 per appearance, and officers and employees compensated at a rate in excess of $35,000 per year cannot receive honoraria in excess of $300 per appearance and a $1,500 total in any calendar year. In the case of honrable, the overall 15% can be exceeded up to $25,000 if the excess is donated (in the same taxable year received) to tax exempt organizations so that no tax benefits accrue to the Member, officer or employee.

Rule 44 is more stringent than the limitation on honoraria in the Federal Election Campagin laws, which currently imposes a limit or $2,000 per appearance, speech or article, and $25,000 total per calendar year. This statutory limitation applies to all Members, officers and employees of the Senate. (See Appendix D for the language of the law.)

Definition of "Outside Earned Income"

"Outside earned income" is compensation for personal services other than Senatorial salary. Such income does not include advances and royalties for books, or proceeds from the sale of creative or artistic works.

The special problems of prior involvement in partnerships or business enterprises are recognized. Outside earned income does not include "buyout" arrangements for interests in partnerships so long as payment is reasonably related to the fair market value of the partnership interest at time of sale, is payable within a reasonable period, and is not related to future services or future partnership earnings. Distributions of partnership income will also not be considered outside earned income if, and only if, the distribution received represents no more than a pro rata return on invested capital and the individual's services are limited in time and are confined to managerial or supervisory matters necessary to protect his or her investment.

The other exclusion from outside earned income is set forth in Rule 44, Sec. 3(b) (5):

"(I) ncome from family enterprises, if the services provided by the Senator, officer or employee are managerial or supervisory in nature, necessary to protect the interests in the family enterprise and do not consume significant amounts of time while the Senate is in session."

The Senate debate on that provision indicates that the Senate wished to permit an individual to protect his or her interest in a personal or family enterprise. The Senate did not, however, sanction a substantial diversion of attention from official responsibilities. A limited amount of time for keeping advised of the enterprise's affairs and making managerial decisions is permissible. Individuals are not precluded, moreover, from engaging in physical work on, for example, a family farm or ranch.

IV. RULE 45: CONFLICTS OF INTEREST[7]

Rule 45 is a combination or subjective and objective prohibitions. Among the former, currently effective, are prohibitions on compensation received by virtue of influence improperly exerted; on engaging in outside business, professional or employment activities inconsistent with or in conflict with conscientious performance of official Senate duties; and on using the official position to promote legislation where a principal purpose is to further only the pecuniary interest of the individual, his or her family or a limited class of which the individual, his or her family or their enterprises are members.

IMPROPER INFLUENCE

All Members, officers and employees of the Senate are prohibited from using their Senate positions improperly for their own personal gain. This is a broad prohibition that goes beyond the Federal bribery statute (18 U.S.C. 201, 203). If a Senator or staff member intervenes with an Executive agency to influence a decision resulting in measurable personal financial gain the rule would be violated. A violation would also occur if the individual intervenes with an agency on behalf of another and accepts compensation for this intervention.

INFLUENCING LEGISLATION

Members, officers and employees are prohibited from introducing or furthering legislation which is intended to enhance their economic interests, those of their family, or those of a limited class or group of individuals to which the individuals or family belong. The fact that people share a particular economic interest—e.g. dairy farmers, shoemakers, veterans—does not make them a limited group subject to this restriction. A Senator who is a military veteran is not prohibited from voting for a military pension bill. The limited class contemplated is more like a group affected by a private bill. For example, if the purpose of the legislation was to acquire a particular piece of property and an individual owns all or part of that property, he or she could not work on or vote for the bill.

OUTSIDE BUSINESS OR EMPLOYMENT

The general rule is that Members, officers and employees are prohibited from involvement in outside employment or business or professional activity that is inconsistent or in conflict with their Senate duties. Such conflicts can be conflicts of time. Outside activities cannot take up so much of the individual's time that Senate duties are neglected. Or a conflict can exist if the nature of the outside activity is related to the individual's official duties resulting in a clash of interests.

"Reporting Outside Activities"

Officers and employees are required to report to their supervisors before engaging in any outside activity and by May 15th each year as long as the activity continues. Forms for this reporting requirement are available from the Ethics Committee. In the first instance, it is up to the supervisor and the staff member to identify conflicts and to take necessary steps to avoid them. The Ethics Committee will provide guidance when requested, but otherwise will not question these judgments unless a complaint is received.

"Restrictions on Professional Activities"

Certain outside activities are specifically restricted. As of April 1, 1978, Members and officers and employees who are compensated at a rate in excess of $25,000 and are employed for more than 90 days in a year are prohibited from providing professional services for a fee if affiliated with an organization, allowing their names to be used by such an organization, or practicing any profession during regular Senate office hours. Professional services include engineering, real estate, insurance, legal, medical, architectural, consulting, and the like, but do not include part-time teaching or study. For example, the individual cannot continue an affiliation with a law firm, or be designated "of counsel" by a law firm.

"Serving as Officer or Director of a Corporation"

Members and officers and employees compensated at a rate in excess of $25,000 and employed more than 90 days in a year, as of April 1, 1978, cannot serve as an officer or director of a publicly held corporation, financial institution or other business entity. Service, without compensation, on the board of a tax-exempt organization or group with membership consisting of Senate Members, officers or employees or their families, (like the Senate Credit Union) is not prohibited. Also, reimbursement of expenses may be accepted in connection with such services.

The prohibition does not apply to service as an officer or director of a privately held corporation, but other conflict of interest restrictions must be observed.

A "grandfather" clause is included in the rule to allow continued service where (1) the individual had held the position for two years prior to joining the Senate, (2) only minimal time will be involved, and (3) the individual is not a member of or employed by a committee having legislative jurisdiction over the agency charged with regulating the organization's activities.

Committee Staff

Commitee staff members who are compensated at a rate in excess of $25,000 and work more than 90 days in a year are required, as of April 1, 1978, to divest themselves of any investments that may be affected by their committee's work. Where there is any doubt, the staff member must notify his or her supervisor and the Ethics Committee of the holding in question. If both consent in writing the hodling may be retained or some other action may be taken to avoid actual conflicts of interest.

Post Employment Lobbying

A Member may not lobby in the Senate for one year after leaving office. For a one year period after leaving, an employee on a Member's personal staff cannot lobby the Member or his other staff members, a committee staff member cannot lobby committee staff or members, and an "S. Res. 60" employee cannot lobby any of the above. An individual is a lobbyist if registered under the 1946 Lobbying Act or retained by such a registered lobbyist for the purpose of influencing legislation.

These restrictions do not apply to lobbying activities in the House or contacts with the Executive branch.

V. ACTIVITIES AND OFFICIAL POLITICAL DUTIES

Summary of New Rules

The new rules seek to clarify and regulate the relationship between a Member's political activities and the performance of official duties. These include a prohibition of unofficial office accounts (Rule 46, which is changes in the use of the franking privilege and Congressional radio and television studios and restrictions on the use of Senate computer facilities (Rule 48); and restrictions on staff involvement in campaign fundraising and political activities (Rule 49). The questions raised by the use of staff in campaigns and permissible political activities of staff members currently are under review by the Rules and Administration Committee. The first part of its study, a review of existing laws related to these areas, is the subject of Report No. 95–500 (printed October 17, 1977).

Campaign Activities of Staff

No rules explicitly prohibit Senate staff members from working on campaigns (except Rule 49 discussed below). However, such activity should be confined to off duty hours. Persons substantially involved in campaigns should be taken off the Senate payroll.

Under Rule 49, no officer or employee of the Senate may receive, solicit, be the custodian of, or distribute campaign funds for

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Footnotes at end of article.

with their categories of value, with copies to the Ethics Committee.

The reporting individual is required within 30 days after additional transfers of assets to the trust (other than cash), to notify the Ethics Committee as to their identity and categories of value with a copy to the Secretary of the Senate.

If a blind trust agreement is terminated, within 30 days the reporting individual, or if deceased, his or her personal representative, must notify the Ethics Committee and file with the Secretary of the Senate a list of the trust assets and their value as of the date of dissolution.

The documents filed with the Ethics Committee and the Secretary of the Senate are available to the public through the Office of the Secretary.

A copy of any written communication between the trustee and an interested party must be filed with the Ethics Committee within five days by the person initiating it. These are not made available to the public.

Any trust in existence before January 1, 1978 will be considered to be a "qualified blind trust" if:

(1) The Ethics Committee finds that it reflects a "good faith effort" to establish a blind trust, and

(2) The previous trust instrument is amended to include the necessary provisions summarized above; or, it cannot be amended, all parties to the trust instrument agree in writing that it will be administered in accordance with those provisions, and

(3) A copy of the instrument (omitting testamentary provisions), and a list of assets and the categories of their value at the time of their transfer to the trust is filed with the Ethics Committee and made public through the office of the Secretary of the Senate.

AUDITS

Rule 42 provides for audit of the financial disclosure reports by the Comptroller General. In the case of Members at least one report will be audited during each six year term, but not in a year in which he or she is up for reelection. In the case of officers and employees, audits will be done in a random basis and will include approximately five percent of the reports per year.

The results of any audit are required to be reported to the Ethics Committee and the reporting individual and are not made available to the public unless the Committee authorizes an investigation.

The tax returns, sealed and filed each year with the Comptroller General, will not be opened by the Comptroller unless the Comptroller General gives notice to the individual that he intends to examine the return in the course of conducting an audit, or the Ethics Committee determines, by resolution of the Committee, agreed to by at least 4 members in a recorded vote, that it will examine the material.

II. GIFTS

Acceptance of Gifts

In general, Members, officers and employees of the Senate, their spouses and dependents are prohibited by Rule 43 from accepting gifts of a value in excess of $100 from any person, corporation or other organization which engages directly or indirectly in lobbying or which maintains a political action committee, or from any foreign national, unless in an unusual case the Ethics Committee grants a waiver. All gifts accepted from a prohibited source in a calendar year must be aggregated, and the total value cannot exceed $100. However, any items with a value of less than $35.00 need not be aggregated.

In the event that a Member, officer or employee finds that he or she has exceeded the $100 limit, the excess must be returned or refunded.

Exceptions to Prohibitions

The prohibition upon acceptance DOES NOT APPLY TO gifts:

(1) from relatives as defined in paragraph 7(j) of Rule 42 on Public Financial Disclosure;

(2) with a value of less than $35.00;

(3) a personal hospitality of an individual; or

(4) from an individual who is a foreign national not acting directly or indirectly on behalf of any foreign business, other foreign entity or a foreign government.

"Personal hospitality" is confined to food, lodging, and entertainment in a residence owned or leased by an individual and paid for by that individual. This exception does not apply to hospitality extended in commercial establishments.

Definition of Gift

For purposes of Rule 43 the term "gift" means virtually anything of value for which the recipient does not give equal consideration.

Exceptions to Definition

The Rule defines "gift" not to include the following:

(a) a political contribution otherwise reported as required by law;

(b) a bona fide loan made on prevailing commercial terms;

(c) a testamentary bequest;

(d) a bona fide award available to the general public presented in recognition of public service;

(e) a reception honoring a Member, officer or employee at which a suitable memento may be presented;

(f) meals, beverages or entertainment in a restaurant not in connection with a gift of overnight lodging;

(g) anything of value given to a spouse or dependent, by his or her employer in recognition of the employer-employee relationship.

Necessary Expense Exception

Also excluded from the definition of a gift are the necessary expenses of foreign and domestic travel, food, lodging and entertainment in connection with an appearance related to official duties, if furnished or paid for by the organization for which the appearance is made (the sponsoring organization) which is also a domestic United States organization.[4]

"Necessary expenses" means the actual cost of what was furnished in kind or by reimbursement, but would not include travel, food, lodging, etc. and the expenses thereof which are not necessary to an appearance which qualifies as an official duty. For example, an extension of travel beyond that required to accomplish an official purpose, or a side trip of a personal nature, are outside the exception.

The term "appearance" includes participation in seminars, speeches, lecturing for honoraria, and fact finding.

The official duties of the Senate do not include political activities or personal matters.

The organization furnishing the necessary expenses must be the person, firm, association or corporation which is sponsoring the individual's appearance.

Foreign Educational Travel

With respect to foreign travel,[5] paid for by a foreign government or foreign educational or charitable organization, for an educational program. Members must notify the Ethics Committee of their intention to participate or to allow a staff member to participate well in advance of the travel.

The Ethics Committee must determine whether participation in the program is in the interest of the Senate and the United States, and, if so, it must place in the *Congressional Record* a notice in advance describing the program and identifying the individuals who will participate.

Acceptance of travel to participate in such a program by Members, officers and employees (but not their spouses and dependents) will be approved if the principal objective is educational and the Ethics Committee determines that such participation is not in violation of law and is in the interests of the Senate and the United States. If the travel is furnished in whole or significant part by a foreign government, the Department of State must approve acceptance under provision of the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2451 et. seq.). The Department of State assists the Committee, when there is doubt in determining if a foreign sponsor is private or government financed.

Other Foreign Gifts

The Foreign Gifts and Decorations Act (5 U.S.C. 7342, as amended, effective January 1, 1978), regulates acceptance from a foreign government of gifts of more than minimal value (above $100) including gifts of travel or expenses for travel taking place entirely outside the United States. Such travel may be accepted if it is appropriate and consistent with the interests of the United States. Within 30 days of accepting such travel, the accepting person must file a public statement with the Ethics Committee giving a description of the gift and the circumstances justifying its acceptance, and the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

In connection with all travel, Members, Officers and employees may not accept or retain funds in connection therewith if they are not used for the necessary expenses of such travel.

Valuation of Gifts

The recipient of a gift must make a good faith effort to determine its fair market value which is the price a willing buyer and seller would reach agreement in an open market. It can be estimated or determined by appraisal of an expert. Cost to the donor may be an indication of fair market value. Each case presents its own facts.

Disclosure of Gifts under Rule 42

Rule 42 requires disclosure of gifts of transportation, lodging, meals or entertainment aggregating more than $250, and all other gifts aggregating more than $100. If a gift may not be accepted because of the Rule 43 prohibitions, described above, disclosure is not a problem. Note that the exceptions to the definition of "gift" in Rule 43 and Rule 42 differ. Some gifts which are excepted from the prohibitions of Rule 43 also are not required to be disclosed, namely those from relatives, or which constitute personal hospitality, or with value of less than $35. Some items are not by definition "gifts" for the purposes of both rules and therefore may be accepted and need not be disclosed, namely necessary expenses, political contributions, loans, testamentary bequests, and things of value given to a spouse or dependent by his or her employer (see discussions on above "exceptions to definition" and the "necessary expense" exception). But all other gifts which can be and are accepted—including gifts from certain foreign nationals described in (4) above, and (1) bonafide awards, (2) a reception and memento honoring the recipient, and (3) meals, beverages and entertainment where no overnight lodging is involved (see above discussion on "exceptions to definition")—must be aggregated (if their value exceeds $35) and reported under Rule 42 if they exceed the applicable reporting threshhold i.e., $100 or $250 as the case may be.

Footnotes at end of article.

The manual is in draft form and has not been approved by the Ethics Committee though it incorporates the interpretative rulings of the committee. It will be taken up at the next committee meeting after the Senate returns in January. Written comments received by Friday, January 13, 1978, will be considered and will assist the committee in finalizing the manual. It will be circulated to Members, officers, and employees once it has been approved by the committee.

Mr. President, I ask unanimous consent that the draft manual be printed in the RECORD.

There being no objection, the draft manual was ordered to be printed in the RECORD, as follows:

DRAFT MANUAL ON THE SENATE CODE OF OFFICIAL CONDUCT

(Prescribed by S. Res. 110, 95th Congress, Apr. 1, 1977)

FOREWORD

S. Res. 110, agreed to April 1, 1977, established a new Code of Official Conduct for Members, officers and employees of the United States Senate. This Code is embodied in Senate Rules 42 through 50, many of which took effect upon passage, and some of which will take effect on future dates.

Because of the scope and complexity of these new rules, this Manual has been prepared by the Select Committee on Ethics in an effort to explain the rules and their effect in as non-technical and non-legalistic a manner as is possible.

A word of caution is necessary since many provisions of the Code are under review by the Ethics Committee and other committees. Bills are pending in both houses of Congress that would enact changes. A new Rule 51 on acceptance and reporting of travel expenses was reported November 3, 1977, by the Ethics Committee and may be brought to the floor shortly after the Senate reconvenes. This Manual, therefore, should not be relied upon to provide definitive answers, but rather as a guide which flags the relevant provisions of the Code. We urge you to raise any questions with the Committee. The Committee intends next to issue a loose leaf notebook with an explanation of the Code, current amendments and rulings, that can be kept current through substitution and addition of pages.

DISCLOSURE

Summary of 1978 Disclosure Requirements:

By May 15, 1978 the following filings must be made:

A. For Members:

(1) Confidential financial disclosure statement for 1977 as required by old Rule 44. (With Comptroller General).

(2) Federal income tax return for 1977 as required by old Rule 44 (sealed and filed with Comptroller General).

(3) Public statement of contributions and honoraria received in 1977 as required by old Rule 44 (with Secretary of Senate).

(4) Partial public financial disclosure as of January 1, 1978 (categories of value of real and personal property, debts, patent rights, nongovernmental positions and agreements for nongovernmental future employment or continuation of benefits), required by new Rule 42 (with Secretary of the Senate).

B. For individuals who were officers and employees of the Senate for 90 days or more in 1977 and who were compensated at a rate in excess of $15,000 per year at any time in 1977, file nos. (1), (2) and (3) described above.

C. For officers and employees compensated at a rate in excess of $25,000 per year in 1978 for a period of more than 60 days between January 1 and May 15, 1978, file no. (4) described above.

D. For candidates for the Senate:

Who become candidates in 1977, file nos. (1) through (4) described above.

Who become candidates in 1978, file no. (4) described above by May 15, 1978 or within 30 days of becoming a candidate, whichever occurs later.

NEW RULE 42

Rule 42 requires a comprehensive annual financial disclosure by Members, and by officers and employees compensated at a rate of more than $25,000 per year who have served as such for more than 90 days in a calendar year, and by employees designated to handle campaign funds under Rule 49. The report for each calendar year is to be filed by May 15 of the following year with the Secretary of the Senate, and it will be available to the public. At the same time, a copy of the individual's federal income tax return is to be filed under seal with the Comptroller General.

The public disclosure report will be comprehensive, including such things as gifts received, earned income, investment income, real and personal property, tangible and intangible, sales and exchanges, and personal liabilities. Reporting forms are being prepared and will contain detailed instructions. Rule 42 takes effect on January 1, 1978.[1]

OLD RULE 44

Old Rule 44 has required limited disclosure since 1968. That rule will continue in effect until January 1, 1978. Under it, the following requirements with respect to calendar year 1977 must be met by May 15, 1978, for all individuals who were Members, officers or employees of the Senate for 90 days or more in 1977 and compensated at any time at a rate of more than $15,000 per year:

(1) a confidential financial disclosure for 1977 to be filed with the Comptroller General;

(2) copies of your 1977 income tax return [2] to be sealed and filed with the Comptroller General;

(3) a public report on contributions in excess of $50 and honoraria in excess of $300 received during 1977 to be filed with the Secretary of the Senate.

Forms and instructions will be provided by the Ethics Committee.

REPORTS REQUIRED BY MAY 15, 1978

The Rule 44 filings listed above are required for calendar year 1977. In addition, also by May 15, 1978, an abbreviated public report listing categories of value of specified financial data as of January 1, 1978 is to be filed under new Rule 42 with the Secretary of the Senate. Only in this transition year will reports be required under both rules. By May 15, 1979 a full report under Rule 42 will be filed for calendar year 1978, on forms prepared by the Ethics Committee.

FILING IN THE STATE

Under Rule 42 a copy of each report filed by Members under the rule with the Secretary of the Senate must also be filed as a public document with the Secretary of State (or his or her equivalent) in the home state.

CANDIDATES FOR THE SENATE

Rule 42 imposes upon candidates for the Senate the same disclosure requirements as upon Members, including the sealed income tax return and public report with the Secretary of State in the state he or she seeks to represent. Candidates must file within 30 days after becoming a candidate, or by May 15 of that year, whichever is later. The rule spells out in paragraph 1(c) when a person becomes a candidate.

The reporting requirements of old Rule 44 also apply to candidates for the Senate who are candidates in 1977. A candidate must file the same reports at the same time and in the same place as the incumbent opponent.

Reporting Interests of Family

Old Rule 44 requires reporting of the financial interests of Members, candidates and certain staff. The new Rule 42 requires disclosure of certain financial interests of the reporting individual's spouse and dependents. In determining who is a dependent the Federal income tax definition in section 152 of the I.R.C. is used. No report is required for a spouse who is living separate and apart under a legal separation arrangement.

Under subparagraph 3(c) of the Rule only interests of the spouse or dependents which are in the "constructive control" of the reporting individual need be disclosed, except as set forth in subparagraph 3(d) with respect to qualified blind trusts discussed below. The reporting individual has "constructive control" if the enhancement of the interest would substantially benefit the reporting individual.

Interests in Trusts and Other Financial Arrangements

Under Rule 42, the holdings of any trust, estate, custodial account or other financial arrangement from which the reporting individual or his or her spouse or dependents receives income or in which such individuals have a beneficial interest in the equity must be disclosed as of January 1, 1978. The Rule provides two exceptions.[3]

"Exception A"

A trust which on January 1, 1978 meets the following criteria: (1) it was not created by the reporting individual, a spouse or dependents; (2) None of these individuals has knowledge of the identity of the holdings or sources of the income of the trust; and (3) the trustee refuses to disclose this information when requested by the reporting individual. The reporting individual nevertheless will be required to disclose the category of value of the income received.

"Exception B—Blind Trusts"

A trust which is "a qualified blind trust" as of January 1, 1978 would be an exception. Such trusts may be required to make disclosure of certain assets. Qualified blind trusts must meet criteria which are summarized below:

(1) The trustee must be an independent financial institution, attorney, certified public accountant or broker;

(2) No restrictions may be placed on disposition of any asset transferred to the trust;

(3) The trust instrument must include certain specified provisions that will restrict communications between the trustee and the interested parties to avoid disclosure of the assets; and

(4) The Ethics Committee must approve the proposed trust instrument and the independence of the trustee must be established. This approval will be confined solely to ensuring compliance with Rule 42 and the Committee will express no opinion with respect to investment, tax or other legal considerations which may be raised by the instrument.

Proposed trust instruments should be submitted to the Ethics Committee as far in advance of proposed execution as possible to allow the Committee time for review.

Within 30 days after the Ethics Committee has approved the blind trust, the reporting individual must file with the Secretary of the Senate a copy of the executed trust (omitting testamentary provisions), and a list of the assets transferred to such trust

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Footnotes at end of article.

istration not undertake some program that would sidetrack the project" at Barnwell and "emphasize the deep concern of some of the members of this conference that the administration specifically pay attention to keep us currently informed of their plans with respect to Barnwell."

Mr. President, one reason that I was glad to see Congress move quickly on the Barnwell matter is that the Federal Government has left the owners of Barnwell no options to proceed on a commercial basis after an investment of some $250 million. President Carter's unexpected policy shift in this area of the nuclear fuel cycle will have serious repercussions throughout the private sector. Additionally, it will make efforts by the administration and Congress to encourage future private investment in high-risk energy technologies extremely difficult, if not impossible.

Mr. President, I believe that the Barnwell plant can be used to help control international nuclear proliferation through research and development in nuclear safeguards and alternative fuel cycle development. If large, safe, efficient, economic, and well-guarded reprocessing plants are not provided to the world nuclear energy community, then nations embarking on nuclear energy programs will be forced to develop their own capability to reprocess spent reactor fuel.

A world nuclear program based on large safeguarded facilities is much more secure than such a program based on small national plants. The argument that no one would build small plants because of unfavorable economics is unsound in my opinion. A country could logically justify increasing the cost of power a few percent if that country could extend a finite uranium resource by as much as 50 percent through reprocessing and recycle of the unused uranium and recovered plutonium.

There are numerous reasons for keeping the reprocessing option open:

First. As Secretary of Energy Schlesinger stated on the October 2 Issues and Answers:

> Reprocessing is probably an indispensable step toward the ultimate solution of the waste problem. So until we have a decision on how we will handle the reprocessing issue, we cannot decide on our ultimate way of disposing of waste.

Second. An October 4, 1977, General Accounting Office report to Congress entitled "An Evaluation of the Administration's Proposed Nuclear Non-Proliferation Strategy" stated that the Congress " . . . should recognize the need for a viable research and development program for nuclear fuel reprocessing." Continuation of the Barnwell program will help achieve that goal.

Third. The breeder reactor program is absolutely dependent upon the development of reprocessing technology and capability.

Fourth. Reprocessing might prove essential for economic reasons. Recycle of uranium and plutonium, when compared with a hypothetical "throwaway" fuel cycle, results in a net differential benefit that is in excess of $10 million per year for each operating reactor.

Fifth. Reprocessing and recycle of uranium and plutonium can reduce natural uranium demands by 37 percent and separative work requirements by 25 percent. With our current uncertainty over U.S. uranium policy and future enrichment capacity, these figures are extremely significant.

Sixth. A given quantity of uranium can be used to generate nearly 60 percent more electricity when it is conserved and reused through reprocessing and recycle.

Seventh. Finally, the energy losses with a "throwaway" fuel cycle are staggering. By the year 2000, for example, reprocessing and recycle can recover the equivalent of 35 billion barrels of oil or 10.4 billion tons of coal and reduce a negative balance of trade impact amounting to $780 billion.

The case for using Barnwell to keep the reprocessing option open and at the same time serve as a model international facility to help control nuclear proliferation is compelling.

Mr. President, I personally am proud to have been an active participant in the evolution of this fiscal year 1978 program at Barnwell. On Wednesday, December 14, I was delighted to learn that officials of the U.S. Department of Energy signed an agreement for precontract costs with officials of Barnwell. The actual contract, which is currently under negotiation, shall include a scope specifically defining activities at the Barnwell nuclear fuels plant (BNFP) for a period of time ending September 30, 1978, at a cost not to exceed $13 million.

Such a contract would allow research, assessment and evaluation activities consistent with the Nation's nuclear research and nonproliferation policies, and would satisfy the intent of Congress—Public Law 95-96 dated August 7, 1977—by maintaining the professional and operating staff, and by maintaining the BNFP facilities in a condition permitting future utilization as a test vehicle to further nonproliferation activities.

Mr. President, we have preserved a valuable asset for the Nation, preserved jobs and highly trained personnel in South Carolina, and aided the administration in making a decision that will further its own efforts to control nuclear proliferation in the world.

THE STAR TIPS ITS HAT TO THE POST

Mr. **PERCY**. Mr. President, last week the Washington Post reached a milestone in its distinguished record when it celebrated its 100th anniversary.

In the best spirit of the occasion, the Post's elder but nonetheless lively competitor, the Washington Star, tipped its journalistic cap in tribute. Newspapers rarely if ever use precious editorial page space to print flattering comments about other newspapers, especially if they happen to be crosstown competitors. But the Star helped to mark the Post's anniversary by doing just that, and doing it with wit and intelligence that is characteristic of Washington's two fine newspapers.

We are indeed fortunate in Washington to have such a fine group of journalists who staff our two home newspapers. Headed by two noted publishers, Katharine Graham, and Joe Allbritton, the Post and the Star report the news of the Capitol city with dedication and the best attention to journalistic excellence. The Star's tribute to the Post is a case in point of the two papers' understanding and spirit.

Mr. President, I ask unanimous consent that the Washington Star's editorial of December 8 titled "The Post at 100" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 8, 1977]

THE POST AT 100

Who are those folks you see with walking sticks and ear trumpets on L Street this week? They are the ladies and gentlemen of our crosstown friend and rival, the Washington Post. The Post is a century old this week though feeling, it confides, "not a day over 80."

The Post's centenary week is welcome excuse for setting aside the usual sparring, in collegial respect and affection—and for joining in the celebration.

The Post, we need not say but will, is a great newspaper—one of the handful of daily publications here or abroad of which that adjective may be used without fudging. Here on Virginia Avenue, we feel the spur of its greatness every day but not, we think, to our harm. Excellence is to be valued, we believe, wherever one finds it. The Post has excellence: excellence of reporting and excellence of editorial craft and conviction. Its reporters and editors keep a keen eye fixed on the capital. That the gaze is not seldom uncomfortable for some is all the better.

Having reached the same advanced age fully a quarter century ago, we would like to serve up today some gems of gerontological wisdom. But our wisdom, we fear, is all too orthodox. As a friend of ours once said of advancing age in a terse report to classmates: "More pain, less hair."

But we do not propose to let the day pass without a gesture. It has been our custom to refer occasionally in these pages to our friends and colleagues on L Street as "the other paper," the O.P. That friendly nickname rings impersonal on a birthday. Accordingly, we are pleased to announce an upgrading. We are pleased, that is, to wish many happy returns, not to the O.P. but to the J.P. The junior paper.

MANUAL ON CODE OF OFFICIAL CONDUCT

Mr. **STEVENSON**. Mr. President, the Select Committee on Ethics has prepared a manual to explain the new code of official conduct in plain language. This manual has been delayed by continuing Senate study of several subjects. In some cases these studies have not been completed. Nevertheless the committee believes that the manual should be issued now in order to provide Members, officers, and employees with guidance on this complex code of official conduct.

(8) ATA is supporting Radio Emergency Citizens Action (REACT) coffee "safety breaks" along the nation's highways.

Finally, ATA firmly supports the 55 mph speed limit. Under way currently is a major campaign by the state trucking associations to achieve voluntary compliance with and stricter police enforcement of this proven life and fuel saving speed limit.

The Department of Transportation "55 MPH Fact Book" in 1976 showed that trucks were traveling at an average 54.8 mph, just below the speed limit and much lower than the passenger car average of 56.2 mph. The 1977 edition of this book stated that "since 1974, the number of trucks and buses exceeding the speed limit has declined sharply. Trucks actually have a better compliance record than automobiles." It went on to point out that ATA during 1977 had written the chief editorial writer of every daily newspaper urging editorial support for the 55 mph speed limit.

TRIBUTE TO SENATOR McCLELLAN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Washington (Mr. Magnuson).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Magnuson

I have had the honor of serving with Senator John L. McClellan here in the Senate and in the House for nearly four decades. The Congress will miss him, his State will miss him, the nation will miss him.

The Senate has lost a man of honor, a tireless worker and a man who could be relied upon. As Chairman of the Permanent Subcommittee on Investigations, Senator McClellan helped to restore fairness and thoroughness to the Senate investigatory process. His stewardship of the Appropriations Committee and the Judiciary Subcommittee on Criminal Laws and Procedure was evenhanded and effective.

America changed dramatically while John McClellan served in the Congress. The greatest tribute that can be given a public servant is that he helped shape these changes. Government reorganization, criminal law reform, energy and defense funding, massive public works projects and revealing investigations all bore the mark of this great man. His well-known and fearless efforts to investigate the sordid world of organized crime did not end merely with a splash of headlines but led to such major legislation as the Omnibus Crime Control and Safe Streets Act of 1968 and the Organized Crime Control Act of 1970. John McClellan's long struggle to bring about the first comprehensive revision of the Federal Criminal Code stands as testimony to his desire to effect needed change. Identifying and working to remedy problems was the key to this man's effectiveness and he was remarkably effective.

The people of his home State of Arkansas were very well represented by John McClellan through the years. The development of the Arkansas River, long one of his highest priorities, comes readily to mind as a striking example of indefatigable efforts in behalf of his people. He was totally committed to helping his State as well as his country.

John McClellan and I worked together for a long, long time. After some forty years of serving together, men come to know one another. I've felt his compassion, I've seen his tireless energy, I've benefitted from his guidance, and I know of his dedication to service. I personally will remember John McClellan as a close friend as well as a colleague and I, too, will miss him.

THE BARNWELL NUCLEAR FUEL PLANT

Mr. THURMOND. Mr. President, 15 years ago, in 1962, the Atomic Energy Commission testified before the Joint Committee on Atomic Energy that the AEC considered privately owned nuclear fuel reprocessing facilities an important factor for a self-sufficient nuclear power industry. In 1967, the Government issued a policy statement which said:

> The AEC expects chemical reprocessing services to be contracted for between reactor operators and commercial fuel reprocessors without involvement of the AEC.

It was in this atomosphere that Allied Chemical applied for a permit to build a reprocessing facility at Barnwell, S.C. in 1968. Two years later, a construction permit was granted by the AEC to build the plant and work got underway at Barnwell soon thereafter.

This policy of encouragement was abruptly changed on April 7, 1977, when President Carter indefinitely deferred commercial reprocessing and recycling of spent fuel produced in U.S. civilian nuclear powerplants and stated that the Barnwell facility "will receive neither Federal encouragement nor funding for its completion as a reprocessing facility." While closing the door on any prospect for the use of Barnwell as a commercial reprocessing plant, the administration has agreed to the use of existing facilities and staff at Barnwell to further the administration's program in nuclear nonproliferation.

Mr. President, The U.S. Congress has responded to this crisis situation and authorized and appropriated $14 million in the fiscal year 1978 budget of the Department of Energy (DOE) as the initial step in an effort to utilize the facilities and staff at Barnwell. The fiscal year 1978 public works-DOE appropriation bill states that—

> Up to $14 million of this appropriation is to conduct a study of the Barnwell Nuclear Fuel Plant located in South Carolina to determine if that facility may be utilized in support of the non-proliferation objectives of the United States; and for activities contributing to the International Nuclear Fuel Cycle Evaluation to be carried out under contract at the Barnwell Nuclear Fuel Plant, including only such research, assessment, and evaluation activities as the Secretary determines are consistent with the Nation's nuclear research and non-proliferation policies and provided that the plant shall not be used to process spent fuel from nuclear reactors.

One million dollars of these funds are designated for DOE to evaluate long-term uses of the facility and, at the same time, determine how the facility and staff can be used to benefit near-term nonproliferation studies such as the international nuclear fuel cycle evaluation (INFCE). The remaining $13 million of these funds are designated to initiate nuclear fuel cycle and safeguards research and development programs at the Barnwell plant in support of the INFCE and related nonproliferation efforts. The administration now endorses this fiscal year 1978 program at Barnwell and supports its objectives, even though there was adamant opposition to the program several months ago.

Congressional intent on the fiscal year 1978 Barnwell program is clearly to carry out research activities at Barnwell which are consistent with and in support of U.S. nonproliferation policies, and which maintains the AGNS staff "in place" while the potential contributions of the facility are explored.

During committee markup of the fiscal year 1978 authorization bill on June 27, 1977, Senator Church, Democrat of Idaho, chairman of the Subcommittee on Energy Research and Development of the Senate Committee on Energy and Natural Resources, stated that—

> . . . we might very well want to make Barnwell, in the future, a model for the way we think reprocessing should take place under maximum safeguards, so we can begin to build the kind of international system that is essential if we are to have any kind of control over the proliferation of nuclear weapons.

Senator Jackson, Democrat of Washington, committee chairman, made the following statement with regard to the Barnwell plant during the course of the June 27, 1977 session:

> The chair would state it makes no sense to simply put Barnwell in mothballs. The plant is virtually complete. . . . It is set up, obviously, for domestic use, but it would be unwise to turn around and close this facility down. No matter which direction we go, the facility is needed in one form or another.

The Senate and House conferees on the fiscal year 1978 DOE authorization bill expressed the same belief and the conference report on the fiscal year 1978 authorization bill states:

> It was also the opinion of the Conferees that the Barnwell facility should be used in such a way so as not to limit the potential for eventual use as a reprocessing plant.

With regard to the desirability of retaining the AGNS staff, Senator Church, in remarks on June 8, 1977, during the course of a subcommittee hearing on the DOE fiscal year 1978 nuclear fuel cycle budget, stated: "It is crucial to keep the team there at Barnwell."

During the October 5, 1977 Senate-House conference on the fiscal year 1978 DOE authorization bill, Senator Church stated:

> The $13 million was put in to keep this whole plant intact together with the experts that are there so that it will be available for such uses as the studies show you should pursue.

Representative McCormack, Democrat of Washington, during the same conference asked that the conference report "emphasize the deep concern on the part of the members that the admin-

From breakfast cereal to midnight snack, sugar is the largest ingredient in the American diet.

Until the mid-1800's, sugar was used mostly as an additive, like salt or pepper. It was too expensive to be popular. Americans consumed, per capita, less than 25 pounds a year.

Today, each American consumes slightly more than 85 pounds of sugar every year. Twenty percent of our diet, on the average, is refined sugar.

Now the sugar manufacturers, with billions of dollars worth of profits at stake, argue that a moderate amount of sugar is good for you. The Sugar Association's president, John W. Tatem Jr., considers the present levels of per capital consumption to be "moderate."

But many researchers and nutritionists disagree. In one of its final acts, the Senate Select Committee on Nutrition and Human Needs released a report on dietary goals for the United States. Among its recommendations: "Reduce sugar consumption by almost 40 percent."

Last December, says New Times magazine, the Worldwatch Institute, an independent research group, concluded that health problems other than tooth decay have apparently grown along with the world's sweet tooth (global per capita sugar consumption has increased by 50 percent since 1950.) "High sugar intake," the study said, "is linked by many to diabetes and other diseases."

The study added that as the affluent fat and sugar diet has spread, so have a wide variety of heretofore rare diseases: heart disease, diabetes, diverticulitis and bowel cancer.

Researchers have found that sugar often is a factor in hyperactivity in children. Studies have shown that when many hyperactive children are taken off sugar and put on high-protein diets, most of them tone down. They become less distractible and easier to teach.

Ample doses of sugar are present in many processed foods and beverages as well. Sugar or corn syrup, according to New Times, is the largest ingredient in products such as Jell-o gelatin dessert; Hawaiian Punch frozen concentrate; Shake 'n Bake, Barbecue Style; Ovaltine; Tang, and Wish-Bone Russian salad dressing.

The list could go on and on. If you are concerned about the amount of sugar your family is eating, take a close look at food labels. Currently, ingredients must be listed in decreasing order of quantity. So if sugar or corn syrup is listed first, you know that product contains mostly sugar or corn syrup. You don't know the exact percentage, though.

There is remedial legislation that has been pending in the U.S. Congress for nearly a decade. Called HR 42, and introduced by consumer advocate Rep. Benjamin Rosenthal, D-N.Y., the bill calls for eight steps of labeling, the most important being full disclosure of ingredients, including the percentage and amount of each ingredient.

It would help a lot of Americans, especially those 80 million who have some kind of allergy related to food.

But H.R. 42 remains where it has been for years, ending before the Health and Environment Subcommittee of the House Commerce Committee.

Even if the bill eventually becomes law, however, few observers think it will revolutionize the American diet. Americans have become so used to chomping refined sugar in their foods that they may not give it up, even if too much of it is bad for them. After all, look at cigarettes.

COMMITMENT TO HIGHWAY SAFETY BY THE AMERICAN TRUCKING ASSOCIATIONS

Mr. PERCY. Mr. President, last week I requested that a New York Times article entitled "Raising Hell on the Highways" be printed in the Congressional Record. That article raised a timely issue—namely, that inadequate trucking safety on the Nation's roadways has reached dangerous proportions. Indeed, I intend to introduce legislation early next session to enhance enforcement efforts aimed at combating the very problems revealed in that article.

However, I believe it is also important to underscore some of the substantial progress that the trucking industry itself has made toward increasing truck safety. Many trucking firms and associations are strongly committed to highway safety and share the goal of safe roadways with all motorists. Many have advocated legislative programs similar to the one I intend to introduce.

In particular, the American Trucking Associations and its affiliated State associations have traditionally supported and promoted truck safety. Their leadership in this critical area has assisted the cause of truck safety. I commend their efforts and look forward to a continued commitment on the part of the ATA and other trucking concerns to protect the public from the hazards of unsafe trucks.

Mr. President, I ask unanimous consent that an American Trucking Associations document entitled "Trucking Industry Safety Activities and Programs" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Trucking Industry Safety Activities and Programs

[American Trucking Associations]

The trucking industry, as represented by the American Trucking Associations, Inc., 51 state trucking associations (including District of Columbia) and 13 national conferences, has traditionally and strongly supported and promoted truck safety.

ATA's safety programs are under the policy direction of the Safety Committee on Research and Environment (SCORE). This committee is composed of top level motor carrier executives and works to assure that truck safety efforts are carried on in an effective and unified manner.

ATA works closely with and endorses the safety efforts of the Department of Transportations' Bureau of Motor Carrier Safety (BMCS), the federal agency charged with promulgating and enforcing truck driver, commercial vehicle and motor carrier safety regulations. In fact, ATA has testified before Congress this year in favor of increased funds to enable BMCS to increase its number of field inspectors.

Truck safety on the highway can best be put in perspective by looking at the latest available accident data which compares the accident experience of various types of vehicles. For 1975 the accident rate per million miles traveled for all vehicles was 9.89. For passenger cars the figure was 11.36. For all trucks the rate was 4.70 and for tractor semi-trailer combinations the figure was a low 3.64 accidents per million miles of travel.

The BMCS regulations require that drivers be fully qualified and maintain a good safety record. Drivers must meet stringent physical requirements, including a complete physical examination every two years. In 1976, BMCS figures revealed some interesting facts. For example, of 25,666 accidents reported, less than 1,000 cases were attributed to driver physical impairments of any kind, including drugs and/or alcohol. Further, there is no indication that fatigue occurs during the hours of service permitted by BMCS (on-duty time is limited on a weekly basis so that the average daily time cannot exceed 8½ hours in a seven-day period). In fact, it has been shown that up to 30 percent of all accidents occur within the first hour of driving. The bureau also has requirements governing equipment and accessories on vehicles, and sets guidelines for equipment inspection and maintenance.

This exemplary safety record is the result of hard work on the part of ATA, its affiliated state associations and individual companies who view safety efforts as a vital part of moving this nation's freight. To be other than safety conscious is to be foolish, callous and costly. What follows are examples of the safety efforts and programs sponsored by the trucking industry and its organizations.

(1) The ATA Council of Safety Supervisors, a national organization of 3,000 truck safety professionals, works directly with state organizations and various groups to promote highway safety.

(2) The industry, with ATA support, has self-policing "Cooperative Safety Patrols". Company safety supervisors report on driver behavior and vehicle conditions as observed on the road. Reports are made on all trucks, including those not affiliated with any industry group and are sent to motor carrier management for action. Hundreds of thousands of industry patrol reports are made annually.

(3) Truck stop safety meetings are conducted by industry safety experts. They are available to any truck driver, regardless of affiliation. The objective is to reach as many drivers as possible with safety training programs. Thousands of drivers have been reached through this on-going program.

(4) Industry sponsored vehicle safety checks are conducted by ATA state affiliates to monitor vehicle conditions and to get unsafe trucks off the road.

(5) Numerous cooperative safety and educational training programs are conducted annually. ATA is a co-sponsor of fleet safety supervisor training courses at colleges and universities. State affiliates conduct hundreds of safety meetings for drivers. Each year ATA holds four regional and one national safety meeting. Frequently there are "special emphasis" training programs, such as safe transportation of hazardous materials and vehicle inspection techniques.

(6) ATA and its affiliates have numerous safety "recognition" programs. There are state and national truck "rodeos" designed to demonstrate that truck driving is a professional skill requiring judgment and knowledge. An incentive is provided by the requirement of one year of totally accident-free driving. We recognize a driver of the month and of the year, with winners selected by state associations. State Drivers of the Year compete annually for national honors. Selection criteria include long safe driving records, a good employment record, individual acts of courage and service, and participation in civic activities.

(7) ATA distributes quarterly to 50,000 trucking executives a safety program guide in an effort to focus national attention on a specific safety subject.

sustainable pace, and policymakers must resist the temptation to speed up the expansion by sharply intensifying monetary and fiscal stimuli."

Carter may not want to "sharply" intensify anything. But he probably knows he is not going to achieve Democratic goals, so he may be reluctant to compound his problems by embracing a symbol of Republican methods.

Republicans tend to believe that control of the money supply is the foremost instrument for controlling interest rates, the level of economic activity, and hence inflation. And in economic policy even more than in most fields of public policy, methods and goals are related: The primary Republican goal is combating inflation.

The country agrees, but Carter must decorously avoid seeming to agree too much. The core of his appeal to labor, blacks and liberals concerned jobs. It was his promise to reduce unemployment to less than 5 per cent. His advisers must suspect that his goal requires growth targets for the money supply higher than Burns would be happy to set.

Carter probably does not intend to try to achieve his economic goals. That is, he does not intend to risk the inflation, and electoral mayhem, that would flow from an attempt to rev up the economy enough to lower unemployment considerably and quickly. But he does not want to run up a flag announcing his conversion to prudence, thereby enraging Democrats. He may think the reappointment of Burns would be such a flag.

He inherited a government that does not have substantial uncommitted revenues. And the public fears stimulative policies that might, briefly, produce a "fiscal dividend" (a surge of revenues from constant tax rates). So Carter must reward clamorous groups with things other than appropriations.

Labor gets a higher minimum wage and labor law "reforms." For blacks, the administration filed a brief in the Bakke case, celebrating reverse discrimination. But welfare reform is a distant goal, tax reform is a receding goal, and national health insurance is not even on the horizon. Carter must pay off liberals with any coin at hand. He can "spend" Burns by not reappointing him.

Carter could not be blamed for enjoying Burns' departure. He lost his best friend and economic adviser, Bert Lance; most of his economic policies are at the mercy of the Fourth Branch of Government (Sen. Russell Long); and now he is being pressured to embrace someone who is just not cuddly.

Burns is as public-spirited and politically crafty as anyone in Washington. He has fought the inflationary rot with a determination commensurate with the stakes, which are justice and freedom. He does not just "lean into the wind." He occasionally is a counter-typhoon. He was that when he helped kill Carter's frivolous plan for $50 tax rebates, when he criticized some of Carter's other self-inflicted wounds, including the energy and Social Security policies.

But the other guys won the election and have not won much since then. They may feel that, sweet although it would be to have Burns around to blame for their failures, it also would be sweet to see him go. That is the sin of our times: the unwillingness to defer gratifications.

NEGOTIATIONS DURING COAL STRIKE ON NEW CONTRACT SHOULD NOT BE DISTRACTED BY EMOTIONALISM AND VIOLENCE

Mr. RANDOLPH. Mr. President, latest reports from the bargaining table in the negotiations for a new contract in the coal industry are encouraging. It is our hope that a calm and reasonable atmosphere will prevail in this matter most vital to the energy future of our Nation.

One thing both sides in the negotiations must constantly keep in mind is they are not merely bargaining over benefit payments or tonnage mined. Their discussions directly affect the lives of many thousands of coal miners, their families, and business firms affiliated with coal-related enterprise.

It is no arena for unreason or irrationality.

The Washington Star in its December 10 edition published a reasoned and conclusive editorial to this effect, which gives an excellent analysis of the issues. I ask unanimous consent that the editorial be printed in the Record:

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Another Coal Strike

During negotiations for a new contract in the coal industry, United Mine Workers President Arnold Miller remarked: "If they think the UMW is weak, by God, just wait till December 6 and they'll find out."

Well, December 6 has come and the miners are out on strike. But has that proved the UMW is strong? No. In fact, it could be interpreted to the contrary: that the UMW did not have the strength to force its demands on the mine owners at the bargaining table.

Chances are that as the strike progresses, the UMW is going to get weaker, not stronger. Its 130,000 active miners face weeks, perhaps months, of financial hardship; its 30,000 retired miners face a cutoff of pensions after the first of the year; its members and their hundreds of thousands of dependents are without medical benefits because the fund that provides them has been depleted and cannot be replenished until the miners return to work.

Eventually the miners will go back to work. But by then, non-union mines, chiefly in the West, may have eaten even further into the UMW's share of U.S. coal production which, during the last three years, dropped from 70 to 50 per cent. Will that demonstrate union strength?

Why have Mr. Miller and other union leaders allowed themselves to bring the UMW to such a position? Internal union politics, chiefly. Mr. Miller's hold on the presidency has been infirm and he obviously felt it necessary to bow to demands from union militants that UMW locals be given the right to authorize single-mine strikes.

Mine operators feel, correctly in our opinion, that a contract giving locals the right to vote strikes probably would lead to more instability in the coal fields rather than less, as the UMW contends. It would, moreover, be contrary to a well-established trend in American industry toward arbitration rather than strikes as a means of settling disputes.

Nor does the mine owners' proposal to reduce wildcat strikes make much sense. They want to dock the pay of miners—in effect, fine them—when they participate in wildcat strikes or stay off the job without excuse.

Both sides were at fault in the failure of the old contract's grievance procedure to work satisfactorily. Miners too often tried to turn a minor dispute into a big cause and were inclined to make their point by walking off the job, despite a no-strike pledge in the contract. Mine operators, instead of trying to settle local disputes at the local level, overloaded the grievance and arbitration machinery and were eager to use the courts to press their position.

Instead of talking about how tough they are—the owners, as well as the union leaders, are guilty of that—and allowing their positions to harden further, both sides ought to be making a stronger effort to settle this basic dispute. Then they can get on to finding a way to restore medical and pension funds to financial health and to negotiating new wage scales.

Why does the strike have to be a long one, as is being predicted in most quarters? Negotiators on both sides surely are conscious of the suffering that a long strike will bring to the coal fields—miners and their families facing a bleak Christmas season and a cold winter without paydays and medical benefits.

Does it show weakness to compromise, as Mr. Miller seems to think, or does it show leadership?

EXCESSIVE SUGAR CONSUMPTION

Mr. THURMOND. Mr. President, it is hard to believe, but reliable statistics show that the average American consumes 85 pounds of sugar every year. That, by any objective standard, is far too much. Sugar can ruin the teeth, both of children and older people, and is detrimental from a nutritional standpoint. Furthermore, our gluttonous sugar consumption has been linked to several serious diseases which have been on the increase over the last few decades, including diabetes, bowel cancer, and heart problems.

There are a number of worthwhile steps which Congress can take to rectify this situation. If consumers knew what they were buying and eating, I am confident that they would cut back. It is more a matter of information than of reformation. Congress should promptly enact legislation requiring manufacturers to disclose the ingredients of their products by percentage. Thus, shoppers will not unknowingly bring home products, such as many breakfast cereals, which are truly "sickeningly sweet."

Mr. President, an excellent article on the subject of excessive sugar consumption appeared recently in the Columbia Record of Columbia, S.C. This article is well worth the attention of all those who would like to see an improvement in the American diet. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Can Legislation Help Break the Sugar Habit?

If you have young children, Saturday morning cartoons more than likely are an important part of their weekend. And if you ever take a look at the advertising on the kiddie shows, you will see that two-thirds of the food products advertised contain refined sugar.

Sugar Smacks, Sugar Frosted Flakes, Lucky Charms and a host of other pre-sweetened cereals (plus other sugary products) are urged upon the children week after week.

I don't know about you, but I have great difficulty steering my daughter away from the pre-sweetened cereals and sugary treats when we go grocery shopping. She knows them all.

as other organizations which have benefitted from his leadership.

FARMERS PLEA FOR FAIR TREATMENT

Mr. THURMOND. Mr. President, these are hard times for the farmers of America. When experiencing similar problems in the past, farmers have usually preferred to suffer in silence. Any one who has spent much time around them, as I have had the good fortune to do, knows that they are an exceptionally resilient and resourceful lot—not the complaining type. Their present difficulties, however, have forced a number of farmers to abandon their customary reticence and call public attention to their plight. It is appropriate that they should do this.

In the last week, the farmers movement has been receiving extensive coverage by the print and broadcast media. One of the most respected radio and television stations in my State, WSPA of Spartanburg, has editorialized on the subject. I found this editorial to be most enlightening, and I would like my colleagues to have the benefit of reading it. Accordingly, I ask that a transcript of the commentary be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[WSPA-TV, FM, Dec. 7, 1977]

FARMERS PLEA FOR FAIR TREATMENT

The farmers of the nation are up in arms over the failure of the federal government and consuming public to recognize their plight of having to sell their products year after year at a price below the cost of production.

When Franklin Roosevelt, a part time Georgian, was President, the goal of his administration was to assure farmers 90 percent of parity which reflects the cost of production plus a reasonable profit.

The protesting tractor parades in Georgia reflects the deep-seated disappointment the farmers there hold for their fellow farmer and peanut growers from Plains failing to recognize their plight. They have been hit hardest by inflation because they buy in a protected market at prices fixed by someone else and have to sell in a free market at a price fixed by someone else. Since they are the low man on the totem pole, they cannot pass their increased production costs to someone else.

This system has driven the small and medium farm operator off the farms by the thousands. This has caused them to lose their political clout in Washington and what was once the powerful farm bloc in Congress has vanished.

Congressman Ronald "Bo" Ginn, of Georgia, recently explained the situation in Congress when he said only 11 of the 435 U.S. Congressional Districts in the country have more than 20 percent of their population classified as rural farm population.

While the American farmer is small in number, they continue to be a most important segment of the population because what they produce has made the United States the best and cheapest fed nation in the world. A less percentage of the consumer's dollar goes for food than ever before and by far the least in any other country.

The American farmer cannot be expected to continue to produce at prices which are driving him from the land and into bankruptcy. WSPA hopes everyone in Washington from President Carter on down will take seriously the farmers' plea for fair treatment. There is no segment of the population which deserves more sympathetic consideration and a square deal instead of the Raw Deal which they have been receiving in recent years.

A RECOMMENDATION THAT ARTHUR BURNS REMAIN FED CHAIRMAN

Mr. PERCY. Mr. President, President Carter is faced with a dilemma over whether to retain Arthur Burns as Chairman of the Board of Governors of the Federal Reserve.

On the one hand, the President sees the need to keep him in order to maintain business confidence which this administration needs more than ever before. He also realizes that he must resist excessive monetary expansion that would sharply intensify inflationary pressures.

On the other hand, the President must placate the critics of Dr. Burns—particularly those in his administration—who feel that the Federal Reserve Chairman has stymied this Nation's economic recovery and contributed to the unemployment of the 1970's. They also believe he has actively worked to counter the President's economic policies and goals.

All along, however, it has been the President, more than anyone else, who has come to realize that Arthur Burns has helped provide the needed balance to those who would overstimulate this fragile economy and impose further—and I might add, greatly unwanted—inflation and possible longer-range unemployment upon this Nation.

Mr. President, because Arthur Burns has been such a dedicated public servant and provided outstanding leadership as Chairman of the Federal Reserve during this period of economic uncertainty, he deserves to be reappointed as Chairman when his term expires January 31.

Unfortunately, frustrated critics of Dr. Burns are too apt to blame him for past economic policies which resulted in a history of high inflation and unemployment during the 1970's.

The economic record of this Nation, however, reveals just the opposite. In fact, the policies of the Fed Chairman have had to combat the adverse impact of recent world economic events, combined with the fiscal policies of this and past administrations and the unfortunate trend in continuous inflationary spending by the Federal Government.

It is true that inflation, despite the use of traditional monetary and fiscal policies to correct it, has continued at annual levels previously unknown since the 1950's. But these events are not the fault of Arthur Burns. In fact, the current inflation which we are now experiencing has its main roots in the inflationary financing of the Vietnam war.

Mr. President, there is no doubt that the need for low unemployment and stable prices is a sought-after achievement of all administrations.

During the administrations of Truman, Eisenhower, Kennedy, and Johnson, however, reasonably full employment and relatively stable prices have occurred only in 1952, 1953, 1955, and 1965.

The Carter administration's economic policies espouse the same goals. To date, however, those policies have not been realized. The administration realizes that any amount of overstimulation of the economy now through increased Government spending would only result in further inflation and higher unemployment—prospects which the recent policies of the Federal Reserve and Arthur Burns have attempted to halt through careful control of the money supply.

Yet, administration foes of Dr. Burns continue to use the Fed Chairman to blame for their own economic failures.

Nevertheless, President Carter himself must realize that recent constraints on the money supply by the Federal Reserve Chairman have been prudent and balanced. As George F. Will said in a recent column:

> (Carter) does not intend to risk inflation, and electoral mayhem, that would flow from an attempt to rev up the economy enough to lower unemployment considerably and quickly. But he does not want to run up a flag announcing his conversion to prudence, thereby enraging Democrats. He may think the reappointment of Burns would be such a flag.

Hence, the dilemma for President Carter, who has come to know the Federal Reserve Chairman and respect his judgment. It in indeed a Catch-22 situation for President Carter and a position which is ably pointed out by George Will. Mr. President, I ask unanimous consent that this column, which was published in the Washington Post of December 4, be printed at this point in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE BURNS SIGNAL

(By George F. Will)

Arthur Burns recently delivered a watery compliment to the man who could reappoint him chairman of the Federal Reserve Board. Burns said he expects President Carter's economic policy "soon will take on a more constructive character." A sense of proportion usually is the first casualty of the quest for office, but Burns is campaigning with a gentlemanly diffidence.

Carter doesn't know how to fib, but he sure knows how to slalom through facts. Recently he said that his private disagreements with Burns are deeper than the public disagreements. More recently he said there are no significant disagreements. Perhaps he doesn't understand the policy prerequisites for fulfilling his campaign promises; or doesn't understand Burns; or didn't mean the promises, or something.

Burns is a strong personality and advocate, and Carter has not surrounded himself with such people. Burns has a coherent philosophy and the political skills to advance it, which make him a reproach to the administration.

And some people campaigning for his reappointment are putting the case rather too well. A banker warns Carter: "The key to long life for this economic expansion is a investors and modernization and expansion for our industries.

Just as we may be prone to blame only the Government for the lack of capital investment during the 1970's, it is to Government that we must also seek many of our solutions.

For one thing, confidence can only be realized in the form of tax cuts, incentives and clearer Government policies toward investment that will be necessary to create the millions of needed jobs in the years to come.

There is little doubt that the slow advance of capital investment has been a major disappointment during the current business expansion.

Businessmen have been faced with an unusual number of legislative proposals in the areas of energy, social security, tax reform and changing environmental protection and safety regulations—all of which have added to this atmosphere of economic uncertainty.

These concerns and the call for investment could not have been more properly stated than they were November 29 before a conference of some 500 economists, financial experts, and government representatives, sponsored by the Continental Illinois National Bank and Trust Co. of Chicago.

Chairman of the Board Roger Anderson and President John Perkins are to be congratulated for their foresight and leadership in this area.

The conference was titled "What Will Tomorrow Cost: The Challenges of Capital Formation." Speakers before the conference included several of the Nation's leading economists and financial experts. Whatever their political viewpoints and economic outlook are, they all agree that the need for capital formation will be one of the top economic problems in the years to come.

I would like to share the thoughts of these experts with my colleagues and ask unanimous consent that a condensed version of the statements given by three of these speakers, which appeared in the December 7 Chicago Tribune, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAPITAL FORMATION: ONE OF THE TOP PROBLEMS OF '70S

Last week Continental Illinois National Bank & Trust Co. of Chicago brought together leading economists, financial experts, and government representatives to discuss the problems of long-term capital formation.

Following are condensations of speeches given by three participants:

STATISTICS

William Simon is a former secretary of the United States Treasury.

Capital formation is more than just bricks and mortar. It means more jobs, high productivity, higher wages, less inflation, and all the other ingredients of a decent and growing standard of living.

But when you examine the nation as a whole, we see less of that commitment than in many other nations.

From 1960 through 1975 Japan's investments in new plants and equipment averaged 28.8 per cent a year of the country's gross national product. In West Germany it was 21.8 per cent, France 19.5 per cent, and Sweden 19.2 per cent. The United States was dead last, coming in even behind Britain with 14.8 per cent.

Another example is productivity, increasing at the rate of 3.4 per cent a year in the U.S. in 1948. From 1971 to 1975 it had fallen to 1.6 per cent.

Turning to the question of taxes and capital formation, the President seems to be uncertain of exactly what he wants to achieve. A deep cut in taxes next year is, I am sure, the first policy priority for many, but our economic agenda should include more than just reductions. It must also include crucial items like regulatory reform and fiscal and monetary restraint.

TAXES AND ACCOUNTING

Paul W. McCracken is a former chairman of the President's Council of Economic Advisers.

After the Treasury finances the deficit of the federal government, will the remaining flow of savings be adequate to finance private demands for funds? Is there a possible shortage of physical capital?

Is there some reason to think we have fallen short in building new factories or stores or office buildings and in producing machines and equipment to put in these structures?

Another question is whether the economy's plant in place is adequate to provide job opportunities for the entire work force as the demand for output strengthens.

During most of this decade the economy has been operating with generally excess capacity, and the pressure from long and rising backlogs on managements to enlarge their facilities has been largely absent.

Another key factor in the current investment malaise is the low level of corporate profitability. Real purchasing power of corporate retained earnings this year will be roughly 30 per cent below those of 1967, itself a year of sluggish economic activity with a "recessionette" in the early months.

Here we see an adverse effect of inflation on the economy that is as important as it is underrecognized—the failure of conventional accounting procedures to charge as a current cost the current value of capital expiring in the current accounting period.

The result is an overstatement of profits with the result that corporations incur a corporate profits tax liability on fictitious profits. Largely because of this, corporations will be paying in taxes about 10 per cent more of their true profits than a decade ago. A reduction in profitability and a shrinkage in retained earnings makes a sluggish pace of outlays on new facilities and equipment hardly surprising.

REGULATION

George W. Ball is senior managing director of Lehman Brothers, Inc.

Certainly there is no lack of liquidity in the financal markets of the major industrialized nations. If anything, with billions of dollars sloshing around in the Eurocurrency market, there may be too much liquidity.

But what businessmen understand very well is that the inadequate pace of investment—which is what capital formation is really all about—is determined not nearly so much by whether money is available at moderate cost as by whether they can be reasonably sure that an investment will earn a rate of return sufficient to justify it.

Here the specter of uncertainty moves in. In considering an investment a corporate management must take into account not only the attitudes and capabilities of consumers but the vagaries of often capricious bureaucracies.

Building a facility of almost any kind is no longer merely a matter of buying a plot of ground, arranging financing, and hiring a contractor. It requires submission of vast amounts of information to four or five local state or even national agencies.

While a certain amount of this is necessary, we have become too complicated a country, too preoccupied—and properly so—with legitimate social concerns to live by the lassez-faire doctrines of Adam Smith in these latter years of the 20th Century.

IN HONOR OF SIDNEY LEWINE

Mr. METZENBAUM. Mr. President, I rise on this occasion to pay tribute to one of my good friends and fellow Ohioans, Mr. Sidney Lewine, who recently retired after serving 25 years as the director of Mt. Sinai Hospital in Cleveland.

Mr. Lewine has dedicated his life to making Mt. Sinai Hospital one of the finest medical facilities in Ohio and the Nation.

At the same time, he has given unstintingly of his time to innumerable civic and professional organizations. Included have been terms as president of the Ohio Hospital Association and chairman of the board of the Council of Teaching Hospitals of the Association of American Medical Colleges.

This week, Mr. Lewine is being honored by the Greater Cleveland Hospital Association for his contributions. In conjunction with the honor, a resolution has been prepared detailing his unselfish endeavors.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

IN RECOGNITION OF SIDNEY LEWINE

A RESOLUTION

Cleveland is a respected pioneer in health care and hospital administration. Cleveland's stature is established in the stature of the men and women who deliver and administer that care.

In the history of Greater Cleveland hospitals over the past thirty years, one name keeps rising above the field: Sidney Lewine.

In the minds of hospital leaders nationwide, Sid Lewine is often mentioned as the symbol of Cleveland's hospital community.

His wisdom, his ability to lead through clarity of purpose and language, his genuine dedication to his hospital and its patients, to his co-workers and his colleagues have been richly harvested by his industry at all levels—local, state and national.

Although he leaves the office of director of The Mount Sinai Hospital, the firm elements of progress that bear his imprint wherever good health care is practiced will not only endure, but will live as the base on which more progress can be made for years to come.

Therefore be it resolved that The Greater Cleveland Hospital Association, which Sid Lewine served with honor as president during the trying years of 1969 through 1972, now expresses its affection and appreciation for his accomplishments in behalf of his industry and the people it serves, and

Be it further resolved that this tribute be shared, as have Sid's loyalties, with the Ohio and American Hospital Associations as well

[From the Columbia (S.C.) State, Dec. 14, 1977]

RESOLUTION ASKS BOYCOTT OF IMPORTED TEXTILE GOODS

The S.C. Textile Study Committee adopted a resolution Tuesday asking South Carolinians not to buy foreign-made textile goods imported into this country.

The panel of legislators and lay members took the action after hearing a report that increased textile imports could displace thousands of South Carolinians from their textile jobs.

The commitee also went on record opposing any reduction of import tariffs by the Carter Administration to allow even more textile goods to be sold on the domestic market.

Rep. Marion C. Carnell, D-Greenwood, proposed the buy-American measure asking "people of South Carolina to make sure that the goods they buy in a department store are American-made."

Carnell, whose district is in the state's textile belt, said he offered the resolution to encourage people to "support our own industry and to buy our own textile products."

The lawmaker said his primary concern was protecting the textile industry as the backbone of the state's economy and that other industries hurt by imports could speak out for themselves.

"Our concern is to support our own major industry in South Carolina," he said after the committee session. "That's where we get our livelihood."

Wearing apparel sold at retail has to bear a label saying where it was made, Carnell said. A consumer has no way of knowing if other products, such as a suit, has foreign-made fiber since it does not have to be labeled.

The committee voted to advise the president and members of Congress from South Carolina about its views on the import tariff question.

George Wino, chief economist of the American Textile Manufacturers Institute (ATMI) told the committee that a 50 percent reduction in import tariffs would send shock waves through the nation's economy.

Wino said assuming renewal of all bilateral agreements with foreign textile-producing countries and a 50 percent tariff cut, 2.2 million persons would have to seek new employment by 1985.

This could include 592,000 textile and apparel jobs and 1.6 million people in secondary industries "as the shock echoes through the economy," Wino added.

In South Carolina, he noted, as many as 47,000 of the state's 189,000 textile and apparel workers could be affected.

"This does not necessarily mean they will be unemployed but rather they will have to find new jobs," the ATMI official said.

Wino said impending tariff negotiations could lead to substantially higher textile and apparel imports particularly from countries other than those covered by bilateral agreements.

He said U.S. mills cannot reduce prices to meet the new competition because pre-tax profit margins are only four percent on sales.

He reported a study by Georgia Tech shows that as little as six percent increase in the domestic price spread over the foreign price spread would mushroom broadwoven fabric imports by 400 percent.

"Obviously this would decimate South Carolina's textile industry which is so heavily oriented toward weaving operations," he warned.

Wino said that the six percent annual import growth now allowed "could well" triple the growth of domestic textile consumption.

"Historically imports have grown more than twice as fast as U.S. production," he said.

Wino said South Carolina's "unique" textile structure "leaves the state quite vulnerable to fashion shifts and import shifts." Recent years have seen a turn from cotton to man-made fibers in the clothing industry, he noted.

"There is nothing you can do about it," Wino said. "Technology brought it about."

The U.S. has extended multi-fiber trade agreements, expiring this year, with Hong Kong and Korea and continues negotiations in Geneva, Switzerland, with Japan and Taiwan, Wino said.

These four Asian countries, among 18 with which this country has MFA pacts, account for 60 percent of the textile imports into this country.

Wino said that Red China is not covered by any agreement but is subject to a higher tariff than non-Communist countries. He said the Chinese present a "very acute problem" to the textile industry because of their potentially unlimited production in a government-controlled industry. That country shipped 158 million square yards of fabric into the United States last year but it has tapered off this year by 42 percent for the past nine months, Wino said.

"We would very much like to have an agreement," Wino said.

Sen. Robert C. Lake, D-Newberry, said Wino's remarks "makes us all scared to death about the import situation." Lake presided in the temporary absence of Sen. John D. Long III, D-Union, permanent chairman.

EULOGY TO LAURENCE N. WOODWORTH

Mr. MATSUNAGA. Mr. President, I was shocked and saddened to learn of the death of Dr. Laurence N. Woodworth, the Assistant Secretary of the Treasury for Tax Policy. Prior to his appointment to that post earlier this year, Dr. Woodworth served for 32 years as a professional staff member of the Joint Committee on Internal Revenue Service Taxation. I am sure that his many friends on Capitol Hill join me in extending heartfelt sympathy to his widow, Margaret, and to their four children.

I considered Larry Woodworth a personal friend and one of our Nation's finest public servants. Good government was one of his principal interests and, in recent years, his efforts were aimed at the development of a more equitable and more rational system of paying for public programs—tax reform and budget reform. He contributed immeasurably to the passage of both the Budget Reform and Impoundment Control Act of 1973 and the Tax Reform Act of 1976. On the very eve of his final illness and death, he was immersed in the drafting of further tax reforms for the Carter administration.

Almost 2 years ago, when Congress was considering the Tax Reform Act of 1976, I discovered an oversight in the House bill which would have driven Hawaii's small sugar planters out of business. Literally at the 11th hour, while the report on the measure was being prepared to go to the printer at midnight, Larry rewrote one paragraph in the report so that it would accurately reflect the intent of Congress and save the small planters and their employees. That concern with detail, and with the impact of Federal legislation on the average American, was typical of Larry. His professionalism and dedication to the public service was recognized on several occasions, not only by Members of Congress, but by the public. He was the recipient of the Rockefeller Award for public service sponsored by the Woodrow Wilson Foundation and of the National Civil Service League Award. In addition, he was active in his church and in his neighborhood, serving for 6 years as mayor of Cheverly, Md., and for 9 years on the Cheverly City Council.

Larry's death leaves a gap in the hearts of his friends and in the executive branch of the Government. His wise advice will be sorely missed when we embark upon the tax reform effort next year. While I have no doubts that Larry now dwells in the House of God, as a personal friend I am deeply saddened by the thought that he will no longer be physically present among us.

WHAT WILL TOMORROW COST?

Mr. PERCY. Mr. President, despite projections of moderate economic gains for next year, public confidence continues to remain low.

Forecasts for next year include: a real GNP growth of only 4½ percent, continued inflationary pressures, lingering high levels of unemployment, a decline seen in housing activity, and higher food prices.

Such forecasts are reflective of, as well as a cause of, a lack of confidence, which in turn results in less private capital investment for long-term growth and prosperity.

By 1985, for example, the United States will need some $4.5 trillion in capital. This is three times the $1.5 trillion invested in the past decade.

The United States continues to lag in capital formation, compared to other countries.

Investment and productivity growth in Japan, for example, is three times greater than in the United States. If this trend continues, it will bode ill for the future prosperity of this Nation and the standard of living that most Americans have come to know. Without increased capital formation through savings and investment, greater productivity will be stifled, real economic growth will diminish and fewer jobs will be created.

For this reason, I joined Senators HUMPHREY, TOWER, and CRANSTON in sponsoring the Investment Policy Act. This legislation would establish a national policy, calling on the Federal Government in cooperation with State and local governments to provide incentives to insure maximum investment in private enterprise.

The responsibility for future capital growth, however, must be shared by Government and business alike. Confidence and the proper adaptation of a political posture by the Federal Government are necessary ingredients to encourage future mittee on Environmental Carcinogenesis. In a dispute over the carcinogenicity of a particular chemical manufactured by Proctor and Gamble, Shubik was asked by another NCI scientist to state whom he was speaking for. "Proctor and Gamble," Shubik replied, without hesitation.

No wonder, then, that smoking, alcohol and excessive sunlight are the main environmental targets for the selective cancer-fighters at ACS and NCI—reduction in exposure depends safely on a change in specific personal habits, not in the habits of industry, chief producer of chemical carcinogens.

Maligning the tobacco industry or citing a few workplace carcinogens like asbestos and vinyl chloride still does not place in question the practice of pouring thousands of new chemicals, untested, unmonitored, into the environment every year. Among those already produced, nearly 2,000 are on a government list of suspected carcinogens.

NCI's bioassay (chemical test) branch was to have tested and reported on several hundred of these by now; instead it has become a testimony to the administration's lack of support for this line of attack on cancer. So few staff members were assigned to the branch that testing, reports Congressman Obey, was "turned over to a complex web of outside research firms who are, for the most part, private businesses that are also contracting with the industries that manufacture these chemicals, and in some cases are owned outright by the chemical manufacturing companies." The carcinogenesis program's original director resigned 18 months ago, followed by his assistant, chiefly because they could not tackle unassisted the ever-increasing backlog of unevaluated chemical tests. Now that backlog has reached over 200, and in the past two years, reports on only 14 chemicals have been issued. (A review of the Institute's approach to environmental causes of cancer has been initiated by recently appointed NCI Director Dr. Arthur C. Upton.)

ACS, with its proven influence over Congress, is in a unique position to influence national policy on cancer-causing chemicals. Yet they have consistently refused to give effective support to crucial bills such as the Toxic Substances Control Act, the Clean Air Act and a proposal to ban DES, a known carcinogen, from cattle feed.

"ACS will send a letter of support after a bill has already been passed by Congress," an employee of the House subcommittee on Health and Environment told me. "But they've never been of any real help, except on smoking legislation."

Perhaps worse than legislative inertia is ACS' betrayal of the trust of individuals, who call their public information service expecting to be given the latest available information.

Consider the question of the "safety" of polychlorinated biphenyls (PCBs)—a potent carcinogen and teratogen (causing birth defects) that accumulates mainly in fish. Even after lowering acceptable limits of PCB, the FDA has admitted that eating contaminated fish is still not safe for children and "women of child-bearing age". And, based on recent studies which have found PCB in both the human embryonic fluid and placenta at levels many times higher than what's considered safe, a University of Wisconsin pathologist, Dr. J. R. Allen, has said that "women *who plan to have children* had best discontinue eating fish." (Italics added.)

Here's what ACS's Irving Rimer said in response to a question about whether a pregnant woman should at least avoid eating the most contaminated species of fish:

"That fish is very good for your wife . . . It might be one of the best things she could eat in her condition. The fish you buy in a regular fish store or a regular supermarket will not be contaminated. I assure you—shop in a regular fish store and you'll have no problem at all."

You'd like to think that this was an isolated case—a single irresponsible executive who has something against irregular fish stores. But fierce protectiveness toward dangerous chemicals is typical of the top administrators at ACS and NCI.

For instance, while an FDA agent told me they regularly find residues of several different pesticides, including DDT, in food, Dr. Frank Rauscher assured me, "We don't have any pesticides showing up in the food chain anymore. DDT was thought to be a reasonably potent carcinogen in man, but we just don't have that anymore." Poof.

Among food color additives alone, there are 9 suspected and 2 known carcinogens, as a Health Research Group report based on FDA files revealed. Yet Dr. Rauscher and Dr. Lee Clark recently wrote in the Washington Post: "There is no evidence to implicate food preservatives or additives now on the market in human cancer . . ."

Meanwhile, ACS has been sniping away at the Delaney Clause, the public's main defense, weak as it is, against carcinogens in food. Despite public statements to the contrary, I was told by Larry Garfinkel, Dr. Hammond's assistant, that ACS would like to see the Delaney Clause modified so that it would be more difficult to take legislative action on chemicals based on animal test results. "There should be some human epidemiological evidence present before a substance is banned," Garfinkel said.

But as Dr. Robert Hoover, NCI Head of the Environmental Studies Section of Environmental Epidemiology, explains, "You have to use animal studies and sound biological reasoning. That's all we have, short of placing large segments of the population at risk." Because of cancer's 20–to–30–year latency period, "epidemiological evidence" would consist of a series of disasters continuing long after a substance was banned. Many scientists feel we're in for a lot of such evidence soon, due to the unthinking, uncontrolled outpour of chemicals since the 1960s.

Says Dr. Bruce Ames, University of California biochemist, expert in the field of carcinogenesis: "Most of us are walking around with little time bombs ticking away inside of us . . ."

Relax. As ACS's Dr. Hammond says, "100 percent of the people will die anyway, and there's no way in the foreseeable future to prevent that."

TARIFF NEGOTIATIONS

Mr. THURMOND. Mr. President, the people of my State remain concerned by the damage that textile imports are causing to our domestic textile industry. For some time now, under the bilateral agreements we have with a number of textile-producing nations, textile imports have been increasing twice as fast as the domestic market. Some experts are predicting that they will soon be increasing three times as fast. The situation has thus gone from bad to worse, but the worst may be yet to come.

The administration is reportedly considering granting foreign nations a reduction in textile tariffs in upcoming negotiations. Such a move would have the effect of further flooding the market with imports. While a number of nations are limited in the textile goods which they can ship to the United States, many others are not. It is only the tariff that has restrained these countries from exploiting the American market.

The importance of the textile industry, both to the State of South Carolina and the Nation as a whole, is well known. In my State alone, it accounts for 189,000 jobs. A tariff reduction of 50 percent would put as many as one-quarter of these jobs in jeopardy.

Mr. President, these jobs need to be protected. Free trade is a fine thing, provided that all nations play by the same rules. A number of competitor nations, however, are not observing the rules. I see no reason why American consumers should enrich foreign manufacturers, whose factories are often little better than sweatshops, while our textile workers here at home lose their jobs.

On Tuesday of this week, a textile study committee composed of South Carolina State legislators and representatives of the textile industry passed a resolution urging the people of South Carolina not to buy textile products made in foreign countries. To some, this may seem like an extreme measure. Yet it clearly expresses the deep fears which the uncertain policy of the present administration has stirred.

I recently received a letter from special trade representative Robert Strauss saying that the administration did not intend to jeopardize the long-term interests of the American textile industry. I was encouraged to hear this statement. I was not encouraged to learn, in the same letter, that the administration has apparently not ruled out an immediate tariff reduction. The textile workers of South Carolina are worried about the short term no less than the long term. If they are thrown out of work as a result of administration trade policy, they are going to have a hard time believing that any interests of theirs have been protected.

Mr. President, I think the time has come for the President of the United States to put an end to the doubt and the apprehension. It would be very easy for him to do this. All he would have to do is to say, flatly, that his administration will not agree to a reduction of the present textile tariff. Almost 200,000 textile workers in South Carolina, and millions more across the Nation, are waiting to hear these words. I urge the President not to disappoint them.

Mr. President, an informative article on the predicament of the domestic textile industry appeared in the State newspaper of Columbia, S.C., yesterday morning. In order that my colleagues may have the benefit of reading it, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"You have to understand something," Rimer explained. "Somewhere around 1972 or '73, we stopped including in our calculations all skin cancers except melanoma, the only one that's fatal, and also in situ cervical cancers, because many experts don't consider these to be cancers at all. Since together they account for a large number of cases, that could be why the incidence has gone down."

No wonder cancer is "one of the most curable of the major diseases in this country," as The Hopeful Side of Cancer, ACS's basic public education primer, states. Those skin and cervical cancers, unfit for the incidence figures, are great for the grand tally of "1,500,000 Americans alive today who have had cancer," to whom ACS points as proof of the success of their "cancer-awareness" campaigns and the methods of treatment they promote.

Though their own chief statistician reportedly suggested that the figure be dropped because of its unreliable data base, ACS brazenly upped it to 2 million in 1976.

It is this type of outright dishonesty and statistical legerdemain that supports the country's system of orthodox cancer treatment and leads the public to believe that the medical establishment is well on the way to controlling cancer.

"Today, one out of three cancer patients is being saved. And it could be one in two, if the disease were detected early and treated promptly." This, the central hope-myth conjured up by ACS/NCI, has been retold since 1956. Adding a final flourish this summer, Dr. Lee Clark (ACS President and NCI's senior scientific member of the President's Cancer Panel) predicted the advance to "one in two" would come "within the next five years."

But we have yet to see even a one-in-three survival rate that has been based on a fair representation of the American population. Non-whites, for example, whose cancer death rate is higher—three times higher for males—than that of whites, were virtually left out of the one-in-three calculations, while those patients included (only 3 percent of the country's total) were treated at large private and university hospitals where presumably they were receiving the best possible care and treatment.

It is rarely mentioned in ACS/NCI educational material that "saved" refers only to being alive five years after the time cancer was diagnosed, not to long-term survival as most people would infer.

Even without all these qualifications, the fact that "one in three" survives today is no triumph. People diagnosed as having cancer in 1948-52 already had a 32 percent chance of surviving; and "the commonest cancers," according to Dr. Donald Gould, New Scientist editor, "are as resistant to treatment as they were 40 or 50 years ago."

Still, orthodox treatment methods are peddled to the public and to Congress as "known cures," diverting attention from what most scientists agree is an urgent need to pursue innovative, radically new ideas in cancer research. Criticizing NCI's research program, 1975 Nobel Prize winner Dr. Howard Temin claimed there is too much emphasis "on directed research that assumes we know how cancer is caused and can be cured . . . and that puts large sums of money in a few places to pursue only a few ideas."

But the people who carefully engineered the National Cancer Act and NCI's increasingly large sums have too much at stake personally and professionally to allow competition with their few ideas and assumptions.

Take chemotherapy—an ACS favorite. Not only does ACS co-own the patient for one of the most frequently used cancer drugs—5-fluorocaril—but Mary Lasker, a friend of Dr. Sidney Farber, who pioneered the first chemotherapeutic drugs in the late forties, has pushed NCI for years to fund a massive, impractical "Chemotherapy Screening Program," designed to test at random some 50,000 chemicals a year for their effectiveness against cancer. Though an independent commission described the project as "utterly without scientific merit" as early as 1965, NCI's first budget under the National Cancer Act (1972) tripled funds for the screening project.

In response to an ACS/NCI "educational" claim that "about one-third of all cancers are responding to chemotherapy," Dr. Marvin Zelen of the Eastern Cooperative Oncology Group, a group which specializes in clinical trials of drugs and other therapies, often funded by NCI, laughed: "It depends on what you mean by 'responding.' You have to distinguish between cure and a very temporary response—I would hesitate to say anything like that."

For some rare cancers, such as childhood leukemia, Hodgkin's disease, Wilm's tumor, chemotherapy can increase survival time, but most often only at the risk of devastating side effects, including an increased chance of developing a second cancer after a decade.

Important questions about the value of conventional treatment for certain cancers have been raised by recent studies. One, reported in Lancet, the British medical journal, in December 1975, concludes that "no immediate treatment proved a significantly better policy for patients' survival and for the quality of remaining life" for inoperable carcinoma of the bonchus; and another, which Dr. E. Cuyler Hammond, ACS Vice President for Epidemiology and Statistics, described to me, involved "a remarkable number of patients diagnosed with breast cancer in whom no evidence of breast cancer could be found later, even though they received absolutely no treatment."

OPEN SEASON ON QUACKS

Boasting the "largest repository for unproven methods information in the world," ACS's Committee on Unproven Methods of Cancer Management works hand-in-hand with local and state medical societies, and with the American Medical Association's (AMA) Committee on Quackery, forming a network of vigilantes prepared to pounce on anyone who promotes a cancer therapy that runs against their substantial prejudices and profits.

Indiscriminate in its "quack attacks," the ACS committee—whose members, half laymen, half professionals, include representatives from the Food and Drug Administration (FDA), NCI and AMA—has ruined promising careers and kept potentially valuable ideas from being seriously tested. (Their rationale is that these ideas would lure patients from "known cures" and "proven methods.")

Protesting ACS's "negative role" in this area, one established cancer researcher said, "There have been any number of people who have been unable to obtain grants and/or have been scorned by their colleagues over the years for concepts that have now become accepted in the cancer field."

An example: Dr. Bradford Coley's bacterial toxins treatment, whose two basic principles, immunotherapy and hyperthermia, are now being actively investigated by the medical establishment, has just been removed from the Index of ACS File Material on Unproven Methods of Cancer Management. As Dr. Sidney Arje, ACS Vice President for Professional Education and staff member of the Unproven Methods Committee, told me, "With all the current interest in immunotherapy and work with such things as BCG [Bacille Calmette-Guerin, a tuberculosis vaccine thought to stimulate the body's immune system to fight cancer], it's all so similar so what Coley was doing that it wouldn't be fair to keep him on the list."

How reasonable. Actually, it was only at the request of Dr. William Regelson, formerly Chairman of the Division of Medical Oncology at Virginia Commonwealth University, that action was finally taken. Had Coley's work been seriously investigated at the time, even if it were not itself a "solution," 40 years of immunotherapy research would have been gained, and many lives, perhaps, saved.

Such thoughts of wasted potential don't phase ACS.

When I asked Dr. Arje about an instance where a reporter had proved that promising elements and supportive quotes about a particular "unproven" cancer therapy had been omitted in the "quack file" write-up, he said, "I don't remember the details exactly—but basically, I mean even if we were that negative, that in itself is valid. Our purpose is to keep these unproven approaches away from the public, especially as they become popular—that's when they're most dangerous."

Most dangerous to whom? It seems that the restrictive authority of the Unproven Methods Committee is designed more to eliminate any threat to ACS's total dominance of cancer management and cancer publicity than to protect the public. For instance, I was astonished to find among some documents on unproven methods a lengthy memo by Alan Davis, ACS Vice President for Governmental Relations, warning division executives of an individual from a small private cancer institute who was asking mayors and governors to proclaim a "National Cancer Day"—not the kind of thing you'd imagine could kill a lot of people. In fact, all he was advocating were medical check-ups and early diagnosis.

"If a city or state in your division is involved," Davis wrote, "see if it is possible to have the Mayor or Governor 'deproclaim'. . . . Being for more awareness of cancer is a good way to get favorable attention, and the cause is exploited by many for various reasons, often with considerable success."

Apparently, ACS has had the most success.

TERMINAL OPTIMISM

"There's something I don't think people understand," Dr. E. Cuyler Hammond sighed. "Say something increases your risk of dying of bladder cancer (we'd just been talking about saccharin which has been shown in human studies to cause a 60 percent increase in bladder cancer in men) . . .

"Well, if it increases your risk of dying of bladder cancer, it decreases your risk of dying of cancer of the prostate, cancer of the lung, cancer of the stomach, or any other form of cancer! . . . Look, if you die of one thing you can't later die of something else, do you follow me?"

Sure. While monopolizing and bungling the areas of research and treatment, the cancer establishment minimizes the importance of cancer prevention to avoid stepping on industrialized toes.

A major source of support for ACS when it began fund-raising activity in 1945 came from industrialists enlisted by George Stringfellow, then Senior Vice President of Thomas A. Edison Industries. Since then, many have become Life Members, who act as consultants to the board of directors. At NCI, several members of the advisory board act as consultants to industrial firms. The most notable, Phillipe Shubik, was private consultant and scientific advisor to General Foods, Proctor & Gamble, Abbott Lab., Miles Lab., Royal Crown Cola Co., Colgate-Palmolive Co., the Extract Manufacturers Association, and the Calorie Control Council, during the time he served as chairman of the NCI subcomthat any change had been made in the original release other than the date, Dr. Fink later admitted to me that "certain parts of the report's summary had to be left out" after "vigorous discussion" with ACS.

CORNERING THE CRUSADERS

Mention "National Cancer Institute" to most people, even in Bethesda, Maryland (NCI headquarters), and you'll probably be "corrected": "You mean, the American Cancer Society."

ACS power and affluence depends on its being recognized as the sole dispenser of cancer information and hope, and as the sine qua non of any eventual cancer cure. Their first big publicity blitz was launched in 1945 by advertising magnate Albert Lasker, his wife Mary, now honorary chairman of the ACS board of directors, and Emerson Foote, co-founder of the Foote, Cone and Belding advertising agency. They hired a professional fund-raiser and persuaded prime-time broadcasters to speak about the horrors of cancer and our only hopes—a check and a checkup. The April fund-raising crusade was immediately effective. In its second year, $10 million was gleaned from a newly cancer-aware American public. Since then, ACS has become the wealthiest of the health charity groups, its officials the highest paid, and, with its image as *the* cancer-fighting organization in the country, is not about to sit back and watch things change.

A former employee of NCI's Office of Cancer Communications, specifically charged by Congress "to disseminate information to the practicing physician and to the general public," told me of the disintegration of the entire Program Liaison Branch, basically because of ACS interference.

"When NCI gets recognition for some piece of public information, ACS doesn't like it. Sometimes we'd be at the eleventh hour with the budget and everything approved by our superiors, and suddenly there'd be a meeting scheduled with ACS in New York. Their Public Information and Education people would have objections to it, and that was the end. Or they'd have us do busy work, like run tests on messages or think again whether we should say 'Us Against Cancer' or 'We Against Cancer.' "

Eventually it was nothing against cancer, and after 4 or 5 frustrating years, the branch's four staff members left for other jobs and have not been replaced.

Why would an NCI Division Director, in this case Mr. Paul Van Nevel, insist that his staff consult first with ACS? An NCI source from another department explains: "If you make waves, someone will get in touch with someone else and before you know it Mary Lasker says to the NCI Director: 'We don't like your director of such and such, so maybe you should think about getting a new one.' "

"A red herring of ridiculous proportions!" Benno Schmidt, a Wall Street investment banker who has been chairman of the President's Cancer Panel, the apex of NCI's power structure, since 1971, spoke in an angry voice of the nasty suggestions of an "ACS–NCI link" brought up at the House preliminary oversight hearings on NCI this summer. "I never even heard from the American Cancer Society—in five years no one from there has even called me."

Hasn't Mr. Schmidt been aware of ACS President and former Vice-President Dr. Lee Clark, who has been serving with him on the President's Cancer Panel for five years; or of ACS past officer director and Pennwalt Corporation director, Dr. Jonathan Rhoads, who has sat next to him at NCI's monthly National Cancer Advisory Board meetings (Rhoads is the Advisory Board's chairman); or of several other ACS members who serve, or have recently served, on the Advisory Board or on important NCI committees—including Mary Lasker, Emerson Foote, Frank Dixon (consultant for Eli Lilly and Co.) and Elmer Bobst (chairman of the Warner-Lambert pharmaceutical company and old Nixon friend and campaign contributor).

No one controls Benno Schmidt, but he would not have been singled out for such an important position if his views did not coincide with ACS interests. When Senator Ralph Yarborough (the original sponsor of the National Cancer Act legislation) appointed a panel of consultants to make recommendations for the act, names were "suggested to him" by Mary Lasker and an ACS lobbyist in Washington, including the name of Benno Schmidt, who became chairman.

Considering the act's provision that officials be appointed by the President without any outside review, and the fact that both Mary Lasker and Benno Schmidt were frequent visitors to Nixon's and Ford's White House, it was natural that members of the panel of consultants and other ACS favorites would fall into position on NCI's National Cancer Advisory Board, which has final say as to where research funds go.

Also, monitoring of NCI activities under the act was left to the 3-member President's Cancer Panel, which is to say, to Benno Schmidt.

"He runs the whole Advisory Board and President's Cancer Panel," said an Advisory Board member. Asked at the oversight hearings how the President's Panel does its monitoring, Benno Schmidt replied, "If instances come to my attention, I raise those questions, discuss them and satisfy myself that what was done was done for good reason."

Apparently, he is easily satisfied. The "NASA-style management," as he still dares to refer to the new NCI administration, spawns terrible inefficiency and waste—partly because favoritism takes precedence over fitness in filling top positions.

When 253 of the professionals on the NCI staff were asked in a 1974 survey to indicate problems adversely affecting their job performance at the Institute, half cited "widespread lack of confidence in the scientific acumen of the decision-making hierarchy" and a third complained of the "shortage of qualified scientific and technical personnel, and available billets.

A NEW TYPE OF WELFARE

With so few in-house scientists, the new millions were dished out to private institutes and industries, commercial research labs and large universities. There, who's doing what research is so far beyond NCI monitoring capacity that some researchers do unrelated work with government money while others receive money only by the grace of the "excellent writing and preparation" of professional grantsmen, which commercial organizations can well afford and which has "little or no relevance to the kind of laboratory research they do," according to Dr. Solomon Garb, Scientific Director of the American Cancer Research Center and Hospital in Denver, Colorado.

In effect, the influx of funds initiated by the National Cancer Act created a new type of welfare system—as Dr. Watson described it, one "more palatable to this administration because the recipients cannot solely sop up beer and watch TV, but instead will wear clean white lab coats and look into cancer cells. Not being trained for the task, however, they are most unlikely to fathom the inner workings of the cancer cell, and in a ghoulish way will be forever assuring the continuation of their job descriptions."

The mainstay of NCI's welfare system is contract research, which absorbs 40.6 percent of all its research funds, and invites abuse and poor quality work. For example:

The Special Virus Cancer Program, which depends mostly on contract research, has been glutted with mis-used funds—nearly half a billion dollars to date—since its inception in 1964.

"A self-perpetuating bureaucracy, full of conflicts of interest, its existence justifying its further existence . . ." was the way a 1974 review by outside scientists (the Zinder report) characterized the Special Virus Cancer Program. Those running it, the report charged, come "from a narrow section of the scientific community, and receive large amounts of the money they dispense . . ."

While grant applications must pass through the NIH peer review system, for contracts "there is practically no review," said a scientist whose institute receives large sums of money from NCI for contract research. "And there are many areas where a researcher can apply for either a grant or a contract to do the same thing."

Apparently those with weak proposals go for the contracts. In the case of the virus program, the Zinder report claimed that "less than half of the contract proposals would have been approved if reviewed by a real grant peer review."

No one yet knows exactly what is going on at Fort Detrick, the former biological warfare research center in Frederick, Maryland, part of which was transformed into a cancer research center after Nixon's emotional "swords into plowshares" speech. Specializing in viral oncology, and in research and testing of possible carcinogens, the center, managed by a division of Litton Industries, has received a total of $119 million a year since 1972—the largest amount for a single contract in the entire program.

"We've wasted a fortune on that system; absolutely nothing has come out of it," said Dr. Garb. "I was one of the most enthusiastic supporters of the Center, and I have to say I'm sorry now. We can't even tell why it's not working—but say you have a handful of quarters and put them in a pop machine. If you dont get any soda after the fifth quarter, you are entitled to say the machine is no damned good, even if you don't know what's wrong with it." Next year's budget deposits another $24 million quarter in Fort Detrick.

"If what the General Accounting Office (GAO) has apparently found in reviewing the Eppley contract is an indication of how other contracts and research efforts at the Cancer Institute have been administered. I think Congress has no choice but to consider a complete overhaul of the Institute," reported Congressman David Obey.

Eppley Institute of Omaha, Nebraska, which has received $20 million from NCI in the past eight years has been charged with using NCI contract money for non-related projects, and for charging the government for supplies used in industrial projects—including 53,000 laboratory test animals which Eppley claims were destroyed. But the stickiest question raised by the GAO findings is one of conflict of interest: Eppley Director Philippe Shubik has been an influential member of the National Cancer Advisory Board since its inception, and at the time of the alleged contract irregularities was chairman of the NCI subcommittee on Environmental Carcinogenesis. As such, he was the member most responsible for overseeing the division that awarded Eppley contracts. Ironically, in defense of Shubik, the *Cancer Letter*, an NCI-affiliated weekly, states: "Why Obey has singled out Shubik as a target for conflict of interest charges is a mystery. Nearly every scientific member of the Board, the President's Cancer Panel, and the various advisory committees could be subject to such charges. . . ."

STATISTICAL ABSTRACTIONS

It took Irving Rimer, ACS Vice President of Public Information, alone among the top ACS executives, to crack the cheeky new statistics riddle in ACS's 1975 annual report: "Cancer incidence," it teased, contradicting every other source on the subject, "has declined slightly in the last 25 years."

Congress or by the Department of Health, Education, and Welfare, ACS was guaranteed influence and placement on the Institute's two major decision-making bodies: the three-member President's Cancer Panel and the 23-member National Cancer Advisory Board. And the new budget-approved process, bypassing the National Institute of Health's complex review system, has brought funding from $230 million in 1971 up to $819 million for next year—an unprecedented amount for a single health institute, nearly one-third of the total NIH budget.

"They've [ACS] turned NCI into a dollar pump . . ." says a member of the House Appropriations Committee, which okays funds for NCI. "They run the whole program, the money goes where they want it to go."

Meanwhile, many concerned top-notch employees have left NCI in furstration because "nothing ever gets done"; officials with corporate and institutional loyalties betray public interest, and millions of dollars are consumed by research that goes virtually unreviewed.

Some of the programs are reportedly so ill-conceived and irresponsibly executed—closer to publicity maneuvers than real strikes against cancer—that they've led to coverups among the self-monitored, ACS-controlled clique that dominates NCI policy and funding decisions. "The little Watergate that broke before the big one," is the way one highly respected employee at NCI describes the nation's cancer program.

X-RATED MAMMOGRAPHY

The most ambitious folly to date and the first joint ACS–NCI undertaking is the Breast Cancer Detection Demonstration Project. "The greatest PR thing the NCI and ACS have ever done," former ACS President Dr. Hamblin Letton called it in July 1976, even after it had already become clear to many scientific experts that the mammoth screening program, involving 270,000 women aged 35–70, had become the "scorched earth" phase of the cancer war. Because of abuse of one of three screening techniques—mammography (breast x-ray)—there is a significant risk that more women under 50 will die from cancer because of the program than will be saved by it. And then there is the dark horse horror which materialized this fall (though some scientists had warned about a possible problem much earlier): an undetermined number of women in the program, dozens counted already, have had their breasts removed without there having been any trace of cancer.

It was typical of the slapdash manner in which the joint ACS/NCI program was initiated that early questions about the fatal potential of repeated mammography were totally ignored, as were research findings published well before the program began, which, years later, were to result in complete revision of the screening guidelines for younger women. "We just didn't do our homework the way we should have," said NCI Assistant Director Dr. Bayard Morrison, the only administrator who concedes negligence.

Those directly responsible for NCI's part in the program—Dr. Diane Fink, Director of the NCI Division of Cancer Control and Rehabilitation (also on the ACS board of directors until recently); Dr. Frank Rauscher, then NCI Director; and Dr. Guy Newell, NCI Acting Director in the program's later stages—insist they had no reason to suspect there was any serious question of radiation risk until 1975. At ACS the official amnesia runs on till 1976. But NCI's own files clearly expose these feeble lies. Among many early memos and letters sent to Dr. Frank Rauscher (now ACS Senior Vice President for Research) was one by Dr. Newell himself, dated October 1973, only a few months after the screening project had begun. Responding to ACS's suggestion that the number of screening centers be increased from 20 to 27, Newell wrote: "I cannot in all good consciousness [sic] agree to this unless some specific concerns and questions are addresses and answered as to the safety of repeated mammography by an expert group."

But an ever-obedient NCI administration agreed to shell out more taxpayers' money for the extra centers, while giving not a thought to the appointment of even one radiation biology expert—especially irresponsible considering that the study on which the screening program was based, conducted by the Health Insurance Plan of Greater New York, showed absolutely *no benefit* to women under 50, who made up 85 percent of the program participants, and for whom any added risk would have a longer time to play itself out.

In addition to the radiation problem, some scientists, after careful analysis, questioned the validity of the program itself: "The project is ill-conceived and is not likely to result in significant patient benefit," wrote Dr. Marvin Zelen, then Professor of Statistics at University of Buffalo. And Dr. John Bailar III, then NCI Deputy Associate Director for Cancer Control, expressed doubt whether anything at all could be learned about reducing breast cancer mortality considering the project's lack of proper research design.

Responding to all these criticisms, in a confidential in-house memo, breast surgeon and ACS Senior Vice President for Medical Affairs, Dr. Arthur Holleb, conceded: "I do not feel qualified to answer with statistical expertise." Yet he went on to denigrate the critics with pathetic ad hominem arguments such as: "I am always suspicious of the man who comments on a breast cancer project and refers to the anatomic site as the 'brest,'" referring to a typo in one of the critic's letters.

The idea for the screening program originated with ACS. It was first on a list of suggestions sent to NCI by Dr. Holleb, shortly after the National Cancer Act was passed, as to how the new Cancer Control Program money (which ACS had lobbied for) should be spent.

Though NCI agreed from the beginning to fund about 85 percent of the $54.6 million project, ACS has commanded every detail, backed by the American College of Radiologists.

As Dr. Kenneth Olson, formerly Chief of Diagnosis of NCI's Division of Cancer Biology, explained in a 1973 memo: "This project has limited objectives and they have been pretty much dictated by ACS. In summary they are: Can ACS volunteers mobilize a large number (100,000 per year) of women for thermography, mammography, and a physical examination? . . . This rather ends the objectives. . . ."

While not bothering to establish adequate research protocol (though a follow-up study was planned) or to review previous research findings, ACS took great care to see that the 27 centers were distributed evenly over its fund-raising zones and that the centers themselves refrained from fund-raising so as not to cut into ACS profits.

RUNNING THE RISK

At each challenge to the program, ACS and other mammography proponents responded not with scientific reasoning but with professional arrogance.

NCI Chief of Cancer Diagnosis, Dr. William Pomerance, tried to persuade screening center directors, many of whom are affiliated with ACS or the American College of Radiologists, to raise the minimum age for x-ray screening from 35 to 45. "They all fell on me," he reported, "and even went so far as to decide in their protocol they would start with age 30. I know that at this moment their reaction is hysteria, but there you have it. . . . It does give you an idea as to the tenor of the medical profession. . . ."

As the controversy became more heated, women participating in the program were not even informed that there was a controversy—the word "risk" did not appear on the informed consent sheets until May 1976, and was not clearly described to them until May 1977.

Meanwhile, not even the simplest precautions were taken to keep x-ray exposure to a minimum. A report by Ralph Nader's Health Research Group showed that 33—or 55 percent—of the x-ray machines surveyed in 1975 emitted more than the acceptable limit of 2.5 Roentgens per film; in 1976, 11 centers were still exposing women to dangerous doses of x-rays. This meant that, even for thousands of women over 50, mammography could result in greater risk than benefit, as one of three expert groups, finally appointed by NCI, suggested in a March '77 report. Belated as it was, the expert groups' appointment was not even initiated by NCI directors, but was the result of efforts by Dr. John Bailar who, after a fruitless 3-year barrage of ACS and NCI directors' offices, brought the questions of radiation risk to the public in a paper presented before the American Association for Cancer Research. The conclusions of the expert groups, based chiefly on the same November 1972 National Academy of Sciences report ("Biological Effects of Ionizing Radiation") that Bailar and others had referred to, confirmed that asymptomatic women under 50 should not receive repeated x-ray screening unless they had a personal or family history of breast cancer.

While publicity generated by the experts' reports forced the NCI to shift sluggishly from passive negligence to sincere efforts to modify screening procedures, ACS, along with the American College of Radiologists, attempted to sabotage these efforts and to keep women ignorant of the experts' conclusions:

August 1976: A letter from NCI based on the panel's preliminary report was sent to all screening center directors advising them to restrict x-ray screening of women under 50. Several refused to comply, publicly referring to the new guidelines as "so much more government gobbledygook" and "Potomac Fever." One source reported that center directors calling ACS for advice were told to "Go ahead and screen 'em," and to justify their doing so by certain loopholes in the guidelines, loopholes which ACS was reportedly responsible for inserting. In the following six months, 75 percent of women being screened at the centers were still in the under-50 group.

September 1976: The New York City division of ACS circulated over 15,000 copies of an "Urgent Message to Women," which advised women under 50 to undergo mammography if they fell into one or more of several risk categories. By ACS's own account, these risk categories include 80 percent of all women under 50. While ACS officials denied that their national office had anything to do with it—it was just a rambunctious act by one of their madcap local branches—Dr. Holleb himself told me that he had personally approved the Message and, he added proudly, "I'd still stand behind it." In fact he'd written an editorial for the Nov./Dec. issue of ACS's Ca: A Cancer Journal for Clinicians, the medical journal with the largest circulation in the world, that made just about the same points as were made in the Urgent Message.

March 1977: NCI's Office of Cancer Communications, under Paul Van Nevel, prepared a press release to announce the conclusions of the expert groups. Rather than release it on the date expected, Drs. Fink and Newell and Mr. Van Nevel went to New York City to consult with ACS. The resulting press release consisted of wishy-washy doubletalk bearing little resemblance to anything the experts had written: Though Dr. Newell denied before a congressional subcommittee this summer

Health, Education, and Welfare reversed a policy that denied approximately $7 million in medicaid funds to New York City. This revised policy now permits the Federal Government to cover the medical expenses of medicaid-eligible inmates of jails and prisons during the first month of their incarceration.

CASEWORK

Over 40,000 constituent requests were received by my Washington and New York offices for 1977. Of these cases, 30 percent were HEW- and other social service-related requests; 32 percent were military and veterans cases; 27 percent visa and immigration problems, and 21 percent were other assorted problems handled by my casework staff.

In addition, I have requested GAO to investigate the practices of several agencies in regard to constituent services and treatment. At present, GAO is investigating the New York City Veterans' Administration's payment procedures in order to ascertain that our New York veterans are receiving their payments in an accurate and timely manner. My offices are assisting small businesses in obtaining Government funding and guaranteed loans and have also been instrumental in clarifying problems of small business in New York—particularly with Defense Department policy changes, bonding practices for minority business and other contract problems. Finally, I have been involved with the Postal Service to insure more efficient service for New York in light of recent postal cutbacks.

CONCLUSION

The 1st session of the 95th Congress has produced notable achievements while pointing up problem areas in need of attention during the next session. My efforts in the coming year will be directed to such areas as expansion of the jobs program targeted to hard core unemployed and to youth, increased housing for all citizens, improved health and medical care for our citizens, especially beginning with pregnant mothers and children, the adjustment of formulas to provide New York State with additional money for education, housing, revenue sharing, and other social services and, finally, forcefully addressing the crisis of America's older cities.

Although much remains to be done, these are goals to which I have dedicated myself for the 30 years I have spent in public service. America's first year of its third century has brought many occasions for hope in the continued betterment of mankind. And it has confronted us with new challenges which, together, we must determine to surmount.

DELETION OF DR. JOHN H. GRIMM FROM OCTOBER 26, 1977 CONGRESSIONAL RECORD LISTING OF MILITARY PERSONNEL OPPOSING THE PANAMA CANAL TREATY

Mr. TOWER. Mr. President, on October 26, 1977, there was a list of flag officers opposing the Panama Canal treaty inserted into the Congressional Record. The name of a resident of Houston, Tex., Dr. John H. Grimm, brigadier general, U.S. Air Force Reserve, was inadvertently included in that list provided by the Reserve Officers Association. Dr. Grimm's name should be deleted from that list.

WAR ON CANCER

Mr. NELSON. Mr. President, Congress soon will be considering renewed authority and funding for federally supported biomedical research programs, including the budget for the National Cancer Institute "war on cancer."

Since 1971, the year the National Cancer Act was amended, $4 billion has been spent on the program, an increase in allocations from $230 million in 1971 to $819 million for 1978.

Hard questions must be asked about the program's implementation and the merits of such a massive infusion of funding.

What results are we getting for the effort?

How well is the funding monitored and accounted for since such a large part of it goes into the academic and corporate research sectors in the form of grants and contracts?

Is an effective peer review of contracts in place, as required by the 1975 renewal of the act, so that funds to private companies for targeted research are subject to the same scrutiny and dispersement for scientific merit as are grants?

Should greater attention be focused on environmental causes and possible prevention of cancer?

What is the role of the private research and fundraising sector in influencing policy and supporting the national cancer program?

And, importantly, has the focus on cancer deprived us of support for valuable research in other areas—which, in fact, might produce serendipitous breakthroughs for cancer research?

A number of these questions and others are addressed in a thoughtful article on the subject by Ruth Rosenbaum, "Cancer, Inc." New Times magazine, November 25, 1977.

As the article points out, cancer incidence in the United States has not declined significantly, and research efforts to determine causes and to prevent environmental exposure to carcinogens remain small.

The same concerns that some of us raised about the program in 1971 still remain and new problems have become evident. When Congress looks at the Federal biomedical research program early next session, careful scrutiny should be given to the "war on cancer" effort, so that it may be improved where possible and the public assured that the effort is meaningful.

I ask unanimous consent that the New Times article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From New Times, Nov. 25, 1977]

CANCER, INC.

(By Ruth Rosenbaum)

It was another war to end all wars . . . "A national crusade," Congress has resolved, "to be accomplished by 1976 in commemoration of the 200th anniversary of our country. . . ."

Richard Nixon launched the "all-out assault on cancer" with the National Cancer Act on December 23, 1971, intending to trigger "the same kind of concentrated effort that split the atom and took man to the moon." With the government division—the National Cancer Institute (NCI)—at the front line, receiving an immediate doubling of funds and a revamped administration directly responsible to the president, Nixon called for participation by private industry and research labs, and for the enlistment of the American Cancer Society (the largest privately funded health agency). We were at a point in cancer research, Nixon said, "when problems begin to break open and results begin to pour in. . . ."

"A bunch of ———!" was Nobel Laureate James Watson's private opinion of the National Cancer Program; more restrained before Congress, he called the meeting that drew up the 3-volume National Cancer Plan "asoporific orgy," producing no "promising leads" as it claimed, but "only delaying actions"—with the main research thrust toward "just much more of what has already shown itself unlikely to cure a major cancer."

Creating a super-administration to dole out millions to a few popular research areas and for frantic construction of facilities, with so little basic knowledge of cancer, was like trying "to put a man on the moon in 1920, before missiles were invented . . . [by giving] contracts to cannon manufacturers, ladder builders, and many, many administrators . . . but [with] no support for missile research," said Dr. Ruth Sager, Chief of the Cancer Genetics Division at an NCI-affiliated cancer center.

Five years and $4 billion later, nothing has changed—neither in research emphasis nor in cancer's grip on American lives. Yet the cancer generals' yearly proclamations of "great strides" are louder than ever.

The National Cancer Institute, with hundreds of millions of taxpayers' dollars, and the American Cancer Society, with millions contributed in good faith by a hopeful public, serve more to bolster the status of cancer's current ruling class through carefully distorted facts—"careful public relations," as Dr. Watson put it—than to optimize the chances for real progress against the disease.

The U.S. still holds the record for cancer incidence—50 percent more than the world average—while the chance for an American to survive a cancer invasion has not increased more than 1 percent since the late forties. And this, despite improvements in early diagnosis and refinements in surgery, chemotherapy and radiation therapy—the only hopes that the American Cancer Society and the National Cancer Institute dangle before the public.

THE DOLLAR PUMP

Since NCI was founded in 1937 (largely through ACS lobbying) as the first of the National Institutes of Health (NIH), its policies and narrowly defined research priorities have reflected the opinions and ambitions of the medical professionals—gynecologists, surgeons, radiologists and pathologists—who dominate the scientific half of the ACS governing board (many of whom serve on NCI committees).

Founded in 1913 by a handful of physicians and laymen dedicated to "educating the public . . . getting them to seek medical advice early," ACS evolved in the 1940s into a coalition of medical professionals and powerful laymen from the top strata of industry, business and the Republican party who tailored public education programs to suit the needs of fund-raising crusades.

It was a small group of ACS members and associates who handcrafted the National Cancer Act, insuring that government funds for the National Cancer Institute would boost their self-serving strategies. With top NCI appointments no longer subject to review by suspension of all commercial air service between that country and the United States; denial of export licenses for certain armaments; and publication of a list of foreign airports and other public facilities which are dangerous and unsafe for use by American travelers. Hearings on this legislation will occur early next year.

SENATE ETHICS CODE

As a member of the Senate Special Committee on Official Conduct, I assisted in the development of and adoption of Senate Resolution 110 to establish a code of official conduct for Members, officers, and employees of the Senate. This measures requires full public financial disclosure by Members and high level officers and employees of the Senate with respect to income, assets, holdings, transactions, and liabilities; gifts from one source with aggregate value of over $100; limitation on outside earnings; certain restrictions on post Senate employment, use of unofficial office accounts, and a series of requirements specifically designed to prevent conflict of interest or appearance of such conflict. As a member of the Governmental Affairs Committee, I also worked on legislation to establish a statutory ethics code for Federal employees in all three branches of our National Government.

While it is a fact that improper practices of a few have reflected badly on the image of Congress as an institution, I believe that the ethical standards of most public officials are as high if not higher than in any other walk of life. Nevertheless, public perceptions are vitally important in a democracy; they are the basis for public confidence or lack of it. I believe that public confidence has been reenforced by the adoption and enforcement of the strong ethics code embodied in Senate Resolution 110.

CONSUMER PROTECTION

Senator RIBICOFF and I continued to push for the enactment of the Consumer Protection Act which we originally introduced in 1969. Having then been joined by Senator PERCY, we have worked in cooperation with President Carter and Esther Petersen, the President's Special Assistant for Consumer Affairs, to overcome substantial opposition from a segment of the business community. In an effort to facilitate passage of the bill we have joined with the Consumer Federation of America, the National Consumers' League, Congress Watch, and other citizen organizations. I anticipate a major effort to pass the bill early this year.

SENATE CONFIRMATION PROCESS

I introduced with Senators RIBICOFF and PERCY legislation designed to standardize the Senate confirmation process, to insure an adequate investigation and review of the background of all Presidential nominees—including FBI findings and financial data—and to establish a Senate Office of Nominations to review background information and to report its findings to the relevant committee having jurisdiction over the nomination. Lack of specific standards relating to affirmative qualifications as well as the scope and nature of the investigation have resulted in a frequently uneven and inadequate confirmation process. This legislation is designed to focus on providing a thorough review of the nominee's financial background as well as his qualifications and views on different policy questions. It is designed to supplement executive branch investigations without requiring a duplicative investigation which could have the effect of driving many people with complex private affairs away from Government service. Hearings are expected on this resolution in February 1978.

SMALL BUSINESS

This past year marked the initiation of significant development in Federal activities respecting the small business community. I am pleased to have the opportunity to continue my efforts in contributing toward this development.

In 1976, the Senate Small Business Committee received authority for legislative jurisdiction over the programs and activities of the Small Business Administration. Previously, the committee served only in an advisory capacity. During 1977 the committee embarked on a systematic legislative program, including a variety of initiatives to improve information concerning small business needs and activities, and to strengthen existing major Federal programs in small business financing, procurement and management assistance, as well as targeted assistance for minority small businesses. I have participated actively in supporting these initiatives.

I have also undertaken a primary role in developing specific areas that I believe warrant particular attention. Some of these include primary authorship of S. 1228, the Equal Opportunity Enterprise Act, a bill to provide a legislative basis and to strengthen existing Federal activities to assist minority small businesses; several major activities to define and strengthen the role of women in small business enterprise; as well as primary cosponsorship of legislation to improve the availability of capital and investment opportunities that contribute to meeting the needs of small businesses located in major urban centers.

I shall continue to pursue an active, developmental role respecting both the committee, and the Federal Government's efforts to assure a favorable economic and commercial climate for the small business sector.

NEW YORK STATE

Many times during the year, New York communities, organizations and businesses come to me for assistance in dealing with the Federal Government.

Woodburn Court

This 147-unit, subsidized rent housing project in Binghamton faced many serious problems in gaining approval from the Department of Housing and Urban Development. After numerous meetings with top level HUD officials and over a year of concentrated effort, the project was approved and groundbreaking held in May.

Potsdam Paper Corp.

When three paper company executives came to me in January and said they wanted to purchase and reopen a closed paper mill in Potsdam (St. Lawrence County) employing about 135 persons, I offered my assistance in obtaining a guaranteed loan from the Economic Development Administration. The $1.4 million loan was obtained, problems with the Federal Power Commission incidental to the sale were resolved, and I was honored to be the main speaker at the September opening of the Potsdam Paper Corp.

Snow Disaster Declaration

When an extraordinary blizzard hit northern and western New York in January, I went to work with the State and local governments in obtaining a major disaster declaration from the President to get necessary Federal assistance into the affected areas.

North Country Housing

Six senior citizens housing projects received funding and rental subsidy approval after I called together project sponsors and Federal officials in a 2-day February meeting in Watertown to thrash out issues blocking approval. The housing will be built in Madrid, Lowville, Canton, Clayton, Star Lake, and Heuvelton.

NEW YORK CITY

The precarious financial situation of New York City and Yonkers continue to be a major concern. Although both cities have made significant gains in achieving sound fiscal health this has not been without tremendous sacrifice on behalf of their residents and of New York State in general.

In New York City, the Citizens Committee for New York City which I caused to be organized—described by the New York Daily News as the largest volunteer effort in history short of wartime—continues to respond to the needs of neighborhoods created by the reduction in essential services. This year the Citizens Committee received a Federal grant from the U.S. Administration on Aging to enable individual block associations to provide supportive services to those elderly residents on their blocks.

One of the causes of New York City's financial condition is the loss of 600,000 jobs over the past 5 years. The economic regeneration of New York City has been and will continue to be my high priority. In that regard, I recently asked members of the business and labor community in New York City to join together as a committee and work with officials on the local, State, and Federal level to stop this hemorrhage of jobs and to assist in the redevelopment of New York's economy.

The city's tightened budget underscores the need for increased Federal assistance. I was successful in convincing the Commerce Department to restore approximately $369,000 to the borough of Manhattan. The funds will be used for programs to assist small minority businesses.

At my urging, the Department of

quire smaller monthly payments in the early years and gradually larger payments in later years. This would have the effect of making homeownership more available to young families whose incomes are likely to increase over the years.

On the floor of the Senate I introduced two amendments to the act—both adopted—to increase the loan limits for two-family dwellings insured by FHA and for section 8 apartment units utilizing GNMA tandem mortgages. These higher limits were necessary to permit utilization of these programs in high cost housing areas such as New York.

I also joined Senator CHAFEE and others in sponsoring an amendment, subsequently adopted to provide greater operating subsidies for housing projects insured and assisted under section 236. The measure will help troubled Mitchell-Lamas, as well as Federal projects, meet the higher utility costs incurred each year.

RURAL DEVELOPMENT

In addition to assistance to rural communities on specific projects, such as those described below, I cosponsored two bills of specific interest to rural New Yorkers. S. 1736, incorporated into the Food and Agriculture Act of 1977, permits farm improvement loans for solar energy equipment. S. 1200 provides more adequate funding for rural water and sewer systems, particularly those of our neediest communities. Although no action was taken on S. 1200 this session, I am hopeful movement will be made next year.

NUTRITION

With Senator DOLE and others I introduced a bill to make major revisions in the Food Stamp Act of 1964. This bill, incorporated with modifications in the Food and Agriculture Act of 1977, improves access to the program and streamlines its administration. The most significant change is the elimination of the purchase requirement so that the neediest families, who were unable to participate in the program because they did not have the money to purchase the stamps, may receive stamps regardless. This change, coupled with the introduction of a standard deduction for shelter, work, and other expenses, should greatly simplify the administration of the program and help eliminate abuses.

ELECTION REFORMS

Once again this session legislation to provide partial public financing of senatorial campaigns and permit direct election of the President failed of passage. Although the public financing bill was debated on the floor of the Senate, the bill did not pass because of the obstinacy of the majority. I supported efforts to make improvements in the bill reported by the committee and shall work to see that the issue is brought to the Senate floor next session. The direct election of the President necessitates a constitutional amendment. This process takes a good deal longer than does legislation.

GOVERNMENT REORGANIZATION AND REFORM

In conjunction with President Carter's major commitment to reorganize and revitalize the executive branch of the Federal Government, and in my capacity as a senior member of the Governmental Affairs Committee, I sponsored major legislation to reauthorize and expand the basic authority of the President to accomplish this goal pursuant to the Executive Reorganization Act. Specifically designed to promote more precise assessment of areas where Federal agencies serve duplicative, uncoordinate, and sometimes contradictory purposes, the act is designed to improve delivery of services to the American taxpayer at more reasonable cost.

In addition, I have helped to enact the first two in a series of Presidential reorganization plans dealing first with the budget and staff reduction of the Executive Office of the President and the White House staff, and, second, with the reorganization of the U.S. Information Agency, the Voice of America, and other cultural and educational functions of the Department of State.

Pursuant to Senate Resolution 71, passed by the Senate in 1975, I joined in the most comprehensive study of Federal regulation ever undertaken by the Congress. This study was published last year in five volumes dealing with the regulatory appointments process, congressional oversight of regulatory agencies, public participation in regulatory proceedings, delay in the regulatory process, and organization of regulatory agencies. At a time of particularly high inflation and unemployment, there has been concern that some regulatory programs were fueling inflation.

Also, there was a growing concern over the size and complexity of the Government over the paperwork burden imposed by regulatory agencies, and over the waste and ineffectiveness of certain regulatory programs. The study looked across the spectrum of the Federal regulatory system and considered seriously the potential for airline and trucking deregulation; the greater use of economic incentives to clear up the environment; reorganization of food, banking, and transportation regulation and the specific cost and benefits of regulatory programs which directly affect the marketplace. I intend to join with other members of the Governmental Affairs Committee next year in introducing several pieces of legislation designed to implement the major recommendations of this extensive study.

In addition to these major proposals designed to reshape the Federal bureaucracy to make it more efficient and workable, I have also participated in the consideration of legislation to create a Cabinet-level Department of Education, and to reorganize the equal employment opportunity functions of the Federal Government specifically by strengthening the EEOC and the Department of Labor with regard to this important function.

CRIME AND CRIMINAL JUSTICE

STANDARD SENTENCING

One problem which plagues the administration of our judicial system is the great disparity of sentences imposed for offenses of a similar nature. This has contributed to a rising lack of confidence in the general effectiveness of our criminal justice system. Respect for the law itself has also been seriously compromised. To deal with this problem, Senator GARY HART and I introduced the Federal Sentencing Standards Act of 1977. The principal purpose of this bill that will be considered by the Senate early in 1978 is to narrow the discretion which may be exercised by sentencing judges by employing a "presumptive sentence" which would be fixed for each gradation of criminal behavior. All individuals convicted of crimes of that degree of seriousness would receive the presumptive sentence, unless there were specific, carefully defined circumstances of aggravation or mitigation. Indeterminancy of sentencing would be phased out. Hearings were held on the bill in the Senate Judiciary Committee which has endorsed these principles in its proposed legislation to reform the Federal Criminal Code.

MARIHUANA REFORM

My legislation to decriminalize the personal, private possession and use of one ounce or less of marihuana, originally introduced by the Congressman (now Mayor-Elect) KOCH and me in 1972, gained significant support during the last year. President Carter's specific endorsement of our bill and the continuing progress during the past year toward decriminalization in several States, including New York, have made passage of our Federal bill more likely next year. The bill would substitute a civil fine of up to $100 for the current criminal penalty. Commercial sale of the drug for profit would remain a Federal criminal offense.

GUN CONTROL

In the important area of gun control, I again sponsored two measures—the Intergovernmental Handgun Control Act, and the Intergovernmental Law Enforcement Cooperation and Reorganization Act. Major opposition from the National Rifle Association and others have prevented significant action on this legislation. One of these bills would transfer Federal responsibility for firearms from the Treasury Department to the Justice Department. The other would prohibit the possession, sale, importation, or delivery of handguns in certain standard metropolitan areas. Persons exempt from these restrictions would include law enforcement officials, licensed security guards, and military agencies. The measures were referred to the Judiciary Committee and to the Government Operations Committee. I expect to return to this measure in the new year.

ANTITERRORISM

With Senator ABRAHAM RIBICOFF, I introduced legislation that would use diplomatic initiatives and strong sanctions to encourage all nations to work together to combat international terrorism including airline hijackings. The bill would direct the United States Government to identify and impose sanctions on countries that aid or abet individuals or groups which commit international acts of terrorism. Nations so identified could be subject to sanctions including duced during the last Congress which also passed the Senate, but was not acted upon by the House of Representatives due to the crush of legislation before the Presidential election. I believe that the current measure will be approved by the House shortly after Congress reconvenes in January and that this long overdue and much needed legislation will soon become law. The bill requires the licensing of all clinical laboratories performing medical testing; the establishment of national standards to improve the performance and personnel of these facilities; and prohibition of fraud and abuse in laboratory business practices.

I also introduced a measure which I believe will bring us closer to attaining a comprehensive national health program, a commitment I have strongly advocated during my tenure in the U.S. Senate. My bill, the national health insurance for mothers and children bill, would establish a comprehensive system of national health insurance for mothers and children as well as begin a long overdue shift of emphasis to preventive medicine, health promotion, and health maintenance rather than relying on traditional episodic illness treatment.

I was a cosponsor of the Health Services Extension Act which has become public law. This bill extended assistance to many Federal programs including the National Cancer Institute, community health centers, national health planning and development, health resources development, sudden infant death syndrome, hemophilia sufferers, and community mental health centers.

In response to wide public opposition to the proposed ban on saccharin by the Food and Drug Administration, I cosponsored a bill which would impose an 18-month delay of the ban in order to allow further study and investigation, not only on the part of the scientific community and the government, but on the part of the public as well. The Senate-passed bill contained labeling requirements which would alert the consumer to the potential hazards of saccharin or products containing the substance. I believe that this measure is an equitable one which preserves the use of saccharin for those who use it for medical and dietary purposes, while at the same time makes the public aware of the potential dangers of its use so that they can make an "informed choice." This measure has been signed into law.

In addition, the Human Resources Committee reported legislation which would establish a safety program for recombinant DNA experiementation (the material which makes up genes) in order to insure the public's protection in those parts of the country where such experimentation takes place. However since reporting the bill, new studies have been presented by the scientific community suggesting the need to reevaluate the approach of our bill, and we are now in the process of that reevaluation.

I introduced the most comprehensive and far-reaching legislation in this Congress to reform the Food and Drug Administration and to provide a new process by which the Agency can better assure the public about safe and effective medicines.

The bill—the Comprehensive Drug Amendments of 1977—is a major consumer protection bill. S. 2040 would not only guarantee better decisions for the public health, but would for the first time make sure these decisions would not be made in a closed and secret fashion. The public would finally participate in these important decisions and understand why these decisions have been made. Today this is a closed and secret process and the public never knows why certain drugs are allowed on the market and others remain unavailable.

The public's confidence in the FDA and its decisions has been impaired. This bill would provide for a new and open process which would provide the public with opportunities to become part of this crucial deliberative process and thereby reestablish an understanding and confidence in its decisions.

Finally, I joined my colleagues on the committee in cosponsoring the Hospital Cost Containment Act, which establishes a transnational system of hospital cost containment and a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services. I firmly believe that we must begin to take steps toward more permanent reforms in the way we finance and deliver health care. In this regard, Senator Edward Kennedy, chairman of the Subcommittee on Health and Scientific Research, and I, along with the National Journal, cosponsored the National Leadership Conference on Controlling Health Care Costs held in Washington on June 27–28.

The conference addressed the health costs issue through six critical areas of health manpower, planning, reimbursement, quality, delivery system, and technology. I am committed to seeking solutions to curb the continued upward spiral of health costs in the United States which jeopardizes quality health care by delaying the implementation of a national health insurance program and threatens other social priorities such as welfare, education, employment, and housing.

HANDICAPPED

This last session has seen landmark advances for handicapped citizens. Regulations implementing section 504 of the Rehabilitation Act, which I am pleased to have coauthored, will prohibit discrimination against handicapped individuals in all Federal programs. Enforcement of section 504, the beginning of equal public education services for handicapped children mandated by Public Law 94-142, the Education for All Handicapped Children Act which I cosponsored, and the implementation in all 50 States of the protection and advocacy systems for the developmentally disabled—mandated by the Bill of Rights provisions of Public Law 94-103 which I authored, all make 1977 as a year of historic improvement in the realization of the guaranteed rights, education, and opportunities to which handicapped citizens are entitled.

I introduced S. 2042, a bill to assure that New Yorkers begin to receive their fair share of Federal funds under the $760 million vocational rehabilitation program. The current funding formula unfairly discriminates against our handicapped citizens.

I was active in the passage of the extension of the Education of the Handicapped Act (Public Law 95-49) which includes my amendment to better assure continued services to children with severe learning disabilities.

I will shortly introduce legislation to correct a ridiculous and unconscionable situation in our current law which presently requires that a handicapped person, employed and earning more than $200 a month, is deemed ineligible for any home health assistance, because employment precludes that person being considered "disabled" for purposes of assistance. To present the disabled worker with a choice of either working and losing all assistance or not working at all, in order to retain eligibility for needed, life-sustaining services, is, in effect, no choice at all. My bill will permit handicapped individuals to utilize only those public services needed, rather than forcing them onto welfare rolls at much greater taxpayer expenses, and at devastating cost to their own self-fulfillment.

CHILD AND HUMAN DEVELOPMENT

The Congress recentlv passed the provisions of S. 961, which I cosponsored, to improve adoption procedures among States, to assist adoption of special and handicapped children, and to extend and improve the child abuse prevention program. This measure has been signed into law by the President.

VETERANS

Far too few New York veterans use their GI bill opportunities, largely because today's GI bill, unlike the World War II law, does not take into account State differences in educational costs. I introduced S. 1899, a bill to provide tuition assistance to GI's who are attending high cost educational institutions. The Senate recently accepted the principle embodied in my bill—that our veterans deserve equal opportunity to use their once-in-a-lifetime chance to attain adequate education and training, regardless of State of residence—by enacting a similar tuition assistance provision as part of the GI bill amendments. Unfortunately, the House added a requirement that States share the cost of tuition assistance. I am committed to the removal of this unfair burden on GI bill opportunity for New York veterans.

HOUSING

I strongly supported the Housing and Community Development Act of 1977, which is now law. Among the significant changes to our urban policy made by this act was the addition of a $400 million program of Urban Development Action Grants targeted at our neediest major cities and a redefinition of eligibility for Community Development Block Grants.

The new criteria for participation will help correct the imbalance that has existed favoring newer cities over older ones such as we have in New York State. Also incorporated in the act were certain provisions of S. 664, which I had joined Senator Brooke in cosponsoring, permitting the Federal Housing Administration to insure mortgages that re-

Labor. This new law supersedes the previous Coal Mine Safety and Health Act and the Federal Metal and Non-Metallic Mine Safety Act with a strong and comprehensive regulatory approach to protect workers in one of the most hazardous occupations in our Nation's workforce.

Black Lung Benefits

The Black Lung Benefits Reform Act of 1977, which I cosponsored, has passed both the Senate and the House in differing forms and I am confident that it will be finally enacted early next year. The black lung benefits program, first enacted in 1969, provides benefits to coal miners and their survivors who have contracted disabling black lung disease as a result of exposure to excessive levels of coal dust. The bill will provide benefits to many persons who had been unfairly denied them in the past and also shifts financial responsibility from the U.S. Treasury to the coal mine operators through an industry trust fund financed through a tax on coal production. This trust fund was created through an amendment which I sponsored in the Human Resources Committee.

Mandatory Retirement

I have had a special interest in age discrimination legislation for many years. I introduced my first such bill back in 1951 when I was a Member of the House of Representatives. My efforts reached fruition in 1967 when the Age Discrimination in Employment Act was passed.

To expand further the protections of the act, I introduced legislation this year to phase out gradually over a 7-year period the act's upper age limit of protection which is presently age 65. My bill would also make clear that pension plans cannot contain forced early retirement provisions.

The Senate Human Resources Committee held hearings on my bill and finally approved a measure raising the upper age limit to 70 years of age effective January 1, 1979. For collectively-bargained pension plans which have 65 as the mandatory retirement age, the effective date for making changes will be no later than January 1, 1980. Though still committed to phasing out the age gap altogether, I support raising the age limit to 70 as an important interim measure. The House has passed a similar bill and I am confident that a bill will finally be enacted early in the next session of Congress.

Preparing for Employment Education

The education provisions of the Youth Employment and Demonstration Projects Act of 1977 provide Federal assistance to build essential linkages between the worlds of school and work for our young people. My amendment insures that in-school youth will participate in job programs to help them make the transition from school to the labor force. Another provision I authored funds cooperative efforts among national, State, and local officials to gather and distribute career and occupational information. This eliminates wasteful duplication and will give our young job seekers the information they will need to plan for and find a job.

The relationship between education and work will also be strengthened by career education legislation, which I cosponsored in the Senate. This measure will serve to implement a concept of career education which will give our schoolchildren a more realistic view of all the career options open to them.

I also worked closely with the Department of Health, Education, and Welfare to insure that needy students in certified trade schools could continue to pursue vocational training with Federal support.

Gifted and Talented

I am particularly gratified by legislation which I introduced authorizing the President to proclaim "National Gifted and Talented Children Week." Our society has a very real obligation to develop fully the potential of these children. Their special needs and abilities require recognition and careful development. I am also reviewing the present Federal program for gifted and talented children, which I authored in 1974. Consideration next year in the Congress will focus on how to strengthen efforts already begun.

Energy

Institutional, as well as individual, conservation is crucial to our ultimate self-sufficiency in energy. Thus, I joined with other Senators in sponsoring the Emergency Educational Assistance Act, which will assist educational and other institutions in the improvement of physical facilities to conserve precious energy resources. The prospects for enactment are excellent. It will particularly aid institutions in the Northeast which suffered greatly from the severe winter of 1977.

Impact Aid to Education Districts

During this session of Congress, I strongly opposed proposed cuts in impact aid to federally affected areas, and these cuts were rejected by Congress. Impact aid payments to students in federally supported public housing and other facilities have been continued.

Indo-Chinese Refugees

Refugees entering this country from Southeast Asia have special education requirements. To meet these needs, I supported legislation which would provide Federal educational assistance to Indo-Chinese refugees. I worked to insure inclusion of adult refugees in education programs, which will enable them to participate fully in the life of their new homeland.

Truman Scholarships

I am honored to serve as vice president of the Board of Trustees of the Harry S Truman Scholarship Foundation. This year the foundation successfully established new scholarship awards to young people pursuing careers of public service. This is the official Federal Government memorial to this great President. In 1977, the first scholarships were established and awarded to an outstanding group of young persons. College students entering their third year are eligible. Interested parties should contact officials at their own colleges who make all nominations.

Next Year

The extension of all major Federal programs for elementary and secondary education is currently being examined by Congress. I am particularly concerned that the needs of students in urban areas be fully met. Review and improvement of these programs will be a major educational activity of the Congress next year. I shall continue to fight to see that New York State gets its fair share.

ARTS AND CULTURAL ACTIVITIES

As the original author of the law for Federal aid to the arts, I have long been a strong supporter of greater Federal aid for cultural activities in our Nation. The situation has improved markedly, but we still have a long way to go in the Federal Government.

Libraries

I take particular pride in an amendment which I introduced to the Library Services and Construction Act to include special emphasis on public libraries in the Nation's urban centers. Congress adopted this amendment, which would provide funds to urban libraries to continue and improve essential services. My amendment aids not only the major resource libraries, but an entire network of interdependent institutions, the core of which is the urban library.

Artist Contributions Tax

I have introduced and am working for legislation to amend the Internal Revenue Code to provide equal treatment to artists who contribute their own works to nonprofit organizations. Such gifts increase the opportunity for the public to enjoy great works of art. Current tax law is an obstacle to artistic contributions to museums, libraries, and universities, because the artists cannot deduct the true value of his work when he gives it to the public. I will make every effort to insure that the anomalies in the Tax Code are rectified so that our country's cultural life will continue to improve.

White House Conference on the Arts

I recently cosponsored a resolution authorizing the President to convene a White House Conference on the Arts. A national meeting will build on the work of a State conference in each State to examine State and local needs. This activity will enable the growing number of individuals and organizations concerned with the arts to meet and discuss pressing financial and policy issues. With a coherent national arts policy, we can enrich the quality of life of all Americans.

HEALTH

In the Health Subcommittee of the Senate Human Resources Committee, on which I serve, and also as ranking minority member of the full committee, I have dealt with many important public health issues this year, including clinical laboratories regulations and improvement, the ban on saccharin, hospital cost containment, preventive medicine, pricing of medicines, biomedical research, the health of children, and CIA drug experimentation on humans.

During the first session, I reintroduced the Clinical Laboratory Improvement Act of 1977 which has passed the Senate. S. 705 is essentially the same bill I introing Act—CETA—to bring the cumulative total to 1 million special, 1 year public service jobs. Although I was not entirely satisfied with the appropriation of funds—enough for a cumulative total of 725,000 jobs—I supported the decision of the administration and Secretary of Labor Marshall that local governments might not be able to absorb more than 725,000 jobs. I have been gratified to learn in recent weeks that the administration is considering expanding still further the number of jobs provided for under CETA.

Second, my analysis of the unemployment situation convinced me that with half of the U.S. unemployed being between the ages of 16 and 24, youth unemployment required enactment of special measures. In January, Senator HUMPHREY and I authored and introduced the Comphrehensive Youth Employment Act of 1977, provisions of which were later incorporated in the President's own bill, submited in April 1977. The Youth Employment and Demonstration Projects Act of 1977, which I cosponsored and managed on the Senate floor as ranking minority member of the Senate Subcommittee on Employment, Poverty and Migratory Labor, was signed into law as Public Law 95–93 on August 5. I take great satisfaction in the enactment of this major bill, to deal decisively with the tremendous unemployment problem borne by our Nation's young people. I am particularly pleased that Congress agreed to the amendment I offered to facilitate the transition of young people from school to work, by encouraging local governments and education agencies to operate jointly various career education and work experience programs for in-school youth. Over $130 million is authorized for these programs in fiscal year 1978.

Similarly, Public Law 95–93 contains provisions which I authored to expand our systems of ocupational and career information collection and delivery.

Minimum Wage

Along with Senator HARRISON A. WILLIAMS, I introduced minimum wage legislation this year to provide overdue wage protection for millions of American workers who are at the bottom of the age scale and who are least able to protect themselves against the effects of our highly inflationary times. This legislation has now been enacted, providing an increase in the minimum wage to $2.65 an hour in 1978, $2.90 in 1979, $3.10 in 1980 and $3.35 in 1981.

The bill also includes an expanded exemption for small retail and service businesses from the minimum wage increases. Such establishments will be exempt if their gross sales volume is under $275,000 beginning July 1, 1978, $325.000 beginning in July of 1980, and $362.500 beginning December 31, 1981.

In my judgment, this bill provides the minimum required for the poorest members of the work force, and at the same time is compatible with the need to increase employment opportunities and to mininize inflationary economic pressures.

Pension Reform

As a principal coauthor of the private pension reform law (ERISA), I have closely been monitoring the law's implementation. In major policy addresses in August and September, I called for improvements in the law.

I favor full vesting of benefits after 5 years of service and required cost-of-living increases for retirees. I support the expansion of the joint and survivor annuity protection so that the vested benefits of participants who die early will be paid to their surviving spouses. I also favor permitting employees who are covered by poorer pension plans to contribute tax deductible amounts to individual retirement accounts in an amount equal to the difference between $1,500 and the employer's annual contribution to the plan.

In October, the Senate Committee on Human Resources, of which I am the ranking minority member, held oversight hearings on ERISA. We covered such topics as improved administration of the law, better protection under the termination insurance provisions, reduction of paperwork requirements, and improved treatment of multiemployer plans. We also discussed my bill S. 2019, which would delay for 1 year mandatory coverage of multiemployer plans by plan termination insurance. The purpose of this bill is to avoid the potential dumping of hundreds of millions of dollars in unfunded liabilities on the Federal insurance company (PBGC) until a long-term solution to multiemployer problems can be devised. A bill providing for a 1-year deferral has just passed the Congress and has been sent to the President for his signature.

Aging

The 95th Congress began with an effort to recognize the committee structure of the Senate, including abolishing the Senate Special Committee on Aging. I am pleased to report that I joined with other Senators to save the Special Committee on Aging.

Labor and Reform

This year the Labor Subcommittee held extensive hearings on the Labor Reform Act of 1977 (S. 1883) which I introduced after President Carter endorsed the goals of increased administrative efficiency and strengthened remedial powers for the National Labor Relations Board. I expect the Human Resources Committee to approve this bill early next year, as it incorporates practical improvements in the administration of the existing labor laws which are designed to reduce the instances of persistent refusals to comply with the law by some employers and unions. Since the bill is not intended to change the substantive rights of either labor or management, it will not affect the balance of power at the bargaining table. Most of the bill's provisions are primarily addressed to protecting the rights of employees during the critical period before a collective bargaining relationship is first established. I will work on the bill in committee to insure that in the next session that it achieves its stated purposes.

Sex Discrimination

I introduced legislation (S. 955) to prohibit employment discrimination against women on the basis of pregnancy. This bill is designed to overrule the Supreme Court's decision in General Electric against Gilbert (1976), which held that discrimination against pregnancy was not sex discrimination under title VII of the Civil Rights Act of 1964. Discrimination against pregnancy and childbirth is not only bad family policy, I believe it is obviously harmful to the full opportunity of women to participate on an equal basis with men on the job. The bill does not go so far as to mandate benefits for pregnant employees, but simply requires employers to treat pregnancy-related conditions on the same basis as they treat any other nonwork related disabling condition with regard to benefits and leave policies.

Productivity and Quality of Working Life

Early in 1977, I introduced in the Senate a bill to provide a greater opportunity for U.S. workers to participate in the decisionmaking process in their own firms. S. 533, the Human Resources Deelopment Act, which was introduced in the House of Representatives by Representative LUNDINE of Jamestown, N.Y., would authorize the Secretary of Labor to fund demonstration projects involving enhanced labor-management cooperation, especially through joint cooperative committees. I believe these joint decisionmaking and problem-solving committees can result in improved productivity and job-security, by releasing the creative potential of workers, by improving morale and by enriching workers' job experience. Hearings were held in the Employment and Poverty Subcommittee in September, and it now appears that a bill will be reported by the full Human Resources Committee in the next session.

Antipoverty Legislation

In 1977 I cosponsored two major bills to extend authorization of existing antipoverty programs.

The Legal Services Corporation Act Amendments of 1977 would extend for 5 additional years the authorization of this vital program to make a reality the words etched in stone on the facade of the U.S. Supreme Court Building in Washington, D.C.: "Equal Justice Under Law." During committee consideration, I moved the amendment to permit legal services lawyers to act in desegregation cases on behalf of indigent clients. I believe we must afford an opportunity to our poor to redress their grievances by working within our system instead of from without. This bill was passed by Congress on December 15, will become law soon and while amended it will do the job.

I also cosponsored the Economic Opportunity Act Amendments of 1977, to extend for 3 more years our community-based antipoverty programs. Our bill, which will be acted upon early next year, makes a number of much needed improvements in existing legislation, such as providing for an 80/20 Federal share-local share funding arrangement, in contrast to the 60/40 approach contained in present law.

Mine Safety and Health

The Federal Mine Safety and Health Amendments of 1977, which I cosponsored, was enacted this year to bring all safety and health mine enforcement activities within one legislative framework to be administered by the Department of amendment—the due process amendment—giving all parties a hearing before the Department can impose fines or penalties upon them in regulatory proceedings.

In the area of energy policy, I am a principal cosponsor of the Nuclear Non-Proliferation Act, S. 897, which would set new standards for licensing of reactor and nuclear fuel exports, insuring that recipient countries could not divert any such material for atomic weapons purposes. The bill has not yet been enacted, but is pending on the Senate's calendar.

Additionally, I sponsored a concurrent resolution directing the President and the Federal Power Commission to study the causes of the July 13 Consolidated Edison blackout in New York City, and to recommend actions to prevent such occurrences in the future.

CONSERVATION

I continued to cosponsor the effort to provide tax credit assistance to homeowners who insulate their residences (now law). I authored amendments to the Energy Conservation Act, S. 2057, requiring a study of ways to expand the the utility audit conservation program to apartment houses and cooperatives; to the Coal Conversion Act, S. 977, providing loans and loan guarantees to companies that are in difficulty financing conversion from oil and gas to coal power boilers; and I cosponsored an amendment to the Utility Rate Reform Act, S. 2114, which allows local gas companies, such as Brooklyn Union, to keep my gas for their own customers that is saved by conservation programs. I opposed efforts to deregulate the price of natural gas.

Nonlegislatively, I helped found and now honorarily cochair, the New York Alliance to Save Energy, a nonprofit voluntary citizens group dedicated to encouraging energy conservation in the State.

RESEARCH AND DEVELOPMENT AREA

I authored an amendment to the ERDA authorization bill which funds a study to develop a plan for the decommissioning of the West Valley Nuclear Storage site; and I was instrumental in obtaining funding for the new Brookhaven National Laboratory high energy particle accelerator, Isabelle, on that same bill.

I cosponsored the Oil Spill Liability and Compensation Act, S. 121, to provide protection from spills such as the *Argo Merchant* last year; the Solar Energy in Government Buildings Act, S. 672, which would require solar installations in enough buildings to begin bringing the cost down; and the Regional Energy Development Act, S. 2161, which would allow the Northeast States to form an energy conservation and development authority with the benefit of Federal loan guarantees. Hearings are now scheduled on this bill in the Governmental Affairs Committee.

ENVIRONMENT

The Congress passed two major environmental laws this year, the Clean Air Act amendments and the Federal Water Pollution Act amendments. I supported both and voted to limit the delay in auto emission standards to only 1 year. I also sponsored an amendment to the clean air bill which allows New York City to substitute alternative solutions to the East River bridge toll requirements contained in its original transportation control plan.

I introduced S. 747, the Aircraft Noise Retrofit Act, which continues my effort to require all airplanes in the fleet to meet existing noise standards by 1983. The bill would place 2 cents from the current airplane ticket tax directly into a fund usable only for making airplanes quieter. I also cosponsored the Beverage Container Recycling Act, S. 276, which would ban throwaway cans and bottles within 3 years.

SOCIAL SECURITY

It is absolutely essential that we restore fiscal soundness to the social security system. I believe that a gradual increase in the amounts employers and employees pay is the best way of dealing with the short-term funding problems of social security. Further study is necessary, however, before we take such long-term steps as using general tax revenues to fund social security when unemployment is high.

Current law restricts the financial freedom of our older citizens. I have called for the gradual increase in the earnings limitation so that many of our older citizens may engage in beneficial employment. Those who need extra money should be permitted to work. I am opposed to raising the age for the payment of retirement benefits from 65 to 68 years of age. Such an increase would reduce freedom of choice by forcing many employees who want to retire to continue working in order to support themselves.

The bill just passed incorporates many of these principles.

WELFARE

A pressing problem for New York as well as for the Nation is the need for comprehensive welfare reform providing a more equitable distribution of the welfare burden. I introduced S. 1977 to provide for a uniform 75 percent Federal reimbursement rate for welfare expenses as a necessary interim step to provide fiscal relief to our cities and States. This would replace the present system of reimbursement ranging from the 50 percent received by New York to 78 percent. I joined Senators MOYNIHAN and WILLIAMS in introducing S. 2084, the President's welfare reform measure, to demonstrate my firm commitment to comprehensive reform of our income maintenance system.

UNEMPLOYMENT COMPENSATION AND REFORM

I have long been deeply concerned about the viability of the Federal-State unemployment insurance (UI) system. The economic recession of the past 3 years has jeopardized the financial stability of the UI system and left it unable to provide sufficient benefits during prolonged periods of high unemployment.

In July 1977 I introduced legislation (S. 1853), along with Senator HARRISON A. WILLIAMS, JR. of New Jersey, to strengthen the UI system and enable it to meet future economic emergencies. This proposal, the Unemployment Compensation Reform Act of 1977, would redistribute the economic burden of the UI system by the establishment of a cost equalization reinsurance grant program, financed through general revenues, which would allocate grants to States when the insured unemployment rate reaches 6 percent or more. These grants are provided to pay a portion of the States' extraordinary UI costs during periods of high unemployment.

S. 1853 would also establish a two-stage, standby program of extended benefits to be activated on the basis of excessive national or State unemployment levels. This standby program will eliminate the necessity for ad hoc congressional action in creating emergency unemployment assistance programs when the Nation is plagued by high unemployment. Since the beginning of 1975, millions of workers would have exhausted their regular State benefits without being able to find new jobs. It was only through action by the Congress in creating the Federal supplemental benefits program that they were able to provide for themselves and their families. The Unemployment Compensation Reform Act would eliminate the need for such emergency congressional action in the future.

This act addresses the current problem faced by those States, such as New York, that have experienced high rates of unemployment for prolonged periods of time. The bill would provide that States now in the deepest debt would be given additional time to repay their loans for unemployment compensation to the Federal Treasury, and it would lessen the effect of the present penalty tax imposed upon employers in States with outstanding loans by providing that the penalty tax would be no more than 0.3 percent in any year.

The Unemployment Compensation Reform Act is designed to bring the Federal Government into responsible partnership with the States in meeting the needs of American workers who are unemployed through no fault of their own, a goal I have been striving to achieve for many years.

EMPLOYMENT POLICY

LABOR AND JOBS

As 1977 began, our economy continued to suffer from the persistent and severe unemployment of nearly 7 million people. My own analysis of the problem led me to conclude that cyclical unemployment and youth unemployment—representing by far the major part of the problem—demanded the immediate attention of the 95th Congress. First, the abnormally slow pace of economic recovery in 1976 from the deep recession had failed significantly to reduce the number of unemployed in comparison to prerecession levels. In many areas of our country the recession had never ended, for all practical purposes.

Accordingly, I asked Senators MUSKIE and BELLMON, the chairman and ranking minority members, respectively, of the Committee on the Budget, to consider making provision in the fiscal year 1977 budget for the creation of an additional 690,000 public service jobs under the Comprehensive Employment and Train-

New York State Residents in Bolivian and Mexican Prisons

I have been very concerned about the treatment of Americans in Bolivian prisons. Many New York residents have been held there without sentencing for over a year. I have authorized a GAO investigation into this problem as well as into the behavior of the Drug Enforcement Administration. Their report to Congress is due in February 1978.

The new treaty with Mexico for U.S. prisoners to be repatriated is now in effect.

INTERNATIONAL ECONOMICS

State of the World Economy

Serious challenges are facing the international economy in the form of rising protectionist sentiment, continued large financial surpluses in the oil-exporting countries, large deficits with attendant mounting international debt in the oil-importing countries and high levels of inflation and unemployment. These challenges seriously cut into the ability of many countries to undertake sustainable real growth policies. In addressing this issue, I have sought to spur the responsible officials in Government, business and labor to develop the necessary economic, political, and diplomatic solutions to these problems.

To meet these challenges, I have recommended that the oil-rich countries be induced to provide greater funds for development of poor countries to international financial institutions; new international trading rules be developed to protect the legitimate concerns of the United States and of both the exporting and importing countries; and that our assistance, retraining and relocation programs for workers who are laid off due to imports be reexamined to insure that they are effective and responsive to the needs of the workers.

Problems Facing the Steel Industry

I urge the President to maintain until June 1979, the quotas on specialty steel imports in order to permit the domestic specialty steel industry to complete its already underway major restructuring program.

I then urged the President to take all necessary action under U.S. law to insure that the U.S. steel industry is protected against unfair and illegal trading practices.

And I also urged the President to instruct his Special Trade Representative to develop in the Multilateral Trade Negotiations long-term international solutions to the problems facing the international steel trade.

Overseas Trips

In June, I served with Secretary of State Vance as a member of the U.S. delegation to the Conference on International Economic Cooperation (CIEC) to discuss the elements of mutually acceptable solutions to the problems of the developing countries (North-South dialog).

MAJOR LEGISLATION

S. 1771, authorize extension of the Overseas Private Investment Corporation for (3 or 4) years.

S. 2152, authorize U.S. contribution of $1.7 billion to the Supplementary Financing Facility (Witteveen Facility) of the International Monetary Fund to provide greater official balance of payments financing to countries facing serious international payments and debt problems.

Public Law 95–52, extend the authority of the Export Administration Act to control U.S. exports; this legislation includes a prohibition against the participation by U.S. citizens in certain discriminatory and trade restrictive practices resulting from the Arab boycott of Israel.

Public Law 95–118, provide increased participation by the United States in the World Bank and other international financial institutions. I was instrumental in developing language on human rights provision of the bill.

Public Law 95–88, authorize appropriations totaling $1.65 billion for fiscal year 1978 for bilateral assistance, international disaster assistance programs, and voluntary U.S. contributions to international organizations. I sponsored amendments authorizing $1 million study on southern Africa; an assessment of health programs under AID and the earmarking of up to $60 million in aid to India.

S. Res. 271, request the President to create a Commission on Domestic and International Hunger and Malnutrition (cosponsor).

ECONOMIC POLICY

As chairman of the Senate Republican Policy Committee's Economic and Social Issues Subcommittee, I was responsible for the formulation of a broad and multifaceted economic policy program: "Permanent Jobs and Investment for America." Our program was incorporated into 10 separate legislative initiatives, including proposals for permanent income tax rate reduction; expanded youth employment and training program, tax incentives to homeowners to upgrade their energy-saving insulation materials; a targeted employment tax credit to firms for hiring the long-term unemployed; a reduction and simplification of income taxes on the first $100,000 of corporate (small business) profits; an increase in the tax exclusion on dividends and interest; and accelerated depreciation of plant and equipment placed into service in high unemployment areas.

Each of these proposals has been considered by the appropriate legislative committee of the Senate, and some, including the youth employment bill, the insulation tax credit, and the employment tax credit, have been enacted in whole or in part.

I regret, however, that the administration opposed and the Senate did not agree to the tax bill amendment offered by Senator Danforth and me in April 1977. Our amendment would have struck the $50 tax rebate scheme proposed by the new administration, and substituted a permament tax cut of between 4 and 14 percent in income tax rates in the taxable income brackets below $20,000. In my judgment, the administration's $50 rebate was like a pep-pill, giving only a one-shot quickie stimulus to spending. The permanent tax cut would have given consumers and businesses confidence that their incomes would be higher over the long term as well as in the short run. I believed these lasting qualities to be essential to achieve and sustain permanent jobs and durable economic prosperity for our country. It is my hope the permanent tax cut which the administration is now believed to be considering will be enacted in time to assure continued and stable economic growth.

In the next session of the 95th Congress I intend to continue my role in developing and putting forth an enlightened economic program to deal with the severe structural economic problems which continue to beset our country.

Economic Activity

One of the provisions under title VI of the Comprehensive Employment Training Act, Public Law 94–444, set up a National Commission on Employment and Unemployment Statistics to study and analyze the methodology and validity of employment statistics. Because I am ranking member of the Joint Economic Committee and the Human Resources Committee, I am serving as an adviser to the Commission. Their findings will aid us in determining better foundations for the assignment of Federal grants, revenue-sharing and local and regional assistance.

I took an active part in formulating the minority views in both the annual and mid-year economic reports to the Joint Economic Committee. In the mid-year report, I pointed out the need for increased productivity, a long-standing interest of mine, which has become increasingly important in today's economic world of increasing wage costs and high inflation. In addition, I reemphasized the need for extensive conservation measures to be considered in any energy legislation.

Women's and Consumer's Rights

With respect to women workers in our economy, I set up hearings on this issue for the Joint Economic Committee. In addition, I sent a request to the chairmen of all House and Senate committees to consider the economic impact on women of new legislation. This procedure is already followed in the Human Resources Committee and has proved successful in avoiding errors, the inequitable treatment of women. I also took an active role in a conference on minority and female contractors in Federal procurement. This conference examined the actual progress of the participation of female and minority contractors in getting Federal contracts. I expect much useful information and several legislative proposals to emanate from this work. I advocated passing laws to assure allocation of procurement dollars to minorities and women.

ENERGY

Energy was one of the most active legislative areas in the first session. I was a cosponsor, developer, and conferee on the act creating the Department of Energy, S. 826. I authored title VII of that act, energy planning, which requires the President to periodically submit a comprehensive energy supply and demand forecast, for 5 and 10 year periods, together with proposals for meeting our future energy needs. I also sponsored an man of the board of S.C. Crop Improvement Association and Foundation Seed Association.

He served for several years in the state House of Representatives as the representative from Greenwood County. He was Master Farmer in the first South Carolina group in 1928 and twice served on the Clemson Board of Visitors. He was on the Governor's Advisory Committee for Agriculture and served on the building committee for Greenwood County Courthouse. He served as chairman of the Extension County Agricultural Committee. He was an honorary member of the Block & Bridle Club and Agronomy Club of Clemson University. He was elected to the national honor society of Agriculture, Gama Sigma Delta in 1975 His wife, Mrs. Ethel English Wells Henderson, died in 1967.

He is survived by two daughters, Mrs. Thomas C. (Janie Neel) Hambrick of Nashville, Tenn. and Mrs. Hubert H. (Laura Pratt) Sprouse of Union; two sons, W. N. (Nat) Henderson Jr. of the home and Fred P. Henderson of Ninety Six; two sisters, Miss Louise Henderson and Mrs. W. A. (May) Barnette, both of Greenwood; eight grandchildren; nine great-grandchildren.

Funeral services will be Saturday at 3 p.m. at the Blyth Funeral Home Chapel at 1425 Montague Ave. with the Rev. Donald Morris and the Rev. Morgan Kizer officiating. Burial will be in Elmwood Cemetery.

Pallbearers will be Fred B. Henderson Jr., William G. Dean, Thomas Wells Henderson Jr., Paul Jeter, W. A. Barnette III, Hank Barnette, Hubert H. Sprouse Jr., Ed Barnette, Robert Pratt Henderson and Carwell Henderson.

Honorary escort will be members of the Men's Bible Class of First Baptist Church, Ninety Six.

The body is at the funeral home. The family will be at the home and will receive friends from 7 to 9 tonight at the funeral home.

Memorials may be made to the building fund of the Ninety Six First Baptist Church or the charity of one's choice.

[From the Columbia (S.C.) State, Oct. 29, 1977]

FARMER FOR 75 YEARS, W. N. HENDERSON DIES

NINETY SIX.—William Nathaniel "Will" Henderson, 90, a pioneer in farm improvements, died Friday at Self Memorial Hospital.

Born in Greenwood County, he was a son of the late Thomas Payne and Laura Pratt Henderson. He was a member and former deacon of the Ninety-Six First Baptist Church.

He was an active farmer for over 75 years, and attended Clemson College. At the time of his death, he was actively farming 500 acres with his son Fred, plus 1,000 acres leased land. He produced cotton, pedigreed seeds, beef cattle and farm cured pork products.

He and his son twice won first in the state's cotton contest and won first prizes on cured hams at the S.C. State Fair. He served as Senior Appraiser with the Federal Land Bank for 20 years and also served as chairman of the Loan Committee.

He was a charter member and past president and presently chairman of the board of S.C. Crop Improvement Association and Foundation Seed Association. He served for several years in the State House as Representative from Greenwood County.

Mr. Henderson served twice on the Board of Visitors at Clemson University and was an honorary member of the Block and Bridle Club and Agronomy Club at Clemson. He was elected to the National Honor Society of Agriculture, Gamma Sigma Delta, in 1975.

Surviving are two daughters, Mrs. Thomas C. Hambrick of Nashville, Tenn. and Mrs. Hubert H. Sprouse of Union; two sons, W. N., Jr. and Fred P. Henderson of Ninety Six; two sisters, Louise Henderson and Mrs. W. A. Barnette of Greenwood; eight grandchildren and nine great grandchildren.

Services will be 3 p.m. today at Blyth Funeral Home with burial in Elmwood Cemetery.

The family suggests that those who wish may make memorials to the Ninety Six First Baptist Church Building Fund or a charity.

[From the Greenwood (S.C.) Index-Journal, Oct. 31, 1977]

MISTER WILL

"To amount to anything in life," W. N. Henderson used to say, "you have got to be above average."

"Mr. Will," as we all knew him, was certainly above the average. His Broadacre Farm in Greenwood County was a showcase for Mr. Henderson's extraordinary knowledge of agriculture, reflecting more than 75 years of farming activity.

He was designated a Master Farmer in 1928, the first year such a title was conferred. He saw times change and trends come and go and was a leader in new, more efficient ways to coax the land to yield its fruits.

He was 13 at the turn of the century when the plantation owners were fading from the scene. Cotton farming was in a depressed state, but his parents were hard workers and they sent him to Clemson College to learn more about farming.

In 1908 he bought a 160-acre farm and put his college-learning to good use, improving his poor land. Over the years he experimented with new farming methods, new machinery, new breeds of animals and new varieties of seeds.

Farmers in the area began to look up to him as a man of ability and often turned to him for advice.

He saw farming change from a way of life dependent upon the hired hand and the mule to highly scientific, highly mechanized operation.

Mr. Will was also known as "The Ham Man" and those who have tasted his smoked ham or country ham know it as a rare treat. He won many a prize for his ham and he was proud of the fact.

Mr. Will was recognized for his contribution to agricuture in 1975 when the national honor society of agriculture Gamma Sigma Delta elected him to membership.

Greenwood County can proudly boast that W. N. Henderson, a man who was "above average" was one of her own.

ANNUAL REPORT

Mr. JAVITS. Mr. President, today I am submitting my 29th annual report to the people of New York State on my activities in the 1st session of the 95th Congress. In this report I wish to review the year 1977, its historical importance, the activities of Congress, and my role in these congressional activities.

ANNUAL REPORT—1977

The past year has witnessed the traditional transfer of the stewardship of our country after a Presidential election, signs of some growth in our economy, passage of important legislation, and improved prospects for peace in the Mideast.

The 29th annual report of my activities in the Congress mirrors this activity in the Nation and the world and demonstrates how I have served the people of the State of New York.

FOREIGN RELATIONS

As a member of the Senate Foreign Relations Committee, I have long been keenly interested and closely associated with the search for a just and lasting peace in the Middle East. In July, I visited Israel, Egypt, Jordan, and Saudi Arabia and talked with the heads of state in each country to assess the chances for peace. In my judgment, there is a unique opportunity for significant progress toward peace. President Sadat's historic visit to Jerusalem has significantly advanced the chances for peace. The United States must continue its critical role as Israel's strong supporter and use its influence with Arab governments to facilitate a peace.

During the year I also attended as a U.S. delegate the Conference on International Cooperation in Paris (North-South meeting), the meeting of the North Atlantic Assembly (NATO Parliamentarians) in Brussels, and the ILO meeting in Geneva, where I also consulted with our SALT negotiators. In addition to Mideast peace, I regard the dangers arising from the world's present monetary and financial system to be the most serious challenge our Nation has faced since the world depression of the 1930's.

MAJOR LEGISLATION

S. 1160, an amendment to insure continued arms aid to Israel on a high-priority basis (author, now law).

S. 1160, an amendment to revise congressional approval procedures for the sale of U.S. arms abroad to make a more coherent, rational policy (author, pending in SFRC).

S. 1520, an amendment to resume economic assistance to India following restoration of democracy there (author, now law).

S. 174, to require U.S. compliance with U.N. sanctions against the importation of Rhodesian chrome (cosponsor, now law).

S. 1190, an amendment to provide $20 million to assist Soviet Jewish refugees settling in Israel (author, now law).

S. Con. Res. 7, to express the sense of Congress condemning Soviet emigration policy (cosponsor, passed both Houses).

S. 897, to establish safeguards to prevent the proliferation of nuclear weaponry through the development of nuclear energy (cosponsor, pending in SFRC).

S. Con. Res. 12, to offer assistance for the relief of earthquake victims in Rumania (author, pending in SFRC).

S. Res. 175, to deplore brutal murders and executions in Uganda (cosponsor, passed Senate).

S. Res. 151, to encourage resolution of a provision of the Canadian Tax Code adversely affecting U.S. television stations, especially in upper New York State (cosponsor, pending in Senate).

S. 489, to provide financial assistance to Portugal to ease the serious economic situation there (cosponsor, enacted in separate legislation).

DEFENSE

H.R. 7933, an amendment to reverse President Carter's decision to halt production of the B–1 bomber (voted no, amendment defeated).

H.R. 7533, an amendment to halt production of the "neutron bomb" (voted yes, amendment defeated).

Shipmasters of passing freighters often ignore the refugee boats because the ports of call in nearby Asian countries refuse to admit them. One boatload of 249 refugees, picked up by a chartered mercy ship, remained anchored off Singapore for more than two months. Eventually the refugees were taken to Switzerland, France, Britain and Austria.

The Associated Press the other day reported a shocking story from a small port in Thailand. Fifty Vietnamese, half of them children, had made it there in a 30-foot boat. They thought they'd made it to freedom, but Thai marine police refused to let them ashore and towed the crammed fishing boat three hours back into the Gulf of Siam. No one knows what happened to them.

The Indochinese refugee problem seems to grow faster than the world community can respond to it. The United States last July increased its quota to 15,000; Australia is accepting 2,000 a year; Canada 450; New Zealand 420; Belgium 150; Denmark 50. And France is taking in about 1,000 a month.

The United Nations High Commission on Refugees and the United States have been seeking greater liberalization of immigration policies, particularly in Japan, to provide the refugees at least a temporary haven. Japan imposed a ban on permanent asylum.

Not even when the refugees make it to relative safety are there well-established and working programs to channel them to new homes.

The United States should improve its program for the Indochinese refugees. In the American conscience there should be little choice but to respond. Private voluntary agencies throughout the nation, including Columbia, have worked smoothly in placing the Vietnamese into communities. But the Congress must determine to open the doors. The 15,000 quota set in July is already met.

A State Department official said very few of the refugees are on welfare rolls. They get jobs and are willing to work; their children go to school; and there is hardly a trace of crime attached to them.

But that should come as no surprise to anybody. The refugees understand the blessings of liberty, which we so often take for granted.

GET INVOLVED

Mr. HATCH. Mr. President, Utah has the distinction of having some of the best broadcasters and broadcasting facilities in the entire Nation. The Utah (or Salt Lake) television market, for example, in area is the largest in the world.

Our broadcasters are determined to provide the public service required by Federal Communications Commission charter, Several of our radio and television stations reflect community interest and call attention to specific needs through expression of a particular point of view. One of those television stations which does take an editorial stance each day of operation is KSL, a pioneer of modern broadcasting.

Recently KSL editorialized, in a very eloquent manner, the need for our citizens to remain as a silent majority no longer but to get involved. I agree totally with that editorial; and in many of my speaking opportunities, I have encouraged our citizens to cease being spectators and become participants. Because of my continuing hope that our people will divorce themselves from apathy and get involved, I ask unanimous consent that the KSL editorial entitled "Get Involved," be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Get Involved

(By Jay W. Lloyd, senior vice president and station manager of KSL Television)

It has been estimated that you spend two and half hours of every working day working for the government. Strange, isn't it, that so very few of us spend as much as 15 minutes a day telling the government where we stand?

Why is it that we hear so many folks complaining about this, that or the other, and what we hear is, "why doesn't somebody do something?" When are we all going to realize that we are that somebody?

What this really means is that it's pretty much up to you. Here are some of the things you can do.

Know your Congressman. Contrary to what you may think, he does care about your opinion, because if enough of your neighbors share it, he's going to pay attention. Write to him, see him and talk to him when you can. When you write, identify your concern clearly. Give your personal experience. Say how the issue affects you, your family, your business, your community. Avoid form letters. They do not have nearly as much credibility as your own words.

Do the same thing with your two Senators, and also with your State Representative and Senator. Two other things. Be reasonable. That goes a long way. And don't write just to complain. A letter of praise is often the most effective way to a goal.

But the important thing is not to say, why doesn't somebody do something. Be somebody. Do something. Get involved.

THE DEATH OF W. N. HENDERSON

Mr. THURMOND. Mr. President, in his Notes on the State of Virginia, Thomas Jefferson wrote:

> Those who labor in the earth are the chosen people of God, if ever He had a chosen people, whose breasts He has made His peculiar deposit for substantial and genuine virtue.

Our third president lived far too long ago to know Mr. W. N. Henderson of Ninety Six, S.C., who died on October 29, 1977. He could not, however, have described him more precisely. Mr. Henderson was living confirmation of the validity of the Jeffersonian attitude toward farmers and the farming life.

Mr. Will, as W. N. Henderson was affectionately known, spent 75 years in patient and productive cultivation of the soil. Born and reared on a farm, he acquired a wealth of practical experience during his boyhood and early manhood. Attendance at Clemson College gave him further insight into the theory and practice of farming. At 21 years of age, he bought a 160-acre farm. He was still working the land when death overtook him in his 91st year.

It is hard for the younger generation to conceptualize what farming was like in South Carolina around the turn of the century, when W. N. Henderson was getting started. It has since been completely transformed. Many old-timers could not, or did not wish to, keep up with the transformation. W. N. Henderson was leading it. His experiments and innovations not only helped to assure his own success, but provided his neighbors with a worthy model to imitate. W. N. Henderson was named a master farmer in 1928.

W. N. Henderson's achievements in agriculture are too numerous for me to provide a complete list. He was particularly proud, though, of his cotton and his cured hams, which won prizes on a number of occasions.

Dedicated as he was to his profession, Mr. Henderson was also active in politics and in community affairs. He represented Greenwood County for 7 years in the State house of representatives. He also served two terms on the board of visitors at Clemson University. In short, he was the kind of mainstay of society that Thomas Jefferson hoped farmers would prove to be in America.

Mr. President, if it is true—as in some sense it certainly is—that farmers are the chosen people of God, it is reasonable to suppose that God will not allow their earthly labors to go unrewarded. W. N. Henderson has now gone to claim his reward. His family and friends will ask nothing more than that this will be commensurate with his services to his State and his fellow man. In that event, it will be a noble reward indeed.

Mr. Henderson is survived by a devoted family, including his daughters, Mrs. Thomas C. Hambrick, of Nashville, Tenn., and Mrs. Hubert H. Sprouse, of Union, S.C.; his sons, W. N. Henderson, Jr., and Fred P. Henderson, of Ninety Six, S.C.; his two sisters, Louise Henderson and Mrs. W. A. Barnette, of Greenwood, S.C.; eight grandchildren; and nine great-grandchildren. To all of them I extend my deepest sympathy. I hope that their sorrow at losing this outstanding man will be tempered by their pride in his great accomplishments.

Mr. President, at the time of the death of W. N. Henderson, a number of articles appeared in his honor in the South Carolina press. In order that my colleagues and the general public may have access to further details about his life and career, I ask unanimous consent that three of these articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Greenwood (S.C.) Index-Journal Oct. 28, 1977]

Will Henderson Is Dead at 90

Ninety Six.—William Nathaniel (Mr. Will) Henderson, 90, of the Epworth Section, a pioneer in farm improvement, died this morning at Self Memorial Hospital following a short illness.

He was born in the Phoenix Section, Oct. 29, 1886, a son of the late Thomas Payne and Laura Pratt Henderson. He was a member and former deacon of the First Baptist Church. Mr. Henderson was an active farmer for over 75 years and attended Clemson University. He was still actively farming 500 acres with his son Fred, plus 1,000 leased in cotton, pedigreed seeds, beef cattle and farm-cured pork products.

He and his son twice won first in the State Cotton Contest and won all first prizes on cured hams at the S.C. State Fair. He served as senior appraiser at the Federal Land Bank for 20 years and also served as chairman of the loan committee of the FLB, he was a charter member, past president and presently chair-

State Department and the Pentagon, both of which have classified the engines and electronic equipment as "civilian," even though their end use and capabilities are inherently military. By allowing the sale to take place, the executive branch of our government seems determined to continue a policy of military-arms support for Chile, despite Congress' unequivocal demand that this support end.

At least three of Embraer's EMB–111 Bandeirante maritime patrol planes have already been delivered to Chile. Powered by two Pratt & Whitney turboprop engines, the aircraft are equipped with a modified AN/APS–128 radar produced by the AIL division of Cutler-Hammer of Deer Park, N.Y.

According to the authoritative arms handbook "Jane's Weapons Systems," radars of this type . . . "will be fully integrated with EMB–111's onboard inertial navigation. Included in the proposed missions for the EMB–111 are operations with naval vessels, sonar searches, shipping surveillance, anti-smuggling patrol and transport of cargo and personnel."

Congress, of course, is under the impression that the flow of U.S. military equipment to Chile has been stopped. In response to reports of the torture, arrest and disappearance of thousands of Chileans following Gen. Augusto Pinochet's seizure of power, Congress cut off both direct military aid and Pentagon arms sales to Chile in 1974. The ban, however, did not stop delivery of equipment "in the pipeline"—material already ordered and scheduled for delivery—nor did it cover the sale of military equipment by private U.S. companies. Thus, in 1975 and 1976, Chile received nightvision equipment, revolvers, ammunition, trucks, aircraft and aircraft engines, and riot-control chemicals—all of this through private arms transfers.

But in 1976 Congress amended the International Security and Arms Export Control Act, extending its prohibition to include both military training of Chileans by Americans and just such private-sector sales. Nevertheless, the EMB–111s, with their American engines and radar devices, were sold to Chile. To understand why, it is necessary to look at the loopholes in the law as it applies to third-country arms sales (the second country, in this case, being Brazil).

Normally, any third-country transfer of U.S. military equipment must be cleared through the State Department's Office of Munitions Control. The office decides, often with the advice of Pentagon technicians, whether a specific type of equipment is inherently military or civilian, which is a crucial distinction. If the item is considered military, U.S. law applies—and, in this instance, approval for a third-country deal with Chile would have been denied. If the item is considered civilian, Commerce Department statutes may apply in some cases, but no approval from the munitions control office is necessary.

Last year, Cutler-Hammer, manufacturers of the EMB–111's search radar, approached the State Department for permission to make the indirect sale to Chile. All parties involved knew that the transaction, if it involved equipment designated as military, would violate U.S. law. But, rather than simply block it, government officials cooperated in helping the deal to go through. If Cutler-Hammer could come up with a civilian version of the radar, these officials advised, the deal would no longer require State Department approval.

By mid-1977, Cutler-Hammer had supposedly made a few alterations in the radar, whereupon the State Department nodded its okay and the Chilean navy got its planes.

The determination that Cutler-Hammer's "new" radar was "civilian" seems especially curious. Fitted on airplanes with a purely military mission, the radar has a specific function: According to an Embraer brochure, it allows for detection of such difficult-to-spot targets as "a fishing trawler at more than 90 km. in rough sea"—a function fundamentally military in nature.

This is not an isolated example, by the way, for, as one State Department official told these authors, "You can construe a military aspect to any of this commercial (civilian) equipment."

The use of Pratt & Whitney engines on the EMB–111s transferred to Chile was more straightforward. The Office of Munitions Control argues that the engines are, once again, "civilian" items. But while this engine can be used in civilian aircraft, it is clearly a military item because, after all, it has been installed in a military plane destined for the Chilean armed forces.

U.S. government officials also note that, since the engines are designed and manufactured by Pratt & Whitney of Canada, they do not fall under the transfer regulations affecting U.S.-made equipment. Yet Pratt & Whitney of Canada is a subsidiary of United Technologies, a Connecticut-based multinational corporation. This typifies another loophole used by U.S. companies to escape prohibitions on arms sales abroad.

Section 406 of the International Security Assistance and Arms Export Control Act of 1976 explicitly prohibits any military and "security-supporting" assistance to Chile, any military education and training, any credits, any loan guarantees, any export licenses for commercial sales or transactions. Yet, in closing their eyes to sales of the EMB–111, government and industry officials have skirted what Congress meant to be an all-inclusive ban. Surely this violation of its intent deserves the remedial attention of Congress.

REFUGEES FROM COMMUNIST VIETNAM

Mr. THURMOND. Mr. President, the Communist leaders of Indochina are continuing to make war on their own people. That is the only way to explain the steady stream of refugees puring out of Vietnam and Cambodia.

These refugees, it should be remembered, are not leaving with the permission of their governments. Far from that, they put themselevs in jeopardy of their lives by fleeing. Yet so great is the tyranny there—and by reliable accounts, the butchery—that thousands upon thousands are taking the risk.

Even those fortunate ones who do get past the borders have no assurance of safety. Many must battle the sea in small, unseaworthy boats, others have to hew their way through the jungle. Then there is the problem of finding a country where they can settle down and build a new life.

One would think that most free countries would be proud to welcome these resolute men and women who would rather die than live in slavery. Sadly, that is not the case. Thailand, which has more Vietnamese refugees than any other country but the United States, is becoming more and more inhospitable. Other free countries have clamped tight restrictions on the number of Indochinese immigrants they will accept. Even the United States, which increased its immigration quota to 15,000 a year just last summer, is closing its doors to many who are seeking entrance.

Mr. President, this is a situation which requires congressional action. We have undoubtedly been generous already, but we must be more generous still. Surely in this big, warm-hearted country, there is room for these victims of oppression. I need not add that this country is far from blameless in this tragic turn of events.

In addition, I urge the administration to use its influence with other nations to get them to liberalize their immigration policies. We need feel no hesitation or embarassment in taking this step, for our experience with the refugees that came here after the fall of Saigon provides an excellent augury for the future. They have made surprisingly smooth transitions to the American way of life, and have for the most part become responsible, productive members of their respective communities.

On reading of the latest chapter in the ongoing tragedy of Indochina, I cannot help remembering some of the earlier ones. I cannot help remembering the strident protests over alleged American crimes against humanity during the war. I cannot help remembering the confident predictions that the Communists we were fighting were really wise and moderate men who would rule in the best interest of their people. I cannot help remembering the loud denials that Communist victory would mean a bloodbath. Those who voiced these protests and predictions and denials are not heard from very often these days. The silence is deafening. It would be too much to hope, I suppose, that they might confess their mistakes. They might, however, at least manage a few meek complaints about Communist misgovernment.

Mr. President, I feel that this is an appropriate time to reaffirm my adamant opposition to establishing diplomatic relations with Communist Vietnam and Cambodia. People who deal so ruthlessly with their own citizens can hardly be counted upon to deal fairly and honestly with people of other nations. An exchange of Ambassadors, under the circumstances, would be a mockery.

An excellent article on the current situation in Indochina appeared on Wednesday, December 14, in the State newspaper of Columbia, S.C In order that my colleagues may have the benefit of reading it, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS MUST RESPOND TO PLIGHT OF REFUGEES

We forget what happens to innocent people in the awful aftermath of war, and it is now happening with a vengeance to the Vietnamese, Laotians and Cambodians at the hands of their Communist conquerors.

The ordeals of the thousands upon thousands of refugees fleeing to freedom from tyranny are sheer horror stories. And the number of those refugees increases steadily—more than 1,000 a month escaping now from Vietnam.

More than 94,000 have fled to Thailand, and the Thais are becoming increasingly hostile to them. Thousands of others have taken to the sea from Vietnam in small, unseaworthy boats hoping to make it to Malaysia or Australia. U.S. sources estimate that they have a 30 to 50 percent chance of survival.

their stock is callable in 1981—and the Pritzkers can't wait to call it in and go completely private again with Marmon.) Jay also runs the family's Hyatt hotel chain and major lumber interests and manages his own substantial businesses too.

Marmon, which is worth about $600 million, wasn't a result of a transfer of the Pritzker fortune from real estate, but a whole new fortune created almost from nothing. It was built with virtually no financial investment by the Pritzker family.

A. N. Pritzker, father of Jay and Bob, and his brother, Jack built a fortune in real estate. When Bob and Jay were in their 20s, Bob got a job in a factory and worked his way up to manager of a small division of U.S. industries. Jay worked as a consultant for the family businesses and tentatively started making merger deals. One day Jay called Bob and said a broker had offered to sell a small Ohio company to him. If they bought it, would Bob care to run it? Bob agreed.

"The total purchase price was under $2 million," recalled Bob Pritzker. "Jay made a very imaginative business deal that required very little capital from us."

That was the deal that started Marmon. The magic was in the deal—and the Pritzker name. Thousands of young men dream of going into business for themselves, but getting started is the problem—they lack the money to finance it and no bank will back them untested.

The Pritzker name got the young brothers off the ground. Their father introduced them to his bankers, the First National Bank of Chicago, which financed most of the acquisition with a $1 million loan. In later takeovers, the Pritzker name continued to make the difference.

Profits from the first company helped finance acquisition of the second, and two helped buy a third, and so on.

"I dreamed of some day running a company doing $20 million a year in sales," said Bob. The business now is 50 times greater than that.

[From the Chicago Daily News, Dec. 8, 1977]

How Pritzker Buys a Firm

(By Dick Griffin)

One day in 1968 Robert A. Pritzker, president of the Marmon Group, heard that a small manufacturer of leaf springs for cars and trucks was up for sale. But there was a catch:

Nobody had been willing to buy it because the owner refused to submit the company's books to an audit, and he refused to guarantee the accuracy of his financial statements. He also refused to negotiate on his selling price, which was a mysterious $3,006,000.

Pritzker, then 42 years old and head of the family-owned Marmon for 15 years, visited the company and liked what he saw.

"I had a hunch about the man, that he was just stubborn," he recalled. "It was a question of what you wanted to believe about a human being."

He decided to buy the business and paid the full price, never learning what the extra $6,000 was for.

He found that the company was exactly what the man had said it was, and it has become one of Marmon Group's most successful businesses. Pritzker is proud of the decision.

"He was just set in his ways. I trusted him and it turned out right. The company has done exceedingly well for us. Its sales and earnings are five times what they were in 1968 and I presume it's No. 1 in its industry in the United States."

"THAT'S HOW IT'S DONE"

Judgments like that are keys to the decision-making process followed by Pritzker and his brother, Jay, chairman of Marmon, when they are considering an acquisition.

The company they started on mainly borrowed money has acquired about 50 corporations in its 24 years of operations. Sales of the acquired concerns ranged from $2 million a year to the $600 million Cerro Corp., taken over last year.

If the company in question is compatible with one of Marmon's existing businesses, Bob Pritzker probably will evaluate the business and make the buying decision himself.

But if it's a large and complicated deal, Jay evaluates the company financially and handles the negotiating. Bob examines the factories, techniques and products. Other Marmon officials often join in the evaluations, but the brothers alone make the final decision.

"We both are usually enthusiastic or lukewarm; there's rarely a difference of opinion," said Bob. "When we do disagree, it's because, say, Jay's high on the financial aspect but I'm not crazy about that line of business. On a big deal like Cerro, we couldn't disagree and still buy it."

The factors they consider include:

Is it a line of business they want to be in? Bob Pritzker asks questions like—Can Marmon's management handle this sort of business? Would it offend our sense of ethics? Would it be fun to run? They stay away from businesses that are highly involved with government regulatory agencies, chronically faced with a lot of lawsuits or need high-powered promotion to sell their merchandise.

Can they make a profit with it? If they can't, there's no reason to buy it. They want to know the probable return on investment, then the absolute profit. The former is the more important factor.

What's the downside risk? Under the worst of circumstances, how much could they lose?

Do they trust the seller? In a smaller acquisition, that's a major question for Bob. "If I don't trust him, I don't want it. In a small company, one man can have a major influence on the business and if he's a fraud he could outsmart me," he said. "Jay is less concerned about this because he handles only the big acquisitions and one man has little impact on a big company."

They've made some mistakes. They say one was Hammond Corp., the financially troubled electronic organ company they acquired for Marmon last January for $35 million. "It wasn't worth what we paid for it," said Bob.

Another mistake was Jamesway Co., a Canadian farm equipment maker acquired in 1961. "We sure didn't come out a winner on that one," said Bob Pritzker. "We're breaking even at best, and it took a lot of work to get there.

"You're going to win some and you're going to lose some. You're just not going to hit them all right."

WASTING TIME

Another mistake was negotiating to buy a small company that seemed to fit with a Marmon manufacturer. Bob Pritzker met with the owner time and again over a year, and the numbers kept changing. Finally, Pritzker figured out what was going on and he gave up in disgust.

"The guy just liked to negotiate. Some are like that. It's ego fulfilling and a social event. They also get an idea what their business is worth. There are a few companies around that everybody has looked at. You ask somebody at a party if he had thought about acquiring such and such and he says yes, and pretty soon you find that everybody in the room had negotiated with them at one time or another."

Another problem they have found is the Optimistic Executive. One firm they acquired never did as well as its presidentt had predicted it would. After getting one particularly optimistic forecast from him, Bob Pritzker called him and his vice presidents to his La Salle Street office and urged them to reconsider their forecasts.

"Come back on Monday with a new one," he told the president. "I want the worst possible prediction for the next quarter. I don't care if you tell me you're going to lose a hundred million bucks. But if you predict that you will make a dollar more than you actually do, I want your resignation."

Four months later the forecast was proved to be 20 per cent too high. The president resigned.

"MARMON, NOT PRITZKER"

The Pritzkers like their privacy so much that they recoil at suggestions that they rename the company the Pritzker Group. Marmon is a meaningless name that came with one of their acquisitions, but it has provided a measure of anonymity for the owners.

It also has caused some confusion. Marmon has received letters asking about the tenets of their religion and a hotel once billed one of their sales meetings as a church function.

They joke about starting their own choral group—the Marmon Tabernacle Choir.

With all their money why do they work so hard at building Marmon into a big company? (The Pritzker family, which also controls the Hyatt hotel chain and has many other investments, is worth perhaps $750 million.)

"Certainly the money isn't the incentive," said Bob Pritzker. "I think it's because it's fun to succeed and I want Marmon to succeed. You want to have a better season for your team next year.

"What we want to build is a stable company that will exist far into the future, long after we're gone."

CHILE STILL GETS U.S. MILITARY EQUIPMENT

Mr. ABOUREZK. Mr. President, for some time now, the Congress has shown wisdom in denying the sale of military equipment to Chile because of that country's consistent pattern of gross human rights violations. Therefore, it should be particularly shocking to discover through a recent article in the Los Angeles Times that military equipment from the United States still reaches Chile by way of Brazil despite the ban and that the Pentagon and Department of State have determined that this action is not against the law because the American equipment in the sale has been classified as "civilian." This cozy arrangement between the manufacturer and the governments of Brazil and Chile does violate the spirit and intent of the legislation and is profoundly disturbing. I therefore ask unanimous consent that the article by Michael Klare and Cynthia Arnson be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Nov. 25, 1977]

Chile Still Gets U.S. Military Equipment

(By Michael Klare and Cynthia Arnson)

American military equipment is being sold to Chile, by way of Brazil, in violation of the intent and spirit of a 1976 federal law prohibiting both U.S. military assistance and private-industry sales of such material to that country. Specifically, the Brazilian aircraft firm Embraer is selling to the Chilean navy patrol planes equipped with American engines and search radar.

This transaction has the approval of the (states)," the submission said, "One should not accede to the spectre of unheated homes and gasoline rationing to the south in the event that no West Coast oil port is built."

The inquiry, headed by Dr. Andrew Thompson of the University of British Columbia, opened a three-day session during which oil companies, environmentalists, inquiry staff, and other groups will present their positions on evidence heard during six weeks of hearings that recessed in mid-November.

Formal and community hearings were recessed indefinitely because there currently are no active oil port applications in Canada.

A proposal involving an existing terminal at Cherry Point, Wash., was killed by U.S. federal legislation, and a plan by Kitimat Pipe Line Ltd, to build an oil port of Kitimat, B.C., and a pipeline to Edmonton for shipment to the U.S. is being held in abeyance.

Other major conclusions and recommendations in the staff submission:

Any port applicant should be required to put up a filing fee based on a percentage of the project cost, and in excess of $1 million, as a mark of good faith and to defray costs of government assessments of ports.

The responsible agencies and departments of the Canadian government should study the various oil supply questions identified by the inquiry, including the potential benefits of an East Coast port, in order to determine the Canadian interest in a West Coast port.

The National Energy Board should hold public hearings on oil policy questions before any port application is considered.

The lack of adequate data from port applications has made it impossible to determine the ultimate use or size of a West Coast oil port. Applicants should be required to provide a detailed market study to help resolve these questions.

THE REDFORD CANCELLATION

Mr. DURKIN. Mr. President, I believe it was the late humorist Fred Allen who first remarked that you could put all the sincerity in Hollywood in a flea's navel. Judging by the "sincerity" recently demonstrated by one of today's biggest movie stars, Robert Redford, that statement is as true of Hollywood today as it was a quarter of a century ago.

As some of my colleagues may know, Mr. Redford abruptly canceled his appearance at a fundraiser he was to highlight for Senator WILLIAM HATHAWAY. Although insisting that he still admires and respects Senator HATHAWAY, Mr. Redford canceled his appearance because he disagreed with Senator HATHAWAY's position on the proposed Dickey-Lincoln hydroelectric project.

What is so sadly ironic and irrational about Mr. Redford's action is that he indicated his cancellation was compelled by his commitment to environmental issues. Everyone in this chamber appreciates this irony, for we all know BILL HATHAWAY to be a concerned and dedicated environmentalist. Since the day he entered public service, BILL HATHAWAY has consistently demonstrated serious commitment to the environmental cause and energetic leadership on its behalf.

BILL HATHAWAY has long supported strong legislation to protect our environment from toxic substances and pesticides. BILL HATHAWAY was a strong supporter of the early phase out of the use of fluorocarbon sprays in aerosol cans. BILL HATHAWAY has supported the policies established in the Clean Air Act and the Water Pollution Control Act, and he has fought amendments which would weaken these acts at the expense of our environment. Senator HATHAWAY's record on energy is one strongly supporting conservation as well as the increased use and development of environmentally safe alternate energy sources, such as solar energy.

This fine record also has not gone unnoticed by those outside this Chamber. For example, Ralph Nader's Public Citizen organization recently ranked Senator HATHAWAY seventh highest in the Senate for his record on environmental and consumer issues. It is clear that those whose business it is to know where BILL HATHAWAY stands on environmental issues know he stands on the side of clean air, pure water, and conservation.

It is a pity that Mr. Redford did not decide how he felt about BILL HATHAWAY's position on the Dickey-Lincoln project before he indicated his "sincere" commitment to highlight a fundraiser for him. And it is an even greater pity that because of his "sincere" commitment to environmental issues, Mr. Redford felt compelled to cancel an engagement in support of Senator HATHAWAY on the basis of one single issue—about which even experts disagree—even though Senator HATHAWAY has demonstrated deep concern for the environment on literally dozens of issues over the years.

Mr. Redford is a fine actor. Perhaps he should remain in Hollywood, where his dialog is written for him, and where "sincere" commitments are like pie crusts—easily broken.

THE PRITZKER FAMILY

Mr. PERCY. Mr. President, the Chicago Daily News recently ran two feature stories on one of Chicago's most prominent families, the Pritzkers.

The articles not only emphasize the Pritzkers' enormous business success, but also illustrate that this success is based on hard work and a highly developed sense of business ethics.

Throughout the years I have known this family, they have always been willing to share the fruits of their success with others through various philanthropic endeavors. They have, for example, given $10 million to the University of Chicago School of Medicine.

Because of the Pritzkers' extraordinary achievements and because of the contribution they have made to life in the city of Chicago, I would like to share these articles with my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Daily News, Dec. 7, 1977]

THE MIGHTY RICH PRITZKER PRESERVE

(By Dick Griffin)

The public owns almost no stock in it. Brokers don't talk about it. It doesn't advertise. And it sells almost nothing to the consumer. In truth, few persons have ever heard of it, the Marmon Group.

It's owned mainly by a single family but it's bigger than such well known giants as the North Western R.R., Marshall Field & Co. and the Wm. Wrigley chewing gum business. Its sales volume is in the $1¼ billion range and it will earn more than $50 million after taxes this year, boxcar figures that would put the company well up in the Fortune 500 list of the nation's biggest manufacturers.

The company is essentially the private preserve of the Pritzkers, Chicago's richest family. (Their fortune was estimated at $750 million in a recent Chicago magazine article. That figure seems conservative.) Pritzkers started it in 1953 and Pritzkers still run it 24 years later.

Marmon is a precise reflection of its founders, like some other companies that were run by the same strongwilled founder for many years (such as RCA, CBS, IBM and Northwest Industries). Marmon reflects the talents and interests of Robert A. Pritzker, 51, who has been running the business since he was 26, and his better known brother, Jay, 55, the financial genius of the family.

Bob Pritzker, an industrial engineer (Illinois Institute of Technology, class of '46), loves complex mechanical things. His older brother, a lawyer (Northwestern University law school, class of '47) finds joy in complex financial transactions. Together they have built a giant corporation that makes mainly complex work-a-day products like leaf springs for cars, trucks and trailers; transmission gears; clutch plates; gray iron castings for pumps; work gloves; copper wire and cable; aluminum tubing; casters, wheels and rubber bumpers; underground mining equipment; right-angle gear drives, and poultry incubators.

When Marmon is considering acquiring a company, one of the criteria is whether Bob Pritzker, its president, is interested in the business—would it be fun to run, or does he want to learn about that business?

"We don't buy companies to sell them for a profit; we buy them to operate them," he said in a lengthy interview in his fifth floor office at 39 S. La Salle. "It's aesthetically satisfying to me to see people walk in one door of a factory, material come in another door and something useful go out a third door. We really make an effort to make only useful products."

He said he wouldn't let Marmon go into certain businesses that would clash with his sense of what's proper. Among the businesses he'd reject "even if they offered a good economic opportunity":

Cigaret manufacturing. "We don't smoke but that's not it. I just don't want to make them."

Handguns. "I'm ambivalent about what the country should do about handguns, but I don't want to be the one who makes them."

Drugs whose use is abused. "I just couldn't get up in the morning and exhort my salesmen to push some more of those things down the public's throat."

And he runs a tight company, with few frills. The family has taken no dividends from Marmon and the brothers are the only family members working there. J. Ira Harris, senior partner here for the big Salomon Brothers investment banking firm said of Bob Pritzker:

"He's a super operating guy. He can squeeze water out of a rock."

Jay Pritzker is the part-time chairman of Marmon, a job that becomes full-time when major financial matters develop. He finds companies to acquire for Marmon and negotiates the acquisition. He worked for 2½ years on the 1976 acquisition of Cerro Corp., which was twice as large as Marmon. He dealt with the tax and accounting problems, persuaded stockholders and directors and worked with personnel and government units that got involved. (That acquisition brought 15,000 shareholders into Marmon as owners of a preferred stock issue, and they have 18 per cent of the voting rights in Marmon. But in 1972. Again, it was the senior Senator from West Virginia who initiated legislation which led to the construction of the National Air and Space Museum which attracted more than 12 million visitors during 1976.

His compassionate concern for the handicapped is well known. Through his efforts vendors stands in post offices across the country were operated by the blind.

It is impossibe to enumerate in this space here the many accomplishments of this dynamic public servant or his contributions to the welfare of West Virginia and the nation. But his friends in every walk of life are legion. He probably knows more fellow West Virginians by first name than any other man or woman in the state.

From a very parochial standpoint, we must say that Senator Randolph always has been good to the Wheeling area and the Northern Panhandle of West Virginia even though he calls Elkins home. There isn't a project in the area where federal funds have been involved that hasn't received the personal assistance of Senator Randolph in boosting the effort along. Even outside the sphere of government, he has helped provide funds for local projects through his service on the Board of Trustees of the Benedum Foundation.

Senator Randolph is a man for all seasons and we believe there is much he can still contribute to his state and country during another term in the United States Senate. We are most happy that he has decided to make the race again.

TENTATIVE ENERGY CONFEREES' AGREEMENT WOULD DELAY DISTRIBUTION OF ALASKAN OIL

Mr. MELCHER. Mr. President, there has not been a constructive recognition by the energy conferees that the urgency of allowing oil pipelines from the U.S. west coast to inland States demands a legislative timetable that will: First, set a date for making the decision as to whether required permits will be issued and; second, if an affirmative decision is made, set a deadline for the issuance of those Federal permits.

The Senate passed such provisions in the energy package without opposition. That time frame would clear the way for Northern Tier Pipeline Co. to know if its application would be approved before the end of 1978. The proposed Northern Tier Pipeline would transport 900,000 barrels of Alaskan and other crude oil to States in the West, Upper Plains, and Midwest and could be completed in 1980.

The proposed Sohio Pipeline from Long Beach, Calif., to Midland, Tex., for gulf coast refineries is expected to carry 450,000 barrels of oil per day and has received Federal approvals.

For both, or similar pipeline proposals, the Senate-passed provisions limited judicial review on the Federal permits should they be challenged in court.

Both pipelines are urgently needed to provide a balanced distribution system for petroleum products throughout the United States. Until these are in operation, Alaskan crude oil must be unloaded onto small tankers to get through the Panama Canal at substantially higher transportation costs.

The conferees this month tentatively made changes in the Senate provisions that will result in the loss of a full construction season for the northern pipeline. In addition, at the administration's insistence, the conferees adopted provisions that interject a dormant proposition for a pipeline in Canada as an alternative to Northern Tier's application for a pipeline within the United States.

That dormant proposition is the new Kitimat pipeline from British Columbia to Edmonton, Alberta, where it would connect with other existing pipelines to transport the oil southeasterly to the U.S. upper midwest. While this proposal has nothing to do with the U.S. Federal permits, the Kitimat Co. earlier this year did apply to the Canadian Energy Board for Canadian permits. An inquiry board was appointed by the Canadian Government to review the application. However, Kitimat then asked that its application be held in abeyance—that there be no consideration by the Canadian Government of the proposal unless the Kitimat sponsors renewed their application.

While the reasons for their "hold in abeyance" request are the Kitimat proponents' prerogatives, some comment on their proposal is pertinent.

Oil transported in their pipeline would cost U.S. refineries a higher tariff than would be the case with the all U.S. Northern Tier Pipeline.

The continuance of the Canadian permitting system would not result in reaching a decision until late 1979, meaning no completion of the pipeline until 1982, 2 years later than what could be the case for Northern Tier if the Senate provisions were adopted by the conferees.

The sheer futility of allowing the subject of a Canadian alternative to influence decisionmaking by the U.S. Government is made even clearer in an Associated Press article which appeared in the Great Falls, Mont., Tribune and which states the Thompson Commission staff view that there is no compelling need for an oil port at Kitimat or elsewhere on the Canadian west coast. We could wait forever for Kitimat. I ask unanimous consent that the article appear following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MELCHER. Kitimat's pipeline would also result in distribution of Alaskan crude oil in such a manner as to penalize, through higher costs for petroleum products, the following: eastern Washington, Oregon, Idaho, Montana, both North and South Dakota, Wyoming, Utah, Colorado, western Nebraska, Kansas, and Missouri. These are in addition to moderately higher Kitimat tariffs for Minnesota, Wisconsin, Illinois, Indiana, Ohio, Michigan, and western New York as compared to tariffs for Northern Tier—Amoco compared and documented the projected tariffs.

In addition, transportation of Arabian or Indonesian crude oil supplies to all of these States through Kitimat would be with much higher tariffs than would be the case with the much shorter and direct distribution through the U.S. northern tier pipeline.

It is also important to point out that the 40-inch, 1,500-mile Northern Tier pipeline would use $500 million worth of steel produced by 4,500 steel workers employed for 1 year in the United States as compared to Canadian steel orders for Kitimat from foreign countries, possibly Japan. Northern Tier, during its 2 years of construction, would employ 5,000 construction workers. It would also provide employment for several hundred people in operation and maintenance of the pipeline after completion.

Northern Tier Pipeline Co.'s application to construct a major oil pipeline in the United States constitutes the first independent oil pipeline entry during this decade. Recently only major oil companies have entered the expensive process of seeking State and Federal permits for such construction.

Sohio has spent over $30 million with the process of obtaining those permits still not completed. Seadock and Loop applications for Gulf Coast oil tanker facilities were by major oil companies and, while unsuccessful, they still paid millions of dollars on those applications.

The Justice Department Antitrust Division views Northern Tier's application, if proven to be sound, as the only new entry in oil pipelines, ownership and operation field that would provide a competitive influence on the oil pipelines owned and operated by the major oil companies.

While the Kitimat proposal could be built without any consideration, help, or hindrance by the United States, the conferees have accepted the administration-recommended consideration of Kitimat as an addon to our Senate proposal. It cannot help but confuse and delay Northern Tier's proposal.

Meanwhile crude oil distribution will be lacking and refiners in a score of States will not be sure of a stable, dependable supply.

Who wants Kitimat's application reviewed? Some of the people in the State of Washington object to an oil tanker facility at Port Angelus, Wash., which is the location of Northern Tier's proposed tanker facilities. The Washington Legislature several months ago endorsed the Northern Tier proposal. In any case, both the Senate and conferees have not abridged the Washington State siting prerogatives which, if they so decide, can completely turn down Northern Tier's application. They have their option.

What I believe the conferees should finally adopt is a shorter time frame for the decision and issuance of the Federal permits for Northern Tier. Part of that is the removal of the confusion, uncertainty, and delay that interjecting the Canadian proposal causes. Urgent U.S. needs require a prompt U.S. solution.

EXHIBIT 1

"NO COMPELLING NEED" FOR PACIFIC OIL PORT

VANCOUVER, British Columbia.—United States oil requirements can be met through oil exchanges or other alternatives, and there's no compelling need for a West Coast oil port, the staff of the West Coast oil ports inquiry has reported.

Canada should reject any potential pressure from the U.S. for an oil port on Canada's West Coast which causes a premature decision to be made on the basis of inadequate information, says the staff submission, released Monday in advance of presentation by commission counsel Russell Anthony.

"The point to bear in mind is that even without exchanges (of oil) a West Coast oil port is not absolutely needed in order to avoid crude oil shortages in the northern tier college which their own children cannot afford to attend.

"We must not lose sight of the fact that the families who are paying the taxes to finance this aid are themselves finding it more and more difficult to educate their own children." he said.

The burden of rising tuition costs is particularly hard on women from middle class families, according to proponents of the tax credit.

They earn less than men at part-time jobs during college, and they benefit less than men from athletic and other scholarships. In many cases, they also lose out when a family decides it cannot send all its children to college and conclude it is more important for her brothers.

The concept of tax credits for college is not new. Sen. Abraham Ribicoff, D-Conn., the principal cosponsor of a bill with Roth, has been introducing such bills in the Senate since 1963.

What is new is the growing demand for tax relief that congressmen and senators have been hearing from back home.

The Roth-Ribicoff bill, for example, carries 25 cosponsors spanning the political spectrum from such conservatives as Senators Barry Goldwater, R-Ariz., and Strom Thurmond, Jr., D-S.C., to such liberals as Senators Ribicoff, Hubert Humphrey, D-Minn., and Frank Church, D-Idaho.

"Next to the cost of a home mortgage," Humphrey says, "the expense of a college education places a major financial burden on parents.

"They know that a higher education has become almost a necessity for their children to have opportunities . . . and they frequently must make heavy sacrifices to provide these opportunities."

The Roth-Ribicoff bill also has the key support of Sen. Russell Long, D-La., chairman of the Senate Finance Committee which must pass on the bill.

Twice last year, with Long's support, a similar Roth bill passed the Senate only to die in the House. As a result, proponents of the measure are concentrating their efforts this year in the House.

A bill identical to the Roth-Ribicoff bill has been introduced in the House by Rep. Tom Corcoran, R-Ill., with 27 cosponsors. Most observers think this will be used as the primary House bill.

Like the Roth bill, the Corcoran bill provides a tax credit—a cut in taxes owed—for educational expenses of $250 in 1977, $300 in 1978, $400 in 1979, and $500 thereafter for each student attending an institution of higher education.

Other bills pending in the House and Senate vary the amount of the credit, but use basically the same concept. A few call for tax deductions rather than credits, and one, introduced by Rep. Abner Mikva, D.-Ill., would provide interest free loans by deferring some taxes while the student is in college.

Proponents say prospects in the House are brighter this year because Rep. Al Ullman, D., Ore., House Ways and Means Committee chairman who had been negative to the idea in the past, now says he will keep an open mind on it.

Rep. Barber Conable, R., N.Y., ranking GOP member of the Ways and Means Committee, is a strong supporter of the idea.

The real trouble appears to be with the Carter administration which has indicated it is opposed to the measure as expensive, inequitable, and of little real help to parents.

During public hearings before a House Budget subcommittee held recently by Rep. Paul Simon, D., Ill., Laurence Woodworth, assistant Treasury secretary for taxation, questioned giving tax relief to families who really didn't need it.

It would be better, he reasoned, to target federal aid to those who really need it because the cost of an over-all tax credit would be too high. A tax credit of $500, for example, would cost the federal government $2.2 billion a year, he said.

"It could easily become a major drain on federal revenues," he argued. "And, when your tuition bill is $4,000, $500 really isn't that much."

Woodworth's logic was disputed by Conable and Rep. Philip Crane, R., Ill.

Need, Crane said, is relative, and he pointed to his own situation, saying he soon will have four of his eight children in college at the same time.

"If I, as a congressman making $57,500 a year, have trouble sending my kids to college, how do you think someone on $18,000 can do it? asked Conable. He said he was forced to sell his Washington home to keep three children in college.

Although technically families with incomes as high as $25,000 qualify for government supported loans to send their children to college, in reality it does not happen.

"My impression is that no one with family income of $10,000 or more gets much financial aid," said Allan W. Ostar, executive director of the American Association of State Colleges and Universities.

The steepest declines in college attendance, Ostar said, have been among students from middle-income families whose incomes are from $7,500 to $15,000.

"An average two-child family at the $15,000 level has discretionary income of $700 a year," he said. "You're not going to be able to send a kid to college with only that."

Sponsors of the tuition tax credit concept expect to be able to attach it to President Carter's tax reform package, which the House Ways and Means Committee will begin considering this fall and which will go to the Senate Finance Committee early next year.

If Carter does not personally and actively oppose it, they predict it will pass Congress.

"This is not a new position that Larry Woodworth took before the Simon subcommittee, Corcoran said. "I'm convinced he was speaking for himself and not President Carter.

"I think he will get it passed this time," he added, "and, I'm betting on Carter signing it. I have that much faith in him as a politician."

EDITORIAL HIGHLIGHTS SENATOR RANDOLPH'S LEGISLATIVE ACHIEVEMENTS AND OUTSTANDING SERVICE FOR WEST VIRGINIA AND NATION

Mr. MUSKIE. Mr. President, earlier today it was my pleasure to call attention to the contributions made by the chairman of the Committee on Environment and Public Works, Senator JENNINGS RANDOLPH, in bringing to this body the conference report on the Clean Water Act. His work on this legislation was typical of his leadership in the Senate for the past 19 years.

The Clean Water Act was not the only legislation approved today which had the active involvement of Senator RANDOLPH. He was a principal architect of the conference report on the black lung legislation and he was an active cosponsor of Senator GLENN's natural gas bill.

Less than a week ago we received the welcome news that Senator RANDOLPH will be a candidate for reelection next year. When he first ran for the Senate in 1958 I went to West Virginia to assist him in that campaign. His performance as a Member of this body long ago convinced me that my confidence in him was not misplaced.

Mr. President, that Senator RANDOLPH is recognized for his ability and his value to his State and our Nation is reflected in an editorial recently published in the Wheeling News-Register. It shows that in West Virginia he is respected as a man of integrity and a productive legislator for the people he represents.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

SENATOR RANDOLPH WILL GO AGAIN

We were not surprised by the announcement over the weekend that West Virginia's senior United States Senator Jennings Randolph would seek another six-year term at next year's elections.

Given the excellent state of the Senator's health and the reported progress in Mrs. Randolph's recovery from an illness, it was to be expected that the popular veteran lawmaker from Randolph County would make the race again. In recent days, he has been urged to run again by President Carter, Vice-President Mondale, Senate Majority Leader Robert C. Byrd and Governor Rockefeller. Many important Democrats and Republicans alike around the state also have given Senator Randolph encouragement in helping him make up his mind in favor of entering tho '78 campaign.

His age doesn't bother us at all, for at 75, he is one of the most energetic and alert individuals we know. A much younger man would have difficulty trying to follow the Senator's rigorous schedule each week. When the Senate is not in session or he has a weekend free, Senator Randolph is back in West Virginia visiting with friends in one of the state's 55 counties. On some weekends he may have two or three speaking engagements in several areas of the state.

That West Virginia is fortunate to have a man of Senator Randolph's calibre and experience in Washington cannot be overlooked. He is the only member of Congress today who served during those famous first 100 days of Franklin D. Roosevelt's administration, some 45 years ago. He now ranks 13th in seniority among the 100 senators and this does not include his 14 years in the House.

Senator Randolph either heads up or serves on some of the most important committees in the United States Senate. He is chairman of the powerful and massive Senate Committee on Environment and Public Works and chairman of the Subcommittee on the Handicapped. He also is a member of the Committees on Human Resources and Veterans Affairs.

His colleagues well recognize this remarkable man's farsightedness and leadership in Washington's legislative halls over these many year of service to West Virginians and all Americans. Decades ago he foresaw the approaching energy crisis and sought to have this nation adopt a meaningful national energy policy. He vigorously fought for coal's rightful place on the energy scene and battled for better safety for the coal miner.

Senator Randolph championed the cause of a federal highway system to link all parts of this country with a modern thoroughfare system. In 1965, he sponsored legislation creating the Appalachian Regional Commission which since has meant so much to West Virginia and other areas in Appalachia once considered poverty-ridden and underdeveloped. He has fought vigorously ever since to see that West Virginia received its fair share of ARC funds to build roads, hospitals, clinics, airports, education programs and park improvements.

As long ago as 1942, Senator Randolph introduced legislation to give 18-year-old's the right to vote. The measure finally was enacted than three decades, on grounds that the available federal funds should be based on need and go to poor families. He said the rapid increase in tuition has changed many minds in recent years because of the impact on middle-income families.

The education community is far from solidly behind the credit, however. Not only are some of the members of these associations still opposed, but also most in the group representing the private colleges with the highest tuitions strongly oppose the Roth Amendment.

Chris Topping, director of government relations for the 700-member National Association of Independent Colleges and Universities, expressed concern that the tax credit might "accentuate the trend" away from the more expensive schools to those where the credit would cover more of the tuition costs.

She expressed fear, shared by some other educators, that Congress might cut other education funds to offset the cost of the credit. She also questioned whether there will be an outcry from parents if colleges raise tuitions after a tax credit takes effect, even though tuition increases are inevitable.

"Is this really going to be a freebie?" she asked. "Or are we going to have a trade off with some cuts in the student loan program or the educational grants?"

The 1.7 million member National Education Association, representing elementary and secondary school teachers also has come out against the Roth amendment. The association fears that the tax credit might result in "backdoor financing" of parochial education by setting a precedent. Forty-three senators have cosponsored a bill to provide tax credits for attending private elementary and secondary schools.

Besides the merits of the case, a large measure of politics caused the impasse in the Senate-House conference on the amendment.

The President, besides being opposed to the cost of the program and its help to wealthy parents, also was reported to be opposed to a boost to the Republicans who have been the chief force behind the amendment.

[From the National Observer, May 23, 1977]

College-Tuition Tax Credit: A Middle-Class Balm

(By Mark R. Arnold)

If you're planning to send a child to college in the next few years, reflect on these numbers from a recent survey by the College Entrance Examination Board: The average cost of a year's education for a student who goes away to a four-year private institution next fall will be $4,811. The average cost at a public institution will be $2,906.

Those figures, up 5 per cent from this year's charges (for tuition, room, board, and incidental expenses) are potent political arguments for one of the year's most popular—and most controversial—proposals in Congress: an income-tax credit for college expenses.

More than 50 tuition-relief bills have been introduced in Congress this year. Under most, a taxpayer regardless of income could subtract from his tax bill the educational expenses of a full-time student family member, up to a specified limit. The leading Senate bill, sponsored by Delaware Republican William Roth and Connecticut Democrat Abraham Ribicoff, would set the maximum credit at $250 in 1977, rising to $500 in 1980 and thereafter. It would apply to tuition, fees, books, and supplies required for courses at private and public colleges and universities and postsecondary vocational schools.

The legislation is a prescription for middle-class tax relief, and Senator Roth, for one, is proud of it. "I think working people are entitled to provide for the upward mobility of their children without going into serious debt," he says. "A lot of these same people have been paying taxes for years to send other people's children to college. It's time to restore to them the same opportunities [for a college education] available to the rich and the poor."

Twice last year, Roth's tuition-relief bill passed the Senate by three-to-one margins but died for lack of House action. This year a House Budget subcommittee has already held two days of hearings, and more are planned. Proponents hope to graft the bill onto tax-reform legislation to be fashioned by the Ways and Means Committee later this year, or onto other tax legislation. Supporters represent the ideological spectrum from Republicans Barry Goldwater and Strom Thurmond to Democrats Hubert Humphrey and Daniel Moynihan.

There's a rub, however: The Carter Administration stanchly opposes tuition tax relief. Officials term it expensive, ineffective, and inadequate. "Passing it without Carter's support will be tough," says one Senate strategist, "but we have a fighting chance."

The conflict over the bill reflects a fundamental disagreement over the extent of the middle-class "tuition gap" and of the proper role of Government in bridging it. Current Federal policy is to provide student assistance based on proven need. Families with incomes of $12,000 or less generally can qualify for "Basic Opportunity Grants," and those with incomes up to $25,000 are eligible for Government-guaranteed student loans. All told, Washington is dispensing $8.5 billion in student aid this year, compared with $3.4 billion in 1972. Federal administrators say the increase in aid, coupled with rising incomes, has neutralized the 35 to 40 per cent rise in college and university charges over the past five years.

Supporters of the tuition legislation dispute this conclusion. Their calculations suggest that the enrollment of students from families earning $10,000 to $20,000 has declined in recent years while enrollment of students at lower and higher incomes has remained stable.

"Growing numbers of qualified students are being denied a college education because of increasing costs," explains Roth. He says middle-income ($10,000 to $20,000 a year) students' college-attendance rate dropped 8.8 per cent from 1969 to 1974.

Besides helping to offset this middle-income squeeze, backers of college-tuition credits insist that the subsidy is needed to help restore the vitality of private colleges, many of which are losing enrollment as mounting costs make them less competitive with tax-supported institutions.

At a recent budget hearing presided over by Illinois Rep. Paul Simon, a Treasury official sought to refute these arguments. Asserting that the plan could "easily become a major drain on Federal revenues," Assistant Secretary Laurence N. Woodworth said that a tax credit of $500 would initially cost $2.2 billion, but that pressurse to expand it might prove inexorable. "When your bill is $4,000," he reasoned, "$500 really isn't much help."

Woodworth and Mary F. Berry, assistant Secretary of Health, Education, and Welfare for education, questioned the efficiency of a universal subsidy that would extend tax relief to families that don't need help along with those that do. They also insisted that financially troubled institutions would be tempted to raise tutition enough to offset the increase in educational buying power.

POOR TOOLS FOR HELPING

Woodworth's testimony infuriated New York Rep. Barber Conable. Conable is ranking Republican on the House Ways and Means Committee and—more important—a father seeking to support three children in college. He accused Woodworth of taking a "cavalier attitude" toward the problems of middle-class Americans. He confessed that he had been forced to sell a large home in suburban Washington to find the money to pay his children's way.

"If I as a congressman making $57,500 a year have trouble sending my kids to college," asked Conable sternly, "how do you think someone on $18,000 can do it?" Woodworth acknowledged that paying for a college education can be painful, but he insisted that a tax credit is a poor tool to assist those who need help. Retorted Conable: "Sometimes it's better to use poor tools than none at all."

VARIOUS PLANS PROPOSED

The Roth-Ribicoff bill avoids the direct-subsidy approach of the GI Bill, thus simplifying administration. A family with one child in college would get a $500 tax credit; a family with two or more, $1,000. Other, similar measures in Congress would limit the subsidy to families with more than one child in college, or peg the subsidy to tuition level or to family income, or substitute tax deferral for a tax credit.

The bill's fortunes in Congress ultimately may rest with two men: Senate Finance Committee Chairman Russell Long, who has twice voted for it and pledges to work for its passage, and Long's House counterpart, Chairman Al Ullman of the Ways and Means Committee.

Ullman's position is unknown, and he seems to want to keep it that way. "There's no question that the tuition credit has tremendous popular appeal," says an aide to Ullman's committee. "It strikes just where the voters are, in the middle where people think they're taking it on the chin.

"On the other hand, it's expensive as hell and amounts to a top-bracket subsidy. So it comes down to questions like: Is it needed? Can we afford it? Are there better ways to accomplish the same ends? Right now we don't know the answers. If the bill gets the kind of attention it deserves, we may find out."

[From the Chicago Tribune, May 29, 1977]

He Makes $20,000 Per Year But Cannot Afford to Send His 3 Children to College

(By Arthur Siddon)

Washington.—William Levitas of Portland, Ore., the son of an emigrant coal miner, went to college 27 years ago on the GI bill.

Now an accountant with a $20,000 annual income, Levitas recently received a shock when he learned the cost of a college education has risen so sharply he won't be able to send his own three children to college.

A growing number of middle income Americans are discovering the same thing—despite their upward mobilitiy, they are finding it difficult, and in some cases impossible, to give their children the opportunity for a college education they themselves received.

A recent survey by the College Entrance Examination Board showed that today it costs an average of $2,906 a year to attend a public college and $4,811 to attend a private one—up 37.5 per cent in four years. Some private schools run much higher—almost $6,000 at Harvard, for example.

Demands for congressional relief have spiralled as college costs have climbed. During the first five months of the 95th Congress, 47 bills were introduced calling for tuition tax relief.

Their champion in Congress is Sen. Bill Roth, R-Del., who points out that the middle income family ($10,000 to $20,000) is being pinched because the rich will pay the price no matter what the cost, while the poor have access to various federal and state aid programs.

Indeed, Roth said, middle income families are becoming increasingly aware that their tax dollars are sending needy students to opportunity for upward mobility that a college education offers? I believe this revenue impact would be a worthwhile and necessary investment in the future of our country—an investment that would be returned in higher earnings, better job opportunities, and consequently, higher Federal tax revenues.

Over the past 10 years, the Senate has passed college tax credit legislation by substantial majorities six separate times. This year there are more than 50 pieces of legislation providing college tax relief already introduced in the House of Representatives and a majority of House Members are cosponsors of some form of tuition tax relief. It is an idea whose time has come, and I believe Congress will enact this legislation to provide middle-income taxpayers relief from a financial burden that no other generation has ever experienced.

Mr. President, I ask unanimous consent to print in the Record articles on the college tax credit legislation from the New York Times, the Baltimore Sun, the National Observer, and the Chicago Tribune.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 13, 1977]

Tax Aid for College Parents: Idea's Time Has Come

(By David E. Rosenbaum)

Washington, December 12.—The House-Senate conference committee on the Social Security bill is deadlocked, and one of the most important pieces of legislation of the year is thus stalled over the unrelated issue of whether a special tax break should be given to the parents of college students.

On the surface, it may seem illogical to tie up the Social Security measure, which involves the largest peacetime tax increase in the nation's history and which is the product of a year of hard work, over a question that has been discussed in Congress on and off since the time that today's college students were born.

But to say that is to ignore political realities. For millions of middle-class families, their finances strained by the high cost of sending their children to college, a tax credit to help offset tuition payments has enormous appeal. A senator or representative who defends their cause cannot help but score political points.

ADMINISTRATION IS OPPOSED

The Carter Administration, on the other hand, thinks it is a bad idea, one that would primarily benefit wealthy Americans at a substantial cost to the Treasury, and most tax specialists and educators agree.

But even those opposed to it concede that it is almost certainly an idea whose time has come, if not this year then almost certainly next year or the year after.

It has been clear for years that a majority of Senators and Representatives would vote for such a tax break if they had a chance to do so. Until now, a few powerful legislators like Wilbur D. Mills, the former chairman of the House Ways and Means Committee, Al Ullman, the present chairman, and Russell B. Long, chairman of the Senate Finance Committee, have used their influence and parliamentary skills to prevent the matter from coming to a conclusive vote.

But, as Mr. Long, a Louisiana Democrat, told his conferees last week, "The string has run out." The support for a tuition tax credit is so overwhelming, he said, that it is foolhardy to hold out any longer.

A MARGIN OF 5 TO 1

Indeed, the proposal now before the conference was passed by the Senate by a vote of 61 to 11, a margin of more than 5 to 1. It would give every taxpayer a credit of up to $250 for each dependent attending college or a post-secondary vocational school full time. In other words, for each child in college, parents could substract $250 from the income taxes they would otherwise owe.

In the House, more than half the representatives are sponsoring one bill or another that would grant similar tax relief, and, on a test vote there in September during the budget debate, the concept was approved by a vote of 311 to 76.

Nonetheless, because the House has strict rules against nongermane amendments, the tax credit plan was not added to the Social Security measure. Thus, Mr. Ullman, an Oregon Democrat, and his colleagues were able to hold out against its adoption once more.

It is not difficult to understand why there is much strong support for a tax break for those with children in college. Tuition costs have risen to such an extent that they are now a serious financial burden even to affluent families, in many cases the most expensive outlay a family ever makes except for the purchase of a house.

According to the College Entrance Examination Board, the average cost of a public university is now nearly $2,800 a year. For private universities, it is $4,600 and tuition and fees at the most selective schools are more than $7,000 a year.

The argument for a tax credit that would offset some of that staggering cost is straightforward. Senator William V. Roth Jr., a Delaware Republican, put it this way in the Senate debate last month:

THE OTHER VIEWPOINT

"There are millions of families today who are neither affluent enough to afford the high cost of college nor considered poor enough to qualify for the many different Government assistance programs which their taxes make possible. We are rapidly approaching a situation in this country where only the very affluent and the very poor will be able to attend college, and I am convinced that action must be taken to ease the financial plight of middle-income American families."

The argument against a tax credit for tuition payments is more complicated and less appealing politically. It boils down to this: The Government has limited resources to apply to higher education; that being the case, the money that is available should be concentrated on the people who need help the most.

The $250 credit voted by the Senate would hardly help a family to meet its burdensome college expenses, and, once it was on the books, there would probably be pressure to raise the credit to $500 or $1,000 a year. The $250 credit would cost the Government more than $1.2 billion annually in lost revenue.

Moreover, by one calculation, two-thirds of the benefits would go to families with incomes in excess of $25,000 a year, even though only 15 percent of American families are that well off.

[From the Baltimore Sun, Dec. 13, 1977]

College Officials Reverse Stand, Favor Tax Credits to Aid Tuition Costs

(By Stephen E. Nordlinger)

Washington.—Contrary to the assertions of the Carter administration, many of the nation's college officials, after years of opposition, favor tax credits to help pay the soaring costs of tuition.

Spokesmen for associations representing colleges and universities said yesterday that there is a growing feeling among educators that it was "inevitable" Congress would soon provide college tax relief to middle-income parents to help cover college expenses, despite the views of the administration.

The issue suddenly has become so controversial on Capitol Hill that Senate-House conferees broke up late last week without clearing a multibillion-dollar payroll tax increase to shore up the Social Security System because they could not agree on a proposed college tax credit.

After a two-hour argument, the House conferees balked at accepting a Senate-passed credit, sponsored primarily by Senator William V. Roth, Jr. (R., Del.) that would provide a $250 tax credit a year for students enrolled full-time in a college, university or vocational school. Congressional negotiators unsuccessfully tried again yesterday to settle the dispute.

The proposed credit would cost $175 million the first year, but rise rapidly, as its use increased, to an estimated $1.2 billion annually. Over the first four years of the Carter administration, it would drain $4.8 billion from the Treasury, a major cause of President Carter's opposition.

Joseph A. Califano, Jr., the Secretary of Health, Education and Welfare, in denouncing the Roth amendment as a boon to "some of the wealthiest people in America," said after the conference dead-lock that "most people who are sophisticated in the area of education" oppose the proposal.

A survey of associations speaking for the colleges and universities disclosed yesterday, however, that many educators have recently switched their views, apparently in response to the rising complaints of parents over the costs of higher education.

So many members of the prestigious American Council on Education, representing 1,500 private and public colleges, have changed their minds that the organization, after more than a decade of opposition, has switched to neutrality.

"There has been a great increase in aid to low-income parents, and now there appears to be real need for middle-income tax relief," said Sheldon Steinbach, the group's counsel.

The 325-member American Association of Colleges and Universities, representing Towson State University and other publicly supported institutions, also has decided to be neutral after its long-standing opposition.

"There is a division of opinion but many see the need to help the middle-income students, and there is hope that there won't be tuition increases to offset the tax credit," said John P. Mallan, executive director of the association's government relations division. Mr. Mallan said that the basic federal aid programs appear well enough established to void a possible threat to cutbacks to pay for the proposed credits.

The 1,000-member American Association of Community and Junior Colleges just came out in favor of the Roth amendment. These schools might go through a major boom if the tax credit is passed.

"The poor people get billions of dollars of help, and the rich have their credits for oil and condominiums, so why shouldn't the middle class parents get a little bit of help?" asked John E. Tirrell, vice president of governmental affairs for the group.

Many in the 142-member association representing the major state universities also appear to be backing a tax credit, according to a new survey being completed. Gerold Roschwalb, the director of government relations, who has followed the issues for years for the association on Capitol Hill, said that it appears "inevitable" that some form of tax relief would be passed to benefit middle-income parents with children in college.

"It is a very politically appetizing thing with parents climbing the walls over college costs," he said. "There are tremendous pressures." He suggested that some of these same pressures had influenced many of the association members to accept the tax credit.

In the past, the association and other groups opposed the credit, which has been before Congress in various form for more customers may be located in several counties and cities, which means he must fill out forms for each of these jurisdictions, creating a major headache. If he has mail order customers, he has to complete forms which apply to taxation in every place he has a customer. This is not an insuperable problem for a corporate giant. Corporations employ teams of tax lawyers and certified public accountants and bookkeepers—even computers—but it is a nightmare for a Mom and Pop business with a single bookkeeper.

I have introduced a bill to regularize State taxation of interstate commerce to create uniformity in the tax forms of different jurisdictions. This means a bookkeeper's knowledge of completing many different forms and methods of tax computation will be unnecessary. This week, I held hearings on this bill in Biloxi, Mississippi. The Judiciary Committee of which I am a member, authorized me to call for these hearings, and to hear witnesses appearing both for and against the concept. I believe the hearings and the testimony of numerous witnesses bring us a step closer to the day when we will enact a simplified law to help relieve the overwhelming paper burden bearing down on nearly every individual in the United States and which is driving up the cost of living. Overregulation is a practice which can be and ought to be avoided to enable citizens and small businessmen to conduct their lives and businesses in the least complicated and most profitable manner.

THE PANAMA CANAL TREATIES: A POSITIVE STEP

Mr. CRANSTON. Mr. President, in the past few weeks I have had the opportunity to discuss firsthand with my constituents issues of particular concern to them. One of the topics most frequently mentioned was the new Panama Canal treaties.

I am sure that many of my colleagues found, as I did, a sense among their constituents that these treaties represented another retreat from our Nation's position as a world leader. The feeling that the United States is turning its back on the traditions and the heritage that have made it a great nation is a real one. Particularly in the aftermath of the Vietnam war, many Americans seem to feel that the United States is no longer willing to defend the principles on which this country was founded. Inappropriately, the Panama Canal treaties are seen as one more indication of this retreat.

David McCullough, whose authoritative study of the history of the Panama Canal, "The Path Between Two Seas," was recently published, succinctly articulated and rebutted this feeling in a letter to President Carter. In his letter to the President, Mr. McCullough argues correctly that these new treaties—far from being a retreat from our principles—are instead an eloquent expression of "a strong, still-creative, still-purposeful people." Mr. McCullough notes the immense pride we all have in the Panama Canal. The canal, built despite overwhelming odds, is a symbol of the creativity and vigor of our country in that period of our history. And today the new treaties signify that our country continues to be a nation of great principles, great creativity, and great courage. I heartily agree with Mr. McCullough's conclusions. I ask unanimous consent that his letter to the President be printed in the Record in its entirety.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Accords Are Idealistic as Well as Logical, Historian McCullough Tells President

Dear Mr. President: Rosalee and I were so very pleased and honored to be able to meet you last Friday, and especially on such a propitious day in your campaign for the canal treaties. Your generous inscription on the newspaper picture of you and Gen. Torrijos, as well as your thoughtful remarks about my book, pleased us more than I can say, and we thank you most sincerely.

May I add also that after so many years of studying and writing about dead Presidents, I found it an enormous thrill to see and shake the hand of a live one.

During our afternoon at the White House, I had, as perhaps you know, a chance to talk at some length with presidential aides Landon Butler and Joseph Aragon, and it was Butler's suggestion that a letter covering some of my thoughts on the Panama issue might be of help to you in the months to come.

Mr. President, I am concerned about a certain lack of creative fervor in what has been said in behalf of the treaties thus far. The opposition has a "cause." Its response is full of emotion, even passion, while the arguments for the treaties, however intellectually solid, remain for many people largely an abstraction.

This is not to discount for a moment the powerful logic of the case for the treaties. Indeed, the more we are told of the hard practicalities involved—political,. military, operational—the more convincing they become. They virtually speak for themselves, if presented in language of the kind the layman can understand, and, when set forth for the country by a Commander-in-Chief who is himself a former naval officer and engineer, their effect cannot help but be profound, perhaps even deciding.

But how much more important and useful this great national debate could become, how much better off we will all be for it, if the treaties are seen also as the expression of a high ideal, if in making this historic decision we can sense what Theodore Roosevelt called "the lift toward nobler things which marks a great and generous people."

There are, as I know you appreciate, all kinds of reasons why suddenly we seem to care so intensely about the canal, a subject most of us have never given much thought to until lately. To say that the opposition springs from some vague or naive nostalgia for a simpler past is really to miss the point. There is a grandeur about the Panama Canal and a grandeur of a kind we like to think of as particularly American. The canal is a triumph of an era we remember fondly for its confidence and energy, youth and sense of purpose. The canal is something we made and have looked after these many years; it is "ours" in that sense, which is very different from just ownership.

It works, still. Despite time and change it remains a huge American Success, and this just now, in the aftermath of Vietnam, is of psychological import. (There is a haunting kind of irony to the realization that we went into the jungles of Vietnam to rescue a disastrous French failure, just as once we went into the jungles of Panama to rescue a disastrous French failure.)

Probably it is the aura of power surrounding the canal that has the most to do with our feelings about it. We have known since school days of the tremendous powers called forth to build it—the power to eradicate disease, the power to literally move mountains. There is its own miraculous power to lift and transport ships from ocean to ocean. It is both the symbol and implement of sea power. So when we talk of the canal, whether we are old, young, for or against the treaties, we are talking about very elemental feelings about our own strengths, and it is this, I think, that makes the thought of giving it up or giving it away so disturbing to many people who fail to see the treaties as a positive step.

Still, by the same token, we want, all of us, a more humane and stable world.

We want to be builders no less than did that generation which created the canal.

So for all these reasons it is imperative that the case for the treaties be expressed in the most positive terms, *and* with eloquence. It is because the canal is of such critical importance, because it must be kept secure and in use, because we reserve it as a monument to the human spirit, that the long outmoded Bunau-Varilla treaty has to be replaced and the nature of our presence in Panama brought up to date. Our decision must not be a grudging concession, but a far-seeing, constructive innovation. This, we should be able to say, is something we do because we know it is right. This is not merely the surest way to "Save Our Canal," it is the strong, positive act of a still-confident, still-creative, still-purposeful people.

Our sanction of this unprecedented step can become a source of national pride and self-respect in much the way building the canal was. It is the spirit in which we act that is so very important. The way we say yes to the treaties, the words we use, can, on the one hand, influence how we stand in the eyes of all Latin America, but it can also influence how we stand in our own eyes, and that, too, I know you will agree, is "in the national interest."

I think of what Theodore Roosevelt might say were he alive today. (I have a small bust of him which looks down on me from the top of a file cabinent as I write this.) An ardent reader of history, he knew the world has its moods. He saw history itself as a force, and the history of our own time and the changes it has brought would not be lost on him. He adored and drew inspiration from the great deeds of the past, and was often saddened by the passing of an era before his eyes—the vanishing of the great frontier days of the West, for example. But change was inevitable, he knew, and necessary. Change was growth. The true conservative, he once remarked, keeps his face to the future.

He believed down to his boots in a strong Executive, in *presidential* leadership, and the fact that the treaties reflect the policies and intentions of three prior administrations, in addition to your own, would carry enormous weight with him. Well before anyone else, Roosevelt recognized the importance of Alfred Thayer Mahan's thesis (the nation that controls the sea controls the decisive factor in warfare), and so it is hard to picture him dismissing or discounting such testimony to the military value of the treaties as voiced by the Joint Chiefs.

But were he to endorse the treaties, as I am quite sure he would, it would be mainly because he would see the decision as one by which we are demonstrating the *kind* of power we wish to be. For Roosevelt the canal was a gateway to the very different and uncertain new world of the new 20th century, a world in which the United States had no choice but to play a major part. "We cannot avoid meeting great issues," he said. "All that we can determine for ourselves is whether we shall meet them well or ill."

Mr. President, the Panama Canal is a vast, heroic expression of that age-old desire to bridge the divide and bring people closer together. The task now, it seems to me, is to give the country the conviction that this too is what the treaties are all about.

Sincerely,

David McCullough.

AMERICAN-MEXICAN PRISONER EXCHANGE

Mr. DOLE. Mr. President, under the provisions of a treaty with Mexico, many Americans convicted in Mexico of drug offenses have recently been repatriated to the United States. Many of these prisoners were found guilty by Mexican courts of trafficking in huge amounts of illegal drugs. Drugs valued up to $10 million were seized when some of these individuals were arrested.

Despite the severity of these offenses, these drug traffickers were welcomed back to the United States with the possibility of immediate parole and substantial lessening of their sentences. The welcome accorded to these individuals is especially difficult to understand considering the pain and suffering that their drug hauls would have caused. Perhaps some should be released immediately and perhaps some in U.S. jails deserve similar treatment.

I have written to Attorney General Griffin Bell to express my concern about the reputedly lenient treatment given to those guilty of serious drug offenses. Those convicted in Mexico of serious drug offenses should face the same consequences as if they had been convicted in the United States. Simple principles of justice require equality of treatment be given to those Americans returning from Mexico.

I ask unanimous consent that my letter to Attorney General Griffin Bell be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., December 15, 1977.

Hon. Griffin Bell,
Attorney General of the United States, U.S. Department of Justice, Washington, D.C.

Dear Mr. Attorney General: I have read newspaper accounts and viewed television coverage of the U.S.-Mexico prisoner exchange. I am concerned because it appears that a distinction between offenders has not been made.

I realize that a number of Americans in Mexican prisons were convicted for possession of small amounts of marijuana, and possibly deserve a review of their sentences. I cannot, however, support the same treatment of serious drug offenders. It is reported that some of the convicted Americans, charged with possession of up to 100 kilograms of marijuana—an amount worth approximately $10 million—will be freed.

If these serious drug violators are freed, we will have grossly ignored the intent of the treaty and could set a dangerous precedent by this inconsistent and unequal treatment. Drug offenders convicted in the United States, many of whom are young and have been imprisoned for possession of small amounts of marijuana, will continue to serve their sentences. They will not be home for Christmas. As I recall, the U.S. government urged Mexico to crack down on narcotics violators, and financial and technical assistance was given to Mexico. Within two years, the arrests of Americans in Mexico tripled, and, encouraged by U.S. authorities, Mexico stiffened its drug laws, establishing a minimum prison term of five years and three months—with no right to parole for all drug violators.

I would appreciate being advised of the disposition contemplated for those convicted of serious drug offenses in Mexico. I am also requesting a complete list of the cases involved in the U.S.-Mexico prisoner exchange and a list of those to be released and/or paroled by the U.S. government and the nature of charges against them.

Thank you for your attention to this matter.

Sincerely yours,

Bob Dole,
U.S. Senate.

YOUTH UNEMPLOYMENT—AN INTERNATIONAL ISSUE

Mr. HUMPHREY. Mr. President, in a letter to President Carter early this year, I proposed that the Organization for Economic Cooperation and Development (OECD) conduct an International Conference on Youth Unemployment, with which the United States and all member countries are currently struggling.

A number of other Senators joined me in this request. Also, the Joint Economic Committee of the Congress concurred that an OECD-wide Conference should take place this year. And President Carter, who was in full agreement, carried the youth unemployment conference message to the May economic summit.

I am happy to report that this OECD meeting is this week taking place in Paris, chaired by U.S. Secretary of Labor Ray Marshall.

As I pointed out in a message which was read on my behalf today at the Conference, the problem of youth unemployment is not a sudden aberration. A similar pattern is emerging in other OECD countries. Everywhere the need is for well-crafted action by our governments right now.

The purpose of the OECD Conference, involving participants from 22 nations, is to provide an opportunity for its members to share with each other the experience that each nation has gained in coping with the youth unemployment crisis.

The implications of inaction are broad and deep. Unemployed young people add further weight to protectionist pressures that seek to preserve existing jobs by putting tighter reins on the international flow of goods, capital, and technology.

And there is no denying the economically, socially, and politically destabilizing effect when millions of young people have no role to play in our societies.

Also, as we look to the future, we must be fully aware of the extraordinary requirements that this generation, with its greater numbers, will place on each of our nations for years to come: Housing, education for their children, health care as they grow older, and income for their retirement years, for example.

We must develop the capacity to anticipate these demands and respond effectively to them.

Unless we do all of this, we will be condemning an entire generation of our children to Government by crisis, to Government that will shortchange them throughout their lives.

Mr. President, I ask unanimous consent that the text of my remarks, as delivered to the Conference on my behalf, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Statement by the U.S. Delegation Under Agenda Item 4, "General Discussion of Youth Unemployment in OECD Countries"

How can we put our young people to work? That seemingly simple question has been a growing challenge to the best academic and political minds in the industrial world in recent years. The problem of youth unemployment has proved so intractable that its solution will require significant changes in the nature of American economic policy, including manpower policy, and the manner in which such policies are designed.

There is little question about the severity of the problem. The cold statistics, the broken and disrupted young lives, and this Conference itself, all indicate a problem that has reached crisis proportions. Despite almost two and one-half years of recovery, this problem continues to plague the economies and dash the hopes and dreams of millions of young men and women and their parents in America and in many nations throughout the world. The reduction in the overall rate of unemployment that has occurred masks staggeringly high levels of unemployment among our sons and daughters.

The American problem has been stark. Every economic, ethnic and regional grouping of our young people is being affected. But, among minority groups and teenagers, the problem has been seriously compounded by urban decay and rural neglect. These factors have combined to make the problem of unemployed youth a national tragedy—a national crisis.

In the first half of 1977, a monthly average of 3.3 million young people under the age of twenty-five were looking for work in America without finding it—that is almost 50 percent of all the unemployed in our nation. The situation for teenagers has been even more desperate, with unemployment rates well over twice the national average. The recovery has hardly affected minority group teenagers at all—leaving them with unemployment rates that hover around the 40 percent mark.

But the problem is not just a matter of America's history, our unique economic system, our racial problems, or the product of big city life.

Against a background of historically low unemployment rates, almost all OECD countries are now struggling with the spectre of high unemployment rates for young people. For the OECD area as a whole, the unemployment rate for young people has now reached a staggering 10 percent.

Behind the rising tide of unemployed young people are several trends that suggest the youth employment problem will be with us for some time. The demographic explosion that followed World War II was bound to put new pressures on our labor markets. At much the same time, shifts in the skill requirements for industry and many services, and labor practices and national laws all made it more difficult for young people to get and hold their first job.

Unemployment at any age can blight a life. Lost income and opportunities are only part of the cost. It is hard to weigh the burden that enforced idleness puts on family or self esteem.

And for young people, the first missed opportunity, the year or two of waiting, the feigned lethargy that hides an eroding self confidence—all these can sear a young person for life. We are all weary from the endless litany of graduation speeches pointing to a small gathering of young people as the future of the nation, if not the world. But that particular cliche has grown tiresome through overuse, not because it is not true. The young are the future of Western democracy as well as next year's industrial work force. These young minds and hands hold our collective destiny, and we ignore that simple fact at our own peril.

As many of you know, I have toiled in the employment vineyard for a long time. I have never believed that we could afford to neglect the new plant for the mature vine. I saw this tidal wave of grief ripple across our land with its tragic consequences and felt that we must learn more about how others are dealing with it in order to be effective in reducing its dimension in the United States. In February of this year, many Senators joined me in writing a letter to President Carter that urged an international conference on the youth employment problem as an opportunity to share our common experiences. Following hearings in April, the Joint Economic Committee of the Congress strongly recommended the holding of an OECD-wide youth employment conference this year.

At the same time, President Carter and many within his Administration were working toward similar goals. The President carried the youth employment conference message to the May economic summit. It fell on receptive and concerned ears. Many of your governments had reached the same conclusion and some had made an identical proposal.

So here we are. In this case, I believe, the many cooks have prepared an excellent broth. I am very pleased that this Conference has been seen of such significance to require ministerial level representation and that my good friend Ray Marshall, our distinguished Secretary of Labor, is in the chair. The advantage of such a high level conference is that those who make policy have an opportunity to look closely at a problem and how it has been attacked elsewhere. The importance and complexity of the youth employment problem warrant a long hard look indeed.

CHALLENGE TO GOVERNMENT

The causes of youth unemployment vary in nature and importance from one country to another. But there are several obvious threads in America that appear to run through most of the industrial world.

First, and foremost, is the slow recovery from the past recession. Slow growth rates and high overall rates of unemployment are bound to exacerbate the employment problems of young people. They are the last hired and the first fired. A deep recession or slow growth puts youth at the end of a queue that all too often does not reach the open door of employment.

Second, the vagaries of births and deaths have played their part in the employment of the young. The demographic bulge started in America shortly after World War II and was large enough and long enough to swell the ranks of young people entering the labor force well into the 1970's. Slow growth and recession created crisis as a consequence of the dramatic increase that occurred simultaneously in our labor force.

Third, the structure of industry has changed. Sophisticated machines require ever higher levels of training. The burgeoning service industries are a mix of high skill positions and a large number of low-skill, essentially dead-end jobs. As new technology pushes productivity up and labor requirements down, as imports put more pressure on labor intensive industries, and as services put more and more emphasis on specialized education, the problem of an adequate number of entry level jobs increases.

Fourth, beyond a slowing, shifting economy and the growing number of young people in the labor force, a change in societal values has complicated the youth employment picture. More and more American women have begun looking for work at the same time that the baby boom bulge of working age. Attitudes have also changed. Expectations are high. More and more of our young people are provided with an education—whether at a secondary or a university level—that all too often, prepares them inadequately to meet the real requirements of the world of work.

The emergence of such clear-cut trends, and the inability of our government to respond to them effectively, points to some serious deficiencies in the way our government makes policy. The baby boom bubble is a perfect case in point. It was no mysterious development that could be anticipated. On the contrary, it was totally predictable. For years, the baby boom generation made an unmistakable mark on the economy as these youngsters moved from diapers to discos. At least in America, the reaction was to train too many teachers and build too many schools, given the long term needs of our school age population. At the same time, very little attention was given to where the jobs would come from for these young people when their schooldays were over.

Periodic recessions have highlighted another major government policy weakness. The slowness of our public response to economic downturns has made it much more difficult to put the economy back on the right track and closer to acceptable levels of employment. Our public thinking must anticipate economic problems where it is possible, and responses must be in place before the crisis exists. Where it is not possible to predict a crisis, we must be in a much better position to answer it quickly than we are today. I do not claim that we have a reliable crystal ball. But, I do believe that we can anticipate many changes that will occur and that, if we care to, we can influence these changes in socially constructive directions.

The problems of youth unemployment is not a sudden aberration. In the United States, youth unemployment rates relative to those for adults have increased steadily in the last two decades. A similar pattern seems to be emerging in other OECD countries. In some countries, particularly the United States, demographic trends should help reduce the magnitude of youth unemployment in the 1980's. That may not be the case in Europe. But everywhere the need is for well crafted action by our governments right now.

WHAT SHOULD BE DONE?

Different countries have already responded to the youth employment crisis in a variety of ways. One purpose of this Conference is to share with each other the experiencee we have gained. Virtually every country in the OECD has given priority to the development of approaches to solve this cruel problem.

In the United States, we recently committed $1.5 billion to a broad new attack on youth unemployment under the leadership of President Carter. Our new program ranges from direct job creation to a renewed emphasis on training and apprenticeship. It provides help for those who have left school and other potential "drop outs" alike. And, it focuses a good deal of attention on jobs in the communities in which our young people live. As young people come to constitute a smaller percentage of the total work force in years to come, we hope that some of these programs can be phased out or targeted more specifically to the employment problems of especially hard to employ segments of our youth population.

Specifically targeted programs for the young or for any group can not be expected to carry the full weight of bringing order to the labor markets. We have to push the American economy past recovery and on to a new plane of vigorous, but stable economic growth. We need the type of long-range economic policy planning that will pinpoint trends and design policies to meet them. Simple demand management has not been enough to meet the needs of declining regions or aging central cities, nor has it been able to control inflation or to put all the people back to work. The challenge to all of us is to come up with the bold and creative new policies and program that take us beyond the inadequate answers available today.

The implications of inaction are broad and deep. Unemployed young people add further weight to protectionist pressures that seek to preserve existing jobs by putting tighter reigns on the international flow of goods, capital, and technology.

Many of you here today, representing your nations, saw and suffered through the Great Depression as I did. You all remember what prolonged unemployment did to the democratic West. It is different today. The very spectre of the past may help protect us from the future. But there is no denying the economically, socially and politically destabilizing effect when millions of young people have no role to play in our societies.

John Stuart Mill once wrote, "Ask a man to do nothing for his country and he shall have no love for it." Our conference today, in one sense, is to find ways to restore a love for their country in the minds and hearts of millions of our children. They have a tremendous contribution to make, and we must see to it that they have their chance.

But these are just the observations and the warning signs perceived by one citizen of the United States. They are far from a full exposition of the variety of new initiatives that are required. Nor have the various efforts of the individual countries given us a clear indication as to which policy works best in what circumstances. We desperately need this opportunity to meet, compare notes and freshen our policies with the experience of others. It is time for us to see to it that youth will indeed be served.

In conclusion, I would suggest that we must broaden our thinking somewhat and put the current youth employment crisis into perspective.

We must recognize that the demographic causes of the current crisis will be recurring and producing new demands on us in the decades ahead, as the wave of young people mature and continue through life.

We must be fully aware, as we look to the future, of the extraordinary requirements that this generation will place on each of our nations for years to come—housing, education for their children, health care as they grow older, and income for their retirement years, for example.

We must develop the capacity in the United States, and perhaps in your countries as well, to anticipate these demands and respond effectively to them.

And, unless we do all of this, we will be condemning an entire generation of our children and fellow citizens to government by crisis, to government that will short-change them throughout their lives.

My first hope for the Conference, is that it will help us all to do better in meeting the job needs of this generation. But, more fundamentally, I hope that it will also alert our governments to the unique requirements that this generation, throughout their lifetimes, will put on our governments.

PINE BLUFF VILLAGE

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Maryland (Mr. MATHIAS), and the material attached thereto.

The attachment ordered to be printed in the Record is as follows:

Statement by Senator Mathias

I am particularly proud of a new housing project for the elderly and handicapped to be located in Wicomico County on the Eastern Shore of Maryland. Construction has just begun on the project—Pine Bluff Village—but, when completed, it will be a sheltered community that will provide independence and dignity to its inhabitants, while giving them the benefit of living in a convenient, secure environment designed especially to meet their needs.

The announcement about Pine Bluff Village, prepared by the Maryland Department of Economic and Community Development, explains the origins and purposes of this unique project in rich detail.

Maryland Department of Economic and Community Development

Annapolis, Md.—Construction has just started on Pine Bluff Village in Wicomico County for the elderly and the handicapped, the first "fully sheltered" communal development financed by Maryland's Department of Economic and Community Development.

"Pine Bluff Village", a Department spokesman said, "is designed to give the elderly and the handicapped a new sense of dignity and independence, free of restrictive lives as institutionaled shut-ins.

The new project will provide near total services and security programs for its residents. Located near Salisbury, the 151-unit project is close to grounds where artifacts indicating an Indian civilization between 7 and 10 thousand years ago were found.

The $3.9 million financing will come from the sale of tax exempt bonds, which will be repaid from proceeds of the project rather than with tax revenues as with general obligation bonds. It was also noted that the tax exempt status of the Department's Community Development Administration bonds along with a Federal Section 8 subsidy will enable Pine Bluff Village residents to pay rents which are within their means.

Maryland's Home Financing Program, authorized by the General Assembly, recognized that high interest rates and large down payments together with the rising prices of new and used housing have put a first-home purchase out of reach for too many families. Maryland was the first such state program in the nation to make direct mortgage loans to its citizens.

The term "sheltered" in the Pine Bluff Village project comes from the fact that all apartment clusters, dining and recreation areas are designed for communal living and all areas are connected by enclosed walkways.

The $3.9 million project was delayed in its earliest stages because of some evidence of an Indian civilization 7 to 10 thousand years ago, such as lithic (stone) tools, pottery shards and several other artifacts of possible aborigine origin. Nearly a half-dozen Federal and State historical and archeological organizations examined the evidence before the required professional approval was given. Wicomico itself came from the Indian "wicko-mekee" or "village on a Stream". Pine Bluff is at the juncture of the Wicomico River and Tony Tank Creek.

A striking feature of the "sheltered" community is the enormous communal dining area, which abuts a large lounging area. The kitchen has "commercial" dimensions.

The project was preplanned to serve the elderly, along with handicapped persons, including the blind. Certain areas are scored or textured, to provide "indentity" check points for the handicapped, including some walks and walls, even door knobs and raised numbers in elevators. Virtually every area is geared to the wheel chair, including ramps, furniture, service and emergency buttons or gear all at wheel chair height.

A feature that helps dispel any "recluse" proclivities is the landscaping of the outside area. It will leave large numbers of "native" trees, including great stands of stately oaks, maple and Austrian pine, many over 80 feet tall. The outside space will include shuffle boards, games, picnic tables and barbecue pits. There will be space of individual gardens as well as huge communal garden plots.

Construction and permanent financing for Pine Bluff Village will be provided by the Department's Community Development Administration. The state's agency has the full approval of Wicomico County officials. The project will be insured by the Maryland Housing Fund, which insures mortgages for multi-family as well as individual homes.

In its short history, the Department of Economic and Community Development has registered through its 5 major housing programs a cumulative total of 8,000 Maryland families directly helped—with more than $150 million in loans and mortgage-insurance assistance to developers and individuals.

The programs run a full range of housing assistance—all directed at providing new and rehabilitation housing assistance to the elderly and handicapped and the many hundreds of individuals and families who quite literally are frozen out of the housing market the whole gamut of rising costs, including high down payments. These have included: (1) the Maryland Home Financing Program (MHFP), was established in 1972 to make low-interest mortgage loans to low-income and disadvantaged citizens of Maryland; (2) Maryland Housing Rehabilitation Program (MHRP) loans are concentrated in locally designated target areas where additional private rehabilitation investment can be stimulated. (3) CDA Development Financing Program—provides financing to private limited dividend developers and nonprofit sponsors of new and rehabilitated housing for limited-income families and elderly individuals. (4) The Development Financing Program provides construction and permanent mortgage loans, and (5) Section 8 Programs—this program utilized federal funding to provide rental assistance payments to lower income families across the state.

A TRIBUTE TO SENATOR HUMPHREY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Minnesota (Mr. Anderson), and the material attached thereto.

The material ordered to be printed in the Record is as follows:

Statement By Senator Anderson

A very fine tribute to my close friend and colleague, Senator Hubert H. Humphrey, recently was brought to my attention. The tribute was delivered by the Senator's legislative assistant for foreign relations, Mr. Richard McCall, at the Torah Fund Award Ceremonies for Senator and Mrs. Humphrey, held at Penn Valley, Pennsylvania, on December 12. The Senator and his wife, Muriel, were unable to attend this highly significant occasion, but I believe the statements in this tribute richly express the deep sentiments we all hold for Hubert Humphrey.

Personal Observations of Senator Hubert Humphrey

(By Dick McCall)

If in our own trials we show more concern for those less fortunate than ourselves, it is the Hubert Humphrey in us.

If we take little comfort in our own comfort because of the discomfort of others, it is the Hubert Humphrey in us.

If it hurts us deeply to see others suffering and we reach out to alleviate that suffering, it is the Hubert Humphrey in us.

If we weep for those in poverty and despair—the disadvantaged—it is the Hubert Humphrey in us.

If we feel a personal injustice until there is justice for all, it is the Hubert Humphrey in us.

If we believe that it is the right of every human being to live in dignity and freedom—to have a good job at a living wage, decent housing, a good diet, and adequate health care, it is the Hubert Humphrey in us.

If we are never satisfied until the basic human needs of all are satisfied, it is the Hubert Humphrey in us.

If we do, and feel, these things throughout our daily lives, then Hubert Humphrey is always with us.

For I believe that Hubert Humphrey is the embodiment of all that is good and decent in every one of us.

WATERWAY USER CHARGES—"THE SAGA OF A SENATE BILL"

Mr. WALLOP. Mr. President, over the past 8½ months, the Washington Post has carried a series of articles on the evolution of legislation to establish an inland waterways user charge. This issue will once again be back before the Senate when it considers H.R. 8309 and Senator Domenici's amendment 1460.

The Washington Post series, now numbering two dozen articles, has followed the legislation through the Senate committees, the Senate's floor action last June, action in the House this fall, and now the legislation's return to the Senate. Mr. President, this series of articles by T. R. Reid may be the most thorough coverage ever given by a newspaper to the development of a single bill. It provides an instructive analysis of many aspects of the legislative process.

Whatever happens from now on, we can anticipate that some form of user-charge legislation will be enacted next year. And it will be enacted because of the effective leadership Senator Domenici has demonstrated on this issue.

Mr. President, to enable my colleagues to review the entire history of this legislation and the excellent and fair coverage by T. R. Reid and the Washington Post, I ask unanimous consent that Mr. Reid's series of articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Saga of a Senate Bill—Battle Lines Drawn Over Waterway Fees

(By T. R. Reid)

Among the hardy legislative perennials that blossom in Washington every spring is a short-lived species called a "waterway user charge bill" that puts forth a simple idea: those who ship freight on the nation's canals and rivers should help the government pay for building and maintaining those waterways.

Traditionally, the legislation is launched with a glowing press release pointing out that it would save the government hundreds of millions of dollars annually and eliminate a fundamental inequity of national transportation policy.

And traditionally, the nation's barge operators, who have never paid a penny to use the multi-billion-dollar network of channels, locks and dams built for them by the Army Engineers, manage to sink the legislation before it navigates even the first step toward passage.

That traditional pattern seemed to be extending itself one afternoon last month when Sen. Pete Domenici, an amiable Republican from New Mexico, strolled to the front of the Senate chamber and plopped a user charge bill on the long marble desk.

But this year, the pattern of quick death for such legislation may be broken. Because of new attitudes in the executive branch, a series of new studies of transportation policy and a surprisingly favorable vote last year in a Senate committee, Domenici's bill—designated S. 790—has a fair chance to become law.

Accordingly, the nation's barge operators and their customers are gearing up for an all-out effort to stop S. 790.

They have retained a battery of lawyers, including two ex-senators and Richard Nixon's chief White House lobbyist, to argue for the status quo.

Bargemen have become regular visitors in Senate offices, and they have invited senators to return the favor. Meanwhile, an ad hoc alliance of transportation executives, unions, environmentalists and economists is preparing to wage equally strenuous battle on behalf of the Domenici bill.

Those who favor a waterway user charge cite arguments of equity, economy and environment.

It is inequitable, they say, for the government to provide free facilities to one form of transit while other modes must pay. "Highway and airport users pay taxes into a trust fund," Domenici says. "Railroads and pipelines must go into the private capital markets for their right-of-way funds. But the barge industry gets a free ride."

Proponents add that a government facing a $60 billion budget deficit can no longer afford to foot the $240 million annual bill for operating and maintaining the nation's inland waterways—not to mention hundreds of millions more for new construction.

Environmentalists, who see the Army's corps of dredgers and dam builders as a scourge upon the earth, think the political pressure for new locks, dams, and waterways would decrease if the bargemen had to help pay for the projects they push through Congress.

On the other side, barge operators argue that waterway tolls would reverse a tradition as old as the Republic.

The bargemen recite from memory a section of the Northwest Ordinance of 1787 guaranteeing that inland waterways "shall be common highways and forever free . . . without any tax, impost, or duty therefor."

To complement that ancient rationale, the barge operators offer a modern one: energy conservation.

They argue—and government figures bear them out—that a barge is one of the most energy-efficient ways to move bulk freights. To institute tolls now would discourage barge use at a time when the nation most needs it, the bargemen say.

Most government agencies and independent observers who have weighed the competing arguments come down on the side of some user charge for the waterways. Every administration since Franklin Roosevelt's has backed a user charge, and a host of recent studies has supported these recommendations.

In his Senate confirmation hearings the new Transportation Secretary, Brock Adams, called a user charge both "justified" and "desirable."

In Congress, however, these policy considerations have taken a back seat to politics. Coincidences of geography and political longevity have given the barge operators friends in high congressional places.

Barge traffic moving down the Mississippi runs through the back yard of Judiciary Committee Chairman James Eastland (D-Miss.) and Armed Services Committee Chairman John C. Stennis (D-Miss.) on its way to the port of New Orleans, home base of Finance Committee Chairman Russel Long (D-La.).

Feeding into the Mississippi is the $1.2 billion McClellan-Kerr Arkansas River barge channel, which was completed in 1971 and named in part for Appropriations Committee Chairman John McClellan (D-Ark.), who was one of its chief congressional patrons.

The only major waterway west of the Arkansas, the Columbia Snake River system, snakes through the constituency of Commerce Committee Chairman Warren Magnuson (D-Wash.) and Energy Committee Chairman Henry Jackson (D-Wash.).

With friends like that supporting their fight against tolls, the waterway interests would seem to have little to fear from an adversary like Domenici, whose most important position is the ranking minority seat on the Senate Subcommittee on the Upper Atmosphere.

But Domenici, for all his casual, country-boy manner, had carefully taken the measure of his opposition before introducing his bill, and devised a strategy to confound the forces arrayed against him.

To win passage of a bill that had powerful enemies, he would link it to a bill that had powerful friends. With little trouble he found the perfect vehicle: the user charge plan would be submitted as an addendum to a bill calling for revamping Lock and Dam 26.

Lock and Dam 26 (it is the 26th facility a barge passes on the downriver haul from Minneapolis) stands at Alton, Ill., near the confluence of the Mississippi, Illinois, and Missouri rivers, and is thus the pivot point of the nation's major water highway.

Aging, outmoded, too small for the modern "jumbo" barge, the lock has been targeted by bargemen as the chief obstacle to expansion of Midwest water shipping. The industry is seeking $400 million to expand and rebuild the facility.

Logically, the links between Lock 26 and the user charge plan are just close enough to let Domenici merge them in a single bill. Politically, the linkage is precisely right: the very opponents of user charges are the chief advocates of rebuilding the lock.

Bills that are joined can be unjoined, of course, on the Senate floor. But the linkage with Lock 26 would help Domenici get his bill into and out of a committee; late last year, he pushed a joint user charge-Lock 26 bill through the Public Works Committee (it was dumped in parliamentary maneuvering on the floor). And the connection with the $400 million Lock 26 project would provide a continuing reminder of how much money the government spends on toll-free waterways.

There is a certain justice in Domenici's linking those two issues, because it was Lock 26 that first brought the waterways to the New Mexican's attention.

As a junior member of the Water Resources Subcommittee of the Public Works Committee, Domenici has sat through countless hearings where rivermen presented ambitious and expensive plans for a new lock.

"There was an awful lot of money at stake," Domenici says. "You know that $400 million estimate is just a beginning. And I kept thinking, why should people in New Mexico pay that much for something that was mainly going to benefit the Mississippi basin?"

At yet another Lock 26 hearing last fall, Domenici lost patience. He stormed out of the room, pausing at the door just long enough to grumble.

"This is screwy—get me a user charge bill."

The targets of that grumble, Hal Brayman and Lee Rawls, were two young Domenici staff aides who are accustomed to cryptic directions from the boss.

"The senator is an idea man," Rawls says. "He's always hitting on some brainstorm he wants to legislate on. He's always telling us to write him a bill."

Among the ideas Domenici has thrown at Rawls and Brayman was an automobile excise tax pegged to the amount of air pollution each model caused. (The staff quickly discarded that one, only to see another senator introduce it, to editorial acclaim, a few months later.) Another would have eliminated federal regulation of trucking rates; that, too, died under the staff's criticism.

But waterway tolls hit more fertile ground. Brayman, a seven-year veteran of the Public Works Committee staff, had long thought that bargemen were getting an undeserved free ride from the government. He had convinced Rawls, and the two jumped at the chance to write a bill for Domenici.

Explaining the bill in conversation recently, Brayman said, "We're phasing in, over 10 years, charges that will make the barges pay half the government's cost of building and servicing the waterways."

But such direct language would never do for an actual piece of legislation. There are no "barges" in S. 790; the bill applies to "shallow draft cargo vessels." The phrase "half the government's cost" becomes, in legislative argot, "50-per centum of the Federal navigation-related expenditures." The plan Brayman described in 23 words consumes five pages of legalese in the bill itself.

With their user charge translated into the necessary verbiage, the two stapled last year's Lock 26 authorization bill to the front of it.

For balance, they stapled at the end six more pages from a bill creating a "Mississippi River System Council." Such a council is a dream of Sen. John Culver (D-Iowa), whose support Domenici would need to pass the user charge provision.

Finally, Rawls and Brayman wrote an explanatory "speech" (which they knew would never be spoken) and handed the whole passage to Domenici for delivery to the marble desk in the Senate chamber.

As he carried his brainchild to the Senate floor, Domenici was already thinking about the rough road ahead. Unless he could make some arrangements, S. 790 would die beneath the thumb of a hostile committee chairman.

Avoiding Senate Foes—Staff Deal Keeps Waterways Bill Alive

Even before Pete Domenici introduced his bill to require barge operators to pay for using government-built waterways, the senator from New Mexico had a nagging feeling that his measure, S. 790, might not be long for this world.

He could introduce the bill, all right, but that formality was barely a first step toward passage. About 1,000 bills are introduced in the Senate each year; fewer than 10 per cent progress to a committee hearing.

Domenici was worried—and with good reason—that that roadblock might be the death of his bill, too.

If Domenici were to call his waterway fee a "tax"—which might prove the easiest way to collect the money—the bill would be assigned to the Senate Finance Committee.

But Finance Committee Chairman Russell B. Long (D-La.) is an implacable foe of waterway charges in any form. Domenici knew that Long could find several years' worth of other bills to consider before he would schedule a hearing on S. 790.

So it was quickly decided that a bargemen's fee would not be called a "tax." Instead, it would be an "inland waterways charge."

That language would almost surely throw the bill to the Senate Commerce Committee, which has jurisdiction, under Senate rules, over "inland waterways (except construction)."

Commerce Committee Chairman Warren G. Magnuson (D-Wash.) was perhaps not as harshly disposed toward waterway charges as Long was, Domenici knew, but he wasn't particularly favorable to the idea either. Further, the chairman of the appropriate subcommittee of Commerce was none other than Russell Long.

The most congenial spot for S. 790 would be Domenici's Public Works Committee. Domenici has good relations with Sen. Mike Gravel (D-Alaska), who chairs Public Works' Water Resources Subcommittee, and he was confident that Gravel would agree to hold hearings on waterway charges.

Further, a majority of the Gravel subcommittee and the full Public Works Committee had approved a user charge plan that Domenici proposed late in the 94th Congress. (That bill died in parliamentary skirmishing on the Senate floor.)

The problem was in the rules. There seemed almost no way to stretch them to bring S. 790 to the Public Works Committee.

But Domenici had an idea.

The Senate's first major item of business this year was a major reorganization of its committees and their jurisdiction. Sen. Adlai E. Stevenson (D-Ill.) had worked long and hard on a reorganization plan but had run into stiff opposition on the Senate floor.

Domenici guessed that Stevenson would be willing to agree to almost anything to save votes for his plan. On the afternoon of Feb. 3, Domenici went loping over to the Senate floor to engage Stevenson in a "colloquy," as the senators call it, to create some "legislative history" that would circumvent the rules.

"Would the senator yield?" Domenici asked, and Stevenson graciously surrendered the floor.

Wouldn't it make sense, Domenici said, if the user-charge legislation went to Public Works Committee? "I agree," Stevenson replied. "It appears to me that is logical."

With a quick grin, Domenici slipped off the floor and went back to regale his staff with the story of his triumph.

But first-term Republicans in a heavily Democratic Senate should never be too quick about claiming victory. Domenici had not counted on Murray Zweben, the savvy Senate parliamentarian who decides the committee assignment for each Senate bill.

"I saw that colloquy with Stevenson," Zweben said later. "I knew what they were up to. You don't think these guys can fool me with some canned legislative history, do you?"

Thus on Feb. 24, when Domenici formally introduced S. 790, Zweben took a compromise route; he assigned the bill jointly to the Public Works and Commerce committees. Domenici's ploy to maneuver past Magnuson had apparently failed.

As if that weren't enough, S. 790 suffered a more serious blow a week later.

In January, 1976, the Ford administration, like most administrations before it, had concluded that considerations of equity and economy required that barge operators pay a toll for using the waterways. In a message to Congress, Ford promised "quickly" to send a user charge bill to Capitol Hill.

What with one thing and another, Ford didn't get around to sending up the bill until Jan. 19, 1977, the day before he left office. In accordance with protocol, Magnuson, as chairman of the Commerce Committee, agreed to introduce the Ford bill.

Magnuson brought the bill to the floor on March 4. Zweben was not present then, and an assistant parliamentarian, unfamiliar with the joint assignment given S. 790, assigned this bill to Magnuson's Commerce Committee.

"We started jumping around a little when that happened," said Lee Rawls, a Domenici staff aide. "The joint referral had been acceptable, because Public Works could at least go ahead and hold hearings. But with the administration bill assigned just to Commerce, it looked like we couldn't start anything."

Rawls took the problem to Hal Brayman, another Domenici staffer, who had some contacts on the Commerce Committee staff. Brayman immediately undertook telephone negotiations, and he discovered a surprising development.

Although Magruson and some other Commerce members would probably oppose a user-charge bill, most of the committee staff seemed to think Domenici's plan was an overdue change.

Accordingly, a staff-to-staff agreement was worked out. Magnuson would go back to the floor and have the Ford administration bill jointly assigned, as S. 790 had been. Public Works could then proceed with its hearings, and Commerce members would not raise a point of order challenging Public Works' right to report a user charge bill to the floor.

For the moment, at least, S. 790 was still alive.

The Rites of Passage—Friends of Waterway Fees Get Their Day

The parliamentary rites of passage began officially for S. 790 yesterday, and for supporters of the bill almost everything came up roses.

In a hearing before a Senate Public Works subcommittee considering the legislation, which would require barges to pay tolls to use the nation's inland waterways, S. 790 found three partial friends and one enemy among senators, and an all-out advocate from the academic world.

The academician, a white-haired, tweed-suited gentleman who could play an Ivy League economics professor in the movies if he were not one in real life, was Dr. William Vickrey, an expert on transportation economics from Columbia University.

Reading from a richly polysyllabic statement in his deep, rumbling voice, Vickrey said a system of waterway fees would benefit consumers, the government and even the barge operators who would have to pay the tolls.

Since the government first began building waterways immediately after the revolution, barge traffic has moved free of tolls or taxes. Barge operators say instituting tolls now would increase the costs of goods moved by water—mainly food, fuels and steel—and would cause serious economic dislocation in the water freight industry.

Vickrey took issue with both points.

He said waterway tolls would eliminate an "artificial" rate advantage enjoyed by water shippers, leading to "efficient allocation of [freight] traffic among [transportation] modes." With each shipment moving by the most efficient means, he said, the nation's total transportation bill would be reduced.

On the waterways, tolls would eliminate congestion, Vickrey said, reducing the time needed for each shipment and thus reducing barge operators' net costs.

The professor's arguments were cloaked in academic jargon—he made much of "distributional impacts" and "the intra-marginal residue of costs"—that seemed to confuse the subcommittee members, but Sen. Pete V. Domenici (R-N.M.), sponsor of the waterway toll bill, was nonetheless clearly delighted.

"I gather you're telling us that user charges . . . will have a net effect that benefits the consumer," Domenici said, and he beamed when Vickrey agreed. Before Vickrey left the hearing, Domenici took pains to establish that the professor had not been paid for his testimony by the railroads or competitors of barge operators.

Yesterday's hearing, which was arranged after considerable parliamentary maneuvering on Domenici's part, also dealt with a proposal to build a new $400 million lock and dam on the Mississippi River at Alton, Ill.

Sens. Adlai E. Stevenson (D-Ill.), Charles H. Percy (R-Ill.) and John Danforth (R-Mo.) advocated immediate construction of the facility, saying it is essential for unimpeded barge traffic on the nation's main water freight route.

Percy also endorsed the waterway toll legislation, which he said would end a "grossly unfair" subsidy that penalizes competing modes of shipment.

Stevenson and Danforth said they agreed with the "principle" of waterway charges, but both suggested that more study might be required before tolls could be instituted. They both expressed concern that Domenici's controversial toll plan would kill the new lock and dam if the two issues come to the Senate floor together.

Sen. Dewey F. Bartlett (R-Okla.) was the only senatorial witness who came right out and said he was opposed to the waterways tolls.

He was concerned, he said, that a toll system would reduce traffic on the new Arkansas River Navigation System, a $1.2 billion waterway that has made Tulsa, Okla., a seaport.

Conspicuously absent from yesterday's session were representatives of the executive agencies that build the waterways and determine national transportation policy.

They had turned down invitations to the hearing, saying the Carter administration needed more time to settle on a position on the issue. But they are to testify in three weeks, and that testimony may mean more to the future of S. 790 than anything that was said yesterday.

Railroads, Bargemen Find, Fund Allies

When Sen. Pete Domenici (R-N.M.) heard the names of those who had signed up to lobby on S.790, it sounded as if the debate on his bill would involve a bunch of good-government types carrying on a philosophical discussion about public policy.

Among those supporting the legislation, which would require barges to pay a toll for using the nation's inland waterways, were such pristine-sounding groups as the "Environmental Policy Center," the "Coalition for American Rivers," the "Council for a Sound Waterways Policy" and the "Public Interest Economics Center."

Those opposing the waterway toll included the "Association for the Improvement of the Mississippi River," the "Upper Mississippi Valley Association" and a passel of former congressmen and executive branch officials.

In fact, as Domenici gradually discovered, the efforts of all those organizations and officials were financed by the two major combatants in the lobbying war: the railroads fighting for barge tolls, and the barge lines fighting against.

There are a few independent voices debating S.790. But they have been dwarfed by the political and commercial interests struggling to scuttle, or to save, the bill.

Commander-in-chief of the allied forces lobbying for the waterway tolls is Joe Feeney, a genial, 53-year-old bundle of energy who is a lawyer for the Western Railroads Association in Chicago.

Feeney has been lobbying for years on another waterway issue—the proposed $400 million lock on the Mississippi River at Alton, Ill. Because Domenici, for political reasons, linked his barge toll proposal to legislation authorizing the Alton lock, Feeney has become the railroads' chief lobbyist on both subjects.

As soon as Feeney began to plan his campaign, however, he found himself up against a ticklish tactical problem.

The railroads, as chief competitor of the barge industry, are naturally suspect when they speak out on waterway issues. Feeney explained recently. To make a convincing case for the waterway charge, he would have to find some allies outside the railroad business.

"I knew there were environmentalists and other people out there who agreed with us," Feeney said. "But these guys are getting along on baloney sandwiches—they didn't have the money or manpower to do the kind of studies you need."

Feeney, of course, had money, but the problem was getting the environmentalists to take it.

"If you ever wanted to see a bunch of people who were skittish about dealing with railroads, it was those bearded environmentalists," Feeney said. "Hell, some of the guys had sued us a few times."

In essence, the environmentalits told Feeney that they could not clean up the world with dirty money. So Feeney set up a laundry.

In a vacant office at the Western Railroads' headquarters, Feeney established the "Council for a Sound Waterways Policy." Each month the railroad group writes a check to the council, which in turn sends a monthly grant to environmentalists lobbying for waterway charges and against the Alton lock.

Originally, Feeney said, the council was to be jointly funded by railroads, rail unions, and environmentalists. In fact, he said, the railroads have chipped in about $100,000 and the only other contribution was a check for about $1,000 from the Sierra Club.

Feeney said the council has provided grants of "probably a little over $1,500 per month" to the Environmental Policy Center, a Washington organization which has coordinated environmental lobbying on S. 790 in the capital. That represents about 10 percent of the center's budget.

The council sends another $5,000 a month to the Coalition on American Rivers, a conservation group in Urbana, Ill., which has fought several improvement projects on the Mississippi.

Feeney said the Izaak Walton League of America has also received "material support," but no cash grants, from the railroad council.

Representatives of the center, the coalition and the Walton League all testified in favor of Domenici's waterway fee plan before a Senate Public Works subcommittee last week.

None of them mentioned any connection with the railroad association.

In contrast, a spokesman for the "Pensacola Environmental Association" who testified against the bill stated clearly that his testimony had been paid for by barge interests.

Another recipient of the railroads' largesse is the Public Interest Economic Center, a Washington-based group established to "provide some public interest input into economic decision-making." The center has actively lobbied on behalf of waterway charges.

Lee Lane, of the economic center, is forthright about his support from the rail industry.

"We decided we wanted to help Sen. Domenici, because the policy of free waterways is a tremendous boondoggle," Lane says. "But we needed some support, so we looked around and got a $35,000 grant from the railroads. Without it, we wouldn't be able to do much on the issue."

Lane says the railroad money constitutes "about a tenth" of the center's budget.

Despite their ingenuity in aiding allies, however, the railroads have made a basic strategic error in their lobbying on S. 790, according to some observers.

Of the bill's two main provisions the railroads support waterway tolls and violently oppose the new Alton facility. But they have concentrated much of their money and attention on the Alton project, treating the toll question as almost an afterthought.

"They're waging war, all right, but they're fighting the wrong battle," says Lane, the economist. "Setting up a nationwide system of tolls for the barges would be a much greater victory for the railroads than stopping that one lock."

A Shefferd Lang, who describes himself as the "long view man" for the Association of American Railroads, agrees. "If we had tolls, the pressure for all the new locks and dams would drop, because the barges would have to pay for them.

"But I can't get our people to see that. They've been fighting the (Alton) dam for so long they can't see past it."

The railroads' opponents, the barge interests, have no similar myopia.

Over the years the bargemen have established a network of "associations" and "committees" to lobby for the Alton lock, a longstanding dream of the waterway industry.

But this year, when it looked as if Domenici might be making progress on his toll proposal, a group of big barge lines and major shippers financed a new "American Inland Waterways Committee," to concentrate on S. 790.

The committee went fishing for lobbyists in Washington, and offered sufficiently lucrative bait to land two of the biggest.

One was Timmons and Co., the firm set up by William Timmons and Tom Korologos, who had been the chief lobbying agents for the Nixon and Ford administrations. For balance, the committee also retained the firm headed by George Smathers, the former Democratic senator from Florida.

Signing up Smathers was a particular coup. For the past five years, the smooth Floridian had been a lobbyist for the railroads, and he was known as a dedicated champion of rail interests.

Last month Smathers ended his rail contract. As of 10 days ago, he became an equally dedicated advocate of his former adversaries, the barge operators.

The switch was financed by Louis B. Susman, a St. Louis lawyer who had been hired by the bargemen to run their Inland Waterways Committee.

Susman, a prominent Democratic fundraiser, was a political patron of James Symington, a liberal Democrat who lost his seat in Congress in 1976. Searching for a suitable job, Symington ended up in the Smathers firm. Soon thereafter, Susman's barge committee arrived, too, as a major new Smathers client.

Under the Registration of Lobbies Act, the firm was required to report its new client and a fair estimate of the fee it would receive. Symington dutifully filed on March 31 a statement saying that his fee during the 95th Congress from the Susman committee would be "$500 or more."

That would seem to be an understatement. Railroad officials say Smathers received about $8,000 per month, plus expenses, when he lobbied for them.

Members of the firm said their fee arrangements are "confidential".

Symington did provide some insight, however, into his lobbying tactics during an interview last week.

"People who want to achieve a certain result in Congress shouldn't rely on pressure tactics or Washington lawyers," Symington said. "The thing to do is to bring in average citizens to see their congressmen and talk about the legislation."

Last week Symington discussed S. 799 with Sen. Mike Gravel (D-Alaska), the chairman of the subcommittee handling the bill.

The "average citizen" he invited with him to the senator's office, Symington said, was Paul Hall.

Paul Hall is a citizen of New York who happens to be president of the Seafarers' International Union, one of the major political forces in Gravel's state. In Gravel's 1974 reelection compaign he was given $15,500 by Hall's union.

At the last minute Hall couldn't make it. Symington took Korologos instead.

Symington said he has also contacted executive agencies as they try to establish the Carter administration's stance on S. 790. He said his position as a former congressman is no significant help in gaining access to top executive officials.

"This is an open government," he said. "All kinds of citizens are being welcomed into offices of those in high positions."

When he was in Congress, Symington sat on the Commerce Committee with Brock Adams, who is now, as Secretary of Transportation, deeply involved in determining federal waterway policy.

A Transportation Department information officer said last week that Adams has had one meeting on the waterway issue with people from outside the government:

"He had a talk with Jimmy Symington about it."

Executive Branch Still on the Fence About Waterways Bill

The sound and fury surrounding S.790 started up again this week as a Senate subcommittee continued hearings on the bill. But the star witness didn't show up.

Transportation Secretary Brock Adams was supposed to appear before the Water Resources Subcommittee to state the Carter administration's position on the legislation, which would establish, for the first time, a system of tolls for barges using the nation's inland waterways.

Late last week, though, with Adams' testimony just a few days off, the administration discovered that it didn't have a position Adams had to track down the subcommittee chairman, Mike Gravel (D-Alaska), in Juneau to ask for a 10-day reprieve.

On the surface it would seem easy to discern the administration's views on waterway issues.

For one thing, Adams, Jimmy Carter's chief spokesman on transportation matters, wrote an article in 1975 supporting the concept of waterway user charges.

And in February Bert Lance, director of the Office of Management and Budget, included in his "Fiscal Year 1978 Budget Revisions" a line item predicting $80 million in receipts from waterway tolls—an inclusion that would seem to imply support for legislation establishing the tolls.

But things weren't that simple.

Lance's line item, for example, didn't really reflect a political position on the poll legislation. It reflected the budgeteers' instinctive urge to add in any potential receipt that can offset the ever-increasing list of expenditures.

If it was subterfuge for Lance to include receipts from a toll system that hadn't been established, there was a precedent for it. The Ford administration had budgeted the same $80 million "receipt" for two years when there wasn't even a waterway toll bill before Congress.

Adams, meanwhile, had found that the freedom to express his views that he enjoyed as a congressman was strictly curtailed when he became a spokesman for an administration.

The government, he discovered, was full of disparate agencies, each with its own constituency and view on waterway matters.

The Environmental Protection Agency concluded that waterway tolls would reduce the pressure from barge lines for more and bigger waterways; EPA agreed with Adams that the tolls would be a good idea.

But at the Commerce Department, the Maritime Administration didn't want its favorite industry to have to pay to use the waterways. As stated with lyric alliteration by a spokesman, Walter Oates, "Marad's position is one of opposition to the imposition of tolls."

Across the Potomac at the Pentagon, the Army Corps of Engineers was hesitant, too. The Agriculture Department wavered between opposition and neutrality.

To complicate things, the toll proposal had been linked in the Senate with something more controversial: authorization for a major new lock and dam on the Mississippi at Alton, Ill.

The Corps of Engineers strongly supported the Alton lock; EPA didn't like it; OMB thought it was too expensive; the Transportation Department wasn't sure.

Within the White House, the Alton proposal had prompted one of the rare disagreements between Carter and Vice President Mondale.

As a senator from Minnesota and as Carter's running mate, Mondale had strongly supported the new lock. Candidate Carter had been fuzzy, saying the facility required "further study."

Lance, as OMB director, is the executive branch's umpire in areas of disagreement, and his staff began in February—within days after S. 790 had been introduced—to mold the various executive views into a single voice.

That process involved a whirlwind of meetings, memos, "action papers" and telephone conversations.

Adams visited Army Secretary Clifford Alexander to see if they could find common ground on the issues. A working group of subcabinet-level people from eight agencies met at the Executive Office Building to discuss the legislation.

Lance's staff rather quickly came to the disconcerting realization that its efforts to forge agreement had led to further disagreement.

There was a rough consensus within the government in favor of the waterway charges but there was considerable disagreement over the form they should take. Some agencies proposed a fuel tax; some wanted tolls, some had other mechanisms in mind.

There was no consensus on the Alton lock. Early this month Adams sent a team of engineers to Alton to review the technical basis of the Army Corps' arguments.

By late last Wednesday, when a "decision memo" should have been started on its way to the Oval Office, Lance's staff members knew they were nowhere near a decision.

Adams and Gen. Ernest Graves of the Army engineers were deputized to pass the bad news to the Senate. They spent two days trying to find Gravel, who was politicking in his home state. Finally, Thursday afternoon, they made contact and Gravel agreed to reschedule the administration testimony for May 2.

Carter would have 10 more days to decide how he feels about S. 790.

FINALLY, OPPONENTS' DAY CAME

For weeks the Washington lobbyists for the waterways industry had anxiously scanned each day's Congressional Record looking for their resolution. Finally, last Tuesday, there it was.

On April 25 Sen. Russell Long (D-La.) introduced a Senate resolution calling for a "detailed study" of "numerous unanswered questions" relating to federal support for commercial transportation.

Neither Long's resolution nor his prepared remarks about it mentioned Sen. Pete Domenici (R-N.M.) or Domenici's bill, S. 790, which would require barge lines that transport freight on the nation's inland waterways to help the government pay for maintaining those waterways.

But Long's resolution was an arrow aimed at the heart of S. 790.

For one thing, the soft-spoken senator from Louisiana wasn't thinking of any short-term study; his resolution specifically called for 24 months of investigation. In Congress, where "let's study it" is a standard euphemism for "let's kill it," that resolution would be the kiss of death for Domenici's bill for at least two years.

And Long, who is probably the Senate's strongest opponent of any waterway charge, had conveniently resolved that the study should be carried out by the Senate Finance Committee—a committee chaired by Russell Long himself.

For the waterway lobbyists, Long's resolution was perfect. They couldn't have been happier if they had written it themselves.

In fact, to a large extent, they had.

It was back in September, 1976, when Domenici first started talking about a toll system on the waterways, that Washington representatives of the major barge lines and their chief customers had come up with the "study" strategy.

"There was quite a group of us that worked on it," recalls Jim Smith, president of American Waterways Operators, an industry association. "We were on it, and the National Waterways Conference, and some others.

"Sen. Long's staff had some input into the language of the thing, too," Smith said.

An official at another industry association said he attended several sessions last fall in Long's office to work on the resolution.

For the most part, he said, Long was too busy to attend; instead, the work was directed by Herbert R. Harr Jr., a New Orleans port official who was then chairman of the National Waterways Conference, an umbrella group of shippers, barge lines, and local waterways authorities.

Long said in an interview that he had asked his staff to prepare the resolution. "But of course, you always want to refer something like that to the people who are going to be affected," he said with a gentle grin.

All this spring, while Domenici's bill was picking up support from this economist and that senator, the waterways people bit their nails waiting for the resolution to appear. They could hardly start lobbying for its passage, after all, until Long got around to introducing it.

For Domenici and his staff, the Long resolution was demoralizing, but not entirely unexpected.

In February, when he introduced S. 790, Domenici had maneuvered adroitly to keep the bill out of Long's committees. But he knew that no money bill could long escape Russell Long.

"Of course, I knew that Sen. Long was going to have something to say on the issue." Domenici said after he read the resolution. "And I knew he thought the Finance Committee was the right place for it.

"But the resolution for a study of all transportation came as a surprise to me. I thought at least we might get a [waterway toll] bill moving this year."

Still, there were grounds for maintaining stiff upper lips in the Domenici camp.

"It's one thing to put in a resolution," said Hal Brayman, of Domenici's staff. "It's another to pass it—even if you're a committee chairman. I think a lot of senators will understand pretty well what this study was designed to do."

Moreover, Brayman noted, there is one person in Washington this spring who has at least as much influence with Congress as Russell Long does—Jimmy Carter.

"The most important thing for the user charge bill right now is what the administration says," Brayman added. "If they come down here and say the nation needs the income from waterway fees, and needs it now, I don't think many people will want to wait for a two-year study."

But will the administration say that? Two weeks ago, in his message to Congress on water projects, Carter had come out in favor of waterway tolls. But would he be willing to fight Russell Long head-to-head to get them?

Those questions may be answered in a hearing this afternoon, when the Carter administration finally tells the Senate what it thinks about S. 790.

CARTER SUPPORT THROWS WRENCH IN WATERWAYS BILL

The Carter administration finally took a stand on S. 790, and for supporters of the waterways bill it was a good news/bad news sort of day.

It was good news when Transportation Secretary Brock Adams told a Senate Public Works subcommittee that the administration strongly supports the principal goal of the legislation: to require barge lines using the nation's inland rivers and canals to help pay for the maintenance of those waterways.

Noting that the federal government now spends nearly $1 billion annually keeping up the waterways, Adams said, "It is simply not equitable, not just, that profit-making businesses should have this much of their costs met by the American taxpayer."

The bad news came when the Secretary proposed a method for collecting the waterway fees. Adams suggested a federal tax on the diesel oil that fuels the barges.

As a practical matter, the fuel tax would be the simplest and soundest method of imposing a barge charge. It would be considerably easier to collect and administer than such other proposals as a network of toll gates along the waterways or a federal licensing fee for barges.

Politically, however, the fuel tax is the worst possible approach to a waterway user charge.

A fuel tax would be, after all, a tax. Like all new tax plans, it could not reach the Senate floor without first winning approval of the Senate's tax-writing arm, the Finance Committee. That committee, though, is chaired by Russell Long (D-La.), whose home state includes two of the world's largest barge ports and who is, consequently, a resolute foe of any form of waterway charge.

It was precisely to avoid Long, in fact, that Sen. Pete Domenici (R-N.M.), the author of S. 790, carefully kept the word "tax" out of his bill. Domenici always talked about his plan as a "toll" or "fee" and he had hoped that semantic distinction would keep his legislation in the Public Works Committee, safely out of Long's clutches.

As soon as Adams uttered the phrase "fuel tax" at yesterday's hearing, Domenici and Sen. Mike Gravel (D-Alaska) undertook to explain that sad political reality.

"If this is put forward as a fuel tax," Gravel said, "it will have to be referred to another committee . . . the chances of getting a waterway tax out of that committee might be fairly remote."

If the truth were known, Adams already was aware of that. During the deliberations on the Domenici bill within the administration, he had tried to explain that a fuel tax was, politically, an unwise approach.

But the secretary had been overruled by Bert Lance's team at the Office of Management and Budget, who insisted that Long might be sold some form of barge tax. So Adams, the good team player, had presented the Lance position as his own before the subcommittee.

To soften the blow somewhat, Adams readily agreed to Gravel's suggestion that he give the subcommittee a detailed "toll" proposal as an alternative to the "tax" plan.

But the damage had been done. By espousing a fuel tax, Adams had provided an invaluble weapon for senators who oppose the whole idea of waterway charges.

If Domenici's bill reaches the Senate floor, the opponents can now argue, with the Carter administration's blessing, that the Finance Committee is the appropriate place for such legislation—knowing full well that any waterway bill sent into Long's committee is unlikely ever to come out.

Adams, whose appearance drew a packed, standing-room-only crowd of lobbyists, congressional aides, and reporters to the hearing room, threw another procedural monkey wrench into S. 790's works by proposing an 18-month delay in construction of a major new lock on the Mississippi at Alton, Ill.

The Alton facility is the chief legislative goal this year of the barge industry. Domenici had joined his waterway charge plan to the Alton proposal, in the hope that barge interests might accept the toll as a necessary price for approval of the new lock.

But with Adams proposing "deferment" of the Alton project Domenici had lost his vehicle.

On the day when its basic principle had received a strong push forward from the executive branch, S. 790 was in worse shape than ever.

Waterway Toll Bill Emerges for Eventual Vote on the Floor

Spurred by next Monday's congressional budget deadline, the waterway toll bill, S. 790, sailed through two Senate committees in one week and emerged yesterday, more or less intact, for an eventual vote on the Senate floor.

The burst of progress on the bill, which would require barge lines to pay for their use of federally built and maintained waterways, began last Thursday when the Public Works Committee approved the measure by a surprisingly strong 14-to-1 vote.

Then yesterday S. 790 came before the Commerce Committee, and even though most Commerce members knew next to nothing about the bill, they, too, proceeded to vote on it. They voted to put off the imposition of tolls for at least 18 months pending a new study of the issue.

Because the bill had been "jointly referred" to the two committees when it was introduced in February, both committees' versions of the bill will be reported to the Senate floor. That in itself constitutes a considerable victory for Sen. Pete V. Domenici (R-N.M.), S. 790's sponsor, who had feared that his controversial proposal would be left for dead in one of the two committees.

The committee votes marked a vindication of the strategy Domenici had devised when he first introduced his bill in February.

Domenici had linked his toll proposal with a bill authorizing construction of a major new barge lock on the Mississippi at Alton, Ill. As Domenici planned it, the Alton lock would be a vehicle on which the toll plan could ride through committees.

That's just how things worked yesterday in the Commerce Committee. Most Commerce members are opposed to the waterway tolls, but they strongly favor the new lock. Because the lock authorization involves federal spending, it had to be reported out of commitee by next Monday to comport with the requirements of the congressional budget procedure.

Consequently, such opponents of waterway tolls as Russell B. Long (D-La.) and John C. Danforth (R-Mo.) found themselves pushing to get S. 790 out of committee and onto the floor.

Because of the haste, yesterday's Commerce Committee session was something less than a model of responsible legislating. Hardly any of the committee members had had time to read S. 790, and they had to work on the bill in almost total ignorance of its provisions.

Things got off to a bad start when the committee chairman, Warren G. Magnuson (D-Wash.), undertook to explain the bill to the members. About one-third of the way through, the 72-year-old chairman lost his train of thought, and the explanation was abruptly halted.

That didn't stop the members from debating the bill, however. Sen. Ted Stevens (R-Alaska) and others complained that S. 790 would make pleasure boaters pay for navigational aids on inland rivers. No one seemed to know that the bill specifically excludes pleasure craft, and states that federal spending for navigation aids shall not be recouped through the toll system.

There followed a flurry of amendments to the bill, and amendments to those amendments, with the result that by the time the committee finally voted to report out S. 790, nobody was certain exactly what the Committee version of the bill would say.

"Without objection," Magnuson said, "we'll let the staff clean all this up." Nobody objected.

The Public Works Committee's consideration of the waterway toll a week earlier began in a subcommittee, which held a "markup" session (where members "mark up" the printed bill with various amendments) just after the hearings ended.

Under the Senate's new "sunshine" rules, most markup sessions are supposed to be held in public. But when the subcommittee members arrived for the markup, they huddled around Chairman Mike Gravel (D-Alaska) with their backs to the audience, and discussed the bill in muffled tones that could not be heard beyond the huddle.

After 40 minutes of whispered discussion, the members turned around, Domenici made a motion, and S. 790 was sent on its way.

The version of S. 790 that came out of the Public Works Committtee was nearly identical to the one that Domenici had introduced before the hearings.

Of some 60 witnesses who testified, only one—a sand and gravel dealer from Kentucky—was to have any effect on the bill eventually reported from the committee.

The gravel dealer had asked for an amendment to spare his small business, which relies on waterway shipment, from economic disadvantage. He got a legislative commitment that the barge toll would not significantly harm small businesses.

Among the witnesses whose testimony had no effect was Transportation Secretary Brock Adams. Despite large Democratic majorities on both Senate committees, neither paid the slightest attention to the views of the Carter administration, which Adams had presented in testimony.

The administration could still influence S. 790, of course, by lobbying on the bill as it comes to the Senate floor.

"I expect there'll be a lot of that," Domenici said. But that was in the future. For the present, the bill had gotten out of committee, and that was not bad at all.

"Hostage" Plan Aids Barge Toll Backers

While printers were printing, schedulers were scheduling, and lobbyists lobbying all over the Senate, the waterways toll bill, S. 790, moved towards a final vote—and got a major boost along the way.

With a little help from a well-placed friend, Sen. Pete Domenici (R-N.M.), the bill's sponsor, found himself in a legislative catbird seat. His chief opponents had been forced to admit that they might have to vote for Domenici's bill.

S. 790 would require barge lines hauling freight through canals, locks and channels built and maintained by the government to pay a charge for using those waterways. The barge industry, which has never paid a penny for the multibillion-dollar inland water network, has mounted a steadfast fight in the Senate against the bill.

Meanwhile, the barge interests have been working for Senate passage of a long-sought $420 million authorization to rebuild Locks and Dam 26, the 26th federally built barge facility downstream from Minneapolis on the Mississippi.

Since he first introduced S. 790, Domenici has worked to link his fee proposal with the authorization for the new lock.

Late Friday evening, Domenici and the rest of the Senate learned that the two measures would indeed be linked—by Jimmy Carter. In a letter to the Senate, Transportation Secretary Brock Adams said that senators who favor the new lock would have to vote for S. 790, too, to get it.

"I feel I should inform you," Adams wrote, "of the President's very firm intention to veto any bill authorizing construction of a new Locks and Dam 26 . . . which does not also contain a provision for the establishment of waterway user charges."

In essence, Carter had adopted a "hostage" strategy, holding the new lock hostage to the imposition of tolls. Presumably, some pro-barge senators would now have to vote for S. 790 to free the hostage.

For Domenici, Adams' letter came as a godsend, but the cherry New Mexican had to admit the message was not exactly a bolt from the blue. In fact, Domenici had been nudging Adams toward the "hostage" position for the past few weeks in a series of friendly phone calls.

Adams and Domenici have been friends since Adams' service in the house of representatives. In one of those "odd couple" arrangements that pop up in Congress now and then, the liberal Democratic congressman from Seattle and the conservative Republican senator from Albuquerque had developed a close relationship during long working sessions in the House-Senate conference on the annual congressional budget.

Adams had chaired the House Budget Committee, and he had retained his interest when he left Congress to join Carter's Cabinet. To keep up, he made regular calls all spring to his friend Domenici. The senator would recount the latest budget developments, and then steer the conversation around to S. 790.

Adams and the White House also had reasons of their own for sending the "hostage" letter. Carter and his budget director, Bert Lance, were both suspicious in general of the Army Corps of Engineers' grandiose plans for the new lock, and both were anxious for the income that waterway tolls could provide.

Adams, moveover, was angry that his carefully prepared Senate testimony on the lock—he suggested that construction be delayed for a study—had been totally ignored by pro-barge senators on the Public Works and Commerce committees.

When he heard that Adams' letter was on the way, Domenici's first fear was that it would arrive on the Hill too late to do any good. So Lee Rawls, of the senator's staff, dashed off a note to William Hildenbrand, who works for Minority Leader Howard H. Baker Jr. (R-Tenn.), beseeching him to have S. 790 put off a few weeks on the Senate floor schedule.

Hildenbrand has a working relationship with his counterparts on the majority staff that permits either side to delay scheduling of any bill. It was arranged that the measure would not come to the floor for another week to two, giving Adams' message time to sink in before the final vote.

Meanwhile, the mechanics of moving the bill from committee to the Senate floor were proceeding apace. A committee report, containing the views of the two committees that had considered S. 790, and a new text of the bill, containing committee amendments, were rushed to the printers and distributed to every member.

The actual record of the Public Works Committee's hearings would not be printed before the Senate vote, but Hal Brayman, another Domenici staffer, saw to it that the most favorable parts of the record got out anyway.

Brayman wrote a series of speeches quoting various supporting witnesses. The speeches were distributed, one each, to Republicans supporting Domenici. They are being inserted, by a different senator each day, in the Congressional Record.

Like hungry dogs responding to Pavlov's bell, packs of lobbyists descended on the Senate office buildings in anticipation of the impending floor vote.

Senators who live thousands of miles from the nearest waterway suddenly found themselves engulfed by silk-suited lawyers pushing the views of the barge companies, who oppose S. 790, and the railroads, who favor it.

The first rule in any successful lobbyist's book is to bring local pressure to bear. Pressure, from every state in the union, was being brought. Telephone calls, telegrams and sacks of letters about S. 790 were pouring in to Washington.

And a few letters were going the other way. Newspapers in Albuquerque, Santa Fe, Las Cruces, and Alamogordo, N.M., began receiving letters from "concerned citizens" of Arkansas, Mississippi, and other river states denouncing Domenici.

With a final Senate vote approaching, the battle of S. 790 was heating up.

House Counterpart to Senate Barge Toll Bill Languishing

When the framers of the Constitution set out to design our system of representative democracy, they must have had something like H.R. 4339 in mind.

H.R. 4339, the "Transportation Users Equity Act," is the House of Representatives' version of S. 790, the controversial Senate proposal to require barge lines to pay tolls for their use of federally built and maintained waterways.

The House bill was introduced early this spring by Berkley Bedell, a gentle soul from Spirit Lake, Iowa, who represents the northwest corner of his state in Congress. But it could not be called Bedell's own brainchild.

Rather the legislation was the product of Bedell's constituents, who complained to the Democratic Congressman at various town meetings that private barge lines were receiving, for free, billions of dollars worth of public support. In Monona County, in Osceola, in Winnebago the subject came up, and the people asked him to do something about it.

Unfortunately for Bedell, the barge toll idea is considerably less popular in the House Public Works Committee, to which H.R. 4339 has been referred. Committee members say Bedell's bill is unlikely even to be scheduled for hearings, much less receive a favorable vote, in Public Works.

Therein lies the rub for advocates of the waterway toll, who have watched with growing optimism all spring as the Senate toll legislation, S. 790, has gradually picked up support as it moves toward a final floor vote.

S. 790, too, seemed a nearly hopeless cause when Sen. Pete Domenici (R-N.M.) introduced it in February, but deft parliamentary maneuvering by Domenici and strong support from the Carter administration have given the bill at least a 50-50 shot at passage, according to preliminary head counts by lobbyists on both sides of the issue.

In the House, the legislation faces much longer odds. Bedell, a sort of lamb among lions in Congress, is just not the type to pressure a bill past hostile committee leaders. "I don't usually call the chairmen or cajole people or things like that," he says.

Yet the quiet congressman, who looks and talks like a prairie Mr. Peepers, does have a way of getting things done.

In Spirit Lake High School during the depression, Bedell used to braid dog's hair around old fish hooks and sell the resulting trout flies to make spending money. He built that pastime into a fishing tackle concern with 800 employees and $20 million in annual sales.

With similar industry, Bedell set out in 1971 to get to Congress, and ran almost full-time for three years to unseat Republican Wiley Mayne. The next question was what to do in Congress once he'd arrived there.

For answers, Bedell established a regular circuit of "open door meetings," 44 of them each year, in which his rural constituents debate and vote on issues they want Bedell to get involved in.

Most of the farmers in Bedell's corner of Iowa ship their grain to market by rail. They had long paid higher freight rates than eastern Iowans, who ship by barge on the Mississippi. Waterway rates were lower because the barge lines paid nothing for construction and maintenance of their rights of way.

"I never knew much about this," Bedell said. "But at these meetings people kept saying it wasn't fair. The railroads had to pay for their track bed; truckers paid into a fund for highways. Why should the barges go free?"

This spring Bedell brought that message back to his legislative assistant, Bill Endicott, and the two decided to put in a bill. But neither knew much about the barge business, and neither was patricularly adept at writing legislation, either.

So Endicott took the matter to Ward Hussey.

Hussey, a cheery veteran of 30 years' service in the Office of the Legislative Counsel, is the House's chief bill writer. His raison d'etre is to help members like Bedell put their ideas into legalese, and for Hussey it is a labor of love.

Beneath an office bulletin board that features a "statute of the month," Hussey talks happily to anyone who will listen about the salad days when he was drafting the Marshall Plan and the Internal Revenue Code of 1954.

For Hussey and his staff, a little thing like a waterway toll bill was a piece of cake. They borrowed some language from Domenici's bill, threw in some boiler plate conditions and exemptions, and ground out H.R. 4339 in a few days.

With the draft of a bill in hand Endicott prepared a "Dear Colleague" letter explaining the concept and asking for co-sponsors. Ten signed on (only one from the Public Works Committee, however), and Bedell dropped his bill in the hopper.

But there it stopped. With powerful opposition on the Public Works Committee, H.R. 4339 seems to be headed only for oblivion.

And that poses a frustrating problem for Domenici, who has steered his own toll bill so artfully through the Senate. All his efforts would be futile if the idea came to a dead halt in the House.

Consequently, even before he has won in the Senate, Pete Domenici has been plotting how to get S. 790 through the other half of Congress.

Steering Through the Shoals—With Senate Course Charted, Measure Almost Snagged in House

With the prospects for Senate passage of his waterways toll bill, S. 790, looking brighter all the time, Sen. Pete V. Domenici (R-N.M.) turned late last month to a rather fundamental problem he had ignored all spring: there was another house of Congress to worry about.

Domenici had steered his bill—which would establish, for the first time, a set of tolls for barges hauling freight on the nation's inland waterways—through two Senate committees, and lobbyists were reporting that it stood a good chance of victory on the Senate floor.

In the House of Representatives, though, the toll proposal was making less forward progress than a barge on a sandbar. The bill had been introduced by a junior member, Rep. Berkley W. Bedell (D-Iowa), and promptly hurled in a hostile subcommittee.

Domenici's Mission Impossible, then, was to find a means, in the Senate, to force his idea through the other half of Congress. By last week, he had a plan.

Article I, Section 7 of the Constitution establishes the requirement that a bill must be approved by both houses of Congress before it can be signed into law by the President. But that section doesn't explain how the two houses should work together to settle on a jointly acceptable form for each bill.

Over the decades Congress has developed the conference procedure, in which legislation that has been passed in similar but not identical forms by the two houses is sent to a "conference committee" with representation from both Senate and House.

The conferees are charged with developing a single version of the bill which can be presented to each house for final passage. In most cases of dispute, each house yields partly to the other and a compromise bill is agreed to.

The possibility of a compromise in conference provided Domenici with the opening he needed. If the Senate were to pass his toll bill while it was still mired in the House subcommittee, he might still get the measure to the House floor by insisting on it in a conference. And on the House floor, unlike the subcommittee to which it had been assigned, the waterway toll seemed to have a good chance of passage.

To employ that strategy, though, Domenici had to be sure he could get his measure to a conference. Since a waterway toll bill would probably never pass the House, and thus never reach a conference, the senator needed a vehicle.

Domenici had earlier found one to help his toll plan get through Senate committees. He had attached it to a bill authorizing a major new Mississippi River barge facility at Alton, Ill. But the Alton project was not sure of House passage, so the senator looked around for a safer bet.

The one he chose was S. 1529, a compendium of two dozen or so "pork-barrel" public works projects which had been lumped, for administrative convenience, into a single "omnibus" public works bill.

Because the omnibus bill contained goodies for almost every section of the country, it seemed sure to win passage in both houses of Congress without much trouble. And because it included numerous waterway projects, it would be a perfectly logical place to append a proposal for a waterway toll.

The omnibus bill offered other advantages, too. Because it was a product of the Senate Public Works Committee, the Senate conferees on the bill would be chosen from Public Works members—who favor the waterway toll.

As a member of the Public Works Committee, Domenici would have a good chance to be appointed a conferee on the omnibus bill, so that he could personally push his waterway toll in the conference session.

Finally, the omnibus bill included about $100 million worth of flood control projects in West Virginia, the home of Senate Majority Leader Robert C. Byrd. Thus it seemed likely that Byrd would schedule the omnibus bill for a Senate vote fairly soon.

Accordingly, Domenici decided that his original bill, S. 790, would be allowed to die. Instead, the senator would propose the waterway toll and its "sweetener," the Alton project, as floor amendments when the omnibus bill came up for a vote.

Whether the Senate would approve the toll plan was still uncertain. But if it did, Domenici knew, he now had a means to get it through the other half of Congress as well.

Corporate Killer Fish Are Circling Waterway-Tolls Bill

When you're running a corporation as big as U.S. Steel, it's not always easy for the right hand to know what the left hand is doing. That must explain the huge firm's lobbying position on S. 790.

Ohio Barge Line, Inc., a U.S. Steel subsidiary that hauls raw materials and steel along various Midwestern waterways, has contributed more than $5,000 to the lobbying effort against the Senate bill, which would require barges to pay tolls for use of inland waterways built or maintained by the federal government.

Meanwhile, the Elgin, Joliet, and Eastern Railroad, another wholly-owned subsidiary of U.S. Steel, has contributed undisclosed sums to the Western Railroad Association, the rail industry umbrella group that has spearheaded lobbying in favor of the waterways bill.

U.S. Steel's schizophrenia on S.790 may be unusual, but the giant steelmaker's involvement in the lobbying fight is definitely not. As the controversial waterways proposal heads toward a final Senate vote—probably sometime this week—some of the biggest fish in America's corporate sea are circling the Capitol, looking for a legislative kill.

As with most economic legislation in Congress, the waterways toll plan is being debated largely in terms of its effect on consumers and small business. But also as with most economic legislation, the lobbying is being financed largely by big business.

Under the 1946 Regulation of Lobbying Act, all those involved in the lobby campaign should report how much they are spending on the effort.

In practice, the act is so structured that anyone who wants to can conceal his identity and his expenditure. Thus it is impossible to detail precisely who is spending what on S. 790.

But records that are available indicate that railroad interests, which favor the waterway toll, have spent at least $350,000 on the toll legislation and a companion bill that would authorize construction of a major new barge facility on the Mississippi at Alton, Ill.

Those chipping in to the rail fund include most of the nation's big railroads, conglomerates such as IC Industries (which owns everything from railroads to Midas Mufflers to Dad's Root Beer), and two government-funded rail behemoths, Amtrak and Conrail, whose annual dues to the Association of American Railroads help pay for that association's lobbying team.

The railroad spending seems to have been at least matched by the barge industry, which opposes the toll.

The barge business is a curious combination of small, one- or two-boat piloting concerns and huge industrial, mineral, and agricultural firms that maintain large river fleets.

Those big barge shippers have been generous in supporting four different industry groups lobbying against the toll. Contributors include Dow Chemical; Peabody Coal; Cargill, the grain giant; American Electric Power, the nation's largest utility combine; and Mobil, Sun, and Ashland Oil companies.

Once you've raised the money, how do you start lobbying? The two sides in the S. 790 fight have adopted opposite approaches to the problem.

The railroad people, on the whole, are working through senators' staffs. Using their own loquacious lobbyist, Robert Bird, and a squadron of environmentalists and economists supported by railroad funds, they have tirelessly carried their message—in personal visits and voluminous literature—to every administrative assistant in the Senate.

The staff strategy is a proven winner; one of the great Senate victories in lobbying lore—the civil rights lobby's defeat of the G. Harrold Carswell Supreme Court nomination—was won by convincing staff members, who convinced their senators, that Carswell was unfit for the court.

But it also has a hitch. While one lobbyist is busily selling a senator's aide, he may find out that his adversary has been working equally hard on the senator himself.

And that, in the case of the waterway toll, is where George A. Smathers comes in. Smathers has been hired by the bargemen to take their case directly to the senators.

George Smathers is a smooth-talking, ingratiating Floridian who served three terms as a Democratic senator and set up shop along "Lobbyists' Row" on K Street N.W., after retiring from Congress in 1968.

With his convincing ways and close friendships among senior Senate Democrats, Smathers' operation has been able to command fees of $2,000 per month and more from major corporate clients.

For the past five years, in fact, Smathers had been paid about $100,000 per year, according to rail executives, by the railroad industry to lobby in support of the waterway toll.

Then this spring, the highly paid Smathers changed his spots. Smathers was signed up by the barge industry, and immediately began lobbying assiduously against the toll proposal he had so assiduously supported while he was on the railroad payroll.

The quick turnabout seems not to have impaired Smathers' effectiveness with his old friends in Congress. He and his new associate, former Democratic Rep. James Symington of Missouri, have been calling senators and cornering them in the hallways to spread the bargemen's message.

Indeed, the opponents' direct approach to senators seemed to be working so well that one of the chief supporters of the waterway toll began last week to employ that lobbying tack in addition to the staff strategy.

Secretary of Transportation Brock Adams, who has led the fight for the Carter administration, which supports the toll idea, began placing calls to his friends in the Senate to convince them that S. 790 deserved their vote.

Not all the lobbying effort was aimed directly at Capitol Hill. There was also a concerted effort to win the hearts and minds of the news media, on the theory that what was printed about the waterway toll would influence senators' perception of the issue.

Accordingly, a barge industry group two weeks ago hosted some 20 reporters on a free, two-day barge tour of the Ohio River Valley.

And last week senators on both sides of the issue were approaching Washington reporters proposing news stories about the bill that would run a day or two before the Senate vote. Each side's version of the story, of course, supported its view of the toll proposal.

Last week, Sen. Pete Domenici (R-N.M.), the sponsor of the waterway toll bill, and Sen. Russell Long (R-La.), its chief opponent, both suggested that reporters write a news story a day or two before the Senate vote. Each man's version of the proposed story, of course, supported his view of the issue.

Whether all the money and effort would bear fruit remained unclear, however. With the vote just a few days off, Lee Lane, an economist who has been lobbying in favor of the waterway toll, was almost ready to conclude that it had all been in vain.

"The more I talk to people," Lane said, "the more I'm afraid that half the Senate doesn't understand the issue and the other half can't make up its mind."

Senators Leave Education on Toll Bill to Final Hours

With the waterways toll bill due to come for debate on the floor within 24 hours, members of the U.S. Senate yesterday afternoon decided it was time to find out what the legislation was all about.

Despite hundreds of thousands of dollars worth of lobbying effort and millions of words in reports, "Dear Colleague" letters and newspaper articles, most senators who had no direct interest in the legislation had to admit to their assistants that they weren't really sure what it was they were about to vote on.

Accordingly the offices of Sen. Pete Domenici (R-N.M.), sponsor of the waterway proposal, and Sen. Russell Long (D-La.), its chief opponent, were getting calls from staff aides all over the Senate.

"I've got to write a floor memo for my guy telling him how to vote," the staffers would say. "What's the deal on this thing, anyway?"

The problem is that, until late yesterday, neither side was entirely certain what the final "deal" would be.

The basic outlines of the Domenici measures were clear. But for the past week, the New Mexican, growing increasingly nervous as the final vote approached, had been engaged in nonstop negotiations with various colleagues to design a bill that would pass the Senate.

For a number of reasons, Domenici had decided, however, that he would bring up his original bill, S-790, as a floor amendment to the omnibus rivers and harbors bill, which was scheduled for debate today.

Long, for his part, had to deal with barge industry lobbyists who were pleading with him to find some parliamentary device that would keep Domenici's bill from reaching an up or down vote on the floor.

The legislation that sparked it all would require barge lines hauling freight on inland waterways to help the federal government pay for building those waterways.

Last week, with the vote count showing his chances to be too close for comfort, Domenici set out to win over some of his adversaries.

Through innumerable phone calls and meetings with farm state senators, the New Mexican kept asking if there wasn't some way that his bill could be made palatable to farmers.

Over the weekend Domenici and two Minnesotans, Hubert Humphrey and Wendell Anderson, hit on a plan. They would establish a limit or "cap," on the barge toll that would guarantee that commodity prices would not increase more than 1 percent because of the waterway fee.

Not until yesterday afternoon were the details resolved. But at 6 o'clock last night an excited Domenici was able to drop on the desk at the front of the Senate chamber an amendment, with 13 cosponsors, that would assure farm support for the barge toll.

Long, meanwhile, was being pressed from both sides. The barge industry, concerned that Domenici had them beat, had been asking him to find some way—even a filibuster—to prevent a vote.

But Long's allies in the Senate, Sens. John Danforth (R-Mo.) and Thomas Eagleton (D-Mo.), argued that they ought to let the bill come to a vote on the floor.

Last night, as the bill was formally brought up so debate could begin this morning, it was still not clear when—or even if—the Senate would finally vote on the waterway toll.

U.S. Waterway Tolls Approved by Senate

The Senate yesterday approved legislation that would require commercial barge lines to pay tolls for using federally built and maintained inland waterways.

In a legislative skirmish that pitted a first-term Republican, Sen. Pete V. Domenici

(N.M.), against one of the Senate's senior Democrats, Russell B. Long (La.), Domenici prevailed with the argument that "railroads and truckers pay for their rights-of-way and barge lines should, too."

About 16 per cent of the nation's freight is shipped by barge over 25,000 miles of inland waterways built and maintained by the Army Corps of Engineers. The Department of Transportation estimates that federal spending on the waterways is about $1 billion annually.

Since the Northwest Ordinance of 1787, which declared that the waterways should be "forever free," shippers have not been required to reimburse the government for its waterway expenditures.

Yesterday's vote marked the first time that either house of Congress has voted for a waterway fee.

The waterway fee proposal has been introduced in the House, but appears to be making no progress.

Yesterday's Senate vote came as an amendment to a $730 million rivers and harbors bill, which contains several politically popular projects and should pass in the House. When that bill comes to a House-Senate conference, Domenici hopes to add the Senate-passed waterway toll to the conference version, which will go back to both houses.

However, Long warned that Domenici's strategy might be unconstitutional, citing a clause in the Constitution requiring that revenue bills originate in the House.

In passing the waterway toll plan, the Senate also approved a $421 million authorization for a new lock and dam on the Mississippi at Alton, Ill.

The crucial vote in a seven-hour Senate session that was alternately crackling and comatose came when Long and Sen. Adlai E. Stevenson (D-Ill.) suggested a study of the toll proposal in place of the Domenici bill.

The two Democrats argued that too little was known about the impact of a waterway toll on the freight industry and consumer prices to approve it without further study. Domenici and his supporters replied that the idea has been extensively studied and that the Long-Stevenson move was a back-handed method of killing the toll proposal.

The study proposal was defeated on a 51-to-44 vote, and a subsequent Stevenson study proposal lost by a larger margin. When those votes made it obvious that proponents of the toll had a majority, support for Domenici's bill grew. The final vote was 71 to 20.

The Senate legislation would empower the Department of Transportation to develop a system for collecting the barge fees. Unless it was rejected by a two-thirds vote in Congress, that system would take effect in 1979.

The long day on the Senate floor was relatively anticlimactic for proponents of the waterway fee, who have been battling in Senate committees and corridors since Domenici proposed the bill in February.

Domenici adroitly maneuvered the proposal through two Senate committees and managed to keep it away from the Finance Committee where Long, a strong advocate of the barge industry, would almost surely have buried it.

The proposal prompted a major lobbying fight between barge interests, who opposed it, and the railroad industry, which backed it, causing a difficult choice for senators in states where both industries operate.

When Stevenson's amendment came up yesterday, for example, Sen. Charles H. Percy (R-Ill.) stood at the front of the chamber carefully tabulating the vote. When it became clear that Stevenson's proposal would lose, he voted for it.

That move allows Percy to tell the barge interests that he supported them by voting for the plan and the railroads that he waited until he was sure they would win before voting against them.

WATERWAYS TOLL BILL FACES NEW THREAT: DEATH BY "BLUE SLIP"

In Robert Louis Stevenson's "Treasure Island," the pirates exchanged death threats by passing notes marked with "The Black Spot." In the Congress, the same message is conveyed via "the blue slip."

A "blue slip" is a parliamentary form letter through which the House of Representatives can kill, irrevocably, certain bills passed by the Senate. Next week, when Congress comes back from recess, that fate may await S. 790, the waterways toll bill.

It is a frustrating prospect for Sen. Pete Domenici (R-N.M.), the sponsor of the waterways toll bill, which would require, for the first time, that barge lines pay a fee for using inland waterways built and maintained by the federal government.

Despite opposition from some of the Senate's most powerful Democrats, Domenic had successfully steered his bill through two committees and onto the floor. There, two weeks ago, he staved off potentially crippling amendments and won passage of the waterways toll by a healthy 71-to-20 vote.

When the senators had finished action on the bill, it was passed on to the myriad clerks and secretaries responsible for informing the House that the Senate had acted.

The Senate's legislative clerk compiled, with scissors and tape, a final version of the toll bill containing all the last-minute amendments adopted during the floor debate.

The resulting compilation of paper went to the bill clerk, who logged it in his huge ledger and passed it to the enrolling clerk, who logged it in his ledger and passed it to the public printer, who printed a final text and passed it back to the enrolling clerk, who passed it to the secretary of the Senate, who certified its official passage by the Senate and passed it back to the enrolling clerk, who walked over to the House chamber. In a brief ceremony unchanged since the birth of Congress, he formally presented "a message from the Senate to the other body."

Beneath all the ancient protocol, however, lay a constitutional provision that made the waterways toll bill a possible candidate for a "blue slip."

Article I, Section 7 of the Constitution—one of the few clauses in that document that divides responsibilities between the two houses of Congress—provides that "all bills for raising revenue shall originate in the House of Representatives."

That sentence, known to scholars as the "origination clause," was based on 18th century practice in the British parliament, where only the House of Commons—considered the more representative of the two houses—could originate tax levies.

Although it is not frequently invoked, the "origination clause" is dear to the hearts of the members of the House. They jealously guard their prerogatives and they have prepared a form letter—printed on a blue slip of paper—to inform the Senate whenever they feel their power of origination has been violated by a Senate-passed bill.

Such a letter makes a Senate-passed bill a legal nullity in the House. And the Senate has no recourse.

As soon as the waterways toll bill was formally delivered to the House—about a week after it passed in the Senate—Rep. Al Ullman (D-Oreg.), chairman of the House's tax writing Ways and Means Committee, asked his chief of staff, John Martin, to determine whether the Senate was treading on the House's constitutionally guaranteed turf.

Accordingly, opponents and proponents of waterway tolls quickly engulfed Martin in legal briefs arguing whether Domenici's bill is a proper target for an origination clause "blue slip."

Like bands, slang, and dress styles, constitutional clauses tend to go in and out of fashion over the generations. The origination clause was highly popular among constitutional lawyers in the last quarter of the 19th century, and has been invoked rarely since.

Thus Martin found himself reading briefs about a series of century-old Supreme Court cases in which citizens had challenged various federal taxes on ground that they had originated in the Senate.

The decisive issue in those cases seemed to be whether the "revenue raising" aspect of a particular bill was the bill's main feature or an incidental effect of legislation primarily designed for other purposes.

In 1897, for example, when Congress enacted a Senate-originated bill that taxed bank notes, the Supreme Court upheld the tax because its main purpose was to regulate banking, not to raise money.

There is some question, though, whether all the legal arguments would carry much weight if the waterways toll bill came up for a "blue slip" in the House.

Under House rules, a floor vote would be required on the origination clause question. But House members rarely vote against measures that seem to protect their own prerogatives. If Ullman were to decide that the waterways toll bill violates the origination clause, the House would be extremely likely to vote for a "blue slip."

So, just two weeks after their triumph on the Senate floor, Domenici and his pet bill were in serious trouble.

WITH TIMELY TUG, BARGE TOLL MAKES SUDDEN TURNABOUT

With a timely tug from Tip O'Neill, the barge toll bill, S. 790, slipped past a potentially lethal parliamentary obstacle last week and seemed, all of a sudden, to be in line for quick approval in the House of Representatives.

It was a remarkable turnabout in the fortunes of the bill, which had appeared, just two weeks ago, to be facing an insurmountable constitutional problem.

The legislation, which would require barge lines to pay a fee for their use of federally built and maintained inland waterways, had squeaked through the Senate late in June and been sent to the House.

But the House's chief tax writer, Ways and Means Committee Chairman Al Ullman (D-Oreg.), took one look and raised his furry eyebrows.

The waterway fee would, of course, produce revenues. That made S. 790 a "revenue bill" Al Ullman knew that the Constitution specifically states that all revenue bills must originate in the House. So Ullman began hinting that S. 790 might be a candidate for a "blue slip"—the form notice the House sends the Senate when it finds that the Constitution's "origination clause" has been violated.

A blue slip would have killed S. 790. That prospect dismayed proponents of the waterway fee. It also caused consternation in the barge industry, which opposed the fee but strongly favored another section of the bill that authorized construction of Locks and Dam 26, a major new barge facility on the Mississippi.

Accordingly, friends and foes of the waterway toll began searching for a compromise that would avoid the blue slip. Inevitably, their search led them to Rep. Thomas P. (Tip) O'Neill, Jr. (D-Mass.), the Speaker of the House and a compromiser par excellence.

Personally, O'Neill was inclined to let the Senate bill move on to a House vote. For one thing, his close friend, Brock Adams, the Secretary of Transportation, was pushing hard for the waterway fee. For another, the Speaker wanted to clear away as much pending legislation as possible so the House could get down to uninterrupted work on the White House energy package.

Professionally, however, O'Neill felt he could not let S. 790 go unchallenged.

Like Winston Churchill, who declared that he had "not become the King's First Minister to preside over the liquidation of the British Empire," O'Neill wanted everyone to know that he had not become Speaker to stand by while the Senate violated the House's constitutional prerogatives.

O'Neill conferred with Adams. He huddled with Ullman. He chatted with Harold T. (Biz) Johnson, the California Democrat who chairs the Public Works Committee. And last week, in a meeting with all the principals, the Speaker spoke.

To avoid the origination problem, O'Neill said, the House would have to originate its own version of S. 790. Johnson's committee would approve the locks and dam project. Ullman's committee would write a waterway fee bill. The two measures would be linked on the House floor, passed, and sent to the Senate.

It had taken the Senate five months to achieve all that, but O'Neill said he couldn't wait that long. The two committees were to finish their work by July 25. The full House would vote a day or two later. By Aug. 1—when O'Neill wanted to start debate on the energy bills—the waterway toll would be back in the Senate.

With both Adams and the barge industry backing that proposal, the Speaker's tight timetable seemed likely to be met. Both committees immediately scheduled hearings and "markup" sessions for this week, and all concerned were predicting that the bill would move through the House almost precisely the way O'Neill programmed it.

The problems, if there were any, lay in the Senate. With a new waterway toll bill coming over from the House, the Senate would have to vote on the measure a second time. Would opponents of the toll try again to defeat it?

Apparently not, according to Sen. Russell Long (D-La.), who had been the bill's leading Senate adversary.

"There's only so long you can drag these things out," Long said in his gentle bayou twang. "We tried to beat this bill once, and we lost. Not by much, but we lost. We're not going to get anywhere trying to do it again."

For the present, at least, there was smooth sailing ahead for the waterways bill.

CLEARS COMMITTEES, NEARS HOUSE FLOOR—WATERWAY FEE IS WATERED DOWN

With a sudden surge of support from a most unlikely source—the barge industry—the waterway toll bill moved lickety-split through two House committees in a week, and yesterday it seemed almost sure of House passage by Friday.

The controversial legislation, which would require barge lines transporting freight on the nation's inland waterways to help the government pay for maintaining those waterways, was approved by the Public Works and Ways and Means committees after both held rapid-fire hearings last week.

That meant that the tight schedule established by House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.) would most likely be met. The legislation could pass in the House and be dispatched to the Senate later this week.

The Senate has already passed a waterway toll bill. But O'Neill shelved that measure when it came to the House, on grounds that it violated the House's constitutional prerogative to originate all revenue bills.

In a meeting on July 12, O'Neill directed Ways and Means Committee Chairman Al Ullman (D-Ore.) and Public Works Chairman Harold T. Johnson (D-Calif.) to "originate" a House version—and get it done by the end of July.

The bill that emerged from those committees reflects the basic structure of the Senate bill.

Both the House and Senate versions would force barge lines, for the first time, to pay for using inland waterways. Both provide the same "sweetener" to offset that blow: funding for a major new barge facility at Locks and Dam 26, the 26th dam down the Mississippi from Minneapolis.

But the House bill takes a sharply different course toward collecting the barge charge. While the Senate bill contemplates a system of tolls or license fees, the House Ways and Means Committee yesterday approved a considerably simpler mechanism: a tax on the diesel fuel that drives the barges.

The fuel tax proposal was put forth by Ullman, and it quickly found support from almost everybody interested in the legislation. Even the barge lobbyists said that, if they had to pay at all, a fuel tax would be the least painful way.

For one thing, the "tax" would be distributed more evenly over the industry than a "toll" system, the bargemen said.

Further, a "tax," unlike a "fee" or a "toll," would be the province of the Ways and Means Committee in the House and the Finance Committee in the Senate—both of which include mostly pro-barge members. If there had to be some waterway charge, the bargemen felt, it would be nice to keep it under the thumb of those two committees.

With that issue settled, the Ways and Means members turned to the central question in every tax bill they write: how much?

To collect the same amount that the Senate bill would raise, Transportation Secretary Brock Adams told the committee, the proper fuel tax would be about 42 cents per gallon, phased in at 4 cents annually for the next decade

The barge lobbyists had a more modest idea. They suggested 4 cents per gallon once and for all—without the yearly increase Adams suggested.

The tax writers, as is their wont, looked for a compromise—and hit on one that deeply pleased the bargemen. They would phase in a tax that would go no higher than 6 cents per gallon—just 14 per cent of what Adams had asked.

Lobbyists for railroads, the barge lines' arch competitors, were aghast when that proposal surfaced. Barge lobbyists, in contrast, found themselves actually working for a barge charge—as long as it was strictly the 6-cent plan.

With Ullman, O'Neill and the bargemen all in favor, the Ways and Means members went happily along, passing the 6-cent tax and sending it to the floor.

It was a watered-down waterway bill, to be sure, but the central concept—the barge charge—was intact.

RAILROADS RAISE IMPEDIMENT IN COURT TO BARGE TOLL BILL

For a piece of legislation that started the year with scarcely a chance of passage, the waterway toll bill, S. 790, was in fairly good shape when Congress went home last week.

But with the legislators out of town on vacation, the bill ran into a new kind of trouble.

The new trouble is not legislative; the bill is in jeopardy because of a suit in federal court.

And ironically, the suit was filed by a railroad association—even though the barge toll bill would indirectly benefit, and is backed by the railroads.

When Congress recessed, the House had still not voted on its version of the Senate-passed measure, which would require barge lines to pay for using the inland waterways.

Nonetheless, backers were sanguine. Everybody seemed to think the bill would slide through somehow this fall without any more serious problems.

But everybody was ignoring Judge Richey.

Judge Charles R. Richey of the U.S. District Court for the District of Columbia is in a position to create a significant problem for S. 790. The judge is about to rule in a lawsuit that could scuttle the careful legislative linkage that has propelled the waterway bill through Congress all year.

When Sen. Pete Domenici (R-N.M.) first proposed the waterway charge in February, he knew it would face resolute opposition from the barge industry, which has never paid a penny for the federal government's multibillion-dollar investment in inland waterways.

To neutralize the industry's opposition, Domenici linked his proposal with a piece of legislation which the bargemen forcefully favored; authorization to build a major new barge facility on the Mississippi at Alton, Ill.

Domenici's legislative construct received presidential sanction in May, when Jimmy Carter announced that he would veto any bill authorizing the Alton project unless a waterway charge bill was passed.

With that assurance, Domenici had used the Alton project to drive the waterway fee to passage in the Senate. The same ploy had pushed the fee successfully through two House committees.

In short, the waterway fee looked like a winner in Congress as long as it had the Alton facility to push it forward. But the judge is preparing to rule in a case that could stop the Alton project indefinitely.

The case came to Richey in 1974, when the Army Corps of Engineers first announced its plan to build the $500 million lock and dam on the Mississippi at Alton.

A group of railroads, concerned that a big new barge facility would drain away Midwestern freight traffic, went to Richey's court to stop the corps. They won the first round in September, 1974, when the judge told the Army that it needed specific authorization from Congress to undertake the Alton work.

The authorization which Domenici attached to his waterway bill was the answer to that lawsuit.

When it became clear that the authorization would probably be passed, the railroads went back to Richey with another argument: the Army's environmental impact statement for the Alton dam was inadequate.

The requirement that every major federal project be accompanied by a statement of its environmental effects enables opponents of particular projects—if they can prove that an impact statement is inadequate—to tie the government's hands for months, years, or, sometimes, forever.

The railroads' complaint in Richey court raised that possibility for the Alton project. If Richey were to find the impact statement lacking, the dam would be delayed indefinitely while the Army and environmentalists tried to agree on a statement that the judge would accept.

If Richey were to stop the Alton dam on that ground within the next few weeks, it would probably be dead at least for the rest of 1977. That, in turn, would act as a brake on the throttle pushing the waterway to bill through Congress. S. 790 would most likely be a goner.

For the moment, the fate of the waterway fee seems to be in the hands of Charles R. Richey.

TOLL BILL ROILS PLACID LIFE ON THE MISSISSIPPI

Aboard the motor vessel Bernard G.—The muddy Mississippi bends gently westward around the sleeping town of Hickman, Ky., and the two huge diesels driving this towboat throttle down to take the turn. In the ensuing silence, a passenger can almost hear Huckleberry Finn out there somewhere on his raft, carrying on even now about "the *goldurndest* river a body ever see."

For the Mississippi today seems at first glance, to be the same natural wonder that won the heart of Huck Finn.

Boats like the Bernard G., pushing long strings of barges upstream and down, can go hours without sighting a village, whole days without passing under a bridge. For long stretches, the mile-wide river is flanked by nothing but virgin forests and high sand bluffs.

Closer examination reveals, however, that the Father of Waters is no longer Mark Twain's "magnificent untamed torrent." Forty years of damming, diking and dredging by the U.S. Army Corps of Engineers have harnessed the great river, making it a reliable, predictable highway for the barge lines that move enormous quantities of grain, chemicals and fuel between Minneapolis and New Orleans.

The considerable expense of the federal government's waterway work—more than $1 billion annually, according to the Department of Transportation—and the competitive advantage it has given the barge lines over truck and rail freight companies have prompted repeated efforts in Congress to make the barge industry pay a fee for using federally built and maintained inland waterways.

This year, for the first time, the Senate has passed a waterway fee bill—S. 790—and the House seems likely to follow suit.

In Washington, that development has been viewed as a parliamentary and political coup for backers of the bill. Out here on the river, though, S. 790 is a dagger in the back.

As the bargemen see it, a Congress that has always been generous in funding water projects has suddenly changed the rules.

"The politicians don't understand," says Bob Gardner, who serves as commodore of the towboat fleet maintained by the Alter Co. of Davenport, Iowa.

For years we've been doing a job out here—hauling grain—and we don't do it bad when people leave us alone. This year, all of a sudden, we're in this political volleyball game with a bunch of people who don't understand the river or our business."

To try to understand the river and the booming freight business it supports, I rode down the Mississippi recently aboard the Bernard G., one of Alter Co.'s six towboats.

The Bernard G. (the name was the brainchild of Alter's president, Bernard Goldstein) is painted gleaming white, with yellow trim, and looks like four-tiered rectangular wedding cake, with a forest of antennas sprouting from the top layer.

She is 145 feet long and 40 feet wide, about average for Mississippi towboats. Her draft is only nine feet—any more and she could not get through the 29 locks the Corps of Engineers operates along the river.

The top tier of this floating cake is the "pilot house"—what a seagoing sailor would call the "bridge." Beneath it are three more enclosed structures, each slightly larger than the one above, housing crew and guest quarters, a galley and dining room and various storage lockers.

The lowest deck is essentially one big engine room, holding the two thundering Detroit Diesel engines that send a never-ending shudder through the spine of the boat (at full power, the crewmen's coffee vibrates right out of the cups.)

The diesels' 5,600 horsepower make the Bernard G. one of the most overoverpowered 145-footers that ever took to water. But of course the power is not for the towboat; it is there to push the load.

Terminology is backward here. Although the riverboats are called "towboats," they don't tow. They push the barges ahead of them. But the nest of barges that is pushed is called the "tow."

To the crew of the Bernard G., the tow assembled for the downriver trip I took was smaller than normal; to this newscomer, it was prodigious. Each barge is roughly the size of a three-story, 10-unit apartment building. Our tow consisted of 21 of them, strung together in a four-by-five block (with the extra barge out front) that covered five acres of river.

The barges were grain hoppers for the most part, but there were some molasses and tallow tanks along as well. In total, Bernard G. was pushing about 30,000 tons of freight on this one trip; it would take six 100-car trains to move as much. Like most riverborne grain, the cargo was destined for New Orleans and rendezvous with a Europe-bound freighter.

The barges are bound tightly together by iron cobwebs of 1½-inch cable wound in intricate networks around each corner of each barge. A separate set of cables, their tautness maintained by winches, ties the tow to the front of the Bernard G.

The ties that bind the barges will burst if bound too lightly, or give way if not held taut enough. To guard against either, deck hands are roaming about the tow all the time, kicking and pulling at the lines in the same boatman's ballet that Huck Finn watched at night from his raft.

Four decks above the tow, the Bernard G.'s pilot house looks more like something from Star Wars than from Mark Twain.

Dials glow, warning lights blink. The pilot sits between two large radar screens. He scans the digital readout from two sonar units that read the river's depth. He steers not with the classic multi-spoked wooden wheel, but with a stainless steel tiller linked by hydraulic drive to the rudders astern. Bay windows on all four sides provide a 360-degree view of the river.

The Bernard G.'s two drivers, Capt. Ken Bain and Pilot John McNeil, who inhabit the pilot house in alternating six-hour shifts, reflect two sharply different styles of piloting.

McNeil, a perfect country gentleman from Greenville, Miss., is the tortoise. When the chart shows a sharp curve coming, he will cut the engines a half-mile upstream, letting the current carry boat and tow gently through the turn.

Bain, a hotrodder from Savannah, Tenn., prefers to barrel into the turns at full speed (about 11 miles per hour), wrenching the pneumatic throttle from "full ahead" to "full astern" to keep the unwieldy train of barges from piling over a bank or sand bar.

Under either man, though, the pilot house has an air of easy nonchalance, like a suburban family out for a Sunday drive. The difference is that this "car" has a hood longer than three football fields jutting out beyond the windshield.

Where the river is wide and the curves easy, it seems simple enough to keep the long tow in line. Around the sharp bends, though, driving a riverboat is like pushing the Washington Monument up the Rock Creek Parkway ahead of the family station wagon—with no brakes.

The federal government's multibillion-dollar investment in the waterways helps make that feat possible.

At almost every turn the Army has put in a dike or jetty to direct the current and keep boats in midstream. A fleet of workboats is continually dredging a passable channel along the shifting river bottom. To mark the channel, the Coast Guard maintains lights and buoys every quarter-mile or so along the Mississippi's 1,800-mile course.

In making the river safe, the government has created a new danger traffic. Freight movement on the inland waterways has skyrocketed in the past two decades; today 10 per cent of the nation's freight moves by water. As a result, the Bernard G is almost never out of sight of another boat and tow.

To avoid collisions, the river pilots are constantly on their radios. They let the boats ahead know they are coming, and inform those behind of what's in store.

The casual chatter of the air waves makes the whole river seem like a big family, and in some ways it is. The boatmen almost all share the same Southern country upbringing; they are common stock in a common business, and they all seem to feel an affinity for every boat and crewman on the river.

The sense of family is emphasized within the crew of Bernard G., who live together on the little boat for 30 days at a time or more. Although the boat is regularly in such ports as St. Louis or New Orleans, the crewmen get no liberty. Bernard G stops only for the few hours needed to drop one tow and pick up another.

In a port or on the river, a crewman works seven days per week, two six-hour shifts each day.

Each six-hour watch includes a driver (either Bain or McNeil), an engineer to watch the diesels, and three deckhands working the tow. The 11th crew member, the only woman aboard, is the boat's cook, nurse and den mother. Janie Devers, a Tennessee belle who serves up at each change of watch a gargantuan and delicious banquet of country food.

A boatman generally works 30 days on the boat and then takes 15 or 20 days off, so he is actually on the job only seven to nine months of the year. For that, a beginning deckhand can expect to earn $9,000 to $11,000 annually. A captain's pay will approach $30,000.

The work is exhausting, even for the brawny rivermen, and when a six-hour watch is done the men of Bernard G. sit in Janie's air-conditioned galley for an hour or more, sipping Dr. Pepper and regaining their strength.

The talk around the galley table is half river jargon and half country stories about the farms back home.

Bain is a constant topic, for he apparently drives even less delicately ashore than he does in Bernard G.'s pilot house.

"I remember the week he cracked up his wife's car one day and his own the next," chuckles engineer James Porter in his easy drawl. "Then he goes and rents another, and damn if that one doesn't end up a wreck too."

The boatmen are an independent breed, distrustful of big business and big government in equal proportions, and there is rarely any talk of politics. This year, though, S. 790 is changing that.

On the bulletin board above the color television in the crew's lounge is a letter from a barge industry lobbyist, seeking contributions for the political battle back in Washington. That has started the crewmen thinking, and they all have their views about the waterway fee.

"Maybe I'll surprise you," says deckhand Phil Little, one of the few with a differing opinion, "but I think they ought to pass it. The government's got a lot of money in this river. If the truckers have to pay, why don't we?"

In the pilot house, John McNeil demurs.

"It's like you go over here to some little stream," he says, and "catch you a mess of fish" Then that fellow comes up and says, "you got to pay me for those catfish." It's not right.

"It ain't the idea of paying the $3. It's the idea of paying for a river. It's not right."

WHERE A WATERWAY TOLL WOULD PINCH

LITTLE ROCK.—They laughed in 1946 when Sen. John L. McClellan (D-Ark.) talked about building a port in this land-locked city 400 miles from the sea. Today, the only ones laughing are the stevedores who earn $7.88 an hour unloading Japanese steel at the foreign trade zone maintained by the Little Rock Port Authority.

Thirty years and $1.2 billion in federal money have transformed the Arkansas River from a serpentine gulch of sandbars and mud banks to a shimmering blue freightway connecting Little Rock (and Tulsa, 300 miles upstream) with the sea.

The development of the river has been a factor—but not the only one—in a major economic reversal in the Arkansas basin that has turned the dusty agricultural states of Arkansas and Oklahoma into bustling centers of industry.

Now Congress is threatening to take away at least part of the bounty the river project has brought.

For this is where the waterway toll bill, S. 790, would pinch.

S. 790, which passed the Senate in June and should emerge in some form from the House this month, would force commercial barge lines to pay a toll for using federally maintained inland waterways such as the Arkansas.

That could seriously limit the Arkansas River's economic utility. Without the free right of way, bargemen here could not set their rates low enough to compete with truck and rail shippers.

A study by the Congressional Budget Office predicted that the Senate-passed bill would eliminate 96 per cent of the Arkansas' freight traffic. The bill's sponsor, Sen. Pete Domenici (R-N.M.), says the impact would be far less.

For waterway boosters here, S. 790 looms as a death warrant.

"It would kill the goose that laid the golden egg, as far as we're concerned," said Wallace Gieringer, director of the Port Authority at Pine Bluff, 40 miles downstream from Little Rock.

"We're getting more and more development along the river, but we haven't even been open for navigation for 10 years yet. This system is too young to survive a blow like that Domenici bill."

If the river were to dry up economically, because of the legislation, it is not clear how seriously the region's overall economy would be affected. Some local planners suggest the impact would not be fatal.

"The river is a tool, I say, one tool, in our kit for attracting industry here," said Windell Adams of the Arkansas Industrial Development Commission.

"We'd hate to lose it. But we have some excellent rail lines here, we have interstates. Most of the economic revival here began before they built the river."

Congress authorized the Army Corps of Engineers to "build the river" in 1946, but construction did not begin until 1957.

The Army spent 15 years on the job, which it proudly labeled "the largest civil works project in history."

To provide a navigable channel all the way to Tulsa, the Army put in 17 dams, each requiring a lock to permit boat passage. Where a river's oxbow turns were too sharp for barge traffic, the Army simply tunneled through the earth to build a new, straight river.

On completion in 1971, the Arkansas project was hailed as a triumph of man's reshaping of nature. It became the model for a host of other huge projects, including the Tennessee-Tombigbee waterway under construction in Mississippi.

To celebrate completion of the project, Army engineers prepared an official history of the river.

"For more centuries than man can count," the history notes disapprovingly, "the Arkansas River was left to its own devices. . . . Now the Arkansas works for mankind."

Barge traffic moving downstream carries coal, ore and agricultural products to ports along the Mississippi.

Coming up to Little Rock and Tulsa are steel and other industrial materials and various forms of fuel, including diesel fuel for the Missouri Pacific Railroad, the waterway's arch competitor.

In a classic instance of carrying coals to Newcastle, the barges also are bringing bauxite to Bauxite, Ark.

Bauxite was the site of America's only significant deposits of the powdery red ore, the principal source of aluminum. The local mines are almost depleted, and so the Alcoa and Reynolds Aluminum Co. plants here are bringing in bauxite from Jamaica and Venezuela.

In addition to the commercial traffic, the river project has been a boon to recreational boaters, creating a chain of placid lakes and eliminating the seasonal changes that used to turn the best fishing holes into sandbars during the dry months.

The recreational craft move through the 17 locks just as the barge boats do, without paying any transit fee.

A 14-foot rowboat can pull into a $100 million lock anytime, and the eight-person Corps of Engineers lock crew will move 27 million gallons of water, free, to let the fisherman rise over the dam and go on his way.

The fear among waterway proponents here is that, if a harsh waterway fee bill is passed, the fishermen in their 14-footers will be the only people still using the $1.2 billion river the Army created.

"We're all proud of the river project and what Sen. McClellan got for us here," said James C. Oliver, a Little Rock freight broker who deals with all modes of transit.

"But nobody is moving things by water because of the romance of the river. It's just cheaper. If some bill passes that raises rates on the river, all that barge freight is going to move some other way."

A Watered-Down Waterway Toll Bill Glides Past New Milestone in House

With its opponents perched somewhat unhappily on board, a watered down waterway toll bill glided past another milestone yesterday in its journey toward a final House vote.

At the urging of Rep. Al Ullman (D–Ore.), chairman of the Ways and Means Committee, and Rep. Ray Roberts (D–Tex.), ranking member of the Public Works Committee, the Rules Committee voted yesterday to pass on to the House floor the waterway bill, which would force commercial barge lines to pay for their use of the nation's inland waterways.

It was not the happiest task Ullman and Roberts ever shouldered. Both are strong opponents of the waterway fee. Indeed, Ullman told the Rules Committee that the Senate-passed waterway bill, S. 790, "would totally destroy the whole transportation system."

But Ullman and Roberts are realists. They think that some form of waterway fee is likely to pass Congress this year. So their two committees had set about to devise the smallest fee they could get away with.

They settled on a federal tax of 6 cents per gallon on the diesel fuel that drives the barges. Even that figure was anathema to the barge industry, but it is far lighter than the fee the Senate bill would impose, and had won the grudging support of most bargemen.

Having been approved by both Ways and Means and Public Works, the waterway bill was ready for the House floor. But to gain admission to the floor, a House bill needs a ticket—a parliamentary jargon, a "rule."

The ticket booth is the Rules Committee. It controls the flow of legislation to the floor by parceling out tickets, or "rules," that establish when a bill can come up, how much debate there will be, what kind of challenges can be made and other conditions.

Like most traditional institutions, the Rules Committee has developed parlance and procedures all its own. There are "open rules"—permitting almost any amendment on the House floor—and "closed rules"—permitting no amendments to a committee bill—and various shades of rule in between.

Ullman and Roberts yesterday were asking for a "modified open rule" that fits neatly with their overall view of the waterway fee. The rule they asked for would have permitted floor amendments to cut the fee established in their bill, but would not have allowed any effort to raise it.

Sitting beneath a huge crystal chandelier in the Rules Committee's elegant chamber in the Capitol, Ullman and Roberts presented their case. The two apparently had not had time to do their homework; they disagreed in their answers to some of the committee's questions, and on some others they simply ducked.

The Rules Committee was deferential, until Rep. Christopher J. Dodd, a brash, young Connecticut Democrat, gained the floor.

Wouldn't it be a little fairer, Dodd asked gently, if the rule permitted amendments to increase the tax as well as to cut it?

A few members muttered in agreement, but they were cut off by the gruff, stentorian voice of Rules Committee Chairman James J. Delaney (D-N.Y.), who said: "If we open this thing up, we'll never get a bill off the floor."

Ullman and Roberts were followed to the witness stand by two junior congressmen, Berkley W. Bedell (D-Iowa) and Robert W. Edgar (D-Pa.), who asked for a rule permitting a floor vote on an amendment that would establish a waterway fee about twice as high as the Ullman-Roberts plan.

When Bedell and Edgar had finished, the Rules Committee seemed split. Consequently, the members settled on a compromise: the fuel tax bill would go to the floor under a closed rule, permitting only one vote, yes or no, on the 6-cent-per-gallon plan.

There would be a chance for both sides to challenge that rule on the floor. But the full House rarely second-guesses the Rules Committee. A House vote on the waterway toll—6 cents per gallon or nothing—seemed assured.

Waterway Toll Bill Waits Turn in House

Two weeks ago, when the House Rules Committee approved a "closed rule" for the waterway toll bill, the legislation was officially ready for debate and a vote on the floor. The next step seemed simple enough: the bill would be placed on a calendar and come up in its turn.

But in Congress, where even routine activities are subject to labyrinthine procedural and political plotting, the scheduling of the waterway bill was not a simple process.

After countless meetings, memos and telephone calls, and six revisions of next week's "tentative" legislative calendar, it was still not clear last night when the bill would come up.

The Department of Transportation and the freight industry lobbyists kept telling the House leadership that the bill, which would require commercial barge lines to pay for their use of federally maintained waterways, marked a major change in federal transportation policy.

But Majority Leader Jim Wright (D-Tex.) and Speaker Thomas P. O'Neill Jr. (D-Mass.), trying to schedule votes on the Federal Trade Commission legislation, the cargo preference bill, and President Carter's first government reorganization plan, kept pushing the waterway bill to the end of the list.

The scheduling process for each week's votes in the House is a complicated procedure that takes up much of the workday for Craig Raup, a senior staffer in Wright's office, and Gary Hymel, who is O'Neill's right-hand man.

The two are subjected to almost constant pressure from members who want a quick vote on this bill, or a delay in scheduling that one.

They like to keep the schedule fluid, but that policy causes problems. Sponsors of major legislation want to know precisely when their bills will be on the floor, so that lobbyists can be alerted and the normal flurry of "Dear Colleague" letters can be dispatched at the proper moment.

Scheduling for the waterway bill began on Sept. 21, the day the Rules Committee passed on the measure. Raup visited the Rules staff to find out how much time the bill would need on the floor.

For the next two weeks he and Hymel fended off calls from various congressional offices and from the Department of Transportation's lobbyists who were pushing for a quick floor vote.

When O'Neill, Wright, and their team of Democratic whips met for their weekly calendar meeting last Thursday morning, the group hit on a complicated plan that would squeeze the bill onto the floor in three different segments.

Formal approval of the Rules Committee's "closed rule" was set for Thursday afternoon. (The rule passed easily, as almost all rules do.)

Debate on the bill was set for next Tuesday. It seemed logical, then to have a vote on Wednesday, but that day had been set aside for O'Neill's pet bill, the House reorganization, so the waterway bill once again gave way.

It was finally decided to schedule a floor vote for next Friday. But Friday is the day the House quits work early (usually at 3:30 p.m.), so that plan could not be called more than tentative.

But in the scheduling business, everything is tentative. So Raup called the House cloakrooms and told them Oct. 14 was the day. That information was inserted into the recorded message at the cloakroom's switchboard.

House Reluctantly Approves Weakened Waterway Toll

Like a schoolboy accepting a spoonful of some particularly vile medicine, the House of Representatives yesterday finally swallowed the waterway toll bill and sent the measure on to further skirmishes in the Senate.

By a deceptively lopsided vote of 331 to 70, the House approved legislation to require commercial barge lines to pay for their use of federally built and maintained inland waterways.

It was the first time the House has ever voted any form of waterway charge. But the bill was still a disappointment for supporters of the waterway toll, because the House version is considerably weaker than S. 790, the waterway bill that the Senate passed in June.

The bill passed yesterday would impose a fuel tax of 6 cents a gallon on the diesel fuel that drives the barges. That would bring in less than 10 per cent of the government's annual expenditure on inland waterways. The Senate bill, in contrast, would impose a system of fees rather than a tax and would recover all of the federal money spent on maintenance of waterways, and 50 per cent of new construction costs as well.

Even the relatively mild House version was a blow to the barge industry, which has never paid a cent for its use of the nation's 25,000-mile inland waterway freight network.

But the barge owners were forced to back the bill because it had been linked to authorizing legislation for Locks and Dam 26, a $432 million barge facility on the Mississippi at Alton, Ill. The Alton authorization was approved yesterday as part of the toll legislation.

The House bill, in short, was a compromise—one that left hardly anybody really happy, but hardly anybody unhappy enough to vote "no." Accordingly, the two hours of debate yesterday turned into one chorus of complaints.

Several members—including Berkeley W. Bedell (D-Iowa), and Joe Skubitz (R-Kan)—said the waterway tax would be too low. Just as many—including Otis G. Pike (D-N.Y.) and M. G. (Gene) Snyder (R-Ky.)—said just as angrily that it would be too high.

Pike shouted that the fuel tax was a "shotgun bill," which would pass only because the Alton project was being held hostage. Rep. William M. Ketchum (R-Calif.) disagreed with Pike about the wisdom of the legislation, but agreed with him on the procedure. "We shouldn't be operating under a blackmail principle," Ketchum intoned unhappily.

Those who supported the bill could reply only that it was necessary medicine, however distasteful. "If we don't use the shotgun, we'll be aiming a cannon at the most vital arm of our transit system," observed Rep. Bill Frenzel (R-Minn.).

House passage reflected once again that the waterway bill, which was considered almost hopeless when it was introduced last winter, has had something of a charmed life.

When the bill arrived at the House after the Senate vote in June, it seemed doomed when House members raised a constitutional challenge: the waterway toll would raise revenues, and the Constitution mandates that revenue bills must originate in the House.

House Speaker Thomas P. O'Neill Jr. (D-Mass.) stepped in then to save the bill from constitutional extinction by developing the compromise fuel tax plan that finally passed yesterday.

The waterway user fee has prompted a furious lobbying campaign, pitting railroads, environmentalists, and the Carter administration, which support the fee, against barge lines and farm groups, which oppose it.

Yesterday, though, few lobbyists were evident. Everyone considered the House vote a foregone conclusion. The real battle would take place, once again, in the Senate, which must now reconsider the waterway toll in the light of the House action.

Toll Returns to Senate for New Struggle

Having emerged relatively intact from a four-month sojourn in the House, the waterway toll bill went back to the Senate yesterday and quickly became enmeshed, once again, in a three-way parliamentary involving Pete Domenici (R–N.M.), Russell B. Long (D-La.), and President Carter.

At the end of a complicated legislative day, Sen. Domenici had once again won the support of the President and seemed to have a fair chance of prevailing a second time over Sen. Long.

Domenici is the sponsor of the waterway bill, which would require barge lines, for the first time in history, to pay for their use of federally maintained inland waterways. Long, whose state boasts two of the world's largest barge ports, has been the bill's leading congressional adversary.

Last spring Domenici won Senate passage of the bill through a strategy of linking the waterway charge to legislation authorizing a major new barge improvement on the Mississippi at Alton, Ill. Carter cemented this Domenici connection by threatening to veto a bill authorizing the project at Alton if a waterway fee was not approved along with it.

With the Alton authorization providing the impetus, Domenici won Senate passage in June and the measure moved to the House where the pressure for the Alton facility once again overcame aversion to the waterway toll.

However, the House, which approved the bill last week, watered down the waterway toll considerably. Instead of the Senate-passed fee structure, which would eventually recover almost all of the federal government's annual waterway spending, the House approved a mild fuel tax that would recoup less than 10 per cent of the government's annual cost.

When the bill went back to the Senate, Long was resolved to ditch the Domenici plan and push for Senate approval of the House version. He seemed in a strong position to do just that, because the House fuel tax, like any proposed tax, would be referred automatically to the Finance Committee—which Long chairs.

Or would it?

Three weeks ago Domenici and his staff aide, Hal Brayman, started thinking about that referral to Long's committee. After numerous conferences with parliamentarian Murray Zweben, Brayman found a way to avoid it in the arcane language of Senate Rule 14.

Accordingly, Domenici was one of a handful of senators on the floor at 9:05 a.m. yesterday when Majority Leader Robert C. Byrd (D-W. Va.) started working through the routine business of referring this bill and reporting that one.

While a reading clerk was droning through a required recitation of the House-passed waterway bill, Domenici jumped up.

"I object to any further consideration of this measure," he said, and under Rule 14, that was enough. The bill could not be referred to the Finance Committee or any other committee. It would move immediately to the final calendar, where it would be scheduled for a floor vote. That would let Domenici substitute the original Senate bill for the House version, without the intervention by Long.

Long, though, who has learned a good deal about parliamentary procedure in his 29 years in Congress, was undisturbed. Less than an hour after Domenici's floor ploy, Long gathered the Finance Committee for a "markup" session on the waterway bill.

Although the measure had not formally been referred to the Finance Committee, Long knew that his panel could make a recommendation anyway, bringing it to the floor as an amendment in the form of a substitute. The "amendment" that Long had in mind was the mild fuel tax passed by the House.

Then Carter stepped in. As the Finance Committee members were entering the meeting they received copies of a letter from Transportation Secretary Brock Adams, asserting that the House bill was not good enough.

Adams reiterated Carter's earlier threat. The Alton project would be vetoed unless the Senate passed a "substantial" waterway toll. What would be "substantial" was left unstated except for the observation that the House version was not "substantial" enough.

Long was plainly peeved. "I'd be inclined to call their bluff," he said. But other committee members were anxious to have the Alton project approved and they convinced the chairman to reconsider.

Long, therefore, scheduled a committee hearing on the waterway toll for Friday afternoon, and seemed to recognize that he might have to give in once more to the Domenici-Carter combination.

OPERATION RECOGNITION

Mr. RIBICOFF. Mr. President, a very interesting and informative article appeared in the September issue of Moment magazine concerning the efforts of Operation Recognition to obtain International Red Cross recognition of the Red Star of David-Magen David Adom. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Moment magazine, September 1977]

HOW THE INTERNATIONAL RED CROSS . . . EXCLUDES ISRAEL

(By Richard Magat)

In 124 nations through the world, voluntary organizations participate in one of the most durable humanitarian movements in history—the Red Cross. Among them is Israel's Magen David Adom (MDA), the Red Shield of David Society. Yet, unlike all but one of the others, it is not officially recognized as a member of the Red Cross "family," known as the International Red Cross. (Also outside the pale is the Red Cross Society of Cyprus, on the grounds that it denies membership to a group of its nationals, Turkish Cypriotes.)

The situation is not without irony. The founder of the Red Cross, Henry Dunant, a 19th century Swiss businessman, was himself an advocate of the establishment of a Jewish homeland in Palestine. At the First Zionist Congress in 1897 Theodor Herzl called him "a Christian Zionist."

Nor is it without paradox. One of the seven sacred "Fundamental Principles" of the International Red Cross is "universality," meaning that its work transcends national, political, and sectarian interests.

Despite nonrecognition of Magen David Adom, the Israeli government and the Red Cross movement have worked amicably on many occasions, including the wars since Israel's Independence. And MDA has contributed generously to Red Cross disaster relief campaigns throughout the world. Furthermore, Israel thus far has enjoyed many of the protections afforded by the International Red Cross system. Ambulances and hospitals marked with the Red Shield of David have not been fired upon by enemy forces, medical personnel bearing MDA armbands are treated as noncombatants, and captured Israeli soldiers are covered by the Geneva Conventions specifying humane treatment.

But because MDA is not officially recognized, a country disregarding the symbol during combat would not, in a technical sense. be violating international law. Thus, Israel sends its army into the field without the security afforded other sovereign nations.

Nor are the disabilities entirely hypothetical. During the American blood collection effort for Israeli soldiers in the Yom Kippur War, nonrecognition snarled the ordinarily efficient international system for blood collection in wartime. Identification of Israeli POWs, shipment of packages to them, and prisoner exchanges must be conducted through third parties instead of directly with the recognized Red Crescent Society of an enemy country. And along with these pragmatic disabilities, nonrecognition of the MDA is yet another symbolic affront to Israel.

The failure to recognize Magen David Adom, an issue since 1949, is now emerging from the corners of scholarly journals, abstruse discussions among international legal scholars, and hushed diplomatic interchanges, into the consciousness of the wider Jewish public.

RELIEF AND DIPLOMACY

Behind the MDA recognition issue are three institutions which bear a loose but complex relationship to one another: the International Committee of the Red Cross (ICRC), the League of Red Cross Societies, and officially recognized national societies the world over.

The ICRC, the original body established in Geneva in 1863, is the drafter and monitor of international humanitarian law, which consists of those pillars of the laws of warfare, the four Geneva Conventions (and their 400 articles), to which most countries are signatories. To this day the 25-member committee is entirely Swiss (In fact it was all Genevois, *haut Genevois*, until after World War I. when a German-speaking Swiss member was elected.) It has a staff of some 400, including delegates who may be resident at trouble spots for periods ranging from weeks to years.

The League of Red Cross Societies is an association of the national societies, created largely under American impetus following World War I. The League and the ICRC are cousins, but not quite on intimate terms. Some of their operations dovetail, but they are staffed separately and located in separate buildings two miles apart in Geneva. They have competed and occasionally contended with one another, and in fact their relations are governed much as those between sovereign nations, by a written agreement.

The third party consists of the national societies, which range from largely-paper organizations to highly complex institutions with large professional staffs and thousands of active volunteers. National societies operate in countries as ideologically different as Chile and China. The quality of their work is also diverse and unpredictable; some Communist-bloc Red Cross societies are, in a professional sense, extremely competent while some West European societies are feeble.

International Red Cross experts regard Magen David Adom as one of the best national societies. In addition to its extensive domestic work, MDA since 1939 has provided relief supplies in more than 48 countries for victims of epidemics, wars, and natural disasters. MDA has sent teams to African countries to give first aid training, and, in the 1970's alone, it sent relief shipments to Nigeria, Togo, Nicaragua, Italy, Ethiopia, Niger, Cameroon, Turkey, Roumania, Peru, Indonesia, Nepal, Costa Rica, Colombia, Dahomey, India, Chile, Haiti, the Philippines, Cambodia, Bangladesh, Cyprus, and Honduras.

The public perceives the Red Cross mainly as a provider of relief in time of disaster, ranging from floods to earthquakes to wars. Individual national Red Cross societies also conduct a delicatessen of peacetime functions, some of which, depending on the country, are vital, (e.g., blood collection), others trivial (anachronistic health services that bear almost no relation to need in some of the world's poorest countries). In one country or another, Red Cross services include first aid, kindergartens, holiday camps for the elderly, home visiting services, help to immigrants in finding jobs, rehabilitation homes for prostitutes, and reforestation projects.

The humanitarian protection function is largely the province of the ICRC. The first Geneva Convention, in 1864, established that medical personnel and civilians who came to the aid of wounded soldiers were to be considered neutral. The scope of legal protection expanded over the next century to embrace the tracing of civilians dislocated by war and the protection of individuals caught in civil wars as well as of wounded soldiers and POWs. But the ICRC also provided diplomatic protection not specified by codified law—to victims of hijackings, refugees, and political prisoners, for example. In many respects the ICRC is a private diplomatic service, but because of its rigorous neutrality, it has potent persuasive power—greater than the remonstrances of individual countries, which are always suspect on grounds of national self-interest, or of many other international organizations.

The Committee carries weight because another of its principles is discretion. It will call public attention to a violation of the Geneva Conventions only when behind-the-scenes efforts have failed and it believes disclosure will be effective. When gas warfare was used in the civil war in Yemen in the 1960's, for example, the ICRC called upon all the belligerents to refrain from the practice, but it did not name the guilty party.

Because it is neutral and discreet, because so many countries have ratified the Geneva Conventions which undergird its positions, and because it has been at it so long, the ICRC since World War II has had access to 300,000 political detainees in more than half the countries of the world, including some of the most extreme authoritarian regimes. Unlike other groups concerned with human rights, it refrains from inquiring into the reasons for imprisonment and detention, or the causes of civil strife and authoritarian rule. After visits to prisons and internment camps, the International Committee of the Red Cross will give a country a chance to correct inhumane conditions and desist from inhumane practices without public exposure. However, the Committee cooperates quietly and informally with such vocal organizations as Amnesty International.

Critics charge that the practice of discretion gives governments a way of deflating foreign criticism by permitting access to political prisoners or other civilian detainees. Nonetheless, ICRS inspections have improved the welfare of innumerable political prisoners.

The Red Cross, then, is a principal actor in the worldwide human rights effort "industry," which is expanding with the growth of authoritarian regimes, anticolonial and secessionist movements, international terrorism, and the Carter Administration's boldly stated intent to exert moral leadership in this realm.

THE CATCH

To take the Red Cross at its word, the only obstacle to recognition of the Magen David Adom has been the Israeli organization's insistence on using the red shield of David as its emblem.

To qualify for membership in the League of Red Cross Societies, a national society must first be recognized by ICRC. But as far as Israel's Society is concerned, therein lies the catch.

Of the recognized National Societies in 124 countries, the majority use the original emblem of the red cross; others are known as Red Crescent Societies (some of whose crescents are curved to the left, —Pakistan, Tunisia, and Turkey—others' to the right); and one country, Iran, has a symbol all to itself, the red lion and sun.

Israel signed the Geneva Convention in 1949, with the reservation that it could adopt neither the cross, the crescent, nor the lion and sun in place of the red shield of David. But the position of the ICRC was and is that symbols should not proliferate beyond these three.

Further, the Committee position (taken in hindsight, say its critics) holds that the red cross does not represent Christianity. Rather, it claims that the emblem, reversing the colors of the flag of Switzerland, honors that country's role as the birthplace of the movement.

Many non-Christian countries, such as Japan, Korea, and China did not challenge this concept as they signed the Geneva Conventions without reservation. But others, including Egypt, followed the lead of Turkey; eighteen Moslem countries have now adopted the red crescent.

The Magen David Adom Society had been established in Palestine in 1930, but no issue of membership in the International Red Cross arose because recognition by a government is one of the ten conditions to international recognition as a National Society. With Israel's independence, the red shield of David became the official emblem of all Israeli medical services, military and civilian, and Israel designated Magen David Adom as the national voluntary aid society under the Geneva Conventions.

The 1949 diplomatic conference was the first major international forum outside the

United Nations in which the new State of Israel was represented. Armistice terms were still being negotiated, and it had not yet been admitted to the UN.

The Red Cross argued that further multiplicity of symbols would endanger the protective function that the symbol gives war wounded and prisoners:

"What we must avert at all costs is the possible confusion between these emblems and the neutral symbol of fraternal and mutual aid in time of war. . . . There is danger that national emblems, symbolic of belligerence, might take the place of the symbol of charity that must be essentially neutral; there is the danger that a profusion of signs might weaken the protection afforded to ambulances and wounded soldiers."

Shabtai Rosenne, Israel's Ambassador to International Organizations in Geneva, has done an exhaustive analysis of the recognition issue. ("The Red Cross, Red Crescent, Red Lion and Sun, and the Red Shield of David," *Israel's Yearbook on Human Rights*, Vol. 5/1975. Tel Aviv.) He recalls that the majority of the governments represented on the key committee in the 1949 conference rationalized rejection of the red shield (by a vote of 22–21, with seven abstentions) in the interests of unity within the Red Cross movement. According to the statement of the slim majority,

"It was . . . solely to avoid creating fresh obstacles to the adoption of a single emblem, that the Committee refused to recognize new symbols, such as . . . The Red Shield of David, while recognizing that this emblem, which is several thousand years old . . . is well known and respected in those parts of the world where it is used. But the Committee felt unable to accept this *de facto* situation, owing to the risk of establishing a new precedent and rendering the desired unification still more difficult."

This argument was countered by non-Israelis as well as the Israeli representative, and it is interesting to note among them the French, who declared:

"Unity [of the emblem] should not be attained at the cost of legitimate national or religious pride. . . . The French delegation does not see how it will be possible to refuse an exception . . . which is based on considerations closely resembling those which inspired the very legitimate exceptions previously granted."

The International Committee is influential and can propose and lobby for changes in the official symbols. But the symbols can be approved only by governments, in the infrequent diplomatic conferences or in the quadrennial International Red Cross Conference (where Red Cross societies and the two central bodies also have votes). In 1949, as now, the opposition was at least as political as legalistic. Third World countries lacked the voting strength they now have, but opposition by Arab, East European, and some West European Catholic countries was enough to win out.

Attempts to place the issue before various Red Cross meetings over the next two decades failed, and the deadlock continued, little known in the Jewish community. In the meantime, the issue was raised independently, in a major three-year study of the International Red Cross sponsored by the Red Cross but conducted by an independent international staff. In his final report in 1975, Donald D. Tansley, a high-ranking Canadian civil servant who directed the study, declared,

"To the outsider, whether viewing it from a humanitarian viewpoint or from a viewpoint of logic, the present situation seems ridiculous. The lack of agreement on a common symbol suggests disunity, lack of universality, lack of equality . . . and an acceptance of politics of the very kind that the Red Cross professes to abhor. It suggests partiality in favour of Christian and Muslim peoples and in favour of Iran. It suggests partiality against other religious-cultural groups and against Israel."

As a solution, the report suggested using the red cross along with the symbol of each National Society. Were this to be adopted, it is likely that other national symbols besides the shield of David would bloom; the Indians would prefer the red locust, for example, and Thailand the red flame.

MDA is willing to use a neutral, nonreligious symbol if the red star of David is unacceptable, so long as all other symbols are surrendered and all national societies use the new symbol. However, proposals for a universal symbol have been turned down on each occasion they have been advanced.

At the 1976 session of the diplomatic conference, the delegations of Canada, West Germany, Nicaragua, and the Philippines attempted to win recognition for Magen David Adom indirectly through a technical amendment, but Arab and other Third World delegates blocked the move. A year later, as the conference drew to a close, Norway and Libya (sic) co-sponsored a resolution aimed at a new universal symbol, the effect of which would be to open the way to MDA admission. The resolution failed to gain a two-thirds majority, but it saw a break in the monolithic opposition.While Syria and the Soviet Union (and Switzerland!) opposed the move, many African countries and some Arab states abstained, and a few Third World countries actually voted in favor. Whether the split was inadvertent or significant is unclear.

In any event, the diplomatic conference's main business lay elsewhere—in the extraordinarily difficult and controversial tasks of extending the Geneva Conventions (in the form of some 200 new articles) to provide protection and relief in civil wars, enlarging protection of civilian populations (by curbing strategic bombing, for example), and widening the definition of prisoners of war. Strategy on the MDA issue seems to have moved off the visible, political stage, and there are some signs of progress. For example, the head of the West German Red Cross recently delivered a detailed blueprint for recognition of the Magen David Adom which, while termed legally faulty by the ICRC, is said to have hit Geneva "like a bombshell." At the same time, the ICRC's legal authorities have in the last few months published scholarly articles on the emblem issue—a sign at least that the issue is very much on the Committee's mind and *possibly* that an initiative toward change may be in the making.

RABBI WITHOUT PORTFOLIO

Another sign is a concerted campaign of public pressure to win recognition being waged by a feisty, 62-year-old, Long Island, New York, Orthodox rabbi, Rubin R. Dobin. Dobin, who once led congregations in Newark and Texas but is now retired from the active pulpit, is the international chairman of Operation Recognition, "a worldwide effort for International Red Cross recognition of the Red Star of David," of which Senators Javits and Ribicoff are national co-chairmen.

Dobin asserts repeatedly that he is acting as an individual, representing neither the Israeli government nor any American Jewish organization, including the American Red Magen David for Israel, which raises funds through 75 chapters in the U.S.

His campaign is proceeding along classical lines: pamphleteering, use of the media, petitions, writing campaigns, enlistment of prestigious figures, resolutions by state legislatures, and appeals to other organizations.

Dobin has been at it a little over a year. His campaign occasionally suggests the work of a quixotic zealot; after all, where governments and international legal scholars have failed, why should a relatively obscure individual without diplomatic or legal background succeed? Yet he appears to be making headway.

His target is the ICRC, notwithstanding its insistence that the power to change the rules on recognized symbols lies with the diplomatic conference (governments) or with the International Red Cross Conference (123 National Societies along with governments), neither of which is immune to international *realpolitik* with respect to Israel. For several months he corresponded with the Committee, not always with kid gloves (e.g., to the deputy director of the Committee's department of principles and law: ". . . you disclaim responsibility for not recognizing the Israeli Society. It is just this kind of duplicity, deviousness, and 'half-facts' that disturbs us so much.") But, *mirable dictu*, the ICRC invited Dobin to Geneva. He attributes the overture not only to the trouble he says his campaign is giving the organization but also to its growing discomfort with the issue. Dobin was genuinely impressed by the fact that ICRC officials had him to lunch at Geneva's only kosher restaurant, and that they (including Alexandre Hay, the ICRC President) spent long hours with him.

Dobin, who is also associated with the American Action Committee for Israeli POWs and MIAs, has traveled to several European countries to press the MDA cause. The American Red Cross supports recognition, and Emanuel Celler, National Chairman of American Red Magen David, has written that the American Red Cross "made every earnest effort to have [Magen David Adom] recognized as one of the Red Cross Societies." But little support has come from the American Christian community, according to Dobin, except from fundamentalist groups. The chairman of one of these; Christians for Israel, in San Antonio, Texas, wrote, "We understand the stigma attached to the 'cross' by [the Jews]. Be it a red cross, black cross, or whatever, the use of any cross would not be acceptable by a Jewish State as an official symbol."

The State Department favors recognition, and the U.S. armed forces' most recent handbook for behavior in combat shows the red shield of David along with the red cross, crescent, and lion and sun as symbols whose neutrality must be observed. But what may in the end resolve the issue indirectly is the ICRC's worry that the red cross itself may have to yield to another symbol altogether. The issue surfaced acutely (though not for the first time) during the Lebanese civil war, when Moslem and Christian forces fired on emblems.

The ICRC is engaged in a two-year study of the emblems. The next International Red Cross Conference before which a proposal for a change could be presented is scheduled for October in Bucharest. The conference gives ample opportunity for opposition by the Soviet Union and Arab States. Indeed, a regional grouping of Arab Red Crescent and Red Cross societies, whose establishment a few years ago dismayed the good fathers in Geneva, has already passed resolutions denouncing Israel and Zionism. If the ICRC presented a new symbol for the entire movement and it carried, the legal hurdle to Magen David Adom's admission would evaporate. Some legal scholars say the ICRC could employ a more direct route, recognizing MDA under one of the provisions of the international law on treaties. That provision holds that if there is no opposition to a reservation expressed by a country when it signs a treaty, the signatory's view becomes acceptable to the others. Since Israel expressed a reservation on the three-symbol rule when it signed the Geneva Convention in 1949, and it was not challenged, the League of Red Cross Societies presumably has no grounds on which to deny MDA's recognition.

Yet adroit legal or parliamentary maneuvers do not necessarily carry the day. Recognition of a national Red Cross society, as Professor David Forsythe of the University of Nebraska, an authority on international humanitarian law, notes, "is frequently part of the game of *realpolitik* and partisan politics." (David Forsythe, *Humanitarian Politics: The International Committee of the Red Cross*. Baltimore and London: The Johns Hopkins University Press, Fall 1977.) The Kurdish minority in Iraq petitioned three years ago for recognition of a Kurdish national Red Cross society as part of an attempt to create a new Kurdish state. The ICRC ruled negatively. Since the triumph of Communism on the Chinese mainland the ICRC has recognized only the Red Cross of the People's Republic, not the Red Cross on Taiwan. The ICRC recognized neither the Red Cross of North Korea or that of South Korea during the Korean War, but now recognizes both. Closer to home, the claim of a Palestinian Red Crescent society was rejected because the Palestinians had established neither a state nor a government in exile. None of these cases is analogous to the Magen David Adom's, but they underscore the likelihood that politics are not far from the root of the matter.

"NOBODY IS PERFECT"

Since World War II, Israel's relations with the ICRC have been largely satisfactory. Among the exceptions was the Israeli recapture of a hijacked Belgian plane that terrorists had landed at Lod Airport in 1972. The Committee accused Israel of using Red Cross negotiators as camouflage and of reneging on a pledge not to use force. Israel countered that it had not asked the Red Cross to intercede with the terrorists. Sharply worded ICRC protests, however, may well have been an effort to assuage Arab sensibilities so that it could continue to work throughout the Middle East, by avoiding any impression of collusion with Israel.

In the wars of the 1960's and 1970's, MDA cooperated with the Committee in establishing communications between families in Israel and the Arab countries which refuse to maintain postal communication with Israel. During the Sinai Campaign and the Six-Day War, MDA provided mobile clinics for the care of thousands of Arab prisoners of war and provided them food, clothing, and sports equipment. It supplied ambulances and stretcher bearers for wounded Arab POWs when they were repatriated and medical services, ambulances, and food for returning Arab refugees, and helped equip Arab hospitals in territories under Israeli control. With the financial support of the West German Red Cross, Magen David Adom runs a program of physical rehabilitation for hundreds of Arab invalids from the Gaza Strip and Sinai.

Of the MDA's work in the exchange of prisoners of war following the Yom Kippur War, the International Red Cross delegation said, "The excellent collaboration between us in furthering humanitarian causes has once again been proven."

But Red Cross principles were dealt a blow in the Yom Kippur War when Syria shot large numbers of prisoners of war. ICRC reports reproached all parties for mistreatment and lack of access to POWs, but whether private protests were made to the Syrian government is not known.

The ICRC has issued sharp rebukes to Israel for destroying civilian homes on the West Bank, for expelling some Arabs from territory seized during the Six-Day War, and for certain interrogation and detention practices. Israel has defended some practices as military and security necessities, pointed out that the number of Arabs refused residence in the territories is small, and insisted that all detainees have been humanely treated. In fact, Israel points out, it has abolished capital punishment in territory where it had existed under Jordanian rule. Professor Yoram Dinstein, of Tel Aviv University, an international legal expert and chairman of Amnesty International in Israel, claims that under international law, Israel could have tried and executed the thousands of guerrillas it has captured in the Six-Day War. Allegations of torture by Israeli military authorities have also been made and investigated not only by the Red Cross but also by Amnesty International. Amnesty criticized Israel, but Professor Dinstein attributes this to the fact that "we live in the era of symmetry of justice." That is, he says, if an inspection team goes to Israel and to Syria, it feels compelled to say that both sides are at fault.

If Israel has bristled at ICRC criticism in the Middle East from time to time, the prevailing impression is that Israel regards the Red Cross positively. Its importance goes beyond its services in trying to assure improved internment conditions for captured Israeli soldiers and serving as a tracing service. The presence in Israel of the authors and guardians of the Geneva conventions demonstrates Israel's concern with world public opinion and may also serve as reminder to elements in Israel that are seeking to settle in occupied territory that the government respects, and is constrained by, international humanitarian law. "Of all the international organizations that have had anything to do with the Middle East conflict, starting with the UN and ending with the World Health Organization, the only one which has maintained a modicum of neutrality, with a few exceptions here and there—nobody is perfect—is the ICRC," says Dinstein.

That judgment would be strengthened immeasurably if somehow Magen David Adom were recognized and admitted to full membership in the Red Cross family. The Tansley report says, "the Red Cross movement itself has largely avoided the problem by hiding behind the shelter of governments. . . . Red Cross should be able to take a decision on its own symbol without reference to governments. Indeed, if it were to do so governments might well follow in terms of changes in international law." But if admission of Magen David Adom is the cart before the horse of a general Arab-Israeli settlement, even an initiative by the grave Geneva burghers might crumble under the weight of yet another Arab-Third World rebuff to Israel. We cannot know until the issue is forced.

CITIZENS LEAGUE OF BALTIMORE

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Maryland (Mr. Mathias).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Mathias

Few issues have stimulated so many diverging opinions in the State of Maryland as how best to use and manage the Chesapeake Bay and the Port of Baltimore. There are over 50 separate local, state, federal and private groups pursuing different projects and studies. This situation has resulted in an uncoordinated approach to the Bay, Maryland's principal economic and ecological asset. But, in this patchwork quilt that blankets the Bay, there are some bright spots.

Earlier this session the Maryland Congressional Delegation was briefed by the Citizens League of Baltimore, a small citizen task force concerned with the issues of public policy that affect the quality of life throughout the Baltimore metropolitan area. Since 1975, the Citizens League has recognized and stressed the inextricable link between the Port of Baltimore and the Bay, while specifically addressing the future development and operation of the Port. Their comprehensive study of these issues prompted the group to reach several important findings and conclusions. Among these are:

(1) Technological advances in the ocean shipping industry which have generated heavy investments in the nation's harbors might be leading to the deficit financing of ports.

(2) What level of government should manage the nations' ports, and should new ports be created away from present concentrations, are questions that need to be asked . . . and answered.

(3) The economic gains to the state (of Maryland) from the shipping industry on the Bay should not outweigh the environmental value of the resource.

(4) The Port of Baltimore needs a management structure with authority to address its problems in a comprehensive manner.

(5) . . . consolidate in a single report, what is now known about the Chesapeake Bay and communicate it widely, and

(6) Hold public meetings up and down the Bay to determine the public interest in the Bay—the effects continuing fragmented manaegment of the resource will have on fish and wildlife, commercial fishing, navigation and maritime activities, air and water pollution and all of the regional needs of the present and future population of the Bay area, and

(7) Communicate, widely, their findings as they proceed . . .

The Citizens League does not aspire to be either a blue ribbon panel or a watchdog organization. But, in the exploration of the needs of this region, this group's report has gone far beyond many studies—both official and unofficial—conducted on the subject.

The cooperative approach the Citizens League offers is notable for its foresight and its flexibility.

WHERE NEXT IN THE MIDDLE EAST?

Mr. STEVENSON. Mr. President, the euphoria which has followed Mr. Sadat's bold, if unpremeditated, initiative, in the Mideast could be let down hard with unfortunate political consequences. Charles W. Yost, an authority on the region and a former diplomat of the first rank, has offered us a bit of realism.

I urge the Members to read his words and, accordingly, ask unanimous consent that his article of December 9 in the Christian Science Monitor be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Where Next in the Middle East?

(By Charles W. Yost)

Washington.—Anyone who observes the Arab-Israeli conflict year after year, decade after decade, must harden himself against both euphoria and despair. The situation is neither as hopeful nor as desperate as it seems. The basic factors change very little.

During the past 10 months the Carter administration has mounted a skillful and farsighted effort to reconvene the Geneva conference. Its purpose has been to assemble around one table all the parties directly conerned; that is, Israel and its immediate neighbors, in order to hammer out in face-to-face negotiations a comprehensive settlement which, because it would have the agreement of all, would provide lasting security to all.

This effort had threatened to bog down over procedural differences about who should represent the Palestinians and how the conference would be conducted. President Sadat, who because of Egypt's grave economic problems has the greatest need for peace of any Arab leader, determined to break this impasse by one of the bold gestures characteristic of his style. He went to Jerusalem.

Israel and the United States were given the most tangible possible proof that at least one Arab leader not only recognizes the existence of Israel but is ready to welcome it into the Middle East community. The Israeli and American peoples were deeply stirred by this magnanimous demonstration, even though it was accompanied by a firm reassertion of Arab demands for Israeli withdrawal from all Arab territories occupied in the 1967 war.

Many other Arabs, however, who feared, despite his assurances to the countrary, that Sadat was moving toward a separate peace, reacted with deep suspicion. Prudence would have suggested, after the Jerusalem visit, a pause to allow time for the other Arabs to be convinced that Sadat was not betraying their cause, and for the Israelis to formulate a substantive response to his substantive act of recognition. Unfortunately Sadat was so fearful of losing the momentum his courageous act had generated that he immediately issued his invitation for a meeting in Cairo.

It should have been obvious that, given the Arab state of mind, only Israel and the United States were likely to attend such a meeting, thus ending to confirm rather than dispel apprehensions that a sell-out was in the making. The consequence was the Tripoli countermeeting at which quite predictably, Arab extremism has once more triumphed over moderation and conciliation.

Meanwhile United Nations Secretary-General Waldheim sought to save the situation by proposing a subsequent meeting of all concerned in a neutral spot, but Israel rejected this proposal with a precipitation reminiscent of its rejection of Sadat's offer of a "peace agreement" in 1971.

The fact is that the Begin government, despite the warmth with which it welcomed the Sadat visit, has not up till now made the slightest substantive response or concession. Begin himself in the Knesset debate last week firmly rejected intimations from other Israeli leaders, including members of his own government, that he should do so. He seemed to dispose of the Palestinian problem, which is central to a durable settlement, by saying that the word "Palestine" does not exist in Hebrew.

Last week Foreign Minister Dayan declared Israel would be prepared to sign a separate peace treaty with Egypt at any time. This is not surprising. A treaty which would remove the strongest Arab power as a potential belligerent, but which would require no concessions at all on the West Bank and Golan, would obviously please the Begin government and may be its real objective.

If so it is deeply misguided and, in my judgment, not acting in the best interests of Israel, not to mention those of the United States.

A "settlement" which left Syria, Jordan, and all the Palestinians (not just the PLO) in a state of profound resentment would be neither secure nor durable. Israel would have to remain heavily armed and would continue to be subject to guerrilla warfare. The peace its people long for and which a comprehensive settlement would bring would again be adjourned indefinitely.

Even a settlement with Sadat alone would not be solid. Should he make a separate peace, he would not only incur the bitter animosity of most other Arabs but would risk losing the subsidies from the gulf states on which the economy of Egypt depends. Neither his hold on power nor his life would be secure.

However, the situation may be neither as good nor as bad as it now might seem. The United States Government has certainly not abandoned its objectives of a comprehensive settlement and a durable peace. No doubt it will be working intensively behind the scenes in coming weeks to get the Geneva conference, with the participation of all concerned, back on the rails.

In order for it to suceed, however, it will need a far more forthcoming attitude on the part both of Israel and Syria than is being displayed today.

PROF. JAMES M. BUCHANAN ADDRESSES THE ISSUE OF TAX REFORM

Mr. HATCH. Mr. President, I would like to share with my colleagues an outstanding discussion of tax reform by a world-renowned economist who is a leading authority on the political economy of taxation, Dr. James M. Buchanan, past vice president of the American Economic Association. Dr. Buchanan points out that by continually redistributing the burden of taxation through reforms, we deny our citizens general rules of order upon which they can rely to make rational long-term plans. In effect, we destroy our fiscal constitution when we turn the tax system into an institutional means through which members of a dominant political majority secure profits at the expense of others in the community.

Continual change also reduces the predictability of tax planning, thereby reducing the overall efficiency in the use of resources—which means less growth in GNP and employment. To my mind, Professor Buchanan's discussion of tax reform clarifies the issue in a way that is seldom put to us. I am certainly greatful to the national scholastic honorary society, Beta Gamma Sigma, and to Professor Buchanan for defining for us the issue of tax reform.

I ask unanimous consent that Dr. Buchanan's essay, "Tax Reform in Constitutional Perspective: The Case for a Fiscal Constitution," be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

Tax Reform in "Constitutional" Perspective: The Case for a Fiscal Constitution

(By James M. Buchanan)

Within modern memory there has never been general agreement that the tax system functioned even tolerably well. Year in and year out, almost continually, we find tax lawyers, tax economists, journalists, bureaucrats, and politicians talking about and agitating for "tax reform." In a sense, this is understandable and predictable. Within popular as well as political discourse, taxation is fully analogous to a never-ending zero-sum game. A decrease in the tax share of some person or group can be achieved by an offsetting increase in the tax share of some other person or group. Hence, it remains always in the interest of any person or group to agitate for "tax reform," provided only that this can be translated to mean specific change in the tax-share distribution that will redound to his or its own benefit. We should not, therefore, be very much surprised that "tax reform" becomes a blanket rubric within which the underlying political struggle over the assignment of tax shares takes place. Nor should we be shocked to observe that this struggle has become more acute as the revenue requirements of government have increased dramatically during the years since World War II.

Nonetheless, "tax reform" agitation does vary in intensity over time, and we have been riding a crescendo in the late 1970s. In 1976, Jimmy Carter traveled throughout the land castigating the United States tax structure as a "disgrace to the human race." And President Carter promised to deliver a comprehensive tax reform package to the Congress in late 1977. This package will, in its turn, insure discussion and debate into and beyond 1978.

I shall not discuss the details of Mr. Carter's, or anyone else's, tax reform proposals in this paper. I want, instead, to examine the desirability of "tax reform" itself, independently of how this might be defined. That is to say, I want to discuss the relative efficacy of changing the distribution of tax shares via a partisan political decision process and of leaving the existing distribution alone, regardless of what the latter happens to be. I shall argue that there is, indeed, something "disgraceful" to be observed, if we choose to employ such emotive rhetoric. In this context, it is "disgraceful" to subject the basic tax structure to the continuing struggle of majority-rule politics, with the accompanying wastage of untold billions in attempts either to reduce or forestall unduly discriminatory tax treatment or to initiate or to increase the favorable treatment of this or that source or use of income, this or that class, industry, region, or occupation.

More constructively, I shall argue that the tax system can only be meaningfully discussed in a constitutional perspective. By this I mean that the basic structure of taxation, the distribution of tax shares among persons and groups, should be considered to be a part of an ongoing fiscal or tax constitution, defined as a set of quasi-permanent rules or arrangements within which individuals can anticipate making appropriate behavioral adjustments, including those made over a long-term planning period. From such perspective, structural changes in the tax system should be discussed as, and treated as, changes in basic constitutional law, and hence should be potential outcomes of a categorically different process of decision-making than that which generates ordinary legislation. I shall argue further that meaningful criteria for a "good" tax system can only be derived from this constitutional perspective, which offers the only escape from the zero-sum implications of the conventional tax-reform exercise.

I shall suggest that there is no "scientifically best" or "scientifically ideal" tax structure in any objectively measurable sense that would be accepted by separate observers. More importantly, it is relatively easy to demonstrate that, even should an "ideal" tax structure exist, the vagaries of majority-rule legislative politics could not be expected to generate even an approximation to such an "ideal." We should predict that such politics would generate more or less the results that we now observe; continual changes in structure, along with unceasing clamour for still further changes.

The implications of the argument are conservative in the literal sense. Stability in the basic rules for taxation has a value in itself, and stability is not achievable through continual manipulation. While interrelationships exist, the basic structure of taxation must be conceptually distinguished from the level of taxation. "Tax reform" is relevant to the allocation or distribution of tax shares among persons and groups. It is not directly relevant to "tax reduction" or "tax increase," determined by the overall level of tax rates, within any given structure of tax sharing. The argument for stability in tax structure can be developed simultaneously with an argument that the level of taxation is excessive (or deficient). My discussion in this paper is limited to tax-share distribution.

WHAT IS A "GOOD" TAX SYSTEM?

Almost all of the traditional literature of normative tax theory could be summarized under the title of this section, extending at least as far backwards as Adam Smith's canons of taxation on the one hand and including the highly mathematical modern theories of "optimal taxation" on the other. Such a summary is not my objective here. I shall distinguish two sets of criteria for evaluating a tax structure, or any part thereof. First, there are those criteria which require resort to norms that are *external* to the preferences of potential taxpayers themselves. Second, there are those criteria that are *internal* to, and hence derivable from these preferences. With the single exception to be noted below, traditional normative tax theory falls within the first, or external criteria, category. That is to say, the orthodox procedure is to adjudge a tax structure, on a part thereof, to be "good" or "bad" in terms of its standing against externally-defined criteria. Some of the latter are such things as: allocative efficiency, redistributive potential, equal treatment for equals, taxation related to ability to pay, convenience in collection. The normative tax analyst, the lawyer, economist, or bureaucrat, looks at a tax structure, in whole or in part, and concludes that it is "good" or "bad" because it does or does not generate "least price distortion," or because it does or does not reduce sufficiently the disparities in incomes and wealth, or because it does or does not treat equally-situated persons equally, or because it does not impose sufficiently high burdens on the rich relative to those imposed on the poor, or because it is or is not progressive, etc.

It should be clear from this summary recital that the procedure cannot be expected to result in general agreement, even among the so-called expert analysts. "One man's meat is another man's poison." Separate "experts' can look at the same tax structure, either existing or hypothetical, and place it in widely differing positions or ranks in an institutional ordering of "goodness." And there are simply no instruments for the "evaluation of values" which might produce the divergent orderings here. Because fundamental norms differ, it must be expected that "experts" can usually be located to label almost any conceivable tax share system, or any part thereof, to be "inefficient," "unjust," or "inequitable," or, contrariwise, "efficient," "just," or "equitable," or several of these combined.

This sort of disagreement would emerge, with its consequent implications for "tax reform" discussion, even if all of the parties to an evaluation should be high-minded, disinterested, and charged with the pure pursuit of the public interest, defined, of course, in their own terms. But such disagreement becomes more acerbic when there exists mutual recognition that the evaluations of tax systems, or particular features of tax systems, will also be affected by the private rewards accruing to those who are most successful in the persuasive effort. Once again, the zero-sum features of the tax game must be stressed. Is it really so surprising when we find Harvard professors tending to justify the charitable-educational deduction under the income tax, or to find Brookings Institution representatives seeking ways to extend the tax base and hence the gross revenue potential for the federal government? Or to find economists for the AFL–CIO justifying the shift from payroll to income taxes for the financing of social security? Or to see the economists for the NAM arguing that the personal income tax structure is overly progressive?

The tax-reform game should be seen for what it is, an interrelated set of attempts by various parties, both those directly interested and those allegedly "disinterested," to persuade others, and especially political decision-makers, that their own private version of the "good" tax structure is, somehow, unique, and, therefore, the proper benchmark or target for institutional change. Confronted with the array of conflicting testimony from the parties adversary to one another, with arguments that appear plausibly persuasive on all sides, should we then wonder that experienced politicians who actually write the tax laws soon come to be somewhat cynical about the process of "tax reform"? There is no "best" tax system in terms of evaluation by external criteria for the simple reason that there is no single set of criteria upon which agreement exists or can exist.

To say this, however, is not equivalent to saying that one tax system is as good as another. Means of evaluating a tax structure or system can be developed on *internal* criteria, that is, on the basis of the desires of the taxpayers themselves, independently of external norms, and with no necessity of resorting to such norms. Such internal criteria can be discussed at two separate levels, the nonconstitutional and the constitutional. We shall postpone our more elaborated treatment of constitutional criteria for tax systems until a later section of this Essay. It will be useful here only to summarize the development of internal criteria in a nonconstitutional setting.

TAXATION AS ONE SIDE OF FISCAL EXCHANGE

Suppose that we simply refuse to invoke external ethical norms for evaluating a tax-sharing scheme. How can we possibly judge one tax to be better than another? An answer is found in the "fiscal exchange" approach to taxation, pioneered by Knut Wicksell, a famous Swedish economist, whose important work on taxation was published in 1896.[1] What is the ultimate purpose of taxation? Surely a primary purpose must be that of financing goods and services desired by the taxpayers themselves. In this sense, tax payments can be looked on as having most of the characteristics of prices paid for goods and services purchased in the marketplace. A person pays money for shoes because he values the product more than he does those things that he might otherwise purchase for the same money. A tax can be treated analogously. A taxpayer may value a good and service provided by government more highly than he values the alternative goods or services that he might otherwise secure with the money measured by the tax he pays. Looked at in this way, there are elements of "voluntary exchange" in many taxes.[2]

What is the "best" assignment of tax shares under this fiscal exchange conception of taxation? Since the benchmark is voluntary exchange, it follows that all persons must secure net benefits. That is to say each taxpayer must get back from governments goods and services that he values more than the tax payments made. Wickell moved quickly to the direct conclusion that any tax-sharing scheme that could be agreed on by all taxpayers is acceptable, although he also recognized that many arrangements might be possible. But through this process of looking for agreement among taxpayers themselves Wicksell was able to evaluate tax arrangements without bringing in external ethical criteria.

At a conceptual level, the Wicksellian framework for looking at taxes gets high marks indeed. But the realities of politics get in the way. We do not observe tax rules and political rules that require the consent of all persons and groups before taxes are imposed. What we do observe is governmental decisions taken by a majority coalition in a legislature with the outcomes coercively imposed on all taxpayers. In this real-world setting of politics, there is no assurance that all parties gain in their "exchange" with government. And this becomes notably true when we recognize, further, that tax revenues are not used exclusively to provide goods and services. Tax revenues are also used to finance transfers directly from taxpayers to recipients. Income and wealth redistribution is an inherent part of the fiscal process that we observe. For practical purposes, therefore, the Wicksellian criterion for evaluating tax arrangements does not work. We are back where we started; we have no apparent means of evaluating tax structures unless we are willing to invoke external ethical norms. I shall show that things are not nearly so bad as they seem here when we introduce a genuine constitutional perspective. The detour into this brief discussion of the Wicksellian approach will be helpful when this perspective is discussed in detail.

THE INSTABILITY OF MAJORITARIAN POLITICS

The fiscal exchange conception of model for taxation fails because political decisions are not made unanimously. General consent is not required before governments invoke their residual "powers to tax." Perhaps this only suggests that there are flaws in the constitution. Wicksell proposed that all taxing and spending propositions should require the unanimous or near-unanimous agreement of all members of a legislative assembly. Through this political or constitutional reform, Wicksell aimed to generate "tax reform" indirectly.

The political decision process is costly, however, and any move toward requiring that decisions on taxes be made more restrictive and inclusive might involve dramatic increases in costs. Recognition of the cost of decisionmaking itself—which includes the costs of inaction, of strategic maneuvering, of shifting coalitions, of political trades, deals, side payments—suggests that the Wicksellian route to reform would be limited in applicability.[3]

It is important to understand just why general agreement on tax arrangements would be so difficult to secure. To show this, let us suppose that a specific tax-sharing scheme, along with a proposed budgetary pattern, would, in fact, insure that *all* taxpayers gain by the "fiscal exchange" with the government. This generality of net gain would not, however, make agreement easy to obtain for the simple reason that taxpayers and taxpayer groups would still find it profitable to seek differentially advantageous shares in the total gains available. Under one sharing scheme, a taxpayer might be insured of a net fiscal gain of, say, $100. But another arrangement might promise him a net gain of $1,000. In this situation, he will never agree on the first arrangement; instead he will invest time and resources in attempts to get politicians to adopt the second.

If general agreement is too costly and time-consuming, there is some rational basis for having political decision structures that do not require general agreement. What we observe, of course, are variations on majority voting rules—in voting on candidates and/or referenda by the general electorate, in voting in legislative bodies, in voting in committees of such bodies. But the same reasons that make general agreement so difficult to reach also emerge to insure that decisions reached under majority rule institutions will tend to be highly unstable. Even if there exists a fixed number of alternatives to be voted upon, and even if individual voters' preferences are well organized, majority voting may produce a cycle.[4] There may be no single alternatives that will secure majority approval against all proposals. The outcome that finally emerges may well depend on just how the items to be voted upon are placed on the agenda and on how the rules for

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Footnotes at end of article.

stopping the voting are made. This tendency toward instability in voting outcomes under majority rule becomes more pronounced when the range of effective alternatives may be readily modified. Clever manipulation can almost always produce amendments to agreed-on majority results that will be preferred by some other majority coalition. Furthermore, persuasive arguments, along with side deals and agreements, may modify the preferences of voters, or of legislative representatives, during the decision period.

"Tax reform" discussion, debate, and review, as we observe them to operate in the United States, exhibit all of these properties. Indeed we might say that the functional purpose of tax-reform advocacy is that of organizing new alternatives that might command majority assent in the Congress. The turnover in representatives, even if this has been severely limited in recent decades, tends to allow for shifting coalitions. And the very electoral term structure of Congress itself almost insures that "tax reform" will always be on the agenda for action.

THE CASE FOR A FISCAL CONSTITUTION

To this point my argument has been largely negative. I have argued that there is no "best" tax system in terms of any agreed-on external criterion. Further, I have suggested that the internal criterion advanced by Knut Wicksell, that criterion which utilizes the agreement among taxpayers themselves as the signal for desirability, will not work effectively. Finally, I have shown that under the politics that we see, outcomes are likely to be highly unstable, with "tax reform" being a continuous process.

From this point, I want to develop a constructive argument. I shall show that a genuine constitutional perspective on taxation can do much to mitigate the difficulties suggested. There seem to be at least three major advantages to be expected from treating taxation as a part of a genuine fiscal constitution. First of all, the value of institutional predictability could be fully captured; the efficiency gains would surely be great. Secondly, the related and obverse side of this relationship would be equally if not more productive; individuals and groups would reduce substantially the major investment in "rent-seeking" which, socially considered, is wholly wasteful. Thirdly, and most importantly, only with a constitutional perspective could something akin to the Wicksellian criterion be introduced; agreement on tax changes might become possible, both conceptually and in actuality.

These three promised advantages of a constitutional perspective all stem from the implied shift between the treatment of tax rules as ordinary, year-to-year legislation, subject necessarily to ever-changing political-ideological winds, and their treatment as permanent or quasi-permanent institutions, beyond the immediate and expedient control of ordinary legislation, as a part of the set of legal rules which are expected to remain in being for a long period. Indeed, this is the very meaning of the word, "constitutional," and "constitution." By the latter, I refer to the basic rules and institutions within which choices are made, publicly and privately, rules and institutions which are expected to remain in being for periods sufficiently long to enable behavioral plans to be made and long-term adjustments to be completed.

TAX RULES AS PUBLIC CAPITAL

The efficiency of establishing and maintaining quasi-permanence in the basic structure of taxation should be obvious. To the extent that modern levels of taxation are tolerable at all, they are so because elements of the structure are relatively immune to change. In this sense, these elements have been treated as "constitutional." Suppose that Congress should have switched, year-to-year, between the tax on corporation income and a value-added tax, as a major revenue source. These taxes would require differing adjustments on the part of firms, and the uncertainty about which tax would be levied in which year or period would produce major waste in the economy.

Tax rules or arrangements are no different in this respect from other rules and institutions of the society. The importance of some long-term predictability in the "rules of the game" within which individuals and groups are allowed to make choices can hardly be stressed too much. Consider the following simple example, which I owe to my colleague, Geoffrey Brennan. Two passengers arrive simultaneously on adjacent platforms, A and B, in a station. Both persons seek to change trains quickly, and to do so, each must run across a narrow bridgeway across the tracks. The bridgeway is just wide enough for two persons to pass while running in opposite directions, *provided* that there exists a generally recognized "rule of of road" that dictates right-side or left-side movement. If such a rule exists, and both passengers are fully informed as to its existence, both can change trains successfully during the stop. If no such rule exists, or if one or both of the passengers is badly informed, both persons may miss the connection and remain stranded on the platform. In this example, the efficiency of having a widely-known and stable rule, any rule, is clear, and here, as in many instances, it is the very existence of a stable rule rather than the particular form of the rule itself that assumes critical importance.

Predictable rules within which individuals may rationally plan their activities are part of the "public capital" of any society. Tax rules are similar to other legal rules in this respect. To change a tax rule that has long been in existence, and to which individuals have adjusted their long-term plans, is analogous to tearing down a permanent structure. Any new, or replacement, rule will necessarily require a long period before some sort of behavioral-institutional equilibrium is reestablished. The worst of all situations would be one in which basic tax rules are subject to continual modification, such that individuals and groups could neither approach some sort of equilibrium adjustment nor even make rational plans toward such adjustment. There is genuine economic content in the adage that "an old tax is a good tax."[5]

The argument suggests that "tax reform" in and of itself, is undesirable, and especially if the changes are to be made through a political game characterized by majority-rule partisan maneuver. This is not to say that taxes should never be changed, or that the distribution or assignment of tax shares should literally be permanent, as if somehow fixed in concrete. The argument implies only that the costs of changing the structure be accurately estimated, and that a tax system should not be modified merely because some other system "might have evolved" which would now seem "better." There is a positive value in "that which exists" for the simple reason of its existence, and quite independently of whether or not rational defenses can be worked out on *carte blanche* assumptions. To be rationally justified, therefore, "tax reform" must be shown to have taken the full costs of change into account, costs which must also include those involved in the transition between tax schemes.

"TAX REFORM" AND "RENT-SEEKING"

There is another side of the argument against "tax reform," which is perhaps more important than the "rules as public capital" point. The predictability of taxing arrangements can increase the productivity of the economy by making personal planning more efficient. But, also, the stability in tax rules, along with the generalized understanding that these rules are quasi-permanent, will also reduce substantially the socially wasteful investments in "rent-seeking" that continual change and discussions of change will insure. To the extent that tax arrangements can come to be considered as quasi-permanent features of the economic environment, individuals will divert resources from wasteful to productive investments.[6]

Consider, first, a setting in which particular tax-share rules are literally "up for grabs" with each congressional session. Consider the position of a particular group of persons, representing a specific industry, occupation, or region that might be favorably or unfavorably affected by specific congressional action on whether or not, say, a certain tax deduction on tax credit is allowed. There may be millions of dollars in the balance with the action of Congress meaning the difference between superior short-run profits and near-bankruptcy. In such a situation, it becomes privately rational for the group potentially affected to spend time and money in efforts to persuade members of the administration, the Congress, and notably the relevant members of the key committees, that favorable treatment is in the "public interest," and, at the least, to convince such politicians that unfavorable treatment is clearly immoral. At the appropriate margins of decision, investments of this sort may be privately more rational than comparable investments in improved technology, in research, and even in purchases of new plant and equipment.

It is clear, however, that in some overview of the situation, when the comparable activities of all those who are seeking to secure favorable tax treatment and to avoid unfavorable treatment are taken into account, the net investment in "lobbying" is wasteful. Only the group which successfully wins the tax-persuasion game finds that it earns a positive return on its investment in time and money in "politicking." Those groups that lose have invested their time and money without return; these groups end up paying higher tax shares in addition to the unproductive investment in "rent seeking."

How would the constitutional approach to tax-share arrangements modify this sort of behavior? If tax rules are generally expected to be unchangeable, there would be no gain to be secured from investment in lobbying for differentially advantageous treatment. But the constitutionalist approach does not imply an absence of change; it implies only that change be treated as quasi-permanent, and that institutions should be expected to have reasonably long lives. In this case, however, there may seem to be more profits from securing a favorable rules change than from comparable political action in a situation where any profits are anticipated to be short-lived because of shifting political coalitions. From this it seems that more rather than less lobbying effort might be forthcoming under a constitutionalist than under a legislative approach to tax reform.

Suppose, for illustration, that tax rules were changed only one time each decade, and that a particular feature of the tax system, once installed, were known to have a minimum life of ten years. The present value of a tax advantage is clearly higher than the comparable value of the same advantage without the temporal guarantee. Suppose that the differential advantage is initially worth $1000 per year. In a year-by-year legislative consideration of tax changes, the $1000 prospect will attract investment in lobbying effort each year, which may be less, equal to, or more than the $1000 in promised gain, which, in this case, will be reasonably certain to the successful "bidder." But if continued for a period of ten years, the differential gain from the same tax feature

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Footnotes at end of article.

may be much less than $10,000 because of the mobility of resources in the economy. A tax advantage will offer differential short-run profit potential to those owners of resources employed in the "successful" industry. These differential profits will attract new investment; as investment moves in and output expands, profits are reduced. Over a ten year span, the rate of return on new investment in the industry or group affected may return to the level that would be present in the absence of the tax advantage. Those within the industry who might seek the tax advantage initially will, of course, recognize that new entrants will quickly dissipate the differential profits owing to the tax feature. They will, accordingly, reduce their efforts to secure the tax advantage in the first place. It seems clear that, for this reason alone, the overall investment in "rent-seeking" will be much less than ten times that which would be anticipated to take place in any one-year legislative consideration of the same tax feature.

Over and beyond the long-term uncertainty about differential profitability due to the attraction of new investment, there is the related, but conceptually different, uncertainty that temporal extension of the planning horizon necessarily introduces. A person may be less willing to invest in effort to secure a quasi-permanent and long-term change in tax institutions than in effort to implement short-term change, because he may be unwilling and/or unable to "identify" his own future position so well in the former case as in the latter. A diversified corporation, for example, may know pretty well just what tax gimmicks will redound to its profitability given its current product line. But what will be its product line ten years down the road, as it responds to changing tastes and technology? That particular tax arrangement which looks highly profitable in the short term may well prove to be a hindrance to expansion in the longer term. This argument from temporal uncertainty is the same that underlies the positive argument for constitutionalism in tax reform, to be discussed further in the following section. But for this as well as the first reason examined above, it seems intuitively clear that the total investment in "rent-seeking," in attempts to secure differential profits from favorable tax treatment, will be inversely related to the average length of life of particular features of the tax system. And, as noted, any reduction in this sort of investment represents pure social gain.

CONSTITUTIONALISM AND A PARTIAL VEIL OF IGNORANCE

I have stressed the zero-sum aspects of the tax-sharing game, of "tax reform" discussion as this is generally observed to take place. The argument seems to be among groups that seek to reduce their own shares in total tax burden, with each group calling down familiar and somewhat tiresome slogans about "justice," "equity," "efficiency," etc. As I suggested, agreement is not possible in such a setting because individual positions in the economy are well identified. With fixed total revenue projections, most rich men know that an increase in the allowable standard deduction accompanied by a closing up of loopholes will increase their own tax shares; most poor men know that their shares will be reduced. It is folly to expect these two groups to "agree" on any change, one way or the other.

But the prospect for general agreement, for genuine consensus, may change dramatically if we allow for some introduction of ignorance and uncertainty into the individual's calculus. Suppose that a person confronted with a prospective tax change does not really know, and cannot accurately predict, whether he will be a rich man or a poor man. Suppose that his position in the economy is not fully identified. In this setting, he may genuinely try to choose features of a tax structure, a tax-sharing scheme, that will be "fair," in the sense of acceptability under either one of the two positions.

A person who does not know what his own position will be under the rule to be chosen is behind a "veil of ignorance"; this is the construction that has been used by John Rawls in the derivation of his notion of "justice as fairness."[7] Rawls did not discuss the tax system in particular, but his construction was used to derive "principles of justice" generally, and without resort to criteria external to the evaluations of persons within the group. To the extent that a person does not know where he will be located in some final distribution, he will tend to opt for rules that are "fair," and that will be considered to be "fair," no matter just what this final position might turn out to ance must be total; any ability of a person to predict his own future position will bias his own choice of rules and make agreement difficult to achieve.

In any conceivable real-world setting, however, persons would have at least some idea as to where their own economic positions might be in any future operation of the economic environment. If the Rawlsian criterion is to be applied directly to any practical problem, something less than the idealized setting must be introduced.[8] A partial rather than a complete veil of ignorance is the best to be expected. It is precisely at this point, however, that the distinction between the constitutional and the nonconstitutional approach becomes critically important. In the here and now, in 1977 or 1978, individuals may be able more or less fully to identify their own economic positions, and, because of this, may be able to translate the direct effects of any proposed tax-share change on their own pocketbooks. The current tax game is strictly zero sum; agreement remains impossible. But this conclusion must be modified if a proposed change in tax shares is lagged in effect so that it will be implemented only after a period of, say, ten years, twenty years, or even fifty years. The increased difficulty in making any accurate prediction about one's own economic status over such a long period is evident. Think of the poor but bright young man with confidence in himself. Increased rates of progression in the income tax may be beneficial to him in the immediate future, but such increases in rate of progression may prove harmful if the rate structure remains frozen, say, until 1990. The young man, if he knows that the change being discussed is to be quasi-permanent, may be very reluctant to support measures designed to impose punitive rates on the currently rich. In similar fashion, the person who is now rich may consider the prospects of his family's own lapse into poverty. He may be willing to raise personal exemption levels, despite the fact that such change will increase his current tax share.

The prospects of general agreement, for consensus, on change in the tax-sharing scheme will be directly related to the predicted length of life of tax rules. To the extent that the tax structure is "constitutional," in the sense that we have used the term, there are opportunities for agreement that simply do not exist when the structure is known to be "up for grabs" with each congressional session. And, if there can be no external ethical criteria upon which agreement might be reached, the demonstration of internal agreement among potential taxpayers or their representatives in a legislative assembly becomes the only test of "improvement" in tax structure, the only proof that a shift in tax shares does, in fact, reflect genuine "reform."

"TAX REFORM" IN THE LATE 1970'S

What about the current discussion of tax reform? What does the constitutionalist argument imply for President Carter's proposals for changes in tax structure? To the extent that the proposals are treated as "President Carter's" or as "the administration's," or as the "Democratic Party's platform obligations," they should be categorically rejected. A tax measure was enacted in 1976, and the tax structure that exists in 1977 has surely not been around long enough for individuals and firms to make adjustments to it. To open up the whole structure for reconsideration in 1978 must be counterproductive in many respects.

This is not to suggest that the tax-sharing scheme which exists in 1977 or 1978 is "ideal," and that changes should never be considered. There is room for "tax reform," properly interpreted. But for any set of proposals to qualify for evaluation under this rubric, it must emerge from a nonpartisan dialogue and it must be discussed as if it were designed to effect long-term institutional change. If "tax reform" is to be meaningful, if this term is other than empty rhetoric, the designers must think of changes, if adopted, that will remain in being for ten, twenty, or thirty years.

The question to be asked is: What "should" the tax structure of the United States be over the remaining years of this century? As the alternative schemes are examined in the light of this meaningful "constitutional" question, some approach to general agreement is within the realm of the possible. The question to be avoided is: What "should" the tax structure of the United States be over the years of the Carter administration, when the Democratic Party retains control over both the executive and the legislative branches of government? To the extent that this latter question informs those who advocate "tax reform," the scope for meaningful improvement in the tax system is necessarily eliminated.

Our society faces a critical choice. The tax system can be treated as a part of the general rules of order within which we live, rules that allow us to make rational long-term plans, or the tax system can be used as the institutional means through which members of a dominant political majority secure profits at the expense of others in the community. If we observe the current political discussion, it may seem that the second of these images dominates the scene. But if we value the liberties of persons, interacting with one another in a free society bound only by general rules of order, we must retain some faith that the current confusion will soon be dispelled, and that Americans will yet recover some of the wisdom of their Founding Fathers.

FOOTNOTES

[1] Knut Wicksell, *Finanztheoretische Untersuchungen* (Jena: Gustav Fischer, 1896). The major portion of this work is published in an English translation as "A New Principle of Just Taxation," in *Classics in the Theory of Public Finance*, edited by R. A. Musgrave and A. T. Peacock (London: Macmillan, 1959), pp. 72–118.

[2] For an extended discussion of this approach, see my paper, "Taxation in Fiscal Exchange," *Journal of Public Economics*, 6 (1976), 17–29.

[3] For a generalized discussion, not limited to taxation, see, James M. Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962).

[4] The now-classic works developing the implications of this majority-voting paradox are Kenneth Arrow, *Social Choice and Individual Values* (New York: Wiley, 1951), and Duncan Black, *Theory of Committees and Elections* (Cambridge: Cambridge University Press, 1958).

[5] For a specific discussion of the economic content of this adage, see my, *Public Finance in Democratic Process* (Chapel Hill: University of North Caroina Press, 1967), especially

Chapter 5. For a more general discussion of rules as public capital, see my, *The Limits of Liberty* (Chicago: University of Chicago Press, 1975), especially Chapter 7.

[6] For a general discussion of "rent-seeking," see Gordon Tullock, "Rent-Seeking," Mimeographed, Center for Study of Public Choice, Virginia Polytechnic Institute and State University, Summer 1977.

[7] Rawls developed his analysis in a series of papers published in the late 1950s, but the analysis has been very widely discussed only after the publication of his major work in 1971. See, John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

[8] I have found it useful to present the central idea here in terms of an analogy with ordinary games. Consider a group of persons planning an evening's poker. They must first decide on the rules for the evening's play Since there is no means of predicting just how the cards might fall on particular rounds of play, each person will be motivated, in his choice among rules, to select rules that will generally be "fair." Furthermore, it seems clear that *agreement* among all potential players on a set of rules will be much easier in this setting than in one where the precise run of cards should be predictable.

[9] A less-than-idealized setting was used to evaluate rules for political decision making in James M. Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962).

INTERGOVERNMENTAL COOPERATION IN SCIENCE

Mr. STEVENSON. Mr. President, I call to the attention of my colleagues an editorial by William D. Carey which appeared in Science magazine entitled, "Intergovernmental Cooperation in Science." Mr. Carey is both publisher of Science magazine and executive secretary of the American Association for the Advancement of Science.

Mr. Carey emphasizes the need to involve State and local governments more fully in national science and technology decisions. The application of Federal R. & D. efforts to State and local problems, and the process of technology transfer, is a complex and difficult task. However, there is need for such activities and Mr. Carey identifies certain efforts initiated in this area, one of which is particularly important to the Congress.

Under the National Science and Technology Policy, Organization and Priorities Act, an Intergovernmental Science, Engineering and Technology Advisory Panel was established to provide State and local participation in Federal science and technology decisions. Under the President's reorganization plan, this panel technically was abolished and its functions transferred to the President. As indicated in a letter to the editor of Science magazine from Dr. Frank Press, Director of the Office of Science and Technology Policy, the panel's functions have been transferred to the Office of Management and Budget and the panel will continue to function.

The Subcommittee on Science, Technology and Space, which I chair, will be reviewing this transfer of authority to be assured that the panel is carrying out its responsibilities specified in the Science and Technology Policy Act. The subcommittee plans oversight hearings on the implementation of the act, including the operation of the intergovernmental panel, beginning in February of next year.

Mr. President, I ask unanimous consent that Mr. Carey's editorial and Dr. Press' letter, which both appeared in Science magazine, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTERGOVERNMENTAL COOPERATION IN SCIENCE

(By William D. Carey)

One of the uncomfortable truths about the postwar arrangements for science and technology in the United States has been the small role of state and local government. A trilateral relationship took form, linking the federal government with private industry and universities. Only in the last decade, mainly through the initiative of the National Science Foundation, have the states and cities been invited to the table. In President Carter's reorganization of the White House offices, the short and happy life of the Intergovernmental Science, Engineering and Technology Panel came to a premature close when it was abolished and its functions "transferred to the President."

With chronically slim resources, the National Science Foundation has supported a versatile array of experimental projects aimed at linking state and local governments with scientific research and technology. Among other things, NSF is nourishing a network of cities and science advisers to match needs with available know-how. In another experiment, it is testing linkages between local governments and industrial firms. And a third experiment connects state governments with a supportive federal laboratory consortium. In the face of skepticism, NSF has hung tough in its belief that modest but strategic investment in intergovernmental science will yield benefits in terms of productivity and service delivery. It is a refreshing glimpse of the better side of government.

Inflated expectations of a blessed union between science and state and local government, on the other hand, are not helpful. Enough has been learned to tell us that progress will be slower than we might like. True, state and local governments are fighting a storm of dilemmas of urban decay, modernization, law enforcement, air and water management, energy conservation, and human services. But defining needs in terms that science or technology can address is a thorny business. Simplistic jargons of technology transfer are not helpful. Applications of sophisticated technology often are not affordable within tight budgets. Problems of uncertainty, in many ways, are more intransigent at these levels of government than at the national level. The Balkanized state of power centers and the mixture of "strong" and "weak" governors and other elected officials are barriers to introducing change with economies of scale.

Still, with all of these problems, governors and mayors and legislators are reaching for scientific and technical advice, and the profile of state and local government is changing. Public interest groups such as the National Governors Conference, the National Conference of State Legislators, the Conference of Mayors, the National Association of County Officials, the National Municipal League, and the International City Managers Association are all converging in the sponsorship of new arrangements to bring science and technology into the act. A National Conference on Earthquake and Related Hazards, arranged by the Council of State Governments and the University of Colorado, will inform state government officials about risk assessment, hazard reduction, and earthquake prediction.

An important dimension is being added to the commonly perceived agenda of science and technology. Although it comes tardily, its value should not be underestimated. If science and technology can offer a brighter future to federalism, a new measure of utility can emerge where public and private investment in research and development is argued. But there is a great deal still to be done to test and develop a better match between state and local needs and federal research and development priorities. This will not be accomplished by arm's length relationships, and certainly not if the states and cities are viewed simply as passive markets for the end products of federally oriented research and development. Congress knew what it was doing when it legislated entrée for the states and cities to the science policy staff of the President. If that opening is not somehow assured, a useful initiative will have been checkmated.

[LETTERS]

INTERGOVERNMENTAL SCIENCE PANEL

William D. Carey (Editorial, 25 Nov., p. 785) is incorrect in stating that, as a result of President Carter's reorganization of the White House, "the Intergovernmental Science, Engineering and Technology Advisory Panel [ISETAP] came to a premature close when it was abolished and its functions 'transferred to the President.'" ISETAP is active and, in fact, the reorganization is designed to strengthen it. The Carter Administration is committed to maintaining and supporting this link with state and local governments concerning science and technology matters.

ISETAP is being rechartered as an advisory committee by Executive Order. Responsibilities for the central staffing are being transferred to the Office of Management and Budget (OMB), primarily to strengthen ties between ISETAP and OMB. The acting director of OMB voiced his strong support for ISETAP in a letter to the heads of eight of the major federal departments and agencies with extensive domestic research programs. He requested that the agencies submit their plans to him for how they intended to work with ISETAP. Federal agencies are cooperating with five ISETAP task forces and are providing staff support to the panel.

The task forces are working with the agencies to strengthen ties between the federal government and the state and local government community. They are also holding briefings at which senior officials from various federal agencies are describing their R & D and technology transfer programs and the ways in which they involve state and local governments in setting R & D agendas. Briefings have been received from the Department of Housing and Urban Development and the Department of Health, Education, and Welfare. Others are scheduled to be received from the National Science Foundation (in December) and from the Department of Transportation and the Environmental Protection Agency (early next year).

ISETAP now has a staff of five full-time professionals, all with extensive state or local government backgrounds, and I expect there will be at least two more by the end of the year. Staff members currently include a former mayor, city manager, director of research for a regional government, director of research for a county human services agency, and an administrative assistant to a governor.

ISETAP is alive and well, I look forward to my continued role as chairman of ISETAP and to working with state and local government officials through ISETAP to help bring the benefits of science and technology to bear on the problems of states, counties, and cities.

FRANK PRESS,
Office of Science and Technology Policy,
Executive Office of the President,
Washington, D.C.

The panel was in fact abolished by the reorganization plan as a congressionally mandated arm of the Office of Science and Technology Policy. Its reappearance in another form is reassuring. What counts is that Press evidently intends to seek results.—W.D.C.

TRIBUTE TO BERNARD GOLDHAMMER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Washington (Mr. MAGNUSON), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MAGNUSON

The people of the Pacific Northwest are deeply indebted to the late Bernie Goldhammer, the former power manager for the Bonneville Power Administration for his invaluable contributions during his long public power career. The region is very fortunate to have benefited from the knowledge of this unique man. He will indeed be greatly missed. I attach an editorial paying tribute to Bernard Goldhammer.

The editorial ordered to be printed in the RECORD is as follows:

[From the Pasco Tri-City Herald, Nov. 11, 1977]

HE WILL BE MISSED

Newsmen and others who often need simple and quick answers to the complex problems arising out of the Bonneville Power Administration's operations in the Pacific Northwest will miss Bernard Goldhammer, who died Monday of cancer at age 62.

But more than individuals, the region and the nation will miss his unique talents and activities. These ranged across the spectrum of electrical power management and included everything from interest in long-range weather forecasting to the negotiation of treaties with governments and complex contracts with giant power producers. Bernie Goldhammer was an authority's authority.

He was never too busy, even when carrying heavy BPA administration duties, to deal with the innocent, stupid question. Nor did his patience ever seem exhausted. For those who had an interest in electrical energy, whether from a technical or economic point, Goldhammer proved a patient and fine teacher.

Sometimes he was explaining the Canadian treaty for the development of the Columbia River hydro power that he helped negotiate as a technical advisor and coordinator; at other times, he was talking about his efforts to pull the region together into a comprehensive energy grid, marked by complex arrangements between public and private utilities. But at all times, he proved capable of giving deep thought to vexing problems.

He received many honors during his public power career, which began in 1943 when he joined BPA. Goldhammer received the Distinguished Service Award of the Department of the Interior, the Federal Man of the Year Award for Portland and the Distinguished Service Award from the Northwest Public Power Association.

But Goldhammer's contribution to his community and region made a difference so great that it is not easily measured by awards. Those fortunate enough to have benefited from his wisdom and knowledge will understand the depth of their loss.—The Oregonian.

NEEDED: A COMMON CONCEPT OF MENTAL HEALTH

Mr. BROOKE. Mr. President, at the recent annual meeting of the American Association of Psychiatric Services for Children, where the theme of the conference was "developing new ways of meeting the needs of children and their families," the keynote address was made by Senator JACOB K. JAVITS of New York.

Senator JAVITS focused the audience's attention on our bill, National Health Insurance for Mothers and Children Act (S. 370) as the strategy: First as a logical incremental step toward universal health benefits coverage that can be acted on now, and second highlight preventive rather than curative medicine and promote health policies that go beyond the limits of medicine.

Senator JAVITS and I have long been advocates of ending the stigma, fear, and misunderstanding of mental illness—a tragedy perpetuated by books, the media, and the conduct of everyday life itself—and we have urged encouragement and incentives for the public to use preventive services such as crisis intervention and early diagnosis. We are both most sympathetic to the vast, pervasive and ever-increasing needs and problems of mental illness. We both believe that as we develop national health insurance legislation we should include coverage for the 20 million or more persons in this Nation who are in need of some form of mental health care. Yet it is urgent that as we begin the creative process for a comprehensive health program for all of our citizens we must be compassionate but realistic.

As a friend of the mental health caring community, I want them to know that I support fully Senator JAVITS' challenge to them that mental health professionals begin to define what procedures should be in the hands of medical professionals, best trained to carry them out, and where others of the mental health disciplines may more appropriately be used—for example, social and peer intervention.

In addition, we must end concerns about reimbursement for nonmedical health professional reimbursement and reach an accord regarding the division of roles and responsibilities. I share his concern that if we fail to establish boundaries of treatments and carefully articulated and defined psychiatric services, it will all ultimately work to the disadvantage of mentally ill patients.

Also, I agree with Senator JAVITS that there is "a congressional consensus, that our existing mental health care delivery system does not provide clear lines of clinical accountability for the various mental health disciplines, and for their relationships with each other."

I commend to the attention of my colleagues the full text of that portion of the Senator's speech entitled: "Needed: A Common Concept of Mental Health," and ask unanimous consensus that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

NEEDED: A COMMON CONCEPT OF MENTAL HEALTH

I understand your concern that as we develop national health insurance legislation we should include coverage for the 20 million or more persons in this nation who are in need of some form of mental health care. Yet is it urgent that as we begin the creative process for a comprehensive health program for all of our citizens we must be compassionate but realistic

As you know, I have long been an advocate of ending the stigma, fear and misunderstanding of mental illness—a tragedy perpetuated by books, the media and the conduct of everyday life itself—and I have urged encouragement and incentives for the public to use preventive services such as crisis intervention and early diagnosis. I am particularly pleased to note in your program that among the main purposes of the American Association of Psychiatric Services for Children is to "foster prevention of mental and emotional disorders of the young." To "foster prevention of mental and emotional illness among children is the first line of prevention, inasmuch as mental health is a primary determinant of the quality of life for individuals.

According to recent estimates, close to 9 million of the 54 million children and youth of school age, or 15 per cent of that population, need help for psychological disorders. One of every 3,000 children has an autistic disorder; between one and two million have learning disabilities. There are 200,000 cases of child abuse reported every year, although evidence exists that the number may be at least ten times greater. Among adolescents there has been a frightening increase in suicide, depression, and alcohol and drug abuse. And yet only about 10 per cent of these children receive any treatment at all. This neglect is unconscionable.

The annual cost of mental illness, taking into account such factors as the loss of earnings and cost of care both in and out of institutions, is estimated at about $21 billion. That is almost one-fourth of the national defense budget. Yet even this astounding estimate could be low, as the economic cost of alcoholism alone has been put at $15 billion annually, and the cost of drug abuse at $10 billion.

The needs and the problems are vast, pervasive, and everincreasing.

Unfortunately, I share a congressional consensus, that our existing mental health care delivery system does not provide clear lines of clinical accountability for the various mental health disciplines, and for their relationships with each other, hence the needs especially of the poor are not being met and the Congress is unlikely to be willing to meet these needs in the absence of reform.

I believe it is essential that mental health professionals begin to define what procedures should be in the hands of medical professionals, best trained to carry them out, and where others of the mental health disciplines may more appropriately be used for example, social and peer intervention.

In addition, we must end concerns about reimbursement for nonmedical health professionals and reach an accord regarding the division of roles and responsibilities. Without such an accord tensions are created among professions and between professionals, and other mental health workers, which all ultimately work to the disadvantage of the mentally ill patient.

It is because of this failure to establish boundaries of treatments and carefully articulated and defined psychiatric services that my bill, the National Health Insurance for Mothers and Children Act, continues strict limitations on mental health benefits. The lack of clarity on concepts of mental illness is reflected in this national health insurance bill as it is in all other such bills pending before the Congress of the United States.

Unless we can begin to work together in this fashion, congressional uncertainty about the quality of services, their cost effectiveness, and efficiency outcomes in the improvement of community mental health will continue.

I feel that when the mental health care community establishes a common concept of mental health—making clear what each of the disciplines should be doing, how they should be doing it, and how they should be reimbursed—I will be receptive to providing a full range of mental health benefits in the legislation.

MARINES PROTECT ENVIRONMENT

Mr. INOUYE. Mr. President, it has recently come to my attention that the staff and command of the Kaneohe Marine Corps Air Station in Hawaii have been awarded the Secretary of Defense Quality Award for 1976 for their truly outstanding efforts on behalf of Hawaii's precious environment. To my knowledge this is the first time in the history of the award that the Marine Corps has been selected for this distinguished honor. All of us in Hawaii are truly proud of Col. John Miller's extraordinary accomplishment and, accordingly, I ask unanimous consent that the text of the Environmental Protection Agency article which describes their efforts be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARINES PROTECT ENVIRONMENT

On a lava outcrop off the shores of Oahu, Hawaii, a young wedge-tailed shearwater waits in the warm sun. Almost grown, the bird has been abandoned by its parents. Plentiful fat reserves will keep it from going hungry for a while. It tries its wings. In a few flaps it is airborne, but the new and awkward muscles are no match for the trade winds. Blown toward shore, it makes an ungainly landing on the sands of Mokapu Peninsula. Left on the beach the shearwater would not survive, for it is easily preyed upon by Hawaii's voracious cats, dogs, and mongosses. A young Marine picks up the bird and reminds it how to fly by throwing it into the air. First five feet, then ten, and at twenty feet the fear of falling triggers an instinct. The wings flap and the shearwater takes flight to finally join the rest of its kind. This rescue is only one that has helped make the Marine Corps Air Base at Kaneohe Bay, Oahu, the recipient of the 1976 Secretary of Defense Environmental Quality Award.

The selection committee, under the sponsorship of Dr. John White, Assistant Secretary of Defense for Manpower Reserve Affairs and Logistics, met on June 16, 1977 to decide which Defense installation had the most exemplary environmental program in 1976. Other members of the committee were Rebecca Hanmer, Director of EPA's Office of Federal Activities; Harold O'Connor, Deputy Associate Director of the U.S. Fish and Wildlife Service; and Rob Robson, Budget Examiner of the Environmental Branch of the Office of Management and Budget. The Department of Defense began the Awards program in 1973 to encourage environmental programs on its 243 installation that embrace more than 19.5 million acres.

Initially, each of the armed services submitted an area for consideration in the competition. The nominees were evaluated by the committee using criteria based upon the successful implementation of pollution control requirements and the National Policy Act (NEPA). Does the installation's program comply with EPA? Was a viable environmental organization set up? Are unquantifiable ecological and human values being considered in the planning process? Has the public had a chance for input? Is ecological diversity being maintained? These were just a few of the questions each facility had to answer.

Additionally, the committee had to weigh in the military mission and constraints that go with it.

By a unanimous decision, the winner of this year's award was the Marine Corps Air Station at Kaneohe Bay.

"We found it necessary," said the judges letter of recommendation, "to identify the one installation that went the extra mile to meet the spirit . . . of our national environmental policies. It was this additional criterion that set the 1976 Kaneohe Bay program apart . . . With very limited resources, the Command at Kaneohe Bay went the extra mile to imbue its personnel with special concern for the environment and a desire to work with State and local officials to enhance and protect it. This special concern and desire and we found in the program . . . and its innovative use of limited resources was unique."

Three other military bases received recognition for outstanding programs in this year's competition. Point Mugu Naval Test Center in California, Vandenberg Air Force Base, also in California, and Fort Sill in Oklahoma all had notable environmental programs. "The programs of these four installations establish a standard of excellence for other Defense installations to emulate," the Committee said.

The Marine Corps Air Station at Kaneohe Bay is situated on 4.6 square miles of the Mokapu Peninsula on the island of Oahu. About 16,000 persons either live or work on the station. Because an island is relatively small and isolated to begin with, resources are sharply limited and the environment far less resilient than on a mainland. The disposal of solid wastes and toxic substances, and the pollution of fresh water can present acute problems demanding innovative approaches. The Marine Air Station is faced with problems common to islands throughout the world, as well as in cities in general. Bounded by military constraints and budget limitations, the Marines have managed to generate an imaginative array of programs that save resources and encourage on-base lifestyles to be more ecological.

For instance, the supply of fresh water on Oahu is limited. Occasionally, there are times when water hours, or conservation hours, are mandatory. The use of water on the base was found to be increasing. In response, the Marines undertook an extensive conservation project. Loudspeakers on cars announced the program, violation notices were issued for misuse, and wastewater from the on-base sewage treatment plant was substituted for fresh water in irrigation. As a result, the station's overall consumption went down even though its population had grown.

The recycling of wastes and toxic substances is an important facet of Kaneohe environmental activity. Old oil from vehicles is used to power the station's boiler plants. Plant engines are kept well-tuned by experts, thus eliminating bad emissions. Waste oil is also used to subdue dust on roads, and is mixed with jet fuel for firefighting practice.

Asphalt is extremely costly in Hawaii. When the airfield needed repaving the Marines decided to try something new, the heater-scarifier method. A large machine looking like something out of a science fiction movie was used to plow up the old asphalt. This material was then mixed with a binder and re-used for paving. According to Tom Cajski, the station's environmental affairs officer, the materials and energy used were one-third of those normally used in a repaving project. Kaneohe Air Base was the first in the tropics to use this method, he said.

All sewage on the base receives secondary treatment. In an experiment at the digester of the treatment plant, methane gas is trapped as it's being given off, and is burned as fuel to heat the digesting bacteria, which then work faster.

Other environmental quality programs on the station include the installation of sound-suppression facilities and a special test cell that filters emissions from F-4 Phantom jet engines, taking part in a community-sponsored recycling center, school tours, plantings by Youth Conservation Corps members, and a joint archaeological preservation program with Honolulu's Bishop Museum.

The Mokapu Peninsula was long the home of Hawaiian chiefs. It had a reliable supply of fresh water, suitable farming land, and access to the sea. The word "mokapu" actually means "sacred land" in Hawaiian. One of the most important archaeological sites on the Marine station is the Nuupia Ponds area, man-made ponds in which the ancient Hawaiians cultivated food fishes. It is also the place that the rare and endangered Hawaiian stilt, a black and white bird with long red legs, chooses to call home.

Today the ponds are officially the Nuupia Ponds Wildlife Refuge Complex. They illustrate yet another dimension of the Kaneohe Bay air station environmental program. The Marines cooperate closely with the National Fish and Wildlife Service and the Fish and Game Department of Hawaii to monitor and maintain species in this important area. Amtraks, large amphibious tanks, are run back and forth across the mud flats to help make raised nesting sites for the stilts. Worn-out tires filled with construction rubble are then placed on the sites, creating small, raised islands. The stilts readily occupy these pre-fabricated nests. The creation of these special nesting areas is necessary to protect the stilts from cats, dogs, and mongooses. The station has an active live trapping program for mongoose. Once captured, the animals are donated to the University of Hawaii for medical research.

Marines are also working with the Fish and Wildlife Service to maintain two breeding colonies of red-footed boobies, teaching stranded young shearwaters to fly, controlling the growth of the introduced mangrove trees to keep them from choking the Ponds area, planting rare and endangered plants, cultivating a garden of ancient Hawaiian herbs, and placing old car bodies in Kaneohe Bay to act as habitat for reef organisms.

All of these programs illustrate the degree to which the Marine Corps Air Station at Kaneohe Bay has incorporated environmental thinking into as many aspects of the station's lifestyle as possible. Moreover, most of the programs have been voluntary.

Says Col. John H. Miller, commanding officer of the station, "We like to think enhancement comes through the attitudes of the people who live and work on the Air Station, and not enforced directives."

The Corps has made a sincere effort to reach into the community. It is active in several community organizations. Civilian suggestions are encouraged. "Sure, we're Marines running a military operation which can't always be environmentally kind," said Tom Cajski, "But we're also a group of citizens equivalent in size to a city, living on an island, a vulnerable part of the ecological world. We try to live up to the Hawaiian tradition of 'aloha aina'—I guess you could call it an awareness, a love, of the land."

This fall young wedge-tailed shear waters are again launching into the winds that will carry them toward the beach. Marines will pick them up and help them fly. The ancient Hawaiians, now buried under the Oahu earth, would be happy to know that even in the midst of military maneuvers, the spirit of "alona aina" is still found on the Mokapu Peninsula.

ACCIDENTAL HYPOTHERMIA: A WINTER HAZARD FOR THE OLD

Mr. DOMENICI. Mr. President, last winter's bitter cold is still fresh in our minds, especially since we have already begun to experience similar weather this year. Freezing and subfreezing temperatures are hard on all Americans, but particularly on older Americans.

Early this week, representatives of the National Institute on Aging held a briefing at HEW to describe the condition of hypothermia, its warning signs and preventative measures. Dr. Robert Butler, Director of the NIA, and Dr. Richard Besdine, of the Harvard Medical School, explained hypothermia and its serious implications for elderly people in particular. As the ranking minority member of the Senate Special Committee on Aging, I join with Senator CHURCH in making my colleagues and others aware of this potentially harmful condition and the information and advice given by the NIA. Accidental hypothermia is a condition everyone should be aware of. I ask unanimous consent that the NIA's description of hypothermia, with protective measures which can be taken, be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

ACCIDENTAL HYPOTHERMIA: A WINTER HAZARD FOR THE OLD

Winter and cold weather bring many health hazards. These range from broken bones due to falls to heart attacks, frostbite, and asthma. While everyone's health is endangered by lengthy exposure to very cold temperatures, the old are particularly vulnerable. Even mildly cool temperatures of 60°F (15.5°C) to 65°F (18.3°C) can trigger a condition known as accidental hypothermia, a drop in deep body temperature that can be fatal if it is not detected and treated properly. Diseases of the veins and arteries and treatment with certain drugs make a person more susceptible to this condition.

Accidental hypothermia is not a new condition, but recognition of it is recent. Credit for describing it goes largely to research done in Great Britain over the past 25 years. About 10 percent of a random population of British 65 and over were classified as potential victims. Their risk depended on several factors:

If they were alone and therefore could not get help if they had an accident.

If they did not shiver or become pale because their body's warming system did not work properly.

If they were taking drugs which hampered their body's ability to regulate temperature, such as phenothiazines (drugs commonly used to treat anxiety, depression, nausea, and other conditions).

WHAT IS HYPOTHERMIA?

Hypothermia is an abnormally low body temperature—typically 95°F (35°C) and under. While a person's skin temperature may frequently drop, this is not hypothermia because it does not necessary reflect the internal body temperature.

Hypothermia can be induced deliberately, as in some types of surgery in which the patient is chilled to slow metabolism, breathing, heartbeat, and other physiological processes. Accidental hypothermia may occur in individuals of any age who are exposed to brutally cold temperatures without any protection. However, significant numbers of elderly become victims of accidental hypothermia after exposure to relatively mild cold.

WHO IS AT RISK?

The elderly probably account for nearly half of all victims of accidental hypothermia. Infants under one are also susceptible, as are a few adults between 35 and 64 years old. Immature temperature control is thought to be the reason for the occurrence of the condition in infants. The cause in middle-aged adults is still not understood.

Among the elderly, the likeliest victims of accidental hypothermia are the very old, the poor unable to afford adequate heating, and those whose bodies do not respond to cold normally. The greatest risk is to those aged whose temperature regulation is defective; they do not shiver and therefore cannot conserve body heat when they need it most.

HOW MANY PEOPLE ARE AFFECTED?

Accidental hypothermia is believed to kill thousands of people every year in Great Britain. The actual fatalities may be much higher, since the symptoms of the condition imitate those of many other illnesses, and even an autopsy will not definitely indicate if a person died from accidental hypothermia.

The number of deaths from accidental hypothermia among the elderly in the United States is not known, but it may well be higher than in Great Britain because there are more elderly in the U.S., and larger areas with harsh winter weather. In addition, a greater number of our older population is taking drugs that reduce the body's ability to protect itself against cold. Based on British studies that found that 10 percent of the aged in Great Britain were susceptible to accidental hypothermia, at least 2.3 million elderly in the United States could be vulnerable.

WHY ARE THE AGED ESPECIALLY VULNERABLE TO ACCIDENTAL HYPOTHERMIA?

No one is sure why, but with advancing age most people experience a general reduction of resistance to and ability to recover from stresses such as prolonged exposure to cold. In addition there is thought to be a defect in either the portion of the nervous system which transmits the signals for the control of body temperature (the autonomic nervous system) or, more likely the part of the brain in which the body's thermostat is housed (the hypothalmus).

WHAT PROTECTIVE MEASURES CAN THE OLD TAKE AGAINST ACCIDENTAL HYPOTHERMIA?

All aged, and especialy those over 75 years old, should avoid prolonged exposure to even mild cold without taking care to keep warm. Because many aged are particularly vulnerable, they should consider keeping their rooms at temperatures of at least 70°F (21°C); avoiding any prolonged exposure to cold; wearing adequate clothing, including sweaters, robes, a cap or hat, and thick socks; and having enough blankets for their beds. Those who are taking medication to treat anxiety, depression, nervousness, or nausea should consult with their physician to determine if the drug is a phenothiazine Since these drugs can impair the body's response to cold, the physician may want to use a different medication. If possible, susceptible individuals should try not to be alone for very long or should ask friends or neighbors to look in on them once or twice a day, particularly after a cold night.

HOW ARE POTENTIAL VICTIMS IDENTIFIED?

Medical and social clues can be used as an aid in identifying possible victims. Not all of the signs will be present in all vulnerable individuals. However, being on the lookout for them will help identify those susceptible to accidental hypothermia and help prevent its occurrence.

MEDICAL CLUES

The normal response when the body is chilled is for the blood vessels near the surface of the body to constrict to reduce heat losses. Muscles also begin to contract rapidly to generate metabolic heat. The result is pale skin and shivering. Most victims of accidential hypothermia neither shiver nor turn pale, a very clear indication that something is wrong with their temperature responses.

An elderly person may seem unaware of the cold. While others shiver and put on sweaters, an older person may insist that he or she is comfortable.

Dizziness or vertigo, even momentary blackouts when changing position—getting out of bed, standing, and so on. If these problems are diagnosed as postural hypotension (low blood pressure due to a sudden change in position), then hypothermia must be guarded against, since both conditions involve a failure of the blood vessels to constrict in response to certain stimuli—either a change in position or cold temperatures.

Various medications that may increase vulnerability to accidental hypothermia, particularly chlorpromazine and other phenothiazines given for various psychiatric disorders (anxiety, depression, etc.), nausea, and sedation.

Any condition that blunts the body's response to cold. These include:

Disorders of the body's hormone system, especially hypothyroidism ("slow" thyroid), that reduce the rate of metabolism;

Head injuries, strokes, and similar neurological conditions that cause paralysis and reduce muscular contraction and heat production;

Immobilizing illnesses, such as severe arthritis and Parkinson's disease;

Any other condition that impairs the normal constriction of blood vessels, such as coronary thrombosis (a blood clot in the arteries leading to the heart) and atherosclerosis (hardening of the arteries).

The dulling of awareness and response, whether due to mental illness or medication.

A previous bout with accidental hypothermia, since a defect in temperature regulation may well lead to a recurrence with subsequent exposure to the cold.

SOCIAL CLUES

A person living alone who receives few visitors, thereby raising the risk of extended exposure to the cold.

Anything that raises the chances of nighttime accidents—visual impairments, insomnia, confusion, nocturia (frequent urination at night), or incontinence (uncontrollable bowel movements or urination).

Low income and little savings, making it difficult to afford adequate heat. That warning applies not only to people but also to institutions caring for the elderly, such as nursing homes.

Substandard housing, without adequate insulation from the cold. It has been estimated that 30 percent of older Americans live in substandard housing.

HOW CAN HYPOTHERMIA BE DETECTED?

The only sure way to detect hypothermia is to take the suspected victims's temperature using a special low-reading clinical thermometer whose scale goes below the usual low point of 95°F (34°C). These thermometers are not readily obtainable in U.S. drug stores, but if one is available, and depending on the state of the victim, the preferred temperature reading is first that of freshly-voided urine, then rectal, and then oral. A less reliable method is to feel if the abdomen is noticeably cold. However, skin temperatures (thermometer under the arm and the like) are not accurate in detecting or ruling out accidental hypothermia.

Hypothermia should be *suspected* if any of these signs are evident:

Bloated face; skin color pale and waxy, at other times oddly pink.

Trembling on one side of the body or in one arm or leg, but no shivering.

Irregular and slowed heartbeat; slurred speech; shallow, very slow breathing that may be barely discernible.

Low blood pressure.

Drowsiness, perhaps lapsing into a coma. The lower the body temperature, the more likely that the victim will be unconscious. Coma is very probable with body temperatures of 90°F (32.2°C) and under.

WHY IS ACCIDENTAL HYPOTHERMIA SUCH A THREAT IF THERE ARE SO MANY SIGNS OF ITS PRESENCE?

Unfortunately, these signs, other than the drop in body temperature at 95°F (35°C) or below, can be confused with a stroke, diabetic coma, or a heart condition. The victim may also be an unreliable reporter of what is happening to him or her, since there may be no complaints of feeling cold. However, hypothermia should be immediately suspected if any of these signs are present, especially if there is evidence that the victim has had an extensive exposure to temperatures of 65°F (18.3°C) or below.

HOW IS THE CONDITION TREATED?

Two principles apply in treating accidental hypothermia: the condition is persistent, so a victim will stay chilled unless rewarmed; and, whatever the apparent severity of the condition, the victim must be seen by a physician.

If body temperture did not go below 90°F (32.2°C), the victim can generally be treated in the home or caring institution. This is directly dependent on the individual's health prior to the incident.

A lowered body temperature, with its consequent slowing of body functions, may transform a manageable condition into a serious, even critical one. Various metabolic disorders may worsen because the liver does not function normally; or already faulty blood circulation, such as in atherosclerosis, may be pushed to the point of gangrene.

A body temperature under 90° F. (32.2° C.) must be treated as a medical emergency and the victim must be hospitalized, not only to treat the immediate problem but also to remove him or her from the environment in which the accidental hypothermia occurred.

Rewarming must be done slowly—no more than one degree per hour, and blood pressure must be held steady. Rapid rewarming can be fatal—the weakened response to stress that helped precipitate accidental hypothermia is also compromised by rapidly rising temperatures.

Rapid rewarming may dilate the blood vessels in the skin, further lowering blood pressure, and also force relatively cold blood from the skin into the body's core, worsening the deep body hypothermia. Rewarming should be supervised by a physician, preferably one familiar with accidental hypothermia and preferably in a hospital setting.

WHAT ARE THE CHANCES FOR RECOVERY?

Recovery depends on the severity and duration of the exposure to cold, as well as general health before the incident. If body temperature does not drop below 90° F. (32.2° C.), chances for a normal recovery are good, barring other complications. If the temperature falls to between 80° F. (26.6° C.) and 90° F. (32.2° C.), most victims will recover but some sort of lasting damage is more likely. If the temperature goes to under 80° F. (26.6° C.), most victims, especially the very old, will not survive. The overall mortality rate is high.

WHAT ARE THE POSSIBLE COMPLICATIONS?

Pre-existing conditions, such as heart disease and diabetes, may be worsened by hypothermia. Severe and prolonged hypothermia, in which the body temperature drops below 90° F. (32.2° C.), usually leads to a host of complications because vital organs are damaged or body functions such as metabolism are disrupted. Serious hypothermia often leads to problems with the kidney, liver, and pancreas. Permanent brain damage can also result. The most severe complication is a form of irregular heartbeat, ventricular fibrillation, which leads quickly to death if it is not treated.

WHAT CAN BE DONE TO REDUCE THE THREAT OF ACCIDENTAL HYPOTHERMIA?

While we recognize that continued exposure to even mild cold can be a lethal threat to many elderly, we still do not understand hypothermia itself. We do not know what proportion of the aged in the United States are vulnerable, and can only guess at the number using British data. We have no sure way to identify those who are susceptible. We do not understand the defects that are responsible for accidental hypothermia, particularly in victims who appear well protected. And we still need to determine the best way to treat accidental hypothermia in the elderly and disseminate this information to physicians.

At present, the most effective way to protect the old from accidental hypothermia is to educate physicians in the signs and treatment of the condition and encourage the elderly themselves to find out if they are vulnerable and be careful to keep themselves warm in even mildly cold environments. Future advances in our understanding, treatment, and ultimately prevention of accidental hypothermia will derive from scientific research on this condition as well as other special health problems of the old.

MEXICAN NATURAL GAS

Mr. STEVENSON. Mr. President, the Export-Import Bank is preliminarily committing almost $600 million in subsidized credits to PEMEX, Mexico's government-owned oil and gas company, to assist in the purchase of U.S. goods and services to be used in PEMEX operations and the construction of a natural gas pipeline that would deliver gas to the U.S. border. This financing could benefit U.S. exporters, particularly in the steel industry, at a time when our trade deficit is reaching $30 billion on an annual basis, caused mostly by continuing dependence on expensive oil imports. We should not let this attractive short-term possibility obscure the serious inflationary impact which the price of gas imported from Mexico could have. I do not intend to object to this Export-Import Bank commitment, because I am assured that no loan disbursements will be made until agreement has been reached on a satisfactory price approved by the Department of Energy for the gas.

As the energy industry and the Carter administration recognize, an objective of public policy should be to price natural gas on a Btu equivalent basis with oil. But the price suggested by industry and Mexico for the Mexican gas is the price of No. 2 fuel oil delivered at New York. At present, this formula yields a price at the Mexican border of approximately $2.60 per thousand cubic feet.

When the costs required to integrate this gas into the pipeline system and transport it are added, the cost of Mexican gas in New York would be about $3.60. The production costs for Mexican gas and the costs of transportation from well to border are relatively low. Yet, the proposed price of $2.60 at the border would be 17 percent higher than the price paid for Canadian gas at the border. It would be far in excess of the 39 cents per thousand cubic feet paid for Algerian gas at the border. It would be far in excess of the $1.75 proposed by President Carter as the well head price for newly discovered gas in the United States. That price of $1.75 is the Btu equivalent of the average price for domestic crude oil. The $2.60 price is even higher than the OPEC price for crude oil.

At $1.75 per Mcf PEMEX would have ample funds to cover operating costs of the pipeline and principal and interest payments on the proposed ExIm Bank loan and still make a handsome profit. The difference between $2.60 and $1.75—85 cents per Mcf—is pure windfall to PEMEX and would add $620 million per year to our gas import bill. And that amount is small by comparison with the costs of other fuels, including Canadian gas, that would rise with the cost of Mexican gas.

Mexico is wise to seek the best possible price for its product; we would be wise to seek the lowest possible price. This, therefore, should be a matter of bargaining between equals. Mexico has the gas and it should be developed for its and the world's benefit. The United States is the best, probably the only, market for most of the gas. We should approach the negotiations in a spirit of mutual interest and from an equal bargaining position. That has not been the case so far because the interests involved on the U.S. side, including banks, exporters, pipeline companies, and oil producers, are biased toward higher fuel prices.

Instead of approving natural gas prices in excess of OPEC oil prices the Department of Energy should insist upon a reasonable price and recognize, as Saudi Arabia, Iran, and Algeria have already discovered, that the market for exported natural gas is a buyers' market. Indeed, if the Mexicans were left to the mercies of the market they would be forced to make a large investment in liquefaction and transportation facilities for their surplus gas which would then be sold at distress prices. There is no way this gas can be substituted in large quantities for oil and absorbed in the Mexican economy. Whether the Mexicans could ever find financing for liquefaction and petrochemical plants on IMF approved terms is doubtful.

The $1.75 represents a substantial price increase for high cost U.S. producers. It would be a generous price for PEMEX, a low-cost producer with no other markets. Natural gas prices in excess of $1.75 at the wellhead produce no more natural gas. They do produce inflation, recession, and windfall profits.

I urge the Department of Energy and the State Department to resist the pressures of U.S. industry. If the Mexican Government then resists the political pressures in Mexico, it will be possible for both governments to reach an agreement upon terms which are reasonable and mutually advantageous. The Mexicans would be right to demand a fair price for their commodity, even if it is higher than the world market could bear; they are wrong to demand foreign aid in the guise of gas prices.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record as statement by the distinguished Senator from Alabama (Mr. Sparkman), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR SPARKMAN

Section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that Act in excess of $25 million, or in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the Committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that 2 such notifications were received on November 29 and December 13, 1977.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, Room S–116 in the Capitol.

The attachment ordered to be printed in the Record is as follows:

Washington, D.C.,
November 29, 1977.

In reply refer to: I–11577/77ct.
Mr. William Richardson,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Richardson: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

Washington, D.C.,
December 13, 1977.

In reply refer to: I–13423/77ct.
Mr. William Richardson,
Professional Staff Member, Subcommittee on Foreign Assistance. Committee on Foreign Relations, U.S. Senate. Washington, D.C.

Dear Mr. Richardson: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

ACTIVITIES OF THE SENATE SUBCOMMITTEE ON THE HANDICAPPED DURING THE 1ST SESSION OF THE 95TH CONGRESS OUTLINED BY SENATOR RANDOLPH

Mr. RANDOLPH. Mr. President, as we review the accomplishments of the first session of the 95th Congress, I again stress the commitment of the Subcommittee on the Handicapped to the goal of equal rights for handicapped Americans and to legislation which will enrich their lives. As in past Congresses, it has been my privilege and responsibility to chair the Subcommittee on the Handicapped and to work toward this goal with the able members of the subcommittee: Senators Harrison A. Williams of New Jersey; Thomas F. Eagleton of Missouri; Robert T. Stafford of Vermont; and Orrin G. Hatch of Utah. Senator Jacob Javits of New York is not a member of the subcommittee. but as ranking minority member on the full Committee on Human Resources he works helpfully with our members and staff.

As Senators know, the Subcommittee on the Handicapped is a standing subcommittee of the parent Committee on Human Resources. It was established in the final months of the 92d Congress. Its existence as a permanent subcommittee is an indication of the importance which the Congress has attached to legislation affecting handicapped individuals. It was established in order to have a focal point for and to coordinate such legislation. Our subcommittee is charged not only with developing legislation, but also formulating national policy on such issues as education, vocational rehabilitation, employment, architectural, transportation and communications barriers, and adequate housing.

The subcommittee has specific jurisdiction over the Education of the Handicapped Act, including the Education for All Handicapped Children Act of 1975; the Rehabilitation Act of 1973, as amended; the Developmentally Disabled Assistance and Bill of Rights Act; the Randolph-Sheppard Act; the Architectural Barriers Act of 1968, as amended; and the Javits-Wagner-O'Day Act. In addition, the members and staff of the subcommittee work closely with other committees on matters relating to handicapped persons, but over which the subcommittee has no direct jurisdiction.

The subcommittee has cooperated with the Subcommittee on Education, Arts and Humanities of the Committee on Human Resources to assure a maintenance of efforts by States for library services to the handicapped and institutionalized, and to include in amendments to the Library Service and Construction Act remodeling provisions specifying removal of architectural barriers in library structures. The Subcommittee on Aging in its effort to include handicapped persons in the Meals on Wheels legislation has had our cooperation. The Commerce Committee has had our aid to provide reduced rate transportation on a space available basis to handicapped persons. We have worked with the Judiciary Committee on providing court interpreters for hearing impaired persons. Our cooperation has been given to the Environment and Public Works Committee to insure that construction funded through the Public Works Employment Act of 1977 be barrier free. And we have cooperated with the Subcommittee on Child and Human Development of the Committee on Human Resources and with the Committee on Finance to remove the social and jurisdictional barriers which so often prevent adoption of handicapped or otherwise special children. It has been our privilege to work with the Appropriations Committee to secure the maximum possible funding for the programs authorized by the subcommittee.

During the first session of the 95th Congress, the primary activity of the subcommittee has been to exercise its oversight responsibility on the Education for All Handicapped Children Act of 1975 (Public Law 94–142); the Developmentally Disabled Assistance and Bill of Rights Act (Public Law 94–103); and the Rehabilitation Act of 1973 (Public Law 93–113), as amended by the Rehabilitation Act Amendments of 1974 (Public Law 93–516). To this end, the subcommittee held 16 days of hearings: 9 of these were to review all programs for the handicapped; 1 was to specifically review the Developmentally Disabled Assistance and Bill of Rights Act; 4 days were for the purpose of receiving testimony on extension of the Rehabilitation Act of 1973, as amended, and related bills; 2 days were used to hear testimony on the various problems concerning the implementation of Public Law 94–142, the Education for All Handicapped Children Act; and 1 day of hearings was to receive testimony from the administration and other interested parties on the proposed reorganization of the Office of Human Development in the Department of Health, Education and Welfare.

The subcommittee members wish to express appreciation for the active participation of the many Members of the Congress who appeared personally before the subcommittee to provide us with the benefit of their views on various proposals relating to the handicapped. Included are Senators Lloyd Bentsen of Texas, Joseph R. Biden, Jr. of Delaware, John C. Culver of Iowa, Robert Dole of Kansas, Pete V. Domenici of New Mexico, Hubert H. Humphrey of Minnesota, Charles McC. Mathias, Jr. of Maryland, and Representative James C. Corman of California.

EDUCATION

During the first session, S. 725, to extend certain programs under the Education of the Handicapped Act, was introduced by me with the cosponsorship of Senators Williams, Stafford, Javits, Kennedy, Pell, Schweiker, Magnuson, Humphrey, Durkin, Dole, and McGovern. The purpose of this legislation is to extend for 5 years, through 1982, and authorize appropriations for, certain discretionary programs authorized by the Education of the Handicapped Act, namely, the programs authorized under part C, Centers and Services to Meet Special Needs of the Handicapped; part D, Training Personnel for the Education of the Handicapped; part E, Research in the Education of the Handicapped; and part F, Instructional Media for the Handicapped. The subcommittee heard testimony on the need for this legislation and on March 23 approved the bill for action by the full committee. On May 6, the Committee on Human Resources reported the bill to the Senate, and on May 23, H.R. 6692, a companion bill, was passed by the Senate, with an amendment, in lieu of S. 725. On June 7, the House of Representatives concurred in the Senate amendment and on June 17, 1977 President Carter signed the bill into law (Public Law 95-49).

DEVELOPMENTALLY DISABLED

One of the major thrusts of the Developmentally Disabled Assistance and Bill of Rights Act of 1977 (Public Law 94-103) is the development of a system for the delivery of services for developmentally disabled persons. On March 31, 1977, the subcommittee held an oversight hearing on this law to seek information as to whether this is being accomplished, and received testimony from several organizations and individuals involved with this area.

REHABILITATION

On June 17, 1977, I introduced S. 1712, a bill to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, and for other purposes, with the cosponsorship of Senators Williams, Pell, Riegle, Humphrey, Magnuson, Brooke, and Dole. During our hearings on June 20, July 21, 24, and 25, the subcommittee heard testimony on this and related bills from 28 witnesses and received additional written statements of support. The subcommittee expects to complete action on this bill early in the next session of the 95th Congress.

SECTION 504 REGULATIONS

As my colleagues know, regulations to implement section 504 were not published until May 4 of this year. These regulations require that programs, or activities, receiving Federal financial assistance be accessible to handicapped persons, that construction of new facilities must be barrier-free and that structural changes must be made when there is no other method to make programs and services accessible. Because of varying estimates on the cost of achieving accessibility to educational programs, there is a need for studies to accurately determine what the actual costs will be. To this effect, on November 4, together with Senators Stafford, Eagleton, Magnuson, Mathias, and Hatch, I introduced S. 2302, the Rehabilitation Cost Assistance Act of 1977. This bill provides funding for States to conduct independent studies on the cost of achieving program accessibility in educational facilities. It also authorizes the appropriation of funds to achieve program accessibility in accordance with section 504 of the Rehabilitation Act.

OTHER LEGISLATION REFERRED TO SUBCOMMITTEE

Also pending before the subcommittee are the following bills:

S. 89, to amend the Older Americans Act of 1965 to provide nutrition programs for handicapped dependents of older Americans, introduced by Senator Stone; S. 1596, a bill to establish a National Center for the Handicapped, introduced by me and Senators Stafford, Javits, Williams, Sparkman, Riegle, Huddleston, Leahy, Matsunaga, Moynihan, Ribicoff, Thurmond, Gravel, and Heinz; S. 506, to amend the Rehabilitation Act of 1973 to provide for a program of wage supplements for handicapped individuals, introduced by Senator Humphrey, for himself and Senators Riegle, Leahy, Huddleston, Anderson, Magnuson, Gravel, and Hatch; S. 906, to prohibit discriminatory practices with respect to physically handicapped persons, introduced by Senator Pell, for himself, and Senators Anderson and Humphrey.

S. 1120, to amend the Rehabilitation Act of 1973 to expand the comprehensive system approach to treatment of spinal cord injuries, and for other purposes, introduced by Senator Humphrey, for himself and Senators Melcher, Burdick and Riegle; S. 1477, to amend the Civil Rights Act of 1964 to make it an unlawful practice to discriminate against individuals who are physically handicapped because of that handicap, introduced by Senator Weicker; S. 1905, to authorize Federal assistance to private, profitmaking agencies and organizations under title II of the Rehabilitation Act of 1973, introduced by Senator Dole, for himself and Senators Javits and Stafford; S. 2042, to amend the Rehabilitation Act of 1973 to change the formula for State allotments under part B of that Act, and for other purposes, introduced by Senator Javits, for himself and Senators Williams, Hayakawa, Kennedy, Percy, Riegle, and Schweiker; and S. 2139, to reestablish the Advisory Committee on Sheltered Workshops to the Department of Labor, introduced by Senator Riegle, for himself and Senators Randolph, Williams, and Javits. During the oversight hearings of the subcommittee, a number of witnesses offered comments on many of these bills.

WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

The White House Conference on Handicapped Individuals, authorized by the Rehabilitation Act Amendments of 1974 (Public Law 93-516), was held in May of 1977. Delegates from every State and Territory met to develop recommendations, and to stimulate a national assessment of problems, and solutions to the problems, facing handicapped individuals. The subcommittee is awaiting the report of this conference in the near future and expects that it will form the basis of important legislative action.

We are grateful to Dr. Henry Viscardi of the Human Resources Center in New York, who served as chairman of the National Planning and Advisory Council, for giving so much of his time to the development and organization of the Conference. One of the more significant activities which Dr. Viscardi organized was the Labor-Industry Council, cochaired by George Meany, President of the AFL-CIO, and John Opel, president and chairman of the Board of IBM. With the cooperation of international presidents of labor unions and the executives of major corporations, the Labor-Industry Council held six meetings in different regions of the country, at no expense to the Federal Government.

The purpose of these meetings was to bring together representatives of labor and industry with handicapped individuals to identify issues which are barriers to the employment of handicapped persons.

I am gratified that although the White House conference was concluded in May, the Labor-Industry Council intends to continue their activities until solutions are found for the elimination of such barriers.

LEGISLATION INVOLVING OTHER COMMITTEES

S. 602, the Library Services and Construction Act Amendments of 1977, was amended in committee to assure a maintenance of effort by States for library services to the handicapped and institutionalized, and also contains remodeling provisions specifying removal of architectural barriers in library structures. This legislation became Public Law 95-123 on October 7, 1977.

Additionally, H.R. 6010, amending title XIII of the Federal Aviation Act of 1958, was amended to provide reduced rate transportation on a space available basis to handicapped persons. On November 10, President Carter signed this legislation into law (Public Law 95-163).

The Senate has also passed a bill, S. 1315, to insure that all participants in our Federal courts can meaningfully take part by assuring that if the participant has a hearing or speech impairment, he will have access to qualified interpreters.

On October 27, the Adoption Reform Act of 1977 was passed by the Senate as title I of H.R. 6693. The purpose of this legislation is to facilitate the placement in permanent adoptive homes of children with handicaps or other special needs. Additionally, the Senate Finance Committee has reported to the Senate a bill, H.R. 7200, with amendments, relating to adoption assistance payments for hard-to-place children, including those with handicaps.

Mr. President, as I indicated, the Subcommittee on the Handicapped has devoted most of its time during this session of the Congress to holding oversight hearings. We have done so that we would have a greater understanding of what further needs to be done legislatively. We expect to be even busier during the next session and we will continue to rely on the support and cooperation of our colleagues in the Senate as well as that of handicapped individuals and the organizations that serve the handicapped. Those persons and organizations are our most valuable asset as we continue to work together to achieve equal opportunity for the handicapped citizens of our Nation.

A DANGEROUS PRECEDENT

Mr. WALLOP. Mr. President, Mr. James McIntyre has been serving as Acting Director of the Office of Management and Budget for a period approaching 90 days, and as of yet, neither his name nor any other has been sent to this body for confirmation. With the administration in the midst of preparing its budget for the upcoming year, I feel obligated to voice my concern that this important process is being directed by a gentleman who has not been confirmed for his post by the Senate. This is certainly a violation of the spirit of our laws.

It would appear that the President's continued procrastination in this matter represents an attempt to evade the constitutional provisions outlined in article II, section 2 which give the Senate the right to advise and consent to all executive appointments. Buckley against Valeo affirmed the fact that article II has substantive content, and in fact provides the only means by which appointments can be effectuated.

The provisions for succession within OMB as defined in 31 U.S.C. 16 make it clear that the Deputy Director has no authority except that given him by the Director, and that in the case of a vacancy, the Deputy Director shall only act as Director. It is significant that the statute does not provide for the automatic succession of the Deputy Director to the post of Director. This fact, taken in conjunction with the legislative history of OMB, and the enormous power that has been given to its Director under numerous public laws, makes it clear that the intent of the Congress was to have the opportunity to advise and consent to the nomination of any new Director of OMB.

Williams against Phillips has established that, even in cases where the Vacancy Act does not apply, it would be an attempt to evade the Constitution if an acting officer were allowed to serve for an unreasonable period of time. In that case, the Court of Appeals suggested 30 days as a reasonable period.

With these considerations in mind, I have sent a letter to the Comptroller General of the United States requesting an opinion on the legality of Mr. McIntyre's continued service and his authority to exercise the power vested in him as an officer of the United States.

Mr. President, I do not mean to impugn Mr. McIntyre's integrity or qualifications; I am concerned only with what I view as a dangerous precedent being set here by allowing an acting director to go on serving indefinitely. It is the principle involved rather than the personality which is important. I must emphasize that it was clearly the plan of the Congress to have the right to confirm all directors of OMB for their service in that post.

Something must be done to rectify this situation immediately. At this time, a court case may be the only alternative. To prevent this from happening in the future, I am exploring legislation to amend title V and eliminate any technicalities in the law that allow situations like this to go unchallenged.

I understand that my colleague, the senior Senator from Wisconsin has been pursuing this same problem. I welcome his efforts and offer him my support. It is imperative that the Senate act immediately to correct this problem.

DEVELOPMENT ASSISTANCE—II

Mr. HUMPHREY. Mr. President, one of the most important tasks the Foreign Assistance Subcommittee will face in rewriting the Foreign Assistance Act will be to evaluate the development experience of recent years in order to determine how the United States can increase the effectiveness of its aid. An excellent book, "Twenty-five Years of Economic Development" by David Morowitz, traces the changing objectives of development and contains a very useful analysis of growth in the developing countries.

Mr. Morowitz discusses the shift in emphasis from the narrow focus on maximization of GNP growth per capita, to additional objectives of improving income distribution, increasing employment and fulfilling basic needs. In the longer view of development, this is a return to the wider objectives before the preoccupation of the late 1950s and 1960s with per capita GNP growth. We have come to recognize that rapid income growth may also be accompanied by increasing personal income inequalities in some countries. Congressional awareness of this trend led to the refocusing of U.S. foreign assistance efforts in 1973 on the poorest people in the developing countries, especially those in the rural areas.

I think this direction is the right one. Our limited resources make it necessary to target our programs on those groups which are in greatest need. But this approach is also highly functional in that it conserves scarce resources for use where they will do the most good—in increasing agricultural production, assisting family planning, and laying the groundwork in health and education for the poor to become more productive and able to stand on their own feet.

The great performance of the developing countries since 1950 has been marked by three major characteristics: A rapid average growth rate, wide diversity of experience, and the increasing disparity between richer and poorer developing countries. The latter point is particularly important because it helps us pinpoint where our official development assistance should be directed—to the poorest developing countries.

We recognize that there are very large groups of poor people in the middle income developing countries and that these people have basic human needs that are inadequately satisfied. But we also recognize that most of the middle income developing countries have access to international capital markets and especially to the World Bank and other regional development banks. These countries as a group are more capable than the poorest countries of generating their own growth and distributing the benefits more equitably internally.

Many of these countries are becoming important regional economic and political powers. They are important and potentially rapidly expanding export and investment markets. Thus we should try particularly to develop assistance programs suitable to their condition, without drawing away limited bilateral resources from the poorest countries. We need to pay special attention to such matters as trade and investment policy and methods of transferring technology so that they can achieve equitable growth through full integration in the world economic system. In our concern to protect American jobs we should not lose sight of the thousands of jobs created by trade with these countries, and the major potential for expanding domestic employment if these countries are allowed to grow and prosper.

Our development policy must be based on a truly global view of the world economy. Inward looking measures will overlook our own best potential for long-term growth leading to a less dynamic world economy and slower growth for everyone.

Mr. President, I ask unanimous consent that portions of Mr. Morowitz' book be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

THE CHANGING OBJECTIVES OF DEVELOPMENT

An attempt to evaluate the development experience since 1950 needs first to examine the objectives to which development efforts have been directed. Largely as a result of changes in perceptions in the developing countries themselves, since the early 1970s there has been a sharp shift in these objectives. It is now considered that maximization of GNP per capita is too narrow an aim and that other aims related to poverty reduction need to be considered as well: improving income distribution, increasing employment, fulfilling "basic needs."

Some observers have tended to regard this movement as just one more fashion in a fashion-prone discipline. I would argue, however, that the discovery of these additional objectives is in fact a rediscovery of issues that were quite central in the writing on economic development just after World War II. Seen in this historical context, the recent heightened concern with eradication of poverty is not likely, it seems to me, to be just another fad. On the contrary, in the long term it is the narrow preoccupation of the late 1950s and 1960s with growth in average per capita income that, although it had its reasons and even its benefits, may turn out to be the passing fashion.

The early postwar concern with wider objectives than simply growth is not difficult to document, since most of the literature of that time, both practical and theoretical, states the objectives of development in terms remarkably similar to those used today. The first plan in a developing country—that of India in 1952—aimed at "maximum production full employment, the attainment of economic equality and social justice." The first World Bank mission to a developing country—to Colombia in 1950—stated its objectives in terms of fulfillment of "basic human needs." Much of the early economic literature of the United Nations was devoted to the subject of unemployment. And in 1954, Kuznets [1955] devoted his presidential address to the American Economic Association to the subject "Economic Growth and Income Inequality."

The problem in these early days was that it was difficult to make any headway in solving development problems in the face of multiple objectives and interlocking "vicious circles." What was needed was a grand simplification that would break the impasse; it was Lewis [1954 and 1955] who provided it. In *The Theory of Economic Growth*, Lewis set the tone for the next fifteen years when he began: "First it should be noted that our subject matter is growth, and not distribution" [1955, p. 9]. To be sure, there were still governments and theorists who were concerned about objectives other than growth during this period. But the view that prevailed during most of the late 1950s and 1960s was that the "trickle-down" mechanism would solve the poverty and income distribution problems if only growth were fast enough

By the early 1970s a number of factors converged to dampen this optimism about growth. It became clear that rapid growth had been accompanied by increased regional or personal income inequalities in some countries (Pakistan, Nigeria, and Brazil, for example), and possibly by increased absolute poverty in some cases. The tolerance for poverty and inequality seemed to be decreasing as the raised expectations of and for the poor remained unfulfilled. And the evidence of China's remarkable success in development began to filter out to the rest of the world. As a result, governments and theoreticians relearned what they had known earlier—that economic development must surely mean not only growth in average per capita income but also reduction of poverty.

GROWTH

(NOTE.—Tables referred to in text printed at end of text.)

How rapidly were GNP per capita and population expected to grow in 1950, and how has their actual growth compared with these expectations?

GROWTH IN GNP PER CAPITA

Until 1950 there had been little serious thinking on the growth prospects of "backward areas." The industrialized countries were just getting over their concern with recovery from the war, and the IBRD was still occupied with R (reconstruction) in Europe rather than D (development) in Africa, Asia, and Latin America. There was as yet probably no university course on economic development, there was no development journal, and only a handful of scholarly works and had been devoted to the subject.

The few people who had thought about the prospects for what were soon to be called "underdeveloped countries" did not hold out high hopes for the short- to medium-term future. After all, the industrialized nations, in their long period of economic growth unparalleled in world history, had managed to increase per capita income by only about 2 percent a year [Kuznets 1967]. There was no reason to expect that the underdeveloped countries, many of which had experienced no growth for millennia, would do any better. On the contrary, in the face of significant advances in disease eradication and with many of the cultural, institutional, and economic preconditions for growth missing, economists were concerned whether these countries could make the minimum critical effort needed for economic growth to exceed population growth. It is against this background of low historical growth rates and low expectations for the future that the actual growth performance of developing countries since 1950 needs to be seen.

The growth performance of developing countries during 1950–75 is marked by three outstanding characteristics: the rapid average growth rate, the wide diversity of experience, and the increasing disparity between richer and poorer developing countries.

The GNP per capita of the developing countries as a group grew at an average rate of 3.4 percent a year during 1950–75 (see Table 1). This was faster than either the developing countries (Table 2) or the developed nations [Kuznets 1971] had grown in any comparable period before 1950 and exceeded both official goals and private expectations.

The high average growth rate masks a wide diversity of performance. On one hand nine countries, with a combined population of 930 million people in 1975, grew at an average annual rate of 4.2 percent or better for the full period (Table 3), and a second group of nine countries, with 220 million people, grew at between 3 and 4 percent. On the other hand, the large, poor countries of South Asia and many countries in Africa, with a total of some 1.1 billion people, grew in per capita income by less than 2 percent a year between 1950 and 1975. Thus, although it is true that per capita income has roughly trebled for some 33 percent of the people of the developing world during the past twenty-five years, it is also true that for another 40 percent the increase in per capita income has been only one or two dollars a year.

The disparity between richer and poorer developing countries has increased significantly since 1950, but it is not true at the aggregate level that the initially rich have got richer while the initially poor have got poorer. These twin facts may be seen from several different perspectives. At the regional level, in 1950 the average per capita income of the richest regions (Latin America and the Middle East) was five or six times that of the poorest (South Asia), whereas by 1975 the multiple for the Middle East over South Asia had risen to thirteen, and that for Latin America was seven. But the relation between initial regional per capita income and subsequent regional growth rate is by no means uniform: initially rich Latin America grew relatively slowly, whereas initially poor China and East Asia grew more rapidly (Table 1).

If countries are divided into income groups on the basis of 1975 per capita income, the relation between income level and growth rate is almost uniform. On average, today's highest-income developing countries grew fastest, whereas the lower-income countries grew more slowly (Table 4). But it is not surprising that there should be a positive correlation between terminal income and growth rates: over an extended period of time the relation is tautological.

Finally, at the level of the individual country, the ranking of eighty developing countries by GNP per capita remained remarkably stable between 1950 and 1975, while at the same time the absolute disparity between the richest and the poorest developing nations increased by a factor of about three (Table 5). As was true at the regional level, there seems to be no clear relation between initial income level and subsequent growth rate; the correlation between the two, though positive (0.17), is not significantly different from zero (see Figure 1).

The way in which this growth performance measures up to private and official expectations may be gauged from a retrospective analysis of two projection exercises carried out some fifteen years ago. In 1960, Rosenstein-Rodan [1961] forecast the 1961–76 growth rates of GNP per capita and 1976 per capita income levels for sixty-six of today's developing countries. He expected that no country would grow as fast as 3 percent a year during the full fifteen-year period; in fact, eighteen did so. Further, in two-thirds of his cases, the actual GNP per capita figure for 1975 turned out to be at least 10 percent higher than his (inflation-adjusted) projection for 1976 (Table 6).

The list of countries that Rosenstein-Rodan expected to be fast growers was rather different from what it would be today. Of the four nations that were expected to grow as fast as 3 percent a year during any five-year period, one was Indian, which was "in a take-off stage" and was expected to achieve self-sustaining growth "where aid is not required any more" by 1976 [pp. 113 and 116]. The other three were Burma, Argentina, and Hong Kong.

In another exercise carried out a few years later, Chenery and Strout [1966] projected 1962–75 growth rates of GNP—not GNP per capita—for forty-five developing countries. Their "plan-based" projections were described as being based on the development plans of the major countries, and as "achievable with moderate improvements in development policies" [p. 711]. A second set of "upper-limit" projections was described as implying "a probability of perhaps one in four that the given growth target and performance could be attained" [p. 714]. In any event, plan-based projections were attained or surpassed in three quarters of the forty-five cases, while even upper-limit projections were attained or surpassed more than half of the time (Table 6). The list of biggest disappointments—defined relative to the size of the disparity between projected and actual performance—again included India; it also included Chile, Egypt, Ghana, and Jordan. The biggest surprise successes included the oil-exporting countries, as well as Brazil, Kenya, Korea (which achieved double its projected 5 percent growth rate during the period), and Taiwan.

GROWTH IN POPULATION

Growth in GNP per capita is affected by growth in population as well as growth in GNP itself. Between 1950 and 1975 the population of the developing countries increased by 70 percent, or by more than 80 percent if China is excluded. Beginning in 1950 at 1.6 billion, it grew at an average annual rate of 2.1 percent during the 25 years (2.4 without China), reaching 2.7 billion by 1975. The annual rate of population growth was between 2 and 3 percent in all regions except China, where it was 1.5 percent (Table 7).

Twenty-five years ago it was expected that population growth would become such a large problem in developing countries. As late as 1951 a U.N. projection assumed that between 1950 and 1980 the populations of Africa and Asia would grow at an annual rate of 0.7 to 1.3 percent. The sharp surge was caused by the remarkable and largely unexpected success in reducing mortality, which, in turn, was brought about by higher standards of living, increased control of communicable diseases, and improved distribution of food in times of famine.

Whereas mortality rates have continued to decline in recent years, there are now signs that, following past experience in developed countries, fertility rates may be beginning to decline as well (Table 7). Nevertheless, because of current young age structures, even if fertility rates in the eight largest developing countries were to drop to replacement level tomorrow—in fact, they are not likely to reach that level for some years—their combined population would still be about 60 percent greater seventy years from now. Although a number of countries have recently shown an increased awareness of, and willingness to deal with, the problem, the process of reducing population growth is likely to continue to be a long, slow one.

THE GAP BETWEEN RICH AND POOR COUNTRIES

> The widening gap between the developed and developing countries has become a central issue of our time.—Pearson Report [1969, p. 1]

The caution concerning the doubtful validity of conventional GNP statistics for intercountry comparisons is particularly relevant in an examination of the gap between rich and poor nations. Once historical data on purchasing-power parity GNPs become available, the trend in the gap may appear to be quite different from that discussed below.

Although during 1950–75 the per capita incomes (as conventionally measured) of the developing countries were growing faster than ever before, so too were those of the developed countries. As a result, the gap between the rich and the poor nations, which had been increasing for 100 to 150 years [Kuznets 1965], continued to widen.

The relative gap

Since the developing and developed countries grew in per capita income at almost identical rates during 1950–75 (Table 1), the per capita income of the developing countries as a proportion of that of the developed countries stayed fairly constant, at around 7 to 8 percent. In China, East Asia, and particularly in the Middle East, the relative gap narrowed somewhat, whereas in South Asia, Africa, and Latin America it widened.

The absolute gap

In 1950 the average GNP per capita of the OECD countries (in conventional 1974 dollars) was $2,191 greater than that of the developing countries. By 1975 this difference had more than doubled, to $4.839 (Table 8). There is no single region in which the absolute gap did not at least double. Furthermore, apart from oil-rich Libya, not a single developing country for which data are available for 1950 managed to narrow the absolute gap even slightly during the full twenty-five-year period. Even in fast-growing Korea and Taiwan the absolute gap doubled.

This remarkable situation is the result of the simple algebra of gaps. In brief, a poor country growing faster than a rich one will not even begin to reduce the absolute gap between them until the ratio of their per capita incomes is equal to the inverse ratio of their growth rates. For example, even though Korea has been growing twice as fast as the OECD countries for the past fifteen years, the absolute gap between them will continue to widen until the per capita GNP of Korea reaches half that of the OECD countries for the past fifteen years, the absolute gap between them will continue to widen until the per capita GNP of Korea reaches half that of the OECD countries. The proportion is currently not one-half but one-tenth.

Assuming for a moment that historical growth rates continue into the future and ignoring the fact that cross-country comparisons of conventional GNP per capita statistics are misleading, it is possible to calculate for each developing country the number of years that it would take until the absolute gap between it and the OECD countries would be closed (Table 9). For the large majority of developing countries, containing most of the developing world's population, the gap would never be closed, for their measured rate of growth of per capita GNP has historically been slower than that of the OECD countries. Even among the fastest-growing developing countries, only eight would close the gap within 100 years, and only sixteen would close it within 1,000 years.

Welfare implications of the gaps

It is not clear that "narrowing the relative gap" makes much sense as a development objective. To take a simple example, if the per capita income of Bangladesh as conventionally measured rises by $2 while that of the United States rises by $65, the relative gap would be narrowing—yet this hardly seems like a shining goal worth striving toward. "Narrowing the absolute gap" appears to make more intuitive sense in welfare terms. But since it may take centuries before the absolute gap is narrowed—if it is ever narrowed—in most developing countries, to use this as a central goal of development is to guarantee long-term frustration.

Fortunately, there are compelling reasons to believe that most developing countries will not place the closing of the gap at the center of their aspirations. First, not all of them regard the resource-wasting life style of the developed countries as an end toward which it is worth striving; at least some seem to prefer to create their own development patterns based on their own resources, and needs, and traditions.

Second, when thinking of the per capita income that they would like to attain, most people (and governments) tend to think of the income of a close-up reference group. Thus, for example, despite the fact that within most countries there is a clear positive association between income and self-rated happiness, there is no observable tendency for people in poor countries to rate themselves as less happy on average than people in rich countries rate themselves [Easterlin 1974]. There are several possible explanations of this apparent paradox [Abramovitz 1975]. One of them is simply that most people in poor countries do not regard the rich foreigners as part of their reference group and hence are not overconcerned with the gap. They are more concerned, it seems with their own internal income distributions and their own place within them.

TABLE 1.—GNP PER CAPITA AND ITS ANNUAL GROWTH RATE, BY REGION, 1950-75

Region	Population, 1975 (millions) (1)	GNP per capita: 1974 U.S. dollars, 1950 (2)	GNP per capita: 1974 U.S. dollars, 1975 (3)	GNP per capita: Annual growth rate, 1950–75 (percent) (4)
South Asia	830	85	132	1.7
Africa	384	170	308	2.4
Latin America	304	495	944	2.6
East Asia	312	130	341	3.9
China, People's Republic of	820	113	320	4.2
Middle East	81	460	1,660	5.2
Developing countries	2,732	160	375	3.4
Developing countries excluding China	1,912	187	400	3.0
Developed countries [1]	654	2,378	5,238	3.2

[1] All OECD countries except Greece, Portugal, Spain, and Turkey.

Sources: Cols. 1 and 3: data tapes of World Bank Atlas (1977). Col. 2: estimated by applying growth rate of GDP per capita 1950-60 (World Bank, World Tables 1976), to figures for 1960 GNP per capita (Atlas tapes). Col. 4: Computed from cols. 2 and 3.

TABLE 2.—ANNUAL GROWTH RATE OF GNP PER CAPITA, SELECTED COUNTRIES, 1870–1975

[In percent]

Country	1870-1913 (1)	1913-50 (2)	1950-75 [1] (3)
Argentina	1.5	0.7	1.9
Brazil	(2)	[3] 2.4	3.7
Chile	(2)	.6	.7
China (Taiwan)	(2)	.7	5.3
Colombia	(2)	1.4	2.0
Egypt, Arab Republic of	(2)	.2	1.4
Ghana	(2)	1.2	.7
Greece	(2)	−.1	5.4
India	.7	.2	1.5
Malaysia	(2)	2.2	2.6
Mexico	[4] 1.2	[5] 1.2	2.7
Pakistan	.7	.2	(2)
Peru	(2)	1.5	2.5
Philippines	(2)	.1	2.8
Spain	(2)	−.3	5.1
Yugoslavia	(2)	[6] .9	4.7
Unweighted average	1.0	.8	[7] 2.8

[1] Growth of GNP per capita.
[2] Not available.
[3] 1920–50.
[4] 1877–1910.
[5] 1910–50.
[6] 1909/12–50.
[7] Weighted average equals 2.0.

Sources: Cols. 1 and 2: Maddison (1970), p. 32. Col. 3: World Bank, World Tables 1976, and data tapes, World Bank Atlas (1977).

TABLE 3.—GNP PER CAPITA AND ITS ANNUAL GROWTH RATE, SELECTED COUNTRIES, 1950–75

Country	Population, 1975 (millions) (1)	GNP per capita: 1974 U.S. dollars, 1950 (2)	GNP per capita: 1974 U.S. dollars, 1975 (3)	GNP per capita: Annual growth rate, 1950–75 (percent) (4)
8 MOST POPULOUS COUNTRIES				
China, People's Republic of	820	113	320	4.2
India	610	95	139	1.5
Indonesia	132	103	169	2.0
Brazil	107	373	927	3.7
Bangladesh	79	[1] 105	103	[2] −.6
Nigeria	75	150	287	2.6
Pakistan	69	[1] 86	131	[2] 3.2
Mexico	60	562	1,092	2.7
9 FASTEST-GROWING COUNTRIES [3]				
Libyan Arab Republic	2	[4] 786	4,675	7.4
Iraq	11	283	1,180	5.9
China (Taiwan)	16	224	817	5.3
Korea, Republic of	34	146	504	5.1
Iran	34	384	1,321	5.1
Hong Kong	4	470	1,584	5.0
Jamaica	2	376	1,185	4.7
Israel	3	1,090	3,287	4.5
China, People's Republic of	820	113	320	4.2
9 SLOWEST-GROWING COUNTRIES [3] [5]				
Rwanda	4	119	81	−1.6
Burundi	4	117	91	−1.0
Upper Volta	6	99	87	−.5
Madagascar	9	195	180	−.3
Central African Empire	2	202	212	.2
Bolivia	6	244	290	.7
Chile	11	596	700	.7
Ghana	10	354	427	.7
Honduras	3	272	322	.7

[1] 1960.
[2] 1960–75.
[3] Countries with population of 1,000,000 or more.
[4] Real growth rates (and hence estimated 1950 GNP per capita figures) for oil-exporting countries depend heavily on the choice of base years in calculation of constant price national accounts. For example, in 1950 prices, Libya's 1950 GNP per capita was probably less than $100.
[5] Excluding Khmer Republic (growth rate −1.4 percent), Lao People's Democratic Republic (0.3 percent), and Vietnam (0.5 percent).

Sources: Same as table 1.

TABLE 4.—GNP PER CAPITA AND ITS ANNUAL GROWTH RATE, BY INCOME GROUP OF COUNTRIES, 1950-7

Income group	Population, 1975 (millions) (1)	GNP per capita: 1975 (1974 U.S. dollars) (2)	GNP per capita: Annual growth rate, 1950-75 (percent) (3)
Lower-income countries	1,146	To $265	1.1
Middle-income countries	1,118	$266-$520	3.7
Middle-income countries excluding China	298		2.4
Upper-middle-income countries	370	$521-$1,075	3.4
Higher-income countries	100	$1,076+	5.2
Developing countries	2,732		3.4
Developing countries excluding China	1,912		3.0

Sources: Same as table 1.

TABLE 5.—RANKING OF DEVELOPING COUNTRIES BY GNP PER CAPITA, 1950 AND 1975

Country	GNP per capita [1]			Rank [2]		
	1974 U.S. dollars		Annual growth rate, 1950–75 (percent)			Difference (5)−(4)
	1950	1975		1950	1975	
	(1)	(2)	(3)	(4)	(5)	(6)
Kuwait	19, 160	10, 590	−2. 3	1	1	0
Libyan Arab Republic	786	4, 675	7. 4	6	2	+4
Israel	1, 090	3, 287	4. 5	2	3	−1
Venezuela	992	2, 045	2. 9	3	4	−1
Hong Kong	470	1, 584	5. 0	13	5	+8
Argentina	907	1, 464	1. 9	5	6	−1
Iran	384	1, 321	5. 1	18	7	+11
Uruguay	978	1, 220	. 9	4	8	−4
Jamaica	376	1, 185	4. 7	20	9	+11
Iraq	283	1, 180	5. 9	33	10	+23
Barbados	402	1, 155	4. 3	17	11	+6
Mexico	562	1, 092	2. 7	10	12	−2
Panama	484	977	2. 9	12	13	−1
Brazil	373	927	3. 7	21	14	+7
Fiji	571	842	1. 6	9	15	−6
Costa Rica	445	834	2. 6	14	16	−2
China (Taiwan)	224	817	5. 3	43	17	+26
Turkey	316	793	3. 7	28	18	+10
Peru	403	748	2. 5	16	19	−3
Algeria	484	718	1. 6	11	20	−9
Belize	424	700	2. 0	15	21	−6
Chile	596	699	. 7	7	22	−15
Malaysia	350	665	2. 6	25	23	+2
Dominican Republic	324	662	2. 9	27	24	+3
Nicaragua	313	661	3. 0	29	25	+4
Angola	226	623	4. 2	42	26	+16
Syrian Arab Republic	283	604	3. 1	35	27	+8
Guatemala	345	602	2. 3	26	28	−2
Mauritius	575	533	−. 3	8	29	−21
Paraguay	354	525	1. 6	22	30	−8
Guyana	383	512	1. 2	19	31	−12
Colombia	308	510	2. 0	31	32	−1
Korea, Republic of	146	504	5. 1	54	33	+21
Ecuador	276	503	2. 5	36	34	+2
Zambia	310	495	1. 9	30	35	−5
Ivory Coast	283	460	2. 0	34	36	−2
Congo, People's Republic of	303	461	1. 7	32	37	−5
Morocco	353	435	. 8	24	38	−14
Swaziland	79	434	7. 0	72	39	+33
Ghana	354	427	. 7	23	40	−17
Jordan	186	423	3. 3	49	41	+8
El Salvador	263	418	1. 9	38	42	−4
Papua New Guinea	229	412	2. 3	41	43	−2
Senegal	238	341	1. 5	40	44	−4
Philippines	168	340	2. 8	51	45	+6
Honduras	272	322	. 7	37	46	−9
China, People's Republic of	113	320	4. 2	62	47	+15
Thailand	132	319	3. 6	57	48	+9
Botswana	141	300	3. 1	55	49	+6
Bolivia	244	290	. 7	39	50	−11
Mauritania	200	288	1. 5	46	51	−5
Nigeria	150	287	2. 6	53	52	+1
Egypt, Arab Republic of	203	286	1. 4	44	53	−9
Mozambique	177	284	1. 9	50	54	−4
Sudan	118	267	3. 3	60	55	+5
Cameroon	133	246	2. 5	56	56	0
Togo	164	245	1. 6	52	57	−5
Uganda	195	229	. 6	47	58	−11
Central African Empire	202	212	. 2	45	59	−14
Kenya	129	200	1. 8	58	60	−2
Madagascar	194	180	−. 3	48	61	−13
Gambia, The	99	178	2. 4	65	62	+3
Indonesia	103	169	2. 0	63	63	0
Tanzania	84	160	2 6	71	64	+7
Zaire	94	139	1. 6	67	65	+2
India	95	138	1. 5	66	66	0
Malawi	68	137	2. 8	73	67	+6
Sri Lanka	90	134	1. 6	68	68	0
Afghanistan	89	119	1. 2	69	69	0
Nepal	87	102	. 7	70	70	0
Burma	57	100	2. 3	76	71	+5
Ethiopia	58	94	2. 0	75	72	+3
Somalia	37	92	3. 7	77	73	+4
Burundi	117	91	−1. 0	61	74	−13
Upper Volta	99	87	−. 5	64	75	−11
Mali	67	86	1. 1	74	76	−2
Rwanda	119	81	−1. 6	59	77	−18

[1] Simple correlation between cols. 1 and 3 equals 0.17.

[2] Rank correlation between cols. 4 and 5 equals 0.91.

Sources: Cols. 1 to 3: Same as table 1. Cols. 4 to 6: Calculated from cols. 1 and 2.

TABLE 6.—OUTCOME OF PROJECTIONS OF GROWTH OF GNP MADE IN THE EARLY 1960'S, DEVELOPING COUNTRIES, 1962–76 [1]

Projection	Number of countries			
	Projection too high	Projection correct [2]	Projection too low	Total
Rosenstein-Rodan (1961) projections of GNP per capita in 1976	17	6	43	66
Chenery-Strout projections of GNP growth rates, 1962–75:				
Plan-based projections [3]	12	13	20	4
Upper-limit projections [4]	20	11	14	4

[1] For the detailed country-by-country data, see app. tables A4 and A5.

[2] For Rosenstein-Rodan projections, up to 10 percent above or below actual GNP per capita figure for 1975. For Chenery-Strout projections, up to 0.5 percentage points above or below actual growth rate during 1962–75.

[3] Projections based on the development plans of the major countries. Targets are described as "achievable with moderate improvements in development policies in relation to past experience." (Chenery and Strout, 1966, p. 711.)

[4] "Our notion of the upper limit implies a probability of perhaps 1 in 4 that the given growth target and performance could be attained." (Chenery and Strout, 1966, p. 714.)

Sources: Computed from Rosenstein-Rodan (1961), p. 126, Chenery and Strout (1966, pp. 712–13), and data tapes, World Bank Atlas (1977).

TABLE 7.—POPULATION GROWTH RATES AND CRUDE BIRTH RATES REGIONS AND SELECTED COUNTRIES 1950-75

Region or country	Population (millions)		Annual population growth rate (percent)			Estimated annual crude birth rate (per thousand)	
	1950	1975	1950–60	1960–75	1950–75	1955	1974
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
China, People's Republic of	560	820	1. 4	1 6	1. 5	32	26
South Asia	482	830	1. 9	2. 4	2. 1	45	38
East Asia	171	312	2. 6	2. 4	2. 4		
Africa	209	384	2. 2	2. 5	2. 4	48	46
Latin America	150	304	2. 8	2. 8	2. 8	43	38
Middle East	34	81	3. 0	3. 0	3. 0	(2)	(2)
Developing countries	1, 606	2, 732	2. 1	2. 1	2. 1	43	37
Developing countries excluding China	1, 046	1, 912	2. 4	2. 4	2. 4	45	40
Developed countries	500	654	1. 3	. 8	1. 0	23	18
8 MOST POPULOUS COUNTRIES							
China, People's Republic of	560	820	1. 4	1. 6	1. 5	32	26
India	358	610	1. 8	2. 3	2. 1	43	36
Indonesia	77	132	2. 1	2. 1	2. 1	46	40
Brazil	52	107	3. 0	2. 8	2. 9	41	38
Bangladesh	(1)	79	(2)	2. 5	(2)	49	49
Nigeria	43	75	1. 9	2. 5	2. 2	49	49
Pakistan	(1)	69	(2)	2. 9	(2)	49	47
Mexico	26	60	3. 2	3. 4	3. 3	46	41

[1] Total population of Pakistan and Bangladesh in 1950 was 80,000,000.

[2] Not available.

Sources: Cols. 1–5: computed from data tapes, World Bank Atlas (1977). Cols. 6–7: unpublished data, World Bank.

TABLE 8.—THE RELATIVE AND ABSOLUTE GAPS IN GNP PER CAPITA, BY REGION, 1950–75

Region	Relative gap[1] (percent)		Absolute gap[2] (1974 U.S. dollars)	
	1950	1975	1950	1975
South Asia	3.6	2.5	2,293	5,106
Africa	7.1	5.9	2,208	4,930
East Asia	5.5	[3]6.5,	+2,248	4,897
China, People's Republic of	4.8	[3]6.1	2,265	4,918
Latin America	20.8	18.0	1,883	4,294
Middle East	19.3	[3]31.7	1,918	3,578
Developing countries	6.7	[3]7.2	2,218	4,863
Developing countries excluding China	7.9	7.6	2,191	4,837

[1] Relative gap is GNP per capita of region as percent of GNP per capita of the OECD countries.

[2] Absolute gap is GNP per capita of the OECD countries ($2,378 in 1950, $5,338 in 1975) less GNP per capita of the region.

[3] Relative gap decreased, 1950–75.

Sources: Computed from data tapes, World Bank Atlas (1977), and World Bank, World Tables, 1976.

TABLE 9.—THE ABSOLUTE GAP: WHEN MIGHT IT BE CLOSED?[1]

Country[2]	GNP per capita, 1975 (1974 U.S. dollars)	Annual growth rate 1960–75 (percent)	Number of years until gap closed if 1960–75 growth rates continue
OECD countries	5,238	3.7	—
Libyan Arab Republic	4,675	11.8	2
Saudi Arabia	2,767	8.6	14
Singapore	2,307	7.6	22
Israel	3,287	5.0	37
Iran	1,321	6.9	45
Hong Kong	1,584	6.3	48
Korea	504	7.3	69
China (Taiwan)	817	6.3	75
Iraq	1,180	4.4	223
Brazil	927	4.2	362
Thailand	319	4.5	365
Tunisia	695	4.2	422
Syrian Arab Republic	604	4.2	451
Lesotho	161	4.5	454
Turkey	793	4.0	675
Togo	245	4.1	807
Panama	977	3.8	1,866
Malawi	137	3.9	1,920
Malaysia	665	3.8	2,293
Papua New Guinea	412	3.8	2,826
China, People's Republic of	320	3.8	2,900
Mauritania	288	3.8	3,224

[1] Absolute gap is GNP per capita of the OECD countries ($2,378 in 1950, $5,238 in 1975) less GNP per capita of the individual country.

[2] All developing countries with population of 1,000,000 or more whose growth rate of per capita income exceeded that of the OECD countries during 1960–75.

Source: Computed from data tapes, World Bank Atlas (1977).

IN TRIBUTE TO THE LATE SENATOR JOHN L. McCLELLAN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR EAGLETON

The death of our distinguished colleague, John L. McClellan, has saddened us all.

Senator McClellan compiled a record of more than 50 years of public service, and it was a record of distinction and superior achievement. As Chairman of the Permanent Investigations Subcommittee and the Labor Rackets Committee from 1955 until 1973, he tackled malfeasance, mismanagement and extravagance in government, looked into organized and syndicated crime, and exposed racketeering and improper practices in labor-management relations. He was a distinguished chairman of the Government Operations Committee.

Senator McClellan's service on the Judiciary Committee also yielded notable achievements. These included passage of the Omnibus Crime Control and Safe Streets Act of 1968, the Organized Crime Control Act of 1970, and other measures. His work in drafting a complete overhaul of the Federal Criminal Code, legislation which now is pending before Congress, marks an appropriate climax to a distinguished legal career.

I personally came to know Senator McClellan and his legislative style through our service together on the Appropriations Committee. Senator McClellan assumed the chairmanship of that important committee three months before I joined it in 1973. Senator McClellan's service as chairman was marked by his thoughtfulness and fairness. Every member of the Committee knew that the Chairman was willing to listen to diverse views, whether or not he agreed with them. I think I can speak for the other Committee members when I say that under Senator McClellan, each of us was afforded important opportunities to exert a meaningful influence on federal spending.

Senator McClellan's career was one of keen insight into problems and potential legislative solutions, a strong devotion to the institutions and processes which make our government work, and great fairness, dignity and integrity. He was, for example, a great champion of a strong national defense. But he was no captive of the military establishment; he subjected the military budget to continual, hard scrutiny, and he was never afraid to cut spending when waste and inefficiency were found.

Senator McClellan's hard work and his significant contributions will be missed in this chamber. He was a great Senator, and a great Arkansan. It is with pleasure, therefore, that I join with his colleague from Arkansas, Senator Bumpers, as a cosponsor of S. 2351, a bill to dedicate the new Veterans' Administration hospital in Little Rock to the memory of John L. McClellan.

HARD TIMES FOR THE FARMER

Mr. WALLOP. Mr. President, it has always troubled me that both the media and Government agencies when reporting a rise in food prices, invariably refer to this as "bad news for consumers." An announcement that food prices have declined, however, is heralded as "good news for consumers." Scarcely a thought is given to the fact that this so-called good news for consumers might mean financial ruin for farmers.

Perhaps there is hope for changing some of these lopsided views with the strike by the American agriculture movement. The strike is focusing public attention on the plight of the American farmer, and should help the public understand the disastrous economic conditions which the farmer faces.

The farm situation is deteriorating among all producers, as Wyoming figures indicate. In my home State, the total net income from farming has plummeted from $121.2 million in 1973 to $1.9 million in 1976. During the same period, farm production expenses have climbed from $333.9 million to $429.3 million. When scaled down to represent individual farm income, the figures become even more dramatic. The U.S. Department of Agriculture reported in 1973 that the net income per farm in Wyoming was $14,788. By 1976 that net income dropped to $241.

These figures explain why farmers from Wyoming and across the country are here in Washington asking for understanding and assistance from their Government. These figures tell a story of economic ruin across a sector of the economy that supplies millions of jobs, pays for our mounting oil imports and gives Americans the best food in the world. The American farmer is being asked to subsidize inflation in America.

Tuesday, I met with two young men from Wyoming, Bob Oaks of Veteran and Jeff Marlatt of Yoder, who told me a story of economic hardship heard across the Nation by those who take the time to listen. They believe, as I do, that American farmers deserve a better deal. These two men, and others like them who traveled to Washington, are seeking the Nation's interest and understanding. They stress that the agriculture strike must be a peaceful demonstration. It is essential that other members of the American agriculture movement share Bob Oaks' and Jeff Marlatt's commitment to a peaceful movement and their opposition to any form of violence. They realize that if violence occurs, it will destroy any hope of achieving their goals.

Much of what they are asking for I am in sympathy with, although I believe a demand for guaranteed 100-percent parity is politically unachievable. The call for a more aggressive agricultural export policy has my complete support. There are export opportunities to developing countries which have not been fully explored. Our food for peace shipments have in some cases been curtailed by administration officials who confuse human rights with the need to help starving people. In our trade talks with Europe and Japan, our negotiators must assume a more aggressive posture if we are to gain our fair share of these markets.

The American agriculture movement has brought these issues and other problems to the attention of the public. That in itself is a formidable accomplishment. They now desperately need Government policies that reflect a better understanding of the American farmer. They do not need a handout. They need an opportunity to survive.

LAURENCE N. WOODWORTH

Mr. RIBICOFF. Mr. President, Laurence N. Woodworth, who died December 7, 1977, at the age of 59, was a dedicated and effective public servant.

As a member of the staff of the Joint Committee on Internal Revenue Taxation for 32 years, as the committee's staff director for 14 of those years, and most recently as Assistant Secretary of the Treasury for tax policy, Larry Woodworth knew more about this Nation's system of taxation than anyone else.

Serving on the Senate Finance Committee for the last 14 years, I had the pleasure of working closely with Larry on tax matters. I never ceased to be impressed with his knowledge, his professionalism, his sense of fairness and his willingness and ability to translate congressional intent into workable and equitable law.

Our tax system is in need of reform. No tax structure has ever been or ever will be perfect. But our system, inadequate in some ways as it is, is nonetheless intended to achieve equity and to a large extent it succeeds. In turn, much that is good and fair in our tax laws is a result of the extraordinary skill and intelligence Larry Woodworth brought to this pursuit.

When he took his new position at the Treasury Department earlier this year, Larry knew very well that he would be facing a difficult challenge.

Serving a President strongly committed to tax reform, Larry Woodworth was of inordinate value to this administration—and to the Congress as well. Having been a participant in the writing of tax law for more than a quarter of a century, he understood the law as no one else did, he was intimately familiar with the process of changing that law and he was uniquely qualified to serve both the executive branch and the legislative in achieving reform.

Without Larry Woodworth, reform is, of course, still possible. But it will be a more challenging goal to reach.

Moreover, Larry's death is a deep personal loss to all of us who knew him. He was brilliant. He was a hard worker. He was a decent and fair person.

Mr. President, the Washington Post of December 12, 1977 printed an editorial about Larry Woodworth's many important contributions to his country. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LAURENCE NEAL WOODWORTH

For all of its infinite and tedious complexity, the federal tax code maintains a sense of decency and reason. It has a coherent architecture. You might wonder how that happens since, notoriously every major tax bill is finally enacted in an atmosphere of extreme confusion, haste, passion and anxiety. For the past 15 years one leading reason for the tax system's integrity was the vigilance of Laurence Neal Woodworth, who died this week. He had joined the Carter administration earlier this year, as Assistant Secretary of the Treasury for tax policy, but previously he had been the staff director of the joint Committee on Taxation.

A tax system is a nation's definition of social equity—its answer to the great question of what's fair. In taxation, the large philosophic issues never lie far behind the niggling legalistic details. The role of the congressional staff experts on taxation is not a comfortable one. The tax committes are generally led by tough and strong-willed men; stakes run high, and no bills are more fiercely lobbied. Under weak leadership, the Joint Committee's staff would have been ground to powder long ago between its two masters in the House and Senate. Under Mr. Woodworth, it built a monumental reputation for impartial and authoritative judgment. When, for example, Congress needed an unimpeachable expert for the ugly job of auditing Mr. Nixon's tax returns, it turned automatically to Mr. Woodworth.

To work effectively, the congressional system requires enormous talent and industry among its staffs. Those qualities are very unevenly distributed through the labyrinths of the congressional offices. But the staff of the Joint Committee on Taxation has become an acknowledged model. Mr. Woodworth always left the political decisions to the politicians, and never tried to undercut them with technical obfuscation. But he worked long into the nights after the committee meetings to ensure that the politicians understood the consequences of their votes. Even the most flamboyant of senators was unlikely to press an idea in the face of Mr. Woodworth's warning that it wouldn't work. His death now is a double misfortune to the Carter administration. He was the key figure in the drafting of the President's tax-revision bills. But he was also the administration's principal ambassador to Congress on this delicate subject, and he had earned a degree of trust and respect there that no other person at the Treasury enjoys.

He was a remarkable example of a certain style of public servant—one who is rarely a noted public figure, but who acquires a profound influence through sheer intellectual force and honesty. His subject was one that touches all of us every day. It is an American custom to complain about the tax system's vices while taking its virtues for granted. They are not accidental, but were written into law by a small number of people—among whom Mr. Woodworth was eminent—who labored with learning and skill in pursuit of the just balance between public and private interests.

THE LURE OF GOLD

Mr. STEVENS. Mr. President, down through the ages the lure of gold has always drawn men and women and the rush of 1898 was no exception. They came from eastern Canada, the United States, and even as far away as England and Continental Europe. For when the gold fever struck, many men lost all sense of time and distance, their only concern being the wealth that lay at the end of their journey. And this journey was one of the most unique travels ever undertaken by people in search of gold and glory.

They came in what they could buy, build, or invent over hundreds of miles through thick forests and muddy swamps, over treacherous mountain passes, and across formidable lakes and rivers to the gold-laden area in the Yukon. The trails saw every type and mode of transportation available, from pack horses and ox teams to sleds and burros; and, since the routes led the prospectors through both land and water, river scows, sail boats and steamers played an important part in the story of transportation to the Klondike.

What brought about this frantic migration to the Klondike? Before the summer of 1896, the Klondike was just another tributary of the Yukon River in the rugged far Northwest, a land known only to the Indians and a handful of hardy explorers and trappers.

But on August 17, 1896, George Washington Carmack and his two Indian companions discovered gold on a tributary of the Klondike River then known as Rabbit Creek, but soon renamed Bonanza. Carmack's discovery triggered a mad gold rush that saw 100,000 stampeders set out for the Klondike using two main routes. The bulk of the Klondikers chose the Canadian west coast route and reached the Yukon by way of steamers and inland trails. The alternative was the trail east of the Rocky Mountains through Edmonton, known originally as the "back door route" and later officially as the "all Canadian route."

How much gold was found? Ironically, some of the richest strikes were made by the large mining companies after the Klondike was all but deserted. Of the 100,000 stampeders who set out on the trails, it is estimated that only 4,000 found gold, and that of these, only a few hundred made enough to be called wealthy. It was the merchants, however, who acquired most of the benefits from the gold rush. In 1898 alone, stampeders spent about $60 million on equipment and transportation.

The Klondike gold rush is an important part of Alaska's history. The Congress recognized this last year when it established the Klondike Gold Rush National Historical Park. Combining park units in Seattle and Alaska as well as planned units in Canada, the park is a unique effort to protect all of this important history. I was pleased to be the sponsor of legislation creating the park and to speak this summer at the dedication in Skagway.

On Monday, December 5, in the premiere documentary of the new season of National Geographic Specials on public television, four young Alaskans—Keith Tryck, Bob Clark, Paul Crews, and Jerry Wallace—challenged the Yukon in a manner reminiscent of the old prospectors of 1898. Hiking over the Chilkoot Pass down to Lake Bennett, across the lake then down the Yukon River, they retraced the path of the gold rush. For Keith Tryck, whom I know, it was a special trip. His grandfather, one of the 98'ers, followed the same route to reach Alaska's gold fields.

Alaskans salute these modern day adventurers and thank their sponsors for providing the Nation with a unique opportunity to relive the time and spirit of a colorful era along the Yukon Passage.

On Saturday, December 10, the Anchorage Times ran an editorial concerning this trip down the Yukon Passage. I ask unanimous consent that it printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SUCCESS STORY

Several million Americans sat back in their easy chairs last Monday and were taken by television on an adventure that carried them over the Chilkoot Pass and down the Yukon River to Dawson, then by raft and dog team down the mighty river to St. Mary's.

It was an exciting voyage, presented by the National Geographic magazine and aired nationally on the public television network.

Most notable for the Alaska audience was the fact that two of the four principals, Keith Tryck and Paul Crews, are products of Our Fair City, having been reared here in the local institutions, social groups and environment. The venture was their brainchild and their success exceeded all expectations.

Tryck and Crews cooked up the idea of the trip. They survived the arduous experience of enlisting enough local financial support to breathe life into their unusual project. And they convinced the National Geographic it was a trip that was worth that organization's attention.

Each one of those achievements was a notable success in itself.

Then they proceeded to do exactly what they said they were going to do.

They invited two Outside friends to join them and the four climbed the old stampede trail over the Chilkoot Pass near Skagway, just as Tryck's grandfather had done in the gold rush of 1898.

At Lake Bennett they chopped trees, built a raft and floated to Dawson, thence down the Yukon nearly to its mouth in the Bering Strait, just as Tryck's granddad did.

The National Geographic carried a splendid narrative of the trip, with some of the most beautiful pictures of interior Alaska that have been seen recently.

The story proved so fascinating that the magazine plunged further into it by proposing that the four young men do the trip a second time so the documentary for television could be made.

Thus the young men not only did what they said they would do, and their achievement was not only just as fascinating as they said it would be, but it was so great that they were requested to do it again for the benefit of the world of television.

Their success provides Alaskans with a spiritual uplift and a fraternal spirit of brotherly love. Those young men did what almost all Alaskans would like to do.

There must be thousands of oldsters who watched it with fond memories of days of yore, and the comment, "Oh, to be young again."

And thousands of young people who viewed it enviously, with the comment, "Why didn't I think of that?"

The venture was inspired by the family ties that stirred up familial loyalty so that the younger Tryck wanted to follow the footsteps of his grandfather over the Chilkoot Pass and down the river.

It proved that the spirit of adventure, and the courage to face the unknown and the unexpected, is still alive and doing well.

The thirst for freedom is unquenched.

Perhaps the overshadowing message for the community is that, despite the frequency of bad things that concern us every day, there is much good around us.

This unusual adventure tested young men who are products of local educational programs, local customs, neighborly relationships, family ties and local lifestyle.

It was the local environment that produced young men with vigor and imagination and an appreciation of the magnificence of the land they live in.

The community can take credit as partners in this success, but it must also be remembered that parents, who often get the blame for what goes wrong, had an important role in laying the foundations upon which this success was built.

TRIBUTE TO SENATOR McCLELLAN

Mr. DURKIN. Mr. President, it is with a great deal of personal sadness that I note the passing of our friend and respected colleague, Senator John McClellan of Arkansas. Although I have been privileged to serve with him for only 2 short years, I had come to know and respect Senator McClellan as a man with a deep personal commitment to public service.

Many of my colleagues have already mentioned the distinguished career of public service, spanning more than 5 decades, for which John McClellan will be remembered. It is a career rich in accomplishments which will not be soon forgotten nor soon equalled. It is also a career distinguished by what I consider to be one of the finest virtues a politician can have—a deep and unwaivering commitment to principle.

John McClellan was a man deeply rooted in principle, a man whose political views were shaped by principle rather than whose principles were shaped by his political views.

In a career witnessing tremendous change in this Nation, John McClellan remained dedicated to the principles and philosophy which first brought him to the Senate in 1942. Above all else, John McClellan was a man dedicated to the principle that no man and no group is or should ever be above the law.

His role as chairman of the Permanent Subcommittee on Investigations is a legendary example of commitment to that principle. Whether it was investigating illegality in organized crime, labor-management relations, the Government, the banking industry, securities sales, or defense contracts, John McClellan vigorously pursued illegal activities and exposed them to public scrutiny. The McClellan committee, as it was known nationally, was a symbol that lawlessness would not and could not be tolerated, and it was perhaps the harbinger of the Federal Government's attack on "white collar" crime.

His commitment to the letter and spirit of the law was also reflected in his activist role as chairman of the Subcommittee on Criminal Laws and Procedures. In this capacity he left his imprint on every significant criminal law enforcement measure in the last 10 years.

Mr. President, despite Senator McClellan's distinguished record, I do not believe it does justice to the man to say he was defined by his numerous accomplishments, for his real legacy is his great integrity in remaining unswervingly committed to principle. Those who understand politics know that to remain so steadfastly committed to principle in the face of the often intense pressures generated by political life is one of the truest tests of a man's integrity. Senator McClellan weathered this test admirably for more than a half century of public service, and no man could have a finer epitaph.

Senator John McClellan will indeed be missed not only by this chamber, which he graced for so many years, but throughout the Nation as well.

WYOMING'S WINDOW ON THE UNIVERSE

Mr. WALLOP. Mr. President, through the ages man has had an insatiable hunger to search and resolve the mysteries of the heavens. Technological advances of various sciences have enabled man to make great headway in the attempt to satisfy this hunger. Upon the completion of the University of Wyoming's new $1.6 million infrared telescope-observatory I feel man will come a step closer to unraveling some of the mysteries.

In 1975, the Wyoming State Legislature and the National Science Foundation were approached by a couple of enterprising young men from the University of Wyoming physics department who realized that the low concentration of water vapor in the surrounding atmosphere of Wyoming was ideal for the placement of an infrared telescope. Today, these two men, Prof. Bob Gehrz and Prof. John Hackwell, are working on top of Jelm Mountain, 35 miles southwest of Laramie, Wyo., with an infrared telescope capable of seeing objects halfway across the universe. Acting as a heat sensing device the telescope with its 92-inch mirror, the largest in the world, will be capable of gathering infrared rays given off by stars and planets throughout the year night and day.

Mr. President, I am impressed with the work of these two men and with the financial backing and support they have received from the State of Wyoming and the National Science Foundation. With further financial assistance from the University of Wyoming and NFS the Nation will have a facility that is open to all astronomers to study the creation and destruction of planets and stars, possibly solving some of the mysteries we have all pondered. I am sure that my colleagues would join with me to extend best wishes to these astrophysicists, and others like them, in their investigation of the heavens.

TRIBUTE TO SENATOR McCLELLAN

Mr. CANNON. Mr. President, I share with my colleagues the sense of loss occasioned by the recent death of one of the Senate's outstanding Members, John L. McClellan.

In Senator McClellan the Senate had a man who was the very symbol of anticriminality. From the organized crime control legislation he sponsored years ago to the revision of Federal criminal laws underway at his death, his career was a model of adherence to and respect for the law.

Indeed, "law and order" was not merely a political slogan to Senator McClellan, but a rule of life.

When the American public had been given reason to believe that a Senate committee was better suited to browbeating than investigating, Senator McClellan showed that the Senate could stand up to the most hardened criminals and expose their evil deeds.

He accomplished much more, of course, in his 35 years in the Senate and others have cataloged his achievements in great detail. I was struck by the eulogy delivered at his funeral services last week in Little Rock, however, as it emphasized a side of John McClellan that the public may not know.

"He came right out of the life of our common humanity," said Rev. Edward Elson, chaplain of the U.S. Senate. Bishop Paul V. Galloway, a neighbor of the McClellans, said the Senator was "conscious of the needs of people and threw himself into his work to help them."

That love for people was returned as his casket lay in state in the Capitol rotunda preceding his funeral. Thousands of people, most of them just average, everyday citizens, paid tribute to Senator McClellan on a cold and rainy day and hundreds more crowded into the church or stood on its steps during the funeral service.

John McClellan was a tower of integrity and a model of senatorial fairness and respect. Although his life was marked by personal tragedy, his belief in God and his work helped him overcome it.

Since he had been here throughout my Senate career I will miss John McClellan as a colleague. The people of Arkansas and the country will miss his dedication as a Senator.

My wife and I have lost a friend and we join in extending to Mrs. McClellan and her family our deepest sympathy.

MINOT E. POWERS, JR.

Mr. DURKIN. Mr. President, I would like to call to the attention of all my colleagues one of New Hampshire's most distinguished citizens, Minot E. Powers, Jr., who, for over 30 years, has helped innumerable working men and women by bringing fairness and understanding to the labor bargaining table.

At the end of this month, Minot will retire as secretary-treasurer and business representative of the Food Workers District 10, Amalgamated Meat Cutters and Butcher Workers of North America. He has served in this capacity for 33½ years and, at the same time, has also been secretary of the Manchester Labor Council, an active member of the New Hampshire Labor Council, and secretary at the last three international organization conventions.

In 1972 Minot Powers' tireless efforts and successful leadership in the labor movement and his Christian stewardship brought him the first New England Methodists Award for Excellence in Social Justice Action.

The accomplishments of Minot Powers extend beyond the boundaries of New Hampshire. They serve as a model for those just entering the field he is about to leave and, as an example of outstanding public service to all.

A COMMENDABLE LOCAL TRADITION IS NOW THREESCORE YEARS OLD

Mr. ROBERT C. BYRD. Mr. President, from the days of the earliest settlements on our shores, the American people have been practitioners of the principle of voluntarism. In the wilderness, the very survival of individual pioneers, families, and new communities often depended on the help that was freely given by neighbors, friends, and even random passersby. Later, in settled farming communities, barn-raisings commonly brought large groups of people together in a spirit of mutual services and neighborliness; churches and civic organizations established continuing programs to aid the needy and destitute in towns and cities all across the country.

The spirit of voluntarism—a willingness and eagerness to contribute freely of one's time, talents, and resources to a worthy cause—has characterized the citizens of this Nation more than any people in the world. It is estimated that today, more than $25 billion annually is contributed by Americans to support charities, churches, medical crusades, private educational endeavors, and other nonprofit community services, excluding all government support. The work of the March of Dimes, the United Fund, the Red Cross, and other such organizations has become a vital and essential part of American life.

There are hundreds of local charitable causes throughout the United States, as well. But one of the longest continuous examples of these efforts is the Community Christmas Tree fund drive of Bluefield, W.Va. This year marks its 60th anniversary. Launched in Bluefield in November, 1917, by the local rotary club, in cooperation with church and business leaders, the Community Christmas Tree drive soon became the responsibility primarily of the Bluefield Daily Telegraph, which has given generously of its resources to this annual cause for nearly six decades.

The purpose of the Community Christmas Tree campaign is to provide Christmas gifts for hundreds of underprivileged children in the Bluefield area, who would otherwise receive no Christmas presents. Over the years, countless thousands of boys and girls have benefited from this program, and, after reaching adulthood, whatever their financial circumstances, many have become faithful contributors to the fund drive themselves.

One unique feature of this program is that, over the many years of its operation, every cent of the money contributed to the Community Christmas Tree fund drive has been spent to buy presents for needy children, and not for administration or logistics. All of the work, skills, facilities, and auxiliary supplies necessary to the success of the campaign are contributed without remuneration by people from the Bluefield area. For many years, an annual all-day "radiothon," featuring the donated talents of local artists, performers, and musical groups, was a highlight of the fund effort. This year, many of the individuals responsible for actually preparing or presenting the Christmas gifts to more than 1,000 children, represent the third or fourth generations of their families to take part in this effort.

Mr. President, I commend the Bluefield Daily Telegraph and the citizens of the Bluefield area for preserving and continuing this historic display of compassion for so many decades. This is a unique American tradition worth maintaining, for it features an expression of good will and services that was inspired within the local community and has been maintained throughout its history without any outside resources or direction. By itself, the Community Christmas Tree campaign of Bluefield has been an inspiration for other communities to initiate similar efforts. Moreover, it is further evidence of the ingenuity and responsibility that can be found in so many American towns and cities, and which are fundamental characteristics of the American heritage.

BOSWELL IN SEARCH OF MATCHING FUNDS

Mr. MATHIAS. Mr. President, today as the 1st session of the 95th Congress ends and as another year draws to a close, I would like to take a moment to reflect on the immutable aspects of our lives as politicians—to explore the rewards and satisfactions of political life that don't alter from session to session, or from year to year, or even for that matter from century to century.

Recently, I reread a passage from "Boswell for the Defence" in which Boswell describes making a visit to a Scottish member of Parliament living in London. The visit took place on March 22, 1772, and yet, across a span of more than 200 years and 3,600 miles of water, it is remarkable to see how little the pleasures and pains of political life have changed.

James Boswell writes:

> "I breakfasted with Dempster, whom I found as agreeable and as friendly as ever, improved much in speaking English, and appearing to be as happy as I could wish him. Parliament . . . had accustomed him to manly employment and I could see he was really satisfied with his situation. He is conscious of acting with honour and fidelity and spirit, and he feels himself happy in having a share in the great deliberations both as to this nation and the Empire of India. He said he would not give up the enjoyment of the two sessions which he had sat in Parliament for any consideration . . . He kept out all company till we had taken a hearty draught of free and friendly conversation. But then I saw a specimen of his inconveniences; for in came Angus Lairds, speaking with a most uncouth tone, and beings of other disagreeable kinds, to all of whom he was obliged to be very courteous."

Like Dempster, despite occasional "inconveniences," I too am "happy to have a share in the great deliberations * * * as to this nation."

A special element of my satisfaction as a politician derives from the knowledge that, as popularly elected legislators, we are all part of a continuum—we are participants in the process that produced our democratic institutions and which still refines them.

Without such chroniclers of their times as James Boswell, however, our pleasure in the practice of politics would be infinitely less informed. Boswell's little vignette of the life of an 18th Century parliamentarian is a delightful reminder of the eternal verities of political life.

Boswell's witty political observations are, of course, barely the tip of the iceberg of the Boswell Papers. The collection contains documents that span three centuries and provides a rich and variegated guide to Scottish feudal life. These papers are a treasuretrove not just for literary historians, although they are certainly that, but for scholars in many other disciplines as well. And, for the likes of me, the 10 volumes of Boswell's journal that scholars engaged in The Yale Editions of the Private Papers of James Boswell have edited are a source of continuing pleasure and enlightenment.

It is, therefore, extremely gratifying to learn that the National Endowment for the Humanities—NEH—has provided a new grant to the Yale editions of the private papers of James Boswell which should enable the project to complete the catalog of the Boswell papers and the final volumes in the trade edition of the Journal.

This second award from NEH provides

an outright grant of $143,657 which will support the project for another year-and-a-half. In addition to this grant, NEH has also offered $75,000 to match gifts to the project on a one-to-one basis, and has given the project 3 years in which to raise its $75,000.

NEH's earlier award to the project was for $110,408. Made in January 1975, it was intended to help support the project until April of this year. But, because project director Frederick A. Pottle, sterling professor of English emeritus, and his dedicated associates are as meticulous in their budget management as they are in their scholarship, the initial NEH grant was husbanded so skillfully that it lasted until August.

The National Endowment for the Humanities deserves great credit for making these grants. They are a major contribution to one of the most important scholarly endeavors of any age. The Yale editions of the private papers of James Boswell have more than justified the confidence these grants imply. I am sure that every Member of the U.S. Senate believes, as I do, that these NEH grants are money well and wisely spent. I am confident that the project will have no trouble raising the $75,000 it needs to qualify for matching NEH funds. It is afterall a very small investment measured against the dividends it will pay.

In his "Life of Johnson," Boswell reports that Dr. Johnson used to quote "with great warmth" these words of Aristotle: "Educated men are as much superior to uneducated men as the living are to the dead."

Publication of the catalog of the Boswell papers and the final volumes of the Journal will be a significant contribution to the education of mankind. I am grateful to the National Endowment for the Humanities for making this possible. I am grateful to the small band of dedicated scholars at Yale for making this possible. And I am grateful to those educated men and women who will surely come forward now to insure the matching funds necessary to bring this great undertaking to fruition.

Mr. President, I ask unanimous consent to have printed in the Record, an article by Israel Shenker, which appeared in the New York Times on July 15, 1975, which conveys the flavor of this remarkable scholarly project far better than anything I can say.

There being no objection, the material was ordered to be printed in the Record as follows:

[From the New York Times, July 25, 1975]

Boswell's Life a Thriving Industry at Yale

(By Israel Shenker)

(The Yale editions of the private papers of James Boswell, "The Boswell Factory," Frederick A. Pottle, chairman; Frank Brady, F. W. Hilles, H. W. Liebert, Thos. Quinn, Irma S. Lustig, Harriet Childester, Rachel McClellan.)

New Haven, July 24.—In the Boswell Factory—room 331-A or Yale's Sterling Memorial Library—the casement windows are flung open to catch the breeze. A sudden gust lifts a batch of handwritten notes which are to be used in a forthcoming installment of the chronicle of James Boswell, the great 18th century biographer.

The papers swirl in disarray, then settle slowly to the floor. Another gust lifts a final sheet and it floats majestically before fluttering to rest. "Irma," Prof. Frank Brady calls, "It's just under your foot."

This project has long been down-at-heel, limping along on $10,000 a year, and about four years ago the factory almost closed. Then Dr. Irma S. Lustig decided to apply for a grant from the National Endowment for the Humanities. She drafted an application and called Yale's Professor Emeritus Frederick A. Pottle, the factory's boss, for his approval.

"I told you I'm going up to Maine," he said. "I have to plant peas. Besides, it's humiliating to ask for money."

He finally agreed to have a look, then to lend a hand and the National Endowment for the Humanities has now given the Yale Boswell Editions $110,408 to support operation until March 31, 1977.

"But we're still a shoe-string edition," said Professor Brady, "every piece of paper used twice, every pencil counted."

He spends his summers at the factory, and the rest of the year teaching at City University of New York, Professors Brady and Pottle are collaborating on the second volume of a biography of Boswell. Professor Pottle—who is 77 years old—having written the first.

"Boswell was like all the rest of us, only more so," said Professor Brady. "He drank a lot, but so did everybody else in the 18th century. He ran around with women, but so have others since the 18th century. I'm rather fond of him." "Of course Boswell's drinking and his sexual excesses show considerable weakness," noted Professor Pottle. "Fundamentally he's a good man—his morals were generally very good, but his behavior was very bad. One of the things that pleases me most and impresses me most is his complete truthfulness. He seems unable to tell a lie and he can't even deceive himself."

Boswell's "Life of Johnson" was the biographer's monument to honesty and art, and Christopher Morley, the late essayist, called its author "the greatest biographer who ever lived . . . the greatest of all self biographers."

"We probably know more about Boswell than we know about any other 18th century figure," said Professor Brady, "He is very much like Norman Mailer in some ways—a man who swims in print. The two men have the same acuity of perception—you get a very sharp idea of what people are like."

Boswell was born in Edinburgh in 1740 and died in 1795. His passions were literary, bibulous and libidinous, and he wavered firmly between principles and debauchery, new resolve and renewed debauchery.

Friendship with Samuel Johnson was the great event of his life, but his superb reporting also delivered great portraits of other central figures such as Voltaire, Rousseau, Oliver Goldsmith, and Sir Joshua Reynolds.

He was a compulsive keeper of records—journals, memoranda, register of letters, record of books sold, book of company, guests received), book of liquors (drinks dispensed), and expense accounts ("Maid for sitting up for me"—1 shilling, "dancing pumps"—8 shillings 6 pence). Even when Boswell wrote to give his own heart away, he asked for the letter back.

His heirs were scandalized by his confessions, and led the world to believe that nothing survived. And yet a question remained: did Boswell's executor write that material "had been burned in a mass of papers" or "buried in a mass of papers"?

LETTERS SOUGHT

In 1920, Yale's Prof. Chauncey B. Tinker asked publicly if anyone knew of Boswell letters in private hands. He received an anonymous note: "Try Malahide Castle." There—guarded by a Boswell descendant—he found what he described, in heady frustration, as "the Valley of Rubies."

But he failed to get the gems. Then a Lt. Col. Ralph Heyward Isham set patiently to work, and finaly—for a good sum—winkled the great Boswell collection from the hands of Malahide's master. Boswell's great-great grandson, Lord Talbot.

More manuscripts turned up in a box that was supposed to contain croquet equipment, and two chests of Boswelliana were discovered in a Malahide outbuilding. Then a Scottish professor, searching the estate of one of Boswell's executors, found—in sacks, bundles and bags—over 1,600 more letters.

Eventually Colonel Isham took title to everything, and when he ran short of funds he sold out to Yale, which paid $500,000 with money from Paul W. Mellon, and from McGraw-Hill as an advance against royalties.

The publishing company—awarded rights to publish the Boswell works—pays Yale a royalty of only three per cent, which is less than the office costs of producing the printer's copy and reading proofs.

MILLIONS VOLUMES SOLD

The world sale of the trade edition has been well over a million volumes. What gave the books "larger" circulation, as Professor Pottle noted, may have been prurience about Boswell's confessions and publicity about the discoveries.

But what gave them "large" circulation was that Boswell was a great literary artist, a distinctly modern writer. To edit his work said Professor Pottle, "is to be connected with a new or emergent work of literature."

Boswell's descendants censored his frankness with India ink and the factory has been assiduously deciphering the original state. Infrared light was no help, but sometimes pristine Boswell beckoned through when the manuscript was held up to less exotic illumination.

By extrapolating from peaks and valleys protruding beyond obliterations, much has been reconstituted. "The deleting strokes are generally pretty symmetrical," said Professor Pottle. "They go up and down like a wave." He often finds Boswell bobbing unscathed, brown ink beneath the carbon spume.

"N's and r's are impossible," said Professor Brady. "You never know whether it's 'ever' or 'even.' "

CODE WORDS USED

Boswell often crowded words into illegible propinquity, and he sought translucence behind a screen of primitive code: Latin words that even mediocre scholars could grasp, a V standing for the Latin "voluptas," and Greek letters as well.

The letter π, which is usually used in other circles, stood for "pleasure," and Boswell wrote that he had shared π with Ysteb Htims—a prostitute whose name can be recovered by reading it backward.

For a time he kept notes in rudimentary Italian, inventing words such as "solitariamente" (for single or only) and "armeo" (instead of "esercito," for army).

Marion S. Pottle, the professor's wife, is the principal specialist at cryptanalysis, and she works in the Beinecke library on the definitive Boswell catalogue. Some of her treasures are tiny scraps of script, mounted on gauze, which she tries to fit together like a jigsaw puzzle.

Originals are stored at the Beinecke. Photostats of the entire Boswell collection—except locks of hair—are in the factory and in Room 331-C, which is shared with the [Horace] Walpole Factory and is therefore known as the Bospole room.

No book is published without Professor Pottle's intense, almost anguished, scrutiny. He is a perfectly gentle tyrant, taming the smallest clue into relevance, and showing the hand of the master in writing the narrative large.

One series of volumes—the annotated Boswell journals—has been emerging since 1950. Ten have come out. Four to go.

They all have individual scholars as editors, and Professor Pottle as final authority and co-editor.

Volume 12 will include the text of what the factory calls "The Extraordinary Johnsonian Tacenda" (a Latin word meaning "things not uttered"), an account of Boswell's interview with Mrs. Desmoulins, who lodged in Johnson's house, about Johnson's sexual life.

JOHNSON'S BRINKMANSHIP

Mrs. Desmoulins tells how Mrs. Johnson repelled Dr. Johnson's advances, and how Mrs. Desmoulins responded to them. Never in history, she said, was there anyone

* * * * *

Dr. Johnson—but he mastered them with consummate brinkmanship.

There is also a research edition blossoming with scholarly minutiae, and Professor Pottle estimates that the two volumes thus far published will be joined by about 38 more.

He has worked on Boswell for 52 years, and thinks the factory could wrap up the great Scot in another 20 years—given sufficient money.

Dr. Lustig: "The reason it takes so long is that it's a scrupulous operation."

Professor Brady: "It has to funnel through Pottle."

Dr. Lustig: "He won't relent."

Professor Brady: "He says he never wants to publish anything he doesn't understand, and lots of scholars pass over things."

UNFINISHED ESSAYS

"There's nothing I'd rather do than Boswell," said Professor Pottle. "I have a number of unfinished essays on Shelley, but these things in Boswell are more absorbing."

Stray material is still turning up, and the factory is of two minds about it. "If any more comes I'm going to burn it," said Professor Brady in jest. "We already have too much."

He and his associates hope that one day the great Mountain of Rubies—the Johnson-Boswell letters—will be discovered.

There would be a celebration in the factory (which has outlived an attempt to dignify it as the Boswell Scriptorium—a copying room in a medieval monastery). "I'd stay drunk for a week," said Professor Brady.

Noted Dr. Lustig: "Mr. Pottle would say 'Great,' and keep on working."

That would be in character, quite unlike the outrageous suggestion he once made when he looked up from behind his green eye shade and suggested—with the tone of a man who could not believe what he was saying: "Let's make up a footnote. Nobody will ever know."

(This concludes morning business transacted and additional statements submitted today.)

LEGISLATIVE ACHIEVEMENTS

Mr. ROBERT C. BYRD. Mr. President, the first session of the 95th Congress has been marked by achievements in many areas. We enacted an economic stimulus package which created thousands of jobs and cut the taxes of individuals and businesses by $34 billion. We authorized $14 billion for multiyear housing assistance to the poor, the elderly, and the handicapped with a special new focus on distressed urban areas. We enacted a 4-year farm price support program and made needed reforms to the food stamp program. We revised the social security tax system to assure American workers of the soundness of social security retirement benefits for the next 50 years. We increased the minimum wage to $3.35 over the next 4 years.

Important environmental provisions left unresolved from the last Congress have been enacted by the 95th Congress. The Strip Mining Reclamation Act, which was thrice vetoed by Republican Presidents, finally became law. Its provisions will minimize degradation of the environment done by stripping by requiring uniform standards for mining and reclamation. We enacted revisions to the law to protect the quality of our air and to require auto manufacturers to meet final emission standards by 1980. We have also sent the President a clean water measure providing Federal grants for construction of municipal sewage treatment plants and other means of controlling water pollution.

Aside from these achievements on national issues, the Senate adopted major internal changes which have resulted in greater efficiency of the Senate and greater effectiveness of Senators. At the outset of the year, we reordered committee jurisdictions along more rational lines and further amended the rules to distribute responsibilities more equally among all Senators.

In keeping with these changes, the leadership sought to lessen conflicts between committee and floor activity by setting convening times of the Senate later in the day, by publicizing the legislative agenda, and by scheduling rollcall votes late in the afternoon.

With regard to other internal reforms, the Senate adopted a stiff ethics code which requires extensive financial disclosure by Senators and staff.

Energy, however, has been the issue of primary concern of the 95th Congress. It has dominated the agenda in committee and on the floor. Almost 30 percent of the total days in session this year were devoted to debate on energy legislation and over 40 percent of all rollcall votes cast by Senators were on energy matters.

The major elements of a national energy program were debated at length by the Senate during September and October. We agreed that new electric utility and major industrial plants must burn coal, which is an abundant supply domestically, instead of natural gas or oil which must be imported. We also passed voluntary and mandatory energy conservation provisions as a means of significantly reducing the rate of growth in energy consumption. For 2 weeks, we debated natural gas pricing policy which would protect consumers and yet give an incentive for increasing supplies of natural gas. The Senate finally agreed that natural gas prices should be deregulated in 2 years for new onshore wells and in 5 years for new offshore wells, while old gas prices would continue under the present system. The Senate also agreed to provisions which seek to terminate public utility pricing policies which discourage conservation, such as block pricing, without infringing upon the authority of State public utility commissions. In this bill, the Senate recognized the special needs of the elderly living on fixed incomes by requiring that public utilities supply older citizens with electricity at the lowest cost afforded any other class of consumer. Late in October, the Senate passed a tax on industrial and utility use of oil and natural gas as well as tax incentives to encourage energy conservation by individuals and businesses. We agreed to strong tax incentives for corporations as a means of increasing production of oil, natural gas and other, more exotic, domestic supplies of energy.

These provisions have been the subject of debate by Senate-House conferees for the past month. Although conferees have reached agreement on many divergent provisions, agreement has evaded them on the natural gas and tax provisions. However disappointing it may be, final action must await the second session.

With regard to other energy-related matters, the 95th Congress has enacted 13 laws. During last winter's record cold, we gave the President special temporary authority to allocate natural gas supplies to priority users such as schools and hospitals. We established a Cabinet level Department of Energy by merging 50 energy-related functions of Federal agencies, including FEA, ERDA, and the FPC, to permit a coherent administration of a national energy policy. We appropriated $6 billion for energy research and development. We concurred with the President's decision to authorize private construction of an overland transportation system to carry Alaskan natural gas through Canada to the lower 48 States.

Awaiting action by the House are Senate-passed provisions making it a Federal crime to destroy the TransAlaska pipeline or any interstate pipeline transporting gas or oil. Also awaiting House action is a Senate bill which will facilitate the environmentally safe development of oil and other resources on the Outer Continental Shelf.

The Senate has long recognized the need for a comprehensive national energy policy. In 1961, at the urging of my distinguished colleague from West Virginia, Senator Randolph, the Senate established a National Fuels and Energy Study Group to focus on energy issues—an action that predated by 10 years the first Presidential message on energy. Since that time, the Congress has enacted 91 energy-related public laws even though Republican Presidents felt compelled to veto 12 measures important to energy policy. The following list of public laws enacted since 1969 indicates the extent of our concern with the issue:

91ST CONGRESS (1969–1970) (5)

1. Public Law 91–158, Interstate Oil Compact Commission, 2-Year Extension, S.J. Res. 54.

2. Public Law 91–173, Coal Mine Health and Safety Act of 1939, S. 2917.

3. Public Law 91-245, Oil and Gas Leases, S. 1193.

4. Public Law 91-581, Geothermal Steam Act of 1970, S. 368.

5. Public Law 91-631, National Mines and Minerals Policy Act, S. 719.

92ND CONGRESS, (1971-1972) (7)

6. Public Law 92-84, Atomic Energy Commission Authorization, 1972, H.R. 9388.

7. Public Law 92-307, Temporary Operating Licenses for Nuclear Powerplants, H.R. 14655.

8. Public Law 92-314, Atomic Energy Commission Appropriations, 1973, S. 3607.

9. Public Law 92-401, Natural Gas Pipeline Safety Act of 1968, H.R. 5065.

10. Public Law 92-500, Federal Water Pollution Control Act Amendments of 1972, S. 2770.

11. Public Law 92-583, Coastal Zone Management Act of 1972, S. 3507.

12. S. Res. 45, to establish the Senate National Fuels and Energy Policy Study Group.

93D CONGRESS (1973-1974) (43)

13. Public Law 93-28, Economic Stabilization Act Amendments of 1973; Voluntary Petroleum Allocation, S. 398.

14. Public Law 93-60, AEC Authorization, S. 1994.

15. Public Law 93-74, NASA Authorization, H.R. 7528.

16. Public Law 93-87, Federal-Aid Highway Act, S. 502.

17. Public Law 93-88, Euratom Corporation Act of 1948 Amendments, S. 1993.

18. Public Law 93-119, Oil Pollution Act Amendments, H.R. 5451.

19. Public Law 93-153, Mineral Leasing Act of 1920, Amendments, and Trans-Alaska Oil Pipeline Authorization, S. 1081.

20. Public Law 93-159, Emergency Petroleum Allocation Act of 1973, S. 1570.

21. Public Law 93-182, Emergency Daylight Saving Time Energy Conservation Act of 1973, H.R. 11324.

22. Public Law 93-208, G.I. Bill Benefits During Energy Crisis, S. 2794.

23. Public Law 93-239, Highway Speed Limit Reduction, H.R. 11372.

24. Public Law 93-245, Supplemental Appropriations; Naval Petroleum Reserves, H.R. 11576.

25. Public Law 93-248, Intervention on the High Seas Act, S. 1070.

26. Public Law 93-249, Fuel Cost Pass-Through for Truckers, S.J. Res. 185.

27. Public Law 93-275, Federal Energy Administration, H.R. 11793.

28. Public Law 93-276, AEC Authorization Act, S. 3292.

29. Public Law 93-316, NASA Authorization Act, H.R. 13998.

30. Public Law 93-319, Energy Supply and Environmental Coordination Act of 1974, H.R. 14368.

31. Public Law 93-322, Special Energy Research and Development Appropriations for 1975, H.R. 14434.

32. Public Law 93-377, AEC Omnibus Legislation of 1974, S. 3669.

33. Public Law 93-383, Housing and Community Development Act, S. 3066.

34. Public Law 93-386, Aid to Energy Affected Small Businesses, S. 3331.

35. Public Law 93-403, Natural Gas Pipeline Safety Act, as Amended, Additional Appropriations, H.R. 15205.

36. Public Law 93-409, Solar Heating and Cooling Demonstration Act of 1974, H.R. 11864.

37. Public Law 93-410, Geothermal Energy Research, Development, and Demonstration Act, H.R. 14920.

38. Public Law 93-426, Defense Production Act of 1950, 2-year extension, S. 3270.

39. Public Law 93-434, Emergency Daylight Saving Time Energy Conservation Act of 1973, Amendments, H.R. 16102.

40. Public Law 93-438, Energy Reorganization Act of 1974, H.R. 11510.

41. Public Law 93-454, Federal Columbia River Transmission System, S. 3362.

42. Public Law 93-473, Solar Energy Research, Development and Demonstration Act of 1974, S. 3234.

43. Public Law 93-482, Duty Free Entry of Methanol for use as Fuel, H.R. 11251.

44. Public Law 93-485, International Nuclear Cooperation Act, S. 3698.

45. Public Law 93-496, National Railroad Passenger Corporation, H.R. 15427.

46. Public Law 93-511, Emergency Petroleum Allocation Act of 1973 Extension, H.R. 16757.

47. Public Law 93-514, Nuclear Information Annual Report, S. 3802.

48. Public Law 93-522, Sequoia National Park Hydroelectric Project, H.J. Res. 444.

49. Public Law 93-577, Federal Nonnuclear Energy Research and Development Act of 1975, S. 1283.

50. Public Law 93-627, Deep Water Ports Act, H.R. 10701.

51. Public Law 93-643, Federal-Aid Highway Act Amendments of 1975—Fuel Exports to U.S.S.R., S. 3934.

52. Public Law 93-646, Export-Import Bank Act Amendments, H.R. 15977.

53. S. Res. 138, National Consumer Effort to Save Gas.

54. S. Res. 249, Oil Price Increase.

55. S. Res. 279, Washington Energy Conference.

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56. Public Law 94-12, Tax Reduction Act of 1975; Repeal of Depletion Allowance, H.R. 2166.

57. Public Law 94-18, Nuclear Regulatory Commission Authorization, S. 994.

58. Public Law 94-79, Nuclear Regulatory Commision Authorization, S. 1716.

59. Public Law 94-139, TVA Bonding Authority, H.R. 9472.

60. Public Law 94-163, Energy Policy and Conservation Act, S. 622.

61. Public Law 94-180, Public Works—ERDA Appropriations 1976, H.R. 8122.

62. Public Law 94-187, ERDA Authorization 1976, H.R. 3474.

63. Public Law 94-197, Nuclear Accident Indemnity, H.R. 8631.

64. Public Law 94-227, International Petroleum Exposition, S.J. Res. 59.

65. Public Law 94-258, Naval Petroleum Reserves Production Act of 1976, H.R. 49.

66. Public Law 94-269, ERDA Supplemental Authorization, 1976, S. 3108.

67. Public Law 94-291, Nuclear Regulatory Commission Authorization, S. 3107.

68. Public Law 94-332, Federal Energy Administration Extension, S. 3625.

69. Public Law 94-355, Public Works—ERDA Appropriations, 1977, H.R. 14236.

70. Public Law 94-364, Motor Vehicle Information and Cost Savings Act, S. 1518.

71. Public Law 94-370, Coastal Zone Management Act Amendments, State grants, S. 586.

72. Public Law 94-377, Federal Coal Leasing Amendments Act, S. 391.

73. Public Law 94-385, Energy Conservation and Production, H.R. 12169.

74. Public Law 94-413, Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, H.R. 8800.

75. Public Law 94-422, Land and Water Conservation Fund Act, S. 327.

76. Public Law 94-477, Natural Gas Pipeline Safety, H.R. 12168.

77. Public Law 94-493, Interstate Oil and Gas Compact, S.J. Res. 126.

78. Public Law 94-586, Alaskan Gas Transportation, S. 3521.

95TH CONGRESS (1977) (13)

79. Public Law 95-2, Natural Gas Emergency, S. 474.

80. Public Law 95-3, Urgent Power Supplemental Appropriations, H.J. Res. 227.

81. Public Law 95-36, Deepwater Ports, S. 891.

82. Public Law 95-39, ERDA Nonnuclear Authorization, 1977, S. 36.

83. Public Law 95-52, Export Control Administration, H.R. 5840.

84. Public Law 95-70, FEA Authorization, S. 1468.

85. Public Law 95-87, Stripmining Reclamation, H.R. 2.

86. Public Law 95-91, Department of Energy, S. 826.

87. Public Law 95-95, Clean Air, H.R. 6161.

88. Public Law 95-96, Public Works—Energy Research Appropriations, 1978, H.R. 7553.

89. Public Law 95-158, Alcan Pipeline, H.J. Res. 621.

90. Public Law 95-164, Mine Safety, S. 717.

91. Public Law 95-183, ERDA Nuclear Authorization, S. 1339.

In all, the Senate has dealt effectively with issues vital to all Americans and issues essential to an effectively functioning Senate. This record of achievement could not have been possible without the dedication and hard work of Senators on both sides of the aisle. I take this opportunity to express my appreciation to the distinguished minority leader, Mr. Baker, and the assistant minority leader, Mr. Stevens, for their cooperation and assistance.

I extend a special thanks to the assistant majority leader, Mr. Cranston, for his able assistance in making the Senate operate efficiently. I would also like to express my gratitude to Mr. Inouye, secretary of the majority conference, to Mr. Eastland, President pro tempore of the Senate, and to Mr. Humphrey, Deputy President pro tempore, for their good counsel and friendship.

I thank all my colleagues for their devotion to their responsibilities, their friendship and their sense of accommodation. I look forward to an equally productive second session of the 95th Congress.

A more complete listing of the legislative accomplishments of the Senate is contained in a report prepared by the Democratic Policy Committee. I ask unanimous consent that this report, a legislative digest of major accomplishments, and supporting data be inserted at this point in the Congressional Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Legislative Digest (January 4—December 15, 1977)

ENERGY—ENVIRONMENT

Emergency natural gas.—Congress enacted early this year a measure giving the President special emergency authority to deal with the natural gas shortage during the winter months.

Department of Energy.—Congress has enacted the cornerstone of the President's energy program by creating a cabinet-level

Department of Energy which incorporates some 50 energy-related agencies including FEA, ERDA and the FPC.

Coal conversion.—Senate and House conferees have tentatively worked out the differences between the Senate and House provisions which require new electric utility and major industrial plants to burn coal instead of oil or natural gas.

Energy conservation.—Senate and House conferees have considered the Senate- and House-passed provisions to establish both mandatory and voluntary programs to conserve energy and significantly reduce the rate of growth in domestic energy consumption. Conferees have tentatively resolved the major differences.

Natural gas policy.—Senate and House conferees have spent many hours toward a compromise on the differences concerning the regulation of the price of natural gas, an important element in the President's energy program.

Public utility rates.—Senate and House conferees have considered and tentatively resolved differences in the Senate and House bills written to encourage energy conservation in electric and gas utility supplies and to encourage equitable rates for consumers.

Energy taxation.—The Senate and House conferees have worked on tax incentives and credits as a means of encouraging production, exploration and development of new energy sources and of reducing energy consumption as well as the House-passed crude oil equalization tax. They have tentatively agreed to a gas guzzler tax.

Export Control—Alaskan Oil.—The Congress has enacted a measure prohibiting the export of Alaskan oil except for mutually beneficial exchanges or for national security reasons.

Public Works—Energy Research Appropriations.—We have appropriated $10.4 billion of which $5.9 billion is for energy research.

Outer Continental Shelf.—The Senate has passed a measure which will facilitate the environmentally-safe development of oil and other resources on the Outer Continental Shelf.

Strip Mining.—We have enacted a measure to minimize the degradation of the environment by requiring minimum uniform standards for mining and reclamation.

Clean Air.—We have written into law provisions setting final auto emission standards in 1980 and requiring other measures to improve air quality.

Clean Water.—Senate and House conferees have filed a report on a measure providing local governments with Federal grants for construction of municipal sewage treatment plants and improved means of controlling water pollution.

Energy Saving Grants for Schools.—The Senate has authorized matching grants to schools to help them meet the high costs of fuel and to encourage energy conservation measures. House and Senate conferees have agreed to these provisions as part of the national conservation program.

Pipeline Destruction.—The Senate has passed provisions making it a Federal crime to willfully destroy the Trans Alaska pipeline or any interstate pipeline systems transporting gas or oil.

Alaska Pipeline Treaty.—The Senate voted to ratify a treaty with Canada to insure that present and future pipelines across Canadian territory will be free from discretionary taxation and has sent the House a measure implementing these treaties.

Alaska Pipeline (ALCAN).—Congress has concurred with the President's decision to authorize private construction of an overland transportation system to carry Alaskan natural gas through Canada to the lower forty-eight States.

ECONOMY-UNEMPLOYMENT

Tax Cut.—Congress has enacted a 3-year $34 billion tax cut. Forty-six million Americans—90 percent with incomes less than $20,000—will pay less taxes. Corporations will be allowed a tax credit on hiring new employees. Ninety-six percent of all taxpayers will have a simpler method of computing their taxes.

Economic Stimulus Appropriations.—Congress has enacted a measure providing $20.1 billion to create 415,000 new CETA jobs in implementing the President's economic stimulus proposals. This act includes funds for public works projects, public service employment, and countercyclical revenue-sharing to help State and local governments continue their basic services and to target employment and training programs to youth, veterans and unskilled workers.

Public Works Employment.—Congress has enacted a measure authorizing $6 billion for local public works projects which provide jobs through construction in places with the most distressing levels of unemployment.

Unemployment Compensation.—Congress has extended the unemployment compensation program until October 31 to aid those temporarily unemployed with an income to meet their day-to-day living expenses.

Youth Employment.—We have enacted a new title to CETA to put 200,000 unemployed youths to work on neighborhood improvement, public facilities, parks and other projects in an effort to enhance job prospects and career opportunities for youths.

Housing and Community Development.—Congress has enacted a $14.6 billion multiyear authorization for housing assistance and community development.

INTERNATIONAL

Arab Boycott.—We have enacted provisions attacking the most repugnant aspects of the Arab boycott against Israel and generally improving export administration.

Rhodesian Chrome.—Congress acted early this year to halt the importation of chrome from Rhodesia which was in violation of U.N. sanctions against trade with that country.

Foreign Corporate Bribes.—We have cleared for the President's signature a measure to make it a crime for U.S. companies to bribe foreign officials and to remove the means of concealing bribes by falsification of corporate records.

Intelligence Activities.—For the first time in history, the Senate voted on a separate bill authorizing the budget for the intelligence activities of the U.S. Government including specific amounts for the CIA and the DIA.

Transfer of Prisoners in Mexican/Canadian Jails.—The Senate has agreed to a resolution of ratification of treaties with Mexico and Canada to allow American convicted prisoners in those countries to return to the U.S. to serve out their prison terms and has enacted provisions implementing the treaties. Americans in prisons in Mexico have already been returned to the U.S. in exchange for Mexicans in American prisons.

HEALTH

Black Lung.—The Senate has agreed to the conference report on legislation to improve the benefits program to miners disabled from Black Lung disease.

Clinical Laboratories.—The Senate has voted to expand the program of mandatory licensure to all laboratories except military and veterans hospitals.

Health Research.—Congress enacted a $3.3 billion authorization for the major public health programs.

Medicare-Medicaid Anti-Fraud.—We have written into law provisions to strengthen the capability of the government to detect, prosecute, and punish fraud under the Medicare-Medicaid programs.

Mine Safety.—The President has signed a bill to strengthen the national mine safety and health program by providing uniform administration and enforcement for the entire mining industry under a single Act administered by the Department of Labor.

OTHER

Social Security Financing.—We have sent the President a measure designed to insure the solvency of the social security system for the next 50 years so that American workers or retirees will not have their present or future retirement benefits jeopardized.

Omnibus Farm Bill—Food Stamps.—We have enacted a 4-year extension of the basic price support programs for major commodities and the Food for Peace (P.L. 480) program. This bill also makes important revisions in these programs as well as needed reform to the Food Stamp program.

Age Discrimination in Employment.—In conference is a measure which raises from 65 to 70 years the maximum age limit protected under the Age Discrimination in Employment Act.

Senate Committee Reorganization and Code of Ethics.—At the beginning of the session, the Senate reduced the number of Senate committees and realigned jurisdictions into a more rational order. It agreed to numerous other changes to spread legislative responsibilities more equally among all Senators. The Senate also adopted an official code of conduct for Senators and staff which requires extensive financial disclosure.

Ethics in Government.—The Senate has passed a bill requiring extensive financial disclosure by top officials and employees throughout the Federal government and providing for the appointment of a special prosecutor who would be responsible for investigating any wrongdoing of top government officials.

Presidential Reorganization Authority.—Congress has enacted a 3-year extension of the President's authority to submit to Congress plans to reorganize Executive Branch agencies.

Defense Funds.—We have appropriated $109 billion for the Department of Defense and have omitted funding for procurement of the B–1 bomber.

Insecticides (FIFRA).—Under Senate-House conference consideration is a measure designed to improve the operation of the Federal pesticide registration program and to protect the public against health and environmental hazards from pesticides.

Omnibus Judgeships.—The Senate passed a bill providing for the appointment of 110 additional permanent district court judges to permit the judicial system to keep pace with increased cases.

Campaign Financing.—The Senate has passed a measure simplifying the reporting requirements for candidates and generally improving the administration of the present law.

Minimum Wage Increase.—We have enacted an increase in the minimum wage to $3.35 over the next four years.

Child Abuse and Pornography.—The Congress has sent the President provisions to fund a program to prevent and treat sexual abuse of children. Awaiting final action by the House is a conference report making it a Federal offense to use children under 16 in the production of pornographic materials.

5-YR COMPARISON OF SENATE LEGISLATIVE ACTIVITY THROUGH ADJOURNMENT

	1973	1974	1975	1976	1977
Days in session	184	168	178	142	178
Hours in session	1,084:13	1,068:09	1,177:11	1,033:01	1,143:42
Total measures passed	726	838	682	870	704
Rollcall votes	594	544	611	700	636
Rollcall votes before 12 noon	50	36	69	97	52
Rollcall votes after 8 p.m.	15	0	32	35	71
Public laws	245	404	205	383	210
Treaties	22	9	15	17	5
Confirmations	66,815	64,437	71,276	55,251	66,531

	1973	1974	1975	1976	1977
Senate average attendance (percent)	87.29	86.72	89.14	83.05	88.39
Sessions which convened before 12 noon	117	125	124	104	101
Sessions which convened at noon	66	43	53	38	24
Sessions which convened after noon	1	0	1	0	53
Sessions which continued after 6 p.m.	34	38	40	22	37
Sessions which continued after 7 p.m.	8	16	10	16	32
Sessions which continued after 8 p.m.	8	5	25	27	34
Saturday sessions	[1]9	0	3	1	3

[1] Includes 1 Sunday session.

STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN
DEC. 15, 1977

Message or communication title, bill No.	Senate action	House action	Conference or other action	Date approved	Public Law No.
Presidential Message No. 21 (Jan. 17, 1977), budget rescission ($452,600,000 for Nimitz-class nuclear carrier and Aegis), H.R. 3839.	Passed Senate Mar. 15, 1977	Passed House Mar. 3, 1977		Mar. 25, 1977	95–15
Presidential Message No. 22 (Jan. 17, 1977):					
Top level executive, legislative, and judicial salary increases.	Senate tabled Allen, et al., amendment to S. Res. 4 disapproving pay recommendation Feb. 2, 1977; voted Mar. 3, 1977 against repealing increase.	House twice objected to request to consider disapproval resolution, H. Res. 115, Feb. 16, 17; voted June 29, 1977, to reject amendment to H.R. 7932, 1978 legislative branch appropriations, delaying funds for Mar. 1 increase.		(1)	(1)
Ethics code	S. Res. 110 (Senate ethics code), passed Senate Apr. 1, 1977.	H. Res. 287 (House ethics code), passed House Mar. 2, 1977.		(2)	(2)
Executive Communication No. 441 (Jan. 26, 1977), Emergency Natural Gas Act, S. 474 (administration bill).	Passed Senate Jan. 31, 1977	Passed House, amended Feb. 2, 1977	Conference report agreed to Feb. 2, 1977, in Senate; Feb. 2, 1977, in House.	Feb. 16, 1977	95–2
Presidential Message No. 32 (Jan. 31, 1977), economic recovery:					
(a) Economic stimulus appropriations (public works jobs, revenue sharing, and public service employment), H.R. 4876.	Passed Senate, amended May 2, 1977	Passed House Mar. 15, 1977	Conference report agreed to May 4, 1977, in House; May 5, 1977 in Senate.	May 13, 1977	95–29
(b) Public works jobs ($4,000,000,000 increase), H.R. 11.	Passed Senate, amended Mar. 10, 1977	Passed House Feb. 24, 1977	Conference report agreed to Apr. 29, 1977, in Senate; May 3, 1977, in House.		95–28
(c) Countercyclical revenue sharing	Passed Senate as amendment to H.R. 3477 Apr. 29, 1977.	H.R. 6810, passed House Apr. 13, 1977	Conference report contained 1-yr extension of program instead of 5 yr as requested by President.	May 23, 1977	95–30
(d) Tax reform and simplification for individuals and business (tax rebate withdrawn), H.R. 3477.	Passed Senate Apr. 29, 1977	Passed House Mar. 8, 1977	Conference report agreed to May 17, 1977, in House and Senate.	do	95–30
Presidential Message No. 33 (Feb. 4, 1977), Presidential organization authority, S. 626.	Passed Senate Mar. 3, 1977	Passed House, amended Mar. 29, 1977	Senate agreed to House amendments Mar. 31, 1977.	Apr. 6, 1977	95–17
Presidential Message Nos. 40 (Feb. 21, 1977) and 57 (Mar. 24, 1977), water development projects:					
H.R. 11 (public works jobs)	Senate adopted Johnston amendment expressing sense of Congress to continue funding for water projects.			May 13, 1977	95–28
H.R. 7553 (public works appropriations, 1977).	Passed Senate amended July 13, 1977 (Senate bill funds 9 of 18 water projects opposed by President).	Passed House June 14, 1977 (House bill funds 17 of 18 opposed by President).	Conference report agreed to July 25, 1977 in House and Senate funding 9 of 18 water projects.	Aug 7, 1977	95-96
Presidential Message No. 41 (Feb. 22, 1977):					
1978 Budget Revisions, S. Con. Res. 19	Passed Senate May 4, 1977	Passed House, amended May 5, 1977	Conference report agreed with to amendment May 16, 1977 in Senate; House agreed to Senate amendment May 17, 1977.	(3)	(3)
Presidential Message No. 42 (Mar. 1, 1977):					
Creates Cabinet Department of Energy, S. 826.	Passed Senate May 18, 1977	Passed House amended June 3, 1977	Conference report agreed to Aug. 2, 1977 in House and Senate.	Aug 4, 1977	95-91
Presidential Message No. 45 (Mar. 4, 1977):					
Airline deregulation	Commerce Committee ordered an original bill which combines S. 292 and S. 689, reported Oct. 27.	Public Works Subcommittee on Aviation hearings on H.R. 8813 completed Oct. 19; committee not expected to schedule markup until 2d sess.			
Presidential Message No. 47 (Mar 9, 1977), youth unemployment:					
(a) $342, increase for Job Corps.				(4)	(4)
(b) New Youth title to CETA, H.R. 6138.	Passed Senate, amended May 26, 1977	Passed House May 17, 1977	Conference report agreed to July 19, 1977, in House; July 21, 1977 in Senate.	Aug .5, 1977	95-93
(c) 1-yr extension of CETA, H.R. 2992.	Passed Senate, amended May 25, 1977	Passed House March 29, 1977	House agreed to Senate amendment June 3, 1977.	June 15, 1977	95–44
Presidentail Message No. 51. (February 17, 1977), Foreign aid.					
(a) Multilateral development assistance (financial institutions), H.R. 5262.	Passed Senate, amended June 14, 1977	Passed House April 6, 1977	Conference report agreed to July 27, 1977 in Senate; House rejected September 16, 1977, and agreed to Senate amendments with amendments; Senate amendments with amendments; Senate agreed to House amendments September 21, 1977.	Oct. 3, 1977	95–118
(b) Bilateral development assistance ($1,300,000,000) Public Law 480 program changes, H.R. 6714.	Passed Senate, amended June 15, 1977	Passed House May 12, 1977	Conference report agreed to July 21, 1977, in House; July 22, 1977 in Senate.	Aug. 3, 1977	95–88
(c) Public Law 480 program extension, S. 275.	Passed Senate May 24, 1977	Passed House, amended July 28, 1977	Conference report agreed to September 9, 1977, in Senate; September 16, 1977, in House.	Sept. 29, 1977	95–113
(d) Security assistance, H.R. 6884.	Passed Senate, amended June 15, 1977	Passed House May 24, 1977	Conference report agreed to July 21, 1977, in House; July 22, 1977 in Senate.	Aug. 5, 1977	95–92
Presidential Message No. 52 (Feb. 17, 1977), oil tanker spills.	S. 682 (tanker safety), passed Senate May 26, 1977.	H.R. 6803, passed House Sept. 12, 1977			
	S. 2083 (oil pollution), reported by Commerce Committee Sept. 12, 1977; referred to Environment and Public Works Committee Sept. 12, 1977. No further action scheduled this session.	do			

Footnotes at end of table.

STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN, DEC. 15, 1977—Continued

Message or communication title, bill No.	Senate action	House action	Conference or other action	Date approved	Public Law No.
Presidential Message No. 55 (Mar. 22, 1977), election reform:					
(a) Voter registration	S. 1072 reported by Rules Committee May 16, 1977; tabled Oct. 5, 1977.	H.R. 5400 on Union Calendar (Cal. No. 162).			
(b) Public financing	Senate agreed to Allen amendment to S. 926 deleting public financing for Senators elections Aug. 2.	Administration Committee hearings on campaign reform completed July 12: in meeting of Oct. 25, committee deferred markup until 2d sess.			
(c) Campaign Act Amendments	S. 926, passed Senate Aug. 3, 1977	do			
(d) Direct election of President	S.J. Res. 1 on Senate calendar (Calendar No. 557).	H.J. Res. 33, 39, 45, 118, 144, 168, 217, 350, and 434 pending in Judiciary Subcommittee on Monopolies and Commercial Law—no action scheduled.			
(e) Hatch Act changes	Government Affairs Committee completed hearings on S. 80 Sept. 26; no further action scheduled this session.	H.R. 10, passed House June 7, 1977			
Presidential Message No. 56 (Mar. 23, 1977), drought assistance:					
(a) EDA emergency water system improvement S. 1279.	Passed Senate May 11, 1977	Passed House May 17, 1977		May 23, 1977	95–31
(b) FHA emergency water system improvement and southwestern power assistance to irrigators on Federal Reclamation Bureau projects.				(5)	(5)
(c) SBA drought assistance loan program.	S. 1306, passed Senate Aug. 5, 1977	Small Business hearings on H.R. 6047 (administration bill) and 11 related bills, Apr. 19, 22, June 9, 13, 17—no further action is planned.			
(d) H.R. 692 (contains similar objectives).	Passed Senate, amended May 19, 1977	Passed House Feb. 9, 1977	Conference report agreed to July 26, 1977 in House; July 27, 1977 in Senate.	Aug. 4, 1977	95–89
(e) Water bank objectives, S. 925	Passed Senate Mar. 15, 1977	Passed House, amended Apr. 4, 1977	Senate agreed to House amendments Apr. 4, 1977.	Apr. 7, 1977	95–18
(f) Transfer of emergency livestock feed program.	Senate agreed to Humphrey amendment to S. 275 (Farm bill) which passed Senate May 24, 1977.	H.R. 4295 in full committee (President no longer supports because of subcommittee amendments.	Conference report on S. 275 agreed to Sept. 9, 1977 in Senate; Sept. 16, 1977 in House.	Sept. 29, 1977	95–113
Presidential Message No. 64 (Apr. 6, 1977), Agency for Consumer Advocacy.	S. 1262 transferred to calendar under subjects on the table.	H.R. 6805 on Union Calendar (Calendar No. 183).			
Presidential Message No. 71 (Apr. 25, 1977), Health care system improvements:					
(a) Hospital Cost Containment Act	Human Resources Committee ordered S. 1391 (administration bill) reported Aug. 2; Finance Subcommittee on Health plans to expand S. 1470 to include provisions of S. 1391; hearings completed Oct. 21; no further action scheduled this session.	Ways and Means and Interstate and Foreign Commerce Subcommittees on Health joint hearings on H.R. 6575 complete; Ways and Means markup, July 20, 27-28; Interstate and Foreign Commerce Subcommittee markup complete; pending in full committee; no further action scheduled this session.			
(b) Child Health Assessment program	S. 1392 pending in Finance Committee—no action scheduled.	Interstate and Foreign Commerce Subcommittee on Health and Environment hearings on H.R. 6706 complete; markup deferred until 2d sess.			
Presidential Message No 74 (Apr. 27, 1977), nuclear nonproliferation policy.	S. 897 on Senate Calendar (Calendar No. 432).	H.R. 8638, Passed House Sept. 28, 1977			
Executive Communication No. 1246, Energy policy.		H.R. 8444—Passed House August 5, 1977, allows continued control of natural gas pricing, but broadens the definition of "new gas"; approves an oil equalization tax; contains a modified gas-guzzler tax; and does not allow the administration's proposed gas tax hike.			
(1) Pricing, regulatory and nontax:					
H.R. 5146 (S. 977)	(1) Coal conversion—Passed Senate, amended Sept. 8, 1977.	Passed House July 18, 1977	House agreed to Senate amendments with amendments Oct. 13, 1977, incorporating relevant provisions of H.R. 8444 as passed House; in conference.		
H.R. 5037 (S. 2057, S. 701, S. 7893)	(2) Conservation—Energy Conservation Act, passed Senate, amended Sept. 13, 1977.	do	do		
H.R. 5289 (S. 2104)	(3) Natural gas—Passed Senate, amended Oct. 4, 1977.	do	do		
H.R. 4018 (S. 2114)	(4) Utility rates—Passed Senate, amended Oct. 6, 1977.	do	do		
(2) Tax provisions, (H.R. 5263)	Passed Senate, amended Oct. 31, 1977	do	In conference		
Presidential Message No. 78 (May 3, 1977), ethics in government.	S. 555, passed Senate June 27, 1977	H.R. 7401 dealing with legislative branch on Union Calendar (Calendar No. 293); Judiciary Committee ordered H.R. 1 dealing with executive and judicial branches on Union Calendar (Calendar No. 418); Post Office and Civil Service Committee reported H.R. 6954, Sept. 28 (H. Rept. 95–642, pt. I); Armed Services reported H.R. 6954, Oct. 17 (H. Rept. 95–642, pt. II).			
Presidential Message No. 79 (May 9, 1977), social security trust funds, H.R. 9346.	Passed Senate, amended Nov. 4, 1977	Passed House Oct. 27, 1977	Conference Report agreed to in House and Senate Dec. 15, 1977.		95–
Message (May 23, 1977), Genocide Convention ratification.	Foreign Relations hearings May 24, 26; no further action scheduled this session.	No House action needed			
Presidential Message No. 83 (May 23, 1977), environmental protection:					
(a) Clean air, H.R. 6161	Passed Senate, amended June 10, 1977	Passed House May 26, 1977	Conference report agreed to in House and Senate Aug. 4, 1977.	Aug. 7, 1977	95-95
(b) Clean water H.R. 3199	Passed Senate, amended Aug. 4, 1977	Passed House Apr. 5, 1977	Conference report filed		
(c) FIFRA, S. 1678	Passed Senate July 29, 1977	Passed House, amended Oct. 31, 1977	In conference		
(d) Outer Continental Shelf	S. 9, passed Senate July 15, 1977	H.R. 1614 on Union Calendar (Calendar No. 306).			
(e) Strip mining, H.R. 2	Passed Senate amended May 20, 1977	Passed House Apr. 29, 1977	Conference report agreed to July 20. 1977 in Senate; July 21, 1977 in House.	Aug. 3, 1977	95-87
(f) Mining on public lands	S. 1248 and S. 2133 (administration bill) pending in Energy Subcommittee on Public Lands—no further action this sessions.	Interior and Insular Affairs subcommittee on Mines and Mining hearings on H.R. 9292 and 5831 Oct. 13, 14, 17, 18; field hearings will begin after adjournment of 1st sess.			
(g) Urban homesteading provisions in H.R. 6655.	Passed Senate, amended June 7, 1977	Passed House May 11, 1977	Conference report agreed to Oct. 1, 1977 in Senate; Oct. 4, 1977 in House.	Oct. 12, 1977	95-128
(h) Alaska wilderness	Energy Committee hearings on S. 499, 500 and 1500 June 17, 20—no further action scheduled this session.	Interior and Insular Affairs Subcommittee on General Oversight and Alaska Lands completed hearings on H.R. 39; staff proposal briefing completed Oct. 28; general oversight and Alaskan Lands Subcommittee markup scheduled, Jan. 11, 12, and B.			

Message or communication title, bill No.	Senate action	House action	Conference or other action	Date approved	Public Law No.
(i) Wild and scenic rivers (8 new; 20 proposed).	Referred to Energy and Natural Resources Subcommittee on Parks and Recreation. Nothing further scheduled this session.	Interior and Insular Affairs Subcommittee on National Parks and Insular Affairs—No action scheduled this session.			
(j) Scenic trails (2 new).	do	do			
(k) Redwood National Park extension	S. 1976 on Senate calendar (Calendar No. No. 532).	H.R. 3813 on Union Calendar (Calendar (Calendar No. 333).			
(l) Convention of migratory birds	Extension K, 95th Cong., 1st sess., pending in Foreign Relations Committee—No action scheduled this session.	No House action needed			
Presidential Message No. 86 (June 2, 1977), Extension of most-favored-nation status of Romania.	Finance Subcommittee on International Trade hearing complete—No further action scheduled.	H. Res. 653 (disapproval resolution) indefinitely postponed Aug. 3, 1977.		(6)	(6)
Presidential Message No. 95 (July 15, 1977), Reorganization Plan No. 1—Executive branch, as amended by Presidential Message No. 113 (Sept. 15, 1977).	Senate indefinitely postponed S. Res. 222 (disapproval resolution), Oct. 20, 1977.	House rejected H. Res. 688 (disapproval resolution), Oct. 14, 1977.			
Presidential Message No. 96 (July 18, 1977), labor-management relations.	Human Resources Committee hearings on S. 1883 completed Nov. 4; markup to be scheduled in 2d sess.	H.R. 8410, passed House Oct. 6, 1977			
Presidential Message No. 97 (July 19, 1977), rescission of $642,000,000 for B–1 bomber and $1,400,000 for SCRAM–B.	H.R. 9375, the 1978 Supplemental Appropriation bill, passed Senate Nov. 1, 1977 with a committee amendment to rescind funds for the B–1 bomber and SCRAM–B.	H.R. 9375, passed House Oct. 25, 1977 without rescinding funds for the B–1 bomber and SCRAM–B.	House agreed to conference report Dec. 6, 1977, insisting on its amendment deleting the rescission; Senate agreed to conference report Dec. 7, 1977 but took no action on the rescission provisions. Further floor action scheduled Dec. 15, 1977.		
Presidential Message No. 103 (Aug. 2, 1977), drug abuse (marihuana decriminalization and FDA standards).	Referred to Foreign Relations Committee; S. 1437 (containing provisions related to marihuana) on Senate Calendar No. 555).	Interstate and Foreign Commerce Subcommittee on Health—no action scheduled this session.			
Presidential Message No. 104 (Aug. 4, 1977), illegal aliens.	S. 2252, referred to Judiciary Subcommittee on Immigration—no action scheduled this session.	H.R. 9531, referred to Judiciary Subcommittee on Immigration—no action scheduled this session.			
Presidential Message No. 105 (Aug. 6, 1977), welfare reform.	S. 2084 (administration bill), referred to Finance Committee (no action scheduled), and Human Resources Commitntee (no action scheduled); H.R. 7200 (another reform bill) on Senate Calendar (Calendar No. 527); H.R. 3387 extending through fiscal year 1978 certain provisions relating to title XX of the Social Security Act became Public Law 95–171.	Ad hoc Committee on Welfare Reform with members from Ways and Means, Education and Labor, and Agriculture Committees hearings on H.R. 9030 Sept. 19–21, 29, 30, Oct. 11, 12, 14, 31, Nov. 1–3; markup in progress.			
Presidential Message No. 114 (Sept. 22, 1977), Alaska Natural Gas Transportation System "Alcon Proposal," H.J. Res. 621.	Passed Senate Nov. 2, 1977	Passed House Nov. 2, 1977		Nov. 8, 1977	95–158
Presidential Message No. 120 (Oct. 6, 1977), public broadcasting.	S. 2235 (Administration bill), referred to Commerce Subcommittee on Communications—no action scheduled this session.	H.R. 9640 pending in Interstate and Foreign Commerce Subcommittee on Communications—subcommittee had full briefing by administration Oct. 19—no further legislative action scheduled this session.			
Presidential Message No. 123 (Oct. 11, 1977), Reorganization Plan No. 2, U.S. broadcasting consolidation, as amended by Presidential Message No. 128 (Nov. 1, 1977).	S. Res. 293 (disapproval resolution) indefinitely postponed, Dec. 15, 1977.	House rejected H. Res. 827 (disapproval resolution) Nov. 29, 1977.			

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[1] Became effective Feb. 20, 1977.

[2] House code became effective Mar. 2 1977; Senate code became effective Apr. 1, 1977.

[3] Action complete.

[4] In H.R. 4876, Economic Stimulus Appropriations, Public Law 95–29.

[5] In H.R. 4877, Supplemental Appropriations, 1977, Public Law 95–26.

[6] Will continue in force for additional year.

SENATE LEGISLATIVE ACHIEVEMENTS

95th Congress, 1st Session

January 4, 1977 to December 15, 1977

(Prepared by Senate Democratic Policy Committee, ROBERT C. BYRD, Chairman)

SENATE ACTIVITY

Days in session	178
Hours in session	1142:42
Total measures passed	704
Private laws	25
Public laws	210
Treaties	5
Confirmations	66,531
Record votes	636

Symbols: (VV)—Passed by Voice Vote; numbers in parenthesis indicate number of record vote on passage, conference report, or reconsideration.

AGRICULTURE

Disaster loan exemptions.—Exempts disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations in the Agricultural Acts of 1970 and 1949 of $20,000 each for wheat, feed grains, and upland cotton, and of $55,000 for rice. H.R. 9090—Public Law 95–156, approved November 8, 1977. (575)

Federal crop insurance.—Amends the Federal Crop Insurance Act to increase from $150 million to $200 million the capital stock of the Federal Crop Insurance Corporation; provides that capital stock would be available for purchase by the United States subject to the call of the Board of Directors of the Corporation with the approval of the Secretary of Agriculture; and requires the Secretary to study alternate programs which could be established for an all-risk, all-crop insurance program to protect those suffering crop losses due to natural disasters and report his findings to the President for transmission to the Congress by March 1, 1978. H.R. 9704—Public Law 95–181, approved November 15, 1977. (VV)

Federal crop insurance corporation capital.—Amends the Federal Crop Insurance Act to increase the authorized capital stock of the Federal Crop Insurance Corporation from $100 million to $150 million in order to replenish its operating capital which was nearly exhausted as a result of indemnity payments to insured farmers for crop losses during the 1976 drought and harsh winter of 1977. S. 955—Public Law 95–47, approved June 16, 1977. (VV)

FIFRA.—Extends through fiscal year 1979 the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and authorizes therefor $54.5 million for fiscal 1978 and such sums as necessary but not to exceed $70 million for fiscal 1979; limits the scope of the prohibition against the use of a pesticide in a manner inconsistent with its labeling by providing four specific exceptions; amends the provision relating to the use of data submitted by an applicant for registration of a pesticide which relies on the test data submitted by another applicant by extending to the data owner a right to compensation for use of the data for 7 years after its original submission and establishes a procedure for settling compensation disputes by binding arbitration; eliminates the prohibition against the use of data submitted to the Environmental Protection Agency in order to obtain registration which contains "trade secret" information in processing the application of another person for the registration of a similar pesticide; establishes procedures governing the generation of data needed to maintain existing pesticide registration, including provisions requiring all registrants of a pesticide to take appropriate steps to secure the necessary additional data, arrangements by which the necessary data can be submitted jointly by the registrants to avoid the waste involved in duplicative testing, and the settling of disputes over cost-sharing arrangements by binding abitration;

Authorizes "generic" registration of pesticides; directs the Administrator to establish a simplified system for registering pesticides and exempts applicants who purchase registered technical-grade or manufacturing-use pesticides for formulation into end-use products from requirements pertaining to the submission of data to determine safety and from the obligation to pay compensation for use of the data; authorizes the Administrator of EPA to waive registration requirements pertaining to the submission of data relating to the efficacy of pesticides in considering an application for registration; authorizes the conditional registration of pesticides during the period in which data need for complete registration are being generated if the conditional registration would not significantly increase the risk of any unreasonable adverse effect on health or the environment; permits the Administrator to classify all pesticides prior to the completion of the registration required by the 1972 amendment, in order that States may proceed with programs for the training and certification of applicators; permits the Administrator to conduct programs for the certification of applicators of pesticides in States which do not have an approved State plan by October 20, 1977; directs the Administrator to consider restricting a pesticide's use or uses as an alternative to cancelling a registration; requires the Administrator to issue a notice of intent to cancel a conditional registration if the condition upon which the registration was based had not been satisfied within the time provided; requires the Administrator to submit an annual report by February 15 of each year beginning with fiscal 1979 on the total number of applications for conditional registration, those approved, and the conditions upon which they were approved; limits the prohibition against public disclosure of "trade secret" information only to data relating to the manufacturing process or the identify or percentage quantity of inert ingredients which data could nontheless be made public if necessary to protect against an unreasonable risk of injury to health or the environment;

Modifies the civil penalty provisions of the act and authorizes the Administrator to issue a warning in lieu of a civil penalty in certain cases; gives the States primary enforcement responsibility with Federal enforcement permitted only if the State is not carrying out regulation and enforcement provisions in accordance with the act; authorizes cooperative agreements with Indian tribes and clarifies the provision relating to the use of the services of the Cooperative State Extension services to inform and educate all pesticide users of the provisions of the Act; extends to January 1, 1981, the Scientific Advisory Panel; establishes "professional applicators" as a class to which provisions of the Act apply and defines the term as an applicator who applies pesticies for hire; requires applicators to keep certain records and includes their business premises among the establishments subject to inspection by designated agents of the Administrator; provides that a non-registered pesticide or device intended for export would be misbranded if the label did not contain the phrase "Not Registered for Use in the United States"; requires the registration of establishments that produce pesticides or active ingredients from which they are produced for export; and requires the Administrator, within nine months, to submit a report to the Congress on the feasibility of assessing and collecting fees to cover the costs of the pesticide registration program. S. 1678—Passed Senate July 29, 1977; Passed House amended October 31, 1977; In conference. (VV)

Grain Inspection.—Amends the United States Grain Standards Act to facilitate and improve the implementation of the amendments made in 1976 (Public Law 94–582); establishes a temporary 12–member committee (representing farmers, consumers and all segments of the grain industry) to advise the Administrator of the Federal Grain Inspection Service (FGIS) on the implementation of the 1976 act, and provides for its termination 18 months after the date of enactment; eliminates the requirement that grain merchandisers and elevator operators using grain inspection or weighing services maintain certain itemized types of records of their operations for a five-year period and requires them instead to keep only such records as the Administrator may prescribe for administration and enforcement; repeals, effective October 1, 1977, the authority for the charging of fees for Federal supervision of grain inspection and weighing and provides instead for funding of these activities through the regular appropriations process; makes several technical amendments; and prohibits effective May 1, 1977, subclassing of the hard red winter wheat on the basis of color, kernel content, or percentage of dark, hard and vitreous kernals. S. 1051—Passed Senate March 30, 1977. Note: (Provisions contained in S. 275, Omnibus Farm Bill, which became Public Law 95–113. (88)

Land and water resources conservation.—Establishes a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources; requires the Secretary of Agriculture to (1) prepare an appraisal of the Nation's land, water and related resources and (2) develop a national land and water conservation program setting forth the direction for future soil and water conservation efforts by the Department of Agriculture on the Nation's private and non-Federal lands by December 31, 1979, and to update them each fifth year thereafter; requires that the appraisal and the program together with a detailed statement of policy for soil and water conservation activities be transmitted to Congress on the first day it convenes in 1980 and at each 5-year interval thereafter; requires the President beginning in fiscal 1982 and within 30 days of submission of his budget, to prepare and transmit to Congress a report stating the extent to which the programs and policies projected under the budget meet the statement of policy and to set forth reasons for requesting Congress to approve a lesser program or policy presented in the budget; requires the Secretary to submit to Congress beginning with fiscal 1982, an annual report evaluating the program's effectiveness; and authorizes such sums as necessary to carry out the act. S. 106—Public Law 95–192, approved November 18, 1977. (VV)

Omnibus farm bill.—Extends for 4 years through fiscal year 1981 the basic price support programs for wheat, feed grains, cotton, rice, and wool, the food stamp program, and the Food for Peace Program (P.L. 480); extends for three years the authorization for the Environmental Protection Agency to regulate pesticides; and establishes a new charter and clearer direction for the Federal role in agricultural research;

Payments limitation.—Places a limitation of $40,000 on the total payments which a person may receive annually under one or more of the programs for wheat, feed grains, and upland cotton for the 1978 crops, $45,000 for the 1979 crops, and $50,000 each for the 1980 and 1981 crops instead of the present $20,000 ceiling; limits such payments for rice to $52,250 for the 1978 crops, and $50,000 each for the 1979, 1980 and 1981 crops instead of the present $55,000 limitation;

Commodity programs.—Milk—sets the price support at 80 percent of parity adjusted semiannually but reviewed quarterly through March 31, 1979; Wool—updates the support levels to 85 percent of the formula; Wheat—sets the target price in 1977 at $2.90 per bushel with an increase thereafter if the cost per bushel unless the crop is 1.8 billion bushels or less in which case it will be $3.05 per bushel with an increase thereafter if the cost of production exceeds that level; Feedgrains—sets the target price levels for corn at $2.00 per bushel in 1977 and $2.10 in 1978 and any increases thereafter will be based on cost of production, and ties the target level for other feedgrains to corn; Cotton—establishes a target price of 51.1 cents per pound for 1978 to increase in subsequent years in relation to cost of production increases; Peanuts—establishes a national acreage allotment and a minimum national poundage quota; sets up a price support program for producers through loans, purchases or other operations; Soybeans—requires price support loans for producers on the 1978 through 1981 crops at a level determined appropriate by the Secretary; Sugar—requires the prices of the 1977 and 1978 crops of sugar beets and cane to be supported at 52.5 to 65 percent of parity, but not less than 13.5 cents per pound, raw sugar equivalent;

Grain reserves.—Requires the Secretary to formulate a producer storage program on original or extended price support loans for wheat and feedgrains at the same support level as provided by the 1949 Act, as amended, repayable in 3 to 5 years; authorizes the President to negotiate a system of food reserves for humanitarian food relief and to maintain such a reserve of food commodities as a contribution of the United States to the system; expands the authority of the Secretary to acquire commodities for disposition in the event of national disasters; makes the following changes in the farm storage facility loan program; authorizes the Secretary of Agriculture to use guarantees on secured loans as well as direct loans as a means of assisting farmers to construct or purchase on-farm facilities; permits the making or guaranteeing of loans for the construction of facilities to store high moisture grain and forage crops, as well as dry grain; and requires, with respect to direct loans, that the borrower put up security for the loan and base the interest rate charged to farmers on the rate charged the Commodity Credit Corporation;

Emergency feed program.—Authorizes the Secretary to implement an emergency feed program to assist producers in preserving and maintaining livestock;

Food for peace program (P.L. 480).—Extends the program through 1981 and increases the annual authorization to $750 million but allows carryover of unobligated funds of only the preceding calendar year; prohibits payment of commissions to selling agents; (additional changes in the program are contained in S. 1520, the Foreign Aid Authorization bill):

Food stamp reforms.—Eliminates the purchase requirements; limits participation to households whose incomes and other financial resources are determined to be a substantial limiting factor in permitting them to obtain a nutritionally adequate diet; establishes a standard deduction of $60 a month for each eligible household and an additional deduction of 20 percent of all earned income; allows a household to claim (1) a dependent care deduction, (2) a deduction for shelter expenses in excess of 50 percent of household income, or (3) a combination of both deductions; provides that in no event could the amount claimed for dependent care or excess shelter or both exceed $75 per month, an amount indexed to the Consumer Price Index; requires unemployed participants to seek employment; requires a 60-day period of ineligibility for a household whose head voluntarily terminates employment; eliminates automatic, categorical eligibility of welfare recipients; gives Indian tribal organizations greater authority over food distribution programs on reservations; increases incentives for States to root out program abuse and improve administration; authorizes pilot projects to improve administration; and extends authority to purchase commodities and establishes the Federal share of administrative costs for the Commodity Supplemental Food Program;

Food and Agricultural Research.—Expands support for research programs, improved dissemination of research findings, increased efficiency and coordination of Federally-funded food and agricultural research including nutrition research and animal health research; establishes a new program of grants for high-priority agricultural research to be awarded on the basis of competition among scientific research workers and all colleges and universities; establishes a new program of grants for facilities and instrumentation used in agricultural research; establishes a new program of education grants and fellowships to strengthen training and research programs in the food and agricultural sciences, to be awarded on the basis of competition;

Grain Inspection.—Adds the language of S. 1051, which amends the United States Grain Standards Act with respect to recordkeeping requirements and supervision fees, and establishes an advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service;

Other Provisions.—Amends the authorizations for several existing rural development and conservation programs and contains other provisions including those relating to the inclusion of aquaculture and human nutrition as functions of the Department of Agriculture, beekeepers indemnity, ice cream milk content standards, and the importation of filberts. S. 275—Public Law 95-113, approved September 29, 1977. (169,362)

Rabbit Meat Inspection.—Makes rabbit meat inspection mandatory at Federal cost, by extending, with certain exceptions, the provisions of the Poultry Products Inspection Act to rabbits and rabbit products, effective October 1, 1978. H.R. 2521—Vetoed November 9, 1977. (VV)

Tobacco Quotas.—Amends the Agricultural Adjustment Act of 1938 to increase from 50 percent to 80 percent the amount of the farm acreage allotment for Flue-cured tobacco which must be planted on farms desiring to lease acreage-poundage quotas after June 14 of any year. H.R. 3416—Public Law 95-54, approved June 25, 1977. (VV)

Tomato Standards.—Amends section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to require that imported tomatoes conform with pack-of-container standards imposed on domestic tomatoes under marketing orders. S. 91—Passed Senate July 25, 1977. (VV)

Wheat and Feed Grains Loan Levels.—States as the sense of the Senate that the Secretary of Agriculture should exercise his authority under existing law to increase the loan levels for the 1977 crops of wheat and feed grains. S. Res. 193—Senate agreed to June 22, 1977. (VV)

Wheat Producers Assistance.—Provides temporary emergency assistance to wheat producers who planted prior to January 1, 1977, in order to prevent further increases in carryover stocks resulting from record U.S. wheat production and decreasing U.S. exports; requires the Secretary of Agriculture to carry out, through the Commodity Credit Corporation, a special wheat acreage grazing and hay program for the 1977 crop whereby a wheat producer who elects to participate may designate an acreage of cropland on his farm, of not to exceed 40 percent of the wheat acreage allotment, for grazing purposes or hay production only; requires that the producer designate the specific acreage on the farm to be so used; directs the Secretary to pay any participating producer an amount determined by multiplying the number of acres placed in the program times the projected yield established for the farm times $1; makes the producer ineligible for any other payments or price supports, including deficiency payments and disaster payments under section 107 of the Agricultural Act of 1949, on that portion of the wheat allotment placed in the program; provides that such acreage shall be deemed to have been planted for harvest for the purposes of wheat acreage history; and authorizes the Secretary to issue the necessary regulations to carry out this act. S. 650—Passed Senate March 16, 1977. (60)

Wheat Referendum.—Defers the wheat marketing quota referendum for the 1978 crop, which by law must be held no later than August 1, until 30 days after the adjournment of Congress or October 15, whichever is earlier, in order to provide additional time for enactment of legislation, presently being considered by Congress, for the 1978 and subsequent wheat crops which would eliminate the need for a referendum. S. 1240—Public Law 95-48, approved June 17, 1977. (VV)

APPROPRIATIONS

Fiscal 1977:

Continuing.—Extends the continuing resolution (Public Law 94-473) which expires on March 31, 1977, until April 30, 1977, to provide financing authority for the following programs traditionally funded under the Departments of Labor, and Health, Education and Welfare Appropriations Act: higher education; National Health Service Corps; home health services; emergency medical services; library resources; teacher corps; alcohol abuse and alcoholism prevention, treatment and rehabilitation; health professions educational assistance; D.C. medical and dental manpower; activities under title VI of the Comprehensive Employment and Training Act; vocational education; and National Institute of Education; and amends the resolution to provide such amounts as necessary for the calendar quarter ending March 31, 1977, for general revenue sharing payments to State and local governments. H.J. Res. 351—Public Law 95-16, approved April 1, 1977. (VV)

Economic Stimulus.—Makes economic stimulus appropriations in the total amount of $20,101,484,000 in new budget obligational authority for fiscal year 1977; includes the following to implement the economic stimulus proposals recommended by the President in his message of January 31, 1977:

Public Works Projects.—$4 billion for acceleration of local public works projects;

Revenue Sharing Program.—$4,991,085,000 for revenue sharing payments for the last three quarters of fiscal 1977;

Antirecession Financing.—$632.5 million for increased antirecession payments under Public Law 94-369 to States and local governments in areas of high unemployment to assist them in maintaining basic services;

Public Service Employment.—$7.987 billion for public services jobs which will expand the present Comprehensive Employment and Training Act (CETA) public service programs from the current 310,000 jobs to 600,000 jobs by September 30, 1977, and 725,000 jobs by December 31, 1977;

Targeted Employment and Training Programs.—$1.438 billion for programs targeted to youth, veterans and those in need of new skills; and

Older Americans.—$59,400,000 for an additional 14,800 jobs for community service employment for Older Americans;

In addition, includes the following appropriations: $95 million for production of NASA's third shuttle orbiter; $300 million for the construction grants reimbursement program for sewage treatment plants; $175 million for a drought assistance program contingent upon enactment of authorizing legislation; $35 million increase in the obligation limitation on airport development grants; $366 million for various programs authorized under the Federal-Aid Highway Act; $50 million for the Northeast Corridor improvement program to speed up construction currently underway; and $2 million for IRS accounts collection and taxpayer service. H.R. 4876—Public Law 95-29, approved May 13, 1977. (130)

Supplemental.—Makes supplemental appropriations in the total amount of $28,923,859,260 for fiscal year 1977 for almost every department and agency of the Federal Government including appropriations to cover costs associated with the October 1, 1976, general government pay raise. H.R. 4877—Public Law 95-26, approved May 4, 1977. (98)

Urgent Disaster Supplemental.—Makes urgent supplemental appropriations of $200 million for fiscal year 1977 for disaster relief activities resulting from the severe weather conditions prevalent throughout the nation. H.J. Res. 269—Public Law 95-13, approved March 21, 1977. (VV)

Urgent Power Supplemental.—Makes urgent power supplemental appropriations of $6.4 million for fiscal year 1977 for the Department of the Interior, Southwestern Power Administration, for power purchases caused by critically low stream flow conditions in the area served by the Administration; and removes the restrictions in Public Laws 94-355 and 94-373 which limit the use of funds appropriated to ERDA subject to enactment of authorizing legislation to assure the continued funding of essential energy research development and demonstration programs. H.J. Res. 227—Public Law 95-3, approved February 16, 1977. (VV)

Fiscal 1978:

Agriculture.—Appropriates $12,749,378,000 in new budget authority for the Department of Agriculture and related agencies for fiscal year 1978; includes $441,202,000 for the Animal and Plant Health Inspection Service and $1 million for the Farmers' Home Administration for planning and evaluation of housing program; contains funding for domestic food programs; appropriates $50 million for fiscal year 1977 to be immediately available for the Agricultural Conservation Program in drought areas in the Southeast; and contains other provisions. H.R. 7558—Public Law 95-97, approved August 12, 1977. (VV)

Continuing.—Makes continuing appropriations for fiscal year 1978 for the Departments of Labor and Health, Education, and Welfare, the operations of the District of Columbia, and for salaries and related personnel benefits of employees carrying out functions under the Foreign Assistance and Related Programs Appropriations Act which shall be available from October 1, 1977, until enactment of their respective appropriations or October 31, 1977, whichever is earlier. H.J. Res. 626—Public Law 95-130, approved October 13, 1977. (VV)

Amends the continuing resolution, Public Law 95-130, to make continuing appropriations through November 30, 1977, for the Departments of Labor and Health, Education and Welfare and the operations of the District of Columbia. H.J. Res. 643—Public Law 95-165, approved November 9, 1977. (VV)

Continuing—District of Columbia.—Makes continuing appropriations for fiscal year 1978 for the operations and activities of the municipal government of the District of Columbia until enactment of the 1978 D.C. appropriation bill. S.J. Res. 90—Passed Senate October 12, 1977. Note: (Provisions are contained in H.J. Res. 626, Public Law 95-130. (VV)

Continuing—Labor-HEW.—Makes continuing appropriations for fiscal year 1978 for the Departments of Labor and Health, Education and Welfare and related agencies until enactment of the 1978 Labor-HEW appropriation bill. S.J. Res. 91—Passed Senate October 12, 1977. Note: (Provisions are contained in H.J. Res. 626, Public Law 95-130.) (VV)

Defense.—Appropriates $109,752,766,000 in new budget obligational authority for the Department of Defense for fiscal year 1978 including the pay, allowances, and support of military personnel, operation and maintenance of the forces, procurement of equipment and systems, and research, development, test and evaluation; omits funding for procurement of the B-1 bomber; includes $95.6 million for a clerk-hire subsidy of military commissaries; bars the use of funds to consolidate undergraduate helicopter pilot training; prohibits funds to support ROTC units not meeting minimum enrollment criteria; limits the number of military personnel in non-appropriated fund activities such as post exchanges and officers' clubs; limits the number of enlisted aides for general flag officers to a total of 300 for the Department of Defense; permits funds for the Civilian Health and Medical Program of the uniformed Services (CHAMPUS) to pay for psychiatric nursing and nurse-midwife services; and prohibits pay raises that would cause pay of wage board employees to exceed prevailing rates in the private sector but stipulates that no employee's pay shall be reduced from current levels. H.R. 7933—Public Law 95–111, approved September 21, 1977. (308)

District of Columbia.—Appropriates $399,116,000 in Federal funds and $1,340,431,800 in District of Columbia funds for a total of $1,739,547,800 for fiscal year 1978 for the operations and activities of the District of Columbia; contains second supplemental appropriations for fiscal 1977 of $7,378,500 payable from District funds; deletes funding for land acquisition for a Civic Center for the District; and adds a new title III making supplemental appropriations for fiscal year 1977 of $1.4 billion for the Disaster Loan Fund of the Small Business Administration which shall remain available until expended. H.R. 9005—Passed House September 16, 1977; Passed Senate amended October 4, 1977; In conference. (VV)

Foreign Aid.—Appropriates a total of $6,772,654,000 for foreign assistance and related programs for fiscal year 1978 including funds for foreign economic and military assistance, foreign military credit sales and the Export-Import Bank; includes $13 million for disaster assistance to Romania for fiscal year 1977; tightens the terms of U.S. development and security assistance loans so that loans reflect the varying potential for improvement among the national economies of aid recipients and provides that some loans will be for 20 or 30 years rather than a standard 40 years; provides that no part of any appropriation contained in this act shall remain available for obligation beyond the current fiscal year unless expressly provided by Congress; places a limitation of $115 million on the U.S. contribution to the United Nations Development Program; prohibits the U.S. from making a contribution to the United Nations University; appropriates $675,850,000 for foreign military credit sales of which $1 million is for Israel; prohibits the use of Export-Import Bank funds for exporting nuclear equipment to any non-nuclear weapons country that detonated a nuclear explosive after the date of enactment; prohibits U.S. direct aid and Export-Import Bank funds to be used to aid nations that granted sanctuary to international terrorists; places a limitation of $3 million on funds to be available for the United Nations Decade for Women; prohibits international military education and training funds for Argentina; prohibits military aid, training, or credit sales to Ethiopia or Uruguay; bans foreign military credit sales to Argentina, Brazil, El Salvador and Guatemala; limits military assistance to the Philippines to $18.1 million in fiscal year 1978, military credit sales to $1.85 million, and military education and training to $700,000; includes $50 million for the Sahel Development Program and limits U.S. assistance to 10 percent of total cash contributions to this drought-stricken area; includes security supporting assistance in the amount of $785 million for Israel, $750 million for Egypt, $93 million for Jordan, $90 million for Syria, $300 million for Portugal, $80 million for Southern Africa Special Requirements Fund, $20 million for Lebanon, and $15 million for Cyprus; provides $2 billion for international development banks which is almost a billion dollars increase above fiscal year 1977; states sense of the Congress language establishing appropriate levels for the "U.S. share" of future contributions to the international development banks; and limits the 1978 contribution to international banks until U.S. Executive Directors' salaries, now ranging from $78,820 to $83,830, are reduced to $50,000, the salary of the Assistant Secretary of the Treasury. (NOTE: House conferees agreed to the compromise after receiving assurances from the President that he would direct U.S. officials at the international banks to vote against loans to Vietnam, Cambodia, Laos, Uganda, Cuba, Mozambique, and Angola.) H.R. 7797—Public Law 95–148, approved October 31, 1977. (346,571)

HUD.—Appropriates a total of $69,370,554,000 in new budget authority for fiscal year 1978 which includes $7,538,644,000 for the Department of Housing and Urban Development of which $150 million is for disaster assistance; $39,144,000 for the Consumer Product Safety Commission; $848,803,000 for the Environmental Protection Agency; $4,017,940,000 for the National Aeronautics and Space Administration; $861,300,000 for the National Science Foundation; $17,770,282,000 for the Veterans' Administration; $6,854,924,000 for revenue sharing; and $1,400,000,000 for anti-recession financing; contains a provision to prohibit the use of government vehicles to drive Federal officials other than the Secretary of Housing and Urban Development between home and work; provides that no government consultants shall be paid in excess of the rate paid a GS–18 civil servant unless authorized by law; and prohibits the use of funds by EPA to administer or promulgate any program to tax, limit or otherwise regulate parking that is not specifically required pursuant to subsequent legislation. H.R. 7554—Public Law 95–119, approved October 4, 1977. (237)

Interior.—Appropriates a total of $10,026,349,000 for the Department of the Interior and related agencies for fiscal year 1978; includes significant increases in natural resources program, the Department's energy and minerals programs directed at the safe and environmentally sound development of energy resources both onshore and on the outer continental shelf, and the Forest Service; contains increased funding for energy programs outside the Interior Department with the major part directed to the Strategic Petroleum Reserve and programs benefiting American natives that are administered by Interior and HEW with emphasis on health, educational, and economic opportunities and the wise management of their natural resources; expands support for programs enhancing the Nation's cultural resources and for specific programs for the arts and humanities, historic preservation, the Smithsonian Institution, and others; and contains other provisions. H.R. 7636—Public Law 95–74, approved July 26, 1977. (221)

Labor-HEW.—Authorizes a total of $60,168,561,000 in new budget authority for fiscal year 1978 with $5,679,187,000 for the Department of Labor, $53,185,557,000 for the Department of Health, Education and Welfare, and $1,303,837,000 for related agencies;

Makes significant increases over the Administration's budget requests for the following: employment and training assistance programs, with primary emphasis on creating jobs for unemployed youths; the Occupational Health and Safety Administration to provide for an additional 100 Federal compliance staff members; health programs for community health services, preventive medicine, research and training; elementary and secondary education programs to provide title I grants to disadvantaged students, impact aid for schools in Federally affected areas, and emergency school aid to help school districts encountering special desegregation problems; higher education programs, particularly the basic opportunity grant, the direct student loan programs and a one-time demonstration project for law school clinical experience programs; the Head Start program; aging programs; rehabilitation programs; community service programs; and the Corporation for Public Broadcasting;

Makes significant decreases in the administration's budget requests for the Bureau of Labor Statistics, public assistance, and the Social Security Administration;

Contains a provision restricting the use of public funds for abortions; and prohibits the use of funds appropriated by this act to require the transportation of students, reorganization of school grade structures, pairing of schools, or clustering of schools for the purpose of achieving racial desegregation. H.R. 7555—Passed House June 13, 1977; Passed Senate amended June 29, 1977; House agreed to conference report August 2, 1977; Senate agreed to conference report August 4, 1977, with abortion provisions remaining in disagreement; House agreed to 2d conference report October 12, 1977; Senate agreed to 2d conference report October 12, 1977, insisting on its amendment regarding abortions; On October 27, the Senate defeated S. Res. 307 instructing Senate conferees to accept House abortion language; Senate agreed to 3d conference report and agreed to House abortion amendment with an amendment November 3, 1977; House disagreed to Senate amendment November 3, 1977; Senate agreed to House abortion amendment with an amendment November 29, 1977; House disagreed to Senate amendment November 29, 1977. (266, 583)

Labor-HEW-D.C. continuing.—Provides continuing appropriations through September 30, 1978, to the District of Columbia and the Departments of Labor and Health, Education, and Welfare;

District of Columbia.—Appropriates such funds as necessary to continue, at a rate not in excess of current operations, projects or activities which were conducted in fiscal years 1977 and which have been authorized for fiscal year 1978; provides that the Advisory Neighborhood Commission shall be continued at an annual rate of not to exceed $500,000; and adds $1.46 billion to the fiscal year 1977 Disaster Loan Fund of the Small Business Administration which shall remain available until expended;

Labor-HEW.—Authorizes a total of $60,168,561,000 in new budget authority for fiscal year 1978 with $5,679,187,000 for the Department of Labor, $53,185,557,000 for the Department of Health, Education, and Welfare, and $1,303,837,000 for related agencies;

Makes significant increases over the Administration's budget requests for the following: employment and training assistance programs with primary emphasis on creating jobs for unemployed youths; the Occupational Health and Safety Administration to provide for an additional 100 Federal compliance staff members; health programs for community health services, preventive medicine, research and training; elementary and secondary education programs to provide title I grants to disadvantaged students, impact aid for schools in Federally affected areas, and emergency school aid to help school districts encountering special desegregation problems; higher education programs, particularly the basic opportunity grant, the direct student loan programs and a one-time demonstration project for law school clinical experience programs; the Head Start program; aging programs; rehabilitation programs; community service programs; and the Corporation for Public Broadcasting;

Makes significant decreases in the administration's budget requests for the Bureau of Labor Statistics, public assistance, and the Social Security Administration;

Provides restricted use of public funds for abortions; prohibits the use of medicaid funds for abortions except in cases where the life of the mother would be endangered if the fetus were carried to term, or in cases of rape and incest if the incident is reported promptly to a law enforcement agency or a public health service, or in cases where two physicians have determined that severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term; and prohibits the use of funds appropriated by this act to require the transportation of students, reorganization of school grade structures, pairing of schools, or clustering of schools for the purpose of achieving racial desegregation. H.J. Res. 662—Public Law 95–205, approved December 12, 1977. (VV)

Legislative.—Appropriates a total of $990,067,800 for the Legislative Branch for fiscal year 1978; includes $653,395,000 for Congressional operations and $336,672,200 for related agencies totalling $20,520,700 for Congressional operations and related agencies; deletes $55 million for the extension of the West Front of the Capitol and includes language instructing the Architect of the Capitol to ascertain which operations currently housed in the Capitol could be relocated to the office buildings and to prepare plans and drawings in detail with cost estimates for restoration of the West Front; provides that virtually all 1977 costs associated with the March 1, 1977, pay raise be absorbed through savings; includes changes in Senatorial allowances, as mandated by the Official Code of Conduct Amendments of 1977, S. Res. 110, and reduces the 1978 budget request for Senate activities by $12 million; consolidates the clerk-hire and the so-called S. Res. 60 allowances into a single allowance which will afford maximum flexibility to Senators in utilizing funds authorized for employment; retains the S. Res. 60 provisions for accessibility to committee files and meetings and certain reductions for committee chairmen and ranking minority members effective October 1, 1977; revises the current Consolidated Office Expense Allowance to provide more flexibility to Senators and to create a fixed allowance for each State; adds to the categories of expenses for which Members may be reimbursed: per diem and travel for Members and staff in the U.S. on official business, travel on official business in Washington, D.C. and in the vicinity of the home State office; and sets aside one-tenth of each Member's allowance to meet any other official office expense; makes each Senator eligible for two WATS telephone lines to be paid out of the contingent fund of the Senate; increases allowances by 10 percent although the consumer price index has risen 42.5 percent since last adjustment; allows an employee to be on the payroll of more than one Senator; directs that a supplement to the Congressional Directory be printed during second sessions rather than a new edition; reduces from 100 to 50 the number of recipients per Senator of free copies of the Congressional Record and requires publication of their names on the Record; eliminates a requested $250,000 subsidy for the Senate Restaurant with the intent of balancing the budget through price increases and improved management; phases out the 34 elevator operator jobs on automatic elevators at a savings of $292,000; and contains other provisions. H.R. 7932—Public Law 95–94, approved August 5, 1977. (296)

Military Construction.—Appropriates $2,977,720,000 for military construction for the Department of Defense for fiscal year 1978 which provides the necessary funding for the planning, design, construction, alteration and improvement of military facilities worldwide, both for active and Reserve forces, including military family housing; provides certain types of community impact assistance as well as assistance to members who face loss on the sale of private residences due to installation realignments; includes $8.5 million for all energy consumption metering programs; and provides for the U.S. share of NATO infrastructure construction costs. H.R. 7589—Public Law 95–101, approved August 15, 1977. (VV)

Public Works—Energy Research.—Appropriates $10,350,669,000 for public works for water and power development and energy research for fiscal year 1978; provides $5,978,155,000 for the Energy Research and Development Administration (except for fossil fuel and certain conservation programs) in title I; provides $2,728,242,000 water resources development programs (including power) and related activities of the Department of the Army, civil functions—Army Corps of Engineers' civil works program; provides $785,168,000 for the Department of the Interior's Bureau of Reclamation and Power agencies; provides $802,849,000 for related independent agencies and commissions including the Appalachian Regional Commission and Applachian regional development programs, the Federal Power Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority; and the water Resources Council in title IV; includes funding for 9 water resources projects which the President had removed from the budget and omits new construction starts of such projects; omits funds for the Clinch River Breeder Reactor; bars production of enhanced radiation weapons until the President certifies to Congress that production of these weapons is in the national interest, with the proviso that the Congress, by concurrent resolution, may disapprove such production within 45 days following Presidential certification. H.R. 7553—Public Law 95–96, approved August 7, 1977. (284)

State-Justice-Commerce.—Appropriates a total of $7,709,432,000 in new budget authority for fiscal year 1978 including $1,234,970,000 for the Department of State: $2,300,619,000 for the Department of Justice; $1,923,275,000 for the Department of Commerce: $444,318,000 for the Judiciary; and $1,806,250,000 for related agencies including the Arms Control and Disarmament Agency, the International Trade Commission, the Small Business Administration, the Equal Employment Opportunity Commission, and the Legal Services Corporation; makes fiscal year 1977 supplemental appropriations totalling $211,515,000 for certain agencies with the major portion of the appropriation to replenish the Small Business Administration's disaster loan fund; and prohibits the use of funds for implementation of the President's pardon program for Vietnam-era draft resisters. H.R. 7556—Public Law 95–86, approved August 2, 1977. (242)

Supplemental.—Makes supplemental appropriations in the amount of $7,799,898,000 for fiscal year 1978 for EPA construction grants, SBA disaster loans and other programs including: $30 million for Federal crop insurance; $30 million for watershed and flood prevention operations; $36.6 million for the agricultural conservation program; $44.2 million for EPA research and development; $85 million for EPA abatement control; $4.5 billion for EPA waste treatment plant grants; $67 million for surface mine reclamation; $273 million for the FEA programs now under the Department of Energy; $383 million for strategic petroleum reserves; $124 million for refugee programs; $200 million for emergency fuel assistance for the elderly; $80 million for the Clinch River breeder reactor project; $1.4 million for SBA loans; $423 million for Defense Department programs; and $18 million for Amtrak. H.R. 9375—Passed House October 25, 1977; Passed Senate amended November 1, 1977; Senate agreed to 2d conference report December 7, but took no action on a provision regarding the rescission of funds for the B–1 bomber. (607)

Transportation.—Appropriates $6,196,609,023 for fiscal year 1978 for the Department of Transportation (including the Coast Guard, Federal Highway Administration, National Highway Traffic Safety Administration, Federal Railroad Administration, Urban Mass Transportation Administration, and Materials Transportation Bureau) and for related agencies (including the National Transportation Safety Board, Civil Aeronautics Board, Interstate Commerce Commission, Panama Canal Zone Government, United States Railway Association, Washington Metropolitan Area Transit Authority, and the National Transportation Policy Study Commission). H.R. 7557—Public Law 95–85, approved August 2, 1977. (230)

Treasury-Postal Service.—Appropriates a total of $7,478,254,000 in new budget obligational authority for fiscal year 1978 of which $2,842,714,000 is for the Treasury Department, $1,695,540,000 is for the Postal Service, $71,697,000 is for the Executive Office of the President, and $2,868,303,000 is for certain independent agencies; contains reductions in the number of permanent personnel positions in the Treasury Department based on the Presidential memorandum of March 1, 1977, restricting hiring until new personnel ceilings have been established and provides that if the ceilings established are lower than the committee recommendations the funds may not be used for other purposes without approval of the Appropriations Committees; and directs the Secretary of the Treasury to study the practice by Treasury Department agencies relating to the use of official Government vehicles by personnel and report to the committee by January 1, 1978. H.R. 7552—Public Law 95–81, approved July 31, 1977. (222)

ATOMIC ENERGY AND NASA

NASA Authorization.—Authorizes $4,049,429,000 for the National Aeronautics and Space Administration for fiscal year 1978 of which $3,041,500,000 is for research and development, $160,940,000 is for the construction of facilities, and $846,989,000 is for research program and management; includes funds to support the following new programs: (1) 5 space shuttle orbiters, (2) development of the shuttle-launched space telescope for research in astronomy, (3) a third generation earth resources survey spacecraft, Landsat-D, to carry an advanced scanning instrument, (4) initiation of a search and rescue satellite system in cooperation with Canada, and (5) initiation of a Jupiter orbiter probe mission; provides continued funding of the Space Shuttle; and includes the second funding increment for a fuel efficient aircraft technology development program designed to decrease fuel consumption of commercial jet transports by 50 percent. H.R. 4088—Public Law 95–76, approved July 30, 1977. (VV)

Nuclear Regulatory Commission Authorization.—Authorizes $297,740,000 for fiscal year 1978 for the Nuclear Regulatory Commission; includes $41,480,000 for nuclear reactor regulation, $12,130,000 for standards development, $33,050,000 for inspection and enforcement, $22,090,000 for nuclear materials safety and safeguards, $148,900,000 for regulatory research, $10,180,000 for program technical support with up to $600,000 authorized for the Fellowship Program, and $29,910,000 for program direction and administration; provides that $10 million may be reallocated among budget categories subject to the conditions that the amount relocated from a major program activity not exceed 15 percent of the amount authorized for the activity and that the appropriate congressional committees be notified of a reallocation in excess of $500,000; provides (1) $2,700,000 for obligations related to the Clinch River Breeder Reactor Project with a provision that the authorization be reduced by the same amount if the license application is withdrawn or further funding for the continuation of the project is not authorized or appropriated, and (2) $2,100,000 for obligations related to the Barnwell, South Carolina, fuel reprocessing plant with a provision that the authorization be reduced by the same amount if further construction of the facility for the purpose of providing plutonium to be used as fuel is cancelled or deferred; requires quarterly reports concerning the Commission's efforts to fulfill its obligations to assure equal opportunity employment; requires development of a plan to resolve generic safety issues to be submitted to Congress by January 1, 1978; requires preparation of a plan for the development of new or unproved safety systems of nuclear power plants; calls for an annual report on the Commission's reactor safety research program; establishes a fellowship program under the aegis of the Advisory Committee on Reactor Safeguards to assist the committee in carrying out its duties in a timely manner; contains conflict of interest provisions similar to those adopted for the FEA and ERDA; provides that funds for cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs; and directs the Administrator of the General Services Administration to study and report to the Environment Committee by June 15, 1977, on the feasibility of consolidating the NRC which is presently housed in nine buildings throughout the Washington metropolitan area. S. 1131—Public Law 95-209, approved December 13, 1977. (VV)

BUDGET

Deferrals:

Coast Guard.—Disapproves the proposed deferral of $13,031,000 in budget authority for the Coast Guard. S. Res. 282—Senate agreed to November 1, 1977. (VV)

Rescissions:

Helium Purchases.—Rescinds $47.5 million in contract authority for helium purchases under Public Law 87-122 as recommended by the President in his message of September 22, 1976, for which purchase contracts were terminated by the Interior Department in 1973 and the contract authority therefore is no longer needed. H.R. 3347—Public Law 95-10, approved March 10, 1977. (VV)

Second budget rescission.—Rescinds $644,-050,000 of the $941,278,000 in budget authority recommended by the President in his message of January 17, 1977, as follows: Department of Defense-Military—$143.6 million in retired pay, $452.6 million in Naval shipbuilding and conversion because of the decision not to procure the fourth nuclear powered aircraft carrier (CVN-71) or convert the nuclear powered cruiser USS Long Beach to the Aegis air defense weapons system, and $145.35 million for Air Force procurement because of termination of the Advanced Logistics System (ALS); $41.5 million in funds appropriated to the President for foreign military credit sales; and $12 million for the Department of State contributions for international peacekeeping activities because of the lower budget levels established by the U.N. General Assembly; and disapproves $277,228,000 as follows: Department of Commerce—$525,000 for salaries and expenses of the U.S. Travel Service and $1.5 million for operations, research and facilities of the National Oceanic and Atmospheric Administration to continue surveys, mission and cost analysis and initiation of design and engineering studies for OCEANLAB; and $6,803,000 for the Department of Transportation for retirement pay for the Coast Guard. H.R. 3839—Public Law 95-15, approved March 25, 1977. (VV)

Third budget rescission.—Rescinds $96,-090,000 in budget authority as recommended by the President in his message of July 19, 1977, of which $21,090,000 is a reduction in the foreign military credit sales program resulting from changes in the program plans that placed reliance on guaranteed loans rather than on direct credit during fiscal 1977, and $75,000,000 is a reduction in the GSA general building fund. H.R. 9019—Public Law 95-186, approved November 16, 1977. (VV)

Resolutions:

Third budget resolution, 1977.—Revises the Second Budget Resolution (S. Con. Res. 139) for fiscal year 1977 setting the level of revenues at $347.7 billion, outlays at $417.45 billion, deficit at $69.75 billion, budget authority at $472.9 billion and public debt at $718.4 billion; contains an adequate funding level to permit enactment of up to $13.8 billion in tax legislation stimulus as proposed by the administration and $3.7 billion in increased outlays to produce jobs in areas of high unemployment; sets a level of budget authority at $1.1 billion and outlays at $760 million for EPA construction grants, railroad and highway construction and improvement in recreational facilities; sets the following levels of funding for the relief of individuals and families hard hit by the recession and the harsh winter: (1) 1.8 billion in budget authority and outlays for direct payments to recipients of social security, SSI, and railroad retirement, or any similar stimulus proposals, (2) $508 million in budget authority and $508 million in outlays to extend the Federal supplemental benefits program for the unemployed, and (3) $200 million in budget authority and $200 million in outlays for Federal assistance to low- and moderate-income families to help them meet fuel costs during the winter emergency; includes adequate levels of budget authority for housing to support increased reservations for a total of 360,000 dwelling units for low- and moderate-income families; and makes the following revisions to the totals for budget authority and outlays contained in the Second Budget Resolution to reflect savings which have been achieved and additional costs which have arisen under existing programs (in billions of dollars):

National Defense—BA: $108.8 instead of $112.1, O: $100.1 instead of $100.65;

International Affairs—BA: $7.9 instead of $8.9, O: $6.8 instead of $6.9;

General Science, Space, and Technology—BA: $4.5 instead of $4.6, O: $4.4 instead of $4.5;

Natural Resources, Environment, and Energy—BA: $18.7 instead of $18.2, O: $17.2 instead of $16.2;

Agriculture—BA: $2.3 instead of $2.1, O: $3.0 instead of $2.2;

Commerce and Transportation—BA; $17.3 instead of $17.2, O: $16.0 instead of $17.4;

Community and Regional Development—BA: $14.8 instead of $9.55, O: $10.55 instead of $9.05;

Education, Training, Employment and Social Services—BA: $30.4 instead of $24.0, O: $22.7 instead of $22.2;

Health—BA: $40.6 instead of $40.5, O: $39.3 instead of $38.9;

Income Security—BA: $170.9 instead of $155.9, O: $141.3 instead of $137.2;

Veterans Benefits and Services—BA: $18.9 instead of $20.3, O: $18.1 instead of $19.5;

Law Enforcement and Justice—BA: $3.5, O: $3.6;

General Government—BA: $3.5 instead of $3.6, O: $3.5;

Revenue Sharing and General Purpose Fiscal Assistance—BA: $7.6, O: $7.7;

Interest—BA; $38 instead of $39.6, O: $38 instead of $39.6;

Allowances—BA: $0.8 instead of $0.7, O: $0.8;

Undistributed offsetting receipts—BA: −$15.6 instead of −$16.8, O: −$15.6 instead of −$16.8. S. Con. Res. 10—Action completed March 3, 1977. (38)

First budget resolution, 1978.—Sets the level for total budget outlays for fiscal year 1978 at $460.95 billion, estimated revenues at $396.3 billion, new budget authority at $503.-45 billion, and the estimated deficit at $64.65 billion as compared to the President's estimates of $462.6 billion in budget outlays, $404.7 billion in revenues, $506.2 billion in new budget authority, and a proposed deficit of $57.9 billion; sets the appropriate level of the public debt at $784.9 billion and the amount by which the statutory amount may be increased at $83.6 billion; for estimated revenues (1) assumes the level of fiscal stimulus in fiscal 1978 provided in the Tax Reduction and Simplification Act as agreed to by House and Senate conferees; (2) accepts a $65 million allowance for miscellaneous tax and tariff legislation; (3) considers the entire cost of the earned income credit as reduction of revenue; and (4) postpones the treatment of tax credits in excess of recipients tax liabilities until development of the second budget resolution; recommends outlays for budget programs by function for fiscal year 1978 as compared with the President's proposed budget outlays as follows:

National Defense: $110.0 billion as compared to $112.8 billion:

International Affairs (conduct of foreign affairs, foreign information and exchange activities, the Peace Corps, Food for Peace, and nonmilitary foreign assistance): $7.3 billion as compared to $7.2 billion:

General Science, Space and Technology: $4.7 billion, which is the same estimate submitted by the President:

Natural Resources, Environment, and Energy: $20.0 billion as compared to $20.9 billion;

Agriculture: $4.35 billion as compared to $4.4 billion:

Commerce and Transportation: $19.4 billion as compared to $19.9 billion:

Community and Regional Development: $10.8 billion as compared to $9.9 billion:

Education, Manpower, and Social Services: $27.2 billion as compared to $27.0 billion;

Health: $44.3 billion as compared to $44.6 billion;

Income Security (social security and unemployment insurance, retirement systems for Federal and railroad employees and assistance programs for the needy): $146.7 billion as compared to $148.7 billion;

Veterans Benefits and Services: $20.2 billion as compared to $18.8 billion;

Law Enforcement and Justice: $3.85 billion as compared to $3.8 billion;

General Government: $3.85 billion as compared to $4.0 billion;

Revenue Sharing and General Purpose Fiscal Assistance: $9.7 billion, which is the same estimate submitted by the President;

Interest: $43.0 billion as compared to $40.9 billion;

Allowances (includes Federal pay increases for civilian agencies and other expenditures which cannot be reasonably assigned to other functions): $1.9 billion as compared to $1.2 billion; and

Undistributed Offsetting Receipts (includes receipts from rents and royalties on leases on the Outer Continental Shelf and other deductions from outlays which cannot be reasonably assigned to other functions): $16.3 billion in undistributed offsetting receipts in the Congressional budget as compared to $16.0 billion in the President's budget. S. Con. Res. 19—Action completed May 17, 1977. (137,142)

Second budget resolution, 1978.—Revises the First Budget Resolution for fiscal year 1978 setting the level of revenues at $397 billion, budget authority at $500.1 billion, outlays at $458.25 billion, deficit at $61.25 billion, and public debt at $775.45 billion; makes the following revisions to the totals for budget authority and outlays in the First Budget Resolution to reflect savings which have been achieved and additional costs which have arisen under existing programs (in billions of dollars): National Defense—Budget Authority (BA): $116.4 instead of $8.5, Outlays (O): $110.1 instead of $111.0;

International Affairs—BA: $8.0 instead of $9.3, O: $6.6 instead of $7.3;

General Science, Space and Technology—BA: $4.9 instead of $9.0, O: $4.7 as in the First Budget Resolution;

Natural Resources, Environment and Energy—BA: $24.6 instead of $20.7, O: $20.0 as in the First Budget Resolution;

Agriculture—BA: $2.1 instead of $2.2, O: $6.3 instead of $4.35;

Commerce and Transportation—BA: $20.4 instead of $20.0, O: $19.6 instead of $19.4;

Community and Regional Development—BA: $8.2 as in the First Budget Resolution, O: $10.6 instead of $10.8;

Education, Training, Employment and Social Services—BA: $26.3 instead of $26.8, O: $26.4 instead of $27.2;

Health—BA: $47.7 instead of $47.9, O: $44.2 instead of $44.3;

Income Security—BA: $178.8 instead of $179.9, O: $146.1 instead of $146.7;

Veterans Benefits and Services—BA: $19.9 instead of $20.25, O: $20.2 as in the First Budget Resolution;

Law Enforcement and Justice—BA: $3.8 as in the First Budget Resolution, O: $4.0 instead of $3.85;

General Government—BA: $3.8 as in the First Budget Resolution, O: $3.85 as in the First Budget Resolution;

Revenue Sharing and General Purpose Fiscal Assistance—BA: $9.6 instead of $9.8, O: $9.7 as in the First Budget Resolution;

Interest—BA: $41.7 instead of $43.0, O: $41.7 instead of $43.0;

Allowances—BA: $0.9 instead of $0.8, O: $1.0 instead of $0.9;

Undistributed Offsetting Receipts—BA: –$16.8 instead of –$16.6, O: –$17.1 instead of –$16.3. H. Con. Res. 341—Action completed September 16, 1977. (361)

CONGRESS

Capitol Police jurisdiction.—Amends the act of July 31, 1946, as amended, to include certain specified areas and portions of streets within the U.S. Capitol Grounds in order to strengthen Capitol Police jurisdiction over traffic and other matters for security purposes. S. 1859—Passed Senate July 20, 1977. (VV)

Extends the supervision and protection of the U.S. Capitol Police over the employees and facilities of the Office of Technology Assessment located at 600 Pennsylvania Avenue, S.E., Washington, D.C. S. 2052—Public Law 95–175, approved November 14, 1977. (VV)

Congressional Campaign Committee Employees Retirement Credit.—Amends title V, U.S.C., to provide that a congressional employee may credit not to exceed 10 years of service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee or the Republican National Congressional Campaign Committee for Civil Service Retirement purposes provided the required deposits for such service are made to the fund; and makes the provisions of this act applicable to an employee who retires on or after the date of enactment. S. 992—Passed Senate March 5, 1977. (VV)

Ernest Gruening statue.—Accepts in the name of the United States, the statue of the late Senator Ernest Gruening, presented by the State of Alaska, for the National Statuary Hall collection; expresses the appreciation of the Congress for the contribution; and provides for the temporary placement of the statue in the rotunda of the Capitol with appropriate ceremonies to mark the occasion. S. Con. Res. 25—Action completed September 26, 1977. (VV)

Joint Committee on Atomic Energy abolishment.—Abolishes the Joint Committee on Atomic Energy and provides for the disposition of its staff and the transfer of its statutory functions and authority to other congressional committees having jurisdiction over the development, utilization or application of atomic energy; and makes necessary and conforming amendments to certain laws which pertain to the Joint Committee. S. 1153—Public Law 95–110, approved September 20, 1977. (VV)

Joint Committee on Congressional Operations abolishment.—Abolishes the Joint Committee on Congressional Operations effective September 30, 1977, and transfers its duties and responsibilities to the Senate Committee on Rules and Administration. S. 1608—Passed Senate July 12, 1977. (VV)

Joint Economic Committee study.—Directs the Joint Economic Committee, or any of its subcomittees, to investigate past and prospective changes in the United States and world economies and their impact on the economies of the United States and other nations and to report to Congress their recommendations for meeting the economic policy requirements of the United States; authorizes the Committee to hire expert professional staff and supporting assistants as well as individual consultants and organizations and to sit and act during sessions of the present Congress whether or not either House is recessed or adjourned: and authorizes therefor $900,000 for the period July 1, 1977, through December 31, 1978, of which not to exceed $250,000 may be expended prior to December 31, 1977. H Con. Res. 248—Action completed July 18, 1977. (VV)

State taxation of Members of Congress.—Adds a new section 113 to title 4, U.S.C., effective with respect to all taxable years, which provides that no State in which a Member of Congress maintains a place of residence to attend sessions of Congress may for State income tax purposes treat the Member as a resident or domiciliary or treat his Congressional salary as income for services performed within or from sources within that State unless the Member represents the State. H.R. 6893—Public Law 95–67, approved July 19, 1977. (VV)

CONSUMER AFFAIRS

Debt collection practices.—Amends the Consumer Credit Protection Act to add a new title entitled the "Fair Debt Collection Practices Act" to protect consumers from a host of unfair, harassing, and deceptive debt collection practices; prohibits a debt collector from: (1) contacting third parties other than to obtain location information except the consumers attorney, a credit reporting agency, the creditor, the creditor's or debt collector's attorney, or any other person to the extent necessary to effectuate a postjudgement judicial remedy; (2) engaging in any conduct which harasses, oppresses or abuses any person; (3) using any false, deceptive or misleading representations; (4) using any unfair or unconscionable means; (5) attempting to collect a disputed debt until the consumer receives verification of the debt; and (6) applying payments to disputed debts; provides that if a consumer notifies a debt collector in writing that he refuses to pay a debt or wishes the debt collector to cease further contacts the debt collector must so cease except to notify the consumer of the debt collector's or creditor's further actions; requires that actions on real property be brought in the judicial district in which the property is located and actions on personal suits be brought either where the contract was signed or where consumer resided; provides that a debt collector who violates the act is liable for actual damages plus costs and reasonable attorney's fees; permits the court to award up to $1,000 in individual actions, and up to $500,000 or 1 percent of the debt collector's net worth, whichever is less, in class actions; provides the following two defenses for debt collectors: (1) good faith reliance on an FTC advisory opinion and (2) bona fide error notwithstanding procedures to avoid the error; provides that a court may award reasonable attorney's fees to a defendant if it finds that the consumer brought a suit in bad faith or for harassment; gets a 1-year statute of limitation on bringing actions; places enforcement of the act with the FTC and the Federal bank regulatory agencies; prohibits the promulgation of any additional rules or regulations pertaining to debt collectors; requires the FTC to report annually to the Congress on the Act's effectiveness and administrative enforcement; annuls state laws only if inconsistent to Federal; allows the FTC to exempt any collection practices within any State if they are subject to substantially similar requirements; and provides that the act shall take effect within 6 months of enactment. H.R. 5294—Public Law 95–109, approved September 20, 1977. (VV)

CRIME–JUDICIARY

Administrative conference.—Amends the Administrative Conference Act to raise the annual appropriation ceiling to a total of $1.6 million for fiscal 1979, $1.95 million for fiscal 1980, and $2.3 million for fiscal 1981. S. 1792—Passed Senate November 4, 1977. (VV)

Bilingual court proceedings.—Amends title 28, U.S.C., to insure that Federal court participants who do not speak or understand English, or have a hearing or speech impairment, will have access to qualified interpreters, and allows a limited use of Spanish in the District Court of Puerto Rico when it is found by the court to be in the interest of justice. S. 1315—Passed Senate November 4, 1977. (VV)

Child adoption and child abuse prevention.—Facilitates the removal of barriers to interstate adoptions and the placement of children with special needs in permanent adoptive homes; directs the Secretary of HEW to appoint an advisory board to recommend model adoptive legislation and procedures to facilitate interstate adoption of children, on the basis of which, the Secretary would promulgate uniform regulations, and encourage each State to adopt comprehensive assistance legislation based on the model plan; establishes within HEW an administrative arrangement to provide an adoption information exchange system and to coordinate departmental programs as well as to carry out education and training programs; and provides for a 4-year authorization of $5 million for fiscal year 1978 and such sums as necessary for the succeeding three fiscal years;

Extends for 2 years the authorizations for the Child Abuse Prevention and Treatment Act at the existing $25 million level; authorizes $2 million for each of fiscal years 1978 and 1979 for programs and projects designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units; makes it possible for the Secretary to increase funding for State programs beyond the present 20-percent maximum, while at the same time providing a 20-percent minimum for State grants; includes research efforts in the 50-percent expenditure earmark now applicable only to demonstration projects; permits 3-year research grants made with funds obligated from a single year's appropriation, and requires public participation in the establishment of research priorities; provides for special consideration for continued funding of certain demonstration projects funded by HEW which are of proven effectiveness and of regional or national significance; redefines the term "child" to take into account situations where the State statute definition waives from the Federal definition therefor making the State ineligible for Federal grants; encourages States to obligate their grants on a more expeditious schedule; provides for greater exchange of information among Federal agencies on the Advisory Board on Child Abuse and Neglect concerning planned activities; provides for public membership on the Board; and requires submission by the Board to the President and the Congress of a comprehensive plan detailing the goals and objectives of child abuse prevention and treatment programs, and seeking to achieve maximum coordination of the goals and activities of all Federal and non-Federal programs in this field. H.R. 6693—Passed House September 26, 1977; Passed Senate amended October 28, 1977. (VV)

Child pornography.—Amends title 18, U.S.C., making it a Federal offense for anyone to use children under the age of 16 in the production of pornographic materials which are to be mailed or otherwise transported in interstate or foreign commerce; proscribes the interstate transportation of persons under 18 years of age for the purpose of engaging in prostitution by extending the Mann Act's provision against female prostitution to include juvenile males; and amends the penalty provisions regarding mailing, importation, or transportation of obscene materials to increase the penalties up to 10 years' imprisonment or $10,000 or, in case of a second offense, a minimum of 2 years and a maximum of 15 years imprisonment and up to $15,000. S. 1585—Passed Senate October 10, 1977; Passed House amended October 25, 1977; Senate agreed to conference report November 4, 1977. (553)

Courts of appeals judicial accommodations.—Amends title 28, U.S.C., to provide accommodations for judges of the U.S. courts of appeals at places other than those where regular terms of court are authorized by law to be held if such accommodations have been approved by the judicial council for the appropriate circuit and space is available without cost to the government. H.R. 2770—Public Law 95-196, approved November 19, 1977. (VV).

Drug Enforcement Administration.—Amends the Comprehensive Drug Prevention and Control Act of 1970 to extend for 2 years, through fiscal 1979, the Drug Enforcement Administration at an authorization of $182 million for fiscal 1978 plus such additional amounts as necessary for salary increases and other employee benefits authorized by law, and such sums as necessary for fiscal 1979. S. 1232—Passed Senate June 6, 1977. (VV)

Amends the Controller Substances Act of 1970 to extend for 2 years, through fiscal 1979, the Drug Enforcement Administration at an authorization of $188 million for fiscal 1978 and $215 million for fiscal 1979; and repeals the additional $6 million annual authorization under section 103 of the Controlled Substances Act for additional enforcement personnel in the Bureau of Narcotics and Dangerous Drugs. H.R. 5742—Public Law 95-137, approved October 18, 1977. (VV)

Federal rules and criminal procedure.—Approves with modifications certain amendments to the Federal Rules of Criminal Procedures proposed by the Supreme Court on April 26, 1976, and disapproves other such amendments;

Changes rule 6(e), which deals with the secrecy of grand jury proceedings, to allow disclosure information of grand jury proceedings to personnel deemed necessary by an attorney for the government to assist in the performance of his duty to enforce Federal criminal law; changes rule 23(b), which deals with cases tried by juries of less than 12 persons, to allow the parties to stipulate that a valid verdict may be returned by a jury should the court find it necessary to excuse one or more jurors after the trial commences, and changes rule 23(c), which deals with cases tried without a jury, to require that a request for a special finding be made prior to the general finding and to allow findings to be made orally; disapproves the Supreme Court's proposed changes to rule 24 which deals with the number of peremptory challenges to prospective jurors; changes rule 41(c), which deals with the issuance of search warrants, to provide for a telephone search warrant procedure; amends the present removal to Federal Court statute to minimize the disruption and unnecessary delay in State criminal procedures that can result from delatory petitions for removal; and specifies the effective dates of the proposed modifications. H.R. 5864—Public Law 95-78, approved July 30, 1977. (VV)

Jefferson F. Davis citizenship.—Restores posthumously full rights of citizenship to Jefferson F. Davis effective December 5, 1968. S.J. Res. 16—Passed Senate April 27, 1977. (VV)

Juvenile justice.—Strengthens and extends for 3 years, the program established by the Juvenile Justice and Delinquency Prevention Act of 1974 with authorization levels of $150 million, $175 million, and $200 million for fiscal years 1978, 1979, and 1980, respectively; extends the definition of "juvenile delinquency program" to include programs for all youths who would benefit from services designed to reduce delinquent conduct; reaffirms Congressional intent that the provisions of the act are to be administered through the Office of Juvenile Justice and Delinquency Prevention; changes the title of the head of the Office from Assistant Administrator to Associate Administrator and upgrades the position to the Executive Schedule, Level 5, to emphasize the importance of the position; affirms the authority of the Associate Administrator of the Office to administer LEAA juvenile justice funds subject to delegation and direction by the Administrator of LEAA; retains the Office's National Institute for Juvenile Justice and Delinquency Prevention and strengthens the scope of its activities particularly in the area of training:

Gives increased emphasis and recognition to the proper roles of the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Coordinating Council on Juvenile Justice and Delinquency Prevention; provides for the addition of the Commissioner of the Office of Education and the Director of Action to the statutory membership of the Council, and states that the Director of the Special Action Office for Drug Abuse Prevention shall be replaced on the Council by the Director of the Office of Drug Abuse Policy; expands the scope of representation on the advisory committee and requires that future appointments to the committee include at least three youth members who have been under the jurisdiction of the juvenile justice system; provides for more significant input at all levels from persons who, by virtue of their training or experience, have special knowledge concerning the prevention and treatment of juvenile delinquency and the administration of juvenile justice; makes changes to the formula grant program intended to fine tune this modified grant program, to clarify ambiguous language in the 1974 act, and to assist States to more effectively expand formula grant funds according to priority areas identified in the States' juvenile justice plan; requires that, beginning in fiscal year 1979, not more than 7.5 percent of a State's total formula grant allotment may be used to cover the costs of planning, administration, or any pre-award activities, and that any grant funds used for these purposes must be matched on a dollar-for-dollar basis from State or local funds; provides that formula grant program funds will cover 100 percent of the approved cost of any program or activity effective October 1, 1978; extends eligibility for State formula grant pass-through funds to local private agencies which have applied to the appropriate units of local government for funding and have been denied; provides one additional year for States to comply with the deinstitutionalization requirements of the program; requires that all facilities for juveniles be monitored in order to determine whether they are properly classified as juvenile detention and correctional facilities or as other types of facilities where status offenders may be placed; provides that participating States shall provide the Associate Administrator with a review of the extent of compliance with deinstitutionalization requirements; provides that States in compliance with the deinstitutionalization requirement shall have preference for reallocated formula grant funds;

Provides that 25 percent, rather than 25-50 percent, of Part B funds be allocated for the special emphasis program, and expands its scope to include activities to help prevent school violence and vandalism, to promote youth advocacy, and to assist State legislatures to develop legislation to achieve State compliance with the act; increases the minimum private agency share of special emphasis funding from 20 to 30 percent;

Prohibits the use of formula grant funds to match other LEAA funds, but allows the formula grant funds to be used as match for other Federal juvenile delinquency program grants; provides that the Administrator's authority to require a matching contribution extends to grants for the concentration of Federal efforts and programs of the National Institute for Juvenile Justice and Delinquency Prevention, but not to grants for special emphasis programs; requires that program records be kept confidential; authorizes funding at the level of $25 million for fiscal years 1978, 1979, and 1980 for the extension of the Runaway Youth Act to enable the Secretary of HEW to increase assistance to local groups which operate temporary shelter care programs in areas where runaways tend to congregate; and contains other provisions. H.R. 6111—Public Law 95-115, approved October 3, 1977. (VV)

Mississippi court terms.—Amends section 104(a)(1), title 28, U.S.C., to provide for holding terms of the U.S. District Court for the Eastern Division of the Northern District of Mississippi at Aberdeen, Ackerman, and Corinth. S. 662—Passed Senate April 7, 1977. (VV)

North Dakota judicial district.—Amends title 28, U.S.C., to realign the judicial districts of North Dakota by transferring Bottineau, McHenry, and Pierce Counties from the Northeastern Division to the Northwestern Division and transferring Sheridan and Wells Counties from the Southeastern Division to the Northwestern Division in order to reduce the average distance which litigants, attorneys, and jurors in these counties must travel to the nearest place of holding court by approximately 100 miles. S. 195—Passed Senate May 24, 1977. (VV)

Northern Marianas district court.—Implements article IV of the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States by establishing the District Court of the Northern Mariana Islands; specifies the jurisdiction of the court, both original and appellate; and authorizes such sums as necessary to carry out the act. S. 2149—Public Law 95-157, approved November 8, 1977 (VV)

Omnibus judgeships.—Provides for the appointment of 110 additional permanent district court judges in 65 specified judicial districts; creates three temporary district court judgeships, for a minimum of 5 years, in the Eastern District of Kentucky, Southern District of West Virginia, and Southern District of Florida; divides the fifth circuit into a new fifth circuit consisting of Alabama, Florida, Georgia, and Mississippi which would have 14 judges, and a new eleventh circuit consisting of Louisiana and Texas which would have a total bench of 12 judges; creates a total of 35 new circuit court judgeships distributed as follows: one new judgeship in the first circuit; two in the second circuit; one in the third circuit; three in the fourth circuit; five for the revised fifth circuit; two for the sixth district; one for the seventh circuit; one for the eighth circuit; ten for the ninth circuit; one for the tenth circuit; and six for the new eleventh circuit; contains a "report back" provision which requires the Judicial Council of the Ninth Circuit Court to make recommendations for a solution to the unique problems of that circuit within one year of the date on which the tenth new judge is appointed; authorizes the Administrative Office of the United States Courts to upgrade and reclassify eight employee positions; and amends existing law to require that actions brought against rail or motor carriers on claims for damage or delay to shipments be subject to a minimum jurisdictional amount of $10,000 for each bill in lading, in order to prevent abuse of the Federal judicial process by persons bringing such actions simply as a means of tolling the statute of limitations while settlement negotiations are undertaken. S. 11—Passed Senate May 24, 1977. (VV)

Prisoner exchange with Canada and Mexico.—Provides the statutory framework to implement the treaties with Canada (Ex. H, 95th-1st) and Mexico (Ex. D, 94th-1st) providing for the transfer of prisoners convicted of crimes in a foreign country so that they may serve their sentence of confinement or supervision in their home nation; directs that the transfer and custody of prisoners under this treaty shall be carried out by the Attorney General; requires that any person transferred to or from the United States must appear before a U.S. magistrate or judicial officer to verify that he has willingly and knowingly agreed to be transferred; grants any person who is to appear at a verification proceeding the right to be advised by counsel, and provides for a court appointed council for indigents; makes American citizens returning to this country as prisoners eligible for parole pursuant to U.S. law and regulations; provides that an American citizen returning home under this treaty will not waive his right to bring a writ of habeas corpus in a U.S. court, but when voluntarily transferring he would not gain opportunity to collaterally attack his foreign conviction in a U.S. court; and provides that if an American returning to this country is freed by U.S. courts before his foreign sentence has expired, he may be delivered back to foreign authorities to complete his term. S. 1682—Public Law 95-144, approved October 28, 1977. (VV)

Public safety officers group life insurance.—Establishes a nationwide program of group life insurance for public safety officers that would be under the control of the Law Enforcement Assistance Administration but purchased from one or more life insurance companies, with provision for reinsurance by other underwriters; defines "public safety officer" as any person employed by a State or unit of general local government as a policeman, corrections officer, criminal or juvenile delinquency court officer, or firefighter but excludes from coverage those already eligible under the FEGLI program or participating in the SGLI program; sets the amount of group life and accidental death and dismemberment insurance at the amount of the officer's salary plus $2,000, with a minimum coverage of $10,000 and a maximum of $32,000; terminates a policy 2 months after separation or discontinuance of pay with provision for conversion to an individual policy for the group life portion without medical examination at prevailing rates; provides for a Federal contribution of up to one-third the cost of the premium with the State or local government to contribute the same portion or all of the premium not covered by the Federal Government and any balance due after government contributions to be withheld from the officer's salary; provides that insurance in force on the date of death of an enrolled officer would be paid to the beneficiary designated in writing received in his employer's office prior to his death and, if there is no beneficiary designated, the funds would pass under criteria set out in the bill; provides that a State or unit of general local government with a program of group life insurance in existence at any time during the first year after the effective date of this act would be eligible for Federal assistance of up to one-third the cost of the premium; establishes an Advisory Council on Public Safety Officers Group Life Insurance to review the administration of the program and advise the LEAA on matters of policy; waives sovereign immunity to obviate any civil suit problems; and creates a fund in the Treasury known as the public safety officers' group insurance revolving fund. S. 262—Passed Senate September 16, 1977. (VV)

Sex discrimination on basis of pregnancy.—Amends title VII of the Civil Rights Act of 1964 to make clear that the prohibitions against sex discrimination in the act include discrimination in employment on the basis of pregnancy or pregnancy-related disabilities; provides that these provisions will take effect immediately upon enactment except that, with regard to fringe benefit plans, they are to take effect by July 1, 1980, 180 days after enactment whichever is greater; provides that for a period of 1 year or until the expiration of any applicable collective bargaining agreement, employers may not reduce existing benefits as a means of coming into compliance; and provides that where employees and employers share the cost of presently existing benefits, employers are permitted to apportion the cost of any benefit required as a result of this legislation. S. 995—Passed Senate September 16, 1977. (385)

U.S. magistrates.—Enlarges and amends the current jurisdictional provisions for U.S. magistrates in order to improve access to the Federal courts for the less advantaged;

Allows magistrates to finally determine civil cases, upon the consent of the parties involved; authorizes a magistrate to "conduct any or all proceedings in any jury or nonjury civil matter"; specifies appeal and review procedures available to an aggrieved party in a civil matter decided by a magistrate;

Qualifies the existing discretion of district courts to select and appoint magistrates by: directing the Judicial Conference to promulgate standards for qualification and selection procedures of magistrates; requiring that all subsequent magistrate appointments must conform to these standards; providing that the qualifications of full-time magistrate appointees must also be approved by the judicial council of the circuit before the appointment takes effect; and requiring that all magistrates must have been admitted to practice of law for at least five years; extends statutory prohibitions on outside activities to all full-time and part-time magistrates who exercise the new case-dispositive jurisdiction provided for in the bill; extends the existing provisions for payment of certain litigation expenses for indigents in proceedings before a district judge to proceedings before a magistrate;

Expands jurisdiction of magistrates to try minor criminal offenses to include all misdemeanors; eliminates the requirement for defendant consent to a magistrate conducting the trial in a petty offense case; allows the conduct of jury trials in misdemeanor cases before a magistrate where the court has specifically designated the magistrate to proceed in that manner; permits magistrates to sentence young adults and youthful offenders if the commitment imposed does not exceed the maximum term for an adult convicted of the same offense; provides that the procedural requirements of the Juvenile Delinquency Act do not apply to single petty offense cases in which terms of commitment or imprisonment are not usually imposed; and contains other provisions. S. 1613—Passed Senate July 22, 1977. (VV)

DEFENSE

Coast Guard authorization.—Authorizes $1,262,521,000 for fiscal year 1978 for the Coast Guard for the procurement of vessels and aircraft, construction and improvement of shore and offshore facilities, alteration and removal of obstructive bridges, aids to navigation, pollution abatement, administrative expenses, and operating expenses; authorizes a year-end strength for active duty personnel of 39,145; authorizes an average military student load of 5,506; includes funds for the recent Presidential program of boarding and inspecting oil tankers, reactivation of Coast Guard cutters to be used as back-up vessels in the enforcement of the 200-mile Fishery Conservation Zone, enforcement of the Fishery Conservation and Management Act of 1976, a search and rescue mission capability at the Portage, Mich., Coast Guard station, two additional icebreaking tugs and one large icebreaker, procurement of 2 short-range recovery helicopters for the search and rescue station at Cordova, Alaska, the procurement of radar and other equipment for a continuation of various vessel traffic systems, and the study of oil spill containment in high seas or fast rivers; restores funds which the Coast Guard expended as a result of the unanticipated winter storm damage; adds a new section which permanently authorizes the Coast Guard to continue its present accounting procedure of merging prior year "Operating Expenses" and "Reserve Training" appropriations with current year appropriations for the same purposes; authorizes the Coast Guard to contribute funds to the North Marin County Water District in California for the construction of a sewage treatment plant; authorizes the Coast Guard to accept money from the city of Baltimore, Maryland, for use in replacing Coast Guard facilities which will be removed by the city incident to a road improvement project, re-extends an exemption from Coast Guard inspection for fishing tender and cannery tender vessels in the States of Alaska, Oregon, and Washington and authorizes the commandant of the Coast Guard to assist HEW in providing medical emergency helicopter transportation services to civilians. H.R. 6823—Public Law 95-61, approved July 1, 1977. (VV)

Defense procurement officers.—Amends the Defense Production Act of 1950, as amended, to prohibit employment of any former Federal procurement official, for a 2-year period after leaving the U.S. Government, with any Government contractor over which that official has exercised substantial official authority; exempts individuals who were involuntarily terminated through reductions in force or similar personnel cutbacks and those individuals who left the Government prior to the effective date of this act; gives the Civil Service Commission the authority to coordinate administration of the act; authorize the Commission, upon application of a contractor or former Government procurement official, to issue an advisory opinion, within 30 days, as to the applicability of the act with an interim opinion to be filed within 10 days after receipt of an application; authorizes the Commission to find that proposed compensation or employment would not violate the intent of the act; provides criminal defense to any individual or contractor if the Commission granted a favorable opinion or failed to file a timely advisory opinion; grants the Commission the authority to convene hearings, issue subpenas, and take testimony pursuant to a review of an application for an advisory opinion; authorizes the Commission to review status and enforcement of provisions relating to the conduct of Government employees and recommend additional legislation to the Congress; and makes the act effective October 1, 1979. S. 695—Passed Senate October 11, 1977. (VV)

Defense production extension.—Extends for two years, through fiscal 1979, the titles of the Defense Production Act of 1950, as amended, which contain the sole authority for a number of programs designed to maintain the national defense production base in peacetime, prepare for mobilization, provide a pool of trained manpower for war production management, provide uniform cost accounting standards for negotiated defense contracts, provide for the examination of national policy with regard to material supplies and shortages, and continue the Joint Committee on Defense Production. S. 853—Public Law 95-37, approved June 1, 1977. (VV)

Deputy and Under Secretaries of Defense.—Eliminates one of the two positions of Deputy Secretary of Defense and establishes the position of Under Secretary of Defense for Policy; and changes the title of the Director of Defense Research and Engineering to that of Under Secretary of Defense for Research and Engineering. S. 1372—Public Law 95-140, approved October 21, 1977. (VV)

Medical personnel special pay.—Extends until September 30, 1978, the current authority to provide certain pay for physicians and dentists in the uniformed services as follows: a special pay for physicians and dentists ranging from $100 per month to $350 per month depending on length of service, a variable incentive pay for physicians below the rank of general or admiral who execute active duty agreements not to exceed $13,500 per year for each year of agreed service, and a continuation pay for physicians of the rank of general or admiral and for dentists who execute active duty agreements not to exceed 4 months basic pay; and reinstates the special pay of $100 a month for all optometrists and veterinarians on active duty. S. 1731—Public Law 95-114, approved September 30, 1977. (VV)

Military construction authorization.—Authorizes $3,724,718,000 for construction and other related authority for the military departments, and the Office of the Secretary of Defense within and outside the United States; contains authority for the construction of new projects which will create an estimated 50,000 jobs in the construction industry and to operate and maintain the current inventory of military family housing; contains funds for upgrading the chemical weapons storage sites; contains nearly $200 million for selected projects designed to conserve energy and to control pollution at military installations; encourages the utilization of solar energy where practical and economically feasible for projects authorized by this act; includes $70 million for a test program which will meter energy consumed in individual military family housing units in order to establish, once feasibility is demonstrated and after congressional review, reasonable energy consumption ceilings and to assess occupants for any consumption in excess of the established ceiling; specifies the guidelines which should be included in the program; includes $7.3 million for construction of supoprt facilities for personnel stationed at Diego Garcia; increases from $400,000 to $500,000 DOD authority for new minor construction projects without specific authorization; establishes permanent procedures for accomplishing base realignments at military installations employing more than 500 civilian personnel; makes these procedures applicable to relocating functions and civilian personnel positions if the authorized level of such personnel is to be reduced by 1,000, or 50 percent of the authorized strength, whichever is smaller, except if the reductions result from workload adjustments or other similar causes; requires that DOD notify Congress of any proposed action, comply with the provisions of the National Environmental Policy Act of 1969, submit a detailed justification for any final decision, and defer implementation for 60 days following notification of the final decision; authorizes the Secretary to enter into contracts for periods not to exceed 10 years for the purchase of fuel derived from waste products; provides that commissary surcharge funds may be used to provide new commissaries and renovate existing commissaries anywhere in the world; authorizes $2 million for the construction of visitors facilities for the U.S.S. *Arizona* memorial in Hawaii; and contains other provisions. S. 1474—Public Law 95-82, approved August 1, 1977. (VV)

Military enlistment and reenlistment bonuses.—Amends chapter 5, title 37, U.S.C., to extend for 15 months, from June 30, 1977, to September 30, 1978, present law authorizing the armed services to pay enlistment and reelistment bonuses to selected enlisted personnel who possess a critical skill or to those who enlist for service in a critical skill including the combat arms; and adds a provision whereby a member would forfeit his bonus if he becomes technically unqualified in the skill for which the bonus was paid unless it is the result of an injury, illness, or other impairment which is not a result of his own misconduct. H.R. 583—Public Law 95-57, approved June 29, 1977. (VV)

Military procurement authorizations.—Authorizes a total of $36.1 billion for fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development test, and evaluation for the Armed Forces; continues funding of submarine-based missiles, land-based ICBM's and manned bombers to maintain the strategic balance with the Soviet Union; increases funds for Naval shipbuilding including several new initiatives; contains funds to improve the deterrent and fighting capabilities of NATO without increasing the commitment of American ground forces; establishes a Naval Shipbuilding Commission to study and report to the President and Congress on current naval policies and procedure together with its recommendations on a more efficient and cost-saving means of procuring vessels; prohibits the use of funds after fiscal 1980 for the development or procurement of any main battle tank, mechanized infantry combat vehicle, armored personnel carrier, armored self-propelled artillery vehicle, or armored self-propelled air defense artillery vehicle which does not possess collective system protection for all occupants against chemical and radiological agents; sets the end-strength for active duty personnel at 2,085,100, the average strength of the Selected Reserve at 868,900, the end strength of civilian personnel at 1,018,600 with authority for the Secretary to exceed the limit by 1¼ percent, and the average military student load at 248,984; sets at $313.20 the monthly pay for a cadet or midshipman; directs the Secretary to expand the job classifications to which female members of the Armed Services may be assigned; authorizes a test educational bonus program for the Selected Reserve and requires quarterly reports to Congress; requires the Secretary to maintain at least one ROTC unit in each State; includes $95,250,000 for programs of the Defense Civil Preparedness Agency; provides that females who become members of the Armed Forces will incur the same 6-year statutory obligation as males; eliminates the requirements for annual inspections of National Guard units and for quadrennial physical examinations for members of the Fleet Reserve and the Fleet Marine Corps Reserve; extends the authority to provide financial assistance of $100 a month to officer candidates under the Marine Corps Platoon Leaders Class program; extends to October 1, 1979, the President's authority to transfer to Israel by sale, credit sale, or guaranty aircraft and equipment to counteract military assistance provided to other countries in the Middle East, and authorizes the Secretary to restock Armed Forces inventories with equivalent aircraft and equipment; requires the Secretary to submit to the Armed Services Committees by October 1 of each year a full accounting of all experiments and studies conducted by DOD in the preceding 12-month period which involved the use of human subjects for testing chemical or biological agents and requires the Secretary to notify the Committees 30 days after final approval and 30 days prior to initiation of plans to conduct such tests; prohibits such experiments involving civilians unless local officials are notified in advance and a period of 30 days has expired; prohibits DOD from increasing the percentage of funds allocated to private research and development contracts pending submission of a study to Congress or March 15, 1978; prohibits the use of funds for advertising the Special Discharge Review Program for certain Vietnam-era individuals; reduces the authorized levels of generals and admirals to 1,073 over a 3-year period beginning fiscal 1978 and provides for a like reduction in the number of civilian personnel grades GS 13-18; requires the Secretary to submit a report with the fiscal 1979 authorization request on the required number of general officers as well as any justification for deferring the proposed reductions; provides for congressional consideration of modifications in U.S. Strategic Arms Programs which the President may recommend to facilitate negotiation or agreement in the Strategic Arms Limitation Talks; requires the Secretary to report to Congress on the proposed sale or transfer of defense articles from active forces, inventories or current production valued at $25 million or more; and provides that retiring military and civilian personnel (of Grade GS-13 or above) in the procurement field may submit written suggestions for methods to improve procurement policy H.R. 5970—Public Law 95-79, approved July 30, 1977. (144)

Military procurement supplemental authorization.—Authorizes $476.4 million in supplemental funds for fiscal year 1978 for procurement of aircraft and missiles at $170.9 million and research and development, test, and evaluation for the Air Force and Defense agencies at $305.5 million which were necessitated by the cancellations of the B-1 bomber and the request for funds for the cruise missile program. S. 1863—Public Law 95-184, approved November 15, 1977. (550)

Military unionization.—Amends chapter 49, title 10, U.S.C., to make it unlawful for a member of the Armed Forces to join a military union or to solicit or maintain membership, knowing the activities or objectives of the organization; makes it unlawful for a labor organization to enroll military members, to solicit or accept dues or fees, to negotiate or bargain with the Government for military members, or to represent military members in grievance proceedings; prohibits any military or civilian official of the Department of Defense from negotiating or bargaining with a purported military union or from authorizing union activities on Government property; and prohibits any individual from bargaining on behalf of military members, from using military property for purposes outlawed elsewhere in the bill, or organizing of carrying out a strike or other concerted action involving military members against the Government. S. 274—Passed Senate September 16, 1977. (388)

DISASTER ASSISTANCE

Disaster relief programs.—Amends the Disaster Relief Act Amendments of 1974 to extend the authorizations for the Federal disaster assistance programs of the Federal Disaster Assistance Administration, which expire on June 30, 1977, through fiscal year 1980. H.R. 6197—Public Law 95-51, approved June 20, 1977. (VV)

Drought emergency authority.—Provides temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-77 drought conditions affecting irrigated lands in the western States; authorizes the Secretary, acting through the Bureau of Reclamation and the Bureau of Indian Affairs, to: (1) study available means to augment, utilize, or conserve Federal reclamation and Indian irrigation projects water supplies and to undertake construction (which must be completed by November 30, 1977), management, and conservation activities to mitigate drought damage, (2) acquire water supplies by purchase from willing sellers and redistribute the water to users based upon priorities he determines, and (3) undertake evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of a drought emergency and make recommendations to the President and Congress; provides that payment for water acquired from willing sellers be at negotiated prices; directs the Secretary to determine the priority of need in allocating the acquired or developed water; authorizes the Secretary to defer without penalty, the 1977 installment charge payments, including operation and maintenance costs, owed to the U.S. on Federal reclamation projects, with the costs to be added to the end of the repayment period which may be extended if necessary; requires that this program be coordinated, to the extent practicable, with emergency and disaster relief operations conducted by other Federal agencies under existing provisions of law; requires the Secretary to report to Congress by March 1, 1978, on all expenditures made under this act; authorizes the Secretary to make interest-free five year loans to individual irrigators for construction, management and conservation activities or acquisition of water; authorizes $100 million to carry out the water purchase and reallocation (water bank) program of which 15 percent shall be available to carry out other programs authorized by this act; and provides that up to 15 percent of fiscal 1977 funds available to the Secretary for the Emergency Fund Act may be used for non-Federally financed irrigation projects, 5 percent for State Government drought emergency programs, and $10 million for the purchase of water. S. 925—Public Law 95–18, approved April 7, 1977. (54)

Amends Public Law 95–18 to remove constraints on the allocation of funds for drought assistance and permit the use of funds already appropriated for the programs authorized in a more effective and timely manner; and authorizes the Secretary to waive all or any portion of the repayment of loans made if the recipient agrees to undertake a program of water conservation. S. 1935—Public Law 95–107, approved August 17, 1977. (VV)

Drought Emergency Relief.—Authorizes $225 million in grant and loan authority to the Economic Development Administration for assistance to States, Indian tribes or units of local government with a population of 10,000 or more for drought-related projects; includes among the permissible activities for which grants may be made the improvement or expansion of existing water supply facilities, construction of new facilities, well drilling or impoundment where appropriate, transportation of water by pipeline, and purchase of water if it is the most economic method of providing the needed supply; gives the Secretary of Commerce authority to designate areas eligible for assistance; limits grants to 50 percent of the cost of any project and provides that loans shall be at 5 percent interest for not to exceed 40 years and at terms determined by the Secretary; directs the Secretary to consider the relative needs of the applicants giving priority to communities facing the most severe problems; permits obligation of funds for drought impacted projects conducted by eligible applicants during fiscal year 1977 if they are compatible with the purposes of the act; permits funds to be obligated to December 31, 1977, and requires that projects be completed by April 30, 1978; and extends the time allowed for convening the White House Conference on Balanced Growth and Economic Development from 12 to 18 months after the date of enactment of Public Law 94–487. S. 1279—Public Law 95–31, approved May 23, 1977. (VV)

Small business disaster loans.—Authorizes $50 million to the Small Business Administration to make disaster loans to relieve economic injury caused by the 1976–77 drought at a 5 percent rate of interest and up to 30 years; permits SBA to make loans for short term construction projects to improve water conservation practices or to rehabilitate, replace, or augment water supply facilities adversely affected by the drought; makes eligible for such loans farms and businesses in drought-designated areas as determined by the President, Secretary of Agriculture, or the Administrator of SBA; requires that a small business, to be eligible, must demonstrate that it has suffered or is likely to suffer substantial economic injury without the assistance provided under this act; and requires that loan applications must be submitted and approved before October 1, 1978, all assistance funds committed before October 1, 1978, and short term projects completed by November 30, 1978. S. 1306—Passed Senate August 4, 1977. (VV)

Soil erosion prevention.—Authorizes the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention to safeguard lives and property from floods, drought, and erosion whenever fire or any other natural occurrence has caused a sudden impairment of a watershed; authorizes the establishment of an emergency fund in the Treasury for use of the Secretary in carrying out these measures and authorizes therefor such sums as necessary; and makes the bill effective October 1, 1978. S. 1462—Passed Senate August 5, 1977. (VV)

DISTRICT OF COLUMBIA

D.C. Armory Board.—Amends the Home Rule Act to allow the Armory Board of the District of Columbia, which manages Robert F. Kennedy Stadium and the D.C. Armory, to operate under a fiscal year coinciding with the calendar year, rather than the October 1–September 30 fiscal year required of all city government agencies in order to accommodate the special seasonal nature of the revenues earned by the concerns, and changes the filing date for the Board's annual reports from January to July. S. 1062—Public Law 95–185, approved November 15, 1977. (VV)

D.C. bonds.—Amends section 490 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 to allow the proceeds of revenue bonds which have been sold under acts approved by the Council and the Congress for the benefit of "private" colleges and universities to be remitted to the respective entities for whom the bonds were issued without further legislative action. S. 1063—Public Law 95– , approved 1977. (VV)

D.C. borrowing authority.—Amends the Home Rule Act to extend until October 1, 1979, the District's interim authority to borrow from the U.S. Treasury to finance its capital improvements projects; changes from November 1 to February 1 of each fiscal year the date by which the Mayor must submit to the Council of the District a complete financial statement and report for the preceding fiscal year; and makes procedural and technical changes to the act respecting qualifications for appointment to the Commission on Judicial Disabilities and Tenure, and to the Judicial Nomination Commission. S. 1061—Passed Senate June 13, 1977. (VV)

Contains identical provisions as in S. 1061 and includes a provision which repeals the authority of the District to borrow from the U.S. Treasury with respect to a sewer connection to Dulles International Airport, which project is now complete. H.R. 6530—Public Law 95–131, approved October 13, 1977.

D.C. reciprocal tax collection.—Authorizes any State, territory or possession to bring suit in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it, if a reciprocal right is accorded to the District by the State, territory or possession. S. 1103—Passed Senate May 26, 1977. (VV)

Federal water and sewer payment.—Allows the District of Columbia to collect the amount of money owing from the Federal Government for water and sewer services in its next fiscal year's budget. S. 1322—Public Law 95–122, approved October 6, 1977. (VV)

ECONOMY-FINANCE

Council on wage and price stability.—Extends the Council on Wage and Price Stability to September 30, 1979, and increases its authorization from $1,700,000 to $2,210,900 for fiscal years 1978 and 1979; directs the Council, in the course of its public hearings, to emphasize the purpose of controlling inflation; indicates that full employment is one of the objectives of the anti-inflation programs; directs the Council to review information about and analyze the effects on the U.S. economy of U.S. participation in international trade and commerce, changing patterns of supplies and prices of commodities in the world market, investment of U.S. capital in foreign countries, short- and long-term weather changes in the world, interest rates, capital formation, and changing patterns of world energy supplies and prices; makes it clear that voluntarily submitted data has the same amount of protection and confidentiality as data submitted pursuant to a subpena or periodic report order; and strengthens the language requiring the Council to maintain the confidentiality of trade secrets and other business information submitted to it. S. 2056—Passed Senate September 21, 1977. (VV)

Extends for two years, through fiscal 1979, the Council on Wage and Price Stability Act of 1974, as amended, which established the Council on Wage and Price Stability to monitor inflationary price and wage movements in the private sector of the economy as well as inflationary activities of the agencies and departments of the Federal Government. H.R. 6951—Public Law 95–121, approved October 6, 1977. (VV)

Employee retirement benefit plans insurance.—Amends the Employee Retirement Income Security Act of 1974 to defer for 18 months, until July 1, 1979, the date by which multiemployer pension plans must pay an annual insurance premium to the Pension Benefit Guaranty Corporation to guarantee retirement benefits in the event that a pension plan terminates with insufficient funds; increases the premium rate payable to the Corporation by plans that are not multiemployer plans from $1.00 to $2.60 per plan participant; and requires the Corporation to report to the Senate Human Resources and Finance Committees and the House Education and Labor Committees by July 1, 1978, on the anticipated financial condition of the termination insurance program, alternatives available to insure proper financing of the multiemployer plan program and proper coverage of the plan, and any recommendations it believes necessary regarding the multiemployer plans. H.R. 9378—Passed House November 1, 1977; Passed Senate amended November 3, 1977. (VV)

European trade.—States the sense of the Senate that the President should: (1) express concern about, and seek negotiations to terminate, the regulations adopted by the Council of European Communities which damage U.S. exports of dried prunes, and other processed fruits and vegetables; (2) seek to accelerate consideration of the U.S. complaint instituted under article XXIII of the General Agreement on Tariffs and Trade should negotiations fail; (3) put the European Communities on notice that the U.S. intends to exercise its rights under the General Agreement on Tariffs and Trade to take retaliatory measures against these restrictive regulations if they are not removed; and (4) seek to obtain agreement from the European Communities that similar restrictive regulations on U.S. exports of other agricultural products will not be imposed in the future. S. Res. 76—Senate agreed to September 16, 1977. (VV)

Export Administration—Arab boycott.—In title I, authorizes $14,033,000 for the extension of the Export Administration Act of 1969, through fiscal year 1979; requires a review of the export control lists, rules, and regulations issued under the Act, to be submitted not later than December 1, 1978; authorizes the Secretary of Defense to recommend his approval of an export license application whenever he determines that the export would be detrimental to U.S. national security; exempts agricultural commodities purchased for export and stored in the United States from subsequent export restrictions if such storage will not have a serious domestic inflationary impact; requires a study of the national security impact of the export of technical information to restricted countries within 6 months of enactment and adds other reporting and notification requirements of the act;

Excludes petroleum products refined in the U.S. foreign trade zones or in Guam from any quantitative limitations imposed for short supply purposes unless the Secretary of Commerce limits such exports; prohibits export of Alaskan oil except (1) for exchanges of crude oil in similar quantity, for convenience or increased efficiency in transportation, with governments of adjacent foreign states, or for oil that is temporarily exported for increased efficiency of transportation across part of an adjacent foreign state and reenters the United States, or (2) where the President publishes and submits to Congress 60 days prior to export an express finding that the export of such oil is in the national interest and in accord with the provisions of the Export Administration Act of 1969; allows a 60-legislative-day period for any such action to be vetoed by either House of Congress prior to any export; provides that any contract for the export of such oil may be terminated any time that U.S. petroleum suppliers are seriously threatened;

Reaffirms Congressional intent that the secrecy provisions of the act do not abridge the inherent right of Congress to acquire information obtained under the act; directs the Secretary of Commerce to undertake a review of unilateral and multilateral export controls and to submit the results to Congress by December 31, 1978; requires that monitoring of exports for short supply purposes commence at a time adequate to insure that sufficient data will be available to permit achievement of the act; increases the penalties applicable to violations of the Export Administration Act and otherwise improve the administration of U.S. export controls;

In title II, seeks to prevent most forms of compliance with foreign boycotts; prohibits refusal to do business with blacklisted firms and boycotted friendly countries pursuant to foreign boycott demands; prohibits discrimination against any U.S. person on the grounds of race, religion, sex, or national origin in order to comply with a foreign boycott; prohibits U.S. persons from furnishing information about any person's race, religion, sex or national origin for foreign boycott enforcement purposes; provides for public disclosure of requests to comply with foreign boycotts; requires domestic U.S. persons who receive such requests to disclose publicly whether they are complying with such requests; provides that these provisions apply to all domestic concerns and persons, including intermediaries in the export process;

Exempts from the antiboycott provisions transactions in which a unilateral and specific selection is made by a boycotting country, or national or resident thereof; allows United States persons residing in a foreign country to comply with the laws of that country with respect to his activities exclusively therein; permits a negative certification with respect to carriers or route of shipment in order to comply with requirements protecting against war risks and confiscation; allows compliance with immigration or visa requirements with respect to the individual and members of his family; permits U.S. persons to comply with requests for information pertaining to securing or maintaining employment in a boycotting country; preempts all State foreign boycott laws; provides a 2-year grace period for agreements in effect on or before March 1, 1977, with three additional 1-year extensions available in cases where good faith efforts are being made; and generally strengthens U.S. law against foreign boycotts to reduce their domestic impact. H.R. 5840—Public Law 95–52, approved June 22, 1977. (140)

Export-Import Bank.—Extends from June 30, 1978, to September 30, 1978, the operating authority of the Export-Import Bank in order to conform to the new fiscal year; requires the Bank to obtain the State Department's advice on whether Bank Credits are consistent with U.S. human rights policy; directs the Bank to cooperate with other U.S. government agencies in international negotiations directed toward mutual reduction of government subsidized export financing; requires a 25-day Congressional review period before the Bank may loan or guarantee any export transaction involving nuclear power, enrichment, reprocessing, research, or heavy water production facilities; prohibits the Bank from approving future financial transactions involving support for exports to a country which the Secretary of State determines has violated International Atomic Energy Agency nuclear safeguards or agreements with the U.S. concerning transfers of nuclear materials or has exploded a nuclear device (except Britain, France, China, and Russia) unless the President determines that it would be in the national interest, and Congress has 25 days to review the transaction; and prohibits the Bank from supporting the export of liquid metal fast breeder nuclear reactors and nuclear fuel reprocessing plants. H.R. 6415—Public Law 95–143, approved October 26, 1977. (VV)

Federal Reserve Banks purchase of U.S. obligations.—Extends, through April 30, 1978, the authority of the Federal Reserve banks to purchase U.S. Government obligations directly from the Treasury up to the amount of $5 billion. H.J. Res. 611—Public Law 95–154, approved November 7, 1977. (VV)

Financial institutions regulatory agencies.—Strengthens the supervisory authority of the Federal banking agencies over financial institutions and their affiliates;

Empowers the regulatory agencies to issue cease-and-desist orders under the Financial Institutions Supervisory Act of 1966 against individuals directly without the necessity for naming the corporate financial institution; authorizes the imposition of civil penalties of up to $1,000 per day against a financial institution or individual for violating a final cease-and-desist order; authorizes the divestiture of a nonbank subsidiary of a bank holding company if the nonbank or noninsured subsidiary constitutes a serious risk to the financial safety, soundness or stability of the subsidiary bank or insured savings and loan association; requires that loans to insiders be aggregated with loans to companies they control and, when aggregated, may not exceed the lending limitations on loans to a single borrower under Federal law in the case of a national bank or applicable State law in the case of State-chartered bank; requires approval by two-thirds of the banks' board of directors for insider loans over $25,000 with substantially the same terms as loans prevailing in the market; authorizes the removal of an officer or director of a financial institution if the individual has demonstrated a willful disregard for the safety or soundness of the institution and provides that an officer or director who has been suspended or removed after a hearing upon an indictment or conviction of a crime involving dishonesty or breach of trust may appeal to the U.S. Court of Appeals;

Prohibits interlocking management and director relationships, with certain specified exceptions, among depository institutions including commercial banks, savings and loan associations, savings banks and trust companies; prohibits interlocking relationships between a depository institution having assets in excess of $1 billion and a depository institution with assets in excess of $500 million; authorizes the Federal Reserve to exempt by rule interlocking management or director relationships among financial institutions where the effect would be procompetitive;

Requires prior approval of the FDIC for a State-insured nonmember bank to establish a foreign branch or invest in a foreign bank; clarifies the authority of the bank regulatory agencies to examine bank service contractors; makes it a crime to forcibly assault or intimidate a financial institutions regulatory official;

Proscribes revolving door employment practices by the heads of the financial institutions regulatory agencies and provides increases in salary for these officials to encourage them to complete their terms of office;

Amends the Federal Credit Union Act to transfer management of the National Credit Union Administration from a single Administrator to a three-member board, appointed by the President with the advice and consent of the Senate, to serve for fixed terms; requires each Federal Credit Union to pay an annual operating fee to the Administration to defray expenses of the Board; requires Federal Credit Unions to make financial reports to the Board at least annually; and

Amends section 5202 of the Revised Statutes to provide for the regulation of standby letters of credit, guarantees, surety agreements and certain acceptances issued by commercial banks. S. 71—Passed Senate August 5, 1977. (VV)

Foreign corporate bribes and domestic disclosure.—Amends the Securities Exchange Act of 1934 to require companies subject to the jurisdiction of the Securities and Exchange Commission to maintain accurate records, prohibit certain bribes, and expand and improve disclosure of ownership of the securities of U.S. companies;

Requires corporate issuers subject to SEC jurisdiction to maintain accounting standards and management control over their assets; makes it a crime for corporations to use the mail or any instrument of interstate commerce to bribe a foreign official for the purpose of obtaining or retaining business; imposes a maximum fine of $1 million on issuers and $10,000 and 5 years imprisonment on officers, directors, employees or stockholders acting on behalf of the issuer for each violation of the criminal prohibitions;

Requires those persons who already file reports with the SEC when they own more than 5 percent of the shares in a U.S. company to identify their residence, citizenship, and the nature of their beneficial ownership; provides for the development of a comprehensive system for gathering and disseminating information about ownership interests in publicly held companies; requires the Commission to consolidate the various beneficial ownership reporting requirements of the Securities Exchange Act into a centralized nonduplicative system for the collection of such information, and to tabulate and make it available to regulators and the public; requires the Commission, within 30 months of enactment, to report to Congress with respect to the effectiveness of the ownership reporting requirements and the desirability and feasibility of reducing or otherwise modifying the 5-percent disclosure threshold giving appropriate consideration to specified regulatory and public policy; and provides the Commission with authority to assure that the jurisdictional effectiveness of section 15(d) of the Securities Exchange Act is not inappropriately limited because of the use of nominee and street name registration of securities. S. 305—Public Law 95- , approved 1977. (VV)

International Trade Commission.—Authorizes $11.5 million to the U.S. International Trade Commission for fiscal year 1978; provides that the President will designate one Commissioner as Chairman and one Commissioner as Vice-Chairman, each to serve for 2-year periods, except that the individual the President designates may not be of the same party affiliation as his predecessor; makes the Chairman responsible for all administrative functions of the Commission subject to disapproval by a majority vote of the Commission; and authorizes the Commission to continue publication of its reports on synthetic organic chemicals until 1981. H.R. 6370—Public Law 95–106, approved August 17, 1977. (VV)

Public debt limit.—Increases the temporary debt limit from $300 billion to $352 billion for the six month period ending March 31, 1978, making a total permanent and temporary debt limit of $752 billion. H.R. 9290—Public Law 95–120, approved October 4, 1977. (502)

Regulation Q.—Extends until December 15, 1978, the authority for various Federal financial regulatory agencies to establish flexible ceilings on rates paid by financial institutions on time and savings deposits (Regulation Q); sets forth clear guidelines for monetary policy and establishes regular oversight hearings focused on the Federal Reserve's plans for the growth of the monetary and credit aggregates during the current year and its expectations for the Nation's economic performance; doubles the number of Reserve bank directors who will represent the public at large; permits the Federal Reserve Board to extend current conflict of interest statutes to Federal Reserve officers and employees; permits the Federal Reserve Board to extend for 3 successive 1-year terms the current 2-year period within which a holding company or bank must divest shares of another bank acquired in the regular course of securing or collecting a debt previously contracted in good faith; and requires Senate confirmation of the Chairman and Vice-Chairman of the Federal Reserve Board. H.R. 9710—Public Law 95–188, approved November 16, 1977. (VV)

Regulation Q—Federal credit unions.—Extends from March 1, 1977, until December 15, 1977, existing authority (commonly known as Regulation Q) under the Interest Rate Control Act by which Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions; extends until August 31, 1977, the Treasury Department's authority to borrow funds from the Federal Reserve System;

Modernizes the powers of Federal credit unions under the Federal Credit Union Act in order that they may provide more contemporary financial services to their members; considers demand deposit accounts of state chartered credit unions as member accounts, if they qualify pursuant to state law, thus making them eligible for Federal share insurance; establishes varying self-replenishing lines of credit to member borrowers; removes the distinction between secured and unsecured loans and raises the maximum loan maturities to 12 years (currently 5 years on unsecured loans and 10 years on secured loans); empowers the board of directors to establish their own loan maturity and collateral requirements; removes the $2,500 maximum account for unsecured loans; provides the necessary flexibility to meet members' needs in accordance with the applicant's creditworthiness and the credit union's soundness rather than arbitrary loan ceilings; permits real estate loans with maturities up to 30 years; and includes the following restrictions on such lending authority: (1) loans must be secured by a first lien, (2) loans must be for a one-to-four family dwelling, (3) the dwelling must be the principal residence of the borrower, and (4) the sales price must not exceed 150 percent of the median sales price of residential real property to be determined on a market area basis; allows loans with maturities of up to 15 years for the purchase of mobile homes used as the member's residence, or for the repair, alteration or improvement of a member's residence; permits Federally guaranteed or insured loans, such as the VA guaranteed mobile home loans, with maturities as specified in those statutes; increases the officials' borrowing limit on unsecured loans from $2,500 plus pledged shares to $5,000 plus pledged shares and permits them to guarantee or endorse up to the same amounts without board approval; clarifies the existing provisions regarding the penalty for excess interest and the provision regarding loan amortization; ensures that a member may repay his or her loan prior to maturity with no penalty; authorizes loans to other credit unions and credit union organizations; and contains other provisions. H.R. 3365—Public Law 95–22, approved April 19, 1977. (VV)

Securities and Exchange Commission Authorizations.—Amends the Securities Exchange Act of 1934 to increase the authorization for fiscal year 1977 from $55 million to $56.5 million. S. 1025—Public Law 95–20, approved April 13, 1977. (VV)

Authorizes $63,750,000 for fiscal year 1978 to the Securities and Exchange Commission. H.R. 3722—Public Law 95- , approved 1977. (VV)

Small business amendments—disaster relief loans.—Amends the Small Business Act to authorize a total of $1.4 billion for fiscal 1978 and $1.565 billion for fiscal 1979 for the Small Business Administration; sets levels of $2 billion for the surety bond guarantee program, $4 million for the lease guarantee program, $150 million for pollution lease guarantees, and $171 million for salaries and expenses; places ceilings for the first time on SBA lending programs except for the physical and economic injury disaster loans which are open ended authorizations;

Eliminates SBA's obligation to pay interest on capital appropriations to the Real Estate Lease Guarantee Revolving Fund, the Surety Bond Guarantee Revolving Fund and the Pollution Control Lease Guarantee Revolving Fund; eliminates the authority to invest temporarily idle funds except for fees from the Pollution Control Lease Guarantee Revolving Fund; requires the submission of certain reports to the Senate and House Small Business committees and others to the Senate Select Committee on Small Business, the President of the Senate and the Speaker of the House; requires SBA's annual report to break out the assistance provided to socially and economically disadvantaged individuals; requires SBA to specify the Administration's goals for the next fiscal year with respect to minority small business and to make recommendations to improve such assistance; authorizes SBA to finance residential or commercial construction or rehabilitation for sale but provide that such loans may not be used primarily for land acquisition; authorizes SBA to undertake, for a period of 5 years, a small business concern's obligation to make required payments under a SBA loan if the business would become or remain insolvent without such a suspension; requires the business to repay the amounts that become due during the suspension and authorizes SBA to extend the maturity date of the loan to coincide with the suspension; expands SBA's displaced business loan program by authorizing SBA to make displaced business loans to small concerns suffering substantial economic injury as a result of displacement by a State or local government or public service entity which exercises its right to eminent domain; authorizes SBA economic injury loans, upon the request of the Governor of the State, to small business concerns in an area affected by a natural disaster even if the extent of the disaster was not sufficient for a disaster declaration by the President, Secretary of Agriculture, or Administrator of SBA; authorizes the Administrator, upon certification by a State Governor, to lend up to $100,000 to a small business concern in an impacted area which would otherwise become insolvent because of the magnitude of economic dislocations or natural disasters;

Lowers the interest rate on physical disaster loans from the period July 1, 1976, to October 1, 1978, for the uninsured damaged portion of the principal residence and property from the present rate of 6⅝ percent to the following: 1 percent on the first $10,000 of the loan and 3 percent on the next $30,000 of the loan; reduces to 3 percent on the first $250,000 the interest rate on all loans to other applicants; makes similar reductions in the Farmers Home Administration disaster loan programs; reduces to 3 percent on the first $25,000 the interest rate on economic injury disaster loans; authorizes SBA to increase the principal of a loan by not to exceed $2,000 in order to insulate property which was damaged or destroyed during the period April 1, 1977, to January 1, 1978, whether or not the property was insulated at the time of the damage.

Authorizes SBA to certify a small business company's ability to perform a specific government contract; provides that a contract may not be withheld for any reason without referring the matter to SBA for a determination and that the contract must be awarded if SBA issues a certificate of competency; directs the contracting procurement agency for set-aside contracts in excess of $1 million to reduce the dollar amounts of each contract in excess of that amount in order that SBA may issue a surety bond guarantee; and directs that priority be given to labor surplus areas when awarding small business set-aside contracts. H.R. 692—Public Law 95–89, approved August 4, 1977. (VV)

Small business associate administrator for women's business.—Establishes within the Small Business Administration, a level V position of Associate Administrator for Women's Business Enterprise who shall report directly to the Administrator and be charged with broad policy responsibilities in providing assistance to women within small business concerns to insure that the unique problems of women entrepreneurs are represented at the policy making level and are fully considered in the administration of SBA's varied assistance programs. S. 1526—Passed Senate August 5, 1977. (VV)

Small business development centers.—Establishes a small business development center program within SBA to aid in the growth and development of new and existing small businesses; authorizes SBA to make grants to a State to defray 75 percent of the cost of developing and operating a development center program which will provide smaller concerns with a broad range of advice, information and assistance and to fund 100 percent of the cost of developing and operating regional centers; requires a State, in order to participate, to submit for SBA's approval, a plan containing specified information; creates a Small Business Management and Technical Assistance Division within SBA headed by an Associate Administrator for Management and Technical Assistance; provides for the appointment of a Deputy Associate Administrator whose sole responsibility shall be the administration of the program; creates a 17-member Small

Business Development Center Advisory Board (with 12 of the members to be appointed by the President to serve for staggered 3-year terms) to advise the Deputy Associate Administrator with regard to policies and management of the program; establishes State and regional center advisory boards; authorizes SBA to make grants to universities, public and private organizations, and business concerns to undertake research to identify and solve managerial, economic, and other problems affecting small business; authorizes $8 million for fiscal year 1979 and $15 million annually for fiscal 1980 through 1982 for State and regional center program grants, plus an additional $5 million annually for fiscal 1979 through 1982 to fund research grants; provides that not to exceed 5 percent of the funds authorized may be used for administration expenses; and requires that a complete evaluation of the program be submitted to the Senate and House Small Business Committees not later than 3 years following enactment and annually thereafter S. 972—Passed Senate August 5, 1977. (vv)

Small Business loan ceilings.—Amends the Small Business Act to increase the fiscal year 1977 authorization ceilings for the following SBA financial assistance programs: Business Loan and Investment Fund from $6 billion to $7.4 billion, Economic Opportunity Loans from $450 million to $525 million, and Small Business Investment Company Program Investment Act of 1958 to increase the fiscal year 1977 ceiling on the Surety Bond Guarantee Program from $56.5 million to $110 million. H.R. 2647—Public Law 95-14, approved March 24, 1977. (vv)

Tax and loan accounts—IMF—ESF.—Authorizes the Secretary of Treasury to invest excess operating cash balances, which are now held interest-free in Treasury tax and loan accounts at commercial banks, in either interest-bearing obligations of financial institutions holding such accounts or obligations of the United States and of agencies of United States with such investments in obligations of depository institutions bearing rates of interest prescribed by the Secretary; permits savings and loan associations and credit unions to participate in the tax and loan system which is now limited to commercial banks and mutual savings banks; permits savings and loan associations and credit unions which are Federally or State chartered and Federally or State insured to act as depositories of public money and fiscal agents of the United States; provides that timely deposits of income tax withholding and tax payments in savings and loan associations and credit unions shall be taken as a timely filing and payment of tax; and

Requires Congressional approval before added International Monetary Fund (IMF) gold can be used for the IMF Trust Fund for less developed countries and before any new trust fund may be established which specifically aids a single member or group of IMF members; improves Congressional oversight of U.S. Government activities regarding participation in the international monetary system and U.S. foreign economic policy by directing the President to provide appropriate information to the Congressional committees having jurisdiction over these matters; requires the President to provide Congress with a written determination any time money is used from the Exchange Stabilization Fund for loans in excess of a 6-month period; and repeals the joint resolution of June 5, 1933, which eliminated private ownership of gold. H.R. 5675—Public Law 95-147, approved October 28, 1977. (VV)

White House Conference on Small Business.—States as the sense of the Senate that the President should convene a White House Conference on Small Business to develop recommendations that will increase public awareness of the importance of small business; identify the problems of new, small, and independent business enterprise; and suggest appropriate governmental actions to encourage and maintain the economic interests and potentials of the small business community in order to strengthen the overall economy of the Nation. S. Res. 105—Senate agreed to March 28, 1977. (VV)

EDUCATION

Career education incentives.—Provides Federal financial incentives to States, local educational agencies, and postsecondary educational institutions to develop, implement and strengthen career education programs to ensure that education will be more closely related to the work world and career preferences of individuals; authorizes $50 million for fiscal year 1979, $100 million each for fiscal 1980 and 1981, $50 million for fiscal 1982 and $25 million for fiscal 1983 to State and local educational agencies to implement career education programs in elementary and secondary schools; provides that no funds may be appropriated after 1980 unless appropriations were made for the preceding fiscal year; provides that up to 5 percent of these funds may be reserved for administration at the Federal level and for model programs, up to 0.5 percent for evaluation, and up to 1 percent for career education information; provides for the allocation of funds to the States on the basis of each State's 5- to 18-year-old population with a minimum of $125,000 annually; permits each State, except for minimum allotment States, to use a maximum of 25 percent of funds received in fiscal 1979 for State administration and leadership activities, and a maximum of 15 percent for such purposes during the remaining period of Federal participation, with the balance distributed to local educational agencies; requires States, except minimum allotment States, to employ designated personnel to administer the program; grants minimum allotment States the discretion to utilize Federal funds received as they see fit provided the uses comply with Federal requirements; requires all States to provide increasing percentages of non-Federal funds over the 5-year period; specifies the permissible uses of funds at both the State and local levels; requires each State applying for funds to submit a one-time application, a one-time State plan, and subsequent amendments to the plan as necessary; makes the State Educational Agency the planning administering agency for programs funded under this bill; prohibits States from allocating funds to local educational agencies on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis or from denying funds to an agency because it cannot pay the non-Federal share; authorizes $15 million annually over the 5-year period to postsecondary institutions, public agencies, or private nonprofit entities for postsecondary education demonstration projects having national significance or unusual promise in promoting career education at the postsecondary level and provides that no funds may be authorized for postsecondary projects under section 406(f) of the Education Amendments of 1974 in any year in which this provision is unfunded; requires an annual evaluation by the Commissioner of Education to determine those methods best fulfilling the purposes of the act; requires the Commissioner to reserve 1 percent of the appropriation for use in Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; specifies that career education materials funded under the Act must have special emphasis on overcoming sex bias and stereotyping; requires States to provide for equitable participation by private school children but allows the Commissioner to waive this requirement if a State is prohibited by law from providing for their participation or has substantially failed to do so; and makes the Office of Career Education in the U.S. Office of Education the administering unit at the Federal level. H.R. 7—Public Law 95-207, approved December 13, 1977. (VV)

Education amendments.—Extends for 1 year, through fiscal 1979, programs of Federal aid to elementary and secondary education which include the following titles of the Elementary and Secondary Education Act of 1965: Title I—Financial Assistance to Local Educational Agencies for the Education of Children of Low-Income Families; Title II—School Library Resources, Textbooks, and Other Instructional Materials; Title III—Supplementary Educational Centers and Services, Guidance, Counseling, and Testing; Title IV—Libraries, Learning Resources, Educational Innovation, and Support; Title V—Strengthening State and Local Educational Agencies; Section 807—Dropout Prevention Projects; Section 808—Grants for Demonstration Projects to Improve School Nutrition and Health Services for Children from Low-Income Families; and Section 811—Consumers' Education Programs; and extends through fiscal 1979 the Adult Education Act, Title II of the National Defense Education Act of 1958, and the carryover authority contained in section 412(b) of the General Education Provisions Act. S. 1752—Public Law 95-112, approved September 24, 1977. (VV)

Education of the handicapped.—Extends certain programs under the Education of the Handicapped Act for 5 years, through fiscal year 1982, with authorizations for each of fiscal years 1978 through 1982, respectively, as follows: (1) Part C, Centers and Services to Meet Special Needs of the Handicapped—$76 million, $80 million, $86 million, $89 million, and $93 million; Part D, Training Personnel for the Education of the Handicapped—$77 million, $82 million, $87.5 million, $92.5 million, and $97.5 million; Part E, Research in the Education of the Handicapped—$20 million, $22 million, $24 million, $26 million, and $28 million; Part F, Instructional Media for the Handicapped—$24 million, $25 million, $27 million, $29 million, and $29 million; and provides the authority for the Bureau of Education to support model education projects for all handicapped children under section 641 of the act. H.R. 6692—Public Law 95-49, approved June 17, 1977. (VV)

Grand Canyon National Park School Aid.—Authorizes the Secretary of the Treasury to establish a special fund to hold a portion of the annual concessionaires' fees from the Grand Canyon National Park; and authorizes the Secretary of the Interior to draw from that fund for the purpose of providing educational services to dependents of persons working in the Grand Canyon National Park. S. 2076—Passed Senate September 9, 1977. (VV)

Higher Education—Trust Territory of the Pacific.—Amends the Higher Education Act of 1965 to include the Trust Territory of the Pacific in the definition of "State" for the purpose of participating in programs under the act. H.R. 9512—Public Law 95-180, approved November 15, 1977. (VV)

Higher Educational Technical Amendments.—Makes technical and miscellaneous changes to the higher education provisions contained in the Education Amendments of 1976 (Public Law 94-482). H.R. 6774—Public Law 95-43, approved June 15, 1977. (VV)

Vocational Education Amendments.—Makes a number of technical amendments to title II of the Education Amendments of 1976, Public Law 94-482, dealing with printing and clerical errors and changing certain reporting dates; removes the $25 million a year limit for State administrative expenses and authorizes funds under the basic State grant for this purpose with the requirement that States match Federal funds used; requires States to set forth in their State plan the amount of Federal funds it plans to retain at the State level for administration; and gives each local recipient the option of using a percentage of Federal funds which is equal to the percentage of Federal funds in their vocational education program or to use any amount of Federal funds as long as they are matched by States appropriated funds for administrative expenses. H.R. 3437—Public Law 95-40, approved June 3, 1977. (VV)

ELECTIONS

Campaign Act amendments.—Amends the Federal Election Campaign Act of 1971 to substantially reduce the number of reports required to be filed with the Federal Election Commission; raises the threshold above which detailed information with respect to contributions and expenditures must be reported from $100 to $250 and, with respect to independent expenditures, from $100 to $250; makes changes in the law to strengthen the role of political parties in future elections; contains language to encourage a candidate to support his political party's Presidential candidate by providing that the costs of listing or mentioning the name of any Presidential nominee by any other candidate in his campaign material will not be considered as a contribution in-kind prohibited by the act; permits the transfer of excess campaign funds to a political party committee without limitation; contains provisions to improve the act in regard to political action committees; and contains several administrative provisions to facilitate more expeditious handling of complaints; authorizes $250,000 in fiscal year 1978 to reimburse States for the additional costs of receiving and preserving Federal campaign reports; and changes the statute of limitations from 3 years to 5 years with regard to violations of Campaign Act. S. 926—Passed Senate August 3, 1977. (331)

Federal Election Commission authorization.—Authorizes $7,811,500 for activities of the Federal Election Commission for fiscal year 1978. S. 1435—Public Law 95-127, approved October 12, 1977. (VV)

Overseas citizens voting rights.—Amends the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955 to improve the administration and operation of these laws; vests the authority and responsibility for collecting and disseminating absentee voting information to citizens overseas in the President's designee (currently the Secretary of Defense) under the Federal Voting Rights Assistance Act; authorizes utilization of the same ballot application and free airmail postage provisions presently contained in the Federal Voting Assistance Act for all citizens residing overseas; provides the designee with the authority to revise the absentee registration and ballot application forms currently recommended for use by military personnel and civilians temporarily residing abroad and to develop a single form which could also be used by citizens covered by the Overseas Voting Act; provides that any balloting material sent from the United States to persons covered by either act or returned by them to this country shall be sent by priority airmail or by the most expeditious postal service available; directs the designee to publicize and notify appropriate citizens and State election officials of the availability of free postage and the expedited mail delivery of balloting material; and provides that the exercise of the right to register or vote in Federal elections by citizens residing overseas shall not affect the determination of his place of residence or domicile for the purpose of any tax imposed under Federal, State, or local law. S. 703—Passed Senate May 9, 1977. (VV)

EMPLOYMENT

Age discrimination in employment.—Raises the upper age limit of the Age Discrimination in Employment Act from 65 to 70, effective January 1, 1979; prohibits the application of a mandatory retirement age of less than 70 which is contained in a seniority system or an employee benefit plan; requires the secretary to conduct a study on the effects of raising the Act's upper age limit to 70, and the feasibility of raising the Act's upper age limitation above 70 or reducing the current lower age limitation of 40; permits the compulsory retirement of management or highly compensated employees at the age of 65 or above if they will receive an employer-provided annual retirement benefit of at least $20,000 exclusive of social security; permits colleges and universities to maintain compulsory retirement policies for faculty at age 65 or above with unlimited tenure; provides that the effective date of the prohibition against mandatory retirement between the ages of 65 and 70 if such policies are contained in collective bargaining agreements which are in effect on September 1, 1977, shall be delayed until the termination of the contract or January 1, 1980, whichever occurs first; makes clear that where a bona fide occupational age qualification has been established, an employer may lawfully require mandatory retirement at that specified age; recreates the Advisory Committee on Sheltered Workshops to the Department of Labor; guarantees the availability of jury trials in private actions brought under the Act; and places a 2-year limitation on the period during which the statute of limitations could be waived by the Administrative actions of the Department of Labor. H.R. 5383—Passed House September 23, 1977; Passed Senate amended October 19, 1977; In conference. (567)

CETA.—Extends the authorization of sums as may be necessary for all titles of the Comprehensive Employment and Training Act (CETA) through fiscal year 1978; extends the amendments to title VI made by the Emergency Jobs Programs Extension Act of 1976, which provide that each prime sponsor of a public service employment program may use its allocation, first, to sustain its existing number of public service job holders under the Act, and shall thereafter fill any additional public service jobs with low-income persons unemployed for at least 15 weeks who have been receiving or are eligible for unemployment compensation, and also provide that 50 percent of title VI job vacancies due to attrition must meet those eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements (15 days unemployment in areas having 7 percent or higher unemployment rates, and 30 days unemployment in other areas). H.R. 2992—Public Law 95-44, approved June 15, 1977. (VV)

Emergency unemployment compensation.—Extends the Emergency Unemployment Compensation Act to October 31, 1977, to provide a maximum of 13 weeks of emergency benefits (which combine with the 26 weeks of regular and 13 weeks of extended benefits for a total of 52 weeks of unemployment benefits) in States where the insured unemployment rate is 5 percent or more, with a phase-out under which individuals eligible before October 31, 1977, may continue to receive benefits until January 31, 1978; extends until April 30, 1977, the maximum 26 week program now in effect (which combine with 26 weeks of regular and 13 weeks of extended benefits for a total of 65 weeks of unemployment benefits) in order to avoid terminating benefits for certain participants in that program; provides that the cost of emergency unemployment compensation paid after March 31, 1977, be met from nonrepayable general revenues without the present law requirements that the costs ultimately be met from Federal Unemployment Tax;

Provides that, in addition to any eligibility requirements of State law, an individual would be disqualified from receiving emergency benefits for failing to (1) actively seek work, (2) apply for any suitable work which was referred by the State agency, or (3) accept any offer of suitable work; defines suitable work as that which (1) is within the capabilities of the claimant, (2) meets conditions of present Federal law, (3) meets the conditions of State law and practices pertaining to suitable or specific disqualifying work such as unreasonable travel distance or threat to morals, health, or safety, (4) pays wages equal to Federal or State minimum wage, (5) pays gross average weekly remuneration equal to the individual's weekly unemployment benefits plus any Supplemental Unemployment benefits he might be entitled to, and (6) was listed with the State employment service or offered in writing; allows a State to waive these requirements if an individual furnishes satisfactory evidence that prospects for obtaining work within a reasonable period of time in his or her occupation are good;

Establishes new statutory authority and procedures for the treatment of fraud and erroneous payments; disqualifies applicants submitting false or erroneous information; requires States with certain exceptions, to recover any overpayments made to individuals; makes fraud in connection with the program a Federal crime and imposes a fine of up to $10,000 and imprisonment of up to 5 years;

Provides for State implementation of changes made by this act; requires each State to enter into a modification if its present agreement within 3 weeks after the Secretary of Labor proposes the modification to the State; provides that if modification is not entered into, the Unemployment Compensation Program in that State would expire within the last week which ends on or before March 31, 1977; permits Kentucky, which does not have a scheduled meeting of its legislature during 1977, to defer until 1979 compliance with certain requirements of the act;

Simplifies administration by terminating an individual's entitlement to emergency benefits two years after the end of the benefit year for which regular benefits were payable; extends for two years, through 1979, the moratorium under which the Federal unemployment tax is automatically increased to recapture any loan to a State which is unpaid after 2 years; prohibits benefits to an individual who was illegally working at the time he earned his eligibility; allows States to deny unemployment compensation to teachers during brief mid-year vacation periods if the teacher was employed by the school system immediately before the start of the vacation and has reasonable assurance of the employment continuing at the conclusion of the vacation; makes clear that groups of local governments are to be provided the same options for financing unemployment compensation as those provided to single government units; extends from September 30, 1979, to March 31, 1980, the provision contained in Public Law 94-566 which requires States to reduce the unemployment benefits of an individual by the amount of any public or private pension including social security and railroad retirement annuities in order to conform this enactment date with the final reporting extension granted the National Commission of Unemployment Compensation; extends the time by which the National Commission on Unemployment Compensation must submit its interim report from March 31, 1978, to September 30, 1978, and the time by which it must submit its final report from January 1, 1979, to July 1, 1979; and amends present law to require an affirmative vote of the Senate and the House to make effective the President's quadrennial recommendations regarding the salary increases of Members of Congress, the Federal judiciary, Cabinet officials and other top Federal personnel. H.R. 4800—Public Law 95-19, approved April 12, 1977. (82)

Public works employment.—Authorizes an additional $4 billion to extend the program of grants to State and local governments to provide jobs through construction in places with the most distressing levels of unemployment as originally authorized under Title I of the Public Works Employment Act of 1976; provides that 65 percent of the funds be allotted on total numbers of unemployed and 35 percent on the basis of the relative severity of unemployment, with States' participation in the 35 percent allocation only if their unemployment rates exceed 6.5 percent for the most recent 12 month period; provides that no State shall receive less than three-fourths of 1 percent nor more than 12.5 percent; requires that within a State 70 percent or more of the funds be spent in areas with rates of unemployment above the national average and 30 percent for areas with rates below the national average but above 6.5 percent; provides a $70 million set aside for grants that were not received, considered or rejected solely because of an error by a U.S. employee or officer; contains a 2½ percent set-aside for Indian and Alaskan Natives projects to insure a substantial fund for such projects while permitting high-unemployment non-Indian communities a competitive chance to be awarded projects in States with Indian communities; includes the transportation of water to drought-stricken areas within the term "public works project" and permits an applicant who received a grant to substitute one or more projects for the project for which the grant was made under certain conditions approved by the Administrator; requires that all articles, materials and supplies used in a project be produced and made from substances mined or produced in the U.S. except in certain cases; requires a grant applicant to expend 10 percent of the funds for minority business enterprises if available within project areas; requires that priority and preference be given to pending applications resulting in energy conservation; repeals the provision permitting the Secretary to consider the unemployment rate in adjoining areas from which the labor force for a project may be drawn; ensures that all laborers and mechanics employed on projects are paid the prevailing wage rate under the Davis-Bacon Act; requires the Secretary to consider only those applications for grants submitted on or after December 23, 1976, and before the date of enactment except for applications from the Trust Territory of the Pacific, Indian tribes and Alaska Native Villages or any applicant if a sufficient number of applications were not received; requires the Secretary of Commerce to study public works investment in the U.S. and report his findings to Congress within 18 months of enactment; requires the promulgation of regulations assuring special consideration to the employment of qualified disabled and Vietnam-era veterans;

Mandates, in Title II, the obligation of funds for water resource projects for fiscal 1977 (with the exception of the Meramec Dam in Missouri) and states congressional intent not to uphold any prospective budget rescissions or deferrals regarding these projects; provides that the rates of interest or discount used to access the return on Federal investment in projects carried out by the U.S. Army Corps of Engineers or the Department of Interior Bureau of Reclamation be those established by the Water Resources Development Act of 1974 or by prior law authorizing such projects. H.R. 11—Public Law 95-28, approved May 13, 1977. (48,126)

Youth employment and training.—Adds a new youth employment title VIII to the Comprehensive Employment and Training Act of 1973 (CETA), as recommended by the President as part of his economic recovery package, and authorizes such sums as may be necessary to carry out the new title over a 3-year period; creates, in title I, a National Young Adult Conservation Corps to provide work for unemployed youths in the Nation's public lands and water; establishes, in title II, a variety of employment, training, and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth; authorizes the establishment of youth incentive entitlement pilot projects for economically disadvantaged youth to provide part-time employment and/or training for youths between the ages of 16 and 19 who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or its equivalent; authorizes the establishment of youth community conservation and improvements projects to put unemployed youths to work for a period not to exceed 12 months on the rehabilitation or improvement of public facilities, neighborhood improvements, weatherization and basic repairs to low-income housing, and conservation, maintenance, or restoration of natural resources on non-Federal public lands; and authorizes support for employment and training programs designed to enhance job prospects and career opportunities for young persons, including activities involving useful work experience opportunities in community betterment and appropriate training and services such as outreach, counseling, occupational information, institutional and on-the-job training, and transportation assistance;

Specifies the wage rates to which employed youths are entitled; prohibits full time employment to youths who have not attained the compulsory school attendance age; permits full time employment when school is not in session; requires the Secretary of Labor to submit a report to the Congress on the progress of the programs by March 15, 1978; disregards a youth's earnings in determining the family's eligibility to participate in Federal or Federally-assisted welfare programs;

Requires the Secretary of Labor to take steps to increase CETA participation by disabled veterans and Vietnam-era veterans under 35 years of age; and provides that, in filling teaching positions in public schools with financial assistance under CETA title II (public service employment in high unemployment areas) or title VI (Job Corps), each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under CETA. H.R. 6138—Public Law 95-93, approved August 5, 1977. (170)

ENERGY

Alaska pipeline (ALCON).—Approves the President's decision on an Alaska natural gas transportation system submitted to the Congress on September 22, 1977, which authorizes private construction of a natural gas pipeline through Canada, and finds that any environmental impact statements prepared relative to the system and submitted with the President's decision are in compliance with the National Environmental Policy Act of 1969. H.J. Res. 621—Public Law 95-158, approved November 8, 1977. (VV)

Alaska pipeline destruction.—Amends title 18, U.S.C., to make a Federal crime the willful distruction or attempt to destroy the Trans-Alaska pipeline system with a fine of not more $15,000 and/or 15 years imprisonment. S. 1496—Passed Senate July 18, 1977. (VV)

Coal conversion.—Prohibits certain new electric power plants and major fuel burning installations (MFBI's) capable of a fuel heat rate input of at least 100 million Btu's per hour or an aggregation of units which together are capable of a fuel heat rate input of 250 Btu's per hour from using natural gas or petroleum as their primary energy source except for fuel required for startup testing, flame stabilization, feedstock uses and direct-fire uses;

Requires existing electric powerplants and MFBI's capable of using coal or other fuels with fuel heat input rates of at least 100 million Btu's per hour, or an aggregation of coal capable units of fuel heat input rates exceeding 250 million Btu's per hour, or units which cannot use coal capable of fuel heat input rates of at least 250 Btu's per hour to cease using natural gas as their primary energy source after January 1, 1990, and not to increase the proportional use of natural gas before that date; exempts existing powerplants and MFBI's with fuel rates of less than 300 Btu's from the petroleum provisions;

Provides that any existing facility which uses coal after April 19, 1977, may not increase its use of petroleum unless the appropriate State certifies that such an increase is necessary for compliance to the Clean Air Act; authorizes the Administrator to order existing powerplants and MFBI's capable of using combinations of coal or other fuels with natural gas or petroleum, to use minimal amounts of natural gas or petroleum; prohibits plants using petroleum as the primary energy source as of April 20, 1977, from converting to natural gas; extends coal conversion provisions of the Energy Supply and Environment Coordination Act of 1974 which allows the Administrator to order coal conversions by facilities capable of using coal prior to 1990;

Provides temporary exceptions of up to 5 years to facilities: (1) if coal or fuels other than gas or petroleum are not available; (2) if adequate coal or other fuel transportation facilities are not available; (3) if necessary air pollution equipment and facilities are not available; (4) where the use of natural gas is necessary to achieve or maintain an ambient air quality standard; or (5) if existing plants need additional time to employ synthetic fuels or innovative technologies;

Provides permanent exemptions from the petroleum provisions to facilities: (1) if coal and fuels other than natural gas or petroleum are not available; (2) if the cost of using coal or other fuels substantially exceeds the cost of using oil; (3) if physical, environmental, or legal factors preclude compliance; (4) if the facility is constructed for only standby emergency operation; (5) if a cogeneration facility cannot obtain economic and other benefits if coal or other fuels are used; or (6) if such an exemption would be in the public interest;

Provides that new electric peakload powerplants are to be granted permanent exemptions from petroleum prohibitions if the facility will be operated for peakload purposes only, and from natural gas prohibition in any area where a national ambient air quality standard has not or will not be attained; allows intermediate-load powerplants to be exempted from the petroleum prohibitions if constructed in nonattainment areas, if greater than 36-percent efficient, and if convertible to coal derived fuels when available; mandates that permanent exemptions from petroleum prohibitions are to be granted to MFBI's if satisfactory product quality control would be jeopardized or product requirements cannot be met by the use of coal or fuels other than gas and petroleum; requires applicants seeking permanent exemptions for new electric powerplants to consider alternate sites where coal and other fuels could be used or the possibility of purchasing electric power instead of using petroleum;

Requires existing powerplants and MFBI's to file annual compliance reports beginning January 1, 1980; allows electric utility systems using intrastate gas to submit a system compliance report rather than individual reports; empowers the Administrator to compensate any existing facility which in the absence of such compensation would otherwise be entitled to a permanent exemption; authorizes the Administrator to make direct loans and loan guarantees to facilities for air pollution control devices necessitated by coal conversion;

Provides that a facility prevented from using natural gas under contract may sell its rights at a price to be determined, but to include an amount to compensate the company which transports the gas; contains provisions which allow facilities to use natural gas or petroleum in emergency situations; authorizes assistance for additional public facilities and services in regions impacted by coal production expansion and to report thereon to the Congress; requires the Administrator to monitor coal prices and to report thereon to the Congress; authorizes $100 million for rehabilitation of minor and branch railroad lines which transport coal and coal products; and

Suspends the duty on imports of competition bobsleds and luges. H.R. 5146—Passed House July 18, 1977; Passed Senate amended September 8, 1977; In conference. (356)

Deepwater ports.—Extends through fiscal year 1980 the annual $2.5 million authorization under the Deepwater Port Act of 1974 which established a licensing and regulatory program governing offshore deepwater port development beyond the territorial limits of the United States. S. 891 (identical to H.R. 6401)—Passed Senate May 17, 1977. H.R. 6401—Public Law 95-36, approved June 1, 1977. (VV)

Department of Energy.—Creates a cabinet-level Department of Energy (DOE) to permit coherent administration of the national energy policy with a Secretary, one Deputy Secretary, one Under Secretary (with responsibility for energy conservation), and eight Assistant Secretaries; establishes within the Department (1) the Energy Information Administration to gather, analyze and distribute energy data and to implement a system of mandatory reporting by major energy-producing firms of information related to the economics of energy supply; (2) the Economic Regulatory Administration to administer regulatory functions which the Secretary deems appropriate and which do not fall exclusively within the jurisdiction of the Federal Energy Regulatory Commission; (3) an Office of Inspector General to promote efficiency and prevent fraud and abuse within DOE; (4) the Office of Energy Research; and (5) the Leasing Liaison Committee, composed of an equal number of members from the DOE and the Department of Interior, to provide for cooperation and consultation between the two Departments; provides that the GAO shall audit DOE;

Transfer of functions.—Transfers to and vests in the Secretary all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, except those functions transferred to the Federal Energy Regulatory Commission; four Regional Power Marketing administrations and the power-marketing functions of the Bureau of Reclamation currently under the Department of Interior; authority under the Outer Continental Shelf Lands Act, Mineral Lands Leasing Act, Mineral Leasing Act for Acquired Lands, Geothermal Steam Act of 1970 and the Energy Policy and Conservation Act related to the leasing of energy resources onshore and offshore; functions relating to fuel supply and demand analysis currently under the Bureau of Mines; authority for development and promulgation of new building conservation standards now vested in the Secretary of HUD; Commerce Department programs to promote voluntary industrial energy conservation; jurisdiction over three naval oil reserves and three naval oil shale reserves currently administered by the Department of Defense; authority currently vested in the Interstate Commerce Commission related to the transportation of oil by pipelines; and authority to publish guidelines for the Rural Electrification Administration on the issuance of loans or loan guarantees for generation and transmission facilities;

Retains the responsibility for promulgation of automobile efficiency standards within the Department of Transportation, but requires the Secretary of Transportation to give the Energy Secretary 10 days in which to provide written comment on any standard prior to its implementation; leaves responsibility for policing clean air standards with the Environmental Protection Agency; continues responsibility for actual leasing of resources for the extraction of energy sources from public land in Interior, but places control over all economic terms and conditions of such leases in DOE; provides that nothing in the transfer of Federal leasing functions from Interior to DOE shall be construed as affecting Indian lands and resources or as transferring the responsibility of the Secretary of Interior concerning such lands and resources; requires cabinet-level departments and agencies with conservation responsibilities to designate a principal conservation officer within their Department; provides that the responsibility for the promotion of vanpooling and carpooling shall be transferred to the Secretary of Transportation;

Federal Energy Regulatory Commission.—Creates within the Department, independent of the Secretary's control, a five-member Federal Energy Regulatory Board, with its members appointed by the President, subject to Senate confirmation; prohibits members from engaging in any other business while serving on the Commission; provides that the Commission shall have sole jurisdiction over the establishment and enforcement of rates and charges for the transmission and sale of electricity and natural gas, and authority to license hydroelectric power plants; provides that either the Secretary or the Commission may propose a rule pertaining to functions within the exclusive jurisdiction of the Commission and that the Secretary can set reasonable time limits for completion of a rulemaking proceeding before the Commission; provides that the Secretary shall have jurisdiction over the import and export of natural gas and electricity, emergency interconnections and curtailment priorities;

Provides that the Secretary shall have sole power to propose oil pricing actions, and that all such proposals must be referred immediately to the Commission which has sole power to make such final decisions on the proposal; provides that the Commission can either agree to an oil pricing proposal (in which case the Secretary may issue the rule), amend the proposal (in which case the Secretary may accept the changes and issue the final rule or reject the changes and not issue the rule), or reject the proposal (in which case the Secretary may not issue the rule); provides that during an energy crisis the President may grant the Secretary temporary exclusive pricing authority;

Miscellaneous.—Contains general administrative and procedural provisions governing rulemaking and other proceedings of the Department, and other provisions to eliminate or minimize conflicts of interest within the Department; requires the President to submit a proposed national energy policy plan by April 1, 1979, to be updated biennially thereafter; provides that the act shall become effective 120 days after the Secretary assumes office, or earlier as the President may prescribe; and requires the President to submit to the Congress a comprehensive review of each program in the Department by January 15, 1982, for Congressional review with respect to authorizing legislation for fiscal year 1983. S. 826—Public Law 95-91, approved August 4, 1977. (148,323)

ERDA nonnuclear authorization—Civilian, 1977.—Authorizes a total of $4,946,261,000 for the Energy Research and Development Administration for fiscal year 1977, of which $1,175,671,000 is designated for nonnuclear scientific research and programs, and $3,770,590,000 is designated for non-weapon nuclear scientific research programs; includes: $461,801,000 for fossil energy; $286.2 million for solar energy; $65.7 million for geothermal energy; $221 million for conservation research and development; $10 million for a high Btu pipeline gas demonstration plant; $5 million for a fuel gas low Btu demonstration plant; and $10 million for solar energy projects; authorizes funds for numerous plans to make improvements to comply with safety regulations; contains authorizations for capital equipment not related to construction to replace obsolete or worn-out equipment and to purchase certain new equipment to meet the needs of expanding programs and new technology at ERDA installations; provides an additional $50 million for the clean boiler fuel demonstration plant authorized by Public Law 94-187 and $15 million for the 5 megawatt solar thermal test facility authorized by Public Law 94-187; provides guidelines under which funds for fossil energy programs may be utilized; deauthorizes authorized fossil energy projects which were not appropriated within 3 full fiscal years; allows the Administrator to assist in the demonstration of the production of synthesis gas, methane, methanol, anhydrous ammonia, and similar energy intensive products from municipal waste by entering into agreements with units of local government or persons proposing to construct facilities for the manufacture of such products; provides authority by which ERDA may reprogram funds between major program areas; directs ERDA to relate the funds authorized and appropriated in annual authorization and appropriation measures to the objectives and goals of the various enabling legislation under which the Agency operates; amends the Federal Nonnuclear Energy Research and Development Act of 1974 to transfer responsibility for preparation of demonstration project water assessments from ERDA to the Water Resources Council; requires the Administration to classify the recipients of ERDA contracts into various categories including: Federal agency, non-Federal governmental entity, profitmaking enterprise, non-profit enterprise, and nonprofit education institution; authorizes the establishment of a small grants program to promote the research, development, and demonstration of energy related systems and technologies appropriate to the needs of local communities; requires the Administrator, in consultation with EPA, to report to the Congress on the environmental monitoring, assessment and control efforts related to its various energy demonstration projects;

Authorizes $464,302,000 for work in biomedical and environmental research, operational safety, environmental control technology, the materials sciences, and molecular mathematical and geosciences portion of the basic energy sciences program and program support; provides $26.7 million for plant and capital equipment obligations including construction, acquisition, or modification of facilities, land acquisition and acquisition and fabrication of capital equipment not related to construction; prohibits ERDA from starting projects if the current estimated cost exceeds the original estimated cost by more than 25 percent;

Authorizes ERDA to transfer sums from its "Operating Expenses" to other agencies for work for which the moneys were appropriated; authorizes "Operating Expenses" and "Plant and Capital Equipment" as no year funds; authorizes any Government-owned contractor operated laboratory, energy research center or other laboratory performing functions under contract to ERDA to use a reasonable portion of its operating budget for funding employee suggested research projects up to the pilot plant state of development; permits ERDA to contract for advanced architect/Administrator services for construction projects essential to meet the needs of national defense or the protection of life, property, health or safety prior to congressional authorization; requires any officer or employee of ERDA in a policy making position to report certain known financial interests in various energy technologies and related resources; directs the Administrator to develop regulations that would avoid conflicts of interest in ERDA contracts with private persons or organizations involved in energy research and development; and authorizes the establishment of a National Energy Extension Service. S. 36—Public Law 95-39, approved June 3, 1977. (VV)

ERDA nonnuclear authorization—Civilian, 1978.—Authorizes a total of $2,496,762,000 for fiscal year 1978 for ERDA non-nuclear related programs and certain support activities for both nuclear and non-nuclear programs; provides $977.15 million for the fossil energy development program to direct research of extraction, utilization, and conversion of coal, oil and natural gas, and oil shale and in-site coal gasification (of which $88 million is for research in magnetothermodynamics); $131.8 million for the geothermal energy development program; $384 million for solar energy development programs (of which $7.5 million is earmarked for design works for small community applications); $372.8 million for energy conservation research and development programs to develop and demonstrate technologies for end-use conservation and conversion efficiency; $249.9 million for the environmental research and development program to assure that environmental, health and safety standards are maintained as new energy technologies are introduced; and $379.4 million for general program management and support. S. 1340—Passed Senate June 13, 1977; Passed House amended December 7, 1977. (195)

ERDA nuclear authorization—Joint applications.—Authorizes $392,050,000 for fiscal year 1978 for operating expenses and plant and capital equipment for three ERDA military programs (laser fusion, space applications and naval reactors) which have potential for civilian energy applications. S. 1341—Passed Senate June 29, 1977. *Note:* (Provisions are contained in S. 1339, Public Law 95-183.)

ERDA nuclear authorization—Military.—Authorizes appropriations of the funds appropriated by Public Law 94-344 for the Energy Research and Development Administration (ERDA) for fiscal year 1977 national security programs and authorizes a total of $2,607,100,000 for fiscal year 1978; includes funding of the national defense programs; $116.2 million in operating expenses for the laser fusion program, $211.7 million for the naval reactor program, and $40.8 million for program management and support items attributed to national security; prohibits the start of any new construction project if the current estimated cost exceeds the amount authorized by more than 25 percent unless reauthorized by Congress; provides authority to merge funds appropriated in different years for the same requirement category; directs that funds appropriated pursuant to this act remain available until expended; authorizes the use of funds when necessary in connection with all ERDA national security programs; authorizes ERDA to proceed to design any national security project subject to the total amount authorized for the activity; authorizes ERDA to retain monies received from outside sources and use them for operating funds; and authorizes ERDA to transfer funds to other agencies supporting its programs. S. 1339—Public Law 95-183, approved November 15, 1977. (VV)

ERDA nuclear/nonnuclear authorization—Civilian.—Authorizes a total of $6,161,445,000 for civilian energy research and development and plant and capital equipment for the Energy Research and Development Administration for fiscal year 1978; includes $636.6 million for R. & D. in fossil energy, $344.9 million for solar energy, $124.5 million for geothermal energy, and $228.8 million for nuclear research; includes $80 million for the Clinch River Breeder Reactor with the stipulation that funds not be used to terminate or plan to terminate the project; authorizes a program whereby the Administrator may guarantee loans for the conversion of biomass into desirable forms of energy including synthetic fuels with the outstanding indebtedness not to exceed $300 million at any one time and a loan guarantee program for the demonstration of technologies to produce alternative fuels from coal, oil shale and other domestic resources; prohibits the use of funds to return any foreign spent nuclear fuel to the United States except in an emergency with Congress given the opportunity to disapprove the return; changes the basis for government charge for uranium enrichment services to prevent unreasonable increases in the price of uranium; and contains other provisions. S. 1811—Vetoed November 5, 1977. (VV)

ERDA synthetic fuel loan guarantee program.—Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish a loan guarantee program to be administered by the Energy Research and Development Administration (ERDA) whereby the Administrator may guarantee the payment of interest and principal of bonds, debentures, notes, and other obligations issued for the purpose of financing the construction and initial operation of commercial-sized demonstration facilities for the conversion of biomass into synthetic fuel or other usable forms of energy; authorizes guarantees of up to 75 percent of the total project cost and, during the construction and start up period, up to 90 percent; limits the total outstanding indebtedness that may be guaranteed at any one time to $300 million; requires ERDA, before approving an application, to notify the appropriate State and local governmental officials and to give the Governor of the State an opportunity to make his recommendation respecting the facility; prohibits ERDA from guaranteeing a project if the Governor recommends against it; authorizes the Administrator, in the event of default, to complete the project and assume management of the facility including the authority to sell the products or energy produced; provides that any patents and technology resulting from the facility will be treated as assets in cases of default and requires that the guarantee agreement contain a provision assuring their availability to the Government if needed to complete the facility; and requires ERDA to submit a report of the proposed guarantee and facility to the appropriate committees of Congress which shall have 90 days to disapprove by passage of a disapproval resolution. S. 37—Passed Senate March 31, 1977. (VV)

Energy conservation policy.—Establishes both voluntary and mandatory energy conservation programs designed to significantly reduce the rate of growth in domestic energy consumption;

Residential provisions.—Requires electric and natural gas companies, pursuant to a plan filed with the FEA by each governor, to (1) offer to inspect and advise each customer about the energy conservation measures appropriate to the residential building that the customer owns or occupies, (2) provide the customer with a list of installation contractors and lending institutions which have been certified under the provisions of the State plan, (3) arrange, at the request of the customer, for the installation and financing of the measure chosen and collect from the customer the associated costs on a regular utility billing cycle; requires unregulated utilities to file individual plans directly with the Administrator; prohibits any electric and natural gas utility company from installing or financing energy conservation measures unless it provided these services prior to enactment or unless State law requires or explicitly permits a utility to do so;

Amends the National Housing Act to include public utilities allowed to provide financing for conservation measures as financial and lending institutions under the home improvement loan program; authorizes the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association to purchase loans for residential energy conservation measures; authorizes the Government National Mortgage Association to purchase up to $15 billion in 90 percent federally-insured loans for residential conservation loans of up to $2500 to be granted to persons of all income groups; establishes a revolving fund of $100 million administered by the Secretary of HUD to provide loans for installation of residential solar heating and cooling equipment; establishes a loan program within HUD for energy conservation improvements to multifamily housing;

Consumer products efficiency standards.—Requires the Administrator of the FEA to establish mandatory energy efficiency standards by January 1, 1980, for refrigerators, refrigerator-freezers, freezers, water heaters, room air-conditioners, furnaces and other home heating equipment, and clothes dryers; grants discretionary authority to the FEA Administrator to set standards for dishwashers, televisions, clothes washers, humidifiers, dehumidifiers, and other products which consume at least 150 kwh/year per household or 4.2 billion kwh per year; exempts small businesses from the standards for up to two years; provides that State standards shall be superseded whenever a Federal standard is implemented; allows a State or a manufacturer to appeal to the Administrator regarding a standard;

Federal energy initiatives.—Authorizes $15 million per year for fiscal years 1978, 1979, 1980, and 1981, and $3 million for fiscal year 1982 for the establishment of a vanpooling program for Federal employees to be administered by the FEA; allows the General Services Administration (GSA) to acquire 6,000 vans for the vanpooling program; provides that charges for participation in the program are to be adjusted so that all costs to the government will be repaid within 8 years;

Requires GSA to establish life cycle capital and operating cost methods for all Federal buildings; provides that in leasing buildings, the Federal government must give preference to buildings with solar heating and cooling equipment or energy efficient buildings; authorizes $100 million through fiscal year 1980 for development by the FEA of a program to demonstrate solar heating and cooling in Federal buildings; authorizes $98 million through September 30, 1981, for procurement by the FEA of photovoltaic solar electric generation systems; provides that all passenger vehicles purchased by the Federal government must be equipped, to the extent possible, with passive restraint systems;

Additional programs.—Requires the FEA to set energy efficiency standards for new industrial electric motors and pumps and to develop the procedures and labeling requirements for fourteen other categories of energy intensive industrial equipment within specified time periods; allows the FEA Administrator discretionary authority as to which classes of pumps and motors and other categories shall have standards mandated; sets minimum mileage standards for new automobiles of 16 miles per gallon in model year 1980, 17 mpg in 1981, 18 mpg in 1982, 19 mpg in 1983, 20 mpg in 1984, and 21 mpg in 1985; sets penalties for noncompliance with absolute automobile efficiency standards and doubles penalties for noncompliance with fleet average fuel economy requirements; authorizes $100 million per year for fiscal years 1979 and 1980 to continue energy conservation programs operated by State governments through Federal grant programs established by the Energy Policy and Conservation Act of 1975; authorizes $65 million for fiscal year 1978 and 1979 to assist local governments in planning and implementing energy conservation measures in buildings other than schools or hospitals;

Energy saving grants for schools.—Adds the provisions contained in S. 701, Energy Saving Grants for Schools, which passed the Senate on July 20, 1977, which establishes, for fiscal years 1978–1981, the following three programs of matching grants to provide Federal financial assistance to institutions of higher education, public elementary and secondary schools to assist them in meeting the emergency caused by the high costs of fuel, fuel shortages, and harsh weather conditions: $300 million for energy conservation measures including insulation, remodeling and renovation (50 percent Federal—50 percent applicant); $50 million for demonstration projects for innovated energy conservation projects (66⅔ Federal—33⅓ percent applicant); and $150 million for technical assistance for energy saving programs involving planning, studies or the temporary employment of special personnel (50 percent Federal—50 percent applicant). H.R. 5037—Passed House July 18, 1977; Passed Senate amended September 13, 1977. (NOTE: H.R. 5037 was a private bill to which the Senate attached the Energy Conservation Act, S. 2057, and the Energy Saving Grants for Schools, S. 701.)

Energy saving grants for schools.—Establishes, for fiscal years 1978–1981, the following three programs of matching grants to provide Federal financial assistance to institutions of higher education, public elementary and secondary schools and private nonprofit elementary and secondary schools to assist them in meeting the emergency caused by the high costs of fuel, fuel shortages, and harsh weather conditions: $300 million for energy conservation measures including insulation, remodeling and renovation (50 percent Federal-50 percent applicant); $50 million for demonstration projects for innovated energy conservation projects (66⅔ percent Federal-33⅓ percent applicant); and $150 million for technical assistance for energy saving programs involving planning, studies or the temporary employment of special personnel (50 percent Federal-50 percent applicant). S. 701—Passed Senate July 20, 1977. NOTE: (Comparable provisions are contained in H.R. 5037, Energy Conservation.) (VV)

Energy taxes.—Sets forth an energy taxation policy to encourage energy conservation, expansion of domestic energy sources, and conversion to coal fuel sources by utilities and industrial installations;

Residential tax credits.—Includes a refundable tax credit of 20 percent of the initial $2,000 of expenditures on home insulation and other residential energy conserving components for a maximum credit of $400; provides a refundable tax credit of up to $75 per year for persons 65 years and older for residential energy costs; entitles homeowners to a refundable tax credit for renewable energy source equipment, which includes solar, wind and geothermal energy systems of 30 percent of the first $2,000 of expenditures and 20 percent of the next $8,000 for a maximum credit of $2,200; provides, through 1982, a refundable tax credit of 25 percent of the cost of home heating oil, with a maximum annual credit of $150;

Business energy investment credit.—Contains a business energy investment credit which provides an additional 15 percent refundable credit for certain alternate energy property (equipment involved in the use of a substance as a fuel or feedstock other than oil, natural gas, or a derived product), and an additional 10% refundable credit for certain specially defined energy property (equipment which reduces energy consumption when added to an existing production or processing) during the period between April 19, 1977 and January 1, 1986; provides that charitable, educational, religious and other tax exempt organizations, as well as State and local governments, are eligible to receive the credit;

Additional incentives.—Contains language which is intended to give the conferees flexibility, with respect to any new taxes which may be in the bill agreed to by the conferees, to use a portion of the revenues raised by such taxes to provide tax and other economic incentives for increased production, conservation, and conversion;

Oil and gas users tax.—Imposes an excise tax on the industrial and utility use of oil and natural gas of $6 per barrel by 1985 or the equivalent amount to bring gas to the same price; limits this tax to new electric powerplants and major fuel-burning installations and existing facilities which are capable of burning coal;

Energy trust fund.—Provides that a portion of any funds which may be raised by new taxes in the bill be used for an energy trust fund, to finance outlays for energy production, energy conservation and energy-efficient forms of transportation;

Other tax provisions.—Extends through September 30, 1985, the existing 4-cent-per-gallon tax on gasoline and other motor fuels, which otherwise is scheduled to decline to 1½ cents per gallon after September 30, 1979; removes the 2-cents-per-gallon refund or credit for gasoline and other fuels for motorboat and other nonbusiness, off-highway use; exempts from the 4-cent gasoline tax gasoline-alcohol blends (gasahol) if such blends contain at least 10 percent ethanol and/or methanol and if the alcohol is made from agricultural or forestry products, and reduces the tax rate to 3 cents per gallon for gasahol containing alcohol made from other products (such as coal); contains a $300 tax credit for the purchase of electric cars for personal use; provides an exemption from income tax of employees for energy-efficient transportation provided by employers; exempts rerefined lubricating oil from the excise tax on new oil; extends the existing 10-percent investment tax credit to business insulation; increases the rate of percentage depletion from 5 percent to 10 percent for peat used directly or indirectly for fuel; allows percentage depletion and expensing of intangible drilling costs for geothermal energy under rules similar to existing provisions for oil and gas; provides 10-percent depletion and expensing of intangible drilling costs and geological and geophysical costs for geopressurized methane gas; contains a $3 per barrel tax credit for production of shale oil, and a 50-cent per mcf credit for production of geopressurized methane gas and gas from other nonconventional sources; provides a permanent exemption from the minimum tax for intangible drilling costs to the extent of oil and natural gas production income; allows a tax exemption for industrial development bonds used for bioconversion facilites and for coal liquefaction and gasification facilities;

Nontax provisions.—Requiries an annual report to the Congress by the President on the energy saving and revenue effects of the bill; and limits the President's power to impose tariffs, license fees, or quotas on crude oil imports to wartime or actual hostilities and limits his authority to adjust imports of refined petroleum products to adjustments necessary for national security, and allows a two-House veto by Congress within 30 days. H.R. 5263—Passed House July 18, 1977; Passed Senate amended October 31, 1977; In confernce. (606)

Federal Energy Administration authorization.—Extends through fiscal year 1978 the authorities under the Federal Energy Administration Act; includes $1.210 billion to permit 250 million barrels of crude oil to be placed in the Strategic Petroleum Reserve by the end of calendar year 1978; contains $1.8 million for the appliance labeling program under the Energy Supply and Environmental Coordination Act of 1974 and extends FEA's authority to require certain facilities which presently burn oil and gas to convert to coal; adds provisions limiting the powers of the regional counsels of FEA; establishes general procedures to be followed with respect to the use of commercial standards by the FEA; and requires the Administrator within 120 days of enactment, to publish regulations which would require prospective FEA contractors to disclose all relevant data which could cause a possible conflict of interest in carrying out activities for FEA. S. 1467—Public Law 95–70, approved July 21, 1977. (VV)

Natural Gas Emergency.—Authorizes the President to declare a natural gas emergency if he finds that a severe shortage exists or is imminent in the United States which would endanger the supply of natural gas for high-priority uses and the exercise of his authorities is reasonably necessary to assist in meeting requirements for such uses; provides that these authorities shall terminate when the President finds that shortages no longer exist and are no longer imminent;

Emergency allocation.—Authorizes the President, during a declared natural gas emergency, to require (1) any interstate pipeline to make emergency deliveries or transport interstate natural gas to any other interstate pipeline or a local distribution company served by an interstate pipeline; (2) any intrastate pipeline to transport interstate natural gas from one interstate pipeline to another or to any local distribution company served by an interstate pipeline; or (3) the construction and operation by any pipeline of necessary facilities to effect deliveries or transportation; directs the President, in issuing such orders, to consider the availability of alternative fuel users of the interstate pipeline ordered to make deliveries and to determine that they would not have an adverse effect on the natural gas supply or exceed the transportation capacity of the pipeline; provides that these authorities shall terminate by April 30, 1977, or after the President terminates the emergency, whichever is earlier;

Emergency sales at deregulated prices.—Authorizes interstate pipelines or local distribution companies to purchase supplies of natural gas for delivery before August 1, 1977, from intrastate pipelines at unregulated prices as reviewed by the President for fairness and equity; provides that these purchases could be delivered from intrastate pipelines and any producer of natural gas not affiliated with an interstate pipeline unless such natural gas was produced from the Outer Continental Shelf, and the sale or transportation of the gas was not, immediately prior to the date of the contract for purchase of the gas, certificated under the Natural Gas Act; authorizes the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts;

Miscellaneous.—Authorizes the President to subpoena information to carry out his authority under the Act; contains antitrust protection provisions available as a defense against civil or criminal action brought against any person for violation of the antitrust laws with respect to actions taken pursuant to a Presidential order; gives the Temporary Emergency Court of Appeals exclusive jurisdiction to review all cases including any order issued or other action taken under this act; imposes civil penalties of up to $25,000 a day for violations of orders and $50,000 a day for willful violations; directs the President to require weekly reports which shall be made available to the Congress on prices and volume of natural gas delivered transported or contracted for, and to report to Congress by October 1, 1977, on all actions taken under this act; and authorizes the President to delegate all or any portion of the authority granted to him to such executive agencies or officers he deems appropriate. S. 474—Public Law 95-2, approved February 2, 1977. (21)

Reinstates through February 15, 1978, the President's authority under Public Law 95-2 to declare a natural gas emergency if he finds that a severe shortage exists or is imminent in the United States which would endanger the supply of natural gas for high-priority uses and the exercise of his authorities is reasonably necessary to assist in meeting requirements for such uses. S. 2359—Passed Senate December 15, 1977. (VV)

Natural gas pricing.—Amends and extends the Natural Gas altering the pricing structure of domestic natural gas in order to encourage increased development, production, and conservation of U.S. natural gas resources;

New onshore natural gas.—Provides that for the next two years the price of new onshore natural gas shall not exceed the current cost of No. 2 fuel oil (approximately $2.01 per thousand cubic feet at the beginning of 1978) as determined by the Federal Energy Regulatory Commission (FERC) and thereafter deregulates the price of new onshore natural gas; defines "new natural gas" as gas which is sold or delivered in interstate commerce for the first time on or after January 1, 1977, including reservoirs discovered by deeper drilling of an existing well, or gas produced from wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir regardless of whether or not the leases covering the previously discovered reservoirs were committed to the interstate market; excludes from the definition of new natural gas that gas from reservoirs with wells prior to January 1, 1977, which was wrongfully withheld from sale or delivery in anticipation of higher prices;

OCS new gas.—Authorizes FERC to establish national price ceilings on new natural gas from the Outer Continental Shelf (OCS) sold or delivered on or after January 1, 1977, through December 31, 1982, and deregulates new offshore natural gas thereafter; provides that FERC shall consider the following factors when setting the national price ceiling on new offshore gas; (1) the prospective costs of exploration, development, production, gathering, and sale of new OCS gas; (2) the rates necessary to encourage optimum development of OCS gas resources; (3) the rates necessary to promote sound conservation practices in natural gas consumption; and (4) the rates necessary to protect consumers from prices in excess of what is necessary to achieve the goals of increased production and conservation; authorizes FERC to allow prices in excess of the national ceilings for new offshore gas which is unusually expensive to extract or produce; requires FERC, pending the establishment of a national price ceiling, to issue on a monthly basis, interim price ceilings for new offshore gas equivalent to the average first sale price for domestic new crude oil (approximately $2.67 per thousand cubic feet at the beginning of 1978); provides that any company which sells or delivers gas while the interim price ceiling is in effect shall have the benefit of the national ceiling thereafter if it is higher, but shall not have to reduce its rates for such deliveries or sales if the national ceiling is lower;

Curtailment.—Provides that, in cases of natural gas curtailment, residential users, small users, hospitals, and similar users vital to public health and safety shall have first priority to available natural gas; users who need gas to perform essential agricultural, food processing, and food-packaging purposes shall have second priority, and industrial users for which natural gas is essential for users (other than boiler fuel) for which there is no practical substitute shall have third priority; specifies certain limitations on FERC in implementing curtailment policies;

Incremental pricing.—Provides for incremental pricing whereby companies which transport gas must allocate for rate purposes the cost of lower priced old oil to residential users, small users utilizing less than 50 mcf on a peak day, users performing functions vital to public health and safety, and essential agricultural users until the resulting rates to low-priority users for natural gas equals the costs of substitute fuel oil;

Contains provisions requiring the commission to report to the Congress annually on specified aspects of natural gas pricing policies. H.R. 5289—Passed House July 18, 1977; Passed Senate amended October 4, 1977; In conference. (VV)

Outer Continental Shelf: Declares that the Outer Continental Shelf (OCS) is a vital national resource reserve held by the Federal Government for all the people, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner consistent with maintenance of competition and other national needs; directs the Secretary of Interior to prepare a five-year comprehensive leasing program to facilitate environmentally-safe development of the OCS while assuring receipt of fair market value for publicly owned oil and gas resources; provides a mechanism for separation of exploration from development and production so that Federal, State, and local government officials can assess the political, environmental, social, and economic impact of proposed development in order to resolve any problems prior to production; contains other provisions to increase Coastal states participation in OCS policy development; directs the Secretary of Interior to contract for exploratory drilling where he determines that such drilling is necessary to gain better information about OCS reserves; requires an independent Presidential investigation of all domestic crude oil and natural gas; authorizes the Secretary to modify the bidding system with the proviso that either House of Congress may veto any such change; reduces the maximum amount of bonus bids permitted under the law from 66.67 percent to 50 percent and requires the use of new leasing systems on an experimental basis; provides that at least 20 percent of offshore production be set aside for independent refiners;

Provides that an OCS lessee is liable for the total cost of control and removal of spilled oil; creates a new strict liability rule for damages from oil spills from any offshore facility or any vessel carrying oil produced offshore; sets maximum liability amounts for a lessee or holder of a right-of-way at $35 million for a vessel owner at $150 per gross registered ton unless such damage resulted from gross negligence or willful misconduct or violation of a safety or construction regulation; creates the Offshore Oil Compensation Fund, which receives its funds from a fee of 3 cents per barrel on oil produced from the OCS; requires that any company permitted to conduct exploratory activities on the OCS submit to the Government all data which it collected about oil and gas resources, including interpretive data, and requires the Secretary to keep all proprietary data confidential until public availability of the data would not damage the competitive position of the permittee; directs the Secretary and the Coast Guard to establish safety and environmental protection standards for equipment used for development of OCS resources; increases criminal penalties for willful violations of the act; and establishes a Fishermen Contingency Fund to provide compensation for damage to commercial fishing vessels and gear caused by OCS development. S. 9—Passed Senate July 15, 1977. (293)

Pipeline destruction.—Amends title 18, U.S.C., to make a Federal crime the willful destruction or attempt to destroy any interstate pipeline system used in the transportation of gas or oil in interstate commerce with a fine of not more than $15,000 and/or 15 years imprisonment. S. 1502—Passed Senate July 18, 1977. (VV)

Public utility rate reform.—Requires State regulatory authorities and nonregulated utilities which have sales of more than 750 million kilowatt-hours of electricity annually or 10 billion cubic feet of natural gas annually, to provide, on a biannual basis, information to the Secretary of Energy covering those factors which affect daily and seasonal peak loads, the costs of serving various classes of consumers, and varying consumption patterns within a service area; authorizes the Secretary to reimburse a regulatory authority or utility for the costs of gathering required information which it does not already collect; allows the Secretary to exempt parties from the reporting requirements;

Authorizes the Secretary to intervene at his own initiative in proceedings before a state regulatory authority or in administrative proceedings by a non-regulated utility which relate to utility rates or rate design in order to advocate policies which will encourage energy conservation, optimize efficient use of electric generation facilities, and encourage equitable rates to consumers; provides that the Secretary may appeal or seek judicial relief from decisions on rate making by state regulatory commissions only at the invitation of a party in the proceeding; authorizes the Secretary to give written notice of his recommendations in cases where non-regulated utilities set rates without any proceedings open to intervention; requires the Secretary to examine methods used by utilities for determining the costs of service and to analyze the extent to which such methods reveal the costs attributable to daily and seasonal demand and the probable impact upon costs of additional peak-period capacity, additional gross demand, or additional service connections; requires the Secretary to consider the potential advantages of load management systems and rate-making methods including but not limited to cost of service rates, elimination of declining block rates, time-of-day rates, mechanical load management systems, seasonal rates and interruptable rates to commercial or industrial customers; requires FEA to file an annual report to Congress on activities relating to electric utility rate provisions of the act;

Provides that utilities must extend to persons 62 years of age and older a basic amount of electricity at the lowest cost afforded any other class of consumer, and requires the Department of Energy to explore long-run incremental pricing as an alternate utility rate design.

Directs the Secretary, in consultation with the Federal Energy Regulatory Commission, to carry out a study and report to Congress on gas utility rate design; requires the Secretary to develop and transmit to Congress within 12 months proposals to improve gas utility rate design;

Requires the Secretary to recommend guidelines to State regulatory authorities for requiring State regulated electric utilities to purchase and sell electricity to qualifying cogenerators or small power producers; provides the Secretary with authority to exempt cogenerators and small power producers with capacity below 30 megawatts from Federal regulation as an incentive to achieve the purposes of the act; provides that no exemption may be granted to any power producer who intends to offer for sale the ouptut of more than 30 megawatts of generating capacity at any single geographical site;

Requires the Secretary to report to Congress within 270 days after enactment on the additional financial burden the act will place on State regulatory authorities; establishes the National Regulatory Research Institute, which is to be a non-profit unit of the Ohio State University, to provide economic and technical research to State regulatory authorities on utility regulation issues; exempts certain low-head hydroelectric demonstration projects from the requirement to obtain a license under the Federal Power Act; authorizes $10 million to enable the Secretary to make loans for feasibility studies for small hydroelectric projects and existing dams to municipalities, electric cooperatives, industrial development agencies, non-profit organizations, and any other persons; provides that a gas utility may keep any gas which it saves through conservation measures for use in the same service area; authorizes such sums as necessary to carry out the act for fiscal years 1979, 1980, and 1981; authorizes such sums as necessary to carry out provisions of title II of the Energy Conservation and Production Act relating to electric utility rate design for fiscal years 1979 and 1980, and to establish the National Regulatory Research Institute; and

Suspends until the close of June 30, 1980, the duty on certain doxorubin hydrochloride antibiotics. H.R. 4018—Passed House July 18, 1977; Passed Senate amended October 6, 1977; In conference. (533)

Radiation exposure.—Extends the program of the Energy Research and Development Administration (ERDA) to provide financial assistance to limit radiation exposure resulting from the widespread use of sand containing mill tailings in the construction of approximately 500 public and private buildings in the Grand Junction, Colorado area: calls for a cooperative arrangement with the State of Colorado whereby ERDA is authorized to provide 75 percent of the costs of the program; extends the deadline for applying for remedial work under the program from 4 to 7 years; provides that property owners who removed mill tailings at their own expense prior to the date of enactment and without the administrative determination required may apply for such reimbursement within the first year of enactment; permits the State of Colorado to waive the requirement that it perform the remedial work; and increases the authorization therefor from $5 million to $8 million. S. 266—Passed Senate April 4, 1977. (VV)

Stripmining control and reclamation.—Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands, under the administration of the Office of Surface Mining Reclamation and Enforcement in the Interior Department, to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment and that such surface coal mining is not conducted where reclamation is not feasible; sets forth a series of minimum uniform requirements for all coal surface mining on both Federal and state lands which deal with (1) preplanning (requires that an operator applying for a permit do certain research regarding adjacent land uses, the characteristics of the coal and the overburden, and hydrologic conditions and requires inclusion in his application of the planned methodology and timetable for the operation in a reclamation plan); (2) mining practices (requires that mining methods be used which will minimize or obviate environmental damage or injuries to public health and safety including restrictions on the placement of overburden, blasting regulations, water pollution control requirements, and waste disposal standards); and (3) post-mining reclamation (requires reclamation and restoration of the mined land to its pre-mined condition including backfilling and regrading to approximate original contour, restoration of water quality and quantity, revegetation to pre-mining conditions and elimination of erosion and sedimentation with certain exceptions) provides that these minimum Federal standards be administered and enforced by the States and by the Secretary of the Interior on public lands; authorizes funds to assist State in improving their regulatory and enforcement programs; provides for Federal enforcement of a State program if a State fails to comply with the Act;

Authorizes $200,000 in 1978, $300,000 in 1979 and $400,000 thereafter for 5 years in matching funds to each State to establish a state mining and mineral resources research institute to conduct research and train mineral engineers and scientists;

Provides for the protection of scarce and vital water resources in the permit application requirements, reclamation standards and provisions for designation of areas unsuitable for mining; provides for a mechanism on both State and Federal lands for citizens to petition that certain areas be designated as unsuitable for surface coal mining; prohibits stripmining of lands which cannot be reclaimed under the standards of the Act; prohibits stripmining in national parks and recreational areas (except for such lands which do not have significant forest cover within those national forests west of the 100th meridian) and areas which would adversely affect such parks; prohibits stripmining 300 feet from an occupied building, 100 feet from a public road, or 500 feet from an underground mine; permits certain variances to the mining-reclamation standards of the bill;

Requires with regard to lands where the Federal government owns the coal but not the surface estate that the surface owner must give written consent to the stripmining of the Federally-owned coal deposits; provides that if the surface and mineral estates are in private ownership, disputes shall be settled by State law;

Requires the Secretary of Interior to issue interim regulations for environmental standards within 90 days; waives provisions of the National Environmental Policy Act of permanent standards one year after enactment; requires EPA approval of air and water quality regulations; requires compliance by all new mines within 6 months; exempts mining operators with under 100,000 tons annual production from compliance with the interim environmental standards until January 1, 1979;

Bans strip mining on alluvial valley floors if it disrupts farming and the quantity and quality of the water supply except for (1) undeveloped range lands which are not significant to farming; (2) those lands the regulatory authority finds have negligible impact on the agricultural production of the affected farm; and (3) those surface coal mining operations in commercial production during the past year or for which a permit has been approved prior to enactment; requires a coal exchange program for fee coal located in alluvial valleys;

Requires that applicants seeking to stripmine on prime farmland demonstrate to the State regulatory authority that they have the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland soils in the surrounding area under equivalent levels of management;

Establishes a fund to be used to reclaim abandoned mined lands which will be derived from a reclamation fee levied on every ton of coal mined at 35 cents per ton for surface mined coal and 15 cents per ton for all coal mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less; requires that 50 percent of all fees must be allocated to the State or Indian reservation from which it was mined; applies to lignite coal a fee of the lesser of either 10 cents per ton or two percent of the value of the coal;

Provides that, beginning no later than 6 months from the date of enactment continuing until a State program has been approved or a Federal program has been implemented, the Secretary is required to carry out a Federal enforcement program which includes inspection and enforcement actions in accordance with the act; and contains comprehensive provisions for inspections, enforcement notices and orders, administrative and judicial review, penalties, and citizen participation. H.R. 2—Public Law 95–87, approved August 3, 1977. (159,310)

ENVIRONMENT

Clean air: Amends the Clean Air Act, as amended, as follows:

Auto emission standards.—Extends for 2 additional years, for model years 1978 and 1979, the existing interim auto emission standards of 1.5 grams per mile for hydrocarbons (HC), 15 grams for carbon monoxide (CO), and 2 grams for nitrogen oxides (NO_x); requires 1980 model cars to meet emission standards of .41 gram for HC, 7 grams for CO, and 2 grams for NO_x; requires 1981 model cars to meet the final emission standards set by the 1970 Clean Air Act of .41 grams for HC, 3.4 grams for CO, and 1 gram for NO_x; authorizes EPA to waive the 1 NO_x standard to a level not to exceed 1.5 grams per mile beginning in model year 1981 (1) to encourage the production of new engines (such as the diesel) and emission systems not using precious metal catalysts, or (2) for small manufacturers who produce less than 300,000 cars and who must purchase this pollution control technology from another manufacturer (American Motors); authorizes EPA to grant a 2-year waiver of the CO standard to 7 grams; reduces warranties for emission-control devices from 5 years and/or 50,000 miles to two years and/or 24,000 miles;

Delayed compliance.—Authorizes EPA and the States to issue enforcement orders extending compliance schedules for stationary sources until July 1, 1979; limits extension of compliance to not more than 3 years delay, except in case of innovative technology (5 years), coal conversion extensions, or smelter orders; automatically subjects noncomplying sources to a penalty after July 1, 1979, equal to the cost of compliance to eliminate any economic advantage of delay;

Nondeterioration.——Provides that areas where air quality is presently cleaner than the existing standards shall be protected by non-deterioration standards; designates the most carefully protected areas as Class I areas and other areas as Class II and III areas; provides a mechanism for States to redesignate lands from class I to II or II to III; provides that the following areas are not eligible for Class III designation if the area is over 10,000 acres: national monuments, primitive areas, preserves, wild and scenic rivers, wildlife refugees, lakeshores, seashores, parks, wilderness areas and any new areas subsequently designated into these categories; allows a State to redesignate any Federal land as a Class I area without the concurrence of any Federal authority; allows an Indian tribe to designate its land as Class I;

Defines "significant deterioration" in all clean air areas as a specified amount of additional pollution measured by increments of sulfur oxides and particulates; exempts facilities otherwise subject to the nondegradation provisions which emit less than 50 tons per year of total pollutants from the increment requirements; provides that States issue construction permits to new major emitting facilities in clean air areas (with EPA acting in the role of monitor of State actions) requiring the use of best available control technology; requires new sources locating in Class II areas to demonstrate to the State that they will not exceed the Class II pollution increments, or adversely affect the air quality values in any nearby Class I area; allows a State Governor to waive compliance with the Class I standards if computer models show in advance that the standards would not be exceeded for 18 days annually with the right of the Secretary of Interior to object and a final decision to be made by the President within 90 days;

Nonattainment areas.—Requires new sources proposed for construction in nonattainment areas (where pollution levels exceed the public health standards) to meet a number of conditions prior to approval of construction; requires that such sources meet the lowest achievable emission rate; requires that emission reductions from existing sources more than offset the emissions from the new source; requires that existing sources use all reasonably available controls; provides that sources may only be approved after July 1, 1979, if a State implementation plan exists, the source is in compliance with its requirements, and the plan assures the attainment of the health standards within 3 years; makes available an extension until 1987 for States that cannot show attainment of the oxidant and carbon monoxide standards within 3 years; provides waiver from the source-by-source emission offset requirement available to a State under limited conditions; and

Other.—Requires a review of the air quality criteria for existing ambient air quality standards which shall be completed by December 31, 1980 and subsequently every 5 years thereafter; allows a state to temporarily suspend State implementation plan requirements where necessitated by energy or economic emergencies under specified conditions; authorizes the President to require major noncomplying industrial coal burners to utilize coal supplies that are locally and regionally available instead of importing low-sulfur Western coal if necessary to avoid local economic disruption, after taking into account the final cost to the consumer; and contains other provisions. H.R. 6161—Public Law 95–95, approved August 7, 1977. (190)

Clean water.—Amends the Federal Water Pollution Control Act Amendments of 1972 including the following provisions:

Waste treatment construction.—Authorizes $24.5 billion through 1982 in Federal grants to local municipalities for construction of sewage treatment plants; increases the flexibility of the Administrator of the Environmental Protection Agency (EPA) and the States in determining the best cleanup techniques; allows the Secretary to extend for 5 years, until July 1, 1983, on a case-by-case basis, the deadline for communities to meet clean water standards if they have been unable so far to obtain Federal funds for construction; alters the criteria for grant allocation from the current formula based totally on need, to a new formula based on population plus partial needs; provides a 4% set-aside for grants to rural states; provides a set-aside for construction grants to encourage innovative and alternate technologies of 2 percent in 1979, and 3 percent in 1980 and 1981 to bring the rate of funding up from 75 percent to 85 percent;

Industrial standards.—Allows the Administrator of EPA to allow a "reasonable" time for compliance with the 1977 deadline and to set up a compliance schedule; allows EPA to grant an extension of the 1977 deadline for achieving the "best practicable technology" up to April 1, 1979, to a source whose facilities are under construction but not completed by July 1, 1977, and who in good faith has tried to meet the requirements; extends for one year, until July 1, 1984, the deadline for using the best available technology to limit discharge of conventional pollutants and 129 other pollutants to be specified by EPA; allows EPA to specify other pollutants which industry must use the best available technology to limit discharge within three years of the designation by the EPA, but compliance must be complete no later than July 1, 1984; extends the deadline for using the best available technology for all other pollutants until 1987;

Oil spill liability.—Increases the jurisdiction for oil spills out to 200 miles and the limits of liability for cleaning up oil spilled from tankers or oil terminals; sets liability with respect to inland oil barges at $125 per gross ton or $125,000, whichever is greater and, with respect to any other vessel, at $150 per gross ton unless the vessel carries oil or hazardous substances as cargo in which case there is a minimum liability of $250,000; authorizes the President to raise liability for onshore and offshore handling facilities up to $50 million from $8 million;

Wetlands protection.—Modifies the controversial wetlands protection provisions by exempting such activities as farming, ranching, and forestry; retains Federal control over disposal of dredge and fill materials, but allows any state to administer its own program if it has an EPA approved plan; and

Community flexibility.—Allows some communities to use an ad valorem tax system or another payment scheme to charge residential users for waste treatment if the charges are in proportion to use and if the consumer is notified of his contribution to support the waste treatment facility; continues to require proportionate user charges from industry; and gives States exclusive control over the priority of projects for Federal funding so long as those priorities reflect the requirements of the Act. H.R. 3199—Public Law 95– , approved 1977. (336)

Earthquake hazards reduction.—Establishes a national earthquake hazards reduction program under the direction of the President to minimize the loss and disruption resulting from future earthquakes; specifies the objectives of the program which includes the following four elements: (1) a research element dealing with fundamental earthquake risk analysis for land-use consideration, hazards assessment, and engineering and research to reduce earthquake vulnerability; (2) an implementation plan to be prepared within 6 months setting year-by-year targets through at least 1985, specifying roles for Federal agencies, and recommending approriate roles for State and local units of government, individuals, and private organizations; (3) a State assistance program allowing assistance to the States under the Disaster Relief Act of 1974; and (4) the opportunity for wide sectors of the population to participate in the formulation and implementation of the program; provides for public involvement in the program; calls for cooperation among a number of Federal agencies including the U.S. Geological Survey and the National Science Foundation; requires the President to report annually to the Congress on progress achieved in the program; and authorizes therefore $1 million, $2 million and $2 million for fiscal years 1978, 1979 and 1980 respectively, which is in addition to any authorizations for similar purposes incuded in other acts. S. 126—Public Law 95–124, approved October 7, 1977. (VV)

Endangered species.—Extends through fiscal year 1980 and authorizes a total of $16 million for the section 6 State grant-in-aid program under the Endangered Species Act of 1973, and contains language to facilitate qualification by a State for financial assistance under the program. S. 1316—Public Law 95– , approved 1977. (VV)

EPA authorization.—Authorizes a total of $253,603,000 for the environmental research and development program conducted by the Environmental Protection Agency for fiscal year 1978 as follows: $35 million for air quality; $92.5 million for water quality under the Federal Water Pollution Control Act; $16 million for water suppy activities under the Safe Drinking Water Act; $25 million for solid waste disposal; $10.8 million for pesticides under the Federal Insecticides, Fungicide and Rodenticide Act; $830,000 for radiation under section 301 of the Public Health Service Act; $8.2 million for toxic substances under the Toxic Substance Control Act; $31.273 million for interdisciplinary activities; $19 million for program management; $10 million for a long-term R&D program; $2 million for training of environmental health scientists; and $3 million for Gulf Coast air quality studies; includes the $35 million supplemental request for funds necessary to implement energy-related R&D in the National Energy Plan; provides the legislative and statutory mandate for EPA's Science Advisory Board consisting of nine members, appointed by the Administrator for staggered terms, to provide scientific advice, advise the Administrator on the adequacy and reliability of the technical basis for rules and regulations and comment on the Agency's 5-year plan for environmental research, development and demonstration; directs the Administrator to coordinate EPA's programs of environmental research with those of other agencies; directs the Council on Environmental Quality in consultation with the Office of Science and Technology Policy to study all aspects of the coordination of environmental research and development and to submit a report of its findings to the President and Congress by May 31, 1978, and requires the President to report to Congress by September 30, 1978, his recommendations for implementation; instructs EPA to implement each recommendation contained in a November, 1976, report prepared for the Subcommittee on the Environment and Atmosphere relating to various problems within EPA's research program unless the Administrator determines otherwise; and requires Agency employees who perform duties pertaining to environmental research and development or who have known conflict of interest to file statements with the Administrator concerning such interests. H.R. 5101—Public Law 95–155, approved November 8, 1977. (VV)

Great Plains conservation.—Amends effective October 1, 1978, section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program by (1) striking the provisions in current law that no new conservation contracts may be entered into after December 31, 1981, thus making the Great Plains conservation program permanent; (2) making the program available to all farmers in eligible States, not just those in counties classified as "semi-arid"; and (3) amending the authorization to carry out the program by deleting the current $300 million limitation on total appropriations and $25 million limitation on annual appropriations and authorizing instead, such sums as necessary. S. 896—Passed Senate August 3, 1977. (VV)

Marine mammal protection.—Extends through fiscal year 1978 the Marine Mammal Protection Act of 1972 and authorizes therefor $2.05 million for the Department of the Interior of which $1.2 million is for research grants in subjects relevant to the protection and conservation of marine mammals, $11.5 million for the Department of Commerce of which approximately $5 million would fund a 100 percent observer program on all large tuna-purse seine vessels in order to determine the status of porpoise populations and establish a permissible quota of porpoises which may be taken by tuna fishermen, and $2 million for the Marine Mammal Commission; makes it unlawful for any person or vessel to take any species of whale in commercial fishing within the 200-mile U.S.

fishery conservation zone established by the Fishery Conservation and Management Act; and prohibits any Federal employee from approving any modification which would increase the volume of crude oil capable of being handled at any terminal, dock, or other facility in or adjacent to Puget Sound in the State of Washington with the exception of oil to be refined for consumption in that State. S. 1522—Public Law 95-136, approved October 18, 1977. (VV)

National Advisory Committee on Oceans and Atmosphere.—Repeals the Act of August 16, 1971, which established a National Advisory Committee on Oceans and Atmosphere and etsablishes a new and smaller National Advisory Committee on Oceans and Atmosphere (NACOA) to replace it, consisting of 18 members (which is reduced from 25 in the original act) appointed by the President for staggered 3-year terms; sets more stringent qualifications for membership by requiring that each member be an expert or otherwise knowledgeable in either oceanic matters, atmospheric matters, or both; provides for the transfer of the personnel, positions, records, and unexpended funds to the new Committee; directs the Committee to undertake a continuing review of national ocean policy (on a selective basis), coastal zone management, and the status of U.S. marine and atmospheric science and service programs and advise the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration; requires the Committee to submit a report by June 30 of each year to the President and Congress and such other reports as may from time to time be requested; gives the Secretary of Commerce 60 days (instead of 90 days) to review and comment on the annual report; directs the Secretary to provide administrative support and services to the Committee; and authorizes $520,000 for fiscal year 1978. H.R. 3849—Public Law 95-63, approved July 5, 1977. (VV)

Noise control.—Authorizes $10.9 million for general technical assistance, regulatory and administrative responsibilities under section 19 of the Noise Control Act of 1972 and $2.1 million for research and development for fiscal year 1978. S. 1511—Passed Senate May 18, 1977. (VV)

Ocean dumping.—Amends the Marine Protection, Research and Sanctuaries Act of 1972 to authorize a total of $11.3 million for fiscal year 1978 of which $4.8 million is for title I of the act which specifies how ocean dumping shall be regulated, $6 million for title II which deals with the research aspects needed to support a limitation on dumping harmful materials into the ocean, and $500,000 for title III which provides for the designation and regulation of marine sanctuaries; and provides that the dumping into ocean waters of municipal sewage sludge which may unreasonably degrade the marine environment shall be ended as soon as possible, and in no case continue beyond December 31, 1981. H.R. 4297—Public Law 95-153, approved November 4, 1977. (VV)

Ocean pollution research.—Establishes a comprehensive Federal program of ocean pollution research and monitoring; designates the National Oceanic and Atmospheric Administration as the lead Federal agency for ocean pollution research and monitoring; provides for the assistance of the Director of the Office of Science and Technology Policy, through the Federal Coordinating Council for Science, Engineering, and Technology, in coordinating, on a continuing basis, the Federal program of ocean pollution research and monitoring; requires the Administrator to submit annually to the President and Congress a report on all Federal ocean pollution and monitoring efforts; and authorizes therefor $5 million for fiscal 1978 and $6 million for fiscal 1979 to the National Oceanic and Atmospheric Administration. S. 1617—Passed Senate August 3, 1977. (VV)

Safe drinking water.—Extends the Safe Drinking Water Act of 1974 through fiscal year 1979 and authorizes therefor a total of $71 million for fiscal 1978 and $81 million for fiscal 1979 which includes: $17 million annually for studies, technical information and training, $35 million for fiscal 1978 and $45 million for fiscal 1979 for grants to States for water supply supervision programs, $10 million for grants to States for underground water protection programs, $8 million annually for special emergency assistance, and $1 million annually for survey of rural water supplies;

Allocates a total of 80 new supergrade positions to EPA; requires EPA to submit to Congress, within 18 months of enactment, a report relating to costs of implementing the Act and an analysis of the present and projected availability of an adequate and dependable supply of safe drinking water; requires the National Academy of Sciences to report every 2 years on the maximum safe contaminant levels and potential contaminants; and requires EPA to conduct studies on reaction between humic acids and chlorine in drinking water and on other toxic substances in water;

Directs the Administrator to make grants for free training to personnel of State and local agencies and those who work for public water systems, and to enable individuals to qualify for such positions provided at reasonable cost; authorizes EPA to make grants to states if the State is making diligent effort and significant progress toward primary enforcement; provides for EPA retention and realloctaions to other States of 25 percent of grants if primary enforcement is not assumed by fiscal 1980; extends for an additional 270 days the current 270 day period for State submission of applications for primary enforcement responsibility for the underground drinking water sources program; requires Federal agencies to comply with all State and local requirements respecting drinking water and underground injection programs; directs the Administrator to avoid disrupting or duplicating existing State law when establishing regulations governing underground injection control; provides that any State or local government may bring suit in State courts to enforce any requirement of safe drinking water or the underground injection program; authorizes the Administrator to make grants to alleviate emergency drinking water situations; and authorizes the Administrator to require public waste systems to monitor for sodium and other unregulated contaminants and to notify their customers of the level in their drinking water. S. 1528—Public Law 95-190, approved November 16, 1977. (VV)

Sea grant program.—Extends through fiscal 1978 the authorization for the national sea grant program as follows: $50 million for the basic sea grant program; $5 million for the national program, and $3 million for the international program. H.R. 4301—Public Law 95-58, approved June 29, 1977. (VV)

Toxic substances.—Provides a compensation system, administered through the States, so that the victims of chemical contamination incidents involving food, livestock or poultry may be more fully compensated for the economic and personal damages they suffer; provides a mechanism for a State to apply for Federal grants of up to 75 percent of the amount a State pays injured victims of a chemical accident; provides that States may apply for Federal assistance for farming operations that would be hard hit by any quarantine or condemnation actions taken against their crops, livestock or poultry; permits consumers who unknowingly are exposed to the toxic chemicals through consumption of tainted food products to apply to the Environmental Protection Agency for assistance; grants the Administrator the authority to prescribe such rules as necessary to carry out his or her functions under the act; and increases the authorization to $50 million for fiscal 1978 and $100 million for fiscal 1979. S. 1531—Passed Senate October 31, 1977. (VV)

Western States conservation.—Amends, effective October 1, 1978, section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program in the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming by (1) extending the program into all 22 contiguous States west of the Mississippi River; (2) authorizing farmers and ranchers participating in the program to utilize program funds to improve irrigation systems to conserve water; and (3) adding a condition to cost-sharing contracts under the program that farmers or ranchers who destroy permanent conservation measures installed on farms or ranches under the program forfeit all rights to Federal disaster payments for farm production losses. S. 1614—Passed Senate August 3, 1977. (VV)

FISHERIES

Atlantic tunas.—Extends for an additional 3 years, until 1980, the Atlantic Tunas Convention Act of 1975 which implemented an international convention governing fishing for tuna and tuna-like fishes in the Atlantic Ocean and authorizes therefor such sums as necessary; and redefines the term "fishery zone" to mean the 200-mile fishery zone described in Public Law 94-265. H.R. 6205—Public Law 95-33, approved May 26, 1977. (VV)

Commercial fisheries.—Extends the Commercial Fisheries Research and Development Act for 2 years, through fiscal 1980, and increases the annual authorization for fiscal year 1978 and the two subsequent years as follows: $10 million for section 4(a) general programs (increased from $5 million); $3 million for section 4(b) which provides funds on an emergency basis if there is a commercial fishery disaster or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes (increased from $1.5 million); and $500,000 for the section 4(c) program of grants to develop new commercial fisheries (increased from $100,000). H.R. 6206—Public Law 95-53, approved June 22, 1977. (VV)

Fishermen's protection reimbursement program.—Extends the provisions of the Fishermen's Protective Act of 1967 which expires October 1, 1977, to October 1, 1979; establishes the Federal Fishing Claims Recovery Program whereby the Secretary of Commerce may make a loan after October 1, 1977, to the owner or operator of any U.S. vessel for damages claimed in excess of $2,000 which are reasonably determined to have been caused by a foreign vessel or crew; provides that only those claims which have not been substantially resolved and which occurred after July 1, 1976, shall be eligible for the loan program; conditions loans upon assignment to the Secretary of all rights of recovery against a foreigner and directs the Secretary with the assistance of the Attorney General, to take appropriate actions to collect on any right assigned to him; cancels repayment of a loan if it is determined that the owner or operator was not at fault; and provides that repayment of the loan will be required within a reasonable period if the Secretary determines that the claimant was at fault in causing the damages. S. 1144—Public Law 95-194, approved November 18, 1977. (VV)

Fishery agreement with Canada.—Amends the Fishery Conservation Zone Transition Act by adding a new section giving Congressional approval of the Reciprocal Fisheries Agreement between the United States and Canada during the period of March 1, 1977, to December 31, 1977; authorizes Canadian vessels and nationals to fish within the Fishery Conservation Zone of the United States, or for anadromous species and Continental Shelf fishery resources of the United States beyond the zone only when the fishing is carried out pursuant to the provisions of the Agreement; waives the requirements of title II (relating to foreign fishing and international fishery agreements) and the penalty provisions in section 307 of the act; requires any person who owns or operates a United States fishing vessel and engages in fishing to which the agreement applies or any person who directly or indirectly receives fish in sufficient quantities as determined by the Secretary of Commerce, to submit to the Secretary such statistics as he may request; authorizes the Secretary, after consultation with the Secretary of State, to issue regulations as necessary regarding the collection of such statistics; and provides that any person violating the act or regulations issued pursuant thereto would be deemed to be committing an act prohibited by section 307 of the Act and subject to a civil penalty of up to $25,000. H.R. 5638—Public Law 95-73, approved July 26, 1977. (VV)

Fishery agreement with Mexico.—Approves the Governing International Fishery Agreement (GIFA) with Mexico by waiving certain procedural requirements of the Fishery Conservation and Management Act of 1976 to permit Mexican fishermen access to the allowable catch for specified fisheries within the 200-mile fishery zone of the United States where there is a surplus above the harvesting capacity of U.S. vessels; and adds several new positions and makes certain changes in titles and existing positions within the National Oceanic and Atmospheric Administration. H.R. 9794—Passed House November 1, 1977; Passed Senate amended November 3, 1977; House disagreed to Senate amendment November 3, 1977; Senate insisted on its amendment November 4, 1977; House agreed to Senate amendment with an amendment November 29, 1977. (VV)

Fishery conservation zone transition.—Gives Congressional approval of the fishery agreements between the United States and the People's Republic of Bulgaria, the Socialist Republic of Romania, the Republic of China, the German Democratic Republic, the Union of Soviet Socialist Republics, and the Polish People's Republic; provides that these agreements will enter into force on the date of enactment of this joint resolution; waives the 60-day Congressional review period; limits to 7 days the 45-day period for review and comment on application permits required of the Regional Fishery Management Councils created under the Fishery Conservation Zone Act during 1977 for those applications received by the Council on or before the date of enactment and those received by the Council from the Secretary of State after the date of enactment to provide for an orderly transition from the 12-mile to 200-mile fishing limit; waives, until May 1, 1977, the requirement that foreign fishing vessels have a valid permit on board and permits the Secretary to waive the fee required before fishing permits may be issued if he is satisfied that the foreign nation will pay the fee before May 1, 1977; and repeals, effective March 1, 1977, the Northwest Atlantic Fisheries Act of 1950. H.J. Res. 240—Public Law 95-6, approved February 21, 1977. (VV)

Gives Congressional approval of the fishery agreements between the United States and Spain, Japan, South Korea, and the countries of the European Economic Community (Iceland, France, Italy, Luxembourg, the United Kingdom, Denmark, Belgium, West Germany, and the Netherlands); contains essentially the same provisions as H.J. Res. 240 (Public Law 95-240) to provide for an orderly implementation of foreign fishing within the 200-mile fishery zone of the United States after March 1, 1977, including the 7-day period of comment by the Fishery Management Councils and the public with respect to applications for permits, the May 1 extension of time for the payment of fees and permit requirements, and waives the 60-day Congressional review period. H.R. 3753—Public Law 95-8, approved March 3, 1977. (VV)

GENERAL GOVERNMENT

Age discrimination report—nutrition programs for elderly.—Amends the Age Discrimination Act of 1975 to extend for 6 months, until November 1977, the time in which the U.S. Commission on Civil Rights must submit its report on unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; authorizes the Commission for a 90-day period following transmittal of its report to provide technical assistance and information to Government officials; and

Amends the Older Americans Act to extend the surplus commodities provision of the title VIII nutrition program for the elderly through fiscal year 1978 in order that it will coincide with the authorization period of the other programs of the act; and gives States the option to receive cash in lieu of such commodities. H.R. 6668—Public Law 95-65, approved July 11, 1977. (VV)

Alaskan native claims.—Amends the Alaska Native Claims Settlement Act making technical corrections to allow the Sealaska Regional Corporation to make land selections in the withdrawal for Klukwan Village Corporation; extends certain deadlines involving the implementation of the Cook Inlet land exchange for eighteen months; and permits regional corporations to assign future receipts due them under the Alaska Native funds so that they may qualify for lower interest loans. H.R. 8499—Public Law 95-178, approved November 15, 1977. (VV)

Associate attorney general.—Amends chapter 31, title 28, U.S.C., to authorize the President to appoint, with the consent of the Senate, an Associate Attorney General who is authorized to exercise the duties of the office of Attorney General upon the absence or disability of the Attorney General or Deputy Attorney General, or in the event of a vacancy in those offices, continues the authority of the Attorney General to designate the further order of succession from among the Solicitor General and the Assistant Attorneys General; and adds the position of Associate Attorney General to those Government offices compensated at Level III of the Executive Schedule. S. 2089—Public Law 95-139, approved October 19, 1977. (VV)

Big Brothers-Big Sisters of America.—Amends the Original Federal Charter of Big Brothers of America to recognize the merger with Big Sisters International, Inc.; and enables Big Brothers to acquire the assets of Big Sisters upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of the corporation. S. 2208—Public Law 95-167, approved November 11, 1977. (VV)

Center for the book.—Establishes a Center for the Book in the Library of Congress, under the direction of the Librarian of Congress, which will be supported by private gifts to provide a program to stimulate public interest and research in the role of the book in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lecturers, exhibits, publications, and any other related activities. S. 1331—Public Law 95-129, approved October 13, 1977. (VV)

Civil Rights Commission authorization.—Raises the authorization limitation for the Civil Rights Commission from the present annual maximum of $9,540,000 to $10,480,023 for fiscal year 1978 plus such additional amounts as may be necessary for salary increases and other employee benefits authorized by law. H.R. 5645—Public Law 95-132, approved October 13, 1977. (VV)

Commission on Malnutrition and Hunger.—States the sense of the Senate that the President should establish a 2-year, 15-member Commission on Domestic and International Hunger and Malnutrition to establish the causes of hunger and malnutrition, identify and evaluate Federal programs and policies, and develop for the President and Congress specific recommendations for policies and legislation to reduce malnutrition and hunger; requires the Commission to submit an interim report within 6 months and its final report within 1 year; and provides that the Commission, in the year following transmission of its final report shall assist in implementing its recommendations and conduct an educational program to disseminate its findings and recommendations. S. Res. 271—Senate agreed to October 20, 1977. (VV)

Commission on New Technological Uses of Copyrighted Works.—Extends from December 31, 1977, to July 31, 1978, the date by which the National Commission on New Technological Uses of Copyrighted Works must submit its final report to the President and Congress. H.R. 4836—Public Law 95-146, approved October 28, 1977. (VV)

Daughters of the Confederacy patent renewal.—Extends for 14 years design patent number 29,611 which is the insignia of the United Daughters of the Confederacy. S. 810—Public Law 95-168, approved November 11, 1977. (VV)

Executive Protective Service name change.—Amends title 3, U.S.C., to change the name of the Executive Protective Service to U.S. Secret Service Uniformed Division. H.R. 8992—Public Law 95-179, approved November 15, 1977. (VV)

Federal assistance program information.—Increases the availability of information about Federal domestic assistance programs by requiring the Director of the Office of Management and Budget (OMB) to: (1) establish and maintain a data base containing specified information on all Federal domestic assistance programs; (2) develop and maintain a computerized information system to provide for the widespread availability of information contained in the data base by computer terminal facilities; and (3) publish annually a catalog of Federal domestic assistance programs containing information from the data base, a detailed index and any other information deemed appropriate; authorizes therefor $1.2 million for the first year; $1.7 million the second year and $2.2 million the third year;

Amends section 201 of the Intergovernmental Cooperation Act of 1968 to give OMB the responsibility to insure that information is provided to the States through their Governors or designated information centers on Federal financial assistance; requires the Director to report his recommendations to Congress for improving, consolidating and further developing Federal financial information systems; and requires the General Accounting Office to submit a report to Congress 1 year after enactment on actions taken by OMB to implement this act and, within 2 years of enactment, a progress report including an evaluation of its effectiveness and any legislative recommendations. S. 904—Passed Senate May 17, 1977. (VV)

Federal grants and cooperative agreements.—Distinguishes assistance relationships as a class from procurement relationships by restricting the term "contract" to procurement and the terms "grant", "grant-in-aid" and "cooperative agreement" to assistance; requires each executive agency to use a contract, grant, or cooperative agreement which would reflect more precisely the relationship between the Federal Government and the recipient as follows: (1) contract—when the principle purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit of use of the Federal Government, (2) grant—when the principle purpose is the transfer of money, property, services or anything of value to the recipient to accomplish a public purpose authorized by Federal statute and there is no anticipated substantial involvement between the executive agency and the recipient during performance of the contemplated activity, and (3) cooperative agreement—when the principle purpose is the transfer of money, property, services, or anything of value to a recipient to accomplish a public purpose authorized by Federal statute and substantial involvement is anticipated between the executive agency and the recipient during performance of the contemplated activity; directs the Office of Management and Budget to undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs and to determine the feasibility of developing a comprehensive system of guidance for such programs and report its findings to Congress within two years; authorizes the Director of OMB to issue government-wide guidance and to manage agency implementation; and repeals, effective 1 year after enactment, the Grants Act (42 U.S.C. 1891 and 1892). H.R. 7691—Passed House September 27, 1977; Passed Senate amended October 1, 1977. (VV)

Federal Home Loan Bank Board Members.—Amends the Federal Home Loan Bank Board Act, as amended, to permit a board member, whose term expires, to continue to serve on the board for an additional 30 days or until his successor is appointed, whichever occurs first. S.J. Res. 63—Public Law 95–56, approved June 29, 1977. (VV)

Amends the Federal Home Loan Bank Act to extend for an additional 15 days the term of the member of the Federal Home Loan Bank Board which expired on July 31, 1977, in order to permit the Board to obtain a quorum for transacting business until the new prospective chairman can be sworn into office. S.J. Res. 79—Public Law 95–90, approved August 4, 1977. (VV)

Folger Shakespeare Library.—Authorizes the Architect of the Capitol to furnish chilled water for air conditioning from the Capitol Power Plant to the Folger Shakespeare Library on a cost reimbursable basis. H.R. 9836—Public Law 95–182, approved November 15, 1977. (VV)

Former President's staff.—Increases from $96,000 to $150,000, effective October 1, 1977, the annual authorization to pay salaries for staff of former Presidents for the 30-month period following the expiration of Transition Act funds. H.R. 9354—Public Law 95–138, approved October 18, 1977. (VV)

GAO audits of IRS and ATF.—Amends the General Accounting and Auditing Act of 1950 to provide that the General Accounting Office may conduct management and financial audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms; contains provisions to insure the confidentiality of information including Congressional oversight and penalties for unauthorized disclosure; and requires the Comptroller General to submit to the Senate Finance and Governmental Affairs Committees, the House Ways and Means and Government Operations Committees, and the Joint Committee on Taxation, every six months, the names and titles of GAO employees having access to tax returns and information; to submit as frequently as possible results of the audit; and to submit annually a report of his findings and recommendations which must also include the procedures established for protecting the confidentiality of tax return information and the scope and subject matter of the audit. S. 213—Public Law 95–125, approved October 7, 1977. (VV)

Hawaiian Native Claims Settlement Commission.—Establishes an Aboriginal Hawaiian Claims Settlement Study Commission to conduct a study, for submission to Congress within 1 year of enactment, of the culture, needs, and concerns of the Aboriginal Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Aboriginal Hawaiians by reason of the incident in 1893 when the U.S. naval representative, acting without the authority or knowledge of the Congress or President, unlawfully committed and deployed U.S. Armed Forces in support of the overthrow of the lawful Government of Hawaii; and various means to remedy such wrong. S.J. Res. 4—Passed Senate October 20, 1977. (VV)

Indochina refugee assistance.—Extends the Indochina Migration and Refugee Assistance Act of 1975 through fiscal year 1981; authorizes such sums as necessary to carry out the domestic provisions of the Migration and Refugee Assistance Act of 1962 with respect to refugees from Cambodia, Vietnam or Laos; authorizes the use of funds under the act to reimburse State or local public agencies for the non-Federal share of costs for those refugees who qualify under the AFDC or medicaid program; provides 100 percent reimbursement for fiscal 1978 to States and localities for refugee cash assistance, medical assistance, social services and State-local administrative costs and phases down such assistance for the subsequent three fiscal years by providing for reimbursement at the rate of 75, 50 and 25 percent respectively, of the 1978 cost; authorizes $25 million to remain available until expended for special projects and programs to be administered by State or local public agencies or by private voluntary agencies participating in the Indochina Refugee Assistance Program to assist refugees in resettling and in gaining skills and education necessary to become self-reliant; and eliminates obsolete reporting requirements and requires annual rather than quarterly reports to the Congress. H.R. 7769—Public Law 95–145, approved October 28, 1977. (VV)

Intelligence activities authorization.—Authorizes such amounts as specified in a classified report prepared by the Senate Select Committee on Intelligence for fiscal year 1978 for intelligence activities of the United States Government including specific amounts for activities of the Central Intelligence Agency, the Defense Intelligence Agency, the Office of the Secretary of Defense, the National Security Agency, the military service, the Department of State, the Department of the Treasury, the Energy Research and Development Administration, the Federal Bureau of Investigation, and the Drug Enforcement Administration; authorizes $8.95 million for the Intelligence Community Staff for fiscal 1978 which supports the Director of the C.I.A. in fulfilling his responsibilities for overall management and direction of the intelligence community and the Policy Review Committee of the National Security Council; sets at 170 the end-strength of full time employees for the Intelligence Community staff; and authorizes $35.1 million for the Central Intelligence Agency Retirement and Disability System for fiscal 1978. S. 1539—Passed Senate June 22, 1977. (VV)

Kennedy Center authorization.—Authorizes $4.7 million for the John F. Kennedy Center for the Performing Arts, to remain available until expended, for the Secretary of the Interior, acting through the National Park Service, to correct leaks in the roof, terraces, kitchen, and East Plaza Drive and the damage which has resulted from these leaks; gives the Center approval authority over contracts let by Interior Department; and authorizes $4 million for fiscal year 1978. S. 521—Public Law 95–50, approved June 20, 1977. (VV)

Kennedy Presidential Library.—Authorizes the Administrator of General Services to accept land, buildings, and equipment that have been or may be offered to the United States without reimbursement, for the purpose of maintaining, operating and protecting as part of the National Archives system a Presidential archival depository located next to the University of Massachusetts campus on Columbia Point in Boston in memory of John Fitzgerald Kennedy. H.J. Res. 424—Public Law 95–34, approved May 26, 1977. (VV)

Library Services and Construction.—Extends through fiscal year 1982 the Library Services and Construction Act and authorizes therefor $110 million for fiscal 1978, $140 million for fiscal 1979, and $150 million each for fiscal 1980–1982 for title I grants for library services; such sums as necessary for fiscal 1978–1981 and $97 million for fiscal 1982 for title II grants for public library construction; $15 million for fiscal 1978, and $10 million each for fiscal 1979–1982 for title III grants for interlibrary cooperation; and such sums as necessary for fiscal 1978–1982 for grants for older readers services; retains current use and allocation of funds but adds a provision directing that a portion of title I appropriations in excess of $60 million be reserved for urban libraries (which are defined as public libraries in incorporated areas with populations exceeding 100,000) with the allocation of funds divided to guarantee each urban center a proportionate share in the same ratio as its population relates to that of the State; prohibits a State from using funds received pursuant to an urban resource library program in place of existing funds spent on the program; revises the hold harmless base year date regarding library services to the handicapped from fiscal 1971 to the second preceding fiscal year for which a determination is made; and provides that remodeling funds under library construction programs may be used to remove architectural barriers to the handicapped and to make library structures more energy efficient. S. 602—Public Law 95–123, approved October 7, 1977. (VV)

Natural Science Foundation authorization.—Authorizes $879.35 million for fiscal year 1978 to the National Science Foundation and an additional $4.9 million in foreign currencies which the Treasury Department determines to be in excess to the normal requirements of the U.S.; includes (1) $246.8 million for mathematical and physical sciences and engineering; (2) $210.5 million for astronomical, atmospheric, earth, and ocean sciences; (3) $47.5 million for the U.S. Antarctic Research Program; (4) $142.5 million for biological, behavorial, and social sciences; (5) $4.5 million or 2 percent of the funds for (1), (2), and (4), whichever is less for basic research stability grants; (6) $83.3 million for science education programs; (7) $75.85 million for Research Applied to National Needs (RANN), with not less than 25 percent of these funds to be earmarked for applied social research and policy-related scientific research and not less than 12.5 percent earmarked for the Small Business Innovation Program; (8) $20.9 million for scientific technological, and international affairs; (9) and $47.8 for program development and management;

Contains provisions to support interaction between academic and industry researchers, and to emphasize the activities of the Office of Science and Society; earmarks $4.5 million for programs directed to minority graduate students; contains certain requirements designed to protect pre-college students involved in research funded by the agency; establishes financial disclosure procedures to guard against possible conflicts of interest on the part of NSF employees; requires the National Science board to submit an annual report to Congress; and contains other provisions. H.R. 4991—Public Law 95–99, approved August 15, 1977. (VV)

Presidential reorganization authority.—Extends for three years from the date of enactment, the authority of the President under chapter 9, title 5, U.S.C., to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch; expresses Congressional intent that the President provide appropriate means for public involvement in reorganization; requires that the President, on a continuing basis, examine the organization of all agencies of the executive branch and determine what changes are necessary to accomplish the purpose of the statute;

Provides that reorganization plans may: create new agencies, transfer or consolidate the whole or part of agencies or their functions to other agencies, abolish all or part of the functions of an agency except any enforcement function or statutory program, change the name of an agency, authorize an agency official to delegate any of his functions, and provide that the head of an agency be an individual, commission or board with a fixed term not to exceed 4 years;

Requires that each plan be based upon a Presidential finding stated in a message to Congress that the proposed action is necessary to accomplish one or more of the purposes of the statute; requires that the message specify, with respect to each plan, the reduction of or increase in expenditures likely to result from the plan, as well as any improvements in the effectiveness or efficiency of the government anticipated as a result of the plan;

Prohibits the use of reorganization authority to: create a new executive department, abolish an executive department or an independent regulatory agency, abolish any function mandated by Congress through statutes, increase the term of an office beyond that provided by law, create new functions not authorized by pre-existing statutes, or continue a function beyond the period authorized by law.

Requires the President to submit each plan, which must deal with only one logically consistent subject matter, to both Houses of Congress simultaneously for referral to the Senate Governmental Affairs Committee and the House Government Operations Committee; requires the Chairman of the respective committee to introduce a disapproval resolution whenever a reorganization plan is submitted to assure that there will be a resolution for the Committee to act on and to report either favorably or unfavorably a disapproval resolution for each proposed plan; provides that plans shall become law at the end of 60 calendar days of continuous session of the Congress or if specified, at a later date, unless either House passes a resolution of disapproval or prior to that time if both Houses defeat a disapproval resolution; requires the committees in both Houses to file recommendations on each plan with the full House within 45 days and provides, if the committee has not done so, the resolution will automatically be discharged from further consideration and placed on the calendar; specifies that no more than three reorganization plans may be pending in the Congress at any one time;

Allows the President to (1) amend a plan within the first 30 days after submission if neither committee has ordered reported a disapproval resolution or made any other recommendations on the plan, or (2) withdraw a plan at any time prior to the conclusion of the 60 day period;

Provides that any member may move to proceed to consider a disapproval resolution once it has been reported or discharged; limits to 10 hours floor debate on a disapproval resolution and on appeals and motions made in connection therewith, and makes motions to postpone consideration or amend the resolution out of order;

Provides that suits brought against an agency affected by a reorganization plan, or regulations or other actions taken by an agency under a function affected by the plan shall not abate as a result of the plan, except in the case where the function is abolished; specifies that plans may provide for the transfer or other disposition of affected records, property, and personnel, and for the transfer of unexpended appropriations if the funds will be used for their original purpose; and requires that unexpended funds revert to the U.S. Treasury. S. 626—Public Law 95-17, approved April 6, 1977. (40)

Privacy Protection Study Commission extension.—Extends the life of the Privacy Protection Study Commission from July 10, 1977, to September 30, 1977, to provide additional time for the printing of a set of appendix volumes for its final report. S. 1443—Public Law 95-38, approved June 1, 1977. (VV)

Smithsonian Institution—Canal Zone biological area.—Increases from $350,000 to $750,000 the annual authorization for the Canal Zone Biological Area (the Barro Colorado Island Facility of the Tropical Research Institute of the Smithsonian Institution). S. 1031—Passed Senate May 2, 1977. (VV)

U.S. territories.—Provides for the continuance of the civil government of the Trust Territory of the Pacific Islands by authorizing $90 million for fiscal 1978, $122.7 million for fiscal 1979, and $112 million for fiscal 1980 in addition to such amounts authorized but not appropriated for fiscal years 1975 through 1977; authorizes $13,515,000 for the government of the northern Marianas until the separate funding provisions of their Covenant become effective; authorizes payment of adjudicated claims and final awards made by the Micronesian Claims Commission under title I of the 1971 act contingent upon Japan's payment of 50 percent of these claims and authorizes the full payment of awards under title II of the act with any interest which the Commission was not authorized to make excluded; authorizes $12.5 million for the rehabilitation and resettlement of Enewetak Atoll; provides for compensation to the people of Rongelap and Utirik Atolls in the Marshall Islands for radiation exposure resulting from a thermonuclear detonation on Bikini Atoll on March 1, 1954; authorizes $25,000 to each individual who has developed hypothyroidism or a radiation-related malignancy, $1,000 to each person or heir who was an inhabitant of Utirik Atoll at the time of exposure, and not to exceed $25,000 in compassionate compensation to an individual who has suffered a physical injury from a radiation-related cause; authorizes the Secretary of Interior to provide adequate medical care and treatment to any person who has a radiation injury or related illness with the costs to be assumed by ERDA; directs the Secretary to report to Congress by December 31, 1980, on any additional compassionate compensation that may be justified for those individuals continuing to suffer from radiation-caused illnesses or injuries;

Authorizes $15 million for a grant to the Government of Guam to assist in typhoon rehabilitation, upgrading and construction of public facilities, and maintenance of essential services; authorizes Guam to use funds provided under this act as its matching share for Federal programs and services; authorizes for 5 fiscal years beginning in fiscal 1978, $1 million annually for the Guam Development Fund; provides for the Secretary to assume the costs of the Guam comptroller effective October 1, 1977; allows Guam to impose a separate tax on all taxpayers of not to exceed 10 percent of their annual income tax obligation to the Government of Guam; grants jurisdiction to the district court of Guam to review individual claims arising from U.S. land acquisitions in Guam immediately after World War II; requires an individual to prove that he received less than fair value for his land by the United States and provides that claims of individuals who received payment for their land in judicial condemnation proceedings shall remain res judicata and the district court will not have jurisdiction to review their awards; authorizes $25 million to enable the Guam Government to purchase the new Medical Center of the Marianas to replace the Guam Memorial Hospital;

Provides for the Secretary to assume the costs of the Comptroller General of the Virgin Islands; allows the Virgin Islands Legislature to vary the present 6 percent ad valorem custom duty on the importation of articles into the Virgin Islands; extends to Guam and the Virgin Islands certain programs that will be extended to the Northern Marianas by the Commonwealth Covenant; directs the Secretary to submit to Congress by January 1, 1978, a report on Federal programs available to U.S. territories in order to determine the feasibility of extending to Guam and the Virgin Islands those programs extended to the Northern Marianas by the Commonwealth Covenant; authorizes a one-time payment of $15 million to Guam and an additional $14 million to the Virgin Islands for tax revenue losses; and provides for the consolidation of block grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific and the Government of the Northern Marianas. H.R. 6550—Public Law 95-134, approved October 15, 1977. (VV)

GOVERNMENT EMPLOYEES—FEDERAL OFFICIALS

Ethics in government.—Establishes a mechanism for the appointment of a temporary special prosecutor to deal with (a) matters concerning the President, Vice President, Members of Congress, and other high-level officials, and (b) matters which may directly and substantially affect the partisan political or personal interests of the President, the Attorney General, or the President's party and in which there exists a conflict of interest within the Justice Department; contains a general provision requiring any officer or employee of Justice to disqualify himself from cases in which he could have a conflict of interest; creates an Office of Government Crimes within the Justice Department to deal with abuses of office committed by government officials, violations of Federal lobbying, elections, and conflicts-of-interest laws, and other matters; provides that the director of this Office shall be appointed by the President and confirmed by the Senate;

Provides that an individual who has played a leading partisan role in the election of a President cannot be appointed Attorney General or Deputy Attorney General; sets forth procedures to be followed by the Attorney General with respect to any investigation of influence peddling by the Korean Government;

Establishes an Office of Congressional Legal Counsel to represent Congress and, with the consent of Congress, protect the vital interests of Congress in matters before the courts; provides that the Congressional Legal Counsel and the Deputy Congressional Legal Counsel will be appointed by the joint leadership and must be approved by both houses, and that neither position may be filled by persons who have been Congressional members, candidates, employees or persons who have served in Congressional campaigns within the preceding three years;

Requires annual financial disclosure reports be filed by the President, Vice President, Members of Congress, justices and judges of the U.S. and D.C. government, officers and employees of the executive branch at the GS-16 level or greater; officers and employees of the legislative and judicial branches compensated at a rate equal to or greater than the GS-16 pay rate; members of a uniformed service compensated at a rate equal to or greater than the grade 0-7 pay rate, candidates for Federal elective office, and Presidential appointees subject to advice and consent of the Senate; specifies the required contents of such disclosure reports; creates various offices to monitor compliance with this statute; sets criminal penalties for knowing and willful falsification or omission and civil penalties for failure to file or accidental omissions;

Establishes an Office of Government Ethics within the Civil Service Commission with primary responsibility for implementing financial disclosure requirements throughout the executive branch; provides that the director of this Office shall be appointed by the President with the advice and consent of the Senate;

Revises the current statute concerning restrictions on post service activities by officials and employees of the executive branch by imposing a new restriction which prohibits, for a period of one year following termination of government service, a former top-level official from contacting his former department or agency on any matter pending before the department or agency; and makes other minor modifications to the statute. S. 555—Passed Senate June 27, 1977. (245)

Federal comparability increases.—Denies the October 1 cost-of-living increase to Members of Congress, the Supreme Court Justices and other members of the Judiciary, Cabinet officials, and top Executive personnel who received the March 1 quadrennial pay increase under which salaries were increased as follows: Members of Congress from $44,600 to $57,500; Cabinet officers from $63,000 to $66,000; the Vice President, Speaker, and Chief Justice from $65,000 to $75,000; the President Pro Tempore and Majority and Minority Leaders from $52,000 to $65,000; circuit court judges from $44,600 to $57,500; district judges from $42,000 to $54,500; subcabinet assistants from $44,600 to $57,500; and other top Federal personnel from $42,000 to $52,000. S. 964—Public Law 95–66, approved July 11, 1977. (44)

Librarian of Congress.—Amends the provisions of the Annual and Sick Leave Act of 1951, as amended, to exclude the Librarian of Congress from the provisions of the act in order to treat the Librarian as the head of an agency for both pay administration and leave purposes. S. 1626—Passed Senate September 9, 1977. (VV)

Secret service protection of former Federal officials.—Authorizes the Secret Service to continue to furnish protection to certain former Federal officials (Secretaries Kissinger and Simon and Vice President Rockefeller) or members of their immediate families who received such protection immediately preceding January 20, 1977, if the President determines that they may be in significant danger, and provides that such protection shall continue for a period determined by the President but not beyond July 20, 1977, unless otherwise permitted by law. S.J. Res. 12—Public Law 95–1, approved January 19, 1977. (VV)

HEALTH

Clinical laboratories.—Extends and expands the existing program of mandatory licensure to all laboratories (except those under the jurisdiction of the Department of Defense or the Veterans' Administration) soliciting and accepting specimens for laboratory analysis; authorizes the Secretary of Health, Education, and Welfare to license those laboratories meeting quality assurance standards; authorizes the Secretary to promulgate standards and regulations to assure the quality, accuracy, and reliability of laboratory testing; authorizes the Secretary to delegate his licensure authority to states with primary enforcement responsibility to implement laboratory quality assurance programs at least equal to the Federal program; authorizes the Secretary and any State with primary enforcement responsibility to take necessary actions against laboratories not meeting the quality assurance standards; authorizes the Secretary to establish an Office of Clinical Laboratories to provide a uniform regulatory program for all laboratories subject to Federal jurisdiction; authorizes the Secretary to establish an advisory council to advise, consult with, and make recommendations to the Office of Clinical Laboratories concerning the development of quality assurance standards and the implementation of such standards; authorizes the Secretary to exempt physicians' office laboratories under certain conditions where physicians file an attested application with the Secretary, including but not limited to a description of the qualifications of nonphysician laboratory personnel, the quality and type of tests conducted, and the score of proficiency examinations taken by such personnel, or where the laboratory participates in an approved proficiency testing program; authorizes the Secretary to waive from the personnel standards laboratories located in and serving rural areas; authorizes the Secretary and any State with primary enforcement responsibility to utilize the services of private, nonprofit entities for the provision of inspection and proficiency testing services; authorizes $15 million annually to permit the Secretary to provide technical and financial assistance to States to become States with primary enforcement responsibility; authorizes the Secretary to inspect laboratories without a warrant solely for the purpose of determining compliance with the promulgated national standards; authorizes the Secretary to seek revocation of a laboratory's license where it is found that the laboratory has engaged in kickbacks, bribes, or false, fictitious, or fraudulent billing practices; prohibits discrimination by any licensed laboratory against any employee who has become involved in any activity concerning allegations that the laboratory is in violation of this section; authorizes the Secretary to exempt laboratories which are primarily engaged in biomedical or behavioral research, or where the sole purpose of the tests or procedures performed is to determine insurability for insurance; authorizes $1 million annually to permit the Secretary to make grants and contracts for projects and studies respecting clinical laboratory methodology and utilization; authorizes increased penalties for failure to comply with national standards and for any fraudulent activities undertaken in connection with obtaining reimbursement under titles XVIII and XIX of the Social Security Act; authorizes one year experimental demonstration competitive bidding in State medicaid programs under title XIX of the Social Security Act; and authorizes citizen suits for alleged violation of compliance with the law. S. 705—Passed Senate July 28, 1977. (VV)

Lateral sclerosis.—Expresses the sense of the Congress that action should be taken to focus national attention on the extent and consequences of amyotrophic lateral sclerosis ("Lou Gehrig's disease" which is a disorder affecting the motor neurons in the brain and spinal cord to produce progressive weakness and wasting of muscle tissue) and the need to find a cure for that disease. S. Con. Res. 26—Action completed November 29, 1977. (VV)

Medical school grants.—Amends the provision of the Public Health Service Act which requires medical schools to accept U.S. citizens who have completed at least 2 years of study in foreign medical schools in the 1978–79 school year and passed part I of the National Board of Medical Examiners examination as a condition to receiving capitation grants under section 770 of the Act to require instead that they increased by 5 percent the third year enrollment for the 1978–79 school year; restores preventative medicine and dentistry to the list of subjects eligible for study by public health trainees; allows the Secretary to award public traineeship grants to all public or nonprofit institutions which provide graduate or specialized training in public health rather than just to accredited medical schools; amends the Public Health Service Act to permit equitable treatment for the medical school class of 1980 in applying for National Health Service Corps scholarships; makes technical amendments to section 731 of the Public Health Service Act relating to eligibility of student borrowers and terms of federally insured student loans; raises the maximum annual interest rate which may be charged under the guaranteed student loan program from 10 to 12 percent; makes certain changes to existing law concerning the authority of the Secretary to enter into agreements for the designation of health system agencies; gives the director of the Indian Health Service additional flexibility to recruit doctors to serve Indian populations; provides that student loans cannot be denied to students in U.S. medical schools which are not eligible for capitation funds solely because they did not comply with the third year enrollment increase requirement; and requires the Secretary of HEW to conduct a study to determine whether schools of medicine, nursing or osteopathy deny admission or otherwise discriminate against any applicant because of the applicant's views on abortion. H.R. 9418—Public Law 95– , approved 1977. (632)

Public health programs—biomedical research.—Authorizes a total of $3.357 billion to extend through fiscal year 1978, without major substantive modifications, the assistance programs under the Community Mental Retardation and Community Mental Health Centers Act and the programs under the Public Health Service Act, including biomedical research; computes the authorizations for these programs generally on a formula of the higher of the fiscal 1977 authorization or the fiscal 1977 appropriation plus 20 percent;

Establishes five supergrade positions for the National Institute on Alcohol Abuse and Alcoholism in order to attract highly qualified senior level scientific presonnel; increases the number of National Cancer Institute consultants from 100 to 151; authorizes the Secretary of Health, Education and Welfare to develop minimum public health standards to maintain preventive health care programs; directs the Secretary to arrange for studies of international health issues and opportunities and to submit a final report by January 1, 1978; authorizes an additional $67.5 million to enable the Secretary to make grants for construction and modernization projects to assist public hospitals to meet life and safety codes and avoid loss of accreditation; prohibits payments under medicare and medicaid to health maintenance organizations which memberships are made up of a majority of individuals who are recipients of such benefits; requires the Secretary of HEW to take into account unusual local conditions which inhibit access or availability of personal health services in designating medically underserved populations for the purpose of making grants and awarding contracts for community health services; reaffirms Congressional intent that the existing prohibition on the use of funds under the authority of the Public Health Service Act other than section 1004 (relating to authorizations for family planning research) includes the administrative costs of family planning research activities;

Amends the Health Professions Educational Assistance Act to provide for equity in student loan programs, scholarship programs, and payback provisions for medical students within the National Health Service Corps (NHSC) who had made commitments under previous legislation; amends the definition of a health professions educational institution eligible to participate in the guaranteed student loan program to provide that an institution would be eligible for the program if it received or was eligible to receive capitation support in the previous fiscal year; assures that all physicians graduating from medical schools accredited by the Liaison Committee on Medical Education are treated equally; provides that individuals with obligated service to the NHSC may participate in residency training programs as officers in the regular or reserve corps of the Public Health Service prior to fulfilling the obligated service in an underserved area; permits an area Health Education Center to conduct training in general pediatrics as well as in family medicine and general internal medicine; allows the Secretary to repay, in return for service in a health manpower shortage area, educational loans obtained by health professions students before October 12, 1976; guarantees that students who graduated from two-year U.S. medical schools will be treated the same as U.S. students who completed 2 years at a foreign medical school when transferring to degree-granting institutions; authorizes construction assistance for the establishment or expansion of regional health professions programs; provides that traineeships in emergency medicine for graduate medical education students shall provide for tuition and fees and such stipends and allowances that the Secretary of HEW may deem necessary; reinstates the Indian Health Scholarship program; modifies amendments to the Immigration and Nationality Act to ensure that actions by HEW officials will be consistent with the intentions of Congress in regard to the so-called "f" visa training program which sets standards for alien graduates of foreign medical schools enrolling in the United States to study and practice medicine; and amends the Public Health Service Act to conform certain provisions of the student loan program with those in the NHSC;

Increases to $399,864,200 the authorization for the maternal and child health grant programs under the Social Security Act and extends through fiscal 1980 the authority for 100 percent Federal financing of medicaid skilled nursing and intermediate care facility inspection and enforcement costs; extends for 1 month, until August 30, 1977, the date by which the Committee on Mental Health of the Elderly must make its report to Congress to coordinate its actions and recommendations with the Presidential Commission on Mental Health; provides that States shall not receive less than their 1976 formula grant allotments under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act; and authorizes $140 million for preventive family planning project grants and $5 million for the Sudden Infant Death Syndrome Counseling and Information Services. H.R. 4975—Public Law 95-83, approved August 1, 1977. (131)

Saccharin study.—Provides the authority for studies on the health risks and benefits of saccharin and information respecting food additives in general; directs the Secretary of HEW to first ask the National Academy of Sciences to conduct the studies with an agreement to be finalized within 60 days; requires that the study of saccharin be completed within one year of enactment and the study of food additives within 15 months and submitted to the appropriate congressional committees; delays the FDA proposed ban on the sale of saccharin and saccharin products for 18 months pending completion of the studies;

Requires a warning label on all food products containing saccharin which reads as follows: "Use of this product may be hazardous to your health. This product contains saccharin which has been determined to cause cancer in laboratory animals."; requires retail stores which sell food products containing saccharin to post warning signs; authorizes the Secretary to require warnings on vending machines; makes these provisions effective 90 days after enactment; and

Extends to June 30, 1978, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research and postpones the effective date of the establishment of the National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research from January 1, 1978, to November 1, 1978. S. 1750—Public Law 95-203, approved November 23, 1977. (382)

HOUSING

Housing and community development.—Amends the Housing and Community Act of 1974 and authorizes a total of $14,678,975,000 for housing programs through fiscal year 1980;

Community development.—Authorizes $12.4 billion for extension of the community development program through fiscal 1980 with funding levels for the basic block grant program of $3.5 billion for fiscal year 1978, $3.65 billion for 1979, and $3.8 billion for 1980; provides that not less than $197 million be made available for low-cost housing projects, and not less than $120 million be used for housing for the elderly and handicapped; provides a dual formula method of allocation which permits communities to use either poverty or age of housing stock as the primary indicator of need; authorizes $400 million for the creation of an urban development action grant program (UDAG) to aid seriously distressed cities over the next 3 years; provides that priority for UDAG funds be given to impacted cities and urban counties most in need based upon a formula which uses the proportion of housing stock built prior to 1940 as the primary indicator of need; authorizes $100 million annually for the next 3 years for completion and financial close-out of urban renewal projects; allows multiyear funding to small cities; permits a town or township to be deemed a city if all incorporated places within its boundaries enter into agreements with it to undertake essential community development and housing assistance activities; sets aside 25 percent of the urban action funds for use by smaller cities with populations under 50,000; authorizes $60 million for the loan rehabilitation program and $75 million for the comprehensive planning program;

Housing assistance and related programs.—Provides $1.2 billion in new contract authority for low-income housing programs and limits the amount of assistance to be used on existing rather than new housing; authorizes $685 million for public housing operating subsidies; permits HUD to make assisted housing payments for new or rehabilitated housing units beyond 60 days in an FHA-insured project; provides that loans for housing and related facilities for elderly and handicapped persons assisted under section 202 be made without regard to mortgage insurance limits contained in the National Housing Act; permits interest reduction subsidies for section 235 cooperatives to increase the availability of cooperative housing projects for low-income families; authorizes $60 million for policy development and research and $15 million for the urban homesteading program; extends the flood insurance program for 1 year, with several modifications, including a provision allowing communities which choose to not participate in the flood insurance program to continue to have access to conventional forms of financing;

Mortgage credit.—Extends through fiscal year 1978 the following mortgage credit programs authorized under the National Housing Act: insurance of financial institutions, general insurance program, housing for moderate income and displaced families, homeownership for lower income families, rental cooperative housing for lower income families, experimental financing, armed services housing, mortgage insurance for land development, and mortgage insurance for group practice facilities; extends through fiscal 1978 the authority to set FHA interest rates (Public Law 90-301) and the National Flood Insurance Act of 1968;

Increases the maximum loan amount for FHA-insured mortgages and for loans made by chartered savings and loan associations to adjust for the inflation in the costs of homes, mobile homes, and home improvements; decreases the downpayment requirements for FHA-insured loans; lowers the FHA mortgage insurance premium paid by nonprofit teaching facilities hospitals; provides for the expansion of the experimental graduated payment mortgage program; amends the Government National Mortgage Association emergency tandem plan to correct problems in the program and give it greater flexibility, particularly for use in urban areas and for housing rehabilitation;

Community reinvestment.—Authorizes the Community Reinvestment Act which requires Federal financial regulatory agencies in the course of examining the institutions they regulate to assess each intitution's performance in meeting the credit needs of its primary savings service area to the extent consistent with sound business operations; provides that regulations resulting from the Act will become effective no later than 390 days after its enactment;

Rural housing.—Amends the Housing Act of 1949 to extend through fiscal year 1978 the housing programs under the Farmers Home Administration (FmHA); increases by $25 million the low rent housing for domestic farm labor and low income repair loans programs;

Modifies the guaranteed loan program of FmHA to completely separate the guaranteed loan program, both in operation and funding, from the insured (direct) loan program; restricts the guaranteed loan program to persons with above average incomes, thereby asserting Congressional intent that FmHA use the direct loan program for low- and moderate-income persons; makes interest rates on guaranteed loans negotiable between the borrower and the lender in order to increase the program's attractiveness to private lenders;

Authorizes $10 million in fiscal 1978 for the mutual and self-help housing program; provides, for the first time, special authorizations for rural housing for the handicapped; authorizes congregate housing for elderly and handicapped persons and families; requires that at least 60 percent of FmHA loans made pursuant to section 502 (single family) and section 515 (rental) programs benefit persons of low income; requires establishment of a research capacity within FmHA; mandates the implementation of a rural rent subsidy; expands the definition of "rural area" to include smaller communities with standard metropolitan statistical areas which have a serious lack of mortgage credit; and states explicitly that property subject to a lien by the United States or held by the FmHA is taxable by State and local jurisdictions. H.R. 6655—Public Law 95-128, approved October 12, 1977. (177, 513)

Mortgage insurance.—Extends for 30 days, to July 31, 1977, the authority of the Secretary of Housing and Urban Development to: insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs under the National Housing Act, administratively to set interest rates for FHA-insured mortgage loans, enter into new flood insurance contracts; and extends certain authorities under title V of the Housing Act of 1949 with respect to FHA's rural housing program. H.J. Res. 525—Public Law 95–60, approved June 30, 1977. (VV)

Extends from July 31, 1977, to September 30, 1977, the authority of the Secretary of Housing and Urban Development to: insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs under the National Housing Act, administratively set interest rates for FHA-insured mortgage loans to meet the market at rates above the statutory maximum, and enter into new flood insurance contracts under the National Flood Insurance Act of 1968; and extends through September 30, 1977, certain authorities under title V of the Housing Act of 1949 with respect to FHA's rural housing programs. S.J. Res. 77—Public Law 95–80, approved July 31, 1977. (VV)

Neighborhood Reinvestment Corporation.—Establishes a National Neighborhood Reinvestment Corporation as a public, nonprofit corporation administered by a board of directors composed of the Chairman of the Federal Home Loan Bank Board (as Chairman of the Corporation), the Secretary of Housing and Urban Development, a Governor of the Federal Reserve Board, the Chairman of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administrator; authorizes the Corporation to adopt its own internal rules and subjects it to the Freedom of Information Act; provides for open board meetings unless closed by majority vote; directs the Corporation to continue the work of the Urban Reinvestment Task Force in sponsoring Neighborhood Housing Services programs and to continue development of Neighborhood Housing Services of America as a secondary market operation; makes the Corporation responsible for assuring compliance by its local grantees with substantive provisions of applicable law; authorizes the Corporation to contract with the Office of Neighborhood Reinvestment of the Federal Home Loan Bank Board for personnel and staff support and gives it the usual corporate powers, including the power to sue and be sued, hold property, invest funds, and other powers necessary to carry out the act; authorizes the Office of Management and Budget to review and modify the Corporation's budget request; requires the Corporation to publish an annual report, to arrange for an annual audit, to audit grantees and contractors, and to cooperate with the General Accounting Office; authorizes therefor $15 million for fiscal year 1979, $20 million for fiscal 1980, and $30 million for fiscal 1981; and authorizes the Corporation to accept non-Federal funds, which must be reported and accounted for separately. S. 1724—Passed Senate September 9, 1977. (VV)

Supplemental housing authorizations.—Authorizes additional funds for housing assistance for lower income Americans in fiscal year 1977; extends the riot insurance and crime insurance programs; and establishes a National Commission on Neighborhoods;

Increases, in title I, the authorization for section 8 rental assistance, the major housing program for lower income Americans, by $378 million for a total of $1,228,050,000; increases operating subsidy funds for public housing projects by $19.6 million to pay for this winter's unexpectedly high heating costs; extends the contract period for new, privately developed section 8 housing from 20 to 30 years in order to attract more private financing; authorizes such appropriations as may be necessary for reimbursement of the FHA general insurance fund for losses on the sale of foreclosed properties from the FHA inventory; contains a $10 million increase for a total of $15 million for the HUD urban homesteading program as a means of of attracting additional rehabilitation funds into neighborhoods and disposing of the HUD inventory of foreclosed properties; increases from $500 million to $1.341 billion the ceiling for losses incurred by the Federal Housing Administration General Insurance Fund; extends HUD's authority to write crime insurance and riot reinsurance policies through September 30, 1978, and authorizes continuation of policies in force before April 30, 1978, through September 30, 1981; extends from April 30, 1978, to September 30, 1978, the date that the Secretary must submit a plan for the liquidation and termination of these programs; deletes the requirement whereby mortgages may be insured under section 220 of the National Housing Act only if the property is located in an area which has a workable program for community development; makes clear that mortgages insured under section 221(d)(4) of the Act may be executed by a mortgagor which is a public body or agency, or a cooperative, limited dividend corporation or other entity, private nonprofit corporation or association, as well as a profit motivated entity, as defined by the Secretary; and

Authorizes, in title II, $1 million for the establishment of a National Commission on Neighborhoods to assess existing policies, laws and programs having an impact on neighborhoods and make recommendations regarding investment in city neighborhoods, community government participation, economically and socially diverse neighborhoods, rental housing, and rehabilitation of existing structures, among other issues. H.R. 3843—Public Law 95–24, approved April 30, 1977. (VV)

INDIANS

Ak-Chin water settlement.—Provides emergency water relief on a temporary basis to the Ak-Chin Indians in Central Arizona by authorizing a feasibility study and, based on its findings, construction of a Federal wellfield and pipeline to the Reservation from nearby Federal land; reaffirms U.S. obligation to provide a permanent supply of water on a date certain; provides that the Ak-Chins, in exchange for a permanent supply of water, would waive all past and future claims against the U.S., Arizona, and other parties concerning both ground and surface water rights; and authorizes $500,000 for the feasibility study and $42.5 million to cover the Federal wellfield and delivery system. S. 1582—Passed Senate October 11, 1977. (VV)

American Indian Policy Review Commission.—Extends from February 18, 1977, to May 18, 1977, the period of time in which the American Indian Policy Review Commission must submit its final report to the Congress and increases the authorization therefor from $2.5 million to $2.6 million. S.J. Res. 10—Public Law 95–5, approved February 17, 1977. (VV)

Cheyenne-Arapaho lands.—Declares that two separate tracts of excess Government land, totaling approximately 107 acres, located in Canadian and Custer Counties, Okla., be held in trust for the Cheyenne-Arapaho Tribes of Oklahoma and authorizes the Secretary of the Interior to accept, upon request from the tribes, the fee simple title to lands conveyed to them pursuant to the acts of September 14, 1960, and May 18, 1968, to be held in trust for the tribes. S. 1291—Passed Senate June 9, 1977. (VV)

Creek nation land.—Declares that 5 acres of Federally-owned land in McIntosh County, Okla., be held in trust by the United States for the Creek Nation of Oklahoma. S. 947—Passed Senate June 9, 1977. (VV)

Ely Indian land.—Declares that 90 acres of Federally-owned land located in White Pine County, Nevada, be held in trust for the Ely Indian Colony in Ely, Nevada. S. 103—Passed Senate June 9, 1977. (VV)

Declares that approximately 90 acres of Federally-owned land located in White Pine County, Nevada, be held in trust for the Ely Indian Colony, Ely, Nevada. H.R. 6348—Public Law 95–191, approved November 18, 1977. (VV)

Fallon Paiute and Shoshone land.—Provides for the transfer of two separate tracts of land, totaling 2,700 acres, to be held in trust by the United States for the Paiute and Shoshone Tribes of the Fallon Indian Reservation, Fallon, Nevada, to provide sufficient irrigable land to enable the Tribes to make full use of their water rights; directs the Secretary of the Interior to develop irrigation facilities for the lands; and authorizes $5.4 million for construction under the act. S. 785—Passed Senate October 17, 1977. (VV)

Indian business development program.—Amends the Indian Financing Act of 1974 to extend the Indian Business Development Program for 2 years, through fiscal year 1979, at an annual authorization of $14 million. H.R. 4992—Public Law 95–68, approved July 20, 1977. (VV)

Indian child welfare.—Establishes legislative standards and an order of preference to govern the placement of Indian children in foster or adoptive care settings; accords first preference to members of the child's extended family, then to Indian homes on reservations where the child may reside or to tribally licensed homes; provides that tribes may alter this statutory order of preference by enacting ordinances of their own establishing alternative preference order; defines the respective jurisdiction of State and tribal governments in matter relating to child placements; provides that tribes may request transfers of placement cases from State to tribal courts; authorizes tribes, presently under State civil and criminal jurisdiction by virtue of Federal law, to apply to the Secretary for return of jurisdiction over child placement matters; authorizes States and tribes to enter into mutual agreements regarding the care, custody and jurisdiction over Indian children; provides for full faith and credit to be accorded the laws and court orders of Indian tribes relevant to child placement matters; provides that tribes shall receive the same information regarding informal child placements for educational programs operated by non-governmental entities across state lines or outside reservation boundaries as is now provided to States who are members of the Interstate Compact on the Placement of Children; establishes procedural safeguards for parents or extended family members in child placement proceedings by nontribal public or private organizations; establishes a right of tribes to receive notification of placement proceedings in State or local courts and provides for a right of tribal intervention in such proceedings; authorizes an Indian child who has been placed in adoptive, foster care or other setting, upon reaching the age of 18, to qualify for enrollment in his or her tribe of origin and for other benefits and property rights to which he or she may be entitled because of Indian status;

Authorizes the Secretary to make grants to Indian tribes and organizations to carry out Indian family development programs including grants for legal representation to families involved in child placement proceedings, the establishment of tribal licensing procedures for foster homes, and support of children placed in adoptive or foster care settings; directs the Secretary to collect and maintain records relating to future adoptive and foster care placements of Indian children; and directs the Secretary to conduct a study on the impact resulting from a lack of locally convenient day school facilities and file a report to Congress which shall contain a plan for remediation of the problem. S. 1214—Passed Senate November 4, 1977. (VV)

Indian claims.—Extends to April 1, 1980, the statute of limitation under which the

U.S., as trustee, can bring Indian claims for monetary damages which arose prior to the enactment of the original statute in 1966 on land claims by Indian tribes, bands and groups. S. 1377—Public Law 95-103, approved August 15, 1977. (VV)

Extends for an additional month, until August 18, 1977, the statute of limitation under which the U.S., as trustee, can bring Indian claims for monetary damages which arose prior to the enactment of the original statute in 1966 on land claims by Indian tribes, bands and groups. H.J. Res. 539—Public Law 95-64, approved July 11, 1977. (VV)

Indian Claims Commission.—Authorizes $2,250,000 for the Indian Claims Commission for fiscal year 1978; adds a new section to facilitate the transfer of cases from the Indian Claims Commission to the U.S. Court of Claims; confers upon the Court the powers of the Commission to set fees for attorneys representing Indian tribes or claimants and to obtain information and documents from Government agencies and congressional committees; provides that final judgments of the Court shall be paid as other Court of Claims judgments are paid; provides that cases transferred to the Court shall be subject to review by the Supreme Court; provides that the law establishing a revolving loan fund for tribes to obtain expert witnesses in Commission cases shall remain applicable to transferred cases; and increases from 15 to 16 the number of Court of Claims Commissioners. H.R. 4585—Public Law 95-69, approved July 20, 1977. (VV)

Indian education.—Authorizes appropriations for basic support grants to tribally controlled community colleges to be utilized for planning, development, operation, and improvement of the colleges; and provides a new authorization for construction and a more equitable funding formula for the Navajo Community College. S. 1215—Passed Senate November 4, 1977. (VV)

Indian rights to Arkansas riverbed.—Directs the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma for the use, lease, or purchase by the United States of their rights in the Arkansas Riverbed; directs the Secretary to utilize, as a basis for the terms of any agreement, the value of the property rights as determined by appraisals conducted by the Secretary and provides for payment of not less than the appraised value of the property rights involved; directs the Secretary to take such action as necessary to immediately carry out any agreement; and authorizes therefor $177 million. S. 660—Passed Senate June 30, 1977. (VV)

Oklahoma Indian tribes.—Extends Federal recognition to the Modoc, Wyandotte, Peoria and Ottawa Tribes of Oklahoma who were adversely affected by the termination policy adopted by the United States in 1953 in order that they will be eligible for Federal services and assistance provided to Federally recognized tribes and their members. S. 661—Passed Senate November 3, 1977. (VV)

Pueblo lands.—Authorizes the 19 Pueblos Tribes of New Mexico to convey all of their rights and interests in 11.6 acres of land in Albuquerque, New Mexico, to the United States to be held in trust jointly for them. S. 1509—Passed Senate September 29, 1977. (VV)

Pueblo lands maintenance charges.—Amends the act of August 27, 1935, to provide permanent authorization for the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District for the payment of operation and maintenance changes of Pueblo Indian lands served by that district; and directs the Secretary of the Treasury to make payments under the authority of act for the period between the date of expiration and the date of enactment. H.R. 2719—Passed House September 19, 1977; Passed Senate amended November 3, 1977. (VV)

Siletz Indian tribe restoration.—Extends Federal recognition to the Confederated Tribes of the Siletz Indians, Oregon; makes the provision of the Indian Reorganization Act of June 18, 1934, applicable to the tribe and the tribe and its members eligible for all Federal services and benefits without regard to the existence of a tribal reservation or its members residing on a reservation; provides that the Interim Council of the Siletz Tribe shall have authority to receive grants from and to make contracts with the Secretaries of Interior and Health, Education, and Welfare; restores to the tribe all rights and privileges, other than hunting, fishing and trapping, under any Federal treaty, Executive order, agreement, or statute, or under the act of August 13, 1954, which terminated the tribe; provides a procedure by which membership in the tribe is to be established; provides for an election to adopt a constitution and bylaws and to elect tribal officials as provided in the constitution and bylaws; directs the Secretary of the Interior to negotiate with all interested parties to develop a plan for the establishment of a reservation, and to submit the plan, in the form of proposed legislation, to the appropriate Congressional committees within two years of enactment; and authorizes the Secretary to promulgate such rules and regulations as necessary to carry out the act. S. 1560—Public Law 95-195, approved November 18, 1977. (VV)

Sioux Black Hills claim.—Authorizes the U.S. Court of Claims to review, without regard to the technical of res judicata or collateral estoppel the determination of the Indian Claims Commission entered February 14, 1974, that the act of February 28, 1877, effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment. S. 838—Passed Senate May 3, 1977. (VV)

Te-Moak Shoshone land.—Transfers 80 acres of land from the United States to the Te-Moak Bands of Western Shoshone Indians to be held in trust by the United States in order to provide a home for the Wells Indian Community, a group of the Te-Moak Band who are presently landless. S. 667—Public Law 95-133, approved October 15, 1977. (VV)

Wichita tribal land claim.—Authorizes the Indian Claims Commission to consider claims by the Wichita Indian Tribe and affiliated bands with respect to aboriginal title to lands which were acquired by the United States without payment of adequate compensation. S. 773—Passed Senate May 5, 1977. (VV)

Zuni lands.—Directs the Secretary of the Interior to acquire through purchase, trade or otherwise the 618.41 acres in the State of New Mexico upon which the Zuni Salt Lake is located and hold such land in trust for the Zuni Indian Tribe; confers jurisdiction upon the Court of Claims to hear and determine an aboriginal land claim that the Tribe failed to file with the Indian Claims Commission under the Act of August 13, 1946, which established that forum; and authorizes the Tribe to purchase and exchange lands in the States of New Mexico and Arizona notwithstanding the restrictions in the act of May 25, 1918, expressly prohibiting further expansion of Indian reservations in these States. S. 482—Passed Senate May 3, 1977. (VV)

INTERNATIONAL

Abu Daoud.—States as a sense of the Senate that the release by France of Abu Daoud, a known terrorist who is accused of having planned the murder of Olympic athletes in Munich in 1972, is harmful to the effort of the community of nations to stamp out international terrorism; further states that the United States could consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situaiton in which a terrorist leader is released from detention without facing criminal charges in a court of law; and directs the Secretary of the Senate to provide a copy of this resolution to the Secretary of State for transmission to the Government of France. S. Res. 48—Senate agreed to January 26, 1977. (13)

Arms Control and Disarmament Agency.—Authorizes a total of $16.6 million for the Arms Control and Disarmament Agency (ACDA) for fiscal year 1978, including $11.05 million for program operations, $3.55 million for external research and public affairs, and $2 million for the purpose of furthering the nuclear safeguards and program activities of the International Atomic Energy Agency; creates a new executive level IV position, Special Representative for Negotiations, to be appointed by the President with the advice and consent of the Senate to serve as the Alternate Chairman of the U.S. SALT delegation and to take part in other negotiations; removes the requirement that all ACDA contracts and grants be with U.S. institutions and persons; allows the agency an exception from the appointment and classification provisions of the Civil Service System in order to allow the agency to compete effectively for employees with other Federal agencies; permits ACDA employees to accept reimbursement for work-related travel and expenses; adds a new section 37 to the Arms Control and Disarmament Act which states the sense of Congress that adequate verification compliance with the terms of arms control agreements should be an indispensable part of any such agreement, and requires the ACDA Director to report to Congress his determinations as to the veritability of the components of arms control proposals, any degradation of veritability in existing arms control agreements, and the amount of agency resources expended on the verification task. H.R. 6179—Public Law 95-108, approved August 17, 1977. (220)

Belgrade Conference.—States as the sense of the Congress that the U.S. delegation to the preparatory Belgrade meeting, beginning on June 15, 1977, should make every effort to insure that the agenda adopted for the subsequent meeting on the Conference on Security and Cooperation in Europe provides for proper, straightforward and serious exchange of views among the participating States on the application of the principles of the Final Act of the Helsinki Conference as well as on compliance and noncompliance with all of its provisions, including the presentation and thorough discussion of all violations of the Final Act, especially those related to universal humanitarian ideals. H. Con. Res. 249—Action completed June 15, 1977. (VV)

States the sense of the Senate that the U.S. representatives to the Helsinki Accords Review Conference should indicate to the Soviet Union and other states represented at the Conference the official concern of the U.S. over the treatment of Anatoly Scharansky, Yuri Orlov, and others who sought to monitor compliance with the Helsinki Accord. S. Res. 198—Senate agreed to July 12, 1977 (VV)

Canadian-U.S. relations.—Expresses the sense of the Senate that the President should bring to the attention of the Government of Canada the adverse effect on the United States broadcasting industry of recent provisions of the Canadian tax code. S. Res. 152—Senate agreed to September 8, 1977. (VV)

Harp seal killings.—Urges the Canadian Government to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters which is considered by many citizens of the U.S. to be cruel and, if continued at the current high level, may cause the extinction of that species of seal. H. Con. Res. 142—Action complete April 6, 1977. (VV)

International cooperation on nuclear proliferation.—Commends the President for his stated intentions to give diplomatic priority to the pursuit of nonproliferation measures; endorses and strongly supports active consultations with world leaders on the highest level to: (1) curb the spread of nuclear enrichment and reprocessing facilities and otherwise discourage the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, (2) achieve universal acceptance of international safeguards on all peaceful nuclear activities, as well as to seek international cooperation to improve the packaging and handling of high-level wastes and to provide for international storage of plutonium, spent reactor fuel, and other sensitive nuclear materials, (3) explore possible international arrangements for the provision of nuclear fuel services to help meet the legitimate energy needs of cooperating states, (4) reach agreement on sanctions to be applied against any nation which seeks to acquire a nuclear explosives option, and (5) strengthen the safeguards of the International Atomic Energy Agency; and pledges prompt Senate action on legislation to enact a clear statement of goals for U.S. nonproliferation policy providing guidance and support to these Presidential diplomatic initiatives, and to establish a clear statutory framework for the development and implementation of U.S. nuclear export policy. S. Res. 94—Senate agreed to April 28, 1977. (VV)

International development assistance—food for peace.—Authorizes $1,646,800,000 for fiscal year 1978 for bilateral development assistance, international disaster assistance programs, operating expenses for the United States Agency for International Development (AID) and voluntary U.S. contributions to international organizations;

Authorizes $200 million for the initial U.S. contribution to the Sahel Development Program which combines the resources of more than 12 donors and 8 recipient countries in a long term development effort in the Sahel region of Africa; continues the New Directions aid policies initiated by the Congress in 1973 which require that U.S. assistance be channeled directly to aid the poor people in developing countries; extends the Housing Investment Guaranty Program through fiscal year 1979 and combines the separate Latin American and worldwide guaranty authorities; extends through fiscal 1978 the Agricultural and Productive Credit and Self-Help Community Development Programs; authorizes the following housing guaranty programs for fiscal year 1978: Israel—$25 million. Portugal—$15 million, and Lebanon—$10 million, notwithstanding the fact that these countries are not otherwise receiving development assistance; provides $30 million to continue U.S. assistance for the relief, rehabilitation, and reconstruction assistance for the relief, rehabilitation, and reconstruction assistance for victims of the Italian earthquake; improves U.S. population planning programs by providing for their integration with U.S. health and other development assistance programs; bars the use of funds for assistance to or reparations for Vietnam, Cambodia, Laos, or Cuba and directs the President to continue to try to obtain an accounting of MIA's; repeals various provisions of the Foreign Assistance Act prohibiting assistance to countries which furnish assistance to or trade with Cuba or Vietnam; bars funds for involuntary sterilizations; establishes an international Energy Institute;

Includes a separate title to strengthen the economic development and trade expansion aspects of the Food for Peace program (Public Law 480) and to clarify the humanitarian intent of the program; repeals the present exclusion from title I sales program of those countries or exporters which trade with Cuba or North Vietnam; removes the restriction on title I sales to the United Arab Republic; changes the title I sales allocation formula by requiring that 25 percent of the food aid commodities provided in each fiscal year be allocated to countries other than those with a per capita gross national product of $520 instead of $300 or less and by allowing the Secretary of Agriculture to reallocate some portion of title I financing if he certifies to Congress that the quantity of commodities that would be required to be allocated could not be used effectively to carry out humanitarian or development purposes of title I; permits the Secretary to finance projects to aid in the utilization, distribution, and storage of U.S. agricultural commodities; increases the annual minimum of agricultural commodities to be shipped under title II of Public Law 480 from 1.3 to 1.5 million metric tons; requires that 1.3 instead of 1 million metric tons of this amount be distributed through the U.S. voluntary agencies and the world food program; creates a new food for development program; expands and refines the "grantback" authority provided in 1975; permits the President to waive the repayment of title I obligations under a carefully developed plan for utilization of the proceeds raised by the recipient government from the sale of title I commodities upon its own market; and makes various other improvements. H.R. 6714—Public Law 95–88, approved August 3, 1977. (207)

International emergency economic powers.—Revises and delimits the President's authority to regulate international economic transactions during wars or national emergencies under section 5(b) of the Trading with the Enemy Act of 1917; restricts such authority to wartime situations with provision for continuation of existing exercises of authority; removes the authority to control certain economic transactions during a Presidentially declared national emergency; grandfathers the exercise of authorities already being exercised until September 14, 1978, which is 2 years from the date of enactment of the National Emergencies Act but provides that these authorities could be extended for unlimited 1-year periods if the President determines it to be in the national interest; enables the President to continue to control transactions with certain countries (Cuba and Vietnam) and to block assets of certain countries (People's Republic of China); insures that Presidential determinations to extend or terminate existing uses of authorities will not be subject to provisions of this act or the National Emergencies Act including provisions for termination of emergency authority by concurrent resolution of the Congress; increases the maximum criminal fine for violations to $50,000;

Grants authority to the President to regulate certain categories of international economic transactions during future national emergencies and prescribes procedures to be observed in the exercise of such authority; enables the President to apply emergency controls to transfers of funds, transfers by non-U.S. nationals, or transfers of articles clearly not intended to serve humanitarian purposes; restricts the exercise of emergency controls in order to enable U.S. persons to make humanitarian contributions in accordance with their consciences but not to permit transfers which subvert, contravene, or preclude effective exercise of emergency authority; requires the President to consult with Congress prior to and during the exercise of emergency authority, and to provide detailed reports on the basis for emergency authority and his exercise of such authority; authorizes the President to issue such regulations as necessary to exercise the authorities; provides a maximum civil fine of $10,000 for violation of regulations and maximum penalties of $50,000 and/or 10 years imprisonment for willful violation; and provides that blocked assets may continue to be blocked by the President despite termination of a state of emergency unless Congress specifies otherwise. H.R. 7738—Public Law 95– approved 1977, (VV)

International financial institutions.—Provides a total of $5.125 billion in multiyear authorizations for continued participation by the United States in six international financial institutions which includes $1.57 billion for the World Bank to be spread over three years; $2.4 billion for the International Development Association to be spread over three years; $112 million for the International Finance Corporation to be spread over three years; $814 million for the Asian Development Fund to be spread over three years; and a $50 million one-year authorization for the African Development Fund with a provision directing the Secretary of the Treasury to begin discussions with other donor nations for the purpose of setting amounts for future replenishments and of reviewing the voting structure within the Fund;

Instructs U.S. representatives to all international financial institutions to use their voice and vote to channel aid to projects which address the basic human needs of people in the recipient country; requires U.S. representatives to oppose all assistance to any country which engages in consistent patterns of gross violations of internationally recognized human rights or which provides refuge to airline hijackers unless the assistance is directed specifically to programs which serve basic human needs of the citizens of such country; requires the U.S. Executive Directors to consider several additional factors in carrying out their duties: (1) the extent of cooperation of a country in permitting unimpeded investigations of alleged human rights violations by specified international organizations; (2) U.S. actions on bilateral assistance due to human rights considerations; (3) the extent to which economic assistance directly benefits needy people; (4) whether a country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons, or both, and (5) in dealing with requests from Vietnam, Laos, or Cambodia, the responsiveness of these governments in providing a more substantive accounting of American MIAs; requires U.S. representatives to oppose loans or other assistance for expanding foreign production of palm oil, sugar, or citrus crops for export if such production will cause injury to U.S. producers of the same, similar, or competing agricultural commodities; contains language to clarify that all funds to international financial institutions, including multiyear authorizations and pledges for callable capital, are subject to the annual appropriations process; and directs U.S. officials to try to maintain salaries in these institutions at levels near to comparable positions in the United States. H.R. 5262—Public Law 95–118, approved October 3, 1977. (203)

International security assistance.—Authorizes a total of $3,195,900,000 ($53 million below the Administration's request) in 1978 budget authority for eight programs to finance international security programs totalling $4,579,100,000;

Military programs.—Provides $228.9 million to the military assistance program which includes funds for military aid to Greece ($33 million), Portugal ($25 million), Spain ($15 million), Turkey ($48 million), the Philippines ($20 million), Jordan ($55 million), Indonesia ($15 million), and Thailand ($8 million); continues the phasedown of the military assistance advisory group program by reducing the number of groups from 34 to 17 and establishing a worldwide personnel ceiling of 865; retains the provision which states that no military personnel performing military functions may operate in any foreign country unless specifically authorized by Congress; authorizes the assignment of overseas management teams in fifteen countries; provides $31 million for the international military education and training program; provides $677 million to finance foreign military sales credits to 29 countries, with direct credits of $500 million to Israel and $20 million to Zaire, and with all loans to other countries to be financed through the Federal Financing Bank; states that a policy of restraint in U.S. arms transfers shall not impair Israel's deterrent strength or undermine the military balance in the Middle East;

Economic programs.—Authorizes $1.89 billion for the security assistance program to provide economic assistance for 15 countries and recommends that such programs be subject to the "new directions" criteria of the Foreign Assistance Act which requires that aid be channeled directly to aid the poor people in developing countries; provides $20,000 in security supporting assistance for disaster relief in Lebanon; provides that not less than $300 million of the amount authorized for Israel shall be available only for budgetary support on a grant basis; adds a new section 533 to the Foreign Assistance Act of 1961 to create an $80 million Southern Africa Special Requirements Fund to address the economic problems caused by the conflict in that region and prohibits the use of such funds for assistance in Mozambique, Angola, Tanzania, or Zambia unless the President determines that such aid would further U.S. policy interest; authorizes a balance of payments support loan to Portugal not to exceed $300 million to assist in stabilizing the Portugal economy; provides $25.0 million to continue the Middle East special requirements fund with $12.2 million of that amount earmarked for the Sinai support mission;

Narcotics control and contingency funds.—Provides $39 million for international narcotics control, with the understanding that $12.5 million will be used for programs in Mexico; requires the Department of State to review the narcotics control assistance program in Burma; provides $5 million for the President's Contingency Fund to give the Administration some flexibility in dealing with national security;

Other provisions.—Prohibits military assistance, training, and credits to Ethiopia and Argentina; exempts Australia, Japan, and New Zealand from the license requirement contained in the Arms Export Control Act for the export of major defense equipment; includes a statement of Congressional intent to authorize $100 million for a Zimbabwe Development Fund when progress toward an internationally recognized settlement will so permit; prohibits funds to promote any military or paramilitary operations in Zaire; prohibits economic assistance to any supplier or recipient of nuclear technology or equipment unless both agreed to place the transferred equipment under multilateral auspices when available, and that the recipient agreed to place all nuclear activities under international safeguards; authorizes such sums as may be necessary in fiscal year 1978 to carry out international agreements relating to defense cooperation with Greece and Turkey, and raises to $175 million the FMS credits and sales ceiling for Turkey contained in the Foreign Assistance Act; authorizes additions to stockpiles of defense articles in foreign countries of $270 million, with the entire amount earmarked for War Reserve Stocks of ammunition for Korea, a bookkeeping shift requiring no appropriation; and requires the termination of the sale of defense articles and services for one year to any country granting sanctuary to international terrorists unless U.S. national security justifies continuation of such sales. H.R. 6884—Public Law 95-92, approved August 4, 1977. (209)

Middle East peace negotiations.—Expresses the sense of the Congress that Anwar el Sadat, President of Egypt, and Menahem Begin, Prime Minister of Israel, be commended for the courageous steps they have taken to resolve the differences between their nations and to bring peace between Israel and her Arab neighbors through face to face negotiations in the context of a Geneva conference. H. Con. Res. 417—Action completed November 29, 1977. (VV)

National Academy of Peace and Conflict.—Establishes a 1 year Commission to study proposals for establishing the National Academy of Peace and Conflict consisting of 9 members, three each appointed by the President pro tempore of the Senate, the Speaker of the House, and the President, to conduct a study to consider whether to establish a National Academy of Peace and Conflict Resolution; the size, cost and location of the Academy; the effects the establishment of the Academy would have on existing institutions of higher education; the relationship which would exist between the Academy and the Federal Government; the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing the Academy; and alternative proposals, which may or may not include the establishment of the Academy, to assist the Federal Government in accomplishing the goal of promoting peace; and authorizes therefor $500,000. S. 469—Passed Senate June 17, 1977. (VV)

OPIC.—Extends until September 30, 1981, the basic operating authority of the Overseas Private Investment Corporation, a wholly owned U.S. government corporation created by Congress in 1969 by which the government insures U.S. investment in developing countries against the risks of inconvertibility of local currency into dollars and expropriation loss due to war or revolution; eliminates the requirement that OPIC transfer its insurance operation to private companies; permits OPIC to seek private coinsurance on equitable terms when this is consistent with OPIC's basic objectives as a developmental agency; and

Removes the present prohibition against OPIC's use of its own funds in prompting or financing mineral surveys or projects to permit OPIC to undertake a limited program of involvement in encouraging investments in non-fuel raw materials in oil-importing less developed countries. S. 1771—Passed Senate October 25, 1977. (577)

Peace Corps authorization.—Authorizes $82.9 million to finance the operation of the Peace Corps for fiscal year 1978 and $1 million for increases in salary, retirement, or other employee benefits authorized by law. S. 1235—Public Law 95-102, approved August 15, 1977. (VV)

Portugal—military assistance.—Modifies the existing statutory limitations on the allocation of military assistance funds for fiscal year 1977 contained in section 504(a)(1) of the Foreign Assistance Act of 1961, as amended, to add Portugal to the list of eligible countries and specify that $32.25 million be allocated to that country to upgrade its armed forces which were debilitated as a result of prolonged colonial wars in Africa. S. 489—Public Law 95-23, approved April 30, 1977. (VV)

Regulations to prevent collisions at sea.—Provides the necessary statutory authority to implement the provisions of the "Convention of Internationl Regulations for Preventing Collisions at Sea, 1972" (Ex. W. 93d-1st) by specifying the means by which the Regulations will come into force and effect for the United States, ensuring coordination with the international implementation of the Regulations, and providing legal notice to interested persons through publication in the Federal Register; repeals Public Law 88-131 and replaces it with a congressional authorization for the President to proclaim the International Regulations and to establish the effective date of the Regulations, Annexes thereto, and any subsequent amendments, by publishing the proclamation in the Federal Register; provides for executive and legislative review of any proposed amendment to the Regulations and Annexes by requiring the President to notify Congress of the Proposal, including the date before which objections must be received by the International Maritime Consultative Organization (IMCO) and provides that either House of Congress may adopt a disapproval resolution within 60 days of receipt of a notification or 10 days before the last date on which an objection must be communicated to IMCO; provides that the regulation will be applicable to and must be complied with by all U.S. vessels, both public and private, while operating on the high seas; makes the regulations inapplicable to vessels operating in U.S. waters covered by the Inland Rules of the Road, the Navigation Rules for the Great Lakes and their connecting and tributary waters, and the Western Rivers rules which are established by both statute and Coast Guard regulations; requires U.S. vessels to comply with the international regulations if a foreign state has not exercised its recognized right to promulgate different rules; directs the Secretary of the Navy to require a vessel to comply as closely as possible to requirements of the international regulations which he certifies cannot be complied with without interfering with the special functions of the vessel; permits the Secretary of the Navy to establish special rules for sound and light signals for ships of war or vessels in convoy provided that they not be mistaken for signals authorized in the Regulations; authorizes the Secretary of the Department in which the Coast Guard is operating to promulgate reasonable rules and regulations to implement the act and international regulations and to establish special rules for sound and light signals for fishing vessels operating as a fleet; and imposes two separate civil penalties of not more than $500 each for violations. H.R. 186—Public Law 95-75, approved July 27, 1977. (VV)

Rhodesian chrome.—Amends the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome by nullifying the effect of Section 203 (the so-called Byrd amendment) of the Armed Forces Appropriation Act of 1972, Public Law 92-156, which permitted the importation into the United States of chromium and other strategic minerals from Rhodesia, despite mandatory U.N. sanctions against trade with that country which the United States supported by its vote in the United Nations Security Council and by Executive Order 11419; prohibits the importation into the United States of Rhodesian commodities and products as specified in that Executive Order, of July 29, 1968, as well as steel mill products containing Rhodesian chromium in any form; establishes an enforcement mechanism which requires a certificate of origin for these products confirming that they do not contain chromium from Rhodesia; and authorizes the President to suspend the act if he determines that it would encourage meaningful negotiations and further the peaceful transfer of government from minority to majority rule in Rhodesia. H.R. 1746—Public Law 95-12, approved March 18, 1977. (59)

Romanian earthquake.—States as a sense of the Senate that the United States should join with other nations and international, public, and private organizations to assist the people of Romania following the 1977 earthquake; and expresses deepest sympathy to the victims and their families on behalf of the people of the United States. S. Con.

Res. 12—Action completed March 17, 1977. (VV)

Romanian earthquake authorization.—Authorizes $20 million to the President for fiscal year 1977, to remain available until expended, for the relief and rehabilitation of refugees and other earthquake victims in Romania; requires the President to transmit a report to the Foreign Relations Committees of the Senate and House 60 days after enactment and quarterly thereafter on the obligation of authorized funds; and states that nothing in this act shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki Declaration) Final Act and the United Nations Declaration on Human Rights or as constituting a precedent for or commitment to provide development assistance to Romania and requires that the Romanian Government be so notified. H.R. 5717—Public Law 95-21, approved April 18, 1977. (VV)

REGULATIONS

Safe containers.—Provides the legislative authority necessary to implement the International Safe Container Convention (Ex. X, 93d-1st); requires owners to get their new containers approved according to procedures established by the Secretary of Transportation or by the administration of any party to the Convention and to maintain all of their containers to meet the standards established by the Convention; gives owners of existing containers 5 years to submit them to the Secretary for approval; details the duties of the Secretary of Transportation who is the Administrator of the Convention for the U.S.; authorizes the Secretary to initially test, inspect and approve containers in international transport to determine if they have a valid safety approval plate and do not have any significant evidence of obvious risk of safety; permits the Secretary to remove the container from service if it does not have a plate; makes it the duty of owners to pay for or reimburse the Secretary for the cost of inspecting, testing and approvals; requires the Secretary to notify the owners of containers when he issues a detention or other order; establishes penalties for violations; and establishes an enforcement procedure for the Secretary of Labor against an owner who has discharged or discriminated against an employee for reporting the existence of an unsafe container or other violation. H.R. 8159—Public Law 95-208, approved December 13, 1977. (VV)

SALT II agreements.—Authorizes the President to proceed in accordance with the declaration of the Secretary of State of September 23, 1977, declaring the intention of the United States not to take any action inconsistent with the provisions of the SALT I Interim Agreement of 1972 and with the goals of the SALT II negotiations provided that nothing be construed preventing any action or prohibiting any weapons system development, procurement or deployment authorized by Congress; and requires the Secretary of State to report to Congress, at least every six months, on the exact status of negotiations for the SALT II agreement. S. Con. Res. 56—Senate agreed to October 19, 1977. (VV)

Soviet detention of Robert Toth.—States as the sense of the Senate that the U.S. should continue to press the Soviet Government for a complete accounting of the circumstances which precipitated the detention of Robert C. Toth, a Los Angeles Times staff member, and that appropriate means should be taken to obtain the safe return of Mr. Toth to the United States. S. Res. 194—Senate agreed to June 15, 1977. (VV)

Soviet expulsion of George A. Krimsky.—States as the sense of the Senate that: (1) the Soviet expulsion of Associated Press reporter George A. Krimsky is contrary to the spirit of the Helsinki Declaration respecting the rights of journalists; (2) the decision serves only to obstruct the implementation of the free flow of information provisions contained in the Declaration; (3) the action only invites and justifies steps of a reciprocal nature by the U.S. Government; and (4) the U.S. and Soviet Governments should seek greater communication in this area to prevent similar events of a counterproductive nature from occurring in the future; and directs the Secretary of the Senate to transmit a copy of this resolution to the President for the Department of State to convey directly to General Secretary Leonid Brezhnev of the Central Committee of the Soviet Communist Party. S. Res. 81—Senate agreed to March 4, 1977. (VV)

Soviet freedom of emigration.—Conveys to the Soviet Government the sustained interest of the American people regarding Soviet adherence to the Helsinki Declaration, including their pledge to facilitate freer movement of people, expedite the reunification of families, and uphold the general freedom to leave one's country. S. Con. Res. 7—Action completed March 22, 1977. (39)

State Department authorization.—Authorizes $1,693,308,000 for fiscal year 1978 for the operations of the State Department (including the Office of Foreign Buildings), the U.S. Information Agency (USIA), and the Board for International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty);

Facilitates compliance by the United States with the Helsinki Agreement by requiring that the Secretary of State recommend the necessary waiver for any prospective visitor to the United States who could be subject to the denial of a visa solely for reason of political affiliation with the exception of the right of continued denial of entry to any person whom the Secretary judges to be a threat to U.S. security;

Strengthens the ability of the Board for International Broadcasting to oversee and set broad policy direction for Radio Free Europe/Radio Liberty, Inc.;

Provides that (1) U.S. policy toward Korea should be arrived at jointly by the President and the Congress; (2) any implementation of the President's policy of phased troop withdrawal from Korea should be consistent with the security interests of South Korea and the interests of the United States in Asia, notably Japan; (3) such policy should involve appropriate consultations between the United States and governments directly involved; and (4) any implementation of such policy shall be carried out in regular consultation with Congress;

Contains provisions to encourage the State Department to assist Americans incarcerated abroad and requires an annual report to Congress on the prisoners' status, including an assessment of the performance of Embassy and consular personnel in assisting them;

Provides that any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal;

Repeals existing law which authorizes suits against U.S. consular officers for damages resulting from neglect or failure to perform any duty imposed by law or by an order pursuant to the law in a timely fashion;

States the sense of the Congress that negotiations toward the normalization of relations with Cuba be conducted in a deliberate manner and on a reciprocal basis; that the vital concerns of the United States with respect to the basic rights and interests of U.S. citizens whose persons or property are the subject of negotiations be protected; and that Cuban policies and actions regarding the use of military and paramilitary personnel beyond its borders and the Cuban government's disrespect for human rights are among elements which must be taken into account during negotiations;

Strengthens the Foreign Gifts and Decorations Act of 1966 by clarifying existing ambiguities as to who is covered by establishing certain reporting and publication requirements and by increasing penalties for noncompliance; prohibits the President from making a commitment to provide any reparations or aid to Vietnam and prohibits funds for reparations or aid to Vietnam and directs the President to take all possible steps to obtain a final accounting of POWs and MIAs. H.R. 6689—Public Law 95-105, approved August 17, 1977. (219)

State Department supplemental auhorization.—Provides a supplemental authorization of $89.5 million for the Department of State for fiscal year 1977 as follows: (1) $60 million to pay U.S. dues and assessments to UNESCO for 1975 and 1976, in arrears because of Congressional action suspending further payments until the President certified that UNESCO's policies were in line with its objectives and less political, and part of the 1977 assessment, (2) $11,325,000 for aid to Soviet and East European refugees not settling in Israel and $7.4 million for the Indochinese Refugee Program administered by the United Nations High Commissioner for Refugees to continue U.S. support of 80,000 refugees in Thailand who arrived from Vietnam, Cambodia and Laos in 1975, and (3) $10,775,000 to provide for the construction of 108 apartment units for the U.S. mission in Cairo—36 for the State Department and 72 for AID; authorizes the Secretary to use appropriated funds to provide emergency medical attention, dietary supplements, and other assistance to U.S. citizens incarcerated abroad; requires that the Chairman or Vice-Chairman of the Senate and House delegations to the four interparliamentary union groups (Canada-U.S., Mexico-U.S., North Atlantic Assembly, and Interparliamentary Union) be a member of their respective foreign affairs committee; increases from 18 to 24 the size of the delegation to the North Atlantic Assembly and specifies that no more than 7 of the 12-member Senate delegation be of the same political party; and amends Public Law 94-203 (known as the Case Act which requires the Secretary of State to transmit the text of any international agreement other than a treaty to Congress within 60 days after the agreement has entered into force with respect to the United States) to require any department or agency entering into an international agreement on behalf of the United States to transmit the text of the agreement to the Department of State within 20 days following the date on which the agreement was signed. H.R. 5040—Public Law 95-45, approved June 15, 1977. (VV)

1984 Summer Olympics.—Advises the International Olympic Committee that the Congress would welcome the holding of the 1984 Summer Olympic games at Los Angeles, California, the site designated by the United States Olympic Committee; and expresses the hope of the Congress that the U.S. will be selected as the site for the 1984 games and pledges cooperation and support toward their successful fulfillment. H. Con. Res. 368—Action completed October 7, 1977. (VV)

Uganda—Human rights.—Expresses the sense of the Senate that the actions of the current regime in Uganda violating the human rights of its citizens and residents deserve condemnation by the world community and by the Organization of African Unity; urges all nations supplying lethal arms to Uganda to halt all deliveries of weapons; and urges the U.S. Ambassador to the United Nations to request that the situation in Uganda be investigated by an appropriate agency in the United Nations. S. Res. 175—Senate agreed to May 25, 1977. (VV)

Vietnam POW's and MIA's.—Directs the

President, as Commander in Chief of the Armed Forces, to require an accounting of all military personnel presently categorized on personnel rosters of the various branches of the U.S. Armed Forces as prisoner of war, missing in action, or killed in action in Southeast Asia; directs the President, by executive order, to require the Secretary of State to pursue enforcement of the Paris agreement of January 27, 1973; states that the Congress, having passed Public Law 88-408 authorizing the deployment of U.S. Armed Forces for the maintenance of international peace and security in Southeast Asia, recognize a corresponding duty and obligation to determine the fate of missing or unaccounted for Americans; requires that the President, through the Secretary of State, hold the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam responsible to account for and provide information not otherwise available to satisfactorily dispose of the POW/MIA problem in accordance with the Paris agreement or seek alternatives that might resolve the question; and requires responsible officeholders in the executive and legislative branches to address the authority of their office toward a satisfactory resolution of the problem, make a public accounting, and remove any question as to the integrity of their function. S. Con. Res. 2—Senate agreed to February 21, 1977. (VV)

States as a sense of the Congress that the honor of those Americans who upheld the dignity of the law and served in the U.S. Armed Forces should be reaffirmed and that the Government should do everything possible to address the problems of those who served during the Vietnam war; and urges that there be established, in view of the recent issuance of a general pardon for U.S. draft evaders of the Vietnam war era, a Presidential Task Force on Missing in Action and Prisoners of War to propose courses of action to achieve the fullest possible accounting for all Americans listed in a missing status in Southeast Asia, including the return of remains, and to make recommendations concerning Federal policies relating to POW's and MIA's. S. Con. Res. 3—Senate agreed to February 21, 1977. (VV)

World Assembly on Aging.—States as the sense of the Senate that the President should instruct the United States delegation to the United Nations to work with the delegations of other nations to call for a World Assembly on Aging and a World Year on Aging for not later than 1982. S. Res. 238—Senate agreed to October 5, 1977. (VV)

LABOR

Black lung benefits.—Amends title IV of the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established thereunder, and to impose an excise tax on the sale or use of coal;

Title I—Black Lung Benefits Reform Act: Seeks to simplify and expedite the refiling claims under the revised benefits standards by individuals whose claims were previously denied; allows these claims to be filed without regard to certain time limitations otherwise applicable and be retroactive to the time of the initial claim but not before January 1, 1974; requires the Secretary of Labor to provide to a denied claimant specific reasons for the denial; modifies the definitions of "pneumoconiosis" to include the sequelae of the disease and respiratory and pulmonary impairment arising out of coal mine employment as presently interpreted by the Social Security Administration; modifies the definition of "miner" to expand the coverage of the program to include workers around a coal mine, processors and transporters of coal, and coal mine construction workers; provides for the Secretary of Labor to revise the regulations defining what constitutes disability for purposes of the black lung program and setting forth the criteria for determining whether the definition is met; prohibits a finding that a miner was not disabled at the time of his death solely on the basis that he was actually employed at that time; permits a miner to apply for benefits while still employed although he would not be permitted to receive the benefits until after his employment terminates; permits the use of affidavits in determining the disability of deceased miners in the absence of other sufficient evidence; authorizes the establishment of Labor Department field offices to assist claimants with their claim filing and processing in the field; makes permanent a $10 million annual authorization for the establishment and operation of clinical facilities for the treatment and examination of miners with respiratory impairments paid directly from the Treasury and not from the Black Lung Disability Fund; provides that the Black Lung Disability Fund would pay all eligible claims with respect to miners whose last coal mine employment was before January 1, 1970; provides that the Federal Government be reimbursed from the Fund for all previous part C payments; expands the situations under which coal mine operators who acquire mines from previous operators would be required to assume liability (concurrently with the prior operator) for the payment of black lung benefits to individuals previously employed in the mine which has a retroactive effect, applying to changes in ownership taking place since December 31, 1969;

Title II—Black Lung Benefits Revenue Act: Imposes a one-percent *ad valorem* manufacturers excise tax on the sale of coal by the producer; provides that the tax does not apply to lignite;

Establishes a Black Lung Disability Fund in the Treasury, administered by the Secretary of the Treasury supported from tax revenues, appropriated repayable advances and investment income; provides that the fund pay benefits for which it is responsible including part C benefits expended by the Secretary of Labor, repayment of advances to the fund, including interest and all expenses of operation and administration under part C; makes the fund effective October 1, 1977 and authorizes the IRS to disclose to the National Institute for Occupational Safety and Health the mailing address of taxpayers for the purpose of locating individuals exposed to occupational hazards. H.R. 4544—Passed House September 19, 1977; Passed Senate amended September 20, 1977; In conference. NOTE. (Provisions of the conference report are contained in H.R. 5322 which passed the Senate Dec. 15, 1977.)

Black lung trust funds.—Provides for the duty-free entry of istle, crude or processed; and imposes an *ad valorem* tax on the sale of coal by the coalproducer at the rate of 50 cents a ton on underground-mined coal and 25 cents a ton on surface-mined coal but in no event more than 2 percent of the sales price; makes it clear that the provision is a tax and brings into effect all of the regular procedures for manufacturers excise taxes such as providing rules for situations where the producer uses the coal rather than selling it as in the case of integrated electric utilities and a number of steel companies, providing rules for the time for payment of tax, and giving the taxpayers the right to sue for refunds of overpayments of the tax; sets the rates in the statute;

Establishes a Black Lung Disability Fund in the Treasury administered by the Secretary of the Treasury supported from tax revenues, appropriated repayable advances and investment income; provides that the fund pay benefits for which it is responsible including part C benefits expended by the Secretary of Labor, repayment of advances to the fund, including interest and all expenses of operation and administration under part C; provides special rules for trust funds established by coal mine operators to satisfy their obligations under the so-called "responsible operator" provisions of the black lung benefits program; permits the coal mine operator designated as the one responsible for payment of benefits to a miner to fund its obligations in advance through contributions to a tax-exempt trust; and makes these contributions deductible, within limits, and includes safeguards to ensure that the money in the trust can be used only for the payment of these black lung benefits. H.R. 5322—Passed House July 18, 1977; Passed Senate amended December 15, 1977. (VV)

Mine safety and health.—Strengthens the national mine safety and health program by providing uniform administration and enforcement for the entire mining industry under a single act administered by the Department of Labor;

Repeals the Metal and Non-Metallic Mine Safety Act of 1966; amends the Federal Mine Safety and Health Act of 1969 (the Coal Act) to make its enforcement and administrative provisions applicable to the entire coal and non-coal mining industry; transfers the responsibility for the administration and enforcement of the mine safety and health program from the Department of the Interior to the Department of Labor;

Provides a streamlined mechanism for the promulgation of mandatory safety and health standards by imposing time limitations on each step of the standard-making process; vests all standard-making authority in the Secretary of Labor who may use Advisory Committees for the development of standards; provides for public comment and hearings on standard proposals and for judicial review of promulgated standards; contains provision for improved health standards and authorizes the Secretary of HEW, through NIOSH, to prepare criteria to be used in their development; gives the Secretary of Labor authority to issue emergency temporary standards in situations of grave danger to miners, without going through the statutory standards setting process;

Establishes an independent Federal Mine Safety and Health Review Commission which is assigned all administrative review responsibilities and authorized to assess civil penalties; imposes strict time limitations on each step of these processes; authorizes the courts to enforce routine agency determinations that are not appealed within the statutory time limitation;

Requires each operator to have a Secretary-approved safety and health training program which provides at least 40 hours of training for new underground miners, 24 hours of training for new surface miners, and 8 hours of annual retraining for all miners; requires that any miner who is assigned a new task be trained in the safety and health aspects of the new task; requires that such training be provided at the owner's expense, during normal working hours and that miners be compensated for their expenses in cases where the training is given away from the mine;

Requires at least four inspections each year for all underground mines in their entirety, at least two inspections a year for all surface mines in their entirety, and at least one spot inspection every 5 working days for particularly hazardous mines; expands miners' participation in inspection by authorizing their representatives to participate in the annual inspection and any pre- or post-inspection conferences held at the mine; permits miners to request inspections in writing if they suspect a hazardous situation; requires the Secretary to notify the mine operator of any violation of the health and safety standards with a time period within which the violation must be fully abated; authorizes the inspector to issue an order closing all or a portion of a mine affected by certain violations and if a pattern of violations exists; expands the coverage of those presently protected against discriminatory actions under the Coal Act to include applicants for employment; and provides a variety of civil and criminal penalties. S. 717—Public Law 95–164, approved November 9, 1977. (231)

Minimum wage increase.—Amends the Fair Labor Standards Act of 1938 to increase the minimum wage rate to $2.65 on January 1, 1978, to $2.90 in 1979, to 3.10 in 1980, and to $3.35 in 1981; increases the minimum wage in Puerto Rico for employees at wages between $2 per hour and $2.29 by $.25 in 1978 and by $.30 in 1979 and each year thereafter until parity is reached; and for those at wages less than $2 per hour increases the minimum wage by $.20 in 1978 and by $.25 in 1979 and each succeeding year until $2.30 per hour after which it will be increased by $.30 until parity is reached; establishes a Minimum Wage Study Commission to conduct a study of specific economic and employment effects of changes in minimum wage and overtime provisions; requires a report within 1 year on the effects of eliminating all minimum wage and overtime exemptions with regard to conglomerates; reduces from 50 percent to 45 percent in 1979 and to 40 percent in 1981 the credit against the minimum wage which an employer may credit against payment of the minimum wage to employees who receive more than $30 per month tips; excludes concessioner employees in national parks, refuges and forests from the minimum wage and overtime exemption presently provided for amusement and recreational establishments with the overtime exemption limited in that overtime compensation would be required for more than 56 hours per week and preserved as it applies to private entities engaged in providing services and facilities directly related to skiing; repeals the overtime exemption in the case of shade-grown tobacco employees; revises the overtime exemption for cotton ginning and sugar employees and requires overtime pay for employment in excess of 10 hours in a day and 48 hours in a workweek for the entire 14 workweek period; retains the existing exemption for babysitters who are employed on a casual basis; authorizes the Secretary of Labor, within certain guidelines to waive child labor restrictions for employment of children as hand harvest agricultural laborers paid on a piece rate basis if the Secretary finds that the use of 10 and 11-year old children is necessary to prevent severe economic disruption of an applicant's industry; increases the small business sales test which exempts small businesses from minimum wage coverage from $250,000 to $275,000 effective July 1, 1978, to $325,000, July 1, 1980, and to $362,500 December 1, 1981; exempts from minimum wage and overtime compensation requirements employees of organized camps and religious or nonprofit educational conference centers operated on a seasonal basis; and increases from 4 to 6 the number of students an employer may hire at a special minimum wage and requires simplification of the forms necessary for hiring such students. H.R. 3744—Public Law 95–151, approved November 1, 1977. (549)

Steel industry.—Reaffirms Senate support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct Federal agencies to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry. S. Res. 279—Senate agreed to October 12, 1977. (VV)

MEMORIALS, TRIBUTES AND MEDALS

Alex Haley.—Honors and pays tribute to Alex Haley for his exceptional achievement in writing *Roots* and extends to him the highest praise of the Senate. S. Res. 112—Senate agreed to March 14, 1977. (VV)

Alf Landon's 90th birthday.—Extends, on behalf of the Senate, warm wishes to Alf Landon on the occasion of his 90th birthday, September 9, 1977; expresses admiration and gratitude to Governor Landon for his many years of distinguished service to the people of Kansas and the United States; and expresses appreciation for his contributions as Governor of Kansas, presidential candidate, statesman, progressive and venerable leader of his political party, civic leader, humanitarian and successful businessman and for his interest in young people. S. Res. 259—Senate agreed to September 9, 1977. (VV)

Benjamin Whitcomb Independent Corps of Rangers.—Extends best wishes of the Senate to the Benjamin Whitcomb Independent Corps of Rangers on the occasion of the re-enactment, on August 19, 1977, of the Revolutionary War Battle of Bennington, Vermont, and commends the Rangers for their continuing educational efforts in connection with the Revolutionary War. S. Res. 241—Senate agreed to August 3, 1977. (VV)

Brooks Robinson.—Honors and pays tribute to Brooks Robinson on the occasion of Brooks Robinson Appreciation Day, Sunday, September 18, 1977, at Memorial Stadium, Baltimore, Maryland. S. Res. 262—Senate agreed to September 16, 1977. (VV)

Carl T. Hayden.—Pays tribute to the Honorable Carl T. Hayden on the occasion of the one hundredth anniversary of his birth, October 2, 1977. S. Res. 275—Senate agreed to September 30, 1977. (VV)

Charles A. Lindbergh.—Honors Charles A. Lindbergh for his service to our country in peace and war, and expresses appreciation for his leadership and advocacy in the conservation of natural resources and for his daring and courageous contributions to the field of aviation and aeronautical science. S. Res. 177—Senate agreed to May 19, 1977. (VV)

Cora Rubin Lane 100th birthday.—Expresses the gratitude and appreciation of the Senate to Cora Rubin Lane for her long and outstanding service as an assistant to Senator Wililam E. Borah and expresses best wishes to her on the occasion of ner 100th birthday. S. Res. 162—Senate agreed to May 3, 1977. (VV)

Courtney C. Pace.—Commends Courtney C. Pace, administrative assistant to Senator James O. Eastland, for his long, faithful and outstanding service to the Senate and to his State and Nation. S. Res. 280—Senate agreed to October 4, 1977. (VV)

Frances G. Knight retirement.—Commends Frances G. Knight upon her retirement as Director of the Passport Office, Department of State, for her diligence and outstanding performance to the Nation during a landmark career of public service. S. Res. 231—Senate agreed to July 27, 1977. (VV)

Francis R. Valeo retirement.—Commends Francis R. Valeo for his long, faithful and exemplary service as an employee of the Senate and his ten years of service as Secretary of the Senate. S. Res. 133—Senate agreed to April 1, 1977. (VV)

Future Farmers of America.—Commends the Future Farmers of America which will have its golden anniversary convention November 8 through November 11, 1977, in Kansas City, Missouri, for the contributions it has made in sustaining our Nation's most basic industry of agriculture through developing leadership, encouraging cooperation, promoting good citizenship, teaching sound agricultural techniques and principles, and preparing our Nation's young women and men for careers in the industry of agriculture. S. Res. 299—Senate agreed to November 3, 1977. (VV)

Gen. Draza Mihailovich Monument.—Authorizes the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Draza Mihailovich to construct and maintain a monument to General Mihailovich on Federal land in the District of Columbia in recognition of the role he played in saving the lives of approximately 500 United States airmen in Yugoslavia during World War II; and provides that the location and design of the monument shall be subject to the approval of the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior. S. 244—Passed Senate June 29, 1977. (VV)

Gen. Thaddeus Kosciuszko.—Provides, as an expression of esteem and gratitude by the American people, that the plaque to be erected in the Wawel Cathedral in Krakov, Poland, on October 17, 1977, in the memory of General Thaddeus Kosciuszko, shall be presented by the Ambassador of the United States to Poland on behalf of the American people as a gift to the people of Poland. H.J. Res. 573—Public Law 95–149, approved November 1, 1977. (VV)

Encourages the Secretary of the Interior to accept donations of suitable markers recognizing the role of General Thaddeus Kosciuszko in the American Revolutionary War. S. Con. Res. 44—Senate agreed to October 27, 1977. (VV)

Gerald R. Ford Building.—Names the Federal building located at 110 Michigan Avenue, N.W., in Grand Rapids, Mich., the "Gerald R. Ford Building". S. 385—Public Law 95–25, approved May 4, 1977. (VV)

Henry Ford.—Marks the occasion of the 75th anniversary of the first mass-produced motor vehicle by the elder Henry Ford as an appropriate time to recognize his unique industrial statesmanship. S. Res. 215—Senate agreed to June 29, 1977. (VV)

Hubert H. Humphrey Building.—Authorizes the naming of the Department of Health, Education and Welfare South Portal Building in Washington, D.C. as the "Hubert H. Humphrey Building". S. 2169—Public Law 95–141, approved October 23, 1977. (VV)

Jackie Robinson.—States the sense of the Senate to commemorate the 30th anniversay of Jackie Robinson's entry into major league baseball and join in the celebration of the week of July 18 through 25, 1977, in paying tribute to Jackie Robinson and what he symbolized to so many Americans. S. Res. 223—Senate agreed to July 18, 1977. (VV)

Jaycees International Conference.—Commends the "Old Sourdough Jaycees" of Anchorage, Alaska, the U.S. Jaycees, and the Jaycee International for bringing together Jaycee leaders around the world who have contributed to the betterment of mankind. S. Res. 137—Senate agreed to April 6, 1977. (VV)

John L. McClellan, death of.—Expresses the sorrow and regret of the Senate over the death of the Honorable John L. McClellan of Arkansas. S. Res. 328—Senate agreed to November 29, 1977. (VV)

John L. McClellan Hospital.—Names the Veterans' Administration Hospital in Little Rock, Arkansas, the "John L. McClellan Hospital". S. 2351—Passed Senate December 15, 1977. (VV)

Lt. Gen. Ira C. Eaker Medal.—Authorizes the President to present, on behalf of the Congress, to Lieutenant General Ira C. Eaker, U.S.A.F. (retired), a gold medal of appropriate design in recognition of his distinguished career as an aviation pioneer and Air Force leader; provides a $5,000 authorization therefor; and authorizes the Secretary of the Treasury to have duplicate medals struck in bronze and sold at cost. S. 425—Passed Senate May 13, 1977. (VV)

Lou Brock.—Pay tribute to Louis Clark Brock for his outstanding achievements in major league baseball especially for his new major league record of 893 career bases stolen; and recognizes and commends him for his outstanding contributions to the people of this nation, his exemplary conduct on and off the baseball playing field, his founding and active participation in the Lou Brock Boys' Club of St. Louis, and his service as a member of the Board of Directors of the Big Brothers and Sisters of America. S. Res. 260—Senate agreed to September 12, 1977. (VV)

Marian Anderson Medal.—Authorizes the President to award to Marian Anderson, in the name of the Congress, a gold medal with suitable emblems and inscriptions in recognition of her highly distinguished and impressive career; provides that bronze duplicates of the medal shall be coined and sold under regulations prescribed by the Secretary of the Treasury; and authorizes therefor $2,500. H.J. Res. 132—Public Law 95-9, approved March 9, 1977. (VV)

Medal of Honor.—Expresses best wishes to the Congressional Medal of Honor Society on the occasion of its national convention to be held in San Jose, California, November 9 through November 13, 1977, and expresses renewed appreciation and tribute to the individual members of the organization and to all recipients of the Medal of Honor, living and dead, for their bravery in battle and high service to country. S. Res. 322—Senate agreed to November 3, 1977. (VV)

Mike Monroney Aeronautical Center.—Designates the Federal Aviation Administration Aeronautical Center in Oklahoma City, Oklahoma, as the "Mike Monroney Aeronautical Center". S. 1640—Passed Senate June 8, 1977. (VV)

Motion Picture Academy 5th Anniversary.—Congratulates the Academy of Motion Picture Arts and Sciences for its past achievements on the occasion of its 50th anniversary on May 11 and extends best wishes for the future. S. Res. 168—Senate agreed to May 11, 1977. (VV)

Nez Perce War Commemoration.—States as the sense of the Senate that June 17, 1977, is to be a day for the commemoration of the Nez Perce War of 1977 and for the remembrance of the courage and honor of the Nez Perce during the long tortuous maneuvers of 1877. S. Res. 196—Senate agreed to June 16, 1977. (VV)

Philip A. Hart, death of.—Expresses the sorrow of the Senate over the death of Senator Philip A. Hart, of Michigan. S. Res. 15—Senate agreed to January 4, 1977. (VV)

President and Mrs. Ford.—Congratulates and commends President and Mrs. Ford on their exemplary conduct as President and first lady and for their dedicated public service to the Nation during their entire career of public service. S. Res. 22—Senate agreed to January 10, 1977. (VV)

President Ford.—Commends President Ford for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 38—Senate agreed to January 18, 1977. (VV)

President-elect Carter.—Extends best wishes to President-elect Jimmy Carter and to all those who will serve in his administration. S. Res. 23—Senate agreed to January 10, 1977. (VV)

Roman L. Hruska Meat Animal Research Center.—Designates the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center". S. 409—Passed Senate July 12, 1977. (VV)

Rosalynn Carter.—Congratulates the President on his selection of Rosalynn Carter as his recent emissary to Latin America and commends her on her performance as a representative of the people of the United States. S. Res. 195—Senate agreed to June 16, 1977. (VV)

St. Patrick's Parish anniversary.—Commemorates the people of St. Patrick's Parish, in Pottsville, Pennsylvania, who this year are celebrating the 150th anniversary of the founding of the parish. S. Res. 116—Senate agreed to March 17, 1977. (VV)

Vice President Rockefeller.—Commends Vice President Rockefeller for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 37—Senate agreed to January 18, 1977. (VV)

William A. Ridgely retirement.—Commends William A. Ridgely upon his retirement as financial clerk of the Senate for his lengthy, faithful and outstanding service. S. Res. 236—Senate agreed to July 28, 1977. (VV)

William O. Douglas Memorial.—Dedicates the canal and towpath of the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas; directs the Secretary of the Interior to provide the necessary identification to inform the public of the contributions of Justice Douglas and to erect and maintain within the exterior boundaries of the Park an appropriate memorial; and authorizes such sums as necessary to carry out the act. S. 776—Public Law 95-11, approved March 15, 1977. (VV)

NATURAL RESOURCES—NATIONAL HISTORIC SITES

Bull Run Reserve.—Authorizes the Secretary of Agriculture to permit, under the provisions of the Miltiple Use-Sustained Yield Act of 1960, general recreational access and geothermal explorations for six months within a 42,500 acre area of the Bull Run Reserve in the Mount Hood National Forest, Oregon. H.R. 7606—Public Law 95-55, approved June 25, 1977. (VV)

Adjusts the boundaries of the existing 142,080 acre Bull Run Reserve in the Mt. Hood National Forest, Oregon, to 97,244 acres; insures that the Bull Run watershed is managed in a manner which will assure the long-term production of high quality raw potable water for the city of Portland and its outskirts; and permits sustained-yield logging and other activities within the reserve as long as they are compatible with the goal of high quality raw potable water production. H.R 7074—Public Law 59-200, approved November 23, 1977. (VV)

Cibola National Forest.—Increases the boundary of the Cibola National Forest in New Mexico to include four separate tracts adjacent to the forest which comprise approximately 25,975 acres. S. 553—Passed Senate October 29, 1977. (VV)

Eleanor Roosevelt National Historic Site.—Authorizes the Secretary of the Interior to establish 175 acres, including the Val-Kill estate in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site to commemorate the life of Eleanor Roosevelt as well as provide a location for the conduct of studies and seminars relating to the issues with which she was concerned. H.R. 5562—Public Law 95-32, approved May 26, 1977. (VV)

Fort Union Trading Post National Historic Site.—Increases from $613,000 to $8.5 million the authorization ceiling for the Fort Union Trading Post National Historic Site in North Dakota and Montana of which $73,000 is for land acquisition and $8,427,000 for development facilities at the site with the stipulation that these funds will not be available until October 1, 1978, and that no funds for the reconstruction of the fort may be expended until the Secretary has determined, based on historical documentation, that reconstruction can be accomplished with a minimum of conjecture. S. 491—Passed Senate October 29, 1977. (VV)

George W. Norris Home National Historic Site.—Authorizes the Secretary of the Interior to acquire by donation or purchase with donated funds the home of Senator George William Norris (who, among other achievements, authored the 20th amendment to the Constitution which deals with Presidential and Congressional terms and the sessions of Congress, and the legislation which established the Rural Electrification Administration) in the State of Nebraska and to establish it as the "George W. Norris Home National Historic Site". S. 1828—Passed Senate July 11, 1977. (VV)

Land and water conservation fund.—Amends the Land and Water Conservation fund Act of 1965 to establish a special account for use in acquiring the backlog of lands previously authorized for inclusion in the national park system and certain similar Federal areas; increases the authorized level of the fund from $600 million to $900 million in fiscal year 1978 and from $750 million to $900 million in fiscal 1979 with the additional $450 million to be credited to the special account and to remain available until appropriated; provides that prior acquisition ceiling limitations on authorized areas may be exceeded in any one fiscal year by up to $1 million or 10 percent of the statutory limitation, whichever is greater; permits preacquisition work such as title searches, mapping, and other preliminary work which does not interfere with the rights of private landowners if Congressional authorization appears to be imminent; authorizes the Forest Service to use Land and Water Conservation Fund monies to purchase land in the Big Thompson Canyon at pre-flood value; and gives the Secretary the authority to (1) make minor boundary adjustments in units of the national park system with such authority to expire 10 years from the date of enactment of the authorizing legislation establishing the boundaries, and (2) accept adjacent lands outside park boundaries by donation. H.R. 5306—Public Law 95-42, approved June 10, 1977. (VV)

Legionville National Historic Site.—Provides for the establishment of a Legionville National Historic Site in Beaver County, Pennsylvania, consisting of 22 acres to be administered by the Secretary of the Interior as a unit of the national park system. S. 1104—Passed Senate October 29, 1977. (VV)

Public works on rivers and harbors—waterways user fee.—Authorizes the construction, repair, and preservation of certain public works of the Corps of Engineers on rivers and harbors for navigation and flood control; includes authorization (either construction or Phase I engineering) for 15 projects developed by the Corps of Engineers, modifications to previously authorized projects, and general legislative items; increases monetary authorizations for eleven river basins which will cover anticipated funding requirements for fiscal year 1978;

Authorizes the reconstruction of Locks and Dam 26 on the Mississippi River at Alton, Illinois, by replacing it with a new dam and a single 1,200 foot lock with contingencies for a second lock, at an estimated cost of $421 million;

Establishes, for the first time in U.S. history, a system of user charges to be paid by the commercial cargo vessels that use the 25,000 miles of Federally built and maintained inland waterways; provides that the user charge plan recover 50 percent of Federal expenditures for construction of navigation aids such as locks and 100 percent of operational and maintenance costs of the inland waterways; and provides that the charges be phased in over 10 years beginning October 1, 1979, unless Congress disapproves by concurrent resolution within 90 days. H.R. 5885—Passed House May 17, 1977; Passed Senate amended June 22, 1977; Senate requested conference June 24, 1977. (235)

Reclamation projects.—Authorizes $31,050,000 for fiscal year 1978 for continuing construction of the distribution system and drains of the San Luis Unit, Central Valley project, California; and provides for the establishment of a task force to review the management, organization and operation of the Unit and to report to Congress by January 1, 1978, the results of an examination of certain specified issues. H.R. 4390—Public Law 95-46, approved June 15, 1977. (VV)

Recreation permits.—Establishes uniform and objective policies and procedures to be employed by the Forest Service in issuing and administering permits for ski area and other commercial outdoor recreation facilities and services on national forest lands; removes permits for ski area facilities and services from any acreage limitations providing instead a separate procedure for such areas having more than 3,000 acres; continues the present maximum permit term of years and allows the renewal of the permit at any time during the permit's term if substantial investment is to be made by the permittee with the requirement that there must be six month's public notice prior to the renewal; authorizes the Secretary to suspend or terminate a permit if the permittee has breached the terms and is given due notice and a reasonable opportunity to correct the violation or if the lands are needed for another use; requires the Secretary to submit to the Congress within six months proposed regulations setting forth the conditions and procedures for the issuance of permits and provides certain congressionally mandated conditions and procedures which are to be included; requires that the permittee pay annual fees for the use of the lands to which the permit applies; increases from 25 to 50 percent the State's share of these fees; requires that the share be paid directly to affected local government rather than to the State, and widens the permissible use of the funds from construction of roads and schools only to construction of any public facility and provision of any public service; contains provisions whereby a permittee may increase a charge to the public for use of his principle facilities and services; provides for public disclosure of any memoranda, financial statement, or other materials concerning historical or financial data or information of commercial outdoor recreation facilities and services used in support of or in opposition to proposed increases in charges to the public; provides that structures, fixtures, or improvements not owned by the U.S. to which a permit applies, are the property of the permittee who may remove them and assign, transfer, encumber or relinquish their title; authorizes the Secretary to furnish, on a reimbursement of appropriation basis, all types of utility service on forest reserve lands to concessioners and permittees; contains a provision concerning maintenance of records and provisions of access to them by the Secretary and Comptroller General and requires that such records be kept for six years unless they are mandated to be kept longer in another statute; and contains other provisions. S. 1338—Passed Senate July 13, 1977. (VV)

River Basins.—Authorizes $3,905,000 for fiscal year 1978 to carry out the comprehensive river basin planning program of the U.S. Water Resources Council in those areas and river basins where river basin commissions have not been created, and to finance work on national water assessments. H.R. 6752—Public Law 95-41, approved June 6, 1977. (VV)

Increases the authorization for the Brazos River Basin in Texas to $7.5 million and the San Joaquin River Basin in California to $6 million which funds are appropriated but not authorized in order to permit contractors to continue work under their present contracts and allow the Corps to let additional contracts that were scheduled to be awarded in October. S. 2001—Public Law 95-104, approved August 15, 1977. (VV)

Authorizes a total of $215 million through March 31, 1978, for continued work on the following river basin projects: Alabama-Coosa River Basin; Arkansas River Basin; Brazos River Basin; Mississippi River Basin and tributaries; Missouri River Basin; North Branch, Susquehanna River Basin; Ohio River Basin; San Joaquin River Basin; and South Platte River Basin. S. 2281—Public Law 95-189, approved November 16, 1977. (VV)

Sabine River Compact.—Gives congressional consent to the amendment to the Sabine River Compact, entered into by the States of Texas and Louisiana, which would permit the Sabine River Authority of the respective States to address themselves to the problems of pollution abatement and saline intrusion in the water resources within their jurisdiction, subject to the powers already vested in them under the existing agreement. H.R. 1551—Public Law 95-71, approved July 23, 1977. (VV)

Sawtooth National Recreation Areas.—Increases the authorization ceiling for land acquisition for the Sawtooth National Recreation Area in Idaho from $19,802,000 to $27,802,000. S. 791—Passed Senate October 27, 1977. (VV)

Timber sales.—Requires the Secretary of Agriculture to select the bidding method on Forest Service timber that will foster open and fair competition, that will insure that the Federal government will receive the appraised value of the timber, and that takes into consideration the economic stability of communities whose economies are dependent on such national forest materials; authorizes the Secretary to select or alter the bidding method as he determines necessary; requires that in oral auctions, only prospective purchasers whose written sealed bids which are equal to or in excess of the appraised value of the forest timber may participate in the oral bidding process; and requires the Secretary to monitor bidding, and to report any instances of possible collusive bidding practices to the Attorney General. S. 1360—Passed Senate September 14, 1977. (VV)

Tinicum National Environmental Center.—Amends the Tinicum National Environmental Center Act which provides for the preservation of the tidal marshland in Pennsylvania to extend the boundaries of the center and increase the authorization to develop the center and complete the land acquisition from $3,850,000 to $11,100,000. H.R. 2817—Public Law 95-152, approved November 4, 1977. (VV)

Water Resources Development—Saline Water Conversion.—Reinstates for fiscal year 1978 the authorization for grants under title II or the Water Resources Act of 1964, as amended, for an institute, center, or equivalent agency at a college or university in each State to carry out water resources and technology; and extends through fiscal year 1978 the Saline Water Conversion Act of 1971 and authorizes therefor $21.95 million plus an additional $40 million for four projects which demonstrate the technology of desalination of which two must utilize underground brackish water. H.R. 4746—Public Law 95-84, approved August 2, 1977. (VV)

Water resources management.—States the sense of the Senate that no new national water resources management policy shall be implemented without Congressional concurrence, and no proposed regulations shall take effect for six calendar months during which Congress is in session, from the time of publication in the Federal Register and of notification to the Congress by the Executive Branch; provides that the Executive Branch shall transmit all recommendations and proposals to the States and to make all materials pertaining to regional hearings available to them; gives States two months to develop their responses and recommendations to the Executive Branch and to transmit them to the Water Resources Council and appropriate Congressional committees; provides States with an additional month to meet within river basin or regional commissions for recommendations of regional water resources management policies which should be transmitted to the Water Resources Council and appropriate Congressional committees; and gives Congress three months to hold hearings on the establishment of a national water resources management policy. S. Res. 284—Senate agreed to October 5, 1977. (VV)

White River National Forest.—Increases by 2,416 acres the boundary of the White River National Forest in Colorado and authorizes $2.6 million for the purchase of 789 of these acres. S. 2101—Passed Senate October 29, 1977. (VV)

WILDERNESS AREAS

Endangered wilderness.—Designates 14 additional units comprising 1.25 million acres of national forest land to the National Wilderness Preservation System as follows: 56,430 acres in the Coronado National Forest, Arizona, to be known as the Pusch Ridge Wilderness; 333,100 acres of land in California just south of Sequoia National Park to be known as the Golden Trout Wilderness; 21,250 acres of the Los Padres Forest in California to be designated as the Santa Lucia Wilderness area; 4 additions totalling 61,000 acres to the existing Ventana Wilderness also in the Los Padres; an 80,000-acre wilderness in the White River National Forest in Colorado, to become the Hunter-Fryingpan Wilderness; 37,000 acres of land near Albuquerque, New Mexico, in the Cibola Forest, to be known as the Monzano Mountain Wilderness; 30,930 acres of the Cibola also located near Albuquerque, which will be called the Sandia Mountain Wilderness; 29,567 acres outside Salt Lake City, Utah, to be called the Lone Peak Wilderness; 3 areas in Oregon, previously passed by the Senate in S. 658, the Oregon Omnibus Wilderness Act; an 82,400-acre addition to the Kalmiopsis Wilderness, a 33,000-acre addition to the Mt. Hood Wilderness area, and a 185,000-acre wilderness area along the Washington-Oregon border, to be known as the Wenaha-Tucannon Wilderness; an area in Oregon's Willamette National Forest known as the French Pete additions to the Three Sisters Wilderness; and 206,000 acres in Idaho, to be known as the Gospel-Hump Wilderness; provides for the study of additional public lands for inclusion in the wilderness system; and makes certain clarifying amendments regarding administration of the system. H.R. 3454—Passed House September 12, 1977; Passed Senate amended October 20, 1977; In conference. (573)

Oregon Wilderness.—Designates additional land for inclusion in the following wilderness areas: Kalmiopsis Wilderness, Siskiyou National Forest, Oregon—82,400 acres, Wenaha-Tucannon, Umatilla National Forest, Washington and Oregon—185,000 acres, and Mt. Hood Wilderness, Mt. Hood National Forest, Oregon—33,000 acres and designates the proposed Hidden Wilderness area, Willamette and Mt. Hood National Forests, Oregon, for study for possible inclusion in the National Wilderness System under the interim management of the Secretary of Agriculture. S. 658—Passed Senate July 20, 1977. (VV)

WILDERNESS AREAS STUDIES

Montana Wilderness.—Directs the Secretary of Agriculture to study 9 areas of land totaling approximately 973,000 acres located within the following National Forests in Montana to determine their suitability for designation as wilderness under the provisions of the Wilderness Act of 1964: Beaverbrook National Forest—West Pioneer Wilderness and Taylor-Hilgard Wilderness; Bitteroot National Forest—Bluejoint Wilderness and Sapphire Wilderness; Kootenai National Forest—Ten Lakes Wilderness and Mt. Henry Wilderness; Lewis and Clark National Forest—Middle Ford Judith Wilderness and Big Snowies Wilderness; and Gallatin National Forest—Hyalite-Porcupine-Buffalo Horn Wilderness; requires the Secretary to complete the studies and report his findings to the President within 5 years of enactment who is to submit his recommendations with respect thereto to the Congress within 7 years of enactment; and directs the Secretary to administer the areas so as not to diminish their presently existing wilderness character and potential until Congress determines otherwise. S. 393—Public Law 95-150, approved November 1, 1977. (VV)

Wildlife refuges.—Extends through fiscal year 1980 the authorization for the acquisition and development of the San Francisco Bay National Wildlife Refuge in California (consisting of approximately 21,000 acres), the Tinicum National Environmental Center in Pennsylvania (consisting of approximately 1,200 acres), and the Great Dismal Swamp National Wildlife Refuge in Virginia (consisting of approximately 107,360 acres). H.R. 5493—Passed House May 16, 1977; Passed Senate amended May 24, 1977. (VV)

NOMINATIONS

(Action by Rollcall Vote)

Griffin B. Bell, of Georgia, to be Attorney General.—Nomination confirmed January 25, 1977. (10)

Joseph A. Califano, Jr., of District of Columbia, to be Secretary of Health, Education, and Welfare.—Nomination confirmed January 24, 1977. (7)

Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission.—Nomination confirmed October 10, 1977. (554)

Peter F. Flaherty, of Pennsylvania, to be Deputy Attorney General.—Nomination confirmed April 5, 1977. (99)

James B. King, of Massachusetts, to be a member of the National Transportation Safety Board.—Nomination confirmed October 10, 1977. (555)

Ray Marshall, of Texas, to be Secretary of Labor.—Nomination confirmed January 26, 1977. (12)

Paul C. Warnke, of the District of Columbia, for rank of Ambassador for SALT negotiations and to be Director of the Arms Control and Disarmament Agency.—Nominations confirmed March 9, 1977. (41 and 42)

Andrew J. Young, of Georgia, to be U.S. Representative to the United Nations.—Nomination confirmed January 26, 1977. (14)

PROCLAMATIONS

American Business Day.—Designates May 13 of each year as "American Business Day". S.J. Res. 40—Passed Senate April 27, 1977. (VV)

Day of Prayer.—Designates the third Thursday in December of 1977 as "National Day of Prayer". S.J. Res. 81—Public Law 95-197, approved November 21, 1977. (VV)

Family Week.—Designates that week in November which includes Thanksgiving Day as "National Family Week". H.J. Res. 372—Public Law 95-100, approved August 15, 1977. (VV)

Gifted and Talented Children Week.—Designates the week beginning November 13, 1977, as "National Gifted and Talented Children Week". S.J. Res. 88—Passed Senate October 7, 1977. (VV)

Grandparents Day.—Designates the first Sunday of September of each year as "Grandparents Day". S.J. Res. 24—Passed Senate May 16, 1977. (VV)

Law Student Recognition Day.—Designates November 8, 1977, as "National Law Student Recognition Day". S.J. Res. 80—Passed October 10, 1977. (VV)

Lupus Week.—Designates the Week of September 18 through 24, 1977, as "National Lupus Week". H.J. Res. 24—Public Law 95-72, approved July 25, 1977. (VV)

Medical Laboratory Week.—Designates the second week of April of each year as "National Medical Laboratory Week". S.J. Res. 78—Passed Senate October 29, 1977. (VV)

School volunteers.—Requests the president to issue a proclamation recognizing the thousands of Americans who are voluntarily working to improve the quality of education in the United States. S.J. Res. 62—Passed Senate June 13, 1977. (VV)

Sickle Cell month.—Designates the month of September, 1977, as "National Sickle Cell Month". S.J. Res.—Passed Senate August 3, 1977. (VV)

SENATE

Commission on the operation of the Senate.—Extends for an additional 30 days, until April 1, 1977, the Commission on the Operation of the Senate. S. Res. 92—Senate agreed to February 24, 1977. (VV)

Committee reorganization.—Amends the Standing Rules of the Senate to reorder and rationalize the jurisdictions of Senate committees, effective February 11, 1977, among 15 standing committees and 6 other special, select or joint committees; abolishes the Aeronautical and Space Sciences Committee and transfers its jurisdiction to a newly created Committee on Commerce, Science, and Transportation; abolishes the District of Columbia Committee and the Committee on Post Office and Civil Service and transfers their jurisdictions to a newly created Committee on Governmental Affairs; transfers the jurisdiction of the former Interior Committee to an Energy and Natural Resources Committee; transfers the jurisdiction of the former Public Works Committee into a new Environment and Public Works Committee; transfer the jurisdiction of the former Labor and Public Welfare Committee to a new Human Resources Committee; continues the existence of the Special Committee on Aging with membership reduced to 9 in the next Congress; continues the existence of the Select Committee on Nutrition and Human Needs until December 31, 1977, after which its jurisdiction will be transferred to the Committee on Agriculture, Nutrition and Forestry; establishes a temporary Select Committee on Indian Affairs to consider all legislation relating to Indians for the duration of the 95th Congress after which its jurisdiction will be transferred to the Human Resources Committee;

Limits the number of committee and subcommittee memberships a Senator can hold generally to two major or class "A" committees and one class "B" committee and eight subcommittees thereof; prohibits committees from establishing subunits other than subcommittees; permits the Majority and Minority Leaders to temporarily increase the sizes of committees to ensure majority party control; allows Senators to serve on joint committees where such service is required to be from members of a committee on which such Senator serves; prohibits Rules Committee members from serving on any joint committee unless the Senate members of such committees are required by law to be from the Rules Committee; exempts members of the Budget Committee during the 94th Congress from certain assignment limitations during the 95th Congress; continues grandfather rights for Senators who are serving on three standing committees as a result of an exemption in the Legislative Reorganization Act of 1970 to continue to do so during the 95th Congress; allows the chairmen and ranking minority members of the Post Office and Civil Service Committee and the District of Columbia Committee to serve on the Governmental Affairs Committee and two other committees of the same class, as long as their service on Governmental Affairs remains continuous; prohibits a Senator from serving as Chairman of more than one standing, select, special, or joint committee unless the jurisdiction is directly related to that of the standing committee he chairs; prohibits Senators from serving as chairman of more than one subcommittee of each standing, select, special or joint committee; limits members to two class A committee or subcommittee chairmanships and one class B committee or subcommittee chairmanship, effective at the beginning of the 96th Congress; requires that not later than July 1, 1977, the appropriate standing committees shall report legislation terminating the statutory authority of the Joint Committees on Atomic Energy, on Congressional Operations and on Defense Production; requires that the appropriate standing committees report recommendations not later than July 1, 1977, with respect to the Joint Committees on the Library and on Printing; allows Senators to serve on joint committees considered for termination pending final disposition of the issue;

Provides for sequential and joint referral of bills that cross jurisdictional lines based on motions by the Majority and Minority Leaders, instead of by unanimous consent; provides for a computerized schedule of committee meetings by the Rules Committee; permits committees to meet without special leave until the conclusion of the first 2 hours of a meeting of the Senate or 2:00 p.m., except for the Appropriations and Budget Committees which may meet at any time without special consent; requires that morning meetings of committees and subcommittees be scheduled for one or both of two periods, one ending at 11:00 a.m. and a second beginning at 11:00 a.m. and ending at 2:00 p.m.; provides for continuous review of the committee system by the Rules Committee in consultation with the Majority and Minority Leaders; prohibits consideration of committee amendments to bills when the amendments are not in the jurisdiction of the committee proposing them; requires committee reports to contain an evaluation of the regulatory impact which would be incurred by individuals and businesses in carrying out the provisions of the bill; provides for the transition of staff from abolished or realigned committees to the new committees and provides for salary and tenure of committee staff during a transition period; provides that committee staff reflect the relative numbers of majority and minority members and that one-third of the committee staffing funds be allocated to the minority members for compensation of minority staff; provides that such adjustment be made over a four-year period beginning July 1, 1977, with not less than one-half being made in 2 years; provides for funding of increases in the expenditures of new committees resulting from this resolution; incorporates provisions of S. Res. 60 of the 94th Congress relating to individuals appointed by Senators to assist them with committee work; provides for the rereferral of measures according to the realigned jurisdictions; and provides that legal references to old committees are to be construed as referring to their successors. S. Res. 4—Senate agreed to February 4, 1977. (36)

Deputy President pro tempore.—Establishes, effective January 5, 1977, the Office of Deputy President Pro Tempore which shall be held by any Senator who is a former President or Vice President of the United States; authorizes the President Pro Tempore and the Deputy President Pro Tempore each to appoint an administrative assistant, a legislative assistant and an executive secretary; authorizes the Sergeant at Arms to provide and maintain an automobile for use by the Deputy President Pro Tempore and to employ a driver-messenger; and authorizes the Secretaries of the Conferences of the Majority and Minority each to appoint two staff assistants in each office. S. Res. 17—Senate agreed to January 10, 1977. (VV)

Names Hubert H. Humphrey of Minnesota Deputy President Pro Tempore of the Senate, effective January 5, 1977. S. Res. 27—Senate agreed to January 11, 1977. (VV)

Financial disclosure under Rule 42.—Amends S. Res. 110, to provide that Rule 42, the public financial disclosure provisions, would take effect on January 1, 1978, instead of October 1, 1977; provides that each person covered by old Rule 44 would make financial reports under its provisions for all of 1977 instead of the first three quarters of 1977;

requires each person covered by Rule 42 to disclose real property, personal property holdings, personal liabilities, patent rights or interest in patent rights, outside positions held and post Government employee agreements, which is the same information required for the first filing under title III of S. 555, January 1, 1978; requires Senators and others who become candidates for nomination or election to the Senate as defined in rule 42 in 1977 or 1978 to disclose the same information a Senator or other covered person who is not a candidate is required to disclose under rule 42; makes rule 42 also apply to a Senator, officer, or employee, compensated at a rate in excess of $25,000, who is employed for 60 days between January 1 and May 1, 1978, and any employee designated under rule 49 to handle campaign funds between January 1 and May 1, 1978; and incorporates into the Senate Rules the blind trust provision of S. 555 which states the requirements of a qualified blind trust. S. Res. 265—Senate agreed to September 29, 1977. (VV)

Joint Committee on Atomic Energy abolishment—Transitional accommodations.—Establishes until March 31, 1979, an Office of Classified National Security Information under the policy direction of the majority and minority leaders and the chairman of the Rules Committee and the administrative direction of the Secretary of the Senate which shall be responsible for safeguarding national security information and other restricted data of the Joint Committee on Atomic Energy; authorizes the Office to classify and declassify information within the guidelines developed for restricted data by the responsible executive agencies and to estabilsh a central repository in the Capitol for safeguarding such data; directs the office, within 30 days of enactment, to furnish the Senate Armed Services, Energy Environment and Foreign Relations Committees with a listing of all records, data, charts, and files to be transferred and to indicate which committee may have jurisdiction; directs the chairmen of the committees involved to resolve any jurisdictional problems which may arise; and makes necessary conforming amendments to certain laws which pertain to the Joint Committee on Atomic Energy. S. Res. 252—Senate agreed to August 5, 1977. (VV)

Political fund raising.—Amends paragraph 1 of rule XLIX of the Standing Rules of the Senate to permit those two assistants of a Senator designated to solicit campaign funds to also receive, be the custodian of, or distribute such funds. S. Res. 188—Senate agreed to June 13, 1977. (VV)

Senate delegation to the Middle East.—Authorizes the President of the Senate to appoint a special delegation of not to exceed 12 members of the Senate upon the recommendation of the Majority and Minority Leaders to visit certain countries in the Middle East and other areas as needed to conduct a study on U.S. economic and security interests in those areas, and authorizes $45,000 for expenses therefor which shall be paid from the contingent fund of the Senate. S. Res. 256—Senate agreed to August 5, 1977. (VV)

Senate delegation to South America.—Authorizes the President of the Senate to appoint, upon the recommendation of the Majority and Minority Leaders, a special delegation of not to exceed 12 members of the Senate to visit certain countries in South America and other areas as needed to conduct a study on U.S. economic and security interests in those areas, and authorizes therefor $45,000. S. Res. 221—Senate agreed to July 15, 1977. (VV)

Senate Ethics Code.—Amends the Standing Rules of the Senate to create a Code of Official Conduct; amends Senate Resolution 338, the original resolution establishing the Select Committee on Ethics, to provide for additional procedures for enforcing the new Code as well as other laws and rules of the Senate; and directs other Senate committees to study certain matters related to this resolution;

Public financial disclosure.—Requires Senators, candidates for the Senate, officers and employees of the Senate earning in excess of $25,000 per year to file a report listing their earned income and the sources and categories of value of their income, other than earned income, and all other interests, assets, and holdings held for the purposes of investment or income production;

Gifts.—Prohibits knowingly accepting a gift or gifts having an aggregate value of over $100 during a year from any individual or organization defined as having a "direct interest in legislation;"

Outside earned income.—Limits outside earned income of a Senator, officer or employee earning over $35,000 to 15 percent of the person's salary; limits each honorarium to $1,000 for Senators and to $300 for officers and employees; allows Senators or staff to accept honoraria up to $25,000 if immediately donated to a tax-exempt charity;

Conflict of interest.—Bars the use of one's official position to introduce or aid the progress of legislation the principal purpose of which furthers one's own financial interest; allows Members or staff who earn over $25,000 to provide professional services for compensation if not affiliated with a firm or association and if their work is not carried out during regular Senate office hours; directs committee employees earning over $25,000 to divest themselves of any holdings which may be directly affected by the actions of the Committee for which they work unless permitted by their supervisor and the Ethics Committee; prohibits Senators from lobbying the Senate for one year after leaving the Senate; applies a similar prohibition to employees lobbying the Committee or office for which they worked;

Unofficial office accounts.—Abolishes unofficial office accounts, those accounts defined as not including personal funds of a member, official funds, political funds and reimbursements;

Foreign travel.—Prohibits "lame duck" travel by a defeated or retiring member; prohibits receipt of counterpart funds where there has been reimbursement from another source; restricts per diem allowance to food, lodging and related expenses and places the responsibility on the person receiving the per diem to return any unused funds;

Franking privilege—Radio-TV studio—Senate computer.—Prohibits mass mailings and the use of official funds to purchase paper, to print, and prepare mass mailings under the frank; requires a Senator to register mass mailings annually for public inspection; prohibits the use of the Senate computer to store names identified as campaign workers;

Political activity by officers and employees.—Restates the present ban on staff soliciting or receiving campaign contributions; allows a Senator to name one assistant each in his Washington and State office to receive and handle campaign funds;

Discriminatory employment practices.—prohibits discrimination on the basis of race, color, religion, sex, national origin, or state of physical handicap in employment practices in the Senate;

Enforcement.—Sets forth procedures for the Select Committee on Ethics in investigating complaints of violation of the Code and enforcing its provisions;

Further studies.—Requires the Appropriations Committee to report within 120 days regarding an adjustment of official allowance; requires the Finance Committee to report within 120 days on the tax status of funds raised and expended to defray ordinary and necessary expenses of Members; directs the Rules Committee (1) to report within 120 days on the desirability of promulgating rules providing for: (a) periodic audits by GAO of all committee and office accounts; (b) a centralized recordkeeping system of accounts, allowances, expenditures and travel expenses of all committees and offices; (c) suggested accounting procedures for committee and office accounts; and (d) public disclosure and availability of information on the accounts of all committees and offices in a form which segregates the allowances and expenses of each committee and office; (2) to report within 120 days on the desirability of requiring that only official Senate funds may be used to pay for any expenses incurred by a Senator in the use of the radio-TV studios; and (3) to study laws relating to contributions made by officers or employees as well as on proposals to prohibit the misuse of official staff in election campaigns and report thereon within 180 days; requires the Governmental Affairs Committee to report (1) within 180 days regarding employee discrimination complaints and the desirability of establishing rules requiring "blind trusts" by members, officers and employees of Senate and (2) within 120 days regarding the use of simplified form of address for franked mail; and directs the Foreign Relations Committee to report in 90 days on the problem of travel, lodging and other related expenses provided members and staff paid for by foreign governments where it is not possible to procure transportation, lodging or other related services or to reimburse the foreign government for those purposes. S. Res. 110—Senate agreed to April 1, 1977. (94)

Severance pay for displaced Senate employees.—Provides severence pay for certain committee staff members whose service as an employee of the Senate was terminated solely and directly as a result of the reorganization of Senate committee staffs caused by the Committee Reorganization Amendments of 1977. S. Res. 239—Senate agreed to August 5, 1977. (VV)

Special Committee on Official Conduct.—Establishes a temporary Special Committee on Official Conduct composed of fifteen members appointed by the President pro tempore of the Senate (eight appointed upon the recommendation of the majority leader and seven upon the recommendation of the minority leader, with the chairman designated by the majority leader and the vice chairman by the minority members) to conduct a complete study of all matters relating to standards of conduct of Members, officers and employees of the Senate in the performance of their official duties including standards for: (1) annual public disclosure of income, assets, debts, gifts, and other financial items; (2) restrictions on, or the elimination of, outside income from honoraria, legal fees, gifts and other sources of financial or in-kind remuneration; (3) conflicts of interest arising out of investments in securities, commodities, real estate, or other sources; (4) office accounts, and excess campaign contributions; (5) Senate travel; and (6) engaging in business, professional activities, employment, or other remunerative activities, so as to avoid any conflict with the conscientious performance of official duties; requires the Committee to submit a report of its findings by March 1, 1977, together with a resolution setting forth, by way of proposed amendments to the Standing Rules of the Senate, a Code of Official Conduct for Members, officers, and employees of the Senate;

Provides that on March 1, 1977, after the conclusion of routine morning business, the resolution shall become the pending business of the Senate under a 50 hour time limitation on amendments thereto and 1 hour on amendments in the second degree, debatable motions or appeals; provides that amendments not germane to the bill will not be received; states that motions to limit debate are not debatable and that motions to table or recommit are out of order;

Authorizes the Committee to utilize the facilities and services of the staff of any other committee and provides that expenses of the Committee shall be paid from the contingent fund of the Senate. S. Res. 36—Senate agreed to January 18, 1977. *Note:* (On March 3, 1977, the Senate, by unanimous consent, extended until midnight, March 7, 1977, the time for the Committee to file its report and provided that the leadership may call the resolution up on March 8, 1977, or any time thereafter.) (VV)

Teamsters' Pension Fund.—Authorizes the Committee on Human Resources to inspect and receive any tax return, return information, or other tax related matter held by the Secretary of Treasury with respect to the Teamsters' Central States Southeast and Southwest Area Pension Fund, and any related matter which the committee demonstrates, to the satisfaction of the Secretary, contains or may contain information directly relating to its study and oversight proceedings. S. Res. 139—Senate agreed to April 22, 1977. (VV)

SOCIAL SERVICES—WELFARE

Appalachian child development programs.—Amends the Appalachian Regional Development Act to extend from 5 years to 7 years the child development demonstration programs administered by the Appalachian Regional Commission in order to provide additional time for projects to move to other Federal, State or local resources for continuing and permanent funding; directs the Commission and the Department of Health, Education and Welfare to make a complete investigation of child development programs to determine the source and nature of the problems in phasing out Federal financial assistance; and requires that a report of their findings and recommendations be submitted to the Congress within 1 year of enactment. H.R. 8777—Public Law 95-193, approved November 18, 1977. (VV)

Child care program extension.—Extends through fiscal year 1978 certain provisions relating to the title XX social services program which otherwise would expire September 30, 1977, including provisions which: add $200 million in child care funding and authorizes states to use part of these funds for the employment of welfare recipients in child care jobs; allow an income tax credit of 20 percent of wages paid (up to $1,000) to employers who hire welfare recipients for child care jobs; set Federal staffing standards for preschool child care facilities, and permit certain aspects of treatment of addicts and alcoholics to be funded under the social service program and require special confidentiality standards for such program;

Modifies the protective and vendor payment provisions of the Aid to Families with Dependent Children Program to allow a State Agency to make such payments in cases where the recipient is judged incapable of managing funds for up to 20 percent of AFDC case load rather than 10 percent; provides that Federal matching funds cannot be denied to any State because it exceeded the previous 10 percent limitation on joint payments, or because it did not comply with other specified conditions; extends to employees of a central State Agency employed to provide specialized services to schools provisions of the State Unemployment Compensation Program which specify that the school employees are not ordinarily eligible for unemployment benefits during regular vacation periods; increases to 90 percent Federal participation in State administrative costs to implement the Indian Health Care Improvement Act; increases by 6 months, to July 1, 1978, the period for allowing depreciation for expenditures to rehabilitate low income rental housing; extends for 2 years the exclusion from income of amounts received under the Armed Forces Health Professional Scholarship Program and similar programs; protects disaster victims from having their SSI benefits reduced or terminated because they received assistance to replace damaged property; permits employment agencies placing companion sitters to be exempt from the Internal Revenue Code requirements imposed on employers in regard to unemployment taxes; and contains provisions to protect the sitters rights under the unemployment compensation and social security programs. H.R. 3387—Public Law 95-171, approved November 12, 1977. (564)

Legal Services Corporation.—Authorizes $205 million for fiscal year 1978 and such sums as may be necessary for fiscal years 1979 and 1980 for extension of the Legal Services Corporation; allows judicial review of decisions of the Corporation; permits the Corporation to represent a client in a civil action in which the client's status as a conscientious objector is at issue; authorizes the Corporation to undertake, by grant or contract, training and technical assistance, and clearinghouse activities; permits research activities to be undertaken by grant or contract but excludes broad general legal or policy questions unrelated to representation of eligible clients by grant or contract; restricts funding of grants and contracts for support assistance to not more than 10 percent of the appropriation for any fiscal year; provides that challenges to the right of a litigant to representation by the Corporation shall not affect final disposition of the proceeding; provides that a Legal Services attorney shall not be appointed by a court unless the attorney is compensated on the same terms as a member of the private bar in that court; requires client representation on the national board and on the local boards of Legal Service Corporation recipients to insure sensitivity to client needs in establishing priorities; makes recipient staff attorneys subject to the mandates of the Hatch Act that are applicable to other government employees by eliminating the additional restrictions which currently apply; allows Corporation attorneys to represent people who were denied representation in the past simply because the subject matter of the cases did not appeal to lawmakers, regardless of the merits of those cases under the Constitution and other statutes, including new authority to represent juveniles in a broad range of cases; leaves intact existing law prohibiting legal assistance in civil actions brought by a convicted dependent to challenge the validity of a criminal conviction and in litigation of proceedings involving school desegregation; prohibits the use of Legal Services funds to initiate formation or act as an organizer of any association, and states that this provision shall not be construed to prohibit the provision of legal assistance to eligible clients; and makes various other changes to the program. H.R. 6666—Public Law 95- , approved 1977. (561)

Medicare coverage for rural health clinics—NIOSH.—Authorizes payment by medicare and medicaid for the reasonable costs of services provided by physician assistants and nurse practitioners in rural clinics which meet appropriate standards; directs the Secretary of HEW to submit a report to Congress within six months of enactment on the advantages of extending such coverage to urban or rural mental health centers and centers for the treatment of alcoholism and drug abuse; and permits the Internal Revenue Service to continue to furnish the National Institute of Occupational Safety and Health (NIOSH) with addresses of taxpayers for the sole purpose of assisting NIOSH in locating persons previously employed in occupations exposing them to known or suspected occupational hazards and referring sick or injured workers for medical care and treatment. H.R. 8422—Public Law 95-210, approved December 13, 1977. (VV)

Medicare-medicaid anti-fraud.—Strengthens the capability of the government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs;

Program penalty sanctions.—Modifies the penalty provisions in existing law which relate to those persons providing services under medicare and medicaid; reclassifies misdemeanors as felonies and increases penalties to a maximum fine of $25,000 and/or five years imprisonment; clarifies the types of financial arrangements and conduct classified as illegal; permits States to suspend the eligibility of medicaid recipients convicted of defrauding the program; requires the Inspector General of HEW to include in his annual report an evaluation of the effort of the Department of Justice in the investigation and prosecution of fraud in the programs together with any recommendations; requires the Secretary of HEW to suspend from participation under medicare and medicaid, for a period he deems appropriate, an individual practitioner who has been convicted of a criminal offense involving medicare or medicaid;

Disclosure of information.—Requires the participating entity, as a condition of participation or certification in either medicare, medicaid, the maternal and child health program, or health-related entities providing services under title XX of the Social Security Act, to disclose annually to the Secretary or appropriate State agency the identity of any person who has a five percent or more ownership interest in the entity; requires providers of services to disclose similar ownership information about any subcontractor of which five percent or more is owned by the provider; requires a provider to comply with a specific request by the Secretary or the medicaid State agency for full and complete information as to any significant business transaction between it and any subcontractors or between it and wholly-owned suppliers, and in the case of subcontractors having more than $25,000 in annual business transactions with a provider, compliance would be required with similar requests related to ownership information pertaining to the subcontractor; requires all institutional providers of services to disclose, in the application for participation or certification, the names of owners, officers, directors, agents or managing employees who have been convicted of fraud against the medicare, medicaid, or State social service grant programs; authorizes the Comptroller General to issue subpoenas to obtain necessary information and facilitate review of Social Security Act health programs and upon resistance or refusal by an individual to obey a subpoena, to request a court order requiring compliance with the subpoena; requires any provider of services participating in medicare to notify the Secretary of its employment of an individual who, at any time during the preceding year, was employed in a managerial, accounting, auditing, or similar capacity by a medicare fiscal intermediary or carrier that services the provider; allows Federal access to the records of persons or institutions providing services under medicaid in the same manner that such access is presently provided to State agencies;

Professional standards review.—Includes several provisions designed to clarify the nature and scope of PSRO review responsibilities, to enhance their capacity to perform reviews of the necessity and appropriateness of services more effectively, and to improve the administration and coordination of review activities to assure that program funds are properly expended;

Administrative reforms.—Requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data for use by medicare and medicaid providers to be phased in by type of provider; repeals the program review team provisions of present law and gives its functions with respect to the quality and utilization of services to the Professional Standards Review Organizations; provides for 90 percent Federal matching funds for fiscal years 1978 through 1980 subject to an annual maximum payment of one percent of medicaid expenditures in a State or $500,000 whichever is greater for expenditures to establish and operate State medicaid fraud control units to prepare and prosecute cases of suspected fraud and abuse; authorizes the Secretary to arrange for demonstration projects designed to develop improved programs for detection, investigation, and prosecution of fraud and abuse; requires States to make provision in their State medicaid plan for claims payment procedures which ensure that 90 percent of the bills submitted by eligible noninstitutionally-based providers will be reimbursed within 30 days, and 99 percent within 90 days effective for calendar quarters beginning July 1, 1978; directs the Comptroller General to conduct a comprehensive review of the administrative structure for the processing of medicare claims; authorizes the Secretary to assign providers to available intermediaries and to designate a regional or national intermediary for a class of providers if he determines the administration of the program would be more effective and efficient based on developed standards; provides that standards and criteria established shall not have the effect of excluding an intermediary solely because it operates in one State; establishes a medical support program under which medicaid applicants and recipients may be required by a State to assign their rights to medical support or indemnification to the State; requires, as a condition for participation in the programs, a skilled nursing or intermediate care facility to establish and maintain a system to assure the proper accounting of personal patient funds funds which provides for separate and discrete accounting for each patient with a complete accounting of income and expenditures;

Other medicaid and medicare amendments.—Modifies the requirements of current medicaid law concerning review of care delivered in institutional facilities; waives for calendar quarters ending prior to January 1, 1977, all penalties against States for noncompliance and waives all penalties assessed for noncompliance during calendar year 1977 if a State meets the requirements by December 31, 1977; provides that the penalties for States not in compliance by December 31 shall be determined by taking into account the proportion of medicaid patients in homes that were not reviewed to all medicaid patients in homes to be reviewed; specifies procedural requirements for the Secretary to carry out the validation requirements in a more timely fashion; modifies the requirements pertaining to the composition of medical review teams in skilled nursing facilities to conform them with those requirements applicable to intermediate care facility review; authorizes, under certain circumstances, reimbursement to a Veterans' Administration hospital for care provided to a nonveteran medicare beneficiary; requires the Secretary to report to Congress, within 12 months after enactment, his recommendations on all aspects of the delivery of home health services under medicare, medicaid and the title XX social services program;

Technician revision.—Clarifies existing law to insure that a power of attorney cannot be used to circumvent the prohibition against the use of "factoring" arrangements in connection with the payment of provider claims by the medicare and medicaid programs; mandates that the Secretary require the purchase of durable medical equipment where purchase would be less costly than extended rental payments; increases individual State's incentives to adopt a computerized medicaid claims processing and information retrieval system; and precludes Federal matching of State medicaid expenditures that result from State laws or contracts which exclude or limit insurance benefits because an individual is eligible for medicaid. H.R. 3—Public Law 95-142, approved October 25, 1977. (VV)

School lunch and child nutrition:— Extends through September 30, 1980, the summer food service program for children with changes designed to eliminate abuses and otherwise strengthen the administration of the program; extends through September 30, 1982, the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to the child nutrition programs when acquistitions under other agricultural authorities are not available; requires the Secretary to establish procedures to assure that donations of agricultural commodities to the child nutrition programs are more responsive to the problems and needs of local school districts; requires the Secretary to conduct studies of the impact and the effect on the child nutrition programs of making cash payments in lieu of commodities, and of past and present patterns of sanitary practices of commodity producers under consideration for contracts for child nutrition programs; authorizes additional funds for States administative expenses in operating the child nutrition program; requires the Secretary to make funds available to States to help defray the cost of conducting audits; revises the special milk program to provide that in schools and institutions participating in the school lunch, breakfast, or child care feeding programs, free mlik may be provided to children eligible for free school meals only at times other than the regular school lunch or school breakfast serving period; revises the school breakfast program to increase the Federal maximum reimbursement for especially needy schools and requires States to establish the standards, subject to the Secretary's approval, under which schools in severe need may receive 100 percent of their operating costs; revises the authority under which equipment funds are furnished schools to give priority to schools without a food service program and schools without the facilities to prepare and cook hot meals; permits junior high and middle schools participating in the school lunch program, if approved by the governing body of the school, to refuse to accept offered foods they do not intend to eat; amends the special assistance provisions to provide (1) that these payments may be made for the school year following the year in which the children's eligibility determination is made at a school in which at least 80 percent of the children are eligible for free or reduced price lunches, and (2) for any school which elects to serve free lunches for three years and pays for the lunches from sources other than Federal funds, that special assistance payments are to be made to that school for a period of three years based on the number of children determined eligible for free and reduced priced meals; revises the authority under which States are provided administrative expenses for carrying out certain child nutrition programs to require that a specific amount (based on a percentage of the State's total costs) be made available for the 1978 through 1980 fiscal years; establishes a five-year entitlement nutrition education and information program under which grants (based on the rate of 50 cents for each child enrolled in schools or other educational institutions in each State) would be made to State educational agencies for the purposes of encouraging effective dissemination of scientifically valid information about food and nutrients to children participating in the school lunch and related child nutrition programs; and requires the Secretary to approve the competitive foods which may be offered for sale at the same time and place as school meals. H.R. 1139—Public Law 95-166, approved November 10, 1977. (267)

Smith College carillon—SSI food stamp eligibility—Child support funding—Child day care study—Medicaid funding.—Directs the Secretary of the Treasury to admit free of duty thirty-three carillon bells, including all accompanying parts and accessories, provided by the Paccard Founderie de Cloches, Annecy, France, for the use of Smith College, Northampton, Massachusetts;

Extends through fiscal year 1978 current provisions of law relating to the method whereby SSI recipients are eligible for food stamps;

Extends from July 1, 1977, through fiscal year 1978 the Federal matching payments to States for paternity and parent locator services directed toward maximizing child support for nonwelfare families;

Extends from July 1, 1977, until April 1, 1978, the date by which HEW must submit its report on the appropriateness of the Federal Interagency Day Care Program; and

Extends for 90 days the statutory requirement whereby States must have in place regular independent evaluations of long-term patients in skilled nursing homes, intermediate care facilities, and mental hospitals to be eligible for their share of Medicaid funding. H.R. 1404—Public Law 95-59, approved June 30, 1977. (VV)

Social security financing.—Restores the social security programs of old age, survivors, and disability insurance to financial soundness in both the short range and long range; reduces from 72 to 70 the age at which income earned by a social security recipient pill not reduce social security benefits; and increases the earnings limitation from $3,000 to $6,000 by 1982 for those aged 65 to 70; and makes certain changes to the Aid to Families with Dependent Children (AFDC) program;

"Decoupling"—Revised benefit formula for future retirees.—Makes existing law cost-of-living increase provisions apply only to individuals who are already on the benefit rolls at the time each increase occurs; applies a new automatic adjustment mechanism to the benefit formula for new retirees using wage indexing which will avoid the present overindexing;

Tax rate increase.—Modifies the social security tax rate schedules to bring in additional revenue by increasing the percent paid by employer and employee each from 5.85 percent in 1977, to 6.05 in 1978, to 7.05 percent in 1985; increase the tax to 7.65 percent in 1990 and thereafter for self-employed from 7.90 percent in 1977, to 8.10 percent in 1978, to 9.90 percent in 1985, and to 10.75 percent in 1990 and after;

Increase in amount of earning subject to employer and employee tax.—Provides for three increases in the contribution and benefit base equally for employees and employers to $22,900 in 1979, $25,900 in 1980, $29,700 in 1981 and automatically thereafter; makes the tax base under the railroad retirement program and the pension insurance administered by the Pension Benefit Guaranty Corporation the same as the automatic increase provisions of present law;

Benefits for dependent spouses.—Reduces with certain exceptions, benefits payable under social security to dependent spouses, including surviving spouses, by the amount of any civil service retirement benefit payable to the spouse applicable only to future applicants for social security benefits for spouses; shortens from 20 to 10 years the length of time a divorced person must have been married to a worker to be eligible for the divorced persons benefits; prevents any loss of benefits for widows over 60 who remarry;

Modification of earnings limitation.—Reduces from 72 to 70 the age at which income earned above the earnings limitation by a social security recipient will not reduce social security benefits; increases the earnings limitation to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981 and $6,000 in 1982;

Distribution of social security checks.—Requires timely delivery of social security checks when the normal delivery day falls on a weekend or holiday;

Limitation on retroactive social security benefits.—Prohibits retroactive reduced benefits in cases involving entitlement before age 65, effective January 1, 1978;

State and local welfare costs.—Provides $187 million in additional Federal funding of welfare costs as a means of providing fiscal relief to State and local governments for fiscal year 1978; requires States to pass through to local jurisdictions the full amount of the payment but not more than 100 percent of the amount of the AFDC cash for which the local government was otherwise responsible;

Demonstration projects.—Broadens and makes more explicit the provision of present law relating to State demonstration programs so as to permit States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of persons on assistance;

Quality control and incentives to reduce errors.—Establishes a program of fiscal incentives as part of the AFDC quality control program to encourage States to reduce errors;

Access to wage information for AFDC verification.—Allows States to acquire accurate wage data from earnings information in records maintained by the Social Security Administration and State employment security agencies; and authorizes the Secretary of HEW to establish necessary safeguards against improper disclosure of the information. H.R. 9346—Public Law 95-   , approved 1977. (631,636)

TAXATION

Distilled spirits excise taxes.—Extends to distilled spirits that are imported and then packaged or bottled in the United States for export the same drawback benefits given under present law to domestically produced spirits that are packaged or bottled for export; allows distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities, with benefit of tax credit or refund, for storage pending exportation and certain other preferred dispositions; allows distilled spirits bottled in bond, or returned to an export storage facility for export, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation; allows distilled spirits to be withdrawn from bonded premises without payment of tax for purposes of research, development or testing; relaxes the conditions under which bonded distilled spirits may be mingled; allows gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax; and makes the effective date of the bill the first day of the first calendar month which begins 90 days after the date of enactment. H.R. 4458—Public Law 95-176, approved November 14, 1977. (VV)

DUTY SUSPENSIONS

Aircraft engines.—Allows duty free entry of previously imported foreign-made aircraft engines used by aircraft engine repair companies or the manufacturer to temporarily replace engines they are repairing in the United States. H.R. 422—Public Law 95-198, approved November 23, 1977. (VV)

Copying lathes—Wool—Istle fiber.—Suspends the duty on imports of copying lathes, and of parts for such lathes, used for making rough or finished shoe lasts (forms); suspends, until July 1, 1980, the duty on imports of certain coarse wool; and suspends the duty on imports of istle, a plant fiber used as upholstery padding and in brushes and brooms. H.R. 2093—Public Law 95-162, approved November 8, 1977. (VV)

Horses—Canadian crude oil—Doxorubicin hydrochloride.—Suspends, until June 30, 1980, the duty on imports of certain horses; suspends the duty on importation of Canadian crude petroleum and crude shale oil provided that an equivalent amount of domestic or duty-paid foreign crude petroleum or crude shale oil is exported to Canada from the United States; and suspends, until June 30, 1980, the duty on imports of doxorubicin hydrochloride, an anticancer drug. H.R. 3259—Public Law 95-159, approved November 8, 1977. (VV)

Intravenous fat emulsion—Color couplers—Glasses.—Suspends, until June 30, 1980, the duty on imports of intravenous fat emulsion used as a source of calories and essential fatty acids for patients requiring intravenous nutrition for an extended period, and the duty on imports of color couplers and coupler intermediates used in the manufacture of color photographic paper, film, and graphic arts materials; suspends, until December 31, 1978, the duty on imports of certain field glasses, opera glasses, binoculars, and other telescopes; provides for the liquidation or reliquidation of certain musical instruments imported between October 1971 and October 1973 by Joe Cortina; and extends until September 18, 1977, the expiration date of the temporary importation bond covering the schooner Panda to permit Jack R. Misner, of New York, to complete the renovation of the schooner within the United States. H.R. 1904—Public Law 95-206, approved December 12, 1977. (VV)

Latex sheets—Synthetic rutile.—Suspends until June 30, 1978, the duty on imports of certain latex foam rubber sheets used to make mattresses; suspends until June 30, 1979, the duty on imports of synthetic rutile used to make white pigments for paint, paper, and plastic; and provides that film, strips, sheets, and plates of certain plastic or rubber must be usefully processed in a commercial sense before they can be classified as "processed" for purposes of the Tariff Schedules of the United States. H.R. 2850—Public Law 95-160, approved November 8, 1977. (VV)

Mattress blanks—Bobsleds and luges—Private foundation donations.—Suspends, until June 30, 1978, the duty on imports of mattress blanks of rubber latex; permits the duty-free entry of competition bobsleds and luges; and amends the Internal Revenue Code to treat certain persons as not being "substantial contributors" under the private foundations self-dealing rules merely because of contributions made in lieu of rental payments required under leases before 1969. H.R. 2849—Public Law 95-170, approved November 12, 1977. (VV)

Silk yarns—Communications excise tax.—Suspends, until June 30, 1980, the duty on imports of single and plied silk yarns; and reduces the amounts of Federal excise tax on communications services by excluding from the Federal Tax base those State or local telephone taxes which are separately stated on the subscriber's billing. H.R. 3373—Public Law 95-172, approved November 12, 1977. (VV)

Synthetic tantalum—Poppy straw—Bicycle parts.—Suspends, until June 30, 1980, the duty on imports of: (1) synthetic tantalum/columbian concentrate, used in the production of tantalum and columbium steels for the manufacture of machinery, and oil and gas pipelines; (2) poppy straw used in producing codeine or morphine; and (3) certain bicycle parts. H.R. 2982—Public Law 95-161, approved November 8, 1977. (VV)

Sick pay exclusion.—Delays for one year, to taxable years beginning after December 31, 1976, the changes made by the Tax Reform Act of 1976 with regard to the exclusion of "sick pay" from income; makes a similar delay of the effective date of the provisions regarding the tax treatment of income earned abroad by U.S. citizens; modifies the withholding requirement enacted in the 1976 Tax Reform Act on proceeds of wagers placed in parimutuel pools with respect to horse races, dog races, and Jai Alai requiring a 20 percent withholding tax on winnings of $1,000 or more only if the odds are 300 to one or more; extends for one year the provisions of the Internal Revenue Code to allow State legislators to treat their place of residence within their legislative district as their tax home for purposes of computing the deduction for living expenses; and waives the interest and penalties with regard to certain errors regarding underpayments of estimated tax and withholding that might be made in the tax returns for 1976. H.R. 1828—Passed House April 4, 1977; Passed Senate April 6, 1977; House agreed to Senate amendments with amendment which omitted the provisions regarding the treatment of income earned abroad by U.S. citizens April 6, 1977; Senate requested conference April 19, 1977. (100) (Note: Provisions included in Tax Reduction and Simplification which became Public Law 95-30).

Tax reduction and simplification.—Amends the Internal Revenue Code of 1954 to extend the individual and business income tax reductions enacted in 1975 and to provide tax simplification as follows:

Standard deduction and tax simplification.—Permanently changes the standard deduction to $2,200 for single returns and heads of households and $3,200 for joint returns; revises the tax tables to simplify tax computation for 96 percent of all taxpayers by building into the tax tables the personal exemption, the general tax credit, and the standard deduction;

Individual and corporate tax reductions.—Extends through 1978 the general tax credit of $35 per person or 2 percent of the first $9,000 of taxable income, whichever is larger; extends the earned income credit equal to 10 percent of the first $4,000 of earned income which is phased out as income rises from $4,000 to $8,000;

Extends through 1978 the corporate tax cuts, enacted in 1975 and subsequently extended, which reduced the tax rate on the initial $25,000 of corporate taxable income from 22 percent to 20 percent and reduced the rate on the next $25,000 from 48 to 22 percent;

Filing requirements and withholding changes.—Increases the income level at which a tax return must be filed from $2,450 to $2,950 for a single person and a head of household and from $3,600 to $4,700 for a joint return; requires modification of the withholding rates to reflect the changed standard deduction;

New jobs credit.—Provides a new jobs tax credit for 1977 and 1978 equal to 50 percent of the increase in each employer's wage base under the Federal Unemployment Tax Act (FUTA) above 102 percent of that wage base in the previous year; reduces the employer's deduction for wages by the amount of the credit, thereby reducing the maximum gross credit for each new employee from $2,100 to $1,806; limits the credit to no more than: (1) 50 percent of the incraease in total wages paid by the employer for the year above 105 percent of total wages in the previous year; (2) 25 percent of the current year's FUTA wages; (3) $100,000 for employer; and (4) the taxpayer's tax liability with provision of carrying back credit for 3 years and carrying forward credit for 7 years; provides an additional 10 percent nonincremental credit for hiring the handicapped, including handicapped veterans, who have received vocational training;

Postponement of Changes in 1976 Act.—Postpones for one year the effective date of revisions made by the Tax Reform Act of 1976 in the tax treatment of sick pay and income earned abroad; relieves individual taxpayers for periods prior to April 16, 1977, and corporations for period prior to March 16, 1977, from additions to tax and interest arising from changes in the tax law made applicable to 1976 by the 1976 Act; relieves employers from penalties for under withholding in 1976 on remuneration which became taxabale prior to January 1, 1976, as a result of the 1976 Act; lifts the exclusive use of the test in the 1976 Act for business deductions for the use of the home for day care services for children, handicapped individuals and the elderly and limits such deductible expense; extends for 1976 the election to treat a State legislator's place of residence within the legislative district he represents as his tax home for purposes of determining deductions for travel and expenses;

Minimum Tax on Intangible Drilling Costs.—Provides for taxable years beginning in 1977 that intangible drilling costs incurred in oil and gas production operations are to be subject to the minimum tax to the extent that these expenses exceed oil and gas production income;

Charitable Contributions of Conservation Easements.—Extends through June 13, 1981 the period during which deductions are allowable for charitable contributions of remainder interests iin real property exclusively for conservation purposes as well as the period during which deductions are allowable for charitable contributions exclusively for conservation purposes of easements with respect to real property, if the easement is perpetual;

Work Incentive (WIN) Program.—Authorizes an additional $435 million in each of fiscal years 1978 and 1979 for employment and supportive services for welfare recipients with no requirement for State matching funds;

Child Care Facilities Amortization.—Extends through 1981 the 5-year amortization provision for expenditures relating to child care facilities for children of the taxpayer's employees;

Retirement Income Credit Election.—Allows taxpayers over age 65 to choose between the retirement income credit as it existed before the 1976 Act and as revised by it for 1976 taxes only;

Accrual Accounting for Farm Operations.—Postpones until 1978 the effective date for requiring accrual accounting by any farm corporation if either (a) two families own at least 65 percent of the stock, or (b) three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees or their families;

Gambling Withholding.—Modifies the 1976 requirement for withholding on gambling winnings to provide that withholding is required on proceeds of more than $1,000 from bets placed in parimutuel pools involving horses, dogs or jai alai but only if the amount of the proceeds is at least 300 times as large as the amount wagered;

Extension of Countercyclical Revenue Sharing.—Extends for 6 quarters, or until national unemployment drops below 6 percent, the current countercyclical revenue sharing legislation which expires September 30, 1977 to help State and local governments maintain services; authorizes up to $1 billion in additional funding for fiscal year 1977 for a total of $2.25 billion; authorizes up to $2.25 billion for fiscal year 1978; requires that the most recent data be used in the allocation formula and that the national amount be determined on the basis of tenths of the unemployment percentage in excess of 6 percent rather than on half percentage points; provides that each tenth of a percentage point will generate $30 million for allocation in addition to the basic $125 million; extends the program to Guam, American Samoa, Puerto Rico and the Virgin Islands;

Other Provisions.—Amends the Social Security Act to clarify the law which provides for the garnishment of Federal payment for purposes of child support and alimony; and contains other provisions. H.R. 3477—Public Law 95–30, approved May 23, 1977. (128)

TRANSPORTATION-COMMUNICATIONS

Aircraft insurance and other aviation amendments.—Extends until September 30, 1982, the authority of the Secretary of Transportation to insure certain aircraft where commercial insurance is unavailable because of war or other hostilities in foreign countries and expands his authority to situations in which insurance against risks other than "war risks" (such as hijacking or terrorism) may be needed to permit continuance of air service; permits the Civil Aeronautics Board (CAB) to approve reduced rate fares to retired persons 60 years of age or over, all persons 65 years of age or over, and the handicapped on a space-available basis; requires CAB, within 6 months of enactment to report to Congress on the feasibility of reduced rates for persons 21 years of age or younger on a space available basis; permits airlines operating wholly within the States of California or Florida to offer through ticketing and baggage service in cooperation with interstate airlines for the better facilitation of passenger and baggage movements and permits the adoption of joint fares and rates between intrastate airlines and CAB certificated airlines; requires airlines to give the public and the CAB 45 days of advance notice on tariff changes, air carriers to give 60 days of advance notice in changes of freight rates, and indirect carriers to give 45 days of advance notice in changes of freight rates, and requires that the CAB approve or disapprove such changes at least 15 days before the effective date of the tariff; requires the CAB to refund to two local service air carriers about $500,000 in subsidy for small community airline service withheld by the Board under an interpretation of law which was later overturned by a U.S. court of appeals; prohibits CAB from seeking to collect subsidy paid to a commuter airline who was awarded subterms of a subsidy program later invalidated by court action; eliminates a provision of law which prohibits aliens admitted for permanent residence in the U.S. and foreign corporations lawfully organized and doing business in the U.S. from registering aircraft in the United States; provides authority for the Administrator of FAA to exempt small aircraft operators from the requirement that they must at all times have an operative emergency locator transmitter (ELT) aboard their aircraft thus permitting operation of the aircraft without an ELT if it is being inspected, serviced or repaired; deregulates the all-cargo air transportation mode; and allows the city of Remond, Oregon to dispose of surplus airport property not needed for airport purposes. H.R. 6010—Public Law 95–163, approved November 9, 1977. (VV)

Aircraft registration.—Amends the Federal Aviation Act of 1958 to permit citizens of foreign countries lawfully admitted for permanent residence in the U.S. and corporations lawfully organized and doing business under U.S. or State laws to register aircraft in the United States provided that (1) the aircraft is based or primarily used in the U.S. thus enabling the Secretary of Transportation to condition registration on reasonable inspection by FAA personnel and (2) as at present, the aircraft is not registered under the laws of any foreign country. H.R. 735—Passed House February 22, 1977; Passed Senate amended May 11, 1977. (VV)

Communications Act amendment—Hawaii.—Amends the Communications Act of 1934, as amended, to include Hawaii within the definition of "Continental United States", thereby removing artificial restraints on the availability of telecommunications offerings, the entry of new carriers into the Hawaiian market and service integration into the mainland structure; and adds a new subsection to the Communications Act to ensure that carriers currently serving the Hawaiian market may continue to do so. S. 1866—Passed Senate August 5, 1977. (VV)

Federal Communications Commission—interim regulatory reform.—Amends the Communications Act of 1934 to provide for regulatory reform with respect to the Federal Communicataions Commission; requires the Commission to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to submit to Congress within 480 days of enactment a proposed recodification designed to (a) eliminate unnecessary, redundant, overlapping, or conflicting provisions or requirements, (b) provide timely considerations of petitions, (c) provide Congressional access to information, (d) provide representation in civil actions, (e) avoid conflicts of interest, (f) provide for appointment of the chairman by the President with the advice and consent of the Senate, and (g) provide Congressional oversight through the process of an authorization of appropriations not to exceed 4 years; provides for public comment on the proposed recodification and requires the agency to submit a final proposal within 660 days which will go into effect in 180 days unless modified by Congress; applies the conflict of interest provisions to personnel GS–16 or higher; retains the independence of the regulatory agency by not subjecting supergrade positions to OMB clearance; requires that nominees be persons who by reason of training, education or experience are qualified to carry out the function of the Commission; waives the mandatory retirement provisions giving Congress the authority to decide whether a Commissioner should continue to serve over the age of 70 at the time of his confirmation; and authorizes therefor $70 million for fiscal 1978, $74 million for fiscal 1979, $80 million for fiscal 1980, and $82 million for fiscal 1981. S. 1536—Passed Senate June 28, 1977. (VV)

Federal Maritime Commission—interim regulatory reform.—Provides for regulatory reform with respect to the Federal Maritime Commission; contains the same provisions with respect to a proposed recodification of all rules and regulations promulgated by the Commission and still in effect as contained in S. 1536; and authorizes $9.424 million for fiscal 1978, $9.7 million for fiscal 1979, $10 million for fiscal 1980 and $10.4 million for fiscal 1981. S. 1532—Passed Senate June 28, 1977. (VV)

Federal Power Commission—interim regulatory reform.—Amends the Federal Power Act to provide for regulatory reform with respect to the Federal Power Commission; contains the same provisions with respect to a proposed recodification of all rules and regulations promulgated by the Commission and still in effect as contained in S. 1536; and authorizes therefor $44,549,000 for fiscal 1978, $46,410,000 for fiscal 1979, $48,373,000 for fiscal 1980, and $50,444,000 for fiscal 1981. S. 1535—Passed Senate June 28, 1977. (VV)

Federal Trade Commission—interim regulatory reform.—Authorizes funds for the Federal Trade Commission for fiscal years 1978–81 for regulatory reform with respect to the Federal Trade Commission and the Consumer Product Safety Commission; requires the agencies to review and recodify systematically all of the rules and regulations which they have promulgated and which are still in effect; requires that certain impact statements be included with the agency's submission of its recodified rules; tightens the conflict of interest provisions and protects against the "revolving door" problem (where employees go from regulatory agency to industry regulated) by prohibiting commissioners and all employees at GS-16 and above from participating in agency matters for 2 years after leaving the agency; retains the independence of the independent regulatory agencies by not subjecting super grade positions to OMB clearance; provides that nominees to a commission be persons who by reason of training, education or experience are qualified to carry out the functions of the Commission and that Commission membership be well balanced with a broad representation of various talents, backgrounds, occupations and experience; mandates that FTC actions be disposed of expeditiously by requiring that the Commission grant or deny petitions for issuance, amendment, or repeal of rules within 120 days after the date the petition is received by the Commission; prevents "forum shopping" by limiting appeals of Commission orders to the court of appeals in the circuit within which the defendant resides or maintains its prinicpal place of business; requires simultaneous transmission of budgetary and legislative recommendations to the President or the OMB and the Congress; makes cease and desist orders of the Commission effective 60 days after the issuance of such orders subject to a stay issued by the Commission or the appropriate court of appeals, or the Supreme Court when an applicable petition for certiorari is pending; and improves the Commission's ability to obtain information by compulsory process by imposing penalties for failure to reply in a timely manner with the Commission's process and providing statutory amendments reflecting decisional law on the issue of ripeness of suits to enjoin enforcement. H.R. 3816—Passed House October 13, 1977; Passed Senate amended October 20, 1977. (574)

Interim regulatory reform.—Provides for interim regulatory reform for the following independent regulatory agencies which are subject to the jurisdiction and oversight responsibilities of the Committee on Commerce, Science and Transportation: Interstate Commerce Commission (ICC), Federal Commission (FTC), Federal Power Commission (FPC), Federal Communications Commission (FCC), Civil Aeronautics Board (CAB), Federal Maritime Commission (FMC), and Consumer Product Safety Commission (CPSC); directs each agency to prepare and submit to Congress a proposed modernization, revision, and codification of all statutes and other lawful authorities administered or applied by it; and

Makes it a Federal crime to kill or forcibly assault, resist, oppose, impede, intimidate, or interfere with a U.S. judge, U.S. attorney, F.B.I. agent, or any other specified Federal official or employee while that person is engaged in, or on account of, the performance of official duties. S. 263—Passed Senate June 10, 1977. (VV)

Interstate Commerce Commission—Interim regulatory reform.—Amends the Interstate Commerce Act to provide for regulatory reform of the ICC; requires the Commission to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to submit to Congress within 480 days of enactment a proposed recodification designed to (a) eliminate unnecessary, redundant, overlapping, or conflicting provisions or requirements, (b) provide timely considerations of petitions, (c) provide Congressional access to information, (d) provide representation in civil actions, (e) avoid conflicts of interest, (f) provide for appointment of the chairman by the President with the advice and consent of the Senate, and (g) provide Congressional oversight through the process of an authorization of appropriations not to exceed 4 years; provides for public comment on the proposed recodification and requires the agency to submit a final proposal within 660 days which will go into effect in 180 days unless modified by Congress; authorizes therefor $71,216,000 for fiscal 1978, $80,474,000 for fiscal 1979, $90,935,000 for fiscal 1980 and $102,755,000 for fiscal 1981. S. 1534—Passed Senate May 20, 1977. (VV)

Interstate highways.—Directs the Secretary of Transportation to apportion the sums authorized for fiscal year 1979 for immediate expenditure on the National System of Interstate and Defense Highways using specified apportionment factors. H. Con. Res. 282—Action completed September 30, 1977. (VV)

Maritime authorization.—Authorizes $553,597,000 for programs of the Maritime Administration for fiscal year 1978 as follows: $135,000,000 for acquisition, construction, or reconstruction of vessels and construction-differential subsidies, $372,109,000 for payment of ship operating differential subsidies, $20,725,000 for research and development, $5,137,000 for the reserve fleet, $14,656,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., and $5,970,000 for financial assistance to the State marine schools which includes an increased annual student subsidy from $600 to $1,200; authorizes additional supplemental amounts to cover increases in salary, pay, retirement, or other employee benefits authorized by law and for certain expenses of the Merchant Marine Academy at Kings Point; adds a provision effective 240 days after enactment barring the payment of operating differential funds to any subsidized liner company unless its chief executive officer certifies that he has taken action to insure that no illegal rebates are being paid during the period for which the funds are received and that he will cooperate with the Federal Maritime Commission in its investigation of illegal rebating; increases from 75 to 87½ percent the amount of title XI guarantee financing available to a ferry operating solely in point-to-point transportation; and authorizes an additional Assistant Secretary of Commerce to be the principle advisor to the Secretary for Congressional relations. S. 1019—Public Law 95–173, approved November 12, 1977. (VV)

National Defense Reserve Fleet.—Amends the Merchant Marine Act, 1936, to upgrade the National Defense Reserve Fleet by authorizing the Secretary of Commerce to acquire mariner class and other vessels in exchange for obsolete vessels in that fleet which are scheduled for scrapping. H.R. 7278—Public Law 95–177, approved November 15, 1977. (VV)

Rail Reorganization.—Amends the Regional Rail Reorganization Act of 1973 to authorize an additional $13 million making a total of $23 million, for fiscal year 1978 to the United States Railway Association to cover litigation and other anticipated expenses involving the reorganization of the Northeast railroads; makes two technical amendments to the act to (1) provide authority for the special court to appoint masters, fix their compensation and assign their duties and to provide administrative and support personnel and services through the Administrative Offices of the U.S. courts, and (2) provide for direct appeal of certain decisions of the special court to the Supreme Court; and requires the Association to transmit to the President and Congress quarterly reports on the use of its funds, and current assessments of the status of its projects and activities. H.R. 4049—Public Law 95–199, approved November 23, 1977. (VV)

Tanker safety.—Amends the Ports and Waterways Safety Act of 1972 to: establish more stringent construction, design, equipment, repair, manning, maintenance, and operation standards for all tankers, regardless of flag, entering U.S. ports; provides clear authority for the Secretary of Transportation to bar substandard vessels from operating in U.S. waters; authorizes the creation of a Marine Safety Information System to identify substandard vessels and disclose the true ownership of ships; authorizes the establishment of regulations for controlling lightering (vessel-to-vessel transfer of cargo) in U.S. waters and on the high seas where a U.S.-bound vessel is involved; mandates that all self-propelled vessels of 20,000-deadweight tons or larger carrying oil in bulk be equipped by no later than June 30, 1979, with a dual radar system, a collision avoidance system, a long-range navigation aid, adequate communications equipment, a fathometer, a gyrocompass, and up-to-date charts; mandates that such vessels also be equipped, by not later than June 30, 1983, with a segregated ballast system, a gas inerting system, a transponder or other appropriate position-fixing equipment, and a double bottom if the vessel is contracted for, or construction is actually commenced, after January 1, 1978; creates an expanded inspection and enforcement program; authorizes the promulgation of improved manning and qualification standards; specifies more stringent requirements for obtaining a Federal pilot's license; and provides for study and evaluation of shore-station monitoring systems of vessels as defined in the Fishery Conservation and Management Act of 1976. S. 682—Passed Senate May 26, 1977. (VV)

Urban mass transportation.—Authorizes the use of the $500 million capital grant program under the National Mass Transportation Act of 1974 for operating as well as capital assistance costs of public mass transportation service in urbanized areas (areas with less than 50,000 population); authorizes the Secretary to make operating subsidy grants to areas other than urbanized areas; revises the method of financing the capital grant program, extends it to 1982, and adds $5.318 billion to the remaining contract authority of $3.332 billion for a total of $8.65 billion; incorporates into statute the procedures for funding major caiptal grants by authorizing the Secretary to announce approval of a multi-year project and an intent to obligate funds from budget authority to be made available in future years; sets aside $400 million annually from the capital grant program for obligation for equipment replacement programs; authorizes $125 million to restore the fiscal 1980 authorization for the formula grant program to its original level; expands the basic formula grant program by creating a supplemental source of funds for high impact areas with a total of $295 million available from (a) authorization of $50 million for each of fiscal years 1978 through 1980 and (b) estimated $145 million in "recycled authority"; creates a new second tier formula program financed by new authorized funds and the reapportionment of unobligated funds; permits the Secretary to develop a new formula for additional funds taking into account the needs of major urban areas; removes certain restrictive provisions for eligibility in the grant program providing fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation field; expands the definition of "construction" in the capital grant program to include preliminary engineering of mass transportation capital projects; requires the Secretary to convert the two outstanding loans under the mass transit loan program which is no longer in existence into capital grants; requires the Secretary to provide by February 1, 1980, a detailed estimate of major capital grants to be made in fiscal years 1980–84 and by February 1, 1982, a similar estimate for fiscal years 1982–86; extends from March 15, 1978, to March 15, 1980, the 50 percent emergency operating assistance for commuter rail services affected by the reorganization of the

Northeastern Railroads and expands the assistance in the authorization; requires assurance that service will be continued for the last 12 months of the 50 percent period; and adds a new section providing $20 million in fiscal 1978 to cover up to 50 percent of the operating deficits of rail commuter services not eligible for the 50 percent Federal subsidy. S. 208—Passed Senate June 23, 1977. (VV)

Increase the percentage of Federal contribution for the last 6 months of the existing commuter rail operating assistance program from 50 to 80 percent; deletes the requirement that any applicant for assistance must provide assurance to the Secretary of Transportation that the rail service will be continued after the section 17 subsidy program terminates and extends the program for 2 years with 50 percent Federal funding and a new authorization of $30 million annually for fiscal years 1979 and 1980; and provides for a new section 18 program to provide operating assistance to rail commuter lines not eligible under section 17 of $20 million for fiscal 1979 which will be distributed under a formula to cover operating deficits of eligible commuter rail systems. H.R. 8346—Public Law 95-187, approved November 16, 1977. (VV)

TREATIES

Agreement with Canada concerning transit pipelines.—Provides government-to-government assurances on a reciprocal basis so that present and future pipelines carrying all forms of hydrocarbons (including crude oil, petroleum products, natural gas, petrochemical feedstocks, and coal slurries) owned by one country across the territory of the other will be free from interference and discriminatory taxation by Federal, provincial or state authorities particularly in regard to taxes, duties or fees unless the charge would be applicable to similar pipelines within the jurisdiction of the public authority; allows each nation to impose proper regulations for pipeline safety and environmental protection and in the case of a natural emergency, to reduce or stop the flow until the danger has passed; permits each nation to determine the route a pipeline is to take within its territory and provides that protocols may be added to apply this agreement to a specific pipeline; and contains arbitration provisions to resolve disputes which cannot be settled by negotiation. Ex. F, 95th—1st—Resolution of ratification agreed to August 3, 1977. (324)

Convention on International Civil Aviation.—Increases the membership of the Council of the International Civil Aviation Organization (ICAO) from 30 to 33 contracting states. Ex. A, 95th-1st—Resolution of ratification agreed to September 26, 1977. (407).

Protocol to Inter-American Treaty of Reciprocal Assistance (RIO Treaty).—Reaffirms the principle of "attack against one, attack against all" embodied in the RIO Treaty while restricting its applicability and resultant obligations; provides for the lifting of diplomatic, economic and military sanctions against a member state by a simple majority vote rather than by the two-thirds majority vote required for all other decisions; and revises Treaty procedures so as to provide specifically rather than by implication for binding decisions and for recommendations by the Organ of Consultation. Ex. J, 94th—1st—Resolution of ratification agreed to July 19, 1977. (300)

Treaty with Canada on execution of penal sentences.—Allows a convicted prisoner or youthful offender accused of an offense to be returned to his native country to serve the sentence imposed by the other country; limits the transfer arrangement to prisoners convicted of offenses which are criminal under the laws of both countries, who have no pending appeals, have at least six months remaining on their fixed sentences, are not domiciliaries of the nation where they are on other than political, military or immigration offenses; requires the prisoner to initiate the transfer process; permits the transfer of parolees and those persons receiving suspended sentences; makes the laws regarding parole and probation of the Nation to which the prisoner is transferred apply but provides that only the transferring State can grant a pardon or amnesty; and contains provisions to protect an offender against double jeopardy. Ex. H, 95th-1st—Resolution of ratification agreed to July 19, 1977. (301)

Treaty with Mexico on execution of penal sentences.—Allows a convicted prisoner, youthful offender or mentally ill person accused of an offense to be returned to his native country to serve the sentence imposed by the other country; limits the transfer arrangement to prisoners convicted of offenses which are criminal under the laws of both countries, who have no pending appeals, have at least 6 months remaining on their fixed sentences, are not domiciliaries of the nation where they are incarcerated and have been imprisoned on other than political, military or immigration offenses and have consented to the transfer; requires the country holding the prisoner to initiate the transfer process and provides that the prisoner may submit a transfer request for consideration; makes the laws regarding parole and probation of the Nation to which the prisoner is transferred apply but provides that only the transferring State can grant a pardon or amnesty; and contains provisions to protect an offender against double jeopardy. Ex. D, 94th-1st—Resolution of ratification agreed to July 21, 1977. (316)

VETERANS

American Ex-Prisoners of War, Inc.—Grants a Federal Charter to the American Ex-Prisoners of War, Inc., whose membership is comprised of former prisoners of war from the Spanish-American War, World Wars I and II, Korea and Vietnam, in order that the organization may be allowed to represent its members in Veterans Administration proceedings. S. 1590—Passed Senate October 11, 1977. (VV)

AMVETS.—Amends the Federal charter of AMVETS (American Veterans of World War II) to conform with the organization's practice of admitting men and women who served in the Armed Forces of the United States in the Second World War, the Korean War and the Vietnam War by changing the name of AMVETS to "American Veterans of World War II, Korea and Vietnam" and provisions of its Federal charter, where necessary, to reflect this change. H.R. 1952—Public Law 95-98, approved August 15, 1977. (VV)

G.I. education benefits.—Authorizes a 6.6 percent cost-of-living increase, effective October 1, 1977, in the education assistance allowances provided under the Vocational Rehabilitation, Veterans' Educational Assistance, Survivors' and Dependents' Educational Assistance, Correspondence Courses, On-Job Training, and Education Loans sections of the G.I. bill; establishes a program of accelerated educational assistance payments for veterans and eligible persons attending a school with yearly tuition costs in excess of $700; extends for 2 years the delimiting date for education benefits to certain veterans; extends the period of time that a veteran with a mental or physical disability or impairment has to utilize G.I. bill benefits; establishes an education loan program in connection with the accelerated benefit program; contains amendments to the G.I. bill designed to improve its administration; increases the work-study allowances for veteran students; requires the Administrator to conduct a study into specific means by which chapter 37 of title 38 benefits or amendments thereto can be used to encourage installation of solar heating and cooling and to apply other energy conservation measures; and sets up a new process by which the Women's Air Force Service Pilots and similar groups may have their service recognized as active military by the Secretary of Defense in order that they may be eligible for veterans benefits. H.R. 8701—Public Law 95-202, approved November 23, 1977. (570)

Veterans' and survivors' pension adjustments.—Amends title 38, U.S.C., to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents; provides a cost-of-living adjustment in the rates and annual income limitations applicable to pension for non-service-connected disabled veterans and their surviving spouses, for surviving parents receiving dependency and indemnity compensation, and in the annual income limitations applicable to persons receiving pension under section 9(b) of the Veterans' Pension Act of 1959; provides an increase of approximately 6.5 percent in rates of disability and death pension under current law, including the additional amount authorized for dependents; increases by approximately 6.5 percent the rates of dependency and indemnity compensation (DIC) payable to parents; increases by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and to beneficiaries under the protected pension law; increases by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or housebound status; and increases additional allowances for recipients of wartime death compensation by the same percentage based upon need for regular aid and attendance. H.R. 7345—Public Law 95-204, approved December 2, 1977. (VV)

Veterans' care in State homes.—Amends title 38, U.S.C., to consolidate the construction grant-assistance programs under section 644 (for State home domiciliary and hospital facilities) and under subchapter III of chapter 81 (for State home nursing care facilities) and create new statutory authority for grants for the construction of new domiciliary facilities and the expansion of domiciliary and hospital facilities, and for initial equipment in both categories; increases to $15 million the annual authorization for fiscal years 1978 and 1979; removes the 3-fiscal-year limitation on the availability of sums appropriated for the consolidated programs, making the funds available until expended; makes the allowable nonveteran population of a grant-assisted State nursing home domiciliary, or hospital facility 25 percent in order to make allowance for veterans' spouses, surviving spouses, and Gold Star mothers; sets at 33⅓ percent the limit which any one State may receive in any year of the total amount appropriated for the program; includes domiciliary and hospital projects under the statutory nursing home program recapture provision; allows the Administrator to reduce the recapture period to less than 7 years in cases of expansion, remodeling, and alteration; limits recapture to not more than the amount of grant assistance provided for the project; repeals existing statutory authority for making grants for the remodeling of State home domiciliary and hospital facilities and governing the operation of this program; provides for an October 1, 1977, effective date with a savings provision for hospital and domiciliary grants made under the section to be repealed; and gives existing nursing home program grantees the right to obtain grant modifications consistent with the new act. H.R. 3695—Public Law 95-62, approved July 5, 1977. (VV)

Veterans' disability compensation and survivors benefits.—Amends title 38, U.S.C., to provide a 6.6 percent increase in: cost-of-living for disabled veterans in basic compensation rates and in the rates payable for more serious disabilities; the additional allowances for spouses, children, and dependent parents paid to veterans rated 50-percent disabled or more; dependency and indemnity compensation (DIC) benefits payable to surviving spouses of veterans whose deaths were service-connected, including the additional allowances payable for dependent children and to those in need of aid and attendance; benefits payable to the children of veterans whose deaths were service-connected, when there is no surviving spouse; benefits payable to surviving children who have become permanently incapable of self-support prior to the age of 18; and the annual clothing allowance paid to certain seriously disabled veterans whose disability tends to tear or wear out their clothing; extends eligibility for specially adopted housing grants to permanently and totally service-connected veterans with certain specified disabilities; authorizes the Veterans' Administration to cooperate with the Department of the Treasury so that benefit payments would be automatically deposited in a recipient's account if the recipient elects payment in this manner; requires the Veterans' Administration, for any month in which the first of the month falls on a Saturday, Sunday, or legal public holiday, to mail or otherwrise transmit benefit payments so that they arrive on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal public holiday, on the weekday (other than Saturday) immediately preceding the holiday; and reaffirms the intent of the Congress not to permit garnishment or attachment of VA employees' salaries except as authorized in 42 U.S.C. 659 (permitting garnishment for alimony and child support). H.R. 1862—Public Law 95-117, approved October 3, 1977. (VV)

Veterans' health care improvement.—Amends title 38, U.S.C., to improve the quality and efficiency of health care provided to sick or disabled veterans in the Veterans' Administration health care system;

Contract Care Amendments.—Clarifies the circumstances under which the VA may furnish contract hospital care and medical services in certain cases;

Physician and Dentist Special-Pay and other Pay Amendments.—Extends and makes modifications in the Veterans' Administration special-pay program to create greater incentives for physicians and dentists in certain scarce categories to agree to fulltime service in the Department of Medicine and Surgery;

Health Care Program and Eligibility.—Provides for the establishment of a new program of readjustment professional counseling, a new program in preventive health care for veterans for service-connected disabilities, and expanded treatment and rehabilitation programs for veterans suffering from alcohol or drug dependence or abuse disabilities; and

Renames the Veterans' Administration hospital in Tampa, Florida, as the "James A. Haley Veterans' Hospital" and the Veterans' Administration hospital at Bedford, Massachusetts, as the "Edith Nourse Rogers Memorial Veterans' Hospital". H.R. 5027—Passed House April 4, 1977; Passed Senate amended September 9, 1977. (VV)

Veterans' physician and dentist comparability pay.—Extends until September 30, 1978, the VA's authority to enter into special pay agreements and provides for the retroactive payment of special pay to otherwise eligible physicians and dentists who are hired between October 1, 1977, and the date of enactment and who sign such agreements within 30 days of the date of enactment; provides that an eligible physician or dentist who has previously entered into one or more special-pay agreements may enter into a new special-pay agreement if he or she is not in default of any payback requirements arising out of a failure to complete the first year of service under a prior agreement; provides that no special pay agreements may extend beyond September 30, 1981; requires the VA's Chief Medical Director to make annual redeterminations whether significant recruitment and retention problems exist in any category of physicians and dentists where he previously determined that no problems exist; requires the Director, prior to the execution of any new special pay agreements after April 30, 1978, to reevaluate the need for special pay agreements after April 30, 1978, to reevaluate the need for special pay agreements in order to recruit and retain highly qualified physicians or dentists in each category of positions in the Department of Medicine and Surgery and report to Congress by April 30, 1978; provides that the Administrator, upon the recommendation of the Director based on his reevaluation, may promulgate a regulation reducing the amount of primary special pay for any category of positions having no problems in recruiting and retaining physicians or dentists; prohibits, after January 1, 1978, the permanent or temporary appointment in any position that has direct patient-care responsibilities of any person not possessing the basic proficiency in spoken and written English needed to perform his or her responsibilities satisfactorily; requires the Administrator to submit to the Veterans' Affairs Committees of the House and Senate by April 1, 1978, a report on certain language proficiency related matters in the health-care areas; requires the Administrator, where a VA health care facility services a substantial number of veterans with limited English-speaking ability, to implement procedures to insure a sufficient bilingual staff to bridge linguistic and cultural differences; conforms the pay of podiatrists and optometrists to the appropriate levels of basic pay in the physicians and dentists schedule for the period October 21, 1976, through October 8, 1977; requires the conversion of all podiatrists and optometrists in the Department of Medicine and Surgery from employment under title 5, U.S.C., to employment in the Department's own personnel system under title 38, U.S.C.; and provides that such conversion, including payment at the appropriate 1976-1977 levels of basic pay, shall be effective retroactively to October 21, 1976, or the date the employee received an appointment in the Department, whichever is later. H.R. 8175—Public Law 95-201, approved November 23, 1977. (VV)

Vietnam veterans' discharges and benefits.—Denies entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; requires a case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service;

Precludes the granting of veterans' benefits on the basis of an upgrading under special review programs implemented after January 1, 1977; requires military Discharge Review Boards to determine whether a discharge under less than honorable conditions or a clemency discharge which had been upgraded would have been upgraded under generally applicable standards and provides that if a determination is favorable the individual would be entitled to retain his or her upgraded discharge and to receive veterans benefits; places the responsibility on the Discharge Review Boards to take the initiative in making that determination under generally applicable standards in each case unless the individual, after due notification, objects; precludes the VA from changing regulations governing the standards and procedures by which it may upgrade a discharge from giving any special advantage to veterans who may have received upgraded discharges under the Special Discharge Review Program; specifies that the Act apply retroactively to deny entitlement to benefits but precludes recovering the value of any benefits already provided; and authorizes the Administrator to provide health care, on a discretionary basis, for the treatment of any disability incurred in the line of duty during active-duty service by certain persons who might otherwise not be so entitled because they were administratively discharged or hold clemency discharges. S. 1307—Public Law 95-126, approved October 8, 1977. (351)

World War I veterans auto allowance.—Amends section 1901, title 38, U.S.C., to extend to veterans of World War I and any eligible veterans who served before or after World War I those benefits entitlement to the automobile assistance allowance for the purchase of an automobile or other conveyance and provision of the adaptive equipment necessary to operate the vehicle safely. H.R. 6502—Public Law 95-116, approved October 3, 1977. (VV)

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The resolution (S. Res. 340) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Walter F. Mondale, Vice President of the United States and the President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-fifth Congress.

THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. BAKER. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The resolution (S. Res. 341) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable James O. Eastland, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-fifth Congress.

THANKS OF THE SENATE TO THE DEPUTY PRESIDENT PRO TEMPORE

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 342) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Hubert H. Humphrey, Deputy President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-fifth Congress.

THANKS OF THE SENATE TO THE ACTING PRESIDENT PRO TEMPORE

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 343) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Lee Metcalf, Acting President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-fifth Congress.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The PRESIDING OFFICER. The Chair appoints the Senator from West Virginia (Mr. ROBERT C. BYRD), the majority leader, and the Senator from Tennessee (Mr. BAKER), the minority leader, as a committee on the part of the Senate to notify the President.

AUTHORITY TO MAKE CERTAIN APPOINTMENTS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 345) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That notwithstanding the final adjournment of the present session of the Congress, the President of the Senate and the President pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, will the Senator withhold that?

Mr. CRANSTON. I withhold, of course.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I apologize because I have been tied up in some meetings, but I wish to say some special words of thanks to the officers of the Senate and staffs on both sides of the aisle, to Mr. Kimmitt and Mr. Hoffmann for the work they have done in this session and those from our side, Bill Hildenbrand and Howard Greene, Brian Wiggin, David Liner, and Van Hunt.

We had, I think, some very interesting times here, but one of the things that we have done on our side of the aisle was to institute a process by which we used assistant whips to perform the services on the floor when either the minority leader or I were not here, and I personally thank Senators HATCH, BELLMON, BARTLETT, HELMS, DOMENICI, GARN, LAXALT, MCCLURE, MATHIAS, WALLOP, CHAFEE, HEINZ, SCHMITT, HAYAKAWA, LUGAR, and DANFORTH for those times that they have been on the floor for me when I could not be here.

I think there needs to be special thanks to my good friend the majority whip, Senator CRANSTON. We are sort of like the people who are never seen, I think, in terms of the process of the Senate, but I have had many good meetings with my friend, and through his efforts I think the two of us have been able to carry out our functions as our respective colleagues have asked us to do.

Mr. President, I thank my good friend, the minority leader, for his confidence and the things that we have done together and for the report that he has filed on behalf of the Members on this side.

And particularly I am grateful to the Parliamentarians, the clerks, the official reporters, the doorkeepers, and the pages; in other words, I think it is time to say Merry Christmas and best wishes to everyone.

But I do think there are a lot of people around here who do a lot of work that our friends who know anything about the Senate know what they are doing but very few people in the public sphere know what they are doing.

I offer special thanks to all those affected by our ever-changing schedules, wives, family members, constituents, and especially scheduling, travel, and appointments secretaries.

I offer personal and sincere thanks to my own staff for adjusting so well to the increased demands placed on them as a result of my new leadership role.

Also I acknowledge other members of the Republican leadership who do not get the ink that Mr. BAKER and I get but are vital nonetheless: they are Senators CURTIS, TOWER, HANSEN, PACKWOOD, and staffs.

I also thank John Baldwin and Jane Ellsworth of the Republican Policy Committee. So, particularly in my own staff, and I think the Senator from California would find that his own California staff probably has increased functions and demands on them because of the duties we have taken on, I do thank everybody who has helped us in the last year and I hope we can have a similar relationship next year.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. STEVENS. I do yield to my friend.

Mr. CRANSTON. I would like simply to thank my fellow whip for his good words and fine cooperation on so many matters. We have worked together, often behind the scenes, on matters that relate to trying to keep the Senate moving, and I have appreciated the opportunities in the past and I look forward to them in the future.

Like the Senator from Alaska, I thank all the other Members of the Senate in terms of Senators and the staff of the body for all the great cooperation we have all had.

Mr. STEVENS. I thank the Senator from California.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF THE COMMITTEE TO NOTIFY THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, in keeping with the resolution that was agreed to by the Senate earlier appointing the distinguished minority leader and me to serve as a committee of two to call on the President to inform him that the work of the session was ended, and to inquire as to whether there was any further communication from him, Mr. BAKER and I have carried out that assignment.

We said to the President that we thought the record of this Congress had been a good one, that we had not accomplished everything we would like to have accomplished, but that there is a second session, and that we expect to return in January and pursue our labors in the interests of the country; and the President indicated that he was grateful to the minority and to the majority for the cooperation that he had had from both.

He indicated that he had no further communications to the Senate, but he did wish us to express his gratitude to all of our colleagues for the work that has been done. He wished all of our colleagues, the officers of the Senate, and the officials of the Senate a very pleasant holiday, and Senator BAKER and I did the same for ourselves and the official family in return.

Mr. BAKER. Mr. President, the task of advising the President of the United States of the impending adjournment sine die is an old and traditional one that signals the end of long and diligent labor.

I was happy to join with the majority leader in making that call. The President received us in good grace and good spirts, and, as the majority leader has indicated, asked that we convey to our colleagues his best wishes for a happy holiday season and his wish for further cooperation in the next session which will begin in January.

On my part, I indicated to the President that we of the minority felt honored to have been a part of the legislative process this year. I expressed our thanks to the distinguished majority leader for his careful consideration of our position and points of view, and expressed to the President our wish that there should be a maximum of cooperative effort in the very extensive burden of work the Senate will have before it next year.

I must say in conclusion, Mr. President, that the President of the United States had the last word, as Presidents are entitled to do. In this case, it was also the best line of the conversation, if the majority leader will permit me to repeat it in that character, when he said to me that he thought the minority in the Senate had done such a good job that he hoped we would stay the minority, to which I responded that it is the permanent wish of the minority, always, to become the majority.

I expressed appreciation to the President for his many courtesies and his consideration during this session of Congress.

Mr. ROBERT C. BYRD. Mr. President, in connection with what the minority leader has referred to as the permanent wish of the minority:

> A man's reach should exceed his grasp,
> Or what's a heaven for?

Mr. BAKER. But not forever.

Mr. STENNIS. Mr. President, if the Senator will yield to me, I believe that I can speak for the other 98 of us in expressing our gratitude to the majority and minority leaders here for their valuable assistance on each side of the aisle in this long, hard year of work.

Not everyone, even here, fully realizes how much you do; but those of us who are fairly close to you know that you do plenty, and we appreciate your efforts.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Mississippi for his praise and his comments. Speaking for myself, the minority leader, and the distinguished majority whip and minority whip, the other elected members of the leadership on both sides, I also wish to express our gratitude to the Senator from Mississippi and the other Members of the Senate, particularly the chairmen and the ranking minority members of the Senate committees, for their diligence, patience, and hard work, which makes it possible for the minority leader and myself to do our job.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Mississippi for his generous remarks, and for including me in those remarks. He is a tower of strength in this body and we look to him from both sides of the aisle for leadership and for a classical example of what a Senator ought to be.

I have earlier today reported rather extensively on minority views of this session. In them I included further reference to my gratitude to the distinguished majority leader and the distinguished majority whip, including my colleague on this side of the aisle, the assistant minority leader, for their unfailing help and assistance in the course of the year.

I will not extend those remarks except to say that never in my life have I had the opportunity to serve with individuals of such diligence and good will. I want to particularly say, as I have said once today, that I have never enjoyed a more flawless relationship and a more consistently courteous relationship than that at the hands of the majority, and the majority leader in particular. I express, in addition to those thoughts I previously expressed, my personal appreciation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for his very kind remarks. He knows of the deep affection that I have for him concerning the relationship we have, and one which I think has enabled the Senate to perform a very, very good job throughout this session. I know there will be that continuing relationship in the second session.

Again I want to thank my friend, the Senator from California (Mr. CRANSTON), our whip, who has worked unstintingly and unswervingly, with great dedication; also Senator DAN INOUYE, the secretary of the Democratic Conference; Senator HUMPHREY, our very lovable and wonderful friend, the Deputy President pro tempore; the Acting President pro tempore (Mr. METCALF), and the President pro tempore (Mr. EASTLAND). I thank all of the officers, the members of the minority, the officials of the Senate, the pages, the doorkeepers. All of the employees of the Senate have worked together, and have worked hard. They have made a fine contribution to the Senate's efforts this year. I am personally very grateful to all of them. I wish that they and their loved ones have a happy holiday season, will rest from their labors, and will come back in January looking forward to a fruitful and productive session of work in the coming session of the Congress.

In expressing appreciation to all for the support and understanding and cooperation that have been accorded the majority leader, I inadvertently overlooked the Policy Committee staff.

I express appreciation to Tom Hart and Lee Williams and all the other members of the Policy Committee staff and to the members of my own staff, who have served me so faithfully and loyally and with so much dedication and high purpose. Without their good work, I could not function effectively, and I would not want to overlook the expression as to these people, whose assistance means so very much to me.

Mr. CRANSTON. Mr. President, I want to express my appreciation to the distinguished majority leader for his very pleasant words and more for his wonderful leadership and cooperation. I have had a great year in working with him. I want to thank him for his leadership, his understanding, cooperation, and generosity in helping us.

I also want to thank the distinguished minority leader for his cooperation. We have worked very well together across the aisle. Just today we were working together on one matter. It characterizes the relationship we have in this body. I thank the leaders on both sides.

APPOINTMENTS BY THE VICE PRESIDENT

Under the authority of S. Res. 345, agreed to on December 15, 1977, the Vice President made the following appointments on December 22, 1977: The Senator from Illinois (Mr. STEVENSON) to be a congressional adviser to the SALT delegation in Geneva during 1977 and 1978, and the Senator from Kentucky (Mr. FORD) and the Senator from Delaware (Mr. BIDEN) to be delegates to the U.S.-U.S.S.R. Parliamentary Visit, to be held in Washington, D.C., January 22–26, 1978.

NOTICE OF HEARINGS ON TUITION TAX CREDIT LEGISLATION

Mr. PACKWOOD. Mr. President, as the ranking member of the Subcommittee on Taxation and Debt Management of the Finance Committee, I wish to announce, on behalf of myself and the chairman of the subcommittee, the Senator from Virginia (Mr. HARRY F. BYRD, JR.), that hearings will be held on January 18, January 19, and January 20, 1978, on S. 96, S. 311, S. 834, S. 954, S. 1750, S. 1781, S. 2142, and other bills which may be introduced providing tax relief for persons paying tuition to elementary and secondary schools and colleges. The hearings will begin at 9:30 a.m. on all three mornings and will be held in room 2221, Dirksen Senate Office Building. Additional hearings will be held if necessary. The Senate has approved a tuition tax credit for higher education three times in the last 16 months, most recently Senator Roth's amendment to the social security financing bill (H.R. 9346).

S. 96, sponsored by the Senator from South Carolina (Mr. HOLLINGS), allows a credit to individuals for certain expenses incurred in providing higher education.

S. 311, sponsored by the Senator from Delaware (Mr. ROTH), provides a tax credit of $250 in 1978, $300 in 1979, $400 in 1980, and $500 in 1981 and thereafter for education expenses paid by an individual for himself, his spouse, or his dependents. In order to be eligible for the credit, individuals must be a full-time student at an institute of higher education or a vocational school. The Joint Committee on Taxation estimates a revenue loss for S. 311 in fiscal year 1978 of $175 million increasing to $1.9 billion by fiscal year 1980.

S. 834, sponsored by the Senator from Pennsylvania (Mr. SCHWEIKER), allows a taxpayer to deduct, or to claim a credit for, tuition paid for himself, his spouse, or for his dependents to elibigle institutions at all levels of education. Senator SCHWEIKER estimates the annual revenue loss to be $2 billion.

S. 954 and S. 1781, sponsored by the Senator from New Hampshire (Mr. DURKIN) and the Senator from Minnesota (Mr. ANDERSON), respectively, allow a taxpayer to deduct, or to claim a credit for, tuition paid to institutes at all levels of education.

S. 1570, sponsored by the Senator from New York (Mr. MOYNIHAN), allows a taxpayer to take a credit for tuition paid to private elementary and secondary schools.

S. 2142, introduced by the Senator from Oregon (Mr. PACKWOOD) and the Senator from New York (Mr. MOYNIHAN), provides, effective 1980, a refundable tax credit for tuition expenses paid by an individual for himself, his spouse, or his dependents. The amount of this credit will be 50 percent of tuition payments up to a total credit of $500 per student. To be eligible for the credit, an individual can be a part-time or full-time student at an elementary or secondary school, a vocational school, or college or university. The Joint Committee on Taxation estimates a revenue loss of $4.7 billion for calendar year 1980.

DEPAUW UNIVERSITY'S SERVICE PROGRAM

Mr. LUGAR. Mr. President, each year at DePauw University, a small liberal arts college in Greencastle, Ind., hundreds of students participate in an extraordinary service program which is worthy of our special consideration.

Approximately one-half of the university's 2,200 students volunteer to share their time and talents to assist church-related agencies, inner city housing authorities, and facilities for emotionally and physically handicapped persons. Last spring this service program was recognized by the Governor's Committee on Voluntary Action as the largest of its type in the State of Indiana.

The project is designed to work through the student living units, creating a healthy amount of competitive spirit and camaraderie. At the beginning of each school year, living units are paired for a specific service project. A representative from each unit is selected to serve as captain throughout the project's planning and implementation. The crews provide needed services including carpentry, painting, roofing, and general cleanup work.

The success of DePauw's program is due in no small part to the creativity and personal efforts of its director, Chaplain Fred Lamar. Under his guidance, 2 teams of 45 persons will travel to the Episcopal Mission of St. Stephen, Lake Izobal, Guatemala in January of 1978. These teams will construct medical and religious facilities and provide medical and dental care for the residents of the Guatemalan earthquake zone.

Since the program's inception 4 years ago, thousands of persons have benefited from the labors of DePauw students. Churches have been repaired, classrooms painted, campgrounds cleared, and buildings constructed. I am grateful for the opportunity to pay tribute to the students and directors who have participated in this outstanding service program. It is an excellent example of the commitment and concern displayed by our Nation's college students.

A STRONGER VOICE FOR UNION MEMBERS IN PENSION FUND INVESTMENT

Mr. METCALF. Mr. President, on October 26 I noted in Senate remarks, CONGRESSIONAL RECORD, page 35346, that within the labor movement there is a growing interest in obtaining a voice in investment of union members' money and in the voting of the common stock within union pension fund assets. As it is now, union pension funds for the most part are controlled by banks.

I am pleased to note that the AFL–CIO convention in Los Angeles early last month addressed some of these concerns. The convention resolved that union funds be entrusted to financial institutions whose investment policies are not inimical to the welfare of working people, and that a portion of union funds be invested in national programs that meet public needs and provide construction jobs, such as houses, schools, hospitals, factories, and stores.

The resolution adopted by the national AFL–CIO on December 12 was similar to one previously adopted earlier at the Union Label & Service Trades Department convention, which was described in an article in the December 10 issue of the AFL–CIO News. I ask unanimous consent to have printed in the RECORD that article and the text of the resolution adopted by the AFL–CIO.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the AFL–CIO News, Dec. 10, 1977]

LABOR URGED TO PUT "UNION LABEL" ON INVESTMENT OF PENSION FUNDS

LOS ANGELES.—Investment portfolios of union pension funds must be closely reviewed to guard against the channeling of capital into firms whose policies run counter to the best interests of workers and their unions, the Union Label & Service Trades Dept. declared.

Delegates to the department's 58th convention warned that third parties handling the funds have at times used union investments to finance operations of anti-union employers or subsidize multinational corporations that export American jobs.

Noting that pension funds—with billions of dollars in assets—are the single largest holders of corporate stocks and bonds, a key convention resolution urged that the "substantial financial power of AFL–CIO unions be entrusted to financial institutions whose investment policies are not inimical to the welfare of working men and women."

It also called for increased allocation of union pension funds in government-guaranteed mortgage investment portfolios to finance the construction of union-built housing and public facilities.

Addditionally, it urged increased participation in the AFL–CIO Mortgage Investment Trust designed to stimulate union construction projects. A similar resolution was adopted earlier by the Building & Construction Trades Dept.

AFL–CIO Sec.-Treas. Lane Kirkland told the 200 convention delegates that public and private investment in job-creating programs is being drained away by runaway firms and the flood of illegal aliens.

"While importing unemployment through the sieve of our borders, we are exporting jobs by the hundreds of thousands," Kirkland stressed in noting the heavy job losses by workers in the electronics, textile, apparel and shoe industries.

Despite the destructive impact on the U.S. economy, the government continues to provide tax inducement and incentives for firms to flee overseas while imposing competitive penalties on American producers, he said.

"We very properly impose social and economic responsibilities on American producers such as minimum wage, health and safety, and environmental standards and costs," he observed, "but we leave wide a gaping escape hatch—and even encourage, ensure and promote their flight from those responsibilities . . . to countries indifferent to any social considerations or standards of human decency."

Kirkland said the faith that American trade unionists have for so long held in the free trade doctrine and reciprocal trade agreements has been shattered.

"They have been replaced by nationalized and subsidized export industries in other countries and cartelized centralized political economies dumping their problems and their products on the last great free and open market and economy left in the world.

"Growing protective barriers everywhere else have channeled a stream of goods—priced without reference to real cost, devoid of any liability for humane labor and social standards—ever more forcefully into the American market at the expense of American skills, livelihoods and choice of calling," Kirkland said.

"We are feeling the heat of our members' very real and deep concern," he noted, "and it is up to us to pass that heat on as forcefully as we can to the proper quarters: the policy-makers and international negotiators of this Administration and to the Congress."

Retired Steelworkers President I. W. Abel, following a similar theme in his address to the convention, said the time has come for the United States to retaliate in behalf of American workers.

Citing the record $3.1 billion U.S. trade deficit in October and the projected $30 billion deficit for all of 1977, Abel said that curbing the free flow of imports could bring a more realistic balance in trade.

Zeroing in on the import problems affecting USWA members, he charged that the Trans-Alaska pipeline was built entirely with Japanese pipe; not one pound of American-made steel was used in the construction of New York's World Trade Center, and imported steel is even being used in the construction and repair of U.S. Navy ships.

On internal matters, the convention adopted guidelines for Union Label & Service Trades Councils on advertising in labor-related publications. It noted that some irresponsible publishers of labor papers, yearbooks and directories have at times "exploited the name and good reputation of the AFL–CIO to further their own selfish ends, and to the detriment of the best interests of organized labor."

In the executive board report to the convention, President Joseph D. Keenan and Sec.-Treas. Earl D. McDavid reported the successful conclusion of four consumer boycotts during the past two years that were instrumental in winning new contracts or representation rights for workers. They involved the rubber workers boycott against Firestone Tire, Musicians against Ringling Bros. circuses, Bakery & Confectionery Workers against Russell Stover Candies, and the Paperworkers against Old Fitzgerald Distilleries.

In addition to reaffirming support for continuing boycotts, the convention called for the addition of two firms to the boycott list. They are Bartlett-Collins Co. of Sapulpa, Okla., which is being struck by the Flint Glass Workers, and Charles Manufacturing Co. of Dothan, Ala., where the Furniture Workers are striking for a first contract.

Among major resolutions adopted at the two-day convention, delegates urged Senate approval of the House-passed labor law reform bill, reform of the Federal Reserve Board, a comprehensive urban mass transit program keyed to energy conservation, and renewed efforts to enact equity legislation to help preserve the U.S. merchant fleet.

The convention elected two new vice presidents to fill vacancies on the department's executive board. They are Vice President John E. Mara of the Retail Clerks and President William M. McClennan of the Fire Fighters.

Final Version of the Resolution as It Was Adopted by the AFL–CIO

INVESTMENT PROGRAMS FOR UNION PENSION FUNDS

Resolution No. 240—By Delegate Earl D. McDavid, Union Label and Service Trades Department.

Whereas, Pension funds are the single largest holders of corporate stocks and bonds, and the assets of pension funds are measured in billions of dollars, and

Whereas, Two-thirds of all workers in the private sector who have pension plans are covered by negotiated plans.

Whereas, The cyclical swings of the construction industry, which impose a severe hardship on members of the building trades, are intensified by government fiscal and economic measures which artificially reduce the capital funds required to finance needed housing, social, commercial and industrial building, and

Whereas, To offset such government action requires that there be a large and steady flow of capital into the mortgage investment field, and

Whereas, It has been the policy, throughout the years, of many labor organizations to invest their funds and to encourage the investment of funds by related Pension Plans in construction and mortgage loan programs. This investment has historically given to such funds both an adequate return by way of income and the required high degree of protection and security found in conventional guaranteed mortgages; therefore, be it

Resolved: That the substantial financial power of AFL–CIO unions and negotiated pension plans be entrusted to financial institutions whose investment policies are not inimical to the welfare of working men and women, and be it further

Resolved: That to vitalize national programs to provide U.S. and Canadian citizens with the houses, schools, hospitals, factories, stores and other construction needs for a growing population—and at the same time consistently provide jobs for our members—we urge the AFL–CIO and its affiliated unions when investing their funds to consider participation in guaranteed mortgage funds which are designed to stimulate union construction, and further urge the trustees of related pension funds to allocate at least ten percent (10%) of the monies available for investment in appropriate government guaranteed mortgage investment portfolios or individual regular guaranteed mortgages, and be it further

Resolved: That at the same time we recognize that many local unions and their related funds do not have the financial resources to meaningfully participate in or administer mortgage investments on an individual basis. We, therefore, particularly recommend to these organizations such programs as the AFL–CIO Mortgage Investment Trust, established by the Executive Council of the Federation in 1964, to provide a secure investment program for all affiliates and qualified labor-management pension and retirement plans. The trust is a fund for investment in federally-insured or guaranteed construction loans and term mortgages. All of the trust's investment activity has been in projects built by union craftsmen, be it further

Resolved: That the AFL–CIO consider the enunciation of such a policy for all of organized labor and to explore the feasibility of legislation which would achieve the intent of this resolution.

OCCUPATIONAL ALCOHOLISM PROGRAMS

Mr. HATHAWAY. Mr. President, I commend to my colleagues' attention an article written by Mike Sheridan, titled "Contrary to Common Belief: Business and Alcoholism," which appeared in the December 1977 issue of New England magazine. This article represents an excellent summary of the tremendous problem which alcoholism poses to our society and economy, and the equally tremendous promise which occupational alcoholism programs have demonstrated in combating and limiting this problem.

The cases cited in this article underline the findings of the Subcommittee on Alcoholism and Drug Abuse that these programs are cost effective to the firms involved, and appear to be one of the most effective means of providing help to victims of this often fatal disease.

The subcommittee has held hearings on these issues in connection with S. 1107 and intends to pursue further legislative initiatives to encourage and promote the development of a greater number of occupational alcoholism programs throughout business and industry.

Mr. President, I ask unanimous consent that the text of this article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Contrary to Common Belief: Business and Alcoholism

(By Mike Sheridan)

Drinking employees are driving up the cost of doing business in New England. The alcoholic worker—who is frequently late for work, absent several days per month, and who repeatedly makes on-the-job mistakes—is costing business and industry in the six-state region $500-million a year, officials estimate.

Alcoholics on the job are no longer confined to just one or two workers. An estimated 4.5-million alcoholics are employed in industry today—roughly 5% of the nation's work force, reports the National Council on Alcoholism (NCA).

Benjamin H. Ticknor, a field consultant for NCA, believes that industry must be charged with the responsibility of the disease because government is supported by taxes on alcohol—to the tune of some $15 billion yearly. "We have an alcohol-supported government," Ticknor says. "The government may pay lip service, but the paltry $100-million they throw at it isn't going to do any good. Industry has the clout—through the payroll, though their ability to talk from an authoritative standpoint. There's a morale factor, too. After all, a man has one half to two thirds of his life tied up in business."

The cost of keeping an alcoholic employee on the payroll, experts estimate, is 25% of the worker's annual wage. Research groups have said that cost averages out to $2,500 a year per alcoholic employee.

"It's dearly costing the company that ignores the problem," says Charles Pilkington, of the Special Services Division of Pratt & Whitney Aircraft Group, the largest employer in Connecticut. "The problem exists and must be reckoned with."

On the average, each alcoholic employee loses 22 days of work a year as the result of his drinking and its physically debilitating results.

Studies show that, compared with the norm, alcoholic employees:

Function at 67% of their work potential.

Have an accident rate three times higher.

Are involved repeatedly in grievance procedures.

File five times more compensation claims.

Ticknor emphasizes the alcoholic cost at the highest level of management is the most damaging. "It's my belief that the biggest cost of all is bad decisions to cover up, and I am more aware of this because I was in an executive position as an alcoholic. Alcoholics hide, they make bad decisions. You've got to keep hitting at the executive branch of business," Ticknor, who was president of Industrial Molasses Corp. for 35 years, now owns a guest house in Dublin, N.H., that caters to the recovering alcoholic.

Ticknor relates from his own experience the typical alcoholic's day: "The alcoholic starts the morning sick and dull. After a martini lunch he sparkles, maybe attends a meeting . . . has lots of great ideas. Then he begins to tire, starts needing another drink. . . . He says, 'Let's get the business over,' before all the evidence is in. That's when the bad decisions come in. He's apt to call the meeting off, walk out before the meeting is over."

Moreover, Ticknor says, the drinking executive can be a great stumbling block in the company's attempts to treat alcoholics. "He will pooh-pooh the program," Ticknor explains. "He doesn't want it. It may interfere with his drinking."

Who is the alcoholic employee? Contrary to common belief, the problem drinker is not the skid-row bum. Studies show him to be a skilled or semi-skilled person, varying in age from 35 to 50, who has been at least seven years with the company, married, owns his own home, and usually has two or more children. In short, he is a respected member of the community.

"There is no typical alcoholic," says one business executive. "If you accept the concept that alcoholism is a disease, then a disease knows no boundaries. It can't read a paycheck or an address."

No business or industry is immune to the alcoholic and the cost of his addiction; and small businesses often have more to lose than large corporations. But it is the large company which has taken the initiative in alcohol treatment.

Fred Stevens, coordinator of special services for Textron, Providence, R.I., is a direct man with a down-to-earth approach. "It's called special services," he says with a grin, "but it means alcohol."

Stevens' job takes him all over the country, to Textron's many divisions, working to set up alcohol-treatment centers in each of the plants.

"I can walk into a place and say, 'How many alcoholics do you have?' and they'll say, 'Well, out of so many, we've only had three people hospitalized for alcohol in the past five years.'

" 'Three!' I'll say. 'That's not many. Well, what other illnesses are on the record for those three people; gastroenteritis, nervous anxiety, and non-surgical back pain, right?'

" 'How did you know? Did you see the records?'

" 'No, I didn't see the records. Now look and see how many were hospitalized for those things. . . .'

"I know," Stevens says bluntly. "I used to go to the doctor and say, 'Doc, you've got to give me something. . . .' and he'd prescribe something for gastroenteritis. Now that's not saying that everybody with gastro is an alky. . . .

"We checked the records on drinking people. At a minimum he's hospitalized three times. Seven at the maximum. He takes 35 weeks off during a three-year period. Now, the man looks at that figure and says, 'No, Fred,' but what he doesn't realize is that doesn't mean a week off at a time. That's a day here, a day and a half there. . . .

"The executive can get away with it. If the employee takes the day off, he gets docked. An executive says, 'I'm going to Boston for a few days,' and nobody questions him. He could be around the corner, dead drunk in a hotel room, and nobody would know the difference. . . .

"I think half the time psychiatrists hurt more than they help. They give people excuses to drink. What difference does it make if you've got a problem mother—everybody's got problems. . . . Your problem is alcohol, and there's only one way you can handle the problem: Don't drink."

Alfred Van Sinderen, president of the Southern New England Telephone Co., estimates that the more than 600 alcoholics in the firm will cost SNET $500,000 this year. "Alcoholism is a very strange disease," Van Sinderen explains. "People who have it don't want to admit they do. They don't want to be cured. They don't want to be helped. Only people who are recovered alcoholics really understand the nature of the illness."

James S. Kemper, Jr., president of the Kemper Insurance and Financial Companies, says employers who say they have no problem drinkers in their organizations are similar to the employed alcoholic who insists he has no drinking problem. "Neither is facing the realities of the situation," Kemper says. They are alike, too, in that both are paying a heavy and needless penalty for their illusions. According to our studies, the most expensive way to handle the problem drinker is to fire or ignore him or her, the most profitable and effective way is to help the employee recover."

Paul McGuire, of Century Brass, agrees, saying a firm gains nothing by firing alcoholic employees upon discovery. "A firm has an investment in the employee and has spent time in training him," says McGuire. "With a little bit of effort the employee will, hopefully, recover. If the worker is fired, he'll probably go away and get another job, and then it's someone else's problem."

A good recovery program, on the other hand, may have a success rate of 50%–70%. "Why sure!" Ticknor concurs, emphatically. "A recovering alcoholic is one of your most valuable employees. He's a worker . . . he's got a conscience."

But fear of losing jobs forces many alcoholics to "mask" their problems while on the job. Thus alcoholism is detected only in its very late stages where chances of recovery are minimal.

"A social stigma has been attached to alcoholism," relates Frank O'Callaghan of the Massachusetts Council on Alcoholism. "For a long time, alcoholism was viewed as being symptomatic of other problems. People felt that if those problems were cleared up, the drinking would too."

Steps have since been taken to place alcoholism in the proper light. In 1956 the American Medical Assn. classified alcoholism as a disease. It is now viewed as a medical problem rather than a moral one by the insurance companies as well.

As alcoholism among industry employees spread, a few large corporations such as Kodak and DuPont—sensing the physical and financial losses from alcoholic employees—tried to do something about it. The firms pioneered occupational alcoholism programs to identify and to assist persons with alcohol-related problems. A large percentage of alcoholic employees were successfully rehabilitated.

But Ticknor says that some progress in the private sector has been discouraged by government funding. "Since the federal government has come into this, grant money is so free that people think we don't need the private sector. But what it did was disrupt the private sector. With government money, you spend half your time reporting what you did with it, half the time getting the money. You end up with a lot of little bureaucracies."

The success of some private programs, however, has been encouraging:

One study of 25 alcoholics at General Motors Corp., based on one year's comparison before and after enrollment, showed 66% reduction in lost man-hours, 59% reduction in sickness and accident benefits, 39% reduction in on-the-job accidents, and 25% reduction in medical department visits.

At the former Scovill Manufacturing Co. (now Century Brass Products), in Waterbury, Conn., officials estimated several years ago that they saved $186,550 over a three-year period through their alcohol treatment programs.

A comparative study of 402 employees at Illinois Bell Telephone Co.—five years prior to referral against five years after referral—showed a 46% reduction in sickness disability resulting in savings of $459,000, and a rehabilitation rate of 72%.

Officials at the Kennecott Copper Co. found sickness and accident costs for identified alcoholics, compared with the average, to be more than 5 to 1; hospital, medical, and surgical costs were more than 3 to 1. After a year into the program, hospital, medical, and surgical costs decreased 55%.

Insurance companies have estimated that for every dollar spent in rehabilitating the alcoholic employee, $5 will ultimately be saved.

How does an alcoholism treatment program "save" money?

To illustrate the benefits of an occupational program, the Massachusetts Council on Alcoholism uses as an example a fictional company which employs 1,000 individuals at an average annual wage of $10,000. Since an estimated 5% of the workers are alcohol abusers (50 employees), the payroll for alcohol abusers would be $500,000.

The alcoholic employee will be absent more often, have more accidents, and will file more compensation claims—so the company will spend 24.8% of the employees annual wage additionally. The cost of alcohol abuse in the company, then, is $124,000.

During the first year of operation, an occupational program will deal with 20% of the alcohol abusers. Thus, in the fictional company with 50 alcohol abusers, 10 would be identified and offered assistance during the first year.

Since the company aiding the individuals is no longer spending the 24.8% that was the cost of their unidentified alcoholic abusers, it will realize a reduction in added operation cost of $17,360.

Training costs for supervisory personnel would be about $1,800, while educating employees about the program would cost $1,120, and treatment of the 10 individuals would run about $8,000. But most group health insurance policies will, after $100 deductible, cover 80% of the treatment costs. So, the net treatment cost for the 10 identified alcoholic individuals would be $2,400.

Thus, the total cost of running the first year program would be $5,320.

Subtract $5,320 from the reduction of operating costs mentioned previously ($17,360), and the first year net reduction in operating costs is $12,040, representing a savings equal to 2.26 times the cost of the program generating the savings.

During the first year of its program, Pratt & Whitney Aircraft saved $500,000, Pilkington reports. "Saved" is a misnomer, he adds. "I prefer to call it a 'cost avoidance'—you avoid extra costs for absenteeism, sick benefits, and the like."

The company received $3.72 in cost avoidance for every dollar PWA expended in the alcoholism treatment program, and during its first year, 451 persons were referred for treatment.

One of the problems a firm is faced with is training the supervisors in such a program. Ticknor believes that a valuable resource is being overlooked in company personnel directors.

"The personnel director is looked upon as a sort of rubber stamp in some companies, a hirer and firer of the lowly. . . . While if there's a real problem, they go to the vice-president. Actually, he's the only one of the company who can speak to everyone."

Because of the daily contact, a supervisor is also in an excellent position to spot drinking problems. And a supervisor has legitimate, explicit expectations for the employees in the performance of their roles without slip-ups.

Part of the problem is getting the employee to admit to the drinking problem and to realize that alcohol is affecting his job. Personnel try to point out that problems at work would probably go away if the alcohol problem were cleared up.

Ticknor says that many companies are now implementing what is called a "troubled persons program." It may deal with problems ranging from athlete's foot to an overspending wife, he says, "but it is there that the alcohol problems surface. Eighty-three per cent of the problems turn out to be alcohol-related."

However, it is usually on the basis of job performance—not alcohol—that the employee is confronted.

Joseph Sheehan, occupational consultant for the Connecticut Alcohol Council, says that confronting the employee is the difficult part of the rehabilitation process. "No matter how you cut it, there has to be a confrontation," he continues. "Supervisors may postpone it because it's a difficult thing. But it has to happen."

Because of the confrontation factor, Pilkington reports, gaining acceptance from supervisors is far from easy. "We had to show them the program was good, and that we would not only be helping the employee, but also the supervisors," says Pilkington. We pointed out that with less employee absenteeism and better productivity, it would make the job easier.

If an employee persists in drinking, the company's course is obvious. After trying to persuade the employee to accept treatment, PWA's Pilkington says, "It's like you've got a broken hand and don't want to get it fixed. We're going to send you home."

"If an employee fails to take advantage of the offered treatment plan at Century Brass," says McGuire, "that worker is eventually dismissed because of poor work performance."

At Century Brass, however, the company will take the dismissed worker back after a year as a probationary employee, and will give the recovered employee one third of the benefits due him.

"For some," says McGuire, "it is the jolt they need. . . ."

REEDUCATION ON THE SOVIET UNION

Mr. McGOVERN. Mr. President, Professor and former Ambassador George

Kennan is unquestionably one of the country's leading authorities on the history, the leadership, and the behavior of the Soviet Union. It is particularly noteworthy, therefore, that in a speech to a Council on Foreign Relations meeting here in Washington on November 22, Mr. Kennan called for a process of "reeducation" on those subjects among all people, himself included, who assert a role in shaping our policy toward the Soviet Union.

I concur heartily with Mr. Kennan, and his suggestion could not come at a more opportune time. Within the next several months we expect that a new strategic arms limitation agreement will be presented to the Senate. That proposal will likely succeed or fail, not so much on the basis of its terms, but on the basis of assumptions about the other side—many of the same assumptions which were formed decades ago, with virtually no serious reexamination since.

Mr. Kennan suggests "that the angry controversies over policy toward Russia that are now marring our public debates and threatening the success of any and all American policies toward that country are not to be solved within the terms of the argument as it is now being conducted—that a solution lies only in the confession that none of us knows too much about what he is talking about—only in the willingness to stop at this point and to learn a little more before we shout each other down."

Because his message should be of value to all Members of the Senate as we approach the SALT II debates, I ask unanimous consent that Ambassador Kennan's remarks be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

A CURRENT ASSESSMENT OF SOVIET-AMERICAN RELATIONS

Before we move to the substance of this evening's discussion, I have to note a certain symmetry in the dates that relate to this occasion. It was just 60 years ago, as we are all aware, that there came into being the political regime in Russia with which we are now concerned. And it was exactly at the half-way point of that span of time—30 years ago—that I chanced to deliver, also at a meeting of the Council on Foreign Relations, a talk on this same subject which became the basis for an article in the magazine Foreign Affairs signed by the pseudonym X. This article, as many of you will recall, attained a certain melancholy notoriety and has dogged my footsteps ever since, like a faithful, but unwanted and somewhat embarrassing animal.

I trust this occasion will not have similar consequences; but this coincidence of chronology naturally leads me to reflect on the changes that have occurred since that year of 1947 in the background against which Soviet-American relations have had to proceed. The Russian political scene was then dominated by a single great personality—a man whom Churchill very aptly called a "crafty giant"—a man of enormous political-tactical genius—a formidable opponent on anyone's terms, but who in a portion of his psychic make-up was paranoiac and whose combination of paranoia with cruelty and political mastery had then served to create one of the great totalitarian monstrosities of our time: a personal despotism as ruthless and far-reaching as anything the modern world has ever known. By 1947 this despotism had already cost the Soviet peoples several millions of lives. And it had not stopped at the old Russian borders but had been extended—and this with our tacit blessing—to nearly one-half of the remainder of the European continent. And no one could be sure, in 1947, that it would stop there. The danger was not one of further military conquest. (Actually, it never has been that.)

The problem was that Western Europe, still dazed, shaken and jittery from the effects of the Hitlerian conquest, did not know what to expect. Its peoples lacked confidence in themselves. They had a tendency to rush for safety to the side of whoever they thought was likely to win in the end. They would have been quite capable of throwing themselves into the arms of their own Communist Parties—to commit suicide, as my friend Bohlen used to say, for fear of death—if they gained the impression that those Communist Parties represented the wave of the future. And to this had been added the fact that the Moscow center, and Stalin personally, enjoyed at that time a total monopolistic control over the world Communist movement—a control which meant that any success by any Communist Party anywhere in seizing power within its own country had to be regarded as equivalent in its effects to a military conquest by the Soviet Union.

It is enough to cite these circumstances, I think, to make clear the magnitude of the changes that have occurred in this 30-year interval. The Soviet Union remains, of course, an authoritarian state—much as was the pre-revolutionary Tsarist Russia; but there is very little to be seen today of the terror that prevailed in Stalin's time; and the regime is headed by a moderate, in fact, conservative man; a man who, whatever other failings of outlook he may have, is a man of the middle, a skilled balancer among political forces—a man confidently regarded by all who know him as a man of peace.

Moscow's monopoly of authority over the world Communist movement has been thoroughly disrupted—so much so that even in the case of those Communist parties that still ostensibly recognize the Soviet leadership, the lines of authority leading from Moscow are tenuous and incapable of bearing much weight. It is a case where the semblance of authority can be retained only by the sacrifice of much of the reality.

And finally, in place of the anxious, jittery Western Europe of 1947 we now have an area which is unquestionably the seat of some of the most successful civilization, economically and socially, that the modern world has to show. The change, to be sure, has not been complete. People have not fully overcome the trauma of two world wars. Many still lack confidence in themselves, see dangers on every hand, require to be reassured periodically, like frightened children. This situation has its military implications, and plays a part, of course, in Soviet-American relations. But it cannot be compared in seriousness and danger to the situation we faced in 1947.

Now all these changes, and others I might cite, have run in the direction of an improvement in the objective possibilities for a better Soviet-American relationship. This does not mean, of course, possibilities for a complete normalization of those relations. For that there remain too many obstacles, historical, psychological and ideological. There has always been, and remains today, an area in which no complete political intimacy is possible, where interests must remain competitive and in part conflicting.

But there is also another area, an area in which interests largely coincide and limited collaboration is possible. In the light of the changes we have just had occasion to note, this latter area has tended, slowly but steadily, to grow. And where sensible efforts have been put forward on both sides to take advantage of this situation, where people have tried, in other words, to create a balanced, business-like and realistic relationship between two very disparate political systems—the results, given patience and persistence, have not been discouraging. This was true, among others, in the period of the Nixon-Kissinger detente. Progress was made in a number of fields which was more than negligible and from which both sides are continuing to benefit today. The fact that these achievements were somewhat over-dramatized, that they lead to unreal expectations, and gave rise to some disillusionment when these expectations were not met, should not blind us to their positive residue.

Nevertheless the effort to pursue a balanced and useful middle course in the relationship with Russia has never been an easy one for American policymakers to follow; and one of the main reasons why this has been so difficult is that seldom, if ever, have we had an adequate consensus in American opinion on the nature of the problem and the most promising ways of approaching it.

Prior to the late 1940's—prior, that is, to the Korean War and the death of Stalin—the difficulty seemed to come primarily from the left: from people who had a naive, over-idealistic view of what was then Stalinist power—people who thought it really possible for this country to ingratiate itself with the Stalin regime by various one-sided gestures of confidence and generosity and reproached our government for not doing so. It was, incidentally, against this sort of Left-wing deviation that the X article, and the policy of containment, were directed.

But since Stalin's death, the opposition to an even-handed and realistic policy toward Russia has tended to come from the opposite end of the political spectrum: from people who were unable to see the curious mix of the negative and the positive, of the discouraging and the hopeful, in the Soviet political personality—people who could see only the negative, and who feared the consequences of anything less than a total rejection and hostility from our side. There has never been a time in these last 25 years, it seems to me, when this opposition has not made itself felt. There has never been a time when American statesmen concerned to find and develop a constructive middle-ground in relations with Russia have not felt their efforts harassed from that direction.

And the harassment has not been minor in intensity or in power. Every administration has been to some extent afraid of that hard-line opposition. It has behind it the power of chauvinist rhetoric as well as that of strict military logic. It has the capability of hurling at any and all opponents the charge of being "soft on Communism"; and however meaningless this phrase may be, it is a formidable weapon in a society unhappily vulnerable to the power of the slogan.

In the heyday of the Nixon-Kissinger detente, this opposition was almost silenced—partly by Mr. Nixon's formidable credentials as a hard-liner, which bewildered many critics; and partly by Henry Kissinger's diplomatic fireworks, which dazzled them. But the resulting silence was one of frustration, not of acceptance. When Watergate drained the authortiy of this political combination, the opposition broke forth once again with redoubled strength and violence. It has raged over the entire period from 1975 to the present. It sufficed to knock out the 1974 trade agreement and to lower the level of Soviet-American trade. It sufficed to delay the approach to a new SALT Agreement. And it has achieved today, against the background of a new administration and a somewhat unstructured Congress, a power it never had before. It now claims to have—and for all I know it does have—the power to veto any Soviet-American agreements in the military or the economic field that do not meet with its requirements; and such are its requirements that I come increasingly to suspect that this means in effect: any conceivable agreements at all.

I have made my best efforts to understand the rationale of this opposition. Many of the bearers of it are my friends. I know them as honorable people. I do not suspect, or disrespect their motives.

It is clear that we have to do here with a complex phenomenon, not a simple one. This body of opinion embraces some people whose trouble seems to be that they are unaware of the changes to which I referred a few moments ago as between 1947–1977, who talk of the problems of Soviet-American relations in terms identical with those used at the height of the Cold War—who sometimes seem in fact unaware that Stalin is dead.

Then, there are others whose emotions have been aroused over the question of Human Rights or Jewish emigration and who would like to see American policy directed not to an accommodation to Soviet power as it is but to the changing of the very nature of the Soviet regime.

More important, however, than either of these are the people who view the relationship exclusively as one of military rivalry—who see in it no significant values or issues or possibilities other than ones relating to the supposed determination of the Soviet leadership to achieve some sort of decisive military ascendancy over the NATO coalition—and this, of course, with the most menacing and deadly of intent. These include outstandingly the military planners, whose professional obligation it is to set up a planner's dummy of any possible military opponent, to endow that dummy with just the motivation I have described, and then to treat it as if it were real. But this group also includes many non-military people who, accepting this dummy as the reality, lose themselves in the fantastic reaches of what I might call military mathematics—the mathematics of possible mutual destruction in an age of explosively burgeoning weapons technology.

Like many of the rest of you, I have made my efforts to understand the arguments of these military enthusiasts. I have tried to follow them through the mazes of their intricate and sophisticated calculations of possible military advantage at various future points in time. I have tried to follow them in their recital of the letters and numbers of various weapons systems, some real, some imagined, their comparisons of the reputed capacities of these systems, their computations of the inter-actions of them in situations of actual hostility.

I come away from this exercise frustrated, and with two overpowering impressions. The first is that this entire science of long-range massive destruction—of calculated advantage or disadvantage in modern weaponry—has gotten seriously out of hand; that the variables, the complexities, the uncertainties it involves are rapidly growing beyond the power of either human mind or computer.

But my second impression is that there is a distinct unreality about this whole science of destruction—unreality, that is, when you view it as the plane on which our differences over policy have to be resolved. I doubt that we are going to resolve our problems by trying to agree as to whether the Russians will or will not have the capability of "taking out" our land-based missiles at some time in the 1980s. I doubt that this is the heart of the problem. I suspect that something deeper is here involved. And if I had to try to define that deeper something, I would have to say that it is the view one takes of the nature of the Soviet leadership and of the discipline exerted upon it by its own experience, problems, and political necessities.

There are basically two views of leadership: two ways in which it is seen in this country. In one of these views, the Soviet leaders appear as a terrible and forbidding group of men—monsters of sorts, really, because lacking in all elements of common humanity—men totally dedicated either to the destruction or to the political undoing and enslavement of this country and its allies—men who have all internal problems, whether of civic obedience or of economic development, essentially solved and are therefore free to spend their time evolving elaborate schemes for some ultimate military showdown—men who are prepared to accept the most tremendous risks, and to place upon their people the most fearful sacrifices, if only in this way their program of destruction or domination of ourselves and our allies can be successfully carried forward.

That is one view. In the other view, these leaders are seen as a group of quite ordinary men, to some extent the victims, if you will, of the ideology on which they have been reared, but shaped far more importantly by the discipline of the responsibilities they and their predecessors have borne as rulers of a great country in the modern technological age. They are seen, in this view, as highly conservative men, perhaps the most conservative ruling group to be found anywhere in the world, markedly advanced in age, approaching the end of their tenure, and given to everything else but rash adventure. They are seen as men who share the horror of major war that dominates most of the Soviet people, who have no desire to experience another military conflagration and no intention to launch one—men more seriously concerned to preserve the present limits of their political power and responsibility than to expand those limits—men whose motivation is essentially defensive and whose attention is riveted primarily to the unsolved problems of economic development within their own country.

They are seen as men who suffer greatly under the financial burden which the maintenance of the present bloated arsenals imposes on the Soviet economy, and who would like to be relieved of that burden if this could be accomplished without undue damage to Russia's security and to their own political prestige. They are seen, finally, as men who are, to be sure, seldom easy to deal with, who care more about appearances than about reality, who have an unfortunate fixation about secrecy which complicates their external relations in many ways, but who, despite all these handicaps, have good and sound reason, rooted in their own interests, for desiring a peaceful and constructive relationship with the United States within the area where that is theoretically possible.

I would submit that it is these conflicting views of the Soviet leadership that lie at the heart of the conflict between those in our government who are attempting to make progress in our relations with the Soviet Union and those who are attacking this effort from the Right. And the burden of what I have come here today to say is that I think we can no longer permit this great conflict of outlook and opinion to go on in so large degree unreconciled as it has gone in recent years—that the moment has come when we can no longer carry on safely or effectively in our relations with the Soviet Union without the creation of a much wider consensus of opinion behind our policies of the moment than anything we have known in this recent period.

We stand, as you know, at a crucial point in Soviet-American relations. The expiration of the 1972 SALT Agreement has confronted us with fundamental decisions. Either we move forward, boldly, confidently, and imaginatively to the creation of a new relationship with that country in the military field, or we deliver up ourselves and the rest of the civilized world to the appalling dangers of a nuclear weapons race totally out of control—a development devoid of any visible hopeful end, devoid of any imaginable end at all other than a wholly disastrous and apocalyptic one.

But our ability to pursue the more hopeful of these alternatives is today seriously jeopardized by lack of the consensus to which I just referred. The opposition now being brought to bear against the efforts of the President and the Secretary of State to carry forward negotiations in the field of the limitation of armaments has reached a degree of intensity that seems to me to exceed anything we have known in the past. Powerful efforts are being made—the tendency of which is not to bring about the failure of ratification of instruments already negotiated (nobody could object to that as a matter of procedure) but to discredit the very process of negotiation, and this at a very early stage. People are being attacked not for what they are known to have done in the negotiating process but for what they are presumed capable of doing—presumed capable on the basis of rumor or of calculated leak. They are being attacked, in other words, not for their actions but for their supposed intentions.

I am not questioning the motivation for these attacks. I can conceive that it may be, in many instances, of the highest. But I find myself wondering whether effective negotiations can be conducted in the face of opposition of this nature, particularly when we, as well as our Soviet counterparts, are being assured daily that the people who carry forward this opposition have not only the political power to torpedo any agreements or understandings that might realistically be arrived at, but also the firm intention to do so. Negotiating policy is seems to me cannot be effectively made or implemented against such a background.

And this present moment is one at which we simply cannot afford to have the force and momentum of our policy lamed in this manner. The stakes are too high. The penalties of failure are too serious. The implications of such a failure would carry even farther than just the prospect of an unlimited weapons race. A breakdown of the relationship on the military level could not fail to have—indeed, has already had to some extent—effects on other levels as well. And here, too, we have—and the world has—too much to lose to permit such a failure to occur.

We face in this coming period a tragically high probability of deepening crises in Southern Africa and in the Middle East. It may well be that the peace of the world will depend, as these crises develop, on the ability of the American and Soviet governments to remain in close communication, to give each other reasonable reassurance as to their intentions, and to coordinate their actions with a view to preventing local conflicts from growing to global dimensions.

Beyond this, we have the fact that these coming years are bound to see extensive changes in political leadership at the Soviet end. Nothing could be more unfortunate, surely, than that a new and inexperienced team of leaders should come into power in the Soviet Union confronting what would appear to be a blank wall of hostility and rejection at the American end—a situation in the face of which they would see no choice but to look for alternatives other than those of good relations with the United States. This is no time to foreclose other people's options, and particularly not the options of people new to the experience of power and obliged to define new lines of policy that may represent commitments for many years to come.

These, then, are the reasons why it appears to me as an inescapable necessity that we should move promptly and resolutely to the achievement of a more workable consensus behind our policy toward the Soviet Union to take the place of the resounding disagreements that affect, and threaten to paralyze, the formulation and execution of policy in this field today.

I realize, of course, that it is easier to call attention to the need for such a consensus than to chart out the ways in which it could be achieved.

I realize, too, that behind a certain portion of this critical opinion there are commitments of an emotional or political or professional nature which are unlikely to be overcome by appeals to mere reason, and which will have to be confronted, as a political problem, by the responsible political leaders.

But in another portion of this spectrum we have to do with sincerely held and rational opinions, with conclusions drawn from what people believe to be the facts—from the spectrum of facts, or supposed facts, that they now have before them, and I wonder whether, in the case of these people in particular, approaches and devices could not be found—approaches and devices of a basically intellectual nature which would help us importantly, and possibly even decisively, to get on with the solution of this problem. The problem is, after all, a cognitive one; and there is no reason why men of good will should not be able to come to some elements of agreement on the implications for policy of a given body of factual material if they can be brought to a common acceptance of its validity.

And here there are, as I see it, two requirements. First of all, I would propose that we lay aside completely, at least for the moment and for purposes of this exercise, the whole question of the military relationship and all the arguments about who could conceivably do what to whom if their intentions were of the nastiest; and that we elevate our vision, at least for the time being, to the question of the real nature and situation of the particular foreign power we are dealing with.

And then, starting with that resolution, it seems to me that I can see in my mind's eye a series of private gatherings in which would be included not only high-level policymakers of the moment but leading figures of this opposition as well as possibly a few of the others of us who are interested in Russian affairs—gatherings where we would come together not primarily to discuss matters among ourselves—not to air our prejudices and convictions on the basis of our present knowledge and our present ignorance, but where we would all listen humbly to what could be told to us by the most experienced and knowledgeable people who could be found in the respective fields—I avoid the word "expert" because it implies something more narrow than what I have in mind.

What I am thinking of, in other words, is a certain process of re-education in the realities of Soviet power and leadership—a common effort on the part of all of us who have been prominently involved in this debate—a process in which we would check our existing views at the door, together with our hats, and would listen and ask questions and try to get a new view of the facts before we drew conclusions. I suspect that in an experience of this nature, designed not to promote the clash of old views but to make possible the common development of new, more realistic and more up-to-date ones, we would come closer than in any other way to the composing of our differences.

And there is room for this, I assure you, because no more in the Soviet Union than anywhere else have things been standing still. There are available to us today masses of new factual material on conditions in the Soviet Union—material which, given the rather low state of Soviet studies in our country, have scarcely been digested by the scholars, much less by the policy-makers, the critics, and the old-timers in this field of expertise. And in this latter category, I include myself, I am much aware that it is exactly fifty years ago this year that I entered on my own career as a so-called Russian expert, and I think that because of this long preoccupation with the subject—not despite it, mark you, but precisely because of it—it is time that my ideas, too, were taken thoroughly apart and put together again with relation, this time, to the present scene, and not to all the memories I cherish, and all the anecdotes I have been accustomed to telling, about the earlier years.

Such seminars would not, I think, serve their purpose unless they were the product of very high-level initative and enthusiasm within the Administration. But if that initiative and enthusiasm were there, the institutional facilities to organize and accommodate them would not be hard to find.

That, gentlemen, is the burden of the song I have come to sing this afternoon. I am suggesting that the angry controversies over policy towards Russia that are now marring our public debates and threatening the success of any and all American policies towards that country are not to be solved within the terms of the argument as it is now being conducted—that a solution lies only in a common act of humility—only in the confession that none of us knows too much about what we are talking about—only in the willingness to stop at this point and to learn a little more before we shout each other down. Only in this act of humility will we find the way to a future of Soviet-American relations that offers hope rather than horror.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the notification I have just received.

There being no objection, the notification was ordered to be printed in the Record as follows:

Defense Security Assistance
Agency and Deputy Assistant
Secretary (Security Assistance), OASD/ISA,
Washington, D.C., December 22, 1977.

In reply refer to: I-11577/77ct.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-7, concerning the Department of the Army's proposed Letter of Offer to Canada for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $13 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

[Transmittal No. 78-7]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Canada.

(ii) Total estimated value: Major defense equipment*, $13.0 million; other, 0.0; total, $13.0 million.

(iii) Description of articles or services offered: One thousand, seven hundred, twenty-eight (1,728) TOW anti-armor guided missiles.

(iv) Military Department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: December 22, 1977.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on December 22, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, Room S-116, in the Capitol.

I ask unanimous consent to have the notification printed in the Record.

There being no objection, the notification was ordered to be printed in the Record, as follows:

Defense Security Assistance Agency and Deputy Assistant Secretary (Security Assistance),
OASD/ISA
Washington, D.C., December 22, 1977.

In reply refer to: I-12390/77ct

Dear Mr. Richardson: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

FINANCES OF THE U.S. GOVERNMENT

Mr. CURTIS. Mr. President, we are facing a new year. I am sure that many wonderful things will happen during the coming year and that mankind will be the beneficiary of advances made in many fields. This is our hope and our prayer for all mankind.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Many good things will come to the United States in 1978 I am sure; however, those who hold public office have a very grave responsibility, for if they fail to do what is sound and necessary, a bright future can turn to chaos.

Mr. President, I am speaking of the finances of the U.S. Government. Expenditures and taxes are astronomically high. In spite of the heavy burden that our taxpayers must bear, the U.S. Government runs a huge and inexcusable deficit of about $60 billion. This cannot go on.

Mr. President, if we look at the rising deficits of the past several years we can see the basic cause for the inflation. All prices go up and up, and many wages and salaries follow. The income of many people is more or less fixed, and they have no way to cope with the near uncontrollable inflation now rampant in this country. When we consider the effects of this inflation on life insurance programs, on pensions, and other values, it is no less than frightening.

Mr. President, while it is vitally necessary that we practice economy in every activity of the Government, it is equally important that we look at the basic cause of the great increase in the budget of the United States. The budget for the current fiscal year calls for spending in a total sum of $459 billion. Compare this with the amount of the budget for the last full fiscal year of the Eisenhower administration of $92 billion. We cannot blame this on defense costs, neither is this great increase caused by expenditures for the necessary functions of Government as was originally planned by the founders of our Government. It cannot be blamed upon the development of our natural resources. The cause of this huge budget is basically the welfare state. The cost of governing and regulating and policing is not what is bringing about the huge expenditures. It is that role of the Government which can best be described by the word "provide."

Much of the legislation involving the welfare state which is now so costly was enacted in the thirties and forties. Many additional programs were enacted in the period of 1961 to 1969. Here is what these programs are costing this year: Food, $8.955 billion; housing, $6.8 billion; education, $19.6 billion; assistance to local and State governments; $81.17 billion; medical and health programs, $56 billion; unemployment compensation, $10.6 billion; and retirement and disability, $122.44 billion.

Mr. President, bills are introduced in this body and speeches are made to add to the welfare state. For instance, let us look at the medical field. We have medicare for the aged, and we have medicaid for the poor. The drive for national health insurance results, then, in a drive to have the Government pay the medical and hospital bills of individuals who are neither aged nor poor. The Federal Government cannot take on such a burden. Furthermore, private insurance and labor contracts have taken care of a great portion of the problems and those programs are increasing day after day.

Another example relates to the field of education. There are many proposals for new educational programs, but let us look at what has happened. In my State of Nebraska, the Federal Government pays estimated 10 percent of the total cost of all education in the State, yet the Federal Government comes near exercising 100 percent authority in running our schools. It has not been a good deal for the taxpayers or the students.

The welfare state has failed. It costs more than we can pay. It does not meet our problems. We have had public housing for decades; we have spent billions and billions of dollars on public housing. The need for housing is perhaps greater now than it ever was. Once the Federal Government subsidizes a housing project in a community, the community then becomes eligible for an additional grant in aid for schools because the public housing is not taxed.

Mr. President, when are we going to return to the basic principle that the Government should not provide the things that individuals need when they are not victims of ill health, disaster, or advanced age, but rather, it is the responsibility of the Government to maintain an economic system that provides an opportunity for the able bodied to produce, earn, and acquire the things they need. There are those who say it cannot be done. I refuse to accept the premise that self-government and individual freedom are so deficient.

Mr. President, we should, with great care, weigh every proposal that comes before us in this year and in all future years. The voices of error are rampant in the land. Some of these voices are found in government. The Director of the Congressional Budget Office, Ms. Alice Rivlin, has been quoted by the press as favoring increased expenditures and increased tax reduction, which would mean an increased deficit. The press states that her reason is to spur the economy. Mr. President, if increasing spending and enlarging the deficit would spur the economy in any true sense, we would not have an economic problem in the United States. We must realize that big government has failed.

Winston Churchill said you cannot unscramble eggs. This statement embodies a great truth. We cannot, and I do not advocate it, abolish all of these programs which I have labeled as the welfare state. We should stop enlarging the welfare state. There are some programs that ought to be ended, there are others that should be drastically changed, and we need to establish some priorities.

Among the social programs that in my opinion must have a high priority are those where we have a moral obligation to fulfill the Government's commitment. Social security was enacted to provide a retirement benefit for our people. We should confine it to such a program. Millions of individuals have paid and paid into the social security program; we cannot fail them. The social security tax is going to be difficult. It will take a courageous Congress to collect enough revenue to pay for it. The alternative is repudiation of the commitment to our people, and this is unthinkable. On the subject of social security, I do feel that we should take a look at medicare being paid through the social security tax. Individuals of modest means are being taxed to pay the hospital and medical costs of individuals regardless of wealth and income if they happen to be 65 years of age. We should also take a look at the disability program and the survivor program to see what gradual changes can be made in our social security system that will meet the intended goal for retirement with tax rates that our people can stand.

Reducing the size of the Government is an enormous task. It calls for intelligence, hard work, establishment of priorities, and above all, men and women of courage who are deeply concerned about the future.

No one objects to balancing the budget of the U.S. Government. Most people say, "not now." In the meantime the programs grow and the problem gets worse. We need fiscal discipline in our system of government. Most of our States have a constitutional provision which either prohibits deficits altogether or limits them. We must have the same idea incorporated into our Federal Constitution.

Mr. President, I have for several decades advocated a constitutional amendment to require a balanced budget and bring an end to deficit spending. The constitutional amendment that I have pending in this Congress is Senate Joint Resolution 26.

This constitutional amendment is clear and understandable. It requires Congress to balance the budget. If Congress fails to balance the budget, a procedure is set up for an automatic surtax to go into effect the following year to recoup the deficit. It has a provision whereby in time of war or a declared national emergency by Congress the requirements of the amendment can be set aside a year at a time.

This constitutional amendment is a stern procedure; it does have teeth in it. If Congress spends more than the Government takes in, the taxes automatically go up. If Congress is faced with the alternative of reducing spending or increasing taxes, I predict that they will reduce spending. If Congress fails to reduce spending and everyone's tax is increased with a surtax of 3 percent, or 10 percent, or 20 percent, whatever is needed, the taxpayers will know about it, and they have a remedy at the ballot box. A constitutional amendment which is a mere declaration of a requirement to balance the budget and which is not self-enforcing will not do the job. Mr. President, the public polls indicate that a majority of the American people want a balanced budget. A sizable list of our State legislatures have acted to bring about a balanced budget on the part of the Federal Government. There are over 20 cosponsors to the amendment that I introduced, Senate Joint Resolution 26. There are other constitutional proposals that are pending. All in all, more than 100 Congressmen and Senators in this Congress have either introduced such a constitutional amendment or have cosponsored an amendment of their colleagues.

I appeal to the majority leadership of this Congress to schedule Senate Joint Resolution 26 for passage this year. Hearings have been held, and the time is now.

CHILD CARE SERVICES

Mr. HAYAKAWA. Mr. President, I have recently participated in two hearings sponsored by the Subcommittee on Child and Human Development held in my home State of California. The purpose of these hearings was to learn from people who have a personal involvement in child care. With more and more parents working, day care for children commands an ever-increasing amount of attention. As parents and concerned citizens, we must all give serious thought to the types of day care we want made available. No one disputes the need for quality child care services; only the methods of delivery and payment are arguable.

I have learned that many people would like to see the Federal Government involved in the extension of child care services. Others would rather fend for themselves, and assume the responsibility of finding good day care for their children. The hearings were far from conclusive, and the door remains open for all suggestions. I hope the Subcommittee on Child and Human Development will hear more from people who have good ideas regarding the delivery of child care services.

A pertinent article by Alan L. Otten appeared in the August 11, 1977, issue of the Wall Street Journal. I agree with his conclusion that parents want to evaluate their own needs for day care services, and choose the appropriate delivery system. Parents know best what are the needs of their children, and how best to care for these needs.

Mr. President, I ask unanimous consent that this article be printed in the Record at this time.

There being no objection, the article was ordered to be printed in the Record, as follows:

Politics and People

(By Alan L. Otten)

DAY CARE

Washington.—Articles in learned journals don't get much general public attention, and most of the time, rightly so.

They're usually abstruse, irrelevant, jargon-ladden. Every so often, though, an academic periodical publishes a piece that merits wider notice. A good example appears in the spring issue of Daedalus, the quarterly of the American Academy of Arts and Sciences, and it deserves careful consideration for two reasons.

One is that it sets forth quite persuasively the case against any big new program of federal subsidies for institutional day care centers for children. Available evidence, the article demonstrates fairly conclusively, indicates that most parents far prefer informal arrangements for child care—at home or near home, with a relative, friend or neighbor.

The other reason for paying attention is that the article's author is now in position to argue her case personally with government policymakers. She is Suzanne H. Woolsey, a 35-year-old psychologist who did the research last year at the Urban institute but is now a key Carter administration official: Associate Director of the Office of Management, with particular responsibility for such "human resource" problems as child day care.

The public debate over day care for children, Mrs. Woolsey writes, has been "carried on at high volume for at least a decade, with remarkably little progress in either defining the issues or analyzing the evidence."

She notes that the coalition pushing for greater government support of institutional day care consists of some very strange allies: feminists who think mothers should get out of the home and into "more rewarding" work; entrepreneurs looking for a new growth business; unemployed teachers eyeing job opportunities; child development professionals who believe the institutional setting develops children more fully"; and fiscal conservatives who want welfare mothers to work so as to cut welfare costs. Yet each group ignores evidence against large institutional programs.

For example, Mrs. Woolsey cites several surveys that uniformly found incredibly high percentages of working mothers—particularly poor, near-poor, black and Spanish-speaking ones—using their relatives or neighbors to take care of the kids. One survey showed half of all working mothers relying on family members, with another fourth using a friend or sitter.

Obviously, the low cost is an important element in these decisions. Yet surveys also revealed that convenience, flexibility of hours, and willingness to care for a sick child all reenforced cost in impelling parents to prefer home care or informal neighborhood arrangements to more formal institutional care.

Actual experience is even more convincing. When free or low-cost care has been offered in centers by government experiments or large-scale employers, the takers have been far below expectations.

"Evidence accumulates," Mrs. Woolsey states, "to indicate much less interest on the part of parents in formal day-care centers than the public debate implies."

Perhaps, though, the decision shouldn't turn on parental preference, but on larger issues, such as the feminists' contention that wider availability of day care will permit more women to work who want to work. Again, Mrs. Woolsey finds the facts otherwise.

Upper-middle-class women may decide to work or not to work on the basis of the quality of day care available for their children, she says, but opinion surveys and actual experience indicate that for welfare mothers and other poor and lower-middle-class mothers, the decisive factor is the availability of a job. If they can find a job, they arrange their own day care, again usually informal home or family-based arrangements. When the day care center closed in one low-income experiment in the South, practically every mother continued to work, quickly making other child care arrangements.

As for the argument that formal day care is better for the child, Mrs. Woolsey is frankly skeptical. Research is bulky but inconclusive, she reports, and results "do not provide one with much confidence that children's development is markedly improved by one form of care or another."

Decisions on the best type of care "are made with great uncertainty even by the most sophisticated," she says, and cites her own experience. She and her husband, a lawyer now Under Secretary of the Navy, have a live-in housekeeper for their two small children—a third is well on the way—and recently wanted a nursery school for the older child, who is 3½.

"I looked at a dozen schools," Mrs. Woolsey relates. "I have a Ph.D. in psychology, and you'd think I'd be able to make very intelligent judgments on which school would be best. I finally picked the one that was above ground-level and closest to home.

Just why does the day care debate pay so little attention to the method actually used and preferred by parents—within the household or extended family? The likely answer, Mrs. Woolsey suggests, is that so much of the argument is carried on by upper-middle-class whites, people who've moved often in pursuit of education and career and who forget that poor and lower-middle-class people move less and still have extended families to rely on.

The best solution to the child care problem, she believes, is some kind of "demand subsidy." Working parents who need financial help to arrange day care for their kids would get government money—through tax credits or extra welfare subsidies—and then they would decide whether to pay a relative or neighbor to care for the kids at home or nearby or to send them to some day care center. Mr. Carter's new welfare plan moves in this direction, and his coming tax law changes could also.

"The basic fact," Mrs. Woolsey says, "is that parents know better than the professionals what form of care is best for their own kids."

"HAWAII FIVE-O" IS 10 YEARS OLD

Mr. INOUYE. Mr. President, I wish to bring to the attention of my colleagues that this year marks the 10th anniversary of a television show that has consistently been in the top of the Nielsen ratings, and one that has been filmed in its entirety in Hawaii—"Hawaii Five-O."

Most of the staff are residents of Hawaii, and our local community takes considerable pride in "Hawaii Five-O's" many accomplishments.

I understand that these weekly episodes are presently aired in 73 countries, and in Canada is shown in both the English and French languages. It is translated into seven languages: French, Portuguese, Spanish, German, Iranian, Italian, and Japanese. It is subtitled in five countries: Arabia, People's Republic of China, Holland, Bangladesh, and Greece.

In my judgment, "Hawaii Five-O's" longevity and overwhelming popularity reflect the truly extraordinary talent, dedication, and sensitivity of Jack Lord and his many fine staff.

I am sure that each of us and our families look forward to viewing another decade of this highly entertaining show.

AMENDMENT TO THE FEDERAL WATER POLLUTION CONTROL ACT

Mr. CHAFEE. Mr. President, Congress recently completed and the President signed amendments to the Federal Water Pollution Control Act. These are important amendments and much time and hard work were invested by members of both the House and Senate to get a bill that will assure protection of the environment.

One provision of this bill, the section 404 provision which sets the groundwork for a national program to protect our dwindling wetlands, was of great interest to me. I strongly favor such a program because of the tremendous environmental importance of wetland areas.

I would, however, like to clarify for the record one point concerning State programs under section 404. Question has been raised as to the applicability of other Federal statutes, particularly the National Environmental Policy Act and the Fish and Wildlife Coordination Act, to discharges of dredged or fill material subject to regulation under an approved State program. To clarify this question I wrote to Senator MUSKIE, chairman of the Senate Environment and Public Works Committee's Environment Subcommittee and of the recently completed conference between the House and Senate. I believe that his response to me on this subject answers my questions and clarifies completely the intent of the majority of the conferees.

I ask unanimous consent to have printed in the RECORD my letter and Senator MUSKIE'S response.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Committee on Environment and Public Works, Washington, D.C.

DEAR ED: It has come to my attention that there may be some misunderstanding concerning the amendments to section 404 of the Federal Water Pollution Control Act which were recently approved by the Congress. Statements have been made which suggest certain Federal environmental laws including the Fish and Wildlife Coordination Act would not be applicable to actions taken by states to regulate the discharge of dredged or fill material under approved state programs, since these Acts only apply to actions taken by Federal agencies.

I am disturbed by statements of this sort since neither I nor a number of other conferees intended this to be the result of the provisions to authorize States to implement the wetland protection program in most areas.

I wish you would give me your views on this matter in order that I might clarify for myself and others the uncertainty here.

Sincerely,

JOHN H. CHAFEE.

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, D.C.

DEAR JOHN: I will be happy to clarify for you and the record what I believe the conferees intended regarding the applicability of the National Environmental Policy Act and the Fish and Wildlife Coordination Act to discharges of dredged or fill material subject to regulation by an approved State program under section 404.

It was the intent of the conferees that any State permit program for the discharge of dredged or fill material approved by the Administrator must, as in State permit programs approved under section 402 of this Act, have demonstrated itself capable of accomplishing the same objectives as the Federal permit program. The State program must include enforcement authority comparable to the Federal program, adequate resources including staff and funds, and ensure full and complete coordination with all related Federal, State and local programs. A State permit program must include substantive decision-making criteria at least as stringent as 404(b) guidelines, and follow-up procedures to assure compliance with the permits that are issued.

Section 67(b) of the conference bill adds a new subsection (h) to section 404 which establishes criteria which must be met by a State section 404 permit program submitted to the Administrator for approval. These State programs must assure that the Administrator, the public and affected States are afforded notice and opportunity for public hearing on each permit application and that there will be continued cooperation with Federal and Federal-State water-related planning and review processes. This latter coordination requirement would include comments from all agencies such as the Fish and Wildlife Service and State fish and wildlife Coordination Act—and any other appropriate public or private agency that customarily comments on proposed Federal actions which have a significant environmental impact.

The Administrator is expected to assure that these coordination processes exist and will continue before he approves a State program, or before he approves the best management practices program submitted under the section 208 amendments which contain similar coordination requirements. The Administrator is further expected to assure that similar coordination exists for Federal permit applications and proposed general permits as provided in the new section 404(j) of the conference bill.

I hope this discussion clarifies the issues with which you are properly concerned.

Sincerely,

EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution.

ANNUAL REPORT: COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. RANDOLPH. Mr. President, the Committee on Environment and Public works was extremely active during the 1st session of the 95th Congress. We developed and saw enacted legislation in several areas of our responsibility. Major bills which the committee developed which became law during the year were the Clean Air Act Amendments of 1977 (P.L. 95–95), Clean Water Act of 1977 (P.L. 95–217) and Public Works Employment Act (P.L. 95–28).

The committee revised its internal structure to accommodate new jurisdictions assigned as part of the general reorganization of the Senate Committee System. We produced legislation in these new areas as well as those for which we were previously responsible.

The reorganization of the Senate committee system gave the committee a new name by adding the word "environment" to its title. This was largely a recognition of the committee's function, for we have been the principal environmental committee of the Senate in addition to our responsibility for programs related to traditional public works and development activities. The general reorganization of the Senate gave to us additional environmental duties and also assigned to the committee responsibilities for programs of the Fish and Wildlife Service, regulation of nuclear energy and expanded authority in the field of water resources.

To accommodate these new responsibilities, the committee organized itself in six subcommittees of seven members each as follows: Subcommittee on Environmental Pollution, Subcommittee on Water Resources, Subcommittee on Transportation, Subcommittee on Regional and Community Development, Subcommittee on Resource Protection, and Subcommittee on Nuclear Regulation.

The new jurisdictional assignments have been reflected in the committee's workload during the year. During the first session, a total of 148 bills were introduced in the Senate and referred to the committee. This compares with 130 bills referred during the 1st session of the 94th Congress. Ninety-seven days of hearings were held, including 15 outside Washington.

A total of 21 measures which became law this year were reported or otherwise considered by the Committee on Environment and Public Works. Nine of these were in new areas of jurisdiction. Only one legislative proposal reported by the committee had not been enacted at the end of the year. This bill, the Water Resources Development Act, is expected to receive new attention by the Congress early in the second session.

The committee also received 29 nominations by the executive branch during the first session. Of these 5 were related to our new jurisdictional areas. Action was taken on all of the nominations except one which was received late in the session, that of Stephen J. Gage to be an assistant administrator of the Environmental Protection Agency. The committee will consider this nomination early in 1978. Nominations approved by the committee and confirmed by the Senate were: Robert T. Hall, Assistant Secretary of Commerce for Economic Development; Douglas M. Costle, Administrator of the Environmental Protection Agency; Barbara Blum, Deputy Administrator of EPA; Charles H. Warren, member of the Council on Environmental Quality; Robert L. Herbst, Assistant Secretary of the Interior for Fish and Wildlife; James G. Speth, member of the Council on Environmental Quality; William M. Cox, Administrator of the Federal Highway Administration; Robert W. Scott, Federal co-chairman of the Appalachian Regional Commission; Thomas C. Jorling, Assistant Administrator of EPA; Claud Anderson, Federal co-chairman of the Coastal Plains Regional Commission; J. Joseph Grandmaison, Federal co-chairman of the New England Regional Commission; Patsy Ann Danner, Federal co-chairman of the Ozarks Regional Commission; William R. Bechtel, Federal co-chairman of the Upper Great Lakes Regional Commission; F. Kenneth Baskette, Jr., Federal co-chairman of the Four Corners Regional Commission; George D. McCarthy, Federal co-chairman of the Old West Regional Commission; Patrick J. Vaughan, Federal co-chairman of the Pacific Northwest Regional Commission; Cristobal P. Aldrete, Federal co-chairman of the Southwest Border Regional Commission; William Drayton, Jr., Assistant Administrator of EPA; Joseph Mallam Hendrie, member of the Nuclear Regulatory Commission; Peter Amory Bradford, member of the Nuclear Regulatory Commission; Simon David Freeman, member of the Board of Directors, Tennessee Valley Authority; Maj. Gen. Robert Creel Marshall, member and president of the Mississippi River Commission; Marvin B. Durning, Assistant Administrator of EPA; Brig. Gen. William Edgar Read, member of the Mississippi River Commission; Steven D. Jellinek, Assistant Administrator of EPA;

and Col. Donald Michael O'shei, member of the California Debris Commission.

Two nominations, those of Kent F. Hansen to be a member of the Nuclear Regulatory Commission and Marion Edey to be a member of the Council on Environmental Quality, did not receive favorable action by the committee.

Mr. President, I will now review in detail the activities of the subcommittees during 1977:

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

As a result of the reorganization of Senate committees, the Environmental Pollution Subcommittee, chaired by Senator EDMUND S. MUSKIE, was assigned new jurisdiction in the 95th Congress. The new jurisdiction covers safe drinking water and toxic substances legislation. As a result, the subcommittee is responsible for air pollution, water pollution—including oil pollution—drinking water, ocean dumping, Outer Continental Shelf protection, and toxic substances. Solid waste, noise pollution, and environmental research and development were transferred from the Environmental Pollution Subcommittee to a newly created Subcommittee on Resource Protection.

During 1977, the activities of the Subcommittee on Environmental Pollution were focused on amendments to the Clean Air Act and the Federal Water Pollution Control Act.

Although a conference agreement on clean air amendments was reached at the end of the 94th Congress, a filibuster prevented approval prior to adjournment.

The committee commenced activity on clean air amendments at the beginning of the 95th Congress. The bill passed by the Senate the previous year was reintroduced as S. 252, and became the working document for consideration of amendments.

Four days of hearings were held on the bill on February 9, 10, 11, and February 15—in Denver, Colo. Nine committee markups followed, and S. 252 was reported to the Senate on May 10, 1977. The Senate approved the bill on June 10, 1977. Ten conference sessions with the House Interstate and Foreign Commerce Committee resulted in a conference agreement which was approved by both the House and the Senate on August 4, and signed into law on August 7. The Clean Air Amendments of 1977 became Public Law 95–95.

Major provisions of the law deal with auto emission standards and deadlines, delayed compliance orders for industrial facilities, nondegradation, nonattainment, and new source performance standards.

The amendments give the auto manufacturers until 1981 to achieve final auto emission standards. This was one of the most difficult issues confronting the two Houses, and negotiations consumed a considerable amount of time. The most important aspect of the conference agreement on this issue is its finality with respect to the achievement of the ultimate standards required for public health, by a specified date.

Limited waivers are available. The 1981 carbon monoxide standard may be waived for any model line of vehicles in 1981 or 1982 if the Administrator of the Environmental Protection Agency finds that public health does not require the statutory standard in 1981, as well as other specific findings.

In addition, a single waiver of the 1981 standard for oxides of nitrogen is available for any 4-year period beginning in 1981. Candidates for the waiver are diesel engine vehicles and innovative technologies.

With respect to the approximately 1,400 of 23,000 major emitting facilities not in compliance with clean air requirements, Public Law 95–95 adopts an expeditious cleanup schedule.

A procedure is established allowing the issuance of administrative orders which extend compliance deadlines for a maximum of 3 years. A source wishing to comply by using innovative technology may be granted up to 5 years to achieve final compliance.

A noncompliance penalty is automatically triggered if compliance has not been achieved. The penalty will reflect the financial savings realized as a result of noncompliance with the law.

The law contains provisions to prevent the significant deterioration of air which is presently cleaner than existing ambient air quality standards. A three-class scheme was adopted. Specific increments of pollution which can be added in clean areas are specified in the statute.

The lands included in mandatory class I areas where little change can occur are national parks, international parks and wilderness areas. Procedural mechanisms are established for the reclassification of areas, and for the granting of a limited variance from the class I increments for sulfur dioxide.

The amendments also provide a mechanism by which development activity may take place in areas which still have not achieved the air quality standards.

Any such area must submit a revised implementation plan no later than January 1, 1979, which provides for achievement of national standards by July 1, 1982. In the case of automotive-related pollutants, the State plan may provide for a two-phase submission, the final submission coming due in January 1982. This revision must provide for cleanup no later than December 31, 1987.

This provision also allows the construction of new and modified stationary sources only in conformity with requirements of the revised State implementation plans.

With respect to new source performance standards, section 111 of existing law was clarified to reflect congressional intent. The requirement for best available control technology was more narrowly defined as the best technological system of continuous emission reduction. Where control technology to accomplish a substantial degree of pollution removal exists, no source may comply simply by burning untreated fuels. All new source performance standards must be revised to reflect this change within 1 year after enactment. However, in requiring a percentage removal standard, EPA is authorized to give credit for minemouth and other precombustion fuel treatment processes.

The Administrator of EPA is also given the flexibility to set a range of pollutant removal based on varying fuel characteristics.

The review of the Federal Water Pollution Control Act involved 15 days of hearings at which 159 scheduled witnesses and over 75 unscheduled witnesses appeared. These hearings included numerous field hearings.

In addition, a 3-day field investigation of wetland protection problems was conducted by committee staff.

To expedite consideration of legislation, all markup sessions to develop legislative amendments were conducted by the full committee. A total of seven markup sessions were held. The committee unanimously voted to report S. 1952. That bill was considered and passed by the Senate on August 4, 1977.

The House of Representatives also passed legislation (H.R. 3199) amending the Federal Water Pollution Control Act of 1972. House and Senate conferees began meeting on October 4 and conducted eight sessions. A conference report was filed on December 6. The conference report was approved by the House and Senate on December 15, 1977.

The following is a summary of the major provisions of the 1977 amendments dealing with water pollution.

The law provides authorizations for EPA's nonresearch operating programs for fiscal years 1978, 1979 and 1980. It allows some communities to continue to collect operation and maintenance costs for treatment works for nonindustrial users through an ad valorem tax system if that system results in proportionate distribution of costs. It continues to require proportionate user charges from industry while allowing administrative designation of certain small industries and commercial establishments to continue to use ad valorem taxes.

The new law authorizes $4.5 billion for fiscal year 1978, and $5 billion for each of fiscal year 1979, 1980, 1981, and 1982, plus an authorization for minimum allocation States. It authorizes reservation of up to 2 percent of a State's construction grant allotment, but no less than $400,000, for use by the State in administering any aspects of the construction grant program. States are given exclusive control over the priority of projects for Federal funding, so long as those priority lists reflect the enforceable requirements of the act.

The law requires the setting aside of 4 percent of construction grant funds allotted to a rural State—States with a rural population of 25 percent or more of the total population of the State—for use only for alternative or unconventional systems for communities of 3,500 or less.

The law revises the procedures for establishing and publishing a toxic pollutant standard and extends the period for compliance from 1 to up to 3 years.

An extension of the July 1977, requirements until July 1, 1983, is provided for municipal treatment works where construction cannot be completed or where Federal funds have not been made available. The law provides an extension for industries discharging into municipal systems where a permit was issued or there was an enforceable contract, or the tie-in was recognized in a grant application.

Two new enforcement options for violations of the 1977 best practicable technology requirement for industrial discharges are provided. The first option authorizes the issuance of an enforcement order requiring a "reasonable" time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules. The second option authorizes up to a 21-month extension of the 1977 deadline where the Administrator finds that the discharger acted in good faith; that a serious commitment to achieve compliance had been made; that compliance will occur no later than April 1, 1979; that the extension will not impose additional controls on other sources; that an application for a permit was filed before December 31, 1974; and that the necessary abatement facilities are under construction.

The law provides for a waiver from the secondary treatment requirement for any conventional pollutant in a discharge into marine waters from existing municipal sources if it can be shown that the modification will not interfere with protection of public water supplies and the attainment or maintenance of the national water quality standard, will not require additional controls on any other source, assures enforcement of all applicable pretreatment requirements, and assures that there will be no substantial increase in the volume of the discharge. Procedures for obtaining a waiver from secondary treatment and best available technology are provided. Also provided is a 2-year extension of the best available technology requirement for sources utilizing innovative technology.

The new law requires at a minimum best available technology by 1984 for all toxic pollutants listed in section 307(a). It establishes new requirements to be met by 1984 for conventional pollutants, based on a reasonable test. Best available technology need not be used to control nonconventional, nontoxic pollutants until 3 years after promulgation of guidelines, but not later than 1987, and a waiver is provided based on the national water quality standard.

This law amends section 311 to extend liability for cleanup under this section out to 200 miles; to raise the limits of liability for cleanup of oilspills from vessels to $150 per gross ton; to raise the limits of liability for cleanup of oilspills from onshore and offshore facilities to $50 million (can be administratively lowered); to authorize the use of contingency funds for protection against threatened discharges; to permit immediate recovery of cleanup costs from oil cargo vessels or oil storage or handling facilities in the event of third-party fault, reserving rights of subrogation; and to permit the recovery of costs expended by the Federal or a State government in restoring or replacing natural resources damaged by an oilspill.

The law amends section 402, national pollutant discharge elimination system, section 404, dredge and fill permit program, and section 208, areawide waste treatment management, to modify the existing program for controlling the disposal of dredged and fill material. The bill amends section 402 to provide a mechanism for approving permit programs of States designed to meet their particular needs. Section 404 of the act is amended to provide specific exemptions from any permit requirement for certain activities. This amendment also provides for the use of general permits as a mechanism for eliminating the administrative burdens and delays associated with this program.

A third provision amends section 208 (b)(4) to provide that the placement of fill material associated with activities which a State chooses to regulate by requiring best management practices under this section, is also exempt from any permit requirement under section 404 or 402.

A fourth provision exempts Federal projects specifically authorized by Congress for which a final environmental impact statement was prepared and submitted prior to authorization and appropriation, if the effects of the discharge of dredged and fill material were included, and a judgment of environmental impact similar to that required in section 404 was made.

On November 16, the President signed Public Law 95–190, the Safe Drinking Water Act Amendments of 1977. The Senate had previously passed S. 1528, which was later amended by the House. Those amendments were returned to the Senate, approved, and sent to the President on November 1, thereby avoiding the necessity of a conference committee.

The principal purpose of these amendments was to extend and increase authorizations under the Safe Drinking Water Act. This measure also contained technical and clarifying amendments to the Clean Air Act Amendments of 1977 which had become law on August 7.

In the fall of 1977, committee began staff review of the Toxic Substances Control Act and implementation of that law. Meetings were held with environmental groups, industry, technical experts, and Federal agency personnel. The staff review will continue into the 2d session of the 95th Congress.

In the fall of 1977, the Senate passed S. 1531, a bill amending the Toxic Substances Control Act in a limited number of ways. The legislation was principally within the jurisdiction of the Environment and Public Works Committee, and was held on the Senate Calendar after being reported as an original bill by the Commerce, Science and Transportation Committee. After agreement was reached as to the content of S. 1531, modifications were adopted on the floor and the Senate subsequently passed the bill.

SUBCOMMITTEE ON WATER RESOURCES

During the first session of the 95th Congress, the Subcommittee on Water Resources, chaired by Senator MIKE GRAVEL, held 15 days of hearings on legislation and water-related issues, and conducted three markup sessions. Three full committee meetings also were devoted to these subjects.

This subcommittee has responsibility for the civil works program of the U.S. Army Corps of Engineers and certain Soil Conservation Service projects of the U.S. Department of Agriculture. The corps program includes the study, construction, operation, and maintenance of projects for improvements of the Nation's waters in the interests of navigation, flood control, municipal and industrial water supply, beach and streambank erosion control, hydroelectric power and recreation. The Soil Conservation Service program provides for Federal assistance in the installation of small upstream dams and other flood and soil erosion prevention works in small watershed areas. It also provides for the installation of measures for irrigation, drainage, municipal and industrial water supply, recreation, and fish and wildlife development.

Pursuant to the reorganization of Senate committees, the jurisdiction of the Water Resources Subcommittee has expanded to include water resources research, an area previously handled by the former Committee on Interior and Insular Affairs (now the Committee on Energy and Natural Resources).

The subcommittee focused considerable attention during the year on the continuation of consideration of the replacement of locks and dam 26 on the Mississippi River and waterway user charges. Extensive hearings were held on these items in 1976, and language was incorporated into the Water Resource Development legislation of that year which authorized both the replacement of locks and dam 26 and initiation of waterway user charges. That language was deleted from the bill in the Senate during debate on the measure.

Additional hearings were held by the subcommittee on these issues on April 1, 19, 20, and May 2, 1977. A subcommittee meeting was held on May 3, and on May 5, 1977, the full committee ordered reported S. 790, the Inland Navigation Improvement Act of 1977. This measure contained an authorization for replacement of locks and dam 26 with a new dam and a single 1,200-foot lock, with contingencies for a second lock, at an estimated cost of $421 million. S. 790 also established, for the first time in the Nation's history, a system of user charges to be paid by the commercial cargo vessels using federally built and maintained shallow-draft inland waterways. The schedule of charges authorized, to be implemented in phases over a 10-year period beginning October 1, 1979, would eventually recover 100 percent of waterway operation and maintenance, and 50 percent of new construction costs, based on appropriations in the preceding fiscal year.

A joint report on S. 790 was issued by the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation on May 16, 1977 (S. Rept. 95–215).

On the same day, the Committee on Environment and Public Works reported S. 1529, the Water Resources Development Act of 1977 (S. Rept. 95-191). Water Resources Subcommittee hearings had been held on items for possible inclusion in this bill on April 25 and 26, subcommittee markup sessions on April 28 and 29, and full committee markup considerations on May 5, 10 and 12. Title I of S. 1529 contained either phase I or construction authorizations for 15 projects developed by the Corps of Engineers, modifications to several previously authorized projects and general legislative items. Title II authorized increased monetary authorizations for 11 river basins to cover anticipated funding requirements for fiscal year 1978. The total estimated Federal cost of the bill was $740 million.

S. 1529 was considered on the floor of the Senate on June 22, 1977. In the course of that consideration, an amendment was accepted (by a rollcall vote of 71 to 20) to include in the omnibus measure authorization of locks and dam 26 and a waterway user charge basically as presented in S. 790. Twenty other amendments on other water resources matters were also adopted, and the entire bill was approved by a vote of 81 to 9.

Immediately following passage of S. 1529, the Senate took up a House-passed river basin bill (H.R. 5885), struck all after the enacting clause, and substituted the text of S. 1529. H.R. 5885 was then sent back to the House. The bill was held at the Speaker's desk and has not been acted upon.

On July 28, 1977, The House Committee on Public Works and Transportation and the Committee on Ways and Means jointly reported H.R. 8309, the Navigation Development Act. Title I of this bill authorized replacement of locks and dam 26 in a manner almost identical to that passed by the Senate. Title II, developed by the Ways and Means Committee, imposed a tax on fuel used in commercial transportation on inland waterways, at a rate starting at 4 cents per gallon in fiscal year 1980 and moving to 6 cents per gallon in fiscal year 1982. Title III authorized a 3-year study of types and levels of waterway user charges.

H.R. 8309 was passed by the House on October 13, 1977. The measure was placed on the Senate Calendar on October 18. The Senate did not consider H.R. 8309 during the remainder of the first session of the 95th Congress. Action on this measure is expected early in 1978.

Prior to 1977, the Water Resources Subcommittee had jurisdiction only over the civil works program of the Army Corps of Engineers and certain watershed projects of the Soil Conservation Service. With the Senate Committee reorganization in the opening days of the 95th Congress, its jurisdiction was expanded to include water resources policy.

This is a nondefinitive Federal effort fragmented among many agencies, and not a specific program. Its fragmentation is reflected at the State and local level, and at the regional level as well.

The subcommittee held a series of hearings early in 1977 to assess the existing policies and problems with respect to water resources in an effort to determine future actions. Hearings began on March 31 in Washington, and continued on April 6 in San Francisco, Calif.; April 7 in Denver, Colo.; April 11 in Albuquerque and April 12 in Roswell, N. Mex.; April 14 in Boise, Idaho and ended on April 18 in Washington, D.C.

Testimony was received from a broad spectrum of Federal, State, and local officials and from environmental groups and representatives of various water user constituencies. The hearings form a basis on which to take action in the future on water resources policy.

In the course of the water policy hearings, it became evident that current Federal water research efforts are underfunded and ineffective. In an effort to remedy this situation, the committee reported S. 846 on May 16, 1977. This bill, the Water Resources Research and Technology Development Act of 1977, reestablished the Water Resources Research Act (Public Law 88-379) and the Saline Water Conversion Act of 1971, and also authorized a demonstration program for the development of saline aquifers. The bill was passed by the Senate on May 25, and the text was substituted for the text of a similar House-passed bill, H.R. 4746, on the same day.

The House disagreed to the Senate amendment to H.R. 4746 and a conference was held on June 29. The conference agreement authorized fiscal year 1978 appropriations for saline water conversion research and development. The desalination demonstration program from the Senate bill was included. The measure was signed on August 2, 1977, and became Public Law 95-84.

The subcommittee expects to conduct oversight hearings on these programs in the next session of Congress.

The new subcommittee jurisdiction included a transfer of authority over the Water Resources Council from the Committee on Energy and Natural Resources to the Committee on Environment and Public Works. That transfer of jurisdiction was complete with the exception of one item of legislation still under consideration by the Energy Committee. This bill, S. 186, contains a reconstitution of the Council. When reported by the Energy and Natural Resources Committee, it will be rereferred to the Committee on Environment and Public Works.

Existing authorization for the Water Resources Council was scheduled to expire at the end of fiscal year 1977. Since S. 186 had not been acted upon by the Energy and Natural Resources Committee, this committee decided to authorize specific amounts for Council activities through fiscal year 1978 only. This action thus gave the Energy Committee time to complete consideration of S. 186, and will enable this committee to consider suggested revisions of the Council and its activities prior to next year's budget cycle.

Legislation, which became Public Law 95-41, authorized a total of $11,905,000 for Water Resources Council activities for fiscal year 1978 only.

The committee acted to increase river basin monetary authorizations three times in 1977. On March 25 the administration suggested legislation to the Congress requesting increased monetary authorizations for 14 river basins through fiscal years 1978 and 1979, at a total figure of $824 million. As a result of the President's cutbacks and modifications announced in April, that request was subsequently modified to $802 million.

Hearings were held on the administration request on April 25. The committee subsequently determined to approve continued monetary authorizations for 1 year only, through fiscal year 1978. Accordingly, title II of S. 1529, the Water Resources Development Act of 1977, authorized a total of $443 million for activities in 11 river basins. That measure was passed by the Senate on June 22, but was subsequently delayed in the House as discussed above.

The situation in the Brazos and San Joaquin River basins reached an emergency stage in August. Legislation was needed to permit contractors to proceed with ongoing work. Senator **Bentsen** introduced an original bill, S. 2001, authorizing $13,500,000 for these two basins. The Senate passed the measure on August 3 and it was signed by the President on August 15, becoming Public Law 95-104. It was anticipated at that time that omnibus legislation would be enacted by the end of the year that would fund all the other basins for another fiscal year.

When it became apparent that the omnibus water resources legislation would not be enacted this year, the committee acted again to approve interim funding for nine river basins through March 31, 1978. S. 2281, authorizing $215 million for these basins, was passed by the Senate on November 3, and was signed into law on November 16 (Public Law 95-189).

The subcommittee has jurisdiction over certain projects of the Soil Conservation Service under the small watershed (Public Law 566) program. These projects are approved by committee resolutions of both the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

Based on hearings held prior to the beginning of the 95th Congress, the committee approved the Little River Watershed project, Iowa on March 7, 1977.

The subcommittee held hearings on 20 other watershed projects on June 8 and 9, 1977. Due to the press of other legislative activities, committee disposition of these projects was put over until next year.

Section 12 of the Water Resources Development Act of 1974 (Public Law 93-251), as amended, directed the Corps of Engineers to forward to the Congress on an annual basis a list of authorized projects which had not received funding in at least 8 years and which the Chief of Engineers determined should no longer be authorized. Projects on this list would automatically be deauthorized at the end of 90 days of continuous session of Congress, unless either the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House adopted a resolution stating that selected projects should not be deauthorized.

Under this procedure, 275 Corps of Engineers projects were deauthorized on August 5, 1977, and 41 additional projects were deauthorized on November 6.

SUBCOMMITTEE ON TRANSPORTATION

During the first session of the 95th Congress, the Transportation Subcommittee, under the chairmanship of Senator LLOYD M. BENTSEN, held 7 days of hearings on various transportation issues in preparation for developing a 1978 highway bill, in addition to its other activities.

At a hearing on March 9, 1977, the subcommittee considered the budget recommendations of the Department of Transportation for the fiscal 1978 Federal-aid highway program. The budget, which was transmitted to Congress by the outgoing administration, proposed an obligation limitation of $6.5 billion on Federal-aid highway programs for fiscal 1978. In its amendments to the budget, the new administration recommended an obligation ceiling of $7.2 billion for regular highway activities and continued exemption from the ceiling of three categories: Urban high density, special bridge replacement, and emergency relief. In total, these funds represent a potential program level of $7.5 billion as compared with obligation ceiling of $7.6 billion for the fiscal 1977 Federal-aid highway program.

The administration also proposed an increase for the off-system rail-highway crossing program from $25 million to $75 million.

The subcommittee recommended that the Budget Committee accept the Department of Transportation's proposed budget as part of the first concurrent resolution of fiscal 1978.

On May 21, 1977, the subcommittee conducted a hearing in Ankeny, Iowa, to discuss S. 394, the Bridge Replacement and Rehabilitation Act of 1977. Introduced by Senators CULVER, RANDOLPH, CLARK, and CHURCH, the legislation was proposed in response to the growing national bridge problem. The Federal Highway Administration estimates that over 100,000 deficient bridges exist across the country requiring $23 billion for replacement. To address this situation, the bill increases the annual authorization of the special bridge replacement program from $180 million to $600 million and raises the Federal share for two-thirds of the increase from 75 percent to 90 percent.

In addition, the legislation permits the use of such funds for rehabilitation as well as replacement of physically inadequate bridges. Finally, S. 394 specifies that not less than 15 percent of bridge renovation funds allocated to each State may be used for work on structures which are under the sole jurisdiction of county government.

The bill is pending in the subcommittee and will be considered as part of the comprehensive Federal-Aid Highway Act of 1978.

"Financial Alternatives for Accelerated Interstate Highway System Completion," a study prepared by the Department of Transportation in accordance with the Federal-Aid Highway Act of 1976, was the subject of a hearing on July 26, 1977. The 42,500-mile Interstate System is over 90 percent complete, however, 36 percent of the system remains to be financed. The total cost of the system, originally calculated in 1956 to be $40 billion, has more than doubled. It is now estimated at over $100 billion. Originally scheduled for completion in 1972, at the present rate of financing, eight States will require at least 15 years to complete their designated interstate mileage.

There are States which are ready to construct major interstate segments but are without the funding authority to do so. The administration's study analyses several options for accelerated financing, including higher interstate authorizations, a revolving fund, loan of authority from slow to fast-spending States, and optional bonding.

The subcommittee will evaluate the administration's recommendations during consideration of the 1978 highway bill.

On October 5, 1977, the Executive Director of the Congressional Budget Office and representatives of the American Public Transit Association appeared before the subcommittee. The topic of discussion was "Urban Transportation and Energy," a study conducted by the Budget Office at the request of Senator BENTSEN, which evaluates the energy efficiency of various forms of urban transportation.

Because transportation annually consumes 60 percent of the Nation's petroleum and 25 percent of its total energy supply, it is vital to understand the energy savings associated with alternative modes when setting transportation policy. In its study, the CBO considered propulsion—that is, fuel required to operate vehicles per passenger miles—and nonpropulsion—station construction and maintenance, access energy, circuity—energy requirements of various transportation modes. The study concludes that when all of these energy drains are taken into account, highway-related forms of public transportation—vanpools, carpools, buses—make the greatest contribution to energy savings on a per-mile basis. The Budget Office went on to state that although rapid rail ranks among the most energy efficient of all modes in terms of operating energy per passenger-mile, when construction and access energy are computed, new rail systems are actually among the least energy efficient of public transit modes.

The final 3 days of the subcommittee centered around future options for the highway and transportation programs as developed by the Department of Transportation. At the hearings, the Secretary of Transportation, followed by representatives of State and local government and interest groups, discussed elements of the administration's "option paper." In its report, DOT outlined several possible approaches to Federal highway and public transportation programs. Where corresponding Federal Highway Administration and Urban Mass Transit Administration programs exist, the alternatives ranged from standardization of requirements while maintaining separate highway and transit programs to total integration of the two. For the highway program, the options generally encompassed increased funding for existing programs and elimination and consolidation of various program categories.

The testimony from these hearings and hearings planned for early 1978 will be carefully analyzed and evaluated as the Transportation Subcommittee and the full committee prepare a new Federal-aid highway bill for passage in 1978.

SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT

The Subcommittee on Regional and Community Development, chaired by Senator QUENTIN N. BURDICK, is responsible for legislation and oversight of Federal economic development programs, disaster relief and the Tennessee Valley Authority. During the first session it also had jurisdiction over public buildings and grounds.

ECONOMIC DEVELOPMENT

The Public Works and Economic Development Act of 1965 was extended by the Congress during 1976 through September 30, 1979. The programs of the Economic Development Administration and the regional action planning commissions are authorized by this legislation. The programs of the Appalachian Regional Development Act of 1965 were extended during 1975 for the period ending September 30, 1979. Legislation in these two areas, therefore, was not required during the first session of the 95th Congress.

The principal legislative activity of the subcommittee during 1977 was the $4 billion Public Works Employment Act of 1977 (S. 427), a modified version of the $2 billion 1976 Public Works Employment Act—sometimes called the Local Public Works Act.

The 1977 legislation was introduced by Senator RANDOLPH (chairman of the Committee on Environment and Public Works) and Senator BURDICK on January 28, 1977. Additional cosponsors were Senators CULVER, DECONCINI, GRAVEL, HART, HEINZ, HUMPHREY, KENNEDY, STAFFORD, and RIEGLE. Three days of hearings on the bill in February focussed largely on the administration of the 1976 act and deficiencies in that law. The 1976 act was designed to create job opportunities targeted to high unemployment areas through the construction of local facilities such as municipal buildings, schools, and related facilities. It was designed to insure quick initiation of public works construction projects.

The 1976 law was the first full-scale public works countercyclical program enacted by Congress since the Accelerated Public Works Act of 1962. The 1977 extension of the program eliminated the 70/30 distribution of funds within each State in favor of a substate distribution based on unemployment distress. The authorization of $4 billion was subsequently appropriated and the funds were obligated on more than 8,500 projects by September 30, 1977.

Mark-up sessions on S. 427 of the full committee occurred over 4 days. The bill was reported to the Senate on March 4 (S. Rept. 95–38). Included as title II of the bill were the provisions of S. 306, a bill to authorize a program for employment of teenaged youth in community improvement projects, introduced in January by Senators STAFFORD, RANDOLPH, BAKER, DOMENICI, GRAVEL, HART, HEINZ, and MCCLURE. (This title was later detached from the bill and subsequently was largely incorporated as title II into the Youth Employment and Demonstration Projects Act of 1977 (P.L. 95–93)).

The public works employment measure was debated and passed in the Senate on March 10 by 74 to 11. Significant amendments to the committee bill included a minimum of $30 million or three-fourths of 1 percent of the total allocation to each State, special consideration to energy conservation projects and projects accessible to the handicapped, a requirement that 10 percent of project costs be allocated to minority business enterprises, provision for preference hiring of Vietnam veterans, and a study of the impact of public works. A separate title was an amendment by Senator JOHNSTON having the effect of negating prospective action of the executive branch with respect to discontinued funding for certain water projects.

Meetings of the conference committee occurred on 6 days between April 6 and April 26. The Senate agreed to the conference report by 71 to 14 on April 29, the House agreed on May 3 by a vote of 335 to 77. The bill (H.R. 11) became Public Law 95–28 on May 13, 1977.

Senator GARY HART, a member of the committee, introduced S. 1493, the Inland Energy Development Impact Assistance Act on May 11, 1977. The bill provides for a comprehensive program of technical and financial assistance to States, local governments, and Indian tribes to manage and control the adverse effect of energy development activities.

Hearings were held by the subcommittee on August 2 with testimony from two Governors, five mayors of impacted communities, and county and regional planning officials. A second day of hearings was held in Albuquerque, N. Mex., on August 27. Further hearings were postponed pending completion of the administration's proposals for energy impact assistance which are expected early in the 1978 session.

The full committee under the chairmanship of Senator RANDOLPH held an oversight hearing on progress and planning for the White House Conference to be held on January 29 to February 2, 1978. The conference was authorized in title II of the 1976 extension of the Public Works and Economic Development Act as a committee amendment to the legislation. Reviewed with Secretary of Commerce Juanita Kreps and Conference Director Dr. Michael Koleda were the method of determining delegates, the agenda, planned preliminary conferences at State and regional levels, the composition of the advisory committee, and the expectations of the members of the Committee on Environment and Public Works.

On August 2, 1977, the Senators from Ohio and Alabama proposed an amendment to the Appalachian Regional Development Act to extend the 5-year limitation on authorized child development demonstration projects an additional 2 years. Of concern was the expected termination of such projects in a number of Appalachian States because of local inability to secure sufficient funds from other sources than the Appalachian Regional Commission to continue operations. A version of the bill (H.R. 8777) was acted upon in the House on November 1 and passed the Seante on November 3. It became Public Law 95–193 on November 18. The new law permitted a 2-year extension of such projects and directed the Appalachian Regional Commission and the Department of Health, Education and Welfare to study the feasibility of alternate funding sources and make recommendations to Congress on their findings.

DISASTER RELIEF

The subcommittee held oversight hearings on the implementation of the Disaster Relief Act of 1974. In reviewing the Federal response to natural disasters under the auspices of this act, the committee found that its goal of reacting disasters in a uniform and comprehensive way was being met by the Federal Disaster Assistance Administration. This subcommittee, in recommending an extenson of the act, found that permanent legislation has enabled the Federal Government to more effectively deal with natural disaster phenomena and function effectively in its supplemental role to States and local governments in mitigating disaster impact.

The subcommittee, with the concurrence of the full committee, recommended amending section 606 of the act to provide an open-ended authorization for the disaster program. At the insistence of the House of Representatives, however, the extended authorization was limited to 3 years. This legislation became Public Law 95–51 on June 20.

In addition to holding hearings concerning the reauthorization, the subcommittee held 2 days of hearings to consider other substantive amendments to the act. The subcommittee decided to postpone action on these proposals.

A review of Federal action under the auspices of the Federal Disaster Relief Act in 1977 will give some indication of the breadth of this program. Through November 1977, 21 major disasters were declared by President Carter, and $358.-445 million was spent from the President's disaster fund which is administered by the Federal Disaster Assistance Administration (FDAA) to aid victims of natural disasters. During these major disasters, over 104,000 individuals received assistance at the disaster assistance center registration offices. Over 20,000 individuals were recipients of temporary housing assistance under the act.

Thirty-four emergencies were declared by the President. This entailed the expenditure of an additional $21.8 million from the President's disaster fund. In addition, the Federal Disaster Assistance Administration made five fire suppression grants totaling $831,000.

On March 23, 1977, the President transmitted a message to Congress requesting legislative authority to deal effectively with the results of severe drought in the western and plains States. Through loans and cost-sharing programs, the Federal Government had begun to address the needs of those in the drought areas; however, it was clear that supplementary programs were necessary. The Committee on Environment and Public Works had legislative jurisdiction over only the portion of the President's plan which was administered by the Economic Development Administration. The resulting act, Public Law 95–31, provided a temporary program of loans and grants to cities and counties of more than 10,000 population, States, Indian tribes, and nonprofit organizations including water districts. The basic goals of the act were augmenting community water supplies, providing aids for the purchase and transportation of water, a well as promoting water conservation.

The act authorized $225 million for the EDA portion of the drought program. A total of $175 million was appropriated for this purpose, of which $109 million was used for loans and $66 million for grants.

Two hundred sixty-eight projects were approved under this program. Applicants include communities in 28 States and Puerto Rico as well as 145 counties. Eighty-four percent of the project funds were invested in water system components, including new construction and repairs. Ten percent of the funds were spent for the purchase and transportation of water, with the remainder for water conservation and fire protection programs.

BUILDINGS AND GROUNDS

In February 1977 the former Buildings and Grounds Subcommittee became part of the new Regional and Community Development Subcommittee. As such, the unit is responsible for activities pertaining to Federal agency space needs and related legislation. This involves monitoring and oversight of the Public Buildings Service of the General Services Administration, whose function is to provide required space through construction, purchase, or leasing as appropriate, and exercise maintenance responsibilities. Such transactions have governed by numerous public laws, executive orders, and Federal regulations, which become increasingly complex each year due to changing construction and management techniques, environmental and energy conservation requirements, inflation, budgetary restraints, and other developments.

During 1977 an effort was directed toward implementation of improved review and expediting procedures for building prospectuses. As a result, formats are being revised to reflect more detailed substantiating data for guidance of Members during their analysis of projects. Particular attention has been focused upon major policy considerations during this period, including fire prevention, aids for the handicapped, environmental factors, energy conservation, leasing versus Federal construction, cooperative building use permitting occupancy by commercial and non-Government tenants, and art implementation.

Among legislative activities during 1977 was the development of a bill (S. 521), that authorized funds to repair architectural and structural defects at the John F. Kennedy Center in Washington, D.C., which became Public Law 95-50 on June 20, 1977.

S. 385, designating a Federal building in Grand Rapids, Mich., as the Gerald R. Ford Building, became Public Law 95-25 on May 4, 1977. A similar bill, S. 2169, designating the new Department of Health, Education, and Welfare building in Washington as the Hubert H. Humphrey Building, became Public Law 95-141 on October 23. H.R. 8992, changing the designation of the Executive Protective Service to U.S. Secret Service, Uniformed Division, became Public Law 95-179 on November 15, 1977.

Pending at the time of recess was S. 492, a bill that would convert the National Visitor Center in Washington to primary use as a transportation center. S. 672, S. 800, and S. 823 are also pending, which would insure that buildings financed with Federal funds utilize the best practicable measures for conservation of energy, implementing innovative technology in design, construction, repairs, maintenance, and operation, including retrofitting with solar devices, and initiating demonstration programs. Others are S. 847, that would assure more thorough analysis in the selection of building sites, S. 1972 that would encourage more intensive use of public transportation by Federal employees, S. 2308 that would implement revised financing techniques to accelerate the retirement of obligations outstanding against the Kennedy Center in Washington, through establishment of a Performing Arts Fund, and H.R. 8993 that would designate a facility in Beltsville, Md., the James J. Rowley Secret Service Training Center.

A committee resolution on May 12, 1977, directed the General Services Administration to conduct a survey and determine space requirements of the Nuclear Regulatory Commission in the Washington area. Building project surveys initiated by others were also conducted to determine the need for new Federal buildings in Waynesboro, Ga.; Jefferson City, Mo.; Altoona, Pa.; Chattanooga, Tenn.; Texarkana, Tex.; and Rock Springs, Wyo.

During 1977, eight subcommittee meetings were held to discuss proposed legislation and other matters. In addition, formal conferences were conducted with officials of General Services Administration, General Accounting Office, Departments of Defense and Interior, Nuclear Regulatory Commission, and others.

A public hearing was held January 24, 1977, on the need for improved architectural design of public buildings. Additional hearings on building prospectuses were conducted February 7, June 7, June 24, September 20, and October 17, respectively, and on March 2 pertaining to GSA's annual budget.

During 1977 three new construction projects were approved totaling $51,043,000. Forty-two repair and alterations projects totaling $218,040,345 were also approved, as were 10 lease proposals totaling $13,158,460 for the first year's payment only. Pending at the time of recess were three new construction projects estimated at $222,487,000 and three repair and alterations projects totaling $13,005,460. Three lease proposals were also pending that total $7,623,300 annually.

Following is a summary of projects approved during the year:

New Construction

Cal., San Jose—C.H. & Fed. Ofc. Bldg.	$34, 130, 000
Mass., Springfield—C.H. & FOB	14, 783, 000
Me., Ft. Kent—Border Station	2, 130, 000
	51, 043, 000

Repairs and Alterations

Alaska, Juneau—C.H., FOB, & P.O.	2, 609, 000
Alaska, Ketchikan—Fed. Ofc. Bldg.	1, 355, 000
Ariz., Phoenix—C.H. & FOB	1, 303, 000
Cal., Menlo Park—U.S.G.S. Bldg. No. 2	1, 610, 900
Cal., Sacramento—C.H. & FOB	1, 592, 000
Cal., San Bruno—Records Center	5, 013, 000
Cal., San Francisco—C.H. & P.O.	1, 990, 000
Cal., San Francisco—Customhouse	1, 036, 000
Conn., Hartford—C.H., FOB, & P.O.	1, 450, 000
D.C.—Agr. Building (South)	13, 200, 000
D.C.—Auditors Bldg. Complex	12, 050, 000
D.C.—Old Post Office	18, 011, 000
D.C.—Federal Bldg. No. 6	1, 340, 000
D.C.—HEW (North)	9, 078, 000
D.C.—Lafayette Building	2, 461, 000
D.C.—Mary Switzer Bldg. (HEW)	7, 574,000
Fla., Tallahassee—U.S.P.O. & C.H.	978, 000
Ind.,—S. Bend—C.H. & FOB	2, 722, 300
Mass., Boston—U.S. Appraisers Stores	4, 010, 000
Mich., Detroit—Border Station	2, 559, 000
Mo., St. Louis—U.S. Customhouse	14, 970, 500
Mo., Independence—Truman Library	2, 667, 100
Mo. Kansas City—2306 Bann. FOB	1, 669, 000
Mo., Kansas City—1500 Bann. FOB	4, 976, 300
Mo., Kansas City—911 Walnut FOB	645, 000
Mo., St. Louis—No. 103 Goodfellow	7, 772, 045
Mo., St. Louis—No. 105 Goodfellow	9, 313, 000
N.J., Camden—C.H. & FOB	3, 520, 000
N.J., Newark—Fed. Ofc. Bldg.	2, 340, 000
N.J., Trenton—C.H. & P.O.	1, 242, 000
N.Y., Manhattan—C.H. (Foley Sq.)	5, 333, 000
N.Y., Manhattan—Varick FOB	23, 150, 000
Ohio, Shelby—GSA Stores Depot	766, 600
Ore., Portland—Court House	1, 648, 000
Penna., Phila.—Fed. Ofc. Bldg.	2, 198, 000
R.I., Providence—C.H. & FOB	1, 665, 000
Va., Arlington—Pentagon	21, 288, 900
Va., Arlington—Htg. & Refrig. Plant	3, 700, 000
Va., Franconia—GSA Stores Depot	6, 141, 000
Va., McLean—CIA Headquarters	6, 317, 700
Wash., Seattle—Fed. Ctr., South	2, 887, 000
W. Va., Wheeling—C.H. & FOB	1, 888, 800
	218, 040, 345

Lease	P/A	Full term
Alaska, Anch.—Hill Bldg., 3 yr	$958,700	$2,876,100
D.C.—Penn 17 Bldg., 5 yr	970,000	4,850,000
D.C.—1441 L St., NW., 10 yr	993,800	9,938,000
D.C.—2000 M St., NW., 5 yr	1,552,000	7,760,000
D.C.—2025 M St., NW., 6.5 yr	1,158,859	7,532,584
D.C.—1919 M St., NW., 10 yr	2,023,410	20,234,100
D.C.—Thomas Circle, So., 10 yr	892,679	8,926,790
Ga., Atlanta—Peachtree, 10 yr	2,149,000	21,493,150
Md., Balto.—707 N. Calvert, 2.5 yr	867,593	2,168,983
Va., Arl.—Pomponio Pl., 5 yr	1,592,419	7,962,095
Total	13,158,460	93,741,802

SUBCOMMITTEE ON RESOURCE PROTECTION

The Subcommittee on Resource Protection, chaired by Senator JOHN C. CULVER, was created in early 1977 following reorganization of the committee structure which expanded the jurisdiction of the Committee on Environment and Public Works. During the first session of the 95th Congress, the subcommittee focused its attention primarily on fish and wildlife issues and environmental research and development. The jurisdiction over fish and wildlife was new to the committee following Senate reorganization, and it promises to be a major center of activity for the subcommittee.

Legislative hearings were held on several bills dealing with fish and wildlife. The subcommittee received testimony on S. 1237, a bill to extend funding through fiscal year 1980 for the San Francisco Bay National Wildlife Refuge in California, the Great Dismal Swamp National Wildlife Refuge in Virginia, and the Tinicum National Environmental Center in Pennsylvania. Witnesses included representatives of the Departments of the Interior and Commerce, as well as a spokesman for the International Association of State fish and wildlife agencies. Based on recommendations from the subcommittee, the full committee amended the bill and ordered it to be reported. The Senate agreed with the House on H.R. 2817, a bill to provide for a 3-year authorization and authority for certain boundary modifications for the Tinicum National Environmental Center. That bill became Public Law 95-152 on November 4, 1977. Authorization for the San Francisco Bay and Great Dismal Swamp Refuges is pending before the House.

Hearings were also held by the subcommittee on S. 1316, a bill to authorize funds for State cooperative programs under section 6 of the Endangered Species Act of 1973. The full committee agreed to subcommittee amendments authorizing a total of $9 million to the Department of Interior and $3 million to the Department of Commerce through fiscal year 1980 for assisting States which have developed programs for endangered species. In conference with the House, the Senate agreed to a 4-year authorization for this section 6 program and accepted a House amendment that provides the necessary flexibility by the State in meeting the procedural requirements of this cooperative program. The bill became Public Law 95–212 on December 19.

In July, the subcommittee conducted 4 days of oversight hearings on the Endangered Species Act of 1973, receiving testimony from representatives of the Department of the Interior, the General Accounting Office, State agencies, citizens' groups, and private individuals. In addition to general concerns about the administration of the act, a major aspect of this review dealt with the impact of the Endangered Species Act on the Tellico Dam project in Tennessee. The subcommittee is now reviewing the hearing record to determine whether administrative or substantive changes in the law are warranted.

Though final action was not completed on S. 1140, the subcommittee conducted a hearing on this legislation which encourages and assists States to develop improved programs for the conservation of nongame species, of native fish, and wildlife. It is expected that the committee will consider this bill early in the second session.

In preparation for reauthorization of the Sikes Act in 1978, the subcommittee held an oversight hearing in November. The act authorizes the Departments of Defense, the Interior, and Agriculture to work with individual States to establish programs which enhance public resources and protect endangered species on Federal lands. The hearing focused on the strengths and deficiencies of programs established under the Sikes Act, and will provide the basis for committee action early in the second session.

In May, the subcommittee considered S. 1417 which reauthorized the environmental research and development program conducted by the Office of Research and Development of the Environmental Protection Agency and earmarked specific funding for long-term research. Several witnesses from EPA were heard, along with Dr. John Neuhold of Utah State University, who chaired a National Academy of Sciences study committee on EPA research. The testimony contained several recommendations of improvements in the EPA research program, including the need for greater research to anticipate emerging environmental problems. After being amended by the full committee, the bill passed the Senate and, after conference with the House, was signed into law as Public Law 95–155 on November 8, 1977. The act provides $253,603,000 for environmental research. Together with funds authorized in other legislation this makes available a total of approximately $460 million for EPA research.

The Resource Protection Subcommittee is also responsible for legislation dealing with noise pollution. Subcommittee staff prepared legislation reflecting the administration's request for a 1-year reauthorization for the Noise Control Act of 1972. Following markup by the full committee, the bill (S. 1511), was reported to the Senate, which passed it on May 18, 1977. Action is now pending in the House. The subcommittee expects to conduct extensive hearings and take more comprehensive action on amendments to the Noise Control Act early in the second session.

SUBCOMMITTEE ON NUCLEAR REGULATION

The Subcommittee on Nuclear Regulation, chaired by Senator GARY HART, was formed in 1977 as a result of Senate Resolution 4, which gave to the Committee on Environment and Public Works a new jurisdiction: nonmilitary environmental regulation and control of nuclear energy, a jurisdiction which formerly had rested in the Joint Committee on Atomic Energy.

The first action under this new jurisdiction was a full committee hearing on March 10, 1977, on the fiscal year 1978 budget for the Nuclear Regulatory Commission. Witnesses included the Chairman of the NRC and numerous members of the NRC staff. As a result of that hearing, the subcommittee contributed the NRC section to the report of the Budget Committee on March 15, 1977.

In preparation for action on the authorization for the Nuclear Regulatory Commission for fiscal year 1978, the subcommittee held 4 days of hearings in March and April. Witnesses included the Executive Director for Operations and the Directors of each of the major offices within the Commission: Nuclear Regulatory Research, Nuclear Material Safety and Safeguards, Nuclear Reactor Regulation, Inspection and Enforcement, and the Office of General Counsel. In addition, representatives of public interest groups testified. On the basis of these hearings, the subcommittee held 2 days of markups and the full committee held 1 day of markups on the authorization bill (S. 1131). It was reported on May 16, 1977, and passed by the Senate on May 25, 1977. The conference report on this bill was passed by the House on November 3 and the Senate on November 29 and signed into law (Public Law 95–209) on December 14.

On July 11, 1977, the subcommittee held oversight hearings on environmental and safety aspects of the Clinch River breeder reactor. This hearing was held at the time of Senate consideration of the ERDA authorization bill for fiscal year 1978 which contained authorization for the Clinch River plant. The subcommittee heard testimony from the Executive Director for Operations of the NRC; the Director of the Division of Reactor Development at ERDA; the vice president of Burns & Roe, the architect-engineers for the project; and witnesses from public interest groups.

When the committee assumed jurisdiction over the Nuclear Regulatory Commission there were two vacancies on the Commission, which increased to three with the expiration of the term of Chairman Marcus Rowden on June 30, 1977. The committee conducted 2 days of hearings, July 18 and 25, and heard testimony from nominees Joseph Hendrie, Kent Hansen, and Peter Bradford, as well as from representatives of public interest groups. On August 2, 1977, the Committee on Environment and Public Works recommended confirmation of Joseph Hendrie and Peter Bradford. An additional hearing on the nomination of Kent Hansen was held on October 6, with Dr. Hansen as the only witness. On October 17, the committee voted not to report Dr. Hansen's nomination favorably. The Senate voted to confirm the nominations of Joseph Hendrie and Peter Bradford on August 3. By these actions a quorum was restored to the Nuclear Regulatory Commission, although one vacancy does remain on the five-member Commission.

On October 13, 1977, the subcommittee held oversight hearings on the handling by the NRC of a license application from the Virginia Electric Power Co. for four nuclear powerplants at North Anna, Va. The plants are situated on a geological fault, which was discovered after excavation. The NRC subsequently determined the fault to be "not capable," and therefore licensing and construction activities have proceeded. Witnesses at the hearing included the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, the chairman and staff members of the Nuclear Regulatory Commission and the president of the North Anna Environmental Coalition, public intervenors in the licensing proceedings.

The subcommittee staff also worked with the staff of the Committee on Energy and Natural Resources on the bill dissolving the Joint Committee on Atomic Energy and dispersing its jurisdiction in the Senate. That bill (S. 1153) was passed by the Senate on March 31, and in revised form was passed by the House and Senate on August 5 and became law on September 20. At the same time, the Senate passed Senate Resolution 252 which established certain procedures for handling of classified documents formerly in the possession of the Joint Committee on Atomic Energy.

12TH ANNUAL QUESTIONNAIRE

Mr. SCOTT. Mr. President, we are presently sending our 12th annual questionnaire to Virginia constituents. Obtaining the views of constituents on current issues is very helpful to me personally, and it may be that the questionnaire would also be of value to colleagues. Therefore, I ask unanimous consent to have a copy of the 12th annual opinion poll printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

12TH ANNUAL QUESTIONNAIRE

In order to better represent the views of Virginians on issues confronting the Congress, I have taken an opinion poll of constituents each year and the responses have always been helpful. Of course, Virginia now has more than five million people, and it would not be possible for constituents to agree on every issue. Nevertheless, it is beneficial to obtain the point of view of as many citizens as care to share their thoughts on vital domestic and international issues.

Last year our survey was prefaced by a short factual statement regarding measures considered likely to come before the Senate, and comments on the format were favorable. Therefore, the same form is being utilized again, with the knowledge that a number of the proposals are complex and statements may well be oversimplifications. But the collective responses will materially help in knowing the general views of Virginians and additional space is provided on page four for further comment.

SOCIAL SECURITY

Congress has passed legislation intended to put the Social Security system on a sound financial basis. Many reasons have been cited for its financial problems, including increased benefits, increased life span, and a lower birth rate resulting in higher ratio of older people receiving benefits than those contributing to the fund. The new law will increase the tax rate for employers and employees equally over the next several years and raise the amount of income upon which Social Security taxes are paid. It also will increase the earnings limit for retirees 65 to 71 from $4,000 this year to $6,000 by 1982. Other suggestions to further improve the financial soundness of the system are to change the optional retirement age from 62 to 65 and to raise the regular retirement age from 65 to 68.

Question: Do you favor increasing (a) optional retirement age—Yes— No—; (b) regular retirement age Yes— No—?

TRADE DEFICIT

The end of 1977 may find our country with a record trade deficit as high as $30 billion or with Americans paying out this much more for imports than they receive for exported goods. Many factors appear to contribute to this substantial deficit including the enormous oil imports and considerable imports of steel, textiles, shoes and other materials. Some contend that the country is losing its competitive edge in the world market because of lower foreign production costs. However, others believe unnecessary government burdens on domestic producers, including environmental constraints, regulations, and paperwork, plus excessive wage demands, make it increasingly difficult for our industries to successfully compete in the world market.

At the same time foreign trade experts do not believe that the United States can solve its balance of payment problems by imposing heavier tariffs, that counter measures would be taken by other nations and higher prices would be paid by American consumers. It may be that the Executive Branch of Government could negotiate with other nations to prevent dumping or sales in the United States below prices in the producing nations. Yet, a partial solution might be to require the possible adverse effect upon the costs of American production to be considered in all legislative proposals.

Question: Would you favor such legislation? Yes— No—.

SALT II TREATY

Negotiations are currently being conducted between the United States and the Soviet Union for a new strategic arms limitation agreement. In the event an agreement is reached, the treaty must be ratified by two-thirds of the Senate before it becomes binding on the United States. In the past our top military leaders have considered the capacity to launch intercontinental ballistic missiles by land, air, and sea to be a necessary deterrent to nuclear war. Recently, however, the President has rcommended against the construction of the B–1 missile launching aircraft in favor of modernizing older B–52 bombers.

The Soviet Union insists that its most modern Backfire bomber is only a medium range aircraft that poses no threat to the United States. However, our Defense Department indicates that the bomber can fly more than five thousand miles without refueling, which would permit it to fly from Russia to the United States, unload its missiles, and land in Cuba, or be refueled in the air and return to the Soviet Union. It is understood that Russia will not agree to include the Backfire bomber in ceilings to be imposed on our bombers and our land or submarine-based missiles.

In the event the treaty is presented to the Senate for ratification, it would be helpful to know whether you believe (1) the Russians would adhere to the terms of any strategic arms limitation treaty; (2) the Senate should ratify a treaty regardless of any imbalance in numbers in order to obtain a limitation on the growth of strategic arms; or (3) we should allow the Soviets to have numerical superiority in some fields to compensate for our more sophisticated weapons in other areas.

Question: Do you favor (1) Yes— No—; (2) Yes— No—; (3) Yes— No—.

WELFARE REFORM

The President has proposed that the Federal Government take over a substantial portion of state welfare costs and create a national standard of eligibility for public assistance. Critics of his proposal say that this would actually increase the cost of welfare, which should be handled on the local level.

Question: Do you favor a national welfare system, rather than a state-by-state system? Yes— No—.

ABORTION

In the past the conditions under which a woman could obtain an abortion have been determined by state governments under their police power. However, a few years ago the Supreme Court set guidelines deciding the circumstances under which an abortion could or could not be performed. Since that time, there has been considerable controversy and delay in the Congress regarding the use of federal funds under the Medicaid program for abortions. I have proposed a constitutional amendment providing that the power to regulate the circumstances under which pregnancy may or may not be terminated shall be reserved to the respective States and territories. This would remove the Federal Government from further consideration of the abortion question.

Question: Do you favor such a proposal? Yes—. No—.

FOREIGN AID

Total appropriations for foreign aid this fiscal year will reach almost $9 billion, of which approximately $6 billion is economic and development assistance and about $2.6 billion is military aid, not including military sales credits. The Food for Peace and the Peace Corps programs account for the remainder of the $9 billion. Not included in this total, however, is an additional $1 billion in loans by the Export-Import Bank.

About two-thirds of the military assistance goes to nations in the Middle East, with the largest amount for Israel in direct aid and credits. Most of the direct economic assistance is to aid the nutrition and health needs of the world's poorest countries, while a major portion of the development loan money is channeled through the international financial institutions.

Question: Do you believe foreign aid should be (a) increased—; (b) decreased—; (c) kept about the same—; or, (d) eliminated entirely?—.

DEFENSE BUDGET

For Fiscal Year 1978, the Congress has appropriated approximately $110 billion for the Department of Defense. This is the amount the Congress decided was required to maintain and support a military establishment of somewhat more than 2 million men and women in uniform and a civilian work force of approximately 1 million. These funds will also be used for research and development programs and the purchase of the necessary tanks, ships and planes required to keep our forces combat ready. The personnel related portion of our defense dollar (including salaries, quarters, hospitalization and retirement) ranges from 55 to 60 percent of the entire amount spent for defense. Over the past several years these personnel costs have been increasing, with the result that there has been a reduced amount available to buy the required amounts of military hardware. Of course we need to be fair to military personnel but do not want to price ourselves out of the ability to defend the country.

Question: Should decreases in the ratio of the defense dollar be made in: (a) the people area?—; (b) the hardware area?—; (c) retain present ratio?—.

HATCH ACT

Since 1939, many government employees have been prohibited by law from participating actively in partisan political activities. However, from time to time since then there have been various proposals to amend or repeal this legislation commonly known as the Hatch Act.

Employees generally have the right to vote, to privately express political opinions, to make political contributions to their party, to engage in nonpartisan political activities, and even to participate in partisan politics at the local level in specified areas where a majority of residents are federal employees.

The House of Representatives has passed a measure tantamount to repealing the Hatch Act and government employees' unions are urging Senate action to repeal the Act. However, some citizens within and without the government believe the repeal would damage the merit system and subject federal employees to undesirable political pressure.

Question: Do you favor repeal of the Hatch Act? Yes— No—.

ELECTION DAY REGISTRATION

The Administration has recommended that voting registration laws be changed to allow citizens who fail to register before election day to register and vote on election day. They argue this will simplify and open up the voting process to millions of Americans. However, opponents contend that it will create confusion and delay and be an open invitation to voter fraud, especially in the big cities.

Question: Do you favor election day voting registration? Yes— No—.

PANAMA CANAL

It appears that the Senate will be called upon within the next several months to ratify or reject treaties to transfer the future ownership and control of the Canal Zone. Proponents indicate that the present treaty is archaic, that the importance of the canal has diminished over the years, that the new treaties will improve our relations with Panama and other Latin American countries and will prove to the world that we no longer practice colonialism. Opponents insist that giving up ownership and control of the Canal Zone will jeopardize the future control of the Caribbean, that the canal is vital to our commerce and national defense, that we purchased the rights of Panama, Colombia, the French company which started construction, paid individual citizens for privately owned rights, conquered tropical diseases, constructed the canal, and have since operated it at cost for the benefit of all nations. They insist that permitting a small unstable nation to pressure us into transferring title and control to Panama would be against our national interest and that of the free world.

Question: Would you vote to ratify the proposed treaties? Yes— No—.

OTHER ISSUES

Of course there are numerous other issues that may come before the Congress this year that space would not permit being included. Some of them may relate to energy, taxes, full employment, labor law reform, national health insurance, direct election, illegal aliens, immigration laws and other matters. Your views on these or other problems that may confront the Congress from time to time are always welcomed.

When completed, return your response to Senator William L. Scott, 2311 Dirksen Senate Office Building, Washington, D.C. 20510

ADDITIONAL FEDERAL JUDGES

Inasmuch as the House Judiciary Committee has now acted favorably upon a Senate-passed bill, it appears that Virginia will obtain four additional federal trial judges as a part of an Omnibus Judgeship Bill. Of course, the President nominates lawyers for these positions, and we are of different political parties; yet, as a member of the Senate Judiciary Committee which must confirm the nominations, my recommendations may be persuasive. Therefore, the views of bar associations and others regarding experienced and competent lawyers, having proper judicial temperament would be welcome so that our office can submit names for consideration by the Attorney General and the President.

RICHMOND VISIT

I plan to be in the Richmond office throughout the day on January 13 and would welcome any constituent desiring to discuss a problem or any issue. The office is located in the Federal Building at 400 North 8th Street; and you may call 649-0049 in advance for an appointment if you desire, but this is not essential. Of course, you may visit the principal office in the Dirksen Senate Office Building in Washington at any time, and mail should be addressed to the Washington office.

William L. Scott,
U.S. Senator.

SHORTAGE OF CAPITAL CAUSING FLIGHT OF U.S. TECHNOLOGY TO FOREIGN COUNTRIES—OVERHAUL OF TAX AND CAPITAL FORMATION POLICIES URGENTLY NEEDED FOR SMALL BUSINESS

Mr. NELSON. Mr. President, a series of recent buy-outs of high-technology small American businesses by foreign companies has underscored the problems of small U.S. firms in obtaining capital in this country, and raised serious questions about the viability of the free private enterprise system, the preservation of U.S. technical leadership, and the Nation's defense posture.

The technologies acquired by foreign purchasers included the next generation of computers—beyond present IBM systems—high-speed copying, advanced electronics for vehicles and telecommunications, data entry systems to replace keypunching, and intelligent terminals for sophisticated on-site data-processing.

The enterprises involved, which are listed below, are innovative technical companies conceived and nurtured in this country and, according to officials of professional investor organizations, such as the National Venture Capital Association and the National Association of Small Business Investment Companies, represent the cream of the next generation of technological achievement.

Association executives in so-called glamor fields, such as computers and electronics, have told the committee that the inability to raise capital has reached crisis proportions for their member firms.

These difficulties, experienced by the most promising U.S. small enterprises and industries, constitute convincing evidence of the drying up of U.S. capital markets for new and small enterprises generally.

The foreign acquisitions, most of which took place during the past 6 months, will enable the buyers to take these new products and their technology and exploit them abroad for the benefit of foreign jobs, foreign profits, foreign exports and foreign economic and military strength.

Earlier this year, I discussed with the President seven of these advanced companies in which control or near-control had passed to foreign direction within the past several months.

Mr. President, I ask unanimous consent that the information presented at that time be printed in the Record.

There being no objection, the information was ordered to be printed in the Record, as follows:

RECENT ACQUISITIONS IN U.S. HIGH TECHNOLOGY COMPANIES BY FOREIGN CAPITAL

U.S. company	Product description	Interest purchased	Acquiring company (nationality)
Advanced Micro Devices (California).	Design, manufacture, and marketing of advanced integrated circuits, notably microprocessors.	17 pct (largest stockholder).	Siemens AG (West Germany).
Solid State Scentific (Pennsylvania).	Producer of advanced C/MOS and other semiconductors.	25 pct	VDO Adolf Schindling AG (West Germany).
Litronix (California)	Advanced semiconductors	$7,500,000 for "controlling interest".	Siemens AG (West Germany).
American Microsystems (California).	Integrated circuits for automotive industry	25 pct	Robert Bosch GmbH (West Germany).
Intersil (California)	Large-scale integrated circuits for telecommunications equipment.	$2,400,000 "equity buy-in".	Northern Telecom (Canada).
Amdahl Computer Co. (California).	Large-scale computers, more powerful than top of IBM line.	36 pct	Fijitsu (Japan).
System Industries (California).	Unique imaging technology to convert electronic signals to images on plain paper for copying, facsimile, and computer output.	$5,000,000 for 50 pct (of subsidiary, Silonics, Inc.).	Konishinoau (Japan).

Sources: "AMD, Solid State Scientific in Stock Accords With German Firms," Electronic News, Oct. 10, 1977, p. 1; Western Electronic Manufacturers Association; National Venture Capital Association; Edwin Zschau, president of System Industries of California-

Mr. NELSON. Mr. President, since the October 26 White House meeting, the committee has learned of additional recent acquisitions of this kind. I ask unanimous consent that this information be printed in the Record.

There being no objection, the information was ordered to be printed in the Record, as follows:

RECENT ACQUISITIONS IN U.S. HIGH TECHNOLOGY COMPANIES BY FOREIGN CAPITAL

U.S. company	Product description	Interest purchased	Acquiring company (nationality)
Entrex (Massachusetts)	Data entry subsystems (replacement of keypunching).	$22,000,000 for 100 pct.	Nixdorf (Germany).
Sycor (Michigan)	Intelligent terminals, interconnection of computers.	$77,000,000 for 100 pct.	Northern Telecom (Caada).
Data 100 (Minnesota)	Intelligent terminals (onsite processing)	$15,000,000 for 12 pct, plus option to buy a total of 35 pct.	Do.
Dan Ray (Texas)	Sophisticated electronic telephone switching	100 pct	Do.

Mr. NELSON. Mr. President, conversations with persons familiar with the circumstances reveal that the overriding reason for the sale of these promising technologies is that the small companies could not raise the needed capital in the United States. The president of one acquired company reportedly sought funds from 80 potential U.S. sources, and came away emptyhanded. Subsequently, Japan bought 50 percent of this company for $5 million. The conclusion from looking at the amounts of capital involved—$2.5 million, $5 million, $7.5 million—underscore the blackout in investment in new, small and independent enterprise, even those which have been in existence for some time and have shown great promise. For new companies with new ideas, raising such venture capital is proving to be virtually impossible.

Associations representing small and independent firms in the industries with the brightest prospects in future years have told us that institutional investors will not even look at companies with less than $50 million in net worth. To reach individual investors in the public market, our information is that it takes a minimum of a million dollars in profits for a national broker to agree to help a firm sell its stock.

The statistics which I have previously reported to the Senate confirm that, between 1974 and 1976, only 41 firms with net worth of less than $5 million were able to sell equity securities ("Small Businesses Disappearing from Nation's Securities Markets," September 27, 1977, page 31199). Altogether these small companies raised $150 million, less than 1 percent of the $16.5 billion of equities sold to the public during that period. From these preliminary studies, we are left with the conclusion that the inability of new and small firms to raise capital is undermining the dynamism and technical progress of the economy and consequently the future defense posture of the Nation.

The committee has been urging attention to these problems at the highest levels of Government. We were gratified that Secretary of Treasury Blumenthal on November 21 and Assistant Secretary Carswell on November 30 recognized the vital importance of this problem. Early next year the Senate Small Business Committee will commence a series of public hearings aimed at a careful delineation of the problems which are involved for businesses of different sizes, with the hope that there will emerge sound and practicable remedies which will be acceptable to Congress and the executive branch.

BACKGROUND

As a matter of historical background, it must be noted that the small business community has always been the heart and soul of the American free enterprise system.

It has been the point of entry to a better life for generations of immigrants and citizens, a wellspring of creativity and innovation, an engine for mobilizing the most extraordinary initiatives and efforts of our people. Small business owners devote untold hours of time to the community causes in towns and cities. The system which allows birth and growth of new businesses with new ideas is at the foundation of this country's high standard of living and national character.

However, during the past quarter-century economic forces and public policy have resulted in overwhelming problems for these ventures: increasing barriers to capital formation, massive and unnecessary paperwork, proliferating regulation, the spread of anticompetitive practices, and unequal treatment under the law. These conditions threaten the future of small enterprise in this Nation.

The Small Business Committee has stated in its most recent annual report (S. Rept. 95–30) and in reporting to the Senate the Resolution on the White House Conference (S. Rept. 95–65, Mar. 24, 1977) that the overall approach to the complex, interrelated obstacles faced by new and small businesses would be a "White House Conference on Small Business." Such an event would raise the visibility of these issues to the public and to Government officials on all levels who must deal with them. A conference of that kind could attract the best experts from business, small and large, labor, the economics profession, the universities, and government. Its report could carefully defer the problems and outline the steps that could be taken by the executive branch, Congress, State and local governments and others to resolve these difficulties and to preserve a climate in which the American dream of business ownership can continue to be a daily reality.

WHAT IS SMALL BUSINESS AND WHY IS IT IMPORTANT?

There are about 14 million business enterprises in the United States and 97 percent of them are "small business" according to the standards of the Small Business Administration. The most recent Internal Revenue Service figures from 1974 show:

Corporations	1, 987, 059
Subchapter S Corporations (part of above total)	(330, 418)
Partnerships	1, 062, 282
Sole proprietorships	10, 873, 822
Total	13, 914, 163

The small business community is important because it accounts for almost as much of the U.S. economic activity as big business—55 percent of the jobs in the private labor force—59 percent if farming is included—48 percent of the business output, and 43 percent of the gross national product.

The diversity of the small business community is as varied as the economy itself. It includes the following elements:

NEW BUSINESSES

Men or women fulfilling their individual dreams of going into business, either after graduation, at midcareer, or following retirement.

A firm which is just entering the marketplace * * * anywhere from a part-time enterprise to generate a second income to a full-scale manufacturing plant to produce a new invention.

A fledgling business in its early years * * * facing the fact that 30 percent of the new enterprises fail in the first year and 50 percent within 2 years. Department of the Treasury figures show that of the 4 million corporations originating between 1956 and 1973, only about 1 out of 4 survived.

EXISTING FIRMS

The stable one or two location main street businesses which provides merchandise, products, or services to its community and furnishes jobs and income to its locality through purchase of supplies, use of banks, accountants, and lawyers.

GROWTH FIRMS

The expansion company, which was fortunate enough to become established, and seeks to become a regional, national, or international competitor.

A high technology or other company which could create the foundation of a new industry.

This outline illustrates the diversity and independence that makes it so difficult to define and which accounts for the diversity of views on major policy matters among the small business universe.

THE COMPETITIVE ENVIRONMENT

In further distinguishing small business from big business, it may be helpful to observe that:

There were 2,518 corporations listed on the two major stock exchanges (12/76); and 2,627 additional corporations whose stock is traded nationally over the counter.

The 100 largest manufacturers (roughly those with sales over $1 billion) accounted for 44½ percent of manufacturing profits in 1974.

The sales and profits figures for 1975 of a few of the Nation's largest corporations provide a useful perspective:

FORTUNE

Corporation	Rank	Sales	Net income
Exxon	1	$44, 900, 000, 000	$2, 500, 000, 000
General Motors	2	35, 700, 000, 000	1, 300, 000, 000
IBM	7	14, 400, 000, 000	2, 000, 000, 000
General Electric	9	13, 400, 000, 000	581, 000, 000
I.T. & T	11	11, 400, 000, 000	398, 000, 000
United States Steel	13	8, 200, 000, 000	560, 000, 000
Caterpillar Tractor	29	5, 000, 000, 000	399, 000, 000
Carnation	100	2, 100, 000, 000	88, 500, 000
Washington Post	486	309, 000, 000	12, 000, 000
Economics Laboratory (St. Paul)	500	279, 000, 000	15, 700, 000

Source: Fortune Magazine, May 1976, pp. 318 et seq.

Faced with competition from such giants, the vitality of small and new business is remarkable and enduring testimony to the strength of traditional American ideals of independence, self-reliance and hard work.

Almost 150 years ago the keen foreign observer, de Tocqueville, remarked the American economy was to be characterized not by great projects such as the turnpikes and canals, but the "innumerable multitude of small undertakings."

THE VALUE OF SMALL ENTERPRISE TO AMERICAN SOCIETY

The opportunity to begin, or engage in, a small enterprise permitted waves of immigrants to gain financial security, self-respect, and often affluence. This spirit of individual enterprise has paid our Nation handsome dividends, both as to material wealth and national character. Thomas Jefferson perceived the value to democratic government of economically self-reliant farmer-businessman. Americans take as commonplace the glory of the system that permits new ventures as a vehicle for upward mobility in this "land of opportunity." As the statistics show, from year to year, the power of the American dream is undiminished.

It is even more remarkable that small business, including individual inventors have consistently accounted for more than half of all inventions, including heavy industry, light industry, commerce, and consumer goods. Examples are: the airplane, the helicopter, catalytic oil refining, oxygen steel-making, photocopying, the automatic transmission, power-steering, air conditioning, instant camera, the zipper, dacron-polyester fiber and many other commercial and household items. A partial list of such innovations, compiled by the U.S. Department of Commerce, and a second list of inventions conceived in Canada but not developed there, are attached.

In the past, conditions in this country have made it possible to launch many new ventures to produce such innovations. When this happens the contributions, in terms of growth, employment, efficiency, and international competitiveness are enormous. The MIT Foundation recently compared five young technology companies (Data General, National Semiconductor, Compugraphic, Digital Equipment, Marion Laboratories) with six mature companies (Bethlehem Steel, DuPont, General Foods, General Electric, International Paper, and Proctor and Gamble) all of which are among the largest 100 corporations. The study reveals the following for the 5-year period 1969–74:

Compound Annual Rate of Increase in Percent

	New Companies	Mature Companies
Jobs	40. 7	0. 6
Sales	42. 5	11. 4
Taxes	34. 1	7. 8

What a single company of this kind can accomplish is illustrated by the story of Mostek Corp. of Carrollton, Texas.

Mostek was created with $5 million of venture capital in 1969 to produce integrated circuits by implanting them chemically upon silicon chips. This one company became the hinge upon which the leadership of the semiconductor and electronic industries has swung back to the United States. It has made Dallas, Tex., the world capital of the wristwatch industry. It has made possible the introduction of the minicomputer and the hand-held calculator. The company now employs about 2,350 people in the United States. Mostek has paid a total of $15.2 million in Federal corporate taxes in the 8 years since it was founded. Its employees pay another $4 million in individual income taxes each year. Last year, 1976, the company's export sales earned more than $16 million to help the U.S. balance of payments.

It is breakthroughs of this sort that are at stake in the effort to preserve the climate for creation and growth of new and small enterprises.

Professional venture capital investors have testified to the Senate Small Business Committee that they were accustomed to financing the creation of between 12 and 15 new technical companies such as Mostek each year; but, in the past 4 years, they say they have been lucky to have financed any at all.

TAX PROBLEMS OF SMALL BUSINESS HAVE BEEN ACCUMULATING

Small businesses must compete with large corporations having access to national capital markets, national and international marketing, nationwide advertising and personnel recruiting. Their struggle has been made more difficult by a generation of governmental neglect.

The Federal tax system, since World War II, has seriously discriminated against small- and medium-size businesses. For a quarter century (1950–75) smaller corporations were escalated into the top corporate tax rate of 48 percent at the level of $25,000 in taxable income.

In 1975, the level at which the top rate applied was temporarily (until 1978) raised by statute to $50,000, and the smallest companies received a temporary rate reduction to 20 percent, the level recommended by Arthur Burns' Cabinet Committee on Small Business in 1956. The largest corporations, meanwhile, have found ways to legally but substantially reduce their effective tax rates. A Merrill-Lynch study found that one out of every five big companies had an effective rate of less than 43 percent. Others, including Representative VANIK, have suggested that the 100 largest corporations pay an effective rate of around half of the 48 percent paid by the average medium-sized corporation.

Thus, permanent reform is needed to bring equity to the structure of business tax rates, as much as in the area of individual tax rates. It is unfair for a local small business to pay taxes at twice the rate, or even at the same rate, as a multibillion dollar, multinational giant.

The estate tax exemption of $60,000 remained constant in the law from 1942 until 1976. During this period, inflation of approximately 300 percent made the law obsolete, raising the estate tax bill on farms and small business so high that the owners or their estates had to sell or merge them with larger firms to pay or avoid the taxes. It became virtually impossible to keep them in the family. This was partially remedied by the Tax Reform Act of 1976, which raised the exemption to $175,000 for the children and $425,000 for a surviving spouse. Further reform is needed in this area of permitting the transfer of businesses from the older to the younger generation.

CAPITAL RECOVERY (DEPRECIATION) IS OVERLY COMPLICATED

A series of studies in 1954, 1959, 1963, and 1971 have shown conclusively that smaller businesses which possess depreciable assets lag far behind in utilizing the special capital recovery provisions of the law ("An Analysis of Tax Provisions Affecting Business Investment: Depreciation and the Investment Credit," Congressional Research Service, August 14, 1974, pages 10, 19–20).

Complexity results from the interaction of rules contained in the statute, regulation, and accounting convention, such as bonus depreciation investment credit; rapid depreciation methods including: First, double declining balance (or 150 percent) for machinery; second, 150 percent or 125 percent for real estate; and third, sum of the digits method; and also 5-year amortization in certain special areas; ADR; recapture, salvage value; and half-year and half-month conventions. The consequent need for expert, and therefore expensive, tax planning and accounting services, has grown geometrically, and therefore beyond the reach for most new and smaller companies.

Current examples include the Asset Depreciation Range (ADR) provision which allows a 20 percent shortening of "useful life" of machinery. According to the Treasury Department, ADR is used by 63 percent of the businesses with $1 billion in assets, 33.5 percent of the firms over $100 million in assets, and 0.9 percent of the businesses with under $500,000 in assets.

As to the investment- or equipment-credit firms, over $100 million in assets account for three-fourths of the total credit, while those under $500,000 in assets claim only 0.8 percent, as reflected in the table attached.

Capital recovery thus presents a prime possibility for simplification and reform for the benefit of the great majority of business enterprises.

In the capital asset area, the tax law gives investors little incentive to invest in smaller, riskier ventures.

If the enterprise fails, the maximum ordinary deduction was raised in 1976 to $3,000 per year for an incorporated venture; and for certain corporations, $25,000 (an amount that has not been changed in 20 years).

If the enterprise succeeds, past tax reforms have raised the present effective Federal capital gains tax to about 50 percent. The total tax burden is greater in some States which now tax 75 percent or 100 percent of capital gains. The experts estimate that it takes several years for any business to "turn the corner" to profitability, and 7 to 8 years before an investment in a growth company becomes "liquid" as a result of a public stock sale. With a 50 percent tax rate and inflation at even 5 percent for 10 years, investors with a nominal 100 percent gain can emerge with less purchasing power than when they started.

For a new enterprise, recruitment of experienced managers is vital. Yet, incentives used in the past, such as stock options and the differential between ordinary income and capital gain, were eliminated or drastically reduced in 1969 and again in 1976.

As an example, we could set forth the actual case of a small (sales of $300,000) microprocessing (electronic) company which currently needs a chief executive to take advantage of a new market estimated at $4 million in 1978, $9 to $10 million in 1979 and a 30- to 40-percent annual growth thereafter. The young engineer who can put the pieces together, is secure in a $2 billion stock exchange firm. He wants 8 percent of the company's stock as an inducement to take the additional risks. But, he cannot afford to buy it—the stock would cost $180,000 and the engineer has a net worth of less than $50,000. Will this company get off the ground?

The present situation is bad enough. If capital gain treatment were to be eliminated for the growth business, our electronics company, and all other such ventures, would be gravely disadvantaged in their recruitment efforts.

Then, the capital, the top talent, and the opportunities in the American and world markets will increasingly gravitate to big business in this country or abroad. Predictably, labor and government will grow to keep pace. To the extent this happens, our fellow citizens can prepare for increasing complaints about the curse of bigness and impersonality in their daily lives, and a commensurate decline in their standard of living.

ACUTE PROBLEMS OF CAPITAL FORMATION

A related problem is that small businesses have virtually disappeared from the Nation's securities markets. The statistics in this area are alarming, but they do not tell the whole story. Between 1972 and 1976, first-time stock offerings (by new, young, or mature enterprises going to the public market for the first time) fell as a proportion of SEC-registered stock offerings to 62.05 percent to 16.37 percent.

Registered stock offerings by firms with less than $5 million in assets dropped from a high of 698 in 1969 to a low of three in 1975, and only 41 for the 3 years, 1974 through 1976. Similarly, "Regulation A" stock issues, which are subject to less formal controls than full registration, shrank from 817 in the prerecession year of 1973 to 240 in 1976.

Sales of bonds and commercial paper—in multimillion dollar amounts—are far beyond the scale of infant enterprises. The statistics on long-term credit are much less definite. Here too, the indications are that in our capitalist economy, where it takes money to make money, new and small firms have been practically out of the ballgame. A recent survey of underinvestment in the U.S. economy by Business Week magazine summarizes:

> Access to the capital market has been pretty much open only to the nation's big companies for years now. And some contend that the top 1,000 or so corporations—the ones that can borrow—have been less innovative and less willing to commit funds to risky projects than they have in the past. The smaller companies, the argument goes, are willing to take the risks but cannot get the money. (October 17, 1977, p. 63.)

As I indicated above, conditions in securities and credit markets, including the structure of these markets is shutting off the traditional flow of risk capital to smaller firms. These conditions underscore the necessity of a tax system which allows small firms to retain more of the dollars they earn.

But the main question raised by these developments is whether our capitalistic system has ceased to function for the great majority of our citizens and businesses.

Some indication of the answer is that once there were 31 million stockholders owning a share of American industry—now there are only 26 million. We are not expanding the base of ownership and understanding of business. On the contrary, we seem to be in broad retreat from this desirable goal.

If the individual investor and small business are driven from the market, what kind of a capital market are we going to have in this country?

We believe more attention to the interrelated problems of small investors, small brokers and small businesses is required if the system as we have known it—with all its manifold benefits—is to be preserved.

THE IMPACT OF REGULATIONS

These conditions underscore the necessity of a tax system which allows small firms to retain more of the dollars they earn.

A tidal wave of regulations has swept over small businesses in the past few years. The Small Business Administration study, "The Impact on Small Business Concerns of Government Regulations that Force Technical Change," September 1975, tabulated 47 Federal consumer protection laws affecting business, 35 of which have been enacted since 1947, and this list did not include environmental protection and pollution standards which mandate extensive plant facilities and equipment, often under short-term deadlines. Regulations implementing the Occupational Health and Safety Act (OSHA) extended to 330 pages; and forms and regulations under ERISA, the Employee Retirement Income Securities Act of 1974, were the subject of a special report of the Commission on Federal Paperwork. Two bills, S. 1745, and S. 901, presented before the Senate Finance Committee seek to mitigate the pension problems.

Paperwork has accumulated in massive amounts as typified by Federal form 941, on employment, which listed the name of every employee, and which each business has been required to file quarterly. Congress has voted to consolidate form 941 into an annual form, beginning in 1978. This will eliminate a stack of reports almost 2 miles high each year.

About 40 percent of small business paperwork is tax forms. The smaller a business is, the less it is able to afford accounting expertise. Accordingly, simplification of tax forms is an essential part of tax reform for small business.

SMALL BUSINESS HAS A SMALL VOICE IN GOVERNMENT

The lack of representation for small business in the governmental process of developing regulations, forms, and technical rulings has been chronic. The proposed ERISA report forms of 1975, which were ultimately withdrawn, constitute such a classic case of regulations and paperwork conceived without meaningful input from small businesses affected. A bill, S. 1838, proposes "fair representation" for small business on Federal advisory bodies.

Most critical, there has been an absence of any comprehensive strategy for preserving and encouraging new, small, and independent business as a vehicle for the values which our society prizes most highly: initiative, freedom, diversity, pride in craftsmanship, competitiveness, efficiency, venturesomeness, and rewarding risk taking and hard work.

OPPORTUNITY TO DEVELOP COMPREHENSIVE ENTERPRISE TAX AND CAPITAL FORMATION POLICIES

Because of the Carter administration's interest in the fundamental matters of tax reform and capital markets, we have a rare opportunity to develop systematic policies for the preservation of a climate congenial to new, small, local, family, independent and medium-sized businesses in the tax and capital formation areas.

In this regard, the Small Business Committee has sought to participate in three ways:

STUDIES

First, the committee has sought to work with the executive branch in making available the results of its intensive 10-year study of various facets of small tax reform. We have conducted more than a dozen public hearings, presented testimony before the House Ways and Means and the Senate Finance Committees, and have underway the following series of studies which may be of assistance in the deliberation of tax policies of the next few years:

First. Impact of the 1975 tax reductions on small business (which has been performed with the assistance of computer analysis and experts in the Government and private sectors);

Second. Effective tax rates of business by size (which is presently being completed with the cooperation of the FTC, SEC, and U.S. Treasury Department);

Third. Impact of accelerated depreciation of equipment on the economy (performed by Wharton Econometric Associates under contract with the Small Business Committee);

Fourth. The congressional intent as to the application of the antitrust laws to involuntary mergers (done by the Congressional Research Service of the Library of Congress); and

Fifth. Tax treatment of small business by other industrialized nations (a Committee study).

TAX RECOMMENDATIONS

Second, the committee is formulating a series of specific proposals for inclusion in the forthcoming Administration tax reform package in the interest of the small business community.

We were fortunate enough to be able to discuss these matters with President Carter and Vice President Mondale at the White House, as I have said. These recommendations and further supporting rationale are contained in the memorandum which follows, and I ask unanimous consent that it and all related exhibits be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 through 7.)

Mr. NELSON. Mr. President, I turn now to the subject of a White House Conference.

Third, in order to promote the evolution of an overall enterprise program in the areas of tax and other fields of Federal policy, the Small Business Committee has proposed and the Senate has adopted, a recommendation that there be a White House Conference on Small Business (S. Res. 105, Mar. 28, 1977).

This would be a forum of sufficient prestige to gain the attention of leaders in many quarters of public and private life and concentrate their thoughts on the tax and other problems of small enterprises. A balanced exploration of these questions could mark out avenues through which smaller business can improve the quality of our lives as well as the quantity of our goods.

We would hope that such a conference could be developed with adequate planning and presented so that the manifold specific short-range and long-range difficulties of small enterprise can be carefully identified and a coordinated strategy for their solution can be laid down for action over the next decade by Federal, State, and local governments, as well as other institutions which are involved.

CONCLUSIONS

The Senate Small Business Committee is strongly committed to and capital formation assisting in the formulation and advancement of equitable tax reform packages from the small business standpoint. It wishes to render maximum assistance in a White House Conference on Small Business, and to assist in any other actions which will raise the visibility of the small business community and promote the solution of their problems, so that small business can reach its maximum potential for benefiting our economy and society.

EXHIBIT 1

SENATE SMALL BUSINESS COMMITTEE TAX RECOMMENDATIONS FOR INCLUSION IN THE ADMINISTRATION'S 1977 TAX REFORM MESSAGE

FAIR PROPORTION OF TAX REDUCTIONS TO THE SMALL BUSINESS COMMUNITY

It is possible to compute the portion of benefits that will be going to various income categories for each item and for the overall package. For example, in 1975, the Administration's proposal would have given 25 percent of the revenues of the economic stimulus package to small business. Congress, however, decided that this proportion should be raised to 33 percent.

"Small business" accounts for 97 percent of the number of U.S. enterprises, 55 percent of all private employment, 48 percent of the business output, 43 percent of the GNP, and over half of all inventions and innovations.

Accordingly, the Committee's proposal is that one-half of the overall business tax reductions, including rates, capital recovery "integration" or whatever other measures are proposed, be allocated to "small business." A tentative definition for this purpose might be taxable income of less than $100,000.

CORPORATE RATES

The Committee believes there should be at least some reduction for the smallest corporations of less than $25,000 in earnings, since this would assist the great majority of companies whose owners are attempting to earn a livelihood for one or a few families. To encourage growth, innovation, and competition, the recommendations would extend to some tax reductions at the $50,000, $75,000 and $100,000 levels. The magnitude of these cuts should be dependent on the revenue available and in relation to balance of the entire proposal in accordance with the 50 percent share of total business benefits for the smaller firms.

CAPITAL TRANSACTIONS

To preserve the incentive to invest and therefore sacrifice immediate satisfactions, this suggestion would be to retain capital gains for family (primary) residences, family farms and family and small businesses. A tentative definition of small business limited to this context might be enterprises with less than 500 employees, which is the lowest boundary of the SBA's definition of manufacturers, and which is an administrable standard. This recommendation contemplates adequate safeguards to protect against abuse. For example, the requisite holding period could be lengthened to 5, or even 7 years.

The Committee also advocates increasing significantly the amount of actual losses which an investor can deduct against ordinary income if a small business in which he invested suffers losses or fails.

CAPITAL COST RECOVERY

Because most small businesses use straight-line depreciation, the Committee proposes an optional simple straight-line depreciation system, with a shorter useful life—perhaps three years—for investments in new or used equipment up to an appropriate level (perhaps $100,000 to $200,000). Where this system is elected, it would eliminate the complicated combination of bonus depreciation, ADR, and rapid depreciation and amortization methods, investment credit, salvage value, disputes about useful life, and recapture provisions for smaller businesses. It would relieve much of the pressure for "indexing" depreciation or substituting replacement-cost accounting in the future. It is contemplated that this benefit would be available to businesses of all sizes, but that it would be simple and understandable and therefore attractive to, and most used by, the great majority of small enterprises, for whom it would constitute a true reform in this important area.

UNINCORPORATED BUSINESSES

The Committee recommends that there should be an affirmative program of encouragement and assistance for unincorporated firms, which constitute about 85% of all U.S. enterprises, including:

a. A reduction in individual income tax rates which is sensitive to the problems of the sole proprietors and partners in supporting their families. The Schedules C and F, filed by individual businesspersons, should be closely examined to see what might be done to help these enterprises;

b. An optional use of "cash accounting" for small businesses up to an appropriate level of inventories or gross receipts (perhaps $1–$2 million). The current law requires any businessman having inventories (every merchant) to use the accrual method of accounting. According to a spokesman of the National Federal of Independent Business this could save such businesses accounting fees of up to $500 a year, and allow them to fill out their own tax returns. It is also the simplest method—used by most individual taxpayers—and would assist business in complying with the law. For these reasons, it is understood that the Internal Revenue Service does not object to such a proposal.

c. Full utilization by unincorporated businesses of the limited accelerated depreciation provisions, including full extension to used equipment.

EXHIBIT 2

SMALL AND INDEPENDENT BUSINESS ASSOCIATIONS SUPPORTING SMALL BUSINESS COMMITTEE TAX PROPOSALS

Associations	Number of members	Portfolio companies	Partial and potential support
1. American Association of Life Underwriters	1,000		
2. American Federation of Small Business	5,000		
3. Associated Builders & Contractors	11,500		
4. Connecticut Small Business Federation	1,500		
5. Council of Smaller Enterprises (Cleveland)	1,220		[1] 2,035
6. Electronic Representatives Association	[2] 1,400		
7. Illinois Federation of Small Businesses	3,000		
8. Independent Business Association of Washington	3,000		
9. Independent Business Association of Wisconsin	400		
10. Manufacturers Agents National Association	5,000		
11. National Association of Black Manufacturers	425		
12. National Association of Retail Druggists	[3] 25,000		
13. National Association of Small Business Investment Companies	375	5,000	
14. National Association of Wholesaler-Distributors	35,000		
15. National Business League	3,000		
16. National Federation of Independent Business	525,000		
17. National Home Improvement Council	1,700		
18. National Menswear Retailers	4,100		([4])
19. National Retail Merchants Association	3,500		([5])
20. National Small Business Association	50,000		
21. National Society of Public Accountants	16,000		
22. National Venture Capital Association	71	2,500	
23. Small Business Council (Syracuse)	1,100		
24. Small Business Service Bureau	[6] 35,000		
25. Smaller Manufacturers Council (Pittsburgh)	768		[7] 4,233
26. Smaller Business Association of New England	1,300		
27. Toledo Area Small Business Association	450		
Total	735,809	743,359	[8] 1,416,339

[1] Ohio Confederation of Small Business Organizations—10 associations. Total includes Cleveland and Toledo Associations tabulated in col. 1.

[2] Company members which employ more than 4,000 individual salesmen.

[3] Representing 35,000 stores and over 50,000 independent pharmacists.

[4] 9,000 stores.

[5] 35,000 stores.

[6] Small Business Legislative Council—50 associations. Total includes 80,800 companies tabulated as members of NSBA, NARD, National Menswear Retailers and National Home Improvement Council in col. 1.

[7] Pennsylvania Small Industry Coalition—8 associations presently considering package, favorable decision expected. Total includes Smaller Manufacturers Council in col. 1.

[8] Total—Single counts of companies referred to in footnotes 1 and 6.

EXHIBIT 3.—SOME IMPORTANT INVENTIVE CONTRIBUTIONS OF INDEPENDENT INVENTORS AND SMALL ORGANIZATIONS IN THE TWENTIETH CENTURY

Xerography, Chester Carlson.

DDT, J. R. Geigy & Co.

Insulin, Frederick Banting.

Vacuum Tube, Lee De Forest.

Rockets, Robert Goddard.

Streptomycin, Selman Waksman.

Penicillin, Alexander Fleming.

Titanium, W. J. Kroll.

Shell Molding, Johannes Croning.

Cyclotron, Ernest O. Lawrence.

Cotton Picker, John & Mack Rust.

Shrink-proof Knitted Wear, Richard Walton.

Dacron Polyster Fiber "Terylene", J. R. Whinfield/J. T. Dickson.

Catalytic Cracking of Petroleum, Eugene Houdry.

Zipper, Whitcomb Judson/Gideon Sundback.

Automatic Transmissions, H. F. Hobbs.

Gyrocompass, A. Kaempfe/E. A. Sperry/S. G. Brown.

Jet Engine, Frank Whittle/Hans Von Ohain.

Frequency Modulation Radio, Edwin Armstrong.

Self-Winding Wristwatch, John Harwood.

Continuous Hot-Strip Rolling of Steel, John B. Tytus.

Helicopter, Juan De La Cierva/Heinrich Focke/ Igor Sikorsky.

Mercury Dry Cell, Samuel Ruben.

Power Steering, Francis Davis.

Kodachrome, L. Mannes & L. Godowsky Jr.

Air Conditioning, Willis Carrier.

Polaroid Camera, Edwin Land.

Heterodyne Radio, Reginald Fessenden.

Ball-Point Pen, Ladislao & Georg Biro.

Cellophane, Jacques Brandenberger.

Tungsten Carbide, Karl Schroeter.

Bakelite, Leo Baekeland.

Oxygen Steelmaking Process, C. V. Schwarz/ J. Miles/R. Durrer.

It goes without saying that the United States could not depend solely on the innovative contributions of small firms. The large firms are indispensable to technological and economic progress. From a number of different points of view, however, we are persuaded that a unique cost-benefit opportunity exists in the provision of incentives aimed at encouraging independent inventors, inventor-entrepreneurs, and small technologically based businesses. The cost of special incentives to them is likely to be low. The benefits are likely to be high.

EXHIBIT 4

SMALL BUSINESS—BUILDING A BALANCED ECONOMY

Processing of kerosene oil was developed by Abraham Gesner in Prince Edward Island in 1846. The screw propeller was invented by John Patch in Nova Scotia in 1833. The first steam operated foghorn was invented by Robert Foulis in New Brunswick in 1853. The rotary snowplough was invented by J. W. Elliott in Toronto in 1869. The piston valve was invented by Samuel Decker and W. S. Jensen between 1900 and 1905. The first half-tone reproduction of photographs was developed by George Desharats in Montreal in 1869. The telephone was invented by Alexander Graham Bell in Brantford, Ontario in 1876.

The ice skate was invented by John Forbes in Wartmouth, Nova Scotia in 1854. The variable-pitch propeller was invented by W.R. Turnbull in New Brunswick in 1922. Red Fife wheat was developed by David Fife in Peterborough, Ontario in 1843. The election microscope was invented by James Hillier in Brampton, Ontario, and Albert Prebus in Edmonton, Alberta between 1935 and 1939. The McGinnis starting gate for horse racing was invented by Philip McGinnis. The first successful radio newspaper photo was transmitted by William S. Stephenson in 1923.

The first commercial alternating-current (AC) tube was invented by Edward Rogers in Toronto in 1927. The anti-G suit was developed by W. R. Franks between 1940 and 1945. The rubber oxygen mask was invented by J. K. W. Ferguson and Fred Frye between 1940 and 1942. The portable oxygen tank was developed by Berton and Shortreed in the early 1940s. The walkie talkie was invented by Donald L. Hings in North Burnaby, British Columbia in 1940. Pablum "the breakfast for babies" was developed by Dr. F. F. Tisdall, Dr. T. G. H. Drake and Dr. A. Brown in Toronto during the late 1930s.

The R-theta computer system for air navigation was invented by J. G. Wright in Liverpool, Nova Scotia in 1958. The cobalt bomb cancer treatment was invented by Dr. Harold John in Saskatoon in 1951. The Laser sailboat was invented by Bruce Kirby, Hans Fogh and Ian Bruce in 1970. The first commercial oil well was developed by James Miller Williams in Hamilton, Ontario in 1858. Degradable/disintegrating plastics for garbage recycling was developed by Dr. James Guillet in Toronto in 1971.

The first usable pulp newsprint was developed by Charles Fenerty in Nova Scotia in 1838. The table hockey game was invented by Don Munro, Sr. in Toronto in 1932. The tuck away beer carton handle was invented by Steve Pasjack in Vancouver in 1957. The paint roller was invented by Norman Breakey in Toronto in 1940. The basketball was invented by James Naismith in Almonte, Ontario in 1891. The modern zipper was invented by Gideon Sundback in the early 1900s. The McIntosh apple was developed by John McIntosh in Dundas County, Ontario in 1811.

The Jiger all-terrain vehicle was invented by John Gower in Manitoba during the late 1950s. The first practical electric street railway was developed by J. J. Wright in Toronto in 1885. The first electric car-heating system was invented by Thomas Ahearn in Ottawa, Ontario in 1891. The first film processing tank was invented by Arthur McCurdy in 1899. The panoramic picture camera was invented by John Connon in Elora, Ontario in 1887.

The first commercial motion picture was developed by Sir Clifford Sifton in 1903. The first snowblower was invented by Arthur Sicard in St. Leonard de Port Maurice, Quebec in 1925. The snowmobile was invented by J. Armand Bombardier in Valcourt, Quebec in 1937. Five-pin bowling was invented by Tommy Ryan in Toronto in 1904. The electronic wave organ was invented by Morse.

Canada has a proud history as a great producer of ideas, but these ideas have resulted in virtually no native technical industries of international importance. According to the Canadian historian, J. J. Brown, the story of Canadian invention can be seen as a melancholy procession of golden opportunities which we have let slip through our fingers. We have let our innovations go abroad to be developed by other nations. On the title pages of this book appear the names of our fallen inventions—epitaphs, that record the lost struggles to become a mature society in a modern world economy.

EXHIBIT 5

COMPARISON OF EXISTING DEPRECIATION WITH SMALL BUSINESS COMMITTEE PROPOSAL

[Purchase of $100,000 in assets]

	Amount	Committee proposal
Existing system:		
Sec. 179 bonus depreciation	$2,000	
10-yr depreciation: Double-declining balance	19,600	
Total depreciation deduction	21,600	
Tax value at assumed 40-percent effective tax rate	8,640	$100,000.00 ×33.33
Deduction		33,333.33
Tax value of investment credit	10,000	
Tax value ×0.40		
yr 1:		
total tax benefit	18,640	13,333.33
depreciation deduction	(15,680)	
yr 2 tax value (×0.40)	6,272	13,333.33
2-yr total	24,912	26,666.66

DISTRIBUTION OF INVESTMENT CREDIT 1972 DATA

[Assuming 100 percent offset of tax liability]

Asset size	Percentage of credit
0 to $25,000	0.1
$25,000 to $50,000	.1
$50,000 to $100,000	.6
Subtotal	.8
$100,000 to $250,000	1.7
$250,000 to $500,000	2.0
Subtotal	4.5
$500,000 to $1,000,000	2.4
$1,000,000 to $2,500,000	3.5
$2,500,000 to $10,000,000	5.0
$10,000,000 to $25,000,000	3.0
$25,000,000 to $100,000,000	6.0
Over $100,000,000	76.0
Total	100.4

Note: Numbers do not add due to rounding.

Source: Congressional Joint Tax Committee, Oct. 8, 1977.

EXHIBIT 7

TABLE I.—NUMBER OF FIRMS IN POPULATION, NUMBER OF FIRMS ELECTING ADR, AND PERCENTAGE ELECTING ADR BY SIZE OF TOTAL ASSETS

Size of total assets	Total number of firms in population	Firms electing ADR	
		Number	Percent
Less than 500,000	979,534	8,851	0.9
500,000 to 1,000,000	71,837	1,486	2.1
1,000,000 to 5,000,000	69,739	2,831	4.1
5,000,000 to 10,000,000	10,954	772	7.1
10,000,000 to 50,000,000	13,159	992	7.6
50,000,000 to 100,000,000	1,965	308	16.1
100,000,000 to 200,000,000	1,104	252	22.9
200,000,000 to 300,000,000	446	154	34.5
300,000,000 to 600,000,000	473	192	40.6
600,000,000 to 1,000,000,000	295	99	33.6
greater than 1,000,000,000	360	226	63.1
Total	1,149,866	16,155	1.5

Source: U.S. Department of the Treasury, Sept. 22, 1975.

Hearings on "Small Business Tax Reform," Senate Select Committee on Small Business Sept. 23, 1975, testimony of Roland Bixler, Chairman of NAM Small Business Committee.

ADJOURNMENT SINE DIE

Mr. ROBERT C. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the provisions of House Concurrent Resolution 442 and House Joint Resolution 674, that the Senate now stand adjourned sine die, to meet again on January 19, 1978, at 12 o'clock meridian.

The motion was agreed to; and at 6:04 p.m., the Senate adjourned sine die.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of December 15, 1977, the Secretary of the Senate, on December 29, 1977, received a message from the President of the United States, which stated that he had approved and signed the following acts:

On December 19, 1977:

S. 305. An act to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such Act or an issuer required to file reports pursuant to section 15(d) of such act to make certain payments to foreign officials and other foreign persons, to require such issuers to maintain accurate records, and for other purposes.

S. 1316. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973.

S. 2328. An act to amend Private Law 95–21 to make a technical correction therein.

On December 28, 1977:

S. 904. An act to provide for the efficient and regular distribution of current information on Federal domestic assistance programs.

S. 1063. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under authority of the order of December 15, 1977, the Secretary of the Senate on December 16, 1977, received a message from the House of Representatives, which announced that the Speaker had signed the following enrolled bills and joint resolution:

S. 904. An act to provide for the efficient and regular distribution of current information on Federal domestic assistance programs.

S. 1063. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia.

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency.

H.R. 8212. An act for the relief of Charles P. Bailey.

H.R. 9346. An act to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, and for other purposes.

H.R. 9794. An act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

H.J. Res. 674. A joint resolution relative to the convening of the second session of the 95th Congress, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. METCALF).

ENROLLED BILLS PRESENTED

The Secretary reported that on December 19, 1977, he presented to the President of the United States the following enrolled bills:

S. 904. An act to provide for the efficient and regular distribution of current information on Federal domestic assistance programs; and

S. 1063. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia.

NOMINATIONS

Executive nomination received by the Senate December 8, 1977, pursuant to the order of the Senate of December 7, 1977:

Department of Justice

Louis G. Villaescusa, Jr., of California, to be U.S. marshal for the central district of California for the term of 4 years, vice Gaylord L. Campbell, term expired.

Executive nominations received by the Senate December 9, 1977, pursuant to the order of the Senate of December 7, 1977:

Department of Justice

Benjamin R. Civiletti, of Maryland, to be Deputy Attorney General, vice Peter F. Flaherty, resigned.

In the Coast Guard

The following regular officers in the U.S. Coast Guard for promotion to the grade of lieutenant commander:

George L. VanBelkum
Louis P. Manfra
James E. Doyle
Lawrence L. Jenkins
Thomas T. Allan III
Raymond L. McFadden
Richard L. Murphy
Robert J. Lachowicz
Glendon L. Moyer
James L. Hested
Edward C. Karnis
George H. Mercier
Richard L. Maguire
Phillip J. Stager
James A. Smith
Juan T. Salas
Thomas E. Thompson
Paul Ibsen
Ronald L. Edmiston
Robert B. Bower
John D. McDevitt
Richard R. Clark
James C. Clow
Douglas A. MacAdam
Stephen L. Swann
Floyd W. Thomas
Victor E. Hipkiss
Robert P. Bender
Robert B. Vanasse
Arthur F. Shires
Kevin V. Feeney
Dennis M. Majerski
Peter D. Lish
Lonnie L. Steverson
Edward C. Cooke
William J. Theroux
Robert E. Gronberg
Dennis R. Erlandson
Roger D. Mowery
Jack W. Scarborough
Frank P. Murray
Roy C. Samuelson, Jr.
Dennis L. McCord
Richard L. Cashdollar
Harold B. Dickey
Charles J. Hermann
Edward B. Kangeter III
Bruce E. Weule
Wayne Young
John W. McBride
Wayne K. Six
Geoffrey M. Harben
Jay A. Creech
William F. Holt
John R. Hruska
Robert K. Jones
Olav R. Haneberg
Ronald C. Hoover
Robert B. Swart
Donald F. Walker
Theodore T. Musselman
Robert F. O'Toole
Gerald R. Murphy, Jr.
John S. Wenter
Foye A. Meader
Thomas J. Burnaw
Charles R. Leland
Richard R. Buhl
Christopher M. Stone
Frederick H. Edwards III
Robert E. Luchun
Craig E. Jud
Ernest J. Williams
David F. Patton, Jr.
Michael R. Perkins
Edward G. Martin, Jr.
Donald A. Jensen
Peter B. Fontneau
Robert A. Knapp
Zoran Sajovic
Michael D. Vance
Leonard H. Henell
Edward J. Searl
Paul K. Gruver
Jerry E. Bowersox
Robert B. Millson
James L. O'Brien
Gary A. Bird
Theodore C. Scheeser
Paul E. Hill
John E. Steve
Richard L. Youdal
Robert L. Hoyt
William J. Hamilton
Michael T. Burnett
Ronnie T. Wheeler
John H. Burger
Miller R. Chappell
Curtis J. Olds, Jr.
Carl R. Sosna
Richard D. Carmack
Dick A. Wilson
Frank V. Olszewski
David F. Cooper
Frank E. Couper
Fred B. Eidson
William R. Shaffer
Ralph E. Huck
Thomas J. Barrett
Stephen A. Scully
Richard N. Norat
Kenneth J. Losser
James M. McKernan, Jr.
William F. Geers
James N. Skelton
Carl Lowry, Jr.
Wayne R. Gronlund
Warren E. Colburn, Jr.
Gregory L. Shaw
Robert W. Henry
Charles W. More
Benjamin B. Peterson
Paul J. Prokop
Gerald L. Hale
George F. Hetland, Jr.
Paul H. Garrity
James W. Gynther
Robert J. Wenzel
William K. Bissell
Michael J. Mierzwa
Alexander J. Hindle, Jr.
Richard F. Gupman
James D. Hull
Michael Billingsley
David H. Humpreys
Steven E. Hungness
Richard E. Burke, Jr.
Christopher G. Kreiler
Gregory H. Magee
Donald R. Shrader
James E. Smith, Jr.
David D. Frydenlund
Jay M. Snyder
James D. Garrison
Stuart N. White
Donald H. Debok
John F. McGowan
Frederick N. Wilder
Robert C. Olsen, Jr.
Eric W. Miller
James L. Robinson
Andrew W. Anderson
Philip W. Hawkins
Larry F. Wheatley
Robert C. Belote
Richard J. Losea
Elwood E. Stoeger
Daniel L. Carney
William R. Jurgens
Paul J. Bodenhofer
Richard C. Vlaun
George A. Flanigan
Frederick J. Schmitt
Ronald J. Greto
George M. Williams
Jeffrey E. Robbins
Robert M. Acker, Jr.
Charles A. Huber, Jr.
Glenn P. O'Brien
Robert S. Illman
Andrew L. Gerfin, Jr.
William R. Bowen
James R. Hartney
Richard D. White, Jr.
Richie M. Keig

In the Air Force

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Aleksich, Bryan, xxx-xx-xxxx.
Apel, Elmer C., xxx-xx-xxxx.
Arthur, Dennis S., xxx-xx-xxxx.
Ayers, Roy E., Jr., xxx-xx-xxxx.
Bailey, Samuel W., xxx-xx-xxxx.
Baltz, Haword W., xxx-xx-xxxx.
Beattie, Sheridan B., xxx-xx-xxxx.
Begue, William J., xxx-xx-xxxx.
Benigno, Caesar J., xxx-xx-xxxx.
Berry, Jack K., xxx-xx-xxxx.
Boiko, George A., xxx-xx-xxxx.
Booth, Billy C., xxx-xx-xxxx.
Boughton, Charles J., xxx-xx-xxxx.
Boyd, Charles A., xxx-xx-xxxx.
Brianin, Howard L., xxx-xx-xxxx.
Braun, Hugh R., xxx-xx-xxxx.
Brenner, Stanley J., xxx-xx-xxxx.
Brown, Gail E., xxx-xx-xxxx.
Buchanan, David L., xxx-xx-xxxx.
Buehler, John R., xxx-xx-xxxx.
Buescher, Norman E., Jr., xxx-xx-xxxx.
Buller, Gerald E., xxx-xx-xxxx.
Burkhalter, Alvie C., Jr., xxx-xx-xxxx.
Cafiso, Matthew M., xxx-xx-xxxx.
Campbell, William J., Jr., xxx-xx-xxxx.
Cargill, Charles R., xxx-xx-xxxx.
Carson, Charles E., xxx-xx-xxxx.
Carter, Thomas M., Jr., xxx-xx-xxxx.
Cate, Joe N., Jr., xxx-xx-xxxx.
Chasteen, Doyle W., Jr., xxx-xx-xxxx.
Childress, Robert D., xxx-xx-xxxx.
Coleman, Charles B., III, xxx-xx-xxxx.
Collisson, David K., xxx-xx-xxxx.
Cook, Carter C., xxx-xx-xxxx.
Corzine, Donald J., xxx-xx-xxxx.
Cox, Robert C., xxx-xx-xxxx.
Craig, Walter P., xxx-xx-xxxx.
Crakes, Patrick J., xxx-xx-xxxx.
Danaher, Jere J., xxx-xx-xxxx.
Dang, Eugene L., xxx-xx-xxxx.
Davenport, George R., xxx-xx-xxxx.
Davis, William F., Jr., xxx-xx-xxxx.
Dayton, Alfred B., xxx-xx-xxxx.
Degraw, Barton K., xxx-xx-xxxx.
Dement, Ira, III, xxx-xx-xxxx.
Dietrich, Joseph N., xxx-xx-xxxx.
Diller, John C., Jr., xxx-xx-xxxx.
Diuguid, John P., xxx-xx-xxxx.
Ehrenhaft, Peter D., xxx-xx-xxxx.
Eiser, Carl H., xxx-xx-xxxx.
Ellis, Ben F., II, xxx-xx-xxxx.
Emery, James L., xxx-xx-xxxx.
Erwin, Ralph D., xxx-xx-xxxx.
Fail, Woodrow T., Jr., xxx-xx-xxxx.
Farha, Henry S., Jr., xxx-xx-xxxx.
Feldman, Alfred A., xxx-xx-xxxx.
Feltel, Gilbert L., xxx-xx-xxxx.
Fitch, Dewey C., xxx-xx-xxxx.
Foley, Charles W., xxx-xx-xxxx.
Folloni, John R., Jr., xxx-xx-xxxx.
Forbes, Forrest S., xxx-xx-xxxx.
Forschler, George P. A., xxx-xx-xxxx.
Fortner, Richard W., xxx-xx-xxxx.
Fox, Harry D., xxx-xx-xxxx.
French, Donald B., xxx-xx-xxxx.
Fried, Meyer Z., xxx-xx-xxxx.
Fritz, Bernard J., xxx-xx-xxxx.
Frye, James H., xxx-xx-xxxx.
Gagliano, Charles J., xxx-xx-xxxx.
Gates, Jackie L., xxx-xx-xxxx.
George, Richard S., xxx-xx-xxxx.
Glahn, Harry R., xxx-xx-xxxx.
Glass, Franklin E., Jr., xxx-xx-xxxx.
Haldeman, Norman J., Jr., xxx-xx-xxxx.
Hand, Donald J., xxx-xx-xxxx.
Harper, William L., xxx-xx-xxxx.
Harris, Martin H., xxx-xx-xxxx.
Hart, Donald C., xxx-xx-xxxx.
Hartman, Roger L., xxx-xx-xxxx.
Haugen, Kenneth R., xxx-xx-xxxx.
Hegland, Leonard W., xxx-xx-xxxx.
Hennessy, John R., xxx-xx-xxxx.
Henry, Eugene W., xxx-xx-xxxx.
Heyner, Franklin R., xxx-xx-xxxx.
Hillman, Richard D., xxx-xx-xxxx.
Hipp, Augustus J., xxx-xx-xxxx.
Hirschi, Harvey C., xxx-xx-xxxx.
Hoback, Harold N., xxx-xx-xxxx.
Horne, Stanley H., xxx-xx-xxxx.
Huber, Johannes H., xxx-xx-xxxx.
Hull, Benjamin C., xxx-xx-xxxx.
Hyland, Patrick F., xxx-xx-xxxx.
Hyman, Julius, xxx-xx-xxxx.
Ingraham, Hubert H., Jr., xxx-xx-xxxx.
Ingram, Bobby F., xxx-xx-xxxx.
Jacobsen, Richard L., xxx-xx-xxxx.
Janover, Lee R., Jr., xxx-xx-xxxx.
Jervey, Annie A., xxx-xx-xxxx.
Johnson, Heinz H., xxx-xx-xxxx.
Johnson, Lester M., xxx-xx-xxxx.
Johnson, Severd V., xxx-xx-xxxx.
Johnston, Thomas D., xxx-xx-xxxx.
Johnstone, Stowell R., xxx-xx-xxxx.
Keefer, James F., xxx-xx-xxxx.
Kegg, Earl C., xxx-xx-xxxx.
Kehaya, Donald E., xxx-xx-xxxx.
Kendall, Andrew W., xxx-xx-xxxx.
Kerschner, Lee R., xxx-xx-xxxx.
Kintigh, Jerry L., xxx-xx-xxxx.
Kirschner, Burton H., xxx-xx-xxxx.
Kliemann, Richard H., xxx-xx-xxxx.
Knazik, Carl W., xxx-xx-xxxx.
Knight, Haven A., xxx-xx-xxxx.

Knight, Montgomery Jr., [redacted].
Kornher, Kenneth L., [redacted].
Kosikowski, Roobert E., [redacted].
Lamorte, Michael W., [redacted].
Leadbetter, George D., [redacted].
Lebanoff, Lazarus, [redacted].
Lemersal, Robert R., [redacted].
Lindsey, Robert E., [redacted].
Little, William B., [redacted].
Locker, Donald R., [redacted].
Logan, Kenneth W., [redacted].
Long, Charles C., [redacted].
Loughran, Edmund X., [redacted].
Loveland, Emerson R., [redacted].
Ludlow, Roger L., [redacted].
Lyle, Richard W., [redacted].
Lynch, Donald W., [redacted].
MacDonald, Leland H., [redacted].
Macko, Charles, [redacted].
Manes, Charles H., [redacted].
Manning, William S., [redacted].
Marcotti, Arthur D., [redacted].
Mariutto, Donald V., [redacted].
McCawley, Frank X., [redacted].
McCloskey, Neal T., [redacted].
McDaniel, William B., [redacted].
McDonald, Walter G., [redacted].
McDonnell, Joseph M., [redacted].
McEntee, Jervis W., [redacted].
McEwen, John E., [redacted].
McFarland, Edward L., [redacted].
McHaffie, John C., [redacted].
McLean, Bernard B., [redacted].
McClean, Horace L., [redacted].
McMullen, Robert A., [redacted].
McQuade, William J., [redacted].
Meldrum, Sterling L., [redacted].
Mercer, Robert D., [redacted].
Metzger, Robert C., [redacted].
Meyer, Marvin C., [redacted].
Michener, Richard E., [redacted].
Miller, Carl D., [redacted].
Mitchell, Albert C., [redacted].
Mitchell, Merle F., [redacted].
Moeller, Kenneth E., [redacted].
Moore, John D., [redacted].
Morgan, Billy B., [redacted].
Mossman, Frances I., [redacted].
Mowry, Charles J., [redacted].
Munroe, Donald D., [redacted].
Muscatello, Richard W., [redacted].
Neel, Robert L., [redacted].
Neff, William A., [redacted].
Newstadt, Barry B., [redacted].
Noell, William C., Jr., [redacted].
Oberhelman, Jerry D., [redacted].
Olsen, Norman E., [redacted].
Olson, Herbert A., [redacted].
Orourke, Donald J., [redacted].
Oswald, Lynn S., [redacted].
Parker, Billie H., [redacted].
Parks, Anderson H., Jr., [redacted].
Parr, Robert W., [redacted].
Parrott, Charles R., [redacted].
Parsons, Stuart O., [redacted].
Pochari, Thomas R., [redacted].
Pundt, Lockett J., Jr., [redacted].
Pustilnik, David D., [redacted].
Reynolds, Donald E., [redacted].
Reynolds, Frank L., Jr., [redacted].
Richard, Charles W., Jr., [redacted].
Richardson, Howard H., [redacted].
Robertson, Richard R., [redacted].
Ross, Leslie W., [redacted].
Rottas, Raymond G., [redacted].
Roxby, William C., Jr., [redacted].
Sanders, Corban H., [redacted].
Scheer, Roger P., [redacted].
Schmidt, Leo C., Jr., [redacted].
Schmitz, Francis T., [redacted].
Schroeder, Stuart L., [redacted].
Scultz, William P., [redacted].
Schweinler, David E., [redacted].
Scott, Richard A., [redacted].
Sgarro, Rocco R., [redacted].
Shaw, John D., Jr., [redacted].
Shea, Robert S., [redacted].
Schuelke, Charles W., [redacted].
Simms, Harry A., Jr., [redacted].
Singer, Donald M., [redacted].
Skill, Neil T., [redacted].
Slater, Charles D., [redacted].
Smith David A., [redacted].
Smith, James W., [redacted].
Smith, Kenneth F., [redacted].
Smith, William M., [redacted].
Snyder, Harvey L., [redacted].
Sokolski, Alan, [redacted].
Spagnola, Joseph C., Jr., [redacted].
Sprenger, Robert H., [redacted].
Sproul, William E., [redacted].
Spruill, Joseph E., Jr., [redacted].
Stine, Joseph M., [redacted].
Stobbs, John D., [redacted].
Sult, Robert L., [redacted].
Sunshine, Gabriel, [redacted].
Tapp, Marshall L., [redacted].
Taylor, James L., [redacted].
Taylor, Thomas A., Jr., [redacted].
Tayman, Grafton P., Jr., [redacted].
Thomas, James P., [redacted].
Tom, Herbert K., [redacted].
Travis, Edward A., Jr., [redacted].
Troshynski, Robert H., [redacted].
Turner, Eugene B., [redacted].
Turner, William J., [redacted].
Twitchell, Paul F., [redacted].
Ullrich, Thomas W., [redacted].
Villarreal, Ysidro, [redacted].
Vinson, Norman, [redacted].
Voss, Benjamin, [redacted].
Waggoner, Raymond C., [redacted].
Walker, Frederick D., [redacted].
Wartonick, Nicholas A., [redacted].
Weber, Melvin B., [redacted].
Weisberger, Alan M., [redacted].
Wenaas, Gordon J., [redacted].
Wicke, Robert J., [redacted].
Williams, Gilbert R., [redacted].
Wyand, Martin J., [redacted].
Yancey, Reuben H., [redacted].
Yates, Elwood F., Jr., [redacted].
Zimmerman, Carl B., [redacted].

CHAPLAIN CORPS

Coogan, Roch A. T., [redacted].
Dilella, Mario, [redacted].
Duckworth, James O., [redacted].
Guy, Myrwood K., [redacted].
Hoffman, Sydney L., [redacted].
Kobrinetz, Simeon, [redacted].
McGahren, Joseph J., [redacted].
Petsch, Joseph P., [redacted].
Strobel, Walter R., [redacted].
Thearle, Christian J., [redacted].
Thomas, Richard H., [redacted].
Wingard, William F., [redacted].
Worner, George J., [redacted].

DENTAL CORPS

Cooper, Bobby L., [redacted].
Dwyer, Martin J., [redacted].
Freedman, Irving, [redacted].
Goldstone, Ronald J., [redacted].
Sills, Ashley H., Jr., [redacted].

MEDICAL CORPS

Amadeo, Jose H., [redacted].
Bogard, Dorr E., [redacted].
Bryson, Michael F., [redacted].
Burnell, Ernest L., [redacted].
Cock, Thomas C., [redacted].
Ellis, John W., Jr., [redacted].
Felt, Robert S., [redacted].
Ferre, George A., [redacted].
Garman, Ray F., [redacted].
Hillis, William D., [redacted].
Jenkins, Edward R., [redacted].
Johnson, Wayne A., [redacted].
Jones, Robert T., [redacted].
Longo, Michael R., Jr., [redacted].
Mathews, Thomas P., [redacted].
McClure, James E., [redacted].
Moore, Patrick J., [redacted].
Olesijuk, Andrew, [redacted].
Ransemeieh, Robert E., [redacted].
Rodi, Alexander E., [redacted].
Schaefer, Norman E., [redacted].
Statti, Thomas F., [redacted].
Skeel, David A., [redacted].
Taylor, William M., [redacted].
Thomason, Thomas L., [redacted].
Trump, David S., [redacted].
Vaughn, Clarence B., [redacted].
Young, Frank W., [redacted].
Yrizarryyunque, Jose M., [redacted].

NURSE CORPS

Foote, Marian F., [redacted].
Goldberg, Judith, [redacted].
Hollen, Marriane R., [redacted].
Irwin, Mary E., [redacted].
Koncelik, Joseph F., [redacted].
Meadows, Bettie J., [redacted].
Miller, Elaine M., [redacted].
Mishima, Margaret Y., [redacted].
Tumas, Elizabeth R., [redacted].

MEDICAL SERVICE CORPS

Aramendia, Frank M., Jr., [redacted].
Spruiell, Thomas L., [redacted].

VETERINARY CORPS

Gisler, Donald B., [redacted].

BIOMEDICAL SCIENCE

Jordan, John T., [redacted].

IN THE ARMY

The following-named officers for reappointment in the active list of the Regular Army of the United States, from the Temporary Disability Retired List, under the provisions of title 10, United States Code, section 1211:

To be colonel, Regular Army, and colonel, Army of the United States

Horn, Charles S., [redacted].
Linn, William E., [redacted].

To be lieutenant colonel, Regular Army, and colonel, Army of the United States

Sikes, Arthur E., [redacted].

The following-named person for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be first lieutenant, Regular Army, and captain, Army of the United States

Haynes, Gladys R., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Cohen, James M., [redacted].
Difiore, Peter M., [redacted].
Yearwood, Lionel L., [redacted].
York, Edwin R., [redacted].

To be captain

Craig, James A., [redacted].
Dotson, Philip E., [redacted].
Fluharty, Michael L., [redacted].
Guiry, Clinton C., [redacted].
Haught, Stephen R., [redacted].
Holland, Barbara T., [redacted].
Hufham, William L., [redacted].
Infantino, Lillian M., [redacted].
Lambert, Mary H., [redacted].
Lawson, Thomas R., [redacted].
Parker, William J., [redacted].
Pollock, Glen B., [redacted].
Prucha, Dan M., [redacted].
Sakata, Marlin K., [redacted].
Shields, Walter D., Jr., [redacted].
Tancredi, Sue L., [redacted].
Weber, Roy F., [redacted].
White, Gary L., [redacted].

To be first lieutenant

Bennett, Deborah J., [redacted].
Bernstein, David A., [redacted].
Bradigan, Terry W., [redacted].
Calderwood, Philip A., [redacted].
Craghead, Robert M., [redacted].
Czuszak, Charlene A., [redacted].
Evans, John R., [redacted].
Fitzgerald, William J., [redacted].
Harig, Paul T., [redacted].
Harris, Billy J., [redacted].
Katz, Jerald O., [redacted].
Kruger, Sally M., [redacted].
Maloney, Patsy L., [redacted].

Martinez, Jose A., [redacted].
Maxson, Jean D., [redacted].
Meyer, Edward R., [redacted].
Pehrson, Kyle L., [redacted].
Pierce, William D., [redacted].
Plewes, John M., II, [redacted].
Porter, William A., [redacted].
Richter, Paul V., [redacted].
Roach, Terry R., [redacted].
Rompre, Robin M., [redacted].
Skinner, Richard I., Jr., [redacted].
Skutt, Terry C., [redacted].
Unterzuber, Susan E., [redacted].
Waddell, Henry T., Jr., [redacted].
Webster, Horace F., III, [redacted].
Wenk, John D., [redacted].
Yaws, Jane Y., [redacted].
Young, Christopher L., [redacted].

In the Navy

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line, pursuant to title 10, United States Code, section 5769, subject to qualification therefor as provided by law:

Ables, Kenneth C., III
Abshier, Randall O.
Acton, Richard L., Jr.
Adams, Bruce C.
Adams, James L.
Adams, William F.
Adamson, John C.
Addison Christopher L.
Adler, Gary A.
Ahlstrand, Donald C.
Akin, Michael A.
Albertolli, William R.
Alexander, George E., Jr.
Alexander, Michael W.
Alee, Robert G.
Allen, Dannie H.
Allen, John W.
Allen, Mark E.
Allison, Harry K.
Almgren, Malcolm
Alpeter, William C.
Ammerman, Larry R.
Amos, Barry M.
Amtower, James F., Jr.
Amundson, Robert J.
Anderson, Christopher C.
Anderson, David W.
Anderson, Dennis J.
Anderson, George E.
Anderson, John F., Jr.
Anderson, Jonathan L.
Anderson, Leroy
Anderton, James D.
Antoine, Eddie P., II
App, Kenneth G.
Arbiter, Jerome L.
Arends, Stephen R.
Arlett, Stephen M.
Arnott, Ralph E.
Ashford, James H.
Atchison, Donald L.
Athow, Lewis K.
Auriemma, John C.
Avery, Klurge C., Jr.
Axtell, Robert D.
Ayres, Ronald R.
Babington, David C.
Bacon, William B.
Bagaglio, Mario J., Jr.
Bailey, Robert C.
Baird, W. Dean, Jr.
Baker, Norman E.
Baker, Robert L.
Balhorn, Carl D.
Ballard, David L.
Banks, Richard A.
Bankston, Victor J.
Bannat, Edward G.
Baratko, Robert E.
Barber, Christopher T.
Barber, James W.
Barber, Robert J.
Barker, Frank E., Jr.
Barnes, George W., III
Barnes, John R.
Barrett, Michael D.
Barry, Brian J.
Barton, James D.
Baskerville, James E.
Bass, George L.
Batdorf, Richard E.
Bates, Charles K.
Bathgate, John C.
Battell, James J., Jr.
Bauer, Carl T.
Bauman, Ronald B.
Baxla, Robert E.
Beakley, James E.
Beam, Alan R.
Beason, Nathan H.
Beauchesne, Charles L.
Beaugureau, Denis F.
Beck, Arthur T., Jr.
Becker, John J., Jr.
Beckwith, Donald C.
Beduhn, Jerry R.
Bell, James M.
Bell, John F.
Bell, Stuart W.
Bell, William A.
Bellemer, Gordon A.
Benner, Stuart C.
Bennett, Albert E., Jr.
Bennett, Richard W.
Bentz, John R.
Bergner, Jon C.
Bergo, Dennis M.
Bethea, William D., III
Bever, Jerry D.
Bevers, Richard E.
Beyer, Carl W.
Bianco, Bernard M.
Bicknell, Robert S.
Biddles, Henry N.
Bieda, George E.
Bielik, John P.
Bierbower, William B.
Bilski, Anthony
Bishop, Grover C.
Bishop, Kenneth R.
Bishop, Peter B.
Bixler, Kenneth G.
Blackburn, William R.
Blackwell, William A.
Blake, Frank J.
Blanchard, James J.
Blatt, Norman W.
Blaue, John W.
Bleecker, James M.
Blessing, Peter E.
Blomquist, James H.
Bloyer, Stanley F.
Bluethman, John D.
Board, George R.
Bogle, William T. R.
Bohannon, Edward L.
Bohn, Michael K.
Boland, James A.
Bolt, Billy F.
Bolton, Peter K.
Bonnett, David E.
Booker, Royston T.
Boorom, Robert F.
Booth, David H.
Boroweic, Richard R.
Bosley, Dale E.
Bostic, Larry W.
Boswell, Charles M.
Bouchoux, Donald R.
Bower, Duane B.
Bower, Phillip W.
Boykin, William S., Jr.
Boylan, Harold G., Jr.
Boyle, David W.
Boynton, Robert W.
Braden, Richard F.
Bradley, John E., Jr.
Brady, Donald R.
Brady, Mark L.
Brady, Michael F.
Branan, Phillip H.
Branch, Malcolm P.
Brandon, William R.
Brasher, Stephen J.
Bratsch, Roger D. J.
Braun, Gerald P.
Braunstein, Wayne J.
Breeden, George L., II
Bremhorst, Joseph H.
Brennon, Roy L., Jr.
Brewer, Roger D.
Briggs, Steven E.
Bright, David L.
Brigman, Charles E.
Brink, Gale D.
Brodie, Glenn T.
Brooks, Randolph M.
Brophy, James M., III
Brotherton, James D.
Brown, Fred D.
Brown, Gregory C.
Brown, James M.
Brown, Paul R.
Brown, Richard M., III
Brown, Robert E.
Brown, Robert E.
Brown, Ronald F.
Brown, Thomas J., Jr.
Broyles, Ned A.
Bruce, Robert G.
Brunet, Gerard J.
Bryant, Stanley W.
Bub, Frank L.
Bucelato, John C.
Buelow, John P.
Bugarin, Temotio E., Jr.
Bulger, Richard L.
Bulkeley, Peter W.
Burbage, Charles T.
Burdick, William F., Jr.
Burin, James M.
Burks, John S.
Burnham, Johnny W. Jr.
Burns, Joseph D.
Burns, Richard J.
Burr, Richard H.
Busby, John C., III
Busching, William
Bushnell, Gregory A.
Butler, Charles T., III
Butterworth, William J., Jr.
Buttina, Richard A.
Buzhardt, Harry O., Jr.
Byles, Robert W.
Callaham, Thomas E.
Callan, Leonard J.
Callan, Patrick F.
Campbell, Craig V.
Campbell, Fred P.
Campbell, Jon R.
Campbell, Robert S.
Campbell, Victor H., III
Cannady, Charles R.
Capansky, Mark A.
Caparelli, Richard F.
Carde, Freeland H., III
Carden, Carl E.
Carey, Wayne T.
Carlson, Charles R.
Carlson, Robert S.
Carlson, William G.
Carmichael, Hubert M., Jr.
Carpenter, Harold F.
Carpowich, David J.
Carrig, Michael F.
Carroll, Dennis J.
Carroll, James C.
Carter, Dennis C.
Carter, John C.
Carter, John M.
Carter, Lynn, II
Cassidy, John A., Jr.
Castle, William M.
Cavaiola, Lawrence J.
Cavander, John B., III
Cech, Kenneth C.
Chalfan, Richard D.
Chalke, George P., Jr.
Chaloupka, Allan B.
Chamberlain, Carl W., Jr.
Charuhas, Richard B.
Check, Martin L.
Cheney, Martin J.
Chepenik, Stanley B.
Chesire, John R.
Chiarolanza, Michael J.
Childers, Richard D.
Chisholm, Christopher I.
Christenson, Ronald L.
Christian, Richard L.
Church, Albert T., III
Cima, William M.
Clabaugh, Cecil A.
Clapsadl, Michael R.
Clark, James S.
Clark, Michael B.
Clark, Philip S., Jr.
Clark, Robert A.
Cleverdon, Thomas F.
Coane, Casey W.
Coates, Robert V., Jr.
Cobb, William W., Jr.
Coble, Melvin A.
Cochran, Larry L.
Cochrane, John M.
Cohlmeyer, Chris H.
Cole, Frederick B.
Cole, Richard W.
Coleman, Richard G.
Coleman, Richard L.
Colie, Timothy B.
Comer, Thomas A.
Conley, Edward C.
Connelly, Ralph W.
Conner, Harry M.
Conrad, Emerson S., Jr.
Conrad, James H.
Consaul, Harry P, III
Conway, Joseph V., Jr.
Cook, Larry W.
Cook, Virgil G., Jr.
Cooper, Roger S.
Corn, Richard, III
Corsey, John W., Jr.
Costarino, F. Thomas
Cote, Daniel N.
Cottle, Joseph A., Jr.
Counts, Steven L.
Courville, James D.
Covington, Clifford C.
Cowper, Richard G.
Cox, Richard S.
Craig, William C.
Crawford, James W.
Crawshaw, Robert O.
Creed, Andrew L.
Creekman, Charles T., Jr.
Crego, Howard L.
Crim, George N., Jr.
Crisp, Dale W.
Cronk, Philiip J.
Cross, Allen M.
Crowley, John, Jr.
Culbertson, James L., III
Culpepper, James C.
Culwell, Joe M.
Cummings, Walter J.
Cummins, Eugene J., Jr.
Curran, Joseph L., Jr.
Curry, Dennis P.
Curtin, John W.
Curtis, James A.
Curtis, Richard M.
Custer, Howard B.
Custer, Laurence D., Jr.
Dahl, Donald L.
Daly, Denis F., Jr.
Danaher, Thomas P.
Danberg, Robert B.
Darezzo, Richard A.
Davey, Bruce C.
Davies, Robert W.
Davis, Edward L.
Davis, John P.
Davis, Larry T.
Davis, Robert B.
Davis, Russell E.
Davis, Thomas C., Jr.
Davis, Thomas J.
Davis, William A., Jr.
Dawson, James C., Jr.
Day, Robert W.
Dean, Thomas R.
Delaney, Michael L.
Demlein, John J., Jr.
Dennis, Jackie L.
Denogean, Rudy
Despain, William M.
Detchemendy, Edward M.
Devlin, Joseph V.
Dewey, William A.
Dews, Edwin W.
Dibble, Ronald A.
Dibiase, Gene F.
Dickerson, Robert W., II.
Dickover, David G.
Didier, Henry N.
Diekemper, Jerome V.
Dillon, David L.
Dinorma, Gerald
Dionizio, Augusto J., Jr.
Dodge, Kenneth E.
Dolquist, John D.
Domurat, Benjamin
Donovan, Gerald M.
Donovan, Mark A.
Dormer, James W.
Douglas, Charles T.
Douglas, Robert E.
Dow, Larry A.
Dowd, Andrew S., Jr.
Dowgiewicz, Michael A.
Doyle, Larry S.
Drossel, Craig
Drucker, John R.
Duchesneau, Robert E.
Dudderar, Raymond A., Jr.
Duesi, Frank W.
Duffy, Timothy W.
Duggan, Robert F.
Duke, Russell A., Jr.
Duncan, Michael J.
Dundics, Marton J.
Dunne, Robert R.
Durgin, Harlan M.
Durst, Robert S., II
Dusa, Ronald J.
Dwyer, Kevin R.
Dwyer, Stephen M.
Dyer, Edward W.
Dysart, Barry J.
Eagle, James N., II
Easterling, Lael R.
Eastman, Guy A.
Eastwood, George H.
Eckerman, Lawrence I.
Eckhardt, Bruce K.
Edwards, Bruce B.
Edwards, Daniel D.
Edwards, Gilbert S.
Eldred, William L.
Eller, Douglas D.
Ellin, Charles R.
Elliott, Lawrence B.
Elliott, Patrick W.
Elliott, Robert R.
Ellis, James O., Jr.
England, Don R.
Englebretson, Ronald E.
Englehardt, Cleveland D.
Engler, Brian D.
Engstrom, George H.
Ensminger, Gerald D.
Erb, Robert S.
Erickson, David P.
Ertner, James D.
Escajeda, Ruben
Eseman, Thomas S.
Etter, Thomas H.
Euliss, James P.
Eustis, Harold R.
Evans, George W.
Evans, John O., Jr.
Evert, Richard D.
Ewan, Lawrence K.
Fages, Malcolm I.
Fahy, Thomas E.
Fandrei, Dennis E.
Faraldo, David D.
Fare, Freddie E.
Faris, Charles C.
Farley, John F.
Farrar, James S.
Fawcett, Peter F.
Feder, John H.
Fedoryszyn, Robert J.
Fedyszyn, Thomas R.
Feikema, Brian D.
Felloney, John J., Jr.
Ferranti, John P., Jr.
Fetgatter, Walter E.
Fidyk, William G.
Fillmann, William C.
Fincher, Walter K.
Findlay, Gary S.
Fischer, Edward F.
Fischer, John R.
Fisher, Frederick B.
Fitch, David P.
Fitzgerald, Michael J.
Flaherty, Mark O.
Flanagan, Nathan B.
Fletcher, Frank C.
Floyd, Richard P., Jr.
Foley, James O.
Foley, John B., III
Follis, Thomas J.
Foltz, Randall A.
Fontz, Charles R.
Forbes, Jimmy M., Jr.
Ford, Peter W.
Fortino, Anthony M.
Fortson, Robert M.
Foshay, Wayne E.
Fossum, Anton P.
Foster, Kent W.

Foster, Robert E.
Foster, Thomas F.
Fought, Earl J.
Fowinkle, Charles T.
Fowler, Jeffrey B.
Fox, Frederick M., Jr.
Fox, James R.
Francel, John T.
Frank, Joe L., III
Fravel, Richard
Frazier, Tommy E.
Frederick, Georgie R.
Freed, Donald E.
Freeman, Bruce D.
Freeman, James D.
French, Richard W.
Frentzel, William Y., Jr.
Freudenthal, Paul E.
Frick, Robert E.
Fuller, Richard G.
Funke, David J.
Fuson, William A.
Gadino, William
Gaenslen, Carl E.
Gagarin, Gregory J.
Gallagher, Gerald L.
Galloway, Harold L.
Galus, Albert J. R.
Galvani, William P.
Ganger, David R.
Gano, Richard D.
Garrahan, Richard
Garrett, Charles E.
Garske, John C.
Gastler, Harold C.
Gaudi, Robert D.
Gault, Roger W.
Gay, Willis H., Jr.
Gemmill, Alan M.
George, Danny L.
George, Derek R.
George, Gary M.
George, William A., Jr.
Giambastiani, Edmund P., Jr.
Giancola, Charles A.
Giannotti, Louis J.
Gibbs, Dennis K.
Gibson, Robert L.
Gilbert, Richard W.
Gill, Jerry D.
Gillespie, Lindsay M.
Gilmer, Franklin B.
Glass, Dennis W.
Glenn, Phillip L.
Glidden, Stephen W.
Glover, Terry L.
Glutting, Joseph C.
Gmeiner, Rocklin E., Jr.
Good, Paul A.
Goode, Eugene F.
Gordon, Larry D.
Gordon, Vernon C.
Gore, Charles F.
Gorman, Thomas R.
Gorrell, Charles B.
Gottschalk, Glenn F.
Gowen, Charles T.
Graham, Robert E., Jr.
Grandia, David J.
Graw, Julius A.
Gray, Robert K.
Greenberger, David
Greene, Alan D.
Greenlee, William E.
Greenoe, Bartis E.
Grinnell, Raymond J., Jr.
Groff, Melvin A.
Gronemann, Bruce W.
Gross, Christian R.
Grossenbacher, John J.
Grossett, William W.
Groves, Ronald E.
Grulli, Michael D.
Gubbs, Douglas H.
Gugger, Roger P.
Guilfoyle, Kenneth G.
Gullickson, Gregg G.
Gygax, Felix S.
Hacker, Daniel M.
Hadley, John D.
Hagee, Carl L.
Hale, Ronald E.
Hall, Dane R.
Hall, George H.
Hall, Marshall V.
Hallauer, Russell L.
Hallett, Michael T.
Halliday, Howard J., Jr.
Hallman, Denis C.
Halloran, John G.
Hamburg, James W.
Hamilton, Jerry A.
Hamilton, Steven M.
Hammar, Jonathan A.
Hammontree, Larry J.
Hampshire, Eddie W.
Hannifin, Steven P.
Hanrahan, John D.
Hansell, Ross C.
Hansen, Gregory L.
Hanson, Lars P.
Hardcastletaylor, Michael
Hardekopf, James D.
Hardin, Larry K.
Hargrove, Harry L., III
Harkey, James P.
Harkness, George C.
Harler, Robert M.
Harlow, Louis F., Jr.
Harris, George C., Jr.
Harris, James P.
Harris, Joe N.
Harris, Ronald R.
Harrison, Jeffrey
Hartling, John M.
Hartwell, Charles M.
Hassell, Thomas J.
Hathaway, Robert R.
Hawes, Frederick J.
Hawley, Ramsey M.
Hay, Donald R.
Haydu, George A.
Hayes, Thomas
Hayes, Timothy P.
Headridge, William F.
Heckert, Craig R.
Heilmann, Thomas C.
Heim, Robert J.
Heineman, Joseph W.
Hellrung, Jeffrey M.
Heming, David M.
Henderson, John L.
Hendricks, Dale W.
Hendricks, Robert L.
Henson, Earl O.
Herzberg, Donald D.
Heuring, Joel N.
Hewig, William, III
Hibberd, Larry E.
Hickman, John E., Jr.
Hicks, Fred A.
Higgins, James B.
Higgins, Simeon G., Jr
Hightower, Terrance L.
Hill, Carl C., III
Hillard, John R.
Hine, Jonathan T., Jr.
Hinman, David A.
Hinman, Harry T., III
Hinsman, Donald E.
Hintz, Edward J., Jr.
Hirt, Keith A.
Hitchcock, James R.
Hodgson, David A.
Hodson, Eric S.
Hoeller, Bruce M.
Hoener, James H.
Hoffman, Herbert S., III
Hoffman, Vernon A., Jr.
Hofwolt, Gerald L.
Hogan, John P.
Hogan, Walton L., Jr.
Holder, Gordon S.
Holdt, Bruce E.
Holihan, Robert G., Jr.
Holland, Barry S.
Holleman, Thomas J.
Hollenbeck, Bernard G., Jr.
Holliday, Thomas B.
Hollis, John R.
Hollis, Michael K.
Holmes, Richard T.
Honour, Craig G.
Hoople, Douglas D.
Horan, John G.
Hornback, James L.
Horne, George M.
Horne, Kenneth A.
Horne, Lance C.
Horsley, James B.
Horton, John W.
Horton, William G.
Hough, Phillip G.
House, Michael E.
House, Prentice L.
Houston, Sam K., Jr.
Howd, Robert F.
Howell, Ralph M.
Hoxie, Andrew B.
Huber, Elbert W., Jr.
Hudson, Frank W., Jr.
Huff, Roger P.
Huffman, Robert L.
Hughes, Roger N.
Hull, Gerald W.
Hulstrand, Victor S.
Hunt, Conway L.
Hunt, Kenneth H.
Hurley, William D.
Hurston, James E.
Hutchins, John G.
Hutchison, John R.
Hutchison, John W.
Huth, Douglas P.
Hyde, Richard W., Jr.
Hydinger, John P.
Ihli, Carl B., Jr.
Ikerd, Gail E.
Ilgenfritz, Kenneth W.
Imphong, Thomas M.
Ingalls, Bryan W.
Jacoby, Lowell E.
James, Lloyd E.
Jamison, Philip C.
Janeczek, Joseph J., Jr.
Janov, Bernard
Jarrell, John A.
Jarrott, William M.
Jarvis, James L.
Jenkins, Gerald W.
Jenners, Joseph A.
Jensen, Franklin J., Jr.
Johannsen, Michael K.
Johnson, Edward E.
Johnson, Gary F.
Johnson, Gregory G.
Johnson, John M.
Johnson, John M.
Johnson, Jon R.
Johnson, Paul F.
Johnson, Paul C.
Johnson, Stephen I.
Johnson, Wade C.
Johnston, Richard M.
Jones, David L.
Jones, Gregory B.
Jones, James D.
Jones, Michael A.
Jones, Stephen K.
Jordan, Joseph E., Jr.
Joslin, Charles L., III
Juarin, David S.
Judnich, Francis A.
Jung, Frederick E.
Jupin, Harry A.
Jurand, George W.
Kail, Karl A., IV
Kalb, Richard W.
Kaler, Herbert C.
Kane, John E., Jr.
Kane, William J.
Karon, Stuart C.
Karrer, Allan E.
Karver, Walter R.
Kavale, Joseph J.
Kavanagh, Gary L.
Keating, William J., Jr.
Keef, Mark B.
Keelean, Michael R.
Keithly, John L.
Keller, Gary R.
Keller, John C., Jr.
Keller, Joseph F.
Kellett, Raymond A., Jr.
Kelly, James B.
Kelly, Richard A.
Kengla, Donald C.
Kennedy, John J., Jr.
Kennedy, John P.
Kennedy, Richard A.
Kennish, James R.
Keresey, James K.
Kevan, Mark R.
Khinoo, Leroy A.
Kibler, Rex W.
Kiffer, James C.
Kilmer, Milo J., II
Kimball, David P.
Kimener, Michael J.
Kirk, Douglas C.
Kirkland, Richard G.
Kjellander, Jon P.
Kline, Roger P.
Klosterman, Robert C
Knapp, John C.
Knapp, Larry R.
Knapp, Roland B.
Knuth, Dean L.
Koch, Frederick R.
Koehler, David D.
Koehler, Richard E.
Kolarcik, Kenneth E.
Kolarov, George W.
Kolman, Jerry D.
Komich, Frederick R.
Kopinitz, Seigmond C
Korba, Michael J.
Kosich, John L.
Kozinsky, Edward J.
Kraatz, William H.
Kracke, Wiliam F.
Krafft, Frederick W.,
Kral, Theodore C.
Kramer, Dennis A.
Krause, Alan L.
Kressel, Herbert J.
Kriz, Edward D.
Kroll, James T.
Krulis, Richard P.
Krumbholz, Karl O.
Kumpan, Joseph, Jr.
Kuntz, Robert A.
Kyriss, Stephen E.
Ladouce, Ralph J.
Lagow, Michael L.
Lakari, Robert E.
Lalli, Louis P.
Lambert, John P.
Landon, Phillip C.
Landua, James R.
Lane, Daniel R.
Lang, Norman W.
Lantrip, Bobby B.
Lapaille, John R.
Laplant, Michael
Lario, Joseph T.
Larock, Francis J.
Larson, Vernon J.
Latham, James W.
Lattig, Glenn D.
Lauermann, Michael M.
Laven, Theodore M.
Lawler, Thomas P.
Lawlor, John C., Jr.
Lawson, Dale B.
Layl, Jerry N.
Laz, William J., Jr.
Leclaire, Robert J.
Lee, David M.
Lebundguth, Peter D.
Leitzel, Robert L.
Leitzke, James H.
Lester, Roderick B.
Letter, John N.
Lewis, John M., II
Lewis, Richard R.
Lewis, Robert G.
Liebe, William C.
Lieberman, Stephen L.
Lieurance, John R.
Lilly, Dale R.
Linbeager, Alan G.
Lindsey, Charles M.
Lines, David F.
Lipinski, John B.
Litsinger, Nelson H.
Little, Douglas B.
Lloyd, Thomas D.
Lockrem, Richard J.
Lockyer, William K.
Loeffler, Stephen R.
Logan, Robert J.
Logan, William J.
Long, Milton R., Jr.
Longardt, Michael G.
Lonquist, Aaron D.
Lopez, Delio, Jr.
Lounge, John M.
Lucca, Duane O.
Lukens, Larry A.
Lundquist, Carl I.
Lusk, Larry A.
Luthman, Joseph J.
Lutman, Richard K.
Lux, John A., Jr.
Lyford, Lawrence E.
Lyle, John M.
Lynn, Freddie L., Jr.
Lynn, Warren D.
Lyons, Edward A
Lysaker, Jack T.
Mackey, Jesse M., Jr.
Mackin, John J.
Mackin, Patrick C.
Madel, Robert W.
Magyar, David J.
Maher, Dennis E.
Mahoney, Dennis P.
Mahumed, Karl A.
Maiden, Jesse J.
Maillefert, Christopher W.
Major, Denny K.
Mallett, Paul D.
Malmborg, Charles L.
Malone, Michael J.
Maloof, James M.
Mann, Edward F., Jr.
Manni, Kenneth L.
Manning, James R.
Manning, Michael P.
Mantei, Robert W.
Markley, Stephen A.
Marksbury, Johnsten L.
Markwell, Gregory A.
Marquart, Phillip G., III
Marquis, Richard L.
Marsh, James G.
Marshall, Harold E.
Marshall, John K., II
Martin, Kenneth W.
Martin, Thomas J.
Martin, William C.
Marvil, Stephen P.
Masden, Ward B., Jr.
Mathison, Neil G.
Matthew, Henry F.
Matthews, William C.
Maxwell, Peter N.
Mayes, Larry J.
McAdoo, Richard A.
McCaffery, Francis J.
McCauley, William C.
McClain, Calvin P., Jr.
McCleskey, Franklin D.
McClung, Roger W.
McClure, Robert J.
McCluskey Richard J.
McCollough, James H.
McCowan, Kenneth E.
McCrory, Kenneth L.
McCullom, Hugh J.
McCune, Michael O.
McCurry, Robert A.
McDonough, Edward C.
McDow, William L.
McEwen, Gary B.
McFarland, Thomas B.
McHugh, Donald, Jr.
McKinney, Arlie B., III
McKinney, Dana B.
McLaughlin William T.
McLemore, Robert S.
McManus, Richard I.
McMaster, Timothy R.
McMullen, Keith W.
McMurry, William S.
McNair, James E.
McNulty, Paul A.
McRoberts, James S.
McTigue, James J.
McWilliam, John T.
Meade, Martin C.
Meldrum, William G.
Merritt, Jerry D. III
Merrow, Richard A.
Mertz, Albert G.
Metzger, William R.
Meuchel, Frank T
Middlehurst, James R.
Milchanowski, Michael J.
Miller, Andrew J., Jr.
Miller, Dana F.
Miller, David V.
Miller, John M.
Miller, Terry A.
Minter, Richard G.
Mitchell, Donald E., Jr.
Modlin, Stephen E.
Moeller, Robert L., Jr.
Moffett, James F. III
Monaghan, Charles E. Jr.
Moncrief, William C.
Monroe, William H.
Monteville, Arthur R. Jr.
Montgomery, Robert E.
Mooney, Thomas R.
Moore, Arnold P.
Moore, Charles W., Jr.
Moore, Frederick J
Moore, Jon P.
Moore, Kevin T.
Moore, Mitchell D.
Moore, Terry W.
Moos, Kenneth O., Jr.
Moreland, James W., III
Morgan, Michael C.
Morgenson, James E.
Moriarty Richard J.
Morris, Phillip G.

Morzinski, Jerome A.
Moss, Carl E.
Motsinger, Joe A.
Motta, Gerald A.
Mozgala, David P.
Mozingo, Thomas P.
Mulholland, William M.
Mullen, Michael G.
Mullins, Robert D.
Mundy, William E.
Muniz, Fred L.
Munnikhuysen, Richard D.
Munsey, Charles R., Jr.
Murphy, Johnie M.
Murphy, Kenneth M.
Murphy Richard T.
Murray, Leslie G.
Myers, Richard N.
Myers, Rollin H., Jr.
Myers, Steven C.
Nann, Peter A.
Nathman, John B.
Naughton, Richard J.
Naydan, Theodore P.
Neale, Michael T.
Neel, Robert W.
Neirinckx, Daniel E.
Nellis, James W.
Nelson, Richard J.
Ness, Frank G., Jr.
Nevels, Larry J.
Newman, James E., Jr.
Nichols, Duncan L., Jr.
Nicol, Henry O., III
Nielsen, Richard F., Jr.
Nifontoff, Gerald K.
Nimmer, David S.
Nittle, Jeremy J.
Nolan, Robert G.
Norton, Chad E.
Nykamp, Bruce R.
O'Brien, James P.
O'Donnell, Gerald J.
O'Donnell, James R.
Ogle, Russell W.
Ohm, Robert L.
O'Hora, James R.
Older, Clinton D.
O'Leary, Cornelius F.
Oliver, Timothy W.
Olson, Michael D.
O'Neil, John E., Jr.
O'Neil, Michael W.
O'Neil, Patrick W.
Oosterman, Carl H.
Orr, William D.
Oshiro, Neal H.
Overbeck, Gregg R.
Overheim, David C.
Owen, Donald G.
Owen, Robert D.
Owendoff, Robert S.
Owens, Richard L.
Paddenburg, John A., Jr.
Paddock, James R.
Padgett, John B., III
Padgett, Phil B., II
Panchura, Michael J., Jr.
Papenhausen, David W.
Parda, Nelson R.
Parker, Charles V.
Parker, Jimmy W.
Parks, William H., Jr.
Parr, John M.
Parsons, Hugh P.
Pascoe, Donald B.
Patterson, Donald J., Jr.
Patterson, John B.
Patterson, Paul L.
Patterson, Thomas L.
Pattison, Pat H.
Patton, John C.
Pavlock, August T.
Pawlowski, Stanley W.
Payne, Richard E.
Pear, Willard F.
Pearson, James A.
Pearson, Ronald S.
Pease, Kendall M., Jr.
Peck, David L.
Peck, Robert L.
Pegden, Burl R.
Peloquin, Peter J.
Perrault, Michael E.
Perry, William S.
Pesar, James A.
Peterson, Craig A.
Peterson, James C.
Peterson, Walter H.
Petrocelli, Eugene D.
Petruska, Andrew M., III
Phillips, Charles D.
Pickavance, William W., Jr.
Pierman, David C.
Pike, Gerald A.
Pillion, Thomas J., Jr.
Pitman, Ronald L.
Plank, George E.
Plowman, Michael J.
Plummer, Rudy E.
Plunkett, Albert A.
Plyer, Conrad A., Jr.
Ponessa, Alfred E.
Pool, James A.
Porter, James R.
Porter, Joel
Post, Howard A.
Powell, Darrell R.
Powell, David L.
Powell, John T., Jr.
Prevost, John J.
Prewett, John R.
Price, John D.
Priscilla, Ronald J.
Proses, William A.
Pruett, William G.
Punches, Jeffrey N.
Purnell, Richard H.
Putnam, Frank W.
Quennoz, Stephen M.
Rachor, Robert L., Jr.
Rafter, Charles J.
Rainsberger, David B.
Ralston, Gary G.
Randall, Barry T.
Rank, Joseph S.
Ray, David C.
Raynes, Gerald E.
Reading, Leslie J.
Recame, Bartholomew J.
Rector, Jack B., Jr.
Redditt, Richard W.
Refo, Ian B.
Regan, Joseph M., Jr.
Regener, Donald F.
Reglein, Thomas A.
Reid, James A.
Reif, Gordon C., Jr.
Reinhardt, William H., III
Reinheimer, Richard
Renfree, Peter R.
Renzelman, Ralph F., Jr.
Resavage, Roy D.
Reynerson, Donald M.
Reynolds, Gary A.
Rhine, Loran E.
Rhoades, Richard J.
Rhodes, George S.
Rhodes, Gregory K.
Ribaudo, Nicholas R.
Rice, Arleigh H., Jr.
Richards, Nicholas L.
Richards, Richard N.
Richardson, Arthur L., II
Richardson, Frederick K.
Richardson, Harmond B., III
Richardson, Paul F.
Richman, John P.
Rickman, Gary L.
Riddle, Andrew S.
Riegel, Michael G.
Riera, Robert E., Jr.
Ries, Stephen H.
Rieve, Robert M.
Riffer, William J.
Riffle, Donald L.
Riley, Benjamin P., III
Riley, David G.
Riley, Stephen E.
Rinn, Paul X.
Riordan, Stephen J., Jr.
Rios, Trinidad, Jr.
Rioux, Michael F.
Rish, Edward C.
Ristorcelli, Charles T.
Ritzert, Bernard U., Jr.
Robbins, Edward F.
Robbins, Richard A.
Robbins, Spencer E., II
Roberds, Darryel L.
Roberts, John D., Jr.
Roberts, William S.
Robertson, Michael D.
Robinson, Edward S., Jr.
Robinson, Michael D.
Rodman, Wright N.
Roeder, John A.
Rogers, Herman A.
Rogers, Michael W.
Rogers, Thomas W.
Roosa, Roger K.
Roper, Daniel C.
Rose, John M.
Rosenberg, Jeremy C.
Rossbach, Christopher H.
Rossiter, William K.
Rotzler, Frederic
Rouse, Fred L.
Rowe, Richard R.
Rowley, Dennis J.
Ruch, William L., III
Rucker, Joseph T.
Rudolph, Dieter K.
Ruskosky, Gale A.
Russell, Donald F.
Russell, Houston R., Jr.
Ruth, Michael A.
Rutledge, Wesley N.
Sabadie, Patrick A.
Sablowski, Michael R.
Salm, Paul R.
Samms, Floyd T., Jr.
Sams, John L.
Sanborn, David L.
Sanders, William H., Jr.
Sandoz, Patrick A.
Sands, Jack H., Jr.
Sandweg, Robert F.
Santoro, Michael A.
Saraniero, Michael A.
Sauntry, Thomas F.
Sautter, Frederick R., Jr.
Savory, John R.
Scanlon, Edward C., Jr.
Schadegg, Lawrence M.
Schaefer, Charles A.
Schantz, Curtiss W., Jr.
Schaubel, Raymond C.
Schenck, Robert V.
Scherf, Paul H., Jr.
Schiffelbian, Alexander L.
Schill, Jerome E.
Schmersal, Christopher J., III
Schmitt, Robert L.
Schmidt, Robert S.
Schneider, Daniel H.
Schneider, Jeremy T.
Schramm, Donald A.
Schreiber, Robert A.
Schuhl, James C.
Schwarzenbach, William V.
Schwier, Edward G.
Sciabarra, Joseph P.
Scott, Dwight F.
Scott, Lawrence W.
Scott, Richard F.
Sears, Robert J.
Shafer, Kenneth W.
Shaffar, James L.
Sharer, Kevin W.
Shaut, Earl W.
Shaw, William R.
Shelton, Thomas L.
Sherrange, Daniel T.
Shields, Joseph C.
Shook, Richard M.
Shores, Leonard M., Jr.
Shotts, William E.
Shoudy, Peter N.
Showers, Michael J.
Shullo, Philip F., Jr.
Shultz, John W., III
Shuster, Don B., Jr.
Sidner, Robert W., Jr.
Sieja, Donald S.
Siemon, Douglas H.
Sigler, Daniel A.
Sikes, Joseph K.
Siler, Virgil R.
Sim, Richard W.
Simmons, David F.
Simmons, Edward J.
Simms, Allan J.
Simpson, Robert G.
Simril, Robert T.
Sisley, William R., Jr.
Sjostrom, Nils A.
Skaw, Larry R.
Skiles, Rolland W.
Slaght, Kenneth D.
Slattery, Michael G.
Slebos, Christian G.
Slein, Michael J.
Sloan, Andrew K.
Slocum, Walter S.
Slocum, Winfield S., IV
Small, Warren E.
Smith, Donald E.
Smith, Donald W.
Smith, Edward A., Jr.
Smith, Gordon C., II
Smith, Gordon K.
Smith, Jack R.
Smith, John V., Jr.
Smith, Kenneth L.
Smith, Michael T.
Smith, Peter R.
Smith, Stephen E.
Smith, Steven G.
Smith, Thomas H., Jr.
Smith, William H.
Smith, William M.
Smyth, Paul T.
Snoddy, Donald E.
Solberg, James L.
Solin, John J.
Solymossy, Joseph M.
Soo, Robert L.
Sottile, George V.
South, Brian J.
Southgate, Gregg V.
Southworth, David M.
Souza, Philip E., III
Sowa, Edward S., Jr.
Spaeth, Warren T., Jr.
Spahr, Bradley W.
Spahr, Otto W., III
Speed, William G., Jr.
Spenser, Kenneth V.
Spillman, James C.
Spires, Nelson L.
Spolarich, Martin M., Jr.
Sprey, Douglas
Stahl, Lawrence O.
Staley, Miles M.
Stampe, Lawrence E., Jr.
Stanek, Francis J.
Stanga, Robert D., Jr.
Stansel, Michael J.
Stark, Rodney L.
Starnes, William H.
Startt, Thomas L.
Statskey, Paul R.
Stebbings, Stuart K.
Stetcher, Brian E.
Steere, David C.
Stehle, Charles D.
Steidle, Craig E.
Stein, Eric A.
Steshko, Wilam N., Jr.
Steussy, James M.
Stevens, James D.
Stevens, James D.
Stevens, William E.
Stewart, Gordon G.
Stewart, Robert E.
Stewart, Wilton R.
Stieglitz, William H.
Stine, Emmett W., Jr.
Stoll, Ralph H.
Storm, Gary A.
Story, Alfred D.
Stow, Richard L.
Strausbaugh, Wayne L.
Strauss, John H.
Strawn, Gary W.
Strickland, Edward, IV.
Strother, Dennis E.
Stubblefield, Gary L.
Stubbs, Gary W.
Stutzman, Gary D.
Suberly, Roy H., Jr.
Suhr, James W.
Suldo, Michael R.
Sullivan, Edward J. Jr.
Sullivan, Joseph E.
Sutton, Harry W.
Sutton, William G.
Swafford, Thomas L.
Swanson, James E.
Sweatt, William M., Jr.
Swift, David A.
Skyes, William G.
Taggart, John L., Jr.
Tamulevich, Carl J.
Tande, Ludvig K.
Tauscher, John F., III
Taylor, Norman R.
Taylor, Richard F.
Taylor, Russell M., II
Tea, Max R.
Teetz, William R.
Tempel, Billie L.
Terrell, Lyndon T.
Thacker, Richard L.
Thacker, Vester I., Jr.
Thomas, George G.
Thomas H. Clay, III
Thomas, Jon M.
Thomas, Raymond E.
Thompson, Charles D.
Thompson, Gary R.
Thomsen, Leon F.
Thorkilson, Howard N.
Thorsen, Timothy L.
Tillotson, Kenneth D.
Timberlake, William A.
Tippett, Donald D.
Tippett, Terry J.
Tirrell, William B.
Tkach, Michael J.
Todd, James M.
Todd, William T.
Tolhurst, Robert A., Jr.
Tollefson, Michael R.
Tomlinson, Jack E.
Trainor, William G.
Traughber, Thomas P.
Trethewey, Thomas G
Tripp, Robert E.
Trudell, Thomas A.
Tuck, William D., II
Tulchin, Benjamin D.
Tull, Carl A.
Turner, Archie A., III
Turner, Douglas K.
Turunen, Robert L.
Tyler, Henry D.
Uhlenkott, Gary W.
Umbarger, Ray M.
Urmston, John D., Jr.
Utegaard, Thomas E.
Vanasdlen, David L.
Vanderberg, Mark T.
Vandevender, John A.
Vanhorn, Gary R.
Vanvlack, Charles H.
Vice, Larry W.
Vincelette, Paul L.
Vinson, Robert K.
Violette, Richard G.
Vivoli, John B.
Vosseler, Paul K. A.
Vosseteig, Craig E.
Vtipil, Donald S.
Wade, Jack M.
Waldbeesser, Terry W.
Walker, Ronnie E.
Walker, William L.
Wall, John R.
Wallace, David W.
Wallace, Donald S.
Wallace, James Y., III
Wallace, Richard T.
Walsh, Neil P.
Walters, Lynford S., III
Wanner, Terry S.
Warburton, Frederick T., Jr.
Ward, Clement H.
Warne, Richard F.
Warren, David F.
Warren, John W.
Wassel, Ronald A.
Waterman, Bradford B., III
Waters, Lance A.
Watson, Anthony J.
Watson, Jerry C.
Watters, Paul A.
Watts, Harry F., Jr.
Weber, Charles L., Jr.
Weber, Ronald B.
Webster, Donald R.
Weigand, Karl R., Jr.
Weisberg, Neal W.
Weiss, Donald A.
Weiss, Douglas L.
Weller, Ronald E.
Wells, Eugene A.
Wells, Robert R.
Westray, Richard H.
Whaley, Glenn R.
Wheat, Luther W.
Whitco, Denis J.
White, James B.
White, Robert D.
White, Thomas W.
Whiteway, Roger N.
Whiting, Geoffrey A.
Whitney, David M.
Whiton, Harry W.
Wicklander, Edwin R. Jr.
Wight, Terry M.

Wilcox, Ronald J.
Wilde, Michael K.
Wildermuth, Ronald E.
Wilhelm, Richard J.
Williams, John C.
Williams, John F.
Williams, Kenneth L.
Williams, Pharis E.
Williams, Robert J.
Williams, Robert R.
Williamson, Paul B.
Wilson, George M.
Wilson, Herbert M.
Wilson, Jay R.
Wilson, Robert L., Jr.
Wilson, Samuel E., III
Wilson, Thomas R.
Wilt, Thornton W., Jr.
Wiltzius, Lawrence N., Jr.
Winchell, Donald L., Jr.
Windeguth, Richard B.
Wolfe, Charles D.
Wood, Bruce K.
Wood, Gregory J.
Wood, Scott A.
Woodman, William D.
Woods, Benneth R., Jr
Wooley, Millard J.
Woolston, Peter C.
Woomer, Charles W., III
Wooten, Charles E.
Wray, Donald M.
Wright, Gary E.
Wright, Jay L.
Wright, John T.
Wright, Sherman E., Jr.
Wright, Thomas B., Jr.
Wright, William E., Jr.
Wyatt, Randall Edward
Wyckoff, William W., II
Wynne, Harold B.
Yankolonis, Barry L.
Yatras, Dennis A.
Young, James A.
Young, William K.
Yount, George R.
Zavadil, John L.
Ziemer, Robert T.
Zinser, Harry J.
Zorbach, Gregory M.
Zuniga, Fred J.
Zweerink, James E.

The following named women lieutenants of the U.S. Navy for permanent promotion to the grade of lieutenant commander in the line, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law:

Abruzzo, Dianne M.
Anderson, Mary F.
Brown, Cecelia M.
Butler, Shannon R.
Cook, Kathleen C.
Cowan, Patricia A.
Donnelly, Rachelle A.
Engelhardt, Sandra L.
Ford, Carolyn S.
Funkhouser, Lenore M.
Gauthier, Elaine A.
Hatch, Marilyn J.
Herbst, Michael A.
Holloway, Kathleen G.
Katschke, Mary L.
Krohne, Kathleen A.
Lloyd, Connie L.
Manning, Lorraine F.
Matheson, Eleanor S.
Matthews, Victoria S.
McCauley, Janet M.
McCastland, Mary A.
McGalin, Janice G.
Morrison, Elizabeth L.
Perry, Janet M.
Pinkney, Sandra L.
Pope, Diane J.
Rosenthal, Nikki L.
Stevens, Marjory M.
Stewart, Jane L.
Tate, Betty J.
Winters, Margaret L.
Youngstrom, Judith J.

IN THE NAVY

The following-named lieutenant commanders of the U.S. Navy for temporary promotion to the grade of commander in the staff corps, pursuant to title 10, United States Code, section 5793, subject to qualification therefor as provided by law:

DENTAL CORPS

Anderson, Joseph H.
Arnold, James D.
Burkey, Richard W.
Butler, Lee M.
Campbell, Larry G.
Cochran, Michael A.
Davis, Melvin L.
Eckstein, Robert E.
Ferguson, Charles D.
Fleming, James G.
Funk, Edward A.
Gartner, Richard R., Jr.
Gear, Robert D.
Glass, Ernest G.
Grantham, Gary B.
Harring, Ronald F.
House, Ronald C.
Hwang, William S.
Johnson, Jerry K.
Jones, Harold L.
Keller, John J.
Krueger, Frederic
Lauth, Dennis W.
Matheson, John D.
Mellonig, James T.
Nettelhorst, Ralph E.
Neuner, Robert F.
Tooker, Darrell T.
Tremann, Charles F.
Vosskuhler, Robert J.

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the various staff corps as indicated, pursuant to title 10, United States Code, sections 5793 (Medical and Dental Corps) and 5773 (staff corps), subject to qualification therefor as provided by law:

MEDICAL CORPS

Allen, Hoyt E.
Berryhill, Richard E.
Clayton, Robert M., Jr.
Davis, John M.

Ebbeling, William L.
Florey, James B.
Gerrie, Marshall J., Jr.
Gessler, James A.
Gillespie, Cameron A.
Gilliard, Lawrence M.
Hedges, John C.
Hofmann, Robert F.
Howard, Douglas C.
Hutton, Patrick M. J.
Knapp, Foster A.
Kopp, James R.
Lapenta, Michael J.
McBride, Jeffrey P.
McNichols, Kennard D.
Meyer, Vern E.
Ober, Vincent H., Jr.
Page, William R.
Reader, August L., III
Robb, Geoffrey L.
Schneider, Jonathan A.
Sessicns, William H.
Snyder, David A.
Sutphin, John E., Jr.
Tate, Emmett L.
Vilches, Napoleon O.
Wagner, Glenn N.
Werner, Kurt E.
Williams, John H.

SUPPLY CORPS

Aaronson, Brian D.
Allen, Randall C.
Andrew, Michael R.
Bailey, John R.
Basso, Joseph M.
Benecke, Jay R. O.
Boas, Raymond A.
Bobulinski, Robert A.
Bogart, James M.
Bohm, Dwight K.
Bonna, Ralph A.
Brown, Phil J.
Carbone, James, Jr.
Cohen, Jay M.
Coker, Norman L.
Cole, Anthony L.
Conner, James R.
Culver, Joseph E.
Cunningham, Lawrence M.
Dashiell, Robert G.
Davenport, Bill T., Jr.
Derrico, Michael T.
Dorries, Robert A.
Drum, Eugene R.
Dunn, Christopher A.
Dupree, Daniel M.
Durnan, Robert E.
Ewing, Richard A.
Forde, Duane L.
Forney, Robert A.
Gannon, Thomas C.
Gedney, John W.
Gernentz, Thomas J.
Gilbert, Robert R.
Gonick, Timothy J.
Gould, Jeffrey P.
Graf, Albert J., III
Gray, David B.
Griffin, Roland L.
Griswold, Raymond B.
Guyer, Dean C.
Hargrave, Bevard E.
Harris, John W.
Harris, Robert E.
Hayes, Edward F., Jr.
Hayward, Daniel S.
Helgerson, Philip A.
Herbst, Howard P.
Hetherington, Jerry F.
Hickman, William A.
Hill, Ronald L.
Hofmann, Arnold R.
Hooth, Michael D.
Horstman, Donald M.
Huban, George H., Jr.
Janssen, Clark J.
Johnson, Delmont S.
Johnson, Ronald T.
Jones, Joseph M., Jr.
Kalapos, Michael L.
Karns, Larry N.
Kelley, Joseph P.
Kelly, Thomas A.
Kesselring, Steven D.
Kimball, Daniel W.
Kline, Jack C.
Knight, Robert C., Jr.
Krupp, Robert J.
Landerkin, Edward J.
Leonard, Robert P.
Lewis, Albert M.
Lippert, Keith W.
Maguire, Benedict J.
Malone, John M.
Matthews, John C.
McKeithan, Timothy S
McNutt, Jerry W.
McWherter, Marvin E.
Meeker, Richard S.
Mercogliano, Anthony
Miller, Michael J.
Minton, David S.
Morrisey, Daniel P.
Moser, Daniel E., Jr.
Moser, Paul D.
Neeb, John G.
Oberman, Marvin D.
Oneal, Floyd W.
Owens, James D.
Palanuk, Joseph L.
Parry, Dennis S.
Pearce, Richard L.
Petersen Gary R.
Pingel, Richard D.
Poole, Francis X.
Pretulak, Ronald T.
Qualls, David W.
Rawlings, David G.
Reed, Ernest T.
Richmond, Robert H.
Rieve, Roy C.
Rivers, Charles S., Jr.
Roach, Leonard T.
Roper, Darcy W., III
Rutledge, Michael R.
Schaedel, John G.
Schildwachter, Martir J.
Schmitt, Michael K.
Shepherd, Robert M., Jr.
Smith, Stephan L.
Stewart, Edmund H., Jr.
Straight, Ronald L.
Taylor, Charles F., Jr.
Theiss, Girard P.
Twomey, Kevin M.
Vanauken, Pierce R., Jr.
Vellis, John D., II
Waldrop, Charles P.
Ward, Paul D.
Wurzel, Thomas E.
Zawadzki, Raymond S.
Zeiler, Robert W., III

CHAPLAIN CORPS

Craycraft, John D.
Fitzgerald, John L.
Flick, Richard H.
Gilbert, Leroy
Halley, Michael D.
Hill, Robert S., Jr.
Kemper, John E.
Manning, Robert J.
Mattie, Richard M.
Sharpe, Jack L.
Smith, Victor H.

CIVIL ENGINEER CORPS

Allen, Charles E.
Bechard, Thomas P.
Britt, William B.
Bruckner, William L., Jr.
Burns, Dennis R. J.
Collins, John P.
Corsano, Arthur
Cosgrove, Donald M.
Delker, James L.
Dempsey, John G.
Dempsey, Richard M.
Devescovi, Daniel J.
Duke, Jonathan B.
Ellis, Howard D.
Faunce, John R.
Givens, Larry R.
Guild, Christopher J.
Gunn, Thomas E.
Hagge, Thomas M.
Hein, Gary W.
Holen, Douglas J.
Huguelet, Thomas L.
Johnson, James K.
Kaleba, Frank J.
Kannaegieser, Andrew A.
Keith, Donald R.
Kovalcik, James P.
Martz, Stephen J.
McNeil, Oscar N., Jr.
Messick, Frederick S., Jr.
Neibert, Jerry S.
Penell, Joseph C.
Pollard Charles H., Jr.
Pringle, Alec T.
Puncke, Frederick D., Jr.
Rampe, Thomas R.
Reichmuth, William E., III
Rispoli, James A.
Saltoun, Sammy
Schramer, Mathias C., III
Shultz, Robert L.
Sims, John G., III
Spencer, John E.
Stevens, David L.
Szutenbach, Lawrence
Tanner, Thomas J.
Tzavaras, George N.
Vogel, Kenneth

DENTAL CORPS

Andrews, Paul A.
Bamberger, Lawrence J.
Barna, Gerard J.
Berude, John A.
Breuleux, Philip S.
Cave, Robert S.
Currier, James L.
Delany, Gael M.
Dembinski, Thomas H., II
Dizinno, William J.
Dziurdzik, Richard F.
Faull, Thomas W.
Fitzharris, Tim P.
Flatley, James P.
Freeman, George W.
Goode, Robert K.
Hadley, Raymond B.
Harrison, Vernon P.
Hempel, Ronald P.
Hermann, Donald W.
Hey, Ernest G. A.
Judkins, James T.
Kippa, Terry L.
Kuhel, Raymond F.
Lane, Jeff A.
Larson, Mark P.
Lockwood, Jeffrey L.
Lutskus, Joseph H.
Marshall, Edward C.
Mason, John D.
Massler, Charles F.
McCall, Robert W.
Mitchell, Douglas E.
Mullen, Michael P.
Nelson, Gregory G.
Quintero, George
Ralls, Stephen A.
Root, Douglas A.
Rounsaville, George A.
Schindles, Bruce W.
Simpson, James W.
Spillman, Kent J.
Walton, Martin L., III
Watto, Terrence L.
Weaver, Carl C.
Weeda, Lawrence W.
Westover, Bruce E.
Whitehouse, Michael J.
Zambon, Joseph J.

JUDGE ADVOCATE GENERAL'S CORPS

Abbate, Guy R., Jr.
Babington, William R., Jr.
Barrett, Danny P.
Beachy, Ronald J.
Beall, Bradley S.
Brown, Richard S.
Carroll, Steven J.
Clifford, William J.
Dombroski, John E.
Drukker, William R.
Finch, Milton D.
Fortino, Paul T.
Froman, Floyd D.
Grant, William F., Jr.
Hill, Donal M.
Hinckley, Robert C.
Kusiak, Patrick J.
Mandsager, Dennis L.
McCall, Thomas W. L., Jr.
McCracken, Joseph B.
McPartlin, Paul E.
Mitchell, Thomas W., Jr.
Monteith, Richard A.
Morrison, Thomas A.
O'Connor, Philip P., Jr.
Ottie, Frederick N.
Reeber, Christopher J.
Scully, John J.
Seiders, Marlin D., Jr.
Showalter, John S.
Smith, Ronald S.
Stonier, James J.
Thompson, Paul B.
Trask, Gordon W., II

MEDICAL SERVICE CORPS

Adams, Robert W.
Aliff, William R.
Apgar, Richard R.
Baker, Charles W.
Baltimore, Daniel L.
Beach, Larry L.
Beasley, William J.
Benson, Milton J.
Bolton, Herbert T.
Boyce, Richard
Brennan, Edward C.
Casper, Arthur W., Jr.
Chapman, Raymond N., Jr.
Christiansen, Richard A.
Collins, Jimmy R.
Contreras, Thomas J., Jr.
Davis, Leslie A.
Debell, Robert M.
Delviks, Uldis A.
Ehrhardt, Douglas A.
Farnham, John B.

Flor, William J.
Foro, Bradley R.
Fraser, Llewellyn M.
Ganz, Neal R.
Gentry, Murray, Jr.
Gerhard, John C., III
Gibson, Robert W., Jr.
Gordon, Charles V., Jr.
Greenfield, Donald E.
Grisham, Onis H.
Gross, Elizabeth S.
Grout, Edward J., Jr.
Harris, William B.
Helley, John A.
Henderson, Charles, III
Hilderbrand, Richard L.
Kelley, David B.
Kelly, John P.
Knight, James D.
Kubal, John L.
Lambert, William J., Jr.
Land, Clarence E.
Lane, Coy B.
Lindsay, Richard J.
Masterson, Francis W., Jr.
McClintock, Thomas W., Jr.
McKee, Roland E.
McKenzie, Darrel D.
Monaghan, William P.
Mueller, Eric J., II
Mullins, Frank A., Jr.
Ollenburg, Walter A.
Pakowski, Lawrence P.
Parkansky, Ralph E.
Patee, Jerry C.
Petersen, Henrik V.
Phillips, Harold E.
Pointer, Charles H., IV
Power, Danny E.
Prucino, Joseph F.
Rand, Bruce P.
Renner, Vernon M.
Rittmeyer, Terry L.
Roy, Robert T.
Russnogle, Robert L.
Ryder, Richard G.
Sandall, Vernon P.
Shibley, David R.
Simmons, Larry O.
Skurja, Michael, Jr.
Sparks, Buddy T.
Stefanyshyn, Andrew A.
Waddington, Gregory
Walker, James R.
Welch, Richard R.
Williamson, Robert L.
Wilson, Don D.
Wood, Charles M.
Zeman, Gary H.

NURSE CORPS

Anderson, Sandra V.
Ault, Sally B.
Beduhn, Michele A.
Biffar, Irene M.
Bloodworth, Maritha O.
Brake, Barbara D.
Cisneros, Thomasa L.
Craft, Donna L.
Cronin, Dorothy R.
Dahlgren, Sarah S.
Deprima, Alicia G.
Edgar, Marilyn A.
Edwards, Joanne E.
Elliott, Iris A.
Feris, Michael L.
Figgins, David E.
Foster, Barbara J.
Fuller, Gae M.
Goetz, Mary E.
Gotch, Sandra A.
Grant, Kristina M.
Hall, Mary K.
Haskins, Carol C.
Hess, Catherine P.
Hyatt, Carol S.
Jackson, Donna J.
James, Eva N.
Johnson, Joe H.
Jones, James E.
Karrat, Victoria J.
Lanterman, Gail A.
Lewis, Shirley D.
Lukey, Frankie
McLaurin, Elizabeth A.
Morris, Louise M.
Norton, Suzanne M.
Pattinson, Judith A.
Peck, Edith D.
Peterson, Carol A.
Prather, Caren J.
Rowell, Margaret E.
Scheve, Lawrence G.
Smith, Kate I.
Snow, Sandra A.
Snyder, Gilbert C.
Spillane, Susan J.
Taylor, Mary N.
Thomas, Barbara J.
Thomason, Janice K.
Underwood, Earma J.
Vonrump, David C.
Wooldridge, Robert T.

Executive nominations received by the Senate December 12, 1977, pursuant to the order of the Senate of December 7, 1977:

DEPARTMENT OF JUSTICE

Donald J. Kindt, of Ohio, to be U.S. marshal for the northern district of Ohio for the term of 4 years, vice Robert G. Wagner, term expired.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

John W. Snyder, of the District of Columbia, to be a member of the board of trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1983 (reappointment).

LEGAL SERVICES CORPORATION

The following-named persons to be members of the Board of Directors of the Legal Services Corporation for terms expiring July 13, 1980:

Cecilia Denogen Esquer, of Arizona, vice Rodolfo Montejano, term expired.

Steven L. Engelberg, of Maryland, vice Samuel D. Thurman, term expired.

Hillary Diane Rodham, of Arkansas, vice William J. Janklow, resigned.

Richard Allan Trudell, of California, vice Marshall Jordan Breger, term expired.

Josephine Marie Worthy, of Massachusetts, vice Marlow W. Cook, term expired.

IN THE NAVY

Vice Adm. Edward W. Cooke, U.S. Navy (age 56), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Executive nomination received by the Senate December 15, 1977:

POSTAL RATE COMMISSION

Alvin Harry Gandal, of Maryland, to be a Commissioner of the Postal Rate Commission for the term expiring October 14, 1982, vice Frank P. Saponaro, term expired.

WITHDRAWAL

Withdrawal sent to the Senate on December 9, 1977:

Frank M. Johnson, Jr., of Alabama, to be Director of the Federal Bureau of Investigation for the term of 10 years, vice Clarence Marion Kelley, resigning, which was sent to the Senate on September 30, 1977.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 15, 1977:

DEPARTMENT OF JUSTICE

Julian K. Fite, of Oklahoma, to be U.S. attorney for the eastern district of Oklahoma for the term of 4 years.

Edward G. Warin, of Nebraska, to be U.S. attorney for the district of Nebraska for the term of 4 years.

Alexander O. Bryner, of Alaska, to be U.S. attorney for the district of Alaska for the term of 4 years.

Michael H. Walsh, of California, to be U.S. attorney for the southern district of California for the term of 4 years.

Larry R. McCord, of Arkansas, to be U.S. attorney for the western district of Arkansas for the term of 4 years.

John H. Cary, of Tennessee, to be U.S. attorney for the eastern district of Tennessee for the term of 4 years.

Rex O. Presley, of Oklahoma, to be U.S. attorney for the eastern district of Oklahoma for the term of 4 years.

John A. Roe, of Iowa, to be U.S. marshal for the northern district of Iowa for the term of 4 years.

Harry D. Mansfield, of Tennessee, to be U.S. marshal for the eastern district of Tennessee for the term of 4 years.

Thomas Arny Rhoden, of Mississippi, to be U.S. marshal for the southern district of Mississippi for the term of 4 years.

Andrew E. Gardner, of North Carolina, to be U.S. marshal for the western district of North Carolina for the term of 4 years.

Edward P. Gribben, of South Dakota, to be U.S. marshal for the district of South Dakota for the term of 4 years.

DEPARTMENT OF COMMERCE

Andrew E. Manatos, of Maryland, to be an Assistant Secretary of Commerce.

DEPARTMENT OF ENERGY

Lincoln E. Moses, of California, to be Administrator of the Energy Information Administration.

OFFICE OF RAIL PUBLIC COUNSEL

Howard A. Heffron, of Maryland, to be Director of the Office of Rail Public Counsel for a term of 4 years.

INSTITUTE OF MUSEUM SERVICES

Leila I. Kimche, of Maryland, to the Director of the Institute of Museum Services.

DEPARTMENT OF JUSTICE

Mack Burton, of Arkansas, to be U.S. marshal for the western district of Arkansas for the term of 4 years.

Louis G. Villaescusa, Jr., of California, to be U.S. marshal for the central district of California for the term of 4 years.

Donald J. Kindt, of Ohio, to be U.S. marshal for the northern district of Ohio for the term of 4 years.

Robert M. Thompson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years.

POSTAL RATE COMMISSION

Simeon Miller Bright, of West Virginia, to be a Commissioner of the Postal Rate Commission for the term expiring November 22, 1982.

NATIONAL SCIENCE BOARD

Joseph Mayo Pettit, of Georgia, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1982.

EXPORT-IMPORT BANK OF THE UNITED STATES

Thibaut de Saint Phalle, of New Jersey, to be a member of the Board of Directors of the Export-Import Bank of the United States.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

James K. Logan, of Kansas, to be U.S. circuit judge for the 10th Circuit.

Robert S. Vance, of Alabama, to be U.S. circuit judge for the Fifth Circuit.

John L. Kane, Jr., of Colorado, to be U.S. district judge for the District of Colorado.

George C. Carr, of Florida, to be U.S. district judge for the middle district of Florida.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Carlisle Edward Pratt, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

Frederick Howard Weisberg, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

IN THE COAST GUARD

Coast Guard nominations beginning Leonard K. Ramsbusch, to be captain, and ending Joseph F. Lavelle, to be captain, which nominations were received by the Senate on December 5, 1977, and appeared in the CONGRESSIONAL RECORD on December 6, 1977.

IN THE PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Manuel Bustos, to be senior surgeon, and ending Donald E. Simpson, to be an assistant health services officer, which nominations were received by the Senate on November 23, 1977, and appeared in the CONGRESSIONAL RECORD on November 29, 1977.

IN THE PUBLIC HEALTH SERVICE

Public Health Service nominations beginning N. Burton Attico, to be Medical Director, and ending Gordon H. Wilcox, to be a senior assistant health services officer, which nominations were received by the Senate on November 23, 1977, and appeared in the CONGRESSIONAL RECORD on November 29, 1977.

EXTENSIONS OF REMARKS

IRS ABUSES—A CHILLING EFFECT

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, the tax collector can be a worthy servant of the people who provides the funds for operation of the necessary services of government or he can be a feared and despised creature of costly and burdensome bureaucracy and tyranny.

This is particularly so at the Federal level in the case of the Internal Revenue Service. Reprisal and intimidation by this agency can have a chilling effect on our first amendment guarantee of "freedom of speech" and "the right * * * peaceably to assemble, and to petition the Government for a redress of grievances."

My letter of December 13, 1977, to Mr. Jerome Kurtz, Commissioner of Internal Revenue, spells out a very real problem in this regard which no Member of Congress or any American citizen can afford to ignore.

The letter follows:

DEAR MR. KURTZ: As a Member of Congress representing Southern and Eastern Idaho, I am deeply concerned for the welfare of the citizens of my district who were victims of the 1976 collapse of the Teton Dam.

Thousands of people in the Upper Snake River Valley were violently thrown out of their homes causing death and injury to many and hundreds of millions of dollars worth of damage to homes, farms, businesses, and other property. Total communities were destroyed.

These people were driven from their homes, farms, and businesses by government irresponsibility, the failure of the Bureau of Reclamation to perform to its usual high standards. The Congress and the President rose to the occasion by assuming necessary responsibility and quickly allocating federal resources and a four hundred million dollar fund to help rehabilitate and fully reimburse the victims.

The victims themselves assisted by an amazing display of effectively organized volunteers drawing heavily from surrounding counties and states, and even coming from distant areas, created a miracle in terms of recovery time and reduced losses for government reimbursement. Millions of hours of volunteer assistance organized by churches and other private sources coupled with local, state and federal government resources have in some eighteen months restored the area to near normalcy.

But it isn't the same. People died. Family treasures, priceless and irreplaceable, are gone forever. Lives and living patterns were disrupted and can never really be restored. Glittering new stores, homes and equipment often replaced the old which seems more than fair on the surface, but does it really compensate for months of despair and disruption and for loss of income and the efficiency of normal conditions? Many people cannot even return to pre-flood businesses and circumstances because the shortages of housing and labor cause disproportionate rent, salaries and other cost factors.

The point I make is that the communities affected by the Teton flood and all the surrounding area are unique, especially so for tax purposes. It will take special handling to assure fairness and prevent the subversion of the will of Congress in fully restoring the people to pre-flood circumstances.

Since I was given early reason to believe by Internal Revenue Service action that the flood victims were going to have difficulty with IRS tax policies, I introduced legislation to provide necessary relief. This was done in the year of the flood, 1976, and again at the beginning of this term of Congress in January, 1977. The Bill, HR 382, has been referred to the House Ways and Means Committee and is looked on as a probable necessity depending on ongoing practices by IRS in handling the returns of those economically affected directly and indirectly by the flood.

To establish whether the IRS can accommodate by attitude and by regulation to the circumstances of the people in the Upper Snake River Valley of Idaho without additional or special legislation, I have conducted a year-long investigation and study which I feel have established rather conclusive results pending only your input which I now invite.

To be perfectly candid, I am shocked at my findings and believe you could not react much differently based on the evidence. I realize you are relatively new to your position so I present the following for your information as well as in hopes that corrective action will be taken where necessary to end abuses and give assurances that IRS will confine itself to its role as a tax collecting agency.

I am deeply concerned that we have no sooner gotten people back on the farm and in their homes and businesses after the failure of a Bureau of Reclamation project only to face having many of them pushed out again by the Internal Revenue Service. Only this time it may be intentional and a subversion of Congressional intent if there is wholesale assessment of such things as capital gains taxes against reimbursements paid by the Bureau of Reclamation.

What makes me believe this will happen? First, the IRS attitude about household furnishings reimbursements which was only resolved after considerable pressure; second, the latitude of IRS auditors to allow and disallow particularly in such unusual circumstances; and third, the recent history of IRS activity in the Western Region of the United States and Eastern Idaho in particular.

It is the third area I especially view with alarm, an area which also profoundly affects points one and two.

I find the IRS has an abominable record over the past four or five years of assault against the people living in the Teton Dam Flood area and seething turmoil within its own ranks over policies, procedures, and personnel.

Provable policies of gross discrimination against IRS employees are rampant and ongoing, and a scandalous violation of taxpayers' civil rights continues on broad scale.

1. Why is the IRS making such a strong effort to purge Mormon agents from key Eastern Idaho audit positions particularly in the Idaho Falls area?

2. Why is the IRS so concerned about getting tough with Mormon Church officials that they would send in a roving office auditor from another state for special target audits in contravention of general IRS procedures.

3. Why would an IRS "violence list" be periodically circulated containing the names of Idaho citizens having no record of violence?

4. Why would IRS agents go to conservative meetings to make lists of license plate numbers which were then expanded to watch lists of names, addresses, business addresses and positions in the Mormon Church—and why were no liberal groups similarly monitored, if extremists were the target?

5. Why would IRS agents anonymously contact individuals who politically complained of high taxes in letters to the Editor and place them under automatic investigation? The right of free speech seems to have its liabilities.

6. Why would IRS agents maintain a full-scale clipping file from the newspapers on taxpayers regarding vacation trips and other activities? I'm not sure the taxpayers realize the extent to which individual privacy has been invaded by big government.

7. Why should IRS prosecute waitresses so diligently in Eastern Idaho with allegations of big income from tips when it is well-known that the payscale in the area is much below the national norm?

8. Why should IRS have planned an armed door-to-door search by some 30–40 agents in communities north of Idaho Falls to demand the showing of tax returns, an operation finally halted at the Washington level when collection officers complained that someone might be hurt or killed?

The story, as I understand it, is partially one of near paranoia and over-reaction to a handful of so-called tax protestors in the Upper Snake River Valley which coincidentally has a large percentage of Mormons. IRS management at the local, State, and Regional levels have given continual indication that they don't trust Mormon agents to audit Mormon Church officials despite frequent pronouncements by the Church that people should be law abiding and pay their taxes.

This suspicion by IRS officials has apparently prompted a policy of obvious discrimination in promotion and assignment of agents in numerous places throughout the West and especially in East Idaho. This can be readily documented in a number of cases where complaints of discrimination were filed and IRS was forced to clean up its act.

Since this employee juggling program ran into difficulty and IRS couldn't get locally oriented agents out of East Idaho and the Upper Snake River area fast enough, they resorted to compensating measures such as the roving auditor program, the pavlovian reactions to political gatherings and letters to the editor, and the planned armed search.

There was hope that a recent change of State IRS Directors might alter the situation, but the harassment and shuffling of employees goes on with indications of reprisal action and unusually high numbers of transfers. The only change appears to be in the objective, but this is very significant. The tax protestors, who were never more than small potatoes, are now taking a back seat to the fertile possibilities of auditing for Capital gains among thousands of flood victims with a four-hundred million dollar reimbursement. For this, it appears IRS is still trying to move out those agents who know the most about the people and their situations and who could and would do the fairest job, and bring in non-local auditors. The continued instances of discrimination, harassment and reprisal against employees would suggest that the taxpayers are in for a rough time.

This I hope is not the case and nothing could please me more than to receive your assurance of this. The flood victims are being paid very carefully for their losses, and for IRS to collect taxes from these reimbursements subverts the intent of the relief legislation and could work a real hardship on many people.

I will not stand by and allow the Teton area people to be further victimized. If IRS plans any kind of tax auditing action to reduce the reimbursements granted by the Bureau of Reclamation, I will seek immediate passage of my bill and any other appropriate legislation to obtain the necessary relief and fair treatment.

Certainly there can be no more social and political monitoring of news releases on citizens, no more discriminations against employees to get at certain taxpayers, no more unusual procedures such as roving office auditors to target certain taxpayers, no more license plate games and religious watch lists, no more "violence lists" containing non-violent people whose greatest sin might be an unkind word for IRS, no more possibilities of a random armed search of taxpayers' homes.

Such projects and programs do not enhance people's confidence in government and can only be harmful to the effectiveness of IRS. In fact, the special harassment of some 40 waitresses in the Idaho Falls area has put you in a position where there is no faith in IRS and citizens are being forced into tax protest roles. I'd hate to think that IRS would deliberately set out to create problems to frustrate taxpayers to harsh action so that some bureaucrat can ride to glory by putting down an uprising.

If this indeed can happen, then a massive mishandling of thousands of cases in the Teton flood reimbursement situation by IRS could result in a terrible confrontation.

I don't want a confrontation, and neither do the people in Eastern Idaho, but their independent nature will not tolerate oppressive government and this must be understood right now as we go into the first full tax year after the flood occurred.

It is important for IRS to assure the people of Idaho and the nation that there will be an immediate end to employee discrimination and civil rights abuses against the taxpayer. It is important also that a declaration of IRS intent be had regarding the unique situation involving the Teton Disaster reimbursements.

The power of the arbitrary audit, the possibilities of intimidation over filing details and judgment factors, and the required waiver of Fifth Amendment Rights make IRS, if used wrongfully, the most dangerous threat of destructive cancer to our system of self-government and our individual rights and freedom. IRS must be totally objective, color-blind, non-political, and religiously and philosophically neutral. The virtual impossibility of your task makes your challenge great and the consequences of your failure a "hell" for the victims.

I am alarmed that too many have already been irreparably harmed by IRS abuses, both employees and taxpayers. I am concerned that confidence in government has eroded to such dangerous proportions. I am hopeful that you can give assurances that strong corrective steps are being taken and that you will make proper recommendations to me and my colleagues in Congress as to what legislation is necessary to get the nation's tax collection system out of the gutter and on to the high road.

Sincerely,

George Hansen,
Member of Congress.

CONSTRUCTION OF A NEW 261-ACRE STEAM TURBINE ELECTRIC GENERATOR MANUFACTURING SITE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. IRELAND. Mr. Speaker, last week, the Allis-Chalmers Corp. and two West German companies, Siemens A.G. and Kraftwerk Union A.G., announced that they had selected Palmetto, Fla. as the location for the construction of a new 261-acre steam turbine electric generator manufacturing site.

The facility, which is scheduled for completion in the early 1980's, is expected to create more than 1,000 new jobs and involves an initial capital investment of more than $100 million.

I want to take this opportunity, Mr. Speaker, to say how delighted all of us in Florida are that Allis-Chalmers and their German partners decided to locate in our State, and specifically, how happy we in the Eighth Congressional District are that they have chosen the Palmetto-Bradenton-Sarasota area.

We welcome them enthusiastically, and look forward to a long and mutually beneficial relationship.

Finally, Mr. Speaker, I want to offer my congratulations to the many civic, business, and political leaders in the area who worked so hard to bring Allis-Chalmers and Siemens to our community. It was a pleasure for me to be associated with these men and women. Their achievement is a fine example of how a community working in concert can become a partner with industry for the benefit of both.

Thank you Mr. Speaker.

STANLEY CARTER PACE, NEPHEW OF TIM LEE CARTER

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DEVINE. Mr. Speaker, it was very pleasing to note that the nephew of our colleague Tim Lee Carter has been promoted to president and chief operating officer of TRW, Inc. (The Ramo-Wooldridge Corp.).

Stanley Carter Pace's election to that post was effective December 1.

TRW is a corporation which has many plants throughout the United States and foreign countries and manufactures automotive and aeronautical parts. It also does much work for the Defense Department.

Mr. Pace graduated from West Point Military Academy in 1941 and was commissioned in the Army Air Corps.

In August of 1944, while piloting a B-24, he was shot down over Friederichshaven and was taken a prisoner of war until released by the Russian forces.

He was a full colonel in the Air Force by age 31, but chose to leave the service and join TRW at that age.

I include for the Record an article from the Wall street Journal:

Who's News—TRW Names Mettler, Pace to Top Posts, and They Outline New Areas of Emphasis

(By Bernard Wysocki, Jr.)

Cleveland.—TRW Inc. realigned its top management along the lines proposed in mid-1976.

Ruben F. Mettler, 53-year-old president and chief operating officer, was elected chairman and chief executive officer of this automotive, electronics and aerospace concern, effective Dec. 1. Mr. Mettler will succeed Horace A. Shepard, 64, who will remain a director and a member of the four-man executive committee.

Directors elected Stanley C. Pace, 56, currently executive vice president and assistant president, to succeed Mr. Mettler as president and chief operating officer.

Officials said Simon Ramo, 64, will continue as vice chairman until his retirement in May, when he will be succeeded by J. Sidney Webb, 57, currently executive vice president in charge of electronics operations.

In addition, Alastair F. Down, chairman and chief executive officer of Burmah Oil Co., was elected a director, filling the vacancy created by the retirement of John D. Wright, retired chairman.

CHANGE IN STYLE, EMPHASIS

In a wide-ranging interview, Messrs. Mettler and Pace said their succession to the top posts at TRW will usher in some changes of style and emphasis. Some changes will reflect their personalities, while others will stem from altered economic and business conditions.

For example, Mr. Mettler is a cordial man who likes to talk, and he expects to spend more time than his predecessor speaking before governmental committees, financial analyst groups, fellow businessmen and community gatherings. "I have given a lot of speeches in my lifetime," Mr. Mettler says, "I like to speak and do a lot of it."

Mr. Mettler also plans to lay heavier emphasis on TRW's overseas operations. "I plan to spend more time on international than has been (Mr. Shepard's) practice," he says.

One reason is that TRW's overseas business has grown very quickly in the past few years. International sales in 1976 were about $1 billion, or 34 percent of overall sales, up from $453 million, or 27 percent, in 1972. Moreover, Mr. Mettler says, the international business "has gotten greatly more complicated. . . . That's where I think my time is needed."

DIFFERING NEEDS BY AREA

In Europe, the executive says, the company has the "machinery" in place for gathering information on currencies, trade policies, political trends and economic forecasts. In South America and Asia, however, that isn't really the case. "The machinery will be gradually augmented," Mr. Mettler says, "and we want to spend more time on the information that is going to become more available to us."

Mr. Pace is inheriting the chief operating officer's job at a time when it, too, calls for a change in emphasis. During the past few years, the company has concentrated on reducing its debt-equity ratio and on boosting its return on assets employed. But as those measures are taking hold and the company's earnings statement, and balance sheets are in better shape, Mr. Pace sees his job as keeping these things in shape while increasing TRWs emphasis on growth.

Indeed, the executives say, the purpose of improving the "quality of earnings" and the balance sheet was to generate the money to spend on high-growth, high-return parts of the business.

"We aren't going from A to Z," Mr. Pace says, meaning the company isn't about to embark on a dizzy growth spree. "We're talking about going from M to O." Still, in the future, "we will have available additional funds that we can allocate to sales programs, research and development, plant start-ups, product start-ups, even perhaps joint ventures or acquisitions."

When Mr. Webb becomes vice chairman of TRW next year, he will continue to concentrate on electronics operations and also focus on the "entrepreneurial program related to the electronics and high-technology business on the West Coast," Mr. Mettler said.

DIFFERENT ROLES

Although Mr. Webb will be based on the West Coast and carry the title of vice chairman, just as Mr. Ramo does, their roles in the corporation will be very different. Unlike Mr. Ramo. "Sid Webb isn't highly technical," Mr. Mettler said. His focus is on marketing, which the company wants to emphasize in the electronics and high-technology areas. "We have found that technology push isn't so effective as market pull" in increasing sales, Mr. Mettler said.

Mr. Ramo, the current vice chairman, is responsible for long-range planning and the technical side of governmental relations, among other things. He is also chairman of the executive committee. Mr. Mettler says he plans to chair the executive committee after Mr. Ramo retires, and he will take much of the long-range planning and technical governmental detail under his wing, too. Unlike Mr. Webb and like Mr. Ramo, the new chief executive officer has a highly technical background.

Mr. Ramo earned a Ph.D. from the California Institute of Technology at 23, and gained prominence as an expert in microwaves and guided missiles before he founded Ramo-Wooldridge Corp. in 1953. It merged into Thompson Products Inc. in 1958, and the combined operation was renamed TRW.

Mr. Mettler earned a Ph.D. at Cal. Tech in electrical and aeronautical engineering, and joined Ramo-Wooldridge in 1955. He had responsibility for several ballistic-missile and scientific-satellite programs before taking a series of executive posts with the merged company.

Mr. Pace graduated from the U.S. Military Academy and earned an M.S. in aeronautical engineering from Cal Tech. A combat pilot during World War II, he worked for the Air Force Air Materiel Command before joining TRW in 1954. He managed the jet division, later headed the equipment group and in 1971 was named head of the automotive world-wide operation.

THE HONORABLE WILLIAM S. GAUD, JR.

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ZABLOCKI. Mr. Speaker, it was with great sadness that I learned of the recent death of the Honorable William S. Gaud, Jr.

Before coming to Washington, Bill Gaud distinguished himself in municipal government as a counsel to former New York Mayor La Guardia and as an officer in the U.S. Army during World War II when he was responsible for directing the military lend-lease assistance program.

First, as Assistant Administrator for the Agency for International Development's Bureau for the Near East and South Asia and then, as the Administrator of the entire Agency from 1966 to 1969, Bill Gaud was primarily responsible for marshaling U.S. support for the "green revolution," a program which, by making miracle grains and efficient agricultural techniques available to poor farmers around the world, has been a significant factor in the battle against hunger and malnutrition in the developing countries.

Those of us who served on the Committee on International Relations during Bill Gaud's tenure at AID fondly remember him for his high intelligence, dedication, candor, and good humor.

In losing Bill Gaud, America has lost an outstanding citizen and a great public servant.

I extend my deepest sympathy and condolences to his wife, Eleanor, and his family.

PROF. ARTHUR LAFFER ON THE INTERNATIONAL MONETARY OUTLOOK

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. KEMP. Mr. Speaker, in recent weeks there has been much talk about the growing balance of trade deficit of the United States and the resulting decline in the value of the dollar. Unfortunately, the administration's policy of ignoring the problem in hopes that it will go away has done little to alleviate the fundamental problem, which is the loose monetary and spending policies of the U.S. Government, combined with restrictive taxation and regulatory policies which reduce economic growth.

Prof. Arthur Laffer of the University of Southern California has analyzed this situation very carefully and concluded that the inflationary policies being followed in the United States, both domestically and internationally, cannot be continued to be followed without risking a monetary collapse and an international recession.

The article follows:

THE INTERNATIONAL MONETARY OUTLOOK

(By Prof. Arthur Laffer)

The immediate prospects for the international monetary system are far from encouraging. Nevertheless, while the policy thrust of the past decade is still continuing, a number of signs point to radical change. This change, to the extent it can be forecast, is in the direction of sound money and exchange-rate certainty. The dimly perceived realities of international economics are again being absorbed into the body politic and are beginning to influence policy decisions.

Prior to about 1968, the smooth operation of the Bretton Woods system did not provide as many examples as were needed to remind the current generation of international experts of the deleterious effects of volatile rates. Save for a few, only a number of elderly economists and those experienced in Latin American inflationary economies were keenly aware of these effects. By the end of the 1960s, this paucity of experience was manifest in a virtual unanimity of economic opinion supporting floating exchange rates and the demonetization of gold.

NEW EVIDENCE

Starting with the March 1968 agreement to demonetize gold, and on through 1977's collapse of the dollar vis-a-vis the mark, yen, Swiss franc, and pound sterling, a fresh body of evidence has emerged. Although these same lessons have repeatedly been learned in the past, recent events have provided first-hand experience to motivate this generation's move to a more rational international monetary system.

The historic tradition of weighing the international implications of domestic economic policies has been virtually non-existent in the United States. The massive size of the United States economic base, as well as the unique U.S. financial role in the world economy up until the late 1960s, could justify this tradition. With the breakup of the Bretton Woods agreement, elimination of the gold convertibility and special reserve currency status of the United States dollar, U.S. policies have played a leading role. These policies, combined with a lack of tradition and experience, have contributed to a sharp deterioration of the international economic environment.

Perhaps the single most important lesson of the past decade is that an unhinged monetary system results in global inflation. The failure to maintain the convertibility of currencies generates a rapid expansion of private monies such as eurodollars and weakens the discipline on individual countries' monetary authorities. The result is a marked increase in inflation everywhere. Those countries that demonstrate the least discipline tend to experience the greatest inflation. Devaluations *ipso facto* reflect a relative lack of discipline on the part of the devaluing country's monetary authority. Devaluation, of one currency, vis-a-vis others produces inflation vis-a-vis those other currencies' inflation rates. The table below provides rough documentation of this phenomenon for average trends during the twentieth century:

	1900 to 1972 (percent)		
	Average annual currency change[1]	Average annual price level change[2]	
		Actual	Relative to United States
German mark	+0.4	1.7	−0.3
Canadian dollar	+0	2.1	+.1
British pound	−.9	2.8	+.8
French franc	−6.6	8.6	+6.5
Italian lira	−6.8	8.7	+6.6
Japanese yen	−7.2	9.8	+7.6

[1] Relative to the U.S. dollar.

[2] Wholesale price indexes.

Source of data: Moon H. Lee, "Purchasing Power Parity," Ph. D. disseration, University of Chicago, July 1975, pp. 104–113.

Recent currency and price index trends continue to track this same relationship.

Interacting with modern progressive tax structures, high rates of inflation result in subnormal real growth. As price levels rise, the disincentive effects of higher marginal tax rates at each level of real income cause labor and capital to move into non-market activities or leisure. Unemployment rates rise, capital accumulation diminishes, and real income growth is retarded. Such policies as wage and price controls, legislated minimum wages and excess profits taxes exacerbate the deterioration, because they all induce still greater production disincentives. Virtually every country in the free world has felt the effects of inflation interacting with a progressive tax structure. Particularly virulent cases are to be found in Mexico, the United Kingdom, and recently, the United States. Governments wise enough to mollify these effects by partially indexing their tax structures include France, Canada and Australia.

The old nostrums have been unable to rectify the malaise. Traditional monetary policy, fiscal policy, and exchange rate policy measures have failed.

MONETARY POLICY

As often as not, what had been deemed a stimulative policy actually resulted in slower growth and more inflation. For example, the loose money policies of the United Kingdom and Italy led, if anything, to currency crises and higher inflation, and thereby to higher tax rates and slower growth. In contrast, the relatively tight monetary policies of Germany and Switzerland spared those countries from the more extreme consequences of inflation. Swiss tax rates have been relatively less progressive than most countries and, up until the last few years, Germany was reducing the progressivity of its highly progressive tax structure. In general, rapid expansion of domestic monetary aggregates has generally been shown to lead to slower than faster economic growth.

FISCAL POLICY

The results of fiscal stimulative measures in the United States, United Kingdom and France have also fallen far short of expectations. If a government could spend its way out of a recession, the United Kingdom and the United States would have far outpaced Japan. In fact, nothing could be further from the truth. The rapidly expanding government redistribution policies of the last decade have substantially weakened the link between economic effort and reward, and have diminished production and investment incentives. The principal exception to the broad acceptance of ill-conceived fiscal policy actions has been Japan. Since 1950, Japan has cut tax rates almost every single year, and has maintained a tight control over government spending.[1] Continual reductions in disincentives to work and accumulate productive capital through tax rate cuts have contributed to the extraordinary growth of Japan's economy. Germany, too, has cut effective tax rates frequently from 1948 on, largely by raising the income brackets at which the highest rates applied.[2] Germany's postwar performance likewise attests to the efficacy of incentive-oriented policies.

EXCHANGE RATE POLICY

"Stimulative" policies involving exchange rates have, if it is possible, been even less successful than monetary and fiscal policies. The effects of a devaluation were widely believed to include increased domestic output. Devaluation was supposed to improve the devaluing country's competitive position in the world's goods markets. As a consequence, the devaluing country's exports would increase, and imports would decrease. The trade balance should improve, leading to increased output. Over the past decade, exchange rate policies for domestic objectives have gained an emphasis unparalleled in history.

On logical grounds, devaluations would not be expected to result in either improved trade accounts or in expanded domestic production. The efficiency of world markets dictates that the single predictable consequence of devaluation is a rise in the level of prices in the devaluing country relative to those devalued against. With the proclivity of modern governments to avoid deflation, most of the adjustment appears in the form of sharp price level increases in the devaluing countries. Any conceivable improvement in the devaluing country's competitive position is dissipated by the resultant inflation. The preponderance of the available evidence documents the suggestion that trade balances, measured in real terms, are unaffected by devaluation.[3]

A mere casual look at the actual events of the postwar period, and notably in the past decade, attests to the facts. If devaluations improved trade balances, the United States, United Kingdom, and Italian trade accounts should be in substantial surplus, while those of Japan and Germany should be in deficit. In fact, the reverse is closer to the truth.[4] If, however, one compares rates of inflation with exchange rate changes, distinct patterns emerge. As indicated in the table above, there is a close correspondence between a currency's rate of depreciation and its relative rate of inflation. Those countries whose currencies depreciate the most have the highest inflation rates, and *vice versa*. When combined with progressive tax structures, devaluation and the resultant inflation means sharply marginal tax rates and therefore lower output growth. If anything, devaluation leads to lower, not higher, domestic output.

THE CURRENT OUTLOOK

Over the past year, U.S. international economic policy has pressured countries to expand their monetary aggregates, increase government spending, and allow their currencies to appreciate against the dollar. Internally, the Federal Government has so far pursued an expansive monetary policy, as well as increased taxes and spending. The dollar has been deliberately allowed to depreciate. Actual or *de facto* devaluations have occurred in Mexico, Portugal, Spain, Canada, Israel and elsewhere. The weak U.S. recovery and the depressed world economy are predictable consequences of these policies.

Other effects of increased volatility in the foreign exchange markets include:

Higher costs of foreign currency transactions;

Transaction costs rise due to wider bid-ask spreads in the foreign exchange market, as dealers require compensation for the increased risk.

Greater exposure to FASB 8 problems;

Business firms experience larger gains and losses from foreign currency transactions, and suffer greater instability in reported earnings.

Unstable and rising inflation rates;

Weaker than average currencies are associated with higher than average inflation rates. At the same time, exchange rate instabilities produce a general diminution of confidence in currencies, and hence higher inflation, across the board.

Volatile interest rates, and greater divergence in interest rates among countries;

Fluctuating inflationary expectations show up in yields on fixed instruments that vary over time and across currencies.

Lowest growth prospects in those countries with progressive tax structures and weak currencies;

Negative effects on real economic performance are greater the more severe the inflation and the more rapidly tax rates rise with increasing nominal income.

An increased role for gold as a hedge against exchange risk.

Few assets offer a haven against inflation, but a flight from currencies in general implies greater demand for currency substitutes such as gold. To a degree, fluctuations in the price of gold reflect changing perceptions of the future value of paper currencies.

As these effects intensify, and weak currency countries join the futile race to depreciate their currencies further than others, the floating-rates regime may approach what is likely to be its final crisis.

THE LONGER TERM OUTLOOK

Out of all of this, clear signs of fundamental change are becoming visible. Over the past few years, the intensity of political pressure for rapid monetary growth and new government spending programs seems to be waning. In Congress, especially, a new effort to control spending has emerged, and throughout the United States voters have been turning down issue after issue of new borrowing and tax programs.

Attitudes toward exchange rate depreciation are also changing. In the late 60s and early 70s, the U.S. government sought to depreciate the dollar by whatever means possible. This policy led to the devaluations of May 1970, May 1971, August 1971, December 1971 and February 1973, and a number of less direct measures. Over the past year, these pressures, while still present, have encountered increasing criticism and resistance.[5] In addition, private holdings of gold, long feared and opposed by the monetary authorities, have been legalized for the first time in over forty years. On October 28, President Carter signed a bill that legalized contracts and securities denominated in gold or foreign exchange.

While by no means a panacea, gold convertibility with limited international reserves historically had provided a discipline on individual countries' monetary authorities. Economic logic and political evidence suggest that the aftermath of a general monetary crisis would be a move toward greater fixity and discipline in exchange rate policies. An EEC monetary union, if successfully accomplished, would contribute enormously to this end by reducing the number of currencies in use. If and when a new world monetary system is explicitly built, it will be one in which those major countries with the strongest currencies and the healthiest economies play a leading role. While the mantle of leadership always fell to the American government in the postwar era, its unsound economic policies during the past decade have largely disqualified the United States for sole leadership in the foreseeable future. The U.S. economy has shrunk relatively as a share of world output, and its growth has been slower than most major countries. The dollar has become a relatively weak currency, and business confidence in the United States has reached a postwar low. It would take many years of confidence-building economic policies and supernormal growth to restore to the United States the world economic position it enjoyed during the era of Bretton Woods.

FOOTNOTES

[1] Tax reductions in Japan are documented in Joseph A. Pechman and Keimei Kaizuka, *Asia's New Giant: How the Japanese Economy Works*, Washington, D.C.: Brookings Institution, 1976, p. 325.

[2] See Karl Haueser, "West Germany" in *Foreign Tax Policies and Economic Growth*, Conference Report, National Bureau of Economic Research and Brookings Institution, New York: Columbia University Press, 1966, Table A-3.

[3] Arthur B. Laffer, "Exchange Rates, the Terms of Trade, and the Trade Balance", in Peter B. Clark, Dennis E. Logue and Richard J. Sweeney, *The Effects of Exchange Rate Adjustments*, Washington, D.C.: U.S. Treasury Department, 1977, pp. 32–44.

[4] See R. David Ranson, "The Relationship between Trade Balances and Exchange Rate Changes", H. C. Wainwright & Co. Economic Study, February 16, 1977.

[5] See, for example, Edward Mervosh, "The Push on the U.S. to Support the Dollar", *Business Week*, November 14, 1977, p. 200.

OSHA—1,100 REGULATIONS DOWN, 9,900 TO GO

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, OSHA's announced crash diet to drop 1,100 regulations still leaves a bloated bureaucratic monstrosity loaded with 9,900 regulations.

The 11,000 arbitrary rules the Occupational Safety and Health Administration has imposed on the workplaces of America clearly indicate the near impossibility for employers to conform and for any inspector to have a comprehensive grasp of his job.

This is why it is so necessary to win the fourth amendment case now before the Supreme Court which would prevent OSHA from making inspections without a warrant properly obtained from a magistrate and based on probable cause.

When an inspection is conducted by authority of such a warrant then very likely there is good reason to investigate, otherwise, why should a person doing a good job of providing safe conditions be harassed merely because he happens to be in business?

The arbitrariness of OSHA is glaringly evident in their pronouncement that they can just not enforce a tenth of their rules pending their official repeal.

The 1,100 regulations being dropped, which deal with such items as split toilet seats, coat hooks, and the specific height to hang a fire extinguisher, only serve to dramatize the extent of stupidity and waste in OSHA and other agencies which constitute an assault and battery on the rights and pocketbooks of citizens both as taxpayers and consumers.

OSHA has not even cut through the first layer of fat with this 10-percent reduction of regulations. They have a long way to go even to be tolerated let alone to be respected and effective.

To keep everything in perspective, just remember that the 10-percent cut will take over 250 pages of a special edition of the Federal Register to explain, and that leaves 2,250 such pages of regulations that the employers and workmen still have to live with.

OSHA Administrator, Eula Bingham, merits a rose for a helpful start, but I will reserve the bouquet for a time when this cut is actually made and the rest of OSHA is reduced in like manner.

ON SOCIAL SECURITY FINANCING

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. STEERS. Mr. Speaker, I voted today in favor of the conference report to accompany the social security financing amendments. I also supported the bill when it was debated in the House on October 27. I have done so with grave misgivings however, for I feel that the approach which this legislation takes is only piecemeal and does not address the basic fiscal problems of the social security system. The system needs a complete review and much of the underlying philosophy of the social security system, and the methods of financing the system, need to be reassessed and, in my mind, drastically changed. This is not being done.

Because this is not being done, and because I do not want to see the system continue to be on the brink of bankruptcy, I am voting in favor of the bill. However, I am today introducing legislation which will require Members of Congress to contribute fully to the social security system. It is true that Members of Congress presently contribute 8 percent of their entire income to our own pension fund—which is more than we would contribute now if we were covered by social security. However, I do not think that it is fair for Members of Congress to enact any sort of tax increase—especially one which is as monumental as the one in this bill—without themselves being subject to that tax. I will push for consideration of this bill until it is either enacted into law or a complete, fundamental review of the social security system is undertaken.

AGRICULTURAL TRADE EXPANSION ACT OF 1977 INTRODUCED

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FINDLEY. Mr. Speaker, in the past few years we have learned how important agricultural exports are to American farmers. To keep our exports strong, we need to build new markets while maintaining the customers that have provided our strong export performance of the past few years. Without food exports, our already bleak balance of payments situation will grow worse.

In recognition of our commitment to a forward-looking and effective export policy, Senator Humphrey and I have decided to offer in our respective Houses of Congress a new bill, the Agricultural Trade Expansion Act of 1977. In view of the current depressed state of affairs for American farmers, we believe that Congress should move expeditiously in considering this important legislation.

The bill that I am introducing is not a concessional or giveaway program. It is a bill designed solely to maximize our farm exports on a commercial basis. As such, this bill will not cost the American taxpayer one cent.

This bill would accomplish two important objectives. The first would be to establish an intermediate credit program under the Commodity Credit Corporation. The second objective would be to nullify existing restrictions on the ability of the Commodity Credit Corporation to extend participation of its programs to non-market-economy countries.

The purpose of the intermediate credit program is to provide the CCC the capacity and flexibility to compete with our principal competitors in the world marketplace. Canada, Australia, and Argentina are able to provide longer term credit than is currently available through the CCC. The CCC is able, as you may know, only to provide credit for up to 3 years. This bill would provide the CCC authority to offer terms of up to 10 years.

By writing this provision into law, we will be bridging the gap that currently exists between the current CCC program and title I of Public Law 480 (food for peace). The Public Law 480 program authorizes concessional credit for 20 to 40 years as opposed to the CCC program of up to 3 years at commercial rates of interest.

The second portion of our bill will establish the eligibility of non-market-economy countries to participate in CCC credit programs. Senator Humphrey and I decided to take this approach because we believe that these countries will be where our significant market advances will be made in coming years. We must begin to export to these countries or we will lose these important markets to competing nations, thereby continuing our historic position as no more than a residual supplier.

None of these nonmarket economies will be getting a free ride. And all of them will be required to meet stringent CCC tests for credit worthiness. If these rigid standards cannot be met, then credit simply will not be offered. In no case will it be offered on concessional terms.

While this bill will not immediately reverse the discouraging conditions facing our farmers, Mr. Speaker, it will be a promising and significant step in the right direction.

List of cosponsors follows:

Mr. Findley, Mr. Rostenkowski, Mr. Derwinski.

Mr. Guyer, Mr. Bedell, Mr. Sebelius, Mr. Baldus, Mr. Nolan.

Mr. Glickman, Mr. Quie, Mr. Andrews of North Dakota, Mr. Baucus.

Mr. Blouin, Mr. Leach and Mr. Ottinger.

Text of bill follows:

H.R. —

A bill to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities and to authorize non-market economy countries to participate in certain programs of the Commodity Credit Corporation

Be it enacted by the Senate and House of Representatives of the United States of States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Expansion Act of 1977."

Sec. 2. Section 4 of the Food for Peace Act of 1966 (80 Stat. 1538; 7 U.S.C. 1707a) is amended to read as follows:

"Sec. 4. (a) Commercial sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its Export Credit Sales Program.

"(b) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation. The provisions of Public Law 664, 83rd Congress, as amended (68 Stat. 832, 46 U.S.C. 1241(b)), shall not apply to sales financed pursuant to this subsection.

"(c) There are hereby authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation annually for its actual costs incurred or to be incurred under programs undertaken under this section.

Sec. 3. Notwithstanding any other provision of law denying non-market economy countries eligibility to participate in programs of the Government of the United States, such countries shall be eligible to participate in any program carried out by the Commodity Credit Corporation (other than under the Agricultural Trade Develop-

ment and Assistance Act of 1954) under which credit or credit guarantees or investment guarantees are extended, directly or indirectly.

A TRIBUTE TO ADOLPH RUPP—BARON OF BASKETBALL

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. BRECKINRIDGE. Mr. Speaker, it is with great sadness that I report to the House today that the "Baron of Basketball," "The Man in the Brown Suit," Adolph Rupp is dead of cancer at the age of 76.

As head basketball coach at the University of Kentucky in Lexington—my district—Coach Rupp won more college basketball games than any other coach in history. His lifetime record was 879 victories against 190 defeats—an admirable record in any field of endeavor.

His career can only be called an epic. The impact, record and achievements of Adolph Rupp are almost difficult to overstate. He was a great man, a great leader, and a great Kentuckian. He may be the most famous Kentuckian since Abraham Lincoln.

No one who loves basketball in America will ever be able to forget Coach Rupp and his fighting U.K. Wildcats—"The Fabulous Five"—Alex Groza, Ralph Beard, Kenny Rollins, Wah Wah Jones, and Cliff Barker. And who will ever forget Cliff Hagan, Frank Ramsey, the "Fiddlin' Five" and—yes—even "Rupp's Runts?" Forty-three years of colorful, exciting, and winning basketball—that was Adolph Rupp's gift to the Commonwealth of Kentucky.

The Rupp "style" was also unforgettable. His fast-break play totally revolutionized the game of basketball forever. And he cared about winning. Rupp had no patience with those who thought winning was not important—only the way you played. "Why in the Hell do they keep score, then?" he was fond of saying.

Coach Rupp's illustrious career was ample testimony of his attitude about the importance of winning. It included four NCAA national titles, 20 NCAA appearances, 27 Southeastern Conference titles, one NIT crown, and a lifetime winning percentage of 83 percent. Only one adjective can summarize this man—he was a winner.

A day of mourning was ordered by our Governor, Julian Carroll, for December 13—the day Coach Rupp was to be buried in his familiar trademark—his brown suit.

So Coach Rupp is gone but not forgotten. One year ago, a 23,500 seat arena—the Rupp Arena—was dedicated in Lexington as a lasting tribute to the Baron of Basketball.

ANTI-INFLATION TAX REDUCTION AND REFORM ACT OF 1977

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. GRADISON. Mr. Speaker, today I introduced a bill entitled the Anti-Inflation Tax Reduction and Reform Act of 1977. This bill, quite simply, provides tax justice for the American taxpayer. The general approach of this bill will be to adjust the income tax tables on a yearly basis to take into account the rate of inflation. In other words, this "indexing" will adjust the tax tables annually for the benefit of the taxpayer by offsetting inflation that has already occurred.

This type of tax reduction is long overdue. Because the personal income tax tables are progressive in nature, any increase in income leads to a greater tax burden on every American wage-earner. This kind of progressive tax liability, or escalating feature, hits hardest in the lower-income brackets. What really happens is that the American taxpayer never "catches up" with the inflation that the Federal Government helps to create in the first place. Indeed, after the Federal Government takes its share right off the top, the amount of money that a family actually gets to spend decreases. So, despite rising personal income, a family's purchasing power is continually chipped away by these automatically imposed tax liabilities.

In my opinion, the Congress plays a cruel hoax on every working American when it expects a pat on the back for giving periodic tax cuts. The fact is, those cuts are nothing more than an economic flimflam. Those cuts do not begin to make up for the yearly inflation we all are faced with. It is high time that the taxpayer gets the break instead of the Federal Treasury. After all, it is the taxpayer's money, not the Government's. I do not believe that the working men and women of this country should have to wait for a "generous Congress" to give them back something that they have already earned.

My indexing plan would allow for an automatic yearly "catch up" for the American taxpayer instead of the present system in which they are indeed fighting a losing battle. This system is not new. The Congress is well aware of the benefits of "indexing." In fact, when those indexing benefits work to the Government's advantage, the Congress always manages to use it. We index social security, we index supplemental security income, we index Federal and congressional salaries and there is now talk of indexing welfare benefits. Surely if these forms of indexing make sense we should apply the same principle to the taxpayers who foot the bill for Government spending programs and quite frankly force the U.S. Government and its elected Representatives to face the realities of inflation head on.

Let me quickly explain how this system would work for the benefit of American taxpayers. Every year, the withholding rates and tax tables will be recalculated so that if your income is increased to make up for inflation, your taxes will be in the same proportion to your income as they were before the inflation occurred. This is the only reform which successfully counters future inflation as well as past. It will provide that American taxpayers pay no more than their fair share for the services their Government provides, while also ending a deceptively hidden tax increase. In the future, if my proposal were law, tax cuts passed by the Congress would be real, permanent reductions in taxes and, conversely, any future tax increases would be voted on by Congress and signed by the President, instead of being automatically imposed through inflation.

This proposal does not fully complete the job of adjustment, but it does establish the principle that the American taxpayer comes first.

Mr. Speaker, by introducing this bill on the final day of this session of Congress, I am asking that any tax reductions which may be proposed in the months ahead—including those of the President—be measured against this simple test: Do such tax cuts produce lasting, permanent protection for income taxpayers in an environment of continued inflation. Only a tax cut which meets this test—as mine would do—will be considered true tax reform and tax reduction by the American people.

RECENT ADMINISTRATION ARMS CONTROL INITIATIVES THREATEN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. KEMP. Mr. Speaker, in recent weeks, the Carter administration has taken several initiatives in the arms control arena, most of which will, if agreed to, have adverse implications for the security interests of the United States and particularly our primary alliance, NATO.

For instance, cruise missiles. The European members of NATO perceive the cruise missile as their future principal means of offsetting the drastic increase in the threat posed to their security by the Soviet Backfire bomber and SS–20 mobile intermediate range ballistic missile. Nevertheless, the Carter administration has adopted a SALT posture, particularly with respect to qualitative limitations placed on American cruise missiles, and limitations on the transfer of cruise missile technology to allied nations. Our European allies now understand that there are no circumstances in which the United States will transfer cruise missile technology to them if it has been denied to the United States by treaty. The limitations on cruise missiles are so onerous on the United States as to deny the full potential of this new technology to Europe. The implications of this could be disastrous of our own and allied security.

Comprehensive test ban. The administration's zeal to reach an agreement to ban all nuclear tests has pushed us into a national posture of proposing an agreement which will permit the Soviet Union to conduct tests which exceed American verification capabilities. By failing to make proper allowance for permitted activities within the scope of the proposed agreement will result in an asymmetric accord favoring the Soviet Union. Unless some major suitable definition of permitted and prohibited activities can be reached within the context of the CTB, I believe that the Congress should reject such a treaty in the ratification process.

The administration's proposals in the arms control arena have taken a particularly ill-advised course, and the difficulties the administration's SALT proposals have faced have been compounded rather than alleviated by its recent arms control initiatives. Unless policies are swiftly reversed, our arms control posture will become an instrument for increasing the risk of war and the manipulation of the threat of force in a crisis by the Soviet Union rather than a vehicle for inducing a reduction in the risk of war.

The Wall Street Journal in its editorial for December 15, 1977, provides an incisive critique of the American SALT posture as it affects our most crucial alliance, the NATO alliance. I insert the text of the Journal editorial in the Record at this point:

UNDERMINING THE ALLIANCE

While the formal meeting of the North Atlantic Treaty Organization last week issued a communique backing U.S. efforts to reach a new strategic arms agreement with the Soviet Union, the meeting was dominated by Europeans' fears that they are being sold out. In fact a treaty along the lines now being negotiated is almost certain to undercut efforts to reinvigorate the alliance.

Consider the view from Europe. The Soviet Union's military build-up continues across the board, and items that are marginal in the strategic arms negotiations are of huge moment to the European theater. One can argue, for example, about the threat to the U.S. from the new Soviet Backfire bomber, which can fly from Russia over the U.S. and land in Cuba. But clearly this advanced airplane greatly increases the threat to Europe.

Similarly, the Soviets are already deploying. This modern missile has a range of about 4,000 kilometers, not that much less than the 5,500 kilometers defined as intercontinental. The SS–20 is in fact the top two stages of a mobile intercontinental missile, missing stage could quickly convert these missiles to an intercontinental threat. In fact, the Soviets are known to be producing the extra stages for "storage." But even without the third stage, the SS–20 holds hostage every city in Europe.

NATO's big hope for offsetting these new Soviet deployments is the cruise missile, various versions of which are still in the development stage. The cruise misile is essentially a drone aircraft that flies at subsonic speeds but hopes to penetrate air defenses through its small size and ground-hugging altitudes. It can be equipped with astoundingly accurate guidance, meaning it is valuable not only as a strategic weapon with nuclear warheads, but as a theater weapon with conventional warheads. Its relatively low cost makes it an especially attractive choice for our European allies, who do not have superpower budgets.

As tentatively agreed between the U.S. and the Soviet Union, the next strategic arms pact would limit the SS–20 not at all. It would limit the Backfire scarcely at all; the Soviets agreed not to build the new bomber faster than they already are, though at last word were refusing to say how fast that is. By contrast, the new pact seems likely to eviscerate the cruise missile.

Land- and sea-based cruise missiles would not be permitted ranges of over 600 kilometers, whether armed with nuclear or conventional warheads. Air launched cruise missiles can have ranges up to 2,500 kilometers, but may be installed only on heavy bombers. The number of these bombers is sharply curtailed, and if we can deploy only a few cruise missiles the development program may become vulnerable to cancellation on cost/effectiveness grounds. These treaty limits formally apply only to the U.S. and Soviet Union, of course, but a more-or-less-vague clause would prohibit "circumventing" its provisions, meaning transferring weapons or technology to allies to escape treaty limits.

So when any clear-eyed European looks at this package, he will see this: The Soviets can have unlimited numbers of a 4,000-kilometer, supersonic, multiple-warhead, mobile ballistic missile with which to threaten Europe. But if the Europeans want a subsonic, single-warhead, conventionally armed cruise missile, it cannot have a range of more than 600 kilometers. While agreeing to this kind of treaty, the U.S. tells its NATO allies that to meet the growing Soviet threat they must boost their defense spending and take the political heat for the decision to deploy the neutron bomb.

At the NATO meeting last week, Secretary of State Vance and Defense Secretary Brown tried to reassure the allies with a number of different arguments: That arms negotiations are good irrespective of the provisions of the treaty that results. That the circumvention provisions do not really ban American help for European cruise missiles. That the treaty limitations on cruise missiles are in a part of the treaty that only lasts three years, and cruise missiles will not be available for that long anyway.

This is reassuring only if you believe the U.S. will in fact circumvent the strategic arms treaty by providing the Europeans with cruise missile technology, and only if you believe the three-year limits will in fact not be extended. The last arms treaty to expire, the SALT–I interim agreement on offensive arms, was extended by a gimmick that precluded ratification by the U.S. Senate, let alone the allies. The Europeans did not ask for these promises in writing, as we would have, so perhaps they are persuaded. But they will not stay persuaded for long, and if the treaty is signed the alliance will have been dealt a severe and perhaps irreparable blow.

QUOTAS CRITICIZED AS UNDEMOCRATIC

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. WALKER. Mr. Speaker, as a college student during the early 1960's, I participated in activities which helped bring about an end to legal segregation in this country. Like millions of other Americans, I saw in the ideals of the civil rights movement, the promise of a society where a person's race, religion, or sex would no longer be a basis for discrimination, and where Americans would come to view each other as individuals.

In recent years, however, it has become increasingly clear that this dream has largely remained that—a dream. Sadly, the Federal Government which has been advocating special treatment for some, rather than equal treatment for all, through the implementation of quotas, must shoulder much of the responsibility for the continuing divisions in our society.

Unfortunately, much of this special treatment is being advocated in the name of the civil rights movement by people who seem to believe that the aim of that struggle was not equal opportunity for all individuals, but rather proportionate representation for some groups. To this end, they favor racial quotas and ethnic labeling, to insure that everyone is assigned membership in an "ethnic group" and that these groups get their designated "share" of opportunity.

I am convinced that these quotas, by making those personal qualities over which an individual has no control—race, nationality, or sex—the base for deciding who should be hired for a job or admitted to college, subvert the very meaning of the civil rights struggle. Just as I fought for the end of "Jim Crow" laws while in college, I am now fighting to end this new racial discrimination by sponsoring H.R. 9286 which would make Federal enforcement of such quotas by the Federal Government illegal.

Many individuals who were involved in the civil rights movement have also recognized that racial quotas are a step in the wrong direction. Prominent among these people is Bayard Rustin, former special assistant to Dr. Martin Luther King, and a man who was arrested 24 times for his role in the struggle for civil rights. In a recent speech at the University of Delaware, Mr. Rustin indicated that he felt such quotas were "a violation of democracy" and declared he was "unalterably opposed" to their use.

I am inserting into the Record an account of Mr. Rustin's speech which appeared in the November 29, 1977, issue of the Wilmington, Del. Evening Journal. The article follows:

QUOTAS CRITICIZED AS UNDEMOCRATIC

Bayard Rustin, active in the civil rights movement since the early 1940s, told a University of Delaware audience last night he is "unalterably opposed" to quota systems for minorities.

The 67-year-old native of West Chester, Pa., said quota systems are undemocratic. He said he wants blacks to feel they can do things on their own merits, "not because of what somebody may have done to somebody's grandfather. . . . You cannot pass on the other generations anything but the responsibility for their own."

Rustin, a former special assistant to the late Dr. Martin Luther King Jr., was speaking at part of the university's Concept of Power lecture series.

"Power for religious and ethnic groups . . . relies on their ability to convince the majority that their cause is just and what they are asking for is sane," Rustin said.

He told the mostly white audience that a democracy is the only place blacks will get their rights. He said, "At the point where there is a violation of the principles of democracy, a minority group is impaired."

Saying that race is no longer the dominant issue in the black struggle, Rustin pointed out that the problem "is more profoundly class than race." Using integration in Boston as an example, he said the working class whites are expected to achieve integration in South Boston while the wealthier classes are left comfortably out of it. "Unless there is a fantastic adjustment in the tax structure of this country, there is no way the blacks will have the ability to appeal to the white people." He said President Carter is making certain "that the wealthy are satisfied" and rates poorly in the black struggle.

Rustin, arrested 24 times in his struggle for human rights, emphasized that people are basically the same, and that blacks should fight not only against injustices to them, but to all people.

GRAND JURIES: A LAWYER'S REBUTTAL

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RUSSO. Mr. Speaker, grand jury reform is the subject of continuing debate in legal circles, as well as the press.

With such a complicated issue, I think we are wise to listen closely to those whom we know to be skilled in the law and perceptive in their judgments. Such a man is Melvin Lewis, professor of law at John Marshall School of Law in Chicago. Professor Lewis has been involved in many congressional hearings on the criminal justice system, including hearings on the rules of criminal procedure and the entire criminal code.

Today I would like to share with my colleagues Professor Lewis' rebuttal to a Chicago Tribune editorial on grand juries:

[From the Chicago Tribune, Sept. 9, 1977]

GRAND JURIES: A LAWYER'S REBUTTAL

CHICAGO.—As a member of the American Bar Association Committee on the Grand Jury, I was deeply disturbed by the argument made in your Aug. 15 editorial "Reforming the grand jury."

You concede that the grand jury is normally only a rubber stamp for the prosecutor, and that its procedures lend themselves to an abuse of witnesses. Yet you object to permitting witnesses to be accompanied by their lawyers—the only reform which could meaningfully palliate the worst of these abuses.

Your first argument is that a grand jury witness doesn't need protection, since he is not on trial. Very much the contrary, the involuntary grand jury witness is the least favored person known to the Constitution and is subject to practices which would not be tolerated if performed by a policeman against a suspect at a station house.

As only one minor example, the Supreme Court recently upheld the prosecutor's right to call a suspect before a grand jury without letting him know that he is a suspect. Indeed, such a person is not even entitled to Miranda warnings. By the time the prosecutor finishes questioning his target, he has frequently obtained a transcript which renders the ensuing trial an empty formality. Any reasonably competent lawyer, questioning a friendless witness in oppressive circumstances, will have little trouble producing such a transcript.

You also state that such a witness has "the right to take the 5th Amendment." Alas, that is no longer true. He has the right only to a specious protection called "use immunity." He talks, or he goes to jail; and if a witness, however honest, can be forced to talk enough, it is no great trick to extract a statement which can arguably be called perjury. The resulting perjury indictment reflects a "crime" deliberately produced by the grand jury, supposed protector of the innocent. That is exactly what happens on almost a daily basis.

Your characterization of the grand jury as "the citizen's ultimate legal recourse against tyranny" will evoke rueful shudders from all experienced lawyers who know the grand jury to be the most significant source of tyranny in our legal system. And your suggestion that "one of the first moves of a would-be dictator . . . is to try to abolish it" has no historical basis. The grand jury is exclusively a feature of Anglo-Saxon law and has now been abolished in England, where it was invented—a recognition that the grand jury concept may be practical as applied to a bucolic, medieval society, but that it has no rational place in a modern legal system serving a densely compacted urban population.

You state that protection is unnecessary because a grand jury is theoretically independent of the prosecutor. The "runaway" grand jury to which you refer is so infrequent a phenomenon as to be meaningless. The grand jurors, unaided, do not even know how to issue a subpena to bring a witness before them. The "runaway" grand jury is not even a theoretical factor in federal law, since an indictment has no validity unless the prosecutor signs it. The true state of affairs is reflected by the Watergate grand juries. There were two of them. The first was in the hands of a prosecutor who apparently wanted criminal charges limited to the direct burglary participants. The second was in the hands of a prosecutor who apparently wanted criminal charges against high public officials. Each prosecutor got what he wanted.

Next, you say that it is "natural that prosecutors should denounce the plan." But in fact, the chairman of our committee is a professional prosecutor of more than 25 years' experience; and the dozen or so members of the committee include at least three other present and many former prosecutors. The recommendation of the committee was unanimous, because its members felt a stronger commitment to individual liberties than to a narrow professional advantage.

Finally, you suggest that the ABA voted for this plan because it would "give them more work." That suggestion lacks all factual base. The knowledgeable witnesses who can afford such service are represented already, and public defenders have no time to devote to the recruitment of clients. However, under present practice the lawyer must sit outside the grand jury room, and the witness must excuse himself to consult with the lawyer when he wishes to do nothing more than to permit the lawyer to join his client. It hardly merits the apocalyptic vision which your editorial calls forth.

FARMERS' WATER RIGHTS INCLUDE KEEPING PANAMA CANAL

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, the mainstay of America's economic well-being lies in its farms. To date much attention has been given to various aspects of the proposed Panama Canal Treaties, however little has been said about the potential harm which would befall the American farmer. Recently, I happened upon an article entitled "The Panama Canal and U.S. Farm Trade" which was published by the Department of Agriculture. The article is exceptionally good and I highly recommend it to all my colleagues, especially those who have large farming interests within their districts.

Additionally, Mr. Speaker, at my request the Congressional Research Service prepared an analysis of this article which I also include for the RECORD:

THE PANAMA CANAL AND U.S. FARM TRADE

While its role in total U.S. trade has declined in recent years, the 51-mile-long Panama Canal continues to be a key east-west link for U.S. farm trade. Grain, soybeans, and cotton headed to the Far East from U.S. Great Lakes, east coast, and gulf ports are especially dependent on the Canal, whose opening in 1914 gave U.S. shippers a welcome alternative to the hazardous Cape Horn route and helped foster east-west trade.

During 1976, about one in every 5 tons of U.S. farm product exports moved through the Canal. This amounted to some 20 million metric tons, or two-thirds of all farm product traffic through the Canal last year and about 17 percent of total Canal shipping.

Far the most important farm commodities shipped via the Canal are grains, soybeans, and other bulk products, whose lifelines to foreign markets are still the ocean-going tankers and freighters.

During fiscal 1976 grains and soybeans accounted for 16.3 percent of all traffic through the Canal—their share being exceeded only by the 18.7 percent for petroleum and petroleum products.

In calendar 1976, roughly 18 percent of the 44.3-million ton U.S. corn export, 26 percent of the 15.3 million-ton soybean export, and 45 percent of the 5.7-million ton grain sorghum export moved through the Canal. These three products, combined, earned $9.1 billion in foreign exchange for the United States during 1976 out of the $23 billion in total U.S. farm exports.

Adding in other bulk products dependent on Canal transit—including wheat and cotton—would push the figure much higher still.

By penetrating the land barrier to transportation posed by Central and South America, construction of the Canal through the Isthmus of Panama represented one of the early breakthroughs for U.S. trade, paving the way for export gains in the Far East and other distant markets. For many U.S. farm products, this advantage continues, despite hikes in Canal tolls since 1974 and the advent of air transportation and innovative land-sea connections.

Last year, for instance, the Canal handled 70 percent of all U.S. farm commodity exports to 15 markets in East, Southeast and South Asia and Oceania. The Asian market as a whole now means $8.5 billion to U.S. farmers and ranks alongside Western Europe as the leading outlet for U.S. agricultural products.

Japan—the largest single-country market, with imports of U.S. farm products approaching $4 billion—took over 12 million tons of U.S. agricultural shipments through the Canal last year. That adds up to around 60 percent of all U.S. farm product exports through the Canal and an even larger percentage of U.S. farm trade with Japan.

South Korea and Taiwan each took more than 1.5 million tons of U.S. products via the Canal last year, while Hong Kong, Indonesia, and Chile also received large quantities of westward bound shipments.

COMPARATIVE DISTANCES TO SELECTED PORTS VIA PANAMA CANAL (PC) AND STRAITS OF MAGELLAN (M)

[In nautical miles]

From—	Via	To— San Francisco	Seattle (Vancouver)	Guayaquil	Callao	Valparaiso	Yokohama	Shanghai	Singapore
New York, N.Y.	Panama Canal	5, 263	6, 038	2, 842	3, 368	4, 634	9, 700	10, 584	12, 523
	Straits of Magellan	13, 122	13, 898	10, 241	9, 605	8, 366	16, 209	16, 761	16, 619
Halifax, Nova Scotia	Panama Canal	5, 583	6, 358	3, 162	3, 688	4, 954	10, 020	10, 904	12, 843
	Straits of Magellan	12, 987	13, 763	10, 106	9, 470	8, 231	16, 074	16, 626	(1)
Norfolk (Newport News, Va.)	Panama Canal	5, 067	5, 842	2, 646	3, 172	4, 438	9, 604	10, 388	12, 327
	Straits of Magellan	13, 068	13, 844	10, 187	9, 551	8, 312	16, 155	16, 707	(1)
New Orleans, La.	Panama Canal	4, 689	5, 464	2, 268	2, 794	4, 060	9, 126	10, 010	11, 949
	Straits of Magellan	13, 495	14, 271	10, 614	9, 978	8, 739	16, 582	17, 134	(1)
Aruba, Netherlands Indies	Panama Canal	3, 922	4, 697	1, 501	2, 027	3, 293	8, 359	9, 243	11, 182
	Straits of Magellan	12, 006	12, 782	9, 125	8, 489	7, 250	15, 093	15, 645	(1)
Rio de Janeiro, Brazil	Panama Canal	7, 656	8, 431	5, 235	5, 761	7, 027	12, 093	12, 977	(1)
	Straits of Magellan	8, 426	9, 202	5, 545	4, 909	3, 670	11, 513	12, 065	11, 923
Buenos Aires, Argentina	Panama Canal	8, 674	9, 449	6, 253	6, 779	(1)	(1)	(1)	(1)
	Straits of Magellan	7, 582	8, 358	4, 701	4, 065	2, 826	10, 669	11, 221	11, 079

[1] Not applicable.

Source: Panama Canal Company Board of Directors: "Report of Panel on Proposed Changes in Rates of Tolls for the Panama Canal," Sept. 13, 1976.

PANAMA CANAL CARGO MOVEMENT, BY PRINCIPAL TRADE ROUTES, 1966–75 [1]

[In thousands of long tons]

Item	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975
East Coast United States-Asia	25, 912	29, 742	34, 691	39, 486	48, 337	49, 535	40, 036	50, 051	56, 935	55, 402
Europe-West Coast United States/Canada	7, 343	6, 786	7, 481	7, 600	8, 932	9, 698	9, 160	10, 210	11, 555	10, 561
East Coast United States-West Coast South America	7, 628	7, 867	6, 778	7, 383	8, 674	8, 007	6, 805	7, 929	8, 498	8, 417
Europe-West Coast South America	6, 645	5, 754	5, 901	5, 618	6, 013	5, 723	5, 729	4, 839	4, 782	5, 481
Europe-Asia	653	1, 075	4, 642	3, 698	5, 027	5, 164	5, 783	6, 346	8, 500	10, 028
Europe-Oceania	2, 255	2, 184	2, 752	2, 659	2, 864	3, 397	2, 938	3, 307	3, 588	3, 590
U.S. Intercoastal (including Alaska and Hawaii)	5, 787	5, 273	4, 678	3, 793	3, 670	3, 794	3, 134	3, 812	4, 647	4, 386
West Indies-West Coast United States	1, 579	2, 385	2, 311	2, 019	2, 061	2, 536	2, 341	2, 065	2, 279	2, 746
East Coast South America-West Coast United States	2, 692	1, 996	2, 160	2, 257	2, 700	3, 106	2, 744	2, 576	4, 462	2, 934
East Coast United States-West Coast Central America/Mexico	2, 798	1, 031	1, 216	1, 192	1, 143	1, 577	1, 626	1, 717	2, 170	1, 869
South American Intercoastal	2, 816	3, 163	3, 498	3, 995	2, 454	2, 320	3, 812	3, 306	4, 598	4, 675
West Indies-Asia	1, 848	2, 001	2, 618	2, 400	2, 479	3, 225	2, 141	2, 352	2, 557	2, 150
East Coast Canada-Asia	704	1, 148	1, 951	2, 187	2, 672	2, 935	3, 549	3, 670	4, 025	3, 461
East Coast United States/Canada-Oceania	3, 269	3, 526	2, 900	3, 034	2, 644	2, 870	3, 432	3, 395	4, 005	4, 130
All other routes	9, 775	12, 262	12, 973	14, 052	14, 187	14, 740	16, 004	20, 529	25, 306	20, 271
Total	81, 704	86, 193	96, 550	101, 373	114, 257	118, 627	109, 234	126, 104	147, 907	140, 101

[1] Toll-paying ocean-going commercial traffic (vessels of 300 Panama Canal net tons and over).

Source: "Panama Canal Company Board of Directors Report of Panel on Proposed Changes in Rates of Tolls for the Panama Canal," Sept. 13, 1976.

ACTUAL AND PROJECTED PANAMA CANAL TRAFFIC FOR SELECTED AGRICULTURAL AND RELATED PRODUCTS

[In thousands of long tons]

Commodity	Actual, fiscal year 1975 [1]			Projected: Fiscal year 1977 [2]			Fiscal year 1978 [2]			Fiscal year 1979 [2]		
	P–A [3]	A–P [3]	Total	P–A	A–P	Total	P–A	A–P	Total	P–A	A–P	Total
Wheat	291	4, 422	4, 713	475	3, 630	4, 105	300	3, 940	4, 240	300	4, 195	4, 495
Coarse grains	230	9, 405	9, 635	455	11, 365	11, 820	340	12, 770	13, 110	340	13, 595	13, 935
Bananas	1, 682		1, 682	1, 665		1, 665	1, 710		1, 710	1, 760		1, 760
Sugar	2, 852	1, 389	4, 241	3, 280	950	4, 230	3, 420	1, 000	4, 420	3, 510	1, 050	4, 560
Soybeans	10	3, 472	3, 482	80	4, 555	4, 635	100	5, 085	5, 185	100	5, 455	5, 555
Lumber	3, 517	127	3, 644	4, 105	75	4, 180	4, 585	75	4, 660	5, 165	75	5, 240
Pulp, paper, and paper products	2, 625	695	3, 320	1, 975	630	2, 605	2, 520	725	3, 245	3, 045	620	3, 665
Phosphates	84	5, 092	5, 176	25	3, 740	3, 765	25	4, 155	4, 180	25	4, 670	4, 695
Potash, fishmeal, and fertilizers	1, 894	2, 274	4, 168	2, 125	1, 130	3, 255	2, 365	1, 280	3, 645	2, 605	1, 475	4, 080
Refrigerated foods	1, 683	409	2, 092	1, 680	332	2, 012	1, 675	310	1, 985	1, 685	257	1, 942
Other food	2, 923	947	3, 870	2, 660	545	3, 205	2, 501	530	3, 031	2, 432	520	2, 952
Miscellaneous cargo and containers	5, 144	3, 828	8, 972	5, 725	4, 990	10, 715	6, 160	5, 660	11, 820	6, 595	6, 295	12, 890
Total traffic	56, 009	84, 092	140, 101	52, 875	74, 478	127, 353	55, 600	78, 467	134, 067	58, 449	81, 719	140, 168

[1] July–June.

[2] October–September.

[3] P–A — Pacific to Atlantic; A–P — Atlantic ; Pacific

Source: Panama Canal Company Board of Directors: "Report of Panel on Proposed Changes in Rates of Tolls for the Panama Canal," Sept. 13, 1976.

PANAMA CANAL: MOVEMENT OF MAJOR AGRICULTURAL PRODUCTS THROUGH THE CANAL IN 1976

[In thousands of metric tons]

Commodity	Atlantic/ Pacific	Pacific/ Atlantic
Canned and refrigerated foods [1]	490	3, 671
Barley	39	526
Corn	8, 307	30
Oats	33	5
Rice	19	281
Sorghum	2, 264	
Soybeans	4, 458	36
Wheat	2, 478	708
Beans	33	38
Cocoa	9	51
Coffee	27	631
Copra, coconuts		115
Cotton	260	142
Molasses		662
Oilseeds	31	120
Skins and hides	2	4
Sugar	703	2, 794
Wool	3	175
Edible oils [2]	144	980
Wheat flour	81	
Tobacco	86	13
Total	19, 467	11, 025

[1] Including bananas, dairy products, fish, meat and other.

[2] Fish oil, vegetable oil, coconut oil and whale oil.

Note: Atlantic/Pacific lumber and products in 1976 were 216,000 metric tons and Pacific/Atlantic shipments were 5,432,000 tons.

Trade between the U.S. east coast and Asia was 47,900,000 tons or 48 percent of the total canal cargo volume through the canal. Japan was the origin or destination of 44,700,000 tons of cargo transiting the canal or 77.1 percent of the total cargo moving to and from the Far East.

Source: Panama Canal Company, "Annual Report, Fiscal Year—June 30, 1976."

Such products originate throughout the eastern half of the United States, ranging from the granary States of the Midwest and Great Plains to the cotton fields of Arkansas and Louisiana.

U.S. corn and soybeans bound for the Far East travel to Great Lakes ports or down the Missouri, Ohio, and Mississippi River to the gulf for westward shipment through the Canal.

Short-staple cottons used by Asian markets are produced in Texas and the western Old South and shipped out of the gulf.

While White wheat and Hard Spring wheats produced in the Pacific Northwest tend to go to west coast ports, Hard Red Winter wheats and almost all grain sorghum move out of the gulf and—again—through the Canal.

Also of significance are shipments from the U.S. west coast to Europe, as well as to the

U.S. east coast. Last year, 60,802 bales of California and Arizona cotton moved eastbound into export through the Canal. In addition, much canned fruits and vegetables moving from the west coast to east coast, as well as some citrus and dried fruits, go through the Canal.

Total shipping through the Canal during fiscal 1976 included 13,201 ship transits and cargo movements of 119.3 million metric tons. (However, this was the lowest level since 1965, reflecting the worldwide recession and reopening of the Suez Canal.)

Of all the foreign trade going in and out of U.S. seaports, 7 percent passed through the Canal in fiscal 1976, compared with 13 percent in 1949. More than two-thirds of this trade either originated in the United States or was destined for U.S. ports.

Tolls on the Panama Canal have been increased three times since 1974—once as a result of a technical change and twice to make up for deficits incurred by the Panama Canal Company, which is required by law to be self-sustaining. So far, these increases have carried charges some 50 percent above those prevailing before 1974, to $1.29 per ton currently.

Still, the Canal is a much more economic means of shippinig bulk products than any other alternative now available.

Rerouting grain shipments around South America might almost double transportation costs, according to USDA analyses. And transit time would be increased considerably; for example, shipping time from New Orleans to Yokohama would rise from an average of 25 to 45 days in vessels that normally carry shipments of bulk grain.

Such factors would lessen the U.S. farmer's ability to compete for Asian markets, thus benefiting Australia and other exporting nations with access to the Pacific or those with closer locations to major markets. Cross-country land-sea transportation—including the minibridge system with surface carriers now used extensively for container shipping—also would be prohibitively expensive for grains and soybeans. Moreover, existing transportation and port facilities could not handle the volume increases that would be required to circumvent the Canal.

U.S. farmers and rural communities thus have much to gain from continued, dependable operation of the Panama Canal.

These benefits radiate throughout the economy. Farmers depend on the export market to take one in every three harvested cropland acres, amounting to a fifth of net farm income. And gross farm income in the first half of 1977 was running at an annual rate of $108 billion—more than that generated by any other U.S. industry—with some $85 billion of the production expense paid to people outside agriculture.

A LOOK BACK

For early U.S. shippers, South America posed a formidable barrier capped by a hellish passage around Cape Horn through the Straits of Magellan. Probably the most vivid picture of shipping in the 1830's comes from Richard Dana's Two Years Before the Mast and his account of life on brigs laden with hides bound from the west coast for Boston. To Dana, the voyage from Santa Barbara, California, to Boston reached its climatic low on the trip around Cape Horn. Describing desolate Staten Land east of Cape Horn, Dana wrote:

"It was a place well suited to stand at the junction of the two oceans, beyond the reach of human habitation, and encounter the blasts and snows of a perpetual winter. Yet dismal as it was, it was a pleasant sight to us; not only as being the first land we had seen, but because it told us that we had passed the Cape—were in the Atlantic—and that, with twenty-four hours of this breeze, we might bid defiance to the Southern Ocean."

The "remote and almost unknown coast of California" described by Dana was eventually to become a bustling commercial and population center, while distant markets in Europe and the Far East were to figure importantly in U.S. trade. Transit time from the U.S. west to east coasts would be shortened from 150 days or more to about 2 weeks. Actual distance would be reduced by more than half with the building of the Panama Canal across the Isthmus of Panama some 80 years later. And costs, both human and monetary, would be cut dramatically.

Because of early shipping problems, however, attention was soon focused on building a canal across the narrow neck of the Ithmus of Panama.

In 1881, a French company began the first unsuccessful, effort to build a sealevel canal across the Isthmus. Some 21 years later—on June 28, 1902—Congress approved the Spooner Act, authorizing President Theodore Roosevelt to buy for $40 million the rights and property of that company, contingent on provision by Colombia of the necessary land to be controlled by the United States.

The Hay-Herran Treaty, signed by the United States and Colombia, January 22, 1903, would have provided these rights for 100 years. The U.S. Senate ratified the Treaty, but the Colombian Senate refused.

On November 3, 1903, a revolt in Panama created the independent nation of Panama, and U.S. naval vessels prevented Colombian troops from landing to put down the revolt. The new nation was recognized by the United States on November 16.

Then, on November 18, 1903, the Hay-Bunau-Varilla Treaty was signed by the United States and Panama's Provisional Government. It granted the United States the exclusive right in perpetuity to build and operate a canal across Panamanian territory and all the rights it would possess as if it were sovereign.

The United States agreed to pay Panama $10 million outright and $250,000 annually beginning in 1913. This treaty has remained the basic authority for U.S. control of the Canal, although modifications were agreed to in 1936 and 1955.

The Canal was opened August 15, 1914, after 10 years of construction at a cost of $387 million. It is 51 miles long, and the Canal Zone is 647 square miles, including tidal water.

Under terms of the 1903 Hay-Bunau-Varilla Treaty, the Canal Zone is within the jurisdiction of the United States and is administered under U.S. law by a governor appointed by the President for a 4-year term. The governor serves as president of the Panama Canal Company, which is a corporate agency of the U.S. Government and operated under a Board of Directors appointed by the Secretary of the Army.

The Canal Company is responsible for all operations involved in the movement of ships through the Canal.

Following Panamanian riots in 1959 and 1964, new draft treaties were announced in 1967. These proved fruitless, and new treaty negotations were begun in 1973, continuing until this year. Since 1964, four Administrations, representing both political parties, have pursued such negotiations.

PANAMA CANAL TREATIES

U.S. negotiations of new treaties have been based on the premise that the national interest lies in assuring that the Canal continues to be efficiently operated, secure, neutral, and open to all nations on a nondiscriminatory basis. The cooperation of Panama is fundamental to these goals.

The new treaties, signed in Washington, September 7, 1977, are contingent on ratification by the U.S. Senate and by national plebiscite in Panama. There are two treaties—one guaranteeing the permanent neutrality of the Canal, and a basic treaty governing the operation and defense of the Canal through December 31, 1999.

Provided the treaties are ratified, the United States will have responsibility for Canal operations, including tolls, during the period of the basic treaty (until 2000). It will continue to have access to and the rights to use all land and water areas and facilities necessary for the operation and maintenance of the Canal during that period.

Panama will receive an annual payment from toll revenues of 30 cents per Panama Canal ton transiting the Canal, this to be adjusted periodically for inflation. The United States also will pay Panama $10 million a year for operating expenses, plus $10 million more, if Canal revenues permit, compared with $2.6 million currently paid each year.

In addition, the United States has pledged its best efforts to assist Panamanian development through loans and credits under existing U.S. authority.

Private business and nonprofit activities in the present Canal Zone will be able to continue on the same terms applicable elsewhere in Panama. A joint authority will coordinate port and railroad activities.

All U.S. civilians currently employed in the Canal Zone can continue in U.S. Government jobs until retirement. Other provisions generally assure the continuation of protections and benefits now available to these employees.

The two countries commit themselves jointly to study the feasibility of a new sea-level canal and, if they agree that such is necessary, to negotiate mutually agreeable terms for its construction. In addition, the United States will have the right throughout the term of the basic treaty to add a third lane of locks to increase the capacity of the existing Canal.

Other provisions of the treaties cover defense and national security considerations. The United States will have primary responsibility for the Canal's defense during the basic treaty's term, after which the U.S. military presence will end in the year 2000. Total U.S. military personnel in the Canal Zone is now 9,300.

U.S. agriculture's interest in the treaties hinges on continuation of dependable trading lanes throughout the world—free of exorbitant new increases in transportation costs. Higher energy costs have not been avoidable, but farmers need to know that the commodities they produce will not stack up in port or on the way to sea—owing to a closing of a major transportation route or a prohibitive rise in shipping costs. It is important that the Panama Canal Treaties perpetuate these conditions.

POSSIBLE EFFECTS OF INCREASED CANAL TOLL FEES AND RESTRICTED ACCESS TO THE PANAMA CANAL ON U.S. AGRICULTURAL TRADE

(By Janice E. Baker)

This report was prepared in response to a Congressional request for analysis of and comments on the general effect of increased Panama Canal tolls on U.S. farm trade, and for comments on the statistical tables appearing in "The Panama Canal and U.S. Farm Trade," Foreign Agriculture, October 17, 1977.

IMPORTANCE OF THE PANAMA CANAL

The Panama Canal has been a major transportation route for U.S. farm exports and imports for many years. In 1976, approximately 20 percent of all U.S. agricultural exports, or about 20 million tons of commodities, travelled through the Canal. This figure included 45 percent of U.S. grain sorghum exports, 26 percent of U.S. soybean exports, and 18 percent of U.S. corn exports. Imports of fruits and other tropical products pass through the Canal on route to U.S. markets. Domestic produce, such as processed fruits and vegetables, moving from the U.S. West Coast to eastern markets also use the Canal.

The Canal is particularly important in U.S.-Asian trade. About 70 percent of U.S. farm products sent to Asian markets in 1976 travelled through the Canal. Corn, soybeans, wheat, and grain sorghum from the Midwest were shipped to Gulf ports and through the Canal to the Far East. Short staple cotton from Texas, Arkansas, and Louisiana followed the same route to Asian markets.

Japan, the largest single market for U.S. farm commodities, receives much of its imports by way of the Canal. In 1976 Japan received 12 million tons of U.S. corn, soybeans, and grain sorghum through the Canal. Korea and Taiwan each received 1.5 million tons of U.S. farm goods by the Canal route.

The second table in the Foreign Agriculture article, found on page 3, shows that the bulk of cargo moving through the Canal in 1975 was on route from the eastern United States to Asia. This shipping represented 39 percent of the total tonnage going through the Canal. The second most significant category in the table was shipping between Europe and the U.S. West Coast (7 percent of the total). Increases in Canal toll fees or loss of access to the Canal route could have had detrimental effects on shipping between those markets.

CANAL TOLL INCREASE

U.S. law requires that the Panama Canal Company be self-supporting through collection of Canal toll fees. The current toll is $1.29 per Panama Canal ton, a measure equal to a volume of 100 cubic feet.

With or without ratification of the recently negotiated treaties, Canal toll rates are expected to rise in the near future, perhaps by as much as 30 percent. Using that figure, the new rate could be $1.68 per Panama Canal ton.

Department of Agriculture officials have estimated that a 30 percent increase in the toll could add 5 percent to overall transportation costs for farm exports using the Canal. Although this increase could reduce the current price advantage of U.S. wheat over Canadian wheat, the U.S. soybeans over Brazilian soybeans, in Asian markets, the impact on the total volume of U.S. export sales should be minimal.

The third table in the Foreign Agriculture article, found on page 4, shows the major agricultural commodities moving through the Canal in 1976. In the Atlantic/Pacific direction, the most important items in terms of tonnage were corn (42 percent of the total) and soybeans (23 percent). An increase in transportation costs for these commodities could make them somewhat less competitive with similar products from other nations. Because export sales of these products are major contributors to the positive side of the balance of trade, the United States has good reason to try to maintain the volume of feedgrain and soybean exports.

The table indicates that in the Pacific/Atlantic direction the most significant commodities shipped in 1976 were canned and refrigerated foods (33 percent) and sugar (25 percent). An increase in transportation costs for these commodities could be reflected in retail costs for these products in grocery stores in the eastern United States.

The fourth table in the Foreign Agriculture article, found on page 4, indicates actual and projected Canal traffic for selected products, 1975–1979. For fiscal year 1978 the largest projected users are coarse grains and soybeans, followed by lumber, sugar, and wheat. Most of the projected traffic in coarse grains, soybeans, and wheat reflects exports from Atlantic and Gulf ports to Asian markets. Increases in transportation costs could reduce the comparative advantage of these U.S. commodities.

RESTRICTED ACCESS TO THE CANAL

U.S. officials and traders are more concerned over restricted access to the Canal than over a toll increase. Certainly the effect of restricted access to the shorter shipping route would be more harmful to farm trade than a higher charge for use of the Canal.

The first table in the Foreign Agriculture article, found on page 2, indicates the comparative distances between selected ports by way of the Panama Canal and by way of Cape Horn at the southern tip of South America. The shipping distance between New Orleans and Yokohama, Japan, would increase by 7,456 nautical miles, an increase of 82 percent. Although the shipping time and cost might not increase by the same percentage, it is clear that the longer route would have an adverse effect on the price of U.S. products in Asian markets.

Secretary Bergland has indicated that closure of the Canal could add 20 days to the delivery time for U.S. grains and soybeans in Asian markets, and the route around Cape Horn could double transportation costs. Australia and Canada would probably take Asian wheat markets away from the United States, and Brazil could undersell U.S. soybeans. In the Far East the United States currently has a price advantage over Brazil in soybeans, but the Cape Horn route would put the U.S. commodity at a price disadvantage.

Restricted access to the Canal could also have an adverse impact in terms of domestic marketing. The shipping distance between San Francisco and New York, for example, would increase by 150 percent. The relative costs of ocean and overland transportation and the importance of time in transit would have to be considered by West Coast shippers supplying the eastern United States.

Development of an overland transportation network to move grains and processed foods between East and West in the United States would require substantial financial investment. Railroad, truck, storage and handling facilities are currently insufficient to absorb the bulk of farm commodities that now travel by ship through the Canal.

RHODESIAN ARMS EMBARGO

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. BONKER. Mr. Speaker, I would like to call attention to a report written recently by two researchers who have been analyzing U.S. arms sales. The report describes continuing efforts to circumvent a United Nations embargo, supported by the United States, on arms sales to Rhodesia. Their analysis does not bode well for strict adherence to the recent U.N. embargo on arms sales to South Africa. If more is not done to prevent U.S. designed equipment, produced through licensing arrangements in other countries, from being transferred to South Africa or Rhodesia through overseas subsidiaries of U.S. multinational corporations, arms embargoes will have little chance of realizing their intended purposes.

Therefore, I commend the report to my colleagues and insert the following in the RECORD:

[From the Baltimore Sun, Nov. 22, 1977]

CIRCUMVENTING THE RHODESIA ARMS EMBARGO

(By Michael T. Klare and Eric Prokosch)

WASHINGTON.—In flagrant violation of a United Nations arms embargo officially supported by the United States, U.S.-designed Cessna 337 military aircraft have reportedly been sold to the breakaway Smith regime in Rhodesia.

Several of the planes have been used as spotters in raids on neighboring Mozambique, according to Tony Avirgan, a freelance correspondent based in Dar es Salaam. One plane has reportedly been shot down over Mozambique.

According to Milavnews, a private British intelligence newsletter, the Rhodesian Air Force has received 20 Cessna F337 "Milirole" aircraft. The newsletter states that the aircraft were produced in France under Cessna license and "arrived in Rhodesia by circuitous routes in mid-1976 when they were ostensibly ordered by a 'Spanish fishing company' in the Canary Islands."

The Canary Islands were named in the press last year as a conduit for shipments of Winchester handguns to South Africa in violation of U.S. law and the U.N. embargo against that country.

The 337s, light, twin-engine planes, were fitted with underwing armament racks and are known in Rhodesia as the "Lynx," according to Milavnews. The French version is specially modified for short takeoff and landing, making it ideal for counter-guerrilla operations in rugged country. Another military version of the 337, the O–2, was used in Vietnam for aerial observation and light bombing of ground targets.

The story of the 337s is a classic example of the way in which international sanctions can be circumvented.

In 1960, Cessna acquired a 49-percent holding in Reims Aviation of Reims, France. Reims Aviation was given a license to produce Cessna aircraft for sale to Europe, Africa, and Asia. However, the "primary structures" of the 337 planes are actually made in the United States and shipped to France, according to "Jane's All the World's Aircraft"; only certain smaller components and equipment are French-produced. The Continental engines are also American-designed and are produced by Rolls Royce in England under license from Teledyne, another American company.

The State Department, which is required by law to monitor exports of aircraft and other items on the United States Munitions List, has refused to disclose U.S. government licenses for Cessna exports to Rhodesia on the ground that the manufacturer has requested that such information be kept confidential.

An official in the State Department's Office of Munitions Control told us, however, that Cessna had never requested permission to export military aircraft to Rhodesia from France or the United States. And if such a request were received, it would be turned down, he said.

"We just can't do a thing like that," the official said, citing the United Nations arms embargo. "Most assuredly, if anything like that happens, it would be clandestine."

An official in Cessna's International Department in Wichita, Kansas said he could not comment without further investigation.

The United Nations sanctions against Rhodesia were imposed in 1966 as a result of the outcry in the world community when the minority colonial government illegally broke away from Great Britain. Since then the regime has used harsh measures to preserve white ascendancy over the black majority who constitute 96 percent of the population.

A recent report by the Rhodesia-based Catholic Commission for Justice and Peace charged that more than half a million black villagers have been forcibly removed from their homes and placed in "protected villages" lacking sanitary facilities, clean water, and sufficient food. There is a dusk-to-dawn curfew and Rhodesian security forces have orders to shoot without challenge anyone found outside the compound during those hours.

"The open season on curfew breakers in Rhodesia seems akin to the 'free fire zones' of Vietnam," Los Angeles Times reporter Jack Foisie wrote last February, "(In Vietnam) bombs and gunfire could be rained down at will on such areas, and helicopter pilots could shoot at 'anything that moved' wearing black pajamas. Unhappily, uninvolved peasant farmers wore the same style clothing as the Viet Cong guerrillas."

Any further supply of arms to the Smith regime in Rhodesia will only prolong the agony of the population. As the situation worsens, our country must act responsibly to see that American firms do not participate in the bloodshed while in search of a profit.

The story of the Cessna 337s in Rhodesia bodes ill for the arms embargo on neighboring South Africa which the United Nations Security Council, with U.S. backing, has just adopted. Congress must act to investigate all illegal shipments to Rhodesia and South Africa and plug any legal loopholes which allow U.S.-designed equipment and "primary structures," through licensing of foreign production by overseas subsidiaries, to reach the battlefront.

Michael T. Klare is a fellow of the Institute for Policy Studies—Transnational Institute of Washington, and author of "War Without End: American Planning for the Next Vietnams." Eric Prokosch is a staff member of NARMIC (National Action/Research on the Military Industrial Complex), project of the American Friends Service Committee.

FARM PRICES ARE MADE IN WASHINGTON

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. NOLAN. Mr. Speaker, yesterday, the American agriculture movement formally called a farm strike, urging farmers to sit tight, neither planting, buying nor selling, until Congress and the administration establish 100 percent of parity price supports for farm commodities.

Six months ago, nobody had heard of the American agriculture movement, the grave was being filled on the parity concept, and, outside of rural America, few people recognized how rapidly the farm financial situation was deteriorating. President Carter himself had little inkling of what was in store. When he signed the Food and Agriculture Act of 1977, he called it a great bill, one that would establish price supports at cost of production for most farmers. Unfortunately, the President and his advisers failed to understand the gravity of the situation and they seriously misjudged the mood of farmers.

Between August and December, a series of dramatic tractor demonstrations and vocal protest by farmers who joined in the American agriculture movement focused attention on the farmers' plight, making their story front page news throughout the country. Members of Congress from rural districts could not ignore the unrest seething among the farmers back home. Numerous bills and resolutions calling for full parity were quickly introduced in Congress, although the Agriculture Committees in the House and Senate will not consider the measures until early next year.

In the meantime, the American agriculture movement will be confronted by a serious question: will the organization continue to be effective or will the strike sound its death knell? Even now, many farmers are not committed to the strike and maintaining widespread support will indeed be difficult. When spring arrives, the amount of activity in the fields will quickly reveal whether the strikers' winter resolve will last beyond the planting season.

Before spring arrives, however, American agriculture and other farm organizations will have an opportunity to make their voices heard in Congress. The campaign for parity prices will be waged in Washington during the next 4 months. Farmers must continue to direct public attention toward the need for a better farm bill and they must gain a great deal more support in Congress if any results are to be achieved. In reality, the battle is just beginning.

If a 100 percent of parity bill is to have any chance at all, American agriculture and other farm groups will have to give their friends in Congress a tremendous amount of organizational support. The farm bloc needs to be unified and majority support must be organized in the Agriculture Committee and in the House and Senate—which means garnering support from urban constituencies as well. If Congress passes an 80 percent, 90 percent, or 100 percent of parity bill, or recommends any farm bill improvements at all, depends upon whether the parity campaign can continue to grow and sustain itself.

The Carter administration also must be convinced that the 1977 farm bill needs improving. Administration officials tend to dismiss the American agriculture movement because many of its leaders, according to several reports, represent the largest, well-capitalized farmers. Obviously, the largest farmers with their huge capital investments, are also feeling the squeeze caused by low farm prices. The Carter administration, however, has ignored the hard reality that family farmers are in worse financial shape because they have fewer assets and less access to credit.

Since Government farm policy has not been adequately directed toward strengthening family farming, many farmers have come to doubt that a political solution to the farm problem exists. This attitude does not alter the fact that a host of Government policies relating to agriculture including foreign trade—and with whom we trade—grain reserves, international commodity agreements, set-aside, marketing, credit and taxes, as well as price support programs, influence the price of farm products.

Other segments of the economy realized long ago that politics and Government can be made to work for them. The Federal Government guarantees a profit for bankers by setting interest rates. Defense contractors have renegotiation clauses in their Government contracts guaranteeing them a profit. Big oil companies and utilities are guaranteed a profit margin by Government policy. Multinational firms demand and receive tax exemptions on overseas investment, thus guaranteeing their profits. The steel industry seeks to guarantee its profits by influencing import and export policy. These powerful, private economic interests have their profits guaranteed by public policy. Family farmers have a right to expect equal treatment.

If American agriculture and other farm groups do not play an active political role in the upcoming congressional debate over farm policy, their supporters in Congress will find it difficult to muster the votes for a better farm bill, let alone a measure establishing 100 percent of parity for family farmers. I believe we will have a better chance to obtain 100 percent of parity if we reorient our price policy toward family farm size units of production. By preventing the big land barons from obtaining windfalls from a 100 percent of parity price support program, we will be able to strengthen family farming without causing the production of agricultural commodities to be concentrated among fewer and fewer producers.

During a previous era of low farm prices and farmer unrest, one of Minnesota's leading farm spokesmen continually reminded farmers that "farm prices are made in Washington." The statement remains as true today as it was four decades ago.

CONGRESSMAN LEDERER'S SPEECH BEFORE THE PATRIOTIC ORDER

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MICHAEL O. MYERS. Mr. Speaker, I appreciate the opportunity today to bring to the attention of my colleagues the very timely remarks by our distinguished Member RAYMOND F. LEDERER of my hometown of Philadelphia, Pa. Congressman LEDERER's remarks were made before the Patriotic Order, Sons of America, Washington Camp No. 488, on the occasion of the 76th anniversary dinner on December 1, 1977. These remarks exemplify the true patriotic spirit which has been the basis of our country and is carried on by such noble associations as the Patriotic Order, Sons of America.

CONGRESSMAN LEDERER'S SPEECH BEFORE THE PATRIOTIC ORDER, SONS OF AMERICA

Reverend Clergy, Harvey Stoehr, George Baker, and friends. Thank you for giving me this opportunity tonight to be with you for the 76th anniversary dinner celebration of the Patriotic Order, Sons of America, Washington Camp No. 488.

On the way up from Washington, this afternoon, I had the chance to review your booklet entitled " 'The Genesis of the American Flag': the Symbol of Liberty". It's a pretty interesting little publication and, you may not know this, but I am somewhat of a history buff myself. I read anything I can get my hands on, and I really enjoy reading books about history.

I guess I didn't realize that American history had produced so many flags. If anyone here has not read the booklet, you ought to put it on your "things to do" list. It's fascinating.

I did notice however, that the author left out one very important and historic flag. The "Lederer family flag". It has an Eagle carrying a white rose and the motto, "We take no prisoners and no lame excuses".

I really do not intend to take a great deal of your time tonight with a long speech. I know that you may believe that all politicians talk for great periods of time whenever they get the chance, but I'm different. I want to get around and get a chance to meet each and every one of you before the evening is over, so, with that in mind, I'll try to wrap up my few remarks in an hour, or an hour and a half, at the outside.

As you shall soon discover, I am only kidding.

You know every public speaker would like to be remembered for his words of wisdom, and sparkling wit, mostly, his wit, well, I am reminded that William Shakespeare once wrote that "brevity is the soil of wit," and I can certainly take a hint from the old master.

I do have something to say, however, and it involves this fraternity and, more importantly, the things this organization stands for.

I mentioned your fine booklet about the evolution of the American flag. Throughout the booklet there were little references to the history, and the philosophy of the patriotic order, sons of America, in many ways, I found those asides the most interesting portions of the book.

There was mention of the historic first meeting, back in January of 1848, when the declaration of principles of this organization was adopted. There was a description of the political climate of the period during the McKinley Presidency, frankly, it seemed more like the tumult of the demonstrations of the late 1960's at the height of the war in Vietnam. At any rate, a demonstration in Scranton, Pennsylvania, and an act of desecration of the flag led to a bill outlawing the destruction of our Nation's flag. That bill was drafted by the State president of this order.

There was a page dedicated to the efforts of this organization which led to the preservation of some of our most hallowed national shrines, such as Washington's headquarters at Valley Forge; a monument at Washington's crossing, and the preservation of Betsy Ross's home here in Philadelphia.

But, I was most intrigued by the statements of principle scattered throughout your booklet.

One particular, sums up the message I want to leave with you tonight.

I found this quote on page 28, in case anyone is trying to check up on my facts.

"A creed of the lips, denied and dishonored by the life, merits . . . contempt; and the creed of the true patriot, like that of a man of true piety, will control his every act as a citizen, and direct all of his energy to the promotion of the highest welfare of his country and fellowman."

"A creed of the lips . . . dishonored by the life . . . merits . . . contempt." Think about that, every other tenet: Every other principle of this—and any organization—shall stand or fall on that simple statement.

What good does it do, for example, if one says he honors our flag, or our institutions, or the Constitution, if he fails to understand what those symbols mean?

What does it mean if someone is willing to stake his life on a "Declaration of Independence" that has become mere rhetoric to some?

"We believe that we have the best form of government for the masses on the face of the earth." That quote can be found on page 18.

I believe that, but I am afraid that, at times, people recite passages similar to that quotation without ever understanding what it means.

Does that mean that our Government can do no wrong? No, it does not. It means, I believe, that our Government is supposed to represent the will of our people—as diverse as we are. It means that our people, unlike citizens around the world, are free to express opinions; to debate and disagree with Government policy; they are free, in short, to dissent, not to destroy; but to dissent, throughout our history, men—and women—have shed their life's blood for that right: That sacred freedom.

I am concerned about America. I am concerned about our spirit. I am also optimistic about our future.

We have come through a terrible period in our Nation's history. We are now at a turning point. We have squandered much of our public confidence in the rice patties of Vietnam and in the oval office of the Nixon administration. It is time, I believe, to re-evaluate our principles, as a country, a time to trace our common roots and dedicate ourselves anew to the spirit of the American Revolution.

Not far from this historic church stand Penn Treaty Park. It is time to remember the peaceful Quaker who led his people to this area to escape the tryanny of an oppressive country. William Penn came to this land to pursue the goal of basic "human rights".

From my office window I can see the Liberty Bell and Independence Hall and I am reminded daily of the brave men who swore to sever these United States from the tyranny of "taxation without representation."

We have been through many wars and "rivers of blood" and each time we have seen America defend the freedoms we take so casually during times of peace.

No war symbolized more of this country's values than the Civil War. No President expressed our national purpose better than Abraham Lincoln when he said: "It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion: That we here highly resolve that these dead shall not have died in vain: That this Nation, under God, shall have a new birth of freedom: And that Government of the people, by the people, and for the people, shall not perish from earth."

Take those words, and savor them. Try to understand again the full meaning and value of each phrase—each word. For they sum up what we stand for.

That's what the word "patriotism" stands for. It is not an empty word. Not a motto to be mouthed.

We must ask ourselves, what does America mean to us? What does it mean to men and women around the world?

We are noted for our technology, for building the better mouse trap, we take pride in our accomplishments. Is that what sets us apart from other nations? We hear a lot of talk about the stock market, about the foreign trade deficit: About the gross national product. We take these indicators of economic health, far too often, as indicators of national health.

Just what is the GNP? It does measure many important things about our people. It measures our output, our productivity, but for too long, we have seemed to surrender personal excellence and community value to the mere accumulation of material things.

The gross national product—if we judge the United States of America by that standard—that gross national product counts air pollution, and cigarette advertising, and ambulances to clear our highways of carnage.

It counts special locks for our doors, and jails for the people who break them.

It counts napalm and nuclear warheads and special assistance to foreign countries that even now plan subversion of our own government.

It counts Son of Sam's .44 caliber weapon, and the television shows which glorify violence in order to sell toys to our children.

Yet the gross national product does not allow for the health of our children, the quality of their education, or the joy of their play.

It does not include the beauty of our poetry, or the strength of our marriages, the intelligence of public debate, or the integrity of our public officials.

It measures neither our wit, nor our courage, neither our wisdom, nor our learning. Neither our compassion, nor our devotion to our country.

It measures everything, in short, except that which makes life worthwhile, and it can tell us everything about America, except why we are proud that we are Americans.

For the historians here tonight, if you were listening carefully you may have discovered that I took you from Lincoln to a paraphrasing of a speech Robert Kennedy gave shortly before his assassination.

I think it's important to remember the sacrifices made by our people—not just by Presidents and Presidential candidates—but by ordinary citizens as well, and it's important to understand, and re-dedicate ourselves to the true meaning behind our sacred symbols. In that way, we can surely recapture the spirit of 1776 and stand as a beacon to the oppressed throughout the world, once again. And surely, we "can make it impossible" as your principle states, "for anyone to live under the protection of the flag of the United States who does not honor and revere it . . ."

Thank you.

U.S. LEADERSHIP IN NUCLEAR FUEL REPROCESSING IMPORTANT FOR CONTROL OF NONPROLIFERATION

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SPENCE. Mr. Speaker, on December 7, the Washington Post printed a front page story titled "Brazil Adamant on Nuclear Policy." The story provides an interesting account of Secretary of State Vance's recent visit to Brazil and the continuing failure of administration policy with regard to forcing other nations to forego nuclear fuel reprocessing.

The fact that foreign nations like Brazil clearly intend to move ahead expeditiously on nuclear fuel reprocessing development is the best example I can think of for an active U.S. program in reprocessing. U.S. leadership is important to develop an international framework of safeguards for reprocessing as well as to develop those proliferation-resistant variations of reprocessing that will prevent diversion of plutonium for weapons purposes. For the United States to maintain such a position of leadership, it will be absolutely essential to continue to use the Barnwell Nuclear Fuel Plant in my district in South Carolina. Congress has authorized and appropriated a fiscal year 1978 program at Barnwell which is a start in the right direction. To maintain our world leadership position will require continued use of the Barnwell facility and staff.

I include in the RECORD the text of Post article, following my remarks:

BRAZIL ADAMANT ON NUCLEAR POLICY

(By Karen DeYoung)

BRASILIA.—Should Brazil persist in its plans to build a nuclear reprocessing plant, Secretary of State Cyrus Vance warned during a visit here two weeks ago, it runs the grave risk of triggering a nuclear arms race with neighboring Argentina, which already has stockpiled enough uranium waste to produce several hundred pounds of bomb-building plutonium once it develops the reprocessing technology.

The message he brought from Buenos Aires, Vance said, was that if Brazil would renounce reprocessing, Argentina would likely do the same.

"How childish," a senior official in the Brazilian Foreign Ministry said after Vance had gone. "He probably said the same thing to Argentina." Brazil, the official said, can handle its relations with Argentina without U.S. help, thank you.

In any case, Vance added during the discussions, if Brazil defers developing its own reprocessing technology the United States could then offer all manner of substitutes—perhaps including the secrets of thorium, a uranium-like fuel found in natural abundance in Brazil.

Nothing but vague promises, the Brazilian, who was present during the discussions, said later. "How do you say it?" his aide asked. "A bird in the hand is worth two in the sky?"

Besides, the official said, West Germany, a country that has been much more generous with its nuclear technology, has its own thorium research program. "The Americans think we don't know anything," he added.

The end of round three in Brazil's nuclear "disagreement" with the United States has left Brazil, by its own account, feeling quite self-satisfied. While the United States has not given up its struggle to keep reprocessing technology from Brazil, it has, a Foreign Ministry spokesman said, "learned the error" of what Brazil considers U.S. heavy-handedness.

Brazil now seems almost taken aback at what it regards as the overwhelming success of its audacity. The Brazilians feel they have proven, for the first time, that a developing country, highly dependent on U.S. trade and support, can strongly disagree and live to tell about it.

Round one was a visit to West Germany early this year by Vice President Mondale to persuade the Germans to cancel the reprocessing part of $10 billion, eight-reactor sale to Brazil on the ground that the Carter administration considers reprocessing technology too dangerous to spread around the world. Brazil, which was not consulted during the talks was furious. West Germany refused to cancel.

Round two, a visit here last March by Deputy Secretary of State Warren Christopher, was by all accounts "disastrous." After seven hours of rancorous talks, the Brazilians said, Christopher presented a pre-written joint communique outlining a curtailed Brazilian nuclear energy program. Brazil refused to sign. Christopher abruptly got on a plane back to Washington, and bilateral relations went into a deep freeze.

Then came Vance, calm and businesslike. The idea, U.S. negotiators said, was to convince Brazil, on a purely technical level, that reprocessing—the procedure whereby plutonium is separated from the uranium wastes of nuclear reactors—is inefficient and unnecessary. More importantly, the U.S. argument continues, highly volatile plutonium is so dangerous to have around that even the United States has banned construction of reprocessing facilities.

In response, Brazil tried a new tactic. The Brazilians smiled, nodded sagely, said they would take it all into consideration and cordially sent Vance on his way with a brass band, an airport red carpet and a promise to talk again.

"Their objective was to get him back on the plane as soon as possible without opening their mouths," a Latin American diplomat here said. "They were very satisfied that Vance didn't get anything out of them."

Discussions will doubtless continue this spring, when President Carter picks up the southern hemisphere leg of the 11-country tour he postponed last month. "We hope we can convince him," the Foreign Ministry official said.

Carter does not want Brazil, or any other country, to have reprocessing technology. While reprocessed plutonium can be used as a reactor fuel, thus theoretically providing a virtually limitless fuel supply, it can also be converted into nuclear weapons fuel much faster than ordinary enriched uranium. Carter believes it is virtually impossible to safeguard large plutonium stockpiles.

Current international nuclear safeguards amount to regular international inventory checks of nuclear fuels and wastes. Plutonium could quickly be diverted or stolen, Carter and others believe, and made into a bomb before anyone would discover it was missing.

U.S. officials say privately that they are less worried about countries like West Germany and Japan developing their own reprocessing technology than they are about a Third World country, with no substantive nuclear research program of its own, getting reprocessing "cheap and easy" through technology transfer.

Brazil finds that attitude unfathomable. "We have always been a friend. They had a war with Japan in this century, and they say they're not worried about Japan," the ministry official marveled.

Besides, he said, "We are currently negotiating with the Dutch" on a plan that will prove plutonium can be safe-guarded. "We are going to show the world . . . The U.S. believes very much in the information it has. Because they are very developed, they are sometimes inclined to think they have discovered the truth."

He pointed to the fact that while the United States originally objected to both reprocessing and enrichment technology being transferred to Brazil, it has since decided that enrichment is safe after all.

While reprocessing is only a minor part of Brazil's energy scheme for the next 10 years, the resulting conflicts have made it the symbol of what Brazil considers a life-and-death struggle to continue a monumental development program begun more than a decade ago.

That program, which brought phenomenal yearly growth rates of 10 per cent, took a sudden dive with the 1974 quadrupling of oil prices.

Brazil now imports more than 80 per cent of the oil it uses, at a cost of more than $300 million a month. To lessen oil dependency, Brazilian experts have developed an energy plan they predict will reduce oil's share of energy consumption from nearly 44 per cent in 1974 to little more than a third by 1986.

The slack will be taken up by hydroelectric capability, through a monumental series of dams now operating, under construction, or planned.

A large-scale switchover to nuclear power is to come much later. Brazil's first power reactor, called Angra I, a 600 megawatt facility now under construction outside a small village on the South Atlantic, will not go into operation until 1978. Three more are scheduled to be on line by 1985, when nuclear energy will still only provide 4 per cent of Brazil's power requirements.

While Brazil is to start enriching its own uranium fuel for those reactors in 1979, thanks to German blueprints for an enrichment facility, explorations for domestic uranium resources have proved nearly as disappointing as the search for oil. To reach the goal of 85 per cent nuclear fuel self-sufficiency within 10 years, the Brazilians say they need reprocessing.

DID HOUSTON SEAL ERA DOOM?

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, I submit for the RECORD an article by Associated Press writer Quane Kenyon apearing in the Idaho State Journal December 2, 1977, reporting an interview with an Idaho delegate to the Houston International Women's Year Conference who supports ERA but fears the excesses exhibited at the gathering may have doomed the amendment:

KADING SAYS WOMEN'S MEET DOMINATED BY THE CITIES

BOISE, IDAHO.—The International Women's Year conference in Houston came out strongly in support of the proposed Equal Rights Amendment, but actions at that gathering actually may make it impossible for the amendment to win ratification, says delegate Hope Kading of Boise.

Mrs. Kading, who was described as "a political activist", was a member of the Idaho delegation to Houston and chairwoman of the Idaho state conference last May. She appeared before the Idaho Press Club Thursday.

She said delegates from rural states such as Idaho found the convention dominated by the large, urban areas. As a result, she said, delegates were forced to accept many proposals and programs they didn't especially like.

"Some political issues were forced upon us, not women's issues, which will be very unpopular in those states which still haven't ratified the ERA," Mrs. Kading said. "In the remaining states those issues will be political albatrosses around the necks of those trying to win ratification."

She described the Houston convention as a "traumatic, emotional event" which will have ramifications for years.

Overlooked in squabbles over spending by the national commission is the fact that some of the $5 million went for research such as a survey of laws on women in all 50 states, she said.

Mrs. Kading said the Idaho delegation was dismayed to find that the final "national plan of action" was nearly one-third full of proposals and ideas that didn't come before the state conventions.

"The fact that there was no time to study them, and there was little time during the convention to debate them, made us a little miffed," she said.

Opening-day exercises and speeches were "an enormously positive experience," Mrs. Kading said, but after that the convention wasn't run well.

She said a coalition of minority groups "almost blackmailed" convention officials into choking off debate. Also, there was no chance to separate questions, so the Idahoans could vote against parts of proposals.

"We had to swallow voting for 10 parts that were palatable along with one part that was objectionable," she said. "It's not the first time I've seen people get drunk with power."

"I'm terribly proud of the Idaho delegation. We set an example for the rest of them. There were very few people who had the right to stand up and vote their personal choice. We did," she said.

Mrs. Kading said after the convention, she felt the women's movement had been politicized in a few emotional areas could definitely damage the movement and affect its input in more important areas," she said.

She said the convention also got into a lot of discussion about social issues, which were not particularly women's issues.

TRIBUTE TO THE REVEREND EDWARD A. SHAMON

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. WALSH. Mr. Speaker, today, I would like to pay tribute to a much-respected and well-loved pastor, who was recently honored by more than 1,000 parishioners, family, and friends on the occasion of his 35th anniversary of his ordination to the priesthood.

The man of whom I speak is the Reverend Edward A. Shamon, a life resident of Auburn and pastor of St. Aloysius Church. There are so many reasons he is well loved by all who come in contact with him—his rich sense of humor, his down-to-Earth manner, his spiritual leadership, to name a few. He is that rare combination of man, skilled in the financial aspects of running a parish and in serving as friend and confessor to his parishioners.

Father Shamon, who began his studies for the priesthood at St. Andrew's Preparatory Seminary and St. Bernard's Theological Seminary where he obtained a bachelor's degree in philosophy and theology, was ordained to the priesthood on June 6, 1942. He celebrated his first solemn Mass at St. Aloysius, the parish of his birth, the following day, assisted by his twin brother, Father Albert Shamon.

His abilities are not only in the spiritual and financial realm, however. Father Shamon played semiprofessional football with the Nemolites prior to entering the seminary. And his leadership skills were evident in high school where he was president of the senior class.

Perhaps one of his proudest accomplishments is his successful endeavor to financially rebuild St. Lawrence Church in Greece, N.Y. Given some swampland, Father Shamon not only built a new church, but paid off a $25,000 debt the parish had in only 2 years.

It is no wonder, therefore, that people from all over New York State attended the reception in his honor earlier this month, and I think it is only fitting to acknowledge his contributions to the central New York community today.

TRIBUTE TO SENATOR JOHN McCLELLAN

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 1977

Mr. MAHON. Mr. Speaker, on December 1, I had an opportunity to pay brief tribute to the late JOHN L. McCLELLAN of Arkansas. I now want to expand my efforts to pay tribute to the memory of this great American.

JOHN McCLELLAN and I had been friends since the convening of the 74th Congress in January 1935, both of us having been elected in the November election of 1934. We were part of a group of 100 new House Members.

JOHN McCLELLAN left the House in 1938, but he returned to Congress as a Member of the Senate in 1943. His career in the Senate was outstanding. When issues of good government, law and order, and fiscal responsibility were in the balance, no one ever had to ask where JOHN McCLELLAN stood. He was a tower of strength through the years as a U.S. Senator.

When Mr. McCLELLAN became chairman of the Senate Appropriations Committee in August 1972, we were closely associated on many matters, both routine and matters of great moment. We were not only chairmen of the Appropriations Committees of our respective Houses, but chairmen of the Defense Appropriations Subcommittees of those two committees. It was a pleasure and a privilege to deal with a man who was so perceptive, so cooperative, and so effective, in seeking to promote the interests of the United States.

Others have spoken at length and in more detail about the life and career of JOHN McCLELLAN, but I wanted to add these further words of tribute to the memory of a great American.

SOME NEGLECTED MONETARY CONTRIBUTIONS OF CONGRESSMAN WRIGHT PATMAN

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. REUSS. Mr. Speaker, Robert E. Weintraub, a valued member of the House Committee on Banking, Finance, and Urban Affairs, has written a fine article about the late and beloved Wright Patman in the November 1977 Journal of Money, Credit, and Banking, published by the Ohio State University Press. I am pleased to include the Weintraub essay:

SOME NEGLECTED MONETARY CONTRIBUTIONS OF CONGRESSMAN WRIGHT PATMAN, 1893–1976

(By Robert E. Weintraub)
(Abridged by the Author)

Wright Patman's legislative causes often were lost causes. As Congressman Henry Reuss, who succeeded him as chairman of the Banking Committee, put it, "There were many battles he fought and could not win; the never-ceasing war against high interest rates, which he saw as the mortal enemy of the farmer and the small businessman and the consumer; the fight to make the Federal Reserve more accountable to the public." Nonetheless, he sponsored a substantial body of legislation that was enacted into law; often in opposition to the administration in power, regardless of party. The list of his legislative successes include: In 1934, the Federal Credit Union Act, creating the system of Federal Credit Unions; in 1936, the bill authorizing payment of the World War I veterans' "bonus;" also in 1936, the Robinson-Patman Act, which, though intended to protect small business from "unfair" pricing by larger rivals, probably has served to prevent vigorous competition; in 1946, the Veteran's Emergency Housing Act, and the Employment Act; and finally the Bank Holding Company Acts of 1966 and 1970. In addition, as Senator Proxmire said, "many of his achievements were things that did not happen, special interest initiatives that failed because the Congress had a watchdog like Wright Patman."

Congress has oversight, as well as legislative, responsibilities. Overseeing the activities of the executive and regulatory agencies was what Wright Patman loved best. In 1932, he introduced a resolution to impeach Treasury Secretary Andrew W. Mellon for "high crimes and misdemeanors." As described by Eileen Shanahan in the New York Times obituary on Mr. Patman, "President Hoover named Mr. Mellon Ambassador to Britain before the House Judiciary Committee could complete its investigation of the charges." Forty years later, "He was," as Speaker Albert pointed out, "the first Member of the House of Representatives to undertake the impeachment of Richard Nixon."

Wright Patman's oversight activities centered on the Federal Reserve and banks. He was known primarily for his unrelenting (some would say "indiscriminate") opposition to "high" interest rates; his repeated investigations of (some said "carping about") Fed spending; his frequent charges that banks exercised undue and improper influence over the Fed; and his complaints about banks deserting the nation's small towns, and failing to allocate credit to small farmers, small business, and consumers, being unwilling to take the risks obligatory in their charters.

Many considered him a crank and crackpot because of these opinions. But these are the wrong words. Mr. Patman was neither ill-tempered nor eccentric. He was serious and persistent in his views. To fault him, it can be said that he was often a nag and nitpicker. His nagging and nit-picking, however, were not without purpose. He wanted to rivet public attention on banking trends, and on monetary policy and those who make it. He wanted people to know that their economic well-being hinged on their access to banks and on the wisdom of monetary policy. He wanted them to know that monetary policy was decided in secret by persons who, by virtue of the Fed's freedom from normal governmental appropriations and audit process, and their long tenures, were de jure unaccountable for their decisions, and often erred grievously. Nagging and nit-picking were his spotlights, his ways of overcoming the public's natural resistance to statistics and technical questions.

Wright Patman's views on monetary policy are difficult to summarize. His congressional career covered nearly half a century, from the Depression until 1976. His views both on the importance of monetary policy versus fiscal policy and the importance of money supply versus interest rates changed with the times. In the early and middle 1930s, Federal Reserve structure and conduct of monetary policy were widely and hotly debated Wright Patman was a forceful and skillful advocate of legislation to provide for controlled money growth. He believed that the Depression persisted because of underconsumption and was rooted in deficient money supply. He advocated controlled expansion of the currency component, tied to fiscal spending, to increase consumption and get us out of the depression. By the end of World War II, however, he had become a Keynesian. He still feared the return of underconsumption but now stressed purely fiscal measures to avoid it and keep the economy fully employed.

In the early 1950s, when the policy of pegging yields on government bonds occupied center stage, Mr. Patman switched his attention to interest rates and what he perceived to be avoidable, if not conspiratorial, increases. By the 1960s money supply changes were again being widely and hotly debated; and, though he never abandoned his quest for lower interest rates, Wright Patman frequently made common cause with monetarists during the remaining years of his career. He provided an important political forum for monetarist views on several occasions. He recognized that their criticisms of Fed policies lent force to his charge of mismanagement. In addition, he knew that sometimes (before peaks in business activity) when he criticized the Fed for pursuing "tight money" policies that raised interest rates, monetarists were critical, too. More than once the Fed has pursued policies that unnecessarily caused destructively large (if short-lived) increases in interest rates in association with sudden sharp decreases in money growth. Such policies were pursued, for example, in 1920, 1931, 1953, 1957, 1959, and most recently in 1974.

To more fully capture the scope and roots of Wright Patman's positions on monetary policy, the remainder of this paper discusses four distinct episodes in his career: the Bonus bill of 1936, the Employment Act of 1946, the Accord of 1951, and his oversight of the Fed as chairman of the Banking Committee in the 1960s and 1970s.

In 1924, Congress passed the World War Adjusted Compensation Act providing compensation to war veterans for wartime dislocations at rates of $125 a day for service overseas and $1 a day for stateside service. Veterans were not paid in cash. They were given nontransferable, nonnegotiable IOUs, called "Adjusted Service Certificates," payable in 1945, including 4 percent compound interest dating from 1925. The average maturity value was $1,000. A sinking fund was established to cash the certificates in 1945. In 1931, Congress passed over President Hoover's veto a bill sponsored by Mr. Hawley of Oregon to permit veterans to borrow up to 50 percent of the maturity value of the certificates at 4.5 percent interest, which was reduced to 3.5 percent in the next Congress. Wright Patman voted for the Hawley bill. But as soon as it was passed, he announced he would fight for immediate payment of the maturity value of the certificates (after deducting loans) and cancellation of all accrued loan interest. The fight was won in 1936 when Congress passed the Vinson-Patman-McCormick bill over President Roosevelt's veto. Veterans (or their heirs) were given new nine-year bonds that were convertible into cash at any time. Cash distributions were financed in the usual manner, i.e., by selling securities to cover incremental deficits. As enacted into law, the economics of the so-called Bonus bill is similar to that of transfer payments and tax rebates. A year earlier, however, the problem came close to being resolved with major monetarist-like provisions included in what was known in both House and Senate as the Patman (Bonus) bill. It marked the high tide of the "stable money" movement.

During the early 1930s, Congress worked its will on a number of bills providing for the issue of additional currency by open market and other operations in such amount as was necessary to increase the index of wholesale prices back to the 1921–29 (or, alternatively the 1926) average, and thereafter to control the issue of currency (sometimes the reference was to currency plus check deposits) so as to stabilize the index at that level.

The Patman (Bonus) bill was an end run that almost succeeded in incorporating variants of the two main principles of the stable monetary movement of the 1930s into law. First, it provided for reflation. The Treasury would be required (not merely authorized as in the case of the Thomas Amendment to the Agricultural Adjustment Act) to pay for the Adjusted Service Certificets, by having engraved and printed new non-interest-bearing, tax-exempt, legal tender Treasury notes; i.e., greenbacks. Second, the Patman (Bonus) bill provided for contracting Federal Reserve notes upon a finding by the Secretary of the Treasury that it was necessary to do so to maintain the index of wholesale prices at the 1921–29 level. His bill did not, however, provide for any subsequent currency expansion (beyond implementing the bonus). It was focused on current problems and fears.

The bill passed the House on March 22, 1935, and the Senate on May 7. President Roosevelt vetoed it on May 22. The House overrode the veto the same day by a vote of 324 to 98 against. However, the president's veto was sustained by the Senate the next day, 54 voting for overriding but a ⅔ vote being necessary to override. Excerpts from the floor debates and FDR's veto are revealing:

Mr. PATMAN. We propose under H.R. 1 to permit a veteran to deposit his Government obligations and receive "new money" in United States notes in return for the remainder due (Congressional Record, March 19, 1935, p. 3991) . . . The next move toward prosperity will have to be made by the consumers. The farmers and wage earners are the principal consumers. The additional money we propose to place in circulation will cause commodity prices to rise, which will enable farmers to purchase what they need, thereby creating an incentive for manufacturing industries to employ labor and produce more (p. 4000) . . . There is estimated to be a remainder due to the 3,531,800 veterans the sum of $2,015,162,456.76, which includes the amount due the ones who have not negotiated loans on their certificates. (p. 4002).

Mr. PIERCE (California).—Under the Patman bill the Secretary may retire reserve notes if he believes there is too much inflation, but I do not believe he will find it necessary to exercise any such power. The two thousand million dollars of currency that will be necessary to liquidate this debt will be less than 20 percent of the shrinkage of bank deposits since October 1929. (p. 4222).

The Veto Message:

President ROOSEVELT.—The Treasury notes issued under the term of this bill we know from past experience would return quickly to the banks. We know, too, that the banks have at this moment more than ample credit with which to expand the activities of business and industry generally. (Congressional Record, May 22, 1935, p. 7994.)

As was earlier noted, the bonus issue was resolved in January 1936 when Congress passed over FDR's veto the Vinson-Patman-McCormick bill, which, however, did not contain the monetarist-like provisions of the Patman (Bonus) bill.

With 3 events—the failure of the Senate to override FDR's veto of the Patman (Bonus) bill, enactment into law of the 1935 Banking Act restructuring the Fed, and publication of Keynes's General Theory, the money issue once again became dormant politically in the U.S., as it had so many times in the past, for example, after the election of McKinley. Fiscal policy soon dominated center stage in economic policy debates. Wright Patman adjusted his economics to the new times. In February, 1945, he introduced H.R. 2202, the Full Employment Act of 1945, forerunner of the 1946 Employment Act.

The Patman employment bill provided that the president shall annually transmit to the Congress a "National Production and Employment Budget." This budget would estimate the volume of dollar demand (C+I+G) required to provide the full employment volume of production at the expected level of prices, and also the expected volume of dollar or aggregate demand. Shortfalls between expected and require demand would be regarded as deficiencies in the budget, and the president would be required to recommend to the Congress a program including Federal Reserve actions for encouraging increased private investment and expenditure "which will promote increased employment opportunities by private enterprise." To the extent that private spending was deemed insufficient, "The President shall transmit a general program for such Federal investment and spending as will be sufficient to bring the aggregate volume of investment and expenditure . . . up to the level required to assure a full employment volume of production."

The Employment Act of 1946, as passed, differs in several details from the Patman Full Employment Act of 1945. In regard to goals, the 1946 Act declared it national policy "to promote maximum employment," versus the Patman bill's provisions "to assure continuing full employment." However, the difference in language is not substantial. The major difference in the two bills, rather, centered on procedure. The Patman bill provided that the president transmit a budget, i.e., a specific fiscal program to achieve full employment. The Employment Act as passed provided only that there be transmitted an economic report.

The Federal Reserve is, of course, bound by the goals of the Employment Act. In this tie, it may well be that Wright Patman has had extraordinary influence on monetary policy since 1945. Though monetary policy has been worse than it needed to have been since 1945, none can deny that since the Employment Act was passed, we have had no great monetary contraction as we did in the 1930s, and perhaps as a result the specter of underconsumption has not been a problem and we have avoided the mass unemployment of the 1930s.

During World War II and continuing through 1950, monetary policy was constrained by the Federal Reserve's commitment to peg yields on government securities. The Korean War set off consumer buying and defense-related investment booms that spilled over into credit markets and made it impossible to continue the peg without massive open-market purchases. In the second half of 1950, the problem was manageable because of a gold outflow to finance imports. But as the year turned, the problem became a crisis.

On March 4, 1951, the Fed and Treasury announced that they had reached "full accord with respect to debt-management and monetary policy to be pursued in furthering their common purpose to assure the successful financing of the government's requirements and, at the same time, to minimize monetization of the public debt." Mr. Patman maintained that the accord merely lifted the peg on long-term governments to 2.75 percent, and that the Fed was not freed from this commitment until the Eisenhower administration freed it. Judging by what happened from the accord until spring 1953, Mr. Patman's view appears correct. First, Federal Reserve Board Chairman Thomas B. McCade, who with Governor and ex-Chairman Mariner Eccles and New York Fed President Alan Sproul had vigorously opposed the support policy resigned and was replaced by William McChesney Martin. Mr. Martin had represented the Treasury during the dialogues leading up to the accord. Second, the yield on long-term government bonds did not rise above 2.75 percent until 1953, and in 1951 and 1952, the Fed increased its portfolio of government securities by $4.4 billion. It is difficult to explain these purchases except in terms of pegging the bond market, especially since M_1 growth was faster in 1952 than in 1951 and faster in 1951 than in 1950.

But the accord marked the beginning of the end. In spring 1953, the Open Market Committee finally formally ruled out using open market purchases to peg yields. In

December 1952, the yield on long-terms averaged 2.75. In June, it reached 3.13. To Wright Patman, these changes in policy and yields were anathema.

Wright Patman opposed letting yields on government debt rise, even though he recognized that pegging them had awesome inflationary potential. His solution was to impound this potential by compeling banks to pay interest on demand deposits to induce people to hold higher money balances.

Mr. Patman later sponsored legislation to permit the payment of interest on demand deposits as a pre-Nader consumerist measure. But his unwillingness in 1952 to accept any rise in yields on government debt caused him to miss what in retrospect was a great opportunity to fight for establishment of a stable money growth policy focused on the long run. Such a policy surely would have made our economy more stable and less inflationary than it has been, if it had been adopted in the early 1950s and pursued thereafter. Ironically, this would have promoted lower interest rates than the policies that were pursued produced.

Wright Patman became chairman of the House Banking Committee in 1963. From January to April, 1964, he held extensive hearings on the structure of the Federal Reserve and the conduct of monetary policy under the auspices of the Subcommittee on Domestic Finance. Compelling testimony was heard in support of the monetarist contention that the economy's past recession cycles were due in large part to the Fed's causing or allowing money supply (M_1) to grow below the economy's estimated minimum growth potential; for example, in 1956, 1957, and early 1958, between the third quarter of 1959 and the second quarter of 1960, and in the second half of 1962. The testimony also provided strong support for the view that structural reforms of the Federal Reserve were needed to purge the conduct of monetary policy of money market myopia, and to reduce the risk of perpetuating error.

When the hearings were over, the subcommittee's majority released proposals to restructure the Fed and the conduct of monetary policy. Briefly, the proposals provided for the following:

1. Retirement of Federal Reserve stock; covering into the Treasury income received by Federal Reserve banks; authorizing their expenditures by normal appropriations process and requiring GAO audits.

2. Elimination of the "fair presentation" provision in selecting governors; reducing the number of governors to five and their terms to five years (but allowing for reappointment); making the term of the chairman of the board of governors coterminous with that of the president and vesting all open market powers in the board.

3. Requiring the President to set forth annually guidelines concerning monetary policy "including the growth of the money supply, as defined by him, necessary to achieving the goals of maximum employment, production, and purchasing power of the Employment Act of 1946," and expressing the sense of Congress that the Federal Reserve operate to facilitate the achievement of the president's monetary policy.

4. Transferring the Fed's bank supervisory functions to the comptroller of the currency, the FDIC, or a newly created federal banking authority.

Mr. Patman incorporated these proposals in H.R. 11, which he introduced in the first session of the 89th Congress. In the remainder of his career, he attempted without success to achieve these reforms, sometimes one by one, sometimes as a package. I believe it can be said with some degree of accuracy that the work that he did very definitely paved the way for passage of House Concurrent Resolution 133 in March of 1975. The resolution (incorporated in the Federal Reserve Act by P.L. 95–188) expresses the sense of the Congress that the Federal Reserve set monetary growth targets "commensurate with the economy's long-run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates." Pursuant thereto, the Fed sets and discloses monetary growth targets for the year immediately ahead on a quarterly basis. Milton Friedman said, "Though superficially innocuous, the resolution represents the first time since the Fed began operation in 1914 that Congress has (1) specified monetary and credit aggregates as the Fed's immediate target, (2) enjoined it to produce steady monetary growth in line with output growth, (3) required it to state its objectives publicly in advance, and (4) required it to justify publicly any departure from them. All four elements are major changes".

Since March 1975, the Fed has provided for relatively steady monetary growth in line with the economy's potential to increase production. Undeniably, the Fed still pays too much attention to money market variables. But now, it looks a year ahead four times a year and determines a course of action in regard to money supply, which because it is publicly disclosed, it must take seriously.

COMMENTS ON TEXAS A. & M. UNIVERSITY'S CENTER FOR EDUCATION AND RESEARCH IN FREE ENTERPRISE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ROBERTS. Mr. Speaker, we in Texas have always been justifiably proud of our system of higher education. In diverse areas such as research associated with the sea, energy, mineral resources, and water and food production, I would particularly like to draw my colleagues' attention to my alma mater, Texas A. & M. University.

Texas A. & M. has again set national precedent by establishing a center dedicated to raising economic literacy and increasing citizen awareness of the importance of individual freedom to the strength and vitality of our economy. I am doubly proud to announce that the center, the Center for Education and Research in Free Enterprise, earned for Texas A. & M. this year the coveted American Eagle Award of the Invest-In-America National Council, Inc.

This distinguished center had somewhat humble beginning. The initial effort was the 1974 American Economy Institute at Texas A. & M., a small summer training program of 15 high school teachers. That small institute has now grown into a major new educational effort providing new leadership from the academic world and mounting a comprehensive campaign in the interest of preserving and protecting our national economic free enterprise system.

The combined thinking of experienced and knowledgeable individuals from business, foundations, Government, and academia went into the formation of the center. A board of consultants has been established to oversee the operations of the center. The board includes five academic deans at Texas A. & M. University and five alumni who are also outstanding leaders from the business community.

In keeping with its purpose of promoting free enterprise, the center is not supported by State-appropriated funds. It depends exclusively on the private sector of our economy—businesses, foundations, and individuals—for its funding. Initial funding for the center was provided by some 60,000 former students of Texas A. & M. University, men and women dedicated to the preservation of our free enterprise system.

It is the philosophy of the center, and one I deeply share, that America is the world's last, best hope for freedom and prosperity among nations. Whether we continue as a free prosperous society, whether we remain a symbol of hope for others and a leader among nations, depends largely upon whether we are successful in achieving economic enlightenment.

I commend Texas A. & M. University for accepting this challenge and turning its energies and resources to the development of economic education and research programs of the highest quality that will help young people to develop and maintain a sense of pride in their heritage and to value their political and economic freedom.

HOUSTON AND THE IWY PEP RALLY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, for anyone who needs a review of IWY activities and how they relate to reality, I commend the following article by columnist Patrick Buchanan which appeared in the Washington Weekly on December 8, 1977:

Where Jimmy Should File the Houston Agenda

WASHINGTON.—One day soon Ms. Bella Abzug and other grizzled, battle-weary veterans of the National Women's Conference will be arriving at the White House to present Jimmy Carter with their "National Plan of Action."

If Mr. Carter is thinking of a second term, he will thank them for their work, promise to study the agenda, give the girls some milk and cookies, and send them on their way. Then, he will call in Hamilton Jordan and tell him to file that 25-point "Womandate" on the same shelf where the Scranton Commission Report and the Kerner Commission Report are gathering dust.

Why? Because the National Plan of Action, adopted in Houston, points Mr. Carter in precisely the opposite direction from where the national majority is headed.

Some weeks ago, Newsweek Magazine ran a cover story on the "New Conservatism" that appears to be sweeping the country. Yet, what the Houston confab produced was a warmed-over hash of the radical liberalism that generally stunk up the '60s.

Item: The Houston delegates voted almost four-to-one for the Equal Rights Amendment. Yet, when put to the vote in New York

State, ERA was crushed by a margin of 400,000 votes.

Item: The Houston Convention endorsed abortion-on-demand. Not only does this contradict the president's commitment and convictions, it runs against the trend of court and congressional opinion.

Item: The Houston conclave approved the same sort of gay rights provision that Dade County rejected two-to-one only weeks ago.

Here is how one Florida delegate, Virginia Harlan, described the "sickening . . . nauseous" scene at the Sam Houston Coliseum when the "sexual preference" plank was adopted:

"The demonstration after the vote was disgusting. Most of the pro-family delegation got up and walked out. Other delegations stood with their back to the chair in protest. The lesbian element here was unbelievable—they were hugging and kissing each other, running through the aisles with their fists raised in a sign of militance."

And The New York Times would have us believe those 2,000 delegates to Houson "fairly accurately reflect the general female population" in the United States.

Some of the proposals adopted, such as enforcement of the Federal Equal Credit Opportunity Act of 1974, were non-controversial. On balance. however, the National Plan of Action reads like a political script written by Ms. Bella Abzug, ring mistress who cracked the whip at the Houston circus.

Yet we know from the returns in the New York mayoralty contest that the politics of Bella Abzug are on the wane in even the most retarded of political precincts. Though she started the race with almost 40 per cent of the vote, Bella ended out of the money in the Democratic Primary, running a poor fourth. The winner: An apostate liberal named Ed Koch who captured the fancy of the Big Apple with the enthusiasm with which he discussed the societal benefits of rewiring the electric chair.

On the final day of the Houston Conference, the conservatives walked. The breaking point: the convention's demand that the American taxpayer fund yet another of these feminist pep rallies in the future.

Well, on this one, once is more than enough. The National Women's Conference came about through the good offices, if you will, of Gerald R. Ford in 1975 who asked $5 million to underwrite last month's nonsense. Next time ignorance and inexperience will be no excuse. Any Congressperson who votes another dollop of tax dollars to further this kookery should be retired—without regard to race, creed, color, sex or national origin.

THE CONFERENCE COMMITTEE ON ENERGY SHOULD PROVIDE FOR INCENTIVES FOR HIGH-COST AND HIGH-RISK NATURAL GAS PRODUCTION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. KEMP. Mr. Speaker, I was encouraged to learn this week that the joint House-Senate conference committee on the energy legislation will remain in session during much of the Christmas-New Year's recess. I think it shows the commitment of Congress to resolving this issue.

Among the issues which the conferees must resolve is the question of incentives for high-cost and high-risk natural gas and oil production, especially the production of natural gas from the Devonian shale deposits of Appalachia and parts of the Midwest.

NOT A NEW ISSUE

This is not a new issue. It has been before the Congress for well over 2 years. As early as the summer of 1975, my colleagues, BOB MOLLOHAN of West Virginia and JACK MURTHA of Pennsylvania, and I were sponsoring an amendment to the legislation then working its way through the House to provide for the immediate deregulation of natural gas stripper wells, most of which are over the Devonian gas.

SIGNIFICANT CONGRESSIONAL SUPPORT

At the beginning of the present Congress knowing that energy would be one of the principal matters to be considered in its first session, we introduced that amendment as a bill. It drew an impressive array of support—from Democrats and Republican, liberals and conservatives, these for and those against deregulation, and from all regions of the country.

Its cosponsors are:

Mr. Ashley of Ohio.
Mr. Brown of Ohio.
Mr. Cederberg of Michigan.
Mr. Cochran of Mississippi.
Mr. Collins of Texas.
Mr. Coughlin of Pennsylvania.
Mr. Dan Daniel of Virginia.
Mr. Dent of Pennsylvania.
Mr. Derwinski of Illinois.
Mr. Devine of Ohio.
Mr. Dornan of California.
Mr. Duncan of Tennessee.
Mr. Edwards of Oklahoma.
Mr. Flippo of Alabama.
Mr. Forsythe of New Jersey.
Mr. Guyer of Ohio.
Mr. Hall of Texas.
Mr. Hamilton of Indiana.
Mr. Harsha of Ohio.
Mr. Hyde of Illinois.
Mr. Kemp of New York.
Mr. Kindness of Ohio.
Mr. Lederer of Pennsylvania.
Mr. Lent of New York.
Mr. Lott of Mississippi.
Mr. Madigan of Illinois.
Mr. Mollohan of West Virginia.
Mr. Montgomery of Mississippi.
Mr. Moorhead of Pennsylvania.
Mr. Moorhead of California.
Mr. Murphy of Pennsylvania.
Mr. Murtha of Pennsylvania.
Mr. John T. Myers of Indiana.
Mr. Neal of North Carolina.
Mr. Pattison of New York.
Mr. Perkins of Kentucky.
Mr. Preyer of North Carolina.
Mr. Price of Illinois.
Mr. Pursell of Michigan.
Mr. Quillen of Tennessee.
Mr. Rahall of West Virginia.
Mr. Regula of Ohio.
Mr. Rousselot of California.
Mr. Rudd of Arizona.
Mr. Sebelius of Kansas.
Mr. Stockman of Michigan.
Mr. Symms of Idaho.
Mr. Vander Jagt of Michigan.
Mr. Walgren of Pennsylvania.
Mr. Walker of Pennsylvania.
Mr. Walsh of New York.
Mr. Whitehurst of Virginia.
Mr. Charles Wilson of Texas.
Mr. Yatron of Pennsylvania.
Mr. Young of Alaska.

ADDITIONAL SUPPORT

What is new about this issue is the support which has grown in recent weeks for bringing this Devonian gas onto line at the earliest date, a matter which cannot be done under the price ceilings now being contemplated by the conferees. Given the difficulties of the terrain, the state of the art in reaching it, et cetera, it simply is not possible to bring it on line for anything like $1.75 or $2 per thousand cubic feet. And, although a higher price is needed to bring it on line, the ultimate cost to the consumer would not be that much higher, because wellhead prices are only about 10 percent of burner tip costs and Devonian gas would be only a minority in total supply. Yet those higher wellhead prices would be enough to restore or create the necessary incentives for the small producers who own the land and/or mineral rights in the Devonian areas.

What is this new support? It comes from many sources.

APPALACHIAN GOVERNORS

First, the Appalachian Governors. With the Governors of West Virginia, Kentucky, Ohio, Mississippi, and Tennessee present, the Appalachian Governors voted on November 3 at their meeting in Morgantown, W.Va., voted as follows:

> The Appalachian Governors present today resolve that the National Governors Association's Committee on Natural Resources and Environmental Management, chaired by Governor Carroll through its Coal Subcommittee, chaired by Governor Rockefeller, should take an active role in pushing for commercialization of fluidized bed combustion technology; acceleration of Devonian shale research and development; methane extraction and recovery from the Appalachian coal fields; and solvent refined coal combustion and cleaning as well as other coal cleaning technologies.
>
> And, further resolve that the committee and subcommittee of the NGA work closely with the ARC Energy Committee to pursue with the administration and the Congress, the expeditious development and commercialization of said technologies.

CONGRESS' OFFICE OF TECHNOLOGY ASSESSMENT

Second, Congress' own Office of Technology Assessment. In its new staff study, "Gas Potential from Devonian Shales of the Appalachian Basin," released on December 5, OTA found natural gas in the Devonian brown shale has "the potential of making a significant contribution to the U.S. natural gas supply." OTA estimated that these gas reserves could provide 1 trillion cubic feet of gas per year or approximately 5 percent of the current level of domestic production.

Of particular importance to the conferees is the finding that production of gas from Devonian shale will depend largely on "price and tax incentives." The Office's analysis suggests that these incentives could include deregulation of gas produced from brown shale or increasing the depletion allowance and tax credit available to producers.

INTERSTATE OIL COMPACT COMMISSION

Third, the Interstate Oil Compact Commission. The Commission chairman, Oklahoma Gov. David Boren, has named a committee to seek congressional establishment of the natural gas stripper well category free from price control, a category proposed in our amendment of 1975 and our bill of this year. The members of the committee are the director of the New Mexico Oil Conservation Commission, the chairman of the Oklahoma Corporation Commission, the official representative from Ohio, and a representative of independent operators.

OHIO OIL AND GAS ASSOCIATION

Fourth, the Ohio Oil and Gas Association, whose recently completed comprehensive analysis of production histories of nearly 8,000 independently owned wells in that State shows either a higher price for stripper wells has to be authorized or the wells will be capped in increasing numbers.

I call the conferees attention to the association's letter of September 26 to Senator JOHN H. GLENN:

> Concisely, our study concludes the following points:
>
> (1) Ohio is in the grave circumstance of losing 30% of their total gas reserve due to the unprofitability of producing marginal wells to their maximum extent.
>
> (2) The loss to Ohio is estimated at 127 billion cub. feet for the wells under study, representing the amount of natural gas required to heat 70,000 homes over an eleven year period.
>
> (3) These wells, constituting 70% of the wells studied are currently marketing gas at the lowest pricing tier of 58 cents to 65 cents per MCF and while they are marginal, these reserves are not only dependable but they are available to the consumer of Ohio.
>
> (4) Unless the price of "old" natural gas is raised to $2.00 per MCF, these wells will soon be abandoned as unprofitable and the reserves lost will be permanent because replacement by new wells even at higher tier prices will be economically unsound at today's costs.
>
> (5) The cost to the consumer for this increase on old natural gas prices will be an additional 1.32 percent of his existing monthly gas bill.
>
> (6) On an annual volume basis, 96 percent of the wells under study produce less than 60 MCF per day, the BTU equivalent of a 10 barrel stripper well. It was further found that 76 percent of the wells under study produce less than 30 MCF per day.
>
> (7) Historically, the production histories of wells drilled in Ohio has steadily worsened because of various factors. Ultimate gas reserves of wells drilled today are 50 percent lower on the average than those completed 10 years ago and 25 percent lower on the average than those drilled 25 years ago. The accompanying curves illustrate the character of these production declines over the years and at the same time traces the pattern of price increases. The third relationship reflects the spiral of increased drilling and completion costs. The conclusion is that gas prices have not kept pace with ebbing gas production or the higher costs of drilling.

PROFOUND IMPORTANCE TO NEW YORK STATE

Mr. Speaker, this issue is of profound importance to New York State. Counties with oil and gas production which would find themselves in the situation of having new incentives for energy creation and economic growth are Erie, Chautauqua, Cattaraugus, Allegany, Steuben, Genesee, Wyoming, Monroe, Ontario, Livingston, Yates, Schuyler, Seneca, Cayuga, and Madison. Since 1885, natural gas has been produced in New York State, grossing $809 million at the wellhead.

It is of importance for New York State to increase supply from these wells, and additional wells which would be sunk if new incentives were created, for two reasons:

First, it would help the economy of New York State, particularly those counties, through the additional dollars which would be paid to the local owners and producers.

Second, this gas would be at significantly lower prices than the synthetic gas or imported liquefied natural gas on which New York State natural gas distributors will otherwise have to rely to meet demand. Thus, it would be of great benefit to the consumers of New York State in terms of cost savings. Imported LNG being brought to the east coast will run $4.50 per Mcf and higher. Does it not make more sense to pay Americans $2, $2.25, or $2.50 per Mcf than it does to pay the Arabs $4.50 per Mcf. Why does Congress tolerate this severe drain of American dollars from our country?

URGE INCLUSION IN CONFERENCE BILL

Mr. Speaker, I encourage the conferees to look at this matter carefully and to write into the energy legislation which we will consider at the first of the year those specific incentives necessary to get this Devonian gas, this stripper well gas flowing.

PRESIDENT'S ENERGY PROGRAM MEANS MORE TAXES AND LESS ENERGY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, President Carter's program of more taxes and less energy is clearly evident in early pronouncements from his new Department of Energy.

In a speech to the American Petroleum Institute in mid-November, Secretary of Energy James Schlesinger accused oilmen of "colossal exaggeration" and "paranoia." He said they spread myths about President Carter's energy plan. The Energy Czar plugged into the wrong information and his wiring was faulty.

The record shows that it was Mr. Carter who shook the industry when he denounced oil companies as "war profiteers" and declared that defeat of his energy proposals and removal of natural gas price controls will mean "the biggest ripoff in history." Schlesinger spoke as one just awakened from a long sleep unaware of the presidential invective directed at oil producers.

It is interesting that 47 leading economists from major universities, including Nobel laureate Milton Friedman, took out an advertisement November 11 in the New York Times captioned "Demagoguery at the White House." They concluded that Mr. Carter's intemperate language reveals the essential weakness of his case.

The Energy Secretary's resort to the charge of "paranoia" is equally revealing. He has much to learn about the error of intemperate language and the error of advocating a policy of controls and high taxation.

The 47 economists included professors from Stanford, Dartmouth, Brown, and Yale Universities; UCLA, the University of Virginia, the University of Chicago, MIT, and other distinguished institutions. They described themselves as "economists for a responsible energy policy."

In their joint statement, they declared that "the so-called energy program would be the largest peacetime tax increase in history. It would make many billions more dollars of tax revenue available for lobbyists to seek—as well as mandate an expensive bureaucracy which would increase the overhead costs of making energy available to consumers. Already the Department of Energy is to cost $10 billion annually—a sum roughly equal to the combined after-tax earnings of America's major oil companies."

The economists also point out that foreign oil producers can receive $12 to $13 per barrel while American producers are limited to $6 per barrel. That's not "colossal exaggeration," that is discrimination favoring foreign interests. Schlesinger would not even listen to the arguments against higher taxation and bureaucratic control. Both the economists and the oilmen believe that political manipulation and price controls in energy markets account for the Nation's energy problem and thinking citizens tend to agree.

It is understandable in a way why Mr. Schlesinger would not listen to free market arguments. He is part of the bureaucratic control mechanism. His huge agency is part of the problem, not the solution to it. Hopefully Congress will have a clearer understanding of energy realities or, at least a greater readiness to listen as they enter another election year facing irate citizens so tired of high taxes, high prices, unnecessary shortages and foreign ripoffs.

ARMY CORPS' 404 PROGRAM

HON. BILL LEE EVANS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. EVANS of Georgia. Mr. Speaker, farming and forestry are important industries in my district. My constituents in these industries have expressed their concerns about the onerous permitting requirements under the Army Corps' 404 program.

As a member of the Public Works Committee, I wish to express my support of the new provisions amending section 404 which the conferees were successful in achieving.

Normal farming and silviculture activities which include plowing, seeding, cultivating, minor drainage, harvesting, and upland soil and water conservation practices are exempt from the provisions of sections 404 and 402.

The discharge of dredged or fill material incidental to these activities are exempted. Farm and forest roads which may involve more substantial amounts of fill are exempt when built according to best management practices. The Secretary of the Army, in consultation with other Federal departments with expertise for these activities, may determine what classes of dredge and fill activities associated with normal farming and silviculture activities are exempt. This puts an end to the concern of my constituents that the corps will be involved in the day to day, acre by acre activities of farmers and foresters.

Sedimentation runoff from farm or forestlands, which may be caused, as an example, by rainfall, is a nonpoint source of pollution properly considered under section 208(b)(2) of the act.

I would like to include for the record an additional comment on a letter from the Chief of the National Forest Service to my good friend and colleague from Louisiana, John Breaux, which I think clearly explains the various types of activities which are a part of normal silviculture. Many of the activities sited in this letter may involve sedimentation which are not properly under the jurisdiction of the corps' dredge and fill permitting program under 404, but this letter provides an excellent summary of modern silviculture practices.

Mr. Speaker, I rise in support of the conference report on H.R. 3199. The Fish and Wildlife Service has indicated that there are 52.1 million wetland acres in the 11 east and gulf coast States stretching from Virginia south to Florida and west to Texas. Of that, 39 million acres are productive forest lands. It is my understanding that the statutory language agreed upon by the conferees amends section 404 to exempt from the permit program minor drainage. I understand that it is the intention to exclude from permit requirements ditching, tiling, and the installation of related drainage facilities all of which are constructed for the removal of excess surface water and soil moisture, incidental to planting, protecting or harvesting crops or to enhance the productivity of land devoted to agriculture, silviculture or ranching uses.

I also understand that this exemption would permit the use of small ditches to insure the scientific management of productive lowland forests, both hardwood and conifer, and to insure satisfactory establishment of a new crop of trees.

The minor drainage exemption should put to rest, once and for all, the fears that section 404 permits are required for removing moisture from poorly drained farm or forest land of which millions of acres exist in all geographic regions of the country.

LETTER TO THE EDITOR

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SIKES. Mr. Speaker, the president of the American Federation of Government Employees, Pensacola, Fla., is Harold E. Stout. He is a highly regarded leader who champions the rights of Government workers and asks fair treatment for them wherever his services and that of his oganization are needed.

He has called to my attention his concern with the news and editorial policies of the Pensacola News Journal at Pensacola, Fla. This publication is owned by Gannett Publications of Rochester, N.Y., and apparently reflects the attitude of that organization. Mr. Stout has not found it possible to get his opinions printed in the newspaper. I am impressed by what he has said to the editor of the publication and I submit it for the Record:

November 30, 1977.

Mr. Bill Gordon,
News Editor, Pensacola News Journal,
Pensacola, Fla.

Dear Mr. Gordon: The free trade union movement and the free press in this country share a common breeding ground—the first amendment to the Constitution. In drafting that very special grouping of freedoms—religion, speech, press, assembly and petition—the founding fathers clearly made them interpendent, with no single freedom predominant over the others.

But the press does not see it that way. It regularly invokes its first amendment rights to oppose or, as best, to dampen the first amendment rights of union members. For example, no daily newspaper in America editorially supported the situs picketing bill and most opposed it, although the guts of that legislation was the construction workers' right to exercise free speech in the form of a picket sign.

The labor movement does not engage in the practice of separating out freedoms, dividing them on the basis of some "higher good," as is common practice on U.S. editorial pages. Freedom, to us, is indivisible—a sign to some, I'm sure, of our unsophistication.

Labor supported CBS television correspondent Daniel Schorr and urged the House Ethics Committee to drop its plans to seek contempt citations against him for protecting a confidence. AFL–CIO leaders were on the front lines in Bakersfield and elsewhere where freedom of the press was under government attack. And it wasn't because Schorr and some of the others held union membership. The Newspaper Guild even backed a reporter on a struck newspaper—a scab—fighting an anti-first amendment court order.

Similarly, we oppose other infringements on freedoms—wiretapping, preventive detention, censorship and obsessions with internal security that give rise to mail covers, spying on American citizens and other gross injustices.

This is not a two-way street. There is no press support when it is labor's freedom that is being challenged. Imagine the outcry against infringement on a free press if Congress were to require commercial newspapers to report the cost of editions which editorially support candidates for federal office. Yet that segment of the press which is owned by the labor movement is required to report the cost of editions supporting federal candidates.

Imagine the outrage if the federal government dictated to commercial newspapers how and what they could report about stockholders' fights within the paper itself—or overturned a board of directors' election because the publisher's wife got her picture on the society page at a Junior League fashion show while a stockholders' fight for corporate control was going on. Yet the labor press is under such government dictates.

Why two standards—one for commercial papers and one for labor papers? Where are the valiant defenders of freedom of the press when it is our ox that is being gored?

So, labor tends to be concerned about a press that regularly and vigorously supports constricting such freedoms as the right to strike, contending the public's convenience demands limitation on that right, while piously invoking its own freedom as the defense for unfair, biased and wrong-headed coverage of the labor movement or for establishment of monopolies over the free flow of information so vital in a democratic society.

We are further troubled by the growing trend toward chain ownership. It has provoked Charles Seib, ombudsman of the Washington Post, to amend A. J. Leibling's maxim about freedom of the press being reserved to the publisher who owns one to read instead: "freedom of the press belongs to the conglomerates that own them."

We do not believe the press should support our cause in lockstep. If the editorial writers were to do a 180-degree turn and extol the virtues of unions, we would consider ourselves suspect—and with good reason. Labor should never expect support from the press for the basic and obvious fact that a newspaper publisher is merely a businessman whose business happens to be publishing a newspaper.

There is nothing wrong with this, although a good many publishers and editors seemed embarrassed by public exposition of the notion that they are in business to make a profit. All we suggest is that when newspapers proclaim the commandments of labor relations—thou shalt not strike; thou shalt not be greedy; thou shalt not injure the public interest; thou shalt honor thy employer—they should acknowledge their inherent prejudice.

Wouldn't it be refreshing if the usual editorial, which clobbers the union and supports the employer in any conflict between labor and management, made some note of the fact that all employers are brothers and that in unity of management there is strength?

Sincerely,

Harold E. Stout.

A NATIONAL TRIBUTE TO LADY BIRD JOHNSON

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. PICKLE. Mr. Speaker, last Sunday I had the honor of participating in a magnificent tribute for one of our dearest friends, Mrs. Lady Bird Johnson. The event was held in honor of Mrs. Johnson's birthday and for the purpose of raising funds for the Lyndon Baines Johnson Library in Austin. Former Ambassador to Australia, the Honorable Edward Clark served as cochairman of the campaign. Henry Ford II and Mary Lasker served as national chairman.

It was a night that brought back many poignant memories of the Johnson White House and that dynamic leader who came from a hill country ranch in central Texas. Many old friends from "The Johnson Years" were able to attend and join in the tribute.

One of the highlights of the evening was the performance by Helen Hayes and Kirk Douglas reading the letters and diaries of the Johnsons as arranged by playwright Preston Jones.

Perhaps the most enjoyable part of the evening was once again seeing the old friends—the Johnson people—including the Honorable Dean Rusk, Jack Valente, John Connally, Arthur Korm, Len Wasserman, Bob Strauss, Liz Carpenter and the entire Johnson family.

The event also exceeded its goal of contributions for the L. B. J. Library. The library will be able to keep its doors open free to all visitors and also fund the many programs and seminars that are sponsored by the foundation.

Not only were we able to establish a secure future for the L. B. J. Library but also honor the wonderful woman who played such an important role in the Johnson years. We all love her very much.

Mr. Speaker, I insert the Washington Post article about the tribute. It is a well-written graphic description of this event:

A TRIBUTE TO LBJ—THE OTHER ONE

(By Bill Curry)

AUSTIN, TEX.—After all these years, years since the Lyndon Johnsons left Texas for Washington, years since they left Washington for Texas and years since the President himself just left, a thousand family friends could still gather here Sunday night in one of those special Texas celebrations of power and love.

In the name of LBJ they came, but this time it was the name of that other LBJ, the one he drove to excellence, achievement and, at times, to pain. The one he called Dearest and Bird and "one of my wisest and most trusted counselors." Lady Bird Johnson, no other.

Here they were assembled in the marble majesty of the LBJ Library—the conservative wealth of Texas anteing up $1.25 million to keep a presidential library open without charge to you and me, because that's the way Lyndon wanted it. And because Mrs. Johnson wouldn't tolerate a tribute to her unless it also benefited the library.

This event was called "A National Tribute to Lady Bird Johnson" and drew a crowd variously described as the Johnson family's kissing cousins and "the Democratic Establishment," Bankers, oilers and dealers, men who had twisted arms for Lyndon Johnson and men who had had their arms twisted.

"This is a love-in," said Texas humorist Cactus Pryor, whose one-liners from the LBJ Auditorium stage caught the light and the insight of Sunday night's gathering in honor of her 65th birthday, Dec. 22.

But catching the drama of the lifetime of two people were Helen Hayes and Kirk Douglas, whose dramatic readings of Johnson letters and diaries, as arranged by "Texas Trilogy" playwright Preston Jones, spirited an audience to times and places past.

"Lyndon," Claudia Taylor wrote in October 1934, "Please tell me as soon as you can what the deal is. I am afraid it's politics . . ."

"My darling," he wrote to her in 1942 in a wartime letter from San Francisco, "I've come around to thinking your head is better than mine on most things, even including so many political matters."

Those were the up times and the down times came too, as when graduating students walked out on Lady Bird Johnson in a Vietnam war protest at Williams College in October 1967. "I was their bait," read Helen Hayes. "How did I personally feel? Cool, furious and determined to maintain my dignity . . . All in all, I guess I lost this round. Lyndon called . . ."

And Kirk Douglas said, "I just hate for you to have to take that sort of thing."

So compelling was their performance that afterward a strucky Lucy Johnson Nugent would say of Hayes and Douglas, "One of them would look over and glance at each other, and there stood my mother and father."

"I could see Daddy," said her sister Lynda Robb. "Indeed, at one point there is a reference to 'Lyndon Douglas' in my notes."

But if there was confusion between theater and reality, there was little doubt that it was Lady Bird Johnson's night. She was escorted by Henry Ford II, who was co-chairman of the event with philanthropist Mary Lasker, Mrs. Johnson was presented with roses sent by Laurance Rockefeller. She was lauded by an absent President who received modest handclapping compared to the enthusiastic applause when Pryor mysteriously said, "We had hoped that America's No. 1 citizen could be here," and added in reference to the University of Texas' All-American football player, Earl Campbell, "but he hasn't returned from accepting the Heisman Trophy."

Jim Wright, the House Majority Leader, was here and so were John Connally and Dean Rusk and Jack Valente and Lloyd Bentsen. Liz Carpenter kind of ran things. Steve Martindale came too, "with Liz."

Gov. Dolph Briscoe couldn't make it, Pryor said, "because he was attending the funeral of a future appointee." Dead men have been appointed to office before in Texas.

But lots of people did make it, and influence and wealth appeared to increase, proportionately as the hair grayed, silvered and finally whitened. The object of the evening was to endow the LBJ Library, to finance frequent academic gatherings on public issues and to keep the library admission free so that no child must ever pay to visit it. Strange, then, that in a state where public spending for the poor is done with less than enthusiasm, that such a crowd would contribute $125, $500 and $5,000. But that's the way it is done here: Private charity instead of public outlay.

"There is a great diversity of political background here," said Nugent a few feet from the display case where her White House wedding gown is preserved. "That's one of the joys of my mother. She has best friends from the very liberal end of the optical spectrum and best friends from the very conservative end of the political spectrum. That does not eliminate their ability to love my mother for what she stands for."

What did her mother think of all this? She tried to get the audience to cut short the standing ovation for her. They wouldn't, not for a while anyway. Finally, she was able to say. "Thank you. My heart is very full tonight." Additional remarks followed. Then in a hallway she was asked for her thoughts. "They're full of gratitude, and happiness and memories."

As we rode the elevator to a post-performance reception, Mrs. Johnson acknowledged that the ever-increasing demands by her husband—a letter once suggested she handwrite 2,000 letters to constituents—had spurred her to try harder and to do more.

One letter also commanded her to acquire skills, so that if anything ever happened she would be able to get a job some day.

Last night it was clear that the trying and the doing had carried her farther and achieved for her not a job but a place in America. Her name is synonymous with beautification, with greenery and trees and flowers. You can see it. She is a businessswoman and works with passion for this library.

And if anyone needed to say, although no one really did, J. J. (Jake) Pickle, the congressman, went ahead. This library with its presidential archives and artifacts is more than a memorial to one man. "This is the LBJ Library," Pickle said, "Lyndon Baines and Lady Bird, one and the same, now and forever. Amen."

DÉTENTE: MYTH AND REALITY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. McDONALD. Mr. Speaker, détente has become like beauty and is "in the eyes of the beholder." Thus, many of our policymakers are determined to maintain détente, because of what they think it is and not because of the reality of détente. While the Soviets continue to pour out soothing words and act in a beguiling manner, their continued arms buildup goes on to belie their words. So, in assessing the intentions of the Soviets should we listen to their words or look at their actions? Obviously, actions still speak louder than words and the actions of the U.S.S.R. give no one hope for peace in the world. Lt. Col. John D. Baker, in Military Review for December 1977, has accumulated the evidence in an orderly manner and presented a case against détente very cogently. I commend his article to the attention of my colleagues:

DÉTENTE: MYTH AND REALITY

(By Lt. Col. John D. Baker, U.S. Army)

Détente is a word which has been used widely, and most Americans are familiar with the term. What détente really means to them, however, is vague, and a precise understanding of the term is lacking. It seems that most would assume the word to infer a relaxation of tensions between the United States and the Soviet Union. As this is the way the Soviets define the word, a closer look at the meaning of this word is in order. The Soviet interpretation is literally a "slackening of tensions" (*razriadka napriazhennosti*). This term must be considered in connection with the term "peaceful coexistence" which has been in use for a longer time. What do these terms mean to the Soviets? Peaceful coexistence has been precisely defined by various Soviet leaders from Khrushchev to the present leadership: the absence of war between the "socialist and capitalist" camps, while competition in all other areas remains active and even accelerated. Since "détente" appears to be an offspring of peaceful coexistence, its meaning would seem to be similar. Cautions have been noted in the Soviet media regarding both terms, stressing that just because relations between the camps are "better," the basic hostility of the camps has not been lessened, and that vigilance is still required to continue the competition in economic, ideological, political and other spheres. In short, the concept is a continuation of the struggle by all means short of actual war.

If there is little evidence to suggest that "détente" is not just the new name for "peaceful coexistence," there is perhaps even less evidence that the basic aims of Soviet foreign policy have been changed by the use of the term.

The Soviet interpretation of the term "détente" seems to be little understood in the West. While "relaxation (slackening) of tensions" seems to be a worthy goal and well accepted in the West, the adjunct of continued or increased competition in areas other than war seems to have been overlooked. Thus, in the West, we find what some might consider an overly optimistic view of détente which seems to equate "détente" and "peaceful coexistence" with an absence of tensions, a lack of competition between the camps or a merger of interests to the point that the ideological differences no longer play important roles. This belief is founded neither upon a correct understanding of the terms themselves, nor on the realities of the situation. In fact, they seem to be based upon the flimsy foundation of wishful thinking.

Détente is but another stage in the continuing evolution of Soviet foreign policy whose ultimate aim (the victory of socialism over capitalism), as stressed by the Soviets themselves, has not changed.

Thus, the West should examine "détente" in this light and make a judgment as to its value, based upon a proper understanding of the concept, not upon what we might wish the concept to be. There has been some progress in relaxing tensions between the US and the USSR as evidenced by agreements which have been made on a variety of issues ranging from Strategic Arms Limitation Talks (SALT) to the sale of wheat. Trade between the two countries is much discussed, and commercial and other negotiations continue. All these discussions and agreements are cited to demonstrate that East-West tensions are being reduced, and, in fact, we have come a long way from the "Cold War" to the present relationship.

It would be a serious mistake, however, to consider that everything is now "rosy." To underline this fact, a comparison of military positions reveals some interesting facts.

In the strategic arena, a comparison of US and USSR relative positions in numbers of nuclear delivery systems reveals a great change between 1968 and 1976 (Table 1).[1]

Footnotes at end of article.

TABLE 1.—*Comparison of U.S. and U.S.S.R. nuclear delivery systems*

U.S.:	1968	1976
ICBM	1, 054	1, 054
SLBM	656	656
Long-Range Bombers (Range 6,000+ Miles)	545	387
Total	2, 255	2, 097
U.S.S.R.:	1968	1976
ICBM	858	1, 527
SLBM	121	845
Long-Range Bombers	155	135
Total	1, 134	2, 507

Figures represent midyear totals.

The U.S. figures reveal no change in intercontinental ballistic missiles (ICBMs) or sea-launched ballistic missiles (SLBMs) over this eight-year period and a decrease of 158 in long-range bombers. On the Soviet side, we find an increase of 727 ICBMs, 775 SLBMs and a decrease of 15 long-range bombers. The relative strategic positions have changed markedly. Whereas in 1968 the U.S. enjoyed a superiority of 1,175 in total numbers of delivery systems, in 1976 the U.S. trailed the USSR by 410.

Of course, total numbers are but one aspect of the balance of forces and are considered by some to be a simplistic value, especially when other aspects such as multiple independently targetable re-entry vehicles (MIRVs), numbers of warheads, bomber payload and throw-weight are introduced into the equation. One must agree that this area is complex and that the weighing of other aspects, with the U.S. having advantages in numbers of warheads, MIRVs and bomber payloads and the Soviets having an advantage in throwweight, complicates the evaluation. Consideration of numbers alone gives a simple, but effective measure of relative position.

Thus, while one can say that the US position has changed from one of massive superiority to one of moderate inferiority in numbers alone over this period (with the overall balance probably being more in the equality range when the other aspects are considered), one is prompted to ask why this change took place.

This question has an extremely complex answer. A variety of elements enter into this evaluation, with some of the main factors being the war in Vietnam, the perception that a massive superiority was either no longer needed or no longer feasible and the consideration of "détente."

The "evils" and disadvantages of an uncontrolled arms race have been stated sufficiently in other places, and the logic of trying to restrict an uncontrolled arms race is difficult to dispute. However, relying on "trust," détente" or any other intangible notion does not solve the very real problem of the balance of power in the world arena. The solution must be approached logically and dispassionately, and not with preconceived concepts based upon "feelings" but upon realities.

The reality is that the Soviet Union now has achieved a position at least of equality with the United States, and it has a slight advantage in total numbers of strategic delivery systems. This is, in itself, neither bad nor good. The "bad" or "good" will depend upon developments in the future. Both sides now "enjoy" the capability of destroying each other, perhaps even many times over, as some point out. Both sides also recognize the futility of a nuclear war based on that capability; it is of advantage to neither side. Thus, given this present relationship, total nuclear war seems to be ruled out.

A further examination of the balance in the critical European arena adds to our understanding of the overall balance. Again *The Military Balance* is the source of the figures, and some restrictions are necessary in considering the figures (Table 2).[2]

TABLE 2.—BALANCE OF POWER IN THE EUROPEAN ARENA

	1968–69			1976–77		
	NATO	Warsaw Pact	Of which are Soviet	NATO	Warsaw Pact	Of which are Soviet
Ground forces, division equivalent (3 brigades per division):						
Armored	13⅔	33⅓	19⅔	17	37	22
Mechanized/airborne/infantry	33⅔	60	30⅔	53	63	28
Total	47⅓	93⅓	50⅓	70	100	50

	1968–69			1976–77		
	NATO	Warsaw Pact	Of which are Soviet	NATO	Warsaw Pact	Of which are Soviet
Main battle tanks: Peacetime	6, 400	15, 800	7, 100	11, 000	26, 500	13, 750
Tactical aircraft:						
Light bombers	50	650	600	185	275	250
Fighter/ground attack	2, 040	2, 630	1, 860	1, 700	1, 625	1, 050
Interceptors	1, 000	4, 360	3, 000	650	2, 750	1, 150
Reconnaissance	660	490	360	425	650	450
Total	3, 750	8, 130	5, 820	2, 960	5, 300	2, 900

NOTES

Table 3 gives the differences in force structures based upon the above figures.

Division equivalents are considered three brigades per division, with the further note that Warsaw Pact divisions are smaller than their NATO counterparts.

The figures include all countries in the respective alliances with the exception of France and Portugal on the NATO side.

While the main battle tanks may be roughly equated, tactical aircraft cannot be pact aircraft generally have lower payloads, shorter ranges and less versatility than NATO aircraft.

Some of the figures are extrapolated from the tables in the Military Balance—that is, 1968–69 figures were given in brigade equivalents while 1976–77 figures were in division equivalents.

TABLE 3.—DIFFERENCES IN FORCE STRUCTURES BETWEEN 1968–69 AND 1976–77

	NATO	Warsaw Pact	Soviet
Ground forces:			
Armored	+3⅓	+4⅔	+2⅓
Mechanized/infantry	+19⅓	+3	−2⅔
Total	22⅔	+7⅔	−⅓
Medium heavy tanks: Peacetime	+5, 600	+10, 700	+6, 650
Tactical aircraft:			
Lightbombers	+135	−375	−350
Fighter/ground attack	−340	−1, 005	−810
Interceptors	−350	−1, 610	−1, 850
Reconnaissance	−235	+160	+90
Total	−790	−2, 830	−2, 920

Note: Table 4 gives the Warsaw Pact advantages (or disadvantages), again based upon the above figures.

TABLE 4.—*Warsaw Pact advantages*

	1968–69	*1976–77*
Ground forces (Divisions):		
Armored	+19⅔	+20
Mechanized/Airborne/Infantry	+26⅓	+10
Total	+46	+30
Medium heavy tanks	+9, 400	+15, 500
Tactical aircraft:		
Light bombers	+600	+90
Fighter/Ground attack	+590	−75
Interceptors	+3, 360	+2, 100
Reconnaissance	−170	+225
Total	+4, 380	+2, 340

As can be seen from Tables 2, 3 and 4, the Warsaw Pact forces have increased quantitatively, as have the NATO forces. This is especially notable in the number of Pact tanks increasing by 10,700, giving the Warsaw Pact an advantage over NATO of 15,500 tanks. While tactical aircraft on both sides have decreased, the Warsaw Pact presently maintains an advantage of 2,340. The decrease of 16 division equivalents does not alter the roughly 1.5 to 1 ratio of Pact division equivalents to NATO division equivalents, 50 percent of which are Soviet. Based upon the above comparison, the Warsaw Pact is quantitatively in better condition now than in 1968. Qualitative improvements also are reported. John Erickson, a specialist on the Soviet military, pointed out an increase of 1,000 T62 tanks in the Pact,[3] while the replaced T54/T55 models were retained in the forward area. He also noted that nuclear weapons have increased the number of artillery pieces almost doubled by the beginning of 1973 and more tracked amphibious vehicles supplied for infantry use. In air power, Erickson pointed out that older aircraft are being phased out and modern types introduced, including the MIG25 Foxbat and the MIG23 Flogger variable-geometry aircraft. He also noted a massive air defense program, coupled with a major air shelter program, thereby complicating the NATO task of achieving air superiority should war break out.

In addition to these factors, significant numbers of a new armored personnel carrier (APC), the BMP, have been appearing. This APC is greatly improved from previous models deployed by either side. Not only is it equipped with a portable 73mm smoothbore gun in addition to the 7.62mm coaxial machine gun, but it can mount the Sagger antitank guided missile system. The provision of firing ports on both sides of the vehicle gives the infantry squad the capability of fighting while mounted, and totally protected, in the vehicle.[4]

Another new system probably deployed in the forward area is the 122mm self-propelled gun. Neues Deutschland, the East German Party newspaper, referred to this vehicle as amphibious. The new SA9 antiaircraft missile has been displayed mounted on an amphibious wheeled carrier.[5] This system, coupled with the new ZSU23-4 self-propelled antiaircraft gun, will improve the Pact's antiaircraft capabilities, as will the new aircraft. As these new weapons have been displayed, it must be presumed that there will be further deployments of other new systems in the forward area.

These programs, together with the rapid buildup of naval strength, greatly improve the qualitative position of the Warsaw Pact All of these factors demonstrate that the Pact's position vis-à-vis NATO has improved significantly since the beginning of détente.

The possibility exists that the Soviets agreed to discuss SALT in 1968 with the primary aim of preventing a further US strategic buildup, while the Soviets built up their own forces. Psychologically, with the possibility of a concrete agreement on strategic arms under open negotiations, the Congress and many citizens of the United States were reluctant to support further strategic arms developments. The antiballistic missile funding battle ensued, and constant calls came for reducing the armed forces. In fact, between 1968 and 1976, the United States withdrew from Vietnam, and nonstrategic US Armed Forces were reduced considerably. A similar unilateral reduction of the Soviet Armed Forces has not occurred. To emphasize these changes, see Table 5.[6]

TABLE 5.—*Comparison of forces*

Total deployed ground forces:	*1968–69*	*1976–77*
NATO	875, 000	1, 175, 000
Warsaw Pact	990, 000	1, 305, 000
(Of which are Soviets)	(530, 000)	(775, 000)
Total armed forces (Includes paramilitary forces on the Soviet side):		
U.S	3, 500, 000	2, 086, 700
U.S.S.R	3, 470, 000	4, 000, 000

What, one might ask, do all these comparisons mean, and why are they so laboriously presented? A valid question, as is the question of why all the comparisons are based upon 1968 and mid-1976. A significant event occurred in 1968: After years of consideration, the leadership of the Soviet Union agreed to discuss limitations on strategic weaponry. A significant breakthrough—or was it?

In mid-1968, the Soviets were well aware of their planned buildup, especially in the strategic sphere. Their problem was to find a way to prevent a US reaction to the buildup. In retrospect, we certainly can agree that the SALT negotiations exerted a restraining effect on the US reaction to the Soviet buildup. This may or may not have been foreseen by the Soviets, but, in either case, the Soviets have been able to alter markedly the balance of power in the world and have not been overly modest in proclaiming this fact through their media, although very few of these comments are repeated by any Western media. The balance may "have shifted in favor of the socialist camp" as some Soviets have declared, but how far the balance shifts is a key consideration for the present and future.

In considering US-USSR détente across the board over this period, the Soviets have benefited in various ways. In 1972, the Soviets had a very poor harvest, but were able to negotiate—at very favorable terms, subsidized in part by the American taxpayer—the purchase of about 20 million tons of grain in the United States. This agreement greatly eased problems in the USSR, while causing a variety of problems in the United States. The efforts by the USSR to purchase large amounts of US grain in 1975 may have still further repercussions on the US economy. Time will tell in this area, as it will in the military area?

Second thoughts about general trade with the Soviet Union are in order, however, to the extent that trade affects the military balance. The Soviets have tremendous industrial and civilian needs. Having the United States fill these needs on an easy, buy-now, pay-later arrangement would be most welcome to the Soviets. While the United States meets only a fraction of Soviet technological needs, one should note that, when the United States fills such needs, the pressure for the Soviets to divert materiel and manpower from their military production is reduced by that amount.

Further outcomes of East-West détente were an agreement to participate in the Conference on Security and Cooperation in Europe (CSCE) and the Mutual and Balanced Force Reductions (MBFR) negotiations. MBFR negotiations are being held, but so far there does not seem to be any reason to expect favorable results in the near future. The Soviets seem to have moved newer tanks into the Warsaw Pact area while *not* withdrawing the tanks being replaced. NATO also has increased its tank inventory. Media reporting on the Soviet/Warsaw Pact position on MBFR reveals that the socialist camp wishes to retain the relative balance of forces in the Central European area (officially referred to as the NATO Guidelines Area (NGA) which includes West Germany, Belgium and the Netherlands on the NATO side and East Germany, Poland and Czechoslovakia on the Pact side). More simply stated, both sides reduce by equal percentages which will leave the Pact with a numerical superiority in troops and in tanks. This again demonstrates that the Soviets are interested in obtaining unilateral advantages wherever possible.

A further consideration which reflects on the various NATO-Pact tables is the serious decline on the NATO side recently. France has been excluded from the figures. Greece and Turkey are bordering participants, and Portugal, at one time, showed alarming trends toward communism. Excluding their forces reduces the balance figures previously given by 38+ division equivalents, 2,660+ medium tanks and 672 combat aircraft.[8]

The successful completion of the CSCE in July 1975 witnessed various heads of state making reference to present European borders, including the borders of Eastern Europe established by Soviet military forces before, during and after World War II. A more interesting aspect of this conference was the agreement for noninterference in internal affairs of other states insisted upon by the Soviets. Might this signify a change in the longstanding Soviet policy of support for wars of national liberation and support for local Communist Parties? No, the Soviet emphasis is on the West refraining from "supporting counterrevolution," not on the East refraining from "supporting revolution."

The various points examined show some of results achieved during the period of "détente": a greatly improved Soviet strategic position; an improved Warsaw Pact conventional war position; one major purchase of US grain by the Soviets to the disadvantage of the US taxpayer; a slight decline in the level of US strategic forces; a great reduction in US conventional forces; and a marked deterioration in the NATO Alliance. Some of these results are, of course, unilateral actions and only indirectly related to détente. The Soviets are receiving Western technology at favorable prices; they have obtained recognition of their East European conquests; they have obtained a "moral" commitment that the West not interfere with Communist regimes; and they have obtained, as they note often, a significant shift in the East-West balance toward socialism, a shift which is still moving.

"Détente" has been beneficial for the Soviet Union; the benefits for the United States are not as clear. We have not had a nuclear war which, of course, is a major benefit in itself. However, the changes which have occurred during détente seem to be reaching a critical point. If the shift toward socialism continues unchecked, a very different world may evolve. The West still has the capability to react to these changes within the concepts of "détente" and "peaceful coexistence," short of war.

First, the West and especially the United States should recognize that détente does not signify lack of competition but, rather, an absence of a hot war. We must face facts as they are, not as we would like them to be. The marked buildup of both strategic and conventional forces by the Soviet Union does not seem to be in accord with its professed goal of a relaxation of tensions. Surely, in a détente atmosphere, fewer military forces, not more, should be necessary, but that is not what has evolved.

Second, in all our dealings with the Soviets and other Communist countries, we should weigh the advantages we can obtain by the various relationships and strive to obtain maximum advantages for our cooperation. This is standard Soviet policy and should be a standard US policy. We should act like the proverbial "hard-headed businessman" in our relations with the Soviets and obtain some gains for our side.

The fact that "détente" might be a ploy permitting Soviet military buildups without strong US reaction, and aiming for other unilateral Soviet advantages as well, cannot be ruled out. It is to be hoped that future "foreign policy gains" for the United States will be more substantial than previous ones won under the guise of "détente." We have the capability. Do we have the will?

FOOTNOTES

[1] The Military Balance. 1976–1977, The International Institute for Strategic Studies, London, Eng., 1976, p. 75. These figures are extracted from the table comparing strategic weapons systems over the period.

[2] The Military Balance. 1968–1969. The International Institute for Strategic Studies. London, Eng., 1968, p. 53, and The Military Balance, 1976–1977, op cit., pp. 97–105.

[3] John Erickson, "MBFR: Force Levels and Security Requirements," Stategic Review, Summer 1973, pp. 32–36.

[4] Major General Harold R. Aaron, "The Soviet Armed Forces Today," MI Magazine, April-May-June 1974, pp. 7–13.

Neues Deutschland, Berlin, GDR, 27 July 1974, p. 15.

[6] The Military Balance, 1968–1969, op. cit., pp. 5–9 and 53; and The Military Balance, 1976–1977, op. cit., pp. 5–10 and 97–105.

[7] Dr. H. A. DeWeerd, "The Cost of Detente: No Rest for the Wary," Army Magazine, May

1974, pp. 17–20; "Is U.S. Giving Away Too Much to Russia?," U.S. News & World Report, 23 September 1974, pp. 68–74; and James Trager, The Great Grain Robbery, Ballantine Books, N.Y., 1975, p. 162, gives a figure of 20 million tons as the Soviet purchase.

[8] The Military Balance, 1976–1977, op. cit., pp. 23–26.

WILFRED BURCHETT—SOVIET'S INTERNATIONAL HATCHET MAN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ASHBROOK. Mr. Speaker, for those who have followed the Wilfred Burchett case over the years, permission by the State Department to allow him re-entry into the United States is not at all surprising. In the CONGRESSIONAL RECORD of December 17, 1971, I inserted material under the heading "What Did Dr. Kissinger Tell Wilfred Burchett?" It seems that Henry was doing business with him during the Nixon administration. In the Johnson administration he was permitted to enter the country under the U.N. Headquarters Agreement as a journalist for a foreign newspaper.

Briefly, it will be remembered that Burchett was accused of helping brainwash and intimidate American POW's during the Korean war. Rear Adm. Jeremiah Denton, in his book, "When Hell Was In Session," described how he was tortured by the North Vietnamese in 1965 for 7 days and nights and then was confronted by Burchett concerning "war crimes."

Burchett attended the trial of Cardinal Mindszenty in Hungary in the late 1940's and is quoted by Denis Warner, the Australian newspaperman and expert on Burchett, as calling the Cardinal "the miserable, intriguing, ambitious little man."

Burchett was identified by Yuri Krotkov, a former Soviet KGB agent, as also an agent of the same Soviet intelligence apparatus.

A subpena was issued by a Senate subcommittee in the name of Burchett some years ago but Burchett left the country and was unavailable.

In answer to my query of INS of October 18, I received the following letter "explaining" why Burchett was again allowed to reenter. Also included is an excellent article from Human Events, dated December 10, 1977, concerning the background of Burchett and of the infantile attempts of the State Department to cover up its role on behalf of this Soviet international hatchet man.

The articles follow:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., October 28, 1977.

Hon. JOHN M. ASHBROOK,
House of Representatives,
Washington, D.C.

DEAR MR. ASHBROOK: Thank you for your letter of October 18, 1977, regarding the admission to the United States by Mr. Wilfred Burchett, a national of Australia.

Mr. Burchett, as you have noted, is ineligible for admission to the United States under section 212(a)(28) of the Immigration and Nationality Act, as amended. This section prohibits the admission of aliens who are members of or affiliated with certain organizations.

On October 12, 1977, the Department of State notified the Service that Mr. Burchett, who had applied for a visa to lecture and confer with his publisher in the United States, had been found ineligible on October 11, 1977, under the cited section of law. At the same time, the Department recommended that his ineligibility be waived under section 212(d)(3)(A) of the Immigration and Nationality Act to permit his travel for the stated purpose only. The recommendation was based on the commitment of the United States to the promotion of free international travel and exchange of ideas.

Accordingly, on October 14, 1977, the Service concurred with the Department's recommendation and ordered that Mr. Burchett be admitted for a period of two months on the condition that he engage solely in the activities mentioned above.

I regret that my reply cannot be of a more satisfactory nature with respect to your request.

Sincerely,

LEONEL J. CASTILLO,
Commissioner.

STATE SHIELDS BURCHETT'S TORTURE ROLE IN KOREA

The State Department's unyielding effort to cover up the activities of Communist author Wilfred Burchett borders on the remarkable, even for that appeasement-minded governmental arm. The liberal New York *Post* recently jumped all over the department for getting Burchett in this country so he could go on a nationwide lecture tour, despite overwhelming evidence that Burchett is currently a Communist, has been—and may still be—a KGB operative, and did participate in the torturing of American prisoners of war during the Korean conflict (see HUMAN EVENTS, *November* 26, page 4).

The 66-year-old Burchett is listed by the U.S. Immigration and Naturalization Service as "ineligible" for a travel visa because of his Communist party affiliations. But Burchett was granted a three-month waiver of his ineligible status at the request of high-ranking State Department officials after his case was referred to State by the White House.

What is more astonishing than Burchett's entrance into the U.S., however, is the obvious attempt by the State Department to shield or downplay Burchett's extremely odious record.

The Immigration and Naturalization official who approved State's request to allow Burchett a temporary visa, Ralph Kramer, deputy commissioner for adjudications, told the *Post* that the department never advised his office of Burchett's KGB status, or his involvement in the torture and brainwashing of American GIs. "If we had known that," said Kramer, "you can be sure it would have been given heavy consideration. I don't understand why that information was withheld."

Though Kramer has since altered his original allegation somewhat, the evidence of a blatant departmental cover-up is stunning. On both November 21 and November 22, departmental spokesmen seriously misstated and distorted the facts about Burchett's background to reporters in the daily briefings.

Department spokesman Hodding Carter III, for instance, downplayed virtually all the charges against Burchett, leaving the impression that the only solid bit of information it had on this "journalist" was that he had Communist ties. So far as allegations about Burchett's KGB activities—which were disclosed in 1969 and 1970 in sworn testimony to the Senate Internal Security subcommittee by top Soviet defector Yuri Krotkov—Carter said the department does "not have independent information on this subject."

Carter also made the curious claim that Burchett had been "successful" in a major law suit against a former Australian senator who had raised the question of Burchett's "alleged involvement in brainwashing and other activities." When Accuracy in Media's Reed Irvine pressed Carter on the point, asking, "Did you say Burchett was successful?," Carter responded, "Yes."

While Carter "explained" that an Australian court had found that Burchett had been "defamed," he also made the claim that the reason Burchett couldn't collect for damages is that the accusations about him were privileged, having been made before the Australian Senate.

But Carter's explanation was factually incorrect. As Irvine later discovered, the department "response" to the Burchett question was actually based on a telegram sent to the State Department on Nov. 7, 1974, from the U.S. consulate in Sydney. Yet even this telegram spells out the fact that Burchett was not "successful" in his suit, but actually lost it. Moreover, the court ordered Burchett to pay "all costs of the court case."

A copy of the unclassified telegram, which Human Events retrieved from the State Department's Australian desk, revealed in the first paragraph that Carter had grossly misled Irvine on the Burchett affair.

The summary statement on the first page reads: "The defamation suit of Wilfred Burchett, against former DLP Sen. Jack Kane ended November 1 in Sydney, with the jury finding that Burchett was defamed by an article published by Kane. But the article was a fair report of proceedings in the Australian Senate. Burchett was ordered to pay all costs of the court case." Contrary to what Carter claimed, Burchett's suit had not been "successful" in any way.

Furthermore, to be "defamed"—as Irvine got Carter to acknowledge a day later—did not mean that the allegations were false, as Carter had clearly suggested the day before. Allegations can "defame"—be injurious to one's reputation—and be true at the same time.

Indeed, there is every reason to believe that Kane's major allegations against Burchett were absolutely on target. The libel case arose from Krotkov's testimony before the Senate Internal Security subcommittee in which Krotkov swore he had recruited Burchett to work for the KBB in Moscow after the Korean War. After one of former Sen. Kane's colleagues read the report into the Senate record in Canberra in 1971, a condensed version appeared in the magazine Focus, a publication in which Kane was involved.

Though proceedings in the Australian Senate are privileged, Burchett assumed he could collect damages on the Focus piece because it had accused him of "blackmail," a word not used in either the Australian or the U.S. Senates.

"It was a fatal assumption," according to the widely respected Australian correspondent Denis Warner. Sydney, wrote Warner in an April 11, 1975, edition of National Review, has the reputation of being one of the hardest cities in the world in which to defend a libel suit, and that "publishers usually fall all over themselves to settle out of court. Burchett was sure he could win."

But Burchett was waylaid by Kane's tenacity. Kane, as that 1974 State Department telegram divulges, "spent more than a year gathering evidence throughout the world and brought former POW witnesses from the U.S., Vietnam, Hong Kong, Darwin, Canberra, Brisbane and Sydney for the trial.

"These witnesses testified to meeting Burchett in various POW camps during the Korean and Vietnam conflicts and told about conversations which they said indicated Burchett was in the employ of and sympathetic to the North Koreans, Chinese and North Vietnamese.

"A deposition made by KGB defector Yuri Krotkov, presently living in the U.S., alleged Burchett asked for a job in Moscow, said he was an Australian Communist and offered to blackmail an unnamed Air Force general over indiscretions by the general's wife with Burchett."

The Krotkov evidence was all read into the record, noted Warner, "the meetings between Burchett and Krotkov in Berlin after the Second World War, another meeting at the Hotel Savoy in Moscow in 1956. Later, at the Khimki Float Restaurant in Moscow, Burchett, who knew Krotkov was with the KGB, made his pitch:

" 'I served our cause, the Communist cause, the Communist party of China, giving them very valuable information when I was in Korea,' he told Krotkov, according to Krotkov's testimony. 'I could understand their thinking, their sentiments, what they want, what they think, and I could inform the Chinese side. The same thing happened in Hanoi. I am established on the payroll of the party. I am in close relation with Ho Chi Minh. We're almost friends. . . .' "

But the most damaging information came from the ex-POWs. During the Korean War, almost every captured airman was treated as a war criminal, not as a prisoner of war, held in solitary confinement under constant threat of death. Early in 1952, the interrogations paid off and two airmen, Lt. John Quinn, a B-36 pilot, and his navigator, Lt. K. L. Enoch "confessed."

"A week or so later," Warner related, "Radio Peking, the New China News Agency, and the People's Daily in Peking carried the story that a joint interrogation team of Chinese and Korean scientists had interrogated (not interviewed) the airmen and that Wilfred Burchett had participated in the work of the team by invitation.

"Not long afterward, two other airmen, Lt. Paul Kniss and Lt. O'Neale also 'confessed,' and the germ warfare campaign, conceived in Burchett's fertile brain, was off to a rip-roaring start."

Warner then related that Derek Kinne, once a private in the Royal Northumberland Fusiliers, who won the George Cross for his gallantry in the prison camps, "told of the misery, the horror, the sheer criminality of Burchett while the court listened spellbound."

Kinne told of his first meeting with Burchett 22 years before. The prisoners had been called to a football field to listen to Burchett argue that the U.S. was sabotaging the peace talks. When Burchett was through with his lecture, Kinne approached him and asked him to write about the real conditions in the camp. He told Burchett that the Chinese had not given the men considerate treatment. Six hundred men had died of malnutrition.

"I told him I saw 39 men go for [burial] in one day and I saw dogs dragging the men out. We ate the dogs and I said we were starving to death. He kept his mouth shut." Kinne told Burchett he had been tied up and told to reflect in a room for 72 hours after complaining to the Chinese. According to Kinne, Burchett replied: "I could have you shot for that." Burchett then added: "It would be good to have you shot." Later, Kinne went back to Burchett and said: "Excuse me, my brother was killed here. I would like to see his grave." Burchett crossed his legs and arms and said, "If you want to see his grave, beg."

A United Air Lines captain flying out of Chicago, Paul Kniss, who had been captured during the Korean War, gave more damming testimony about Burchett. After his Chinese and Korean interrogators had exerted extreme pressure on him, Kniss finally "confessed" to germ warfare charges. Six weeks later, Burchett informed Kniss that he had his "confession" and had edited it. At one point, Kniss saw an interrogator drop a sheet of typed notepaper. It was a single sheet, signed "W. G. Burchett," and contained all sorts of military questions for the interrogator to ask him. And so the testimony went.

Predictably, of course, Burchett denied virtually everything—he argued that Kniss was not telling the truth, insisted that he had never exchanged a word with Kinne before in his life, that he had never seen the next witness, Col. Walker Mahurin, until he appeared in court, and that the first time he ever heard of germ warfare in Korea was in 1952.

"He was proved a liar from his own writings," wrote Warner. "An interview with Mahurin in prison camp under Burchett's byline appeared in the London *Daily Worker* and the Hsinhua news agency. . . . He repeated that he had not heard of germ warfare until 1952 and then, confronted with *China's Feet Unbound*, conceded that he had referred to it in the introduction bearing the date August, 1951, though that must have been a printer's error!

"After retiring for three and a half hours, the jury found that the article in *Focus* was defamatory but that it was a fair account of proceedings published in the Australian Senate, and therefore privileged.

"Under the circumstances, it was not necessary for the jury to go on and decide whether the allegations that Burchett had worked for the KGB and his activities in Korea and Vietnam were true and whether it was for the public benefit that they should be published. He has lost his case already."

Warner concluded his article this way: "For nearly a quarter of a century, Burchett has been in the front ranks of the enemies of the United States. That is where he will remain now. But surely it is not asking too much that the real nature of the man should be made known to the American people."

No, it is not too much to ask. But President Carter's State Department—for its own curious reasons—seems to think it is, has waived several restrictions so he could come into the U.S., and has even compelled its spokesmen to mislead those who have been trying to discover the truth about Burchett's background. Why, one would like to know, is the department shielding this front-line foe of the U.S.?

On November 22, the department engaged in another coverup of Burchett's background. Reed Irvine asked the department spokesman for the day, Tom Reston, to read a portion of the 1974 telegram which would have proved Irvine's contention of the previous day that Burchett had actually lost his suit against Sen. Kane. Reston indicated he would, but said: "I don't have the cable in front of me here. . . ." So the cable was never read into the record. Following the briefing, Reed, as he was going out the door, noticed two copies of the telegram at the side of the room where department personnel are normally seated during the briefing.

WHAT COUNTS IN AMERICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DORNAN. Mr. Speaker, today, we are expected to adjourn for the holidays. It is a time for reflection and remembering, for celebration and for thanksgiving. Americans are joining each other in praising Heaven and thanking our Lord for the blessings He has bestowed on us. But only a few of them have the talent to voice that thankfulness.

One who does have that gift is Herbert E. Kaiser, editor of the Society of Manufacturing Engineers Tech-news. Although his November editorial was written in reference to the Thanksgiving holiday, its sentiments and message are just as meaningful during this holy season.

Mr. Kaiser's words speak for themselves:

WHAT COUNTS IN AMERICA

The Thanksgiving season is nearing once again. Americans are raising their voices in prayer and thanksgiving for this bountiful land. I would like to add my voice to theirs.

I immigrated to the United States from Germany. My heart is full of love and pride for my new country. I feel that I must speak out for my heart alone cannot contain the pride and joy of being an American. I thrill at the sight of the flag. I feel humble when I hear the "Star Spangled Banner." To me, this country is beautiful, gracious, God-fearing, and kind. It is a place of miracles. My greatest gift was the day my family and I received our citizenship papers.

Perhaps I do not agree that the Panama Canal should be given to an unstable country with a Marxist dictator; nor the amnesty awarded to Viet Nam deserters; nor the present assault on Rhodesia in the name of Human Rights; nor do I agree with the cancellation of the B-1 Bomber. I am frightened by the trend to Socialism, which is the first step to Communism. I know the terror for I have lived under Nazism and Communism. Yet, I thank God I have the right to criticize the very government that gave me that right.

I am wealthier than all the kings, for I was accepted in this green and golden land. Those that have come from far places are proof of my words. They arrive to be part of this country, my land, my home. Many of my fellow-countrymen lost their lives on the Berlin Wall. Their love of freedom was greater than their love of life . . .

I will remember those who came to America to follow their dream. Let us sing "God Bless America" with greater feeling this Thanksgiving, 1977, for your land is my land and I, too, am proud to be an American!

THE CROWN OF ST. STEPHEN—GIVING A RELIGIOUS TREASURE TO AN ATHEIST DICTATORSHIP

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, last month President Carter made a startling announcement which has outraged the American-Hungarian community and other freedom-loving anti-Communists throughout the Nation and around the world.

On November 4, the 21st anniversary of the 1956 attempt by the Hungarian freedom fighters to throw off the yoke of the Communist government, the President stepped into political quicksand when he unwisely stated that the return of the Crown of St. Stephen would help improve the relations between Hungary and the United States.

The Carter decision to give the crown to the present Communist government of Hungary has stirred up strong protest against the turnover of this sacred symbol of Hungarian freedom and independence to a government which was established and is maintained in office by the brute power of the Soviet Union.

The story begins in the closing days of World War II when the Holy Crown of St. Stephen was smuggled from Hungary to Austria and given to American troops by 28 Hungarians who had pledged their lives to protect it. The crown, a gift to Stephen, first king of Hungary, from Pope Sylvester II in 1001, was later brought to the United States and is reportedly kept in Fort Knox, Ky.

A vital moral issue is involved and I have introduced legislation along with many other Members of Congress to insure that the President does not violate his own commitment to human rights with regard to the people of Hungary. My bill requires that the Crown of St. Stephen not be removed from the United States without the specific approval of Congress.

There is no justification for conceding the crown to a government that is obviously dominated by and dependent upon the occupying Armed Forces of the Soviet Union. The Holy Crown is not and cannot be a quid pro quo for any internal policy initiatives by the Kadar regime. Only the complete withdrawal of all foreign troops, followed by free elections, can be the basis for the return of the Holy Crown.

Although the People's Republic of Hungary has obligated itself to respect fundamental human rights by signing and ratifying the United Nations Charter and the Universal Declaration of Human Rights and by participating in the Helsinki Conference, there are no guarantees. Conceding the Holy Crown at this time would be a symbolic gesture of American acceptance of current practices and do nothing further to bind the People's Republic of Hungary to these obligations. Hungary needs to open its doors beyond the Soviet orbit and expand its trade and other contacts with the West.

Certainly the Hungarian people themselves will not benefit from the surrender of the Holy Crown to the Soviet controlled People's Republic of Hungary which could only mean that the United States was giving its approval to the oppressive Communist regime. It would be contrary to American traditions and not only an insult to those who have fought and died for freedom, but a blow to the morale of all Hungarians and freedom-loving people everywhere.

The crown is more than just a museum piece to Hungarians, it has for 1,000 years been in the possession of the true rulers of an independent Hungary and the United States should not recognize the Soviet imposed Communists as the true rulers by delivering this symbol into their hands.

Mr. Speaker, the Holy Crown of St. Stephen is a religious treasure, a revered symbol of Hungarian national sovereignty and constitutionality which has been entrusted to the United States until such time as there exists a freely elected democratic government representing the Hungarian people. I am opposed and I will continue to oppose the State Department's expressed intention of buying Communist good will by surrendering the Holy Crown of Hungarian sovereignty to officials of the People's Republic of Hungary, an atheistic dictatorship imposed by Soviet trespassers.

A REPORT ON THE MIDEAST PROBLEM

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SKUBITZ. Mr. Speaker, my recent trip to the Middle East was the most productive foreign congressional effort during my career in public office. As a member of a congressional delegation headed by House Majority Leader JAMES WRIGHT, I visited Egypt and Israel and spoke to the leaders of both countries. I want to share with you some of the information I received from meetings with President Anwar Sadat of Egypt and Prime Minister Menachem Begin of Israel on this invaluable factfinding mission.

The week of November 12 brought the most dramatic developments toward a Middle East peace settlement in 30 years. During this week and while the congressional delegation was visiting Egypt and Israel, President Sadat made the startling announcement of his willingness to visit Israel and talk peace with the Israelis—an offer considered almost unthinkable for any leader in the Arab world. Despite State Department critics who claimed Sadat's offer was mere theatrics, he was true to his word and flew to Jerusalem on November 19. The following day when he addressed the Israeli Knesset—Parliament—my House colleagues and I were sitting in the Knesset Chamber at the personal invitation of Prime Minister Begin.

These events were truly dramatic. Yet it is difficult to understand their historic significance without an appreciation of the tragic years preceding them and the towering problems remaining to be solved.

The Arab-Israeli conflict has brought five wars to the Middle East since 1948. It has been a particularly disruptive and bloody conflict, even by modern standards, though its origins are relatively recent. It is only in the light of the past bitterness, tragedy, and hatred that the importance of President Sadat's move for peace becomes clear. For 30 years Arab leaders have refused to recognize Israel. They have incited their people to hatred of the Jewish Nation. The Jews have insisted it is clear from past experience that the Arabs do not want peace. During the week that the congressional delegation was in the Middle East, this atmosphere was completely altered.

During our meeting with the Egyptian President, Mr. Sadat stated publicly his earnest desire to go to Jerusalem and talk directly with the Israeli Government. We felt that we were present at the making of history. We could sense the earnestness in President Sadat's voice when he spoke of his desire for peace, and we were conscious of the vast significance of the opportunity. Sadat was making a remarkable offer—to visit not only Israel, the enemy of the Arab world, but Jerusalem, holy city of the Moslems and the symbol of Israeli occupation. I felt at the moment that we were on the brink of a possible breakthrough.

During our meeting with the Israeli Prime Minister 2 days later, Begin announced to the U.S. congressional party that Sadat had accepted his personal invitation to visit Jerusalem. Mr. Begin personally asked us to extend our visit for an extra day in order to be his guests in the Israel Parliament for Sadat's historic address. As we sat listening to Sadat's speech, I felt that a huge stride was being made.

Yet perhaps even more moving were the personal experiences demonstrating the drama of the situation. At the King David Hotel where both the congressional delegation and President Sadat were lodged, Israeli and Egyptian security police who had fought each other on the battlefield worked together to protect the Egyptian President. An Egyptian journalist remarked:

> If someone had told me two weeks ago that I would be in Israel today, I would have told him he was absolutely mad.

On the sidewalks of Tel Aviv, enterprising businessmen were selling T-shirts imprinted with the smiling faces of Sadat and Begin. The first telephone communication lines between Israel and Egypt were hastily constructed. In a Jerusalem restaurant, a top Egyptian official politely heaped eggplant salad onto the plate of a man whose country had humiliated Egypt in war many times, while the Israeli in turn offered him some rice. The streets were deserted as we drove to the Parliament to hear Sadat speak—every Israeli was glued to his TV set, causing a record consumption of electricity.

The list goes on and on. Despite Sadat's initiative, however, a permanent Middle Eastern peace still is to be created. Let us turn to the problems which remain to be solved.

QUESTIONS TO BE RESOLVED IN THE MIDDLE EAST

First. Problems of territory: Except for recent partial withdrawal in the Sinai and Golan Heights, Israeli forces remain in control of the territory occupied in the 1967 war between Israel and the Arab countries. The Arabs demand complete withdrawal, since the territory previously belonged to Arab States. The Israelis, with justifiable concern, argue that the West Bank and Golan Heights are vital to their country's defense. Prime Minister Begin pointed out to us that without the West Bank, at some points Israel's border would be only 8 miles from the Ocean. As I stood on the Golan Heights, I could understand their strategic location. When the Syrians controlled them, prior to Israeli occupation, soldiers stood there and shot Israeli farmers in the valley below.

Second. Problems of Palestinian refugees: There are now over 3 million Palestinian refugees created by the 1948 and 1967 wars. These are Arabs who fled their homes in what is now Israel during the fighting. Israel will not let them return, and has never paid them for their homes and land—which the Israeli Government seized. Many of these refugees are children born in refugee camps who have never seen their homeland. President Sadat told us that the Palestinians have been denied their land, jobs, and even their human rights for 30 years. Israeli Foreign Minister Moshe Dayan, on the other hand, told us that his country cannot absorb a wave of refugees, and that any compensation for the Palestinians must come from international sources. Both Mr. Dayan and Mr. Begin stressed to our delegation that a Palestinian state in the West Bank and Gaza would be a base for terrorist attacks against Israel.

Third. Problems of recognition: The Arab countries have up to now refused to recognize Israel so long as it occupies land taken in the wars, while the Israelis have demanded recognition and an end to belligerency before withdrawing. Sadat's visit has opened new doors here. He has painted the other Arab nations into a corner by implicitly recognizing Israel and moving toward a peace agreement. Inter-Arab rivalries for leadership of the Arab world continue, but Sadat's recognition of Israel may force the other Arab leaders to follow in his footsteps.

Fourth. Freedom of waterways: Israel demands guarantees that the Suez Canal and the Straits of Tiran will be open to Israeli ships.

Fifth. Jerusalem: Israel annexed East Jerusalem—the Old City—after the 1976 war, and now has completed control over the whole city. Because it contains shrines holy to three religions, many people feel it should be internationalized. It is difficult to understand the religious importance of Jerusalem to the Moslems and Jews without visiting the city. The Wailing Wall is part of the Second Temple, the holiest site in Judaism. For Moslems, the mosque of Al Aqsa is one of the holiest shrines of Islam, for it was from this spot that Mohammed ascended to heaven on his white horse. We watched as Moslem women cried and begged to touch one of the stones of this shrine, now under Israeli occupation. The problem of Jerusalem is considered to be the hardest to solve because the Israelis have stated repeatedly that the city is "non-negotiable." Moshe Dayan told us in a private meeting that it would be "inconsiderable to hand back Jerusalem."

Sixth. Arms race/superpower involvement: Both Israelis and Arabs continue to spend huge amounts of precious capital for arms, which are supplied mainly by the United States and the Soviet Union. The potential for superpower conflict in the Middle East is great, since both superpowers have committed so much of their power and prestige to the warring factions.

While Sadat's visit to Jerusalem did not solve any of these thorny problems, it wouldn't be expected to. The importance of his trip lies in the following fact: the Arab-Israeli conflict is not a religious conflict, nor even a territorial conflict. It is basically a psychological conflict. The Jews will forever remember the terrible holocaust of World War II and the centuries of persecution. They demand security for their State. The Arabs, whose culture places extreme emphasis on pride and dignity, demand that past wrongs be righted. In its most basic form, the conflict is between Jewish insecurity and Arab perceptions of injustice. Sadat was right when he told our delegation that the problems are "70 percent psychological and 30 percent substantive."

Sadat has broken through the massive psychological barrier between the Arabs and Israel. He has taken a concrete step toward a genuine peace settlement. The delegation can take no credit for these developments. However, the fact that both President Sadat and Prime Minister Begin used the delegation as a sounding board to send invitations and accept them, and Begin personally asked the delegation to stay on an extra day, indicates that we did play a small role in this historic event.

U.S. POLICY IN THE MIDDLE EAST

Israel, with the heaviest tax burden in the world, suffered from an inflation rate of 39 percent in 1976. Its foreign debt amounts to $1,700 for every Israeli. Egypt, with no natural resources and an overpopulated country, is desperately poor. The congressional mission saw the "City of the Dead" in Cairo, where impoverished Egyptians live in cemetaries and mausoleums because no other housing is available. Our ambassador to Egypt told us that one of every three loaves of bread in the country comes from the United States.

Both countries spend over 30 percent of their gross national product on defense, compared to 6 percent for the United States. The United States has provided almost $20 billion in aid to the Middle East since 1946. Aid to Israel is now running at over $2 billion a year, while Egypt is receiving about $900 million. We must find a way to help them beat their swords into plowshares before they bankrupt their own countries as well as ours.

Yet Sadat's peace initiative, the most hopeful sign for peace in the Middle East in 30 years, has received only lukewarm support from President Carter and his foreign policy advisers. National Security Council advisor Brzezinski has actively argued against any show of support for Sadat. Apparently Carter's foreign policy "experts" are sore about not being able to run the show in the Middle East any longer. There have been grumblings from the State Department about events in the Middle East being "out of control" of the United States since Sadat stole their thunder.

Frankly, I feel that this is an excellent time for the United States to take a back seat in the negotiations and let the two sides try working things out for themselves. I personally was proud to cosponsor a House joint resolution commending Sadat and Begin for the risk they have taken.

I believe it is important that Congress be aware of the major foreign policy developments in the world. For that reason, I was pleased to be a member of the leadership delegation visiting the Middle East. The bipartisan delegation was able to demonstrate congressional concern for peace in the Middle East at a very critical and historic moment. In addition, we came away with a much greater understanding of the difficult problems yet to be resolved before peace can be achieved in the Middle East.

IN MEMORY OF LOUIS STULBERG

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ADDABBO. Mr. Speaker, few men have made such an impact on the world or have managed to put so much energy into a lifetime as did Louis Stulberg. When he passed away Wednesday, December 14, at his home in Manhattan, he was a revered and beloved man.

All who were fortunate to have met and talked with Mr. Stulberg were drawn to him by his warmth, his concern for the welfare of workers and his unswerving dedication to the Ladies Garment Workers Union, which he led for so many years, and to which he had belonged for 50 years.

He had often been quoted as saying that next to his family, the union and its members were closest to his heart. That was a love and an affection that was totally reciprocated.

I think perhaps the story of Mr. Stulberg's death that appeared in the New York Times on December 15 tells the details about the life of this extraordinary man far better than I could, and I insert the article.

Along with my colleagues and all who cared about the labor movement, I offer my deepest condolences to Mrs. Stulberg and the rest of the family. Their loss is shared by all of us.

The article follows:

LOUIS STULBERG, FORMER PRESIDENT OF GARMENT UNION, IS DEAD AT 76

(By Damon Stetson)

Louis Stulberg, a nationally known labor leader who was president of the 400,000-member International Ladies Garment Workers Union from 1966 to 1975, died yesterday at his home at 25 Central Park West after a long illness. He was 76 years old.

As general secretary-treasurer of the union from 1959 to 1966, Mr. Stulberg labored in the shadow of David Dubinsky, his predecessor as president of the union, but that "never diminished his own shadow," one of his former colleagues said.

It was perhaps a sign of the changing labor movement that the union, born amid the sweatshops of an earlier era, turned in 1966 from the ebullient, explosive Mr. Dubinsky to a man schooled in the intricate business details of union administration, the management and investment of huge funds and the complexities of modern labor contracts.

"His presidency was one of steadiness and consolidation after the pyrotechnics of Dubinsky," a friend said.

Yet those associated with Mr. Stulberg through the years cited his personal warmth, his sensitivity to the needs of those about him, his sympathetic understanding and his considerateness.

In May 1975, after a period of failing health, Mr. Stulberg announced his plans to retire, effective in September of that year, in a moving letter to the union's general executive board.

A "MEANING TO MY EXISTENCE"

"Next to my wonderful family," Mr. Stulberg wrote, "I have loved this union above all things. For it has been all things to me—my school, my college, my door to worlds I had never dreamed of and certainly never dreamed of entering. Above all it has given a rich meaning to my existence. I have had the opportunity to work for an ideal. I have been able to serve the garment workers, to help improve their lives and to help turn some of their most important social ideals into reality. The union has made my life useful. What more can anyone ask for? I think there's nothing more."

During his presidency he felt that the expanding of unionization in the garment industry was the I.L.G.W.U.'s principal challenge "because in order to stand still we must organize."

"This is the only way," he said, "to keep up with the expansion of manufacturers, their losses and their movement from regular markets to the highways and by-ways of the country.

During his Chicago years he was more successful financially on the semipro baseball diamond as a shortstop than at the cutting board. For a time, in fact he considered a baseball career with the I.L.G.W.U. as an organizer in Toledo and the Middle West. He came to New York in 1927, got a job as a cutter and joined Cutters Local 10.

BIG ROLL IN ORGANIZING DRIVE

Two years later he became a business agent for the local and in 1933 was made assistant manager. In 1941, as head of the cutters' dress department, he played a major role in a central organizing campaign on the Eastern Seaboard, bringing thousands of new workers into the union.

He joined the union's general staff in 1945 as assistant executive secretary and was elected a vice president and member of the general executive board in 1947.

He moved up to the new post of executive vice president in 1956 and was elected secretary-treasurer in 1959. He was named president by the board in 1966, after Mr. Dubinsky resigned, and was re-elected at the 1968, 1971 and 1974 conventions. He had also been a vice president of the American Federation of Labor and Congress of Industrial Organizations.

Mr. Stulberg served in many government and public-service organizations and had been a United States representative at the United Nations and a fellow of Brandeis University.

He leaves his wife, the former Bebe Friedman; a daughter, Judith Crystal, and three grandchildren.

"There is only one answer to the problem of attracting new workers—higher wages and improved factory conditions."

When he stepped down as president he was able to cite gains in several rounds of negotiated wage and cost-of-living adjustments that had raised the pay of garment workers by 65 percent.

But the well-being of members goes beyond the pay envelope, he said at that time, noting that health care for members had been improved, a mail-order prescription program begun, death benefits doubled and pension benefits increased.

It was during Mr. Stulberg's regime that the union, one of the founders of the Liberal Party and for many years one of its chief mainstays, severed its 25-year-old tie. The union's general executive board charged that the party had weakened the liberal-labor political coalition in recent elections (prior to 1966) and had become the means through which Republicans were elected in New York State.

Mr. Stulberg, who had strongly favored the break with the Liberal Party, said that he thought disaffiliation would enable the union to do more politically.

"There will be none of the restrictions sometimes present when a union is part of a party," he added. "You can't take party discipline and continue to do what you want to do. The party left us—we didn't leave it. It was formed to back liberal, humane and progressive candidates, not to get jobs."

PUT ON THE BLACK LIST

The road to the presidency of the garment workers union was a long one for Mr. Stulberg—starting when he was a teen-aged cutter in Toronto, where he was brought three years after his birth on April 14, 1901, in Poland. He was blacklisted in Toronto for union activity and subsequently moved to Chicago and later to Toledo, Ohio. But he managed during those early years to finish high school and one year at the University of Chicago.

CONGRESSIONAL REFORM: A PROMISE UNFULFILLED

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. COUGHLIN. Mr. Speaker, the issue of congressional reform has been the highest priority for the 95th Congress. The dark days of 1976—with the detailed accounting of the misuse of House allowances, conflicts of interest, and unethical conduct—evoked a public outcry which underscored the pressing need for corrective measures. Doubts concerning the very integrity of Congress contributed to a political climate of public alienation and distrust. Additionally, there emerged wide discontent with the internal workings of the House itself—the undemocratic procedures, the obsolete committee structure, and the burgeoning legislative bureaucracy which impede this body from fulfilling its policymaking responsibilities.

Last January, Congress appeared to be genuinely committed to adopting a landmark reform agenda, representing the dedicated efforts of Members on both sides of the political aisle. Yet the high expectations which so punctuated the opening weeks of the session have been poorly realized. The pattern of the first session illustrates only hesitant and cautious moves toward reform; Republican appeals for more comprehensive initiatives have encountered outright hostility, if not rejection.

Congress, in attempting to confront the challenge of reform, has wavered. Good intentions have gone awry. A perfect example is provided by the March 2 debate on the ethics package. House Resolution 287 embraced several important reforms including the revision of the financial disclosure rules, the abolition of slush funds, and the banning of lameduck travel. However, the resolution included an unwarranted increase of $5,000 in each Member's allowance, a somewhat disconcerting ploy to help "buy ethics." Moreover, Republicans were prevented by the restrictive parliamentary procedures from offering crucial amendments to institute audit procedures and to require the public disclosure of the financial records of the House. Such episodes do little to inspire public confidence in the House of Representatives.

In the final analysis, the majority leadership, entrusted with the prerogatives and conveniences of power, seems unwilling or unable to endorse more than incremental changes. The second session, however, will offer a renewed opportunity to translate important reforms into law. It will be a test of our conviction if the efforts to achieve meaningful and comprehensive reforms prosper in 1978.

During this year I have been honored to serve as chairman of the House Republican Task Force on Congressional Reform. At this point, I would like to recognize the members of the task force: JOHN J. RHODES, JOHN B. ANDERSON, DEL CLAWSON, BILL FRENZEL, WILLIAM L. ARMSTRONG, ROBERT E. BAUMAN, M. CALDWELL BUTLER, JAMES C. CLEVELAND, THOMAS B. EVANS, JR., MILLICENT FENWICK, LOUIS FREY, JR., HENRY J. HYDE, ROBERT W. KASTEN, JR., JIM LEACH, DONALD J. MITCHELL, W. HENSON MOORE, JOEL PRITCHARD, RALPH S. REGULA, NEWTON I. STEERS, JR., WILLIAM A. STEIGER, and ROBERT S. WALKER.

It is customary, at year's end, to assess the accomplishments and document the shortcomings of the legislative session. Before presenting a summary review of the session, I would like to comment briefly on several reform concerns which merit our immediate attention.

COMMITTEE REFORM

The present committee system is an outmoded, antiquated structure. The overlapping jurisdictional lines, the unbalanced workloads, the explosion of subcommittees, the multiple assignments resulting in continual scheduling conflicts are evidence of the need for reform. The highest priority for this Congress is the rationalization and realinement of the committee structure. Casual improvisation or periodic tinkering is no longer sufficient.

The institutional defects are highly visible. The House Rules Committee is constantly forced to assume the role of referee in jurisdictional skirmishes among committees. Comprehensive policy integration and coordination is rarely achieved. Such major public policy issues as energy or welfare are so poorly accommodated by the crazy quilt of committees that they must be assigned to specially created select or ad hoc units. As a result, the policymaking role of the House is needlessly fragmented—responsibility for coherent program development is so widely dispersed that any degree of accountability is lost.

AUDITS

The scandals which plagued the House in 1976 underscore the need for a professional, systematic auditing of our financial operations. Members on this side of the aisle have long advocated efforts to institute thorough audits of House accounts. This year, in addition to an avalanche of auditing resolutions, Republicans have sought to incorporate auditing initiatives in House Resolution 287, the ethics resolution, and House Resolution 383, the resolution establishing a Select Committee on Ethics—but the restrictions imposed on debate blocked such efforts.

With House Resolution 766, the ill-fated administrative reorganization resolution, a limited, internal auditing role was proposed. However, the thrust of an in-house audit, positioned in the midst of a partisan thicket, would accomplish little in restoring the public's trust. The keystone to the reform of the financial operations of the House is the adoption of an independent, outside, mandatory, audit procedure.

HOUSE ALLOWANCE GAME

It seems uniquely inappropriate that each time the House considers a major reform package, provisions are usually included to enrich Member's personal allowances. For example:

Last year, in response to the extensive irregularities in the operation of House finances, the consolidated account system was adopted. Misunderstood by both the public and the press, the consolidated account has allowed Members to maximize the use of taxpayers' money to bolster the advantages of incumbency.

In March, with the adoption of the ethics resolution, each Member was provided with a $5,000 supplement for office expenses.

In September, the House voted to increase the district office rental allowance by 67 percent, giving each Member, on the average, a $7,900 boost in allowances.

And in October, an unsuccessful effort was made to graft a new $12,000 computer allowance onto the multitude of congressional perquisites already available.

Each new increase, of course, represents a hefty charge to the American taxpayer. The March ethics sweetener, for example, will cost more than $2 million; the September district office allowance boost, over $3 million.

More important, each new benefit weights the scale on the side of the incubent, and discriminates against any potential challenger. There exists a fine line between providing adequate allowances to service the needs of a congressional district and providing allowances so excessive that they fuel reelection machines and entrench incumbents. Political commentators document how the growing pool of congressional allowances has insured incumbent reelection victories.

Recently the Committee on House Administration has issued new regulations streamlining nine accounts into one official expenses allowance. What is needed, however is not regulations to facilitate the use of taxpayers' money but rather an honest appraisal and reduction of the amounts now available.

PUBLIC DISCLOSURE OF HOUSE EXPENDITURE RECORDS

Although the official allowances of the House are derived from public tax dollars, disclosure of the manner in which these funds are utilized is quite limited. Currently, the only information available is a summary listing published by the Clerk of the House. The original vouchers for both Members and committees remain closeted from view. Yet the accessibility of these records is central to the fundamental issue of restoring accountability.

On May 9 the reform task force introduced a resolution to require the Clerk to make such records available for public inspection. The task force believes that the public and the press possess a valid right to know how Congress is using tax dollars in the funding of its operations. Regrettably this view is not shared by the leadership in Congress as the resolution remains buried in committee.

CLOSED RULE SYNDROME

Closed rules have long been employed to impart an acute parliamentary advantage to the supporters of a particular bill by thwarting the introduction of unwanted amendments. Naturally, such undemocratic parliamentary procedures obstruct the membership of the House from participating actively in the course of deliberation. In too many cases, by excluding the possibility for judicious amendments, imperfect legislative vehicles are accorded House approval.

Throughout the first session, the consideration of reform legislation, time and again, proceeded under such antidemocratic settings. For example, the ethics package and the administrative reorganization resolution were considered under what was labeled euphemistically as a "modified" closed rule—this in essence means that only those amendments acceptable to the majority leadership are in order. More appalling, the adoption of the House Rules afforded no opportunity for amendments. Unfortunately, it is safe to assume that a task force-sponsored resolution to prohibit closed rules will receive scant attention in the current Congress.

A further note should be made of the overuse of suspensions, which are, in effect a form of closed rule. Originally, the suspension procedure was intended to facilitate the passage of bills which were uncomplicated and noncontroversial in nature. However, during the 95th Congress, numerous measures which deserved careful consideration were stampeded through under suspension of the rules. The task force believes that such abuse is detrimental to the legislative process and that necessary corrective action should be instituted. Several reform proposals advanced by the task force include:

Reducing suspension days to 2 a month;

Placing a dollar ceiling amount on bills brought up under suspension, and

Allowing a bill to be brought up under suspension only if the chairman and the ranking minority member of the committee so request, or unless two-thirds of the committee, by recorded vote, instruct the chairman to make such a request.

The list of necessary reforms still awaiting action—such items as an accurate CONGRESSIONAL RECORD, a ban on proxy voting, a firm schedule—published in advance—of House business, open committee records, more effective congressional oversight, improved reporting of committee travel funds, and equitable committee staffing for the minority—indicate the work ahead. This House cannot afford to revert to "business as usual", nor succumb to face-saving gestures passed merely to ensure immediate political dividends. It is our opportunity and our obligation to meet the challenge of reform in a manner responsive to the interests and needs of the American people.

The summary review of the session follows:

STATUS REPORT ON CONGRESSIONAL REFORM LEGISLATION—FIRST SESSION, 95TH CONGRESS

PART I: LEGISLATION PASSED IN THE 95TH CONGRESS

1. House Rules (H. Res. 5). Passed House 1/4/77—Vote: 256–142.

Comment: The House Rules were adopted under a limited debate, no-amendment procedure imposed by the Democratic leadership. A Republican effort to vote down the previous question in order to open the rules for amendment was defeated by a vote of 261–140.

These Democratic restrictions had two damaging effects. First, this procedure precluded a serious review of rules changes—one-third quorums for committee markup, an increase in suspension days, quorum call restrictions in the House and Committee of the Whole, and an extension of committee subpoena power—drafted behind closed doors of the Democratic Caucus. Second, this procedure prevented the introduction of a number of Republican-backed reform amendments including proposals to:

Ban all proxy voting in committees;

Limit all standing committees (except Appropriations) to six subcommittees;

Facilitate the procedures by which a member of a committee may demand a roll call vote;

Require that words actually spoken on the floor be distinguished in the Congressional Record from remarks which are inserted;

Provide continuous broadcast coverage of House floor proceedings;

Permit the House to direct the Ethics Committee to undertake an investigation and require the Committee to report on every investigation undertaken;

Apply House committee rules to special ad hoc, and select committees;

Require each House committee to keep a verbatim transcript of all committee action to be made available to public inspection;

Allow committee hearings to be closed to the public only if disclosure of matters to be discussed would endanger national security, violate any law or rule of the House, or involve committee personnel or budget matters, and

Impose restrictions on the use of suspension of the rules.

Following the Rules debate, Rep. John Anderson introduced these amendments as a reform package to provide a well-needed ray of sunshine on the handling of legislative business. The Democratic leadership has yet to allow these measures to reach the floor.

2. Korean Investigation (H. Res. 252). Passed House 2/9/77—Vote: 388–0.

Comment: The resolution authorized the investigation of the Korean influence-buying scandal by the Committee on Standards of Official Conduct.

Regrettably, the Committee's inquiry has been conducted at so slow a pace that the special counsel to the probe resigned in protest in July. Republican (and reform-minded Democrats) have petitioned for the creation of a Watergate-type special prosecutor to assume responsibility for the investigation but to no avail. The Democratic leadership seems more intent to sweep the facts under the rug than to provide any meaningful disclosure.

3. Ethics Resolution (H. Res. 287). Passed House 3/2/77—Vote: 402–22.

Comment: Perhaps the most pressing item facing the 95th Congress is the need to establish new standards of ethical conduct. By the end of February, the Commission on Administrative Review had drafted an omnibus ethics resolution. When the ethics package was introduced for House consideration, no amendments, other than those approved by the Democratic leadership, were permitted. A stronger, more comprehensive ethics resolution, sponsored by Rep. Bill Frenzel, was ignored by the Democrats. A Republican effort to open the ethics package to amendment was defeated by a vote of 267–153.

The ethics resolution did pass the House by an overwhelming bipartisan vote. It established stricter financial disclosure rules on members' personal finances; abolished office "slush funds" beginning in 1978; limited the outside earned income of House members; imposed limitations on the use of the congressional mailing privilege; placed restrictions on the acceptance of gifts and honoraria; and banned lameduck travel.

While accounting for the personal finances of members, the ethics resolution failed to establish needed restrictions on the use of public funds by the House of Representatives. The Republican Task Force on Congressional Reform, led by Chairman Larry Coughlin had sought to introduce amendments to:

Provide for the full public disclosure of the expenditure records of the House;

Institute a non-partisan, systematic and independent auditing authority;

Provide for the disclosure of nepotism;

Reject the Commission on Administrative Review's provision to award each member an unwarranted $5,000 increase in House allowances, and

Require immediate abolishment of unofficial office accounts, or "slush funds."

The Task Force believed that these amendments would mark a significant victory for reform. However, the restrictions imposed on debate blocked any consideration of these crucial additions.

4. Select Committee on Ethics (H. Res. 383). Passed House 3/9/77—Vote: 410–1.

Comment: Democrats imposed a no-amendment procedure on debate. A Republican effort to open up the resolution for further debate and possible amendment was defeated by a vote of 242–175. Republican amendments, sponsored by Rep. John Anderson, included:

Giving the Select Committee the responsibility of recommending a systematic and periodic audit of matters required to be disclosed under the financial ethics resolution (H. Res. 287), including the expenses and allowances of House members, committees and officers;

Giving the Select Committee the responsibility of making recommendations for improving procedures for handling of allegations of official misconduct in the House Commitee on Standards of Official Conduct, and

Permitting the House to review and disapprove any interpretive regulations proposed by the Select Committee.

Again, restrictions on debate barred discussion of significant GOP amendments.

Note: The Select Committee was due to expire on 12/31/77. The House on 10/31/77 adopted H. Res. 871 by a vote of 385–22 extending the life of the Select Committee until the completion of its official business.

5. Broadcasting of House Proceedings (H. Res. 404). Passed House 3/15/77—Vote: 398–10.

Comment: This resolution authorized the House Rules Committee to evaluate the impact of television coverage of House proceedings after the completion of a 90-day test begun on 3/15/77.

The Republican Task Force on Congressional Reform has, for years, favored broadcasting coverage of House floor proceedings. The Democratic leadership, however, has been less than anxious to provide the American people with the opportunity to observe their representatives in action. H. Res. 404, sponsored by Rep. John Anderson (R.–Ill.), sought to ensure that the results of the 90-day test would be properly and carefully assessed with the anticipation that a broader range of media coverage could then be instituted.

6. District Office Allowance (H. Res. 687). Passed House 9/20/77—Vote: 215–193.

Comment: H. Res. 687 increased the office rental allowance from 1500 to 2500 square feet. In dollars and cents, this amounts to an average increase of approximately $7,900 per Member or an additional cost to the taxpayer of nearly $3.5 million per year.

Each year, like clockwork, the Congress sweetens the perquisites afforded to incumbent members. This new bonanza to increase the office rental allowance followed closely on the $5,000 per Member increase which was voted in the March ethics resolution (see vote #3. As noted by GOP Task Force Chairman Larry Coughlin, there was little justification for this increase—it appeared only as a means to further bolster the advantages of incumbency.

7. Administrative Organization and Legislative Management Services Reform (H. Res. 766). House defeated rule under which H. Res. 766 was brought to the floor for House consideration 10/12/77. Vote: 160–252.

Comment: The present administrative system of the House of Rpresentatives is a complicated patchwork which has developed without the benefits of rational planning, resulting in fragmented responsibilities.

The Commission on Administrative Review undertook a lengthy study of the inadequacies of the system—its recommendations were incorporated in H. Res. 766. A series of extensive changes in the administrative structure and internal operations of the House were proposed including: the creation of a powerful Administrator to direct and plan the day-to-day administrative and support operations of the House, the establishment of a limited auditing procedure, and the creation of a select committee to review the current committee structure of the House.

As drafted, however, the resolution included a number of defects:

The Minority Party had negligible input in the selection or the removal of the Administrator.

The post of Administrator with accompanying support staff appeared merely to superimpose another layer of bureaucracy over an antiquated administrative structure. The resolution failed to indicate any consolidation or streamlining of existing units.

No independent, outside audit procedure of the internal operations of the House was proposed.

A host of new benefits to incumbents would have resulted; most notably, a $12,000 computer allowance.

To add insult to injury, the Democratic leadership brought the resolution to the floor under a parliamentary procedure which restricted the offering of corrective amendments. In a unique bipartisan effort, 113 Democrats joined 139 Republicans in defeating this arbitrary parliamentary rule. To date, the Democratic leadership has been unwilling to allow this package to be reconsidered under an open rule.

8. Broadcasting of House Proceedings (H. Res. 866). Passed House 10/27/77. Vote 342–44.

Comment: This resolution provides for a system of closed circuit viewing of House proceedings in Members' and committee offices, and directs the Rules Committee to conduct a study of possible alternatives (e.g. a network pool) in providing broadcast coverage of House floor action. The Committee's findings are to be reported to the House by February 15, 1978.

SENATE

1. Committee Reorganization (S. Res. 4). Passed Senate 2/4/77. Vote: 89–1.

Comment: The resolution revised committee jurisdictions, reduced the number of committees, and provided that minority members receive a proportional share of committee staff and resources.

2. Ethics Resolution (S. Res. 110). Passed Senate 4/1/77. Vote: 86–9.

Comment: On 7/14/77, five Senators announced the initiation of a court suit challenging the constitutionality of the new ethics code.

PART II: LEGISLATION REPORTED FROM COMMITTEES

1. Lobby Disclosure (H.R. 1180, S. 1785).

House: Judiciary Subcommittee on Administrative Law and Governmental Relations approved for full committee action a clean bill, H.R. 8494 in lieu of the original H.R. 180, 7/21/77. Full committee consideration expected in January.

Senate: Governmental Affairs Committee held hearings on S. 1785 in August.

Comment: Among its detailed provisions, H.R. 8494 adopted a formula basing requirements for registering and disclosing lobbying activities on: a) level of dollar expenditures for lobbying by an organization in a given calendar quarter and b) the number of days spent by organization employees in making lobbying communications.

2. Financial Disclosure.

(a) Legislative Branch Disclosure Act of 1977 (H.R. 7401).

House: Select Committee on Ethics reported bill on 8/5/77.

Comment: The bill provides for the filing of annual financial disclosure reports by Members of Congress, officers, professional staff members of a committee, principal assistants to Members (at GS–16 or above), and candidates for congressional office.

(b) Ethics in Government Act of 1977 (H.R. 1).

House: Reported by Judiciary Committee 11/2/77.

Comment: As reported, Title I of H.R. 1 is left blank for the purpose of inserting the language of H.R. 7401 upon approval by the House. Titles II and III of H.R. 1 set forth disclosure guidelines for executive and judicial branch personnel.

(c) Public Officials Integrity Act of 1977 (S. 555).

Senate: Passed Senate 6/27/7—Vote: 74–5.

Comment: The bill would: 1) establish an office of Congressional Legal Counsel to defend Congress in litigation, 2) require that top-level federal officials file annual public financial disclosure reports, and 3) establish an Office of Government Crimes (within the Justice Department) to handle investigation of government officials charged with criminal abuse of office.

LOUIS STULBERG DEAD AT 76

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RANGEL. Mr. Speaker, yesterday our country and the world suffered the loss of a great American. Louis Stulberg, former president of the 400,000-member International Ladies Garment Workers Union, died in New York City at the age of 76.

Mr. Stulberg dedicated his life to organizing and improving the working lives of garment workers. While leading the union, Stulberg was able to increase the amount of members' paychecks, improve their health care plans, institute a mail-order prescription program, double death benefits as well as increase pension benefits.

Mr. Stulberg's great contributions to organized labor will be long remembered.

The text of the New York Times article follows:

LOUIS STULBERG, FORMER PRESIDENT OF GARMENT UNION, IS DEAD AT 76

(By Damon Stetson)

Louis Stulberg, a nationally known labor leader who was president of the 400,000-member International Ladies Garment Workers Union from 1966 to 1975, died yesterday at his home at 25 Central Park West after a long illness. He was 76 years old.

As general secretary-treasurer of the union from 1959 to 1966, Mr. Stulberg labored in the shadow of David Dubinsky, his predecessor as president of the union, but that "never diminished his own shadow," one of his former colleagues said.

It was perhaps a sign of the changing labor movement that the union, born amid the sweatshops of an earlier era, turned in 1966 from the ebullient, explosive Mr. Dubinsky to a man schooled in the intricate business details of union administration, the management and investment of huge funds and the complexities of modern labor contracts.

His presidency was one of steadiness and consolidation after the pyrotechnics of Dubinsky," a friend said.

Yet those associated with Mr. Stulberg through the years cited his personal warmth, his sensitivity to the needs of those about him, his sympathetic understanding and his considerateness.

In May 1975, after a period of failing health, Mr. Stulberg announced his plans to retire, effective in September of that year, in a moving letter to the union's general executive board.

A "MEANING TO MY EXISTENCE"

"Next to my wonderful family," Mr. Stulberg wrote, "I have loved this union above all things. For it has been all things to me—my school, my college, my door to worlds I had never dreamed of and certainly never dreamed of entering. Above all it has given a rich meaning to my existence. I have had the opportunity to work for an ideal. I have been able to serve the garment workers, to help improve their lives and to help turn some of their most important social ideals into reality. The union has made my life useful. What more can anyone ask for? I think there's nothing more."

During his presidency he felt that the expanding of unionization in the garment industry was the I.L.G.W.U.'s principal challenge "because in order to stand still we must organize."

"This is the only way," he said, "to keep up with the expansion of manufacturers, their losses and their movement from regular markets to the highways and by-ways of the country.

During his Chicago years he was more successful financially on the semipro baseball diamond as a shortstop than at the cutting board. For a time, in fact, he considered a baseball career. But he became immersed in the labor movement and began his career with the I.L.G.W.U. as an organizer in Toledo and the Middle West. He came to New York in 1927, got a job as a cutter and joined Cutters Local 10.

BIG ROLE IN ORGANIZING DRIVE

Two years later he became a business agent for the local and in 1933 was made assistant manager. In 1941, as head of the cutters' dress department, he played a major role in a central organizing campaign on the Eastern Seaboard, bringing thousands of new workers into the union.

He joined the union's general staff in 1945 as assistant executive secretary and was elected a vice president and member of the general executive board in 1947.

He moved up to the new post of executive vice president in 1956 and was elected secretary-treasurer in 1959. He was named president by the board in 1966, after Mr. Dubinsky resigned, and was re-elected at the 1968, 1971 and 1974 conventions. He had also been a vice president of the American Federation of Labor and Congress of Industrial Organizations.

Mr. Stulberg served in many government and public-service organizations and had been a United States representative at the United Nations and a fellow of Brandeis University.

He leaves his wife, the former Bebe Friedman; a daughter, Judith Crystal, and three grandchildren.

"There is only one answer to the problem of attracting new workers—higher wages and improved factory conditions."

When he stepped down as president he was able to cite gains in several rounds of negotiated wage and cost-of-living adjustments that had raised the pay of garment workers by 65 percent.

But the well-being of members goes beyond the pay envelope, he said at that time, noting that health care for members had been improved, a mail-order prescription program begun, death benefits doubled and pension benefits increased.

It was during Mr. Stulberg's regime that the union, one of the founders of the Liberal Party and for many years one of its chief mainstays, severed its 25-year-old tie. The union's general executive board charged that the party had weakened the liberal-labor political coalition in recent elections (prior to 1966) and had become the means through which Republicans were elected in New York State.

Mr. Stulberg, who had strongly favored the break with the Liberal Party, said that he thought disaffiliation would enable the union to do more politically.

"There will be none of the restrictions sometimes present when a union is part of a party," he added. "You can't take party discipline and continue to do what you want to do. The party left us—we didn't leave it. It was formed to back liberal, humane and progressive candidates, not to get jobs."

PUT ON BLACK LIST

The road to the presidency of the garment workers union was a long one for Mr. Stulberg—starting when he was a teen-aged cutter in Toronto, where he was brought three years after his birth on April 14, 1901, in Poland. He was blacklisted in Toronto for union activity and subsequently moved to Chicago and later to Toledo, Ohio. But he managed during those early years to finish high school and one year at the University of Chicago.

TIMBER HARVESTING IN THE BWCA

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. OBERSTAR. Mr. Speaker, the wood fiber industry in northeastern Minnesota employs some 9,000 people with an annual payroll of $135 million. House consideration of legislation to set the future management of the Boundary Waters Canoe Area has raised the very complex question of the potential impact of a ban on timber harvesting in the BWCA on the growth of this important industry to the economy of northeastern Minnesota.

While my colleague, DON FRASER, and I have introduced legislation which differs on other aspects of BWCA management, we are in agreement that the 400,000 acres of BWCA virgin timber stands should be protected. The BWCA is located entirely in the district I represent. At present, four logging companies hold a total of six valid timber sales on virgin timber within the boundary waters.

The 8th Circuit Court of Appeals in 1976 recognized the right of these companies to log.

In order to protect the virgin timber and in order to enable Congress to formulate a well-reasoned, comprehensive plan for the future management of this resource, in December 1976 I worked out with the wood fiber industry a voluntary moratorium on logging within the BWCA. In November of this year, the companies at my request agreed to an extension of that moratorium.

The bill I have introduced provides for timber harvesting only of second growth timber in what is now the portal zone of the BWCA.

While there is softwood timber outside of the BWCA, it is not adequate to meet the short-term needs of the industry nor to generate the softwood yield necessary for the growth of the industry. The timber industry has agreed in principle to a phase-out of timber harvesting over 30 years if it can be guaranteed the availability of sufficient quantities of replacement softwood timber from the balance of the Superior National Forest, outside the BWCA.

The Forest Service has recently completed an assessment of the effect of a total ban on timber harvesting in the BWCA. The service estimates the potential annual loss to be 1,190 jobs and $30 million.

I would like to share with my colleagues articles which recently appeared in the Minneapolis Tribune and the Duluth News-Tribune which discuss the Forest Service study and the moratorium on logging.

The articles follow:

[From the Duluth (Minn.) News Tribune, Dec. 4, 1977]

BWCA TIMBER BAN COULD COST $30 MILLION PER YEAR

(By Jim Blubaugh)

A ban on timber harvesting in the portal zone of the Boundary Waters Canoe Area could have adverse impacts on Northeastern Minnesota's timber industry for up to 20 years, a recently released U.S. Forest Service report indicates.

But after that time, when extensive plantations now approaching 30 years old begin to mature, the situation should be alleviated. And there are alternatives which could lessen the impacts, according to the report.

The potential annual loss would be about $30 million and about 1,190 jobs—"this, of course, would not occur immediately"—should there be a ban, the report indicates.

The report is from Forest Service chief John J. McGuire in response to a House subcommittee working on a BWCA bill. The subcommittee on national parks and insular affairs, chaired by Rep. Phillip Burton of California, is drafting a bill after two Minnesota congresspersons failed to reach a compromise.

Rep. James Oberstar wants to establish a national recreation area in which limited harvesting would be allowed (none in a wilderness zone). Rep. Donald Fraser wants a complete wilderness with no timber harvesting. A Carter administration proposal backs Fraser's bill in regard to no timber harvesting.

The subcommittee bill is expected to be completed in January or February.

Minnesota's timber industry has tentatively agreed to a logging phaseout in the BWCA in exchange for access to timber on other state and federal lands. It appears to favor exchange over financial compensation. Gov. Rudy Perpich, who supports a logging ban, has indicated that he will ask the legislature for funds to compensate the industry. He proposes to increase timber harvest on state lands.

About 10.5 million of the 22 million board feet of softwoods which could be cut annually would be available under Oberstar's bill. All would be lost under Fraser's bill.

About $710,000 in damages might result if the six existing timber sales, most of which lie in "virgin" forest areas, are terminated. They are East Tofte (Abitibi) $36,308; West Tofte (Abitibi) $299,693; Jerry Creek (Potlatch) $63,819; Sunnydale (Potlatch) $194,635; Beartrap (Kainz) $89,957 and Shell Lake (Boise Cascade) $25,411.

The key to the adverse impacts on the timber industry and local economies lies in the availability of softwoods, notes the report. The supply is expected to be "tight" if no cutting is allowed.

There has been little cutting in the BWCA the past five years because of moratoriums which remain in effect. During this time, however, softwood sales have been maintained at previous levels and existing sales have been cut within the Superior National Forest.

The report notes that phasing out cutting could be viewed as an extension of the moratoriums and on the surface there appears to be no immediate problem. But if the BWCA is withdrawn from cutting, existing sales and volumes which could be offered would be reduced.

Smaller operators would be most affected as they would find it difficult to successfully compete for the available timber. "At the present time," the report reads, "the forest products industry in the area is dependent upon softwood lumber and pulpwood. Removal of a substantial portion of the available and prospective softwood supply will have adverse impacts on the dependent industry and economy."

It appears that the volume can't be made up on other lands, either. "Harvesting on the Chippewa National Forest has been equal to the allowable cut for the last 10 years. The recent increase in prices indicates that a similar situation exists on state and private lands."

Administratively, about $44 million will be needed over the next 10 years to catch up with an existing backlog of timber management outside the BWCA (10 full-time employes also would be needed). The Superior feels this is necessary with or without a ban, however, and has projected it in preliminary budgets through 1984.

The report also analyzes the costs between an immediate phaseout and one of 20 years. It projects little difference.

"Immediate termination has a potential for high damages being paid. Also, there will be some economic impact on the operators in the more competitive situation which will exist if harvesting in the Portal Zone is prohibited," the report reads.

"On the other hand, continued harvesting is quite controversial and we can foresee continued court action. Due to environmental considerations, the portal zone is an expensive place to operate. There have been no sales made in the area since 1968 and there would be costs associated with re-establishing a sales program."

Probably the most cost efficient alternative, according to the report, would be to allow the existing sales to be harvested and make no new ones. Cutting would last about five years.

The report did not deal with the productivity of BWCA lands for tree growing. Environmentalists contend that research shows it is low, however, and that funds should be put toward improving productivity in better growing areas.

Increased research on hardwood utilization and marketing to develop substitutes for the industry's dependence on softwood timber is one of four ways short-term impacts of a ban could be minimized, says the report. Advanced road building, timber substitution outside the BWCA and changes in allowable sustained yields are the others.

The report also answers some other questions brought out at hearings last summer:

About $5.6 million would be needed to acquire county and private lands under Fraser's recommended wilderness area. About $3.6 million would be needed to acquire private lands in Oberstar's NRA. And $1.1 million would be needed to acquire private land on the Superior and Chippewa to help provide for more efficient timber management programs and possibly service to improve the softwood timber supply situation. The first two figures already are reflected in the administration's program.

Mitigative costs under the Fraser bill would be $385,000 for non-BWCA lake access needs, $160,000 for snowmobile trails and $1,168,000 for increased camping capacity.

Estimated cost to purchase 35 resorts in the NRA under the administration bill would be $8.7 million.

[From the Duluth (Minn.) News Tribune, Nov. 9, 1977]

5 BWCA LOGGING MORATORIUMS EXTENDED

(By Lee Egerstrom)

WASHINGTON.—The moratorium on logging in the Boundary Waters Canoe Area (BWCA) will be extended on five of six leases in the federal wilderness, and no logging is likely in the near future under the final lease.

The extension of the moratorium, worked out following a series of meetings Tuesday involving two Minnesota Congress members, appears to apply to all but the 180 acres in the East Tofte sale near Ely.

The U.S. Forest Service had encouraged the logger, Harry Fischer of Grand Rapids, to proceed with the cuttings. The land involved had mostly been logged, and the Forest Service hoped Fischer's cuttings would clear the area for new growth.

Reps. James Oberstar and Bruce Vento, both Minnesota DFLers, encouraged Forest Service chief John Maguire to stop all logging while Congress continues working on legislation redefining uses and boundaries of the BWCA.

Oberstar, who represents the Northern Minnesota area, and Minneapolis DFL Rep. Donald Fraser have BWCA legislation before the House Interior Committee. Vento is a member of the committee and is working with the subcommittee trying to weld a compromise between Oberstar and Fraser bills.

Oberstar told Maguire and Agriculture Secretary Bob Bergland Tuesday that if the Forest Service continues to push for cuttings in the East Tofte sale, it should take Minnesota environmentalists to the area beforehand. The Forest Service contends that East Tofte logging would not have a detrimental effect on the BWCA environment.

The two Congress members were also in contact with the Kainz Logging Co. at Ely. Both pledged to work for legislation that will compensate the Ely firm for the $50,000 to $60,000 it has spent on its lease.

Vento said he has talked to the subcommittee chairperson, Rep. Phillip Burton, D-Calif., and other members of the panel pushing for compensation for the lease holders.

"Jim (Oberstar) is concerned about this because it is the small guy that really gets hurt," Vento said.

Vento added the Forest Service could spell out regulations that would virtually drive loggers out of the BWCA. But he said that action "would be an abuse of power to obtain the same end.

"It looks good now for the moratorium," he added.

The four logging companies holding the six leases in the BWCA voluntarily agreed a year ago to sit on their lease while Congress considered the future of the BWCA. The moratorium expired as new legislation failed to win passage this year.

VIRGIN TIMBER WON'T BE CUT

(By Al McCoughlin)

WASHINGTON, D.C.—The U.S. Forest Service and the forest-products industry have agreed not to harvest virgin timber this season in the Boundary Waters Canoe Area (BWCA), Rep. James Oberster announced Tuesday.

John R. McGuire, Forest Service chief, told him there will be no cutting on all six key tracts in the BWCA, Oberstar reported after a meeting yesterday with agency officials.

The Forest Service earlier wanted to "clean up" a 100-acre East Tofte tract, but now has agreed not to press that plan, the Eighth District Democrat added.

Oberstar said that the Forest Service will attempt to acknowledge the special interest that Kainz Logging Co. of Ely, Minn., has in finding an alternative supply of sawmill timber.

Kainz claims to have invested $50,000 in putting roads into the area on which it purchased cutting rights. Oberstar said compensation for this is expected to be written into new BWCA legislation.

The industry-Forest Service agreement eased fears that the inability of Congress to act on the BWCA dispute this year threatened cutting of BWCA virgin tracts.

Oberstar said that when he met last week with Rupert Cutler, assistant agriculture secretary in charge of the Forest Service, the agency planned to continue with the East Tofte harvest.

Oberstar argued that environmentalists ought to be involved in any decision to continue cutting virgin timber in the BWCA, the congressmen said, and this week the agency ruled out all logging.

"My feeling is that this bodes well for the future," Oberstar added. He said the Forest Service and industry both sought to accommodate the public interest—an end to harvesting of BWCA virgin timber.

The congressman, whose district includes the BWCA, said the willingness of industry not to cut in the area would help in reaching a solution about harvesting in the non-virgin areas of the BWCA.

Oberstar is seeking a phase-out of logging of nonvirgin stands in the canoe area that would be matched by intensified forestry practices in alternative federal areas outside the BWCA.

Earlier, Rep. Morris Udall, D-Ariz., head of the House Interior Committee, and Rep. Phillip Burton, D.-Calif., chairman of a key subcommittee, urged the Agriculture Department to ban logging of virgin timber in the BWCA.

There was no harvest of virgin timber in the BWCA last year because of a voluntary agreement by the four firms holding cutting rights. But that arrangement expired in September.

Conservationists contended that about 10,000 acres of virgin wilderness would be damaged if logging were allowed to proceed this season.

The four firms involved in the agreement are Potlatch Corp., Claquet, Minn.; Boise Cascade Corp., International Falls, Minn.; Kainz and North Shore Forest Products, Grand Marais, Minn.

TRIBUTE TO DR. SAMUEL J. N. SUGAR

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mrs. SPELLMAN. Mr. Speaker, I rise to pay tribute to Dr. Samuel J. N. Sugar, an outstanding physician who has been serving the people of Prince Georges County in Maryland for more than 30 years. Recently, many of his colleagues and friends gathered to honor him at a testimonial dinner to express their appreciation for his contributions to the field of nuclear medicine. Dr. Sugar pioneered in this discipline at Prince Georges General Hospital, where, in the spring of 1955, he established the Department of Nuclear Medicine. The "Curriculum Vitae," which I am appending, depicts his many years of study and the great strides made under Dr. Sam Sugar's leadership at Prince Georges Hospital in providing nuclear health care.

Year-by-year advancements were made—year after year, more and more sophisticated procedures were available to patients. We will probably never be able to judge how many owe their lives to the dedication of this fine physician.

I considered myself privileged to be able to add my voice to the many others as they extolled the accomplishments of Sam Sugar.

I first met Dr. Sam and his lovely wife, Naomi, many years ago. I can say, without hesitation, that they are people I am proud to list among my friends—devoted to each other, to their family, and to their fellow man.

Mr. Speaker, I know my colleagues join with me in extending to Sam Sugar our best wishes as he continues the practice of medicine:

"CURRICULUM VITAE" OF SAMUEL J. N. SUGAR, M.D.

1910—Born in Southeast Washington, D.C.

1931—Graduate in pharmacy, George Washington University.

1938—M.D., George Washington University.

1938 to 1941—Resident in medicine, Gallinger Municipal Hospital, Washington, D.C.

1941 to 1945—U.S. Army, service overseas in European Theatre of Operations.

November 1945—Practice in internal medicine started in Mt. Rainier, Md.

Spring 1955—Department of Nuclear Medicine opened at Prince George's Hospital. Formal training in isotope procedures obtained at Oak Ridge Institute for Nuclear Studies in Tennessee. The state of Maryland was one of the sponsors for this course.

1955 to 1960—Research in diabetes mellitus. Use of oral antidiabetic agents for control. Grants from pharmaceutical companies used to purchase instruments for radioisotope lab at Prince George's General Hospital.

1956—Thyroid studies using radio-iodine 131; followed by blood volume estimation and cardiac output function.

1957—Kidney function and brain scans using Mercury 203. Treatment of goiter with hyperthyroidism using iodine 131.

1958 to 1965—Development of lung scanning followed by liver and spleen visualization. Use of gamma camera for dynamic studies of organ function as well as static images.

1966 to 1971—Treatment of cancer of prostate with radioactive gold. Procedure performed in conjunction with surgery by Dr. Louis Bachrach. Cancer of thyroid treatment with radioactive iodine. Abdominal cancers treated with radioactive phosphorus.

1972 to present—Radio-immuno assay lab studies. Determination of hormone and vitamin levels in blood.

Department procedures performed: 1964—1,962; 1975—27,250.

Today the department is one of the largest in the Tri-State area performing the large volume and variety of nuclear medicine procedures.

INVESTIGATION OF KOREAN-AMERICAN RELATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DERWINSKI. Mr. Speaker, with much fanfare, our subcommittee investigating South Korean-American relations recently revealed the contents of a plan presumably drafted for the Korean CIA which outlined a scheme for influencing various elements in the U.S. Government as well as other influential centers in American society.

A quick scan of many of the headlines and news stories triggered by this disclosure could easily cause one to come to conclusions that cannot be substantiated by what has so far been furnished me and other members of the subcommittee charged with the responsibility of conducting this wide ranging probe of the various facets of the United States-Korean relationship.

For example, many who have not had time to read these stories in their entirety may be of the opinion that the plan was actually implemented. (I sometimes get the impression that the headline writers have not thoroughly read the articles themselves.) Judging from what I have seen to date, nothing has been disclosed to suggest that. In fact, Mr. Sohn Ho Young, a former KCIA official in New York City and the star witness of the hearings, said in response to my questioning that not only were some sections of the plan inflated to impress KCIA headquarter officials in Seoul, but also that he had no knowledge of any part of it being translated into reality. Moreover, as he put it, "commonsense tells me that this plan was not carried out."

Mr. Sohn went on to add that both he and other South Korean personnel posted in the United States during the time the plan was formulated seriously doubted they could carry it out. In this context, Mr. Sohn reminded us that when the plan was drafted, Tongsun Park's alleged influence-peddling activities were already widely publicized. Consequently, KCIA operatives in the United States were instructed to "keep a low profile," he said.

In view of the foregoing, it is not at all surprising that Washington Star correspondent, Ron Sarro, in a discerning analysis of the hearings wrote that:

> Congressional investigators probing the Korean influence peddling scandal have been finding that agents of President Park Chung Hee's government used a lot of blue smoke and mirrors to prove to Seoul they were masters of clandestine operations in the United States. (Washington Star, Nov. 30, 1977.)

In addition to Mr. Sohn, the subcommittee also heard testimony from Mr. Lee Chong Sik, professor at the University of Pennsylvania; Mr. Kim Young Chin, professor at George Washington University; Admiral Gene R. LaRocque, Center for Defense Information; and Mr. H. Alan Krause of the U.S. State Department.

Each of these individuals was reputedly targeted for manipulation and/or cooption in the 1976 KCIA plan for operations in the United States. Of special interest was the fact that all of these witnesses testified about contacts with Korean officials in 1974 and 1975. None of these witnesses had any information which in any way related to the now-famous 1976 plan. Thus, we have had a dramatic announcement and release of the plan but no evidence as to its source, whether it was ever put in operation, and if so, what the results may have been.

I would also like to bring to the attention of the House the fact that the minority was never consulted as to whom would be called to testify at our most recent sessions. Indeed, we did not even have the names of the witnesses until a few days before the hearings commenced. Given that kind of communication it is readily understandable why the minority believes this investigation has not been conducted in a truly bipartisan manner.

Mr. Speaker, I am discussing that so that Members of the House will get a better appreciation of how difficult it is to separate fact from fiction in this inquiry. I think we must be careful not to draw premature conclusions based on incomplete and possibly irrelevant information. I realize that this is hard to do in the current political climate surrounding our investigation and the parallel probes of Korean activities being conducted elsewhere in Washington. We must, nevertheless, because, as the Washington Post noted in a very perceptive editorial on December 1, 1977, disclosures from our investigation are easily read in the glow of those inquiries.

We must strive to keep things in perspective when dealing with matters relating to South Korea. In this regard, I again refer to the same Washington Post editorial I cited earlier as it summarized my feelings precisely when it stated that—

> The point is that there are high stakes as well as high principles involved in the United States-Korean struggle, and the one thing we're sure is not needed is a loaded, overstated view of what that conflict is about.

Mr. Speaker, with your permission, I would like to conclude my remarks today with an insertion in the RECORD of the full text of the December 1 Post editorial. I commend it to all my colleagues:

SOUTH KOREA'S "PLAN"

SOUTH KOREA.—Nervous about how the United States might react to defeat in Vietnam, drafted a secret plan for 1976 to influence the administration, the Congress, the media and assorted other folk who supposedly wield the levers of power. It is interesting to get now, from Rep. Donald Fraser's subcommittee, the details—though it is not yet clear what part of the plan was put into effect. What needs to be added, however, is that many countries, including the United States, run information, lobbying and intelligence operations quite like the one described in the Korean memo surfaced by Mr. Fraser. Indeed, the only questionable feature we see in the Korean plan is the suggestion that money was to be slipped to three congressional staff "collaborators." The use, in the English translation, of words like "manipulate" and "convert" to describe Korean intentions may or may not mean anything darker than the planners' effort to justify a big budget back in Seoul.

For now, in our view, Washington's Korean focus should remain on the tug-of-war between congressional and Justice Department investigators and the Korean government over the terms on which accused briber Tongsun Park should testify. The Americans, having made the case that he was acting as an agent of his government in bestowing funds and gifts on various congressmen, have demanded that the Koreans yield him up. They have so far refused. Only now is Seoul showing a hint of flexibility.

Reasonableness is overdue. Angered by Korean defiance, Congress has dug in its heels on providing extra arms to Seoul to compensate for the troop withdrawals planned by President Carter. Mr. Carter has sent Korea the message that, extra help or not, his withdrawal plans are unchanged. The return of Tongsun Park could be critical to resolution of both the basic issues that have become interwoven in this case: the integrity of Congress and the security relationship between Korea and the United States.

Some days it appears that it's open season on South Korea. The Fraser investigation, for instance, is proceeding on a track separate from the inquiries into Korean influence-peddling, but disclosures from it are easily read in the glow of those inquiries. We of the press make our own contribution to this somewhat fevered state of affairs. The point is that there are high stakes as well as high principles involved in the U.S.-Korean struggle, and the one thing we're sure is not needed is a loaded, overstated view of what that conflict is about.

DRAWING FAITH FROM OUR YOUTH

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LAFALCE. Mr. Speaker, I rise today to ask you and my colleagues to share with me the confidence expressed in a valedictory address of a high school graduate which has recently come to my attention.

I believe that all Americans, and especially those of us in public life, need from time to time to have our faith in the future restored by young people. I am advised that the young woman who gave this address is not continuing her education; in presenting her high school graduation remarks I do so with the hope that each of us will be encouraged to preserve and develop the heritage which all of us like to think is America.

Following, then, are the thoughts of Ms. Mary Cauley as expressed to her community and her fellow graduates from Keshequa Central School in Nunda, N.Y., on June 26, 1977:

As I stand here, I suddenly realize that this is not the most wonderful moment in my life, as I thought it would be. There is a dull ache in my heart reminding me that although this is the first day of a new life, it is also the last day of an old life, a life I have loved. I can't say that every day of high school has been a perfect pleasure; I don't think anyone can say that. All I know is that for 13 years I have looked forward to this day, my graduation day, as one of celebration, jubilation, and liberation and now I find that along with these feelings, I find much sadness. I know that just because our high school days are ended, it doesn't mean that our friendships will automatically die. It does mean, however, that the binding force of our friendship is gone and we will all have to work hard to keep in touch.

I worried quite a bit over this speech. I wanted it to be perfect, to say something relevant and meaningful, something everyone could relate to and something that wouldn't put everyone to sleep. In the midst of my fretting I found that maybe there was something I could say.

When I heard that the Varsity Chorus was going to sing "Frostiana" I remembered that in eighth grade our English teacher, Marion Treat Randall, insisted that many of us memorize a few lines from Robert Frost's poem "A Road Not Taken". It is a poem that encourages people to "do their own thing" and not to fear being individuals.

Today many people are afraid of being different. They simply want to be anonymous. This isn't true of our class here today and I hope that it never will be true of us.

Our class has been unique. We are not unique because we are graduating in 1977, or because of what school we are graduating from, or because of who our parents are, or because of what they have done. We are unique because of who we are. We are a class of individuals, each with special talents and goals in life. We have followed Robert Frost's advice and have "done our own thing." And by working together, we have created a unique class.

Now, we are ready to begin new lives, and to face new responsibilities. America has reached and passed her 200th birthday and we are the foundation of her next 200 years. Our class meets a totally different world than that which met graduates 15 years ago. We have survived the turbulent sixties and the Vietnam war, the crises of the early 70's and Watergate, as well as the present energy shortage. We begin our new lives with a new president, one dedicated to honesty, morality, and to restoring faith in government.

Plato said that "the direction in which education starts a man determines his future life." I hope this is true of us. If so, we should have few worries about the future. Keshequa has done more that provide an academic education for us. Here we have learned sportsmanship and team effort. This school has been the center of our social life and has provided entertainment for all of us. But most importantly, here we have learned to think for ourselves and to be individuals.

As individuals we are not afraid to stand up for what we believe in or to fight for our convictions. We will not hesitate to exercise our voice in government by voting and will be sure that our country is always run by a "government of the people, by the people, and for the people."

I am, as I know we all are, proud to be a member of this class of 1977. We have become quite close over the years and even now, as we separate, our lives are entwined, bound together by a common past and a hope for the future. God grant that we may always retain our individuality and may each of us reach true happiness.

"I shall be telling this with a sigh,
Somewhere in ages and ages hence;
Two roads diverged in a wood—and I
I took the one less traveled by
And that has made all the difference."

DESCRIPTION OF A NEW GATT STUDY ENTITLED, "TRADE LIBERALIZATION, PROTECTIONISM, AND INTERDEPENDENCE"

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. VANIK. Mr. Speaker, on November 29, 1977, the General Agreement on Tariffs and Trade secretariat released a new staff study by three of its senior economists entitled, "Trade Liberalization, Protectionism, and Interdependence."

The study provides a timely, new discussion on the need for maintaining and improving the channels of world trade. As the GATT press release on the study notes:

The study concludes that the over-all stability of economies depends on their spontaneous and speedy adjustment to the inevitable constant changes in economic conditions. "Non-adjustment cumulates, maladjustments grow, until a correction is enforced by a more or less severe breakdown, the repercussions of which often spread far beyond the particular industry, sector, or even economy." Structural change is also necessary to create a supply of jobs "matching the talents, educational attainments and the changing occupational preferences of the population." Without adequate and spontaneous growth, the study argues finally, peaceful co-existence of nations would become increasingly difficult.

To cope with the new protectionism, the study suggests, will require government policies directed towards reducing economic uncertainty, a key factor affecting investment and prospects for economic growth. These policies should include "an affirmation and clarification of the rules to be observed in policies governing international transactions."

In the longer run, there will be scope for a more direct role of government in providing incentives to adjustment. And, "last but not least", governments have a responsibility to help the public understand the consequences of different trade policies.

Following is the full text of the GATT review of the book. I believe that this summary will prove useful to the many who are concerned about the growing controversy in this critical area:

TRADE LIBERALIZATION, PROTECTIONISM AND INTERDEPENDENCE

NEW GATT STUDY

Trade Liberalization, Protectionism and Interdependence[1] is published today by the GATT secretariat as a staff paper in the series "GATT Studies in International Trade".

For nearly three decades following World War II, the international economy enjoyed unprecedented growth and prosperity. Much of the credit for this has been attributed to the reversal of the inward-looking economic policies followed in the 1930's. The key feature of the successful international economic policies applied in the postwar years, according to the study, was the liberalization of national economies within a global system of rules designed to promote trade and investment. Recently, however, faith in these policies has been undermined. Increasingly, it is being suggested that the growth of international economic interdependence may have reached a point where it brings more problems than benefits.

The purpose of the study is to consider whether these doubts about the benefits of interdependence are justified. The authors recognize the reasons that have led to present calls for a halt to trade liberalization and even to outright demands for new trade restrictions. But they conclude that the case for a continued growth in interdependence—in their view only a new expression for Adam Smith's "international division of labour"—is still compelling.

"Trade Liberalization, Protectionism and Interdependence" is divided into three main sections. The first reviews and explains long-term trends in world production and trade. It points out that the relative importance of international trade in domestic economic activity has tended to be exaggerated by the ratios traditionally used to measure it, and concludes that the scope for further growth in mutual trade exchanges is very substantial. The second section of the study outlines the case for further trade liberalization, paying particular attention to the contribution of liberalization to efficiency and growth, to its auxiliary role in the fight against inflation, and to its impact on employment and macroeconomic stability. The final section, "The Economics and Politics of Protectionism", is largely concerned with current protectionist pressures. It argues that these pressures, reflecting a refusal to adjust to changing patterns of supply and demand are as much a cause as a consequence of the recent economic difficulties of the advanced economies. "By accepting the view that only a more vigorous growth of these economies will make it possible for them to return to freer trade, we might be locking ourselves into a vicious circle."

The study concludes that "the main danger of protectionism is that it exploits and fosters a misconception of a society's internal and external interests which, properly defined, cannot be in conflict; and that it feeds on a misunderstanding of the true consequences of the different policies by which governments try to secure these interests".

The study's authors, Richard Blackhurst, Nicolas Marian and Jan Tumlir, are senior economists of the GATT secretariat.

The aim of GATT Studies in International Trade is to make publicly available the results of some of the work undertaken by the staff of the GATT secretariat. They are published on the initiative of the secretariat. The views expressed are those of the authors alone and do not necessarily reflect the views of contracting parties to the General Agreement on Tariffs and Trade or of the secretariat of GATT. The purpose of the studies is to contribute to the discussion and understanding of current issues in the field of international trade.

The following is a brief guide to the contents of the study:

INTRODUCTION

Skepticism about the benefits of economic interdependence has spread since the late 1960's. One reason has been the experience of the worst world recession in forty years. A second is the concern about the security of essential supplies. Third is a more general fear that the growth of international trade may have reached a point at which it erodes the ability of governments to pursue desired goals and policies: the study links this fear with growing uncertainties about the working of the rules and disciplines which are essential if economic growth is to be sought through international specialization.

I. LONG-TERM TRENDS IN PRODUCTION AND TRADE: CAUSES AND IMPLICATIONS

This chapter of the study notes that 1913 was a turning point after a long period of world economic progress. Over the following 35 years, to 1948, world production increased in volume at an average annual rate of around 32 per cent, while world trade grew only about one-quarter as fast. World trade per person actually declined, and with it the degree of specialization in the world economy. This trend was strikingly reversed after 1948, and from 1948 to 1973 the long-run growth rate of world trade considerably exceeded that of production. However, most of the growth in the ratio of trade to national income in the post-war period "only offset its decline between 1915–1948".

Three major, interacting, and still-influential factors go far to explain the postwar expansion of trade. Institutional developments—the early establishment of the IMF and GATT, and subsequent liberalization of trade and payments—provided an environment in which international traders were offered a degree of security and predictability in world markets that was unknown in the inter-war period. Technological advances, both reducing costs and increasing the variety of goods, also encouraged international trade and specialization. Trends in manufacturing employment in industrial countries have favoured a rapid growth in their imports of labour-intensive manufactures from developing countries.

The study notes that a feature of trade in the postwar period has been the increasing importance of imported inputs in production and—by implication—in exports. A rising import content means, it points out, that the domestic value added content of exports is declining. Because of this trend, the traditional use of the ratio of exports to national income as a measure of dependence on trade is unsatisfactory, since the export figure includes both previously-imported inputs and also some exports which, in altered form, may later be re-imported. It thus overstates the relative importance of trade in domestic economic activity. It is also an unreliable guide to the relative trade-dependence of different countries and to trends over time.

Nearly two-thirds of the total increase in world trade in manufactures between 1955 and 1973 is accounted for by the expansion of trade within Western Europe and within North America. Trade between Western Europe, North America and Japan accounted for less than 25 percent of the total increase, and imports by industrial countries from developing countries for only 11 per cent. This implies that there remains considerable potential for greater specialization between the three major industrial areas, and between them and the rest of the world. When it is further noted that for most countries trade in manufactures continues to represent a relatively small proportion of total domestic production of manufactures, the untapped opportunities for greater international specialization appear truly impressive. And the pressure will be there, for the technological and demographic trade promoting factors will be at work for the forseeable future."

II. THE ISSUE OF FURTHER REDUCTIONS IN BARRIERS TO INTERNATIONAL TRADE

This chapter begins by considering the benefits to be expected from further trade liberalization, and then analyzes four arguments commonly employed to question or oppose efforts to increase the international division of labour.

The study stresses that it is misleading to approach the question of protectionism versus trade liberalization in terms of their impact on exports and on imports, or on employment. What counts is the extent to which resources are, as a result, more productively used: changes in trade barriers affect the efficiency with which resources are used, but not the level of their utilization. It is also pointed out that the importance of trade liberalization is independent of whether exchange rates are fixed or floating; however, it is crucial to progress on trade liberalization that rates should not be manipulated to prevent effective balance of payments adjustment or gain unfair competitive advantage.

The study notes five sources of gain from trade liberalization. Three are familiar: consumption gains (the total net gain to consumers exceeding the transfers from other groups), production gains through allocation of domestic resources into more efficient employment (often, however, remaining in the same industry because of specialization), and economies of scale. A fourth type of gain is from a more competitive domestic economy, in which national producers can reach optimum efficient size while still being subject to desirable competitive influences. Fifth, liberalization—and continuing competition from imports—contributes to domestic price stability.

The authors believe that the decline in interest in trade liberalization owes little to the traditional "terms of trade" and "infant industry" arguments for protection. They identify four major arguments used today, of which the first two seem particularly important:

(1) effects of liberalization on domestic income distribution. As far as adjustment effects are concerned, the study argues at some length that these are transitional, and that the main solution lies in appropriate adjustment policies. It notes however cer-

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[1] GATT, Trade Liberalization, Protectionism and Interdependence by Richard Blackhurst, Nicolas Marian and Jan Tumlir. GATT Studies in International Trade No. 5. Geneva, GATT, 1977. Price Sw F 12 or U.S. $6. Available in English, French and Spanish language editions from the GATT secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21, and through booksellers.

tain major biases in the political process which result in undue weight being given to adjustment difficulties when trade policies are being considered by governments. Trade liberalization is recognized as having permanent effects on income distribution (for example lowering food prices in general while reducing the incomes of landowners), but it is argued that more efficient methods than protection exist for achieving desired permanent redistribution effects.

(ii) the impact of "openness" to trade on macroeconomic stability. This argument for protection involves a fundamental questioning of the longer-run economic benefit of further trade liberalization to society as a whole, because of the resultant increasing vulnerability to imported macroeconomic disturbances. The authors conclude that in general a large foreign trade sector normally acts as a buffer against economic disturbance, and that the exceptional recent experience of a synchronized international trade cycle seems unlikely to recur. This argument for protection is also undermined, in their view, by the abandonment of fixed exchange rates.

(iii) excessive dependence on imports. This traditional argument has gained greater currency because of worries about embargoes and the future adequacy of world supplies. Among points reviewed are the relative costs of stockpiling rather than permanently protecting an inefficient industry, the likely effectiveness and relevance of cartels and the general desirability of maintaining decentralized and competitive sources of supply.

(iv) protecting a national "way of life." The study notes that this non-economic argument has a long tradition. However, in its present form it tends to stress the need, not for preserving a quiet semi-rural or pastoral lifestyle, but for having a large industrial sector; the study concludes that trade-restrictive policies are not the best way of achieving this particular end.

III. THE ECONOMICS AND POLITICS OF PROTECTIONISM

This final chapter develops two sets of arguments, the first economic and the second concerned more with political dynamics, to suggest why the present strong protectionist pressures are likely to persist.

In the first part of the chapter, the authors identify the main products affected by recent trade restrictions, and note that although it is impossible to measure the extent or degree of these restrictions. the most frequently used have been the bilaterally-negotiated exporter's voluntary" self-restraint and the orderly marketing agreement. While the sudden increase in protectionist pressures is clearly related to the inadequate recovery from the 1974/75 recession, the malaise seems to have its roots in a number of structural weaknesses and maladjustments of much earlier origin.

The coincidence of high rates of inflation and unemployment, indicating adjustment difficulties, dates from the 1960's; at the same time the growth of real wages overtook that of productivity in most industrial countries, and the growth of manufacturing employment and investment decelerated. The authors consider that trends in the growth and composition of the labour force in industrial countries make it unavoidable that employment in some of their industries will undergo absolute decline. The study focuses on the role of wages in the process of international adjustment, arguing that too much attention is given to the gap in wage levels between exporting and importing countries, and not enough to the rigidity of wage differentials within the importing country. This rigidity increases the vulnerability of declining industries to foreign competition, and hampers dynamic industries in attracting skilled labour needed for expansion.

The authors trace the evolution of a number of major difficulties encountered in international trade since the early 1960's, and argue that these have loosened the system of rules under which the postwar economic expansion took place.

They consider that these developments have in common a refusal to adjust to change. While initiated by private interest groups, this resistance to change has been made effective through the support of governments which have introduced protective measures whose effect has been to avoid adjustment, which in turn has inhibited economic growth. The study suggests that in introducing these measures governments have overestimated their ability to direct the economy so as to produce a desired rate of growth, and have underestimated the effects of such measures in creating vested interests and bad precedents as well as in damaging the position of developing countries.

The second part of the chapter, on "Equity issues and domestic politics of protection" develops the argument that tariff protection, provided it is not increased over time, is less damaging to economic growth than protectionism: "a policy of increasing the level of protection, relying heavily on quantitative restrictions, and often creating additional uncertainty by imposing and administering these obstacles to trade in a non-uniform, discriminatory manner."

Three major and interacting equity issues raised by protection are discussed. The first concerns the distribution of the domestic costs of protection over society. It is pointed out that these costs fall unevenly on particular consumers and industries, including export industries, and that the problem of inequity will grow as protection is increased. The second issue arises from the reactions of other industries to the grant of protection to one industry. The study argues that, in the absence of objective criteria to determine the degree of protection an industry requires, any grant of protection leaves a government defenceless against claims by industries less favoured. The same argument leads to the view that the concept of "organized free (or liberal) trade" implies a large degree of centralized government planning. Finally, external equity problems arising where protection takes the form of bilaterally negotiated restraints are considered. The study suggests that such restraints involve economic and political costs to both the protecting and the exporting country.

The study concludes that the over-all stability of economies depends on their spontaneous and speedy adjustment to the inevitable constant changes in economic conditions. "Non-adjustment cumulates, maladjustments grow, until a correction is enforced by a more or less severe breakdown, the repercussions of which often spread far beyond the particular industry, sector, or even economy." Structural change is also necessary to create a supply of jobs "matching the talents, educational attainments and the changing occupational preferences of the population." Without adequate and spontaneous growth, the study argues finally, peaceful co-existence of nations would become increasingly difficult.

To cope with the new protectionism, the study suggests, will require government policies directed towards reducing economic uncertainty, a key factor affecting investment and prospects for economic growth. These policies should include "an affirmation and clarification of the rules to be observed in policies governing international transactions."

In the longer run, there will be scope for a more direct role of government in providing incentives to adjustment. And, "last but not least", governments have a responsibility to help the public understand the consequences of different trade policies.

SOUTHERN LOUISIANA GAS FIELDS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. COLLINS of Texas. Mr. Speaker, this morning my colleague, JOHN MOSS, who is chairman of the Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee rose to speak on the issue of information regarding the southern Louisiana gas fields. I challenged these investigations last week on the floor. I have just had an opportunity to read his floor statement.

First, I want to thank my distinguished friend from California for furnishing the document I requested and making it public. As chairman of the subcommittee, he establishes another new procedure as we go along. Chairman Moss told me that this information could not be released unless the subcommittee met and gave their approval. Yet he turns the document over to newspaper men and makes a statement on the floor with no meetings of the subcommittee. But I want to reaffirm how sincerely I appreciate his making this May 4, 1976 staff memorandum public.

I was told that I could not make a nonclassified, nonproprietary, nontrade secret and nonexecutive session material public without a vote of the subcommittee. But apparently the chairman has this privilege which is a unilateral right which I have not found in the rules that govern our committee.

When this study on southern Louisiana gas reserves was initiated 2½ years ago, its objective was to study the major oil company reserve computations as compared to the AGA natural gas reserve figures. The committee had GAO provide staff for the analysis and they worked for a year. The surprise conclusion was the AGA and the industry had comparable figures. All of the aggressive press about "alarming information" had no factual basis so no conclusion was publicized.

Another important result of the release of this staff memorandum is that it will advise the Federal Trade Commission that their investigation, which is exactly duplicative of the subcommittee's, should be terminated. The FTC is now trying to compare AGA estimates with company estimates to see if they are different. I hope the FTC gets the message of the staff memorandum which is first, that there is no substantial difference between company and AGA reserve numbers, and second, that "a comparison of company proved reserve ledger estimates with AGA reserve estimates is mostly a pointless exercise." This is what I have been saying for 2½ years.

Because the AGA versus company estimates did not show any wide disparity, the May 4, 1976, memorandum repeats the results of staff testimony on January 21, 1976, concerning the comparison between AGA estimates and U.S. Geological Survey estimates. The memo says that:

> AGA reserve estimates can only be properly compared with USGS reserve estimates.

This is not accurate, because the AGA and the USGS do not have the same definition. The USGS's definition is called "measured reserves" and the AGA's is proved reserves. As our subcommittee's hearings in January 1975 made clear, the USGS relies on such things as electric logs and core analysis to make their estimates. USGS personnel testified that this data was more speculative than the production history and flow test requirements of the AGA. Additionally, the USGS takes into account in making their reserve estimates compression where they believe that economics justify it. The AGA on the other hand takes into account compression where it is already installed. USGS personnel admitted this in testimony before the subcommittee.

These differences which I have just described show that the AGA estimates and USGS estimates are not comparable sets of estimates. Comparing the two is like comparing apples with oranges. Additionally, even the staff memorandum acknowledges now another point which I have been making for several years that even among experts, reserve estimates vary widely. The staff memo says that 20-percent and 25-percent differences in reserve estimates can be expected. As I said in October 1976, about reserve estimating:

> This is an art, not a science. One can never come up with a perfect reserve number for a gas field or reservoir until that field or reservoir has been totally depleted.

Let me quote his exact words at the June 9, 1975, hearing when Chairman John Moss in his opening statement said,

> Alarming information regarding the accuracy of the industry's reserve reporting has come into the possession of this subcommittee. It is contained in a staff recommendation of the Director of the Bureau of Competition of the Federal Trade Commission to file suit against 11 major oil and gas corporations.
>
> The report offers evidence that the post-1968 downward trend in reserves reported by the American Gas Association may have been the result of a concerted effort by producers acting through the American-Gas Association, to influence the Federal Power Commission to increase wellhead prices.

Let me further quote from the Washington Star of June 17, 1975, which was a press statement of Chairman Moss as summarized by the Washington Star:

> Moss said that if the records of the seven companies follow the pattern of the other four, it clearly would establish the unreliability of the figures used by the American Gas Association.
>
> The subpoenas ask for all "documents that contain estimates or evaluations of the quantities of natural gas present, or recoverable, or ultimately recoverable," in federal offshore leasing fields off southern Louisiana.

Chairman, John Moss has lacked consistency in his criticism of oil companies for reserve estimates. The original investigation into the reserve issue criticized the oil companies for not adequately stating their reserves. Now let us take another investigation that was made of Gulf Oil Co. on the reverse side of understating their reserves. In the investigations committee report of February 1977 titled, "Gulf Oil Corp.: Failure To Deliver Natural Gas to the Interstate Market." We have a major oil company that overstated reserve with tragic results. In 1963 Gulf Oil made a contract with Texas Eastern to deliver 2.7 trillion cubic feet of gas at a price of 22 cents per mcf. In 1968, the production—and this is most important, as Gulf Oil Co. learned—the production history showed the reserves were much, much less than original estimates. When Gulf made the contract in 1963 they had estimated 2.7 trillion cubic feet of reserves. With the going price of gas $1.45 per mcf and Gulf Oil Co. 1.7 trillion cubic feet short, this means that their original overestimate of gas reserves was a $1.7 billion contract mistake.

In summary I want to emphasize that the subcommittee subpenas of seven major natural gas producers of June 16, 1975, were for the purpose of comparing company estimates with AGA estimates. When these AGA figures did not prove anything, they considered using another set of figures from USGS which had no comparability to the AGA figures.

I was interested in seeing how quickly Chairman Moss brushed off the AGA versus company figures. When the survey was started all he was concerned with was AGA and company comparisons. Now in his answer he wants to take another set of figures to try out for size.

Chairman John Moss works as hard and maybe harder than any man in Congress. He is dedicated and sincere.

The facts are now clear and conclusive. The records of the seven oil companies show that they are remarkably similar to the AGA's and a cloud has been removed over the accuracy of the AGA data.

ALCOA, TENN., HIGH SCHOOL CLASS A FOOTBALL CHAMPIONS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DUNCAN of Tennessee. Mr. Speaker, with great pride I wish to call my colleagues' attention to the recent win by the Alcoa High School Tornadoes of Alcoa, Tenn., in my congressional district, of the Tennessee Secondary School Athletic Association's Class A State Championship.

The young men of this tough football squad, under expert direction of Coach Bill Cochran, won this championship after an impressive record of 8–2 in the regular season and 4–0 in the playoffs. It should be noted that their only losses were to two other highly ranked power teams. In the final championship game, the Tornadoes overwhelmed their opposition, holding them to only 91 yards in total offense.

I hope my colleagues will join with me in congratulating the Tornadoes on this victory which has brought honor to them, their community and State, and to the great game of football.

WHY WE NEED A MANNED BOMBER

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. WRIGHT. Mr. Speaker, there is no doubt that the cruise missile is a valuable new weapon which greatly complicates the defenses of the Soviet Union. That it ever can be a total substitute for the manned bomber remains a serious question.

The December issue of Air Force Magazine carries an article which bears on this question. It was written by Gen. T. R. Milton, USAF (Ret.). I commend it to my colleagues. The article follows:

> WHY WE NEED A MANNED BOMBER
>
> By Gen. T. R. Milton, USAF (Ret.)
>
> Having tried it, I have certain misgivings about going into a well-defended country in a bomber. Nonetheless, the fact remains that there have always been some reassuring advantages connected with putting aircrews into airplanes. Not the least of these advantages has been the ability of aircrews to salvage faulty mission planning with *ad hoc* improvisation. Thus, the demise of the B–1—and it takes a very great optimist indeed to think the B–1 project might still survive—is bad news for those of us who believe in the essentiality of manned bombers. The cruise missile may be all it is cracked up to be, and we can hope fervently that it is, but it is still a missile, dependent on information fed to it before launch.
>
> There is no doubt as to its value in our constant growing strategic arms confrontation with the USSR, but it does not take the place, in terms of flexibility and versatility, of long-range manned airplanes. Even though the new cruise missiles are a good many generations removed from those despised V–1s that putted across London on their mindless course to self-destruction, they are still direct descendants of the V–1s and will thus inherit a few of their miserable ancestor's bad traits. Rapidly changing situations, unexpected antiaircraft sites, targets of opportunity are the sorts of things you cannot expect even the best programmed missiles to deal with. And so it should be good news that the Air Force has a fallback plan in the form of a rejuvenated FB–111. Admittedly, logic is still firmly on the side of the B–1, but the stretched FB–111, with advanced B–1 avionics and some badly needed new engines, seems clearly the next best answer.
>
> However, since logic was never a strong factor in the B–1's defeat, the same forces will undoubtedly marshal against this new proposal. The great cost of the B–1 was often cited as reason to kill it, and certainly as inflation and program stretch-out worked the cost up, the figures did get disconcerting. But cost alone is not a convincing reason to kill off a needed weapon system. It was really the doubt cast on the need for a new bomber that made the decision stick. The cruise missile, even with, as we have learned, its wings clipped to a 1,500-mile range, was put forward as a plausible substitute for a penetrating bomber.
>
> Maybe it is, for the single job of penetrating the USSR. In that role the cruise missile's chief value will lie in the complications it will give Soviet defenses and the deterrent value of these complications. It is a considerable contribution to gain at what appears to be a relatively modest cost. To that extent the cruise missile appears to be a huge plus for our side, although a look at the globe does cause a little worry about the 1,500-mile range limitation we have agreed

to. With that range restriction, the imaginations of Soviet air defense planners are not very severely taxed in sorting out probable launch points.

But to get back to the manned bomber and why we need it. Without disputing the wisdom of the Triad and the bomber's role in that philosophy, that is not the reason I have in mind. Nor is the fact that bombers, by their responsiveness to recall and other changes of mind, are an invaluable crutch to a President who can thus do something without doing everything. There is still another reason, in spite of these excellent ones, why bombers should continue to be an essential part of our defense apparatus. It has to do with the extraordinary versatility of the modern long-range bomber and hence its usefulness in a world where, as we become more dependent on imports and international trade, we will become ever more vulnerable.

Control of the sea remains, of course, a mission for our Navy. But the earth, as we have all heard from time to time, has seventy percent of its surface in the form of oceans. These oceans, moreover, are no longer the private domain of ships, for the farthest point from land is now easily reachable by long-range aircraft. Satellites make sea reconnaissance child's play by comparison with World War II days when radio silence often was cloak enough to hide a ship. Because modern naval defenses are formidable by any standards, the long-range airplane needs more than just long range to be effective in a maritime role. It must have speed, highly sophisticated ECM, and standoff weapons. In short, it must be something very like the B–1, or failing that, the stretched FB–111. That, then, is one reason for a new manned bomber. There are others that come to mind, ranging all the way from a precise application of nonnuclear munitions in a NATO war to a convincing show of force over some troublesome spot. It was the B–52s, remember, that nearly bailed us out of Vietnam and might have done so had the home front not collapsed first.

Cruise missiles are fine, and we ought to press on with them, but they are still missiles, limited to a single flight. They cannot patrol, or make demonstrations of force, or do a lot of other things a manned airplane can do. Hence, an air force should have some manned bombers as an essential part of its total combat strength.

There used to be a sign on the Chief of Staff's door, something about the Air Force's mission being to fly and fight. It ended with a peremptory injunction: "And don't you forget it." OK. Let's don't.

THE ILLEGAL ALIEN PROBLEM WON'T JUST GO AWAY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ASHBROOK. Mr. Speaker, on September 26 of this year, Mr. Justin Blackwelder, president of the Environmental Fund, made what was probably the most important and the most ignored speech ever delivered to the National Democratic Forum Press Club. It was the most important because Mr. Blackwelder told the Democrats frankly that the problem of illegal immigration is getting worse and will have to be faced. It was ignored because Democratic policy is to ignore illegal immigration as much as possible.

The Environmental Fund is a nonprofit educational organization concerned with the effects of population growth on the natural and human environment. Mr. Blackwelder gave the Democrats some cold, frightening facts about what the American environment will be like if we continue to allow illegal aliens to pour into this country. Nothing is better proof of the fact that the Democrats intend to do just that than the fact that I, a Republican Member, must make this speech, which was delivered to Democrats, public.

The complete text of Mr. Blackwelder's speech is given below. The italics are mine.

REMARKS OF JUSTIN BLACKWELDER

Dear Mr. Commissioner and Guests:

Much has been said about the extent to which immigration into the United States may, or may not, be a serious problem. Certainly, if the government agency in charge of immigration doesn't know to what extent people are, or are not, entering this country and staying illegally, we at The Environmental Fund don't know either. But, I would like to call your attention to some matters that The Environmental Fund does know something about and which bear directly on the subject of this discussion—in fact, these figures constitute the handwriting on the wall.

In the last 27 years, the population of Southeast Asia has more than doubled. The population of Africa has more than doubled. The population of Latin America has more than doubled. The population of Central America has increased 133 percent. The population of Mexico has increased 136 percent. And it is very important to note that during these 27 years, these populations have grown at a substantially slower rate than the rate at which they are growing now. The populations will therefore double again in a considerably shorter time.

The vast majority of the people in these areas are very, very poor by European or North American standards. That these people would like to come to Europe or the United States to live better is obvious and understandable.

They cannot move to Europe, because the Europeans will not permit it. *But they can come to the United States, and they do, because we do permit it. That they will continue to come here in increasing numbers cannot be doubted.* The debate seems to be whether or not we should continue to permit it, and if so, how many and for how long. If we don't permit it, we will still have plenty of domestic problems of our own. Our excess of births over deaths increases our population by 1⅓ million people a year. If present immigration policies are continued, our population will grow three times that fast, and the population growth rate itself will increase. Some people think that we can live with this increase and some don't. These extra annual two million people would be a tremendous burden even if they were native-born and raised, spoke English and achieved a 12th-grade education. But as it is, these two million come from every country in the world, already fully grown, often unable to read or write in any language. This does make it a little more difficult, but perhaps not insurmountable.

Now I want to get to the mathematics of the future. Because our time is short I'll talk about only one of all these countries—Mexico because, being on our border, it is much easier for Mexicans to come to the United States than it is for Pakistanis or Chinese.

The U.N. estimates that Mexico's growth rate is 3.5 percent. Government officials in Mexico have publicly stated that it is 3.8 percent. However, when we look a decade or two ahead, it doesn't matter at all whether the growth rate is 3.5, 3.8 or 3.2. The mathematics of the situation is only slightly changed. *Any of these rates will double Mexico's population in 20 years.* Like most other countries, Mexico does not adequately support its present population. Doubling the population is simply out of the question. *These people will be forced to leave Mexico and other countries will not accept them, except for the United States.* Under the circumstances, it seems fair to say then that we know where all of these people will attempt to go. *They will come here, if we permit it.*

By INS estimates of a year ago, there are more illegal aliens already here than we can presently handle, but for the sake of discussion let us assume they are not here. Also, for the sake of discussion, let us assume that the thousands we viewed on our television screens pouring across our borders four years ago were lettuce pickers who all went home. Let us overlook the fact that *87 percent of them went directly to large cities where they now consitute a most serious problem.*

If we don't know what has been happening, *there can't be the slightest doubt as to what will happen if we permit this to continue. At some point, past, present or future, the trickle becomes a torrent which becomes a flood.*

In addition to our own population growth, *can we manage to cope with 100 million extra people coming to join us by the time our small children finish college?* I suspect that these new graduates will find jobs hard to get, and the pay may be distressingly low. To those who believe that this country can easily handle such a situation, I would remind them that, if present trends continue, *when these college graduates reach middle-age there would be* in addition to our own population increase of 50 million, and the 100 million, *another 105 million immigrants.*

The Environmental Fund does not advocate that immigration either be increased or decreased. Obviously, our advocacy would not change anything. What we try to do is point out, to those who will listen, the inescapable mathematics of world population growth. *If Americans want these things to happen, this is a free country. Personally, I am inclined to think that our children will think we must have been insane.* If we manage to run out of water, energy and topsoil all by ourselves, why, in the name of good sense, should we ask others to come help us do it?

PALLADIUM MEDAL AWARDED TO WERNER C. BROWN OF DELAWARE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. EVANS of Delaware. Mr. Speaker, on November 16, I was privileged to attend the award presentation of the International Palladium Medal Award of the Societe de Chimie Industrielle, American Section. At that time, this prestigious award was presented to a distinguished Delawarean, Werner C. Brown.

The Palladium Medal was awarded to Mr. Brown for his valuable contributions to good will and understanding, both in the United States and abroad throughout his career in the chemical and allied industries. Mr. Brown presently serves as chairman of the board, Hercules, Inc., of Wilmington, Del. At the award ceremony Mr. Brown made what I consider to be one of the most outstanding speeches in my recent memory. In his speech, he spoke eloquently of both our Nation's past history and our future challenges. He expressed his concern—a concern which I share—about the spirit of "negativism" which seems to permeate our society and he pointed out the fallacies in this type of thinking.

Mr. Speaker, because of the importance of these remarks, I insert it in the CONGRESSIONAL RECORD, along with a release from the Societe de Chimie Industrielle, which discusses the Palladium Medal and the career of Mr. Brown:

"DEJA VU"

Remarks by Werner C. C. Brown

Ladies and Gentlemen, I want to thank the members of the Société de Chimie Industrielle for selecting me for this high honor; and I want to thank all of you for coming here to The Plaza tonight to share the occasion with me.

This is one of those rare moments in a lifetime when you can cherish a combined feeing of honor and humility. Together they bring about some serious introspection about what has contributed most to one's being here tonight. I don't know what others before me may have concluded, but in my case, it's my wonderful family and the 24,000 dedicated people of Hercules, who have helped make the past 35 years so rewarding for me.

The International Palladium Medal is given, we have been told, for contributions to international goodwill and understanding in the chemical industry. When I think about that, I am reminded of the comments made by our good friend, Carl Gerstacker, a few years ago. After a particularly hectic pace had taken Carl to California for a TV show, to Japan for cultural conferences, and to Colorado for a discussion with international union leaders, he asked himself: "What in my college curriculum prepared me for this?"

The answer, of course, is: not too much. Try as it might, the best of faculties can't prepare a student to go out and meet such experiences.

Perhaps one thing that has helped me has been an abiding sense of optimism. History teaches that it's been the optimists who have adjusted best to the changing tide of events—even though, paraphrasing Browning: "The reach has often been longer than the grasp."

What disappoints me most about today is that a distasteful spirit of "negativism" seems to permeate much of our society and the world we live in, and it is to that subject I would like to speak.

What is the human condition that insists on emphasizing the negative? It seems more often than not man is born crying, lives complaining, and dies disappointed.

It is not my nature to embrace such a depressing, fatalistic philosophy. So, if I may, I would like to leave with you the notion that all is not lost. The world has a future—a great future—as it always has had. The problems we see today are not unlike the ones seen by those that have gone before us. The challenge to solution was just as great to them as our challenge to solution is to us today.

I recently went through a list of great and not so great moments in American History and to set the stage, I will recite a few of these milestones. In 1607, during the first winter at Jamestown, 50 percent of the settlers died due to Indian attacks, freezing weather, starvation and disease. Appalling as it was, the survivors voted to stick it out. What happened? The second winter 85 percent of the remaining 50 percent failed to survive. The few that did, being reasonable people, and now shorn of much of their original optimism, decided to go home, and in 1609, loaded aboard and started down the James River for home. Than an amazing thing happened. They met Thomas West, sailing up the river with new provisions, new settlers, and new hope. So they returned and re-established the colony. The rest of the story you know.

Between Jamestown and today, there have been other bad times. In succession, we had the French and Indian War of 1755, the Revolutionary War of 1775, the War of 1812, the Panic of 1819, followed by the Panic of 1837, the Panic of 1857, and the Civil War of 1861.

That traumatic experience was followed by the Panic of 1903, the Panic of 1907, World War I in 1917, the stock market crash of 1929, which was followed by the Great Depression, World War II, which cured the depression, was followed by the recession of 1949, the Korean Conflict.

In short order came the economic recession of 1954, the recession of 1958, the Vietnam War, the riots of 1964 and 1968; the Arab-Israeli War of 1967, the 1973 war in the Middle East, and the oil embargo and energy crisis of that same year, followed promptly by the recession of 1974 and 1975.

You would think that nearly four centuries of life in America has been no more than a series of alternating wars and panics. But let's stop and think. What did each of our past calamities have in common? Simple. We survived them all, and life in America has kept improving, generation after generation.

I often think when I hear people refer to "the good old days" that this has to be a contradiction in terms. Life today is better. Maybe the expression "the good old days" is really a subconscious recognition of our achievements in surviving past adversities.

But, let's come back to today. The cassandras of 1977 are saying that all is lost; the end is near; after all, stocks have gone nowhere but down for a decade; we have inflation; capital shortages; unemployment; international competition; dwindling raw materials resources; industrial poisoning; declining growth; an energy crisis, and other man-made problems. Uncertainty has been created in the minds of businessmen, investors and most of society as well. A return to the 1930's, we are told, is just around the corner.

It is similar to the position many economists took at the end of World War II. Nothing shy of a major depression could be seen once we returned to a peacetime economy. Such pessimism kept many people from doing their thing which might well have changed their destinies. In retrospect, most of the fears they had never materialized.

Worldwide, our 1977 cassandras are even more apocalyptic. And to all of this, I say, "Hold it." Let's step back and look things over from another vantage point.

Sure, in the United States, unemployment rate is the highest since World War II, but since 1973, we have put well over six million additional people to work. Never in this nation's peacetime history has such a period of massive employment been experienced. Five years ago, students of employment would have said it couldn't be done. It was, and we should be able to continue to do so.

Sure, there is a growth dilemma. We need growth. Some say we can't live with it and pay the penalty. Others say we can't live without it. The fact is that the cost of stopping growth would be disastrous. What we must do, and can do, is guide growth, and, if necessary, control it.

On pollution and industrial poisoning, the pessimists would padlock the factories, eliminate the internal combustion engine, and essentially push society back in time 100 years or more to a way of life that would be devoid of the new problems that progress has brought with it. We would have the old problems, but no one seems to mention these.

What these people propose wouldn't help at all. Indeed, if we had as many people a century or so ago as we have today, without today's technology to cope with pollution, less of us would likely be here tonight.

Some experts on the subject contend that with today's technology less pollution per person results than did a century ago. If you doubt that, visualize New York City with all its citizens of today still being warmed through the long winters by open hearth fires, or try to visualize the vast herds of horses needed for the city's power requirements. I don't know which would be harder—finding wood left to burn, air left to breathe, or finding a safe place to walk.

There is an almost universally held belief in this country that industry and its products are major causes for a growing endangered species list. The pessimists say 50 species are heading for extinction in this century. A noted scientist goes further and says, "Yes, 50 species will become extinct." But he also adds that 50 species became extinct last century, and 50 became extinct the century before that. In fact, he says 100 million species of plant and animal life have already become extinct.

Only last week I read that the whooping crane, once seemingly doomed to extinction has a future that now looks encouraging. More endangered whoopers are flying south than at any time in recent history. I don't know what whooping cranes do, but I am glad they are back.

The point to note, I think, is that man, with his institutions such as business and industry, is a recent visitor to this planet, and had nothing to do with the extinction of the millions of species that preceded him. Nature is still a prime determining factor. In fact, man, who can go to the moon and split the atom, has not to date been successful in eliminating one single insect species, even though he has declared all-out war on a number of undesirable ones.

It is obvious that many of our problems today would not have existed in a primitive society, but neither would our present levels of accomplishments and wellbeing. What we fail to realize is that the pristine environment that our American Indian enjoyed didn't assure him a long life. The sad fact is that the best records indicate the average Indian lived only 24 years. It was the Industrial Age and modern man's ability to provide for better health that raised our current life expectancy to over 72 years for men and 76 for women—50 percent longer than our great-grandparents.

Up until recently, the predominate efforts and incentives of our nation were clearly directed toward the fulfillment of our basic requirements. Our economic and social systems were geared toward the production of ever larger quantities of food and goods, making them available to everyone. Was it bad that our society would be the first to reach freedom from materialistic wants? And is it bad that we are the only large nation in the world which can completely feed its people and do so with only a small fraction of its resources? Aside from the obvious benefits to us, we have built a model to show the world what can be done with technology and free enterprise.

If any criticism can be leveled, it has to be at our inability to appreciate our spectacular success and what was required to achieve it. Americans have become so accustomed to dramatic advancement in technologies that many significant achievements in science and engineering are viewed as pedestrian. We have developed the "what have you done for me today" attitude. Whether it's an energy crisis, a pollution problem, a raw material shortage, or even a social problem, Americans expect an instant solution. And when we don't get one, our pessimists are quick to preach that the future holds nothing but doom and gloom.

Earlier I cited a number of the problems we have facing us today—many of these are transitory and natural consequences of our cyclical economy. I am sure all in this room are no less concerned, because indeed the problems are real. And I am sure many in this room would give an eyetooth to know when we will see earnings return to the levels of "the good old days."

We do have problems that are not cyclical. Of these, our biggest are energy, raw materials and food. These are longer-term problems and so much the better because we'll need time to solve them. And solve them, we will.

You know, it's somewhat ironic that our pessimists can do such a thorough job in focusing the media's attention on unemployment, pollution and social problems, but are so inept at generating any serious treatment for putting the energy problem in proper perspective. Recent surveys have shown that the vast majority of the people in this country believe there is no energy problem at all. Either now or in the future. Others, on the other hand, are acting like we will soon be down to our last barrel of oil and cubic foot of gas. Neither is correct.

Just last week, I was pleased to read that Robert Seymour, outgoing Chairman of the American Gas Association, shares my more optimistic stand. He said he gets a little weary with the shortsighted doomsayers who woefully conclude we are running out of gas and neglect to consider several new supply increases in prospect from Alaska, Mexico and Latin America, and also the fact that conventional U.S. supply is going to be bolstered by increasing quantities of synthetic natural gas from coal gasification.

There is no question that fossil fuels are finite and in time we could burn them all up. The energy problem, as I see it, is primarily an economic problem for the short term and only a critical problem for the longer term. For the immediate future, we need conservation and new discoveries to maintain a reasonable balance between fossil fuel costs and the rest of our economy. The real energy challenge is in finding sources of energy for the future that are not dependent on fossil fuels.

Some years ago, our national leaders recognized the need to initiate programs which set a national spirit in motion to unite the American public toward major goals. The identification of Sputnik as a national challenge led to the Apollo missions and provided massive investments, technology advances, economic stimulation and national pride over a protracted period of time. The need for a major energy program in this country today is much more understandable than the need for a trip to the moon was in the Sixties. Technologies already are in sight which offer many times more energy than has ever existed in the world's fossil fuel resources. We need to make energy a national challenge.

A few weeks ago, Christopher Craft, the Director of NASA's Houston Space Center, outlined a new concept for the collection of solar energy by locating solar power stations in space. They plan to construct large satellites in space, collect the sun's energy, convert it to radio energy, and then beam that energy to receiving stations on earth where it would be converted to electricity for commercial distribution. Here would be a limitless source of energy without a raw material cost. Initial investments would be high, but amortization periods would be long.

Futurist Magazine, a few years ago, published an article on thermonuclear fusion. Written before the plug was pulled by OPEC, it nonetheless is as current today as it was then. It takes the position that thermonuclear fusion could have the potential of generating quantities of energy well beyond the world's requirements for millions of years.

To describe these vast quantities, scientists talk in "quads" of energy. To give you an idea of how big a quad is, the entire world at present consumes about 200 quads in a year—nearly all of it coming from fossil fuels. Fusion doesn't depend on fossil fuels, but fuels that are extremely abundant—like lithium and deuterium. The lithium in sea water alone is equivalent to 21 billion quads of energy, or enough for the entire world for 100 million years at our present consumption rate. The reserves of deuterium are much more staggering.

Yes, we have an energy problem. It is perhaps the largest problem facing us today. And, yes, I am an optimist. But I am also a pragmatist. It seems to me we must lead change rather than respond to the pressure of events. And in leading, we must face squarely the differences that exist within our society, because, as Maeterlinck wrote, "At every crossing on the road that leads to the future, each progressive spirit is opposed by a thousand men appointed to guard the past." If I have any thoughts for immediate action on the energy problem, it would be to call for a massive educational program for the American public and, perhaps, the world; a program that would respect parochial interests, but for the common well-being of all; a program that would teach the seriousness of the problem, but show that both near- and long-term solutions will be found; and, most of all, a program that would impart spirit and determination—and not pessimism and despair—or even, worst of all, complacency. There is no question in my mind that we will solve the energy problem.

Earlier I mentioned both raw material and food supplies as problems we are facing for which the pessimists predict no solutions. We in the chemical industry are more aware of dwindling raw material resources than the general public—and even many other industries. More than half our products rely on gas and oil, and in the future will certainly rely to a significant extent on coal also. Perhaps that's why we would like to see an alternate source of energy as soon as possible. But there are other raw materials, mostly minerals, which the pessimists predict also will be exhausted in the not too distant future. We need not accept such projections. Major programs are already undertaking the mining of manganese, iron, nickel, copper and cobalt from the ocean floor. Dozens of other valuable minerals are known to exist in the seabed and there are good reasons to feel confident that we will make them available for our use should our needs become critical. As a matter of fact, the major-objections registered so far against a more rapid advancement of ocean bottom mining have come from third world countries who are concerned that new sources might have a depressing price effect on the minerals they currently mine and export.

What about food?

In the United States, it is hard for us to visualize real shortages. We have so much. In other parts of the world, there are severe shortages and they may get worse. However, I don't believe we will ever see the situation get so bad that a large segment of the world's population starves. Responsible nations will inevitably come to the rescue. Because of this, I am gratified to read about the strides that are being made by our farm industry in increasing crop yields.

And gratified too that one of our other primary food sources—seafood—is now receiving long overdue attention.

The pessimists will say that if you take more than 100 million tons of food from the oceans annually the water's capacity to reproduce will be impaired, and that doesn't leave a great deal of room to grow for the fish industry that has quadrupled its annual output to 70 million tons in the past quarter century. However, as a recent Forbes article points out, the world is still in the stone age in terms of our utilization of fish. We're still hunting fish!

Aquaculture, the alternative to hunting, is not a new concept. The Chinese and Japanese have fish farmed for centuries. More recently, in this country, nearly all the trout and half the catfish and crayfish sold commercially are raised on fish farms. Marine shrimp farming is developing along the Texas Gulf Coast and on the coast of Florida and Georgia. Large fresh water prawns are being grown in Hawaii, Puerto Rico, Georgia and Florida. Lobsters are being farm grown in the Northeastern states; and, in my own home state of Delaware, the University is growing clams and oysters under completely closed-cycle conditions and have established that their system is commercially competitive. ($22/bushel).

The Weyerhaeuser Company is investing $10 million in an attempt to ocean-ranch salmon. The fish will be raised in hatcheries and then released at coastal sites where they will be harvested a few years later when their homing instinct brings them back to spawn. Union Carbide, through a subsidiary in Bremerton, Washington, is already in the business of raising salmon in pens. The University of Rhode Island is experimenting with raising salmon in silos. The Franklin Institute and Kraft, Inc. have begun an experimental fish farm on the Susquehanna that uses the warm water effluent from the Peachbottom nuclear power plant to enhance the growth period of fish. May I add here that in this case the warm water effluent about which environmentalists have been so concerned becomes a "thermalenhancement" and not a pollutant!

And why all this activity? Simple. Estimates show that when properly managed, an acre of water can produce at least ten times as much protein per year as an acre of pasture land. And, don't forget, there certainly has to be far more water on this earth suitable for aquaculture than there is land suitable for agriculture. We have a looming global food problem, but I submit, it is solvable.

We've heard that lack of pure water could lead to an international crisis. Yet 70 percent of the world's surface is covered by water and we know how to purify it. Providing potable water any place in the world in sufficient quantities to meet local needs is not an insurmountable problem; it just takes investment. Only recently, you probably read where the Saudis are developing plans to tow icebergs to arid areas as a source of fresh water.

In the final analysis, I have to conclude that there are no absolute shortages of resources—whether they be energy, raw materials, food, or water. The shortage that does exist, if we allow it, is a faith in ourselves and our ability to meet change; and above all, an optimism that keeps us going forward to cope with adversity and overcome it. Even if we wanted to, we could not reverse the forward thrust of the world. We have no choice but to continue to try to improve it—and we can—guided by a full appreciation of the power of our technological base.

When the cliff-dwellers in prehistoric Arizona found climatic changes were leaving their country arid, they skillfully contrived irrigation—because they had to.

When the British began to run out of wood to build their homes during the reign of the Tudor Kings, they innovated with English Tudor houses—half stone, half wood—because they had to.

When whale oil no longer flowed from Gloucester and lights began to dim, another fuel was discovered in the Bradford fields of Pennsylvania—because it had to be found.

In closing, I would like to leave you with the feeling that all is not lost. The world has a future—a great future—as it always has had, the problems we see today are not unlike the ones seen by those that have gone before. The challenge to solution was just as great to them as our challenge is to us today. Just as they "had to"—so do we "have to"—what we have today is just another déjà vu in the history of mankind.

News Release From Société de Chimie Industrielle, Inc.

Werner C. Brown, president and chief executive officer, Hercules Incorporated, Wilmington, Del., has been selected to receive the International Palladium Medal of the American Section of the Societe de Chimie Industrielle, Inc., for 1977, it has been announced by Charles C. King of the Lummus Company, president of the American section.

This will be the ninth award of The Palladium Medal which will be presented to Mr. Brown at a dinner in his honor Wednesday, November 16, 1977, at the Hotel Plaza, New York. The dinner will have an international attendance of leaders in science and industry.

According to Mr. King, the medal is to be awarded to Mr. Brown for his distinguished contributions to goodwill and understanding both in the United States and abroad throughout his long career in the chemical and allied industries. "His work has enhanced the aims and objectives of the Societe de Chimie Industrielle," said Mr. King.

The Palladium Medal of the American Section of the Societe de Chimie Industrielle is an award established in 1958. The medal may be awarded once each year to an individual who has distinguished himself by reason of outstanding contribution to the chemical industry of such a character and scope as to enhance the international aims and objectives of the Societe de Chimie Industrielle.

Information concerning The Award Dinner is available from the secretary of The American Section, SCI, Patrick P. McCurdy, *Chemical Week*, 1221 Avenue of the Americas, New York, N.Y. 10020.

First presentation of the Palladium Medal was in 1961 to Ernest John Solvay of Belgium. Succeeding winners were Charles Allen Thomas of Monsanto; M. Paul Toinet, president, directeur general, des Soudieres Reunies de la Madeleine-Varangeville; Monroe J. Rathbone, Standard Oil of New Jersey; Karl Winnacker, chairman of the board, Farbwerke Hoechst, AG; Henry Smith Wingate, chairman and chief officer, The International Nickel Company of Canada, Ltd.; William W. Keeler, Chairman, Phillips Petroleum, and J. Peter Grace, chairman, W. R. Grace & Co.

Werner C. Brown is president and chief executive officer of Hercules Incorporated, a post he has held since 1970.

He was graduated from Duke University and joined Hercules in 1942 as a chemist at its Research Center near Wilmington.

Following research and marketing jobs primarily in cellulose products, Mr. Brown became general manager of Hercules' Polymers Department in 1960, and in 1963 was elected to the company's board of directors. He was elected a vice president and member of the executive committee in 1966 and member of the finance committee in 1969. He became president in May, 1970, becoming the fifth chief executive in the company's history. At the same time, he became chairman of the executive committee.

Mr. Brown is a member of the board of the Federal Reserve Bank of Philadelphia; member of the board and chairman of the executive committee of Delmarva Power & Light Co.; member of the board of Diamond State Telephone Co.; trustee of the Wilmington Medical Center; past chairman of the board of the Manufacturing Chemists Association; member of the President's Export Council; on the board of trustees, executive committee, and finance committee (of which he is chairman) of the University of Delaware; member of the board of trustees of Duke University; past chairman of the executive committee of the Society of Chemical Industry; member of the American Chemical Society; a Regular Member of The Conference Board; member of Societe de Chimie Industrielle, Inc.; and a past member of the executive council of the Harvard Business School.

His family includes his wife, the former Maude S. Bulluck of Wilmington, N.C.; four sons, David, Stephen, Matt, and Richard; two daughters, Margaret and Alice; and his parents, Mr. and Mrs. Robley Evans Brown of Blue Ridge Summit, Pa.

He resides on Old Kennett Road in Greenville, Del.

FEDERAL HIGHWAY SAFETY LEGISLATION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. STEERS. Mr. Speaker, Representative James L. Oberstar has introduced legislation to enable the Department of Transportation's National Driver Register to serve as an effective clearinghouse for State licensing authorities. It would modernize the Register with on-line communication to prevent individuals with suspended or revoked drivers licenses from crossing State lines to secure another license.

Background information relative to Mr. Oberstar's bill appeared in a Montgomery Journal article, written by Alice Popkin, on December 2, 1977. I hereby submit a copy of the article for the Record because I recognize the need to implement such a highway safety program:

Federal Highway Safety Bill Memorial to Bethesda Girl

(By Alice Popkin)

A bill now before Congress to reduce highway fatalities was written as a memorial to a Bethesda girl who died in an automobile accident in December 1975 when she was 14 years old.

The girl, Kamy Nathanson, "did not live in vain," said Rep. James L. Oberstar (D-Minn.), sponsor of the bill he introduced in her memcry, which he said will "strengthen the National Driver Register to reduce the highway slaughter perpetrated by 10 million unlicensed drivers."

Oberstar, who has lived in Bethesda for 11 years, is a neighbor of Kamy's parents, Kenneth and Fran Nathanson.

"I watched Kamy grow from a toddler to a spirited teenager, who was a favorite babysitter in our neighborhood of Carderock," he said. "Kamy's death could have been prevented because the driver of the tractor-trailer that struck the Nathanson's car had a record of short-term license suspensions in his home state. His license was suspended at the time the accident occurred, and he had crossed state lines to obtain a license in another state."

A member of the House Public Works and Transportation Committee, Oberstar has proposed that the Department of Transportation's National Driver Register be modernized with on-line electronic communication. "Then it would be a more effective central clearing house for state licensing authorities to uniformly identify and to ultimately prevent persons like the driver who killed Kamy from getting on the road in the first place," he said.

He estimated that the cost of his program would be $1.5 million. "This is a small yet very worthwhile investment," Oberstar said. "Kamy's life was sacred. Every life is sacred. You cannot put a price on life. Some statisticians have calculated the value of a human life to be $285,000. Consequently, the 47,200 highway deaths a year cost us $13.5 billion in human resources."

Because of the competition for funds with other vital issues, Oberstar is calling for support from people who are concerned about the menace of unlicensed drivers.

Spearheading the effort are Kamy's parents. Ken Nathanson, president of a group called Citizens for Better Driving Records, "has single-handedly taken the safety program from the Department of Transportation to the country" through a public interest crusade, Oberstar said.

Seeking public backing, the group is conducting a membership drive and a dialogue with highway safety officials and community service groups across the nation to dispel the attitude that "this will never happen to me," according to educational pamphlets it is circulating from an office in the National Press Building.

"It did happen to the Nathansons," Oberstar said. "Their attitude was not of outrage nor of revenge, but rather how can we prevent this from happening to others. Ken, Fran and their son Harlan found the answer. They are touching the lives of others by minimizing the possibilities of such accidents happening in the future."

He described his bill as "a constructive memorial which citizens and congresspersons can together bring to reality. It is a crusade for Kamy."

CONGRESSMAN STOKES REPORTS TO THE PEOPLE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. STOKES. Mr. Speaker, at this time I would like to call to your attention my most recent congressional newsletter. I have prepared several informative and service-oriented articles to keep my constituents informed of my duties as a Member of this distinguished body of legislators. I am certain that you and my colleagues are keenly aware of the importance of communicating our work and activities to the citizens back home. We have been given the solemn responsibility of representing their best interests and upholding their constitutional rights.

Therefore, Mr. Speaker, as the Representative of Ohio's 21st District, I respectfully submit to the Congressional Record my latest report to the people:

Congressman Louis Stokes Reports

As the first session of the 95th Congress draws to a close, Congress continues to grapple with major legislative issues of critical importance to the residents of the 21st district and all Americans. Energy, welfare reform, national health insurance, unemployment, and tax reform are but a few of the national priorities awaiting legislative and administrative action.

Unemployment is perhaps the single most important issue facing Cleveland and the twenty-first district today. Our city has been hard-hit by economic fluctuation and inflation. This has resulted in chronically high unemployment rates throughout the greater metropolitan areas, especially in low income neighborhoods. Even though the overall 1977 unemployment statistics have improved somewhat—5.1 percent for September 1977 as compared to 6.1 percent the year before—the figures for Blacks and teenagers remain alarmingly high.

On the national level, the U.S. Department of Labor reported in August that the nationwide unemployment rate was 7.1 percent and that Black workers were unemployed at the rate of 14.5 percent. While these figures are dismal, the high unemployment rate of teenagers—18.1 percent for all teens and 40.4 percent for Black youth—are truly depressing.

Armed with these statistics, the Congressional Black Caucus met with President Carter to urge him to endorse the Humphrey/Hawkins Full Employment and Balanced Growth Act of 1977 (HR–50). If aggressively implemented, this comprehensive legislation could greatly reduce high unemployment. In response to the Caucus challenge, President Carter assigned his top economic advisors to work out a compromise version of the bill which would remain faithful to the original intent of the legislation while amending certain details.

In brief, HR–50 will:

Affirm the right of all Americans to a useful job at a fair wage;

Reduce unemployment to 3 percent among adults and 4 percent for the entire labor force as soon as possible (at least within 5 years);

Develop a new process for the coordination of a comprehensive national economic policy;

Promote the creation of government jobs, where needed, and encourage the expansion of jobs in the private sector and traditional types of public employment; and

Reduction and ultimate removal of differentials in rates of unemployment among minorities and other groups within the labor force.

To obtain these goals, HR–50 contains a strong 7-point economic stimulation program and sets forth additional action such as increased aid to state and local governments, aid to chronically depressed areas, increased youth employment, job training and counseling.

In addition to HR–50, the House has passed a bill specifically to combat high unemployment among youth. The Youth Employment and Demonstration Act (HR–6138) is designed to create a variety of employment projects for youngsters ages 16–23, including a Young Adults Conservation Corps. HR–6138 contains many of the provisions in my bill, "The National Community Based Organization Youth Job Creation and Training Act of 1977" which was introduced last January. The Stokes bill provided for a special financial assistance program to national community based organizations of demonstrated effectiveness. Groups such as OIC, the National Urban League, Jobs for Progress, and the Recruitment and Training Program will receive federal funds to implement new programs and expand existing job training services for youth. By 1980, the bill should spur the creation of one million new jobs for unemployed youth. It is important to add that ongoing job related programs such as CETA (The Comprehensive Employment and Training Act), public works programs, and revenue sharing funds, should continue to expand in our district and our city. Even though up to this point I have only spoken of federal programs and legislation, let me add that it is essential that the private sector also take a prominent leadership role in curbing high unemployment.

This nation cannot afford to tolerate the current level of unemployment in America today. In a Democracy, every individual who is willing and able to work deserves meaningful employment. Every man and woman in America, especially our youth, is entitled as a matter of right to the dignity and self-respect which a job gives to a human being.

CONGRESSIONAL PAGES: GIVING YOUTH AN OPPORTUNITY

Laurie Clemons and Dawn Ferguson, both bright and talented young women and both Congressional Pages for Congressman Louis Stokes.

Laurie, the vivacious 16 year old daughter of Rev. and Mrs. Burton Clemons of Shaker Heights, was a Page in the Congressman's Washington office this summer, and is now a senior at Shaker Heights High. How did she like her job? "Just fantastic," Laurie replied. "Everyone on Congressman Stokes' staff made me feel right at home. Not only was it exciting to work for Congress, it was a thoroughly educational experience."

Laurie hasn't decided which college she wishes to attend next year, but she is most definite in her plans to become a corporate or criminal lawyer.

Dawn rises at "dawn" to attend Congressional Page School each weekday morning in the U.S. Capitol building. By 9:30 a.m., having completed a rigorous schedule of academic courses, she commences her duties as a Page. Her physically strenuous schedule can last as late as 8 p.m., and during peak legislative periods, it has not been unheard of Pages burning the midnight oil!

Born Dawn Camille Ferguson, the attractive teenager is the daughter of Janet and Birt Smith of Shaker Heights. Now a twelfth grader, she is contemplating a career as an engineer even though she is keeping other professional options in mind.

Dawn has high praises for her job: "I think that being a page is an experience that can't be matched. It is definitely an invaluable experience for a young person with high ambitions and I am grateful to Congressman Stokes for this opportunity."

If you with to submit an application to become a Congressional Page, please write to Congressman Louis Stokes, Congressional Page Program, 2455 Rayburn House Office Building, Washington, D.C. 20515. To qualify, you must be 16 years of age and not past your 18th birthday at the time of appointment; applicant must have completed 10th grade and be eligible for their junior or senior year; applicant must have an above-average scholastic average.

STOKES SURVEYS COLLINWOOD FLOOD DAMAGE

On August 8, 1977, Congressman Stokes conducted an "on the spot" survey of the flooding problems which continuously plague the Collinwood area. Accompanied by Councilman David Trenton (Ward 32) and members of his district staff, the Congressman toured the banks of Euclid Creek in the vicinity of Lake Shore and the East 185th Street area. During periods of heavy rain, Euclid Creek overflows cascading tons of water into the surrounding residential areas. Since 1975, the Congressman has been exploring measures to limit flooding and improve the sewage and drainage problems in the Collinwood area and has assigned one of his chief aides, Mr. Edward Matt, to work with city officials and community residents in rectifying this matter.

During his walking tour, the Cleveland Congressman stopped at the residence of Mr. John Palfalei of 17851 Briar Road who has lost nearly 20 feet of land due to the constant erosion of flood water. A retainer wall on his property has been virtually washed away. Other residents discussed the huge financial losses incurred because of water damage in their homes.

The tour began at St. John's Lutheran Church at East 174th Street and Nottingham where the Congressman met with a community delegation on the flooding situation. After the walking tour, Congressman Stokes dropped in at Tony's Polka Village on East 185th Street where he toured the Slovak broadcast facilities and was given a briefing on additional area concerns.

Accompanying the Congressman on the 4-hour tour were Cleveland staff members Edith Benson, Jewell Gilbert, Aaron Wheeler, and Edward Matt.

The facts gathered on this trip are being coordinated with the U.S. Corps of Engineers who have begun feasibility and project studies on Euclid Creek flooding.

STOKES GETS $2.1 MILLION FOR CLEVELAND ENTERPRISE

Congressman Stokes was instrumental in obtaining a grant for the Hough Area Development Corporation in the amount of $2,061,944 from the Community Services Administration. On six separate occasions, he initiated meetings with Hough executives and CSA officials to negotiate the terms of the grant and to facilitate its passage through the CSA Bureaucracy.

The Special Impact grant scheduled to run for 20 months beginning the first of October 1977, is earmarked for a variety of community oriented programs to increase jobs and to strengthen current HADC investments, including the Martin Luther King Plaza, Community Products, and the HADC Credit Union. Two major new investments are also in the making and plans are underway to rehabilitate at least 180 housing units in the impact area. According to Congressman Stokes, a major HADC initiative will be the establishment of a youth employment program in which approximately 30 jobs will be created for the residents of the Hough area who are bewteen 16 and 22 years of age.

LEGISLATIVE UPDATE

The 95th Congress is nearing completion of a productive first session filled with major legislative accomplishments, including bills on economic stimulation and jobs, housihg, education, environment, international affairs, defense, veteran affairs, and agriculture. I have been actively involved in these issues, particularly those which directly affect the lives of my constituents.

Much of my legislative work takes place in Congressional Committees. This is where the most intensive consideration is given to the proposed measures and where the public is given an opportunity to be heard. I sit on two of the most powerful committees of the House of Representatives, the Appropriations and Budget Committees.

As a member of the Appropriations Committee, I have a key vote in the allocation of money for all federal programs. In fact, this year the committee appropriated approximately $301 billion in federal funds. To facilitate the work of the full committee, each member is assigned to strategic subcommittees. My appropriations subcommittees are Labor/Health, Education and Welfare, Foreign Operations; and Housing and Urban Development/Independent Agencies.

STOKES AMENDMENT ESTABLISHES MEDICAL SCHOOL AT MOREHOUSE

As a result of my amendment to the Labor/HEW bill, $5 million was appropriated to establish a school of medicine at Morehouse University in Atlanta, Georgia. This amendment was the second step in my efforts to increase the participation of minorities in the medical profession. As early as March 1977, I offered a $326,000 amendment for start-up funds for Morehouse. On the occasion that I offered these amendments, I reminded Congress that less than 2 percent of the 370,000 doctors in America are Black, and that the minority population is the most medically underserved segment of our society.

STOKES AMENDMENT HELPS FUTURE LAWYERS

My $250,000 amendment to the Labor/HEW Bill increased funds for the Council on Legal Education Opportunity Program (CLEO). This program provides much needed funds for the pre-law education of future minority lawyers as well as funds to support them throughout their years in law school.

HEARINGS

As a member of the House Budget Committee and Chairman of the Task Force on Community and Physical Resources, I recently held hearings on Transportation policy to develop next year's federal budget.

These legislative proposals will have a significant impact on local, state, and federal operations through the expansion of existing programs and the development of new programs. Of particular interest to the Task Force was the effect of transportation programs as investments in our urban policy. At the top of the discussion list were issues relating to mass transportation in Cleveland, including specific references to Cleveland RTA and "The People Mover." During the hearings, at which Secretary of Transportation Brock Adams testified, I voiced concern that residents of poorer neighborhoods are inadequately serviced by mass transportation. They are the citizens who need it most. With businesses moving further and further away from the inner-city, community residents are in danger of becoming isolated from lucrative job opportunities.

These are just a few of the legislative issues that I tackle in my Committees each day. It is my hope to draw attention to and improve the social and economic position of my constituents. Of equal importance to my Committee work, is my voice and my vote on the Floor of the House and my interaction with federal and community officials on key issues.

During the first session of the 95th Congress, I have been particularly active in the following areas:

SENIOR CITIZENS

I have supported adoption of legislation to abolish mandatory retirement so that active senior citizens, who out of necessity or desire wish to continue employment, have the right to do so. I testified on this issue at the Cleveland City Council Chambers on August 8, 1977. I explained that age has little to do with variations in individual capabilities and is a poor indicator of abilty to perform a job. At the same time, I am aware that seniors who are members of certain ethnic groups do not live long enough to begin to collect social security payments. For this reason, I have sponsored a bill to amend the Social Security Act to remove the ceiling on the amount of annual earnings subject to a social security taxation, to increase minimum benefits, provide full benefits at a reduced age for members of groups with a less than average life expectance, repeal the earnings test, and to make other improvements in the old age, survivors and disability insurance programs.

Also on the subject of Social Security, H.R. 9346 (the Social Security Financing Amendments of 1977) recently came before the House. I received hundreds of letters on this bill which, in part, provided for mandatory social security coverage of federal, state, and local employees, and employees of nonprofit organizations. I supported the Fisher amendment which deleted from the bill mandatory social security coverage of these employees and I supported its final passage with other qualifying amendments.

HEALTH

Health is one of my major concerns since my district has more hospitals than any district in America. I have long been concerned that low-income families and the elderly receive maximum Medicare/Medicaid benefits. For this reason, I have actively supported H.R. 3, the "Medicare/Medicaid Anti-Fraud and Abuse Amendments" which would strengthen the capability of the government to detect, prosecute, and punish fraudulent activities and charges by professionals. This action will thereby benefit the poor and sick people who are most in need of services by adding more money to these programs.

As you may know, it was through my efforts that the Labor/HEW Appropriation Bill, H.R. 7555, provides $247,000 for Community Health Centers. Though this is an increase over previous funding, the Hough Norwood Family Health Care Center in Cleveland, Ohio, has received an inappropriate and insufficient level of funding. I continue to urge the Regional Health Administrator to restore $975,000 since the effectiveness and evinced need for services provided by the center have been documented. Such additional funding will tremendously benefit the residents of this area of Cleveland.

HOUSING

I met with Housing and Urban Development officials to discuss the current financial crisis situation at Longwood and the necessity for major HUD assistance to insure Longwood's survival. The Longwood Cooperative houses more than 2,000 people in approximately 800 housing units. I expressed my commitment to do everything necessary to save the Cooperative, which is of great importance to the immediate surrounding community and the city of Cleveland.

NOTICE TO VETERANS

December 31st, 1977 is the deadline for Vietnam Era Bonus applications in the State of Ohio.

Veterans who recently received upgrades in their discharge would qualify for this bonus. Application must be on file before midnight, December 31, 1977.

ASSASSINATIONS PROBE MOVES FORWARD

Fourteen years have passed since the death of President John F. Kennedy and nine years since the murder of Dr. Martin Luther King, Jr. Yet time has not lessened the impact of these murders in the hearts and minds of the American people.

On September 17, 1976, in response to the overwhelming majority of Americans who believe that the full story has not yet been told relative to these two murders, the U.S. House of Representatives voted to constitute a select committee to investigate the assassinations of President Kennedy and Dr. King and to resolve the unanswered questions once and for all.

The early months of the investigation were beset by internal pressures and administrative setbacks, resulting in the resignation of the Committee's Chairman, Rep. Henry Gonzalez of Texas.

Last March, the Speaker of the House Thomas "Tip" O'Neill called on Cong. Stokes to accept the chairmanship of the beleaguered committee. In accepting this extraordinary responsibility, Chairman Stokes inherited a committee which was scheduled to terminate in three weeks time and which possessed only a temporary budget. Under the careful supervision of Chairman Stokes, the Committee was reconstituted by a vote of 230 to 181 and received a budget of approximately $2.5 million to carry out its mandate.

Nine months have passed since that historic appointment and the committee has continued to move forward with vigor in the investigation.

The Committee staff now consists of a chief counsel, Professor G. Robert Blakey of Cornell University, and 115 dedicated individuals who have worked countless hours on the investigation, foraging through thousands of files, analyzing materials, identifying and interviewing witnesses and pursuing new leads and information.

In order to preserve the integrity of the probe, Chairman Stokes has kept a tight rein on investigative information. Nevertheless, as the investigation nears completion, the Committee will hold full public hearings and submit a comprehensive report to Congress and the American people.

CONGRESSMAN STOKES ANNOUNCES MOBILE DISTRICT OFFICE

As an added service to his constituents, Congressman Stokes has announced the opening of a mobile district office to begin service on or about December 1, 1977.

The brand-new, 28-foot unit will travel to neighborhoods in the 21st district on a rotating basis. It will be staffed with two Congressional aides who will hear problems, complaints and recommendations and will perform a variety of constituent services. Each month, an advisory will go out to the media, churches, government agencies, and community organizations to notify constituents of the location and time schedule of the mobile office.

The traveling district office will be of benefit to all of the residents of the 21st district, especially the elderly, the handicapped, homemakers, and students. Flexible and extended office hours are planned to benefit working people.

STOKES DISTRICT OFFICE: PEOPLE WITH A PURPOSE

While national and international attention focuses on Congressman Stokes' Washington activities, his twenty-first district staff is hard at work meeting the daily needs of his constituents. The twenty-ninth floor suite of offices overlooking the shores of Lake Erie is a hub of activity from dawn to dusk. And the seven highly competent individuals who work there are ready and willing to tackle the most difficult constituent complaint. Whatever the problem, someone in the district office will know where to go and what to do to find the answer.

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Each staff person is responsible for a different federal agency. They also act as an information and referral service to guide citizens in city and state government matters.

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Please call or drop-in for a visit soon.

STATEMENT ON SOCIAL SECURITY BILL

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CORMAN. Mr. Speaker, I only want to take a few minutes to bring to the attention of the House a bill which will resolve a longstanding dispute over the disposition of certain claims made by the States for social services reimbursement. As will be readily apparent from the background paper prepared by HEW and included as part of these remarks, this is an issue that goes back many years and in which the difficulties have only been compounded by the passage of time.

The Carter administration is to be congratulated for the breakthrough that this legislative initiative represents. It is a proposal which cuts through what has been a long and often costly series of disputes between the States and the Federal Government. It is a settlement that has been eagerly awaited by the States. Perhaps most important, at a time when all sectors of government have good reason to be careful about the financial burdens they bear and the deliberate in arriving at any decisions which have financial implications, this bill is the result of a carefully negotiated compromise to which both the States and the Federal Government have agreed.

Mr. Speaker, I include the HEW background paper and text of the bill as part of my remarks at this point in the RECORD:

BACKGROUND

In the late 1950s the Congress authorized Federal matching under the welfare titles of the Social Security Act (titles I, X, XIV, and XVI) not merely for the traditional money payments by the States to "welfare" recipients but also for the State costs of social services provided to certain classes of the poor. At first these services, to be matchable, had to be provided by the State welfare agency and had to be provided only to current cash payment recipients (1957). Later, the State welfare agencies were authorized to purchase services from other public agencies and simultaneously were authorized to provide those services (with Federal matching) to former and potential cash assistance recipients (1962). Still later, the law was amended to allow the State welfare agency to purchase these services from private agencies (1967).

All these changes took place in the context of the "old" cooperative Federal-State welfare relationships. There were no Federal regulations governing these programs published in the Federal Register before 1969; a Federal Handbook was used for guidance by the States in interpreting the law.

As late as 1969, about 85 percent of the $354 million claims under the Social Services program was for salaries and expenses of the employees of the Single State Agency who were engaged in the traditional case work services. Only about 15 percent was for purchased services and most of this was for day care. However, about this time there were a number of things that took place which changed this picture.

HEW became very active in 1969 and 1970 in encouraging States to integrate the delivery of social services through agreements with other agencies, and through the formation of umbrella agencies. Social Services funds were seen by the State agencies as well as by HEW staff as a source, not limited by a ceiling on appropriations, to provide the "glue" money to bring available resources together in an integrated services system, which would greatly expand the availability of services to poor people. The general thrust was to put the Single State Agency in the position of being able to coordinate and expand diverse resources to provide effective services to current, former and potential recipients of Financial Assistance.

This effort toward an integrated services system was greatly encouraged by the provisions of the Act which made former and potential recipients of financial assistance, as well as current recipients, eligible for services.

Against this background, certain State governors and State budget agencies, spurred by fiscal crises, saw an opportunity to utilize Federal funds as a substitute for scarce State resources.

They were encouraged in this by management consultant firms that helped them prepare State Plan Amendments, and purchases of services agreements, and to develop claims in an effort to gain Federal matching for expenditures of other agencies. A variety of techniques was employed, including: estimating expenditures, sampling for eligibility, and determination of eligibility after the fact.

The first State to prepare plan amendments and develop claims did so on the basis of approved plan amendments. The next State to submit claims did so on the expectation that its plan amendments would be approved effective back to nearly a year before. The amendments were subsequently disapproved, and that disapproval is now the subject of a hearing before an Administrative Law Judge. However in the meantime, other States quickly developed amended State plans, and filed claims, and the pressure built to have all such claims expeditiously repayed.

As a result of the heightened expectations by States—even before the claims had been reviewed and approved or disapproved—estimates of the Federal share of FY 1973 social services expenditures ballooned from $1.3 billion submitted by the States in May 1972, to $4.8 billion in August of 1972. That prompted the Congress to set a ceiling of $2.5 billion on social services expenditures for FY 1972.

Meanwhile, HEW requested and received from OMB and the Congress the authority to hire 427 additional personnel to help it improve the management of Public Assistance Programs, and specifically to review the allowability of Public Assistance claims before they were paid. All claims for Social Services received special scrutiny because of the tremendous size of the claims, and because many included unexplained adjustments for prior periods. Payment of retroactive claims began to be deferred until field reviews could be made.

In the course of the review of these claims, questions were raised about the interpretation of Sections of the Act and the Federal Regulations. When a memorandum from SRS attempted to answer some of these questions, a number of States objected to elements of the document, and eventually 13 States filed suit to set aside the interpretations.

Concurrently, the Congress enacted the SSI program in 1972, and consolidated the social services program for adults in a new Title VI of the Social Security Act, and the social services Regulations once again underwent revision. One outcome of the various pressures, both financial and regulatory, was the enactment in 1974 of Title XX of the Social Security Act, as a new, comprehensive social services authority with a $2.5 billion ceiling. Under the new Title, States retained broad authority for determining the kind of social services to be provided, and the relative mix of such services within their borders.

Finally, some of the court action has resulted in District Court decisions, and a request by HEW that the Justice Department file appeals. Virtually all of the issue raised by these changing circumstances remain unsettled at this time.

H.R. —

A bill to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) There are authorized to be appropriated not to exceed $543,000,000, to remain available until expended, to enable the Secretary of Treasury to pay to any State the amount, determined by the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as "the Secretary") in accordance with paragraph (2), owed to the State as settlement of a claim of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under an approved State plan pursuant to title I, IV, VI, X, XIV, or XVI of the Social Security Act.

(2)(A) In the case of a claim by a State for reimbursement described by paragraph (1) that the Secretary determines—

(i) was asserted against the United States, in the form and manner prescribed by the Secretary with respect to the filing of claims under titles I, IV, VI, X, XIV, or XVI of the Social Security Act, prior to April 1, 1977; and

(ii) in the case of any such claim with respect to expenditures of a State after June 30, 1972, is within the allotment of the State determined in accordance with section 1130 of the Social Security Act, as added by section 301(a) of P.L. 92–512 and in effect with respect to fiscal years beginning after June 30, 1972;

the Secretary shall certify to the Secretary of the Treasury for payment to the State the sum of—

(iii) an amount equal to 38 percent of so much of the claim as does not exceed $50,000,000;

(iv) an amount equal to 35 percent of so much of the claim as exceeds $50,000,000 but does not exceed $150,000,000; and

(v) an amount equal to 21 percent of so much of the claim as exceeds $150,000,000, provided that if the total of all such unpaid claims of a State equals or exceeds 85 percent of the total of all such claims (both paid and unpaid) of that State, the percentage specified in clause (iii) above shall be 58 percent and the percentage specified in clause (iv) above shall be 50 percent.

(B)(i) In the case of a claim by a State for reimbursement described by paragraph (1) that the Secretary determines meets the requirements of clauses (i) and (ii) of subparagraph (A) of this paragraph, except that the claim was asserted, in the form and manner prescribed by the Secretary, on or after April 1, 1977, but prior to the ninety-first day following the date upon which this Act is enacted, the Secretary shall certify to the Secretary of the Treasury for payment to the State, subject to clause (ii) of this subparagraph, an amount equal to 15 percent of so much of that claim as he finds to be for the provision of services that he finds the State provided and for which he has not provided reimbursement, but the expenditures for which were reimbursable under titles I, IV, VI, X, XIV, or XVI of the Social Security Act prior to April 1, 1977, or, if not services the expenditures for which were reimbursable, are services of a similar kind, and are not otherwise reimbursable under this Act.

(ii) The Secretary may not certify for payment or payments to any State under the authority of this subparagraph an aggregate amount that exceeds 5 percent of that State's allotment for fiscal year 1973 of social service funds under titles I, IV–A, X, XIV, and XVI of the Social Security Act, as determined in accordance with section 1130(b) of such Act, less the amount certified for payment to the State under subparagraph (A) of this paragraph.

(iii) The Secretary shall have no authority, by regulations or otherwise, to extend the time period specified in clause (i) of this subparagraph or to waive the time limit for assertion of a claim.

(3)(A) Except with respect to amounts paid by the Secretary to a State prior to April 1, 1977, no State is entitled to reimbursement of expenditures described by paragraph (1) except as provided by this Act.

(B) Neither the Secretary nor any other official of the federal government may seek to recover any amount paid to a State prior to April 1, 1977, or pursuant to this Act, with respect to a claim of the State described by paragraph (1).

(4)(A) The Secretary is authorized to enter into agreements with any State in accordance with the provisions of this Act, and agreements entered into prior to the enactment of this Act, to the extent not inconsistent with the terms hereof, shall have the same force and effect as agreements entered into subsequent to enactment of this Act.

(B) In the absence of an agreement, a State dissatisfied with a determination by the Secretary under this Act may, by application to the Secretary within 60 days after the date of notice to the State of that determination, obtain the Secretary's review of that determination. If the applicant requests a hearing, the Secretary shall conduct a hearing after reasonable notice to the State, and shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his determination. If the Secretary does not preside at the reception of the evidence at the hearing, the decision of the presiding official or body shall be the decision of the Secretary.

(C) No court of the United States has jurisdiction to entertain any action seeking the review of any determination or finding of the Secretary under this Act, or otherwise seeking to compel a determination by the Secretary to certify for payment any claim described by paragraph (1), provided, however, that the appropriate district court shall have jurisdiction over any action seeking enforcement of an agreement of the kind referred to in subparagraph (A) of this paragraph.

(5) (A) Amounts appropriated under paragraph (1) shall be first applied in settlement of the claims described in subparagraph (A) of paragraph (2). If, after that payment, the amounts remaining are insufficient to pay the amounts established by subparagraph (B) of paragraph (2) with respect to claims asserted under that subparagraph, the Secretary shall certify for payment with respect to each claim under that subparagraph an amount that bears the same relationship to that claim as the total of such remaining available amounts bears to the total of all claims asserted under that subparagraph.

(B) A reduction effected by subparagraph (A) of this paragraph in the amount payable to a State under paragraph (2) (B) does not give rise to an entitlement in the State to the difference between the amount payable under paragraph (2) (B) (without regard to subparagraph (A) of this paragraph) and the amount payable under paragraph (2) (B) after application of subparagraph (A) of this paragraph.

(C) In the event that the amount appropriated under paragraph (1) exceeds the payable claims under subparagraph (A) and (B) of paragraph (2), the excess shall be available to make further payment on claims under subparagraph (A) of paragraph (2) and for this purpose only the first percentage figure in subparagraph (A) (v) of paragraph (2) shall be deemed to be 25 percent.

(6) The Secretary of the Treasury shall pay to each State all amounts certified by the Secretary as payable to that State pursuant to the terms of this Act.

THE FUTURE OF THE PEACE CORPS: STAGNATION IN ACTION?

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. BONKER. Mr. Speaker, some recent articles on the Peace Corps indicate that despite a change in the leadership of ACTION nearly a year ago, the Peace Corps has not emerged from its lethargy. The problem is rather straightforward: if the Peace Corps is to be revitalized and given a fresh start it must be independent. The Peace Corps cannot be independent and part of ACTION at the same time.

In October, Mr. Harrington, Mr. Gilman, Mr. Nix, Mr. Tsongas and myself introduced the Peace Corps Reform Act, H.R. 9774. Thus far we have been joined by over 20 cosponsors. This legislation will give the Peace Corps the freedom, the flexibility, and the mandate it needs to fulfill its potential as the most effective and efficient foreign aid program this country has to offer to developing countries.

Mr. Speaker, I submit two articles which recently appeared in the Wall Street Journal and the Washington Post for the Record and encourage my colleagues to give serious consideration to important questions surrounding the future of the agency.

[From the Washington Post, Dec. 11, 1977]

The Peace Corps in Liberia: Frustration, Little Support

(By Mike Keller)

Monrovia, Liberia.—Four months after he made the grueling 17-hour bus trip to the remote village of Webbo, the 26-year-old Peace Corps practical nurse packed his belongings and returned here, frustrated in his attempt as the first outsider to offer health services in that remote part of the world.

The motorcycle which had been promised to the former Army nurse for work in the neighboring villages never showed up.

The medical supplies he had brought with him lasted about a month. He scrounged more in a nearby village, but even a hefty supply of chloraquine doesn't last long in a nation ravaged by malaria.

The greatest frustration, however, was that in the four months he was in Webbo, no one at the Peace Corps office in Monrovia responded to his messages, let alone made provisions to supply him with the essentials to do his job.

Since his return to Monrovia, he has been teaching at the U.S.-built hospital, but he plans to leave Liberia this month, a year before his two-year tour of duty is supposed to be over.

The most disturbing element of these experiences is that they typify the complaints Peace Corps volunteers in Liberia have about programming and placement.

"You're looking for some direction and support when you're here and you're not getting it," the disgruntled volunteer said.

The irony is that the Peace Corps has contributed significantly to Liberia's development, and today, when a first-rate grassroots assistance program probably would flourish, Peace Corps morale is bad and the dropout rate among volunteers is estimated at 30 per cent or higher.

An entire group of 11 rural development volunteers recently went home early. An education group of 67 volunteers which arrived early this year had shrunk to 51 six months later.

Such problems obviously are not entirely new to the Peace Corps, but after 15 years of operation in Liberia, the agency ought to have a better handle on the situation.

FUNDS REDUCED

At bottom, of course, the problems can be traced to money; in eight years, the Peace Corps budget has shrunk by nearly 20 per cent.

In 1969, the budget was $102 million; the current operating budget is $82.9 million, which translates into $15,000 per volunteer.

Of that amount, $1.1 million is spent directly on the 240 or so volunteers in Liberia. That's about $4,600 a year, or less than $400 a month per volunteer for everything—food, housing, clothes, medical support, transportation, furniture, electricity or kerosene, vacation allowance and incidentals.

By contrast, in-country support for a technician with the Agency for International Development costs between $75,000 and $80,000.

Volunteers don't want that level of support by any means; they frown upon those technicans because their inflated lifestyles impede their rapport and effectiveness here.

Volunteers, however, do feel monthly allowances for housing, food and incidentals are too low.

When gripes about this reached the embassy, Ambassador W. Beverly Carter ordered a cost-of-living survey. Allowances then were raised to $198 a month in Monrovia and $188 up-country, a $15 increase, but still $45 under what the survey showed to be the minimum for volunteer support.

The Peace Corps staff has its share of problems, of course, and one of them is the enormous turnover both in Liberia and in Washington headquarters.

About a dozen administrative officers have come and gone in Liberia in the last two years. The Peace Corps country director, Dennis M. Lucey, resigned in October, citing frustration with Washington as a major reason.

Washington didn't seem too keen on Lucey either, and several Washington administrators described the Liberia program under Lucey as a "trouble country" for the Peace Corps.

Frequent staff turnover, both overseas and in Washington, has been deliberate. There's a provision in the agency's enabling legislation known as "the five-year flush." The intent is to ensure that the agency doesn't turn into a stodgy bureaucracy, but it also has deprived the Peace Corps of continuity and memory.

In Liberia, the level of staff support to volunteers has eroded so badly, but ever so gradually, that no one today realizes that the Peace Corps used to do things differently.

EDUCATION BUDGET UP

How effective the Peace Corps has been can be seen in the existence of a new breed of Liberian—young, serious-minded and bent upon uplifting their society—many of whom were taught and influenced by Peace Corps teachers.

More than 3,000 of these volunteers have spent two years apiece in Liberia since 1962, most of them as teachers in schools in the interior. When the volunteers first arrived, Liberia's education budget was $2.4 million and 708 schools were in operation. In 1975, the most recent year for which figures are available, there were 6,246 schools in Liberia, 190,799 pupils attending them and a budget of $12.5 million.

In an educational system geared to rote learning, there was no attempt to develop independent and creative thought. The consequences have been disastrous, a waste of potential talent that a developing nation cannot afford.

Despite these obstacles, and often despite their own lack of teaching experience, most Peace Corps volunteers proved themselves ingenious at improvising teaching materials and methods.

An American involved with education in Liberia for 10 years said, "Many very fine students will say that sometime in their past they have had a volunteer teach them. Especially if they're originally from small towns in the interior, because volunteers have been the only ones, by and large, who have gone back there and really enjoyed it."

AMERICAN INFLUENCES

Liberia is not an easy place to comprehend for Americans with little or no previous cross-cultural experience. There simply are too many American trappings here, so the uninitiated often judge and relate to this society on American terms.

English is the official language, the American dollar is the official currency, and the Liberian flag could almost be mistaken for Old Glory. The constitution and governmental structure are patterned on the American system, but, after 130 years of independence, it's still largely pattern and not practice.

Physically, Liberia is a hot, harsh and often brutal land, deluged by more than 200 inches of rain a year.

And it is a land where ignorance, poverty and disease are realities. Statistics are imprecise in Africa, but about 90 per cent of the 1.6 million people are illiterate, annual per capita income is around $300 and the most virulent diseases known to man thrive here, cheating the average Liberian of almost 30 years' life expectancy, in comparison to Americans.

During World War II, an airfield was built by the United States, and, in the 1950s, a deep-water port was financed by U.S. funds. It's existence made it practical to mine Liberia's rich iron ore deposits, thus finally allowing the beginning of a modern Liberian economy.

Liberian exports in 1938 were reported at less than $2 million; that rose to $30 million in 1953 and to $405 million two years ago.

DESCENDANTS OF SLAVES

Most Liberians are indigenous Africans, members of the 20 or so tribes which have lived for centuries on the coast and in the interior of this Ohio-sized nation, growing barely enough rice to live on and clustering in villages where they speak native dialects and practice various forms of animism.

In contrast, Monrovia and several other coastal cities are the domain of the descendants of freed American slaves who returned to Africa in the 19th Century.

While the term is no longer fashionable, these people are known as Americo-Liberians and number 50,000 at most. The political and economic base is broadening now, but Americo-Liberians have run Liberia since their descendants bought the right to settle in Monrovia from native chiefs for about $300 in trinkets and beads.

Monrovia now is tattered and worn, its antebellum-looking buildings reminiscent of a coastal town in the South that never recovered from the Depression.

The city's population has doubled to about 250,000 in 10 years. Most of the newcomers are tribal people moving to the city, and, with few skills and little education, are compelled to live in squalor.

The shantytowns are dank, crowded, unsanitary, with rusting zinc-roofed hovels. Water is polluted but people drink it anyway. Trash is strewn at random.

Monrovia's slums have swelled so fast their presence has created pressures on the government to do something about them. Low-cost housing is being built, although not rapidly enough, and the administration of President William S. Tolbert is trying to curb the flow to Monrovia by apportioning half the national budget to development in the interior.

But "things take time," as Liberians are fond of saying, which suggests the conditions are right for a Peace Corps program.

Liberians often say that "Peace Corps [volunteers] don't eat money," which is a high form of praise and expression of trust in a country where the national pastime has been to "eat" money.

Also, the Peace Corps, because of volunteers' high visibility, has helped create a favorable impression among Liberians toward the United States. "I just want [to] go see that place, one time," Liberians will say frequently. Many of them find a way, especially college students.

To its credit, the Peace Corps has responded to the positive climate it has fostered by expanding its programs into areas of health, rural development and agriculture.

But it is shortchanging volunteers, like the practical nurse assigned to Webbo, by inadequately supporting them and thus creating senseless frustration.

BENEFITS OF COLONIZATION

This is particularly disturbing because Liberia looks as if it is finally going to join the 20th Century. Outsiders familiar with this country would be justified in skepticism, but there has been a great change in attitude by Liberians.

My frame of reference is 1966–67, when I was a Peace Corps volunteer here and William V. S. Tubman was president. He ruled from a $26 million executive mansion overlooking the city.

While his spending priorities can be questioned, Tubman had virtues, among them a fine sense of irony. He used to rebut critics from newly independent African nations by suggesting that, unlike them, Liberians never enjoyed the benefits of colonization—and he had a valid point.

When the British and French pulled out of neighboring African countries, they left schools, roads and reasonably well-trained civil servants.

No such infrastructure was developed in Liberia. The American Colonization Society, which sponsored the return-to-Africa movement, did support the settlers with about $2.5 million over a 50-year period, hardly sufficient to build a nation in a jungle from scratch.

Liberia is most noted for its widespread corruption and its parodying of American ways, with an inflated sense of status. For example, a high school in the central part of Monrovia is named the College of West Africa, and, in reality, the Richard M. Nixon Institute is a private elementary school.

But Liberians seem to have their feet more firmly on the ground today than a decade ago. It's a pity, then, when vital problems are crying out for solutions here, that Peace Corps volunteers tend to view the agency which sponsors them as an obstacle to getting the job done.

[From the Wall Street Journal, Dec. 12, 1977]

Critics Say Ex-"Radical" Acts Slowly as Chief of Agency; Brown: "But I Need Time"

(By James M. Perry)

Washington.—Meet Sam Brown, member of the establishment.

Same fellow who declared a decade ago that "the United States is now the great imperialist-aggressor nation of the world" and went on to organize the "children's crusade" for Eugene McCarthy in the Democratic presidential primary in New Hampshire in 1968. His victim then was Lyndon Johnson.

Same fellow, too, who organized and led 500,000 Americans in the Vietnam moratorium march on Washington in 1969. His target then was Richard Nixon.

Sam Brown "was armored with unshakable righteousness," Theodore H. White wrote. "And from thousands of similar young people of his good will and his unconscious arrogance, his purity of spirit and his remarkable ability, stems much of the perplexity of future American politics."

PERPLEXING RESULTS

These days, U.S. Presidents are no longer targets of Sam Brown's, for now, at age 33, he is working for President Jimmy Carter, and his job is to try to make the Peace Corps work. Nine months ago, Mr. Carter appointed Mr. Brown as director of ACTION, the agency that runs the Peace Corps and the domestic volunteer organizations; VISTA, Foster Grandparents and Senior Companions. ACTION supervises 236,000 volunteers in this country and abroad. Its annual budget runs to $190 million.

The Peace Corps is ACTION's highest-priority program, and the President hoped that Mr. Brown would use his good will and his ability to restore the prestige that the corps has lost since its glory days in the 1960s. But a look at the Peace Corps—and its critics—shows that the results so far seem to be as perplexing as Mr. White anticipated.

Old Peace Corps hands, members of an alumni association that now numbers 66,000, expected a lot from Sam Brown quickly. But, some of them say, he has been cautious and occasionally uncertain. They were disappointed when he refused to go along with recommendations to pull the Peace Corps out of ACTION and establish it as a public corporation.

They say Mr. Brown hasn't done much about recruiting more volunteers—and better ones. (The corps' strength remains below 6,000, one-third its size a decade ago.) "Where are the Peace Corps recruiting ads?" one critic asks. They say the system is still the same one developed during the Nixon years. Volunteers are matched to specific job openings listed by the host countries. Thus, Fiji wants an agronomist with at least one year's experience with legumes. Peace Corps recruiters try to fill the request. The more highly skilled the person they seek, the more likely they are to turn up empty-handed.

ALL THE RIGHT THINGS

"I like Sam, and he says all the right things," says Charles Peters, editor of Washington Monthly magazine and a Peace Corps member under President Kennedy and the agency's founding director, Sargent Shriver. "But the question is, does he have the drive to overcome the bureaucracy the Republicans left behind and restore a sense of excitement and mission to the Peace Corps?"

Mr. Brown thinks the criticism is unfair.

"People keep saying I'm a radical," he says. "That was my reputation growing out of the McCarthy campaign and the antiwar movement. In fact, though, I'm a very orderly fellow. Whatever reputation I earned, I earned as an organizer. I was the fellow who figured out how many volunteers we needed at each street corner in Nashua, N.H., at an exact time on a certain day.

"Liberals get a bad rap when it comes to administering things. Remember, I was the state treasurer of Colorado before I came here, and you have to be prudent when you take care of all that money. I want to figure this job out and then get it done. But I need time—time and a fair chance."

Mr. Brown is taking the time. He has traveled around the world looking at Peace Corps programs and talking to Peace Corps people. He has conferred with leaders in several of the 65 countries in which the Peace Corps operates. When he took over ACTION last February, 20 of the countries were without Peace Corps directors. He has filled the vacancies, almost half of them with women and minority people.

Mr. Brown looked for more than six months for a director of the Peace Corps, a post that had gone vacant during the Nixon-Ford years. The Peace Corps was then administered within ACTION by an associate director for international operations, and the corps didn't even have its own letterhead stationery. Mr. Brown's choice, finally, was Carolyn R. Payton, a psychologist and director of counseling at Howard University here. She is a 52-year-old black woman who served in the Peace Corps in the mid-1960s as a volunteer and then as deputy director for the Windward Islands in the Caribbean. She and her agency now have their own letterhead.

"We think Carolyn's appointment is a powerful statement," Mary King, ACTION's deputy director, says.

But the most important question Sam Brown and Mary King face is whether there is still a worthwhile role for the Peace Corps—and if there is, what to do about it.

One problem is the mythology of the Peace Corps. It was born on a crisp fall day in 1961 when John Kennedy signed the Peace Corps Act. Idealistic young people from elite universities promptly swarmed to the Peace Corps colors to demonstrate to foreigners "the best that is in us" as a nation. By 1967, more than 15,000 volunteers were serving around the world, 1,200 of them in India alone (including President Carter's mother, Miss Lillian).

It was easy to join. The potential volunteer filled out a form and sent it to Washington. Weeks later, an acceptance came back in the mail. With not much training, the volunteers were swept up and shipped out.

For almost all the 66,000 Americans who served, Harlan Cleveland wrote in an Aspen Institute study called "The Future of the Peace Corps," the experience was so profound "that it cannot later be invoked without some pain and reluctance." The volunteers, Peace Corps boosters said, were highly flexible self-starters who performed small miracles in remote little villages in remote little countries.

But the fact is that things never did work well, according to C. Payne Lucas and Kevin Lowther, two former Peace Corps members who have written a book about the agency. Most of the volunteers, they say, had trouble adapting to an alien culture. Many behaved insensitively. Only a small percentage of them ever came to know and appreciate their hosts.

Sam Brown has his own image of what an ideal Peace Corps volunteer is. He met a young woman in Niger recently. Her name is Missy, and she is a health worker in a village called Abala, a 2½-hour drive across the desert from the nearest paved road. She runs a health center, supported by two native midwives.

In fact, though, more than half of all the Peace Corps volunteers have been—and still are—schoolteachers. That's because teaching is what the B.A. generalists, now and always the heart of the volunteer corps, can do best. Many of them, Messrs. Lucas and Lowther argue, haven't been very good.

Since the Peace Corps was absorbed by ACTION in 1971, the Aspen Institute report says, the Peace Corps has been "alive but invisible." Not only is its size down but also there are no corps members in such an important country as India. The elite universities don't produce volunteers the way they used to. In 1969, the University of California at Berkeley was No. 1; today it is 15th, and Penn State is first. In 1969, Stanford was third and Harvard sixth; neither is in the top 20 now.

Mr. Brown doesn't worry about that. The Peace Corps, he says, has been a preserve for white middle-class youngsters too long. He and corps director Payton want to recruit more minority people. She says she will go to black colleges and universities on recruiting missions herself. Ways are being sought to lessen the financial sacrifice for students who need cash to pay off their college loans.

"Y'all come, that's the message now," Mr. Brown saids. He wants anyone, young or old, black or white, who possesses or can be taught a skill to meet—and these are the new buzzwords—"basic human needs" among the poorest people in the most underdeveloped countries.

Both Mr. Brown and Mary King, deputy director of ACTION, like to talk about prawns. The prawn is a shrimplike crustacean that's good to eat and can be "farmed" in ponds, like catfish. Mr. Brown and Miss King want Peace Corps volunteers to learn the business and to teach others.

"I don't dislike highly skilled technicians," Mr. Brown says. "It was always the veterinarian with 10 years' experience that most countries wanted. Frequently, though, people like that didn't work out. They became frustrated too easily. Now, you take someone with an advanced degree in marine fisheries. He'd be lucky to have 10 to 20 hours in prawn culture. But we can take a kid with a plain B.S. degree and given him 400 hours in prawns. When he's through with that, he'll be ahead of everybody.

"We're going for training. That's No. 1."

First, though, Mr. Brown says, the Peace Corps has to persuade the host countries to accept "generalist" volunteers without advanced degrees or long-practiced special skills. Peace Corps directors will talk with their host ministers in departments like health and agriculture, explaining the new direction for the agency. Slowly, Mr. Brown says, the system will be changed.

The Peace Corps wants more intensively trained people like Mr. Brown's favorite, Missy, working alone out there in the boondocks. Miss King has her own example, a volunteer in Senegal who has refined a technique for making charcoal. The old way, it took five tons of scarce wood to make two tons of charcoal; with the new technique, it takes only three tons of wood.

Old Peace Corps hands like Payne Lucas and Kevin Lowther applaud that kind of talk. "Unless," they conclude, "the Peace Corps is transformed into a respectable source of technical assistance, it should humbly fold its tent."

Sam Brown didn't come to ACTION to fold his tent. "I'm going to get the pieces in place," he says, "one at a time."

It will surely be a piecemeal process. Andy Privee, a Peace Corps recruiter in Chicago, was interviewing potential Peace Corps and Vista volunteers at Northwestern University recently. He said he hadn't heard anything from Washington about "new directions," and so he was still following the same procedures the Nixon administration had introduced. He is looking for experts—a conservationist with 15 years' experience in watershed management, for Western Samoa; a marine biologist to study Strombus gigas (the conch), for Belize; an agronomist with practical beekeeping experience, for Nicaragua. What he was getting, though, are what the Peace Corps always has attracted—middle-class kids with B.A. and B.S. degrees, a zest for a little adventure, and no marketable skills.

None of the students Mr. Privee talked with that day had heard of Sam Brown. Not many of them knew precisely what the Peace Corps was. One of them, Russell Climpett, a journalism major, said his friends had told him the Peace Corps "is an escape for rich kids looking around for something to do."

NO ENERGY BILL THIS YEAR

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. STEERS. Mr. Speaker, I am confident that many of my colleagues share my feeling of disappointment that the Congress will not be able to complete action on a comprehensive energy plan. I want to hasten to add that I am not pointing a finger of blame at the other Chamber or at the conferees. Perhaps my disappointment can best be expressed in a letter I have received from a constituent, Mr. John W. Malley of Chevy Chase, Md., and an editorial from the New York Times of December 14, 1977, that was called to my attention by another constituent, Mr. John E. Dixon of Bethesda, Md.

John W. Malley,
Chevy Chase, Md., December 14, 1977.
Subject: The Energy Program.
Hon. Newton I. Steers, Jr.,
Congress of the United States,
House of Representatives,
Washington, D.C.

Dear Congressman Steers: I was very disappointed to read in yesterday's morning Post that the Congress has failed us in not passing any energy legislation which is so vital to the welfare of all of the people of this nation.

As I understand the writeup in the Post, the Carter package was virtually emasculated by the way it was handled, both in the House and the Senate. I do not know whether the main blame can be placed upon the Senate leader who conferred with the House leader in respect to this legislation, in the final demoralizing hours. It does seem, however, that it is a poor system which could let such an important thing stand or fall on the whims or judgments of only two men. That could hardly be the intended representative government for all the people that we are supposed to have.

It worries me about the failure of the Congress to act, and I fear that informed citizens may come to question the ability of the Congress to deal with important matters in a timely manner.

Enclosed is a pathetic cartoon "Energy Package" which I interpret to represent the sad failure to deliver to the people and perhaps to the world at this Christmas Season.

You will understand that I do not blame you gentlemen personally, but I am just asking how such a thing could happen?

Sincerely yours,

John W. Malley.

[From the New York Times, Dec. 14, 1977]

The Question Remains

One answer lies in complexity. Was it not expecting too much to hope that Congress could act promptly on anything so complicated as the 103-page National Energy Plan, replete with a welter of taxes and an array of incentives, proposed by the Carter Administration?

Another answer lies in heroic postures. Some members of Congress see themselves as brave battlers against sell-out and regard the other side as agents of profiteering. Other members see themselves as prudent promoters of new energy supplies and, in turn, regard the first group as kamikazes, willing to sacrifice all in their populist zeal.

Another answer lies in criticism of the Administration's lobbying efforts, condemned at various times and with varying justice as cocksure, treacherous, clumsy and pathetically desperate.

There is, in short, no lack of answers or blame or finger-pointing now—eight months after the energy plan was sent to Congress; four months after it was passed by the House; two months after House and Senate conferees began ironing out their differences; three weeks after the postponed Presidential trip abroad was to start; and on the eve of the rescheduled trip and a long Congressional recess. What remains, with the icy stab of winter upon the nation again, is the question.

When will Congress act?

Since the President sent his energy bill to the Congress, especially during my service on the House Ad Hoc Energy Committee, I have felt that the plan of conservation proposed by President Carter and the changes made by the House would provide the country with the time to plan effectively for energy development and use into the 21st century. I have contended that the House bill contained adequate incentives for private industry to continue drilling for oil and natural gas and that with the plan for conservation would allow us to decrease our dependence on foreign energy supplies.

I think it is important for all of us to understand that every day lost, without an energy plan hurts our economy, and leaves us in greater jeopardy than the day before in our attempts to conduct our own, independent foreign policy. While I am confident that the conferees will explore ways to bridge the vast differences between the two versions of the energy bill, the need for solutions to our energy problem is as strong now as it was in April 1977, when the President spoke to Congress and in 1973 when our imported supplies of oil were embargoed.

THE PROPOSED PANAMA CANAL TREATIES

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MURPHY of New York. Mr. Speaker, the Panama Canal treaties have been hastily thrust upon the American people without proper consideration. My position does not exclude a new treaty arrangement with Panama, but demands one which would completely protect the rights of both American and Panamanian citizens; and one in which both could work as partners to their mutual benefit. I submit that the treaties which have been presented to the Senate for ratification are wholly inadequate.

An analysis of the proposed treaties reveals some very fundamental and fatal weaknesses. The treaties do not contain adequate guarantees for canal availability in the interests of U.S. national security. There is no guarantee of preferential transit by U.S. warships in time of war, nor do the treaties restrict vessels of enemies of the United States from using the canal during wartime. The treaty provisions do not guarantee any continued economic success for the canal, but rather jeopardize its viability as a balanced economic entity.

Many glaring defects of the proposed treaties have not been publicly discussed because of the inordinate attention paid to many inaccurate and misleading statements made by treaty proponents regarding the Panama Canal's value, the probability for interruption of Canal operations, and the alleged attitudes of our Latin American friends toward the canal issues.

Moreover, the constitutional prerogatives of the House have been threatened through the attempt by the executive branch to transfer billions of dollars of U.S. property and territory by treaty alone. Bypassing the U.S. House of Representatives in this manner is an action which violates article IV, section 3, clause 2 of the Constitution. And in total disregard of article I, section 9, clause 7 of the Constitution, there will apparently be an attempt to disregard House responsibilities in the matter of the appropriations necessary to execute provisions of the treaty arrangement relating to payments to Panama.

However important the administration considers the canal treaties to be, there is no justification for trampling upon basic constitutional principles. The Members of Congress are trustees for the preservation of the powers of Congress and must continue to exercise diligence in protecting and preserving the basic principles of separation of powers in our Government.

I would also point out some military and commercial facts which unmistakably underline the continuing importance of the Panama Canal and Canal Zone to the United States. First, the canal's military value: the United States' lack of a true two-ocean Navy at a time when the United States has commitments in virtually every ocean and sea of the world makes the canal's immediate availability for transit extremely important. A second fact, continuously ignored by treaty proponents, is that 97 percent of our naval fleet can transit the canal. The other 3 percent was designed and built with no intention of transiting from one ocean to the other. More important, the future trend in naval ship design is toward smaller and faster vessels.

Historically, the canal has been a major military resource in virtually every hostility since its opening in 1914—World War I, World War II, Korea, the Cuban missile crisis, and Vietnam. Located within the Canal Zone are the only major ship repair facility within 1,600 miles of U.S. ports on the Atlantic side and 2,500 miles on the Pacific side; the only U.S.-controlled air base within 1,000 miles of the United States; a military and communications crossroads for the Western Hemisphere; and the only existing transisthmian pipeline for ship bunker oil and aviation fuel. Finally, the lack of adequate west coast port facilities for the loading of supplies and ammunition makes the canal crucial to any U.S. military contingency in the Pacific theater.

Commercially, the Panama Canal is of vital interest to the United States because two-thirds of those vessels transiting have a U.S. port as a point of origin or destination. Furthermore, assuming no exorbitant toll increases, the Maritime Administration estimates that by the year 2000 U.S. exports through the canal will have doubled. The percentage of the total dollar value of U.S. foreign trade transiting the Panama Canal has steadily increased in the past and is expected to continue growing in the future. Even more striking is the fact that 70 percent of all the cargo which has transited the canal has done so in the last 25 years. Lastly, the commercial value of the canal to the United States is demonstrated by the fact that 96 percent of the U.S. merchant fleet and 92 percent of the world's merchant fleet can transit the canal today.

Next, I would address the contention that the operation of the Panama Canal would be impaired should these proposed treaties be rejected. The argument has been offered that the Panama Canal is vulnerable. But the same vulnerability applies to hundreds of public works in the United States, as well as the U.S. Capitol a portion of which was blown up by radicals just 7 years ago, but we would scarcely consider this sufficient reason to negotiate over their futures. The Panama Canal is a durable concrete structure which was reinforced during World War II to protect its vital operations center from attack by air, sea, or land by the Axis Powers. It has been successfully protected during two world wars, the Korea war, and the Vietnam conflict. U.S. military officials charged with protection and defense of the canal have affirmed that the canal can be defended.

Proponents of the treaties have asserted that there is a need for a treaty relationship which would make Panama a partner in the canal defense. I agree wholeheartedly, but I point out to my colleagues that under article 10 of the 1936 treaty, both Panama and the United States are already committed to respond to any danger to the canal by taking, and I quote, "such measures of prevention and defense as they may consider necessary for the protection of their common interest." Furthermore, it is in the economic interest of every Panamanian that the continuous operation of the Panama Canal be insured whether or not there is a new treaty arrangement. Lastly, I would stress that it is demeaning for our own treaty negotiators to have prompted the treaty approval under threats of violence. Selling the proposed treaties on the basis of threats of violence would be a disastrous precedent for the U.S. conduct of its own international relations. The United States must decide this matter on the basis of whether the proposed agreements are in the best interests of the United States and Panama, not on the basis of intimidation.

The attitude of our Latin American neighbors is another element of debate on the canal treaties with which proponents of the treaties have dealt in a simplistic and inaccurate fashion. It has been stated that all of Latin America wants a new canal treaty relationship, and that the canal issue unites all of Latin America. What goes unsaid by proponents is the fact that Panama has sought but failed to receive the kind of ironclad Latin support she has desired; that Latin American countries have sponsored several initiatives (such as the 1977 Organization of American States resolution asking that canal tolls cover only operating costs) which run directly opposite to the thrust of the proposed treaties; that each Latin country has its own set of demands on the United States but all will generally support each other's list of demands; and that despite the publicity given to the canal issue, few if any Latin nations will take negative steps if the treaties are rejected.

We are given the impression that the radical left in Latin America is against the canal treaties, and that these proposed treaties appeal to the mainstream of Latin American political thought. Yet the Communist Party of Panama supports ratification of the proposed treaties, as does the Communist Party, U.S.A., and other Communist groups around the world. The record of debate should accurately reflect this.

In bringing forward such points, the overriding principle to which we must adhere is that the United States will define its own foreign policy interests and proceed to protect them. The United States could allow the threats of a dictator from Panama, or from any country, to dictate our policy.

In closing, I would state that as chairman of its parent Committee on Merchant Marine and Fisheries, I can appreciate the need for a reevaluation and modernizing of our treaty relationship with Panama. I urge that the Congress of the United States—and by this, I mean both Houses—be consulted and fully informed of the facts regarding what is being given up and what is being gained. Unfortunately for the American people a comprehensive and fair accounting of all such facts has not yet been presented.

THE AFRICAN DOUBLE STANDARD

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ASHBROOK. Mr. Speaker, our country is participating in an ill-founded trade embargo with Rhodesia. Some now are urging a total trade embargo with South Africa.

Many black African nations are urging such a trade embargo and a cutoff of all relations with black Africa. But their words are much louder than their actions. While they castigate South Africa in speech, in actuality they very quietly are trading with South Africa. It is the old law of do what I say and not what I do. It is, of course, the same attitude that is evident in the trade embargo on Rhodesia.

The Wall Street Journal recently ran an article that talks about the secret trade between black African states and South Africa. As can be seen from the article, South Africa carries on extensive trade in almost every commodity with other African countries. At this point I include the text of the article in the RECORD:

FRIENDLY ENEMIES—SECRET TRADE ILLUSTRATES SOUTH AFRICA'S POWER IN REGION'S ECONOMY

(By Richard R. Leger)

JOHANNESBURG, SOUTH AFRICA—In a comfortably furnished office on the seedy edge of this city's commercial center, an executive of a big South African trading company serves tea to his visitor, then gestures to a world map on the wall.

Pinned to the map are little white flags denoting other places where his firm has offices. "Please don't say how many there are," he says, "or someone will be able to identify us."

The executive's firm does a lot of unpublicized business with black African nations. Since many of these nations are constantly denouncing South Africa, they might find it embarrassing if it became known that they were engaging in large-scale trade with this country. The executive is afraid that identification of his firm would lead to such embarrassment and—more important to him—to the loss of business for his firm.

In this city's lush, hot, white suburbs and in modern, air-conditioned skyscraper suites, many other businessmen operate under similar constraints of secrecy. They form what is known as the South African connection," dealing not in illicit drugs but in such everydaygoods as carpets and corn, and serving a clandestine network of customers spreading through black Africa.

EASIER AND CHEAPER

The connection reflects a key fact of life in southern Africa: This country is preeminent in the economy of the region. The connection also reflects the region's inadequate web of roads, rail lines and ports; it is often much easier and cheaper for black nations to deal with South Africa than to trade with one another or with other lands.

There are at least 150 million people in the southern half of Africa including Kenya, the Central African Empire and Zaire, who feel the influence of South Africa almost daily," says Prof. Piet Nieuwenhuizen, chairman of the department of economics at Rand Afrikaanse University in Johannesburg. "If it isn't from wage earnings from the South African gold-mining industry, it's in the form of using some products imported from South Africa or using some form of assistance such as veterinary or medical help."

Now the South African connection is being threatened by repeated calls for an economic embargo against South Africa, spurred by widespread international abhorrence of this country's system of racial segregation and discrimination. Many of these calls, paradoxically, come from black African nations that deal with South Africa. Equally paradoxically, any such embargo could have a harsher impact on those nations than on South Africa itself.

In an interview in his spacious private office in Pretoria, Prime Minister John Vorster is asked whether his country would retaliate with counterboycotts. "Our policy has always been not to indulge in counterboycotts," he says. Then, after a silent pause of perhaps 20 seconds, he adds, "But depending on the circumstances, we will do from time to time what we consider in South Africa's interest." It is conceivable, then, that an embargo on, say, oil shipments to South Africa, would lead South Africa to stop shipping platinum, say, or food to some other countries.

South Africa trades fairly openly with a dozen other African states—Botswana, Lesotho, Swaziland, Rhodesia, Mozambique, South West Africa (Namibia), Mauritius, Zambia, Malawi, Zaire, Gabon and the Ivory Coast—though most of these countries prefer to keep quiet about such dealings. It also trades clandestinely with many other black African nations.

"MARXIST FORCES AT PLAY"

"Hypocrisy is the main ingredient on this continent," says a white diplomat here. "Rhodesia (with whom no UN member is supposed to trade because of economic sanctions imposed by the United Nations) is bringing its chrome ore down; it's blended with South African ore (to disguise its unusual high-grade qualities) and then it's exported through Mozambique. It's the market forces at play. Most African countries are so poor that they can't afford to be moral in their transactions."

Although official trade figures show a much smaller volume, the South African Foreign Trade Organization here (SAFTO) estimates that South Africa's dealings with the rest of Africa total a billion dollars in exports and half a billion dollars in imports annually.

This reporter's examples of extensive black African trading with South Africa came from South African sources only and weren't verified in other countries. It is, understandably, difficult to obtain such verification from black African sources.

"The South African issue is a politically explosive issue in terms of large numbers of African governments," says an official at the London embassy of one black African nation reported to be trading with South Africa. "I don't want to be quoted in any way, and as far as we're concerned, we don't have any trade with South Africa. Whether South Africa is trading with many black African countries or not isn't a matter I want to tread on."

Nonetheless, examples of such trade were developed in interviews with more than a score of South African businessmen, bankers, economists and government officials, and in most instances they were checked with more than one South African source.

South Africa's importance to the Western world is well documented. Of total known world reserves, it holds 71% of the platinum, 63% of the chrome, 59% of the gold, 39% of the vermiculite, 37% of the manganese, 20% of the uranium and 19% of the vanadium. Its combined exports and imports last year totaled $2.33 billion with Britain, $1.98 billion with the U.S., $1.76 billion with West Germany and $1.28 billion with Japan.

The big trade with the major industrial nations means jobs in South Africa for residents of other African nations. For many African neighbors, South African mining companies are the major source of employment. As of June 30, 1976, foreign employment, mainly in mines, totaled 43,159 from Botswana, 160,634 from Lesotho, 12,761 from Malawi, 111,257 from Mozambique, 32,716 from Rhodesia and 20,750 from Swaziland.

G.M.E. Leistner, director-designate of the Africa Institute of South Africa, a pro-government organization, estimates that his country accounts for 70% of the gross national product of southern Africa, which is generally accepted as including, besides South Africa, Angola, Botswana, Lesotho, Malawi, Mozambique, Rhodesia, South-West Africa, Swaziland and Zambia.

Even more dramatically, he estimates that South Africa accounts for 25% of the GNP of the whole continent, including 90% of the steel, over 50% of the power generated, 47% of the telephones, 44% of the motor vehicles, 40% of total manufacturing output and 30% of the cement.

The regional geography also adds to South Africa's economic power. Botswana, Lesotho and Swaziland are landlocked and get all their oil through South Africa. Rhodesia, Zambia, Malawi and even Zaire—all landlocked except for an inadequate port in Zaire—are heavily dependent on trade with South Africa. Angola, South-West Africa and Mozambique have extensive coastlines, but Angola lacks good natural harbors and South-West Africa is under South African control.

In the 12 months ended last March 31, 17% of South Africa's total exports and imports was handled through the Mozambique port of Maputo, a daily total of about 24,000 tons. About 35% of Malawi's imports come from South Africa. Exports and imports shipped by rail between South Africa and Botswana, Zaire and Swaziland are running about 250,000 tons annually for each country.

The black African states' shipments to South Africa consist largely of coffee, tea and raw materials such as copper from Zaire's Shaba Province and timber. Hardwood from Brazzaville (Congo) is purchased quietly outside normal trade channels, says W. B. Holtes, chief executive of SAFTO. He adds that "a lot of our trade with Franch (African) countries goes through Paris."

Food is a big South African export. "There are 10 Lockheed Hercules freighters that go regularly to Malawi and the Congo (Zaire) with fresh fruit and maize," Mr.

Holtes says. An officer of a large South African trading company adds: "We know that Zaire has two DC9s that fly to South Africa, Rhodesia and Kenya to bring in meat every day. They also bring the planes into Johannesburg to be serviced. Where the hell else are they going to be serviced? We also move about 150,000 tons of maize a year from Rhodesia into Shaba Province. If we didn't they'd starve."

The Central African Empire has been flying in cement from South Africa, Mr. Holtes says. Another SAFTO official adds, "I was in a plane loaded with carpets and air-conditioners and TV sets for a hotel project in the Central African Empire. I can't tell you the name of the hotel because the exporter says it's classified, probably because trading with South Africa is an embarrassment to the government. But it isn't the Rock or Safari hotels."

Much of the mining machinery and spare parts sold to countries such as Botswana, Lesotho, Swaziland, Zambia, Zaire, Mozambique and Ghana comes from South African manufacturers, say businessmen here. "This equipment has been developed for specific African conditions," one businessman says. "It would be very difficult for them to find spare parts elsewhere."

South Africa also trades clandestinely with such powerful African nations as Nigeria, it is asserted here. "We send quite a lot of foodstuffs by ship," says a trading company executive. "They stop at Cotonou or Lome (ports in small neighboring countries) and the stuff is discharged and then brought in on fishing boats or by road into Nigeria." By this means, the Nigerian importer also avoids the chronic congestion of the Nigerian port of Lagos, which can delay deliveries as long as six months or more, he says.

Prof. Nieuwenhuizen says a major industrial company in South Africa just signed a $2 million to $3 million contract with Nigerian interests to help set up an engineering shop there, supplying it with machinery made in South Africa. "Getting the machinery there isn't a problem," he says. "How do you stop goods from going from one country to another after they're at sea?"

Trade with South Africa is so extensive that it includes "almost every country on the continent," Prof. Nieuwenhuizen says. "I walked into an automobile-component manufacturing company's dispatch warehouse and the managing director showed me about 100 wooden boxes ready for dispatch to 64 different countries," he says. (Some are not in Africa.) "There was hardly a country in Africa whose name wasn't included on the list."

South Africa's trade ties extend beyond the continent to Iron Curtain countries that would like to keep such business connections a secret. "We do quite a business with Poland and East Germany," a trading-company officer says. "We ship mainly chrome, ores and metals, and we import chemicals and sulfur. They seem to do their own shenanigans through Amsterdam and Antwerp. But what they do, we don't know and don't care. I don't know what certificates they go out with or come back with. The business is growing."

One illustration of the force of South Africa's trade dominance with its neighbors is the nature of the traffic on the Botzam highway, opened last January. Linking Botswana and Zambia, it was built largely with U.S. funds to make Botswana less dependent on neighboring Rhodesia and South Africa. But the road now is being used extensively to ship South African goods into Zambia. Such recent shipments include lubricating oil for Zambian copper mines, potatoes, cooking oil, medicines and 22,000 cases of South African-made beer bottles, each containing 24 bottles. These were being shipped to Zambia's brewery, which makes beer but not bottles.

Further, South Africa is heavily involved in repairing and otherwise supporting black African railroads. "We started repairing freight cars for Mozambique and Swaziland and supplying spare parts for Zambia and Zaire about two years ago," says J. G. M. Loubser, general manager of the South African railways, harbors, airways and pipelines. "In Mozambique we also placed orders for tank cars at a firm in Maputo to keep them going economically." He says South Africa has also helped Mozambique to run its harbor, railroad and airline.

South Africa's involvement in black Africa doesn't end there. It extends to aircraft repairs at Johannesburg's Jan Smuts Airport for Boeing airplanes flown by Mozambique and Malawi. It encompasses research work at agencies such as the National Metallurgical Institute, where South Africans are designing possible extraction methods for a large platinum deposit discovered in Mozambique.

The free-wheeling attitude of South Africa's businessmen working "back door" deals is well expressed by one executive who says: "As long as you don't embarrass the governments concerned, you can do anything you like from Rhodesia or South Africa. Sanctions against Rhodesia are a farce, and the only way sanctions could work in South Africa would be if they blocked the South African ports. And as far as black African states are concerned, they'd die without us."

CRIME RESISTANCE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RODINO. Mr. Speaker, as chairman of the Committee on the Judiciary, I have seen, firsthand, the devastating effect crime has had on the people of our country. I have also realized that the many arms of our country's law enforcement system cannot totally control the ever-mounting problem of crime. To effectively reduce crime and its subsequent pain and suffering, an addition to our law enforcement system has to be made—simply, our citizens must become more aware of the dangers of crime and they must become more involved in crime prevention.

In broadening the base of the Federal Bureau of Investigation's anticrime efforts, Director Clarence M. Kelley has established a "Crime Resistance" office. Through this office, along with local police departments, an attempt is being made to muster citizens to develop an attitude of crime resistance.

As Director Kelley has said:

> Crime is not only a law enforcement problem—it is every American's problem.

This attitude to take preventive measures in conjunction with local police will help form an effective law enforcement team. This is not a call for individual or collective "vigilante" action, but a call for cooperation and involvement by every citizen with law enforcement officials.

A perfect example of citizen involvement is currently taking place. By now many of my colleagues have received miniature posters and have seen full-size posters in their local districts displaying the pertinent message, "Join the Resistance—Your FBI and Local Police." Through the combined efforts of the Outdoor Advertising Association of America, Inc., and the Law Enforcement Assistance Foundation, billboards are being displayed throughout the country calling attention to the need for personal attention to the dangers of crime.

In a time when our Government and its citizens are involved in their daily routines, it is refreshing to see an industry such as the Outdoor Advertising Association of America, Inc., and the Law Enforcement Assistance Foundation take a positive step forward in reducing the problem of crime. I offer by sincere congratulations in this most worthwhile effort.

YOUTH UNEMPLOYMENT

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. BRODHEAD. Mr. Speaker, one of my constituents, Morton M. Kanter, has written a thoughtful article on the problem of youth unemployment. I take pleasure in sharing his thoughts with my colleagues. The article follows:

YOUTH UNEMPLOYMENT: MORE THAN JOBS FOR DISADVANTAGED

(By Morton M. Kanter)

President Carter said repeatedly—during the campaign—that he deems unemployment to be the Nation's Number One problem. The groundwork for this pronouncement included recommendations based on suggestions from leading scholars and students on the American family that "the most severe threat to family life stems from unemloyment and lack of adequate income." The report called for increased jobs to lower the unemployment rate and increase the purchasing power of American families.

While one may dispute the President's contention that unemployment is the nation's foremost trouble, no one can dispute that unemployment ranks high on the list. Particularly among black teenagers unemployment ranks dangerously high. The out-of-work black youth suffers not only because he is black, but also because he is a teenager. The national unemployment rate for all workers is bad enough, hovering above 7 per cent. For teenagers, black and white, the rate is about 2.5 times the rate for all workers—or about 20 per cent. For black teenagers alone, the rate is a staggering 40 per cent because of age and race and it is not likely to decline soon.

What can be done to alleviate or reduce youth unemployment, particularly black unemployment? Labor Secretary Ray Marshall recently said: "Much of what we will do to affect youth unemployment in general and black unemployment in particular, still remains to be done." What Mr. Carter proposed and the Congress provided is the Youth Employment and Demonstration Projects Act of 1977. This $1.5 billion employment stimulus package administered by the Department of Labor's Employment and Training Administration has already provided a $30 million promise to train unemployed Washington area youngsters for such jobs as parking meter readers, water purity testers and building security guards.

Yet, this kind of economic stimulus for the Nation's disadvantaged youth is a reminder of previous part-time public works projects. Such a partial remedy might help if the programs were properly administered and if the projects actually needed doing. The Youth Employment Act does make a gesture in this direction when it says: "It is explicitly not the purpose of this part (Title II—Youth Employment Demonstration Programs) to provide make-work opportunities for unemployed youth."

However, a larger problem exists: Since so much Federal attention has focused on youth employment during the past 16 years it should be convenient and desirable to be able to describe the Federal policy with respect to youth employment. Unfortunately, however, it is impossible to meet that challenge since such a policy does not exist. In recent years, we have witnessed the passage of numerous pieces of Federal legislation addressing the problems of youth employment. In addition to the programs under these pieces of legislation, we have seen the creation of a variety of other youth employment related programs, although most have had other youth problems, such as delinquency, as their major focus. We have seen, then, such efforts as the Neighborhood Youth Corps, Job Corps and vocational education and despite the hundreds of millions of dollars which have been spent on these programs, it is still difficult to argue the existence of a Federal policy toward youth employment, or even a Federal policy toward youth.

If there is lethargy in this area it is because most young people stumble but grow up without Federal intervention and learn to accept useful, productive places in their community. They recognize early that they have a stake in society; a social role which is seen as desirable and worthwhile, both by the person in it and by those around him. The most common example of a stake in society is a decent job.

The 15 or 20 percent of America's youth who do not make it suffer from all the ills our society breeds; consistently high unemployment, discrimination in attempting to enter the labor force preventing them from becoming skilled, "stop-gap" measures to reduce youth unemployment, minimum wage and child labor laws which discourage employers from hiring youth; and numerous school systems that have failed to adjust to changing labor force demands and do not prepare youth to participate in today's economy.

Analysis of these long term trends yield a number of conclusions about youth unemployment and important strategies that, if adopted and put into action could eliminate or substantially reduce youth unemployment.

First, we must counter discrimination through a strategy to enhance employment opportunities for minority youth by the application of constitutional, administrative and statutory provisions to eliminate discriminatory practices which limit employment opportunities for minority youth. The Departments of Labor and HEW should establish a "Youth Employment Pulseline" to provide information to job seekers, government agencies and employers to combat discriminatory practices against teenage youth. The "Pulseline" should also provide information to young job seekers and their families on regional job markets, for in our mobile society job searches by young people need no longer be tied to the neighborhood where they live.

Secondly, now is the time to stimulate employment demands for all youth whether or not they are disadvantaged, through indirect and direct subsidies to employers hiring youth. 16 to 19 year olds should be included in legislation seeking to reduce general unemployment and the Youth on Employment and Demonstration Projects Act should be amended in keeping with the thinking of the House of Representatives to include funding and wage subsidy of jobs in the private sector. This step alone would have far reaching positive effect on the youth labor market. Most employers must pay teenagers about $3 an hour ($2.30 plus compulsory fringe benefits of about 70 cents) and it is surprising that a teenager ever finds work at all without Federal subsidy to an employer.

Lastly, we have urgent need for a strategy to counter youth unemployment through a nationwide evaluation of Federal, State and local job placement agencies. New and improved guidelines for job counseling starting as early as 10 to 12 years of age for boys and girls is a parallel necessity.

For most Americans the main legitimate way to satisfy the wants of material goods, deference and security is to hold down a worthwhile job. Most youth at least have the promise of access to such a role, and this promise helps keep them doing what they are supposed to do in the meantime. Youth employment legislation until now has been stopgap, providing hefty dollar support for the poor and disadvantaged, who are still left to strive for access to meaningful jobs after Federal program support has ended.

Now is the time to modify past Federal initiatives and to build a strategy that will permit far more young people than solely the poor and disadvantaged to grow-up as productive members of their community. Public discussion should produce a Federal policy for youth employment and youth.

IN SERVICE TO HUMANITY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RODINO. Mr. Speaker, I would like to call my colleagues' attention to a very revealing commentary by James Reston in the New York Times. Mr. Reston describes the significant work performed by those public servants whose jobs require them to "be there" when people across the world most need them. The Federal workers described in the piece have a remarkable record of performance, and I am especially proud of Ms. Anne Martindell, former State senator from my home State of New Jersey, who is in charge of the Foreign Disaster Assistance Office in the State Department.

With recognition for the service to humanity by our Federal workers, I submit the following story to be included in the RECORD:

THE FORGOTTEN CONSOLERS

(By James Reston)

WASHINGTON, Dec. 8.—This is a report, maybe more of a letter, about the other side of Washington—not the spendthrift heartless bureaucracy you hear so much about but the work of anonymous public servants who devote their days to relieving the suffering of the human family.

There is a large company of such people in the Federal capital dealing with the pity and accidents of life along our coasts or in our flooded valleys or crowded cities or burning forests, but they also labor abroad wherever they are needed and wanted.

For example, the Office of United States Foreign Disaster Assistance in the State Department has been struggling almost unnoticed in recent days with the consequences of a typhoon in India which has taken the lives of over 10,000 people—by actual body count—and maybe as many as 50,000 by official estimates.

This occurred, as usual, at the end of India's southwest monsoon or rainy season in the states of Tamil Nadu, Andhra Pradesh, Kerala and Karnata, where, according to State Department reports, winds of 60 miles an hour produced a "tidal wave 19 feet high and 50 miles long" striking the coast of Andhra Pradesh at a "speed of 120 miles an hour."

It is not possible to verify these figures at this distance, but Louis Samia, Deputy Executive Director of CARE, has just returned from the worst of the devastated areas, and estimates that over 2 million people have been left homeless in Andhra Pradesh State alone, and 317,000 more in Tamil Nadu.

What happens here after one of these sudden human calamities? The answer is that a great deal happens that very few people ever hear much about. In the first place, the Agency for International Development in the State Department maintains four regional disaster-supply stockpiles of medicine, food, tents, blankets, clothing and other essentials at Guam in the Pacific, Singapore, Panama, and Italy.

These relief supply depots are located in those particular areas because the tragic fact is that, whoever is in charge of this terrestrial world, seems determined to afflict the poorest people of the earth. Seventeen of the 26 most impoverished nations in the world have been struck by earthquakes or devastating floods in the last five years.

During the years from 1965 until this latest tragedy in India, the United States Government has provided relief assistance for 516 disasters in other countries, involving almost unimaginable human tragedies—over three and a half million deaths, and property damage of more than $18 billion.

Several points should be made about this that go against modern popular belief. The aid was not given by the Government here alone, but in the closest cooperation with private relief agencies like CARE and church organizations carrying on the old religious tradition of "comforting the afflicted."

Emergency relief abroad has taken many forms over the years, from Herbert Hoover's food programs after the first World War to George McGovern's valiant efforts to relieve world hunger in the 1960's.

Relief has been furnished by grants voted by the Congress regardless of party under the Food for Peace program; by airlifts, airborne search and rescue teams; by liberal private donations in those little cardboard boxes for foreign missions; by corporate donations of the big American multinational companies—and much more beyond party or ideology or religion whenever people were in trouble.

Also, modern American technology is now beginning to play an increasingly important early-warning role in disaster prediction through new instruments for measuring geological and meteorological disturbances: remote-sensing satellites, computerized information systems, telemetry and seismic construction methods—all these are being used to predict and avoid human suffering everywhere on the globe.

This is the forgotten and consoling aspect of American foreign policy that began at the beginning of the Republic. In fact, the first appropriation of money by the Congress of the United States to assist a foreign government was for disaster relief—$50,000 voted on May 8, 1812, for the purchase and delivery of medicine and other supplies to the families of over 25,000 killed in the Venezuelan earthquake of that year.

So the old tradition goes on. John Gilligan, former Governor of Ohio and now head of AID in the State Department, presides over these rescue operations. And Anne Martindell, a former State Senator from New Jersey, is in charge of the Disaster Assistance Office.

They don't get into the news very often, but as that old democrat John Milton remembered: "They also serve who only stand and wait."

CONCURRENT RESOLUTION TO CONVENE A WORLD ALTERNATE ENERGY CONFERENCE

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. JEFFORDS. Mr. Speaker, I am introducing today a resolution, which is also being introduced by Senator HUMPHREY in the Senate, calling for a convening of a World Alternative Energy Conference in 1980. The purpose of the conference is twofold: First, a world conference on this subject has never been held, although there have been other more limited forums which have addressed the problem in piecemeal fashion over the last few years. Broadly, the conferees would consider specific ways for countries to work together to promote more widespread use of alternative energy resources.

Senator HUMPHREY's and my major goal, however, in introducing this resolution, is to examine the desirability of establishing an International Alternative Energy Commission to facilitate the transfer among countries of information relating to alternate energy sources and to otherwise encourage the use of alternate energy sources. It is apparent that a more organized effort to cross-fertilize ideas, systems, and hardware among advanced countries and lesser developed countries is in order. Successful irrigation experiments with wind machines or solar thermal pumps may occur, let us say, in north Africa, and may be just as applicable in south Asia. Such an institution would insure that lessons learned would be shared on an international basis.

Furthermore, development work may be in progress in private industry with little or no Government involvement. These activities, too, we envision, would become more widely known, as such an international institution could act in a clearinghouse fashion. We believe, in short, that the range of development, demonstration, and commercialization activities going on in the alternative energy field is now such that a more organized international effort—through the auspices of a major international structure—would be very timely and valuable.

In order to facilitate the orderly and efficient worldwide development of nuclear power we established the International Atomic Energy Agency. Now, at the threshold of the solar age, I think it altogether appropriate for an institution of comparable stature be established for alternative energy technologies.

I believe the United Nations, which has the experience and ongoing mechanisms to plan and sponsor a conference such as we envision for 1980, would be the best way to get things moving at the earliest feasible date.

It is a privilege for me to share the cosponsorship of this concept and this resolution with Senator HUMPHREY, who has, without question, done more to turn the attention and efforts of the Congress toward the development of solar energy than any Member of either Chamber.

A RETHINK OF ENERGY POLICY IS IN ORDER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LAGOMARSINO. Mr. Speaker, the President's stated realinement of priorities "to meet the country's real energy need" is commendable, but does not address the problem of basic research. Too narrow a focus on near-term "practical" goals could have serious consequences for future economic growth, which may depend on new science and technology:

A RETHINK OF ENERGY POLICY IS IN ORDER

(By William C. Hayes)

President Carter's moral equivalent of war—the pursuit of a responsible and effective energy policy—has degenerated into a series of nasty guerilla skirmishes. His energy package, which slipped so smoothly through the House, has disintegrated under virulent attack in the Senate. To some extent, this defeat reflects successful lobbying by special-interest groups. But the fact is that the proposal was clearly seen as a pastiche of ill-conceived measures that did little to solve the energy crisis, but which basically gave the government the power to manipulate the price and cost of energy. This moved the package out of the area of morality into the political arena, making it vulnerable. We suggest that some zero-base planning, especially in the nuclear area, is now in order.

The Administration seems to have missed the point that we do not really have an energy crisis, but rather an oil and gas crisis. From this perspective, it becomes clear that the cornerstones of national policy must be the vigorous pursuit of other energy sources, and the strongest possible program of incentives to conserve oil and gas. Carter's program purported to provide the latter, with a combination of wellhead taxes, gas-guzzler taxes, utility fuel taxes, and control of electric rates, to quench the people's thirst for energy. But this is coercion, not incentive. Though perhaps consistent with a wartime philosophy, it is otherwise unacceptable. Besides the clumsiness of this approach, we find it incomprehensible that nuclear power, a major alternative to gas and oil, was hurt rather than encouraged by his program.

The President has called nuclear power a technology of last resort. But in a war that we are in danger of losing, even last-resort weapons must be used, unless that use would be morally unconscionable. It appears to us that, if morality is involved here, it is on the side of nuclear power. At the World Energy Conference in Istanbul, Turkey, last month, delegates from Third World countries were vociferous—even hostile—over what they saw as a rich country's selfish denial of nuclear technology to those who desperately need it. At the same time, by refusing to exploit its nuclear capability, the U.S. continues to take oil out of the world markets, raising the price to the third world by doing so.

The Administration argues that its nuclear stance is designed to inhibit proliferation of nuclear weapons, not commercial nuclear power. But as country after country also pointed out in Istanbul, Pandora's nuclear box is already open, and, short of preventing the scientific education of the rest of the world, there is no way to prevent any nation from gaining nuclear-weapons capability. But, though it may be ineffective in attaining that intended goal, current Administration policy has been tremendously effective in bringing commercial nuclear power to a halt in this country.

We respectfully suggest that the President now formulate a fresh energy policy in the light of two considerations: (1) In a moral-equivalency war, as opposed to actual war, national policy must be persuasive, rather than coercive; and (2) no war of either kind can be won by deliberately failing to use all weapons acceptable by international accord.

COLLECTIVE BARGAINING AND AGENCY SHOP FOR FEDERAL EMPLOYEES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CRANE. Mr. Speaker, as we conclude a session of Congress that has been notable for the amount of labor legislation considered, it seems to me appropriate that we look at another measure organized labor may bring to the floor early next year. That measure is H.R. 9094, on which hearings were completed in September and which is due for markup sometime after the new session convenes in January.

Briefly stated, H.R. 9094 would establish collective bargaining for Federal employees within the framework of a compulsory agency shop arrangement. In addition, exclusive representation, binding arbitration, and a Federal Employee Pay and Benefits Council are provided for—the latter to negotiate wages and benefits with the Civil Service Commission, the Director of OMB, and the Secretary of Labor. Furthermore, the bill mandates that certification elections for exclusive representation rights be held within 45 days with unresolved issues to be settled afterward (as in H.R. 8410) and subjects agency rules and regulations to the collective-bargaining process for the first time.

If this bill is adopted, and all these changes made, it will be a significant departure from present procedure. Currently, under Executive Order 11491, as amended, Federal employees have the right to join, or not join, a union as they see fit without any requirement to pay dues to a union in lieu of joining. Also, under the current setup, such things as wages and benefits are not subject to employee consultation or negotiation. H.R. 9094 would change all that. Not only would Federal employees be represented by a union whether they wanted to be or not, but they would have to pay for the representation even if they did not want it.

As a matter of fact, H.R. 9094 not only provides for mandatory payment of a representation fee (except for religious or conscientious objectors who can contribute an equivalent amount to a designated charity) but it also gives the union the right to be present at certain employee-management discussions even if the employee does not want a union representative there. Moreover, the recent controversy over federally funded abortions, which sparked thousands of phone calls from Federal employees some of them threatening work stoppages, should sound a warning bell to the dangers of letting wage and benefit issues become the subject of collective bargaining. Were that to happen, not only would the functions of the civil service system be essentially duplicated, but the law establishing the system would be effectively emasculated.

While some of the provisions of H.R. 9094 may seem to be new, in actuality the bill is based on H.R. 13 which, for the last several Congresses, has been the vehicle for those pushing mandatory Federal employee unionism. Some changes reflect a reconciliation of H.R. 13 with the provisions of H.R. 1589, introduced by my distinguished colleague from Michigan (Mr. FORD), while others reflect House passage of H.R. 3387 (allowing conscientious objectors to contribute to charity instead of paying union dues) and H.R. 8410 (which, among other things, establishes guidelines and procedures for certification elections) but, on the whole, the major arguments against H.R. 9094 are the same as those that have been raised in opposition to H.R. 13.

Basically, the objections to H.R. 13, and hence to H.R. 9094, break down into four major categories: First, infringement of freedom of association; second, compromise of Government sovereignty; third, encouragement of Federal employee strikes; and fourth, the emasculation of current civil service procedures. To my way of thinking, any one of the four should be disqualifying as far as proposed legislation is concerned; the four together should be profound cause for concern.

The first amendment to the Constitution clearly sets forth the premise that people have the right to meet with, and join, whatever group they wish. But, for that premise to have effective meaning, the converse must also apply; that is to say, a person who does not want to join or associate should not be forced to. Fortunately, those two premises seem to be generally accepted throughout the country; the major exception is the leadership of organized labor which is strongly committed to union or agency shop and which wants at least the latter to be extended to Federal employees. These leaders justify their position by arguing that since the law requires them to represent all employees in a bargaining unit, not just those who want to join, all should join or at least pay dues like those who are members.

There is, of course, a certain logic in that position. However, rather than compromise something so fundamental as freedom of association, it would make far more sense to end the requirement that a certified union must represent those employees who prefer not to join it. Unfortunately, however, H.R. 9094 does not do that. Instead, it not only requires that federal employees at least pay dues to a union which is the exclusive bargaining agent but it makes it easier for the union to become that agent. Thus, it is obvious that what Federal employee unions really want is not equity but additional organizing leverage and this bill gives it to them at the expense of those who feel that they can work for Uncle Sam without paying homage or dues to a labor union.

As for the second point, governmental sovereignty, the problem with giving a Federal employees union full collective bargaining rights has two aspects. First of all, since Government is unique and everyone depends on it for the public services they have paid for through taxes, there are no alternatives in case of a strike by public employees. And second, to allow public employees to negotiate with Government, given the fact they have a monopoly over the deliverance of vital services, grants to them a status granted no other group within society. Put the two together, and public employees become coequal in the decisionmaking process with Government to the extent that they can dictate changes in both personnel policies and tax rates without the public being able to do much about it. Rather than exerting economic pressure, as unions do in the private sector, public employee unions exert political pressure and, with current dependence on public services, that pressure is usually irresistable.

Even after passage of the National Labor Relations Act, which applied union shop to the private sector, this interplay of factors caused President Franklin D. Roosevelt to state:

> Collective bargaining, as usually understood, cannot be transplanted into the public service.

He was not the only, or the last, prolabor figure to feel that way. Even AFL-CIO President George Meany was quoted in the December 4, 1955, issue of the New York Times Magazine as saying:

> It is impossible to bargain collectively with the government.

Just to prove that he was not alone in those sentiments, the AFL-CIO Executive Council, in February 1959, endorsed a statement that said, in part—

> In terms of accepted collective bargaining procedures, government workers have no right beyond the authority to petition Congress—a right available to every citizen. . . .

Of course, the leadership of the AFL-CIO has changed its tune in recent years, but as the U.S. District Court for the Middle District of North Carolina ruled in September 1975, in a case that challenged North Carolina's ban on public sector collective bargaining:

> (T)o the extent that the public sector employees gain power through recognition and collective bargaining, other interest groups with a right to a voice in the running of the government may be left out of vital political decisions. Thus, the granting of collective bargaining rights to public employees involves important matters fundamental to our democratic form of government. The setting of goals and making policy decisions are rights insuring to each citizen. All citizens have the right to associate in groups to advocate their special interests to the government. It is something entirely different to grant any one interest group special status and access to the decisionmaking process.

Proponents of bills like H.R. 13 and H.R. 9094 argue that if public servants were given this "special status" they would be less likely to become discontented, or worse yet, to go on strike. However, past experience indicates just the opposite is true. For example, in Massachusetts, which has permitted collective bargaining for public sector employees since 1965, there were an average of 0.57 public employee strikes per year before the legislation was passed and 5.22 strikes per year afterwards. In New Jersey, which has had public sector collective bargaining since 1968, there was an average of 3.10 strikes per year before enactment of the legislation as opposed to 18.67 strikes per year later. And in my own State of Illinois there were 1.20 strikes per year by State employees prior to passage of collective bargaining legislation in 1973; since then the average has been 3.00 strikes per year.

In no State has strike activity decreased as a result of public sector collective bargaining legislation and nationally the figures average out to 1.18 strikes per year before such legislation has been enacted as opposed to 4.61 strikes per year after it has gone into effect. Moreover, there is absolutely no reason to assume that the same trends would not hold true for Federal employees if H.R. 9094 were to pass—5 U.S.C. 7311 (the prohibition against Federal employee strikes) and 18 U.S.C. 1918 (the penalty for striking) notwithstanding.

Perhaps the biggest irony involved in the push for mandatory collective bargaining and agency shop for Federal employees comes at a time when evidence is growing that Federal employees have never had it so good—especially in comparison to their counterparts in the private sector. In a statement before the Civil Service Subcommittee of the House Post Office and Civil Service Committee, our distinguished colleague from Virginia (Mr. ROBINSON) gave some statistics showing that in Virginia, the average salary of private sector workers was $9,048 in early 1976 while the average salary of Federal employees throughout the United States was $14,875. While those figures are not conclusive, there has been enough speculation that Federal pay was outstripping private sector pay to prompt the Compensation and Employee Benefits Subcommittee of the House Post Office and Civil Service Committee to hold field hearings on the issue. Those hearings have just been completed and it is possible that, as a result of them, the subcommittee may mark up remedial legislation.

Three additional points need to be made relative to this question of the Federal employee and his job. The first is that, contrary to what some people would have us believe, working for the Federal Government is a privilege not a right. No one is forcing a Federal employee to accept these generous wage scales, and from all appearances easier than average working conditions with better than average benefits. In fact, and this is the second point, one can only wonder, given all the advantages that have accrued to public employees under the Civil Service System, if very many of those employees would really want us to subordinate that system to one based on mandatory collective bargaining and agency shop. Finally, one should not overlook the implications for the future of representative government if this type of legislation is passed. Instead of recognizing from the outset an obligation to serve those who pay their salaries through taxes, employee loyalty will be forcibly divided between the public on the one hand and some union on

the other. We need only look at the nationwide firemen's strike currently going on in Great Britain to see what happens when that loyalty is divided: the public is the loser.

While any final decision on legislation such as H.R. 9094 should be made on its merits, and after consideration of the foregoing arguments, it is significant to note that just last March the Roper Organization did a nationwide poll of public attitudes toward the forced unionization of public employees. The results showed not only that 55 percent of all union members polled feel that public employees should not be forced to support a union, but 69 percent of the American people disagree with the mandatory agency shop concept contained in H.R. 9094. Equally significant was the vote last May in the House of Representatives where, during the debate over the Hatch Act, an amendment was passed—by a convincing 259 to 144 margin—protecting the right of a Federal employee not to join, or be forced to support, an organization that advocates or encourages political activities. As opponents to the amendment made clear, the effect of this amendment, which survived final passage of the Hatch Act bill in the House, would have been to guarantee that Federal employees not be forced to join, or support a union.

One would hope, of course, that Congress would see fit to follow through on the logic not only of that vote but also the vote on H.R. 3387. If it is inappropriate to force an employee to support an organization because it may engage in political activities or because so doing would violate one's religious beliefs, then it stands to reason that Federal employees who are opposed to joining or supporting a union as a matter of philosophy, or because they do not believe it to be effective, or because they do not think it worth the money, should not have to do so. Why discriminate between Federal employees; why not let them continue the current practice of supporting, or not supporting, a union as they see fit? That is the fairest for all concerned.

Which brings me to a final point. In opposing H.R. 9094, no one is saying a Federal employee should not be allowed to join a union. That is a constitutional right that few would argue. But, just as an employee should be assured of being able to join, so, too, should he or she be assured that he or she will not be forced to join, or support, or in any other way become involved. Also, neither should the rights of other Americans be infringed upon by allowing public servants to be able, through the combination of forced unionism and collective bargaining, to affect public policy in a way they themselves cannot. Instead, if we are going to pass a law in the area of Federal employee relations, the type of legislation to pass is that which would do two things: First, guarantee all Federal employees the right to associate, or not associate, with a labor union without having that decision affect their job; and second, to deny to all Federal employees the right to strike. The practical effect of such a bill would be to give Executive Order 11491 the force of law and to reinforce the provisions of 5 U.S.C. 7311.

Mr. Speaker, for the last two Congresses, I have sponsored just such a bill. In the 95th Congress, it goes by the number H.R. 3487 and, unless we want to follow in the footsteps of the British, it is a measure whose time has come.

PANAMA: ILLUSIONS AND REALITIES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FRASER. Mr. Speaker, Ambassador David H. Popper, Special Coordinator for Panama Canal Treaty Affairs in the Department of State recently addressed the Ocean Policy Forum on the subject of the Panama Canal treaties. These treaties have generated a good deal of controversy. In his address Ambassador Popper has identified and dispelled several misperceptions of the effects of the treaties on the United States and Panama that have clouded public debate in recent months. He sets forth reasons why the ratification of these treaties is so important to United States-Latin American relations. I concur with his analysis and commend Ambassador Popper's statement to you for careful consideration:

PANAMA: SOME ILLUSIONS AND REALITY

In addressing an informed audience such as this, I thought it might be useful to open our discussion by setting out a few propositions of interest to knowledgeable persons in the fields of law and public policy.

I do so because it seems to me that in the course of the emotional public debate on the Panama Canal Treaties we are in danger of enshrining some illusions and losing sight of some hard facts.

The illusions—or, better stated, the misperceptions—are by now familiar to you.

It is said that we bought the Canal or the Canal Zone, we paid for it, it's ours, and we should keep it.

It is said that by preparing to terminate our military establishment in Panama we are impairing the security of the Canal.

It is said that we are giving away the Canal, and what is more, are paying the Panamanians to take it.

It is said that we should not make agreements with a dictator like General Omar Torrijos, either because he's too friendly with Communists or because human rights are massively violated in Panama.

And it is said that by removing our presence from Panama, after all that has happened elsewhere previously, we will be fatally weakening our position throughout the world.

As you can imagine, we in the Executive Branch of the Government would dispute each of these propositions.

Our country's entitlement for what we have done in the Panama Canal Zone stems from the Hay Bunau-Varilla Treaty of 1903. That Treaty did not give us sovereignty. It gave us sweeping jurisdictional rights, as if we were sovereign. We have ever since been paying Panama for these rights—though very inadequately.

In this sense, Panama is the titular sovereign in the Canal Zone. Our payment for the use of the Zone is not to be compared with our purchase price for Louisiana or Alaska.

So it's a misperception to say that we "own" the Canal in the sense that we are sovereign there.

When Theodore Roosevelt proclaimed, "I took the Isthmus, started the Canal, and then left Congress not to debate the Canal, but to debate me", he was right on his facts. But in spite of the 1903 Treaty's statement that we enjoy the rights he acquired "in perpetuity", our status is far from clear. His Secretary of State, John Hay, put the matter delicately when he described the Treaty as "vastly advantageous to the United States, and we must confess, with what face we can muster, not so advantageous to Panama."

Ours is at the least a clouded title. The 1903 Treaty was signed in Washington under circumstances which some believe come very close to duress. It was signed by a Frenchman basically interested in compensating the near-defunct French Canal enterprise. No Panamanian saw the text before he signed it. He himself had not been in Panama for 18 years and never returned there. And I will not refer to our dubious role in the creation of the new state of Panama, which had very little choice regarding ratification.

I do not condemn our officials for acting as they did. We needed full control to provide the range of services and activities which made it possible to hew a great Canal out of the tropical jungle. Such tactics were not unusual in an age of colonial expansionism.

But in the currency of our own times, our present status in the Canal Zone is difficult to defend. Whatever the 1903 Treaty says, how can you justify on its merits the permanent perpetuation of what amounts to a foreign-dominated enclave cutting another country in two, against the latter's will? We would not stand for it in the United States.

In doing a bit of research on the Panama Canal problem I ran across an interesting precedent for changing the Treaty arrangements. In 1850, at a time when British capabilities in Central America were much greater than ours, the United States and the United Kingdom agreed in the Clayton-Bulwer Treaty that neither would ever obtain or maintain for itself any exclusive control over a trans-isthmian ship Canal or would ever erect or maintain fortifications nearby, or occupy, fortify, colonize, or assume or exercise any dominion over any part of Central America.

That seemed to be a good deal for us at the time, but thirty years later the situation had changed. In 1881 Secretary of State James Blaine, interestingly enough, argued for a change, on the ground that the Clayton-Bulwer Treaty had been concluded over thirty years earlier, under exceptional and extraordinary circumstances which had entirely ceased to exist. Note that we were the party seeking to change a Treaty at that time.

We did not of course abrogate the Clayton-Bulwer Treaty unilaterally, just as the Government of Panama has not formally denounced or sought to abrogate the 1903 Treaty. Instead, in order to align our needs with the circumstances of the time, we concluded the Hay-Pauncefote Treaty with the British in 1901. This Treaty released us from the restrictions of the Clayton-Bulwer Treaty and permitted us to assume the sort of physical control over the Canal areas which, as I have said, we needed for the task of constructing the Canal.

Today, seventy-five years later, an outmoded agreement is again being replaced through negotiations conducted on a footing of equality. When ratified, the new Treaties will modernize our role in Panama; end the anachronism and the anomaly of an American presence bisecting an independent foreign nation against its will; and remove a serious impediment to harmonious hemisphere relations and to our standing as a leader in support of the freedom and independence of nations throughout the world.

So it is at the least a vast oversimplification that we paid for and own the Canal

Zone, and that we shouldn't give it away. In all equity, there are compelling reasons for a change.

The second misperception is that we're impairing the security of the Canal by getting out.

This ignores the fact that under the new Treaties a United States Government agency will operate the Canal until the year 2000. It fails to note that we will retain our armed forces and all the facilities we have considered necessary for them during the same period. Under the basic Panama Treaty, we have primary responsibility for the defense of the Canal for the rest of the century.

Nor will we prejudice the security of the Canal when we withdraw. For under the Permanent Neutrality Treaty, we will be entitled indefinitely to take the necessary action to defend the Canal against any aggression or threat to its security. And our war vessels can pass through the Canal at the head of the line in case of need.

It is no paradox to assert that the Canal will be much more secure—much better safeguarded—under the proposed new Treaties than it is at present, despite our eventual withdrawal.

The reason is that our basic interest is not centered on the occupation or real estate. Our interest lies, rather, in ensuring that the Canal is always open to our ships, in peace and war. The Canal is an artery. Like a superhighway, its availability for uninterrupted use, not its ownership, is the critical factor.

Under the new Treaties, Panama is inevitably associated with us in the Canal enterprise. Panama will have an increasing stake in the successful operation of the Canal. More than ever, it will provide Panama with much of its economic sustenance.

The prospects for an open, neutral and secure Canal are far better if we join in partnership with a friendly Government and people of Panama in operating the Canal, than if the Canal Zone is surrounded by an increasingly frustrated and exasperated populace egged on to violence by our adversaries inside and outside the country.

Our Joint Chiefs of Staff do not relish that prospect. They can defend the Canal against a major attack, it is true, though it might on their own estimate take up to 100,000 men to do so in the tropical jungles of Panama.

But the Canal is open to easy sabotage. There is no wall-to-wall defense that can prevent the Canal from being put out of action for weeks or months by a few skillful handlers of small quantities of explosives.

Over the long haul, therefore, the best defense for the Canal is a satisfied Panama, committed in its own interest to the maintenance of Canal traffic. In such circumstances guerrillas and saboteurs will have a hard time—and there will be far less incentive for their activity.

A third misperception is that we—the United States—are paying the Panamanians to take the Canal away from us.

Not so. Under the new Treaties, Panama will for the first time receive an adequate return for the use of its greatest national resource, its strategically located territory. That return, however, will come from increased Canal tolls and not from U.S. Government appropriations.

Further, the economic assistance measures we will extend to Panama, outside the Treaty framework, will consist entirely of loans, credits and guarantees. There will be no grants. We are aiding Panama in this way in order to strengthen the special relationship being created between us. The assistance we render will help to create a more advanced Panamanian economy and a more mature and stable country.

The amounts involved, incidentally, do not approach those of the loans and grants we are making available to each of a number of other countries where we have or are seeking foreign base rights—Spain, Greece and Turkey, for example.

A fourth fallacy runs to the effect that we can't deal with Panama because: (a) General Torrijos is a dictator; (b) he is under communist influence; or (c) human rights are violated in Panama.

For us to make agreements advancing our national interests only with democratically elected rulers would be an absurdity.

Panama is an authoritarian state, and its human rights practices are not ours. But it is not today a country of massive human rights violations. It is not a country with political prisoners. Officially sanctioned torture is not reported. Political "disappearances" do not occur. Judicial processes are not disregarded.

While political parties are formally barred, there are local elections; there is a parliament; virtually all the highest government officials apart from General Torrijos are civilians. Observers have confirmed that there was a full and fair debate on the Panama Treaties prior to the October 23 plebiscite. And General Torrijos, having asked the United Nations to send observers for the plebiscite, has also asked the Inter-American Human Rights Commission to visit and study the human rights situation in his country. These are not the actions of a country with skeletons to hide.

Let me say a further word about the communism factor. There are a few hundred communists in Panama, and more windy Leftist and radical third-world rhetoricians. There is also a private enterprise economy which until the recent world recession was thriving; and Panama is a center for some 80 foreign bank branches.

Actually, communist influence is not predominant in Panama. There is no Soviet Embassy there—only a TASS news office. On the economic side there is nothing remotely resembling the major, and guaranteed, market which the Soviet Union provides for our grain. And the Cuban Embassy is kept in line.

In another perspective, the claim is made that what is termed an American withdrawal from the Canal will create a power vacuum inviting communist penetration. On the contrary—if we persist in our present position, an explosive situation will surely be created in Panama. Such a situation is the ideal spawning ground for extremism and violence.

Under Article V of the Neutrality Treaty, by the way, Panama agrees that after the year 2000, when our troops withdraw, only Panama may operate the Canal and maintain defense sites and military installations within its national territory.

My crystal ball is not good enough to know what kind of a government Panama will have in the year 2000, when we would withdraw. But I am certain that the best protection we can build against a communist danger is to make Panama whole; to restore its national dignity, self-respect and independence; and to strengthen its involvement in the operation and functioning of the Canal.

And this is the course which will best protect our interests in the Western Hemisphere. The Canal issue has been a festering irritant in our relations in the Americas. Its removal will not end our problems there. But it will make it easier to strengthen our relations, on a sound basis of equality and respect for the national independence of all states. Each of our last six Presidents has recognized this point.

Permit me a final word. In a statement to a group particularly concerned with oceans law and policy, it is perhaps appropriate to stress one or two of the less frequently discussed aspects of the new Panama Canal Treaties.

First, the provisions of the Treaties relating to maritime traffic seem to me to be in the best tradition of international maritime law.

Under Article II of the Permanent Neutrality Treaty, the Republic of Panama (as the territorial sovereign) "declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason . . ."

This is the keystone of the "regime of neutrality" which the United States and the Republic of Panama, under Article IV of the Permanent Neutrality Treaty, have agreed to maintain. Other provisions of the regime of neutrality ensure that vessels transiting the Canal will comply with applicable safety, sanitary and other regulations, and that they commit no acts of hostility while in the Canal. While there is no exact analogy to "innocent passage", the regime of neutrality laid down in the Treaty appears to be generally akin to that standard.

If I understand the situation correctly, this approach is fully in tune with the arrangements the United States and other maritime powers have been seeking to establish in connection with the regime of international straits at the United Nations Law of the Sea Conference and in other ways.

The principle of non-discrimination is also involved in the Treaty commitment (Article II of the Neutrality Treaty) to keep the Canal open and secure for peaceful transit "both in time of peace and in time of war." This is a more specific provision than that which exists in the 1903 Treaty. It has been attacked because, on its face, it appears to permit the passage of vessels of an enemy of the United States through the Canal during hostilities. Why, it is asked, should we create such a sanctuary for an enemy?

The short answer, of course, is that we rely on the U.S. Navy to deal with hostile men of war on the high seas, especially in areas as close to our home shores as the waters surrounding the Isthmus. I believe I am correct in stating that during two world wars, no enemy ship of war—or even merchant vessel—attempted to transit the Canal. The enemy obviously considered such a venture foolhardy. Our Naval authorities are confident today that no enemy vessel could reach the Canal undetected, and it surely could not expect security once it had left Canal waters.

In this connection, it is interesting to note the precise limits of the protected area subject to the guarantees of passage contained in the Neutrality Treaty. The Annex to that Treaty defines the word "Canal" as including the existing Panama Canal, the entrance thereto and the territorial seas of the Republic of Panama adjacent thereto, as defined on an annexed map. The map, as published, makes it clear that the maritime areas concerned, at each end of the Canal, extend approximately three miles from the Canal entrances. Ships outside that area on the high seas would be subject to the normal disabilities of that status. This would seem to be a relatively favorable arrangement from the American defense standpoint.

Finally, you will also recall that Panama and the United States have negotiated a Protocol to the Panama Neutrality Treaty, under which acceding states acknowledge the regime of neutrality and associate themselves with its objectives, and also agree to observe and respect that regime in time of war as in time of peace and to ensure that vessels of their registry observe the applicable rules.

The Protocol reminds us that the Panama Canal settlement strongly concerns other states in the Hemisphere, and beyond that, the major maritime nations everywhere. Like the United States and Panama, they too have an interest in the maintenance of a neutral, secure and open Canal. We would hope that after the Panama Treaties have been ratified, the regime of neutrality will be strengthened by numerous accessions on the part of states from every area of the world.

To conclude, I would stress four simple propositions:

1. The new Treaties will better assure for us continued access to the Canal;
2. They will advance our capability to keep the Canal open and to defend it;
3. They will improve our position throughout Latin America, and in important respects throughout the world;
4. Their ratification would be the kind of step a leader of the free nations and free peoples of the world ought to take.

As the American public comes to understand these points, it will, I believe, support the new Treaties. Their ratification will be properly viewed as a contribution to our highest national interest. And I would hope that the members of this organization would exert their efforts to that end.

THE 10TH ANNIVERSARY OF CETDS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RODINO. Mr. Speaker, this past week in my district, we celebrated the 10th anniversary of a very special public service group. For over a decade, Newark's Comprehensive Employment and Training Delivery System (CETDS) has represented an exceptionally high level of dedication, sensitivity, and professionalism as one of Newark's major programs for jobs and job training.

Approximately 20,000 persons have been placed in jobs with more than 500 firms—large and small—in Newark and throughout the metropolitan area. The wages earned by these workers have put tens of millions of dollars into the economy.

This program began as part of the manpower programs developed by President Lyndon Johnson's administration in 1967 to ease urban unemployment. In that year, Arthur Jones of the Office of Economic Opportunity and Jack Hurley of the Labor Department were sent by the Federal Government to establish Newark's concentrated employment program (CEP) which eventually became TEAM (Total Employment and Manpower, Inc.). This "demonstration project," designed to last 1 year only, was run so successfully, it continued every year since then and today is known as CETDS. The program has grown to provide Newark's first full service manpower program, with recruitment, counseling, job referral, job training, job development, medical, and other supportive services all available within the same agency. It reached out to the industrial world of the Greater Newark area to provide jobs for unemployed urban dwellers.

One of the most significant factors in the development of this manpower organization was the assistance it received from Newark's Mayor Kenneth Gibson. Recognized as one of the most effective public servants in the Nation, Mayor Gibson has helped to bring millions of dollars into the city to revitalize its economic loss. Ken Gibson established the Mayor's Office of Manpower, whose director, Mr. Harry Wheeler, has proven to be a forceful voice for the city.

CETDS remains one of the first organizations in the Nation to have initiated joint sponsorship of manpower programs between the municipal government and a community action group. There are many other "firsts" for this organization, but they are too numerous to list here. I will only say that the program continues with more resources than ever to help Newark's unemployed find work. It has intake centers in each of the five wards of the city and a drug rehabilitation center in the Roseville area. It will service 5,000 people in 1978 alone, and 2,000 unemployed urban dwellers will obtain work this year because of CETDS. After 10 years, I am honored to salute the performance of CETDS as an example of community self-help of which our Nation can be proud.

THE PRESIDENT, CONGRESS, AND FOREIGN POLICY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LAGOMARSINO. Mr. Speaker, much more attention needs to be given to consultation between the President and Congress, so that a high level of effectiveness in international affairs can be established. Henry Huglin, a retired Air Force brigadier general and syndicated columnist on national security and international affairs, develops this topic:

THE PRESIDENT, CONGRESS, AND FOREIGN POLICY

(By Henry Huglin)

An on-going handicap in our nation's foreign policy is that the President and Congress often are not working in coordination and harmony in this vital and complex field.

President Carter—as was President Ford before him—is being overly-curbed and "Monday-morning-quarterbacked" in his constitutional responsibility and prerogative to conduct our foreign relations.

A principal reason is that recently the pendulum of power balance in our government in foreign policy has been swung too far toward Congress—in over-reaction to the perceived excesses of Presidents Johnson and Nixon, as well as the flexing of egos on the part of some members of Congress.

And President Carter still has a long way to go to reestablish effectively the necessary predominant presidential role in formulating and carrying out our nation's foreign affairs. His working relations with Congress in this field are not as good as they should be. And he has not acquired sufficient prestige or gained enough confidence of the public to exert a sometimes necessary overriding influence with Congress on these matters.

Of course, with the set up of checks and balances in the Constitution, the Congress has specific authority in foreign affairs—mainly through appropriations and the Senate's having to ratify treaties. But the role of formulating foreign policy and conducting it clearly rests with the President.

Yet, the system only works well when the President and his advisers in this field work closely with the key members of Congress throughout the process of developing and executing foreign policy—and when the key members of Congress curb their ambitions for exaggerating Congress' or their personal role.

The President, Secretary of State, and the Ambassadors need the support of Congress for them to have proper effectiveness abroad. When leaders of other nations doubt that a President's commitments will be backed up by Congress, they are simply wary of negotiating sound agreements; and our interests are thereby hurt.

A major source of trouble is that Congress is a body of amorphous responsibility, being accountable collectively to no constituency. Hence, there is great opportunity for excessive, even irresponsible, action by Congress—in giving in to the pressures of a few activist members, or the special narrow-interest groups, or just emotions of the moment. Therefore, it is important that the President and Secretary of State work closely with Congressional leaders to avoid such Congressional action and, when it nevertheless in taken, for the President to use his veto.

Another major source of trouble lies in the proclivity of some members of Congress to try to inflict on the country their neo-isolationist or wishful-thinking, ivory-tower perspectives of the world and our role in it—by demagoguery, obstruction, or even arrogating to themselves the disclosure of highly secret and sensitive information.

Yet, Congress should certainly not be a rubber stamp for Presidential foreign affairs policies and actions. All the ideas that come out of the Executive Branch are not wholly sound, wise, or well thought out. So, the need is strong for consultation, exchange of ideas, and conciliation of divergent viewpoints, which can often produce better results than otherwise—if done objectively.

Further, the possible opposition of Congress to a treaty or a security, trade, or aid agreement being negotiated with another country is sometimes used effectively as a lever by the President and his diplomatic agents to get concessions in negotiations and in actions, such as moderating violations of human rights.

Still, the members of Congress now need to practice the same restraint that they have insisted the President practice. The Congressional ego-trippers and demagogues who try to make political hay by exploiting foreign policy issues need to be put down by their colleagues.

Another need is for a broad view and long-term perspective on the part of the leadership of the Senate and House. Yet, this takes long exposure and experience in the field, which seems now to be lacking among the present leaders.

So, careful informing and consulting with Congress by the President and his foreign policy advisers is a particularly important on-going need.

The problem can be remedied only by the President's and Congressional leaders' improved mutual understanding, consultation—and statesmanship.

But, until Congress shapes itself up and the President exerts a defter hand, our effectiveness in international affairs is going to suffer.

NICK SANTORO, AN OUTSTANDING CITIZEN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. YATRON. Mr. Speaker, we all know how thousands of America's youths have grown up idolizing a star athlete.

Lou Gehrig, Micky Mantle, Willie Mays, John Unitas, Joe Namath, Gale Sayers, Joe Louis, Muhammad Ali—all of these outstanding American athletes, as well as many others, have served as examples of courage, spirit, and determination to young people across the country and around the world.

Another great American, an outstanding Pennsylvanian, has played this same important role in the lives of hundreds of Pennsylvania youngsters. Nick Santoro of Reading, Pa., has provided inspiration and guidance to many people, as a boxer, a coach, and a friend. For 37 of his 73 years, Nick has served on the Pennsylvania State Athletic Commission and presently is chief deputy commissioner. In the course of his 55 years in boxing, he has gained the admiration and friendship of many. A man of deep religious conviction and a devoted father, he has used the sport of boxing to help develop his students, molding them after his own image of tough competitiveness mixed with a humanitarian concern for his fellowman.

As a former professional boxer, I know the value of a true mentor: one who can lead and motivate both in and out of the ring. Nick has been that kind of mentor for thousands of Pennsylvanians. His contributions are legion and more than merit this recognition by the U.S. Congress.

HOUSE MUST VOTE ON PANAMA TREATIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, the question of the proposed Panama Canal Treaties has provided highly emotional controversy during the past month as well as the promise of even more during the months ahead.

I for one am strongly opposed to relinquishing U.S. control of the canal and Canal Zone. However, there is an even more overriding issue present. The prerogatives and responsibilities of the House of Representatives are also at stake.

On August 4, 1977, I introduced House Concurrent Resolution No. 328. I again introduced my resolution in modified form, House Concurrent Resolution No. 347, on September 9, 1977. To date, this resolution has been reintroduced seven times with 25 cosponsors each and expresses the sense of the Congress that both Houses must act with regard to the disposition by the United States of any right to, title to, or interest in the Panama Canal Zone or any real property located therein.

Mr. Speaker, my resolution calls for one thing—a chance to vote yes or no. This is a constitutional issue and not one of partisan politics. It is our duty under article 4 as the elected representatives of the people to assure that their voice is heard. The Constitution calls for it—we must assert ourselves and demand it. Our stand must be perfectly clear to the President and all of America—we will not abide by back door loans and grants to Panama made without our consent and outside the authorization and appropriations processes of the Congress.

I strongly urge every Member who has not already done so to cosponsor my resolution. Ours is a Republic with built-in checks and balances and a democracy based on free expression of the will of the majority. If the proposed treaties are good, they will stand the review; if they are so bad that they cannot withstand our scrutiny, then they should not even be considered by this government at all.

All of us will and should be held accountable for allowing the President to usurp our constitutional authority over this matter at the polls next year if we fail to act now.

Public sentiment throughout the Nation has been extremely negative concerning the proposed Panama Canal Treaties and my office is no exception. Mail has been running heavily in favor of retaining U.S. rights in the Panama Canal Zone.

I sincerely feel that it is in the public's best interest on any final decision that we assert our constitutional authority and bring this question before the House as well as the Senate.

Mr. Speaker, I submit for the Record a list of those 160 Members who are already cosponsoring my resolution representing 44 States of the Union:

Cosponsors of H. Con. Res. 328

Total: 160—Hansen (ID), Kemp (NY), Kindness (OH), Ketchum (CA), Crane (IL), Dornan (CA), Zeferetti (NY), Edwards (OK), Flood (PA), Stump (AZ), Symms (ID), Livingston (LA), Goldwater (CA), Marriott (UT), Evans (DE), McDonald (GA), Abdnor (SD), Duncan (TN), Quayle (IN), Snyder (KT), Collins (TX), Winn (KS), Schulze (OH), Rinaldo (NJ), Rousselot (CA), Ashbrook (OH), Holt (MD), Bauman (MD), Lott (MS), Lagomarsino (CA), Clawson (CA), Smith (NE), Lujan (NM), Waggonner (LA), Ichord (MO), White (TX), Shuster (PA), Latta (OH), Rudd (AZ), Myers (IN), Grassley (IA), Hillis (IN), Young (FL), Hagedorn (MN), Montgomery (MS), Thone (NE), Guyer (OH), Sawyer (MI), Devine (OH), Hammerschmidt (AR), Burgener (CA), Taylor (MO), Broyhill (NC), Nichols (AL), Moorhead (CA), Burleson (TX), Pressler (SD), Sebelius (KS), R. Daniel (VA), Jones (NC), Hall (TX), Dan Daniel (VA), Vander Jagt (MI), Robinson (VA), McDade (PA), Brown (OH), Martin (NC), Emery (ME), Badham (CA), Jeffords (VT), Walker (PA), Cunningham (WA), Roe (NJ), Marlenee (MT), Mottl (OH), Mitchell (NY), Conable (NY), Quie (MN), Leach (IA), Miller (OH), Stockman (MI), Hyde (IL), Murphy (NY), Corcoran (IL), Frey (FL), Armstrong (CO), Skubitz (KS), Heckler (MA), Pritchard (WA), Edwards (AL), Wampler (VA), Gilman (NY), Dickinson (AL), Young (AK), Cleveland (NH), Pettis (CA), Butler (VA), Lent (NY), Frenzel (MN), Kelly (FL), McEwen (NY), Bob Wilson (CA), Moore (LA), Madigan (IL), Stangeland (MN), Trible (VA), Spence (SC), Gaydos (PA), Carter (KY), Bafalis (FL), Walsh (NY), Wylie (OH), Whitehurst (VA), Brown (MI), Regula (OH), Beard (TN), Wiggins (CA), Harsha (OH), Mollohan (WVA), Stratton (NY), Fish (NY), Horton (NY), Runnels (NM), Davis (SC), Byron (MD), Flowers (AL), Chappell (FL), Hubbard (KY), Kasten (WI), Satterfield (VA), Breaux (LA), Flynt (GA), Caputo (NY), Volkmer (MO), Lloyd (CA), Quillen (TN), Mathis (GA), Lloyd (TN), Risenhoover (OK), Watkins (OK), Cohen (ME), Huckaby (LA), Ireland (FL), Young (MO), English (OK), Rhodes (AZ), Treen (LA), Alexander (AR), Bevill (AL), Evans (GA), Sikes (FL), Burke (FL), Gradison (OH), Biaggi (NY), Anderson (CA), Bowen (MS), Andrews (ND), Applegate (OH), Leggett (CA), Barnard (GA).

Additionally, Mr. Speaker, I submit for the Record the November 15, 1977 results of a poll of the Members of the House of Representatives conducted by the American Conservative Union concerning the Panama Canal which are very informative:

Majority of Congressmen Who Respond to Poll Oppose Panama Canal Treaties by More Than 2-to-1

Washington, D.C.—Rep. Philip M. Crane, Chairman of the American Conservative Union, announced the results of an ACU poll of members of the House of Representatives that shows the majority of those who took a position, oppose the Canal treaties by more than 2-to-1. In addition, Congressmen who responded also believed by a margin of over 4-to-1 that the House should vote on the transfer of property involved in the Panama Canal treaties. This is the first poll taken of the House on this issue since the treaties were announced.

The breakdown of the representatives responses when asked their position on the proposed treaties is as follows: In Favor of ratification, 66; Leaning in Favor 14; Against ratification, 160; Leaning Against, 30; undecided, 149; and those who had no comment or response totaled 16. Out of the 269 members who took a position, those in favor or leaning in favor of ratification numbered 80 or 29.4 percent and those against or leaning against, totaled 190, or 70.6 percent—more than 2-to-1 against. Out of the entire House membership, 18.4 percent are in favor or leaning in favor of the treaties, 48.7 percent are against or leaning against, and 37.9 percent are undecided, or had no comment or no available response.

Responses to the question of whether or not the House should vote on the disposition of property as required by the Constitution shows 187 in favor of a House vote; 7 leaning in favor, 29 against, 12 leaning against, 184 undecided, and 17 had no comment or no available response. Of those who took a position, 194, or 83.1 percent were in favor of a House vote or leaning in favor, and 41 or 17.5 percent were against or leaning against—more than 4-to-1 in favor of a House vote on the treaties. If the entire House membership is taken into account, 44.6 percent are in favor of a House vote or leaning in favor, 9.4 percent are against or leaning against, and 46.0 percent are undecided or had no comment or no available response.

"Given the realistic possibility that the House may vote on the proposed treaties," Crane said, "the ACU believed it was extremely important that the House of Representatives, the peoples' body, be polled to determine its members' positions on these two key questions.

"The poll clearly reveals that sentiment in the House, as in the nation, is overwhelmingly against the treaties and that the House should definitely have a voice in deciding whether or not the treaties should be approved.

"The relatively large number of undecideds, most of them Democrats, demonstrates President Carter's failure to gain any significant support from members of his own party for the treaties.

"It is no wonder President Carter wants to avoid a vote on the treaties in the House at all costs. This poll is a clear indication that the House would most likely vote a resounding no against the Panama Canal treaties," Crane concluded.

WESTCHESTER COUNTY, N.Y., MOVE TO PUBLIC POWER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. OTTINGER. Mr. Speaker, one of the problems facing people all across the Nation is high energy costs, particularly for electric energy.

Unfortunately for my area, we are served by Con Edison and they charge the highest electric rates of any major utility in the civilized world.

As a result of this, we have been looking into the feasibility of setting up a public utility for Westchester County, one which could purchase power from public and private sources, and provide much more reasonable rates than Westchester residents now pay to Con Ed. Such an entity also could serve commercial and industrial establishments, and would help enable them to stay—or move into—the metropolitan New York area.

Earlier this week I presented testimony to the Westchester County Legislature and sent a memorandum to the legislators detailing how a public utility could provide cheaper power to Westchester. Since I am aware that many areas of the country are entertaining similar action, I would like to share these materials with my colleagues:

STATEMENT OF HONORABLE RICHARD L. OTTINGER BEFORE THE WESTCHESTER COUNTY LEGISLATURE, DECEMBER 12, 1977

I strongly support the County Executive's proposal for a $200,000 budget appropriation for the purpose of completing the reports on steps needed to establish a county utility agency to replace Con Edison and to strongly urge the Legislature to accept it. I also urge you to approve a resolution for the agency and put the matter before the voters.

The Beck report, which was made public last week, is a fine beginning, and indicates that further study is needed to determine which Con Ed facilities to acquire, how to run a county utility and what the estimated costs would be.

I share the view that the engineering report confirms what I have believed for more than two years—that it is feasible for the County to provide power to Westchester users at a cost likely to be substantially lower than the cost of power presently supplied by Con Ed.

The Beck report deals primarily with technical and engineering matters in reaching its cost conclusions; it does not explain in detail the other cost savings which could be achieved by a public power agency in the County which could be even more substantial than the power savings mentioned from purchase of PASNY power. Let me mention a few of these.

A public power agency would not have to make a profit, nor would it have to pay dividends.

A public power agency would be able to borrow money at substantially lower rates than can a profit-making utility such as Con Edison.

Salaries in government agencies are invariably a good deal lower than in the private sector; indeed, we could save $200,000 a year plus lucrative stock options simply by not paying the salary of Con Ed board chairman, Charles Luce.

It would pass along any savings directly to customers.

A county entity buying power could do so not only from the State's Power Authority but competitively from any other source in the region (and there are many) much more cheaply than is now obtained from Con Ed's expensive power plants.

A public entity would not have the incentive to build expensive new power plants—and add them to the rate base for the consumers to pay for—but could seek to save money by conserving, as well as buying cheap, power.

Seattle, Washington, through its City Council which runs its utility, decided earlier this year not to invest around $100 million as a share in a nuclear power plant, but opted instead for intensive conservation strategies as a cheaper way of providing for the electric power needs of the people of Seattle.

Although the Beck report indicates that the cheapest power available in the region is Power Authority power—and that there is good reason to assume that we should be able to obtain a fair share of that power—it is also clear that we can purchase power elsewhere at rates substantially lower than Con Ed's. (Industrial rates in the Con Ed Service area are currently about two and a half times what they are in the Niagara Mohawk service area, for example.)

Moreover, there is a substantial quantity of power that should be available for purchase, not only in the near term, but at least through 1996. The Federal Energy Regulatory Commission released its Bulk Power Load and Supply Projections for 1987–1996 on December 1st, and confirms my assertion. Keeping in mind that the required reserve margin to meet reliability criteria is considered to be 18 per cent, the lowest reserve margin for the period considered for the Northeast Power Coordinating Council is 21.50 per cent, while the FERC estimates that in 1996 the margin will be 25.01 per cent.

If these projections are correct, there will be plenty of power available for Westchester County from sources other than the Power Authority. A mix of PASNY power and power produced by private utilities throughout the Northeast would still reduce our rates considerably.

The Beck report itself confirms that substantial savings would result from different mixes of purchased power. Were the County to buy only Power Authority power it could achieve a 37.9 per cent savings; a mix of PASNY and other purchased power would range from 9.1 per cent up to 14.1 per cent savings; power bought only from the utilities in New England would lead to a 6.6 per cent savings. And those estimates are based on the more conservative, $550 million acquisition cost, rather than the $300 million cost, which would result in even greater savings.

With regard to the availability of PASNY power, it should be noted that Federal law and the Federal Power Commission license for the Power Authority's Niagara Power Project require that 50 per cent be made available to preference customers, mentioning explicitly "public bodies and nonprofit cooperatives."

According to a report filed with the Federal Power Commission last February, requested as a result of the Congressional hearings in September, 1976, the Power Authority is selling 467,100 kilowatts of power to preference customers from its Niagara plant, and plans to allocate an additional 35,000 kilowatts to intrastate and out-of-state preference customers.

The total commitment, present and planned, is thus only 502,100 kilowatts, out of a total generating capacity of at least 2,277,550 kilowatts. That amounts to less than 25 per cent of power going to the public bodies and nonprofit cooperatives, and provides assurance that roughly half a million kilowatts should be available for such entities, including one to be set up in Westchester.

I believe that we should move rapidly in pursuing the required information through the legal and engineering consultants so that establishment of the Westchester Energy Resources Commission can be on the ballot for consideration by the voters in November, and I urge you to work toward that goal.

The supplemental legal and engineering reports should be, in my view, completed by next July. Following this I would recommend that the County conduct a series of public informational hearings to explain the proposal to the public and receive public input, and to finalize proposals for a county-wide referendum next November.

The Tocci resolution introduced last spring contains the basic language to create the needed commission, and lacks only the required estimated cost of acquisition of Con Edison properties and of operation. This should be obtained by the engineers, and made available in their supplemental report.

I am convinced that the time is ripe to provide the voters of Westchester an opportunity to help us decide the issue of whether and how to replace Con Edison.

In closing, let me quote from testimony provided earlier this year by the American Public Power Association:

"There are a number of reasons for the lower rates of municipal electric systems. Local consumer owned electric systems, publicly or cooperatively owned, are nonprofit institutions. Therefore, there are no dividends to pay to stockholders, and no Federal income tax (which is paid on profit). Interest on revenue bonds issued to finance capital expansion of local public power systems is also tax-exempt, making such bonds more attractive to lenders at lower interest rates . . .

"Another reason for lower rates is generally more efficient management of local public power systems. As indicated earlier, FPC reports indicate that local public power systems handle their accounting and collections, promotion and advertising and administrative and general expenses more economically than private power companies.

"Local control of electric service means, of course, that each voter has a share in the decisions, and can influence rates and policies. The responsibilities possible in a local public power system takes on new meaning in an age of growing conflict between economic and environmental values. People continue to seek adequate electric service at the lowest reasonable cost, but they are including air and water pollution control and esthetic considerations (such as putting power lines underground) in their demands. There is no "either-or" answer to the conflict and compromises must be made. Local control of electric service can be a key to making wise choices in the search for adequate energy at the least possible environmental cost."

Passage of a resolution by the County Legislature and its placement on the November ballot will provide the voters an important—and early—opportunity to take part in the decision making process.

POWER AVAILABILITY, RATES, FOR A WESTCHESTER COUNTY UTILITY

(By Representative RICHARD L. OTTINGER)

Some new information has come in from various agencies, and has been assembled by my staff to provide support for the conclusions of the Beck report that establishment of a Westchester Energy Resources Commission is feasible. I believe our move to create a Westchester utility is essential to the economic well-being of the County.

Such a public power entity could (a) buy power from PASNY; (b) buy power from elsewhere in the region; (c) would be able to produce some power of its own, from benign, renewable resources (small hydro, solid waste, sludge conversion, solar and wind); (d) would not have to own any large, expensive power stations.

From the Niagara Power Project, with a capacity of at least 2.2 million kilowatts, Federal law requires the sale of at least 50 per cent to public bodies and non-profit co-operatives. According to PASNY's report filed with the FPC last January, only 467,100 kw to such customers, and intends to sell an additional 35,000 kw to such customers when asked for it. The total commitment, then, would be 502,100 kw to preference customers; half of the output of the Niagara plant would be at least 1.1 million kilowatts, leaving about 597,900 kilowatts which should be allocated to preference customers, and for which Westchester should be in a strong position to bid. There is, it should be noted, competition for this power, both from within New York and from outside it, as other folks are catching on to PASNY's failure to comply with its mandate.

OTHER AVAILABLE POWER

Last summer the Federal Power Commission supplied reserve margin data for the seven utilities in New York State and for the New England Power Exchange, for summer and winter (summer, 1977, winter, 1976–77):

[In Percent]

	Winter	Summer
New England Power Exchange	41.8	46.9
Central Hudson	46.3	65.8
Con Edison	81.8	35.6
Long Island Lighting	62.8	20.2
New York State E. & G	55.2	52.5
Niagara Mohawk	18.7	28.8
Orange & Rockland	97.7	54.1
Rochester Gas & Electric	46.9	34.7

In addition, the Federal Energy Regulatory Commission (formerly the Federal Power Commission) has just issued its report on estimated reserves for 1987 to 1996. The three pools in our region are Northeast Power Coordinating Council [1], the Mid-Atlantic Area Council [2] and the East Central Area Reliability Council [3]. Here are their estimated reserves:

Year	NPCC	MAAC	ECAR
1987	27.39	32.28	25.89
1988	21.50	27.47	24.66
1989	25.76	28.15	24.61
1990	24.15	29.46	23.76
1991	24.11	25.85	23.85
1992	22.78	26.54	24.57
1993	22.76	24.86	23.99
1994	23.88	27.56	23.41
1995	24.40	24.45	23.56
1996	25.01	24.20	23.32

With 18 per cent deemed an appropriate reserve margin to meet reliability requirement, we're in clover.

In terms of rates, it's obvious that power is cheaper, even when commercially produced, throughout the region; a share of PASNY power, mixed with power from other sources, still would bring down our rates considerably:

City	Residential (500 kWh)	Commercial (40 kW/10,000 kWh)	Industrial (1,000 kW/200,000 kWh)
Buffalo, N.Y	$21.85	$496, 52	$6, 657, 84
Youngstown, Ohio	16.56	500.85	6, 270.92
Scranton, Pa	22.61	477.82	5, 688.63
Newark, N.J	32.80	647, 19	8, 106.45
Bridgeport, Conn	27.09	530.34	8, 344.18
Burlington, Vt	18.01	322.91	5, 202.20
Boston, Mass	30.17	641.62	9, 207.42
Seattle, Wash	5.42	147.09	2, 480.00
New York	54.00	970.79	15, 351.19
Plattsburgh	5.49	143.83	1, 275.67

Source: Federal Power Commission, "Typical Electric Bills," BLS.

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[1] NPCC—Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York.

[2] MAAC—Pennsylvania, New Jersey, Delaware, Maryand.

[3] ECAR—Ohio, Indiana, Kentucky, Michigan, West Virginia, parts of Virginia and western Pennsylvania.

CONGRESSMAN EDGAR REPORTS THAT LANSDOWNE MAYOR WILLIAM HELMS TO RETIRE THIS MONTH

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. EDGAR. Mr. Speaker, I would like to share with my colleagues the story of a mayor of one of the 38 townships and boroughs in my district who has contributed very much to improving the lives of those in his comunity. At the age of 83, Mayor William Helms will step down from the post he has held for 17 years. During his tenure, he has never received any salary, expenses, or other financial allowances. His service has been totally out of loyalty and love for his community. As mayor, Bill has received bipartisan support from his constituents. At one time, I understand he was nominated for the office by both political parties.

While Lansdowne is losing a mayor, I know that community will not be losing the experience, integrity, and wisdom that Bill brought with him to public office. Lansdowne will continue to count on him to help his successor cope with the triumphs, disasters, and headaches which come with the job.

I would like to take a moment to trace the path that brought Mayor Helms to public service. He was born in southwest Philadelphia, and he graduated from the Barry School. He served as director of safety for the Bell Telephone Co., his employer for 49½ years.

During World War I, he served with the 103d U.S. Combat Engineers of the 28th Division, Company E, from May 1917 to May 1919.

He has been very active in the Lansdowne American Legion Post 65, and served as post commander in 1947 and 1948. He also is a member of Post 7 of the Society of the 28th Division, AEF, Pennsylvania National Guard's Veterans Association, and the Veterans Association of Company B and E of the 103d Engineers. He served that group as president in 1966.

The mayor has been very active in the First Presbyterian Church in Lansdowne. He served as trustee for 8 years, elder for 8 years, and was president of the Early Christians Men's Bible Class in 1941.

He has long been interested in youth and sports. He has been a member of the Union Athletic Association, and was president of that organization in 1942 and 1943. He is also a member of the Track Officials Group of Philadelphia, and was president in 1967. He was instrumental in running the Union Athletic Association-sponsored Delaware County track meet, which was held at Lansdowne High School for many years.

Mayor Helms is widely recognized as an accredited first aid instructor who has given freely of his time over the years to instruct others. His interest in safety work for Bell Telephone led him to become a member of the Philadelphia Safety Council, Philadelphia Chapter of American Society of Safety Engineers, and the Delaware County Highway Safety Council.

Mayor Helms is an example of how important voluntary efforts are in improving our quality of life. I join with hundreds of other residents of Delaware County in giving the mayor the ovation he deserves for a job well done.

THE CHAMPIONS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. BROWN of Ohio. Mr. Speaker, for the last few days as I have passed by my Rayburn neighbor CLARENCE MILLER's office, I have noted a series of banners and signs proclaiming "we are No. 1." Upon inquiring, I was pleased to be advised of the reason.

I would like to salute my colleague, CLARENCE MILLER, and his office staff for advancing the renowned reputation of Ohio football here in the Nation's Capitol. On Sunday his office squad, the Miller Mashers, defeated Senator PAUL LAXALT's staff 7 to 6 to win this year's Capitol Hill Touch Football League Championship.

Football supremacy has long been a tradition in our State, and the Miller Mashers are no exception. Champions in every sense of the word, they finished their season with a perfect 11 and 0 record. Displaying an awesome defense they held their opponents scoreless through seven regular season games, and yielded but one touchdown per game in winning four straight playoff contests.

To finish No. 1 in the Capitol Hill League is no easy task. The weekend league, composed of 8 divisions, has 62 teams in all from the House and Senate. Teams are composed of five men and four women. Perennial playoff participants, the Miller squad last captured the championship back in 1971, the first year of organized play.

Many of the members of that first championship team were on the field Sunday for Super Bowl VII. The club, a patchwork of grizzled veterans, is noted more for their age than their ability, and more for their guile than their quickness. But like the legions of Ohio State's Buckeyes, they play the game with an intensity seldom evidenced. A badgering swarming defense, a patient pragmatic offense; they can beat you any number of ways.

In that teams can include as many as 30 ballplayers, and most office staffs are half that size, most clubs draw from a number of sources to round out their rosters. In the case of the Miller Mashers, four current staffers are combatants: Distaff Rookie of the Year Cheryl "Giddyap" Gordon, Mary "Meathooks" Lamont, David "Bad Boy" Brown, and player/coach Robert "Not So Rapid" Reintsema.

They are supported by ex-Miller staffers "Easy" Ed Rector, Zhenya "The Mad Russian" Kirueshkin; fellow Capitol Hill staffers "Foul" Fowler West of House Agriculture, Ellen "The Bionic Woman"

Rayner of the Clerk's Office, "Reckless" Rick Barnett of House Public Works, and Corky "Coors" Coleman of House Finance; former Hill staffers All Capitol Hill QB Jerry Connors, Irene "Bruiser" Brodowicz; and a talented supporting cast from off the Hill: The "Stick it To 'Em" Stricklers Marie and Jerry, Artful Art Lang, Joe "Hands" Gosnell, Bob "The Enforcer" Bonczek, Mary "Mad Dog" Summerhays, Sharon "Goldie" Golden, Jimmy "Earl" Sparling, Marsha "Stand on 'Em' Stanley, and Carolyn "Hurt 'Em" Hogue.

In closing, I would like to wish the Miller Mashers continued good fortune. May their next season be as successful as their last.

THE NEED TO REBUILD OUR ANTI-TERRORIST DEFENSES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. McDONALD. Mr. Speaker, public hearings were recently held by the New York State Assembly's special task force on State police noncriminal files at which Herbert Romerstein a member of my staff testified.

Mr. Romerstein reminded the task force that their legislative proposals were based on allegations, now proven untrue, against the New York State Police by a William F. Haddad, and given sensational publicity through Haddad's inspired leaks to the less responsible news media.

In his testimony, Mr. Romerstein made a concise and significant argument for the reestablishment of the New York State Police intelligence unit and the reactivation of their files on terrorists, terrorist support groups, and those who seek by violence to disrupt our normal way of life.

As we know, terrorists are able to travel freely from State to State and even country to country. A failure to monitor their activities in a State such as New York has nationwide repercussions.

I strongly commend a study of this testimony to my colleagues:

STATEMENT OF HERBERT ROMERSTEIN

Mr. Chairman, members of the Task Force, thank you for the opportunity to again testify before your Committee. I have had the opportunity to watch the operations of the New York State Police Intelligence Unit, also known as the Special Services Unit, for the past 23 years. From 1954 to 1956, I served as an investigator for a New York State Joint Legislative Committee; and during 1964, I was an investigator for a New York State Senate Committee. In these capacities, I worked closely with New York State Police. From 1965 to 1975, I served on the staff of the House Committee on Un-American Activities and the House Committee on Internal Security. From 1971 to 1975, I was Minority Chief Investigator of the House Committee on Internal Security. In both official and private capacities, I have provided intelligence information and advice to the New York State Police since 1954.

I was born and raised in New York City and spent 35 years there. Although, I am not a resident of New York State, at this time, I have many relatives and friends both in the City and State. The safety and security of the people of New York is of continuing concern to me. In addition, in today's world, terrorists and subversives find it easy to travel not only from state to state, but from country to country, so this is not a local problem.

During my previous testimony in Executive Session, I outlined the problem of transnational terrorism and the responsibility of the police to gather intelligence to prevent terrorists acts. Unfortunately, as a result of your Committee's investigation, the New York State Police has been derelict in its duty in this regard. It's Intelligence Unit has been disbanded and its files sealed.

The hearing, today, relates to your suggestions on legislation to prevent police intelligence gathering. It is clear from reading your report on "State Police Surveillance", dated September, 1977, that such legislation is not necessary. In fact, it would be counter-productive and detrimental to the interests of the people of New York.

The investigation by your task force was based on allegations made against the New York State Police by William F. Haddad, an employee of Stanley Steingut, the Speaker of the New York State Assembly. It is clear from your report that every significant allegation made by Haddad was untrue.

Haddad in his report to Speaker Steingut dated October 27, 1975 (Marked confidential and released to the press) stated that the State Police intelligence files were, "political dossiers" (page 1). He further stated that, "these files are political in origin, political in content, political in intent." (page 5) Your report stated,

"The original newspaper reports on the Special Services Files described the Files as 'political dossiers.' We have found that most of the notations on political figures do not comprise dossiers in the sense that a complete detailed file was deliberately compiled on an individual's life and activities. However, through extensive news and magazine clippings, large amounts of information were collected on political figures. There is no evidence that these files were used for improper purposes."

"One of the functions of Special Services personnel is to provide security for the Governor and other political figures when they are appearing in public. This includes national and foreign figures such as ambassadors, the President, national candidates, and Cabinet officials. Many of the so-called 'dossiers' kept on State and national political figures which were reported on in the press appear to have been reports of the individual's speeches and public appearances." (page 21–22)

Your reference to "original newspaper reports" was in fact Haddad's allegations as leaked to the newspapers.

In Haddad's report to Speaker Steingut, he stated, "There are strong indications (and a tacit admission) that wiretap information is included in these dossiers." (page 2) In Haddad's press release concerning his report dated November 6, 1975, he stated, "According to the report, information was collected from confidential information, wire taps, undercover surveillance, newspaper articles and intelligence bulletins." Your own findings after a careful investigation were,

"We have found no evidence at all that the Special Services operation was ever involved in illegal activities such as break-ins, illegal wiretapping, mail opening, etc." (page 37)

Despite Haddad's allegations and the sensational stories in the press, your Committee had to admit that abuses had not occurred in the activities of the State Police Special Services intelligence unit. Your report stated, "That such abuses do not appear to have occurred may be a result of the highly professional nature of the State Police." (page 51)

Your report made the point that,

"It is clear that the greatest harm to individuals that could result from intelligence files is the use of this information by non-police persons or organizations in an improper manner. We have seen no evidence that Special Services File information was ever used in this manner, or that it was ever disseminated to unauthorized persons or agencies. Furthermore, the Police have testified under oath that there was no such dissemination." (page 40)

In the 23 years that I have been in contact with New York State Police, I know of only one instance in which State Police intelligence information was improperly disseminated and used. This was when State Police files were made available to William Haddad, in his capacity as an employee of Speaker Steingut. Haddad leaked material from State Police files, not only to the press, but to such organizations as the National Lawyers Guild and the Socialist Workers Party. Both of these organizations have served as part of the support apparatus for foreign, as well as domestic terrorists. The information supplied by Haddad was used publicly in a distorted and sensational manner by these groups. It was also used to identify individuals that had provided information to the New York State Police on violence prone and terrorist groups. In his dissenting statement to your report, Assemblyman James F. Hurley, a member of the Task Force, made reference to Haddad's "serious breach of integrity". (page 54)

Based on the admissions made in the report of your Task Force it should be clear that since there was no problem, remedial legislation is not necessary. However, you have made a series of recommendations for legislation which I feel are both unnecessary and dangerous. Your recommendations are similar to that of Haddad, who in his report of October 27, 1975, to Speaker Steingut stated,

"Our special counsel, Terry Lenzner, comes up with a legislative concept for consideration. Before a file can be started, police might be required to gain permission to do so by establishing and proving cause to a legal authority. Only when that case was made, would a dossier be started. (page 6)

Your own recommendation No. 11 says:

"Legislation should be enacted to require that the Police obtain signed warrants before conducting certain intelligence activities. The warrant should require that the investigation in which the activity would be undertaken would have to be clearly related to a criminal activity." (page 59)

What was the sense of your conducting an investigation, when after disproving every significant allegation made by Haddad, you then recommend the same ridiculous legislation that was recommended by Haddad and Lenzner. This recommendation, if enacted into law, would make it impossible for police anywhere in the State to gather intelligence information in order to prevent terrorist violence. This is a "Catch 22". There is no way that enough information could be obtained without extensive investigation to enable the police to get a warrant. They could not investigate without a warrant.

On February 17, 1965, the New York Daily News headlined "Hero Cop Foils Bomb Plot." The paper told the story of New York City Police officer Raymond Wood, who penetrated a terrorist group that planned to blow up the Statue of Liberty. As a result of his courageous work, the culprits were arrested when they brought dynamite into New York City from Canada. They were tried, convicted and served jail sentences. If the recommendation made by Haddad and by this Committee were the law then, the Statue of Liberty would have been bombed with extensive loss of life.

In the summer of 1967, 17 members of a terrorist group were arrested in New York and Philadelphia for plotting the assassination of Whitney Young, of the National Urban League; and Roy Wilkins, of the NAACP. These murders were prevented because undercover officers of the New York City police department penetrated the terrorist group. If your legislation was in effect then, there would have been no way to prevent the murders.

Other New York City undercover officers and informants provided the evidence against members of terrorist bomb rings operating in New York City a few years ago. Your recommendation would have prevented the police from doing their work.

Your recommendation No. 7 is:

"The Legislature should amend the Freedom of Information Act to allow individual's access to their law enforcement files, when the investigation was based on an activity which was not a criminal act and did not result in a criminal act." (page 58)

Since not every action of a criminal is a criminal act, this recommendation would prevent the police from compiling intelligence information on the known associates and other operations of not only terrorists but the members of organized crime. When a citizen allows the police to observe an organized crime gathering taking place near his home, your recommendation would make his identity known to the criminals if the evidence was not available, at that time, that they were committing a particular criminal act. It is no secret that it is at the social gatherings of organized crime families that they meet with their criminal associates and corrupt politicians. Your recommendations would protect the corrupt politician from police surveillance.

Your recommendation No. 10 says,

"The legislature should enact statutes which would recognize an individual's right to privacy and create a cause for civil action for violation of this right. This right could also be extended to prohibit purely political surveillance, harassment, provocation and selective law enforcement in this area." (page 59)

While your own report shows that the New York State Police committed no such abuses, this recommendation would encourage disruptive lawsuits against the police by the lunatic fringe and violence oriented groups. Even without your recommendation such lawsuits are underway in many parts of the country including New York.

Your recommendation No. 4 is that,

"The Assembly Governmental Operations Committee should conduct a review of State Police operations at regular intervals and issue public reports." (page 57)

As I indicated before, while the New York State Police was extremely careful to prevent unauthorized and improper use of its files, when William Haddad and Thomas Burton, employees of the legislature, had limited access to the files, they misused the material made available to them. Among other things, Haddad and Burton obtained information from New York State Police files about John Rees, the publisher of a newsletter which reports on terrorist and violence oriented groups. Haddad and Burton took information of a personal and identifying nature about Mr. Rees and his family, that Mr. Rees had supplied the New York State Police, and turned it over to the National Lawyers Guild, a group that is in close contact with the Palestine Liberation Organization terrorists; the Socialist Workers Party, the American section of the Trotskyite Fourth International, some of whose sections have engaged in terrorism in Latin America, Europe and the Middle East; and the publication Counterspy, which was officially cited by the CIA as having provided the identity of the CIA station chief in Athens, Greece, which resulted in his murder by Communist terrorists.

Until the legislature can make sure that irresponsibles such as Haddad and Burton will not have access to sensitive police information, the legislature should not have control of police files.

Your Committee has already done considerable harm as a result of the sensational and distorted publicity carried in the press about your report. The New York State Police still has not re-established the intelligence unit or restored the intelligence files to use.

The New York City Police intelligence gathering ability has also been severely curtailed as a result of politicians applying pressure. I talked to you about this last year during my testimony in Executive Session. Instead of taking steps to remedy the police weakness created by politicians, your Committee issued a report and a series of recommendations to further reduce the ability of the police to cope with terrorism.

On August 3, 1977, terrorist bombs exploded in New York City injuring a number of innocent people and killing Charles Steinberg. His death should be on the conscience of every politician that participated in weakening police intelligence gathering which might have prevented this tragedy. As I told you last year, a number of Communist terrorist groups have targeted American Jews as their victims. The communique issued by the FALN on the bombings that murdered Charles Steinberg, after a lengthy diatribe about Puerto Rico, ended with, "Victory to the Palestinian Struggle."

As a result of the severe cutback in police and FBI intelligence gathering, it has become more difficult to protect both officials and the American public from terrorist attacks. On July 27, 1977, H. Stuart Knight, Director, of the U.S. Secret Service, testified before the United States Senate Judiciary Committee, subcommittee on Criminal Laws and Procedures. His agency is charged with the protection of the President of the United States and other officials and foreign dignitaries.

Mr. Knight pointed out that in the past his agency had received substantial intelligence information from federal and local law enforçement agencies. This helped them do their job. Now, however, the quantity and quality of the information has been severly reduced. He stated, "we are now receiving only 40 to 50 percent of the information we received previously."

When asked by Senator Hatch if, "the President himself may be in much greater jeopardy today because of the up to 40-percent falloff in intelligence information that we have heretofore had in the past." Mr. Knight answered, "I think that is a fair statement, Mr. Chairman. As I indicated to you, it is a source of concern to me."

Senator Hatch asked, "What happens if the President wants to visit, say a large city like Chicago, where the intelligence files have been locked up or destroyed or other-wise done away with for more than 2 years? How can the Chicago police cooperate with you without their files?" Mr. Knight answered, "They can only then rely on what we would term 'institutional memory'—what their personal recollections are. This is not the greatest source of information."

Senator Hatch asked, "When the Secret Service does not have adequate intelligence about a city—let's say the city of Chicago, or any other city for that matter—that the President is about to visit, how do you come up with the information to correct the deficiency? Or do you?" Mr. Knight answered, "We don't, really."

Mr. Chairman, your Committee has already done considerable harm to the people of the State of New York by weakening the protection that they have a right to expect to receive from the New York State Police. Please don't do further harm by promoting the ill-conceived legislation that you have recommended in your report. Please let the police do their job without further interference from political hacks and publicity seekers.

BOEING PLANS NEW GENERATION OF COMMERCIAL JETS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CUNNINGHAM. Mr. Speaker, everywhere in the world the standard of quality in commercial airplanes is the Boeing jet. I recommend to my colleagues a recent article which appeared in the December 9, 1977, issue of the Wall Street Journal by Mr. A. Richard Immel.

Mr. Immel points out that the Boeing commercial airplane company is moving right ahead to develop new products and new markets. The Seventh Congressional District contains the headquarters of Boeing and I am proud to represent it and the many thousands of workers who give it the vitality. For a business is just a reflection of its employees. Hearings recently held by the gentleman from Texas (Mr. Milford) in this capacity as subcommittee chairman of the Transportation, Aviation, and Weather Subcommittee of the House Science and Technology Committee at Boeing on December 5, found many of the same optimistic signs that Mr. Immel did in his article.

America will remain very competitive in the production of commercial aircraft as long as companies such as the Boeing Co. continue to be forward-looking and to produce a quality product.

Boeing Says Airlines' Interest Prompts Step-up of Work on New Family of Jets

(By A. Richard Immel)

Seattle.—Increasing airline interest has encouraged Boeing Co. to step up development work on its next major family of commercial airplanes, and the aerospace company said it hopes to get airline order commitments by next summer for the first all-new aircraft program since the 747 jumbo jet.

To begin deliveries by late 1982 "we need to firm up contracts and orders by mid-next year," T. A. Wilson, chairman and chief executive officer, said in an interview. "That schedule is acceptable to the airlines," he said, "and we're proceeding to protect those dates now."

It isn't a sure thing yet for Boeing because derivative models of other manufacturers' existing planes are also being considered, including versions of the European A-300 Airbus, McDonnell Douglas Corp.'s DC-10 and and Lockheed Corp.'s L-1011. "Nevertheless, I think there's a better than 50-50 chance we'll be able to put a program together," Mr. Wilson said.

TALKS WITH DOMESTIC LINES

Boeing has been talking with domestic airlines for some time trying to develop a consensus on what kind of airplane would meet the airlines' needs of the 1980s and 1990s. He said a mid-October meeting with United Airlines and American Airlines resulted in Boeing discarding its previous 7N7 and 7X7 plane designations in favor of a compromise model acceptable to both United and American that would seat seven passengers across with two aisles. (The earlier models being considered had six abreast and eight abreast seating).

The newest proposal, which Mr. Wilson said is designated only as "our new airplane," would be in between the size of current narrow body and wide-body jets. It would offer various configurations to handle from 180 to 200 passengers in both two-engine and three-engine versions designed for medium and transcontinental ranges.

Although the plane hasn't been priced yet for the airlines, Boeing is roughly estimating it in the $20 million to $25 million range, about double the current price of the company's best-selling 727 trijet model. The new aircraft would be much more fuel-efficient, however, and would meet 1985 federal noise standards that will force all domestic airlines to modernize their fleets by then.

NO DRAG ON EARNINGS SEEN

Industry analysts have estimated the cost of such a program could run between $1 billion and $2 billion and have said this kind of expense will put a dent in Boeing's earnings. Mr. Wilson declined to talk numbers, but he said if the company goes ahead it expects to be able to "substantially finance" the program from internal cash flow and isn't concerned about a drag on earnings.

He said Boeing isn't trying to get a specific number of orders for the new plane but rather wants to get airlines that represent a substantial part of the medium-range market initially interested. "We assume that if we do a good job they'll follow" with more plane orders, he said.

Concerning foreign participation in building the plane, he said so far an Italian airplane company is the only foreign builder that has an agreement with Boeing to manufacture part of the new plane. "I don't exclude anybody," he said of other possible foreign agreements, but, he added, such arrangements are difficult to work out because the new plane program isn't defined yet, and also because of the political ramifications of dealings with government aerospace companies.

Mr. Wilson said the company is also working on an advanced version of the 737 or the 727 that would incorporate "a modern engine and a modern wing" with the smaller body size "to protect the bottom end of the market." Passenger capacity of this plane would be 140 to 160.

STRIKE'S IMPACT NOT DETERMINED

Turning to the recently ended strike by the International Association of Machinists and Aerospace Workers, Mr. Wilson said the impact on earnings hasn't been determined yet and won't be until after the first of the year. "It will have an impact on the fourth quarter and farther out," he said, "but I think we'll still have a pretty good earnings performance" in the fourth period. He noted that Boeing still will finish 1977 well ahead of 1976. Nine-month earnings were $124.5 million, or $2.93 a share, up from $65.4 million, or $1.54 a share, in the year-earlier period. For all 1976, the company earned $102.9 million, or $2.43 a share.

"The major impact (of the strike) is the effect on commercial customers and, in some cases, on other critical areas where schedule slides have hurt our customers," he said. He noted the effect of the six-week strike on commercial airplane deliveries is "greater than one might think at first blush" because the company had been gearing up to increase its monthly airplane production rate. The buildup is being resumed, but more cautiously, he said. "Frankly, we'll have to see what the productivity of the work force is. We'll be reviewing it daily for a couple of months," he said, adding that employes "came back with an extremely good attitude." He termed the settlement "a good settlement" for both sides and consistent with the company's planning.

"We delivered most of October's planes because they were almost done," he said, but for the entire fourth quarter, deliveries are projected at 30 planes, 13 less than the company had planned to deliver had there been no strike. Airplane production is scheduled to increase by the middle of next year to 18 planes a month from 13 a month, he said.

OPTIMISM EXPRESSED

Although production delays could result in a few lost sales, Mr. Wilson said he is just as optimistic about the company's business outlook now as he was earlier in the year. "The sales of 747s have been more dramatic than anything else," he said. Both 747 and 727 production is sold out through the middle of 1979, he added, and although the smaller twin-engine 737 program isn't "growing by leaps and bounds, it's pretty solid." Boeing employment is growing "and we expect it to continue to grow like it has been over the next year" as production rates are increased on commercial programs.

On the other hand, Boeing's military and government business, which accounts for about 25% of total sales, is expected to decline over the next several years, although the decline will be gradual and will be more than offset by increases in other areas.

"We've still got some solid programs," Mr. Wilson noted, but he said the company lost some important competitions this year and has been affected by Department of Defense cancellations and by budget pressures in the Carter administration. "Cancellation of the B–1 bomber program had a major effect on us," he said. "We had a major avionics subcontract and a lot of people thought the (related) cruise missile and B–52 work would supplant the B–1, but that isn't true."

He said although Boeing was successful in obtaining a number of small government contracts "two major disappointments" this year were the loss of the space telescope and UTTAS helicopter competitions.

HOLY INNOCENT CHURCH'S 50TH ANNIVERSARY

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LEDERER. Mr. Speaker, 27 years after the turn of the century, when Philadelphia was expanding into the Greater Northeast and the Kensington section of the city was being built up, a little parish, Holy Innocents, came into existence.

On the 28th day of December 1927, the feast of the Holy Innocents, in the Roman Catholic faith, Father Martin P. Lynch, the first pastor, chose the name of his church. At its beginning, the parish was composed of some 200 families from surrounding parishes. Since this pilgrim parish was without a church, the first mass was celebrated in the auditorium of the Northeast Catholic High School. Shortly after this early beginning, a temporary chapel was constructed where mass and confessions could be conducted. This initial construction was only possible with the aid of many of the church's new parishioners. In 1929, a new parochial school came into being. The Holy Innocent School opened its doors with the aid of four fine Sisters of the Immaculate Heart of Mary. Some 115 children began their education in the back of the little chapel used by the faithful for Sunday worship.

During the 1930's, the country began a decade of depression and Holy Innocents, amidst this economic chaos, planned its building program. As soon as the depression ended, the church commenced its program. On December 4, the Holy Innocents Parish celebrated its 50th anniversary at 4 p.m. with a concelebrated mass offered by Auxiliary Bishop Gerald V. McDevitt with the homily offered by Auxiliary Bishop John J. Graham.

Over these 50 years Holy Innocents has become a pillar in the Archdiocese of Philadelphia. Its sons and daughters have gone on to contribute to the church, Government, and the armed forces. One cannot think of the Juniata community without thinking of Holy Innocent's Parish.

Mr. Speaker, may I take this opportunity to offer my personal congratulations to the parish and its pastor, Father Dougherty, on the passing of 50 years of service to my Philadelphia community, as well as wishing them many, many more years of success and prosperity.

AMTRAK'S TRACK RECORD

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. OTTINGER. Mr. Speaker, I have consistently supported the development of a first-class national railroad passenger system. Congress has shown its continued support of the same goal in providing the national railroad system with billions of dollars for rail and equipment improvements.

However, I wish to express my concern over Amtrak's continually increasing requests for operating subsidies. Since 1971, their operating subsidies have jumped from $40 million to over $500 million. Yet, their service leaves much to be desired. Last year, for example, Amtrak had an on-time performance of only 4 percent.

In light of Amtrak's repeated threats to cut back much of its service to the Northeast corridor, I feel it is important to bring these facts to the attention of this body. At this point in the RECORD, I wish to insert the text of my statement to the House Appropriations Subcommittee on Transportation regarding Amtrak's service cutbacks.

STATEMENT BY THE HONORABLE RICHARD L. OTTINGER

Mr. Chairman, Members of the Subcommittee on Transportation, I wish to express my appreciation for this opportunity to submit testimony on Amtrak's request for additional operating funds.

Gentlepeople, something is rotten at Amtrak. Either Amtrak is being seriously mismanaged, or it is attempting a raid on the U.S. Treasury by holding the public as hostage.

In either case, this presents Congress with a dangerous situation, since Amtrak is created as a "for profit" corporation. Yet, it receives considerable public subsidization.

If Amtrak is seriously mismanaged, we can expect little relief from their continuing requests for increased subsidization. If this is a raid on the Treasury, what will prevent us from being their hapless victim again?

In either case, the public will pay more and more for less and less service. Unless, the management of Amtrak is taken to task now.

I strongly urge this Subcommittee to initiate additional hearings into the management of Amtrak. If reasonable explanations cannot be made and supported for the recent actions of Amtrak, those responsible should be asked to resign.

Amtrak has announced that widespread service cutbacks will take effect on November 6, 1977, if additional operating funds are not appropriated by Congress. I am seriously concerned about the impact of these service cutbacks on the integrity of our national passenger rail system, and their impact upon our energy, pollution, and urban congestion problems.

I am particularly concerned about Amtrak's reductions in service to Westchester residents at the Rye station. The announced service cutbacks will eliminate all the convenient service to this station, thus driving passengers away. Many other Districts will be also facing similar rail service problems.

For example, a person used to be able to leave Rye, New York, at 8:48 in the morning and arrive in Washington, D.C. at 12:30 in the afternoon. Now, he or she has to either leave at 5:55 a.m. or wait until 1:41 in the afternoon for a train that won't arrive in Washington until after 6:30 in the evening. Similarly, the convenient 7:48 and 9:48 a.m. trains to Boston are being eliminated leaving only a train at 3:50 a.m. or at 1:43 p.m.

The announced service cutbacks will devastate the rail passenger service available to over a million Westchester residents through the Rye station. It will impair the confidence which they were just beginning to have in the national rail passenger system.

Given the hardship which will be created by the service cutbacks, I would urge this Subcommittee to provide the funds requested. However, these developments raise some disturbing questions about the management of Amtrak.

This Subcommittee has consistently forced Amtrak to take budgetary matters into consideration. Through the restrictions placed on Amtrak we have undoubtedly seen an acceleration in the process of implementing the Route and Service Discontinuance Criteria which have been established.

By its own admission, Amtrak would rather have its structure determined solely by policy considerations. It would want to have a nationwide passenger rail system implemented immediately, regardless of the cost.

I have little doubt that, like myself, the Members of this Subcommittee strongly support a national passenger rail system, but would like to see such a rail service operated efficiently and economically. This is the primary reason for the Subcommittee's emphasis on utilizing the Discontinuance Criteria for the restructuring or elimination of money-losing lines.

The announced rail service cutbacks, which will take effect November 6, were clearly not designed with an eye towards economizing on money losing lines. In fact, I find the announced rail service changes incomprehensible from either a policy or budgetary point of view.

Instead of improving service and routes in areas such as the Northeast Corridor, where ridership potential clearly exists for expanded and profitable operation, Amtrak announced service cutbacks for this area. Instead of eliminating unprofitable service, Amtrak clings to its money-losing lines. One line, the Chicago-Oakland, loses nearly $10 million a year. Elimination of this single passenger line would make-up 20% of the projected deficit for FY 1978. There are, in addition, at least a dozen money-losing, long-haul lines which could be restructured or eliminated.

Viewed on its own, the management decision of Amtrak to cut a large number of profitable lines, and reduce some of the most convenient service to its major passenger corridors, can be seen as a sure fire formula to drive passengers away. Amtrak must have been aware that this would create additional budgetary problems, which in turn would result in increasing, not decreasing, its Fiscal Year 1978 deficit.

Such service reductions can be viewed as nothing short of irresponsible—unless, they were designed for political impact, in which case, they may well be a success. It seems that about 360 House Districts are in some way hit by these cutbacks.

I, for one, do not wish to stand idly by and watch a publicly chartered corporation raid the U.S. Treasury. I strongly urge this Subcommittee to let Amtrak know that it cannot hold the public as hostage.

I would hope that the Subcommittee will agree with providing the funds necessary to obviate the announced service cutbacks. I would equally hope that the Subcommittee will seek out complete explanations for Amtrak's questionable actions, and take appropriate action.

Again, let me express my appreciation for this opportunity to express my views on Amtrak's request for additional funding, and my appreciation for this Subcommittee's efforts to see that our national passenger rail system is operated efficiently and economically.

SEVERNA PARK RESIDENT PEACE CORPS VOLUNTEER IN KENYA

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mrs. HOLT. Mr. Speaker, helping the handicapped become self-supporting is certainly one practical way in which our young adults can make a lasting impression in other countries. I am very proud that one of my constituents, Ms. Patricia A. Reidy of Severna Park is a Peace Corps volunteer in Kenya and am happy to have the opportunity to insert the following ACTION news release concerning Ms. Reidy's hard work, in the CONGRESSIONAL RECORD:

SEVERNA PARK PEACE CORPS VOLUNTEER GIVES MANAGEMENT HELP TO JEWELRY ENTERPRISE FOR HANDICAPPED WORKERS IN KENYA

MAZERAS, KENYA.—A group of men and women who are either blind, paralyzed or without limbs are fashioning some very elegant jewelry in a small village in Kenya. Working in a small dark workshop, they make the ornate pieces out of copper pipe and wire, coconut shells, seedpods and banana tree bark.

"These skilled craftsmen earn salaries, support their families and are proud of their work. But if it weren't for Bombolulu (the craft industry), they would be outcasts, begging on the streets," said Peace Corps volunteer Patricia A. Reidy, 31, of Severna Park, Md. Ms. Reidy is the acting manager of Bombolulu, located in the village of Mazeras in the East African country.

A 1968 math graduate of Ladycliff College in Highland, N.Y., Ms. Reidy is in her seventh year of Peace Corps service. From 1968 until early 1972, she served as a math teacher and new math coordinator in the West African nation of Sierra Leone. After a year of traveling and training Peace Corps volunteers in Uganda, she joined again and served another three years as a secondary school math teacher in the port of Mombasa in southern Kenya.

"I didn't get interested in crafts until I left the Peace Corps in February, 1976 and did some more traveling. I went home to the United States in July and people had asked me to market some merchandise," said Ms. Reidy. "When I returned to Mombasa in July, I did volunteer work with the Home Industry Shop there, getting the feel of how crafts were bought and seeing how a small business was run. I then heard about Bombolulu, and that it had lost its manager and was in trouble."

Started in 1970 as a training center for the handicapped by a British volunteer teacher, Bombolulu developed into a profit-making industry with the help of former Peace Corps volunteer Holland Millis, 30, from North Carolina. According to Ms. Reidy, Millis helped design the jewelry, train the workers and find markets for the products.

"Initially funded by the Ministry of Social Services and the Methodist Church, Bombolulu became independent and self-supporting in 1972, largely through the efforts of Millis," said Ms. Reidy. "He trained each of the first six or eight workers individually, developing their strengths and coordination. It took a lot of work and patience, particularly in training the blind workers to string beads, spiral copper wire, and polish and clean the jewelry."

Millis left in 1973 after training a Kenyan manager to take over his job. The new manager reported to a volunteer governing committee of community residents in and around Mazeras, which is about 12 miles north of Mombasa.

"It takes a lot of self discipline to run this place and the manager was not the right person for the job. I don't know how it kept going. In July, 1976, Bombolulu had no money in the bank, was way behind in orders and was losing good customers," said Ms. Reidy, who became acting manager in August. She rejoined the Peace Corps for another year last December.

"The old manager left before I came and I had about an hour's briefing by a committee member who drew up a work plan. I had practically no business experience and really had to scramble," she continued. "Bills and salaries had to be paid and we had no running capital. There were about 40,000 shillings ($5,000) in assets with the buildings and material, but this is nothing. It takes about 20,000 shillings to run the place for a month, including 15,000 shillings in salaries.

"The only things that kept Bombolulu going were earlier profits and donations. For three years, it barely made a profit and the sales were not increasing with the cost of living. When I came, it was still self-supporting, but that's no way to run a business," said the volunteer.

Ms. Reidy was able to recapture some of the old customers, push some orders through and get a little money in the bank by last January, when a new Kenyan manager was hired. She worked with him for about six months while preparing a financial report costing everything "down to the lemons that are used to clean the jewelry.

"I tried to familiarize the new manager with all facets of the business from marketing, paying bills, banking, sales promotion to day to day office work. Then I let him take over last July," said Ms. Reidy. "I left the picture almost entirely so that we could find out if he could handle it on his own. I just sat home chewing my nails, which was the hardest part of my job.

"I knew by mid-July, however, that he wasn't going to work out. It just was too much for him to handle. Orders weren't being filled on time. Materials weren't being replenished and correspondence was neglected. Again, we started losing customers and money," she said.

Ms. Reidy took over the management of Bombolulu again in September, repeating the work she had done the previous year. "I'd like to re-enroll in Peace Corps for another year and train three of our workers in different facets of the business so that they could run it themselves eventually. For awhile, however, a volunteer supervisor will be needed to oversee this business and another Bombolulu project that started this year," she concluded.

Recently, the Bombolulu committee started a farm for handicapped workers with the goal that it too will become self-supporting.

In the meantime, the volunteer is striving to get the jewelry business back on a solid profit-making basis. "It is going to take a tremendous effort, but I would like to see at least $500 or $600 clear profit a month coming in. If we can do that and bank about $7,500, we'd be in good shape," she said. "We don't plan any great expansion, however, unless we see a great demand for the product."

Most of the jewelry, which is quite ornate, was originally designed by Millis after traditional Kenyan pieces. It is fashioned out of copper pipes which are hammered into beads and strung on copper wire. Bits of coconut shells and dried seed pods also are made into beads and other ornaments. Neck bands are made out of the dried bark of banana trees.

Four blind workers do most of the assembling, beading and chain-making. Six other workers, who either have missing limbs or cannot use their legs, do the intricate cutting, molding and finishing. Less skilled workers clean, polish and lacquer the copper and learn the craft by watching others.

Most of the handicapped workers live on the Bombolulu compound in wooden or mud houses with thatched roofs. Other buildings include a small work house, a showroom for the jewelry and a small grocery store.

"The grocery store is not a profit-making venture, but a service we provide for the workers. Some of them would have to crawl a mile to the village to get their food," said Ms. Reidy. "As it is, a couple of them have to crawl to work from the village because we don't have enough housing for all of them."

Fifteen of the workers are married, but only a few have their wives and children living with them, according to the volunteer. "It isn't uncommon in the area to live without your family while earning a living," she said. "And these workers are so happy that they have something to do to support their families that they are willing to make this sacrifice."

Most of the workers earn about 400 shillings or $50 a month, "which isn't much for skilled craftsmen, considering that a houseboy in Mombasa gets 350 shillings a month. But they don't complain," said Ms. Reidy. She hopes to be able to raise their salaries in a few months.

The jewelry ranges in price from about $1 to $10 wholesale. A $10 necklace or earring set retails for about $15. About 35 per cent of the merchandise is sold to overseas customers, mostly organizations which sponsor handicrafts in developing countries. Overseas customers can purchase the jewelry custom free by writing to Box 83988, Mombasa, Kenya, for a Bombolulu brochure.

The rest of the jewelry is marketed in coastal hotels and shops in Mombasa and Nairobi, the capital city. Ms. Reidy is trying to attract more local markets praticularly the tourist industry. She would like to turn the showroom into a shop and have it included on tours of the area.

"I'm surveying nearby villages for other craft projects which would attract the tourist trade. I'd like to include other crafts such as wood carvings, baskets and traditional musical instruments in the shop as an added attraction," said the volunteer. "Eventually, I would like to send some of our workers to train other handicapped people in jewelry making. What this country needs is to start more technical trade schools, particularly for the handicapped.

"I'm very excited about this whole project. Not only has it opened up a whole new field of interest for me, but it has given me a real sense of satisfaction to be of assistance to these people," she said. "What Bombolulu does is give them a sense of belonging to society again."

The daughter of George and Dorothy Reidy of Severna Park, the volunteer lives at 466 Severnside Drive in Severna Park. She graduated from Holy Trinity High School in Glen Burnie, Md. in 1964.

Ms. Reidy is one of about 260 Peace Corps volunteers and trainees serving in education, fishery, health, agricultural cooperatives, rural and water development and special projects in Kenya.

More than 5,700 Peace Corps volunteers serve in 62 developing nations around the world. The Peace Corps is part of ACTION, the federal agency established in 1971 to administer volunteer programs at home and overseas.

This fall, the Peace Corps is seeking more than 650 new volunteers for two-year assignments in Asia, Africa, Latin America and the Pacific. Persons with backgrounds in agriculture, health and math/science education are particularly needed. Interested persons may call ACTION toll free at 800–424–8580 for more information.

ACTION's domestic programs include VISTA (Volunteers in Service to America), Foster Grandparent Program, Retired Senior Volunteer Program (RSVP), Senior Companion Program and University Year for ACTION. Sam Brown is the director of ACTION.

JANE'S CAUTIONS AGAINST SCRAPPING B-1

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ASHBROOK. Mr. Speaker, I have consistently supported production of the B–1 strategic bomber. Failure to move forward with this program would impair our national defense. The simple fact of the matter is that we need a new and modern intercontinental bomber force.

Although the B–52 has done an outstanding job in the past, it is growing old. Much has happened during its nearly 30 years of service. The Soviets soon will have the technological ability to outclass our B–52's. We must not permit this to happen.

Jane's, an authoritative British publication that monitors defense trends, warns that the Soviet Union is on the verge of achieving air superiority. This has grave military implications. In fact, Jane's asserts that President Carter's decision to scrap the B–1 has sowed "the seeds of defeat for the Western powers."

Jane's 1977–78 edition of "All the World's Aircraft" compares Carter's cancellation of the B–1 in favor of cruise missiles to Hitler's decision to rely on V–1 buzz bombs to destroy England. Jane's says:

> Only one military leader has previously put massive faith in such missiles and Britain, in a far from technologically advanced age, had little difficulty in coping with Adolph Hitler's V–1 flying bombs.

And the cruise missile, an updated version of the buzz bomb, is no match for new Soviet aircraft.

Jane's warns that the balance of military power is shifting to the Soviets. Jane's states:

> It is vital for all peoples to understand that the fragile coexistence maintained for a generation by balanced East-West military power is being allowed to slip, inch by inch, from our grasp. In the past, the fact that NATO tactical air forces are outnumbered nearly three to two by Warsaw Pact tactical aircraft in Europe was offset by the higher standards of Western aircraft and training. That advantage is being eroded rapidly.

We cannot expect the B–52 to meet our strategic bomber needs indefinitely. We need to move forward now with production of the B–1.

In the past few years we have let military superiority slip from our grasp. Words like "parity" became the order of the day. Now we are sliding into an even more dangerous military position where we will have inferior strategic forces compared to the Soviets. Cancellation of the B–1 bomber would be another tragic step in the wrong direction.

Following is an article on Jane's warning which appeared in the December 8 Washington Star:

> JANE'S WARNS CARTER ON SCRAPPING B–1
>
> LONDON.—Warning that the Soviet Union is close to achieving vital air superiority over the West, an authoritative British publication say that President Carter may have "sowed the seeds of defeat" by scrapping the B–1 bomber.
>
> In an unusually harsh comparison, the new edition of Jane's "All the World's Aircraft" likened Carter's decision to scrap the B–1 in favor of cruise missiles to Adolf Hitler's belief that his V–1 buzz bombs could destroy England during World War II.
>
> "Only one military leader has previously put massive faith in such missiles and Britain, in a far from technologically advanced age, had little difficulty in coping with Adolf Hitler's V–1 flying bombs," Jane's said yesterday.
>
> Maintaining that the cruise missile—in essence a modern, highly sophisticated version of the buzz bomb—was no match for new Soviet aircraft, Jane's said that "the United States has sowed the seeds of defeat for the Western powers" by canceling production of the expensive supersonic bomber originally sought by the Air Force to replace its aging fleet of B–52s.
>
> Jane's said that the qualitative superiority of the West's airpower in Europe was rapidly slipping away to the Soviet Union, which it said is known to have developed at least three new combat aircraft, including a new light-weight fighter designed for defense against cruise missiles.
>
> "It is vital for all peoples to understand that the fragile coexistence maintained for a generation by balanced East-West military power is being allowed to slip, inch by inch, from our grasp," Jane's said in a foreword to its 1977–78 edition by its editor, John W. R. Tayor, a noted British aviation writer.
>
> "In the past, the fact that NATO tactical air forces are outnumbered nearly three to two by Warsaw Pact tactical aircraft in Europe was offset by the higher standards of Western aircraft and training. That advantage is being eroded rapidly," Jane's said.

PERSONAL EXPLANATION

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SARASIN. Mr. Speaker, on November 3, 1977, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 738: H.R. 7555: Labor-

HEW appropriations—the House agreed to the rule (H. Res. 893) for consideration of the conference report, "yea";

Rollcall No. 739: H.R. 7555: Labor-HEW appropriations—the House rejected a preferential motion that the House agree to the Senate amendment to the House amendment to the Senate amendment No. 82, "yea," and

Rollcall No. 740: House Joint Resolution 643: Continuing appropriations—The House agreed to the rule (H. Res. 892) providing for the consideration of the resolution, "yea."

Mr. Speaker, on November 4, 1977, I was also absent for the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 742: Journal: the House approved the Journal of Thursday, November 3, 1977, "no."

SUN DAY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. OTTINGER. Mr. Speaker, next May 3 is to be Sun Day, a day set aside for a national celebration of solar energy. It is a day for the exposition of available solar energy equipment in all forms, demonstrating the current feasibility of this vast, clean, renewable energy resource.

Sun Day promises to be a very big event, with thousands of people all across the country involving themselves in showing off solar technology, and promoting solar energy as the major element of our national energy future that it should be.

I have the pleasure to serve with my good friend and colleague, JIM JEFFORDS, on the board of directors of Solar Action, which is the national sponsoring organization for Sun Day. I also am serving on the board of advisers of New York Sun Day, under the sponsorship of Consumer Action Now and its Council on Environmental Alternatives, based in New York City.

The Environmental Study Conference, which I started and which JIM JEFFORDS now chairs, will serve as a clearinghouse for assisting Members of the House and Senate in obtaining information on Sun Day. ESC will also provide liaison between the Congress and the outside organizations involved with Sun Day. There will doubtless be many constituent requests, and the ESC will help provide information to fill those requests.

I would like to share with my colleagues the text of a brochure which has been prepared by Solar Action detailing the purposes and intentions for Sun Day. In addition, Consumer Action Now has prepared an informational piece on its plans for Sun Day in New York. The plans for the Big Apple are ambitious and hopefully will provide inspiration for activities that can be planned in other communities.

Mr. Speaker, I ask unanimous consent that the two brochures mentioned be printed below:

THE SUN

The sun has been shining now for several billion years, and scientists expect it to keep doing so for several billion more. The sun rises every morning and sets every evening, delivering energy to your doorstep (or rooftop) without powerlines, pipes or a hose. It is the most predictable and egalitarian energy source. Since the sun doesn't foul the air, land or water, it is safe and non-polluting. And there isn't a thing that a terrorist, hijacker, multinational cartel can do to prevent sunpower from reaching you.

Even when the sun isn't shining, its immense energy is at work making the winds blow, clouds form, rain fall, and trees and crops grow. Since the sun transfers power into everything it touches, the proper technology can harness that energy and put it to work for you. Sunlight becomes hot water through a solar panel (or electricity through a solar cell). Wind becomes a water pump through a windmill. Rainfall becomes electricity through a small hydroelectric dam. Wood becomes warmth through a wood stove. The possibilities go on and on.

Moreover, solar technologies are not "exotic"—many of them predate the oil, gas and nuclear technologies that surround us today. Windmills, solar panels, wood stoves and small hydro dams have been with us for centuries. Now they are just waiting to be put to widespread use.

On May 3, 1978, there will be a national celebration of the world's only inexhaustible, predictable, egalitarian, non-polluting, safe, terrorist-resistant and free energy source. It will be called Sun Day.

WHY WE NEED THE SUN

Today the United States relies on oil, coal and nuclear power for most of its energy needs. All three energy sources involve massive production, transportation and storage facilities which are vulnerable to massive failures (such as blackouts, meltdowns or terrorism) which could affect millions of people. Moreover, each conventional fuel has major drawbacks:

In 1974, U.S. production of oil declined for the first time. It has been declining ever since. Meanwhile, as we reach the bottom of the oil barrel, the price of oil is climbing steeply. Imports now promise half of all the oil used in the United States.

Although the U.S. has plenty of coal, deep mining is very dangerous, strip mining ruins the environment, and burning coal pollutes the air. In fact, the National Academy of Sciences recently concluded that carbon dioxide from burning coal could create severe climatic changes around the world.

Nuclear power is so complex and dangerous that each 1000-megawatt plant now costs more than $1 billion to build. In fact, the utilities themselves are having second thoughts about nuclear power, and orders for new tractors have dropped off to only one or two per year. Meanwhile, more than 100 million gallons of nuclear waste are being stored in temporary federal facilities while scientists frantically search for ways to safely dispose of the radioactive material.

WHAT THE SUN CAN DO

In Atascadero, California, a designer has built a "sky-therm" house. Using bags of water on the roof and movable slabs of insulation, he can heat the house in the winter and cool it in the summer using only the sun.

The United Auto Workers Union has installed solar panels to heat the large indoor swimming pool at its conference center near Black Lake, Michigan—one of the most northerly locations in the U.S.

The enterprising residents of a New York City tenement erected a windmill on their roof to provide electricity for hall lights. On windy days the windmill produces enough electricity to send power into Con Edison's system and make the building's electric meter run backwards!

The National Park Service is considering lighting the Lincoln Memorial with solar cells.

In 1976, the Energy Research and Development Administration calculated that using solar power for heat and hot water is cheaper than using electricity in every part of the nation except the Pacific Northwest (where water power is abundant). By 1980, solar power will be cheaper than oil or gas in most regions, too.

WHAT YOU CAN DO ON SUN DAY

In communities all across the country, citizens are making plans to celebrate Sun Day. So far, the Sun Day office has heard about planned solar fairs, conferences, teach-ins, sunrise services and political demonstrations—and the ideas keep coming.

On May 3, 1978, when the sun first hits the U.S., Sun Day activists will be there. A group is planning a celebration on top of Cadillac Mountain in Acadia National Park, Maine. Later in the morning, New Yorkers can enjoy a sunrise concert at the United Nations. Boston and Atlanta are preparing solar fairs, while some folks in Martinsburg, W. Va. are planning a tour of solar homes in the area. Montana citizens are scheduling a traveling energy road show, while Californians will coordinate dozens of events as the sun heads out over the Pacific.

Sun Day can be whatever kind of celebration you want it to be. One person has suggested the world's largest solar clothes dryer—a coast-to-coast clothes line to be set up on May 3. A pro-solar political candidate has suggested that he run as a "favorite sun." A congressman wants to pass a key piece of solar legislation on Sun Day. And someone suggested that ice cream parlors give away free "Sun Day Sundaes" on May 3rd.

What ideas can you come up with?

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NEW YORK SUN DAY, MAY 3–6, 1978

The success or failure of Sun Day nationally may in large part rest on the local programs developed for New York. Public awareness of major political issues is always heavily shaped by events occurring in New York, the nerve center of most national news organizations. In no other location can an equivalent combination of public participation, technical, academic and corporate resources, and media interest be assured.

In New York's Sun Day, solar energy will be presented as a vital component of a strategy to save the nation's urban areas. Long-term problems, such as corporate flight, the decline of the inner city, housing decay, unemployment, and rising costs of government all demand new roles for our cities. Solar energy and such related strategies as conservation and resource recovery directly address these problems.

For instance:

They can reduce overall life cycle energy costs for new and old office buildings, schools and homes.

They can provide the basis for new urban-based equipment manufacturing.

They can provide job training opportunities and employment in housing rehabilitation programs.

They can contribute to the solution of waste disposal and pollution problems.

New York's Sun Day will also emphasize the community-based "appropriate technology" approaches available in the urban environment.

ORGANIZING SUN DAY IN NEW YORK

Consumer Action Now's Council on Environmental Alternatives conceives of Sun Day as a major "headline" event, attracting the enthusiastic support of government and the major public and private institutions of New York and the surrounding area, as well as thousands of local organizations, small business, community groups and individuals.

By emphasizing the opportunities and potential of solar energy, the Council expects that the scale, sophistication, entertainment and educational value of the event will lay the groundwork, for the first time, for conscious planning of New York's energy future.

SUN DAY EVENTS

Sun Day Center will coordinate interest and activities in solar energy, and present it to the public in programs throughout the metropolitan area. Major projected events, extended throughout the period from Wednesday, May 3 to Saturday, May 6, are outlined below. Needless to say, Sun Day Center will not have the capacity of implementing programs by itself. The Center itself will undertake to organize events No. 1 through 6, and is committed to disseminating information about solar energy and its consumer uses (No. 14). The success of the entire program, however, depends on active participation and the assistance of thousands of people in all communities.

Sun Day Center plans to help groups throughout the metropolitan area with ideas for Sun Day and with organizing. Since putting people together with people is crucial to such an event as Sun Day, the Center will help to provide that service. Anyone interested in getting involved with Sun Day in the New York area should contact Sun Day Center, 355 Lexington Ave., 16th Floor, New York, N.Y. 10017; tel. (212) 697-5050.

1. U.N. Plaza: Morning concert with the expected attendance of international representatives and U.N. Ambassador Andrew Young (schedule permitting).

2. City Hall: Mayoral proclamation of Sun Day, Wednesday, May 3 at noon.

3. Wall Street and Midtown: Teaching seminars for investors, manufacturers, politicians and businessmen on the economic opportunities in solar energy.

4. Old Custom House: Near Battery Park: Four-day show of solar equipment, such as solar heaters, cookers, furnaces, desalinators and power cells, as well as publications, energy-saving and resource-recovery devices. Up to several hundred commercial exhibitors are expected to attend. Organized tours by community groups, citizens' organizations, schools, colleges, and employees of major New York and area corporations will be scheduled. Typical seminars will be held here as well.

5. At a Midtown Auditorium: Continuous program of films slide shows and other information on solar energy.

6. At Midtown or other auditoriums, such as Cooper Union: Thursday and Friday night lectures, debates, teach-ins, with participation by nationally known experts, and the possibility of live broadcast coverage on public service networks.

7. Central Park, Sheep Meadow or Green Lawn: Saturday afternoon public addresses by distinguished individuals on the general topic of solar energy and its relevance to New York City. Other outdoor programs and a central information facility will be at this location.

8. Custom House and Central Park: Consumer solar information center, portable unit at major events, connected to New York Institute of Technology "hotline".

9. Concerts and Ceremonies: Including closing observance on Saturday, with Indian sun dancers, other programs celebrating the sun's benefits. Pete Seeger and the Clearwater sloop are committed to participation during the four days.

10. Metropolitan area: Tours of existing solar and conservation installations in new and rehabilitated housing and commercial buildings throughout the region. Preparation of literature detailing functions, comparing life cycle costs, and potential savings.

11. Exhibitions: Solar energy-related exhibitions in museums, galleries and schools. Window displays and other informational programs in leading department stores. Special programs for small merchants.

12. Consumer Clearing House: In coordination with other groups, providing for "energy audits" of individual homes. Teaching seminars for the general public on consumer issues in solar energy, appropriate technology, citizen activities, and available equipment.

13. Solar Agenda: Development and publicizing of a legislative and administrative program addressing the entire range of government activities that can encourage solar energy on the city, state and Federal levels.

14. Publications: Preparation of a magazine-format publication describing the basic issues in solar energy, and answering such often-raised objections as cost-benefits, capital sources, storage problems, technological feasibility of solar cells, solar energy's relevance to the cities, and, perhaps most important, directly addressing the myths that solar energy is not feasible in the Northeast, and that it can never become a significant factor in our national energy picture. Sun Day Center is exploring several possibilities for coproduction with magazines, and national distribution.

15. Competitions: Arts, architecture, design contests, and awards ceremonies.

SUN DAY CENTER—ORGANIZATIONAL RESPONSIBILITIES

Coordinate activities with the National SUN DAY organization and event, in such areas as scheduling, public relations, fundraising and policy.

Coordinate technical and informational resources for the New York area.

Relate to community groups, government departments, environmental organizations and businesses involved in New York City arrangements, and work with independent groups throughout the region.

Oversee work of volunteers in SUN DAY subcommittees and assist organizations throughout the tri-state area.

Help to get other independent SUN DAY programs started in area colleges and universities and in other communities in the tri-state region.

Prepare basic informational brochures and other printed and public relations materials.

NEW YORK SUN DAY BOARD OF ADVISORS

Richard Berman, Executive Director, New York State Alliance to Save Energy.

Ellie Bissinger, Executive Vice President, Lebenthal & Co., Inc.

Noel Brown, Director, New York Liaison Office of U.S. Environment Programme.

Robert Browne, Director and Board President, Black Economic Research Center.

Ann Coste, President, Rockefeller Family Fund.

Dave DeBusschere, Senior Vice President, Trans-World International.

John DeLorean, President, John Z. DeLorean Corporation.

Fred Dubin, President, Dubin, Mindel, Bloome Associates.

Ruby Ford, Chairperson, Federation of City-Wide Block Associations.

Lawrence Fraiberg, President, Metromedia Television.

Stanley Gold, Managerial Consultant.

Alan Gussow, artist, environmentalist.

Joan Gussow, Associate Professor and Chair, Program in Nutrition, Teachers College, Columbia University.

Lucy Lemann, Environmentalist.

Richard L. Ottinger, U.S. Representative.

Basil Patterson, President, Institute for Mediation and Conflict Resolution, Deputy Mayor-elect of New York City.

Robert Redford, Actor.

Edwin F. Shelley, Director, Center for Energy Policy and Research, New York Institute of Technology.

FURTHER DEVELOPMENTS ON PUBLIC EMPLOYEE PENSION PLANS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CUNNINGHAM. Mr. Speaker, since originally introduced on September 15, 1977, H.R. 9118 has attracted considerable attention from all over the country. It arises as the result of a push on the part of IRS to require reporting and which threatens possible taxation of the investment income of certain State, county, and municipal retirement plans. A suit involving the Massachusetts plan is pending as well as a long-standing court action in Missouri.

Mr. Speaker, recently representatives of many respected public interest groups met with Commissioner Kurtz of the IRS, Assistant Commissioner Lurie, and other representatives in order to beg them to postpone the December 31 filing date for State and local governments for 1975 and 1976. The groups' arguments of constitutional problems and needless paperwork burden may have fallen on deaf ears from the bureaucracy, which seems intent on insinuating itself into State and local matters. If the December 31 deadline is not suspended, there is an even greater need to qualify once and for all public employee retirement plans for tax exemption by legislation.

The threat is clear and present. That is why many Members have already joined me in cosponsoring H.R. 9118. There will be a more concerted legislative push in 1978. Senator DICK STONE of Florida will push for public hearings in the Senate Finance Committee. For the reporting requirements were announced via a press release from the IRS without the usual hearings and public comment period subsequent to publication in the Federal Register.

My bill is identical to that of Senator STONE. I will seek further co-sponsors as time goes along. In the meantime, I am pleased to be joined by a growing group of Members of both parties concerned about this imminent threat.

Their commitment to federalism and fiscal responsibility of the pension plans has brought their cosponsorship. An aide to Assistant Commissioner Lurie indicated that the IRS would bull its way ahead because there had been no congressional action. None the Stone-Cunningham bill and reports from the Pension Task Force of the gentleman from Pennsylvaina (Mr. DENT) are all that stands in the way of the IRS invading another area which should be taboo to Federal meddling.

Today, I have added the gentleman from Missouri (Mr. TAYLOR) and the gentleman from Utah (Mr. MARRIOTT) to the list of cosponsors. Working with such organizations as the National Governors'

Conference, Municipal Finance Officers Association, National Association of Towns and Townships, International Personnel Association, National Association of Counties, National League of Cities, National School Boards Association and other interested public sector and employee-representative groups, I believe that Congress can once again establish the intent of this body before and after the passage of ERISA, that public employee retirement programs should not be required to report to IRS nor should they be taxed.

TV GUIDE: EXCELLENT COMMENTATOR

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DORNAN. Mr. Speaker, during the last few months I have inserted in the Congressional Record several TV Guide editorials. Each has struck me as being incisive, objective, and illuminating—qualities one rarely associates with the medium referred to in its masthead.

Three of the most recent issues contain editorials well worth the attention of my colleagues. I ask that they be entered in the Record today.

The first, "American Pacifism, Soviet Aggression," by Norman Podhoretz appeared in the October 22 issues. In his article, Mr. Podhoretz expressed his concern about the several legacies of the Vietnam war which are evident and—should one say—overplayed in the news media. The legacies of the war are in the form of national revulsions: Revulsion against any war, just or unjust; revulsion against America herself and specifically the measures her Military Establishment uses to protect her; and revulsion against anticommunism and those who warn of the aggressive expansion of the Soviet war machine. Mr. Podhoretz ends by drawing some interesting and frightening comparisons between this growing revulsion against American strength and the same phenomenon which was found in England in the 1930's.

The following week, the TV Guide editorial was an article by Patrick Buchanan entitled, "Does Public TV Deserve Another Billion Dollars?" While giving the excellent public TV programs their due, Mr. Buchanan asks many of the old, but still unanswered questions about public TV as well as the new and disturbing ones. Is a billion dollars poured into public TV by a Government running $60 billion in debt really a wise expenditure? Should the average American who prefers "Kojak" and football be required to subsidize the select few who prefer "Rigoletto?" Why should conservatives on Capitol Hill vote another dime for a medium whose public affairs division is owned and operated by avowed political liberals? Why should the Government—in the guise of competition—attempt to fight the commercial network monopolies with a taxpayer-financed monopoly, insulated from the elected representatives of the American people? Mr. Buchanan's answer to these questions is clear-sighted and logical—two reasons why it will probably be ignored when it comes time to vote on that billion dollar request.

Finally, on November 5, the incomparable Edith Efron took to the pages of TV Guide to report on the facts and foibles of the news coverage of the Concorde landing at JFK. "The Arrival of the Concorde: A Comedy" used deft humor to expose the sham of the public outcry against the landing and the New York press which covered it. "The People"—as opposed to the people—Efron points out were nearly reduced to sputtering rage when the Concorde failed to live up to its prediction of "mind-shattering" noise. The "piously fraudulent" environmentalists were exposed as mythmongers and the New York TV press was not amused. According to Efron's interpretation, the reality of the landing simply did not mesh with the preprogramed scripts.

Again, thank you, thank you, thank you, TV Guide editors for the superb "Newswatch" section. It rings as loudly and clearly as history tells us the Liberty Bell once tolled:

News Watch—American Pacifism, Soviet Aggression

(By Norman Podhoretz)

The single greatest difference between watching the news on television these days and watching it a few years ago is that Vietnam has disappeared from its nightly slot on the screen. And yet if one looks closely, one can detect the ghostly presence of that war hovering behind the attitudes that shape the way other events are treated. These attitudes are the legacy of our defeat and humiliation in Vietnam. In one form or another they now permeate every area of American culture—newspapers, magazines, movies, plays and novels. But it is probably through watching the news on television that more people encounter them more frequently and more directly than anywhere else.

The most obvious of these attitudes is a revulsion against war in general that is so intense and so undifferentiated that it can only be called pacifist. Whenever war or the prospect of war is mentioned, the assumption is that nothing worse could possibly occur to a nation—any nation, but especially the United States. War now seems to be regarded as the greatest of all imaginable evils: there is never anything good to be said about it and no objective that can justify it.

The second legacy of Vietnam is a revulsion against America itself. This feeling is more subtly expressed than the naked anti-Americanism that emerged on the radical Left in the latter part of the '60s. Neverthless is there. We find it, for example, in the impression so often conveyed by TV coverage of issues like the B-1 bomber or the defense budget that the main obstacle to disarmament is the American military establishment—as though the Soviet Union were not engaged in the most massive military buildup in history, and as though all that were needed to end the "arms race" is unilateral "restraint" by the United States. In similar fashion, we usually get the impression from coverage of the energy crisis of the problems of the Third World that the underlying cause is the greed of Americans in consuming more than their "fair share" of resources—as though we did not produce more wealth than we consume and as though a voluntary reduction in the American standard of living (a kind of unilateral economic disarmament) could eliminate scarcity and hunger everywhere else in the world.

Finally, Vietnam has left us with a legacy of revulsion against anti-Communism. Since President Carter himself has congratulated the country on having overcome the "inordinate fear of Communism" that allegedly got into so much trouble in the past, it is not surprising that this feeling should be reflected in television's coverage of such phenomena as Soviet expansionism and the growing power of Communism in Western Europe. Rarely is any alarm sounded over the unprecedented dimensions of the Soviet military buildup, or over Soviet maneuvers in Africa and elsewhere aimed at controlling the sea lanes vital to the commerce of the entire West. Nor is there much evidence of anxiety over the threat both to NATO and to democracy posed by the possible entry of Communist parties into the governments of Italy and France.

What is so striking about these attitudes is their uncanny resemblance to the sentiments and ideas that became prevalent in British culture in the aftermath of World War I—an experience that acted on the British in much the same way as Vietnam has acted on us. Thus pacifism became so fashionable in England in the '20s and '30s that thousands of British undergraduates took the so-called Oxford pledge never to fight "for King and country." Hostility to their own society was also widespread among the English of that period. England was stigmatized as a wicked country for having senselessly sent the flower of its youth to the slaughter, and it was also attacked as a doomed society resting on obsolete, if not indeed illegitimate, social, political and economic foundaries. As for the threat posed by the burgeoning military might and aggressiveness of Nazi Germany, it was dismissed as the fantasy of a few hysterical demagogues like Winston Churchill. (Churchill even had trouble getting onto the radio to sound his warnings against the German buildup, since the officials or the BBC did not wish to disrupt Anglo-German relations by putting such a prominent "warmonger" on the air.)

Churchill later called World War II "the unnecessary war," because it could have been averted if the democracies had taken a strong stand against Hitler instead of appeasing him until it was too late to do anything but surrender or go to war. But in retrospect it seems clear that appeasement was made inevitable by the pervasive influence among the English of pacifism hostility to their own society and a relaxed view of Hitler's aggressive designs.

Is the same thing happening today in the United States with respect to the Soviet Union? Brezhnev, for one, evidently thinks so. A few years ago, in a speech to which, incredibly, neither the networks nor the newspawers gave any play, the Soviet leader predicted that under cover of "detente" his country would achieve a clear military superiority over the United States by the mid-1980s. At that point the Soviets could presumably impose their will on us merely by threatening to unleash a nuclear war. They could do this because (as Richard Pipes of Harvard's Russian Research Center has demonstrated in a definitive study of Soviet military doctrine) they believe that, given such superiority, they could fight, survive and win a nuclear war.

Thus we may well be heading toward an apocalyptic moment when the Russians will confront us with the equally impossible alternatives of surrender or a nuclear holocaust. If that moment should ever come, the attitudes toward war, toward America and toward the Communist world bequeathed to us by Vietnam and being spread by television—along with all the other media—will have played a major part in creating the conditions for its arrival.

Does Public TV Deserve Another Billion Dollars?

(By Patrick Buchana)

Dick Cavett's recent premiere on public television was a "tame and pussyfooted" performance wherein the host behaved like a "titillated puppy dog" before Sophia Loren and Marcello Mastroianni. That was Washington Post critic Tom Shales' verdict on opening night for the ingratiating little fellow he suggests may be the "Great Short Hope" of public television.

Well, after watching similarly saccharine performances with two ballet dancers, I have my doubts about the durability of Mr. Cavett. Put on waivers years ago by the networks, does he really embody what E.B. White envisioned when he wrote the Carnegie Commission that, "Noncommercial television should address itself to the ideal of excellence, not the idea of acceptability. . . ." Or is Cavett redundant—another talking head among the dozen one finds on local and national, commercial and public, television?

With Jimmy Carter having just recommended a billion in tax dollars for public television (over a five-year period), the Cavett show raises questions that are old and unanswered—as well as new and disturbing ones.

Certainly, it would be unfair to assess the considerable output of public television on the basis of a single show. There are children's shows, documentaries, entertainment shows and public-affairs programs on PTV that are the equal or superior of what is to be found on the networks.

No network show, for example, nightly duplicates the in-depth issue studies done by *The MacNeil/Lehrer Report,* a public-affairs program where both correspondents do a professional probing of quests, to bring out conflicting views on controversial issues of national moment.

Likewise, Louis Rukeyser's *Wall Street Week* is one of a kind. Witty, irreverent, knowledgeable, Rukeyser and his colleagues weekly probe an industry in which 25,000,000 Americans have a direct investment. Two weeks ago, in his opening monologue, Rukeyser picked apart with logic and humor the President's assault on the oil industry.

And the same evening Cavett's show opened, Ch. 26 in Washington ran a moving documentary about the Irish in America, from the potato famine to the Inauguration of JFK—titled "Clear Day, See Boston."

Yet, while fairness dictates that one praise what is done well by public TV, the sudden specter of a billion in new tax dollars poured into public TV over the next five years by a Government running $60 billion in the red raises serious questions.

First, the children's shows aside, the audience for public television remains tiny and select. Should the working class, which prefers to watch the Redskins and *Kojak,* be required to subsidize a Penthouse Proletariat that wants to follow the progress of Lady Glencora and the Duke of Omnium? Should a national television audience that has already indicated its preference for Johnny Carson, Merv Griffin and Mike Douglas be required to subsidize a "Fourth Network" that provides a posh new home for Dick Cavett? Is not public television a little like a cargo preference act for the cultural elite?

Second, William Buckley aside, there are as many political conservatives prominent in public television as there are blacks on the board of admissions of the Chevy Chase Club. Unless and until the conservatives on Capitol Hill can hear more than a feeble echo of their own opinion on public television, why should they vote another dime for a medium whose public-affairs division is owned and operated by political liberals?

Third, there is a real question of social justice involved. Some $250 million of that billion is to be spent for the development of new programming. What this translates into is the subsidization, by the average taxpayer, of journalists, directors, producers, performers and PTV executives—some of whom earn annually more than the Secretary of State. Henry Loomis at the Corporation for Public Broadcasting has two deputies who earn more than $60,000.

Fourth, one has to ask the fundamental question again: is public affairs on public television really necessary? The Nation is inundated in newsletters, newspapers, books, magazines, all-news radio programs, local and network news shows and documentaries to the point where even the most devout "media freak" cannot keep track of public events. If Government should continue and increase the subsidy to public affairs on television, why not have Government go the whole hog, and subsidize its own newspapers as well?

Finally, there is something ominous about the haste with which Mr. Carter's agent, Barry Jagoda, has been pushing for this sudden infusion of public funds for PTV. In his three-part series in TV GUIDE, Neil Hickey quoted a member of CPB, who seemed to go to the heart of the matter.

"There's only one essential issue in all of this: whose hand will be on the throttle of American public television—the stations' or a Government-supported agency's? The winner will have a direct line to the best minds in the Nation. Those are the people who watch public television. And that's *real* power."

And what would the honchos of PTV, the good friends of Mr. Jagoda, do if they had all that power, thanks to Mr. Carter? Here is a comment made by Mr. Larry Grossman of PBS to the newsletter The Media Report:

"Anybody who is functioning in broadcasting who is involved in public service in some way has a *duty to be a social engineer.*" Mr. Grossman suggested, on *The MacNeil/Lehrer Report,* that to do the job right, *a billion a year* would be a more suitable taxpayers' contribution. (Emphasis added.)

My own feeling is that it would be going from the frying pan to the fire to attempt to fight the commercial network monopolies with a taxpayer-financed monopoly, insulated from the elected representatives of the American people. In terms of budget, PTV should be put into a permanent fixed-orbit holding pattern until private enterprise—via cable, pay-TV, video cassettes, etc.— arrives in numbers and strength to break the monopolies and bring the variety now missing in commercial television.

THE ARRIVAL OF THE CONCORDE: A TV COMEDY

(By Edith Efron)

It is so rare that TV news offers us a hilarious running story that when it occurs, one must herald it with joy. And when the coverage generates not only glee but valuable social insights, it merits a special place in the critical archives of "News Watch." The events took place in New York City, the national press and the networks have covered the "bottom line" of the story, but you don't fully know what happened unless you saw the local coverage on New York TV. Here's a composite view of what I saw on five stations.

First, the dramatis personae, then the issue. Those involved were a group of environmentalists, many living near the Kennedy International Airport, who call themselves "The People"—which, as we all know, is not the same thing as the people. The issue was the landing at Kennedy of the Concorde, the French-British supersonic jet. "The People" had taken exception to that landing on the grounds that the Concorde emitted ear-splitting, mind-shattering noise and was, therefore, an environmental threat to hearing and psychic well-being. Because, in New York, the press, politicians and judges believe devoutly in the edicts of "The People," the landing of the Concorde had been banned for 19 months.

Then, through various legal processes, the ban was challenged, and the giddy TV coverage started. The TV reporters rushed, as always, to "The People" for their opinion. "The People" spurned the very notion of re-examing the issue and announced a mass demonstration that would paralyze Kennedy Airport. We of the people tuned in excitedly to see "The People" flex their civic muscles. Naturally, the TV cameras were there to record the high drama. Only it turned into low comedy. Just a few hundred souls showed up and Kennedy wasn't paralyzed. The skimpy size of "The People" humiliated the leaders, but they bravely surmounted their shame and declared they would fight to the end to save New York from the ear-splitting, mind-shattering Concorde.

Next, the Supreme Court made a decision. The Concorde, the Court said, could land, and an actual test would be conducted to see how appalling the ear-splitting, mind-shattering etc. really was. Again, the TV reporters rushed to "The People" to register their views. "The People" were deeply angry that the Supreme Court had dared to flout their will. Action, their leaders warned ominously, would be taken. The TV reporters also put film on the air so we could see the French environmentalists, who call themselves "Le Peuple," inveighing similarly against the Concorde. "Le Peuple," like "The People," were outraged. Neither, for some odd reason, showed pleasure over the forthcoming test, which presumably would validate their charges.

Finally came the fateful day of the test. And all New York dropped what it was doing to watch the evening news to see, and hear, the Concorde land. We of the people leaned forward tensely before our sets as the exquisite supersonic plane glided in from the skies. But something had gone awry. Where was the ear-splitting, mind-shattering etc.? All we heard was the familiar drone-whoosh of a plane. According to the actual decible count, the reporters told us, the supersonic Concorde had made *less* noise than some subsonic jets. The Concorde was well under the legal noise limit.

Again, the reporters rushed to "The People" for comment. They, of course, had been waiting near Kennedy to issue nationwide statements about the intolerable ear-splitting etc. Were they relieved and happy to learn that no threat to health and sanity existed after all? Not on your life. They were furious. The Concorde had cheated, they cried. It had flown in by an unanticipated route. It wasn't fair. One young member of "The People" told a reporter that she, for one, was going to keep her hands clapped tight over her ears to avoid the dread deafness. The reporter informed her that the plane had already landed. The "People"-person sputtered, then quickly dropped the subject of deafness and laced into the Concorde as an air polluter. Others of "The People" also switched rationalizations. The Concorde, they said, was ugly. It was a plane for the rich. A few diehards stuck to their guns and proclaimed the plane deafening.

There was still hope, of course, that a dread health hazard could be proved. The next day the Concorde would take off from Kennedy, and, the reporters assured us, take-offs are much louder than landings. So the next day, too, we of the people tuned in breathlessly, again preparing for ear-splitting, mind-shattering etc. We watched the Concorde glide back into the skies. And again all we heard was that familiar drone-whoosh. Even on taking off, the Concorde, we learned, still made less noise than many of the subsonic jets. By now "The People" were in acute psychic disarray—something like the Judgment Day cults who climb the mountain to greet the end of the world only to find, at dawn, that the world is still there. And this time the reporters actually put some people (as opposed to "The People") on the air. And the people were laughing and laughing. And so was I. And broad smiles wreathed the faces of the French and British officials who had known all along that the Concorde's sinister reputation had been manufactured by "Le Peuple" and "The People." It was a lovely moment. Reason had routed the primitive machine-haters. Truth had trounced falsehood. Innocence had been avenged. It had been a monumentally amusing TV play.

It also permitted two observations about the New York TV press. First, the reporters did not account for their past fables about the Concorde's demonic noise. Nor did they acknowledge that they had just uncovered a transatlantic ideological racket, in which the environmentalists had simply made up facts. And second, not one of the TV reporters that I saw laughed. Even at the height of the absurd series of anti-climaxes, they didn't crack a smile. This was passing strange, since these were "happy news" types who customarily punctuate coverage with snickers, giggles and guffaws. But not this time. The New York environmentalists had been unmasked as myth-mongers, and the TV press was not amused.

One can only conclude that the reporters couldn't laugh, and couldn't identify a technophobic racket because they were part of it—or intimidated by it. Nonetheless, the television coverage caught the environmentalists' power struggle in all its paranoidally religious, piously fraudulent, pseudodemocratic nuances. It was Grade-A political instruction, as well as comedy, and it's a shame the whole country didn't see it.

MR. EMERSON STREET

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MINETA. Mr. Speaker, it is with great pleasure that I rise today to honor one of Santa Clara County's great labor leaders, Mr. Emerson Street.

Emerson's involvement in labor issues began in 1956, when he coordinated an effort opposing a California proposition which he felt would be detrimental to the California worker. In 1960, he became the business representative for the central labor council, a position he has held ever since.

However, Emerson has been a leader not only in the labor community but in all aspects of community life as well. For many years, he worked with others to establish a liaison, between labor and business and has been an active participant in United Way. He has been a unifier of the people, a man able to work with all of the people.

On Thursday, December 22, 1977, the Central Labor Council of Santa Clara County is hosting a recognition luncheon for Emerson to honor him for his many years of hard work and devotion.

All of us in Santa Clara County will be sorry to see Emerson retire. He has worked very hard over the years to insure that working people get a fair shake; that justice for all becomes a reality and not a myth; that is a community working together we can achieve great things.

Mr. Speaker, with this in mind, I ask you and all other colleagues in in the House of Representatives to join me in honoring Emerson Street and say thank you for all his years of dedication and community services.

FLOYD HINCKLEY: FAIR OR FOUL

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CONTE. Mr. Speaker, I was recently saddened to learn of the death of a good friend, Floyd Hinckley of Campbell, Calif., a native of my hometown of Pittsfield, Mass. Upon his passing, a tribute to his memory by Sports Editor Roger O'Gara was published in the Berkshire Eagle.

The article is an excellent piece capturing the character and capsulizing some of the many accomplishments of Mr. Hinckley at the prime of his athletic career. At this time, I would like to insert this fine column into the RECORD and extend my deep condolences to Mr. Hinckley's family:

FLOYD HINCKLEY: FAIR OR FOUL

(By Roger O'Gara)

"The greatest college catcher I ever saw."

That was the high praise paid by a scout for the Pittsburgh Pirates to my close friend, Floyd Hinckley, dead at 62 in Campbell, Calif., of cancer of the lymph glands. The tribute was made late on the afternoon of May 30, 1938, shortly after Hink had pegged out six out of six would-be Harvard base stealers in a 15-inning game with Brown at Providence, R.I.

Floyd was one of the greatest all-around athletes in Pittsfield High history and a semipro star of the first magnitude. In addition, he was a fine guy, highly intelligent, very competitive, decidedly aggressive, and a great friend with much warmth.

We go back a long time together. We were buddies in the early Morningside years. Even though he has been living in California since 1946, we have kept in touch through the mails. He managed to visit a few times in recent years, but on each occasion it was all too brief. He was the best man at my wedding in November of 1937, and he was the first out-of-town caller the day my dear wife Lucille died.

The Pirate scout made his great assessment of Floyd to Jack Kelleher, the Brown coach. He was explaining to Jack why he wouldn't talk to Floyd, even though he was a senior. He condemned Brown and other schools for requiring athletes like Floyd to play football in return for his scholarship.

"I know his knees," the scout said. "That's why I won't talk to him."

Floyd's knees were damaged beyond repair by his play in football. He was an end on the Brown varsity teams of 1935 and 1936, but was excused from play in 1937, his senior year, because the knees were so bad.

Floyd was one of the finest catchers ever to put on a Pittsfield High uniform. When you mentioned him, you put him in such company as Howie Storie and Earl Turner, both of whom went on to play in the major leagues.

And when you spoke of him as a football end, you listed him with Andy Corrinet, Bud Prodgers, Al Lavelle, Billy Flynn, Don Morehead, and Joe Zavataro.

He loved baseball from the time he was a fourth-grader at Rice School. He was the catcher on the school's midget team, which numbered among others pitcher Eddie Hickey and shortstop Roger O'Gara.

In later years, he and Hickey combined their talents as the sound-alike battery at Pittsfield High. They went their separate ways after that, Hickey to Colgate, Hinckley to Wilbraham Academy and Brown. But they were re-united in 1934 and 1935, when both played for Garrett F. Troy and his Troy's Garage team at West Stockbridge.

Floyd was a left-handed batter, and a good one. He led Troy's in batting with a lofty average of .420 in 1935. His teammates on that club were Roy Bruninghaus, Bingo Scherben, Eddie Moriarty, Bill Wise, Gene Sullivan, Bill Moge, Hickey, Joe Woitkoski, Gig Forrest, Billy Gorman, Lou Shapiro and Irv Siegel.

Floyd didn't play basketball at Pittsfield High, but he competed with distinction in the sport for the Morningside All-Stars and at Wilbraham.

His football coach at PHS was Chuck Stewart. Chuck used him sparingly as a junior in the fall of 1931, because he said in later years Floyd wasn't using his hands properly. But he finally mastered the trick of employing the hands in the fall of 1932, and ended up on John Flynn's All-Berkshire team. I hitchhiked home from Bucknell University to watch him play against St. Joseph's Thanksgiving Day that year.

I'll never forget an incident in the Pittsfield High-Drury High baseball game at North Adams in 1931. The Drury shortstop barreled into me at second base as he tried to take an extra base on the throw to the plate following his single.

I was playing second base by this time, because they had caught up with my weak arm. I cut over to take Hink's throw. The peg and the Drury runner arrived at the same time, and the Drury man crashed into me, knocking me out into short left field. But dazed as I was, I held the ball, and he was out.

Hink led off the next inning with a single. With Eddie Hickey at bat, he took off for second base. Coach Stewart couldn't believe he was running on his own without a sign, because Hink wasn't one of our fastest runners.

The throw by the Drury catcher arrived well in advance of Hink. He should have been out easily, but he tore into the shortstop, and inflicted a bad spike wound in that man's leg. The shortstop dropped the ball, and Hink was safe.

Hickey singled to score Floyd, and Coach Stewart greeted him at home plate.

"What were you thinking of, running without a signal on?" he asked.

Hink looked him straight in the eye. "He dirtied Ogie," he explained.

After graduating from Brown, where he was class president his senior year, he became Remington-Rand Company's youngest manager in history at Hartford.

World War II came along, and he enlisted in the Marine Corps, in which he served most of his time in California. He liked the state so much, he settled there after peace was declared.

He worked the greater part of the last 30 years for the Lockheed Aircraft Corporation. He was on the verge of retirement when the dread disease struck.

I also recall his assessment of Garrett Troy shortly before the Garagemen went forth to meet the Philadelphia Athletics in 1935.

Troy gathered his men around him and said, "Look, fellows, you're playing the Philadelphia Athletics today. I've done some checking on them. They're in last place in the American League. I expect you to beat them."

Hink wore a big smile when he came over to me in the dugout. He leaned over and whispered, "This guy is nuts."

Hink was the baby of his family.

His mother, a lifelong friend of mine, still is living in Centreville in her late 80s. He has a brother, Lolly of Lenox and two sisters, Mrs. William Sinacori of Lenox and Mrs. Herbert Stutz of Centreville.

We extend heartfelt sympathy to all.

We also offer condolences to his wife, Lindy, and his son, Steve, a fair right-handed pitcher for San Jose State a few years ago. Hink was proud of Steve. He had great hopes for the boy, but couldn't get the pros interested in him.

Hink was also a teammate of mine on the PHS debating team. He would be the first to argue the merits of this column, but he would be wrong.

WE HAVE AGAIN STUDIED THE TREATY: WE STILL SAY "NO"

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. McDONALD. Mr. Speaker, the commander of the American Legion, Mr. Robert Charles Smith, in his commander's message of December for the organization's monthly magazine, reiterated the American Legion's continued opposition to the proposed Panama Canal treaty. He is correct that the treaty should be rejected. It is not acceptable to the American people as the polls continue to indicate. The so-called understandings issued by President Carter and General Torrijos have no legal standing. I commend Commander Smith's message to the attention of my colleagues.

WE HAVE AGAIN STUDIED THE TREATY; WE STILL SAY "NO"

Why is the American Legion so vehement in its opposition to the Panama Canal Treaty? Does it want to alienate all of Latin America? Does it want to invite sabotage against the canal? Does it really believe the canal is still vital to U.S. security?

The questions have dogged me in my first months as your national commander. I believe I should use this forum to reply so every American Legion member understands our position before Senate debate.

First, our opposition is directed at the treaty, not at the people of Panama. The American Legion has consistently supported fair and equitable payments to Panama for the canal, generous social and material assistance for its people and constant modernization of the canal for the economic and military well-being of the entire Western Hemisphere.

Debaters avoid these economic and security factors.

Isn't it disturbing that although this treaty has been negotiated by four U.S. administrations, the text was not made public until the eve of the gala signing ceremony at the White House? We were treated to a spectacle in which virtually every hemisphere chief of state signed a protocol for a treaty they had not read!

Subsequently, it became apparent that Washington and Panama City did not even agree what the text meant. Worse, the controversy has centered on circumstances under which the United States could exercise its military might to protect the canal and the hemisphere. President Carter and President Torrijos finally met and announced that they agreed on the interpretation of the treaty's vague language—but they did not clarify the language in the treaty.

"An understanding" between two heads of state is fine, but it lacks the force of law. What happens when Mr. Carter and/or Gen. Torrijos have left office? The American Legion does not believe such questions should rest on a reed called "understanding."

In 1975 alone, 14,000 ships transited the canal. Forty-five per cent of these voyages originated in the United States. These ships were loaded with the agricultural and manufactured exports vital to our balance of trade and payments. Any increase in tolls by Panama could have devastating effect on the world market position of the American farmer, laborer, businessman. The Mississippi Valley, Plain States and the east coast are vulnerable.

Should the canal ever be closed to U.S. ships, the Commerce Department estimates a $932 million jump in the price of U.S. exports, a $583 million jump in the price of imports. The impact would be chaotic.

On military issues there have been honest differences of opinion between highly qualified men who have debated the importance of the canal, but none has denied that loss of the canal in a time of emergency could be disastrous. Yet the very provisions of the treaty that are supposed to guarantee our right of intervention are those that cause anguish among left-wing Panamanians.

It's true that our biggest aircraft carriers cannot transit the canal. But 95 percent of U.S. fighting ships can, including powerful nuclear forces. There's a lot more to the Navy than its giant flattops.

And what about Panama, this government headed by Gen. Torrijos?

His friendship with Castro is disquieting. His henchmen and propagandists have flayed the United States for years with phoney "colonialism" charges. Yet who has advertised the human rights survey of Panama by the respected Freedom House? That survey ranks Panama as the most dictatorial regime in the Hemisphere.

When Torrijos seized power in Panama in 1968, the country had a debt of $167 million. Today it owes over $1.5 billion and there has been precious little improvement in the lot of the average Panamanian. Under the treaty, the United States—in addition to huge annual payments to Panama—would encourage banks to loan Torrijos another $300 million.

Faced with all this, we are asked to endorse:

1. Surrender of control over a vital waterway built by American ingenuity and American money on land fairly purchased by the United States.

2. Surrender of all defense rights within 22 years, sooner should Panama exercise full sovereignty.

3. Surrender of U.S. sovereignty over the canal and the Canal Zone and the exposure of the human rights of U.S. citizens to Torrijos' law.

4. Granting veto power to Panama over any potential U.S. plan to build another Atlantic-Pacific canal anywhere in Central America.

5. Acceptance of nebulous language—backed by imprecise personal agreements—that U.S. warships would have priority use of the canal during any emergency.

The American Legion cannot endorse such a treaty. We pray that the Senate shares our fears.

FULL EMPLOYMENT DREAM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LAGOMARSINO. Mr. Speaker, the Lompoc Record has cited several good points of concern about the Humphrey-Hawkins full employment bill:

The article follows:

FULL EMPLOYMENT DREAM

The new "full employment" bill has been endorsed by President Carter and sent to Congress for action.

We call it a "new" bill because it is very similar to the intentions of Congress in 1946 to provide for maximum employment, production and purchasing power. The legislation created no jobs.

And so now, 31 years later, we again have a measure before Congress to do whatever needs to be done to put people to work.

The goal of the bill, called the Humphrey-Hawkins Full Employment Bill, is to reduce unemployment to four percent by 1983 without aggravating inflation. The original measure would have practically commanded the Government to be an employer of last resort. Never mind the cost. Just do it. This command, however, was revised in debate.

Nevertheless, under the new bill to be considered, there is simply no responsible way to guarantee that the current seven percent unemployment rate will be reduced to five percent or four percent or any other percentage by some arbitrary date.

Should the measure succeed, we would be very concerned over future congresses using the bill as justification for creating a lot of expensive make-work jobs at taxpayer expense.

In truth, the only sure path to full employment is a healthy economy. That means keeping inflation under control by avoiding excessive government spending, a ballooning money supply and unwarranted wage and price decisions by labor and management.

FORTY YEARS OF MARRIAGE

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LEDERER. Mr. Speaker, it is fitting that I honor Mr. and Mrs. Neil McGeehan on their 40th wedding anniversary.

For over 24 years Neil McGeehan, a Philadelphia police officer, made outstanding and selfless contributions to his community. Because of his selfless efforts, we pause in the business of this House to pay him and his bride of 40 years honor and to record a brief history of their many accomplishments.

Neil and Mary McGeehan were married on January 8, 1938, in St. Columbas Parish at 24th and Lehigh Streets in Philadelphia. Together they have prospered and reared a family of seven children and five grandchildren. This wonderful family is a credit to their love and devotion to each other. Their children are: Connell James, James Richard, Neil Joseph, Elaine Rose, Mary Sheila, Patricia Ann, and Katherine Barbara.

Neil McGeehan was born in Ireland from where he immigrated to the United States during his early twenties. Mary McGeehan, was the daughter of Irish parents who lived in Butte, Mont.

After their marriage, Mr. and Mrs. McGeehan lived at 2821 North Bambrey Street in Philadelphia.

On January 8, 1978, this wonderful couple will be celebrating 40 years of marriage. They will be surrounded by their children, grandchildren, and many old friends.

Mr. Speaker, it is fitting that as the very successful 95th Congress 1st session comes to an end, that we wish Neil and

Mary McGeehan our hope that this anniversary will mark the beginning of many, many more happy years of health and prosperity.

UNIVERSITY OF MICHIGAN FOOTBALL TEAM

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. PURSELL. Mr. Speaker, the University of Michigan football team will soon be competing in the annual Rose Bowl game in Pasadena, Calif., after winning another Big Ten championship.

The University of Michigan represents the very best aspects of higher education in our country. It is an institution which has been consistently ranked among the finest in both academics and athletics.

Those of us from Michigan take a particular pride in the University of Michigan and our other fine colleges and universities. But I think the balanced standard of excellence demonstrated by the University of Michigan in the classroom and on the playing field can be a source of pride for all of us.

As a means of special recognition for the Michigan football team and Coach "Bo" Schembechler, I would like to bring to the attention of my fellow Members the following article, written by the University of Michigan Sports Information Director Will Perry:

BO'S FOURTH ROSE BOWL TEAM IS CHARACTERIZED AS MOST TENACIOUS

ANN ARBOR.—Coach Bo Schembechler is taking his fourth team to the Rose Bowl and this 1977 edition, like the other three, has its own personality.

"This is an extremely tenacious team," says Schembechler. "This team has overcome more adversity than any other team I've had in 25 years of coaching."

It is a team that has had to struggle for success. It is also a team that has played brilliantly in games that were of vital importance.

On three successive Saturdays Michigan played undefeated and fifth ranked Texas A & M, undefeated Wisconsin and a strong Michigan State team whose Big Ten schedule did not include Ohio State. The combined score in those three Wolverine victories was Michigan 121, opponents 17.

Defeating Iowa after a confidence damaging loss at Minnesota, defeating Purdue on its grass field after losing there the previous season, then defeating Ohio State in the Big Ten and Rose Bowl showdown were all critical Saturdays. The road to Pasadena was not easy for this Wolverine team.

The offense, which was supposed to carry the load this season as the defensive unit was being rebuit, was shattered by injuries. The offensive line from the 1977 Rose Bowl team had returned intact, but only guard Mark Donahue and center Walt Downing started every game. Tailback Harlan Huckleby missed two of the last six games and played the other four at half-speed. A freshman, Stanley Edwards, started at Purdue. At times there was no replacement for fullback Russell Davis, the durable junior who led the Wolverines in rushing with 1013 yards and a 4.9 average. He was voted the team's most valuable player.

Rick Leach, also hampered at times by a heel injury, kept the offense moving with 1109 yards passing and 13 touchdown passes that tied a record.

Still, there was an inconsistency that left the offense suspect and forced the defense to mature quickly. It was a Michigan defense that bent, but never broke. It recorded only one shutout (compared with five by its 1976 predecessor), but made the big plays when they were most needed. In the championship showdown with Ohio State, for example, the Buckeyes ran 15 plays within the Michigan 20-yard line and gained one net yard, settling for two field goals.

Ron Simpkins, a 220-pound sophomore who already rates among Michigan's finest linebackers of the last decade, led the defense with a record 158 tackles, 5 fumble recoveries and four pass deflections. All-American outside linebacker John Anderson and strong safety Dwight Hicks are other key members of a defense that allowed just 2.6 yards per rush.

LAWRENCE RUSSELL ELLZEY, A DECEASED FORMER MEMBER OF THE HOUSE

HON. THAD COCHRAN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. COCHRAN of Mississippi. Mr. Speaker, it is my sad duty to inform my colleagues in the House of the death of Lawrence Russell Ellzey who formerly served as a distinguished Member of this body.

Russell Ellzey was a resident of Jackson, Miss., where he had lived since 1938. In 1932, he was elected to the House to fill the unexpired term of the late Percy Quinn. He was then reelected for a full term and completed his service in 1935.

Mr. Ellzey had been a distinguished citizen before and after his tenure in the Congress. He was a native of Copiah County, Miss. He served his country in the Armed Forces in World War I, and upon his return home he was elected superintendent of education of Lincoln County. He organized the first consolidated school at New Sight in Lincoln County and was later elected superintendent of Copiah-Lincoln Agriculture High School.

He was instrumental in securing junior college status for what is now Copiah-Lincoln Junior College at Wesson, Miss.

Following his service in the House, he returned to Mississippi where he was engaged in the life insurance business in Jackson. Mr. Ellzey had been very active in the civic and religious life of our community. He was a member of the First Presbyterian Church and was honored by the Jackson Touchdown Club for his efforts in promoting outstanding football players from Mississippi to the Touchdown Hall of Fame.

I take this occasion, Mr. Speaker, to pay tribute to our former Member and convey the regrets and condolences of this House to his wife, the former Edwina Short Hagaman, and the other members of his fine family.

RUBLES THE U.N. CANNOT SPEND

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CRANE. Mr. Speaker, what does the United Nations Development Program and Albania, Algeria, Bulgaria, Burma, China, Cuba, Czechoslovakia, East Germany, Hungary, New Zealand, Poland, U.S.S.R., and Yugoslavia have in common? Nonconvertible money. It seems that these countries have been paying their contribution to the UNDP in currencies that cannot be utilized in international commerce and are, therefore, only valuable in Communist countries. As is stated in the following article, the UNDP administrators and accountants are being driven up the wall in attempting to find solutions on how to spend this currency which comprises almost half of UNDP holdings:

RUBLES THE U.N. CAN'T SPEND

The fact that money is only useful when you can spend it seems like a feeble truism, but for the UN and its specialized agencies it's a frustrating fact of life that can cut deeply into their effectiveness. For these bodies, whose operating expenses are covered by contributions from UN member nations, are sometimes saddled with the equivalent of millions of dollars they literally can't spend in most of the world—the nonconvertible currencies in which most of the Communist contributions are made.

The ruble and other Communist currencies are useless in international commerce essentially because these nations insist on conducting their trade on a barter basis. In the international sphere, these currencies simply are not permitted to serve the exchange function of money as the West and the rest of the world know it. As a result, Communist contributions can only be spent in transactions with Communist countries.

Nonconvertible currencies create a particularly cruel dilemma for the UN Development Program (UNDP), an agency which provides developing countries with technical assistance purchased with hard currency from the industrialized nations. Rather than buying more of this aid from Communist countries—and dealing with their endless delivery delays and often inferior merchandise—the organization has chosen to let these currencies just pile up, a "solution" which is nonetheless driving UNDP administrators and accountants up the wall.

In fact, of UNDP's total 1976 operating budget of $523 million, the equivalent of $38 million consisted of nonconvertible currencies that were worthless to the program. UNDP expects this figure to grow to $42 million by the end of 1977, largely because instead of spending more of it—as the agency admits it must if it ever hopes to do away with this untidy pile—they spent a good deal less than in 1976. All nonconvertible currencies that can't be spent are held as part of UNDP's $150 million operational reserve account. This is money UNDP keeps on hand to cushion liquidity crises, like the one that rocked the agency in 1975 (The Inter Dependent, July/August 1977), but again, this fund is worth $42 million less than its face value.

Nonconvertible currencies weren't a problem for UNDP before 1970. Until then, the agency was able to convert much of this money back into hard currency by juggling accounts it held in the Soviet Union itself.

This was done despite the fact that the official Soviet airlines and export agency refused to accept UNDP's rubles and insisted on hard cash. But the Soviet Government agreed to credit the organization's Soviet accounts with hard Western currencies equal to what UNDP had paid out in the first place, mainly for airline tickets.

After a while, "The Russians discovered that we were getting away with a lot of conversion that way—maybe 60–70 percent," says UNDP's Huntley G. Anderson. Under a barrage of protests from the Soviets, UNDP had to give up this "reconversion" system. All attempts since then to institute other reforms have failed.

UNDP currently holds nonconvertible money from Albania, Algeria, Bulgaria, Burma, China, Cuba, Czechoslovakia, East Germany, Hungary, New Zealand, Poland, USSR and Yugoslavia. Soviet rubles comprise almost half of the agency's total unusable holdings—though the Soviets and others claim they could be used if only UNDP would contract to spend more in Communist countries where the currencies are worth something. UNDP says they can't do this. It would be discriminatory, preferential treatment, they contend.

Some Western nations are now protesting that the non-convertible currency donors aren't fairly sharing UNDP's costs, since their contributions are useless. They also charge these donors with using UNDP to further their bilateral trade, noting that most of what they give that is used winds up in countries which trade heavily with the Communist nations.

UNDP officials doubt the nonconvertible currency dilemma will soon be solved. "We've gone through this matter a million times," says Anderson, "but we're just going around in circles. Nothing will ever change."

DOMESTIC HONEY INDUSTRY VITAL TO NATIONAL HEALTH

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. PRESSLER. Mr. Speaker, today on all the tables in the Members of Congress restaurants is a jar of honey. This honey is from the apiaries of my friend Alvin C. Zietlow of Rapid City. It is natural honey.

The purpose of placing this honey on each table, along with a note crediting the South Dakota honey producers, is to remind Members of Congress and their guests of how important our honey producing industry is. South Dakota is the fourth largest honey producing State in the United States.

Last year I sponsored legislation, along with several of my colleagues, to protect our domestic honey industry against unfair foreign imports of lower quality honey. Also, honey substitutes which are not properly marked abound.

Having myself worked in an apiary, and having kept in close touch with my honey producers, I am convinced that we are destroying our domestic honey industry. If this happens we will lose our capability to produce a wholesome, healthy food—but our environment will also be threatened because bees pollinate plants.

Mr. Speaker, pollination by bees is essential and without it many crops would not survive. Therefore, I hope as each Member dines today, she or he will be more aware of the problems of our important beekeeping industry.

And I thank Mr. Zietlow and the beekeepers of South Dakota for supplying so many jars of delicious natural honey.

THE LIMITATIONS OF THE PRESENT WHITE HOUSE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MICHEL. Mr. Speaker, an editorial in today's Washington Post states that the stalemate on the energy bill can be traced to "limitations of the present White House in dealing with Congress and, for that matter, with the country." The Post further states:

> Recent experience suggests that (President Carter's) present staff is not meeting the standard the office requires.

When such statements come from the Republican opposition, Mr. Speaker, perhaps they can be dismissed. But when they come from a newspaper that is most definitely not the Republican Party's favorite organ of opinion, these statements take on a seriousness that the White House can no longer deny. The fact of the matter is that after a year of President Carter's leadership words like "inexperience" and "incompetence" are more and more being heard across the country.

As a partisan I might be supposed to take delight from this. But as an American I take no delight at all. I am worried. I am concerned. I am beginning to think, for the first time, that the level of Carter administration inexperience and incompetence suggested by the Post might just be all too real. And let me assure you—such news is not good for our Nation or the free world. It is one thing to disagree with the White House; it is quite another to begin to suspect that the present White House just is not capable of handling the job. This is what the Post seems to be saying and I wanted to bring it to your attention.

At this time I would like to place in the RECORD, "On Energy, a Grave Defeat," from the Washington Post, Thursday, December 15, 1977:

ON ENERGY, A GRAVE DEFEAT

The stalemate on the energy bill and the agreement to put off the hard decisions until next year are an extremely bad sign. They demonstrate and confirm the limitations of the present White House in dealing with Congress and, for that matter, with the country. As the congressional session ends, the bill will remain stuck in the conference between the House and the Senate—a deeply damaging defeat for Mr. Carter.

The energy bill is not merely another item on the administration's list. It was the President's top priority, launched last spring in an atmosphere of emergency, to address "the greatest challenge our country will face during our lifetimes." The consequences of this defeat will go far beyond mere symbolism.

Since the energy bill includes a series of substantial new taxes, the President's budget for 1970—which goes to Congress in January—will have to be built on much more than the usual amount of guesswork. Because nobody knows what the revenues will be, nobody can draft a tax-cut. But economists inside the administration, as well as outside, agree that it is essential to move quickly on a tax cut to keep the economy growing. Without prompt action on the tax cut, the danger of another recession rises sharply.

To get unemployment down, it's necessary to get business investment up. But the continuing uncertainty over energy policy and energy pricing is a powerful inducement to business to delay a wide range of investments. It's necessary to expect that the stalemate on energy this winter will have an effect on the unemployment rate next summer. The longer the quarrel persists, the greater the impact is likely to be.

Vice President Mondale offered the cheery view the other day that progress is slow on legislation because the White House consults so carefully with Congress—and that consultation is why this session of Congress has been such a success. We understand why Mr. Mondale is saying that sort of thing, but we earnestly hope that he doesn't believe it. A successful session? Mr. Mondale cited things like the economic stimulus and the farm bill. But it is inconceivable that Congress would not have pumped out a lot of public-works money this year or that it would have let the country's basic farm legislation expire. Congress looks on those bills as its own. It has taken care of its own agenda very efficiently. It is Mr. Carter's agenda that has come out second-best.

Over the next few weeks, with Congress out of town, Mr. Carter needs to spend time and careful thought on this year's unhappy experience with the energy bill. He needs to consider the White House's repeated misjudgments of the bill's progress. Recent experience suggests that his present staff is not meeting the standard that the office requires.

But Mr. Carter faces a political dilemma that goes deeper than organization and staffing. It is difficult for a President even to mention in public the most imminent dangers raised by the country's very heavy imports of oil. For example, the oil-production policy of one country alone, Saudi Arabia, is now crucial to the economic stability of the United States, Western Europe and Japan. But presidential discussion of that delicate point only increases the vulnerability of the Saudis, a small nation surrounded by envious neighbors. For another example, the steady outflow of $45 billion a year on foreign oil tends to depress the American economy, to the considerable extent that the money is not spent here. It is part of the explanation of the high unemployment rate. But Mr. Carter has to be very cautious in talking about the effects of the trade deficit on jobs, because he could easily set off a further surge of protectionism. The President has yet to come to terms with the difficulty of explaining to Americans why it's necessary to cut oil imports. The economists understand the charts and graphs. But the bill is in trouble because most other people simply don't see the point of the exercise.

When Mr. Carter first embarked upon his energy plan, he was evidently under the misapprehension that the important thing was to draft a comprehensive bill. He assumed, perhaps, that the Democrats in Congress, starved for leadership after the Ford and Nixon years, would seize his plan hungrily. In reality, of course, congressional majorities now are more friable than ever. The job description for a President does not call for a planner or designer. What confronts the President is the politician's essential job of creating support and consensus for decisions that —as he correctly believes—the country must take quickly. He cannot expect a consensus to form automatically around an idea merely because he pronounces it good; a President has to build agreement. But that is the part of his responsibility from which Mr. Carter remains most remote.

SPOKESMAN FOR FARMERS NEEDED IN USDA

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MADIGAN. Mr. Speaker, in his annual president's address to the Illinois Farm Bureau, on December 1, in St. Louis, Mr. Harold Steele has decried the lack of a farm spokesman in the USDA. Mr. Steels points up a "growing consumer activism within the USDA at the farmers expense." I believe that the views expressed by Mr. Steele in his address mirror the feelings of a great many farmers in this country. Mr. Steele's address follows:

ANNUAL MEETING ADDRESS OF HAROLD B. STEELE

Two hundred years ago, in December, 1777, General George Washington moved his troops to Valley Forge for the winter. We are all familiar with the story of the ordeal suffered by those soldiers who made the ultimate commitment for freedom in their willingness to fight in the American Revolution.

Since the birth of our nation, 201 years ago, we have had numerous revolutions. It could be said that throughout its history, America has been in a constant state of revolution. A few years after the end of the Revolutionary War, in 1793, Eli Whitney invented the cotton gin and it marked the beginning of the industrial revolution in America.

In 1837, a blacksmith from Vermont who had moved to our Prairie State, worked in his shop at Grand Detour, in Ogle County, and developed the steel plow. At about the same time that John Deere was producing his plow, Cyrus McCormick was developing his mechanical reaper. Those two inventions, again, marked the beginning of a revolution . . . a revolution that is important to all of us because it was the beginning of an American revolution.

In 1866, Samuel Gompers, started and developed the American Federation of Labor. That marked the beginning of the labor revolution in the United States.

My purpose is not to present a history lesson, although we can learn a great deal from our history. It was President Harry Truman who said, "There is nothing new in this world, except for the history you have not learned."

Now, there are those who would bring another form of revolution to agriculture. . . . a group of farmers who are calling for a strike to begin in two weeks. I have met with representatives of the American Agriculture group and found them to be sincere farmers and ranchers, dedicated to a goal with which we can agree, that farmers must receive better prices for their products.

But, as we reflect on the words of President Truman, and study our history lessons, we realize that strikes or withholding actions have never been successfully used to improve farm income.

Calling for a strike in agriculture is an entirely different ballgame than striking in business or industry.

Hogs and cattle keep eating and keep gaining weight.

Planted crops keep growing.

Grain in the bin for an extended period can go out of condition.

Losing a growing season can cost you a full year's income.

Fixed costs for land and equipment means the bills keep coming due after the income has stopped.

Export markets can be lost and perhaps never regained.

The proposal to obtain higher prices, as outlined by the American Agriculture group, would call for strict production controls, allotment certificates, higher prices for consumers and erosion of foreign markets. It is the wrong way to solve the existing farm economic problems.

A better solution is to develop expanded market opportunities, then, if necessary to make appropriate cutbacks in production.

When net returns are in the red, learn to tighten our belts and buy only what's needed. Some, perhaps, many of us have paid too much for land and purchased too much expensive equipment in recent years.

We must sharpen our pencils and make sound management decisions. We need to spend more time in management of the enterprise.

Also, it would be wise to keep in mind the reaction of nonfarmers when they hear farmers talk in terms of striking. Perhaps, we can best judge their reaction by thinking of our own emotions in certain situations. Our reactions . . . when we see the teaching profession resorting to labor union strike tactics to obtain salary demands . . . dock workers refusing to load grain going to overseas customers . . . cannery workers in California leaving their jobs during the harvest season while crops rot in the fields.

Recalling our emotions during those situations may help us realize the reactions of others when they hear reports that farmers may quit producing food.

And we must not ignore the attitudes of those who buy our products. We need to realize that, in fact, we are in the midst of another form of revolution. It is a revolution that is beginning to have an impact on our farming business. It is a consumer revolution and it requires our attention.

If we had to place a date on the beginning of the consumer revolution, I believe we could look back to the mid-1960's when a book appeared entitled, "Unsafe At Any Speed." It was written by a man whose name has since become a household word, Ralph Nader. In his book, he took on the giant automotive industry, General Motors. The first chapter was entitled, "The Sporty Corvair, The One-Car Accident." You also recall the results—the Corvair was taken off the production lines at General Motors. That car has now become a collector's item.

Following the success of his battle with General Motors, Ralph Nader put together a task force which was called, "Nader's Raiders" and began waging other battles with business and industry.

When President Carter took office in January of this year, it soon became obvious that consumerism had moved into the federal government. The October issue of Fortune magazine reports that about 60 of "Nader's Raiders" now hold jobs in the Carter Administration. Fourteen of those Nader disciples are said to be in what are described as "key" positions as assistants of the White House staff.

Efforts continue to expand consumerism in our government. You know of the Consumer Protection Bill, which would establish another government bureaucracy to serve as a watchdog of other government agencies and theoretically represent the consumer in Washington. The Washington Star Newspaper has referred to the proposal as the "Ralph Nader Appreciation Bill." Supporters of the measure could not muster enough votes for passage in the past session of Congress; but it seems apparent that it will be back before the lawmakers next year and, if in fact it is, we should express our opinions to our elected representatives.

We have seen first-hand examples of how the so-called consumer approach is affecting agriculture. Many of you expressed your concern when the Select Senate Committee on Nutrition and Human Needs, a committee which includes Illinois Senator Charles Percy among its members, issued a report urging Americans to eat less meat and to eat fewer eggs. It was the beginning in what now appears to be an effort in government to dictate diet to the citizens of this nation.

The consumer revolution is now firmly entrenched in the United States Department of Agriculture. An Assistant Secretary of Agriculture, Mrs. Carol Tucker Foreman, was named to her present post after serving as Executive Director of the Consumer Federation of America.

There are many key positions within the U.S.D.A. that are being held by individuals who do not have agricultural backgrounds. The new Administrator of the Agricultural Marketing Service moved to that position from her job with the Equal Employment Opportunity Commission. The Administrator of the Food and Nutrition Service had been the president of a non-profit organization seeking to improve and expand federal food programs. The Assistant Secretary for Rural Development was formerly vice president of the University of New Mexico in charge of community affairs. The Assistant Secretary for Administration was the director of the school of social work at Western Michigan University.

In selecting many of his staff, Secretary of Agriculture Robert Bergland appears to have emphasized consumer interest at the expense of agricultural interest. But, again, to use the slogan of President Harry Truman, "The buck stops here." The same applies to Secretary Bergland regarding his appointments.

Secretary Bergland irritated farmers when he criticiized the agricultural marketing system of the United States. He again got our dander up when he was critical of the quality of American grain during discussions with foreign buyers. Farmers are also concerned that decisions on government farm programs are said to be based on "consensus" opinions, involving the State Department, Treasury Department and the Office of Management and Budget and others. The latest program announcement from the U.S.D.A. might best be described as a "standby set aside" for feed grains. It is doubtful if farmers will participate in the program and very likely the proposed set aside will prove effective in helping solve agriculture's economic problems.

Earlier this year, a few weeks before Mrs. Foreman was appointed Assistant Secretary of Agriculture, she was interviewed by "Agri-Finance" magazine. It was evident she is a highly intelligent, very articulate, and a determined, dedicated person for the consumer cause. She had some interesting things to say in that interview. The magazine quoted her as being at odds with the American National Cattlemen's Association. Mrs. Foreman said, "The cattlemen don't like us at all and I feel the same about them." In discussing former Secretary of Agriculture, Earl Butz, she stated, "I'm frequently opposed to U.S.D.A.'s policies as carried out by Earl Butz. He is an outlaw." This brought on oratorical trench warfare. In the interest of remaining non-partisan, you may recall former Secretary Butz expressed his opinion of Mrs. Foreman. He called her appointment "the ultimate insult to farmers."

Perhaps the key statement made by Mrs. Foreman in that interview was the quote that stated, "My objection to most farm organizations is that every time they take a stand on an issue, it is to represent their members-producers' interest."

I believe it is fundamental to the future of farming that we work together to assure that Farm Bureau is an organization that will continue to represent the producer interest of its members.

In September, Mrs. Foreman was at the IAA Building in Bloomington to speak at an Agricultural Outlook Meeting. She referred to herself as the "consumer advocate" in the Agriculture Department. I think it is appropriate that we ask, "who is the farmer's advocate at the U.S.D.A.?"

Let us review the record of what consumer activism in the U.S.D.A. means to farmers. We are hearing reports that the Agriculture Department is proposing guidelines for the school lunch program. It states that a school lunchroom could serve a student no more than three eggs each week.

Mrs. Foreman has ruled, against the advice of her advisory committee, a committee which incidently was expanded to include consumer representation, that the meat-packing industry must, within 150 days, prove that bacon can be produced without the formation of nitrosamines. The industry is under the gun and is reducing the amount of nitrates in bacon. The reason—because a German research project showed that if rats were fed such nitrates in vast quantities, they could contract liver tumors. According to research by the National Live Stock and Meat Board what the U.S.D.A. has failed to report is that an individual weighing 154 pounds would have to eat 46,245 pounds of bacon every day of their lives to receive the same dosage that was fed the rats.

It has not been widely reported that rats have not developed tumors when their nitrate dosage was kept at a level corresponding to eating 15,400 pounds of bacon a day. As a pork producer, I would welcome a scientific interpretation of the study that would report "to avoid liver tumors, humans should eat 15,000 pounds of bacon daily." Little mention has been made that the nitrate ingredients are added as a preservative to the bacon to insure the consumers of America a wholesome product of high quality.

Another proposal from the Department of Agriculture states that if mechanical de-boning methods are used in preparing processed meats, then on the label, in lettering at least 50% as large as the words identifying the product, it must state, "tissue from ground bone added." Again, the U.S.D.A. is taking a totally unrealistic outlook, ignoring the fact that in any meat cutting process, including slicing prime T-bone steak, some bone chips will be scattered onto the meat product—as they always have been since the meat saw was invented.

If there was ever a case of hunting gnats with an elephant gun, this would have to qualify.

And, it may be that the worst is still to come. Two weeks ago, at an Agricultural Outlook Conference in Washington, Mrs. Foreman stated that the food policy under development by the Carter Administration "may make some people uncomfortable."

She said, "to even begin to develop a food policy, we must first know what persons in various age, sex, racial and ethnic groups, lifestyles and geographic locations need nutritionally for optimal growth and performance and continued well being. We will need not only to increase our knowledge of nutritional requirements—but also to determine what levels and types of production are necessary to meet these needs. This will require an ability to translate nutritional needs into production terms. We should know, for example, how much wheat and what kinds of wheat should be produced to insure people with adequate levels of B vitamins."

Our paper, in Washington, this may sound like a good plan, but out on the wheat fields it appears to be another case of unrealistic government meddling.

In reality, consumerism is evolving to nothing more than efforts by those in government—call them buearucrats, professional planners, or what have you—to make decisions regulating how we should live.

They consider themselves intellectuals who know what's best for us.

As a result, our cars buzz for us to fasten the seat belts, trucks and buses make clanging sounds when they move backwards, and our tractors come equipped with roll bars, even if the ground we farm is as flat as the kitchen table.

Each new regulation comes complete with a group of regulators, and, in time, government planners may outnumber those working in the private sector of our economy. At the present time, there is one U.S.D.A. employee for every 34 farmers.

As we look to the future, we ask ourselves in wonder and concern where consumerism may be taking us. I predict the day is coming when the American consumer will rise up and say, "enough of this government bureaucratic approach to consumerism. I want to make my own decisions regarding the clothes I wear, the house I live in, the car I drive and the food I eat." We've seen a beginning of such an attitude in the controversy over the sweetner, saccharin. Most Americans are saying, "That's absurd, I couldn't consume as much saccharin as those laboratory rats, if I tried. Keep it on the market, we want it and need it."

Perhaps, the scientific community is already beginning to take another look at what is really proven with research. According to a recent issue of The Wall Street Journal, back in August, two prominent researchers published a letter in the Journal of the American Medical Association announcing, "Money Causes Cancer: Ban It."

It seems the scientists had inserted sterilized dimes into the the stomachs of rats, and the animals had developed cancer. The point, of course, is there are many things in the environment which can conceivably cause cancer, and under a wide variety of circumstances. Planners should be more careful when banning products.

The irony of the continuing promotion of so-called consumerism is that while the concept is relatively new to many, farmers have been responding to the wants and needs of the consumer since the beginning. We don't produce a product, if we can't sell it in the marketplace. Food production is geared to the message that consumers send us through their pocketboocks as they decide what commodities to buy.

Back when proposals to boycott beef were at their height, you may recall some shoppers were buying horsemeat. I remember an incident when a cattle feeder participating in a Farm Bureau news conference was asked by a reporter, "What would farmers do if the American public started buying horsemeat in large quantities?" He gave a matter of fact answer because he knew homemakers set the pattern for farm production. "I would quite feeding cattle and start feeding horses."

The consumer revolution is not going to go away. As it continues, it is important that farmers be a part of it. We must be aware of what is going on and we must be involved when decisions are made that affect agriculture.

Awareness means knowing your belief and what you support—an example, the Consumer Federation of America. Many believe the organization is one that primarily represents the interests of labor unions. But when you look at the membership roles, you see they have credit unions, consumer cooperatives, some state and local consumer agencies, consumer action groups, and labor unions. The biggest block of votes, 200 in all, in the Consumer Federation of America is held by rural electric cooperatives, including several in the State of Illinois.

Let me clear the record, that I am not issuing a blanket indictment of consumerism per se, but rather the way consumerism is being promoted by government agencies and others. Consumerism is with us, as part of our lives. We farmers must keep in mind, that because we, too, are consumers, we are shirking our duty and responsibility if we don't participate in the process.

I would challenge each of you to think of those serving on your county board, your board of education, your junior college boards, your state legislators, and members of the House and Senate. Ask yourselves, do the individuals who serve in these capacities represent your point of view? If you find disagreement, follow the same procedures you use in managing your farm. Make necessary changes.

Recent history reveals, I am proud to say, that farm families are becoming more involved in the two-party system and political issues.

In Congressional District 15, the former Congressman was not listening to his farmer constituents. He was given the old #14 scoop shovel treatment or to use modern terminology, he was augered out.

A young man, who grew up on a farm in western Illinois, threw his hat into the ring last year, seeking election to the State Senate. Farm families went to work. They contributed their dollars, put up signs in their fields and worked to get out the vote. Their candidate won, and he has proven to be an outstanding voice for agriculture in the Illinois General Assembly.

Right now, there are several Illinois Farm Bureau leaders who are seeking their party's nomination for the state legislature, for both the House and the Senate. If they measure up, be sure they win.

You recall that one year ago, you the delegates at our convention, said the number one priroity of the Illinois Farm Bureau should be to cause legislation to be enacted, that would provide relief from skyrocketing taxes on farmland.

When you took that stand, we all became involved. A team effort was launched. The results were signed into law.

For the farm family of Mom, Dad and the youngsters, it is not enough in today's society to center all of our energies into the management of that farming operation. We must broaden our horizons, to local, state, national and international affairs.

Let me ask you again, "Are you really pleased with your elected officials?" Before you give anyone your vote, ask yourself some tough questions. What are my representatives' attitudes regarding regulatory agencies that impose restrictions on the insecticides and pesticides I must rely on to produce food?

How did my representatives vote on the issue of automatic cost of living salary increases for themselves and millions of public employees?

Where do my representatives stand on the question of international trade agreements that establish artificial price levels and penalize the efficient American farmer?

Does my representative vote for government projects without first voting for the money to pay for them?

What's my representative's attitude toward proposed grain reserves that in the long run would keep a ceiling on farm prices?

If you're not satisfied with the answers to such questions, talk to your fellow Farm

Bureau members who have been active in political campaigns. Determine how to elect strong, conscientious, dedicated individuals as your representatives.

Make sure you, your family and friends are registered voters. Become informed about the candidates. Don't go into the voting booth and be confronted by the names of strangers. Circulate petitions, hand out brochures, put up signs and help get out the vote. Pull out the checkbook and put your money where your philosophy is.

A few weeks ago, a farmer was at a midwestern land-grant college interviewing applicants for a job in his hog operation. The earnest young man asked the farmer, "Do you have an incentive program?" The farmer thought for a second and replied, "Yes, I have an incentive program. If you work real hard, you get to keep your job."

As farmers, we know there is no substitute for hard work. The only job where you can start at the top is digging a post hole.

Farmers have always been known for their willingness to help one another. In the early days of our nation, the tragedy of a barn burning was immediately remedied by all the neighbors. They brought their axes, muscles and craftsmanship and raised a new barn.

Today, the same principle still applies. If a farm family suffers the tragedy of sickness or death, the neighbors gather together simultaneously to plant or harvest the crops.

Farm families know that they are never alone in the face of severe adversity. The neighbors can always be counted upon.

The same is true with the consumer revolution. The farmer doesn't stand alone. We have many allies, not only our neighbors, but in the villages, towns and metropolitan areas—literally millions of allies from all walks of life across the nation.

We, as farmers, must be willing to assume the responsibility of leadership in working with all of our allies in this consumer revolution. We must again be willing to serve as a rallying force to recapture the spirit of the farmers who fired the shot heard 'round the world in our first revolution.

We must be willing to fight for the preservation of the freedom and independence that has served as the foundation for the success of America's family farms.

U.S.S.R. CONTINUES TO HOLD PENNER FAMILY AS UNWILLING HOSTAGES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. McDONALD. Mr. Speaker, for the second time this year, I rise to report a continued violation of the Helsinki Agreements by the U.S.S.R. as regards the Penner family. This concerns the continued refusal of the Soviet authorities to permit the Penners to leave the U.S.S.R. and return to the homeland of their ancestors in the Federal Republic of Germany. The family is presently split, in that part of the family was permitted to leave in 1972. At that time, Mr. Jacob Penner and his four children were permitted to leave. For 5 years now the remainder of the family has attempted to join them in West Germany. This consists of Mr. Jacob Penner's mother, father, sister, brother, his brother's wife and their three children, another wife and brother with their five children, plus a married sister and her husband with their four children. They all reside in Alma Ata in the Kazakhstan area of the U.S.S.R. The Penners applied to leave in 1972, 1973, 1974, and twice in both 1975 and 1976. The last time they applied, they were not even given a reason as to why they could not leave.

Thus, the evidence continues to mount that the Helsinki Agreements are little more than a scrap of paper in the minds of the Politbureau, and the American people should realize this and our Government should act accordingly if Soviet policy does not change.

B-1 AIRCRAFT: THOUGHTS TO KEEP IN MIND

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DORNAN. Mr. Speaker, today, the Senate is expected to act on this body's decision to fund B-1 aircraft 5 and 6. If they do not agree with the House's wise decision to keep the production lines open, we shall be asked to reconsider our position.

If this happens, I hope that we do reconsider it.

I hope that we reconsider it and reendorse it with an even larger margin than our last vote, 191 to 166.

During our possible reconsideration, it would be prudent for us to ponder these points:

First. President Carter decided to stop the production of the B-1 aircraft in favor of the unproven cruise missile. The cruise missile does not have the benefit of the advanced defensive avionics which the B-1 has and it has not undergone the extensive testing the B-1 has.

Second. Continuing aircraft 5 and 6 production—while it will not provide us with a combat force—will provide us with the time and research and development to be absolutely sure that the cruise missile concept can adequately fulfill the role intended for the B-1.

Third. Giving up the B-1 before the SALT II negotiations have even begun is like showing one's poker hand before the bets have started. The United States has given up the B-1 strategic capability with no like concessions from the Soviets. There has been no talk of curtailing the production of the Soviet "Backfire" bomber. We simply must stop this absolutely inane policy of preemptive concession.

Fourth. From the best accounts, there are still serious questions about the range limitations which will be placed on the cruise missile in the SALT II talks. The full impact of the final agreement cannot be known at this time, but until it is, the B-1 production option should remain open. It is the only prudent course of action that the U.S. Congress can take.

We are dealing with the future of Western civilization as we know it.

POLITICIZING OF THE STATE DEPARTMENT

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. JOHN T. MYERS. Mr. Speaker, on June 27, I spoke on the floor of this House regarding the apparent "politicizing" of the State Department by the Carter administration. At that time, I noted that 22 of the top 36 career level positions were being filled by political appointments. These political allies of the President were being placed in positions at the expense of experienced career State Department officials.

I also noted that these positions are not highly ambassadorial posts which are traditionally political appointees. I would not be critical of the Carter administration for appointing Democrats to these posts. But what is happening is that many qualified State Department career personnel have been passed over for promotion in favor of these political types.

It now appears that the problem is still very much alive. This past Tuesday, the Washington Star reported that this politicizing still exists and that a former Carter campaign worker has been moved to the U.S. Embassy in Stockholm.

For the benefit of the Members of the House, I will include the text of the Washington Star article and reiterate my hope that the Committee on International Relations will want to investigate this problem:

STATE DEPARTMENT WORKER'S GROUP HITS CARTER STAFFER'S APPOINTMENT

(By Vernon A. Guidry, Jr.)

The appointment of a White House aide to a job in the U.S. embassy at Stockholm has produced sharp criticism from a group of State Department employees already unhappy about limited chances for career advancement.

The criticism comes from a group called September 17, which was created to air the grievances of Foreign Service Staff, a category of State Department employees that includes jobs such as secretary and communications operator. The department's career diplomats are in a different category, that of Foreign Service Officer.

While September 17 complains of a number of what it believes are inappropriate political appointments, the organization's ire has been focused on the Stockholm appointment because a Foreign Service Staff secretary's position was abolished to make room for a reserve Foreign Service Officer position paying $24,308 annually with the title of staff assistant to the ambassador.

That job went to Caroline Wellons, a well regarded Carter campaign aide who worked for presidential assistant Hamilton Jordan and later for presidential assistant Midge Constanza. Since mid-September Wellons has been assistant to the new U.S. ambassador in Stockholm, Rodney O. Kennedy-Minott, a California professor who was also active in the Carter campaign.

The September 17 organization, which claims 800 members, "welcomed" Wellons to the State Department with a sardonic notice in its December newsletter.

"You landed what is essentially a secretarial position at a level where no career Foreign Service secretary can expect to land—

staff assistant to an ambassador," the newsletter read.

The State Department said in response to an inquiry that Minott would not be entitled to have both a staff assistant and a secretary.

"The ambassador himself requested the position and the incumbent," the department said. "It was the decision of the department to redesignate an existing position from Stockholm's complement."

The department went on to say that "Wellons is an accomplished typist and the ambassador is aware that Miss Wellons will have to perform clerical work in addition to her staff assistant duties."

According to the State Department, non-career ambassadors may be authorized special staff members depending on the size and workload of their mission.

September 17's newsletter said if Wellons was "typing, filing, taking dictation, etc.... that would make liars out of (State Department administrators) who keep saying that a secretary is just not worth that kind of money no matter what level officer she is working with or what size post she is working in."

As a special assistant to Constanza, Wellons made $26,636 annually. She left the White House at a time of staff cuts.

"She is one fantastic person," says Constanza, adding that she had nothing to do with getting Wellons the overseas job but would have liked to help.

Constanza said that "reorganization was rearing its ugly head and I had to get rid of four people. Suddenly Caroline came in and said, 'I've been asked to go to Stockholm by the ambassador.'... It was such a coincidence."

The State Department employees organization claimed in its newsletter that "unfortunately for career Foreign Service employees, there are other fortunate ones like" Wellons.

This criticism follows closely a bitter attack on the Carter administration voiced at the annual awards presentation of the American Foreign Service Association, a professional association and bargaining agent for both Foreign Service Officers and Foreign Service Staff.

Chairman Lars Hydle told an audience that included presidential national security adviser Zbigniew Brzezinski that the administration was bypassing career diplomats when it filled high government jobs concerned with American foreign policy.

The September 17 organization takes its name from the date of a letter written by a department official sharply curtailing career advancement possibilities for Foreign Service Staff.

EPA THREAT TO STEEL INDUSTRY?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ASHBROOK. Mr. Speaker, I am deeply concerned by statements coming out of the Environmental Protection Agency regarding the steel industry. These statements show a basic insensitivity to current industry problems.

Most recently, EPA head, Doug Costle, said in an interview that he considered the steel industry "at or near the top of any list" of "recalcitrant industries." He further stated he is not going to let the steel industry's problems keep him from making steel plants comply with Federal air and water regulations.

In Costle's words:

> It (the steel industry) has been among the industries most reluctant to deal with its pollution problems, and we intend to be as tough with it as is necessary to make its plants comply with the law . . . The steel industry today—uncontrolled—is not only an unhealthy place to work, it's a hazard to those who must live near its plants.

I find Costle's words very disturbing. At a time when our domestic steel industry is already experiencing severe economic difficulties it seems ridiculous for the Federal Government to make it even more difficult to survive. Our Nation cannot afford excessive environmentalism.

The EPA should back off its regulatory zeal and give the steel industry a chance to get back on its feet. Otherwise we run the risk of throwing thousands of American steelworkers out of work. This would have a disastrous impact on Ohio and the the rest of the Nation.

A REMARKABLE WOMAN—ALVERNA WILLIAMS

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MILFORD. Mr. Speaker, on Monday evening, November 14, 1977, the citizenry of my hometown, Grand Prairie, Tex., gathered to pay tribute to one of the most fascinating and inspirational people I have ever met—Ms. Alverna Williams.

Virtually, every civic organization was represented at the Soroptimist banquet in her honor, each with their letter of tribute and thanks.

Alverna Williams is an aviator of the caliber of Amelia Earhart. Alverna is a member of Ms. Earhart's international organization of women pilots, the "99's." As a member of the Experimental Aircraft Association, she has designed, built, and continues to fly her own plane. In her custom-built plane, Alverna has competed in the Powder Puff Derby.

Alverna's interests are not contained within the present. Belonging to the Antique Aircraft Association, she has restored vintage airplanes for flight. This year, she was honored by the Smithsonian Institute's National Air and Space Museum in an exhibit depicting the history of general aviation in the United States.

However, Rev. Bob Young, minister of the First United Methodist Church in Grand Prairie, says that Alverna is not satisfied with winning awards and making history. As a devout Christian, Alverna is drawn to those in need and uses her talents to fly voluntary mission trips to the Amazon, Central America, and the Philippines. Often, these areas are inhabited by hostile and cannibalistic natives, but her trust is in God—not guns.

With two children, she has been an integral part of the PTA and has been an inspiration to young and old alike. If all I have said still leaves you with indifference as to Alverna's accomplishements, I might add that Alverna lost both legs in an automobile accident at 18 months of age.

She relates that she had not fully realized the impact of her peculiar circumstance until adolescence. As a teenager. she attempted and succeeded at many of the outdoor activities her peers enjoyed. For a while, she worked as a motorcycle stunt rider in a traveling show. But again, marveling people or drawing attention to herself was beyond her.

Alverna had a dream. That dream, in the heart of a teenage girl, was to fly. However, that dream was all but shattered when the FAA denied her a license to fly. Their refusal was based on her physical handicap.

Though letters of recommendation from many renowned instructors praised here talents as a pilot, it was years before her application to fly was approved. But in 1945, Alverna became the first physically disabled pilot to receive a license from the Federal Government thus opening the door for handicapped individuals in the field of aviation.

And guess who was on hand at the Soroptimist banquet in her honor—the FAA. The FAA joined us in Grand Prairie in a tribute to a most remarkable woman—a woman who should serve as an example to us all that dreams can come true if you only have the vision.

RELATING TO THE ELIGIBILITY FOR REGISTRATION OF AIRCRAFT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ANDERSON of California. Mr. Speaker, on November 9, 1977, the President signed Public Law 95-163 which amended section 501(b) of the Federal Aviation Act to revise the eligibility requirements for the registration of aircraft in the United States. Since its enactment it has been found that the amendment has a drafting ambiguity which raises substantial legal problems. I have today introduced a bill to cure these problems.

Public Law 95-163 by inadvertence provided that a U.S. corporation could register an aircraft in the United States only if the aircraft is "based and primarily used in the United States." Many of the aircraft operated by our U.S. international air carriers would not technically meet this requirement of primary use in the United States since the majority of their hours flown are outside the continental limits. This bill corrects this problem by limiting the applicability of this test to corporations which, due to substantial foreign ownership, fail to meet the U.S. citizenship requirements of the act.

CLEVELAND'S WEST CENTRAL AREA DEVELOPMENT CORP. MARKS NINTH YEAR OF SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. STOKES. Mr. Speaker, I rise on this occasion to bring to your attention and to the attention of my colleagues in the U.S. House of Representatives an outsanding community-based organization in Cleveland, Ohio.

The West Central Area Development Corp. (WCADC) is involved in the planning, development, and implementation of programs designed to revitalize the central area of the city.

Mr. Speaker, the west central area is 96 percent black and according to the 1970 Bureau of Census statistics, 75 percent of the area's families are below the poverty level. There is no doubt that this community is in need of massive economic and community development assistance and I am particularly gratified that WCADC is doing such an excellent job in providing leadership and services.

Mr. Speaker, so that my colleagues in the House can familiarize themselves with this organization's fine work, I would like to cite several of WCADC's major revitalization initiatives. Between 1969 and 1972, WCADC cosponsored with the Cleveland Interfaith Housing Corp. the development of 88 units of new housing in the west central community known as "Central Park Place." This was the first totally owned and operated housing cooperative of its type in Cleveland.

From 1971 until 1974, the organization sponsored summer youth programs and provided a worksite for youths employed under the student neighborhood youth corps (SNYC). WCADC also sponsored summer youth programs for 1975–77 under the comprehensive youth services program.

WCADC played a significant role in the construction of the Marion-Sterling Elementary School and in the planning and organization of the Cleveland Community Health Network, Inc., from which developed the Group Health Network of Northeast Ohio, a health maintenance organization licensed by the State of Ohio.

Mr. Speaker, I am also pleased to announce to my colleagues that WCADC is in the process of completing an $18,000 comprehensive employment training act planning grant. The youth manpower planning grant has culminated in WCADC being awarded a $125,000 title III CETA grant for a merchandizing and sales project to commence January 2, 1978. WCADC has also been actively involved for 22 months in the planning and development of the Carl B. Stokes Cultural Center. Donated by the University Hospital, the center is to be housed in the old 35th Clinic Building at 2500 East 35th St. and is scheduled to open as early as next October. Support for the center has come from significant numbers of individuals and organizations within the greater Cleveland community.

On Friday, January 27, 1978, the West Central Development Corp. is holding its ninth annual meeting at St. Andrews Episcopal Church in Cleveland. Many notable civic, business, and community leaders will be on hand to honor the administrators, board, and staff of this fine organization. In light of this auspicious event, Mr. Speaker, I would like to ask that my colleagues join me in recognition of the West Central Development Corp. and their dedicated service to the community. They have made an indelible mark on the city of Cleveland. Let us hope that they continue to grow and prosper.

HEALTH PLANNING

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FISHER. Mr. Speaker, last week the House approved H.R. 9418, the Health Professions Education Amendments of 1977. Contained in this legislation is a provision which would permit the Secretary of Health, Education, and Welfare to extend a Health Systems Agency's conditional designation period for an additional 12 months. I fully supported this provision.

As you know, Health Systems Agencies (HSA) were created by the National Health Planning and Resources Development Act, Public Law 93–641. An HSA was to be charged with, among other things, improving the health of the residents of its health service area, increasing the accessibility, continuity, and quality of health services, restraining increases in the costs of providing these services, and preventing unnecessary duplication of health resources. Under Public Law 93–641, HSA's must prepare, approve, and submit to HEW for review a health systems plan (HSP), which is a detailed statement of health goals, within 24 months of their conditional designation before they can become fully designated and certified as the official health planning agency for the affected region. To date, only a handful of the 205 HSA's across the country have submitted plans. The 2-year conditional designations begin to expire this spring.

In my District, for example, the Health Systems Agency of Northern Virginia published their proposed 800-page-plus health systems plan in October of this year. It is the result of a great deal of work by interested and dedicated citizens. Naturally, this comprehensive document has generated much discussion. Two public hearings have been held by the HSA and comments are still being accepted. However, the comments period is expected to terminate shortly and the HSA hopes to publish its plan in final form this coming January or February. It seems to me that there has not been adequate time for the public and professional community to evaluate this thorough draft and for the HSA to seriously consider the comments and suggestions before the final plan is published.

Furthermore, Public Law 93–641 specifically states:

> The agency [HSA] shall after appropriate consideration of the recommended national guidelines for health planning policy issued by the Secretary [of HEW] . . . establish, annually review, and amend as necessary a health systems plan [HSP].

As you know, HEW only proposed the national guidelines this September 23. The period of time for comments from across the country was originally due to expire on November 22 but was extended by HEW until December 9. It is unreasonable to expect HSA's, at least those whose conditional designation status begins to expire this spring, to review the national guidelines, publish their proposed plan which must be consistent with the guidelines, give the public ample opportunity to comment, revise the plan as necessary, and approve the plan all before their current termination dates.

Inasmuch as it took several years for HEW to develop the national guidelines, notwithstanding the change in administrations, an extension of the conditional designation period for certain HSA's is clearly justified. Certainly an extension would be desirable for the HSA in my community of northern Virginia.

As currently drafted, the national guidelines for health planning set numerical goals which include standards for bed-population ratio, occupancy rates, obstetrical services, and pediatric inpatient services. These guidelines must be reflected in an HSA's health systems plan unless the local agency qualifies for the exceptions set forth in the guidelines. Such specific guidelines cannot possibly accommodate the diverse health care needs in the different regions of the country.

For example, the national guidelines state:

> There should be at least 2,000 deliveries annually in an obstetrical unit located in a Standard Metropolitan Statistical Area with a population of 100,000 or more.

The only exception permitted in this category is when "travel time to the [alternative] unit exceeds 45 minutes under normal driving conditions for 10 percent of the population." In northern Virginia, Arlington Hospital is one of two hospitals whose obstetrical unit falls slightly short of these requirements and does not meet the exception. However, Arlington Hospital services many indigent and non-English-speaking women who utilize the hospital's outpatient maternity clinics and gynecology clinics and whose children are able to take advantage of the daily pediatric clinic These women, due to their financial status or because of a language barrier might find it difficult to obtain similar services in other hospitals.

Other area hospitals might not offer the comprehensive maternity and pediatric services of the Arlington Hospital. At this point we do not know what impact moving inpatient pediatric and obstetric services might have on the availability of ambulatory pediatric and obstetric services. It is possible that the physicians currently providing such services might choose to relocate closer to facilities continuing to offer inpatient services.

Also, because of its proximity to the District of Columbia, Arlington Hospital has a special arrangement with the teaching hospital at Georgetown University which inures to the benefit of Arlington citizens and Georgetown physicians alike. Finally, Arlington Hospital has a high level of care as evidenced by its low infant mortality rate—the lowest of any hospital in northern Virginia. These considerations should all be taken into account before final decisions are made. Currently the guidelines do not allow for such flexibility. However, I was pleased to learn from HEW Secretary Joseph Califano that the standards proposed for obstetrical units were thought by many to be too rigid and would be carefully reviewed.

Recognizing such problems exist, on December 6 the House unanimously adopted a resolution expressing a sense of Congress that the national guidelines for health planning take into account the special needs of rural communities. The resolution also urges HEW to allow health systems agencies to reflect these special characteristics in establishing their health systems plan. The same flexibility would be desirable for suburban and metropolitan communities.

The overwhelming support for the rural communities resolution not only represents the concern of Members of Congress for the health care needs of rural communities, it also is a reminder to all of us of the variety of health care requirements in the different regions of this country. Implementation of the guidelines should be postponed until the nature of these local needs is more thoroughly explored.

Next year the basic law (P.L. 93-641) must be reauthorized and Congress will then have an opportunity to reassess the composition of the law and make any necessary modifications. For instance, debate continues over the question of who should make the final decisions regarding hospital cost containment—the Federal, State, or local government. Thoughtful people disagree on this question and it should be clarified. Another controversial issue is the composition of the HSA itself. Many are concerned that there is not enough input from the individuals and institutions which must, in the final analysis, provide the health services which are called for.

Congressman Paul Rogers, as chairman of the Subcommittee on Health and the Environment, has pledged to hold hearings on health planning early next year. I encourage him to do so. Perhaps we can then resolve some of the difficulties with which we are currently wrestling.

We are all interested in curbing the rising costs of health care, but it should be accomplished in a prudent and deliberate manner. We should attempt to acquire the support of both the public and professional medical community before we institute major changes in the delivery of health care services. It might prove more effective to proceed cautiously at first, pursuing fewer goals and objectives. This would facilitate future cost containment endeavors.

SUPPORT GROWS FOR ENACTMENT OF THE KEMP ARTS AND HUMANITIES BILL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. KEMP. Mr. Speaker, on September 29, I introduced legislation to aid the financially strapped arts and humanities throughout the United States by encouraging greater support from the private sector.

The early enactment of this legislation is vitally important, for arts and humanities institutions and organizations are faced with inflationary increases in expenses and corresponding decreases in private, corporate, and foundation abilities to assist them. The situation is fast approaching the critical level.

The survival and growth of the arts and humanities cannot depend solely on the generous giving of philanthropists and foundations or on the annual appropriations of government. To assure a stable and continuing growth in the amount of funds flowing to arts and humanities, more people—private, individual citizens, cutting across the widest range of incomes—must be encouraged to give. That is exactly the principle around which the legislation I introduced was designed.

This legislation provides a tax credit equal to 50 percent of the contribution or gift to any qualified organization whose primary purpose is the support of the arts and humanities. This credit is limited to $200 per person per year and may not exceed an individual's total tax liability. What this means is that a person could give up to $400 per year to the arts and humanities, and it would only cost that person $200. Of course, in the case of a husband and wife, they could give up to $800, costing them only $400.

The benefit of a tax credit, however, is generally limited to low and moderate income taxpayers. So, in order to encourage corporations and higher income individuals to support the arts and humanities in greater number and to a greater degree, the bill also provides for a tax deduction equal to 120 percent of the contribution to these organizations. In other words, for every dollar contributed an individual or other qualifying taxpayer could deduct $1.20 from its taxable income.

Thus, no matter how much money you make, be you rich or poor, an individual or a corporation, this legislation will provide you with an opportunity to give to a favorite college artistic effort, opera, ballet, or museum and receive either a tax credit or an additional tax deduction.

Clearly, this method will be of especially great benefit to the moderate income taxpayers who would like to support the arts and humanities but cannot afford to give as much as they would like. In effect, it will enable them to double their financial support. And, these are exactly the people we must have supporting arts and humanities in greater numbers if such institutions are to be viable on the local level and free from the overt or unspoken control which inevitably accompanies the receipt of support from government.

Something has emerged from the national discussion over this legislation, and that something is a recognition of the many, many problems which are overcome by adopting this method.

What will the enactment of this specific bill accomplish?

It will provide an increased flow of funds from the private sector to the financially strapped arts and humanities organizations, as well as the artists and educators they support.

It answers the demands of liberals that more funds flow into the arts and humanities.

It answers the demands of conservatives that increased financial support for the arts and humanities not be under the control of Federal entities.

It answers the demands of the arts and humanities community that support fostered from Washington not be dependent upon the authorization and appropriation processes or upon the grant procedures of the Federal entities.

It answers the demands of the people, not only for vibrant arts and humanities programs, but also for a lower effective rate of income taxation, in other words, it reduces the tax bite. This bill is fully consistent with the objectives of the Kemp-Roth Tax Reduction Act, a bill designed to reduce government's tax bite and thereby increase after-tax earnings for all taxpayers.

It answers the demands of the business community that they be given an equal break for their corporate support of the arts and humanities.

Mr. Speaker, this is the way we ought to proceed, and I think that is reflected in the growing support for the legislation.

This support has come first from Members of Congress themselves. On November 3, I reintroduced the bill, as H.R. 9985, and I did so with 24 cosponsors:

Mr. Addabbo of New York.
Mr. AuCoin of Oregon.
Mr. Badham of California.
Mr. Burgener of California.
Mr. Derwinski of Illinois.
Mr. Dicks of Washington State.
Mr. Dornan of California.
Mr. Duncan of Tennessee.
Mr. Gilman of New York.
Mr. Harrington of Massachusetts.
Mrs. Holt of Maryland.
Mr. Hughes of New Jersey.
Mr. Kindness of Ohio.
Mr. Lott of Mississippi.
Mrs. Lloyd of Tennessee.
Mr. Marks of Pennsylvania.
Mr. Murphy of Pennsylvania.
Mr. Ryan of California.
Mr. Schulze of Pennsylvania.
Mr. Skubitz of Kansas.
Mr. Spence of South Carolina.
Mr. Walsh of New York.
Mr. Whitehurst of Virginia.

Mr. Winn of Kansas.

Mr. Marriott of Utah has joined the list of cosponsors since that reintroduction.

I might say, parenthetically, that this latest bill, H.R. 9985, is the one to which all future references should be made. There were some technical, clarifying changes made in the September 29 bill's text, and they are reflected in H.R. 9985.

But support is not just coming from Members of Congress. It is coming from the arts and humanities community too. Let me cite and quote from a few of many examples.

The Artists Equity Association of New York's newsletter for October ran an extensive column in support of the bill. I quote:

> ### Kemp Bill Discussed
>
> The Washington International Arts Letter in a forthcoming issue will endorse a bill being entered before Congress by Rep. Jack Kemp (R-NY), which would help get more money into the arts in general and enlarge the market for fine art. The bill would be the answer to the Richmond bill for a tax-form write-off which, although nearly 100 members of Congress have endorsed it in one way or another, has little chances of passage, mainly because it opens up the IRS form for other fields which also have demands beyond what the Treasury and Congress are willing to finance from tax money. Kemp's bill would allow individual taxpayers a tax credit of 50% for contributions (up to $400) to qualified nonprofits in the arts and humanities, and allow the option of claiming a tax deduction of something more than 100% of contributions. (A tax credit is a sum taken off the ultimate tax bill, while a deduction is an amount subtracted from gross income before figuring taxes.)
>
> Richmond's bill, which has had a lot of publicity, would place two boxes on the IRS form and allow taxpayers to deduct contributions to the arts and humanities Endowments, thus making the government responsible for parceling out the money. Kemp's bill would allow people to support what they want to support without the government getting its hands on the money.
>
> This Kemp bill is seen by Daniel Millsaps, publisher of the Letter and one of the original founders and figures in Artists Equity, as the compromise which might get massive support going. As it had been before Kemp came up with his idea, support for Richmond's bill was widespread, but so was criticism. Through the Kemp bill, the criticisms may be quelled and some action gotten. Full action is not seen until at least 1979, however, and a lot of work must be done by artists in all fields before anything comes to pass. (Fred Richmond is also from NY, a collector and a Democrat.)
>
> Aid through tax deductions to non-profits could help non-profit galleries, or other entities set up in visual arts fields by artists and their agents.
>
> The Richmond bill, because nothing else was about or had been brought up, has gained support of such people as the Gorewitz-Rauschenberg group, who recently came to Washington to lobby for it and held some informal meetings. Now that a compromise has been suggested, it remains to be seen just how various groups will show themselves, but it is felt here that the art community should encourage Congressman Kemp in his efforts, the same as it has encouraged Mr. Richmond. There is no reason to have a partisan political fight about the two bills.
>
> In the recent Washington meetings where the Kemp bill was announced as being readied for Congress, National Artists Equity representative Gail Rasmussen was present, but that body had not been told of the new effort at compromise, for the whole idea was a surprise at the gathering. Congressman Richmond's office announced that there were 120 artists at the meeting, but when pressed came up only with the following list of those who appeared: Donald Judd, Robert Rauschenberg, Jack Youngerman and Richard Anuszkiewicz. Others who were there included: Theodore Bikel, Robert Brustein, Ann Darling, and Elie Siegmeister.

Mr. Speaker, the American Society of University Composers, has written me, "The American Society of University Composers would like to express its support of your bill," and has offered me their national support, which is significant. Its national council and executive committee is composed of representatives from the universities of Illinois, California, Massachusetts, New Mexico State, Sarah Lawrence, Texas, New York, South Florida, Miami, Northern Arizona State, Iowa, Houston, Kansas, Nassau Community, Michigan, Colorado, Wyoming, California State, Columbia, Arizona State, and Redlands and from the colleges of Bowdoin, West Chester State, Oberlin, and Evergreen State, as well as from the Contemporary Music Forum, the National Association of Schools of Music, the Index of New Musical Notation, and the ASUC Radio Series.

A particularly important commentary in support of the bill appeared in the recent Washington International Arts Letter, and I quote from its last paragraph:

> One advantage the Kemp Bill has over the Richmond Bill is that it answers those who say that if we make a check-off box on the income tax return for arts/humanities like the one for political elections now in being, other groups and interests will also want check-off boxes put on the return for them. Kemp's way seems a great deal cleaner than Richmond's from the present vantage point.

AVISO, the monthly dispatch from the American Association of Museums, informed its members of the legislation by asking for their support of it, based on its impact on museums. I quote:

> This would greatly increase the incentive for gifts to the arts from both large and small donors.

Mr. Speaker, I will reintroduce the measure with additional cosponsors right after we come back for the Second Session. The list of existing cosponsors shows how bipartisan this effort is. It also shows that it is supported from all sections of the country and by all types of philosophical persuasions.

I welcome the support of additional colleagues, and I urge its enactment.

THE CANAL: A RAMPART

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent article by John Davis Lodge on the proposed Panama Canal treaties. Mr. Lodge raises some excellent points that I feel should be considered by all of us who will shortly be called upon to make a decision on the proposed treaties. I urge you take a few minutes to consider Mr. Lodge's comments.

[From the New York Times, Nov. 29, 1977]

The Canal: A Rampart

(By John Davis Lodge)

(Note.—John Davis Lodge, who has served as Ambassador to Argentina, in 1953 as Governor of Connecticut, represented President Dwight D. Eisenhower at celebrations in Panama marking the 50th anniversary of that republic.)

Westport, Conn.—The principal arguments vehemently raised in support of the Panama Canal treaties are not altogether convincing.

It is alleged in screeching tones that we stole it. That is contrary to the record, it was an act of constructive statesmanship by one of our great Presidents, Theodore Roosevelt. It constitutes a notable public service by the United States to the entire world. We should not be apologetic but proud of this unprecedented engineering achievement. We succeeded where the French failed. But for us the Panama Canal would not exist. In one way or another it has been paid for by us many times over.

Should we now say that the Louisiana Purchase, by which President Thomas Jefferson bought one-third of the United States from Napoleon for $15 million, was a steal and that therefore we should return this vast area to France? And how about Alaska? And Hawaii?

It is asserted that the Panama Canal constitutes an anachronistic vestige of colonialism in a decolonializing world. Certainly the British, French, Spaniards and Portuguese have been shedding their colonies. But how about the Russians and their satellites? Are these satellities not in effect colonies?

Moreover, the Panama Canal Zone is not a colony. It is inhabited by many thousands of Americans. True, it is not contiguous to the United States, as it is to Panama. Is contiguity then the criterion? Well, then, how about Alaska, contiguous to Canada and close to Siberia. Should we hand Alaska over to Canada or perhaps to Russia? Alaska is a state as is Hawaii. Yes—and we could conceivably make a state out of the Panama Canal Zone.

It is declared that the Latin Americans resent the North American presence in the Canal Zone. Yet there are many others who fear Russian control of the canal by means of their control of Fidel Castro's Cuba and Castro's power and influence over Gen. Omar Torrijos Herrera, the current, temporary, unelected, left-wing, military dictator of Panama. And there are many others around the world who fear that the Panamanians, in spite of their threats and promises, will not run the canal as efficiently as we do. We run it very well indeed.

Argentina, Brazil, Chile, Bolivia, Uruguay, Paraguay and Ecuador have anti-Communist Governments and fear Communist infiltration of the Canal Zone. Many in these countries would dread our relinquishing control.

The principal argument advanced in favor of the treaties is that, as General Torrijos has warned us, if they are not ratified by the Senate there will be trouble in Panama: demonstrations, riots, bombs, guerrilla activity—and that therefore we must agree to the treaties as an act of appeasement—a mini-Munich, if you will—but, in effect, a shotgun arrangement.

We got tired of the Vietnam War, we refused to help in Angola, and so now it is proposed that 217 million Americans should cave in and run away before the ominous threat of 1.5 million people in Panama. This is the worst possible reason for ratification of the treaties, for it portrays us Americans as a supine pack of cowards, a paper tiger who will give in at the slightest threat of combat. It is succumbing to blackmail.

This is the argument that would cause us to lose face and friends and confidence in many parts of the world, particularly in South American, where our sanctimonious sermonizing about human rights has made us unpopular.

Certainly the treaties can properly be revised. However, let us recognize that in the mortal struggle in which we are inextricably involved, for the United States to surrender control of the canal will, in this jungle world, present the enemy with an advantage. While in some ways the canal may be obsolete, in unfriendly hands it could present a difficult and dangerous problem for the United States, especially in the event of a showdown.

The overriding question is this: Is it in the interests of our national security, is it in the best interest of the United States as leader of the non-Communist world to lessen our control of this vital waterway and rampart at a time when Russian imperialism, heavily and increasingly armed, is very much on the march? The national interest must be the determining factor. We should be governed by geopolitical considerations. If we move out, will the enemy eventually move in?

EXTENSION OF CREDIT TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. YOUNG of Florida. Mr. Speaker, in recent weeks I have been critical of the President for not complying with the spirit of his commitment to Congress he promised to instruct U.S. Representatives to international organizations to oppose and vote against loans to specific countries, including Vietnam, Uganda, and Laos, as well as his promise to oppose and vote against loans for specific projects relating to the development of sugar, palm oil and citrus crops.

Those criticisms included how the administration did not oppose or vote against a United Nations resolution calling for the rebuilding of Vietnam—see page 36695 of the November 2 CONGRESSIONAL RECORD. And how the administration actually supported a World Bank loan to Indonesia for the development of palm oil production—see page 38828 of the December 7 CONGRESSIONAL RECORD.

Now Mr. Speaker, in order to be fair to the President, I want to advise our colleagues that in keeping with the President's commitment, the U.S. Executive Director to the World Bank did voice opposition to planned negotiations to extend $8.2 million in soft loans to Laos for several development projects. As we might expect, no other member country expressed opposition and the World Bank is proceeding with the negotiations for providing these soft loans to Laos.

I applaud the President's action in this matter and submit for the RECORD a copy of the memorandum from Mr. Edward R. Fried, U.S. Executive Director, to World Bank President Robert McNamara expressing the President's objections.

The memorandum follows:

WORLD BANK/INTERNATIONAL
FINANCE CORPORATION,
November 7, 1977.

To: Mr. Robert S. McNamara, President, International Development Association.

From: Edward R. Fried, U.S. Executive Director.

This is in reference to the notice of intent to negotiate an extension of credit to the Lao People's Democratic Republic by the Association in an amount of $8.2 million which was circulated to the Board of Executive Directors on November 4, 1977 (IDA/SecM77-262). Pursuant to instructions from the President of the United States, I wish to record the opposition of the United States to the initiation of negotiations with the Lao People's Republic for the extension of this credit. Should the loan be brought before the Board of Executive Directors for its approval during the current U.S. fiscal year, I shall cast the votes of the United States against the loan.

PERSONAL EXPLANATION

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SARASIN. Mr. Speaker, on December 7, 1977, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 767: H.R. 9418—Health professions education amendments. The House agreed to the conference report on the bill to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such Act, "yea";

Rollcall No. 768: H.R. 6666—Legal services. The House agreed to the conference report on the measure, Legal Services Corporation Amendments of 1977, "yea";

Rollcall No. 769: H.J. Res. 622—Continuing appropriations. The House agreed to consider the rule, "yea";

Rollcall No. 770: H.J. Res. 622—Continuing appropriations. The House rejected a motion to concur in the Senate amendments to the joint resolution making further continuing appropriations for the fiscal year 1978, "yea";

Rollcall No. 771: S. 1340—ERDA authorization. The House agreed to the rule (H. Res. 916) providing for consideration of the Senate bill, "yea";

Rollcall No. 772: H.R. 3722—SEC authorization. The House agreed to the conference report on the measure authorizing appropriations for the Securities and Exchange Commission for fiscal year 1978, "yea";

Rollcall No. 773: S. 305—Unlawful corporate payments. The House agreed to the conference report on the measure to amend the Securities and Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records and to prohibit bribes, "yea";

Rollcall No. 774; H.J. Res. 662—Continuing appropriations. The House agreed to consider the rule (H. Res. 929) providing for the consideration of the Senate amendments to the Joint Resolution, "yea"; and

Rollcall No. 775; H.J. Res. 662—Continuing appropriations. The House agreed with an amendment to Senate Amendment No. 2 to the aforesaid resolution concerning conditions under which there may be Federal funding for purposes of performing abortions, "yea".

COST OF LIVING INCREASE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FORD of Michigan. Mr. Speaker, during recent months I have closely examined the allocation of funds for the Headstart program by the Administration for Children, Youth and Families (ACYF) in the Department of Health, Education, and Welfare with the distinguished chairman of the House Committee on Education and Labor CARL D. PERKINS and the ranking minority member ALBERT H. QUIE.

After considerable analysis and discussion, we determined with the assistance of the Congressional Research Service of the Library of Congress that in fiscal year 1976 and fiscal year 1977 ACYF did not apply the statutory formula written by Congress in 1975. This formula was designed to correct funding inequities between States which resulted because moneys were not allocated in any rational way. This led to a situation where some States received much larger sums than others without regard to the number of eligible recipients.

Briefly, what CYF did was apply the hold-harmless level established by Congress in 1975 and then they applied the two-part formula, based on the number of children qualifying for public assistance and the number of children below the poverty level. Because of the appropriations funding level and the application by ACYF in fiscal year 1976 and fiscal year 1977 of a 6-percent cost-of-living increase to all States, including those which were under the hold-harmless provision, the inequities Congress was seeking to minimize became more pronounced.

The funding formula became an especially important topic during recent deliberations by the Subcommittee on Economic Opportunity because of the substantial increase of $150 million in Headstart appropriations for 1978. As a result of the subcommittee discussions, members of the subcommittee have directed ACYF to allocate the 1978 appropriation in the following manner:

First. Up to 2 percent of the fiscal year 1978 appropriation should be withheld for allocation to the Territories. As much as 20 percent of the appropriation should then be reserved for discretionary funding. From the remainder, one-half should be distributed based on the relative number of children living with families below the poverty line in each State as compared to all the States; and one-half should be distributed based on the relative number of public assistance recipients in each State as compared to all the States. In carrying out this process, no State should be allocated less than it was in 1975.

Second. From the Secretary's discretionary reserve, money should be given to those States whose fiscal year entitlements in the first step are less than what they actually received in 1977.

Third. With additional money from the Secretary's discretionary reserve, every State should receive a 6-percent cost-of-living increase. Those States whose fiscal year 1978 entitlements are greater than their fiscal year 1977 allocations should receive their 6-percent cost-of-living increase based on the fiscal year 1978 allocation.

Because 22 States and Puerto Rico will receive substantial increases under this formula application, the subcommittee has directed ACYF to permit States to carry over fiscal year 1978 funds into fiscal year 1979. This will enable States to fairly distribute their allocations statewide in a wise and equitable fashion to assist both ongoing and new programs.

One State which was shortchanged under the incorrect formula application in 1976 and 1977 was my home State of Michigan. By applying the 1975 hold-harmless provisions first in the formula application and ignoring the two-part formula, Michigan received $5,655,001 less in both fiscal year 1976 and fiscal year 1977 than it would have had the formula been applied as Congress intended.

Michigan's allocation for fiscal year 1977 was $9,949,910. Under the method directed by the subcommittee for fiscal year 1978, Michigan should receive $22,628,000.

To insure that ACYF has a clear directive from Congress on future fund allocations, the subcommittee has agreed to return H.R. 7577, the Economic Opportunity and Community Services Amendments of 1977, which includes the Headstart formula, back to the subcommittee to discuss further the Headstart formula questions, and how funds can best be distributed in future years to achieve the optimum degree of fairness and equity for all States.

A TRIBUTE TO RALPH B. PIRKLE OF DAWSON COUNTY, GA.

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. JENKINS. Mr. Speaker, I wish to take this opportunity to recognize and honor an outstanding citizen of Dawson County, Ga.—Mr. Ralph Bunyan Pirkle. On June 14, 1977, Mr. Pirkle received a call from his daughter saying that her 20-month-old daughter was choking on some medicine and the child was unable to breathe. After arriving on the scene shortly thereafter, Mr. Pirkle cleared the child's throat and applied mouth-to-mouth resuscitation. The child began breathing again.

Without doubt, Mr. Pirkle saved his granddaughter's life. He had been trained by the American Red Cross in cardiopulmonary resuscitation, and he used this valuable training in his gallant efforts.

For this act of mercy, Mr. Pirkle was awarded the highest honor bestowed by the Red Cross—the certificate of merit. This award is given to a person who saves a life by using skills learned in a Red Cross first aid, small craft, or water safety course.

The certificate bears the signatures of President Carter who is the honorary chairman, and Frank Stanton, who is chairman of the American Red Cross.

Mr. Speaker, this selfless and humane action on the part of Mr. Pirkle is appreciated by all.

Thank you.

SOCIAL SECURITY MUST BE SECURE

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MARTIN. Mr. Speaker, with retirement, survivor, and disability benefits of $88 billion, exceeding revenues—current taxes—by $5.5 billion, and with that annual deficit increasing to $11 billion by 1981: the social security reserve fund, with only $36 billion remaining, will run out by 1982. That is right, it will be exhausted in 5 years—unless the law is changed.

Social Security law, therefore, must and will be changed; but how?

Most social security proposals seek either to increase the benefit levels to older Americans, many of whom have little or no additional income and who suffer the most from inflation; or to increase the fairness of the system to the widow who remarries, the working spouse who retires, or the retired person who works part-time only to lose half of every dollar earned in excess of $3,000. All are worthy causes with a catch: they cost more. Congress has also had its catch: increased benefits are easy to vote; taxes are not. It is not a question of mismanagement, but of political generosity."

So a reserve fund that ideally ought to be above 50 percent of the annual payout has dropped to 40 percent and falling. This troubling issue ranks second only to the need for an energy policy balanced between conservation and production incentives.

There are really only two ways to fix the fiscal deficit of social security: reduce its cost or increase its taxes—or, the ultimate political terror, both!

COST-OF-LIVING ARITHMETIC

No one proposes to cut present benefit levels, and few would eliminate cost-of-living increases which insulate retirees from inflation—although adding inflationary pressure. There is, however, agreement that one overly generous provision must be halted in its tracks: an extra increase tied to wage increases.

That 1971 amendment doubles up the cost-of-living adjustment and in a few decades would lead to first year retirement benefits exceeding one's previous earned income! That double-whammy alone accounts for half the actuarial deficit of the fund, and has to go. It cannot be financed.

Unfortunately, that alone is only half the answer.

PUBLIC EMPLOYEES' EXEMPTION

One highly sensitive issue is whether Federal and other exempt public employees—including 30 percent of State and local government workers—ought to be covered by social security. Misunderstandings and suspicion have degenerated this debate into accusations and name calling.

What we proposed in Ways and Means, only to be rejected in the House, was to include these 6 million workers in social security, in a way that would not increase the amount withheld from their checks above what now goes into their pension fund. Upon retirement, their combined income from social security and pensions would be no less than they are now entitled to from their pension plan. It would be phased in starting 1982, and would not affect anyone now in or near retirement. Most would gain since their social security check would not be subject to income taxes now collected on most of their pension, and most would gain a survivor's benefit which they do not have now.

How would that help the system's deficit? It would end a windfall benefit for which almost half those public employees already manage to qualify—perfectly legally. By part-time moonlighting, supplemental summer jobs, a spouse working in a business: they can and do lawfully become eligible for social security benefits that they haven't actuarially paid for. In many cases, a minimal contribution while moonlighting entitles them to an inflated benefit designed for low income workers: ironic, but legal. The net effect of all these factors is that the annual social security deficit would be $1 billion smaller if all these 6 million were brought in. That is, social security is presently being drained over a billion dollars a year because of this exemption.

Naturally, many public employees objected to losing a legal advantage over 100 million private sector employees. Many others were mistakenly led to believe their trust funds were being raided to make up social security generosity to private sector retirees—rather than to undo the reverse subsidy. And many retired public workers were mistakenly frightened into thinking they would lose something, when they really wouldn't be affected at all.

With time, when 100 million nonpublic employees send their message, universal coverage will be enacted. They and over half the 6 million public employees will be better off.

AGE OF ELIGIBILITY

Another misunderstood proposal was to raise the age of eligibility from 65 to 68. If that is all there was to it, nobody would be for it and it would not have been proposed.

The idea, though, was to reduce the tax increases otherwise required, without affecting people who are retired or who will retire before the year 2000. That is right, it would phase in during the decade beginning in A.D. 2000, and thus would avoid a substantial part of the tax increase to be paid by those under age 42 who would be affected by the change. Well, that is different.

One reason this has to be considered is because increasing life expectancy—now 74—and reduced birth rates have lowered the ratio of workers to retirees to 3-to-1 now and will drop it to 2-to-1 not too long into the next century. When social security was enacted in 1936, life expectancy was lower than the 65 retirement age.

This is entirely a practical matter, and will come to pass if and when younger workers decide the trade-off is favorable to them. For everyone else, it is clearly a gain or neutral.

HOW MUCH WILL IT COST?

If all the above measures were enacted it would still take a tax increase to balance the money flow. Since the latter two proposals were heavily rejected, a larger tax increase is needed. That is pretty bleak.

The burden is so heavy that workers are beginning to ask if they can just be allowed to opt out and contribute to their own pension, and enjoy the same advantage that many public employees have. That modest proposal would either destroy the financing of future benefits for lower income individuals, or it would require an increase in taxes on nonbeneficiaries.

The administration and others want to shift the financing from the present 5.85 percent tax on the first $16,500 earnings—matched by employers, by reducing that and making up the difference from the Treasury. That is the worst idea yet. The Treasury is broke, and already $700 billion in debt, and will add another $62 billion deficit this year. Once the fiscal discipline of a flat social security tax is lost, it is all over. Congress will then be tempted to vote billions more for beneficiaries and disregard the inflationary effect of printing that much more funny money.

No, you either have to raise the 5.85 percent rate or the $16,500 base.

IS THERE A PAINLESS WAY?

For all the very best political reasons, congressional liberals want to leave the rate where it is so that those earning no more than $16,500—or its future equivalent after inflation—will not have to pay more. Under present law, cost-of-living adjustments would raise the base from $16,500 to $29,400 by 1986, and they propose to boost it further to $40,200 then. That would certainly produce more revenue right away, but would also entitle those higher income workers to correspondingly greater retirement benefits; so it would soon wash out. At best that tactic only postpones the crisis a few more years; at worst, it leaves less room for further adjustments in the taxable base since very few workers would have any untaxed earnings left.

All that means is that an increase in the rate cannot be avoided without reducing benefits or changing eligibility unfavorably. Under present law the rate will rise from 5.85 percent in 1977 to 6.45 percent by 1986; and the legislation proposes to boost it by then to 7.15 percent. Yet by instituting that higher rate a couple of years earlier, we could avoid increasing the base more than for cost-of-living adjustments.

TO ACT OR TO DELAY?

The 1977 legislation must be passed. There is little likelihood that studying the same questions again will lead to a different solution in this Congress. There is much merit to the Observer's editorial suggestion that passage of this measure will seize the public's attention as the taxes bite deeper. That will clear the political air, in my opinion, and generate support for universal coverage and perhaps even a future elevation of the full benefit age—and anything else that will substantially reduce taxes.

Meanwhile, we must resist the temptation to pay benefits from the Treasury because that would leave no political discipline to prevent massive deficit financing.

Delay will not help; the problem will not go away; it will only get worse. Therefore, I must support this bill as the only available option that will make social security once again secure.

VERMONT ROYSTER COMMENTS ON PANAMA CANAL TREATIES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SIMON. Mr. Speaker, Vermont Royster is a well-read columnist with the Wall Street Journal, and recently he had some comments on the Panama Canal treaties that make eminent good sense.

I am taking the liberty of inserting his comments in the CONGRESSIONAL RECORD, and I hope my colleagues will take the trouble to read it carefully, particularly my colleagues in the Senate who face the responsibility of voting for the two treaties:

The Canal

(By Vermont Royster)

It was a long time ago—back in December 1940, a year before Pearl Harbor—that I was called up to be a temporary naval officer, and my first duty station was on an old World War I destroyer in the Panama Canal Zone. I stayed there for 18 months.

Panama was a pleasant duty station if you were an American, civilian or military, even after Pearl Harbor. On that famous December 7th there was a flurry of excitement (I was the lone duty officer aboard the USS J. Fred Talbott that afternoon) and much rushing to-and-fro in the Canal as we went searching imagined Japanese naval forces, but things soon settled down to a routine.

There we Americans, civilian and military, had our own housing, our own swimming pools, tennis courts, movie theaters and shops. The cost of all these things was nominal since they were tax-free and subsidized, which was very nice for a young man on an ensign's pay.

Things weren't quite so pleasant for a Panamanian. All these amenities were off-limits to the Panamanians, many of whom lived in near poverty. If a Panamanian did work for the Canal, he got lower wages than his American counterpart and had none of the privileges. He was also constantly reminded of his lower status by such things as separate toilets and separate drinking fountains, marked "gold" for American's, "silver" for Panamanians.

So I have no trouble understanding the long years of resentment of the Panamanians at their second-class status in their own country and their years of agitation to get the status of the Canal changed.

Last summer I went through the Canal again, this time on a freighter, and in eight hours we cut off days of steaming that would have been required to go around the Horn. This was a reminder of the importance the Canal still holds for American trade and defense.

So I have no trouble understanding why some people fear any move to relax our control of the Canal, as would happen by the year 2000 under the proposed treaty.

And it is the clash of these emotions, resentment on one side and fear on the other, that makes calm discussion of this treaty so difficult. In both the United States and in Panama there are groups angered by the treaty terms, each for a different reason. Resentful Panamanians want an immediate end to U.S. extraterritorial status. Fearful Americans would never end U.S. control of the Canal.

I must say that I share some of the uneasiness about the future of the Canal after the year 2000. Panama is a politically volatile country. There is much anti-Americanism, so there is always the possibility that once control passes to Panama this could be converted into anti-American action.

There are also some provisions in the treaty which I wish were different. I would prefer not to yield our unilateral right to build another canal elsewhere, and I would be happier if our right to defend the Canal after the year 2000 were spelled out more clearly.

All the same, the world has changed much since the days of World War II, and with it not only the role of the Canal itself but also, inevitably, the relationship between the U.S. and Panama. That old relationship, with all its overtones of colonialism, simply could not be long maintained.

The change includes our military role. In that long ago war the Canal was a major military base, permitting us to shift our sea forces quickly from one ocean to another.

For that purpose the Canal is still important but much less so. On last summer's transit we saw not a single U.S. warship. There is no longer a submarine base on the Atlantic side. The navy docks at the Pacific entrance were bare and forlorn. Only secondary navy vessels even use it for transit; it's too small for today's capital ships, carriers and the big submarines.

Merchant ship use of the Canal is also declining. Where it used to operate 24 hours a day, transits are now largely confined to daytime. The big tankers and the new big container ships must follow other routes. By the year 2000 the Canal's role will surely be further diminished.

So much of the fear about loss of control is based on memories of the Canal as it was, not as it is or will be. The fear also overlooks the fact that Panama has a greater interest than we do in maintaining the viability of the Canal. For us it is at most one adjunct to commerce and defense. For Panama the Canal is vital; for it, the closing of the Canal would be a disaster.

These are practical considerations to mitigate fears about what might happen a quarter of a century hence. But these are not the reasons that have pushed four Presidents into negotiating a slow, orderly transfer of control.

The hard truth is that in the modern world time is running out on the kind of foreign power position the U.S. has held in Panama. It is not true, as some critics of the treaty claim, that the Panamanian drive to change things is something newly stirred up by leftist groups or by President Torrijos. To my knowledge, resentment of the American position goes back at least nearly 40 years to the election of President Arias in June 1940. In the turbulent years since, every political leader has been forced to agitate for a change in the U.S.-Panama relationship.

They could hardly do otherwise. Not only were the Panamanians second-class citizens in their own country but the country itself was cut in half; until recently there was no way to get from one part to the other except by small boat. To expect people not to resent that is to expect too much, especially since—I am sorry to say—we Americans were at best unfeeling and at worst arrogant toward the people of this little country.

Perhaps we might now make better arrangements if years ago we had done things differently. But we didn't. Since we didn't, it strikes me we have done well to work out an agreement for a gradual and orderly transition.

THE MAJORITY LEADER ON NEW YORK CITY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ROSENTHAL. Mr. Speaker, those of us who have had the privilege of working with the distinguished majority leader, Jim Wright, know of his deep human concern and keen insight. Thus I must admit I was pleased, but hardly surprised, to learn that the gentleman from Texas had recently visited severely depressed areas in New York City, at his own initiative and without fanfare, and had written for his constituents a compelling report of the visit. His account needs no adronment from me; it speaks movingly and clearly of a tragic problem and offers several vital suggestions for a solution. I recommend the report, which I am inserting in the Record today, to all who seek a thoughtful, constructive, and sensitive analysis of New York City's plight.

The report follows:

Can New York's Ghost Neighborhoods Be Revived?

(By Jim Wright)

Have you ever seen New York? I thought I had. And I was wrong. Oh, I'd been there lots of times. I'd been to Yankee Stadium, Times Square, the Brooklyn Bridge, Central Park. But I had never really seen New York, not until last week.

One day last week I drove and walked among the ghosts of neighborhoods. Short years ago they hummed with life. Now skeletal remains of gutted buildings are all that endure as eerie evidence that families once lived and loved within these empty husks.

Sooty black smoke stains surround the window openings and discolor the brownstone and brick facades of what were proud dwellings. Windows through which children peered out into busy streets and parks now leer like sightless eyesockets of a skull. In what were yards the weeds grow rank among the rubble of faded bricks and rotting debris. Here stands a schoolhouse, unused. There are no children to attend it.

These are not ghost towns of the American West, deserted when the ore ran out. They lie in the very core of the world's largest and once most vibrant city. They are New York. The parts the tourist never sees.

In the South Bronx alone are 400 city blocks of such desolation! The sight is reminiscent of Berlin after World War II—only worse, I think. But no enemy bombers did this to them. The blight is everywhere, and spreading, like a social leprosy. In east Harlem, on the lower east side, in spots of Brooklyn, blocks of fine old architecture, built with love and pride, now sag against a bleak landscape.

For the better part of a day I drove these streets with a man named Bill Tatum, once head of public housing for the city and now with the mayor's mid-town action program. It must be seen to be comprehended. It is worse, far worse, than I had thought.

Here and there people stand aimlessly in little corner clusters. Bill Tatum says they are waiting for "the man," a furtive pusher who will drive by with the stuff for a "fix." Bill says that heroin is the viral cancer which has eaten away the will to rebuild—lives as well as buildings.

Much, perhaps most, of the devastation is the result of arson. In the past five years it has become an epidemic! Landlords, unable to collect rents from unemployed tenants, have set fire to their own properties to collect the insurance and stanch the bleeding of the upkeep. People have died in those fires. And sometimes the tenants themselves, wrenched by hopelessness, driven to anger by joblessness and deprivation, have set fire to the building.

There are oases. Rising high amid the desultory blocks of burned-out hulls are public housing units. Grass grows on landscaped grounds. But those who dwell around the perimeters of these units are resentful. A family must qualify—by a means test and by a clean police record—to occupy a public housing apartment. More cannot qualify than can. And so the doors of the public housing are locked against intruders, like little fortresses, to protect themselves against the hostility of their surroundings.

Here and there for a block or two little businesses show signs of a lingering vitality. The legends written on their windows and above their doors mostly are in Spanish, testimony to the massive Puerto Rican invasion of the last few years. And here will be a short street where the private apartment buildings are occupied, a rivulet of hope trickling through the desert of despair. And there a man is washing the street in front of his dwelling.

Almost everywhere is trash, in heaps beside the sidewalks and spilling into gutters. What once were little parks have become community dumping grounds. Bill Tatum says the city garbage crews are indifferent, as it seems also are most residents of these sprawling ghettos, caught up in a contagion of resigned hopelessness.

And this, it seems, is the heart of the problem. It is a disease of the human spirit which feeds upon itself. A landlord burns his building. Vandals occupy the empty hull, rip out the plumbing to sell for cash to buy dope. Occupants of adjacent buildings panic and flee. More fires follow. Finally the businesses and light industries which provided jobs move out. Unemployment spreads, and with it despair.

Those who could provide an anchor of stability for the neighborhood take their children and move. Now only the helpless remain. Teachers cannot enforce discipline. Kids drop out, or if they finish school they cannot get or hold a job. They experiment with narcotics and are entrapped. The vicious circle grows. Soon there is another ghost neighborhood.

The economic waste of deserted buildings—to say nothing of human lives—already runs to many billions. This property goes off the tax rolls; more unemployed people go on welfare. And the city's fiscal dilemma tightens.

Can this be part of the American dream? The deterioration is so vast, and it happened so quickly. Could it have been halted? Was there some economic tourniquet which someone failed to apply in time? And what can be done now? The temptation is simply to throw up one's hand in surrender before a set of problems so enormous, and so enorously complex.

But that of course we cannot do. To admit defeat is alien to the American character. For once I see why some have said the system doesn't work. But I'm not ready to agree. We have to find a way to make it work. The children of these slums are human too. They deserve a better chance than fate and man have dealt them.

Solutions will not be easy, nor the tide turned overnight. But we must begin. The sickness that overtook so much of New York has begun in other cities too. To ignore it, or let it go unchecked, would be a major disservice to the Nation. Perhaps an irreversible one. Some things suggest themselves:

1. Private enterprise must have a major role. Government cannot do it all. But maybe we can make it possible for private investments to succeed. We could take a leaf from Chicago's book. Industrial parks for light industry—like those on Chicago's south side—could be established in the demolished areas for a minimum outlay. EDA loans could be made available for industries willing to locate there and provide jobs.

2. Specialized trade schools could be set up to train jobless workers to the skills those particular businesses will need. This could be a joint business-government endeavor. And to keep kids of low-income families in school, a special after-school work program—say two hours a day—might make the difference. Youngsters of junior high school age and up could be given jobs cleaning up the trash, helping the police, working as hospital and health clinic attendants, planting and beautifying neighborhoods—restoring pride as well as fiscal solvency. But these jobs would be available only so long as they stayed in school.

3. Low-income citizens should be given a chance to *own* a house, not just be subsidized in rent. Many of these houses could be restored. The city or some non-profit corporation could buy them for a song. Then follow Baltimore's good example. "Urban Homesteading" it is called. Let families take them over, restore them by their own labor, and let this labor serve as down payment. It is called "sweat equity". A family in its own home preserves it—and protects it from vandels—far better than someone occupying a tenement and paying rent to an absentee owner.

4. Narcotics and crime go hand-in-hand. They have to be halted, and this is hard. Narcotics withdrawal centers have helped in some places. And something else is needed. Not legislation to recompense the victims of crime by federal money, but law to require their repayment in kind by the perpetrators. Justice is not just a matter of retribution. It should be concerned with restitution. The convicted criminal should be made to perform work, with proceeds going to the injured party.

The above is not an entire answer. I don't know all the answers. But I think I know that any workable solution must be rooted in a revival of a sense of individual responsibility. Responsibility of society for the most deprived, yes. But also responsibility of each individual to society, and to his neighborhood.

Walter Lippman in one of his last columns said he no longer believed in the perfectability of human nature. But he still did believe in the improvability of human nature. Me too. We have to believe in that, or just quit trying.

What I saw last week is not peculiar to New York. It is just farther advanced there. It exists in other older cities too. We in Texas are luckier than we think. But the seeds of these problems are evident, if one looks, in some of our cities too. Yes, in some neighborhoods of Fort Worth. If you don't know where they are, I can show you. These things aren't pleasant to see. You ought to go and take a look. No, I don't know all the answers. But knowing the problem is a necessary first step.

ARLINGTON NATIONAL CEMETERY MONUMENT

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. YOUNG of Florida. Mr. Speaker, recently, my constituent, Mr. Frank A. Styler brought a St. Petersburg Times article to my attention. Mr. Styler, who was a member of the 101st Airborne and attended the dedication of the 101st Airborne Division Monument at Arlington National Cemetery on May 29, 1977 was greatly disappointed by the lack of national interest. As a sponsor of the bill to authorize the erection of this memorial, I share Mr. Styler's concern. For that reason, I thought that my colleagues would appreciate having the opportunity to review this newspaper article which so clearly expresses the frustration felt by many who risked their lives for the freedoms that we enjoy today:

What If You Built a Brand New Monument and Nobody Saluted?

(By Peter B. Gallagher)

The 101st Airborne soldiers are mad. The "Battered ——— of Bastogne" are fuming. There's a teardrop on the Screaming Eagle's eye. From the veterans of the first regiment sent to Normandy in World War II and the soldiers of the Tet Offensive in Vietnam to the peacetime warriors at Fort Campbell, Ky., the 101st doesn't especially feel like celebrating Independence Day today.

A national monument was dedicated to one of the U.S. Army's top fighting machines a few weeks ago and nobody cared. The eyes of the nation looked the other way.

"We were at the capital. We stood in Arlington Cemetery and there were 1,500 veterans of one of the world's greatest fighting machines and who gave a good g----," asks Gen. Melvin Zais of the 101st, who spoke at the dedication ceremony. "This is a sin on America's conscience."

Nineteen years of collecting pennies and dollars from veterans, two congressional bills and a year's construction went unnoticed when the "Screaming Eagle" monument was dedicated at Arlington National Cemetery, May 29. The fanfare was less than the 101st expected. The guest list a little short.

There was no network news coverage. Walter Cronkite wrote to explain he was turning the assignment over to the weekend crew. The event was mentioned with a few paragraphs in a few newspapers. President Carter sent a card signed by his director of scheduling. Fishing with Amy was heavily covered that day. Hubert Humphrey had a previous commitment. U.S. Rep. Sam Gibbons from Tampa (a 101st veteran) had to be in Canada. The proudest peacetime accomplishment of the legendary 101st was seemingly ignored.

For Frank "Sully" Styler, who was ready to die at Bastogne, the slight has broken his heart.

"Listen, if it was just me—no problem. Maybe it's only interesting to me. But there are thousands and thousands of us, veterans, wives, Gold Star mothers . . . ," says Styler from his small apartment in Northeast St. Petersburg. What about all the 101st veterans in VA hospitals, waiting by little TV's for news of the monument? What about my buddy in Schenectady that just had his leg off? He's still vomiting. Nothing."

"The anniversary of Kent State was glorified over this country. But America said 'Nuts,' to the 101st."

"Nuts," is probably the most famous four-letter word in military history—the one-word 101st Airborne reply to a Nazi demand for surrender at Bastogne. It was delivered to Hitler's forces which had completely surrounded the famous Belgian town and were moving in to annihilate the entire 101st. It was one of the most dramatic moments of World War II and forever marked the 101st Airborne as the Army's top fighting unit. *The Dirty Dozen, Battlefield, A Bridge Too Far*—that was the 101st.

"You have to remember how time dulls the memory," says Gen. Zais, from his Beaufort, S.C. home. "The world was watching the 101st in those days, watching our every move."

He's right. And it adds to the irony of the whole situation. The winter of 1944 was the most depressing of WWII. The major action was centered in Belgium where, if Hitler's seven Panzer divisions could knock the Screaming Eagles out of Bastogne, a clear path would open to the English Channel. The siege lasted nearly a month. Supplies were gone, injuries high and support nowhere in sight. The Germans were a donut. The Yanks were the hole.

The media covered Bastogne heavily. It was filled with the drama of the Alamo and Little Big Horn. Army headquarters bent regulations and released the division's name to the public. Hitler knew the foe he had surrounded. The 101st. The Screaming Eagles.

For days, news of the 101st was the one encouraging sight which met the nation's eyes each morning The Battered ——— of Bastogne. "Nuts!" And when Hitler's mightiest push failed, it marked the last major German offensive of the war. The turning point.

Gen. Eisenhower flew to Mourmelon, France to award the Distinguished Unit Citation to the 101st—the first time in history an entire division was so honored. From that day forward recruits were told, "If you make the 101st, you are worth any two men." The division carries this reputation today.

This is what has the men of Frank Styler's ilk upset. There is a 21-foot high monument topped by a bronze eagle dedicated to the thousands of high-profile 101st soldiers who marched through Normandy on D-Day, outlasted Hitler at Bastogne, suffered the Vietnam Tet Offensive, protected the Ashau Valley, even helped quell the Detroit riots when the National Guard faltered . . . and nobody seems to care. The monument aside . . . have people actually forgotten? It is the old soldier's greatest fear.

"There were a half dozen of us that didn't expect we were going to come out of Bastogne no way. And we said at the time, if by some miracle we come out of this, we'd meet next Christmas and have a drink together," says Styler, who was awarded two purple hearts and a pair of bronze stars. "Well, we came out of it, but we never met. Still every Christmas Eve since that night I get a bottle of brandy, sit in my chair all alone and drink it until I can't do nothin'. Thirty-three years. And it's the only time I drink whiskey at all."

Sully Styler knows the other guys are doing the same thing. He doesn't have to ask. Such esprit de corps is a major part of the American military tradition. Reunions, newsletters, reliving battles, framed medals, Army shirt in the closet, remembering the green of Ireland on the first crossing, general orders, the taste of K-rations, pride. Somehow, it has not gone the same for the Vietnam veterans and maybe that has something to do with our present nonconcern for military monuments. People aren't forgetting. They just don't want to remember.

"I was most sad for the Vietnam veterans," said Gen. Zais, who gave a rousing speech attacking the nation's indifference toward its fighting men. "The Vietnam vet has to subconsciously snake around where the World War II vet can brag. Thousands of these kids, who weren't even born during Bastogne, performed tremendously in battle, week after week, month after month slugging it out, getting blown up by mines, fighting a war nobody wanted.

"This was the first national monument to soldiers who fought in both wars. All anyone cared about was the Tomb of the Unknown Soldier. What about the known soldiers?"

It is a question no one can answer. There is certainly no acceptable answer for any of the 101st. What is there to say to Sully Styler? It is more than just a monument. It's a symbol of his life. He was mortared from a jeep during the war. Dizzy spells came 20 years later. Forced retirement. They gave him 10 per cent disability for an ankle spur. He paints apartments now, handles a 101st newsletter and writes poetry. His medals and the eagle patch are framed on the wall of his living room. *Purple Heart Magazine* is on the coffee table.

"Capt. Robert Phillips died a month after the last reunion and his wife wrote me and said, 'You must write a poem for Bob,' says Styler. "I'll get around to it. I just don't feel like writing poems right now."

NATURALIZATION CEREMONY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RODINO. Mr. Speaker, ours is a land of immigrants. Since the landing of the *Mayflower* to the present, a large portion of the growth of our great Nation has been attributable to the process of immigration. It is by means of this system that persons seeking the benefits of our free society are given the opportunity for self-betterment as well as economic security for themselves and their families. At the same time, these individuals are able to contribute to the cultural and economic development of our country.

On November 16, I had the privilege of addressing 966 persons at Symphony Hall in Newark, N.J., on the occasion of their swearing in as U.S. citizens. By satisfying all of the requirements of our law regarding naturalization, these 966 persons demonstrated that they are ready to assume and exercise the privileges and responsibilities of U.S. citizenship. As naturalized citizens, these persons are entitled to all of the benefits conferred on U.S. citizens from birth, one of which is participation in the government which regulates their lives. To these newly naturalized citizens the phrase, government "for the people and by the people," takes on a different and much more real meaning.

The ceremony was conducted by New Jersey's chief U.S. district court judge, the Honorable Lawrence A. Whipple. It was truly a moving experience for me, and I wish to insert into the Record the eloquent and thought-provoking remarks of others who were on hand to speak: Mario Noto, Deputy Commissioner, U.S. Immigration and Naturalization Service; Edwin Rubin, Chairman of the Immigration and Naturalization and Americanism Section of the New Jersey Bar Association; and Eunice F. Brown, State regent, New Jersey State Society of the National Society of the Daughters of the American Revolution.

I would also like to place into the RECORD at this point the article which appeared the following day in the Newark Star Ledger describing this significant ceremony:

REMARKS OF MARIO T. NOTO

For you new American citizens, this day will be one of your most treasured memories and it is a special privilege to join you. I feel I have been honored by the invitation to address you. I want to share with you, even though for a brief time, the emotion, the excitement and the pride which must be yours as you become citizens of the United States of America.

You have just acquired a highly prized heritage—American citizenship. I, too, am the son of immigrants. But, unlike me who acquired my American citizenship by the accident of birth, you have worked untiringly to earn your citizenship. Yours is a matter of choice.

You have adopted this land and your labor to acquire the sacred rights of American citizenship has not been easy. You have shown tremendous courage to divest yourselves of your allegiance to the land of your birth and to pledge a new allegiance to America. But, remember this, your faith and devotion to your new inheritance will be repaid by America a thousand fold. You have freely chosen to become a part of us and, today, we welcome you to our ranks of citizenship. We ask you to help us to preserve the basic values and truths which are the structure of our country—yours and mine. As Judge Whipple administers the law of the land, even as he sits here today, he too helps preserve our republic. As Senator Clifford Case untiringly works to improve the lot of the little people in America in our legislative body, the Senate of the United States, he too helps to preserve our nation and to help its people grow.

America is a land founded and built by immigrants—like yourselves. Its achievements were made through opportunities which people from other countries created with their untiring labor. Throughout the years, America has been strengthened by the blood, sweat and toil of immigrants and the sons and daughters of immigrants.

Who have been the immigrants who made America? People like you. They have been men and women possessed with strength and determination who helped to build upon the foundation created by our founding fathers. They have been men and women searching for a country where democracy and freedom and the rights of the individual are the paramount concepts of its existence where all people are equal regardless of race, color or religion.

Immigrants have brought heart, muscle, knowledge, and abilities to this land. They have contributed to the economic, social, and cultural growth of the America of today. On every highway of achievement and progress and in government and business, the immigrant and his children have helped to shape the destiny of this country. And because of this multi-national contribution our amalgamated society has no parallel in any other society in the world.

This country is a cultural mosaic and we are the stronger and better for it. America has prospered because of the diversity of its peoples. And, there is much you can add to America, much you can give to your new home. Each of you should use your pasts to enrich your futures and in so doing enrich the lives of your fellow citizens. Do not give up your inherited rich culture; weave it into the American fabric.

I want to tell you the story of one son of immigrants. He lives here in Newark—in your midst—and he is with us here today. This son of Italian immigrants has shown America the meaning of loyal service and dedication to this—his country. He labored untiringly to become a lawyer. He labored diligently to be elected to the Congress of the United States so that he could serve his people better.

There came a time three years ago when the very foundations of our government were threatened. He had the courage to accept a challenge to lead our Congress at a time when the concepts of our republic were being attacked by a small group of men. He accepted the burden to restore the faith of our people in our government. This man believes that the strength and security of this nation lie in the integrity of our institutions and the trust and informed confidence of its people. This man, this son of Italian immigrants, is your own Congressman, Chairman of the House Judiciary Committee, the Honorable Peter W. Rodino, Jr. This man restored our faith in the democratic process.

Today our lives as American citizens are richer because of this one son of immigrants whose parents made the decision to come to America, just like you. Today, our American constitutional guarantees are preserved because of this one man's indomitable courage. His work at the start of the most historical investigation by the Congress in its impeachment process, tells the story of America. As you have accepted the challenge of American citizenship, Congressman Rodino accepted the challenge of preservation of government and as he began one of the most arduous tasks undertaken by one man, he said, "Let us go forward. Let us go forward into debate in good will, with honor and decency and with respect for the views of one another. Whatever we now decide, we must have the integrity and the decency, the will and the courage to decide rightly. Let us leave the Constitution as unimpaired for our children as our predecessors left it to us."

Why have immigrants come to America? Immigrants have come to America for many reasons—political oppression, persecution, economic dislocation and the opportunity for a better life. But underlying every reason men and women have always had the desire to become a member of, a part of, a society in which people are governed equally and where there is respect and protection for human rights to which all peoples are entitled.

What does it mean to be an American? It means that you are now possessed of those inalienable rights which belong to every American citizen—the freedom of worship, the freedom of speech, the freedom of the press, the freedom of assembly, the freedom to work in such occupation as you may see fit, the freedom to enjoy the fruits and labors of your work and the right to pursue your happiness. These are fundamental rights which are guaranteed to you because, in America, the Government is the servant of the people. Our country is a government of laws and not of men.

As you have acquired the inalienable rights I have mentioned, so too have you assumed certain responsibilities and duties. You have pledged your faith in our concept of government by and for the people. You too, now have a voice and a vote in the management of our government and its destiny. You now have the obligation to preserve our rights with your life, if need be, as America's sons have done in the past. You have pledged yourself to obliterate hate, prejudice, and bigotry. You have committed yourself to the American way of life.

As Americans you are now members of the community, not in part, but in whole. You have committed yourselves not only to preserving what our forefathers built but to further building so that future generations of Americans will find an even greater and finer nation.

From this day forward, our flag is your flag—our country is your country—our land is your land. Fellow citizens, serve it well—serve it with honor—this, your new country, will serve you in your pursuit of life, liberty and happiness and I congratulate you.

REMARKS OF EDWIN R. RUBIN

Judge Whipple, Senator Case, Congressman Rodino, Deputy Commissioner Noto and new United States citizens.

On behalf of the New Jersey State Bar Association, I would like to welcome and congratulate the 966 new citizens just naturalized by Judge Whipple. You have heard congratulations from several speakers already and I would like to add mine as well as those of the New Jersey State Bar Association which is sponsoring this mass naturalization by providing the funds necessary for its staging. I would note at this point that the Newark Symphony Hall Corporation has generously donated the use of this facility.

As I had stated, you have heard congratulations from several speakers as well as myself. Now, I would like to congratulate those of us who were citizens of the United States, for we are honored by your selection of the United States as your adopted home. I am reminded by this ceremony of an event which occurred about twenty years ago when neighbors were trying to determine how to advise their adopted daughter that she had been adopted and was not their natural child. They decided to tell the child that she was very special for having been adopted. They told her that parents of a natural child, although they probably love the child very much, have no choice in the selection of that natural child. However, as an adopted child, she was specifically chosen to be adopted and in that choosing, was specially honored.

So, too, are we, the citizens of the United States as your adopted home. Therefore, we too, are to be congratulated for your having chosen us.

There are 53 or more countries represented by those naturalized today. Nine-hundred and sixty-six individuals from 53 or more countries have decided to make the United States, rather than their native homeland, their permanent home. For some of you, this is the end of a life-long dream, for others it may merely be a way of bringing to the United States certain close relatives while for others it is the chance to achieve economic, political or religious freedom. Whatever the reason, you may be assured that the United States provides the opportunity to achieve your dreams and ambitions. There are five speakers who have come here to greet you today, United States Senator Clifford Case, Congressman Peter Rodino, Jr., Deputy Commissioner of Immigration and Naturalization Mario T. Noto, Ms. Eunice Brown of the Daughters of the American Revolution and myself. Three of us on the stage are first generation Americans and sons of individuals such as yourself who immigrated to the United States.

May you make the most of this land of freedom and opportunity. Thank you.

REMARKS OF MISS EUNICE F. BROWN

My Fellow Citizens, as you enter another exciting season in your lives, new years filled with the hope and promise of things to come, we, the Daughters of the American Revolution, whose forefathers participated in the War for Independence, welcome you as new citizens. We assure you of the need for an enlightened citizenry, citizens who will demonstrate their love for this country by making their voices heard on the issues which they believe right. Study, if you will, our past and present history, read about and listen to debates on current issues in your local areas, in your state and in the nation. Public opinion must be heard and we must strive to keep all the options inherent in our way of life that are stated in our Constitution and bill of rights.

What America means to the rest of the world is the hope for people everywhere. They should be able to walk with their heads erect and our responsibility as American citizens is always to make sure that our purposes transcend our differences.

Under our Republican form of government, freedoms and privileges are ours and by your priceless possession of American citizenship you enjoy the founding precepts of justice, freedom, humanity and equality.

With Judge Whipple's permission I would like to recite the American's Creed written many years ago by William Tyler Page.

"I believe in the United States of America as a government of the people, by the people, for the people; Whose just powers are derived from the consent of the governed; A democracy in a republic; A sovereign nation of many sovereign states; A perfect union, one and inseparable, Established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes. I there believe it is my duty to my country to love it; To support its constitution; to obey its laws; To respect its flag; to defend it against all enemies.

Remarks of Hon. Peter W. Rodino, Jr.

Ladies and gentlemen, it gives me great pleasure as well as pride to address you as "my fellow Americans." I'm honored to be here with my good friend Mario Noto, who, as Deputy Commissioner for Immigration and Naturalization, has worked long and hard to ensure that America's immigration policies are compassionate and just.

This afternoon, I am thinking of the more than one million foreign born men and women who have become American citizens since the repeal of the national origins quota in 1965. I am gratified at this because I have always believed that America's shores should be open to all peoples, from every country.

As I stand here before you, my faith is renewed that America's strength comes from its cultural diversity. We are truly a nation of nations. Our American culture has been derived from the most cherished traditions from all over the world. Each heritage is a priceless strand woven into the rich resplendent tapestry of American society.

After 200 years, America is still growing, and now you will become an integral part of its future. As you do, I hope that you will never lose sight of today's message—that America is truly a nation of immigrants. The more we learn about each other's heritage—the more understanding, more caring, more loving we are—the more American we truly become.

I am indeed proud to welcome you, my fellow Americans, to this great land.

966 Immigrants Celebrate as Their Citizenship Sails In

(By Robert Rudolph)

At 2:20 p.m. yesterday, the United States—and New Jersey—gained 966 new citizens.

It took only a few brief moments as they stood en masse in the auditorium of Symphony Hall in Newark and recited after a federal judge the words of the Oath of Allegiance:

"I will support and defend the Constitution, the laws of the United States of America against all enemies foreign and domestic. . . ."

It was one of the largest mass citizenship hearings in the nation's history, and when it was over the nearly 1,000 immigrants were hailed as "fellow Americans" and told, "Our flag is your flag . . . our land is your land."

Those participating in the ceremony had come to this country from 53 different nations, and included an entire family that had fled Castro's Cuba and three brothers who had emigrated together from their native Syria.

The atmosphere was both joyous and solemn as the new citizens, some holding small children, raised their right hands and recited the oath, and then erupted into smiles and applause as they were congratulated and told "the freedoms of America are now yours."

The special ceremony was designed to eliminate a mounting backlog of citizenship applicants in New Jersey, according to U.S. Immigration officials.

John T. Gaffney, district director of the U.S. Immigration and Naturalization Service, explained that because of the growing volume of immigrants in the state who have qualified for citizenship, the courts have been unable to keep up with the cases.

Usually, Gaffney noted, proceedings are scheduled three times a month in federal courts in New Jersey as well as at varying times in state courts, but because of the rapid increase in citizenship applicants, "the courts just don't have room" to deal with the situation.

The proceeding yesterday was believed to be the second largest mass citizenship hearing ever conducted.

Among those on hand to address the gathering were Sen. Clifford P. Case (R–N.J.), Rep. Peter W. Rodino (D–10th Dist.) and Mario T. Noto, deputy commissioner of the U.S. Immigration and Naturalization Service.

The hearing was conducted by Chief U.S. District Court Judge Lawrence A. Whipple, who administered the oath of citizenship.

Case told the new citizens, "I wish you well and welcome you" while Rodino referred to the country as a "nation of immigrants" and greeted the audience as the country's "new sons and daughters."

"You honor us by adopting our land," Noto told the crowd. "We welcome you with open arms."

Immigrants, Noto said, have given America its "heart" and "muscle."

"Don't give up your heritage; don't give up your customs. Weave it in with the American way of life—that's what makes America great."

As the immigrants filed onto the Symphony Hall stage to receive their citizenship papers, representatives of the Daughters of the American Revolution presented them with small American flags.

"Everybody says go to America, it is the land of the free," said Romeo Cruz, a native of the Philippines who was awaiting his turn to go on the stage to be presented with his papers. "It's true."

Higino Dominiques of Spain was beaming after being given his papers. "All my wish was to be a citizen," he said. "I'm very happy—very happy—you can see."

Louise Lima of Portugal, who had to have her emotions translated by a friend, said, "I wanted to become an American because it is good. I like America."

But, for many, the feelings of the moment were expressed in the words of Greek-born Jerry Skontrianos: "I wanted to become a citizen because this is the greatest country in the world. . ."

UNITED STATES YIELDING TOO MUCH TO RUSSIANS, SAYS NATO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. McDONALD. Mr. Speaker, even our NATO allies, who, traditionally, have been softer in negotiations with the Russians than the United States, have become alarmed at the rate the Carter administration is canceling and bargaining away weapons in the Free World arsenal. Western Europe would obviously feel more comfortable if the United States had gone ahead with the B–1 bomber, started production of the neutron bomb and not prematurely limited the range of the cruise missile. President Carter should heed their views, if he really wishes to strengthen NATO. The article from the Daily Telegraph of London for December 6, 1977 follows:

U.S. Yielding too Much to Russians, Says NATO

(By Clare Hollingworth)

European members of NATO, meeting in Brussels yesterday, expressed concern that the United States was yielding far too much to Russian pressure in its efforts to reach an agreement on strategic arms limitation.

Defense ministers were talking in private of a widening gap on defense issues and policy between the European members of NATO, especially the United Kingdom and Western Germany, and the United States

Deep concern was expressed that Mr. Warnke, chief SALT negotiator, had pledged the United States to limit the range of the sea-launched Cruise missile to 370 miles. This would fail to reach the prime Warsaw Pact targets even in Eastern Europe without considering the more important one within Russia.

Further, President Carter's agreement to leave all options open for three years to decide whether or not the United States wanted to deploy the Cruise missile was "just killing it," one expert said.

NEUTRON ALARM

Secondly, President Carter's decision not to produce the neutron bomb, referred to as "an enhanced radiation weapon," is regarded by many strategists in Brussels as downright alarming.

The neutron bomb was dubbed "the greatest deterrent" because it could halt a surprise attack by Warsaw Pact tanks in a matter of hours. Other nuclear weapons would cause greater loss of life.

Mr. Harold Brown, the United States Defense Secretary, will address the full meeting of NATO defense ministers later today. In the past he has been a staunch supporter of the Cruise missile which can fly under the radar beam and hit distant pre-selected targets.

EUROPEAN VERSION

Although the Americans will not pass the technical knowhow on to European governments for the long-range Cruise missile, experts believe that the British, Germans and French could co-operate to produce a European version of Cruise missile.

The 11 European defense ministers also expressed the view that SALT could result in the Americans reviewing their options on future defense policy and equipment they might require.

PRESIDENTIAL STEEL POLICIES

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CUNNINGHAM. Mr. Speaker, I am encouraged to see that the administration has begun to come to grips with the problems created by policies of our own Government in the domestic steel industry. However, care must be taken that the proposed solutions do not make the problem worse.

We have yet to see how the trigger price mechanism announced by the President will work in fact. Certainly the dumping of underpriced steel on American markets has been costly in terms of jobs for our own citizens.

I am concerned, Mr. Speaker, that the environmental and tax relief offered to the domestic steel industry falls far short of what is required. There are no specific programs to relax environmental goals, which could be done with no harm to our citizens and which would release large amounts of capital for modernization of American steel plants. As for the tax proposals, the amount of cash flow assistance which would result is limited and other changes in our tax laws necessary to make capital recovery in the United States comparable to that in other steel-producing nations is insufficient.

The origins of these problems stem from many years of neglect of the economic realities facing the domestic steel industry at home and abroad. They reflect long term policy by this Government and I have tried to address some of them in the Jobs Protection Act of 1977.

As a member of the Steel Caucus, I look forward to protecting the jobs of American steelworkers by making our free enterprise system work more efficiently. That is why I am particularly concerned about two other aspects of the President's program. One is the provision for loan guarantees which might be a step toward Federal takeover of the mills or place the Government in a position to control segments of the market. The other is the formation of the tripartite committee of labor, industry, and Government representatives. This group might well squeeze out members of the Steel Caucus and other elected representatives of the people from the decisionmaking process.

On the whole, I am cautiously optimistic about the administration's solutions as proposed. I look forward to full and free debate in Congress on this vital matter and for full participation by all people concerned with the preservation of jobs in the American steel industry.

COLONIALIST CUBA

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HOLLENBECK. Mr. Speaker, earlier this year I called for the creation of an ad hoc congressional committee to study the issue of normalizing our relations with Cuba. At that time, I was especially concerned over administration pronouncements that negotiations leading up to normalization could proceed without any preconditions. Therefore, I urged that careful consideration be given to the issues of human rights, the rights and concerns of Cuban-Americans, and the Castro government's foreign policy as prerequistes for improved relations.

In recent weeks the administration has finally started demonstrating some awareness of the seriousness and complexity of these issues. In particular, we are now being told that the Cuban military presence in Africa is neither stabilizing nor innocuous. Although Premier Castro had given his word that the Cuban military involvement in Angola would be reduced, recently published reports indicate that the reverse is happening.

The addition of 6,000 Cuban troops to that country's forces in Angola bring its commitment in that country alone to almost 20,000. In relation to the Cuban population, that figure is comparable to American involvement in Vietnam at the height of the war. In light of these disclosures, it is hard to avoid the conclusion that Castro is acting as a surrogate for the Soviet Union in Africa, in addition to furthering his own revolutionary image.

A particularly perceptive and provocative analysis of this growing problem was printed in the Christian Science Monitor. The Monitor editorial correctly emphasizes the need for caution and restraint in this matter, and I would like to share it with my colleagues:

COLONIALIST CUBA

Don't look now but the United States is publicly having some second thoughts about the growing Cuban military presence in Africa. Administration spokesmen have fairly peppered the airwaves in recent days with expressions of concern. The White House has pointedly commented. So has the State Department. Even Andrew Young warns that Cuba and the Soviet Union are spreading conflict on the African continent.

This is in marked contrast to early Carter days when the line was to minimize the Cuban involvement as a potential threat to the West's interests. Mr. Young even caused a mild storm when he suggested the Cubans helped "stabilize" Angola. Apparently the President sees that such statements may have sent out the wrong signals to Fidel Castro and he now is making Cuban withdrawal from Angola a stronger precondition for normalization of U.S.-Cuban ties.

The concern is justified. Rather than disengaging from Angola, Cuba is expanding its presence. Today it has some 20,000 troops plus about 5,000 civilian advisers there, virtually replacing the Portuguese as a colonial power. Proportionate to Cuba's population, say U.S. officials, Cuba is as deeply involved in Angola as the United States was in Vietnam.

Of possibly even greater concern is the Cuban buildup in the conflict-ridden Horn of Africa. Castro is estimated to have about 400 Army officers and soldiers in Ethiopia, where the Russians are trying to establish a foothold. Some of them may actually be fighting Somali guerrillas in the Ogaden region. In addition, the Cubans have military as well as civilian advisers in a dozen or so other African countries.

As long as the Cubans stick to building roads and hospitals and providing other such services, we agree with Ambassador Young that there is no cause to get excited. Aid is aid and it can be left to the Africans to decide whether they will take or leave the Marxist baggage that inevitably goes along with it. But Castro probably is less interested in the welfare of the Africans than in projecting Cuba as a revolutionary country able to sway the course of political history in far corners of the globe. His compulsion to dally in Africa is all the greater given the failure of Cuban messianism in Latin America in the 1960s.

For Washington, Cuba's expanding role in Africa therefore poses a conundrum. The military role indeed is worrisome if it stirs up local conflicts and, as Mr. Young suggests, helps support repressive regimes that "maintain power by killing off the opposition." But how far the United States should get enmeshed with military aid—in the Horn of Africa, say—is open to question.

It would seem wise to let the African nations themselves deal with a problem of foreign influence affecting their continent. Presumably they no more countenance Cuban "neocolonialism" than they did Western colonialism. Certainly the Organization of African Unity can take the lead in pointing out the dangers to stability and calling for moderation.

This is not to rule out strong diplomatic involvement or even prudent military aid where the situation warrants. Obviously the United States must keep its options open. But caution and restraint are preferable to getting sucked into messy regional disputes. Meanwhile, President Carter is right in pressing Castro on the issue, although quieter diplomacy might tactically be better than public lecturing. We do not see why the American people should be asked to restore diplomatic relations with Cuba—and eventually contribute to its economy—when the Cubans are swashbuckling across Africa and spending an inordinate share of their budget to do so.

EAST-WEST TRADE IMBALANCE THREATENS UNITED STATES

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. QUAYLE. Mr. Speaker, there is much discussion today concerning international trade.

A recent study by the Education and Research Institute of the American Conservative Union focuses on the East-West imbalance and the implications for the United States. So that others may benefit from this study, I am reprinting it here.

THE GROWTH OF TRADE

There is nothing new about trade with the East. American firms have done business with the Communists since the 1920's. Driven by their ambitious economic plans, the Communists have always been eager to import whatever goods they cannot produce.

But trade volume jumped sharply during the Nixon Administration. To spur detente, the U.S. government took special steps to make it easier for Communist nations to buy American goods. Between 1971 and 1972, U.S. exports to the Communists more than doubled, from $384 million to $883 million. The next year, exports jumped again, nearly tripling to about $2.5 billion. By 1976, the figure was more than $3.6 billion. It had increased 1,762 per cent in ten years.[2]

During the same period, the growth of U.S. imports from Communist nations lagged behind exports. The ten-year increase was 495 per cent. In 1976, imports were still under $1.1 billion.

Since American exports grew more rapidly than American imports, the balance of payments tilted sharply in favor of the U.S. The one-year American surplus from East-West trade in 1967 was $15 million; the same figure for 1976 had soared over $2.5 million. For the ten-year period ending in 1976, the surplus totaled more than $8.7 billion.[3]

FINANCING TRADE

Since the Communists were buying more than they were selling, money had to flow from East to West. Often, however, the funds with which the Communists paid American firms were borrowed from American taxpayers.

The Soviet Union, for example, had borrowed $588 million from the U.S. Export-Import Bank through 1974. The Soviets borrowed $550 million more from the Commodity Credit Corporation (part of the Agriculture Department) in 1972–4. And at the same time, borrowed comparable amounts from U.S. commercial banks.[4]

Eager to promote exports, the government usually gave the Communists relatively generous repayment terms. For 1973–4, for example, most Eximbank loans to the U.S.S.R. were at six per cent interest. Payments were deferred, anywhere from four to 11 years.

Loans were so generous, in fact, that by this year many financiers thought the Communists' indebtedness was threatening to exceed their ability to pay. Debts to the West were estimated as high as $50 billion in 1976—and projected to reach $100 billion by 1980.[5]

A government becomes a credit risk when its debt service is greater than a fifth of its hard-currency export earnings, according to Miles Costick, an authority on East-West trade. Soviet debt service now amounts to about 26 per cent of hard currency earnings, Polish debt service is even higher, and American creditors are growing uneasy. A large default by the Communists could embarras or even ruin many American financiers.[6]

The Communists hotly deny that they have overextended their borrowing, and their recent record of paying off recent loans is impressive. But their debt continues to grow, and while it does, American financial stability will become increasingly dependent on loan payments that may not always be forthcoming.

WHAT WE TRADE

The government divides trade commodities into two categories—strategic and non-strategic. Strategic goods and technology, according to the Commerce Department, are those "that could contribute to the military potential of another country, or could be detrimental to the national security of the United States."

Strategic goods include military equipment such as weapons, explosives, and armed vehicles. Such goods have virtually never been sold directly to the Communists—with one major exception: the Lend-Lease shipments of World War II.

Other strategic goods have less obvious military applications. While the U.S. rarely sells the Communists tanks, for example, it does sell them much of the material and technology from which tanks are made. In the last decade, the Communists have been able to import, in large quantities, strategic goods such as computers, trucks, ball bearings, and nuclear technology—all of which have military applications.

Non-strategic goods, which make up the bulk of East-West trade, range from wheat to minerals, from medical supplies to lumber, from cattle hides to bottles. In the first six months of 1976 alone, more than 1,300 different types of non-strategic goods were exported to Communist nations.

"Non-strategic" exports are not, however, without strategic significance. While they themselves may have no strategic uses, they free up Soviet industry to produce strategic goods. Soviet imports of American wheat, for instance, have allowed the U.S.S.R. to bolster its military effort. To the extent that we rescue the Bolsheviks from self-created problems on the homefront, we give them leeway for new adventures in the Mideast, or Angola. And we also permit them to devote their economic energies to arms (some 40 per cent of the Soviet GNP, it is estimated, goes directly or indirectly into the military).

Indeed, as noted by Costick, our agricultural aid promotes the Soviet global drive directly, since Moscow turns around and transships American grain to bind its satellites more closely. In 1972 and 1973, after purchasing 19 million tons of U.S. wheat, the Soviets transshipped some two million tons of food grain to India, one million tons to Czechoslovakia, and several shiploads to Salvador Allende's Chile.

Costick argues that agricultural weakness is the Achilles heel of the Soviet empire while agricultural productivity is the unused secret weapon of the United States. Unfortunately, he shows, we are supplying Moscow's defects and throwing away our own advantages in the present conduct of our trade policy:

". . . the import of grain from abroad allows the Soviet Union to devote their limited resources to their military industrial complex. Besides direct benefits from grain imports themselves, the United States also has rendered valuable technical assistance to the Soviets' agricultural industry to make it more productive. Hybrid developments and irrigation technology have been transferred as well as assistance in the construction of enormous fertilizer plants.

"Finally, the United States is assisting in the construction of large storage facilities so that the Soviets will have their own reserves available in the event of disaster or war." [7]

GETTING AN EXPORT LICENSE

To export a strategic good, an American firm has to apply for an export license from the Commerce Department. Commerce grants licenses only for exports it considers strategically advisable, and it has the power to stop others. In the era of detente, however, Commerce has looked on most applications with favor.

The licensing process is strictly confidential. Information contained in license applications, including the name of the applying firm, is jealously guarded by Commerce—for the purpose, ostensibly, of protecting the firm's freedom to negotiate. Whatever the rationale, the effect is that the American public and press have no voice in, and little knowledge of, Commerce's strategic decisions (except in those rare cases when a firm reveals its own identity, or when the Secretary of Commerce rules that publication is in the national interest).

EAST-WEST TRADE AND THE COMMUNIST MILITARY

The major impact of our trade policy is in the realm of high technology—computers, chemicals, lasers, industrial machinery. Despite the official policy supposedly prohibiting trade of items that have strategic value to the Communists, this policy has been extensively modified by declaring strategic items "non-strategic."

Thus the export list for 1974 includes "nonmilitary aircraft" shipped to Communist China—although there is no appreciable difference between a military transport and a commercial one. The Peking list also includes $2 million worth of steel scrap; trade with Poland includes airborne navigation equipment, computers, and lasers. Trade with Moscow includes lubricating grease, computers, "civil airborne communications equipment," lasers, and synthetic rubber.[8]

East-West trade made headlines this summer when the Carter Administration stopped the sale of the sophisticated Cyber-76 computer technology—including knowhow for computer had military potential far in advance of any Soviet-built model. The Cyber-76 deal, however, was one of the few the U.S. has halted.

No one denies that virtually all Soviet computer technology—including know how for military computers—is imported from the West. Nevertheless, in the four years before Cyber-76, Commerce licensed $300 million worth of computer sales to the Soviets.[9] Transactions peaked in the fall of 1976, when the government approved two key Control Data Corporation sales: a Cyber-73 to the U.S.S.R., and two Cyber 172's to Mainland China.[10] The Energy Research and Development Administration and the Pentagon opposed the sales, since both computers can be put to sophisticated military use. But Commerce overrode the objections and licensed the sales.

The computer technology the Soviets have bought from the U.S. is essential in modern war. "Without computers," Costick notes, "modern weapons systems could not be built, integrated, tested, deployed, kept combat-ready and operated. . . . Missiles, aircraft, tanks, high-performance, satellite-based surveillance systems, ABM defense systems, and submarines incorporate computers as part of their armament." [11] Thus the Soviet military must depend heavily on imported computer technology.

In addition, the United States is building for the Soviets the largest truck factory in the world. The Kama River plant, when completed, will be able to turn out 150,000 heavy duty trucks a year—more than the capacity of all U.S. heavy truck manufacturers put together. This factory will be capable of producing tanks, military scout cars, rocket launchers, and trucks for military transport, but it is approved as "nonstrategic." [12]

Nor is such conversion of a Soviet truck factory to military uses a point of speculation. The existing Communist war machine has been built almost entirely from Western exports, employing American and other Western plants and designs. The Gorky auto plant built for the Soviets by Ford Motor Co., for instance, produced the GAZ trucks used on the Ho Chi Minh trail. The Soviet ZIL truck is the product of another U.S.-built plant, while Soviet tanks employ American design components. The cargo ships that were used to haul these materials to Vietnam were also products of our technology.[13]

Antony Sutton details numerous other instances of American technology with military application being transferred, directly or indirectly, to the Soviets: So-called "transfermatic" machines used for producing automobile engines, aircraft technology, oil refining processes, fertilizer plants (useful for making explosives as well as for agriculture), computer technology, and so on.

Sutton puts it this way: "It has been estimated that between 70 and 75 per cent of the annual Soviet military expenditure goes to industry for the purchase of armaments. . . . It is the availability of Western technology that makes Soviet industry more efficient. The impact of this technology releases resources for military efforts and also insures that the Soviet industrial-military complex incorporates the latest Western manufacturing techniques." [14]

East-West trade has also been instrumental in the Soviet missile build-up. According to Philip C. Clarke of the American Security Council, it is generally agreed that if we had not sold the Soviets new, miniature ball-bearing technology, they would have been much slower to develop multiple nuclear warheads (MIRVs). When the exports were still in the planning stage, numerous authorities told Commerce that the bearings were available only in the U.S., and were far superior to anything the Soviets could make. Nevertheless, the exports were licensed, and the U.S.S.R. quickly produced MIRV weapons.[15]

Communist shipping is another industry based primarily on Western technology. According to the U.S.S.R.'s statistics, 84 of the 96 Soviet ships that supplied Hanoi during the Vietnam War were powered by Western engines.[16] Some of the ships were entirely Western; a few were entirely American.

Nor is shipping the final example. The Soviet MIG 17, an advanced warplane, runs on Rolls-Royce engines. Soviet 122mm field guns use propellant technology obtained from American chemical firms. Literally hundreds

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Footnotes at end of article.

of similar examples can be found in Sutton's voluminous research (*Western Technology and Soviet Economic Development*, three vol., Hoover Institution).

Sutton marshals impressive evidence that without East-West trade, the Soviet military would be drastically different—and indeed drastically inferior. Advanced Soviet military equipment continues to incorporate imported goods and technology. It seems unlikely that the Soviets would use Western components if they could make the same goods efficiently themselves. In consequence, U.S. trade policy is a key component of U.S. strategic policy. If the Communists could not import the goods they now import, they could not build the weapons they now build.—By Horace D. Nalle, Jr., Policy Research Staff.

FOOTNOTES

[1] Not furnished in text.

[2] *Export Administration Report*, Semi-annual April/Sept. 1976, Chap. 4.

[3] *East-West Foreign Trade Board Report*, Second Quarter 1976, U.S. Government Printing Office, 1977, Chap. 4.

[4] Porter, Suzanne F., *East-West Trade Financing—An Introductory Guide*, U.S. Government Printing Office, Sept. 1976.

[5] *Ibid.*

[6] *Ibid.*

[7] Costick, Miles M., *The Economics of Detente and U.S. Soviet Grain Trade*, The Heritage Foundation, 1976, p. 87.

[8] Evans, M. Stanton, "Foods Aid to Reds Helps Fuel Their Military Capability," *Human Events*, April 17, 1976, p. 12.

[9] *Congressional Record*, April 4, 1977, p. E. 2039.

[10] *Ibid.*

[11] *Ibid.*

[12] Evans, M. Stanton, p. 12.

[13] Sutton, Anthony, *Western Technology and Soviet Economic Development*, Hoover Instiution, pp. 398–399.

[14] *Ibid.*

[15] *Congressional Record*, March 22, 1976, p. S 3945.

[16] Ashbrook, John, "Soviet Military Might: Western Made," *New Guard*, January/February 1977.

THAT DECLINE IN BUSINESS CONFIDENCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by George Will entitled: "That Decline in Business Confidence":

THAT DECLINE IN BUSINESS CONFIDENCE

By George F. Will

This city tends to discount the rationality of today's stock market because the market's decline only reflects the collective judgment of people handling their own money, an activity strange and a bit repellent to Washington. And when Washington worries about the "confidence" of businessmen, Washington's brow furrows, like the brow of an Anglican missionary who is trying to fathom the spiritual life of savages.

But the decline of business confidence is not neurotic; it is rational. It is correlated with a decline in the rate of return on invested capital. The average rate was 13.4 per cent in 1966, 9.2 in 1976. Profits as a per cent of gross national product were 9 per cent in 1966, under 5 in 1976.

Furthermore, even today's profits are overstated because assets—and hence depreciation deductions—are calculated on the basis of original costs, not what it would cost to replace them after years of high inflation. For example, in the steel industry, replacement costs may be triple historical costs. Thus, many steel companies' deductions should be higher, and their real profits should be listed as lower, or non-existent.

Professor Martin Feldstein of Harvard estimates that in 1976 corporations may have paid taxes on $20 billion in exaggerated profits. Inflated profit statements incite union demands for higher wages and shareholder demands for generous dividends. But profits are shrinking, plants are aging an the basis of American productivity is eroding.

Until there are accounting practices more suited to an environment of high inflation, investors will doubt their ability to assess the assets of corporations seeking investments. No wonder investment is increasing more slowly than in any postwar recovery. And most investment in basic industry is not for more efficient capacity but for adapting to new energy forms or for acquiring government-mandated pollution controls.

Throughout American history, improved productivity generally has been achieved by enriching the mixture of labor and capital with better capital goods. But as Arthur Burns, chairman of the Federal Reserve Board, notes: "Whereas in the 1950s and 1960s the ratio of capital stock to the work force increased by more than 2 per cent a year, it rose by only about 1 per cent in the early part of this decade and has actually slipped somewhat in the last two years."

It is said business is reluctant to invest because of "uncertainty." Actually, business reluctance reflects the virtual certainty that inflation will remain intolerably high and that government will require corporations to devote more resources to environmental and other social purposes.

This diversion of resources may solve problems, but not without causing problems. For example, it diminishes the ability of American firms to compete in international markets against firms that are not similarly burdened with social obligations. And one out of every eight manufacturing workers in the United States produces goods for export; about one-third of corporate profit derives from exports and investments.

Lack of confidence produces additional grounds for lack of confidence, including low investment, slow growth of productivity, and the increased likelihood that a strengthened recovery would be aborted by capacity and resource shortages and by inflation.

Not surprisingly, business is less confident after the first year of the Carter administration, which has proposed various measures to increase taxes, and other measures that will increase inflationary pressures.

The Social Security and energy legislation may increase tax collections by more than $50 billion through 1981. The administration has favored a higher minimum wage, restrictions on imports of inexpensive shoes and television sets, higher prices for sugar (and hence of products that contain it) that will cost consumers $1 billion annually, higher price supports for milk, less acreage for grain production, expensive new mine-safety requirements for which consumers will pay. Proposed new tanker regulations would add $1 billion a year to the nation's oil bill. The administration's proposed welfare reform might increase federal spending five times more than the $2.8 billion the administration estimates.

The point is not that all or any of these developments are indefensible, but that, cumulatively, they are incompatible with rational business confidence. So is this fact, cheerfully cited by a U.S. senator: Assuming only 5.75 per cent annual wage inflation, compounded until the year 2050, the average American's income will be $630,395 a year.

HELEN FREY

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ZEFERETTI. Mr. Speaker, if someone were to list the names of the 10 most outstanding women in Brooklyn today, the name of Helen Frey would be very high on that list.

First of all, to say that she is a devout Brooklynite in the finest sense of the word, is really an understatement. Born, raised, and educated in Brooklyn, Helen is everything that many of the zealots in the women's movement would love to be. Successful, independent, and attractive, she has lived in Brooklyn all her life and, aside from her interest in, and concern for, the quality of life in Brooklyn, she has few peers as a businesswoman and an imaginative innovator in the world of banking, and as president of the Flatbush Federal Savings and Loan Association of Brooklyn for the last 20 years, this interest and loyalty has not gone unnoticed by groups like the American Legion, the Flatbush-Nostrand Board of Trade, the Greater New York YMCA, Cancer Care, and several other prominent organizations that have honored her over the years for her "inspired leadership and enthusiastic support of the betterment of the Flatbush community and the Borough of Brooklyn."

But this woman's interest and efforts go far beyond her role as president of one of the most widely respected savings and loan associations within the banking community. A charter member of the Women's Association of Savings and Loan Institutions, she is second vice-chairman of the Flatbush YMCA board of managers; a member of the business and finance committee of the Greater New York YMCA; a member of the board of managers of Nazareth Diocesan High School; a member of the development advisory committee of Angel Guardian Home; a member of the Brooklyn Organization for Rehabilitation Through Training; a vice president of the Library Associates of Brooklyn College; a member of the finance committee of the Diocese of Brooklyn.

In addition to all of these many involvements in the life of Brooklyn, she has been honored over and over for her countless commitments across the city. The honor she has received have come from as varied a spectrum as the American Legion Post No. 931, the Flatbush-Nostrand board of trade, Cancer Care, Inc., the American Legion Baseball League and more recently at a testimonial dinner in her honor from the Congregation B'nai Jacob where she was the first woman to receive this honor. And it was only a few years ago when the late Borough President Abe Stark set aside a special day as Helen T. Frey Day in Brooklyn. And a few years later, the Greater New York YMCA singled her out as Woman of the Year.

But Helen's love of the city was perhaps never more affectionately dramatized than when she initiated the New

York City I Love You Campaign which became infectious in its spirit even reaching down to the White House, where Mrs. Roslyn Carter proudly brought along one of Helen's New York City I Love You shopping bags on her visit to San Jose, Costa Rica, Central America.

But it was William Reel of the Daily News who best summed up the effectiveness and influence of Helen's campaign and of Helen herself when he wrote:

> Helen is just as affable as she is successful. She lives in a two-family house on a typical Flatbush street and her immediate neighbors are of all creeds and colors.

One mark of her achievements is that when she became president of the Flatbush Federal Savings and Loan Association of Brooklyn 20 years ago, the assets were listed as $24,067,527. Today, the assets are over $136 million. But the true mark of this woman is her loyalty to, and love of, the great borough that has always been her home and that she has tried to instill in the thousands who pass by her office every day and are, in the truest sense of the word, her neighbors.

SECRETARY CALIFANO'S SPEECH AT WHITNEY YOUNG MAGNET HIGH SCHOOL

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FORD of Michigan. Mr. Speaker, Federal leadership in education is essential if your schools and colleges are to fulfill their obligation to provide students with equal access to quality education. HEW Secretary Joseph A. Califano, Jr., addressed many of the important issues facing our schools and outlined creative Federal initiatives in his November 3, 1977, speech at Whitney Young Magnet High School in Chicago, Ill.

Secretary Califano's speech observes the close reading of everyone concerned with the education of our youth.

His speech before Whitney Young Magnet High School follows; and will provide the Members of Congress with some insights into the educational policies being developed by the administration.

REMARKS OF JOSEPH A. CALIFANO, JR.

I am glad to be here today, for several reasons.

I wanted to see a school that represents the good things about American education—and Whitney Young is that kind of school. Your five thousand applicants for five hundred places in your student body are dramatic evidence of your attractiveness.

I wanted to see a school where new ideas are at work: continuing education for teachers, innovative curricula, work-study programs, opportunities for handicapped students to share fully in the life of the school. This is a school where morale is high—because good things happen here.

And I wanted to be here at Whitney Young today, on the day of a very important play-off game, to root for the Dolphins. I'm impressed by the six-one record piled up by Whitney Young's football team—I only wish the Washington Redskins could boast as good a record!

I grew up in Brooklyn, New York, in the 1930s and 40s. My family was like hundreds of others in hundreds of other cities: not rich, not poor; not visibly different from millions of other families.

What made the difference in my life; what opened up opportunities I might never otherwise have known, was education: first, rigorous schooling in my early years, which my father and my schoolteacher mother encouraged.

And then, the opportunity to attend a great Jesuit college and a great university law school—to be challenged by great intellects; to have my sense of my own possibilities broadened and deepened by people who expected me to do my best.

Education was the shaping influence in my life—as it has been for many others.

President Lyndon Johnson, the great education President, for whom I worked in the 1960s, was determined that every child everywhere should have "all the best education they can take." And when President Johnson signed the most sweeping education law of our generation, he had at his side, not another high government official—but his first grade teacher from Texas.

The autobiography of President Jimmy Carter, "Why Not the Best?", is in many ways a tribute to the role of one school in his life: a little school in Plains, Georgia.

He was so deeply influenced by his teacher there, Miss Julia Coleman, that he mentioned her in his inaugural address.

Whitney Young reminds me of the days when I grew up in New York City, when the great schools were our public high schools—Bronx Science, for example, where gifted math and science students from all over the City came to develop their talents and to excell. In those days, the urban high schools were gateways to opportunity and personal development—so Whitney Young is today.

But Whitney Young is the exception today. For at this time, the diplomas of urban high schools are too often worth less tickets for a merry-go-round of dead end jobs and unemployment, rather than certificates of accomplishment opening gates of employment opportunity and personal achievement.

Nowhere are the problems—and the potential—of American education driven home more starkly than in our great cities and in our secondary schools.

Though the average size of the high schools in America has climbed gradually, to about six hundred students, urban high schools regularly contain two or three, sometimes six thousand students.

There comes a milestone in the growth of schools, as James Coleman points out, when students pass from knowing one another's faces, to not knowing them; when teachers pass from knowing all their students' names, to not knowing them. The urban high schools, by and large, are on the wrong side of that milestone.

In many big cities, a single guidance counselor is called on to provide course and career advice to five hundred, and even a thousand students.

Property destruction grotesquely mimics the human destruction in many urban high schools. Schools pay at least $600 million a year for the ruin caused by vandalism. New York alone spends $5 million a year to repair vandal damages; Los Angeles nearly $4 million.

Suicides, runaways, alcoholism, drug abuse and crime are no longer shocking exceptions: they have become heartbreakingly commonplace for high school students who have lost hope.

Teenage pregnancy is epidemic. One out of ten seventeen-year-old girls in the U.S. is a mother. Of the 220,000 under seventeen who gave birth in 1974, 15% of them were having their second or third child.

Some big city schools experience a drop-out rate as high as 50 per cent. Students in the poorest center cities in the Northeast and Midwest drop out at a rate nearly double the proportion in our poorest rural centers.

Truancy and absenteeism are rampant. In many large cities, on a given day, half of the enrolled students may be absent. In many urban secondary schools in poverty areas, the absentee rate runs consistently at 30 per cent.

The city's social context offers scant support to the urban student. Poor kids in the cities lack the extended families which so often provide a rich background of traditions and love. They live in unstable communities: I visited an elementary school in the South Bronx where 60 per cent of the 600 children there were in their third school that year. The examples around poor school children do little to encourage their aspirations—their fathers, older brothers, and sisters are unemployed; their neighborhood is a mess.

This is a grim picture for much of urban America and much of urban secondary education. But it does not argue for despair. It does remind us that schools cannot solve all our social ills—and that schools will mirror the neighborhoods in which they are set.

And it does present a challenge of unprecedented proportions. For no institutions in urban America are in greater need of re-examination and perhaps fundamental transformation than our secondary schools.

It's time to ask some fundamental questions about American secondary education. Should the colleges be offering courses in the high schools? Should the grammar school-junior high-high school lock step give way to new arrangements more appropriate to our new circumstances? Should local business and industry collaborate with the schools in developing their curricula? Should the schools reach out to their neighborhoods—providing health and social services, recreation, and community focus? Should the schools reach out to the "pre-school" child and the retiree? Should we let a high schol student work full time for several months or a year before graduating? Should we encourage—or even require—students far below par in basic skills to go to summer school before passing to the next grade?

We need to be asking fundamental questions like these, and we need to begin acting on the answers. Nothing short of a revolution in American education might take place; nothing short of that revolution might be just what we need.

Increasingly this challenge is perceived—and many are acting on it. Many dedicated teachers are doing a good job; many motivated students have quietly gained a good education; many compassionate administrators have avoided the easy retreat behind the shield of bureaucracy.

Today city schools with imaginative principals have more alternative and innovative programs—schools within schools, and experimental curricula, and alternative grading methods—than any other kind of schools.

Business leaders are entering into new and exciting partnerships with the schools—alliances that help fight hard-core youth unemployment.

City parents are eager to get the best possible education for their children—and they are learning how to make their cry for quality education heard.

To meet the needs of big city students—to tackle the problems facing all of American education—the first step must be just this kind of commitment: the determination to to succeed.

Traditionally, the responsibility for elementary and secondary education has been a State and local one. This tradition is a healthy and necessary one—encouraging diversity and ensuring that the particular educational needs of particular communities are met with appropriate responses.

But the Federal government also has a

vital role to play. In 1960—when some of you were not even born—the Federal government spent well under a billion dollars a year in support of education. By last year, our Federal support for elementary and secondary education had grown to a more than $5 billion effort.

The first goal of the Federal education effort is to increase access to education and to help move America towards equal educational opportunity.

We must never lose sight of the fact that American schools have taken on an enormous responsibility, unprecedented in human history—the goal of equal educational opportunity for all. For people from minority backgrounds and low income families; for those who have special language and cultural needs; for people with physical handicaps.

Only a wasteful nation would fail to develop the rich human talents these students possess; only a heartless nation would ignore the special obstacles they face.

We have made striking progress in our effort to broaden access to education in America. But the many efforts of the Federal government to broaden access must, and will, continue.

Our biggest program—Title I of the Elementary and Secondary Education Act of 1965—provides compensatory, catch-up education. It helps prevent our neediest children from being left behind in the educational process. Title I works: it reaches twenty percent of all students in our public elementary schools, and those children are learning more during the year because of Title I.

But we are seeking ways to make Title I work even better:

We have already increased support for Title I from 2.3 billion dollars this school year to 2.7 billion the next year. This extra funding will help school districts like Chicago, with large numbers of poor families, provide access to a quality education for all school children.

We are committed to strengthening further the present Title I program so that it may more effectively fulfill its important objectives.

We are also exploring new ways to help Title I areas with especially large concentrations of needy children. Schools in these areas—in cities like Chicago and in many rural areas—have special needs for compensatory education services. The enormous burdens borne by those communities—and by the schools and teachers that serve them—make educational achievement harder—and more expensive—to attain.

We will also explore extending compensatory education in our high schools. Only five percent of all secondary school students receive compensatory education services under Title I—a fraction four times smaller than the fraction in elementary schools. Yet it is in high schools where test scores in many areas are falling and where drop-out rates are the highest. Title I is making gains in elementary schools; we need to build on these gains, and to sustain them in secondary schools.

We must establish effective summer programs. All too often gains that children make during the year evaporate once they leave school for the summer.

A second program that helps to broaden access to our schools is bilingual education.

There are more than three million Hispanic and other children in this country whose native language is not English. Chicago has 25,000 of these children. They too deserve a quality education, and we hope to strengthen our efforts to help ensure that they get one.

A difficult issue in bilingual education is how to combine differing purposes the program can serve. Should we focus the program on teaching English and on bringing students into the mainstream of American society? Or, should we emphasize appreciation of each student's cultural heritage? This is not an easy question and there is no simple answer. Both goals are desirable. As we continue to develop and test new and better ways to provide bilingual education, we must find the proper blend of goals to guide our efforts.

One method of improving bilingual education is to emphasize training teachers to work with bilingual children. Teaching these children effectively requires special training in diverse languages and sensitivity to diverse cultures.

As we examine our bilingual program to try to strengthen it, one thing will remain unchanged: The commitment to assure that language and culture are not barriers to American schools and American society.

A third field where we must work to break down barriers is in education for the handicapped.

Here at Whitney Young, seventy members of the senior class are deaf or hearing-impaired. Interpretation is available to them, so that they can get a first-class education. This is an important achievement, and I applaud you for it.

We will work to assist states and localities that have shown leadership like the leadership here at Whitney Young:

We recognize the need to increase the Federal resources available for educating the handicapped.

We must strengthen teacher training efforts, so that our schools are better equipped to instruct students with a wide variety of disabilities.

Finally, access and opportunity mean energetic efforts to wipe out school segregation and to remedy racial discrimination.

Twenty-three years—some six generations of high school students—have passed since the U.S. Supreme Court outlawed school segregation. Yet discrimination—and the lingering effects of past discrimination—still persist.

But we are making progress. One sign of that progress is clear here in Chicago. For more than twelve years, a dispute about teacher segregation dragged on and on. Many hours were spent in negotiations and in court, hours that could have been spent to provide a better education for all students in Chicago.

But just three weeks ago an agreement between the Chicago School Board and the Federal government was reached. This agreement is a landmark:

Because it provides for the most extensive bilingual education program in the country.

Because it will finally give all of you the chance to learn and to work in schools free from teacher segregation.

Because it shows that when local officials, like Superintendent Hannon and members of the Chicago Board of Education, are willing to work in good faith to solve problems, civil rights questions can be solved swiftly and fairly.

We intend to continue Federal financial support to school districts engaged in desegregating their schools. And we hope to be able to target our funds to give special help to areas of greatest need, particularly those which have recently started to solve major problems.

The second major goal of Federal programs is to improve the quality of education.

Like access, excellence must be the foundation of all our efforts in education. A truly democratic society depends for its vitality on an alert, alive and critical citizenry. Quality education—education that gives our people the capacity not only to fulfill themselves but to understand the society around them—is our most important way of making sure that democracy works.

Educational quality has always depended most of all on local initiative—on strong leadership from a principal and school board; on dedicated teachers; and on the enthusiasm and commitment of parents and students to the work of the school.

But the Federal government has, and will, seek ways to support these local efforts, to help teachers and school officials design more effective programs.

One major effort we have undertaken is to improve achievement in basic skills. All over the nation, parents, teachers, and students are concerned about falling test scores—and they should be.

There is a desperate need for remedial reading and math courses in our urban and rural secondary schools—but most importantly, in our elementary schools. Too many high school students read, write and perform mathematics at a fourth, fifth and sixth grade level. They cannot even read the textbooks they are given in high school—much less learn from them. Many schools have started to do something about this.

HEW will assist schools like those in Chicago to improve basic skills in a number of ways.

We must study why students fail, so we know how to help them succeed.

We must learn how to use tests to advance learning, so that states and localities will be able to design effective testing programs. State and local testing has an important role, along with many other tools in putting the proper emphasis on development of basic skills.

We must equip all students with basic abilities to read, to write, to compute. These abilities are building blocks for further education and they are necessary for success in the world outside.

A second, and critical, part of our Federal efforts to improve educational quality is in the area of teacher training.

Good education means good teachers. They are our most important educational resource, and the Federal government will attempt to assist in developing this resource to its utmost.

We hope to strengthen teacher training efforts in a number of areas like bilingual education and education for the handicapped.

We also hope to strengthen our commitment to Teacher Centers. These Centers provide a supportive environment for teachers to exchange ideas. They provide a place where teachers can exercise their professional growth. I believe Teacher Centers will come to play a key role in improving instruction—including remedial reading, writing and arithmetic instruction.

We will also seek to enlist institutions of higher learning in providing in-service training for elementary and secondary school teachers. Recently we proposed a major revision in our Teacher Corps program, to emphasize in-service training for teachers in poverty areas.

A third method of improving educational quality that the Federal government should support is familiar to all of you: it is magnet schools like this one. Here at Whitney Young, there are special opportunities in health, in the sciences, and the performing arts.

We will strengthen our efforts to help school districts design magnet schools, integrate them with other schools in the district, determine the most effective way that magnets can raise educational quality, and assess the strengths and observe the limits of this imaginative and promising innovation.

Finally, HEW intends to explore much more systematically the ways in which technology can be harnessed to help increase educational quality. By the time most students leave high school, they have spent more time in front of a TV set than in a classroom. Sesame Street is the outstanding example of the important role that television can play in aiding our schools; but that program barely scratches the surface of the uses of television—a medium with great potential to educate.

A third major goal of the Federal effort in elementary and secondary education is integrating our schools with society and expanding the concept of education beyond the schools.

The first way that schools can relate to the larger community is by helping high school students develop skills that will help them find jobs.

Youth unemployment nationally is over 15 per cent; the rate for black youth in central cities like Chicago is a staggering 38 per cent. Schools like Whitney Young provide models for the nation for bridging the gap between education and work. Your work-study program with the Chicago Medical Center is helping keep young people in school—and to get jobs when they finish school.

We want to encourage efforts like yours. So we have been working with the Department of Labor to implement the Youth Employment and Demonstration Projects Act. We are just putting the finishing touches on an agreement with the Labor Department that will help provide important connections between our high schools and manpower programs:

HEW will work with the schools to help develop programs so that students who are employed can obtain academic credit for what they learn on the job.

We will work with the Labor Department to develop part-time employment and job training for high school students.

We will help sponsor conferences to provide proper training for teachers and local school officials so they can pass on what we learn about how to create links between school and jobs.

We will work with businesses and universities to seek new ways to involve them in developing curricula for our high schools.

All of these efforts should have several beneficial effects. Financially needy students who are compelled to work, or students who desire to work for several months or a year before graduating from high school, can be given the opportunity to do so without being required to drop out forever. They may now be able to find part-time work permitting them to remain in school or work on a job for which they can get academic credit. School programs will be more closely tied in to job possibilities and students will obtain greater career guidance, giving them a greater incentive to remain in school.

More than one million children drop out each year; many of them go to dead-end jobs, or not jobs at all. I hope that our efforts under the Youth Employment Act will help our schools perform far more efficiently an important social purpose: training the workers of tomorrow.

Our research indicates, furthermore, that the family plays a critical role in educational achievement. What we need to discover is how to capitalize on this potential asset.

One way might be with programs that encourage parents to follow their children's progress in school, to participate more effectively in school affairs, and to help their children learn to read, to write, to think critically, and to express themselves.

We are planning to help local school districts in their efforts to involve parents more in education. We will support the design of educational materials, like workbooks, that parents can use at home to reinforce classroom learning—particularly over the summer months, to counteract summertime falloff in educational achievement.

Schools can also function as social service centers. For example, 20 million American children are not immunized against common childhood diseases like mumps, measles, whooping cough and polio that can be easily prevented. Schools, working in cooperation with health authorities, can solve a national problem.

This is but one example of the many ways in which schools can help deliver needed health and welfare services in an effective and efficient manner.

I have, this morning, described some initiatives that the Federal government has taken—or will take—to enhance elementary and secondary education in America. Many of these initiatives, in more detailed form, will be the basis for the creative interaction between the President and the Congress as new elementary and secondary legislation is considered.

For we in Washington are serious about access and excellence in education. We are serious about helping schools work closely with parents and employers and others in the community.

But the most important role we can play is to assist, advise, and help guide the efforts of states and localities to meet these goals. We need to prevent Federal requirements and Federal paperwork for strangling schools. We need to support, not supplant, local initiative.

In the end, how well we do depends upon institutions like this school—and people like you, students and parents, teachers and administrators. What you do, far more than what we do, will determine the ultimate success or failure of education—in this neighborhood; around Chicago; all across America.

BILINGUAL COURT INTERPRETERS

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RICHMOND. Mr. Speaker, on December 6, 1977, I had the pleasure of introducing H.R. 10228 the Bilingual, Hearing and Speech Impaired Court Interpreter Act.

This is an enormously important piece of legislation for all people in the United States who, for one reason or another, do not speak or understand the English language.

The bill states that if such a person as described above is involved in a Federal court trial, in either a civil or criminal case that the court will appoint a qualified, professional interpreter for that person. The expenses for the interpreter will be met by the court. An estimate of these expenses by the Administrative Office of the Courts is only $2 million annually which is a negligible amount for providing equal justice under our laws.

It is incredible to think that criminal and civil cases involving people who do not speak or understand English have occurred on a regular basis in this country without an interpreter or with an interpreter who did not have a complete command of the second language.

The Director of the Administrative Office of the U.S. Courts shall maintain a list of all certified interpreters, establish qualifications for interpreters, certify interpreters and set the fees for services rendered. The Director will work with professional organizations such as the National Registry of Interpreters for the Deaf in determining the regulations for standards of qualified interpreters.

The Federal court system must set an example for State and local courts. When we pass this bill in the House of Representatives and every State has a similar measure only then will we see a realistic judicial system for all our citizens and visitors alike.

The Senate passed this measure on November 8, 1977 and I am hopeful that my colleagues will join with me in assuring that the 95th Congress does not close without this bill being signed into law.

DEBT COLLECTION HARASSMENT RESULTS IN VERMONTER'S DEATH

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ANNUNZIO. Mr. Speaker, on March 20, 1978, the Fair Debt Collection Practices Act will go into effect banning harassment and deception in debt collection. This will not be soon enough for a widow in Vermont. Her husband recently died of a heart attack after over a month of harassment and threats from an out-of-State debt collector attempting to collect a $114.44 Shell Oil bill. According to the news report of the story, the collector harassed the consumer at home, at work and even in the hospital. The collector threatened the consumer with imprisonment, and to expose him as a deadbeat. Telling the collector of his heart trouble did not stop the abuse.

The widow is now suing the collection agency for $1.2 million. Whether the widow wins or not, this will not bring back her husband.

This was a senseless, needless tragedy. It is a graphic illustration of why this new law is so necessary. Unethical collectors know no restraints such as decency or fairness. Even though abusive collection tactics do not result in better collections, unethical debt collectors employ these horrible practices. The conquences to the consumer are always bad. In the case of the consumer from Vermont and his family, the consequences were disastrous and will affect the family the rest of their lives.

For those who attacked this new law as unneeded and attacked the hearings testimony on harassment as unfounded, this story points out the truth: Debt collection harassment occurs all too frequently and with irreversibly sad results.

This new law hopefully will prevent any other consumers from being hounded to death.

The following is the text of the November 19, 1977, Chicago Tribune article:

DEBT AGENCY DROVE MATE TO DEATH: WIDOW

ST. ALBANS, VT.—A widow is suing a collection agency for $1.2 million, claiming it caused her husband's death by its tactics in trying to collect a $114.44 debt.

In the suit that came to trial Monday in Franklin Superior Court, Pauline Ewell contends Eastern Payco, Inc., of New Jersey harassed and threatened her husband, Laurence, to the point that he suffered a fatal heart attack.

Ewell owed Shell Oil Co. $114.44, according to the suit. Shell hired the company to collect the overdue account.

For more than a month, Ewell received telephone calls at work and at home demanding immediate payment, the suit says.

Alan Sylvester, Mrs. Ewell's lawyer, told prospective jurors the agency threatened to "expose Larry as a deadbeat in St. Albans and tie up his wages." Ewell was a teacher at Bellows Free Academy in nearby Fairfax.

The suit alleges that Ewell was threatened with imprisonment and attachments on his property.

"He told them about his heart trouble," Sylvester said. But he said the collection agency "showed no understanding, sympathy, or compassion at all. The telephone calls continued, and the heart problem developed and the chest pain became worse."

Sylvester said Ewell was hospitalized, and "the threats continued even in the hospital, and Mrs. Ewell alleges her husband died because of it."

JUDGE CORNELIA KENNEDY

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. NEDZI. Mr. Speaker, one of the top Federal judges in the Nation is Cornelia G. Kennedy, who recently became Chief Federal Judge, Eastern District of Michigan.

I have known Judge Kennedy a long time and I am proud to number her among my constituents.

While I was a freshman in high school, moreover, I had the good fortune to meet her father, the late Elmer H. Groefsema, a prominent negligence attorney. He was one of the people who inspired me to pursue a career in law. He inspired others, too, not the least of which were two of his daughters who became lawyers and judges.

The Sunday, December 11 Detroit News carried a fine profile of Judge Kennedy, and I believe her story is worthy of our attention.

Under leave to extend my remarks in the RECORD, the article follows:

SHE'S CHIEF JUDGE AND AN ANGEL TO TWO CHARLEYS

(By Yvonne Petrie)

If Farrah Fawcett-Majors had come to Detroit for her poster-bootlegging case last January, teen-ager Charley Kennedy hoped to bring his class downtown to Federal Court for an "educational" field trip.

Charley has an In. His mother is Chief Federal Judge Cornelia G. Kennedy, who granted the injunction against a company selling unauthorized heat transfers based on the star's copyrighted posters.

"But Farrah never appeared," said Judge Kennedy the other day, as she reminisced about some of her more colorful cases.

Judge Kennedy has had a far more illustrious career than the former star of the TV series "Charlie's Angels." In fact, she's an angel to two Charleys herself—her husband, advertising executive Charles Stuart Kennedy, and their son, Charley, 15, a freshman at University Liggett School.

Judge Kennedy holds the distinction of being the only woman in the nation ever to be named chief judge of a Federal District Court. Her duties include overseeing the 12 judges in the district and court operations and supervising the federal clerk's office, in addition to conducting trials.

She was sworn in Nov. 22, replacing Judge Damon J. Keith, who stepped up to judge of the 6th U.S. Circuit Court of Appeals in Cincinnati.

When she was appointed federal judge in 1970 by former President Nixon, she became the only woman from Michigan—and the fourth in the nation—ever to serve as a federal judge. (There have been 2,000 men and only nine women who have served on the federal bench since federal judgeships were established 188 years ago. Eight of the women are still living.)

Sitting in her book-lined chambers in the Federal Building downtown, Judge Kennedy, 54, looks fragile and thin.

Actually, she is indomitable.

Item: Last month she had a benign breast tumor removed during a break in a gambling conspiracy trial. "I went into the hospital on Wednesday and came back to the trial on Monday," she said.

Item: This fall she planted 300 flower bulbs herself in the garden of her Grosse Pointe Woods home.

Item: For exercise, she bicycles around the Pointes with her husband and son (she has completly recovered from the compound fracture of one leg she suffered in a golf cart accident in 1974).

Item: Early this year she trudged through the snow one Saturday to inspect the Lake St. Clair wetlands near Selfridge Air National Guard Base because of a case in her court. "I followed the new Environmental Protection Agency regulations and issued an injunction and the wetlands were preserved," she said.

Despite her frail appearance, Judge Kennedy maintains regal order in her courtroom. She laughs when she tells the story of a bank robber on bond "with two bullets in him" who went for medical attention on the lunch-hour break during his trial in her court. When he ran back late into the courtroom, he burst out, "I'm sorry I'm late, your majesty!"

But she defends the decorum she demands.

"The courtroom is a place where people's rights are determined and the person is entitled to feel that is what the court is focusing on," she says. "You can't have a lot of extraneous things going on. People who have matters before the court are better satisfied to come into a place where there is a certain amount of decorum."

Judge Kennedy believes in punctuality but doesn't always get it from participants in her cases. "My father was a good lawyer. He was always on time to court. I practiced law for 19 years and I was always on time. Everyone else wasn't always on time.

"My father indoctrinated all three of his daughters to believe that if you're really determined to do something, you can do it. There isn't any limitation."

She comes from a family of achievers. Her mother was a law school student when she died in 1932. Both Cornelia and her sister Margaret graduated with honors from the University of Michigan Law School and practiced with their father, the late Elmer H. Groefsema, a prominent trial attorney.

Margaret (Mrs. Marvin G. Schaeffer) is a judge in Michigan's 47th District Court.

Their younger sister, Dr. Christine Gram, is head of the poltical science and economics department at the Orchard Ridge campus or Oakland Community College and is president of the faculty association of all four campuses.

Judge Kennedy earns $54,500 as a federal judge (there is no increment for being chief judge)—and loves almost every minute of her work.

"I really enjoy the challenge and variety of being a judge," she says. "I enjoy trying cases and deciding legal issues. I get a lot of satisfaction out of it."

But long days in court listening to the constant din of voices—wrangling, explaining, denying, objecting, demanding—take their toll. "When I go home, I don't really watch much TV. People are talking all day in court. It's not terribly relaxing to go home and listen to more talk on TV."

Judge Kennedy has a staff of six—two secretaries, two law clerks a deputy clerk and a court reporter—but she regularly has to take home a briefcase stuffed with advance sheets and law publications.

"Charley and I settle down and do our homework every night," she says. "It's the only way I can keep up on the new decisions and memos from the staff."

What are the attributes of a good judge? "You have to have patience, stamina and a good legal education. You have to be firm and at the same time have a certain amount of compassion.

"People have asked me how I, as a woman, could sentence anyone to jail. Taking someone's liberty away from him is a difficult job, but it's something you do. It should be difficult. When it is not difficult any more, then you should not be doing it."

The Federal District Court handles "a lot of narcotics cases and a lot of bank robberies," she says. "The biggest problem is the number of criminal cases. We have the second highest number in the country, behind Los Angeles but ahead of New York, Chicago, Philadelphia and Houston. Our caseload per judge is higher than Los Angeles because they have more judges."

The court in Detroit has 10 authorized positions with one vacancy at present due to Judge Keith's departure. In addition, three senior judges (over 70 years of age) do substantial work. If Congress approves a pending bill, Detroit will get three more federal judges.

Meanwhile, Judge Kennedy says, "We don't have enough judicial manpower to give time to hear civil cases. Criminal cases legally take precedence under the Speedy Trial Act and 80 percent of our judges' trial time is in criminal cases. It has gotten worse in the past year."

The wide range of civil and criminal cases she has heard include aid to families of dependent children and Housing and Urban Development (HUD) scandals, admiralty and railroad cases (ship or train accidents), civil rights violations, tax evasion (a growing problem) and stolen postal checks.

In the only case she knows of in which HUD was sued by a neighbor, Judge Kennedy found for the neighbor and fined HUD the maximum claim allowed—$3,000. "The neighbor sued HUD because HUD owned the house next door and kept it in such poor repair that water poured from it into the neighbor's lot and basement, instead of going into the gutters."

Both the wetlands and the HUD cases are being appealed, which may have something to do with Judge Kennedy's ambition "to sit on an appellate court some day if the opportunity should arise."

She has twice been under consideration for nomination to the U.S. Supreme Court, but both times men were chosen.

Judge Kennedy is accustomed, if not addicted, to being the "first," the "only" or the "top" at lots of things.

She often wears a gold medallion that she received as one of the "Ten Top Working Women of 1971," part of Salute to Women Who Work Week which was sponsored for years by the Central Business District Association.

She was the only woman ever named a member of the Judicial Conference of the United States; the only woman ever elected chairman of the National Conference of Federal Trial Judges; the first woman ever elected a director of the Detroit Bar Association; and the only woman ever elected chairman of the negligence law section of the State Bar of Michigan.

In 1966 she was top vote-getter in the race for three new Wayne Circuit Court judgeships and served four years before being named a federal judge.

She's been running ever since her days at Redford High School, where she was editor of the school newspaper and the yearbook president of the National Honor Society and voted outstanding senior girl. At the U. of M. she was on the board of editors of the Michigan Law Review and was graduated with distinction.

"Not having time is the main problem in my life," says Judge Kennedy. "There are so many things I can't do that I'd like to do. I really try not to waste much time."

She has devoted much of her life to her legal career, campaigning for office, giving speeches, attending receptions and meetings. Has it all been worth it?

"I think so. I enjoy the work and I'm happy for the position. We have had some fine chief judges on this court and I intend to carry on the tradition. Other women have an opportunity to see that women can achieve this goal.

"The time I gave up might have been frittered away anyway. Small things I might have given up possibly wouldn't have resulted in any particular happiness.

"Except for my mother dying when I was 9 years old, I have had a wonderful life. I have a wonderful husband, a wonderful son and a wonderful job."

PANAMA'S BIKOS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. McDONALD. Mr. Speaker, amidst all the "selective indignation" voiced over the death of Stephen Biko in South Africa, it is interesting to note, by way of contrast, the deafening silence over the deaths of opponents of Omar Torrijos in Panama. To the best of my knowledge, these events received little or no press coverage in the West, let alone a police inquest as they did in South Africa. However, the Richmond Times-Dispatch, by way of an exception to the general run of the press, has published a very fine editorial on this subject matter, in its December 9, 1977, issue, which I feel merits the serious attention of my colleagues. The editorial follows:

[From the Richmond Times-Dispatch, Dec. 9, 1977]

PANAMA'S BIKOS

Outraged by the death of South African dissident Stephen Biko, American critics of South Africa are intensifying their demands for economic sanctions against that country to force it to abandon its policy of racial separatism. A country that represses and brutalizes its citizens, these people say, does does not deserve to benefit from American trade and American investments.

If this is so, then South Africa's critics should be delighted to accept an amendment to their proposal. Let us promptly impose economic sanctions on *all* countries that fail to comply with American standards of justice.

Perhaps, we should start with Panama, since we are currently involved in negotiations that could result in a substantial increase in the flow of economic benefits from the United States to that country. Its ruler, dictator Omar Torrijos, is widely regarded as one of the most brutal tyrants in power today; and if it is unconscionable for the United States to maintain economic ties with South Africa, it clearly would be unconscionable for the United States to ratify agreements that would give Panama a canal that represents a fixed investment of about $7 billion, increase the United States' annual canal "rental" payments to Panama and boost American economic aid to Panama.

A recently completed study sponsored by the Council for Inter-American Security, a private organization interested in the affairs of the Americas, concluded that there have been several "Stephen Bikos" in Panama since General Torrijos came to power. Here are some of his alleged victims:

Father Hector Gallego, a Roman Catholic priest who organized some agricultural cooperatives that proved to be damaging to the commercial interests of the dictator's relatives. Nothing has been heard of the priest since he was arrested by Panama's secret police on June 9, 1971, but it is rumored and generally assumed that he was tortured and murdered.

Jorge E. Falconet and Marlene Mendizabal, two University of Panama students who opposed the activities of pro-Torrijos, communist-oriented organizations at that institution. Both of them disappeared in 1976. Mr. Falconet is still missing, but Miss Mendizabal has been found—dead. Again, it is generally assumed that government agents were responsible.

Ruben Miro, an attorney, who allegedly was tortured and murdered after his arrest by national police.

Eduardo White reportedly died of injuries that police inflicted upon him with a rubber hose.

This is only an abbreviated list of General Torrijos' alleged victims. Many more have died under circumstances that suggested police complicity, and scores of others have been raped, tortured and exilied because of their conflicts with the Torrijos regime.

The study that gave these and other examples of General Torrijos' brutality was made by Dr. Gustave Anguizola, grandson of a former Panamanian secretary of the treasury and now a professor of history and political science at the University of Texas. The Inter-American Commission on Human Rights of the Organization of American States was so impressed by the study that it has agreed to investigate these and other alleged human rights violations in Panama.

Aware of the fact that his sordid reputation is partly responsible for the Senate's reluctance to ratify the proposed new canal agreements, General Torrijos is going through the motions of reforming. Over the weekend, he piously announced that he was canceling decrees that had limited freedom of assembly and had permitted the detention of prisoners without trial. Thus, he supposedly fulfilled a promise he had made to a group of visiting United States senators last month.

Fine. But what about the rubber hoses? The bone-crushing machines that mangle the hands of defiant prisoners? The ice-water baths? The batteries used to administer electric shocks? What about the murderers and rapists? There is no valid reason to believe that the general will banish these threats to human freedom, dignity and life.

So if the United States is to pursue a policy of inflicting economic punishment upon those countries whose internal policies offend American morality, the proposed new treaties should be tossed into the nearest wastebasket. The regime of General Torrijos is far less deserving of American economic support, it seems to us, than the regime of John Vorster.

PERSONAL EXPLANATION

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SARASIN. Mr. Speaker, on November 30, 1977, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 753: H.R. 9375—Supplemental appropriations. The House refused to order the previous question on the original motion after it had been ordered earlier by a division vote of 41 ayes to 11 noes, "no";

Rollcall No. 754: H.R. 9375—Supplemental appropriations. The House amended the motion from $11.5 million to $18 million that increases the Amtrak appropriations, "yes"; and

Rollcall No. 755: H.R. 9375—Supplemental appropriations. The House agreed to a motion, as amended, to recommit to the committee of conference the conference report on the bill making supplemental appropriations for the fiscal year ending September 30, 1978; with instruction to the managers on the part of the House that the House recede from its disagreement to Senate amendment No. 46, and concur therein with an amendment that increases the Amtrak appropriation from $8 million to $18 million, "yes."

Rollcall No. 756; H.R. 9346—Social security financing. The House agreed to order the previous question on the motion to instruct conferees, "yes," and

Rollcall No. 757: H.R. 9346—Social security financing. The House rejected a motion to instruct the Managers on the part of the House to insist on language providing for the liberalization and eventual repeal of the earnings test for individuals age 65 and over under the old-age, surviors', and disability program, "yea."

BUITONI FOODS CORP. CELEBRATES 150TH ANNIVERSARY

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MAGUIRE. Mr. Speaker, I would like to call attention to a company in my congressional district which is a good neighbor, a fine employer and credit to everyone connected with it. I refer to the Buitoni Foods Corps., of South Hackensack, N.J., which is celebrating its 150th anniversary. From its beginning, a century and a half ago in Italy, Buitoni has been a leader in the production of quality Italian food. It was, in fact, the first company to produce spaghetti commercially in Italy.

Buitoni, though of Italian origin, has strong roots in the United States. Its management is American, its employees American. its policies American, its outlook and its way of doing business are all American. Its food products though, I am delighted to report, are all authentically Italian.

Buitoni has been located in my district since 1952 and currently employs more than 400 people. These employees are carrying on Buitoni's 150-year tradition of making fine quality Italian food products. Food products such as pasta, sauces, pizza, frozen Italian specialities that are all in demand by Americans of various ethnic backgrounds throughout the United States.

I am happy to congratulate Buitoni and all of its employees on this happy occasion.

URBAN GOODS MOVEMENT

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FOWLER. Mr. Speaker, at this time I would like to insert in the CONGRESSIONAL RECORD the text of a statement by Mr. Nat Welch of the Georgia Freight Bureau to the Engineering Foundation Conference on "Goods Transportation in Urban Areas."

With our present concerns for making the most efficient use of energy and for reducing urban congestion, the topic of goods movement in urban areas should be of interest to everyone.

The statement follows:

THE SHIPPERS POINT OF VIEW ON URBAN GOODS MOVEMENT

(By Nat Welch, Executive Vice President, Georgia Freight Bureau)

Since I am the first speaker on the program from the State of Georgia, I want to take this opportunity to extend a very warm Georgia welcome to you.

For almost 250 years, this very island where we are meeting has played an important role in the history of the United States. Georgia was founded in 1732 by James Oglethorpe. He had two main bases of operation . . . . . Savannah and Sea Island. Savannah was the first planned city in America and today is still considered as one of the best planned cities in our nation. Savannah is prospering as never before and thank goodness the Oglethorpe city plan is still intact. Sea Island was the southern anchor against the Spaniards of the Georgia colony. One of the most important battles in American history took place less than three miles from this spot . . . the Battle of Bloody March, where Oglethorpe decisively defeated the Spaniards, An Oglethorpe lieutenant was John Wesley. His missionary activities on this island and in Georgia were not very successful but as you know he went back to England and founded the Methodist Church which is now worldwide in scope. And to bring you up to date on the history of Sea Island, it was less than three miles from this spot at the Musgrove Plantation where President-elect Carter in 1976 summoned the first Cabinet meeting of the present government of the United States.

I could keep talking about the history of Sea Island, one of my favorite subjects, but our agenda is "Goods Transportation in Urben Areas."

Last year, A. T. Kearney, Inc. completed "A Primer on Urban Goods Movement" for the Department of Transportation. Kearney reported that the nation spends $244 billion a year for domestic transportation. Of this, the nation expends 23%, or $56 billion a year, for urban goods movement. On the basis of this staggering sum alone we should be concerned about the problem. As shippers, our primary concern is operating a manufacturing, or distribution business at a profit . . . not an easy thing to do. Traffic, Transportation and urban goods movement have a low secondary priority in the operation of our day-to-day business. Only when there is a crisis does urban goods movement become of real concern to top management.

I would like to say that my experience in urban goods movement is primarily limited to Atlanta and Georgia. Our organization, the Georgia Freight Bureau, is a 75 year old trade association of 358 Georgia and southeastern shippers and receivers of freight.

In preparing these remarks, I called Collier Gladden, Planning Director for the City of Atlanta, and Joel Stone, Director of Transportation Planning for the Atlanta Regional Commission to ask the question, "What is going on in urban goods movement planning in Atlanta?" Both of these able professionals responded, "Very little". Our lack of emphasis in Atlanta can partially be explained by the fact that the Metropolitan Atlanta Rapid Transit Authority is now well into the construction of the second biggest construction project in the history of the South. I am glad to report this enormous project is on schedule and under cost estimates.

We are glad the Engineering Foundation has chosen to bring this important conference on urban goods movement to Georgia. This will help focus some attention on a very important subject.

I am not clairvoyant about future answers to the problem, but I can point with confidence to two clear answers in Georgia over the past twenty years to urban goods movement. We had a venerable politician named Jim Gillis who ruled for 25 years as the State Highway Commissioner. He had the foresight to place first priortiy on the construction of interstate highways in urban areas and low priority on sparsely settled areas. Under his formula, the interstate highway in his rural home county is just now being completed.

In recognition of his leadership in establishing these priorities for interstate construction, this spring the Georgia Freight Bureau named Mr. Gillis as one of the first twelve members of the Georgia Transportation Hall of Fame. Incidentally, Mr. Gillis' successor as State Highway Commissioner was a man named Bert Lance. He too was an able Commissioner. The other landmark decision made twenty years ago by planners was the decision to construct a 65 mile perimeter highway around Atlanta. Not only has this been a great economic boom, but has solved many problems in urban goods movement. The same can be said about a much smaller city, Dothan, Alabama, whose perimeter highway built in the early 1960's has been a profound and favorable economic growth stimulant on that Alabama city.

First, I want to make some observations on what planners and engineers can do to improve urban goods movement. I am sure that this will be old hat to you professionals. The construction and implementation of a well designed rapid rail-bus system in a metro area, like MARTA in Atlanta, will obviously take people out of cars and into buses and trains which will free arterial roads for better urban movement. One of the most serious problems in a metro area is the blockage of a whole traffic lane by a truck loading or unloading. We must do a better planning job with off-street loading zones to deal with this nagging problem. Engineers and planners have made fine progress in recent years with better bridge design providing for ample clearance room and sufficient strength for weights encountered. Street corners and intersections with greater radii would certainly improve the truckers problem with turning movements in downtown and congested areas. We have had an acute overload of our interstate system in Atlanta since the first construction took place. A stalled vehicle in a traffic lane plays havoc during the rush hour. The Georgia Department of Transportation has made noteworthy progress in the past few years in building adequate aprons on most of our interstate highways through metro areas. This has yielded a high cost benefit-ratio in my opinion.

As good planners, you know of course the importance of concentrating truck terminals in one area. The ideal situation would be to concentrate all truck terminals and rail yards in one area near an interstate intersection. But this is hardly possible since most rail yards were built many years ago. Our planners and real estate developers showed some real vision some 10 to 15 years ago in Atlanta with the development of the South River Motor Carrier Area. Now we have more than half the terminals of 65 motor common carriers located in this one area, which is near the perimeter and relatively isolated. In the key distribution center of the Southeast, the concentration of motor carrier terminals in this one area substantially improves the cost and fuel efficiency of interlining freight and also reduces noise and pollution.

We are also fortunate in having the two main rail switching yards of the Southern and Family Lines railroads abutting one another. Consequently most of the freight forwarding, piggyback and trailer mating activity is in this area. We have the advantage of isolation of these rail yards for noise and security purposes which makes them more compatible adjacent land uses but unfortunately we are running out of space for expansion. Prime Osborn, President of the Family Lines, the largest rail system in the South, says that our great area for improving rail efficiency is thru building modern electronic switching yards. Because we are running out of real estate in our metro areas, railroads are constructing their new yards away from big cities in small towns. The Family Lines' most modern yard is now going on line at Waycross, Ga. The Southern Railroad completed a new yard at Sheffield, Ala. in 1973 and has under construction at Linwood, N.C. a $40 million yard which will help their Potomac Yard across the river from Washington, D.C. This trend is also being followed by some motor carriers in establishing large break-bulk terminals in small towns. Overnite Transportation Co. recently went operational at a large facility near Gaffney, S.C. These facilities help relieve the traffic pressure on large cities.

And now I would like to turn to what shippers and carriers can do to improve urban goods movement. Maybe all of us should visit the garment district in New York City to see the most congested form of urban goods movement. Not only is this area inefficient time and equipment-wise, but shippers have to pay a delivery surcharge in Manhattan. For example, the surcharge is 1.48 per hundred weight subject to a minimum charge shipment of $10.97. You can see the problem heading toward this intensity in Atlanta from 4:00 to 6:00 PM on the expressways. Let us look at the typical pick-up and delivery routine of a motor carrier in a big city. The P&D driver leaves his terminal around 8:30 AM and spends the morning delivering merchandise. Most shippers are processing their goods during the day and push hard for carrier pick-up between 3:00 and 5.00 PM. So you can see what a frantic period this is for carrier and shipper alike. This is further aggravated by acute traffic congestion at this time. One veteran Atlantic traffic manager, Walter West of Montag Division of Mead Corp. told me his plant frequently runs on two shifts including the shipping department during their rush season. The night shift prepares orders for shipment the following day. Some carriers do not have equipment to spare for morning pick-up. West stays with carriers who can do the job for him and can meet such request as morning pick-ups. Carriers can improve their efficiency by the use of a grid system rather than a spoke system. In a spoke system, after delivering in the morning, the driver is at the farthest point of his route at mid-day and forced to both pick up and deliver, an inconvenience to the shipper. Thru the use of the grid system, the driver can deliver in his grid in the morning and go back for a pick-up to the same list of shippers in the afternoon . . . a much superior system to the spoke system.

A. T. Kearney reports that his organization has conducted over 350 studies for private firms in the last 20 years applying route engineering techniques to improve management of urban goods movement operation. The result has typically provided a 15% to 40% reduction in goods movement cost. If this experience is typical and could be applied to all urban goods movement, it would result in a nationwide cost reduction of from $7 billion to $20 billion per year.

Our expressways in major urban areas are horribly congested during the morning and afternoon rush hours. We have simply got to do a better job of utilizing this multi-billion dollar investment. Looking out a decade ahead, our carriers and major shippers must give serious thoughts to operating at night in urban areas. Think of the dramatic improvements that could be made in urban goods movement with night pick-up and delivery. Do not the advantages clearly outweigh the disadvantages?

As shippers, we need to increase the delivery lot size. By so doing the cost savings in intra-city goods movement is obvious.

Perimeter and radial interstate highways in suburbs are attracting manufacturing and distribution businesses and motor carrier terminals from the central city. The erosion of jobs has a very unfavorable impact on our central cities where more jobs are needed. Central city governments, planners and the DOT need to do a better job in improving arterial central city streets to improve goods movement and lower costs for existing firms.

Mayor Maynard Jackson and his administration are pushing for economic development in South Atlanta, part of which is the South River District where most of our motor carrier terminals are located. We need to maximize our advantages. Where better to distribute to the Southeast than at the very hub where so many motor carriers are concentrated? Would it not be an advantage for a warehouse to be physically located among these terminals rather than 25 or 50 miles away? Often it is a disadvantage. If a carrier uses a spoke pick-up and delivery system, his truck is at times so loaded on the return he cannot pick up from the last warehouse even though it is the nearest.

One incentive for the location of plants in the proximity of these terminals would be a decent discount to the shipper for the delivery of goods to the carrier's dock. But the Southern Motor Carrier Rate Conference tariffs offer only a token discount for this. The Central and Southern Rate Bureau does offer a very attractive rate for freight brought to the carrier for shipment from Chicago and St. Louis to Georgia and Alabama points. For example the minimum charge is $16.52 instead of $20.22 for the standard service. We can improve urban goods movement by locating more plants near motor carrier terminals but the carrier needs to offer the shipper a rate incentive.

And now let us turn to some important regulatory reforms made by the Interstate Commerce Commission and Congress this year which the Georgia Freight Bureau believes will improve the efficiency of urban goods movement. In a landmark decision which went into effect on April 9, 1977, the ICC expanded commercial zones in all American cities. In Atlanta we have fought long and hard for this zone expansion. The ICC decision expanded our zone from 5 to 10 miles beyond the city limits. The effect of the decision is to exempt all common carriage within the zone from ICC regulation. Only 25 old-line carriers had 15 mile authority in Atlanta whereas the balance had only 5 mile authority. This meant when goods came into the city on one of these 40 carriers, the goods had to be interlined . . . . .turned over to another carrier for delivery outside the zone. This was time consuming, expensive, wasteful of fuel, manpower and equipment, and increased the likelihood of damage and theft. The short haul carriers nationally appealed this decision which was heard last month in the Circuit Court in San Francisco. We can report in Atlanta that shippers, local governments, chambers of commerce, planning officials, local cartage agents and many carriers are elated over the decision. It is a case of the public good prevailing over a small minority interest.

On its own initiative this summer under the progressive leadership of a new chairman, Daniel O'Neal, the ICC has asked for public comment on a proposed expansion of air terminal areas from 25 to 100 miles. This would enlarge the area exempt from the ICC regulation of surface moves connected with subseqent air moves. In our judgment, this action will improve the transportation efficiency of air freight.

Three weeks ago, President Carter signed a bill which deregulates the air cargo industry. Business Week states, "Under the new law, existing cargo carriers—including passenger lines with all-cargo service—will be issued a certificate by the CAB that gives them permission to fly anywhere, anytime. New applicants for all-cargo service will be able to bid for CAB approval a year from now." The two main beneficiaries will be Flying Tiger Line, the world's biggest all-cargo airline, which is now restricted to serve on 10 U.S. cities, and Federal Express Corp. which must now use aircraft with maximum payloads of 7,500 lbs. Federal Express' efficiency will improve considerably with the use of Boeing 727's compared to their present equipment, the small Falcon. I predict a substantial increase in air cargo volume but this should provide only a very small increase in the total volume of urban freight movement.

In conclusion, we would like to thank you again for bringing this important conference to Georgia. This conference has certainly sharpened the interest of the Georgia Freight Bureau in urban goods movement. As a consequence we are going to give serious thought to sponsoring this coming year a seminar on urban goods movement to create a healthy interchange between shippers, carriers, government officials, and planners and hopefully to focus attention to this important national problem.

TERRORIST BOMB INVESTIGATION BREAKTHROUGH

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DORNAN. Mr. Speaker, today I have written Eberhardt Rechtin, president of the Aerospace Corp. in Los Angeles, to congratulate him on a major breakthrough in the battle against criminal bombings. Aerospace has developed and successfully tested traceable explosive taggants which will aid agents of the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, as well as police and arson investigators in locating the original source of explosives used in a crime.

This "landmark," as it was termed by ATF Deputy Director John Krogman, enables investigators to recover tiny, color-coded chemical particles from the site of a bombing. The particles, or "fingerprints," are added to explosives during manufacture, and serve as keys to manufacturer, retailer, and final purchaser. Such developments are continuing evidence, Mr. Speaker, that the expertise and imagination of our science and law enforcement communities are working effectively to help "insure domestic tranquillity." I am proud again of the extraordinary Aerospace Corp.

HUMAN RIGHTS AND PSYCHIATRY IN THE SOVIET UNION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. WEISS. Mr. Speaker, the role of psychiatry in the practice of medicine and in society has become a growing and important one. As in any science or professional practice the question of what kind of ethical guidelines should rule that profession or science is especially crucial to its integrity.

On August 31 of this year the World Psychiatric Association (WPA) approved two resolutions concerning the abuse of psychiatry in the Soviet Union. Printed below are these two resolutions—the first condemning Soviet psychiatrists for systematically abusing psychiatry for political purposes and the second establishing a monitoring group to review the abuse of psychiatry worldwide.

[From the Sixth World Congress of Psychiatry and General Assembly, World Psychiatric Association]

Soviet Abuse of Psychiatry

The Royal College of Psychiatrists (Great Britain) submitted the following Resolution:

"The World Psychiatric Association, taking note of extensive evidence of the systematic abuse of psychiatry for political purposes in the U.S.S.R., joins in the condemnation of these practices, which has already been made by the British Royal College of Psychiatrists as well as other bodies."

Amendment to Resolution of Royal College of Psychiatrists Made by the Royal Australian and New Zealand College of Psychiatrists:

"That the World Psychiatric Association take note of the abuse of psychiatry for political purposes and that it condemn those practices in all countries in which they occur and call upon the professional organisations of psychiatrists in those countries to renounce and expunge those practices from their countries; and that the World Psychiatric Association implement this Resolution in the first instance in reference to the extensive evidence of the systematic abuse of psychiatry for political purposes in the U.S.S.R."

The Amended Resolution carried by a vote of 90–98. The APA delegate, Jack Weinberg, M.D., seconded the Amended Resolution and voted for it.

MOTION TO ESTABLISH A REVIEW MECHANISM

The APA submitted the following motion to the General Assembly:

"The World Psychiatric Association opposes the misuse of psychiatric skills, knowledge, and facilities for the suppression of dissent wherever it occurs, and will establish a Committee to review Abuse of Psychiatry to review all notices or complaints which are officially addressed to the President of WPA regarding the political abuse of psychiatry, and if sufficient evidence warrants, may, (1) review allegations of violation of the WPA policy regarding abuse psychiatry by seeking additional written information, and/or personal testimony from whatever sources deemed necessary, and/or by site visits; and, (2) recommend such corrective actions which seem appropriate to the Executive Committee of the WPA.

"The members of the Committee shall be appropriated by the President and approved by the Executive Committee. The Committee to Review Abuse of Psychiatry is further charged to ensure that all of its deliberations are carried out in a manner which affords fair and equitable representation from the WPA member societies in the country where the alleged violation(s) occurred.

"The WPA shall establish a special fund which will receive donations from individuals and organizations for the express purpose of financing the activities of the Committee to Review Abuse of Psychiatry. All expenditures of monies from this fund must be approved in advance by the WPA Executive Committee and follow the general WPA policies for expenditures of funds."

This motion was carried by a vote of 121–66.

I also wish to draw attention to two news articles that appeared recently in relation to the action of the WPA and a third article concerning the relationship of psychiatry and politics abroad. These articles underline the extremely sensitive relationship between psychiatry and politics—a relationship that has been easily trespassed in the past and which must be vigilantly guarded in the future. I commend these articles to my colleagues and the general public:

[From the Washington Post, November 15, 1977]

Curbing Psychiatry's Political Misuse

(By Peter Reddaway and Sidney Bloch)

At its recent congress in Honolulu, the World Psychiatric Association (WPA) began, after six years of delay, to face up to its ethical responsibilities. It condemned, by a narrow margin, the political misuse of psychiatry in the Soviet Union and passed, by a 121–66 vote, an American resolution to establish a committee to monitor these and other unethical practices wherever they might occur.

Will this committee fulfill its purpose? As the WPA is a nongovernmental, professional organization, the monitoring committee should in principle be able to act freely. It should not suffer from the diplomatic restraints that have prevented the World Health Organization (WHO), a U.N. body, from even noting the Soviet abuses, let alone investigating them as it should have done.

At its formation the committee can expect to receive documentation on past and present abuses in the Soviet Union, Romania, East Germany, Argentina, South Africa, the United Kingdom (interrogation methods in Ulster) and the United States (the CIA experiments on the use of LSD to alter people's thinking). Already it has been offered a site visit—to the South African mental institutions that have recently been investigated by the WHO for alleged abuses against black patients. The South Africans have rejected the charges made in a preliminary WHO report, and have pointed out that their invitation to the WHO director general to inspect the institutions has not been taken up. Now they have issued a similar invitation to the WPA. This precedent will make it easier for the monitoring committee to press for site visits to other countries, notably Russia, whose prison psychiatric hospitals have remained entirely barred to foreign psychiatrists.

All indications at the world congress and since suggest that among the "suspect countries." Russia is the most defensive. Although the Soviet delegates approved a declaration on psychiatrists' ethical principles adopted in Honolulu, they opposed the formation of a monitoring committee because it would "infringe the national sovereignity of states" and "interfere in their internal affairs."

In addition, Soviet spokesmen have issued wholesale denials saying that in any case no abuses have occurred in Russia. They have denounced the extensive evidence to the contrary, not by rebutting the points made but by trying to smear the authors. They have also made vague (and false) claims that literature on Soviet abuses available in Honolulu was financed by the CIA. Another tactic has been to assert that ex-victims of psychiatric repression like Vladimir Bukovsky and Leonid Plyushch really are schizophrenic. Such statements have been little publicized in the West, even in Communist media. The latter have not forgotten that in 1976 the British Comunist paper The Morning Star printed similar libels and promptly had to publish retractions and pay out compensation.

Soviet media have also portrayed Bukovsky as a common criminal rather than a political dissenter, overlooking the fact that the Kremlin exchanged him last December for Chile's top political prisoner, Luís Córvalan. In addition, Moscow Radio and the Soviet press have repeatedly publicized complimentary statements made—or allegedly made—by Westerners about Soviet psychiatry in recent years. The latest such praise was initially reported in the Austrian Communist paper Die Volkstimme on Aug. 30, but subsequently denied by the Austrian psychiatrists concerned. Undeterred, the Soviet media have repeated the falsified statements.

But the Soviet record of consistently "covering up" psychiatric abuses through misrepresentation and blanket denials now shows signs of backfiring and playing into the hands of the WPA monitoring committee. It was noted in Honolulu that the leading Soviet psychiatrists had no answer to the documentation of their systematic mendacity over the years and of their persistent manipulation of the WPA—they carefully avoided the subject. As a result, in the eyes of many present, their long-questioned credibility finally evaporated.

Thus if world psychiatry—and public opinion generally—maintain their pressure, these psychiatrists and their system of abuse will become even more vulnerable than they are at present. The politicians will, in that case, probably shunt these men quietly into sinecure professorships or early retirement. In addition, Dr. A. V. Snezhnevsky's theories, which equate dissent with schizophrenia, will lose their officially protected, near-monopoly position; dissenters inappropriately interned in mental hospitals will gradually be released; and reformist campaigners like the newly sentenced Moscow metal-worker Felix Serebrov and the much-hounded medical assistant Alexander Podrabinek will become less subject to the KGB's attentions.

Is it too much to hope that by the time of the next world congress in 1982, humane psychiatry may have revived in Russia and other countries where abuses now take place, and psychiatrists everywhere will be more alert to their ethical responsibilities?

[From the Wall Street Journal, Sept. 22, 1977]

Psychiatric Terror

The World Psychiatric Association at its recent world congress in Honolulu finally censured the Soviet Union for using psychiatry to repress political dissenters. But the resolution passed by only 90 to 88 votes, thanks only to a weighted system of counting; a majority of the national delegations actually opposed the resolution. The closeness of the vote shows that this apparently clear-cut issue touches a raw nerve not only in the Soviet Union, but in the practice of psychiatry itself.

Soviet abuse of psychiatry has now been documented beyond a reasonable doubt. The West has heard credible first-person accounts from exiled dissenters like Leonid Plyushch and Zhores Medvedev, and the book "Psychiatric Terror" (Basic Books, New York), published by leading organizers of the WPA censure, painstakingly lists 210 Soviet citizens who since 1962 have been interned in psychiatric hospitals because of their political or religious beliefs. At the Honolulu congress, the Soviet delegation, including some of the doctors most responsible for these abuses, didn't really deny the charges; instead, they challenged their critics to prove these dissenters were sane.

This brazen defense underscores the corruption of the Soviet profession. The problem isn't simply that the regime finds it more convenient to commit some dissidents rather than bring them to a potentially embarrassing public trial. The problem is rather that Soviet psychiatry uniquely lends itself to this practice.

The most powerful figure in official Soviet psychiatry, Dr. Andrei V. Snezhnevsky, owes his prominence to his peculiar but politically convenient theories of schizophrenia. As Peter Reddaway and Dr. Sidney Bloch, authors of "Psychiatric Terror," outline it in an article in New Scientist. Dr. Snezhnevsky teaches that schizophrenia is irreversible and in some forms gradually developing, and he defines its symptoms every broadly. In one form often diagnosed in dissidents—"sluggish schizophrenia,"—the onset is barely perceptible, showing symptoms like "paranoid delusions of reforming society" or "poor adaptation to the social environment." This school has introduced the novel concept of "seeming normality"; the patient may require confinement even though he appears healthy to his friends and family, in fact to everyone but the specially trained forensic psychiatrist.

Dr. Snezhnevsky's doctrine is of more interest to Sovietologists than to psychiatrists, since it shows the strange affinity of Marxism for all kinds of pseudoscience. His commanding role in Soviet psychiatry is eerily reminiscent of the way the charlatan T. D. Lysenko once tyrannized Soviet biology; his power comes not from the soundness of his ideas, which have been hotly debated within the Soviet Union itself, but from the patronage of the government which finds him so useful.

The uniqueness of the Soviet case needs to be emphasized, yet, without blurring our horror at the perverted science, we can also say that in some respects it is an extreme logical extension of basic flaws in psychiatry itself. It's hard to imagine, for instance, that a dissident could be put away on a trumped-up diagnosis of typhoid, yet the physical evidence and cause-to-effect reasoning of medicine isn't available to the mental clinic. Even without political distortion, definitions of mental disease vary widely from country to country. The U.S. itself follows a much looser concept of schizophrenia (although not Dr. Snezhnevsky's!) than does Western Europe, and one 1972 study found that the comparable groups of patients, this diagnosis was made twice as often in New York as in London.

With this degree of arbitrariness weighing on their conscience, many Western psychiatrists have been reluctant to condemn the Soviets. Yet, as the WPA finally recognized at Honolulu, the profession can't correct its flaws by ignoring them. Along with the censure motion, the Honolulu congress established a committee to review charges of psychiatric abuse. If this body works as it should, it could have an enormous healthy influence, not only on the Soviet Union, but in all the instances in which legal limits on a person's freedom are made to depend on psychiatric judgment.

[From the Washington Post, Nov. 29, 1977]

NINETY-TWO MEDICAL PRISONERS ARE LISTED BY AMNESTY

Amnesty International published a list yesterday of 92 members of the medical profession who are imprisoned for their political beliefs in 25 countries.

The London-based human rights organization, winner of the 1977 Nobel Peace Prize, said many are held without trial and some have been tortured. The list "is by no means comprehensive," it said.

Detentions were not necessarily "a direct result of their medical duties," the Amnesty report said, but it gave this explanation:

"Medical personnel are daily in touch with acute individual suffering, which in many cases leads to work in a broader social context—work that sometimes challenges political decisions about their country's distribution of health facilities or abuses of their profession for political purposes."

As an example of such an abuse, the report cited the case of Soviet psychiatrist Semyon Gluzman, "who refused to compromise his medical ethics and protested against the forced internment of sane political dissidents in Soviet psychiatric hospitals."

Gluzman, 29, was arrested in 1972 after underground documents were allegedly found in his possession. He is now serving in a labor camp and is one of 11 Soviet medical persons listed by Amnesty.

The largest group on the list is of Indonesian medical prisoners, with 13. Their detention, in most cases for 12 years, is because "the government suspects them of being Communists," Amnesty said.

Seven Argentine and six Chilean medical prisoners are included, most of them adopted as "prisoners of conscience" by the organization—which encourages local committees to write the governments involved seeking the prisoners' release.

The American Public Health Association, at a meeting here earlier this month, heard testimony by exiled doctors on another human rights abuse: They testified that hundreds of Chilean and Argentine medical professionals have been forced into exile. Others have chosen to live abroad because of conditions under military governments at home.

Dr Silva Bermann, former president of the Argentine Federation of Psychiatrists, listed eight psychiatrists who had either been arrested or disappeared, none of whom figures in the Amnesty report.

GIVES BALANCE ON NUCLEAR PROBLEM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SIMON. Mr. Speaker, Someone has called my attention to the remarks of Commissioner Victor Gilinsky of the Nuclear Regulatory Commission made on November 3, to the Washington Center of Foreign Policy Research of the School of Advanced International Studies of Johns Hopkins University.

I am one of those caught in the dilemma by our nuclear problems, concerned about energy shortages which we are going to have but also concerned about the dangers I see in some of our nuclear enterprises.

Commissioner Gilinsky's remarks appear to me to strike a sensible middle ground in the problem we confront.

I am having them inserted into the RECORD at this point, and I hope some of my colleagues will take the time to read what he has to say:

NUCLEAR ENERGY AND NUCLEAR PROLIFERATION

(By Victor Gilinsky)

INTRODUCTION

I have been asked to provide a brief comment as a basis for discussion of the relationship between nuclear electric power and nuclear weapons development. This relationship is central to any policy on the use of nuclear energy internationally as well as domestically. As our understanding of it has changed over the years, so has our policy.

The most recent metamorphosis has taken place in consequence of the seriousness with which President Carter has viewed the peaceful-military connection in nuclear energy. In a major statement on nuclear policy last April 7th, and again on October 19th in remarks to the organizing session of the 40-nation International Nuclear Fuel Cycle Evaluation Conference, he outlined a clear change in attitude and direction towards civilian nuclear power and its role in increasing the danger that nuclear weapons will spread to more and more countries. As you probably know, this matter is also addressed in a bill, the Nuclear Nonproliferation Act of 1977, now before the Congress. It seeks to impose stricter rules on U.S. nuclear exports to make sure they do not get used for explosives.

The bill has passed the House by a vote of 411 to zero, but encountered heavy weather in the Senate this session, partly because of intense lobbying by some elements of the nuclear industry. Their position, in practical effect, has been that the relationship between the commercial nuclear fuel cycle and nuclear explosives is so remote that further controls are unnecessary—or, alternatively, if not remote, then so far gone that it is too late to reverse. On each side of the issues underlying a recommended nuclear export policy is a conception of the relationship between nuclear energy and nuclear proliferation. As the President said on October 19th, the subject is inherently controversial and can stand some clarification.

ACCESS TO NUCLEAR EXPLOSIVE MATERIALS

I do not want to dwell here on technical details, but a few remarks may be helpful. The essential nuclear explosive ingredients of nuclear warheads are plutonium or highly enriched uranium. You may recall that plutonium for our own nuclear weapons program has been produced in large special purpose reactors and separated from the spent fuel in reprocessing plants at the Hanford and Savannah River facilities. The highly enriched uranium has come from a complex of plants at Oak Ridge, Tennessee and similar facilities in Kentucky and Ohio, all of which are now used primarily to enrich uranium fuel for power reactors throughout the world.

The generation of electricity by nuclear means raises international security issues because uranium-fuel nuclear power reactors also produce plutonium. Commercial spent fuel reprocessing plants, which separate plutonium, provide easy physical access to large quantities of nuclear explosive material. And the same technology (and in some cases the same plants) used to enrich uranium for fuel can also be used to enrich it further for explosive purposes.

The essential point is this: obtaining the requisite explosive material is still the most difficult and time-consuming item in the initial production of nuclear weapons.[1]

The operation of civilian nuclear power reactors and certain ancillary facilities—plutonium separation and uranium enrichment plants—can therefore remove key technological hurdles in this process and make it easier for a country to manufacture nuclear warheads, and quickly, once it decides to do so.

Such a decision will, of course, depend on the political and military situation in which a country finds itself at the moment of truth. Still, any serious antiproliferation policy, in addition to reducing the incentives to acquire nuclear weapons which grow out of genuine security concerns, must also aim at keeping it from being technically too easy to take up the military option. It is this latter question I want to talk about today.

The degree to which physical access to the essential nuclear explosive ingredients of nuclear warheads—either plutonium or highly enriched uranium—is facilitated by the operation of the commercial nuclear fuel cycle depends on the kinds and sizes of nuclear facilities in place and how the fuel cycle is operated. The important distinction between less dangerous and more dangerous fuel cycle activities forms the basis of current U.S. policy—which supports the relatively safe activities and seeks to restrict the dangerous. The line that is drawn between the two is not popular, either with the uncompromising opponents of nuclear energy (who regard all its aspects as equally dangerous), or with its zealous supporters (who until now have resisted labelling any aspect of the fuel cycle as dangerous).

SOME HISTORICAL PERSPECTIVE

Some historical perspective on this distinction is useful. U.S. nuclear energy policy was from the first based on a keen awareness of the dangerous aspect of nuclear electric power. The Acheson-Lilienthal Report of 1946 (which makes pretty good reading thirty years later) concluded that the only safe way to exploit nuclear power was under international supervision and control. The report recommended that dangerous elements in the nuclear fuel cycle—those that provided direct access to nuclear explosive materials—be placed under international ownership, but the related U.S. proposal to the United Nations was not adopted, in part, because the Soviet Union would not agree to participate. (It is interesting to speculate on what might have happened had we gone forward without the Russians.) What did happen was that by the mid-fifties individual countries were proceeding to develop their own nuclear programs, encouraged and assisted by the U.S. Atoms for Peace program.

An International Atomic Energy Agency was established in 1957, primarily to monitor the flow of commercial nuclear materials and equipment among member countries wishing to avail themselves of these services. While the fact that nuclear explosive materials were dangerous and should be kept out of harm's way was recognized—Article XII of the agency's 1957 Charter speaks of IAEA custody over "excess" quantities of plutonium as a means of avoiding their accumulation in individual states—the use of plutonium and highly enriched uranium was not specifically restricted beyond requirements for agency inspections.

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[1] See the 1975 Encyclopedia Americana article on Nuclear Weapons by John Foster, then the Defense Department's R & D chief and a former director of the Livermore Laboratory: "It must be appreciated that the only difficult part of making a fission bomb of some sort is the preparation of a supply of fissionable material of adequate purity; the design of the bomb itself is relatively easy."

The security implications of a course which led to easy access to nuclear explosive material in national stockpiles were apparently not obvious to the nuclear policymakers of the fifties and the sixties. The prospect of many nations in possession of substantial quantities of nuclear explosive materials all seemed very far away; nuclear weapons were assumed to be enormously difficult to design and fabricate; and the U.S. near monopoly on the technology, fuels and equipment for civilian nuclear power activities worldwide seemed to ensure U. S. control of the situation. Fledgling nuclear power programs were not thought then to have much to do with the development of nuclear weapons. The earlier prescience of the Acheson-Lilienthal group that they had everything to do with it was ignored. It is paradoxical that the true believers in technological progress did not contemplate the logical extension of that progress.

This may be explained in part by the fact that there was some genuine confusion on the technical side. It was once widely thought, for example, that "reactor grade" plutonium, that typically derived from spent power reactor fuel, was not suitable for use in nuclear weapons. This misconception about the possibility of "denaturing" plutonium, which seems to have originated in the Acheson-Lilienthal report, persisted until recently in many quarters—a confusion which apparently even the IAEA shared.

The unfortunate result was that many of those responsible for protection against diversion of plutonium to military uses were working under the impression that technological barriers against misuse of plutonium made their job of protecting the public easier. In fact, those technological barriers did not exist.

A CHANGE IN CIRCUMSTANCES

The situation is now altered and there is no longer any innocent excuse for the perpetuation of the notion that reactor-grade plutonium cannot be used for weapons. The U.S. government has stated unambiguously that this material can be used to produce militarily important nuclear weapons, and that a device using reactor grade plutonium has been successfully tested. The fact is that in simple designs for nuclear weapons plutonium from power reactors can be used to produce explosions with yields reliably in the range of kilotons—but any conventional measure highly powerful explosions. I stress this last point because some of those who argued it could not be done have fallen back to discounting the military significance of explosions of this size.

Information gaps have also been closed in the current version of the IAEA Safeguards Technical Manual, which provides the following guidance: plutonium of any grade, in either metal, oxide or nitrate form can be put in a form suitable for the manufacture of nuclear explosive devices in a matter of days to weeks.

To make full use of such a technical possibility, a country would have to perform the necessary preparatory work in advance, and secretly. This is a threat, however, that has now taken on a reality not present when the basic international rules for nuclear trade were formulated twenty years ago.

There have been other changes which contribute to the immediacy of the proliferation danger posed by commercial activities. First, the civilian nuclear power industry has grown enormously and by any reasonable measure (the plutoninum production rate or the size of uranium enrichment facilities being utilized) exceeds the scale of the world's military nuclear programs. In fact, in most countries the quantities of plutonium in spent reactor fuel, if separated out and stored, will dwarf any plausible military needs.

At the same time technical possibilities expand, however, the political alternatives for a country seeking nuclear weapons are narrowing. There is no question that as the dangers of proliferation gradually sink in, the major nuclear exporters are showing less inclination to continue the laissez-faire approach which has unfortunately characterized nuclear trade in recent years. The time is fast approaching when a country can no longer count on the international community to look the other way while it openly puts together an explosives program, even if it does so without violating the strict letter of various international cooperative agreements.

The recent alarm over the possibility of a nuclear test in South Africa and the international attempt to intercept it underlines this point. Ironically, it also emphasizes to any would-be nuclear weapons state the critical importance of concealing its intentions up until the last moment before an explosion.

A NEW POLICY FOR A NEW SITUATION

These considerations reflect a fundamental change in the nuclear state of affairs internationally. It is a change that forces us to confront the inescapable fact that parts of the civilian and military aspects of nuclear energy are too closely related for comfort. Once that fact is accepted, a change in nuclear policy is mandatory. The Acheson-Lilienthal group saw the dangers clearly; their view led to the decision, in 1946, to try to internationalize atomic energy. When that failed, the U.S. withdrew into a period of secrecy. Eventually we became more relaxed about the development of nuclear energy for peaceful purposes and secrecy was abandoned. Because we mistakenly thought civilian reactor safeguards could be stretched to cover the more dangerous elements in the fuel cycle—such as plutonium reprocessing when that day came—we allowed plans for the use of plutonium to go forward unhampered. There is where the damaage was done.

The increased size and worldwide growth of the nuclear industry, the prospective availability of plutonium, and the inability to safeguard it properly against the possibility that it would be used for weapons as well as fuel led to a reassessment of the dangers; at the same time, the sharply increased projected costs of commercial reprocessing led to a critical reevaluation of the economic advantages of an early commitment to plutonium use. This in turn led to the shift in nuclear policy reflected in the actions of Presidents Ford and Carter in their efforts to restrict access to dangerous materials, to pause in the commitment to plutonium separation and use, and to search for alternatives to national stockpiling. In a sense we are now doing what we failed to do twenty years ago—thinking ahead.

Unfortunately it is getting a little late; our domestic industry and our international trading partners perceive the shift in nuclear policy as a threat to nuclear power and are pulling very hard in the opposite direction. The controversy is intense and every conceivable argument against making any connection between civilian and military uses of nuclear energy has been put forward.

WHAT ABOUT UNSAFEGUARDED PRODUCTION REACTORS?

It is contended, for example, that no country choosing to build nuclear weapons would turn to its civilian power reactors for the requisite explosive materials; to divert material in this way would risk detection by the IAEA inspectors, and in addition would provide too poor a grade of plutonium to interest weaponeers. Under this selfserving theory, if weapons material is wanted, a special-purpose, unsafeguarded reactor would be built. It is possible at the moment to do this legally in countries not party to the Nonproliferation Treaty and therefore not subject to inspection of all its indigenous nuclear facilities. This underlines the need to extend the requirements of the treaty to nonsignatory nations by conditioning nuclear trade on acceptance of international agreements and inspection on all nuclear activities within importing countries. There is increasing pressure to do this, and the bill now before the Congress makes this a condition for U.S. nuclear exports.

Even if legal, however, the construction of a special purpose plutonium production reactor signals a country's intention to build bombs and, in the present climate, risks premature interception of its attempt to obtain explosive material for nuclear weapons. This risk can be avoided, however, by stockpiling separated plutonium from spent power plant fuel openly and legally. A defense establishment can design and fabricate a bomb in privacy; the illegal activity is then confined to a swift, almost one-step process: appropriation from its storage place of the necessary plutonium, fabrication, and insertion into the waiting bomb. It is surely the quickest, cheapest, and least risky route to nuclear weapons. So long as individual nations are permitted to keep nuclear explosive stockpiles they are, in effect, in possession of an option to make nuclear weapons almost literally overnight.

CAN WE RELY ON INTERNATIONAL SAFEGUARDS?

But, it is argued, if these nuclear activities are placed under the protection of international safeguards, it isn't necessary to put constraints on plutonium reprocessing or uranium enrichment. All that's needed is to beef up the IAEA's current inspections—more inspectors, more equipment. But safeguarding reactors and their fuel—typically many technological steps from use for nuclear weapons—is one thing; "safeguarding" the nuclear explosive material itself is quite another.

Periodic inspections of nuclear power programs involving only power reactors can provide a significant degree of protection by providing international warning of possible wrongdoing. This is because it takes many months or years to obtain the plutonium separation capability to turn reactor fuel into a form usable for weapons; awareness of a reliable advance warning system which would spot such activity serves as a deterrent to illict bomb programs. It is important here to appreciate the vital element of time: the object of international inspection is to frustrate the purpose of the diversion by ringing an alarm *in time* to allow for counter-action by the international community. If sufficient time for effective response is not provided, "safeguards" won't work.

In other words, from the moment spent reactor fuel is translated into separated plutonium and stored, the element of "timely" warning, on which our present safeguards systems has been relying, evaporates. The same is true, of course, for stockpiles of highly enriched uranium.

It is important to understand that so far as safeguards are concerned a stock of nuclear explosive material is a lot more like a bomb than it is like a reactor. No one would dream of suggesting that nuclear explosive devices, regardless of how labelled, should be exported under international safeguards. The Nonproliferation Treaty settled once and for all the notion that nuclear explosives came in two categories—military and peaceful. Under the treaty no such distinction is permitted. Yet strip away the electronics and the conventional high explosives and label the plutonium as intended for peaceful purposes and many nuclear spokesmen, at home and abroad, will tell you that if subject to occasional inspections it is a perfectly safe proposition: just like safeguarding power reactors.

AGREEING ON COMMON RULES

Two Presidents have decided otherwise. They perceived a serious safeguards deficiency and moved to change U.S. policy in consequence. The primary imperative of the new policy is to develop common rules for international nuclear trade. But before these rules can be formulated, much less implemented, it will be necessary to arrive at a common understanding of what is dangerous and what is not. It is clear that such an understanding does not yet exist, as witness export sales by our nuclear trading partners of plutonium reprocessing and uranium enrichment facilities. Common understanding must extend as well to how much the spread of nuclear weapons threatens individual countries and world security. This is a tricky matter, because intense international competition in nuclear commerce is involved—with its accompanying heavy investment as well as national pride—and tends to obscure the threat.

The fear of additional controls and their impact on international markets has led our own nuclear industry to attack the validity of the distinction being drawn between nuclear reactors and their low-enriched uranium fuel (a comparatively benign combination when subject to comprehensive oversight) and the more dangerous situation in which individual countries have access to facilities for the separation and storage of the plutonium derived from the operation of their power reactors. In the face of all evidence to the contrary, they have steadfastly insisted that international inspections of plutonium reprocessing activities will adequately protect against the danger of proliferation.

Their argument has now taken an odd turn. The lobbyists against control legislation maintain that the restrictions on commercial reprocessing facilities proposed by the President and the Congress involve a sacrifice without reward—no added safety can derive from such an action. According to industry spokesmen, just as countries with legal access to plutonium might design and fabricate weapons secretly, so countries without such legal access might also, without much added effort, reprocess spent fuel secretly in a small clandestine facility. I happen to think that one is relatively easy to hide and the other more difficult and risky (certainly doing both is more risky) and that the government's effort to make a distinction between the two cases is valid. What is most interesting, however, is that this latest wrinkle in the effort to forestall implementation of the new policy has led to some strange bedfellows: by saying, in effect, that all forms of nuclear power are equally dangerous, the nuclear industry seems to be agreeing with its most uncompromising opponents that the situation is far worse than the rest of us thought. Where that will take us is something I will leave to more fertile imaginations.

BILL IS NO TRIBUTE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ABDNOR. Mr. Speaker, the administration is attempting to blow a new breath of life into the Humphrey-Hawkins bill. Regardless of the good intentions this is still bad legislation.

A recent editorial in the Rapid City Journal makes some good points reflecting the thinking of South Dakotans on this measure, and their concern that our native son, the Honorable HUBERT HUMPHREY, be remembered for a proposal so potentially harmful to our free society, I commend it to the attention of my colleagues:

[From the Rapid City (S.D.) Journal, Nov. 20, 1977]

HUMPHREY-HAWKINS STILL BASED ON FALLACIOUS IDEA

A watered-down version of the Humphrey-Hawkins Bill is back in the works and has been endorsed by President Carter. And while it is superficially more palatable, it is still a bad piece of legislation.

In its original form, which was introduced two years ago, the bill directed the federal government to coordinate monetary and fiscal policies to reach a goal of 3 percent unemployment in the adult work force—or 4 percent overall—within 18 months. It also called for use of a wide variety of federally financed jobs programs to reach that target. As a last resort, the federal government was expected to provide a low-paying job to any unemployed adult who wanted one.

That proposal got nowhere in Congress and a revised version was introduced last year. The deadline for achieving 3 percent adult unemployment was extended to four years and the provision which would have given individuals the right to sue for a job was eliminated. Even with those changes, the bill failed to reach the floor of either house of Congress for a vote.

The new Humphrey-Hawkins bill has the same unemployment goal but one more year has been added to the target date. In general, it sets as a national aim "the fulfillment to the right of all Americans able, willing and seeking to work full opportunities for useful paid employment at fair rates of compensation."

Unlike earlier versions, the watered-down bill offers no specific programs to provide jobs and has been criticized as being essentially meaningless. It has been described as no more than a get-well card for the American economy.

The flaw in the Humphrey-Hawkins bill as we see it is that it continues to have as its goal a full employment and balanced growth plan. In theory, the plan would apply only to government programs but that theory has no meaning. Federal power is now so connected to the structure of private economic activity that any presidential proposal, if enacted, must affect the private sector.

The bill is still based on the fallacious notion that in a free society, the most fundamental forces of human nature and the marketplace can be successfully manipulated by the power of government. Even in a totalitarian society like the Soviet Union that notion has worked badly. It cannot work in a free society.

One sales pitch for the bill is that it should be passed as a tribute to the ailing Senator Hubert Humphrey. That good man ought not to be remembered for such a bad bill.

LACKAWANNA COUNTY HONORED

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. McDADE. Mr. Speaker, I would like to bring to the attention of my colleagues a singular accolade that has been bestowed on the Lackwanna County Conservation district in my congressional district in Pennsylvania.

They have received the top national award of the Keep America Beautiful Organization, Inc. (KAB) for the second successive year. Besides this, their entry has been enrolled in the KAB President's Society, the most prestigious honor of the organization. Only 12 States have ever received this commendation since its inception in 1973 and this is a first for the State of Pennsylvania. To be eligible for this honor a group must have received a first place national award during the past 3 years. Competition nationally for this honor was very keen.

Most of the work performed under the successful project was done by the youth of seven local schools under the guidance of the district's youth activities committee cochairmen, Sister M. Laurence of Marywood and George Shepuk, district director and the project coordinator, Sylvester Kazmerski. Other conservation district officials to be named for their efforts are: Kenneth Seamans, William Lange, Norman Miller, Ray Harris, Glenn Miller, Edward J. Zipay, and Dolores Matthews.

Over 52,000 evergreens, flowering shrubs and plants had been planted in open spaces throughout the county as well as the planting of 1,700 petunias in sidewalk containers in downtown Scranton.

I am very proud to represent a district where concern for the physical appearance of an area is a united effort. I believe it is a credit to the Keep America Beautiful organization and the local organizers but more importantly to the youth who have placed the Lackawanna County conservation district in an environmental "Hall of Fame" through their voluntary efforts.

TEMPORARY TAX EXEMPTION FOR CERTAIN SCHOLARSHIPS ENACTED

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CARTER. Mr. Speaker, legislation to provide a temporary tax exemption for certain federally funded health professions scholarship programs was signed into law on November 12, 1977 (Public Law 95–171). Under section 5 of this new law, students entering the Armed Forces Health Professions Scholarship Program (or any substantially similar program) before 1979 will be exempted from paying taxes on amounts received under such program(s) through 1982. Thus if a student enters the scholarship program in 1978, he or she will not be required to pay taxes on the scholarship funds through the 4 years of his or her education. The purpose of this temporary tax-exemption provision is to give the appropriate committees time to review the issues involved and determine the appropriate tax treatment of these scholarship programs.

While I strongly supported this temporary relief measure, my own view is that a permanent tax exemption is necessary. Taxation of these scholarship funds will seriously undermine the attractiveness of these scholarship programs to future health professions students. The success of the National Health Service Corps and the Armed Forces Health Professions scholarship programs depends on having an adequate supply of graduating students to place in medically underserved areas. Before passage of this year's bill, I learned of many instances where students had to borrow funds just to pay the tax on their scholarships, and still other instances where the student decided not to apply for a scholarship at all because of the tax burden.

My legislation, H.R. 7993, provides a permanent tax exemption for funds received under these two scholarship programs. I will continue to work for enactment of a permanent solution to this problem in the next session, and I would welcome additional cosponsors at any time.

FOOD SAFETY AND NUTRITION AMENDMENTS OF 1977

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ROGERS. Mr. Speaker, together with the ranking minority member of the Subcommittee on Health and the Environment, Dr. CARTER, I have today introduced legislation, the Food Safety and Nutrition Amendments of 1978. This legislation would amend the Federal Food, Drug, and Cosmetic Act to revise and strengthen the law governing the processing, distribution, and labeling of foods.

The proposed legislation would revise the existing authorities under the act in two major respects. First, it would provide the Food and Drug Administration with expanded authority to detect and monitor adulterated and misbranded foods in food processing establishments and to prevent adulterated and misbranded foods from reaching the consumer. Second, it would require that important food ingredient, nutrition and other health information of benefit to the consumer be included in food labeling. In my view, these changes are in the immediate public interest, and I am hopeful that we will witness their enactment into law during the 2d session of the 95th Congress.

Dr. CARTER and I are introducing this proposed legislation this year in order to provide ample opportunity for analysis by interested parties. During the upcoming months, we will welcome comments and recommendations with respect to this bill from governmental, industry, and consumer organizations, and the general public.

I have asked my staff to prepare a document that includes the text of the bill and a summary thereof. This document should be available from the subcommittee office, 2415 Rayburn House Office Building, 225-4952, by the first of the year.

I look forward to working with my colleagues toward the enactment of this vitally needed legislation.

BURNS AND DAVIS-BACON

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HAGEDORN. Mr. Speaker, I would like to call to the attention of my colleagues the following correspondence on the subject of the Davis-Bacon Act written by Dr. Arthur Burns, the chairman of the Board of Governors of the Federal Reserve System. As Dr. Burns notes in his letter, the act, on top of its inflationary contributions, presents a major barrier to efforts to reduce hard-core unemployment in the country:

FEDERAL RESERVE SYSTEM,
Washington, D.C., November 3, 1977.

Mr. TOM PALMER,
Construction Cost Reduction Committee, Inc., Tampa, Fla.

DEAR MR. PALMER: I am pleased to respond to your recent inquiry concerning my views on the economic effects of the Davis-Bacon Act. In his speech of April 22 on the House floor, Congressman Hagedorn correctly expressed my view that it is very difficult to reduce joblessness among the hard-core unemployed through the funding of Government construction projects since Davis-Bacon inhibits the use of less skilled workers at lower wage rates. The complex provisions of this legislation make specific employment effects difficult to evaluate, although the general inflationary impact of Davis-Bacon has been documented in several recent studies. These include:

Armand J. Thieblot, The Davis-Bacon Act, Industrial Research Unit, Wharton Business School, U. of Penn., Labor Relations and Public Policy Series, Report No. 10, Philadelphia, 1975.

Council on Wage and Price Stability, "An Analysis of Certain Aspects of the Administration of the Davis-Bacon Act," June 1976.

The problems associated with the Davis-Bacon Act are going to loom larger in coming years. In 1976 the Labor Department estimates that $36 to $40 billion was spent on Federally financed or assisted projects for which Davis-Bacon coverage is mandated. This year Congress is adding new public works projects under various pieces of legislation that will continue to increase the orbit of Davis-Bacon. More than 50 percent of the wages subject to this legislation represent negotiated union rates rather than prevailing rates, while the remainder are set by Labor Department surveys of local areas. Structural impediments to full employment such as the Davis-Bacon Act only serve to impede the effectiveness of national economic policy.

I appreciate your taking the time to send me the views of your organization on this important issue.

Sincerely yours,

ARTHUR F. BURNS.

IN MEMORIAM OF JOHN GREEN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FLORIO. Mr. Speaker, I feel that it is proper to take the time to pay tribute to a young man who exemplified the character, love and leadership of our young people. John Green was a junior at Glassboro State College who met with an accident while playing football. He passed away on December 8, 1977 at 10:20 p.m.

I insert in the RECORD the following memoriam written in the White and Gold, the Woodbury High School newspaper:

IN MEMORIAM OF JOHN GREEN

Johnny graduated from Woodbury High School in June of 1975. While he was at Woodbury, he played football, basketball, and participated in track. He was a person who many people admired and loved. He had great courage and willingness to work. He was somebody you could go to, talk to, and he would speak with you.

Some teachers from Woodbury remember Johnny Green:

Mr. Fennal—"His excellent attitude and his willingness to help people impressed me."

Mr. Murray—"Johnny Green, to me, was everything I want my son to be. Johnny was a hard worker. He was an honest and talented person. Above all, Johnny was a Christian young man with high morals and standards. Johnny always had a smile no matter how bleak the situation. The Bible says, 'The greatest gift in the world is love,' and it's what Johnny Green's life is based on, love for his fellowman. Johnny's high school teammates used to call him my brother. If that meant that he and I were alike, then I'm proud of that label because he was all you could ask of a human being. The impression that Johnny left within me will always be remembered. It is a dream of mine that my son, Marc, will follow in his footsteps and be the Christian man and the athlete that Johnny Green was. His memory will always live on in my heart and I will always remember his determination, desire, and hard working ways to achieve success in life."

Mr. Miskar—"Johnny Green was a unique individual. He was intelligent and athletically talented, but he blended these gifts with humility. He was a leader; he had initiative and he was concerned about the welfare of others. Johnny was reliable and cooperative. He was always there when needed. He never let anyone down. But the one thing I liked best about Johnny was his smile for everybody—that's what made him special. His warmth and friendliness radiated to those around him. Yes, Johnny was a unique individual. He will be missed."

Mr. Leytham—"The thing that I most remember about Johnny Green was his smile."

Mr. Jacobs—"I can remember his smile."

Calvin C. Ferguson—"Johnny Green was one of the most courageous young men that I have had the pleasure of working with as a teacher and coach administrator. Even to the end, this young man's character was evident.

"Yes, I am ready. Dad, I love you."

These were some of John's last words to his father.

John will be missed, but his life can be an example of the character and love and leadership for young people to exemplify.

What everyone remembers most is Johnny's smile. It was always there, no matter what the situation.

BILL TO AMEND THE CIVIL RIGHTS ACT TO PROHIBIT DISCRIMINATION OF THE HANDICAPPED

HON. JOSEPH A. LE FANTE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LE FANTE. Mr. Speaker, on the opening day of this session I sponsored a bill to amend the Civil Rights Act to prohibit discrimination against the physically handicapped in employment on account of their disability.

Our Nation's handicapped are echoing the words of Winston Churchill: "Give me the tools and I'll do the job."

This message was brought home to me clearly when I attended the 1977 Conference on the Handicapped sponsored by Mayor Peter M. Mocco of North Bergen, N.J. More than 1,000 handicapped people attended the conference and spent the day discussing their needs and how to help themselves.

The conference, which was widely acclaimed, dealt with every aspect of life: Employment, education, transportation, recreation, health, finance, housing, law, communications, nutrition, and spiritual well-being.

The conference successfully brought information and expertise to the handicapped, and through their participation our disabled friends and neighbors demonstrated their eagerness to help themselves.

Mr. Speaker, my colleagues in the House and in the other body, we have in our hands the power to give the handicapped the tools necessary for them to become productive members of this society. Let us not delay longer in meeting their needs.

I wish it were within my limited powers to fully explain to you the attitudes and desires of those people who gathered at North Bergen High School for this outstanding meeting. It was one of the most moving events I have attended in my 15 years in public office.

Mayor Mocco is to be commended for his outstanding work and that of his staff in organizing this outstanding conference. The handicapped of North Bergen have been well served by his activities and the results of this meeting hold out promise of significant future accomplishments.

I salute Mayor Mocco and call his work to the attention of my colleagues in the House.

Let me recast the words of John Kennedy and say, "If a free society cannot help those who are handicapped, it cannot save those who are whole." In a world which places men on other planets, have we not the tools to improve the quality of life for our disabled?

We can no longer shun the handicapped and hide them away in some dark corner of our society. They will no longer allow it and we cannot permit it to continue.

The message proclaimed in North Bergen is being repeated in every corner of our Nation: We want to help ourselves and we want to help build a better country.

Our handicapped will be heard and they will be heeded.

It is my hope that this body will provide the handicapped with one of their needed tools by passing H.R. 461 to prohibit discrimination against the handicapped in employment.

I am going to urge my colleagues on the Employment Opportunities Subcommittee and on the full House Education and Labor Committee to report that bill out with the hope that the House and Senate will act favorably on the measure before the end of the second session of this Congress.

UNCLE SAM'S ILLNESS—BLEEDING RED INK

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, Dr. John Q. Public's first patient for the New Year should be our obese Uncle Sam wheezing from carrying a $700 billion burden of debt from high living.

Sam, who owns the Yankee Trading Post, has been the world's good guy by throwing his bar open for "free drinks for the house" for several decades and a whole generation of international fiscaholics has resulted who demand the free-spending and give-aways continue or they'll go to the Cossack Bar across the street and do business with Red Ivan.

Sam, like many merchants, so much enjoys having customers that it does not seem to matter that he is not only not making any money, but he is paying for the privilege of having their business.

However, Red Ivan, who is really only in business because of banking and credit arrangements set up by Sam and his friends, seems to have an effective Casino operating which extracts enough from his guests that the free drinks are no problem, a technique Sam has not seen fit to adopt.

Sam in the meantime has domestic problems where his family is eating him up on big social spending. Some of his children are preoccupied with sexual freedom, homosexuality, wholesale abortions, and free child care. They demand allowances without doing any chores or helping in the business and many of them just help themselves to the family cash register.

The burden is beginning to tell and Sam's starting to slip on his upkeep allowances to older family citizens. So while social license for the young is up, social security for the aged is down.

Sam is starting to take a fix when he cannot meet his obligations—a temporary tax infusion which will put off the withdrawal pains to another day. But the fixes are becoming more frequent and larger doses are needed while the burden grows by $60 billion a year and massive trade deficits further damage his business.

Sam needs a diet and a cure—and hopefully a stern Dr. Public showing signs of concern and strong desire for getting Sam back into shape will insist that the Trading Post Board of Directors and management (the lawmakers, the executives and the courts) will put this project at the top of their New Year's Resolutions for 1978.

1902 RECLAMATION ACT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. AuCOIN. Mr. Speaker, farmers in my district—as in most districts in the West—were shellshocked when the Interior Department proposed to resurrect the 1902 Reclamation Act through regulations limiting federally subsidized irrigation water to 160 acres. The announcement was a particular blow to farmers in Washington County.

Washington County today boasts some of the finest farm land in the State of Oregon. Yet lying adjacent to the metropolitan area of Portland, as it does, the country is constantly fighting the threat of urban development. It has successfully fended off developers only by expanding its production units and utilizing the most technologically advanced farm equipment to achieve maximum output at minmum cost.

Ironically, the Interior Department has advanced these regulations in the name of preserving the family farm, presumably from the on-slaught of the so-called corporate farms. The fact is that in Oregon these are often one and the same. Oregon State University reports that over 87 percent of Oregon's farming corporations are family farms.

And why do families choose to incorporate their farms? Sixty-seven percent incorporate for estate transfer reasons.

Mr. Cal Krahmer, a farmer in Washington County, put it this way when explaining his plans to incorporate with a neighbor:

> If he tries to divide this land among his three children he knows that this will create three small un-economic farm operations which in effect will take a good parcel of farm land out of production . . . All the years I have farmed I have been land short and it's a way to allow my sons to farm.

Mr. Speaker, family farms—particularly in counties like Washington—will be preserved only if the proposed regulations are rewritten. I am speaking not just of future generations but for the present owners as well. Nearly every farmer I have talked to agrees that 160 acres no longer is a viable production unit. A farmer who had to sell off all but 160 acres would be forced out of business because, as one person said, "He couldn't even afford to own a tractor."

The time has come to review the Reclamation Act. To let a law enacted in 1902 stand in the face of the dramatic advances which have occured in American agricultural during the past 75 years would be the height of irresponsibility.

Because I believe he so clearly spells out the consequences of the present plan for Oregon, I would like to insert the testimony of Palmer S. Torvend, manager of the Tualatin Valley Irrigation District, before the Department of the Interior in the RECORD at this time: this time:

STATEMENT BY PALMER S. TORVEND

Thank you for this opportunity to relate to you how we in the Tualatin Valley Irrigation District see these proposed rules and regulations enforcement affecting our family farms.

The following items in the proposed regulations are of greatest concern to our farmers and landowners. These must be either eliminated or drastically remodeled.

1. Applying the 160 acreage limitation to all incorporated farms including family farms which are incorporated under Oregon State law for efficient operation and local tax purposes. Our incorporated farms are family operations farmed by people who earn their living by farming.

2. Prohibiting the leasing of more than 160 acres by any person or legal entity regardless of whether the land was excess or non-excess will deprive our elderly farm owners of the opportunity to lease their land to a renter of their choice when they for health or age must give up actual farm work, but wish to continue living on the family farm. Many of the farms have been in the family for more than a century.

3. Depriving the landowner of excess land of his right to sell to any eligible buyer of his choice and instead requiring the Bureau to select buyers by a lottery or other impartial means.

4. The family relationship requirement denies the family farms in a reclamation project the operating flexibility that their neighbors have who happen to be non-project water users. The proposed relationship requirement is too narrow and restrictive to permit maintenance of a farm unit intact in case of death, divorce, or injury.

5. Reducing the terms of a recordable contract from ten years to five greatly reduces the incentive for excess landowners to enter into such a contract, and is a direct breach of contract by a federal agency.

6. The total impact of the changes could have serious repercussions on the landowners and farmers involved, and the financial stability of our District.

7. The proposals discriminate against farmers and landowners who do not have access to natural river flow irrigation water because of the physical location of their land, while their neighbors who have natural flow water rights with the State have no such restrictions.

The new proposed rules and regulations reflect a complete lack of knowledge about present day farming and agricultural production, of what it takes to make an efficient and economical farming operation. In addition, under the guise of preserving the family farm, a number of revolutionary changes in the application of the Federal Reclamation law are being put forward. The proposals are so far reaching that a number of landowners and farmers who have believed they were in complete compliance with the law as it has been administered will be forced to dismantle their farming operation. In our area such lands would be subject to strong pressure for urban development taking land out of food production.

When the reclamation law was passed in 1902, for example, farming was done with horses. Based on more than 30 years of experience with irrigated agriculture in our area, where all farms are family operations, to be a success, full employment farm, the acreage required has risen every year since 1946. In other words, the 1902 160 acre limitation is as obsolete as the horse and foot-burner plow.

The proposal gives the federal government, U.S. Department of Interior, an unreasonable amount of control over privately owned farms. The farms in our District have been developed, cleared, drained, and otherwise improved by private capital and owner labor. Federal water is only a small portion of the total investment in the land now inside the project.

In the Tuelatin Valley all of the people who are or will be in the future using irrigation water from the federal project, struggled for years to get the project because of the need for a sure supply of water to improve yields per acre and reduce the chances of crop failure. Another benefit is that as a result of more efficient production the cost of food to the consumer is kept low or reduced, thus a federal water project also helps the consumer.

It is imperative that action which reflects today's farm economy standards be adopted.

Crops have been grown for over a 100 years on the family farms in the Tuelatin Valley. Except for a very few specialty types of crops with high per acre returns, 160 acres or 320 acres of irrigated land is not a full time family farm.

The family relationship definition, the treatment of a man and wife who looses his or her eligibility because of death imposes a heavy burden on the remaining family members and the family farming operation. We are already losing too many good farms because young people do not have the capital to finance a farm on their own. As an alternative they find other work which turns out to be more attractive and remunerative.

We urge that you do everything in your power to see that such unrealistic rules and regulations are not adopted and that the so-called 160 acre limit be brought up to date with current, efficient and economical farming practices. Federal government should not be given the power to supersede decisions on local land use laws. The minimum acreage per owner should at least be doubled, or dropped completely, and a farm family should not be restricted at all so an otherwise qualified lessee could not operate their farm because of the 160 acre limit.

THE HISTORIC CROWN OF ST. STEPHEN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DERWINSKI. Mr. Speaker, evidently the President is determined to turn over the historic Crown of St. Stephen to the Hungarian Communist Government.

This decision by the President is not only a terrible blow to the spirit of the Hungarian people, but it may well represent a rejection by the administration of the just aspirations for freedom of all of the peoples behind the Iron Curtain.

Evidently the Carter human rights rhetoric of the spring no longer applies to peoples under communism. However, it apparently will be used selectively to chastise certain allies.

The Crown of St. Stephen is unique in its relationship to the people of Hungary and their history. The decision to placate a government installed in power just 20 years ago by Soviet Armed Forces represents a complete reversal of the Carter administration interest in the constant denial of freedom from which all of the people in Eastern Europe and the non-Russians in the U.S.S.R. suffer.

It is obvious that the President has been ill advised, and his lack of experience and lack of knowledge of the history and tragedies of the people behind the Iron Curtain shows up in this decision.

Hungarian Americans have attempted to dramatize their views with the hope that the President would reappraise his decision. They deserve the support of all Americans as they raise their voices in legitimate protest of this decision. I am urging all civic, fraternal, and political groups representing peoples of Eastern Europe to join Hungarian Americans in their efforts to convince the President that the crown should not be returned, and hopefully, the President will still see the light of day when he recognizes the tremendous public disappointment at his decision.

KEEP AMERICA BEAUTIFUL

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Mr. McDADE. Mr. Speaker, I would like to bring to the attention of my colleagues a singular accolade that has been bestowed on the Lackawanna County Conservation District in my congressional district in Pennsylvania.

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Beautiful organization and local organizers but more importantly to the youth who have placed the Lackawanna County Conservation District in an environmental "Hall of Fame" through their voluntary efforts.

TWO VIEWS ON HEALTH CARE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CRANE. Mr. Speaker, recently, two organized groups, the American Medical Association and HEW Secretary Joseph Califano, visited Great Britain for the purpose of examining the British National Health Service. During this visit, Secretary Califano was quoted as saying that U.S. hospitals were "incredibly obese and profligate." Well, in comparison to the British, U.S. hospitals and health clinics, in terms of quality care, medical equipment, modern facilities, and the expediency of treatment, are far better. If obese means that the American people are getting better and more medical services, should we place the providers of medical services on diets when Secretary Califano is simultaneously telling us that there is a health care crisis in terms of accessibility and quality in the United States?

Following is an article that appeared in the American Medical Journal on December 5, 1977, concerning the two groups' visits:

TWO VIEWS

An Associated Press report came from London the other day, to the effect that after examining the British National Health Service, HEW Secretary Joseph C. Califano said he was "very impressed."

The biggest obstacle to a similar system in the U.S. in money, the secretary opined. U.S. hospitals are "incredibly obese and profligate," he said quoted as saying.

By coincidence, a group organized by the American Medical Association was in London at the same time, studying the NHS. It is fair to say that all in that group would agree with the secretary on one thing: money is the biggest obstacle in anybody's national health insurance system—and this is most evident when the government gets its hands on the purse strings.

The day Secretary Califano was conferring with the British Home Secretary, the AMA group was visiting Guy's, one of the great teaching hospitals in the history of medicine.

The Americans saw many impressive things at Guy's, most notably, the dedicated, fiercely talented physicians and staff who keep the grand old place running.

There were some things the Americans did not see, however. The emergency department, for instance. Some lame excuses were given, but it was painfully evident that their British hosts were ashamed of it. It is old, crowded, shockingly underequipped, and it will not be improved.

Here is the reason why: the British are a little short of money right now, as everyone knows, and the decision has been made to put a cap on health spending. Moreover, it has been decided that resources are unevenly spread. The better-endowed places, like Guy's, will have to give up some of their resources.

It is all very well to distribute national resources fairly, but there is no talk among the British about increasing health spending for the poorer areas—merely about "leveling down." Some physicians at Guy's and elsewhere were in despair about what this means for British medical teaching and research.

The outlines of the British NHS are by now familiar, and there is little need to belabor the weaknesses or strengths of the system.

The British are justly proud of their success in granting access to health care to everyone, rich and poor. They are a little hazy, in the view of some Americans, when it comes to defining what quality and quantity of care are granted to the average patient.

On the day Secretary Califano was holding his press conference, the AMA group went out to the lovely countryside northwest of London to the communities of High Wycombe and Amersham. They saw the newest and best in hospital and health clinic.

They also saw the offices of a four-physician group of general practitioners. It was a neat and tidy set of offices in an old house. They saw the barren room where row on row of patients wait for their access to care. There were old examining tables in small offices, but little equipment.

One of the physicians, who impressed the Americans as a most conscientious doctor, proudly told them he and his three colleagues were buying their own machine to take electrocardiograms. The NHS wouldn't supply one to general practitioners, of course.

He was a little worried about the youngest physician in the group. It was absolutely imperative that each physician see an average of 12 patients an hour, or one every five minutes. Otherwise, they couldn't keep up with the number of patients who pour in—and they couldn't make a living wage, because they are paid by patient, not by service performed.

The new fellow was recently out of medical school, "and they seem to teach them to take 10 or 12 minutes on each patient," the experienced man complained. "That won't do at all. He can't keep up at that rate."

One last item. The Americans were treated graciously at Wycombe's new general hospital, but they may not forget the voice of the surgeon who spoke up at lunch there. All the area government administrators were in the room, hovering over the Americans, and the surgeon realized he had an ideal audience.

In a booming Yorkshireman's voice, he apologized for that "tatty little hospital" over in Amersham. It was a disgrace that modern medicine had to be practiced in such a place, he said.

The government kept promising that it would be improved, but it never was. And now, with the new planning and the new priorities, no one was under any illusion that it would be, he said.

The surgeon said he liked High Wycombe, but that he had wanted to practice nearer his home area. Not a chance, the government had told him some years ago; there weren't any surgery consultant vacancies.

"Don't ever let this happen to you," he warned the Americans. "Keep the government's hands out of your medicine."

The Americans had seen the Amersham hospital. As elsewhere, they had been impressed with the warmth and concern of the staff for their patients. What they saw, however, was an obstetrics ward where most deliveries were supervised by midwives; a gastrectomy performed in a surgical room inside a Quonset hut; a modern, but crowded geriatric center, one of relatively few in Britain.

When surgery was completed, a patient was moved to a nearby recovery room. Later, however, he would be taken outside to an ambulance for carrying to a separate building with patient rooms.

Amersham hospital was built in 1837, noted the district's top government health official—the year Martin Van Buren became U.S. President.

PRESIDENT HAILS FUSION ENERGY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. PATTEN. Mr. Speaker, for many years I have been a strong supporter of fusion energy. I am, herefore, glad to announce a milestone in the development of this important energy resource with the recent groundbreaking for the Tokamak Fusion Test Reactor at the Princeton University Plasma Physics Laboratory. As President Carter stated in his message—

> Our hopes for the future rest largely on the continued availability of energy. Fusion is the last energy source available and presents the highest challenge for this Nation's capability to put science to work for the benefit of all mankind. We must move ahead dramatically in fusion research during the next few years to gain the insights we need to make wise choices among our few long-term energy options.

Last year the House Committee on Appropriations, in recognition of the opportunities in fusion energy development, recommended rapid increases in funding. As noted in our report, the principal fuel material for fusion energy is seawater and, in theory, the fusion of the deuterium nuclei in a gallon of water could produce an amount of energy equivalent to that from the combustion of about 300 gallons of gasoline. In addition, "the controlled fusion process has certain unique characteristics which make it extremely attractive from the safety and environmental points of view. Thus, controlled thermonuclear fusion could well be a key answer to mankind's long range energy problems."

Mr. Speaker, my congratulations to the men and women of the Princeton Plasma Physics Laboratory, to the DOE, its predecessor ERDA, to Prof. Melvin Gottlieb, director of the laboratory, and to Prof. Lyman Spitzer, whose vision initiated the effort. My best wishes also to the subcontractors, Grumman Aerospace Corp., Ebasco Services, the Lawrence Berkeley/Lawrence Livermore Laboratories and Giffels Associates. I would like to include President Carter's message and the excellent speeches given by William G. Bowen, president of Princeton University and Robert D. Thorne, Acting Assistant Secretary of DOE:

THE WHITE HOUSE,
Washington, October 27, 1977.

I extend my best wishes to all those attending the groundbreaking ceremony for the Tokamak Fusion Test Reactor.

The initiation of this project is symbolic of our growing success in the development of fusion energy. It has the scientific objective of producing, for the first time in history, significant quantities of controlled thermonuclear energy.

Achievement of fusion power will have a profound effect on all nations. Our hopes for the future rest largely on the continued availability of energy. Fusion is the last energy source available and presents the highest challenge for this nation's capability to put science to work for the benefit of all mankind.

We must move ahead dramatically in fusion research during the next few years to gain the insights we need to make wise choices among our few long-term energy options.

Fusion development is a national objective that will require the best of our academic, industrial and laboratory talent. It is also a world objective, and sustained cooperation among all nations in fusion research is more important than ever. In this respect, I also welcome the opportunity to congratulate our European friends—many of whom are present on this occasion—on agreeing this week to proceed with the Joint European Torus, a complimentary facility to the Princeton test reactor. The United States looks forward to working in close partnership with other nations in an endeavor that is so crucial for all of us.

May the spirit of cooperation that is so much in evidence on this occasion characterize our on-going achievements in fusion energy development.

JIMMY CARTER.

REMARKS AT TFTR, GROUNDBREAKING, FORRESTAL CENTER, BY PRESIDENT WILLIAM BOWEN

It is a great privilege for me, on behalf of the Trustees of the University, to welcome all of you to the Plasma Physics Laboratory this afternoon. I am delighted that so many representatives from government, the academic community, the national and international scientific communities, and business and labor are able to be here today to celebrate a very proud moment in the history of this laboratory and a significant event in the United States fusion energy research and development program.

In the most immediate sense we are of course gathered to witness the groundbreaking for a particular experimental device—the Tokamak Fusion Test Reactor. It is your good fortune—and mine—that I am not called upon to explain to you recent developments in fusion research—or to discuss such equally "easy" subjects as the economics and politics of energy in the world today or the mysteries of the federal legislative process.

Perhaps I can be allowed, however, to suggest that in a larger sense we are here to celebrate something still more important than even this extraordinary device: a continuing confidence, a continuing faith, in what the human mind can achieve if given the opportunity. I can never think of this Laboratory without recalling how all of this began. Local legend has it that our great friend and colleague, Lyman Spitzer, was skiing in Aspen one marvelously bright and sunny day when he made the mental connection between his knowledge of astromagnetic confinement and the prospects for fusion on earth. It would be enough to make one want to go skiing—indeed to make us want everyone to go skiing—if only the rest of us could claim even a fraction of Lyman's creativity, not to mention his knowledge of astrophysics.

It is in the nature of great ideas that they occur at odd times and that they surprise us. And in participating in this groundbreaking ceremony today, I hope all of us will feel a renewed debt of gratitude to those whose basic research in science and mathematics, extending over many decades, prepared the way for the work that is now before us—that will occupy many very talented people for additional decades, and that may itself take us in directions no one envisions fully now.

A distinguished alumnus of ours in a very different field—Lewis Thomas, President of the Memorial Sloan-Kettering Cancer Center—has made my point much more eloquently than I ever could. In a beautifully written article on the history of medicine, he demonstrates that the most powerful, practically beneficial, tools of modern medicine—antibiotics, for example—were possible only after scientists had devoted decades of work to understanding the underlying mechanisms. Thus, he notes, "Without the long, painstaking research on the tubercle bacillus, we would still be thinking that tuberculosis was due to night air, and we would still be trying to cure it by sunlight."

In a society characterized all too often by an unwillingness to look ahead, a reluctance to take risks, and an impatience, a commitment to immediate "solutions," that sometimes borders on the pathological, it is encouraging to be reminded today that the speculations of a skier can lead to a program of research that offers the hope of some astounding practical possibilities.

I am meant only to greet you—and that means get out of the way for the speakers—so I shall resist the temptation to use this occasion to talk about another important subject: productive interactions among industry, government, and the academy. Without the support of the Congress, and without the foresight of the U.S. Department of Energy, as well as of its predecessor agency, this collaboration of scientists and technicians, of the University, government, and industry, would not have occurred. This Laboratory is, surely, a visible testimonial to such interactions and, as such, speaks for itself. I hope we shall remember its message, and apply it in other areas. There is so much ot be accomplished, without as well as within the natural sciences.

To return more specifically to the Plasma Physics Laboratory, we should recognize that managing these collaborations, giving directions to our efforts, is no easy task. We simply would not be here today were it not for the extraordinary talent—and faith—and determination—of the person who has directed this Laboratory since 1961. It is with the strongest sense of parochial pride that I ask you to join me in recognizing the achievements of Dr. Melvin Gottlieb, Professor of Astrophysics and Director of the Plasma Physics Laboratory.

It remains only for me to say again how pleased I am to be with you this afternoon and to have a small part in this ceremony.

SPEECH BY ROBERT D. THORNE, AT THE TOKAMAK FUSION TEST REACTOR GROUNDBREAKER

Governor Byrne, President Bowen, Dr. Spitzer, Dr. Gottlieb, ladies and gentlemen.

It is a particular pleasure for me, personally, to have an opportunity to participate with you in this historic groundbreaking not only because it represents a significant milestone on the way toward a major scientific and practical objective, but also because, in a very special way, it reaffirms and gives evidence to a long-held belief of mine about the place of science and technology in our lives, the life of our Nation, and, most importantly, in all our futures.

I think it is time that all the citizens of our Nation finally recognize that we live in a scientific and technological world. Our national life has been dominated for many years by what are clearly scientific and technological crises, crusades, and inventions. The energy crisis is technological as are many of the discrete threats to the environment.

Our new drive toward infinite energy technologies—as typified by this fusion effort—is, like the space program a decade ago, a scientific and technological crusade. And, if we need evidence of domination by technological invention, we need look no further than either television or the electronic computer revolution of the past 25 years or so, to see how a single technological development can permeate and deeply change almost every aspect of our lives. So we are a scientific and technological society, whether we like it or not. And the problem is that some people don't like it.

There are too many people who see only the ills and problems caused by the imperfections or abuses of our present technology. They see the pollution of the environment as purely a product of technology, rather than of a historic cultural pattern of neglect or a childlike faith in the infinite renewability of the environment. They see what they perceive as an unhealthy life style and an erosion of what they call basic human values as an outgrowth of our scientific and technological society. Indeed, they lay most of the ills of the world at the feet of science and technology. In other words, they see only the negative aspects.

I think it's time for a change in attitude toward science and technology. I think it's time that we began to recognize not only the incredible bounty of benefits that have accrued to us from our past scientific and technological efforts, but also the immense hope for the future that our current and future efforts promise. We need to recognize that science and technology are tools for use for good or evil. As tools, they are capable of being abused or misused and then they will produce problems. But when they are used properly, with discretion, wisdom and a sense of proportion, they can produce great good for all mankind. They can produce almost limitless hope for a future beyond our fondest expectations. And that hope, I believe, would be justified, for history already has demonstrated how science and technology have repeatedly exceeded early hopeful predictions for the future.

Thus the dominant theme in our attitude toward science and technology should be, not a negative anticipation of new and greater problems nor a bemoaning of technology-related difficulties, but a positive emotion of great hope—hope for solutions to our problems, hope for unimagined benefits, hope for a better life for all mankind. And I can think of no better example than the promise of fusion.

Fusion, in fact, is one of the few energy technologies we have, in which the general public perception is dominated by a sense of hope, untainted by fears of new problems or ills flowing from it. It is no exaggeration to say that the entire world awaits hopefully for the successful completion and operation of this project. Our National Energy Plan recognizes that our hopes for the long-term beyond the year 2000 rest largely on renewable and inexhaustible sources of energy. The Plan is based on the principle that the use of such inexhaustible sources will be vigorously expanded, while on the shorter term we conserve our diminishing supplies of conventional fuels and bring more mature energy technologies into the marketplace. Thus we have to make t clear to our public that fusion represents a long-term hope, and is not immediately around the corner.

This is another typical characteristic of science and technology. It takes time, dedication, resources and talent to come to fruition. And that's another concept that is sometimes difficult to understand for certain segments of the public. I am reminded of a quotation from an unknown 17th Century historian who wrote in part:

"It is strange that we are not able to inculcate into the minds of many men, the necessity of that distinction of my Lord Bacon, that there ought to be Experiments of Light, as well as Fruit. It is their usual words, What solid good will come from thence? But they are to know that in so large and so various an Art of Experiments, there are many degrees of usefulness: Some may serve for real and plain benefit, without much delight; some for teaching without apparent profit; some for right now, and for use thereafter; some only for ornament and curiousity. If they will persist in condemning all experiments, except those which bring them immediate gain and a present harvest, they may as well cavil at the Providence of God, that He has not made all the seasons of the year to be times of mowing, reaping and vintage."

One might be tempted to speculate that this unknown writer back in the 17th Century had some vision of what we are about today. We have been on this road to fusion—this hopeful road—for some 26 years or more. It was back in 1951 that Dr. Lyman Spitzer pioneered the research in the physics of fusion plasmas, and founded the Princeton Plasma Physics Laboratory. In 1961, still 16 years ago, Dr. Melvin Gottlieb took up the reins as director of this laboratory and helped guide it toward its present preeminent position as the world's largest fusion research laboratory and a recognized leader in its field.

During these past 26 years, we have been working at a deliberate pace, carefully uncovering the fundamental principles of fusion plasma physics. One might say that these have been experiments "for light now and for use thereafter," to quote my 17th Century friend.

I am aware that there are many in the fusion community who believe that we now have reached a new plateau, that we are preparing to go beyond pure experiments of "light and teaching without apparent profit", that recent advances in plasma heating and confinement have virtually assured us of a future reason of "mowing, reaping and vintage." I hope so! If that is the case, then it gives even greater significance to our TFTR experiments, because they will constitute the first definitive demonstration of the basis for our hope.

Such a demonstration, such an achievement, however, should not be taken as a signal for us to relax our efforts, to slow down, to feel that we have made it over the hump. On the contrary, it should be a signal for renewed effort, renewed urgency, for renewed dedication to our goal. That goal will not be an easy one to achieve. It will take all of the intellect, resources, patience—and luck—that we can muster.

And even in that distant future when we have finally achieved our current goals, our work will still not be done. That too is typical of this business of science and technology.

I remember in my own life an earlier time of great and untroubled hope for another technology. We called it atomic energy then. I began working in atomic energy back in 1952. We all were so full of hope then. This was the time of Atoms for Peace, of a hundred or a thousand benefits from this new young technology and source of energy. Atomic energy was to be the bountiful and unblemished cornucopia for the world of the future.

Today, 25 years hence, we have realized many of the goals and objectives of our research program then. We have gained many of the hoped for benefits of atomic energy that we perceived then and quite a few that we never even suspected. But 25 years also have brought with them some sophistication, a new perspective, an understanding that some of the goals we hoped for then are not really very practical, a realization that some of the other goals are going to be far more difficult to achieve than we first expected, and also finally, a comprehension that there are few unmixed blessings in science and technology, that there are costs and penalties and problems remaining to be solved. That is the sobering and maturing aspect of scientific and technological effort.

I do not, by this, wish to imply that I see all kinds of problems and difficulties emerging from the successful achievement of practical fusion. I don't. But I would not be surprised if there are not a few unsuspected problems ahead in our work on fusion. It would be unusual if there were not.

My point is, however, that if and when these problems do emerge, we should not be dismayed; we should not be discouraged; we should not lose our faith or our hope. Rather we should know that this is the way of science and technology. It comes with the territory. But problems can be solved. Solutions can be found. There is always new hope over the horizon.

To me, this is the true significance of this joyous occasion. Again, as pioneers of the past always have been, at the beginning of a venture, we are filled with great hopes, and that is the source of our joy and our bouyancy of spirit. Although the practical fruits of our fusion project still remain years ahead of us, we are today tasting that sweet and never-ending spiritual fruit of all science and technology—a virtually limitless hope for the future.

BALANCING THE BUDGET

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ABDNOR. Mr. Speaker, a recent editorial from South Dakota points up the sorry record of the Carter administration and the Congress in regard to balancing the Federal budget. The editorial calls it a "dubious" record; it could be more aptly called a very sorry record. I commend it to the attention of my colleagues:

[From the Huron (S. Dak.) Daily Plainsman, Nov. 29, 1977]

DUBIOUS RECORD

Whatever other records the decade of the 1970s manages to set, it already has established for the record the most massive accumulation of national indebtedness for a decade in history. In November, the Treasury Department's daily financial statement showed the federal debt had passed the $700 billion mark for the first time.

The trail leading to that bottomless well of red ink is interesting, if only because it shows the progressive nature of the beast. During World War I, now ancient history to most contemporaries, the debt reached $25 billion.

By the end of World War II it had zoomed to $200 billion. But it didn't really begin growing in earnest until the beginning of the 1970s, when the debt reached $345 billion. In just seven years that figure has doubled.

Wars have added considerably to that debt, but it has been the peacetime years since the end of American participation in Vietnam that have been the record setters as far as debt accumulation is concerned.

Revenue sharing, which was dreamed up during the Vietnamese conflict as a way of getting rid of excess federal revenue after that war was over, is still with us. But revenue sharing can be blamed for only a small part of the record deficits of recent years.

Inflation is the real culprit. Inflation and the inability, or the lack of desire of Congress to estimate the potential cost of the programs that are written into law. The fact that many senators and representatives are aware that federal spending has gotten completely out of hand has been demonstrated by the numerous efforts to curb the trend. The Senate and House each have their own budget committees. Several varieties of Sunset laws—to require that programs or departments justify their existence periodically—have been introduced. The law which limits the federal debt has long been treated as a standing joke, to be revised whenever the ceiling is in danger of being exceeded. None of these has helped to change the escalating trend.

One of President Carter's most frequent campaign promises was that he would balance the federal budget. Just how any president could do this without full cooperation of a free spending Congress has never been explained. But in practice Carter's own White House expenses—staff and pay scales—have been increasing faster than those of the rest of the federal establishment. Furthermore, if Carter had a plan for balancing the budget, the prospect of congressional cooperation appears to grow dimmer with each passing week.

There is no evidence in sight to indicate that the massive escalation of national indebtedness will diminish through the rest of the decade.

AN APPEAL TO PROMOTE PEACE AND TO STOP THE NEUTRON BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. WEISS. Mr. Speaker, at the beginning of next week I will issue an appeal, printed below, to promote peace and to prevent production of the neutron bomb.

I invite my colleagues to join me in issuing this Christmas time call for peace in hopes that the President will be persuaded to forego production of the neutron bomb.

The article follows:

A CALL TO PROMOTE PEACE AND TO PREVENT PRODUCTION OF THE NEUTRON BOMB

This Christmas, as individual Americans we can give special meaning to the phrase "peace on earth" by urging President Carter to forego production of the neutron bomb.

Political and military leaders here and in Europe are now on the brink of ordering production and deployment of this gruesome radiation weapon. Christmas 1977 will not be a merry one if humanity is presented with a new and imminent threat to its survival.

Atomic warfare triggered by a neutron bomb will touch off a full-scale nuclear cataclysm killing millions of people. The prospects for peace on earth will be seriously diminished if the arms race is allowed to hurtle forward through production of this instrument of mass death.

We strongly urge Americans to invest a few minutes and a postage stamp in a saner world where there will be no neutron bombs, a reduced threat of global self-destruction and a lessening of the fear that our children's generation may be the last.

Send President Carter a Christmas card urging that he make this a happier holiday season by deciding not to put the neutron bomb into production. By filling the White House with these appeals, we will demonstrate that Americans and people everywhere want to encourage peace, not endanger it through production of the neutron bomb.

We urge all those concerned to become a part of this national effort—write the President now!

WASHED OUT BY BOR—CLEANED OUT BY IRS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, are the victims of the failure of a Government-built dam now to become the victims of another misconceived Government operation, an IRS capital gains ripoff?

Survival is a tough business in the Teton River flood plain. If you are not washed out by the Bureau of Reclamation, you are going to be cleaned out by the Internal Revenue Service.

I have just received from the Idaho District Director of IRS a set of questions and answers regarding the Teton dam disaster as it affects the taxpayers. A quick review will show in shocking terms what is in store for the farmer, the businessman, the professional services, the senior citizen, and most taxpayers in general.

IRS is making no allowance for unrestorable operations, no allowance for long-term record replacement, little or no allowance for changed lifestyles, no allowance for changed rental and labor factors, no allowance for property tax base shifts (especially for older citizens).

Mr. Speaker, my strong concern registered in part II, page E7389 of the December 15, 1977 RECORD is further verified by the IRS planned capital gains assault on the Teton flood victims. This is an absolute subversion of the will of Congress in restoring these people to their preflood well-being which cannot be tolerated.

If the IRS will not make fair and proper allowances for these citizens who have already suffered so heavily at the hands of a mismanaged Government program, then the Congress must take action when it reconvenes in January and pass my legislation (H.R. 382) to provide that relief.

The IRS report follows:

TETON DAM DISASTER INCOME TAX UPDATE

The attached questions and answers, fairly well, represent the array of inquiries dealt with during our November 28th get together in the Idaho Falls City Council Chambers. The Internal Revenue Service staff found the session quite fruitful. From the number of questions addressed during the group and individual sessions, hopefully, the participants found it equally as fruitful.

As we indicated during the seminar, several situations were raised that require specific answers due to unique individual circumstances . . .

There have been a number of questions regarding the replacement of personal property, land, and equipment designed for the raising and harvesting of a particular crop. The District Director will consider requests for rulings in unusual situations. The request should give all of the facts and circumstances of the situation and a description of the functions of the equipment and/or property in question.

Q. I had an antique piece of furniture that had appreciated in value at the time it was lost in the Teton Flood. Do I have to buy similar furniture in order to defer the gain on the disposition?

A. A special ruling allows a Teton Flood victim to group household furnishings; but provides exception for items that have acquired an investment quality through a substantial increase in value, such as paintings and coin collections.

Even though your antique piece of furniture may have been used by you as furniture, the fact that it has appreciated in value would require that it be accounted for separately.

Q. On my 1976 return, I elected to defer gain on reimbursement for property lost in the Teton Flood. If I fail to acquire all of the replacement property by December 31, 1978, what do I do?

A. You are required to file an amended return for 1976 reporting the portion of the deferred gain resulting from your failure to reinvest on time. This amount is obtained by recomputing the deferred gain using actual costs of replacement instead of the estimated amounts that were used on the return.

Q. If I receive a partial settlement from the Bureau of Reclamation, when does time start and stop for my reinvestment rights under Internal Revenue Code Section 1033? Is it based on my first partial payment or when the amount to be received is settled?

A. The replacement property must be acquired within two years from the close of the tax year in which you first received reimbursement resulting in a gain.

You would first have a gain when the reimbursement received exceed your basis in the converted property.

Q. My land was covered with 8 to 10 inches of silt. The Bureau of Reclamation paid me $300 per acre for this damage. FMV was $1,500 with a basis to me of $300 prior to the flood. Have I experienced a gain or loss and do I have to make an adjustment to my basis?

A. You do not have a deductible tax loss because you were reimbursed for all of the loss in value that you sustained. You do not have a gain because the reimbursement received did not exceed your basis in the land. You have to reduce the basis of your land to zero ($300 basis less $300 reimbursement) because you have now recovered your basis through the reimbursement.

Q. I am over 65 years of age so that I can qualify for the exclusion of gain on the sale of my personal residence. This residence was completely destroyed in the flood in 1976 and I was reimbursed $30,000 for this loss in 1977. The tax law for the year 1976 says I can exclude $20,000 and the tax law for 1977 says I can exclude $35,000. Which law must I follow?

A. You can exclude all of the gain. The law in effect at the time the gain is realized controls the tax effect of the disposition.

Q. I lost my potato harvester in the flood and I replaced it with a new harvester costing $20,000. I realized a gain from Bureau of Reclamation reimbursement of $12,000 which I elected to defer. What is the basis of my new harvester for depreciation purposes? What is the basis for claiming investment credit?

A. The basis of the new harvester is cost less deferred gain on the harvester converted or $8,000. This is the basis for both depreciation and investment credit. You could have investment credit recapture on the old harvester if it was held less time than what was estimated when you claimed credit on it.

Q. The irrigation ditches on my property were destroyed by the flood. If I replaced them with a movable sprinkler system, do I have to report any gain I receive due to reimbursement received from Bureau of Reclamation?

A. The gain would have to be reported as this does not qualify as similar in use property. Real property is being replaced with personal property. The taxpayer would be able to claim bonus depreciation, and the investment credit on the purchase of the new movable sprinkler system.

If the system is an underground system it would be considered similar in use property and gain could be deferred.

Q. We lost all our receipts and records during the flood. Will copies of cancelled checks be acceptable to Internal Revenue Service to substantiate expenditures?

A. If all receipts have been destroyed and other original source documents are not obtainable, cancelled checks will be given strong consideration as substantiation.

Q. If I received money for cleaning up my property and I cleaned up the property myself, how do I report that amount?

A. Money which you received for cleaning up your property does not represent income to you but the amount will enter into the computation of gain or loss and the basis of the property restored.

Q. As a result of the flood my field was eroded and covered with debris. The restoration costs of removal and leveling were $10,000 which was the amount reimbursed by the Bureau of Reclamation. Can I deduct the cost of leveling as a soil and water conservation expense?

A. The costs of leveling up to the amount reimbursed are offset against the amount of the reimbursement. However, any cost expended in excess of the reimbursement would be eligible for deduction as a soil and water conservation expense.

Q. What could I do now to establish records of gains or losses for tax purposes?

A. If you did not keep a copy of the lists turned into the Bureau of Reclamation you should request a copy from them. In addition, keep your settlement sheets and all invoices or receipts for replacement purchases.

Q. If I elect to reinvest part or all of my reimbursement received from the Bureau of Reclamation, how do I make that election?

A. The election to reinvest in order to avoid taxable gains applies only to payments received for damages to or losses of property. The election is made for each item of property where similar property has been acquired, or you intend to acquire similar property within two years from the close of the tax year in which you first received any reimbursement resulting in a gain. The election is made on your Federal Income Tax Return for the first year in which any reimbursement resulting in a gain was received.

Q. In making the election what information needs to be furnished?

A. You should attach a schedule listing the property which was damaged, showing its cost or adjusted basis, the amount received for damages, and the resulting gain or loss. You should also show the amount spent in replacing each such property in the current year.

Q. How long do I have to replace property under the election?

A. The replacement property must be acquired within two years from the close of the tax year in which you first received reimbursement resulting in a gain. Generally this means that if you receive part or all of your payment from the Bureau of Reclamation in 1976 you have until December 31, 1978, to actually acquire the replacement property.

Q. If I do not wish to invest all of the reimbursement that I received for the loss of my personal residence and its contents, are there any tax benefits I should be aware of?

A. You may be able to take advantage of a provision called "income averaging" which may reduce your tax. There are also special provisions for people over 65 years of age which provide for non-recognition of gain from the disposition of a personal residence.

Q. I have replaced a substantial amount of farm equipment lost in the flood. Should I consider reporting a gain rather than electing to reduce the basis of the new equipment?

A. Yes. The long-term benefits may outweigh the immediate tax advantage obtained by the election. You should contact IRS or seek other professional tax advice because of the many factors to be considered.

Q. If I receive $50,000 for the loss of my personal residence, do I have to reinvest the same $50,000 in a new residence to avoid a taxable gain?

A. The requirement is that the property be replaced by a residence costing $50,000 or more. However, it could be purchased with a down payment and assumption of a mortgage, for example, a $10,000 down payment and $40,000 mortgage loan, leaving $40,000 of the reimbursement available for other investments.

You are cautioned, however, that the $50,000 received for the loss of your residence was for the loss of the structure because you still own the lot on which it was located and the replacement would either have to be on the same lot or on a new lot purchased over and above the amount of the reimbursement for the structure.

Q. If I was reimbursed for loss of my salary during the flood, would I have to pay self-employment tax on the amount?

A. Since the reimbursement does not constitute self-employment income, you are not subject to self-employment tax and the amount of the payment is reported as miscellaneous income. However, if you were reimbursed for loss of self-employment income such as a farm operator or business owner the amount should be included in your gross receipts and if a profit is realized for the year it is subject to self-employment tax.

Q. My potato harvester was destroyed as a result of the flood and my ground is no longer suitable for raising potatoes. Must I reinvest in a potato harvester in order to defer the gain or could I reinvest in a grain combine?

A. A grain combine would not qualify as "similar" property and a gain would be recognized on the disposition of the potato harvester.

Q. I lost a steer which had been raised from a calf for home consumption purposes, and was reimbursed $400 by the Bureau of Reclamation. What must I do in order to defer the gain?

A. You must invest the entire $400 in similar property. This could be by purchase of calves or larger animals. However, your intention to use them for home consumption purposes must remain the same.

A 90TH BIRTHDAY GREETING TO MRS. VIRGINIA DOWDALL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. KILDEE. Mr. Speaker, I am pleased to be able to draw the attention of my colleagues in the U.S. House of Representatives to the upcoming 90th birthday celebration of a cherished constituent of mine, Mrs. Virginia Dowdall. I have known her since I was a small boy in Flint, Mich., and she has been one of the examples for me in the conduct of my life. She is a former teacher and looks back on a full, happy life spent close to home. She was born in Davison, and even now her four children, 21 grandchildren, 12-great-grandchildren and two great-great-grandchildren still all live in the same vicinity.

Mrs. Dowdall will turn 90 on December 22, and a feature story on her was published in the Flint Journal by feature writer Alice G. Lethbridge, who reported that Mrs. Dowdall's secret for a long life is hard work and helping others. Mrs. Dowdall was a charter member of St. Mary parish when it started, and when Holy Rosary parish was founded she also was a charter member of that church. She became Holy Rosary's first Altar Society president in 1951, and had held the same office at St. Mary. Mrs. Dowdall has been active in the Flint Council of the Daughters of Isabella and in the East Side Senior Citizens. She enjoys reading, playing cards and bingo, working word puzles and watching television. Faith in God is her most firm belief, and she values her church, family and friends above all.

I hope this very brief background on Mrs. Dowdall will convey how much I respect and cherish her. I request that this greeting to her be published in the CONGRESSIONAL RECORD as an expression of good wishes to Mrs. Dowdall from the entire House of Representatives.

THE NEUTRON BOMB GETS NEW NAME

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. WEISS. Mr. Speaker, the article printed below appeared in the Washington Post today. The Army has apparently decided to give the neutron bomb a new name, but it is clear that production of this gruesome radiation weapon still poses the same threat to all mankind.

[From the Washington Post, Dec. 15, 1977]

ARMY IS STEPPING UP NEUTRON BOMB PROMOTION

(By Walter Pincus)

The Army is stepping up its merchandising campaign in behalf of its controversial neutron weapons.

For one thing, the enchanced radiation weapons, popularly and inaccurately (to the Pentagon's exasperation) called neutron bombs, have been officially named the Reduced Blast/Enhanced Radiation Warheads.

Also, in "Spotlight," a Department of the Army publication for senior military commanders, an article entitled "The Neutron Bomb," describes the new weapon as a device for "defending NATO without destroying the very countries we are fighting to defend."

The administration is having trouble getting the NATO allies to accept deployment of neutron weapons on their territory. President Carter has delayed his expected production decision until the NATO countries reach a "consensus" that publicly supports deployment.

The pamphlet, which is being reprinted in U.S. Army newspapers in Europe, was designed to combat news accounts which, it says, "have portrayed the development of the Reduced Blast/Enhanced Radiation Warhead . . . as having given birth to an insidious new killer device."

Instead, the Army article asserts, it "is nothing sinister. It is simply an improved version of theater nuclear warheads that have been in the Army's inventory for years."

To illustrate and emphasize the point, the publication includes two illustrations which purport to compare the effects of the present "fission weapon" and the proposed "enhanced radiation weapon" (for some reasons it is not called by its new RB/ER designation).

The fission weapon destroys tanks by blast and kills troops with radiation, but also lays waste to the neighboring town through thermal effects. Even the crops in the fields are burned out.

The neutron weapon, however, incapacitates tank crews and troops through lethal radiation but leaves the town standing intact. Even the crops remain untouched in the fields.

What is missing is any indication that there are dangerous radiation levels that would blanket the town in the case of both weapons—though at higher levels with the neutron.

With a two-kiloton neutron blast, for example, radiation levels that would kill half those exposed within 30 days would be delivered to exposed individuals in the town in the Arm's illustration—at least one-quarter of a mile beyond the indicated lethal radiation area.

In the effort to promote the virtues of the neutron weapons, the Army publication suggests it may be used to deliver radiation to specific targets without destroying them—a "death ray" characteristic Pentagon officials once argued with when stories on the neutron weapons first appeared.

For example, at one point it says the neutron weapons could be used on a "structure which must not be damaged [bridge, railyard, etc.] . . . The Remagen Bridge [which crosses the Rhine River in Germany] is a typical example of where blast damage [in World War II] would have been adverse to friendly forces, future operations."

The Pentagon adopted the new name for the neutron weapon, the RB/ER designation, to emphasize the less-destructive characteristics it likes to promote. The suggestion for the change, according to administration officials, came in a classified cable last summer from U.S. Ambassador to NATO W. Tapley Bennett, who is based in Brussels, where neurton weapons are considered controversial.

CITIZENS' CREED

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RHODES. Mr. Speaker, Kenneth L. Muir, major, USAR, retired, wrote a citizens' creed which very eloquently describes the duty we all share as citizens of this great and free land. I include Major Muir's creed at this point in the RECORD for the benefit of all my colleagues and those throughout the country who read the CONGRESSIONAL RECORD:

CITIZENS' CREED

For God and Country, we the citizens of the United States of America, believe that our Creater provided this blessed country for us as our home and inspired our forefathers to author and enact the Constitution of the United States of America, delineating Americanism and the powers of government officials; the greatest instrument ever devised by man for the protection of God-given freedoms of the individual. A Constitutional Republic whose government officials are selected and elected by the citizens eligible to vote; a perfect union of fifty states established on those principles of freedoms, equality, justice and Americanism for which American patriots have sacrificed their lives and fortunes.

We pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

It is our responsibility and duty to uphold and defend the Constitution of the United States of America; to obey its laws, to assist in the selection and election of honest, intelligent, conscientious patriots as government officials; to respect our Flag; to love our country and protect it from all enemies.

God bless the United States of America.

KENNETH L. MUIR,
Major, USAR, Retired.

TO AMEND THE INTERNAL REVENUE CODE OF 1954 TO MAKE CERTAIN CHANGES IN THE TAX REFORM ACT OF 1976

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FISHER. Mr. Speaker, today I am introducing legislation to make more workable those provisions of the Tax Reform Act of 1976 dealing with the capital gains tax on the sale of inherited property. Under the 1976 law, the inheritor of property must pay capital gains tax based on the difference between the sale price of the property and cost basis to the decedent, after certain adjustments, the principal one of which is the "fresh start" adjustment which I shall discuss below. Under prior law the inheritor would have paid a tax only on the difference between the value of the property on the date of sale and the fair market value on the date of death of the person passing the property on. Thus the 1976 law was a significant change and has brought with it many questions—and not a little criticism. My bill is an effort to answer some of these questions and criticisms. It tries to do three things: First, reduce the burden of the 1976 act on small estates; second, provide an alternative method of valuing inherited real property for capital gains purposes; and third, make certain conforming amendments.

First. One of the problems with the 1976 act was that it subjected even small estates to all the filing and reporting requirements. My bill will exempt estates of up to $175,000 from these burdens. This so-called minimum basis of $175,000 is in accord with the dollar amount of property which can be passed at death without incurring estate taxes. In addition, my bill amends current law to provide that the adjustment for minimum basis is to be made before the adjustment to basis for Federal and State death taxes paid.

In short then, under my bill, those estates worth less than $175,000 will not have to concern themselves with the computations or filing requirements imposed under either the Federal estate tax or capital gains tax. I am told that this change alone will exempt roughly 98 percent of the estates in this country from burdensome filing requirements.

Second. The Tax Reform Act of 1976 permits assets subject to the provision to receive a "fresh start" adjustment in basis equal to their value on December 31, 1976. Thus the tax is imposed on the difference in the value on the date of sale and the value on December 31, 1976. The act provided that only marketable stocks and securities are entitled to be valued according to their true fair market value on December 31 of last year by referring to the quoted value on the applicable stock exchange. All other assets, whether real or personal, tangible or intangible, are to be assigned an arbitrary value on December 31, 1976, determined by applying a formula that measures the amount of pre-1977 appreciation by assuming that property acquired prior to January 1 1977, appreciates ratably until the date of the decedent's death. Since the value of the property at death has to be determined in order to comply with the estate tax laws, it was argued in the 1976 act that the value on December 31, 1976, could be determined arbitrarily by the use of a formula.

While this formula has the appeal of simplicity, it would produce inequitable results by assigning arbitrary values to particular assets, such as real property, which do not necessarily appreciate on a ratable basis.

In order to arrive at a December 31, 1976, value more closely resembling the true market value on that date, my bill permits the executor of an estate at his election to value each asset for purposes of the "fresh start" adjustment according to methods already accepted and widely used under the Federal estate, gift, and income tax laws. These methods include: First, the use of an appraisal to determine value; or second, real estate assessments using actual fair market value. This alternative method of valuation arms the executor of an estate with an important option if, as is often the case, the property in question has not appreciated ratably since the date of purchase or where records showing the original cost of the property are lost or unreliable. Moreover, my bill amends current law to provide that the fresh start adjustment is to be made both for purposes of determining loss as well as any gain that may be realized on a subsequent sale or disposition of the property.

Third. The bill also makes several changes that will greatly simplify the computation of the adjustments to basis for death taxes paid. Initially, the basis is increased to the higher minimum basis level of $175,000 established under another section of the bill which I discussed earlier. Then, my bill provides for a single death tax adjustment to basis instead of the separate adjustments and computations which current law requires for Federal estate tax, State estate taxes, and any State inheritance or succession taxes that may be levied. To determine the amount of the adjustment to be made for each asset under the new formula which my bill prescribes, an executor will only need to multiply the net appreciation of the asset by the applicable marginal Federal estate tax rate instead of the average rate which prevails under present law.

A number of other modifications are made to conform various provisions in the Federal estate and gift tax laws to changes in my bill. To equate more closely the treatment of items of income in respect of a decedent with the treatment accorded property subject to capital gains tax under the bill, the deduction for Federal estate and State estate taxes attributable to income in respect of a decedent is determined by reference to the decedent's marginal estate tax rate, which restores the rule that existed prior to enactment of the Tax Reform Act, while repealing the current rule that requires the deduction to be computed at the decedent's average estate tax rate.

The adjustment to basis for gift taxes paid is revised to place it more in accord with the adjustment to basis for death taxes paid. Under my bill, this is achieved by providing that the adjustment to basis for gift taxes paid is to be determined at the taxpayer's marginal rate instead of the average rate prescribed by the Tax Reform Act. Moreover, an adjustment is permitted for the first time for State gift taxes comparable to the adjustment which my bill extends to State death taxes paid.

In conclusion, I believe that this legislation will greatly simplify operation of certain of the provisions contained in the Tax Reform Act of 1976. The purposes of these changes are: First, to relieve executors of small estates from the rigorous administrative requirements and extensive computations which the 1976 act imposed; and second, to value inherited real property in a more accurate manner when determining the capital gains tax due on sale. I urge my colleagues to support the bill.

STEVE BIKO'S DEATH PROTESTED

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to add my voice to the throng of citizens deeply concerned and appalled over the handling of the official government investigation into the death of South African civil rights leader, Steve Biko.

During the inquest, the newspapers were replete with reports such as: "Steve Biko's severe head wound was not made known to doctors for some 5 days"; and "Steve Biko was left lying naked, shackled, and incoherent from his head wound, on the prison floor."

It is possible that the magistrate could not identify those who were specifically responsible for Biko's death. But, it is inconceivable that the magistrate could have failed to denounce the system which permitted such bestial and inhumane treatment.

The United States—a nation devoted and dedicated to human rights—cannot stand mute in the face of such gross violations of human rights.

To do other than protest Steve Biko's death would be to abdicate our national responsibility.

FRIEDMAN ON TAXATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CRANE. Mr. Speaker, as we adjourn this 1st session of the 95th Congress, it is appropriate to reflect on the steps we have taken and on their impact. My esteemed colleague, Dr. Milton Friedman, has begun this review process in his fine column, "Tax Shenanigans," which appeared in the December 19 issue of Newsweek. As usual, Milton provides an insightful and hard-hitting analysis of congressional policy—especially in the economic realm—which we all should take time to mull over:

TAX SHENANIGANS

(By Milton Friedman)

Th President has recommended and Congress is likely to approve:

1. A whopping increase in the social-security tax on wages.

2. Heavy new taxes and substantial increases in existing taxes as part of the so-called energy bill.

In addition:

3. Inflation will automatically raise income tax rates by pushing individuals into higher brackets, reducing the real value of exemptions and deductions stated in dollars, and artificially overstating income subject to tax through paper capital gains and inadequate depreciation allowances.

4. Accelerating inflation will automatically raise the hidden tax that has been imposed on holders of government-issued money and long-term debt—you would not be wrong to regard the green pieces of paper you carry in your pocket as receipts for taxes paid.

5. President Carter has said he will recommend cuts in individual and corporate income taxes to offset the increases under items 1 and 2. The rumored size of the cuts would, as it happens, just about equal the automatic increase under item 3.

PUZZLES

Query: Why increase taxes on wages (item 1) and then propose to offset the increase by reducing taxes on income (item 5)?

Answer: In order to continue deceiving voters about the true character of social security and thereby increase the fraction of their income they are willing to have the government take in taxes.

Social security is not a system under which "nine out of ten working people in the United States are now building protection for themselves and their families" (as HEW misleadingly describes it). Social security is a system under which nine out of ten working people pay taxes to finance payments to persons not working. There is little connection between the taxes an individual pays and the amount he is entitled to receive.

Promises have outrun resources. The social-security system is in trouble. But it would be far preferable to bring into the open the welfare component of the system by drawing on general revenues than to raise still higher the wage tax—in my opinion, one of the worst taxes on the books.

Query: Why go through the charade of first letting inflation automatically raise income taxes (item 3) and then offsetting the rise by an explicit tax reduction of roughly equal size (item 5)? Congress has been only too willing to provide for the automatic adjustment of its own salaries and the salaries of other government employees for inflation. Why should it not be equally willing to provide for a similar automatic indexation of taxes?

Answer: If you were a congressman, would you want to give up a system that provides more tax revenue for you to spend, yet at the same time lets you vote for tax reduction? In addition, this system has facilitated an increase in the effective graduation of the income tax, thereby continuing the process of imposing heavier taxes on the productive members of society and granting larger subsidies to the unproductive.

Query: Why impose heavy taxes on energy and then proposed either to rebate them to consumers or to offset them by other tax reductions?

Answer: The ostensible reason is to promote energy conservation. But that objective would be better served by setting energy prices free and letting the market allocate energy. The real reasons are to transfer control of energy from the market to a government bureaucracy (i.e., to socialize energy), and to redistribute income from some groups to others.

THE BOTTOM LINE

These measures have little to do with the total tax burden on the American people. That burden is measured by the amount that government spends, not by the receipts that are labeled "taxes." If government spends more than it receives in the form of "taxes," you pay the difference—in concealed form.

Neither the President nor the Democratic leadership in Congress has proposed to reduce the fraction of your income spent by government. Hence, the bottom line is that President Carter and the Congressional leadership are proposing to raise, not lower, the total tax burden on the American people. The disputes about taxes are important both as a smoke screen and because they will affect who bears the burden.

THE PATRIARCH OF MAFOLIE

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DE LUGO. Mr. Speaker, I am certain that my colleagues will agree that in order for a community to prosper, a few good men and women must lead it. They must stand as models for the rest of the community embodying the values of wisdom, concern, generosity, and kindness, as well as respect for the land upon which the people walk.

Recently, the Virgin Islands lost such a leader. Joseph Sibilly died on December 9 after 88 years of service to the community of the Virgin Islands.

He was not native to the islands. At the age of 23, he bought land on St. Thomas and divided it among 12 families to be farmed. That they all prospered was due to his guidance and wisdom. He was self taught at so many skills that he could clear land, grow crops, construct houses, and build roads with no aid but his experience and intelligence. He was renowned for his ability to tell a straight line without instruments, a crucial skill in our mountainous islands.

Joseph Sibilly's ideal of service went beyond farming. He was part of several local administrations and could always be counted for his calm advice and counsel in times of crisis.

Mr. Sibilly will be long remembered. He is survived by 7 children, 32 grandchildren, and 47 great-grandchildren. That they have all been imbued with his devotion of the islands is evidenced by their wish that no flowers be sent to his memory, but that contributions be made to improve a local hospital. Even more, however, a school which sits on land given by him to the government has been named for him.

The Virgin Islands Daily News eulogized him in its December 12 editorial. I commend this eulogy to my colleagues and fully agree with the conclusion reached by the writer—a man serves himself best when he serves others:

[From the Daily News, Dec. 12, 1977]

THE PATRIARCH OF MAFOLIE

It is somehow fitting that the family of the late Joseph Sibilly has requested that, in lieu of flowers for his funeral, that donations be made to improve Knud-Hansen Memorial Hospital.

For the essence of his long and valuable life was giving—giving not only material things but so generously of his wisdom, his skills and the values that he had so nobly not only spoken but lived by all his life.

He is perhaps best known to most of the people of these islands for his gifts of land to provide a site for the Catholic church and Estate Mafolie, the Mafolie Clubhouse and the public school that now bears his name.

However, throughout the Northside, there are many other monuments to this remarkable man. There is a system of roads that are testimonial to his keen eye and his intuitive skill at building, improving the land.

There is a whole community of people whose talent for farming is proof of his belief that the Northside and its people could form a valuable source of food for the island.

And there are the people themselves, many of who live on their own land in large part because Joseph Sibilly believed so fervently that Northsiders could find dignity and comfort through land ownership and was willing to do everything in his power to see that this goal was reached.

He leaves behind him a family that has carried on his good name throughout the island and his tradition of belief in hard work and the good of the community.

Joseph Sibilly was, in a sense, an Old Testament man; a patriarch with vision and strength and generosity. He left for all of us a valuable legacy, the knowledge that, ultimately, a man serves himself best when he serves others.

Let us hope that there are at this moment a hundred others like him springing up, for he left us at a time when his example is sorely needed.

SUICIDE, MOTHERHOOD AND MADNESS—BUT NOT ADOPTION?

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MAZZOLI. Mr. Speaker, I am unalterably opposed to abortion on demand.

But, I believe that those who oppose abortion cannot stop there.

They have to support alternatives to abortion such as adoption subsidies and multi-purpose counselling centers for pregnant adolescents.

Contrary to a recent (leaked) HEW study panel's observation that the "only real alternatives to abortion are suicide, motherhood, and . . . madness," there are many alternatives attainable through the legislative process. Our task in Congress is to usher them onto the statute books.

I commend to my colleague's attention the following article which appeared in the Wall Street Journal of December 2, 1977:

Suicide, Motherhood and Madness—But Not Adoption?

(By Jonathan Kwitny)

The Carter administration has been trying all year to stake out a middle ground in the abortion controversy.

In opposing use of Medicaid money to pay for abortion, the administration has left neither side happy. It seems silly to resolve a moral issue like abortion on the basis of individual wealth, and sillier still to say that those persons with enough money to raise a child can have abortions and those without enough money to raise one can't.

More positively, however, the administration said it would study alternatives that might be offered to women considering abortion. Such a program, while recognizing the practical need for legally available abortions, might have offered moral relief for millions of us, apparently including the President, who are deeply trouble by the notion of destroying prospectively healthy children under normal circumstances.

Last week, however, the study of alternatives itself was apparently aborted. Connie J. Downey, the Health, Education and Welfare official in charge of the study panel, disbanded it, explaining that the only real alternatives to abortion are "suicide, motherhood and, some would add, madness."

Many adoption authorities think they know another alternative, and that Ms. Downey's statement was—as an Indiana social worker put it—"stupid." Said a state adoption worker in Texas, "I was hoping that committee was going to come out with some kind of help for us."

(Ms. Downey acknowledged that an Associated Press account of her report was accurate, but refused to answer further questions on the ground that her report was confidential within the department.)

One positive step the government could attempt is a public information campaign to dispel common misunderstandings about adoption. After abortions were legalized in New York State in 1970 (the Supreme Court ruling, affecting other states, came in 1973), the one-abundant adoption market dried up almost overnight. Current televised appeals to recruit parents involve any older, problem children.

Would-be parents are desperately waiting for almost any infant without a truly severe handicap. While Texas authorities report some problem placing black infants, major New York agencies have waiting lists of black couples hoping for a child.

Prospective adopting parents can't be counted because most are now too discouraged to keep their applications current. But, as Dorothy Dooley, director of adoptions at the New York Foundling Hospital, puts it, "If the word was out that there were children available, the lines would form from here to Alaska."

Elizabeth Cole, director on adoption for the Child Welfare League of America, says even handicapped and retarded youngsters can now be placed, and that with proper counseling for unmarried pregnant women, more healthy infants might be available.

Mrs. Cole points to successful model counseling programs set up by private agencies in Oakland and Detroit and at Johns Hopkins University in Baltimore, and says that by emulating these programs the government might make quality counseling available nationally. "It seems to me that that's a do-able thing. I'm sorry that this project is disbanding without a (positive) report," Mrs. Cole says.

If the administration seriously wanted to discourage abortions, it could offer to subsidize the added costs faced by women who are willing to carry their babies to term and put them up for adoption. Right now, the only way most women who want to follow this course can get their medical bills paid is by selling their babies on the black market through private baby brokers, usually lawyers, who started scouting for available infants after legalized abortion made them scarce.

Professional agencies look on this black market with disgust, but they can't compete with it. Spence-Chapin, a well-known agency in New York, says it can afford to pay less than half of a donating woman's medical bills—let alone other reimbursement—while charging fees that many adoptive parents will see as high. United Family and Children's Society in New Jersey complains of the same problem.

Ironically, the Medicaid money that the administration won't spend on abortions also is withheld from women who might choose birth and adoption. Even more ironically, the only way a low-income woman can have these maternity bills paid in many cases is by keeping the baby, which will allow her to have the bills paid under the aid to dependent children law.

"This is Catch-22!" exclaims Mary Emmons, executive director of United Family and Children's Society. "If she's poor, why shouldn't the hospital bill be paid if she's going to give the baby up for adoption?"

Asked what Ms. Downey's panel could have recommended, Jane Edwards, executive director of Spence-Chapin, says, "That the government first of all provide financial services . . . so they (pregnant women) could choose either to deliver or to have abortions. I think the choice should still be up to them.

Clearly, adoption will not seem a preferable alternative to abortion in all cases—maybe not in most. But in many cases it would not only avoid the emotional scar of an abortion and save the life of a much-wanted child, but it would also renew—as only a child can—the lives of the adopting parents.

The government can't stop abortions any more than it could stop drinking or smoking. To roll back the clock to the days of unsanitary back-room surgery by outlaws would only foster more suffering and injustice than ever. But the government could make sure that when a woman does take the awful step of destroying her child, she has made the decision in an atmosphere in which the alternative of adoption has been presented in the best possible light and she has had a fair chance to consider it.

THE RETURN OF ST. STEPHEN'S CROWN TO HUNGARY

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. YOUNG of Missouri. Mr. Speaker, the following statement to the International Relations Committee was presented by Miss Eleanor Schlafly, the executive director of the Cardinal Mindszenty Foundation, which has its national headquarters in by district.

Miss Schlafly's statement is a convincing argument why the U.S. Government should not return the Holy Crown of St. Stephen to the present Hungarian Government. I urge all my colleagues to read this statement and also cosign Congresswoman OAKAR's resolution prohibiting the removal of the crown from the United States without congressional approval.

My name is Eleanor Schlafly and I am the Executive Secretary of the Cardinal Mindszenty Foundation, Inc., a national nonprofit educational organization with members in all 50 states. For the past 19 years our activities have been dedicated to preserving freedom under God and to opposing atheistic Communism through educational programs. The Foundation is named for Cardinal Mindszenty of Hungary who is a saintly hero for all those who cherish freedom and human rights. Our Council is comprised of distinguished clergy who have experienced first-hand the horrors of Communism in various countries of the world and are eminently qualified to advise us.

On November 4, 1956 Soviet tanks and troops poured into Budapest and brutally murdered and enslaved the young Freedom Fighters, the rescuers of Cardinal Mindszenty and the people of Hungary.

On November 4, 1977 the U.S. State Department announced that the Crown of St. Stephen—the ancient symbol of Hungarian Christianity and nationhood—will be handed over to the illegitimate Communist government of Hungary by Secretary of State Cyrus Vance in December.

We believe that is a cynical betrayal of America's commitment to freedom and human rights.

The Crown was placed on Hungary's first King, Stephen, in the year 1000 by Pope Sylvester II. Since then it has been the most precious relic of the Hungarian nation. What General Patton's troops rescued from the Soviets in 1945 and what the United States has preserved ever since in safekeeping from Soviet desecration, is now being handed over to the Communists.

Every United States President since the end of World War II has honorably abided by the original promise to keep the Crown in safety until Hungary is free. President Nixon personally promised Cardinal Mindszenty in 1970 that our government would never return the Crown to the Communists. Last year President Ford announced that the Crown would remain in the United States. Today the government of Hungary is as much Soviet installed and controlled as it was in 1947 and 1956, and it is kept in power by the presence of 200,000 Soviet troops. It was Janos Kadar who suppressed and stifled the Freedom Fighters of 1956 and who continues to stifle freedom of religion and human rights.

Why should United States policy on the Crown of St. Stephen change now? Why should we dignify this godless regime with a Holy relic symbolic of Christianity and freedom?

The Communists know the Hungarian tradition that says no state ceremony is considered legitimate and no ruler is legitimate without the Crown. The Communists want to be considered a legitimate government despite a long record of taking power by force and violence. That is why over the years the Communists have steadily pressured our State Department and officials for the return of the Holy Crown of St. Stephen to give Dictator Kadar the appearance of legality. They want to be considered legitimate and cover up their sins of naked aggression, murder and inhumanity.

We became keenly concerned about the Crown of St. Stephen in 1971, for it was then that His Eminence Joseph Cardinal Mindszenty, at age 79, was finally released by the Communists after 23 years of imprisonment and confinement due to his belief in God and God-given human rights. We visited him, received his blessing, approval and encouragement in the Foundations' activities, and then he made his first request of us. He said, and I quote: "Action is very necessary to keep the Holy Crown in freedom. It must never be returned to the Communist government. Ask your members to help save it." Unquote.

We are asking you, Mr. Chairman and your Members to save the Holy Crown of St. Stephen. We sincerely hope and pray that your Committee will take all necessary steps to see that the Crown remains in the United States until Hungary is once again a free nation.

THE DEFENSE SECURITY ASSISTANCE AGENCY (DSAA) AND THE PRESIDENT'S ARMS SALES POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I have had with the Department of Defense regarding the calculation of the dollar volume of fiscal year 1977 arms sales agreements with foreign countries for the purpose of reducing that dollar volume in fiscal year 1978, as stated in the President's conventional arms transfer policy of May 19, 1977.

Over the last several years, arms sales have been a matter of increasing concern in Congress. Both the volume and the sophistication of items sold for export have attracted attention and been the subject of legislative debate and controls.

The Defense Security Assistance Agency (DSAA) in the Defense Department is the Agency most directly involved in managing arms sales. For over 3 years it has been under the able direction of Gen. Howard M. Fish, who will be assuming a new post early next year. DSAA has been trying over the last few years, despite limited resources and frequent conflicting policy directives, to establish a more efficient method for handling the well over 5,500 letters of offer and acceptance (LOA's) issued on the average each year to foreign governments.

DSAA cannot and should not be blamed for all the problems which exist in the formulation and implementation of our arms sales policies. That agency has been only one actor in the policy process, and its performance can only be as consistent and coherent as the policy itself.

At this time, DSAA and other executive branch agencies are grappling with ways of implementing the President's directives. An important aspect of this review involves how the dollar volume of arms sales agreements to be presented to Congress and the American people as a ceiling from which reductions are to be made in 1978 will be calculated. Because of two procedures exempting certain arms transactions from inclusion in the ceiling, the figure that will be bantered about publicly as the basis for future reductions will, of necessity, be substantially lower than that of the total amount of foreign military sales (FMS) agreements concluded each year and on the basis of which notifications are made to Congress.

First, under the provisions of the President's statement and procedures now being devised in the Defense Department and other agencies, this dollar volume total, or ceiling, will not include sales to NATO countries, Japan, Australia, and New Zealand states, with which we have major defense treaties.

Second, a distinction is being made between weapons and weapons-related items, which will be included in the ceiling figure, and nonweapons and nonweapons-related items, which will not be included. DSAA is currently defining these two categories, and consulting with other agencies on how to define them.

It should be noted that the distinction between weapons-related and nonweapons-related items is a distinction not made explicit in the President's May statement. In that statement, the items explicitly not to be included in the new figure, other than agreements with those states with which we have major defense treaties, are items which clearly can be classified as services and commercial sales.

What results from this discussion is the fact that we may be equating items which are clearly services with nonweapons-related items. "Services," in general, is a much more restrictive exception to the arms sales agreement figure than the vaguer definition, "nonweapons-related," which can be subjected to narrow or broad definitions. For example, the construction of an air base abroad may not be a "service" but it may not also be defined as "weapons-related." Yet, few of us would agree that such an item should be excluded from the ceiling figure. What items are included in the nonweapons and nonweapons-related category should be an object of close scrutiny by all those who wish to see the computation of a ceiling figure that truly reflects the level of our arms sales.

I hope that what results from the ongoing definition process by DSAA and other agencies and from the difficult task of implementing the new arms sales policy is a successful effort to control an instrument of American foreign policy which has not always been under control.

I would urge my colleagues to follow this issue and to seek to help the new policy and new procedures work. Let us hope that our Government is turning the corner on arms sales trends and that whatever definitions are used, arms sales overall will be coming down and that what is presented as a lower level of arms sales will not, in fact, cover up a business-as-usual arms trade atmosphere.

The correspondence with the Defense Department and the President's May 19, 1977, conventional arms transfer policy statement follows:

NOVEMBER 14, 1977.

Lt. Gen. HOWARD M. FISH,
Director, Defense Security Agency,
Washington, D.C.

DEAR GENERAL FISH: I appreciated very much your willingness to brief members and the staff of the International Relations Committee on arms sales accounting procedures and estimates for the last and this fiscal year. I regret that I could not attend the meeting on November 10, 1977.

It is my understanding that you are in the process of revising and redefining procedures for calculating Foreign Military Sales agreement totals, and that you may be making a distinction between "military-related" and "weapons-related" items and that, unlike in previous years, not all "military-related" FMS transactions will be calculated as part of the ceiling. I would like to know if this understanding is in any way accurate, and, if you are making such a distinction, on what basis you are making it. I also would like to know what specific new ground rules you are making for calculating FMS agreement totals.

I appreciate your consideration of this matter.

Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., December 2, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your letter of 14 November 1977 concerning procedures for calculating FMS agreement totals. The sales totals which will be reported to the Congress under the provisions of Section 36(a) of the Arms Export Control Act will include all new FY 1977 sales agreements plus all major scope increase amendments, signed in FY 1977, to prior year programs. The reporting of such scope increases is consistent with the agreement to do so included in my letter of 26 January 1977.

Apparently, your reference to "military-related" items refers to the President's policy statement of 19 May 1977 which indicated that "The dollar volume (in constant FY 1976 dollars) of new commitments under the Foreign Military Sales and Military Assistance Programs for weapons and weapons related items in FY 1978 will be reduced from the FY 1977 total." NATO, Japan, Australia, and New Zealand were excluded from that policy. The Administration currently is in process of defining and identifying sales agreements for weapons and weapons related items consummated in FY 1977. This will assist in determining the amount of such items for which sales agreements can be signed with non-excluded nations during FY 1978.

The value of FY 1978 sales agreements for weapons and weapons related items associated with the President's policy will be considerably less than the total value of FY 1978 sales agreements not only because sales to NATO, Japan, Australia and New Zealand are excluded from the policy, but also because not all items and services sold under FMS are weapons or weapons related.

The Department of Defense still is required by statute (Section 36(a)) of the Arms Export Control Act) to report to the Congress the total value of Foreign Military Sales agreements consummated under the authority of the Act. Therefore, the ground rules used for such reporting in FY 1978 and subsequent years will be identical to those used in FY 1977.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Statement by the President—Conventional Arms Transfer Policy

The virtually unrestrained spread of conventional weaponry threatens stability in every region of the world. Total arms sales in recent years have risen to over $20 billion, and the United States accounts for more than half of this amount. Each year, the weapons transferred are not only more numerous, but also more sophisticated and deadly. Because of the threat to world peace embodied in this spiralling arms traffic, and because of the special responsibilities we bear as the largest arms seller, I believe that the United States must take steps to retrain its arms transfers.

Therefore, shortly after my Inauguration, I directed a comprehensive review of U.S. conventional arms transfer policy, including all military, political, and economic factors. After reviewing the results of this study, and discussing those results with members of Congress and foreign leaders, I have concluded that the United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests. We will continue to utilize arms transfers to promote our security and the security of our close friends. But, in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it.

To implement a policy of arms restraint, I am establishing the following set of controls, applicable to all transfers except those to countries with which we have major defense treaties (NATO, Japan, Australia, and New Zealand). We will remain faithful to our treaty obligations, and will honor our historic responsibilities to assure the security of the state of Israel. These controls will be binding *unless* extraordinary circumstances necessitate a Presidential exception, *or* where I determine that countries friendly to the United States must depend on advanced weaponry to offset quantitative and other disadvantages in order to maintain a regional balance.

1. The dollar volume (in constant FY 1976 dollars) of new commitments under the Foreign Military Sales and Military Assistance Programs for weapons and weapons-related items in FY 1978 will be reduced from the FY 1977 total. Transfers which can clearly be classified as services are not covered, nor are commercial sales, which the U.S. Government monitors through the issuance of export licenses. Commercial sales are already significantly restrained by existing legislation and Executive Branch policy.

2. The United States will not be the first supplier to introduce into a region newly-developed, advanced weapons systems which would create a new or significantly higher combat capability. Also, any commitment for sale or coproduction of such weapons is prohibited until they are operationally deployed with U.S. forces, thus removing the incentive to promote foreign sales in an effort to lower unit costs for Defense Department procurement.

3. Development or significant modification of *advanced* weapons systems *solely for export* will not be permitted.

4. Coproduction agreements for significant weapons, equipment, and major components (beyond assembly of subcomponents and the fabrication of high-turnover spare parts) are prohibited. A limited class of items will be considered for coproduction arrangements, but with restrictions on third-country exports, since these arrangements are intended primarily for the coproducer's requirements.

5. In addition to existing requirements of the law, the United States, as a condition of sale for certain weapons, equipment, or major components, may stipulate that we will not entertain *any* requests for retransfers. By establishing at the outset that the United States will not entertain such requests, we can avoid unnecessary bilateral friction caused by later denials.

6. An amendment to the International Traffic in Arms Regulations will be issued, requiring policy level authorization by the Department of State for actions by agents of the United States or private manufacturers which might promote the sale of arms abroad. In addition, embassies and military representatives abroad will not promote the sale of arms and the Secretary of Defense will continue his review of government procedures, particularly procurement regulations, which may provide incentives for foreign sales.

In formulating security assistance programs consistent with these controls, we will continue our efforts to promote and advance respect for human rights in recipient countries. Also, we will assess the economic impact of arms transfers to those less-developed countries receiving U.S. economic assistance.

I am initiating this policy of restraint in the full understanding that actual reductions in the worldwide traffic in arms will require multilateral cooperation. Because we dominate the world market to such a degree, I believe that the United States can, and should, take the first step. However, in the immediate future, the United States will meet with other arms suppliers, including the Soviet Union, to begin discussions of possible measures for multilateral action. In addition, we will do whatever we can to encourage regional agreement among purchasers to limit arms imeports.

SUBURBAN CAUCUS PROTEST—ITS FIRST OFFICIAL ACTION

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MOTTL. Mr. Speaker, I would like to offer for the Record a copy of a letter sent by the newly formed suburban caucus to Patricia R. Harris, Secretary of Housing and Urban Development, which protests rule changes being contemplated by HUD which would discriminate against suburbanites in the community block grant program.

The letter represents the first official stand taken by the caucus:

December 8, 1977.

Hon. Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development, Washington, D.C.

Dear Madam Secretary: As Members of the House Suburban Caucus, we view with considerable dismay HUD's proposed rules to implement the Housing and Community Development Act of 1977. Specifically, your agency's proposed regulations would negatively affect local community development efforts. As published in the Federal Register of October 25, this rulemaking would require that participating governments spend no more than 25 percent of their Community Development Block Grant moneys for projects designed principally to aid in the prevention or elimination of slums or blight or to meet other urgent needs. Seventy-five percent of CD grants would have to be reserved for projects of direct benefit to persons of low and moderate income.

There is absolutely no legal basis for this arbitrary quota. In fact, the regulations countermand congressional intent in approving the 1977 Act and in no way accurately reflect the provisions of the statute. According to the law, if a project is designated to meet any one of the primary purposes designated, the application must be approved. With this in mind, we strongly endorse the attached letter sent to you by the Chairman and the Ranking Minority Member of the Subcommittee on Housing and Community Development.

The Department's proposed rules are a prime example of why Congress and successive Administrations of both parties have moved away from narrow categorical programs into block grant funding. Block grants allow for a maximum of discretion by local communities to meet their own unique needs within broad guidelines set forth in the law. We see no justification for your Department's position, which represents a giant step back toward centralizing control over federal programs and diminishing local discretion and control over programs, the need for which can best be determined by local governments.

Moreover, programs designed to benefit the suburban poor would, in many instances, have to be discontinued under the proposed regulations, because the incidence of suburban poverty is often not concentrated enough to meet the new criteria. In effect, communities would be hamstrung in their attempts to stabilize declining areas until the damage is already done and solutions become even more costly. These provisions, therefore, defeat the purpose of the legislation and foretell the end of federally supported community development in the suburbs.

To exacerbate the situation, the proposed rules are cloaked in excess legalese so as to be virtually incomprehensible to local officials and the public. Program regulations should not be written in a manner which enables interpretational twists convenient for federal officials. A stated goal of this Administration is to cut red tape to prevent arbitrary and prejudicial misapplications of the law. HUD's proposed regulations fail to meet this goal.

We strongly advise the Department against instituting regulations which disregard the statutory intent of the Housing and Community Development Act of 1977. We look forward to receiving your response at your earliest convenience and hope that our recommendations will be viewed in a positive vein. Furthermore, we trust that the Department's proposed rules will be revised to reflect our concerns. We will avail ourselves, if necessary, of all legal means, both legislative and judicial, to prevent the present proposal from taking effect.

With best personal regards, we are,

Ronald M. Mottl,
Cochairman.
John Wydler,
Cochairman.
Mark Hannaford,
Secy.-Treasurer.

PRESIDENT CARTER COULD PUSH TOO HARD

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. SOLARZ. Mr. Speaker, I would like to share with my colleagues an excellent article which recently appeared in the Jerusalem Post.

This article is a most persuasive analysis as to why U.S. pressure on Israel to make concessions she believes are unwise would be counterproductive to our interests. The United States has an historic commitment to the survival of Israel and a solemn obligation toward her continued security. It is one thing to attempt to reason with Israel when we believe that it has adopted a misguided policy, but it is another thing entirely to attempt to force concessions on matters considered vital to Israeli security.

There are, unfortunately, those who believe that Israel should be forced to accept a settlement which it would never accept were it left to Israel itself.

Leaving aside the fact that for Israel the terms of a settlement are a question of survival while for us they are a matter of convenience, I believe any effort to impose a settlement would be morally mistaken and politically counterproductive.

This article makes a clear and conclusive case why an effort by the United States to withhold economic and military aid from Israel would only serve to divide the United States and uniting Israel in opposition to us. Surely diplomacy requires more subtleness than this.

Following is the article by Mr. Merhav:

PRESIDENT CARTER COULD PUSH TOO HARD

American pressure, and what President Carter has praised as Israeli flexibility, have brought the re-convening of the Geneva Conference a step closer. Procedural acrobatics and verbal sleight of hand, together with the reluctance of all the parties involved to stand guilty as obstructionists, have made it possible to achieve this immediate goal.

This short-term objective of getting everybody to Lac Leman has also dictated the repeated, often dramatic, American assurances that there will be no imposed solution, that the U.S. remains committed to Israel's existence, well-being and security, and that there will be no economic pressure and no footdragging on military aid.

Much of this is no doubt genuine. America's commitment to Israel is real. It is not only anchored in the sympathies of large parts of the American people, or in the political power of influential segments of the American public, but it is also founded in solid U.S. self-interest.

Nevertheless, the assurances are somehow not as convincing to Israelis as official American policymakers probably want them to be. Most Israelis, regardless of their attitude to the Government's foreign policy, feel the hot breath of American pressure in the nape of their neck.

This distrust of American promises has several causes. The first and most obvious is the recognition that if the U.S. has so far refrained from any really painful arm-twisting, it was because it was unnecessary for the immediate purpose of getting the Geneva Conference going; at the time, the use of the leverage that the U.S. could exert would have been wasted. Evidently, an Israel dragged to the negotiating table by brute force will be of no use there.

At the same time, it is clear that Israel's positions are irreconcilable with those of the U.S.—not to speak of the Arabs and the Soviet Union. It is therefore widely expected that Geneva II will produce a deadlock which, in turn, will spell the beginning of real American pressure.

This expectation is reinforced by the memory of other occasions in Israel's short history when American pressure *was* applied and American assurances were *not* kept. Fear of what may happen if the present promises also turn out to be good only as long as they are politically useful to their makers, together with what is perhaps a national trait of being prone to overreact and to be distrustful, add up to what others may regard as a somewhat cynical hard-headedness.

Now what is the extent and what are the limits of the coercive power that the U.S. can wield? *Time* magazine recently published a much-quoted description of how the U.S. might lean on Israel. For any Israeli familiar with the real facts, that outline looked very understated. Presumably, Americans who are in the know are also aware that the *theoretical* power of bringing Israel to its knees is much greater than that implied by the simple dependence on American financial and military aid.

But if American pressure is to be effective, it must be brute and massive. If, at any time, under any circumstances, an American administration should decide to resort to such tactics—assuming that it would be able to do so from the viewpoint of its own domestic political position—it would no doubt find that the use of ultimate power is as impossible in this area as it is with regard to nuclear weapons.

For in the face of massive foreign coercion, nearly all Israelis would bury their internal differences and join in opposing foreign pressure. This would be true even for those who believe that Israel should return the occupied territories in exchange for peace, keeping only what it can get by peaceful agreement at the conference table; those who are not scared out of their wits to negotiate even with a PLO that would recognize and accept Israel; and those who do not see a Palestinian state as necessarily the end of Israel.

This is so because there is a fundamental difference between concessions freely made, out of a recognition of what reality dictates, and a capitulation to foreign pressure, however much accompanied by tea and sympathy. The former is a matter of internal dispute in Israel, which is still going on. Brute pressure from the outside will stifle that dispute completely.

If, therefore, American policy wants to get 95 per cent of all Israelis to close ranks behind the Begin-Dayan policy, it can achieve that purpose best by leaning on Israel as heavily as possible.

But it is not merely a gut reaction to foreign pressure that will turn even opponents of present Israeli policy into its supporters, at least a good part of the way. What would also have an effect is the recognition of what such an attempt to cow Israel into submission will do to the Arabs. A recent Harris poll showed that 45 per cent of Israelis still believe that we should make territorial concessions also on the West Bank. A similar poll among Arabs would probably not reveal more than 10 per cent (if that) who are willing, today, to so much as acquiesce to Israel's existence.

Pressure on Israel, each and every concession extracted from it by force, will be a reinforcement of the extremists on both sides. It will prove to the hard-line Arabs—and they are still the vast majority—that the toughest stand pays the highest dividends. It will also prove to most Israelis that they have no choice but to be intransigent.

On both sides, there are moderates. In a sense, they are the true extremists. For it takes courage, among the Arabs, to state publicly that one accepts Israel's right to exist. So far, only very few have had that courage. Even fewer have political weight. In democratic Israel it needs no heroism to accept the rights of the Palestinians, and to bow to the limitations which reality and morals impose on Zionist aspirations; but the perseverance needed to make that view heard is great and growing greater.

But it will perhaps be argued that the U.S. has no need to resort to the ultimate power at its disposal. It might apply moderate pressure, enough to be painful but not enough to cripple. Conceivably, the arm-twisting could be optimized so as to cause the Israeli Government serious domestic difficulties which, together with diplomatic pressure designed to isolate it, might either force it into a reversal of its policies or even bring about its downfall.

If Israel were not the democratic country that it is, but one of those "revolutionary," dictatorial or pseudo-parliamentary regimes with which the U.S. has much experience, such a "sophisticated" application of leverage might work. In Israel it will not. It will be ineffectual, will produce the same reactions as heavier pressure, and—once such a tactic of "continuing diplomacy by other means" is adopted—will inevitably escalate into the use of brute force.

The massive pressure in which any squeeze must end up makes sense only if it can obtain results quickly. But the more brute the force, the more are people in Israel likely to accept almost any sacrifice to withstand it. For six months, a year, possibly much longer, Israel is able to hold out against *any* conceivable sanctions which the U.S. could apply in practice. Meanwhile, the very fact that no results are obtained is likely to create an explosive situation, regardless of where the spark will strike first.

It has been said again and again that there is a fundamental asymmetry between the Israeli and Arab situations in the conflict. For Israel, any settlement, any concession, alawys touches upon its very chances of survival—national and, also, physical. Not so for the Arabs, not even for the Palestinians. This difference is still ignored.

Any Israeli, however dovish, however willing to share historical rights and political sovereignty with another nation, will therefore stand up and fight if his nation is raped into concessions while his enemies are, by that very coercion, encouraged to press on, not for compromise and acceptance, but for the attainment of their most extreme goals.

If, therefore, the U.S. wants to destroy any chance of a true and lasting peace, it should indeed encourage Arab as well as Israeli hawks by leaning on Israel. If, on the contrary, it truly wants to promote the cause of peace, *it should allow Israel's policies to run their course and remain subject to democratic internal debate;* it should not attempt to forge them into hard homogeneity by the application of outside pressure. Moreover, the U.S. should demonstrate to the Arabs, as forcefully as it can, that their acceptance of Israel, fully and without reservations, is a precondition for any settlement.

Only if there is a firm commitment by the Arabs to make true, unlimited peace, only if there is an unequivocal undertaking to weave that net of relationships which alone can make war an ever more remote possibility, will there be a prize to tempt more and more Israelis into a readiness to veer away from the present official policy. Only if the majority of Israelis become firmly persuaded that their national survival, their very physical existence, is no longer at stake, that territorial concessions do not mean suicide, will they swing towards a more conciliatory policy.

As much as men of reason may regret it, the "Massada complex" is a real component of Israeli attitudes. It is a compound of an abysmal fear of extinction and boundless determination to defend survival. It can produce unpredictable survival. It can produce unpredictable results—unpredictable because Israel cannot be judged by standards applicable to other nations. It may be well for the U.S., the Soviet Union, and the Arabs to remember this.

INTRODUCTION OF H.R. 10290, TO REAUTHORIZE THE BELLE FOURCHE IRRIGATION PROJECT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ABDNOR. Mr. Speaker, I have today introduced legislation to authorize the modernization and improvement of the Belle Fourche project, which was originally authorized in 1903 and continues to supply water for irrigation to about 375 landowners.

This project not only provides the lifeblood of the operations of these family farms, but it is also vital to the economy of the area. Considering the state of the science of irrigation when the project was initiated, it has served its purpose surprisingly well.

The time has come, however, to update the project's facilities and operation based on current knowledge and technology. H.R. — has been drafted in consultation with the Belle Fourche Irrigation District Board and the Bureau of Reclamation and will provide the necessary authorization:

H.R. 10290

A bill to authorize modernization and improvement of the Belle Fourche project and to integrate the project into the Pick-Sloan Missouri Basin Program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the general plan for the Belle Fourche project, South Dakota, heretofore authorized for construction by the Secretary of the Interior May 10, 1904, pursuant to the Reclamation Act of 1902 (32 Stat. 388), is modified to include construction, betterment of works, land rehabilitation, water conservation, recreation, fish and wildlife conservation and development, and silt control on the entire Belle Fourche project. As so modified, the general plan is reauthorized and under the designation "Belle Fourche Unit" of the Pick-Sloan Missouri Basin program.

SEC. 2. (a) The Secretary of the Interior is authorized to negotiate and execute an amendatory repayment contract with the Belle Fourche Irrigation District covering all lands of the existing Belle Fourche project.

(b) The period of repayment of the construction and rehabilitation and betterment costs allocated to irrigation and assigned to be repaid by the irrigation water users shall be not more than forty years from and including the year in which such amendatory repayment contract is executed.

(c) During the period required to complete the rehabilitation and betterment program and other water conservation works, the rates of charge to land classes and the acreage assessable in each land class in the unit shall continue to be as established in the November 29, 1949, repayment contract with the district, as subsequently amended and supplemented; thereafter, such rates of charge and assessable acreage shall be in accordance with the amortization capacity and classification of unit lands as determined by the Secretary.

SEC. 3(a). All miscellaneous net revenues of the Belle Fourche Unit shall accrue to the United States and shall be applied against irrigation costs not assigned to be repaid by irrigation water users.

(b) Construction and rehabilitation and betterment costs of the Belle Fourche Unit allocated to irrigation and not assigned to be repaid by the irrigation water users nor returned from miscellaneous net revenues of the unit shall be returnable from net revenues of the Pick-Sloan Missouri Basin Program within fifty years from and including the year in which the amendatory contract authorized by this Act is executed.

SEC. 4. The limitation of lands held in beneficial ownership within the unit by any one owner, which are eligible to receive water from, through, or by means of project works, shall be three hundred twenty acres of class 1 land, three hundred sixty acres of class 2 land, four hundred twenty acres of class 3 land, or five hundred acres of class 4 land, except that the acreage of each class of land which is eligible to receive water may be adjusted by the Secretary if he determines such adjustments are warranted by changing economic conditions.

SEC. 5(a). The provision of lands, facilities, and project modifications which furnish recreation and fish and wildlife benefits in connection with the Belle Fourche Unit shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

(b) The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital cost allocated to interest bearing features shall be determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction of said interest bearing features is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 6. Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available for credits, expenses, charges, and costs provided by or incurred under this Act. The Secretary is authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 7. There is hereby authorized to be appropriated for the rehabilitation and betterment of the irrigation facilities of the Belle Fourche Unit and for recreation and fish and wildlife measures as authorized by this Act, the sum of $26,000,000 (based on January 1977 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction cost indexes applicable to the types of construction involved herein.

At the request of my office, President Robert Donaldson of the irrigation district board has furnished the following comments in support of this legislation:

First, the Belle Fourche Project, over the years since construction, has lost considerable acreage to seep, which could be reclaimed by lining, pipe or other acceptable means under a reauthorization program. The Project at one time contained 81,870 acres and is now at 57,096 acres, a loss of 24,774 acres which are now in Class VI, thus if these were reclaimed, would increase the returns to farmers and in general the whole economy.

The project was one of the first two projects authorized for construction in 1903, and as such the many methods used in construction are so very different from construction practices of today; thus by using modern methods and practices, problems that have existed since the project works were constructed and completed would be corrected and eliminated. A great saving of operation and maintenance expense would ensue.

Many of the original main structures are in very poor condition and/or need modification to operate satisfactorily. The redesign and the replacement of such structures could be accomplished under the reauthorization program. It would be impossible for the District to replace these structures with District funds. Another thing that should be considered, is the enlargement of the Inlet Canal to take more water which would be a safety factor to peoples below the Diversion Dam.

One very important reason and probably the most important is the saving of our precious resource water, with the lining, realignment of canals and laterals, construction of new structures and new farm turnouts with accurate measuring devices—water saving would be greatly increased. Farmers are now investing large sums of money in gated pipe which is contributing to water saving and efficiency which we feel shows the project farmers willingness to invest in water saving economies. The increased awareness of water conservation also contributes to a greater saving of our top soil. This would greatly increase the water delivery efficiency on the Project from the present 48 percent.

The time has come. The Belle Fourche project has many years of reliable service behind it, but enactment of this legislation will insure many more years of improved service to come.

I urge enactment of H.R. 10290.

EXPLOITATION OF THE WHITE HOUSE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MICHEL. Mr. Speaker, the November/December issue of Nutrition Today reports on a curious happening at the White House. It seems that in April of this year an activist group calling itself the Center for Science in the Public Interest (CSPI) was able to use the taxpayer-supported facilities of the west wing of the White House in order to propagandize for its view. Midge Costanza, controversial presidential aide, engineered the permission for CSPI to use the tax-supported White House space.

All of this occurred on National Food Day. You say you never heard of National Food Day? If so, you are in good company for outside the small group consisting of CSPI, Midge Costanza and a few White House aides, few Americans have heard of such a day. Small wonder, since it was unilaterally declared by the enterprising head of CSPI who, following in the footsteps of Ralph Nader, seeks to impose his strange views on us all.

CSPI was granted permission to use the Roosevelt Room in the west wing of the White House for its "Food Day" spectacular, "Dinner at the White House." The dinner consisted of such goodies as peanut butter and banana sandwiches, skim milk, "crunchy nut-broccoli casserole," and other food granted the good CSPI seal of approval. The President, it is said, did not attend this feast, evidently believing that when you have seen one peanut butter sandwich you have seen them all.

In any event, television cameras dutifully covered the event, which was what CSPI wanted in the first place. A few historic firsts were made. This is the first time an operator of a fruit and produce stand joined with members of an Asiatic religious sect calling themselves "Golden Temple Conscious Cookery" to make a meal served in a working room of the White House. So much for history.

Was this a precedent-setting event? The White House declines to say. But if friends of Ms. Costanza can exploit the White House to gain publicity for their views, why can not anyone with a nutritional cause do the same? Would it not be discrimination of the most serious kind to deny the use of the East Room to the Metaphysical Kumquat Growers of New Jersey or the family dining room to a meeting of the Assorted Dates, Figs, Nuts and Other Americans United to Combat Cheeseburgers? If the Ancient Order of Hot Pastrami decides that in the national interest it needs the Rose Garden for publicity, will Ms. Costanza turn them down or offer them a cucumber?

If the White House insists on doing this, perhaps each new special interest group should be charged for the kind of exploitation Ms. Costanza granted to her friends for free. Since she has decreed that the White House is to be exploited, why not make it profitable for taxpayers as well as for those whose special interest is being served? In the meantime, it is my hope that the roast beef sandwich will not be ruled subversive by the Carter White House:

Food Day at the White House

(Note.—All sorts of events happen in, at, or just outside the White House in Washington. Now, at last, the structure has been used by one group to make a point, their point, about nutrition.)

A few years back, President Nixon gave a dinner at the White House to celebrate Washington's Birthday. To entertain his guests, he invited the cast of the successful musical 1776 to offer a few scenes from the show in the famous East Room. It was a delightful performance in which immortal words were sung to lilting tunes. When the entertainment was over, the president rose and thanked the cast. In so doing, he turned to the actress portraying Mrs. John Adams, who in 1800 was the first woman to occupy the new White House, and said, "You, Abigail, may hang your wash in this room any time you want to." Mr. Nixon knows his history. The real Mrs. Adams did dry her laundry on ropes stretched across the vast East Room of the presidential mansion.

In those early days of the White House, no one took much notice of the presidential wash, whom the president had to dinner, or the way the families of presidents used their home. Thomas Jefferson entertained his butcher at dinner. The earthy Andrew Jackson asked the folks in off the capital's muddy streets to eat and drink and celebrate his inauguration with him. Until transportation and communication helped the American people achieve a sense of national unity, the White House was indeed nothing more than the place where the president lived.

This is not true today. While the president and his family live there, upstairs, "over the store," as it were, the White House is now more of a museum and a national shrine than a home. This is the reason why, when a special interest group is allowed to use the shrine for a special event, as it was last spring, the happening takes on a certain distinction. The public assumes that such a group has been invited by the president and that the occasion is a symbolic endorsement of the group's principles and goals. That appears to have been what the Center for Science in the Public Interest sought to achieve by having a "Dinner at the White House" on their Food Day last April 21.

C.S.P.I. is an activist group that "investigates and seeks solutions for consumer and environmental problems." Their main interest is in the safety and nutritional quality of the nation's food supply. They try to persuade the public that we all eat too much salt and meat and sugar. They claim that the food industry is slowly poisoning us with too many additives, and they call the present national diet "pathogenic."

The group was founded in 1970 or 1971 (the date seems unclear) by Michael Jacobson an intelligent, imaginative young activist, who has a doctorate in microbiology from Harvard. On graduating, Jacobson, a New Yorker by birth, promptly moved to Washington and joined Ralph Nader and his consumerists' group. During what seemed to have been an internship, Jacobson spotted a hole in Nader's blanket over the whole consumer movement. As Jacobson saw it, Nader had overlooked the concerns Jacobson thought consumers should have about the food industry and the American diet. These concerns were ripe consumerist targets. Thereupon, having seen, as he once said, that "Ralph had a good thing going," Jacobson decided to set up shop for himself. At first, his Center for Science in the Public Interest, a catchy umbrella of a name, had a difficult time of it. However, in time, his organization slowly matured, just how much one can measure by the fact that he recently faced a full-fledged strike by his office workers. That's something of an indication of having arrived.

One of Jacobson's better ideas to attract attention to his center was to proclaim the observance of a "National Food Day." Days honoring our mothers, mothers-in-law, fathers, and the like are usually set by acts of Congress. A detail such as needing congressional approval to proclaim a national day is not the type of thing that would daunt Jacobson. Proclaim it now, get it approved later.

The first Food Day was announced by Jacobson in 1975. Since then, C.S.P.I. has been sending out posters deploring the national diet and excoriating the food industry, which is lambasted for processing our food and for putting out convenience foods. Naturally, food additives get a going over too. Consumer groups are urged to hold "teach-ins" and to have discussions and food fairs at which everyone can learn the error of their ways, start eating "right" (trans.: organic vegetarian foods), and resolve to fight industry, cattle-raisers, and other disciples of (according to C.S.P.I.) ill health.

Jacobson has learned his way around the nation's capital since he arrived some seven years ago. He is a close observer of Congress and the political scene. He has attracted the attention of several liberal members of Congress. During the last election, for example, he helped form a Food and Nutrition Task Force of the National Committee to Elect Jimmy Carter President. His man won, so Jacobson the activist is no longer an outsider in Washington. Like so many other young activists, he now has a direct line to high places. Along the Potomac, this means power or at least the appearance of influence. This may explain why he was able to persuade the White House staff to let the C.S.P.I. celebrate Food Day '77 with a dinner at the White House.

To most people, a "Dinner at the White House" conjures up visions of a formal affair, governed by the strictest protocol, attended at least by a king or queen, president or prime minister, the great and near-great. Included in the guest list might be bankers, movie stars, industrial moguls, and other "beautiful people." The meal served would be prepared under the careful guidance of White House Chef Henry Haller and include exotic hors d'oeuvres, the best cuts of meat, vegetables bathed in creamy sauces, sugary desserts, choice wines, and other delectables.

There would be ceremony too. When the president and the first lady come downstairs, there is the sounding of trumpets and the grand entrance. At dinner, there's bright talk of matters of cosmic importance against background of soft music by a military ensemble, such as the Strolling Strings of the 33rd Tank Battalion (Heavy), playing, say the Minuet in G or a waltz from "Countess Maritza." It's a heady affair.

The C.S.P.I. meal was something else. They didn't say their dinner was to be such a gala affair. They didn't say it wasn't, either. Their press announcement merely said "Dinner at the White House." It was left to the reader to find out whether it was to be white tie and tails with champagne and trumpets in the East Room or a vegetarian buffet with apple juice and a Sony in a side office.

Instead of being in the handsome East Room, where Abigail Adams hung her laundry, Jacobson laid on his dinner in a conference room of the West Wing, which Theodore Roosevelt added in 1902 to get the president's business out of his home.

Also, the Jacobson gala had a quaint do-it-yourself aspect, something missing from dinners for visiting royalty. The White House chef didn't prepare the meal, for example. In fact, when Chef Haller was asked whether he had anything to do with the Jacobson party, he haughtily observed that he has the responsibility for the food served in the White House, not that eaten in the business offices. Unable to get resident help, the ever ingenious Dr. Jacobson sought out Mitchell Berliner, a 28-year-old Marylander who operates several produce stands in the Washington area, and appointed him "Chef for a Day." Since Berliner's reputation as a caterer of fruits and vegetables has spread among the health food set in Washington, he was a natural choice. However, the pressure of last minute arrangements for the big event overwhelmed Berliner, so he subcontracted out much of the preparation to a local health food restaurant, thereby unintentionally adding another twist to "Food Day at the White House." With Berliner's move, the food served in this most Baptist of all households in the nation was prepared by the bearded, turbaned men and saried women of the "Golden Temple Conscious Cookery." These disciples of a very different, Asiatic belief are about as far removed from Southern Baptist christian doctrine as one can get. The Cookery of ephemeral name is run by devotees of Sikhism, a mixture of Hindu and Moslem religions, whose followers are the well-known and highly respected Sikhs. The Cookery, it seems, is a part of a health food restaurant chain that the Sikhs operate "throughout America," they say. But religion or no, Jacobson got another first: this is the first time that a meal prepared by an Asiatic religious sect has been served at the White House . . . even in the business offices.

White House historian, please note. Give credit where credit is due.

The fact that the way to the White House kitchen was barred didn't daunt the Food Day celebrants. They got a truck, picked up the dishes at the Golden Temple Conscious Cookery, and drove down to the mansion. There, Berliner laid it out as an attractive buffet. There was little protocol and no security check on the groceries. The president decided to eat upstairs.

He didn't even show up. For all we know, President Carter may learn what went on for the first time when he reads this account.

Robert Rodale, one of the invited guests, gives us a firsthand report. Writing in the July issue of Prevention magazine, of which he is editor and publisher, he said:

Right at six o'clock, when the event was scheduled to start, into the room streamed two dozen or so TV cameramen, light-holders, people with tape recorders and other assorted journalists. They zoomed in on that tableful of beautiful real food as if it were the strangest sight to have hit Washington since Chief Joseph of the Nez Perce Indian tribe came back East to talk peace. For five minutes, they photographed natural food from every angle, then turned their cameras on the people eating it, as if expecting them to collapse from a seizure of vegetarianism.

A young lady who said she was from Time magazine came up to me.

"How do you like this food?" she asked.

"It's good," I replied. "I eat this kind of food all the time."

With that, she looked up from her note pad to stare at my face, probably expecting to see some kind of natural food expression around my mouth. She didn't see anything unique about me, so she hurried away to ask the same question of someone else. The press was looking for strange reactions to what they considered an oddball meal.

Certainly, the menu was something different than reporters or anyone else might expect to find at the White House. It was all nuts, fruits, and vegetables. It included a selection of black-bean soup, raw vegetables, "crunchy" broccoli-nut casserole, whole wheat muffins, and other items from the "official" Food Day menu.

The guest list included Jacobson's fellow members of the Carter election committee, Agriculture Secretary Bergland and his Assistant Secretary, Carol T. Foreman, politicos Senator Mark Hatfield and Congressman Paul Rogers, and the luminaries among the Washington food activists. Nader wasn't there.

By all accounts everyone had a great time, savoring the vegetarian meal (Jacobson says it goes right along with what Senator McGovern thinks everyone should eat), sipping apple juice, and talking politely about nutrition. Speeches were made and the merits of health foods were extolled by all. After the dinner, a quick clean-up job by the guests (no hired help) was all that was needed to return the staff room to its natural state.

The C.S.P.I. was not charged for the use of the room nor were there any special requirements made of them, except that they were told not to bring too many guests, not to make a mess, and to be sure to clean up afterwards. All of which they did thoroughly.

The food that was left over was sold the next day on the streets of Georgetown.

In spite of its informality, the Food Day dinner did cause a little stir. When he heard about it, Wray Finney, president of the National Cattlemen's Association, sent President Carter a stinging telegram, calling the menu "bizarre" and asking about Carter's implied endorsement of vegetarianism.

Reminded of this episode, one White House spokesman said that the meal merely represented the Carter administration's firm dedication to nutritious eating. He denied that it represents presidential benediction of C.S.P.I. or a dedication to the idea that all Americans should become vegetarians.

Other questions put to the White House staff failed to reveal whether the president and his aides feel that they have set a precedent by letting this special interest group have a dinner in one of the White House offices. According to Margaret Costanza, the Presidential Assistant for Public Liaison and the one who engineered the permission for the C.S.P.I. to bathe its symbolic affair in the aura of the national shrine, this is the first time that an outside group has been let in.

In any event, the president's office doesn't seem to have decided what they'll do if other groups want the same permission to exploit the White House that Jacobson got. It is unclear what would happen if the Louisiana Catfish Breeders League were to petition for permission to hold a fish fry in the East Room or if the National Livestock and Meat Board says it wants to throw a bull roast in the Rose Garden. The gates (or a side door, at least) have been opened. The possibilities of whom President and Mrs. Carter may one day find eating downstairs are indeed fascinating to contemplate.

Such high-powered possibilities aside, one thing is certain. Dr. Jacobson and the C.S.P.I. have set a precedent. They have made their point by exploiting this lovely building that occupies a unique place in American life. In a fireside chat, President Franklin Delano Roosevelt once said, "I never forget that I live in a house owned by all the American people and that I have been given their trust." Some of those who don't accept the radical ideas of the Center for Science in the Public Interest may wonder whether Mr. Carter shares F.D.R.'s ideas about the sanctity of the White House.

Even with the widely varied history of the White House, the way the C.S.P.I. used it is something new for this national shrine.

IWY—A GOVERNMENT DOLE OF RIGHTS AND FUNDS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, syndicated columnist, Michael Novak in Sunday's December 18, 1977, Washington Star vented some pent-up feelings on the recent Houston IWY fiasco which says it all so well that I wish to share the article with my colleagues and the people of the Nation through the dignity of the RECORD:

HOW SOMETHING USEFUL COULD HAVE GONE ON IN HOUSTON

Believe me, I have been trying to avoid writing on the government-subsidized meeting of 2,000 women in Houston. Right-to-Life groups have brought 20 times this many women to Washington for two days (and they paid their own way), but the media did not notice. Let the subject of a meeting be a cause the elite classes in this nation cherish with their hearts and the cameras will grind on and on. It's a national disgrace.

Five million dollars yet. Two thousand women in the pay of Daddy Government did not even invite a single leader of their opposition to speak; ran a disciplined meeting that put Richard Nixon's second nominating convention to shame; pulverized their internal opposition;—and boasted to the world how liberal they are, how moral, and how beautiful.

Across town, five times as many women, not subsidized by the government, represent the counterculture. Almost unnoticed.

What is most curious about the elite conference in Houston is the dependence on government the new women insist upon. They say they are liberated. They say they are independent. But they want the federal government to pay for their meetings; to pay them $50 a day just to come; to pay for their child care; and to pay for abortions. Where would a modern woman be without Daddy?

Indeed, the real political meeting of the Equal Rights Amendment is not the symbolic emotional reinforcement it will give to those who desire redundant notice. The real political meaning is the interference it will warrant in state and local affairs by federal agencies.

Daddy is highly arbitrary, he has a temper, and he owns lots and lots of power and money. Nobody knows what Daddy will do with ERA. But those who love Daddy want him to show off in front of the others.

There are a number of urgent practical questions that a women's congress could have looked into:

Thousands of American couples want babies: There are today far more "wanting" mothers and fathers than "unwanted" children. The thriving black market in babies is a scandal upon the women of this generation. In New York, the list of black parents who desire to adopt children is longer than the list of black babies up for adoption. Could not the woman's movement encourage some abortion prone who would so choose, to bear at least some babies for adoption? Many are "wanted" by loving parents.

Abortions are outrageously high priced. Conditions in some abortion mills are a scandal. Could not the women's movement see to it that the price is brought down (rather than ask Daddy to subsidize inflated prices)? Could not women protest against "windfall profits" in abortions? Must this grisly business be so shabbily conducted? It is, of course, as Time Magazine pointed out, something of a scandal for this generation of women that its liberty should be won through the death of the living. Could not the movement at least have the guts to depict honestly what happens in an abortion, and what it is like, instead of using surgical euphemisms?

The sexual aggressiveness of men constitutes a major difference between the sexes. As Bella Abzug said in Houston, she never saw a hotel full of women send out for call boys. What sort of social sexual code for men ought this society to develop now? Young women are under tremendous and unfair pressures. Our sexual mores are generating millions of personal disasters, whose effects will be felt in our children and our children's children for generations: fickleness, inconsistency, betrayal, infidelity, abandonment. Sexual confusion in our society is enormous. To those recently "liberated" from a stricter ethic, the sheer excitement of libertinism is blinding. But the jading will soon become hard to bear. Have liberated women nothing to say about sexual morals, except that lesbianism is a "sexual preference"?

Lesbians at Houston said, with pride, "we are all around you." Of course they are. In an age of sexual confusion, we may expect their numbers to increase. But the self-hatred involved in looking to the Narcissus-mirror of one's own sex will also, in time, deepen and grow. The fullness of human development lies in learning from the opposite sex. Of course, women from time immemorial have been known for being compassionate and forgiving; we did not really expect Houston to speak a word of judgment upon lesbianism. But to have said nothing at all about a public sexual morality in which women and men can find moral integrity and common understanding is a very bad omen.

Estimates for the costs of the child care desired by Houston—subsidized by Daddy—run to $25 billion a year. Are there to be no rewards from feminism, for those women who give their full time to their children, at least in the first three years of life? Is that choice, that precious service, to be treated with disdain—to be ignored? What shocking indifference to the priceless gift so many millions of women have given to their children.

Believe me, I tried not to write about Houston.

ST. NICK SELLS OUT! WILL UNCLE SAM?

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. GAYDOS. Mr. Speaker, I hope my colleagues had the opportunity to read a recent article by the noted columnist, Art Buchwald, entitled "St. Nick Sells Out."

The piece, which appeared in the December 12 issue of the Daily News in McKeesport, Pa., when read in conjunction with another article appearing about the same time carried a Christmas message I found disturbing.

According, to Mr. Buchwald, Santa, struggling against rising operating costs and diminishing capital—something familiar to our industries today—finally was forced to sell his North Pole toymaking operations to a conglomerate.

Despite promises that Santa could continue "business as usual," the new owners were profit minded and profit motivated. They forced Santa to shift his production facilities to an area where the bottom line was written in black, not red, ink. Furthermore, he was instructed to ship his toys 'round the world via a parcel post service—one, incidentally owned by the conglomerate.

This left the world's greatest toymakers, Santa's elves—who have never been profit motivated—and the world's most efficient mode of transportation, his reindeer, out in the cold. They had lost their jobs to foreign ownership of the business. And, although Mr. Buchwald does not mention it, I am certain there was no CETA program available to retrain them for other employment.

I was struck by Mr. Buchwald's article for I have long harbored a deep concern about international conglomerates buying up long established facilities in the United States. The prospect that someday these foreign owners might close up shop here and transfer the operation elsewhere with little or no regard for the American worker is a haunting one.

In fact, I introduced legislation a few years ago designed to prevent just such a possibility. The bill would have imposed reasonable controls on the ever-increasing foreign ownership of American industries and businesses. Unfortunately, like the import warnings of a decade ago, the bill attracted few cosponsors and lies aging in committee.

Be that as it may, Mr. Buchwald's column in the Daily News took on even greater significance when I came across a one paragraph item in the December 5 issue of Industry Week magazine.

That item sent tremors through me. It stated Japan, in its desire to reduce its tremendous trade imbalance with the United States—amounting to something between $7 and $8 billion—would "probably" reduce import duties on color film, computers, and automobiles before next spring. The idea was to make American goods more price competitive in Japan.

But, the last sentence in that one paragraph item attributed to a Mr. Yoshizo Ikeda, president of Mitsui & Co., Ltd., the idea that a better way to trim the imbalance in trade would be greater Japanese direct investment in the United States.

Mr. Speaker, after reading the two articles mentioned I could not help but wonder if Mr. Ikeda, after perhaps taking over an American plant, might not find it more profitable to shift the facility elsewhere, leaving the American worker in the same fix as Santa's elves.

If St. Nick could be forced to sell out, why not Uncle Sam? Sometimes, I fear, he is headed in that direction.

HERS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MAZZOLI. Mr. Speaker, I commend the attention of my colleagues the following New York Times article of December 1, 1977, by Susan Jacoby. It deals with the recent court ruling exonerating a woman—by reason of insanity—for having killed her sleeping husband.

That court ruling disturbed me a great deal. It disturbed Ms. Jacoby, too. Her article is well worth a careful reading.

The article follows:

HERS

(By Susan Jacoby)

A new feminist heroine has arisen in the person of Francine Hughes, a 30-year-old woman who put an end to her husband's brutal beatings by pouring gasoline around his bed and setting him aflame while he slept. A jury of 10 women and two men in Lansing, Mich., recently found Mrs. Hughes not guilty of murder by reason of temporary insanity.

What disturbs me is not the acquittal itself—who could want further punishment for a woman who had endured a man's punishing assaults for 13 years?—but the fact that the case has become a feminist cause célèbre. Feminists who rallied to the support of Mrs. Hughes saw the issue as one of a woman's right to self-defense and the acquittal as a warning to millions of men who beat up their wives and children each year.

The brother of the slain man, interestingly, drew much the same conclusion from the jury's decision as the feminists did; the only difference was that he viewed the implications with dismay rather than enthusiasm. In a television interview, he said, "I think this decision will give a lot of violent women an excuse to go out and commit violent acts . . . to take their revenge." I was watching the news with a friend who observed that "if revenge is what it takes for a woman to be in control of a situation like that, then I'm for it."

How, I asked my friend, can one possibly use the word "control" to describe the act of a woman so desperate, so driven, in such a state of psychic bondage that she could free herself from a brutal man only by killing him while he slept. It seems to me that the attitude of many feminists toward the Hughes case violates the basic feminist belief that women can and should take control of their own lives.

Those who maintain that Mrs. Hughes had a moral (as opposed to a legal) right to do what she did are suggesting that a woman who would not be victimized must turn murderous. As anyone who has studied the history of master-slave relations knows, the master's fear of violent retaliation has always coexisted with his assumption of the slave's passivity. But women are not slaves—or, they do not have to be slaves.

Mrs. Hughes, like most women who endure long-term physical abuse from men, had assumed a number of psychological characteristics more commonly associated with slaves than with free human beings. The details of the case, most of which were omitted from national news accounts of the trial, are enlightening.

Newspaper articles generally referred to the dead man as Mrs. Hughes's husband. He was, in fact, her former husband; she had divorced him in 1971 after seven years of marriage and four children. But it is perfectly reasonable to use the term "husband," because Mrs. Hughes continued to relate to him as a husband after the divorce. It was clear from her testimony that she remained bound to him emotionally, on many occasions sexually and always as a victim and target for abuse.

But Mrs. Hughes did not play the role of the total victim. She was taking courses at a local business college because she wanted to support her children and get off welfare. On the day of his death, Mr. Hughes not only had beaten his wife several times but had forced her to burn her business-school textbooks in the backyard.

Francine Hughes was living in the same house with her former husband because she had agreed to nurse him back to health after a serious automobile accident. He had of course, made a good enough recovery from his injuries to beat her up many times in gratitude for her care. This situation offers a classic and extreme example of the psychological victimization that characterizes battered wives. It is impossible to imagine a man returning with concern to the bedside of a wife who had systematically subjected him to physical torture.

The drama of the Hughes case aroused extraordinary interest in Lansing, which is my hometown. I discussed the case with several women friends there and found their reactions fell into two distinct categories. Some maintained that Francine Hughes was driven mad by years of humiliation and simply did not know what she was doing. Others said they were sure she did know what she was doing and that she "finally gave the creep what he deserved."

I do not think either of these reactions bodes well for the cause of women's rights. If we say Mrs. Hughes was crazy, we are equating self-assertion with insane violence. If we say she was sane and did the right thing, we are ruling out all the rational means of self-defense that lie between victimization and murder.

There are other choices. A battered wife can leave her husband. She can testify against him in court. She can become economically and emotionally self-sufficient and never go near the bum again. Or, in some cases, she can force the man to get the kind of help that might make it possible for him to change. (It does happen from time to time.)

These are not easy choices. Many areas of the country (Lansing and much of greater New York included) have no shelters to provide wives with temporary protection while they figure out how to cope with a brutal husband. Many policemen and law-enforcement agncies are unsympathetic. In a recent ABC-TV movie on battered wives, an indifferent policeman says, "A good punchin' round is what some of these women need to turn 'em on."

But the attitudes that have long enabled men to get away with wife beating are changing: The Hughes case is evidence of that. If a jury was willing to acquit a wife who set fire to a sleeping man, it would surely have listened with sympathy to the testimony of a woman who wanted to protect herself from the assaults of a living husband.

Battered wives today are in much the same situation as rape victims were 10 years ago. The possibility for positive change exists, but it cannot become a reality unless women are willing to appear in court, to put their bruised bodies and minds on the line for essential changes in the law and in social services.

My reservations about the Hughes case are similar to the ones I held when Inez Garcia was tried in 1974 for the shooting of a man 20 minutes after an alleged rape. Mrs. Garcia's lawyer insisted at the trial that an "unwritten law" allows a woman "to take the law into her own hands to protect her integrity."

Unwritten laws used to allow men to kill their wives if they found them in bed with a lover. Unwritten laws required rape victims to defend their past sexual conduct. Unwritten laws intimidated wives into silence when their husbands beat them.

Feminists who advocate a woman's right to "self-defense" against a sleeping man—however brutal the man may have been—are really talking about the substitution of one unwritten law for another. What Francine Hughes and all of us need is a written law to protect us and the guts to use it.

H.R. 10154

HON. JIM GUY TUCKER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. TUCKER. Mr. Speaker, on November 29 I introduced a bill, H.R. 10154, in response to a bizarre set of circumstances which have plagued health institutions, primarily in rural areas for over a year now.

In Arkansas, as in many other States, rural communities have found that oftentimes the combination of hospitals and nursing homes into joint operations is a more efficient means of achieving health care delivery. Through these combinations, the cost of services essential to both units like kitchen, laundry, and parking services are shared. Consequently, a duplication of effort and therefore, of cost to each unit is avoided.

In many of these combinations, the hospital only is qualified for medicare benefits. This means an allocation of costs between the two units for the shared services becomes necessary to determine the proper amount of medicare reimbursement to the hospital.

However, in 1975, the Bureau of Health Insurance reopened the cost reports the health care facilities had submitted in previous years and concluded that some hospital units had assumed a disproportionate share of the costs of shared services. The Bureau, accordingly, alleged overpayment of medicare benefits to these hospitals and demanded reimbursements for the appropriate amounts. The means of collecting these reimbursements has been particularly burdensome to the hospitals involved. The Bureau has withheld a percentage of the alleged overpayment from these current medicare benefits.

What has especially incensed the boards and administrators of these hospitals in Arkansas is that throughout the period of the alleged overpayment the Bureau's financial agent in the State—Blue Cross/Blue Shield—had routinely audited the cost allocations of these hospital/nursing home combinations and given no indication that anything was amiss or that any other formula for allocation was required. Indeed, in some instances the medicare officials issued approvals of the cost allocations. Thus, acting in good faith under the guidance of the Bureau's financial agent and with its implicit approval, the combinations continued to follow the same accounting procedures for cost allocation. Now these hospitals are being penalized for what I consider to be a reasonable reliance on the representations of the Bureau's agent.

If these hospitals cannot rely on the Federal Government's financial agent to interpret correctly its snarled and convoluted regulations, how can they be expected to divine the intent of the rules on their own? The obvious answer is that they should not be expected to do so or to be held accountable under these circumstances for not complying with one interpretation of admittedly confused and, at best, unclear guidelines.

One additional point needs to be emphasized. The Bureau of Health Insurance does not suggest that any of these hospital/nursing home combinations engaged in fraud or wrongdoing in making their cost allocations.

Over 20 hospitals in Arkansas now face the possibility of substantial medicare reimbursement deductions totaling $542,000. Understandably, in some cases these reductions could be devastating to their operations. For example, in one case which I am specifically familiar with, a deficiency alleged against the Huntsville Memorial Hospital located in Huntsville, Ark., totaled as much as $96,000. The upshot of all this could well be that vitally needed heath care facilities in the rural areas of my State and other States will be forced to close. No one, of course, wants that, especially in light of the fact that these facilities are so desperately needed in the less populated areas of our country. The fact that the Federal Government would be responsible for closing down health care facilities makes the situation doubly ludicrous.

These hospitals, in short, should not be financially hamstrung by their good faith reliance on the interpretation of medicare regulations by medicare's own financial agent in the State. One hospital owner summed it up cogently:

> In 1973, Blue Cross came here and audited us and gave a clean bill of health. Now, they're coming back and changing the rules on us and telling us we owe them $90,000, which they're now disallowing in current medicare payments. It's grossly unfair.

My bill, accordingly, provides that where incorrect payments to hospitals have been certified as correct by an agent or intermediary of the Bureau of Health Insurance through a lawful audit and where the provider of services has been acting in good faith, retroactive reimbursements will not be appropriate.

AUGUSTA LARSON—TRIBUTE TO A GRAND ARIZONA WOMAN

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RUDD. Mr. Speaker, one of the truly great aspects of public service that I have experienced as Congressman for Arizona's Fourth Congressional District is the friendship, support, and counsel of many outstanding citizens in the various communities that I represent.

One such outstanding citizen leader is Augusta Treat Larson of Lakeside, a remarkable lady who has been particularly devoted to a lifetime of civic endeavors and good works. It gave me great pleasure to read a good tribute to her life as mother, churchwoman, pioneer, teacher, and State legislator in the November 29 issue of the Pinetop-Lakeside News.

Mr. Speaker, our country is great because we have been blessed with exemplary people like Augusta Larson. Arizona is today a State with a high quality lifestyle because of people like her who have combined noble ideals with good sense and pride in excellence.

We owe a debt of gratitude for this heritage, and for this reminder of what has made our way of life the envy and benefactor of much of the world. I am pleased to include this worthy tribute to Augusta Larson, a grand Arizona woman, at this point in the RECORD:

THE LIFE STORY OF A GRAND ARIZONA WOMAN

(By Paula E. Champagne)

"I had many privileges as a girl, including music lessons, and horseback riding. I became a spoiled social butterfly and then I had to become a pioneer."

These surprising words were spoken by Augusta T. Larson, vibrant and more youthful appearing than her eighty-five years, as she began to reveal her exciting, challenging, decidedly remarkable life story.

Augusta Treat Larson was born February 6, 1893 in Flagstaff, Arizona to Clara Lamport Treat and Joseph R. Treat, who was mill superintendent for the Arizona Lumber and Timber Company.

Joseph Treat was a native of Nova Scotia and moved to Flagstaff in 1880. He became mayor of the town.

When Augusta was two and a half, she entered kindergarten. She attended the first grade at six years. She began a musical career which would span sixty years, when she began her first piano lessons at age seven. She finished the eighth grade at twelve years of age.

She entered the secondary school program at the Territorial Normal School at Flagstaff, upon being graduated from the eighth grade.

Augusta attended the Normal School at Tempe for two years, then returned to Flagstaff to complete her teacher's training.

She continued her musical education at The Arizona School of Music at Phoenix, while she was living in the Salt River Valley.

Her father wanted her to study for the concert stage in New York City, but her mind was set on teaching. She began teaching at eighteen, in Holbrook, and was to teach for the next forty years, mainly in Navajo County. She received a life diploma for teaching in 1912.

Wallace H. Larson, a telegrapher for the Santa Fe Railroad, became her husband when they married at the end of the school year.

Larson served one term as Navajo County Recorder, then he and his wife began a new venture: they began raising Hereford cattle on barren range land north of Holbrook.

They spent all their money on a windmill and well, so they had to live in tents which blew away one day in a windstorm.

Augusta—"Gussie," as she has been affectionately called throughout her life—recalls chasing frantically after precious baby clothes and other articles of wearing apparel.

They moved to Corduroy Canyon, on the Apache Indian Reservation, in 1915, to continue raising cattle.

Her husband drove a freight wagon loaded with household goods behind a team of Percheron horses. She could not keep herself and the baby from rolling on the seat of the big wagon because she could not reach the support against which she might brace her feet; therefore, she rode horseback all the way from Holbrook, holding the baby in her arms.

This remarkable woman taught school in Lakeside and vicinity during the winters and lived in a tent on the Reservation in the summers, making butter and cheese and riding with the cattle.

Three more children were born to the Larsons during their first six years on the reservation. They were: Jeanne (Mrs. J. Donal Earl); Rolf, long-time FBI agent; and Jeff, who heads the Mathematics Department at Arcadia High School, Scottsdale. Corwin was killed in 1944 during the Marine invasion of Guam.

Augusta and Wallace, in 1920, operated a grain and feed business, a farm equipment store, a grocery and dry goods store and they had ranching operations.

The Larsons faced disaster when the Blackleg epidemic destroyed their cattle, ruining them financially in a matter of days and the depression of 1921 closed the business operations. The couple was left $20,000 in debt. A partner declared bankruptcy but the Larsons, indomitable, held on. They eventually paid off every obligation.

Wallace Larson, determined and persistent, earned his high school diploma at 34 and his AB degree in 1938, at Arizona State Teachers' College at Flagstaff.

Gussie, two years later, earned her AB degree at the same college.

A member of the Larson family, during that period, earned a college degree in each of five successive years.

Wallace served as superintendent of the combined elementary and high school at Lakeside, for twenty-five years. He also served during that period as secretary and manager of the Lakeside Water Works and was on the first Board of Directors of the Navopache Electric Corporation.

He retired in 1952, was elected to the Arizona legislature and died of a heart attack in 1952.

Augusta had moved to Phoenix with her husband, spent long hours in the gallery of the House of Representatives and studied pending legislation.

The Navajo County Board of Supervisors appointed her to complete her husband's expired term. She was elected. that fall, to the first of four terms, a Republican elected by an admiring body of voters who were Democrats, by a 3-to-1 margin.

She fought for better education in the rural areas. She was known as an impressive and dedicated lawmaker.

Her constituents, who were of the Hopi, Navajo and Apache tribes, received her help. She went to bat for them when the issue was a school recodification bill. Mrs. Larson noticed provisions in the bill which she felt would halt development of schools on Indian reservations.

Fellow House members who had great respect and much affection for Mrs. Larson rallied around her and supported one of her amendments which put Indians back under the state's educational "blanket".

Senator Harold C. Giss, considered "unquestionably the most powerful man in the legislature," rebelled and a Senate-House conference committee knocked out Mrs. Larson's amendment. She took the floor, led a drive to refuse the conference report and the bill apparently was dead.

The Senate asked for another conference committee. Mrs. Larson declined to serve as a House representative. She felt no obligation to be party to concessions or even negotiations. The second committee reinstated her amendment, both houses adopted it and the bill was passed.

It is perhaps not surprising that Augusta Larson believes in the old-fashioned virtues and values. Her beliefs, however, are based upon her experiences.

"Being a woman in the Legislature gave me an advantage. I was respected and given favoritism.

"How a woman is treated depends largely upon her, the individual."

How a woman conducts herself in a high position is important, Mrs. Larson believes.

"Some of the women who have served in the Legislature have been obnoxious, crude, unfeminine.'

It is not surprising, she thinks, that such women have been disliked.

"I am not for the Equal Rights Amendment. I think it tears down the family structure. I do believe that if a woman does the same work a man does, she should be paid the same wage.

"Most women are created with a desire to be wives and mothers. I may be too opinionated; I think that if a woman doesn't want to be a family woman, that's her business. There is, however, a proper way in which such a woman conducts herself. Women set the moral standards.

"I see a difference in this country, even from twenty years ago. Morals have changed, young people take dope, parents seem to have let down on their discipline."

Augusta Larson was president of the National Order of Women Legislators.

The Business and Professional Woman's Clubs of Arizona honored her in 1959, as "Arizona's Woman of the Year."

She has been a leader and worker in the Latter Day Saints Church. She was choir director of the Lakeside Ward for twenty-five years, and was Chairman of Finance for the Ward's $165,000 building campaign.

Her citation as Woman of the Year hailed her as a woman "who can supervise a community program; sing in, direct or accompany a choir, cook a tasty dinner for a dozen unexpected guests, boss a gang of Apache Indians on her ranch, drive a jeep through snow or brush to show real estate, milk a cow or brand a calf, teach children or adults and through all of this, maintain her dignity as a lady."

The Larson Memorial Library was initiated by Polly Rosenbaum, using the Wallace H. Larson Memorial Fund which materialized in 1954. The library opened in 1955 on Forest Service property which later became Blue Ridge High School property.

The Blue Ridge School Board has recently approved a request from the Larson Memorial Library Board to expand the library facilities on the Blue Ridge campus. Construction may not begin for another year; the Larson Library Board must begin a fund-raising campaign to finance the expansion.

THE SOCIAL PERFORMANCE INDEX

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MICHEL. Mr. Speaker, a few weeks ago I had some unkind words to say about a proposal of the Commerce Department. It seems that Secretary Juanita Kreps suggested in a speech that the Commerce Department create something called a "Social Performance Index." This index would, in effect, be kind of a Federal report card which would show that business and industry have done and not done in social areas. I said at that time that this index would inevitably become a kind of public pillory, where those found guilty by the Commerce Department bureaucrats would be forced to stand and be criticized for social performance failures such as pollution and failure to abide by the quota system.

Well, I later learned that the Commerce Department had not yet created its plan for this index and I looked forward to seeing just what they would come up with. Mr. John Lofton, the nationally-syndicated columnist has looked into this question. What he found was not inspiring. I would like to now place in the RECORD Mr. Lofton's findings which he relates in his own inimitable manner. At this time I insert in the RECORD the article "Secretary Kreps and Red Tape: Is She For It Or Against It?" by John Lofton:

SECRETARY KREPS AND RED TAPE: IS SHE FOR IT, OR AGAINST IT?

(By John D. Lofton Jr.)

WASHINGTON.—A couple of speeches by Commerce Secretary Juanita Kreps within less than a week—one attacking governmental red tape, the other proposing more of the same—illustrate perfectly why the business community is so uncertain about the Carter administration.

On October 14, in a talk to the Business Council in Hot Springs, Va., Secretary Kreps strongly criticized what she called "regulatory excess" and its symptons: "redundancy, confusion, anachronism, lost time and waste." Listing a series of examples, Mrs. Kreps observed:

"We have become victims of regulatory fallout. You know the inanities even better than I . . . The litany of regulatory absurdities is long and continues to grow. Last year alone, the Federal Register published 60,000 pages of proposed rules, regulations and other documents. The businessman wishing to find out which, if any, applied to him would have to read through the equivalent of 120 District of Columbia phone books, most of it in comprehension-defying legalese." Secretary Kreps blamed this mess, in part, on what she called the "bureaucratic cast of mind."

Fine. These are the kinds of remarks which every businessman in America will greet with a rousing "Right on!" But now comes another address by Secretary Kreps, on October 19, to The Chief Executive Officers Conference at Duke University in Durham, N.C. And what does Mrs. Kreps have to say in this talk? Incredibly, she proposes more of the "regulatory excess" which only five days earlier she had been denouncing so vehemently.

Announcing her department's intention to develop a so-called "Social Performance Index," which she says will "give business a way of appraising the social effects of its business operations," Secretary Kreps says:

"Businesses can use this index, for example, to provide data on environmental controls, affirmative action, minority purchasing, consumer complaint resolution, and product testing. The department will then compile the data and publish it in order to make it widely available to the public and the press."

Explaining that this index would allow those companies who are leaders in promoting "the public interest" to bring about an improvement in the behavior of the "less progressive firms," Mrs. Kreps brandishing the club of Big Government coercion, warns:

"For the latter companies not to join the former is, I fear, to continue to invite governmental regulation of both."

Well, now. Just exactly how will this index work? Nobody really knows the answer to this question yet. The Commerce Dept. has let a $100,000 contract to a Philadelphia firm to study the idea and come up with a proposal. But, in an interview, Stuart Heller, an attorney-advisor to the department's general counsel, responded to some questions.

First, he says, the program will be "voluntary." However, he admits that Secretary Kreps' mention of possible future governmental regulation is indeed a threat. But, he says, Mrs. Kreps hopes this is something that doesn't happen. Sure.

Secondly, when I ask Mr. Stuart how much additional cost and paperwork there will be for those companies who choose to supply the requested information for the index, he says he doesn't know that this is now being studied. Conceding that it is "going to be hard" to lump all this data into one index—sort of "like apples and oranges"—he says maybe there will be "separate sub-categories."

Like what? Well, perhaps something like "the ratio of black employees compared to the percentage of blacks in the community at large."

Mr. Stuart guesses that the businesses that want to contribute to the compilation of the index will be asked to fill out a "work sheet, like the income tax form perhaps, with an explanatory booklet." He says he imagines that the procedure, which should be spelled out early next year, "may be a complicated process."

When I ask Mr. Stuart why his department can't just compile the information it's interested in from the other federal departments and agencies where it is undoubtedly already on file, he says this can't be done because Commerce wants data not asked for previously. When I say he must be kidding, that there isn't any business information that Uncle Sam hasn't already requested several times over, he just laughs.

But, this is no laughing matter. The Social Performance Index idea is ridiculous. It is more of the feathers of that federal duck presently nibbling business to death. As Eugene Hardy, a senior vice president of the National Association of Manufacturers, put it to me in an interview:

"Business and industry, while sensitive to the advancement of social goals in their communities and the nation, can best carry out their corporate responsibilities by creating good products and services and jobs and contributing to a robust and expanding economy, higher living standards and an improved quality of life."

Any attempt on the part of the federal government, says Hardy, to rate American business on the basis of some other arbitrary yardstick would be "misleading, confusing and counterproductive."

Hmmmm. Very interesting and wise remarks. But Secretary Kreps could have said it better herself. In fact, she did in her first talk to the Business Council.

THE FEZ, THE SCIMITAR AND 100 YEARS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. GAYDOS. Mr. Speaker, this year, 1977, was momentous for one of the oldest temples in the Ancient Arabic Order of the Nobles of the Mystic Shrine. It marked the end of the first century of service for Syria Temple of Pittsburgh, Pa.

Under the leadership of Potentate Fred T. Hiller of White Oak, Syria Temple, one of the greatest in all of Shrinedom, attained new pinnacles of achievement. It enriched an already illustrious history of the Temple that began in May 1877.

It would be impossible for any mortal to list the acts of kindness and charity performed by the Shriners of Syria over the past 100 years. Shriners are devoted to helping others and their individual deeds are as grains of sand in a desert of need.

But, there is one particular love shared by all who wear the fez and the scimitar—the love for the crippled children of the world. This year alone, Syria's members contributed $200,000 to hospitals maintained by the Shrine for the care and treatment of such children.

These funds result from direct contributions, from membership in the Temple's "$100 Million Dollar Club" and from the annual Shrine Circus, which brings laughter and joy to the faces and hearts of more fortunate youngsters while providing money for research to help the less fortunate.

Although most of Syria Temple's activities and endeavors take place within the halls of its magnificient mosque, its numerous units are a familiar sight to residents of the Pittsburgh area. No parade, for example, would be complete without the appearance of one or more of the following:

The colorful Arab Patron, the proud Horse Patrol, the stirring sight and sound of the Highlanders' pipes and drums, the songs of the Chanters, the antics of the Harige, the music of the Oriental Band or the marching of the Legion of Honor.

Membership in Syria Temple is high prized. This year approximately 1,000 new Shriners were intiated, bringing the membership to 25,600—second only to Al Malaikah of Los Angeles Calif., in North America.

The success of Syria Temple in this year of its first century is largely due to the efforts of Potentate Hiller and his Divan; Norwood A. McDaniel, chief rabban; William Kammerer, Sr., assistant rabban; Lloyd L. Kildoo, high priest, and prophet; Theodore G. Daniels, oriental guide; Henry C. Givan, P.P. and treasurer; James A. Wieland, recorder and John G. Stephens and Jack L. Weaver, ceremonial masters.

Mr. Speaker, on behalf of the Congress of the United States I extend to the Shriners of Syria our sincere congratulations on the occasion of their Temple's 100th anniversary and wish them well as they begin their second hundred years.

ELECTRONIC FUNDS TRANSFER A CASHLESS SOCIETY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. PEPPER. Mr. Speaker, there was a time, and not so many years ago, when cash was king, and king was cash. It was the preferred way to do business. Credit was given with caution, and sparingly. Nothing was more common than a placard in a mom and pop filling station that read:

> You ask for credit?
> I no give.
> You mad.
> I give.
> I mad.
> Better you be mad!

But all of that has changed. Oil companies, retailers, and banks are eager to issue credit cards. Any hesitancy that consumers might have felt was quickly overcome. Today there are 50 million credit cards of all kinds in consumer hands. Credit cards finance $80 billion of consumer spending annually. Credit has supplanted cash as the preferred way for millions of consumers to make their purchases.

Even those who do not want or need credit find themselves at the credit card counter. The reason is obvious. Have you ever tried to cash a check without producing at least two credit cards for identification?

This dependence on credit cards was quietly brought about by the power centers of the credit card industry. FRANK ANNUNZIO, chairman of the Consumer Affairs Subcommittee of the House Committee on Banking, Finance, and Urban Affairs, says that there is more to come, and assesses current trends in the credit card industry this way:

> Now that we are hooked on credit cards suddenly the rules of the game are changed. New fees are added, new billing methods adopted, and the so-called free grace period on repayment is either eliminated or greatly reduced. It is a classic game of spider and the fly.

Not only are bank checks being nudged out by credit cards, but now we are told that the ascendancy of a new method of banking called "electronic funds transfer" may signal the end of the bank check. Electronic funds transfer would replace the bank check with a magnetically coded plastic debit card which could be keyed into an electronic terminal which would instantaneously withdraw and transfer funds from a customers bank account.

Retirees, and those approaching retirement, have already voiced some dismay at doing business with a computer. At a point in life when personal contacts are valued, banking through computers might simply add to incipient feelings of isolation. Other criticisms of EFT revolve around elimination of float—time between delivery and collection of a check—unavailability of a stop-payment mechanism. and unlimited liability for unauthorized use of an EFT debt card. A bill (H.R. 8753) introduced by FRANK ANNUNIZO would correct many of these deficiencies.

More disturbing than any inherent weaknesses in EFT is a conclusion reached by the national accounting firm of Peat, Marwick, and Mitchell and Co. in a study sponsored by the National Commission on electronic fund transfers that the public may be forced to accept EFT because merchants and bankers who are determined to see it adopted may make conventional banking too costly by surcharging checks or increasing bank charges. A parallel might be found in the way the consumer has been forced to accept the credit card as the preferred method of transacting business.

Already rumbles are being heard from those who have been let down by the wizardry of electronic circuitry. Bill Bowden of Cairo, Mo., signed up for instantaneous transfer of his retirement benefit expecting that his bank account would be electronically credited on September 1. On September 19 he was still waiting for the computer to disgorge.

Many of America's 22 million older people live on tight budgets. About 13 percent have incomes that fall below the threshold of poverty. Undoubtedly many of them would prefer the security of more easily understood and traditional methods of banking. Provisions embodied in a bill (H.R. 8753) introduced by Mr. ANNUNZIO are calculated to protect the consumer against potential pitfalls in EFT, and to hold open the option of using traditional banking methods.

Much more could be said, and should be said about the pros and cons of EFT, and Charles Merin has said it all in the following article, "The Cashless Society Is Coming . . .", that appeared in the September issue of "Retirement Life" magazine:

The Cashless Society Is Coming

(By Charles Merin)

For the last 10 years, the wizards of technology have been dazzling our imagination with dreams of EFT which is shorthand for electronic funds transfer.

Their talk of a nationwide system of EFT which would revolutionize the way we conduct our financial affairs has encountered unexpected resistance, however.

EFT was supposed to make our present cash and check society obsolete but consumers are offering unexpected objections and there is also widespread dissatisfaction within the banking industry itself.

The public, caught in the middle of this confusion, needs to know more about both the hazards and advantages as we speed down the road toward a cashless society.

The ultimate dream of EFT foresees a nationwide system of electronic terminals which would eventually be installed in every home and retail unit throughout the United States. Magnetically coded plastic debit cards would facilitate the instantaneous electronic transfer of funds involved in financial transactions as varied as grocery shopping and home-buying.

In a matter of seconds, computers would electronically complete the transfer process thus eliminating the need for checks or cash, and lessening the high cost of processing check or cash transactions. The need for routine trips to the bank would be eliminated, as debit cards would enable a person to participate in every type of financial transaction from bill-paying by phone, to instantaneous bank deposits or withdrawals.

Why then has the EFT revolution which many experts considered both desirable and inevitable, come to a halt?

Critics and supporters alike agree that the growth of EFT has been impeded by confusion and misunderstanding on the part of both consumers and bankers.

Consumer groups have charged that a National Commission on EFT, established by the Congress in 1974 to investigate and report on the growing economic and legal problems associated with EFT's unregulated growth, has failed to devote sufficient attention to its long-term impact on the public.

Segments of the banking industry have charged that the findings of the Commission's recently released interim report, fail adequately to represent the best interests of all financial institutions.

Critics charge that EFT favors the competitive interests of depository institutions. Many non-depository bodies such as credit card companies probably would be hurt by the adoption of a nationwide EFT system.

FIRST THE HAZARDS

Reasons for this growing dissatisfaction are varied. Consumer reluctance seems centered around a number of major concerns, such as:

Technical difficulties and psychological opposition to doing business with a machine.

Security concerns, such as fears about potential burglarization of EFT accounts.

Privacy worries, or fear that unrecorded, automatic deposits or withdrawals could leave persons unaware of their true balance.

Reluctance to abandon the psychological and legal security of cancelled checks which would be lost if checking as we now know it is dropped.

Unresolved questions about maximum limits of financial or legal liability for fraudulent, erroneous, or unauthorized EFT transactions.

Concern about the loss of benefits derived from traditional banking practices; the loss of float (the time between when a check is written and when it is submitted to the bank), or the ability to put an immediate stop payment on a transaction as with a check, for example.

Postal leaders know that EFT can cost their industry hundreds of thousands of jobs. So postal leaders emphasize the intangible but important benefits derived from daily contact between senior citizens and postal personnel. This contact would be lost, they note, if electronic mail services are adopted.

Bankers and retailers are also uncertain about the willingness of consumers to accept the new system. Many state bankers fear the unregulated growth of EFT services would emphasize Federal regulations and preempt state control.

NOW THE ADVANTAGES

Certain advantages to a nationwide EFT system seem clear. Personal safety and ease and security of payment for one thing. EFT offers senior citizens in particular increased security in financial transactions by removing the threat of criminal victimization or loss.

It would also eliminate the need to carry large sums of cash on one's person.

Many NARFE members already avail themselves of an EFT service, having authorized the government to make direct payment of their annuity checks to a designated bank. This EFT service is also available to Social Security recipients.

Reduced operating costs for banks (through the elimination of checks and the concomitant expense of processing them), would almost certainly mean lower service charges for the consumer.

By electing to authorize a bank to assume EFT powers for routine financial duties, the consumer could remove from his life much of the bother and drudgery rooted in financial matters.

CONCLUSIONS

The need for consumer concern over the future course of EFT appears necessary. A recent study by the national accounting firm of Peat, Marwick, Mitchell, and Co. sponsored by the National Commission on EFT, arrived at a number of disturbing conclusions about EFT's trend. It found that:

The public may literally be forced to accept EFT, because checkless banking is bound to come.

Merchants and bankers in the future may be less likely to cash or approve checks which are not supported by a bank guarantee card.

The paper check may become obsolete or at best difficult to get as EFT deposits become the norm.

What is to be made of all this? EFT is probably neither a panacea nor a shadow of doom for either the consumer or the financial industry.

It does appear to possess the potential for providing a safer, more efficient, and economical mechanism for financial transaction through heightened institutional competition. It is clear, however, that the present confusion which today surrounds its operation must be eliminated if EFT is to be adopted.

Important regulations and safeguards such as those enumerated in HR 8753, introduced by Representative Frank Annunzio of Illinois, must be enacted to protect consumer interests and provide control over the presently unorganized growth of EFT services.

THE LAST WORD

The interim report of the National Commission on EFT perhaps summed the problem up best when it declared:

"We believe that consumers through their actions in the competitive environment of the free market, have the power to determine what EFT services they will have. The consumer and depository institution together, not the latter unilaterally, should determine the nature of EFT in the future."

Certain EFT-related services are already in use. Automated bank teller machines, government transfer of annuity and Social Security payments, and bank-issued check guarantee cards, are among the first stages of a national EFT system.

If you presently use or consider using any of these EFT services, you might do well to ask some important questions about the responsibilities and implications associated with such use before you contract for any new service.

L'ENVOI

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CARTER. Mr. Speaker, Kentucky lost the greatest basketball coach, Adolph Frederick Rupp, our Nation has ever seen. His University of Kentucky Wildcats have won more games than any other team in the Nation's history. It was with deep regret that his fellow Kentuckians heard of his death. One of his favorite poems was "L'Envoi" by Kipling and I include it for the RECORD, along with an article by Dick Fenlon of the Louisville Times:

L'ENVOI

When Earth's last picture is painted, and the tubes are twisted and dried,
When the oldest colors have faded, and the youngest critic has died,
We shall rest, and, faith, we shall need it—lie down for an eon or two,
Till the Master of All Good Workmen shall set us to work anew!
And those that were good shall be happy: they shall sit in a golden chair;
They shall splash at a ten-league canvas with brushes of comets' hair;
They shall find real saints to draw from—Magdalene, Peter, and Paul;
They shall work for an age at a sitting and never be tired at all!
And only the Master shall praise us, and only the Master shall blame;
And no one shall work for money, and no one shall work for fame;
But each for the joy of the working, and each, in his separate star
Shall draw the Thing as he sees It for the God of Things as They Are!

RUDYARD KIPLING [1865–1936].

ADOLPH RUPP IS LAID TO REST

(By Dick Fenlon)

LEXINGTON.—Harry Lancaster, Adolph Rupp's right hand man for 24 years, came into the church at 12:42 and took a seat in the first row, near the far left aisle. When Joe Hall, Adolph Rupp's successor, came in a while later, he sat next to Lancaster. Lancaster's eyes were watery. He put his arm around Joe Hall's shoulder and patted him.

A Celtic cross, framed by a Christmas wreath with five burning candles, hung above the altar. Baskets and arrangements of red and white roses sat to the left and right. The casket, a dark cherry-red, was in the middle. A cluster of red roses rested on top of it.

Another wreath, this one composed entirely of small, white roses—the wreath with the large "No. 1" in the middle—faced the mourners from the left of the altar.

There were already many in the church when Harry Lancaster arrived, more than 45 minutes before the services, and it filled steadily with Adolph Rupp's former players and assistant coaches; with the men he had coached against during the last part of his 42 years at the University of Kentucky; with university officials; with politicians; with relatives and neighbors and friends and family.

Carey Spicer, who made All-America for Adolph Rupp in 1931, was there, next to Aggie Sale, who made it the next two seasons. Ralph Beard and Dale Barnstable, players from the late 1940s, walked up the aisle together. Jim Dinwiddie, a player from a later generation, sat next to Beard. C. M. Newton, the coach of Alabama, was there, and Gale Catlett of Cincinnati and Dale Brown of Louisina State and Lee Rose of North Carolina-Charlotte. One way or another, Adolph Rupp's career had touched and influenced all of them. It had touched and influenced a lot of people.

"We come in this service to express, by our presence and words, our final tribute of respect, appreciation and admiration for coach Adolph Rupp as we share in love and sympathy with his family," said Dr. M. Glynn Burke, pastor of Central Christian Church.

Other than being the family minister to Adolph Rupp—the Adolph Rupp who won basketball games faster and longer and maybe even better than anybody who ever was and probably anybody who ever will be—Dr. Burke said there was no particular reason for him to be in the pulpit yesterday afternoon for his funeral. Although, he was forced to confess, he did "represent another party of some significance."

Best as he could, Dr. Burke lightened a sad occasion.

He said that almost to the end last Saturday, when he finally gave in to cancer, "Adolph Rupp was Adolph Rupp. He was true to character even during the illness and weakness of his last days," Dr. Burke said.

"He drank a good bit of water and the nurses were very attentive in getting him whatever he needed. One day a nurse was slightly delayed in getting him a drink. When she arrived, he said, "Has the hospital run out of water?'

"As they were going to move him up in bed one day, the nurses asked him to help them by trying to push himself when they counted to three. They counted 'One' . . . 'Two'—then someone noticed that his head needed to be lowered. As they did so, the coach, in his weakened condition but still distinctive voice, asked 'What happened to three?' "

Dr. Burke read several passages which he thought were particularly appropriate from the Old and New Testaments. "Of course," he said, "some of the coach's language did not exactly come from the Bible, but I'm convinced that his faith and philosophy and commitment came from his religious upbringing."

"All of us grow weary of the mediocrity and inefficiency around us, second-rate products and shoddy performance," Dr. Burke said.

"We delight in things that prove to be superior, first-rate.

"We see a lot of losers; we want to see and be with the winners. And that explains part of our deep appreciation, as Kentuckians, for the legacy of Adolph Rupp."

He talked about Adolph Rupp's "amazing achievements" . . . his "winning methods" . . . his "demand for discipline." He tried to put his finger on what made Adolph Rupp what he was, and he said he was pretty sure he had it isolated.

"His life was a quest for excellence," Dr. Burke said. "He had a vision and expectation of it. He just demanded that his players give the best. He had a dream for himself that would not settle for less. He was completely dedicated to winning."

Then Dr. Burke quoted from another Psalm—"I will lift up mine eyes to the hills from whence does my help come." He thought, he said, that if Adolph Rupp ever recited that one, he was probably thinking of the hills of Eastern Kentucky which sent him "those big, strong ballplayers."

And, finally, 30 minutes into the service, he recited "The Sportsman's Prayer." It ends like this:

"He was fallible and human,
Therefore loved and understood
Both, his fellow men and women
Whether good or not so good.
Kept his spirit undiminished,
Never failed to help a friend,
Played the game till it was finished
Lived a Sportsman to the end.

Then they took Adolph Rupp, the coach who won faster and longer and maybe better than anybody, to the cemetery. The wreath of white roses with the big "#1" in the middle went with them—to stand, for a while, beside the grave.

ECONOMIC ISSUES FOR 1978

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for December 17, 1977 into the CONGRESSIONAL RECORD:

ECONOMIC ISSUES FOR 1978

Next year will be one of continued economic growth but the rate of that growth will be slower than in 1977. Unemployment and inflation will both remain in the 6–7% range. Corporate profits will sag a bit and the trade deficit will likely equal the huge deficit of this year.

These are the economic guesses of the experts who testified this fall before the Congress as they engaged in the annual game of forecasting the performance of the American economy. No one can give any assurances that these guesses will be accurate. Past predictions on the inflation rate, in particular, have been notoriously inaccurate. Despite differing forecasts, everyone agrees however, that 1978 will be a year of major economic decisions.

In all likelihood the first decision will involve the much talked about break between President Carter and Arthur Burns, chairman of the Federal Reserve System, over the conduct of monetary policy. The President must decide this month whether he will reappoint Chairman Burns for another four-year term as chairman. The controversy has several facets. President Carter puts considerable emphasis on economic output and full employment while Chairman Burns tends to put more weight on fighting inflation. The President is also concerned with current policies of the Federal Reserve Board under which the growth of money supply has been erratic, often exceeding the target levels of monetary growth. The Board also has moved to restrain the money supply at the same time that interest rates have been rising. The relationship between the two men, the degree of independence of the Board from the control of the President, and the extent of coordination of monetary policy and fiscal policy are all part of the growing debate in the country about our national monetary policy.

Several weeks ago the President announced some ambitious goals for the economy. By 1981 he hopes to reduce the unemployment rate to 4.75%, the inflation rate to 4.3%, and to balance the federal budget at a level equal to 21% of the gross national product. In my view, worthy as these goals are, it is extremely unlikely that they can be obtained simultaneously. To achieve them the economy would have to grow vigorously for five years, led by a 10% annual growth in fixed investment. The need for this investment raises another set of major decisions for 1978: can President Carter create and sustain the business confidence necessary to obtain the needed investment and growth. Such confidence depends on the President's economic policies, especially those involving energy and taxes, and the outlook for business profits. Business continues to worry about where President Carter stands on key economic issues and as long as doubt continues, confidence will be hard to come by.

The trade deficit, projected to be $30 billion this year, is a growing economic concern which may force the country to make some tough economic decisions in the coming year. Its causes are understood—high energy costs, slow economic growth abroad, the possible erosion of the United States competitive position, sticky exchange rates, and increased exports from the developing countries. The sheer magnitude of the deficit, however, could limit the conduct of economic policy for fear of making the trade deficit even larger.

Next year will also bring several major legislative decisions on economic issues. If a satisfactory energy bill is not passed the President and the Congress will surely be back at that legislative well once again. At this moment the push for major tax reform appears to be fading fast in favor of a substantial tax cut for individuals and businesses and relatively modest and simple tax reform. A tax cut is almost certain to be enacted early in 1978. In addition, the role of government in directly providing jobs will be a part of several pieces of important legislation, including the revised Humphrey-Hawkins bill, with its target of 4% unemployment, the welfare reform bill with its emphasis on work requirements, the Comprehensive Education and Training Act (CETA) which creates public service jobs, and changes in the trade adjustment assistance and unemployment compensation insurance systems. Jobs for the young and the hard core unemployed will continue to be the focus of discussions on employment.

Perhaps most important of all, 1978 will see serious discussions, and perhaps some decisions on a whole new approach to inflation and jobs, including a plan to use the nation's tax system to reward companies and unions that restrain wage and price increases, and perhaps punish those that do not. There is a growing belief among the experts that existing tools to obtain faster growth, more jobs and reduced inflation are not working and that new methods must be found. The traditional use of monetary and fiscal policy is no longer adequate to control the economy, and experiments with other approaches must be tried, even if they carry some risks.

OUR GREATEST CHRISTMAS GIFT TO THE INNOCENT IN BOLIVIAN JAILS—FREEDOM

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, I received word today from the White House that the President and the State Department are giving priority to implementing my recent suggestions for freeing the American prisoners currently being held in Bolivian jails. In a letter dated December 15, the President's National Security Affairs chief, Zbigniew Brzezinski said:

> Just last Wednesday the Department of State cabled your suggestions on the court review process to the Embassy in La Paz. Today the Department will telephone the Embassy to make the additional point you raised, namely that you asked the President's urgent help in getting the six detainess released as soon as possible, hopefully in time for their arrival in the U.S. for the holiday season. I will ensure that the Embassy is also made aware of the President's personal interest in this regard.

To insure that those prisoners considered innocent can be home as soon as possible, I had suggested that once the lower court makes its ruling, the higher court should make only a brief or cursory review to assure that the proper legal procedures had been followed. By following this course it was hoped the needed time might be saved to allow the prisoners to be home for Christmas.

In his letter, Brzezinski also said the State Department had sent three senior officials to Bolivia to check on the welfare of the American prisoners and to review the status of their pending court cases. In addition, he said that the President had discussed the prisoner problem with Bolivian President Banzer during his visit to Washington in September.

Mr. Speaker, I hope that this added pressure from the White House will expedite the American's release. Since before my trip to South America in September we have tried to prod the wheels of justice in Bolivia so that the Americans being held there unjustly could be quickly released. This has been a long, hard fight but hopefully we now see the light at the end of the tunnel and our efforts are due to pay off.

Lower court absolution was granted to three Americans recently and is expected momentarily on three more including my constituent Tom McGinnis of Idaho Falls. This was based on recommendations of no prosecution by Bolivian authorities. A superior court must now review all six cases.

The text of the Brzezinski letter follows:

> THE WHITE HOUSE,
> *Washington, December 15, 1977.*
>
> DEAR CONGRESSMAN HANSEN: This is to acknowledge your letter of December 7 to the President in which you urged his immediate assistance to Americans imprisoned in Bolivia.
>
> As you know from frequent conversations with members of the White House staff and with State Department officers, a great effort is being made to expedite the court cases of the Americans detained in Bolivia on narcotics related charges. State Department officials and our Embassy in Bolivia have encouraged the Bolivian Government, including the Bolivian courts hearing these cases, to speed up processing of the cases and to absolve and permit the prompt departure of those prisoners against whom no charges are ultimately filed.
>
> Ambassador Boeker and his staff explored many aspects of the American prisoners problem with Bolivian authorities. The President personally discussed this problem with President Banzer during his visit to Washington in September. Three senior State Department officers have visited Bolivia to look into the welfare of the American prisoners, and to review the status of their pending court cases. We have taken steps to assure that the health needs of the detained Americans are being met. Just last Wednesday the Department of State cabled your suggestions on the court review process to the Embassy in La Paz. Today, the Department will telephone the Embassy to make the additional point you raised, namely that you asked the President's urgent help in getting the six detainees released as soon as possible, hopefully in time for their arrival in the U.S. for the holiday season. I will ensure that the Embassy is also made aware of the President's personal interest in this regard.
>
> As you know, several American prisoners have recently been released and have returned to the U.S. A member of my staff met recently with Michelle Freyer and a number of others who are deeply concerned about this matter. They reviewed recent developments and were apparently pleased by the progress that has been made.
>
> The President shares your hope that the other prisoners will be absolved of the charges pending against them and will soon be allowed to return home.
>
> We will keep you informed of new developments as they occur.
>
> Sincerely,
>
> ZBIGNIEW BRZEZINSKI.

SOCIAL SECURITY

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LEDERER. Mr. Speaker, I am recorded in support of H.R. 9346, social security financing bill passed by this House on Thursday, December 15, 1977.

When I first came to Congress last January, I was acutely aware of the fact that my service in the House would not always be simple or easy. There are those occasions when Representatives of the people have to make hard, tough decisions. Mr. Speaker, this is just one of those times when it is difficult to be a Member of this House.

H.R. 9346 provides for substantial increases in the social security taxes paid by both employers and employees beginning in 1979. It is not an easy task for any politician to vote tax increases. The easy thing would be to not vote such increases. However, social security represents the only source of income for many millions of our fellow Americans. Many of these people are senior citizens, others are children and still others are disabled. This Congress was faced with the enormous task of insuring the solvency of the social security trust fund. Our proposal puts the system on good financial footing for the next 25 years. Additionally, it will do away with the long-range insolvency problems.

Mr. Speaker, it is inconceivable to me that any Representative of the people could vote against this bill and allow the system to, in effect, go broke.

As a member of the Subcommittee on Social Security and Ways and Means, I was given the direct responsibility by this Congress to develop reasonable, sound proposals for social security financing.

Our committee worked long and hard coming up with a good bill; one that will insure the benefits for 33 million Americans and at the same time begin the long and difficult task of basic reform in the law. This bill, while not perfect, goes a long way to accomplishing those goals.

Mr. Speaker, H.R. 9346 is a well thought-out piece of legislation. Indeed, under present conditions it is the only possible way to approach these very complex problems. Wage base increases as well as tax rate increases have to be carefully worked out to insure basic solvency. A decoupling formula has been included to bring future cost-of-living increases more into line with financial realities. An increase in the earnings limitation from $3,000 to $6,000 was included over the next 5 years for senior citizens over 65 years. Basic reforms in the treatment of men and women under the law have been started. The reduction in the 72 year age limit to 70 was included.

Parity has been maintained between employee and employer contributions, with no increase until 1979 and, then for

1 year, the increase mandate by current law.

Mr. Speaker, I want to be able to assure all my constituents that the social security system is alive and well as result of the actions taken by this Congress. With the passage of this bill, I can report to both my senior citizens and current workers that benefits will be there when they need them. It is my hope that once we proceed to insure basic solvency in the system, we can proceed, over the next several years, toward a new revenue mechanism whereby major increases in social security taxes will not be necessary.

Mr. Speaker, indeed it is sometimes very difficult to be a Member of the House. Nevertheless, this is one of those times when, difficult as it may be, I am proud to be counted as one of the distinguished Members of the U.S. Congress.

ACCOMPLISHMENTS OF THE 95TH CONGRESS, 1ST SESSION: REPORT TO THE PEOPLE OF THE FOURTH DISTRICT OF WISCONSIN

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ZABLOCKI. Mr. Speaker, on this last day of the 1st session of the 95th Congress, I am submitting the following annual report on the activities of the 95th Congress thus far to residents of the Fourth Congressional District of Wisconsin, which I have the honor of representing. This report is intended to highlight some of the major strides taken by the Congress in addressing the Nation's problems, in defining areas for reform, and in laying the groundwork for future policy.

Mr. Speaker, I need not emphasize the fact that a single session of Congress will not result in the correction of all the ills of our society. But, important strides have been made in reforming national policy to meet the real needs of our Nation. The record of accomplishments of the 95th Congress thus far proves that it is responsive to national priorities and effective in the actions it has taken.

As Eleanor Roosevelt once said, "Democracy cannot be static. Whatever is static is dead."

Mr. Speaker, the 1st session of the 95th has, without a doubt, moved forward and ably met the challenge to implement our democratic system.

The principles of trust and confidence which came to the forefront during the 1970's were addressed by the Congress. The Intelligence Committee began its work in overseeing U.S. intelligence activities. The International Relations Committee began hearings on the Korean influence issue. And the Nation, as a whole, witnessed the resignation of a top-level Cabinet official when a question of ethics arose.

ECONOMY

Foremost of the activities of the Congress was economic recovery. The economic surge launched by Congress and the President in January has settled into a steady, sustainable growth with good signs for the future. Last month's unemployment rate was 6.9 percent, down a full percent from the fourth quarter of 1976. In the Milwaukee metropolitan area, the unemployment figure dropped from 6.1 percent in 1976 to the present 5.3 percent.

After taking a tough look at the administrations economic stimulus proposals and after trimming and shaping where necessary, the Congress passed legislation appropriating $20 billion for economic stimulus. This provided $7.9 billion to more than double public service jobs in fiscal year 1978 and $4.9 billion in revenue sharing, which goes directly to our local governments. In addition, the Congress expanded the Public Works Employment Act, which triples from $2 billion to $6 billion the authorization for Federal grants for local public works projects. The city and county of Milwaukee as well as surrounding communities are presently financing worthwhile construction projects with public works moneys.

On the national level, the new public works legislation is expected to create 600,000 jobs, largely in construction and related industries in areas of high unemployment.

I am heartened that the Congress worked within its budget and actually trimmed $6.5 billion from the administration requests in its appropriating legislation for fiscal year 1978. At the same time, it enacted a $34 billion tax cut for our Nation's citizens.

ENERGY

One of the most complex and important pieces of legislation in our history was taken up during the 1st session of the 95th Congress. The National Energy Act, proposed by the President and acted upon by five standing committees and an ad hoc committee on the House side will directly affect the lives of every American and future generations as well.

Just 7 years ago, we were importing less than one-fourth of our oil needs and paying less than $6 billion for it. Today, we import almost half our oil consumption at a cost of $45 billion—twice the size of our projected trade deficit for this year. We are spending $5 million every hour to buy imported oil. In attempting to resolve the energy problem, the Congress struggled with the questions of natural gas regulation, taxes, and exploration incentives. I opposed total deregulation of natural gas as well as a raise in the gas tax because of the financial burden these measures would have placed on lower-income taxpayers. Fortunately, deregulation and the gas tax increase did not pass in the House version of the National Energy Act. The House also passed provisions calling for tax credits for home insulation and authorizing $965 million over three years for energy-conserving alterations in schools, hospitals and public buildings.

While the National Energy Act is not expected to be cleared in final version until the second session, I am hopeful that the 95th Congress will enact major reform measures as our country enters a new era of energy use.

In keeping with its commitment to develop and effectively implement a national energy policy, the Congress created a new Cabinet-level Department of Energy to consolidate various agencies which were handling energy matters in the past, thereby avoiding duplications and insuring effective, coordinated energy administration on the national level.

SENIOR CITIZENS AND VETERANS

Those Americans most adversely affected by the burdens of inflation and unemployment are our Nation's senior citizens. While much remains to be done, the Congress took positive steps toward providing relief to the elderly.

Of primary concern to the Congress was the Social Security Administration. Senior citizens receiving social security benefits received a 5.9 percent cost-of-living increase in benefits last July under the automatic procedure enacted by Congress in 1972. And, just today, we have completed action on the major legislation, the Social Security Financing Act, to shore up the Social Security Administration. I am heartened that present beneficiaries need fear no interruption of their benefits and that the Social Security Administration will again be solvent.

And, in keeping with its commitment to the principle that our senior citizens are contributing members of our society, the Congress appropriated $59 million to create jobs for older Americans. In the housing area, the Housing and Community Development Act of 1977 includes special assistance for older, declining urban communities and authorizes $1.16 billion in contract authority for public housing and section 8 housing assistance which benefit many of our senior citizens. Mr. Speaker, personally I am very concerned with the needs of our elderly and I regularly keep in contact with the excellent organizations in Milwaukee which receive Federal funds, such as the Milwaukee County Commission on Aging and Project Involve.

The 1st session of the 95th Congress provided additional assistance to meet our veterans' health needs. For example, service-connected disability compensation and dependency and indemnity compensation was increased by 6.6 percent. A new law also provides an automobile assistance allowance and automotive adaptive equipment to qualifying disabled veterans of World War I. An additional $15 million was provided for each of fiscal year 1978 and 1979 for renovation of State VA facilities. The domiciliary construction project at the Veterans Hospital at Wood, Wis., is a result of a Federal grant, which I was pleased to support.

ETHICS AND GOVERNMENT REORGANIZATION

Mr. Speaker, you stated early in the year that ethics reform was to be at the top of the list of the agenda for the 95th Congress. I am encouraged that my colleagues in the Congress passed major reforms in this area.

The Congress passed a strong code of financial ethics and created a Select Committee on Ethics to assure that they are implemented. As one who has supported financial disclosure over the years and always made my own finances available to anyone who desires to see them, I believe the new code will significantly contribute to ethical behavior and a new confidence by our citizens in those they elect. Besides requiring a broad financial disclosure of Members and key staff, the code limits outside earnings to 15 percent of one's salary and limits the use of the free mailing privileges, honorariums, gifts, and other expenses. In addition to carrying forth the ongoing reforms initiated in 1976, the House of Representatives enacted rule changes that make our proceedings more open and democratic, and began investigations of the charges that the South Korean Government illegally influenced the behavior of Members of the House.

Consistent with the wishes of the American citizens and the President to trim the Federal bureaucracy and eliminate redtape and duplications of effort, the Congress enacted the Reorganization Act of 1977. This law gives the President authority for 3 years to transmit to Congress executive branch reorganization plans. Early in this Congress President Carter's reorganization plan No. 1 was accepted and I am confident that we can expect to see improvements in the size and performance of the executive branch in the future.

HEALTH AND EDUCATION

In the field of health, the Congress authorized $3.3 billion for the extension of health programs in fiscal year 1978. Federal health moneys are used for public health services in counties such as Milwaukee, for community mental health centers, for migrant health, and other vital programs. In addition, funds are used for research in areas including cancer and heart disease. In keeping with the commitment to provide health care to those who cannot afford private doctors, yet eliminate wasteful spending, the Congress passed the medicare-medicaid antifraud amendments. The new law strengthens the Government's ability to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs.

Mr. Speaker, the Congress has yet to deal with the vital issues of national health insurance and hospital cost containment. These difficult matters are not easily resolved but we must assure that future quality health care is available to all of our citizens. I am confident the Congress will deal with these issues in the immediate future.

In an area which touches upon both health and education, the Congress cleared a major school lunch bill which provides our needy children with the proper nourishment they require. In addition, Congress authorized $1.1 billion over over 5 years for the Education of the Handicapped Act and authorized funds to cover library services of urban libraries.

INTERNATIONAL RELATIONS

Mr. Speaker, in the area of international affairs, the Congress continued to assert its responsibility in the conduct of foreign affairs.

As chairman of the House International Relations Committee, it was a privilege to share in the policymaking responsibility. My committee took action to safeguard the basic respect for man by including human rights provisions in foreign aid legislation.

Our commitment to maintaining a balanced policy in the Middle East was retained. In extending the Export Administration Act, the Congress added provisions prohibiting compliance by American firms with the Arab boycott of Israel. At the same time, our military and economic aid to Israel and Arab countries reflects the necessity of maintaining a responsible and fair balance of power in the Middle East. The Congress and administration must resist emotional pressures and insist on a prudent policy which recognizes the rights of all peoples in the Middle East. Only through adherence to this policy will we see a long and lasting peace.

After considerable work, the Congress passed legislation to provide international food and economic development assistance. Under this legislation, emphasis is placed on helping countries to meet basic human needs and develop their own economies.

Under the auspices of the Subcommittee on International Security and Scientific Affairs, which I also have the honor of chairing, legislation improving and enhancing the operation of the Arms Control and Disarmanent Agency was adopted.

My subcommittee also passed the Nuclear Anti-Proliferation Act establishing new criteria to govern the export of nuclear material and technology by the United States. The act reflects my belief that we must make a concerted effort to better satisfy future world energy needs while curtailing the spread of nuclear fuel which is easily converted into weapons.

My subcommittee also reviewed the peformance of our security assistance programs worldwide, including the President's conventional arms transfer policy. As part of the subcommittee's oversight responsibilities, the subcommittee reviewed the status of various arms control negotiations with the Soviet Union including the ongoing negotiation toward a new SALT agreement.

Mr. Speaker, at this point I would like to express my appreciation to our colleagues for their cooperation and hard work in the 1st session of the 95th Congress, and I look forward to a productive second session. Much work remains to be done. We must resolve our energy problem and lower even further our rates of inflation and unemployment. We must work toward furthering social justice. full employment, and protect the rights of the unborn. And, we must assure a lasting peace for future generations.

Mr. Speaker, the following is a summary of my attendance record, position, and voting record on some of the major issues considered during the 1st session of the 95th Congress.

Rollcall record of Congressman Clement J. Zablocki, 95th Cong., 1st sess.

	Yeas/ nays	Quorum calls	Recorded votes	Grand total
Number of calls or votes	471	76	235	872
Present responses (yea, nay, present, present-paired for or against)	451	74	231	756
Absences (absent, not voting, not voting-paired for or against)	20	2	4	26
Voting percentage (presence)	95.7	97.3	98.2	96.6

VOTING RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI, 95TH CONGRESS, 1ST SESSION

POSITION, ISSUE, AND STATUS

National economy

Voted for: A $34 billion tax cut over three years to stimulate our depressed economy; became law.

Voted for: Legislation creating 600,000 jobs to lower unemployment; became law.

Voted for: Budget resolution to set ceiling on Federal spending; adopted.

Voted for: Anti-recession assistance to state and local levels of government; became law.

Voted for: Appropriations to help middle-income taxpayers meet unexpected high heating costs; became law.

Voted for: A raise in the Small Business Administration's loan ceiling to help small businessmen; became law.

Voted for: Extension of the Council on Wage Price Stability Act; became law.

Voted for: Banking and credit union reform; became law.

Cosponsored: Franchise reform legislation to provide greater benefits to consumers; pending.

Voted for: Reduction in downpayments for new home buyers; became law.

Energy, environment, and natural resources

Voted against: Proposals to increase the Federal gas tax; house defeated.

Voted against: Proposals to deregulate new natural gas; in conference.

Voted for: Legislation to establish a comprehensive national energy policy; in conference.

Voted for: Tax credits for home insulation; passed House.

Voted for: Establishment of Ad Hoc Committee on Energy to coordinate and expedite energy legislation; adopted.

Voted for: Legislation authorizing funds for the Energy Research and Development Administration to promote new knowledge of our domestic energy capabilities; vetoed.

Voted for: Legislation authorizing funds to create a nuclear regulatory commission; became law.

Introduced: Legislation providing for more efficient & effective control over the proliferation of nuclear explosive capability; passed House.

Voted for: Legislation to gradually increase the automobile emission standards to protect the environment; became law.

Voted for: Federal funding for municipal sewerage treatment plants; cleared for President.

Voted for: Creation of a federal-state program to regulate strip-mining and surface effects of underground mines; became law.

Voted for: Funding to establish a land and water conservation fund to protect and preserve our national parks; became law.

Voted for: Legislation to prohibit ocean dumping of municipal sewerage sludge after 1981; became law.

Voted for: Programs for the protection of our marine mammals; became law.

Voted for: Legislation for the conservation, protection & enhancement of the nation's land & water resources; became law.

Retirement, health and social services:

Voted for: Legislation appropriating $57 million for jobs for older Americans; became law.

Voted for: Authorization for reducing air fares for the elderly; passed House.

Voted for: Legislation to restore financial solvency to the Social Security Administration; cleared for President.

Voted for: Elimination of mandatory retirement age of 65; in conference.

Voted for: Funding for heart, lung and blood research; became law.

Voted against: Proposals to allow federal funding of abortions; compromise enacted.

Cosponsored: National health insurance program; pending.

Voted for: Legislation to assist Americans suffering from mental disabilities; became law.

Voted for: Legislation to protect citizens from fraudulent activities under the Medicare and Medicaid programs; became law.

Voted for: Protection and enforcement of safety measures for minors became law.

Voted for: Delay in the saccharin ban until the appropriate study is completed; became law.

Voted for: Legislation to improve the administration of SSI benefits for the poverty-stricken; House pased.

Voted for: Funds for day-care services; House passed.

Veterans and national defense

Cosponsored: Bill to allow the exclusion of social security increases in computing veterans' pensions; pending.

Voted for: Increase in veterans' disability benefits; became law.

Voted for: Increase in veterans' and survivors' pensions; House passed.

Voted: Funding to improve state veterans' homes; became law.

Cosponsored: Legislation to provide for payment of service pensions to veterans of World War I; pending.

Voted for: Automobile assistance allowance & adaptive equipment to disabled veterans of World War I; became law.

Voted for: Increase in veterans' educational benefits; became law.

Voted for: Maintenance of our nation's defense by supporting adequate funds for procurement and research; became law.

Voted for: Legislation to rescind $453 million previously intended for a new nuclear carrier and conversion of a ship to nuclear arms; became law.

Transportation, housing and consumers

Voted for: Resolution directing Secretary of Transportation to apportion highway sums authorized for our nation's highways; adopted.

Voted for: Emergency railroad operating assistance; became law.

Voted for: Direct federal assistance to local communities in the form of Community Development Block Grants; became law.

Voted for: Housing assistance programs for low and middle-income taxpayers; became law.

Voted for: Benefits and incentives for new, single-family home owners; became law.

Voted for: Legislation to expedite FTC cease and desist orders thereby benefiting consumers; House passed.

Voted for: Legislation to prohibit debt collectors from using harassing or intimidating practices; became law.

Voted for: Creation of Consumer Cooperative Bank to make low-interest loans to consumer cooperatives; House passed.

Voted for: Resolution opposing the elimination of Saturday mail delivery service;

Education and labor

Voted for: Legislation authorizing $1.1 billion over five years for education of the handicapped; became law.

Voted for: Extension of the school lunch and child nutrition programs; became law.

Voted for: Funding for career education courses in elementary and secondary schools; in conference.

Introduced: Legislation to provide a tax credit for tuition paid to elementary and secondary schools; pending.

Cosponsored: Bill to provide equal educational opportunities for students in elementary & secondary schools, thereby offering an alternative to forced busing; pending.

Voted for: Legislation prohibiting HEW-forced busing; became law.

Voted for: Legislation to provide funding to disadvantaged school children; became law.

Voted for: Legislation providing funding for library services and the construction of libraries; became law.

Voted for: A raise in the minimum wage; became law.

Voted for: Reform legislation to strengthen the National Labor Relations Board and expedite union representation elections; House passed.

Constitutional issues and general government

Introduced: Resolution proposing an amendment to the Constitution to assure that due process and equal protection are afforded to all individuals, including the unborn, with respect to the right to life; pending.

Cosponsored: Resolution to require financial disclosure for those seeking elected offices; pending.

Voted against: Measure to increase allowance for District office space by 1,000 sq. feet at a cost of $3.5 million; passed.

Voted for: Legislation to allow federal workers their right to participate in political elections; passed House.

Introduced: Resolution commemorating Thaddeus Kosciuszko in Krakow, Poland; became law.

Voted for: Creation of U.S. Postal Service Arbitration Board to handle disputes; House passed.

Voted for: Reorganization of the Executive Branch to lessen duplications and redtape; became law.

Voted for: Legislation requiring audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms; became law.

International relations

Cosponsored: Legislation providing food and economic assistance to help poor countries help themselves; became law.

Cosponsored: Resolution reaffirming U.S. commitment to obtain full compliance with human rights provisions of Helsinki Accords; pending.

Introduced: Resolution proposing an international treaty banning lethal chemical weapons; pending.

Cosponsored: Legislation to govern the export of nuclear material and technology by the U.S.; passed House.

Voted for: Extension of the Peace Corps Program; became law.

Voted for: Approval of the Reciprocal Fisheries Agreement between the U.S. & Canada; became law.

Cosponsored: Bill to repeal the immunity statute for foreign diplomats in the U.S.; passed House.

Voted for: Prisoner exchanges between the U.S. and Mexico and Canada; became law.

Introduced: Legislation making the Arms Control and Disarmament Agency more effective; became law.

Voted for: Responsible authorizations for the Dept. of State, U.S. Information Agency, and Board for International Broadcasting; became law.

Voted for: Resolution expressing the concern of Congress regarding the harassment of Soviet Jews and other minorities; adopted.

Cosponsored: Bill to implement the Convention on the Prevention of the Crime of Genocide; pending.

PHILADELPHIA MAKES TREE-PLANTING PROGRAM PERMANENT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. EILBERG. Mr. Speaker, during the historic celebration of our Nation's Bicentennial, the city of Philadelphia embarked on an ambitious program involving the planting of trees throughout the Fairmount Park system.

That very successful 10,000 trees program was made possible through thousands of contributions—ranging from schoolchildren's pennies to corporation's dollars.

I am very pleased to be able to report that this has been made an ongoing, permanent program.

The program, under the new designation of the Fairmount Park plant a tree program, will continue the reforestation and beautification of the world's largest city park through active individual, organization, and company participation.

With the endorsement of Mayor Frank L. Rizzo, and under the auspices of the Fairmount Park Commission, the plant a tree program has been formulated to encourage individuals, groups, and corporations to give contributions for the planting of trees or groves of trees in the park. The gift trees may be planted in any of the 37 parks under the jurisdiction of the park commission and may be planted in honor of individuals, schools, organizations, companies, or events, or simply as a community betterment effort.

as part of the mayor's effort to encourage tree planting and to preserve open space in Philadelphia.

The program of public and private contributions for the planting of trees in Fairmount Park will supplement the city's and the park commission's regular planting programs that provide for the planting of approximately 4,000 new trees throughout the park system and city each year. There are an estimated 3 million trees in the park, but many are lost each year due to old age, disease, storm, and other damage.

The plant a tree program is especially geared to school groups who can participate in the tree program from start to finish as an important lesson in nature, ecology, and community involvement.

The shoolchildren can raise the money, help select the tree and planting site, participate in the planting, and help watch over the trees after they are planted.

Individuals might want to participate in the plant a tree program in order to create a living memorial to a loved one or out of civic pride and a love of trees and things growing.

Organizations and companies have been invited to participate to help beautify certain park areas near them or as part of the effort to improve the quality of life for everyone who lives or works in Philadelphia. Philadelphia area residents enjoy the many benefits of one of the most beautiful and well-maintained park systems in the world. Participation in the plant a tree program is but one way of preserving the natural beauty of our parks.

REACTIVATING MIDWAY AIRPORT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DERWINSKI. Mr. Speaker, I and other Members of Congress are interested in the revitalization of Midway Airport in Chicago, which would be a practical solution to relieving of some of the congestion at O'Hare International Airport.

Chicago's WGN Radio-TV Broadcasting Co. commented upon the latest developments in reactivating Midway, in their editorial of December 8, which I wish to insert at this time:

AIRLINE REGULATION

The Department of Transportation has filed a brief in support of proposed low-cost air service linking Midway Airport with six other cities within 600 miles of Chicago. The brief was filed with the Civil Aeronautics Board a regulatory agency which has not granted a charter to a new airline in nearly 40 years.

The Transportation Department brief was filed for two reasons. The first was in support of one of the four companies to file for the route and fare authorities out of Midway Airport. Midway had languished since the jet age dawned and moved air service to O'Hare Field. However, the only two scheduled airline arrivals and departures now using Midway are a low-cost no-frill service between Saint Louis and Chicago.

The second reason for the brief was to support a general policy of the Carter administration, a policy calling for more competition and less regulation in the airline industry and others. As if to prove the point for less regulation, consider this: The first petition for the six routes out of Midway was filed with the CAB in October . . . of last year. The CAB has promised what it calls an expedited decision . . . by next August first.

ENDING THE ANTITRUST EXEMPTION FOR ORGANIZED LABOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CRANE. Mr. Speaker, during floor action last October on H.R. 8410, the so-called labor reform bill, we heard much said about fairness, the rights of workers, and the ability of employers to thwart implementation of the law by procedural means. To hear proponents talk, one would have thought that only businessmen were able to exempt themselves from legislation concerning labor-management relations and that organized labor had no such exemption, nor was it in want of one. Unfortunately, however, the reverse is true in both cases; not only do the records of the NLRB indicate that over 80 percent of all certification elections are conducted, without contestation, within 45 days of the filing of an election petition, but it is organized labor rather than business management which has special exemptions from laws affecting labor-management relations. The most obvious and blatant of these is the one written into the Clayton Act of 1914 exempting organized labor from the Nation's antitrust laws.

When people think of the laws governing the relationships between employer and employees they often forget that not only is labor law involved but also antitrust law. Labor law sets forth the rights of employees to organize and collectively bargain for better conditions in the labor market while antitrust law sets forth the restrictions against monopolistic activities in the product market. Inasmuch as the labor force produces goods for the product market, the protection of rights for those in the labor market cannot be isolated from the exercise of those rights in the product market; to attempt to do so not only tends to discriminate in favor of one side or the other as court rulings have reflected over the years.

Simply stated, if business, in the exercise of its rights, cannot conspire to act in restraint of trade, then the same prohibitions should likewise apply to organized labor. If it is wrong for business to collude to fix prices, then it should be wrong for labor to conspire to fix wages. Likewise, if it is wrong for firms to divide up the product market so as to create a monopoly of business, then it should also be wrong for unions to divide up the labor market so as to promote a monopoly of labor. It is one thing to grant organized labor the right to organize and bargain collectively with their employers; no one denies that right. But it is quite another thing to allow organized labor to do so in a manner which allows it to take unfair advantage of both employers and that interested third party—the American consumer.

With the current Clayton Act exemption, antitrust law admits to the involvement of only two parties in an economic transaction—the buyer and the seller of goods. But, as any businessman will tell you, the producer of those goods—the working person—has a major impact on the price level of the transaction. The impact is known as the cost of labor and it will rise in accordance with any labor agreement reached with employees. Obviously if, in the process of negotiating and implementing that agreement, the employees can operate in a monopolistic fashion while employers cannot, that cost may rise to artificailly high levels. Of course, it is precisely those types of price increases the antitrust laws were designed to prevent.

Several examples may serve to clarify the concept. First of all, if General Motors was the only company selling cars, or United States Steel the only firm from whom you could buy steel, or Gulf Oil the sole merchandiser of gasoline, the price of all three would undoubtedly be higher and the public would be up in arms. But, little concern is expressed over the fact that the UAW is the only union representing autoworkers, the United Steelworkers of America has a monopoly in the representation of steelworkers, and that petroleum workers are members of a single union, depending on the kind of work they do. Second, if a service station owner who had the only batteries in town told his customers that the only way they could buy one was to buy tires as well, that service station owner could expect to find himself in court. But the courts, on the other hand, have accepted the idea that a union can tell an employer what kinds or doors he can put in a house if he wants the walls to go up around it. To prohibit the latter in each instance would, in no way infringe on the right of a union to organize, bargain collectively, or to strike; it would make all other things more equal.

There are indications, however, that if explained in these terms the American people would reject the premise that unions should be allowed to impact on the product market in a way employers cannot. Last March, the Opinion Research Corp. of Princeton, N.J., did a survey in which it asked four questions about union activities in relation to the product market. First of all, the question was asked, should labor unions be able to engage in practices which limit or restrict competition and 67 percent of those interviewed said no. Then the question was asked, should unions be allowed to restrict or limit production and again 67 percent said no. Following that, respondents were queried as to whether unions should be allowed to engage in practices which fix wage rates throughout an industry and this time 56 percent of the people said no. Finally, those interviewed were asked if they favored or opposed legislation which would make unions subject to the antitrust laws the same as business and 60 percent of them indicated they would favor such legislation. Only 14 percent were opposed to it and the remaining 26 percent had no opinion. Significantly, even blue collar workers, the most likely to be unionized, favored such a bill by a 52 percent to 18 percent margin.

The results of this poll have not gone entirely unnoticed although they have not received the attention they deserve. On June 30, the St. Louis Globe-Democrat surveyed the findings in an editorial and advocated support of my legislation, H.R. 5314, to remove the antitrust exemption currently granted labor unions. To quote the Globe-Democrat: "Artificially high costs and skyrocketing prices are an unnecessary burden on consumers whether they are caused by business or unions or both." Removing labor's exemption, the editorial continued, ". . . will be fair to all—business, unions and the consumer."

As chief sponsor of H.R. 5314, which now has 13 congressional cosponsors, I concur fully with the Globe-Democrat's assessment. Not only is it inconsistent to treat two supposedly equal groups in our society differently under the law, but it is inflationary as well. Everyone, even the labor union member himself, is the loser when prices are forced up to artificially high levels, and given a monopoly situation they have little alternative but to pay those prices.

Mr. Speaker, while my bill is likely to bar such practices as industrywide bargaining, coordinated bargaining, secondary picketing, product boycotts and jurisdictional strikes, let me reiterate that it is not an effort to repeal rights granted under the National Labor Relations Act. Somewhat ironically, what H.R. 5314 provides is exactly what H.R. 8410 promises but does not deliver—equal protection under the law. And while I do not expect it to happen, if proponents of H.R. 8410 are serious about ending double-standards, addressing labor's antitrust exemption should be placed high on their list of priorities. For, in addition to being fair to all concerned, eliminating that exemption represents the most constructive kind of proconsumer legislation imaginable and it should be adopted without further delay.

For the benefit of my colleagues who might want to see the full text of the St. Louis Globe-Democrat editorial, I shall now insert it in the RECORD at this time:

PUT UNIONS UNDER ANTITRUST LAWS

An overwhelming majoriy rightly believes that labor unions should be subject to antitrust laws the same as business is. That is the view expressed by 81 percent of the persons polled by the Opinion Research Corp. of Princeton, N.J.

Furthermore, 60 per cent of the respondents favor enactment of legislation by Congress to put unions under antitrust laws. A surprisingly few—only 16 per cent—said they oppose such a move, while the others had no opinion on the matter.

No justification exists for the exclusion of labor organizations from provisions of the law. The preferential treatment of unions has been nurtured over long years of favorable congressional legislation and court decisions. Providing labor organizations with immunity from antitrust laws harks back to a time when unions were weak. It was a specious argument at best even in the old days because everyone should abide by the law, and compliance should not be required on the basis of strength or weakness.

The picture has changed completely. Today the powerful labor organizations are big business, and they can take care of themselves. Now it is the consumer who needs the protection, for it is the user who pays for unreasonably costly union demands. Business also finds itself on occasion at the mercy of the powerful labor chiefs backed up by bulging union treasuries.

The scientific survey by Opinion Research for the United States Industrial Council proves most Americans are aware of the true situation—and that they want corrective action taken to remedy the imbalance. A bill to remove union exemption from antitrust laws is pending in Congress. The measure, HR 5314, was introduced by Rep. Philip M. Crane, R-Ill., and 13 cosponsors. The bill also seeks to prohibit union practices that restrict competition or production.

The survey found that 67 per cent oppose union practices that restrict or limit production. Opposition to union practices which limit competition was voiced by 60 per cent of the blue collar households, with only 17 per cent stating that such practices should be permitted.

The American public has learned the economic facts of inflation the hard way and wants something done. Artificially high costs and skyrocketing prices are an unnecessary burden on consumers whether they are caused by business, unions or both.

If members of Congress are sincerely interested in the voice of their constituency, they will see to it that labor is required to behave responsibly by removing the exemption. The long overdue action will be fair to all—business, unions and the consumer.

JAYCEE WEEK

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FISHER. Mr. Speaker, the year 1978 marks the 30th anniversary of the Arlington, Va., Jaycee chapter and the 58th anniversary of the founding of the United States Jaycees. Since 1948 the Arlington Jaycees have dedicated their time and drive to making Arlington, Va., a better place in which to live. Their commitment to the National Orthopedic and Rehabilitation Hospital, Arlington Hospital, and numerous civic, service and community projects in Arlington and across the Commonwealth of Virginia are well-known to my constituents.

In an effort to recognize the contribution toward our country and State, the week of January 15–21, 1978, has been set aside across America to pay tribute to the Jaycees for their fine work and accomplishments. "Jaycee Week" will be proclaimed in Arlington County by the chairman of the 1978 Arlington County Board and the proclamation will cite their chapter for its "material contribution to the betterment of the community." I understand that members of the chapter will be setting up an informational booth at the Arlington County Courthouse to show our citizens their accomplishments, trophies and awards over the years.

At this time I wish to commend the board of directors of the Arlington Jaycees for their dedication, loyalty and duty to the community. Under the able leadership of President Richard Hawthorne, the board has developed a theme called "Together We Can," in working together to achieve a common purpose. The members of the board, Robert Pratt, Phillip DiModica, William Meiggs, Emory Hackman, Thomas Cainan, Edward Solomon, Andrew Robertson, Joseph Longerbeam, Jim Hemeon, John Buckley, William Devereaux, Gary Henson, Earl Bird, Richard McCrary, and Butch Cline, are to be congratulated as the entire membership of the chapter is to be also.

ATLANTA AGREEMENT BREAKS CAMPAIGN PLEDGE ON MERIT SELECTION OF U.S. ATTORNEYS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DRINAN. Mr. Speaker, during the Presidential campaign last year, candidate Jimmy Carter pledged that U.S. attorneys would be appointed on a merit basis. These officials, who are the chief litigators for the United States in the 94 judicial districts across the Nation, have been a part of the patronage system since their creation in 1789. Consequently Mr. Carter's promise came as a welcomed reform of an important aspect in the activities of the Department of Justice.

With the pressing need for reform and the campaign pledge in mind, I introduced a bill, H.R. 5576, on March 24, which would provide for the selection of U.S. attorneys on the basis of qualifications. It would remove the Senate from the selection process and give the appointment exclusively to the Attorney General. This is the manner in which all other attorneys in the Department of Justice are selected.

On June 22, Attorney General Bell testified before the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice during its hearings on the state of the judiciary and access to justice. I asked Mr. Bell whether he would support my bill to provide for the merit selection of U.S. attorneys. He responded that "the decision had been made to leave the U.S. attorney selection in the patronage system." Mr. Bell added that "we have an agreement with the Senate if they take the court of appeals judges out of the patronage system we would go along on the other."

This sudden reversal of direction on an important policy matter by the administration came as a very unpleasant surprise. Having pledged to choose United States attorneys on a merit basis, the Carter administration, only a few months in office, decided now to keep those positions "in the patronage system." The precise nature of the "agreement with the Senate" was not specified.

On September 20, I wrote to the New York Times describing the unfortunate change in policy and the broken campaign promise regarding selection of U.S. attorneys. Reading that letter, a constituent wrote to Attorney General Bell on the same day seeking further information about the "agreement" with the Senate. After the passage of several weeks, my constituent advised me of his letter and that Mr. Bell had not yet responded to it. On November 8, I wrote to the Attorney General asking for a response.

Finally on November 17, Associate Attorney General Michael J. Egan responded to my constituent's request for additional information. Mr. Egan stated that "there is no agreement between the Department of Justice and the U.S. Senate such as you describe." That denial of an agreement appeared to contradict what the Attorney General had told the House Judiciary Committee back in June.

To resolve this contradiction, I wrote to Mr. Egan on December 14 asking him to clarify the "apparent inconsistency between your denial of an agreement with the Senate on the selection of U.S. attorneys and Attorney General Bell's admission that such an agreement exists." On December 20, he responded to my letter disclosing information that may be the most astounding revelation in this whole shoddy affair. Mr. Egan stated:

> The "agreement" to which Judge Bell referred in the testimony which you sent me was an oral exchange between Judge Bell and Senator Eastland which took place in Atlanta in late December of 1976 or early January of 1977.

It is now clear that the agreement by the Carter administration to allow U.S. attorneys to be chosen by patronage was made within weeks of Mr. Carter's victory at the polls. Even before the inauguration and weeks even before Mr. Bell's own confirmation as Attorney General, the administration was making secret deals contrary to promises leading to President Carter's election. If the people voted for him because of his pledge that "business as usual" would not be a part of his administration, I think the voters now would find this "behind closed doors" agreement shocking.

While merit selection provides its own justification, the choosing of U.S. attorneys has far greater implications than the selection of mere functionaries in the Department of Justice. Many U.S. attorneys become candidates for judgeships and higher office in the Government. Some have used the position to launch political careers on the State level. The position is frequently a stepping stone for advancement. Consequently by continuing the office in the patronage system, the administration in effect is excluding from consideration many qualified persons who are outside the mainstream of patronage politics. The impact on minorities and women is obvious and enormous. In over 200 years of our history, only a handful of them has ever served as U.S. attorneys.

If we truly desire equality of opportunity and if we really wish to open up the Government to all citizens, there are fewer better places to begin than the merit selection of Federal prosecutors. I am greatly disappointed that the Carter administration has rejected that beginning.

At this point, I insert in the RECORD the relevant correspondence on this subject:

SEPTEMBER 20, 1977.

Re: Congressman Robert F. Drinan letter N.Y. Times, page 40, September 20, 1977, "Of U.S. Attorneys, Merit and Political"

Honorable GRIFFIN BELL,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR ATTORNEY GENERAL BELL: In his letter to the editor of the New York Times Congressman Robert F. Drinan quotes you as saying that an "agreement" has been worked out between the Justice Department and the Senate whereby U.S. Attorneys would continue to be hired under a "patronage" system.

May I have from you a copy of the memorandum spelling out the terms of the "agreement" and the identity of the servants of the public who negotiated the same?

Yours truly,
———. ———.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., November 17, 1977.

DEAR ——— ———: In response to your letter of November 4 to the Attorney General, there is no agreement between the Department of Justice and the United States Senate such as you describe. The Attorney General has stated on many occasions that any new U.S. Attorney appointed by this Administration must be as good or better than the incumbent being replaced. We have applied that test in each case.

Candidates are suggested to us by many people, including Senators and Congressmen, who are likely to know highly qualified individuals in their states who are interested in serving. The Senators, of course, have a constitutional role to play in these appointments through their confirmation duties. Regardless of who recommends a candidate, however, the candidate is screened rigorously and carefully. We have not recommended the appointment of any candidate who we felt was not well qualified to serve and fully capable of performing as well or better than the incembent being replaced.

I regret that your earlier letter was misplaced. We have not been able to locate it and have no record of it.

Very truly yours,
MICHAEL J. EGAN,
Associate Attorney General.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 14, 1977.
Mr. MICHAEL J. EGAN,
Associate Attorney General, Department of Justice, Washington, D.C.

DEAR MR. EGAN: On November 8, 1977, I wrote to Attorney General Bell asking him when he intended to respond to an earlier letter to him from (name of constituent), who had inquired about an "agreement" between the Justice Department and the Senate regarding the selection of United States attorneys. On November 17, you wrote to (name of constituent) advising him that "there is no agreement between the Department of Justice and the United States Senate such as you describe." (Name of constituent) has kindly sent me a copy of your letter to him.

Your response to (name of constituent) appears to conflict with the testimony of Attorney General Bell on June 22 before the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice. When asked whether he favored a bill to provide for the merit selection of United States attorneys, Mr. Bell stated "that the decision had been made to leave the U.S. attorney selection in the patronage system. . . ." He added that "we have an *agreement* with the Senate if they take the court of appeals judges out of the patronage system we would go along on the other [patronage selection of U.S. attorneys] . . ." (italic added). I am enclosing a copy of Mr. Bell's complete responses to the series of questions on this issue.

I would appreciate your clarifying the apparent inconsistency between your denial of an agreement with the Senate on the selection of U.S. attorneys and Attorney General Bell's admission that such an agreement exists. Your early response would be greatly appreciated.

With every best wish, I am
Cordially,
ROBERT F. DRINAN,
Member of Congress.

OFFICE OF THE
ASSOCIATE ATTORNEY GENERAL,
Washington, D.C., December 20, 1977.
The HON. ROBERT F. DRINAN,
U.S. Congress,
Washington, D.C.

DEAR FATHER DRINAN: I have your letter of December 14th regarding an "agreement" between the Justice Department and the Senate about the selection of United States Attorneys. The "agreement" to which Judge Bell referred in the testimony which you sent me was an oral exchange between Judge Bell and Senator Eastland which took place in Atlanta in late December of 1976 or early January of 1977. There is no written document recording this exchange.

Very truly yours,
MICHAEL J. EGAN,
Associate Attorney General.

AMBASSADOR GARDNER ACTIVE IN STRENGTHENING THE TIES OF COOPERATION BETWEEN ITALY AND THE UNITED STATES

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ANNUNZIO. Mr. Speaker, our country's outstanding Ambassador to Italy, Honorable Richard N. Gardner, recently made a speech at the University of Palermo, in Sicily, in which he reviewed the areas in which the cooperation between our two nations is being strengthened.

The United States and Italy have a long tradition of friendship in addition to the cultural and ethnic ties between our peoples, and it is most important that our alliance with a strong, democratic Italy in NATO is maintained and our economic and political cooperation is increased for our mutual benefit.

Excerpts of Ambassador Gardner's speech follow:

ITALY AND THE UNITED STATES: A STRATEGY OF COOPERATION

(By Richard N. Gardner)

The United States and Sicily have had links since the earliest days of the American republic. Our consulate here dates from the first years of the nineteenth century and was therefore one of the first established by the United States. It gave me much personal delight to learn that one of our first consular representatives in Palermo was also named Gardner.

During those early years our Palermo consulate was of great importance, because one of the greatest preoccupations of the United States at that time was to work with Sicily and other countries to suppress piracy in the Mediterranean. Later, the naming of Palermo's Via Lincoln was witness to the common longing for human justice and unity which characterized both the American civil war and the Italian Risorgimento. Still later, the electric light was introduced to this city by an American company. This event occurred at the end of the nineteenth century, the period which also saw the beginning of that vast human movement which constituted a second Italian discovery of America—an America in which one out of every nine individuals has ties of earth or blood to this country.

Relations between the United States and Italy must be considered something special. We are closely bound by ties of friendship, culture, kinship and political alliance. These relations, with the exception of a period we can only consider as an aberration, cover nearly two hundred uninterrupted years of peace and mutual respect. This is the tie of friendship.

In building our nation, we benefited from Italian civilization, wisdom and culture. We are indebted to Italy for its contribution to Western civilization, which after all would not have been possible without Italy. These are links that span the ocean, forming a framework of interests, values and principles which bind our destinies in common cause. This is the tie of culture.

If the United States is a great nation today, it is indebted to the more than twenty million Americans of Italian origin who have helped make it so. It was their labors together with all other Americans which took the best from the old and melded it with the best of the new. In our difficult time of Watergate, for example, two great Italo-Americans, Congressman Peter Rodino and Judge John Sirica, played the key roles in defending our constitutional system. Today, Americans of Italian origin are playing an ever growing role in our government—for example, Joseph Califano is our Secretary of Health, Education and Welfare; Midge Costanza is Special Assistant to the President; and there are 34 Italian-Americans in Congress. That is the tie of kinship. As they say in Sicilian: "Tutti semu d'un'acqua tanti ciumi" (We are of the same water different rivers).

In view of these ties, it is not at all surprising that the United States and Italy have joined in common cause with other like-minded nations to create the type of partnership which is the NATO Alliance and which is a model of its kind in the history of relations among nations.

There is full agreement between our two countries on the importance of the North Atlantic Alliance as an instrument which has guaranteed the security of its members, strengthened international stability, and enhanced confidence among nations. In this way NATO has encouraged detente and broader contacts among the peoples of the world.

The American government is well aware that Italy is a key member of the NATO Alliance. While it is true that the military threat to the West remains concentrated on central Europe, the focus of the world's current economic and political difficulties has shifted more and more to the Middle East and Africa. Not only because of her geographic position but also because she is economically the most advanced country in southern Europe, Italy inevitably possesses great influence throughout the Mediterranean region and the area adjacent to it. These developments give added scope and importance to Italy's contribution to NATO and her role as interlocutor between the industrial world and the less developed countries of the southern hemisphere.

From what I have said, it should be clear that the United States attaches great importance to Italy. A strong, democratic Italy working closely with its like-minded allies and friends within the Atlantic framework is a primary interest of both our countries.

Prime Minister Andreotti and President Carter have committed themselves to build on the good relations of the past and shape an even more cooperative relationship for the future. Their meeting in Washington last July launched a series of concrete, practical measures that will yield important benefits to both countries. The essential spirit of this new era of Italian-American relations can be summed up in the phrase "the strategy of cooperation."

The following are some of the central elements in the strategy of cooperation:

The first element is a clear recognition by the Carter Administration that Italy is a key country — a country in the innermost circle of our friends and allies. It is a vital national interest of the United States that Italy be able to resolve its problems while preserving its Western democratic institutions.

The Friuli relief program is one clear indication of the very high priority which the Americans attach to Italy. Congressional action to meet the human tragedy which followed the earthquake was unprecedented in its swiftness. The first American contribution of $25 million is now bearing fruit as schools and homes for the aged rise among the hills of Friuli. Even more illustrative of the character of American friendship is the recent appropriation of an additional $25 million. Although the suffering in Friuli is gone from the front pages, the concern of the American people remains.

The second element is the effort to help Italy overcome its difficult economic problems. We strongly supported the Italian government last fall when the International Monetary Fund put together a stabilization program to return the Italian economy to non-inflationary growth. Since the agreement with the IMF was reached in the spring, much progress has been made—inflation has been reduced and the balance of payments has swung into surplus. But much remains to be done. Unemployment is still too high, especially in the Mezzogiorno and among the young. The government faces a major challenge in its effort to reduce the public sector deficit and control wage inflation so that there will be an adequate growth of private investment necessary to create more jobs. This is why we support the Italian government in achieving its full range of stabilization objectives.

The United States has full understanding for the difficulties faced by your authorities in trying to find a balance between inflation and unemployment on one hand and balance of payments equilibrium and growth on the other. Your problem is similar to that which confronts the United States and most other industrial countries. No one has a magic formula to achieve a high growth rate without high inflation. The quadrupling of oil prices in 1973 made this whole conundrum vastly more difficult. Oil importing countries have as a consequence had to restructure their economies to compensate for the higher cost of oil.

Realizing that this cannot be done overnight, the United States has supported a number of projects to help countries like Italy, which rely heavily on oil imports, to finance their balance of payments deficits during the transition period. In particular we have worked to increase the financial resources of the IMF. Our Congress is presently considering and is expected to give early approval to a Supplementary Financing Facility, the so-called Witteveen Facility. This new arrangement would increase the resources of the IMF by $10 billion. The funds are to be provided by seven industrial countries and seven OPEC nations. The industrial countries will give $5.2 billion; of this the U.S. will contribute $1.7 billion. The purpose of the funds will be to help those member countries with balance of payments difficulties.

The United States also supports another review of IMF quotas. If the present quotas can be increased, member countries will have a greater ability to borrow from the institution.

The high and persistent unemployment, especially among the youth, is a great cause for concern both in Italy and elsewhere in Europe. The United States will be playing an active role in a high-level conference to be held on this subject on December 15–16 under the auspices of the OECD. We hope that this meeting will stimulate innovative ideas for dealing with the problem. But we must face the fact that youth unemployment may result from the slower economic growth rate or from structural factors which will not be easily overcome through a general expansion of business activity.

The United States believes that the industrial countries have no choice but to work together through multilateral institutions and through close bilateral cooperation if these severe economic problems are to be solved.

The third area of collaboration I want to mention to you this evening is directly related to this need for cooperation—it is the acceptance by the American government of the obligation to improve its own economy and to work with others, such as Germany and Japan, for a general expansion of world economic activity. At the London summit in May, the participating governments, which included your own, agreed to certain economic targets designed to give momentum to world economic recovery.

I am happy to say that our policies are beginning to show good results. The American economic growth rate this year will in real terms reach 5.5 percent, higher than that of Germany and Japan. Thus we are doing our best as a "locomotive" economy to encourage a condition of general expansion. Of course. we still have problems. Our inflation rate is too high and our trade balance this year will be in deficit by about $30 billion. . . .

The fifth area of practical collaboration is also important to the Italian economy: steps to increase American investment in this country. A few weeks ago Treasury Minister Stammati held a round table meeting in New York with the most important banking officials of the United States. He pointed out that what Italy wants is not loans but direct investment.

Only a few days ago with the encouragement of our Embassy, executives from some of the world's largest industrial firms met in Rome under the auspices of Business International. They came here to meet with government officials and political leaders to discuss the opportunities, as well as the obstacles, of doing business in Italy.

This was a private group, holding a private meeting. American companies make their own decisions about where and when to invest abroad. Their decisions are based on their assessment of the strength and stability of a country's economy in the long term and the cost—particularly the labor cost—of doing business in one country as opposed to another. The right climate for foreign investment is of central importance and there is much that the Italian government can do at the national, regional and local level to provide that climate.

The Business International meeting was not expected to produce specific investment commitments. But I hope that those executives visiting Rome were impressed, as I am, wtih the progress so far of the Italian government's stabilization program and with its determination to achieve non-inflationary growth. I further hope that some American companies will therefore decide that Italy is a good country in which to invest. . . .

The seventh area of cooperation which I want to emphasize is the area of cultural and educational exchange. Prime Minister Andreotti and President Carter have launched a program of reciprocal assistance under which Italy will assist us to strengthen Italian language and Italian studies programs in American schools and universities while the United States will help improve English teaching and American studies programs in Italy.

Our two governments are also encouraging an innovative venture in the private sector through which a consortium of American and Italian banks and industrial firms will establish a loan fund to finance graduate studies by qualified Italians in the United States and by qualified Americans in Italy on subjects of importance to our two societies.

These seven practical projects are just some of the cooperative ventures which the American and Italian governments have launched in recent months. There will be others. I see my principal task as Ambassador as one of working with your government to bring these projects to fruition.

The strategy of cooperation has already been well symbolized by the unprecedented number of visits which Italian and American government officials have recently exchanged:

President Carter's Special Trade Representative, Ambassador Robert Strauss, met with your Prime Minister and other government ministers to discuss world trade problems.

Defense Secretary Brown came to Rome in October to discuss defense questions with the Italian government.

Treasury Secretary Blumenthal came to Rome in October to meet with the Prime Minister and other government officials to discuss international economic issues and developments in the American and Italian economies.

Andrew Young, the American Ambassador to the United Nations, visited Rome in November to discuss a wide-range of international questions, particularly those relating to North-South issues and the situation in southern Africa.

The American Secretary of Agriculture, Bob Bergland, came to Rome in November to attend the Conference of the Food and Agriculture Organization and to discuss agricultural cooperation with Italian government officials.

Finally, the Secretary for Health, Education and Welfare, Joseph Califano, met ministers in the Italian government to discuss cooperation in health, education and related matters. During his visit, he signed two important bilateral agreements. The first will enhance and expand cooperative efforts in health and medical science. The other will lead to closer coordination in providing pension protection to those who have worked in both countries.

On the Italian side,

Foreign Minister Forlani went to New York to attend the United Nations General Assembly and to hold bilateral discussions with Secretary of State Vance and other American officials.

Minister of Health Dal Falco visited Washington to hold meetings with Secretary Califano, a number of members of Congress and experts in the field of drug abuse and mental health.

Treasury Minister Stammati attended the annual meeting of the IMF and IBRD in Washington and also held bilateral discussions with the Secretary of Treasury and other senior American officials on world economic developments and the Italian economic situation.

Minister of Posts and Telecommunications Colombo visited the United States in October to meet with senior officials in Washington and to lead a large Italian delegation of government and industry officials to discuss the telecommunication industry in the United States and to attend the INTELCOM meeting in Atlanta.

And other high-level visits are now in prospect.

The Italian-American relationship has flourished now for more than 200 years. This record of friendship, however, should not make us complacent; we can take nothing for granted. We must work to make that fruitful history of cooperative endeavor continue to grow and prosper. As a great Sicilian poet and Nobel Prize winner said:

"Ognuno sta solo sui cuor della terra—trafitto da un raggio di sole: ed e' subito sera."

While as individuals we are perhaps alone on this earth, it is our common duty to see that as nations we do not stand alone. Together we must make the most of our brief moment in the sun to ensure the freedom and the prosperity of future generations in this island, in our two countries and in the wider world beyond.

KEEP FLAME BURNING FOR RELIGIOUS FREEDOM

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. EILBERG. Mr. Speaker, earlier this month WCAU-TV in Philadelphia broadcast an eloquent message that should be of interest to all of us in this holiday season.

In conveying its wishes to the Jewish community during the days of Hanukkah, WCAU pointed to this holiday as a symbol of religious freedom for people everywhere. The message, I believe, is universal, and has a great deal of meaning at a time when mankind's liberties are threatened by so many forces around the world.

Mr. Speaker, I offer for the RECORD the December 4, 1977, text of this televised editorial by John O'Connor, editorial director of WCAU-TV in Philadelphia:

EDITORIAL

Long ago there was a Greek. He was Alexander. And he was called "the Great." When he died, his Hellenic empire was carved up, and his Syrian inheritors forbade Jews to practice their faith, or to teach it.

The Syrians desecrated the temple in Jerusalem and began a policy of religious genocide.

But up from the Jews rose a man called "The Hammer." He was Judas Maccabeus. He rallied the Jews to a war of liberation. Outnumbered, Judas Maccabeus whipped the Syrians and purified the temple.

The ancient Jews celebrated. They called the festival Hanukkah, a feast of lights and joy, a feast observing the right to religious and cultural freedom and identification.

In our own times Jews mournfully recall attempts to wipe out that religious and cultural freedom.

The Nazi atrocities of the 30's and 40's culminated in the death camps. But the death camps did not kill Jewish faith. Jewish survivors continue to light the candles.

Today the ancient land of Israel remains threatened by Syrians. Today, Jews in the Soviet Union suffer religious persecution. Yet now, they light their candles.

The Management of WCAU-TV joins with Delaware Valley Jews in their observance of the Feast of Lights. Others, besides Jews, must realize the importance of religious freedom. We hope, they, like we, will join the descendants of Judas Maccabeus and keep the burning flame.

RESCUING THE SOCIAL SECURITY SYSTEM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. GILMAN. Mr. Speaker, on December 15, 1977, the House voted to rescue the social security system from the imminent threat of financial collapse.

The urgent need to stabilize the social security trust fund is undisputable. Passage of the conference report on H.R. 9436, the Social Security Financing Amendments of 1977, was of paramount importance to insuring the fiscal soundness of a system in which tens of millions of Americans have faithfully placed their reliance.

Moreover, by acting now to assure the integrity of the social security system, we have met the problem head on while there was still time to formulate effective and fair solutions to the deficiencies and inequities currently plaguing the social security system.

Solutions to problems of exceedingly great magnitude are often without universal support. There were no easy solutions to the problems that have been steadily intensifying within the social security system. Moreover, there were no easy solutions on the horizon; only more difficult, more costly options which I fear Congress would have been forced to indiscriminately grasp at in desperation.

The social security legislation the House has passed, however, according to the prudent and well-researched estimates of the House Ways and Means Committee, "puts us in a surplus position in social security of the next 25 years." A "no" vote on this legislation, as committee Chairman AL ULLMAN well articulated, "is a vote for the insolvency of the social security fund."

In supporting this measure, I sought to strengthen the financial foundation and infrastructure of the social security system so that the future weight of tens of millions of additional Americans will not cause the entire edifice to come crashing down.

Passage of this measure allows us to:

First, strengthen the financing provisions of the social security system by adjusting tax rates, which are to be shared equally by employer and employee, from 6.13 percent in 1979 to 7.65 percent in 1990 and after. Adopting this provision obviates the threat of raiding this Nation's general revenue fund when social security trust funds would fall below a certain level. General revenue financing would seriously erode the "earned right" philosophy upon which the social security system is predicated.

Moreover, it would impair congressional ability to keep tabs on the income and outlays of moneys associated solely with social security programs.

Second, provide, by raising the earnings limitation from the current $3,000 to $6,000 in 1982, productive senior citizens, willing and able to work, the opportunity to keep more of their hard-earned dollars while still retaining their social security benefits. While the bill eliminates in 1982, this earnings limitation for beneficiaries over age 70, I favored, and supported—as is reflected in legislation I introduced—elimination of this earnings ceiling for all eligible recipients over 65.

Third, reduce the undesirable impact of wage and price fluctuation on the system's benefit structure (through the process of "decoupling").

Fourth, provide for the undertaking of a major study (containing recommendations for legislative initiatives) on the effects and benefits of extending coverage to Federal, State, and local government employees.

Fifth, eliminate certain benefit differences based on the sex of the eligible recipient.

Sixth, shore up the social security disability claims system by providing permanent status as administrative law judges to the current and effective corps of temporary hearings examiners.

Seven, provide, through adoption of a Senate initiated amendment, a one-time payment of $187 million to States for immediate relief from ever-escalating welfare costs. This provision recognizes the fiscal plight of one of our hardest pressed States, New York, and provides that State's city and local governments—currently shouldering an inordinate welfare burden—assistance approximating $28.3 million.

I might emphasize that this new legislation is equitably grounded in the fact that while future social security taxes will rise, our hard fought battle has been won to assure that these taxes will be shared on a 50–50 basis between employer and employee—and not as some had proposed, at an unfairly higher rate by the employer.

The more than 33 million (1 in 7) Americans currently receiving social security benefits, as well as additional Americans relying in the future on the availability of their hard-earned funds channeled into the social security system, are now assured that the window of the social security trust fund will remain open, and their rightful benefits accessible.

Those voting for this social security reform measure, fully realized that a "no" vote on this legislation would, on the surface, have met with widespread approval as a vote to hold the lid on taxes. However, anyone seriously examining this issue recognizes that legislation less powerful and comprehensive would not have been equal to the deeply rooted troubles currently pervading the social security system.

By acting now, Congress has utilized the opportunity to consider and pass a well-reasoned, far-reaching, efficacious program to restore the financial integrity of the social security system.

By shunning procrastination and recognizing the importance of seizing this opportunity now, Congress has avoided the unattractive likelihood, otherwise down the road, of presiding as a receiver in bankruptcy of this Nation's social security system.

PERSPECTIVES: POLISH, YES; POLICIES, NO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DERWINSKI. Mr. Speaker, it is my policy when inserting items into the Record to point out the perspective from which the columnist presents his views.

In this regard, I wish to insert a very pertinent column by Alex R. Seith. It is especially important to note that Mr. Seith is an acknowledged expert of the Democratic Party in the field of foreign affairs. He has served on that party's national platform committee, and was an advisor on the foreign affairs plank at the Democratic Convention. He has also been very active in well-known organizations dealing with international relations. In addition, Mr. Speaker, Mr. Seith is the Democratic candidate for U.S. Senate in the State of Illinois.

In his recent column appearing in the Suburbanite Economist Newspapers, serving Cook County, Ill., Mr. Seith discusses his views on the administrations' foreign policy as reflected by National Security Adviser, Zbigniew Brzezinski. The article speaks for itself:

[From the Cook County (Ill.) Suburbanite Economist Newspapers, Dec. 18, 1977]

PERSPECTIVES: POLISH, YES; POLICIES, NO

(By Alex R. Seith)

Don't get me wrong, I've got nothing against Zbigniew Brzezinski's Polish ancestry. But I do have something against certain of his policies. If that seems obvious to most readers, it was not clear to all.

"You criticize recommendations of Zbigniew Brzezinski," a reader wrote last week. "Is that because he is Polish?" The reader continued, "Would you be happier if he were Jewish, like Henry Kissinger?"

Maybe the reader thinks I'm Jewish. Well, I'm not. And apparently the reader suspects I'm anti-Polish. Again, I'm not.

On the contrary, Professor Brzezinski's Polish background is, in many ways, a great asset which I welcome in the President's foreign policy advisor. Having been born in Poland and forced to leave because of Nazi and Soviet invasions, Brzezinski has a deep personal hatred of dictatorship, both Fascist and Communist. It has helped shape his commitment to human rights and given strength to his desire to loosen the grip of the Soviet Union on Eastern Europe.

As a professor at Columbia university and director of Columbia's Russian Affairs Institute, some of Brzezinski's writings were notable in spotlighting Moscow as "a bad actor" on the world scene.

But as national security advisor, Brzezinski seems to have forgotten some of his own earlier writing about Moscow's disruptive role in world affairs. Twice in the past few months, this column has criticized White House advisor Brzezinski for policies towards the Soviets which seemed directly at odds with the misgivings of Professor Brzezinski.

Take the most recent example: In October the President—based on Brzezinski's advice—issued a joint declaration with the Soviets proposing to convene a Mid-East Peace conference on radically new terms. The declaration was doubly wrong: because it was made and because of what it said.

By bringing the Soviets into that kind of "up front" role, the declaration gave Moscow an influence role it had not previously enjoyed. This "up front" role for the Soviets was something which a wide range of foreign policy experts have repeatedly considered—and rejected. From 1974 to 1976, as deputy chairman of the Democratic party's Foreign Policy Task force, I heard the private debates in which many of these experts explained in convincing detail why the Soviets should not be elevated to equal status with America in the Mid-East.

Boiled down, the basic reason was that the Soviets are out to create trouble, not peace. The last few days have again shown that fact. The Soviets have used their influence in some Arab countries not to promote peace but to foment hostility. They have backed those who denounce Anwar Sadat as "a traitor" and call for his assassination.

Considering Brzezinski's well-founded hatred of Soviet influence in Eastern Europe, it is hard to understand his support for a joint declaration which tended to build up Soviet influence in the Mid-East.

It was also hard to understand Brzezinski's apparent willingness to acquiscence in possible Soviet influence in Western Europe. Last August, this column commented on then current reports that Brzezinski had authored a Presidential Review memorandum which recommended a U.S. policy of doing little or nothing if Soviet or Soviet-backed armies invaded West Germany.

The memorandum proposed that instead of preparing to fight off such an invasion, America be prepared to talk about it. If the Soviets grabbed a piece of Western Europe, America might be able to embarrass them into giving it up, Brzezinski proposed. Brzezinski well knows that the Soviets have not been talked out of East Europe because of embarrassment. Why did he think they could be talked out of West Europe because of embarrassment?

Happily, outraged cries from West European allies and members of Congress plus the President's own good judgment prevented the memorandum from becoming policy.

So, to underscore my view, when this column criticized Brzezinski's encouragement of, or acquiescence in, greater Soviet influence, the criticism was not because he is Polish. Instead, precisely because he is Polish, he should have known better.

SMALL STEPS TOWARD BETTER GOVERNMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for December 1977 into the Congressional Record:

Small Steps Toward Better Government

Most of the talk in these final days of this session of the Congress is on energy, social security, abortion, the Middle East, and the economy. But some less publicized events have also been significant, and several have caught my eye, encouraging me to think that the battle for a government that works better can yet be won. These are the events:

1. The Labor Department announced that it will stop enforcing 1100 "nit-picking" job safety rules, ranging from design specification for toilet seats to the permissible size of knotholes in the siderails of stepladders. The safety of workers simply was not threatened by hundreds of these OSHA rules, and the pruning of them is a step toward common sense and intelligently focused enforcement. Further streamlining efforts will be made to get rid of silly, outmoded and misdirected rules that do not contribute to the safety of workers.

2. Congress is beginning to question the advantage and the cost of private consultants to U.S. agencies. The almost $2 billion a year now spent by government for consultants is plainly excessive. Computer systems are being designed to keep track of all of the consultants employed by government. Under new rules issued by the Office of Management and Budget, consultants are not to be used to bypass personnel ceilings or pay limitations. There is a continuing need for the prudent use of consultants to provide independent judgment on government programs, but many of the consultants' reports are duplicative and unnecessary, like the report of the consultant who, when hired to find out how to cut the cost of poultry inspections, advised the Department of Agriculture to speed up the rate of inspections.

3. President Carter intends to eliminate some 40% of the government advisory commissions, which advise the federal government in virtually every area of policymaking. Over 1100 federal advisory panels now exist and the elimination of almost 500 of them through merger and termination will save money and streamline government. The President will have my full support in this effort.

4. War is being waged on the gobbledygook that the federal bureaucracy puts out in the form of rules and regulations. It will not be easy to turn the 140 volumes, the 70,000 pages, and the book-length sentences of federal regulations, into plain and simple English, but the attempt to try strikes me as a noble exercise. The task is to clear away the impenetrable linguistic sludge that passes for communication in millions of government documents.

5. The federal government is beginning to work on the most comprehensive review of the civil service system ever undertaken. At this early date no one can predict whether the effort will succeed and it will certainly not happen quickly. It surely makes sense to have a civil service system in which federal agencies can hire qualified candidates, without first having to cut through time-consuming red tape, and in which agencies can demote or fire incompetent workers without facing years of appeals, and in which salaries correspond with performance rather than longevity.

6. After decades of rising pension benefits to public employees, federal, state and local officials are beginning to try to defuse the time bomb of massive pension indebtedness. For too long government has passed a pension benefit today and worried about the cost tomorrow. But tomorrow is today now. The costs are here and they cannot be passed on. Efforts to reform these pension systems will take many years, but it is encouraging to see all levels of government coming to grips with the rising costs of pensions and the problems that will come in the future if corrective steps are not taken now.

7. The Commission on Federal Paperwork has made over 770 recommendations which, taken together, are a blueprint for action to enable the federal government to serve the American people more efficiently by eliminating unnecessary paperwork. Almost half of the recommendations have already been implemented. Much paperwork is necessary but some of it is unnecessary, and billions of dollars in actual and psychological costs can be saved if the wall of paperwork that has been erected between the government and the people can be lowered.

So as the Congress completes its work for 1977 and begins to prepare for the new year with many of the nation's most difficult problems unresolved, I take a small measure of encouragement from steps of less than cosmic significance which nevertheless show some steps toward a government as efficient and effective as people want and deserve.

JOSEPH D. DUFFEY, NEW CHAIRMAN OF THE HUMANITIES ENDOWMENT

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. BRADEMAS. Mr. Speaker, in October 1977, Joseph D. Duffey was sworn in as the new Chairman of the National Endowment for the Humanities by Vice President WALTER F. MONDALE.

On that occasion, Mr. Duffey called on a distinguished group of Americans to share with the Nation their personal conceptions of the humanities. Those who spoke were Isabel Charles, dean of the College of Arts and Letters at the University of Notre Dame; Robert Coles, psychiatrist and author; G. Alexander Heard, chancellor of Vanderbilt University; and M. Carl Holman, president of the National Urban League.

Mr. Speaker, at this point I insert in the RECORD the remarks of these four individuals and those of the Vice President given at the swearing in of Mr. Duffey:

REMARKS OF VICE PRESIDENT WALTER F. MONDALE

I am very glad to be here this afternoon to swear in Joe Duffey as the new Chairman of the National Endowment for the Humanities and to announce that the President has named him to head the Federal Council on the Arts and Humanities.

Joe Duffey is a man of many accomplishments. A native of West Virginia, Joe is a scholar, a teacher, a minister, and—most important of all—a man whose public career gives strength to all those who raise moral voices in our political system.

The Humanities Endowment needs Joe Duffey's leadership, and the Administration is proud to name so distinguished and qualified a man to such a special federal agency.

For the Humanities in America are not merely academic disciplines. History, philosophy and literature cannot be the province of the few in any democratic society. The best thinking of our best minds must be available to all who wish to share it.

That is why the Humanities Endowment must seek out and assist the best scholarship in America today.

And that is why the Humanities Endowment must lead the search for new ways to share the lessons of our scholarship ever more widely.

Those who say that politics and culture do not mix have missed an important point about both disciplines. No serious student of these issues has ever suggested that aesthetic or academic questions should be decided by politicians or bureaucrats.

Our social and political system has always demanded—and provided—a vigorous, private cultural system. And it is the role of the federal government, through our two Endowments, to strengthen that private system without imposing on it any ideology other than openness.

This delicate role implies a commitment to two principles: quality and access.

First, both Endowments must be dedicated to the search for quality, however difficult, complex or unpopular that search may become. It is not an easy process, nor should it be. Decisions about quality must be insulated from political considerations, and our two National Councils and Endowment panels have successfully defended that view over the last decade.

But at the same time, these decisions about quality are public decisions, and they must be arrived at publicly by groups which are representative of our whole culture.

Second, both Endowments must be committed to increasing access to our cultural life for all those who wish to be part of it. The federal government has no more important role in this area than assuring that the arts and humanities are available to as many Americans as possible.

This too is a difficult and costly commitment, but it is the central purpose of our system. For while many societies in history have produced great scholarship and great art, no society has shared them both as widely and as openly as our own.

In this first year of our Administration, my wife Joan has travelled to every part of this country and come home to tell me of people and groups who are making that standard real, many of them with help from the Endowments and other federal agencies.

Today there is no lack of vigorous scholarly and artistic work in America. And there are literally thousands of projects underway to bring that work the widest possible audience.

Our cultural system is not without problems. Our universities, museums and arts institutions face deficits; new groups seek access to the system; writers and artists face economic problems as intractable as any in our society.

But the problems that we face, difficult as they may be, are the problems of a healthy cultural system adapting to change.

We have tried in the first months of the Administration to spotlight these problems. We have worked to give consideration of cultural issues in the Administration the high level of priority they deserve.

Today we celebrate the appointment of a new Humanities Chairman. Soon we will install a new Chairman at the Arts Endowment. This fall we will undertake a review of all federal cultural programs in which the two Endowments will have a major role. We expect this review to provide policy recommendations for the future direction of cultural programs, and we look forward to the advice and counsel of many who are present today.

So it is a pleasure to swear in Joe Duffey today and to wish him well as he undertakes his responsibility to, as he said himself, "communicate a sense of our civilization."

REMARKS OF ISABEL CHARLES, DEAN OF THE UNIVERSITY OF NOTRE DAME COLLEGE OF ARTS AND LETTERS

(Dean Charles, a literary critic, teacher, and administrator, is known for her critical assessments of the American author, Willa Cather)

I am particularly happy to join you this afternoon for the swearing-in ceremony of Joseph Duffey as Chairman of the National Endowment for the Humanities, not only because my own academic background has steeped me in a love of the humane values fostered by the Endowment, but also because I come from a university whose president and a state whose lawmakers have long championed the humanities.

THE HUMANITIES IN AMERICAN SOCIETY

By its very nature this ceremony focuses on the future of the National Endowment for the Humanities. Under the leadership of Joseph Duffey I see the role of this agency growing in its impact on American society. And I see this growth as a compelling need in a period of financial stringency, when the minds of many—young and old, learned and unlearned—turn primarily toward vocational education and pragmatic concerns. In these very times—even unknowingly—men's spirits grow restless with hunger for riches such as only the humanities can give. Active, vigorous programs sponsored and nurtured by the National Endowment for the Humanities can fill this need in a creative, far-reaching fashion.

What means can I, as an educator, suggest to fulfill this awesome responsibility? First of all, I believe that the excellent work now carried on by National Endowment in its research, fellowships, education, and public programs divisions must be expanded and improved by judicious examination of their relationships to the goals enunciated by Mr. Duffey in his senate hearings statement of September 9, 1977. Realistically, such expansion demands a better balance between the funding for education and research in the National Science Foundation and that allotted to the comparable areas of the National Endowment for the Humanities. Scientific research has a long history of support by industry, a support which the equally important work in humanities does not share. Perhaps public dollars might more wisely be spent equalizing such imbalance.

SUPPORTING HUMANISTIC PROGRAMS

Secondly, I would like to single out for special comment Mr. Duffey's stated goal to encourage "a partnership between the State humanities organizations and the Endowment." This strikes me as a vital step in assisting the agency to influence a growing number of American lives. Stronger state-based programs, I believe, can produce mechanisms which will give recognition to quality humanities resources and to the varied needs of a broader spectrum of American colleges and universities than has been evidenced in the past, thereby insuring a wider distribution of NEH Project and Program funds.

Further, state-based committees should be encouraged to take advantage of new opportunities to support educational, research, and cinematic projects as well as the now traditional public discussion programs. In addition, the formation of regional humanities organizations wherein information and resources can more easily be shared and common problems identified will make interaction with the NEH Washington office more efficient and effective.

EXPANDING THE ENDOWMENT'S SUPPORT

In conclusion, let me make brief mention of just a few more aspects of the Endowment's work I hope to see flourish within the next few years: the development of more quality mass audience presentations (such as the *American Short Story Series*) in order to challenge the present near-monopoly of the BBC over the great cultural events brought into our homes by public television; the expansion of the present program of subsidizing through University Presses the publication of humanities research projects supported by NEH to include the publication of meritorious non NEH-supported humanities research; efforts to assist in the development of mechanisms or procedures whereby the participation of academic humanists in NEH public programs will receive appropriate recognition by university and college reward systems. Other suggestions could be added, but I will leave the work in the hands of Mr. Duffey and his fine staff.

Remarks of Robert Coles, Professor at Harvard University

(Professor Coles, a psychiatrist, educator and author, is known for his Pulitzer Prize winning series of books about children, *Children of Crisis*)

The humanities were once regarded as "polite learning": the study of grammar, rhetoric, and especially, the classics. We could do worse than encourage such study among our young—so many of whom badly need to know how to write clearly, logically, coherently; and badly need to understand what Socrates kept reminding his students: that the truly wise person knows, among other things, how little he or she knows, how much remains to be learned. It is a sad day, our day, that brings a declining adequacy with the English language on the part of many school children, along with their constant exposure to the crudities of certain television programs, not to mention the idiotic and pretentious social science jargon that has worked its way into various "curricula."

MAKING SENSE OF OUR WORLD

Our lives in 20th century America are dominated by the natural sciences; every time we turn a light switch, get into a car, receive penicillin, we silently acknowledge the influence of engineers, physicists, chemists on our everyday assumptions. The so-called social sciences, on occasion prematurely, have tried to follow suit—tell us that they, also, have begun learning how to master at least some realms of the universe: psychological and sociological riddles, as opposed to those posed by organic and inorganic matter, or the distant constellations of stars. Still, it has not been altogether a blessing for America's sectarian culture—this technological mastery enabled by the natural sciences, coupled with the increasing conviction of social scientists that our habits and thoughts will soon enough yield to one or another interpretive scheme. Kierkegaard's 19th century grievance—that the increased knowledge of his time enabled people to understand, or think they would soon understand, just about everything, except how to live a life—might well be our complaint as well. We have our hands on the energy of the atom; we have dozens of notions of why people do things as they do; but many of us have forgotten to ask what we really believe in, what we ought try to *be*, in contrast to *do*.

The natural sciences offer us much needed answers, solutions. The social sciences, now and then, offer us helpful explanations—along with, occasionally, a good deal of dreary, pompous, overwrought language. The humanities, in the hands of some, can also come down, finally, to precious, bloated and murky prose. But the humanities at their best give testimony to man's continuing effort to make moral, philosophical, spiritual sense of this world—to evoke its complexity, its many-sided nature; its ironies, inconsistencies, contradictions and ambiguities. The humanities begin, for a scientist, when he or she starts asking what a particular fact or discovery will mean for those who want to comprehend the obligations, the responsibilities of citizenship—the possibilities and limitations a great society presents. The humanities come into play, for a social scientist, when he or she starts wondering what some observation or theoretical construct or piece of data tells us about, ironically, himself or herself—the person who has made a discovery, who lives (one hopes) with and by some larger vision of things.

MANAGING ONE LIFE

I would like, for help, to call upon an American factory worker I've come to know these past years. The scientist (physician) in me has tried to contend with the illnesses that have afflicted him and his wife and children. The social scientist in me (a psychiatrist doing so-called "field work") has tried to comprehend how a man manages the various stresses imposed by a tough, demanding, exhausting assembly-line job. But there is in this person the stuff of the humanities, and I only hope I am sufficiently responsive to, respectful of, what he has to say: "I feel good on the way to work. I leave the house early. It's the best time of the day. I see the sun come up. I do some thinking. Once I'm on the job, I have no time to think of anything; it's go, go, go—until I punch that card and leave. But on the road to my job I stop and ask myself questions. I mean, you want to have something to aim for; you want to believe in something. My oldest boy, he's starting college this September, the first one in our family to get that far. I told him—I said: get the best education you can, and it'll help you live better, and you'll get the respect of people; but don't forget to keep your common sense, and don't forget what life is all about.

"Sometimes, I think there's nothing to believe in, except the almighty dollar—and a little influence, that always helps. Sometimes, I see people behaving real rotten to other people, and I remember the wars in my lifetime, and I think of the troubles all over the world, and I think back to my father, and how he couldn't find a job when we were kids, and my mother being upset for him, and for us, and I remind myself of what a lousy life it still is for most of the people on this earth—well, I can get real low. But for all the trouble my family has had, and the world has had, I guess I'm lucky, because I don't stay down there in the dumps too long. I stop and say to myself that life may be a big mystery, like they tell you in church, but there's your family to hold on to, and the future your kids will have.

"My little girl, she's eight years old; she asked me the other day if God pays attention to *every* person, and if He does, where does He get the time, and does He have the patience, or does He get tired? I told her it's not for me to know how God does His job, but I'll bet God thinks each grown up person should have a job, and should look after a few people, and try to pitch in—to help people who are in trouble. My wife and I have always tried to teach our children to be good and kind. I don't believe in church on Sunday and let the Devil run the show the rest of the week. I don't believe in talking to your children about God, and then teaching them to be cut-throat artists. I tell my children to stop themselves every few days, and look up at the sky, and listen to their conscience, and remember what they should believe in: give out as good as you want to get.

"That was my father's philosophy of life. He didn't have a lot of material things to give, but he had himself—a big person he was; and he was always there to make us think twice before we stayed mean too long, and he was always there to make us realize the world doesn't circle around us. My wife says it's a real stroke of luck, to be alive, and living in this country, and not a lot of other places, and I'll tell you, people ought to stop and say yes, that's right, and yes, I'm here, and I'm going to give of myself, the best I know how—and maybe tomorrow, I'll find a way of being a better person. You try to think about this life, and what you owe it, and you try to get your kids to think about this life, too, and what they owe it."

THE HUMANITIES IN ORDINARY LIVES

His reflectiveness, his effort at detachment and introspection, in the midst of the press of everyday life, his struggle for decency and integrity and generosity, in the face of, inevitably, self-centeredness (the sin of pride), with all its attendant psychological mischief, ought qualify him, as much as anyone else in this land, as a *humanist*—a person who, often enough, draws upon and contributes to the tradition of the humanities. The humanities belong to no one kind of person; they are part of the lives of ordinary people, who have their own various ways of struggling for coherence, for a compelling faith, for social vision, for an ethical position, for a sense of historical perspective. The Foxfire tradition, now part of this nation's cultural life, has revealed how earnestly, seriously and conscientiously so-called "plain people" work to keep alive received values and ideals. When a north Georgia high school English teacher, Eliot Wigginton, started asking his students to leave the classroom upon occasion, he did so because he wanted to enrich learning, not dilute it.

Over a century ago, in Oxford, England, no less, Matthew Arnold urged novelists, poets and critics to become actively engaged in social, economic and political affairs—to bring their kind of sensibility to bear upon "the things of this world." He didn't have to send such a message to his contemporaries Charles Dickens or George Eliot; they kept their eyes carefully focussed on the world, and through their fiction held up a mirror to an entire nation. George Eliot, as a young woman, was constantly letting herself learn from the rural English people she would later write about so knowingly. Here at home, William Faulkner made it his business to spend long hours with his fellow townspeople of Oxford, Mississippi—watching their habits and customs, hearing their stories, learning from them as well as sharing their news (and their bourbon). Where does the "real" Oxford end and the "made up" Yoknapatawpha begin? Of course, Faulkner was an imaginative artist, a man who made brilliant use of his mind's dreams and fantasies. But he came home every day from his "field-trips," they could be called, a rich man; he had been willing to be taught by his neighbors, and as a result had a lot to draw on as he sat at his desk writing.

THE DIVERSITY OF HUMAN WORTH

The humanities demand that we heed the individual—each person worthy of respect, and no person unworthy of careful, patient regard. The humanities are blues and jazz; gospel songs and working songs; string quartets and opera librettos; folk art and abstract impressionist art; the rich literary legacy of 19th century Concord, or of the 20th century South; the sayings and memories and rituals of countless millions of working people; the blunt, earthy self-justifications and avowals of desperate but determined migrant mothers; the wry detached stories handed down on Indian reservations, in Eskimo villages, generation after generation; the cries of struggle and hope of Appalachia's hollow people, put into traditional ballads and bluegrass music; the photographs of Lewis Hine and Walker Evans and Russell Lee—ourselves presented to ourselves; the confident, qualified assertions of scholars; the frustrated, embittered social statements of ghetto teachers (or children), who at all costs want to get a grip on this puzzling, not always decent or fair world. The humanities are the essays and the novel, *Invisible Man*, of Ralph Ellison, so full of a writer's determination that race and poverty, still cruelly significant to a person's destiny, nevertheless are but partial statements—never enough to rob a person of his or her particularity; and the humanities are the essays and novels of Walker Percy, so full of wit and wisdom and shrewd moments of social analysis. The humanities are also the remarks of the New Orleans suburban people, the Louisiana bayou people Dr. Percy knows, learned from—remarks worthy indeed of being recorded, transcribed, added to an ("oral") literature; and too, the humanities are the musical sounds, the strong, spoken vernacular Ralph Ellison has in his writings taken pains to remind us of.

The National Endowment of the Humanities should, in its acts of encouragement, strive to do justice to, and to document the richness, the diversity of cultural life in a nation whose people are not, many of them, afraid to say what is on their minds as well as sing or draw or paint or write what is on their minds, and thereby, in sum, cast penetrating, knowing, critical judgements on what is happening in the world—judgements that ought to be put on the record, so to speak; that is, be acknowledged as part of America's cultural tradition.

REMARKS OF G. ALEXANDER HEARD, CHANCELLOR OF VANDERBILT UNIVERSITY

(Mr. Heard has held the post of Chancellor of Vanderbilt University since 1963, and for the past six years has been chairman of the board of trustees of the Ford Foundation)

Mr. Chairman, members of the Council, ladies and gentlemen: Joe Duffey has the felicitous best wishes of us all on this happy day, and so do this Council and the National Endowment for the Humanities. We ourselves should feel great satisfaction and hope in the renewed promise that these exercises symbolize.

THE SPIRIT OF HUMANITY

I embrace the uncomplicated notion that "humanities" are studies and concerns that center on purposes, spirit, and communion among human beings—in contrast to other targets of 20th Century attention in the realms of matter, animate of inanimate. We can define such things however we wish. Time usually alters the definitions and they always ravel a bit at the edges anyway. But immediate and ultimate urgencies are joined in the human race's need to control the perils that its attainments in other spheres of investigation, thought, and originality have wrought.

Neither individuals nor nations can ever have full, literal equality of station, or achievement, or even of opportunity. Nor can forces outside of individuals, their groups and nations, guarantee the conditions and satisfactions that beget wisdom, justice, and equanimity. The record is clear that spectacular insights and creations in science, and their applications, have brought much ease, variety, and richness to our personal and community lives. They have also freighted social institutions and individual humans with burdens of choice and stress they could not bear. Streets of Gold do not alone make a Promised Land.

HUMAN NEEDS

Humans require the poise and strength that derive from inner certainties, or at least inner probabilities. They require the hope that comes from comprehensive awareness of the human record, and of subtle and subjective features, as well as of observable and objective characteristics, of the human condition.

Individuals require a sense of becoming—a sense of opportunity, of motion toward whatever constitutes a better life for that person in his or her circumstances, whatever the measurable objective level of those circumstances.

Individuals also require a sense of justice, or of properness, that they understand, both as to the external structure of society and as to the legitimacy of one's place in it.

These human beings also need a sense of pride in belonging to a larger worthy group than a group of one, to a larger worthy cause than solely one's own welfare.

UNDERSTANDING OURSELVES

These sources of equanimity that I ascribe rest on assumed preferences: for nonviolence and peace over violence and war; for order over chaos; for liberty over restraint; for government by consent. A sense of becoming, of justice, and pride are subjective conditions not necessarily connected with Gross National Product, or average per capita national income, or other numerical social and economic indices. They are, however, connected with opportunity and personal freedom.

The National Endowment for the Humanities has unique opportunities, and hence affirmative obligations, to foster understanding by human beings of themselves, of their whole selves. From such understanding come moral sensitivity, taste, and wisdom in choosing values, and strength in asserting them. A world more humane and beautiful for all can be our future. I join Joe Duffey's many friends in wishing him and his associates grace, good fortune, and much success.

REMARKS OF M. CARL HOLMAN, PRESIDENT OF THE NATIONAL URBAN COALITION

(Mr. Holman, a former staff member of the U.S. Commission on Civil Rights, is a poet, editor, author, professor and civil rights leader)

Like many you will encounter in the months to come, I have some special pleas to make. As a depression child living in what some of us did not realize was a slum, I heard Puccini over one back wall, Louis Armstrong over the other; played hookey from a strict Methodist church to traffic with tambourines and twice-born evangelists; lagged behind in the singing silence of the art museum and made the 14th Street Public Library a second home; passed through a door opened by Walter Damrosch to Golschmann and the Saint Louis Symphony, the sound of Latin and French in the Halls of Vashon High, and introductions to magicians and itinerant troubadors like Langston Hughes, Ethel Barrymore, Roland Hayes, Paul Robeson, James Weldon Johnson, and to the new worlds illuminated by gifted teachers at Lincoln in Missouri, at Chicago and Yale. I am, therefore, somewhat conditioned against sterility and at war with all who would deny proper nourishment to those already stunted by junk food diets.

THE USEFULNESS OF OUR CULTURE

So, in this time of scarcity—when politicians, budget cutters and philistines in educators' clothing destroy so much that quickens the spirit of the young—I strongly urge you and your colleagues to reaffirm the quintessential usefulness of "frills".

And so, too, I challenge you to search out and nurture those who through some special alchemy manage to keep the light of learning alive in the most unlikely places in this land.

The Endowment should help the broadest possible American public realize that what is humane is not necessarily remote, precious, hermetic, elite. Rather—like much that is most enduring in the world's literature—the humanities grow out of that wisdom which, in the words of the scripture, "cryeth aloud in the streets". Through the endowment, then, we must continue to mine the rich mother-lode of language and culture that laces the hills and hollows of Appalachia; the mountains, plains and plateaus of the West and Northwest; the sea islands, and settlements of the South and East that lie beyond the main highways—and not least of all, the polyglot ghettos and the barrios of urban America.

THE VITALITY OF OUR PAST

We are fast becoming a rootless, a-historic people, living from one unassimilated shock or sensation to another. One critical function of the Endowment should be to support those individuals and institutions whose role it is to reconnect us with what is most vital and continuous in our past—and with what seems most likely to endure from our own time.

A final word.

Intolerance and ignorance are dangerous anywhere. In a democratic, multi-racial, multi-ethnic society, they may well prove fatal. A central concern of the Endowment must be not only to make us better know our clannish selves, but to help us find a part of ourselves in the lives and languages of our neighbors in this country and the world.

I wish you well in your important undertaking.

CARTER AND THE CYPRUS ISSUE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DERWINSKI. Mr. Speaker, during the 1976 Presidential campaign, President Carter's candidacy received overwhelming support from Greek-American voters. The primary reason for this was their frustration over the record of the Ford administration on the Cyprus issue, and the commitment they felt they had from candidate Carter.

It is especially interesting to me and perhaps will appear ironic to others that the Greek Press, a weekly publication serving Greek-Americans of greater Chicago, has seen fit to baptize President Carter as "Tricky Jimmy," in a front-page editorial of that publication's December 16 edition. I insert it at this time:

PRESIDENT CARTER'S RUSE TO END EMBARGO ON TURKEY

Up to yesterday we had "tricky Dicky". Now we have tricky Jimmy. President Carter is set to use every trick in his bag of peanuts to get the embargo on arms to Turkey lifted.

He used his vice president the other day in order to pacify worrying Greek-Americans and he stopped in during their meeting at the White House to assure Archbishop Iakovos and our leaders that an "announcement of good news for Cypriots is imminent."

The only announcement of good news President Carter needs very badly to make is not to the Greeks or the Greek Cypriots but to the Turks. He needs to tell them that the embargo is lifted. Because the Turks already have warned him that if the embargo is not lifted soon every American must get out of Turkey.

President Carter has no plan for a Cyprus solution. At least a plan acceptable to the Cypriots. He simply endorses the Turkish point of view which is rejected time and time again by both the Greek and Cyprus governments.

Only last week President Kypiranou of Cyprus made is clear to us that there is nothing from the Turkish side to justify President Carter's optimism.

"At the moment there has been nothing from the Turkish side to justify optimism that we are on the way to an early settlement," Kyprianou said in a speech during a visit to a refugee camp near Nicosia.

THE REFUGEES

"The return of the refugees is a basic precondition for a viable and acceptable settlement . . . We are striving to secure conditions that will permit the population of Cyprus. Greek and Turkish-Cypriots to live. work and settle freely wherever they wish," Kyprianou said.

This is the crux of the matter. And unless the refugees are allowed to return to their homes no other news can be labelled "good" for the Cypriots.

Every year since the 1974 Turkish invasion of the island, the United Nations' General Assembly almost unanimously votes for the return of the refugees to their homes and the withdrawal of all foreign troops from the island. The Turks stubbornly refuse to comply. Greek-Americans should be constantly on the alert in Congress to make sure that no embargo to Turkey is lifted before Ankara implements the many United Nations decisions.

CITIZENS AND LAW ENFORCEMENT JOIN HANDS TO FIGHT CRIME

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. FISH. Mr. Speaker, this past year was eventful in many ways. Much happened to change our way of life, to make it easier and safer. But, nothing better demonstrated the Nation's concern and determination to fight crime as a joint effort between our citizens and its law enforcement officials than the action that took place at the U.S. Capitol several months ago.

Joining hands with the Federal Bureau of Investigation and the local police, fellow New Yorker and president of the Law Enforcement Assistance Foundation, Mr. Orway P. Burden, and the Outdoor Advertising Association of America kicked off a national billboard program to place 1,000 25 by 12 foot billboards all across the Nation to remind the citizens to "Join the Resistance" to fight crime.

These 1,000 billboards have now been placed along the routes of travel of the people of this country—on buildings, along highways, and in shopping centers. The big signs call on our people to help our law enforcement officials protect you and simply say, "Join the Resistance * * * support your FBI and the local police."

But what they are saying to those of us who took part in the ceremony at the Capitol of the United States is that private citizens and law enforcement officials are calling for a hand-in-hand effort to fight and conquer crime in this country. Among those who took part in that ceremony were the Director of the FBI, Clarence G. Kelley; minority leader of the House of Representatives, JOHN J. RHODES of Arizona; House Judiciary Committee chairman, PETER W. RODINO, JR., of New York; and numerous other leaders of the Congress and national law enforcement officials.

I am particularly proud, Mr. Speaker, of the part being played by a fellow citizen of New York, Mr. Ordway P. Burden, of Mount Kisco, who, as founder and president of the Law Enforcement Assistance Foundation, conceived the idea of this national billboard program to alert the people of our country to the necessity of joining hands with the FBI and the local police to fiight crime. Mr. Burden elicited the help of the Outdoor Advertising Association of America and, with their assistance and joint sponsorship in promoting, distributing, and putting up the billboards paid for by Mr. Burden's foundation, not one penny of taxpayers' dollars went into the program.

My contribution, as master of ceremonies for the September 13 program, to introduce to the national press the leaders of Congress, the FBI Director, and national law enforcement officials, was a highlight of the year for me. And, I am especially proud of the joint effort given to this national billboard program to alert people to the need to "Join the Resistance" and fight crime with the FBI and the local police. Perhaps in this way we can cut back on crime in 1978.

We have Mr. Burden and his Law Enforcement Assistance Foundation and the Outdoor Advertising Association of America to thank for this billboard "alert" program.

WHAT IS AT STAKE IN THE BWCA

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. OBERSTAR. Mr. Speaker, Justine Kerfoot has become a legend in the north country of Minnesota she adopted as her home in the 1920's. Between 1928 and 1965, Mrs. Kerfoot, first with her parents and then on her own, operated the Gunflint Lodge on Gunflint Lake on the periphery of the BWCA.

Today, Gunflint Lodge is operated by her son and daughter-in-law.

Justine Kerfoot is fiercely proud of the way of life in northeastern Minnesota and is one of that way of life's most articulate spokespersons in Cook County, an area of almost 1 million acres where only 4,000 people live.

Justine is a regular columnist for the Cook County News-Herald. In January 1977, shortly after her 70th birthday, Mrs. Kerfoot took time off from her duties in Grand Marais to travel to Kenya with only another woman in her 60's as companion. In Kenya the two women rented a four-wheel drive vehicle and without a guide spent 3 weeks traveling through the game preserves of Kenya.

In a recent column in the Cook County News-Herald, Justine offered some insight in the way of life in northeastern Minnesota. She also expressed her views on an issue before us in Congress that means a great deal to the people of the district I represent in this House.

I would like to share with my colleagues Justine's column from the Cook County News-Herald of December 1, 1977.

BWCA UPDATE

(By Justine Kerfoot)

One sure way of defeat is to become complacent. What gains that have been made can peter away to nothing, like a stream becoming ever smaller in a drought or under certain circumstances it can grow and cut an ever deeper channel which finally has to be reckoned with.

The latest report emanating from Washington by the Fraser forces is a proposition to buy out the entire holdings on the Gunflint Trail with an appropriation of 10 million dollars. With 500 homes, resorts, canoe outfitters, church camps, a Y camp, and private camps, the split would be a small dollar return on investments made.

There has been no let up on the part of some environmentalists to depict a picture of an onslaught of mining equipment, logging trucks and a leering individual on a snowmobile soaring into a thick impenetrable forest. I have often wondered why there aren't similar pictures showing wilderness campers peeling birch trees, starting fires with careless campfires, or throwing rocks at a beaver, a moose, or a loon to see them dive or hurry away to escape their tormentors.

What have you done to keep the pot boiling? Have you written your congressman, your senator? Oh yes, I heard you wrote them once, but that is not enough. Write again and again—concrete facts that can be substantiated. What have you done to help build up the fund to send another group to Washington when Congress reconvenes? These are your homes, your businesses and your way of life. It is a struggle for survival, not only for those on the Trail, but indirectly for all businesses in the county. It is up to you, in your own way, to help carry the ball.

Of course, the move to make it untenable for those on the Gunflint Trail is also pushed by an international group that was headed by the late Oberhaltzer of the Ely area and still carried on with refreshed momentum in his memory. During his life time, it was a drive for an International Peace Memorial, which comprised a slice of land three miles on each side of the border from Lake of the Woods to Grand Portage. It was to be an extensive international preserve. In a recent article that I read, the proposed project has been re-activated under a new name—the International Forest Preserve.

It makes one feel that he has just been nipped in the britches by one wolf only to encounter another.

BRUCELLOSIS PILOT INSURANCE PROGRAM

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. JEFFORDS. Mr. Speaker, I have recently introduced a bill entitled, "Brucellosis Pilot Insurance Program." This legislation could have a dramatic impact on the beef and dairy cattle industry of America. If enacted into law this bill will allow farmers an opportunity to assist themselves in bridging the gap of financial loss when the disease brucellosis strikes their herds. At the same time it will allow for one more avenue in our Nation's effort to eradicate this disease which costs the American taxpayer several million dollars annually.

Brucellosis is an infectious disease found mostly in cattle and swine, however, it sometimes infects other animals and humans. The human disease is known as undulant fever and is limited to farmers and other personnel who come in direct contact with infected livestock or drink milk from infected animals which has not been pasteurized.

The presence of the disease in livestock is characterized by abortions, reduced milk yield, and infertility in both sexes.

The introduction of the infection into a "clean" herd spreads rapidly and causes many abortions. At this point the dairy or beef operator begins to experience financial losses.

The incidence of brucellosis among U.S. cattle has been drastically reduced since 1934 and the onset of the Cooperative State-Federal Brucellosis Eradication Program. The basic operation of this program depends on the laws and regulations of participating States. Minimum requirements are set by uniform methods and rules for brucellosis eradication established by APHIS of the U.S. Department of Agriculture. These regulations promulgated specifically for eradication of the disease provide for indemnity payments for cattle destroyed. The regulations presently allow for payments not to exceed $50 for unregistered animals and $100 for registered cattle. This Federal indemnity is coupled with similar indemnity rates established by individual States. These State rates vary considerably. In today's economic setting the indemnities from the Federal and State levels plus the animal's salvage value fall far short of what a farmer must pay to replace these animals in his herd. Also, other losses such as milk production, loss of unborn offspring and displaced milk markets cause severe hardships on these farm operators.

The legislation I am introducing today will direct the Department of Agriculture to develop an insurance approach to this problem through the development of a national 3-year pilot program. The program would be designed to cover losses incurred by both beef and dairy farmers when striken by brucellosis.

COACH BOB LEWIS, OUTSTANDING CITIZEN

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. LUKEN. Mr. Speaker, I would like to bring to your attention the following editorial from the Cincinnati Enquirer which paid tribute to one of our community's outstanding citizens, Coach Bob Lewis.

Coach Lewis brought the Wyoming High School football team through the season and ultimately won the Ohio AA Championship.

This editorial says it all. Heartiest congratulations to both Coach Lewis and his team.

COACH LEWIS—WYOMING SALUTES ONE OF THE FINEST AMONG ITS CITIZENS

Friends of Wyoming High School turned out with their characteristic enthusiasm the other evening to salute their championship football team and, in particular, to honor their coach, Bob Lewis, whose record must be close to being unmatched in high school sports anywhere in America.

All told, Mr. Lewis has been coaching for three decades—eight years as an assistant coach and then head coach at Marysville, Ohio, and 22 at Wyoming, where he had been head coach and athletic director, as well as a classroom teacher in social studies. In his years at Wyoming, his teams have recorded 188 wins, 21 losses and seven ties. Small wonder that he has been named coach of the year on several occasions by The Enquirer, by the Associated Press and by the United Press International.

His record, moreover, was built in a school with an enrollment of some 750—a school that engages in no recruiting and that has no more than average resources to support its athletic program.

No one can fathom the contribution a successful coach can make to a community like Wyoming in terms of cohesiveness and common purpose. Wyoming High School football games typically draw spectators who've been out of school for several decades. Their common bond is a respect for the kind of work Coach Lewis has done in their midst.

It is singularly fitting that last week's football banquet should have brought announcement of a scholarship to be awarded annually in Coach Lewis' name. Funded by Wyoming's boosters, the scholarship will recognize students whose achievements in sports, academics and citizenship parallel those of the remarkable man the people of Wyoming are fortunate enough to have as one of their own. No one could aspire to a loftier or more enduring monument.

COMMISSIONER BOYER SPEAKS ON THE ARTS IN EDUCATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. BRADEMAS. Mr. Speaker, on October 5, 1977, the distinguished U.S. Commissioner of Education, the Honorable Ernest L. Boyer, delivered an address, "Arts in Education: The View From FOB No. 6," before the annual meeting of the International Council of Fine Arts Deans in Minneapolis, Minn. Commissioner Boyer spoke eloquently of the "quiet revolution" in our country which is bringing together the arts and education. Mr. Speaker, I find the Commissioner's enthusiasm and support for arts education most heartening and I take this opportunity to share his remarks with my colleagues:

ARTS IN EDUCATION: THE VIEW FROM FOB No. 6

(By Ernest L. Boyer, U.S. Commissioner of Education)

In recent years a very special revolution in American education has drifted quietly across the land—a revolution that has moved forward almost unnoticed—and yet it is one of great consequence to our colleges and schools.

In the Wauwatosa district in Wisconsin an arts exhibit with speakers and slides from the Milwaukee Arts Center travels from school to school, and the program is supported by the school arts budget.

In New York State, the Empire State Youth Theatre Institute travels to schools all across the State—not just to present productions on the stage, but also to take young teacher/actors to the classrooms to teach science, language, and social studies.

Here in Minneapolis, the Urban Arts Project has created an exciting ungraded school without walls—a project in which students spend time in community theatre and dance companies, orchestras, chamber groups, and art galleries throughout the city; a project in which artists-in-residence and touring companies enrich the schools; a project with summer programs and special exhibitions staged by teachers and by students.

At thousands of schools and colleges in cities, towns, and villages, exciting new alliances have been formed—new partnerships among teachers, administrators and parents, among artists, museums, symphonies, campus faculty, education departments and arts councils.

For far too long, there have been high, forbidding walls between education and the arts. But now—at long last—those barriers have begun to fall.

This is the quiet revolution which I view with enthusiasm—and great hope.

THE FEDERAL ROLE IN ARTS EDUCATION

But at this dramatic moment in arts education, one partner has been conspicuously absent—a fact that is driven home to me almost every day. For some peculiar reason the Federal Government has not only failed to join the revolution, but has seemed, at times, unmindful that a new vision is beginning to emerge.

I'd like to quote three very recent observations, to illustrate the point:

First, I'll quote from *Coming to Our Senses,* that marvelous statement by the Rockefeller Panel on the Arts in Education. In the report, panelist Elizabeth McCormack said in her refreshingly clear, perceptive way:

"It seems to me that leadership is needed if the arts are to receive the kind of attention they should. It must be made clear to the voters and the budget makers that there is no dichotomy between the arts and learning to read. In fact, a student who really gets an appreciation for beauty is much more apt to be able to read than the one who doesn't. Now the question is, What can the Commissioner of Education do in a leadership position to bring this about? If he does nothing, it is not going to happen; things are going to get worse instead of better."

My second comment comes from an HEW report just released last week. It's a review by Junius Eddy of nine arts-in-education publications. Having read and studied all of them, here is how Eddy draws the bottom line:

"The majority of public school systems in the nation still treat the arts as a kind of educational step-child. Thousands upon thousands of youngsters still graduate from high school without having been touched in any significant way by programs in the arts. . . . Classroom teachers who, in schools without access specialists, are responsible for what little arts learning children may receive, possess few of the skills necessary for quality instruction in these disciplines. Arts specialists themselves are being eliminated from school faculties under the double-barreled pressures of rising costs and decreasing school populations. Support for needed research in the arts and aesthetic education is hardly discernible. And the interest among institutions of higher education for redesigning the education and retraining processes of both generalist and specialist teachers in the arts is visible in only a handful of 'lighthouse' colleges and universities. (And, one is compelled to add, Washington's educational decisionmakers and policy planners seem generally not to notice—to put it nicely.)"

My third quotation comes from concert pianist Lorin Hollander, who was speaking last week in Columbus at a conference on the arts and education.

Merging the arts and education, Hollander said, is absolutely vital. Yet he saw great danger in store for the fragile experiments in collaboration now sprinkled through our schools and colleges. And the lack of a deep national commitment was an even greater problem. He said:

"We don't socialize our children to the arts. We have made a gruesome mistake in educational policy planning. We are the first society in human history to make that mistake. And now we see the results—violence, destruction, despair. We know all this. But how do we make them know all this—'them' who wield the power and the money?"

In this composite jeremiad I've laid out, I'd like to repeat the three central points:

Elizabeth McCormack asks, "What can the Commissioner of Education do? If he does nothing, things are going to get worse instead of better."

Junius Eddy concludes, "Washington's educational decisionmakers and policy planners seem generally not to notice—to put it nicely."

And Lorin Hollander asks, "How do we make them know all this—'them' who wield the power and the money?"

I know these questions are more in the spirit of a Socratic dialogue than hostile brick-bats. Even so, together they pose a larger question:

What is—or more precisely—what should be—the Federal role in arts and education?

And more specifically, What is the arts/education view from FOB-6—from Federal Office Building #6, the unhappy, cold, and sterile name that houses the U.S. Office of Education?

In answer to that question, I'd like to put my own convictions squarely on the line:

I'm convinced the time has come for the U.S. Office of Education to promote the cause of the arts in education.

It's time to reaffirm that art is not a frosting or a frill.

It's time to declare that art is an essential part of the common core of education.

And it's time for the Office of Education to build bridges to other Federal agencies which have programs in the arts.

THE CHALLENGES TO AMERICAN EDUCATION

This is, of course, not the time to be blinded by false fantasies. American education confronts enormous problems: rising costs, reductions in enrollments, failing bond issues, and budget cuts.

Once schools were thought to be the panacea for every social problem, but schools now face widespread skepticism. They are no longer viewed as the Nation's social hope-chest. Because many are dissatisfied with the schools' performance in the fundamentals, many have become suspicious of so-called enrichment programs. And there is a deeper, more insidious push toward materialism—a move to relate education exclusively to a job, to money, and to possessions.

It would be naive not to recognize that confidence in our schools and colleges has declined, that education in this country is no longer met with a blind embrace. But I'm convinced that the current mood of skepticism—accompanied as it often is by a dash of hope—is more relevant, and more healthy, too.

People in this Nation still believe in education, they still want schools to be places of great excellence, and they still want their children to be well served.

There is still in our midst a spirit of expectancy—a deep conviction that we need our colleges and schools and that education for the future must somehow be still better than the education of the past.

THE ROLE OF THE ARTS IN EDUCATION

This leads to my central observation. What we need today is a clear vision of the role of arts in education to focus the leadership we all must exercise. I'd like to put forth three convictions which will not be unfamiliar to those assembled here.

First, we must promote the arts because they are inherently of great value. It has been said that humans are distinguishable from animals because of language, our mastery of complex symbols. Well, perhaps what separates humans from humans at their very best is art—color, rhythm, form, sound, rhyme, and movement.

The arts, in short, give expression to the profound urgings of the human spirit. They validate our feelings in a world that deadens feeling. They organize our perceptions and give meaningful coherence to existence.

Wallace Stevens, in his poem *Anecdote of the Jar,* put it this way:

> I placed a jar in Tennessee,
> And round it was, upon a hill.
> It made that slovenly wilderness
> Surround that hill.
>
> The wilderness rose up to it,
> And sprawled around, no longer wild.

Art, the jar in Tennessee, tames the slovenly wilderness of modern life. It orders and shapes the chaos to share its message patterns of meaning and great beauty.

But art is needed in education—not just because it's valuable in and of itself, but because art is a powerful teaching tool as well. This is my second point.

The arts serve affective education, to be sure. But they also improve cognitive learning.

We are beginning to discover for ourselves what great artists have always known: The theatre can teach history. Dance can teach the social sciences. Photography can teach literature and mathematics.

The arts provide other teaching benefits as well. They often spark new classroom interest, improve attendance, stimulate the love of learning, and the love of other people.

Joan Mondale, speaking not long ago on the arts and education, put it this way:

"There are many benefits to the incorporation of the arts into the core curriculum of an educational system, the most vital of which is to promote the growth of the whole child. This concept has been well demonstrated in communities where a comprehensive partnership between the arts and education has been thoroughly tested. There's no question that when the arts are combined with other subjects in a general curriculum, the arts improve perceptions, attitudes, understandings, and the motivation of school children.

"They break down not only the barriers to learning, but also the barriers raised by our society in a racial and economic and social way. In this atmosphere, children learn to share, to experience and to create together. They learn to be sensitive to others. They learn social skills that are indeed vital in our rapidly changing world.

"Communities that have introduced arts programs into the general curriculum are often so pleased at their success that the arts are rapidly absorbed into their over-all school program and typically not without major economic increases. Colleges and universities are aware of this trend and they are initiating programs that put concentrated attention on preparing leaders for arts programming in schools and in their communities."

Dramatic examples of Mrs. Mondale's powerful message can be found almost everywhere: from the Open City Project in New York's Barrio, where reading scores have risen dramatically after children visited New York's cultural riches and then had follow-up work in the arts.

To the ACCENT program in West Virginia's Kanawha County Schools, which uses art, music, drama, and creative movement to teach basic communication skills to disadvantaged children.

To the Arts in Motion projects in Greenwood and Saluda, South Carolina, funded by the Emergency School Aid Act, which help with school integration by the using artists in residence and visiting jazz groups.

There is a third—and perhaps most compelling reason why we need to link education and the arts. We are beginning to confront a world where our traditional resources will be limited and we must find ways to live together satisfactorily within constraints.

It seems quite clear to me that all great changes in American education have been in response to the changing social context.

In 1918, for example, after World War I, our schools were meeting waves of immigrant children who were driven here by the hopes offered by this young democracy. At that moment in our history the National Education Association issued an immensely influential report called Cardinal Principles of Secondary Education, which shaped American schooling for several generations.

The NEA report said that the high schools should be vastly expanded to include these new children. It urged the curriculum to switch from the classical college preparation to the vocational and "life skills" curriculum needed by this burgeoning new society.

After World War II, the Conant report on the high school was to transform our institutions once again; this time, too, it was in response to a broader social context.

The Cold War was upon us.

The Russians had launched Sputnik. Academic excellence needed to be pushed—especially in mathematics and science.

The Conant high school—adopted by Americans almost overnight—was a blueprint for response to the enemies at our gates.

Today, I am convinced we have entered yet another era in our history: one to which education must again respond.

This time, however, the enemy is within.

We are beginning to discover that the inexhaustible resources of this planet which have fed our creature comforts may in fact be finite.

We are beginning to discover that the artificial barriers of nation states cannot—and must not—isolate us from the agonies of others.

Together we must provide our creative students and faculty more opportunities for performances, and for exhibitions.

Together we must provide technical assistance to the hundreds of communities and institutions who want to share their arts and education resources.

Together we must introduce more students to the arts.

Now, more than ever, all students need the capacity to see clearly, to hear acutely, to feel sensitively the space which is all about us, and to know, once more, the beauty of language and the power of memorable speech. These skills are no longer just desirable; they are now essential if we are to survive together with civility and joy.

Together we must communicate more with artists and art centers outside the classroom. We must move beyond the campus to discover the rich tapestry of ethnic theatre, to find dance which is close to ritual; to enjoy distinctive crafts long ago forgotten or recently revived.

Together we must engage in a careful, historical study of the arts. The arts scholar has, for over 60 years, been an integral part of the higher education system in this country. But scholarship should not stand alone or become isolated.

We should look for: new ways to link scholarship with performance, new ways to develop authenitc and meticulously produced plays and dances of the past, new ways to forge connections between the arts and anthropology, and renewed emphasis on the arts.

Together we must engage in creative new arts research—to learn more about the aesthetic response, the physiology of the brain, symbol systems, notational norms, and the problems of perception.

NEW FEDERAL ARTS EDUCATION INIATIVES

And now may I close at the point where I began. I began by saying that as we seek to link together education and the arts there is a Federal role to play; and I'd like to tell you more precisely just what I have in mind:

First, I intend to coordinate—more effectively than before—OE's existing programs in the Arts.

Second, I'd like to see greater interagency collaboration in the Arts.

I serve as an ex officio member of the Federal Council on the Arts and Humanities—the only body charged with coordinating Federal policy in education, humanities and the arts.

This Council—whose membership includes the Chairman of both Endowments, the Secretary of the Smithsonian, the Librarian of Congress, and the Director of the National Gallery of Art—has been called a "largely dormant body." I plan to work with the Chairman of the Council to include on its agenda a creative new interagency push for the arts in education.

The Office of Education is now intimately involved in the work of the National Endowment for the Arts as it begins a yearlong task force on education, development, and training of professional artists and arts educators—an effort whose staff director and inspiration come from leaders in your own association.

Currently OE's programs in arts education are scattered across half a dozen offices and bureaus. The Arts and Humanities Staff administers the best-known program.

But there are arts education funds in many other pockets: in the Emergency School Aid Act; in Career Education; in the Gifted and Talented Program; in the Ethnic Heritage Program; in Title IV-C of the Elementary and Secondary Education Act; in the Teacher Corps; in Bilingual Education; in Follow-Through; in the College Library Resources Program—and in a host of other hidden pockets.

I intend to organize an inter-bureau Task Force on the Arts in Education to give greater meaning to these scattered efforts and to declare that arts in education is a top priority of this Administration.

Third, we will push for more support for Arts Education. The Federal budget process is long and complicated, and we are in the midst of it right now. Until the President presents his budget to Congress next year, and until Congress acts, appropriations are not firmly fixed.

Nevertheless, and within the contraints of that important process, I want you to know that arts and education will receive significant and favorable attention from us as we prepare our final budget submissions.

Fourth, I intend to support enthusiastically the concept of "saturation" programs:

Pilots engaging the talents of the entire community in an intensive effort to make the arts a central concern of the schools and colleges in a region.

Projects involving parents, teachers and faculty, artists, business, local government, arts institutions community service agencies and administrators.

Such pilot "saturation projects" should have breadth as well as depth: I'd like to see such programs launched not only in three cities, say, but in three States as well.

We must begin to demonstrate in strategic States and cities just what will happen when arts education becomes pervasive, when schools and the community begin to collaborate with each other.

These are the moves we intend to make as we seek a new partnership with you.

EXCELLENCE: THE FIRST PRIORITY

I wish to make one final observation. While I have talked of arts and education, I wish to stress that excellence in education is in fact the goal.

It is my determined hope that our schools will educate for effective living—and that every student will achieve what on another occasion I have called "the educated heart."

The educated heart means to me a deep respect for excellence wherever it is found. The educated heart means: an expectation of beauty, a tolerance of others, a reaching for beauty without arrogance, a courtesy toward opposing views, a dedication to fairness and social justice, precision in speech and thought, and a love for graceful expression and audacious intellect.

These may be lofty goals, but they are, I am convinced, still within our grasp.

In his poem, "The People, Yes," Carl Sandburg put it this way:

Once having marched
Over the margins of animal necessity,
Over the grim line of sheer subsistence
Then man came
To the deeper rituals of his bones,

• • • • •

To the time for thinking things over,
To the dance—the song—the story
Or to the hours given to dreaming
Once having so marched

During the long years of recorded history—and with all of the agony and expectancy of birth—civilization has marched over the margins of animal necessity, has moved beyond the grim line of sheer subsistence.

Now the time has come for us to turn to the deeper rituals of our bones.

THE ACTIVITIES OF THE SUBCOMMITTEE ON COMPENSATION, HEALTH, AND SAFETY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. GAYDOS. Mr. Speaker, the Subcommittee on Compensation, Health, and Safety, on which I am pleased to serve as chairman, has conducted extensive legislative and oversight hearings during this 1st session of the 95th Congress. The legislative hearings have focused on two of the subject areas—mine safety and health, and youth camp safety—over which the subcommittee maintains jurisdiction as assigned by the Committee on Education and Labor. Additionally, the subcommittee has conducted numerous oversight hearings in the other areas within the subcommittee's jurisdiction, that relate to worker safety and health and compensation to workers disabled as a result of their job-related injuries or diseases.

The specific statutes under the subcommittee's jurisdiction are the Federal Employees' Compensation Act, the Federal Mine Safety and Health Act, the Longshoremen's and Harbors' Compensation Act, and the Occupational Safety and Health Act of 1970.

FEDERAL EMPLOYEES' COMPENSATION ACT

During the first session, three bills were introduced to amend the Federal Employees' Compensation Act, which was last amended in 1974. Additionally, the subcommittee received requests from various individuals and organizations who were desirous of testifying before the subcommittee regarding the administration of the act. Thus, during 8 days of hearings, the subcommittee heard testimony from 26 witnesses, including Members of Congress, private citizens, union representatives, and representatives from Federal agencies.

The subcommittee took no legislative action, but plans to continue its oversight activities in this area during the second session.

FEDERAL MINE SAFETY AND HEALTH ACT

Five bills dealing with mine safety and health were introduced and examined by the subcommittee during the first session. In 6 days of hearings, the subcommittee heard from 20 witnesses, including union representatives, industry representatives, a Member of Congress, and representatives from the Departments of Labor, Interior, and Health, Education, and Welfare.

On April 5, 1977, the hearings culminated in passage by the subcommittee of H.R. 4287, which was sponsored by myself and Mr. DENT. The bill was subsequently reported from the Committee on Education and Labor May 3, and was passed by the House July 15, 1977.

The Senate passed a similar bill on June 21, 1977. The bills went to conference and on October 6, 1977, the Senate agreed to the report and on October 27, 1977, the House concurred. President Carter then signed the bill into law November 9, 1977.

The Mine Safety and Health Act of 1977 substantially improves the safety and health protection afforded all miners by accomplishing three major objectives:

First. It joins all miners, both coal and hard rock, under one legislative act;

Second. It transfers the administrative and enforcement functions from the Department of the Interior to the Department of Labor; and

Third. It repeals the Federal Metal and Nonmetallic Act, thereby upgrading safety and health protections for hard rock miners.

THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Two bills to amend this act were introduced and considered by the subcommittee. Although no legislative action was taken, the subcommittee did conduct 8 days of oversight hearings, including 2 days of field hearings in San Francisco. More than 40 witnesses representing labor, the insurance industry, insurance rating bureaus, the shipbuilding industry, the recreational boating industry, the stevedoring industry, and the fishing industry presented testimony before the subcommittee.

During the second session, the subcommittee plans to continue its indepth evaluation of the Longshore Act and its administration.

OCCUPATIONAL SAFETY AND HEALTH ACT

Several bills dealing with this act were introduced during the first session. The bills addressed such issues as providing employers with onsite consultation services; extending the act to cover Federal, State, and local employees; restricting the issuance of penalties; exempting small businesses from the act's coverage; and repealing the act. No legislative action was taken, although 4 days of oversight hearings were conducted with testimony being presented by Members of Congress, private citizens, and representatives from the Occupational Safety and Health Administration.

Oversight activities focusing on the Occupational Safety and Health Act and its administration will continue during the 2d session of the 95th Congress.

YOUTH CAMP SAFETY

Four bills relating to youth camp safety were introduced and subsequently considered by the subcommittee during 6 days of hearings. Representatives from Congress, the Department of Health, Education, and Welfare, church camps, the Boy Scouts, the Girl Scouts, Camp Fire Girls, and the public testified before the subcommittee.

On April 27, 1977, the subcommittee reported H.R. 4286, the Youth Camp Safety Act, which I had introduced in March 1977. The Committee on Education and Labor then considered and reported the bill on May 3, 1977.

WORKMEN'S COMPENSATION

During this first session, five bills on workmen's compensation have been introduced. And, though an already full schedule has thus far prevented the subcommittee's scheduling of hearings on this subject during the first session, extensive hearings are anticipated during the second session.

I would like to take this opportunity to thank Members of Congress and others who have appeared as witnesses before the Subcommittee on Compensation, Health, and Safety, and I would particularly like to thank the members of the subcommittee who have been so cooperative in making this a most productive year for the subcommittee.

TRIBUTE TO PAUL F. SCHOENROCK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. CONTE. Mr. Speaker, a man distinguished in the field of education in my district has recently announced that he will be retiring next year. Mr. Paul F. Schoenrock, administrative assistant to the superintendent of schools in Westfield, Mass., will retire after almost 40 years as an educator.

His lifelong love of learning developed early. He graduated from St. Mary's High School in Westfield, where he distinguished himself as a scholar/athlete, demonstrating his prowess on the basketball court and baseball diamond. It was his talents in the classroom, however, that earned him a 4-year scholarship from the Mary T. Connor Scholarship Fund to Holy Cross College in Worcester, Mass. He graduated from Holy Cross with a bachelor of arts degree in 1933. Later, he continued his education at Springfield College, earning a masters of education degree in 1958.

His teaching career began in nearby Russell, Mass., at the grammer school in 1937, where he was first employed as a teacher and then served as principal for 7 years. He became principal of the Ashley Street School in Westfield in 1948. In 1952, he became principal of the Fort Meadow School. And in 1962, he was named principal of the Southampton Road School. In 1967, he became administrative assistant to the superintendent of schools with responsibilities over Federal programs. Recently, his duties expanded to that of transportation coordinator.

As an educator, Paul Schoenrock has touched the lives of literally thousands of youngsters in western Massachusetts. He has been unselfish of his time and talents in helping these young generations of citizens toward productive adulthood. He is owed a debt of gratitude by them and their parents. I join them and his colleagues in the Westfield public schools in extending my congratulations to Paul Schoenrock on his many years of service to his community. I extend my very best wishes for a healthy and happy retirement to Paul and his wife, Edith.

ADDRESS BY HON. MICHAEL MANLEY, PRIME MINISTER OF JAMAICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. RANGEL. Mr. Speaker, last night the Prime Minister of Jamaica, the Honorable Michael Manley, addressed an audience during the Jamaican Educational and Cultural Institute dinner.

Prime Minister Manley's speech, a landmark statement of current Third World aspirations, objectives and views of contemporary life, establishes the focus of Jamaica as a sovereign member of the community of free nations.

It is therefore my privilege to submit for the RECORD the text of Mr. Manley's statement to be considered by my colleagues:

LIBERATION OF THE HUMAN SPIRIT

(Address by Hon. Michael Manley, Prime Minister of Jamaica)

I would like to begin by expressing my appreciation to the Jamaica Educational and Cultural Institute, headed by Mr. Carl Rodney, and the Dinner Committee under the Chairmanship of Mr. Peter Strauss, who between them have done me the very real honour of inviting me to take part in this function. At the same time, I would like to convey the sincere regrets of my wife who had planned to be here, indeed had looked forward to being here, but could not make it because a sharp attack of influenza has intervened.

ENLIGHTENED AND PROGRESSIVE

When I received the invitation of the Jamaica Educational and Cultural Institute, I had no idea who might be here, but was glad to accept nonetheless because of my profound support for the objectives of the Institute and of its related organisation, the Jamaica Progressive League. Over the years, the Jamaica Progressive League has distinguished itself by the work that it has done in the United States, and by the enlightened and progressive positions that it has always taken in our changing world. Then I learnt that there might be an interesting cross-section of people other than the League members present and I was very pleased because of the long history of warm and friendly relations between the people of America and the people of Jamaica.

I next learnt that Miss Sally Shelton and of course Mr. Terry Todman of the Department of State would be here and then discovered that Andrew Young might attend and felt honoured even by the intention. But nothing—and I hope everyone will forgive me a personal but profound sentiment—nothing equalled the delight which I experienced when I learnt that Marian Anderson would honour—indeed, more than honour; I should say grace—these proceedings with her presence.

I would imagine that Miss Anderson would be prevented by modesty from fully understanding the depth of my reaction. Indeed, I was prompted by the experience to more than a moment of introspection. I found myself remembering my youth spent in the very heart of a colonial experience; remembered growing up aware of a world dominated by colonialism and racism; remembered the inner psychological experience, the implied political and social impotence of being the victims of both these experiences which between them provided the cultural parameters within which I was born. From the perspective of a now independent nation, one might be tempted to forget. But the truth is that my generation will never forget. Nor should any Jamaican or any black person, or indeed any person, forget those who pioneered the way to freedom and who made of their lives a gift for the liberation of others.

PIONEERS FOR FREEDOM

We remember Claude McKay, whose art revealed the anatomy of our dilemma even as it spoke of what might be; Marcus Mosiah Garvey, who presented us with a vision of what we could become; Paul Robeson, that tallest tree of a man, perhaps the noblest of the spirits who laid their lives on the line of the liberation process; and, of course, Martin Luther King, before whose moral passion the flame of liberty leapt to new life.

In Jamaica we were inspired by the poet George Campbell, whose lines burnt with the pride of being a Jamaican and whose lyrical insight seemed to make our oppressive colonial environment take on a new dimension of beauty and promise; and, of course, Alexander Bustamante and Norman Washington Manley, who between them bequeathed to the Jamaican people the essential architecture of a modern state. But through it all I remember a soaring voice, a contralto so beautiful, a musicianship so pure that it could only spring from a human being especially blessed by God.

Many of the others whom I have mentioned, and more besides, are sources of inspiration to this very day. But Marian Anderson touched our lives, touched my life, in a place that no other before or since quite reached. There is something about her art, her person, her very presence that seems to me to be telling us why we are struggling in the first place. Miss Anderson, I am honoured, I am touched by your presence in a way that I do not have the words to tell.

We meet tonight at a fascinating juncture in world history. The Panamanian people voted for a Treaty which is a model of restraint, of mutual respect, of mutual accommodation in a difficult arena where national sovereignty in locus must be reconciled with real economic rights and interests located elsewhere. The outcome is a triumph of pragmatic accommodation and could mark a significant turning-point in the development of relations between the greatest and the smallest on a basis of mutual respect for sovereignty and tolerance of economic and strategic need.

Meanwhile the dark shadow of Southern Africa lies across the landscape of world politics. If any of you continue to have a lingering doubt as to the fundamental threat that South Africa poses to the development of a world community in which the shibboleth of race is firmly laid to rest, the callous, cold-blooded murder of Steve Biko by the South African racists a few weeks ago provides a clear message as to what that regime is about. In the face of international horror and condemnation of this crime, the racists have responded with more oppression and brutality directed against the black majority of South Africa.

NEW U.S. ADMINISTRATION

For these reasons, you may well imagine then how we felt when we saw that the new Administration of the United States was now actively considering some form of sanctions against South Africa. It would be impossible to overestimate the moral impact that this would have throughout the Third World and, indeed, wherever men assert, or even admit, a moral dimension to human affairs.

This new Administration in the United States is clearly moving towards a new and more profound understanding of the moral, political and economic dynamics of the last quarter of the twentieth century. The summons to a renewed concern for human rights, and the unequivocal definition of those rights to include the economic and the social concerns of the poor and the dispossessed and the wretched of the earth, has provoked some controversy but we in Jamaica approve and endorse these initiatives. We do so because we believe that there can be no peace in the world until all nations commit themselves both nationally and internationally to this quest.

A TIME OF CHANGE

We are in a time of change. Only last week one of the four definitive revolutionaries of the twentieth century, President Fidel Castro, visited Jamaica for five days in a courteous rejoinder to my visit to Cuba two years ago. The visit was acclaimed by all elements of the Jamaican society as one of the most satisfying and successful ever undertaken in our country by a visiting Head of State.

A few years ago this visit would have been unthinkable. A few years ago a new Panama Canal Treaty would have been unthinkable. A few years ago detente would have been impossible. A few years ago the very thought of sanctions against South Africa by the United States would have been unimaginable.

What is the thread that connects some of these events? And I say "some" because I distinguish apartheid and minority rule in Southern Africa as issues that go beyond any accommodation, any moral possibility of compromise. Minority rule and racism can only be destroyed.

MATURING OF POLITICAL PROCESS

I suggest many of the other matters are the product of a maturing of the political process in the world. More and more we are learning the lesson of accommodation, of tolerance, of mutual respect. Perhaps it is the "bomb" that is bringing us all to our senses. Perhaps it is the fact that our planet shrinks daily before the assault of technology and the tide of population pressure. Perhaps it is merely the result of more people being more sensibly educated. But whatever the cause, there does seem to be some basis for hope that mankind as a whole is paying a little less attention to those strident voices that still seek to summon us to the barbarities of bygone eras when force and power were the mules that dragged the cart of exploitation across the arid plains of colonial history. It does seem that there are more and more voices in today's world calling for a more sane basis for international discourse and a more humane outcome to international relationships.

What seems to be gaining ground is the recognition that the international climate will prosper best where respect for sovereignty, and the tolerant acceptance of the right of other people to choose their path of national development for themselves, is greatest. Yes, these are positive signs and we welcome them.

TWO FAILURES

On the darker side must be set two overriding failures of the international community. The first is the failure to create a world in which peace is so secure that it permits a significant reduction in armaments and the progressive reallocation of military expenditure to the purposes of peace and international economic and social development.

The second is the continuing refusal of the major nations of the developed world to come to grips with the need for the progressive reorganisation of the world's international economic relations and dealings which is described as the New International Economic Order. And perhaps the best way for me to illustrate what this terrible pair of failures mean to the great majority of the world's population would be for me to speak of Jamaica and what we are trying to do.

JAMAICA'S COMMITMENT

In 1962, upon attaining independence, Jamaica made a commitment and embarked upon a course. The commitment was to plural democracy and the rule of law in the fullest sense of the western political lexicon. We have kept that commitment and, even as I speak tonight, we have a press as free as any in the world, worship that is as free as any in the world, courts of law as independent as any in the world. Our Parliament is free and vociferous, our columnists range from the critical to the cantankerous, and our priests —and other men of God—sometimes are as turbulent—and as assertive of moral imperatives—as any in the world. He who asserts to the contrary anywhere and in any company is a liar who perjures his soul.

In the economic field, the path that we chose under other leaders and another political party was the path of development based on unfettered free enterprise and undiscriminating invitation to foreign capital. And let me pause to make myself clear. I have neither quarrel with, nor comment upon, any other nation which pins its hopes on either or both of those endeavours. On the other hand, I observed, along with many others, the effect of this course of action upon Jamaica.

INEQUITY

We had emerged from three hundred years of colonialism with grave disabilities. The imperialist process had entrenched a small and privileged class of great power and little entrepreneurial skill. The middle classes had been prepared by colonialism for the classic professional tasks of the Law, Medicine and the bureaucracy. The best land was preempted for all of the excesses of the plantation system. The lot of that overhanging cliff that was the majority of the population was poverty.

The pre-independence and post-1938 period witnessed the establishment of a powerful trade-union movement and a sophisticated two-party political system. Some progress had been made. After independence some progress continued to be made. More children were educated than before. There was a great expansion in the bauxite and alumina industry and a certain measure of progress in the field of import-substituting manufacture. The first high-rise buildings made their contact with the sky. Hotels mushroomed and the sun and the beaches made a healing contribution to the sense of well-being of growing numbers of tourists.

But at the end of that period which, you will recall, was one of the golden times of stable expansion in the western world, what had been the experience of the average Jamaican man and woman? Unemployment was 25 per cent. Functional illiteracy was 30 per cent. Tens of thousands of children were not getting into school at all and many thousands more were ravaged by malnutrition. And hovering over it all were the gathering clouds of that social tension which permeates everything when the aching poverty of the many is mocked by the ostentatious and unfeeling wealth of the very few. In short, it was being demonstrated with increasing force by 1972 that the chosen path could not provide the answer of that balanced progress in a context of social justice to which we are summoned by democracy itself.

Here then was the paradox of a society politically mature, vigorously democratic, driven by the energy of a healthy popular ambition, increasingly frustrating those ambitions in the daily experience of the great majority of the people.

DEMOCRATIC SOCIALISM

We calculated that the path could not work in Jamaica because the objective conditions which are necessary to the success of such a path clearly did not exist. By 1972, it was obvious to the simplest political observer that another course had to be found and that there was not a moment to spare. And what is the path that we are now exploring? We call it Democratic Socialism, and we attach equal importance to both words. By 'democratic' we mean more than free elections and the free press. Of course, we mean these things. But moreso, we mean, and this is our sustaining vision and hope, nothing less than a full participatory democracy.

We are developing our local-government and community-representation systems so as to maximise the opportunity of popular participation at all levels of decision-making. And we do this without sacrificing or diminishing the sovereignty of Parliament. We are embarked upon worker participation as the first phase of an intention to create a dynamic industrial democracy at the workplace. We increasingly engage in extensive dialogue with trade unions and private sector organisations in determining government policy at many, and often critical, levels.

LIBERATION OF HUMAN SPIRIT

Mr. Chairman, slavery and colonialism dominated our history. We intend to dedicate our future to the liberation of the human spirit through the most profound, democratic experience which we can devise for all of our people.

In the economic field, our Socialism means a socially directed economy planned to achieve social objectives in the interest of the majority of the people. To give effect to this, we depend on a flexible model involving a fixed economy. State institutions, cooperatives and traditional private-sector organisations all have a full, honourable and permanent place in the scheme of things. All that we insist upon with our private-sector organisations is that they observe standards of good corporate citizenship, cooperate in the development of industrial democracy and worker participation, and collaborate with the state in the attainment of broad social objectives.

NONALIGNMENT

In foreign policy, we used to regard ourselves as a dependency of the West even after we hoisted the flag of independence. Now, we are an active part of the non-aligned movement; and by non-alignment we mean something both special and positive. We do not see the world in terms of "a plague on both your houses—or even all your houses". Rather, we believe in a world of peace, of friendly co-existence, and of mutual respect. We value all our traditional friendships and seek to strengthen them. We seek new friendships, always on a basis of the proud insistence that our sovereignty must be recognised and respected. We will not accept the view that friendship with any one group must be at the expense of friendship with any other group. Nor will we allow any power anywhere in the world at any time to tell us what to do or in any way interfere in our internal affairs. We struggled through three hundred years for our freedom. We will not again surrender it to any power or person now or ever in the future.

WORK FOR CHANGE

The cardinal aim of our foreign policy is to work ceaselessly with any nation, in any forum, anywhere in the world to achieve changes in the world's economic system. Again, we do not seek to interfere in, or preach about, the internal economic arrangements of any other country. But our experience shows us that the present system of economic arrangements as between nations in the world works unceasingly, unfailingly and inevitably against the interests of that great majority of mankind that inhabits the developing nations, sometimes called the Third World. Therefore, we work without apology to the end that the world will one day interpose elements of political control into international financial arrangements, international transfers of technology and, above all, international trade. We seek such political intervention to reverse the injustice that results from present arrangements and to give a simple, first chance of life to the poor of the poor nations.

All of the existing arrangements combine to ensure that the rich nations get richer while the poor nations get poorer, and when this allegation is supported by the overwhelming and universal evidence of these consequences, it is time to cry halt. Our foreign policy is devoted to proclaiming the need to halt; and to expounding an alternative path that could transform the current rhetoric of international justice into actual performance and progress towards just objectives.

It is, hence, not altogether an accident that Jamaica was elected, unanimously and by acclamation, to chairmanship of the Group of 77 in the United Nations last month. The Group of 77, of course, is the phrase used to describe the caucus of the developing countries dealing with international economic affairs. It now has more than 100 members.

FOREIGN CAPITAL

And even as we fight for changes in the world's economic system, we still believe that there is a real, positive and mutually beneficial role that can be played by foreign capital in the developing world in general, and in Jamaica in particular. Frankly, we are not interested in the type of capital whose primary motivation was the search for quick profits at the expense of sweated labour with the intention to migrate the minute the first trade-union organiser appeared on the scene. Nor would we be interested in any multi-national corporation that thought it had the right to interfere in our internal politics. But we believe that there is a lot of other investment capital that approaches the business of overseas investment from the standpoint of an enlightened awareness of social responsibility. Hence we are interested in foreign capital that wants to invest in an area of production that is consistent with our national plans and social objectives.

We are interested in foreign capital that begins with a commitment to accepted standards of good corporate citizenship. We are interested in foreign capital that will cooperate with our plans for the sensible and orderly introduction of worker participation. We believe it to be in the best interests of the foreign investor to proceed on the basis either of immediately cooperative joint ventures, or where clear options for local participation are provided from the outset. And we believe that the concept of the joint venture can involve the state, local private interests, or both.

In short, we believe that the guest investor proceeds most harmoniously and therefore most successfully when he is in partnership with his hosts. And, last but not least, we recognise absolutely both the need for and the legitimacy of just and adequate profits.

We expect of our foreign investors a desire to localise their operations in terms of the training and development of manpower at all levels of the business. And we can assure the foreign investor of a skilled, adaptable and efficient work force.

On the basis of these clear principles and understandings, we positively welcome foreign investment to our shores.

INTERNATIONAL CRISIS

I have sought to indicate the path upon which we are embarked. As fate would have it, we set out at a time of maximum international crisis. I have only to mention that we are 97 percent dependent on oil for energy for you to understand something of the crisis which we have had to endure. We have a grain-based diet heavily dependent on importations of commodities like wheat. We pay for all of this with things like bauxite and sugar and the proceeds of tourism. At the very moment when world inflation was raging out of control and inflating our import bills by multiples of four and five, the world aluminum industry settled into a slump, sugar prices collapsed and even tourism contracted in the face of the general pinch.

MEASURES TAKEN

Needless to say, the combined effects of all of this precipitated us into a serious balance-of-payments difficulty. Yet, in spite of all of this, we have embarked upon one of the most effective programmes of land reform ever attempted in the Caribbean. Already, we have moved over 30,000 farmers on to new and good land. Farmer cooperatives are being developed, and domestic agricultural production is beginning to move.

We made history, although it was not universally popular, by pioneering new forms of bauxite taxation which provide a form of indexation between revenue to Government and the price of aluminium ingot. This is already recognised as a model in the developing world. Since then, we have entered amicably into partnerships with some of the great aluminium corporations, like Kaiser, Reynolds and Alcoa, which are models of the principled recognition of our sovereign right to have control over our natural resources, on the one hand, and the legitimate interests and rights of major investors like Kaiser, Reynolds and Alcoa, on the other.

We have mounted an assault against illiteracy, are in the middle of a major attempt to transform the quantity, quality and relevance of our education. We have remodelled, restructured and refurbished our tourist industry and look forward with keen anticipation to a good season this winter. We can guarantee to our tourists not only beaches, sunlight and a glorious backdrop of mountain scenery but, more importantly, the pulse-beat of a dynamic people in a vigorous society engaged in the construction of a new kind of society. Furthermore, this is a task of construction which makes the liberation of the individual, to the exploration of their full potential, a cardinal objective; while seeking to develop a spirit of patriotic cooperation as the dominant mood and operational method of the society.

AN EXCITING PLACE

In short, Jamaica is an exciting place. But we are beset with terrible problems. Change is always difficult. Change in the midst of the kind of convulsion in the world's economic system which we have experienced in the last four years is doubly hazardous. And it is for this reason that one looks with horror upon a world which continues to allocate massive proportions of its productive resources to the instruments of war. Every time I see a picture of a bomber of any make from any nation, or a tank of any make from any nation, I think of the thousands who are hungry at this very moment in Jamaica, and of the millions who share a similar fate in the world. And I pray that *detente* will evolve quickly from the negative phase of cautious, heavily armed neutrality to a positive phase of active collaboration in an international assault upon poverty.

INTERNATIONAL INJUSTICE

Equally, I condemn the failure of the world community to address the problem of international economic exchange. As the years pass the tractors and the machinery cost us more, but what happens to the price of sugar? When technology is transferred, it might be better if it stayed at home because the royalties and the special fees, and all the other paraphernalia that attaches to the transfer, bleed the supposed beneficiary and cancel the benefit. And it is not enough to tell me that we should not grow sugarcane or to pretend that there is some higher natural law that was ordained that growers of sugarcane must be poor while those who assemble tractors must be rich. To tell me this is to stand confessed as a hypocrite, because we all preach the brotherhood of man and all subscribe to the notion of equality.

Ironically every progressive nation, on whatever path of development, has long since accepted the need to intervene politically to secure that the economic system of the nation supports a broad social justice for all its citizens. What is needed now is a quantum leap in political perception and the recognition of political responsibility as between nations but based upon the same principles concerning the brotherhood of man that inform and inspire political action within nations. You have long since agreed to use national political action to ensure that the United States forever occupies broadly the same world of economic well-being as his industrial brother. You do so because of a moral perception of the common brotherhood that they share. Equally, the world must move to the use of international political action to ensure that a day will come when our people occupy the same world of economic well-being as your people because they also share a common fatherhood.

CHALLENGE OF OUR TIMES

That is the real challenge of our times. That is the thought that I would like to leave with this distinguished audience tonight. And I can think of no finer audience to leave it with because, as I said in the beginning, the people of Jamaica and the people of America have a long history of association and friendship. The American people asserted their right to freedom two hundred and one years ago and set out to build a new kind of society that seemed to hold out the finest prospect for a people with a continent to conquer and develop. Their success has already provided one of the outstanding chapters in human history.

The Jamaican people attained their freedom only fifteen years ago and attained it on a basis of two million people already very thoroughly and heavily in occupation of only four thousand square miles. Therefore, if the inevitable and dominant reality of the American experiment was the need for expansion, the necessary and dominant reality of the Jamaican situation is the need to achieve cooperation and accommodation as the very price of national survival. Common to both dreams are the ideals of hard work, equality and patriotism. Let us hope that the mighty United States and the proud Jamaica can find the means to cooperate in the search for peace and for that New International Economic Order which can alone make it possible for all men to experience the meaning of social justice.

INDOCHINESE REFUGEES: AN INTERNATIONAL CONCERN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. EILBERG. Mr. Speaker, on two occasions this year I have urged President Carter to convene an international conference to solve the pressing humanitarian problems of refugees from Indochina.

Now, nearly 6 months after I first proposed that the nations of the world be called together to help resettle these refugees, the problem continues. Some 100,000 persons are now in temporary camps in Thailand, and we read daily of the "boat cases"—in which desperate people are fleeing in unseaworthy ships, floating for weeks on the open sea, being ignored by merchant ships, and in many cases being towed back out to sea when they land in unwelcoming ports.

Mr. Speaker, the Judiciary Subcommittee which I chair has overseen the admission to the United States of more than 165,000 Indochinese refugees since the end of the war in Vietnam. We have authorized more than a half billion dollars in Federal funds to resettle them in this country, and we have approved and reported to the full Judiciary Committee a bill to broaden the definition of "refugee" under U.S. law, and to regularize the entry of refugees into this country under normal circumstance and in emergency situations. Still, the refugee problem continues to grow, presenting increasingly difficult humanitarian needs.

The United States should continue to play a key role in meeting these needs. But, since the problem of assisting Indochinese refugees is not solely an American one, it must be solved on an international basis.

I commend to the attention of my colleagues an editorial in the December 14, 1977, edition of the Washington Post which points to the need for international action to help the Indochinese refugees:

INDOCHINA'S REFUGEE FLOW

The conditions established by the Communist victors in Indochina continue to flush out substantial numbers of refugees, people who find the system so incompatible with their beliefs or standards that they are prepared to abandon homeland ties and possessions and seek haven abroad. This continuing flow is a telling comment on the kinds of societies now being built in Indochina. It is also a heavy burden on the countries of refuge. Many of the so-called boat people, who slip out in small boats, find themselves abandoned by foreign ships on the high seas and pushed away from foreign shores. The even larger numbers who leave by land pile up in wretched camps in Thailand. Their plight is properly an international concern.

Since the collapse of the American-supported regimes in 1975, some 165,000 Indochinese have settled in the United States. Most came in the first surge, but some 15,000 later departees have arrived this year. Now another 4,700 people, who have been clinging to beachheads in Asia but cannot be resettled there, are in need of emergency admission. The State Department has begun the process and, at the same time, it is preparing to ask Congress to develop a "long-term policy" to deal with 100,000 more refugees still in Thai camps, plus others expected in the future. Congress, which has supported two administrations in handling the refugees, can be expected to direct the State Department to keep asking other countries to accept their fair share.

Ultimately the answer lies in the setting of policies, by the Indochinese governments, that do not impel helpless citizens to flee. The best place to stanch the flow is at the source. In the meantime, however, people are still trickling out of Indochina, and a disproportionate part of the burden falls on the countries closest by. They should be encouraged to help as many refugees as they can, but countries further from the scene must also do their part. The United States, France, Australia, New Zealand, even Israel have taken in various numbers of refugees, and they and other must continue to assist in this sad, unfinished business of the war.

HALTING THE TRAINING OF IDI AMIN'S PILOTS IN THE UNITED STATES

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MATTOX. Mr. Speaker, the practical job of translating American aspirations of freedom and dignity for all into functioning realities is not an easy task. If we expect others to be convinced that we are indeed serious about standing up for those basic human values we now refer to as human rights, we need to bear in mind that there are still some battles to be waged and sacrifices to be made here at home.

For the information of my colleagues who have contacted me regarding the recent episode of helicopter pilot and technical training for Ugandan military personnel underway in the Dallas-Fort Worth area, I would like to include the following article written by the Washington, D.C., correspondent for Scripps League Newspapers, Lee Roderick. Excerpts of a subsequent commentary follow the article. I believe these pieces by Mr. Roderick are excellent examples of the very best service we receive from a free press. I include the material in the RECORD to provide my fellow Members of Congress and the American public with some important and timely information on one of the most recent chapters in the war against tyranny and oppression.

This information is of particular importance because I have been informed just today by sources in the Immigration and Naturalization Service and in the Ugandan exile community that Idi Amin's pilots, who have been training in Texas, will all be out of the United States by the end of the week.

[From the Dekalb (Ill.) Daily Chronicle, Dec. 6, 1977]

FORTY MORE UGANDANS CONTRACTED FOR PILOT TRAINING IN THE UNITED STATES

(By Lee Roderick)

WASHINGTON.—Scripps League Newspapers has learned that the U.S. company now training nine Ugandan government helicopter pilots in Fort Worth, Texas has contracted to train 40 more Ugandans next year.

The nine were part of a contingent of 24 members of President Idi Amin's Police Air Wing issued priority (A–2) visas at the U.S. Embassy in Nairobi, Kenya on Sept. 28. Two of the 24 subsequently were refused entry at New York's Kennedy Airport, but the continuing presence of the other 22 has acutely embarrassed the State Department. They are being instructed at various U.S. sites in flying, mechanics, and communications.

Amin has been accused of killing up to 150,000 of his countrymen since taking office in a 1971 military coup. President Carter has said human rights violations by the mercurial dictator have "disgusted the entre civilized world."

Twelve members of Amin's crack airborne police received pilot training at Bell Helicopter in Fort Worth from Oct. 10 until Nov. 18. Since then, nine of the 12 have been training at nearby Oak Grove Airport, owned by M. H. "Pappy" Spinks.

Spinks, who has been under government pressure to stop the training, told Scripps League in a telephone interview that "I don't want to lose 40 contracts for next year—that's what we've contracted for from Uganda. And we'll probably lose them if we have to stop this training."

The veteran aviator said his workers trained Amin's first pilots "five or six years ago." He added that "The State Department just wants to save face by having me do the job they should do."

A department spokesman in a Nov. 18 telephone call asked Spinks to stop training the Ugandans. "I told them I'll stop it if they get me an official request." His school will lose $13,000 if the current training is ended, he said. Spinks maintained that the pilots are being trained only for "commercial" flying.

On Friday (Dec. 2), Rep. Jim Mattox (D-Texas), who has led a lonely fight in Washington to have the Ugandan training curtailed, hand-delivered three letters in the Ft. Worth area formally requesting the same. Two of the letters were written by the State Department and were given to Spinks and F. Shoemate of the ACME School of Aeronautics, which has been teaching aircraft mechanics to nine additional Ugandans. A third letter, written by Mattox, was taken to Bell Helicopter.

In addition, the Federal Aviation Administration, at the quiet request of the State Department, late last week agreed to withhold airmen's certification of the Ugandans training at the facilities.

As a result of these actions, both Spinks and Shoemate agreed to stop further training of the Ugandans, said Mattox after meeting with them. The congressman has called the trainees "the very instruments of terror and oppression by which Idi Amin is sustained in power."

An intriguing sidelight to the flurry of activity in Texas has been the presence, since Oct. 15, of Amin's personal jet in Savannah, Ga. The white Gulfstream G–2 arrived with a crew of eight military personnel for what has been described as routine annual maintenance by Grumman Aircraft. Government sources, however, said the plane is undergoing "major modifications" while in Savannah.

The 24 Ugandans receiving visas on Sept. 28 were "walked through" the red tape at the U.S. Embassy in Nairobi by a Bell Helicopter employee, according to an informed government source. Uganda reportedly has 18 Bell helicopters—nine purchased in the U.S. prior to 1973, and nine more purchased since then from a Milan, Italy company called Agusta, which is licensed to build Bell helicopters.

In addition to the training at Bell, Oak Grove, and ACME, three Ugandans were scheduled for schooling at the AVCO-Lycoming Co. in Stratford, Conn. The firm manufactures engines for Bell. Because of the advanced technology involved, however, the State Department refused to allow the AVCO training.

The No. 2 official at the department, Deputy Secretary Warren Christopher, contacted Bell president James Atkins while the 12 Ugandan pilots were being trained at Bell's Fort Worth facility, to urge that the work be terminated. Bell's phase of the training was continued until its regularly scheduled termination on Nov. 18, however. The reason, according to a company vice president stationed in Washington, was that there were "only a few days left" in that part of the program when Atkins received the request.

Left unanswered is the question of why the department or Bell, which the department says is the "authorizing agent" for payments to ACME and Oak Grove, didn't move decisively earlier to stop the training at those sites.

Asked by Scripps League if ACME and Oak Grove were under subcontract to Bell, the firm's Washington vice president, Warren Rockwell, said "I don't think we have any subcontracts." A spokesman at Bell's home office in Fort Worth, Larry Hayes, however, confirmed by telephone that ACME and Oak Grove are in fact under subcontract to Bell for the Ugandan training.

Critics of the training cite its apparent contradiction to the Carter administration's avowed human rights policy. A flowering of those objections came last week when Rep. Don Bonker (D-Wash.), a member of the House International Relations Committee, introduced a resolution which would prohibit such U.S. assistance to Uganda as "pilot training and aeronautical engineering." It would also bar landing rights in this country to all aircraft owned or leased by the government of Uganda or "Ugandan interests."

Once the 22 Ugandans had entered the United States, it would have been a "very complicated process" to revoke their visas, said State Department spokesman Kenneth Brown. If the department had tried, he added, lengthy rights of appeal would have meant the training could have continued anyway until its scheduled termination in mid-December.

"But you can be sure that we will indeed take a much closer look at applications for visas from now on," Brown added. "And as a result of this case, any future request for an official training program will receive an extremely hard look."

[Excerpt from the Oregon City (Oreg.) Enterprise Courier, Dec. 12, 1977]

Who Cares About Idi Amin?

(By Lee Roderick)

Washington.—French author Albert Camus wrote that "I should like to be able to love my country and still love justice."

His poignant line comes to mind in considering the disturbing evidences that key elements in American society have chosen to look the other way while Uganda's Idi Amin, a bloodthirsty tyrant, butchers his countrymen. Estimates of how many have died since Amin came to power in 1971 are in the 150,000 range.

While it is true that official U.S. relations with Uganda are cool, the Carter administration, despite its public stance on human rights, has continued to allow Amin's henchmen free entry into the United States. Worse, it has allowed American companies to train them in skills calculated to help cement Amin's brutal hold on his people: aeronautics and communications, among others.

It was only after considerable prodding from Capitol Hill—notably from Reps. James Mattox (D-Texas), Don Bonker (D-Wash.), and Donald Pease (D-Ohio)—that the State Department belatedly moved to close this conduit of American technology flowing to Uganda. And even now it is uncertain how tightly the conduit will be closed.

If the federal government's role has been wrong-headed, however, the role of certain major U.S. companies has been wrong-hearted. State has had diplomatic concerns unfathomable to us mortals, but ostensibly calculated to serve the larger interests of the United States. The companies, on the other hand, have had but one interest: profit. And in this case, profit is a dirty word.

Take Bell Helicopter, for example. The Fort Worth, Texas company hasn't sold any helicopters to Uganda since before 1973. But an Italian firm, Agusta, conveniently is licensed to build Bell choppers, nine of which reportedly have gone to Amin's government during the last five years.

And as late as November Bell was training Ugandan pilots. It takes little imagination to appreciate the value of helicopters in ferrying Amin's instruments of terror quickly to outlying villages.

Washington officials trying to determine the extent of Bell's work for Uganda have been met repeatedly with evasions and outright lies from company officers—an experience shared by this reporter in an investigation of Bell's Uganda connection.

The company, while notably ubiquitous in its activities, isn't alone. The Harris Corp. of Cleveland has a $4 million contract to provide Amin a satellite communications system. Ugandans have received training in communications in Melbourne, Fla. And flight or other aeronautical training of Ugandans has also taken place at Oak Grove Airport and the ACME School of Aeronautics in Fort Worth; Vero Beach, Fla., and at Embry-Riddle University in Daytona Beach, Fla.

THE PROBLEMS ASSOCIATED WITH ACID RAIN

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. JEFFORDS. Mr. Speaker, in the course of trying to develop a coherent national energy plan Congress has looked at many possibilities to reduce this country's energy consumption, shift the Nation's dependence on imported oil, and explore new or previously untapped energy sources. In each area, we have looked closely at the impacts each proposal would have on the consumer, industry, and the environment.

Although Congress has not yet resolved all of the questions and we have not yet passed a final version of the national energy plan, one thing is quite clear at this point; despite our efforts to bring about increased conservation our consumption of fossil fuels will continue at a rapid pace, with an increased emphasis on the use of coal, our most abundant fossil fuel reserve. While the merits of such a policy choice can and have been debated extensively, the fact remains that in the short-term we have little choice. The Federal Government's role in the development of more efficient, less polluting energy options has been slow to evolve for a number of reasons, and consequently the available choices are limited.

However, I do not want to discuss all the pro's and con's of the proposed coal conversion provisions of the energy plan. Rather, I would like to point out to my colleagues that, despite seemingly adequate environmental safeguards imposed on processes and facilities using coal, we are endorsing a policy that could, without sufficient study, prove to have very serious ramifications for American agricultural productivity.

Congress began to recognize the air pollution problem in the mid-sixties and legislation has since been passed which established goals for protecting and enhancing the Nation's air quality. Further improvements have been made over the years with the Clean Air Act and successive amendments. Although we have set air quality standards for the protection of public health and welfare, one development that is rarely mentioned is the accumulated impact that fossil fuel pollution has on U.S. agricultural productivity.

A compilation of studies prepared by the House Subcommittee on Energy and Power notes that—

> Damage directly linked to ongoing fallout of industrial pollution across the U.S. continent, extending hundreds of miles beyond the source of emission, has already reduced yields in forests and other crops in some areas by as much as 75 percent. . . .

Similarly, Russell Train, former Administrator of the Environmental Protection Agency, has noted that—

> Dollar losses to agriculture as a result of air pollution are difficult to quantify. However, it is safe to say that it runs—possibly in the hundreds of millions of dollars per year when all aspects of reduced productivity are considered.

Air pollution has only recently begun to be isolated as a significant agricultural problem. A recent U.S. Department of Agriculture report indicates that—

> In studies undertaken in southern California, researchers found in controlled experiments filtered clean-air yields versus ambient polluted-air yields that reductions were sizable. Alfalfa yields declined 38 percent; blackeyed peas, 32 percent; lettuce, 42 percent; sweet corn, 72 percent; and radish, 38 percent. In Massachusetts, similar experiments showed yield reductions from ambient air pollutiuon of 15 percent for alfalfa and sweet corn, 25 percent for beans, and 33 percent for tomatoes. Crop losses from air pollution in California in 1974 amounted to over 55 million dollars. Indications show that the loss trends are steadily increasing.

The substantial shift to coal as a fuel source envisioned by the administration will doubtless significantly increase pollution emissions, even with proper enforcement of clean air standards and new source performance standards. My concern is that not enough attention has been focused on the many potential impacts of such a shift, but particularly as that shift will impact on our agricultural productivity. Air pollution affecting crops is not confined to industrial and urban areas. It can spread across the entire continent into many non-industrialized food-producing States. As another recent report notes:

> Often covering distances of hundreds of miles, sometimes as far as a thousand miles . . . pollutants travel through the atmosphere, undergoing added chemical changes, depositing the resultant fallout as dry particulates or acid rain at distant places.

Perhaps the primary indicator for determining the extent of pollution in food growing areas is what is commonly referred to as "acid rain," highly acidic rainfall produced by sulfuric acid formed from the oxidation of pollutant sulfur compounds that have been released into the atmosphere. Data from the Scientific American has shown that acid rain covered part or all the land in States east of the 100th meridian and showed up in large areas to the west: around Los Angeles, in Oregon's Willamette Valley, even in Tucson, Ariz., and Grand Forks, N. Dak.

"Studies indicated that acid rain causes a reduction in the photosynthate process, decreasing sugar and starch concentrations as the pH value drops. The effect on aquatic ecosystems of Southeastern Canada and the Northeastern United States is resulting in streams and lakes becoming so acid that salmonoid fishes can no longer survive."

This phenomenon was dramatically illustrated in a major study by the Swedish Government submitted to the United Nations Conference on the Human Environment in 1971. The report's conclusions noted that the acidity of rain in Sweden has increased substantially since the 1950's. It is estimated that this sulfur deposition from precipitation is increasing at a rate of 2 to 3 percent a year, and is the primary factor in the acidification of some 10,000 lakes in Sweden, wreaking havoc upon the ecosystems of those lakes. However, less than one-third of the total acid precipitation is actually Swedish in origin. Over half is attributed to foreign sources such as Great Britain and central Europe, and a significant portion is even thought to originate from the North American continent. Clearly, the "acid rain" problem is hemispheric if not global in scope. As we, and most of the industrialized countries of the world, continue to burn ever greater quantities of fossil fuels, we can expect the impact of acid precipitation on sensitive ecosystems to become more serious, even though its overall severity is still being evaluated.

Despite these ominous indications, few corrective steps have been taken on either a national or international level. It is for this reason that I am introducing today, along with my colleague Mr. NOLAN of Minnesota, a joint resolution calling for the convening of an international conference to study the problems associated with acid rain and the effects on world agriculture. I believe it is essential that we examine this problem closely, and I would urge my colleagues to join in cosponsoring this legislation.

GOVERNMENT PANICS OVER OIL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. DERWINSKI. Mr. Speaker, the President is in the midst of a very hectic overseas excursion, despite the fact that his original promise was not to leave the country until the Congress passed an energy bill suitable to him.

There has been a great deal of political rhetoric but very little practical economic rhetoric from the White House in statements on the energy problem and on the need for such legislation.

A very interesting column appearing in the Washington Star by that publication's guest columnist, Michael Novak, quite accurately takes the President to task on his energy views. The article follows:

GOVERNMENT PANICS OVER OIL

(By Michael Novak)

The White House under Jimmy Carter is, plainly, inexperienced. Signs of panic have been especially visible concerning oil. The president's panic has two parts: (1) that oil might soon run out; (2) that oil companies might reap "windfall profits." These are odd motives for panic.

First of all, immense new energy remains to be discovered. A gallon of sea water has two and a half times more energy than a gallon of gasoline. Hydrogen from sea water powered rockets to the moon. At present, hydrogen-powered submarines are operational, as the president surely knows, and hydrogen is being tested in experimental automobiles, too. The costs of hydrogen engines are still far too high. But men of enterprise and intelligence are at work upon the technical problems involved in reducing costs. When hydrogen power comes on line, we will have oceans of energy.

So while the president bewails the coming end of an oil economy (rumors of whose death are premature by at least 100 years) men of vision are inventing the technical base for a hydrogen economy.

Secondly, the taxes collected by government (government now devours one-third of the nation's gross national product) are larger than all corporate profits put together. Not only does each of us pay direct taxes on income, on purchases, on real estate and on other goods and activities, indirect taxation forces us to pay higher prices for everything, since corporations pass along to us their share of all the taxes imposed on them. Mr. Carter should talk about windfalls. He's president of the greatest recipient of windfalls of any institution in the history of the world. He collects from each of us at least twice. At least.

Even the gasoline we buy at the pump is inflated at least one-third in price by direct taxes paid to the government by the purchaser. Then the purchaser also pays for the taxes paid by the gas station attendant, the trucker, and the oil company, too. Everybody passes along their taxes to the consumer. So, all in all, well over half the price of gasoline goes for taxes, ending up in government.

Even so, oil companies perform a miracle of efficiency. They find oil half a world away under the sands of Araby, pump it, ship it, refine it, and deliver a share of it to a station not far from my house in Syracuse for 62 cents a gallon. A block away, a gallon of milk costs me $1.46, and the milk has only to be brought from a farm three miles away. In the same supermarket, a gallon of bottled spring water, which requires no refining, costs 40 cents more than a gallon of oil.

Without taxes, direct and indirect, the oil companies could sell us gasoline at just over 20 cents a gallon, and still turn a profit. Government is the reason gasoline costs 62 cents at the pump.

Mr. Carter did not begin this government gouging of American workers and consumers. His so-called "populism" is, however, faking of a very high order. He hopes to reap a high windfall from oil in new taxes to pay off the bureaucracy. Who will pay these taxes? There is only one source of money for the government. Every tax paid by corporations is passed along in the prices we pay, you and I. We pay all the taxes.

What we need is the moral equivalent of war upon the petty thinking of bureaucrats, of which Jimmy Carter is now the proven chief.

I am a liberal who does not begrudge the government its taxes or its good works. But something is going very wrong with liberal democracy. That something is too much state control and too much state spending. In the 1930's, John Dewey urged liberals to cease opposing state power, and to embrace it. That would, he said, constitute a major turning point in the history of liberalism. It certainly did.

We need, now, another turning point in liberal thought. Our government does far too much bookkeeping. It taxes Peter, and asks Peter to pay high prices to pay Paul's taxes, too; and taxes both to pay for the bookkeepers. In their magnificent new speculative book, "The Responsible Society," Stephen Roman and Eugen Loebl try to think out a more intelligent liberal system.

Instead of "government spending," they urge "government lending." They limit the roles of government. They show how such limits still leave government a way to direct priorities and stimulate new activities. Their method would increase the liberty of citizens and the effectiveness of government.

We are desperately in need of a new theory of government. The present path leads to economic disaster.

THE FEDERAL DRUG ENFORCEMENT ADMINISTRATION SHOULD NOT BE ABOLISHED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. GILMAN. Mr. Speaker, on December 16, 1977, I appeared on WETA's the McNeil-Lehrer Report as a panelist, along with Eugene Rossides, a former Treasury Department Assistant Secretary, and Dorothy J. Samuels, executive director of the Committee for Public Justice, to discuss allegations directed at the Drug Enforcement Administration (DEA).

Mr. Rossides, who left the Treasury Department shortly before the DEA was created in the Justice Department in 1973 as the centralized lead Federal drug law enforcement agency, contends that DEA should be abolished since it is the "poorest way of fighting the drug problem in this country." In his view, illicit drug trafficking can be fought along two lines: As a smuggling problem, which is a responsibility for the U.S. Customs Service, and through tax investigations conducted by the Internal Revenue Service. Both Mr. Rossides and Ms. Samuels contend that DEA agents should not be stationed abroad, and according to Ms. Samuels, DEA has been providing foreign governments, particularly Bolivia, with information that has led to the arrest, torture, and violations of human rights of individuals caught violating foreign law.

Mr. Speaker, I do not condone any violations of human rights, and I am confident that DEA does not intentionally participate in such practices. The vigilant protection of human rights is not inconsistent with the proper enforcement of drug laws. Both objectives must and can be attained without sacrificing one for the other.

It would be a grievous error to regard narcotics trafficking as essentially a smuggling problem. Mr. Speaker, narcotics trafficking is a problem that is not unique to the United States. It is a global problem, a problem requiring the concerted action by all nations of the international community. The eradication and interdiction of illicit narcotics is a problem for both heroin-producer and heroin-user nations, a problem for developed and less developed nations; it affects all mankind.

Narcotics trafficking and opium production is a complex problem. It is not limited to the interstate traffic of drugs coming through our borders. Rather, it involves a sophisticated international criminal network whose operations amount to billions of dollars including the laundering of money obtained from the profits of an intricate web of legitimate and illicit business transactions. The tentacles of organized crime have reached into every facet of society, corrupting public officials and private citizens, undermining the administration of justice, destroying the moral values and the very roots of that society.

I have a high regard for the U.S. Customs Service. Given the limited manpower and equipment, it is performing an extremely difficult task of attempting to interdict the flow of illicit drugs across our borders. Along with the other members of the Select Committee on Narcotics Abuse and Control, and our distinguished committee chairman, the gentleman from New York (Mr. WOLFF), we traversed the 2,000-mile southwest border from San Ysidro, Calif., to Brownsville, Tex. The Customs Service faces the herculean task of interdicting drugs and other contraband among the 165 million individuals and 48 million vehicles that crossed the border in 1976 (and this does not include the massive movement of planes and boats that unload their smuggled goods onto our shores).

To abolish the DEA and restrict Federal drug law enforcement efforts to smuggling operations, violations of interstate commerce, and tax violations misses the major objectives of interdicting narcotics trafficking through the cooperation and coordination of law enforcement agencies in this country and abroad, the eradication of the illicit supply of opium at its source, all of which are major functions of DEA. Through the cooperation and coordination of Federal, State, and local agencies, DEA was instrumental in developing the evidence that led to the trial and conviction, in a Federal district court, of narcotics trafficker Nicky Barnes, along with 10 codefendents of his narcotics organization, a narcotics operation that yielded annually an estimated $200 million from heroin and cocaine trafficking.

Mr. Speaker, no law enforcement agency is immune from making some mistakes in the fulfillment of its mandate. Since DEA was created 4 years ago, it has undoubtedly made many mistakes. However, when errors have occurred, under the forth-right and competent leadership of DEA Administrator Peter Bensinger, corrective procedures have been promptly instituted to prevent any objectionable conduct from recurring.

The abolition of this centralized Federal drug law enforcement agency that has, in the short time of its existence, developed expertise in the drug field, that has been performing the hazardous task of interdicting narcotics trafficking and that has obtained international cooperation in eradicating the illicit supply of opium at its source, would be disastrous to our national effort. These dedicated men and women daily risk their lives to fulfill their objectives.

Under the leadership of Chairman WOLFF, the select committee has held numerous oversight hearings of the Federal efforts to formulate a comprehensive, coordinated national drug strategy. I recently received a letter from Dr. Peter Bourne, the President's Special Assistant on Health Issues, assuring me that the Strategy Council (which has not met under the chairmanship of the President since its establishment in 1972) will develop an operational strategy rather than merely issuing an annual report. He has stated that the working group consisting of Messrs. Bensinger and Bourne, Mathea Falco, Senior Narcotics Adviser to the Secretary of State, Dr. Robert DuPont, Administrator of the National Institute on Drug Abuse, and Robert Chasen, Commissioner of the U.S. Customs Service—

> will continue, in order to assure a coordinated ongoing effort. The operational strategy which is developed by the Council will be primarily implemented by these people and the continued coordination of these agencies is essential to our success.

Mr. Speaker, in order to inform my colleagues of some of the allegations directed against the Drug Enforcement Administration, I am inserting at this point in the RECORD, an op-ed article written by Dorothy Samuels and James Goodman, entitled "Reforming the Drug Agency" that appeared in the New York Times on November 29, 1977, together with a response by DEA Director, Peter Bensinger that appeared in the Times on December 10, and a letter by Prof. Gordon Brewster Baldwin, professor of law at the University of Wisconsin Law School, commenting on the professionalism of DEA agents in Bolivia and the need for their presence "whenever American citizens are suspected of criminal activity."

[From the New York Times, Nov. 29, 1977]

REFORMING THE DRUG AGENCY

(By Dorothy J. Samuels and James A. Goodman)

The Justice Department's Drug Enforcement Administration, formed in 1973 to lead President Nixon's "war on drugs," is one Government agency that has escaped post-Watergate reform. Despite mounting evidence that the nation's drug-enforcement program is both misdirected and abusive, Congress has neglected to act. The Drug Enforcement Administration continues to operate virtually without constraint in this country and in 79 more.

Abroad, that agency is involved in narcotics-enforcement programs that mistreat drug suspects, detaining them in inhumane conditions under judicial systems that deny the most fundamental principles of due process.

A report soon to be released by the Senate Foreign Relations Committee documents Drug Enforcement Administration complicity at every level of the Bolivian narcotics program, widely considered among the most repressive. Bolivia's Draconian drug laws, drafted with the assistance of a team of

Justice Department attorneys, have been rigorously enforced with the help of the Drug Enforcement Administration and agents it has trained.

Consider the case of an American, Michelle Fryer, age 22. Arrested in La Paz in June 1976 on flimsy evidence, she languished in squalid Bolivian jails for 11 months, never certain of the charges she faced. She was finally released without being convicted, last May.

At last count, there were 32 Americans in Bolivian prisons on drug charges. In late October, 17 Senators wrote to President Carter about their plight. "Press reports, fact-finding missions, and public testimony by parents and relatives," wrote the Senators, "have provided detailed accounts of physical abuse and mistreatment of these young Americans; of massive denials of human rights and due process of law; of alleged State Department indifference and insensitivity to the protection and welfare of American citizens; of alleged improper and even illegal acts by agents of the Drug Enforcement Administration."

Yet, Congress has not passed any legislation that would effectively end United States support of such foreign drug programs. A 1976 amendment, prohibiting the drug agency's participation in direct police action abroad, has done little to curb its activities in Bolivia. In fact, there are plans for deeper Drug Enforcement Administration involvement in Bolivia. Our Government has promised at least $8 million for Bolivian narcotics enforcement through 1981.

In the United States, where public attention has focused on the Central Intelligence Agency and Federal Bureau of Investigation illegalities, the Drug Enforcement Administration's domestic-enforcement program has received little public exposure. Stormtrooper-like drug raids on innocent families that once made headlines have given way to institutionalized abuse, including an extensive intelligence-gathering capability.

The Drug Enforcement Administration's data bank contains the names of some half-million Americans. No strict rules govern the type or reliability of information fed into the system; nor are there adequate controls over how this information is disseminated.

The Drug Enforcement Administration's use of informants to lure suspects into selling drugs to its own agents leads to questionable arrests and the agency's employment of undercover agents to "buy" from and then "bust" street dealers enhances the agency's arrest record but does little to catch major narcotics traffickers. Also, the agency's domestic guidelines permit the use of informants previously judged "unrealiable" by the agency itself.

In a dangerous grant of authority, 190 Drug Enforcement Administration agents have been cross-designated as customs agents, giving them authorization to open mail and conduct border searches. The Customs Service says the Drug Enforcement Administration's agents have not opened mail since 1975. Why, then, has this authority never been revoked?

At a 1973 hearing on the Nixon reorganization plan that created the agency, Senator Charles Percy, Republican of Illinois, cautioned Congress "to make sure that in pursuing legitimate law enforcement ends, we do not do irreparable damage to the still more fundamental value of personal privacy and due process." Four years and two Presidents later, this is a responsibility Congress has yet to meet.

[From the New York Times, Dec. 10, 1977]

U.S. DRUG ENFORCEMENT: "HERE ARE THE FACTS"

To the Editor:

The Nov. 29 Op-Ed article "Reforming the Drug Agency" by Dorothy Samuels and James Goodman misleads the American people as to what is being done in the Federal fight against drug abuse. It is a disservice to the Drug Enforcement Administration and to the men and women who are performing perhaps the most difficult and dangerous law enforcement assignment undertaken by Government employees.

Here are the facts:

"The authors state that the national drug enforcement program has had little Congressional oversight and that public hearings and public exposure to D.E.A.'s foreign and domestic law enforcement programs have been negligible. Sixteen separate oversight hearings, apart from regular appropriations committee meetings, have been held by committees of the Senate and House since August of 1976. Nine separate General Accounting Office reports dealing with D.E.A. have been published. Congressional oversight visits have been made to principal foreign and domestic regional offices and public hearings have been held along the southwest border and in our key major cities.

The chairman of the three principal oversight committees have recently recognized D.E.A. for significant progress and achievement in the law enforcement and regulatory area.

The authors suggest that the arrest of a young American woman, Michelle Fryer, in La Paz, Bolivia, is representative of D.E.A. activities in that country. Ms. Fryer was arrested in June of 1976 by Bolivian authorities but has never been the subject of a D.E.A. investigation, nor was her incarceration in Bolivia a result of any D.E.A. information.

The authors mention a "storm-trooper-like drug raid," which probably refers to an incident in Collinsville, Ill., in April of 1973, well before the formation of D.E.A., by an agency (ODALE) since phased out of existence. Not one agent alleged to have exceeded his authority in that incident was found guilty by criminal or civil jurisdictions. In fact, several agents involved in that matter were recently awarded $15,000 slander judgments each from an alleged victim.

The authors imply that D.E.A.'s intelligence-gathering capability is an "institutionalized abuse." D.E.A.'s intelligence and analysis system was mandated by two separate White House reports—the "White Paper on Drug Abuse" (September 1975) and the "Federal Strategy on Drug Abuse" (November 1976)—and was set out in the original implementing legislation creating D.E.A. in 1973. If we are to arrest and convict major narcotic traffickers, good information is essential.

The progress being made by this agency is reflected by the number of heroin overdose deaths, down 30 percent from one year ago; the number of heroin-related injuries, down 33 percent in the last 12 months, and the purity level of heroin available on the streets, which is 5 percent—the lowest in seven years.

The authors quoted what Senator Percy said in 1973, but they did not bother to report what he says now. On June 20, joining Senator Sam Nunn at a Senate oversight hearing, Senator Percy said: "The Drug Enforcement Administration report (today) is the first encouraging report we have had in a long time. I want to comend you on your past efforts and encourage you to keep up the good work. We will give you every bit of encouragement we possibly can. . . ."

Narcotics enforcement is difficult, dangerous and complex. Federal, state and local narcotics agents are up against criminal organizations which, with awesome power and money, cause death and health damage to thousands of Americans every year. The readership of The Times is entitled to an accurate report on the activities of one agency in the forefront of this fight. Our drug problem will not be solved by misrepresentations to the American people.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

Washington, December 1, 1977.

THE UNIVERSITY OF WISCONSIN
LAW SCHOOL,
Madison, Wis., December 13, 1977.

Mr. PETER BENSINGER,
Administrator, Drug Enforcement Administration, U.S. Department of Justice, Washington, D.C.

DEAR MR. BENSINGER: Last week I returned from my second visit to Bolivia within ten months. During each I worked with our Embassy in matters pertaining to the Bolivian narcotics laws. I was, however, totally independent and the views I express are exclusively my own.

I write to state that my own observations and experience confirm the views you expressed in your letter of December 1 which was published in the New York Times on December 10. Your D.E.A. agents in La Paz impressed me with their professionalism—no facts of which I am aware suggest that the D.E.A. was responsible for improper arrests, or intolerable treatment of Americans arrested on drug charges in that country.

Indeed, I fear that the absence of American D.E.A. agents when U.S. citizens are arrested on drug charges may be detrimental to the interests of law enforcement, as well as to the interest in protecting citizens abroad from improper treatment. Many Americans who have been detained in Bolivia have in fact been released because of the information which D.E.A. has sometimes been able to provide. Some who have been detained in Bolivia for long periods would, I think, have been released if D.E.A. agents had been on hand at the time of their apprehension by Bolivian police. (I think particularly of the cases of Logan and Blum.)

During both my visits to Bolivia I found all your agents extraordinarily helpful and well informed. Last February I was particularly impressed with Arturo Sedillo. This last week I was most grateful to Ed Medina, Eugene Castillo and Larry Lyons. All are splendid officers whose concern with human rights generally, and with individuals particularly was deep and obvious. Understandably your office is sensitive to criticism, but I believe that some of the comments in Bolivia have been unfair.

Of special concern to me because of my interest in international cooperation in the area of narcotics laws is the risk that your 1976 guidelines may be interpreted in such a way as to limit the useful and protective role of these American law enforcement officers. So long as Bolivian authorities welcome their presence I urge that our policies permit American law enforcement agents to be in the immediate area whenever American citizens are suspected of criminal activity. While it is important that an American consul be notified immediately, it is, as a practical matter, far more helpful that an American law enforcement officer be available at the instant of arrest. Interests in protecting the suspect as well as in ultimately determining the truth are more likely to be served by the presence rather than the absence of D.E.A. agents.

I write this simply because I have been provoked by reading a number of presumably well-meant, but erroneous comments about the D.E.A. in Bolivia. You may use this letter for whatever purpose you see fit.

Sincerely,

GORDON B. BALDWIN,
Professor of Law.

TO "SUBDUE VIOLENCE" MUST BE OUR GOAL

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. EILBERG. Mr. Speaker, a recent issue of The Catholic Standard and

Times of Philadelphia included a column with a message of great significance for us in this holiday season and New Year.

The following article was distributed by the National Catholic News Service. It points to the tragic history of so-called "holy" wars, and its author, Father Alfred McBride, leaves us with the message that even today, hundreds of years after the medieval crusades, we must be on guard against violence carried out for supposedly noble reasons.

Father McBride explains that often in history, crimes against humanity have been disguised in the name of holy causes, and he tells us to labor to subdue violence—which is no more acceptable when it is motivated by reasons of religion than when it is poorly motivated. I commend to the attention of my colleagues this historical perspective:

Christian History: Holy War: The Medieval Crusades

(By Father Alfred McBride)

To appreciate the meaning of the Crusades, we need only think of the ideological wars instituted in our own times by Nazis, Fascists or Communists. Ideological wars are secular versions of holy war. The Bible describes holy war in the book of Joshua where the extinction of every man, woman, child, animal and thing in a city was carried out in the name of God. That's the biblical equivalent of atomic holocaust. We may shudder at the prospect of holy war, but unfortunately it has an uncanny way of surviving.

The medieval Crusades were holy war. Vicious, cruel and raw pursuits, they were backed by Christians of western Europe from every rank and station. Fanatical preachers stirred up thousands to embark on a holy war against the infidel Sarakenos (Saracens, that is, Easterners). Normally, the Church had been trying to subdue the addiction to violence, seemingly a commonplace in the Dark Ages and the medieval period. In the year 1000, a peace council was held in France where the effort was made to threaten excommunication to anyone using violence to settle problems. It didn't work. The monks of Cluny were able to establish the Truce of God for a time. It insisted that no fighting take place from Wednesday evening to Monday morning, or on holy days.

This Peace of God limited the extent of combat by forbidding attacks on merchants, farmers, nuns, pilgrims, priests or animals and property belonging to these people. These peace efforts curtailed, but by no means, eliminated war.

All these good overtures came to an end at the Council of Clermont in 1095. Eastern Europe claimed it needed help from the west to fight off the Saracens, the Moslem invaders. Pope Urban II used the Council as a setting for a speech on the subject. We don't know what he said, but he stirred up the crowd to Holy War pitch. We know what they said: "God wills it." Since they thought God willed it, they felt it was holy, therefore righteous, war.

Why did Christian Europe become so involved in holy war? For one thing, the overcrowded, settled territories created a land problem, what Hitler later used as an excuse, "Lebenstraum"—living space. Now they could solve this problem in two ways. Follow the new Cistercian order to the unsettled frontiers and make new farms. Or they could take it from the Saracens. Regrettably, too many chose the latter.

In addition, there was the warlike nature of many of the people. Sad to say, too many of them liked to fight. Lastly, there was the religious reason. The Moslems were infidels, controlling the holy places in Jerusalem. They should be driven out or converted—by force of course. In actual fact the Moslems had generally been tolerant of Christian pilgrims and gave the Frankish rulers the right to care for the shrines. However, the Saracens had their own war party and economic reasons for fighting well. Chips were on shoulders everywhere.

The Crusaders did win their wars in the final analysis. They set up Christian states in and around Palestine and kept charge for about 200 years. But at what a cost. They sacked Christian Constantinople and thus earned the hatred of the eastern Church and set the stage for the great schism. They massacred hundreds of Jews thus adding another page to the brutality wrought by anti-Semitism. They permitted the unspeakable atrocity of allowing 20,000 children to march to death or slave trade.

In our current ecumenical and tolerant mood, we may wonder how religion ever got mixed up in such vengeful and senseless killing. Yet we need only think of movements called crusades in our time that have religious backing and overtones—and some murderous intent as well. Murderous militancy is bad enough. Worse yet when wedded to the fanaticism fired by religion. One of the values of pondering the medieval crusades is that it may help us exorcise the devil of holy war should it ever try to take hold of our own people today.

All of these deglamorizes expeditionary forces and crusading armies, but is not meant to solve any problem of violence and war. Much more than a cautionary tale is needed. Much, much more.

CONGRESSMAN FRANK ANNUNZIO ANNOUNCES RESULTS OF 1977 LEGISLATIVE QUESTIONNAIRE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. ANNUNZIO. Mr. Speaker, I would like to announce the results of a legislative poll which I conducted recently to obtain the opinions of citizens residing in the 11th Congressional District of Illinois which I am privileged to represent.

More than 16,000 questionnaires were completed and returned, and I want to express my appreciation to my constituents who involved themselves in the decisionmaking process by responding to this survey. The large response as well as the extensive comments sent in separately by so many of the residents of the Northwest Side of Chicago were encouraging to me as they provided the means for an exchange of views which I feel is essential to maintaining the strength and effectiveness of our Government.

Nineteen broad questions were asked relating to both domestic and foreign policy issues, and the responses on the questionnaires were tabulated entirely by computer. Before listing a numerical summary of the tabulation, I want to point out some significant reactions to several important issues.

The strongest response on the 19 questions was on crime, with 97 percent favoring the imposition of extra penalties on persons found guilty of committing crimes with guns or other deadly weapons. I have sponsored legislation which imposes a prohibition on possession of handguns and severely increases prison terms, with absolutely no probation or parole permissible for those who commit felonies with a firearm or other deadly weapon. My bill will accomplish on the Federal level what the class X bill seeks to accomplish on the State level. I strongly feel that tougher penalties can serve as a forceful deterrent to serious crimes, and therefore, I shall continue to push for passage of this legislation.

The second strongest response was on forced busing of schoolchildren, with 88 percent expressing opposition to forced busing. My own position on this issue has been consistently against forced busing. Despite the fact that Congress has voted time and again against forced busing, various court decisions have held that busing is constitutional, and so forced busing continues. I feel the only way to resolve the busing question once and for all is through a constitutional amendment, and I have sponsored legislation to provide for such an amendment.

I was also the first Congressman from Illinois to sign the discharge petition that would release this bill providing for a constitutional amendment from the jurisdiction of the Judiciary Committee and get it to the House floor for consideration. A total of 218 signatures are needed on the discharge petition in order to achieve this objective, and currently about 196 Members have signed. I shall continue my efforts during the 2d session of the 95th Congress to secure sufficient signatures from my colleagues in order that the House of Representatives may vote on a constitutional amendment to end forced busing.

A total of 87 percent of those who responded indicated support for a $5,000 tax exclusion from gross income for any amount received as pension or retirement benefits. I have consistently supported a $5,000 tax exclusion for retirees and was encouraged during the 94th Congress when an existing tax credit for the elderly was increased. However, this increase did not go far enough, and consequently, I reintroduced my $5,000 tax exclusion bill, and I shall continue to work for its enactment.

On energy related issues, 11th District residents favored the continuation of oil and gas price controls by 74 percent; supported a tax deduction for insulation and solar and wind energy equipment by 86 percent; favored the use of energy sources other than natural gas or petroleum by major fuel burning installations by 78 percent; and opposed the imposition of gasoline rationing by 69 percent.

The House of Representatives responded to these concerns by approving an omnibus energy bill which imposed a tax on utility and industrial use of oil and natural gas in order to encourage the use of other sources of energy; extended natural gas price controls; provided tax credits for home insulation; and rejected a boost in the gasoline tax. I supported tax credits for home insulation, extension of natural gas price controls, a tax on utility and industrial use of oil and natural gas, and opposed an increase in the gasoline tax.

The Senate passed an energy bill quite different from the House bill, and House and Senate conferees are still trying to reach a compromise on the two bills. Work on energy legislation will resume when the 95th Congress reconvenes on January 19.

Mr. Speaker, my constituents have also expressed their opposition by 77 percent to new charges imposed on cardholders by credit card companies, and by 80 percent to issuance of debit cards without the consumer's specific request. I have introduced legislation to establish important consumer safeguards for credit cards and for the new electronic banking systems known as debit cards.

Credit cards were initiated as a free service, but within the last year the issuers have used various methods to add additional unwarranted charges, some so subtle that the consumer is not even aware he is paying more for the service. If these unjustified charges are permitted with credit cards, then the same unjustified charges will begin to crop up with debit cards.

Recently I held hearings on these issues in Chicago, and when the 2d session of the 95th Congress convenes, as chairman of the Consumer Affairs Subcommittee of the House Banking, Finance and Urban Affairs Committee, I shall continue my efforts to establish a prohibition on these new charges.

Over and over again, in notes and letters I have received, along with responses given on the questionnaires, a total dissatisfaction was expressed with our current health services and the prices being charged for these services. Of those who responded, 81 percent expressed their supoprt for pending legislation that would hold the average annual increase in hospital charges to 9 percent.

This hospital cost control legislation is receiving consideration by the Commerce Committee and the Ways and Means Committee of the House, and final action is anticipated this year. In the meantime, many originally unforeseen issues relating to this proposal to impose a 9-percent cap on revenues received by hospitals remain unresolved, and in an effort to secure some input on these issues, I met a few weeks ago with administrators to various hospitals in the 11th District as well as officials of the Illinois Hospital Association. I shall continue to monitor this legislation closely in an effort to secure enactment of the best possible measure.

Finally, Mr. Speaker, 85 percent of those who responded to my survey indicated they felt that the employment of persons illegally in the United States should be made unlawful and punishable by fine and or jail term. Legislation to penalize employers who hire illegal aliens passed the House twice, both in the 92d and the 93d Congresses, each time with my strong support. Unfortunately, after being passed by the House, this legislation died in the Senate both times. In the second session which will convene on January 19, I shall continue to extend my support legislation penalizing employers who knowingly hire illegal aliens.

It is also interesting to note that of those who returned the questionnaire, the largest number—44 percent—were in the 45-to-64 age category, while the smallest number—11 percent—were in the 15-to-29 age category.

Mr. Speaker, the following is the completed questionnaire tabulation according to percentages:

1977 LEGISLATIVE QUESTIONNAIRE

[Figures in percent]

1. College: Do you support a tax deduction for college tuition expenses?

Yes	64
No	30
Undecided	6

2. Panama Canal: Do you support continued, unchanged U.S. sovereignty over the U.S.-owned Panama Canal?

Yes	71
No	20
Undecided	9

3. SST: Should the Concorde be banned from landing at inland airports such as Chicago's O'Hare, but instead be permitted to land on the East or West Coast if it meets noise pollution standards?

Yes	63
No	29
Undecided	8

4. Cuba: Do you favor the resumption of trade and diplomatic relations with Cuba at this time?

Yes	41
No	47
Undecided	12

5. Imports: To protect American jobs and industries seriously threatened by imports, such as the Zenith Corporation, should the U.S. government impose tariffs/quotas on imported goods even though it will mean somewhat higher prices for the consumer and possible retaliation by foreign countries to whom we export our goods?

Yes	60
No	29
Undecided	11

6. Social security: The Social Security system is now paying out more in benefits than it is taking in. Its revenue comes from 5.85% tax on both employees and employers (a total of 11.7%) on the first $16,500 of earnings. Which of the following proposals to balance the Social Security budget do you prefer:

a. additional increases in the tax rate for both employers and employees.

Yes	38
No	53
Undecided	9

b. a substantial increase in the taxable wage base above the present $16,500.

Yes	58
No	34
Undecided	8

c. use of Federal income tax revenues to supplement the existing tax.

Yes	57
No	33
Undecided	10

d. merging the Social Security retirement system with the Civil Service Retirement System.

Yes	38
No	48
Undecided	14

7. Elections: Do you favor public financing of Congressional elections?

Yes	33
No	56
Undecided	11

8. Oil and gas deregulation: Currently our government regulates prices on domestic oil and gas. Because of this regulation, domestic oil and gas prices have risen less steeply in the past several years than has the price of foreign oil. Do you feel these oil and gas price controls should be continued?

Yes	74
No	19
Undecided	7

9. Korea: Are you in favor of removing all U.S. ground forces from Korea?

Yes	47
No	41
Undecided	12

10. Health insurance: Do you think that the United States should have national health insurance?

Yes	58
No	34
Undecided	8

11. Hospital costs: Do you favor the proposal that the nation's hospitals hold their average annual increase in charges to 9%?

Yes	81
No	11
Undecided	8

12. Busing: Do you favor a Constitutional amendment that would end forced busing, while at the same time assure equal opportunities for all students wherever they are located?

Yes	88
No	9
Undecided	3

13. Abortion: Do you believe Federal funds should be used for the purpose of performing, encouraging, or promoting abortion?

Yes	27
No	67
Undecided	6

14. Crime:

a. Do you believe extra penalties should be imposed on persons found guilty of committing crimes with guns or other deadly weapons?

Yes	97
No	2
Undecided	1

b. Do you believe it should be illegal to possess a handgun?

Yes	50
No	44
Undecided	6

15. Retirees: Do you believe there should be a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefits?

Yes	87
No	7
Undecided	6

16. Energy: To reduce our growing dependence on foreign oil sources (which is up 17% since the oil embargo of 1973) and to limit consumption should we:

a. impose a tax on larger cars which use more gas:

Yes	53
No	41
Undecided	6

b. relax air pollution standards to allow increased use of coal:

Yes	56
No	36
Undecided	8

c. impose gasoline rationing:

Yes	22
No	69
Undecided	9

d. impose quota restrictions on the importation of foreign oil:

Yes	49
No	33
Undecided	18

e. encourage taxpayers to use energy more efficiently by making insulation and solar wind energy equipment tax deductable.

Yes	86
No	9
Undecided	5

f. allow the price of gasoline to rise to the international price level to discourage consumers from using gasoline.

Yes	24
No	66
Undecided	10

g. require electric power plants and major fuel burning installations to use energy sources other than natural gas or petroleum as their primary energy sources.

Yes	78
No	10
Undecided	12

h. provide a personal income tax deduction to commuters for expenses incurred while using public transportation.

Yes	55
No	38
Undecided	7

17. Illegal aliens: Should the employment of persons illegally in the United States be made unlawful and punishable by fine or jail term?

Yes	85
No	10
Undecided	5

18. Credit cards: Do you favor legislation that would prevent credit card companies from imposing new charges on cardholders in addition to the existing fees?

Yes	77
No	14
Undecided	9

19. Debit cards: Do you favor legislation—

a. regulating use of the newly developed electronic fund transfer systems (EFTS) that would electronically transfer money from a buyer's checking account to the seller's account without check being written (These are so-called debit cards).

Yes	41
No	41
Undecided	18

b. preventing financial institutions from sending debit cards unless the consumer requests a card?

Yes	80
No	9
Undecided	11

Age: To help me analyze results of this poll, please indicate: (circle the appropriate answer) (optional).

a. 15–29	11
b. 30–44	23
c. 45–64	44
d. 65 and over	22

THE FARMERS PLIGHT

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, much has and will be said regarding the financial plight of the Nation's agriculture and the proposed farmer strike. I believe it is important to get the story from the farmers themselves and, therefore, submit for the RECORD, an article by Bob Findlay, agricultural editor of the Herald Journal of Logan, Utah:

FARMERS COMMENT ON NATIONWIDE STRIKE AIM

"If I have to plow under all the winter wheat I've planted and not plant anything in the spring to get higher prices, then that's what I'll do. My back's against the wall. I've got to do something."

Anger edged into Newton farmer Mike Maughan's voice as he made that statement. He couldn't talk calmly about the low grain prices that have pushed him to the edge of bankruptcy and made him one of the supporters of the nationwide farm strike movement.

"I've lost $75,000 in farming the last two years," he said. "One more year like this one and I'm done."

A similar tale of frustration was told by Clarkston wheat grower Don Anderson, who drove this reporter around to talk with several Cache farmers about their fight for survival in an era when they get less for the products they grow than it costs to produce them.

He has had to refinance several times to save his 2,500-acre dry farm, Anderson said, and is now $250,000 in debt. "I turn over all I make to the bank," he said. "I couldn't write a check today for $300 that would be good."

Brooks Roundy, Cache Junction farmer and Cache County president of the National Farmers Organization (NFO), commented, "Every day I get up, I'm another $400 in debt—that's the daily cost to run this ranch."

He can survive, Roundy said, only because his land and most of his equipment is paid for. "If I was paying interest and principal on my investment, I'd have been gone two years ago," he said. "If you can just pay your fuel, labor and fertilizer bill each year, you've done real well."

ASKING FOR PARITY

These three farmers and vast numbers like them in Cache Valley and across the nation are asking for 100 percent parity prices for their products. They've got to get those higher prices to survive, they say, and they're willing to strike—withhold their food products from the market—in order to get those prices.

"I'm tired of being shortchanged," Maughan said. "I want a fair share, and I'm willing to fight for it. I don't care what it takes."

He doesn't like strikes, but they work, Maughan said. And he doesn't want to see the American consumer hurt or see anyone go hungry, but he does expect them to pay a fair price for the food they eat.

Consumers have a big stake in this farm strike too, Maughan said. He predicted that if the strike fails and failure of the American family farm follows, corporations will take over agriculture.

"And if this goes corporate, then it's 'Katie, bar the door,'" he said, "because it'll be just like Russia (where the population spends 50 percent of its income for food versus only 16 percent in the U.S.). People won't stop eating if the price of food doubles, and the corporations know that."

The full parity prices demanded by American farmers would only increase food prices 2–3 percent, Maughan said, and American consumers would still be spending far less of their income for food than do consumers in any other country of the world.

He talked of the long hours and hard work necessary to just stay alive in farming, and commented, "Then I come home each night with a deficit. I get nothing."

WHIMS OF THE MARKET

He is getting less than half of what workers in the rest of the economy get for their efforts, Maughan said. He asks of consumers: "How would you like to give up half of your take home pay each payday?"

He also lashed out at the market system that sets the price on what he produces and denies him the right to set his own price.

"I don't mind the long hours, or fighting the bugs and the drought. I like the challenge," Maughan said. "But I'm tired of bringing in the crop I've sweated over and taken good care of and asking, 'What will you give me for it?'"

"I'm just waiting for the day when I can take my hay and grain to market and say, 'Fellows, this is what I need for it.'"

"This strike will work." Maughan predicted. "This time we're gonna get paid. Because if we don't do that, we're in trouble."

The strike "is our only hope," commented Roundy. "I support it 100 percent." That means, he said, that he will harvest the winter wheat he's already planted, but will store it instead of sending it to market.

He explained the economics faced by the farmer. The cost to produce a bushel of wheat averages $5.10 nationally, Roundy said, while the market price for that wheat is half of that, $2.50 per bushel. (Cost of production can vary, but the lowest figure so far reported to The Herald Journal by a Cache farmer is $3.81 per bushel, still way over the market price.)

Take a young farmer just getting started, Roundy said. He has to pay $40,000 for a tractor and $1,200 an acre for his land. Yet the price on his wheat will pay only half of his costs. "How long can he stay in business?"

All a farmer can do, he said, is "try to hold things together and hope for a break. But I've worked now from age 20 to 60 thinking next year would be better."

Farmers stay afloat by borrowing, but that's false economy, Roundy said. "You can't create real wealth with borrowed money. You can only get real wealth from the product; you need to get an honest price for the raw materials.

"New wealth is the only real wealth, something that doesn't have to be paid back with interest."

Roundy pointed to the philosophy of economist Arnold E. Paulson, president of the National Organization for Raw Materials (NORM).

Paulson's basic tenet is that economic policies set by the federal government deny the farmer and other producers of raw materials a fair price for his product, but then makes it possible for him to borrow money.

So instead of buying new cars, machinery, clothes, etc. and supporting the rest of the economy with real, earned wealth, the farmer is buying those products with borrowed money, essentially money that doesn't exist, Paulson maintains. The end result of this huge expansion of credit and debt—too large to ever be repaid—will be a crash and another depression, Paulson says, unless the farmers manage to turn things around and earn real wealth through an honest price for their products.

Roundy expanded on that, "If I can't afford to buy a tractor, then they don't need to mine the ore, produce the steel, make ball bearings, engines, etc. The economy has been beaten out of that much labor."

EFFECT ON ECONOMY

And he can't afford those new tractors, Roundy said. He explained that he used to have his equipment on a rotation basis so each piece was replaced every 10 years. He can't do that anymore; his newest combine is 11 years old. By not buying new equipment, he's kept $250,000 out of the economy.

"But when you can't afford it, what do you do?" he asked. "You patch the old equipment up and go for one more year."

Anderson commented that this is exactly what he and every other Cache Valley farmer are doing right now, trying to repair their equipment to last at least one more year. And they're doing the work themselves; they can't afford to pay a mechanic, he said.

He has a friend, Anderson said, who is getting into the home storage sales business, trying to borrow and doing all he can "just to stay alive."

Others are taking wage-paying jobs, trying to make enough to pay the note on their farm and borrow more money," he said. "It doesn't make sense."

Almost all Cache area farmers are borrowing money against the steadily increasing value of their land in order to stay in business, Anderson said, adding, "If those land values ever turn downward, I think it will break the economy."

Anderson talked of a Weston farmer, who told him he won't give his farm to his sons, saying, "I don't want to do that to them. I've been in debt since this farm was given to me and I don't want my sons to be in debt all their lives. I'll sell that farm."

And that comes from a man who dearly loves farming, and whose sons really want the farm, Anderson said. He, Roundy and Maughan all spoke of their love for farming. Maughan summed it up, "If I didn't love farming, I'd have gotten out of this mess 25 years ago."

SPORTS OR THE ARTS: DO WE HAVE TO CHOOSE?

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. MATTOX. Mr. Speaker, I was pleasantly surprised yesterday when I read in Tuesday's Washington Post that Dallas had been singled out among the Nation's largest cities for its desire to serve both its sports and arts communities, as well as involve the private sector in such civic projects.

At a time when many cities see the construction of huge sports complexes as the key to vitality, Dallas has seen the benefits of large-scale planning for not only sports, but also the arts and humanities—and all of this with private backing as well as public dollars.

Our distinguished majority whip, JOHN BRADEMAS—also chairman of the Subcommittee on Select Education—has just returned from Dallas and a series of hearings in which we discussed how the arts and humanities potential of our American culture can best be cultivated.

Mr. Speaker, Dallas' forays into uncharted territory—building sports and arts complexes at the same time, is perhaps the best example in the country of how the enthusiasm we saw exhibited at the hearings can be translated into action.

The Post article follows:

BIG-CITY SPORTS V. THE ARTS: A MATTER OF BALANCE

(By Neal R. Peirce)

In sports and the arts, American cities have their priorities all mixed up.

Equating city prestige with big-time sports teams, the cities have poured millions of dollars into gigantic, money-losing sports stadiums. The big winners are wealthy owners of teams with national followings and fat television contracts who habitually whipsaw hard-pressed city governments into ever-more-favorable lease terms.

Sports fans find their favorite team often feels free to skip town whenever a more lucrative deal appears elsewhere. And the biggest losers, as usual, are the taxpayers.

By contrast, most cities have forced the arts—theaters, symphonies, neighborhood-based cultural programs—to subsist on thin fiscal gruel. Only the widely spread grants of the National Endowment for the Arts (now $115 million annually) plus state arts councils and a few well-budgeted community arts agencies have helped to right the balance at all.

Arts don't lag as far behind sports as many people think. In eight of the nation's largest cities, according to an NEA survey, attendance paid at cultural events and museums actually tops paid sports attendance. The symphony outdraws professional football in 10 cities and hockey in seven cities. In Houston and New York, more people even go to the opera than football or hockey games.

No one can question the public interest in professional sports. The teams—at least as long as they're winning—are a source of civic pride, and they often generate new jobs.

But the 53 new or enlarged stadiums and arenas built in recent years, according to a Parade magazine survey, have "committed unsuspecting taxpayers to spend more than $6 billion—plus $1 billion for roads, ramps and sewers." And that public subsidy lines the pockets of the affluent team owners, who pay sky-high wages to top players and steadfastly refuse to make their profits public.

The required bonds stretch a city's or county's borrowing authority, can lower its bond rating and thus raise its interest costs for more pressing needs.

In city after city, the stadium supersell repeats itself. To soften taxpayer resistance, actual costs are vastly underestimated. Citizens are rarely told that the construction bonds will saddle the city with large fixed costs for decades, often doubling the cost. Suspiciously large consultant fees are handed out. Occasionally there's outright graft.

New Orleans's Superdome was to cost $35 million; the final construction price was $175 million, and interest could raise the cost to $300 million. Renovation of New York's Yankee Stadium was advertised at $24 million; in the end, the work cost over $100 million, and interest costs may push the final figure to $240 million.

New Jersey's Meadowlands sports complex, the costliest in U.S. history, siphons off $35 million annually from a neighboring racetrack—money that would otherwise go into the state treasury.

A fraction of the public money channeled to big-league teams could provide a major boost for amateur athletic programs. Publicly subsidized professional sports, Foschio warns, have "made us a nation of spectators rather than participants." The results: less physical fitness, less participation, less fun for everyone.

Professional arts activities also require massive subsidies to cover the gap between box-office receipts and actual expenses. But there's a vital difference. Unlike pro sports, they make no pretense of being self-supporting.

Even more than sports, arts interest and attendance have boomed in recent years—and mostly with private contributions rather than government subsidies. Between 1965 and 1975, the number of professional orchestras rose from 58 to 110. Professional opera companies were up from 27 to 45, dance companies from 37 to 157, theaters from 23 to 145. Folk arts and crafts activity grew at a similar tempo.

Studies show the arts do contribute importantly to city and state economies ($3 billion in New York City alone, according to one study.) More important, the arts have come off their elitist kick of yesteryear and are being extended through hundreds of programs into rural areas, schools, hospitals—even prisons, to help in inmate rehabilitation.

While professional sports raise ticket prices beyond the reach of many ordinary folks, the arts are reaching out into communities where people live and becoming more and more participatory. Using federal manpower funds, for instance, San Francisco has generated a broad neighborhood arts program employing jugglers, dancers, mimes, sculptors, photographers and craftsworkers.

"The arts reveal us to ourselves," says Atlanta Mayor Maynard Jackson. "They show us who we are and where we are going whether as a neighborhood, a city or a nation. The arts are an expression of community identity in its highest form."

A 1975 survey showed that 58 per cent of Americans polled would be willing to pay $5 more a year in taxes to support arts and culture; 41 percent would agree to pay an amazing $25.

With full citizen participation and "open book" planning, a city's arts and sports enthusiasts can cooperate. Dallas is now proving the point with commonly agreed on plans to build a new library, an auditorium for basketball, hockey and popular music events, and separate new fine-arts museum, theater and symphony buildings.

There was real danger, says City Manager George Schrader, that suspicions among all the projects backers could have frustrated any building. So the city brought together representatives of each group to share information and commission a master plan for the new facilities.

The city insisted that the library's backers raise $10 million of the building's $40 million cost before the remainder was financed through bonds. Seat options sold to Dallas citizens will finance $6 million of the $22.5 million for the sports facility. To control costs, the contractor will have to guarantee total cost by bond.

Finally, for the new arts facilities, backers must raise 40 per cent of the $50–55 million cost privately before the city finances the remaining cost. To avoid the sterile effect of New York's Lincoln Center or Washington's Kennedy Center, the arts facilities will be spotted around a downtown area with space for compatible uses—restaurants, studios, galleries—between them.

Forcing citizens with different tastes and interests to cooperate, obliging them to commit their own energy and money, is the best way to make a city work for all its residents, Schrader says.

That's far cry from the slipping financial shenanigans by which many professional sports stadiums have been foisted on taxpayers.

CARTER'S CANAL TREATIES—A BAIL OUT FOR THE BIG BANKS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. HANSEN. Mr. Speaker, if anyone thinks the new Panama Canal Treaties mean an end to the big stick and dollar diplomacy, they had better take another look.

The total debt of the Panama Government to U.S. banks is reported by the Library of Congress at $1.7 billion. The Department of Planning of the Republic of Panama has stated that no less than 39 percent of Panama's annual budget is being used to service its foreign debt, which amounts to $42 million per year and includes $25 million in interest and $17 million in amortizing principal.

Leading the parade of American banks involved in Panama are the First National City Bank and the Chase Manhattan Bank, the flagship bank for the far-flung Rockefeller financial interests. Both of these banks serve as fiscal agents for the government of Panama. In one advertisement for a $115 million loan to Panama, for example, the First National City Bank is listed as the agent for the loan. Other participating banks included the Bank of America, Banker's Trust, Chase Manhattan, the First National Bank of Boston, the First National Bank of Chicago, the Republic National Bank of Dallas, and of course Sol Linowitz' Marine Midland Bank.

Mr. Speaker, one might well ask, Why did these New York banks pour all that money into Torrijos' hands? It seems very clear that the loans were a trade off for Torrijos' decision—on the advice of leading New York banks—to reorganize Panama's banking laws in July 1970. This reorganization provided a favorable haven, free of taxes and onerous regulations, for foreign banks in Panama, much as Panama has long provided a flag of convenience for world shipping. Since the 1970 legal change, total banking assets in Panama, a nation of only 1.7 million people, have expanded enormously from a few banks with a few million dollars to 73 international banks with total assets of $8.6 billion, conducting transactions throughout the world. Prominent among the U.S. banks expanding rapidly in Panama since the 1970 legislation are the First National City Bank, the Bank of America, Chase Manhattan, and the Marine Midland Bank.

The deal was beneficial to both parties, then, inasmuch as the U.S. banks received a haven for their operations and the Torrijos regime was able to acquire great sources of funds as well as solidify its political power in Panama. But now the U.S. taxpayer is being subtly asked to bail out the banks, a reverse of the days of Jesse James.

Mr. Speaker, I have obtained a partial list of 200 prominent Americans who have formed a group called the Committee of Americans for the Canal Treaty, Inc., which has been working closely with President Carter in an attempt to subvert the will of the majority of the American people by using their corporate power and prestige to obtain ratification of the proposed treaties in the U.S. Senate and unconstitutionally bypass consideration by the House of Representatives. Mr. Speaker, for the benefit of my colleagues and concerned Americans, I include for the Record the following list of names along with pertinent associations of the members as published in the December 5, 1977 issue of Inquiry magazine:

Who's Who for the Canal Treaty

On November 1, the New York Times carried a large advertisement paid for by a group called the Committee of Americans for the Canal Treaty, Inc. The following is a partial list of the 200 prominent Americans whose names appeared as members of the Committee, along with pertinent associations:

Stephen Ailes, lawyer, director of Riggs National Bank; Hoyt Ammidon, U.S. Trust Co.; Robert O. Anderson, Atlantic Richfield Co.; George W. Ball, investment banker, Lehman Bros.; Robert S. Benjamin, lawyer, director of Transamerica Corp.; Eugene Black, former president of the World Bank; Shirley Temple Black, fomer Ambassador to Ghana; director of Del Monte Corp.; William McC. Blair, Jr., investment banker, William Blair Co.; William Boeschenstein, Owens-Corning Fiberglass Corp.

Edgar Bronfman, Distillers Corp.—Seagrams Ltd.; John W. Brooks, Celanese Corp.; Phillip Buchen, counsel to President Ford; Henry Catto, Jr., former U.S. Chief of Protocol; Gardner Cowles, Cowles Communications, Inc.; J. Dewey Daane, Commerce Union Bank; Richard Debs, Federal Reserve Bank of New York; C. Douglas Dillon, Rockefeller Foundation director, Dillon, Read & Co.; Secretary of the Treasury for Kennedy and Johnson (1961–1965); Thomas K. Finletter, former Secretary of the Air Force; Max Fisher, Manufacturer's National Bank of Detroit; Peter Flanagan, investment banker, Dillon, Read & Co.

Michael V. Forrestal, Wall Street lawyer, formerly on White House National Security Staff; Henry H. Fowler, investment banker, Goldman, Sachs & Co.; former Secretary of the Teasury; J. Wayne Fredericks, Ford Motor Co.; Orville Freeman, Business International Corp.; former Secretary of Agriculture; Richard M. Furlaud, Squibb Corp.; American Express Co.; Chase Manhattan Bank; W. L. Hadley Griffin, Brown Shoe Co.; Armand Hammer, Occidental Petroleum Corp.; W. Averell Harriman, Brown Bros., Harriman & Co.; former presidential adviser, Ambassador, Secretary of Commerce, and Governor of New York; Ben Heineman, First National Bank of Chicago; Andrew Heiskell, chairman of the board, Time, Inc.

Robert H. Knight, Wall Street lawyer; former Deputy Assistant Secretary of Defense; Arthur Krim, United Artists Corp.; R. Heath Larry, U.S. Steel; Harding W. Lawrence, Braniff Airways; Henry Cabot Lodge, former U.S. Ambassador to UN; John Loeb, investment banker, Loeb, Rhodes & Co.; Peter Loeb, investment banker, Loeb, Rhodes & Co.; John H. McCloy, Wall Street lawyer, former chairman of the board, Chase Manhattan Bank; C. Peter McColough, Xerox.

George Meany, president, AFL–CIO; G. William Miller, Textron; J. Irwin Miller, Cummins Engine Co.; Paul Nitze, former Deputy Secretary of Defense; General Lauris Norstad, former Commander of SHAPE; Jane Cahill Pfeiffer, IBM; Peter G. Peterson, investment banker, Lehman Bros.; former Secretary of the Treasury; David Reynolds, Reynolds Metals Co.; General Matthew Ridgway, former Chief of Staff, U.S. Army; David Rockefeller, Chase Manhattan Bank; Nelson Rockefeller; Robert Roosa, Brown Bros., Harriman & Co.; Franklin D. Roosevelt, Jr.

Theodore Roosevelt IV, investment banker, Lehman Bros.; Walt Whitman Rostow, former national security assistant to President Johnson; Arthur Schlesinger, Jr., former special assistant to President Kennedy; Benno Schmidt, J. H. Whitney & Co.; Irving Shapiro, du Pont; director, First National City Bank; George P. Shultz, Bechtel Corp.; director, Inter-American Development Bank; former Secretary of the Treasury; Arthur Taylor, CBS; General Maxwell Taylor, former Chairman, Joint Chiefs of Staff; Walter Thayer, Whitney Communications Corp; Alexander Trowbridge, Allied Chemicals Corp.; former Secretary of Commerce; Lew Wasserman, MCA, Inc.; James Wilcock, Mellon Bank.

Finally, Mr. Speaker, I also include for the Record an excerpt of an article by Mr. Murray N. Rothbard also in the December 5, 1977 issue of Inquiry magazine. Mr. Rothbard is a professor of economics at the Polytechnic Institute of New York and a contributing editor of Inquiry magazine. The excerpt follows:

The Treaty That Wall Street Wrote

If a handful of large U.S. banks will be the major beneficiaries of the Panama Canal Treaty, have they also had any role in lobbying for or negotiating the treaty itself? Or will their gains be merely a luckly windfall from decisions made by the U.S. government for very different reasons? Let us see. While the treaty was being negotiated, then-Senator Gale McGee (D.-Wyo.), one of the leading protreaty people in Congress, held a meeting at the State Department at the end of October 1975 to organize a protreaty lobby. In attendance were lobbyists for the Chase Manhattan Bank, the Bank of America, such large corporations as Gulf Oil and Rockwell International, as well as representatives of the Council of the Americas. A campaign kitty was raised at that meeting, estimates of the size ranging from $100,000 to $500,000. Subsequent meetings brought in lobbyists for other large banks and corporations, including Pan American World Airways. Plans were made at these meetings to pressure the U.S. Chamber of Commerce into supporting the future treaty. (See Russell W. Howe and Sarah H. Trott, *The Power Peddlers*, Doubleday, p. 123.)

The influence of the bankers and the corporations, however, has been even more direct. When Carter took office he appointed the dynamic and highly influential Sol Linowitz, former ambassador to the Organization of American States and long an advocate of a new treaty, to join the octogenarian Ellsworth Bunker on the Panama Canal negotiating team. Bunker himself is a former director of Bankers Trust, and his brother, Arthur Hugh Bunker, is a longtime director of Lehman Brothers.

Linowitz's connections are more numerous and impressive. He is a member of the powerful Council on Foreign Relations, which is dominated as well as chaired by David Rockefeller, who is also chairman of the Chase Manhattan Bank. Moreover Linowitz is a member of the exclusive and now-famous Trilateral Commission, which was founded and is dominated by David Rockefeller and which includes so many foreign-policy and economic-affairs leaders of the Carter administration—from Carter himself to Vice President Mondale, Secretary of State Cyrus Vance, and National Security Adviser Brzezinski. In addition, Linowitz is a trustee and former chairman of the policy committee of the Center for Inter-American Relations, an organization founded and chaired by David Rockefeller, whose directors interlock heavily with the Council for Foreign Relations. Linowitz was also a member of Nelson Rockefeller's personal vehicle for his abortive presidential run, the National Committee on Critical Choices for Americans. As a member of the board of directors of Time, Inc., Linowitz also wields a degree of influence on the media.

Even more pertinently, upon his appointment as negotiator of the canal treaties, Sol Linowitz was a member of the board and the executive committee of Marine Midland Bank and of Pan Am. He was also a large stockholder in Marine Midland. The Marine Midland connection is clear and direct; for, as Congressman George Hansen (R-Idaho) has disclosed, the government of Panama owes Marine Midland Bank nearly $8 million. Furthermore, it was only after Hansen and Senator James McClure (R-Idaho) filed suit on April 20 for a temporary restraining order against Linowitz as canal negotiator, that Linowitz finally resigned his positions with Marine Midland. The suit sought the restraining order on the ground of conflict of interest on the part of Linowitz, at least until this presidential appointment should be confirmed by the Senate.

Linowitz, however, insisted on keeping his high positions at Pan Am while negotiating and arguing on behalf of the canal treaty. Pan Am's connection, while intriguing, does not seem as direct as Marine Midland's. Pan Am has for decades been within the Rockefeller financial ambit, as is indicated by James S. Rockefeller's presence on the airline's board of directors. Other directors are Frank Stanton of CBS and Donald Kendall of Pepsico, both of whom are directors at Atlantic Richfield Company, whose president, Robert O. Anderson, is a member of the board of Rockefeller's Chase Manhattan Bank. Until he became secretary of state, Cyrus Vance was also a director of Pan Am. While too much should not be made of a list of corporate interconnections, the above establishes a clear pattern of Linowitz-Rockefeller commonality of interest and action.

We have already seen that Pan Am participated in the McGee-organized corporate lobbying in favor of a Panama treaty. What does Pan Am have to gain from Torrijos? One obvious benefit is the protection of the company's landing rights in Panama. It just might be important that Panama serves as Pan Am's headquarters for Latin America.

One of the most important influences in the drive toward a treaty was the new Washington-based Commission on U.S.-Latin American Relations. The commission was organized in 1974 by the Center for Inter-American Relations and was largely financed by Ford Foundations and Rockefeller funds. Its chairman until recently was Sol Linowitz, with Dr. Robert A. Pastor serving as the staff director. Other members of the Linowitz Commission included such influential Trilateral Commission members as W. Michael Blumenthal, who is now secretary of the treasury; Samuel P. Huntington, now an aide to the National Security Council; Peter Peterson, chairman of Lehman Brothers; and Elliott Richardson.

In December 1976, Pastor wrote a report for the Linowitz Commission, urging a new treaty and substantial funds for Panama; the Council on Foreign Relations promptly held a special colloquium on the subject and endorsed the Linowitz Report. The next month, Brzezinski, national security adviser to Carter, appointed a special assistant on Panama question, who turned out to be none other than Dr. Robert Pastor.

Without delay, Pastor drew up a National Security Council memorandum recommending a new Panama Canal treaty. The paper was approved by Brzezinski, and then, after checking with longtime Nelson Rockefeller foreign policy aide Henry Kissinger, endorsed by Carter. As the culmination of the Linowitz-Rockefeller drive, Linowitz then got himself appointed negotiator for the new Panama treaty.

There are several ironies that emerge from a careful look at the Panama Canal treaty fight—especially the picture of this country's liberals and progressives battling to pour money into the coffers of a handful of Wall Street banks in the name of a treaty they mistakenly believe represents a withdrawal of U.S. power abroad. It doesn't, and those who automatically oppose anything the right wing favors, need to do some hard rethinking of their reflexive support for the new Panama Canal treaties.

SUMMARY PLAN DESCRIPTIONS AS REQUIRED BY ERISA—A COMPENDIUM OF FAVORABLE COMMENTS RECEIVED FROM EMPLOYERS AND EMPLOYEES

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. WALGREN. Mr. Speaker, recently the Pittsburgh Association of Group Executives presented me with a comprehensive listing of favorable comments of Pittsburgh employees to the experience of filing summary plan descriptions as required by ERISA.

Reproduced below is the substance of these favorable comments:

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A PROPOSAL TO HELP ALINE NATIONAL MILK SUPPLIES WITH DEMAND AND REDUCE CCC PURCHASES OF CHEESE, BUTTER, AND NFDM POWDER

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 15, 1977

Mr. JEFFORDS. Mr. Speaker, today I wish to express my intent to introduce a bill early next session that will address the current oversupply of milk in this country. The situation relative to dairy product stock buildups in the Commodity Credit Corporation is serious. Several factors have made the climate for milk production very favorable at this time. Key economists are presently projecting that our national milk production will reach the 126-billion-pound level for 1978. I feel that something must be done about the problem, both on a short term and long term basis. The bill that I will introduce in January will address the short term situation. Following is an explanation with background information on what this proposal is:

U.S. milk production increased from 115.5 billion pounds in 1975 to 120.3 billion pounds in 1976. At the current rate of increase, production in 1977 will exceed 123 billion pounds. Production in 1978 could easily exceed 125.5 billion pounds. We, can efficiently utilize 117 to 120 billion pounds.

CCC purchases will exceed 6.9 billion pounds of milk equivalent in the current year, the highest level since 1952 and 1964 when purchases reached 10 billion pounds of milk equivalent. Not only is the taxpayer cost of this overproduction high ($700 million), but it creates a serious disposal problem and a costly assembly and processing problem for dairy cooperatives.

FACTORS WHICH HAVE CONTRIBUTED TO AN OVERSUPPLY OF MILK

There are many factors which have and still are contributing to an oversupply of milk in the United States. Low cull cow prices have slowed the reduction in total dairy cow numbers from an annual rate of about 1 percent in the early seventies to 0.6 percent last year and estimated 0.6 percent for 1977.

The reduction in cow numbers in 1978 is expected to be even less, due to a favorable milk support price and a very favorable milk-feed ratio—1.84 for November.

Annual milk production per cow is increasing faster than cow numbers are declining. Our average national production last year increased by 541 pounds per cow, and the increase this year will be over 300 pounds per cow. A further increase of 250–300 pounds is expected in 1978. This results from improved milk-feed ratios and the rapid adoption of improved technology, such as the use of high P.D. bulls, the use of computer formulated total mixed rations and other improved herd management practices.

The result is an expanding total milk production in all of the key dairy States, including the top five: Wisconsin, California, New York, Minnesota, and Pennsylvania.

CONSUMPTION AND STORAGE

Per capita, consumption of fluid milk has been declining in most Federal order markets this past year. This has accentuated the problem, as more milk has moved into cheese, butter and powder necessitating heavy CCC purchases. Total CCC purchases and availability as of September and compared with a year ago are shown below:

[1,000 pounds, delivery basis]

	Butter		Cheese		NFDM	
	This year	Last year	This year	Last year	This year	Last year
Month of September	317	0	2, 892	0	38, 278	19, 345
Apr. 1 to date	134, 371	384	87, 458	10, 889	347, 012	161, 902
Available for programs as of Sept. 30	162, 245	0	69, 682	0	623, 897	401, 147

CULL DAIRY COW PRICE INCENTIVE TO MILK PRODUCERS

Low cull cow meat prices coupled with favorable milk feed price ratios appear to be the principal factors causing cow numbers to decline more slowly than milk production per cow is increasing.

If the dairymen could receive 30 to 40 cents per pound for his cull cows it is felt he would increase his cull rate and send more cull cows to market.

An incentive program in the form of a direct payment of 10 to 15 cents per pound representing the difference between the market price and a 30 to 40 cents per pound—required to sell—price could be very effective in reducing total milk production and reducing CCC purchases of dairy products.

Such a program could be administered by USDA through local ASCS committees much the same as the Emergency Feed Grain program.

The objective would be to reduce dairy cow numbers by 500,000 by April 1, 1978. This would have an important and significant effect on total milk supplies during the normally high production months of April, May, and June and for the year 1978.

CRITERIA FOR ELIGIBILITY

Some of the criteria for eligibility of a producer that should be considered to receive an incentive payment are as follows:

First. The producer would supply his local ASCS committee with milk plant receipts, average cow numbers and number of cows sold for beef during calendar year 1977.

Second. He would receive the incentive on those dairy cows that have calved and been sold for beef—sales receipts required—over and above a 2-percent per month—24 percent annual turnover rate—based on previous years, average cow numbers.

Third. No producer could receive an incentive of more than 15 cents per pound on cows sold for beef during the 3-month period or collect on more than 10 cows during the 3-month period.

Fourth. Another possibility would be to offer an incentive on every dairy cow sold for beef of 10 to 15 cents per pound during the period.

COST OF A COW REMOVAL INCENTIVE PROGRAM

During January-August 1977, total net removals by CCC were equivalent to 5.8 billion pounds of milk—fat solids basis—a purchase cost of approximately $700 million. For the fiscal year 1978 this could amount to approximately $900 million or more.

If we assume that an additional 500,000 cull dairy cows were removed in the first 3 months of 1977 at a maximum incentive of 15 cents per pound or $150 per cow, this would cost $75 million, a small price to pay for the potential removal of 5 billion pounds of milk equivalent—annual basis—having a purchase cost of approximately $600 million. Even if the remaining cows are fed better, which they probably will be, the relative savings will be great.

CONSEQUENCES OF A NO-ACTION PROGRAM

Unless some action is taken immediately to reduce cow numbers and total milk production the dairy industry and the CCC will find itself in the impossible position of trying to dispose of unneeded supplies of cheese, butter, and powder at very heavy losses to the producer and taxpayer alike. There is tremendous potential savings in energy that could result from not producing, processing, storing, and distributing additional milk for an already overburdened market.

SENATE COMMITTEE MEETINGS

All committees, subcommittees, joint committees, and committees of conference are required to notify the Office of the Senate Daily Digest of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

The Office of the Senate Daily Digest will periodically submit this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD.

MEETINGS SCHEDULED

DECEMBER 16

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the New York City Seasonal Financing Act.
5302 Dirksen Building

DECEMBER 19

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings to examine government agencies' policies on awarding patents to firms that engage in government-financed research.
1318 Dirksen Building

DECEMBER 20

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To continue hearings to examine government agencies' policies on awarding patents to firms that engage in government-financed research.
6202 Dirksen Building

Select Small Business
To hold hearings on the problem of agricultural labor certification for nonimmigrant aliens and small growers.
424 Russell Building

Conferees
On H.R. 3454, to designate certain endangered public lands for preservation as wilderness.
S-146, Capitol

DECEMBER 21

10:00 a.m.
Select Small Business
To continue hearings on the problem of agricultural labor certification for nonimmigrant aliens and small growers.
424 Russell Building

Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To continue hearings to examine government agencies' policies on awarding patents to firms that engage in government-financed research.
1318 Dirksen Building

JANUARY 17

9:00 a.m.
Judiciary
Citizens and Shareholders Rights Subcommittee
To hold hearings on problems associated with the rights and remedies of insurance policy holders, especially on questions of the cost to and coverage for such policy holders.
2228 Dirksen Building

JANUARY 18

9:00 a.m.
Judiciary
Citizens and Shareholders Rights Subcommittee
To continue hearings on problems associated with the rights and remedies of insurance policyholders, especially on questions of the cost to and coverage for such policyholders.
2228 Dirksen Building

11:00 a.m.
Veterans' Affairs
To receive legislative recommendations of Disabled American Veterans for fiscal year 1978.
1202 Dirksen Building

JANUARY 19

10:00 a.m.
Armed Services
Military Construction and Stockpiles Subcommittee
To hold hearings to investigate potential application of new energy technologies at defense installations.
212 Russell Building

JANUARY 20

8:00 a.m.
Veterans' Affairs
To hold hearings on a National Academy of Science study of health care for American veterans and to reecive testimony on the health care planning process.
6202 Dirksen Building

10:00 a.m.
Armed Services
Military Construction and Stockpiles Subcommittee
To continue hearings to investigate potential application of new energy technologies at defense installations.
212 Russell Building

Human Resources
Labor Subcommittee
To consider S. 1883, to strengthen the remedies and expedite procedures under the National Labor Relations Act.
4232 Dirksen Building

JANUARY 24

10:00 a.m.
Rules and Administration
To hold hearings on legislative and administrative business, and to hear arguments by attorneys in the matter of Lester Kinsolving vs. the Standing Committee of Correspondents of the Senate-House Press Galleries regarding the reaccreditation of Mr. Kinsolving.
301 Russell Building

JANUARY 25

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 276, to establish a national system to promote the reuse and recycling of beverage containers.
5110 Dirksen Building

10:00 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on urban policy.
3302 Dirksen Building

Judiciary
Consumer Subcommittee
To resume hearings on S. 2300, to extend for five years the U.S. Commission on Civil Rights.
2228 Dirksen Building

Rules and Administration
To continue hearings on legislative and administrative business, and to hear arguments by attorneys in the matter of Lester Kinsolving vs. the Standing Committee of Correspondents of the Senate-House Press Galleries regarding the reaccrediation of Mr. Kinsolving.
301 Russell Building

JANUARY 26

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee

To continue hearings on S. 276, to establish a national system to promote the reuse and recycling of beverage containers.

5110 Dirksen Building

9:30 a.m.

Judiciary

Citizens and Shareholders Rights Subcommittee

To hold hearings jointly with the Administrative Practice and Procedures Subcommittee on S. 2117, to expand the bases upon which the U.S. can be held liable for the conduct of its employees under the Tort Claims Act.

235 Russell Building

10:00 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To continue hearings on urban policy.

3302 Dirksen Building

Judiciary

Constitution Subcommittee

To continue hearings on S. 2300, to extend for five years the U.S. Commission on Civil Rights.

2228 Dirksen Building

Joint Library

To hold hearings on the proposed reorganization of the Library of Congress.

H-326, Capitol

JANUARY 27

9:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To continue hearings on S. 276, to establish a national system to promote the reuse and recycling of beverage containers.

5110 Dirksen Building

10:00 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To continue hearings on urban policy.

3302 Dirksen Building

JANUARY 30

10:00 a.m.

Governmental Affairs

To hold hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.

3302 Dirksen Building

JANUARY 31

10:00 a.m.

Governmental Affairs

To continue hearings on S. 2236, to strengthen Federal programs and policies for combating international and domestic terrorism.

3302 Dirksen Building

Select Intelligence

Secrecy and Disclosure Subcommittee

To hold hearings to receive testimony on secrecy and disclosure of classified documents within the Federal Government.

235 Russell Building

FEBRUARY 1

10:00 a.m.

Select Intelligence

Secrecy and Disclosure Subcommittee

To continue hearings to receive testimony on secrecy and disclosure of classified documents within the Federal Government.

235 Russell Building

FEBRUARY 2

10:00 a.m.

Select Intelligence

Secrecy and Disclosure Subcommittee

To continue hearings to receive testimony on secrecy and disclosure of classified documents within the Federal Government.

235 Russell Building

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